

STB

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SURFACE TRANSPORTATION BOARD

Memorandum



DATE: June 18, 2001

TO : Ellen Keys, Assistant Secretary
 Section of Publications/Records
 Office of the Secretary

FROM *MLC*: Mel Clemens, Director
 Office of Compliance and Enforcement

SUBJECT : STB FINANCE DOCKET NO. 33388 - OPERATIONAL MONITORING DATA



Attached are the original and two copies of the latest monthly reports provided to this office by CSX and Norfolk Southern as required in the above proceeding, which are to be committed to the docket for public reference. As requested, I am providing the three paper copies to Ron Douglas, two for the docket and one for Da To Da Office Solutions. If there are any questions, please don't hesitate to contact me or Ed Nelson.

Attachments

- cc: Chairman Morgan
- Vice Chairman Clyburn
- Commissioner Burkes
- Richard Armstrong
- Ron Douglas
- Charles Renninger

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Office of the Secretary

JUN 18 2001

Part of
Public Record

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Paul R. Hitchcock
Assistant General Counsel

May 31, 2001

Melvin F. Clemens, Jr.
Director Office of Compliance and Enforcement
Surface Transportation Board
Washington, DC 20423-0001

Dear Mr. Clemens:

Attached to this letter are the Operational Monitoring Reports required in STB Finance Docket No. 33388.

The reports are presented in the following order:

Labor Implementing Agreements	Page 1
Labor Task Force	Page 1
Construction and Other Capital Projects Table	Pages 2-3
Infrastructure Maintenance and Expansion	Page 4
Additional Noteworthy Engineering Projects Table.....	Pages 5-7
Information Technology	Pages 8-11
Customer Service	Page 12
Training.....	Page 13

Note: Italicized information indicates a change or update from the last report.

Please contact me if there are any issues that need clarification or explanation. As information, coincident with filing this report with the STB, CSXT has made this report available on our web site (www.csx.com).

Very truly yours,

Paul R. Hitchcock

cys: Peter J. Shudtz, Sr. Vice President
Regulatory Policy and Washington Counsel

CSX TRANSPORTATION, INC.
STB OPERATIONAL MONITORING REPORT
As of May 31, 2001

Table of Contents

The reports are presented in the following order:

Labor Implementing Agreements	Page 1
Labor Task Force	Page 1
Construction and Other Capital Projects Table	Pages 2-3
Infrastructure Maintenance and Expansion	Page 4
Additional Noteworthy Engineering Projects Table.....	Pages 5-7
Information Technology	Pages 8-11
Customer Service.....	Page 12
Training.....	Page 13

Note: Italicized information indicates a change or update from the last report.

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

LABOR

Labor Implementing Agreements

All of the Labor Implementing Agreements have been reached. Accordingly, the requirement provided for in Paragraph 1 on page 162, of STB Decision No. 89 issued in Finance Docket No. 33388 has concluded.

Labor Management Task Force

CSXT has sent an invitation to each of its unions with which an implementing agreement has been reached and which will continue to represent employees on CSXT to participate in a labor task force similar to the one established with the United Transportation Union. CSXT has held labor task force meetings with a number of its unions. CSXT will hold additional meetings, as the need arises. CSXT also will continue its effort to have frequent communications with its unions to guarantee that problems which may still arise with respect to the implementation of the transaction receive prompt attention.

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location	Project	Status	Expected Completion Date
1) Greenwich, Ohio to Pine Junction, Indiana	Construct 2 nd main track with TCS on B&O including connections.	Complete	4Q 98
2) Quaker to Greenwich, Ohio	Construction by Conrail of 2 nd main track with TCS.	Complete	4Q 98
3) Willard, Ohio	Yard Expansion	Complete	1Q 99
4a) Crestline, Ohio	a) Construct or rehabilitate connection tracks with Indianapolis Line.	a) Complete	2Q 99
4b) Sidney, Ohio	b) Connection Track	b) Complete	4Q 98
4c) Marion, Ohio	c) Rehabilitate Connection Track	c) Complete	1Q 99
5) Carleton, Michigan	Connect track with Conrail	Complete	4Q 98
6a) Alice, Indiana	a) Siding Extension	a) Complete	a) 3Q 98
6b) Harwood, Indiana	b) Siding Extension	b) Complete	b) 4Q 98
7a) Chicago, Illinois	a) Intermodal Expansions	a) Complete	a) 3Q 98
7b) Cleveland, Ohio	b) Intermodal Expansions	b) Complete	b) 1Q 99
7c) Philadelphia, Pennsylvania	c) Intermodal Expansions	c) Complete	c) 4Q 00
7d) Little Ferry, New Jersey	d) Intermodal Expansions	d) Complete	d) 3Q 98
8) Philadelphia, Pennsylvania	Rebuild Eastwick connection track with Conrail.	Complete	4Q 98
9) Hobart, Indiana to Tolleston, Indiana	Restoration of connection and main track between Hobart & Tolleston.	Complete	2Q 99

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location	Project	Status	Expected Completion Date
10) Chicago, Illinois	Chicago area-upgrade connection tracks and other improvements.	Complete	2Q 99
11) Newell & New Castle, Pennsylvania	Upgrade capacity on the Mon. Subdivision	Complete	4Q 98
12) Albany, New York to Bergen, New Jersey	Extend 3 sidings by Conrail on River Line	Complete	4Q 98
13) Little Ferry, New Jersey	Connection track Conrail/NYSW	Complete	2Q 99
14) Dolton, Illinois	Connection track @ Lincoln Avenue CSX/IHB	Complete	2Q 99

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

Infrastructure Maintenance and Expansion Report

Despite some severe weather over the system, CSXT has continued construction of several key capacity improvement projects over the winter months. Track & Signal work has progressed at Dearborn, Michigan to complete a connection track between the Shared Assets line and CSX to improve the flow of CP Trains at Rougemere Yard & Delray Interlocking at Detroit. This project is scheduled for completion in April.

At Feltonville, PA, work has progressed to complete a siding extension on the Phila. Sub to improve the flow of traffic in that area.

At Erie, PA, CSX forces remained on the job working to complete new track construction to facilitate the relocation of the Norfolk Southern Main Line over to CSX property.

On the S&NA north Sub Division, work has continued throughout the winter to complete an 8 mile stretch of second main at "Sand Mountain" between Lacon & Holmes Gap , AL. Upon completion later this year, enhanced train operations will be realized.

Additionally, CSX has been working steadily on the preparation of supporting documentation to develop investment justification on several new capacity projects for 2001. This year's program consists of several new sidings and stretches of second main track construction throughout the system. Funding is now in place to begin construction of two new passing sidings on the W&A Subdivision in NW Georgia - Tunnel Hill - construct extension of existing siding & Halls - Construct new 2mile long siding.

On the Fitzgerald Sub between Rupert & Mauk, GA , CSXT has approved funding for the construction of 8 miles of a second new main track. This work is scheduled to begin in May and be completed by year's end.

On the River Line in northern New Jersey, funding is now in place to begin construction of a new siding between M.P. 2 and M.P. 7, including new signaling.

In Casky, KY, funding is approved to construct a section of new main track between M.P. 231 & 232 on the Henderson Subdivision to create a new switching lead.

In Evansville, IN, funding has been approved to install universal cross-overs at Mill St. along with new signaling system.

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

ADDITIONAL NOTEWORTHY ENGINEERING PROJECTS TABLE

(In some cases these projects may be unrelated to the Conrail integration.)

	Location	Project	Under Construction	Estimated Completion
1)	Alexandria, VA	AF Interlocking reconstruction (VRE project)	Y	08/01/01
2)	Aliquippa, PA	Construct 2 industry support tracks	Completed	06/30/00
3)	Baltimore, MD (Bay View YD)	Add crossover BA Tower	N	06/01/01
4)	Chicago, IL	Barr SD - TCS - Phase II	Y	12/31/00
5)	Chicago, IL	Construct 59 th Street North Lead	Completed	06/30/00
6)	Chicago, IL	Construct storage tracks & 3 rd Main at Barr Yard	Y	12/31/00
7)	Chicago, IL	TCS Blue Island SD to 75 th Street	Y	03/31/01
8)	Cleveland, OH	Construct mainline fueling facility at Collinwood Yard	Completed	08/30/00
9)	Columbus, OH	Scioto Interlocking w/NS (ODOT project)	Y	12/31/01
10)	Coosa Pines, AL	Construct new 11,200' passing siding	Completed	08/29/00
11)	East Cleveland, OH	Noise berms, landscaping	Completed	06/30/00
12)	East Fostoria, OH	Extend yard/connection lead	N	Deferred
13)	Erie, PA	NS relocation project	Y	12/31/01
14)	Erie, PA	Replace CSXT bridge decks over B&LE (CSXT work relating to NS relocation project)	N	8/1/01
15)	Fall River, MA	MBTA replacement of 4 undergrade bridges	Y	06/01/01

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

ADDITIONAL NOTEWORTHY ENGINEERING PROJECTS TABLE (In some cases these projects may be unrelated to the Conrail integration.)

Location	Project	Under Construction	Estimated Completion
16) Feltonville, PA	Extend siding to 20,200'	Y	06/01/01
17) Franklin, AL	Construct new 11,200' passing siding	Completed	09/15/00
18) Frederick, MD	MARC project	Y	08/01/01
19) Ft. Lauderdale, FL	Construct 45 miles of 2 nd main for TriRail	N	Pending
20) Gallaway, TN	Build siding with 10,000' in clear	Completed	10/1/00
21) Garrett, IN	Construct Randolph St. underpass	Completed	08/30/00
22) Gibraltar, MI	Construct crossover between CSXT and CN	Completed	09/30/00
23) Greenwood, SC	Construct double-track to Salak	Completed	11/06/00
24) Hopkinsville, KY	Install turnouts/signals for new Ft. Campbell lead wye	N	06/30/01
25) Keystone, SC	(Sandpatch to Rockwood, PA)-Upgrade #10 crossovers to power #15's and TCS	Y	7/31/01
26) Lacon to Holmes Gap, AL	Add 8 miles of 2 nd main MP 328-MMP336	<i>Completed</i>	6/15/01
27) Lima, OH	Conrail connection track improvements	Completed	05/30/00
28) Louisville, KY	Link Highway Track to Highland Park #2	Completed	06/15/00

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

ADDITIONAL NOTEWORTHY ENGINEERING PROJECTS TABLE

(In some cases these projects may be unrelated to the Conrail integration.)

Location	Project	Under Construction	Estimated Completion
29) Martinsburg, Hobbs, Miller/Cherry Run, W Cumbo, WV	Eliminate manned interlockings, Phase I	Y	12/31/01
30) McDaniel, TN	Siding extension to 10,000' clear	Completed	09/1/00
31) New Boston, MI	Parking lot expansion	Completed	06/30/00
32) Philadelphia, PA	Greenwich Yard Phase I rehabilitation	Completed	06/30/00
33) Philadelphia, PA	Greenwich Yard Phase II expansion	Completed	12/21/00
34) Teaneck, NJ	Construct siding CP7-CP10	Completed	03/31/00
35) Union City, GA	Construct connection track	Completed	04/15/00
36) Union City-Tilford, GA	Clearance improvement project	Completed	03/15/00
37) W. Baltimore, MD	Convert #10 HTEL to Power #15	Completed	09/30/00
38) Wadley, AL	Extend passing siding to 10,000' clear	Completed	09/15/00
39) Youngstown, OH	Construct Ashtabula Connection for 140 car capacity	Completed	07/15/00

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

INFORMATION TECHNOLOGY

Information Technology

The implementation strategy, training plans, and status of the Information Technology (IT) initiatives affecting the following Operating Areas are summarized:

- ❖ Customer Service
 - Electronic Customer Connectivity
- ❖ Operations Personnel
 - Crew Management
- ❖ Transportation
 - Car Management & Movement
 - Locomotive Management
 - Train Dispatching

Operating Area	Implementation Strategy	Status	Training
Customer Service Electronic Customer Connectivity	<p>All inbound (e.g. bill-of-lading) and outbound (e.g. car tracing) electronic communications with existing Conrail customers are to be migrated to CSX and NS. All customers will be informed of their system migration options and have the opportunity to test the replacement electronic connections prior to a transfer of the customer communications links on Day 1.</p> <p>CSX and NS will work with all affected customers and EDI vendors to develop migration plans</p>	<p>Systems testing in process and on schedule</p> <p>A joint letter was distributed to current Conrail customers</p> <p>Existing and new Conrail Electronic Commerce customers have been contacted by CSX in separate mailings</p> <p>Electronic Commerce Certification of Conrail customers acquired by CSX is in progress.</p> <p>Planned customer conversions to CSX Electronic Commerce tools are complete.</p> <p>All EC is complete</p>	<p>All customers will be provided adequate systems documentation and a detailed description of any changes to their current Conrail-provided electronic services</p> <p>All customers targeted for conversion to CSX electronic commerce tools have received information regarding the changes.</p> <p>All customer training and customer conversions are complete.</p>

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

INFORMATION TECHNOLOGY

Operating Area	Implementation Strategy	Status	Training
<p>Operations Personnel Crew Management</p>	<p>Separation of callings desks (CSX, NS, SAC) in Dearborn, MI has been pre-negotiated and is in place. There will be a phased roll-out of eight calling desks to TECS – the CSX Crew Calling System. The first desk will be rolled out 50 days after Day 1.</p> <p>T&E Crews will continue to submit paper time sheets to Dearborn, MI until the TECS desk roll-out is completed. Paperless payroll implementation will take place 2 weeks after each TECS desk implementation. The entire roll-out will take approximately seven months.</p>	<p>Systems development in process and on schedule.</p> <p>The TECS desk roll-out is still on schedule.</p> <p>All desks have been cut Over to TECS.</p> <p>Paperless payroll training was completed Dec. 10,1999</p> <p>Crew Callers have been moved from Dearborn to Jacksonville – Crew Management is complete.</p>	<p>CSX Payroll officers will train T&E employees on the CSX Payroll system immediately following the implementation of TECS. Local Chairman will participate in the training. Training documents have been prepared and presented to Conrail personnel.</p> <p>Training sessions have been completed.</p>
<p>Transportation Car Management and Movement</p>	<p>Field personnel will continue using Conrail application systems supporting yard inventory, train consisting and work orders after Day 1.</p> <p>Disposition and management of empty cars will occur in Jacksonville using CSX systems after Day 1 to ensure coordinated system wide transportation operations.</p> <p>Customers on the acquired territory will continue to order empty cars and obtain information on order status as they do today.</p> <p>CSX systems will be rolled-out to the acquired Conrail territory in 4 phases after Day 1.</p>	<p>Systems development in process and on schedule.</p> <p>Toledo Stanley Yard was cut-over to CSX systems July 27th.</p> <p>Chunk 1 Field Rollout including Indianapolis was successfully cut-over on Oct 11.</p> <p>Chunk 2 including Cleveland, Collinwood and Columbus, Ohio was successfully cut-over on January 10.</p> <p>Chunk 3 including Buffalo & Syracuse was successfully cut over on March 13, 2000.</p> <p>Chunk 4 including Selkirk & W. Springfield was successfully cutover on May 8, 2000</p> <p>All Car Management is complete</p>	<p>Training sessions have been completed</p>

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

INFORMATION TECHNOLOGY

Operating Area	Implementation Strategy	Status	Training
<p>Transportation Locomotive Management</p>	<p>CSX Locomotive Management System (LMS) will be used to manage locomotives in CSX acquired territory beginning on Day 1. This will occur from the Operations Center in Philadelphia, PA for approximately 180 days after Day 1. The management team in Philadelphia will consist of two locomotive managers and one senior locomotive manager. Dual entry of locomotive assignments will be made to the Conrail Locomotive Distribution System (LDS). Shutdown of Conrail LDS will accompany field roll-out and will be dependent upon other Conrail Systems (TRIMS & TMS) no longer relying on assignments being passed from Conrail LDS.</p> <p>Within 180 days after Day 1, locomotive management for the acquired Conrail territory will be relocated to the Kenneth Dufford Center in Jacksonville. Two CSX Locomotive Managers will manage the acquired territory at that time.</p>	<p>Implementation was completed June 1st.</p> <p>Dual entry into Conrail LDS was discontinued June 15th.</p> <p>The locomotive management of the acquired territory was transitioned to the Kenneth Dufford Center in Jacksonville, FL on July 12, 1999.</p> <p>Locomotive Management is Complete.</p>	<p>Locomotive managers for the acquired Conrail territory have been trained on the CSX Locomotive Management System (LMS). Locomotive Management has conducted training that included cross training of CSX and Conrail cultures.</p>

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

INFORMATION TECHNOLOGY

Operating Area	Implementation Strategy	Status	Training
<p>Transportation Train Dispatching</p>	<p>Train dispatchers will continue to use current Conrail systems. Phase 1 geographic realignments will separate dispatchers into CSX, NS & SAC entities within current division offices. Phase 1 will complete 90-120 days after Day 1.</p> <p>Phase 2 division realignment will move dispatchers to acquiring road's division. CSX Cleveland East dispatcher in Dearborn, MI will move to CSX headquarters in Indianapolis, IN. CSX Chesapeake & Riverline dispatchers in Mt. Laurel, NJ will move to CSX headquarters in Albany, NY. Phase 2 will complete 90-120 days after an implementing agreement has been reached.</p> <p>Phase 2 moves are contingent upon Phase 1 realignment completion for territory being transferred. Also contingent upon an implementing agreement being in place with the ATDD.</p>	<p>Systems development has been completed and implementation is proceeding on schedule.</p> <p>Phase 1 realignments :</p> <p>Albany, Indianapolis & Philadelphia complete.</p> <p>Dearborn Division started.</p> <p>Dearborn completed Mid-August 1999.</p> <p>Phase 2 realignments:</p> <p>Two dispatcher desks moved from Indianapolis to Dearborn on 7/27/99.</p> <p>Phase 2 projected to be completed with CSAO dispatcher move from Dearborn to Mt. Laurel on 8/10/99.</p> <p>All phases of the Train Dispatcher Realignment Project have been completed. Implementing agreements are now in place.</p> <p>Train Dispatching is complete.</p>	<p>Dispatchers will be trained on their new territory using the current processes in place at Conrail.</p>

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

Customer Service Progress Report

During May we completed the rollout of all CSXT systems for the fourth regional area. Cutover took place on May 8, 2000 and went smoothly. Major locations included in the cutover were Selkirk, South Kearney, and Framingham areas.

Personnel

We duplicated our training and mentoring procedures for this last cutover. Classroom training in Pittsburgh was completed prior to the cutover with the remaining personnel trained on all CSXT systems.

Customer Familiarization

The customer familiarization processes used previously were also duplicated. Tariffs have been published and distributed for supplemental billing purposes, and procedures put in place to convert the records for the first 7 days of May from the Conrail to the CSX demurrage system, so that customers will see only one bill for the month. All customers have been notified regarding the up coming changes.

Brochures were customized and distributed to customers by our Electronic Commerce Customer Integration Center to explain our EC offerings and initiatives, with special telephone numbers and other vital data provided. Other customer communications included blast faxes, mailings, and regular interaction with our Electronic Commerce personnel.

STB OPERATIONAL MONITORING REPORT

As of May 31, 2001

STB Status Submission Report on Training

All remaining training for the acquired territories was completed during the month of May.

Clerical employees received one-on-one training at their work locations on specific job tasks for their jobs. Train & Engine Service employees received instructions in the preparation of work order documents to ensure the correct documentation of placing and pulling of cars from industries. Field transportation officers and yardmasters also received specific training in the use of yard and train management systems. Extensive training was provided for 45 yardmasters and 17 transportation officers.

Coaches were positioned at strategic locations to assist employees during the cutover at all major terminals and crew on-duty locations.

The last cutover completed the training initiatives for this project.

George A. Aspatore
General Solicitor

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June 4, 2001

Melvin F. Clemens, Jr.
Director, Office of Compliance and Enforcement
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Dear Mr. Clemens,

Enclosed is Norfolk Southern's Monitoring Report dated May 31, 2001. NS continues to make progress on the projects targeted for completion in 2001 that are listed in the Construction and Other Capital Projects section of the Report.

Please let me know if you need any further information.

Sincerely,

George A. Aspatore

Enclosure

Norfolk Southern Corporation STB Operational Monitoring Report

As of May 31, 2001

Reporting Requirement	Page
Item 1. Labor Implementing Agreements.....	2
Item 2. Construction and Other Capital Projects	3
Item 3. Information Technology	9
Item 4. Customer Service.....	11
Item 5. Power and Rolling Stock	*
Item 6. Car Management, Crew Management and Dispatching.....	9
Item 7. Shared Assets Areas	*
Item 8. Monongahela Coal Area.....	3
Item 9. Cleveland Operations	3
Item 10. Chicago Gateway Operations	*
Item 11. Yards and Terminals	*
Item 12. On Time Performance.....	*
Item 13. The Conrail Transaction Council.....	*
Item 14. Labor Task Forces.....	2

Note: Bold print indicates changes from previous report.

* To be disclosed under a different cover or in a later report.

Surface Transportation Board Operational Monitoring Report

As of May 31, 2001

LABOR

Labor Implementing Agreements

All of the Labor Implementing Agreements have been reached concluding our reporting requirement, as provided in Paragraphs 1 and 14, on pages 162 and 165, respectively, of STB Decision No. 89 issued in Finance Docket No. 33388.

Labor-Management Task Forces

All implementing agreements became effective on June 1, 1999. A continuing dialogue has taken place between labor and NS management on a daily or as-needed basis concerning implementation and safety issues. Labor organization cooperation has been a key element in assuring the safe implementation of the Conrail transaction. This interaction will continue as the parties work through issues of mutual concern.

Note: Bold print indicates changes from previous report.

Surface Transportation Board Operational Monitoring Report

As of May 31, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location		Project	Dept	Phase	Status
Alexandria	IN	Construct track connection Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
			Signal	Const	Complete
				Design	Complete
Allentown - Reading	PA	Traffic Control System	Signal	Design	Note 2
	PA	Estimated Completion Date: Undetermined		Const	
Angola	NY	Upgrade existing siding, construct new siding Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Bridge	Design	Complete
				Const	Complete
			Signal	Design	Complete
	Const	Complete			
Ashtabula	OH	Construct connection track Estimated Completion Date: Complete	Track	Design	Complete
				Const	Complete
			Signal	Const	Complete
Attica	IN	Extend siding 4,580 track feet Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
			Signal	Const	Complete
				Design	Complete
	Const	Complete			
Boundbrook	NJ	Extend siding 15,000 track feet Estimated Completion Date: Undetermined	Track	Design	Note 2
				Grading	
			Signal	Const	
				Design	
	Const				
Bristol	VA	Extend siding 14,255 track feet Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Bridge	Design	Complete
				Const	Complete
			Signal	Design	Complete
	Const	Complete			
Bucyrus	OH	Construct track connection Estimated Completion Date: Complete	Land		Complete
			Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
				Const	Complete
Buffalo - Cleveland	NY	Traffic control system and remove pole line.	Signal	Design	Complete
	OH	Estimated Completion Date: Complete		Const	Complete
Buffalo	NY	Rehabilitate tracks in sub-leased BPRR yard Estimated Completion Date: Complete	Track	Const	Complete
Buffalo	NY	Construct connection to BPRR yard Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
	Const	Complete			

Surface Transportation Board Operational Monitoring Report

As of May 31, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location		Project	Dept	Phase	Status		
Buffalo	NY	Reconstruct portion of Bison Yard Estimated Completion Date: Complete	Track	Design	Complete		
				Grading	Complete		
			Signal	Const	Complete		
				Design	Complete		
Butler	IN	Construct track connection Estimated Completion Date: Undetermined	Track	Design	Note 2		
				Grading			
			Signal	Const			
				Design			
Chicago	IL	Expand and improve 47th St Yard Intermodal Terminal Estimated Completion Date: Complete	Track	Design	Complete		
				Grade/Pave	Complete		
			Track	Design	Complete		
				Const	Complete		
Cloggsville	OH	Track Rehabilitation Estimated Completion Date: Complete	Track	Design	Complete		
				Const	Complete		
			OH	Construct second main Estimated Completion Date: Complete	Track	Design	Complete
						Grading	Complete
	Bridge	Const			Complete		
		Design			Complete		
	Columbus	OH	Construct track connection Estimated Completion Date: Complete	Track	Design	Complete	
					Grading	Complete	
Signal				Const	Complete		
				Design	Complete		
Crockett	VA	Construct 9,100 foot new siding Estimated Completion Date: Complete	Land	Complete			
			Track	Design	Complete		
				Grading	Complete		
			Bridge	Const	Complete		
				Design	Complete		
			Signal	Const	Complete		
				Design	Complete		
			Croxtton	NJ	Expand and improve intermodal terminal Estimated Completion Date: Complete	Track	Design
Grade/Pave	Complete						
E-Rail	NJ	Expand and improve intermodal terminal Estimated Completion Date: 3Q01	Track	Design	Complete		
Erie	PA	Erie Track Realign Project Estimated Completion Date: 4Q01	Track	Grade/Pave	In progress		
				Design	Complete		
			Signal	Grading	In progress		
				Const	In progress		
			Design	Complete			
			Const	In progress			

Surface Transportation Board Operational Monitoring Report

As of May 31, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location		Project	Dept	Phase	Status
Flemington	NJ	Construct 12,500 foot siding Estimated Completion Date: Undetermined	Track	Design Grading Const	Note 2
			Signal	Design Const	
Hadley Jct (Ft Wayne)	IN	Double tracking Estimated Completion Date: Undetermined	Track	Design Grading Const	Note 2
			Signal	Design Const	
Hagerstown Sec (Greencastle)	PA	Construct siding Estimated Completion Date: Complete	Track	Design Grading Const	Complete Complete Complete
			Signal	Design Const	Complete Complete
Hagerstown Sec	PA	Traffic Control Estimated Completion Date: Complete	Signal	Design Const	Complete Complete
Harrisburg	PA	Construct double track Estimated Completion Date: Complete	Land Track	Design Grading Const	Complete Complete Complete
			Signal	Design Const	Complete Complete
Harrisburg (Rutherford)	PA	Construct intermodal terminal Estimated Completion Date: Complete	Track	Design Grade/Pave	Complete Complete
Harrisburg - Reading	PA PA	Traffic Control System and remove pole line Estimated Completion Date: 3Q01	Signal	Design Const	Complete In progress
KD Tower - Cumberland Falls	KY KY	Extending double track 40,120 feet Estimated Completion Date: Complete	Track	Design Grading Const	Complete Complete Complete
			Signal	Design Const	Complete Complete
Knoxville - Chattanooga	TN TN	Double Stack Clearances Estimated Completion Date: Complete	Track Bridge	Design Const Design	Complete Complete Complete
Marshfield	IN	Upgrade and extend siding 7,908 feet Estimated Completion Date: Complete	Land Track	Design Grading Const	Complete Complete Complete
			Bridge	Design Const	Complete Complete
			Signal	Design Const	Complete Complete
Oak Harbor	OH	Construct track connection Estimated Completion Date: Complete	Land Track	Design Grading Const	Complete Complete Complete
			Signal	Design Const	Complete Complete

Surface Transportation Board Operational Monitoring Report

As of May 31, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location		Project	Dept	Phase	Status
Pattenburg	NJ	Clearance-9 Bridges Estimated Completion Date: Complete	Bridge	Design	Complete
				Const	Complete
Pattenburg	NJ	Siding Extensions Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
			Signal	Const	Complete
				Design	Complete
Pattenburg	NJ	Tunnel Clearance Estimated Completion Date: Complete	Bridge	Design	Complete
				Const	Complete
Philadelphia	PA	Construct crossover - Zoo Estimated Completion Date: Undetermined	Track	Design	Note 2
				Grading	
			Signal	Const	
				Design	
Piney Flats	TN	Extend siding 6,610 feet Estimated Completion Date: Complete	Land		Complete
			Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
				Const	Complete
Port Reading	NJ	Chemical Coast Clearance Projects Estimated Completion Date: Complete	Track	Design	Complete
				Const	Complete
			Bridge	Design	Complete
				Const	Complete
Rader	TN	Extend siding 5,189 feet Estimated Completion Date: Complete	Land		Complete
			Track	Design	Complete
				Grading	Complete
				Const	Complete
			Bridge	Design	Complete
				Const	Complete
Signal	Design	Complete			
	Const	Complete			
Reading - Philadelphia	PA	Traffic Control System and remove pole line	Signal	Design	Note 2
	PA	Estimated Completion Date: Undetermined		Const	
Riverton Jct - Roanoke	VA	Clearance projects	Bridge	Design	Complete
	VA	Estimated Completion Date: Complete		Const	Complete
Sandusky (Bellevue)	OH	Construct Triple Crown Terminal Estimated Completion Date: Complete	Track	Design	Complete
				Grade/Pave	Complete
			Building	Const	Complete
Sandusky- Columbus	OH	Double Track: S 13.60 - S 26.00 Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
			Const	Complete	

Surface Transportation Board Operational Monitoring Report
As of May 31, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location		Project	Dept	Phase	Status
Sandusky- Columbus	OH	Double Track: S 78.10 - S 88.40 Estimated Completion Date: Complete	Land		Complete
			Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
		Const	Complete		
Sandusky- Columbus	OH	Double Track: S 88.30 - S 95.60 Estimated Completion Date: Complete	Land		Complete
			Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
		Const	Complete		
Sidney	IL	Construct track connection Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
		Const	Complete		
Sido	MO	Double tracking 36,458 track feet Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Bridge	Design	Complete
				Const	Complete
	Signal	Design	Complete		
		Const	Complete		
Sloan	IL	Extend siding 5,027 track feet Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
		Const	Complete		
Southern Tier	NY	Southern Tier Rehabilitation Estimated Completion Date: Undetermined	Track	Const	Note 2
			Bridge	Design	
				Const	
St. Louis (Mitchell)	MO	Expand Mitchell Triple Crown Terminal Estimated Completion Date: Complete	Track	Design	Complete
				Grade/Pave	Complete
			Signal	Design	Complete
		Const	Complete		
Toledo	OH	Intermodal Terminal Estimated Completion Date: Undetermined	Track	Design	Note 2
				Grade/Pave	
Tolono	IL	Track Connection Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
				Const	Complete
Vermillion	OH	Track Connection Estimated Completion Date: Complete	Land		Complete
			Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
		Const	Complete		

Surface Transportation Board Operational Monitoring Report

As of May 31, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location		Project	Dept	Phase	Status
Wabash	IN	Construct connection track	Track	Const	Complete
		Estimated Completion Date: Complete	Signal	Design	Complete
				Const	Complete

Note 1: Bold print indicates changes from previous report. If status of project phase is blank, work on that part of the project has not yet begun.

Note 2: Project on hold pending evaluation of revised traffic requirements.

Surface Transportation Board Operational Monitoring Report

As of May 31, 2001

CUSTOMER SERVICE

Systems and Personnel Training

Operating Area	Project	Status
TRANSPORTATION		
Car Management and Movement	Systems – Multiple projects	Complete
Includes Thoroughbred Yard Enterprise System (TYES) and Central Yard Operations (CYO) System	Personnel Training	
	Prepare training materials for TYES and CYO	Complete
	Trainer orientation	Complete
	TYES training at Conrail locations	Complete
Train Dispatching	Systems	Complete
	Personnel Training	
	Prepare computer-based training materials for Norfolk Southern Train Information System (TIS) and Train System Accident Reporting System (TSAR).	Complete
Locomotive Management	Train Conrail employees at Dearborn, Pittsburgh, and Mt. Laurel	Complete
	Systems	Complete
	Personnel Training	
	Prepare training materials; conduct pilot sessions	Complete
	Trainer orientation	Complete
	Train employees at 8 Conrail locations	Complete

Surface Transportation Board Operational Monitoring Report
As of May 31, 2001

CUSTOMER SERVICE

Operating Area	Project	Status
OPERATIONS PERSONNEL		
Crew Management	Systems	Complete
	Personnel Training	
	Prepare training materials	Complete
Train and Engine (T&E) Payroll	Train Conrail employees	Complete
	Personnel Training	
	Prepare training materials; conduct pilot sessions	Complete
Non-Train and Engine Payroll	Train T&E crews	Complete
	Personnel Training	
	Prepare training materials; conduct pilot sessions	Complete
	Trainer orientation	Complete
	Train Conrail employees	Complete
	<hr/>	
CUSTOMER SERVICE		
Electronic Customer Connectivity	Systems	Complete
	Personnel Training	
	Testing new systems	Complete
National Customer Service Center	Customer Coordination	
	Information to be distributed to customers	Complete
	Personnel Training	
	Prepare training materials	Complete
	Train employees in Pittsburgh and Atlanta	Complete

Note: Bold print indicates changes from previous report.

Surface Transportation Board Operational Monitoring Report

As of May 31, 2001

CUSTOMER SERVICE

Transition Process

Transition team members for Philadelphia working in Customer Service were released at the end of February, 2000. Call volumes have declined as general service levels improve and are currently below call volume levels prior to the split date. The phone tracing system, which is an automated feature of our toll-free line that allows a customer to trace the location of its cars by keying in car numbers on the telephone keypad, continues to work as expected. Norfolk Southern has also added car tracing functions to its web page.

Customer Service has reorganized to better leverage the functions of the Central Yard Operations (CYO) groups and the National Customer Service Center (NCSC) staff. Our overall goal is to utilize the larger CYO staff for routine inquiries and allow NCSC to focus on problem resolution and correction.

Other Customer Service changes include moving Agency Operations Center (AOC) billing functions to Accounting; moving Data Quality and Demurrage functions under CYO; and combining Equipment Marketing and Car Distribution and Utilization in a new group called Car Management.

Personnel

The implementation of the Thoroughbred Yard Enterprise System in the former Conrail areas has been completed, including the training of field personnel. All supervisory positions have been filled for Data Quality, the Agency Operations Center and Customer Service.

