

STB

FD-33388

8-10-00

J

BUSINESS



GRIFFIN INDUSTRIES, INC.

July 27, 2000

Mr. Veron Williams
Secretary
Surface Transportation Board
STB Finance Docket No. 33220
1201 Constitution Ave. N.W.
Washington, DC

~~Confidential Material~~
~~Under Seal~~
~~11/1/2000~~
~~Not for Public Distribution~~



Dear Mr. Williams:

Attached are two letters I wrote to you in support of the merger between the Conrail and CSX. In retrospect, this appears to have been a big mistake on my part.

The CSX requested my help in this matter. They promised they would provide better service and rates. In fact, they have done just the opposite.

Service has dropped sharply. In the last year, trains move slower and plants that used to be switched daily are now switched weekly. This causes both empty and loaded cars to sit by idle. We have been forced to expand our fleet of leased tank cars in order meet needs. This is an added cost burden we now bear.

We used to receive a weighing of each car. Now the CSX regularly ships cars without weighing.

However, the most frustrating thing is the rate increases proposed by the CSX. Our contract expired recently and they asked for multiple increase in the range of 30 - 70%. We gave them a detailed response providing numerous reasons why the increases were unfair and unjustified. The CSX refused to negotiate and told us "to take it or leave it."

Other railroads have been more reasonable. Within the last six months, we have renewed contracts with three different railroads and each went smoothly. The CSX stands alone in its difficulty in establishing fair pricing.

In summary, I find the CSX to be inefficient in service but, extremely aggressive, rude, and arrogant in attitude. I regret supporting their merger request. I would be most happy to supply you with specific examples, if requested.

Sincerely,

Mike Gilbert

Mike Gilbert

4221 ALEXANDRIA PIKE • COLD SPRINGS, KY 41076-1897



GRIFFIN INDUSTRIES, INC.

February 24, 1997

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
STB Finance Docket No. 33220
1201 Constitution Ave. NW
Washington, DC 20423



RE: CSX Corp. and CSX Transportation, Inc. - Control and Merger - Conrail, Inc.
and Consolidated Rail Corp., STB Finance Docket No. 33220

Dear Secretary Williams:

My name is Mike Gilbert. I am Sales Manager for Griffin Industries, Inc. My office address is 4221 Alexandria Pike, Cold Spring, Ky 41076. I am responsible for marketing my company's products that include transportation economical issues, a key factor in our ability to market our products successfully.

Griffin Industries is one of the largest rendering companies in the United States with over 20 locations serving both the domestic and international markets. Products include, tallow, fats & oils, grease, meat & bone meal, poultry meal, feather meal, blood meal, primarily used as an energy, protein and fat ingredients for animal feed. Griffin relies heavily on rail transportation to move our products to markets located in the Northeast, southeast, southwest as well as Mexico.

Griffin Industries supports the CSX and Conrail for the following reasons, and I urge the Board to approve this application based on these reasons.

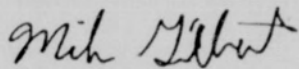
1. A merger would permit single line routings that would improve service in terms of fleet utilization improving economics for our marketing efforts.
2. The combination would assist our ability to access new markets, primarily in the Northeast, and would allow us to compete more effectively with trucks.
3. Overall the merger would enhance rail business for the combined system. This would benefit both rail shippers as well as consumers.

February 24, 1997
Secretary Williams
Surface Transportation Board
Page 2

In conclusion, Griffin Industries supports the application of Conrail and CSX and requests that the Board move as expeditiously as possible to assure approval. We feel this is the best way to improve service, efficiency and promote the growth of rail traffic in the East.

I certify the above to be true and correct.

Sincerely,



Mike Gilbert
Sales Manager

/slc

Cc: Bob Grayson, CSX, CSX file.

February 5, 1997

Mr. Veron Williams
Secretary

Surface Transportation Board

STB Finance Docket No. 33220

1201 Constitution Ave. N.W.

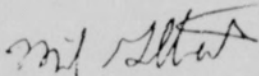
Washington, DC

RE: CSX Corp and CSX Transportation Line - Control and Merger - Conrail line and Consolidated Rail Corp. STB Finance Docket #33220

Dear Mr. Williams:

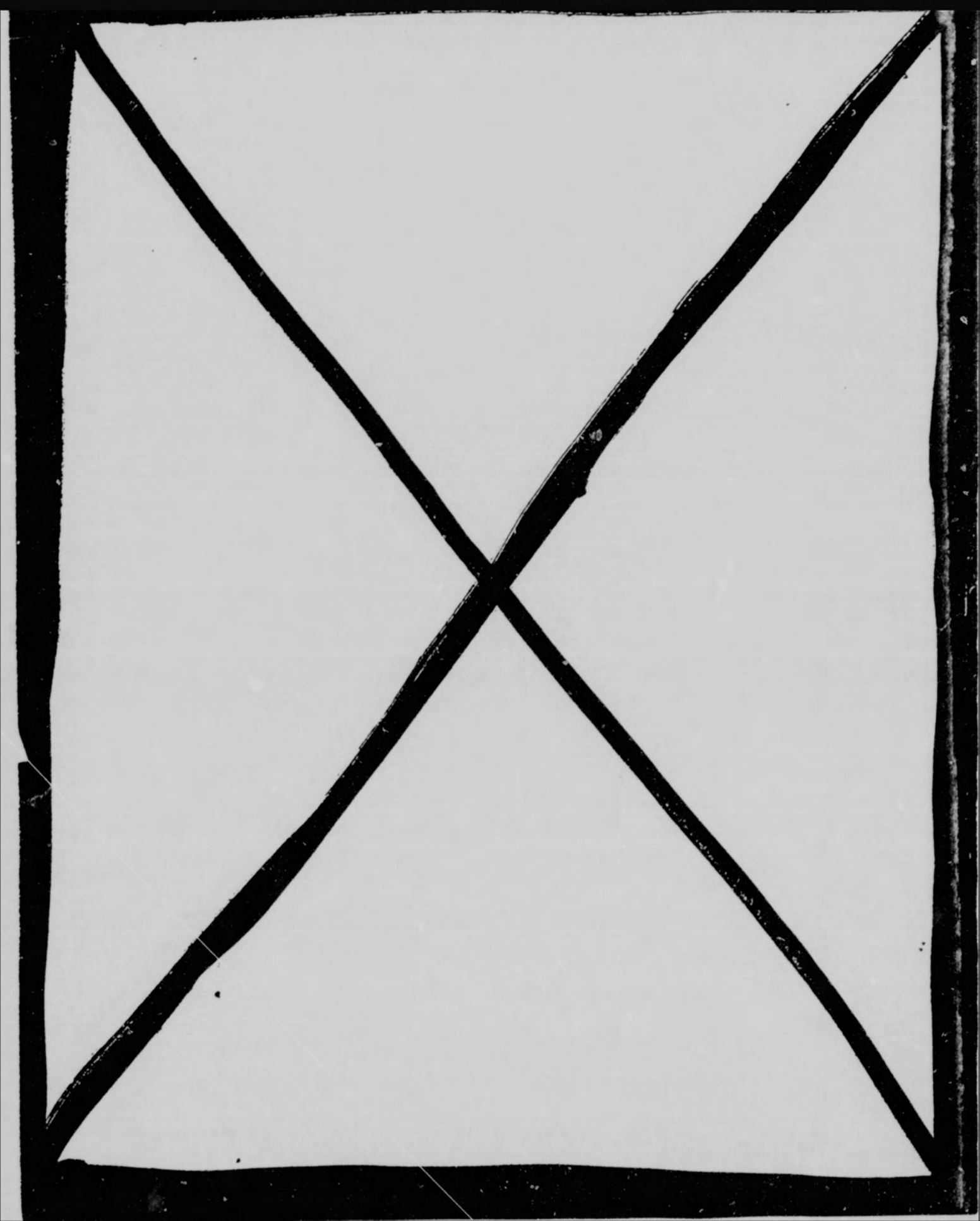
We feel there are some benefits to allowing the CSX and Conrail to merge. We prefer single line to multiple shippers. This improves service and makes rates lower. We have several locations on the CSX and feel this merger would make us more competitive in the Northeast markets.

Sincerely,



Mike Gilbert
Sales Manager

/slc



STB

FD-33388

8-4-00

J

UNION



SJ Gerard
630462
RT 5 Box 345
Grafton, WV 26354
304-265-0626
July 31, 2000

W.C. Comiskey
Director Labor Relations
CSXTransportation
6735 South Point Dr. S.J 670
Jacksonville, FLa. 32216

Request for entitlement to Benefits under New York Dock

Dear Mr. Comiskey:

I write you this letter with great grief as to the condition of my dismissal. Let me begin on June 25, 1979, as a young man out of High School only a year, I was very proud to be hired on the B&O Railway Company. With the recent merger of the B&O and C&O, Chessie Railroad looked stronger than ever. Then, in the late 1980's I saw another railway merger, Chessie and Seaboard. This made our present company CSX Transportation. At this time in railway history I became a furloughed employee.

After many years of furlough I received a recall letter on April 24, 1998. A copy is enclosed. This letter furnished physical papers and hope of returning to the Railway Industry. On July 27, 1998 I returned to work on my home division as a vehicle operator. Soon after returning to work, I received a promotion to welder helper on Force 5DP6. Six months later I received a second promotion to the Welder on Force 5DP6.

Two months after becoming the welder I saw a third merger with the Conrail acquisition. With this came the loss of our B&O agreement, Seniority Districts realigned, service lane work teams, and system production team changes. Which all came about as of June 1, 1999.

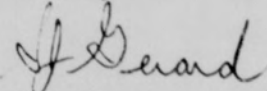
Now today on this first day of August, 2000, I, SJ Gerard has become a furloughed employee do to another railway merger. After quitting a very good job to return for my most recent recall, I am left no choice but to file for this New York Dock benefit.

Enclosed you will find a copy of Chairman and CEO John Snow's letter to the STB Dated March 8, 2000. In this letter he goes into great details explaining how the merger cloud has effected CSX in many critical areas. This includes tens of millicns of dollars spent in unexpected problems and additional cost. Effecting not only the daily budget but also the declining stock prices.

On July 24, 2000, CSX made the decision to abolish as many engineering jobs as needed to meet budget cuts. Enclosed is only a few of the many five day cut off notices. They include not only basic force but entire service lane work teams. These drastic budget cuts have forced me out of work as not only the Welder but of any chance of working for this railway.

I strongly feel that I fall under all of the conditions implemented by the STB for entitlement to these benefits. I believe that adequate information has been provided, all of which is sound and true.

Waiting for Your Reply

A handwritten signature in cursive script, appearing to read "SJ Gerard".

SJ Gerard
630462

cc JR Cook
HP Wilson
STB

CSX TRANSPORTATION

Completed forms should be forwarded to:

Notice of: [] Placement in a worse position with respect to my
 compensation.
 or
 [X] Loss of Employment.

Hire Date: 6/25/79 Immediate Supervisor: JD Conley

- Rate of pay: \$18.95 + .30¢CDL hour/day

(b) What position do you currently hold?

Position: Furloughed August 2, 2000 Location: _____

Rate of pay: _____ hour/day

(c) At the time of your displacement, did you exercise your seniority to obtain the highest paying position available to you? Yes

If the answer is no, please explain: _____

3. Identify what occurred that resulted in your being placed in a worse position or deprived of employment:

Drastic budget cuts. See attached documents.

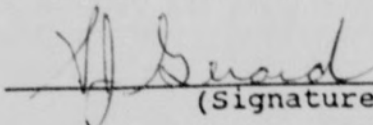
4. Explain in detail how your work situation changed and caused you to be adversely affected. (Use additional sheet if necessary.)

Cut off notices: 10+ Men on ME Roster; Rolled out of work: Nothing on ME

or RWCE Service Lane at this time. Did send in for other jobs July 31, 2000.

See attached Documents.

I HEREBY CERTIFY THAT THIS INFORMATION IS TRUE AND CORRECT:


(Signature)

August 2, 2000
(Date)



935 Seventh Avenue
Huntington, WV 25701-2313

April 24, 1998

Engineering Employees:

Enclosed is a copy of medical examiners in the area, which you can take your physical examination along with your MD-2 Physical Examination Form.

As you know, if you are furloughed over ninety days, you must have a return to work physical including drug and alcohol screen before you will be permitted to work.

It is anticipated that you may be recalled to work within the next few weeks, therefore you should undergo this physical examination.

This letter does not constitute a recall and it is the only notification you will receive regarding this requirement.

R. S. Zenisek
Division Engineer

CSX TRANSPORTATION
ENGINEERING DEPARTMENT
MONONGAH EAST DISTRICT

PAGE 1

AUGUST 12, 1998

THE FOLLOWING POSITIONS ARE HEREBY ADVERTISED FOR BIDS, PER STANDARD AGREEMENT. BIDS WILL BE ACCEPTED FROM AUG 17, 1998, UNTIL AUG 26, 1998. WHEN STANDARD APPLICATION FORMS CANNOT BE SECURED, THE INFORMATION CALLED FOR ON THE FORM SHOULD BE FURNISHED IN THE APPLICATION, AND WRITTEN APPLICATION FURNISHED TO THE UNDERSIGNED WITHIN THE PERIOD SPECIFIED ABOVE. ALL BIDS MUST BE LEGIBLE IN ORDER TO BE CONSIDERED.

BASIC FORCE

FORCE
NUMBER

HEADQUARTERS

5DP6

CLARKSBURG

WV

POSITION

BID NUMBER	AVAILABLE JOBS	JOB DESCRIPTION
BOME-0042	1	WELDER HELPER

RATE OF
PAY

PERM/
TEMP

15.31 / HOUR PERM

REMARKS:

INCUMBENT AWARDED ANOTHER POSITION.

SUCCESSFUL APPLICANT MUST BE FRA, CHARACTERISTICALLY, AND OPERATING RULES QUALIFIED, AND HAVE A VALID CLASS "B" CDL.

====>> PLEASE INDICATE QUALIFICATIONS ON BID SHEET. <<====

***** BIDS CAN BE FAXED TO 904/359-7581, ATTENTION: RICK SCHILLING - J345 *****

CC: LOCAL CHAIRMAN
VICE CHAIRMAN
DIVISION CHAIRMAN

R.A. CROSS, ACTING CHIEF ENGR.
CSX TRANSPORTATION
500 WATER ST., JACKSONVILLE, FL 32202
ATTN: RICK SCHILLING - J345

CSX TRANSPORTATION
ENGINEERING DEPARTMENT
MONONGAH EAST DISTRICT

PAGE 1

APRIL 01, 1999

THE FOLLOWING POSITIONS ARE HEREBY ADVERTISED FOR BIDS, PER STANDARD AGREEMENT. BIDS WILL BE ACCEPTED FROM APR 05, 1999, UNTIL APR 14, 1999. WHEN STANDARD APPLICATION FORMS CANNOT BE SECURED, THE INFORMATION CALLED FOR ON THE FORM SHOULD BE FURNISHED IN THE APPLICATION, AND WRITTEN APPLICATION FURNISHED TO THE UNDERIGNED WITHIN THE PERIOD SPECIFIED ABOVE. ALL BIDS MUST BE LEGIBLE IN ORDER TO BE CONSIDERED.

BASIC TEAM

FORCE
NUMBER

HEADQUARTERS

50P6

CLARKSBURG

WV

POSITION

BID NUMBER	AVAILABLE JOBS	JOB DESCRIPTION	RATE OF PAY	PERM/ TEMP
BOME-0005	1	WELDER	12.25 / HOUR	PERM

REMARKS:

INCUMBENT AWARDED ANOTHER POSITION.

SUCCESSFUL APPLICANT MUST BE FRA. CHARACTERISTICALLY AND OPERATING RULES QUALIFIED AND HAVE A VALID CLASS "B" CDL.

★★ BIDS CAN BE FAXED TO 904/359-7581, ATTENTION: BILL CHAMBERLAIN - J345 ***

CC: LOCAL CHAIRMAN
VICE CHAIRMAN
DIVISION CHAIRMAN

CSX TRANSPORTATION
500 WATER ST
JACKSONVILLE, FL 32202
ATTN: BILL CHAMBERLAIN - J345 **

If there should be mergers now, and should these mergers include a merger of carriers, shippers will argue the need for greater government supervision and regulation. This would lead to the further destabilization of the rail industry and the substitution of regulatory pricing for the free-market pricing which has benefited shippers and carriers alike since passage of the Staggers Act. In the CN/BNSF case, we have already heard some shippers promote huge regulatory changes from the industry as the price it should pay for consolidation.

We need stability, and this or any other transaction at this time will only add to the current instability. It will keep our dedicated employees from doing what they need to do... fixing the railroad. It will frustrate our ability to restore service and shipper confidence and to bring more freight to rails. It will keep us from shedding the tens of millions of dollars of extra costs that have crept into our system because of merger problems. We will not be able to fix the serious earnings problems that plague us and restore investor confidence. Wall Street has spoken about this merger in the most pointed way - by driving share prices down. Putting the industry on a stronger financial footing is essential if we are going to be in a position to make the capital infusions necessary to give shippers what they need and demand.

We can make this a healthy and vibrant industry again. CSX will deliver on the promises that we made for our merger. Rail is a wonderful way to move freight, and CSX has a great system. I promise you that, but we need to keep our employees focused, restore shipper confidence, and restore investor confidence. And I don't see how we can do that if we have this merger to confront at this time. There are alternatives to mergers... cooperative ventures and alliances... that are far less drastic and can be quite beneficial. The industry is distracted from exploring them now. Before we take the giant step of a CN/BNSF merger, we should look at these less drastic steps... and before we decide to take any giant step, we should finish what we have started, learn the lessons of our mistakes, and only then proceed.

The Board can take encouragement in the way it is proceeding in this matter from a speech delivered by Robert Pitofsky, Chairman of the Federal Trade Commission, on February 17 - after this Board had broken new ground in this case, and perhaps influenced by this Board. Chairman Pitofsky said that in passing on mergers, the FTC's "responsibility is not just to examine the merits of a particular transaction, but to take into account where the industry, as a result of similar transactions, might be going." The Board's Decision No. 1 in the CN/BNSF case and its launch of these proceedings reflect that wise approach.

So, the real question before this body is, would approval and consummation of the CN/BNSF transaction, or any other transaction at this time, cause even greater destabilization of an already fragile industry? My view is yes. The authorization of a destabilizing transaction, and the encouragement of additional destabilizing transactions, would not be in the public interest.

Collectively, we owe it to our customers, our employees, our shareholders and the public to set this one right. I again want to commend the Board for setting the ground rules for the debate and for taking into account the

potential wide-ranging implications of the proposed transaction and placing it in the wider context of the future structure of America's rail industry.

I would prefer to stay here for this while proceedings, but I believe I need to go back to continue the process of fixing the railroad. I will review the shipper comments and, of course, I take them seriously.

Thank you.

CORPCOM 104954 FOR ORLOPEZ

-EOT-0102LINES- T#J0000006 CICS065 -DATE 03/10/00-TIME 074728

DM: JD CONLEY

FORCE 50A6

CUT-OFF NOTICE

EXTRA FOREMAN POSITION BEING CARRIED ON FORCE 50A6 WILL BE ABOLISHED AS OF
CLOSE OF BUSINESS JULY 28, 2000.

LD VERNON

KL WILSON

GD UPDIKE

JR COOK

CONLEY121433 J4M JD CONLEY

DT-0016LINES- J40#000015 CICS065 -DATE 07/21/00-TIME 162621

DATE: JULY 24,2000

TO: FORCE 6I14

FROM: JD CONLEY

SUBJECT: CUT-OFF NOTICE

PLEASE CONSIDER THIS YOUR CUT-OFF NOTICE. AS OF CLOSE OF BUSINESS JULY 28,2000
FORCE 6I14 IS ABOLISHED.

DDCONLEY141524 J4M LDVERNONKWLWILSON

EOT-

CSRPRODI-DATE 07/21/00-TIME 114803

FORCE 5008

ONE TRUCK DRIVER JOB
IS ABOLISHED AT THE CLOSE
OF BUSINESS ON JULY 28, 2000

NP Simmons

FORCE 5069

ONE CLASS B TRUCK DRIVER

JOB IS ABOLISHED AT THE

CLOSE OF BUSINESS ON

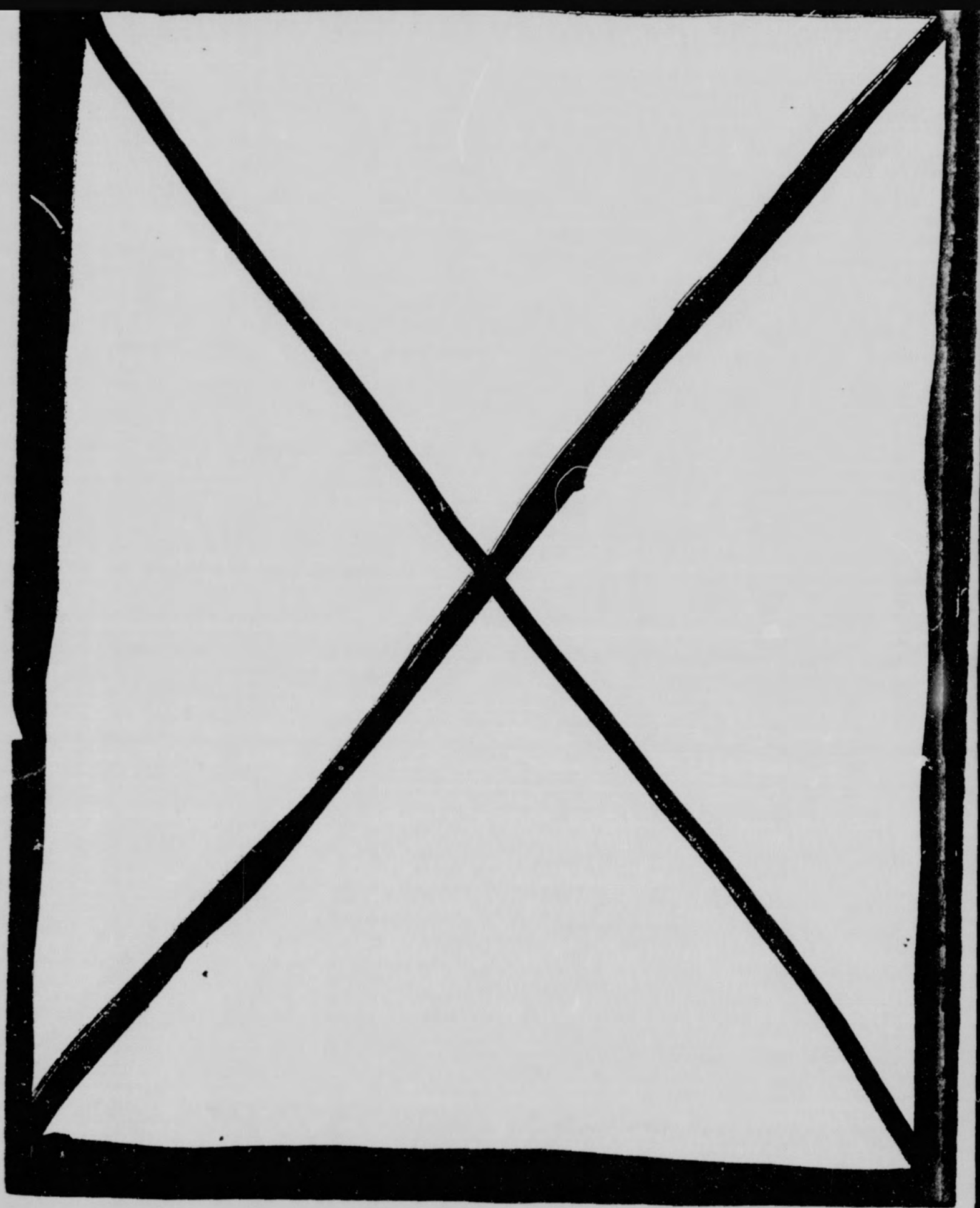
JULY 28, 2000

NP Simmons

FORCE 666Q

YOUR FORCE IS ABOLISHED
AT THE CLOSE OF BUSINESS
ON July 28, 2000

NP Summers



STB

FD-33388

8-2-00

J

BUSINESS

**RODRIGUEZ O'DONNELL
FUERST GONZALEZ & WILLIAMS**

WASHINGTON • CHICAGO • MIAMI • NEW YORK

HELEN M. COUSINEAU
Admitted in New York

DIRECT TELEPHONE: 202-973-2984
hmc@rof gw.com

REPLY TO:

1710 RHODE ISLAND AVENUE, N.W.
TENTH FLOOR
WASHINGTON, D.C. 20036
TELEPHONE 202-293-3300
FACSIMILE 202-293-3307

20 NORTH WACKER DRIVE
CHICAGO, ILLINOIS 60606
TELEPHONE 312-372-7000
FACSIMILE 312-372-1719

1200 BRICKELL AVENUE
MIAMI, FLORIDA 33625
TELEPHONE 305-350-5690
FACSIMILE 305-371-8989

61 BROADWAY
NEW YORK, NEW YORK 10006
TELEPHONE 212-344-6600
FACSIMILE 202-293-3307

July 31, 2000

By First Class Mail

Hon. Vernon Williams
Surface Transportation Board
Office of the Secretary
1925 K Street, NW
Suite 714
Washington, DC 20423-0001
Attn: Case Control Unit



Re: Finance Docket No. 33388

Dear Sir:

Please remove the undersigned from your service list in the above-referenced matter as we are no longer involved in the matter.

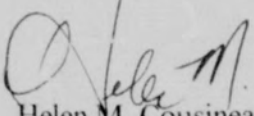
Your service list may indicate that the undersigned is at Carlos Rodriguez & Associates. However, your information does not reflect the firm's recent merger. Although the name of the firm has recently changed to Rodriguez O'Donnell Fuerst Gonzalez & Williams, the address has remains the same and the firm wishes to be removed from the service list.

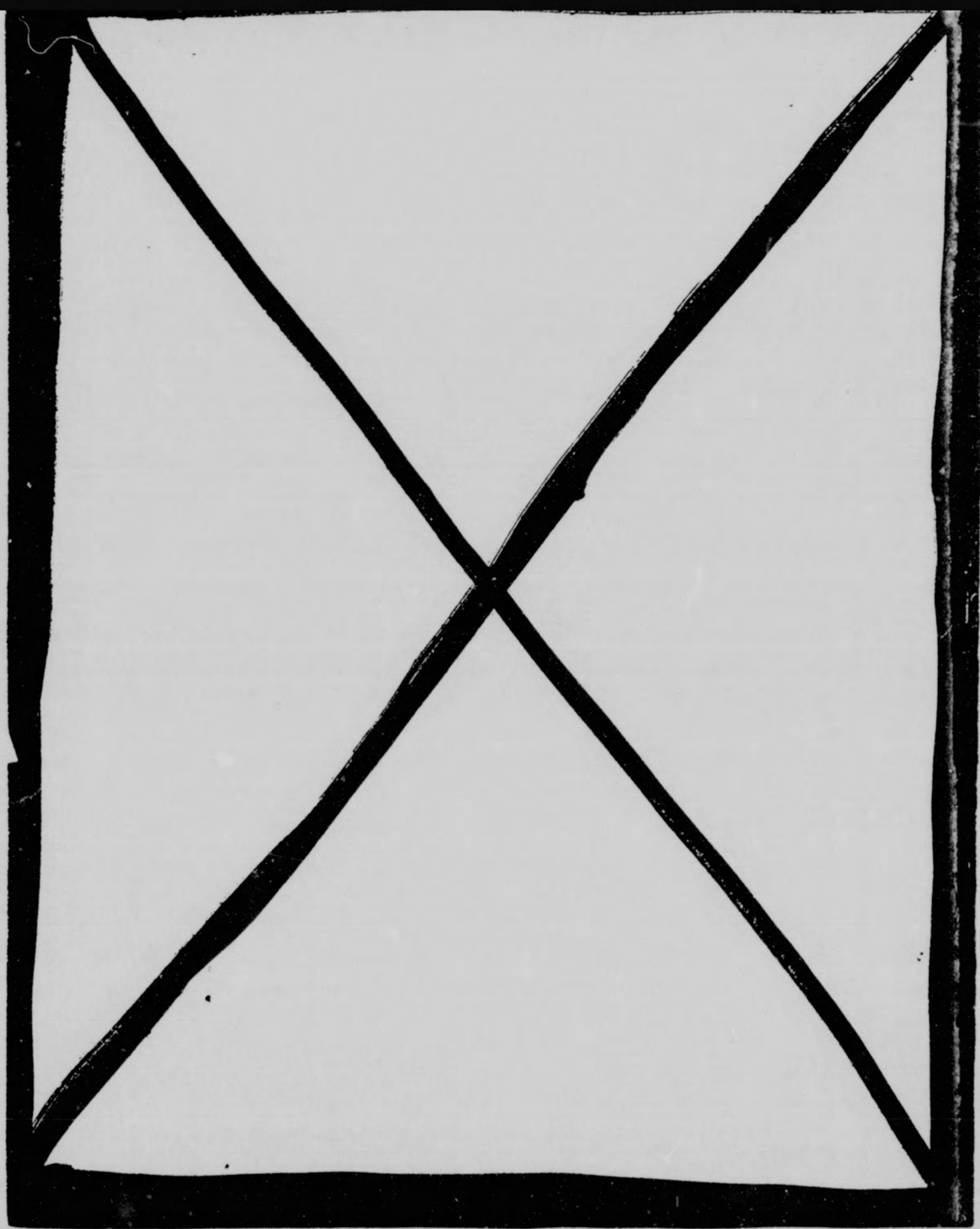
If you require additional information or further assistance, please contact us at your convenience.

Very truly yours,

RODRIGUEZ O'DONNELL
FUERST GONZALEZ & WILLIAMS

By:


Helen M. Cousineau
Carlos Rodriguez



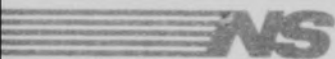
STB

FD-33388

7-31-00

J

TOBIAS



**NORFOLK
SOUTHERN**

Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-9225
Telephone: (757) 629-2390
Facsimile: (757) 629-2805

FILE IN DOCKET

75 33388

Stephen C. Tobias
Vice Chairman and
Chief Operating Officer

July 28, 2000

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

Dear Chairman Morgan:

You have asked for an assessment of how we feel we will handle this year's "fall peak," i.e., the period of heavy rail traffic which historically has occurred beginning in mid to late August and ending in early to mid December. Traditionally, this is the period which places the greatest strain on our resources. While we recognize that there are always some problems on any railroad when demand for rail services is very high, we do not foresee any significant difficulties in accommodating the fall traffic peak on NS. We believe we are well positioned to handle more traffic than at any previous time. The merger implementation problems are behind us. We are open for business. To the extent problems may arise, we expect them to be of the type caused whenever demand approaches or exceeds supply.

FALL 2000 TRAFFIC

Although we believe NS will carry approximately 6 % more traffic than we handled during the 1999 fall peak, we do not anticipate a large increase in the number of trains required to accommodate this growth in traffic. Intermodal accounts for the lion's share of the increase in traffic during the fall peak, and we expect to handle the intermodal increase by filling existing trains and adding only three or four trains a day. To the extent there are increases in coal, grain, or other traffic moving in unit trains, these trains put relatively little or no strain on our classification yards as they move from origin to destination without the need to go through intermediate terminals. Other increases will be handled in existing trains.

OPERATIONS OVERVIEW

We go into this fall peak in a much stronger position than we found ourselves in last year. Perhaps the best way to demonstrate just how much better off

we are today than we were a year ago is to review several of the performance metrics established under the auspices of the Conrail Transaction Council.

Last year we suffered congestion problems. This congestion is reflected in key metrics, including cars on line, train speed and terminal dwell time. Cars on line and terminal dwell times were high, averaging 237,663 cars on line and 29.1 hours during the third quarter of 1999. Train speeds were low, averaging 18.2 mph during the third quarter of 1999.

The current numbers are in sharp contrast to those of last year. Train speeds are up, averaging 19.5 mph in June and 21.6 mph for the week ending July 21. Cars on line and terminal dwell time are down; for the month of June, cars on line averaged 218,863 (211,996 for the latest week) and terminal dwell time averaged 25.9 hours (23.3 hours for the latest week). During the fall peak, our goal is to maintain average train speeds of 20.4 mph, cars on line of 220,000 and terminal dwell of 25.0 hours.

CREWS AND LOCOMOTIVES

Currently, we have very few trains being held for lack of crews. The crew calling issues we faced last year are behind us and the lack of congestion has greatly reduced the number of (unplanned) re crews. We expect crew availability to average between 80 and 83% during the period of September-November. We continue to train crews and expect to have sufficient crews to operate our railroad efficiently.

We also anticipate having adequate power to handle the fall peak. Currently, trains being held for power are not a problem on NS (as noted in our latest report to the STB, for the week ending July 21 trains were held for lack of power for only 194.9 hours). To accommodate the increased power requirements of the fall peak, we have short-term leases for an additional 100 locomotives and intend to draw, when necessary, on the substantial "horsepower hour" credits we have accumulated with other railroads. NS locomotives operate on other railroads just as NS operates locomotives belonging to other railroads. Credits and debits, measured in "horsepower hours," are issued accordingly. We are currently owed approximately 600,000,000 horsepower hours by other roads.

CAPITAL IMPROVEMENTS

We have made significant investments to enhance our infrastructure to accommodate the traffic NS would handle as a result of the Conrail transaction. Many were in place in time to help us through last year's fall peak.

There are, however, several new major capital improvements available to us this year which will improve our operations. The first is Bison Yard. It enhances our Buffalo infrastructure and allows for more efficient handling of Buffalo area and Southern Tier traffic. Bison Yard was put into service on December 1, 1999 and thus its impact on operations during the 1999 fall peak was necessarily limited.

The opening of Rutherford Yard (and other track enhancements in the Harrisburg area) gives us intermodal opportunities we did not have last year. Rutherford is a high capacity, state-of-the-art facility which will improve east-west intermodal traffic flows and can significantly reduce cross town drays in Chicago. Because of its strategic location, it will serve as a hub for traffic moving in and out of the Northeast and provide both east-west and north-south flexibility. Our Rutherford operation also helps the North Jersey SAA as it simplifies operations there.

The Sandusky District (between Bellevue and Columbus, Ohio), one of our two major north-south corridors, was the focus of a major double-track project. We have installed 16 miles of double track (in two separate segments). An additional 10 miles of trackage is under construction, with completion targeted for the end of November. On the Toledo District (between between Bellevue and Toledo, Ohio) we have installed a siding at Oak Harbor, Ohio that will significantly increase our line capacity and the fluidity of this segment of our network.

Two other capital projects completed in the last year improve connections within our system. The Cloggsville Connection, a high speed connection between our Buffalo and Chicago mainlines in Cleveland, increases the flexibility of our mainline operations through Cleveland. The Toledo Belt connection gives us the capability of moving traffic between Homestead and Airline yards over our own trackage.

OPERATING PLAN

Since last fall, we have made a number of changes in our operating plan, improving network velocity, reducing car handlings and improving customer service. We made significant operating plan change since last fall in Decatur, Illinois, Roanoke, Virginia, Bellevue, Ohio and Buffalo, New York.

The Decatur plan redefined traffic flow to and from the Kansas City and St. Louis gateways. The plan simplified the automotive network on the west end of our railroad, which in turn freed up capacity to better handle the agricultural business in the Decatur area.

The Roanoke plan redefined Roanoke as an east-west hub and Linwood, North Carolina as the north-south facility in the Southeast. Terminal dwell for

Roanoke had decreased from 54.3 hours in early June to 31.2 hours for the week ending July 21, 2000.

Our classification yard at Bellevue is strategically located to serve as an automotive hub. The new operating plan, introduced in mid July, has removed all but the local industry traffic and established Bellevue as the primary automotive hub on the network. This will allow us to more efficiently and consistently handle our time sensitive automotive traffic.

With the availability of our new Bison Yard, we were able to redesign service to provide more efficient movement to the Buffalo terminal and Southern Tier via our yards at Conway, Pennsylvania and Elkhart, Indiana. In addition, the plan improved interline flows at Buffalo and Binghamton, New York.

INFORMATION SYSTEMS

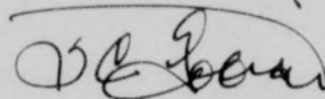
The data and systems problems which hampered us last year are essentially behind us. There are some interface issues with the SAA's, but NS, CSX, and Conrail are tackling these with joint process improvement teams. No major system changes are planned for the peak.

CONCLUSION

We are prepared for the fall peak. We have learned from our experience of the last year. We have a better operating plan, an improved infrastructure and better IT systems and data, and our railroad is operating more smoothly as we ramp up for fall 2000.

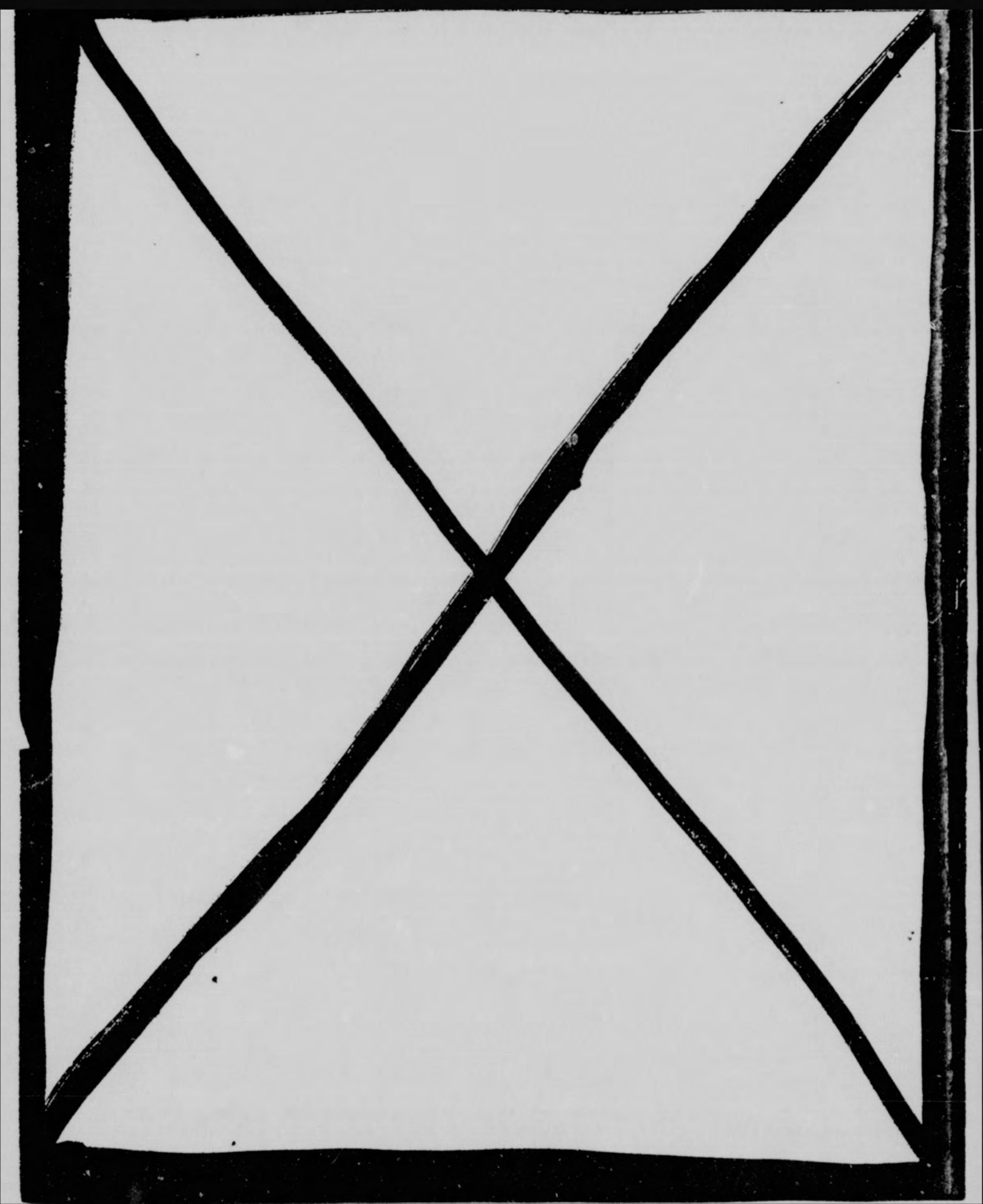
While we look forward to meeting the challenge, we realize we received assistance during the last year which allowed us to get to our current position. The Board, our connections large and small, our customers and, of course, our own employees, have all helped. That help is both acknowledged and appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read 'S. C. Tobias', with a stylized flourish at the end.

S. C. Tobias

Cy: Wayne O. Burkes, Vice Chairman
William Clyburn, Jr., Commissioner



STB

FD-33388

7-10-00

J

PUBLIC



Office of the Chairman

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

FILE IN DOCKET

STB-33388

July 10, 2000

Mr. Charles Thomas
Steering Committee Member
Transit Riders League of Metropolitan Baltimore
218 West Saratoga Street, 5th Floor
Baltimore, Maryland 21201

Re: MARC Service

Dear Mr. Thomas:

Thank you for your letter of June 5, 2000, regarding your concerns about the operation of MARC commuter trains on the Camden line.

As you mentioned in your letter, the MARC commuter operations are over CSX Transportation Inc.'s (CSXT) lines and thus must necessarily be coordinated with CSXT's freight operations. In addition, the MARC operations are subject to the terms of operating contracts between the State of Maryland and CSXT. Those agreements are privately negotiated and not subject to the review or approval of the Surface Transportation Board (Board). Therefore, any action to enforce performance requirements contained in the contracts with CSXT would necessarily be MARC's responsibility.

In your letter, you express concern about the extent of the transitional problems affecting service by CSXT and MARC, specifically with respect to MARC commuter operations over the Camden line. While the operations of MARC over CSXT's lines predate the Conrail acquisition and are therefore not directly related to that transaction for purposes of oversight, the Board, in its decision approving the Conrail transaction, did impose significant reporting responsibilities on CSXT related to the implementation of the transaction. That reporting includes a weekly regimen of operational metrics, including metrics depicting the operations of certain MARC and Amtrak trains. The reports are filed with Mr. Melvin Clemens, the Director of the Board's Office of Compliance and Enforcement (OCE). As part of the Board's continuing effort to monitor and evaluate service and operational levels, Director Clemens is in regular contact with senior officials at CSXT to monitor the implementation, verify the metrics, and interface directly on customer, employee, and passenger issues.

