

ENTERED Office of the Secretary

NOV OR 1999 Part of Public Record



DATE: November 5, 1999

то

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

FROM Mel Clemens, Director Office of Compliance and Enforcement

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

Attached are copies of letters to CSX and Norfolk Southern requesting that additional data be reported to this office pursuant to the operational monitoring requirements set forth in the above proceeding. The additional data will be included in the information committed to the docket each week for public reference. The letters to CSX and Norfolk Southern should also be included in the docket and I am, therefore, providing the three copies of this memorandum and the attachments to Ron Douglas, two for the docket and one for DC News. If there are any questions, please don't hesitate to contact me or Jim Greene.

Attachments

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



Surface Transportation Bozrd Bashington, B.C. 20423-0001

November 5, 1999

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

202-565-1573 FAX 202-565-9011

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

Dear Mr. Price:

This letter will confirm our discussions regarding my responsibilities under Finance Docket No. 33388, Decision No. 89, to monitor the implementation of the Conrail acquisition. As part of my responsibilities, I must assess the operating conditions, the current level of reporting, and the need for additional information, and must impose, to the degree I believe is necessary, additional data requirements. Based on my assessment of the CSXT's current operations involving the Conrail acquisition (hereafter referred to as the Northern Region lines), I believe that it is appropriate for additional operational data to be included in the weekly public reports now being filed with this office by CSXT related to that acquisition.

Specifically, in assessing the operations depicted by the current data, it is my conclusion that the Board will be aided by the additional data elements described below. Therefore, I am requiring the following daily metrics to be reported weekly for the seven-day period ending on Friday.

- Train Delay Metric Indicate the daily number of train starts on the Northern Region lines and the length of time in hours that any of those trains were delayed due to a lack of power or crews. The extent to which other causes of delay are present, e.g., congestion or congestion mitigation, should be discussed in the current cover letter transmitting the weekly reporting. This will replace the currently reported train delay snapshot.
- Train Crew Delay Metric Indicate the daily number of train crew starts from the following yards or terminals and the number of those originating train crews that were delayed in those yards or terminals for two hours or more after going on duty.

Baltimore/Buffalo/Chicago/Cincinnati/Cleveland/Cumberland/Detroit/Philadelphia/ Selkirk/Toledo/Willard

 Shared Assets Areas Train Delay Metric- Indicate the daily number of outbound trains ready for departure that are held for line haul carriers in each of the shared assets areas for more than one hour after notification.

Detroit-North Jersey-Philadelphia/South Jersey

Daily Crew Availability Percentage -

Northern Region Lines

Daily Number of Crew Starts and the Daily Number of Recrews Required -

Northern Region Lines

Locomotives -

Net Fleet Size Average Daily Number Available Out-of-service Ratio

The additional reporting described above should be included in your weekly public reports to be filed on November 24th, and should be discussed to the degree necessary in your cover letter transmitting the reporting. It is also expected that this information will be placed on your web site. We will add this reporting to the Board's web site as well. Please contact me immediately if there are any questions related to those additional data requirements.

Sincerely,

Chieut

Melvin F. Clemens, Jr. Director

cc: Chairman Morgan Vice Chairman Clyburn Commissioner Burkes

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

November 5, 1999

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

202-565-1573 FAX 202-565-9011

George A. Aspatore, General Solicitor Norfolk Southern Corporation Law Department Three Commercial Place Norfolk, Virginia 23510-9241

Dear Mr. Aspatore:

This letter will confirm our discussions regarding my responsibilities under Finance Docket No. 33388, Decision No. 89, to monitor the implementation of the Conrail acquisition. As part of my responsibilities, I must assess the operating conditions, the current level of reporting, and the need for additional information, and must impose, to the degree I believe is necessary, additional data requirements. Based on my assessment of the NS's current operations involving the Conrail acquisition (hereafter referred to as the Northern Region lines), I believe that it is appropriate for additional operational data to be included in the weekly public reports now being filed with this office by NS related to that acquisition.

Specifically, in assessing the operations depicted by the current data, it is my conclusion that the Board will be aided by the additional data elements described below. Therefore, I am requiring the following daily metrics to be reported weekly for the seven-day period ending on Friday.

