

STB

FD

33388

22-5-97

J

BUSINESS



Office of the Chairman

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

*File in  
Docket  
FD-33388*

December 5, 1997

Mr. John Boksansky  
Executive Director  
Miles Ahead Development Corporation  
4500 Lee Road, Suite 203  
Cleveland, OH 44128

Re: Finance Docket No. 33388: CSX and Norfolk Southern -- Control and  
Acquisition -- Conrail

Dear Mr. Boksansky:

Thank you for your letter dated November 6, 1997, expressing your concerns about the potential negative impacts on the City of Cleveland due to the proposed changes in train traffic resulting from the proposal by Norfolk Southern and CSX to acquire Conrail.

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is conducting an environmental review of the potential environmental impacts associated with the proposed Conrail acquisition and will prepare an Environmental Impact Statement (EIS). As part of its environmental review, SEA will address several environmental impact areas, including safety, transportation systems, land use, energy, air quality, noise, biological resources, water resources, environmental justice, and cultural and historic resources. In analyzing potential safety impacts, SEA will consider accident risk and vehicular delay at grade crossings.

The EIS also will present an analysis of the increased probability of derailments and releases of hazardous materials due to increased train traffic. Further, SEA will examine local truck traffic increases attributable to increased intermodal activities, and safety issues associated with the integration of differing rail operating systems and procedures. In addition, SEA will address potential impacts on emergency response capability because of vehicular delays at rail grade crossings due to increases in rail-related operations as a result of the proposed Conrail acquisition. SEA is fully aware that these issues are of major concern to the residents of Cleveland and has met with representatives of Cleveland several times.

Under the current procedural schedule adopted by the Board, SEA plans to issue the Draft EIS in December 1997, with a 45 day public review and comment period. After conducting an independent environmental analysis, reviewing all environmental information available to date, consulting with appropriate agencies, and fully considering all public comments, SEA plans to

issue in late May 1998 a Final EIS for consideration by the Board. In its final decision, the Board will consider the entire environmental record, including all public comments, the Draft EIS, and the Final EIS. The Board will issue its final written decision in July 1998.

If you have additional questions concerning the environmental review process, please contact Mike Dalton, SEA Project Manager for the Conrail Acquisition EIS, at (202) 565-1530.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan

# Miles Ahead Development Corporation

Phone 216-581-2185  
Fax 581-2348

OE-98-10

Done:

See / Datto

4500 Lee Road Suite 203  
Cleveland  
OH 44128

November 06, 1997

The Honorable Linda J. Morgan  
Surface Transportation Board  
1925 K. Street, NW  
Washington D.C. 20590

The Honorable Linda J. Morgan,

I wanted to make you aware of the current situation regarding the view of the City of Cleveland in reference to the acquisition of Conrail by the CSX Corporation and Norfolk Southern Corporation. The acquisition will increase rail travel through the City of Cleveland ranging from 114 to 1,188 percent in the vicinity of rail lines that travel through the City of Cleveland.

What is alarming is that the railroads did not consider the extensive negative impact of increased rail traffic on the entire City of Cleveland, including the impact on minority and low income populations.

According to City of Cleveland officials the projected increase in train traffic are as follows:

- Kinsman, South Broadway : 1,188 %
- Forest Hills, South Collinwood, Little Italy, University Circle and Fairfax 544%
- Edgewater, Cudell, Detroit Shoreway, Ohio City and Euclid Green : 181 %
- Goodrich and Central: 114%

The proposed acquisition severely jeopardizes the ability to respond to emergency calls due to increased train traffic. Where seconds can mean the difference between life and death, increased train traffic can impede safety forces from responding to an emergency. Cleveland neighborhoods will also be affected by increased pollution, noise, congestion, and vibrations.

I am opposed to this proposed plan based on health and safety, and quality of life issues. Thank you for your attention in this matter.

John Boksansky  
Executive Director

CHAIRMAN MORGAN

NOV 12 4 02 PM '97

RECEIVED  
SURFACE TRANSPORTATION



STB

FD-33388

10-3-02

J

BUSINESS



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

October 3, 2002

*Office of Compliance and Enforcement*

1925 K Street, N.W., Suite 780  
Washington, DC 20423-0001

202-565-1573  
FAX 202-565-9011

Jonathan M. Broder, Vice President Law,  
General Counsel and Chief Legal Officer  
Consolidated Rail Corporation  
2001 Market Street, 16<sup>th</sup> Floor  
Philadelphia, PA 19103

Re: Revision of Reporting Requirement

Dear Mr. Broder:

This will confirm receipt of your letter of September 25<sup>th</sup>, which was received by the Board on October 1<sup>st</sup>, proposing to modify the Board's operational monitoring reporting requirement under Finance Docket No. 33388, involving the Conrail Shared Assets Areas. Specifically, you have indicated that Conrail now uses full 7-day measurements instead of the 5-day measurements initially agreed upon. Therefore you have requested that, effective December 1, 2002, Conrail be permitted to begin using the 7-day measurements as the basis for its reporting. You have noted also that the 7-day data better represents actual operations on Conrail.

I have indicated previously that our principal interest is to ensure that carrier data made available to the Board and publicly for operational monitoring, should be data that is useful to the carrier in fully describing its operations. As such, I fully agree that the data which best describes your operations should be the data that is used to construct the operational monitoring reports, and approve your request. In addition, I am pleased that, in approving this change, the reporting process will be simplified for Conrail and for the public.

I will place your letter and my response in the official docket. Please contact me immediately if there are any questions related to this action.

Sincerely,

Melvin F. Clemens, Jr.  
Director

cc: Chairman Morgan  
Vice Chairman Burkes  
Finance Docket No. 33388

**CONRAIL**

**JONATHAN M. BRODER**

VICE PRESIDENT-LAW  
AND GENERAL COUNSEL  
CHIEF LEGAL OFFICER

September 25, 2002

Mr. Melvin F. Clemens  
Director-Office of Compliance and Enforcement  
Surface Transportation Board  
Suite 780  
1925 "K" Street  
Washington, D.C. 20423

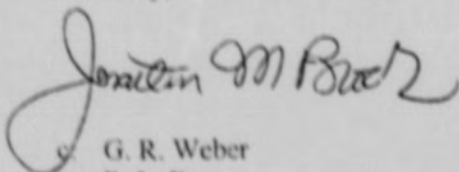
Dear Mr. Clemens:

As you know, Conrail continues to be required to make weekly reports to the Surface Transportation Board (the "Board") pursuant to the Conrail Control Proceeding - Finance Docket No. 33388. The weekly reports to the Board include five separate tables listing performance figures for: Elapsed Time, Cars on Hand, Train Origination summary, Train Origination details and Train Delays. All of the reports currently cover a five-day period (Monday-Friday) except for the Train Delay table, which covers a full seven days.

Conrail now uses seven-day measurements for all of its internal performance indicators. We believe the seven-day data better represents the actual operations on Conrail than does a five-day total. In order to comply with current reporting requirements, it is currently necessary to maintain two sets of data - five day data and seven day - for four of the five various reports. This results in a duplication of effort and can lead to confusion and questions as to why there are different figures for a given measurement.

Since seven-day data is currently available for all reports sent to the Board, Conrail proposes, effective December 1, 2002, to begin submitting the seven-day data reports to satisfy its reporting requirements. Should you have any questions, please do not hesitate to contact me.

Sincerely,



G. R. Weber  
R. L. Batory  
J. Scullin  
J. Seaman

RECEIVED  
SURFACE TRANSPORTATION  
BOARD

2002 OCT 1 A 11:42

OFFICE OF COMPLIANCE  
AND ENFORCEMENT  
DIRECTOR'S OFFICE

RECEIVED  
OCT 1 2002  
MAIL  
MANAGEMENT  
STB

STB

FD-33388

8-19-02

J

MOC



Office of the Chairman

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

FILE IN DOCKET

JS-33388

August 19, 2002

The Honorable Dennis J. Kucinich  
U.S. House of Representatives  
1750 Longworth Office Building  
Washington, DC 20515

Dear Congressman Kucinich:

Thank you for your recent letter to Vernon Williams, Secretary of the Surface Transportation Board, in which you comment on the progress reports filed on June 3, 2002 by Norfolk Southern Railway (NS) and CSX Transportation, Inc. (CSX) regarding compliance with the mitigation conditions that the Board imposed in the Conrail Acquisition proceeding. I am happy to hear that you are pleased with the timeliness and extent of the progress being made on the mitigation imposed, particularly involving communities in Ohio's 10<sup>th</sup> Congressional District.

You do raise one issue regarding whether homes located along CSX rail line segment C-069, which runs parallel to Brookpark Road in Brooklyn, Ohio, may be eligible for noise mitigation. You state that you have received complaints from residents and elected officials that train movements over this segment may have increased beyond what was predicted in the Final Environmental Impact Statement (EIS) prepared for the Conrail Acquisition. Specifically, you seek clarification about this matter in order to determine whether homes located adjacent to this rail line may be eligible for noise mitigation under the criteria of the Final EIS.

CSX has addressed the issue of noise mitigation and the C-069 rail line segment in its "Reply Comments of Applicants, CSX Corporation and CSX Transportation, Inc., To Comments Made on Their Third Submission," filed with the Board August 7, 2002. I have attached to this letter a copy of the Reply for your reference. In the Reply, CSX states that it is not aware that any material change in traffic has occurred on the C-069 rail line segment that would warrant noise mitigation. Nevertheless, CSX "is prepared to consult with Congressman Kucinich's office" regarding recent communications from the Brooklyn constituents, and report the results of those consultations to the Board. In response to your letter, I have had my staff contact CSX regarding the C-069 rail line segment, and understand that representatives of CSX have been in contact both with your office and with representatives of Brooklyn concerning this matter.

I am encouraged by the contacts that CSX has initiated with you and the Brooklyn constituents about this matter. Accordingly, the Board will await a report on the results of the ongoing discussions, review the report after it is submitted, and then determine if any further action appears warranted.

I appreciate the opportunity to be of assistance in this matter. If I may be of help in the future, please do not hesitate to contact me.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan

Enclosure



RECEIVED  
SURFACE TRANSPORTATION  
BOARD  
JUL 18 2002  
LONGWORTH OFFICE BUILDING  
WASHINGTON, D.C.  
12021 223-5850  
OFFICE OF CHAIRMAN  
MORGAN  
CHAIRMAN MORGAN  
10TH DISTRICT OHIO  
KENNIS & KUCINICH



Congress of the United States  
House of Representatives

Committees:  
Government Reform  
Education  
and the  
Environment

www.house.gov/kucinich

FILE IN DOCKET

July 17, 2002

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K St NW Ste 711  
Washington, D.C. 20006-1105

ENTERED  
Office of Proceedings

JUL 17 2002



Dear Mr. Williams:

Part of  
Public Record

As a Party of Record to the STB Finance Docket 33388, I am writing to comment on the progress reports filed by Norfolk Southern and CSX on June 3, 2002. In general, I am pleased with the progress we are making in the communities of Ohio's 10th Congressional District. The following comments summarize the status of the merger with respect to communities in my district. Enclosed is this original and 25 copies of this letter. Please also be advised that this letter is being sent by regular mail to the service list for Subnumber 91.

**Bay Village, Rocky River, Lakewood**

Norfolk Southern and the State of Ohio acted quickly to ensure that every grade crossing on the Nickel Plate Line in Lakewood and Cleveland would be equipped with gates and lights per the agreement signed by Norfolk Southern and the mayors of Lakewood, Rocky River, and Bay Village, Ohio. Most of the work as negotiated among the parties is complete and I am receiving monthly update reports from Norfolk Southern apprising me of the progress.

**Olmsted Falls, Olmsted Township**

Similarly, I am pleased with the efforts made by both Norfolk Southern and CSX to ensure that safety is not compromised with the increases in freight traffic through Olmsted Falls and Olmsted Township. Norfolk Southern, in particular, was quick to respond to inquiries from this office and from the Olmsted Falls School District when trains were parked too close to the grade crossings, causing problems with visibility to school bus drivers.

Norfolk Southern and the Federal Railroad Administration were also quick to identify and resolve a problem with the crossing gates at Fitch and Stearns Roads in Olmsted Township that were closing when no trains were on the track. Norfolk Southern made a commitment of \$80,000 to upgrade the outmoded island circuitry with the more up-to-date predictor circuits.

As part of a planned Quiet Zone for Olmsted Township, Olmsted Falls, and the communities to the east, i.e., Berea, Brook Park, and Brooklyn, the grade crossings at Fitch Road and Stearns Road are being considered for grade separations. Funding has been raised for the Fitch Road separation in conjunction with the railroads in a letter agreement incorporated into the approval of the Conrail acquisition, as well as



from the State of Ohio, and a direct federal appropriation. Negotiations are currently underway with the State of Ohio for a separation at Stearns Road.

### Berea

The City of Berea continues to work cooperatively with my office as well as the Ohio Rail Development Commission (ORDC), the Ohio Department of Transportation (ODOT), Norfolk Southern and CSX to proceed with two major underpass projects. Berea continues work toward commencement of Phase I for Bagley Road and completion of design work for Front Street.

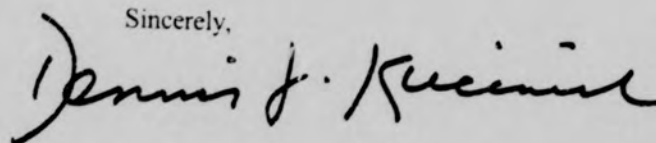
### Brooklyn

To address noise considerations, the STB's Section on Environmental Analysis (SEA) conducted site-specific noise and mitigation analyses on rail line segments it predicted would exceed analysis criteria. SEA considered mitigation for noise sensitive receptors meeting the mitigation criteria of 70 dBA L<sub>dn</sub> and a 5 dBA increase after the proposed Conrail Acquisition. Sites that do not meet these criteria are not eligible for noise mitigation under the conditions recommended in the FEIS and as agreed to under the terms of the STB's approval of the acquisition.

The rail segment (C-069) that runs parallel to Brookpark Road behind the homes on Idlewood Drive in Brooklyn, Ohio, was not predicted to meet these criteria, according to the FEIS, because the change in dBA was 4.3, .7 dBA short of the 5 dBA requirement. Appendix J-2 of the FEIS shows this rail segment's freight traffic to increase from 16.4 trains per day based on 1995 data to 43.8 trains per day post acquisition.

Notwithstanding the predictions published in the FEIS, this office has received complaints from the residents and elected officials in Brooklyn alerting us to the possibility that more than 43.8 trains per day may be traversing this track. If this is true, then the change in dBA may be in excess of 5. If the actual change in dBA is higher than the predicted change, then we need to find out if Brooklyn is eligible for noise mitigation along this segment of CSX track. Therefore, I ask that the STB and CSX work with my office and the City of Brooklyn to attain an accurate train count and to determine the noise levels along the C-069 rail segment near the homes on Idlewood Drive so that we can work toward attaining any mitigation for which Brooklyn may be eligible.

Sincerely,



Dennis J. Kucinich  
Member of Congress

DJK:mg

STB

FD-33388

6-24-02

J

MOC

Little T. Jacket

STB FD-33388 6-24-02 J

ID-MOC

**DENNIS J. KUCINICH**

10TH DISTRICT, OHIO

1730 LONGWORTH OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225 - 5871

14400 DETROIT AVENUE  
LAKEWOOD, OHIO 44107  
(216) 228-8850  
(216) 228-6465 FAX

5983 W. 54TH  
PARMA, OHIO 44129  
(440) 845-2707



**Congress of the United States**  
**House of Representatives**

**Committees:**  
Government Oversight  
Education and Labor

FILE IN DOCKET

FA-33388

May 22, 2002

Mr. James E. Seney  
Executive Director  
Ohio Rail Development Commission  
50 West Broad Street  
Columbus, Ohio 43215

OFFICE OF  
CHAIRMAN MORGAN

2002 JUN 24 P 1:42

RECEIVED  
SURFACE TRANSPORTATION  
BOARD

Dear Mr. Seney:

I am in receipt of an April 25, 2002, letter you sent to Ms. Linda Morgan, Chair of the federal Surface Transportation Board (STB) which calls into question an agreement signed by Congressman Dennis J. Kucinich. The Berea agreement was incorporated into the Conrail acquisition which the STB approved in 1998.

As you know, Congressman Kucinich is a party of record in the STB's Conrail docket. As a party of record and a signatory to the Berea agreement, he will object to any proposal which would jeopardize the Berea agreement or any term of that agreement. Nevertheless, if you believe that there is a way to allow for passenger rail in a way consistent with the terms of the Berea agreement, then I would be happy to discuss this with you.

Sincerely,

Martin D. Gelfand  
Staff Counsel

cc: ✓ Linda Morgan  
Neal Zimmers  
Gregory Sponseller, Esq.





## Ohio Rail Development Commission

50 West Broad Street, Suite 1510 • Columbus, Ohio 43215 • 614.644.0306 phone • 614.728.4520 fax

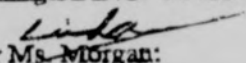
April 25, 2002

Nick FAX: 469-4640

Mistakenly mailed to me.

Steve Davis

Ms. Linda Morgan  
Chair  
Surface Transportation Board  
1925 K Street, N.W.  
Washington D.C. 20423-0001

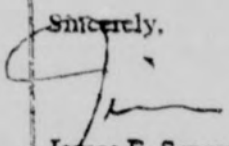
  
Dear Ms. Morgan:

I have been briefed by CSX and civil engineers on the planned resolution to the noise issue between CSX and the community of Berea, Ohio. The proposed solution involves moving the present CSX double-tracked main line approximately 130 feet to the west and creating a "sound setback" to the east.

The problem with the solution is that it possibly eliminates putting in a third main for passenger rail through the city of Berea. This would essentially eliminate the cities of Columbus (the state capital) and Cincinnati from future rail service. As this corridor is a federally-designated high speed passenger corridor and a major Ohio freight corridor, we feel it is of the utmost importance that this settlement allow for space for a third main.

I wanted to be sure to call this issue to your attention. I will keep you informed as more detailed information on the proposal is developed.

Sincerely,

  
James E. Seney  
Executive Director

Building Markets, Linking Cities and Securing Ohio's Future

U.S. HOUSE OF REPRESENTATIVES

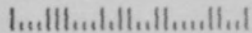
WASHINGTON, DC 20515-3510

**PUBLIC DOCUMENT**

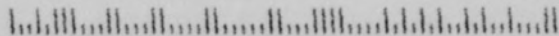
OFFICIAL BUSINESS

*Dennis J. Kucinich*  
M.C.

Ms. Linda Morgan  
Chair  
Surface Transportation Board  
1925 K Street NW #820  
Washington, DC 20006-1105



20006+1105 77







Office of the Chairman

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

May 14, 2002

Mr. James E. Seney  
Executive Director  
Ohio Rail Development Commission  
50 West Broad Street  
Suite 1510  
Columbus, OH 43215

*Jim*  
Dear Mr. Seney:

Thank you for your letter regarding noise issues raised with CSX by the community of Berea, Ohio. You indicate that CSX has proposed moving the rail track away from the areas affected by the noise problem. You also indicate that moving the track could negatively impact the ability of the community to attract high-speed passenger rail to the area.

I appreciate your keeping me informed about this matter. I hope that a solution can be reached that is equitable for all concerned, and I look forward to hearing from you as discussions proceed.

Sincerely,

*Linda*

Linda J. Morgan





# Ohio Rail Development Commission

50 West Broad Street, Suite 1510 • Columbus, Ohio 43215 • 614.644.0306 phone • 614.728.4520 fax

April 25, 2002

Ms. Linda Morgan  
Chair  
Surface Transportation Board  
1925 K Street, N.W.  
Washington D.C. 20423-0001

*Linda*  
Dear Ms. Morgan:

I have been briefed by CSX and civil engineers on the planned resolution to the noise issue between CSX and the community of Berea, Ohio. The proposed solution involves moving the present CSX double-tracked main line approximately 130 feet to the west and creating a "sound setback" to the east.

The problem with the solution is that it possibly eliminates putting in a third main for passenger rail through the city of Berea. This would essentially eliminate the cities of Columbus (the state capital) and Cincinnati from future rail service. As this corridor is a federally-designated high speed passenger corridor and a major Ohio freight corridor, we feel it is of the utmost importance that this settlement allow for space for a third main.

I wanted to be sure to call this issue to your attention. I will keep you informed as more detailed information on the proposal is developed.

Sincerely,

*James E. Seney*  
James E. Seney  
Executive Director

RECEIVED  
SURFACE TRANSPORTATION  
BOARD  
2002 MAY -8 A 11:35  
OFFICE OF  
CHAIRMAN MORGAN

STB

FD-33388

3-21-02

J

BUSINESS

LAW OFFICES  
**MILLER, ALFANO & RASPANTI, P.C.**  
SUITE 3402  
1818 MARKET STREET  
PHILADELPHIA, PENNSYLVANIA 19103  
(215) 972-6400

AFFILIATED  
NEW JERSEY OFFICE  
25 CHESTNUT STREET, SUITE 105  
HADDONFIELD, NEW JERSEY 08033  
(856) 354-0955

PENNSYLVANIA FAX: (215) 981-0082  
NEW JERSEY FAX: (856) 354-0918

REPLY TO:  
Pennsylvania

March 21, 2002

Via Facsimile

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



Re: Finance Docket No. 33388

Dear Secretary:

I am writing to follow up to my correspondence to you dated March 19, 2002. I requested that you forward to me a copy of the CSX Operating Plan, Labor Impact Exhibit, Density Charts and Supporting Statements. These documents can be found at R.R. Control Application Vol. 3A. It is imperative that I receive these documents as soon as possible due to a court-imposed deadline.

I appreciate any assistance you can provide in expediting this request. Please feel free to contact me should you have any questions or need further information. I can be reached at 215-988-1443.

Thank you in advance for your assistance and for expediting this request.

Sincerely,

Mary Kate E. Roche  
Legal Assistant



**LAW OFFICES  
MILLER ALFANO & RASPANTI, P.C.  
SUITE 3402  
1818 MARKET STREET  
PHILADELPHIA, PENNSYLVANIA 19103  
(215) 972-6400**

**AFFILIATED  
NEW JERSEY OFFICE  
SUITE 105  
25 CHESTNUT STREET  
HADDONFIELD, NEW JERSEY 08033  
(609) 354-0955**

**PENNSYLVANIA FAX: (215) 981-0082  
NEW JERSEY FAX: (609) 354-0918**

**REPLY TO: PENNSYLVANIA**

**URGENT-- PLEASE DELIVER ASAP**

**TELECOPY TRANSMITTAL COVER SHEET**

**Please deliver the following material**

**DATE: March 21, 2002**

**TO: Secretary  
Surface Transportation Board**

**(202) 565-9004**

**FROM: Mary Kate E. Roche**

**NUMBER OF PAGES (including cover sheet): 2**

**MESSAGE:**

**Please see attached. Thank you.**

**\*\*\*\*\*CONFIDENTIALITY\*\*\*\*\***

The documents accompanying this telecopy transmission contain information from the law firm of Miller, Alfano & Raspanti, P.C., which is confidential and/or legally privileged. The information is intended only for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited, and that the documents should be returned to this firm immediately. In this regard, if you have received this telecopy in error, please notify us by telephone so that we can arrange for the return of the original documents to us at no cost to you.

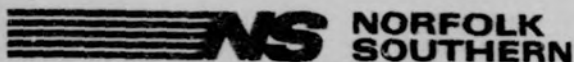
STB

FD-33388

1-29-02

J

BUSINESS



Norfolk Southern Corporation  
1500 K Street, N.W., Suite 375  
Washington, D. C. 20005  
Fax: 202/383-4018



**C. Scott Muir**  
Special Representative  
Public Affairs  
202/383-4550  
email: csmuir@nscorp.com

October 22, 2001

James and Lisa McCray  
1609 Apple Orchard Lane  
State Rte. 716  
Troutville, VA 24175

Dear Mr. and Ms. McCray:

Thank you for your letter of August 2, 2001 concerning Norfolk Southern train traffic in your community.

Both the Surface Transportation Board (STB) and Norfolk Southern want to ensure that the location of sensitive noise receptors has been correctly determined in order to satisfy the requirements for mitigation of noise impacts established by the STB in its decision approving the Conrail transaction proposed by Norfolk Southern and CSX. As noted in your letter, the STB established a noise contour along the Norfolk Southern line in Troutville and other towns and unincorporated areas that extends 73 feet on either side from the center of the railroad tracks. Environmental Condition 11 of Decision No. 89, served July 23, 1998, in STB Finance Docket 33388 requires mitigation of the impacts of noise projected by the STB from increased rail traffic at occupied residences, schools, libraries, churches, hospitals, retirement communities and nursing homes within that contour.

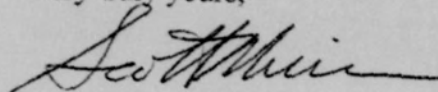
You also note in your letter concerns about vibrations and diesel residue. Please be advised that the STB's decision approving the Conrail transaction does not require mitigation by the railroads related to either vibrations or diesel residue.

We are presently addressing the issue of noise mitigation with the Town of Troutville and surrounding counties and will respond to the directions proposed by the responsible local governments.

I hope that this response answers your questions. Should you wish to speak with a representative of the Surface Transportation Board, Philus Johnson-Ball is Project Manager for the Conrail transaction at the STB's Section of Environmental Analysis. Ms. Johnson-Ball may be reached at (202) 565-1530.

James and Lisa McCray  
October 22, 2001  
Page 2

Very truly yours,

A handwritten signature in cursive script, appearing to read "Scott Muir".

Scott Muir

cc: **Phillis Johnson-Ball, STB**



Address line 2  
City, State and Postal Code  
Phone Number



October 15, 2001  
Vernon A Williams  
Surface  
Transportation Board  
Washington, D. C.

Mr. Vernon Williams;

RE:CAMAS PRAIRIE RAILNET, INC-ABANDONMENT-IN LEWIS, NEZPERCE, AND  
IDAHO COUNTIES, IDAHO. (BETWEEN SPALDING AND Grangeville, id)

It seems the Nezperce Tribe will eventually control the 66.8 mile abandonment of this line. In that event it means that the taxpayers will be the lucky one to again pay the bill for the proposed tribal rail/trail scheme. Most of the right of ways were originally acquired by easement and when no longer useable as such it is supposed to revert back to the adjoining landowners.

Very poor stewardship of this land was shown in the last 25 years. The weed control on these right of ways was almost nonexistent.. Adjoining landowners should not be required to buy back this right of way as it was "borrowed" to rail company but if the Nezperce Tribe gains control of this entity they whould be required to buy the right of ways from the adjoining landowners.

Please give me your views on this rather backwoodsy letter.

Hilda Nuttman



Code

*Hilda Nuttman*

STB

FD-33388

1-9-02

J

MOC



Office of the Chairman

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

FILE IN DOCKET

FD-33388

January 9, 2002

The Honorable Arlen Specter  
United States Senate  
Suite 2031 Federal Building  
1000 Liberty Avenue  
Pittsburgh, PA 15222

Dear Senator Specter:

Thank you for your letter dated October 31, 2001, which I only received recently due to problems with processing and delivering Postal Service mail. You enclose correspondence from your constituent, Ms. Barbara J. Manges, regarding the rights of Hollidaysburg Car Shop (HCS) employees under the New York Dock labor protective conditions imposed by the Surface Transportation Board (Board) on the Conrail merger transaction, pursuant to which the Norfolk Southern (NS) railroad acquired control of the HCS and other Conrail assets.

As you know, NS has proposed to close the HCS. In a proceeding involving NS' proposal, the Board held that, while it would not preclude NS from taking that action, it would impose enhanced New York Dock benefits for HCS employees. This enhanced protection includes "automatic certification" for New York Dock benefits to cover transferring employees and eligibility upon dismissal for New York Dock economic benefits to cover those employees who are not offered a new position elsewhere on NS or who cannot exercise their seniority to obtain such a position. But the Board did not eliminate the requirement under New York Dock that HCS employees must follow their work to new locations to retain eligibility for New York Dock benefits. As you probably know, however, the United States Court of Appeals for the Third Circuit has stayed the Board's decision and the closing of the HCS pending completion of the Court's review of the matter.

I appreciate your interest in this matter, and I hope that you find this information to be helpful. I will have your letter, with attachments, and my response made a part of the public docket for this proceeding.

Sincerely,

Linda J. Morgan

ARLEN SPECTER  
PENNSYLVANIA

COMMITTEES

JUDICIARY  
APPROPRIATIONS  
VETERANS' AFFAIRS  
ENVIRONMENT AND PUBLIC WORKS

711 HART SENATE BUILDING  
WASHINGTON, DC 20510-3802  
202-224-4254

## United States Senate

WASHINGTON, DC 20510-3802

October 31, 2001

FILE IN DOCKET

Mr. Dan King  
Director of Congressional and Public Services  
Surface Transportation Board  
1925 K Street, Room 840, NW  
Washington, D.C. 20423

Dear Mr. King:

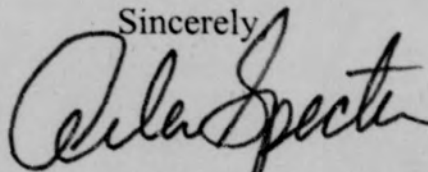
My office has been contacted by Ms. Barbara J. Manges concerning the provisions of the New York Dock Agreement as it relates to the STB's recent Norfolk Southern decision. I am enclosing a copy of the correspondence that I have received.

Your findings and views, along with the return of the enclosure, will be greatly appreciated. Please direct your reply to my assistant, Mr. Brian Aiello, at the following address:

Suite 2031 Federal Building  
1000 Liberty Avenue  
Pittsburgh, PA 15222  
(412) 644-3400

Thank you for your assistance with the aforementioned matter.

Sincerely



Arlen Specter

AS/bda  
Enclosure

### STATE OFFICES:

- ☐ 600 ARCH STREET, SUITE 9400  
PHILADELPHIA, PA 19106  
215-597-7200
- ☒ SUITE 2031, FEDERAL BUILDING  
PITTSBURGH, PA 15222  
412-644-3400
- ☐ ROOM 107, FEDERAL BUILDING  
ERIE, PA 16501  
814-453-3010
- ☐ ROOM 1104, FEDERAL BUILDING  
HARRISBURG, PA 17101  
717-737-3951
- ☐ 504 WEST HAMILTON STREET  
SUITE 3814  
ALLENTOWN, PA 18101  
610-434-1444
- ☐ 310 SPRUCE STREET, SUITE 201  
SCRANTON, PA 18503  
570-346-2006
- ☐ ROOM 377M, 7 N. WILKES-BARRE BLVD.  
WILKES-BARRE, PA 18701  
717-826-6300

OFFICE OF  
CHAIRMAN MORGAN

2001 DEC 17 P 12:21

RECEIVED  
SURFACE TRANSPORTATION  
BOARD

STB

ARLEN SPECTER

U. S. SENATOR PENNSYLVANIA

Dear Friend

Thank you for your request that I contact a Federal agency on your behalf for information or assistance. I am pleased to assist you with this matter.

Under the privacy act of 1974, written permission of the individual whose records will be disclosed is required. This law was written to protect every American citizen from unauthorized disclosure of personal information without proper consent.

If the person whose file is involved will please sign the release form below and return it to my Pittsburgh office by mail to Suite 2031, Federal Building, Pittsburgh, PA 15222, or by fax at (412) 644-4871, I will make an inquiry on your behalf.

Sincerely,

Arlen Specter

I grant permission to U S Senator Arlen Specter to request information on my behalf

NAME Barbara J MangesADDRESS 2255 Frosty Hollow RoadCITY Roaring Spring STATE PA ZIP CODE 16673TELEPHONE( 814 ) 224-5292SOCIAL SECURITY NUMBER (if appropriate) 205 44 5921

CLAIM OR ID NUMBER (if appropriate)

FEDERAL AGENCY INVOLVED Norfolk Southern Railroad

PROBLEM OR ASSISTANCE NEEDED

When Norfolk Southern said they were closing Hallidayburg Car Shop, they said we would be protected under New York Dock agreement. We were just told by our Union that in order to get New York Dock protection we have to bid jobs in Ohio, North Carolina or Atlanta, Ga.

I thought the whole idea for NY Dock was to protect you, so you wouldn't have to move because of a merger.

SIGNATURE: Barbara J MangesDATE 10/26/01

STB

FD-33388

12-3-01

J

PUBLIC





Office of the Chairman

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

FILE IN DOCKET

JN-33388

December 3, 2001

Ms. Betty I. Loeb  
666 W. Germantown Pike - 409S  
Plymouth Meeting, PA 19462

Dear Ms. Loeb:

Thank you for your further correspondence regarding the proposed closure of the Norfolk Southern Hollidaysburg Car Shops. As you know, on September 19 of this year, the Surface Transportation Board (Board) issued its decision permitting the closure of the Hollidaysburg Car Shops but subject to certain additional labor protective conditions and other requirements. Shortly thereafter, the matter was appealed by various labor and state interests to the Third Circuit Court of Appeals in Philadelphia, and that court has stayed the closing of the Hollidaysburg Car Shops pending consideration of the appeal.

I appreciate your concern in this matter. As before, I will have your letters and my response made a part of the public docket for this proceeding.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan



Betty Ilean Loeb  
666 W. Germantown Pk. -409S  
Plymouth Meeting, PA 19462  
(610) 828-2443

October 15, 2001

FILE IN DOCKET

Ms. Linda J. Morgan  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20422-0002

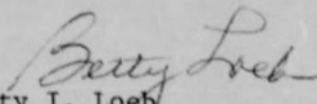
Dear Ms. Morgan:

While Norfolk Southern is crying about losing money, it seems to have plenty to spend.

Apparently The Ackerson Group, a law firm in Washington, DC, representing about 50,000 landowners in 16 states brought action against NS with regard to rights-of-way for the fiber-optics business. The figure of \$6,000 per mile, and possibly more, was mentioned as settlement for this class-action lawsuit.

Those valuable shops in Altoona should not be closed simply because NS never intended to keep them; interested only in its fiber-optics venture.

Sincerely,

  
Betty I. Loeb

RECEIVED  
SURFACE TRANSPORTATION  
BOARD  
2001 NOV 27 P 12:36  
OFFICE OF  
CHAIRMAN MORGAN

STB

FD-33388

11-16-01

J

MOC



Office of the Chairman

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

FILE IN DOCKET

FD-33388

November 16, 2001

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

Dear Congressman Kingston:

You have previously written to this agency about questions that your constituent, Mr. Gregory F. Vincent, of Savannah, Georgia, has raised regarding his eligibility, and that of other CSX Transportation (CSXT) employees working at CSXT's Signal Shop in Savannah, for New York Dock labor benefits following the Conrail acquisition transaction. As I said I would in my prior response to you, I am getting back with you regarding your constituent's questions.

I am enclosing a copy of the response that I received from Mr. Michael Ward, President of CSXT. In his letter, Mr. Ward addresses Mr. Vincent's concerns, which I hope you find informative. As before, I will have Mr. Ward's reply and this response made a part of the public docket for the Conrail acquisition transaction.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan

Enclosure



Office of the Chairman

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

September 24, 2001

Mr. Michael J. Ward  
President  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, Florida 32202

Dear Mr. Ward:

Enclosed is a letter that I received from Congressman Jack Kingston, including correspondence from his constituent, Mr. Gregory F. Vincent, of Savannah, Georgia. Mr. Vincent questions whether he and other long-time CSX employees at the J.F. DePreist Signal Shop are receiving the protection required under the New York Dock labor protective conditions imposed by the Surface Transportation Board (Board) in approving the Conrail acquisition transaction.

I have advised Congressman Kingston that I would be asking you to respond to the concerns raised by his constituents. Please assist the Board by responding to us regarding these concerns.

Thank you for your cooperation and prompt attention to this matter.

Sincerely,

*Linda J. Morgan*

Linda J. Morgan

Enclosures



Office of the Chairman

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

September 24, 2001

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

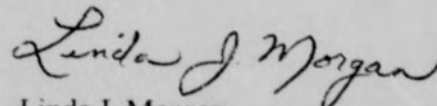
Dear Congressman Kingston:

Thank you for your recent letter enclosing correspondence from your constituent, Mr. Gregory F. Vincent, of Savannah, Georgia. He questions whether he and other long-time CSX employees at the J.R. DePreist Signal Shop in Savannah are receiving the protection required under the New York Dock labor protective conditions imposed by the Surface Transportation Board (Board) in approving the Conrail acquisition transaction.

I have forwarded your letter and Mr. Vincent's letter to Mr. Michael Ward, President of CSX Transportation, Inc. I will be back in touch with you once I have received Mr. Ward's response.