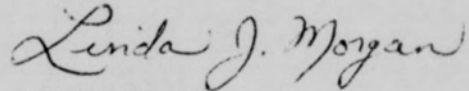
Clearly there have been problems during the implementation phase of the Conrail transaction that have resulted in less-than-adequate service levels for many shippers and passengers. However, the Board's ongoing active and vigilant monitoring of the operations of CSXT, as it continues to implement the Conrail transaction, and the proactive interface of

Director Clemens with shippers and passengers to resolve service issues informally as they are brought to our attention, should continue to help to bring about the level of service improvement that we all seek.

In addition to Director Clemens' activities, I am in frequent contact with shippers, employees, and other affected parties about their concerns, and with top officials at CSXT. In an effort to be of assistance with your concerns, I have forwarded your letter to the CSXT's Vice President of Passenger Integration with a request that he review your concerns particularly in light of ongoing contract negotiations with MARC. I expect CSXT to respond to you directly.

I appreciate the opportunity to review your concerns. Please do not hesitate to contact me if we can be of further assistance.

Sincerely,


Linda J. Morgan

cc: Paul Reistrup, Vice President-Passenger Integration
CSX Transportation, Inc.



June 5, 2000

Linda Morgan, Chair
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

FILE IN DOCKET

Dear Chairwoman Morgan:

The Transit Riders League of Metropolitan Baltimore represents more than 500 transit users in the Baltimore region, including many who use the Maryland Rail Commuter (MARC) service in the Baltimore-Washington corridor. As you are no doubt aware, following the acquisition of Conrail by CSX, MARC trains along the Camden line have experienced severe operational difficulties. Specifically, the poor on-time performance of MARC Camden service since the acquisition, has led to a very frustrating commuting experience for our members.

Many of our members have faced costly problems as a result of service delays, including: lateness for and absenteeism from work, family, and personal activities, additional child-care costs and commuting costs, loss of wages and leave time, etc. While we can appreciate that CSX needed some time to make a smooth transition to its new, enlarged operating position, the poor record of on-time performance has now gone on for more than a year. This situation is no longer acceptable!

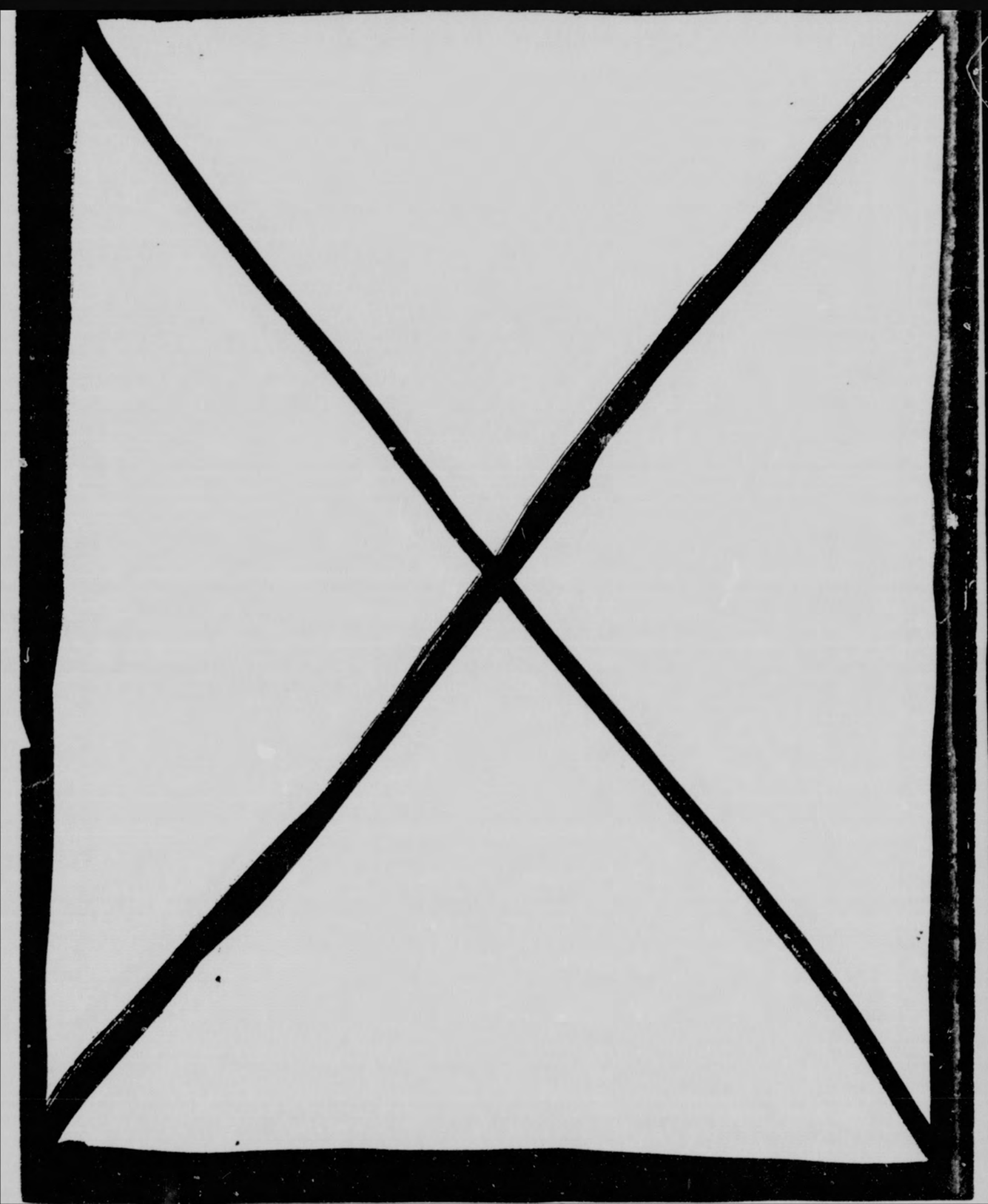
We intend to file full comments with the Surface Transportation Board under the current oversight proceedings of the CSX-Conrail acquisition; however, we need your more immediate attention to this situation. MARC riders can not continue to wait several more months for a decision from the STB. We need relief now so that our lives are no longer disrupted! We hope that you will work with MARC and the Maryland Department of Transportation to bring CSX into compliance with the terms of their acquisition agreement which stated that there would be no adverse impact on commuter service.

On behalf of the Transit Riders League of Metropolitan Baltimore, I am

Yours truly,

Charles Thomas
Steering Committee Member

cc: Rose Fleming and Yvonne Mathews, Co-Chairs, Transit Riders League
John Porcari, Secretary, Maryland Department of Transportation
Ron Freeland, Administrator, Maryland Mass Transit Administration
Kathryn Waters, MARC Administrator
Members of the Maryland Congressional Delegation



STB

FD-33388

6-30-00

J

BUSINESS



Office of the Chairman

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

June 30, 2000

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

Re: Service Improvement Goals and Action Plan

Dear Mr. Snow:

This letter follows up on our discussions over the last several months with you and your senior staff regarding the establishment of performance goals and plans for meeting those goals, and provides a basis for future activities regarding service improvement on the CSX system. As you know, we continue to be focused on seeing sustained improvement in the performance levels at which CSX is operating. During the ongoing 90-day period that is about to end, your performance in meeting certain operational goals clearly indicates the beginnings of sustainable operational recovery and suggests related improvements in service. This is a credit to your personal involvement as well as to the commitment of your senior staff and employees. Now we need to focus on the goals for the future and an action plan for meeting those goals and the service demands of the Fall Peak.

Performance Level Goals

For our monitoring purposes, you have provided us with certain measurements that describe a series of performance goals for your operations and activity in specific yards and terminals. As already noted, several of these indicators show marked improvement during the 90-day period. However, we believe, as I am certain you do, that the present goals may not be sufficient to ensure that you achieve optimum operational performance. As we have discussed, you are now appropriately focusing on performance during the next 60-day period, in anticipation of the Fall Peak. With that in mind, I would be interested in knowing what your performance goals will be for at least the next 60 days, with a view toward meeting the service demands for the Fall Peak. This next set of goals will be critical to communicating to employees where you believe the company needs to be heading.

Mr. John W. Snow
June 30, 2000
Page 2

Action Plan and Fall Peak

While the establishment of goals is important, an action plan to accomplish those goals is equally important. And, as you already know, an action plan for the next 60 days and the Fall Peak is critical. An effective action plan can be communicated publicly and should: (1) establish realistic but ambitious system-wide goals as discussed above; (2) identify the problem areas where goals are not being adequately met; (3) identify a plan for solving operational or service problems and realizing further service improvements; and (4) establish realistic but ambitious target dates by action item for achieving the goals you have set. We believe the action items listed below that we previously suggested remain viable.

Action Items:

- Cars on Line
- System Train Velocity
- System Yard Dwell Time
- On Time Performance - Chicago Connections
- On Time Origination from Terminals - Trains
- Train and Engine Crew Utilization
- Net Train and Engine Crew Resources - New Hires vs. Retirements
- Locomotive Utilization
- Infrastructure Improvements

We continue to believe that the focus of any plan must be on stabilizing operations and providing for more reliable performance, and on achieving service improvement at a sustained level. Also, it continues to be important to focus on the close coordination between operations and marketing to ensure that your resources are understood and properly managed.

Next Steps

I remain committed, as I know you are, to the service recovery process and to improved service levels for your customers. In this regard, we all agree that the next 60 days will be important to achieving an acceptable level of performance on the CSX system, and to ensuring the capacity needed to handle the demands of the Fall Peak. I thus look forward to your submitting the specifics of the new 60-day goals and your action plan for the future. As we have discussed previously, it would be important to communicate these goals and plans not only to your employees but also to the customer community. In this regard, it might also be well to describe for us how you intend to share with your customers your accomplishments during the last 90 days and your plans for the next 60 days and into the Fall Peak. As with all confidential performance data that we receive, the

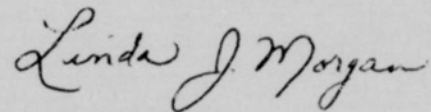
Mr. John W. Snow

June 30, 2000

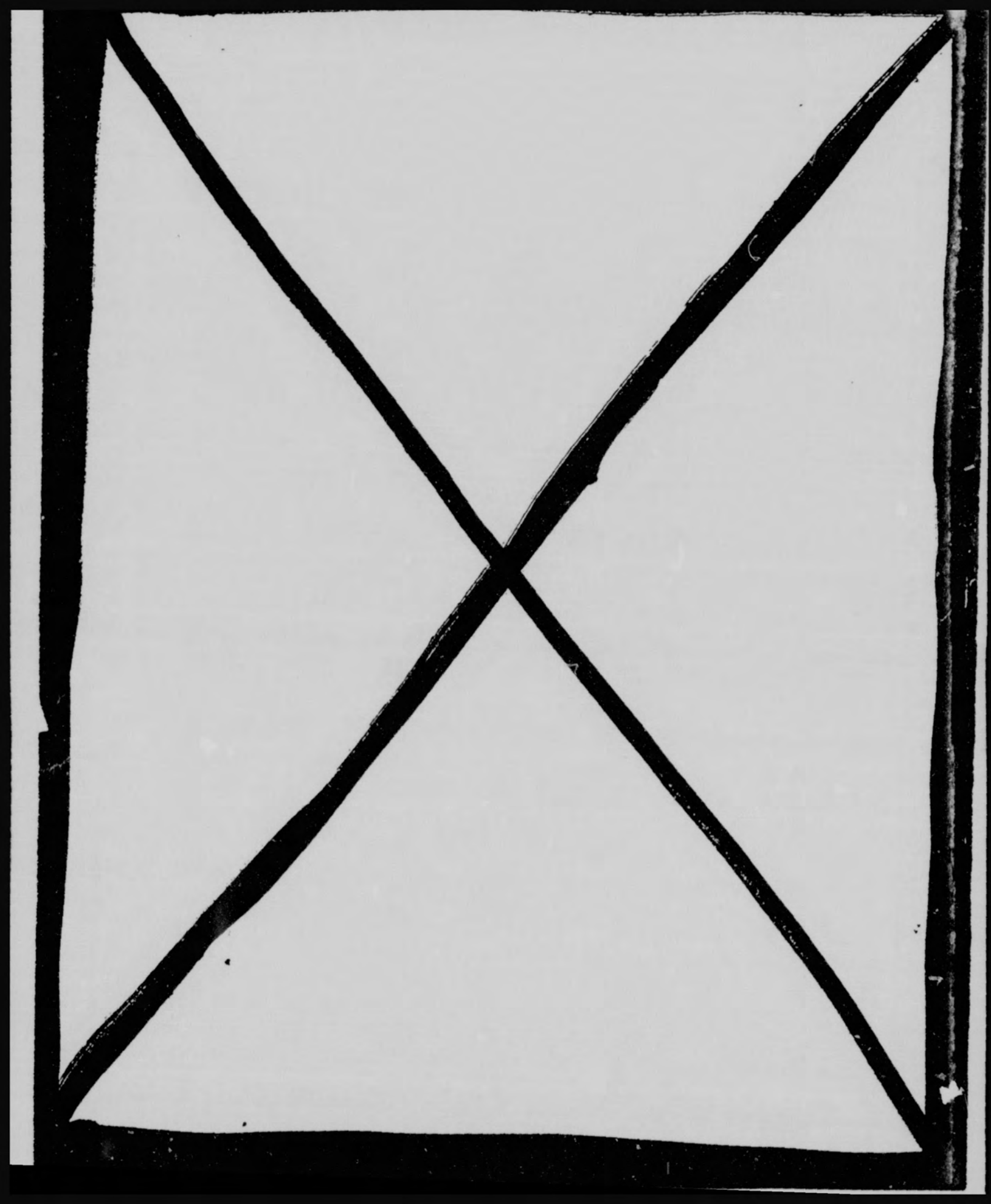
Page 3

information that you provide will be kept appropriately confidential. Your expeditious and full response to this letter will be an important step toward our shared goal of significant and sustained service improvement on the CSX system.

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

6-30-00

J

SNOW



Office of the Chairman

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

FILE IN DOCKET

JS-33388

June 30, 2000

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

Re: Service Improvement Goals and Action Plan

Dear Mr. Snow:

This letter follows up on our discussions over the last several months with you and your senior staff regarding the establishment of performance goals and plans for meeting those goals, and provides a basis for future activities regarding service improvement on the CSX system. As you know, we continue to be focused on seeing sustained improvement in the performance levels at which CSX is operating. During the ongoing 90-day period that is about to end, your performance in meeting certain operational goals clearly indicates the beginnings of sustainable operational recovery and suggests related improvements in service. This is a credit to your personal involvement as well as to the commitment of your senior staff and employees. Now we need to focus on the goals for the future and action plan for meeting those goals and the service demands of the Fall Peak.

Performance Level Goals

For our monitoring purposes, you have provided us with certain measurements that describe a series of performance goals for your operations and activity in specific yards and terminals. As already noted, several of these indicators show marked improvement during the 90-day period. However, we believe, as I am certain you do, that the present goals may not be sufficient to ensure that you achieve optimum operational performance. As we have discussed, you are now appropriately focusing on performance during the next 60-day period, in anticipation of the Fall Peak. With that in mind, I would be interested in knowing what your performance goals will be for at least the next 60 days, with a view toward meeting the service demands for the Fall Peak. This next set of goals will be critical to communicating to employees where you believe the company needs to be heading.

Mr. John W. Snow

June 30, 2000

Page 2

Action Plan and Fall Peak

While the establishment of goals is important, an action plan to accomplish those goals is equally important. And, as you already know, an action plan for the next 60 days and the Fall Peak is critical. An effective action plan can be communicated publicly and should: (1) establish realistic but ambitious system-wide goals as discussed above; (2) identify the problem areas where goals are not being adequately met; (3) identify a plan for solving operational or service problems and realizing further service improvements; and (4) establish realistic but ambitious target dates by action item for achieving the goals you have set. We believe the action items listed below that we previously suggested remain viable.

Action Items:

- Cars on Line
- System Train Velocity
- System Yard Dwell Time
- On Time Performance - Chicago Connections
- On Time Origination from Terminals - Trains
- Train and Engine Crew Utilization
- Net Train and Engine Crew Resources - New Hires vs. Retirements
- Locomotive Utilization
- Infrastructure Improvements

We continue to believe that the focus of any plan must be on stabilizing operations and providing for more reliable performance, and on achieving service improvement at a sustained level. Also, it continues to be important to focus on the close coordination between operations and marketing to ensure that your resources are understood and properly managed.

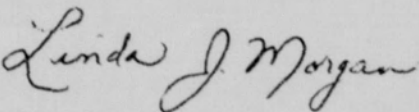
Next Steps

I remain committed, as I know you are, to the service recovery process and to improved service levels for your customers. In this regard, we all agree that the next 60 days will be important to achieving an acceptable level of performance on the CSX system, and to ensuring the capacity needed to handle the demands of the Fall Peak. I thus look forward to your submitting the specifics of the new 60-day goals and your action plan for the future. As we have discussed previously, it would be important to communicate these goals and plans not only to your employees but also to the customer community. In this regard, it might also be well to describe for us how you intend to share with your customers your accomplishments during the last 90 days and your plans for the next 60 days and into the Fall Peak. As with all confidential performance data that we receive, the

Mr. John W. Snow
June 30, 2000
Page 3

information that you provide will be kept appropriately confidential. Your expeditious and full response to this letter will be an important step toward our shared goal of significant and sustained service improvement on the CSX system.

Sincerely,

A handwritten signature in cursive script that reads "Linda J. Morgan". The signature is fluid and elegant, with the first letters of each word being capitalized and prominent.

Linda J. Morgan



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

John W. Snow
Chairman, President
Chief Executive Officer

July 24, 2000

FILE IN DOCKET

The Honorable Linda J. Morgan
Chairman
Surface Transportation Board
1925 K Street, NW, Suite 820
Washington, DC 20423-0001

Dear Chairman Morgan:

This letter is in response to your recent letter regarding CSX's service plans relative to the approach of this year's fall peak.

First, thank you for your encouraging words regarding CSX's performance during the past 90-day period. I too share your view that we are beginning to witness substantive operating improvements, which is a tribute to our new management team and to the hard work and dedication of each and every CSX employee. I also would like to take this opportunity to thank you and the Board for your continued commitment and involvement in helping us attain these most recent improvements.

As mentioned in your June 30 letter, we have been successful in meeting certain operating goals set forth this past April. That said, as you and I have discussed, we remain firmly committed to even greater operating improvements, particularly as we approach what is arguably the industry's heaviest traffic period. In light of this commitment, and in an effort to refine our measurement standards and better gauge our progress, we have established new 60-day goals.

We intend to provide regular updates on meeting our goals to our employees, customers, public officials and other interested parties through a specially-designed page on the CSX website, a copy of which is attached. This page was created in response to your suggestion this past May for making public our prior 90-day service improvement program.

While I will not go into great depth in this letter, I would like to point out the significant level of detail encompassed in the plan, the development of which began in May. In fact, I believe this to be the most thorough job of fall peak planning undertaken by the railroad in recent memory.

The Honorable Linda J. Morgan

Page Two

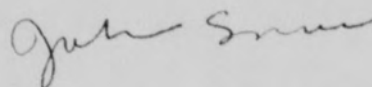
July 24, 2000

Highlights of the program include a comprehensive operating plan focused on service reliability that extends from Labor Day to the end of the year; a detailed commercial plan complete with individual forecasts for key commodities including grain, coal, intermodal and automotive; an early warning system that includes contingency plans designed to resolve problems prior to their escalating into major service issues; and, of course, specific goals designed to monitor our progress during this most critical time of the year.

As we have discussed, key to the overall plan is the linkage between operations and the commercial teams. I am extremely gratified by the level of cooperation between Michael Ward's and Mike Giftos' respective operating and commercial organizations. Both recognize the importance of ensuring the highest level of operational integrity, responsiveness and customer service as we approach the fall peak.

We have made significant progress and more is certain to follow. I will keep you apprised of our efforts as we move into the third quarter, and welcome the Board's continued commitment to working with all interested parties to improve service for CSX customers.

Sincerely,

A handwritten signature in dark ink, appearing to read "John Snow". The signature is fluid and cursive, with the first name "John" written in a larger, more prominent script than the last name "Snow".

cc: Wayne Burkes, Vice Chairman, STB
William Clyburn, Commissioner, STB

CSX Service Improvement Plan Moves to Next Phase; Preparations Being Made for Fall Business Surge

We're Committed To Providing Better Rail Service

In April, CSX committed to a 90-day plan to immediately push its railroad to better operational performance. On July 1, we marked the end of this period, having achieved a significantly improved level of performance.

Now we've set our sights on preparing for the period of the year the industry calls "Fall Peak," where traffic traditionally surges. From September to the end of the year, the rail system is put to its yearly test.

To continue the progress we showed in the 90-day goal period into the next 60 days leading to Fall Peak, we have set new, more aggressive performance goals. We also have developed the most comprehensive Fall Peak plan in our history, and have set up an early-warning system to react rapidly before an unfavorable trend makes it too difficult to recover to anticipated performance. We have identified corridors requiring special attention and have completed capital projects on those corridors. We have arranged for the lease of extra locomotives, and have newly trained train crews arriving in time to support the surge in traffic we anticipate this Fall. Our goal is to maintain the substantial momentum of the past 90 days into the next two months. We are preparing for the expected peak so we can continue to be the responsive, efficient and reliable railroad our customers expect.

What happens during Fall Peak?

Fall Peak is a natural yearly event based on a combination of factors. First is the most obvious: grain harvests come in the Fall and the harvest generates transportation requirements. Another factor is the introduction of new model year automobiles. Automobile transportation by train last year set records and was especially strong in the fall season. During the Fall, there is a strong export demand for products that travel on our intermodal trains, and preparation for the Christmas season puts an even heavier demand on our domestic intermodal system. During this time of year, power companies are stockpiling coal for the cold season, and much of that coal moves by rail. This all occurs at a time when normal shipments are as heavy or heavier than usual. The result is a rail system that is handling increased unit train and intermodal train business while absorbing high activity levels into its transportation network. Fall Peak is just that – a peak in traffic. It is one we anticipate and can prepare for. This year, we have made careful projections of volumes and special needs of each of our major business groups as summarized below.

- **Grain:** The grain harvest will be 2-3 percent bigger than last year (possibly even a record corn crop), and it will begin several weeks earlier than normal. The harvest should be much more balanced throughout the farm belt this year than last, when Michigan's exceptional harvest required covered hopper cars in greater quantities and in different loading locations than usual. We anticipate high loadings in Ohio, a situation more like past years than last. By the time the harvest traffic eases in early November, CSX should have a smoother system in place for autos, intermodal and other customer shipments that increase during the last two months of the year.
- **Coal:** CSX is working with coal customers to advance the movement of 60-70 coal trains that normally would run in October and November to August and September, when overall rail volumes are lighter. Trains are being targeted geographically so that by moving them now, CSX can will increase fluidity during peak in Chicago, Toledo and Willard, Ohio, all key points on our system.
- **Intermodal:** The service redesign undertaken in July by CSX Intermodal will ease track and terminal congestion in and around the Atlanta, Jacksonville, and New York City areas, hastening the movement of consumer goods and parcels business during the holidays. Intermodal is also adding containers to its fleet to accommodate increased customer demand.
- **Automotive:** CSX's automotive service group is coordinating with automobile manufacturers to better manage the flow of new model cars coming off the assembly lines this fall to ensure greater network fluidity.

How is CSX preparing for the peak?

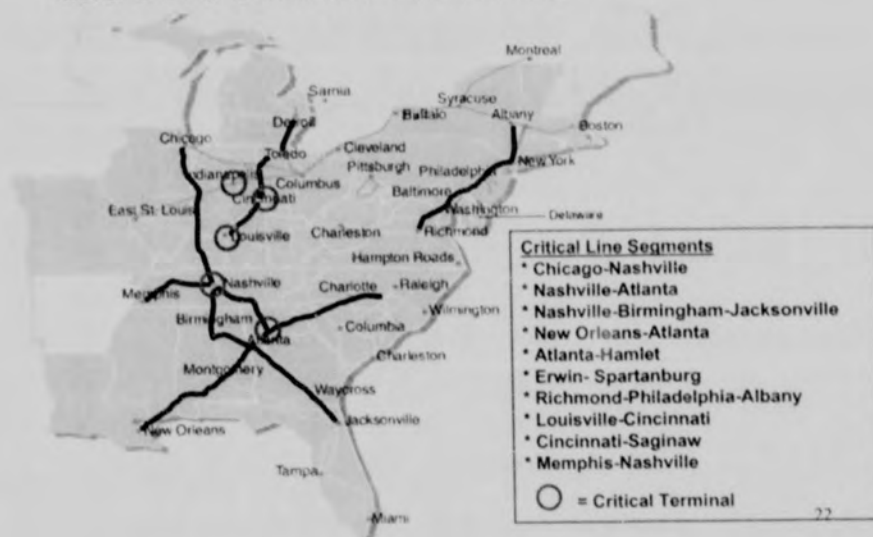
This year, CSX has developed the most complete and comprehensive Fall Peak plan in our history. It started with a joint commercial and operating team to produce an integrated plan. The commercial team has always produced forecasts of carload requirements, but had not participated as deeply in the translation of the carload forecasts into specific train requirements.

A CSX planning team has been in place since May assessing the railroad's needs for the fall peak period, conducting detailed modeling of equipment, manpower and locomotive requirements based on customer input and business forecasting. It examined both general requirements, such as the need for leasing more locomotives and bringing on more crews, as well as needs for specific commodities and customers. The plan will be fully in place by August 15.

The Fall Peak Plan

The team has completed translation of carload projections into train starts (3300 weekly train starts planned for the peak). The new trains and new blocks of cars have been placed in a sophisticated computer modeling system that has identified additional resource needs. Planning for those needs is complete and corporate resources have been committed. These include the leasing of 175 high horsepower locomotives, the acquisition of additional train crews and their allocation to the ten critical segments of line and five critical terminals identified by the model and confirmed by field experts. Those line segments and terminals are identified below:

System Map--Ten Fall Peak Corridors and Five Critical Terminals



Hurricane Planning

The Fall Peak planning team also created hurricane plans for the impact these events have on a system already operating near its maximum. When Hurricane Floyd struck the East Coast last September, every CSX subdivision from Miami to Boston was affected, effectively knocking out our entire I-95 corridor for about 10 days. The timing of the storm could not have been worse as it hit right at the beginning of the fall peak season, resulting in congestion and delays that lasted well into this year. The situation was made worse by unanticipated dramatic shifts in traffic patterns that resulted after the June 1, 1999 Conrail split.

We recognize that when problems arise, we need to respond quickly - minimizing any service disruptions, and promptly restoring service to affected customers.

This year, we approached hurricane planning by coast. We have already developed the Gulf Coast plan and are progressing rapidly on its counterpart for the East Coast. Both plans look at overhead re-routes as a tool that can be planned ahead and implemented depending on the contingency. We then engage in mutually productive planning sessions with other rail carriers which might not have been hit as badly, for an agreement on how we will jointly work together to recover from the hurricane's effects. This is a detail-oriented work this year, identifying specific cars, blocks of cars, and whole trains, which might have to be re-routed or detoured.

The plan looks at trains by individual subdivision and gets to the detail of how each CSX terminal's operations will change to accommodate the hurricane contingency.

Capacity

Ten line-of-road routes were identified by the Fall peak planning team as being capacity critical. When possible, we have accelerated capacity improvement construction projects, or place new ones in as high priorities for completion before the fall. We also have developed a re-route plan for trains on these segments whenever possible, so that they can travel on less critical routes. Before the traffic shows up, our joint facilities group has made the necessary arrangements with other Class I railroads and short line railroads to accommodate the traffic surge. We then formalized the steps to be taken within CSX to identify the need to implement one of the contingency arrangements in sufficient time to avoid serious slowdowns during the peak period.

Our commitment to this was illustrated last April when hundreds of trains spreading across thousands of miles of railroad were stopped or significantly slowed as a result of an MCI WorldCom communications outage. While the situation could have been disastrous with long-lasting consequences, our employees reacted quickly - restoring operations well ahead of our initial recovery assessment. In fact, our response drew public praise from Linda Morgan, Chairman of the Surface Transportation Board. When asked about the railroad's response to the outage in the May 5th edition of the *Richmond Times-Dispatch*, chairman Morgan was quoted as saying, "They got on top of it quickly." She added, "I was actually quite impressed with their response to this particular situation as well as plans for future service improvement."

Locomotives

CSX will lease 175 additional locomotives for the fall peak period. All of the power will be available September 1. One thousand units of CSX's fleet are now equipped with Global Positioning System (GPS) technology, further enhancing efficiency and utilization. Efficiency also will be enhanced this year by keeping power with grain and coal units trains as they are unloaded, speeding up turn times.

Crews

There will be approximately 400 more fully trained and certified crew members available in September than there were during peak last year, with an additional 500 available in stages by December 15.

Previous Service Initiatives

Service initiatives taken immediately following last year's peak period also will pay dividends this year. In February and March CSX implemented new operating procedures for much of our Northern territory, leading to significant improvements in service and efficiency in Chicago, Indianapolis, St. Louis, Willard, Ohio, and Cumberland, Md.

Specific Goals Have Been Set

As part of our effort to improve communications with our customers, employees, and public officials, we will be providing regular updates on our progress as it relates to the following 17 areas:

Safety:

- 1) *Federal Railroad Administration Personal Injuries:*
Goal - Not to exceed 14.9 injuries per week
- 2) *Federal Railroad Administration-Reportable Train Accidents:*

Goal – Not to exceed 7.6 incidents per week

Rail Cars-On-Line:

3) *Total number of rail cars that the Association of American Railroads database shows is presently on CSX's railroad:*

Goal – 250,000 cars

Freight Train Velocity:

4) *All trains:*

Goal – 19.0 mph

5) *Merchandise trains:*

Goal – 18.3 mph

6) *Miles of Slow Orders:*

Goal – 430

7) *Number of train crews on duty longer than 12 hours:*

Goal – 15%

8) *Number of recrews (when it takes more than the planned number of crews to move a train between two points):*

Goal – 65 per day

Yards/Terminals:

9) *Freight car dwell time (the length of time a rail car spends in a terminal beginning with the time it arrives and ending with the time it departs):*

Goal – 27 hours (average)

10) *Right Car/Right Train (the right rail car on the right train on the right day):*

Goal – 75%

11) *On-Time Originations (within 2 hours):*

Goal – 80%

12) *30-Hour Cars (an indication of yard/terminal fluidity):*

Goal – 15,000

13) *Industrial Switching Excellence II (Delivering the loaded and empty cars to a customer on-time and as ordered)*

Goal – 85%

Locomotive Utilization:

14) *Locomotive setback hours (Total hours on CSX that a train cannot depart because unavailability of locomotive power):*

Goal – 350

15) *CSX Out of Service (Percent of CSX-owned locomotives that are unavailable due to maintenance problems)*

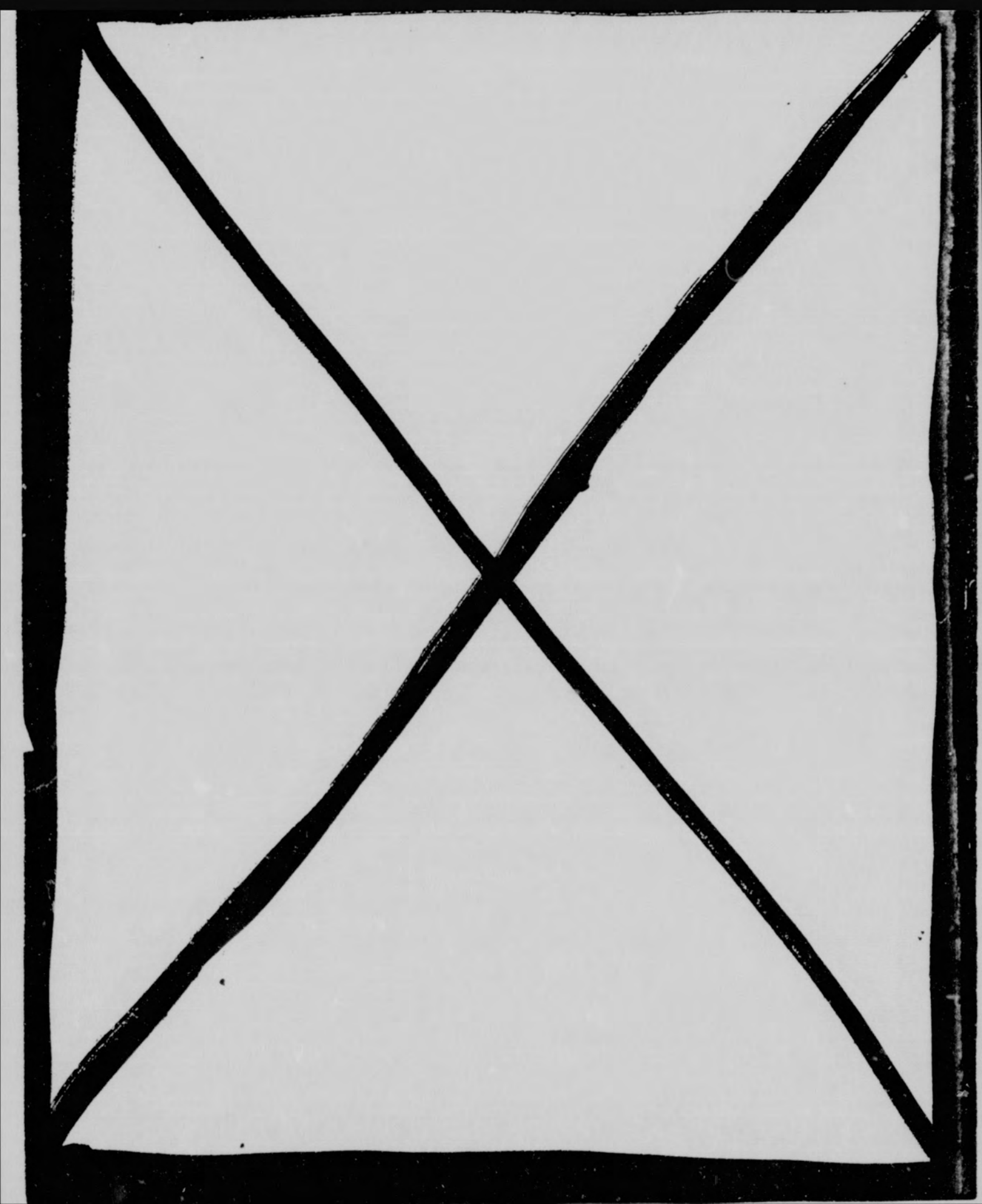
Goal – 5.1%

16) *Leased Out of Service (Percent of leased locomotives that are unavailable due to maintenance problems)*

Goal – 10.0%

17) *Locomotive Terminal Dwell (the length of time a rail car spends in a terminal beginning with the time it arrives and ending with the time it departs):*

Goal – 7.0 hours



STB

FD-33388

6-19-00

J

UNION



Office of the Chairman

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

FILE IN DOCKET

JD-33388

June 19, 2000

Mr. James Guido
President
T.W.U. Local 2035
1236 - 2nd Ave.
Conway, PA 15027

Dear Mr. Guido:

You have previously written to me regarding problems that members of your union have had at Conway Yard in Pennsylvania. As I said I would in my prior response to you, I am getting back in touch with you regarding those problems.

I am enclosing a copy of the response that I received from Mr. David Goode, Chairman, President and Chief Executive Officer of Norfolk Southern. In his letter, Mr. Goode responds to the concerns you have raised. I hope that you will find his letter to be responsive and informative as to your concerns.

As I did with your initial correspondence, I will have Mr. Goode's letter and my response made a part of the public docket for the Conrail proceeding. I appreciate the opportunity to be of assistance to you.

Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosure



**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

May 24, 2000

FILE IN DOCKET

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

Dear Ms. Morgan:

Regarding your letter of April 14, 2000 concerning James Guido's letter of March 12, 2000 from the Transportation Workers Union (TWU) of Conway, Pennsylvania, I would like to share the following.

We are aware of and saddened by this unfortunate incident where a Norfolk Southern employee at Conway yard attempted suicide. In fact, we learned of this incident minutes after it occurred and took prompt action to afford proper handling. However, we are distressed at Mr. Guido's attempt to link a single, unfortunate incident involving an individual obviously in need of help, to a broader campaign of intimidation.

First, our investigation reveals circumstances significantly different from those described in Mr. Guido's letter to you. A carman represented by the TWU was assigned duties consistent with his craft, in this case renumbering a locomotive. This employee objected vehemently to the assignment on the grounds that he had a regular job to perform. The manner of the objection was serious enough to merit taking the employee to a higher-ranking officer. Based on the information available, this action was assessed as insubordination and the employee was removed from service pending a formal investigation. The employee was then escorted to his vehicle by another supervisor. This handling was consistent with provisions of the Railway Labor Act and reasonable given the emotions displayed by the employee at the time.

The employee was clearly alarmed and disraught. Management sincerely believed that his continued presence at work in an agitated state posed a potential hazard to the safe work of other NS employees at Conway Yard. But at

The Honorable Linda J. Morgan

May 24, 2000

Page Two

no time during this incident did supervision tell the employee he was fired. Unfortunately, this same employee did attempt suicide at home shortly after leaving the property.

Recognizing the seriousness of this situation, we sent a senior manager to Conway to meet with representatives of the TWU and local officers the following day. After discussions with all parties and careful consideration of medical issues pertinent to this case, we dropped all disciplinary action. While we regret that any worker would reach such a mental state that he would consider taking his own life, attributing a suicide attempt solely to a single workplace incident appears to us to ignore the serious personal problems of that employee.

As far as "counseling" employees is concerned, we do meet with employees to candidly discuss concerns such as absenteeism and safety. We feel direct and honest feedback contributes to a successful work environment. Counseling is not linked to disciplinary action. In fact, we counsel employees to avoid discipline and consider this a fair and effective alternative to discipline for minor offenses. We do not routinely involve union representation in such meetings nor is it required by contract since no discipline occurs. In the specific instance of counseling cited by James Guido, the employee was escorted off the property due to the level of hostility he displayed to local supervision.

To state that Norfolk Southern manages the employees at Conway or elsewhere on the former Conrail lines through fear, intimidation and harassment is unfair. Officers at all levels, including myself, meet regularly with groups of employees throughout our rail system. Our Operations Division Safety Steering Committee meets monthly on different divisions and is chaired by our Vice Chairman and Chief Operating Officer Steve Tobias. In these meetings, Mr. Tobias meets with local labor leaders and employees in an open forum session until all questions and concerns have been addressed. Recently this committee met at Conway, Harrisburg, Elkhart and Columbus, all locations on former Conrail lines. In addition to these meetings, officers of our Operations Division make regular visits to Conway to assess operations and meet with employees.

Norfolk Southern is open to a changing culture. We recognize the importance of employee involvement and support to our present and future success. For instance, Norfolk Southern has negotiated and implemented a new

The Honorable Linda J. Morgan

May 24, 2000

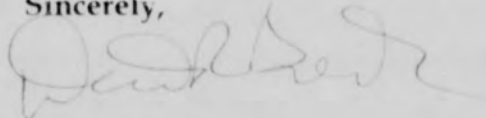
Page Three

discipline policy in cooperation with the BLE and UTU (the "START" program that enables constructive correction of minor rule violations in such a way that promotes a safer work environment and avoids punitive discipline).

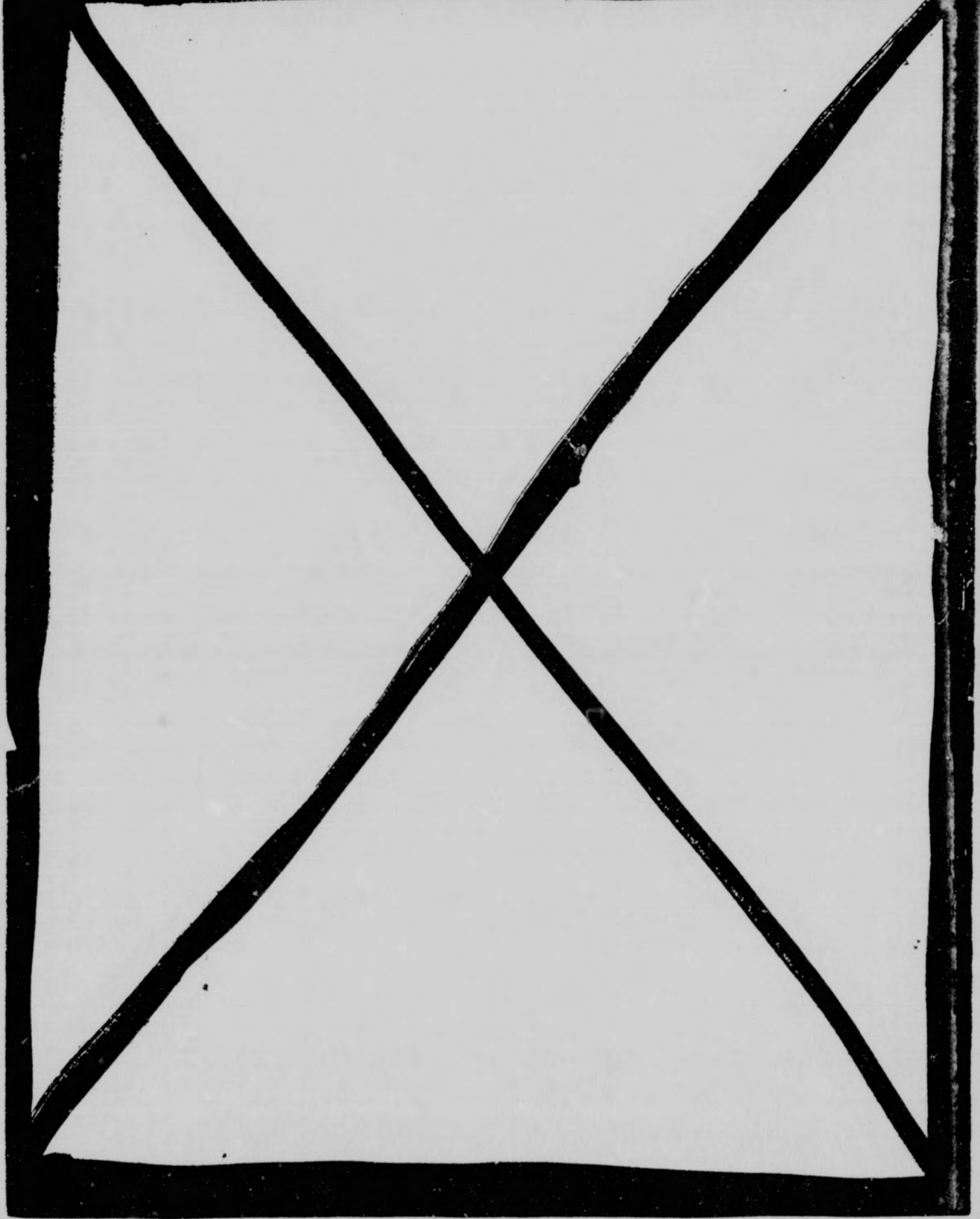
Norfolk Southern also has initiated negotiations for a new discipline agreement with the TCU and other shop craft organizations. The current agreement covering TCU employees, while written in 1949, has been amended numerous times over the years through national handling and negotiations. Furthermore, we have negotiated implementing agreements with all the organizations representing shop craft employees, including the TWU, to put the Norfolk and Western agreement in place to assure uniform handling of employees on adjoining divisions.