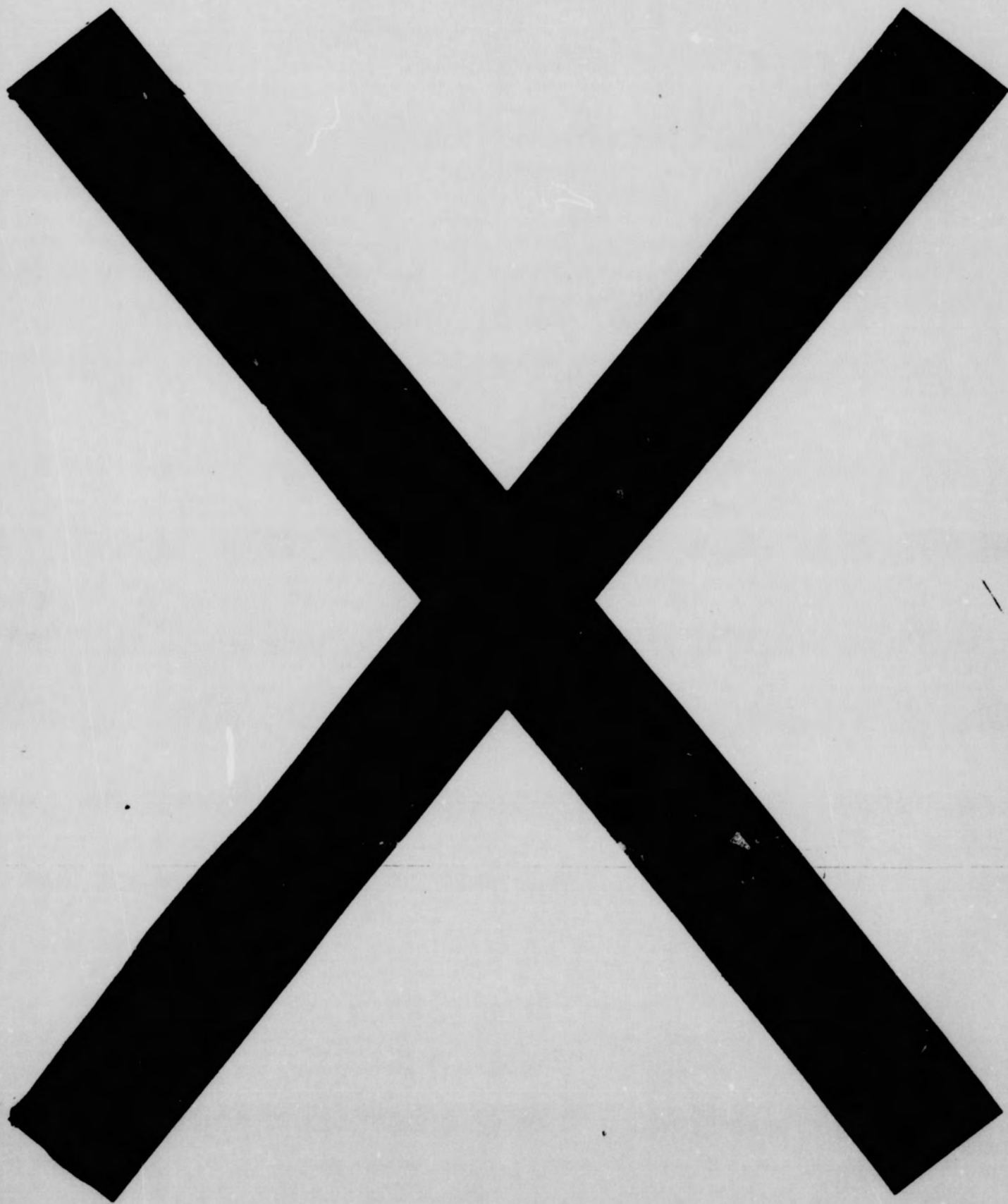
Customer Awareness

NS continues to host customer meetings to evaluate and provide feedback on the Company's planning processes and strategies. NS continues to make numerous meetings and presentations in order to keep our customers informed.

The Customer Resource Guide, distributed to our customers, provides customers with all resources and information necessary for doing business with the new NS.

The Help Desk Directory, also distributed to our customers, lists key phone numbers that connect users to areas that may assist them in answering questions about NS. It is available in three formats: a pocket guide for employees, a list for customers, and an expanded version available for downloading from the Internet.

Note: Bold print indicates changes from previous reports.



STB

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Memorandum

ENTERED
Office of the Secretary

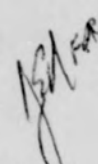
JUN 11 2001

Part of
Public Record

DATE: June 7, 2001

D

TO : Ellen Keys, Assistant Secretary
Section of Publications/Records
Office of the Secretary

FROM  Mel Clemens, Director
Office of Compliance and Enforcement



SUBJECT : STB FINANCE DOCKET NO. 33388 - OPERATIONAL MONITORING DATA

Attached are the original and two copies of the latest weekly public data files provided to this office by CSX and Norfolk Southern as required in the above proceeding, which are to be committed to the docket for public reference. As requested, I am providing the three paper copies to Ron Douglas, two for the docket and one for Da To Da Office Solutions. If there are any questions, please don't hesitate to contact me or Ed Nelson.

Attachments

cc: Chairman Morgan
Vice Chairman Clyburn
Commissioner Burkes
Richard Armstrong
Ron Douglas
Charles Renninger



500 Water Street (J407)
Jacksonville, FL 32202
Phone (904) 366-4134
Fax (904) 359-1571

T. J. Stephenson
Assistant Vice President -
Service Measurements

June 6, 2001

Mr. Melvin F. Clemens, Jr.
Director, Office of Compliance and Enforcement
Surface Transportation Board
The Mercury Building
1925 K Street, NW, Suite 780
Washington, DC 20423

Dear Mr. Clemens:

Enclosed with this transmittal letter are CSX Transportation's operational monitoring reports to the Board for the week ending Friday, June 1st. Cars on-line increased from 238,538 to 240,225. Train velocity increased slightly from 21.1 to 21.2 miles-per-hour, and terminal dwell increased from 24.9 hours to 28.1 hours. These increases reflect the effects of CSXT's curtailment of operations over Memorial Day.

We would offer the following observations and interpretations regarding the data CSXT provides the STB, Conrail Transaction Council, and the AAR:

Chicago Gateway Operations

During this reporting week, the on-time-to-two-hours-late measure of deliveries to western carriers through Chicago moved favorably four percentage points to 84%. The more-than-six-hours-late category moved unfavorably two percentage points to 9%.

Yards and Terminals

Car volumes and dwell times changed very little, remaining within expected levels at most terminals across the network. Two of the 14 measured yards showed an improvement in dwell time compared to the prior week.

Corridor Performance

Two of the six measured corridors showed an improvement compared to the prior week. The best performance in the on-time-to-two-hours-late category (91%) occurred on the East St. Louis to Northeast corridor. Overall, the on-time-to-two-hours-late category was 76%, down three percentage points from last week's 79%, and the percent of trains in the greater-than-six-hours-late category moved unfavorably five percentage points to 16%.

Shared Areas

Daily average on hand cars decreased marginally at Pavonia, and increased marginally at North Yard and Oak Island. All volumes still remain within expected or observed norms for comparable periods. Overall terminal dwell time was 30.3 hours, up from 25.6 hours last week.

Additional Measurements

Train Delay Metric: For 690 train starts, weekly train delay totaled 7 hours for Power and 76 hours for Crew. Power delay decreased while Crew delay increased from the previous week.

Train Crew Delay Metric: The percent of crews not departing within two hours of the on-duty time averaged 21.3% for the week, improved from 21.6% last week.

Daily Crew Availability Percentage: Crew Availability Percentage was 81%, breaking the trend of 82% for the last five weeks.

Daily Number of Recrews Required: Of 1718 crew starts, 36 (2%) were recrews, same percentage as last week.

Shared Asset Areas Train Delay Metric: SAA Train Delays averaged one train for North Jersey and Detroit, and none for South Jersey.

Locomotives: Gross Locomotives = 3877, Average Available = 3548, and Out-of-Service Ratio = 4.9%, improved from 5.5% the previous week.

Cars Offered in Interchange: averaged 240 cars daily, 30 of which were for the Norfolk Southern. The NS-offered and total-offered increased this week.

On-time performance, passenger trains through Brunswick, MD: 70% for 10 AMTRAK trains (Pittsburgh – Washington) and 94% for 72 MARC trains (West Virginia – Washington).

Buffalo Customer Service (Hot-Line): the customer service center received no calls this week.

Last week we met the goal for 14 of the 18 key service measures established for the second quarter. Goals were met for FRA-reportable injuries, FRA-reportable derailments, cars on-line, overall train velocity, merchandise train velocity, slow order miles, crews on duty greater than 12 hours, relief crews, crew delay hours, right connection, industrial switching, hours of locomotive delay, CSXT locomotive out-of-service ratio, and leased locomotive out-of-service ratio.

CSXT's service performance continues at near-record levels, with little movement in indicators. We are seeing a rapid recovery from the Memorial Day curtailment. Operations are very fluid and CSXT is able to absorb additional traffic.

Sincerely,

T.J. Stephenson
Assistant Vice President
Service Measurements

Surface Transportation Board

Performance Measures

For the week ending:

06/01/01

Yard Performance

(Composite of NS/CSX Traffic)

Location	Measure	Monday 05/28/01	Tuesday 05/29/01	Wednesday 05/30/01	Thursday 05/31/01	Friday 06/01/01
Oak Island, NJ	Fluid Capacity	1200	1200	1200	1200	1200
	Cars On Hand - Loaded	354	483	425	413	338
	Cars On Hand - Empty	306	327	281	361	354
	Cars On Hand - Total	660	810	706	774	692
	Cars Handled	140	446	501	691	517
	Dwell Hours	32.4	50.9	40.7	25.6	28.4
Pavonia, NJ	Fluid Capacity	900	900	900	900	900
	Cars On Hand - Loaded	244	211	263	249	262
	Cars On Hand - Empty	194	224	240	319	432
	Cars On Hand - Total	442	435	503	568	754
	Cars Handled	75	191	306	466	534
	Dwell Hours	0.7	55.9	35.7	24.5	21.4
North Yard, MI	Fluid Capacity	850	850	850	850	850
	Cars On Hand - Loaded	138	276	211	206	153
	Cars On Hand - Empty	177	181	181	135	168
	Cars On Hand - Total	315	457	392	341	321
	Cars Handled	154	275	397	482	252
	Dwell Hours	13.2	36.5	30.2	25.3	14.2

CSX Comments: Daily average on hand cars decreased marginally at Pavonia, and increased marginally at North Yard and Oak Island. All volumes still remain within expected or observed norms for comparable periods.
Overall terminal dwell time was 30.3 hours, up from 25.6 hours last week.

Surface Transportation Board

Performance Measures

Train Originations

(Composite of NS/CSX Traffic)

		Monday	Tuesday	Wednesday	Thursday	Friday
Location	Measure	05/28/01	05/29/01	05/30/01	05/31/01	06/01/01
North Jersey SAA	Number of Originations	2	4	7	11	10
	% Ontime	100%	100%	29%	27%	50%
	% Late 0-2 Hours	0%	0%	57%	36%	20%
	% Late 2-4 Hours	0%	0%	0%	18%	20%
	% Late 4-6 Hours	0%	0%	0%	18%	0%
	% Late GT 6 Hours	0%	0%	14%	0%	10%
South Jersey SAA	Number of Originations	0	0	3	3	3
	% Ontime	0%	0%	100%	67%	100%
	% Late 0-2 Hours	0%	0%	0%	33%	0%
	% Late 2-4 Hours	0%	0%	0%	0%	0%
	% Late 4-6 Hours	0%	0%	0%	0%	0%
	% Late GT 6 Hours	0%	0%	0%	0%	0%
Detroit SAA	Number of Originations	3	4	8	8	9
	% Ontime	67%	75%	88%	63%	78%
	% Late 0-2 Hours	33%	25%	13%	13%	22%
	% Late 2-4 Hours	0%	0%	0%	25%	0%
	% Late 4-6 Hours	0%	0%	0%	0%	0%
	% Late GT 6 Hours	0%	0%	0%	0%	0%

CSX Comments: Total road train delays were 13 trains. Crew delays were 8 trains for 15 hours; no trains were delayed for power; originating trains 5 for 9 hours, due to late connections.

Surface Transportation Board

Performance Measures

CSXT Cars Offered in Interchange but not Accepted

(Snapshot at Midnight for Day Measured)

Measure	Railroad Offered To	Monday 05/28/01	Tuesday 05/29/01	Wednesday 05/30/01	Thursday 05/31/01	Friday 06/01/01	Daily Average
Cars Offered	NS	3	35	35	40	39	30
	All Other	107	190	235	244	274	210
	Total	110	225	270	284	313	240

Measures all cars in offered interchange status on acquired Conrail territory only. Volumes are listed by cars offered to NS (Norfolk Southern) and All Other Railroads.

CSXT On Time Passenger Train Performance

"Brunswick Line"

Between West Virginia/Washington, DC

Service	Measure	Monday 05/28/01	Tuesday 05/29/01	Wednesday 05/30/01	Thursday 05/31/01	Friday 06/01/01	Weekly Totals
AMTK	Trains	2	2	2	2	2	10
	% On Time	100%	50%	50%	50%	100%	70%
MARC	Trains	0	18	18	18	18	72
	% On Time	0%	100%	83%	94%	100%	94%

AMTK measured according to contract with CSXT.

Surface Transportation Board

Performance Measures

CSXT Train Crew Delay

	Causes of Delay	Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Weekly
Terminal	Trains / Hours	05/26/01	05/27/01	05/28/01	05/29/01	05/30/01	05/31/01	06/01/01	Total
Baltimore	Train Crew Starts	17	16	2	18	17	21	20	111
	Crews Delayed +2 Hours	5	8	1	9	8	7	9	47
	% Delayed +2 Hours	29%	50%	50%	50%	47%	33%	45%	42%
Buffalo	Train Crew Starts	49	37	14	29	51	48	44	272
	Crews Delayed +2 Hours	4	3	1	2	3	5	4	22
	% Delayed +2 Hours	8%	8%	7%	7%	6%	10%	9%	8%
Chicago	Train Crew Starts	25	21	18	28	26	26	23	167
	Crews Delayed +2 Hours	4	7	3	8	4	4	6	36
	% Delayed +2 Hours	16%	33%	17%	29%	15%	15%	26%	22%
Cincinnati	Train Crew Starts	34	31	2	39	39	47	35	227
	Crews Delayed +2 Hours	4	3	0	1	1	4	0	13
	% Delayed +2 Hours	12%	10%	0%	3%	3%	9%	0%	6%
Cleveland	Train Crew Starts	24	23	4	20	28	24	29	152
	Crews Delayed +2 Hours	5	12	0	8	11	6	12	54
	% Delayed +2 Hours	21%	52%	0%	40%	39%	25%	41%	36%
Cumberland	Train Crew Starts	34	21	1	25	31	31	31	174
	Crews Delayed +2 Hours	2	2	0	3	2	6	6	21
	% Delayed +2 Hours	6%	10%	0%	12%	6%	19%	19%	12%
Detroit	Train Crew Starts	6	3	0	5	9	6	8	37
	Crews Delayed +2 Hours	0	0	0	2	4	2	3	11
	% Delayed +2 Hours	0%	0%	0%	40%	44%	33%	38%	30%
Philadelphia	Train Crew Starts	14	14	2	10	11	13	15	79
	Crews Delayed +2 Hours	3	2	0	3	3	1	3	15
	% Delayed +2 Hours	21%	14%	0%	30%	27%	8%	20%	19%
Selkirk	Train Crew Starts	47	37	11	32	40	49	50	266
	Crews Delayed +2 Hours	16	11	1	6	9	9	14	66
	% Delayed +2 Hours	34%	30%	9%	19%	23%	18%	28%	25%
Toledo	Train Crew Starts	31	33	2	29	36	35	34	200
	Crews Delayed +2 Hours	6	3	0	1	5	9	8	32
	% Delayed +2 Hours	19%	9%	0%	3%	14%	26%	24%	16%
Willard	Train Crew Starts	35	31	17	26	37	42	41	229
	Crews Delayed +2 Hours	8	9	3	7	11	9	10	57
	% Delayed +2 Hours	23%	29%	18%	27%	30%	21%	24%	25%

Daily number of train crew starts from selected yards or terminals and the number of those originating train crews that were delayed in those yards or terminals for two hours or more after going on-duty. The percentage of those delayed starts.

Surface Transportation Board Performance Measures

CSXT Train Delay - Northern Region Lines

	Cause of Delay	Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Weekly
Measure	Trains / Hours	05/26/01	05/27/01	05/28/01	05/29/01	05/30/01	05/31/01	06/01/01	Total
Train Delay	Originating Train Starts	104	98	44	89	110	123	122	690
	Delayed Hours - Power	1	0	0	0	0	4	2	7
	Delayed Hours - Crews	27	9	4	1	4	14	17	76

Daily number of originating train starts on the Northern Region and the hours delayed due to lack of power and crew of those originating train crews. The delayed train starts will be broken down between power and crew delayed hours.

Daily Crew Availability Percentage - Northern Region Lines

		Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Daily
Measure	Crew Availability	05/26/01	05/27/01	05/28/01	05/29/01	05/30/01	05/31/01	06/01/01	Average
Crew Availability		82%	79%	80%	82%	82%	81%	80%	81%

Daily percentage of CSXT road train crews that are available for work on the Northern Region Lines.

Daily Number of Train Crew Starts and Recrews Required

		Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Weekly
Measure	Crew/Recrews	05/26/01	05/27/01	05/28/01	05/29/01	05/30/01	05/31/01	06/01/01	Total
Crews/Recrews	Train Crew Starts	280	238	133	222	281	280	284	1718
	Recrews	7	9	3	2	6	2	7	36
	% Recrewed	2%	4%	2%	1%	2%	1%	2%	2%

Daily number of CSXT road train crew starts, the number of recrews and percentage of recrews for the Northern Region Lines.

Surface Transportation Board

Performance Measures

CSXT Locomotive Fleet Condition

		Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Daily
Measure	Locomotives	05/26/01	05/27/01	05/28/01	05/29/01	05/30/01	05/31/01	06/01/01	Average

Locomotives	Gross Fleet Size	3851	3816	3835	3906	3928	3918	3886	3877
	Avg. Number Available	3535	3529	3586	3541	3522	3556	3567	3548
	OOS Ratio	5.3	5.3	4.2	4.1	5.0	5.3	5.3	4.9

The measure for Gross Fleet will consist of CSX owned, leased, and foreign locomotives on-line. The Average Number Available will be the number of net fleet available to move traffic. The Out-of-Service Ratio (OOS) is the ratio of CSXT owned locomotives not available.

Shared Asset Areas Train Delay

		Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Daily
Measure	Shared Area	05/26/01	05/27/01	05/28/01	05/29/01	05/30/01	05/31/01	06/01/01	Average

Train Delay	Philadelphia/South Jersey	0	1	1	0	1	0	0	0
	North Jersey	2	0	0	0	0	0	4	1
	Detroit	1	0	0	0	0	2	1	1

Daily number of outbound trains ready for departure that are held for line haul carriers in each of the shared asset areas for more than one hour after notification. The measure will be a composite of CSX and NS trains.

George A. Aspatore
General Solicitor

(757) 629-2657
(757) 533-4872
E-mail gaaspato@nscorp.com

June 6, 2001

Mr. Melvin F. Clemens, Jr.
Director, Office of Compliance and Enforcement
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Dear Mr. Clemens:

Pursuant to Decision No. 89 issued in STB Finance Docket No. 33388, for the week ending June 1, 2001, enclosed are schedules reporting Train Origination Performance, Yard Performance, and Trains Held in the Shared Assets Areas. Also enclosed is a schedule showing a daily snapshot of NS Cars Offered in Interchange but not Accepted, and our Locomotive Fleet Statistics. This schedule also includes NS Northern Region Train Starts and Delays that are not limited to a snapshot period.

Another schedule incorporated into this transmittal shows NS Crew Starts and Delays, NS Northern Region Daily Crew Availability Percentage, and NS Northern Region Crew Starts and Recrews.

Additionally, this transmittal includes confidential reports containing performance statistics for NS's Chicago Gateway Interchange Operations, Corridor Train Performance and Yard Performance. In an effort to provide you with more detailed information regarding delays, I have included two schedules supporting NS's Chicago Gateway and Corridor Train Performance reports, which identify the number and total time for delays due to crew, power, or other issues. I also have supplied the Public Reporting Measures that we provide to the Conrail Transaction Council and the AAR.

Mr. Melvin F. Clemens, Jr.
June 6, 2001
Page 2

As always, I am including a letter written by Tony L. Ingram, Vice President Transportation – Operations, which discusses delays in our rail operations. If you have any questions or need additional information, please call me.

Sincerely,

George A. Aspatore
General Solicitor

Enclosures

June 6, 2001

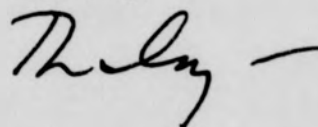
Mr. Melvin F. Clemens, Jr.
Director, Office of Compliance and Enforcement
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

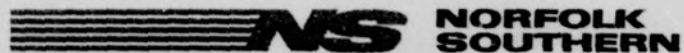
Dear Mr. Clemens:

Norfolk Southern's performance metrics remain within normal operating range. The number of cars on line decreased, the average train speed increased, and the average terminal dwell increased. On the monitored corridors and Chicago gateway operations, 34 trains were held for terminal delays, 17 trains were held for crews, and 24 trains were held for power.

In the Shared Assets Areas, daily average on-hand car volume increased marginally at North Yard and Oak Island and decreased marginally at Pavonia. All volume counts were within expected operating norms. Overall average terminal dwell time increased. The number of reported road train delays for crews and power decreased from last week. Eight trains were delayed 15 hours for lack of crews and no trains were delayed awaiting power. Five originating trains were delayed a total of 9 hours due to late arrivals from CSXT and/or NS. Together, these delays accounted for 7% of the delay hours reported in the SAAs.

Sincerely,

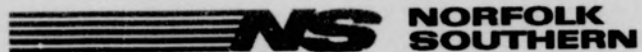




For the week ending 6/1/01

Shared Asset Area - Yard Performance

Yard	date	Fluid Capacity	On hand -Empty	On hand - Loaded	On hand - Total	Cars handled	Average dwell
North Yard MI	5/28/01	850	177	138	315	154	13.2
	5/29/01	850	181	276	457	275	36.5
	5/30/01	850	181	211	392	397	30.2
	5/31/01	850	135	206	341	482	25.3
	6/1/01	850	168	153	321	252	14.2
North Yard MI Average		850	168	197	365	312	25.5
Oak Island NJ	5/28/01	1200	306	354	660	140	32.4
	5/29/01	1200	327	483	810	446	50.9
	5/30/01	1200	281	425	706	501	40.7
	5/31/01	1200	361	413	774	691	25.6
	6/1/01	1200	354	338	692	517	28.4
Oak Island NJ Average		1200	326	403	728	459	34.9
Pavonia NJ	5/28/01	900	198	244	442	75	0.7
	5/29/01	900	224	211	435	191	55.9
	5/30/01	900	240	263	503	306	35.7
	5/31/01	900	319	249	568	466	24.5
	6/1/01	900	492	262	754	534	21.4
Pavonia Average		900	295	246	540	314	28.3

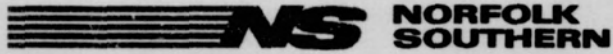


**NORFOLK
SOUTHERN**

For the week ending 6/1/01

Shared Asset Train Origination Performance

location	date	Trains	On time	0-2 hours late	2-4 hours late	4-6 hours late	6+ hours late
Detroit Total	28-May	3	67%	33%	0%	0%	0%
	29-May	4	75%	25%	0%	0%	0%
	30-May	8	88%	13%	0%	0%	0%
	31-May	8	63%	13%	25%	0%	0%
	1-Jun	9	78%	22%	0%	0%	0%
Detroit Total		32	75%	19%	6%	0%	0%
North Jersey Total	28-May	2	100%	0%	0%	0%	0%
	29-May	4	100%	0%	0%	0%	0%
	30-May	7	29%	57%	0%	0%	14%
	31-May	11	27%	36%	18%	18%	0%
	1-Jun	10	50%	20%	20%	0%	10%
North Jersey Total		34	47%	29%	12%	6%	6%
South Jersey Total	28-May	0	0%	0%	0%	0%	0%
	29-May	0	0%	0%	0%	0%	0%
	30-May	3	100%	0%	0%	0%	0%
	31-May	3	67%	33%	0%	0%	0%
	1-Jun	3	100%	0%	0%	0%	0%
South Jersey Total		9	89%	11%	0%	0%	0%
Grand Total		75	64%	23%	8%	3%	3%

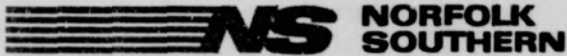


For the week ending 6/1/01

Shared Asset Area Trains Held

area	Sat 26-May	Sun 27-May	Mon 28-May	Tue 29-May	Wed 30-May	Thu 31-May	Fri 01-Jun	Grand Total
North Jersey	2	0	0	0	0	0	4	6
South Jersey	0	1	1	0	1	0	0	3
Detroit	1	0	0	0	0	2	1	4

Daily number of outbound trains ready for departure that are held for line haul carriers in each of the shared asset areas for more than one hour after notification.



NS Cars Offered in Interchange but not Accepted

offered	Monday	Tuesday	Wednesday	Thursday	Friday	Total
CSX	68	32	0	0	0	100
other	0	19	0	34	60	113
Total	68	51	0	34	60	213

Snapshot taken between 2:00 and 3:00 each day
 NS acquired territory only

NS Northern Region Train Starts and Delays

	Saturday 28-Apr	Sunday 29-Apr	Monday 30-Apr	Tuesday 1-May	Wednesday 2-May	Thursday 3-May	Friday 4-May	Grand Total
# of Train Starts	167	152	173	167	170	169	172	1170
Delay Cause								
Crew Delays (hrs)	16.3	0.0	4.6	8.0	2.0	4.3	4.8	40.0
Power Delays (hrs)	22.3	16.0	0.0	20.9	15.0	1.0	1.3	76.4

The delay numbers are expressed in hours

Locomotive Fleet Statistics

	Saturday 26-May	Sunday 27-May	Monday 28-May	Tuesday 29-May	Wednesday 30-May	Thursday 31-May	Friday 1-Jun	average
Fleet Size	3202	3237	3236	3217	3233	3274	3286	3241
available	3016	3044	3020	3020	3043	3091	3107	3049
out of service %	5.8%	6.0%	6.7%	6.1%	5.9%	5.6%	5.4%	5.9%

Snapshot taken at midnight
 Fleet size is all locomotives on line. Includes owned, leased and foreign.



NS Crew Starts and Delays

		Saturday 28-Apr	Sunday 29-Apr	Monday 30-Apr	Tuesday 1-May	Wednesday 2-May	Thursday 3-May	Friday 4-May	Grand Total
Allentown	crew starts	12	16	9	16	16	15	14	98
	crews delayed	6	2	5	2	3	3	5	26
Bellevue	crew starts	33	32	34	32	31	40	37	239
	crews delayed	7	5	4	5	5	6	5	37
Buffalo	crew starts	20	22	15	22	22	22	24	147
	crews delayed	1	3	3	3	0	4	4	18
Chicago	crew starts	33	33	28	33	31	30	30	218
	crews delayed	15	12	8	12	8	12	11	78
Cincinnati	crew starts	35	36	25	36	27	40	40	233
	crews delayed	11	7	7	7	5	4	10	51
Cleveland	crew starts	10	9	6	9	8	11	12	65
	crews delayed	3	4	2	4	3	4	6	26
Conway	crew starts	62	50	46	50	51	52	53	364
	crews delayed	25	14	12	14	11	14	16	106
Detroit	crew starts	14	14	10	14	22	22	19	115
	crews delayed	5	6	3	6	7	2	5	34
Elkhart	crew starts	29	41	30	41	30	36	40	247
	crews delayed	10	22	12	22	13	12	13	104
Harrisburg	crew starts	54	48	44	48	47	50	54	345
	crews delayed	21	17	20	17	10	22	20	127
Toledo	crew starts	54	63	48	63	52	60	61	401
	crews delayed	8	11	7	11	18	16	9	80

Notes: Data source is T&E employees' "End of Trip" reporting
 A summary of all "E-O-T's" where departure time is reported as two or more hours after time crew ordered.
 Includes all trains for location, whether originating or run-through.
 A delayed crew is one delayed two hours or more after coming on duty

NS Northern Region Daily Crew Availability Percentage

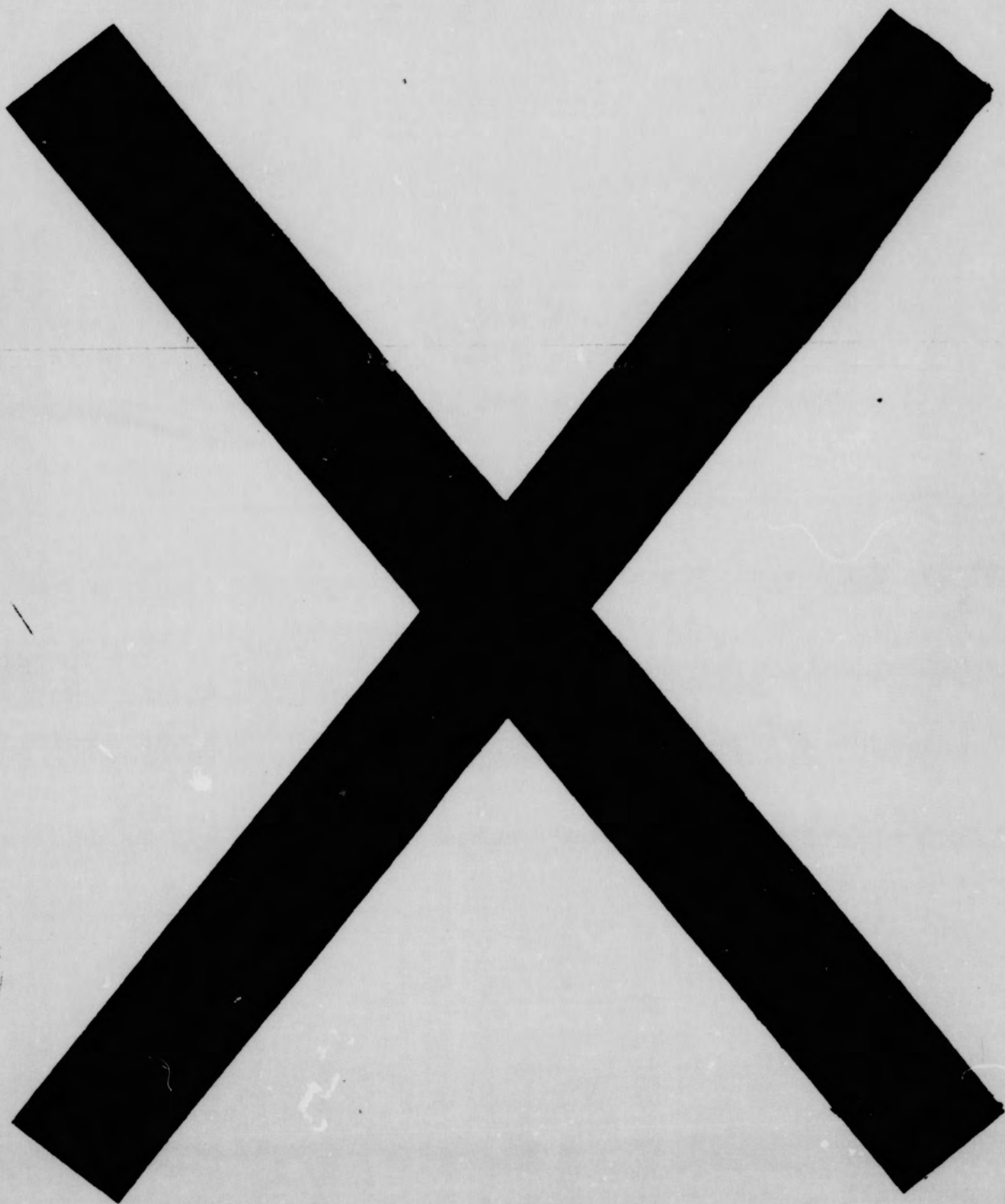
	Saturday 28-Apr	Sunday 29-Apr	Monday 30-Apr	Tuesday 1-May	Wednesday 2-May	Thursday 3-May	Friday 4-May	average
availability%	75%	74%	76%	78%	80%	80%	80%	78%

Notes: A "snapshot" of percent of Train and Engineman available at approximately 5:00 AM

NS Northern Region Crew Starts and Recrews

	Saturday 28-Apr	Sunday 29-Apr	Monday 30-Apr	Tuesday 1-May	Wednesday 2-May	Thursday 3-May	Friday 4-May	Grand Total
crew starts	308	309	252	226	291	311	330	2027
recrews	19	11	9	6	13	11	8	77

Notes: A summary of trains ordered by field transportation using relief crew (recrew) train symbol
 Does not include recrews/trains pulled into terminals by yard crews or road crews called and used in regular service



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FD-33388

6-8-01

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ZUCKERT SCOUTT & RASENBERGER, L.L.P.

ATTORNEYS AT LAW

888 Seventeenth Street, NW, Washington, DC 20006-3309

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SCOTT M. ZIMMERMAN

DIRECT DIAL (202) 973-7929

smzimmerman@zsrlaw.com

June 8, 2001

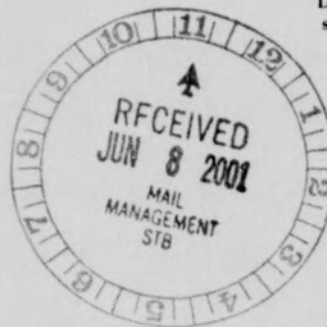
BY HAND DELIVERY

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

ENTERED
Office of the Secretary

JUN 08 2001

Part of
Public Record



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

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding are the original and 25 copies of NS-83, "Norfolk Southern's Reply To Petitioners' Opposition To Request For Extension Of Time." Also enclosed is a 3.5-inch computer disk containing the text of NS-83 in WordPerfect 5.0 format.

Kindly date-stamp the enclosed additional 3 copies of NS-83 and return them to our messenger.