I appreciate your interest in this matter. I will have your letter, Mr. Vincent's letter, this response, and any response that I receive from Mr. Ward made a part of the public docket for the Conrail acquisition transaction.

Sincerely,

  
Linda J. Morgan

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

August 6, 2001

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. Dan King  
Director, Congressional Affairs  
Surface Transportation Board  
1925 A Street, NW, Room 840  
Washington, DC 20423

**FILE IN DOCKET**

Dear Mr. King:

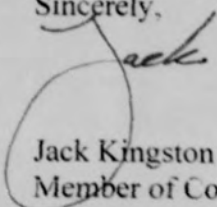
One of my constituents, Mr. Gregory F. Vincent, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Bruce Bazemore. He can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

  
Jack Kingston  
Member of Congress

Reply to: Bruce Bazemore  
Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, GA 31405

RECEIVED  
SURFACE TRANSPORTATION  
BOARD  
2001 AUG 20 P 12: 26  
OFFICE OF  
CHAIRMAN MORGAN



**GREGORY F. VINCENT**

609 Quarterman Drive ~ Savannah, Georgia 31410  
Home Phone (912) 897-0542 - Email gvinc82007@aol.com

AUG 02 REC'D

July 31, 2001

Congressman Jack Kingston  
6605 Abercorn Street, Suite 102  
Savannah, Georgia 31405

Dear Congressman Kingston:

I am writing to you out of desperation, and am requesting any help, advice or assistance you may be willing to give. Let me begin by saying that I am an employee of CSX Transportation and work at the J.R. DePreist Signal Shop in Savannah, Georgia. As you are probably aware, in early 1999, CSX and Southern Railroad purchased the ConRail Railroad. On July 1, 1999, CSX brought down fifteen (15) men from the former ConRail Signal Shop, and put these men to work in our shop here in Savannah. During the purchase of the ConRail by CSX and Southern Railroad, the Surface Transportation Board (STB) presided over the transaction and laid down several Ground Rules. One of these Ground Rules is what I am writing to you about.

The STB invoked the New York Dock Agreement (NYD) to protect all the employees that would be effected by this merger. It seems that CSX's interpretation of the NYD is that former ConRail employees were the only people effected by this merger. Under the NYD provisions, a Test Period Average (TPA) is done on each employee for twelve (12) months prior to the merger. The amount of monies an employee made prior to the merger is what the Agreement says that employee will make for the next six (6) years after the merger. This TPA resulted in ConRail employees with lesser Seniority making a great deal more money than the existing CSX employees with higher seniority. CSX also extended an invitation to other ConRail employees who were not currently working in the ConRail signalshop. They were also given this money pit called the "TPA".

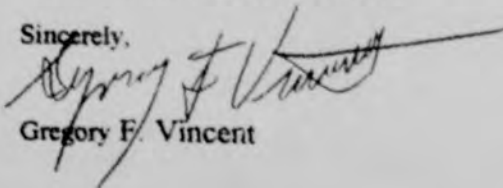
CSX says that only the ConRail employees were adversely affected by the merger. Due to the fact that the Seniority Rosters were dove-tailed, I personally lost ten (10) spots on the Seniority Roster. This also means that there are ten (10) more men between me and any chance of overtime, ten (10) more men between me becoming a Lead Signalman, a Technician, a Foreman, or any other higher paying position. CSX says that I was not adversely effected and was not entitled to any of the NYD's benefits.

The Brotherhood of Railroad Signalmen has appealed this decision to a Federal Arbitrator and lost. Some of us in the shop felt that the Brotherhood was not very much help. We have spoken to a few attorneys here in Savannah. Some have told us we don't have any way to over-turn the Arbitrator's ruling, others have told us to give them a retainer and they will research it for us.

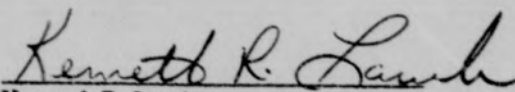
There are seventy-four (74) men that work here in the J.R. DePriest Signal Shop, and the majority of all of the existing CSX employees feel that we basically got the "shaft" from CSX during this merger. We also wonder if the STB even knows how CSX treated their own people during this merger.

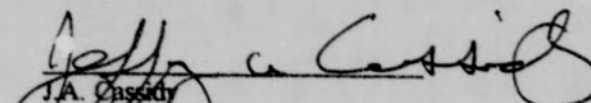
In closing, I would like to say that any assistance or guidance you can give us would be greatly appreciated. Myself or probably any number of the men here in the Shop would be willing to meet with you at any time. I am enclosing several names and addresses of existing CSX employees who were also adversely affected by this merger. We look forward to hearing from you soon.


Sincerely,

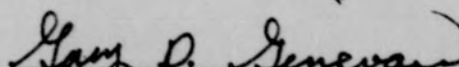
  
Gregory F. Vincent

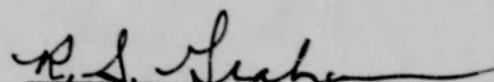
1. Kenneth R. Lamb ("Country")  
P.O. Box 567  
Eden, GA 31307
2. J.A. Cassidy ("Jeff")  
110 Rahn Street  
Rincon, GA 31326
3. L.G. Estep ("Larry")  
222B Salt Creek Road  
Savannah, GA 31405
4. G.D. Ginevan ("Gary")  
7310 East Sugar Tree Court  
Savannah, GA 31410
5. R.S. Graham ("Steve")  
115 West Manta Cove  
Savannah, GA 31410
6. R.S. Gribble ("Russ")  
931 Groveland-Nevils Road  
Pembroke, GA 31621
7. L. Hayden ("Lester")  
2612 Dogwood Avenue, Apt. A11  
Savannah, GA 31404
8. T.E. Pittman ("TJ")  
6 Browning Drive  
Pooler, GA 31322
9. M.J. Roberts ("Mike")  
7610 Jasper Ave., Apt. 333  
Jacksonville, FL 32211
10. W.L. Shuman ("Bill")  
152 Laurel Green Court  
Savannah, GA 31419
11. C.E. Stone ("Eddie")  
222 Huggins Crossing Road  
Brooklet, GA 31516

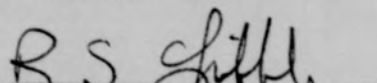
  
Kenneth R. Lamb

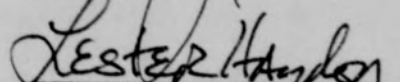
  
J.A. Cassidy

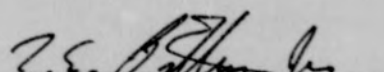
  
L.G. Estep

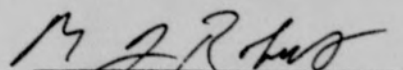
  
G.D. Ginevan

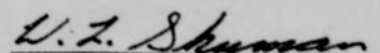
  
R.S. Graham

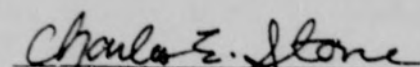
  
Russ Gribble

  
Lester Hayden

  
T.E. Pittman

  
M.J. Roberts

  
W.L. Shuman

  
C.E. Stone



Michael J. Ward  
President

Ms. Linda J. Morgan, Chair  
Surface Transportation Board  
Washington, DC 20423-0001

Dear Linda:

This refers to your letter of September 24, 2001, regarding correspondence you received from Congressman Jack Kingston pertaining to his constituent Mr. Gregory F. Vincent.

Records reflect that Mr. Vincent is employed by CSX Transportation, Inc. as a signalman, currently assigned to a position located in CSXT's Signal Shop at Savannah, Georgia.

The correspondence attached to your letter indicates that Mr. Vincent believes he and others should be entitled to New York Dock benefits because certain former Conrail employees were placed ahead of him on his seniority roster. Here, Mr. Vincent complains that employees junior to him and others have been afforded New York Dock benefits.

As you are aware, employees are not afforded New York Dock benefits simply on the basis of seniority. An employee must show that he or she was adversely affected as a direct result of a covered transaction.

This particular issue, however, was submitted to arbitration on April 19, 2001, by the Brotherhood of Railroad Signalmen on behalf of Mr. Vincent and certain other employees located at the Savannah Signal Shop. Under date of May 15, 2001, a New York Dock Section 11 arbitration committee denied the claims that Mr. Vincent and the other employees had submitted for protective benefits. Enclosed is a copy of the arbitration decision which was issued in this matter.

A review of the arbitration decision will disclose that the neutral arbitrator held that the adverse impact experienced by the claimants was not a direct result of the CSXT-Conrail transaction. The arbitrator found that there were several factors unrelated to the transaction which combined to reduce the claimants' overtime opportunities. Specifically, the arbitrator cited the establishment of fourteen new positions, hiring of new employees, as well as the elimination of unnecessary overtime and certain signal work due to budget constraints as the primary factors causing the decrease in overtime.

It is unfortunate that Mr. Vincent and his fellow employees feel they were mistreated; however, CSXT firmly believes that Mr. Vincent's complaints are simply without merit. Please let me know if you have any further questions or need any additional information pertaining to this matter.

Very truly yours,

*Michael Ward*

FILE IN DOCKET

500 Water Street  
Jacksonville, FL 32202  
(904) 366-5210  
Fax (904) 359-7674

October 5, 2001

OFFICE OF  
CHAIRMAN MORGAN

2001 OCT 19 A 9 50

RECEIVED  
SURFACE TRANSPORTATION  
BOARD

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5931  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

August 6, 2001

Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. Dan King  
Director, Congressional Affairs  
Surface Transportation Board  
1925 K Street, NW, Room 840  
Washington, DC 20423

Dear Mr. King:

One of my constituents, Mr. Gregory F. Vincent, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Bruce Bazemore. He can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Reply to: Bruce Bazemore  
Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, GA 31405

OFFICE OF  
CHAIRMAN MORGAN

2001 AUG 20 P 12:26

RECEIVED  
SURFACE TRANSPORTATION  
BOARD



**GREGORY F. VINCENT**

609 Quarterman Drive - Savannah, Georgia 31410  
Home Phone (912) 897-0542 - Email gvinc82007@aol.com

AUG 02 REC'D

July 31, 2001

Congressman Jack Kingston  
6605 Abercorn Street, Suite 102  
Savannah, Georgia 31405

Dear Congressman Kingston:

I am writing to you out of desperation, and am requesting any help, advice or assistance you may be willing to give. Let me begin by saying that I am an employee of CSX Transportation and work at the J.R. DePriest Signal Shop in Savannah, Georgia. As you are probably aware, in early 1999, CSX and Southern Railroad purchased the ConRail Railroad. On July 1, 1999, CSX brought down fifteen (15) men from the former ConRail Signal Shop, and put these men to work in our shop here in Savannah. During the purchase of the ConRail by CSX and Southern Railroad, the Surface Transportation Board (STB) presided over the transaction and laid down several Ground Rules. One of these Ground Rules is what I am writing to you about.

The STB invoked the New York Dock Agreement (NYD) to protect all the employees that would be effected by this merger. It seems that CSX's interpretation of the NYD is that former ConRail employees were the only people effected by this merger. Under the NYD provisions, a Test Period Average (TPA) is done on each employee for twelve (12) months prior to the merger. The amount of monies an employee made prior to the merger is what the Agreement says that employee will make for the next six (6) years after the merger. This TPA resulted in ConRail employees with lesser Seniority making a great deal more money than the existing CSX employees with higher seniority. CSX also extended an invitation to other ConRail employees who were not currently working in the ConRail signalshop. They were also given this money pit called the "TPA".

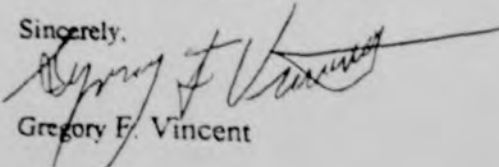
CSX says that only the ConRail employees were adversely affected by the merger. Due to the fact that the Seniority Rosters were dove-tailed, I personally lost ten (10) spots on the Seniority Roster. This also means that there are ten (10) more men between me and any chance of overtime, ten (10) more men between me becoming a Lead Signaller, a Technician, a Foreman, or any other higher paying position. CSX says that I was not adversely effected and was not entitled to any of the NYD's benefits.

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There are seventy-four (74) men that work here in the J.R. DePriest Signal Shop, and the majority of all of the existing CSX employees feel that we basically got the "shaft" from CSX during this merger. We also wonder if the STB even knows how CSX treated their own people during this merger.

In closing, I would like to say that any assistance or guidance you can give us would be greatly appreciated. Myself or probably any number of the men here in the Shop would be willing to meet with you at any time. I am enclosing several names and addresses of existing CSX employees who were also adversely affected by this merger. We look forward to hearing from you soon.

Sincerely,

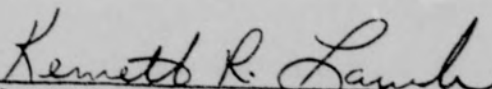
  
Gregory F. Vincent

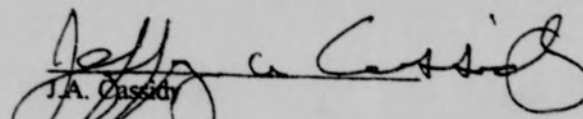
CONGRESSMAN JACK KINGSTON

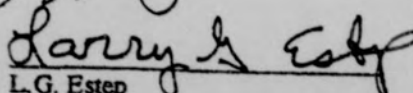
July 31, 2001

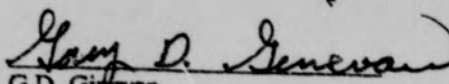
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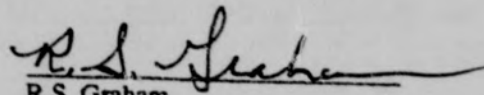
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P.O. Box 567  
Eden, GA 31307
2. J.A. Cassidy ("Jeff")  
110 Rahn Street  
Rincon, GA 31326
3. L.G. Estep ("Larry")  
222B Salt Creek Road  
Savannah, GA 31405
4. G.D. Ginevan ("Gary")  
7310 East Sugar Tree Court  
Savannah, GA 31410
5. R.S. Graham ("Steve")  
115 West Manta Cove  
Savannah, GA 31410
6. R.S. Gribble ("Russ")  
931 Groveland-Nevils Road  
Pembroke, GA 31621
7. L. Hayden ("Lester")  
2612 Dogwood Avenue, Apt. A11  
Savannah, GA 31404
8. T.E. Pittman ("TJ")  
6 Browning Drive  
Pooler, GA 31322
9. M.J. Roberts ("Mike")  
7610 Jasper Ave., Apt. 333  
Jacksonville, FL 32211
10. W.L. Shuman ("Bill")  
162 Laurel Green Court  
Savannah, GA 31419
11. C.E. Stone ("Eddie")  
222 Huggins Crossing Road  
Brooklet, GA 31516

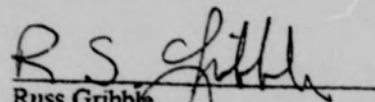
  
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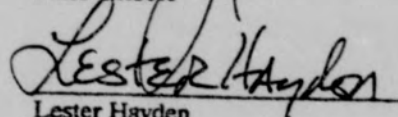
  
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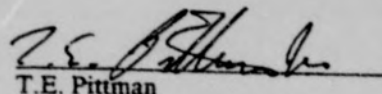
  
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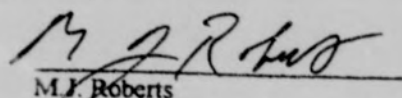
  
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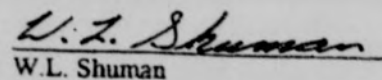
  
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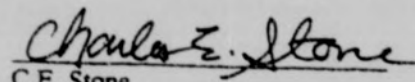
  
Russ Gribble

  
Lester Hayden

  
T.E. Pittman

  
M.J. Roberts

  
W.L. Shuman

  
C.E. Stone



**FINANCE DOCKET NO. 33399**

This matter came to be heard before Neutral Member Peter R. Meyers on the 18<sup>th</sup> day of April 2001 at the offices of CSX Transportation, 500 Waters Street, Jacksonville, Florida. Mr. C. A. McGraw presented on behalf of the Organization, and Mr. Neil B. Grissom presented on behalf of the Carrier.

## **Introduction**

In July 1998, the Surface Transportation Board ("STB") approved a transaction in which CSX Transportation, Inc. (hereinafter "the Carrier" or "CSXT") acquired part of the Consolidated Rail Corporation ("Conrail"). The STB imposed *New York Dock Conditions* for any affected employees. In December 1998, the Carrier and the Brotherhood of Railroad Signalmen (hereinafter "the Organization") entered into an Implementing Agreement under Article 1, Section 4, of the *New York Dock Conditions*. As part of this Implementing Agreement, fifteen former Conrail signalmen transferred from Conrail's Signal Shop in Columbus, Ohio, which was eliminated, to the Carrier's Signal Shop in Savannah, Georgia, and their seniority was dovetailed into the Signal Shop Seniority Roster at that location.

The Claimants, all of whom were assigned to signal department positions in the Savannah Signal Shop prior to the CSXT-Conrail merger, complained that available overtime opportunities had been reduced as a result of the merger. The Organization thereafter filed claims on behalf of the Claimants, contending that the Carrier improperly denied them a displacement allowance, pursuant to the protective benefits of the *New York Dock* Implementing Agreement.

Because these different claims involve substantially the same facts, issues, and contentions, they were consolidated. The arbitration provision of *New York Dock* was invoked, and this matter then came to be heard, pursuant to Article I, Section 11, of the

*New York Dock Conditions*, before the CSXT - BRS New York Dock Section 11 Arbitration Committee, Peter R. Meyers, Neutral Member, on April 18, 2001, in Jacksonville, Florida. The parties also filed written briefs in support of their respective positions.

**Question at Issue Posed by the Carrier**

Were the employees identified below adversely affected as a direct result of the Conrail transaction and, thus, entitled to *New York Dock* protective benefits as provided for under Surface Transportation Board Finance Docket 33388?

Case No. 1 - Claims on behalf of L. Haydon, K.R. Lamb, C.E. Stone, L.G. Estep, R.S. Graham, T.E. Pittman, Jr., J.A. Cassidy, C.M. Leverette, and C.D. Whitfield. Carrier's File No. 15 (99-212). General Chairman's File No. SCL 1899. BRS File Case No. 11342-SCL.

Case No. 2 - Claims on behalf of G.D. Ginevan and W.L. Shuman. Carrier's File No. (15 99-196). BRS File Case No. 11392-B&O.

Case No. 3 - Claim on behalf of R.C. Jones. Carrier's File No. (15 99-166). General Chairman's File No. 99-SAV-8. BRS File Case No. 11398-L&N.

Case No. 4 - Claim on behalf of R.S. Gribble. Carrier's File No. (15 99-165). General Chairman's File No. 99-SAV-11. BRS File Case No. 11399-L&N.

Case No. 5 - Claim on behalf of R.A. Voyles. Carrier's File No. (15 99-164). General Chairman's File No. 99-SAV-10. BRS File Case No. 11400-L&N.

Case No. 6 - Claim on behalf of G.C. Lannou, Jr.. Carrier's File No. 15 (99-138). General Chairman's File No. 99-40-SS. BRS File Case No. 11429-C&O.

Case No. 7 - Claim on behalf of G.F. Vincent. Carrier's File No. 15 (99-167). General Chairman's File No. 99-SAV-09. BRS File Case No. 11500-L&N.

### Question at Issue Posed by the Organization

Were the employees identified below adversely affected as a direct result of the Conrail transaction and, thus, entitled to *New York Dock* protective benefits as provided for under Surface Transportation Board Finance Docket 33359?

Case No. 1 - Claims on behalf of L. Haydon, K.R. Lamb, C.E. Stone, L.G. Estep, R.S. Graham, T.E. Pittman, Jr., J.A. Cassidy, C.M. Leverette, and C.D. Whitfield. Carrier's File No. 15 (99-212). General Chairman's File No. SCL 1899. BRS File Case No. 11342-SCL.

Case No. 2 - Claims on behalf of G.D. Ginevan and W.L. Shuman. Carrier's File No. (15 99-196). BRS File Case No. 11392-B&O.

Case No. 3 - Claim on behalf of R.C. Jones. Carrier's File No. (15 99-166). General Chairman's File No. 99-SAV-8. BRS File Case No. 11398-L&N.

Case No. 4 - Claim on behalf of R.S. Gribble. Carrier's File No. (15 99-165). General Chairman's File No. 99-SAV-11. BRS File Case No. 11399-L&N.

Case No. 5 - Claim on behalf of R.A. Voyles. Carrier's File No. (15 99-164). General Chairman's File No. 99-SAV-10. BRS File Case No. 11400-L&N.

Case No. 6 - Claim on behalf of G.C. Lannou, Jr.. Carrier's File No. 15 (99-138). General Chairman's File No. 99-40-SS. BRS File Case No. 11429-C&O.

Case No. 7 - Claim on behalf of G.F. Vincent. Carrier's File No. 15 (99-167). General Chairman's File No. 99-SAV-09. BRS File Case No. 11500-L&N.

### Relevant Contract Provisions

#### NEW YORK DOCK CONDITIONS

#### APPENDIX III

Labor protective conditions to be imposed in railroad transactions pursuant to 49 U.S.C. 11343 et seq. [formerly sections 5(2) and 5(3) of the Interstate Commerce Act], except for trackage rights and lease proposals which



are being considered elsewhere, are as follows:

1. Definitions. - (a) "Transaction" means any action taken pursuant to authorizations of this Commission on which these provisions have been imposed.

(b) "Displaced employee" mean an employee of the railroad who, as a result of a transaction is placed in a worse position with respect to his compensation and rules governing his working conditions.

(c) "Dismissed employee" means an employee of the railroad who, as a result of a transaction is deprived of employment with the railroad because of the abolition of his position or the loss thereof as the result of the exercise of seniority rights by an employee who position is abolished as a result of a transaction.

(d) "Protective period" means the period of time during which a displaced or dismissed employee is to be provided protection hereunder and extends from the date on which an employee is displaced or dismissed to the expiration of 6 years therefrom, provided, however, that the protective period for any particular employee shall not continue for a longer period following the date he was displaced or dismissed than the period during which such employee was in the employ of the railroad prior to the date of his displacement or his dismissal. For purposes of this appendix, an employee's length of service shall be determined in accordance with the provisions of section 7(b) of the Washington Job Protection Agreement of May 1936.

...

2. The rates of pay, rules, working conditions and all collective bargaining and other rights, privileges and benefits (including continuation of pension rights and benefits) of the railroad's employees under the applicable laws and/or existing collective bargaining agreements or otherwise shall be preserved unless changed by future collective bargaining agreements or applicable statutes [sic].

...

5. Displacement allowances - (a) So long after a displaced employee's displacement as he is unable, in the normal exercise of his seniority rights under

existing agreement, rules and practices, to obtain a position producing compensation equal to or exceeding the compensation he received in the position from which he was displaced, he shall, during his protective period, be paid a monthly displacement allowance equal to the difference between the monthly compensation received by him in the position in which he is retained and the average monthly compensation received by him in the position from which he was displaced.

...

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 1, 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. 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.

...

(c) The decision, by majority vote, of the arbitration committee shall be final, binding, and conclusive and shall be rendered within 45 days after the hearing of the dispute or controversy has been concluded and the record closed.

(d) The salaries and expenses of the neutral member shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them.



(e) In the event of any dispute as to whether or not a particular employee was affected by a transaction, it shall be his obligation to identify the transaction and specify the pertinent facts of that transaction relied upon. It shall then be the railroad's burden to prove that factors other than a transaction affected the employee.

### **Factual Background**

In a decision dated July 23, 1998, the Surface Transportation Board ("STB") approved a transaction in which the Carrier and the Norfolk and Southern Railway Company ("NSR") each acquired part of the Consolidated Rail Corporation ("Conrail"). The STB imposed *New York Dock Conditions* for any affected employees.

In December 1998, the Organization, the Carrier and its railroad subsidiaries, the NSR and its railroad subsidiaries, and Conrail entered into an Implementing Agreement pursuant to Article 1, Section 4, of the *New York Dock Conditions*. Among other things, the Implementing Agreement provided for the seniority dovetailing of former Conrail employees who transferred from Conrail's Columbus, Ohio, Signal Shop, which was eliminated, to the Carrier's Signal Shop in Savannah, Georgia. A total of fifteen former Conrail signalmen did transfer from Columbus, Ohio, to the Savannah Shop, and their seniority was dovetailed into the Carrier's Signal Shop Seniority Roster at that location.

The Claimants all were assigned to signal department positions in the Savannah Signal Shop prior to the CSXT-Conrail merger. Certain of the former Conrail employees who transferred to the Savannah Signal Shop had greater seniority than one or more of the Claimants. Upon the dovetailing of these former Conrail employees into the

Savannah Signal Shop Seniority Roster, one or more of the Claimants did drop down on the Seniority Roster. After the merger, the Claimants continued to work at the same positions, at the same location, and performed the same type of work as they did before the transaction. There was, however, a reduction in the Claimants' overtime opportunities, and therefore their overall compensation, following the merger. Because of this reduction in the amount of available overtime, the Claimants now contend that they are entitled to protective benefits under the *New York Dock Conditions*.

### **The Organization's Position**

The Organization initially contends that the Claimants became "displaced employees," as defined under the *New York Dock Conditions*, when the Carrier eliminated the Conrail Signal Shop and transferred former Conrail employees to the CSX Signal Shop in Savannah, Georgia. This action resulted in certain work, that Claimants formerly performed on an overtime basis, being assigned to the former Conrail employees. The Organization maintains that these events caused an obvious reduction in work opportunities for the Claimants who had merely continued to work as employees of CSX.

The Organization goes on to assert that the Claimants were adversely affected by the changes that resulted from the merger of CSX and Conrail. Accordingly, the Organization maintains that the Claimants are entitled to receive a Test Period Average ("TPA") and the appropriate displacement allowance. The Organization argues that the

Carrier should be required to calculate the Claimants' TPA and provide them with required displacement allowances, beginning in June 1999 and continuing for the term of the protective period.

The Organization emphasizes that in connection with the transfer of the former Conrail signalmen to Savannah, there was no concurrent addition of work assigned to the Claimants' positions from any other areas to compensate for work that was removed from them and assigned to the former Conrail employees. The Organization points out that except for the CSXT-Conrail merger, the Carrier could not have taken the work from the CSXT employees and assigned it to former Conrail employees. The Organization therefore argues that there was a direct connection between the merger and the reduction in work opportunities available to the Claimants, thus triggering the application of the *New York Dock Conditions*.

The Organization goes on to contend that because the Carrier removed work from the Claimants' assignments and gave that work to former Conrail employees, the Claimants were placed in a worse position with respect to their compensation. What had been a regular source of overtime compensation was eliminated, thereby establishing the Claimants as displaced employees who are entitled to displacement allowances.

The Organization additionally contends that the Carrier's refusal to provide the Claimants with TPA protection was merely an attempt to frustrate the Claimants. The Organization maintains that a fundamental question in determining an employee's

eligibility for a displacement allowance is whether the employee's compensation was reduced. The Organization emphasizes that it is compensation, not the rate of pay, that determines if the employee was adversely affected. The Organization argues that it is a well-established principle that for an employee to know whether he or she has been adversely affected, a carrier must provide that employee with information about test period earnings. In the instant case, the Carrier steadfastly refused to consider the Claimants' requests for TPA protection; it summarily dismissed the Claimants' assertions that they had been adversely affected without giving proper consideration to the TPA information that the Claimants provided themselves.

The Organization then addresses the Carrier's suggestion that the losses suffered by the Claimants were tied to budget constraints. The Organization emphasizes that the Carrier has offered no proof whatsoever to support its claim that these losses were due to budget constraints. Instead, the record shows that the Carrier acquired 42% of the former Conrail property, while acquiring 70% of Conrail's formal signal work force. The Organization contends that this disproportionate shift in the workload directly led to the instant dispute and caused the adverse effects suffered by the Claimants. The Organization emphasizes that there is no dispute that, following the merger, the Carrier opted to coordinate the work of the two signal shops. The Organization maintains that this provides the causal nexus for this dispute.

The Organization acknowledges that Referees repeatedly have cautioned against



considering every Carrier action following a merger to be a "transaction" under the *New York Dock Conditions*. There must be a connection between the merger and the alleged transaction, and the existence of a causal nexus is the key to establishing that a Carrier action is a *New York Dock* transaction. The Organization asserts that under Section 11, when there is a dispute regarding an employee's eligibility for benefits, the employee must first establish that the transaction meets the definition of that term under *New York Dock*. The Organization argues that in this case, the Claimants have met this burden. Moreover, the Claimants clearly have shown that they were placed in a worse position after the transaction than before it.

The Organization asserts that the adverse change in the Claimants' position was possible only because of the direct connection between the CSXT-Conrail merger and the change in the Claimants' assignments. As a result of this change, the Claimants lost the opportunity to perform work on a portion of their pre-merger assignments, making them displaced employees under the *New York Dock Conditions*. The Organization argues that the Carrier was obligated to calculate TPA and provide the Claimants with appropriate displacement allowances. The Organization ultimately contends that the Question at Issue that it posed should be answered in the affirmative.

### **The Carrier's Position**

The Carrier contends that there is no proximate causal nexus between the Conrail transaction and facts demonstrating that any of the Claimants are "displaced" employees.

The Carrier emphasizes that the Interstate Commerce Commission, the Surface Transportation Board's predecessor, authoritatively held that the appropriate causal standard in *New York Dock* disputes is "proximate" rather than "but for" causation. The ICC has explained that there must be a direct causal connection between the transaction and the adverse impact on the employee before the employee is entitled to protective benefits; labor protective conditions are designed to cushion employees from the direct impact of a merger, not to insulate employees from all post-merger actions. Accordingly, there must be a showing of a real and discernible causal nexus between the claimed adverse effect and the transaction. The Carrier maintains that there is no such nexus in the instant matter.

The Carrier points out that Claimant Ginevan, for example, contends that he is a displaced employee because eight former Conrail employees who are senior to him were dovetailed into the Signal Shop Seniority Roster at Savannah. The Carrier argues that there simply is no basis for the Organization to contend that because overtime work opportunities are afforded in seniority order, the Claimants have been adversely affected by such action. The Carrier emphasizes that the distribution of overtime is governed by the schedule agreement. The Carrier maintains that the Claimants' positions were not abolished, they were not displaced, and their rates of pay were not reduced. The fact that senior Conrail employees were dovetailed into the Signal Shop Roster ahead of several of the Claimants does not establish that they were adversely affected by the transaction.



Moreover, the Claimants cannot be considered as adversely affected because there now are more employees at the Signal Shop to perform the work, which in turn reduces the necessity for overtime.

The Carrier cites several cases in which Referees have denied labor protective conditions to employees who have claimed they were adversely affected as a result of a transaction because senior employees were dovetailed ahead of them on a seniority roster. The Carrier emphasizes that in the instant case, the former Conrail employees who transferred to the Savannah Signal Shop did not displace anyone. Any subsequent adverse effect that may have occurred from that transfer was the result of the application of the seniority provisions contained in the BRS/CSXT agreements.

The Carrier goes on to argue that there were other supervening factors that had an impact upon the amount of overtime available to the Claimants, and these other factors were not a direct result of the Conrail transaction. The Carrier points out that in late 1998 and early 1999, fourteen additional positions were established in the Signal Shop, which resulted in the transfer of seven employees from field locations to the Signal Shop and the hiring of seven new employees. The Carrier emphasizes that this obviously increased the straight-time hours worked at the Signal Shop, with a corresponding reduction in the number of available overtime opportunities. Moreover, during the same time period, the Carrier began reducing unnecessary overtime because of budgetary constraints that were imposed in response to business pressures. The Carrier therefore

contends that there was a confluence of events unrelated to the transaction that had an impact on the Claimants' overtime earnings.

The Carrier goes on to argue that none of the actions that are alleged to have adversely affected the Claimants were taken pursuant to STB approval. The transfer of the fifteen former Conrail employees to the Savannah Signal Shop did not result in any CSXT employee being "displaced" or "dismissed," nor were the Claimants' rates of pay reduced as a result of these transfers. The Carrier contends that the Organization clearly has not met its burden of proving that the Claimants are entitled to protective benefits. Accordingly, the Carrier argues that the Question at Issue that it proposed should be answered in the negative.

### **Decision**

This Committee has carefully reviewed all of the evidence and testimony in the record, as well as the written briefs submitted by the parties. As is typical in this type of dispute, the Organization bears the burden of proof here. The Organization is attempting to show that the Claimants are entitled to the protective benefits set forth in the *New York Dock Labor Conditions*. Appendix III, Article 11(e) of the *New York Dock Conditions* expressly provides that the Organization must make an initial showing that identifies the transaction and the pertinent facts relating to the transaction upon which it relies. Essentially, the Organization must show that the Claimants were adversely affected by the transaction at issue and that they are entitled to the protective benefits of the *New*

*York Dock Conditions* under the factual circumstances of this case. To satisfactorily make this showing, the Organization must establish the existence of a relationship, or nexus, between the cited transaction and any proven adverse effect. If the Organization successfully makes this showing, then the Carrier, to defend itself against the claim, must establish that factors other than the transaction affected the Claimants.

There is no dispute that a transaction, as that term is defined in the *New York Dock Conditions*, occurred when the Carrier, through a merger, acquired control over portions of Conrail. The evidence further makes clear that fifteen former Conrail employees transferred to the Carrier's Savannah Signal Shop in connection with the merger, thereby increasing the employee complement at this facility. Moreover, the Claimants unquestionably experienced a drop in their overall compensation after the merger, due to a reduction in overtime opportunities. The record also demonstrates that none of the Claimants were displaced or dismissed from their positions of employment, and none of them were subjected to a reduction in their rates of pay. The sole adverse impact that the Claimants allege here is that they each have suffered a drop in their opportunities to work overtime.

The critical question is whether there is a reasonably direct causal connection, or nexus, between the merger and the drop in the Claimants' overtime opportunities. If the loss of overtime was "caused" by the CSXT-Conrail merger, then the Claimants may properly be characterized as having been adversely affected by this transaction and thus

entitled to protective benefits under the *New York Dock Conditions*. If no such causal connection can be established, then the Claimants are not entitled to any benefits.

The Organization relies on the fact that fifteen former Conrail employees transferred to the Savannah Signal Shop in the wake of the merger and were dovetailed into the Shop's Seniority Roster. The Organization asserts that these events, a direct result of the merger, caused the Claimants' overtime opportunities to drop, and that this constitutes the causal nexus between the merger and the adverse impact upon the Claimants.

Obviously if fifteen employees are added to a shop, and there is no corresponding increase in available work, then the mere presence of the additional employees will reduce available overtime for all. Similarly, if these additional employees are dovetailed into the shop's seniority roster and overtime is offered on a seniority basis, then any employees who are lower on the list will receive fewer overtime assignments. But does this mean that the Claimants suffered an adverse impact as a direct result of the merger? An analysis of the evidentiary record demonstrates that the answer to this question must be "no."

Those of the Claimants who are lower on the seniority list than some or all of the former Conrail employees who transferred to the Savannah Signal Shop have experienced a loss of certain overtime opportunities simply because they have less seniority than the former Conrail employees and now occupy a lower spot on seniority



roster. The seniority-based distribution of overtime is governed by the collective bargaining agreement between the Carrier and the Organization, and this factor in the reduction of the Claimants' overtime opportunities obviously is not related to the CSXT-Conrail merger.

It also must be noted that the mere presence of these former Conrail employees means that a greater number of straight-time hours are being worked at the Savannah Signal Shop, with more work being completed during straight-time hours. The effect of this aspect of the situation is magnified by the Carrier's creation of fourteen new positions at the Savannah facility; half of these new positions were filled by employees who transferred to the Savannah Signal Shop from various field locations, and the other half were filled by newly hired employees. The Carrier's creation of these new positions also is significant in that this action is completely separate from the merger. As with the presence of the former Conrail employees, the addition of fourteen new positions at the Savannah Signal Shop unquestionably resulted in a decrease in overtime work opportunities for all employees at the shop. The drop in the Claimants' overtime opportunities is due, at least in part, to this step, which has no connection to the CSXT-Conrail merger.

There is yet another factor that explains some part of the Claimants' reduced overtime opportunities. The Carrier has pointed out that budget constraints, again unrelated to the merger, caused it to eliminate unnecessary overtime work at the

Savannah Signal Shop and to reduce the amount of wiring work performed by employees at the Savannah facility. Obviously, these moves adversely affected all employees at the Savannah Signal Shop, particularly those who are lower on the seniority roster.