Norfolk Southern recognizes the vital role employees play in the railroad's success. We expect management at all levels to treat employees with respect and dignity. We believe the incidents cited in James Guido's letter, while obviously tragic, were properly handled. However, should we discover otherwise or learn of incidents where fair and reasonable handling did not prevail, I can assure you the incidents will receive prompt attention.

Sincerely,

A handwritten signature in dark ink, appearing to read "David R. Goode", written in a cursive style.

David R. Goode



STB

FD-33388

6-15-00

J

PUBLIC



HOREWITZ AND CORDARO

ATTORNEYS AT LAW



MURRAY I. HOREWITZ, ESQ.
LINDA R. CORDARO, ESQ.*

~~XXXXXXXXXXXXXXXXXXXX~~ • P.O. BOX 859 • CONNELLSVILLE, PENNSYLVANIA 15425
(717) 628-7951 • FAX (724) 628-7747 • ~~XXXXXXXXXXXXXXXXXXXX~~

ALSO ADMITTED TO PRACTICE IN WEST VIRGINIA

June 15, 2000

Mayor Edward Stevenson
Borough of Newell
P.O. Box 522
412 Second Street
Newell, PA 15466

Mr. Stephen C. Thienel
Regional Vice President
State Relations
CSX Transportation
100 North Charles Street
Baltimore, MD 21201

Dear Mayor Stevenson and Mr. Thienel:

Please be advised that I represent Rob and Deanna Nemec concerning the increased noise level in their home as a result of the CSX acquisition of Conrail. This acquisition has resulted in noise levels in the Nemec's home as high as 109 decibels, and their residence has been identified as one of the residences in Newell to experience an increase of "wayside" noise. It is my understanding that under Condition No. 11 of Appendix Q of Decision No. 89 of the Surface Transportation Board, noise level is to be reduced by CSX through the erection of sound barriers and/or insulation.

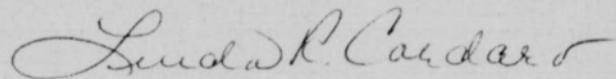
Although it appears there may be the possibility of some agreement between the municipality and CSX, the potential for this agreement between the Borough of Newell and CSX does not appear to provide for the community's environmental concerns. Mr. and Mrs. Nemec contemplate taking legal action to protect their interests in the health of their family and the protection of their property rights.

Mayor Edward Stevenson
Mr. Stephen C. Thienel
June 15, 2000
Page 2

We look forward to exploring these matters further. We are in the process of determining the Nemec's rights in this matter.

Very truly yours,

HOREWITZ & CORDARO

A handwritten signature in cursive script, reading "Linda R. Cordaro".

Linda R. Cordaro

LRC:bjd

cc: Tom Hollander, Esquire
cc: John Lowry, Esquire
cc: Surface Transportation Board
Washington, DC 20423
STB Finance Docket No 33388
cc: Rob and Deanna Nemec



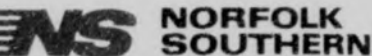
STB

FD-33388

5-30-00

J

BUSINESS



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

FILE IN DOCKET

42-33388

David R. Goode
Chairman, President and
Chief Executive Officer

May 26, 2000

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

RE: Shared Assets Areas

Dear Chairman Morgan:

I appreciated receiving your letter of April 20 to Tim O'Toole describing the recent meeting which you had with Tim and Don Nelson of Conrail concerning Shared Assets Area (SAA) operations. You also reiterated your concerns with SAA service performance.

As you know, over the last several months one of the efforts upon which NS and CSX have been focusing is improvement of the quality and efficiency of SAA operations. We think we are making progress in this regard. At the same time, as was shown in the recent *Ex Parte No. 582* hearings, it is clear that railroads must improve their financial, as well as operational, performance to satisfy all of their constituencies. Improved financial performance directly affects NS's ability to invest in infrastructure maintenance and enhancements to continue to improve service throughout the NS system including traffic to/from the SAAs.

We see an opportunity to improve overall efficiency and operational performance at Conrail. On Day One Conrail changed from being a Class I rail carrier to a more specialized entity. For the past year Conrail has focused on winding down its former Class I linehaul operation and transitioning to performance of SAA terminal and switching operations for its sole customers, NS and CSXT. Over time, NS and CSX will rationalize the management infrastructure at Conrail to reflect this new role, while also assuring that Conrail has sufficient resources to maintain its facilities and improve SAA operations. As I wrote to you on February 28, our joint SAA/CSXT/NS operations team is working directly upon SAA operational issues and performance, many of which are related to the SAA interface with its linehaul connections, NS and CSXT. We believe that this increased coordination among local operating personnel of NS, CSXT, and Conrail already is producing operating improvements, as reflected in decreasing

The Honorable Linda J. Morgan

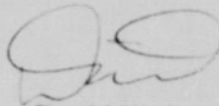
May 26, 2000

Page Two

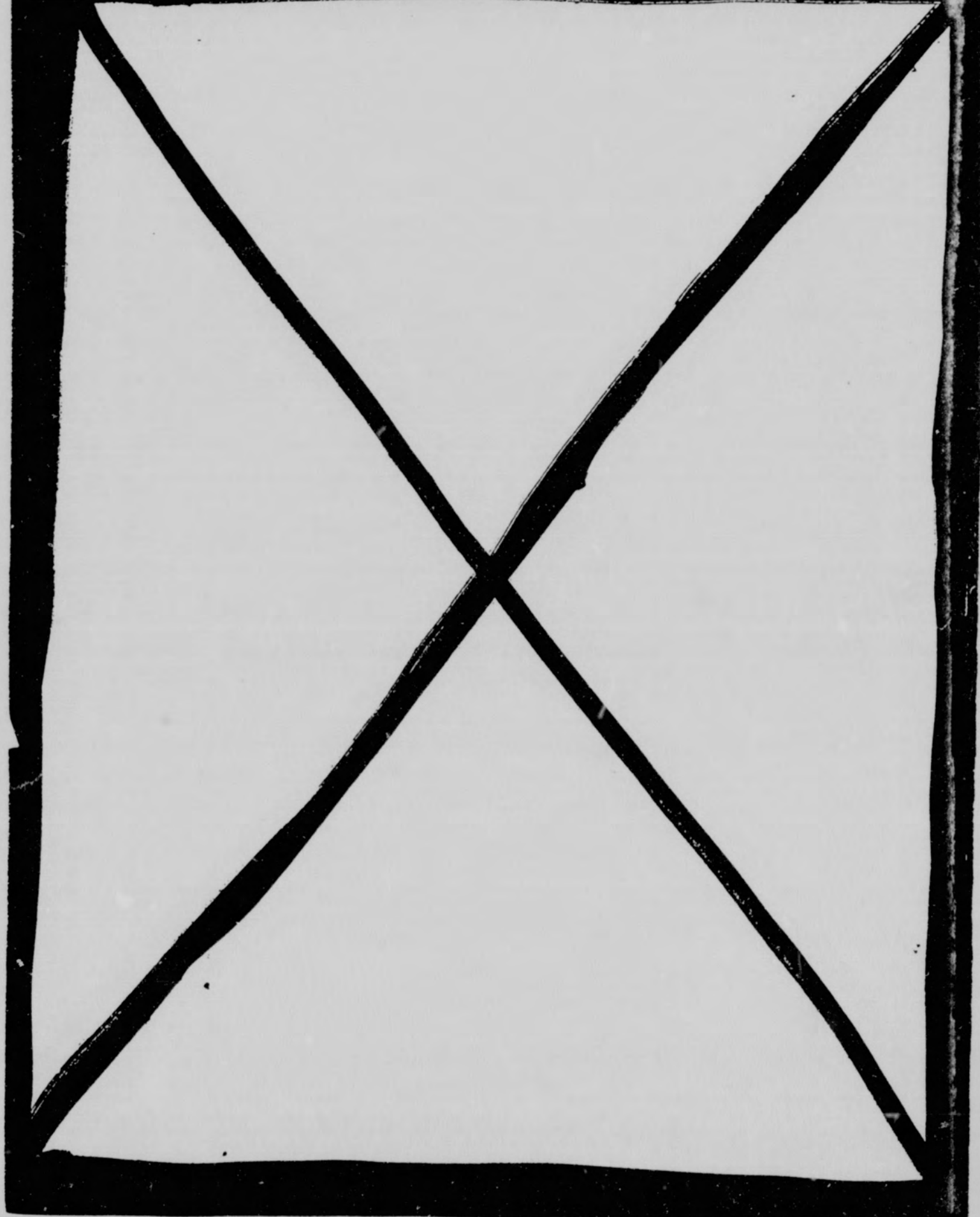
overall dwell times at SAA yards. We hope to receive the first report of this team in the near future.

Because NS and CSXT operations contribute to the problems of SAA operations, NS and CSXT must participate in the solutions. Therefore, NS (and CSX) will be increasingly able to advise you of the status of SAA operations and would be the appropriate conduit for any future SAA discussions. This will ensure close coordination of communications, as well as operations, and prompt problem resolution. Thank you for your continued interest in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Goode", with a stylized, looping flourish at the end.

David R. Goode



STB

FD-33388

5-15-00

J

UNION



Office of the Chairman

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

FILE IN DOCKET

FD-33388

May 15, 2000

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

Dear Mr. Turnquist:

I have received your letter regarding the most recent problem that members of your union are having with Norfolk Southern (NS) following the implementation of the Conrail acquisition transaction. This latest problem involved the re-evaluation of previously disqualified employees for medical or other reasons at the Ashtabula Coal Dock.

Specifically, you complain that NS is requiring these employees to pay for their own re-evaluations and that NS has given them very little time in which to have the re-evaluations done. You ask that your letter be made a part of the public record and inquire whether the merger guidelines provide any assistance in this matter.

As always, I will have your letter and my response made a part of the public docket in the Conrail acquisition proceeding. As for your inquiry regarding the merger guidelines, you should review the terms of your implementing agreement with NS and the terms of any other collective bargaining agreement currently in effect between your union and NS to determine the rights of your members regarding this matter.

I appreciate your concerns and hope that your union and NS are able to arrive at a satisfactory resolution of these issues.

Sincerely,

Linda J. Morgan
Linda J. Morgan

cc: Mr. James A. Hixon
Senior Vice President - Labor Relations
Norfolk Southern Corporation



INTERNATIONAL LONGSHOREMEN'S ASSOCIATION LOCAL 1913



FILE IN DOCKET

Express Mail No. EK 505834844 US and Return receipt

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

Dear Ms. Morgan and Board Members

I am writing to you to express my concern and the distress of our members involved with this problem.

When Norfolk Southern (NS) and CSX split up Conrail (CR) they agreed to take the employees of CR, as is. NS had access to everyone's files in there entirety. If anything was to be done about someone records or files it should have been done prior to June 1, 1999 or very shortly after. You are aware of the on going problems here at the Ashtabula Coal Dock, between NS and ILA Local 1913, through our correspondence. The latest problem or should I say harassment, of some of the employees here at the Dock involves people who were disqualified on certain jobs under CR, because of medical or other reasons. Supervision for CR Medical Department and CR Labor Relations allowed these restrictions or made accommodations under the American Disabilities Act, (ADA) for these individuals. I have attached a copy of the letter from Mr. Bryant Johnson, Dock Superintendent, with the backing of the NS's Medical Director and Labor Relations, demanding everyone involved to make arrangements to be re-evaluated at the employee's own expense. In the letter Mr. Johnson states "we noted you allege to have a medically related work restriction...." in the first paragraph. We are tired of being accused of different things. If the way things were under CR worked fine why is it not with NS. NS is having such a tough time trying to operate this railroad it seems rather asinine to take this approach, to try to cause more turmoil. Maybe NS does not want things to work out and run smoothly.

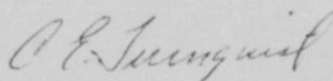
We are trying to cooperate with NS like we always did under Penn Central and CR. We had hoped after reading the letter in NS Magazine "Paces" from Mr. Hixon that maybe things would change but they have not. Mr. Hixon's Article had much rhetoric, but very little substance.

In Summary:

- 1.) Our members should not be subject to these tactics.
- 2.) Our people should not be made to pay for the expenses to re-evaluate their restrictions. That responsibility should be theirs and theirs only.
- 3.) The people affected recieved certified letters on Friday, April 28, 2000, giving them 10 days to respond. That gives those employees six working days to take care of this matter. It would take, at the very least, many weeks or months just to get an appointment with most Doctors.

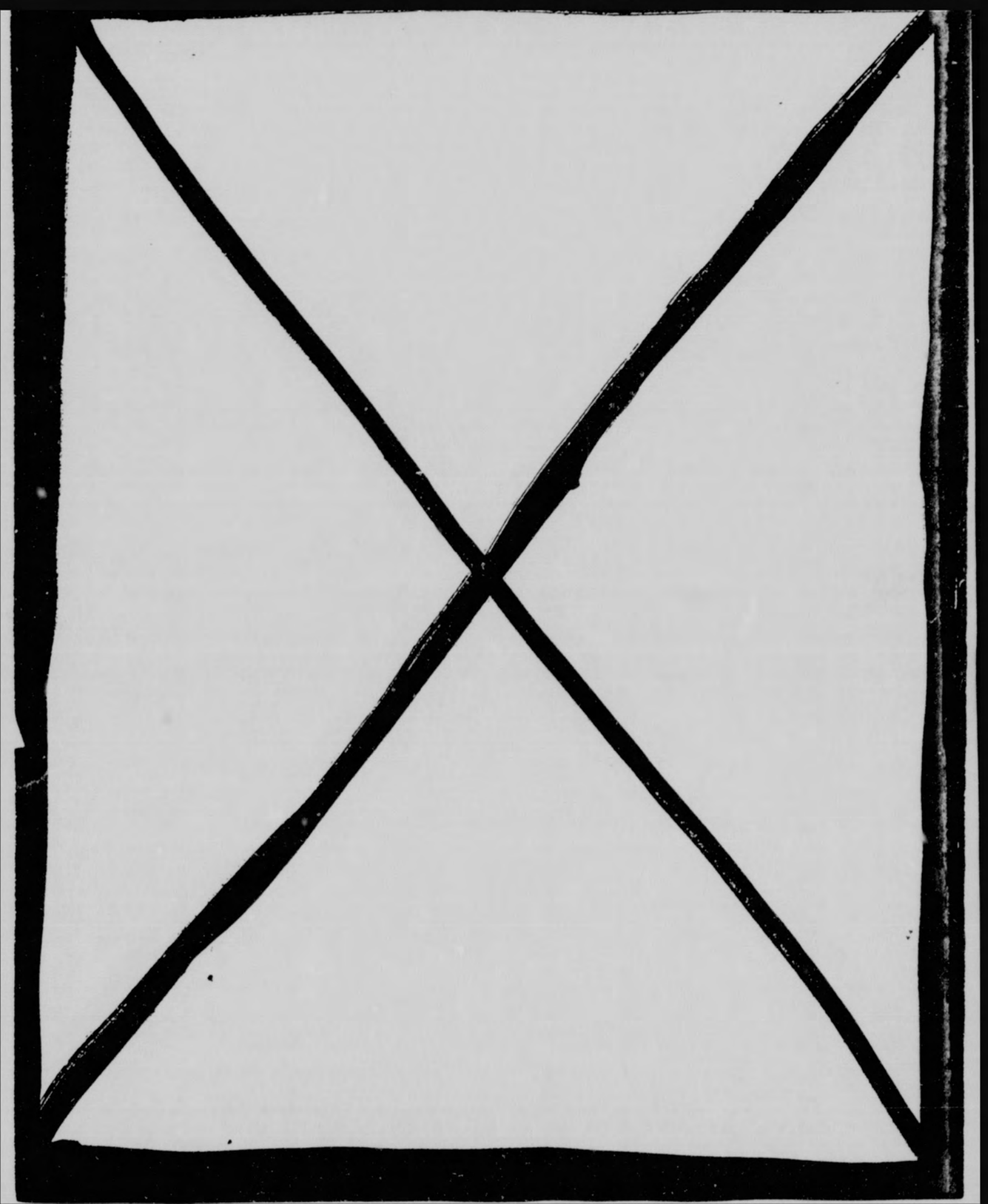
We are sending this letter so as to make it a matter of record. If there is anything, as part of the merger guidelines, that would help us on this matter, please advise.

Yours truly,

A handwritten signature in cursive script, appearing to read "C. E. Turnquist".

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

cc: R. Hixon Sr. VP -Employee Relations
M. MacMahon VP Labor Relations
Dr. C. R. Prible Dir. Medical Services
B. N. Johnson Dock Superintendent



STB

FD-33388

5-9-00

J

BUSINESS



Office of the Chairman

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

FILE IN DOCKET

FD-33388

May 9, 2000

Mr. Michael J. Ruehling
Vice President
State Relations
CSX Corporation
One James Center
Richmond, VA 23219

Dear Mr. Ruehling:

Thank you for sending me a copy of your April 19, 2000 letter to New York Assemblyman Michael J. Bragman. In response to a May 2 letter from the Assemblyman, I have written directly to him, and enclosed a copy of your letter.

I appreciate your keeping me informed about issues raised in connection with the Conrail transaction. As with all such material that we receive, I will have your letter and my response made a part of the public docket for that proceeding.

Sincerely,

Linda J. Morgan



One James Center
Richmond, Virginia 23219
(804) 782-1444

Michael J. Ruehling
Vice President
State Relations

April 19, 2000

FILE IN DOCKET

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

Dear Majority Leader Bragman:

This will acknowledge receipt of your March 28 correspondence to Chairman Morgan, Secretary Slater, Administrator Molitoris, Commissioner Broadman and others regarding the CSX Bridge over Park Street in Syracuse. The information concerning the reports by the outside engineering firms previously had been provided to the CSX Transportation Engineering Department, which has responsibility for maintenance of CSXT railroad bridges and structures.

As a matter of policy, all bridges on CSXT are inspected at least once annually. I am advised that the most recent inspection of the Park Street Bridge revealed no significant safety or structural issues.

As always, we would be pleased to provide additional information concerning this bridge to any interested public agency, including the Surface Transportation Board, the U.S. Department of Transportation, the Federal Railroad Administration and/or the New York State Department of Transportation, upon request.

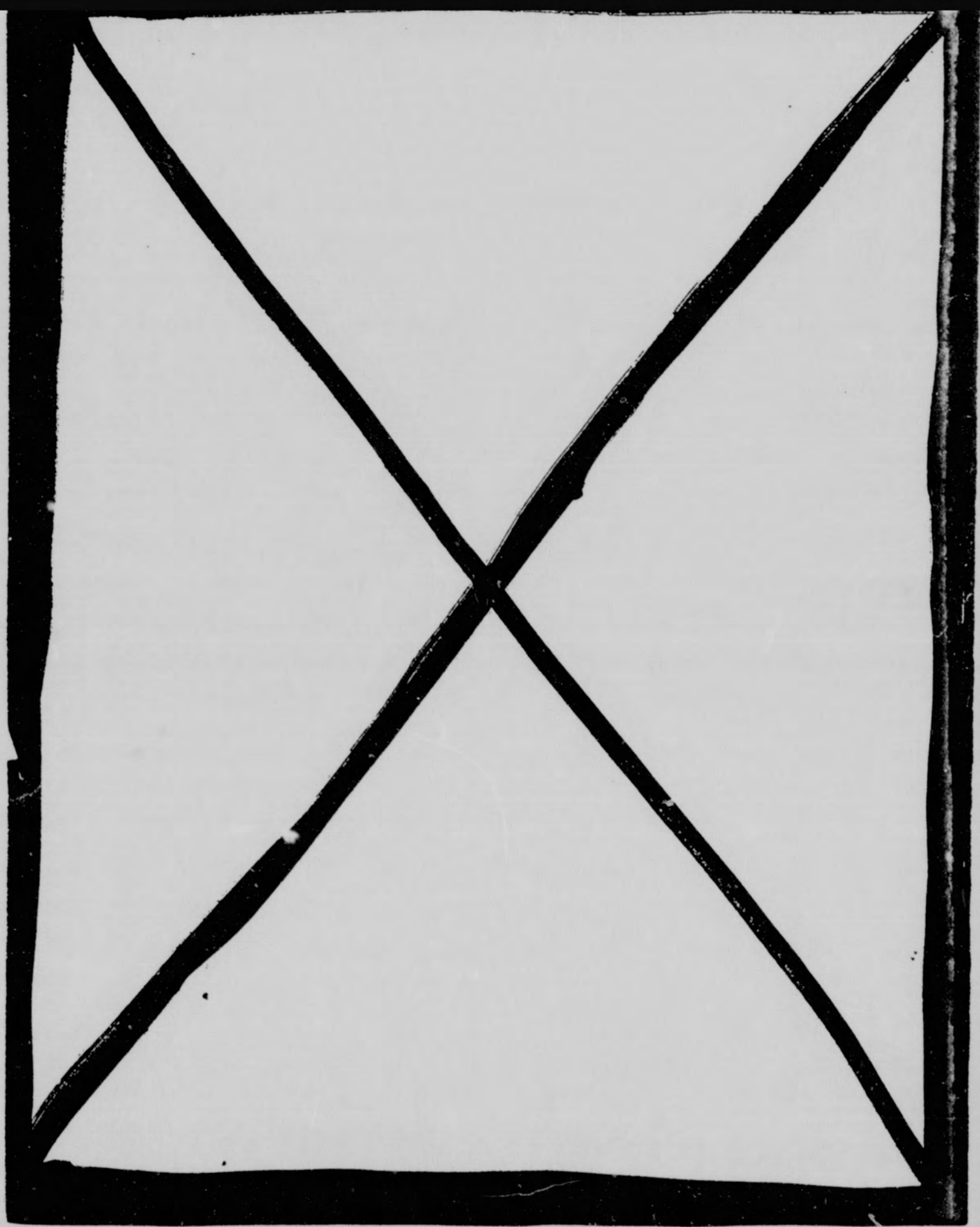
Please let me know if I can be of additional assistance.

Sincerely,

Michael J. Ruehling

trt

cc: The Honorable Joseph Boardman
The Honorable Jolene M. Molitoris
The Honorable Linda Morgan
The Honorable Rodney E. Slater



STB

FD-33388

5-9-00

J

STATELEG



Office of the Chairman

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

FILE IN DOCKET

FD-33388

May 9, 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 May 2, 2000, regarding a railroad bridge over Park Street in Syracuse, New York. In my letter to you dated April 10, 2000, I indicated that, in an effort to facilitate review of the issue, I had referred your concerns to CSXT with a request that they immediately look into the matter. In late April, I received a copy of a letter to you from CSXT responding to your concerns. In the event that you did not receive this letter, I am enclosing a copy for your review.

Also in my April 10 letter, I indicated that 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 safety issues to the attention of the Board that may require our involvement. I am not aware of any communication from FRA regarding the bridge in question.

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

Enclosure



One James Center
Richmond, Virginia 23219
(804) 782-1444

Michael J. Ruehling
Vice President
State Relations

April 19, 2000

FILE IN DOCKET

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

Dear Majority Leader Bragman:

This will acknowledge receipt of your March 28 correspondence to Chairman Morgan, Secretary Slater, Administrator Molitoris, Commissioner Broadman and others regarding the CSX Bridge over Park Street in Syracuse. The information concerning the reports by the outside engineering firms previously had been provided to the CSX Transportation Engineering Department, which has responsibility for maintenance of CSXT railroad bridges and structures.

As a matter of policy, all bridges on CSXT are inspected at least once annually. I am advised that the most recent inspection of the Park Street Bridge revealed no significant safety or structural issues.

As always, we would be pleased to provide additional information concerning this bridge to any interested public agency, including the Surface Transportation Board, the U.S. Department of Transportation, the Federal Railroad Administration and/or the New York State Department of Transportation, upon request.

Please let me know if I can be of additional assistance.

Sincerely,

Michael J. Ruehling

trt

cc: The Honorable Joseph Boardman
The Honorable Jolene M. Molitoris
The Honorable Linda Morgan ✓
The Honorable Rodney E. Slater



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

May 2, 2000

FILE IN DOCKET

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

Dear Chair Morgan:

Please refer to the enclosed copy of my March 30, 2000 letter with attachments to you. This material, relative to the structural integrity of the Conrail/CSX Bridge over Park Street in the City of Syracuse, is self-explanatory.

To date, I have not received a reply from your office. I am therefore again requesting that you review this matter and provide me with your written reply including your comments and recommendations. Subsequent to receiving your response, I will be able to determine what further action on my part may be necessary and appropriate.

Thank you for your immediate attention to this matter.

Best wishes.

Very truly yours,

Michael J. Bragman
Majority Leader

MJB/ro/jlf

Enclosures

cc: Honorable Charles E. Schumer
William E. Sanford



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)

March 30, 2000

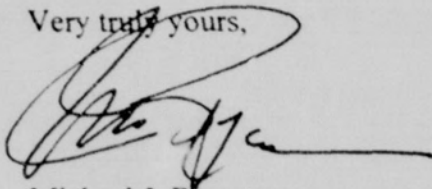
Page 2

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", with a large, stylized flourish extending from the end of the signature.

Michael J. Bragman
Majority Leader

Enclosures

MJB/ro/jg/jlf

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

Parsons
BrinckerhoffOne Penn Plaza
New York, NY 10119
212-465-6000 Fax 212-465-5575

Memorandum

To: Jeanine Jankowski

From: John Bryson & Jeffrey L. Rice

Date: ~~February 11, 1999~~*original date Feb 6th*Subject: Syracuse Intermodal Transportation and Tourism Center
Conrail Bridge over Park Street
Site Visit Report (Field Conditions and Jacking Recommendations)

In response to your request, we visited the bridge site on the morning of February 4, 1999, in order to investigate the reported settlement of the adjacent Conrail structure and to determine an appropriate method for jacking the Conrail bridge superstructure back up to its original position.

We arrived at the site at 9:00 AM and met the Superintendent, Paul Kirk, of Buvis Construction Corp. Paul described the situation and accompanied us to the bridge. While making our field observations, we were joined by the geotechnical engineer from Quinlivan Pierik & Krause, Jim Stewart, and the Central New York Rapid Transit Administration Vice President of Administration, John Clare. Later in the day, C. D. Sollenberger and an associate, both of Conrail, were at the site, however our interaction with them was limited to an introduction.

The area surrounding the bridge, specifically around the piles, was investigated. Ground settlements were not obvious to the eye, however there are multiple ground monitors in the area of concern to provide sufficient measurements. The bridge and surrounding area were observed during the passage of trains varying in weight, length and speed, both passenger and freight. Also, a visual inspection of the bridge structure was performed.

The bridge is a two-track open deck through girder structure with a span length of 54 feet. The superstructure was replaced in 1957. The structure rests on original stone abutments which we were told date from 1933, however there are no record drawings. The bridge carries both passenger trains (Amtrak) and freight trains on either track.

A summary of our inspection findings follows:

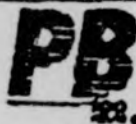
- The steel superstructure is in fair to good condition exhibiting minor section loss. There is a crack in the outboard bottom flange angle at the east end of the south girder. The crack extends from a rivet hole to the edge of the flange angle. The crack is located beyond the bearing stiffener.

PB
EX.

- According to P. Kirk the bridge is routinely struck by tractor trailers. This is evidenced by debris under the bridge and fresh scrape marks throughout the underside of the bridge.
- The through girders rotate about their weak axis under live load, with the top flange deflecting inward a small but noticeable amount. It appears that live (and) loads acting on the floorbeams induces inward deflection of the girder top flanges through frame action at the floorbeam/girder connection, particularly at the knee brace locations. This may be the cause of the crack on the south girder.
- The expansion bearings at the east abutment are over-extended (4" beyond center @ 40°F) and possibly frozen.
- The rails do not sit flush on the tie plates, with gaps over 1/8 inch at some locations, particularly on the approaches behind the backwall. While the gaps between the rail and tie plates may be partially due to the recent settlement, it is likely that some (or most) of this is simply a result of differences in relative support stiffness between the approach immediately behind the abutment backwall and the bridge superstructure. Consolidation of the backfill on the approach and loss of ballast typically contribute to this condition on railroad bridges.
- The two conduits on the south side of the bridge (abandoned per P. Kirk) have loose/broken supports. The five conduits on the north side do not rest on all of the supports and shake extensively under live load. The condition of the conduit supports, particularly on the south side, should be brought to the attention of Conrail, as they may constitute a safety hazard for pedestrians below. (We have photographs of the conduit supports).
- The backwall of the west abutment behind the south girder is severely deteriorated with crumbling mortar and hollow, punky concrete throughout. The wall has spalled to the extent that ballast is falling through to the bridge seat and down to the sidewalk below (another potential safety hazard that Conrail should be aware of). The south girder pedestal on the west abutment is sound directly beneath and outboard of the girder. The pedestal is spalled, hollow and cracked on the inboard side of the girder (clear of the bearing masonry plate). There is miscellaneous scaling, spalling and efflorescence throughout the backwalls, bridge seats and pedestals.
- Both the east and west abutment stem walls are in an advanced state of decay. There are loose, chipping, cracked, and broken stones throughout. There are wide (over one inch) settlement cracks in several locations on both walls. The cracked/broken faces of the stones and the extreme over-extension of the expansion bearings suggest that there may be lateral movement or overturning of the abutments, particularly at the east abutment. A check of the walls with a plumb bob was not feasible because of the uneven stone faces. Various failed attempts to re-

FEB 11 '99 13:48 FR PARSONS BRINCKERHOFF 412 281 2056 TO 13154727888

P.04/05



point the walls have exacerbated the conditions in localized areas. Loose grout and stone chips can be seen falling off of the walls with the passage of trains.

The superstructure itself appears to be in fairly sound condition, although there is noticeable deflection and vibration under live load. The condition of the abutments is of greater concern, particularly the east abutment.

The extent and pattern of cracks in the abutment stem walls, along with over-extension of the expansion bearings at the east abutment, suggest that the structural integrity of the bridge may be compromised. This condition warrants further examination as a minimum, and suggests to us that major rehabilitation may be required.

It would also be prudent to institute a slow order for trains crossing the bridge until a thorough investigation can be accomplished. Based only on our observations of passing trains, it seems that a slow order would not have a significant effect on passenger train operations, since all of the Amtrak trains we observed stopped at the nearby transit center. However, the impact of a slow order on freight train operations would be more significant.

We have determined that the most prudent (and feasible) way to raise the structure, if needed, is to provide low clearance hydraulic jacks (flat jacks) directly under the girders at the pedestals. Because the girders have differential settlements, the jacks should not be synchronized. This will allow each bearing point to be lifted to its original elevation. Detailed monitoring is required during the jacking operations. Jacking operations should be suspended if there is settlement of the abutments during the actual jacking procedure.

We recommend driving timber wedge shims at the floorbeam bearing locations on each abutment. Small (5 ton) hydraulic jacks could also be used to raise the floorbeams at the abutments, but timber wedges will be sufficient and would require less sophisticated equipment.

We recommend jacking directly under the through girders instead of using jacking frames because the site conditions provide insufficient clearance between the abutment stemwall and the traffic lanes to provide independent jacking frames. Also, the ability of the sidewalk and the underlying soil to support such a frame is questionable.

We received two copies of the Report of Geotechnical Engineering Evaluation - Conrail Bridge Settlement, prepared by Jim Stewart of Quinlivan Plerik & Krause. As discussed in the geotechnical report, the soil is unsuitable for any loading condition for the top 100 feet. Recommendations for future pile installation procedures are outlined in the geotechnical report. In addition to the modified procedures described in the geotechnical report, we recommend that monitoring of the abutments be performed daily with additional measurements performed when encountering the rock layer. The soil conditions and the condition of the existing abutments suggest that future settlement may occur no matter what pile installation method is used.



ASSEMBLY DISTRICT OFFICE

MAR 27 2000

Onondaga County Legislature

ASSEMBLYMAN BRAGMAN

WILLIAM E. SANFORD
Chairman

407 Court House
Syracuse, New York 1
435-2070

March 23, 2000

Congressman James T. Walsh
PO Box 7306
Syracuse, New York 13261

Dear Congressman Walsh:

When I received a copy of a letter dated February 18, 2000 from Vincent Cook, Chairman of the Central New York Regional Transportation Authority, to Assemblyman Michael Bragman, I was interested in a reference made to a report prepared by engineering consultants Blasland, Bouck & Lee, Inc. I requested a copy of this report performed in July 1999 and recently received it.

As you know, this is a most important railroad bridge since it is a main Conrail/CSX route. I believe that approximately seventy trains pass over the bridge daily and am aware of the great number of cars passing under it at all hours of the day and night.

I am very concerned about what I believe to be the extremely dangerous condition of the bridge. I am certain you would agree that not only avoiding personal injury, property damage, or death an urgent goal, but also understanding how to redirect railroad traffic if the bridge should fall is critically important.

I enclose a copy of this Report for your review. It states, in part, the following:

"The East girder is in fair condition with some minor surface loss. There is a crack in the bottom flange of the girder at the southeast corner. The crack is located beyond the bearing stiffener."

"The West girder is also in fair condition with some minor surface loss."

"The connection hardware appears to be in good condition, although it is quite rusty."

"There are two flat bars that are attached to the bottom of the floor beams and act as diagonal stabilizers for the floor beams. These diagonals are bent and distorted, suggesting movement in the bridge."

Perhaps more importantly:

"The bearings for this bridge are in fair to poor condition. It appears that the expansion bearings may be frozen in the extended position approximately 3" over the center..."

With regard to the North abutment, the engineers' comments heighten as follows:

"The abutment is in poor condition and is showing signs of uneven settling. The blocks are cracked in many places, and there is much cracked and missing mortar. The backwall is badly deteriorated with severe spalling and punky sounding concrete. The wingwalls are in poor condition and have cracked blocks and missing mortar. There are several large gaps between the blocks, especially on the northeast wingwall. One of these gaps measures approximately 3".

"The south abutment and wingwalls are in similar condition to the north abutment with numerous cracked blocks, missing mortar and large separations between blocks."

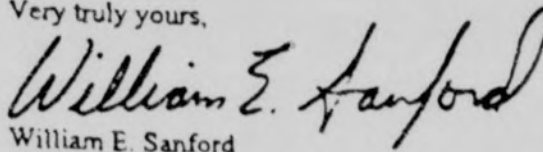
The conclusion of this Report is as follows:

"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.

I understand from the Central New York Regional Transportation Authority that they sent copies of this Report to Conrail when it was first published.

Based upon the above, I am requesting you to contact the Federal Railway Administration or other appropriate agency to conduct an immediate and thorough investigation of the Ontrack Bridge. Every day that passes without such a study I would consider in the nature of perpetuating an extremely dangerous condition without appropriate reaction.

Very truly yours,



William E. Sanford

Enclosure: Report: Conrail Bridge Over Park Street, Syracuse, New York

Cc: John Snow, President, CSX
Nicholas J. Pirro, Onondaga County Executive
Roy A. Bernardi, Mayor, City of Syracuse
Vincent Cook, Chair, Central New York Regional Transportation Authority
Hon. Michael J. Bragman, NYS Assembly
Hon. Harold C. Brown, Jr., NYS Assembly
Hon. John A. DeFrancisco, NYS Senate
Hon. Nancy Larraine Hoffmann, NYS Senate
Other Interested Parties

*Full evaluation of the area in regard to rail
and*

REPORT*Conrail Bridge Over Park Street
Syracuse, New York*

Prepared for:
Central New York Regional
Transportation Authority

Syracuse, New York

July 1999

BBL
BLASAND BOUCE & LEE, INC.
engineers & scientists

General:

The purpose of this report is to provide a visual inspection of the Conrail Bridge over Park Street in Syracuse, NY. This visual inspection and vertical survey were performed by Blasland, Bouck & Lee, Inc. (BBL) on June 7 and 8, 1999 for the Central New York Regional Transportation Authority (CNYRTA). For the purpose of this report, Park Street is considered to run in the east-west direction and the railroad bridge is considered to be oriented in the north-south direction. This visual inspection consisted of observation of the existing superstructure, abutments and wingwalls of the bridge. The survey consisted of taking independent measurements at the predetermined spots on and around the bridge concurrently with C.T. Male Surveyors. C.T. Male Surveyors are the surveyors under contract with the CNYRTA to monitor the bridge on a weekly basis during construction activities of a new parallel RR bridge. The visual inspection and survey was prepared to provide an independent assessment of the bridge for the CNYRTA prior to the transfer of ownership of the project to construct a new parallel railroad bridge to Outback.

Bridge Superstructure:

The existing superstructure of the bridge is an opendeck through girder design. Two girders run in the north-south direction parallel with the railroad tracks. The girders support 30 floor beams which in turn support the railroad ties. The bridge also carries 10 utility conduits some of which are abandoned and not used.

The East girder is in fair condition with some minor surface loss. There is a crack in the bottom flange of the girder at the south east corner. The crack is located beyond the bearing stiffener. The girder appears to be plumb. The girder carries two utility conduits approximately 4" in diameter. These conduits are supported off the outside of the girder and display some signs of being bent and dislodged from their hangers.

The West girder is also in fair condition with some minor surface loss. It appears to be plumb. This girder carries eight utility conduits. Three of these run along the top of the girder and are approximately 3" in diameter while the other are supported by hangers off the outside of the girder and are approximately 4" in diameter. The five that are supported by hangers appear to be showing some signs of distortion.

The 30 floor beams that run between the girders are in fair condition and show some minor surface loss, the floor beams are all connected by angles to diaphragms that run between the floor beams. Rivets connect the angles to the diaphragms while bolts connect the angles to the floor beams. The connection hardware appears to be in good condition although it is quite rusty.

There are two flat bars that are attached to the bottom of the floor beams and act as diagonal stabilizers for the floor beams. These diagonals are bent and distorted suggesting movement in the bridge.

The bearings for this bridge are in fair to poor condition. It appears that the expansion bearings may be frozen in the extended position approximately 3" over the center. The fixed bearings are rusty but appear to be generally stable.