- **Train Delay Metric** Indicate the daily number of train starts on the Northern Region lines and the length of time in hours that any of those trains were delayed due to a lack of power or crews. The extent to which other causes of delay are present, e.g., congestion or congestion mitigation, should be discussed in the current cover letter transmitting the weekly reporting. This will replace the currently reported train delay snapshot.
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Sincerely,

Melvin F. Clemens

Director

cc: Chairman Morgan Vice Chairman Clyburn Commissioner Burkes



FIRE DEPARTMENT Stanley J. Powaski Chief of Fire CITY OF CIEVELAND HEIGHIS CIRCLE 40 SEVERANCE CIRCLE CLEVEL AND HEIGHTS, OHIO 44118-1576

March 1, 1999

Robert V. Allen General Manager Safety, Environmental & Opr. Practices 500 Water Street - J305 Jacksonville, FL 32202

Dear Mr. Allen:

I am in receipt of a copy of your letter to Vernon A. Williams, Secretary, Surface Transportation Board, dated February 19, 1999. Frankly, I am puzzled by some of the claims which have been made therein.

In that letter, you stated, "As directed, in January and February 1999, CSXT Hazardous Materials Managers met with the emergency response officials responsible for these communities, either in person or by telephone, and consulted with them regarding the needs of their minority and low-income populations. In response to the advice presented by these emergency response officials, CSXT...."

Please be advised that I am the Emergency Response Coordinator for the City of Cleveland Heights, a position which I have held for several consecutive years. No CSXT representative has contacted me in person or by phone, nor has CSXT asked me to account for special needs of our minority and low-income residents.

If you have spoken with other Cleveland Heights officials regarding these issues, please provide me with their names so that I may follow up with them. If you have not spoken with any Cleveland Heights officials, please contact me at your earliest convenience.

Sincerely,

Stanley J. Powaski Chief, Cleveland Heights Fire Department

cc: The Honorable Vernon A. Williams

Fire Administration 216/291-2673

> Fire Prevention 216/291-2291

Public Education 216/291-2672

Fax 216/291-2064



FIRE L EPARTMENT Stanley J. Powaski Chief of Fire



Fire Administration 216/291-2673

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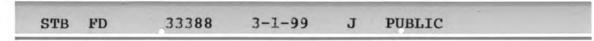
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Sincerely,

Stanley J. Powaski Chief, Cleveland Heights Fire Department

cc: The Honorable Vernon A. Williams





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

FILE IN DOCKET

March 1, 1999

Mr. Michael E. Donant 5320 Dunfred Cir. S.E. Canton, OH 44704-1075

Dear Mr. Donant:

I have received your most recent letter regarding the Board's approval of the acquisition and division of Conrail by CSX and Norfolk Southern and expressing your continuing concerns about the effects of this transaction on you and other employees at the maintenance-of-way shop in Canton, OH.

The Board and its predecessor, the Interstate Commerce Commission, have long understood that it is in the public interest to consider the welfare of railroad employees. For this reason, the agency has conditioned approval of multi-railroad transactions on the implementation of <u>New York Dock</u> labor protective conditions. These conditions continue to be the most protective of any benefits available to union employees affected by federally approved transactions.

Nevertheless, as you explain, <u>New York Dock</u> protections may not fully address the modern dilemma of the two-income family, and some employees may be unable to take full advantage of the up to six years of income protection that they provide. Such employees may be able to take advantage of the up to one year of separation allowances that is also provided by the conditions. As noted in my previous letter, it may be possible for your elected union representatives to negotiate with the carriers to minimize hardships for employees such as yourself through implementing agreements, which are required by the New York Dock conditions. As you know, under New York Dock, if these negotiations break down, the parties would be required to enter into binding arbitration, which is reviewable under appropriate circumstances by the Board.

You also mention some concern for the safety of employees who are bidding on local track jobs in order to remain in the Ohio area. Employees may only bid on jobs for which they are "qualified" either before or after retraining. Admittedly, certain jobs are inherently more dangerous than others. Only affected employees and their families can weigh the advantages and disadvantages of the choices available to them. If your concern is that these jobs are unduly dangerous, I should advise you that the Board does not have primary enforcement authority in the area of railroad employee safety. The agency with authority in this area is the Federal Railroad Administration (FRA), which has entered into a memorandum of understanding with the Board to oversee the safe implementation of the Conrail transaction.