Therefore, the evidentiary record conclusively demonstrates that the adverse impact experienced by the Claimants has not been directly caused by the CSXT-Conrail merger. Instead, the addition of new employees and employment positions to the Savannah Signal Shop, the fact that some of these newly added employees have more seniority than the Claimants, and the elimination of unnecessary overtime and certain signal work because of budget constraints all combined to cause a reduction in the Claimants' overtime opportunities. None of these factors properly can be described as establishing a causal nexus between the merger and the adverse impact upon the Claimants. Instead, all of these are nothing more than post-merger actions and events. Moreover, some of these post-merger occurrences have absolutely no relationship at all, whether direct or indirect, to the CSXT-Conrail merger, although they did contribute to the reduction in overtime opportunities at the Savannah Signal Shop. The simple fact that the merger occurred therefore did not result in lost overtime opportunities for the Claimants. Instead, the evidentiary record makes clear that the Claimants probably would have experienced such a loss even if the merger never had occurred.

The Organization therefore has failed to establish the existence of a causal nexus between the transaction at issue, the merger involving the Carrier and Conrail, and the



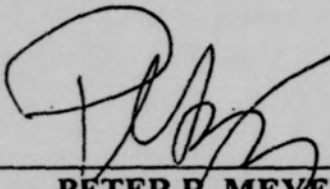
subsequent drop in the overtime opportunities available to the Claimants, which had an adverse effect upon their overall compensation. Because there is no such causal nexus, there is no basis for awarding the Claimants any remedy under the terms of the *New York Dock Conditions*.

**Award**

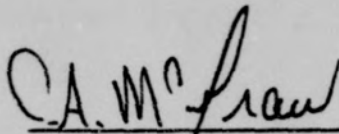
The Question at Issue posed by the Carrier is answered in the negative.

The Question at Issue posed by the Organization is answered in the negative.

The Claimants are not entitled to protective benefits under the provisions of the *New York Dock Conditions*.

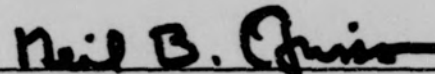


PETER R. MEYERS  
Chairman and Neutral Member



C. A. MCGRAW  
Organization Member

DATED: 5/21/01



NEIL B. GRISSOM  
Carrier Member

DATED: 5/21/01

STB

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BUSINESS



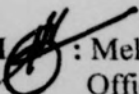
FD 33388

*SURFACE TRANSPORTATION BOARD*

# MEMORANDUM

Date: 10/2/01

**TO** : Chairman Morgan  
Vice Chairman Clyburn  
Commissioner Burkes

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

**SUBJECT : AMTRAK QUARTERLY PERFORMANCE REPORTING -  
DISCONTINUANCE OF REPORTING**

This is to make you aware of a recent request by Amtrak (copy attached) to discontinue its quarterly performance reporting involving the operation of its trains by NS and CSXT over former Conrail lines. Amtrak has indicated in its most recent quarterly report that operations by NS and CSXT are better than the pre-implementation "base period" of Conrail. Amtrak credits the reporting and the Board's monitoring for its operational improvements. However, as noted in the attached letter, while I believe it is appropriate to grant Amtrak's request to discontinue the reporting, should Amtrak believe that reporting is again needed during the oversight period, it could immediately resume the submission of its quarterly reports.

Please let me know if you have any questions.

Attachments



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

October 2, 2001

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

202-565-1573  
FAX 202-565-9011

Richard G. Slattery  
Senior Associate General Counsel  
National Railroad Passenger Corporation  
60 Massachusetts Avenue, N.E.  
Washington, DC 20002

Dear Mr. Slattery:

This letter responds to your request regarding the continuing need to file certain operational monitoring data required under Finance Docket No. 33388, Decision No. 89, and involving the implementation of the Conrail acquisition. Specifically, you have requested the discontinuance of the quarterly reporting requirement addressing the operation and on-time performance of Amtrak trains operated by Norfolk Southern Railway (NS) and CSX Transportation, Inc. (CSXT) since the implementation of the Conrail transaction.

In your eighth and most recent quarterly report, you indicated that performance levels for Amtrak trains operated by NS and CSXT over former Conrail lines had reached levels that were better than the pre-implementation "base period". As such, you suggest that the attention being paid to Amtrak operations by NS and CSXT and the performance levels being attained support discontinuance of the quarterly reporting by Amtrak. In addition, you have indicated correctly that the Board's oversight condition in the Conrail Transaction extends at least until May 31, 2004, and thus would allow Amtrak to resume quarterly reporting if performance by NS or CSXT were to decline significantly.

Inasmuch as it appears that the quarterly reporting by Amtrak and the monitoring of Amtrak's operations by the Surface Transportation Board have had the desired effect, I agree to your request to discontinue the quarterly performance reporting. This letter will be placed in the formal docket.

Sincerely,

Melvin F. Clemens, Jr.  
Director

cc: Chairman Morgan  
Vice Chairman Clyburn  
Commissioner Burke

Peter J. Shudtz - CSX Corporation  
George A. Aspatore - Norfolk Southern Corporation





Direct Dial (202) 906-3987

Fax: (202) 906-2821

August 22, 2001

The Honorable Melvin F. Clemens, Jr.  
Director, Office of Compliance and Enforcement  
Surface Transportation Board  
Room 784  
1925 K Street, N.W.  
Washington, D.C. 20423

RECEIVED  
SURFACE TRANSPORTATION  
BOARD  
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OFFICE OF  
COMPLIANCE  
AND ENFORCEMENT  
DIRECTOR

Re: *Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company – Control and Operating Leases/Agreements – Conrail Inc. and Consolidated Rail Corporation*  
Quarterly Report re. Amtrak On-Time Performance

Dear Mr. Clemens:

On behalf of NS, CSX and itself, the National Railroad Passenger Corporation ("Amtrak") hereby submits the eighth quarterly report regarding the on-time performance of Amtrak trains operated over the lines of NS and CSX since the implementation of the Conrail acquisition. This report covers the period from April 1, 2001 through June 30, 2001.

The on-time performance measurements shown in the attached report, which reflect the performance of all Amtrak trains operated by NS or CSX over lines formerly owned by Conrail, are based upon the measures used by the parties for determining contract incentive payments. For incentive purposes, a train is considered "on time" if it arrives at its destination, or an intermediate "checkpoint" where performance is measured, within the scheduled running time for that segment plus a "tolerance" of 5 minutes for trips operating under 400 miles and 10 minutes for trips over 400 miles. Certain delays not within the control of NS or CSX, such as delayed departures, longer than scheduled station stops, and delays due to mechanical problems with Amtrak equipment, are excluded. Performance is measured separately at each checkpoint.

Amtrak's comment on the report, which is set forth below, represents its own views and not the views of NS or CSX.

### **Amtrak's Comment**

During the second quarter of 2001, Amtrak's overall on-time performance on both CSX- and NS-operated lines acquired from Conrail was better than during the "base period" preceding the implementation of the Conrail acquisition. This is the first quarter in which this has been the case.

On ex-Conrail lines operated by NS, overall on-time performance was 80.2%, which is three percentage points greater than during the pre-acquisition "base period" and a 4.4 percentage point improvement over the previous quarter. This improvement is primarily attributable to improved on-time performance by long distance trains on NS's Harrisburg-Pittsburgh-Chicago line. On-time performance of trains operating over lines NS owned prior to the Conrail acquisition, which is not reflected in the attached figures, continued to be good.

As has been the case for some time now, CSX on-time performance on ex-Conrail lines (89.3%) was better than Conrail's "base period" performance on the same lines, although it was slightly lower than the previous quarter's 92.7% figure.

The results of the past quarter suggest that the majority of the on-time performance problems that developed on NS and CSX in the aftermath of the Conrail acquisition have been remedied. The freight train congestion and slow order problems that remain are generally limited to a few CSX lines that Amtrak has identified in previous reports, including CSX's Jacksonville-to-New Orleans line and portions of CSX's Washington-to-Florida lines. (Performance of Amtrak trains operating over these lines is not reflected in the attached data.) However, even on some of these lines, there have been positive developments during the last quarter. For example, a joint initiative by Amtrak and CSX to reduce delays on Amtrak's Lorton, VA-to-Sanford, FL Auto Train has resulted in an immediate and significant improvement in that train's on-time performance.

### **Future Oversight**

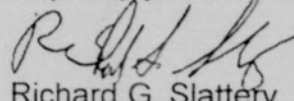
The Board's oversight condition regarding Amtrak on-time performance will continue until May 31, 2004. However, Amtrak believes that this is an appropriate time to discontinue the regular quarterly reports that Amtrak has been submitting to the Office of Compliance and Enforcement. Given the improvement in the overall performance on NS and CSX that this report reflects, and that the remaining problems are concentrated on a few individual lines (most of which are not the ex-Conrail lines for which on-time performance data are being provided), Amtrak believes that the need for

The Honorable Melvin F. Clemens, Jr.  
August 22, 2001  
Page 3

regular reporting has significantly diminished. CSX and NS concur with Amtrak's proposal to eliminate regular reporting.

Amtrak appreciates the attention that the Board, and particularly the Office of Compliance and Enforcement, have given to the on-time performance of Amtrak trains in their continuing oversight of the Conrail acquisition. The implementation of the Conrail acquisition has created many difficult problems for Amtrak, its guests, and its employees. Nonetheless, Amtrak appreciates the efforts that NS and CSX have made to resolve those problems, and is particularly pleased that the parties have been able to address them without Board intervention.

Very truly yours,



Richard G. Slattery  
Senior Associate General Counsel

Attachments

cc: Chairman Linda J. Morgan  
Vice Chairman William Clyburn, Jr.  
Commissioner Wayne O. Burkes

Peter J. Shudtz, Esq.  
Vice President – Law and General Counsel  
CSX Corporation  
One James Center  
901 East Cary Street  
Richmond, VA 23219

George Aspatore, Esq.  
General Solicitor  
Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, VA 23510

CONRAIL/NORFOLK SOUTHERN  
ON-TIME PERFORMANCE<sup>(1)</sup> FOR AMTRAK TRAINS  
PERFORMANCE BY CHECKPOINT  
APRIL - JUNE, 2001

Train	Location	Conrail June 98 thru May 99	NS Previous Quarter	NS Apr-01 thru Jun-01	Percentage Point Difference	
					From Conrail to NS Apr-Jun 2001	NS Prev Qtr to NS Apr-Jun 2001
29	Origin Bloom(Pittsburgh, PA)					
	Checkpoint Toledo, OH	79.5%	75.0%	78.0%	(4.5)	3.0
	Checkpoint 21st St (Chicago, IL)	75.7%	68.5%	68.1%	(7.6)	(0.4)
30	Origin 21st St (Chicago, IL)					
	Checkpoint Toledo, OH	73.8%	62.2%	64.8%	(9.0)	2.6
	Checkpoint Bloom(Pittsburgh, PA)	54.5%	42.7%	45.6%	(8.9)	2.9
40	Origin New Castle, PA					
	Checkpoint Harrisburg, PA	75.6%	93.3%	87.9%	12.3	(5.4)
41	Origin Harrisburg, PA					
	Checkpoint New Castle, PA	83.2%	95.6%	93.4%	10.2	(2.2)
43	Origin Harrisburg, PA					
	Checkpoint Cleveland, OH (2)	88.9%	76.4%	76.9%	(12.0)	0.5
	Checkpoint 21st St (Chicago, IL)	78.5%	84.3%	84.4%	5.9	0.1
44	Origin 21st St (Chicago, IL)					
	Checkpoint Cleveland, OH (2)	74.3%	64.4%	92.3%	18.0	27.9
	Checkpoint Harrisburg, PA	52.4%	53.9%	78.0%	25.6	24.1
48	Origin 21st St (Chicago, IL)					
	Checkpoint Cleveland, OH (2)	74.4%	47.8%	60.4%	(14.0)	12.6
49	Origin Cleveland, OH (2)					
	Checkpoint 21st St (Chicago, IL)	70.1%	66.3%	76.9%	6.8	10.6
350,352, 354	Origin 21st St (Chicago, IL)					
	Checkpoint Vinewood(Detroit, MI)	89.4%	92.2%	89.0%	(0.4)	(3.2)
351,353, 355	Origin Vinewood(Detroit, MI)					
	Checkpoint 21st St (Chicago, IL)	76.6%	78.4%	82.7%	6.1	4.3
364	Origin 21st St (Chicago, IL)					
	Checkpoint Gord(Battle Creek, MI)	81.3%	95.6%	86.8%	5.5	(8.8)

(1) Based on Amtrak's contractual arrangement for incentives with the respective railroads.

(2) Measurement for Conrail was to or from Toledo.

CONRAIL/NORFOLK SOUTHERN  
ON-TIME PERFORMANCE<sup>(1)</sup> FOR AMTRAK TRAINS  
PERFORMANCE BY CHECKPOINT  
APRIL - JUNE, 2001

Train	Location		Conrail June 98 thru May 99	NS Previous Quarter	NS Apr-01 thru Jun-01	Percentage Point Difference	
						From Conrail to NS Apr-Jun 2001	NS Prev Qtr to NS Apr-Jun 2001
365/367	Origin	Gord(Battle Creek, MI)					
	Checkpoint	21st St (Chicago, IL)	75.4%	87.5%	87.9%	12.5	0.4
370	Origin	21st St (Chicago, IL)					
	Checkpoint	CP-482(Michigan City, MI)	84.6%	65.6%	78.0%	(6.6)	12.4
371	Origin	CP-482(Michigan City, MI)					
	Checkpoint	21st St (Chicago, IL)	67.4%	83.1%	89.0%	21.6	5.9
Total			77.2%	75.8%	80.2%	3.00%	4.40%

(1) Based on Amtrak's contractual arrangement for incentives with the respective railroads.



**Conrail / CSXT**  
**On-time Performance<sup>(1)</sup> for Amtrak Trains**  
**Performance By Checkpoint**

<u>Train</u>	<u>Location</u>	<u>Conrail</u>	<u>CSXT</u>	<u>CSXT</u>	<u>Percentage Point Difference</u>	
		<u>June 98</u> <u>thru</u> <u>May 99</u>	<u>Previous</u> <u>Quarter</u>	<u>April 2001</u> <u>thru</u> <u>June 2001</u>	<u>From Conrail</u> <u>to CSXT</u> <u>April-Jun 01</u>	<u>CSXT Prev Qtr</u> <u>to CSXT</u> <u>Apr-Jun 01</u>
48/448	Origin Cleveland, OH (2)					
	Checkpoint Albany, NY	47.8%	91.0%	93.3%	45.5	2.3
	Checkpoint CP-75(Poughkeepsie, NY)	53.2%	90.0%	61.1%	7.9	(28.9)
	Checkpoint Boston, MA	56.6%	92.1%	94.4%	37.8	2.3
449	Origin Boston, MA					
	Checkpoint Albany, NY	79.3%	94.4%	67.8%	(11.5)	(26.6)
49	Origin CP-75(Poughkeepsie, NY)					
	Checkpoint Albany, NY	98.3%	100.0%	96.7%	(1.6)	(3.3)
	Checkpoint Cleveland, OH (2)	78.3%	90.5%	77.5%	(0.8)	(13.3)
50	Origin Maynard(Dyer, IN) (5)					
	Checkpoint Indianapolis, IN (4)	97.9%	81.8%	89.0%	(8.9)	7.2
	Checkpoint Charleston WV (3)	89.8%	84.6%	94.4%	4.6	9.8
	Checkpoint Orange(17 mi.W of Culpeper, VA) (3)	86.6%	84.2%	64.9%	(21.7)	(19.3)
51	Origin Orange(17 mi.W of Culpeper, VA) (3)					
	Checkpoint Charleston WV (3)	87.4%	100.0%	97.4%	10.0	(2.6)
	Checkpoint Indianapolis, IN (4)	84.8%	84.2%	91.9%	7.1	7.7
	Checkpoint Maynard(Dyer, IN) (5)	89.9%	68.2%	83.1%	(6.8)	14.9
63/281/ 283	Origin CP-75(Poughkeepsie, NY)					
	Checkpoint CP-169(8 mi.S of Amsterdam, NY)	90.0%	98.9%	97.8%	7.8	(1.1)
	Checkpoint CP296(Syracuse, NY)	75.0%	94.4%	81.5%	6.5	(12.9)
	Checkpoint Niagara Falls, NY	76.9%	94.1%	83.8%	6.9	(10.3)
64/284/ 286/288	Origin Niagara Falls, NY					
	Checkpoint CP296(Syracuse, NY)	76.3%	90.6%	86.8%	10.5	(3.8)
	Checkpoint CP-169(8 mi.S of Amsterdam, NY)	76.5%	84.3%	71.1%	(5.4)	(13.2)
	Checkpoint CP-75(Poughkeepsie, NY)	77.7%	88.0%	77.6%	(0.1)	(10.4)

(1) Based on Amtrak's contractual arrangement for incentives with the respective railroads.

(2) Measurement for Conrail was to or from Toledo.

(3) Performance for 6/1/98 thru 5/31/99 is for CSXT.

(4) Includes train 318.

(5) Includes train 317.

Conrail / CSXT  
On-time Performance<sup>(1)</sup> for Amtrak Trains  
Performance By Checkpoint

Train	Location	Conrail	CSXT	CSXT	Percentage Point Difference	
		June 98 thru May 99	Previous Quarter	April 2001 thru June 2001	From Conrail to CSXT Apr-Jun 01	CSXT Prev Qtr to CSXT Apr-Jun 01
55	Origin Palmer(15 mi.N of Springfield, MA) Checkpoint Springfield, MA	81.2%	97.7%	95.2%	14.0	(2.5)
56	Origin Springfield, MA Checkpoint Palmer(15 mi.N of Springfield, MA)	90.9%	96.6%	96.7%	5.8	0.1
145	Origin Boston, MA Checkpoint Springfield, MA	84.6%	92.1%	75.3%	(9.3)	(16.8)
142/172/ 178	Origin Springfield, MA Checkpoint Boston, MA	93.9%	95.4%	82.0%	(11.9)	(13.4)
289	Origin CP-75(Poughkeepsie, NY) Checkpoint CP-169(8 mi.S of Amsterdam, NY) Checkpoint Syracuse, NY	87.2% 91.5%	92.3% 100.0%	100.0% 100.0%	12.8 8.5	7.7 0.0
68/70/246/ 294/296	Origin Schenectady, NY Checkpoint CP-75(Poughkeepsie, NY)	96.7%	99.2%	98.6%	1.9	(0.6)
69/291/ 293	Origin CP-75(Poughkeepsie, NY) Checkpoint Schenectady, NY	93.0%	98.4%	97.1%	4.1	(1.3)
236/240/ 238/242/ 244/248/ 250/254/ 256/262/ 264	Origin Albany, NY Checkpoint CP-75(Poughkeepsie, NY)	92.3%	99.0%	98.4%	6.1	(0.6)
299	Origin Albany, NY Checkpoint Schenectady, NY	87.9%	84.6%	98.7%	10.8	14.1
251/253/ 257/259/ 265/267/ 269/271/ 273/277	Origin CP-75(Poughkeepsie, NY) Checkpoint Albany, NY	94.4%	99.0%	98.9%	4.5	(0.1)
Totals		84.7%	92.7%	89.3%	4.6	(3.4)

(1) Based on Amtrak's contractual arrangement for incentives with the respective railroads.

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Office of the Chairman

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

FILE IN DOCKET

*JD-33388*

September 27, 2001

The Honorable Bill Shuster  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Shuster:

Thank you for your recent letter regarding the decision by the Surface Transportation Board (Board) not to require Norfolk Southern (NS) to keep open the Hollidaysburg Car Shops past October 1, 2001. As you know, the Board also provided for enhanced labor protection for the shops' employees should NS close the shops.

You continue to express concern about this matter. In particular, you urge that the employees be given additional time to consider their employment options and to make necessary preparations. It is unlikely that NS will close the shops on October 1<sup>st</sup>, and I understand that NS will be communicating directly with you shortly regarding the process and timing for closing the shops in the future.

I am sure that we will be in further communication on this matter. As always, 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



BILL SHUSTER  
9TH DISTRICT, PENNSYLVANIA

2188 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-2431  
FAX: (202) 225-2486

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-3809

September 19, 2001

COMMITTEE ON SMALL BUSINESS  
SUBCOMMITTEE:  
ENTERPRISE, AGRICULTURE AND TECHNOLOGY  
COMMITTEE ON TRANSPORTATION  
AND INFRASTRUCTURE  
SUBCOMMITTEES:  
AVIATION  
HIGHWAYS AND TRANSIT

FILE IN DOCKET

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

Dear Chairman Morgan:

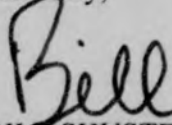
After reading the Surface Transportation Board's decision to allow Norfolk Southern (NS) to close the Hollidaysburg Car Shops, I was disappointed to say the least. I urge the Board reconsider its ruling.

As was noted in the Board's decision, the management of Norfolk Southern made commitments to the Altoona/Hollidaysburg area, and to the employees of the Car Shops and Juniata Locomotive Shop in an obvious attempt to garner support for their bid to merge with Conrail. The Board was witness to the commitments, and I believe party as well. As such, the ruling has given a green light to parties with business before the Board to make any commitment whatsoever that might be deemed helpful to their case with the understanding that a simple explanation of a downturn in the economy will allow them to extract themselves from such commitments. As a party to the commitment, I fully believe that the Board has the responsibility to enforce it.

The Board's decision could have been timelier. At the very least, I urge the Board to reconvene and find that the shops should be open for an additional 60 days to allow the employees time to consider all their employment options and, make the necessary preparations. As you can imagine the decision of the board will have a tremendous impact on not only the workers, but the entire community. The Board's decision allows the company to shut the facility in eleven days, an extremely short time frame.

In closing, I respectfully request the Board to reconsider its decision to allow Norfolk Southern to close the Hollidaysburg Car Shops. Considering the importance of the situation, I look forward to your immediate reply. If I can be of any assistance please call me at 202-225-2431.

Sincerely,



BILL SHUSTER  
Member of Congress

BFS/jwb

310 PENN STREET  
HOLLIDAYSBURG, PA 16648  
(814) 696-6318  
FAX: (814) 696-6726

1214 OLD TOWN ROAD  
CLEARFIELD, PA 16830  
(814) 765-9106  
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179 EAST QUEEN STREET  
CHAMBERSBURG, PA 17201  
(717) 264-8308  
FAX: (717) 264-0269

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OFFICE OF  
CHAIRMAN MORGAN

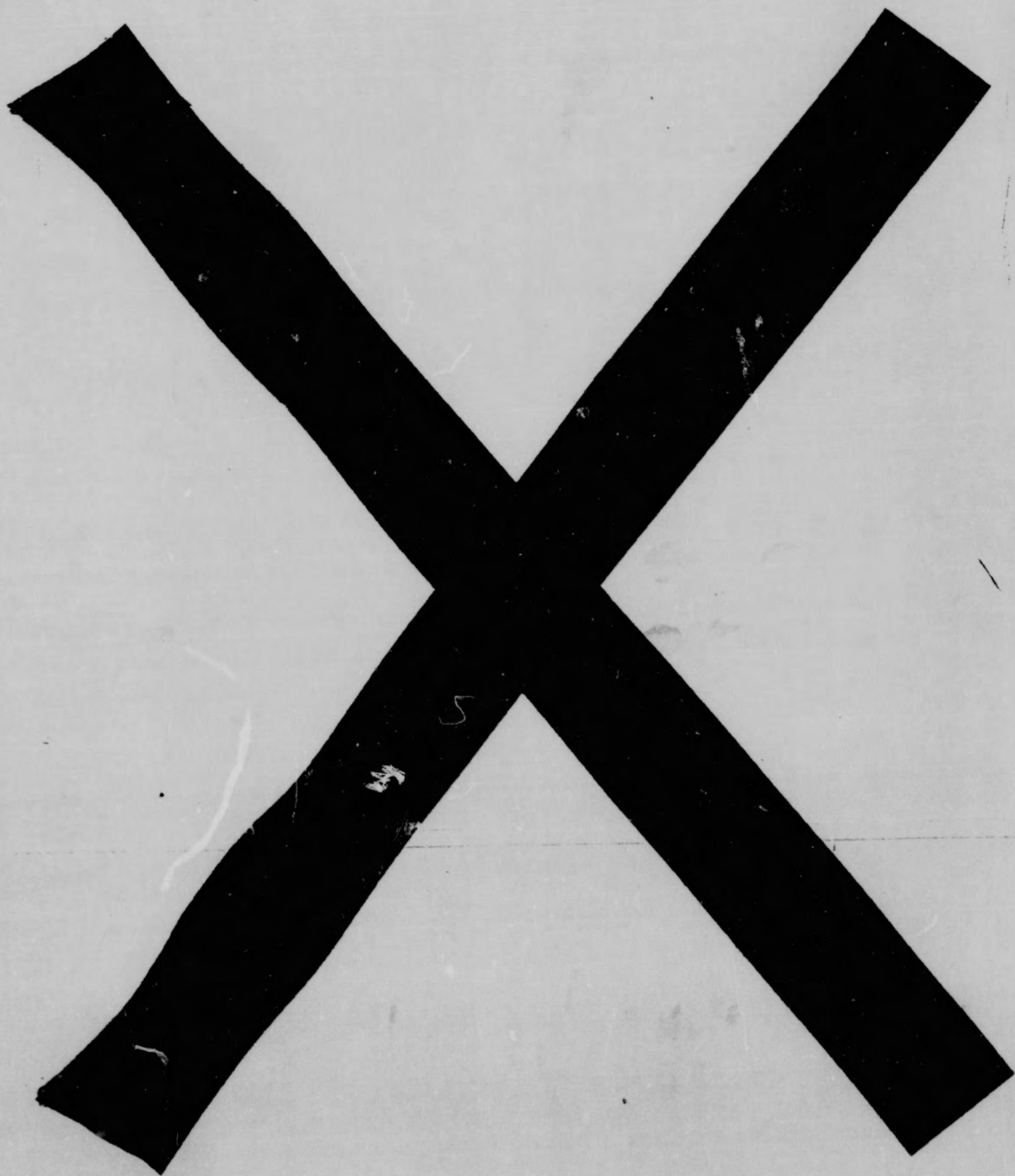
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FD-33388

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

STB

FD-33388

6-1-98

J

ID-188004



188004

## OPPENHEIMER WOLFF DONNELLY &amp; BAYH LLP

1350 Eye Street, N.W.  
Suite 200  
Washington, DC 20005

(202) 289-8660  
FAX (202) 371-0069

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Saint Paul\*

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Washington, D.C.

May 29, 1998

## VIA FACSIMILE

Ms. Betty Uzzle  
Office of the Secretary  
Surface Transportation Board  
1925 K Street, N.W., Room 700  
Washington, D.C. 20423-0001

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

Dear Ms. Uzzle:

In accordance with Decision No. 85, this is to notify you that Kevin M. Sheys will speak at the oral argument on behalf of both **Northern Virginia Transportation Commission and Potomac and Rappahannock Transportation Commission and Livonia, Avon and Lakeville Railroad Corporation.**

If you have any questions, please feel free to call.

Very truly yours,

Judy Caldwell  
Paralegal

cc: Kevin M. Sheys

STB

FD-33388

5-25-01

J

AMTRAK





Direct Dial (202) 906-3987

Fax: (202) 906-2821

May 25, 2001

The Honorable Melvin F. Clemens, Jr.  
Director, Office of Compliance and Enforcement  
Surface Transportation Board  
Room 784  
1925 K Street, N.W.  
Washington, D.C. 20423



Re: Finance Docket No. 33388, *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company – Control and Operating Leases/Agreements – Conrail Inc. and Consolidated Rail Corporation*  
Quarterly Report re. Amtrak On-Time Performance

Dear Mr. Clemens:

On behalf of NS, CSX and itself, the National Railroad Passenger Corporation ("Amtrak") hereby submits the seventh quarterly report regarding the on-time performance of Amtrak trains operated over the lines of NS and CSX since the implementation of the Conrail acquisition. This report covers the period from January 1, 2001 through March 31, 2001.

The on-time performance measurements shown in the attached report, which reflect the performance of all Amtrak trains operated by NS or CSX over lines formerly owned by Conrail, are based upon the measures used by the parties for determining contract incentive payments. For incentive purposes, a train is considered "on time" if it arrives at its destination, or an intermediate "checkpoint" where performance is measured, within the scheduled running time for that segment plus a "tolerance" of 5 minutes for trips operating under 400 miles and 10 minutes for trips over 400 miles. Certain delays not within the control of NS or CSX, such as delayed departures, longer than scheduled station stops, and delays due to mechanical problems with Amtrak equipment, are excluded. Performance is measured separately at each checkpoint.

Amtrak's comment on the report, which is set forth below, represents its own views and not the views of NS or CSX.

The Honorable Melvin F. Clemens, Jr.  
May 25, 2001  
Page 2



**Amtrak's Comment**

*Operations on CSX*

As the attached figures indicate, CSX on-time performance on ex-Conrail lines (which averaged 92.7%) continues to be significantly better than Conrail's performance during the one-year "base period" immediately prior to the Conrail acquisition (which averaged 84.7%).

The performance of most Amtrak trains operating over CSX's pre-Conrail system, which is not reflected in the attached data, has improved from the very low levels achieved in the spring and early summer of last year. However, when compared to the period prior to the Conrail acquisition, on-time performance generally remains lower, and delays due to freight congestion continue to be higher, on key routes that CSX operated prior to the acquisition of Conrail, namely Richmond-to-Jacksonville, New Castle (Pittsburgh), PA-to-Pine Junction, IN (Chicago), and Jacksonville-to-New Orleans.

*Operations on NS*

On-time performance on Conrail lines now operated by NS showed improvement during the last quarter, but continues to be lower than base period performance prior to the Conrail acquisition. NS's performance on lines it owned prior to the Conrail acquisition, which is not reflected in the attached figures, continued to be good.

Very truly yours,

A handwritten signature in dark ink, appearing to read "R. G. Slattery", written over the typed name.

Richard G. Slattery  
Senior Associate General Counsel

**Attachments**

cc: Chairman Linda J. Morgan  
Vice Chairman William Clyburn, Jr.  
Commissioner Wayne O. Burkes



The Honorable Melvin F. Clemens, Jr.  
May 25, 2001  
Page 3



Peter J. Shudtz, Esq.  
Vice President – Law and General Counsel  
CSX Corporation  
One James Center  
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Richmond, VA 23219

George Aspatore, Esq.  
General Solicitor  
Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, VA 23510

CONRAIL/NORFOLK SOUTHERN  
ON-TIME PERFORMANCE<sup>(1)</sup> FOR AMTRAK TRAINS  
PERFORMANCE BY CHECKPOINT  
JANUARY - MARCH, 2001

Train	Location	Conrail June 98 thru May 99	NS Previous Quarter	NS Jan-01 thru Mar-01	Percentage Point Difference	
					From Conrail to NS Jan-Mar 2001	NS Prev Qtr to NS Jan-Mar 2001
29	Origin Bloom(Pittsburgh, PA)					
	Checkpoint Toledo, OH	79.5%	62.5%	75.0%	(4.5)	12.5
	Checkpoint 21st St (Chicago, IL)	75.7%	65.2%	68.5%	(7.2)	3.3
30	Origin 21st St (Chicago, IL)					
	Checkpoint Toledo, OH	73.8%	51.1%	62.2%	(11.6)	11.1
	Checkpoint Bloom(Pittsburgh, PA)	54.5%	51.1%	42.7%	(11.8)	(8.4)
40	Origin New Castle, PA					
	Checkpoint Harrisburg, PA	75.6%	95.5%	93.3%	17.7	(2.2)
41	Origin Harrisburg, PA					
	Checkpoint New Castle, PA	83.2%	95.5%	95.6%	12.4	0.1
43	Origin Harrisburg, PA					
	Checkpoint Cleveland, OH (2)	88.9%	82.0%	76.4%	(12.5)	(5.6)
	Checkpoint 21st St (Chicago, IL)	78.5%	67.0%	84.3%	5.8	17.3
44	Origin 21st St (Chicago, IL)					
	Checkpoint Cleveland, OH (2)	74.3%	76.4%	64.4%	(9.9)	(12.0)
	Checkpoint Harrisburg, PA	52.4%	64.0%	53.9%	1.5	(10.1)
48	Origin 21st St (Chicago, IL)					
	Checkpoint Cleveland, OH (2)	74.4%	44.0%	47.8%	(26.6)	3.8
49	Origin Cleveland, OH (2)					
	Checkpoint 21st St (Chicago, IL)	70.1%	69.3%	66.3%	(3.8)	(3.0)
350,352, 354	Origin 21st St (Chicago, IL)					
	Checkpoint Vinewood(Detroit, MI)	89.4%	84.1%	92.2%	2.8	8.1
351,353, 355	Origin Vinewood(Detroit, MI)					
	Checkpoint 21st St (Chicago, IL)	76.6%	72.6%	78.4%	1.8	5.8
364	Origin 21st St (Chicago, IL)					
	Checkpoint Gord(Battle Creek, MI)	81.3%	80.0%	95.6%	14.3	15.6

(1) Based on Amtrak's contractual arrangement for incentives with the respective railroads.

(2) Measurement for Conrail was to or from Toledo.

CONRAIL/NORFOLK SOUTHERN  
ON-TIME PERFORMANCE<sup>(1)</sup> FOR AMTRAK TRAINS  
PERFORMANCE BY CHECKPOINT  
JANUARY - MARCH, 2001

Train	Location	Conrail June 98 thru May 99	NS Previous Quarter	NS Jan-01 thru Mar-01	Percentage Point Difference	
					From Conrail to NS Jan-Mar 2001	NS Prev Qtr to NS Jan-Mar 2001
365/367	Origin Gord(Battle Creek, MI)					
	Checkpoint 21st St (Chicago, IL)	75.4%	70.9%	87.5%	12.1	16.6
370	Origin 21st St (Chicago, IL)					
	Checkpoint CP-482(Michigan City, MI)	84.6%	56.0%	65.6%	(19.0)	9.6
371	Origin CP-482(Michigan City, MI)					
	Checkpoint 21st St (Chicago, IL)	67.4%	70.2%	83.1%	15.7	12.9

(1) Based on Amtrak's contractual arrangement for incentives with the respective railroads.

**Conrail / CSXT**  
**On-time Performance<sup>(1)</sup> for Amtrak Trains**  
**Performance By Checkpoint**

Train	Location	Conrail	CSXT	CSXT	Percentage Point Difference	
		June 98 thru May 99	Previous Quarter	January 2001 thru March 2001	From Conrail to CSXT Jan-Mar 01	CSXT Prev Qtr to CSXT Jan-Mar 01
48/448	Origin Cleveland, OH (2)					
	Checkpoint Albany, NY	47.8%	92.4%	91.0%	43.2	(1.4)
	Checkpoint CP-75(Poughkeepsie, NY)	53.2%	86.8%	90.8%	37.6	4.0
	Checkpoint Boston, MA	56.6%	92.4%	92.1%	35.5	(0.3)
449	Origin Boston, MA					
	Checkpoint Albany, NY	79.3%	92.2%	94.4%	15.1	2.2
49	Origin CP-75(Poughkeepsie, NY)					
	Checkpoint Albany, NY	98.3%	100.0%	100.0%	1.7	-
	Checkpoint Cleveland, OH (2)	78.3%	83.7%	90.5%	12.5	7.1
50	Origin Maynard(Dyer, IN) (5)					
	Checkpoint Indianapolis, IN (4)	97.9%	90.2%	81.8%	(16.1)	(8.4)
	Checkpoint Charleston WV (3)	89.8%	86.8%	84.6%	(5.2)	(2.2)
	Checkpoint Orange(17 mi.W of Culpeper, VA) (3)	86.6%	51.3%	84.2%	(2.4)	32.9
51	Origin Orange(17 mi.W of Culpeper, VA) (3)					
	Checkpoint Charleston WV (3)	87.4%	100.0%	100.0%	12.6	-
	Checkpoint Indianapolis, IN (4)	84.8%	65.6%	84.2%	(0.6)	18.6
	Checkpoint Maynard(Dyer, IN) (5)	89.9%	67.9%	68.2%	(21.7)	0.3
63/281/ 283	Origin CP-75(Poughkeepsie, NY)					
	Checkpoint CP-169(8 mi.S of Amsterdam, NY)	90.0%	97.5%	98.9%	8.9	1.4
	Checkpoint CP296(Syracuse, NY)	75.0%	94.2%	94.4%	19.4	0.2
	Checkpoint Niagara Falls, NY	76.9%	94.2%	94.1%	17.2	(0.1)
64/284/ 286/288	Origin Niagara Falls, NY					
	Checkpoint CP296(Syracuse, NY)	76.3%	85.5%	90.6%	14.3	5.1
	Checkpoint CP-169(8 mi.S of Amsterdam, NY)	76.5%	81.8%	84.3%	7.8	2.5
	Checkpoint CP-75(Poughkeepsie, NY)	77.7%	85.4%	88.0%	10.3	2.6

(1) Based on Amtrak's contractual arrangement for incentives with the respective railroads.

