

STB

FD-33388

8-3-01

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MOC



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

FD-33388

August 3, 2001

The Honorable James L. Oberstar
Ranking Democratic Member
Committee on Transportation
and Infrastructure
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Oberstar:

Thank you for your letter regarding the proposal of Norfolk Southern Railway (NS) to close the Hollidaysburg Car Shops. Specifically, you urge the Surface Transportation Board (Board) to issue a final decision directing NS to keep open the shops for a significant period of time beyond the proposed closing date, which is now October 1, 2001.

As you know, the Board is in the process of analyzing the record developed in the proceeding currently before it regarding this matter. Because the matter remains pending before the Board, it would be inappropriate for me to comment on the merits of the case. The Board will, however, issue a decision resolving this case prior to October 1, 2001, the earliest date that NS may close the shops. As you are already on the Board's service list for this proceeding, you will receive a copy of the Board's decision when issued.

I appreciate your interest in this very important matter. I will have your letter and my response made a part of the public docket for this proceeding.

Sincerely,

Linda J. Morgan
Linda J. Morgan



FILE IN DOCKET

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

Don Young
Chairman

James L. Oberstar
Ranking Democratic Member

Lloyd A. Jones, Chief of Staff
Michael Strachn, Deputy Chief of Staff

July 30, 2001

David Heymsfeld, Democratic Chief of Staff

The Honorable Linda Morgan
Chairman
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

Dear Chairman Morgan:

RECEIVED
SURFACE TRANSPORTATION
BOARD
2001 AUG - 3 A 11: 58
OFFICE OF
CHAIRMAN MORGAN

I am writing to urge the Board to issue a final decision directing the Norfolk Southern Railway to keep open the railroad car repair shops in Hollidaysburg, Pennsylvania for a significant period of time beyond September 1, 2001. This decision on the part of Norfolk Southern to close the shops runs counter to the best interests of the community and the affected workers and their families and violates the commitments that Norfolk Southern made when it was seeking Surface Transportation Board approval for its acquisition of its portion of Conrail. In its May 21, 2001 decision, the majority of the Board wisely voted to direct Norfolk Southern to show cause why it should not be made to live up to the commitments it made when it acquired Conrail's assets, including the Hollidaysburg car repair shops.

As you are aware, Norfolk Southern first tried to close the shops last year. However, when Rep. Bud Shuster, who was then Chairman of the House Transportation and Infrastructure Committee, announced he intended to hold a hearing on the closure, the railroad quickly backed off. The railroad announced it would keep the shops open for at least another year while it intensified its efforts to find work for the shops. However, when Chairman Shuster announced his resignation shortly thereafter, Norfolk Southern quickly reneged on its promise and announced it was closing the shops on September 1, 2001.

On Monday, July 16, 2001, the Railroad Subcommittee of the House Committee on Transportation and Infrastructure held a field hearing at the Blair County Community Center in Hollidaysburg on the issues surrounding the closing of the shops. Railroad Subcommittee Chairman Jack Quinn led the delegation. Other members attending included myself as an ex officio member of the Subcommittee, Rep. Mascara, and Rep.

July 30, 2001

Page 2

Bill Shuster, who succeeded his father in representing the district in which the affected shops are located. We heard testimony from Mr. David Goode, Norfolk Southern's CEO, several Pennsylvania public officials, and representatives of the affected workers.

At the hearing Mr. Goode repeated much of what Norfolk Southern claimed in its pleading to the Board on this matter. He said the railroad had no choice but to shut the shops down because they were too costly and noncompetitive. He claimed the shops were only working at 30 percent of their capacity. He also said that Norfolk Southern was unsuccessful in trying to gain new business for the shops. In addition, he claimed that railroad had spent around \$3 million of the \$4 million it had committed to spend on the Hollidaysburg facility at the time of the Conrail acquisition.

However, perhaps Mr. Goode's central point was that Norfolk Southern had never committed to keeping the shops open and that the railroad agreed to keep the facilities open only if their projections of cars needing repair came to pass. In fact, however, other witnesses pointed to a number of occasions when Norfolk Southern did appear to commit without qualification to keeping the shops open. In fact, one witness, dramatically underscoring the point, presented a video of Mr. Goode promising to keep the shops open in an address in Altoona, Pennsylvania on "Day One" of the Conrail take over. During hearings before the Senate Commerce Committee, in response to a question from Senator Specter, Mr. Goode said that not only would they keep the shops open they would need them and would be expanding them. Madame Chairman, as the Board noted in its show cause order, Norfolk Southern made numerous public representations to keep the shops open. Mr. Goode's protestations notwithstanding, Norfolk Southern did make an unqualified commitment to keep the shops open.

Moreover, Mr. Goode's argument has some noticeable holes in it. First, he points to the downturn in economic activity and its impact on railroad revenues and carloadings. But, the economic downturn only began in the last quarter of 2000, which was after Norfolk Southern first announced it was closing the Hollidaysburg car repair shops. In addition, it seems odd to make such a major decision over a facility so recently characterized as critically important on the basis of a fairly minor economic downturn. Second, Mr. Goode claimed that car repair activity levels were too low to justify such a large repair facility, but other witnesses pointed out that activity levels currently are no lower than they had been over the past several years. Mr. Goode also alleged that the company could not attract new business, but other witnesses testified that a number of customers were turned away at the time the shut down was announced. Finally, Mr. Goode's statement before the Subcommittee about investing roughly \$3 million in the Hollidaysburg shops is in direct contradiction to Norfolk Southern's admission in its pleading before the Board that it had not made the expenditure.

July 30, 2001

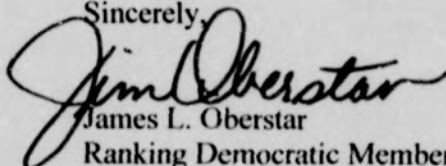
Page 3

I left the hearing with the sense that Norfolk Southern had planned to close the shops all along and made its pronouncements at the time it wanted to acquire Conrail's assets to gain support or to blunt potential opposition. Norfolk Southern claims that it never offered a commitment to keeping the Hollidaysburg shops open as part of its filing before the STB in the Conrail case. The fact that it made different statements depending on the audience suggests a degree of disingenuousness that the Board should now consider as it decides whether to order Norfolk Southern to keep the shops open.

Madame Chairman, in the show cause order the majority of the Board accepted that Norfolk Southern made public representations that it intended to invest in and keep open the Hollidaysburg car repair shops and that those representations affected the positions taken by various parties to the Conrail acquisition. The Board majority wisely noted that there is a middle ground here, i.e. require the shops be kept open at present capacity for a significant period of time beyond September 1, 2001, although not in perpetuity. The Board should reaffirm its preliminary findings and issue a Final Order directing that the shops be kept open.

I am confident that the Board will do the right thing by the workers and the community.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jim Oberstar". The signature is fluid and cursive, with the first name "Jim" and last name "Oberstar" clearly distinguishable.

James L. Oberstar

Ranking Democratic Member

JLO/fmrc

Committee on Transportation
and Infrastructure

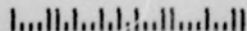
U.S. House of Representatives
Washington, DC 20515-6256

OFFICIAL BUSINESS

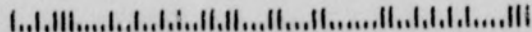


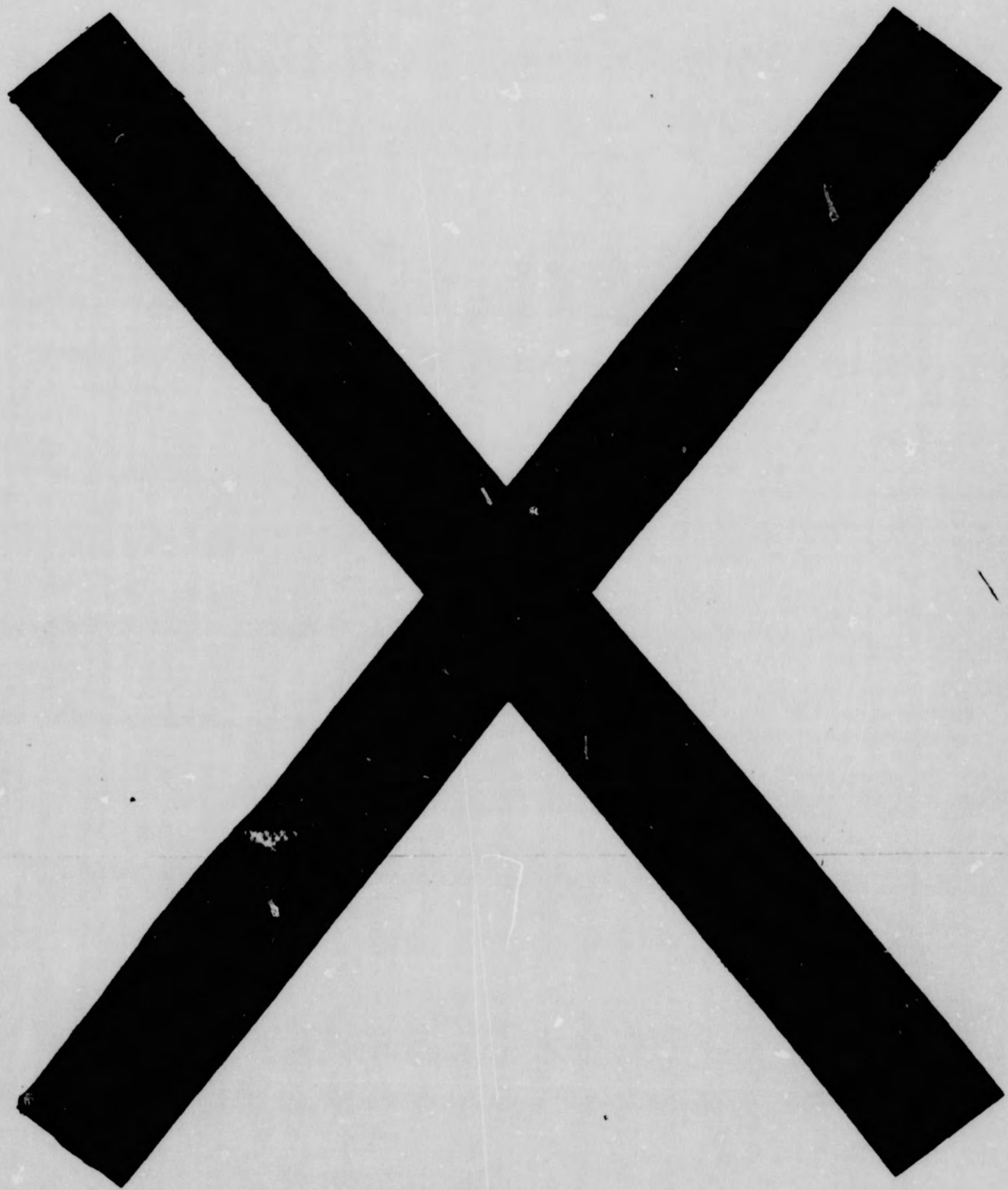
The Honorable Linda Morgan
Chairman
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

Don Young
M.C.



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STB

FD-33388

7-30-01

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MOC



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

July 30, 2001

The Honorable Jack Quinn
Chairman
Subcommittee on Railroads
U.S. House of Representatives
Washington, D.C. 20515-3230

Dear Chairman Quinn:

Thank you for your recent letters regarding Norfolk Southern's decision to close the Hollidaysburg Car Shops (HCS). Your July 19 letter references the July 16 Railroad Subcommittee field hearing and the post-hearing process for further record-building. Your July 24 letter transmits a video tape of the hearing and other information for submission into the Surface Transportation Board's (Board) record for the proceeding on this matter.

As you know, the Board always strives to provide a process both that is fair to the parties and that allows the development of a full and complete record in a timely and efficient manner. Accordingly, I appreciate your providing me with information from the hearing.

I have had your letters and my response made a part of the public docket for this proceeding. I appreciate your interest in this important matter.

Sincerely,

Linda J. Morgan
Linda J. Morgan

JACK QUINN

30TH DISTRICT, NEW YORK

COMMITTEES:

TRANSPORTATION AND INFRASTRUCTURE
CHAIRMAN, SUBCOMMITTEE ON RAILROADS
SUBCOMMITTEE ON AVIATION
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

VETERANS' AFFAIRS
SUBCOMMITTEE ON BENEFITS

CHAIRMAN, NORTHEAST MIDWEST COALITION
CHAIRMAN, STEEL CAUCUS EXECUTIVE COMMITTEE



Congress of the United States

House of Representatives
Washington, D.C. 20515-3230

203040

PLEASE RESPOND TO:

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(716) 845-5257
FAX: (716) 847-0323

SATELLITE OFFICE:

1490 JEFFERSON AVENUE
BUFFALO, NY 14208
(716) 886-4076

July 19, 2001

The Honorable Linda Morgan
Chairman
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Dear Chairman Morgan:

Pursuant to the rules of the Committee on Transportation and Infrastructure, I have allowed the official record from the July 16th Subcommittee on Railroads field hearing regarding the proposed closure of the Norfolk Southern Hollidaysburg, PA car shops to remain open for thirty days.

However, a complete transcript of the hearing will be prepared for submission to the Board within the next five business days. I believe the Board will find value in this transcript and respectfully request that the Board withhold its decision on the Hollidaysburg situation until this information is received.

Thank you for your consideration of my request.

Sincerely,

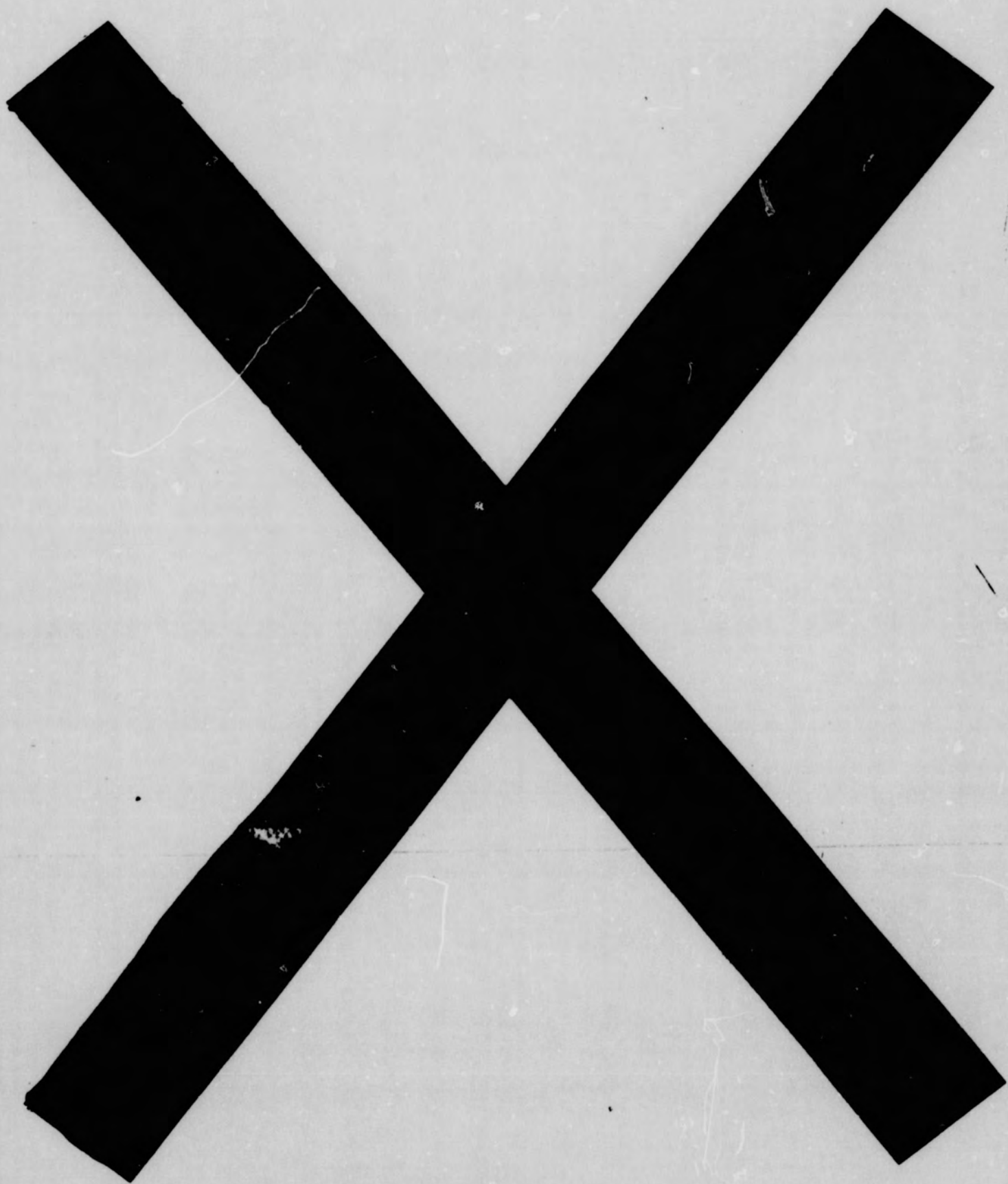
Jack Quinn, M.C.
Chairman
Subcommittee on Railroads

INTEROFFICE
OFFICE OF THE SECRETARY

JUL 19 2001

PART OF
PUBLIC RECORD

RECEIVED
SURFACE TRANSPORTATION
BOARD
2001 JUL 23 P 2:51
OFFICE OF
CHAIRMAN MORGAN



STB

FD-33388

5-10-01

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MOC



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

JD-33388

May 10, 2001

The Honorable Richard A. Geist
House of Representatives
Commonwealth of Pennsylvania
House Box 202020
Main Capitol Building
Harrisburg, PA 17120-2020

Dear Chairman Geist:

Thank you for your letter filed on behalf of the Pennsylvania House Transportation Committee strongly supporting the joint petition filed at the Surface Transportation Board (Board) by a number of labor unions and the Commonwealth of Pennsylvania in response to Norfolk Southern's (NS) decision to close the Hollidaysburg Car Shops. You state that your Committee is holding hearings in Pennsylvania on this matter, and you request that the Board also hold hearings there.

The Board has received several filings in this matter, and staff is actively analyzing these submissions. In resolving this important matter, the Board has provided a full and fair opportunity for all interested parties to present their views. Because this matter is pending before the Board, it would be inappropriate for me to comment on the merits of the case.

However, I will have your letter and my response made a part of the public docket, and will have your name added to the service list for this proceeding, to ensure that you receive all future Board decisions in this matter. If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

JD - 187198

RICHARD A. "RICK" GEIST, MEMBER
HOUSE BOX 202020
MAIN CAPITOL BUILDING
HARRISBURG, PENNSYLVANIA 17120-2020
PHONE: (717) 787-6419
FAX: (717) 772-6952

1126 EIGHTH AVENUE, SUITE 404
ALTOONA, PENNSYLVANIA 16602
PHONE: (814) 946-7218
FAX: (814) 949-7915



HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

TRANSPORTATION, CHAIRMAN
COMMERCE AND ECONOMIC
DEVELOPMENT
RULES

April 18, 2001

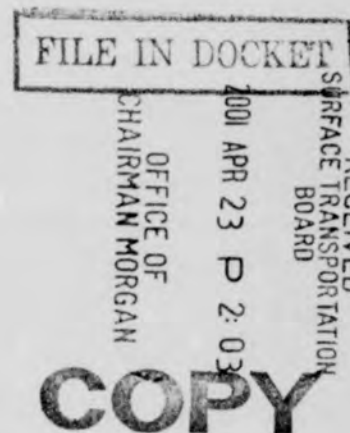
Honorable Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W. Suite 700
Washington, DC 20423-0001

RE: Finance Docket No: 33388
CSX Corporation et al, Norfolk Southern Corp. et al.-Control and Operating
Leases/Agreement-Conrail Inc. and Consolidated Rail Corp.

Dear Secretary Williams:

This letter is filed on behalf of the Pennsylvania House Transportation Committee, which was an active participant in the Conrail acquisition proceeding. The House Transportation Committee strongly supports the Joint Petition filed by the Commonwealth of Pennsylvania and Pennsylvania rail unions challenging the decision of Norfolk Southern Corporation to close the Hollidaysburg Car Shop and to renege on its commitments and representations to the Commonwealth, local government leaders and the communities of Hollidaysburg and Altoona.

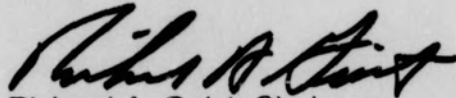
Our Committee is currently conducting hearings in Pennsylvania regarding Norfolk Southern's Car Shop Closure decision. On April 12, 2001, we met in Altoona and received testimony from Norfolk Southern, community leaders, and union representatives. As a result of these hearings, I believe it is imperative that the Surface Transportation Board schedule hearings in Altoona to receive testimony from the employees and local officials regarding the Norfolk Southern decision and the adverse impact of that decision on the communities of this region. A local hearing would give the Board eye witness testimony from employees at the Car Shop regarding the level of work which is available, the manner in which Norfolk Southern has diverted work from the Car Shop and the impact of Norfolk Southern's broken commitments on the lives of Car Shop employees and their families in this area.



The Committee is keenly aware that the Board's Decision on this matter will play a critical role in the lives of our constituents. I therefore strongly encourage the Board to schedule public hearings in this community so that you can learn first hand the consequences of the Norfolk Southern decision to close the Hollidaysburg Car Shops.

I urge your favorable consideration of this request.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard A. Geist", written in a cursive style.

Richard A. Geist, Chairman
House Transportation Committee
Commonwealth of Pennsylvania

RAG:kmc

CC: House Transportation Committee Members
Pennsylvania Congressional Delegation
Governor Tom Ridge, Commonwealth of Pennsylvania

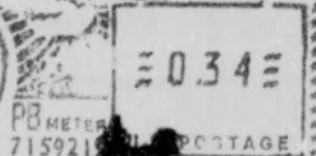


HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

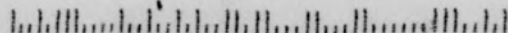
RICHARD A. "RICK" GEIST, MEMBER
PA HOUSE OF REPRESENTATIVES
HOUSE BOX 202020
HARRISBURG, PENNSYLVANIA 17120-2020

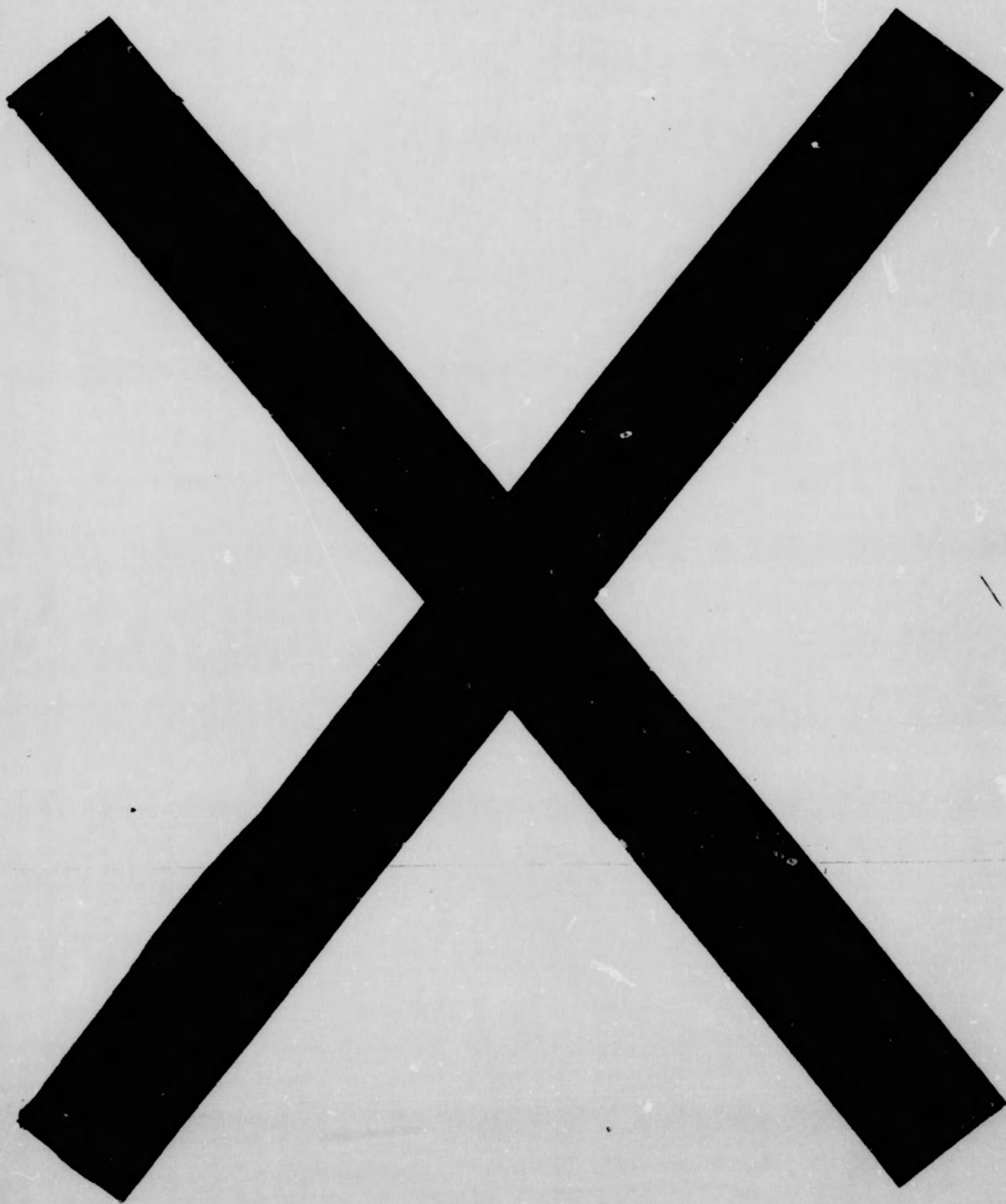


Surface Transportation Board
Linda J. Morgan, Chairman
1925 K Street, N.W.
Washington, DC 20423-0001



20423-0001





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FD-33388

5-9-01

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MOC



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

FD-33388

May 9, 2001

The Honorable Jack Quinn
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Quinn:

Thank you for your letter regarding the joint petition filed at the Surface Transportation Board (Board) by a number of labor unions and the Commonwealth of Pennsylvania in response to Norfolk Southern's (NS) announcement that it plans to close the Hollidaysburg Car Shops. You express disappointment with NS' decision and request that the Board review the petition in an expeditious manner.

Let me assure you that the Board will address this important matter in a timely manner. We have received several filings in this matter, and are actively analyzing these submissions. Because this matter is pending, it would be inappropriate for me to comment on the merits of the filings.

However, I will have your letter and my response made a part of the public docket, and will have your name added to the service list for this proceeding, to ensure that you receive all future Board decisions in this matter. If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

JACK QUINN
30TH DISTRICT, NEW YORK

COMMITTEES:

TRANSPORTATION AND INFRASTRUCTURE
CHAIRMAN, SUBCOMMITTEE ON RAILROADS
SUBCOMMITTEE ON AVIATION
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

VETERANS' AFFAIRS
SUBCOMMITTEE ON BENEFITS

CHAIRMAN, NORTHEAST MIDWEST COALITION
CHAIRMAN, STEEL CAUCUS



Congress of the United States

House of Representatives
Washington, D.C. 20515-3230

April 30, 2001

The Honorable Linda Morgan
Chairman
Surface Transportation Board
1925 K St., NW
Washington, D.C. 20423-0001

RE: STB Finance Docket 33388

Dear Chairman Morgan: *Linda*

I am writing in reference to a recent joint petition filed with the Surface Transportation Board (STB) on behalf of various labor unions and the Commonwealth of Pennsylvania.

The filing of this petition was in response to Norfolk Southern's recent announcement that they will be closing the Hollidaysburg Car Shop in Altoona, PA on September 1 of this year. I have had the opportunity to review this filing and I am deeply disappointed with the decision to close this shop.

Closing the Hollidaysburg Shop will result in the transfer of more than 300 jobs to other facilities in Norfolk Southern's rail system. In addition, I have been informed that the shop has been turning down work for which it was previously scheduled. This type of action will have a tremendous impact on the local economy and surrounding communities. For these reasons, I respectfully request that the STB review this petition in an expedited manner.

I appreciate your prompt attention to this urgent matter. If I can be of any assistance, please do not hesitate to contact me.