I appreciate the difficulty of your situation and wish you success in your efforts to resolve these difficulties through your union. I am having your letter made a part of the public docket for the Conrail acquisition proceeding.

Sincerely,

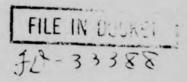
Linda J. Morgan





...

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



Office of the Chairman

March 1, 1999

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. . .

1

Sincerely,

Linda J. Morgan Linda J. Morgan





Attention: Surface Transportation Board

I am writing to seek any, and all, assistance you could lend toward Congressional, Senatorial, or Presider review of the recent arbitrated decision of National Mediation Board (NMB) appointed neutral referee Willi F. Fredenburger Jr. dated January 14,1999 regarding the Norfolk Southern Railway Company, CSX Transportation, Inc., Consolidated Railway Corporation, and the Brotherhood of Maintenance of Way Employes, as well as other various railway labor organizations.

Some of the issues I will address are as follows:

1) Combining of seniority rosters over increased seniority districts. Our respective seniority, as a railroa employee is a benefit achieved through previously negotiated agreements between railway carriers and the railway labor organizations. To obtain employee seniority, the labor organizations had to make concession from previous agreements. So too, did this process develop defined districts for coordinated exercise of individual seniority rights of employees. For an NMB appointed referee, or the Surface Transportation Boa (STB) to deny this benefit is to deny the many previously negotiated agreements that have brought us forward as a highly skilled workforce.

2) Secondly, regarding the increase of seniority regions for BMWE members, as ruled by Mr. Fredenburger Jr., is exactly opposite to the concerns regarding the safety of the railroad industry express by our own congressional, Senatorial, and Presidential leadership, as well as the general public. By enlarging our seniority regions we are going to have more railroad employees traveling longer hours, and greater distances, at their own expense, to work. Thus, we will have more employees spending less qua time with their families, more time traveling (perhaps hundreds of miles), less time gettingproper rest for physically demanding profession, depriving their families and local businesses of less income that will be spent on increased expenses, and increasing the possibility of serious injury to the employee, their coworkers, and the general public due to inadequate, proper rest as well as increased stress.

3)Regarding outside contractors performing Maintenance of Way work. In as much as the railroad companies wish to deny it, by their own action of reducing their workforce over the past is the main reasc for having outside contractors today. Should the railroad companies truly desire to improve track conditic and ultimately the safety to its employees, and the general public, while moving greater amounts of freigh they would increase their own workforce, and reduce outside contracting, thereby providing a more highly skilled workforce that has a vested interest in this industry.

The areas that I have discussed in the letter are but a few of the areas covered by the arbitrated decision but you may find that this decision does not take into consideration, the safety of the railroad employee, c the general public. Nor does it take into consideration the years of collective bargaining agreements up to date. The decision does, however, appear to be solely concerned with the most expeditious finalization of the instituting plans of the division of Conrail assets, andproperty, between CSX and Norfolk Southern to free up money of both of these companies earmarked for the purchase.

By the arbitrated decision of the neutral arbitrator, more tax dollars and income, will be leaving more stati by way of the out-of-town contractors, and commuting, or relocating, of current railroad employees than I ever happened before. Nor do the contractors pay into the Railroad Retirement System, whereby the m contractors permitted to provide unskilled labor on our nations railroads, the lower amount paid into the retirement system while not providing the optimum safety for the railroad companies, and ultimately, the public. It is also obvious that safety was of no concern in Mr. Fredenburgers' decision, neither was the importance of the family unit, or the process of collective bargaining.

Many of our elected representatives to the House of Representatives, and the Senate, may believe that they are not, and cannot be, involved in collective bargaining agreements between the various railroad companies and the railway labor organizations. Nor do they wish to admit that they are involved in the mediation, or arbitration, process. Both schools of thought could not be further from the truth.

By legislative action, the Surface Transportation Board was formed. By representatives elected by the people of the United States of America, the STBs membership was appointed. By these same legislatures so, too, was the National Mediation Board formed, and its members appointed. By these same legislatures strike is even governed by these same legislatures. Thus, the elected representatives to the House of Representatives, the Senate, and to the Presidency did create these Boards, and appoint the members of the Boards, and as such are required by , if nothing else, conscience and principle, to review this decision.