(2) Measurement for Conrail was to or from Toledo.

(3) Performance for 6/1/98 thru 5/31/99 is for CSXT.

(4) Includes train 318.

(5) Includes train 317.

**Conrail / CSXT**  
**On-time Performance<sup>(1)</sup> for Amtrak Trains**  
**Performance By Checkpoint**

<u>Train</u>	<u>Origin</u>	<u>Location</u>	<u>Conrail</u>	<u>CSXT</u>	<u>CSXT</u>	<u>Percentage Point Difference</u>	
			<u>June 98</u> <u>thru</u> <u>May 99</u>	<u>Previous</u> <u>Quarter</u>	<u>January 2001</u> <u>thru</u> <u>March 2001</u>	<u>From Conrail</u> <u>to CSXT</u> <u>Jan-Mar 01</u>	<u>CSXT Prev Qtr</u> <u>to CSXT</u> <u>Jan-Mar 01</u>
55	Origin	Palmer(15 mi. N of Springfield, MA)					
	Checkpoint	Springfield, MA	81.2%	96.8%	97.7%	16.5	0.9
56	Origin	Springfield, MA					
	Checkpoint	Palmer(15 mi. N of Springfield, MA)	90.9%	97.8%	96.6%	5.7	(1.2)
145	Origin	Boston, MA					
	Checkpoint	Springfield, MA	84.6%	94.6%	92.1%	7.5	(2.5)
142/172/ 178	Origin	Springfield, MA					
	Checkpoint	Boston, MA	93.9%	98.3%	95.4%	1.5	(2.9)
289	Origin	CP-75(Poughkeepsie, NY)					
	Checkpoint	CP-169(8 mi. S of Amsterdam, NY)	87.2%	88.9%	92.3%	5.1	3.4
	Checkpoint	Syracuse, NY	91.5%	88.9%	100.0%	8.5	11.1
68/70/246/ 294/296	Origin	Schenectady, NY					
	Checkpoint	CP-75(Poughkeepsie, NY)	96.7%	96.7%	99.2%	2.5	2.5
69/291/ 293	Origin	CP-75(Poughkeepsie, NY)					
	Checkpoint	Schenectady, NY	93.0%	94.7%	98.4%	5.4	3.7
236/240/ 238/242/ 244/248/ 250/254/ 256/262/ 264	Origin	Albany, NY					
	Checkpoint	CP-75(Poughkeepsie, NY)	92.3%	97.4%	99.0%	6.7	1.6
299	Origin	Albany, NY					
	Checkpoint	Schenectady, NY	87.9%	100.0%	84.6%	(3.3)	(15.4)
251/253/ 257/259/ 265/267/ 269/271/ 273/277	Origin	CP-75(Poughkeepsie, NY)					
	Checkpoint	Albany, NY	94.4%	99.0%	99.0%	4.6	(0.0)
<b>Totals</b>			<b>84.7%</b>	<b>90.9%</b>	<b>92.7%</b>	<b>8.0</b>	<b>1.8</b>

(1) Based on Amtrak's contractual arrangement for incentives with the respective railroads.



STB

FD-33388

4-23-01

J

PUBLIC



FD 33388



Mr. William B. Haxel  
5406 Broad Ave.  
Altoona, PA 16601-1122

APRIL 10-2001

March 10, 2001

Mr. Vernon A. Williams  
Surface Transportation Board, STB Finance  
Department of Transportation  
1201 Constitution Ave., NW  
Washington, DC 10423



Dear Mr. Williams:

Why isn't Norfolk Southern held accountable for its failure to run the railroad formerly operated by Conrail?

From day one, Norfolk Southern has botched the job. It fouled up freight traffic so badly that shippers now use trucks. (Who needs more trucks on our jammed highways?) It ruined passenger service. Three and four-hour delays are common on the few remaining trains heading East.

What's Norfolk Southern's excuse for mismanagement? Its computers. Any company that uses such a ridiculous excuse for ruining a railroad seems to be one that never intended to fulfill its agreement in the first place.

Part of Norfolk Southern's takeover agreement was a promise to increase employment. On the contrary, it's now allowing Altoona's two fine, remaining car shops at Hollidaysburg and at Juniata to close. Where will those hundreds of men find jobs? Closing those shops will also destroy Altoona's identity and the identity cherished by generations of Altoonans who labored so faithfully for the PRR. As a native Altoonian, I understand what a loss this would be. I lived there during PRR's heyday. In addition to the book I've written about the history of Altoona and the PRR, I've compiled a book of oral biographies of men and women who worked for the Pennsy. I know just how much those remaining shops mean to them.

Rather than pour billions into new highways, thereby wasting land and poisoning the environment, we need to revive railroads, the best form of mass transportation ever devised. We need railroads in time of crisis. The success of every conflict since the Civil War has been attributed to the efficiency of railroads in moving men and materiel. People need urban light rail service as well as improved long-distance service.

At this point, Conrail or a similar government-backed company should take over the railroad that NS has ruined. Pennsylvania, its people and its industries need this railroad, not only for its revenues, but also for its service. I would appreciate hearing what is being done in this regard.

Sincerely, We who signed these papers do whole heartily agree with the above letter and hope that something can be done about Norfolk Southern's commitment to save the Sun Bear & Juniata Shops. We would like a response please  
William B Haxel

William B. Hael Engineer  
Paul E. McIntyre Engineer  
Joseph C. Boley Movement Director

Ray W. Mann Car Insp

Ed Delbaggio " "

S. A. Shura - cond

William L. Lee Cond

C. M. Hostler Eng

C. M. Hostler

MR Walls Derrick OP

K. W. Linn Cond

S. M. Meritt Eng

C. H. Weininger ENGINEER

Joseph Weeks

Perry McMillen

August C. Swin

Arthur Haller

Byrd Col

Charles A. Spooner

Harold E. Washburn

Joseph Katerbach

Joseph Buda

Homer Biddle

Bede V. Alleg ABrim

Wm. Miller

H. E. Stule

Howard Mann

March 10, 2001

Mr. Vernon A. Williams  
Surface Transportation Board, STB Finance  
Department of Transportation  
1201 Constitution Ave., NW  
Washington, DC 10423



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Sincerely,



Bob Conway Conductor

John DeLozier Engr.

Tom Unglas Conductor

William Lloyd Engr.

Kay H. Wells Conductor

LOU JOHNSTON - CAR INSPECTOR

Daniel M. Hoon Conductor

Paul R. Lantier

John O'Dell

Don Shipley

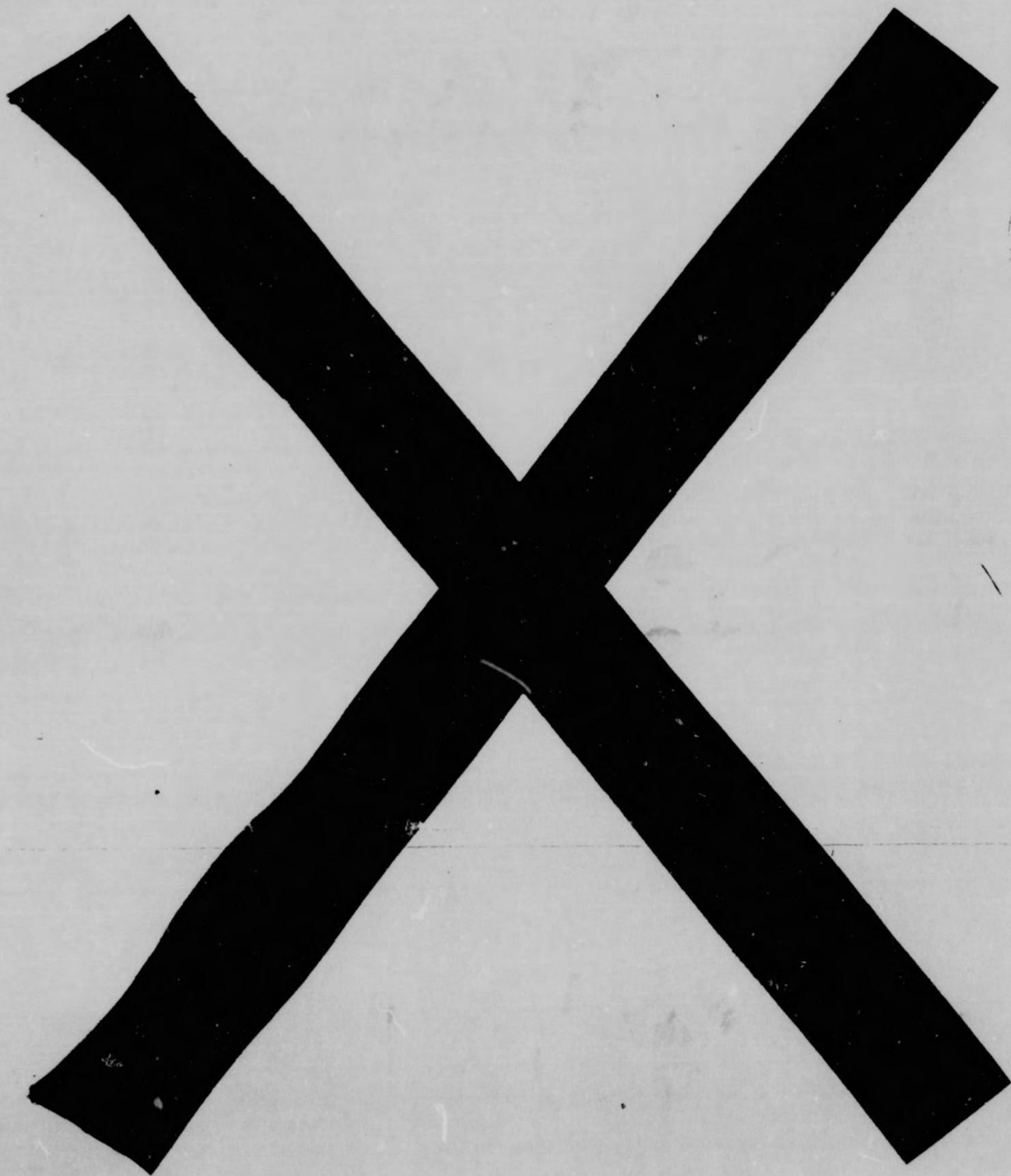
STB

FD-33388

4-20-01

J

PUBLIC



FD33388

Betty Irean Loeb  
666 W. Germantown Pk. -409S  
Plymouth Meeting, PA 19462  
(610) 828-2443



April 14, 2001

Governor Thomas J. Ridge  
Commonwealth of Pennsylvania  
Room 225, Main Capitol Building  
Harrisburg, PA 17120

Dear Governor Ridge:

On April 7, I wrote urging you to attend the public hearing scheduled for April 26 at 10:00 A.M. in the Capitol Senate Hearing Room 8-EA concerning the unfulfilled commitments by the Norfolk Southern Railroad.

At that hearing, an important question needs to be answered:

By whose authority did two outside railroads--Norfolk Southern and CSX--split Conrail into two parts? Such an action was unprecedented in the history of railroad business. And it was done over the objections of Conrail's president and CEO, David LeVan.

Copies of the charters by which Norfolk Southern and CSX effected these takeovers, should be made public. And who is CSX, anyway?

Altoona's two shops at Juniata and Hollidaysburg must be saved at any cost, or Altoona will become a ghost town. Its young people will have no place to seek work. A workforce of talented mechanics will be lost.

Conrail should be reinstated. It was the largest carrier in the United States of intermodal trailers and containers. During Stanley Crane's tenure, it became the first railroad ever to carry one million units of intermodal traffic in one year. Where is that business today? Why did Norfolk Southern, an experienced railroad, lose freight cars, allow trainloads of meat and other foods to spoil on its tracks, foul up freight traffic until shippers are now using trucks? How did it lose UPS as a valuable shipper? Why is passenger service minimal, expensive, and hours late? These questions need to be answered.

Sincerely,

*Betty Loeb*

Copy to: Mr. Vernon Williams  
Department of Transportation  
Washington, DC 10423

STB

FD-33388

4-18-01

J

PUBLIC





FD 333 88



~~March~~ April  
10, 2001

Mr. Vernon A. Williams  
Surface Transportation Board, STB Finance  
Department of Transportation  
1201 Constitution Ave., NW  
Washington, DC 10423

Dear Mr. Williams:

Why isn't Norfolk Southern held accountable for its failure to run the railroad formerly operated by Conrail?

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Sincerely,

K

Joseph R. Koterba  
139 Hostetler Rd.  
Johnstown, PA 15904-3448

Joseph R. Koterba

Retired Locomotive Eng'r PRR, P.C. Conrail

STB

FD-33388

3-13-01

J

PUBLIC



FD33388

Betty Ilean Loeb  
666 W. Germantown Pk. -409S  
Plymouth Meeting, PA 19462  
(610) 828-2443

March 10, 2001

Mr. Vernon A. Williams  
Surface Transportation Board, STB Finance  
Department of Transportation  
1201 Constitution Ave., NW  
Washington, DC 10423



Dear Mr. Williams:

Why isn't Norfolk Southern held accountable for its failure to run the railroad formerly operated by Conrail?

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Sincerely,

*Betty Loeb*

STB

FD-33388

1-12-01

J

BUSINESS





Office of the Chairman

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

FILE IN DOCKET

FD-33388

January 12, 2001

Mr. David Goode  
Chairman, President and  
Chief Executive Officer  
Norfolk Southern Corporation  
3 Commercial Place  
Norfolk, VA, VA 23510-2191

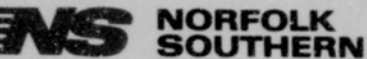
Dear David:

Thank you for sending me a copy of the letter that you received from Wyatt Hiller and Angie White with Toyota Logistics Services, Inc., which mentions the dependability of rail service provided by Norfolk Southern (NS) over the past year. As you know, I am always pleased to see evidence of improvements made in rail freight service. I know that the progress made by NS with respect to service is the result of your commitment and that of all the employees at NS, and you all are to be commended.

Again, I appreciate your keeping me informed on issues related to rail service. I will have your letter and this response made a part of the public docket for the Conrail proceeding.

Sincerely,

Linda J. Morgan



**NORFOLK  
SOUTHERN**

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

**December 15, 2000**

FILE IN DOCKET

**Ms. Linda Morgan**  
**Chairman**  
**Surface Transportation Board**  
**Mercury Building**  
**1925 K Street, N.W., Suite 820**  
**Washington, D.C. 20423**

**Dear Linda:**

I am enclosing a copy of a letter we received from Toyota. Nice to get some good news!

**Happy Holidays.**

**Sincerely,**

**Enclosure**

# TOYOTA

---

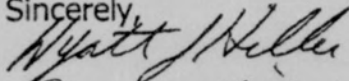
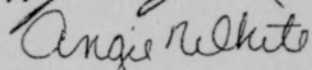
Toyota Logistics Services, Inc.  
3900 Tulip Tree Drive  
P.O. Box 3900  
Princeton, IN 47670  
(812) 286-1700

Norfolk Southern Corporation  
CDU Multi-levels  
185 Spring Street, SW  
Atlanta, Georgia 30303

Norfolk Southern CDU:

We would like to thank you for your dependability over this past year. We truly appreciate all you do for us. Your commitment to getting us what we need in a timely manner enabled us to successfully support the Sequoia launch on November 1, 2000. Whether you realize it or not, you are a key part of the success we achieve on a daily basis. Without your support, our daily production would be drastically impacted. Thank you for being a partner we can depend on to support us in achieving our goals.

Sincerely,

Wyatt Hiller, TLS Princeton Logistics Manager

Angie White, TLS Princeton Production Control/Logistics Specialist



STB

FD-33388

12-13-00

J

STATELEG



Office of the Chairman

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

FILE IN DOCKET

FD-33388

December 13, 2000

The Honorable Rose Ann Antich  
Indiana State Senate  
5401 Lincoln Street  
Merrillville, IN 46410-1926

Re: Four Cities Issues

Dear Senator Antich:

You have contacted the Surface Transportation Board (Board) regarding rail congestion in the Gary, East Chicago, Hammond and Whiting areas (Four Cities). I certainly understand the concerns that you have raised, and I wanted to provide you with an update on the situation.

Throughout the proceeding in connection with the acquisition of Conrail by CSX Transportation, Inc. (CSXT) and Norfolk Southern Corporation (NS), the Board has been responsive to environmental and public safety issues that affect communities involved in the restructuring of this portion of the national rail system. In approving the Conrail transaction, we imposed a variety of conditions to address environmental and public safety concerns, and we have actively encouraged CSXT and NS to work closely with affected communities to reach mutually agreeable solutions to any remaining concerns. We continue to monitor the implementation of the conditions we imposed and the operations of the carriers, and the Board has an ongoing oversight proceeding to address issues related to the Conrail acquisition that have arisen, including those pertaining to the Four Cities area.

In resolving problems, the Board believes that privately negotiated solutions are generally preferable to governmentally imposed ones, as more can be achieved privately as a general matter than government has the authority to direct. In this regard, active negotiations continue between CSXT and the Four Cities Consortium on a settlement agreement intended to address issues that you have raised, and at our request, the Board continues to receive regular updates on the progress of these discussions. We are hopeful that the parties will be able to reach a mutually acceptable agreement in the near future.

I hope that the above information is helpful to you and that you will not hesitate to contact me if we can be of assistance in the future.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan



FILE IN DOCKET

## STATE OF INDIANA

## SENATE

Senator Rose Ann Antich  
Assistant Minority Caucus Chair  
5401 Lincoln St.  
Merrillville, IN 46410-1926  
Business (317) 232-9472  
Residence (219) 980-0010  
EMAIL: S4@ai.org

Committees  
Governmental & Regulatory Affairs, R.M.M.  
Local Government Subcommittee  
Judiciary  
Pensions & Labor  
Transportation & Interstate Cooperation

29 - July - 2000

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

RE: STB Finance Docket No. 33388 (Sub-No. 19)

Dear Chairman Morgan,

As a State Senator representing citizens of Northwest Indiana in the Indiana General Assembly and serving on the State of Indiana Commission for Rail Corridor Safety, I am respectfully requesting a thorough review of the train congestion issues that continue to plague the Northwest Indiana area be addressed. The particular area that is of priority is the Four City Consortium - that being, East Chicago, Gary, Whiting and Hammond.

My understanding is that when Conrail was acquired by CSX Transportation Inc. (CSX) and Norfolk Southern Railway Corporation (NS), the railroads promised Northwest Indiana communities that new traffic patterns and infrastructure improvements would ameliorate the already severe congestion impacts caused by the movement of over 150 daily freight trains traversing more than 400 at-grade highway/rail crossings.

It is also my understanding that the promised improvements have yet to be realized. Instead, the railroads appear to be continuing to pursue operating and infrastructure improvement policies favoring East-West through traffic, without sufficient consideration given to mitigating that traffic's local environmental and safety impacts. Meanwhile, the region remains among the top areas in the country in terms of personal accidents and fatalities caused by car/truck vs train collisions.

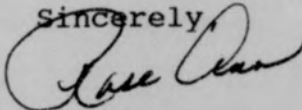
I also understand that the Surface Transportation Board conditioned approval of the Conrail acquisition on representations from NS and CSX that certain track, infrastructure and operating improvements would improve railroad congestion related problems in Northwest Indiana.

Apparently CSX and NS have not lived up to those conditions. In particular, it has been pointed out to me that the railroads have refused to abide by conditions that they re-route train traffic as much as practicable off of the critically congested rail line segments, not stop trains in positions where they would block major highway/rail at-grade crossings, and help develop a grade-separated truck route in East Chicago. Even the issuance of thousands of train traffic tickets by the four cities resulting from the constant illegal at-grade crossing blockages has failed to get the railroads to take corrective actions.

I respectfully submit that additional assistance is needed at this time, especially in regard to those conditions referenced above. I understand that the Four City Consortium soon will be submitting formal comments to you pertaining to this subject.

I hereby enter my plea that you closely consider and take appropriate actions to mitigate the continuing train congestion problems plaguing Northwest Indiana, as recommended by the Four Cities Consortium. Thanking you in advance, I remain...

Sincerely,

A handwritten signature in cursive script, appearing to read "Rose Ann", written over the word "Sincerely,".

Rose Ann Antich  
State Senator



Office of the Chairman

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

FILE IN DOCKET

FD-33388

December 13, 2000

(Sub-91)

The Honorable Rose Ann Antich  
Indiana State Senate  
5401 Lincoln Street  
Merrillville, IN 46410-1926

Re: Four Cities Issues

Dear Senator Antich:

You have contacted the Surface Transportation Board (Board) regarding rail congestion in the Gary, East Chicago, Hammond and Whiting areas (Four Cities). I certainly understand the concerns that you have raised, and I wanted to provide you with an update on the situation.

Throughout the proceeding in connection with the acquisition of Conrail by CSX Transportation, Inc. (CSXT) and Norfolk Southern Corporation (NS), the Board has been responsive to environmental and public safety issues that affect communities involved in the restructuring of this portion of the national rail system. In approving the Conrail transaction, we imposed a variety of conditions to address environmental and public safety concerns, and we have actively encouraged CSXT and NS to work closely with affected communities to reach mutually agreeable solutions to any remaining concerns. We continue to monitor the implementation of the conditions we imposed and the operations of the carriers, and the Board has an ongoing oversight proceeding to address issues related to the Conrail acquisition that have arisen, including those pertaining to the Four Cities area.

In resolving problems, the Board believes that privately negotiated solutions are generally preferable to governmentally imposed ones, as more can be achieved privately as a general matter than government has the authority to direct. In this regard, active negotiations continue between CSXT and the Four Cities Consortium on a settlement agreement intended to address issues that you have raised, and at our request, the Board continues to receive regular updates on the progress of these discussions. We are hopeful that the parties will be able to reach a mutually acceptable agreement in the near future.

I hope that the above information is helpful to you and that you will not hesitate to contact me if we can be of assistance in the future.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan



FILE IN DOCKET

## STATE OF INDIANA

## SENATE

Senator Rose Ann Antich  
Assistant Minority Caucus Chair  
5401 Lincoln St.  
Merrillville, IN 46410-1926  
Business (317) 232-9472  
Residence (219) 980-0010  
EMAIL: [ra@ai.org](mailto:ra@ai.org)

Committees  
Governmental & Regulatory Affairs, R.M.M.  
Local Government Subcommittee  
Judiciary  
Pensions & Labor  
Transportation & Interstate Cooperation

29 - July - 2000

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

RECEIVED  
SURFACE TRANSPORTATION  
BOARD  
JUL 31 19 PM '00  
LINDA J. MORGAN

RE: STB Finance Docket No. 33388 (Sub-No. 19)

Dear Chairman Morgan,

As a State Senator representing citizens of Northwest Indiana in the Indiana General Assembly and serving on the State of Indiana Commission for Rail Corridor Safety, I am respectfully requesting a through review of the train congestion issues that continue to plague the Northwest Indiana area be addressed. The particular area that is of priority is the Four City Consortium - that being, East Chicago, Gary, Whiting and Hammond.

My understanding is that when Conrail was acquired by CSX Transportation Inc. (CSX) and Norfolk Southern Railway Corporation (NS), the railroads promised Northwest Indiana communities that new traffic patterns and infrastructure improvements would ameliorate the already severe congestion impacts caused by the movement of over 150 daily freight trains traversing more than 400 at-grade highway/rail crossings.

It is also my understanding that the promised improvements have yet to be realized. Instead, the railroads appear to be continuing to pursue operating and infrastructure improvement policies favoring East-West through traffic, without sufficient consideration given to mitigating that traffic's local environmental and safety impacts. Meanwhile, the region remains among the top areas in the country in terms of personal accidents and fatalities caused by car/truck vs train collisions.

I also understand that the Surface Transportation Board conditioned approval of the Conrail acquisition on representations from NS and CSX that certain track, infrastructure and operating improvements would improve railroad congestion related problems in Northwest Indiana.

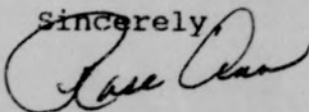


Apparently CSX and NS have not lived up to those conditions. In particular, it has been pointed out to me that the railroads have refused to abide by conditions that they re-route train traffic as much as practicable off of the critically congested rail line segments, not stop trains in positions where they would block major highway/rail at-grade crossings, and help develop a grade-separated truck route in East Chicago. Even the issuance of thousands of train traffic tickets by the four cities resulting from the constant illegal at-grade crossing blockages has failed to get the railroads to take corrective actions.

I respectfully submit that additional assistance is needed at this time, especially in regard to those conditions referenced above. I understand that the Four City Consortium soon will be submitting formal comments to you pertaining to this subject.

I hereby enter my plea that you closely consider and take appropriate actions to mitigate the continuing train congestion problems plaguing Northwest Indiana, as recommended by the Four Cities Consortium. Thanking you in advance, I remain...

Sincerely,

A handwritten signature in cursive script, appearing to read "Rose Ann", written over the word "Sincerely,".

Rose Ann Antich  
State Senator





STB

FD-33388

12-13-00

J

COUNTY



Office of the Chairman

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

FILE IN DOCKET

78-33388

December 13, 2000

Mr. Rudolph Clay  
President  
Lake County Board of Commissioners  
2293 North Main Street  
Crown Point, IN 46307

Re: Four Cities Issues

Dear Mr. Clay:

You have contacted the Surface Transportation Board (Board) regarding rail congestion in the Gary, East Chicago, Hammond and Whiting areas (Four Cities). I certainly understand the concerns that you have raised, and I wanted to provide you with an update on the situation.

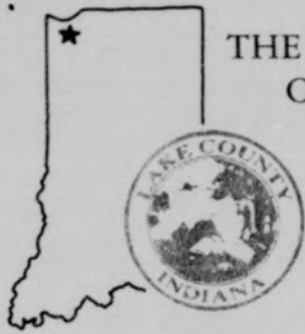
Throughout the proceeding in connection with the acquisition of Conrail by CSX Transportation, Inc. (CSXT) and Norfolk Southern Corporation (NS), the Board has been responsive to environmental and public safety issues that affect communities involved in the restructuring of this portion of the national rail system. In approving the Conrail transaction, we imposed a variety of conditions to address environmental and public safety concerns, and we have actively encouraged CSXT and NS to work closely with affected communities to reach mutually agreeable solutions to any remaining concerns. We continue to monitor the implementation of the conditions we imposed and the operations of the carriers, and the Board has an ongoing oversight proceeding to address issues related to the Conrail acquisition that have arisen, including those pertaining to the Four Cities area.

In resolving problems, the Board believes that privately negotiated solutions are generally preferable to governmentally imposed ones, as more can be achieved privately as a general matter than government has the authority to direct. In this regard, active negotiations continue between CSXT and the Four Cities Consortium on a settlement agreement intended to address issues that you have raised, and at our request, the Board continues to receive regular updates on the progress of these discussions. We are hopeful that the parties will be able to reach a mutually acceptable agreement in the near future.

I hope that the above information is helpful to you and that you will not hesitate to contact me if we can be of assistance in the future.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan



THE BOARD OF COMMISSIONERS  
OF THE COUNTY OF LAKE

FILE IN DOCKET

**Rudolph CLAY**

2293 NORTH MAIN STREET  
CROWN POINT, INDIANA 46307  
219-755-3204

400 BROADWAY  
GARY, INDIANA 46402  
219-881-6078

3711 MAIN STREET  
EAST CHICAGO, INDIANA 46312  
219-397-6728

August 16, 2000

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

Dear Chairman Morgan:

As a County Commissioner in Lake County, I am writing to request that you review and address train congestion that continue to hamper the region and, in particular, the cities of Gary, East Chicago, Hammond, and Whiting.

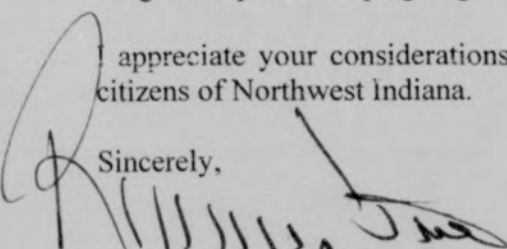
These cities remain among the top areas of the country in terms of personal accidents and fatalities caused by train collisions.

I am aware that the railroads have refused to abide by conditions that they reroute train traffic, not stop trains in positions where they would block major highway/rail at-grade crossings, and help develop a grade-separated truck route in East Chicago. Even the issuance of thousands of train traffic tickets by the four cities resulting from the constant illegal at-grade crossing blockages has failed to get the railroads attention.

I respectfully submit that additional assistance is needed at this time. I strongly urge you to closely consider and take appropriate actions to mitigate the continuing train congestion problems plaguing Northwest Indiana.

I appreciate your considerations of my views and the importance of this issue for the citizens of Northwest Indiana.

Sincerely,

  
Rudolph Clay, President  
Lake County Board of Commissioners  
RC/tlm



Office of the Chairman

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

FILE IN DOCKET

FD-33388  
(Sub-91)

December 13, 2000

Mr. Rudolph Clay  
President  
Lake County Board of Commissioners  
2293 North Main Street  
Crown Point, IN 46307

Re: Four Cities Issues

Dear Mr. Clay:

You have contacted the Surface Transportation Board (Board) regarding rail congestion in the Gary, East Chicago, Hammond and Whiting areas (Four Cities). I certainly understand the concerns that you have raised, and I wanted to provide you with an update on the situation.

Throughout the proceeding in connection with the acquisition of Conrail by CSX Transportation, Inc. (CSXT) and Norfolk Southern Corporation (NS), the Board has been responsive to environmental and public safety issues that affect communities involved in the restructuring of this portion of the national rail system. In approving the Conrail transaction, we imposed a variety of conditions to address environmental and public safety concerns, and we have actively encouraged CSXT and NS to work closely with affected communities to reach mutually agreeable solutions to any remaining concerns. We continue to monitor the implementation of the conditions we imposed and the operations of the carriers, and the Board has an ongoing oversight proceeding to address issues related to the Conrail acquisition that have arisen, including those pertaining to the Four Cities area.

In resolving problems, the Board believes that privately negotiated solutions are generally preferable to governmentally imposed ones, as more can be achieved privately as a general matter than government has the authority to direct. In this regard, active negotiations continue between CSXT and the Four Cities Consortium on a settlement agreement intended to address issues that you have raised, and at our request, the Board continues to receive regular updates on the progress of these discussions. We are hopeful that the parties will be able to reach a mutually acceptable agreement in the near future.

I hope that the above information is helpful to you and that you will not hesitate to contact me if we can be of assistance in the future.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan



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1925  
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Dear

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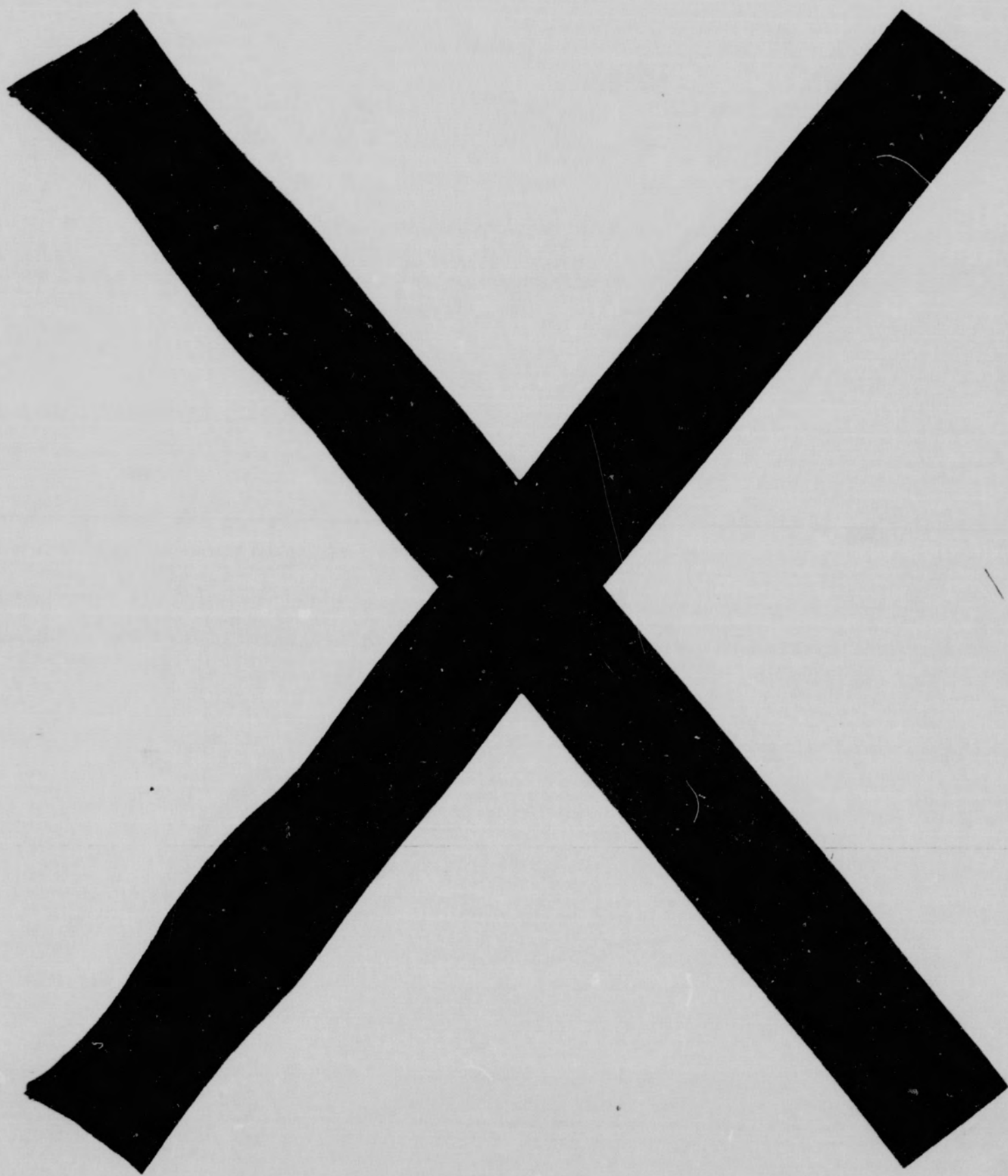
STB

FD-33388

12-11-00

J

ID-BUSINESS





Office of the Chairman

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

FILE IN DOCKET

JK-33388

December 11, 2000

Mr. Robert J. Haulter  
Vice President - Human Resources  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202

Dear Mr. Haulter:

As you probably know, a number of CSXT employees have submitted inquiries to the Surface Transportation Board (Board) about the relocation of clerical jobs from Pittsburgh, PA, to Jacksonville, FL. Mr. Mel Clemens, Director of the Board's Office of Compliance and Enforcement, has worked closely with your predecessor, Mr. William Ryan, regarding these employee concerns. I understand that Mr. Clemens will now be working with you on this matter.