Sincerely,

Scott M. Zimmerman

Enclosures

cc: Julia Farr, Esq.
All parties of record

202609



BEFORE THE
SURFACE TRANSPORTATION BOARD

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JUN 08 2001

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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

**NORFOLK SOUTHERN'S REPLY TO PETITIONERS' OPPOSITION TO REQUEST
FOR EXTENSION OF TIME**

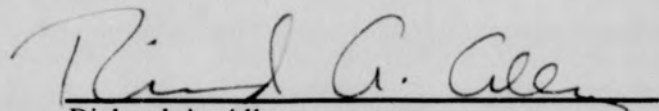
Norfolk Southern Corporation and Norfolk Southern Railway Company (together, "NS") requests leave to respond briefly to petitioners' opposition, filed June 7, 2001 to NS' request for a 14-day extension of time (up to and including June 25, 2001) for NS to submit the pleading the Board in its Decision No. 186 directed NS to file regarding NS' announced plans to close the car repair shops at Hollidaysburg, Pennsylvania.

NS believes the importance of this matter to all concerned justifies the relatively brief extension we have requested. In response specifically to petitioners' concern that the extension would not give petitioners and others adequate time to respond to NS' filing (given petitioners' counsel's scheduled vacation between June 20 and July 1, 2001), NS would not object to extending the time for responses to its filing to July 16, 2001. This would give responders an

additional week to the two weeks provided by Decision No. 186, and would give petitioners' counsel a full two weeks after his return from vacation, to file responses.

With regard to petitioners' concern that the requested extension would not give the Board adequate time to issue a final decision before the scheduled September 1, 2001 closure date, NS is confident that the Board intends to act on this matter promptly, given the obvious interests of the employees and NS for as much advance notice as possible. To ensure that the requested extension would leave the Board with no less time before the scheduled closure date to issue its decision, NS will, if the Board grants the requested extension, not close the Hollidaysburg Shops before October 1, 2001.

Respectfully submitted,



J. Gary Lane
George A. Aspatore
Jeffrey H. Burton
John V. Edwards
**NORFOLK SOUTHERN
CORPORATION**
Three Commercial Place
Norfolk, Virginia 23510-2191
(757) 629-2838

Richard A. Allen
Scott M. Zimmerman
**ZUCKERT, SCOUTT &
RASENBERGER, LLP**
888 Seventeenth Street, NW
Suite 600
Washington, D.C. 20006
(202) 298-8660

*Attorneys for Norfolk Southern Corporation
and Norfolk Southern Railway Company*

June 8, 2001

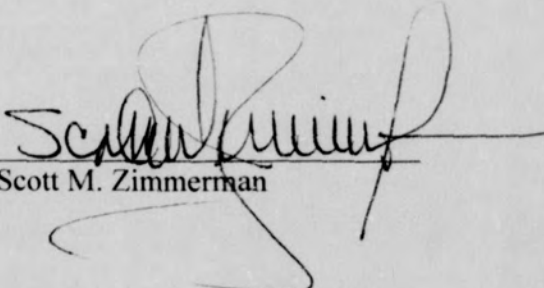
CERTIFICATE OF SERVICE

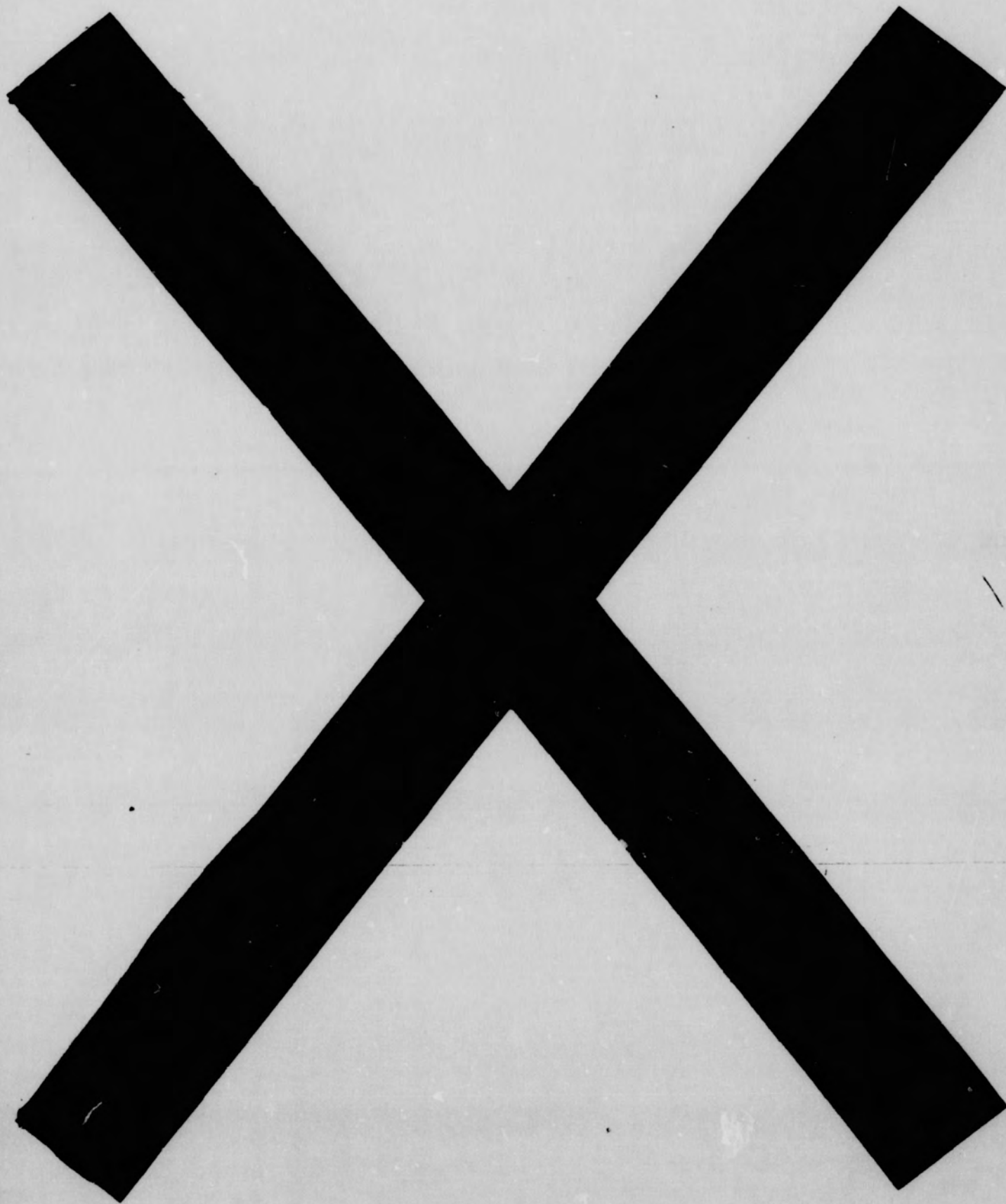
I certify that on June 8, 2001, a true copy of NS-83, Norfolk Southern's Reply to Petitioners' Opposition to Request For Extension Of Time, was served by hand delivery upon:

Richard S. Edelman
O'Donnell, Schwartz & Anderson, P.C.
1900 L Street, N.W.
Suite 707
Washington, D.C. 20036

Scott N. Stone
Patton Boggs, LLP
2550 M Street, N.W.
Washington, D.C. 20037

and by first class U.S. Mail, postage prepaid, or more expeditious means, upon all other known parties of record in Finance Docket No. 33388.


Scott M. Zimmerman



STB

FD-33388

6-7-01

D

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388



ENTERED
Office of the
JUN 07 2001

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Public Record

CSX Corporation et al., Norfolk Southern Corp. et al.--Control and Operating
Leases/Agreements--Conrail Inc. and Consolidated Rail Corp.

**UNIONS AND PENNSYLVANIA RESPONSE
TO NORFOLK SOUTHERN REQUEST FOR EXTENSION OF TIME
TO RESPOND TO SHOW CAUSE ORDER IN DECISION NO. 186**

D

The Unions¹ and the Commonwealth of Pennsylvania ("Petitioners") who have filed a joint petition for enforcement and/or reopening of the Board's Decision No. 89 to prevent Norfolk Southern ("NS") from renegeing on its commitment to retain and expand the Hollidaysburg Car Shop oppose the request of NS for a two week extension of time to respond to the Board's May 21, 2001 Show Cause Order. NS made this request a mere four business days before expiration of the three (3) week response period allotted to it, without any prior communication to counsel for Petitioners and without any real attempt to justify the request. Although counsel for the Petitioners ordinarily consent to reasonable requests for extensions of time filed by opposing counsel, they object to this request by NS. NS' request fails to provide any serious explanation as to why such extension is deemed necessary and the request is patently unreasonable in the circumstances of the Board's Order.

Petitioners note that they filed their Joint Petition on March 28, 2001; NS filed its

¹ Transport Workers Union of America ("TWU") and the National Council of Firemen and Oilers/SEIU ("NCFO"), International Association of Machinists and Aerospace Workers ("IAM"), International Brotherhood of Boilermakers and Blacksmiths ("IBB") International Brotherhood of Electrical Workers ("IBEW"), Sheet Metal Workers International Association ("SMWIA") and Transportation Communications International Union ("TCU") (collectively referred to herein as "Unions")

opposition on April 17, 2001; Petitioners filed a reply on May 9, 2001 and NS filed a reply to that reply on May 21, 2001. Notwithstanding the already substantial record in this case, including declarations submitted by NS, the Board allowed NS to make another filing to attempt to explain why it should be allowed to close the HCS despite its repeated commitments that the HCS would be retained and expanded. Indeed, the Board gave NS a full three (3) weeks to answer the show cause order, even though NS already had almost two months to review the facts adduced by the petitioners and to respond to the arguments raised by the Joint Petition. Petitioners and other interested parties were given two (2) weeks to reply to NS' additional filing. By the date scheduled for the answer to the show cause order, NS will have had ten (10) weeks to respond to the petition and four (4) weeks to respond to the reply. This is more than ample time for NS to answer the show cause order since the answer will merely supplement what NS has already argued twice. Indeed, the Board has allowed NS as much time to answer the show cause order as it would have under Board rules to respond to a petition that it had just seen for the first time. . Indeed, the Board has been indulgent in allowing NS to make a third filing on this issue since the Board could have ruled on the record before it on May 21.

NS' request is also inappropriate because it will push the date on which on which the Board will be able to issue a decision dangerously close to the September 1, 2001 deadline for closing of the HCS that was set unilaterally by NS. By acting quickly on the Joint Petition, and by directing that an answer to the show cause order be filed by June 11 and that replies be filed by June 25, the Board enhanced the likelihood that it would rule on the Joint Petition well in advance of the closing date set by NSR. NS' request for an additional two weeks is inconsistent with the Board's indications that it intends to act expeditiously in this matter, and it would undercut the Board's ability to provide a timely ruling. The employees of the HCS, and the

communities involved, should not be kept in uncertainty about the future of the HCS any longer than is necessary for the Board to issue its ruling.

The Petitioners also note that NS has provided no real explanation of its supposed need for additional time. NS has merely asserted that " Decision No. 186, and the order contemplated by the Board in decision, raise a number of significant and potentially far-reaching issues of first impression" and that purportedly justifies the request for additional time. Petitioners dispute NS' characterization of Decision No. 186, but even if NS was correct, that would not justify the additional time because the facts and issues involved were all raised in the Joint Petition filed over two months ago. There is no fact or issue raised in Decision No. 186 that was something NS had not already attempted to address in its two filings in this matter. Indeed, NS' supplemental reply argued (at 8, 10-11) that the relief requested by the Petitioners was "unprecedented"; and that assertion echoed arguments already made by NS in its initial response to the Joint Petition (at 12-16); presumably, NS actually researched the arguments that it presented to the Board. Nothing in the Board's Order should have surprised NS, and three weeks is plenty of time for NS to supplement the arguments that it already made on this point.

Furthermore, NS has not asserted that other commitments of its counsel will render it impossible for NS to submit an adequate, timely response. NS' request contains only the bald, unsubstantiated assertion that NS would like more time. That is unacceptable in these circumstances. Petitioners further submit that it was entirely unreasonable for NS to make this request a mere four days before its response was due, particularly when the request is not for an extra day or two but for an amount of time equivalent to two-thirds of the time already allotted to it. Given the voluminous prior filings in this proceeding, NS should have been nearly finished with its response by now, not seeking an additional two weeks to respond

Petitioners also observe that NS' request comes a mere two days after telephone conference among representatives of NS, the Transport Workers Union and the Transportation Communications International Union and an arbitrator appointed under the *New York Dock* conditions in response to NS' desire to move quickly to obtain an implementing agreement to cover an action that it may not be allowed to take. The unions objected to progressing the matter under the *New York Dock* conditions because an arbitration would not address the fundamental issues concerning the planned closing of the HCS that are issues the Board will decide, and because even if the Board does not prevent the closing of the HCS, its ruling surely will affect the issues to be addressed in arbitration. But the unions participated in the conference and planning because of the requirements *New York Dock* conditions and the original implementing agreement. The unions argued that arbitration was premature and that no hearing should be scheduled until the Board rules on the Joint Petition because they ought not be required to prepare for and participate in a proceeding that could be moot, especially since the current schedule suggested that a decision might issue after briefing was done but before a hearing or before a decision was rendered. But, NS insisted on setting a date because it asserted that there was no certainty as to when the Board would act. Despite the unions' objections, the arbitrator set a date of August 21, 2001 (with pre-hearing briefing to be completed by August 7) with the expectation that the Board may have ruled before briefing was required. When the parties discussed the timing of filings before the Board, no NS representative stated that NS would seek an additional two weeks in which to make its filing. Had the unions known of NS' plan, they would have argued for dates later than August 7 and 21 because there is no reason that they should have to prepare arbitration submissions and participate in arbitration proceedings on a planned action that may never occur.

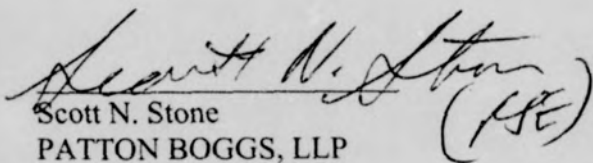
An additional problem with NS' request is that counsel for the Unions will be on a scheduled vacation from June 20, 2001 through July 1, 2001. Under the current schedule, counsel for the Unions will lose several days of time in which to prepare a reply. Nonetheless, Petitioners were prepared to respond within the time frame set by the Board in order to facilitate a quick ruling by the Board. However, if NS' motion is granted, and the reply date is extended by a similar period of time, counsel for the unions will lose a full week of time to prepare a reply at a time when he will have to deal with other issues that will arise in other cases while he is on vacation. This would put the Unions at a disadvantage in view of the three (3) weeks that NS would have to prepare its filing.

All of the foregoing are good reasons for the Board to deny NS' request. But the most important reason is to allow the Board to act as quickly as possible as the clock set by NS ticks away, and the potentially affected employees, and Altoona area communities businesses worry about their fate. Hundreds of workers and their families are in a limbo situation, awaiting a decision by the Board. They do not know whether they will have work in their home town in September or not. Many employees are wondering if they will have to decide whether to move to follow hypothetical work that is supposedly being transferred, but that NS can not currently describe. Many employees are concerned that they will have to decide whether to transfer to locations where they may face future layoffs, that NS will claim are caused by its finances not the Transaction, in order to preserve a theoretical right to *New York Dock* benefits that NS is likely to deny them. Many workers with employed spouses face the uncertainty of deciding which job to protect. And workers with school age children must contemplate the possibility of the closing of the HCS and furloughs at the start of a new school year. The Petitioners have refrained from burdening the Board with a request for a stay of the closing or a request for a stay of the *New*

York Dock arbitration because the Board seemed to be moving expeditiously. The delay proposed by NS increases the likelihood that the Petitioners will have to seek a stay.

For all of these reasons, Petitioners respectfully request that NS' request for an extension be denied. If the Board nonetheless is inclined to grant the extension, in view of the concerns outlined above, Petitioners submit that any extension be coupled with orders extending the date for replies to July 16, staying all *New York Dock* proceedings until after September 1, 2001 and barring NS from taking any action toward closing the HCS (including, but not limited to furloughs and transfers of work or workers) until after October 1, 2001. Petitioner emphasize that this request is made in the alternative, and that they strongly urge the Board to deny the petition because NS has offered no meaningful justification for the request, and many other considerations militate against the request.

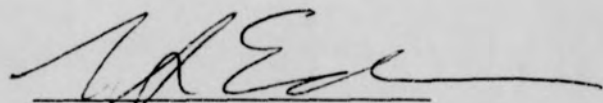
Respectfully submitted,



Scott N. Stone
PATTON BOGGS, LLP
2550 M Street, N.W.
Washington, D.C. 20037

Counsel for the Commonwealth of
Pennsylvania

June 7, 2001



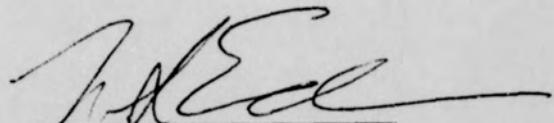
Richard S. Edelman
O'DONNELL, SCHWARTZ
& ANDERSON, P.C.
1900 L Street, N.W., Suite 707
Washington, DC 20036
202-898-1824

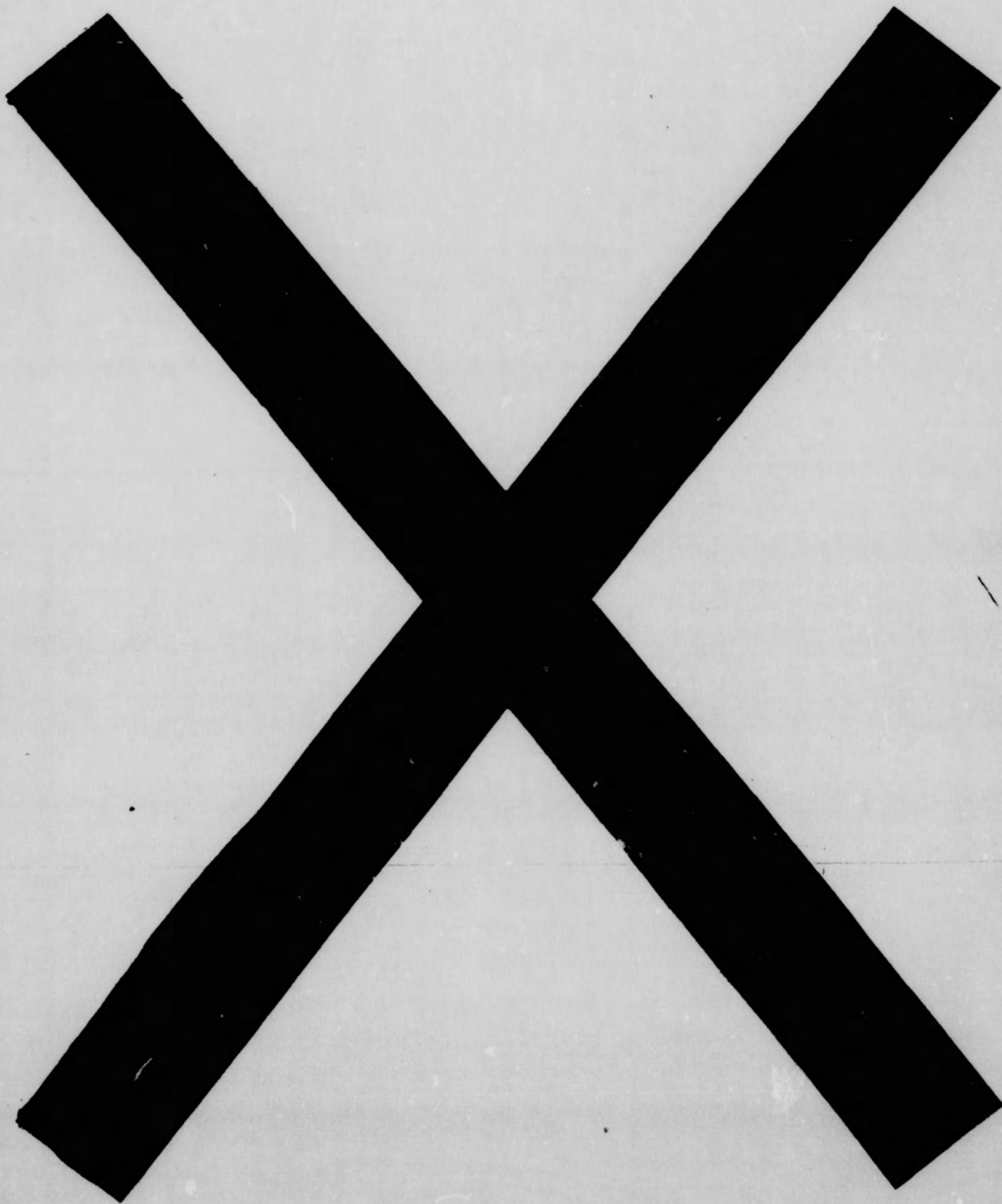
Counsel for the Unions

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be mailed copies of the foregoing Unions and Pennsylvania Response to Norfolk Southern Request for Extension of Time to Respond to Show Cause Order in Decision No. 186 by First Class Mail upon the persons listed on the current official service list in Finance Docket No. 33388. Because of the length of the service list in this proceeding representatives of the Applicants and as many other parties as possible were served by mail on June 7, 2001, other parties will be served on June 8, 2001. Washington D.C. counsel for Norfolk Southern are being served by hand on June 7, 2001.

6/7/01
Date


Richard S. Edelman



STB

FD-33388

6-6-01

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ZUCKERT SCOUTT & RASENBERGER, L.L.P.
ATTORNEYS AT LAW

888 Seventeenth Street, NW, Washington, DC 20006-3309
Telephone [202] 298-8660 Fax [202] 342-0683
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SCOTT M. ZIMMERMAN

DIRECT DIAL (202) 973-7929
smzimmerman@zsrlaw.com

June 6, 2001



BY HAND DELIVERY

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

Re: CSX Corp. et al. – Control and Operating Leases/Agreements – Conrail Inc. et al., Finance Docket No. 33388

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding are the original and 25 copies of NS-82, "Norfolk Southern's Request For Extension Of Time." Also enclosed is a 3.5-inch computer disk containing the text of NS-82 in WordPerfect 5.0 format.

Kindly date-stamp the enclosed additional 3 copies of NS-82 and return them to our messenger.

ENTERED
Office of the Secretary
JUN 06 2001
Part of
Public Record

Sincerely,

Scott M. Zimmerman

Enclosures

cc: All parties of record

22550

NS-82

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388



ENTERED
Office of the Secretary
JUN 06 2001
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Public Record

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

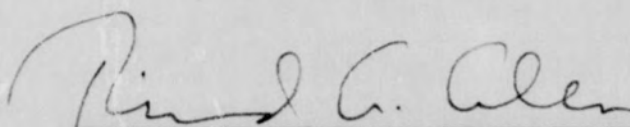
NORFOLK SOUTHERN'S REQUEST FOR EXTENSION OF TIME

Norfolk Southern Corporation and Norfolk Southern Railway Company (together, "NS"), hereby respectfully request an extension of time of 14 days (up to and including June 25, 2001) for NS to submit the pleading the Board in its Decision No. 186 directed NS to file regarding NS' announced plans to close the car repair shops at Hollidaysburg, Pennsylvania.

The Board in Decision No. 186 directed NS to "show, by pleading filed by June 11, 2001, why the Board should not order NS to cancel its proposed shut-down of its Hollidaysburg Car Shops," and "require NS to keep these shops open at least at present capacity for a significant period of time." Decision No. 186 at 8 and n.25.

NS believes that Decision No. 186, and the order contemplated by the Board in that decision, raise a number of significant and potentially far-reaching issues of first impression. NS therefore respectfully seeks from the Board an extension of time of 14 days, to June 25, 2001, to file its submission, so as to permit NS to properly prepare a full and adequate submission to the Board.

Respectfully submitted,



J. Gary Lane
George A. Aspatore
Jeffrey H. Burton
John V. Edwards
**NORFOLK SOUTHERN
CORPORATION**
Three Commercial Place
Norfolk, Virginia 23510-2191
(757) 629-2838

Richard A. Allen
Scott M. Zimmerman
**ZUCKERT, SCOUTT &
RASENBERGER, LLP**
888 Seventeenth Street, NW
Suite 600
Washington, D.C. 20006
(202) 298-8660

*Attorneys for Norfolk Southern Corporation
and Norfolk Southern Railway Company*

June 6, 2001

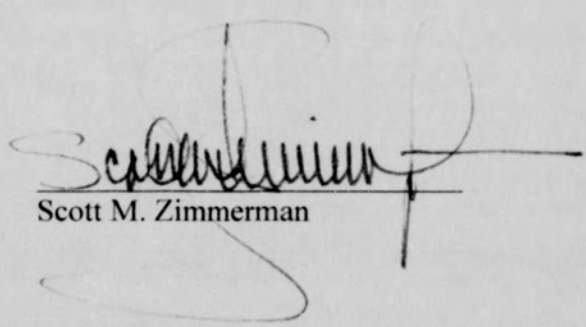
CERTIFICATE OF SERVICE

I certify that on June 6, 2001, a true copy of NS-82, Norfolk Southern's Request For Extension Of Time, was served by hand delivery upon:

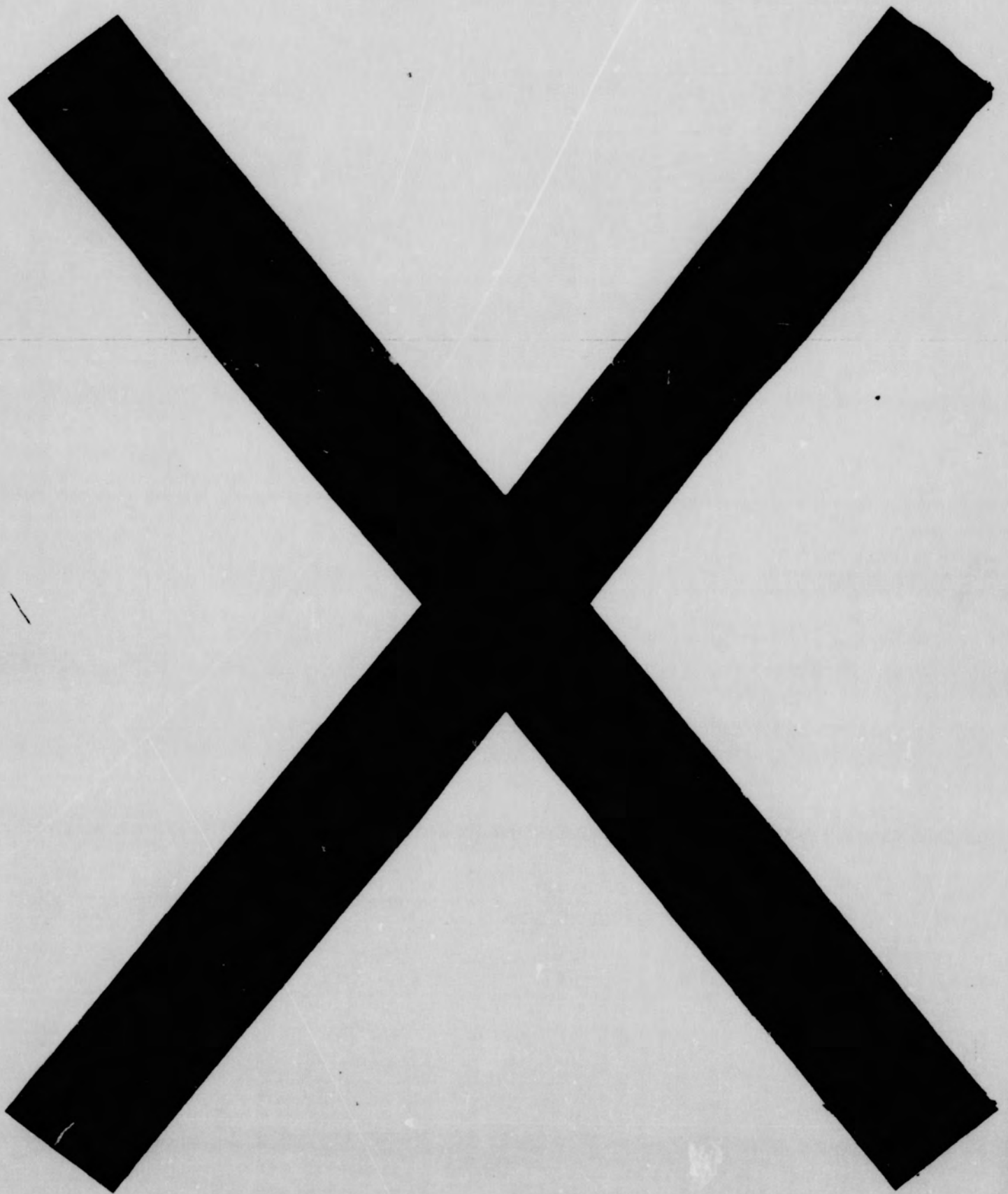
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and by first class U.S. Mail, postage prepaid, or more expeditious means, upon all other known parties of record in Finance Docket No. 33388.



Scott M. Zimmerman



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BEFORE THE
SURFACE TRANSPORTATION BOARD

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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

**NORFOLK SOUTHERN'S SUPPLEMENTAL REPLY TO
VARIOUS UNIONS AND THE COMMONWEALTH OF PENNSYLVANIA
REGARDING THE HOLLIDAYSBURG CAR SHOPS**

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May 21, 2001

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388



CSX CORPORATION AND CSX TRANSPORTATION, INC.
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Introduction and Summary of Argument

If the Board grants the petition of various unions and the Commonwealth of Pennsylvania to submit their May 9, 2001 reply (hereafter, "Response") to the reply filed on April 17, 2001 by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively "NS"), then NS submits for the Board's consideration this Supplemental Reply to the Response.

The Response adds nothing of substance to the Joint Petition and fails completely to refute the showing in NS' Reply that the Joint Petition is groundless and should be dismissed.

First. The Response fails to refute any of the essential facts presented in NS' Reply:

- NS stated correctly and in good faith in the Conrail control application and elsewhere that it intended to use the Hollidaysburg Shops when it commenced to operate the Conrail properties, and in fact has done so.

- None of the statements made by NS in this proceeding represented that NS would continue operating the Shops either indefinitely or for some fixed period.
- NS made clear during the proceeding in response to interrogatories from various unions that its continued operation of any of its facilities would depend on various factors that could not be predicted in advance.
- Implementing agreements entered into by the union petitioners (which the Response completely ignores) expressly recognized that there would be future actions "not now contemplated" that would involve the dismissal, displacements or rearrangements of employees at its shops.
- Despite NS' substantial efforts to develop business for the Shops, the Shops have been operating at one-third capacity, and, conservatively estimated, lost \$7 million in the year 2000.

Second. The petitioners are asking the Board to second-guess a difficult business decision that was based on a variety of business and economic considerations. Granting the relief sought by petitioners would not merely be contrary to all previous relevant Board decisions; it would create an extraordinary and extremely unfortunate precedent by, in effect, having the Board assume the role of micro-managing a railroad business. The Board has correctly and consistently recognized that this is not, and cannot be, its function.

Third. The reliance of the Response on various extra-record statements by NS officials, third parties and the news media is groundless and inappropriate. None of the statements by NS officials is inconsistent with the Conrail control Application or the basic facts set forth in NS' reply. Moreover, as the Board has correctly ruled, sound public policy

requires that such statements cannot rise to the level of a legal obligation unless such statements are made to the Board during a formal proceeding.

Fourth. NS has said it will provide jobs at new locations for all Hollidaysburg employees who want them; petitioners' contrary assertions are wrong.

Fifth. There is no basis for the alternative relief petitioners seek, which would fundamentally alter the *New York Dock* conditions. The Board in Decision No. 89 specifically denied the request of one of the unions here for the same relief, and there is no warrant for reconsidering that decision here.

ARGUMENT

I. THE RESPONSE FAILS TO REFUTE THE ESSENTIAL FACTS PRESENTED IN NS' REPLY.

Petitioners have asked the Board for permission to file their Response in order to respond to assertions of fact in NS' Reply. In fact, however, the 38-page response and supporting exhibits fail to refute the essential facts set forth in NS' Reply. Most of those facts are not even disputed. Instead, the Response merely repeats, over and over, the Joint Petition's erroneous claim that NS made a legally binding obligation to continue operating the Shops for some period of time — regardless of costs, the railroad's needs or other economic conditions — a period of time which the Joint Petition did not venture to specify but which the Response now argues should be somewhere between five years and 100 years after Day One. Response at 27.

The essential facts that the Response does not refute include the following:

1. The Application stated, in good faith, NS' intention to use the Hollidaysburg Shops after Day One. That this intention was expressed in good faith is clearly reflected by

facts that petitioners have not disputed, including the facts (i) that NS made substantial efforts after Day One to develop new business for the Shops (even during and notwithstanding the operational difficulties that faced NS immediately after Day One); (ii) that NS closed other NS shops after Day One and transferred work from those shops to Hollidaysburg; and (iii) that NS has operated the Shops continuously since Day One. None of these facts is disputed.

Furthermore, none of the extra-record statements by NS officials on or before Day One cited in the Response does more than express the same intention and high hopes for the Shops that were stated in the Application.

2. None of the statements made by NS in this proceeding represented that NS would operate the Hollidaysburg Shops (or any other facility) forever or for any particular period of time after Day One. Neither the Joint Petition nor the Response cites any statement making such a representation.¹ Instead, they make the remarkable argument that, because NS did not expressly specify an “end date” for the operation of the Shops in the Application, NS must be deemed to have made a legally binding undertaking to continue operating the Shops until the Board takes affirmative action to relieve NS of that obligation, which the Board may do only if NS makes a “showing of sufficiently changed circumstances.” Response at 27.

¹ Petitioners make much of a statement by NS Chairman David Goode in a speech at the locomotive shops in Altoona on Day One – 11 months after the Board’s Decision No. 89 — in which he expressed his wish that people in 100 years will be able to regard Altoona as “still the heart of railroading in the world.” It should be obvious that this sentiment expressed nothing more than a hope on Mr. Goode’s part about Altoona’s future role in “railroading,” and not even petitioners seem seriously to contend that this extra-record statement was understood by anyone as creating a legal obligation to operate the car repair shops at Hollidaysburg for 100 years. Indeed, it is noteworthy that the two persons interviewed by the media after the speech who appear to be employees did not regard the continued operation of the Altoona shops as assured, but instead commented that they would have to “wait and see” what the future would bring. Response Exhibit 22 at 14.