Bridge Abutments and Wingwalls:

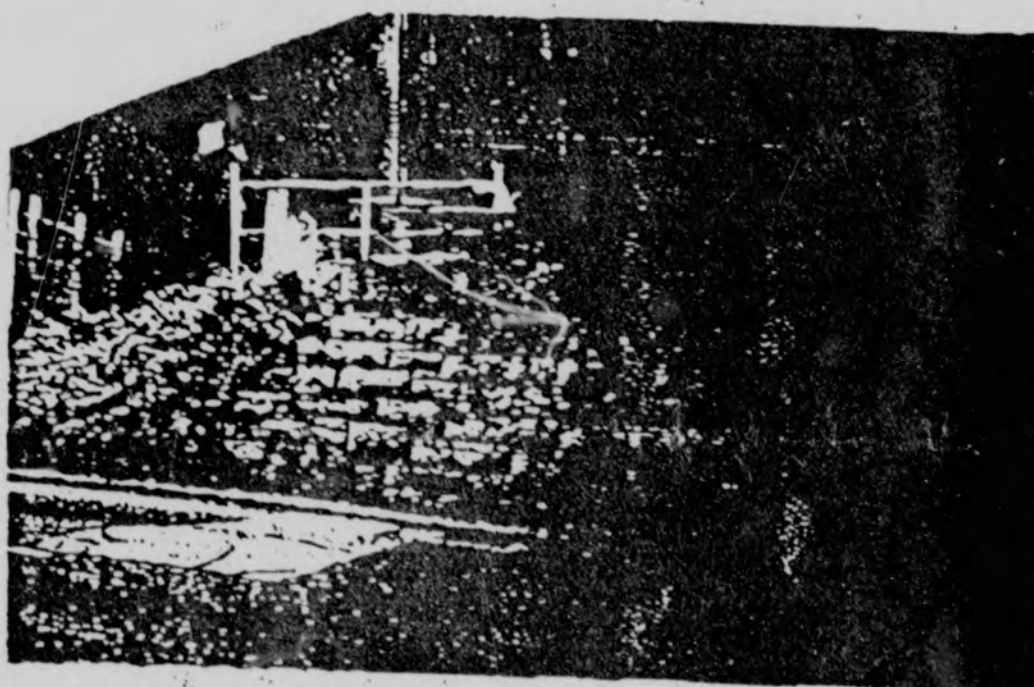
The north abutment is comprised of large stone blocks with an average size of 3' x 1.5' mortared together. This abutment is in poor condition and is showing signs of uneven settling. The blocks are cracked in many



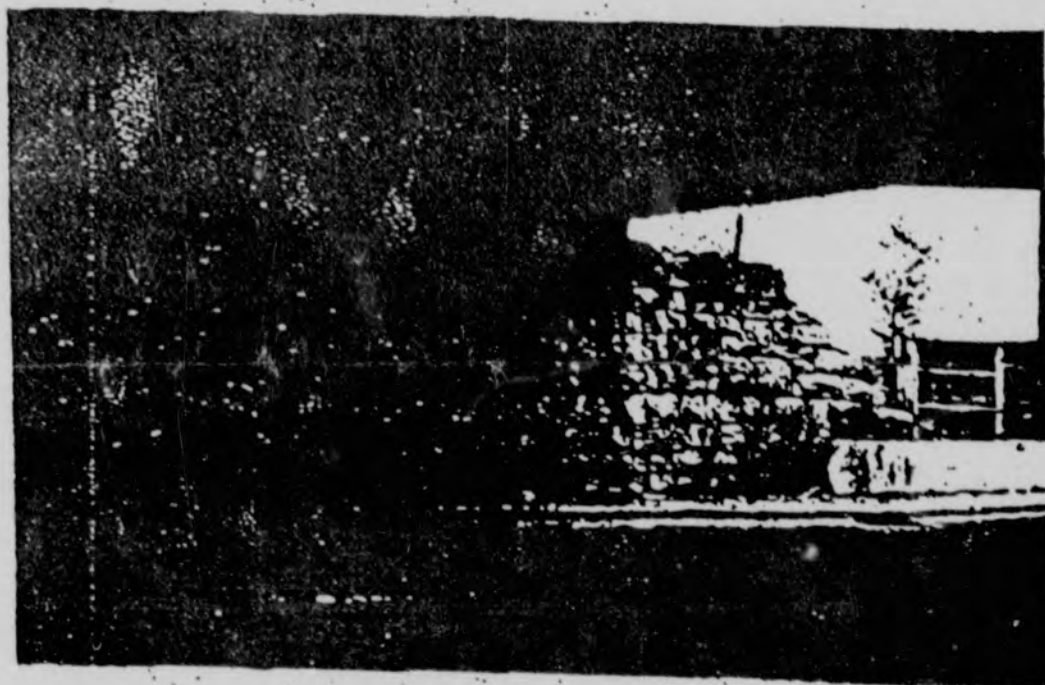
EAST GIRDER FROM PARK STREET



WEST GIRDER FROM PARK STREET



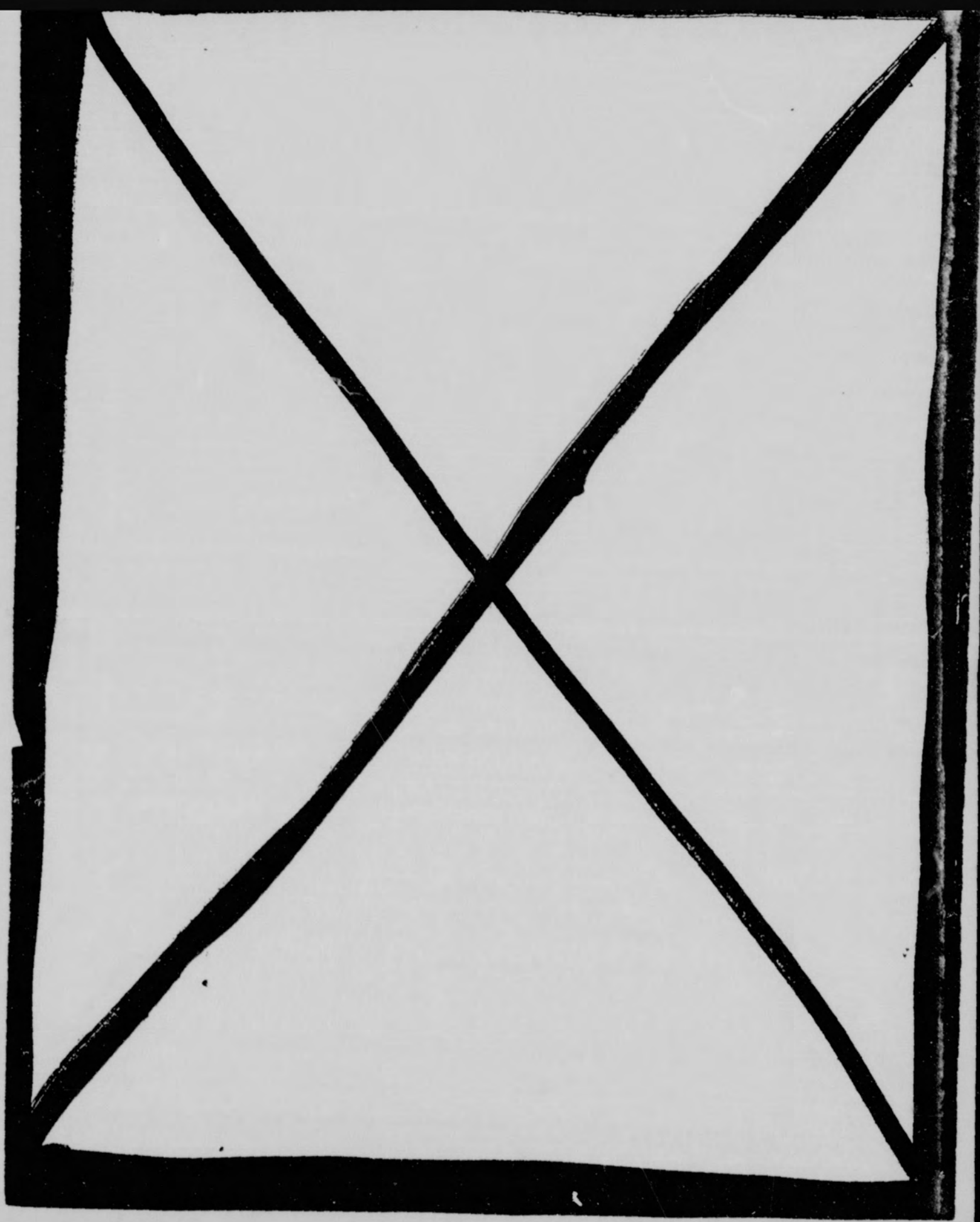
WEST SIDE OF NORTH ABUTMENT AND NORTHWEST WINGWALL



EAST SIDE OF NORTH ABUTMENT AND NORTHEAST WINGWALL

CONRAIL Bridge over Park Avenue
Syracuse, N.Y.

STATION	ELEVATION	STATION	ELEVATION	STATION	ELEVATION
SM 61+25	381.68	61+07 F	383.74	60+20 P	384.06
SM 61+40	381.03	61+07 R	381.03	SP 60+00	384.83
SM 61+85	380.01	61+07 Q	383.02	SM 59+80	381.29
SM 62+30	380.25	61+07 P	379.68	59+60 A	384.08
SM 62+75	380.59	60+65 P	380.36	59+60 B	384.11
62+75 C	383.39	60+65 R	381.29	59+60 C	384.10
62+75 D	383.39	60+65 Q	383.56	59+60 D	384.12
62+75 E	383.15	61+07 S	383.86	59+60 E	384.26
62+75 F	383.14	61+07 T	379.56	59+60 F	384.29
62+15 C	383.52	61+07 U	374.51	SM 59+00	381.53
62+15 D	383.59	60+65 S	381.23	59+00 A	384.11
62+15 E	383.36	60+65 T	380.20	59+00 B	384.20
62+15 F	383.35	60+65 U	375.75	59+00 C	384.21
61+85 C	383.56	SM 60+65	384.00	59+00 D	384.23
61+85 D	383.58	60+65 D	384.00	59+00 E	384.25
61+85 E	383.43	60+65 E	383.96	59+00 F	384.34
61+85 F	383.43	60+65 F	383.97	58+75 C	384.23
61+55 C	383.55	60+54 C	384.00	58+75 D	384.28
61+55 D	383.57	60+54 D	384.02	58+75 E	384.23
61+55 E	383.44	60+54 E	383.98	58+75 F	384.23
61+55 F	383.45	60+54 F	384.00	58+50 C	384.26
61+25 C	383.61	SM 60+54	381.99	58+50 D	384.28
61+25 D	383.64	SM 60+20	381.31	58+50 E	384.17
61+25 E	383.53	60+20 A	384.00	58+50 F	384.16
61+25 F	383.54	60+20 B	384.01	58+00 C	384.25
61+07 C	383.74	60+20 C	384.00	58+00 D	384.26
61+07 D	383.77	60+20 D	384.01	58+00 E	384.16
61+07 E	383.70	60+20 E	384.06	58+00 F	384.16



STB

FD

33388

4-19-99

J

194230

ARNOLD & PORTER

555 TWELFTH STREET, N.W.
WASHINGTON, D.C. 20004-1206

(202) 942-5000
FACSIMILE (202) 942-5999

April 19, 1999

194230
DENNIS G. LYONS
(202) 942-5858

NEW YORK
DENVER
LOS ANGELES
LONDON



The Honorable Vernon A. Williams
Secretary, Surface Transportation Board
Mercury Building, Room 700
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**

ENTERED
Office of the Secretary

APR 26 1999

Part of
Public Record

Dear Secretary Williams:

We have received a letter addressed to you from Mr. Leo J. Wasescha, Transportation Manager, General Mills, Inc., dated April 15, 1999.

Mr. Wasescha's letter apologizes to the Board that it took his company's mail department 12 days to mail the service copies of "General Mills, Inc. Request for Declaratory Order to Surface Transportation Board Decision No. 89" to the service list, including opposing counsel.

His letter closes by saying: "Mr. Lyons assertions that CSX did not have prior notice is false."

It is the case that what appeared to be a rough draft of a petition seeking relief was informally furnished by General Mills to CSX at some time before Mr. Wasescha filed his pleading with the Board in late March. It is my experience, and I believe the experience of all lawyers with a litigation practice, that often in litigation, both in the courts and before administrative agencies, litigants asserting a claim for relief will furnish the other side with a draft proposed complaint or draft petition in an effort to encourage settlement discussions. That was the case here. Sometimes those complaints or petitions are not put in final form and filed, even though no arrangements are worked out; on other occasions, they are filed with considerable modification. In any event, no formal response is made to them until they are properly served, and often companies receiving those draft complaints do not commission the major work and expense of preparing a response until there is an actual filing and service of the definitive petition. In any event,

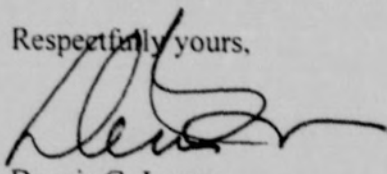
ARNOLD & PORTER

The Hon. Vernon A. Williams
April 19, 1999
Page 2

until proper service of the definitive filing is received, serious work on a response is not feasible.

As you know, we made no representation to the Board that CSX had not heard from General Mills or Mr. Wasescha about this matter before he filed his pleading with the Board and his rail department long thereafter served it on the service list. Mr. Wasescha's assertion that I made a false statement to the Board is baseless, and I cannot believe that a member of the bar would have made such an assertion.

Respectfully yours,



Dennis G. Lyons

*Counsel for CSX Corporation
and CSX Transportation, Inc.*

Enclosures
via hand delivery

cc:

Mr. Leo J. Wasescha
Transportation Manager
General Mills, Inc.
Post Office Box 1113
Minneapolis, MN 55440



General Mills, Inc.
General Offices

Post Office Box 1113
Minneapolis, Minnesota 55440



4/15/99

The Honorable Vernon A. Williams
Secretary, Surface Transportation Board
Mercury Building, Room 700
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

Dear Secretary Williams,

Reference letter dated April 9th, 1999 by Counsel for CSX, Dennis Lyons, requesting additional time for response to General Mills request for clarification of Board's decision in the above matter.

While I apologize for the delay in our mail department sending out subject request, I would like the record be known that I personally hand delivered a copy of the request to the CSX in their corporate office on February 16th. My intent was for resolution of this matter without Board intervention. The subject request was not sent to the Board until after General Mills received a reply from the CSX on March 24th by phone that the CSX had nothing further to comment on the matter at hand.

Mr. Lyons assertions that CSX did not have prior notice is false.

Sincerely,

Leo J. Vasescha
Transportation Manager
General Mills, Inc.

Cc: Dennis G. Lyons
Counsel for CSX Corporation
Arnold & Porter
555 Twelfth Street N.W.
Washington, D.C. 20004-1206

STB

FD

33388

4-2-99

J

194072

194072

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

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

RICHARD A. ALLEN

April 2, 1999



BY HAND

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

ENTERED
Office of the Secretary

APR - 5 1999

Part of
Public Record

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

Dear Secretary Williams:

NS has received a copy of IP&L's April 1, 1999 letter to you (IP&L-24), objecting to NS's stated intention to respond to IP&L-23 on or before next Tuesday, April 6, 1999. NS regrets that this further correspondence is necessary, but feels obliged to set the record straight and defend its rights.

NS regrets that matters regarding service to IP&L have consumed so much time and paper, and believes this matter should be resolved promptly and amicably, if possible. Nevertheless, in IP&L-23, rather than simply commenting on NS's recent status report, IP&L did, in fact, seek new relief from the Board in at least three instances, one procedural and two substantive, that go beyond what is provided in Decision No. 115, and to which NS submits it must have an opportunity to respond.

Procedurally, IP&L asked the Board to order NS to provide to IP&L and others the agreements referred to in NS-77, and grant IP&L and those other parties "a reasonable period of time to review it (or them) and comment if necessary." IP&L-23 at 6. That is a request for a new procedural step that is not now required and that, ironically, would further delay resolution of the issues at hand.

Vernon A. Williams

April 2, 1999

Page 2

Substantively, IP&L seeks one of two new outcomes. First, it asks the Board to "direct[] NS to allow ISRR to act as NS' agent." IP&L-23 at 7. Contrary to IP&L's assertion immediately thereafter, the Board in Decision No. 115 did not direct, or order, that any such relationship be established, but merely gave NS and ISRR the right to seek to enter into such an arrangement — on mutually-beneficial terms — if they chose to do so in the future. *See* Decision No. 115 at 4. To compel such an arrangement now would indeed be new relief. Alternatively, IP&L asks the Board to "transfer[] NS' rights of direct access to the Stout Plant to ISRR for Indiana coal." IP&L-23 at 7. That, too, quite plainly is a request for relief beyond the status quo.

Clearly, IP&L has sought now to change the status quo in a number of respects, to the potential detriment of NS. With all due respect to IP&L, NS submits that IP&L-23, with its requests for new relief, is therefore properly seen as a pleading, an opportunity for a response to which the Board's rules permit, *see* 49 CFR § 1104.13(a), and due process requires. As NS stated in its March 29, 1999 letter, it intends to do so promptly, by no later than Tuesday, April 6, 1999, well short of the twenty days the Board's rules otherwise allow. Finally, NS believes that the Board need not fear generating another round of pleadings, as IP&L suggests, *see* IP&L-24 at 2, because any further pleadings submitted in reply to NS's response would, of course, in fact be replies to a reply, which, as IP&L has pointed out, are not permitted.

Sincerely,

Richard A. Allen / SMZ

Richard A. Allen
Scott M. Zimmerman

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

cc: Hon. Linda J. Morgan, Chairman
Hon. William Clyburn, Jr., Vice Chairman
Hon. Wayne Burkes, Commissioner
Michael F. McBride, Esq.
Karl Morell, Esq.
Fred E. Birkholz, Esq.
Dennis G. Lyons, Esq.
George A. Aspatore, Esq.
Michael Harmonis, Esq. (Dep't of Justice)
Hon. Michael Dunn (Dep't of Agriculture)

STB

FD

33388

3-29-99

J

193990

ZUCKERT SCOUTT & RASENBERGER, L.L.P.

ATTORNEYS AT LAW

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

Telephone [202] 298-8660 Fax [202] 342-0683

RICHARD A. ALLEN

March 29, 1999



BY HAND

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

ENTERED
Office of the Secretary

MAR 30 1999

Part of
Public Record

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

Dear Secretary Williams:

Norfolk Southern is in receipt of a letter, designated IP&L-23, addressed to you from counsel to the Indianapolis Power & Light Company, filed on March 26, 1999, which comments further on the situation pertaining to IP&L's Stout plant and seeks from the Board certain additional affirmative relief pertaining thereto. (A copy is attached for your reference.) NS intends to file a response to IP&L-23 on or before Tuesday, April 6, 1999, and asks the Board's forbearance in acting on IP&L-23 until that time.

Sincerely,

Richard A. Allen / *smz*

Richard A. Allen
Scott M. Zimmerman

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

ZUCKERT SCOUTT & RASENBERGER, L.L.P.

Vernon A. Williams

March 29, 1999

Page 2

cc (by fax, w/o att.): Michael F. McBride, Esq.
Karl Morell, Esq.
Fred E. Birkholz, Esq.
Dennis G. Lyons, Esq.
George A. Aspatore, Esq.
Michael Harmonis, Esq. (Dep't of Justice)
The Honorable Michael Dunn (Dep't of Agriculture)

LEBOEUF, LAMB, GREENE & MACRAE L.L.P.

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

NEW YORK
WASHINGTON
ALBANY
BOSTON
DENVER
HARRISBURG
HARTFORD
HOUSTON
JACKSONVILLE

1875 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20009-5728

(202) 986-9000

TELEX: 440274 FACSIMILE (202) 986-8050

WRITER'S DIRECT DIAL
(202) 986-8050



LOS ANGELES
NEWARK
PITTSBURGH
PORTLAND, OR
SALT LAKE CITY
SAN FRANCISCO
BRUSSELS
PARIS
MOSCOW
ALMATY
LONDON
KATHMANDU
SAO PAULO
TAMPA

EXPEDITED CONSIDERATION REQUESTED

March 25, 1999

IP&L-23

VIA HAND DELIVERY

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

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

Dear Secretary Williams:

"Genuine competition, however, is about much more than this: it is about rate decreases and service improvements. Only the introduction of an independent second competitor can ensure continued, genuine competition." March 19, 1999 Letter (at 1) of Union Pacific Railroad Company in Finance Docket No. 33556.

This is the Reply of Indianapolis Power & Light Company ("IPL") to the Report of Norfolk Southern ("NS"), contained within NS-77, "Norfolk Southern's Reply to CSX's Petition for Reconsideration in Part or Clarification of Decision 115 and Further Report Pursuant to Decision No. 115 Regarding Access to IP&L's Stout Plant." IPL is not replying to NS' Reply to CSX's Petition for Clarification or Reconsideration (CSX-180); that would be an impermissible reply to a reply. 49 C.F.R. §1104.13(c). Rather, IPL is replying only to that portion of NS-77 that constitutes NS' "Report" in response to Decision No. 115.

The Honorable Vernon A. Williams
March 25, 1999
Page 2

Preliminary Concerns

The Board should be aware that NS did not inform either IPL or ISRR that it had cut a deal with CSX/INRD, behind closed doors, before IPL and ISRR filed their Replies to CSX-180 on Monday, March 22, 1999. Some of what IPL contended there would not have been the same had it only known of the new but still somewhat unclear and ill-described arrangement NS now proposes. That, of course, is one of the reasons why this Reply of IPL to NS' Report is necessary. IPL regrets that it is, for if NS had only provided IPL with even some advance notice of its effort to so dramatically depart from what the Board has ordered, IPL might not have had to submit this further pleading.

Despite the claims made before this Board and elsewhere that the Class I railroads "get it," and are trying to do better with **customer** relations, NS, which prides itself on being better at such matters than the others, did not even have the courtesy to inform IPL that it had entered into an arrangement with its supposed competitor CSX/INRD, the effect of which is to attempt to abandon the trackage rights DOJ, IPL, the Department of Agriculture, and ISRR convinced the Board to award NS to serve IPL's Stout Plant. IPL believes that the most troubling nature of this "bushwhacking" by NS is evidence that it is not serious about even serving IPL's Stout Plant, at least so long as it uses Indiana coal.¹ The incident speaks volumes about the nature of relations between Class I railroads and their best customers.

IPL is vehemently opposed to NS' position as just announced in its latest Report, for several reasons. IPL was not involved in the discussions that occurred between CSX, NS, and The Indiana Rail Road Company ("INRD") (a non-party to these proceedings), and neither was Indiana Southern Railroad Company ("ISRR"), despite prior Board orders that IPL and ISRR be included in such discussions. Decision No. 96 at 23 ¶ 8 ("CSX, NS, ISRR, and IP&L should attempt to negotiate a mutually satisfactory solution respecting any MP 6.0 interchange problems (and respecting any related problems that may be necessarily incidental to an MP 6.0 interchange problem)..."); Decision No. 111 at 1. CSX and NS have violated the Board's orders by excluding IPL and ISRR from such discussions, while agreeing to an undisclosed and apparently inefficient arrangement for switching at Crawford Yard, an historic point of interchange for IPL's Stout and Perry K Plants. Ironically, NS now included INRD in those discussions, and reports that it has entered into an agreement which, as NS describes it, essentially inserts CSX/INRD as NS' agent to exercise NS' rights to serve the Stout Plant directly for ISRR-origin coal and, indirectly, the Perry K Plant, in a pleading that goes on to argue that the Board should not make one railroad the agent of another in the manner provided by the Board in Decision No. 115! (NS, of course, does not use the word "agent," for obvious reasons, but there can be no other description if CSX or INRD are to exercise NS'

¹ As the Board knows, NS did not utter one word in support of IPL's requests prior to the issuance of Decision No. 89, preferring instead to leave IPL and DOJ to make its case for it.

The Honorable Vernon A. Williams
 March 25, 1999
 Page 3

rights.) Moreover, CSX/INRD has refused to cooperate with IPL and ISRR throughout this proceeding, refusing even to discuss this matter with IPL and ISRR. CSX/INRD will have every reason to prevent ISRR-origin coal from effectively and efficiently competing with INRD-origin coal, as the Board has consistently found throughout this proceeding. Decision No. 89 at 116-17; see also Decision Nos. 96 (at 14) and 115.

Substantive Concerns

There are two substantive aspects of NS' Report which IPL finds highly objectionable. The first is that NS' position would deprive IPL of the genuine competition that the Board provided by giving a second railroad direct access to IPL's Stout Plant. The second concerns a myriad of problems with the inadequate alternative NS proposes in lieu of genuine competition. We deal with each in turn.

Genuine Competition

IPL has been able to secure genuine competition with Conrail as a vigorous competitor to CSX/INRD at the Stout Plant. In fact, IPL's rates at the Stout Plant have declined over the last several years, in proportion to the declines in the RCAF(A) as compared to the increases in the RCAF(U), because IPL's rates from ISRR/Conrail are adjusted by the RCAF(A), as CSX admitted. CSX-152 at 4 n.1 ("The Proposal [by CSX and INRD, which IPL rejected, as was explained in IPL's motion to strike that pleading] referred to the RCAF-A index, which had been used in Conrail arrangements on this route.")(emphases added).

There is an enormous difference between the RCAF(A) and the RCAF(U), as the Board knows. For example, from the First Quarter of 1994 until the First Quarter of 1999, the percentage difference between the two was 38.5%. From the First Quarter of 1996 until the First Quarter of 1999, the percentage difference between the two was 23.8%. These figures illustrate the extent of the rate reductions IPL has obtained as a result of the ICC's productivity adjustment to the RCAF, and, correspondingly, what it would lose under NS' new proposal.² Since IPL has about three years remaining on its contract with INRD (CSX/NS-178, Vol. 3D at 396-400), NS' proposal could lead to a rate 23.8% higher than would otherwise be the case

² To illustrate, suppose IPL's ISRR/Conrail rate was \$5.00 per ton in 1994. Using the RCAF(A), it would have been \$4.20 in 1997, and \$3.90 in 1999. (IPL's actual rate was not \$5.00 per ton in 1994, but we use this illustration, which makes the same point as would be made using the actual rate, but without disclosing that highly confidential figure here.)

The Honorable Vernon A. Williams

March 25, 1999

Page 4

-- hardly the status quo.³ Essentially, then, what NS is proposing would lead to IPL's "creeping captivity" at the Stout Plant (and thus at the Perry K Plant, too). NS' proposed alternative, although seemingly benign by providing IPL what it supposedly has today, would therefore lead to a ridiculous result, and illustrates perfectly why a rate "fix" cannot possibly substitute for actual, vigorous competition of the sort that IPL has succeeded in preserving. Indeed, what IPL has carefully set out to do, and has succeeded in doing, is to provide sufficient business to ISRR as well as INRD so that both competitors survive and continue to provide IPL with the same competition it has always enjoyed. NS' new proposal would destroy what IPL and the Board have attempted to do.

In Decision No. 89, which the Board has adhered to in Decision Nos. 93, 96, 111, and 115, the Board understood that IPL's existing competition at its Stout Plant could not be maintained without giving a second railroad direct access to the Stout Plant, since Conrail has been a genuine and vigorous competitor to CSX/INRD.⁴ Since CSX is taking over the Conrail lines in Indianapolis, IPL would lose its competition if CSX/INRD controlled all of the access to the Stout Plant. Therefore, the Board granted NS direct access to the Stout Plant. Decision No. 89 at 116-17, 177. Indeed, the Board's Ordering ¶ 23 in Decision No. 89 provided that "Applicants: must allow IP&L to choose between having its Stout Plant served by NS directly or via switching...." (emphasis added). *Id.* In Decision No. 96 (at 14, 26 ¶ 8), the Board granted IPL's request that NS' direct access be subject only to the 29 cent/car-mile fee and not also a CSX/INRD switching charge. It is **emphatically not up to the two supposed competitors to exercise the customer's right to choose between them, or to negotiate for the customer behind closed doors.** It is simply scandalous for NS, CSX, and INRD to expect IPL to be satisfied with assigning themselves the right to (ironically) act as IPL's agent in conducting those negotiations, as NS now announces they have done. It is equally scandalous for NS to propose to allow INRD -- which obviously knows what it has been able to charge IPL -- to be in a position to prevent its competition -- ISRR -- from effectively competing with CSX/INRD.

³ This is approximate, since it assumes the RCAF(U) would remain unchanged. The RCAF(U) for the Second Quarter of 1999 is 99.3% of the Fourth Quarter 1997 figure, Ex Parte No. 290 (Sub-No. 5), Quarterly Rail Cost Adjustment Factor (served March 19, 1999) at 2, so the assumption that it will stay approximately the same is eminently reasonable in this time of essentially no inflation. Even if the inputs making up the RCAF without the productivity adjustment did increase or decrease, the effect on the RCAF(A) and RCAF(U) should be essentially the same, given how the RCAF is calculated.

⁴ What is most troubling about NS' proposal is that INRD, which of course knows precisely what it has been able to extract from IPL for its service, would be in a position to know what its competition -- ISRR -- would charge, thus destroying much of IPL's leverage. Fundamentally, ISRR cannot compete with CSX/INRD if its competitor stands in the way.

The Honorable Vernon A. Williams
March 25, 1999
Page 5

Moreover, NS' Report (at 3) essentially admits that it cannot compete effectively with CSX/INRD at the Stout Plant. But rather than then advocating an assignment of those rights to ISRR, which could effectively compete with CSX/INRD, NS instead proposed a new arrangement, embodied in one, two, or three agreements⁵ the Board, IPL, ISRR, DOJ, and other interested parties have never seen. The new arrangement proposes undefined "terms" which supposedly should provide IPL with assurance that its existing arrangements will be replicated by CSX/INRD in interchange with ISRR. We deal with the several aspects in which NS' "terms" do not replicate today's arrangements below, but the most important problem is that the alternative arrangement is not genuine competition of the form that the Board ordered.

If NS is unable or unwilling to be the genuine competitor to CSX/INRD, as it now appears to be the case, that Conrail is today at the Stout Plant, the Board will have to substitute a railroad which is able or willing to provide the genuine competition that IPL is entitled to under the statute and that the Board has said IPL must receive.⁶ There is only one alternative -- ISSR -- for ISRR-origin coal, since this Transaction will otherwise turn Indianapolis into a one-railroad town. Neither CSX nor NS can complain about that characterization (which is a fact), since they were the architects of this Transaction! IPL has a statutory right to preserve its existing competition, which no one has better described than did Union Pacific in the quotation that begins this letter.⁷ The Board did the right thing in Decision No. 115; if the Board were now to deviate from its prior Decisions, IPL would be deprived of its existing competition. It is as simple as that. IPL therefore implores the Board to assure it **effective competition** by allowing IPL -- not NS, CSX, or INRD -- the right to decide which competitive option it will exercise, and to assure IPL that both options survive. IPL insists that it -- not the railroads -- will exercise its competitive rights, as it has always done. The Board need not be involved in such negotiations, so long as it allows IPL to have the rights it provided IPL to negotiate for itself its own "private-sector solutions." That is what competition, not regulation, is all about. It is the height of irony that these railroads, who complain elsewhere about regulation, and insist that they are competitors, would seek to

⁵ It is clear that NS and INRD entered into a trackage rights agreement. It is not clear whether there are separate agreements about interchange at Crawford Yard or about the "terms" NS reports it, CSX, and INRD have agreed to for this new arrangement just announced.

⁶ The Board may wonder why NS, a major coal-carrying railroad, would wash its hands of Indiana coal. The answer is that NS has admitted that its lack of a physical presence in Indianapolis will "substantial[ly] challenge" it substantially in competing with CSX/INRD for Indiana coal. Report at 3. (IPL is confident that NS would not wash its hands of an opportunity to compete with CSX/INRD for coal from locations outside Indiana.)

⁷ IPL is not a party to Finance Docket No. 33556, and takes no position on the matters at issue therein. It merely quotes UP's letter because it was so well-stated.

The Honorable Vernon A. Williams
March 25, 1999
Page 6

deprive IPL of that competition, and force it, instead, to seek regulatory protection. The Board should not be a party to any such arrangement.

The Myriad of Problems with the New NS Alternative

First, although NS represents that the trackage rights agreement entered into by it and INRD is substantially similar to the trackage rights agreements it entered into elsewhere in this Transaction, IPL is entitled to preserve the competition it had before this Transaction, not to a form of agreement that NS and CSX have presumptuously entered into elsewhere in the country. It is the Board's obligation to ensure that IPL retains its existing competition regardless of what NS and CSX think is appropriate.

Second, although NS represents that the trackage rights agreement it entered into with CSX and INRD is "substantially the same as the standard trackage rights agreement used by NS and CSX throughout this transaction as between themselves in dealing with '2 to 1' or other similar competitive issues resulting from this transaction," NS-77 at 3, neither NS nor CSX nor INRD has provided that agreement (or any other, if there are others) to the Board, nor have they have provided it (or them) to IPL, ISRR, DOJ, or anyone else. Therefore, neither the Board nor IPL nor anyone else could possibly know whether NS' representations are true, and IPL hereby requests that the Board order NS to provide the agreement(s) to IPL, ISRR, DOJ, and the Board, and permit the parties a reasonable period of time to review it (or them) and comment if necessary, as we had the right to do in our Comments filed October 21, 1997, in our briefs, and at oral argument, on the other agreements embodying this Transaction. After all, the other trackage rights agreements that NS claims its agreement with INRD to be "substantially the same as" were included in the Application (see CSX/NS-25, especially Vol. 8B at 110, 220, and 608; see also Vol. 8C at 501-25 (Indianapolis Switching Agreement)). Given the disputes that have existed between IPL, CSX, and INRD about service to the Stout Plant, the Board has no choice but to ensure that NS' representations are correct, and that IPL and ISRR have a right to review the agreement(s) and inform the Board if they take issue with NS' representations.

Third, as we have demonstrated, IPL is entitled to effective competition (e.g., Decision No. 96 at 14), as Conrail provides today, not what NS claims are "terms that could not be changed by CSX or INRD as long as the terms of the NS trackage rights agreements with CSX and INRD (except for the standard RCAF(U) adjustments)" [apparently NS meant to complete its thought with "remain the same" or "remain in effect"]. NS seems to think that IPL was entitled only to the same terms as it has today with the addition of the RCAF(U) adjustment process, but NS is wrong, and even more importantly, its theory is wrong, because the Board held in Decision Nos. 89, 96, and 115 that IPL was entitled to effective competition, not merely the same terms as it has today.

The Honorable Vernon A. Williams
 March 25, 1999
 Page 7

Fourth, NS is candid enough to admit that it may not "be able to provide that service at a price equal to or lower than the price of CSX/INRD service to the [Stout] plant," depending "on many factors that cannot be predicted with certainty." Report at 3. NS even went on to admit that "[i]t cannot be denied, however, that the fact that NS's closest line is 60 miles away at Lafayette, IN will provide a substantial challenge to NS to provide a price-competitive interline service with ISRR." *Id.* Cutting throughout the "legalese," NS' carefully written letter clearly concedes what IPL and ISRR and DOJ have been saying all along -- it is effective competition that produces the benefits IPL now enjoys, not a rate cap that would not be a real rate cap for the reasons we have already explained.⁶

Conclusion

IPL is entitled to genuine competition, just as it has today. As Union Pacific stated so well in another context (see page 1 *supra*), "[o]nly the introduction of an independent second competitor can ensure continued, genuine competition." The proposal of NS does not constitute genuine competition, and surely cannot produce "rate decreases" and "service improvements," as UP so aptly put it, and as IPL has been able to achieve until now with the vigorous competition that Conrail has provided.

Accordingly, IPL urgently, and earnestly, requests that the Board "stick to its guns" as expressed in Decision Nos. 89, 96, and 115, and ensure that IPL enjoys the benefits of effective and efficient competition, as it enjoys today, at the Stout Plant, by assuring that ISRR-origin coal can compete with INRD-origin coal from southern Indiana, and that IPL -- not CSX/INRD and NS -- be allowed to conduct its own negotiations with these supposed competitors. The Board should do so either by directing NS to allow ISRR to act as NS' agent, as already ordered in Decision No. 115, or by transferring NS' rights of direct access to the Stout Plant to ISRR for Indiana coal. If the Board were to accept NS' new proposal, it

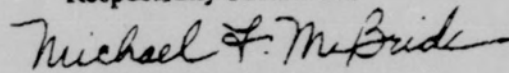
⁶ If it had been a sufficient remedy to order Applicants to provide IPL with a rate remedy (Decision No. 89 at 117), we presume the Board would have done that. But the Board rejected the separate requests of IPL and other shippers for rate caps (see, e.g., ACE, et al. - 18, filed October 21, 1997 and Decision No. 89 at 62-70) so we are confident that the Board understood that, with the loss of Conrail's willingness to effectively compete, IPL would not receive the same competition it enjoys today merely by allegedly continuing the "favorable" terms. Indeed, NS admits that IPL's rate would not be subject to the RCAF(A) (which is declining) as it now is, but instead be subject to the RCAF(U) (which has generally increased in the past, or more recently stayed flat) as the adjustment mechanism. So NS' proposal to replace IPL's effective competition with terms that are worse than what IPL now enjoys and an adjustment mechanism that is decidedly worse are not the equivalent of the vigorous competition IPL now enjoys. Essentially, what NS proposes is what CSX offered IPL in CSX-152 on June 1, 1998, but which the Board implicitly rejected in Decision No. 89 (at 116-17), right up to and including the RCAF(U)!

The Honorable Vernon A. Williams
March 25, 1999
Page 8

would in essence accept CSX's public proposal to IPL in CSX-152, which the Board already implicitly rejected in Decision No. 89.

We so pray.

Respectfully submitted,



Michael F. McBride
Brenda Durham

Attorneys for Indianapolis Power
& Light Company

cc: Richard A. Allen, Esq.
Karl Morell, Esq.
Fred E. Birkholz, Esq.
George A. Aspatore, Esq.
Dennis G. Lyons, Esq.
Michael Harmonis, Esq. (Dep't of Justice)
The Honorable Michael Dunn (Dep't of Agriculture)

STB FD • 33388 12-21-98 J 192769

1927C9

LEBOEUF, LAMB, GREENE & MACRAE
L.L.P.

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

NEW YORK
WASHINGTON
ALBANY
BOSTON
DENVER
HARRISBURG
HARTFORD
HOUSTON
JACKSONVILLE

1875 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20009-5728

(202) 986-8000

TELEX: 440274 FACSIMILE: (202) 986-8102

WRITER'S DIRECT DIAL:

(202) 986-8050

December 18, 1998

LOS ANGELES
NEWARK
PITTSBURGH
PORTLAND, OR
SALT LAKE CITY
SAN FRANCISCO
BRUSSELS
PARIS
MOSCOW
ALMATY
LONDON
(A LONDON-BASED
MULTINATIONAL PARTNERSHIP)
SAO PAULO
IN ASSOCIATION WITH
TAVARES GUERREIRO ADVOGADOS

ENTERED
Office of the Secretary

DEC 21 1998

Part of
Public Record



IPL-18

VIA HAND DELIVERY and FACSIMILE

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
Office of the Secretary
Case Control Unit
1925 K Street, N.W., 7th Floor
Washington, D.C. 20423-0001

Re: CSX Corp./Norfolk Southern Corp. -- Control and Operating
Leases/Agreement -- Conrail: Finance Docket No. 33388

Dear Secretary Williams:

We are in receipt of a letter filed today by CSX Transportation in the above-referenced proceeding concerning Ordering Paragraph No. 8 of Decision No. 96. The Board should be aware of some additional facts that are not in CSX's letter, and also of a misstatement in CSX's letter.

First, CSX misstates Ordering Paragraph No. 8, which required that Indiana Southern Railroad, not Indiana Rail Road, be involved in the negotiations of the Mile Post 6.0 issue. This is not an insignificant matter, because the Board has already held that CSX controls Indiana Rail Road, and it is not a party to the proceeding, whereas Indiana Southern is the carrier whose origins are at issue.

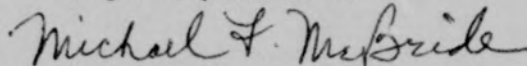
Second, although CSX represents to the Board that it seeks "to negotiate in good faith toward such a solution," IPL has had no conversations with CSX about this matter despite communications that IPL sent to CSX. IPL sincerely hopes that CSX will communicate with IPL, and negotiate in good faith during the requested 30-day extension.

Mr. Vernon A. Williams, Secretary
December 18, 1998
Page Two

Third, Conrail Tariff No. 4611, which now controls the transportation in question, expires in February 1999, shortly after that date of the requested extension for completion of negotiations. Because CSX has not been reasonable in its position with respect to this matter, and because IPL is entitled to a continuation of service pursuant to Conrail's common carrier obligations, IPL hereby requests that, as a condition of any such extension, the Board require that the expiration date of Conrail Tariff No. 4611 be removed, so as to facilitate negotiations in good faith among the involved parties.

IPL also hereby requests that it be relieved of the obligation to serve all the parties on the service list in this proceeding with this letter because it pertains to a local issue of the type which the Board has not required to be served on all parties of record. Service, of course, is being made on counsel for the parties involved as indicated below.

Respectfully submitted,



Michael F. McBride
Brenda Durham

Attorneys for Indianapolis Power & Light
Company

cc: Richard A. Allen, Esq.
Dennis R. Lyons, Esq.
Fred R. Birkholz, Esq.
Karl Morell, Esq.

STB

FD

33388

12-18-98

J

192774

LEBOEUF, LAMB, GREENE & MACRAE L.L.P.

A LIMITED LIABILITY PARTNERSHIP (INCLUDING PROFESSIONAL CORPORATIONS)

NEW YORK
WASHINGTON
ALBANY
BOSTON
DENVER
HARRISBURG
HARTFORD
HOUSTON
JACKSONVILLE

1875 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20009-5728

(202) 986-8000

TELEX. 440274 FACSIMILE: (202) 986-8102

ENTERED
Office of the Secretary

WRITER'S DIRECT DIAL.

DEC 21 1998

(202) 986-8050

Part of
Public Record

December 18, 1998

LOS ANGELES
NEWARK
PITTSBURGH
PORTLAND, OR
SALT LAKE CITY
SAN FRANCISCO
BRUSSELS
PARIS
MOSCOW
ALMATY
LONDON
(A LONDON-BASED
MULTINATIONAL PARTNERSHIP)
SAO PAULO
IN ASSOCIATION WITH
TAVARES GUERREIRO ADVOCADOS

VIA HAND DELIVERY and FACSIMILE
Mr. Vernon A. Williams, Secretary
Surface Transportation Board
Office of the Secretary
Case Control Unit
1925 K Street, N.W., 7th Floor
Washington, D.C. 20423-0001



IPL-18

Re: CSX Corp./Norfolk Southern Corp. -- Control and Operating
Leases/Agreement -- Conrail: Finance Docket No. 33388

Dear Secretary Williams:

We are in receipt of a letter filed today by CSX Transportation in the above-referenced proceeding concerning Ordering Paragraph No. 8 of Decision No. 96. The Board should be aware of some additional facts that are not in CSX's letter, and also of a misstatement in CSX's letter.

First, CSX misstates Ordering Paragraph No. 8, which required that Indiana Southern Railroad, not Indiana Rail Road, be involved in the negotiations of the Mile Post 6.0 issue. This is not an insignificant matter, because the Board has already held that CSX controls Indiana Rail Road, and it is not a party to the proceeding, whereas Indiana Southern is the carrier whose origins are at issue.

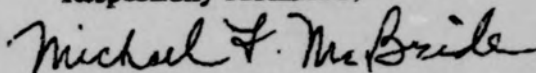
Second, although CSX represents to the Board that it seeks "to negotiate in good faith toward such a solution," IPL has had no conversations with CSX about this matter despite communications that IPL sent to CSX. IPL sincerely hopes that CSX will communicate with IPL, and negotiate in good faith during the requested 30-day extension.

Mr. Vernon A. Williams, Secretary
December 18, 1998
Page Two

Third, Conrail Tariff No. 4611, which now controls the transportation in question, expires in February 1999, shortly after that date of the requested extension for completion of negotiations. Because CSX has not been reasonable in its position with respect to this matter, and because IPL is entitled to a continuation of service pursuant to Conrail's common carrier obligations, IPL hereby requests that, as a condition of any such extension, the Board require that the expiration date of Conrail Tariff No. 4611 be removed, so as to facilitate negotiations in good faith among the involved parties.

IPL also hereby requests that it be relieved of the obligation to serve all the parties on the service list in this proceeding with this letter because it pertains to a local issue of the type which the Board has not required to be served on all parties of record. Service, of course, is being made on counsel for the parties involved as indicated below.

Respectfully submitted,



Michael F. McBride
Brenda Durham

Attorneys for Indianapolis Power & Light
Company

cc: Richard A. Allen, Esq.
Dennis R. Lyons, Esq.
Fred R. Birkholz, Esq.
Karl Morell, Esq.

FROM .

(FRI) 12.18.98 17:13/ST. 17:12/NO. 3560541926 P 1

LEBOEUF, LAMB, GREENE & MACRAE, L.L.P.

FAX TRANSMISSION

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

1875 CONNECTICUT AVENUE, N.W.

SUITE 1200

WASHINGTON, DC 20009-5728

TELEPHONE: (202) 986-8000

FAX: (202) 986-8102

IF ANY TRANSMISSION PROBLEMS: (202) 986-8000

From: Michael F. McBride

Date: December 18, 1998

ID#: 0553

Page: 1 of 3

To:	Fax Number	Confirming Telephone Number	Client/Matter Number
Vernon A. Williams, Secretary Surface Transportation Board	202-565-9003	202-565-1651	37001-00732

Comments/Message:



1998 DEC 18 PM 5:10

STB

FD

33388

12-4-98

J

192510



192510



December 3, 1998

ENTERED
Office of the Secretary

DEC - 4 1998

Part of
Public Record

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

RE: RE: CSX Corporation/Norfolk Southern Corporation
-- Control and Operating Leases/Agreements --
Conrail; Finance Docket No. 33388

J

Dear Secretary Williams:

I am writing on behalf of Lafarge Lime Ohio, Inc. ("Lafarge") (formerly Redland Ohio Inc.), a party of record in the above-captioned proceeding. By this letter I wish to convey my concern regarding both NS's and CSX's failure to reach a full settlement with the Wheeling & Lake Erie Railway Company ("W&LE") consistent with the Board's instructions as set forth in Decisions No. 89 and 96. As the Board clarifies and forms the scope of the protective conditions extended to W&LE, Lafarge once again urges the Board to include, as part of those conditions, W&LE access to Lafarge's facilities.