Additionally, no process of elimination in choosing a neutral referee was permitted as has been done in the past. Mr. William Fredenburger Jr. was appointed by the NMB as the only neutral referee to be provided by the NMB in this issue.

If ever a decision that concerned the safety and well being of our citizens ever warranted a review by our Congress, our Senate, or our President, than this is the one.

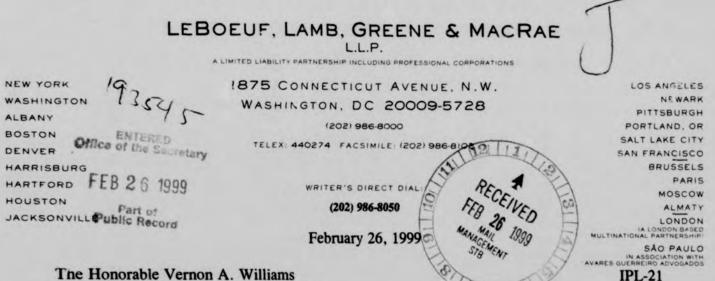
If ever a decision of a referee ever appeared to be totally biased, or prejudicial, this is the one.

All that I ask is that the arbitrated decision of William F. Fredenburger Jr., in regards to this matter, be reviewed by our elected representatives for inaccuracies, improprieties, and unfairness to some of the parties involved, rather than is currently having the appearance of a biased, prejudicial, an highly questionable decision.

Sincerely

USE E Sheet 518 19 TH ST TYRONE PA 16686 FAX- 814 684 0742





Secretary, Surface Transportation Board 1925 K Street, N.W., 7th 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:

1

'4aving reviewed CSX-178 and NS-76 filed February 18, 1999 and February 23, 1999, respectively, concerning the Board's grant to NS of trackage rights into IPL's Stout Plant in this proceeding, Indianapolis Power & Light Company ("IPL") regrets that it must once again invoke the Board's good offices.

IPL is extremely disconcerted by the continuing refusal of CSX and INRD to provide NS with a suitable trackage rights agreement in accordance with CSX's and NS's own trackage rights agreement and with the terms prescribed by STB Decision Nos. 89 and 96, not to mention Decision No. 115. CSX stated, in CSX-163 (at 3 n.1) on September 3, 1998 -nearly six months ago -- that it would provide NS with the trackage rights into IPL's Stout Plant. It still has not provided those rights in a manner that NS regards as satisfactory, let alone IPL.

IPL sympathizes with NS in its request for up to an additional 30 days to negotiate a trackage rights agreement. However, IPL believes that the terms of the trackage rights agreement could and should be resolved sooner. By now it must be evident that CSX will continue to delay negotiation and execution of a suitable trackage rights arrangement. IPL believes that NS or CSX could (and should) execute such an agreement, or advise the Board if a suitable agreement has not been reached, within 10 days of NS's report (i.e., March 5, 1999).

The Honorable Vernon A. Williams February 26, 1999 Page 2

In view of the extreme delay CSX (and its subsidiary) have caused in resolving this matter as ordered by the Board since the Board's voting conference in this proceeding on June 8, 1998, and because none of the delay is attributable to IPL, IPL requests that the Board advise CSX and NS that time is of the essence and that they must execute a trackage rights agreement expeditiously or inform the Board that they have reached an impasse, so that the Board may determine the terms of the agreement in accordance with Decision Nos. 89, 96 and 115.¹

IPL also renews it previous suggestion to the Board, as part of its January 19, 1999 submission (IPL-20) that the Board consider inviting the involved parties to an informal meeting with one or more members of the Board, or before an Administrative Law Judge, to expedite resolution of these issues and thus put to rest this endless saga of delaying tactics by CSX. We so pray.

IPL does wish the Board to be aware that it since rely appreciates the Board's efforts to date and regrets the necessity to again address it concerning this issue.

Respectfully submitted,

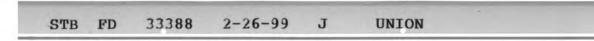
Michael F. McBride

Michael F. McBride Brenda Durham

Attorneys for Indianapolis Power & Light Company

cc: Richard A. Allen, Esq. Karl Morell, Esq. Fred E. Birkholz, Esq. Dennis G. Lyons, Esq. Michael P. Harmonis, Esq.