Sincerely,

Jack Quinn
Jack Quinn
Member of Congress

PLEASE RESPOND TO:

WASHINGTON OFFICE:

2448 RAYBURN BUILDING
WASHINGTON, DC 20515
(202) 225-3306
FAX: (202) 226-0347

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403 MAIN STREET
SUITE 340
BUFFALO, NY 14203-2199
(716) 845-5257
FAX: (716) 847-0323

SATELLITE OFFICE:

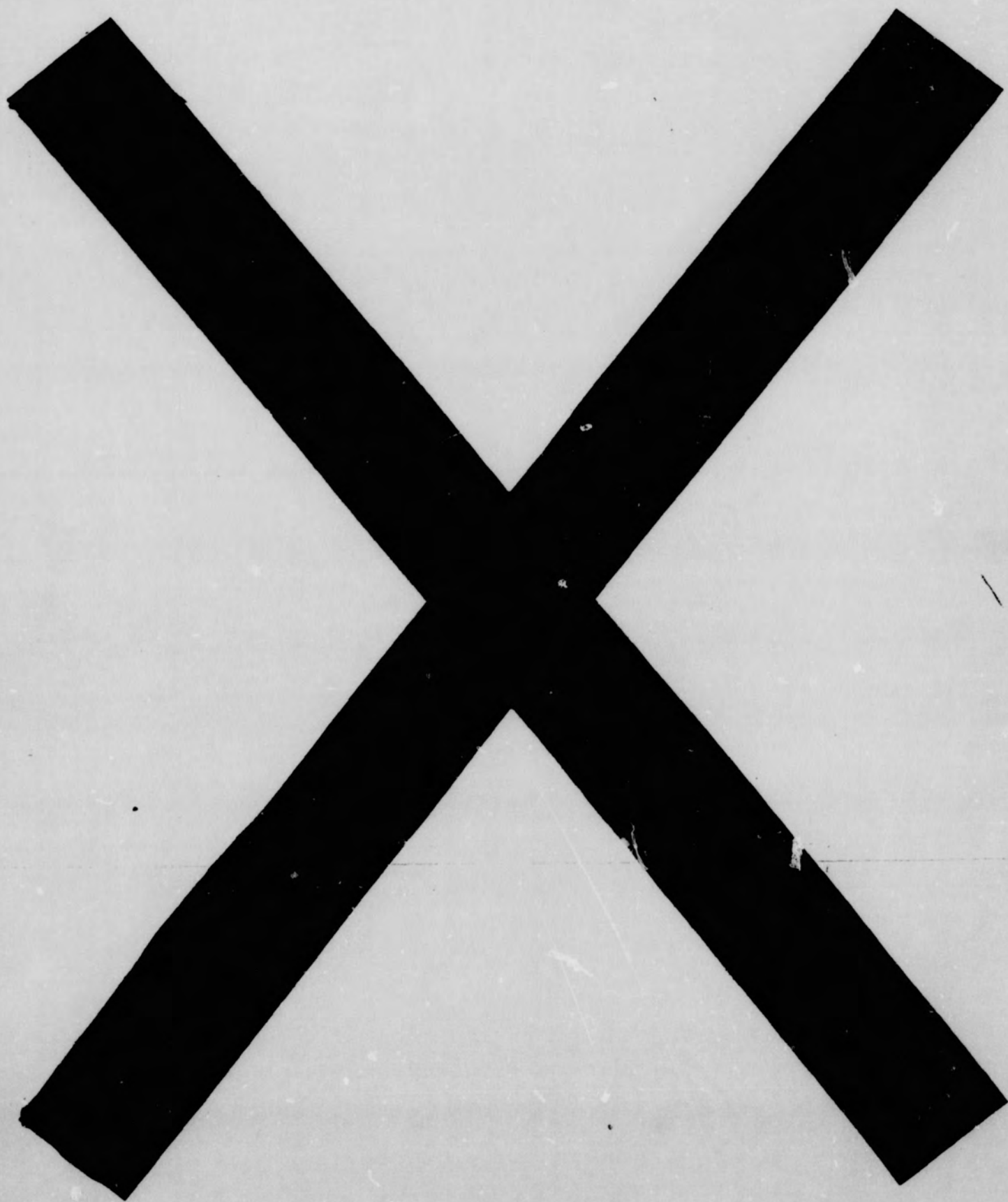
1490 JEFFERSON AVENUE
BUFFALO, NY 14208
(716) 846-4076

FILE IN DOCKET

OFFICE OF
CHAIRMAN MORGAN

2001 MAY - 3 3:50

RECEIVED
SURFACE TRANSPORTATION
BOARD



STB

FD-33388

5-2-01

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MOC

April 25, 2001

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388



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

**RESPONSE OF SENATOR ARLEN SPECTER TO
JOINT PETITION OF VARIOUS UNIONS
AND THE COMMONWEALTH OF PENNSYLVANIA
FOR ENFORCEMENT OF ORDER, OR ALTERNATIVELY TO REOPEN FOR
ORDER DIRECTING COMPLIANCE WITH COMMITMENTS,
OR ALTERNATIVELY FOR RELIEF NOT OTHERWISE PROVIDED FOR**

I am deeply troubled by Norfolk Southern's decision to close its Hollidaysburg car shops in Altoona, Pennsylvania, and transfer work from that facility to other states, despite prior commitments that the railroad would consolidate its heavy repair work at the Hollidaysburg shops. I therefore urge the Board to grant the joint petition filed by the Commonwealth of Pennsylvania and several unions for enforcement and/or reopening of its Decision No. 89 which authorized Norfolk Southern Corp. and CSX Corp. to acquire control of Conrail Inc. I further support the joint petition that the Board should order Norfolk Southern to comply with its commitments regarding the shops – specifically that it would retain and keep the shops open, and invest \$4 million in those shops. I submit that the Board can and should enforce Norfolk Southern's commitments based on the Board's statement in Decision No. 89 that "Applicants must adhere to all of the representations they made during the course of this proceeding, whether

or not such representations are specifically referenced in this decision." *Id.* at 176.

The application and supporting documents Norfolk Southern filed with the Board clearly stated that the railroad would retain the Hollidaysburg shops, consolidate work there, and absorb most car "program work" from shops in other states. Norfolk Southern's Operating Plan expressly committed the railroad to investing \$4 million in the Hollidaysburg shops and stated that "Hollidaysburg will absorb most car program work with Roanoke Shop-Car concentrating on new car construction and rebodying." Norfolk Southern Operating Plan p. 219, 326. I submit that it was clear that Norfolk Southern made representations in this proceeding that it would retain and invest in the Hollidaysburg shops and that the Board should therefore direct Norfolk Southern to comply with those representations in accordance with its Order in Decision No. 89.

I would also note that Norfolk Southern's representations about the Shops came not only in the application and supporting papers, but also in statements to Pennsylvania elected officials, Pennsylvania communities, and Conrail workers. These representations were designed to elicit support and diminish opposition to the acquisition of Conrail.

Norfolk Southern CEO David Goode testified on March 20, 1997, before a Senate Transportation Appropriations Subcommittee which I chaired on the joint Norfolk Southern/CSX acquisition of Conrail. I specifically asked Mr. Goode about the Hollidaysburg shops and employment in Altoona. Mr. Goode stated:

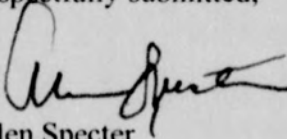
Well, we have looked, as you know, earlier this week at those shops, we had some knowledge of them earlier than that. John and I had a very good tour of the shops, they are excellent facilities.

Since Norfolk Southern will be the likely beneficiary of the lines and of those shops, we do not have nearby shop facilities, as CSX did in Cumberland, 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.

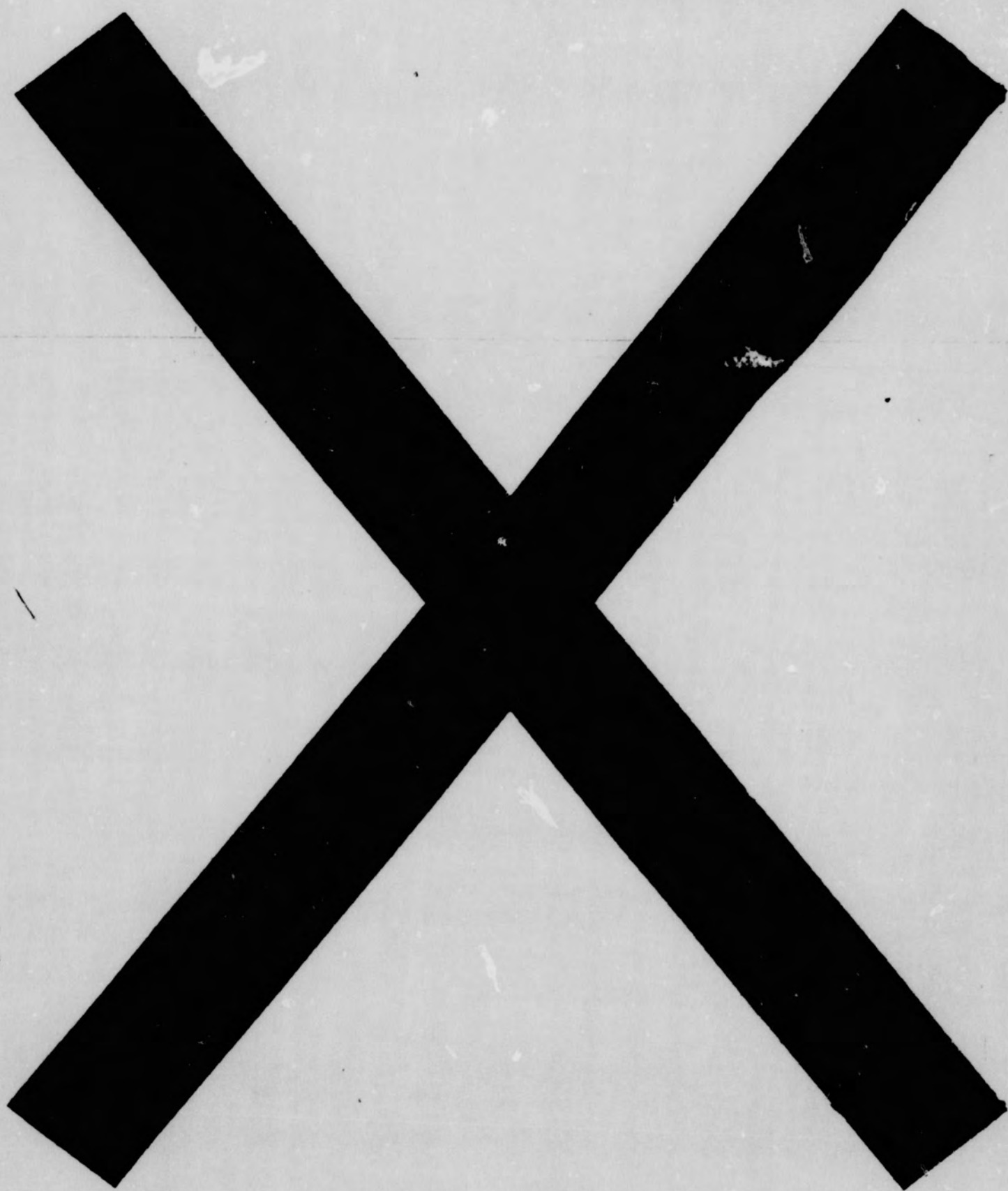
I responded that his answer would be well-received in Blair County. Norfolk Southern's current plans to close the Hollidaysburg shops are directly contrary to the assurances Mr. Goode gave me in sworn testimony before the Subcommittee.

The Board's decision approving the Norfolk Southern and CSX acquisition of Conrail came after representations made by Norfolk Southern in the Board proceedings. It was against this background that the Board bound Norfolk Southern to these representations in Decision No. 89. I submit that it is clear that Norfolk Southern is now preparing to renege on its commitments. Accordingly, I urge the Board to enforce and/or reopen its Decision No. 89 and order Norfolk Southern to comply with its commitments to retain and keep the Hollidaysburg shops open, as well as invest \$4 million in those shops.

Respectfully submitted,



Arlen Specter



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10-4-99

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Title This Jacket . . .

STB FD-33388 10-4-99 J

ID-MOE



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

October 4, 1999

FILE IN DOCKET

FD-33388

The Honorable Sherrod Brown
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Brown:

This is in response to the letter from your constituent, Richard D. Mayor, concerning Conrail separation allowances and related matters that has been forwarded to us for a reply.

Conrail was created by Congress in the Regional Rail Reorganization Act of 1973 (3R Act) to take over the services once provided by various bankrupt or financially distressed railroads. Title V of that statute provided for "lifetime" protection for employees adversely affected by the creation of Conrail. In 1981, Congress amended the 3R Act in the Northeast Rail Service Act (NERSA). NERSA repealed Title V, and added a new Title VII, which permitted Conrail to terminate employees by paying a lump sum separation allowance not to exceed \$25,000. Neither the ICC nor the STB has administered labor protection under Title V or under Title VII. Accordingly, we have little knowledge concerning these matters.¹

The waiver language that Mr. Mayor quotes in his letter is not contained in NERSA, but appears to be a paraphrase of language in section 705(a) of NERSA. By accepting a lump sum separation allowance, he would have waived any claims against the United States for additional benefits. In any event, no payment could be made unless he was separated, which apparently is not the case. Assuming that he was still a Conrail employee, and if, as a result of the recent sale of Conrail, his position is terminated, then he will be entitled to compensation under the New York Dock labor protective conditions that were imposed by the Board on that transaction. The New York Dock conditions, which are administered by the Board, provide up to six years of income protection for employees, and, among other things, for moving and retraining allowances.

We have no information about the issue of the Safety Shares program that Mr. Mayor raises. Apparently, it was a program voluntarily undertaken by Conrail. For information as to what became of it, I suggest that Mr. Mayor contact his union representative.

¹ Similarly, we do not know anything about the purpose of the \$200,000,000 fund that is mentioned in the letter from J.J. Kennedy. This fund may have been to compensate separated employees; from the context this is unclear. Mr. William Mahoney, referred to in the letter, is still in practice and can be reached at 202-296-8500. He may be able to provide some explanation concerning this item.

I hope the foregoing information is of assistance to you. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan

Linda J. Morgan

SHERROD BROWN
THIRTEENTH DISTRICT
OHIO

COMMITTEE ON COMMERCE

RANKING MEMBER,
SUBCOMMITTEE ON HEALTH
AND ENVIRONMENT

SUBCOMMITTEE ON ENERGY
AND POWER

COMMITTEE ON
INTERNATIONAL RELATIONS

SUBCOMMITTEE ON ASIA AND THE PACIFIC

Congress of the United States
House of Representatives
Washington, DC 20515

August 27, 1999

FILE IN DOCKET

DISTRICT OFFICES:

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(530) 722-9262

1-800-234-6413 (OH13)

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WASHINGTON, DC 20515
(202) 225-3401
FAX (202) 225-2266

sherrod@mail.house.gov
<http://www.house.gov/sherrodbrown/>

Mr. Dan King
Dir., Cong. & Public Affairs
Surface Transportation Board
1925 K St., NW, Room 842
Washington, DC 20423

Dear Mr. King:

Enclosed is a letter from a constituent, a Conrail engineer, with a number of questions about Conrail employment and benefits.

Please respond to Mr. Mayor's questions, and send me a copy of your letter. Thank you for your assistance.

Sincerely,

Sherrod Brown

SHERROD BROWN
Member of Congress

SB:lv

RECEIVED
SURFACE TRANSPORTATION
BOARD
SEP 8 4 42 PM '99
OFFICE OF
CHAIRMAN MORGAN

AUG 11 1999

190 Congress Street
West Salem, Ohio 44287
April 7, 1999

Congressman Ralph Regula
2209 Rayburn House Office Bldg.
Washington, D.C. 20515

Dear Congressman:

I am a Conrail Locomotive Engineer working out of Cleveland, Ohio and with Conrail changing ownership on Jan. 1st, I would like to express my thoughts on the matter as well as ask you to please answer a few questions regarding the following:

1st Question: Enclosed you will find a copy of a letter by Mr. J. J. Kennedy. ~~I would like to know what happened to this \$200 million?~~

2nd Question: When Conrail was formed, we were given a Title V protection. This promised us that we would have a lifetime job and never lose any earnings, (on this we had the word of the government). Then came the Election of 1980. This changed everything. In 1982 when I really needed this protection, the Secretary of Labor, Donovan, broke this agreement and forced a Title VII upon me. This Title VII, of course, was inferior and loaded with loop holes. I needed the money from this new Title VII desperately, but I could not take it because written into the Northeast Rail Act of 1981, was the following:

"If you elect to receive any benefits under the schedules (i.e., a separation allowance or benefits under Article 4), you waive: - any claim to any other employee benefit protection in effect on August 13, 1981 (the enactment date of the Northeast Rail Service Act and Title VII)...."

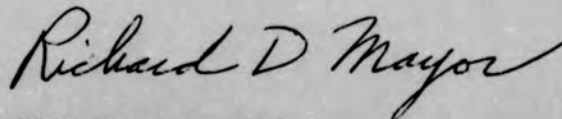
No one would explain the above to me. I wrote and called The Railroad Retirement Board again and again. They didn't know anything about it. I asked the union several times and they were indifferent. I also asked Supervision on Conrail and I was brushed off. I wrote letter after letter to Washington. I got bits and pieces of information I couldn't tie together. So as a result of not knowing what I was signing away, I couldn't receive any benefits.

3rd Question: Regarding Safety Shares: If a worker went injury free for 3 years, they were supposed to receive approximately \$5,000 at the time of their retirement. Now that the end is near, it is never mentioned and no one knows anything about this either. What happened to this money of mine?

Many of us have paid a terrible price for Conrail's success. Because of the above mentioned Title V/VII, in 1982 I was forced to lose a house and everything else I worked for in the previous 14 years. Conrail went from 123,000 employees to 23,000 employees. This is still not enough - they want more.

I feel like I deserve at least some answers to these questions which have been hounding me for years.

Thank you for your time.



Richard D. Mayor

Mr. J. J. Kennedy
Executive Secretary - RLEA
Railway Labor Building
400 1st Street, N.W.
Washington, D.C. 20001

Re: Section 4024(e) of the Conrail Privatization Act

Dear Sir and Brother:

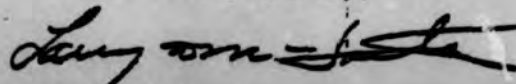
We have received numerous inquiries as to the payment of the remaining portion of the original \$200 million available for distribution in the above-named matter.

Brotherhood Vice President Dubroski has contacted attorney William Mahoney of Highsaw, Mahoney & Clarke to determine the status of the disbursement of the remainder of the money. As of this date Conrail has refused to make disbursements according to our demands.

This matter has been before the RLEA and has not yet been resolved. I would suggest the matter be set for discussion at the next RLEA meeting and that it finally be resolved so that the money can be properly distributed.

Should you have any further questions, please feel free to contact me. Thank you for your anticipated cooperation.

Fraternally yours,


President

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9-29-99

J

MOC

Title: This Jacket

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Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

JD-33388

September 29, 1999

The Honorable Bill Goodling
U.S. House of Representatives
Washington, DC 20515-3819

Dear Congressman Goodling:

This responds to your letter of September 7, 1999, to Mel Clemens, Director of the Board's Office of Compliance and Enforcement, regarding the concerns of your constituent, Mr. John Holder, about the blocking of rail lines by Norfolk Southern Railroad (NS), which caused delays in Amtrak operations between Chicago and Philadelphia.

Director Clemens has been in contact with NS, both to verify the situation and to help formulate a resolution. NS has indicated that, due to congestion, trains were stopped in the Harrisburg area in August, which delayed some Amtrak operations. In discussing Mr. Holder's concerns with NS, we are advised that NS has been working closely with Amtrak to coordinate the passenger operations and minimize interference. As part of this effort, NS has assigned senior staff to periodically ride Amtrak trains to evaluate performance and recommend performance improvement initiatives. Also, Amtrak reports that, based on its contract with NS, it is in constant contact with NS on performance issues. In this regard, Director Clemens has asked NS for on-time performance data on the Pennsylvanian in order for the Board to monitor its operations.

The Board will continue to monitor the operations of NS as the carrier implements the Conrail acquisition. I will have your letter, your constituent's letter and my response made a part of the public docket for that proceeding. We appreciate the opportunity to be of assistance, and hope that you will not hesitate to contact me if we can be helpful in the future.

Sincerely,

Linda J. Morgan

Linda J. Morgan

BILL GOODLING
19th DISTRICT, PENNSYLVANIA

CHAIRMAN:
COMMITTEE ON EDUCATION AND
THE WORKFORCE

COMMITTEE ON
INTERNATIONAL RELATIONS

TOLL FREE DISTRICT NUMBER:
800-632-1811
<http://www.house.gov/goodling/>



Congress of the United States
House of Representatives
Washington, DC 20515-3819
September 7, 1999

ROOM 2107
RAYBURN HOUSE OFFICE BUILDING
TELEPHONE: (202) 225-5836

DISTRICT OFFICES:
FEDERAL BUILDING
200 SOUTH GEORGE STREET
YORK, PA 17405-9999

CHAMBER BUILDING
212 NORTH HANOVER STREET
CARLISLE, PA 17013-2423

140 BALTIMORE STREET
ROOM 301
GETTYSBURG, PA 17325-2311

2020 YALE AVENUE
CAMP HILL, PA 17011-5456

44 FREDERICK STREET
HANOVER, PA 17331-3598

Mr. Mel Clemens
Surface Transportation Board
Room 780
1925 K. Street NW
Washington, D.C. 20423

FILE IN DOCKET

Dear Mr. Clemens:

The attached communication sent to me by John R. Holder has been respectfully referred to you for your review, consideration, and comment.

I ask that you kindly return the enclosed correspondence to Tom Davidson of my staff.

Please mail response to:
Congressman Bill Goodling
2020 Yale Avenue
Camp Hill, PA 17011

If you have any questions, concerning this inquiry, please contact Tom Davidson at 717-782-4526.

Thank you in advance for your assistance.

Sincerely,

BILL GOODLING
Member of Congress

WFG/td

RECEIVED
SURFACE TRANSPORTATION
BOARD
SEP 10 3 00 PM '99
OFFICE OF
CHIEF OF STAFF
MORGAN

SEP 2 - 1999

August 31, 1999

Honorable Representative,

I am enclosing a copy of a letter that I forwarded to the local and regional representatives of Amtrak customer relations.

My purpose in notifying you is to alert you to a travesty that is taking place with the cooperation of the state and federal governments. Since Amtrak receives funding from both it should be of considerable interest that this is a daily occurrence since Norfolk Southern took over the tracks on 1 June 99.

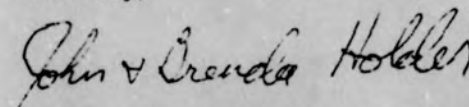
Why was Norfolk Southern (N.S.) allowed to take over Conrail and turn all train schedules into a nightmare when they had made such a debacle out of grain shipments last fall? It had to be painfully obvious to any conscious person that they were in no way ready to take on East coast rail traffic with any degree of efficiency. N.S. clogs rails with too many parked freight trains every day to allow loaded passenger trains to get from point A to point B. I realize that freight is where they make their money but to keep hundreds of people stranded in grid locked cars every day is inexcusable.

The federal board that allowed this merger should be fired and funding withheld until these people can get their act together.

Please forward this to the appropriate committee so that something decisive can be done about such waste.

Thank you for your attention to this matter.

Sincerely,



John and Brenda Holder

August 23, 1999

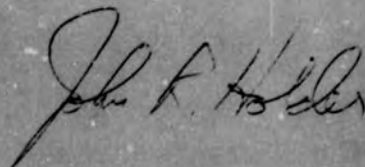
To Whom It May Concern,

On August 15, 1999, I had the second worst traveling experience of my life. The first was the terminal wait and shuffle routine on a trip to Vietnam while in the Army.

This experience started on August 15, 1999, in Chicago on Amtrak #44 at 0615 hours. We were to depart Chicago at 0600 hours and arrive in Harrisburg, Pennsylvania on the Pennsylvanian at about 2215 hours on August 15, 1999. Our trip progressed nicely to Pittsburgh where we had a 45 minute delay for repairs. From there we proceeded well to a point south of Lewistown somewhere. Due to poor scheduling, planning and routing we were delayed in the train, on the tracks, about 15 miles from Harrisburg for almost 5 hours. The problem appeared to be a freight train parked on the tracks in front of us due to the crew not being able to work over twelve hours. There were six trains parked on the tracks creating a large grid lock problem. To keep a freight crew of six people waiting is one thing, but to keep 143 people, who have friends waiting for them and appointments and connections to make is an entirely different thing. Many people were contemplating open insurrection, but the conductors did a great job of keeping everyone calm. Another very frustrating matter was the lack of announcements. We sat still for over one hour with no information as to why we were not moving. We finally found out that no announcements are made after 2200 hours because of sleeping passengers. When a major delay is anticipated passengers should be notified and provided a way to contact people who might be waiting for them. We arrived at 0445 hours on August 16, 1999.

I took the train because the times, terms, and conditions of the purchase agreement were acceptable to me. When I purchased my tickets (two) and paid for them, we created a contract to provide a certain service for a set price. I paid the price (\$114) but did not get the services I contracted for. There were 141 other passengers on this train who were also delayed and discouraged. This is apparently a regular occurrence that I intend to address at the highest levels possible.

I am expecting a refund of my two fares and an explanation of what is being done to resolve these situations. Until I can be assured of consistent, reliable service; you can be sure that I will not travel with Amtrak.



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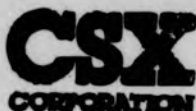
J

MOC

Tattle Telling Jacket . . .

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ID-MOC



FILE IN DOCKET

FD-33388

One James Center
Richmond, Virginia 23219
(804) 782-1434

John W. Snow
Chairman, President
Chief Executive Officer

August 13, 1999

The Honorable Daniel Patrick Moynihan
United States Senate
464 Russell Senate Office Building
Washington, DC 20510

Dear Senator Moynihan:

Thank you for your letter dated July 22, 1999, regarding your concerns about rail service throughout western New York.

The Empire State is an essential part of the new CSX rail system. In fact, our company employs more than 2,700 people statewide, of which nearly 900 work in western New York. Furthermore, we have expanded our commercial and economic development presence in the region, and Buffalo in particular.

As you are aware, CSX and Norfolk Southern began operating their respective portions of Conrail on June 1, 1999. Despite extensive planning by our company for the integration of Conrail into our rail system, the first few weeks of our new operation were marked by some transitional problems which were not totally unexpected given the magnitude of the undertaking.

Since that time, however, steady progress has been made throughout the newly acquired territory. In fact, recently reported public statistics provided to the Conrail Transaction Council confirm that rail congestion in the western New York region has improved significantly since the first week of June.

During the period ending August 6, average terminal dwell time — the time a rail car spends in any one of CSX's three rail terminals in Buffalo — was 27.3 hours, more than 12 hours less than four weeks prior, and nearly 6.5 hours less than June's average terminal dwell time. It is important to note that dwell times for CSX in Buffalo have been consistently better than dwell times at other former Conrail terminals throughout the Midwest and Northeast.

Additionally, CSX has worked diligently to fulfill its commitments to western New York, and in particular Buffalo, under the Surface Transportation Board's decision to

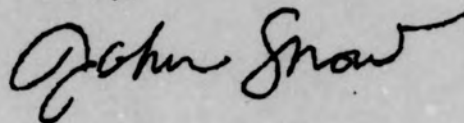
Senator Moynihan
August 13, 1999
Page 2

approve the Conrail transaction. CSX has invested approximately \$5 million to upgrade Frontier Yard in Buffalo, and we are exploring the merits of an expanded intermodal presence in the Buffalo area, which could include the construction of a new intermodal terminal. Furthermore, we continue to cooperate with Norfolk Southern and the many shortline and regional railroads that provide service to the region.

I am confident that any service concerns expressed by customers and local officials are the result of start-up operations related to the Conrail acquisition. That said, I have asked Arnie Havens, Vice President of Federal Affairs in Washington, to work with you and your staff to keep me advised of any changes in the quality or level of service throughout western New York.

I appreciate your interest in this matter and believe that by working together, we can create a pro-growth environment that will benefit the State and the western New York region.

Sincerely,

A handwritten signature in dark ink, appearing to read "John Snow". The signature is fluid and cursive, with the first name "John" being more prominent and the last name "Snow" following in a similar style.

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8-13-99

J

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Little Thin Jacket . . .

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Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

FD-33388

August 13, 1999

The Honorable Robert C. Byrd
United States Senate
Washington, D.C. 20510

Dear Senator Byrd:

Thank you for your letter regarding the responsibilities of the Surface Transportation Board (Board) under Finance Docket No. 33388, Decision No. 89, to monitor the implementation of the Conrail acquisition. As part of those responsibilities, the Board must assess the operating conditions, the current level of reporting, and the need for additional information, and must impose, to the degree necessary, additional data requirements.

Upon review, it is our assessment that additional data should be included with the weekly public reports now being filed with the Board by CSX. I have enclosed a copy of a letter sent to CSX by Mr. Clemens, Director of the Board's Office of Compliance and Enforcement. By that letter, we request that certain data be reported to us regarding the issues that you raised. The Board will continue to review this data with the carrier on a regular basis.