Petitioners' argument is preposterous. Why would an applicant which has an intention to use a facility in the hope and expectation that the facility will be useful to it, specify an "end date" for the facility in its application? Furthermore, as we noted in the Reply and discuss further below, petitioners' argument is at odds with the Board's rulings in this and other cases, and, if accepted, would require the Board to decide whether every business decision by a railroad after an approved transaction that was later contested by employees or other interested parties was justified by business or economic conditions. It would also prevent applicants from knowing what business decisions they could or could not implement without specific direction from the Board.

3. In the control proceeding, NS expressly informed parties, including the petitioners here, that NS was *not* making any guarantee to operate any shops in perpetuity or for any specific period of time, and NS made clear that its use of the Shops, like all of NS' facilities, would depend on future conditions. In its Reply, NS cited its answers to a number of interrogatories propounded by the Allied Rail Unions ("ARU") as well as deposition testimony of Robert Spenski, NS' Vice President-Labor Relations. See NS Reply at 6-9.

Petitioners have not refuted this fact. Instead, they weakly argue now that "it was reasonable for [the unions] to assume that NS' answers to the interrogatories were addressed to shops other than [the Hollidaysburg Shops]" (Response at 16), but there is no basis for any such assumption either in the interrogatories or in NS' answers to them.² The interrogatories, which were drafted by ARU's counsel (also counsel for the union petitioners here), asked

² It is worth noting that petitioners carefully do not say that the unions *did* in fact make such an assumption.

when NS expected to determine “whether it will close *any* locomotive or car repair shops or facilities on the present NS or combined NS/Conrail other than those identified [for expected closure] in its operating plan.” ARU Interrogatory No. 180 (emphasis supplied; NS Reply, Ex. 5). See also ARU Interrogatory Nos. 151, asking Applicants to “[I]dentify *all* project shops on the present Conrail system which will be closed or consolidated with another shop as a result of the Transaction,” (emphasis supplied; NS Reply, Ex. 3). These interrogatories encompassed all of the shops on the combined NS/Conrail system other than those the operating plan specifically identified for expected closure (on the NS system, the Pegram, Ft. Wayne and Enola shops), as did NS’ responses. NS responded to Interrogatory No. 180 by stating: “After NS acquires its portion of Conrail, business conditions, revenues and traffic growth, efficiency of operations and similar factors will be evaluated to determine needs for car and locomotive shops.” (NS Reply, Ex. 5). NS responded to Interrogatory 151 by citing its answer to Interrogatory No. 127, which stated: “Applicants have not determined whether any other locomotive or car shops or facilities, other than the ones specified in the Operating Plan, will be closed.” (NS Reply, Ex. 3). These and other answers cited in the Reply made quite clear that how long NS would use each of its facilities — which includes Hollidaysburg — would depend entirely on future conditions that could not be known at the time. There is no basis for any contention that NS misled anyone in that regard.³

³ Petitioners’ attempt to disparage NS’ interrogatory answers by characterizing them as “lawyer-crafted” (Response at 17) scarcely warrants a response. The answers responded fully and unambiguously to three successive sets of interrogatories that were “lawyer-crafted” by ARU’s counsel, who had (and exercised) every opportunity to demand further clarifications if he had any doubt as to their meaning. He also had that opportunity during the numerous depositions of Applicants’ witnesses, including the deposition of Mr. Spenski, whose testimony the Response ignores.

4. NS' Reply also noted that the six implementing agreements that Applicants entered into after Decision No. 89 and before Day One with the unions representing shopcraft employees each contain provisions that explicitly reflect the understanding and contemplation of the parties that there would be "future coordinations of work, services or operations, in whole or in part, not now contemplated" that would result in the dismissal or displacement of employees or the rearrangement of forces. NS Reply at 9-10. Not only does the Response not deny these agreements or their provisions for future coordinations, it completely ignores them.

5. NS has operated the Shops for almost two years after Day One and has made substantial efforts to develop business for the Shops. As we have noted, the Response does not dispute these facts; in fact, it specifically notes that "NS actually increased insourcing after its takeover of [the Shops]." Response at 18. Petitioners also do not dispute the fact, noted in the Reply, that "[p]art of the success of the insourcing efforts resulted from a corporate decision to cut dramatically the rates for work at the facility." NS Reply, Exhibit 1 (V.S. of David L. Veron at 5.)

6. Despite NS' efforts, the hard facts remain that the Shops have operated at one-third capacity and are operating at a significant loss - almost \$7 million, conservatively estimated, in the year 2000. NS Reply at 11 and Exhibit 2 (V.S. of Robert Belvin). As also stated in the Reply, the repair work on NS equipment can be performed at the other shops on the NS system not counting the Roanoke shops that have been largely idled. NS Reply at 11.

Again, the Response does not dispute these facts.⁴ Instead, petitioners take the position that the workload of the shops and the losses incurred by NS are irrelevant.⁵ Response at 11. According to petitioners, NS must continue operating the Shops indefinitely whatever the losses or NS' needs might be, or at least until NS persuades the Board that circumstances have changed "sufficiently" to relieve NS of its obligation. Response at 27. That position, as we discuss below, is incorrect.

II. PETITIONERS ASK THE BOARD TO ASSUME THE UNPRECEDENTED AND UNWARRANTED ROLE OF SECOND-GUESSING BUSINESS DECISIONS AND MICRO-MANAGING A RAILROAD ENTERPRISE.

In the Joint Petition and the Response, petitioners argue that NS may not close the Hollidaysburg Shops at any time after Day One until the Board affirmatively determines that there have been "sufficiently changed circumstances." Response at 27. In this regard, petitioners argue at length that there is insufficient evidence of changed circumstances since the Application was filed to justify closing the Shops; thus, they argue that the recent economic slowdown is not sufficiently severe, that the differences between current workloads at the Shops and those in 1997 or 1999 are only "modest," that the insourcing business increased

⁴ NS noted these facts in its Reply to respond to the wholly unsupported assertions in the Joint Reply and the supporting Declaration of Thomas Lutton that the Shops were operating at a profit and had commitments for work that would have kept them "fully operational well into 2002." Lutton Declaration at 4. In this regard, we note that Mr. Lutton, in his Second Declaration (Response, Exhibit 29) makes no attempt to dispute the point-by-point refutation of various misstatements in his Declaration included in the Joint Petition by NS' David Veron, whose verified statement was included in NS' Reply.

⁵ Petitioners express their belief that NS' claim of loss, set forth in Mr. Belvin's sworn verified statement, is based on "creative accounting." This is simply wrong, and petitioners offer no information, evidence or reason to support their belief. Response at 11, n. 2.

“sufficiently” to justify maintaining the shops, *etc.*, *etc.* Response at 2, 3, 7-9, 14-16, 18, 27-29.⁶

This argument rests on a theory that is not only unsupported but is clearly contrary to public policy, for at least two reasons. First, to require railroads to adhere undeviatingly to statements contained in general operating plans until they can persuade the Board that circumstances have changed “sufficiently” would plainly deprive railroads of the operating flexibility needed to serve the public and make their enterprise succeed. The Board has frequently noted the need for such flexibility, including in Decision No. 89, in which it rejected a number of conditions that would have imposed “a cumbersome regulatory process” with respect to implementation of the Transaction because it “would lead to substantial delays in the transaction and would unduly interfere with applicants’ operational flexibility to respond to changing conditions” Decision No. 89 at 59.

Second, by making these arguments, petitioners are asking the Board to second-guess very difficult business decisions that are necessarily based on a host of business, economic and operational considerations. Petitioners are asking the *Board* to determine that current

⁶ Petitioners do not provide a single, coherent theory supporting the relief they seek. Instead, their pleadings suggest a smorgasbord of theories, which are not entirely consistent with each other. At various points, petitioners suggest that NS must continue to operate the Shops until NS satisfies its “burden of seeking and obtaining STB relief from its commitment based on a showing of sufficiently changed circumstances,” although they do not say what “sufficiently” means. Response at 27. At other points, however (even in the same paragraph), they suggest that even a showing of greatly changed circumstances would not be enough. They say: “Petitioners submit that the end date [for NS’ obligation] should be commensurate with a reasonable expectation as to the retirement date of the least senior employee on the HCS rosters at the time that NS made its commitment.” *Id.* Then they say: “Certainly the end date could not be less than five years – the oversight period set by the Board as a basic review period for the Conrail transaction – provided NS filed a petition at that time seeking (continued...)”

economic and business conditions do not justify NS' decision to close the Shops. They are asking the *Board* to find that current conditions are not "sufficiently" different from those in 1997 or 1999 — it's not clear which — to permit the closure.

The Joint Petition thus asks the Board to assume an extraordinary and wholly unwarranted role. Granting the relief sought by the Joint Petition would necessarily require the Board to assume the function of micro-managing railroad enterprises. The Board has consistently recognized this to be an inappropriate role.⁷ Granting the relief would necessarily create a very unfortunate precedent reaching far beyond Hollidaysburg — a precedent with the gravest implications for NS and all other railroads involved in consolidations. Contrary to the efforts of petitioners to suggest otherwise, there is nothing unique about Hollidaysburg or about the statements in the Application and NS' operating plan about that particular facility. The statements in the Application and the operating plan about Hollidaysburg were no different from the statements about all the other facilities and lines that NS and CSX stated they intended to operate on Day One.

Accordingly, granting the relief sought by the Joint Petition would require the Board to entertain similar claims by any group of employees, or any other adversely affected party,

(...continued)

affirmative relief from its commitments." *Id.* Which of these they urge the Board to adopt is unclear.

⁷ In the *UP/SP* oversight proceeding, for example, the Board noted that "government cannot operate private businesses as well as private businesses themselves." *STB Service Order No. 1518, Joint Petition for Service Order*, Decision served February 17, 1998 at 2. Earlier in that proceeding the Board said: "[G]iven our view that we cannot run railroads as well as railroads can run themselves, we have promoted an environment in which railroads can provide improved service without seeking to micromanage railroad operations ourselves." Supplemental Order No. 1 to *STB Service Order No. 1518*, served December 15, 1997 at 1.

whenever NS or CSX decide to close a facility that they had indicated an intent to operate in the Application. And it would require the Board similarly to determine whether those decisions were justified by current conditions, whether current conditions were "sufficiently" different from those existing earlier in some completely undefined way, and so forth.⁸

Petitioners continue to cite no decisions or other authority supporting their extraordinary position, and there is none. On the contrary, the Board correctly and consistently has declined to second-guess such business decisions made after an approved transaction and has refused to assume the role of micro-managing railroad enterprises. With regard specifically to statements of intent in operating plans, we noted in the Reply that the Board has ruled in this and other proceedings that such statements do not establish inflexible commitments from which Applicants may not deviate following approval of the transaction. See NS Reply at 14-16 and decisions discussed. In the Response, petitioners make a strained attempt to distinguish those decisions on the basis of factual differences (Response at 29-33), but they cite no decisions supporting their position and they do not refute the general principle that the Board's decisions cited by NS plainly recognize and endorse: that statements in control applications regarding the applicants' plans for operating the consolidated systems necessarily represent general, and therefore imprecise, projections of the applicants' expectations concerning the consolidated system. They are not, and cannot be, precise blueprints for

⁸ Petitioners would require the Board to perform this function guided by a completely undefined standard. Petitioners argue in the Response that NS is under a legal obligation to operate the Shops until NS can demonstrate to the Board that circumstances have changed "sufficiently" (Response at 27), but they provide no clue as to what "sufficiently" means or how the Board is to decide when constantly changing economic conditions have changed "sufficiently."

future operations that the railroads are legally obligated to follow forever, or until the Board affirmatively excuses them.⁹

III. PETITIONERS' CLAIM THAT NS MUST CONTINUE OPERATING THE SHOPS REGARDLESS OF COST OR NS' NEEDS IS COMPLETELY UNFOUNDED.

As noted, petitioners in the Response take the extraordinary position that the losses of operating the Shops, the current workload of the Shops and NS' needs are irrelevant, and that NS must continue operating the Shops whatever the costs and whatever the need for the Shops for some period of time that is "not . . . less than five years" and "perhaps" as long as one hundred years. Response at 27; *see also* Response at 11, 28. They base this claim on the contention that the statements NS made about its intent to operate the Shops after Day One were legally binding obligations to continue operating the Shops for some period that "were not contingent on [the Shops] regularly running a profit in the manner calculated by NS." *Id.* at 28.

Petitioners' claim is patently without merit. First, it rests on the incorrect assertion that the statements NS made about its intention to operate the Shops after Day One constituted some sort of binding obligation to continue operating the Shops indefinitely and without regard to future economic conditions. As we showed in the Reply, there is no basis whatever for that premise. Furthermore, the claim that the Board must require NS to operate particular facilities without regard to costs and needs flies in the face of economic reality and is squarely at odds

⁹ Because we believe the issues are not relevant or appropriate for Board resolution, we will not engage in a point-by-point debate with petitioners as to how severe the recent economic downturn has been, whether current conditions affecting the shops are "sufficiently" different from those in 1997 or 1999, or other similar claims petitioners make in the Response.

with, among other things, the Rail Transportation Policy's directives that the Board should regulate the railroad industry "to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues;" "to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;" and "to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes." 49 U.S.C. § 10101(3), (4) and (5).

IV. PETITIONERS' RELIANCE ON VARIOUS EXTRA-RECORD STATEMENTS IS WITHOUT MERIT.

The Response also relies on various statements by NS officials and others that were made not in this proceeding but in a variety of other forums as allegedly further demonstrating NS' legally binding obligation to operate the Shops for from five to one hundred years. This reliance simply is without merit.

First, none of the statements contradicts any of the basic facts set forth in NS' Reply and outlined in Section I, above. All of the cited statements that were assertedly made on or before Day One simply expressed the same expectations and hopes concerning the Shops that were stated in the Application. None of them suggests a legal undertaking to operate the Shops for any period of time or to continue operating them regardless of future real-world circumstances.

More importantly, none of the statements was made to the Board or on the record in this proceeding. In Decision No. 124 in the Conrail proceeding (served May 20, 1999), the Board held that the catch-all condition of Decision No. 89 on which petitioners here rely applies only to "those representations that were made to us on the record," and it held that a

certain letter by a CSX official that was never submitted to the Board or made part of the record "is not subject to our condition." Decision No. 124, slip op. at 7-8.

Furthermore, there are compelling reasons, which the Board has recognized, for disregarding extra-record statements as a basis for imposing legal obligations related to the proceeding on a party. First, the Administrative Procedure Act, 5 U.S.C. § 706, requires the Board's decisions to be based on "substantial evidence," which must be evidence in the administrative record itself. *See, e.g., James Madison Ltd. by Hecht v. Ludwig*, 82 F.3d 1085, 1095 (D.C. Cir. 1996), *cert. denied*, 519 U.S. 1077 (1997). This requirement ensures that all parties to a proceeding will have a full and fair opportunity to examine and contest the evidence on which the Board makes its decisions and ensures that the reviewing court will have a meaningful framework by which to review the decision. It also ensures that parties will be able to know what statements will and will not have legally binding significance, and further facilitates the ability of parties to make binding settlements.¹⁰ Moreover, as the Board noted in Decision No. 124, "[w]hen representations are not made on the record, there is no opportunity for us, with the assistance of the parties, to iron out any ambiguities they may involve before we reach a final decision on what conditions to impose." Decision No. 124, *slip op.* at 8.

¹⁰ In this regard, we note that Applicants made binding settlement agreements with a number of parties.

These considerations are particularly pertinent to the extra-record materials cited in the response. Some most heavily relied on by petitioners consist of edited news media coverage of Day One speeches and snippets of interviews with third parties. Many of them occurred long *after* the Board's Decision No. 89. Some occurred before the Transaction Agreement – the subject of the proceeding—was ever signed. If statements of this kind could be used by parties as a basis for asserting binding legal obligations, the result would create enormous uncertainties and have a significant chilling effect on all public communications by railroad officials.

V. NS REPEATEDLY HAS MADE CLEAR ITS INTENT TO OFFER JOBS TO ALL HOLLIDAYSBURG EMPLOYEES WHO WANT ONE.

NS, in its Reply, noted that it “has notified the 300-plus employees at Hollidaysburg that they will have the opportunity to follow their work to other locations.” NS-79 at 2. The petitioners, in their Response, in effect accuse NS of lying about that, calling NS’ statement one that NS “either knew to be false or . . . should have known was misleading.” Response at 18.

That accusation is baseless. NS will offer every Hollidaysburg employee the opportunity to follow the transferred work to another location if he or she wishes to do so. The joint petitioners ignore the provision in NS’ February 21, 2001 notice assuring the unions that because NS desires “to afford employees who are willing to transfer an opportunity to do so,” NS “may elect to establish *additional positions* at one or more of the involved locations (Bellevue, Columbus, Decatur, Linwood, and Macon).” *Id.* (emphasis supplied). NS later reiterated its position in response to questions submitted by three of the union petitioners here; NS plainly stated, in a letter to Mr. J. V. Waller, General Chairman of BRC and Mr. J.

Czuczman, International Vice President, TWU, and in a separate letter to officials of NCF&O, that "It is the intention of NS to offer any employee who desires to transfer the opportunity to do so." Petitioners' Exhibit 27, Question 15; Petitioners' Exhibit 28, Question 4. Although referring to those letters in other respects, the joint petitioners in their Response conspicuously ignore those clear statements.

There is no basis for the joint petitioners' claim that NS' offers of work "are not legitimate or realistic in the long term," but are "really just a device to reduce NSR's employee protection obligations." Response at 19. As stated in NS' April 16, 2001 letter, for example, all freight car repairs and associated facility maintenance work will be performed at the receiving points. See Petitioners' Exhibit 27, Question 2. Furthermore, petitioners neglect to note that *New York Dock* provides that relocated employees are entitled to be reimbursed for the expenses of moving back to their prior employment location if furloughed within three years of the relocation. *New York Dock*, Article I, Section 9.

VI. THE "ALTERNATIVE" RELIEF SOUGHT BY THE JOINT PETITIONERS IS UNWARRANTED AND WOULD FUNDAMENTALLY ALTER THE WELL ESTABLISHED REGIME OF NEW YORK DOCK.

The joint petitioners assert that if the Board does not direct NS to "retain, continue to operate and invest in" the Hollidaysburg Shops, then, as an alternative, the Board "should hold that NS may be relieved of its commitments only on the condition that all employees at the HCS are deemed dismissed employees, with no obligation to accept transfer to NSR's other shops in order to retain the right to dismissal benefits." Response at 35.

Under *New York Dock*, employees dismissed as a result of a Board-approved transaction are entitled to monetary benefits. However, employees who have the opportunity

to follow their work to another location but who decline that opportunity lose their entitlement to such dismissal benefits. Thus, what the joint petitioners casually suggest as an "alternative" to ordering NS to keep the Shops open would amount to a fundamental and unwarranted alteration of the *New York Dock* regime.

There is no justification for such an extraordinary and precedent-setting action. Indeed, the fact of the matter is that, as much as the petitioners would like to create the impression that the relocation of jobs from Hollidaysburg is somehow unique, it is not. The relocations contemplated at Hollidaysburg are no different from relocations that already have happened at numerous locations across the NS system since Day One. To date, more than 1000 NS and Conrail agreement employees have relocated as a result of the Conrail transaction; employee protection pertaining to all such relocations is amply handled under the well established *New York Dock* regime. Nothing new is going on at Hollidaysburg, and there is no basis for creating new and different protective privileges for Hollidaysburg employees.

Indeed, the Board, in Decision No. 89, already considered and properly rejected, a request for essentially the same relief the joint petitioners seek here. The Transportation-Communications International Union (TCU) (one of the unions here) asked in the main Conrail control proceeding that the Board provide that employees whose work is transferred as a result of the transaction would not be compelled to follow that work without being offered the alternative of receiving instead a separation allowance (which, under the protective conditions, is only available to "dismissed employees"). See Decision No. 89 at 345. The Board rejected this request, noting that TCU had not demonstrated that "the basic protections" of *New York Dock* "should be altered so that an employee does not have to accept a job that requires him or

her to move, or else forfeit the monetary payments.” *Id.* at 128. The Board went on to note that permitting rail carriers to move employees in order to achieve the benefits transaction in exchange for providing income protection and other benefits was “[a] basic part of the bargain embodied in the Washington Job Protection Agreement upon which the *New York Dock* conditions are based.” *Id.* The joint petitioners’ casual proposal here, like TCU’s in the main proceeding, “would alter the *New York Dock* conditions” to provide monetary compensation for employees “who are offered continued employment, but refuse to take advantage of it, a result not envisioned under the *New York Dock* conditions.” *Id.* Moreover, as the Board noted, “[i]ssues relating to attrition protection and separation allowances should be negotiated in the implementing agreement process.” *Id.*

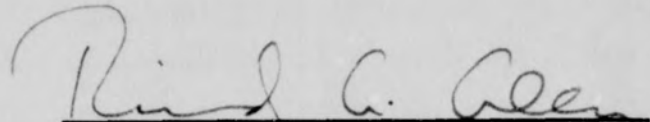
Indeed, in seeking the relief they now seek before the Board, the union petitioners would subvert that very process. More than two years ago, NS and the petitioning unions did precisely as the Board urged and negotiated such implementing agreements. Those negotiated agreements establish a process for carrying out future coordinations and provide for relocation benefits in excess of those required under *New York Dock*. Now, when NS announces its intent to carry out a coordination, at Hollidaysburg, covered by those carefully negotiated agreements, the union petitioners demand that the Board step in and upset the arrangements negotiated between the parties and provide extraordinary and unprecedented additional relief for their benefit that goes well beyond that provided for in the implementing agreements. The Board has long recognized that the likelihood of achieving privately-negotiated settlements will decrease dramatically should the Board overrule the parties and go beyond what they have agreed to in their voluntary settlements.

Finally, as a practical matter, the cost of what the joint petitioners propose would be so extraordinary that granting their request would be tantamount to ordering the Shops to remain open, as it would render the closing prohibitively expensive.

CONCLUSION

For the foregoing reasons and those stated in NS' reply, filed April 17, 2001, the Joint Petition should be denied.

Respectfully submitted,



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*Attorneys for Norfolk Southern Corporation
and Norfolk Southern Railway Company*

May 21, 2001

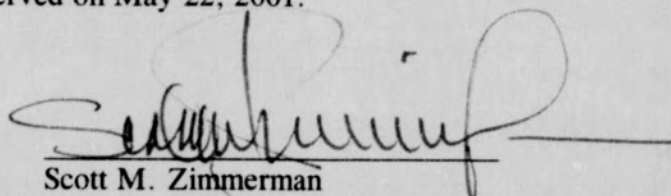
CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2001, a true copy of NS-81 was served by hand delivery upon the following:

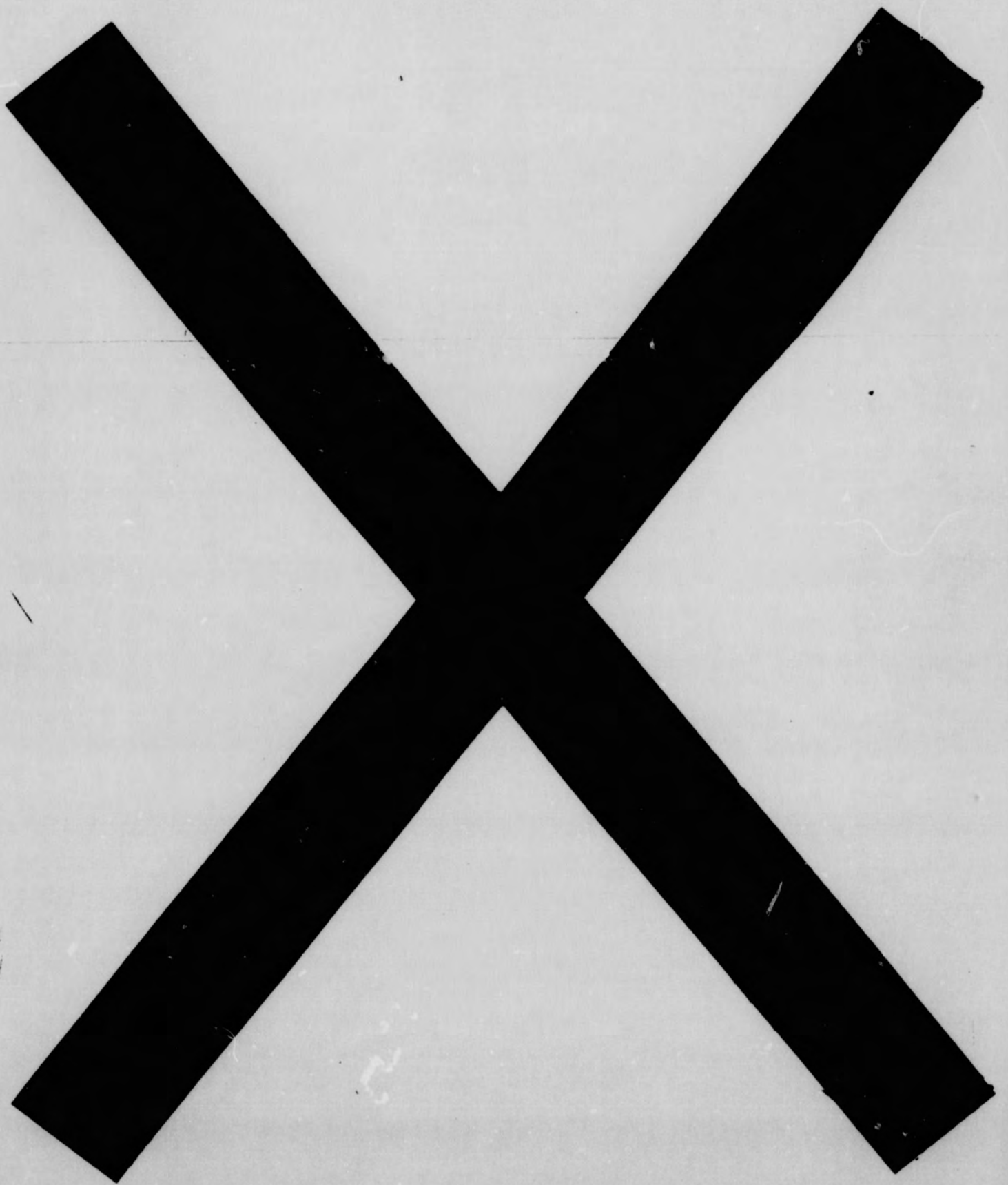
Richard S. Edelman
O'Donnell, Schwartz & Anderson, P.C.
1900 L Street, N.W.
Suite 707
Washington, D.C. 20036

Scott N. Stone
Patton Boggs, LLP
2550 M Street, N.W.
Washington, D.C. 20037

I further certify that a copy of NS-81 has been served, by first class U.S. mail, postage prepaid, or by more expeditious means, on all other parties of record in Finance Docket No. 33388 on May 21, 2001, or will be so served on May 22, 2001.



Scott M. Zimmerman



STB

FD-33388

5-17-01

D

202245

SURFACE TRANSPORTATION BOARD

Memorandum



D

DATE: May 17, 2001

TO : Ellen Keys, Assistant Secretary
Section of Publications/Records
Office of the Secretary

ENTERED
Office of the Secretary

MAY 17 2001

Part of
Public Record

FROM *for*: Mel Clemens, Director
Office of Compliance and Enforcement

SUBJECT : STB FINANCE DOCKET NO. 33388 - OPERATIONAL MONITORING DATA

Attached are the original and two copies of the latest weekly public data files provided to this office by CSX and Norfolk Southern as required in the above proceeding, which are to be committed to the docket for public reference. As requested, I am providing the three paper copies to Ron Douglas, two for the docket and one for Da To Da Office Solutions. If there are any questions, please don't hesitate to contact me or Ed Nelson.

Attachments

cc: Chairman Morgan
Vice Chairman Clyburn
Commissioner Burkes
Richard Armstrong
Ron Douglas
Charles Renninger



500 Water Street (J407)
Jacksonville, FL 32202
Phone (904) 366-4134
Fax (904) 359-1571

T. J. Stephenson
Assistant Vice President -
Service Measurements

May 16, 2001

Mr. Melvin F. Clemens, Jr.
Director, Office of Compliance and Enforcement
Surface Transportation Board
The Mercury Building
1925 K Street, NW, Suite 780
Washington, DC 20423

Dear Mr. Clemens:

Enclosed with this transmittal letter are CSX Transportation's operational monitoring reports to the Board for the week ending Friday, May 11th. Cars on-line slightly increased from 239,859 to 240,186 and train velocity decreased slightly from 21.2 to 21.0 miles-per-hour. Terminal dwell increased to 24.3 hours from the previous week's 24.2.

We would offer the following observations and interpretations regarding the data CSXT provides the STB, Conrail Transaction Council, and the AAR:

Chicago Gateway Operations

During this reporting week, the on-time-to-two-hours-late measure of deliveries to western carriers through Chicago moved favorably 11 percentage points to 82%. The more-than-six-hours-late category moved favorably seven percentage points to 7%.

Yards and Terminals

Car volumes and dwell times changed very little, remaining within expected levels at most terminals across the network. Five of the 14 measured yards showed an improvement in dwell time compared to the prior week.

Corridor Performance

Three of the six measured corridors showed an improvement compared to the prior week. The best performance in the on-time-to-two-hours-late category was the East St. Louis to Northeast corridor with 92%. Overall, the on-time-to-two-hours-late category was 79%, down one percentage point from last week's 80%, and the percent of trains in the greater-than-six-hours-late category moved unfavorably three percentage points to 12%.

Shared Areas

Daily average on hand cars increased marginally at Oak Island and Pavonia and decreased marginally North Yard. All volumes still remain within expected or observed norms for comparable periods. Overall terminal dwell time was 25.9 hours, improving slightly from 26.0 hours last week.

Additional Measurements

Train Delay Metric: For 761 train starts, weekly train delay totaled 7 hours for Power and 88 hours for Crew. Power delay decreased from the previous week, while crew delay increased.

Train Crew Delay Metric: The percent of crews not departing within two hours of the on-duty time averaged 21.2% for the week, up from 20.5% last week.

Daily Crew Availability Percentage: Crew Availability Percentage was 82%, same percentage as the last two weeks.

Daily Number of Recrews Required: Of 1810 crew starts, 40 (2%) were re Crews, up one percentage point from last week.

Shared Asset Areas Train Delay Metric: SAA Train Delays averaged one train for South Jersey, two trains for North Jersey, and none for Detroit.

Locomotives: Gross Locomotives = 3861, Average Available = 3555, and Out-of-Service Ratio = 5.2%, increased slightly from 5.1% the previous week.

Cars Offered in Interchange: averaged 123 cars daily, none of which were for the Norfolk Southern. The NS-offered decreased this week, as well as the total-offered cars.

On-time performance, passenger trains through Brunswick, MD: 50% for 10 AMTRAK trains (Pittsburgh – Washington) and 83% for 90 MARC trains (West Virginia – Washington).

Buffalo Customer Service (Hot-Line): the customer service center received no calls this week.

Last week we met the goal for 16 of the 18 key service measures established for the second quarter. Goals were met for FRA-reportable derailments, cars on-line, overall train velocity, merchandise train velocity, slow order miles, crews on duty greater than 12 hours, relief crews, hours of crew delay, car dwell, right connection, on-time originations, on-time arrivals, 30-hour cars, industrial switching, hours of locomotive delay, and leased locomotive out-of-service ratio.

CSXT's service performance continues at near-record levels, with little movement in indicators. Operations are very fluid and CSXT is able to absorb additional traffic.

Sincerely,

T.J. Stephenson
Assistant Vice President
Service Measurements

Surface Transportation Board

Performance Measures

For the week ending:

05/11/01

Yard Performance

(Composite of NS/CSX Traffic)

		Monday	Tuesday	Wednesday	Thursday	Friday
Location	Measure	05/07/01	05/08/01	05/09/01	05/10/01	05/11/01
Oak Island, NJ	Fluid Capacity	1200	1200	1200	1200	1200
	Cars On Hand - Loaded	369	451	394	430	404
	Cars On Hand - Empty	226	258	384	367	360
	Cars On Hand - Total	595	709	778	797	764
	Cars Handled	331	587	567	594	595
	Dwell Hours	37.3	28.9	27.7	25.9	26.8
Pavonia, NJ	Fluid Capacity	900	900	900	900	900
	Cars On Hand - Loaded	238	240	293	326	189
	Cars On Hand - Empty	243	342	369	375	433
	Cars On Hand - Total	481	582	662	701	622
	Cars Handled	348	415	385	456	399
	Dwell Hours	31.4	23.6	19.4	32.5	31.3
North Yard, MI	Fluid Capacity	850	850	850	850	850
	Cars On Hand - Loaded	80	153	164	173	162
	Cars On Hand - Empty	63	83	70	77	153
	Cars On Hand - Total	143	236	234	250	315
	Cars Handled	155	388	259	318	301
	Dwell Hours	22.4	17.9	16.0	17.1	21.1

CSX Comments: Daily average on hand cars increased marginally at Oak Island and Pavonia, while decreasing marginally at North Yard. All volumes still remain within expected or observed norms for comparable periods.
Overall terminal dwell time was 25.9 hours, down from 26.0 hours last week.

Surface Transportation Board

Performance Measures

Train Originations

(Composite of NS/CSX Traffic)

		Monday	Tuesday	Wednesday	Thursday	Friday
Location	Measure	05/07/01	05/08/01	05/09/01	05/10/01	05/11/01
North Jersey SAA	Number of Originations	5	7	9	9	9
	% Ontime	60%	29%	44%	44%	33%
	% Late 0-2 Hours	20%	71%	33%	44%	44%
	% Late 2-4 Hours	0%	0%	0%	11%	22%
	% Late 4-6 Hours	20%	0%	11%	0%	0%
	% Late GT 6 Hours	0%	0%	11%	0%	0%
South Jersey SAA	Number of Originations	1	2	2	3	3
	% Ontime	100%	100%	50%	100%	100%
	% Late 0-2 Hours	0%	0%	50%	0%	0%
	% Late 2-4 Hours	0%	0%	0%	0%	0%
	% Late 4-6 Hours	0%	0%	0%	0%	0%
	% Late GT 6 Hours	0%	0%	0%	0%	0%
Detroit SAA	Number of Originations	7	7	8	8	8
	% Ontime	71%	86%	88%	75%	50%
	% Late 0-2 Hours	14%	0%	13%	25%	50%
	% Late 2-4 Hours	0%	14%	0%	0%	0%
	% Late 4-6 Hours	14%	0%	0%	0%	0%
	% Late GT 6 Hours	0%	0%	0%	0%	0%

CSX Comments: Total road train delays were 18 trains. Crew delays were 6 trains for 9 hours; no trains were delayed for power; originating trains 12 for 39 hours, due to late connections.