As the Board may recall, Lafarge produces industrial minerals, including lime and limestone products. It has consistently sought access to W&LE during the course of the subject proceeding. For its part, W&LE requested access to Lafarge in its responsive application. In its Decision No. 89, the Board directed NS and CSX to negotiate with W&LE concerning W&LE's expanded service to aggregate shippers such as Lafarge. Lafarge believes that the Board intended such a condition to address not only W&LE's threatened financial status, but also Lafarge's concerns regarding rail service and rates post-Transaction. As it now stands, there is no aggregate-related remediation included among the areas where NS, CSX, and W&LE reportedly have reached agreement, and it appears that there is little chance for additional progress without Board action. Thus, Lafarge's concerns (and the concerns of other interested aggregate shippers) will go unaddressed unless the board directs NS, CSX, and W&LE to conclude meaningful arrangements on the subject of aggregate service.

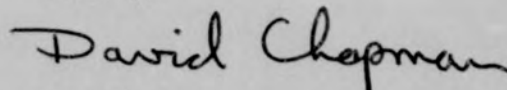


Hon. Vernon A. Williams
December 3, 1998
Page Two

Lafarge still seeks an outlet to W&LE, and W&LE has recently informed us that it remains very interested in access to Lafarge's facilities (via a connection with the Northern Ohio & Western Railroad at Maple Grove, Ohio). Unfortunately, having reviewed the various status report filings submitted by NS, CSX, and W&LE beginning on October 21, 1998, it appears that NS and CSX have so conducted negotiations as to preclude effective and meaningful negotiation of aggregate service issues with W&LE. I have pursued this matter with NS representatives, but have not obtained any constructive guidance from NS concerning how (or whether) it will address Lafarge's concerns in any further negotiations with W&LE. Lafarge asserts that it is inappropriate and inconsistent with the Board's directions for either NS or CSX to force W&LE into a position where it must negotiate exclusively for Benwood-Brooklyn Junction service at the expense of aggregate shippers located elsewhere.

W&LE access to Lafarge may be only a small component of the overall relief extended to W&LE, but Lafarge believes it is nevertheless an important opportunity, not only for W&LE but for Lafarge as well. Lafarge urges the Board, as it considers how to address the reported impasses that have arisen between W&LE and CSX and NS, to ensure that W&LE access to aggregate remains a component of W&LE's remediation. In particular, Lafarge requests that the Board make clear to NS and CSX that W&LE access to shippers such as Lafarge is an essential element of the protective relief W&LE has obtained.

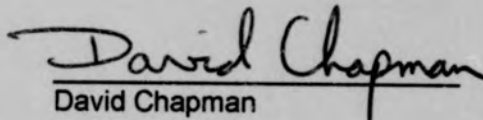
Sincerely,



David Chapman
Traffic Supervisor
Lafarge Lime Ohio Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have, this 3rd day of December, 1998, served the foregoing document upon the parties of record as listed on the attached appendix.


David Chapman

APPENDIX

Richard A. Allen
Zuckert Scoutt & Rasenberger, L.L.P.
888 17th Street, N.W.
Suite 600
Washington, D.C. 20006-3939

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

Samuel M. Sipe, Jr.
Steptoe & Johnson LLP
1330 Connecticut Ave.
Washington, D.C. 20036

William A. Callison
V.P. Law & Government Relations
100 East First Street
Brewster, OH 44613

STB FD • 33388 11-27-98 • J BUSINESS



Metro-North Railroad



November 23, 1998

George W. Mayo, Jr., Esq.
Hogan & Hartson
555 Thirteenth Street, NW
Washington, DC 20004-1161

Dennis G. Lyons, Esq.
Arnold & Porter
555 12th Street, NW
Washington, DC 20004-1202

Charles A. Spitulnik, Esq.
Hopkins & Sutter
888 Sixteenth Street SW
Washington, DC 20006

C. Michael Loftus, Esq.
Slover & Loftus
1224 Seventeenth Street, NW
Washington, DC 20036

Re: Surface Transportation Board Finance Docket No. 33388

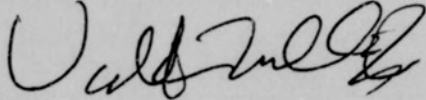
Gentlemen:

I am writing to you as attorneys for Canadian Pacific, CSX, New York City Economic Development Corporation and New York State Department of Transportation, respectively, with regard to the Surface Transportation Board's decision No. 102 in the above-referenced matter.

In accordance with paragraph #3 of the Board's order, this is to request that Metro-North Commuter Railroad Company be served with copies of all filings made as a result of decision No. 102.

Thank you for your courtesy in this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Walter E. Zullig, Jr.', written in a cursive style.

Walter E. Zullig, Jr.
Special Counsel
(212) 340-2027

Attorney for Metro-North Commuter Railroad Company

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

STB

FD

33388

11-27-98

J

LAW

SONNENSCHN NATH & ROSENTHAL

CHICAGO
LOS ANGELES
NEW YORK
SAN FRANCISCO
ST. LOUIS

1301 K STREET N.W.
SUITE 600, EAST TOWER
WASHINGTON, D.C. 20005

November 24, 1998

(202) 408-6400
FACSIMILE
(202) 408-6399

DIRECT LINE
(202) 408-6351

By Fax and Mail

George W. Mayo, Jr
Hogan & Hartson, L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

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

Kelvin J. Dowd, Esq.
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Charles A. Spitulnik, Esq.
Hopkins & Sutter
888 16th Street, N.W.
Washington, D.C. 20006



Re: Finance Docket No. 33388, CSX and Norfolk Southern — Control
and Lease — Conrail
Finance Docket No. 33388 (Sub-No. 69), Responsive Application — State of New
York, By and Through Its Department of Transportation, and the New York City
Economic Development Corporation

Dear Counsel:

In accordance with the requirements of STB Decision No. 102, served November 20, 1998, I ask that you serve me with copies of the public version, and any confidential or highly confidential versions, of further submissions you make in this proceeding, including the submissions due on November 30 and December 10. Given the accelerated schedule imposed by the Board, I ask that you serve me by hand.

Thank you for your attention to this request.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'L. John Osborn'.

L. John Osborn

cc: Hon. Vernon A. Williams, Secretary
Administrative Law Judge Leventhal

STB

FD

33388

11-25-98

J

192395

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

192385

EDWARD D. GREENBERG
E-MAIL: egreenbe@gkmg.com

ENTERED
Office of the Secretary

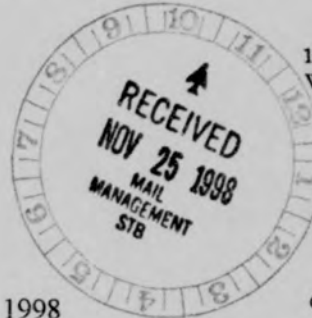
NOV 25 1998

Part of
Public Record

VIA COURIER

Mr. Vernon A. Williams, Secretary
Office of the Secretary
Surface Transportation Board
1925 K Street, N.W., Room 711
Washington, DC 20423-0001

November 25, 1998



CANAL SQUARE
1054 THIRTY-FIRST STREET, N.W.
WASHINGTON, D.C. 20007-4492

TELEPHONE: (202) 342-5200
FACSIMILE: (202) 342-5219
(202) 337-8787

E-MAIL: gkmg@gkmg.com

ROBERT N. KHARASCH
GEORGE D. NOVAK, II
OF COUNSEL

GEORGE F. GALLAND (1910-1985)

WRITER'S DIRECT DIAL NUMBER
(202) 342-5277

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

Dear Secretary Williams:

In accordance with the Board's Decision No. 102, served November 20, 1998, in this proceeding, this is to advise the Board and counsel for the parties directly involved in the issues underlying Decision No. 102^{1/} that copies of their filings responsive to this matter should be served on the undersigned.

^{1/} The parties are Canadian Pacific Railway Company, Delaware & Hudson Railway Company, Inc., Soo Line Railroad Company, and St. Lawrence & Hudson Railway Company Limited (collectively "CP"), the State of New York and New York Department of Transportation ("NYDOT"), New York City Economic Development Corporation ("NYCEDC"), and CSX Corporation and CSX Transportation, Inc. ("CSX").

GALLAND, KHARASCH & GARFINKLE, P.C.

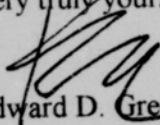
Mr. Vernon A. Williams, Secretary

November 25, 1998

Page 2

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

Very truly yours,


Edward D. Greenberg

cc: George W. Mayo, Jr., Esq. (CP) (via fax/mail)
Dennis G. Lyons, Esq. (CSX)(via fax/mail)
Charles A. Spitulnik, Esq. (NYCEDC) (via fax/mail)
Kelvin J. Dowd (NYDOT) (via fax/mail)

STB

FD

33388

11-24-98

J

192385

192385

ARNOLD & PORTER

555 TWELFTH STREET, N.W.
WASHINGTON, D.C. 20004-1206

(202) 942-5000
FACSIMILE: (202) 942-5999

NEW YORK
DENVER
LOS ANGELES
LONDON

DENNIS G. LYONS
(202) 942-5858

ENTERED
Office of the Secretary

November 24, 1998

NOV 24 1998

Part of
Public Record



VIA HAND DELIVERY

The Honorable Vernon A. Williams
Secretary, Surface Transportation Board
Mercury Building, Room 700
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**

ENTERED
Office of the Secretary

NOV 25 1998

Part of
Public Record

Dear Secretary Williams:

We received yesterday our service copy of a letter dated November 19, 1998, to the Board from counsel for Providence and Worcester Railroad Company ("P&W"). In it, P&W complains of the level of compliance of CSX Corporation and CSX Transportation, Inc. (collectively, "CSX") with the condition in Ordering Paragraph No. 31 of Decision No. 89. P&W requests that "a mediation process supervised by an administrative law judge" be ordered by the Board; that a "procedural schedule" involving the exchange of "statements of position" be promulgated by the Board, with P&W reserving "its right to return to the Board" "if the mediation is unsuccessful" so that the Board may take further action.

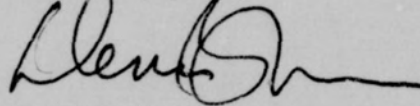
It appears to us that, although not designated as such, P&W's filing is in the nature of a Motion or Petition. CSX finds the P&W filing to be incomplete, to say the least. CSX desires to reply to it. CSX will reply to P&W's filing within 20 days of November 19, 1998, as provided for in 49 C.F.R. § 1104.13(a), that is, on or before December 9, 1998.

ARNOLD & PORTER

The Hon. Vernon A. Williams
November 24, 1998
Page 2

We are providing 25 copies of this letter so that it may be distributed appropriately, and are serving it on the service list by first-class mail or more expeditious means.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Dennis G. Lyons", with a long horizontal flourish extending to the right.

Dennis G. Lyons
*Counsel for CSX Corporation
and CSX Transportation, Inc.*

cc: All Parties of Record

STB

FD

.

33388

11-19-98

.

J

192311

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

192311
EDWARD D. GREENBERG
E-MAIL: egreenbe@gkmg.com

ENTERED
Office of the Secretary

NOV 19 1998

Part of
Public Record

VIA COURIER

Mr. Vernon A. Williams, Secretary
Office of the Secretary
Surface Transportation Board
1925 K Street, N.W., Room 711
Washington, DC 20423-0001



November 19, 1998

CANAL SQUARE
1054 THIRTY-FIRST STREET, N.W.
WASHINGTON, D.C. 20007-4492

TELEPHONE: (202) 342-5200

FACSIMILE: (202) 342-5219

(202) 337-8787

E-MAIL: gkmg@gkmg.com

ROBERT N. KHARASCH
GEORGE D. NOVAK, II
OF COUNSEL

GEORGE F. GALLAND (1910-1985)

WRITER'S DIRECT DIAL NUMBER
(202) 342-5277

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

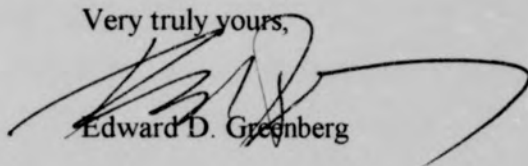
Dear Secretary Williams:

Enclosed please find an original and twenty-five (25) copies of Providence and Worcester Railroad Company's letter requesting mediation in order to implement the provisions of Condition No. 31 that were imposed in Decision No. 89 in the above-referenced proceeding.

Also enclosed is an additional copy of the filing to be date-stamped when filed and returned to us.

Should you have any questions concerning this, please do not hesitate to contact us.

Very truly yours,


Edward D. Greenberg

Enclosure

XIN JI YUAN-GKMG LAW OFFICE
AFFILIATED FIRM
SUITE A-1603, VANTONE NEW WORLD PLAZA
NO. 2, FU CHENG MEN WAI AVENUE
BEIJING 100037 PEOPLE'S REPUBLIC OF CHINA
TEL: 011-86-10-6803-8501 FAX: 011-86-10-6803 8505
E-MAIL: xjylaw@pku.edu.cn

192311

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

EDWARD D. GREENBERG
E-MAIL: egreenbe@gkmg.com

ENTERED
Office of the Secretary

NOV 19 1998

Part of
Public Record

November 19, 1998



CANAL SQUARE
1054 THIRTY-FIRST STREET, N.W.
WASHINGTON, D.C. 20007-4492

TELEPHONE: (202) 342-5200
FACSIMILE: (202) 342-5219
(202) 337-8787

E-MAIL: gkmg@gkmg.com

ROBERT N. KHARASCH
GEORGE D. NOVAK, II
OF COUNSEL

GEORGE F. GALLAND (1910-1985)

WRITER'S DIRECT DIAL NUMBER
(202) 342-5277

VIA COURIER

Mr. Vernon A. Williams, Secretary
Office of the Secretary
Surface Transportation Board
1925 K. Street, N.W., Room 711
Washington, DC 20423-0001

Re: CSX Corporation and CSX Transportation, inc., Norfolk Southern Corporation and Norfolk Southern Railway Company-Control and Operating Leases/Agreements-Conrail, Inc. and Consolidate Rail Corporation-Transfer of Railroad Line by Norfolk Southern Railway Company to CSX Transportation, Inc. (Finance Docket No. 33388)

Dear Secretary Williams:

Ordering Paragraph 31 of the Board's Decision No. 89 states as follows:

CSX must discuss with P&W the possibility of expanded P&W service over trackage or haulage rights on the line between Fresh Pond, NY, in New Haven, CT, focusing on operational and ownership impediments related to service over that line.

In its written decision the Board has clearly indicated that these discussions are focused on the Board's determination to "forcefully use this opportunity to restore a modicum of the competition that was lost in the financial crisis that led to the formation of Conrail." (Decision, at 83.) The decision further states:

XIN JI YUAN-GKMG LAW OFFICE
AFFILIATED FIRM
SUITE A-1603, VANTONE NEW WORLD PLAZA
NO. 2, FU CHENG MEN WAI AVENUE
BEIJING 100037 PEOPLE'S REPUBLIC OF CHINA
TEL: 011-86-10-6903-8501 FAX: 011-86-10-5803-8505
E-MAIL: xjylaw@pku.edu.cn

Mr. Vernon A. Williams

November 19, 1998

Page 2

Similarly, as a step toward allowing more rail competition into and out of the City, CSX should discuss with Providence and Worcester Railroad Company ("P&W") the possibility of expanded P&W service over trackage or haulage rights from Fresh Pond to New Haven, CT focusing on operational and ownership impediments related to additional freight service over the line. We will continue to follow the progress of these negotiations as part of the oversight process.

(Decision, at 83-4.)

Again, on page 71 of the Decision, the Board states in footnote 110 that it has "determined that additional competition on Conrail's east-of-the-Hudson line running from Albany to New York City is feasible, sustainable and appropriate, and that this might also be the case for lines used by Conrail, but owned by other parties running from New York City to New Haven, CT."

This letter is intended to advise the Board as to the status of P&W's attempts to discuss such expanded service with CSX and to request that the Board establish a mediation process to facilitate the required negotiations.

Restoration of rail competition east of the Hudson River, including to New Haven was supported by Coalition of Northeastern Governors, Connecticut Department of Transportation, Conservation Law Foundation, United States Representative Jerrold Nadler and 23 other members of the United States House of Representatives (the "Nadler Delegation"), New York City Economic Development Corporation, New York Department of Transportation and the Tri-State Transportation Campaign. Various comments were also made in the environmental process regarding the same subject. P&W acknowledged these requests, stating that it should be the designated operator between Fresh Pond and New Haven in the event the Board determined to restore competitive rail service in this corridor (*see* P&W 3). And, more recently P&W has received copies of letters supporting this expanded operation from the Connecticut Department of Transportation and Metro North. (Copies of these letters are attached.)

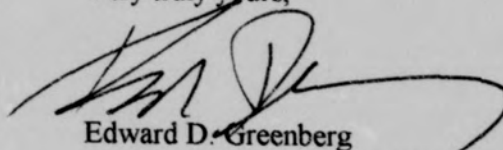
P&W remains ready, willing and able to commence the required discussions. In accordance with the Board's directive, P&W has requested CSX to initiate discussions concerning expanding P&W service over this line, but CSX has essentially declined to do so. Instead, CSX, with one exception, intends to continue to be the sole line haul carrier between New Haven and Fresh Pond, based on its contention that the existing revenue factor agreement entered into by CSX and P&W on August 6, 1997 satisfies the Board's requirement in Decision No. 89. CSX is therefore seemingly

Mr. Vernon A. Williams
November 19, 1998
Page 3

unwilling to permit P&W to provide the competitive rail service contemplated by the Board. Rather, CSX has limited opportunities for discussions between the parties to an invitation to bring forward mutually beneficial marketing opportunities that would be reviewed on an origin-destination specific basis.

P&W suggests that a mediation process supervised by an administrative law judge may be productive in facilitating the required discussions. P&W reserves its right to return to the Board, however, if the mediation is unsuccessful to advise the Board of the status of this situation for further action. Insofar as a procedural schedule is concerned, we suggest that the parties be prepared to exchange statements of position with each other, with copies to the assigned mediator within 2 weeks of the Board's initiation of mediation and assignment of a mediator.

Very truly yours,

A handwritten signature in black ink, appearing to read 'E. Greenberg', with a long, sweeping horizontal line extending to the right.

Edward D. Greenberg
Attorney for Providence & Worcester Railroad Company

cc: All Parties of Record
Congressman Jerrold Nadler
John F. Guinan, Dept. of Commerce, NYDOT
John McHugh



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION

2800 BERLIN TURNPIKE, P.O. BOX 317546
NEWINGTON, CONNECTICUT 06131-7546

Phone:

(860) 594-2800



July 23, 1998

Ms. Heidi J. Eddins
General Counsel
Providence and Worcester Railroad Company
75 Hammond Street
Worcester, Massachusetts 01610

Dear Ms. Eddins:

Please consider this letter as evidence of the Connecticut Department of Transportation's (CDOT) support for the introduction of additional competitive rail freight service on the CDOT owned portion of the New Haven Rail Line from New Haven to the CT/NY State line in Greenwich.

The Providence and Worcester Railroad Company (P&W) already operates on the New Haven Rail Line for stone train movements and to access customers located on the Waterbury and Danbury Branches. Subject to the execution of a mutually agreeable trackage rights agreement, CDOT supports the P&W in its effort to obtain and exercise unrestricted trackage rights on the New Haven Rail Line.

Very truly yours,

Harry P. Harris
Bureau Chief
Bureau of Public Transportation

NOV. -19' 98 (THU) 11:05
07/22/88 10:47

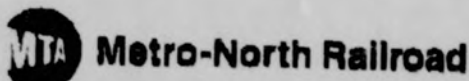
P&W EXEC.
212 687 8078

TEL: 1 508 795 0748
METRO-NORTH L&T

P. 003
2/000

347 Madison Avenue
New York, NY 10017-3739
212 340-3000

Daniel T. Scanneil
Acting President



July 22, 1998

Heidi J. Eddins, Esq.
General Counsel
Providence & Worcester Railroad Company
75 Hammond Street
Worcester, MA 01610

Dear Mrs. Eddins:

Please consider this letter as evidence of Metro-North's support for the introduction of additional competitive rail freight service over the New Haven Line from New Haven, CT to Fresh Pond Jct. in Queens County, New York. As you know, the line segment between New Haven and the New York-CT State Line is owned by the State of Connecticut and the segment between the State Line and New Rochelle Junction [CP 216] is owned by Metro-North's parent agency, Metropolitan Transportation Authority. The entire line is maintained and operated by Metro-North.

Providence & Worcester presently operates on this territory for the movement of unit stone trains as well as to serve customers located on the Danbury and Waterbury Branches. Metro-North is willing to negotiate a mutually acceptable trackage rights agreement with you to enable P&W to obtain and exercise unrestricted trackage rights in this territory.

Very truly yours,

A handwritten signature in black ink, appearing to read "Walter E. Zullig Jr.", written over a horizontal line.

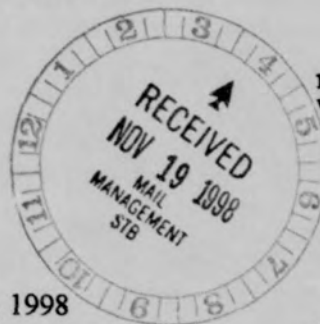
Walter E. Zullig Jr.
Special Counsel

Cc: Richard K. Bernard, Esq.
Harry P. Harris - CDOT
Howard Permut
George Walker

182311

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

EDWARD D. GREENBERG
E-MAIL: egreenbe@gkmg.com



ENTERED
Office of the Secretary

November 19, 1998

NOV 19 1998

Part of
Public Record

CANAL SQUARE
1054 THIRTY-FIRST STREET, N.W.
WASHINGTON, D.C. 20007-4492

TELEPHONE: (202) 342-5200
FACSIMILE: (202) 342-5219
(202) 337-8787

E-MAIL: gkmg@gkmg.com

ROBERT N. KHARASCH
GEORGE D. NOVAK, II
OF COUNSEL

GEORGE F. GALLAND (1910-1985)

WRITER'S DIRECT DIAL NUMBER
(202) 342-5277

VIA COURIER

Mr. Vernon A. Williams, Secretary
Office of the Secretary
Surface Transportation Board
1925 K. Street, N.W., Room 711
Washington, DC 20423-0001

Re: CSX Corporation and CSX Transportation, inc., Norfolk Southern Corporation and Norfolk Southern Railway Company-Control and Operating Leases/Agreements-Conrail, Inc. and Consolidate Rail Corporation-Transfer of Railroad Line by Norfolk Southern Railway Company to CSX Transportation, Inc. (Finance Docket No. 33388)

Dear Secretary Williams:

Ordering Paragraph 31 of the Board's Decision No. 89 states as follows:

CSX must discuss with P&W the possibility of expanded P&W service over trackage or haulage rights on the line between Fresh Pond, NY, in New Haven, CT, focusing on operational and ownership impediments related to service over that line.

In its written decision the Board has clearly indicated that these discussions are focused on the Board's determination to "forcefully use this opportunity to restore a modicum of the competition that was lost in the financial crisis that led to the formation of Conrail." (Decision, at 83.) The decision further states:

XIN JI YUAN-GKMG LAW OFFICE
AFFILIATED FIRM
SUITE A-1603, VANTONE NEW WORLD PLAZA
NO. 2, FU CHENG MEN WAI AVENUE
BEIJING 100037 PEOPLE'S REPUBLIC OF CHINA
TEL: 011-86-10-6803-8501 FAX: 011-86-10-6803-8505
E-MAIL: xjylaw@pku.edu.cn

Mr. Vernon A. Williams

November 19, 1998

Page 2

Similarly, as a step toward allowing more rail competition into and out of the City, CSX should discuss with Providence and Worcester Railroad Company ("P&W") the possibility of expanded P&W service over trackage or haulage rights from Fresh Pond to New Haven, CT focusing on operational and ownership impediments related to additional freight service over the line. We will continue to follow the progress of these negotiations as part of the oversight process.

(Decision, at 83-4.)

Again, on page 71 of the Decision, the Board states in footnote 110 that it has "determined that additional competition on Conrail's east-of-the-Hudson line running from Albany to New York City is feasible, sustainable and appropriate, and that this might also be the case for lines used by Conrail, but owned by other parties running from New York City to New Haven, CT."

This letter is intended to advise the Board as to the status of P&W's attempts to discuss such expanded service with CSX and to request that the Board establish a mediation process to facilitate the required negotiations.

Restoration of rail competition east of the Hudson River, including to New Haven was supported by Coalition of Northeastern Governors, Connecticut Department of Transportation, Conservation Law Foundation, United States Representative Jerrold Nadler and 23 other members of the United States House of Representatives (the "Nadler Delegation"), New York City Economic Development Corporation, New York Department of Transportation and the Tri-State Transportation Campaign. Various comments were also made in the environmental process regarding the same subject. P&W acknowledged these requests, stating that it should be the designated operator between Fresh Pond and New Haven in the event the Board determined to restore competitive rail service in this corridor (*see* P&W 3). And, more recently P&W has received copies of letters supporting this expanded operation from the Connecticut Department of Transportation and Metro North. (Copies of these letters are attached.)

P&W remains ready, willing and able to commence the required discussions. In accordance with the Board's directive, P&W has requested CSX to initiate discussions concerning expanding P&W service over this line, but CSX has essentially declined to do so. Instead, CSX, with one exception, intends to continue to be the sole line haul carrier between New Haven and Fresh Pond, based on its contention that the existing revenue factor agreement entered into by CSX and P&W on August 6, 1997 satisfies the Board's requirement in Decision No. 89. CSX is therefore seemingly

Mr. Vernon A. Williams

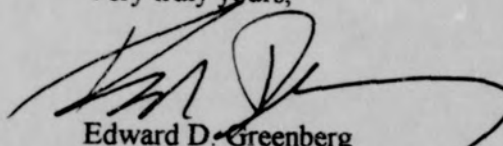
November 19, 1998

Page 3

unwilling to permit P&W to provide the competitive rail service contemplated by the Board. Rather, CSX has limited opportunities for discussions between the parties to an invitation to bring forward mutually beneficial marketing opportunities that would be reviewed on an origin-destination specific basis.

P&W suggests that a mediation process supervised by an administrative law judge may be productive in facilitating the required discussions. P&W reserves its right to return to the Board, however, if the mediation is unsuccessful to advise the Board of the status of this situation for further action. Insofar as a procedural schedule is concerned, we suggest that the parties be prepared to exchange statements of position with each other, with copies to the assigned mediator within 2 weeks of the Board's initiation of mediation and assignment of a mediator.

Very truly yours,



Edward D. Greenberg

Attorney for Providence & Worcester Railroad Company

cc: All Parties of Record
Congressman Jerrold Nadler
John F. Guinan, Dept. of Commerce, NYDOT
John McHugh



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION

2800 BERLIN TURNPIKE, P.O. BOX 317546
NEWINGTON, CONNECTICUT 06131-7546

Phone: (860) 594-2800



July 23, 1996

Ms. Heidi J. Eddins
General Counsel
Providence and Worcester Railroad Company
75 Hammond Street
Worcester, Massachusetts 01610

Dear Ms. Eddins:

Please consider this letter as evidence of the Connecticut Department of Transportation's (CDOT) support for the introduction of additional competitive rail freight service on the CDOT owned portion of the New Haven Rail Line from New Haven to the CT/NY State line in Greenwich.

The Providence and Worcester Railroad Company (P&W) already operates on the New Haven Rail Line for stone train movements and to access customers located on the Waterbury and Danbury Branches. Subject to the execution of a mutually agreeable trackage rights agreement, CDOT supports the P&W in its effort to obtain and exercise unrestricted trackage rights on the New Haven Rail Line.

Very truly yours,

Harry P. Harris
Bureau Chief
Bureau of Public Transportation

07/22/88

10:47

FAX DADO.
212 687 8078

METRO-NORTH RAIL

TEL: 1 508 795 0748

P. 003

2/000

347 Madison Avenue
New York, NY 10017-3739
212 340-3000

Daniel T. Scanneil
Acting President

**Metro-North Railroad**

July 22, 1998

Heidi J. Eddins, Esq.
General Counsel
Providence & Worcester Railroad Company
75 Hammond Street
Worcester, MA 01610

Dear Mrs. Eddins:

Please consider this letter as evidence of Metro-North's support for the introduction of additional competitive rail freight service over the New Haven Line from New Haven, CT to Fresh Pond Jct. in Queens County, New York. As you know, the line segment between New Haven and the New York-CT State Line is owned by the State of Connecticut and the segment between the State Line and New Rochelle Junction [CP 216] is owned by Metro-North's parent agency, Metropolitan Transportation Authority. The entire line is maintained and operated by Metro-North.

Providence & Worcester presently operates on this territory for the movement of unit stone trains as well as to serve customers located on the Danbury and Waterbury Branches. Metro-North is willing to negotiate a mutually acceptable trackage rights agreement with you to enable P&W to obtain and exercise unrestricted trackage rights in this territory.

Very truly yours,

Walter E. Zullig Jr.
Special Counsel

Cc: Richard K. Bernard, Esq.
Harry P. Harris - CDOT
Howard Permut
George Walker

STB

FD

33388

11-16-98

J

BUSINESS



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

November 16, 1998

FILE IN DOCKET

70-33388

Office of Compliance and Enforcement

William A. Mullins, Esq.
Troutman Sanders, LLP
1300 I Street, N. W.
Washington, DC 20005-3314

Dear Mr. Mullins:

This responds to your recent letter to Chairman Morgan and Vice Chairman Owen, regarding an alleged deterioration in service levels provided by the Consolidated Rail Corporation (Conrail). Specifically, you indicated that service levels have forced your client, New York State Electric & Gas Corporation (NYSEG), to cancel or defer coal shipments; accept reduced coal deliveries; and function with limited coal inventories. However, a subsequent letter from George Turner, Senior Vice President of the Conrail unit train service group, suggests that NYSEG was never asked to cancel or defer coal orders, and, instead, is 25 trains ahead of 1997.

As you know, the Board has dealt with service problems in the West for more than a year and has instituted, through this office, open lines of communication with carrier officials that are designed to achieve prompt results when provided with specific service information. Similarly, we are not strangers to the principals at Conrail and in the Conrail acquisition, should service issues arise which may require our attention. Moreover, while you have not provided current service failure information or asked the Board for any specific action, you suggest that such a request may well be forthcoming if service levels are not improved. Should that be the case, I can assure you that my office is available to receive and respond to informal requests for assistance to resolve service issues. In addition, I know that you are familiar with the Board's procedures should you determine that a formal filing is necessary.

In order to ensure that your client's concerns are made public, I will request that your letter and this reply be placed in the correspondence section of Finance Docket No. 33388. Please do not hesitate to contact me if we can be helpful in the future.

Sincerely,

Melvin F. Clemens, Jr.

Director

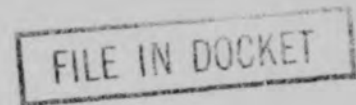
cc: Chairman Morgan
Vice Chairman Owen
Finance Docket No. 33388

TROUTMAN SANDERS LLP

ATTORNEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

1300 I STREET, N.W.
SUITE 500 EAST
WASHINGTON, D.C. 20005-3314
TELEPHONE: 202-274-2950
FACSIMILE: 202-274-2994

INTERNET: william.mullins@troutmansanders.com



William A. Mullins

202-274-2953

September 11, 1998

BY HAND DELIVERY

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

The Honorable Gus A. Owen
Vice Chairman
Surface Transportation Board
1925 K Street, N.W.
Suite 820
Washington, DC 20423

RECEIVED
SURFACE TRANSPORTATION
BOARD
SEP 14 12 02 PM '98
OFFICE OF
CHAIRMAN MORGAN

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

Dear Chairman Morgan and Vice Chairman Owen:

I am writing on behalf of New York State Electric & Gas Corporation ("NYSEG") to alert you to the recent, rapid deterioration in coal transportation service provided by Consolidated Rail Corporation ("Conrail"). This service problem, somewhat reminiscent of the service problem faced by UP in the early days of its rail service crisis, has (1) forced NYSEG to cancel or defer certain coal shipments; (2) reduced NYSEG's coal deliveries to less than two-thirds of the company's targets; and (3) left the company with only a fifteen-day coal supply. Should this situation continue (and there is no indication that the cause of the problem is being remedied), it could rapidly deplete NYSEG's coal inventories, threatening NYSEG's service capacity.

As the Board is aware from NYSEG's filings in the NS/CSX/Conrail case, NYSEG operates four coal-fired generating plants in New York State that are all served exclusively by Conrail. Three of these are served by Conrail over the Southern Tier route. The fourth, and by far the largest, lies on Lake Ontario, northeast of Buffalo. NYSEG also owns three 130-car unit train-sets, each set being capable of hauling 12,500 to over 15,500 tons of coal per trip. These train-sets are perfectly adequate, even with occasional normal service interruptions, of supplying

TROUTMAN SANDERS LLP
ATTORNEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

The Honorable Linda J. Morgan
The Honorable Gus A. Owen
September 11, 1998
Page 2

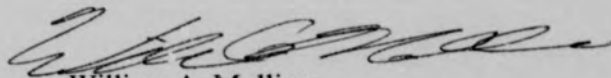
the two largest NYSEG plants. Conrail has been unable to position NYSEG's train-sets for loading coal that NYSEG had ordered from the mines and was available for loading. NYSEG was asked to cancel certain coal orders to lessen the backlog of service orders Conrail has to fill. NYSEG reluctantly agreed in an effort to help Conrail improve its service. Unfortunately, service has continued to decline.

Conrail's service has been especially inadequate along the Southern Tier Route. For example, one of NYSEG's train-sets was loaded at the mine on August 8, delivered to Westfield, NY, which is southwest of Buffalo, on August 11, but sat from August 11th to August 20th because Conrail allegedly could not provide locomotives or crews to move it. The train was not finally delivered to Milliken Station until August 21. Because of this and other delays, NYSEG has incurred additional employee overtime costs in an effort to unload the trains as quickly as possible once they arrive in order to help expedite deliveries and turn around times.

Although Conrail has made some effort to alleviate these problems, NYSEG wishes to advise the Board that this serious problem exists and is not getting better. If this service problem continues for much longer, it may well impact NYSEG's ability to provide service to its customers. Although NYSEG is not requesting a specific action by the Board at this time, should the situation continue on its current path, NYSEG may be forced to seek some form of emergency relief from the Board.

If you need further information on this matter, please contact me.

Sincerely,



William A. Mullins

cc: Mr. Melvin F. Clemens, Jr.
Parties of Record

STB

FD

33388

11-12-98

J

BUSINESS

ARNOLD & PORTER

555 TWELFTH STREET, N.W.
WASHINGTON, D.C. 20004-1206

(202) 942-5000
FACSIMILE (202) 942-5999

NEW YORK
DENVER
LOS ANGELES
LONDON

DENNIS G. LYONS
(202) 942-5858

November 12, 1998

Hon. Mark J. Langer, Clerk of the Court
U.S. Court of Appeals for the
District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W., Room 5409
Washington, D.C. 20001-2866



Re: National Lime & Stone Company v. Surface
Transportation Board, No. 98-1493

FD-33388

Dear Mr. Langer:

Enclosed for filing in the above-referenced matter are an original and four copies of the Motion of CSX Corporation and CSX Transportation, Inc. to Intervene as a Matter of Right.

Kindly date stamp the extra copy of this letter and the Motion which our messenger is presenting and return them to the messenger.

Please contact me if you should have any questions on this matter.

Respectfully yours,

Dennis G. Lyons

Enclosures
via hand delivery

cc:

Honorable Vernon A. Williams
All Parties of Record

NATIONAL LIME & STONE COMPANY,
Petitioner,
v.
SURFACE TRANSPORTATION
BOARD,
Respondents.


CSX Corporation and CSX Transportation, Inc. (collectively, "CSX") hereby move to intervene in the referenced proceeding as a matter of right pursuant to Rule 15(d) of the Federal Rules of Appellate Procedure. This proceeding involves review of the Orders of the Surface Transportation Board (i) dated and served October 19, 1998 (Decision No. 96), disposing of certain petitions for reconsideration and/or clarification of various aspects of the Surface Transportation Board's Decision No. 89, served July 23, 1998, and (ii) such Decision No. 89, in each case in the proceeding styled "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." CSX was a party applicant in that matter.

Because the Petition for Review in this case seeks review of decisions of the Surface Transportation Board which in large part granted the relief sought by CSX, CSX may intervene in this proceeding as a matter of right. 28 U.S.C. § 2323.

For the foregoing reasons, CSX hereby asks that the Court grant its motion to intervene.

Respectfully submitted.

A handwritten signature in dark ink, appearing to read 'Dennis G. Lyons', is written over a horizontal line.

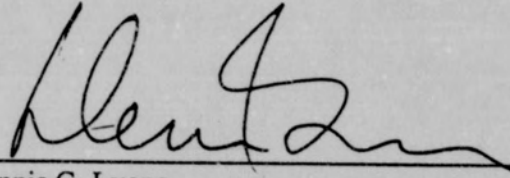
Dennis G. Lyons
ARNOLD & PORTER
555 Twelfth Street, N.W.
Washington, D.C. 20004-1202
202-942-5858

Counsel for CSX Corporation and
CSX Transportation, Inc.

November 12, 1998

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of November, 1998, a copy of the foregoing Motion of CSX Corporation and CSX Transportation, Inc. to Intervene as a Matter of Right was served by first class mail, postage prepaid, or more expeditious manner of delivery, on all parties of record before the Surface Transportation Board, as named on the attached service list.

A handwritten signature in dark ink, appearing to read "Dennis G. Lyons", written over a horizontal line.

Dennis G. Lyons

November 12, 1998

Clark Evans Downs

Jones, Day, Reavis & Pogue
1450 G Street, N.W.
Washington, D.C. 20005-2088

Louis Mackall, V, Esq.

Office of the General Counsel
Surface Transportation Board
1925 K Street, N.W., Room 609
Washington, D.C. 20423-0001

Honorable Jacob Leventhal

Administrative Law Judge
Federal Energy Regulatory Commission
Office of Hearings, Suite 11F
888 First Street, N.E.
Washington, D.C. 20426

Gerald P. Norton, Esq.

Paul A. Cunningham, Esq.
Harkins Cunningham
1300 19th Street, N.W., Suite 600
Washington, D.C. 20036

Mitchell M. Kraus, General Counsel
Transportation Communications International
Union
3 Research Place
Rockville, MD 20850

Louis E. Gitomer, Esq.

Of Counsel
Ball Janik LLP
1455 F Street, N.W.; Suite 225
Washington, D.C. 20005

Keith G. O'Brien

Robert A. Wimbish, Esq.
REA, CROSS & AUCHINCLOSS
1707 L Street, N.W., Suite 570
Washington, D.C. 20036

Nicholas J. DiMichael, Esq.

Frederic L. Wood, Esq.
Karyn Booth, Esq.
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Ave., N.W., Suite 750
Washington, D.C. 20005-3934

Richard A. Allen, Esq.

John Edwards, Esq.
Patricia Bruce, Esq.
Zuckert, Scoutt & Rasenberger
888 17th Street, N.W., Suite 600
Washington, D.C. 20006-3939

L. John Osborn, Esq.

Sonnenschein Nath & Rosenthal
1301 K Street, N.W.
Suite 600 East Tower
Washington, D.C. 20005

Edward D. Greenberg, Esq.

Galland, Karasch & Garfinkle, P.C.
Canal Square
1054 31st Street, N.W.
Washington, D.C. 20007

Charles A. Spitulnik, Esq.

HOPKINS & SUTTER
888 Sixteenth Street, N.W.
Washington, D.C. 20006

Eric M. Hocky, Esq.

GOLLATZ, GRIFFIN & EWING, P.C.
213 West Miner Street
P.O. Box 796
West Chester, PA 19381-0796

Fritz R. Kahn, Esq.

Fritz R. Kahn, P.C.
Suite 750 West
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934

Michael F. McBride, Esq.