I appreciated Mr. Ryan's cooperation, and I likewise appreciate your willingness to continue to work with Mr. Clemens on these issues. I know that you remain committed, as does the Board, to a fair implementation of the Conrail acquisition transaction for all concerned, and in this regard, I hope that you will be able to give top priority to the resolution of these employee issues. As with prior letters on similar subjects, I will have this letter placed in the public docket for the Conrail proceeding.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan

cc: Mr. Michael Ward

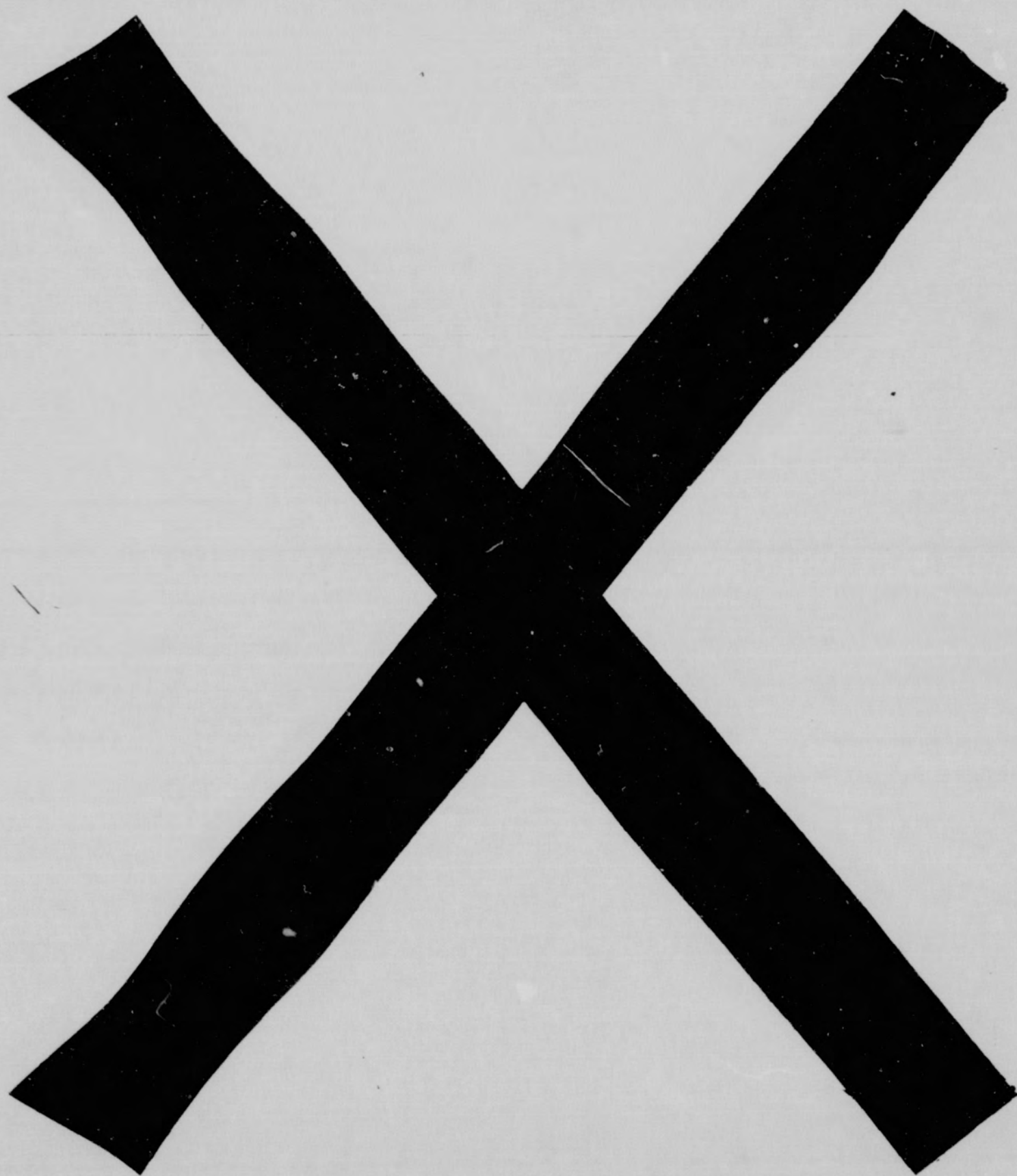
STB

FD-33388

11-8-00

J

ID-BUSINESS





Office of the Chairman

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

FILED IN  
75-33388

November 8, 2000

Mr. Bruno Maestri  
Vice President  
Public Affairs  
Norfolk Southern Corporation  
1500 K Street, N.W.  
Suite 375  
Washington, D.C. 20005

Dear Mr. Maestri:

Thank you for your letter regarding the status of negotiations between Norfolk Southern Corporation (NS), CSX Corporation (CSX), and Ohio officials. As you know, the Surface Transportation Board (Board) encourages private-sector solutions to problems, and I am pleased to hear that progress is being made in this regard.

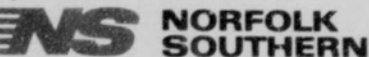
I look forward to receiving your report to us by no later than November 15, 2000. I appreciate the significant effort that NS and CSX have made in this matter.

Sincerely,

Linda J. Morgan

cc: Mr. Michael J. Ruehling  
CSX Corporation





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

FILE IN DOCKET

**Bruno Maestri**  
Vice President  
Public Affairs

October 26, 2000

VIA FACSIMILE (202-565-9015) AND U.S. MAIL

The Honorable Linda J. Morgan  
Chairman  
Surface Transportation Board  
1925 K Street, N.W., Suite 820  
Washington, D.C. 20423-0001

Dear Chairman Morgan:

This is to keep you advised of the progress that Norfolk Southern (NS) and CSX are making on the community consultation program outlined in a joint NS-CSX letter dated October 3, 2000 and acknowledged in your October 17, 2000 letter.

We have been actively compiling our initial report and also held a productive meeting with the Ohio Rail Development Commission and the Ohio Public Utilities Commission in Columbus on October 17, 2000. Both railroads would like to have the first report reflect our work through October 30, 2000.

With this in mind, both NS and CSX plan to forward our respective initial reports to you on or about November 15, 2000, rather than the initial date proposed. We believe this will provide you and the Board with a more complete assessment of ongoing efforts in this area.

Very truly yours,

Bruno Maestri

cc: Mr. Michael J. Ruehling, CSX Corp.

STB

FD-33388

10-25-00

J

ID-BUSINESS





Office of the Chairman

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

FILE IN DOCKET

FD - 33388

October 25, 2000

Mr. Michael J. Ward  
Executive Vice President - Operations  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, Florida 32202

Re: Service Improvement Goals

*Michael*  
Dear Mr. Ward:

Thank you for your letter of October 2<sup>nd</sup> regarding Fall Peak goals, your explanation for the goals, and your expectation that improved levels of performance will allow the company to stay ahead of its goals. I believe that the establishment of goals has been a key to the considerable operating improvements that CSXT has achieved. And these improvements of course would not have been possible without your personal commitment and leadership.

I appreciate your continued cooperation in these matters. As I have before, I will place your letter and my response in the public docket for the Conrail transaction proceeding.

On a related matter, I was grateful for the opportunity to meet with you and your staff during my recent visit to CSX in Jacksonville. Please accept my thanks for your time, and that of your staff, and for the most informative presentations and discussions. I look forward to continuing to work with you on our shared goal of further operational improvement.

Sincerely,

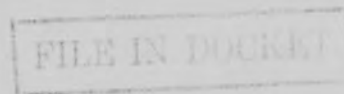
*Linda J. Morgan*

Linda J. Morgan

cc: Mr. John W. Snow



Michael J. Ward  
Executive Vice President - Operations



500 Water Street  
Jacksonville, FL 32202  
(904) 366-5210  
Fax (904) 359-7674

October 2, 2000

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

Dear Chairman Morgan:

This letter describes operational performance goals set by CSXT for the period generally described as "fall peak." As you will note, CSXT is achieving many of these goals today. It is our expectation that the greatly improved performance of the last few months will provide the momentum necessary to stay ahead of the goals as they change during the three periods we have segmented for the remainder of the year.

We are now in the first segmented period, which will end October 15<sup>th</sup>. Our past experience indicates that as the demand builds during this period, we are able to meet customer expectations without extraordinary action. Last year was an exception when Hurricane Floyd disrupted the entire eastern seaboard portion of our system. In the absence of such an exception, we believe our goals for the period provide service that meets or exceeds customer expectations.

Between October 15<sup>th</sup> and Thanksgiving, the CSXT system historically faces its peak demand. Good management and economics dictate that a company maintain resource levels to support something less than its full peak demand. During this period we will occasionally be in a resource-deficit situation. This is especially true for one of our most expensive resources – locomotives. As you know, we did lease additional power for the fall peak, but they will still be a constraining resource impacting several key measures. While we calibrated our goals for this impact, we believe that the customer service provided will meet customer expectations. In addition, we conducted a comprehensive fall peak planning process to minimize customer impact, which I have previously presented to you and your staff.

From Thanksgiving to the end of the year the nature of the challenge changes. More demand comes from the intermodal and automobile networks, while the merchandise and bulk networks normalize. This period, which we call "normalization," calls for goals set to higher standards of operation.

The following table summarizes the goals for each of these distinct periods:

### FALL PEAK GOALS

		2nd Quarter Average	Previous Goal (Jul- Aug)	Sept. 1 - Oct. 15	Oct. 15 - Thanksgiving	Thanksgiving - End of Year
Safety	FRA Personal Injuries	17.1/wk	14.9/wk	14.9/wk	14.9/wk	14.9/wk
	FRA Derailment	6.8/wk	7.6/wk	5.0/wk	5.0/wk	5.0/wk
Inventory	Cars-on-Line	265,225	250,000	257,000	265,000	261,000
Velocity	All trains	17.9	19.0	18.7	18.2	19.0
	Merchandise	17.0	18.3	18.2	17.7	18.5
	Miles of Slow Orders	529	430	430	375	350
Crews	Crews on duty > 12 hrs	17.3%	15.0%	14.0%	14.0%	14.0%
	Recrews	97	65	65	80	55
	Crew setback hours	N/A	N/A	175	225	200
Yard/Terminal	Dwell	29.8	27.0	28.0	31.0	29.0
	Right Car Right Train	71.0%	75.0%	70.0%	70.0%	70.0%
	On-time (+2) originations	67.8%	80.0%	75.0%	70.0%	75.0%
	30-hour cars	19,778	15,000	15,000	17,000	15,000
	Industry Switch Excellence	80.0%	85.0%	85.0%	85.0%	85.0%
Locomotives	Loco setback hours	483	350	450	650	450
	CSX Out of Service	5.5%	5.0%	5.1%	5.1%	5.1%
	Leased Out of Service	11.9%	10.0%	10.0%	10.0%	10.0%
	Loco terminal dwell	7.4	7.0	7.0	7.7	7.0

I would offer the following amplifying comments:

1. Safety. We have not met expectations in this regard and I remain dissatisfied. When fall peak goals were established, we obtained the commitment from senior managers in the field that safety would be one of their primary points of focus. We did not lower our goals to accommodate the anticipated busy fall period. I am only slightly gratified to see that our personal accident rate has improved slightly this month. It is still not where it has to be, but we are building momentum and will get this area turned around.
2. Cars-on-Line. This number continues to trend strongly in the right direction. When we set the goals, we anticipated higher loadings, which would have to be supported by more cars on line. This has not happened yet, but the volumes will grow during the peak. While we are



beating our goal, we continue to focus on pushing down the cars-on-line per revenue load to minimize the peak impact.

3. Velocity. CSXT enters fall peak with line-of-road train speeds at their highest level since split date. We are already seeing some slowing of those speeds, but enough positive ground has been made to give us the expectation that velocity can remain at healthy levels throughout the period.

4. Miles of Slow Orders. This number has not yet met goal, but lately has trended in the right direction.

5. Crews on duty greater than 12 hours. We have gotten much better control of this issue than when it first appeared on our goal list in April. Through continued management attention we expect it to remain within control limits.

6. Recrews. This number historically climbs during the fall. Our goals acknowledge this natural growth, but are set to ensure it does not become a debilitating factor.

7. Crew setback hours. This is a measurement of the number of hours that trains throughout the system are ready to depart a terminal but cannot do so because of lack of crew. We added the measurement to the fall peak report card because of its historic influence on our ability to manage through the peak in traffic.

8. Terminal Dwell. This number tends to go up during the fall. Our goals are set to ensure that as the number climbs, it remains within limits that allow the system to remain fluid.

9. Right-car-right-train. This is our measure of terminal efficiency -- on getting the car on the train to which it was scheduled upon arrival in a yard. A 70% rating means the yards are operating at controllable efficiency levels.

10. On-time originations. We emphasize this measure as the key to becoming a more scheduled railroad. Although maintaining high origination percentages is expected to become more difficult during the peak, we expect higher performance in this key area than we have seen in previous fall periods.

11. 30-hour Cars. Our 30-hour car measurement also represents substantial improvement from previous 12-month averages. The goal for 30-hour cars was set by analysis of this time period in previous years.

12. Industrial Switching Excellence (ISE). This is a measurement of how well our local trains and industrial yard jobs perform their work orders. We continue to set high goals, but have not yet achieved them. Because switching performance is so critical to our customers, we will not lower the goals. As a note, we are expanding the ISE system to northern terminals early in 2001. Previously, only the southern terminals were loaded into the system and crews trained.

Chairman Morgan  
September 29, 2000  
Page 4

13. Locomotive Measurements. The four locomotive measurements give us a clearer picture of this asset than any other. Locomotives must be carefully managed as fall demands grow and we have set locomotive goals to let us know of a problem in time to pro-actively address it.

At CSXT we are confident about our ability to meet the expected fall peak demands. We have planned more comprehensively than for any prior fall peak period. The goals we have set are based on a careful analysis of the history of the fall period, combined with modeling exercises. When we meet or exceed the above goals, we will meet or exceed our customers' expectations.

I sincerely hope the above is of assistance to the Board as it monitors the effects of the CONRAIL integration.

Sincerely,

*Michael Ward*

STB

FD-33388

5-3-00

J

198401

# FLETCHER & SIPPEL LLC

Two Prudential Plaza, Suite 3125  
180 North Stetson Avenue  
Chicago, Illinois 60601-6721

ENTERED  
Office of the Secretary

MAY 03 2000

Part of  
Public Record

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

April 26, 2000



Phone: (312) 540-0500  
Fax: (312) 540-9098  
www.fletcher-sippel.com

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

Dear Secretary Williams:

We are counsel for Illinois Central Railroad Company, one of the parties in the above-captioned proceeding. Please note our new firm affiliation and address, effective immediately:

Fletcher & Sippel LLC  
Two Prudential Plaza, Suite 3125  
180 North Stetson Avenue  
Chicago, IL 60601-6721  
Ph: (312) 540-0500  
Fax: (312) 540-9098

Twenty-five copies of this letter are enclosed for filing at the Board. Copies also have been served on counsel for the Primary Applicants herein. Thank you for your assistance.

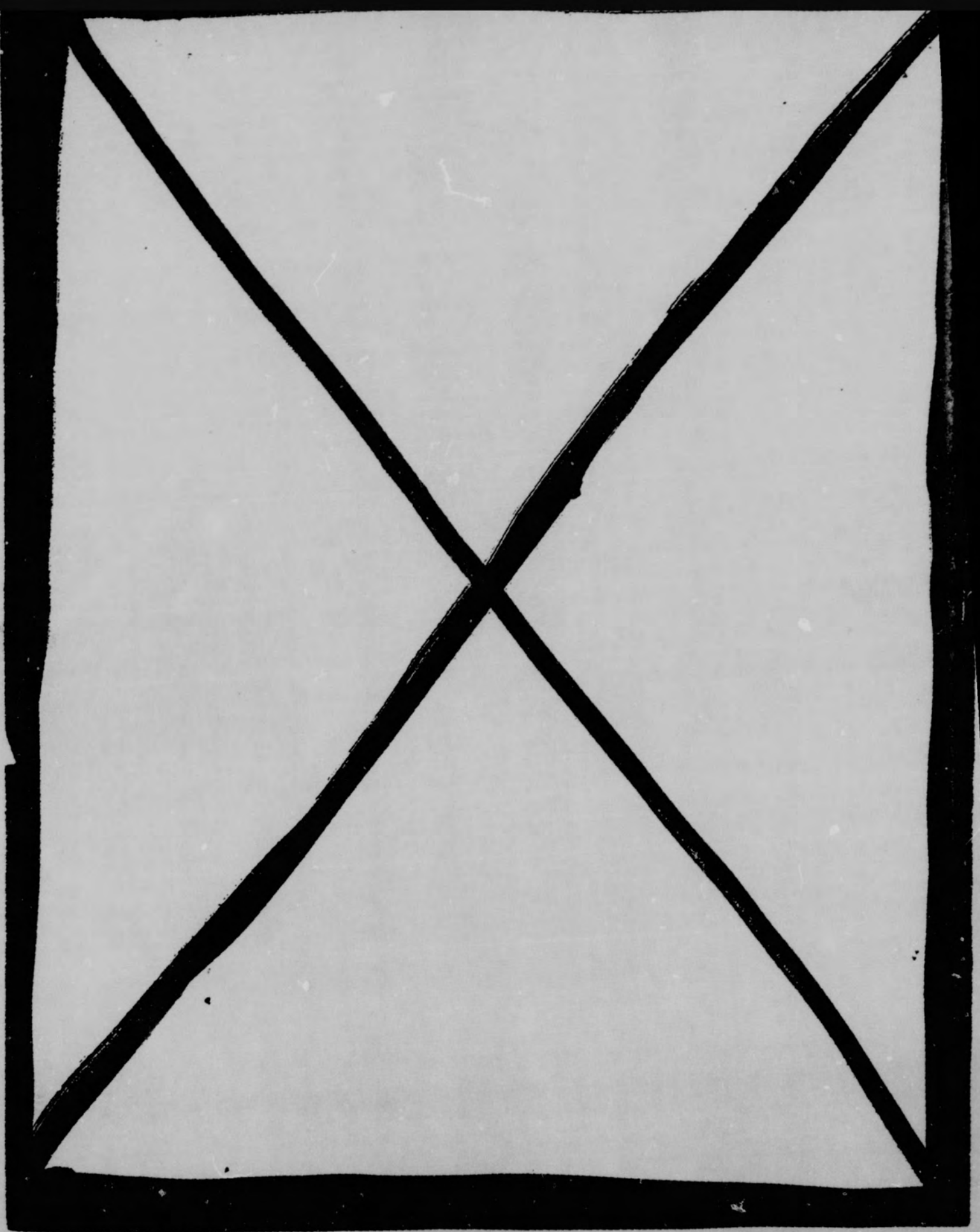
Very truly yours,

Thomas J. Litwiler

TJL:tl

Enclosures

cc: Dennis G. Lyons, Esq.  
Richard A. Allen, Esq.  
Paul R. Hitchcock, Esq.



STB

FD-33388

4-24-00

J

PUBLIC





Office of the Chairman

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

FILE IN DOCKET

FD-33388

April 24, 2000

Mr. James L. Holdeman  
11826 CR-10  
Middlebury, IN 46540

Dear Mr. Holdeman:

Thank you for your letter regarding the impact on employees of the implementation of the Conrail acquisition transaction. In particular, you cite your problems as a former Conrail employee with Norfolk Southern (NS), for whom you now work following that implementation.

More specifically, you believe that NS is failing to comply with the New York Dock conditions imposed on the Conrail acquisition transaction. Those conditions provide, in part, for wage protection for up to a 6-year period and for procedures to obtain that protection. As a member of the Transport Workers Union, you state that your union is currently pursuing with NS your eligibility for wage protection under New York Dock. I urge you to continue to work with your union to resolve your claim. Because this matter may come before the Surface Transportation Board on appeal, it would be inappropriate for me to comment on the merits of your claim. I assure you, however, that the Board remains committed to the fair and efficient implementation of the Conrail acquisition transaction.

I appreciate your concerns, and I am having 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

James L. Holdeman  
11826 CR-10  
Middlebury, Indiana 46540  
April 4th, 2000

Mrs. Linda Morgan  
Chairman/Surface Transportation Board  
1925 K St., N.W. Suite 820  
Washington, D.C.  
20423-0001

Dear Mrs. Morgan;

I'd like to introduce myself; I'm James Holdeman, a former Conrail employee now with Norfolk Southern Corporation. I work in a freight yard in Elkhart, Indiana, and have been an active employee since August 1974. My current job is in the car department, also known as Mechanical or M of E, (Maintenance of Equipment). My Union is the Transport Workers Union, Local 2053. I'm writing you this letter to first, make you aware of my situation involving an implementing agreement that was created during the merger arrangement between the former Conrail Railroad and Norfolk Southern Corporation. And secondly, requesting your help in resolving my problem.

This implementing agreement, as I understand it, gives myself, as an employee of Norfolk Southern Corporation, a six year income shortfall protection benefit, among other job protective benefits under the New York Dock Agreement. As of today, starting from Day-One, 6-1-99, they, (Norfolk Southern Corporation), have failed to uphold their end of this implementing agreement. As I am supposed to be covered, concerning my income shortfall, in relationship to my former income level with Conrail. They, (Norfolk Southern people), told me that our test period average would be based on the last 12 months earnings paid to me by Conrail. They gave me the claim forms to fill out for each month, and so far have denied every one of them. I currently have a valid income shortfall claim for each and every month that I have now worked for Norfolk Southern. To date, (last full month ending March 31st, 2000), this amounts to \$8,751.26, all months included. The head of Labor Relations, a Mr. G.C. Edwards is the person denying my claims, stating in his words;

"It remains the Carrier's position that Mr. Holdeman has not been placed in a worse position with regard to his compensation as a direct and proximate result of a transaction as defined in the New York Dock conditions, he does not meet the definition of a "displaced" or "dismissed" employee, and he is not entitled to benefits under the New York Dock Conditions."

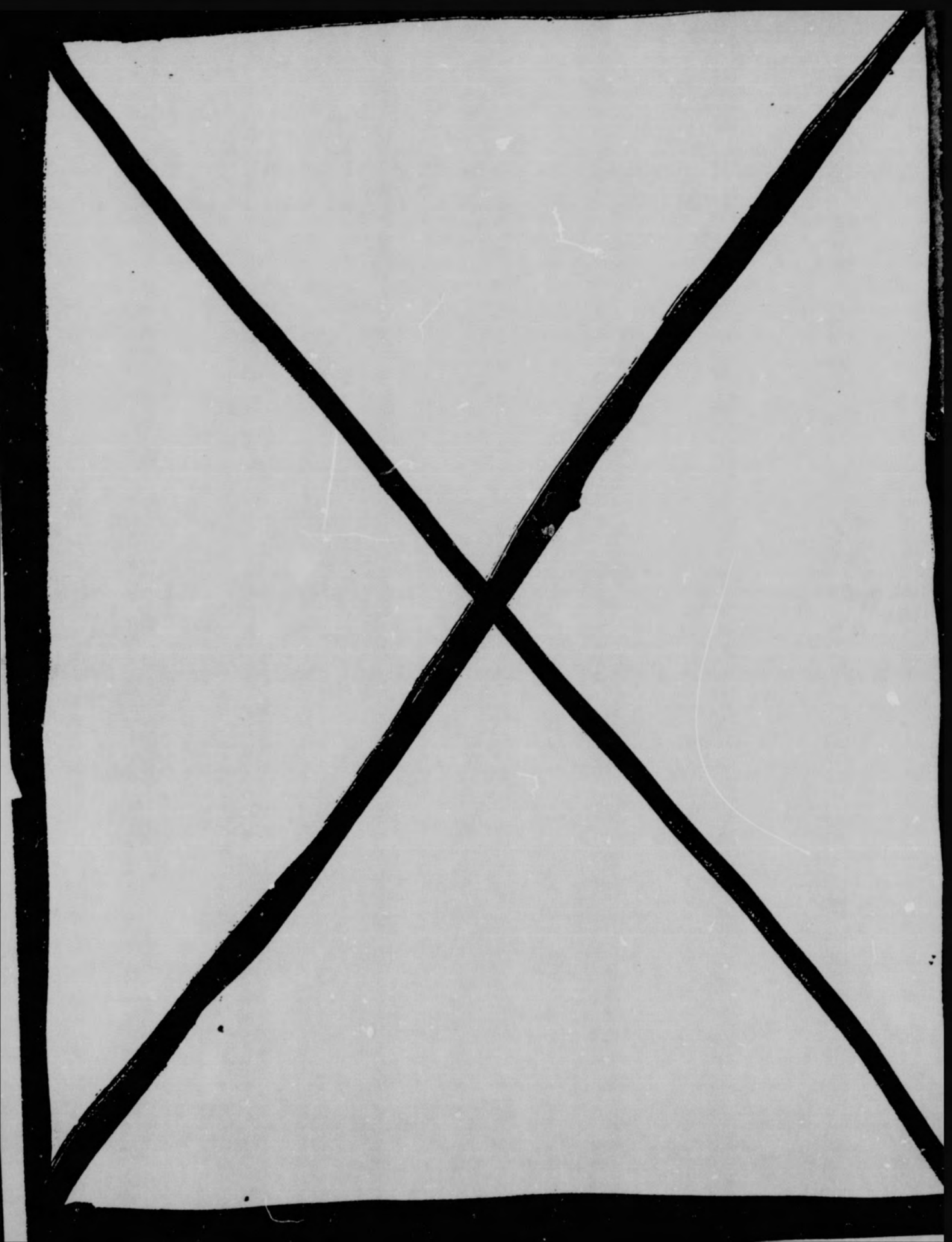
I now wish to bring up the fact that I have been collecting valid information to show proof-positive, beyond any doubt that I am eligible for these income shortfall claims, that so many others are now receiving. For an example, I am enclosing a copy of a New York Dock Claim granted to a brakeman, working at Elkhart, Indiana, (also a former Conrail employee), for a total sum of \$16.95 paid to him for an income shortfall for the month of June, 1999. Please note, the cover letter is from the same Mr. G.C. Edwards / Director Labor Relations, Norfolk Southern Corporation. Apparently Mr. Edwards felt that this person, having an income shortfall of \$16.95 a month, was placed in a worse position with respect to his compensation! This not only shows that Norfolk Southern is NOT upholding their end of the implementing agreement between their employees and themselves, but they also are DISCRIMINATING against me in doing so!

I am asking for your help in this matter, for I feel you have a fiduciary responsibility to see that these implementing agreements are upheld by both Norfolk Southern Corporation and the unions associated therein. I'm not asking you simply take my word for this, so I have enclosed a copy of my most recent claim along with a previous denial letter from Mr. Edwards. Also I have enclosed a copy of the paid claim I have referred to above, which by the way is one of several paid claims I now hold to use as further proof I'm being discriminated against. In Elkhart, Norfolk Southern is now paying New York Dock income shortfall claims to brakeman, engineers, track department workers and B & B employees. I have the proof! I have also been told by my local union representative on April 3rd, 2000, that two carman, such as myself, are now approved to receive New York Dock income shortfall payments. One person was from Cleveland, Ohio and the other he was not sure about the location. Talk about salt in a wound! How can they keep getting by denying my valid claims? My union now has this case going through the appeal process with the company. If they turn out to be unsuccessful, several of my fellow employees and myself will most definitely use the litigation route to seek satisfaction to this discriminating unfairness that Norfolk Southern seems to get by with.

You have the power to resolve this matter, I'm asking your help to get just that done. You hold a position of authority that I'm sure that Norfolk Southern has to respect whereas myself, being a single employee of a company of this size, my opinions, my letters, and even my hard proof, means very little. I await your reply. I've also sent your fellow transportation board members a copy of this same information for their reply.

Sincerely,

*James L. Holdeman*



STB

FD-33388

4-20-00

J

BUSINESS





Office of the Chairman

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

FILE IN DOCKET  
FD-33388

April 20, 2000

Mr. Timothy T. O'Toole  
President and Chief Executive Officer  
Consolidated Rail Corporation  
2001 Market Street 17N  
P.O. Box 41417  
Philadelphia, Pennsylvania 19101-1417

Re: Shared Assets Area Briefings

Dear Mr. O'Toole:

Thank you for the opportunity to meet with you and Don Nelson to discuss the operations of the Shared Assets Areas (SAAs). I was reassured by your personal commitment to the successful and efficient operation of the SAAs, and it is clear from your presentation that the efforts of you and Don, and others, have been critical to the improvements that have been made in the SAA operations. Nevertheless, as I noted in the meeting, I continue to be concerned about shipper perceptions of service being provided by the SAAs that is below acceptable levels, and elements of the recent service performance data that bear out that concern.

As I indicated to you at our meeting, there are several service performance measurements that the Board monitors in determining how well we believe the SAAs are functioning. We review those data elements not only for signs of improvement from one day or week to the next but also for steady and significant improvement over time. Certain data elements do show steady and significant improvement, such as yard dwell time. However, on-time departures is an area that still needs improvement, which, as we discussed, is not necessarily a function of your actions but rather of CSX and NS operations.

For example, during the reporting period ending March 24, only 19 percent of the departures from North Jersey were on time and 33 percent departed more than 6 hours late; in South Jersey only 10 percent of the departures were on time and 43 percent departed more than 6 hours late; and in Detroit, on time departures were down to 33 percent but only 14 percent of those departed more than 6 hours late. For the week ending April 7, the data does show some improvement: 40 percent of the departures from North Jersey were on time and 25 percent departed more than 6 hours late; in South Jersey 28 percent of the departures were on time and 36 percent departed more than 6 hours late; and in Detroit, the situation was somewhat better with 63 percent of the departures on time and only 13 percent that departed more than 6 hours late. While there has been improvement in certain areas, more is required. In this regard, another area of concern is the number of trains that are held for CSX or NS in the SAAs after

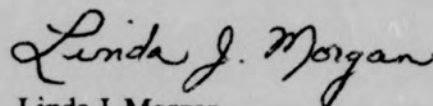


they are prepared for departure. According to the weekly reporting for April 7, 22 of 63 trains departing from North Jersey were held more than one hour after they were ready for departure; in South Jersey 18 of 25 trains were so held; and in Detroit, 16 of 46 trains were so held.

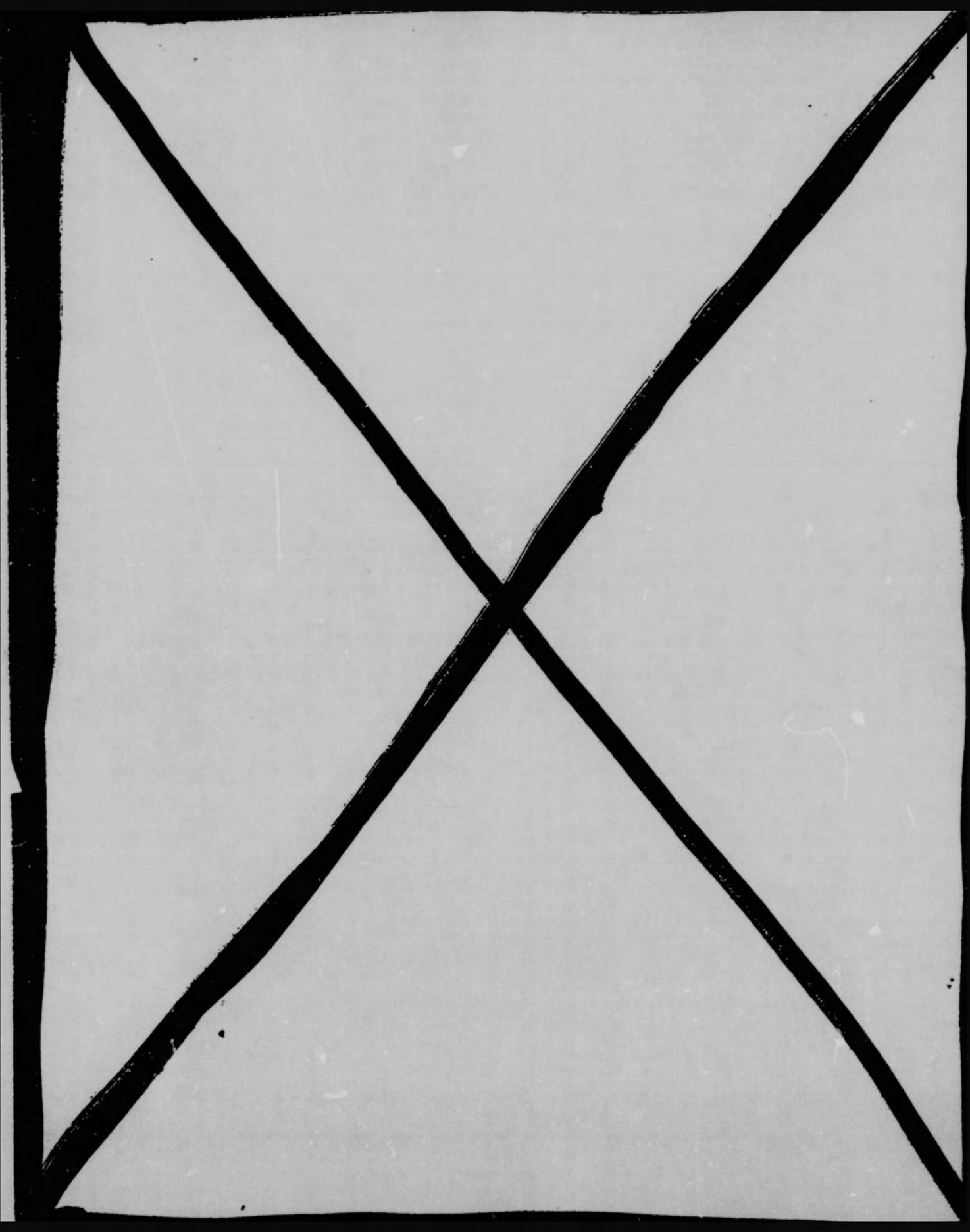
These metrics are of concern for two reasons: (1) they appear to indicate an adverse effect on service to shippers in and out of the SAAs; and (2) they represent conditions within the SAAs that could deplete your resources and unnecessarily diminish your operating efficiency. In this regard, the presentation that you and Don made was very informative, and clearly shows the results of your efforts to improve SAA operations. As we discussed, however, I believe that we would benefit from more direct involvement with SAA issues. In that regard, I have asked Mel Clemens to be in contact with Don regarding information that would help us to independently evaluate the SAA operations and conditions.

I appreciate the commitment of you and Don to effect this direct working relationship, and look forward to our continued and regular communications.

Sincerely,

A handwritten signature in cursive script that reads "Linda J. Morgan". The signature is written in dark ink and is positioned above the printed name.

Linda J. Morgan



STB

FD-33388

4-14-00

J

UNION



Office of the Chairman

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

FILE IN DOCKET

FD-33388

April 14, 2000

Mr. James Guida  
President  
T.W.U. Local 2035  
1236 - 2<sup>nd</sup> Ave.  
Conway, PA 15027

Dear Mr. Guida:

Thank you for your recent letter regarding problems that members of your union have had at Conway Yard in Pennsylvania and elsewhere following the acquisition of portions of Conrail by Norfolk Southern (NS). In particular, you express concern about the low morale due to poor communication, and to the use of intimidation, harassment, and fear to manage the workers at Conway Yard.

I have forwarded your letter to Mr. David Goode, Chairman, President, and Chief Executive Officer of NS. I will be back in touch with you after I have received his response.

I appreciate your concerns. I will have your letter, my response, and any response I receive from Mr. Goode made a part of the public docket for the Conrail proceeding.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan



Office of the Chairman

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

FILE IN DOCKET

April 14, 2000

Mr. David Goode  
Chairman, President and  
Chief Executive Officer  
Norfolk Southern Corporation  
3 Commercial Place  
Norfolk, VA, VA 23510-2191

Dear Mr. Goode:

Enclosed is a letter that I received from Mr. James Guida, President, T.W.U. Local 2035. He expresses concern about the low worker morale at Conway Yard in Pennsylvania due to poor communication, and to the use of intimidation, harassment, and fear to manage the workers there.

Given the interest of all parties, including the Board, in the fair implementation of the Conrail acquisition transaction, I have advised Mr. Guida that I would be asking you to respond to the concerns that he has raised. Please assist the Board by responding to us as soon as possible.

Thank you for your cooperation and prompt attention to this matter.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan

Enclosure

March 12, 2000

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

FILE IN DOCKET

Dear Chairman Morgan,

Recently, several incidences have occurred at the Norfolk Southern Conway Railroad Yards in Conway, Pennsylvania, which we, the executive board of the Transport Workers Union, Local 2035, want to bring to your attention.

As a brief background, Conway Yards, one of the largest railroad classification yards in the United States, was part of the Pittsburgh District of the old Conrail system. The yard not only handles classification of trains, but also provides train inspection, heavy repair and rebuilding of freight cars, repair of locomotives, and dispatches train crews.

At the time of the take over, the TWU 2035 had a contractual agreement with Conrail, which is no longer being honored by Norfolk Southern. We would like to point out that when the take over took place, Norfolk Southern told the Surface Transportation Board that they could not abide by our contract and, subsequently, gave the workers an agreement dated 1949. This has caused a great deal of anxiety among the former Conrail workers. Under the agreement with Conrail, the railroad made millions of dollars. We find it inconceivable that this agreement was just tossed aside with such disregard and no one was willing to listen to the workers at the time of the takeover. However, the workers were willing to give the NFS a chance. Unfortunately, the disregard for the contract was just the beginning of what was to come.

The incidences which we referred to earlier deal with workers being removed from service for requesting union representation when they are summoned by their supervisors for "counseling." This counseling can cover a variety of issues from calling off ill to reviewing safety records. Ultimately, the counseling results in disciplinary actions. The first time one of our workers was summoned for "counseling" he requested union representation. He was not only denied his right, as a union member, to union representation, but was escorted from the property by a uniformed guard for "insubordination." At no time, did he ever say he would not attend the counseling session, he only requested that he have a union representative with him. This is not the only case of this type of bullying by supervision. Another incident happened last week. One of our men was having a conversation with his supervisor over a work assignment and he did not respond in the manner the supervisor wanted. At no time did he refuse to do the work, he only wanted to complete the task at hand and then move on to the new assignment. When the employee saw that the conversation was going to result in discipline, he requested union representation, which he was denied. The next step was that the supervisor's boss told him he was not getting time off - he was fired. At that time he was told to leave the property. We might note that he



called a union officer while still on the property and told him, "I'm in trouble." The next telephone call from the worker came when he arrived home. He placed a call to the same union official. At this time he was crying and stated, "They fired me." Another union official was requested to go to the house to assist the worker. When he arrived he found the worker's son and a neighbor girl struggling to hold up his body. He was so distraught over this incident that he attempted suicide by hanging. The trauma and pain has just begun for this family. Their lives will never be the same. In addition, the men are demanding that enough is enough. Will it take the life of a fellow worker for the intimidation to stop? In both cases, upper management determined the following day that discipline was not called for.