**Surface Transportation Board
Performance Measures**

CSXT Cars Offered in Interchange but not Accepted

(Snapshot at Midnight for Day Measured)

Measure	Railroad Offered To	Monday 05/07/01	Tuesday 05/08/01	Wednesday 05/09/01	Thursday 05/10/01	Friday 05/11/01	Daily Average
Cars Offered	NS	0	0	0	0	0	0
	All Other	91	92	120	169	145	123
	Total	91	92	120	169	145	123

Measures all cars in offered interchange status on acquired Conrail territory only. Volumes are listed by cars offered to NS (Norfolk Southern) and All Other Railroads.

CSXT On Time Passenger Train Performance

"Brunswick Line"

Between West Virginia/Washington, DC

Service	Measure	Monday 05/07/01	Tuesday 05/08/01	Wednesday 05/09/01	Thursday 05/10/01	Friday 05/11/01	Weekly Totals
AMTK	Trains	2	2	2	2	2	10
	% On Time	50%	100%	50%	0%	50%	50%
MARC	Trains	18	18	18	18	18	90
	% On Time	100%	100%	89%	39%	89%	83%

AMTK measured according to contract with CSXT.

Surface Transportation Board

Performance Measures

CSXT Train Crew Delay

	Causes of Delay	Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Weekly
Terminal	Trains / Hours	05/05/01	05/06/01	05/07/01	05/08/01	05/09/01	05/10/01	05/11/01	Total
Baltimore	Train Crew Starts	24	15	18	10	20	23	18	128
	Crews Delayed +2 Hours	10	2	9	7	12	11	8	59
	% Delayed +2 Hours	42%	13%	50%	70%	60%	48%	44%	46%
Buffalo	Train Crew Starts	51	40	33	45	50	44	47	310
	Crews Delayed +2 Hours	5	4	1	2	6	5	7	30
	% Delayed +2 Hours	10%	10%	3%	4%	12%	11%	15%	10%
Chicago	Train Crew Starts	24	26	23	24	21	29	22	169
	Crews Delayed +2 Hours	4	10	6	9	3	13	6	51
	% Delayed +2 Hours	17%	38%	26%	38%	14%	45%	27%	30%
Cincinnati	Train Crew Starts	37	38	36	36	37	35	40	259
	Crews Delayed +2 Hours	4	0	2	3	1	3	4	17
	% Delayed +2 Hours	11%	0%	6%	8%	3%	9%	10%	7%
Cleveland	Train Crew Starts	26	25	21	17	23	18	22	152
	Crews Delayed +2 Hours	7	9	5	3	5	7	5	41
	% Delayed +2 Hours	27%	36%	24%	18%	22%	39%	23%	27%
Cumberland	Train Crew Starts	35	30	32	25	29	35	32	218
	Crews Delayed +2 Hours	2	2	8	1	4	6	4	27
	% Delayed +2 Hours	6%	7%	25%	4%	14%	17%	13%	12%
Detroit	Train Crew Starts	4	4	6	8	6	7	6	41
	Crews Delayed +2 Hours	1	0	3	2	2	3	4	15
	% Delayed +2 Hours	25%	0%	50%	25%	33%	43%	67%	37%
Philadelphia	Train Crew Starts	14	15	11	11	16	15	16	98
	Crews Delayed +2 Hours	1	2	0	4	1	1	0	9
	% Delayed +2 Hours	7%	13%	0%	36%	6%	7%	0%	9%
Selkirk	Train Crew Starts	45	33	29	39	45	47	47	285
	Crews Delayed +2 Hours	14	6	11	8	10	12	10	71
	% Delayed +2 Hours	31%	18%	38%	21%	22%	26%	21%	25%
Toledo	Train Crew Starts	31	35	33	28	30	36	34	227
	Crews Delayed +2 Hours	5	6	3	3	3	8	4	32
	% Delayed +2 Hours	16%	17%	9%	11%	10%	22%	12%	14%
Willard	Train Crew Starts	35	34	39	37	40	41	41	267
	Crews Delayed +2 Hours	12	7	10	10	6	10	10	65
	% Delayed +2 Hours	34%	21%	26%	27%	15%	24%	24%	24%

Daily number of train crew starts from selected yards or terminals and the number of those originating train crews that were delayed in those yards or terminals for two hours or more after going on-duty. The percentage of those delayed starts.

Surface Transportation Board Performance Measures

CSXT Train Delay - Northern Region Lines

	Cause of Delay	Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Weekly
Measure	Trains / Hours	05/05/01	05/06/01	05/07/01	05/08/01	05/09/01	05/10/01	05/11/01	Total
Train Delay	Originating Train Starts	111	103	99	102	105	122	119	761
	Delayed Hours - Power	1	3	0	0	0	3	0	7
	Delayed Hours - Crews	19	45	9	0	0	15	0	88

Daily number of originating train starts on the Northern Region and the hours delayed due to lack of power and crew of those originating train crews. The delayed train starts will be broken down between power and crew delayed hours.

Daily Crew Availability Percentage - Northern Region Lines

		Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Daily
Measure	Crew Availability	05/05/01	05/06/01	05/07/01	05/08/01	05/09/01	05/10/01	05/11/01	Average
Crew Availability		82%	82%	81%	82%	84%	82%	82%	82%

Daily percentage of CSXT road train crews that are available for work on the Northern Region Lines.

Daily Number of Train Crew Starts and Recrews Required

		Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Weekly
Measure	Crew/Recrews	05/05/01	05/06/01	05/07/01	05/08/01	05/09/01	05/10/01	05/11/01	Total
Crews/Recrews	Train Crew Starts	274	230	223	247	261	285	290	1810
	Recrews	5	2	5	6	5	11	6	40
	% Recrewed	5%	1%	2%	2%	2%	4%	2%	2%

Daily number of CSXT road train crew starts, the number of recrews and percentage of recrews for the Northern Region Lines.

Surface Transportation Board Performance Measures

CSXT Locomotive Fleet Condition

		Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Daily
Measure	Locomotives	05/05/01	05/06/01	05/07/01	05/08/01	05/09/01	05/10/01	05/11/01	Average
Locomotives	Gross Fleet Size	3829	3860	3863	3884	3873	3862	3859	3861
	Avg. Number Available	3518	3512	3542	3585	3580	3583	3562	3555
	OOS Ratio	5.3	5.5	5.3	5.1	5.0	5.0	5.1	5.2

The measure for Gross Fleet will consist of CSX owned, leased, and foreign locomotives on-line. The Average Number Available will be the number of net fleet available to move traffic. The Out-of-Service Ratio (OOS) is the ratio of CSXT owned locomotives not available.

Shared Asset Areas Train Delay

		Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Daily
Measure	Shared Area	05/05/01	05/06/01	05/07/01	05/08/01	05/09/01	05/10/01	05/11/01	Average
Train Delay	Philadelphia/South Jersey	2	2	1	1	0	0	0	1
	North Jersey	0	0	1	2	2	3	3	2
	Detroit	0	1	0	0	0	0	1	0

Daily number of outbound trains ready for departure that are held for line haul carriers in each of the shared asset areas for more than one hour after notification. The measure will be a composite of CSX and NS trains.

George A. Aspatore
General Solicitor

(757) 629-2657
(757) 533-4872
E-mail gaaspato@nscorp.com

May 16, 2001

Mr. Melvin F. Clemens, Jr.
Director, Office of Compliance and Enforcement
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Dear Mr. Clemens:

Pursuant to Decision No. 89 issued in STB Finance Docket No. 33388, for the week ending May 11, 2001, enclosed are schedules reporting Train Origination Performance, Yard Performance, and Trains Held in the Shared Assets Areas. Also enclosed is a schedule showing a daily snapshot of NS Cars Offered in Interchange but not Accepted, and our Locomotive Fleet Statistics. This schedule also includes NS Northern Region Train Starts and Delays that are not limited to a snapshot period.

Another schedule incorporated into this transmittal shows NS Crew Starts and Delays, NS Northern Region Daily Crew Availability Percentage, and NS Northern Region Crew Starts and Recrews. Also included is the bi-weekly Buffalo update.

Additionally, this transmittal includes confidential reports containing performance statistics for NS's Chicago Gateway Interchange Operations, Corridor Train Performance and Yard Performance. In an effort to provide you with more detailed information regarding delays, I have included two schedules supporting NS's Chicago Gateway and Corridor Train Performance reports, which identify the number and total time for delays due to crew, power, or other issues. I also have supplied the Public Reporting Measures that we provide to the Conrail Transaction Council and the AAR.

Mr. Melvin F. Clemens, Jr.
May 16, 2001
Page 2

As always, I am including a letter written by Tony L. Ingram, Vice President Transportation – Operations, which discusses delays in our rail operations. If you have any questions or need additional information, please call me.

Sincerely,

George A. Aspatore
General Solicitor

Enclosures

May 16, 2001

Mr. Melvin F. Clemens, Jr.
Director, Office of Compliance and Enforcement
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

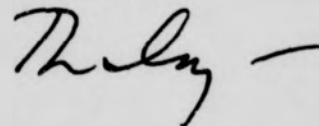
Dear Mr. Clemens:

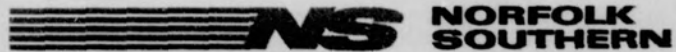
Norfolk Southern's performance metrics remain within normal operating range. The number of cars on line decreased, the average train speed increased, and the average terminal dwell increased. On the monitored corridors and Chicago gateway operations, 55 trains were held for terminal delays, 18 trains were held for crews, and 17 trains were held for power.

With respect to our customer service hotline in Buffalo, NS did not receive any calls over the two-week period.

In the Shared Assets Areas, daily average on-hand car volume increased marginally at Oak Island and Pavonia and decreased marginally at North Yard. All volume counts were within expected operating norms. Overall average terminal dwell time decreased. Reported road train delays for crews and power decreased from the prior week. Six (6) trains were delayed 9 hours for lack of crews and no trains were delayed for power. Twelve originating trains were delayed a total of 39 hours due to late arrivals from CSXT and/or NS. Together, these delays accounted for 14% of the delay hours reported in the SAAs.

Sincerely,

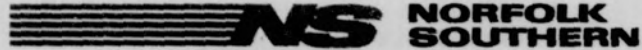
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For the week ending 5/11/01

Shared Asset Area - Yard Performance

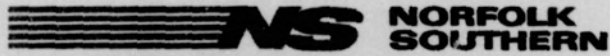
Yard	date	Fluid Capacity	On hand -Empty	On hand - Loaded	On hand - Total	Cars handled	Average dwell
North Yard MI	5/7/01	850	63	80	143	155	22.4
	5/8/01	850	83	153	236	388	17.9
	5/9/01	850	70	164	234	259	16.0
	5/10/01	850	77	173	250	318	17.1
	5/11/01	850	153	162	315	301	21.1
North Yard MI Average		850	89	146	236	284	18.5
Oak Island NJ	5/7/01	1200	226	369	595	331	37.3
	5/8/01	1200	258	451	709	587	28.9
	5/9/01	1200	384	394	778	567	27.7
	5/10/01	1200	367	430	797	594	25.9
	5/11/01	1200	360	404	764	595	26.8
Oak Island NJ Average		1200	319	410	729	535	28.5
Pavonia NJ	5/7/01	900	243	238	481	348	31.4
	5/8/01	900	342	240	582	415	23.6
	5/9/01	900	369	293	662	385	19.4
	5/10/01	900	375	326	701	456	32.5
	5/11/01	900	433	189	622	399	31.3
Pavonia Average		900	352	257	610	401	27.7



For the week ending 5/11/01

Shared Asset Train Origination Performance

location	date	Trains	On time	0-2 hours late	2-4 hours late	4-6 hours late	6+ hours late
Detroit Total	7-May	7	71%	14%	0%	14%	0%
	8-May	7	86%	0%	14%	0%	0%
	9-May	8	88%	13%	0%	0%	0%
	10-May	8	75%	25%	0%	0%	0%
	11-May	8	50%	50%	0%	0%	0%
Detroit Total		38	74%	21%	3%	3%	0%
North Jersey Total	7-May	5	60%	20%	0%	20%	0%
	8-May	7	29%	71%	0%	0%	0%
	9-May	9	44%	33%	0%	11%	11%
	10-May	9	44%	44%	11%	0%	0%
	11-May	9	33%	44%	22%	0%	0%
North Jersey Total		39	41%	44%	8%	5%	3%
South Jersey Total	7-May	1	100%	0%	0%	0%	0%
	8-May	2	100%	0%	0%	0%	0%
	9-May	2	50%	50%	0%	0%	0%
	10-May	3	100%	0%	0%	0%	0%
	11-May	3	100%	0%	0%	0%	0%
South Jersey Total		11	91%	9%	0%	0%	0%
Grand Total		88	61%	30%	5%	3%	1%

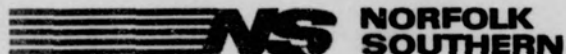


For the week ending 5/11/01

Shared Asset Area Trains Held

area	Sat 05-May	Sun 06-May	Mon 07-May	Tue 08-May	Wed 09-May	Thu 10-May	Fri 11-May	Grand Total
North Jersey	0	0	1	2	2	3	3	11
South Jersey	2	2	1	1	0	0	0	6
Detroit	0	1	0	0	0	0	1	2

Daily number of outbound trains ready for departure that are held for line haul carriers in each of the shared asset areas for more than one hour after notification.



NS Cars Offered in Interchange but not Accepted

offered	Monday	Tuesday	Wednesday	Thursday	Friday	Total
CSX	0	0	0	0	0	0
other	0	67	83	0	0	150
Total	0	67	83	0	0	150

Snapshot taken between 2:00 and 3:00 each day
 NS acquired territory only

NS Northern Region Train Starts and Delays

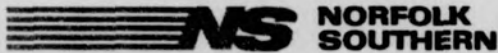
	Saturday 5-May	Sunday 6-May	Monday 7-May	Tuesday 8-May	Wednesday 9-May	Thursday 10-May	Friday 11-May	Grand Total
# of Train Starts	161	163	181	171	174	178	195	1223
Delay Cause								
Crew Delays (hrs)	6.4	10.1	0.8	1.0	8.3	0.0	19.9	46.4
Power Delays (hrs)	24.6	2.0	3.2	14.5	10.9	14.3	52.0	121.3

The delay numbers are expressed in hours

Locomotive Fleet Statistics

	Saturday 5-May	Sunday 6-May	Monday 7-May	Tuesday 8-May	Wednesday 9-May	Thursday 10-May	Friday 11-May	average
Fleet Size	3268	3219	3223	3160	3188	3192	3218	3210
available	3077	3013	3033	2995	3025	3011	3045	3028
out of service %	5.8%	6.4%	5.9%	5.2%	5.1%	5.7%	5.4%	5.6%

Snapshot taken at midnight
 Fleet size is all locomotives on line. Includes owned, leased and foreign.



NS Crew Starts and Delays

		Saturday 5-May	Sunday 6-May	Monday 7-May	Tuesday 8-May	Wednesday 9-May	Thursday 10-May	Friday 11-May	Grand Total
Allentown	crew starts	14	14	15	17	15	16	13	104
	crews delayed	5	4	5	4	3	5	5	31
Bellevue	crew starts	41	37	31	38	45	45	33	270
	crews delayed	14	5	5	10	11	12	6	63
Buffalo	crew starts	21	19	21	24	26	24	19	154
	crews delayed	5	5	2	2	4	5	3	26
Chicago	crew starts	36	40	29	34	33	36	39	247
	crews delayed	12	17	5	12	8	10	12	76
Cincinnati	crew starts	33	38	28	34	36	35	36	240
	crews delayed	4	3	3	4	6	4	8	32
Cleveland	crew starts	7	7	12	10	10	9	11	66
	crews delayed	1	1	2	4	5	1	3	17
Conway	crew starts	58	57	43	52	52	56	59	377
	crews delayed	23	23	15	20	12	15	17	125
Detroit	crew starts	19	15	25	22	21	20	23	145
	crews delayed	6	6	8	4	5	3	7	39
Elkhart	crew starts	38	39	28	38	32	40	36	251
	crews delayed	13	12	14	14	11	17	17	98
Harrisburg	crew starts	47	50	38	56	51	60	60	362
	crews delayed	15	17	6	21	21	15	20	115
Toledo	crew starts	62	51	51	58	52	58	62	394
	crews delayed	14	5	11	9	21	15	13	88

Notes: Data source is T&E employees' "End of Trip" reporting
 A summary of all "E-O-T's" where departure time is reported as two or more hours after time crew ordered.
 Includes all trains for location, whether originating or run-through.
 A delayed crew is one delayed two hours or more after coming on duty

NS Northern Region Daily Crew Availability Percentage

	Saturday 5-May	Sunday 6-May	Monday 7-May	Tuesday 8-May	Wednesday 9-May	Thursday 10-May	Friday 11-May	average
availability%	75%	74%	77%	80%	81%	80%	80%	78%

Notes: A "snapshot" of percent of Train and Engineman available at approximately 5:00 AM

NS Northern Region Crew Starts and Recrews

	Saturday 5-May	Sunday 6-May	Monday 7-May	Tuesday 8-May	Wednesday 9-May	Thursday 10-May	Friday 11-May	Grand Total
crew starts	323	316	267	321	313	345	345	2230
recrews	9	11	10	10	15	11	14	80

Notes: A summary of trains ordered by field transportation using relief crew (recrew) train symbol
 Does not include recrews/trains pulled into terminals by yard crews or road crews called and used in regular service



STB

FD-33388

5-14-01

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202212

SURFACE TRANSPORTATION BOARD

Memorandum

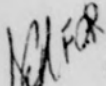
202212



DATE: May 14, 2001



TO : Ellen Keys, Assistant Secretary
Section of Publications/Records
Office of the Secretary

FROM  Mel Clemens, Director
Office of Compliance and Enforcement

SUBJECT : STB FINANCE DOCKET NO. 33388 - OPERATIONAL MONITORING DATA

Attached are the original and two copies of the latest monthly reports provided to this office by CSX and Norfolk Southern as required in the above proceeding, which are to be committed to the docket for public reference. As requested, I am providing the three paper copies to Ron Douglas, two for the docket and one for Da To Da Office Solutions. If there are any questions, please don't hesitate to contact me or Ed Nelson.

Attachments

- cc: Chairman Morgan
- Vice Chairman Clyburn
- Commissioner Burkes
- Richard Armstrong
- Ron Douglas
- Charles Renninger

500 Water Street (J150)
Jacksonville, FL 32202
(904) 359-1192
FAX: (904) 366-2902
E-mail: Paul_Hitchcock@CSX.com

Paul R. Hitchcock
Assistant General Counsel

April 30, 2001

Melvin F. Clemens, Jr.
Director Office of Compliance and Enforcement
Surface Transportation Board
Washington, DC 20423-0001

Dear Mr. Clemens:

Attached to this letter are the Operational Monitoring Reports required in STB Finance Docket No. 33388.

The reports are presented in the following order:

Labor Implementing Agreements	Page 1
Labor Task Force	Page 1
Construction and Other Capital Projects Table	Pages 2-3
Infrastructure Maintenance and Expansion	Page 4
Additional Noteworthy Engineering Projects Table	Pages 5-7
Information Technology	Pages 8-11
Customer Service	Page 12
Training	Page 13

Note: *Italicized information indicates a change or update from the last report.*

Please contact me if there are any issues that need clarification or explanation. As information, coincident with filing this report with the STB, CSXT has made this report available on our web site (www.csx.com).

Very truly yours,

Paul R. Hitchcock

cys: Peter J. Shudtz, Sr. Vice President
Regulatory Policy and Washington Counsel

CSX TRANSPORTATION, INC.
STB OPERATIONAL MONITORING REPORT
As of April 30, 2001

Table of Contents

The reports are presented in the following order:

Labor Implementing Agreements	Page i
Labor Task Force	Page 1
Construction and Other Capital Projects Table	Pages 2-3
Infrastructure Maintenance and Expansion	Page 4
Additional Noteworthy Engineering Projects Table.....	Pages 5-7
Information Technology	Pages 8-11
Customer Service	Page 12
Training.....	Page 13

Note: Italicized information indicates a change or update from the last report.

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

LABOR

Labor Implementing Agreements

All of the Labor Implementing Agreements have been reached. Accordingly, the requirement provided for in Paragraph 1 on page 162, of STB Decision No. 89 issued in Finance Docket No. 33388 has concluded.

Labor Management Task Force

CSXT has sent an invitation to each of its unions with which an implementing agreement has been reached and which will continue to represent employees on CSXT to participate in a labor task force similar to the one established with the United Transportation Union. CSXT has held labor task force meetings with a number of its unions. CSXT will hold additional meetings, as the need arises. CSXT also will continue its effort to have frequent communications with its unions to guarantee that problems which may still arise with respect to the implementation of the transaction receive prompt attention.

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location	Project	Status	Expected Completion Date
1) Greenwich, Ohio to Fine Junction, Indiana	Construct 2 nd main track with TCS on B&O including connections.	Complete	4Q 98
2) Quaker to Greenwich, Ohio	Construction by Conrail of 2 nd main track with TCS.	Complete	4Q 98
3) Willard, Ohio	Yard Expansion	Complete	1Q 99
4a) Crestline, Ohio	a) Construct or rehabilitate connection tracks with Indianapolis Line.	a) Complete	2Q 99
4b) Sidney, Ohio	b) Connection Track	b) Complete	4Q 98
4c) Marion, Ohio	c) Rehabilitate Connection Track	c) Complete	1Q 99
5) Carleton, Michigan	Connect track with Conrail	Complete	4Q 98
6a) Alice, Indiana	a) Siding Extension	a) Complete	a) 3Q 98
6b) Harwood, Indiana	b) Siding Extension	b) Complete	b) 4Q 98
7a) Chicago, Illinois	a) Intermodal Expansions	a) Complete	a) 3Q 98
7b) Cleveland, Ohio	b) Intermodal Expansions	b) Complete	b) 1Q 99
7c) Philadelphia, Pennsylvania	c) Intermodal Expansions	c) Complete	c) 4Q 00
7d) Little Ferry, New Jersey	d) Intermodal Expansions	d) Complete	d) 3Q 98
8) Philadelphia, Pennsylvania	Rebuild Eastwick connection track with Conrail.	Complete	4Q 98
9) Hobart, Indiana to Tolleston, Indiana	Restoration of connection and main track between Hobart & Tolleston.	Complete	2Q 99

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location	Project	Status	Expected Completion Date
10) Chicago, Illinois	Chicago area-upgrade connection tracks and other improvements.	Complete	2Q 99
11) Newell & New Castle, Pennsylvania	Upgrade capacity on the Mon. Subdivision	Complete	4Q 98
12) Albany, New York to Bergen, New Jersey	Extend 3 sidings by Conrail on River Line	Complete	4Q 98
13) Little Ferry, New Jersey	Connection track Conrail/NYSW	Complete	2Q 99
14) Dolton, Illinois	Connection track @ Lincoln Avenue CSX/IHB	Complete	2Q 99

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

Infrastructure Maintenance and Expansion Report

Despite some severe weather over the system, CSXT has continued construction of several key capacity improvement projects over the winter months. Track & Signal work has progressed at Dearborn, Michigan to complete a connection track between the Shared Assets line and CSX to improve the flow of CP Trains at Rougemere Yard & Delray Interlocking at Detroit. This project is scheduled for completion in April.

At Feltonville, PA, work has progressed to complete a siding extension on the Phila. Sub to improve the flow of traffic in that area.

At Erie, PA, CSX forces remained on the job working to complete new track construction to facilitate the relocation of the Norfolk Southern Main Line over to CSX property.

On the S&NA north Sub Division, work has continued throughout the winter to complete an 8 mile stretch of second main at "Sand Mountain" between Lacon & Holmes Gap, AL. Upon completion later this year, enhanced train operations will be realized.

Additionally, CSX has been working steadily on the preparation of supporting documentation to develop investment justification on several new capacity projects for 2001. This year's program consists of several new sidings and stretches of second main track construction throughout the system. Funding is now in place to begin construction of two new passing sidings on the W&A Subdivision in NW Georgia - Tunnel Hill - construct extension of existing siding & Halls - Construct new 2mile long siding.

On the Fitzgerald Sub between Rupert & Mauk, GA, CSXT has approved funding for the construction of 8 miles of a second new main track. This work is scheduled to begin in May and be completed by year's end.

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

ADDITIONAL NOTEWORTHY ENGINEERING PROJECTS TABLE

(In some cases these projects may be unrelated to the Conrail integration.)

Location	Project	Under Construction	Estimated Completion
1) Alexandria, VA	AF Interlocking reconstruction (VRE project)	Y	08/01/01
2) Aliquippa, PA	Construct 2 industry support tracks	Completed	06/30/00
3) Baltimore, MD (Bay View YD)	Add crossover BA Tower	N	06/01/01
4) Chicago, IL	Barr SD - TCS - Phase II	Y	12/31/00
5) Chicago, IL	Construct 59 th Street North Lead	Completed	06/30/00
6) Chicago, IL	Construct storage tracks & 3 rd Main at Barr Yard	Y	12/31/00
7) Chicago, IL	TCS Blue Island SD to 75 th Street	Y	03/31/01
8) Cleveland, OH	Construct mainline fueling facility at Collinwood Yard	Completed	08/30/00
9) Columbus, OH	Scioto Interlocking w/NS (ODOT project)	Y	12/31/01
10) Coosa Pines, AL	Construct new 11,200' passing siding	Completed	08/29/00
11) East Cleveland, OH	Noise berms, landscaping	Completed	06/30/00
12) East Fostoria, OH	Extend yard/connection lead	N	Deferred
13) Erie, PA	NS relocation project	Y	12/31/01
14) Erie, PA	Replace CSXT bridge decks over B&LE (CSXT work relating to NS relocation project)	N	8/1/01
15) Fall River, MA	MBTA replacement of 4 undergrade bridges	Y	06/01/01

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

ADDITIONAL NOTEWORTHY ENGINEERING PROJECTS TABLE (In some cases these projects may be unrelated to the Conrail integration.)

Location	Project	Under Construction	Estimated Completion
16) Feltonville, PA	Extend siding to 20,200'	Y	06/01/01
17) Franklin, AL	Construct new 11,200' passing siding	Completed	09/15/00
18) Frederick, MD	MARC project	Y	08/01/01
19) Ft. Lauderdale, FL	Construct 45 miles of 2 nd main for TriRail	N	Pending
20) Gallaway, TN	Build siding with 10,000' in clear	Completed	10/1/00
21) Garrett, IN	Construct Randolph St. underpass	Completed	08/30/00
22) Gibraltar, MI	Construct crossover between CSXT and CN	Completed	09/30/00
23) Greenwood, SC	Construct double-track to Salak	Completed	11/06/00
24) Hopkinsville, KY	Install turnouts/signals for new Ft. Campbell lead wye	N	06/30/01
25) Keystone, SC	(Sandpatch to Rockwood, PA)-Upgrade #10 crossovers to power #15's and TCS	Y	<i>7/31/01</i>
26) Lacon to Holmes Gap, AL	Add 8 miles of 2 nd main MP 328-MMP336	Y	<i>6/15/01</i>
27) Lima, OH	Conrail connection track improvements	Completed	05/30/00
28) Louisville, KY	Link Highway Track to Highland Park #2	Completed	06/15/00

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

ADDITIONAL NOTEWORTHY ENGINEERING PROJECTS TABLE

(In some cases these projects may be unrelated to the Conrail integration.)

Location	Project	Under Construction	Estimated Completion
29) Martinsburg, Hobbs, Miller/Cherry Run, W Cumbo, WV	Eliminate manned interlockings, Phase I	Y	12/31/01
30) McDaniel, TN	Siding extension to 10,000' clear	Completed	09/1/00
31) New Boston, MI	Parking lot expansion	Completed	06/30/00
32) Philadelphia, PA	Greenwich Yard Phase I rehabilitation	Completed	06/30/00
33) Philadelphia, PA	Greenwich Yard Phase II expansion	Completed	12/21/00
34) Teaneck, NJ	Construct siding CP7-CP10	Completed	03/31/00
35) Union City, GA	Construct connection track	Completed	04/15/00
36) Union City-Tilford, GA	Clearance improvement project	Completed	03/15/00
37) W. Baltimore, MD	Convert #10 HTEL to Power #15	Completed	09/30/00
38) Wadley, AL	Extend passing siding to 10,000' clear	Completed	09/15/00
39) Youngstown, OH	Construct Ashtabula Connection for 140 car capacity	Completed	07/15/00

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

INFORMATION TECHNOLOGY

Information Technology

The implementation strategy, training plans, and status of the Information Technology (IT) initiatives affecting the following Operating Areas are summarized:

- ❖ Customer Service
 - Electronic Customer Connectivity
- ❖ Operations Personnel
 - Crew Management
- ❖ Transportation
 - Car Management & Movement
 - Locomotive Management
 - Train Dispatching

Operating Area	Implementation Strategy	Status	Training
Customer Service Electronic Customer Connectivity	<p>All inbound (e.g. bill-of-lading) and outbound (e.g. car tracing) electronic communications with existing Conrail customers are to be migrated to CSX and NS. All customers will be informed of their system migration options and have the opportunity to test the replacement electronic connections prior to a transfer of the customer communications links on Day 1.</p> <p>CSX and NS will work with all affected customers and EDI vendors to develop migration plans</p>	<p>Systems testing in process and on schedule</p> <p>A joint letter was distributed to current Conrail customers</p> <p>Existing and new Conrail Electronic Commerce customers have been contacted by CSX in separate mailings</p> <p>Electronic Commerce Certification of Conrail customers acquired by CSX is in progress.</p> <p>Planned customer conversions to CSX Electronic Commerce tools are complete.</p> <p>All EC is complete</p>	<p>All customers will be provided adequate systems documentation and a detailed description of any changes to their current Conrail-provided electronic services</p> <p>All customers targeted for conversion to CSX electronic commerce tools have received information regarding the changes.</p> <p>All customer training and customer conversions are complete.</p>

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

INFORMATION TECHNOLOGY

Operating Area	Implementation Strategy	Status	Training
<p>Operations Personnel Crew Management</p>	<p>Separation of callings desks (CSX, NS, SAC) in Dearborn, MI has been pre-negotiated and is in place. There will be a phased roll-out of eight calling desks to TECS – the CSX Crew Calling System. The first desk will be rolled out 50 days after Day 1.</p> <p>T&E Crews will continue to submit paper time sheets to Dearborn, MI until the TECS desk roll-out is completed. Paperless payroll implementation will take place 2 weeks after each TECS desk implementation. The entire roll-out will take approximately seven months.</p>	<p>Systems development in process and on schedule.</p> <p>The TECS desk roll-out is still on schedule.</p> <p>All desks have been cut Over to TECS.</p> <p>Paperless payroll training was completed Dec. 10,1999</p> <p>Crew Callers have been moved from Dearborn to Jacksonville – Crew Management is complete.</p>	<p>CSX Payroll officers will train T&E employees on the CSX Payroll system immediately following the implementation of TECS. Local Chairman will participate in the training. Training documents have been prepared and presented to Conrail personnel.</p> <p>Training sessions have been completed.</p>
<p>Transportation Car Management and Movement</p>	<p>Field personnel will continue using Conrail application systems supporting yard inventory, train consisting and work orders after Day 1.</p> <p>Disposition and management of empty cars will occur in Jacksonville using CSX systems after Day 1 to ensure coordinated system wide transportation operations.</p> <p>Customers on the acquired territory will continue to order empty cars and obtain information on order status as they do today.</p> <p>CSX systems will be rolled-out to the acquired Conrail territory in 4 phases after Day 1.</p>	<p>Systems development in process and on schedule.</p> <p>Toledo Stanley Yard was cut-over to CSX systems July 27th.</p> <p>Chunk 1 Field Rollout including Indianapolis was successfully cut-over on Oct 11.</p> <p>Chunk 2 including Cleveland, Collinwood and Columbus, Ohio was successfully cut-over on January 10.</p> <p>Chunk 3 including Buffalo & Syracuse was successfully cut over on March 13, 2000.</p> <p>Chunk 4 including Selkirk & W. Springfield was successfully cutover on May 8, 2000</p> <p>All Car Management is complete</p>	<p>Training sessions have been completed</p>

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

INFORMATION TECHNOLOGY

Operating Area	Implementation Strategy	Status	Training
<p>Transportation Locomotive Management</p>	<p>CSX Locomotive Management System (LMS) will be used to manage locomotives in CSX acquired territory beginning on Day 1. This will occur from the Operations Center in Philadelphia, PA for approximately 180 days after Day 1. The management team in Philadelphia will consist of two locomotive managers and one senior locomotive manager. Dual entry of locomotive assignments will be made to the Conrail Locomotive Distribution System (LDS). Shutdown of Conrail LDS will accompany field roll-out and will be dependent upon other Conrail Systems (TRIMS & TMS) no longer relying on assignments being passed from Conrail LDS.</p> <p>Within 180 days after Day 1, locomotive management for the acquired Conrail territory will be relocated to the Kenneth Dufford Center in Jacksonville. Two CSX Locomotive Managers will manage the acquired territory at that time.</p>	<p>Implementation was completed June 1st.</p> <p>Dual entry into Conrail LDS was discontinued June 15th.</p> <p>The locomotive management of the acquired territory was transitioned to the Kenneth Dufford Center in Jacksonville, FL on July 12, 1999.</p> <p>Locomotive Management is Complete.</p>	<p>Locomotive managers for the acquired Conrail territory have been trained on the CSX Locomotive Management System (LMS). Locomotive Management has conducted training that included cross training of CSX and Conrail cultures.</p>

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

INFORMATION TECHNOLOGY

Operating Area	Implementation Strategy	Status	Training
<p>Transportation Train Dispatching</p>	<p>Train dispatchers will continue to use current Conrail systems. Phase 1 geographic realignments will separate dispatchers into CSX, NS & SAC entities within current division offices. Phase 1 will complete 90-120 days after Day 1.</p> <p>Phase 2 division realignment will move dispatchers to acquiring road's division. CSX Cleveland East dispatcher in Dearborn, MI will move to CSX headquarters in Indianapolis, IN. CSX Chesapeake & Riverline dispatchers in Mt. Laurel, NJ will move to CSX headquarters in Albany, NY. Phase 2 will complete 90-120 days after an implementing agreement has been reached.</p> <p>Phase 2 moves are contingent upon Phase 1 realignment completion for territory being transferred. Also contingent upon an implementing agreement being in place with the ATDD.</p>	<p>Systems development has been completed and implementation is proceeding on schedule.</p> <p>Phase 1 realignments :</p> <p>Albany, Indianapolis & Philadelphia complete.</p> <p>Dearborn Division started.</p> <p>Dearborn completed Mid-August 1999.</p> <p>Phase 2 realignments:</p> <p>Two dispatcher desks moved from Indianapolis to Dearborn on 7/27/99.</p> <p>Phase 2 projected to be completed with CSAO dispatcher move from Dearborn to Mt. Laurel on 8/10/99.</p> <p>All phases of the Train Dispatcher Realignment Project have been completed. Implementing agreements are now in place.</p> <p>Train Dispatching is complete.</p>	<p>Dispatchers will be trained on their new territory using the current processes in place at Conrail.</p>

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

Customer Service Progress Report

During May we completed the rollout of all CSXT systems for the fourth regional area. Cutover took place on May 8, 2000 and went smoothly. Major locations included in the cutover were Selkirk, South Kearney, and Framingham areas.