Linda Breggin, Esq.
Brenda Durham, Esq.
Bruce Neely, Esq.
Joseph Fagan, Esq.
Brian O'Neil, Esq.
LeBoeuf, Lamb, Green & MacRae, L.L.P.
1875 Connecticut Avenue, N.W., Suite 1200
Washington, D.C. 20009-5728

Paul S. Smith, Esq.
Raphael Kedar, Esq.
Scott Green, Esq.
Stephen Grim, Esq.
Shelton Jackson
Dale Andrews, Esq.
Peter Kerr, Esq.
Joseph Canny, Esq.
Jeanne O'Leary
William Gelston, Esq.
Robert Martin, Esq.
U.S. Department of Transportation
Room 4102 C-30
400 Seventh Street, S.W.
Washington, D.C. 20590

George Mayo, Jr., Esq.
Eric Von Salzen, Esq.
Farhana Khera, Esq.
Hogan & Hartson L.L.P.
Columbia Square
555 13th Street, N.W.
Washington, D.C. 20004-1109

Faul M. Donovan, Esq.
LaRoe, Winn, Moerman & Donovan
3506 Idaho Avenue, N.W.
Washington, D.C. 20016

Erika Z. Jones, Esq.
Adrian L. Steel, Jr., Esq.
Roy T. Englert, Jr., Esq.
Mayer, Brown & Platt
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Karl Morell, Esq.
Irene Ridgewood, Esq.
Ball Janik LLP
1455 F Street, N.W., Suite 225
Washington, D.C. 20005

Christopher C. O'Hara
Brickfield, Burchette & Ritts, P.C.
1025 Thomas Jefferson Street, N.W.
Eighth Floor, West Tower
Washington, D.C. 20007

Doreen C. Johnson, Esq.
Chief, Antitrust Section
Ohio Attorney General's Office
30 E. Broad Street, 16th Floor
Columbus, OH 43215

Michael P. Harmonis, Esq.
Transportation, Energy and
Agriculture Section
U.S. Department of Justice
Antitrust Division
325 7th Street, N.W., Suite 500
Washington, D.C. 20530

William L. Slover, Esq.
Christopher A. Mills, Esq.
Frank J. Pergolizzi, Esq.
Jean M. Cunningham, Esq.
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Mr. William W. Whitehurst, Jr.
Economic Consultant
W.W. Whitehurst & Associates, Inc.
12421 Happy Hollow Road
Cockeysville, MD 21030-1711

Henry M. Wick, Jr.
Charles Streiff
Vincent Szelign HC)
Wick, Streiff, Meyer, Metz &
O'Boyle, P.C.
1450 Two Chatham Center
Pittsburgh, PA 15219

Steven J. Kalish, Esq.
Douglas Canter
Suite 1105
1750 Pennsylvania Avenue, NW
Washington, DC 20006

Arvid Roach II, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044

Inajo Davis Chappell
Ulmer & Berne LLP
1300 East 9th Street, Suite 900
Cleveland, OH 44114-1583

Randolph L. Seger, Esq.
Robert Scott, Esq.
Michael Maxwell, Esq.
McHALE COOK & WELCH, P.C.
320 N. Meridian Street
Suite 1100
Indianapolis, IN 46204

William A. Mullins, Esq.
Sandra Brown, Esq.
David B. Reeves, Esq.
Troutman Sanders LLP
1300 I Street, N.W.
Suite 500 East
Washington, D.C. 20005

John J. Grocki
Executive Vice President
GRA, Incorporated
One Jenkintown Station
115 West Avenue
Jenkintown, PA 19046

Paul D. Coleman, Esq.
Hoppell, Mayer & Coleman
1000 Connecticut Avenue, N.W.; Suite 400
Washington, D.C. 20036-5302

Gerald W. Fauth III
G.W. Fauth & Associates, Inc.
Post Office Box 2401
Alexandria, VA 22301

Ernest J. Ierardi, P.C.
Genaro G. Fullano, Esq.
Henry B. Goethals, Esq.
Nixon, Hargrave, Devans & Doyle LLP
Clinton Square
Rochester, NY 14603

John L. Oberdorfer, Esq.
Scott N. Stone, Esq.
Patton Boggs, L.L.P.
2550 M Street, N.W.
Washington, D.C. 20037

John D. Heffner, Esq.
REA, CROSS & AUCHINCLOSS
1707 L Street, N.W., Suite 570
Washington, D.C. 20036

Martin W. Bercovici, Esq.
Keller and Heckman LLP
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001

Mark H. Sidman, Esq.
Weiner, Brodsky, Sidman &
Kider, P.C.
1350 New York Avenue, N.W.
Suite 800
Washington, D.C. 20005-4797

Kelvin J. Dowd, Esq.
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Joseph Pomponio
Federal Railroad Administration
400 Seventh Street, N.W.
RCC-20
Washington, D.C. 20590

G. Paul Moates, Esq.
Sidley & Austin
1722 Eye Street, N.W.
Washington, D.C. 20006

C. Michael Loftus, Esq.
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Daniel R. Elliott, III,
Assistant General Counsel
United Transportation Union
14600 Detroit Avenue
Cleveland, Ohio 44107-4250

John K. Maser, III, Esq.
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Ave., N.W., Suite 750
Washington, D.C. 20005-3934

Debra Willen
Patrick R. Plummer, Esq.
GUERRIERI, EDMOND & CLAYMAN,
P.A.
1331 F Street, N.W., Suite 400
Washington, D.C. 20004

Richard S. Edelman
L. Pat Wynns, Esq.
Highsaw, Mahoney & Clarke, P.A.
1050 17th Street, N.W., Suite 210
Washington, D.C. 20036

Chairman Linda S. Morgan
Surface Transportation Board
Mercury Building
1925 K Street, N.W.
Washington, D.C. 20423

Donald G. Avery
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
Robert P. vom Eigen, Esq.
Jamie Palter
Rachel Campbell
Hopkins & Sutter
888 16th Street, N.W.; Suite 700
Washington, D.C. 20006

Vice Chairman Gus Owen
Surface Transportation Board
Mercury Building
1925 K Street, N.W.
Washington, D.C. 20423

David Coburn
Samuel M. Sipe, Jr., Esq.
Timothy M. Walsh, Esq.
Steptoe & Johnson LLP
1330 Connecticut Avenue
Washington, D.C. 20036-1795

David M. Konschnik
Director, Office of Proceedings
Surface Transportation Board
Mercury Building
1925 K Street, N.W.
Washington, D.C. 20423

Kevin Sheys
William Sippel
Paul M. Laurenza
Oppenheimer Wolff & Donnelly
1350 Eye Street, N.W.; Suite 200
Washington, D.C. 20036-0001

Scot B. Hutchins, Esq.
Skadden, Arps, Slate,
Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

Francis Mardula
U.S. Department of Transportation
Maritime Administration MAR-224
400 7th Street, S.W.
Washington, D.C. 20590

Thomas E. Hanson, Jr.
Obermayer, Rebmann, Maxwell, &
Hippel, LLP
One Penn Center; 1617 J.F.K. Boulevard
Philadelphia, PA 19103

Christopher C. O'Hara
Brickfield, Burchette & Ritts, PC
1025 Thomas Jefferson Street, N.W.
Eighth Floor, West Tower
Washington, D.C. 20007

Thomas D. Crowley
L.E. Peabody & Associates, Inc.
1501 Duke Street, Suite 200
Alexandria, VA 22314

Thomas A. Schmitz
Fieldston Company, Inc.
1800 Massachusetts Avenue, N.W.
Suite 500
Washington, D.C. 20036-1883

Janet H. Gilbert, Esq.
General Counsel
Wisconsin Central Ltd.
6250 North River Road
Suite 9000
Rosemont, IL 60018

Frederic L. Wood, Esq.
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Ave., N.W., Suite 750
Washington, D.C. 20005-3934

Sandra L. Nunn
Frost & Jacobs LLP
2500 PNC Center
201 E. 5th Street
Cincinnati, OH 45202

Kenneth E. Siegel, Esq.
James F. Peterson, Esq.
American Trucking Associations
2200 Mill Road
Alexandria, VA 22314-4677

John L. Sarratt
Kilpatrick, Stockton
4101 Lake Boone Trail
Raleigh, NC 27607

Hugh H. Welsh, Esq.
Deputy General Counsel
The Port Authority of New York
and New Jersey
One World Trade Center, 67E
New York, NY 10048

Scott M. Saylor, Esq.
Executive Vice President and
General Counsel
North Carolina Railroad Company
3200 Atlantic Avenue; Suite 110
Raleigh, NC 27604

Edward J. Rodriguez
Housatonic Railroad Company, Inc.
P.O. Box 298
Centerbrook, CT 06409

Thomas M. O'Leary
Executive Director
Ohio Rail Development Commission
50 West Broad Street, Suite 1510
Columbus, OH 43215

Bruce A. Deerson, Esq.
Vice President & General Counsel
Martin Marietta Materials, Inc.
P.O. Box 30013
Raleigh, N.C. 27622

Marcella Szel, Esq.
Vice President-Legal Service
Canadian Pacific Railway Company
Gulf Canada Square
401 Ninth Avenue, S.W., Suite 500
Calgary, Alberta T2P 4Z4
CANADA

Mark G. Aron, Esq.
Peter J. Shudtz, Esq.
CSX Corporation
One James Center
902 East Cary Street
Richmond, VA 23129

Alfred P. Agler
Director, Transportation
Public Utilities Commission of Ohio
180 E. Broad St., 5th Floor
Columbus, OH 43215

Michael E. Roper, Esq.
The Burlington Northern and
Santa Fe Railway Company
Law Department
3017 Lou Menk Drive
Fort Worth, TX 76131-2830

David Ziccardi
Consolidated Rail Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Richard E. Weicher
The Burlington Northern and
Santa Fe Railway Company
1700 East Golf Road
Schaumburg, IL 60173

Gary A. Laakso, Esq.
General Counsel
RailAmerica, Inc.
301 Yamato Road
Boca Raton, FL 33431

Terrence Foley
The Port of Philadelphia &
Camden, Inc.
3460 North Delaware Ste. 200
Philadelphia, PA 19134

Heidi Edens, Esq.
General Counsel
Providence and Worcester
Railroad Company
75 Hammond Street
Worcester, MA 01610

William A. Bon, Esq.
General Counsel
Brotherhood of Maintenance Of Way
Employees
26555 Evergreen Road; Suite 200
Southfield, Michigan 48076

Anne Fingerette Hasse
APL Limited
1111 Broadway
Oakland, CA 94607

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

Donald F. Griffin, Esq.
Assistant General Counsel
Brotherhood of Maintenance
Of Way Employees
400 N. Capitol Street, N.W.
Suite 852
Washington, D.C. 20001-1511

Edward Wytkind, Executive Director
Larry I. Willis, Esq.
Transportation Trades
Dept., AFL-CIO
1000 Vermont Avenue, N.W.
Suite 900
Washington, D.C. 20005

Clinton J. Miller, III,
General Counsel
United Transportation Union
14600 Detroit Avenue
Cleveland, Ohio 44107-4250

Joseph Guerrieri, Jr., Esq.
Guerrieri, Edmond & Clayman, P.C.
1331 F Street, N.W.; Suite 400
Washington, D.C. 20004

Mr. Robert G. Szabo
Van Ness Feldman, P.C.
1050 Thomas Jefferson St., NW; 7th Fl.
Washington, DC 20007

Edward J. Fishman, Esq.
Oppenheimer Wolff & Donnelly
1020 Nineteenth Street, N.W.; Suite 400
Washington, D.C. 20036

W. David Tidholm, Esq.
Hutcheson & Grundy
1200 Smith Street; Suite 300
Houston, TX 77002-4579

Jeffrey R. Moreland
Sidney L. Strickland, Jr. (P)
The Burlington Northern and Santa Fe Ry
Co.
1700 East Golf Road
Schaumburg, IL 60173

Neal M. Mayer, Esq.
Hoppel, Mayer & Coleman
1000 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036

Christopher C. McCracken
Ulmer & Berne LLP
1300 East 9th Street; Suite 900
Cleveland, OH 44114-1583

Daniel J. Sweeney, Esq.
McCarthy, Sweeney & Harkaway, P.C.
1750 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Timothy T. O'Toole, Esq.
Constance L. Abrams, Esq.
Consolidated Rail Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Kathryn A. Kusske, Esq.
Mayer, Brown & Platt
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

David D. King
Secretary Treasurer
Beaufort & Morehead Railroad Company
P.O. Box 25201
Raleigh, NC 27611-5201

Terrence D. Jones, Esq.
Keller and Heckman LLP
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001

Ron Marquardt, President
Local Union 1810 UMW
Valley View Sub-Division; R.D. #2
Rayland, Ohio 43943

William G. Mahoney, Esq.
Highsaw, Mahoney & Clarke, P.A.
1050 Seventeenth Street, N.W., Ste. 210
Washington, D.C. 20036

James R. Weiss, Esq.
Preston Gates Ellis & Rouvelas Meeds LLP
1735 New York Avenue, N.W., Suite 500
Washington, D.C. 20006-2509

Patrick B. Simmons
Director of the Rail Division
NC Department of Transportation
1 S. Wilmington Street; Room 557
Raleigh, NC 27611

L.P. King, Jr., General Chairman
Norfolk Southern Corporation
United Transportation Union
145 Campbell Avenue, S.W.; Suite 207
Roanoke, VA 24011-1219

John T. Reed
General Chairperson
United Transportation Union General
Committee of Adjustment N&W-C
7785 Baymeadows Way #109
Jacksonville, FL 32256

Daniel Duff, Chief Counsel
American Public Transit Assn.
1201 New York Avenue, N.W.
Washington, D.C. 20005

Anthony J. Bottalico, General Chairman
United Transportation Union
General Committee of Adjustment GO-532
420 Lexington Avenue; Rm 458-460
New York, New York 10017

Nathan R. Fenno, Esq.
Vice President & General Counsel
Delaware Otsego Corporation
One Railroad Avenue
Cooperstown, NY 13326

Hon. Dennis J. Kucinich
U.S. House of Representatives
1730 Longworth House Ofc. Bldg.
Washington, D.C. 20515

Delbert G. Strunk, Jr.
General Chairman
United Transportation Union
General Committee of Adjustment GO-687
817 Kilbourne Street
Bellvue, OH 44811-9407

Larry R. Pruden, Asst. Gen. Counsel
Transportation Communications International
Union
3 Research Place
Rockville, MD 20850

J.R. Barbee, General Chairperson
United Transportation Union
General Committee of Adjustment GO-898
Post Office Box 9599
Knoxville, TN 37940

Philip G. Sido
Director of Transportation
Union Camp Corporation
1600 Valley Road
Wayne, NJ 07470

Francis G. McKenna, Esq.
Anderson & Pendleton, C.A.
206 N. Washington Street
Suite 330
Alexandria, VA 22314

K.N. Thompson, General Chairman
United Transportation Union
General Committee of Adjustment 719
11017-F Gravois Industrial Plaza
St. Louis, MO 63128

Daniel J. O'Connell
United Transportation Union
Whitehall, Suite 5
410 Lancaster Avenue
Haverford, PA 19041

Mr. Charles M. Chadwick
Chairman and CEO
Maryland Midland Railway, Inc.
P. O. Box 1000
Union Bridge, MD 21791-0568

David L. Hall
Commonwealth Consulting Associates
13103 FM 1960 West, Suite 204
Houston, TX 77065-4069

R.K. Sargent, General Chairman
United Transportation Union
General Committee of Adjustment-CSX
1319 Chestnut Street
Kenova, WV 25530

H. Douglas Midkiff
Transportation Specialist
Genesee Transportation Council
65 West Broad Street, Suite 101
Rochester, NY 14614-2210

Samuel J. Nasca
Director/Chairman
United Transportation Union
New York State Legislative Board
35 Fuller Road, Ste. 205
Albany, NY 12205

Peter Q. Nyce, Jr., Esq.
General Attorney
Regulatory law Office
U.S. Army Legal Services Agency
901 N. Stuart Street
Arlington, VA 22203

John K. Dunleavy, Esq.
Assistant Attorney General
Vermont Agency of Transportation
133 State Street
Montpelier, VT 05633-0001

Edward C. McCarthy, Esq.
Assistant General Counsel
Inland Steel Industries, Inc.
30 West Monroe Street
Chicago, IL 60603

Robert A. Edwards, President
Eastern Transport & Logistics
1109 Lanette Drive
Cincinnati, OH 45230

C.D. Winebrenner, General Chairman
United Transportation Union
27801 Euclid Avenue, Suite 200
Euclid, OH 44132

Clarence V. Monin
International President
Brotherhood of Locomotive
Engineers
1370 Ontario Street
Cleveland, OH 44113-1702

William P. Hernan, Jr.
General Chairman
United Railway Supervisors Association
P. O. Box 180
Hilliard, OH 43026-0180

Richard R. Wilson
Richard R. Wilson, P.C.
1126 Eighth Avenue, Suite 403
Altoona, PA 16602

Richard G. Slattery
National Railroad Passenger
Corporation
60 Massachusetts Avenue, N.E.
Washington, D.C. 20002

Thomas R. Rydman, President
Indian Creek Railroad Company
3905 W. 600 North
Anderson, IN 46011-9238

Mr. Charles E. Allenbaugh, Jr.
President
East Ohio Stone Company
2000 W. Besson Street
Alliance, OH 44601

E.C. Wright
Rail Transportation Procurement Manager
DuPont Sourcing
DuPont Building 3100; 1007 Market Street
Wilmington, DE 19898

David R. Dysard, AICP
Director of Transportation Planning
The Toledo Metropolitan Area Council of
Governments
300 Central Union Plaza
P.O. Box 9508
Toledo, OH 43697-9508

Thomas J. Litwiler, Esq.
Oppenheimer Wolff & Donnelly
Two Prudential Plaza, 45th Floor
180 North Stetson Avenue
Chicago, IL 60601

Larry B. Karnes
Bureau of Transportation Planning
State of Michigan
Department of Transportation
Transportation Bldg.; 425 West Ottawa
Post Office Box 30050
Lansing, Michigan 48909

David B. Foshee, Esq.
Troutman Sanders LLP
1300 I Street, N.W.
Suite 500 East
Washington, D.C. 20005

Mr. John C. Gordon
National Lime & Stone Company
P.O. Box 120
Findlay, OH 45840

Sergeant W. Wise, Esq.
Livonia, Avon & Lakeville Railroad
Corporation
5769 Sweeteners Blvd.
P.O. Box 190-B
Lakeville, NY 14480

Hamilton L. Carmouche
Corporation Counsel
401 Broadway, 4th Floor
Gary, IN 46402

John K. Leary, General Manager
Southeastern Pennsylvania
Transportation Authority
1234 Market Street; 10th Floor
Philadelphia, PA 19107-3780

Jack A. Walter
Director Corporate Affairs
WCI Steel, Inc.
1040 Pine Avenue
Warren, OH 44483-6528

R.J. Henefeld
Manager Transportation-Rail Chemicals
PPG Industries, Inc.
One PPG Place
Pittsburgh, PA 15272

James W. Harris
The Metropolitan Planning Organization
1 World Trade Center
Suite 82 East
New York, NY 10048-0043

J. William Van Dyke
Chairman, NJTPA
One Newark Center
17th Floor
Newark, NJ 07102

Dennis C. Vacco, Esq.
Attorney General of the
State of New York
120 Broadway, Suite 2601
New York, New York 10271

Robert E. Martinez
Secretary of Transportation
Commonwealth of Virginia
P.O. Box 1475
Richmond, VA 23218

Timothy A. Wolfe
Executive Vice President
Wyandot Dolomite, Inc.
P.O. Box 99
1794 Co. Rd. #99
Carey, OH 43316

John J. Coscia, Executive Director
Delaware Valley Regional Planning
Commission
The Bourse Building
111 South Independence Mall East
Philadelphia, PA 19106-2515

Thomas F. McFarland, Jr.
McFarland & Herman
20 North Wacker Drive
Suite 1330
Chicago, IL 60606-2902

Angelo J. Chick, Jr., Local Chairman
Brotherhood of Locomotive Engineers Division
227
P.O. Box 48398 Old Goose Bay Rd.
Redwood, New York 13679

Sandra J. Dearden
MDCO Consultants, Inc.
407 South Dearborn, Suite 1145
Chicago, IL 60605

Andrew P. Goldstein, Esq.
McCarthy, Sweeney & Harkaway, P.C.
1750 Pennsylvania Avenue, N.W., Ste. 1105
Washington, D.C. 20006

Nicole Harvey
The Dow Chemical Company
2020 Dow Center
Midland, Michigan 48674

Elaine L. Clark, Esq.
State of Maine
Department of Transportation
16 State House Station
August, Maine 04333-0016

Lawrence Pepper, Jr., Esq.
Gruccio, Pepper, Giovinazzi,
DeSanto & Farnoly, P.A.
817 Landis Avenue, CN 1501
Vineland, New Jersey 08360

Peter A. Greene, Esq.
David H. Baker, Esq.
Thompson Hine & Flory LLP
1920 N Street, N.W.; Suite 800
Washington, D.C. 20036

Sheila Meck Hyde, Esq.
City Attorney
City Hall
342 Central Avenue
Dunkirk, New York 14048

Stephen H. Brown, Esq.
Vorys, Sater, Seymour and Pease
1828 L Street, N.W., 11th Floor
Washington, D.C. 20036-5109

Robert E. Greenlese
Director of Surface Transportation
and Logistics
Toledo-Lucas County Port Authority
One Maritime Plaza
Toledo, Ohio 43604-1866

Sheldon A. Zabel, Esq.
Schiff Hardin & Waite
7200 Sears Tower
Chicago, Illinois 60606

John Hoy, President
Baltimore Area Transit Assoc.
P.O. Box 117
Glen Burnie, MD 21060

David Berger, Esq.
Berger & Montague, P.C.
1622 Locust Street
Philadelphia, PA 19103-6365

Robert L. Evans
Occidental Chemical Corporation
Corporate Manager-Rail Transportation
P.O. Box 809050
Dallas, Texas 75380-9050

Harry C. Barbin, Esq. (PA I.D. No. 08539)
William M. O'Connell, III, Esq. (PA I.D. No. 20023)
Barbin, Lauffer & O'Connell
608 Huntingdon Pike
Rockledge, PA 19046

John F. Wing
Chairman, Citizens Advisory Committee
601 North Howard Street
Baltimore, MD 21201

Walter E. Zullig, Jr., Esq.
Special Counsel
Metro-North Commuter Railroad Co.
347 Madison Ave. (19th Floor)
New York, NY 10017

Sylvia R. Chinn-Levy
Economic Development Planner
Northeast Ohio Four County Regional
Planning & Development Organization
969 Copley Road
Akron, Ohio 44320-2992

William C. Van Slyke
Legislative Analyst
The Business Council of
New York State, Inc.
152 Washington Avenue
Albany, New York 12210

Richard E. Kerth
Transportation/Distribution
Manager-Commerce, Regulatory Affairs
and
Organization Improvement
Champion International Corporation
101 Knightsbridge Drive
Hamilton, Ohio 45020

James R. Jacobs, Member
Jacobs Industries
2 Quarry Lane
Stony Ridge, OH 43463

Ross B. Capon
Executive Director
National Association of Railroad
Passengers
900 Second Street, N.E.; Suite 308
Washington, D.C. 20002-3557

James E. Howard LLC
90 Canal Street
Boston, MA 02114

Diane Seitz
Manager - Fuels Resources
Central Hudson Gas & Electric Corporation
284 South Avenue
Poughkeepsie, NY 12601-4879

Michael P. Ferro, Esq.
Millennium Petrochemicals Inc.
1221 McKinney Street, Suite 1600
P. O. Box 2583
Houston, Texas 77252-2583

Michael J. Garrigan
Director, Distribution; BP America
Warrensville Facility
4440 Warrensville Center Road
Cleveland, Ohio 44128-2837

John F. Collins, Esq.
Of Counsel
Collins, Collins & Kantor, P.C.
267 North Street
Buffalo, New York 14201

John M. Robinson, Esq.
9616 Old Spring Road
Kensington, MD 20895

Anthony P. Semancik, Esq.
Deputy General Counsel
Metropolitan Transportation Authority
347 Madison Avenue
New York, New York 10017-3739

Richard C. Carpenter
Executive Director
South Western Regional Planning Agency
One Selleck Street, Suite 210
East Norwalk, CT 06855-1106

Paul H. Lamboley, Esq.
1350 I Street, N.W., Suite 200
Washington, D.C. 20005

Garret G. Smith
Manager Rail Transportation-Mobil Oil
Corp.
3225 Gallows Road; Room 8A903
Fairfax, VA 22037-0001

Irwin L. Davis
Executive Vice President
Metropolitan Development Assn of
Syracuse &
Central New York Inc.
1900 State Tower Building
Syracuse, NY 13202-1794

Mike Spahis
Manager of Logistics and Distribution
Fina Oil and Chemical Company
8350 North Central Expressway
Dallas, Texas 75206

William D. Ankner, Ph.D., Director
State of Rhode Island and Providence
Plantations
Department of Transportation
Two Capitol Hill
Providence, R.I. 02903-1124

William L. Osteen
Associate General Counsel
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

G. Craig Schelter
Executive Vice President
Philadelphia Industrial Development
Corporation
2600 Centre Square West
1500 Market Street
Philadelphia, PA 19102-2126

James F. Sullivan, Commissioner
State of Connecticut
Department of Transportation
2800 Berlin Turnpike
P.O. Box 317546
Newington, CT 06131-7546

Terrell Ellis
Executive Director
CAEZ WV
P.O. Box 176
Clay, WV 25043

F. Ronalds Walker, Esq.
Associate Counsel
Citizens Gas & Coke Utility
2020 N. Meridian Street
Indianapolis, Indiana 46202-1393

John M. Cutler, Jr.
McCarthy, Sweeney & Harkaway, P.C.
Suite 1105
1750 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Stephen M. Fontaine
Massachusetts Central Railroad
Corporation
One Wilbraham Street
Palmer, MA 01069

Ian Muir
Assistant Vice President
Bunge Corporation
11720 Borman Drive
P.O. Box 28500
St. Louis, Missouri 63146

Byron D. Olsen
Felhaber, Larson, Fenlon & Vogt, P.A.
4200 First Bank Place
601 Second Avenue South
Minneapolis, MN 55402

Monty L. Parker, Vice President
Raw Materials & Transportation
CMC Steel Group
P.O. Box 911
Seguin, TX 78156

Fay D. Dupuis, City Solicitor
City of Cincinnati
Room 214, City Hall
801 Plum Street
Cincinnati, OH 45202

Sherri L. Lehman
Director of Congressional Affairs
Corn Refiners Association, Inc.
1701 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-5805

David G. Abraham
Registered Representative
7315 Wisconsin Avenue
Suite 400W
Bethesda, MD 20814

James F. Roberts
CoalARBED International Trading
210 E. Lombard Street
Baltimore, MD 21202

David Roloff, Esq.
Goldstein & Roloff
525 Superior Avenue, East
Suite 1140
Cleveland, Ohio 44114-1401

James E. Shepherd, CEO
Tuscola and Saginaw Bay Railway
Company, Inc.
300 Main Street
Owosso, Michigan 48867

Sara J. Fagnilli, Esq.
Director of Law
City of Lakewood
12650 Detroit Avenue
Lakewood, OH 44107

Harold P. Quinn, Jr.
Senior Vice President, Legal &
Regulatory Affairs & General Counsel
National Mining Association
1130 Seventeenth Street, N.W.
Washington, D.C. 20036

Frank N. Jorgensen, President
The Elk River Railroad, Inc.
P.O. Box 460
300 Greenbrier Road
Summersville, WV 26651

William P. Jackson, Jr.
JACKSON & JESSUP, P.C.
P.O. Box 1240
Arlington, VA 22210

John A. Vuono, Esq.
Vuono & Gray
2310 Grant Building
Pittsburgh, PA 15219-2383

Vaughn R. Groves, Esq.
Vice President & General Counsel
Pittston Coal Company
P.O. Box 5100
Lebanon, Virginia 24266

John D. Fitzgerald
United Transp. Union
400 E. Evergreen Blvd.-#217
Vancouver, WA 98660

Douglas S. Golden
Main Line Management
Services, Inc.
520 Fellowship Road
Suite A-105
Mount Laurel, NJ 08054-3407

Gary A. Ebert
Law Director
City of Bay Village, Ohio
350 Dover Center Road
Bay Village, OH 44140

David W. Donley, Esq.
Attorney At Law
3361 Stafford Street
Pittsburgh, PA 15204

Edward Lloyd, Esq.
Rutgers Environmental Law Clinic
15 Washington Street
Room 304
Newark, New Jersey 07102-3192

Gordon P. MacDougall, Esq.
1025 Connecticut Avenue, N.W.
Suite 410
Washington, D.C. 20036

Charles S. Hesse, President
Charles Hesse Associates
8270 Stoney Brook Drive
Chagrin Falls, OH 44023

William T. Bright
The West Virginia Association
For Economic Development Through
the Joint Use of Conrail Tracks by
Norfolk Southern and CSXT (WVED)
P.O. Box 149
200 Greenbrier Road
Summersville, WV 26651

John Jay Rosacker, Esq.
Bureau of Transportation Planning
Office of Rail Affairs
Kansas Dept. of Transportation
217 SE 4th
Topeka, KS 66603
Charles D. Bolam
United Transp. Union
1400-20th Street
Granite City, IL 62040

Thomas R. Bobak
313 River Oaks Drive
Calumet City, IL 60409

Michael E. Connelly, Esq.
Corporation Counsel
4525 Indianapolis Boulevard
East Chicago, IN 46312

J.L. Rodgers
Gen. Chairman-United Transportation
Union
480 Osceola Avenue
Jacksonville Beach, FL 32250

Mr. Steve M. Coulter
Exxon Company, U.S.A.
Room L1-554
P.O. Box 3272
Houston, Texas 77253-3272

J. Patrick Latz
Managing Director
Heavy Lift Cargo Systems
P.O. Box 51451
Indianapolis, IN 46251-09451

James F. McGrail, Esq., Counsel
Commonwealth of Massachusetts
Executive Office of Transportation
and Construction
10 Park Plaza, Room 3170
Boston, MA 02116

William R. Thompson
Chief Deputy Solicitor
City of Philadelphia Law Dept.
1600 Arch Street, 10th Floor
Philadelphia, PA 19103-0923

Vincent M. Urbin, Mayor
City of Avon Lake
150 Avon Belden Road
Avon Lake, Ohio 44012-1699

Christine H. Rosso, Esq.
Ass't. Attorney General
100 W. Randolph St., 13th Floor
Chicago, IL 60601

Frederick H. Schranck
Deputy Attorney General
P.O. Box 778
Dover, Delaware 19903

Donald W. Dunlevy, Director
Pennsylvania State Legislative Board
United Transportation Union
230 State Street, 2nd Floor
Harrisburg, PA 17101

Robert J. Cooper
1238 Tass Road
Maumee, OH 43537

James L. Belcher
Eastman Chemical Company
P.O. Box 431
Kingsport, TN 37662

Carl Feller
DeKalb Agra Inc.
P.O. Box 127
4743 County Road 28
Waterloo, IN 46793-0127

Merrill L. Travis
Illinois Dept. of Transportation
2300 South Dirksen Parkway
Springfield, IL 62703-4555

Brad F. Huston
Cyprus AMAX Coal Sales Corp.
400 Technecenter Drive, Suite 320
Milford, OH 45150

Roger A. Serpe
Indiana Harbor Belt Railroad
175 West Jackson Boulevard
Suite 1460
Chicago, IL 60604

Mr. Peter A. Gilbertson
Louisville & Indiana Railroad Company
53 W. Jackson Boulevard, Suite 350
Chicago, IL 60604

J.E. Thomas

Manager, Bulk Transportation
Purchasing & Transportation Dept.
Hercules Incorporated
Hercules Plaza
1313 North Market Street
Wilmington, DE 19894-0001

Anita R. Brindza

The One Fifteen Hundred Building
11500 Franklin Blvd. Suite 104
Cleveland, OH 44102

T. Scott Bannister

T. Scott Bannister and Associates
1300 Des Moines Bldg.
405 Sixth Avenue
Des Moines IA 50309

Richard A. Gavril

16700 Gentry Lane, No. 104
Tinley Park, IL 60477

Robert J. Will

United Transportation Union
4134 Grave Run Rd.
Manchester, MS 21102

Coletta McNamee Se.

Cudell Improvement Inc.
11500 Franklin Blvd. Ste. 104
Cleveland, OH 44102

Garland B. Garrett, Jr.

NC Dept. of Transportation
P.O. Box 25201
Raleigh, NC 27611

Christopher J. Burger, President

Central Railroad Company of Indiana
P.O. Box 554
Kokomo, Indiana 46903-0554

John R. Nadolny

Vice President & General Counsel
Boston & Main Corporation
Iron Horse Park
No. Billerica, MA 01862

Martin T. Durkin

Durkin & Boggia, Esqs.
Centennial House
71 Mt. Vernon Street
P.O. Box 378
Ridgefield Park, NJ 07660

Eileen S. Stommes, Director

T&M Division
Agricultural Marketing Service
USLA
P.O. Box 96456
Washington, D.C. 20090-6456

M.W. Currie

UTU GO-851, General Chairperson
3035 Powers Avenue, Suite 2
Jacksonville, FL 32207

The Honorable Jerrold Nadler

U.S. House of Representatives
Washington, D.C. 20515

Gary Edwards

Superintendent Railroad Operations
Somerset Railroad Corporation
7725 Lake Road
Barker, New York 14012

Mr. R. Lawrence McCaffrey, Jr.

New York & Atlantic Railway
405 Lexington Avenue
50th Floor
New York, New York 10174

**Alice C. Saylor, Vice Pres. &
General Counsel**

American Short Line Railroad Association
1120 G. Street, N.W.; Suite 520
Washington, D.C. 20005-3889

Thomas E. Schick, Esq.

Assistant General Counsel
Chemical Manufacturers Association
1300 Wilson Boulevard
Arlington, VA 22209

Leo J. Wasescha

Transportation Manager-Gold Medal
Division
General Mills Operations, Inc.
Number One, General Mills Blvd.
Minneapolis, MN 55426

Scott A. Roney, Esq.

Archer Daniels Midland Company
P.O. Box 1470
4666 Faries Parkway
Decatur, IL 62525

John F. McHugh

McHugh & Sherman, Esqs.
20 Exchange Plaza
New York, New York 10005

Robert E. Murray

President and Chief Executive Officer
The Ohio Valley Coal Company
56854 Pleasant Ridge Road
Alledonia, OH 43902

Bradford E. Hedges

General Chairman
United Railway Supervisors Assoc.
R.R. #2, Box 1133
Athens, NY 12015

Premerger Notification Office

Bureau of Competition
Federal Trade Commission
Sixth & Pennsylvania Avenue, N.W.
Room 303
Washington, D.C. 20530

David J. Matty

Law Director
City of Rock River
21012 Hilliard Road
Rocky River, OH 44116-3398

Grayson G. Kelly

Special Deputy Attorney General
NC Department of Justice
1 S. Wilmington Street
Raleigh, NC 27611

R.E. Rowe

General Chairman
United Transportation Union
General Committee of Adjustment
CSXT-C&O (North)
320 S. Main Street
Plymouth, MI 48170-1604

Frank R. Pickell, General Chairman

United Transportation Union
General Committee of Adjustment (C&T)
6797 North High Street, Suite 108
Worthington, OH 43085

Kentucky Railroad Commission

304 Madison Street, C-11
Frankfort, Kentucky 40601

A.J. Mazzarella

General Chairman/President
United Railway Supervisors Assoc.
80 February Dr.
Mt. Margaret Est.
Dungaree, PA 18505

Paul A. Tufano, General Counsel

Commonwealth of Pennsylvania
Room 225, Main Capitol Building
Harrisburg, PA 17120

Sharon Russell

Contract Management Bureau
NYS Dept. of Transportation
State Campus Building 5; Room 108
1220 Washington Ave.
Albany, NY 12232

The National Industrial

Transportation League
1700 North Moore Street
Suite 1900
Arlington, VA 22209

David B. Barnard, Esq.

Indianapolis Power & Light Company
One Monument Circle
P.O. Box 1595
Indianapolis, IN 46206-1595

Norman G. Manley
Andover City Hall
909 North Andover Road
Andover, Kansas 67002

STB

FD

33388

11-12-98

J

192198

192198

ARNOLD & PORTER

555 TWELFTH STREET, N.W.
WASHINGTON, D.C. 20004-1206

DENNIS G. LYONS
(202) 942-5658

ENTERED
Office of the Secretary

(202) 942-5000
FACSIMILE (202) 942-7999

NEW YORK
DENVER
LOS ANGELES
LONDON

NOV 12 1998

November 12, 1998

Part of
Public Record



BY HAND

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

Re: CSX Corporation/Norfolk Southern Corporation
-- Control and Operating Leases/Agreement --
Conrail; Finance Docket No. 33388

Dear Mr. Williams:

This letter is submitted on behalf of CSX Corporation and CSX Transportation, Inc. (collectively, "CSX") pursuant to Ordering Paragraph No. 28, page 177, of Decision No. 89 in the above matter, served July 23, 1998. That paragraph directs CSX to attempt to negotiate with Canadian Pacific ("CP") an agreement relating to haulage rights or trackage rights over the East-of-the-Hudson Conrail line running between Selkirk, NY and Fresh Pond Jct. in the Borough of Queens, City of New York. A report as to whether the negotiations had resulted in an agreement was required by Ordering Paragraph No. 28 by October 21, 1998. The Board, at the request of CSX and CP granted an extension, to the extent requested by CSX, to November 10, 1998, for the parties to attempt to reach agreement and report further whether they had.

While CSX and CP have continued to negotiate intensely in an effort to come to an agreement on this matter, they have been unable to reach agreement, and appear to be at an impasse, as has been reported to the Board by letter from CP's counsel dated November 10, 1998.

We understand that under Ordering Paragraph No. 28, the Board will initiate a proceeding to address this matter. We note that CP has proposed a procedural schedule for the proceeding, under which "CP, CSX, and other interested parties (including the State of New York and the New York City Economic Development Corporation)" would submit simultaneous opening arguments and evidence on January 8, 1999 or 50 days after the initiation of the proceeding if later; with simultaneous reply arguments and evidence

Hon. Vernon A. Williams
November 12, 1998
Page 2

30 days thereafter; and with simultaneous rebuttal arguments and evidence 15 days thereafter.

That schedule appears to us to be reasonable and appropriate as far as it goes, but we would suggest the following additions:

First, it should be clarified that the list of potential parties is not exclusive, since other railroads may wish to serve as the carrier serving the line under the rights in question, rather than CP, a possibility which the Board's orders (Ordering Paragraph Nos. 28 and 62 in Decision No. 89) certainly did not exclude. After all, the proceeding in question is an outgrowth of Sub-No. 69 in this matter, a responsive application filed by New York State and New York City Economic Development Corporation ("NYS" and "NYC," respectively) in which the identity of the proposed trackage rights carrier was not identified or identifiable.

Second, as was the case in connection with all the responsive applications in this case, the Board should require, no later than the 30th day after institution of the proceeding, carriers offering to be the carrier receiving and exercising the rights to file a notice of their intent with a description of the terms of the rights which they request, together with either an Environmental Report or evidence that the filing of an Environmental Report is not necessary.* This would seem appropriate since, at this stage, the carrier(s) in question will be identified, as they were not when the NYS/NYC responsive application filing initiating Sub-No. 69 was made, they will have knowledge of their proposed operations over the line if their requested rights are awarded, and any environmental issues raised by their proposed operations can be identified as was not possible before.

Third, CSX believes that a resolution of the goals sought in Ordering Paragraph No. 28 might best be reached through private negotiations, and is hopeful that the Board might be of a like view. Accordingly, CSX is giving attention to initiating discussions with other carriers with a view to developing an agreement relating to rights over the line in question that would meet the terms and objectives of Ordering Paragraph No. 28. It

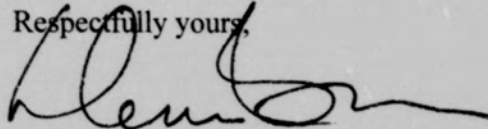
* See Decision No. 6, served May 30, 1997, at 9, requiring at F+60 a "Description of anticipated . . . responsive applications" and at F+100 a "Responsive Environmental Report" and "Environmental Verified Statements" for the responsive applications.

ARNOLD & PORTER

Hon. Vernon A. Williams
November 12, 1998
Page 3

would be useful if the Board's schedule provided that if such an agreement was reached with any carrier (including CP), the proceeding be suspended on all other aspects and the Board would consider, on an expedited basis, whether the proposed agreement meets the standards and purposes of Ordering Paragraph No. 28.

Respectfully yours,



Dennis G. Lyons
Counsel for CSX Corporation
and CSX Transportation, Inc.

cc:

(via hand delivery)

George W. Mayo, Jr., Esq.
Eric Von Salzen, Esq.
HOGAN & HARTSON L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

(via hand delivery)

Charles A. Spitulnik, Esq.
HOPKINS & SUTTER
888 Sixteenth Street, N.W.
Washington, D.C. 20006-4103

(via hand delivery)

Hon. Jacob Leventhal

(via U.S. mail, postage prepaid)

All Parties of Record

STB

FD

33388

11-3-98

J

CITY



Office of the Chairman

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

FILE IN DOCKET
FD-33388

November 3, 1998

Mr. David R. Dysard
Director of Transportation Planning
Toledo Metropolitan Area Council
Of Governments
300 Central Union Plaza
P.O. Box 9508
Toledo, OH 43697-9508

Dear Mr. Dysard:

Thank you for sending me a copy of your most recent letter to Mr. James McClellan, Senior Vice President of Strategic Planning for Norfolk Southern (NS). Your letter offers a response to Mr. McClellan's letter to you dated August 14, which concerned negotiations about the Toledo Terminal properties.

I will have your letter to Mr. McClellan and my response placed in the public docket for the Conrail Acquisition proceeding. I appreciate your continuing to keep me informed as to the status of this matter.

Sincerely,

Linda J. Morgan



FILE IN DOCKET

300 Central Union Plaza
Toledo, OH 43602

September 17, 1998

P.O. Box 9508
Toledo, OH
43697-9508
419-241-9155
Fax 419-241-9116

Mr. James McCellan
Senior Vice President
Strategic Planning
Norfolk Southern Corporation
3 Commercial Place
Norfolk VA 23510-2191

RECEIVED
SURFACE TRANSPORTATION
BOARD
SEP 21 3 39 PM '98
OFFICE OF
CHAIRMAN MORGAN

Dear Mr. McCellan:

Chair:

Stephen J. Pauken
Mayor
City of Maumee

I was dismayed to read your August 14 response to my letter to Mr. Goode regarding the former Toledo Terminal properties. In the interest of maintaining an accurate record of the negotiations, I feel the need to respond. I too am very concerned to maintain a good working relationship between your company and our organization. This relationship needs to be built on a base of solid factual communication - thus this letter.

Vice-Chair:

James F. Carter
Commissioner
Wood County

In your August 14 letter you state that "the worst that can be said is that we made a mistake of fact." At the negotiations in February, however, representatives of your corporation, were made aware of the cloud that hung over the title for the Toledo Terminal property. I personally requested that the agreement we signed be a four party agreement with signatures, not only from yourself, but CSX Corporation as well. Norfolk Southern's representatives assured me, at that meeting, and I accepted their word in good faith that this was not necessary and that Norfolk Southern would intercede with your applicant partner CSX for donation of the property to TMACOG. TMACOG then went along with a three party agreement in the interest of a timely filing with the Surface Transportation Board. At the time of negotiations Norfolk Southern was aware that CSX may have title to the underlying property.

2nd Vice-Chair:

Kathleen M. Steingraber
Trustee
Lake Township

Second, you state TMACOG and Toledo Lucas County Port Authority directly violated the terms and spirit of our February 18, 1998 agreement when we responded to the decision by the STB to grant W&LE access to Toledo. Neither TMACOG nor the Port Authority violated the terms of our agreement. We did not file arguments, write to, or attempt to influence the Surface Transportation Board in any way in its decision to allow Wheeling and Lake Erie access to the Toledo area. Although, this was the official position of both agencies prior to our agreement we did indeed, per the terms of the agreement, avoid any discussions of whether they should grant Wheeling access to Toledo.

Executive Director:

William L. Knight



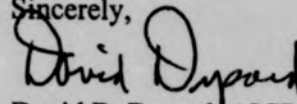
Mr. James McCellan
September 17, 1998
Page 2

However, once the decision had been made for other reasons besides the business interests of the Port and TMACOG, we did at that point, ask the STB to insure its decision was a meaningful grant of operating rights to the Wheeling & Lake Erie. The decision had been made. We did not, in any way, attempt to influence that decision, but once made it is incumbent upon our agencies to develop the best position possible for our region. The agreement could not have meant to limit discussions, indefinitely, between our organization, the Surface Transportation Board, and Wheeling & Lake Erie to improve rail service in the region. Neither this nor the property situations were unexpected or situations that you were unaware of at the time of negotiations in February. We had made very clear our position regarding W&LE and despite continued requests from our congressional delegation and others, we did not intervene or attempt to influence the STB in its decision.