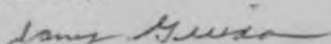
You might think this was just an isolated incident. But, the fact is that the supervision of the NFS has been and continues to use intimidation, harassment, and fear to manage the workers. The company is frustrated in their inability to manage the Conrail section they took over and it shows in how they are handling their employees. These are the same employees who had a major part in turning the bankrupt Penn Central Railroad into the very profitable Class 1 Conrail Railroad. These same workers have a strong commitment to their families, communities, schools, churches, and jobs. We have not changed; the only thing that has changed is who manages us.

While the NFS was a very successful Southern railroad, they are having difficulty adjusting to the demands of the very industrialized, on-time delivery of the northeast sector of the rail system. As any railroader will tell you, it takes harmony and trust to make the system appear like it is running effortlessly. Our rail yard has now been labeled throughout the system as having "union problems." The morale of the workers is at an all-time low. We want to be treated with the dignity and respect that we earned through our past performances prior to the NFS takeover. Yes, we realize that Conrail is no longer in existence, but the railroad always relied on the workers and supervisors working together to meet the needs of our customers. Workers that once took pride in their work and achievements now work in silence and fear of retribution for speaking out or holding a different point of view.

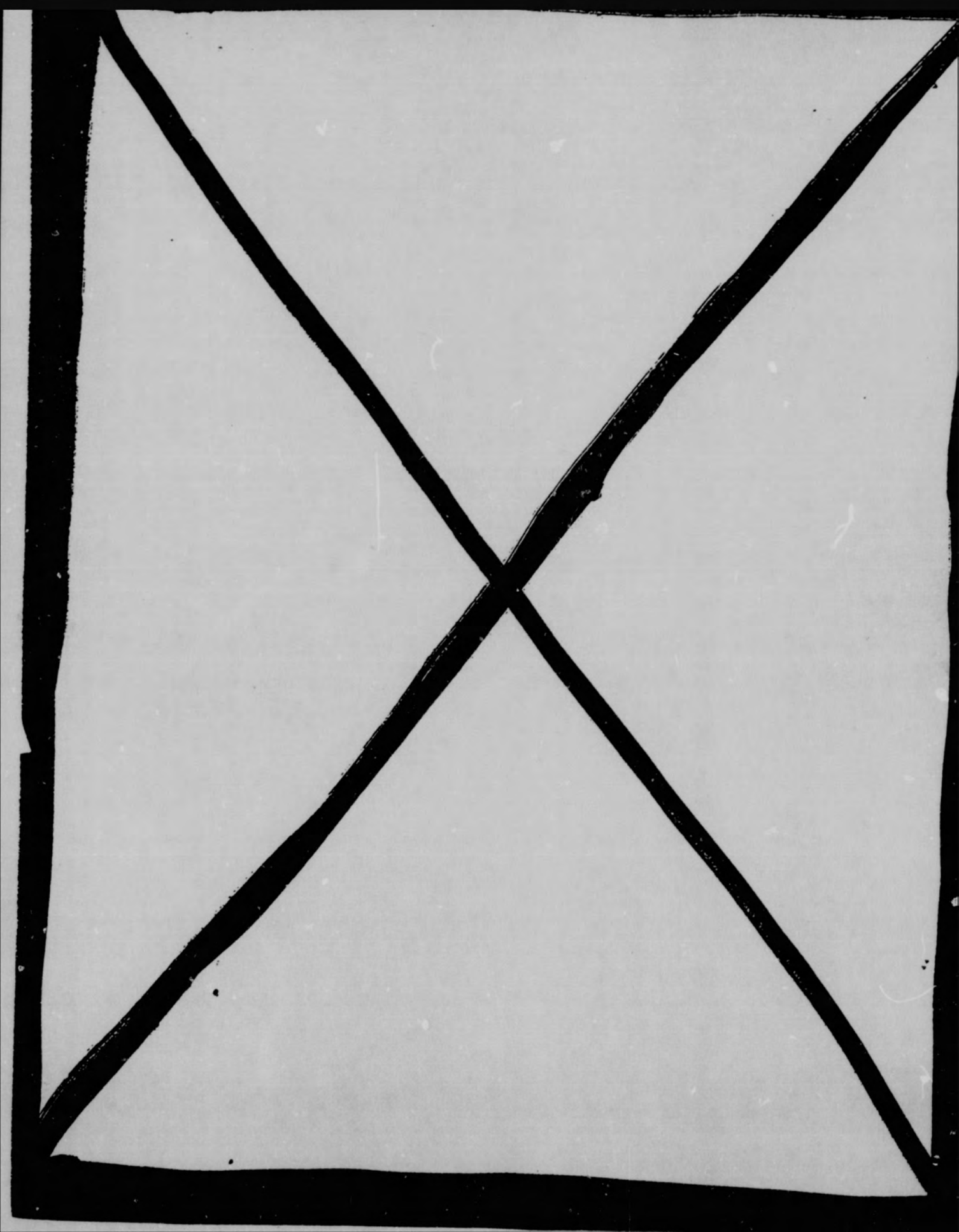
We realize that there is little you can do, but we felt it was imperative that you, as a leader of our nation, become aware of what is happening to the railroads. This problem is not confined to our specific yard, but is wide spread throughout the system.

As I am sure you are aware, the railroad unions have been strong allies of the Democratic Party and look forward to many more years of support.

Sincerely,



President T.W.U. Local 2035



STB

FD-33388

4-10-00

J

STATELEG



Office of the Chairman

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

FILE IN DOCKET

FD-33388

April 10, 2000

The Honorable Michael J. Bragman  
The Assembly - State of New York  
Room 436  
Capitol Building  
Albany, New York 12224

Dear Assemblyman Bragman:

Thank you for your letter of March 30, 2000, expressing your concern about the needed restoration of a railroad bridge over Park Street in Syracuse, New York.

In your letter, you indicate that you have requested State and Federal transportation officials with appropriate safety jurisdiction to review this matter with CSX Transportation, Inc. (CSXT). In an effort to facilitate that review, I have referred your concerns to CSXT with a request that they immediately look into the issue. Moreover, our Memorandum of Understanding with the Federal Railroad Administration (FRA) requires FRA to undertake safety evaluations relating to the safe implementation of the Conrail transaction, and to bring any transaction-related issues to the attention of the Board that may require our involvement.

I am hopeful that this information is helpful to you, and that you will not hesitate to contact me on any issue with which I can be of assistance.

Sincerely,

*Linda J. Morgan*

Linda J. Morgan



MICHAEL J. BRAGMAN  
MAJORITY LEADER

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

District Office  
☐ 305 South Main Street  
North Syracuse, New York 13212  
(315) 452-1044

☐ Room 926  
Legislative Office Building  
Albany, New York 12248  
(518) 455-4567

☐ Room 436  
Capitol Building  
Albany, New York 12224  
(518) 455-4225

March 30, 2000

Linda Morgan  
Chair  
Surface Transportation Board  
1925 K Street, Northwest  
Suite 700  
Washington, D.C. 20423

Dear Chairperson Morgan:

I have received the enclosed correspondence from William Sanford, Chairman of the Onondaga County Legislature, relative to the structural integrity of the Conrail/CSX Bridge over Park Street in Syracuse, New York. The letter cites a recently completed report by Blasland, Bouck & Lee assessing the structural integrity of this bridge. I agree with Chairman Sanford that an immediate evaluation of this structure should be undertaken by the appropriate State and federal officials.

The Blasland, Bouck & Lee report concludes that "due to the advanced state of decay of the bridge abutments, the overall condition of the bridge should be considered as poor and as a likely candidate for replacement." This matter is further complicated as the bridge, completed in 1936, carries upwards of 30 to 40 freight trains and Amtrak passenger trains daily.

An earlier site visit report (also enclosed), conducted by Parsons Brinckerhoff, noted in part that (the bridge) "condition warrants further examination as a minimum, and suggests to us that major rehabilitation may be required."

The Parsons Brinckerhoff report also notes that "the bridge is routinely struck by tractor trailers." In this regard, as this bridge is located above a heavily traveled road and is adjacent to the uncompleted OnTrack bridge project, I am requesting an immediate evaluation of this site by the New York State Department of Transportation to determine the most appropriate course of action to ensure the safety of the motoring public, and continued passenger and commercial rail traffic over the CSX/Conrail Bridge (copy enclosed). I have also requested that the United States Department of Transportation and the Federal Railroad Administration review this matter and determine what additional action may be required.

(Continued)

FILE IN DOCKET

RECEIVED  
SURFACE TRANSPORTATION  
BOARD  
APR 5 12 46 PM '00  
LINDA MORGAN

March 30, 2000

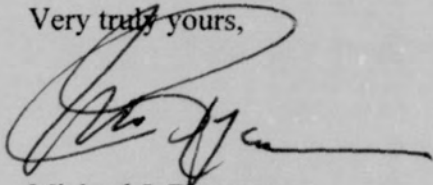
Page 2

Would you please provide me with your comments and recommendations on this entire matter. Subsequent to receiving your reply, I will be able to determine what further action on my part is necessary and appropriate.

Thank you for your anticipated cooperation.

Best wishes.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael J. Bragman", written over a horizontal line.

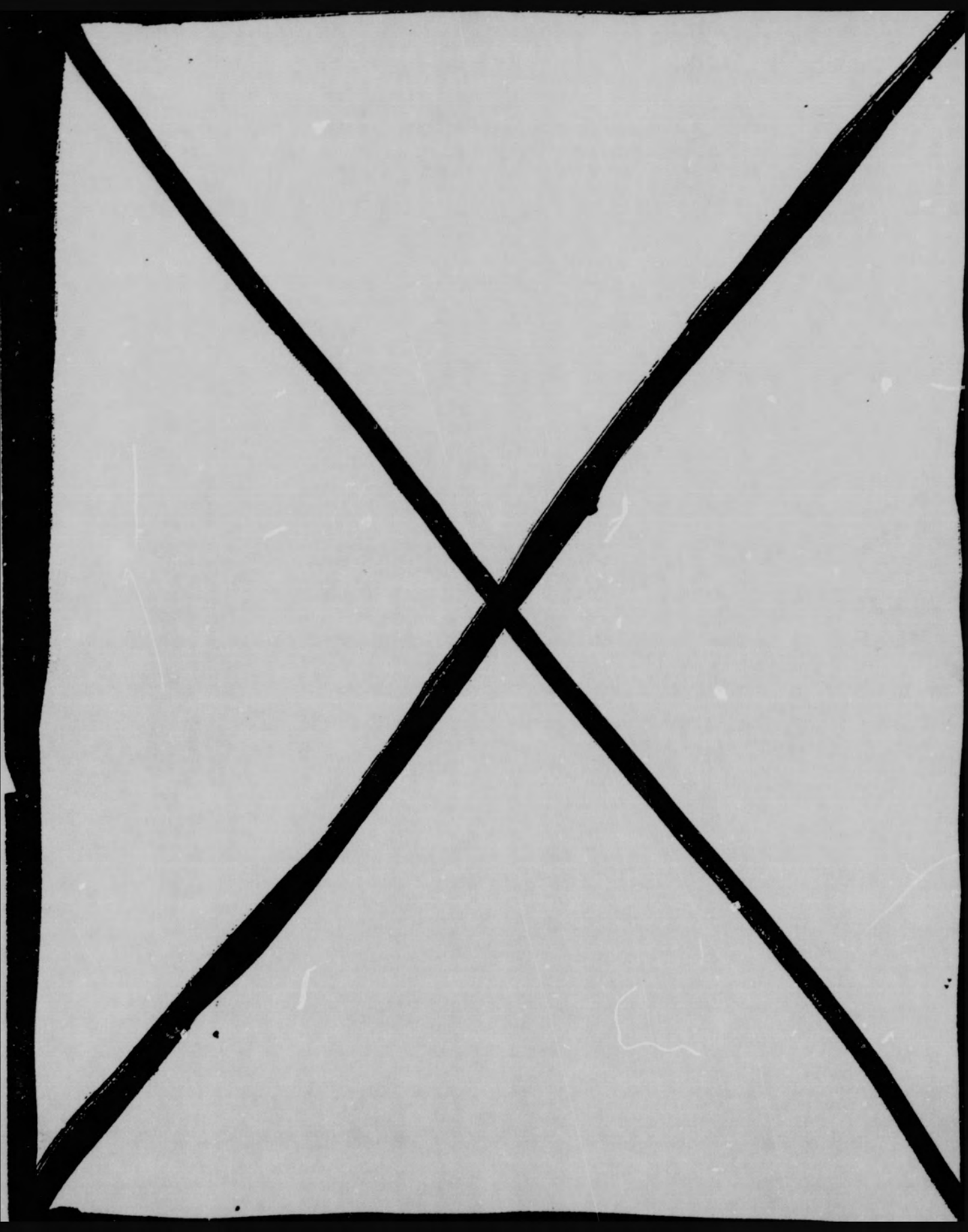
Michael J. Bragman  
Majority Leader

Enclosures

MJB/ro/jg/jlf

cc: Honorable Charles E. Schumer  
William E. Sanford  
Interested Individuals





STB

FD-33388

4-6-00

J

PUBLIC



Office of the Chairman

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

FILE IN DOCKET  
FD-33388

April 6, 2000

Mr. David L. Rench  
1342 Haughey Drive  
Union City, MI 49094

Dear Mr. Rench:

Thank you for your letter regarding large rail mergers and the resulting harm to rail employees and others. In particular, you cite the harm caused by the Conrail acquisition transaction and express frustration that the Surface Transportation Board (Board) waited until after the Conrail transaction to take action to stop future large rail mergers while re-examining its merger rules.

In its written decision regarding future mergers, the Board noted a number of reasons for taking this unprecedented action now, such as the aggressive consolidation that has occurred in the rail industry in recent years, the disruptions associated with the previous round of mergers from which many have not fully recovered, the likelihood that a proposed Burlington Northern Santa FE (BNSF) and Canadian National (CN) railroad system combination would trigger yet another round of mergers involving the remaining large rail carriers, and the widespread public support for the Board to revisit its merger rules in light of the current transportation environment and the prospect of a North American transportation system comprised of as few as two transcontinental railroads.

With regard to the Conrail transaction, as you point out, rail employees and others have suffered disruptions associated with the implementation process. The Board continues to believe, however, that in time the Conrail transaction will prove to be a pro-competitive merger with substantial public benefits.

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

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan

FILE IN DOCKET

Linda Morgan,

Just one merger to late in  
your wonderful insight that bigger  
is not better.

I along with thousands of former  
Conrail employees that lost \$10,000.  
jobs so NS and CSXT could pick  
apart Conrail.

All of Conrail's management  
shared a huge pile of money 1.5 billion  
and got from 200,000 or 300,000 dollars  
to as in David Le Van's case 22+  
million. But of course the union  
employees have New York Rock right?

Wrong!!!

Another meltdown on rail  
service even after years of saying  
it would be done with no sacrifice  
in service.

Well you sure can be proud  
not only did you throw thousands  
of people that sacrificed with  
wage concessions to make Conrail  
a profitable railroad only to have  
it carved up and left with nothing  
to show for their hard work.

David L Rend  
1342 Haughey Drive  
Union City MI  
48094

P.S. Would like to know how  
you feel about how the break-up  
went. I know it's too late to  
fix this the way it should be.

Glad the people at BNSF &  
CN don't get shafted at least  
for now.





STB

FD-33388

4-6-00

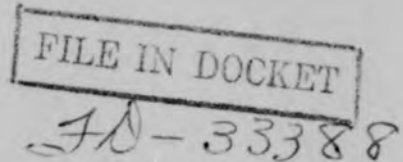
J

FEDS



Office of the Chairman

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



April 6, 2000

The Honorable Jolene M. Molitoris  
Administrator  
Federal Railroad Administration  
1120 Vermont Avenue, NW  
Washington, DC 20590

Dear Administrator Molitoris:

The purpose of this letter is to request the submission of your Second Briefing Report on safety integration related to the acquisition of Conrail by CSX Transportation, Inc. (CSXT) and Norfolk Southern Corporation (NS). This second Briefing Report was due November 15, 1999, for the six-month period ending October 15, 1999.

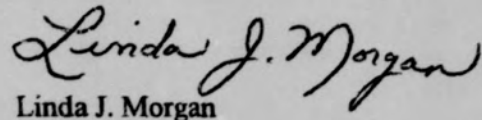
As you know, in the Conrail Acquisition proceeding, the Board agreed that it would require CSXT and NS to file detailed Safety Integration Plans (SIPs), developed within guidelines established by FRA, explaining how the proposed operational aspects of the acquisition would be implemented safely. Subsequently, the Board and FRA entered into a Memorandum of Understanding (MOU), with the concurrence of the Department of Transportation, regarding the monitoring of the ongoing safety integration process. Under the terms of the MOU, the railroads are to coordinate with FRA regarding what should be addressed in the SIPs process to ensure that the Conrail Acquisition is safely implemented, and FRA is to provide the Board with periodic reports advising it of the railroads' progress, at least on a biannual basis.

In May 1999, we received a Briefing Report covering the pre-split period between July 23, 1998, and April 15, 1999. Under the terms of the MOU, the next periodic report was due in six months, or by November 15, 1999. In your letter of February 18, 2000, you advised us that the Second Briefing Report would arrive at the Board during the first quarter of 2000. You also suggested that the FRA Office of Safety was interfacing closely with the Board's Office of Compliance and Enforcement on safety assessments as they are updated. We are eager to receive your second Briefing Report, as your First Briefing Report preceded the actual split date (June 1, 1999). We also look forward to the interface between the responsible offices that you have suggested.

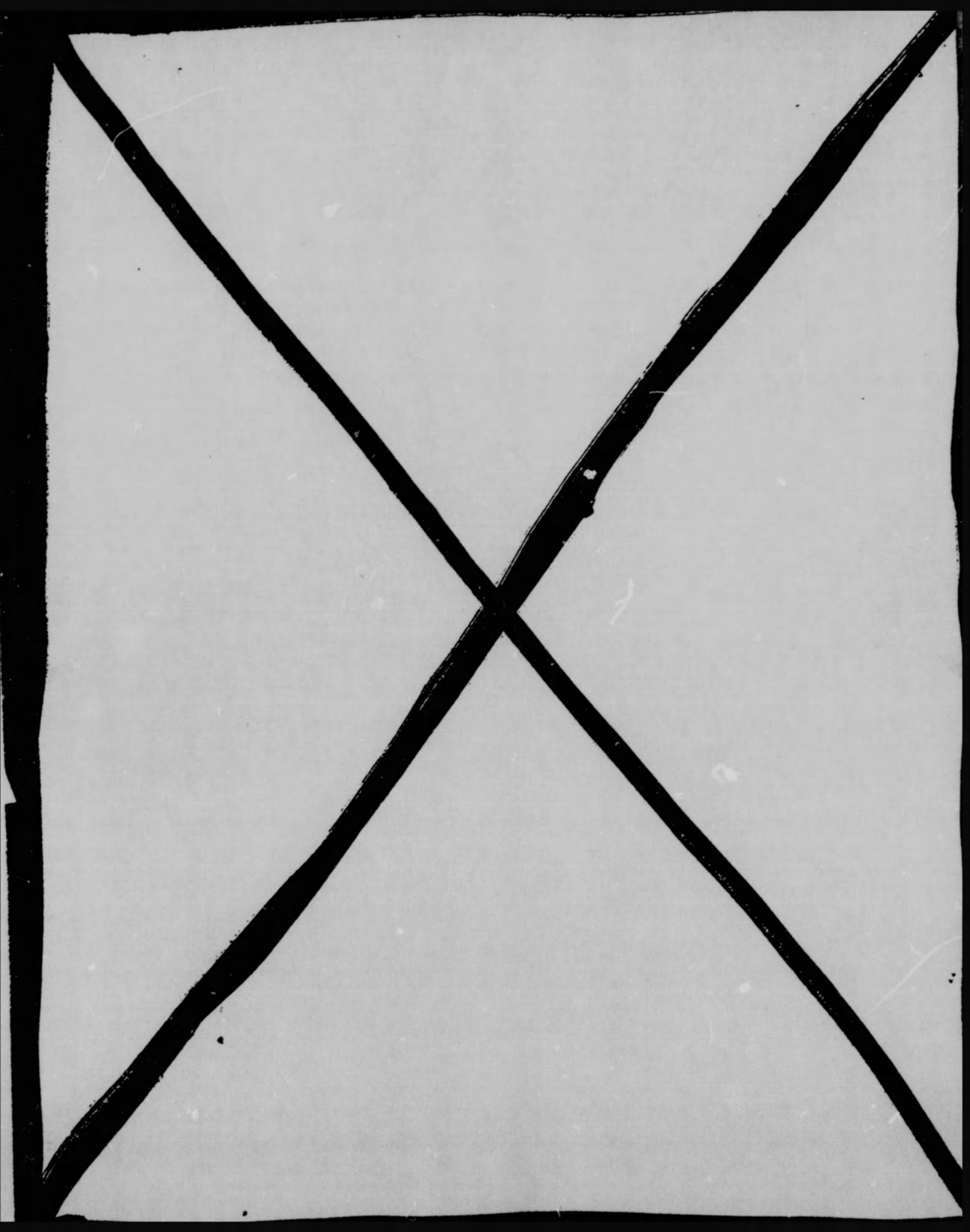
Additionally, under the terms of the MOU, FRA is required to "report significant safety integration issues to the Board if and when they occur," and FRA may request the Board to exercise its oversight authority and to take action to correct identified deficiencies and to address safety problems arising out of the approved transaction. We are aware from recent press accounts that FRA has found track defects on the lines of CSXT. It appears that this current FRA investigation may be related to the SIPs process. In this regard, it would seem appropriate that you inform us of your concerns and recommendations in this matter promptly, and I look forward to the interface, which you have suggested should be occurring, as it relates to your recent findings.

The monitoring of the railroads' safety integration progress pursuant to the MOU is very important, and I hope that our agencies can continue to work cooperatively in this effort. I look forward to your prompt response in this matter.

Sincerely,

  
Linda J. Morgan

cc: The Honorable Rodney E. Slater  
Secretary - U.S. Department of Transportation



STB

FD-33388

4-6-00

J

PUBLIC



Office of the Chairman

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

Mr. Mark Whyel  
441 Twin Hills Road  
Grindstone, PA 15442

April 26, 2000

FILE IN DOCKET

JD-33388

Dear Mr. Whyel:

This responds to your letter of February 19, 2000, regarding the effect of certain implementing agreements and arbitration decisions, reached in connection with the implementation of the Conrail transaction approved by the Board in Finance Docket No. 33388, upon your prior rights seniority as an employee of Conrail and before that of the Monongahela Railway (MGA). Specifically, you ask what the effect of Article I, Section 3 of the New York Dock conditions is upon your MGA prior rights seniority, which was agreed to in connection with implementing an ICC approved merger of MGA into Conrail. You also refer to a letter from me to Mr. George Donahue dated February 6, 1999. I assume your reference is to Mr. Donahue's letter to me dated February 6, enclosed with your letter, to which I responded on March 16, 1999. A copy of my March 16, 1999 letter to Mr. Donahue is enclosed.

As in the case of my correspondence with Mr. Donahue, I am in no position to comment upon the effect of Article I, Section 3 upon voluntarily negotiated implementing agreements or unappealed arbitral decisions involving implementation of Board approved transactions. However, I would call to your attention that the Supreme Court's decision in Norfolk & W. Ry. v. American Train Dispatchers, 499 U.S. 117 (1991)—holding that prior collective bargaining agreements can be superceded to the extent necessary to carry out a Board-approved transaction—involved collectively bargained protections for employees involved in prior merger proceedings (in the embraced case of CSX and the Brotherhood of Railway Carmen, the so-called "Orange Book" agreement). Moreover, there is no reason that an arbitrator is compelled to reach precisely the same accommodation of interests that is negotiated by other parties. But, in the absence of issues specifically framed by pursuit of the arbitration process and an appeal to the Board, neither I nor the Board is in a position to be of further assistance.

I am having your letter and a copy of this response made a part of the public docket for the Conrail acquisition proceeding.

Sincerely,

*Linda J. Morgan*

Linda J. Morgan

Enclosure





Office of the Chairman

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

March 16, 1999

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

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 Mr. Donahue:

This responds to your letter of February 6, 1999.

I am puzzled as to your continuing insistence that you have been deprived of the opportunity to be a part of the implementing process in connection with the NS/CSX/Conrail transaction. Your letters to me appear to reflect that you and the other employees listed in the attachments to your letters have been very much involved in the implementation process.

I understand that there are certain elements of the process and of the implementing agreement with which you do not agree. However, as I have pointed out to you before, the way in which you may appropriately bring these to the Board's attention is by submission of them to arbitration if they cannot be resolved voluntarily among you, your elected union representatives, and the railroads involved.

Contrary to your understanding, any dispute or controversy with respect to the interpretation, application or enforcement of our labor protective conditions is required to be submitted to arbitration. The exception for section 4 to which you refer addresses simply the initial arbitration process for arriving at a negotiated agreement. Here there is such an agreement and, accordingly, that exception is inapplicable.

In your prior letter you called attention to the fact that certain provisions in the implementing agreement about which you are concerned are not as favorable as comparable provisions in other negotiated implementing agreements that have been approved by the Board or its predecessor the Interstate Commerce Commission. Negotiated implementing agreements in other proceedings do not establish a minimum for protection under our conditions. Our approval only establishes that such agreements meet or exceed the minimum requirements of the conditions. The point of negotiating agreements is to obtain protection superior to that which is

mandated as a minimum in our conditions. If such negotiated agreements were then accepted as the minimum protection that is acceptable, it would eliminate all incentive to negotiate.

Please understand that I am not unsympathetic to your concerns and those of your fellow employees. However, I am firmly convinced that they will be best served by following the well-settled process for resolving such concerns.

As with your other letters, a copy of this letter will be made a part of the docket in the proceeding. Also I reiterate the offer contained in my letter of January 12, 1999, to provide assistance in pursuing your arbitral remedies, should you desire to do so, through our Office of Congressional and Public Services. That office may be reached at (202) 565-1592.

Sincerely,

*Linda J. Morgan*  
Linda Morgan

February 19, 2000

Linda Morgan  
Chairman  
Surface Transportation Board

Dear Chairman Morgan:

I am writing in regard to the issue of the Conrail Labor Contract, specifically the letter dated February 6, 1999 to Mr. George J. Donahue, a copy of which is attached. I would like a clarification of New York Dock Article I Section 3. As a former employee of Conrail, I am particularly interested in Section 3 which states, "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 existing job security or other protective conditions or arrangements."

In 1992, as an employee of the Monongahela Railway, we were merged into Consolidated Rail Corporation, I.C.C. Finance Docket No. 31875 (Decision dated October 4, 1991). To compensate and protect employees affected by the merger, the I.C.C. imposed the employee merger protection conditions set forth in New York Dock Railway-Control-Brooklyn Eastern Terminal, 360 I.C.C. 60,84-90 (1979); affirmed, New York Dock Railway v. United States (New York Dock Conditions") on the Conrail and the MGA pursuant to the relevant enabling statute. 49 U.S.C. 55 11343, 11347. We were given prior rights seniority on all jobs we had worked under the former MGA.

It is ironic that now these prior rights have been given away by an agreement between the Brotherhood of Locomotive Engineers (BLE) and Norfolk Southern Corporation (NSR). This goes directly against Article I Section 3 of the New York Dock Agreement.

A further irony is that the BLE was rebuffed in their attempt to take away prior rights from engineers employed by CSX Corporation. In the matter involving CSX Transportation, Inc., and Consolidated Rail Corporation vs. the Brotherhood of Locomotive Engineers, Arbitrator Richard R. Kasher ruled against the BLE. Finance Docket No. 33388, April 2, 1999). In one instance, the BLE is denied in their bid to take away prior rights, but between the BLE and NSR, our prior rights were allowed to be given away.

In conclusion, a double standard seems to have been applied with regard to protections afforded by the New York Dock Agreement. Whereas, we were

granted prior rights by the I.C.C. in 1992, we had them taken away by a carrier and a union in 1998. While our prior rights have be summarily dismissed on Norfolk Southern, the first five pages of the implementing agreement on CSX Corporation deals entirely with the matter of prior rights. (a copy of which is attached)

Any input or clarification of the transaction from your office would be greatly appreciated.

Sincerely,  
Mark Whyel  
Locomotive Engineer  
Norfolk Southern Corporation  
Waynesburg Terminal





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.<sup>1</sup>

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<sup>1</sup> 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.

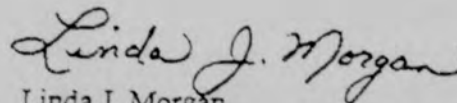
(continued...)

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 (7<sup>th</sup> 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

---

<sup>1</sup>(...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

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 for 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?

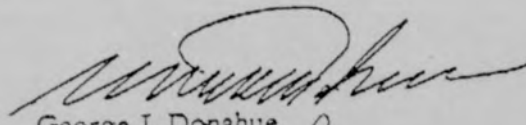
The Board declined to allow the carriers to override the Conrail contracts forcing the parties to negotiate an agreement. Was it the intent of the Board to allow the parties to reach an Implementing Agreement which satisfies the protocol of Article I, Section 4 of the NYD, but fails to satisfy the intent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

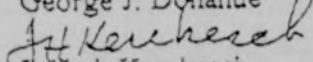
We are not concerned with the formalities or protocol of reaching an Implementing Agreement as outlined in Article I, Section 4, of the NYD. However we are concerned with the functionality of such an agreement as it relates to protecting the rights of Conrail's employees as outlined in Article I, Section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

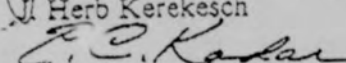
For these reasons and items 2 through 5 of our letter dated November 23, 1998, we respectfully request the Board allow us to become involved in this process as it affects our lives and families.

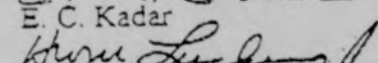
We request the Board revisit this file and make this agreement comparable to previously approved transactions by the STB, thereby fulfilling the intent of Article I, Section 3, of the New York Dock.

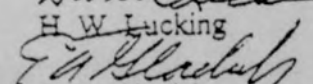
cc: The Terasi Law Firm  
All Pennsylvania Senators  
All Pennsylvania Congressmen  
Association for Union Democracy

  
George J. Donahue

  
J. Herb Kerekesch

  
E. C. Kadar

  
H. W. Lucking

  
E. F. Gladish

**SURFACE TRANSPORTATION BOARD  
FINANCE DOCKET NO. 33388  
ARBITRATION PURSUANT TO ARTICLE I, SECTION 4  
NEW YORK DOCK PROTECTIVE CONDITIONS  
ARBITRATION OPINION AND AWARD  
APRIL 2, 1999**

In the Matter Involving the

**CSX TRANSPORTATION, INC.,  
and CONSOLIDATED RAIL CORPORATION**

and

**BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS**

**Introduction and Background Facts**

On July 23, 1998 the Surface Transportation Board (hereinafter the "STB") issued an Order authorizing CSX Transportation, Inc. (hereinafter "CSXT"), Norfolk Southern Railway Company (hereinafter "NSR") and the Consolidated Rail Corporation (hereinafter "Conrail" or "CRC") to enter into a Transaction which would result in the allocation of certain Conrail rail lines and facilities to CSXT and NSR; and which would allow Conrail to continue to operate certain properties, known as the Shared Assets Areas (hereinafter the "SAAs").

consummated. These agreements also included the manner in which CRC Engineers' seniority would be treated.

CSXT negotiated three attachments with BLE, which created three new consolidated seniority districts, Eastern, Western and Northern, from existing CSXT lines and allocated Conrail lines, except that the Northern District contained only former Conrail lines. The involved General Committees of Adjustment of the BLE representing CSXT's Engineers and the General Committee representing CRC's Engineers were, however, unable to reach complete agreement regarding the manner in which CRC Engineers would have their seniority integrated into the seniority rosters of CSXT Engineers for the planned new Eastern and Western Districts.

In spite of diligent and good faith efforts by the three General Committees of Adjustment as well as International Officers of the BLE, this "internal" dispute could not be resolved. Accordingly, the three General Committees of Adjustment, the BLE International and CSXT agreed that the below-signed Arbitrator would hear the parties' respective positions regarding the issue of prior rights.

At the February 26, 1999 hearing the parties entered  
their appearances as follows:

Richard S. Edelman, Esquire  
O'Donnell, Schwartz & Anderson  
For the CSXT Northern and Western Lines  
General Committees of Adjustment

Mr. Don Menefee  
General Chairman  
Mr. Cleatus Roy  
General Chairman  
For the CSXT Northern and Western Lines  
General Committees of Adjustment

Mr. Robert W. Godwin  
General Chairman  
Mr. W. A. Thompson  
Alternate General Chairman  
Mr. Larry W. Sykes  
District Chairman  
For the Conrail General Committee of Adjustment

Harold A. Ross, Esquire  
General Counsel  
Mr. Paul T. Sorrow  
International Vice President  
Mr. Edward W. Rodzicz  
International Vice President  
For the BLE International

Mr. Kenneth R. Peifer  
Vice President, Labor Relations  
Mr. Howard S. Emerick  
Director, Labor Relations  
For the CSXT

The hearing concluded on February 26, 1999. During  
the brief period that the "internal" BLE dispute was under



give-and-take of the bargaining process, creating a balancing of interests that should not lightly be disturbed.

The Carriers maintain that the Negotiated Agreement's changes to collective bargaining agreement terms satisfy the requirements of New York Dock. In support of this contention, the Carriers rely upon the decision of the STB in CSX - Control - Chessie Sys. And Seaboard Coastline, Finance Docket No. 28905 (Sub. No. 22) (Sept. 22, 1998), commonly referred to as Carmen III.

The Carriers cite several examples regarding the manner in which its proposed Northern, Western and Eastern Districts will contribute to a more efficient and consolidated operation and improved utilization of employees, which goals, the Carriers assert, are consistent with the STB Order in Finance Docket No. 33388. The Carriers rely primarily upon the Verified Statement of CSXT's Director of Labor Relations Howard Emerick in support of this contention regarding operational efficiency and employee utilization.

Finally, the Carriers assert that the Negotiated Agreement preserves "rights, privileges and benefits", and



Mr. Don Menefee  
General Chairman  
Mr. Cleatus Roy  
General Chairman  
For the CSXT Northern and Western Lines  
General Committees of Adjustment

Mr. Robert W. Godwin  
General Chairman  
For the Conrail General Committee of Adjustment

Mr. Paul T. Sorrow  
International Vice President  
Mr. Edward W. Rodzwick  
International Vice President  
For the BLE International

Mr. Kenneth R. Peifer  
Vice President, Labor Relations  
Mr. Howard S. Emerick  
Director, Labor Relations  
For the CSXT

Ronald M. Johnson, Esquire  
Michael E. Ferrans, Esquire  
Jonathan M. Krell, Esquire  
Akin, Gump, Strauss, Hauer & Feld  
Nicholas S. Yovanovic, Esquire  
Assistant General Counsel, CSXT  
For the CSXT

Mr. William McCain  
Vice President, Labor Relations  
For Conrail

**Position of the CSXT and Conrail**

The CSXT and Conrail (hereinafter the "Carriers") submit that the only issues before the Arbitrator are (1) What should the prior rights provision be for CSXT's proposed Eastern and Western Districts and (2) Is the

a fair arrangement for seniority integration and limited interference with established seniority schemes. The CSXT General Committees of Adjustment maintain that there is a substantial history of the use of prior rights arrangements in merger/consolidation-type seniority integrations. Accordingly, the CSXT General Committees of Adjustment submit that their position regarding prior rights should be adopted, and that the position of the Conrail General Committee of Adjustment, advocating the elimination of prior rights, should be rejected.

The CSXT General Committees of Adjustment submit that the BLE's Constitution in Sections 33(a)(1) and 34(a) supports its position that prior rights is the constitutionally preferred arrangement for the determination of Engineers' seniority in transactions such as the one here under consideration.

The CSXT General Committees of Adjustment further contend that their proposal regarding retention of full prior rights works toward the goal of preserving pre-transaction agreement rights and the equities of Engineers as much as possible, by ensuring that prior seniority rights can and will be preserved unless the majority of the affected Engineers votes to eliminate those rights.

whether prior rights are retained; and therefore argues that there is no allegation by the Carriers that the arrangement proposed by the CSXT General Committees of Adjustment is unfair or unworkable.