¹CSX states that "in the event of failure of [NS and CSX] to agree, [the trackage rights will be] as determined by the Board upon application by either of them." CSX-178 at 2. IPL trusts that CSX does not mean to suggest that other interested parties, such as DOJ, Indiana Southern, or IPL, could not apply to the Board for resolution of the trackage rights. IPL is, after all, the shipper, which by definition means that IPL pays all of the transportation costs for movement of coal over the rail lines at issue to its Stout Plant.



GUERRIERI, EDMOND & CLAYMAN, P.C.

1331 F STREET, N.W. WASHINGTON, D.C. 20004

(202) 624-7400 FACSIMILE: (202) 624-7420

JOSEPH GUERRIERI, JR. JOHN A. EDMOND ROBERT S. CLAYMAN DEBRA L. WILLEN JEFFREY A. BARTOS ANNA L. FRANCIS* ELISE B. STEINBERG ANDREA HOLLAND LARUE*

"NOT ADMITTED IN D.C.

RECEIVED 26 1900 MANAGEMENT STB

February 25, 1999

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

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

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding, please find an original and 25 copies of the International Association of Machinists and Aerospace Workers' ("IAM") Praecipe.

I have included an additional copy to be date-stamped and returned with our messenger.

Thank you for your attention to this matter.

Sincerely,

Jebra F. Willen

Debra L. Willen Counsel for the IAM

DLW:saw

cc: Allison Beck, Esq. Mark Filipovic Robert L. Reynolds

FEB 2 6 1999

ANT T. 2.1"

BEFORE THE SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388

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

PRAECIPE

The International Association of Machinists and Aerospace Workers, AFL-CIO, ("IAM") hereby requests the Clerk of the Court to note that its counsel has a new mailing address

> Joseph Guerrieri, Jr. Debra L. Willen Guerrieri, Edmond & Clayman, P.C. 1625 Massachusetts Ave., N.W., Suite 700 Washington, D.C. 20036-2243 (202) 624-7400 (202) 624-7420 (fax)

> > Respectfully submitted,

FE3 2 6 1999

ADD TO SET THE LIST ONLY

Joseph A. Guerrieri, Jr. Debra L. Willen GUERRIERI, EDMOND & CLAYMAN, P.C. 1625 Massachusetts Ave., N.W. Suite 700 Weshington, D.C. 20036-2243 (202) 624-7400 (202) 624-7420 (fax)

Counsel for IAM

Dated: February 25, 1999

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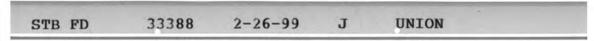
WANGE WENT

CERTIFICATE OF SERVICE

• • • •

I hereby certify that copies of the IAM's Praecipe was served this 25th day of February, 1999, by first-class mail, postage prepaid, upon all parties of record in this proceeding.

Det 1. Willen Deb



GUERRIERI, EDMOND & CLAYMAN, P.C.

1331 F STREET, N.W. WASHINGTON, D.C. 20004

(202) 624-7400 FACSIMILE: (202) 624-7420



DEBRA L. WILLEN JEFFREY A. BARTOS ANNA L. FRANCIS* ELISE B. STEINBERG ANDREA HOLLAND LARUE*

JOSEPH GUERRIERI, JR. JOHN A. EDMOND ROBERT S. CLAYMAN

NOT ADMITTED IN D.C.

February 25, 1999

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

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Debra L. Willen Counsel for the IAM

DLW:saw

cc: Allison Beck, Esq. Mark Filipovic Robert L. Reynolds

FEB 2 6 1999

RECEIVED

FEB 26 1990

MANAGEMENT

ADD TO SET 2 .