I am dismayed that your "... resolve to try correcting our error has evaporated" as that is not in keeping with your commitment to us in February.

Be that as it may, TMACOG will continue in every judicious effort to assist Norfolk Southern in the transition in serving our area after the acquisition. We will continue to work to address issues of mutual concern and develop solutions to further our community goals and enhance Norfolk Southern's service to our area.

Sincerely,



David R. Dysard, AICP
Director of Transportation Planning

DRD:dfs

cc Linda Morgan, Chair, Surface Transportation Board
David R. Goode, Norfolk Southern
James Hartung, Toledo-Lucas County Port Authority
Pat McCune, Norfolk Southern

STB

FD

33388

11-3-98

J

BUSINESS



Office of the Chairman

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

FILE IN DOCKET

FD-33388

November 3, 1998

Mr. R.V. Allen
General Manager
Safety, Environmental & Operating Practices
CSX Transportation
500 Water Street - J305
Jacksonville, FL 32202

Dear Mr. Allen:

Thank you for sending me a copy of your recent letter to Ms. Janice R. Yarrow. As you know, I had requested that you contact Ms. Yarrow directly regarding her concerns about increased rail traffic in Eerea as a result of the Conrail Acquisition proceeding.

I will have your letter to Ms. Yarrow and my response placed in the public docket for the Conrail Acquisition proceeding. I appreciate your timely response in this matter.

Sincerely,

Linda J. Morgan



R. V. Allen
General Manager
Safety, Environmental & Operating Practices

500 Water Street - J305
Jacksonville, FL 32202
Phone: (904) 359-7502
Fax: (904) 359-3501
Email: Bob_Allen@CSX.Com

October 13, 1998

Ms. Janice R. Yarrow
491 Abbyshire Drive
Berea, OH 44017

Dear Ms. Yarrow:

Linda J. Morgan, Chairman of the Surface Transportation Board (STB), has asked that I respond to your August 2, 1998 letter concerning mitigation of increased train traffic in Berea as a result of the acquisition of Conrail by CSX and Norfolk Southern.

The process established by the STB for addressing such concerns consisted, essentially, of two steps: First, the STB, through its Section of Environmental Analysis, identified impacts for which it deemed mitigation necessary, and developed an Environmental Impact Statement (EIS). The EIS was preceded by an extensive public notification and comment process. Second, the STB gave CSX and NS the choice of either negotiating settlements of the identified impacts with the affected local government agencies; or of allowing the STB to impose conditions for those impacts for which no negotiated settlement was reached.

CSX and NS had extended discussions and negotiations with Berea City officials starting in the summer of 1997 and culminating in a written settlement agreement executed on June 1, 1998. Most of the discussions and negotiations revolved around the City's desire to have underpasses built under the tracks at Front Street and Bagley Road. Other areas of substantial concern were Hazardous Materials Safety and Noise Mitigation. The June 1, 1998 agreement addresses these concerns.

I will now address the specific questions contained in your letter of August 2, 1998.

1. No community impact fund was considered or established as a result of our discussions with the City of Berea.
2. No decision has been made to construct a noise wall for noise mitigation in Berea. Alternative noise mitigation approaches are currently being evaluated. CSX believes that noise walls are not an appropriate approach for reducing railroad noise in many circumstances. It should be noted that the proposed grade separation projects will reduce rail related noise by eliminating the need to sound horns at those crossings. You raise an important safety consideration. The effect of a derailment on the noise wall would depend on a number of factors, including the distance of the wall from the track, the height of the wall and the construction design and materials. Safety issues will be taken into account in determining the appropriate noise mitigation strategy. CSX can assure you that its tracks are maintained to the highest engineering standards and operate its

OFFICE OF
CHAIRMAN MORGAN

OCT 19 1 57 PM '98

RECEIVED
SURFACE TRANSPORTATION
BOARD

October 13, 1998

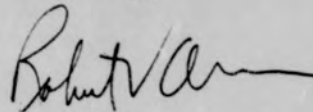
trains in the safest manner to prevent derailments. This is the best feasible assurance that can be given against such an incident.

3. The Berea City officials raised in our discussions the concern of Abbyshire residents about their home values, however, the final settlement agreement does not contain a "home value guarantee" provision.
4. There was no discussion of "pre-construction inspections" of homes in conjunction with the construction of the Front Street and Bagley Road underpasses.
5. CSX and NS have agreed to participate in the financing of the Front Street and Bagley Road underpasses. Since these are highway construction projects, design and construction are the responsibility of the government agency having jurisdiction over the public highway. In many cases, more than one level of government is involved.
6. Train speed limitations were not discussed or negotiated between the City of Berea and CSX.
7. Property tax abatement is not addressed in the final settlement agreement. The agreement does state that "In no event is either CSX or NS responsible for any costs associated with studying of mitigating any environmental impacts from these (construction) Projects."

The final agreement, a copy of which is attached, does provide that we will comply with mitigation ordered by the STB. This includes the provisions concerning noise mitigation for homes identified in the EIS. Berea appears to have several identified homes, and CSX is currently developing a plan for evaluating mitigation alternatives, which will be discussed with Berea City officials.

Thank you for your interest in this important matter.

Sincerely,



Attachment

✓ Cc: Linda J. Morgan
Chairman Surface Transportation Board
Finance Docket No. 33388

STB

FD

33388

11-2-98

J

BUSINESS

LEBOEUF, LAMB, GREENE & MACRAE
L.L.P.

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

NEW YORK
WASHINGTON
ALBANY
BOSTON
DENVER
HARRISBURG
HARTFORD
HOUSTON
JACKSONVILLE

1875 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20009-5728

(202) 986-8000

TELEX: 40274 FACSIMILE: (202) 986-8000

WRITER'S DIRECT DIAL:

(202) 986-8050

October 29, 1998



LOS ANGELES
NEWARK
PITTSBURGH
PORTLAND, OR
SALT LAKE CITY
SAN FRANCISCO
BRUSSELS
PARIS
MOSCOW
ALMATY
LONDON
(A LONDON-BASED
MULTINATIONAL PARTNERSHIP)
SAO PAULO
IN ASSOCIATION WITH
TAVARES GUERREIRO ADVOGADOS

Ms. Carolyn Clark Campbell, Clerk of the Court
United States Court of Appeals for the Second Circuit
40 Foley Square, Room 1803
New York, NY 10007

FD-33388

Re: Erie-Niagara Rail Steering Committee, et al.; Docket No. 98-4285 and Consolidated Cases

Dear Ms. Campbell:

Enclosed are the original and four copies of the "Renewed Motion of The Fertilizer Institute to Intervene as a Matter of Right" in National Industrial Transportation League v. Surface Transportation Board and United States of America, No. 98-4358 (con), which is consolidated with the above-referenced case. Also enclosed are three additional copies of the Motion for time-stamping and return in the enclosed self-addressed stamped envelope.

Respectfully submitted,

Michael F. McBride

Michael F. McBride
Attorney for The Fertilizer Institute

cc(w/encl.): All Parties of Record

United States Court of Appeals
FOR THE SECOND CIRCUIT

PAGE 1

Each motion must be accompanied by
a supporting affidavit (Local Rule 27(a)).

ERIE NIAGARA RAIL STEERING COMMITTEE, et al.,

Petitioners,

v.

SURFACE TRANSPORTATION BOARD and the
UNITED STATES OF AMERICA,

Use short title

Respondents.

98-4285

Docket Number

NOTICE OF MOTION

State type of motion

for Intervention as a
Matter of Right

MOTION BY: (Name, address and tel. no. of law firm and of
attorney in charge of case)

Michael F. McBride, Esq.
LeBoeuf, Lamb, Greene & MacRae, LLP
1875 Connecticut Avenue, N.W., Suite 1200
Washington, D.C. 20009-5728
(202) 986-8000

(cont'd on page 2)

Has consent of opposing counsel:

A. been sought?

☒ Yes ☐ No

B. been obtained?

☒ Yes ☐ No

Has service been effected?

☒ Yes ☐ No

Is oral argument desired?

☐ Yes ☒ No

(Substantive motions only)

Requested return date:

(See Second Circuit Rule 27(b))

Has argument date of appeal been set:

A. by scheduling order?

☐ Yes ☒ No

B. by firm date of argument notice?

☐ Yes ☒ No

C. If Yes, enter date:

Judge or agency whose order is being appealed:

Surface Transportation Board

Brief statement of the relief requested:

Intervention as of right.

Complete Page 2 of this Form

By: (Signature of attorney)

Appearing for: (Name of party)

Appellant or Petitioner:

☐ Plaintiff ☐ Defendant

Appellee or Respondent:

☐ Plaintiff ☐ Defendant

Michael F. McBride

Signed name must be printed beneath

The Fertilizer Institute

Date

Michael F. McBride

October 29, 1998

ORDER

Kindly leave this space blank

IT IS HEREBY ORDERED that the motion be and it hereby is granted denied

Previous requests for similar relief and disposition:

None.

Statement of the issue(s) presented by this motion:

Whether The Fertilizer Institute may intervene in this case as a matter of right.

Brief statement of the facts (with page references to the moving papers):

The Fertilizer Institute was a party in interest that actively participated in the underlying proceeding before the Surface Transportation Board.

Summary of the argument (with page references to the moving papers):

Intervenor is permitted as a matter of right under 28 U.S.C. § 2323.

* * * * *

CONT. from page 1

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

Richard Allen, Esq.
Zuchert, Scoutt & Rasenberger
888 17th Street, N.W., Suite 600
Washington, D.C. 20006-3939

RULES OF THE UNITED STATES COURT OF APPEALS for the SECOND CIRCUIT
supplementing
Federal Rules of Appellate Procedure

Local Rule 27. Motions.

(a) Form of Notice of Motion and Supporting Papers for Motions and Opposition Statements

- (1) Notice of Motion: The moving party shall submit the Notice of Motion in the format approved by the court with such changes as the Chief Judge may from time to time direct.
- (2) Supporting Papers for Motions and Opposition Statements:
 - (a) All motions must be accompanied by an affidavit containing factual information only. Affidavits containing legal arguments will be treated as memoranda of law.
 - (b) Memoranda of law shall not exceed ten typewritten double-spaced 8-1/2 x 11 inch pages except by permission of the court.
 - (c) Copy of the lower court opinion or agency decision shall be included as a separately identified exhibit by a moving party seeking substantive relief.
 - (d) Exhibits attached should be only those necessary for the determination of the motion.
- (3) Number of copies: Four copies shall be filed with the original.
- (4) Non-compliance Sanctions: If the moving party has not complied with this rule, the motion may be dismissed by the clerk without prejudice to renew upon proper papers. If application is promptly made, the action of the clerk may be reviewed by a single judge. If the responding party fails to comply with this rule, the court may refuse to hear that party at oral argument. The court may impose costs and an appropriate fine against either party for failure to comply with this rule.

.

Federal Rules of Appellate Procedure

Rule 27(d). Form of papers; number of copies. All papers relating to motions may be typewritten. Three copies* shall be filed with the original, but the court may require that additional copies be furnished.

* (Note: Local Rule 27 (3) supercedes and requires four copies.)

Docket No. 98-4285

**United States Court of Appeals
FOR THE SECOND CIRCUIT**

ERIE NIAGARA RAIL STEERING
COMMITTEE, et al.,

Petitioners,

v.

SURFACE TRANSPORTATION BOARD and
the UNITED STATES OF AMERICA,

Respondents.

NOTICE OF MOTION

Michael F. McBride
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
1875 Connecticut Avenue, N.W.
Suite 1200
Washington, D.C. 20009-5728
(202) 986-8000

Attorneys
Attorneys for Petitioners
Office & Post Office Address & Telephone Number

ERIE NIAGARA RAIL STEERING
COMMITTEE, et al.,

v.

Respondents.

Docket No. 98-4285

The Fertilizer Institute ("TFI") hereby renews¹ its motion to intervene in the above-referenced case pursuant to Rule 15(d) of the Federal Rules of Appellate Procedure. This case involves a petition for review of a decision by the Surface Transportation Board ("STB") which approved, subject to certain conditions, a proposed transaction under which CSX Corporation and CSX Transportation, Inc. (collectively, "CSX") and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "NS") would acquire and exercise control over Conrail Inc. and Consolidated Rail Corporation (collectively, "Conrail"). TFI was a party in interest that actively participated in the underlying proceeding at the STB.

¹ We refer to this as a "renewed" Motion because, as explained herein, TFI filed a Motion to Intervene as of Right in the D.C. Circuit (attached hereto as Attachment 1), which was not acted upon for reasons discussed infra.

In the underlying proceeding, TFI, together with The National Industrial Transportation League ("NITL"), submitted a Joint Brief requesting that certain conditions be imposed on the proposed transaction by CSX and NS for the acquisition and control of Conrail. On September 18, 1998, NITL filed a petition for review of the STB's denial of those requested conditions in the United States Court of Appeals for the District of Columbia Circuit, which was subsequently transferred to this Court as Docket No. 98-4358 (con).

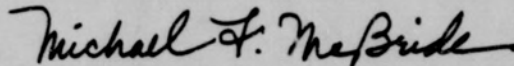
In accordance with Federal Rules of Appellate Procedure 15(d), on October 19 1998, TFI timely filed a Motion to Intervene as of Right to the United States Court of Appeals for the District of Columbia Circuit. However, at the time of the filing which was performed personally by counsel for TFI, TFI was not made aware that NITL's petition for review (which was consolidated with other petitions for review of the STB's order, under lead Docket No. 98-1371 in the D.C. Circuit) had been ordered transferred from the United States Court of Appeals for the District of Columbia Circuit to this Court upon the STB's Motion (attached hereto as Attachment 2).²

Because TFI was a party to the underlying proceeding and because it filed a timely Motion to Intervene as of Right in the United States Court of Appeals for the District of

² The order of transfer was entered on October 15, 1998, but apparently the case had not yet been transferred by the D.C. Circuit's Clerk's Office to this Circuit. This Circuit apparently received the D.C. Circuit cases on October 21, 1998.

Columbia Circuit, TFI respectfully requests that the Court grant its Motion to Intervene as a Matter of Right, pursuant to 28 U.S.C. § 2323.

Respectfully submitted,

A handwritten signature in cursive script, reading "Michael F. McBride".

Michael F. McBride

Brenda Durham

LeBoeuf, Lamb, Greene & MacRae, L.L.P.

1875 Connecticut Avenue, N.W., Suite 1200

Washington, DC 20009-5728

Telephone: (202) 986-8000

Facsimile: (202) 986-8102

Attorneys for The Fertilizer Institute

UNITED STATES
FOR DISTRICT OF COLUMBIA
RECEIVED

Attachment 1

OCT 19 1998 IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CLERK)
The National Industrial Transportation League,)
)
)
Petitioner.)
)
v.)
)
Surface Transportation Board and)
The United States of America,)
)
Respondents.)
_____)

No. 98-1441

**MOTION FOR LEAVE TO INTERVENE
OF THE FERTILIZER INSTITUTE AS OF RIGHT**

Pursuant to 28 U.S.C. § 2323, 28 U.S.C. § 2348, and Rule 15(d) of the Federal Rules of Appellate Procedure, The Fertilizer Institute ("TFI") hereby moves for leave to intervene as a party and as of right in the above-entitled case, in support of Petitioner. This case involves a review of Decision No. 89, served July 23, 1998, in STB Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company -- Control and Operating Leases/Agreements -- Conrail Inc. and Consolidated Rail Corporation. TFI was a party in the Finance Docket No. 33388 proceeding at the Surface Transportation Board, and thus is entitled to intervene as of right.

WHEREFORE, The Fertilizer Institute respectfully requests that the Court grant it leave to intervene as a party to this case, in support of Petitioner National Industrial Transportation League.

Respectfully submitted,

Michael F. McBride

Michael F. McBride

Brenda Durham

LeBoeuf, Lamb, Greene & MacRae, L.L.P.

1875 Connecticut Ave., N.W., Suite 1200

Washington, D.C. 20009-5728

(202) 986-8000 (Telephone)

(202) 986-8102 (Facsimile)

Attorneys for The Fertilizer Institute

October 19, 1998

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

The National Industrial Transportation League,

Petitioner.

v.

Surface Transportation Board and
The United States of America,

Respondents.

No. 98-1441

**DISCLOSURE STATEMENT OF
THE FERTILIZER INSTITUTE
AS REQUIRED BY LOCAL RULE 26.1**

Pursuant to Rule 26.1 of the General Rules of the United States Court of Appeals for the District of Columbia Circuit, The Fertilizer Institute ("TFI") hereby states that it is the trade association of companies manufacturing fertilizer in the United States and elsewhere. Its members ship large quantities of fertilizer and other bulk materials by railroad.

Respectfully submitted,

Michael F. McBride

Michael F. McBride
Brenda Durham
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
1875 Connecticut Ave., N.W., Suite 1200
Washington, D.C. 20009-5728
(202) 986-8000 (Telephone)
(202) 986-8102 (Facsimile)

October 19, 1998

Attorneys for The Fertilizer Institute

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

The National Industrial Transportation League,)
)
)

Petitioner.)
)

v.)

No. 98-1441
)
)

Surface Transportation Board and)
The United States of America,)
)

Respondents.)
_____)

CERTIFICATE OF SERVICE

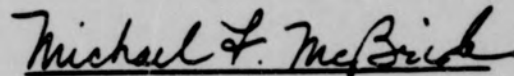
I hereby certify that I have this 19th day of October, 1998, served the foregoing document by first-class mail, postage prepaid, on the following parties of record:

Louis Mackall, Esq.
Office of General Counsel
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Frederic L. Wood, Esq.
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Avenue, N.W., Suite 750
Washington, DC 20005-3934

Dennis G. Lyons, Esq.
Arnold & Porter
555 12th Street, N.W.
Washington, DC 20004-1202

Richard Allen, Esq.
Zuckert, Scoutt, Rasenberger
888 17th Street, N.W., Suite 600
Washington, DC 20006-3939


Michael F. McBride

United States Court of Appeals Attachment 2
FOR THE DISTRICT OF COLUMBIA CIRCUIT

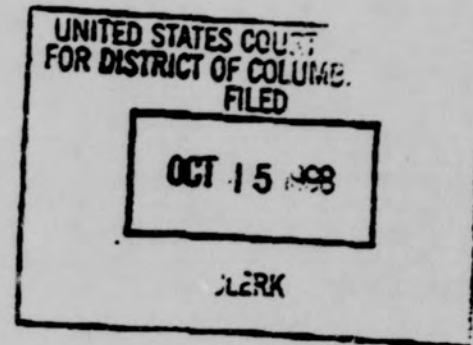
No. 98-1371

September Term, 1998

APL Limited,
Petitioner

v.

Surface Transportation Board and United States of
America,
Respondents



Consolidated with 98-1440, 98-1441, 98-1443

ORDER

Upon consideration of the unopposed motions of the Surface Transportation Board to transfer petitions for review to the United States Court of Appeals for the Second Circuit, it is

ORDERED that the motions to transfer be granted. The Clerk is directed to send a certified copy of this order and the original files to the United States Court of Appeals for the Second Circuit.



FOR THE COURT:

Mark J. Langer, Clerk

BY:

Michael C. McGrath
Michael C. McGrath

Deputy Clerk

Docket No. 98-4285

¹ We refer to this as a "renewed" Motion because, as explained herein, TFI filed a Motion to Intervene as of Right in the D.C. Circuit (attached to the Motion as Attachment 1), which was not acted upon for reasons discussed *infra*.

Norfolk Southern Railway Company (collectively, "NS") would acquire and exercise control over Conrail Inc. and Consolidated Rail Corporation (collectively, "Conrail"). TFI was a party in interest that actively participated in the underlying proceeding at the STB.

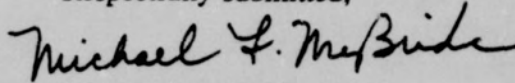
In the underlying proceeding, TFI, together with The National Industrial Transportation League ("NITL"), submitted a Joint Brief requesting that certain conditions be imposed on the proposed transaction by CSX and NS for the acquisition and control of Conrail. On September 18, 1998, NITL filed a petition for review of the STB's denial of those requested conditions in the United States Court of Appeals for the District of Columbia Circuit, which was subsequently transferred to this Court as Docket No. 98-4358 (con).

In accordance with Federal Rules of Appellate Procedure 15(d), on October 19, 1998, TFI timely filed a Motion to Intervene as of Right to the United States Court of Appeals for the District of Columbia Circuit. However, at the time of the filing which was performed personally by counsel for TFI, TFI was not made aware that the consolidated petitions for review (lead case was docketed as No. 98-1371) had been transferred from the United States Court of Appeals for the District of Columbia Circuit to this Court upon the STB's Motion (attached to the Motion as Attachment 2).²

² The order of transfer was entered on October 15, 1998, but apparently the case had not yet been transferred by the D.C. Circuit's Clerk's Office to this Circuit. This Circuit apparently received the D.C. Circuit cases on October 21, 1998.

I have personal knowledge of the facts alleged herein. Under penalty of perjury, I state that the facts set forth herein are true and complete to the best of my knowledge.

Respectfully submitted,

A handwritten signature in cursive script that reads "Michael F. McBride".

Michael F. McBride
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
1875 Connecticut Avenue, N.W., Suite 1200
Washington, DC 20009-5728
Telephone: (202) 986-8000
Facsimile: (202) 986-8102

Attorney for The Fertilizer Institute

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of October, 1998, a copy of the foregoing Motion of The Fertilizer Institute to Intervene as a Matter of Right was served by first class mail, postage prepaid, or more expeditious manner of delivery, on:

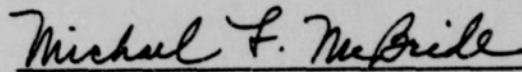
The Honorable Janet Peno
Attorney General of the United States
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Louis Mackall V, Esq.
Office of the General Counsel
Surface Transportation Board
1925 K Street, N.W., Room 609
Washington, D.C. 20423

Richard Allen, Esq.
Zuchert, Scoutt & Rasenberger
888 17th Street, N.W., Suite 600
Washington, D.C. 20006-3939

Dennis G. Lyons, Esq.
Arnold & Porter
555 12th Street, N.W.
Washington, D.C. 20004

and on all parties of record to the underlying STB proceeding as named on the attached service list.


Michael F. McBride

STB

FD

• 33388

10-30-98

J

191978

191978

LAW OFFICES

REA, CROSS & AUCHINCLOSS

SUITE 570

1707 L STREET, N.W.

WASHINGTON, D. C. 20036

(202) 785-3700

FACSIMILE: (202) 659-4934

THOMAS M. AUCHINCLOSS, JR.

LEO C. FRANEY

JOHN D. HEFFNER

KEITH G. O'BRIEN

BRYCE REA, JR.

BRIAN L. TROLANO

ROBERT A. WIMBISH

ENTERED
Office of the Secretary

OCT 30 1998

Part of
Public Record

October 30, 1998



DONALD E. CROSS (1998-1999)

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

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

Dear Secretary Williams:

We have received the Report and Proposal of Norfolk Southern Regarding Conditions Imposed by Decision No. 89 Concerning the Wheeling and Lake Erie Railway, NS-71, filed October 21, 1998. Pursuant to 49 C.F.R. § 1104.13(a), Wheeling & Lake Erie Railway Company intends to file a response on or before November 10, 1998.

Sincerely,

Keith G. O'Brien
Counsel for Wheeling
& Lake Erie Railway
Company

cc: Richard A. Allen, Esq.
Dennis G. Lyons, Esq.

STB

FD

33388

10-28-98

J

191921

191921

ARNOLD & PORTER

555 TWELFTH STREET, N.W.
WASHINGTON, D.C. 20004-1206

(202) 942-5000
FACSIMILE: (202) 942-5999

October 28, 1998

DENNIS G. LYONS
(202) 942-5858

NEW YORK
DENVER
LOS ANGELES
LONDON



ENTERED
Office of the Secretary

OCT 29 1998

Part of
Public Record

BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary, Surface Transportation Board
Mercury Building, Room 700
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**

Dear Secretary Williams:

CSX has received a pleading in the above matter entitled "Petition of Providence and Worcester Railroad Company for Clarification of Decision No. 89" (the "Petition").

The Petition was apparently filed with the Board on October 26, 1998. Pursuant to 49 U.S.C. § 1104.13(a), CSX Corporation and CSX Transportation, Inc. will file their reply to the Petition within 20 days thereafter, or on or before Monday, November 16, 1998.

We are providing 25 copies of this letter so that it may be distributed appropriately, and are serving it on the service list by first-class mail or more expeditious means.

Respectfully yours,

A handwritten signature in dark ink, appearing to read "Dennis G. Lyons".

Dennis G. Lyons
Counsel for CSX Corporation
and CSX Transportation, Inc.

cc: All Parties of Record

STB

FD

33388

10-27-98

J

191868

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

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



DIRECT DIAL (202) 342-7302
raallen@zsrlaw.com

RICHARD A. ALLEN

October 27, 1998

BY HAND

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

ENTERED
Office of the Secretary

OCT 27 1998

Part of
Public Record

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

Dear Secretary Williams:

We have received the Request to Clarify and For Further Instruction of Responsive Applicant Wheeling & Lake Erie Railway Company, WLE-10, filed October 21, 1998. Pursuant to 49 C.F.R. § 1104.13(a), Norfolk Southern intends to file a response to W&LE-10 on or before November 10, 1998.

Sincerely,

Richard A. Allen

Counsel for Norfolk Southern
Corporation and Norfolk
Southern Railway Company

Enclosures

cc: Keith O'Brien, Esq.
Dennis G. Lyons, Esq.

STB

FD

33388

10-8-98

J

PUBLIC



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0601

FILE IN DOCKET

JD-33388

October 8, 1998

Mr. Paul Holtz
16 Fenwick Drive
Hopewell Jct., NY 12533

Dear Mr. Holtz:

This responds to your letter regarding rail freight service to New York City and Long Island in connection with the Conrail acquisition case, which the Surface Transportation Board (Board) considered in STB Finance Docket No. 33388. In particular, you are concerned that the Board-imposed condition that requires CSX to allow Canadian Pacific Railway Company (CP Rail) direct access to New York City via the Hudson Line will be insufficient for shippers or receivers that are East of the Hudson due to the presence of the Metropolitan Transit Authority's Metro-North Commuter Railroad Company (Metro-North) on the southern half of the Hudson Line. You also note some problems associated with increased truck traffic in the area.

In approving the acquisition and division of Conrail, the Board found that the transaction, as augmented by numerous settlement agreements among the parties and as further conditioned by the Board, would inject competition into the eastern United States in an unprecedented manner. The conditions adopted by the Board, while significant, recognize the operational and competitive integrity of the overall proposal and the importance of promoting and preserving privately-negotiated agreements. The Board's conditions include 5 years of oversight, along with substantial operational monitoring and reporting to ensure that the transaction is successfully implemented; mitigation of potential and adverse impacts on the environment and on safety; recognition of employee interests, and several conditions that facilitate competition by smaller railroads.

With respect to Metro-North, then Metro-North President Donald E. Nelson testified in the merger proceeding that his company's portion of the Hudson Line could easily and safely accommodate a second freight operator moving an additional 6-8 scheduled trains each day, and that completion of the state-funded Oak Point Link will eliminate the most serious conflict between freight and passenger operations on the remainder of the Hudson Line. CSX stated that freight traffic on the Hudson Line could be increased significantly.

The Board imposed a condition requiring CSX to negotiate an agreement with CP Rail to permit either haulage rights, not restricted as to commodity or geographic scope, or unrestricted trackage rights, over the East-of-the-Hudson Line from Fresh Pond to Selkirk, under terms

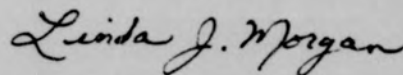
Mr. Paul Holtz

agreeable to the parties, taking into account the additional investment that is to be required for the line. If these parties do not reach agreement, the Board will initiate a proceeding to determine how the needs of the New York parties are to be addressed. The Board expects that CSX will offer to establish a committee with the City of New York to examine the development of rail traffic to and from the city, with particular emphasis on the Hudson Line.

With respect to increased truck traffic, and because of the potential adverse environmental effects that would result from any unexpectedly large merger-related increase in truck traffic through New York City and over the George Washington Bridge, the Board imposed a condition requiring applicants immediately to begin monitoring origins, destinations, and routings for motor carrier traffic at their intermodal terminals in Northern New Jersey and in Massachusetts. Applicants are to report the results on a quarterly basis. This is a matter that is specifically included in the 5-year oversight condition.

I hope that you find this information helpful. I will have your letter and my response placed in the public docket for the Conrail acquisition proceeding. I appreciate your interest in this matter.

Sincerely,

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

Linda J. Morgan

FILE IN DOCKET

Paul Holtz
16 Fenwick Drive
Hopewell Jct., N. Y. 12533
August 14, 1998

AUG 17 5 26 PM '98

RECEIVED
SURFACE TRANSPORTATION
BOARD

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

Ms. Morgan:

As part of the acquisition requirement of CONRAIL by CSX the STB requires CSX to allow CP RAIL direct access to New York City via the Hudson Line, which runs along the eastern shore of the Hudson River from Albany. This may seem as if New York City is getting improved and competitive rail service, but it isn't. What was overlooked is the fact that MTA's Metro-North owns the southern half of the Hudson Line from Poughkeepsie to New York City. What is good for the commuter is not good for direct rail freight service to New York City area and Long Island.

Soon after the MTA took over ownership of the southern half of Hudson Line they banished CONRAIL from operating through freight trains from Selkirk, N.Y. to New York City during daytime. The only exception is a couple of short way freights that operate on a few short sections of the Hudson Line. When CONRAIL and its predecessors owned the whole line they were able to operate passenger and freight trains during day time hours without problems. Before MTA ownership there were at least three through freight trains operating in each direction in a twenty-four hour period. Now there is only one in the middle of the night.

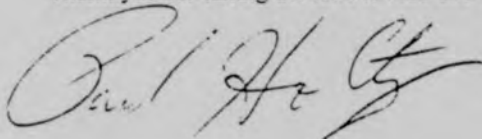
With today's rail equipment shortages and the shipping of more and more time sensitive merchandise there is little or no desire to ship by rail directly into New York City with this twelve hour time restriction. If connections are not made at the Selkirk, N.Y. freight classification yard with the New York City train twenty-four hours are added to the transit time. The Hudson Line has a minimum of two tracks with about half of it, between Poughkeepsie and New York City, being either three or four tracks. All tracks are signaled for bi-directional running. Several years ago Metro-North installed a new computer to dispatch trains on all its lines. Millions of dollars in federal and state money was spent to build a railroad causeway along north bank of the Harlem River to connect the Hudson Line with the Oak Point freight yard in the southeast Bronx. This was built so freight trains would bypass Metro-North's Mott Haven Junction where all their lines to Grand Central Terminal meet. The construction of the bypass is finished. This is another reason for the restriction not to exist anymore.

This policy has a negative economic effect on New York City, Long Island, and Southeastern New York State. The extra cost of trucking into region because slow transit time on congested highways and of excessive tolls for crossing the Hudson River from New Jersey, from where most of the freight trains arrive and depart. These additional trucks also add to the pollution and smog in the area as well as taking their toll on the regions highways and streets. This also seems to be an undue interference in interstate commerce. A several hour restriction during morning and evening commuter rush hours, as other metropolitan regions do, should be sufficient.

This restriction by Metro-North should be addressed by the STB to insure that there will be viable rail freight service east of the Hudson River.

I am also sending a similar letter to Mr. Owen.

Thank you for taking the time to read this letter.



STB

FD

33388

10-6-98

J

MOCH



Office of the Chairman

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

FILE IN DOCKET
FD - 33388

October 6, 1998

The Honorable Thomas M. Davis
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Davis:

Thank you for your letter of September 22, 1998, regarding a decision rendered by the Surface Transportation Board (Board) approving the acquisition of control of Conrail by CSX and Norfolk Southern (NS) and the division of certain of the assets of Conrail by the two acquiring railroads. You ask that your name be removed from an earlier letter sent to the Board regarding allocation of Conrail's existing rail transportation contracts with shippers.

While it is not possible to remove your name from the earlier letter, I will have your most recent letter and my response made a part of the public docket in this proceeding. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Linda J. Morgan
Linda J. Morgan

THOMAS M. DAVIS

11TH DISTRICT, VIRGINIA

COMMITTEE ON
GOVERNMENT REFORM AND OVERSIGHT

CHAIRMAN,
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
INFORMATION AND TECHNOLOGY

COMMITTEE ON TRANSPORTATION

SUBCOMMITTEE ON AVIATION
SUBCOMMITTEE ON PUBLIC BUILDINGS

COMMITTEE ON SCIENCE

SUBCOMMITTEE ON TECHNOLOGY
SUBCOMMITTEE ON SPACE AND AERONAUTICS

Congress of the United States
House of Representatives
Washington, DC 20515-4611

224 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-1492

DISTRICT OFFICES:

7018 EVERGREEN COURT
ANNANDALE, VA 22003
(703) 916-9610

FILE IN 730 ELLEN STREET, SECOND FLOOR
ARLINGTON, VA 20170
(703) 437-1726

13554 MINNIEVILLE ROAD
WOODBRIE, VA 22192
(703) 590-4599

September 22, 1998

personal

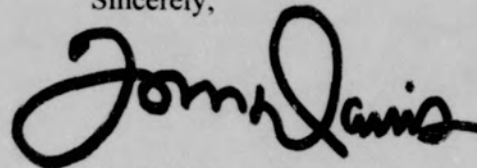
Mr. Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423

Dear Mr. Williams:

Upon further consideration, I wish to have my name removed from the letter to the Honorable Linda King dated August 11, 1998 (STB Finance # 33388), concerning the allocation of Conrail's existing rail transportation contracts with shippers.

Thank you for your assistance in this matter.

Sincerely,



Tom Davis
Member of Congress

TMD:mcw

RECEIVED
SURFACE TRANSPORTATION
BOARD
SEP 24 3 24 PM '98
OFFICE OF
CHAIRMAN MORGAN

STB

FD

33388

9-21-98

J

PUBLIC



Office of the Chairman

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

FILE IN DOCKET

September 21, 1998

Ms. Janice Rae Yarrow
491 Abbyshire Drive
Berea, OH 44017

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

Dear Ms. Yarrow:

Thank you for your August 2, 1998 letter raising several questions regarding the implementation of the negotiated agreement between CSX and the City of Berea.

As the Board repeatedly has made clear, the agency encourages private sector negotiations and resolution in any matters under our jurisdiction. We believe that mutually acceptable agreements with local governments and organizations addressing specific local environmental concerns can be more effective and may at times be more far-reaching than environmental mitigation options that we could impose unilaterally.

On July 23rd, the Board issued its final written decision in Finance Docket No. 33388 approving, subject to certain economic, safety, and environmental conditions, the CSX and NS acquisition of Conrail. In that decision, the Board imposed an environmental condition (Appendix Q, Condition No. 51) requiring CSX and NS to comply with the terms of their negotiated agreements, including the June 1, 1998 agreement with the City of Berea.

The concerns you raise in your letter relate to the details of that privately negotiated agreement. Because the Board was not involved in the discussions that led to the negotiated agreement, I cannot comment on the specific questions you raise regarding the terms of the agreement. However, I have forwarded your letter to Mr. Robert Allen at CSX, and have asked him to respond directly to you by October 21, 1998.

If you have additional questions concerning the Board's environmental review process, please contact Elaine K. Kaiser, Environmental Project Director at the Board's Section of Environmental Analysis (SEA), or Mike Dalton, SEA's Project Manager for the Conrail Acquisition, at (202) 565-1530.

Sincerely,

Linda J. Morgan
Linda J. Morgan



ABBYSHIRE COALITION

Chairperson *Janice R. Yarrow*
Secretary *Margaret DeBlasis*
Treasurer *Anne Rolko*

491 Abbyshire Road, Berea OH 44017/440-234-8178

FILE IN DOCKET

OFFICE OF
CHAIRMAN MORGAN

AUG 7 1 53 PM '98

RECEIVED
SURFACE TRANSPORTATION
BOARD

Linda Morgan, Chairperson
Surface Transportation Board
1925 K Street, NW
Washington DC 20423-0001

Re: Finance Docket No. 33388

Janice R. Yarrow
491 Abbyshire Drive
Berea, OH 44017
440/234-8178

August 2, 1998

Dear Ms. Morgan:

As a resident of Berea and chairperson of the Abbyshire Coalition, I would like to review some of the questions and answers presented to the Berea City Council and during the recent area train meetings with Congressman Dennis Kucinich, Ohio's 10 District representative.

We understand the merger has been approved, however, as a neighborhood adjacent to the existing Conrail tracks, we have been offered only noise mitigation studies. Representing the Abbyshire neighborhood, I have remained in contact with Congressman Kucinich's office and attended the July 6 and July 12 train meetings, but collectively, many questions remain unanswered.

In addition, I attended many council meeting in Berea directly presented these issues to Mayor Trupo. Again, as a Berea resident, Mayor Trupo publically humiliated me and questioned why I continued to attend the council meetings. We kindly request your review our issues and ask your assistance these matters be addressed:

- 1) Was a community impact fund ever established in Berea? In our early discussions with Mayor Trupo, the City of Berea was given \$5 million for "other" mitigation purposes. This fund has not been discussed since late April. Is this community impact still available? If not, why not?

page 2

August 2, 1998

In the agreement with the railroads, The City of Cleveland established a \$10 million community impact fund to be distributed to homeowners over a 5 year period for noise walls, landscaping and fencing along tracks and a home value guarantee to protect homeowners in areas affected by noise. This fund will pay \$16000 each for sound insulation to 170 homes within 75 feet of the tracks.

In Berea, although many of the homes on Abbyshire are within 45 feet, we will only receive "noise meters" to determine if noise mitigation is warranted.

- 2) I asked Congressman Kucinich if a noise wall is built will it be strong enough to contain railroad cars in the event of a derailment. Was this matter ever discussed before the STB?

Although this issue was presented to Mayor Trupo and city council, again our concerns were never addressed.

- 3) We approached Congressman Dennis Kucinich and Mayor Trupo about the home value guarantee. Was a home value guarantee ever discussed during mitigation especially for the homeowners on Abbyshire? If not, why not?

During the Olmsted Township meeting on July 12, Congressman Dennis Kucinich explained a home value guarantee program was given to Clevelanders because their property values are not as high as homes in Berea. Responding to a similar question at the Berea Train Meeting on July 6, Congressman Kucinich explained our property values will go down during construction and then back up. Recompense for our property value is a major issue of our Coalition.

During a council meeting, Mayor Trupo informed us any appraisal costs prior to construction would be the responsibility of the home owner. On Abbyshire, recompense for potential property loss was not even discussed in the final agreement. Again, we have only been offered "noise meters."

- 4) During the July 6 meeting, we asked Congressman Kucinich to that our homes be given a pre-construction inspection to determine a structural baseline prior to the building of the underpass. What is this issue ever presented to the STB for consideration?

page 3

August 2, 1998

Furthermore, Michael Dalton informed me that the STB did not recommend the underpass to be built on Bagley Road, and therefore was not responsible for any mitigation issues. Mr. Dalton did not know what what agency would be responsible for its construction.

We addressed our concerns to Mayor Trupo and city council. Congressman Dennis Kucinich submitted a letter on April 24 addressing the negative impact the grade separation would have on the Abbyshire community.

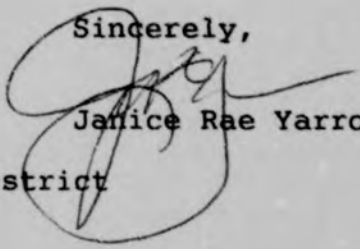
- 5) What agency will oversee the construction of the underpass? Where may we address mitigation concerns?
- 6) In the City of Cleveland, the mayor and the railroads agreed to place speed "caps" on residential areas. Was this mitigation presented to the STB for consideration especially for the Abbyshire neighborhood?
- 7) Finally, we asked Mayor Trupo and Congressman Kucinich about property tax abatements for homeowners affected by the increased railroad traffic. Congressman Kucinich assured us he would investigate into this with the Cuyahoga County auditor Frank Russo, our county Auditor. Was any recompense for the Abbyshire homeowner discussed in the final agreement?

Mayor Trupo and Congressman Kucinich agreed to a \$88 million merger with most of the costs paid by our own tax dollars. But as Abbyshire homeowners we can only expect noise mitigation at best. As a neighborhood, where do we go from here?

The Abbyshire Coalition would like to work in spirit of cooperation with the railroads, Mayor and Congressman Kucinich, but we sincerely believe our rights as homeowners be protected and our quality of life assured.

Thank you for your time and any assistance you may be able to provide.

Sincerely,



Janice Rae Yarrow

cc: Hon. Dennis Kucinich, 10th District
Hon. Stanley J. Trupo

STB

FD

• 33388

9-21-98

J

CITY •



Office of the Chairman

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

FILE IN DOCKET
FD-33388

September 21, 1998

The Honorable Linda M. Buzinec
Mayor
City of Hobart
414 Main Street
Hobart, IN 46342

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

Dear Mayor Buzinec:

Thank you for your August 14, 1998 letter expressing the City Council's concerns regarding rail traffic in the City of Hobart and requesting that the Surface Transportation Board (Board) grant authority to Hobart to regulate blocked grade crossings and regulate the number of trains which pass through Hobart.

As you may know, on July 23rd the Board issued its final written decision in Finance Docket No. 33388 approving the CSX and NS acquisition of Conrail (Conrail Acquisition) subject to certain economic, safety, and environmental conditions. In the Environmental Impact Statement (EIS) examining the Conrail Acquisition proposal, the Board's Section of Environmental Analysis (SEA) thoroughly analyzed the acquisition-related rail traffic changes in the Hobart area. The Board concluded that the reactivation of the former Pennsylvania Railroad line between Hobart and Clark Junction would not result in significant safety or environmental impacts and that, therefore, no mitigation to address grade crossing delay was warranted. Nevertheless, in its final decision, the Board imposed an environmental condition (Appendix Q, Condition No. 21) requiring CSX to implement certain operational improvements in the Four Cities area, some of which would benefit the Hobart-Tolleston portion of the Warsaw-Tolleston rail line segment.