Citing earlier transactions involving coordinations and consolidations which impacted the CSXT Engineers, the CSXT General Committees of Adjustment assert that that these arrangements involving seniority support their position that there is an established practice of preserving prior rights on the property.

Additionally, the CSXT General Committees of Adjustment point out that a polling of their members demonstrates that the overwhelming majority support the retention of the ability to continue prior rights.

The CSXT General Committees of Adjustment also disputed the contention of the Conrail Committee that they had agreed to the elimination of prior rights. Although, the CSXT Committees initialed the October 16, 1998 draft, they assert that this was done subject to certain specific conditions.

Based upon the foregoing facts and arguments, the CSXT General Committees of Adjustment submit that their proposal is consistent with the BLE Constitution, is fair and

"wish to realize efficiencies and restructure rail service". The Conrail General Committee of Adjustment observed that it had "witnessed" Conrail's path to profitability, which included the reduction of eighty percent of the work force. The Conrail General Committee of Adjustment stated that the experience of 76,000 Conrail employees losing their jobs "taught us that we must negotiate in the best interests of all employees, whether they are Conrail Engineers, CSXT Engineers or NSR Engineers."

At the same time, the Conrail General Committee of Adjustment acknowledged that it understood that the negotiations of an implementing agreement had to be conducted in an atmosphere which recognized that the Carrier would have the opportunity to achieve efficiencies approved by the STB in the Carrier's operation.

The Conrail General Committee of Adjustment stated that, in this atmosphere of cooperation, the CSXT and Conrail General Committees of Adjustment met on numerous occasions beginning in February, 1997 to address the question of seniority. The Conrail General Committee of Adjustment points out that, with the assistance of International Officers of the BLE, a master implementing

proposed to effectuate each merger, consolidation and/or acquisition.

In the instant case, this Arbitrator did not have to "start from ground zero". This Arbitrator had the recent opportunity to review a substantial body of relevant documentation regarding the STB's Order in Finance Docket No. 33388. This Arbitrator also had the opportunity to consider thorough and detailed arguments regarding the propriety of implementing agreements entered into between CSXT, Conrail and NSR and the Transport Workers Union (hereinafter the "TWU"). Not unlike the instant case, the negotiated implementing agreement executed by the TWU was submitted for approval to its members in the Carmens craft or class. When that agreement failed ratification, a New York Dock Article I, Section 4 arbitration hearing was held before this Arbitrator.

On February 27, 1999, this Arbitrator found that a "Negotiated Agreement" between the Carriers and the TWU met the standards of New York Dock, as those standards have been interpreted by the STB, the federal courts and New York Dock arbitrators.

The following excerpts, reflecting the rationale in this Arbitrator's New York Dock decision involving the TWU



allocates Engineers, satisfies the STB's necessity test, and does not vitiate any protected rights, privileges or benefits.

This Arbitrator also observed as follows:

What "tips the balance" in favor of the Carriers' proposal, in this Arbitrator's opinion, is the Negotiated Agreement and the virtually identical implementing agreements entered into voluntarily by all of the other shopcraft labor organizations. The Carriers' proposal is favored by this Arbitrator, not necessarily because those other implementing agreements establish a "pattern", but because they constitute reliable evidence that many experienced, well-schooled union negotiators, thoroughly familiar with the needs to protect the interests of the employees they represent and the sanctity of the collective bargaining agreements they previously administered, were persuaded that the NSR's and CSXT's operations would be more efficient and meet the purposes of the STB's order in Finance Docket No. 33388. There is no reason to believe that these negotiators would have accepted the CSXT's and NSR's collective bargaining agreements if they did not believe that the new arrangements benefited the employees they represented in the context of the principal Transaction. In exchange for their agreement, TWU/BRC representatives and the representatives of the other shopcraft organizations received substantial and generous *quid pro quos* reflected in the implementing agreements and the numerous side letters of agreement entered into evidence . . . .  
(Pages 41-42)

There is no reliable evidence in this record which causes this Arbitrator to reach a contrary conclusion. That is, the evidence of record here establishes that, with the exception of the issue of prior rights which has been reserved for separate consideration, the BLE has negotiated an agreement which (1) preserves the rights, privileges and benefits enjoyed by its membership, (2) achieves substantial protections for the Engineers' craft or class



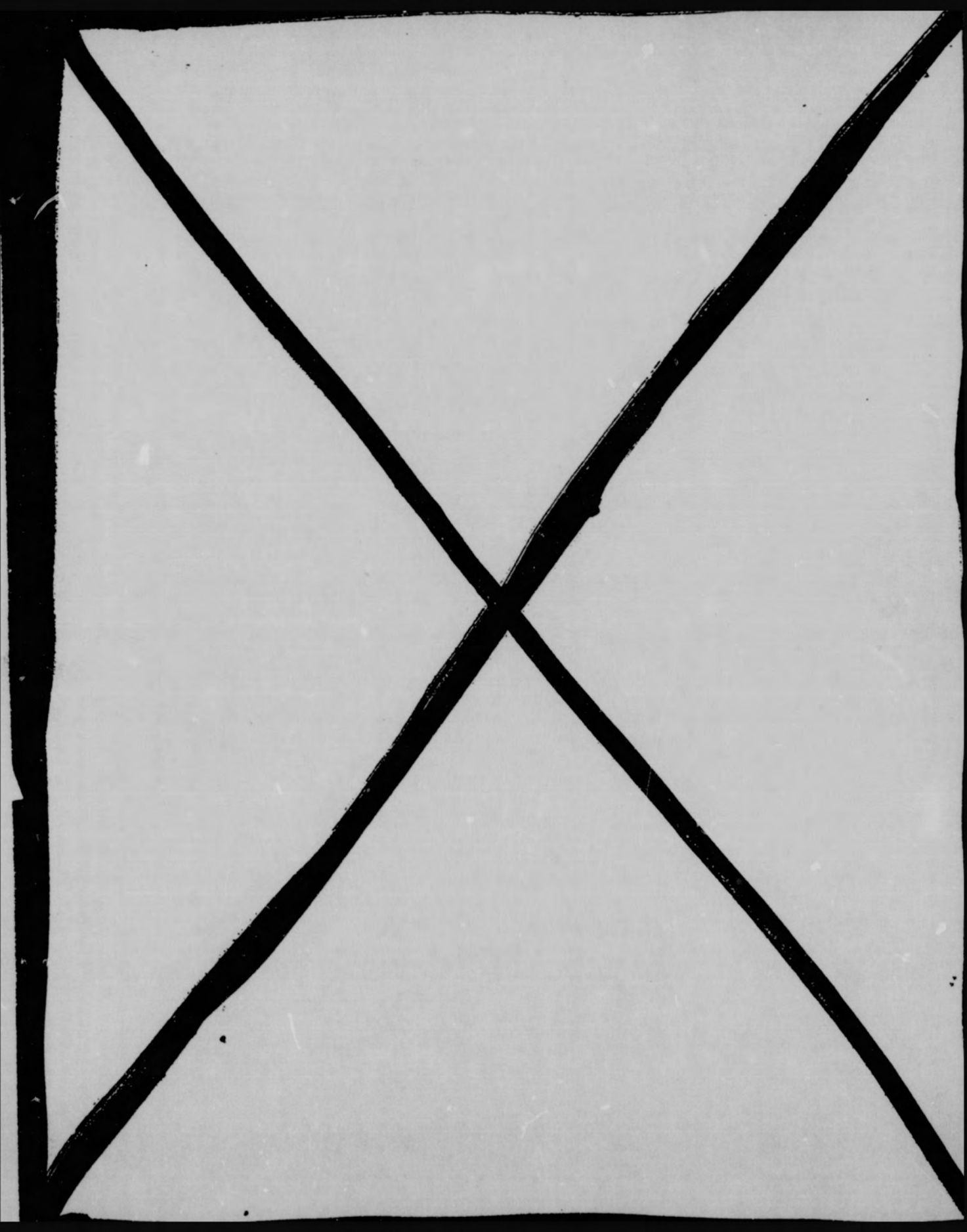
adverse impacts this Transaction might have upon their respective memberships. These concerns account for the fact that their good faith efforts were unavailing in resolving the issue of prior rights.

After thorough consideration of the respective positions of the General Committees of Adjustment and consistent with the rationale expressed in the two excerpts cited above, this Arbitrator is persuaded that the manner in which seniority for CSXT and Conrail train service employees was integrated constitutes compelling evidence regarding the manner in which Engineers' seniority should be integrated.

The fact that train service and engine service employees on the CSXT will work in the same geographic/operational districts established by CSXT, and in view of the fact that train service and engine service employees have a commonality of interests, particularly insofar as their working conditions are concerned, persuades this Arbitrator that the principles agreed to by the UTU, as the representative of CSXT's and Conrail's train service employees, represent a fair and equitable manner for the integration of the seniority of CSXT and

This Award was signed this 2nd day of April, 1999.

Richard R. Kasher  
Richard R. Kasher, Arbitrator



STB

FD-33388

4-3-00

J

MOC



Office of the Chairman

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

FILE IN DOCKET

JD-33388

April 3, 2000

The Honorable Paul Sarbanes  
United States Senate  
Washington, D.C. 20510-2002

Dear Senator Sarbanes:

This is in response to your letter forwarding correspondence from your constituent, Mr. Don Sanchez, President of Chesapeake Specialty Products, Inc. Mr. Sanchez also wrote directly to the Surface Transportation Board (Board) regarding his rail service problems. I have sent a response directly to Mr. Sanchez, and I am enclosing a copy for your information.

The Board continues to work with the rail carriers and their shippers to identify and resolve rail service issues. If you or your constituent need further assistance, please do not hesitate to contact me.

Sincerely,

*Linda J. Morgan*

Linda J. Morgan

Enclosure

United States Senate  
WASHINGTON, DC 20510-2002

March 3, 2000

FILE IN DOCKET

RECEIVED  
SURFACE TRANSPORTATION  
BOARD  
MAR 8 12 27 PM '00  
CHAIRMAN MORGAN

Honorable Linda Morgan  
Chair  
Surface Transportation Board  
U.S. Department of Transportation  
12th and Constitution Avenue, N.W.  
Washington, D.C. 20423

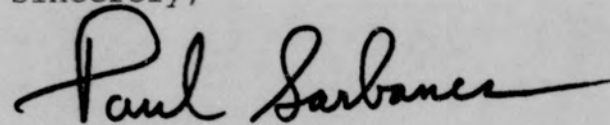
Dear Linda:

Enclosed is a copy of a letter I received from Don Sanchez of Chesapeake Specialty Products regarding his ongoing problems with CSX and Norfolk Southern.

I urge your full and careful review of this matter and look forward to your response.

With best regards,

Sincerely,



Paul Sarbanes  
United States Senator

PSS/njo  
Enclosure





Office of the Chairman

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

FILE IN DOCKET

March 27, 2000

Mr. Don E. Sanchez  
President  
Chesapeake Specialty Products, Inc.  
5055 North Point Boulevard  
Baltimore, Maryland 21219

Dear Mr. Sanchez:

This responds to your letter to Senator Paul Sarbanes, which you copied to me, regarding your concerns about the transition of operations from Conrail to CSX and Norfolk Southern (NS), and in particular about not getting a timely response to your claims for additional costs arising from emergency truck transportation and extended transit times. Specifically, your letter indicates that you have submitted a claim to CSX for additional expenses that remains unpaid.

I can assure you that the Board continues to be focused on the service levels of CSX and NS, particularly for the newly acquired Conrail territories, and we share your concerns about the service being provided. In addition to monitoring these operations, our Office of Compliance and Enforcement (OCE), as you know, promptly interfaces with both carriers on any issue brought to our attention, and in this regard, OCE has been in contact with CSX officials regarding your concerns. In our discussions with the carriers, we have emphasized the importance of prompt resolution of claims issues, even though we are unable to become directly involved in the claims settlement process itself. I assume that you have properly addressed your claims filing to CSX, and I would hope that a resolution of your claims concerns will be forthcoming.

I appreciate that you have shared your letter to Senator Sarbanes with me, and I hope that you will not hesitate to contact me if we can be of assistance in the future.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan



CHESAPEAKE SPECIALTY PRODUCTS, INC.

5055 NORTH POINT BLVD. / BALTIMORE, MD 21219  
(410) 388-5055 FAX: (410) 388-5194

DON E. SANCHEZ  
President

February 22, 2000

The Honorable Paul S. Sarbanes  
United States Senator  
309 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Sarbanes:

Thank you for your assistance with the rail transportation problems we have experienced since the Conrail takeover by CSX and NS Railroads.

We also appreciate the assistance of Director, Clemens of the STB. Unfortunately for us, the situation is not as well in hand as the letter from Linda Morgan, Chairman of the Surface Transportation Board indicates.

We submitted our claim for expenses incurred but have not yet received payment. CSX has claims that we can not offset against freight charges. If true, we will be out \$100,000.00 in cash flow while CSX inefficiently processes our claim. We need CSX to resolve our claim promptly. The STB may be receiving service performance reports showing improvement but our last block of cars from Chicago (Burns Harbor), took 20 days to get to Baltimore as opposed to typically 7 days pre merger on Conrail.

We have requested competitive rail rates for shipment of our finished goods to Texas and Mexico via both CSX and Norfolk Southern. CSX gave us rates 50% higher than expected and Norfolk Southern has not responded after three weeks. If we were to ask Conrail for competitive rates we would get an answer in 3 days.

The railroads have already announced their intention of freight rate increases. Before the merger, the railroads promised lower cost due to efficiencies of the merger. These new rate increases will work most effectively where there is reduced competition, an oligopoly at work. The Conrail acquisition succeeded in reducing inter-railroad competition. In addition to service matters, perhaps the STB should review the pricing practices of railroads to verify that small shippers are treated with equality.

With best regards,

cc: Ms. Linda J. Morgan  
Surface Transportation Board



STB

FD-33388

3-27-00

J

BUSINESS



Office of the Chairman

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

FILE IN DOCKET

FD-33388

March 27, 2000

Mr. James A. Hixon  
Senior Vice President  
Employee Relations  
Norfolk Southern Corp.  
Three Commercial Place  
Norfolk, VA 23510-2191

Dear Mr. Hixon:

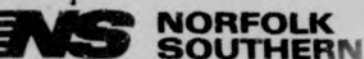
Thank you for your February 1, 2000 letter updating me on your dealings with Mr. C.E. Turnquist, President of the International Longshoremen's Association Local 1913, and on the status of disputes between his union and your railroad.

The position of the Surface Transportation Board (Board) remains that management and labor should strive to resolve merger-related disputes through good-faith negotiations. The Board, however, remains ready to exercise jurisdiction under the New York Dock conditions where warranted, and the Board remains committed to the fair implementation of the Conrail acquisition transaction.

I will have your letter and my response made a part of the public docket for the Conrail proceeding. I appreciate your efforts to keep me informed of the status of labor relations between NS and its unions.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan



**NORFOLK  
SOUTHERN**

FILE IN DOCKET

Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, Virginia 23510-2191  
Telephone (757) 629-2684  
Fax (757) 629-2777

**James A. Hixon**  
Senior Vice President  
Employee Relations

February 1, 2000

Ms. Linda Morgan, Chairman  
Surface Transportation Board  
1925 K Street, NW, Room 715  
Washington, DC 24023-0001

Dear Ms. Morgan:

ILA Local President Turnquist sent Norfolk Southern (NS) a copy of his January 19, 2000 letter to you. This most recent letter appears to be a follow-up to his previous August 24, 1999 letter to you. NS provided you with a response to that previous ILA letter on October 21, 1999.

NS has no desire to involve the Surface Transportation Board (Board) in ordinary labor management issues that are best left to the parties or to the applicable dispute resolution process. We note, however, that ILA Vice President Johnson, who signed the statement appended to Mr. Turnquist's letter, was not a member of the ILA negotiating committee and has no direct knowledge of those negotiations.

The issues raised by ILA involve the interpretation and application of the Collective Bargaining Agreement (CBA) between the parties. The CBA includes a claims and grievance procedure that provides for arbitration of unresolved disputes. As you know, the Railway Labor Act (RLA) governs rail industry labor relations; it provides for claims and grievances to be discussed in conference and for mandatory arbitration, under Section 3 of the Act, of any unresolved disputes. Under the RLA, costs for the Section 3 arbitrator are funded by the federal government.

As information, ILA has filed over 90 claims and grievances in the last eight months. ILA has withdrawn 18 of those claims and grievances and NS has allowed (or partially allowed) four claims or grievances. Although NS has always been willing to consider the various ILA claims and grievances, we concluded that they are, in our view, largely without merit. NS has indicated to ILA that it will expeditiously submit unresolved claims and grievances to the mandatory RLA arbitration process in order to timely resolve the involved issues.

We should also note that, in addition to the above, there is a pending dispute with ILA about whether certain employees were affected by the transaction and are entitled to New York Dock protective benefits. That dispute has been referred to arbitration under Section 11 of New York Dock, the parties have designated their respective partisan members, and the National Mediation Board has been asked to assist with the appointment of the neutral member.

We hope the above information will be useful to the Board.

Sincerely,





Office of the Chairman

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

FILE IN DOCKET

FD-33388

March 27, 2000

Mr. Don E. Sanchez  
President  
Chesapeake Specialty Products, Inc.  
5055 North Point Boulevard  
Baltimore, Maryland 21219

Dear Mr. Sanchez:

This responds to your letter to Senator Paul Sarbanes, which you copied to me, regarding your concerns about the transition of operations from Conrail to CSX and Norfolk Southern (NS), and in particular about not getting a timely response to your claims for additional costs arising from emergency truck transportation and extended transit times. Specifically, your letter indicates that you have submitted a claim to CSX for additional expenses that remains unpaid.

I can assure you that the Board continues to be focused on the service levels of CSX and NS, particularly for the newly acquired Conrail territories, and we share your concerns about the service being provided. In addition to monitoring these operations, our Office of Compliance and Enforcement (OCE), as you know, promptly interfaces with both carriers on any issue brought to our attention, and in this regard, OCE has been in contact with CSX officials regarding your concerns. In our discussions with the carriers, we have emphasized the importance of prompt resolution of claims issues, even though we are unable to become directly involved in the claims settlement process itself. I assume that you have properly addressed your claims filing to CSX, and I would hope that a resolution of your claims concerns will be forthcoming.

I appreciate that you have shared your letter to Senator Sarbanes with me, and I hope that you will not hesitate to contact me if we can be of assistance in the future.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan



CHESAPEAKE SPECIALTY PRODUCTS, INC.

5055 NORTH POINT BLVD./ BALTIMORE, MD 21219  
(410) 388-5055 FAX: (410) 388-5194

FILE IN DOCKET

DON E. SANCHEZ  
President

February 22, 2000

The Honorable Paul S. Sarbanes  
United States Senator  
309 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Sarbanes:

Thank you for your assistance with the rail transportation problems we have experienced since the Conrail takeover by CSX and NS Railroads.

We also appreciate the assistance of Director, Clemens of the STB. Unfortunately for us, the situation is not as well in hand as the letter from Linda Morgan, Chairman of the Surface Transportation Board indicates.

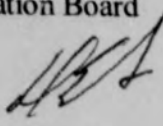
We submitted our claim for expenses incurred but have not yet received payment. CSX has claims that we can not offset against freight charges. If true, we will be out \$100,000.00 in cash flow while CSX inefficiently processes our claim. We need CSX to resolve our claim promptly. The STB may be receiving service performance reports showing improvement but our last block of cars from Chicago (Burns Harbor), took 20 days to get to Baltimore as opposed to typically 7 days pre merger on Conrail.

We have requested competitive rail rates for shipment of our finished goods to Texas and Mexico via both CSX and Norfolk Southern. CSX gave us rates 50% higher than expected and Norfolk Southern has not responded after three weeks. If we were to ask Conrail for competitive rates we would get an answer in 3 days.

The railroads have already announced their intention of freight rate increases. Before the merger, the railroads promised lower cost due to efficiencies of the merger. These new rate increases will work most effectively where there is reduced competition, an oligopoly at work. The Conrail acquisition succeeded in reducing inter-railroad competition. In addition to service matters, perhaps the STB should review the pricing practices of railroads to verify that small shippers are treated with equality.

With best regards,

cc: Ms. Linda J. Morgan  
Surface Transportation Board





Office of the Chairman

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

FILE IN DOCKET

JD-33388

March 27, 2000

Mr. John W. Snow  
Chairman, President and  
Chief Executive Officer  
CSX Corporation  
One James Center  
P.O. Box 85629  
Richmond, VA 23285-5629

Dear Mr. Snow:

Thank you for your letter in reply to concerns raised by Mr. Frank W. Keane, General Manager of the Albany Port District Commission. I appreciate your efforts to work with the Port of Albany, and Mr. Keane, to address service issues in the area. Please keep me informed as to the progress of your discussions regarding his concerns.

Thank you for your cooperation and prompt attention to this matter.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan



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

John W. Snow  
Chairman, President  
Chief Executive Officer

February 18, 2000

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

FILE IN DOCKET

FEB 28 5 03 PM '00

RECEIVED  
SURFACE TRANSPORTATION  
BOARD

Dear Chairman Morgan:

Thank you for forwarding Mr. Keane's letter to me concerning CSXT service to the Albany Port District. We very much appreciated Mr. Keane's support for the Conrail transaction and we continue to believe that the Port's support is consistent with its long term interests.

Unfortunately, as Mr. Keane indicates we have incurred service difficulties in the implementation of our operating plans. However, we continue to make advances through various operating initiatives that we believe will result in improvements to our network. I also note Mr. Keane's concerns over pricing actions. Although it is difficult to address publicly individual pricing initiatives for rates and services, I can assure you that we are responsive to customers' pricing requests in our attempt to negotiate reasonable terms.

In view of our continued interest in sustaining good relations with the Albany Port District, I have asked John Casellini, our Resident Vice President, to call upon Mr. Keane at his earliest convenience to pursue further the matters raised in Mr. Keane's letter.

Sincerely yours,

cc: John Casellini



Office of the Chairman

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

FILE IN DOCKET

78-33388

March 27, 2000

Mr. Clarence Turnquist  
President  
International Longshoremen's Association  
c/o 2125 Tryon Road  
Ashtabula, OH 44004

Dear Mr. Turnquist:

Thank you for sending me a copy of your February 22, 2000 letter to Mr. J.A. Hixon, Senior Vice President - Employee Relations at Norfolk Southern Corporation (NS). You praise recent statements made by him about changing his company's relationship with its unions.

As always, the Surface Transportation Board urges management and labor to continue to strive to establish positive relationships and to resolve issues that may arise through good-faith negotiations. As before, I will have your letter and my response made a part of the public docket for the Conrail proceeding.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan

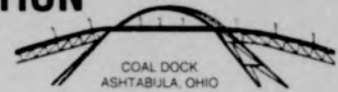
cc: Mr. J.A. Hixon  
Senior Vice President - Employee Relations  
Norfolk Southern Corporation





AFFILIATED WITH  
AFL-CIO

# INTERNATIONAL LONGSHOREMEN'S ASSOCIATION LOCAL 1913



February 22, 2000

FILE IN DOCKET

J. A. Hixon  
Senior Vice President-Employee Relations  
Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, Virginia 23510-2191

Dear Mr. Hixon:

We are writing this letter in response to your Article in the January/February 2000 issue of Thoroughbred Paces in which you make many statements about your desires to transform the way Norfolk Southern Labor Relations conducts its relationships and dealings with Labor and their unions that they represent.

We, I.L.A. Local 1913, representing the Coal Dock in Ashtabula Ohio, have just returned home from our first negotiating session in Norfolk to find your Article in our mailbox. We find it to be the most refreshing news that we have heard from Labor Relations since the June 1st merger with Conrail. It is very much in alignment with the way we perceive our relationships with NS should be. It is our opinion that if you are successful and sincere, in your endeavor to make this new commitment work that Norfolk Southern will be able to turn this company around to be successful and well on the road to a much needed recovery.

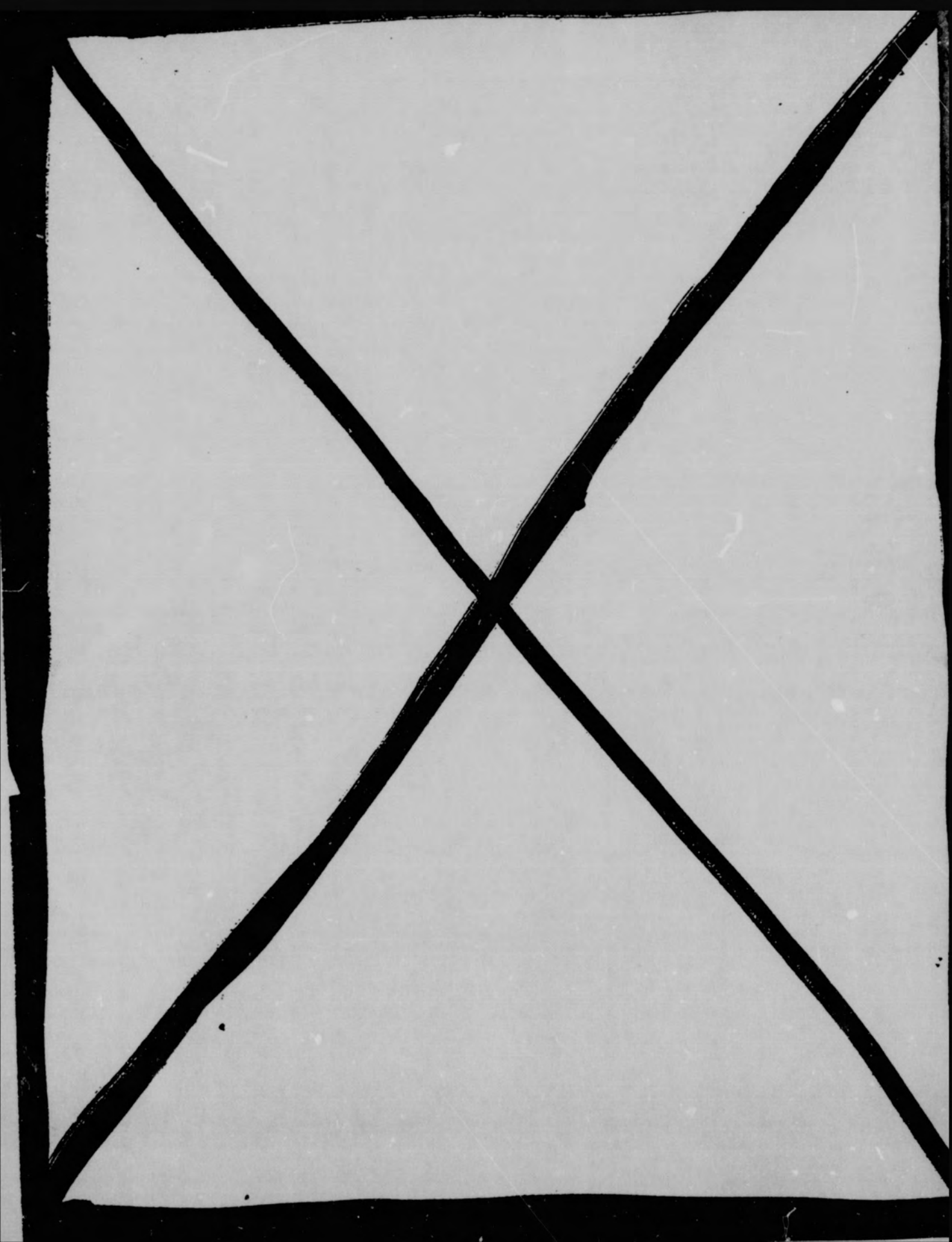
If you and management positively act, think, and do the things that you have expressed in this article, this union stands committed to respond in the same fashion. For you see, Mr. Hixon I.L.A. Local 1913 has been standing in the middle of the road all along, all alone, since June 1, 1999, enticing Labor Relations to join us. This has not happened yet but we stand ready to embrace this opportunity if it does. The Company, the customer, the employees and lastly their families deserve it. A "Happy Employee" is a safe, more productive employee.

Yours truly,

C. E. Turnquist  
President, I.L.A. Local 1913

cc: David Goode  
Mark MacMahon  
Tony Licate  
Linda Morgan





STB

FD-33388

10-29-99

J

195958



OPPENHEIMER WOLFF & DONNELLY  
(ILLINOIS)

Two Prudential Plaza  
45th Floor  
180 North Stetson Avenue  
Chicago, IL 60601-6710

(312) 616-1800  
FAX (312) 616-5800

**FEDERAL EXPRESS**

Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20006

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**

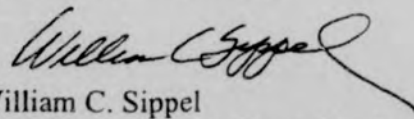
Dear Secretary Williams:

Ordering Paragraph No. 36 of Decision No. 89 in the above-captioned proceeding provides that "CSX must attempt to negotiate, with IC, a resolution of the CSX/IC dispute regarding dispatching of the Leewood-Aulon line in Memphis." The Board further ordered CSX and IC to advise them of the status of these negotiations.

By letter dated April 19, 1999, counsel for CSX advised the Board that CSX and IC had devised a protocol for dispatching the Leewood-Aulon line and that the parties had agreed to test it and, at the end of the test period, advise the Board of the results. By letter dated July 30, 1999, I advised the Board that in order to take into account operating and traffic flow changes resulting from merger implementations on both CSX and IC, and to test the effectiveness of the protocol over a broader range of operating and traffic conditions, the parties had agreed to continue the test period to November 1, 1999.

This letter is to advise the Board that the parties have determined that additional time is needed to test the protocol in the post-merger environment and to discuss certain issues. Accordingly, they have agreed to extend the test period an additional three months to February 1, 2000. As before, at the end of that period, the parties will report back to the Board.

Respectfully submitted,



William C. Sippel  
Attorney for Illinois Central Railroad Company

WCS/pj

cc: Charles M. Rosenberger, Esq.  
Myles L. Tobin, Esq.

195958

October 28, 1999

ENTERED  
Office of the Secretary

OCT 29 1999

Part of  
Public Record



Firm/Affiliate Offices  
Amsterdam\*  
Brussels\*  
Chicago  
Geneva\*  
Los Angeles\*  
Minneapolis\*  
New York\*  
Orange County\*  
Paris\*  
Saint Paul\*  
Silicon Valley\*  
Washington, D.C.\*  
www.owdlaw.com

STB

FD-33388

6-10-98

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ID-CITY

# **WELLINGTON, OHIO**

## **VILLAGE COUNCIL**

115 Willard Memorial Square  
44090

Barb O'Keefe, Mayor



June 8, 1998

**Surface Transportation Board**  
**Finance Docket No. 33388**  
**Attn: Vernon A. Williams, Secretary**  
**1925 K Street, NW**  
**Washington, D.C. 20423-0001**

RE: Proposed CSX/Norfolk Southern Acquisition of Conrail Line C-061,  
Lorain County, Ohio

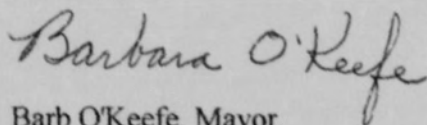
On behalf of the citizens of the Village of Wellington, Ohio and the surrounding five Townships that comprise the Wellington Fire District and the South Lorain County Ambulance District, we wish to thank the Surface Transportation Board and Staff for allowing us to present our safety and environmental concerns at the June 4th Oral Arguments. Chairman Morgan and Vice-Chairman Owens were most gracious while conducting these proceedings.

We feel that we argued our concerns in the correct venue because a prior conversation with CSX Officials indicated that the correct approach was to present our case before the STB. The political clout that was demonstrated by the City of Cleveland, Ohio and its surrounding neighbors was quite impressive. However, small towns and villages like Wellington sought the wisdom of the Surface Transportation Board for good reason. Considering that the actions of Cleveland generally create a ripple affect, we ask that it be clearly understood that Wellington will be required to comply with some things that other towns do not have to live with (a 400% increase in rail traffic). The welfare of our citizens is our main concern, now and in the future.

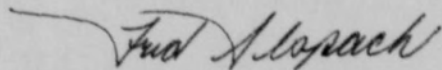
Your patience, hospitality and organization were very welcome. One seldom gets the opportunity to testify at a hearing conducted by a federal agency. It is a good process. However, we pray that you keep the interests of our citizens in mind as well as those of areas with greater populus. A grade separation is of the utmost importance to this Village, soon to become a City and the safety of its citizens may well depend on such a consideration.



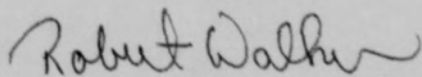
Sincerely,



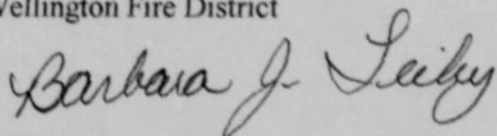
Barb O'Keefe, Mayor  
Village of Wellington



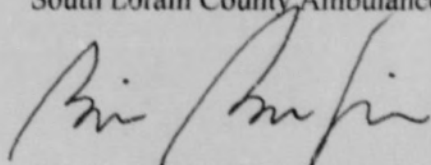
Fred Alspach, Councilman  
Village of Wellington



Robert Walker, Chief  
Wellington Fire District



Barb Leiby, Director  
South Lorain County Ambulance District



Bill Brumfield, Businessman  
Village of Wellington

cc: Ohio Rail Commission  
Congressman Gillmor  
State Representative, Taylor  
State Senator, Zaleski  
Ohio Department of Transportation  
Wellington Village Council

STB

FD-33388

6-8-98

J

ID-CITY

FD 33388

**WELLINGTON, OHIO**  
**VILLAGE COUNCIL**115 Willard Memorial Square  
44090

Barb O'Keefe, Mayor

~~XXXXXXXXXX~~Harold Sumpter, President  
Joe McQuaid  
Al Kimmich  
Dan Haldeman  
Guy Wells  
Fred Alspach

June 8, 1998

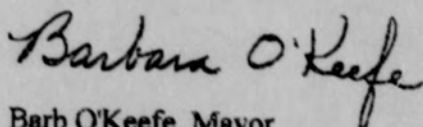
**Surface Transportation Board**  
**Finance Docket No. 33388**  
**Attn: Vernon A. Williams, Secretary**  
**1925 K Street, NW**  
**Washington, D.C. 20423-0001**RE: Proposed CSX/Norfolk Southern Acquisition of Conrail Line C-061,  
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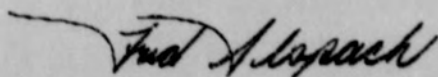
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Your patience, hospitality and organization were very welcome. One seldom gets the opportunity to testify at a hearing conducted by a federal agency. It is a good process. However, we pray that you keep the interests of our citizens in mind as well as those of areas with greater populus. A grade separation is of the utmost importance to this Village, soon to become a City and the safety of its citizens may well depend on such a consideration.

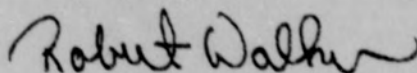
Sincerely,



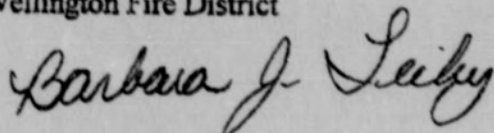
Barb O'Keefe, Mayor  
Village of Wellington



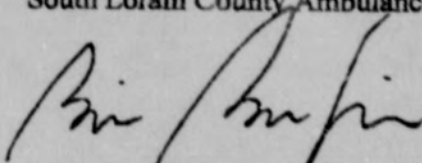
Fred Alspach, Councilman  
Village of Wellington



Robert Walker, Chief  
Wellington Fire District

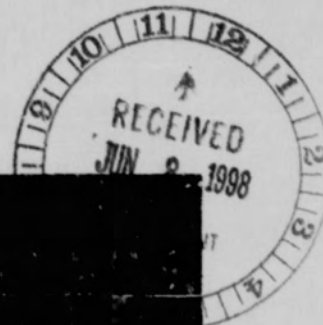


Barb Leiby, Director  
South Lorain County Ambulance District



Bill Brumfield, Businessman  
Village of Wellington

cc: Ohio Rail Commission  
Congressman Gillmor  
State Representative, Taylor  
State Senator, Zaleski  
Ohio Department of Transportation  
Wellington Village Council



**VILLAGE of WELLINGTON, OHIO**

FAX TRANSMISSION

From: Fred Alspach, Councilman  
To: Vernon A. Williams, Secretary  
Company: Surface Transportation Board

Date: 6/8/98  
Time: 11:15 a.m.  
FAX #: 202-565-9004

**Secretary Williams,**

Please find enclosed our letter of gratitude for the due process provided by the  
Surface Transportation Board and Staff.