Personnel

We duplicated our training and mentoring procedures for this last cutover. Classroom training in Pittsburgh was completed prior to the cutover with the remaining personnel trained on all CSXT systems.

Customer Familiarization

The customer familiarization processes used previously were also duplicated. Tariffs have been published and distributed for supplemental billing purposes, and procedures put in place to convert the records for the first 7 days of May from the Conrail to the CSX demurrage system, so that customers will see only one bill for the month. All customers have been notified regarding the up coming changes.

Brochures were customized and distributed to customers by our Electronic Commerce Customer Integration Center to explain our EC offerings and initiatives, with special telephone numbers and other vital data provided. Other customer communications included blast faxes, mailings, and regular interaction with our Electronic Commerce personnel.

STB OPERATIONAL MONITORING REPORT

As of April 30, 2001

STB Status Submission Report on Training

All remaining training for the acquired territories was completed during the month of May.

Clerical employees received one-on-one training at their work locations on specific job tasks for their jobs. Train & Engine Service employees received instructions in the preparation of work order documents to ensure the correct documentation of placing and pulling of cars from industries. Field transportation officers and yardmasters also received specific training in the use of yard and train management systems. Extensive training was provided for 45 yardmasters and 17 transportation officers.

Coaches were positioned at strategic locations to assist employees during the cutover at all major terminals and crew on-duty locations.

The last cutover completed the training initiatives for this project.

George A. Aspatore
General Solicitor

(757) 629-2657
fax (757) 533-4842
E-mail: george.aspatore@nscorp.com

May 2, 2001

Melvin F. Clemens, Jr.
Director, Office of Compliance and Enforcement
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Dear Mr. Clemens,

Enclosed is Norfolk Southern's Monitoring Report dated April 30, 2001. NS continues to make progress on the projects targeted for completion in 2001 that are listed in the Construction and Other Capital Projects section of the Report.

Please let me know if you need any further information.

Sincerely,

George A. Aspatore

Enclosure

Norfolk Southern Corporation STB Operational Monitoring Report

As of April 30, 2001

Reporting Requirement	Page
Item 1. Labor Implementing Agreements.....	2
Item 2. Construction and Other Capital Projects	3
Item 3. Information Technology	9
Item 4. Customer Service.....	11
Item 5. Power and Rolling Stock	*
Item 6. Car Management, Crew Management and Dispatching.....	9
Item 7. Shared Assets Areas	*
Item 8. Monongahela Coal Area.....	3
Item 9. Cleveland Operations	3
Item 10. Chicago Gateway Operations	*
Item 11. Yards and Terminals	*
Item 12. On Time Performance.....	*
Item 13. The Conrail Transaction Council.....	*
Item 14. Labor Task Forces.....	2

Note: Bold print indicates changes from previous report.

* To be disclosed under a different cover or in a later report.

Surface Transportation Board Operational Monitoring Report

As of April 30, 2001

LABOR

Labor Implementing Agreements

All of the Labor Implementing Agreements have been resolved, concluding our reporting requirement, as provided in Paragraphs 1 and 14, on pages 162 and 165, respectively, of STB Decision No. 89 issued in Finance Docket No. 33388.

Labor-Management Task Forces

All implementing agreements became effective on June 1, 1999. A continuing dialogue has taken place between labor and NS management on a daily or as-needed basis concerning implementation and safety issues. Labor organization cooperation has been a key element in assuring the safe implementation of the Conrail transaction. This interaction will continue as the parties work through issues of mutual concern.

Note: Bold print indicates changes from previous report.

Surface Transportation Board Operational Monitoring Report

As of April 30, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location		Project	Dept	Phase	Status
Alexandria	IN	Construct track connection Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
			Signal	Const	Complete
				Design	Complete
Allentown - Reading	PA	Traffic Control System	Signal	Design	Note 2
	PA	Estimated Completion Date: Undetermined		Const	
Angola	NY	Upgrade existing siding, construct new siding Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
			Bridge	Const	Complete
				Design	Complete
			Signal	Const	Complete
				Design	Complete
Ashtabula	OH	Construct connection track Estimated Completion Date: Complete	Track	Design	Complete
				Const	Complete
			Signal	Const	Complete
Attica	IN	Extend siding 4, 580 track feet Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
			Signal	Const	Complete
				Design	Complete
Boundbrook	NJ	Extend siding 15,000 track feet Estimated Completion Date: Undetermined	Track	Design	Note 2
				Grading	
			Signal	Const	
				Design	
Bristol	VA	Extend siding 14,255 track feet Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
			Bridge	Const	Complete
				Design	Complete
			Signal	Const	Complete
				Design	Complete
Bucyrus	OH	Construct track connection Estimated Completion Date: Complete	Land		Complete
			Track	Design	Complete
				Grading	Complete
			Signal	Const	Complete
				Design	Complete
Buffalo - Cleveland	NY	Traffic control system and remove pole line.	Signal	Design	Complete
	OH	Estimated Completion Date: Complete		Const	Complete
Buffalo	NY	Rehabilitate tracks in sub-leased BPRR yard Estimated Completion Date: Complete	Track	Const	Complete
Buffalo	NY	Construct connection to BPRR yard Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
			Signal	Const	Complete
				Design	Complete
		Const	Complete		

Surface Transportation Board Operational Monitoring Report

As of April 30, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location		Project	Dept	Phase	Status
Buffalo	NY	Reconstruct portion of Bison Yard Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
				Const	Complete
Butler	IN	Construct track connection Estimated Completion Date: Undetermined	Track	Design	Note 2
				Grading	
			Signal	Design	
				Const	
Chicago	IL	Expand and improve 47th St Yard Intermodal Terminal Estimated Completion Date: Complete	Track	Design	Complete
				Grade/Pave	Complete
Cloggsville	OH	Track Rehabilitation Estimated Completion Date: Complete	Track	Design	Complete
				Const	Complete
Cloggsville	OH	Construct second main Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Bridge	Design	Complete
			Signal	Design	Complete
				Const	Complete
Columbus	OH	Construct track connection Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
				Const	Complete
Crockett	VA	Construct 9,100 foot new siding Estimated Completion Date: Complete	Land		Complete
			Track	Design	Complete
				Grading	Complete
				Const	Complete
			Bridge	Design	Complete
			Signal	Design	Complete
				Const	Complete
Croxtton	NJ	Expand and improve intermodal terminal Estimated Completion Date: Complete	Track	Design	Complete
				Grade/Pave	Complete
E-Rail	NJ	Expand and improve intermodal terminal Estimated Completion Date: 3Q01	Track	Design	Complete
				Grade/Pave	In progress
Erie	PA	Erie Track Realign Project Estimated Completion Date: 4Q01	Track	Design	Complete
				Grading	In progress
				Const	In progress
			Signal	Design	Complete
				Const	In progress

Surface Transportation Board Operational Monitoring Report

As of April 30, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location		Project	Dept	Phase	Status
Flemington	NJ	Construct 12,500 foot siding Estimated Completion Date: Undetermined	Track	Design Grading Const	Note 2
			Signal	Design Const	
Hadley Jct (Ft Wayne)	IN	Double tracking Estimated Completion Date: Undetermined	Track	Design Grading Const	Note 2
			Signal	Design Const	
Hagerstown Sec (Greencastle)	PA	Construct siding Estimated Completion Date: Complete	Track	Design Grading Const	Complete Complete Complete
			Signal	Design Const	Complete Complete
Hagerstown Sec	PA	Traffic Control Estimated Completion Date: Complete	Signal	Design Const	Complete Complete
Harrisburg	PA	Construct double track Estimated Completion Date: Complete	Land Track	Design Grading Const	Complete Complete Complete Complete
			Signal	Design Const	Complete Complete
Harrisburg (Rutherford)	PA	Construct intermodal terminal Estimated Completion Date: Complete	Track	Design Grade/Pave	Complete Complete
Harrisburg - Reading	PA PA	Traffic Control System and remove pole line Estimated Completion Date: 3Q01	Signal	Design Const	Complete In progress
KD Tower - Cumberland Falls	KY KY	Extending double track 40,120 feet Estimated Completion Date: Complete	Track	Design Grading Const	Complete Complete Complete
			Signal	Design Const	Complete Complete
Knoxville - Chattanooga	TN TN	Double Stack Clearances Estimated Completion Date: Complete	Track	Design Const	Complete Complete
			Bridge	Design	Complete
Marshfield	IN	Upgrade and extend siding 7,908 feet Estimated Completion Date: Complete	Land Track	Design Grading Const	Complete Complete Complete
			Bridge	Design Const	Complete Complete
			Signal	Design Const	Complete Complete
Oak Harbor	OH	Construct track connection Estimated Completion Date: Complete	Land Track	Design Grading Const	Complete Complete Complete
			Signal	Design Const	Complete Complete

Surface Transportation Board Operational Monitoring Report

As of April 30, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location		Project	Dept	Phase	Status
Pattensburg	NJ	Clearance-9 Bridges Estimated Completion Date: Complete	Bridge	Design	Complete
				Const	Complete
Pattensburg	NJ	Siding Extensions Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
				Const	Complete
Pattensburg	NJ	Tunnel Clearance Estimated Completion Date: Complete	Bridge	Design	Complete
				Const	Complete
Philadelphia	PA	Construct crossover - Zoo Estimated Completion Date: Undetermined	Track	Design	Note 2
				Grading	
			Signal	Design	
				Const	
Piney Flats	TN	Extend siding 6,610 feet Estimated Completion Date: Complete	Land		Complete
				Track	Design
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
				Const	Complete
Port Reading	NJ	Chemical Coast Clearance Projects Estimated Completion Date: Complete	Track	Design	Complete
				Const	Complete
			Bridge	Design	Complete
				Const	Complete
Rader	TN	Extend siding 5,189 feet Estimated Completion Date: Complete	Land		Complete
				Track	Design
				Grading	Complete
				Const	Complete
			Bridge	Design	Complete
				Const	Complete
	Signal	Design	Complete		
				Const	Complete
Reading - Philadelphia	PA	Traffic Control System and remove pole line Estimated Completion Date: Undetermined	Signal	Design	Note 2
	PA			Const	
Riverton Jct - Roanoke	VA	Clearance projects Estimated Completion Date: Complete	Bridge	Design	Complete
	VA			Const	Complete
Sandusky (Bellevue)	OH	Construct Triple Crown Terminal Estimated Completion Date: Complete	Track	Design	Complete
				Grade/Pave	Complete
			Building	Const	Complete
Sandusky- Columbus	OH	Double Track: S 13.60 - S 26.00 Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
				Const	Complete

Surface Transportation Board Operational Monitoring Report

As of April 30, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location		Project	Dept	Phase	Status
Sandusky-Columbus	OH	Double Track: S 78.10 - S 88.40 Estimated Completion Date: Complete	Land		Complete
			Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
			Const	Complete	
Sandusky-Columbus	OH	Double Track: S 88.30 - S 95.60 Estimated Completion Date: Complete	Land		Complete
			Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
			Const	Complete	
Sidney	IL	Construct track connection Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
			Const	Complete	
Sido	MO	Double tracking 36,458 track feet Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Bridge	Design	Complete
				Const	Complete
			Signal	Design	Complete
			Const	Complete	
Sloan	IL	Extend siding 5,027 track feet Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
			Const	Complete	
Southern Tier	NY	Southern Tier Rehabilitation Estimated Completion Date: Undetermined	Track	Const	Note 2
			Bridge	Design	
				Const	
St. Louis (Mitchell)	MO	Expand Mitchell Triple Crown Terminal Estimated Completion Date: Complete	Track	Design	Complete
				Grade/Pave	Complete
			Signal	Design	Complete
			Const	Complete	
Toledo	OH	Intermodal Terminal Estimated Completion Date: Undetermined	Track	Design	Note 2
				Grade/Pave	
Tolono	IL	Track Connection Estimated Completion Date: Complete	Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
Vermillion	OH	Track Connection Estimated Completion Date: Complete	Land		Complete
			Track	Design	Complete
				Grading	Complete
				Const	Complete
			Signal	Design	Complete
			Const	Complete	

Surface Transportation Board Operational Monitoring Report
As of April 30, 2001

CONSTRUCTION AND OTHER CAPITAL PROJECTS

Location		Project	Dept	Phase	Status
Wabash	IN	Construct connection track	Track	Const	Complete
		Estimated Completion Date: Complete	Signal	Design	Complete
				Const	Complete

Note 1: Bold print indicates changes from previous report. If status of project phase is blank, work on that part of the project has not yet begun.

Note 2: Project on hold pending evaluation of revised traffic requirements.

Surface Transportation Board Operational Monitoring Report

As of April 30, 2001

CUSTOMER SERVICE

Systems and Personnel Training

Operating Area	Project	Status
TRANSPORTATION		
Car Management and Movement	Systems – Multiple projects	Complete
Includes Thoroughbred Yard Enterprise System (TYES) and Central Yard Operations (CYO) System	Personnel Training	
	Prepare training materials for TYES and CYO	Complete
	Trainer orientation	Complete
	TYES training at Conrail locations	Complete
Train Dispatching	Systems	Complete
	Personnel Training	
	Prepare computer-based training materials for Norfolk Southern Train Information System (TIS) and Train System Accident Reporting System (TSAR).	Complete
	Train Conrail employees at Dearborn, Pittsburgh, and Mt. Laurel	Complete
Locomotive Management	Systems	Complete
	Personnel Training	
	Prepare training materials; conduct pilot sessions	Complete
	Trainer orientation	Complete
	Train employees at 8 Conrail locations	Complete

Surface Transportation Board Operational Monitoring Report
As of April 30, 2001

CUSTOMER SERVICE

Operating Area	Project	Status
OPERATIONS PERSONNEL		
Crew Management	Systems	Complete
	Personnel Training	
	Prepare training materials	Complete
	Train Conrail employees	Complete
Train and Engine (T&E) Payroll	Personnel Training	
	Prepare training materials; conduct pilot sessions	Complete
	Train T&E crews	Complete
Non-Train and Engine Payroll	Personnel Training	
	Prepare training materials; conduct pilot sessions	Complete
	Trainer orientation	Complete
	Train Conrail employees	Complete
<hr/>		
CUSTOMER SERVICE		
Electronic Customer Connectivity	Systems	Complete
	Personnel Training	
	Testing new systems	Complete
	Customer Coordination	
	Information to be distributed to customers	Complete
National Customer Service Center	Personnel Training	
	Prepare training materials	Complete
	Train employees in Pittsburgh and Atlanta	Complete

Note: Bold print indicates changes from previous report.

Surface Transportation Board Operations Monitoring Report

As of April 30, 2001

CUSTOMER SERVICE

Transition Process

Transition team members for NS in Philadelphia working in Customer Service were released at the end of February, 2000. Call volumes have declined as general service levels improve and are currently below call volume levels prior to the split date. The phone trace system, which is an automated feature of our toll-free line that allows a customer to trace the location of its cars by keying in car numbers on the telephone key pad, continues to work as expected. Norfolk Southern has also added car tracing functions to its web page.

Customer Service has reorganized to better leverage the functions of the Central Yard Operations (CYO) groups and the National Customer Service Center (NCSC) staff. Our overall goal is to utilize the larger CYO staff for routine inquiries and allow NCSC to focus on problem resolution and correction.

Other Customer Service changes include moving Agency Operations Center (AOC) billing functions to Accounting; moving Data Quality and Demurrage functions under CYO; and combining Equipment Marketing and Car Distribution and Utilization in a new group called Car Management.

Personnel

The implementation of the Thoroughbred Yard Enterprise System in the former Conrail areas has been completed, including the training of field personnel. All supervisory positions have been filled for Data Quality, the Agency Operations Center and Customer Service.

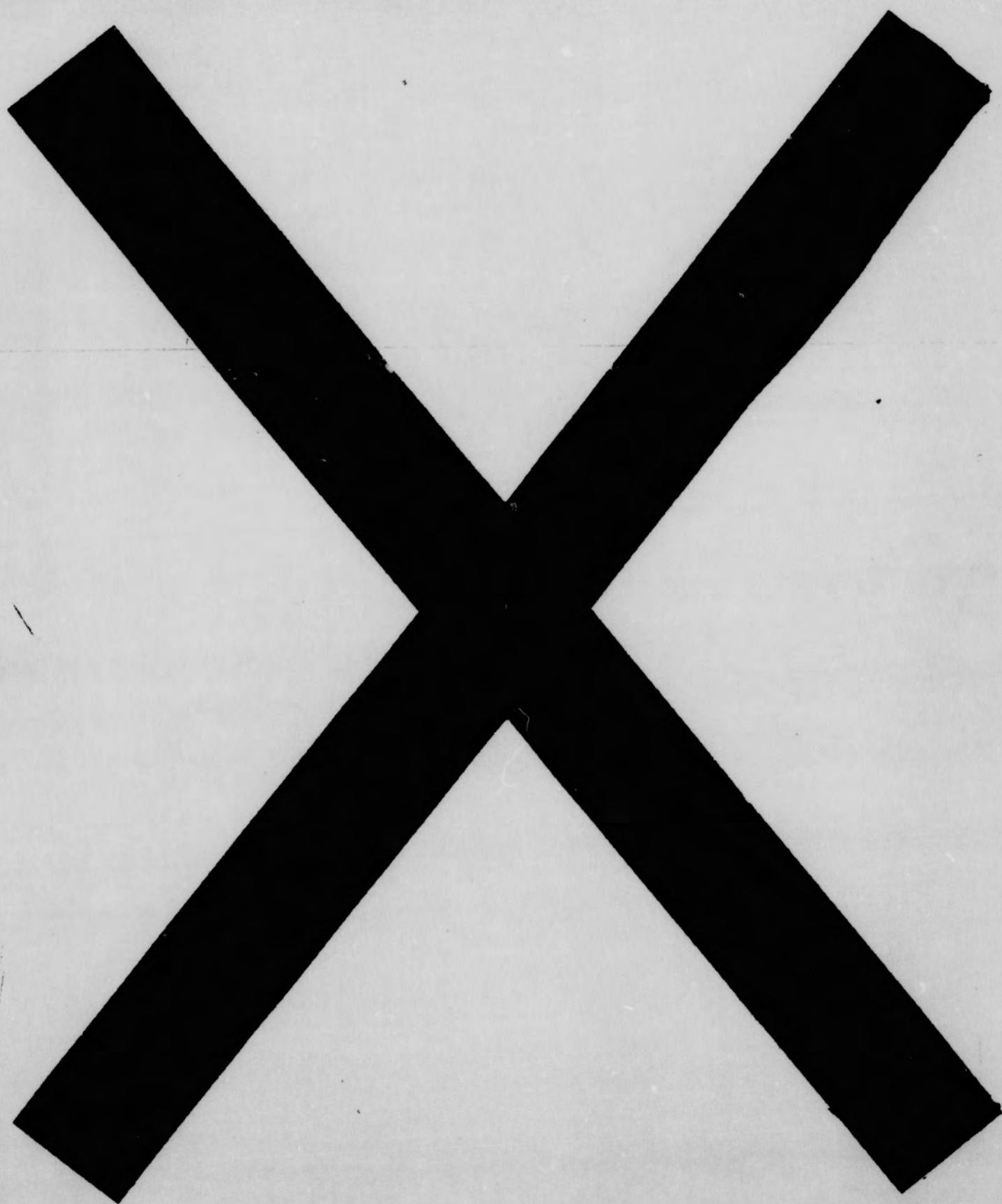
Customer Awareness

NS continues to host customer meetings to evaluate and provide feedback on the Company's planning processes and strategies. NS continues to make numerous meetings and presentations in order to keep our customers informed.

The Customer Resource Guide, distributed to our customers, provides customers with all resources and information necessary for doing business with the new NS.

The Help Desk Directory, also distributed to our customers, lists key phone numbers that connect users to areas that may assist them in answering questions about NS. It is available in three formats: a pocket guide for employees, a list for customers, and an expanded version available for downloading from the Internet.

Note: Bold print indicates changes from previous reports.



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Norfolk Southern Corporation
1500 K Street, N.W., Suite 375
Washington, D.C. 20005
202/383-4166
Direct: 202/383-4425
Fax: 202/383-4018
email: bmaestri@nscorp.com

Bruno Maestri
Vice President
Public Affairs

May 11, 2001



By Hand Delivery - Original and 25 Copies

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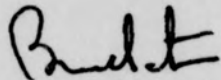
The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

Re: STB Finance Docket No. 33388 (Service Date - July 23, 1998);
CSX and NS - Control and Acquisition of Conrail; Certification of
Norfolk Southern Compliance with Environmental Condition 8(A)

Dear Secretary Williams:

Enclosed please find twenty-five (25) hard copies and one electronic copy of Quarterly Report Number 11 for the subject environmental condition certifying compliance in accordance with STB Decision No. 89.

Yours very truly,


Bruno Maestri

ENTERED
Office of the Secretary
MAY 11 2001
Part of
Public Record

Enclosure

cc: Elaine K. Kaiser, Esq. (5 copies)

202193



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 LEASE AGREEMENTS --
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Decision 89, as Amended by Decision 96
Appendix Q, Environmental Conditions
III. Local or Site-Specific Environmental Conditions
Condition 8(A): Highway/Rail At-Grade Crossings

ENTERED
Office of the Secretary

MAY 11 2001

Part of
Public Record

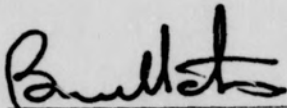
Quarterly Report Number 11 for
Norfolk Southern Corporation and
Norfolk Southern Railway Company

May 11, 2001

CERTIFICATION OF COMPLIANCE

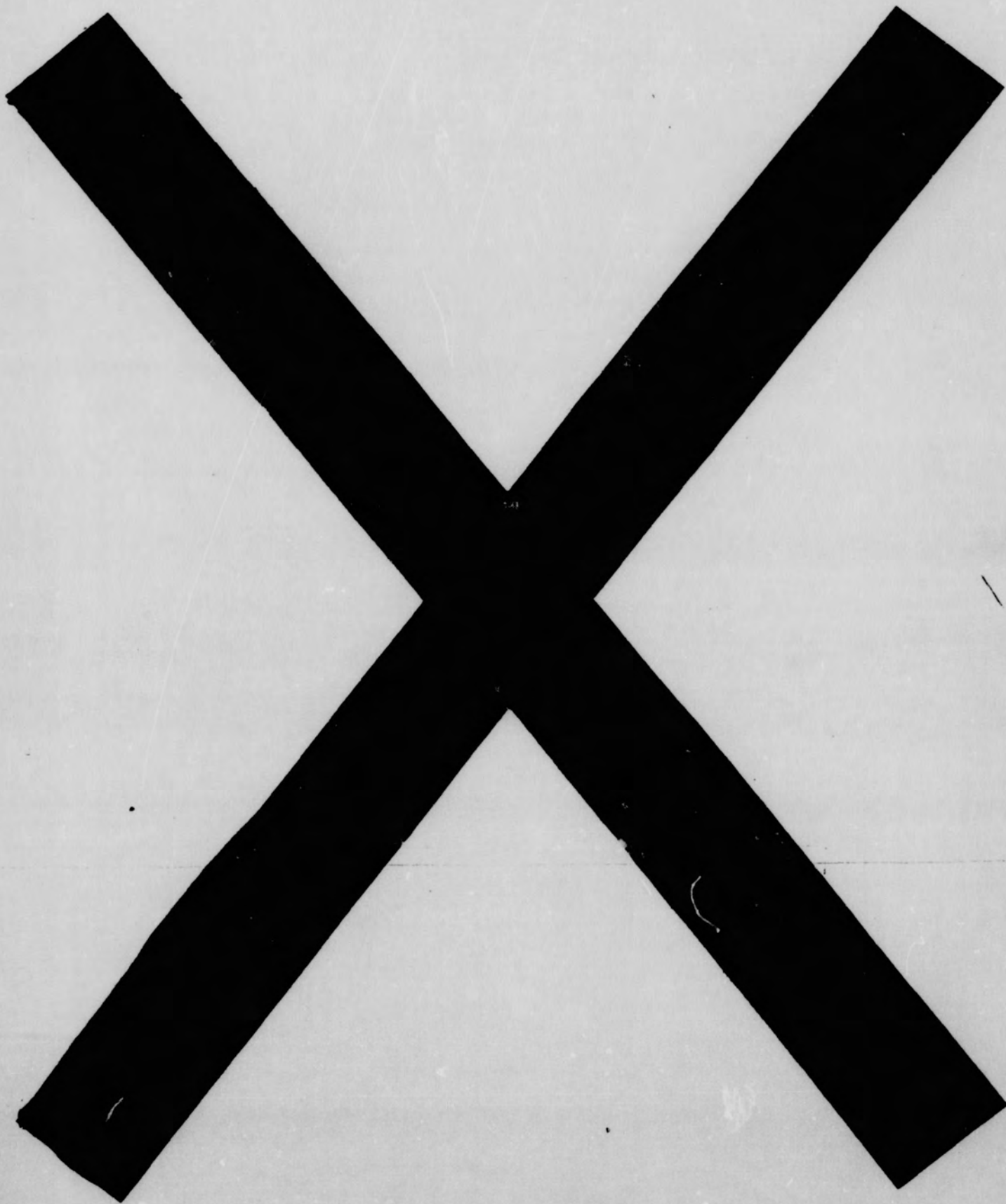
In accordance with Environmental Condition 8(A) set forth in Appendix Q to Decision No. 89 of the Surface Transportation Board in Docket No. 33388, Norfolk Southern Corporation and Norfolk Southern Railway Company ("Norfolk Southern") hereby certify that Norfolk Southern remains in compliance with the requirements of Condition 8(A). Norfolk Southern has continued to address the remaining projects to be completed in accordance with Environmental Condition 8(A) and the Board's orders modifying that condition.

Certified by:



Bruno Maestri
Vice President
Public Affairs

Date: May 11, 2000



STB

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May 9, 2001

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MURSHED ZAHEED°°°

*ALSO NY BAR
**ALSO PA AND MS BAR
***ALSO MD BAR
°ALSO VA BAR
°°ALSO PA BAR
°°°MA BAR ONLY



The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Mercury Building, Room 700
1925 K Street, N.W.
Washington, DC 20423

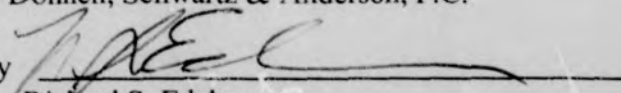
Re: CSX/NS-Conrail F.D. No. 33388-Norfolk Southern Hollidaysburg Car Shop

Dear Secretary Williams:

Enclosed please find an original and ten copies of a Response to the Norfolk Southern Reply to Petition for Enforcement of Order, or Alternatively to Reopen for Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided-for filed by the Transport Workers Union of America, National Council of Firemen and Oilers/SEIU, International Association of Machinists and Aerospace Workers, International Brotherhood of Boilermakers and Blacksmiths, International Brotherhood of Electrical Workers, Sheet Metal Workers International Association, and Transportation Communications International Union, as well as the Commonwealth of Pennsylvania, in the above-referenced matter. Also enclosed are an original and ten copies of a petition for leave to file the response, a copy of the petition on a 3 1/2 inch floppy disk in WordPerfect format and a copy of a videotape referred to in the Response.

Sincerely,

O'Donnell, Schwartz & Anderson, P.C.

By 
Richard S. Edelman

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Office of the Secretary
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Public Record

Enclosures

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MAY 10 2001

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388



CSX Corporation et al., Norfolk Southern Corp. et al.--Control and Operating
Leases/Agreements--Conrail Inc. and Consolidated Rail Corp.

**RESPONSE OF VARIOUS UNIONS
AND THE COMMONWEALTH OF PENNSYLVANIA
TO NORFOLK SOUTHERN'S REPLY TO JOINT PETITION
FOR ENFORCEMENT OF ORDER, OR ALTERNATIVELY TO REOPEN
FOR ORDER DIRECTING COMPLIANCE WITH COMMITMENTS,
OR ALTERNATIVELY FOR RELIEF NOT OTHERWISE PROVIDED-FOR**

Having obtained the Board's approval for its acquisition and operation of 58% of Conrail, Norfolk Southern Corp. ("NS") expects this agency to simply ignore certain express, clear and repeated representations and commitments that were made by NS specifically for the purpose of gaining key support for the acquisition and obtaining the Board's approval. NS apparently expects this Board to do nothing about NS' planned repudiation of the representations and commitments it made regarding the Hollidaysburg Car Shop ("HCS") notwithstanding the Board's Order binding the applicants "to all of the representations they made during the course of this proceeding, whether or not such representations are specifically referenced in" Decision No. 89, simply because NS now views the representations it made about the HCS as inconvenient.

At the time the Unions¹ and Pennsylvania filed their Joint Petition on March 28, NS and its rail subsidiary Norfolk Southern Ry. ("NSR") had expressly refused to provide the Unions

¹ Transport Workers Union of America ("TWU") and the National Council of Firemen and Oilers/SEIU ("NCFO"), International Association of Machinists and Aerospace Workers ("IAM"), International Brotherhood of Boilermakers and Blacksmiths ("IBB") International Brotherhood of Electrical Workers ("IBEW") Sheet Metal Workers International Association ("SMWIA") and Transportation Communications International Union ("TCU") (collectively referred to herein as "Unions")

with an explanation of the intended closure, beyond the vague and conclusory information issued by NS in its press release on the subject. (NS and NSR are sometimes referred to jointly herein as NS). Now, however, NS and has attempted to explain its position in its April 17, 2001 reply and the thirteen exhibits to the reply. NS' opposition to the joint petition is predicated on misrepresentations of the facts, and specious arguments that its representations and commitments were really just expressions of its intentions that it was free to walk away from at its own convenience. Alternatively, NS argues that the representations and commitments were not binding because 1) they were mere details of what NS describes as just its then-envisioned "operating plan", 2) because the representations and commitments had no defined "end date" and 3) because the economy has slowed. The entire tone of NS' reply appears to be that the Unions and the Commonwealth must have been naïve to believe that NS meant anything it said, no matter how high up the chain of NS command the speaker was, no matter where, or to whom, the statements were made (including under oath) and no matter how often the same statements were made.

Petitioners submit that the evidence provided to the Board in the Joint Petition and this Response clearly demonstrates that NS committed to retaining and continuing to operate the HCS, and to invest in the HCS. Additionally, Petitioners will show that even if "changed economic circumstances" might in some cases justify an attempt by NSR to close the HCS after Board approval, there is no evidence sufficient to support such an action here. NS has, at most, cited a general slowing of economic growth, not an extraordinary and prolonged contraction; and its own carloadings have been only marginally affected. Similarly, even if fluctuations in work loads at the HCS could provide a basis for NS to be relieved of its commitments regarding the

HCS, the evidence about recent work loads at the HCS does not support NS's position. Insourcing work, the work that NS cited as important to growth at the HCS, has actually increased. Moreover, NSR's own records as to overall work loads at the HCS shows only a modest difference between current work loads and work loads at the time that NS made its commitments about the HCS; those records also show that current levels of production are not inconsistent HCS work loads in the past. Production on NSR's own equipment has decreased in the last year or two, but that is a result of NSR's decisions to reduce the work force at the HCS and to defer maintenance the cars it owns; and NS' own testimony about its carloadings shows a reduction of only 2%, so the reductions in work on cars were not due to reductions in the use of cars. Petitioners will also show that the decisions of the Board that are cited by NS are factually distinguishable from this case, and that the Board's reasoning in those decisions does not support denial of the relief sought in the Joint Petition.

I. ADDITIONAL EVIDENCE REGARDING NS REPRESENTATIONS ABOUT THE HCS AND UNIONS/PENNSYLVANIA RESPONSE TO NS ASSERTIONS OF FACT

In this response memorandum, the Petitioners will respond to the allegations of fact contained in NS' reply to the joint petition because of the many material misrepresentations therein, relying in part on recent correspondence from NSR to two of the Unions, and records on employment and production at the HCS.

The Petitioners will also will provide the Board with evidence they obtained in connection with hearings held by the Pennsylvania House of Representatives Transportation Committee on April 12 and 26, 2001, including 1) a videotape (and transcript thereof) prepared by that Committee of excerpts of speeches made at Altoona, PA by Congressman Bud Shuster and NS CEO David Goode on "Day One" of implementation of the division of Conrail; 2) a

transcript of remarks made by an NS Vice President Public Affairs to that Committee in 1997, and 3) the testimony of NS's current Vice President Public Affairs in the recent Committee hearings. This evidence is pertinent to NS' denial that it made commitments to retain and operate the HCS and to NS' credibility regarding the HCS.

A. Evidence From Pennsylvania House Of Representatives Transportation Committee

1. Videotape of Day One Speeches

At the April 12, and 26 hearings the Chairman of the Pennsylvania House of Representatives Transportation Committee, Representative Richard A. Geist, played a videotape that contained excerpts of television news reports on "Day One" activities at Altoona that included parts of speeches by Representative Bud Shuster and NS CEO David Goode. A copy of the videotape is being provided to the Board with this reply and a copy of a transcription ("Tr.") of the Shuster and Goode remarks is attached to this response memorandum as Petitioners' Exhibit 22.