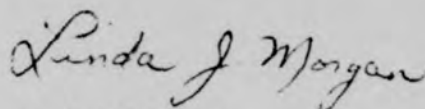
With respect to regulating the number of trains that actually will pass through Hobart following implementation of the Conrail Acquisition, it is important to note that neither the Board nor its predecessor agency, the Interstate Commerce Commission, has imposed permanent limits on the number of trains the railroads can operate or specified that existing freight must be transported by a specific route. Rather, as SEA explained in the Final EIS (Vol. 3 at pages 5-69 to 5-71), it is well settled that railroads can decide on a continuous and ongoing basis which routes are most efficient to meet customer needs.

I believe it would be inappropriate for the Board to authorize the City of Hobart to regulate blocked grade crossings and the number of trains. As you may be aware, there is a broad preemption prohibiting State and local interference in railroad operations. The Board addressed the nature and extent of 49 U.S.C. 10501(b), the federal preemption provision, in a declaratory order decision in the Stampede Pass case.¹ There, the Board expressed its view that section 10501(b) preempts state and local regulation to the maximum extent permitted by the Constitution, and that state and local permitting requirements by their nature interfere with interstate commerce because of the ability to deny the carrier the right to conduct its operations. The Ninth Circuit has affirmed the Board's preemption discussion in all respects.

As the Board also explained in Stampede Pass, however, State and local regulation that does not interfere with the accomplishment of federal objectives is not preempted,² and localities retain certain police powers. Accordingly, I believe that the City may take appropriate action under its own public health and safety authority, so long as its actions do not have the effect of foreclosing or unduly restricting the railroad's ability to conduct its operations in the Hobart area.

I strongly encourage the City and CSX to work together toward a mutually acceptable resolution of the City's concerns. In this regard, I have taken the liberty of forwarding your letter and my response to Mr. John Snow, President, Chairman and Chief Executive Officer of CSX Corporation. I will have your letter and my response placed in the formal docket for the Conrail acquisition proceeding. If you have additional questions concerning the Board's environmental review process, please contact Elaine K. Kaiser, SEA's Environmental Project Director, or Mike Dalton, SEA's Project Manager for the Conrail Acquisition, at (202) 565-1530.

Sincerely,



Linda J. Morgan

¹ King County, WA — Pet. For Declaratory Order — Burlington N.R.R. — Stampede Pass Line, STB Finance Docket No. 33095 (Sept. 25, 1996), clarified, Auburn & Kent, WA — Pet. for Declaratory Order — Burlington N.R.R. — Stampede Pass Line, STB Finance Docket No. 33200 (July 2, 1997), aff'd, City of Auburn v. STB et al., Nos 96-71051 & 97-70920 (9th Cir. Sept. 3, 1998).

² See Robey et al. — Petition for Declaratory Order — Levin et al., STB Finance Docket No. 33420 (STB served June 17, 1998).

STB

FD

33388

9-21-98

J

BUSINESS

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

MORRIS R. GARFINKLE
EDWARD D. GREENBERG
DAVID K. MONROE
DAVID P. STREET
STEVEN JOHN FELLMAN
KEITH G. SWIRSKY
ANITA M. MOSNER
MARTIN JACOBS
IRA T. KASDAN
JOSEPH B. HOFFMAN

XIANPING WANG*
RICHARD BAR
GEOFFREY P. GITNER
M. ROY GOLDBERG
MICHAEL P. FLEMING*
MICHAEL A. AISENBERG
WILLIAM F. KREBS
GREGG S. AVITABILE
BRYANT ROBINSON, III

HELLE R. WEEKE
ROBERT L. SULLIVAN*
REBECCA LANDON TZOU
HOWARD E. KASS
DAVID S. COLE
STEVEN Y. QUAN
KEVIN E. SMITH*
JEFFREY S. TENENBAUM
TROY A. ROLF*
KENNETH E. LIU*

* NOT ADMITTED IN D.C.

CANAL SQUARE
1054 THIRTY-FIRST STREET, N.W.
WASHINGTON, D.C. 20007-4492

TELEPHONE: (202) 342-5200
FACSIMILE: (202) 342-5219
(202) 337-8787

E-MAIL: gkmg@gkmg.com

ROBERT N. KHARASCH
GEORGE D. NOVAK, II
OF COUNSEL

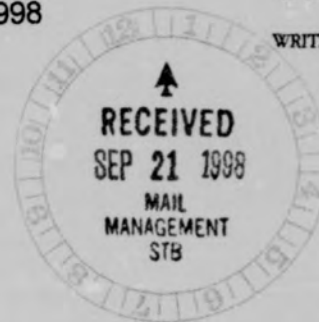
GEORGE F. GALLAND (1910-1985)

WRITER'S DIRECT DIAL NUMBER

(202) 342-5235

September 16, 1998

Vernon A. Williams, Secretary
Office of the Secretary
Case Control Branch
Surface Transportation Board
1925 K Street, NW -- Room 711
Washington, DC 20423-0001



RE: Providence and Worcester Railroad Company vs. The United States
of America and the Surface Transportation Board;
Petition for Review of Agency Order; Finance Docket No. 33388

Dear Secretary Williams:

Enclosed please find a courtesy copy of Petitioner Providence and Worcester Railroad Company's Petition for Review filed in the United States Court of Appeals for the First Circuit.

Should you have any questions concerning this matter, please do not hesitate to contact us.

Very truly yours,

David K. Monroe

Enclosure

XIN JI YUAN-GKMG LAW OFFICE
AFFILIATED FIRM
SUITE A-1603, VANTONE NEW WORLD PLAZA
NO. 2, FU CHENG MEN WAI AVENUE
BEIJING 100037 PEOPLE'S REPUBLIC OF CHINA
TEL: 011-86-10-6803-8501 FAX: 011-86-10-6803-8505
E-MAIL: xjylaw@pku.edu.cn

IN THE UNITED STATES COURT OF
APPEALS FOR THE FIRST CIRCUIT



PROVIDENCE AND WORCESTER
RAILROAD COMPANY,)

Petitioner,)

v.)

THE UNITED STATES OF AMERICA,)
and THE SURFACE TRANSPORTATION)
BOARD,)

Respondents.)

Docket No.

From the Surface Transportation Board
Finance Docket No. 33388

PETITION FOR REVIEW

Petitioner Providence and Worcester Railroad Company ("P&W"), pursuant to 28 U.S.C. §§ 2321 and 2342, and Rule 15 of the Federal Rules of Appellate Procedure, hereby petitions this Court to review the decision of the Surface Transportation Board (the "Board"), served on July 23, 1998, in STB Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company--Control and Operating Leases/Agreements--Conrail, Inc. and Consolidated Rail Corporation. In support of this position, petitioner states as follows:

1. Petitioner was a real party in interest in the proceedings below. Petitioner participated in the proceedings below.

2. The proceedings below concerned the proposed merger-transaction of Consolidated Rail Corporation ("Conrail"), CSX Corporation ("CSX") and Norfolk Southern ("NS"). On July 23, 1998, the STB served its decision approving the Conrail/CSX/NS transaction. The Board's approval of the Conrail/CSX/NS transaction resulted in the preemption of certain rights granted to petitioner

pursuant to an order of the Special Court dated April 13, 1982. Pursuant to the Order of the Special Court, petitioner acquired certain of Conrail's rail assets in Connecticut and Rhode Island, was granted the exclusive right to succeed to Conrail's freight operations and freight service obligations on certain rail properties known as the New Haven Station upon Conrail's election to cease servicing those properties. The Board relied upon the provisions of 49 U.S.C. § 11321(a) in preempting petitioner's right of succession.

2. Venue in this Court is proper pursuant to 28 U.S.C. § 2343 because petitioner has its principal place of business in this judicial district.

3. Petitioner seeks review of the Board's order and reversal of that portion of the Board's order which purports to preempt P&W's exclusive right to succeed to Conrail's freight operations and freight service obligations at the New Haven Station.

4. Petitioner contends that the Board's order is, *inter alia*, arbitrary and capricious, contrary to law, unsupported by evidence, and violative of precedent under 49 U.S.C §§ 11321-11325.

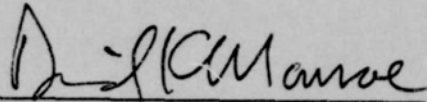
WHEREFORE, petitioner Providence and Worcester Railroad Company respectfully prays the Court as follows:

1. For review of the Board's Order served on July 23, 1998, in STB Finance Docket No. 33388;

2. For reversal of that portion of the Board's Order which preempts petitioner's exclusive right of succession to serve the rail properties in question; and

3. For such other and further relief as may be just and proper.

Respectfully submitted,



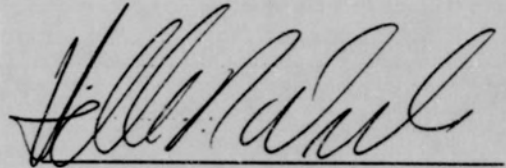
Edward D. Greenberg
David K. Monroe
Helle R. Weeke
Galland, Kharasch & Garfinkle, P.C.
1054 Thirty-First Street, N.W.
Washington, D.C. 20007
202-342-5262

Counsel for petitioner Providence and
Worcester Railroad Company

Dated: September 16, 1998

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of September, 1998, a copy of the foregoing Petition for Review of Providence and Worcester Railroad Company was served by first class mail, postage prepaid on the Surface Transportation Board and all parties of record named on the attached service list:

A handwritten signature in cursive script, appearing to read 'Helle R. Weeke', written over a horizontal line.

Helle R. Weeke

SERVICE LIST

David G. Abraham
7315 Wisconsin Avenue, Suite 631W
Bethesda, MD 20814
Richard A. Allen
Zuckert, Scoutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W., Suite 600
Washington, DC 20006-3939

Charles E. Allenbaugh, Jr.
East Ohio Stone Company
2000 West Besson Street
Alliance, OH 44601

William D. Ankner
Rhode Island Department of Transportation
Two Capitol Hill
Providence, RI 02903

Donald G. Avery
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, DC 20036-3003

T. Scott Bannister
T. Scott Bannister and Associates
1300 Des Moines Building
405 Sixth Avenue
Des Moines, IA 50309

J. R. Barbee
General Chairperson United Transportation
Union
P.O. Box 9599
Knoxville, TN 37940

Harry C. Barbin, Esq. PA I.D. No. 08539
William M. O'Connell, III, Esq. PA I.D. No.
20023
Barbin Lauffer & O'Connell
608 Huntingdon Pike
Rockledge, PA 19046

James L. Belcher
Eastman Chemical Company
P.O. Box 431
Kingsport, TN 37662

Martin W. Bercovici
Keller & Heckman

1001 G Street N.W., Suite 500 West
Washington, DC 20001

David Berger
Berger and Montague, P.C.
1622 Locust Street
Philadelphia, PA 19103-6305

Thomas R. Bobak
313 River Oaks Drive
Calumet City, IL 60409

Charles D. Bolam
United Transportation Union
1400 Twentieth Street
Granite City, IL 62040

William A. Bon, General Counsel
Brotherhood of Maintenance of Way Employees
26555 Evergreen Road, Suite 200
Southfield, MI 48076

Anthony Bottalico
United Transportation Union
420 Lexington Avenue, Room 458-460
New York, NY 10017

William T. Bright, Et Al.
P.O. Box 149
200 Greenbrier Road
Summersville, WV 26641

Anita R. Brindza
The One Fifteen Hundred Buuilding
11500 Franklin Boulevard, Suite 104
Cleveland, OH 44102

Christopher J. Burger, President
Central Railroad Company of Indianapolis
500 North Buckeye
Kokomo, IN 46903-0554

Ross B. Capon
National Association of Railroads Passenger
900 Second Street, N.E., Suite 308
Washington, DC 20002-3557

Hamilton L. Carmouche
Corporation Counsel
City of Gary
401 Broadway, 4th Floor
Gary, IN 46402

Richard C. Carpenter
1 Selleck Street, Suite 210
East Norwalk, CT 06855

Charles M. Chadwick
Maryland Midland Railway, Inc.
P.O. Box 1000
Union Bridge, MD 20510-3902

Angelo J. Chick, Jr.
Local Chairman
P.O. Box 48398
Old Goose Bay Road
Redwood, NY 13679

Sylvia Chinn-Levy
Intergovernmental Co-Op
969 Copley Road
Akron, OH 44320-2992

Elaine L. Clark
Maine Department of Transportation
16 State House Station
Augusta, ME 04333

David H. Coburn
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, DC 20036-1795

Paul D. Coleman
Hoppel, Mayer & Coleman
1000 Connecticut Avenue, N.W., Suite 400
Washington, DC 20036-5302

John F. Collins
Collins, Collins & Kantor, P.C.
267 North Street
Buffalo, NY 14201

Michael Connelly
City of East Chicago
4525 Indianapolis Boulevard
East Chicago, IN 46312

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

John J. Coscia
Executive Director
Delaware Valley Regional Planning Commission
111 South Independence Mall East
Philadelphia, PA 19106

Steve M. Coulter
Exxon Company USA
P.O. Box 3272
Houston, TX 77210-4692

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

M. W. Currie
UTU GO-851, General Chairperson
3035 Powers Avenue, Suite 2
Jacksonville, FL 32250

John M. Cutler, Jr.
McCarthy, Sweeney & Harkaway
1750 Pennsylvania Avenue, N.W., Suite 1105
Washington, DC 20006

Irwin L. Davis
1900 State Tower Boulevard
Syracuse, NY 13202

Sandra J. Dearden
MDCO Consultants, Inc.
407 South Dearborn, Suite 1145
Chicago, IL 60605

Nicholas J. DiMichael
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Avenue, N.W., Suite 750
Washington, DC 20005-3934

David W. Donely
3301 Stafford Street
Pittsburgh, PA 15204-1441

Paul M. Donovan
LaRoe, Winn, Moerman & Donovan
3506 Idaho Avenue, N.W.
Washington, DC 20016

Kevin J. Dowd
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, DC 20036

Clark Evans Downs
Jones, Day, Reavis & Pogue
1450 G Street, N.W.
Washington, DC 20005-2088

Daniel Duff
American Public Transit Association
1201 New York Avenue, N.W.
Washington, DC 20005

John K. Dunleavy
Assistant Attorney General
133 State Street Administrative Building
Montpelier, VT 05633-5001

Donald W. Dunlevy
230 State Street
UTU State Legislative Board
PA AFL-CIO Building Second Floor
Harrisburg, PA 17101-1138

Fay D. Dupuis, City Solicitor
City Hall
801 Plum Street, Room 214
Cincinnati, OH 45202

Martin T. Durkin
Durkin & Boggia, Esqs.
Centennial House
71 Mount Vernon Street
P.O. Box 378
Ridgefield Park, NJ 07660

David Dysard
Toledo Metro Area Council of Government
P.O. Box 9508
300 Central Union Plaza
Toledo, OH 43697-9508

Gary A. Ebert
City of Bay Village
350 Dover Center Road
Bay Village, OH 44140

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

Gary Edwards
Superintendent of Railroad Operations
Somerset Railroad Corporation
7725 Lake Road
Barker, NY 14012

Robert Edwards
Eastern Transport and Logistics
1109 Lanette Drive
Cincinnati, OH 45230

Daniel R. Elliott, III., Assistant General Counsel
United Transportation Union
14600 Detroit Avenue
Cleveland, OH 44107

Robert Evans
Occidental Chemical Corporation
P.O. Box 809050
Dallas, TX 75380

Sara J. Fagnilli
City of Lakewood
12650 Detroit Avenue
Lakewood, OH 44107

Gerald W. Fauth, III.
G. W. Fauth & Associates, Inc.
P.O. Box 2401
116 South Royal Street
Alexandria, VA 22314

Carl Feller
DEKALB AGRA, Inc.
P.O. Box 127
4743 County Road 28
Waterloo, IN 46793-0127

Michael P. Ferro
1221 McKinney Street
Suite 1600
P.O. Box 2583
Houston, TX 77252-2583

J.D. Fitzgerald
United Transportation Union, General
Chairperson
400 East Evergreen Boulevard, Suite 217
Vancouver, WA 98660-3274

Stephen M. Fontaine
Massachusetts Central Railroad Corporation
One Wilbraham Street
Palmer, MA 01069

Richard F. Friedman
Earl L. Neal & Associates
3600 East 95th Street
Chicago, IL 60617-5193

Garland B. Garrett, Jr.
North Carolina Department of Transportation
P.O. Box 25201
Raleigh, NC 27611

Michael J. Garrigan
BP Chemicals, Inc.
4440 Warrensville Center Road
Cleveland, OH 44128

Richard A. Gavril
16700 Gentry Lane, No. 104
Tinley Park, IL 60477

Peter A. Gilbertson
Louisville & Indiana Railroad Company
53 West Jackson Boulevard, Suite 350
Chicago, IL 60604

Peter A. Gilbertson
Regional Railroads of America
122 C Street, N.W., Suite 950
Washington, DC 20001

Louis E. Gitomer
Ball Janik, L.L.P.
1455 F Street N.W., Suite 225
Washington, DC 20005

Douglas S. Golden
Main Line Management Services, Inc.
520 Fellowship Road, Suite A-105
Mount Laurel, NJ 08054-3407

Andrew P. Goldstein
McCarthy, Sweeney, & Harkaway, P.C.
1750 Pennsylvania Avenue, N.W.
Washington, DC 20006

Peter A. Greene
Thompson Hine Flory
1920 N Street, N.W., Suite 800
Washington, DC 20036

Robert E. Greenlese
Toledo-Lucas County Port Authority
1 Maritime Plaza
Suite 700
Toledo, OH 43604

Donald F. Griffin
Brotherhood of Maintenance of Way Employees
400 North Capitol Street, N.W., Suite 852
Washington, DC 20001

John J. Grocki
GRA, Inc.
115 West Aviation One Jenkintown Station
Jenkintown, PA 19046

Vaughn R. Groves
Pittston Coal Company
P. O. Box 5100
Lebanon, VA 24266

Joseph Guerrieri, Jr.
Guerrieri, Edmond & Clayman, P.C.
1331 F Street, N.W., 4th Floor
Washington, DC 20004

David L Hall
Commonwealth Consulting Associates
13303 FM 1960 West
Suite 204
Houston, TX 77065-4069

Michael P. Harmonis
United States Department of Justice
325 Seventh Street, N.W., Suite 500
Washington, DC 20530

James W. Harris
The Metropolitan Planning Organization
1 World Trade Center, Suite 82 East
New York, NY 10049-0043

Nicole Harvey
The Dow Chemical Company
2020 Dow Center
Midland, MI 48674

John D. Heffner, Esq.
Rea, Cross & Auchincloss
1920 N Street, N.W., Suite 420
Washington, DC 20036

R. J. Henefeld
PPG Industries, Inc
One PPG Place
Pittsburgh, PA 15272

William P. Herman, Jr
General Chairman
P.O. Box 150
Hilliard, OH 43026

Charles S. Hesse, President
Charles Hesse Associates
8270 Stoney Brook Drive
Chagrin Falls, OH 44023

Eric M. Hocky
Gollatz, Griffin, Ewing
213 West Miner Street
West Chester, PA 19381-0796

James E. Howard
90 Canal Street
Boston, MA 02114

John Hoy
P.O. Box 117
Glen Burnie, MD 21060

Brad F. Huston
Cyprus Amax Coal Sales Corp
400 Technecenter Drive, Suite 320
Milford, OH 45150

Sheila Meck Hyde City Attorney
City Hall
342 Central Avenue
Dunkirk, NY 14048

Ernest J. Ierardi
Nixon, Hargrave, Devans & Doyle, L.L.P.
P. O. Box 1051
Clinton Square
Rochester, NY 14603-1051

William P. Jackson, Jr.
Jackson & Jessup, P.C.
P. O. Box 1240
3426 North Washington Boulevard
Arlington, VA 22219

James R. Jacobs
Jacobs Industries
2 Quarry Lane
Stony Ridge, OH 43463

Doreen C. Johnson
Chief Antitrust Section
Ohio Attorney General Office
30 East Broad Street, 16th Floor
Columbus, OH 43215

Erika Z. Jones
Mayer, Brown & Platt
2000 Pennsylvania Avenue, N.W.
Suite 6500
Washington, DC 20006

Terrence D. Jones
Keller & Heckman
1001 G Street N.W., Suite 500 West
Washington, DC 20001

Sharon Sobol Jordan
Richard F. Horvath
City of Cleveland
Department of Law, Room 106
601 Lakeside Avenue
Cleveland, OH 44114

Frank N. Jorgensen
The Elk River Railroad, Inc
P. O. Box 460
Summersville, WV 26651

Fritz R. Kahn
1100 New York Avenue, N.W.,
Suite 750 West
Washington, DC 20005-3934

Steven J. Kalish
McCarthy, Sweeney & Harkaway
1750 Pennsylvania Avenue N.W.
Washington, DC 20006-4502

Larry B. Karnes
Transportation Building
P. O. Box 30050
425 West Ottawa
Lansing, MI 48909

Richard R. Kerth, Transportation Manager.
Champion International Corporation
101 Knightsbridge Drive
Hamilton, OH 45020

David D. King
Beaufort and Morehead Railroad Company
P.O. Box 25201
Raleigh, NC 27611-5201

L. P. King, Jr.
General Chairperson United Transportation
Union
145 Campbell Avenue, S.W., Suite 207
Roanoke, VA 24011

Mitchell M. Kraus
General Counsel
Transportation Communications International
Union
3 Research Place
Rockville, MD 20950

The Honorable Dennis J. Kucinich
United States House of Representatives
Washington, DC 20515

Paul H. Lambole
Oppenheimer, Wolff & Donnelly
1020 Nineteenth Street, N.W., Suite 400
Washington, DC 20036

J. Patrick Latz
Heavy Lift Cargo System
P.O. Box 51451
Indianapolis, IN 46251-0431

John K. Leary, General Manager
Southeastern Pennsylvania Transportation
Authority
1234 Market Street, 5th Floor
Philadelphia, PA 19107-3780

Sherri Lehman
Director of Congressional Affairs
Corn Refiners Association
1701 Pennsylvania Avenue, N.W.
Washington, DC 20006-5905

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

Thomas J. Litwiler
Oppenheimer, Wolff & Donnelly
180 North Stetson Avenue, 45th Floor
Chicago, IL 60601

Edward Lloyd
Rutgers Environmental Law Clinic
15 Washington Street
Newark, NJ 07102

C. Michael Loftus
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, DC 20036

Dennis G. Lyons
Arnold & Porter
555 Twelfth Street, N.W.
Washington, DC 20004-1202

Gordon P. MacDougall
1025 Connecticut Avenue, N.W., Suite 410
Washington, DC 20036

William G. Mahoney
Highsaw, Mahoney & Clarke
1050 Seventeenth Street, N.W.
Suite 210
Washington, DC 20036

Ron Marquardt
Local Union 1810 UMWA
R D #2
Rayland, OH 43943

Robert E. Martinez
Virginia Secretary of Transportation
P. O. Box 1475
Richmond, VA 23218

John K. Maser, III
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Avenue, N.W., Suite 750
Washington, DC 20005-3934

David J. Matty
City of Rocky River
21012 Hilliard Road
Rocky River, OH 44116-3398

George W. Mayo, Jr.
Hogan & Hartson, L.L.P.
555 Thirteenth Street, N.W.
Washington, DC 20004-1109

Michael F. McBride
LeBoeuf, Lamb, Greene & Macrae, L.L.P.
1875 Connecticut Ave N.W.
Suite 1200
Washington, DC 20009-5728

R. Lawrence McCaffrey, Jr.
New York & Atlantic Railway
405 Lexington Avenue, 50th Floor
New York, NY 10174

Edward C. McCarthy
Inland Steel Industries, Inc
30 West Monroe Street
Chicago, IL 60603

Christopher C. McCracken
Ulmer & Berne, L.L.P.
1300 East Ninth Street
Suite 900
Cleveland, OH 44114

Thomas F. McFarland, Jr.
McFarland & Herman
20 North Wacker Drive
Suite 1330
Chicago, IL 60606-3101

James F. McGrail
Commonwealth of Massachusetts Executive
Office
of Transportation & Construction
10 Park Plaza, Room 3170
Boston, MA 02116-3969

John F. McHugh
McHugh & Sherman, Esqs.
20 Exchange Place
New York, NY 10005

Francis G. McKenna
Anderson & Pendleton
1700 K Street, N.W., Suite 1107
Washington, DC 20006

Coletta A. McNanee, Sr.
Cudell Improvement, Inc.
11500 Franklin Boulevard, Suite 104
Cleveland, OH 44102

H. Douglas Midkiff
65 West Broad Street, Suite 101
Rochester, NY 14614-2210

Clinton J. Miller, General Counsel
United Transportation Union
14600 Detroit Avenue
Cleveland, OH 44107-4250

G. Paul Moates
Sidley & Austin
1722 Eye Street, N.W.
Washington, DC 20006

C. V. Monin
Brotherhood of Locomotive Engineers
1370 Ontario Street
Cleveland, OH 44113

Karl Morell
Ball Janik, L.L.P.
1455 F Street, N.W.
Suite 225
Washington, DC 20005

Ian Muir
Bunge Corporation
P. O. Box 28500
St. Louis, MO 63146

William A. Mullins
Troutman Sanders, L.L.P.
1300 I Street, N.W.
Suite 500 East
Washington, DC 20005-3314

Robert E. Murray
President and Chief Executive Officer
The Ohio Valley Coal Company
29525 Chagrin Boulevard, Suite 111
Pepper Pike, OH 44122

The Honorable Jerrold Nadler
United States House of Representatives
Washington, DC 20515

John R. Nadolny
Vice President & General Counsel
Boston & Maine Corporation
Iron Horse Park
North Billerica, MA 01862

Samuel J. Nasca
Legislative Director
State of New York Legislative Board
United Transportation Union
35 Fuller Road, Suite 205
Albany, NY 12205

Earl L. Neal
Earl L. Neal & Associates
111 West Washington Street
Suite 1700
Chicago, IL 60602

Peter Q. Nyce, Jr.
United States Department of the Army
901 North Stuart Street
Arlington, VA 22203

Keith G. O'Brien
Rea, Cross & Auchincloss
1707 L Street, N.W.
Suite 570
Washington, DC 20036

D. J. O'Connell
General Chairperson United Transportation
Union
410 Lancaster Avenue, Suite 5
Haverford, PA 19041

Christopher C. O'Hara
Brickfield, Burchette & Ritts, P.C.
1025 Thomas Jefferson Street, N.W.
Eighth Floor
Washington, DC 20007

Thomas M. O'Leary
Ohio Rail Development Commission
50 West Broad Street, 5th Floor
Columbus, OH 43215

John L. Oberdorfer
Patton Boggs, L.L.P.
2550 M Street, N.W.
Washington, D.C. 20037-1301

Byron D. Olsen
Felhaber, Larson, Fenlon & Vogt, PA
601 Second Avenue South
4200 First Bank Place
Minneapolis, MN 55402-4302

L. John Osborn
Sonnenschein, Nath & Rosenthal
1301 K Street, N.W., Suite 600
Washington, D.C. 20005

William L. Osteen
Associate General Counsel Tennessee Valley
Authority
400 West Summit Hill Drive
Knoxville, TN 37902

Monty L. Parker
CMC Steel Group
P. O. Box 911
Seguin, TX 78156

Lawrence Pepper, Jr.
Gruccio Pepper
817 East Landis Avenue
Vineland, NJ 08360

F. R. Pickell
General Chairperson United Transportation
Union
6797 North High Street, Suite 108
Worthington, OH 43085

Patrick R. Plummer
Guerrieri, Edmond & Clayman, P.C.
1331 F Street, N.W.
Washington, D.C. 20004

Joseph R. Pomponio
Federal Railroad Administration
400 Seventh Street, S.W., RCC-20
Washington, D.C. 20590

Harold P. Quinn, Jr.
Senior Vice President and General Counsel
National Mining Association
1130 Seventeenth Street, N.W.
Washington, D.C. 20036

J. T. Reed
General Chairperson United Transportation
Union
7785 Bay Meadows Way, Suite 109
Jacksonville, FL 32256

Arvid E. Roach II
Covington & Burling
P. O. Box 7566
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20044-7566

James F. Roberts
210 East Lombard Street
Baltimore, MD 21202

John M. Robinson
9616 Old Spring Road
Kensington, MD 20895-3124

J. L. Rodgers
General Chairman United Transportation Union
480 Osceola Avenue
Jacksonville, FL 32250

Edward J. Rodriguez
P. O. Box 298
67 Main Street
Centerbrook, CT 06409

David Roloff
Goldstein & Roloff
526 Superior Avenue, East
Suite 1440
Cleveland, OH 44114

Scott A. Roney, Esq.
Archer Daniels Midland Company
P.O. Box 1470
4666 Faries Parkway
Decatur, IL 62525

John Jay Rosacker
Kansas Department of Transportation
217 S.E. Fourth Street, 2nd Floor
Topeka, KS 66603

Christine H. Rosso
Illinois Assistant Attorney General
100 West Randolph Street, 13th Floor
Chicago, IL 60601

Thomas R. Rydman
President
Indian Creek Railroad Company
3905 West 600 North
Anderson, IN 46011

R. K. Sargent
General Chairperson United Transportation
Union
1319 Chestnut Street
Kenova, WV 25530

Alice C. Saylor, VP & General Counsel
American Short Line Railroad Association
1120 G Street, N.W., Suite 520
Washington, DC 20005-3889

Scott M. Saylor
North Carolina Railroad Company
3200 Atlantic Avenue, Suite 110
Raleigh, NC 27604

G. Craig Scheiter
Philadelphia Industrial Development Corporation
1500 Market Street
Philadelphia, PA 19102

Thomas E. Schick
Chemical Manufacturers Association
1300 Wilson Boulevard
Arlington, VA 22209

Frederick H. Schranck
P. O. Box 778
Dover, DE 19903

Randolph L. Seger
McHale, Cook & Welch, P.C.
320 North Meridian Street, Suite 1100
Indianapolis, IN 46204

Diane Seitz
Central Hudson Gas & Electric Corp.
284 South Avenue
Poughkeepsie, NY 12601

Anthony P. Semancik
347 Madison Avenue
New York, NY 10017-3706

Roger A. Serpe
Indiana Harbor Belt Railroad Company
175 West Jackson Boulevard, Suite 1460
Chicago, IL 60604

James E. Shepherd
Tuscola & Saginaw Bay
P. O. Box 550
Owosso, MI 48867-0550

Kevin M. Sheys
Oppenheimer, Wolff, Donnelly & Bayh, L.L.P.
1350 Eye Street, N.W.
Suite 200
Washington, DC 20005

Mark H. Sidman
Weiner, Brodsky, Sidman & Kider
1350 New York Avenue, N.W., Suite 800
Washington, DC 20005-4794

Philip G. Sido
Union Camp Corporation
1600 Valley Road
Wayne, NJ 07470

Kenneth E. Siegel
American Trucking Association
2200 Mill Road
Alexandria, VA 22314-4677

Patrick B. Simmons
North Carolina Department of Transportation
1 South Wilmington Street, Room 557
Raleigh, NC 27611

Richard G. Slattery
AMTRAK
60 Massachusetts Avenue, N.E.
Washington, D.C. 20002

William L. Slover
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036-3003

Garret G. Smith
Mobil Oil Corporation
3225 Gallows Road, Room 8A903
Fairfax, VA 22037-0001

Paul Samuel Smith
United States Department of Transportation
400 Seventh Street, N.W.
Room 4102 C-30
Washington, D.C. 20590

Mike Spahis
Fina Oil & Chemical Company
P. O. Box 2159
Dallas, TX 75221

Charles A. Spitulnik
Hopkins & Sutter
888 Sixteenth Street, N.W., Suite 700
Washington, DC 20006-4103

Eileen S. Stommes
Director, Transportation & Marketing Division
Agricultural Marketing Service, USDA
P. O. Box 96456, Room 4006-South Building
Washington, DC 20090-6456

D. G. Strunk, Jr.
General Chairperson United Transportation
Union
817 Kilbourne Street
Bellevue, OH 44811

James F. Sullivan
Connecticut Department of Transportation
P. O. Box 317546
Newington, CT 06131

Daniel J. Sweeney
McCarthy, Sweeney & Harkaway, P.C.
1750 Pennsylvania Avenue, N.W., Suite 1105
Washington, DC 20006

Robert G. Szabo
Van Ness Feldman
1050 Thomas Jefferson Street, N.W.
Washington, DC 20007

J. E. Thomas
Hercules Incorporated
1313 North Market Street
Wilmington, DE 19894

K. N. Thompson
General Chairperson United Transportation
Union
11017-F Gravois Industrial Plaza
St. Louis, MO 63128

William R. Thompson
City of Philadelphia Law Department
1600 Arch Street, 10th Floor
Philadelphia, PA 19103

W. David Tidholm
Hutcheson & Grundy
1200 Smith Street #3300
Houston, TX 77002

Merrill L. Travis
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 302
Springfield, IL 62703-4555

Mayor Vincent M. Urbin
150 Avon Belden Road
Avon Lake, OH 44012

J. William Van Dyke
New Jersey Transportation Planning Authority
One Newark Center, 17th Floor
Newark, NJ 07102

William C. Van Slyke
152 Washington Avenue
Albany, NY 12210

Robert P. vom Eigen
Hopkins & Sutter
888 Sixteenth Street, N.W., Suite 700
Washington, DC 20006-4103

John A. Vuono
Vuono & Gray
2310 Grant Building
Pittsburgh, PA 15219

F. Ronalds Walker
Citizens Gas & Coke Utility
2020 North Meridian Street
Indianapolis, IN 46202

Leo J. Wasescha
Transportation Manager
Gold Medal Division
General Mills Operations, Inc.
Number One, General Mills Boulevard
Minneapolis, MN 55426

James R. Weiss
Preston Gates Ellis, & Rouvelas Meeds, L.L.P.
1735 New York Avenue, N.W.
Suite 500
Washington, DC 20006

Hugh H. Welsh
Law Department, Suite 67E
One World Trade Center
New York, NY 10048-0202

William W. Whitehurst, Jr.
W. W. Whitehurst & Associates, Inc.
12421 Happy Hollow Road
Cockeysville, MD 21030

Henry M. Wick, Jr.
Wick, Streiff, Meyer, McGrail & Boyle
1450 Two Chatham Center
Pittsburgh, PA 15219

Robert J. Will
United Transportation Union
4134 Grave Run Road
Manchester, MD 21102

Richard R. Wilson
1126 Eighth Avenue, Suite 403
Altoona, PA 16602

Robert A. Wimbish, Esq.
Rea, Cross & Auchincloss
1920 N Street, N.W.
Suite 420
Washington, DC 20036

C. D. Winebrenner
General Chairperson United Transportation
Union
27801 Euclid Avenue, Room 200
Euclid, OH 44132

John F. Wing, Chairman
Citizens Advisory Committee
601 North Howard Street
Baltimore, MD 21201

Sergeant W. Wise
Livonia, Avon & Lakeville Railroad Corporation
P. O. Box 190-B
5769 Sweeteners Boulevard
Lakeville, NY 14480

Timothy A. Wolfe
Wyandot Doliote, Inc.
P. O. Box 99
1794 Co Road #99
Carey, OH 43316

Frederic L. Wood
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Avenue, N.W., Suite 750
Washington, DC 20005-3934

E. C. Wright
Rail Transportation Procurement Manager
1007 Market Street
DuPont Building 3100
Wilmington, DE 19898

L. Pat Wynns
1050 Seventeenth Street, N.W., Suite 210
Washington, DC 20036-5503

Edward Wytkind, Executive Director
Larry i. Willis, Esq.
Transportation Trades Department, AFL-CIO
1000 Vermont Avenue, N.W., Suite 900
Washington, DC 20005

Sheldon A. Zabel
Schiff, Hardin & Waite
7200 Sears Tower
Chicago, IL 60606

Walter E. Zullig, Jr., Special Counsel
Metro-North Commuter Railroad Company
347 Madison Avenue
New York, NY 10017-3706

STB

FD

33388

9-11-98

J

GOV



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS



Jim Ryan
ATTORNEY GENERAL

September 8, 1998

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W., Floor 7
Washington, DC 20423-0001

SEP 17 1998

ADD TO SERVICE LIST ONLY

Re: Service List: CSX Corp./Norfolk Southern Corp. -- Control and
Operating Leases/Agreement -- Conrail; Finance Docket No. 33388

Dear Secretary Williams:

I have assumed the duties of Chief of the Public Utilities Bureau within the Illinois Attorney General's Office formerly undertaken by William F. Cottrell. Kindly update the service list in the above-captioned matter -- and in any matter to which the Illinois Attorney General is a party of record before the Surface Transportation Board -- to reflect this change.

Thanks much for attention to this detail.

Sincerely,

Edward Washington, II
Chief, Public Utilities Bureau

EW/ma

STB

FD

33388

9-10-98

J

MOCSS



Office of the Chairman

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

FILE IN DOCKET

FD-33388

September 10, 1998

The Honorable Charles E. Grassley
United States Senate
Washington, D.C. 20510-1501

Dear Senator Grassley:

This responds to your letter forwarding correspondence from Frank C. Rydzewski concerning the effects of the acquisition of Consolidated Rail Corporation (Conrail) by Norfolk Southern Corporation and Norfolk Southern Railway Company (NS) and CSX Transportation, Inc. (CSX). Mr. Rydzewski requests that premerger modeling of traffic volumes, flows, terminal consolidations, and impacts on shippers and the economy be performed to determine what effect the merger will have on shippers.

The Surface Transportation Board (Board) heard oral argument concerning the Conrail breakup, which was docketed as STB Finance Docket No. 33388, with presentations by more than 70 witnesses over the course of 2 days on June 3 and 4, 1998. Following this and an extensive examination of evidence, including the carriers' proposed Operating Plan, the Board held an open voting conference on June 8, 1998, at which we voted to approve the transaction, subject to a number of conditions. The final written decision was served on July 23, 1998. A copy of the Board's press release dated July 23, 1998, announcing the issuance of the written decision in this matter is enclosed for your information.

NS and CSX carefully studied anticipated traffic volumes and flows, terminal consolidations, and other matters, which they described in their joint Operating Plan filed with the Board on June 23, 1997. In the Operating Plan, CSX and NS summarized the more important initiatives concerning operating efficiencies. CSX states that, after the acquisition, CSX operation of the expanded system will result in changes in a number of existing Conrail and CSX yards and terminals, and that some will be consolidated or eliminated, while others will be expanded. NS states that, in preparing the Operating Plan, it received traffic data, including new and diverted business, provided by NS' traffic consultants, and then applied that data to an operational modeling structure. Experienced NS operating and service management personnel assisted in formulation of the plan. Concerning improvement in service reliability, NS provided several examples of how and why transit times and service reliability will improve after the transaction is completed.

In voting for approval, the Board found that the transaction, as augmented by numerous settlement agreements among the parties and as further conditioned, would inject competition into the eastern United States in an unprecedented manner. The conditions adopted by the

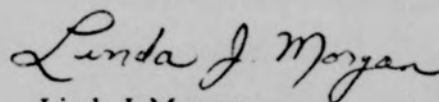
The Honorable Charles E. Grassley

Board, while significant, recognize the operational and competitive integrity of the overall proposal and the importance of promoting and preserving privately-negotiated agreements. In particular, the Board's conditions include 5 years of oversight, along with substantial operational monitoring and reporting to ensure that the transaction is successfully implemented; mitigation of potential adverse impacts on the environment and on safety; recognition of employee interests, including a reaffirmation of the negotiation and arbitration process as the proper way to resolve important issues relating to employee rights; and several conditions that address the vital role of smaller railroads and regional concerns about competition.

Further information on the Conrail acquisition is available at the Board's website (www.stb.dot.gov). Additionally, you may purchase a copy of the Operating Plan from the Board's copy contractor, DC News & Data, Inc., by calling (202) 289-4357, or request a copy from either CSX or NS.

A copy of your letter has been placed in the formal docket of the Conrail acquisition proceeding. I appreciate your interest in this matter, and if I may be of further assistance, please do not hesitate to contact me.

Sincerely,

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

Linda J. Morgan

Enclosure: July 23, 1998 Press Release

STB

FD

33388

9-2-98

J

LAW

TERRY J. CONIGLIO
STEPHEN M. UTHOFF

ALSO ADMITTED IN THE
DISTRICT OF COLUMBIA

CONIGLIO & UTHOFF

A PROFESSIONAL LAW CORPORATION
CONIGLIO PROFESSIONAL BUILDING
60 ELM AVENUE
LONG BEACH, CALIFORNIA 90802-4910

TELEPHONE: (562) 491-4644
TELECOPIER: (562) 435-1976
E-MAIL: candulaw@gte.net



CHANGE OF ADDRESS

The office at 110 West Ocean Boulevard, Suite C, Long Beach, California 90802
is closed effective immediately.

Our new address for mail, Federal Express and other deliveries is:

Coniglio & Uthoff
Coniglio Professional Building
60 Elm Avenue
Long Beach, California 90802-4910

Our telephone and fax numbers remain the same.

ENTERED
Office of the Secretary

SEP 4 1998

Part of
Public Record

Severe List

29532
EB

SERVICE DATE - AUGUST 19, 1998

RE

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388

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

Decision No. 91

Decided: August 17, 1998

This decision addresses the petition by APL Limited (APL) (designated as APL-26) filed on July 31, 1998, seeking to stay the implementation of the transaction that we authorized in Decision No. 89, served on July 23, 1998,¹ pending our clarification and/or reconsideration of Decision No. 89, or the completion of judicial review.² In support of its petition, APL states that it expects to prevail both in having Decision No. 89 clarified and in having the decision overturned with respect to our provision for a limited override of antiassignment clauses in rail transportation contracts. APL maintains that it will suffer irreparable harm if we do not stay the division of Conrail pending its appeal, that such a stay will not harm CSX or NS, and that the public interest supports a stay. CSX and NS filed separate replies in opposition to the stay petition (designated as CSX-159 and NS-70, respectively).

To justify a stay, petitioner APL must demonstrate: (1) it has a strong likelihood of prevailing on the merits; (2) it will be irreparably harmed in the absence of a stay; (3) other interested parties will not be substantially harmed by the stay; and (4) the public interest supports granting the stay. Virginia Petroleum Jobbers Assoc. v. FPC, 259 F.2d 921 (5th Cir. 1958); Washington Metropolitan Area Transit Comm. v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977). For the reasons discussed below, we find that APL has failed to meet these requirements.

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

² While seeking to stay the implementation of the transaction, APL also states that it does not seek the stay of the effectiveness of Decision No. 89 insofar as it permits applicants' joint control of Conrail.