I appreciate your bringing this matter to our attention, and hope that our actions are a satisfactory response to your concerns. I will have your letter, Mr. Clemens' letter, and my response made a part of the public docket for the Conrail proceeding. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosure

cc: Mr. John Snow
CSX Corporation



Surface Transportation Board
Washington, D.C. 20423-0001

August 12, 1999

Office of Compliance and Enforcement
1925 K Street, N.W., Suite 780
Washington, DC 20423-0001

202-565-1573
FAX 202-565-9011

Danford L. Price, Assistant Vice President
Service Measurements
CSX Transportation
500 Water Street
Jacksonville, FL 32202

Dear Mr. Price:

This letter will confirm our discussions regarding my responsibilities under Finance Docket No. 33388, Decision No. 89, to monitor the implementation of the Conrail acquisition. As part of my responsibilities, I must assess the operating conditions, the current level of reporting, and the need for additional information, and must impose, to the degree I believe is necessary, additional data requirements. Based on a request by Senator Robert C. Byrd (copy enclosed), it is my assessment that additional data should be included with the weekly public reports now being filed with this office by CSXT related to the acquisition of Conrail.

Specifically, in assessing the operational concerns expressed by the Senator regarding the lines operated by CSXT, it is my conclusion that the Senator's constituents may be aided by the additional data element he has requested. Therefore, I would like a daily, Monday through Friday, report of the on-time performance for trains operated by CSXT for the State of Maryland (MARC) and the National Railroad Passenger Corporation (Amtrak) over the "Brunswick Line" between West Virginia and Washington, DC. This report should show separately the number of MARC and Amtrak trains operated daily, Monday through Friday, over the "Brunswick Line", and should include a daily and weekly average of the on-time performance for the trains operated.

The additional reporting described above should be filed with your weekly shared assets, trains held, sidings and multiple mainlines blocked, and interchange reporting, and should be discussed to the degree necessary in your cover letter transmitting the reports. It is also expected that this information will be placed on your web site. We will add this reporting to the Board's web site as well. Please contact me immediately if there are any questions related to this additional requirement.

Enclosure

Sincerely,

Melvin F. Clemens, Jr.
Director

TED STEVENS, ALASKA, CHAIRMAN

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 HARRY REID, NEVADA
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STEVEN J. CORTES, STAFF DIRECTOR
 JAMES H. ENGLISH, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS
 WASHINGTON, DC 20510-6025

FILE IN DOCKET

August 9, 1999

Ms. Linda J. Morgan
 Chairman
 Surface Transportation Board
 1925 K Street, NW
 Washington, DC 20423-0001

Madam Chairman:

I write to seek your assistance in addressing the unacceptable frequency of passenger service delays along the Brunswick Line between Harpers Ferry, West Virginia and Washington D.C. Since June 1, the date that Conrail's assets were formally integrated with those of CSX Corporation and the Norfolk Southern Corporation, my office has received a growing number of complaints from commuters who have experienced persistent delays in reaching their destination. These lengthy and recurring delays have caused considerable inconvenience, not just for MARC and AMTRAK passengers, but for their employers and families as well.

As you know well, the parties to the Conrail merger made repeated representations, both in testimony before Congress and in filings before your agency, that ongoing passenger rail operations would not be hindered by the adjustments in freight activity brought about by the merger. More specifically, the operating plans submitted to the Surface Transportation Board state:

"The transaction would not have a significant impact on these commuter operations...Moderate increases in freight traffic are expected on lines used by commuter agencies in the Baltimore and Washington, DC areas, but these lines have sufficient capacity to accommodate the freight increases without adverse impact on commuter service."

Specific to the Brunswick line, these documents state:

"CSX's proposed operations will result in an increase of 7 to 8 trains per day over

Ms. Linda Morgan
August 9, 1999
Page 2

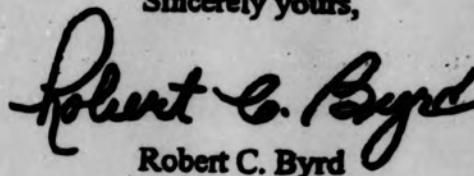
this route. The proposed CSX operation does not expect commuter operations on the Brunswick line to be impaired. The line is double-tracked and has sufficient capacity to handle the increase."

As it is the responsibility of the Surface Transportation Board to monitor compliance with the conditions imposed on the merger, I request that you give careful and immediate attention to the current situation on the Brunswick line. In this regard, I request that you collect detailed data on the on-time performance of MARC and AMTRAK service on the Brunswick line so that you can monitor carefully the depth of the problem and the pace of improvements.

Thank you for your attention to this matter which is so important to the rail passengers of West Virginia, Maryland, and the entire eastern United States.

With best wishes, I am

Sincerely yours,


Robert C. Byrd

cc: Mr. John W. Snow
CSX Corporation

Mr. George D. Warrington
AMTRAK

Secretary John D. Porcari
Maryland Department of Transportation

RCB:prd

TED STEVENS, ALASKA, CHAIRMAN

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LARRY CRAIG, IDAHO
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JON KYL, ARIZONA

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FRANK R. LAUTENBERG, NEW JERSEY
TOM HARKIN, IOWA
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HERB KOHL, WISCONSIN
PATTY MURRAY, WASHINGTON
BYRON L. DORGAN, NORTH DAKOTA
DIANNE FEINSTEIN, CALIFORNIA
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STEVEN J. CORTESE, STAFF DIRECTOR
JAMES H. ENGLISH, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, DC 20510-6025

FILE IN DOCKET

August 9, 1999

Ms. Linda J. Morgan
Chairman
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

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"The transaction would not have a significant impact on these commuter operations...Moderate increases in freight traffic are expected on lines used by commuter agencies in the Baltimore and Washington, DC areas, but these lines have sufficient capacity to accommodate the freight increases without adverse impact on commuter service."

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Ms. Linda Morgan

August 9, 1999

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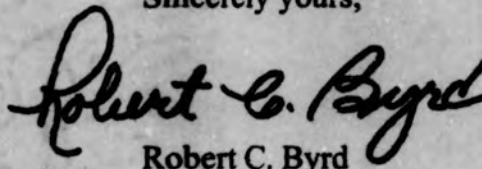
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Thank you for your attention to this matter which is so important to the rail passengers of West Virginia, Maryland, and the entire eastern United States.

With best wishes, I am

Sincerely yours,

A handwritten signature in dark ink, reading "Robert C. Byrd". The signature is fluid and cursive, with the first name "Robert" being the most prominent.

Robert C. Byrd

cc: Mr. John W. Snow
CSX Corporation

Mr. George D. Warrington
AMTRAK

Secretary John D. Porcari
Maryland Department of Transportation

RCB:prd

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FILE IN DOCKET

Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191
Telephone (757) 629-2610
Facsimile (757) 629-2306

David R. Goode
Chairman, President and
Chief Executive Officer

August 9, 1999

The Honorable Daniel Patrick Moynihan
United States Senate
Washington, D.C. 20510

Dear Senator Moynihan:

This will respond to your letter of July 22 signed by you and several of your colleagues from the New York delegation. As a preliminary matter, I would like to apologize for any perceived delay in our response to your inquiry. I fully appreciate your desire for an expedited response and have pursued the swiftest possible reply. However, despite its July 22 date, I did not receive the delegation's letter until July 30, and then there was some confusion created by the letter itself being addressed to John Snow at CSX.

We at Norfolk Southern are pointedly aware of the vital role that efficient and effective rail service plays in western New York as well as all of our operating areas. Indeed, safe, high quality rail service is our utmost goal. We also recognize that our service since June 1 has not met the expectations of our customers or ourselves. In that regard, we have promulgated the Norfolk Southern Customer Service Report, dated July 20, 1999, and a copy is enclosed for your review. This report has been widely distributed via the Conrail Transaction Council and is also available on the Norfolk Southern web site. As the report indicates, the difficulties presented by information technology system integration, crew availability, and adjusting to optimum asset deployment patterns are being addressed, and we are proceeding toward successful resolution. I am confident that the report describes a sound plan that is producing the desired results and will continue to do so. With regard to western New York specifically, the report outlines our measures in the region to coordinate with certain other carriers and add to the physical plant as necessary to meet our customers' needs. Tables 1A, 1D and 2 of the enclosed report list a number of the specific actions we have taken on Norfolk Southern and in connection with other carriers. And of course, Norfolk Southern continues to communicate daily and work closely with all other carriers in western New York, including CSX, Canadian National and Canadian Pacific, to maintain and improve efficient traffic flows to and from the region.



Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191
Telephone (757) 629-2610
Facsimile (757) 629-2306

FILE IN DOCKET

10-33388

David R. Goode
Chairman, President and
Chief Executive Officer

August 17, 1999

The Honorable Linda J. Morgan
Chairman
Surface Transportation Board
Washington, D.C. 20423-0001

Dear Ms. Morgan:

Thank you for your letter of August 12. I am enclosing a copy of my response to the letter I received from the members of the New York Congressional delegation. Thank you for copying me on your letter to that delegation.

I am sure you know that it is our strong desire and intent to resolve the rail service issues in the New York region. We are focusing on that region, and are working diligently toward meeting the challenge presented there.

Sincerely,

Enclosure

NS Customer Service Report

July 20, 1999

I. SUMMARY

The service plan for our new Northern Region (former Conrail) has been and will be straightforward: while maintaining safe operations, we establish and draw on additional resources, improve the performance of our computer systems, make appropriate adjustments in our operating plan, and encourage traffic diversions to other carriers where appropriate to ensure better service. These actions allow us to take advantage of the reduced traffic flow in July, which is historically a light month for rail traffic due to coal mine vacations and end-of-model year shut down of a number of automotive manufacturing facilities. We expect most NS shippers will see a return to more normal rail operations by July 31 as cars on line decrease to 238,000. During August we will continue to work on reducing the number of cars on line by an additional 5,000. Our plan includes gearing up for the fall traffic peak, contains considerable flexibility and recognizes that much of the former Conrail system is a "just-in-time" network. Therefore, if the number of cars on line is not being reduced as quickly as anticipated or if traffic appears to be stronger than predicted, we will add resources and divert traffic to other carriers for a longer period of time.

II. CAUSES

The operating problems that we have faced are not based on the quality of the infrastructure, the overall capacity of our system or any systemic flaws in our operating plan. Instead, other factors contributed to our operating problems beginning in June.

First, we were confronted with, and are still dealing with, shortcomings in our computer systems and associated processes, particularly with respect to the quality of data -- the most significant factor that adversely affected our rail operations. The causes of the data problems included issues with the NS and Conrail information technology (IT) systems, the old (pre-June 1) data in the Conrail systems and the processes and procedures involved in the use of those systems and the data they generate. Data quality issues affected our operations by causing misclassification/misrouting of cars, lack of visibility of car movements both to us and to our shippers, and interchange delays. The number of adversely affected shipments has declined significantly and we continue to address data integrity issues as well as the build up created by the misclassifications and the waybilling problems.

Second, during the first few weeks of the start-up we experienced difficulties with our crew calling system that have now, for the most part, been corrected. These difficulties prevented many employees from making timely notification of their availability for assignment.

Third, some customers waited until just prior to the June 1 implementation date to decide how they would utilize the new competitive alternatives now available between NS and CSX. Therefore, a complete assessment could not be made in advance of which traffic would move over the new NS and CSX systems, or which routings or corridors would face the greater demand levels. As we gained a better understanding of traffic volumes and patterns, we adjusted our operating plan accordingly. While those adjustments did not come in time to prevent traffic

from being affected, adjustments were made and continue to be made.

III. IMPACT

These three factors combined to impact severely the initial month of operations on the Northern Region. There was some spillover to our Eastern and Western Regions (the "old" NS lines) as well. On June 1, we absorbed our share of Conrail, complete with the cars on line. Each day thereafter thousands of additional cars were received from customers or from connections. Without accurate data in our information systems, we could not process cars at yards or move them in proper trains or in an efficient manner. Yard throughput declined as many cars had to be handled two or more times in response to conflicting movement instructions and increasing yard congestion. Road trains departed with traffic destined to the wrong location, much of which had to be returned to where it started.

In a very short period of time, we found ourselves short of crews and equipment because of these multiple car handlings and movements. Yards became congested and the congestion spilled out onto the line of road. Standing trains blocked tracks. Crews could not complete their assignments as they had to leave the train before they exceeded their (federally mandated) maximum hours of service. As the trains were delayed, locomotive power also got out of cycle and was not available where it was needed. While we ran some special trains to avoid severe disruptions to customers, these unplanned trains also had other adverse impacts on our service network.

In short, there were more cars on the system than could be processed, especially when much of the processing was unproductive due to faulty information. To bring order to this situation, we have reversed the

process by improving data accuracy, reducing multiple car handlings and movements and systematically working through the backlog of cars. At the core of our action plan is improvement of data quality and information processes and deployment of additional resources to flush the system of cars causing congestion.

IV. RESOURCES

We are using the following resources to address our service problems: additional people, assistance from other carriers, certain infrastructure improvements, and our relationships with our customers. In the first week after Closing Date, as the scope of our problems became clearer, we began deploying people into the Northern Region. These employees were in addition to those dispatched prior to Closing Date and over Memorial Day weekend. They continue to address start-up problems and assist Northern Region employees with systems and procedures they had not used before on a daily basis.

Crew calling problems were addressed by increasing the number of both telephone lines and employees to answer them. We have worked hard to build a feeling of inclusiveness, for both the employees and their union representatives, to ensure that all employees fully support our goals and objectives. With their support, we will be able to continue our efforts to resolve transportation related problems that adversely affect our customers. A part of that process is the offer we have made of incentives through the summer (\$600 into their 401(k) plan per two-week period) for agreement employees who are available to work during this difficult period.

We are in frequent contact with many of our union representatives, especially at the local level. They have reached out to be of assistance. Much credit is due also to our

agreement employees who quickly responded to the call. We have listened to our employees and their representatives as we continue to work through our problems.

Additionally, prior to Closing Date, we worked with the rail industry to insure as smooth an implementation as possible, and during that period and since we have received tremendous cooperation from our connections, large and small. When we started experiencing congestion, we continued to look to our connections for support and assistance. This has come in the form of rerouted traffic, revised gateways, loaned employees and equipment and additional work to help block and classify trains before reaching NS lines. Much of the help was volunteered even before we asked. The STB staff was also very helpful in identifying potential alternative routes and carriers that might be used to provide relief. Details of the additional resources we have used, and will continue to use, including help received from other carriers, is contained in Tables 1A-1D.

We are making improvements on our own system that will help us handle traffic more efficiently. While most of our infrastructure improvements were in place on June 1, there are some remaining projects that will provide additional capacity by this fall. See Table 2.

We have also encouraged some of our shippers to modify, on an interim basis, their transportation arrangements. Notwithstanding contractual commitments to use NS, we have allowed traffic to be carried temporarily by other railroads and have used or encouraged the use by customers of other means of transportation (motor carriers, barges and even air carriers). While this has meant a loss to us of thousands of carloads, we recognize that it is necessary, in the short term, to assist our customers in achieving service continuity.

V. SOLUTIONS

Data problems and processes

The data problems have had three primary impacts: misrouting of cars, lack of visibility of car movements to our shippers and to us, and interchange delays. The root causes of most systems problems have been corrected and remaining issues, both systems and procedural, are being actively addressed. In addition, an ongoing manual effort is underway to "cleanse" waybilling data from the start-up period and to ensure that continuing data problems are addressed prior to their affecting train operations.

The interchange delays were caused at the outset by a failure to transmit proper and timely information between carriers. We and our connections have made program changes to take care of the problem, and data for interchange is flowing more smoothly.

The pre-June 1 waybills in Conrail's system created problems in associating the proper waybill to the car movements after June 1 in the NS automated systems. Over the past several weeks, changes in computer programs and continued manual efforts have stabilized the waybilling and classification processes. We now have the accurate information necessary to function, even though the means of providing that information depends on more manual intervention than we would like. We will continue to supplement our automated systems with manual efforts until we are certain that the automated systems are reliable. See Table 3.

The lack of visibility was caused by data quality issues and inconsistent or untimely car movement reporting. Particularly during the first two weeks after June 1, car movement reporting was neither consistent nor timely, which resulted in a lack of information in our systems used for customer inquiries.

We also experienced data quality issues associated with train symbol reporting. Invalid

train symbols were reported, and all associated car reporting was held in error queues until reports could be converted properly. System changes were made to accept default train symbols and the associated car reporting, and data quality improved. See Table 3.

Although shipment visibility has improved, complete and timely information, particularly for intermodal traffic, is not available as promptly or as frequently as we wish and intend. Here, as in other problem areas, manual processes still are being used. In addition, we are implementing existing automated systems on an accelerated timetable.

Accumulation of cars

From an operating standpoint, the biggest challenge, short term, is to continue to work through the accumulation of cars in major yards. This situation already was aided by the early July rail traffic decline due to coal miners' vacations and the shut down of a number of auto facilities as manufacturers prepare for the model year changeover. NS is committed to continue to use every effort and to apply all available resources to clear the system. As noted, we have encouraged our crews to remain available for work, added more crews to compensate for our own crews taking planned vacations and added locomotives to compensate for lowered productivity due to the slower train movements throughout the system. See Table 1C.

Our improved understanding of traffic flows moving over the new NS system allows us to redeploy our assets more efficiently as well as to add resources where needed. We also have made adjustments to our operating plan. For example, we opened and/or expanded yard operations in a number of locations, such as Altoona, PA and Olean, NY, to relieve congestion at key production yards. See Tables 1A and 1B. The system will be further enhanced by infrastructure improvements

scheduled for completion next month. See Table 2.

Processing of cars also has been enhanced by the assistance we have sought and received from other carriers. Major railroads such as Union Pacific and Burlington Northern Santa Fe are blocking traffic (i.e. grouping cars by destination) for us and even changing gateways in some instances to route around congested areas in the Northern Region. Shortlines and regional railroads are performing switching and providing alternative routes for through traffic. Everyone in the industry is aware of the effect regional congestion can have on the entire rail system and our connections have provided tremendous support to our operations.

Taken together, these actions should allow us to reduce our cars on line by the end of July to 238,000 and to 233,000 by the end of August. We do not need to work off the entire accumulation before we will see significant improvement in rail operations.

Network recovery

We must restore the intermodal network to on-time status. While most delays have been measured in hours rather than days, the delays were serious enough to put pressure on our terminals, motive power and crews. If trains arrive late, terminals become congested and the power and crews required for outbound trains are quickly depleted. Clearing the mainlines and having adequate crew resources are the heart of the improvement effort to restore intermodal trains to their normal operating cycles. A significant portion (approximately 70-80%) of the fall traffic increase is intermodal. Because intermodal trains bypass most yards and because most intermodal trains have excess capacity, we expect to handle increased intermodal volume without adding to congestion.

We have reset the coal network. A number of coal trains were staged during the start-up

in order to free crews and power for other services. Many of these loaded trains have now been delivered to utilities and other receivers and the empties are moving back to the coalfields. We recognize, however, that cycle time on coal cars is not what it should be, and we are working to improve our performance in this area.

The merchandise network represents the greatest challenge. We used the early July downturn in traffic to clear many Northern Region classification yards, reduce trains held on line-of-road, and improve transit times and will continue these efforts. As terminal dwell time is reduced, overall velocity will improve. Available facilities and services of other carriers will continue to be employed throughout the summer and into the fall, as required. This added effort entails costs but is essential both to restore service quality and provide a safety valve as we go into the high traffic months of September and October.

With the actions listed above, we are positioned to become current even as new traffic flows into our system. The North and South Jersey Shared Assets Areas, however, will continue to pose operating challenges, largely from data problems derived from IT systems issues and processes, with ripple effects on NS. These issues are made more difficult by the necessary interface between NS, CSX and Conrail, as the Shared Assets Area Operator. For example, NS must make sure that whatever systems or process changes we want for the SAA do not have an adverse impact on CSX and are compatible with SAA procedures. Between the improvements we have made in our systems and processes and the manual effort we will continue to employ as long as necessary, once we have the rest of our system operating satisfactorily, we should be in a position to address the SAA data problems and process problems without our shippers feeling any adverse effects.

VI. METRICS

While cars on line is an important indicator of normalcy of operation, we also look at other meaningful metrics. Many actions that will improve service will not result in a reduction in cars on our lines. For example, while a successful resetting of our coal network will benefit customers, cars on line will remain essentially unchanged. The same is true for merchandise and intermodal customers whose origins and destinations are both on the new, larger NS.

Therefore, while we closely monitor cars on line, it is not our sole focus. Other indications that our plan is working will be an increase in average train speed and a decrease in terminal dwell time. We know that as long as all of these metrics are improving, the service we are providing our customers and the efficiency of our network will also be improving. Our goals for the end of July and end of August:

	<u>July</u>	<u>August</u>
Cars on line	238,000	233,000
System average train speed	18.5 mph	20.4 mph
System average terminal dwell	33.0 hours	30.0 hours

Unusually heavy traffic at the end of July or in August, a natural disaster or similar force majeure, or unusually high crew markoffs could delay achievement of our goals. NS will remain prepared to add more resources in the coming months to provide a measure of flexibility to meet such contingencies.

We recognize that the above targets are not the ultimate goals. We understand that for our shippers, reliable rail service is what matters and our efforts are devoted to achieving that end.

Norfolk Southern Customer Service Report

July 20, 1999

Element: Adjustments already made to Operating Plan to Accommodate New Traffic Flows and Employee and Shipper Requirements

- Objectives: 1. Shift classification work to other NS hump and flat yards.
2. Enhance staffing in key operations support facilities

Action	Location	Start Week
Re-allocate staff personnel to:		
Crew Calling	Dearborn, MI	1st Wk June
Crew Hauling (drivers, training)	Northern Region	1st Wk June
Operations Control Center	Philadelphia, PA	1st Wk June
Car Distribution	Atlanta, GA	1st Wk June
Customer Service Centers	Atlanta, GA and Pittsburgh, PA	1st Wk June
Northern Region Dispatch Centers	Dearborn, MI, Pittsburgh, PA and Harrisburg, PA	1st Wk June
Additional switching	Altoona, PA	2nd Wk June
	Canton, OH	3rd Wk June
	Conneaut, OH	2nd Wk June
	Corning, NY	2nd Wk June
	Danville, KY	2nd Wk June
	Enola, PA	1st Wk June
	Hagerstown, MD	2nd Wk June
	Lancaster, PA	3rd Wk June
	Northumberland, PA	2nd Wk June
	Olean, NY	2nd Wk June
	Portsmouth, OH	2nd Wk June
	Reading, PA	3rd Wk June
	Williamson, WV	2nd Wk June
	Youngstown, OH	2nd Wk June
Additional classification work	Calumet, IL	2nd Wk June
	Birmingham, AL	2nd Wk June
	Chattanooga, TN	2nd Wk June
	Cincinnati, OH	2nd Wk June
	Decatur, IL	2nd Wk June
	Ft. Wayne, IN	2nd Wk June
	Knoxville, TN	2nd Wk June
	Linwood, NC	2nd Wk June
	Louisville, KY	2nd Wk June
	Roanoke, VA	2nd Wk June
	Sheffield, AL	2nd Wk June

Norfolk Southern Customer Service Report
July 20, 1999

Element: **Adjust Intermodal Operating Plan for Service/IT Problems**

- Objectives:**
1. Improve intermodal reliability and timeliness
 2. Improve visibility of intermodal trains in the system
 3. Improve accuracy of reporting and billing
 4. Enhance flow of information to our customers

Action	Purpose/Comments	Start Date
Created a 14 person intermodal operations desk in Philadelphia	Run Intermodal trains "on paper" in the absence of system visibility	6/01
Implemented accelerated roll-out of SIMS, Intermodal's terminal operating system	Due to 'T failures in train reporting, Intermodal needed improved visibility of terminal and billing activity. Originally, SIMS was to be rolled out in 4 to 6 months. 5 terminals were rolled out on Day One with complete rollout to 13 terminals by August 9. Rollout at last major terminal, Chicago, to be complete by end of July. Rollout of each terminal produces significantly improved terminal operations, visibility and productivity. Over 50 people engaged in this rollout.	6/01
Expanded field capacity	Personnel shifted from "old NS" operations and headquarters to staff-up field and dispatching operations in the former Conrail territory	6/01
Created a 12 person data quality group at the Pittsburgh NCSC for Intermodal	"Cleans up" data quality problems before trains are reported at the NCSC. Helps improve visibility of trains and units to operations and customers	6/13
Implementing partial network redesign	In order to eliminate or reduce work at congested terminals like Bellevue and Harrisburg, Intermodal will implement a partial re-design of select services on July 5 (planning commenced on 6/14)	7/05

Norfolk Southern Customer Service Report
July 20, 1999

Element: **Enhance Train Crew and Locomotive Availability**

Objectives: 1. Assign additional T&E personnel to the Northern Region
2. Lease/acquire additional locomotives

Resource	Engineers	Conductors	Locomotives	Timing
Additional Train & Engine Personnel	59	86	--	By 7/19/99
Additional Locomotives	--	--	161	By 7/19/99

Norfolk Southern Customer Service Report

July 20, 1999

Element: Use Resources Of Other Railroads

- Objectives:**
1. Shift certain work to other railroads (including short lines and regionals) to relieve congestion on the NS network
 2. Use connecting carriers to block cars for NS.
 3. Shift interchange locations in order to use less congested NS routes.
 4. Utilize connecting carriers to bridge traffic away from congested routes and terminals.
 5. Work with Amtrak to continue relaxation of Northeast Corridor freight operating windows.

Railroad/Action	Purpose	Start Week
Amtrak Additional freight slots on NEC	Recover from late NS operations of time-sensitive freight	6/01
Elgin, Joliet and Eastern Switch cars at Gary, IN	Relieve congestion at Elkhart Yard	6/01
Ohio Central Railroads 1. Increase use of haulage between Columbus and Mingo Jct., OH 2. Switch cars at Youngstown, OH	Alternate route to avoid Bellevue Relieve congestion at Bellevue, Buckeye, and Conway Yards	6/01 6/21
Union Pacific 1. Divert Salem, IL gateway traffic to Memphis, TN 2. Gateway substitution with mixed pre-blocked trains	Relieve congestion at Bellevue and Conway Yards Expedite gateway traffic	6/01 6/14
Ann Arbor Switch cars at Toledo, OH	Relieve congestion at Toledo	6/07
Burlington Northern Santa Fe 1. Pre-block cars at Galesburg, IL 2. Operate special trains for time-sensitive freight 3. Gateway substitution with mixed pre-blocked trains	Relieve congestion at Elkhart Yard Expedite time-sensitive traffic Expedite gateway traffic	6/07 6/07 6/14
Canadian Pacific Operate special trains for time-sensitive freight	Expedite time-sensitive traffic	6/07
Lycoming Valley Switch cars at Williamsport, PA	Relieve congestion at Buffalo and Buffalo Gateway	6/07
Philadelphia, Bethlehem, & N. England Switch cars at Bethlehem, PA	Relieve congestion at Allentown and Conway Yards	6/07
Union Railroad Switch cars at Pittsburgh, PA	Relieve congestion at Conway Yard	6/07

Norfolk Southern Customer Service Report
July 20, 1999

Element: **Use Resources Of Other Railroads**

Railroad/Action	Purpose	Start Week
Wheeling and Lake Erie 1. Switch cars at Brewster, OH 2. Operate road trains between Bellevue - Canton - Pittsburgh	Relieve congestion at Conway Alternate routes to avoid Cleveland and Bucyrus, OH	6/07 6/07
Canadian National Gateway substitution with mixed pre-blocked trains	Expedite gateway traffic	6/14
CSXT NS detour rights between Columbus and Toledo, OH (Buckeye and Stanley yards)	Relieve congestion on the Sandusky District	6/14
Central Railroad of Indianapolis Haulage between Kokomo and Marion, IN	Get empty auto parts cars to GM at Marion as required	6/21
Indiana & Ohio Haulage between Diann, MI and Cincinnati, OH	Relieve congestion Toledo - Bellevue - Portsmouth	6/21
New York, Susquehanna & Western 1. Haulage between Passaic Jct. and Binghamton, NY 2. Switch cars at Binghamton, NY	Alternate route to avoid Allentown, PA Relieve congestion at Buffalo	6/21 6/21
North Shore Railroad Temporary interchange w/STL&H at Sunbury, PA	Expedite shipments moving between North Shore Railroad family of lines and Canada	6/21
South Buffalo Switch cars at South Buffalo, NY	Relieve congestion at Buffalo	6/21
Buffalo and Pittsburgh 1. Switch cars at Buffalo 2. Haulage between Buffalo, NY and Freeport, PA	Relieve congestion at Buffalo and Buffalo Gateway Alternate route to avoid Buffalo yards	6/28 6/28
R J Corman Pennsylvania Line Haulage between Cresson and Keating, PA	Relieve congestion at Harrisburg, PA	6/28

Norfolk Southern Customer Service Report

July 20, 1999

Element: **Add Capacity To The Physical Plant**

- Objectives:**
1. Upgrade/expand existing main line capacity/clearances
 2. Improve interchange capability with connecting railroads for increased throughput
 3. Develop new by-pass routes to improve traffic fluidity

Location	Purpose	Status	Completion
Croxtor, NJ Complete CQ Yard	Provide additional support track in NJ for intermodal operations	Under construction	8/99
Buffalo, NY Reactivate tracks in sub-leased BPRR yard	Provide additional terminal capacity at Buffalo	Under construction	8/99
Pattensburg Tunnel Clear tunnel for doublestacks	Improve intermodal efficiency between NJ and Allentown	Under construction*	8/99
Chicago, IL Construct new METRA main lines around intermodal terminals (47th, 51st, and 55th Streets)	Provide for expansion of intermodal terminals and eliminate passenger train conflicts	Under construction	8/99
Wabash, IN Construct connection track	Allow direct movement between Elkhart, IN and Decatur, IL	Under construction	8/99
Ashtabula, OH Construct connection track	Allow head-on move between Ashtabula facility and NS line to Cleveland	Under construction	9/99

* Double stack operation commenced 6/22/99. Additional tunnel work in progress.