In his remarks Congressman Shuster stated that he had made a "deal" with the CEOs of CSX and NS that Norfolk "Southern would do several things for our shops here", including "Investments of \$67 million in capital improvements would be made to the Juniata and Sam-Ray [Hollidaysburg Shop]. Employment in the shops would be increased by at least 178 jobs". Tr at 2. Congressman Shuster also noted "And how important is Altoona going to be to Norfolk Southern? Well, in talking about Norfolk Southern being in 21 states, we're talking about 21,600 miles of track, an awful lot of places to be; but the top man, the chairman of Norfolk Southern, David Goode, where is he today on this historic takeover? Of 21

different states where he could be, countless cities where he could be, he's here in Altoona." Tr. at 3-4.

NS CEO David Goode spoke after the remarks of Congressman Shuster. Mr. Goode stated that NS would not be where it was "without the support not only of all of the people here but of the people standing on this podium with me today... that would not have happened without the support of the people surrounding me on this platform, and it wouldn't have happened without the support of all of you". Tr. at 5. Mr. Goode then stated "And Chairman Shuster has read off an impressive list of the commitments that Norfolk Southern has made. This is going to be the finest, the heart of the Norfolk Southern system in many ways. The finest shops that we can create in railroading today. Tr. at 6, emphasis added. Mr. Goode further said "I want people to look back 100 years from now and say that is a tradition that has continued, and Altoona is still the heart of railroading in the world". Tr. at 7, emphasis added.

2. Oral Testimony Of Mr. McCune On May 15, 1997

On May 15, 1997, then NS Resident Vice President Public Affairs M. Patrick McCune testified before the Pennsylvania House Transportation Committee about the effects of the transaction on Conrail employees in Altoona. He stated that "We intend to operate these shops at the same level that Conrail utilizes them today. We then hope to grow the maintenance business at those shops to the maximum utilization possible." Transcript of McCune Testimony (Petitioners' Ex. 23) at 16. Chairman Geist then asked about the Juniata Locomotive Shop and the HCS and Mr. McCune stated: "Mr. Chairman, I mean, I'm prepared to tell you that we will operate those shops at the same level that Conrail presently utilizes those shops and we think that the addition of Norfolk Southern as the new owner of those shops will bring additional

opportunities for growth at both Juniata and the Hollidaysburg shops". *Id.* at 25. Chairman Geist noted that "On November 18th '96, Norfolk Southern publicly announced that it was committed to operate Conrail's Hollidaysburg Car Shop and the Juniata Locomotive Shop and that it would promote—and I underline the word promote—employment there" (*id.*) and he asked if development of the Operating Plan had indicated any "redundancies or duplication of facilities that would result in reduction of employment at Hollidaysburg or Juniata Shops. *Id.* at 36. Mr. McCune responded that there were "far less duplications, far less redundant assets, far less redundant lines with our proposed merger and our proposed plan than there was in the proposed CSX/Conrail acquisition plans that was unveiled in October of 1996". *Id.* at 37.

Chairman Geist then referred to a newspaper advertisement that NS ran in eighteen newspapers in cities with "significant numbers of Conrail employees" that urged them to support the NS acquisition over the CSX acquisition. *Id.* at 38 [an example of this ad was reproduced in the Joint Petition at Exhibit 4). Chairman Geist then asked "May we assume from the publication that Norfolk Southern does not believe that the Hollidaysburg and Juniata repair facilities duplicate or create redundancy with respect to the Roanoke and -facilities[sic]" and Mr. McCune answered: "I hope I've answered that, Mr. Chairman. We see no duplications and no redundancy and no threat." *Id.* at 39.

3. Written Comments Of Mr. Timmons On April 12 And 26, And Unions/Pennsylvania Response To Those Comments

a. Mr. Timmons' Assertions Regarding NS' Economic Circumstances

In April 12, 2001 written testimony that was also read to the Pennsylvania House Transportation Committee, NS Resident Vice President Public Affairs Richard Timmons suggested that NS' plans and commitments were predicated on expectations based on the "U.S.

economy during 1998-1999", that NSR has been taking retrenchment actions like the closing of the HCS because of the "U.S. economic downturn over the past eight months" and that "we made forecasts that turned out to be exaggerated and that cannot now be sustained in this current economic environment". Timmons Statement at 2-4, Petitioners' Ex. 24.

The Petitioners submit that these attempted justifications for NSR's actions are specious and illustrative of NS' lack of sincerity in its position regarding the HCS because the representations made by NS in its Application, its dealings with the Unions and Pennsylvania officials and its other public statements were not described as dependent on continued economic growth at the 1998-1999 levels, or at any particular level of economic growth; nor were they described as voidable in the event of a slowing of economic growth. Moreover, the Petitioners submit that the claims made in Mr. Timmons' statement are simply not true.

First, it simply can not be that NS' plans were predicated on the continued steep economic growth of 1998-1999--one of the fastest growth periods in recent memory at the end of the longest period of economic expansion since after the end of World War II. Nor can it be that NS' plans were subject to derailment due to any economic bump-in-the-road. In this regard, it must be noted that, even now, we are not in a recession; rather, the economy is simply not growing at the pace it has the last few years. Indeed, the economy experienced faster growth in the first quarter of 2001 than many experts anticipated, and NS exceeded market expectations. Petitioners' Ex. 25. Clearly, from the "Day One" remarks of NS CEO Goode (videotape and transcript), it appears that NSR contemplated that the HCS would be prominent in NSR's operations for the next "100 years". Mr. Goode's statements demonstrate that NSR's commitment was not to be affected by short term economic fluctuations. In any event,

Petitioners submit that if NS's plans, and the representations it made were actually dependent on unprecedented continued steep economic growth, then NS' application materially misrepresented the facts or omitted material information in not disclosing NS' dependence on anticipated fast economic growth and NS' vulnerability to a slowing of growth not even amounting to a recession. The nature of the STB proceedings regarding this transaction, the positions of various parties and possibly the Board's decision would have been different had NS said that the plans it described were dependent on continuation of a white hot economy.

Second, it cannot be that the "economic downturn over the past eight months" was the basis for NSR's decision since NSR first announced plans to close the HCS last November, before anyone was talking seriously about an economic downturn. NS has cited recent economic news in an attempt to try to retroactively justify actions it announced last Fall, but NS could not have relied on information about the economy that it did not then have. Moreover, as Petitioners have noted, recent economic news suggests that there may not be a continued decline in growth or continued decline in earnings for NS. Petitioners' Ex. 25.

2. Mr. Timmons's Assertions Regarding Impact Of Closing The HCS On Shop Workers

In his written and oral testimony submitted on April 26, 2001, Mr. Timmons stated that of the 330 employees at the HCS "all would be offered jobs at Norfolk Southern facilities". He also noted that that assertion had been challenged in the prior hearing but that he had checked and "[t]his statement is accurate and correct notwithstanding other testimony provided to the Committee". Timmons 4/26 Statement at 2, Petitioners' Ex. 26. However, review of the *New York Dock* notices served by NSR on the HCS craft unions and TCU shows that NSR plans to eliminate 331 jobs at HCS and to establish only 156 jobs elsewhere; thus NSR will not have

positions for almost half the affected employees. Petitioners submit that NS gave testimony on this point that it knew to be false, or should known to be misleading.

B. NSR's Letters To TWU And NCFO

In connection with negotiations between NSR and TWU and TCU, and between NSR and NCFO, pursuant to the *New York Dock* conditions and an implementing agreement, those unions propounded questions to NSR about its plans for the HCS. The questions were sent to NSR after the Joint Petition was filed and the answers were received by the Unions some time later. Copies of NSR's answers are attached hereto as Petitioners' Exhibits 27 and 28. In response to the unions' observation that NSR's notice said that work was being transferred from the HCS and that all positions would be abolished, but did not say that the HCS was being closed, NSR stated that "After the transfer of work has been accomplished, there will no longer be a need for HCS" (Answer to NCFO Ques. #1 and TWU Ques. #1), and that some workers would continue at HCS "up to thirty days beyond September 1, 2001 to facilitate the ultimate closure of the facility" (Answer to TWU Ques. # 17).

NSR's letters clearly stated that its plans were not based on the amount of work from CSXT, and that CSXT cars had been sent from the HCS back to CSXT because the work could not be completed by September 1, 2001((Answer to NCFO Ques. #7 ! TWU Ques. #s 10-11). Accordingly, it is clear that NS can not contend that its plans are based on a failure of CSXT to comply with its commitments regarding the HCS or that its actions are based on an anticipated decrease in work from CSXT.

Additionally, NSR stated that a current surplus of cars (presumably from the Conrail acquisition) will mean no immediate need for major car repairs, and NSR could not explain the

type and quantity of work that supposedly would be available or provide any reasonable estimate as to the duration that such work would exist. See NSR correspondence answering questions of TWU, BRC and NCFO- Petitioners Ex.27, answers to BRC questions nos. 2, 3, 4, 6, 7 and 8; and Petitioners' Ex. 28, answers to questions nos. 5, 11, 12, and 13. Furthermore, NSR said that there will be no insourced work at the transferee shops. Petitioners' Ex. 27 answer to BRC question no. 8.

C. NS Assertions In Its Reply To The Joint Petition And Unions/Pennsylvania Response

NS' Reply to the Joint Petition contains numerous material misrepresentations of fact.

1) NS claimed that it had made a good faith effort to follow-through on its commitments regarding the HCS and that was supposedly shown by operating the HCS for almost 2 years in a manner consistent with its STB filings (Reply p. 2, 10, 12). However, Petitioners note that Day One was June 1, 1999 and that NSR sought to close the HCS in November of 2000. Clearly, NSR's so-called "effort" lasted at most 1½ years. Moreover, NS has repeatedly acknowledged that most of the first year of its operations after the division of Conrail was essentially a lost year due to NS' unfortunate, self-inflicted merger implementation problems. NS has no basis for claiming that it made a good faith effort when it sought to close the HCS a mere six to eight months after service returned to normal. Petitioners submit that NS can not be heard to say that it tried in good faith to retain and continue to operate the HCS when NS clearly did not do so.

2) NS relied most heavily on its assertions that the HCS has "operated at only one-third capacity since Day One" and that when considered as a "stand-alone" operation, the HCS has supposedly lost about \$7 million (NS Reply at 11, Veron and Belvin Statements),

notwithstanding admitted profits from insourcing work which NS concedes has been about half the work at the HCS since Day One (Reply at 10).

Petitioners submit that even if NS' assertions about alleged actual losses were true, they would be irrelevant because the representations it made were not contingent on the HCS regularly running a profit in the manner calculated by NS.² Petitioners further submit that changed financial circumstances are not a sufficient basis for NS to unilaterally negate its commitments, particularly in the context of its campaign to gather support for its Application by promising retention of the HCS. NS' defense on this basis is especially insufficient to support repudiation of its commitments a mere year and one-half after Day One after self-inflicted financial injuries and a mere 6-8 months after the railroad returned to normal operations.

NS has not shown that financial circumstances at the HCS have so changed from the circumstances prevailing at the time NS made its commitments that those circumstances would even justify an order relieving it of its obligations, had NS actually requested such relief from the Board.

NS' assertion that the HCS is only operating at one-third capacity, is misleading because NS has failed to acknowledge that the Shops was not operating at anywhere near full capacity in the several years before NS made its commitment. NS has suggested that there has been a significant decline in work at the HCS by comparing recent production statistics to those of 1978. The Statement of David Veron notes that the HCS worked on 13,000 cars in 1977 and

² Petitioners believe that NS' claim of losses flows from "creative" accounting regarding attribution of overhead costs, but they do not have access to raw data to make their own assessments as to whether there were actual losses as opposed to paper losses. They also note that given the many misrepresentations in other NS statements regarding this matter (outlined herein), the Board should view NS' assertions of actual losses with skepticism. But, as is explained herein, even if the claim of paper losses is valid that does not justify NS' repudiation of its commitments.

1978 and compares that workload to 4,040 cars in 2000. NS would thereby have the Board infer a significant loss of work. But 1977 and 1978 were apparently the years with the greatest levels of production and employment at the HCS. See the Second Declaration of Thomas Lutton (Petitioners' Ex. 29) ¶¶ 5-7. The appropriate comparison in this case is not the workload of the HCS in the period shortly following the creation of Conrail, but the workload in the years around the time that NS made its commitment to retain the HCS. The current work load does not differ substantially from the work load at the HCS in the years preceding the transaction.

Attached to the Second Lutton Declaration is a copy of a chart titled "Record of Production" that is maintained in the HCS that reports the number of cars worked at the HCS since 1955. Second Lutton Declaration ¶¶56 and Ex. H. In 1995, the base year for the financial projections for the Application, the HCS worked on 4667 cars whereas the total number of cars worked at the HCS in 1999 was 4138 and the total for 2000 was 3583. In this regard, Petitioners note that NS Resident Vice President Timmons told the Pennsylvania House Transportation Committee that NS based its projections and calculations and "the high expectations we promoted in our comments and testimony to state and federal officials" on the 1995 traffic, revenue and operating data, and that it was changes between the 1995 data base the circumstances in 2000 that caused NS to depart from the Operating Plan. See Petitioners Ex.24 at 1,2. But there is little difference between production in 1995 and production in 1999 and 2000. It is certainly apparent that it was misleading of NS to argue that its actions were justified by a comparison of production in 2000 to production in 1977-1978 when the HCS averaged over 13,000 cars worked by approximately 1900 employees (as opposed to the current 330).

Comparison of current work loads to the work load in 1997-1998, when NS actually made its commitments also does not show a significant difference. The Record of Production chart shows that the HCS worked on 6398 cars in 1997, 5456 cars in 1998, 4138 cars in 1999 and 3538 cars in 2000 after the furloughs in March of 2000. Petitioners respectfully submit that while these records show a reduction in work done at the HCS, that reduction is not remotely as dramatic as NS has suggested. Moreover, the reduction must be put in the context of general cost cutting by NSR because of its transaction implementation problems and furloughs of workers who would have been available to do additional work. NS' Safety Integration Plan projected that there would be 436 employees at HCS, The current work force was reduced to 330 employees as a result of NSR's furloughs that flowed from its stated need to reduce expenses to offset the costs it incurred in digging out of the hole NS dug for itself in its bungled implementation of the transaction. Petitioner's Ex. 30. Thus NSR's own reduction in the work force at the HCS was a major cause in the reduced output in 2000. Indeed, there is strong evidence that the work done in 2000 is not reflective of the work that was actually available to be done because it appears that NSR has deferred necessary maintenance work. For example, a report on cars rejected by shippers for the first quarter to 2001 shows that the number of rejects more than doubled from the first quarter of 2000. Second Lutton Declaration ¶5 and Second Lutton Declaration Ex. 1. Moreover, NS' own statement to the Pennsylvania House Transportation Committee asserted a 2% decline in "carloads in a year". Petitioners' Ex. 24 at 3. This data also suggests that the reduction in car usage cannot have caused the reduction in work on cars, and that the reduction was due to deferral of maintenance and other cost-cutting by NSR because of its implementation problems.

Petitioners also note that analysis of the Record of Production chart shows that the total number of cars worked necessarily fluctuates and is somewhat cyclical. For example the years with the lowest number of cars worked were 1983 and 1984 (2678 and 2969 respectively), and that the number then gradually increased into the 1990. The chart shows a number of years with changes in production of 1000 or more cars from the preceding years: 1988-4547, 1989-6105, 1990-5121; and 1994-6327, 1995-4667, 1996-6078. Petitioners also note that the HCS built over 4,500 new cars in the period of 1993-1998, after building no new cars in the period of 1988-1992. The recent manufacture of so many new cars may also have had an impact on the amount of heavy and periodic repair work that was required in the after 1998, separate and apart from NS' cost-cutting by layoffs and deferral of maintenance, but that does not mean that there will be no such work to be done at the HCS in the future. Surely NS' commitments that it would retain, and even expand the HCS, could not have been predicated only on the work that might have been available in the first years after the Transaction (especially when NS knew how many new car there were). Moreover, the manufacture of so many new cars may have contributed to the current excess car supply cited by NSR in its response to BRC's question no. 6 as explaining a reduced need for major car repairs. See Petitioners' Ex. 27. The record of fluctuation of work at the HCS further demonstrates that NS' had no good faith reason for closing the HCS based on its recent work load.

Again, Petitioners deny that NS could unilaterally repudiate its commitments based on changed workload for the HCS, but they submit that all of the foregoing refutes NS' suggestion that there were significantly changed circumstances with respect to the workload for the HCS that could justify its actions. NS simply has no basis for arguing that the work load has changed

significantly from the time when it made its commitments, or that the actual reduction of work is reflective of a long term lack of work as opposed to a cyclical trough and/or a self-imposed deferral of necessary maintenance. Petitioners further submit that, given the historic fluctuations in workload at the HCS, there is no basis to conclude that there is a real and lasting reduction in work based on 6-8 months of NSR operations in normal circumstances (as opposed to transaction implementation crisis circumstances); moreover, NS' quick repudiation of its commitments given the historical record refutes NS' claims that it has made good faith efforts to comply with those commitments.

In short, even if NS' financial claims evidence was relevant to the issue here, the facts do not support its position, given the situation with regard to the HCS in 1995, the base year for financial projections for the Application and in 1997-1998, the years when NS made its repeated public commitments regarding the HCS. Rather the percentage of capacity utilized is essentially the same, and while the number of cars worked is somewhat lower, that is in part due to NSR's actions in the form of furloughs and deferral of maintenance and it is consistent with a pattern of fluctuations in work. To the extent that NS claims financial losses and under utilization of the HCS, current conditions are not significantly different from those that existed when NS made its commitments. Accordingly, even if NS could rely on changed financial circumstances at the HCS as permitting its actions, NS can not show any meaningful change that would justify its plans.

3) NS' reply also asserted that the planned closing of the HCS was a product of "current economic decisions and serious financial challenges" to NS (Reply at 2, see also Reply at 12). However, as is noted above, NSR sought to close the HCS last November, before the current

economic conditions were envisioned by anyone. Additionally, as the Board is well aware, much of NS' financial situation is a product of NS' own failures in implementation of the Conrail transaction. NSR's implementation problems resulted in decreased NS revenues due to the reluctance of shippers to ship by rail, substantial costs to NS in order to remedy its problems and restore the faith of its customers, and then cost cutting by NS to mollify financial markets which in turn hindered NSR' ability to return to pre-transaction levels of service. *See e.g.* Petitioners' Ex. 30.

4) 6) NS' Reply refers to its answers to certain discovery requests propounded by various unions that NS claims show that it made no commitment to retain the HCS. NS cited interrogatories that asked whether NS had plans for shop closings in addition to the plans described for shops at Peagram, Ft. Wayne and Enola, and its answers that NS had not determined whether there would be closings other than those described in the Operating Plan. NS Reply at 7-8 and Exhibits 3-6. NS contends that its equivocal response to those interrogatories applied to the HCS. *Id.*

Given NS' repeated, specific statements about the HCS both in the Operating Plan and elsewhere, it was reasonable for the unions to rely on those statements and to inquire about the many other shops on the Conrail territory allocated to NS and existing railroads that were not discussed in the Operating Plan; and it was reasonable for them to assume that NS' answers to the interrogatories were addressed to shops other than HCS. Indeed, the parties's separate treatment of HCS is illustrated by the interrogatories and answers cited by NS that specifically addressed HCS. The Unions did not inquire about whether NS had plans to close HCS, but instead asked only about what might happen to employment at HCS if CSXT stopped sending

cars to the HCS. And NS responded that it did not know when CSXT might stop sending cars, that it could not speculate on the amount of work that would remain, or the impact of insourcing and the rate of attrition. *E.g.* NS Exhibits 3 (Interrogatory no. 143) and 4 (Interrogatory no. 132). Petitioners submit that neither the question nor the answer assumes that the HCS might be closed; they deal only with the more limited issue of employee impact if CSXT stopped sending cars; NS certainly did not suggest that the HCS might be closed if CSXT stopped sending cars or, for any other reason.

More importantly, the Petitioners also submit that the lawyer-crafted answers to specific interrogatories that were not addressed to the issue of retention of the HCS can not possibly be viewed as negating or trumping the repeated, clear, unequivocal statements by NS and its highest level officers in multiple forums that NS would retain the HCS.

5) NS' Reply (at 11) noted that NSR has "other car repair facilities" and asserted that "Hollidaysburg is thus a redundant facility". This assertion conflicts directly with the testimony of Mr. McCune that there is no redundancy between the Conrail shops and the NSR shops. The notion that the HCS shops would be closed because other shops on NSR could do the same work as the HCS is also inconsistent with Mr. Goode's characterization of the Altoona shops as the finest in the world and the heart of the new NS. Furthermore, any supposed redundancy that exists now also existed while the application was pending; NS can not pretend that it suddenly discovered that the HCS does similar work to that done by other NSR shops. Moreover, any such redundancy existed when NS offered its representations and commitments saying that NS would consolidate work in the Altoona Shops because they are such good facilities--the finest shops , the heart of railroading in the world.

6) NS suggested that it was acting in good faith in closing the HCS because its marketing efforts were not sufficiently successful (Reply p. 2, Veron Statement pp. 4-5). But NS actually increased insourcing after its takeover of the HCS. See second Declaration of Thomas Lutton, Petitioners' Ex. 29 ¶4 and Lutton Ex. G.

7) NS' Reply sought to minimize the impact of its repudiation of its commitments on the HCS workers by claiming that the 300+ employees currently working at the HCS were being given the opportunity to follow their work. (Reply p. 2). But Petitioners again note that NSR's notice to the Unions identified only 156 jobs that would be available at locations where NSR would transfer work. Again, NS has made a statement that it either knew to be false or that it should have known was misleading. Moreover, Petitioners note the 300+ number of employees actually understates the harm to HCS workers and the Altoona communities because the size of the current work force already reflects a reduction in employment at the HCS since NSR took over in 1999. As is shown in the Second Lutton Declaration, there were 481 employees at the HCS in 1998 and 451 in early 2000

NS' claim that the transfers will ameliorate the harm of the closing of the HCS through supposed creation of 156 jobs is also disingenuous because NSR has not been able to identify the work that supposedly will be transferred, the quantity of the work that may be available at those locations, or the potential time period that additional work will be available at those locations. Indeed, NSR has indicated that a current surplus of cars (presumably from the Conrail acquisition) will mean no immediate need for major car repairs, and NSR has been vague, at best, about the type and quantity of work that will be available and as to reasonable expectations as to the duration that such work will exist. See NSR correspondence answering questions of

TWU, BRC and NCFO- (Petitioners Ex 27, answers to BRC questions nos. 2, 3, 4, 6, 7 and 8; and Petitioners' Ex. 28, answers to questions nos. 5, 11, 12, and 13). Since a large amount of the work at the HCS since Day One has been insourced work, and NSR says that there will be no insourced work at the transferee shops (Petitioners' Ex. 27, answer to BRC question no. 8), the workers at the HCS have reason to be concerned that there really is no work for them at the new locations, or that such work will not last long. These circumstances also give the Unions reason to believe that the offers of work are not legitimate or realistic in the long term, and that the offers are really just a device to reduce NSR's employee protection obligations in the hope that furloughed employees decline transfer out of fear that they will move and the work will not last. Additionally, even if NSR was making bona fide job offers, the relocation of 156 workers does nothing to ameliorate the harm to Pennsylvania and the Altoona communities by the loss of over 300 jobs (actually more than 400 jobs) through furloughs.³

³ Under the *New York Dock* conditions, and various agreements implementing the conditions with respect to the CSX/NS-Conrail transaction, NSR's service of a notice began a process that will lead to mandatory arbitration of issues relating to NSR's proposal for an appropriate arrangement for selection of forces and any assignment of employees. The Unions will arbitrate with NSR because they are obligated to do so. That arbitration will only deal with the limited issues of application of the conditions, including fair arrangements for affected employees, any staffing or work assignment changes, any appropriate selection of forces and assignments of employees and any integration of forces, if a transfer of work occurs. An arbitrator would not have authority to require NS to retain and continue operations at the HCS and to invest in the HCS as NS represented it would. An arbitrator would not have authority to enforce this agency's order. In responding to the questions posed by TWU, BRC and NCFO, NSR took the position that issues relating to why NS plans to close the HCS, its purported explanations for doing so, and its plans for the HCS facilities are "not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination". Petitioners Ex. 27, answers to TWU questions 2- 8; and Petitioners' Ex. 28, answers to NCFO questions 2-3. Furthermore, a *New York Dock* arbitration will not address the separate interests of the Commonwealth of Pennsylvania; indeed Pennsylvania will not be able to participate in the proceedings.

II. ARGUMENT

A. NS COMMITTED TO RETAIN, OPERATE AND INVEST IN THE HCS

NS' main argument in opposition to the petition is the claim that its statements about the HCS were not really on the order of commitments, but were more like aspirations, or illustrative examples of what might do, rather than representations on which parties and Board could rely. (Reply pp. 5-7, 12-13).

It is simply outrageous for NS to answer the Unions and the Commonwealth, and to appear before this agency and contend that it did not make commitments to retain, operate and invest in the HCS. Given the number of such statements made by NS and its officers, the content of those statements and the circumstance of the statements being made as part of a political and public campaign to obtain support for the Conrail transaction and to gain approval of that transaction, it is pure sophistry for NS to argue that its statements were not representations on which parties to the CSX/NS-Conrail proceedings and the Board could rely, and commitments to Unions and to the Commonwealth of Pennsylvania and its officials.

The Unions and the Commonwealth have cited numerous statements by NS and its officers that demonstrate that it committed that it would retain and operate and invest in the HCS, they will only summarize some of those statements.

An advertisement placed by NS in the New York Times and other newspapers in November of 1996 titled "A Norfolk Southern/Conrail Combination Will Be Better for All of Conrail's Constituencies" stated "Norfolk Southern is committed to continuing to operate Conrail's Hollidaysburg Car Shop and its Juniata Locomotive Shop at Altoona, and will promote employment there...." Joint Petition Ex.4, emphasis added.

NS CEO David Goode testified before the United States Senate in March of 1997 and told Senator Arlen Specter that the Altoona shops were "excellent facilities" that "NS does not have nearby shop facilities" to the lines it would acquire in Pennsylvania "so we are in a position of not only being able to give assurances that we will keep those shops and keep them operating, we are going to need them". Joint Petition Ex.6, emphasis added

In May of 1997, NS Resident Vice President Public Affairs M. Patrick McCune responded to questions of State Representative Geist about the fate of the Altoona shops stating "...I'm prepared to tell you that we will operate those shops at the same level that Conrail presently utilizes those shops and we think that the addition of Norfolk Southern as the new owner of those shops will bring additional opportunities for growth at both Juniata and the Hollidaysburg shops". In response to questions about the Norfolk Southern advertisement that stated that NS was "committed to operate Conrail's Hollidaysburg Car Shop and the Juniata Locomotive Shop", and NS' appeal for support from Conrail employees about potential redundancy with respect to the Altoona shops and NSR shops Mr. McCune answered: "I hope I've answered that, Mr. Chairman. We see no duplications and no redundancy and no threat." Petitioners' Ex.23, emphasis added

In a Press Release entitled "The New Norfolk Southern The Best Choice For Pennsylvania", NS stated: "Norfolk Southern is committed to operate Conrail's Hollidaysburg car shop and Juniata locomotive shop and will promote employment there". Joint Petition Ex. 10 , emphasis added. And an NS "Fact Sheet" for Pennsylvania, under the heading "Economic Development", NS cited "Estimated \$4 million in capital improvements at Hollidaysburg shop". Joint Petition Ex. 11, emphasis added.

Then on Day One of the division of Conrail, Mr. Goode came to Altoona with Congressman Shuster to speak to the Juniata and HCS employees. Congressman Shuster spoke of the "deal" with NS pursuant to which NS would invest \$67 million in the two shops (\$4 million for the HCS), increase employment at the shops by 178 jobs and increase insourcing work. Mr. Goode then spoke, stating that NS was in Altoona for the "long run", referred to the "impressive list of commitments that Norfolk Southern has made" that had been recited by Congressman Shuster, stated that the Shops were the finest in railroading and would be the heart of the new NS and stated that he wanted people "to look back 100 years from now and say that [the Altoona tradition of railroading has continued] and Altoona is still the heart of railroading." Petitioners' Ex. 22, emphasis added.

Petitioners submit that this quick review of the evidence they have adduced shows that by purpose and context, and even by express language, NS' statements regarding the HCS were representations and commitments, not mere expressions of goals or aspirations. It is certainly clear that NS CEO Goode understood his statements, and those of his company, to be commitments. Indeed, in view of his own remarks, it is surprising that Mr. Goode would allow his subordinates and NS' representatives to file papers with this agency denying that NS' statements about the HCS were commitments.⁴

⁴ NS has relied heavily on its responses to discovery requests served by various unions in the Conrail proceedings. However, as is shown above, the attempts by NS's lawyers to avoid answers that, by their own terms, might generally foreclose certain options did not, and could not negate the many clear and unconditional commitments NS made in the Application and elsewhere. Moreover, the responses themselves do not even suggest that NS had attempted to reserve a right to close the HCS. NS' answers about possible plans for other shop closings could have been, and indeed were, addressed to inquiries about other shops on NSR and the portion of Conrail allocated to NS, especially given NS' specific statements about the HCS both in the Operating Plan and elsewhere, and given the Unions' separate inquiries about what might happen to employment at the HCS if CSXT stopped sending cars to the HCS (NS responded that it did not know when CSXT might stop

In this regard, Petitioners also note that the Comments filed by the Commonwealth and Governor Ridge in the CSX/NS-Conrail proceedings (at 4 and Attachment 1) referred to numerous meetings between the Applicants and identified NS' statements regarding "expansions of Conrail's Juniata locomotive repair shop and Hollidaysburg car repair shop near Altoona..." and its investment of \$4 million in the HCS as "commitments regarding investments and other benefits to the Commonwealth", and then said that "[w]e expect the Applicants to adhere to all commitments made in the Control Application." After NS and the Commonwealth entered the agreement described in the Comments, and after the Comments were filed, NS issued a press release trumpeting Pennsylvania's support for the Application, and noting that Pennsylvania's support was based on a number of factors, including "construction, expansion or upgrading of repair shops, intermodal facilities and other facilities. Petitioners' Exhibit 31. When NS' rebuttal to opponents of the transaction characterized Governor Ridge as supporting approval of the transaction without conditions, the Chairmen of the Pennsylvania Transportation Committees responded (Brief at 8-9) by noting that although the Governor did not specifically ask that conditions be imposed, he referred to NS' representations about the Altoona shops and other Pennsylvania facilities as "commitments" that he expected NS to "adhere to". NS never objected to the Commonwealth's description of NS' statements as commitments or to the Transportation Committees' Chairmen's assertions that the statements were binding commitments.

sending cars, that it could not speculate on the amount of work that would remain, or the impact of insourcing and the rate of attrition, NS addressed only the more limited issue of employee impact if CSXT stopped sending cars, NS did not suggest that the HCS might be closed). As petitioners stated earlier, the lawyers' answers to specific interrogatories that were not addressed to the issue of retention of the HCS can not possibly be viewed as negating or trumping the repeated, clear, unequivocal statements by NS and its highest level officers in multiple forums that NS would retain the HCS.

Additionally, the Comments of the Transportation Committees' Chairmen in the Conrail Transaction Oversight proceedings, noted that, NS "committed to undertake" certain capital investments including the \$4 million in capital improvements at the HCS, but that NS had not reported on the status of those investments in its report for the Oversight proceedings. NS' Reply in those proceedings (at 55), NS did not deny that it had committed to the investment, but merely asserted that its needs were such that it had "developed certain projects in the Commonwealth ahead of those cited by the Committee [sic]". Moreover, the Board's Oversight Decision No. 5 described NS' position as that certain projects be developed ahead of others; and the Board responded to the Comments of the Committee Chairmen by noting that "[w]e will continue to monitor the commitments that the railroads made and the conditions that we imposed."

Petitioners submit that in consideration of all of the foregoing, it must also be recognized that NS' statements regarding the HCS were made as part of a political campaign. NS sought to gain the support of Pennsylvania, its elected officials and communities, first in the battle with CSX, and then in the battle for approval of the transaction. Moreover, the need to obtain political support and minimize opposition was why NS CEO Goode gave assurances on the record to Senator Specter and why NS made its deal with Congressman Shuster. NS was particularly concerned about Congressman Shuster because of his Chairmanship of the House Committee with general jurisdiction over railroads and the STB, and because of his history of protecting the Altoona shops through legislation.

In its campaign, NS succeeded in obtaining support from Pennsylvania and its officials-- it did so by representations made not only to them directly but also publicly and formally in the STB proceedings, in a general media effort, and on Capitol Hill. Petitioners submit that if NS

had in 1997-1998 said that its statements to Pennsylvania and its officials were merely expressions of goals that could change at NS' discretion, the position of Commonwealth and its officials may well have been different. But Pennsylvania supported the Transaction, and that was clearly in reliance on NS' commitments, including those regarding the HCS, in expressing support for the transaction. Similarly, a number of Unions, including two of the Shopcraft Unions (NCFO and IBB&B) entered agreements with NS and CSX and withdrew their opposition to the Transaction before the Board issued its decision (see NS Reply Exhibits 8 and 9:IBB&B-3/25/98, NCFO-6/3/98); in doing so, they had every reason to rely on NS commitments regarding the HCS. For NS to now say that its statements were mere expressions of good faith intent is to negate all that NS said in order to gain the support of Pennsylvania and its officials now that NS has obtained what it wanted, and is no longer concerned about Congressman Shuster.

If NS' statements were made only to Congressman Shuster NS might have a point in arguing that its promises expired on Mr. Shuster's resignation. But NS made its commitments to the Governor and other officials, NS published them in eighteen newspapers, and they were made part of the formal record before this agency and thus became part of the agency's order that representations made during course of the proceedings were binding on the Applicants. Given the foregoing history, and NS' purpose in making the statements it made, NS simply can not unilaterally void its commitments.

With respect to the statement that NS would invest \$4 million in the HCS, NS does not even deny that its statements were a clear commitment; instead, NS argues that it should not have to comply with that commitment because it plans to close the HCS. Reply at 13 n. 8.