IAM-8

BEFORE THE SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388

RECEIVED FEB 26 1999 MANAGEMENT STB

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

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> > Respectfully submitted,

FE3 2 6 1999

ADD TO SEPTICE LIST ONLY

Joseph A. Guerrieri, Jr. Debra L. Willen GUERRIERI, EDMOND & CLAYMAN, P.C. 1625 Massachusetts Ave., N.W. Suite 700 Washington, D.C. 20036-2243 (202) 624-7400 (202) 624-7420 (fax)

Counsel for IAM

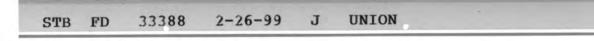
Dated: February 25, 1999

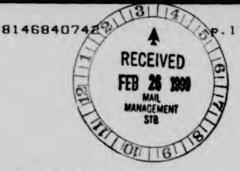
CERTIFICATE OF SERVICE

. . .

I hereby certify that copies of the IAM's Praecipe was served this 25th day of February, 1999, by first-class mail, postage prepaid, upon all parties of record in this proceeding.

bry L. Willen Deb





Attention: Surface Transportation Board

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1) Combining of seniority rosters over increased seniority districts. Our respective seniority, as a railroa employee is a benefit achieved through previously negotiated agreements between railway carriers and the railway labor organizations. To obtain employee seniority, the labor organizations had to make concession from previous agreements. So too, did this process develop defined districts for coordinated exercise of individual seniority rights of employees. For an NMB appointed referee, or the Surface Transportation Bos (STB) to deny this benefit is to deny the many previously negotiated agreements that have brought us forward as a highly skilled workforce.

2) Secondly, regarding the increase of seniority regions for BMWE members, as ruled by Mr. Fredenburger Jr., is exactly opposite to the concerns regarding the safety of the railroad industry express by our own congressional, Senatorial, and Presidential leadership, as well as the general public. By enlarging our seniority regions we are going to have more railroad employees traveling longer hours, and greater distances, at their own expense, to work. Thus, we will have more employees spending less qua time with their families, more time traveling (perhaps hundreds of miles), less time gettingproper rest for physically demanding profession, depriving their families and local businesses of less income that will be spent on increased expenses, and increasing the possibility of serious injury to the employee, their coworkers, and the general public due to inadequate, proper rest as well as increased stress.

3)Regarding outside contractors performing Maintenance of Way work. In as much as the railroad companies wish to deny it, by their own action of reducing their workforce over the past is the main reasc for having outside contractors today. Should the railroad companies truly desire to improve track conditic and ultimately the safety to its employees, and the general public, while moving greater amounts of freigh they would increase their own workforce, and reduce outside contracting, thereby providing a more highly skilled workforce that has a vested interest in this industry.

The areas that I have discussed in the letter are but a few of the areas covered by the arbitrated decision but you may find that this decision does not take into consideration, the safety of the railroad employee, c the general public. Nor does it take into consideration the years of collective bargaining agreements up to date. The decision does, however, appear to be solely concerned with the most expeditious finalization of the instituting plans of the division of Conrail assets, andproperty, between CSX and Norfolk Southern to free up money of both of these companies earmarked for the purchase.

By the arbitrated decision of the neutral arbitrator, more tax dollars and income, will be leaving more state by way of the out-of-town contractors, and commuting, or relocating, of current railroad employees than I ever happened before. Nor do the contractors pay into the Railroad Retirement System, whereby the m contractors permitted to provide unskilled labor on our nations railroads, the lower amount paid into the retirement system while not providing the optimum safety for the railroad companies, and ultimately, the public. It is also obvious that safety was of no concern in Mr. Fredenburgers' decision, neither was the importance of the family unit, or the process of collective bargaining.

Many of our elected representatives to the House of Representatives, and the Senate, may believe that they are not, and cannot be, involved in collective bargaining agreements between the various railroad companies and the railway labor organizations. Nor do they wish to admit that they are involved in the mediation, or arbitration, process. Both schools of thought could not be further from the truth.

By legislative action, the Surface Transportation Board was formed. By representatives elected by the people of the United States of America, the STBs membership was appointed. By these same legislatures so, too, was the National Mediation Board formed, and its members appointed. Additionally, our right to strike is even governed by these same legislatures. Thus, the elected representatives to the House of Representatives, the Senate, and to the Presidency did create these Boards, and appoint the members of the Boards, and as such are required by , if nothing else, conscience and principle, to review this decision.

Additionally, no process of elimination in choosing a neutral referee was permitted as has been done in the past. Mr. William Fredenburger Jr. was appointed by the NMB as the only neutral referee to be provided by the NMB in this issue.