Norfolk Southern Customer Service Report

July 20, 1999

Element: **Adjust IT Systems and Processes to Improve Accuracy and Timeliness of Information**

- Objectives:**
1. Improve waybill-to-car-movement data
 2. Eliminate misrouting of cars
 3. Improve timeliness and accuracy of information to connecting carriers
 4. Improve visibility of train reporting
 5. Improve car tracing capability for National Customer Service Center (NCSC)

Problem	Impact	Action
1. Failure to associate proper waybill to car movement due to: <ul style="list-style-type: none"> - failure to close waybills at Conrail at the end of a trip - improperly reactivating closed waybills - improper waybill selection logic - improper reporting of load/empty status 	Operational misrouting of cars	<ul style="list-style-type: none"> a. Over 300,000 old waybills purged from Conrail's system b. Over 25,000 old empty waybills purged from Conrail's system c. Conrail program changes to enhance logic to close waybills d. Conrail program changes to eliminate switch of load/empty indicator on certain commodity codes once cars arrive at yards e. NCSC procedural reporting changes associated with waybill enrichment, arrivals/departures, and load/empty status f. Daily monitoring of selected trains to ensure proper waybills are associated with the car movements g. NS program changes to accurately recognize closed waybills h. Accelerated implementation of NS TYES (Thoroughbred Yard Enterprise System) on NS allocated portion of Conrail
2. Conrail improperly applying and/or displaying classification codes	Operational misrouting of cars	<ul style="list-style-type: none"> a. Conrail program changes to apply classification properly
3. Failure to transmit information between carriers on a timely basis	Operational congestion at major interchanges	<ul style="list-style-type: none"> a. Proper sequencing of the control table that allows interchange reporting between NS, Conrail, and other carriers b. NS system changes to properly transmit information to foreign carriers

Norfolk Southern Customer Service Report

July 20, 1999

Element: **Adjust IT Systems and Processes to Improve Accuracy and Timeliness of Information**

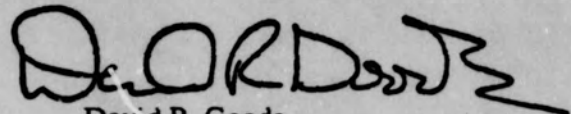
Problem	Impact	Action
4. Incomplete identification of interchange points	Operational congestion at major interchanges	a. NS and Conrail table updates that identify interchange points b. Communication with foreign carriers to make required location code changes for interchange to NS
5. Movements not reported in systems due to: - data quality issues - inconsistent and untimely car movement reporting	Operational lack of train visibility Customer Service unable to determine location and expected time of car delivery	a. Train symbol conversion entries added to NS tables b. NS system changes made to store car events with default train symbols c. Procedural changes made to report and track intermodal shipments d. Daily monitoring and resolution of conversion error queues e. Daily monitoring of waybill sample to verify car movement reporting in both Conrail and NS system
6. Combination of all five problems above a. NCSC, Pittsburgh b. NCSC, Atlanta c. Agency Operations Center, ATL d. Various field sites	Operational misrouting of cars	Manual supplement of automated systems (additional personnel assigned above Day One plan) as follows: a. Added 75 positions in early June Now 65 positions on long-term basis b. Added 25 positions in early June Remains at 25 on long-term basis c. Added 3 positions in early June Now at 1-2 on long-term basis d. Added 52 positions in early June Effort now terminated Note: people are rotated in and out for each position assignment as required

Notes: 1. Daily IT monitoring of train data being coordinated in Roanoke
2. Bad waybill data in CR systems being identified in Atlanta and Pittsburgh and purged in Philadelphia
3. System program changes are being done in Philadelphia and Atlanta

The Honorable Daniel Patrick Moynihan
August 9, 1999
Page 2

I hope that I have addressed your concerns sufficiently, and I look forward to the future success of the relationship between Norfolk Southern and our customers in western New York. I cannot reemphasize enough that reliable rail service is what matters, and our efforts are devoted to achieving that end.

Sincerely,



David R. Goode

Enclosure

STB

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MOC

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JACK QUINN

30TH DISTRICT, NEW YORK

TRANSPORTATION AND
INFRASTRUCTURE

SUBCOMMITTEES:

AVIATION

GROUND TRANSPORTATION
WATER RESOURCES AND ENVIRONMENT

VETERANS' AFFAIRS*

SUBCOMMITTEE CHAIRMAN:

BENEFITS



FILE IN DOCKET

70-
33388

PLEASE RESPOND TO:

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Congress of the United States

House of Representatives

Washington, D.C. 20515-3230

Via Facsimile

July 22, 1999

The Honorable Linda Morgan
Chairwoman

Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Dear Chairwoman,

In 1997 the Western New York Congressional Delegation participated as interested parties in the Surface Transportation Board (STB) evaluation of Conrail's acquisition by the CSX Corporation and the Norfolk and Southern Corporation. It was the goal of the delegation to prevent competitive harm to the local rail shippers expected to be negatively impacted by the proposed acquisition.

As I am sure you are aware, the STB did not provide the requested relief and the acquisition became a reality on June 1, 1999. As a result of the new rail alignment, the concerns envisioned by the local shippers as well as additional unanticipated negative impacts have come to light. I have been contacted by rail shippers and representatives of economic development agencies in the Western New York region requesting an opportunity to present these transportation and economic inequities.

In order to hear their concerns, I am hosting a luncheon meeting at 12 noon on August 3, 1999, at Cannon HOB room 340. The impacted shippers and economic development officials will address my Congressional colleagues, representatives of appropriate federal agencies and Congressional committees.

I would greatly appreciate your participation or that of your staff at this meeting, especially with the STB still reviewing the Western New York rail situation. I expect to initiate a discussion on the actions necessary to address the concerns brought forth, examine their impact upon the Western New York region and to seek a remedy from the appropriate federal agencies.

Please contact my legislative assistant, Erin Pierce at 202-225-3306 to confirm your attendance. Thank you for your continued assistance in this important matter.

Very truly yours,

Jack Quinn
Member of Congress

RECEIVED
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CHAIRMAN MORGAN

STB FD

33388

4-20-99

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MOC



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

April 20, 1999

The Honorable Bob Ney
U.S. House of Representatives
Washington, DC 20515-3518

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

Dear Congressman Ney:

I have been actively engaged in correspondence with the constituents whose inquiries you referred to me with your letter of March 15, 1999. Copies of their letters and my responses are enclosed.

As you can see from the enclosures, the thrust of their complaint is that they are dissatisfied with the agreement for implementing the CSX-NS-Conrail transaction negotiated with the various carriers on their behalf by their elected union representatives, and with the manner in which the negotiated agreement is being applied. The principal source of their dissatisfaction appears to be that they see the agreements negotiated on their behalf in the Conrail transaction as being less favorable to their interests than those agreed to in other rail consolidations which have been approved by the Board or its predecessor the Interstate Commerce Commission.

I have attempted to explain to them that issues associated with application of a negotiated implementing agreement, if they cannot be resolved among the parties, must be submitted to arbitration under Article I, Section 11 of the so-called "New York Dock" labor conditions which were imposed upon the Board's approval of the Conrail transaction. I have offered the assistance of the Board's Office of Congressional and Public Service to help them in pursuing their arbitral remedies, but to date they have not taken that approach. I have also attempted to explain in this regard that the Board does not, and should not, get involved in the negotiation and arbitration process.

I hope the foregoing will reassure you that the concerns of your constituents have been fully considered. I will have your correspondence made a part of the record in the Conrail proceeding. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosures

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Congress of the United States

House of Representatives

Washington, DC 20515-3518

March 15, 1999

COMMITTEES:
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TRANSPORTATION AND
INFRASTRUCTURE

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FILE IN DOCKET

THE HONORABLE LINDA MORGAN
CHAIRWOMAN
SURFACE TRANSPORTATION BOARD
1925 K STREET NW
WASHINGTON, D.C. 20423

Dear Chairwoman Morgan:

Please find enclosed a copy of a letter written to me by one of my constituents Mr. Jack D. Carter, regarding the recent acquisition of Conrail by Norfolk Southern and CSX. Mr Carter is concerned about the application of the New York Dock provisions in this acquisition. Any assistance you could provide in helping me answer Mr. Carter's concerns would be greatly appreciated. Please forward any information to the attention of Jeff Janas in my Washington office. Thank you in advance for your time to review this matter. If I can ever be of assistance to you in the future, please do not hesitate to contact me.

Sincerely,

Bob Ney
Member of Congress

RWN/jbp
cc:enclosure

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The Honorable Robert W. Ney
U. S. House of Representatives

Conrail Acquisition
February 19, 1999

Attached find copies of correspondence between local Conrail employees and Ms. Linda Morgan, Chairperson of the Surface Transportation Board (STB), relative to the implementing agreement reached between our union and the Norfolk Southern (NS) and CSX Transportation Company (CSXT), involving the acquisition of Conrail.

As a member of the Transportation Communications Union (TCU), I am convinced that the recent agreement reached by TCU with NS and CSXT does not fulfill the intent of the New York Dock (NYD), which is the basis on which recent merger agreements are derived.

The STB should not accept as fact that the new agreement between TCU and the acquiring rail carriers (NS and CSXT) is fair and equitable. The process of allowing the union and acquiring carriers to negotiate a fair implementing agreement, using established STB guidelines, has failed in this instance.

You need only examine the implementing agreements reached in other recent merger transactions (BN/ATSF, CN/GTW and UP/SP), and you will agree that inadequate and unfair conditions have been forced on Conrail's TCU members in this acquisition by NS and CSXT.

I respectfully request that you use whatever influence you might have with Linda Morgan and the STB to rectify this unacceptable situation, and help Conrail employees achieve parity with the implementing agreements (previously approved by the STB) mentioned in the previous paragraph.

Time is short, since the NS and CSXT intend to begin operating their respective portions of (the former) Conrail on June 1, 1999.

Thank you in advance for your help in correcting this shamefully inadequate agreement, and please advise as to your progress in helping working Americans achieve justice for ourselves and our families.

Attach.

Jack D. Carter
JACK D. CARTER
4751 St. Rt. 151
Mingo Jct., Ohio 43938

Linda Morgan
Chairperson
Surface Transportation Board

February 6, 1999

Conrail Labor Contract

With all due respect to the Board, your letter dated January 12, 1999 does not adequately explain why the Board will not allow the undersigned to become involved in our labor implementation process at this time.

We did not seek Board determination that the Implementing Agreement between Norfolk Southern Railway Company (NS) and CSX Transportation Company (CSXT) with respect to Consolidated Rail Corporation labor contracts fails to satisfy the provisions of Article I Section 4 of the New York Dock (NYD). To the contrary, in our letter dated November 25, 1998, we acknowledged that the Implementing Agreement did satisfy Article I, Section 4. However, it does not satisfy numerous concerns that we have or the intent of the NYD, and it contradicts Article I Section 3, which states:

3. "Nothing in this Appendix shall be construed as depriving any employee of any rights or benefits or eliminating any obligations which such employee may have under any existing job security or other protective conditions or arrangements; provided, however, that if an employee otherwise is eligible for protection under both this Appendix and some other job security or other protective conditions or arrangements, he shall elect between the benefits under this Appendix and similar benefits under such other arrangements and, for so long as he continues to receive such benefits under the provisions which he so elects, he shall not be entitled to the same type of benefits under such other provisions which he does not so elect; provided further, that the benefits under this Appendix, or any other arrangements, shall be construed to include the conditions, responsibilities and obligations accompanying such benefits; and, provided further, that after expiration of the period for which such employee is entitled to protection under the arrangements which he so elects, he may then be entitled to protection under the other arrangement for the remainder, if any, of his protective period under that arrangement."

Our reference to Article I Section 11 of the NYD as a means of resolving this dispute may have been in error, as Section 11 specifically exempts Section 4 and 12 from this method of resolution. However, we should have made reference to the Federal Appeals Court ruling, that in part upheld the decision of Judge James C. Turk, which states "that the Interstate Commerce Act gave full jurisdiction over merger related job changes to the Surface Transportation Board, because it reviews all aspects of railroad mergers."

To adequately explain the Board's refusal to allow us to become involved in the labor implementation process at this time, the following concerns must be addressed:

The Implementing Agreement (Protection Agreement) should have been part of the Conrail National Agreement (CNA), making it subject to employee ratification. Why were we denied this right?

We feel there was insufficient explanation and inadequate time to read and fully understand an agreement this complicated. Although all parties offered an informational meeting to explain the complexities of the Implementing Agreement, why did the carriers schedule their meetings one day prior to selection day?

While there were numerous other discrepancies, the selection list was incomplete and the job descriptions were vague to the point of nondescript, we feel we were rushed to make irrevocable choices, while new options were being introduced right up until and including day one of the selection process. Doesn't this indicate the Implementing Agreement was incomplete when originally signed by NS, CSXT and TCU?

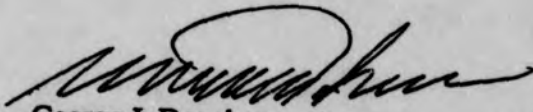
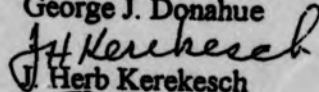
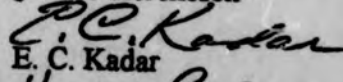
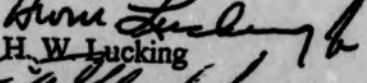

The Board declined to allow the carriers to override the Conrail contracts forcing the parties to negotiate an agreement. Was it the intent of the Board to allow the parties to reach an Implementing Agreement which satisfies the protocol of Article I, Section 4 of the NYD, but fails to satisfy the intent of Article I, Section 3, which is intended to protect the rights of the employees?

We are not concerned with the formalities or protocol of reaching an Implementing Agreement as outlined in Article I, Section 4, of the NYD. However we are concerned with the functionality of such an agreement as it relates to protecting the rights of Conrail's employees as outlined in Article I, Section 3 of the NYD.

For these reasons and items 2 through 5 of our letter dated November 23, 1998, we respectfully request the Board allow us to become involved in this process as it affects our lives and families.

We request the Board revisit this file and make this agreement comparable to previously approved transactions by the STB, thereby fulfilling the intent of Article I, Section 3, of the New York Dock.

cc: The Terasi Law Firm
All Pennsylvania Senators
All Pennsylvania Congressmen
Association for Union Democracy


George J. Donahue

Herb Kerekesch

E. C. Kadar

H. W. Lucking

E. F. Gladish

NAMES OF PETITIONERS

TO: LINDA MORGAN, CHAIRPERSON - SURFACE TRANSPORTATION BOARD
 SUBJECT: CONRAIL LABOR CONTRACT

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G.W. Burkett

Glen W. Burkett

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C. J. Milk

G.F. Kuzma

G.F. Kuzma

E. RIEDEL

E. Riedel

D.R. BEUK

D. Beuk

J.R. BOBEK

J. Bobek

L.A. DONFRIO

L. A. Donfriso

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Richard W. Gordon

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W.D. Holloman

LJ DOONE

L. J. Doone

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Lynda A. Heron

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Chris Catappa

J.D. Cook

J. D. Cook

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<u>D.R. McMULLEN</u>	<u>D.R. McMullen</u>
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<u>CL GARCIA</u>	<u>CL Garcia</u>
<u>David Post</u>	<u>Post</u>
<u>PHYLLIS MERHAUT</u>	<u>Phyllis Merhaut</u>
<u>CORNELIUS ROGERS</u>	<u>Cornelius Rogers</u>
<u>Susan A. Birtle</u>	<u>Susan A. Birtle</u>
<u>WILLIAM A. MCKNIGHT</u>	<u>William A. McKnight</u>
<u>Stephanie V. Williams</u>	<u>Stephanie V. Williams</u>
<u>JAY T. FORNWAULT, JR.</u>	<u>Jay T. Fornwalt, Jr.</u>
<u>MARK PRUMAK</u>	<u>Mark Prumak</u>
<u>JEROME CARUBIA</u>	<u>Jerome Carubia</u>
<u>PETER R. SPOSITO</u>	<u>Peter R. Sposito</u>
<u>F.L. SIGNORELLI</u>	<u>F.L. Signorelli</u>

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Robert Griffith, Jr.

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Louis Newman

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Tunisia P. Mason

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<u>V. S. Hamilton</u>	<u>V. S. Hamilton</u>
<u>M. E. SOMMERS</u>	<u>M. E. Sommers</u>
<u>P. J. Nichols</u>	<u>P. J. Nichols</u>
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<u>E. F. HALL</u>	<u>E. F. Hall</u>
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Gary D Bevan

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E L Eakin

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GARY ENGLEHART

Mary Englehart

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L.K. Foxton	L.K. Foxton
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<u>A. P. DESHAIS</u>	<u>AP Deshaeis</u>
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J. J. Stone

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W R Radke

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Joanna Kinney

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DL Broad

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L. A. BRANNAN

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R M Dvorich

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F. G. Archual

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B. O. Bowlander

SL Schell

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C E Frer

C E FRER

C E Frer

C E FRER

C E Frer

A E SILVA

A E Silva

M. P. ORSI

Michael P. Orsi

M. P. ORSI

Michael P. Orsi

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William E. Walton

W. E. WALTON

William E. Walton

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J Baranowski

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Norm Snyder

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MaryAnn Bresch

Barbara Kessler

Barbara Kessler

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Napoleon Boyd

B L BARCH

B. L. Barch

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<u>Denise L Hollow</u>	<u>Denise L Hollow</u>
<u>LEONARD L. PIEKNIK</u>	<u>L L Pieknik</u>
<u>CANDACE L MORENO</u>	<u>C L Moreno</u>
<u>JAMES R. Pecori</u>	<u>James R. Pecori</u>
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<u>HENRY T WRIGHT</u>	<u>Henry T Wright</u>
<u>William L ROBINSON</u>	<u>William L Robinson</u>
<u>Valencia Samille</u>	<u>Valencia Samille</u>
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<u>CHARLOTTE M. BADER</u>	<u>Charlotte M Bader</u>
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<u>DAVID L. RENCH</u>	<u>David L Rensch</u>

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<u>Patricia S. Murphy</u>	<u>Patricia S. Murphy</u>
<u>DOUGLAS A. GORDON</u>	<u>Douglas A. Gordon</u>
<u>ROBERT K. NICKENS</u>	<u>Robert K. Nickens</u>
<u>JOHN T. LAZAROW</u>	<u>John T. Lazarow</u>
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<u>CHRIS KWIECINSKI</u>	<u>Chris Kwiecinski</u>
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<u>PAUL M. KNAUSS</u>	<u>Paul M. Knauss</u>
<u>GEORGE S. THACK</u>	<u>George S. Thack</u>
<u>W. J. MCLEAN</u>	<u>W. J. McLean</u>
<u>CATHERINE K. TROUTMAN</u>	<u>Catherine K. Troutman</u>
<u>EDWARD J. GARDNER</u>	<u>Edward J. Gardner</u>
<u>RICHARD W. WHITE</u>	<u>Richard W. White</u>

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 SUBJECT: CONRAIL LABOR CONTRACT

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J. J. VASEY	<i>J. J. Vasey</i>
DA Bowlander	<i>DA Bowlander</i>
D.E. BULLO	<i>D.E. Bullo</i>
R.J. FALVO	<i>R.J. Falvo</i>
R.C.D. MARCO	<i>R.C.D. Marco</i>
J. W. Dymond	<i>J. W. Dymond</i>
CT Miles	<i>Clete Miles</i>
W A Richards	<i>W A Richards</i>
JOE KOSLIK	<i>Joe Koslik</i>
Ron Wood	<i>Ron Wood</i>
BONNIE KOSLIK	<i>Bonnie S Koslik</i>
Rebec Hill	<i>Rebec Hill</i>
KON KASPER	<i>Kon Kasper</i>

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SUBJECT: CONRAIL LABOR CONTRACT

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Elmer

James B. BARRETT

James B. Barrett

A. J. SEAMAN

Seaman

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Harry E. Buchanan

R. C. Dutton

R. C. Fuller

ALLEN J PANNETTA

Allen J. Pannetta

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J.E. M^{rs} CARTYJ.E. M^{rs} CartyA.E. BARRETTAnna E. BarrettDAVID M. PIERCEDavid M. PierceJOHN F. FERENCYJohn F. FerencyP.J. HOGUERM HogueD.F. McEACHERNDonald J. McEachern

TO: LINDA MORGAN, CHAIRPERSON - SURFACE TRANSPORTATION BOARD
SUBJECT: CONRAIL LABOR CONTRACT

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PRINT	SIGN
Rose M Walsh	Rose M Walsh
Phyllis James	Phyllis James
Reid J. Coene	Reid J. Coene
RONALD J TYLER	Ronald J. Tyler
Samuel Saltis Jr	Samuel Saltis Jr
STEVEN A FRANKS	Steven A. Franks
ANGELO SANTILLI	Angelo Santilli

NAMES OF PETITIONERS

TO: LINDA MORGAN, CHAIRPERSON - SURFACE TRANSPORTATION BOARD
SUBJECT: CONRAIL LABOR CONTRACT

PRINT

SIGN

J. E. Myers

J. E. Myers 791021

E. W. Getty

E. W. Getty

R. A. Komacek

R. A. Komacek

B. M. Bell

Barbara M. Bell

J. I. PARSON

J. I. Parson

G. L. Piccioni

G. L. Piccioni

L. C. FERRELL

L. C. Ferrell

J. M. GLUSICA

J. M. Glusica

R. A. CHARNOVICH

R. A. Charnovich

P. D. Appleby

P. D. Appleby

L. D. ROBERTS

L. D. Roberts

D. A. DIDDOCK

D. A. Diddock

J. J. FLAHERTY JR

John J. Flaherty Jr



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

January 12, 1999

Mr. George J. Donahue
258 Pennsylvania Blvd.
Pittsburgh, PA 15228

Dear Mr. Donahue:

This responds to your letter of November 25, 1998, on behalf of yourself and numerous other employees of Conrail seeking a Board determination that the implementing agreement between Norfolk Southern Railway Company and CSX Transportation Company with respect to the Consolidated Rail Corporation labor contracts fails to satisfy the provisions of Article I, Section 4 of the New York Dock conditions that we imposed upon our approval of the Conrail acquisition in CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company — Control and Operating Leases/Agreements — Conrail Inc. and Consolidated Rail Corporation, STB Finance Docket No. 33388, Decision No. 89 (STB served July 23, 1998).

As your letter recognizes, Article I, Section 11 of New York Dock provides the means for resolving all disputes of the sort you have sought to bring before the Board.¹

¹ As relevant, that section provides:

11. *Arbitration of disputes.*—(a) In the event the railroad and its employees or their authorized representatives cannot settle any dispute or controversy with respect to the interpretation, application or enforcement of any provision of this appendix, except sections 4 and 12 of this article I, within 20 days after the dispute arises, it may be referred by either party to an arbitration committee. Upon notice in writing served by one party on the other of intent by that party to refer a dispute or controversy to an arbitration committee, each party shall, within 10 days, select one member of the committee and the members thus chosen shall select a neutral member who shall serve as chairman. If any party fails to select its member of the arbitration committee within the prescribed time limit, the general chairman of the involved labor organization or the highest officer designated by the railroads, as the case may be shall be deemed the selected member and the committee shall then function and its decision shall have the same force and effect as though all parties had selected their members.

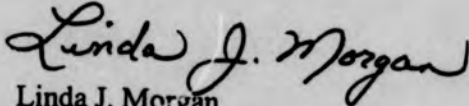
(continued...)

The courts have consistently interpreted the requirement to resort to the arbitration provided in that section prior to bringing the issue before the Board to be mandatory. See, Walsh v. I.C.C., 723 F.2d 570, 573-74 (7th Cir. 1983). The Interstate Commerce Commission (ICC), the Board's predecessor agency, with approval of the court thus consistently refused to become involved in resolving disputes or rendering interpretations of the type you seek prior to the matter having gone to arbitration. See also United Transp. Union v. U.S., 905 F.2d 463 at 470 (D. C. Cir. 1990). Thus, it is consistent with almost two decades of consistent precedent and practice that the Board not become involved in the process at this stage of the proceedings.

In this regard, I should note, however, that the Board, at the request of your labor organization, and others, specifically declined to find, as had been requested by Norfolk Southern and CSX, that overriding Conrail's contract provisions was necessary to implement the transaction. Thus, arbitrators will not be compelled by any statement of the Board in this case to override any particular contract provisions. After this matter has proceeded through arbitration, the Board will, of course, be available to accept an appeal from the decision of the arbitrator if it satisfies the requirements of 49 C.F.R. 1115.8 and the Lace Curtain standards the Board applies to determining which decisions of arbitrators it will review. See Chicago and Northwestern Transp. Co.—Abandonment—Near Dubuque and Oelwein, IA, 3 I.C.C.2d 729 (1987) (Lace Curtain), aff'd sub nom. International Bhd. Of Elec. Workers v. ICC, 862 F.2d 330 (D.C. Cir. 1988).

I hope that the foregoing adequately explains my reasons for declining to entertain your request to become involved in the labor implementation process at this stage. The Board, however, can be of assistance to you in pursuing your arbitral remedies, should you decide to do so. If you need further information, please do not hesitate to contact our Office of Congressional and Public Services at (202) 565-1592.

Sincerely,


Linda J. Morgan

¹(...continued)

Should the members be unable to agree upon the appointment of the neutral member within 10 days, the parties shall then within an additional 10 days endeavor to agree to a method by which a neutral member shall be appointed, and, failing such agreement, either party may request the National Mediation Board to designate within 10 days the neutral member whose designation will be binding upon the parties.

Linda Morgan
Chairperson
Surface Transportation Board

November 23, 1998

Conrail Labor Contract

By its approval of past class I railroad transactions, the Surface Transportation Board (STB) has set precedent as to its interpretation of contracts which satisfy the conditions of the New York Dock (NYD).

The Implementing Agreement between Norfolk Southern Railway Company, Norfolk Southern Corporation (collectively NS), CSX Transportation, Inc. (CSXT), Consolidated Rail Corporation (CRC) and the Transportation Communications International Union (TCU) may satisfy Article I, Section 4 of the NYD, yet it contradicts Article I, Section 3 and does not satisfy a number of other conditions, or the intent of the NYD. Also, it does not protect the employee by applying industry standards set forth in contracts of previous transactions approved by the STB.

(1) The Conrail National Agreement (CNA) was subject to employee ratification per TCU constitution. In as much as the protection agreement should have been part of the CNA, This Implementing Agreement should also be subject to rank and file vote. This is apparent from other agreements previously approved by the STB.

(2) The severance package of \$72,500 is significantly less than industry standards set in the UP-SP and BN-ATSF contracts.

(3) The 50 mile plus qualifying radius for moving expenses is contrary to the conditions of the NYD in Article I, Section 1, Par. E and Article I, Section 5. There is nothing in the NYD which permits the use of federal statutes to adjust the mileage radius nor any precedent in the rail industry to justify this change.

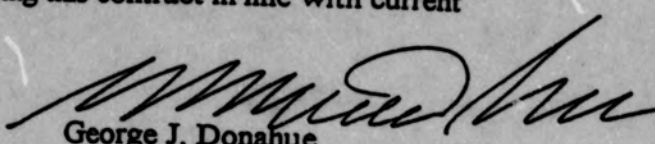
(4) The language, which protects spouses and family in the event of extreme or adverse conditions, that may occur after the move is insignificant compared to industry standards set in past contracts.

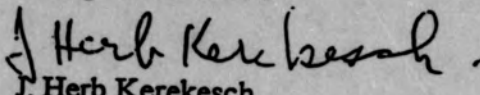
(5) The proposed selection process is inappropriate because, the time allotments from the time the employees see the job selection list is insufficient to discuss with family members prior to making one's selection. Also, the job descriptions are incomplete with regard to various shift and start time.

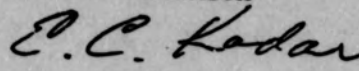
We the undersigned employees dispute this contract (Article I, Section 11, Par. A. This contract is unfair and inequitable. It does not meet the conditions of the NYD and is not comparable to industry standards previously approved by the STB. Any time or procedural restrictions should be set aside as the employees were not privy to the content

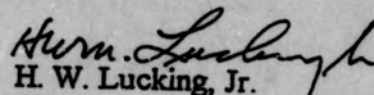
of this contract until Nov. 7, 1998. We request that this dispute be made part of the record and that the STB revisit this contract and related material and make the appropriate adjustments to meet the conditions of the NYD, and bring this contract in line with current class I railroad industry standards.