According to NS, it should not be held responsible for compliance with its commitment because the investment would be wasted since NSR does not plan to retain the HCS notwithstanding its commitment to do so. *Id.* This circular argument should not be accepted by the Board. NS can not unilaterally relieve itself of its obligations by unilaterally creating conditions that supposedly justify a breach of its commitment. If NS' reasoning was accepted, NS could entirely negate the Board's order binding it to its representations merely by its own actions contrary to its representations. Moreover, it is not known whether the \$4 million investment would have stimulated additional insourcing work.⁵ Simply put, NS admits it committed to investing \$4 million in the HCS, it was bound to that commitment and it should not be allowed to avoid compliance with that commitment as required by the Board's order.

Petitioners respectfully submit that, from the foregoing summary, as well as the detailed discussions of NS' statements about the HCS in the Joint Petition and the first portion of this response, it is absolutely clear that NS' statements were binding representations and commitments, that everyone involved including NS recognized them to be such, and that NS' current denials are simply false.

⁵ NS declarant Veron stated (Declaration at 7) that "in [his] judgment", making the investment would not have helped attract any more business, but he made no effort to substantiate that conclusory claim and failed to explain the basis for his opinion. He also added that the investment "would not, in my judgment, have had any material effect on the ultimate decision to close the Shops". However, it appears that there were no changed circumstances regarding business at the Shops that were the basis for NS' action; rather NS determined to close the Shops when it ceased to be concerned about possible reactions of Congressman Shuster.

B. THE ABSENCE OF AN EXPRESS TIME LIMITATION ON NS' COMMITMENTS DOES NOT NEGATE ITS COMMITMENTS

NS seems to believe that it can escape its obligations by the supposedly crafty argument that because the commitments contained no end date, and the Petitioners did not identify an end date, the Petitioners are asserting that NS must retain the HCS forever, and that NS could not be bound forever, so it therefore must not be bound to them at this time. Just to restate the argument is to reveal its speciousness. Under NS' view, since there was no end date to its commitments it could have closed the HCS on Day 2 at its whim. But that certainly would be a repudiation of what it said in the Application and to obtain support for the Application. NS' argument in this regard is just more sophistry. Moreover, the Unions and the Commonwealth do not contend that NS must maintain the HCS in perpetuity. The commitments may not be forever, but they certainly are not just for a day or two or a mere year and one-half or two years. In the absence of an express end date, the commitment must be construed as for a reasonable time in the context of the Application and NS' campaign for its approval, with NS having the burden of seeking and obtaining STB relief from its commitment based on a showing of sufficiently changed circumstances. What may be a reasonable time would necessarily depend on both NS' statements and other circumstances. Perhaps the end date might be one hundred years as suggested by Mr. Goode. Petitioners submit that the end date should be commensurate with a reasonable expectation as to the retirement date of the least senior employee on the HCS rosters at the time that NS made its commitment. Certainly, the end date could not be less than five years-- the oversight period set by the Board as a basic review period for the Conrail transaction— provided NS filed a petition at that time seeking affirmative relief from its commitments. The end date could not possibly be two years after Day One, particularly when

about half that period was wasted by NS' incompetent implementation of the transaction and a quarter of the period was wasted by NSR's unilateral, premature closing and refusal of business.⁶

C. NS' FINANCIAL ARGUMENTS ARE BOTH IRRELEVANT AND UNDERCUT BY THE ACTUAL FACTS

Because NS' other arguments are predicated on utter fallacies, it ultimately depends on its assertions that the HCS has "operated at only one-third capacity since Day One" and has supposedly lost \$7 million. Reply at 10-11. However, as Petitioners have shown, even if one accepts NS' "creative" accounting despite NS' many misrepresentations regarding this matter, NS' argument would be irrelevant because the representations it made were not contingent on the HCS regularly running a profit in the manner calculated by NS, and because changed financial circumstances are not a sufficient basis for NS to unilaterally repudiate its commitments mere year and one-half or two after Day One--especially given NS' own damage to its operations and self-inflicted financial injuries.

Moreover, as Petitioners have shown, the actual facts are that the financial circumstances at the HCS have not so changed from 1997-1998 when NS made its commitments that they would even justify an order relieving it of its obligations had NS actually requested such relief instead of acting unilaterally. The percentage of capacity of the HCS currently utilized by NS is essentially similar to the utilization of the Shop in 1995, the base year for the financial projections for the transaction, and in 1997-1998 when NS made its commitments, and the reduction number of cars worked is due in large part to NSR's furloughs, deferral of maintenance, and refusals of work. Moreover, the decrease in work is not inconsistent with a

⁶ Indeed, because of these improper unilateral actions by NS, the minimum five year period should begin one-and one-half years after Day One.

pattern of fluctuations in work at the HCS. Accordingly, even if NS' claim of financial losses was relevant and true, it follows that similar financial conditions applied when NS made its commitments, so NS has no basis for even asserting that changed financial circumstances at the HCS permitted its repudiation of its commitments.⁷

D. THE STB DECISIONS CITED BY NS DO NOT SUPPORT ITS POSITION THAT THE COMMITMENTS IT MADE ARE NOT ENFORCEABLE, THE BOARD HAS AUTHORITY TO REQUIRE NS TO RETAIN, OPERATE AND INVEST IN THE HCS

NS' final argument is that several STB decisions NS has cited held that applicants were not bound by certain statements in Operating Plans or otherwise would not be enforced by Board Order Reply at 13-16. However, those cases are readily distinguishable from this case.

The Board's oversight decision relating to the Union Pacific-Southern Pacific transaction is inapposite because the Board's decision regarding that transaction did not contain a specific order expressly binding the applicants to representations they made in connection with the STB proceedings, as was done in the CSX/NS--Conrail transaction.

The prior orders concerning the Conrail transaction that were cited by are distinguishable on their facts, and the Board's reasoning does not support NS' position.

⁷As to NS' assertion that NS must be free to change to react to new circumstances like any business (Reply at 4 and n 4), Petitioners submit that NS has ignored the basic nature of the Board's proceedings and the extraordinary authority NS received in Decision No. 89. NS could not have acquired Conrail's lines without the STB's approval, and that approval came with the conditions that were attached to it. Moreover, the approval provided NS with a self-executing immunity from other law in the carrying-out of the Transaction--immunity that NS has already invoked. The Transaction here was clearly not a free market business transaction, a fact that NS fully appreciates and enjoys. It is therefore disingenuous, at best, for NS to complain that an order enforcing the requirement that it comply with the representations it made in obtaining approval of the Transaction would be inconsistent with common notions about the ability of businesses generally to react to changed circumstances.

NS has referred to the Board's response in the Oversight Decision No. 5 to the State of Maryland's Comments that NSR had not yet made certain infrastructure improvements or instituted certain new forms of service that were described in the Operating Plan. Petitioners note that Maryland did not claim that NS had repudiated commitments, only that NS had not yet acted on certain things that were set forth in the Operating Plan. Moreover, NS' Oversight Report (at 72) said only that the capital improvements were not "immediately necessary" or economically viable, and that they were still being discussed with the State; and NS' Oversight reply (at 33) noted that some of the infrastructure improvements and new service had "not yet been implemented" because of service disruptions and absence of anticipated market developments, but that NS hoped that they would be implemented "over the coming years".

In Oversight Decision No. 5, the Board noted that Maryland expected the items referenced in Maryland's agreement with CSX and NS would be implemented as agreed, and that the Board would monitor the implementation of the Transaction for five years and would "order remedial action as appropriate". With respect to the Maryland's reliance on the Applicants' Operating Plans, the Board said that the Operating Plans were not commitments to achieve the new service and infrastructure improvements within 3 years that must be enforced without variation, and that the Operating Plans did not provide a basis "in and of themselves for relief at this time". Oversight Decision at 24

Review of Maryland's Comments, NS' reply and the Board's decision thus shows that: 1) Maryland did not assert that NS had repudiated its commitments, only that they had not come to fruition yet; 2) NS did not say that it had decided not to follow through on the issues cited by Maryland, only that it had not implemented as yet, and it was still in discussions with Maryland; 3) that the Board did not hold that items in settlements between CSX and NS and parties are

unenforceable, in fact, in that regard the Board noted that it would monitor implementation for five years; and 4) that the Board did not hold that the operating plans were not enforceable, only that they did not provide a basis "in and of themselves for relief at this time". In essence, the Board exercised discretion not to take enforcement action in that case.

It is clear that the instant case is distinguishable from the situation raised by Maryland because: 1) Pennsylvania and the Unions are asserting that NS is planning to repudiate commitments made in settlements and in numerous other forums; 2) NS admits that it is refusing to comply with the statements it made in connection with settlements and in connection with obtaining support for the Transaction; 3) the Unions and Pennsylvania do not rely on the Operating Plan "in and of itself" for the commitments, but instead rely on agreements reached by the Commonwealth and NS and agreements between NS and the Unions, and the many clear and unequivocal statements made by NS in its campaign for approval of the Transaction; and 4) the Board does not have the ability to defer a decision and engage in further review of this problem in this case because NS plans to close the HCS in August—future monitoring will be pointless as the repudiation is imminent, so the time for relief in this case is now.

NS has also relied on the Board's Decision No. 5 in Finance Docket No. 33388 (Sub No. 91 (served February 2, 2001) which denied a request from the Erie-Niagra Rail Steering Committee ("ENRSC") for an order directing NS to invest \$6 million in the Buffalo area to mitigate congestion there because NSR did not build two track connections for which it was granted construction exemptions. Reply at 14-15. According to NS, the Board's statement that there was no precedent for issuing the order sought by ENRSC is applicable here. NS is wrong in this assertion for several reasons. First, the situation in that case is distinguishable from this case because NS did not simply refuse to make the investment in Buffalo, but rather stated that

it did not build the connections because technical studies of the lines involved (including grades, curvature and transit times) demonstrated that the proposed routing was not feasible. See CSX/NS report on Buffalo Area Infrastructure (September 7, 2000) at 19 n. 13. Second, the Board did not refuse a request that NS be ordered to build the connections for which construction exemptions were granted, but rather it refused a request that NS be ordered to invest a similar amount of money elsewhere in Buffalo; it was that request that the Board viewed as unprecedented. The Board also noted that NS had already spent more in the Buffalo area than was originally planned and twice the \$6 million sought by ENRSC,-- NS had effectively made alternative investments akin to those requested by ENRSC. By contrast, here the Unions and the Commonwealth ask only that NS be ordered to do only what it committed to do. Third, it must be recognized that ENRSC did not settle with the Applicants, or agree to support the Transaction in return for commitments or even the Operating Plan item on which ENRSC relied. Petitioners have shown here that the elements of the Operating Plan relied upon were part of NS' efforts to obtain support for the Transaction from Pennsylvania and its elected officials and were consistent with numerous other statements by NS that described its plans for the HCS as commitments and assurances to Pennsylvania, its officials, its communities and its rail workers. The request to compel investments at issue in the Buffalo area is simply not in any way comparable to the instant petition for enforcement.⁸

⁸ NS' citation to the ruling on the Four Cities Consortium's request for reconsideration or additional conditions (Reply at 15 n. 9, citing Decision No. 96 at 22) also does not advance its argument. The Board there rejected a Four Cities request for a cap on traffic through those cites that the Board had already rejected, and the Board refused to act on a complaint that NS had not reduced traffic as predicted in the Operating Plan. Decision No. 96 at 20-25. The Board's decision merely held that it would again reject the cap on traffic that it had previously rejected, and it noted that applicant assertions about post-transaction traffic levels were necessarily predictions that were dependent on the actions of shippers as well as the carrier's common carriage obligation; the Board

Petitioners respectfully submit that review of the decisions and orders relied upon by NSR demonstrates that they do not support NS' argument against an enforcement order in this case. None of the cases states or suggests that a carrier can not be required to comply with representations that it makes in an Operating Plan; indeed it appears that the Board is prepared to enforce such commitments in appropriate circumstances. Additionally, Petitioners do not rely on the Operating Plan alone, but also numerous statements by NS at the highest levels and in multiple forums. Moreover, none of the cases NS has cited remotely resembles this case with respect to the depth, clarity and repetition of commitments that are going to be repudiated, or with respect to the reaffirmation of the commitments by the applicant's CEO. Furthermore, the other cases did not involve situations comparable to this one where the commitments were made as part of a political campaign to obtain the support of a key State and key elected officials which resulted in support for the Transaction by the State and its officials that was predicated on the commitments that the applicant is now planning to breach. In short, the cases cited are factually distinguishable from this case, and the Board's actual holdings do not support NS' arguments.

also held that there had been no showing that NS' projections were "misleading or unfounded". *Id.* at 22. Additionally, the Board did not hold that it could not or would never grant the sort of relief requested by Four Cities. Indeed the Board said that Four Cities could return to the Board if there was a "material change from the post-transaction projections upon which [the Board] relied" with respect to the Four Cities traffic issue, and that the Board could revisit the issue "if warranted under those circumstances". *Id.* In contrast to the Four Cities situation, Petitioners here are not seeking relief that the Board had already rejected; in fact they seek enforcement of commitments that were relied upon by the parties and the Board in its decision No. 89. Additionally, NS' failure to comply with its commitments is not a result of actions of other parties or other statutory requirements like the common carriage obligation. And unlike the situation with respect to the Four Cities, here the Board can not continue to monitor the situation and re-evaluate if circumstances warrant—NSR will soon close the Shops.

It is therefore clear that there is no reason based on the facts, or under ICC/STB precedent, why the STB can not, or should not, order NS to retain, continue to operate and invest in the HCS as it represented it would. Since the Board has exclusive and plenary authority in major consolidations and it explicitly bound the Applicants in this case to their representations, the Board clearly has authority to compel NS to comply with its commitments regarding the HCS or to take other action against NS if its fails to comply with those commitments. Indeed, the Board's Order in Decision No. 89 stated that it retained jurisdiction to oversee implementation and/or impose additional conditions or to take other action deemed necessary.

However, if, despite all that the Petitioners have shown, the Board nonetheless decides not to enforce its own order binding NS to its representations, Petitioners respectfully submit that the Board should not allow NS to walk away from its commitments without consequence and without recompense for the members of the Unions and the Altoona communities. If NS were to entirely escape its obligations, the Altoona communities would suffer an immediate loss of a significant source of employment, tax revenues and income to be spent in those communities. Additionally, at least one-half of the furloughed shop workers would lose their jobs and their income (and would probably have to fight with NS over their entitlement to *New York Dock* benefits despite the obvious linkage of the furloughs to the Transaction, (Petitioners' Ex. 27 answer to question BRC no. 14)). And perhaps one-half of the work force would have to choose between possible jobs at locations hundreds of miles away and potential loss of benefits if they do not transfer. Moreover, they would be relocating when NS claims that it is in financial extremis and has not described the additional work that would be available at the transferee shops. Indeed, as is explained above, many employees may choose not to relocate their families, and face possible denial of benefits (*see* Petitioners' Ex. 27, answer to TWU question no. 22),

because they have no reason to have confidence in the continued availability of employment at the shop locations identified in NSR's *New York Dock* notice. This would be understandable since NSR has failed to identify the supposed work being transferred--a high proportion of the HCS work has been insourced work that NS says will not be done at the transferee shops-- and since NSR has failed to otherwise explain what new work will be available at the transferee shops. The employees would have entirely reasonable fears that they would uproot their families and move them hundreds of miles, only to be furloughed again in the near future when NS again claims financial need for layoffs; the employees would then have relocated but would have to fight with NSR over their entitlement to protective benefits after furlough from the transferee locations. And they would have no reason to accept any assurances or protestations of good faith from NS due to NS' blatant disregard for its prior solemn commitments and the personal promises made directly to them by NS' CEO, and due to the many other misleading statements made by NS about the HCS.

It must also be recognized that the uncertain possibility of employment for 156 employees in other States does nothing to address the harm to Pennsylvania and the Altoona communities by the loss of hundreds of jobs.

Given these circumstances, as an alternative argument, Petitioners respectfully submit that if the Board does not direct NS to retain, continue to operate and invest in the HCS as NS committed it would, then the Board should hold that NS may be relieved of its commitments only on the condition that all employees at the HCS are deemed dismissed employees, with no obligation to accept transfer to NSR's other shops in order to retain the right to dismissal benefits. Petitioners believe that such an order would not be adequate to enforce the Board's Order, and it would still raise concerns about the Board's willingness and ability to enforce its

orders, but such an order would provide limited compensation to the Altoona community and the workers who are the victims of NS' breach of its commitments, and it would mitigate the unjust benefit to NS from its bad faith repudiation of its commitments. Petitioners do not view this to be a satisfactory alternative to simple enforcement of the clear commitments made by NS. In particular, the Commonwealth notes that this alternative would not remedy harms to the businesses that are associated with the HCS and the employees of such businesses--those who provide supplies and services to the Shops; hence this alternative would not remedy the problem of NS' repudiation of commitments that it made to elected officials who acted in the interests of all of the citizens of the Commonwealth. Accordingly, the Petitioners stress that they have mentioned this alternative for consideration only if the Board decides not to enforce its own order binding NS to its representations.

CONCLUSION

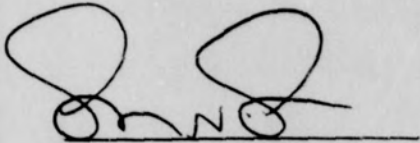
In their introduction to the Joint Petition, the Unions and the Commonwealth of Pennsylvania asserted that it is time for the Board to hold applicants in major rail consolidations accountable for the solemnly undertaken commitments that they make in seeking and obtaining STB approval of their transactions. Reading NS' Reply to the Joint Petition only makes it more clear that the Board must order NS to comply with its commitments to the HCS because NS apparently views its statements about the HCS committing to its retention and continued operation after investment as merely an expedient mouthing of words in order to obtain support for its application and approval from the Board. If NS is allowed to close the HCS, the Board's Order binding NS to the representations it made in the CSX/NS-Conrail proceedings will become a meaningless order, as ephemeral as the commitments made by NS. Petitioners respectfully submit that proper functioning of the Statute, and the nature of the duty of this agency under the Statute mandate that the Board enforce its Order in Decision No. 89.

Petitioners also note that two keystones of recent Board decisionmaking in major consolidations are the inducement of voluntary resolution of issues between applicants and interested parties and the expectation that the Board will engage in post-approval oversight of transaction implementation, and enforcement of the Board's Orders. If NS is allowed to unilaterally negate the sort of commitments that it made in this case with respect to the HCS, then parties in future cases will have no incentive to enter settlements, agreements and other understandings with applicants because the arrangements entered will rightly be viewed as meaningless and unenforceable.

For these broad reasons, and for the specific reasons set forth in the Joint Petition and this Response, the Unions and the Commonwealth of Pennsylvania respectfully submit that the

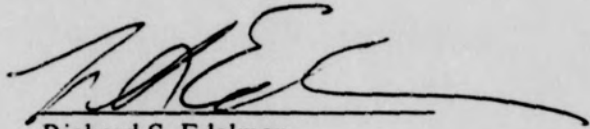
Board should direct NS to adhere to the representations it made regarding the Hollidaysburg shops; specifically that NS must make the \$4 million in capital improvements that it promised, and that NS must retain and continue to operate the shops as it repeatedly represented it would.

Respectfully submitted,



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Pennsylvania
May 8, 2001



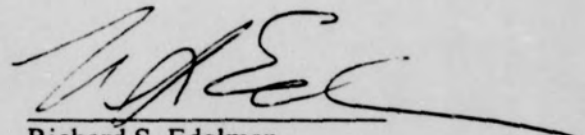
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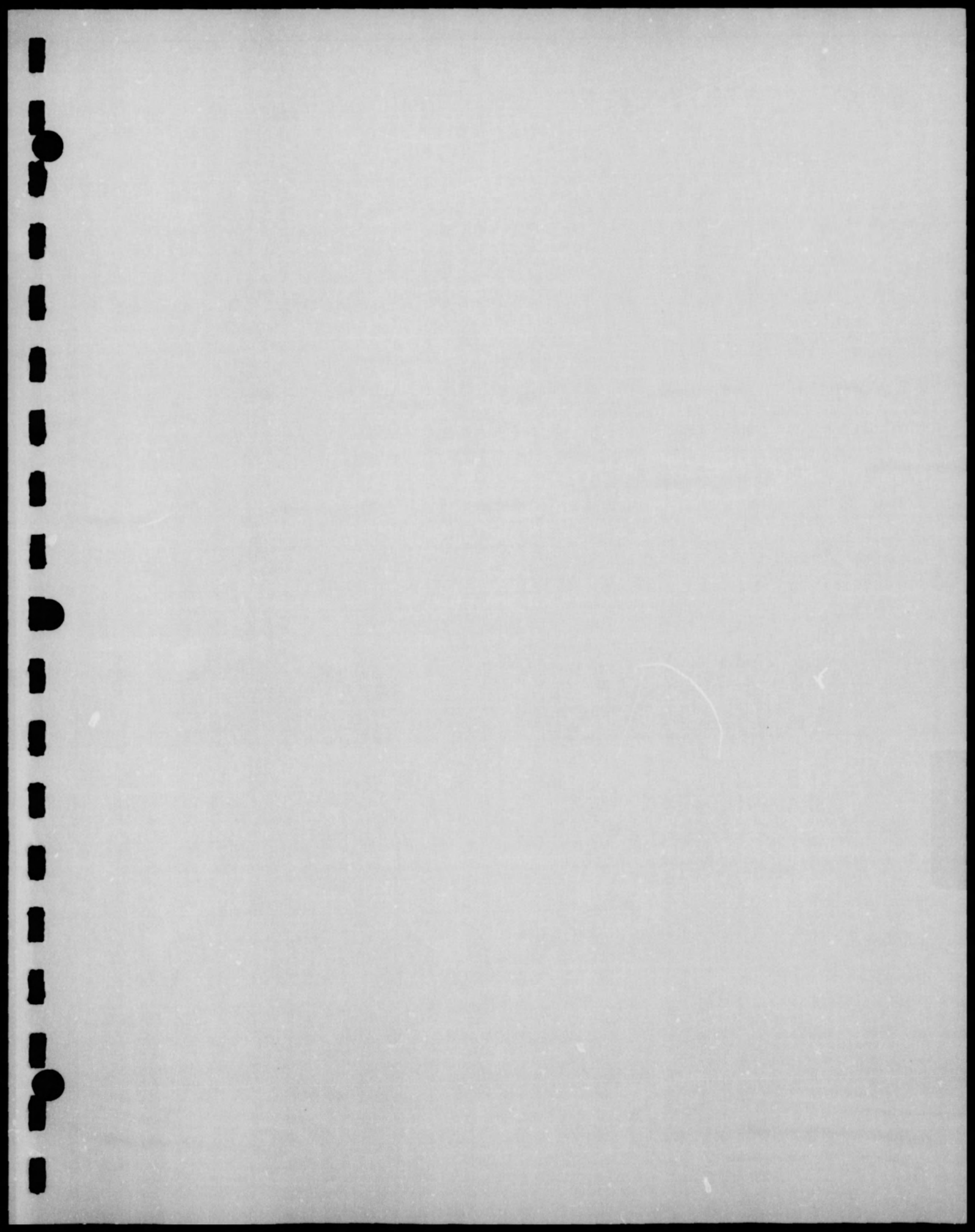
Counsel for the Unions

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be mailed copies of the foregoing Response of Various Unions and the Commonwealth of Pennsylvania To Norfolk Southern's Reply to Joint Petition for Enforcement of Order, or Alternatively to Reopen for Order Directing Compliance with Commitments, Or Alternatively for Relief Not Otherwise Provided-for by First Class Mail upon the persons listed on the current official service list in Finance Docket No. 33388. Because of the length of the service list in this proceeding representatives of the Applicants and as many other parties as possible were served by mail on May 9, 2001, other parties will be served on May 10, 2001. Washington D.C. counsel for Norfolk Southern are being served by hand on May 9, 2001.

5/9/01
Date


Richard S. Edelman



PETITIONERS'

EXHIBIT 22

News Clips

Page 1

1

DAY ONE Speeches

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Altoona, Pennsylvania

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June 1, 1999

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NEWS CLIPS

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Pennsylvania Transportation Committee

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Hearing, April 4, 2001

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1 NEWS CLIPS

2 [Rep. Bud Shuster:] ...back in my office on June 23rd,
3 1997, just about two years ago, this fine gentleman
4 here to my right and others, and John Sloe, CSX, we
5 struck a deal and put in writing that when this
6 occurred, Norfolk Southern would do several things for
7 our shops here.

8 The Norfolk Southern truck overhaul and wheel
9 facility would be moved to Juniata. Investments of
10 \$67 million in capital improvements would be made to
11 the Juniata and Sam-Ray Shop. Employment in the shops
12 would be increased by at least 178 jobs. Consolidation
13 of Norfolk Southern air brake and valve facility would
14 be moved to Juniata. Consolidation of Norfolk Southern
15 painting facilities would be moved to Juniata.
16 Consolidation of the Conrail and Norfolk Southern
17 business and office car fleet work in Juniata; and in-
18 sourcing of CSX locomotive and car repairs to Juniata
19 and Sam-Ray over a three year period; a minimum of 200
20 locomotives and 1000 cars, with the commitment that
21 good faith negotiations would continue to increase that
22 in-sourcing of both locomotives and cars.

News Clips

Page 3

1 So when you look at where we stand today
2 compared to where we were back during the bankruptcy --
3 in fact, compared to where we've been struggling over
4 the years, this is an exciting day for us, and a bright
5 new future.

6 And when you consider the strength of Norfolk
7 Southern, generally agreed to be best-run railroad in
8 America. I was at a ceremony a couple weeks ago in
9 Washington where Norfolk Southern received the award
10 for having the best safety record of any railroad in
11 America. But that's not the whole story. The real
12 story is, it was the tenth year in a row that Norfolk
13 Southern got the award for being the safest railroad in
14 America, and Conrail was No. 2. Conrail was No. 2.

15 So we are so excited --

16 [Applause]

17 And how important is Altoona going to be to
18 Norfolk Southern? Well, in talking about Norfolk
19 Southern being in 21 states, we're talking about 21,600
20 miles of track, an awful lot of places to be; but the
21 top man, the chairman of Norfolk Southern, David Goode,
22 where is he today on this historic takeover? Of 21

News Clips

Page 4

1 different states where he could be, countless cities
2 where he could be, he's here in Altoona.

3 And David Goode, I want to thank you from the
4 bottom of my heart for the tremendous effort and
5 support you are providing, not only to the whole system
6 but particularly to those of us here in Altoona. We
7 are blessed to have one of the most distinguished if
8 not the most distinguished CEO of a railroad in America
9 running our railroad now, and we salute you, David
10 Goode, and I'm pleased to introduce you.

11 [Applause]

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News Clips

Page 5

1 [CEO David Goode:] ...we're going to see that we
2 continue to have the very best railroad in the world.

3 [Applause]

4 And that would never have happened without
5 the support not only of all of the people here but of
6 the people standing on this podium with me today.

7 As early as -- I don't remember the date, but
8 it was pretty early; I remember well flying in to the
9 airport here in Altoona and being greeted by the high
10 school marching band, being greeted by the students
11 from Logan Elementary School who presented me with a
12 box full of letters. And I kept those letters, and
13 they were good letters, and they spoke volumes about
14 the commitment that this community and the commitment
15 of the people here to being in this for the long run.

16 That's what we are at Norfolk Southern, we're
17 all on the same track now, as you see everywhere around
18 you when you look at this, and that would not have
19 happened without the support of the people surrounding
20 me on this platform, and it wouldn't have happened
21 without the support of all of you.

22 I thank you for that, I thank you for

News Clips

Page 6

1 bringing us to where we are today. We are well begun,
2 but we are only begun.

3 And Chairman Shuster has read off an
4 impressive list of the commitments that Norfolk
5 Southern has made. This is going to be the finest, the
6 heart of the Norfolk Southern system in many ways. The
7 finest shops that we can create in railroading today.

8 I hope that the list that you have read off
9 is just the beginning of what we can make a much longer
10 list of accomplishments and investments that we can
11 create together.

12 Thank all of you for being my teammates in
13 this endeavor; we're on the same track; we're in this
14 together. Together we're going to create a bright
15 future not only for ourselves and the communities we
16 serve and the shippers that we serve, but for our
17 children and grandchildren as well. Because I want to
18 continue the tradition that you see around you in this
19 valley around Altoona, Hollidaysburg and Blair County.
20 This is the kind of tradition that means something in
21 our business.

22 This is a special business; there is no

News Clips

Page 7

1 stronger tradition in railroading than the tradition
2 right here today, and I want people to look back 100
3 years from now and say that is a tradition that has
4 continued, and Altoona is still the heart of
5 railroading in the world.

6 With your help, we'll make that happen.

7 Thank you.

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News Clips

Page 8

1 [Administrator Jolene Molitaris:] ...in this region we
2 have 43 people full-time working with Norfolk Southern
3 and CSX for the next five years to ensure that all our
4 commitments are kept. Our commitments to Norfolk
5 Southern, their commitments to you and to us.

6 It's a proud day, it's a day for opportunity,
7 213 days from now it's going to be the year 2000.
8 Let's get back here then to say "Look at the success we
9 are." Congratulations to you.

10 NEWS CLIPS

11 [Transport Workers Union Railroad Division Director
12 John Czuczman:] ...as Norfolk Southern officially
13 takes over, employees want to be assured their jobs are
14 safe and that their new owners will treat them right.

15 VOICE: Their concern is the culture change.
16 They get used to safety and issues and the movement of
17 forces, abolishment of jobs; that is where our concern
18 is.

19 ANNOUNCER: How open Norfolk Southern's door
20 will be remains to be seen, but company officials say
21 they're confident the transition will be smooth.

22 CEO GOODE: The changes that will occur I

1 believe will be good ones and will be changes that come
2 from opportunities to bring more business in here. So
3 I'm not anticipating anything except the best kind of
4 relationships.

5 ANNOUNCER: What are your biggest concerns
6 right now?

7 VOICE: Jobs, obviously; they said they were
8 going to bring some jobs into town, and I think they're
9 going to do it, we'll wait and see.

10 ANNOUNCER: As a federal railroad official
11 talked to workers before the ceremony, that's what she
12 heard as well: Make sure to keep our jobs intact.

13 ADMINISTRATOR MOLITARIS: They're still
14 feeling a little bit on the edges of things. They've
15 been through other mergers; they've had experiences.

16 ANNOUNCER: Throughout it all, the railroad
17 has remained important in Altoona. With the latest
18 change now in place, workers here seem optimistic about
19 the future, at least for now.

20 VOICE: We'll survive; we survived before.

21 CEO GOODE: Welcome to the new Norfolk
22 Southern.

1 ANNOUNCER: The workers who gathered for this
2 midday ceremony were given an optimistic view of their
3 future. Their new boss says the \$10 billion
4 acquisition of Conrail by Norfolk Southern and CSX
5 makes sense only because of what those rail lines gain.
6 In Norfolk Southern's case, that includes all of the
7 rail facilities in Blair County, a place the chairman
8 calls "the heart of the new Norfolk Southern System."

9 CEO GOODE: We expect to use all of the
10 assets of the new Norfolk Southern. One of the most
11 important assets we got is right here, and we're going
12 to give it full utilization.

13 ANNOUNCER: That full utilization means a
14 significant amount of railroad repair work that will be
15 moving here now that the takeover has been finalized.
16 One big supporter of these shops says that there are
17 ironclad promises in place to protect local jobs.

18 REP. SHUSTER: We have in writing the
19 commitment from Norfolk Southern that they're going to
20 do 200 locomotives in the Juniata shop and 1000 cars in
21 the Sam-Ray shop over the next three years.

22 ANNOUNCER: And that is seen as just the

News Clips

Page 11

1 beginning. There's also the promise of \$67 million to
2 improve the repair facilities in Flage.

3 VOICE: \$67 million is not peanuts, and I'm
4 looking forward to getting that; we couldn't get that
5 kind of money when we were with Conrail because it
6 wasn't available.

7 ANNOUNCER: Railroad officials tell me it'll
8 be a couple of years before all the blue and white of
9 Conrail is replaced by the black and white logo of
10 Norfolk Southern. That's because the one shop that's
11 going to be doing that repainting is located right here
12 in Juniata. That's good news for the folks who work
13 here.

14 ANNOUNCER: At least going into this move to
15 Norfolk Southern control, the promise is in place that
16 Altoona and Blair County will long have a railroading
17 future.

18 CEO GOODE: And I want people to look back
19 100 years from now and say "That is a tradition that
20 has continued, and Altoona is still the heart of
21 railroading in the world."

22 ANNOUNCER: Most of the more than 1700

News Clips

Page 12

1 Conrail workers in Blair County gathered at the Juniata
2 shops to get the latest on a big change that could
3 significantly impact their future: They got a promise
4 of a stable workplace.

5 CEO GOODE: Some of the finest resources on
6 the new Norfolk Southern System are right here. And
7 I'm not just talking about bricks and mortar, I'm
8 talking about all of you.

9 ANNOUNCER: The breakup of Conrail is seen
10 has having national implications when it comes to the
11 future of rail transportation. That's why backers of
12 this region were happy to host this ceremony.

13 VOICE: Change is coming. The question is,
14 is change good?

15 Well, let me tell you, change can be good and
16 the Norfolk Southern banner here will be good.

17 ANNOUNCER: The change to Norfolk Southern is
18 seen as good because of an expansion in operations
19 that's been promised. And it is expected to bring with
20 it a significant investment that should protect the
21 jobs already in place and open up new opportunities for
22 railroad based employment.

1 REP. SHUSTER: Investments of \$67 million in
2 capital improvements would be made to Juniata and Sam-
3 Ray shops. Employment in the shops would be increased
4 by at least 178 jobs.

5 ANNOUNCER: Norfolk Southern Chief Executive
6 David Goode, speaking at the Juniata repair shops, said
7 the \$10 billion acquisition of Conrail makes sense
8 because of what those rail lines gain.

9 In Norfolk Southern's case, that includes all
10 the rail facilities in Blair County, a place the
11 chairman calls the Heart of the new Norfolk Southern.

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13 assets of the new Norfolk Southern. One of the most
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15 going to give it full utilization.

16 ANNOUNCER: That full utilization means that
17 a significant amount of railroad repair work will be
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