Fred Alspach, Councilman

FAX: 440-647-4870 TEL: 440-647-4882

PO Box 156 Wellington, OH 44090

STB

FD-33388

5-28-98

J

ID-GOV





Office of the Chairman

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

FILE IN DOCKET

May 8, 1998

Ms. Mary Weber, Chair  
Powder River Basin Resource Council  
73 North Scott  
Sheridan, WY 82801

Dear Ms. Weber:

Thank you for your recent letter regarding the proposed line construction and operation by the Dakota, Minnesota & Eastern Railroad Corporation (DM&E). This proceeding has been docketed at the Surface Transportation Board (Board) as STB Finance Docket No. 33407.

By its application filed on February 20, 1998, DM&E seeks the Board's authorization to extend its line west into the Powder River Basin. On May 7, 1998, the Board issued a decision setting out a specific procedural schedule establishing due dates for various pleadings to be submitted for resolving the transportation merits of the application. For your information, I have enclosed a copy of that decision.

Also, on March 30, 1998, the Board's Section of Environmental Analysis issued notice that an Environmental Impact Statement will be prepared in this proceeding, which is separate from the transportation merits portion of the proceeding. For your convenience, I am enclosing a copy of the notice, which explains how interested persons may participate in the environmental review process. To participate in this proceeding on the transportation merits, you would need to follow the procedures set out in the Board's May 7th decision. You may be a party of record in either portion of the proceeding, or both portions. If you have questions about the procedures, our Office of Public Services is available to answer questions. The telephone number for that Office is 202-565-1592.

I appreciate hearing your views. Because this matter is pending before the Board, I cannot comment at this time on the merits of the case. However, I have had your letter and my response made a part of the public docket for both portions of this proceeding.

Sincerely,

Linda J. Morgan

Enclosures



## POWDER RIVER BASIN RESOURCE COUNCIL

23 North Scott • Sheridan, WY 82801 • (307) 672-5809

P.O. Box 1178 • Douglas, WY 82633 • (307) 358-5002

March 23, 1998

FILE IN DOCKET

CHAIRMAN MORGAN

APR 13 11 30 AM '98

RECEIVED  
SURFACE TRANSPORTATION  
BOARD

Linda Morgan, Chairman  
Gus Owen, Vice Chairman  
Surface Transportation Board  
1925 K Street, N.W., Room 700  
Washington, D.C. 20423-0001

Re: FD#44307 - DM&E Railroad

Dear Ms. Morgan and Mr. Owen:

Powder River Basin Resource Council (PRBRC) is writing to oppose licensing of the Dakota, Minnesota and Eastern railroad. PRBRC is a 501(c)(3) non-profit grassroots membership organization dedicated to good stewardship of Wyoming's natural resources. The organization represents over 500 families and individuals including landowners and concerned citizens along the proposed route and around the state of Wyoming. Please record our opposition and place this letter on file for the hearing.

PRBRC believes a new rail line is unnecessary. The Powder River Basin is already served by the Union Pacific and the Burlington Northern Santa Fe (BNSF). Currently BNSF is hauling at only 62.5% of capacity and is doubling its track capacity. Each of the mines that DM&E proposes to serve already has competing service with plenty of capacity on the three corridors that serve the area.

PRBRC believes there are many questions about the long term viability of coal as an energy source. Experts in the area of carbon dioxide emissions differ on the speed with which the U.S. will have to reduce emissions, but all agree that they must be reduced. This will definitely affect the long term value of coal and the railroads that deliver it.

The volume of traffic will decrease the value of land, homes and businesses adjoining the line. Ranch and farmland traversed by the rail line will be less valuable as the railroad will be a dangerous wall dividing property, thereby reducing its economic viability.

A new railroad across the land alters peoples lives forever. Railroads are noisy, dirty and inconvenient, they disrupt the business of raising food, cost real dollars and weeks of extra labor. Fencing and patrolling the fences of the railroad will require additional materials and labor. Feeding livestock will be more labor intensive as the pastures will be less accessible. Livestock may die as a result of storms piling them up along the right of way fences, as underpasses are usually inaccessible in stormy weather. Cattle will be killed on the tracks when gates are left open or



the fence is damaged by crews. Legal costs are increased considerably as railroads rarely pay for damages until legal action is taken. The list of expenses and losses goes on and on. All of the problems mentioned and many more have actually occurred to ranches and farms along present BNSF and UP lines in Wyoming.

PRBRC requests an extension of at least 360 days to file comments on the application. Our reasons are as follows:

- >DM&E made significant changes to the finalized route the day they filed the application.
- >DM&E's application is long and difficult to read and is available only on a very limited basis to the general public.
- >Many of the affected families are dealing with spring calving and the area has been affected by blizzard conditions. Severe storms hit Converse, Niobrara, and Weston Counties. Campbell County has applied to the State of Wyoming for disaster aid.

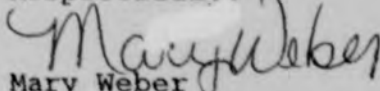
PRBRC further requests that the Surface Transportation Board:

- >require a full and complete Environmental Impact Statement on all of the proposed routes and on the entire project - upgraded track as well as new construction.
- >hold public hearings on the license application in each of the affected communities.
- >delay all consideration of the application to construct until completion of the EIS. Hundreds of people, wildlife and prehistoric sites will be adversely affected if this permit is granted.
- >invite representatives from the affected landowners and citizens groups to join in the scoping process.

Please add Powder River Basin Resource Council to all service and scoping lists.

Dakota, Minnesota and Eastern railroad shareholders are over 50% foreign owned companies who do not pay a significant share of U.S. taxes and are not concerned about the people and environment in Wyoming. The profits from this enterprise, if there are any, will not benefit Wyoming or the United States but will instead find their way over seas.

Respectfully,

  
Mary Weber  
PRBRC Chair

The following PRBRC members specifically asked to be included in the signature on this letter:

Pete & Fonda Vorpahl  
P.O. Box 176  
Newcastle, WY 82701

Paul Stuart  
6559 Clareton Hwy  
Gillette, WY 82716

Herb & Dorothy Clarkson  
P.O. Box 189  
Beulah, WY 82712

Miriam Fawcett  
629 S. 6th St.  
Douglas, WY 82633



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

Office of the Chairman

May 8, 1998

Mr. Paul Stuart  
Powder River Basin Resource Council  
6559 Clareton Hwy  
Gillette, WY 82716

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Also, on March 30, 1998, the Board's Section of Environmental Analysis issued notice that an Environmental Impact Statement will be prepared in this proceeding, which is separate from the transportation merits portion of the proceeding. For your convenience, I am enclosing a copy of the notice, which explains how interested persons may participate in the environmental review process. To participate in this proceeding on the transportation merits, you would need to follow the procedures set out in the Board's May 7th decision. You may be a party of record in either portion of the proceeding, or both portions. If you have questions about the procedures, our Office of Public Services is available to answer questions. The telephone number for that Office is 202-565-1592.

I appreciate hearing your views. Because this matter is pending before the Board, I cannot comment at this time on the merits of the case. However, I have had your letter and my response made a part of the public docket for both portions of this proceeding.

Sincerely,

Linda J. Morgan

Enclosures





Office of the Chairman

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

May 8, 1998

Herb & Dorothy Clarkson  
Powder River Basin Resource Council  
P.O. Box 189  
Beulah, WY 82712

Dear Herb & Dorothy Clarkson:

Thank you for your recent letter regarding the proposed line construction and operation by the Dakota, Minnesota & Eastern Railroad Corporation (DM&E). This proceeding has been docketed at the Surface Transportation Board (Board) as STB Finance Docket No. 33407.

By its application filed on February 20, 1998, DM&E seeks the Board's authorization to extend its line west into the Powder River Basin. On May 7, 1998, the Board issued a decision setting out a specific procedural schedule establishing due dates for various pleadings to be submitted for resolving the transportation merits of the application. For your information, I have enclosed a copy of that decision.

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Sincerely,

Linda J. Morgan

Enclosures



Office of the Chairman

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

May 8, 1998

Ms. Miriam Fawcett  
Powder River Basin Resource Council  
629 S. 6th St.  
Douglas, WY 82633

Dear Ms. Fawcett:

Thank you for your recent letter regarding the proposed line construction and operation by the Dakota, Minnesota & Eastern Railroad Corporation (DM&E). This proceeding has been docketed at the Surface Transportation Board (Board) as STB Finance Docket No. 33407.

By its application filed on February 20, 1998, DM&E seeks the Board's authorization to extend its line west into the Powder River Basin. On May 7, 1998, the Board issued a decision setting out a specific procedural schedule establishing due dates for various pleadings to be submitted for resolving the transportation merits of the application. For your information, I have enclosed a copy of that decision.

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I appreciate hearing your views. Because this matter is pending before the Board, I cannot comment at this time on the merits of the case. However, I have had your letter and my response made a part of the public docket for both portions of this proceeding.

Sincerely,

Linda J. Morgan

Enclosures





Office of the Chairman

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

May 8, 1998

Mr. Ronald Trent  
HC 46, Box 54  
Oelrichs, SD 57763

Dear Mr. Trent:

Thank you for your recent letters regarding the proposed line construction and operation by the Dakota, Minnesota & Eastern Railroad Corporation (DM&E). This proceeding has been docketed at the Surface Transportation Board (Board) as STB Finance Docket No. 33407.

By its application filed on February 20, 1998, DM&E seeks the Board's authorization to extend its line west into the Powder River Basin. On May 7, 1998, the Board issued a decision setting out a specific procedural schedule establishing due dates for various pleadings to be submitted for resolving the transportation merits of the application. For your information, I have enclosed a copy of that decision.

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I appreciate hearing your views. Because this matter is pending before the Board, I cannot comment at this time on the merits of the case. However, I have had your letters and my response made a part of the public docket for both portions of this proceeding.

Sincerely,

Linda J. Morgan

Enclosures

March 23, 1998

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

Re: Finance Docket No. 33407

Ms. Morgan:

As a landowner likely to be affected by the proposed DM&E railroad expansion and new construction project, I would like to urge the Board to deny any conditional or preliminary approval for this project.

A portion of my property is a *Century Farm*, meaning it has been in the same family since it was homestead in 1898. My family and I take pride in this fact. The current proposed railroad line would cut through the middle of this property, taking a large portion of the land that four generations have made a living on. You can't put a price on sentiment.

Like many other landowners, I cannot see any potential benefit of a railroad line passing through this area. On the contrary, I see only hardship in giving up precious grassland, hay bottoms and wheat fields, not to mention the inconvenience it will cause in moving cattle from pasture to pasture, and the annoying noise from passing trains. The proposed line would split a parcel of our property that for over 20 years has been used for calving purposes due to the convenience of being close to our home and out buildings. This piece of land would be useless to us with the proposed line going through.

It's been stated that the rail line would be used for hauling grain from the local elevator. The grain elevator can't get enough cars not to haul our grain, how would a new line make a difference? The primary function is to haul coal, and that will be the priority.

There is already an existing line in this area. As a landowner and tax payer, it would make more sense to rebuild this line than put in a complete new roadbed and track.

As I see it, the ones who will benefit from the proposed line will be the investors, who really don't know or have an understanding of rural America and the people who labor to make their living from the land.

Once again, I urge you to reject the DM&E proposed railroad expansion, giving consideration to the property owner who would suffer the consequences.

Sincerely,

*Ronald Trent*

Ronald Trent

cc: Paul A. Cunningham

OFFICE OF  
CHAIRMAN MORGAN

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RECEIVED  
SURFACE TRANSPORTATION  
BOARD

RECEIVED  
SURFACE TRANSPORTATION  
BOARD

APR 13 11 30 AM '98

OFFICE OF  
CHAIRMAN MORGAN

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

Re: The Proposed Procedural Schedule for STB Finance Docket No 33407—Dakota, Minnesota & Eastern Railroad Corporation—Construction and Operation—in Campbell, Converse, Niobrara, and Weston Counties, WY, Custer, Fall River, Jackson, and Pennington Counties, SD, and Blue Earth, Nicollet, and Steele Counties, MN.

Dear Ms. Morgan:

I am a landowner and concerned citizen along one of the proposed routes of the Dakota, Minnesota and Eastern Railroad extension.

**I respectfully request that the proposed 180 day procedural schedule not be adopted for a variety of reasons.** The application is generally available in only limited places in our communities with limited viewing hours so many residents have not had the opportunity to view the application and supporting materials. While much material is available on the Internet site of the DM&E, the entire application is not there and many people do not have access to the Internet. This is an extremely busy time of year for farmers and ranchers with calving and field work to be done. Several spring storms have also limited the time we have available for studying this 400 plus page application.

**I request that no license be granted for building this railroad and certainly that no conditional license be granted.** The application of the DM&E does not show any substantial evidence of need for this railroad. They have presented a sales pitch, but not a single serious contract to haul coal. The Environmental Impact Statement on a project of this proportion will no doubt have considerable impact on the question of the public need and necessity for this railroad extension. Also, the cost of the mitigation may have a significant impact on the financial ability of the railroad to complete the project. DM&E states in the submitted petition that assurance of the license is needed to market their proposal. To quote from the petition: *"If the Board finds the project to be consistent with the public interest, DM&E can then commence both serious marketing efforts and preparation for construction of the railroad..."* I ask that the STB not participate in the marketing of this scheme by granting a conditional license. The public interest will also be addressed at length in a full Environmental Impact Statement and indeed, may find that the public interest lies in less burning of coal and less damage to the environment. The true public interest may be best served by denial of the license.

**I agree that no time limit can be set for the completion of the Environmental Impact Statement.** After scoping and beginning the process, it may be possible to anticipate more accurately the time required.

**I request that comments continue to be accepted on the application throughout the EIS process.** A project of this breadth requires a lengthy comment period as new issues come to light.

**I request that oral hearings be held in the local areas of the expansion and rebuilding.** Many of the concerned citizens would find it difficult, if not impossible, to travel to Washington, DC. In addition, local hearings would help the staff of the Surface Transportation Board gain an in-depth understanding of the impact of this project.

Sincerely,

*Ronald Trent*



Office of the Chairman

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

FILE IN DOCKET

May 8, 1998

Ms. Flora Stearns  
HC 48, Box 265  
Provo, SD 57774

Dear Ms. Stearns:

Thank you for your recent letter regarding the proposed line construction and operation by the Dakota, Minnesota & Eastern Railroad Corporation (DM&E). This proceeding has been docketed at the Surface Transportation Board (Board) as STB Finance Docket No. 33407.

By its application filed on February 20, 1998, DM&E seeks the Board's authorization to extend its line west into the Powder River Basin. On May 7, 1998, the Board issued a decision setting out a specific procedural schedule establishing due dates for various pleadings to be submitted for resolving the transportation merits of the application. For your information, I have enclosed a copy of that decision.

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I appreciate hearing your views. Because this matter is pending before the Board, I cannot comment at this time on the merits of the case. However, I have had your letter and my response made a part of the public docket for both portions of this proceeding.

Sincerely,

Linda J. Morgan

Enclosures



FILE IN DOCKET

RECEIVED  
SURFACE TRANSPORTATION  
BOARD

APR 13 11 30 AM '98

OFFICE OF  
CHAIRMAN MORGAN

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

Re: The Proposed Procedural Schedule for STB Finance Docket No 33407—Dakota, Minnesota & Eastern Railroad Corporation—Construction and Operation—in Campbell, Converse, Niobrara, and Weston Counties, WY, Custer, Fall River, Jackson, and Pennington Counties, SD, and Blue Earth, Nicollet, and Steele Counties, MN.

Dear Ms. Morgan:

I am a landowner and concerned citizen along one of the proposed routes of the Dakota, Minnesota and Eastern Railroad extension.

**I respectfully request that the proposed 180 day procedural schedule not be adopted for a variety of reasons.** The application is generally available in only limited places in our communities with limited viewing hours so many residents have not had the opportunity to view the application and supporting materials. While much material is available on the Internet site of the DM&E, the entire application is not there and many people do not have access to the Internet. This is an extremely busy time of year for farmers and ranchers with calving and field work to be done. Several spring storms have also limited the time we have available for studying this 400 plus page application.

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Sincerely,

Elaine Stearns  
HC 48 Box 265  
Provo, S.D. 57774



Office of the Chairman

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

FILE IN DOCKET

May 8, 1998

Mr. Dewan Stearns  
HC 48, Box 265  
Provo, SD 57774

Dear Mr. Stearns:

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Sincerely,

Linda J. Morgan

Enclosures



FILE IN DOCKET

OFFICE OF  
CHAIRMAN MORGAN

APR 13 11 30 AM '98

RECEIVED  
SURFACE TRANSPORTATION

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

Re: The Proposed Procedural Schedule for STB Finance Docket No 33407—Dakota, Minnesota & Eastern Railroad Corporation—Construction and Operation—in Campbell, Converse, Niobrara, and Weston Counties, WY, Custer, Fall River, Jackson, and Pennington Counties, SD, and Blue Earth, Nicollet, and Steele Counties, MN.

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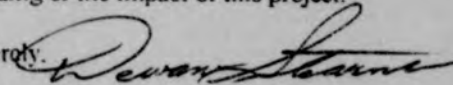
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Sincerely,



HC 48 Box 265

Pravo, S.D. 57774

STB

FD-33388

5-28-98

J

ID-UNION



Office of the Chairman

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

FILE IN DOCKET

FD-33388

May 28, 1998

Mr. Joseph A. Stinger  
Administrative Assistant to the  
International President  
Director - Railroad Division  
International Brotherhood of Boilermakers,  
Iron Ship Builders, Blacksmiths, Forgers and Helpers  
753 State Avenue, Suite 570  
Kansas City, KS 66101

Dear Mr. Stinger:

Thank you for your letter advising that the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmith, Forgers, and Helpers (IBB) has reached an agreement with the applicants in the Conrail control proceeding, docketed at the Surface Transportation Board (Board) as STB Finance Docket No. 33388. As a result of the agreement, IBB now supports the approval of the proposed control transaction.

As you know, Board policy is to encourage privately negotiated agreements as solutions in matters pending before the Board. I congratulate you on your efforts and assure you that the Board will continue to give full consideration to the interest of affected rail carrier employees in cases that come before it.

I am having your letter made a part of the public docket in the Conrail control proceeding. I appreciate the IBB's interest in this matter, and if I may be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan

International Brotherhood of

**BOILERMAKERS • IRON SHIP BUILDERS**

753 State Avenue

**CHARLES W. JONES**  
INTERNATIONAL PRESIDENT  
SUITE 570  
913-371-2640  
FAX: 913-281-8101



**BLACKSMITHS • FORGERS & HELPERS**

Kansas City, Kansas 66101

**JERRY WILLBURN**  
INTERNATIONAL SECRETARY-TREASURER  
SUITE 565  
913-371-2640  
FAX: 913-281-8102

March 24, 1998

FILE IN DOCKET

The Honorable Linda Morgan  
Chairman  
Surface Transportation Board  
1925 K Street, NW - Ste 820  
Washington, DC 20423

Dear Chairman Morgan:

This is to advise that the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers and the Applicants for Finance Docket No. 33388 have reached an Implementing Agreement. In consideration for Applicants' commitment to certify that a number of positions represented by IBB will be adversely affected, IBB accepts the implementation of the Applicants' Operating Plan, is no longer opposed to the approval of Finance Docket No. 33388 and supports the approval of the Conrail transaction.

Sincerely,

Joseph A. Stinger  
Administrative Assistant to the  
International President  
Director - Railroad Division

JAS/awf

cc: C. W. Jones, IP  
A. M. Scheer, IR - RD  
K. R. Peifer, CSX VP - LR  
R. S. Spenski, NS VP - LR

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SURFACE TRANSPORTATION  
BOARD  
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OFFICE OF  
CHAIRMAN MORGAN

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FE-33388

5-28-98

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Office of the Chairman

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

FILE IN DOCKET

FD-33388

May 28, 1998

Mr. W. P. Hernan, Jr., General Chairman  
Mr. R. A. Kerr, General Chairman  
Mr. A. J. Mazzarella, General Chairman  
Mr. B.E. Hedges, General Chairman  
United Railway Supervisors Association  
P. O. Box 180  
Hilliard, OH 43026-0180

Dear General Chairmen Hernan, Kerr, Mazzarella and Hedges:

Thank you for your letter advising that the United Railway Supervisors Association (representing subordinate officials in the maintenance of way, structures, communications and signal departments on Conrail) has reached an agreement with the applicants in the Conrail control proceeding, docketed at the Surface Transportation Board (Board) as STB Finance Docket No. 33388. As a result of the agreement, your membership now supports the approval of the proposed control transaction.

As you know, Board policy is to encourage privately negotiated agreements as solutions in matters pending before the Board. I congratulate you on your efforts and assure you that the Board will continue to give full consideration to the interest of affected rail carrier employees in cases that come before it.

I am having your letter made a part of the public docket in the Conrail control proceeding. I appreciate your interest in this matter, and if I may be of further assistance, please do not hesitate to contact me.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan





FILE IN DOCKET

W. P. HERNAN, JR.  
GENERAL CHAIRMAN  
P. O. BOX 180  
HILLIARD, OH 43026-0180

April 2, 1998

The Honorable Linda Morgan, Chairman  
Surface Transportation Board  
1925 K Street, NW, Suite 820  
Washington, DC 20423

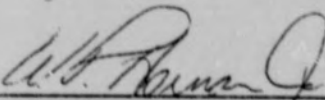
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BOARD  
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OFFICE OF  
CHAIRMAN MORGAN

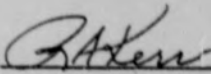
Dear Chairman Morgan:

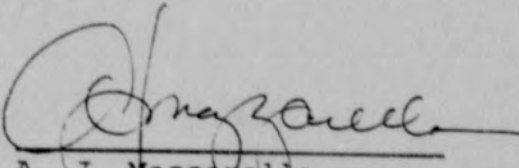
This is to advise that the United Railway Supervisors Association (representing subordinate officials in the maintenance of way, structures, communications and signal departments on Conrail) has reached an implementing agreement with the Applicants in Finance Docket No. 33388 pursuant to the conditions which we anticipate will be imposed by the STB.

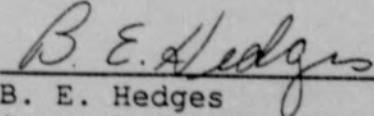
That implementing agreement appropriately addresses the concerns of the URSA Mof W/C&S membership and facilitates the coordination of MofW/C&S activities. It should help promote a smooth implementation of the proposed transaction. Accordingly, our membership now supports approval of the Conrail transaction.

Respectfully,

  
W. P. Hernan, Jr.  
General Chairman, URSA

  
R. A. Kerr  
General Chairman, URSA

  
A. J. Mazzarella  
General Chairman, URSA

  
B. E. Hedges  
General Chairman, URSA

STB

FD-33388

5-19-98

J

ID-UNION



Office of the Chairman

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

May 19, 1998

FILE IN DOCKET

JD-33388

Mr. Thomas J. Moraghan  
112 Westwood Drive  
Toms River, NJ 08753

Dear Mr. Moraghan:

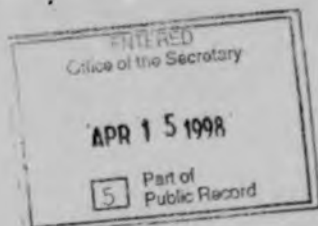
Thank you for your letter to the Secretary of the Surface Transportation Board (Board) requesting to speak at the oral argument regarding the application of CSX and Norfolk Southern (NS) to acquire control of Conrail. As you know, the Board has limited participation at the oral argument to those who have participated formally as parties of record throughout the proceeding on the merits of the case or who have participated in the environmental review portion of the proceeding.

As Chairman of this agency, I am very aware of the concerns expressed by rail labor employees over the potential adverse impacts that the merger proposal could have on them. I assure you that the Board will give full consideration to those concerns in reaching a decision on this important matter. I also note that a number of rail labor organizations that have participated formally throughout this proceeding are scheduled to speak on behalf of their members at the oral argument.

I appreciate your interest in this matter, and I have had your letter placed in the public docket in this proceeding.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan



*Respond by letter  
conclusion of meeting  
see of meeting  
subsequent to*



April 8, 1998  
Thomas J. Moraghan  
112 Westwood Drive  
Toms River, NJ 08753

FILE IN DOCKET

Case Control Unit  
Office of the Secretary  
Surface Transportation Board  
1925 K St., NW  
Washington, D.C. 20423-0001  
Re: STB Finance Docket No. 33388 Oral Agreement

To The Secretary of Surface Transportation Board:

I would like to participate for Oral Argument and ask for ten minutes speaking time at the June 4, 1998 hearing of the "CSX-Norfolk Southern-Conrail" Merger Proposal. I want to show that I oppose the primary application. The reason being, loss of seniority.

The way the agreement was explained to me by Conrail Vice President of Labor Relations Lawrence Finnegan at Port Reading Yard, Port Reading, NJ on March 25, 1998, as quoted by Mr. Finnegan, "If you go with Conrail after the merger you will lose all your seniority on any part of your former railroad". An example would be that I could no longer work on 65% of the jobs I can hold now.

On March 26, 1998 and March 27, 1998 I attended an General Committee of Adjustment Meeting for the Brotherhood of Locomotive Engineers at Cleveland, Ohio. My General Chairman Robert Godwin stated that the union was working on this matter (seniority, flow back). However, at this time no one can give me a definitive answer of what is the truth. It seems to me that all we hear about regarding this issue is chicanery.

The way I perceive, what will happen if this merger is approved, is a lot of disgruntled employees having to move their families from their homes to other states. The hardships and uncertainty to the railroaders is too obscure to phantom at this time.

The summation of my argument is this: The Preamble of the United States Constitution states, that Life, Liberty and the Pursuit of Happiness. To a railroader, seniority is tantamount to the pursuit of happiness. I believe the Surface Transportation Board should hear the Oral Argument from some blue collar workers from the railroad industry, and let them tell it like they see it.

*Thomas J. Moraghan BLE 157*  
Thomas J. Moraghan

cc: Robert Godwin  
Frank Lautenberg

I concur:

*Thomas Flansburg UTU 1445*  
*James Dowd UTU 1445*  
*Paul Fickert BRW 6965*  
*Eric E. Edwards BLE 601*  
*Edward E. Moran UTU 1390*  
*Thomas J. Battaglia BLE 601*  
*William Resnick UTU 1445*  
*James W. W. UTU 1445*  
*J. H. W. UTU - YARDMASTER*  
*Richard T. Allen U.T.U. #800*

*Calvin W. Burt 1390*  
*Fredrick C. Bartek - 1445*  
*Dennis F. Keys 601*  
*Edward W. Malumpling U.T.U. 1390*  
*Bruce Sims BLE 601*  
*C.J. Faurin UTU 1390*  
*David S. Conrail Jr. UTU 1390*  
*Robert Murray BLE 601*  
*William P. Donagan UTU-1445*  
*J.M. FARLEY - U.T.U. 498*  
*Ja. Martin*  
*el. W. UTU 1390*  
*R.R. BARNHARD UTU 1441*

STB FD-33388 5-2-98 J ID-BUSINESS



Office of the Chairman

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

FILE IN DOCKET

FD-33388

May 28, 1998

Mr. Lawrence M. Daugherty  
General Chairman  
U.R.S.A. Lodge 301  
108 Billigen Street  
Aliquippa, PA 15001

Dear General Chairman Daugherty:

Thank you for your letter advising that the United Railway Supervisors Association general committee representing claim agents on Conrail has reached an agreement with the applicants in the Conrail control proceeding, docketed at the Surface Transportation Board (Board) as STB Finance Docket No. 33388. As a result of your agreement, the general committee now supports approval of the proposed control transaction.

As you know, Board policy is to encourage privately negotiated agreements as solutions in matters pending before the Board. I congratulate you on your efforts, and assure you that the Board will continue to give full consideration to the interest of affected rail carrier employees in cases that come before it.

I am having your letter made a part of the public docket in the Conrail control proceeding. I appreciate your interest in this matter, and if I may be of further assistance, please do not hesitate to contact me.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan





FILE IN DOCKET

Lawrence M. Daugherty  
General Chairman  
U. R. S. A. Lodge 301  
108 Billigen Street  
Aliquippa, Pa. 15001

March 17, 1998

The Honorable Linda Morgan, Chairman  
Surface Transportation Board  
1925 K Street, NW, Suite 820  
Washington, D. C. 20423

Dear Chairman Morgan:

This is to advise that the United Railway Supervisors Association (URSA) general committee representing claim agents on Conrail has reached an implementing agreement with the Applicants in Finance Docket No. 33388 pursuant to the conditions which we anticipate will be imposed by the STB.

That implementing agreement appropriately addresses the concerns of the URSA general committee and facilitates the coordination of the claim department activities. It should help to promote a smooth implementation of the proposed transaction. Accordingly, our general committee now supports approval of the Conrail transaction.

Very truly yours,

Lawrence M. Daugherty  
General Chairman  
U.R.S.A. Lodge 301  
108 Billigen Street  
Aliquippa, Pa. 15001

RECEIVED  
SURFACE TRANSPORTATION  
BOARD  
MAR 25 4 54 PM '98  
OFFICE OF  
CHAIRMAN MORGAN



Office of the Chairman

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

FILE IN DOCKET

JA-33388

May 28, 1998

Mr. James W. Harris, P.E.  
Executive Director  
New York Metropolitan  
Transportation Council  
1 World Trade Center  
Suite 82 East  
New York, NY 10048-0043

Dear Executive Director Harris:

Thank you for your letter regarding the proposal by CSX and Norfolk Southern (NS) to acquire control of Conrail and to divide certain assets of Conrail between the two acquiring railroads. You have included two resolutions passed by the Program, Finance and Administration Committee of the New York Metropolitan Transportation Council addressing the region's need for competitive rail freight service.

This proceeding has been docketed at the Surface Transportation Board (Board) as STB Finance Docket No. 33388. As you may know, the Board adopted a procedural schedule for deciding the merits of the control application filed in this proceeding, which it extended by 45 days to accommodate the filing of safety integration plans by the applicant railroads. As provided by the procedural schedule adopted for this proceeding, the Board now has received comments and evidentiary submissions from all interested parties addressing the merits of the merger proposal, replies and rebuttal submissions, and briefs. The Board is currently analyzing those filings, and has set oral argument in the proceeding for June 3 and 4, 1998, followed by a voting conference on June 8, with a final written decision in this matter by July 23, 1998.

In deciding whether a control transaction such as the one being proposed here is in the public interest and should be approved, the Board must consider various factors required by law, including the effect of the proposed transaction on the adequacy of transportation to the public, and whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region or in the national rail system. In this regard, let me assure you that the Board will give full consideration to the issues that you have raised. Because this proceeding is pending before the Board, however, it would be inappropriate for me to comment further on the case.

I am having your letter and enclosures made a part of the public docket in this proceeding. I appreciate your interest in this matter, and if I may be of further assistance, please do not hesitate to contact me.

Sincerely,

*Linda J. Morgan*  
Linda J. Morgan

NEW YORK METROPOLITAN TRANSPORTATION COUNCIL

James W. Harris, P.E.  
Director

March 30, 1998

Ms. Linda J. Morgan, Chairman  
Surface Transportation Board  
1925 K Street, NW #820  
Washington, D.C. 20423

FILE IN DOCKET

CHAIRMAN MORGAN

APR 2 4 02 PM '98

RECEIVED  
SURFACE TRANSPORTATION

**SUBJECT: *NYMTC Resolution On Necessity of Competitive Rail Freight Service East of the Hudson River***

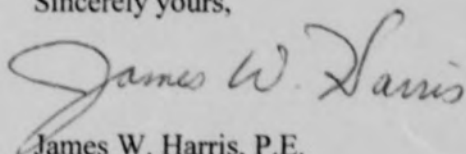
Dear Ms. Morgan:

On February 26, 1998 the Program, Finance and Administration Committee of the New York Metropolitan Transportation Council adopted the attached resolution stressing the region's need for competitive rail freight service to New York City, Long Island and other communities east of the Hudson River.

This is the second resolution passed by this body, the first (also attached) having been adopted in September of 1997. Both resolutions were passed in reaction to the possibility that with the approval by the STB of the acquisition, the existing monopoly by one rail freight operator will be continued. This factor should be considered by the Surface Transportation Board in addition to the concomitant effects of increased truck volumes, deteriorating pavement and bridge conditions, and poor air quality that a continuing monopoly would bring. Other NYMTC region agencies have provided more detailed testimony, however, the message is the same; current conditions require relief in terms of greater alternative means to move freight.

I thank you in advance for the Board's consideration of this resolution.

Sincerely yours,



James W. Harris, P.E.  
Executive Director

JWH/HJM/bh

Attachments (2)  
pc: PFAC members, G. Bogacz, NYMTC

h:JWH,LJ:Morgan,STB

THE METROPOLITAN PLANNING ORGANIZATION

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

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



**PROGRAM, FINANCE AND ADMINISTRATION COMMITTEE**

**RESOLUTION # 90 NECESSITY OF COMPETITIVE RAIL FREIGHT  
SERVICE EAST OF THE HUDSON RIVER**

**WHEREAS**, the New York Metropolitan Transportation Council is the Metropolitan Planning Organization (MPO) for the New York metropolitan area; and

**WHEREAS**, the New York Metropolitan Transportation Council, has adopted five principles concerning the acquisition of the Consolidated Rail Corporation (Conrail) by CSX Inc. and Norfolk-Southern; and

**WHEREAS**, the first of these principles indicated that competitive Class 1 rail access to key terminals and port areas **east and west of the Hudson River** in New York and New Jersey should be re-established, **including, where appropriate**, having access to more than one Class 1 carrier, **and** adequate yard and terminal facilities for major carriers to maintain competitive rail service; and

**WHEREAS**, the CSX Corporation and Norfolk-Southern (N/S) in their rebuttal testimony to the Surface Transportation Board (*reference: Before the Surface Transportation Board CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company; Applicants Rebuttal-Volume 1 of 3 December 1997, VII-12 - VIII-14.*) has responded that they will provide competitive service to the New York Metropolitan area principally west of the Hudson River; and

**WHEREAS**, most of the New York Metropolitan area is designated a severe non-attainment area for ozone and New York County (Manhattan) is a non-attainment area for particulate matter (PM 10); and

**WHEREAS**, the continuation of single operator rail service provided east of the Hudson and rail service serving the New York Metropolitan area principally from New Jersey will allow truck volumes and vehicle emissions to increase; and

**WHEREAS**, the New York State Department of Transportation and New York City Economic Development Corporation have provided responses to the Surface Transportation Board affirming the need for an additional rail freight operator for east of Hudson service;

**NOW, THEREFORE, BE IT RESOLVED**, that the Program, Finance and Administration Committee strongly urges the Surface Transportation Board to use this opportunity to consider and act affirmatively on requests to provide true rail competition east of the Hudson River for shippers and receivers in the Council's region.

This Resolution shall take effect this twenty-sixth day of February, 1998.

**ADOPTED:** February 26, 1998

**PROGRAM, FINANCE AND ADMINISTRATION COMMITTEE**  
**REVISED RESOLUTION # 80**  
***ADOPTION OF REGIONAL PRINCIPLES FOR CONRAIL RESTRUCTURING***

**WHEREAS**, the New York Metropolitan Transportation Council is the Metropolitan Planning Organization (MPO) for the New York Metropolitan area; and

**WHEREAS**, the Intermodal Surface Transportation Efficiency Act (ISTEA) required MPOs to address fifteen factors, including methods to enhance efficient movement of freight;

**WHEREAS**, the New York Metropolitan Transportation Council, through a working group has developed the five principles below the Conrail Restructuring:

1. Reestablish competitive Class I rail access to key terminals and port areas east and west of the Hudson River in New York and New Jersey, including, where appropriate, having access to more than one Class I carrier, and adequate yard and terminal facilities for major carriers to maintain competitive rail service.
2. Develop seamless connectivity among and between Class I railroads and short-lines through possible implementation of neutral terminal zone and/or reciprocal switching at appropriate locations.
3. Maintain, enhance, and provide plans for rail infrastructure investment to achieve the desired level of efficiency and to support economic development. The plans should include the creation of appropriate new intermodal services, facilities, and terminals east and west of the Hudson River.
4. Ensure smooth operation of commuter and intercity passenger lines by guaranteeing existing and future capacity and equitable access between freight and passenger services.
5. Protect and enhance railroad industry employment in New York and New Jersey regions.

**NOW, THEREFORE, BE IT RESOLVED**, that the Council hereby adopts the five *Conrail Restructuring Regional Principles* prepared by the NYMTC Central Staff and the freight working groups;

**BE IT FURTHER RESOLVED**, that the Council will submit these Principles to the Surface Transportation Board.

This Resolution shall take effect this twenty-fifth day of September 1997.

**ADOPTED: September 25, 1997**