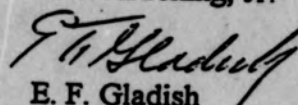
cc. The Tarasi Law Firm
All Pennsylvania Senators
All Pennsylvania Congressmen
Association for Union Democracy
~~Department of Justice Anti-Trust Div.~~
~~Department of Labor~~


George J. Donahue


J. Herb Kerekesch


E. C. Kadar


H. W. Lucking, Jr.


E. F. Gladish

STB

FD

33388

4-12-99

J

MOC.S



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-6001

FILE IN DOCKET
FA-33388

April 12, 1999

The Honorable Richard G. Lugar
United States Senate
Washington, D.C. 20510

Dear Senator Lugar:

Thank you for your letter enclosing correspondence from your constituent, Mr. James C. Gunn, of Goshen, Indiana. Mr. Gunn expressed concern about the impact of the acquisition of Conrail by Norfolk Southern Corporation (NS) and CSX, particularly with regard to Conrail clerks and safety.

The Surface Transportation Board (Board) carefully examined the proposed Conrail acquisition transaction, found it to be in the public interest, and imposed the labor protective conditions set forth in New York Dock Ry.--Control--Brooklyn Eastern Dist., 360 I.C.C. 60 (1979) (New York Dock) (copy enclosed). The New York Dock conditions were imposed to protect employees who may be adversely affected by the acquisition and division of Conrail. These conditions provide lost-income protection for up to 6 years, fringe benefit protection, moving expenses, and protection from losses from home sale, and they provide for arbitration of disputes arising from the implementation of the approved transaction. These conditions are the most far reaching labor protective conditions that the Federal Government imposes on private transactions such as the Conrail acquisition. Additionally, the Board expects that the carriers will give careful consideration to the interests of the employees to avoid the imposition of undue hardship upon them.

It is the Board's understanding that the carriers have negotiated implementing agreements with almost all of the unions for the implementation of the Conrail acquisition transaction, including those representing Conrail clerks. And, as noted, the New York Dock conditions provide extensive protection for employees harmed by a covered transaction, and they contain specific procedures for resolving disputes that may arise from the implementation of the transaction.

With regard to safety, the Board has required the carriers to prepare Safety Integration Plans (SIPs) in consultation with the Federal Railroad Administration (FRA) to ensure the safe implementation of the Conrail acquisition. The SIPs process is an ongoing cooperative effort between the Board and the FRA to assure that the transaction is safely implemented.

I appreciate your concerns and am having your letter, your constituent's correspondence, and my response made a part of the public docket for the Conrail proceeding. If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosure

RICHARD G. LUGAR
INDIANA

308 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510
202-224-4814

COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
CHAIRMAN
FOREIGN RELATIONS
SELECT COMMITTEE
ON INTELLIGENCE

United States Senate

WASHINGTON, DC 20510-1401

FILE IN DOCKET

February 22, 1999

The Hon. Linda Morgan, Chairman
Surface Transportation Board (STB)
12th and Constitution Avenues, N.W.
Room 4126
Washington, D.C. 20423

OFFICE OF
CHAIRMAN MORGAN

FEB 24 5 24 PM '99

RECEIVED
SURFACE TRANSPORTATION
BOARD

Dear Ms. Morgan:

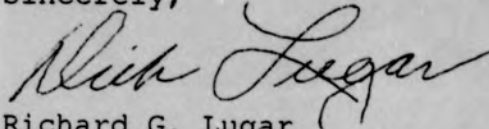
I have enclosed a copy of a letter I received from a constituent, Mr. James C. Gunn, who has expressed a number of concerns about the planned acquisition of Conrail by CSX Transportation and the Norfolk Southern Railroad.

Although the proposed transaction was approved by the STB last year, I wanted to share with you Mr. Gunn's concerns about provisions of the plan that address current agreements between the railroads and rail employees in Indiana.

I would very much appreciate the STB's comments addressing Mr. Gunn's concerns. It would be helpful if you directed your reply to me, attention: Bob Healey.

Thank you for your assistance. I appreciate your being responsive to the concerns of my constituent.

Sincerely,



Richard G. Lugar
United States Senator

RGL/rhr
enclosure

(3)

James C. Gunn
24682 C.R. 36
Goshen, IN 46526
Feb. 8, 1999

Senator Richard Lugar
306 Hart Senate Office Bldg.
Washington, DC 20510

Dear Senator Lugar:

I wrote to you in late March or early April of last year (1998) regarding the proposed sale and eventual takeover of Conrail by the NS and CSXT Railroads. I expressed strong concern for the ultimate position that Conrail workers would be placed in if this takeover were to take place. Your reply was basically, "Let's take a wait and see attitude until after the decision by the National Surface Transportation Board". I was not very pleased with this position to say the least. From just my own personal observation of any mergers or takeovers such as this, it is too late to favorably change these kinds of decisions after they are made. The time for input and possible influence is before they are made. As you should remember, most current Conrail workers have gone through this type of situation twice before; first in the Penn-Central merger and then in the Conrail merger. Needless to say, we have been used like a pawn in a chess game. I did, however, put my confidence in your judgement and hoped that Conrail workers would be treated fairly.

The current Conrail clerks, especially, are already seeing the negative effects of having agreements which were negotiated with Conrail over the past few years put aside in favor of less favorable agreements or interpretations by the Norfolk Southern. We are being forced to take higher rated jobs to protect our pay rates even though we had satisfied our labor agreement with Conrail. In other words our fears are already coming true. This is causing people to take jobs which they do not feel comfortable in, either the type of work or the physical requirements of some of these jobs. The morale of the workers is at an all time low which tends to make workers more careless and therefore prone to injuries to themselves or fellow workers.

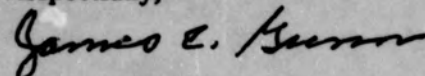
Another disturbing situation is that three Conrail clerks from Ft. Wayne, who were forced to take jobs at Elkhart during the Penn-Central days, are being forced to bid to jobs in the Norfolk Southern seniority district which encompasses the Elkhart-Chicago roster rather than being allowed to return to Ft. Wayne. There are several clerk's jobs on the NS now at Ft. Wayne and logic would say that these three Conrail clerks would be allowed to return to the Ft. Wayne area. That, however, seems to be the stickler; logic does not prevail.

These facts should be brought to the attention of the NSTB and the management of the Norfolk Southern. Matters such as these could very easily contribute to a situation that occurred on the UP-SP Railroad during the last year. Morale is at an all time low for most

Conrail workers and though I don't say it is a cause; it does seem more than coincidental that there have been four fatalities on Conrail in less than 3 weeks. Low morale, a showing of a lack of respect for a large group of workers who sacrificed to make Conrail the profitable company it is today, and uncertainty over jobs and work locations can make for otherwise careful workers to become careless.

As I said before, to change or try to influence change after the NSTB has made their ruling is very difficult; however I feel this needs to be looked into. It needs to be looked into for the benefit not only of Conrail workers, but shippers who will be using the new NS rail network and even possible safety of the general public.

Respectfully,

A handwritten signature in cursive script that reads "James C. Gunn". The signature is written in dark ink and is positioned above the printed name.

James C. Gunn

(1)

99 FEB 12 PM 1:21

James C. Gunn
24682 C.R. 36
Goshen, IN 46526

Senator Richard Lugar
306 Hart Senate Office Bldg.
Washington, DC 20510

219-296-2279

Dear Senator Lugar:

First, let me say that I have been a strong supporter of you and the high set of values you have shown since you were first elected to the Senate.

I am writing this letter out of a strong concern for what is taking place with regards to the proposed takeover of Conrail by the CSX Railroad and the dividing of it with the NS Railroad. I have worked for Conrail and its predecessors for 31 years in Elkhart. I am naturally first concerned for my job and that of all the other employees of Conrail and, for that matter, the employees of CSX and NS, if this takeover is allowed. I work as a clerk in the materials department. The ranks of the clerks over the entire Conrail system have already been drastically reduced under the guise of advanced technology, reduction of work, etc. The sad part of this scenario is that service to the shippers and their customers has in far too many instances been lessened. Also, the safety of its employees and even the general public has been severely jeopardized because of many of these cuts.

I have never been a strong advocate of labor unions, but I do have to agree with most of their positions concerning the increasing profits being recorded by the railroads. These constantly increasing profits are going in the pockets and bank accounts of high level management and the stockholders while the employees are being asked to take far less including having their jobs abolished. In a large number of these instances, the work is still there but is being contracted out to non-railroad employees who are not paying into the Railroad Retirement Fund. It is no wonder then that there is ongoing talk of the financial trouble that the Railroad Retirement Fund is in.

I strongly urge you to use your position as our Senator to do your utmost to see that, if this buyout of Conrail is consummated, the rights and benefits of the Conrail workers are not violated and that the provisions of the New York Dock agreement and any other protections are adhered to. Past history of mergers, especially rail mergers, has shown that any imaginable loophole is used to avoid paying workers benefits to which they are entitled, even under Federal laws. If it were not for many sacrifices made by Conrail workers since its creation, Conrail would not be the lucrative subject of this fight between CSX and NS, that it is today.

Respectfully,

James C. Gunn

(2)

James C. Gunn
24682 C.R. 36
Goshen, IN 46526
May 5, 1997

Senator Richard Lugar
306 Hart Senate Office Bldg.
Washington, DC 20510

Dear Senator Lugar:

I am writing this letter as a follow-up to a letter which I sent you 3 or 4 weeks ago of my concerns pertaining to the proposed purchase of Conrail by the CSX and the NS Railroads. I received a reply from you dated April 17, 1997 in which you stated that you were forwarding a copy of my letter to the Railroad Retirement Board. I appreciate that; but I apparently did not state as clearly as I should, what my main concerns are at this time. Although I am very concerned for the continued financial well-being of the Railroad Retirement System, my immediate concern is that Conrail as well as CSX and NS union workers will be treated fairly. Even though we supposedly have protection under the New York Dock agreement, among others, we have witnessed a complete disregard for union railroad worker's rights under these agreements in the past. As you know, Conrail workers with more than 28 or 29 years of service, have been subjected to 2 mergers in the past, so I am speaking from personal experience.

Indiana and its economy, including its railroad worker's jobs, will be greatly affected by this merger and how these protective laws and agreements are enforced. With Conrail's Elkhart and Avon yards being 2 of the largest, if not the largest, rail facilities in Indiana, it is quite clear that Conrail workers will be most adversely affected.

Again, I strongly urge you to use your position as our Senator to do your utmost to see that, if this buyout of Conrail is consummated, the rights and benefits of the Conrail workers are not violated and that the provisions of the New York Dock agreement and any other protections are adhered to. Past history of mergers, especially rail mergers, has shown that any imaginable loophole is used to avoid paying workers benefits to which they are entitled, even under Federal laws. If it were not for many sacrifices made by Conrail workers since its creation, Conrail would not be the lucrative subject of this fight between CSX and NS, that it is today.

Respectfully,

James C. Gunn

STB FD

33388

4-12-99

J

MOCH



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

FO-
33388

April 12, 1999

The Honorable James L. Oberstar
Ranking Democratic Member
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Oberstar:

Thank you for your follow-up letter regarding implementation of the condition requiring the restoration of competitive rail service east of the Hudson, which the Surface Transportation Board (Board) imposed in approving the Conrail acquisition transaction. You urge the adoption of a number of positions of the Canadian Pacific Railway in the ongoing proceeding before the Board to resolve issues relating to the implementation of that condition.

Let me assure you that the Board is committed to implementing the east-of-the-Hudson condition to restore rail competition to New York City consistent with the Board's imposition of that condition. Because, as you know, petitions for reconsideration involving this matter remain pending before the Board, it would be inappropriate for me to comment further at this time.

As before, I am having your letter made a part of the public docket for the Conrail proceeding, and your name has already been placed on the service list to ensure that you will receive all future Board decisions in this case. Again, I appreciate hearing your views on this matter, and if I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan

Linda J. Morgan



FILE IN DOCKET

Committee on Transportation and Infrastructure

Congress of the United States

House of Representatives

Washington, DC 20515

Bud Shuster
Chairman

Jack Schenendorf, Chief of Staff
Michael Strachn, Deputy Chief of Staff

James L. Oberstar
Ranking Democratic Member

David Heym,feld, Democratic Chief of Staff

February 18, 1999

The Honorable Linda J. Morgan
Chairman, Transportation Safety Board
ATTN: STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

RE: Finance Docket No. 33388 (Sub-No. 69), CSX Corporation and CSX Transportation Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc. And Consolidated Rail Corporation

Dear Chairman Morgan:

Thank you for your letter of January 26th, 1999, and for the copy of your December 18th decision enclosed therein. I had written to you on December 9th, 1998, and asked you to grant the Canadian Pacific Railway (CP) full service rights east of the Hudson River, so as to effectuate the Board's stated intent of restoring "a modicum of the competition that was lost in the financial crisis that led to the creation of Conrail."

Your December 18th decision fell well short of that, in that you denied CP rights to provide local service between Albany and New York and granted them overhead rights only. Your decision was also ambiguous as to the rights that CP has to use all the rail yards and other facilities on the line, such as the Harlem River Yard. Finally, your decision specified a trackage rights fee to be paid by CP that is so high that it would effectively deny CP even the overhead rights that it is nominally granted. I urge you to remedy these defects in responding to the petitions for reconsideration of Decision No. 109 that you received last month.

CP is proposing to offer both traditional boxcar service and short-haul intermodal service between Albany and New York City. The whole purpose of allowing CP to enter these businesses is to reduce transportation rates to New York City and to have more cargo carried by rail and less by truck. Achieving these objectives requires that the costs of rail service be low but that the quality of rail service be high. High trackage rights fees and restricted access to yards would frustrate both of these objectives.

Forcing CP to pay a trackage rights fee of \$0.71 per car-mile, as you propose, or \$1.29 per car-mile, as CSX proposes, would make it impossible for CP to compete effectively against

The Honorable Linda J. Morgan
February 18, 1999
Page 2

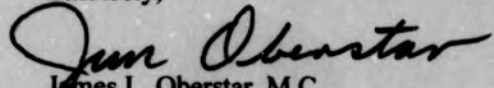
CSX and the trucking industry. Whether the extra cost per car is \$30 (as you calculate) or \$53 (as CP calculates), CP would be at a serious cost disadvantage to CSX and, particularly in light of your denial to CP of local traffic rights, it would be unlikely to provide the new competitive option to shippers that your approval of the Conrail acquisition promised. Your proposal would require CP to pay for (and presumably pass along to shippers in the form of higher rates) the "acquisition premium" that CSX and Norfolk Southern incorporated in the price they paid for Conrail, despite your assurances at the time that you approved the acquisition that shippers would not have to pay higher rates because of the acquisition premium. I urge you to adopt CP's proposal that the trackage rights fee be limited to \$0.36 per car-mile.

Effective competition also requires that the quality of service be excellent, so as to allow CP to offer delivery schedules reasonably equivalent to truck service. The only way this can happen is if CP is allowed to use the Harlem River Yard. If CP must haul its cars to the Oak Point Yard, and then lose a day and pay extra to have them switched back to the Harlem River Yard (because the Oak Point Yard lacks the space to do intermodal transfers), it will never be able to compete effectively with trucks. I urge you to clarify that CP will have the right to operate directly to the Harlem River Yard and use it for intermodal transfers.

I appreciate your attention to these details. The devil, it is often said, is in the details, and our intent to provide effective rail competition cannot succeed unless we structure the details of the service options that competing railroads can provide so as to allow them to compete successfully.

With all best wishes.

Sincerely,



James L. Oberstar, M.C.
Ranking Democratic Member

JLO/jwmm
cc: The Honorable William Clyburn

STB FD

33388

4-6-99

J

MOCS



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

April 6, 1999

The Honorable Daniel Patrick Moynihan
United States Senate
Washington, DC 20510-3201

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

Dear Senator Moynihan:

I have been actively engaged in correspondence with the constituents whose inquiries you referred to me with your letter of March 16, 1999. Copies of their letters and my responses are enclosed.

As you can see from the enclosures, the thrust of their complaint is that they are dissatisfied with the agreement for implementing the CSX-NS-Conrail transaction negotiated with the various carriers on their behalf by their elected union representatives, and with the manner in which the negotiated agreement is being applied. The principal source of their dissatisfaction appears to be that they see the agreements negotiated on their behalf in the Conrail transaction as being less favorable to their interests than those agreed to in other rail consolidations which have been approved by the Board or its predecessor the Interstate Commerce Commission.

I have attempted to explain to them that issues associated with application of a negotiated implementing agreement, if they cannot be resolved among the parties, must be submitted to arbitration under Article I, Section 11 of the so-called "New York Dock" labor conditions which were imposed upon the Board's approval of the Conrail transaction. I have offered the assistance of the Board's Office of Congressional and Public Service to help them in pursuing their arbitral remedies, but to date they have not taken that approach. I have also attempted to explain in this regard that the Board does not, and should not, get involved in the negotiation and arbitration process.

I hope the foregoing will reassure you that the concerns of your constituents have been fully considered. I will have your correspondence made a part of the record in the Conrail proceeding. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosures

cc: Gerald J. Corkery

STB FD

33388

3-22-99

J

MOC

DANIEL P. MOYNIHAN
NEW YORK

BUFFALO OFFICE
GUARANTY BUILDING, SUITE 203
28 CHURCH STREET
BUFFALO, NY 14202

United States Senate
WASHINGTON, DC 20510-3201

March 16, 1999

FILE IN DOCKET

OFFICE OF
CHAIRMAN MORGAN

Mar 22 5 04 PM '99

RECEIVED
SURFACE TRANSPORTATION
BOARD

Ms. Linda J. Morgan
Office of the Chairman
Surface Transportation Board
Washington, DC 20423-0001

Dear Ms. Morgan:

I am referring the enclosed inquiries from some of my constituents regarding the impending agreement reached between Norfolk Southern, CSX Transportation Company and the union members of Conrail to your office.

My constituents would appreciate your careful consideration of these remarks, and your thoughts on what remedies there are for this situation. Please respond directly to them and send a copy to me.

I thank you for your attention to this matter.

Sincerely,

Daniel P. Moynihan

Daniel Patrick Moynihan

Enclosures

Feb. 19, 1999

99 FEB 30 AM 10 19

The Honorable Daniel Moynihan
U. S. Senate

Conrail Acquisition

Attached find copies of correspondence between local Conrail employees and Ms. Linda Morgan, Chairperson of the Surface Transportation Board (STB), relative to the implementing agreement reached between our union and the Norfolk Southern (NS) and CSX Transportation Company (CSXT), involving the acquisition of Conrail.

As a member of the Transportation Communications Union (TCU), I am convinced that the recent agreement reached by TCU with NS and CSXT does not fulfill the intent of the New York Dock (NYD), which is the basis on which recent merger agreements are derived.

The STB should not accept as fact that the new agreement between TCU and the acquiring rail carriers (NS and CSXT) is fair and equitable. The process of allowing the union and acquiring carriers to negotiate a fair implementing agreement, using established STB guidelines, has failed in this instance.

You need only examine the implementing agreements reached in other recent merger transactions (BN/ATSF, CN/GTW and UP/SP), and you will agree that inadequate and unfair conditions have been forced on Conrail's TCU members in this acquisition by NS and CSXT.

I respectfully request that you use whatever influence you might have with Linda Morgan and the STB to rectify this unacceptable situation, and help Conrail employees achieve parity with the implementing agreements (previously approved by the STB) mentioned in the previous paragraph.

Time is short, since the NS and CSXT intend to begin operating their respective portions of (the former) Conrail on June 1, 1999.

Thank you in advance for your help in correcting this shamefully inadequate agreement, and please advise as to your progress in helping working Americans achieve justice for ourselves and our families.

Attach.

Gerald J. Corkery
GERALD J. CORKERY
26 VEGA ST.
JAMESTOWN, N.Y. 14701

Linda Morgan
Chairperson
Surface Transportation Board

February 6, 1999

Conrail Labor Contract

With all due respect to the Board, your letter dated January 12, 1999 does not adequately explain why the Board will not allow the undersigned to become involved in our labor implementation process at this time.

We did not seek Board determination that the Implementing Agreement between Norfolk Southern Railway Company (NS) and CSX Transportation Company (CSXT) with respect to Consolidated Rail Corporation labor contracts fails to satisfy the provisions of Article I Section 4 of the New York Dock (NYD). To the contrary, in our letter dated November 25, 1998, we acknowledged that the Implementing Agreement did satisfy Article I, Section 4. However, it does not satisfy numerous concerns that we have or the intent of the NYD, and it contradicts Article I Section 3, which states:

3. "Nothing in this Appendix shall be construed as depriving any employee of any rights or benefits or eliminating any obligations which such employee may have under any existing job security or other protective conditions or arrangements; provided, however, that if an employee otherwise is eligible for protection under both this Appendix and some other job security or other protective conditions or arrangements, he shall elect between the benefits under this Appendix and similar benefits under such other arrangements and, for so long as he continues to receive such benefits under the provisions which he so elects, he shall not be entitled to the same type of benefits under such other provisions which he does not so elect; provided further, that the benefits under this Appendix, or any other arrangements, shall be construed to include the conditions, responsibilities and obligations accompanying such benefits; and, provided further, that after expiration of the period for which such employee is entitled to protection under the arrangements which he so elects, he may then be entitled to protection under the other arrangement for the remainder, if any, of his protective period under that arrangement."

Our reference to Article I Section 11 of the NYD as a means of resolving this dispute may have been in error, as Section 11 specifically exempts Section 4 and 12 from this method of resolution. However, we should have made reference to the Federal Appeals Court ruling, that in part upheld the decision of Judge James C. Turk, which states "that the Interstate Commerce Act gave full jurisdiction over merger related job changes to the Surface Transportation Board, because it reviews all aspects of railroad mergers."

To adequately explain the Board's refusal to allow us to become involved in the labor implementation process at this time, the following concerns must be addressed:

The Implementing Agreement (Protection Agreement) should have been part of the Conrail National Agreement (CNA), making it subject to employee ratification. Why were we denied this right?

We feel there was insufficient explanation and inadequate time to read and fully understand an agreement this complicated. Although all parties offered an informational meeting to explain the complexities of the Implementing Agreement, why did the carriers schedule their meetings one day prior to selection day?

While there were numerous other discrepancies, the selection list was incomplete and the job descriptions were vague to the point of nondescript, we feel we were rushed to make irrevocable choices, while new options were being introduced right up until and including day one of the selection process. Doesn't this indicate the Implementing Agreement was incomplete when originally signed by NS, CSXT and TCU?

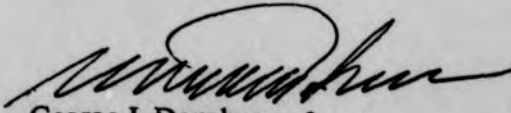
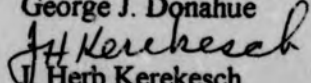
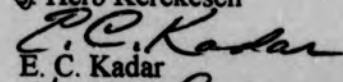
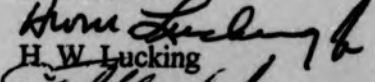
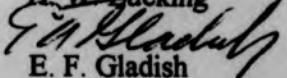
The Board declined to allow the carriers to override the Conrail contracts forcing the parties to negotiate an agreement. Was it the intent of the Board to allow the parties to reach an Implementing Agreement which satisfies the protocol of Article I, Section 4 of the NYD, but fails to satisfy the intent of Article I, Section 3, which is intended to protect the rights of the employees?

We are not concerned with the formalities or protocol of reaching an Implementing Agreement as outlined in Article I, Section 4, of the NYD. However we are concerned with the functionality of such an agreement as it relates to protecting the rights of Conrail's employees as outlined in Article I, Section 3 of the NYD.

For these reasons and items 2 through 5 of our letter dated November 23, 1998, we respectfully request the Board allow us to become involved in this process as it affects our lives and families.

We request the Board revisit this file and make this agreement comparable to previously approved transactions by the STB, thereby fulfilling the intent of Article I, Section 3, of the New York Dock.

cc: The Terasi Law Firm
All Pennsylvania Senators
All Pennsylvania Congressmen
Association for Union Democracy


George J. Donahue

Herb Kerekesh

E. C. Kadar

H. W. Lucking

E. F. Gladish

NAMES OF PETITIONERS

TO: LINDA MORGAN, CHAIRPERSON - SURFACE TRANSPORTATION BOARD
 SUBJECT: CONRAIL LABOR CONTRACT

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SIGN

PA. BURCHFIELD

PA. Burchfield

G. J. CORKERY

G. J. Corkery

G. W. Burkett

G. W. Burkett

C. J. MILK

C. J. Milk

G. F. Kuzma

G. F. Kuzma

E. RIEDEL

E. Riedel

DR. BECK

Dr. Beck

J. R. BOBEK

J. R. Bobek

L. A. DONFRIO

L. A. Donfriso

R. G. Gordon

Richard G. Gordon

W. D. HOLLAMAN

W. D. Holloman

L. J. DOONE

L. J. Doone

L. K. HERON

Lynda A. Heron

Chris CATAFFA

Chris Cataffa

J. D. COOK

J. D. Cook

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<u>ROBERT J. RYAN</u>	<u>Robert J. Ryan</u>
<u>D.R. McMULLEN</u>	<u>D.R. McMullen</u>
<u>DAVID A. KLIMENKO</u>	<u>DA Klmenko</u>
<u>CL GARCIA</u>	<u>Cl Garcia</u>
<u>David Post</u>	<u>Post</u>
<u>PHYLLIS MERHAUT</u>	<u>Phyllis Merhaut</u>
<u>CORNELIUS ROGERS</u>	<u>Cornelius Rogers</u>
<u>Susan A. Birtle</u>	<u>Susan A. Birtle</u>
<u>WILLIAM A. MCKNIGHT</u>	<u>William A. McKnight</u>
<u>Stephanie V. Williams</u>	<u>Stephanie V. Williams</u>
<u>JAY T. FERNWALT, JR.</u>	<u>Jay T. Fernwalt, Jr.</u>
<u>MARK PRUMAK</u>	<u>Mark Prumak</u>
<u>JEROME CARUBIA</u>	<u>Jerome Carubia</u>
<u>PETER R. SPOSITO</u>	<u>Peter R. Sposito</u>
<u>F.L. SIGNORELLI</u>	<u>F.L. Signorelli</u>

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Thom Kalmeyer

Thom Kalmeyer

WAYNE WILLOUGHBY

Wayne Willoughby

Robert Griffith, Jr.

Robert Griffith, Jr.

LOUIS NEWMAN

Louis Newman

LAWRENCE J ZIGENEIL

Lawrence J. Zigeneil

GK. CRANFORD

Chas R D D

J F SOMMERS

James J Sommers

TERAH I. KATLEN

Terah I. Katlen

Kathy I. Brown

Kathy I. Brown

DEBORAH J. WEBB

Deborah J Webb

MICHAEL J. GIANNOTTA

Michael J. Giannotta

Thomas L IGOU

Thomas Lynn Igou

ROBERT H JONES

R H Jones

TUNISIA P. MASON

Tunisia P Mason

Gregory K. Reilley

Gregory K. Reilley

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R. M. ESCHNER	R. M. Eschner
V. S. HAMILTON	V. S. Hamilton
M. E. SOMMERS	M. E. Sommers
P. J. NICHOLS	P. J. Nichols
N. E. RENNIE	N. E. Rennie
N. L. SAWYER	N. L. Sawyer
D. L. MAULORY	D. L. Maulory
J. D. COSENTINO	J. D. Cosentino
E. F. HALL	E. F. Hall
D. L. CAGLE	D. L. Cagle
D. J. HELLER	D. J. Heller

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RW M^cADAMS

K R Fye

K. R. Fye

KATHLEEN LEHANE

Kathleen Lehane

W. L. MAYNARD

W. L. Maynard

WAYNE R LATIMER

Wayne R Latimer

R. L. Blackburn

Robert L Blackburn

R BORKO

R Borko

P E HUMPHREY

P E Humphrey

C. F. MIGNANELLI

C. F. Mignanelli

J. T. SPERANZA

J. T. Speranza

L. D. BOSAK

L. D. Bosak

L. N. Zanger

L. N. Zanger

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JW Heidecker Sr.