If ever a decision that concerned the safety and well being of our citizens ever warranted a review by our Congress, our Senate, or our President, than this is the one.

If ever a decision of a referee ever appeared to be totally biased, or prejudicial, this is the one.

All that I ask is that the arbitrated decision of William F. Fredenburger Jr., in regards to this matter, be reviewed by our elected representatives for inaccuracies, improprieties, and unfairness to some of the parties involved, rather than is currently having the appearance of a biased, prejudicial, an highly questionable decision.

Sincerely

SIS 19TH ST TYRONE PA 16686 FAX-- \$146840742



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ARNOLD & PORTER

555 TWELFTH STREET, N.W.

MARY GABRIELLE SPRAGUENCE OF the SecretaryWASHINGTON, D.C. 20004-1202

FEB 25 1999 Part of Public Record

February 25, 1999

BY HAND DELIVERY - Original and 25 Copies

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 - Little Ferry Connection Track

Dear Secretary Williams:

In Finance Docket No. 33388, Decision No. 89 (served July 23, 1998), the Board found that the proposed construction and operation of two connection tracks at Little Ferry. New Jersey (Sub-No. 8) was exempt from prior review and approval pursuant to 49 CFR 1150.36. Decision No. 89, p. 169. In its Verified Notice of Exemption, CSX Transportation, Inc. ("CSXT") located the northern connection between Milepost 5.75 on the Conrail River Line and a point on the New York Susquehanna and Western Railway ("NYS&W") line opposite Milepost 5.65 on the Conrail River Line. Railroad Control Application, Vol. 5 (CSX/NS-22), pp. 186-193.

Subsequent to the Board's finding of exemption, however, CSXT determined that construction of the connection track about one-quarter mile to the north of the location described in the Verified Notice of Exemption would allow for more efficient rail operations. The connection track would still be constructed entirely within existing rail rights-of-way and thus remains within the scope of the exemption under 49 CFR 1150.36.

Because the slight change in location could raise environmental concerns, however, CSXT consulted with the Village of Ridgefield Park, New Jersey. No other political entity could be affected by this slight change. Enclosed with this letter is a Negotiated Agreement between CSX and the Village of Ridgefield Park which states that the environmental concerns of Ridgefield Park have been resolved.

CSX requests that the Board amend Environmental Condition 51 of Decision No. 89 (page 420) by adding this Negotiated Agreement with Ridgefield Park, dated January 28, 1999, to the list of Negotiated Agreements entered into by CSX. We do not believe that any

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NEW YORK DENVER LOS ANGELES LONDON

ARNOLD & PORTER

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

amendment need be made to Environmental Conditions 44 and 45. CSX remains subject to the requirements of Environmental Conditions 44 and 45 relating to the listed construction projects, including the Little Ferry connection at issue here.

This Negotiated Agreement is submitted to the Board with the concurrence of Ridgefield Park, as noted at page 4 of the Negotiated Agreement.

Thank you for your assistance in this matter. Please contact me (202-942-5773) if you have any questions.

Respectfully yours,

Mary Labuelle Sprague

Mary Gabrielle Sprague Counsel for CSX Corporation and CSX Transportation, Inc.

Enclosure

cc: Elaine K. Kaiser Martin T. Durkin, Esq. (Counsel to Village of Ridgefield Park)



January 28, 1999

The Honorable George D. Fosdick Mayor, Village of Ridgefield Park 234 Main Street Ridgefield Park, NJ 07660

Re: Negotiated Agreement Regarding Rail Connection between the Conrail River Line and the NYS&W Railway in Ridgefield Park, NJ

Dear Mayor Fosdick:

CSX and the Village of Ridgefield Park have consulted regarding the construction of a connection track between the Conrail River Line and New York Susquehanna & Western Railway (NYS&W) in Ridgefield Park to facilitate train movements into and out of the CSX Little Ferry Intermodal Terminal. As a result of those discussions, CSX Corporation and the Village of Ridgefield Park wish to enter into this agreement.