J. R. FRIEBIS

J. R. Friebis

K. S. HENERY

K. S. Henry

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Jack D. Carter

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Irena C. Zimpfer

N. G. MUHA

Noreen B. Muha

L. R. BUTLER

Linda R. Butler

C. BOGER

C. Boger

G. R. MANCO

G. R. Manco

T. E. ODRINGER

T. E. Odringer

M. J. SALEY

M. J. Saley

G. D. HORSLEY

G. D. Horsley

P. F. QUIGLEY

P. F. Quigley

H. M. VUCETIC

H. M. Vucetic

R. HERRERA

~~R. Herrera~~

Gene Babcock

~~Gene Babcock~~

Eugene S. Babcock

James F. Talerico

James F. Talerico

S. P. GREGELY

S. P. Gregely

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<u>Debra J Stephens</u>	<u>Debra J Stephens</u>
<u>HOWARD E. HAYES</u>	<u>Howard E. Hayes</u>
<u>Anthony R. GERACI</u>	<u>Anthony R. Geraci</u>
<u>CAROLLYNN FRALEY</u>	<u>Carol Lynn Fraley</u>
<u>John B. Kidd</u>	<u>John B. Kidd</u>
<u>DAVID A. NICHOLS</u>	<u>David A. Nichols</u>
<u>Curtis F. Smith</u>	<u>Curtis F. Smith</u>
<u>GARY D BOVAN</u>	<u>Gary D Bovan</u>
<u>E. L. EAKINS</u>	<u>E L Eakin</u>
<u>DAVID R. STEPHENS</u>	<u>David R. Stephens</u>
<u>EDWARD J GOLETZ</u>	<u>Edward J Goletz</u>
<u>DONALD R ROSSBAUGH</u>	<u>Donald R. Rossbaugh</u>
<u>THOMAS V WALKER</u>	<u>Mary Englehart</u>
<u>GARY ENGLEHART</u>	<u>Mary Englehart</u>
<u>TOM BUCKINGHAM</u>	<u>T. Buckingham</u>

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JAMES RAE MOON	James Rae Moon
B.A. MITCHELL	B.A. Mitchell
ELIZABETH WILLIAMS	Elizabeth Williams
ROBERT J. KOWNACK	Robert J. Kownack
R. ELLIENWOOD	R. Ellienwood
FRANCIS H. NORTHROP	F. H. Northrop
RAYMOND A. STIGLICH	R.A. Stiglich
JUWANA G. MILLER	Juwana G. Miller
F. J. NEWCOMB, JR.	F. J. Newcomb, Jr.
J.A. BARABAS	J.A. BARABAS
JUDY SPANGLER	Judy Spangler
WILLIAM M. LIST	William M. List
RALPH CARROLL	R. Carroll
L.K. POXTON	L.K. Poxton
M.J. CIESLAK	M.J. Cieslak

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N M DEAL

N M Deal

B. L. WATSON

B. L. Watson

J. M. BUSH

J M Bush

A. P. DESHAIS

A P Deshaeis

J. C. SHUSS

J. C. Shuss

Mary McKnight

Mary McKnight

SAMUEL P WAITE

Samuel P Waite

DAVID J. NEMES

David J. Nemes

KEVIN J. CHANDLER

Kevin J. Chandler

Eugene F DAVIDSON

Eugene F Davidson

CANDICE R. ECKHARDT

Candice Eckhardt

JOSEPH WEBER JR

Joseph Weber Jr.

Charles Kelley

Charles Kelley

DONALD H. BUCK

D. H. Buck

HENRY J. WOZETEN

Henry J Wozetete

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<u>Joseph Magyares</u>	<u>Joseph E Magyares</u>
<u>C E McCours</u>	<u>C E McCours</u>
<u>Louis Cuccinorini</u>	<u>L Cuccinorini</u>
<u>S.G. PRICE</u>	<u>Sgri</u>
<u>D.R. BURHAM</u>	<u>DR Burham</u>
<u>JA MARCOCELLI JR</u>	<u>J A marcell Jr</u>
<u>Madeline V Conti</u>	<u>Madeline V Conti</u>
<u>G F Burgoon</u>	<u>GF Burgoon</u>
<u>R.G. LINCK</u>	<u>R.G. Linck</u>
<u>B.F. AKER</u>	<u>Bmer f Aker</u>
<u>F.T. PTHIBIN</u>	<u>F.T. Pthibin</u>
<u>David W Clark</u>	<u>David W Clark</u>
<u>S.E. VONSCIO</u>	<u>S.E. Vonscio</u>
<u>Lloyd Parks</u>	<u>Lloyd PARKS</u>
<u>ML DeAngelis</u>	<u>ml DeAngelis</u>

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<u>J. J. STONE</u>	<u>J. J. Stone</u>
<u>W R RADKE</u>	<u>W R Radke</u>
<u>Shirley D. Tillman</u>	<u>Shirley D. Tillman</u>
<u>JOANNA KINNEY</u>	<u>Joanna Kinney</u>
<u>ANNAMARIE F. KUNDUCK</u>	<u>Anna Marie F. Kunduck</u>
<u>WM E. WOOD</u>	<u>Wm E. Wood</u>
<u>BRENDA J. SWIFT</u>	<u>Brenda J. Swift</u>
<u>Joan M Brown</u>	<u>Joan M Brown</u>
<u>S. SAHLING</u>	<u>S. Sahlung</u>
<u>JK Buckner</u>	<u>JBuckner</u>
<u>RJ HEYOB</u>	<u>RJ Heyob</u>
<u>DL BROAD</u>	<u>DL Broad</u>
<u>J.A. McFarland</u>	<u>J.A. McFarland</u>
<u>B. L. SHEVOCK</u>	<u>B L Shevock</u>
<u>L. A. BRANNAN</u>	<u>La Brannan</u>

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<u>R M Dvorich</u>	<u>R M Dvorich</u>
<u>F G Archual</u>	<u>F. G. Archual</u>
<u>R. L. JONES</u>	<u>Ruby R Jones</u>
<u>B. O. BOWLANDER</u>	<u>B. O. Bowlander</u>
<u>SL Schell</u>	<u>SL Schell</u>
<u>NL BRENNER</u>	<u>NL Brenner</u>
<u>Y. J. Betts</u>	<u>Glorne J Betts</u>
<u>M B QUAGLIARUCCI</u>	<u>Mary B. Quagliarucci</u>
<u>K. LEE</u>	<u>Kathryn Lee</u>
<u>J C BOLEK</u>	<u>J C Bolek</u>
<u>C E FRER</u>	<u>C E Frer</u>
<u>Bl Head</u>	<u>Bl Head</u>
<u>A E SILVA</u>	<u>A E Silva</u>
<u>M. P. ORSI</u>	<u>Michael P. Orsi</u>
<u>W. E. WALTON</u>	<u>William E. Walton</u>

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JUDITH BARANOWSKI

J. Baranowski

Norm Snyder

Norm Snyder

WILLIAM F. BROWNE

Will F. Browne

DIANE J. JENSEN

Diane Jensen

PAUL LIVADA

Paul Livada

RICK BAKER

Rick Baker

Stephen PALKO JR

Stephen Palko Jr.

KEVIN S. BARIDO

Kevin S. Barido

DJ GRAHAM

DJ Graham

HC MAYVILLE

H.C. Mayville

ANDREW T. LETLOW

Andrew T. Letlow

MARY ANN BRESCH

MaryAnn Bresch

Barbara Kessler

Barbara Kessler

NAPOLEON BOYD

Napoleon Boyd

B L BARCH

B. Barch

NAMES OF PETITIONERS

TO: LINDA MORGAN, CHAIRPERSON - SURFACE TRANSPORTATION BOARD
 SUBJECT: CONRAIL LABOR CONTRACT

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<u>Robert J. Lindsay</u>	<u>Robert J. Lindsay</u>
<u>Denise L. Hollow</u>	<u>Denise L. Hollow</u>
<u>LEONARD L. PIEKNIK</u>	<u>L. L. Pieknik</u>
<u>CANDACE L. MORENO</u>	<u>C. L. Moreno</u>
<u>JAMES R. PECORI</u>	<u>James R. Pecori</u>
<u>ARTHUR L. WYSON</u>	<u>Arthur L. Wyson</u>
<u>HENRY T. WRIGHT</u>	<u>Henry T. Wright</u>
<u>WILLIAM L. ROBINSON</u>	<u>William L. Robinson</u>
<u>Vincent Danille</u>	<u>Vincent Danille</u>
<u>ROBERT D. RUNYAN</u>	<u>Robert D. Runyan</u>
<u>JOSEPH R. SCOTT</u>	<u>Joseph R. Scott</u>
<u>CHARLOTTE M. BADER</u>	<u>Charlotte M. Bader</u>
<u>JAMES J. CORNELI</u>	<u>James J. Corneli</u>
<u>KENNETH L. TRAUGHBER</u>	<u>Kenneth L. Traughber</u>
<u>DAVID L. RENCH</u>	<u>David L. Rensch</u>

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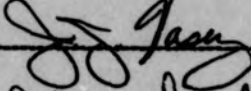
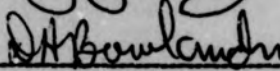
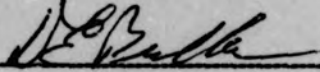
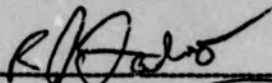

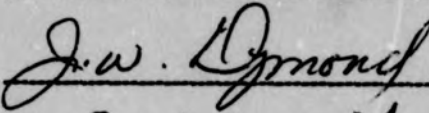
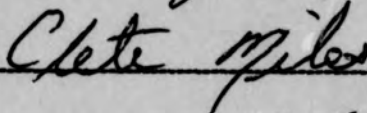
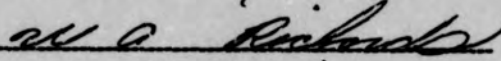
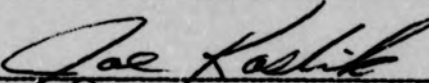
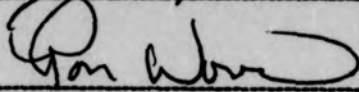
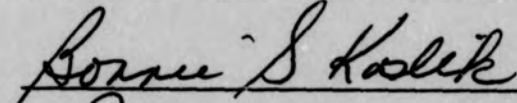
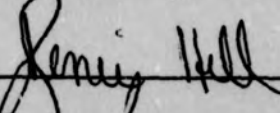
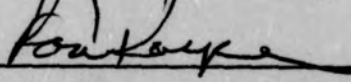
<u>THOMAS B. McDONALD</u>	<u>Thomas B. McDonald</u>
<u>Patricia S. Murphy</u>	<u>Patricia S. Murphy</u>
<u>DOUGLAS A. GORDON</u>	<u>Douglas A. Gordon</u>
<u>ROBERT K. NICKENS</u>	<u>Robert K. Nickens</u>
<u>JOHN T. LAZAROW</u>	<u>John T. Lazarow</u>
<u>JAMES P. RANDALL</u>	<u>James P. Randall</u>
<u>REYNOLD L. REED</u>	<u>Reynold L. Reed</u>
<u>CHRIS KWIECINSKI</u>	<u>Chris Kwiecinski</u>
<u>FRANK SINDONE</u>	<u>Frank J. Sindone</u>
<u>PAUL M. KNAUSS</u>	<u>Paul M. Knauss</u>
<u>GEORGE S. THACK</u>	<u>George S. Thack</u>
<u>W. J. McLEAN</u>	<u>W. J. McLean</u>
<u>CATHERINE L. TROUTMAN</u>	<u>Catherine L. Troutman</u>
<u>EDWARD J. GARDNER</u>	<u>Edward J. Gardner</u>
<u>RICHARD W. WHITE</u>	<u>Richard W. White</u>

NAMES OF PETITIONERS

TO: LINDA MORGAN, CHAIRPERSON - SURFACE TRANSPORTATION BOARD
SUBJECT: CONRAIL LABOR CONTRACT

PRINT

SIGN

J. J. VASEY	
DA Bowlander	
D.E. BULLO	
R.J. FALVO	
R.C.D. MARCO	
J. W. Dymond	
CT Miles	
W A Richards	
JOE KOSLIK	
Ron Wood	
BONNIE KOSLIK	
Perce Hill	
KON KASPER	

NAMES OF PETITIONERS

TO: LINDA MORGAN, CHAIRPERSON - SURFACE TRANSPORTATION BOARD
SUBJECT: CONRAIL LABOR CONTRACT

PRINT

SIGN

E. S. Olden

E. S. Olden

JAMES B. BARRETT

James B. Barrett

A. J. SEAMAN

A. J. Seaman

H. E. BROCKWAY

Harry E. Brockway

R. C. DULLEN

R. C. Dullen

ALLEN J. PANNETTA

Allen J. Pannetta

NAMES OF PETITIONERS

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SUBJECT: CONRAIL LABOR CONTRACT

PRINT

SIGN

J. E. Mc CARTY

J. E. M. C. S.

A.E. Barrett

Anna E. Bennett

DAVID M. PIERCE

Donald Macie

JOHN F. FERENCY

John F. Fecover

A. J. Hogue

RM Heller

D.F. McEACHERN

Donald H McEachern

NAMES OF PETITIONERS

TO: LINDA MORGAN, CHAIRPERSON - SURFACE TRANSPORTATION BOARD
SUBJECT: CONRAIL LABOR CONTRACT

PRINT

SIGN

Rose M Walsh

Rose M Walsh

Phyllis James

Phyllis James

Reid J. Coene

Reid J. Coene

RONALD J TYLER

Ronald J. Tyler

Samuel Saltzman

Samuel Saltzman

STEVEN A FRANKS

Steven A. Franks

ANGELO SANTILLI

Angelo Santilli

NAMES OF PETITIONERS

TO: LINDA MORGAN, CHAIRPERSON - SURFACE TRANSPORTATION BOARD
SUBJECT: CONRAIL LABOR CONTRACT

PRINT

SIGN

J. E. Myers

J. E. Myers 191071

E. W. Getty

E. W. Getty

R. A. Komacek

R. A. Komacek

B. M. Bell

Barbara M. Bell

J. I. PARSON

J. I. Parson

G. L. Piccioni

G. L. Piccioni

L. J. FERRELL

L. J. Ferrell

J. M. GLUSICA

J. M. Glusica

R. A. CHARNOVICH

R. A. Charnovich

P. D. Appleby

P. D. Appleby

L. D. ROBERTS

L. D. Roberts

D. A. DIDDOCK

D. A. Diddock

J. J. FLAHEETY JR

John J. Flaherty Jr



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

January 12, 1999

Mr. George J. Donahue
258 Pennsylvania Blvd.
Pittsburgh, PA 15228

Dear Mr. Donahue:

This responds to your letter of November 25, 1998, on behalf of yourself and numerous other employees of Conrail seeking a Board determination that the implementing agreement between Norfolk Southern Railway Company and CSX Transportation Company with respect to the Consolidated Rail Corporation labor contracts fails to satisfy the provisions of Article I, Section 4 of the New York Dock conditions that we imposed upon our approval of the Conrail acquisition in CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company — Control and Operating Leases/Agreements — Conrail Inc. and Consolidated Rail Corporation, STB Finance Docket No. 33388, Decision No. 89 (STB served July 23, 1998).

As your letter recognizes, Article I, Section 11 of New York Dock provides the means for resolving all disputes of the sort you have sought to bring before the Board.¹

¹ As relevant, that section provides:

11. *Arbitration of disputes.*—(a) In the event the railroad and its employees or their authorized representatives cannot settle any dispute or controversy with respect to the interpretation, application or enforcement of any provision of this appendix, except sections 4 and 12 of this article I, within 20 days after the dispute arises, it may be referred by either party to an arbitration committee. Upon notice in writing served by one party on the other of intent by that party to refer a dispute or controversy to an arbitration committee, each party shall, within 10 days, select one member of the committee and the members thus chosen shall select a neutral member who shall serve as chairman. If any party fails to select its member of the arbitration committee within the prescribed time limit, the general chairman of the involved labor organization or the highest officer designated by the railroads, as the case may be shall be deemed the selected member and the committee shall then function and its decision shall have the same force and effect as though all parties had selected their members.

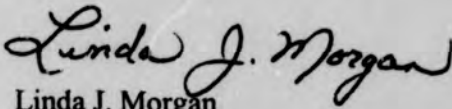
(continued...)

The courts have consistently interpreted the requirement to resort to the arbitration provided in that section prior to bringing the issue before the Board to be mandatory. See, Walsh v. I.C.C., 723 F.2d 570, 573-74 (7th Cir. 1983). The Interstate Commerce Commission (ICC), the Board's predecessor agency, with approval of the court thus consistently refused to become involved in resolving disputes or rendering interpretations of the type you seek prior to the matter having gone to arbitration. See also United Transp. Union v. U.S., 905 F.2d 463 at 470 (D. C. Cir. 1990). Thus, it is consistent with almost two decades of consistent precedent and practice that the Board not become involved in the process at this stage of the proceedings.

In this regard, I should note, however, that the Board, at the request of your labor organization, and others, specifically declined to find, as had been requested by Norfolk Southern and CSX, that overriding Conrail's contract provisions was necessary to implement the transaction. Thus, arbitrators will not be compelled by any statement of the Board in this case to override any particular contract provisions. After this matter has proceeded through arbitration, the Board will, of course, be available to accept an appeal from the decision of the arbitrator if it satisfies the requirements of 49 C.F.R. 1115.8 and the Lace Curtain standards the Board applies to determining which decisions of arbitrators it will review. See Chicago and Northwestern Transp. Co.—Abandonment—Near Dubuque and Oelwein, IA, 3 I.C.C.2d 729 (1987) (Lace Curtain), *aff'd sub nom. International Bhd. Of Elec. Workers v. ICC*, 862 F.2d 330 (D.C. Cir. 1988).

I hope that the foregoing adequately explains my reasons for declining to entertain your request to become involved in the labor implementation process at this stage. The Board, however, can be of assistance to you in pursuing your arbitral remedies, should you decide to do so. If you need further information, please do not hesitate to contact our Office of Congressional and Public Services at (202) 565-1592.

Sincerely,


Linda J. Morgan

¹(...continued)

Should the members be unable to agree upon the appointment of the neutral member within 10 days, the parties shall then within an additional 10 days endeavor to agree to a method by which a neutral member shall be appointed, and, failing such agreement, either party may request the National Mediation Board to designate within 10 days the neutral member whose designation will be binding upon the parties.

Linda Morgan
Chairperson
Surface Transportation Board

November 23, 1998

Conrail Labor Contract

By its approval of past class I railroad transactions, the Surface Transportation Board (STB) has set precedent as to its interpretation of contracts which satisfy the conditions of the New York Dock (NYD).

The Implementing Agreement between Norfolk Southern Railway Company, Norfolk Southern Corporation (collectively NS), CSX Transportation, Inc. (CSXT), Consolidated Rail Corporation (CRC) and the Transportation Communications International Union (TCU) may satisfy Article I, Section 4 of the NYD, yet it contradicts Article I, Section 3 and does not satisfy a number of other conditions, or the intent of the NYD. Also, it does not protect the employee by applying industry standards set forth in contracts of previous transactions approved by the STB.

(1) The Conrail National Agreement (CNA) was subject to employee ratification per TCU constitution. In as much as the protection agreement should have been part of the CNA, This Implementing Agreement should also be subject to rank and file vote. This is apparent from other agreements previously approved by the STB.

(2) The severance package of \$72,500 is significantly less than industry standards set in the UP-SP and BN-ATSF contracts.

(3) The 50 mile plus qualifying radius for moving expenses is contrary to the conditions of the NYD in Article I, Section 1, Par. E and Article I, Section 5. There is nothing in the NYD which permits the use of federal statutes to adjust the mileage radius nor any precedent in the rail industry to justify this change.

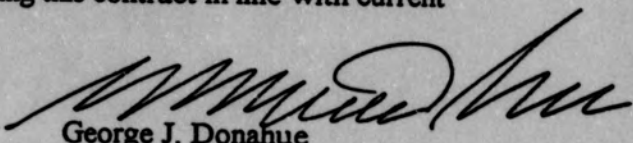
(4) The language, which protects spouses and family in the event of extreme or adverse conditions, that may occur after the move is insignificant compared to industry standards set in past contracts.

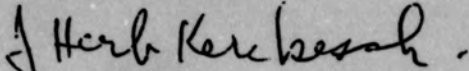
(5) The proposed selection process is inappropriate because, the time allotments from the time the employees see the job selection list is insufficient to discuss with family members prior to making one's selection. Also, the job descriptions are incomplete with regard to various shift and start time.

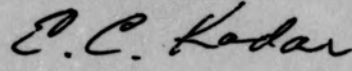
We the undersigned employees dispute this contract (Article I, Section 11, Par. A. This contract is unfair and inequitable. It does not meet the conditions of the NYD and is not comparable to industry standards previously approved by the STB. Any time or procedural restrictions should be set aside as the employees were not privy to the content

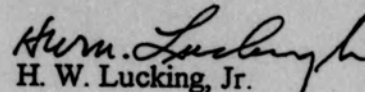
of this contract until Nov. 7, 1998. We request that this dispute be made part of the record and that the STB revisit this contract and related material and make the appropriate adjustments to meet the conditions of the NYD, and bring this contract in line with current class I railroad industry standards.

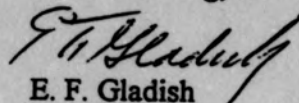
cc. The Tarasi Law Firm
All Pennsylvania Senators
All Pennsylvania Congressmen
Association for Union Democracy
~~Department of Justice Anti-Trust Div.~~
~~Department of Labor~~


George J. Donahue


J. Herb Kerekesch


E. C. Kadar


H. W. Lucking, Jr.


E. F. Gladish

STB FD

33388

3-19-99

J

MOC

Before
THE SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388



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

INTERVENTION PETITION OF CONGRESSMAN JERROLD NADLER AND 23
OTHER MEMBERS OF CONGRESS FOR INCLUSION OF A CROSS - HARBOR
FLOAT OPERATION. THE BAY RIDGE LINE OF THE LONG ISLAND
RAILROAD THE NEW YORK CONNECTING RAILROAD. OAK POINT YARD.
HARLEM RIVER YARD. THE NEW YORK TERMINAL PRODUCE MARKET. 65TH
STREET YARD AND FRESH POND JUNCTION AND THE TRackage RIGHTS
ON THE NORTHEAST CORRIDOR TO A FULL SERVICE JUNCTION WITH THE
PROVIDENCE AND WORCESTER RAILROAD. ALL IN THE JOINT FACILITIES
RAILROAD AND FOR OPEN ACCESS FOR TRANS-HUDSON INTERMODAL
SERVICE ON THE NORTHEAST CORRIDOR PROPOSED BY THE PETITIONERS
AS A CONDITION OF THE ACQUISITION REQUESTED

STIPULATION BETWEEN THE CONGRESSIONAL DELEGATION. THE
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAIL WAY
COMPANY ("NS") AND CSX CORPORATION AND CSX TRANSPORTATION.
INC. ("CSX")

Whereas the Surface Transportation Board has issued Decisions in the
Conrail transaction addressing, in part, some of the concerns of the Congressional
Delegation, and the Delegation and the Applicants desire to pursue a cooperative
consultative process to further address those concerns:

Whereas the Congressional Delegation sought reconsideration of the
Board's decision and has filed a Petition for Review of the decision in the United States
Court of Appeals for the Second Circuit, which remains pending; and

Whereas the parties believe that an amicable and workable solution can be
found to the transportation problems which are of concern to the Congressional
Delegation, it is hereby

Before
THE SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

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

INTERVENTION PETITION OF CONGRESSMAN JERROLD NADLER AND 23
OTHER MEMBERS OF CONGRESS FOR INCLUSION OF A CROSS - HARBOR
FLOAT OPERATION, THE BAY RIDGE LINE OF THE LONG ISLAND
RAILROAD, THE NEW YORK CONNECTING RAILROAD, OAK POINT YARD,
HARLEM RIVER YARD, THE NEW YORK TERMINAL PRODUCE MARKET, 65TH
STREET YARD AND FRESH POND JUNCTION AND THE TRackage RIGHTS
ON THE NORTHEAST CORRIDOR TO A FULL SERVICE JUNCTION WITH THE
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Court of Appeals for the Second Circuit, which remains pending; and

Whereas the parties believe that an amicable and workable solution can be
found to the transportation problems which are of concern to the Congressional
Delegation, it is hereby

STIPULATED AND AGREED

1. That the Congressional Delegation will advise the Surface Transportation Board of this Agreement; and withdraw its petition for review of the Order of the Board, and in consideration thereof Norfolk Southern Corporation and CSX Transportation, Inc. hereby agree that any party to this stipulation may petition the Board to reopen this matter, limited to the access and service issues across and east of the Hudson River, raised by the Congressional Delegation in its Petition, as amended, based upon changed circumstances, provided, that NS and CSX shall have the right to make objections to such reopening.
2. That Congressman Jerrold Nadler, as representative of the Congressional Delegation, will chair a committee, which will consist of representatives of the parties hereto and of such the following additional interested parties and others invited by the committee who choose to accept the invitation to participate:
 - The New York and Atlantic Railroad
 - Interrail Express Co.
 - The Canadian Pacific-Delaware and Hudson Railroad
 - The Providence and Worcester Railroad
 - Amtrak
 - The Long Island Railroad
 - Metro North Commuter Railroad
 - New York Cross Harbor Railroad
 - The City of New York
 - The State of New York
 - The State of Connecticut
 - The Port Authority of New York and New Jersey
3. The committee will attempt to agree upon a cooperative plan to improve freight service within the region East of the Hudson River and South of Albany within the States of New York and Connecticut. The plan of action may include the negotiation of agreements between the applicant rail carriers and others, and between others operating within the region to bring about improved rail freight services as quickly as possible, utilizing existing facilities to the greatest extent feasible. The goal will be to enhance the economy of the region while reducing the region's dependence on trucking by creating a viable rail alternative as quickly and as efficiently as possible. The committee shall consider the following matters and such other issues the committee finds advisable.
 - A. Any changes which have occurred in rail market share since the commencement of privatization of New York State owned rail freight facilities that would affect planning or costs in the future and determine the

reasons for such changes. The Committee will review the changes, by sector, in:

- 1) Carloads.
- 2) Number of customers.
- 3) Average price paid per ton.
- 4) Transit time.
- 5) Average car days on the terminating or originating carriers line.

B. Modifications required to attain an increase in rail market share in the short term:

1) Identification and removal of operating impediments:

- a. physical
- b. institutional
- c. cost-capital

2) Marketing

- a. marketing responsibility
- b. authority to set rates
- c. removal of impediments to timely quotation of competitive prices
- d. car service requirements

3) Provision of needed facilities and associated costs:

a. Improving access across New York Harbor:

- i. improved access to Greenville dock
- ii. improved interchange between the cross harbor carrier and connecting carriers on both sides of the Harbor
- iii. improved cross harbor facilities, both floating and shoreside
- iv. improvements to the Bay Ridge line, ideal track speed needed, number of running tracks and side tracks, etc.

b. Improved access across Hell Gate:

- i. Hell Gate Bridge track capacity
- ii. Oak Point Yard capacity
- iii. Fresh Pond Yard capacity
- iv. 65th St. Yard allocation
- v. Cedar Hill Yard access and operation
- vi. Harlem River Yard capacity, access and operation
- vii. Other

c. Market access facilities:

- i. reload terminals, type, need and potential location
 - (a) design and environmental impact
 - (b) construction time
 - (c) service requirements
 - (d) financing

d. Intermodal access:

- i. Amtrak Tunnel access
 - (a) terminal facilities
 - (b) operating agreements and operator
- ii. Hudson division access
 - (a) terminal facilities
- iii. remote support facilities

C. Operational and cost efficiency:

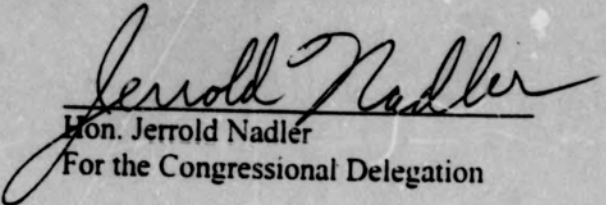
- 1) achieving seamless service from area shippers-terminals to trunk line carriers services
 - (a) marketing agreements
 - (b) joint operations
 - (c) haulage
 - (d) trackage rights
 - (e) reciprocal switching and joint use of terminal facilities and access trackage
 - (f) use of non-track owning connecting carrier as neutral connecting party for intermodal service

D. Capital projects required for long term rail market share growth:

- 1) Cross Harbor Tunnel
- 2) clearance improvements on regional rail lines
- 3) provision of adequate terminals
- 4) capacity improvements required on lines accessing the region
- 5) access between Long Island and New England
- 6) improved marine system

4. The parties understand that traffic, revenue and other data that is proprietary, commercially sensitive and the disclosure of which is otherwise restricted by law will not be covered by the Committee's deliberations.
5. The Committee will file a draft report by a date to be established by the Committee at the initial meeting. Any member(s) may file dissenting or concurring views.
6. This stipulation will be submitted to the Surface Transportation Board because of its continuing oversight jurisdiction in the proceeding.

Date: New York, New York
March 1999


Hon. Jerrold Nadler
For the Congressional Delegation

CSX Corporation
CSX Transportation, Inc.

By: 

Norfolk Southern Corporation
Norfolk Southern Railway Company

By: 

STB

FD

33388

2-23-99

J

MOCs



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET
FE - 33388

February 23, 1999

The Honorable Charles S. Robb
United States Senate
Washington, D.C. 20510

Dear Senator Robb:

Thank you for your letter enclosing correspondence from your constituent, Mr. H. Andy Fiery, Jr., of Norfolk, Virginia. Mr. Fiery is a member of IBEW Local 142 in Norfolk, and he indicates that Norfolk Southern Corporation (NS) has recently furloughed 23 union members in Norfolk as a result of the acquisition of Conrail by NS and CSX.

The Surface Transportation Board (Board) carefully examined the proposed Conrail Acquisition transaction, found it to be in the public interest, and imposed the labor protective conditions set forth in New York Dock Ry.--Control--Brooklyn Eastern Dist., 360 I.C.C. 60 (1979) (New York Dock) (copy enclosed). The New York Dock conditions were imposed to protect employees who may be adversely affected by the acquisition and division of Conrail. These conditions provide lost-income protection for up to 6 years, fringe benefit protection, moving expenses, and protection from losses from home sale, and they provide for arbitration of disputes arising from the implementation of the approved transaction. These conditions are the most far reaching labor protective conditions that the Federal Government imposes on private transactions such as the Conrail Acquisition. Additionally, the Board expects that the carriers will give careful consideration to the interests of the employees to avoid the imposition of undue hardship upon them.

It is the Board's understanding that the IBEW and the carriers have negotiated a voluntary implementing agreement for the implementation of the Conrail Acquisition transaction. And, as noted, the New York Dock conditions provide extensive protection for employees harmed by a covered transaction, and they contain specific procedures for resolving disputes that may arise from the implementation of the transaction.

I appreciate your concerns and am having your letter, your constituent's letter, and my response made a part of the public docket for the Conrail proceeding. If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosure

CHARLES S. ROBB
VIRGINIA

WASHINGTON OFFICE:
Russell Senate Office Building
First and Constitution Avenue, NE, Room 154
Washington, DC 20510
(202) 224-4024
Email: senator@robb.senate.gov
http://robb.senate.gov

United States Senate

WASHINGTON, DC 20510-4603

February 1, 1999

COMMITTEES
ARMED SERVICES
FINANCE

INTELLIGENCE
JOINT ECONOMIC COMMITTEE
Democratic Policy Committee

FILE IN DOCKET

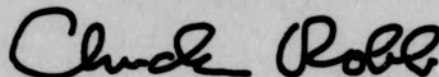
Mr. Dennis Watson
Surface Transportation Board
Office of Congressional and Public Affairs
1925 K Street, N.W.
Washington, D.C. 20423

Dear Mr. Watson:

I have been contacted by Mr. H. Andy Fiery, Jr., of Norfolk, Virginia, expressing concern about the impact of the planned acquisition of Conrail by Norfolk Southern and CSX on the employment in Virginia. I am enclosing a copy of the correspondence I've received.

I would appreciate it if you could review the letter and ensure its insightful suggestions and concerns are brought to the attention of the Board members. Many thanks for your consideration.

Sincerely,



Charles S. Robb

CSR/egf

Enclosure

cc: Mr. H. Andy Fiery, Jr.

FILED
FEB 1 1999
U.S. SENATE
SERVICES DIVISION

State Office:

The Ironfronts, Suite 310
1011 East Main Street
Richmond, VA 23219
(804) 771-2221

Regional Offices:

Dominion Towers, Suite 107
999 Waterside Drive
Norfolk, VA 23510
(757) 441-3124

First Union Bank Building
Main Street
Clintwood, VA 24228
(540) 926-4104

First Citizens Bank Building
530 Main Street
Danville, VA 24041
(804) 791-0330

B. B. & T. Bank Building
310 First Street, SW, Suite 102
Roanoke, VA 24011
(540) 985-0103



January 11, 1999

H. A. Fiery, Jr.
8429 Norristown Drive
Norfolk, VA 23518

The Honorable Charles S. Robb
United States
Washington, D.C.

Dear Senator Robb:

I am a registered voter in the city of Norfolk, in your state, and a Member of IBEW Local 1142. I am writing about the recent furlough of 23 union brothers in Norfolk, Virginia, by Norfolk Southern Corporation.

The planned acquisition of Conrail by Norfolk Southern and CSX Corporation is a major reason behind this furlough of Virginia workers by Norfolk Southern. This transaction is still under the control of the Surface Transportation Board, and I urge you to direct their attention to this loss of employment in the state of Virginia.

I hope you will protect the jobs of your fellow Virginians employed by Norfolk Southern and CSX in our state. I would appreciate knowing your position on this very important issue.

Sincerely,

H. Andy Fiery, Jr.
H. Andy Fiery, Jr.

STB FD

33388

2-23-99

J

MOCS



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

FA-33388

February 23, 1999

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Linda J. Morgan
Linda J. Morgan

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CHARLES S. ROBB
VIRGINIA

WASHINGTON OFFICE:
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United States Senate

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COMMITTEES:
ARMED SERVICES
FINANCE
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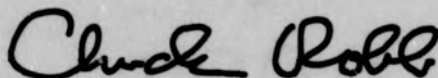
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CSR/egf

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cc: Mr. H. Andy Fiery, Jr.

RECEIVED
SURFACE TRANSPORTATION
BOARD
FEB 8 4 29 PM '99
OFFICE OF
CHAIRMAN MORGAN

State Office:

The Ironfronts, Suite 310
1011 East Main Street
Richmond, VA 23219
(804) 771-2221

Regional Offices:

Dominion Towers, Suite 107
999 Waterside Drive
Norfolk, VA 23510
(757) 441-3124

First Union Bank Building
Main Street
Clintwood, VA 24228
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First Citizens Bank Building
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Danville, VA 24541
(804) 791-0330

B. B. & T. Bank Building
115 First Street, SW, Suite 102
Roanoke, VA 24011
(540) 985-0103



January 11, 1999

H. A. Fiery, Jr.
8429 Norristown Drive
Norfolk, VA 23518

The Honorable Charles S. Robb
United States
Washington, D.C.

Dear Senator Robb:

I am a registered voter in the city of Norfolk, in your state, and a Member of IBEW Local 1142. I am writing about the recent furlough of 23 union brothers in Norfolk, Virginia, by Norfolk Southern Corporation.

The planned acquisition of Conrail by Norfolk Southern and CSX Corporation is a major reason behind this furlough of Virginia workers by Norfolk Southern. This transaction is still under the control of the Surface Transportation Board, and I urge you to direct their attention to this loss of employment in the state of Virginia.

I hope you will protect the jobs of your fellow Virginians employed by Norfolk Southern and CSX in our state. I would appreciate knowing your position on this very important issue.

Sincerely,

H. Andy Fiery, Jr.
H. Andy Fiery, Jr.

STB

FD

33388

1-29-99

J

MOCH



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

FD-33388

January 29, 1999

The Honorable Jerrold Nadler
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Nadler:

Thank you for your letters regarding the restoration of competitive rail service to points east of the Hudson. As in your comments sent to us in December, you support the efforts of New York State, New York City, and Canadian Pacific Railway (CP) to restore competitive rail service in this area and to reduce the region's dependency on motor carrier transportation. Your January 27 letter asks that the Board look with favor on CP's petition for reconsideration.

As you know, by decision served on December 18, 1998, in STB Finance Docket No. 33388 (Decision No. 109) (copy enclosed), the Board addressed various matters relating to Canadian Pacific Railway Company's trackage/haulage rights over Consolidated Rail Corporation's east-of-the-Hudson line between Albany and Fresh Pond, NY, including the method of compensation. Other matters relating to Housatonic Railroad Company and Providence & Worcester Railroad Company were also addressed.

The Board has received petitions for reconsideration of Decision No. 109. Because the petitions are pending before the Board, it would be inappropriate for me to comment on the merits of the appeals.

As I did with your earlier correspondence, I will have your most recent letter made a part of the public docket in STB Finance Docket No. 33388. I appreciate hearing your views on this matter, and if I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosure: December 18, 1998 Decision

Congress of the United States
House of Representatives
Washington, DC 20515

FILE IN DOCKET

December 10, 1998

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, Suite 700
Washington, D.C. 20423-0001



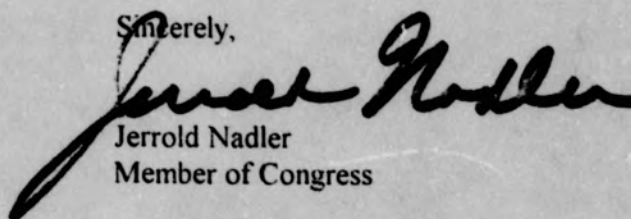
Dear Secretary Williams:

Enclosed for filing please find an original and 25 copies of our (Jerrold Nadler Et. Al.) Comments concerning the dispute resolution requested by CSX and CP, concerning docket #33388. Additionally you will find a 3.5" disk containing the text of the letter.

If you have any question please feel free to contact me.

Thank you.

Sincerely,


Jerrold Nadler
Member of Congress

JUDICIARY COMMITTEE
SUBCOMMITTEES

RANKING MEMBER
COMMERCIAL AND
ADMINISTRATIVE LAW
CONSTITUTION

TRANSPORTATION AND
INFRASTRUCTURE COMMITTEE

SUBCOMMITTEES
RAILROADS
SURFACE TRANSPORTATION

REGIONAL WHIP

JERROLD NADLER
8TH DISTRICT, NEW YORK

REPLY TO:

WASHINGTON OFFICE
2448 RAYBURN BUILDING
WASHINGTON, DC 20515
(202) 225-5635

DISTRICT OFFICE
11 BEACH STREET
SUITE 910
NEW YORK, NY 10013
(212) 334-3207

DISTRICT OFFICE
532 NEPTUNE AVENUE
BROOKLYN, NY 11224
(718) 373-3198

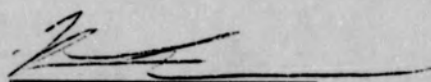
E-mail: jerrold.nadler@mail.house.gov
Web: <http://www.house.gov/nadler>

Congress of the United States
House of Representatives
Washington, DC 20515



Certificate of Service

I, Brett Heimov, certify that on December 10, 1998, I have caused to be served by mail a true and correct copy of the attached brief on all parties that have appeared in STB Finance Docket no. 33388.


Brett Heimov

Dated: December 10, 1998

Congress of the United States

Washington, DC 20515

December 9, 1998

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

Re: F.D. 33388, CSX corporation, Et Al. -- Control and Operating
Leases/Agreements -- Conrail Inc., Et Al., and F.D. 33388 (Sub-No. 69),
The State of New York, By and Through Its Department of Transportation
-- Trackage Rights Over Lines of Consolidated Rail Corporation

Dear Secretary Williams:

On behalf of the 24 member New York-Connecticut Congressional Delegation we are writing with regard to letters filed by the Canadian Pacific Railway Company, et al (CP) and by CSX Corporation (CSX) and those of the Providence and Worcester Railway (P&W) confirming that these various parties interested in East of the Hudson service have been unable to enter into an agreement facilitating the Board's order relating to such service. In addition to the Board's directive that CSX and CP work out the details of CP providing direct service to New York City from the west, the Board had requested that CSX negotiate with P&W for service north of New York. The Board further directed CSX work with governmental agencies east of the Hudson to correct the chronic lack of rail service east of the Hudson River. In light of CSX's inability to reach agreement with either CP or P&W, it is our belief that without direct intervention by the STB there may be no meaningful remedies to the lack of service east of the Hudson River.

We note, however, that part of the problem faced by these carriers, assuming that negotiations were carried out in good faith, is that the Conrail assets in question, the Hudson Line, the Oak Point Yard, the New York Connecting Railroad and Fresh Pond Yard, will be pushed to their capacity with two carriers, let alone three or four, as dictated by the Board's order. A thrust of the Congressional Delegation's petition was to extend Norfolk Southern and CSX service by all carriers onto non-Conrail lines which are now used little, but which lead to other terminals or terminal lands which are still available to accommodate these carriers presently contemplated, or short-term future activities. By limiting the relief afforded to CP, for instance, to access Conrail assets alone, the Board sends that service to Fresh Pond, the smallest terminal facility in the region still in service. This decision could cause serious capacity problems for both CSX and CP. Granting CP, P&W and CSX terminal trackage rights on the Bay Ridge Line to 65th Street, as the

Congressional Delegation urged in our petition, would solve capacity problems in the short term and would redirect responsibility from the Board to the City of New York, which must lease a still unused City-built facility to a competent operator who would serve all carriers having access.

CSX has proposed not to correct the physical plant problem but to allow CSX to choose its east of Hudson competitor. We urge the Board not to modify its directive. The problem is not the identity of the carrier, but the capacity of the facilities. Indeed, CSX, by making this request, rather than addressing a legitimate problem with the Board's order, seeks to subvert the order so as to allow CSX to designate another less capable carrier in lieu of CP to operate on these lines. CP has the financial resources to enter this market and to compete with CSX and move goods to the West. Any other carrier which could provide such service, with the exception of Norfolk Southern, would be either a short line or a regional line, which would in all cases be dealing with either an isolated operation or one which would not mesh logically with the overall system. The sole reason such a carrier would not tax the capacity of the system as much as CP is that such a carrier's service could not fulfill the region's needs. If the CSX motion for modification were granted, CSX would not have a real competitor and the Board's clear intention to address the east of Hudson lack of competition problems would be defeated.

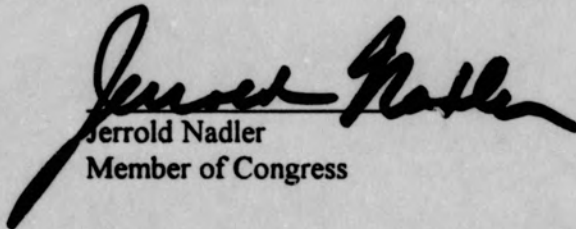
It would seem that CP and P&W are more willing to facilitate improved service in this region to the west and east respectively, than is CSX at this time. CP should be granted full trackage rights to Fresh Pond on tracks and rights being conveyed to CSX. P&W should be granted similar rights from New Haven to Fresh Pond and the terms of both sets of rights should be dictated by the STB. CSX, Norfolk Southern, CP and P&W should also be granted terminal trackage rights to 65th Street Yard on the Brooklyn Waterfront. The provisions for compensation to CSX and to New York and Atlantic should be fair. The Board, however, must pay close attention to any provisions relating to dispatching on these lines so that line owners cannot exclude other carrier services or render them effectively inoperable due to the lack of track or terminal access. We suggest close monitoring of this situation. It is our hope that, with competition, CSX's view of this vast market will change. We hope that CSX will increase its services and will also seek direct access to 65th Street and the Brooklyn waterfront, which should also be granted to it, but not to the exclusion of Norfolk Southern.

The present situation, however, strongly suggests that total reliance on voluntary action by private carriers to solve the tremendous problems relating to rail service east of the Hudson is inadequate. We urge the Board to take a proactive role and give CSX and all carriers in the region specifically mandated tasks, the sum of which will provide rail service to the region in a manner which gives area shippers the option of using the rail mode where logic dictates for the foreseeable future. Should CSX or Norfolk Southern fail to act, the Board must take action on its own to make these assets useful to the rail industry and the regional and national economy. It must be remembered that without a rail alternative all freight must go by highway, making regional environmental quality goals mandated by law unachievable. The Board cannot ignore its Clean Air Act responsibilities

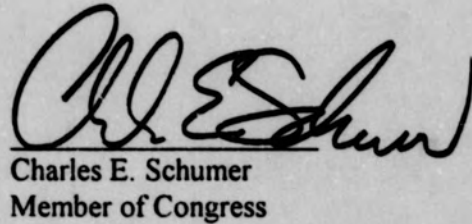
or defer that responsibility to the voluntary acts of private parties. This is particularly true where, as here, these private parties have been unable to abide by the Board's single mandated action directed at achieving competition east of the Hudson.

Thank you for your attention to these comments.

Sincerely,



Jerrold Nadler
Member of Congress



Charles E. Schumer
Member of Congress

JUDICIARY COMMITTEE

SUBCOMMITTEES:

RANKING MEMBER
COMMERCIAL AND
ADMINISTRATIVE LAW
CONSTITUTION

TRANSPORTATION AND
INFRASTRUCTURE COMMITTEE

SUBCOMMITTEES:

RAILROADS
SURFACE TRANSPORTATION
REGIONAL WHIP

Congress of the United States
House of Representatives
Washington, DC 20515

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8TH DISTRICT, NEW YORK

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BROOKLYN, NY 11224
(718) 373-3198

E-mail: jerrold.nadler@mail.house.gov
Web: <http://www.house.gov/nadler/>

FILE IN DOCKET

January 27, 1998

The Honorable Linda Morgan
Chairperson
Surface Transportation Board
1925 K Street, N W
Washington, D.C. 20423

Dear Chairperson Morgan:

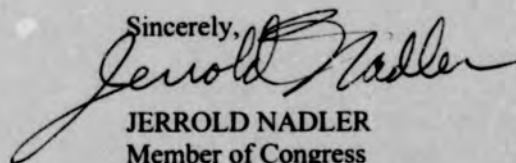
I am writing with regard to the Canadian Pacific Railway Company (CP) petition for reconsideration filed with the Surface Transportation Board (STB) on January 8, 1999. In mandating that CSX Corporation (CSX) provide trackage rights to CP on the east side of the Hudson line it is acquiring from Conrail, the Board's purpose was to provide competitive rail freight service to New York City from the West. By approving a trackage charge of \$.71 per mile, however, the Board totally frustrates its own goal. With truck costs of approximately \$.80 per mile, CP could not possibly provide service that would be competitive either with trucks or with CSX if it had to pay \$.71 per mile just for trackage rights. Such a rate would clearly leave CSX as the exclusive provider of rail freight service east of the Hudson and would make the STB's goal of competitive service a dream. By way of comparison, this rate is 350 percent of the rate agreed upon by CSX and Norfolk Southern Corporation in the Conrail transaction.

In addition, CSX is seeking to set aside the haulage rate agreement reached between CP and CSX on October 20, 1998 on east of the Hudson traffic. This agreement was bargained fairly and in good faith in exchange for CP not pursuing other competition issues before the STB concerning the Conrail transaction. The agreement should remain in effect. The arrangement is the only economically viable means by which CP will be able to handle freight traffic east of the Hudson. Setting aside this agreement or approving an excessively high trackage fee would insure a total lack of rail freight competition east of the Hudson.

I urge the Board to take a proactive role in this matter; the Board should reconsider its trackage fee decision and should not set aside the haulage agreement between CP and CSX. The New York region must be provided with service that makes rail a viable option for shippers. Only competition can ensure this. Without a competitive rail alternative, all freight will continue to go by truck, making regional environmental quality goals mandated by law unachievable.

Thank you for your attention to these comments.

Sincerely,



JERROLD NADLER
Member of Congress

RECEIVED
SURFACE TRANSPORTATION
BOARD
JAN 29 3 00 PM '99
OFFICE OF
CHAIRMAN MORGAN

STB

FD

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J

MOC



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

28-33388

January 26, 1999

The Honorable James L. Oberstar
Ranking Democratic Member
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, D.C. 20515-3222

Dear Congressman Oberstar:

Thank you for your recent letter regarding the restoration of competitive rail service to points east of the Hudson. You are writing in support of the Surface Transportation Board (Board) granting Canadian Pacific Railway full service rights east of the Hudson River as requested by New York State and the New York City Economic Development Corporation.

By decision served on December 18, 1998, in STB Finance Docket No. 33388 (Decision No. 109) (copy enclosed), the Board addressed various matters relating to Canadian Pacific Railway Company's trackage/haulage rights over Consolidated Rail Corporation's east-of-the-Hudson line between Albany and Fresh Pond, NY, including the method of compensation. Other matters relating to Housatonic Railroad Company and Providence & Worcester Railroad Company were also addressed.

The Board has received petitions for reconsideration of Decision No. 109. Because the petitions are pending before the Board, it would be inappropriate for me to comment on the merits of the appeals.

I am having your letter made a part of the public docket in STB Finance Docket No. 33388, and your name has been placed on the service list to ensure that you will receive all future Board decisions in this case. I appreciate hearing your views on this matter, and if I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosure: December 18, 1998 Decision



FILE IN DOCKET

Committee on Transportation and Infrastructure

Congress of the United States

House of Representatives

Washington, DC 20515

Bud Shuster
Chairman

James L. Oberstar
Ranking Democratic Member

Jack Schenendorf, Chief of Staff
Michael Strachn, Deputy Chief of Staff

December 9, 1998

David Heymsfeld, Democratic Chief of Staff

The Honorable Linda J. Morgan
Chairman, Surface Transportation Board
ATTN: STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

OFFICE OF
CHAIRMAN MORGAN

DEC 22 1 30 PM '98

RECEIVED
SURFACE TRANSPORTATION
BOARD

RE: Finance Docket No. 33388 (Sub-No. 69), CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company – Control and Operating Leases/Agreements – Conrail Inc. and Consolidated Rail Corporation

Dear Chairman Morgan:

I am writing in support of the Surface Transportation Board (STB) granting Canadian Pacific Railway (CP) full service rights east of the Hudson River as requested by New York State and the New York City Economic Development Corporation.

In approving the acquisition of Conrail by Norfolk Southern and CSX on July 23, 1998, the STB imposed a requirement that CSX negotiate an agreement with CP to provide CP access over CSX's newly-acquired line east of the Hudson River from Fresh Pond in Queens to Selkirk near Albany. In doing so, the STB stated that "we...strongly believe that we must forcefully use this opportunity to restore a modicum of the competition that was lost in the financial crisis that led to the formation of Conrail." The STB required that CP's rights not be limited to certain commodities or geographic areas. The STB further stated that if CSX and CP could not reach agreement, the Board would "initiate a proceeding to determine just how the needs of the New York parties are to be addressed." I am disappointed that CSX and CP were unable to reach an agreement but am pleased that the Board is moving expeditiously to resolve this important issue.

In order to achieve the State's and City's objective of enhancing competition east of the Hudson River, I urge the Board to impose full-service rights as requested by CP in its November 30, 1998, submission to the Board. Such full service rights include the

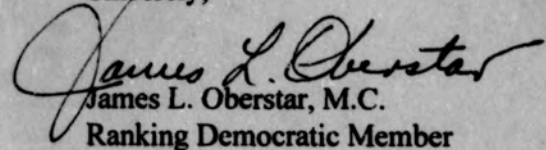
The Honorable Linda J. Morgan
December 9, 1998
Page 2

right of access to all current and future shippers on CSX's east of the Hudson River line, the right to interchange with all rail carriers on that line, and the right to use all rail yards and facilities on the line.

I appreciate having this opportunity to express my views and request that the STB promptly grant the rights sought by CP.

With all best wishes.

Sincerely,


James L. Oberstar, M.C.
Ranking Democratic Member

JLO/jwmm

MULLENHOLZ, BRIMSEK & BELAIR

ATTORNEYS AT LAW

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

180 CONNECTICUT AVENUE, N. W., SUITE 700

WASHINGTON, D. C. 20006

TELEPHONE
(202) 898-8000FAX:
(202) 898-8008

December 4, 1998

BY TELEFAX

The Honorable James L. Oberstar
2366 Rayburn House Office Building
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Oberstar:

Canadian Pacific Railway (CP) requests that you write to the Surface Transportation Board (STB) by December 10 in support of granting CP access to points east of the Hudson River. I have enclosed a draft letter for your consideration. I have also enclosed the STB's decision establishing this proceeding.

In approving the acquisition of Conrail by CSX and Norfolk Southern, the STB imposed a condition on behalf of the State of New York and the New York Department of Transportation (NYDOT) and the New York City Economic Development Corporation (NYCEDC). The STB required CSX to negotiate with CP to grant CP access on CSX's newly-acquired line east of the Hudson River in New York. The STB stated in part:

We have carefully balanced the needs of the competing parties here, and strongly believe that we must forcefully use this opportunity to restore a modicum of the competition that was lost in the financial crisis that led to the formation of Conrail. It appears that there will soon be sufficient capacity on the Hudson Line for safe service from a second freight operator.

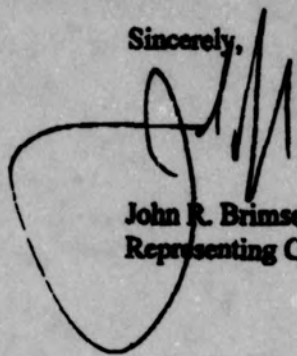
Therefore, we will impose a condition requiring CSX to negotiate an agreement with CP to permit either haulage rights, not restricted as to commodity or geographic scope, or similarly unrestricted trackage rights, over the east-of-the-Hudson line from Fresh Pond to Selkirk (near Albany), under terms agreeable to the parties, taking into account the investment that continues to be required for the line. If these parties have not reached agreement within 60 days of the effective date of this decision, we will initiate a proceeding to determine just how the needs of the New York parties are to be addressed.

2

CSX and CP were not able to reach an agreement and the STB has instituted a fast-track proceeding to resolve the issue. NYDOT and NYCEDC are expected to file in support of CP. CP would sincerely appreciate your assistance as well in the form of a letter to the STB. Please call me at 296-8000 if I can provide any additional information. I would appreciate your faxing me a copy should you send a letter. My fax number is 202-296-8803.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to be 'J. Brimsek', is written over a large, hand-drawn oval. The signature is fluid and cursive.

John R. Brimsek
Representing Canadian Pacific Railway

Enclosures

Primary Case**Docket No.**
FD 33388 0**Title**

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

Decision Summary

ESTABLISHED A PROCEDURAL SCHEDULE TO ADDRESS THE CONDITION IMPOSED ON BEHALF OF THE NYDOT AND THE NYCEDC IN CONNECTION WITH THE TRANSACTION AUTHORIZED IN DECISION NO. 89, SERVED JULY 23, 1998.

Embraced Cases**Docket No.****Title**

FD 33388 00 <10> RESPONSIVE APPLICATION--STATE OF NEW YORK, BY AND THROUGH ITS DEPARTMENT

Download Files**WP Envoy (requires viewer)****WordPerfect****Graphics/Maps/Figures:**- 29791.envy- 29791.wpd**Full Text of Decision**

29791

SERVICE DATE - NOVEMBER 20, 1998

EB

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388

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

Decision No. 102

STB Finance Docket No. 33388 (Sub-No. 69)

RESPONSIVE APPLICATION--STATE OF NEW YORK, BY AND THROUGH ITS
DEPARTMENT OF TRANSPORTATION, AND THE NEW YORK CITY ECONOMIC
DEVELOPMENT CORPORATION

Decided: November 19, 1998

This decision establishes a schedule to address the condition we imposed on behalf of the State of New York and the New York Department of Transportation (NYDOT) and the New York City Economic Development Corporation (NYCEDC) in connection with the transaction we authorized in Decision No. 89, served July 23, 1998. (1) In our decision approving the primary transaction, we granted in part and denied in part the New York parties' responsive application in Sub-No. 69. As pertinent here, in Decision No. 89, slip op. at 177, we stated:

CSX must attempt to negotiate, with CP, an agreement pursuant to which CSX will grant CP either haulage rights unrestricted as to commodity and geographic scope, or trackage rights unrestricted as to commodity and geographic scope, over the east-of-the-Hudson Conrail line that runs between Selkirk (near Albany) and Fresh Pond (in Queens), under terms agreeable to CSX and CP, taking into account the investment that needs to continue to be made to the line.

By letter filed November 10, 1998, Canadian Pacific Railway Company, Delaware and Hudson Railway Company, Inc., Soo Line Railroad Company, and St. Lawrence & Hudson Railway Company Limited (collectively CP) indicate that the parties have been unable to reach an agreement and request that we institute a proceeding addressing the matter. CP proposes a 95-day schedule with the filing of simultaneous evidentiary submissions. In a response filed November 12, 1998, CSX concurs with CP's schedule, with further proposals by CSX that: railroads other than CP may be considered as operators over the east-of-the-Hudson route; responsive applicants' descriptions of the terms of requested rights and environmental documentation be filed by Day 30 of the schedule; and the proceeding may be suspended if CSX reaches a tentative agreement with any carrier, including CP.

NYCEDC (by letter filed November 10, 1998) and NYDOT (by letter filed November 13, 1998, designated as NYS-30) endorse CP's proposed schedule. NYDOT also opposes CSX's requests to permit the consideration of railroads other than CP and the filing of new responsive applications. NYDOT asserts that CSX is reluctant to implement the pro-competitive relief granted by the Board on behalf of the New York parties, and contends that the Board should simply move to set the terms of CP's access over the Hudson Line.

While we continue to favor a negotiated solution by CSX and CP, over 3 months have passed since we imposed the east-of-the-Hudson condition and the parties have not reached an agreement on implementation. In order to resolve this matter in a timely manner and to ensure that the Board's important condition is implemented as envisioned, a procedural schedule with shorter time frames than those advanced by the parties is warranted and will be adopted. Accordingly, we will deny CSX's proposals to consider carriers other than CP and to suspend the procedural schedule should a preliminary agreement with another carrier be reached, and instead we will establish an evidentiary procedural schedule pursuant to which CSX and CP will be required to submit their proposed agreements with relevant evidence and argument on or before November 30, 1998, and CSX, CP, NYDOT, and NYCEDC may submit simultaneous responses to the proposed agreements by December 10, 1998.

CP shall resubmit its environmental verified statement filed October 6, 1997, certifying that none of the Board's environmental thresholds would be exceeded by the proposed rail operations over this line. Because CP's original environmental verified statement also embraced operations in other geographic areas, CP may modify its verified statement to apply exclusively to the proposed operations. If CP contemplates changes to its originally proposed operations, it should file a new verified statement, or other appropriate environmental documentation, if the Board's environmental thresholds will be

exceeded.

After examining the proposed agreements and responses, we intend to set the terms for the east-of-the-Hudson operations, based in whole or in part on the terms proposed, and bring about an expeditious resolution of this matter, which has already been the subject of substantial analysis in this proceeding. Because of the limited scope of this matter, CP, CSX, NYCEDC, and NYDOT will be required to serve copies of their filings only on one another, and on any other party who submits a request in writing on or after the service date of this decision. Service on all parties of record in STB Finance Docket No. 33388 would be unduly burdensome and unnecessary. An original and 25 copies (and an electronic version) of all pleadings must be filed with the Board.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Simultaneous proposals from CP and CSX are due November 30, 1998, addressing the east-of-the-Hudson condition imposed in Decision No. 89. Simultaneous responses from CP, CSX, NYCEDC, and NYDOT are due December 10, 1998.
2. CP shall resubmit its environmental verified statement filed October 6, 1997, certifying that none of the Board's environmental thresholds would be exceeded by the proposed rail operations over this line. CP may modify its verified statement to apply exclusively to the proposed operations. If CP contemplates changes to its originally proposed operations, it should file a new verified statement, or other appropriate environmental documentation, if the Board's environmental thresholds will be exceeded.
3. Due to the limited scope of the condition being addressed, we are modifying the service requirement so that CP, CSX, NYCEDC, and NYDOT are required to serve copies of their filings only on one another, and on any other party who submits a request in writing on or after the service date of this decision.
4. This decision is effective on its service date.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams

Secretary

1. In Decision No. 89, we approved, subject to conditions, the application by CSX Corporation and CSX Transportation, Inc. (collectively CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively NS) under 49 U.S.C. 11321-26 for: (1) the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively Conrail); and (2) the division of Conrail's assets by and between CSX and NS.

STB FD 33388

1-26-99

J

MOC



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

FD-33388

January 26, 1999

The Honorable Charles E. Schumer
United States Senate
Washington, D.C. 20510

Dear Senator Schumer:

Thank you for your recent letter regarding the restoration of competitive rail service to points east of the Hudson. You support the efforts of New York State, New York City, and Canadian Pacific Railway to restore competitive rail service in this area and to reduce the region's dependency on motor carrier transportation.

By decision served on December 18, 1998, in STB Finance Docket No. 33388 (Decision No. 109) (copy enclosed), the Board addressed various matters relating to Canadian Pacific Railway Company's trackage/haulage rights over Consolidated Rail Corporation's east-of-the-Hudson line between Albany and Fresh Pond, NY, including the method of compensation. Other matters relating to Housatonic Railroad Company and Providence & Worcester Railroad Company were also addressed.

The Board has received petitions for reconsideration of Decision No. 109. Because the petitions are pending before the Board, it would be inappropriate for me to comment on the merits of the appeals.

I am having your letter made a part of the public docket in STB Finance Docket No. 33388, and your name has been placed on the service list to ensure that you will receive all future Board decisions in this case. I appreciate hearing your views on this matter, and if I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosure: December 18, 1998 Decision

CHARLES E. SCHUMER
NEW YORK

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(202) 225-8816

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(718) 627-8700

118-21 QUEENS BLVD.
FOREST HILLS, NY 11375
(718) 268-8200

90-16 ROCKAWAY BEACH BLVD.
ROCKAWAY, NY 11683
(718) 948-8200

Congress of the United States
House of Representatives
Washington, DC 20515
December 18, 1998

COMMITTEES:
JUDICIARY
BANKING AND
FINANCIAL SERVICES
WHIP-AT-LARGE

DEC 22 1 30 PM '98

RECEIVED
SURFACE TRANSPORTATION
BOARD

OFFICE OF
CHAIRMAN MORGAN

FILE IN DOCKET

The Honorable Linda Morgan
Chairman, Surface Transportation Board
ATTN: STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

re: Finance Docket No. 33388 (Sub-No. 69), CSX Corporation and CSX
Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern
Railway Company -- Control and Operating Leases/Agreements --
Conrail Inc. and Consolidated Rail Corporation

Dear Chairman Morgan:

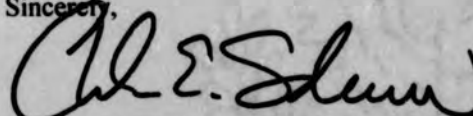
I am writing in support of the efforts of New York State, New York City, and Canadian Pacific Railway to bring competitive access to the East Hudson Line.

Since the creation of Conrail the amount of freight moving into and out of New York City has dropped to an insignificant 3 percent. In contrast, other major cities usually move 30-40 percent by rail. This means that New York City's transportation infrastructure is being pounded and congested by a disproportionate amount of truck traffic. The promotion of competition will take tens of thousands of trucks off of New York's highways. It will provide shippers with alternative (and less costly) ways of moving goods; it will relieve congestion; it will preserve the fragile infrastructure, and it will reduce pollution. Moreover, it will do so in a way that also benefits the trucking industry since intermodal transportation of trailers on flatcars is economically superior to sitting in bumper to bumper traffic on the area's bridges, burning fuel and paying tolls.

For the communities of the Hudson Valley, competition will mean that businesses will be able to ship their products seamlessly and economically by rail. For so many companies the availability and cost of transportation is an essential element in determining where they will locate their business.

In order to achieve the State and City's objective of enhancing competition east of the Hudson River, I urge the Board to confirm Canadian Pacific Railway's right to serve this marketplace at competitive rates, terms and conditions. Such full service rights include the right of access to all current and future shippers on CSX's east of the Hudson River line; the right to interchange with all rail carriers, and the right to use all yards and facilities on the line.

Sincerely,



Charles E. Schumer
Member of Congress

STB FD

33388

1-26-99

J MOC



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

FD-33388

January 26, 1999

The Honorable Byron L. Dorgan
United States Senate
Washington, D.C. 20510

Dear Senator Dorgan:

Thank you for your recent letter sent jointly with Senator Kent Conrad and Congressman Earl Pomeroy regarding the restoration of competitive rail service to points east of the Hudson. You are writing in support of the Surface Transportation Board (Board) granting Canadian Pacific Railway, which is a major hauler of North Dakota grain, the rights necessary to provide competitive, single-line service to ADM Milling Company's New York facility.

By decision served on December 18, 1998, in STB Finance Docket No. 33388 (Decision No. 109) (copy enclosed), the Board addressed various matters relating to Canadian Pacific Railway Company's trackage/haulage rights over Consolidated Rail Corporation's east-of-the-Hudson line between Albany and Fresh Pond, NY, including the method of compensation. Other matters relating to Housatonic Railroad Company and Providence & Worcester Railroad Company were also addressed.

The Board has received petitions for reconsideration of Decision No. 109. Because the petitions are pending before the Board, it would be inappropriate for me to comment on the merits of the appeals.

I am having your letter made a part of the public docket in STB Finance Docket No. 33388, and your name has been placed on the service list to ensure that you will receive all future Board decisions in this case. I appreciate hearing your views on this matter, and if I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan

Linda J. Morgan

Enclosure: December 18, 1998 Decision



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

January 26, 1999

The Honorable Kent Conrad
United States Senate
Washington, D.C. 20510

Dear Senator Conrad:

Thank you for your recent letter sent jointly with Senator Byron L. Dorgan and Congressman Earl Pomeroy regarding the restoration of competitive rail service to points east of the Hudson. You are writing in support of the Surface Transportation Board (Board) granting Canadian Pacific Railway, which is a major hauler of North Dakota grain, the rights necessary to provide competitive, single-line service to ADM Milling Company's New York facility.

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Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosure: December 18, 1998 Decision



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

January 26, 1999

The Honorable Earl Pomeroy
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Pomeroy:

Thank you for your recent letter sent jointly with Senator Kent Conrad and Senator Byron L. Dorgan regarding the restoration of competitive rail service to points east of the Hudson. You are writing in support of the Surface Transportation Board (Board) granting Canadian Pacific Railway, which is a major hauler of North Dakota grain, the rights necessary to provide competitive, single-line service to ADM Milling Company's New York facility.

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Sincerely,

Linda J. Morgan

Enclosure: December 18, 1998 Decision

Congress of the United States

Washington, DC 20515

December 10, 1998

The Honorable Linda Morgan
Chairwoman
Surface Transportation Board
1201 Constitution Ave NW
Washington, DC 20423



RECEIVED
SURFACE TRANSPORTATION
BOARD

RE: Finance Docket No. 33388 (Sub-No.69), CSX Corporation and CSX Transportation, Inc.,
Norfolk Southern Corporation and Norfolk Southern Railway Company - - Control and
Operating Leases/Agreements - - Conrail Inc. and Consolidated Rail Corporation.

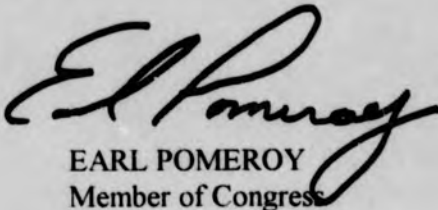
Dear Chairwoman Morgan:

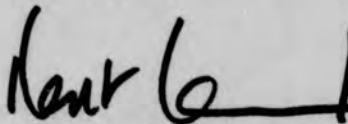
It is our understanding that in approving the acquisition of Conrail by Norfolk Southern and CSX, the Surface Transportation Board (STB) required CSX to negotiate with Canadian Pacific Railway (CP) to provide CP access east of the Hudson River in New York State. The STB directed that such access would not be limited by commodity or geographic scope. We also understand that the negotiations were not successful and that the STB has instituted a proceeding to resolve this matter.

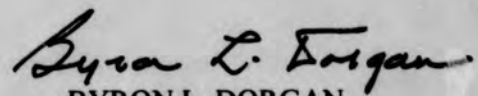
ADM Milling Co. has filed a letter in this proceeding. As ADM notes in its letter, it has a flour mill located on CSX's newly acquired line east of the Hudson River and obtains wheat for this mill from a number of sources including North Dakota. North Dakota is experiencing a devastating farm crisis that threatens our economic base. Our state has been hard hit by the recent 59% fall in grain prices worldwide. These collapsed grain prices, as well as diminished quality as a result of a pervasive crop disease called scab, the continued wet cycle and other problems, have resulted in a 98% drop in net farm income in North Dakota. It would be especially difficult on North Dakota farmers during this trying time to have their products denied access to this facility. We therefore strongly support granting CP, which is a major hauler of North Dakota grain, the rights necessary to provide competitive, single-line service to ADM's New York facility.

We appreciate your consideration of our views and urge the STB to grant CP access to this facility.

Sincerely,


EARL POMEROY
Member of Congress


KENT CONRAD
U.S. Senator


BYRON L. DORGAN
U.S. Senator

STB FD

33388

1-26-99

J

MOCs



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

JD-33388

January 26, 1999

The Honorable Daniel Patrick Moynihan
United States Senate
Washington, D.C. 20510

Dear Senator Moynihan:

Thank you for your recent letter regarding the restoration of competitive rail service to points east of the Hudson. You are writing in support of the Surface Transportation Board (Board) granting Canadian Pacific Railway full service rights east of the Hudson River as requested by New York State and the New York City Economic Development Corporation.

By decision served on December 18, 1998, in STB Finance Docket No. 33388 (Decision No. 109) (copy enclosed), the Board addressed various matters relating to Canadian Pacific Railway Company's trackage/haulage rights over Consolidated Rail Corporation's east-of-the-Hudson line between Albany and Fresh Pond, NY, including the method of compensation. Other matters relating to Housatonic Railroad Company and Providence & Worcester Railroad Company were also addressed.

The Board has received petitions for reconsideration of Decision No. 109. Because the petitions are pending before the Board, it would be inappropriate for me to comment on the merits of the appeals.

I am having your letter made a part of the public docket in STB Finance Docket No. 33388, and your name has been placed on the service list to ensure that you will receive all future Board decisions in this case. I appreciate hearing your views on this matter, and if I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosure: December 18, 1998 Decision

United States Senate

WASHINGTON, D.C. 20510

December 10, 1998

The Honorable Linda J. Morgan
Chairman
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

FILE IN DOCKET

OFFICE OF
CHAIRMAN MORGAN

DEC 14 2 09 PM '98

RECEIVED
SURFACE TRANSPORTATION
BOARD

RE: Finance Docket No. 33388 (Sub-No. 69), CSX Corporation and CSX Transportation Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company -- Control and Operating Leases/Agreements -- Conrail Inc. and Consolidated Rail Corporation

Dear Chairman Morgan:

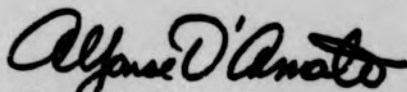
We are writing in support of the Surface Transportation Board (STB) granting Canadian Pacific Railway (CP) full service rights east of the Hudson River as requested by New York State and the New York City Economic Development Corporation.

In approving the acquisition of Conrail by Norfolk Southern and CSX, the STB imposed a requirement that CSX negotiate an agreement with CP to provide CP access over CSX's newly-acquired line east of the Hudson River from Fresh Pond in Queens to Selkirk near Albany. In doing so, the STB stated that, "we...strongly believe that we must forcefully use this opportunity to restore a modicum of the competition that was lost in the financial crisis that led to the formation of Conrail." The STB required that CP's rights not be limited to certain commodities or geographic areas. The STB further stated that if CSX and CP could not reach agreement, the Board would, "initiate a proceeding to determine just how the needs of the New York parties are to be addressed." We are disappointed that CSX and CP were unable to reach an agreement, but we are pleased that the Board is moving quickly to resolve this issue.

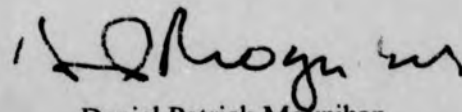
In order to achieve the State and City's objective of enhancing competition east of the Hudson River, we urge the Board to impose full-service rights as requested by CP in its November 30, 1998 submission to the Board. Such full service rights include the right of access on reasonable terms to all current and future shippers on CSX's east of the Hudson River line; the right to interchange with all carriers on that line; and the right to use all rail yards and facilities on the line.

We appreciate having this opportunity to express our views and request that the STB give them full consideration.

Sincerely,



Alfonse M. D'Amato
United States Senator



Daniel Patrick Moynihan
United States Senator

STB FD

33388

1-26-99

J

MOCH



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

FD-33388

January 26, 1999

The Honorable Jack Quinn
U.S. House of Representatives
Washington, D.C. 20515-3230

Dear Congressman Quinn:

Thank you for your recent letter regarding the restoration of competitive rail service to points east of the Hudson. You are writing in support of the Surface Transportation Board (Board) granting Canadian Pacific Railway full service rights east of the Hudson River as requested by New York State and the New York City Economic Development Corporation.

By decision served on December 18, 1998, in STB Finance Docket No. 33388 (Decision No. 109) (copy enclosed), the Board addressed various matters relating to Canadian Pacific Railway Company's trackage/haulage rights over Consolidated Rail Corporation's east-of-the-Hudson line between Albany and Fresh Pond, NY, including the method of compensation. Other matters relating to Housatonic Railroad Company and Providence & Worcester Railroad Company were also addressed.


The Board has received petitions for reconsideration of Decision No. 109. Because the petitions are pending before the Board, it would be inappropriate for me to comment on the merits of the appeals.

I am having your letter made a part of the public docket in STB Finance Docket No. 33388, and your name has been placed on the service list to ensure that you will receive all future Board decisions in this case. I appreciate hearing your views on this matter, and if I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosure: December 18, 1998 Decision

 **JACK QUINN**
30TH DISTRICT, NEW YORK

TRANSPORTATION AND
INFRASTRUCTURE

SUBCOMMITTEES:

SURFACE TRANSPORTATION
WATER RESOURCES AND ENVIRONMENT
RAILROADS

VETERANS' AFFAIRS'

SUBCOMMITTEE CHAIRMAN:

BENEFITS



Congress of the United States

House of Representatives
Washington, D.C. 20515-3230

December 9, 1998

PLEASE RESPOND TO:

WASHINGTON OFFICE:

□ 331 CANNON BUILDING
WASHINGTON, DC 20515
(202) 225-3306
FAX: (202) 226-0347

MAIN OFFICE:

□ 403 MAIN STREET
SUITE 240
BUFFALO, NY 14203-2199
(716) 845-5257
FAX: (716) 847-0323

SATELLITE OFFICE:

1490 JEFFERSON AVENUE
BUFFALO, NY 14208
(716) 886-4076

FILE IN DO

CHAIRMAN MORGAN

OFFICE OF

Dec 14 2 08 PM '98

RECEIVED
SURFACE TRANSPORTATION
BOARD

The Honorable Linda Morgan
Chairwoman
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Dear Chairwoman:

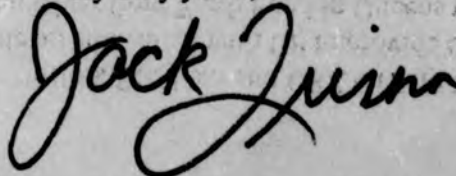
I am writing to you in support of the Surface Transportation Board (STB) granting Canadian Pacific Railway (CP) full service rights east of the Hudson River as requested by New York State and the New York City Economic Development Corporation.

In approving the acquisition of Conrail by Norfolk Southern and CSX on July 23, 1998, the STB imposed a requirement that CSX negotiate an agreement with CP to provide CP access over CSX's newly-acquired line east of the Hudson River from Fresh Pond in Queens to Selkirk near Albany. In doing so, the STB stated that "we...strongly believe that we must forcefully use this opportunity to restore a modicum of the competition that was lost in the financial crisis that lead to the formation of Conrail." The STB required that CP's rights not be limited to certain commodities or geographic areas. The STB further stated that if CSX and CP could not reach a agreement, the Board would "initiate a proceeding to determine just how the needs of the New York parties are to be addressed." I am disappointed that CSX and CP were unable to reach an agreement but I am pleased that the Board is moving expeditiously to resolve this important issue.

In order to achieve the State and City's objective of enhancing competition east of the Hudson River, I urge the Board to impose full-service rights as requested by CP in its November 30, 1998 submission to the Board. Such full-service rights include the right of access to all current and future shippers on CSX's east of the Hudson River line; the right to interchange with all rail carriers on that line; and the right to use all rail yards and facilities on the line.

I appreciate having this opportunity to express my views and request that the STB promptly grant the rights sought by CP.

Very truly yours,



STB

FD

33388

8-31-98

J

MOCH



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

FILE IN DOCKET

FN-33388

August 31, 1998

The Honorable Robert Menendez
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Menendez:

Thank you for your letter regarding the railroad consolidation application of CSX and Norfolk Southern (NS) to acquire control of Conrail and to divide the assets of Conrail among the two acquiring railroads. You express concern that actions taken by the Surface Transportation Board (Board) in approving consolidation transactions may result in the breaking of existing collective bargaining agreements (CBAs) between the involved railroads and their employees, while other contracts are left intact, and you specifically express disappointment that the Board failed to rule in its June 8, 1998 voting conference on the proposed Conrail control transaction that the breaking of CBAs in that case was not necessary and not permissible.

At the Board's June 8, 1998 voting conference on the proposed Conrail control transaction, and in the written decision served on July 23, 1998, we reaffirmed that the negotiation and arbitration process is the proper way to resolve important issues relating to employee rights that may be affected by the transaction. To ensure this result, we made clear, as requested by rail labor, that the Board's approval of the transaction did not indicate approval of any of the involved CBA overrides that the applicants had argued were necessary and that arbitrators would be free to make whatever findings and conclusions they deem appropriate with respect to CBAs under the law. We also voted to provide the protections of New York Dock Ry.--Control--Brooklyn Eastern Dist., 360 I.C.C.60 (1979), and, as suggested by representatives of rail labor, to direct that the applicant carriers meet with labor representatives and to form task forces for the purpose of promoting labor-management dialogue concerning implementation and safety issues. To the maximum extent possible, the Board has urged labor and management to reach voluntary implementing agreements.

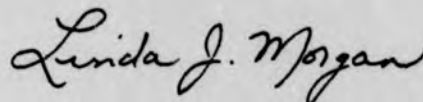
The Board avoided any prejudgment of issues that may come before it or before an arbitrator in the future, relying instead on established, court-approved legal principles. The courts have affirmed that, under what is now 49 U.S.C. 11321(a), agency approval of a consolidation transaction confers self-executing immunity on all material terms of the transaction from all other laws to the extent necessary to permit implementation of the transaction. And, in

Norfolk & Western R. Co. v. Train Dispatchers, 499 U.S. 117 (1991) (N&W), the United States Supreme Court specifically held that the immunity provided by statute includes the carrier's obligations under a CBA. Moreover, since at least 1936 when the Washington Job Protection Agreement was executed by representatives of virtually all of the railroads and national rail unions, agency approved rail consolidations have been implemented without resort to bargaining under the Railway Labor Act. Implementing agreements that require changes in CBAs have been negotiated, and, failing negotiation, arbitrators have made modifications to CBA provisions as necessary to permit implementation. Thus, it is well established that the self-executing immunity statute provides for the overriding of CBA provisions as necessary to implement the approved transaction, and such overrides are not due to specific agency actions other than approval of the proposed transaction. As necessary, arbitrators will make decisions regarding CBAs, and under the language included in the Board's final decision on the Conrail Acquisition they are free to make whatever determination they deem appropriate.

CBAs are not the only agreements subject to overrides. The Supreme Court in N&W made clear that all categories of contracts are subject to abrogation to the extent necessary to permit an approved railroad consolidation to be implemented. One such category of contract rights that is frequently abrogated in rail consolidations is the contract rights of stock and bond holders of consolidating railroads, which the Supreme Court had previously held did not survive agency approval of a consolidation that modified their terms. The recent Board decision on the Conrail control transaction also provided for the override of the anti-assignment provisions of certain shipper transportation contracts to ensure a smooth implementation of the approved transaction, and it required modification of provisions of agreements among railroads and between shippers and railroads involving such matters as switching rights and charges to address competitive concerns. It is clear, therefore, both in theory and in practice, that rail employee CBAs are not the only contractual provisions that have been overridden as a result of agency approval of a rail consolidation proposal.

I hope you find this information useful. I emphasize that the Board remains committed to giving full and fair consideration to the interest of rail carrier employees in consolidation proceedings in accordance with the law, as we have done in this proceeding. I am having your letter and my response made a part of the public docket for this proceeding. If I may be of further assistance, please do not hesitate to contact me.

Sincerely

A handwritten signature in cursive script that reads "Linda J. Morgan".

Linda J. Morgan



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

August 31, 1998

The Honorable James L. Oberstar
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Oberstar:

Thank you for your letter regarding the railroad consolidation application of CSX and Norfolk Southern (NS) to acquire control of Conrail and to divide the assets of Conrail among the two acquiring railroads. You express concern that actions taken by the Surface Transportation Board (Board) in approving consolidation transactions may result in the breaking of existing collective bargaining agreements (CBAs) between the involved railroads and their employees, while other contracts are left intact, and you specifically express disappointment that the Board failed to rule in its June 8, 1998 voting conference on the proposed Conrail control transaction that the breaking of CBAs in that case was not necessary and not permissible.

At the Board's June 8, 1998 voting conference on the proposed Conrail control transaction, and in the written decision served on July 23, 1998, we reaffirmed that the negotiation and arbitration process is the proper way to resolve important issues relating to employee rights that may be affected by the transaction. To ensure this result, we made clear, as requested by rail labor, that the Board's approval of the transaction did not indicate approval of any of the involved CBA overrides that the applicants had argued were necessary and that arbitrators would be free to make whatever findings and conclusions they deem appropriate with respect to CBAs under the law. We also voted to provide the protections of New York Dock Ry.--Control--Brooklyn Eastern Dist., 360 I.C.C.60 (1979), and, as suggested by representatives of rail labor, to direct that the applicant carriers meet with labor representatives and to form task forces for the purpose of promoting labor-management dialogue concerning implementation and safety issues. To the maximum extent possible, the Board has urged labor and management to reach voluntary implementing agreements.

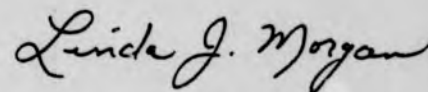
The Board avoided any prejudgment of issues that may come before it or before an arbitrator in the future, relying instead on established, court-approved legal principles. The courts have affirmed that, under what is now 49 U.S.C. 11321(a), agency approval of a consolidation transaction confers self-executing immunity on all material terms of the transaction from all other laws to the extent necessary to permit implementation of the transaction. And, in

Norfolk & Western R. Co. v. Train Dispatchers, 499 U.S. 117 (1991) (N&W), the United States Supreme Court specifically held that the immunity provided by statute includes the carrier's obligations under a CBA. Moreover, since at least 1936 when the Washington Job Protection Agreement was executed by representatives of virtually all of the railroads and national rail unions, agency approved rail consolidations have been implemented without resort to bargaining under the Railway Labor Act. Implementing agreements that require changes in CBAs have been negotiated, and, failing negotiation, arbitrators have made modifications to CBA provisions as necessary to permit implementation. Thus, it is well established that the self-executing immunity statute provides for the overriding of CBA provisions as necessary to implement the approved transaction, and such overrides are not due to specific agency actions other than approval of the proposed transaction. As necessary, arbitrators will make decisions regarding CBAs, and under the language included in the Board's final decision on the Conrail Acquisition they are free to make whatever determination they deem appropriate.

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Sincerely

A handwritten signature in cursive script that reads "Linda J. Morgan".

Linda J. Morgan



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

August 31, 1998

The Honorable Nick J. Rahall II
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Rahall:

Thank you for your letter regarding the railroad consolidation application of CSX and Norfolk Southern (NS) to acquire control of Conrail and to divide the assets of Conrail among the two acquiring railroads. You express concern that actions taken by the Surface Transportation Board (Board) in approving consolidation transactions may result in the breaking of existing collective bargaining agreements (CBAs) between the involved railroads and their employees, while other contracts are left intact, and you specifically express disappointment that the Board failed to rule in its June 8, 1998 voting conference on the proposed Conrail control transaction that the breaking of CBAs in that case was not necessary and not permissible.

At the Board's June 8, 1998 voting conference on the proposed Conrail control transaction, and in the written decision served on July 23, 1998, we reaffirmed that the negotiation and arbitration process is the proper way to resolve important issues relating to employee rights that may be affected by the transaction. To ensure this result, we made clear, as requested by rail labor, that the Board's approval of the transaction did not indicate approval of any of the involved CBA overrides that the applicants had argued were necessary and that arbitrators would be free to make whatever findings and conclusions they deem appropriate with respect to CBAs under the law. We also voted to provide the protections of New York Dock Ry.--Control--Brooklyn Eastern Dist., 360 I.C.C.60 (1979), and, as suggested by representatives of rail labor, to direct that the applicant carriers meet with labor representatives and to form task forces for the purpose of promoting labor-management dialogue concerning implementation and safety issues. To the maximum extent possible, the Board has urged labor and management to reach voluntary implementing agreements.

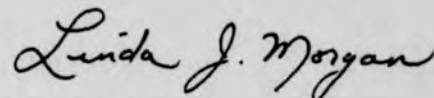
The Board avoided any prejudgment of issues that may come before it or before an arbitrator in the future, relying instead on established, court-approved legal principles. The courts have affirmed that, under what is now 49 U.S.C. 11321(a), agency approval of a consolidation transaction confers self-executing immunity on all material terms of the transaction from all other laws to the extent necessary to permit implementation of the transaction. And, in

Norfolk & Western R. Co. v. Train Dispatchers, 499 U.S. 117 (1991) (N&W), the United States Supreme Court specifically held that the immunity provided by statute includes the carrier's obligations under a CBA. Moreover, since at least 1936 when the Washington Job Protection Agreement was executed by representatives of virtually all of the railroads and national rail unions, agency approved rail consolidations have been implemented without resort to bargaining under the Railway Labor Act. Implementing agreements that require changes in CBAs have been negotiated, and, failing negotiation, arbitrators have made modifications to CBA provisions as necessary to permit implementation. Thus, it is well established that the self-executing immunity statute provides for the overriding of CBA provisions as necessary to implement the approved transaction, and such overrides are not due to specific agency actions other than approval of the proposed transaction. As necessary, arbitrators will make decisions regarding CBAs, and under the language included in the Board's final decision on the Conrail Acquisition they are free to make whatever determination they deem appropriate.

CBAs are not the only agreements subject to overrides. The Supreme Court in N&W made clear that all categories of contracts are subject to abrogation to the extent necessary to permit an approved railroad consolidation to be implemented. One such category of contract rights that is frequently abrogated in rail consolidations is the contract rights of stock and bond holders of consolidating railroads, which the Supreme Court had previously held did not survive agency approval of a consolidation that modified their terms. The recent Board decision on the Conrail control transaction also provided for the override of the anti-assignment provisions of certain shipper transportation contracts to ensure a smooth implementation of the approved transaction, and it required modification of provisions of agreements among railroads and between shippers and railroads involving such matters as switching rights and charges to address competitive concerns. It is clear, therefore, both in theory and in practice, that rail employee CBAs are not the only contractual provisions that have been overridden as a result of agency approval of a rail consolidation proposal.

I hope you find this information useful. I emphasize that the Board remains committed to giving full and fair consideration to the interest of rail carrier employees in consolidation proceedings in accordance with the law, as we have done in this proceeding. I am having your letter and my response made a part of the public docket for this proceeding. If I may be of further assistance, please do not hesitate to contact me.

Sincerely

A handwritten signature in cursive script that reads "Linda J. Morgan".

Linda J. Morgan