As you are aware, CSX filed a Notice of Exemption with the Surface Transportation Board ("STB") in June 1997 for construction and operation of a connection track at Little Ferry, New Jersey in connection with its joint application with Norfolk Southern to acquire control of Conrail. STB Finance Docket No. 33388 (Sub-No. 8), Railroad Control Application, Vol. 5 (CSX/NS-22), pp. 186-193; see also Railroad Control Application Vol. 3A (CSX/NS-20), p. 382. CSX proposed to construct a connection track approximately 480 feet long just south of Overpeck Creek (between approximately Milepost 5.75 on Conrail's River Line and Milepost 5.65 on NYS&W's line). In its decision approving CSX and NS's acquisition and control of Conrail, the STB confirmed that the proposed construction and operation of this connection track was exempt from prior review and approval. STB Finance Docket No. 33388, Decision No. 89, p. 169 (served July 23, 1998).

The Environmental Report submitted as part of the Railroad Control Application inconsistently located the proposed connection track just north of Overpeck Creek in Ridgefield Park. STB Finance Docket No. 33388, Railroad Control Application, Vol. 6C (CSX/NS-23), pp. 376-391. The Environmental Report concluded that the "proposed construction would result in minimal or no impact to land uses, water resources, biological resources, air quality, noise, cultural resources, transportation and safety." Id. at 386.



The Honorable George D. Fosdick January 28, 1999 Page 2

In response to the Environmental Report, Ridgefield Park filed with the STB a Comment to the Railroad Control Application in October 1997. STB Finance Docket No. 33388, Comment of the Village of Ridgefield Park, New Jersey to the Referenced Application, dated October 16, 1997. In its Comment, Ridgefield Park stated its concern that construction of the connection track north of Overpeck Creek in Ridgefield Park would increase traffic delay at two at-grade crossings – Bergen Turnpike and Mt. Vernon Street. Bergen Turnpike and Mt. Vernon Street are utilized by the industries and businesses which are located in the industrial area of Ridgefield Park west of the Conrail and NYS&W rail lines along the Hackensack River. The Comment of Ridgefield Park was noted by the STB in its Decision No. 89 (p. 328) approving the Railroad Control Application.

In response to the Comment of Ridgefield Park, CSX informed Ridgefield Park and the STB that the Environmental Report was erroneous and that CSX intended to construct the connection track south of Overpeck Creek as stated in the Notice of Exemption. STB Finance Docket No. 33388, Applicants' Rebuttal, Vol. 1 (CSX/NS-176), p. P-566. Based on its understanding at that time, CSX believed that the location south of Overpeck Creek would be preferable to the location north of Overpeck Creek both from the perspective of facilitating efficient rail operations at the Little Ferry Intermodal Terminal and from the perspective of minimizing traffic delay at grade crossings within Ridgefield Park.

Subsequently, however, CSX has analyzed at greater length and in greater detail its projected post-Acquisition rail operations at the Little Ferry Intermodal Terminal. CSX has shared this more detailed analysis with you. CSX now believes that the preferable location for a connection track to provide access to the north end of the Little Ferry Intermodal Terminal from the Conrail River Line is indeed north of Overpeck Creek in Ridgefield Park. Specifically, CSX proposes to construct and operate over an approximately 500-foot-long connection track between about Milepost 6.0 and Milepost 5.9 of the Conrail River Line, about one-quarter mile north of the originally proposed location. The connection track will be located north of Bergen Turnpike and south of Mt. Vernon Street. As explained below, CSX believes that this location will allow for more efficient rail operations than the originally proposed location south of Overpeck Creek. The more northerly location will also minimize traffic delay at grade crossings within Ridgefield Park to the benefit of Ridgefield Park.

First, CSX will be able to access the Little Ferry Intermodal Terminal more quickly, with less blockage of the Bergen Turnpike, if the connection track is located in Ridgefield Park. CSX will be able to pull southbound trains entering the Intermodal Terminal directly into the terminal without a backing move and will similarly be able to pull northbound trains exiting the Intermodal Terminal onto the Conrail River Line



The Honorable George D. Fosdick January 28, 1999 Page 3

without a backing move. If the connection is built south of Overpeck Creek, both of these moves will require backing moves that will block the Bergen Turnpike. This is because the lead from the NYS&W line into the Intermodal Terminal is located north of the originally proposed connection location. If the connection were built south of Overpeck Creek where originally proposed, a southbound train entering the Intermodal Terminal would have to traverse the connection and proceed south on the NYS&W line until all cars were on the NYS&W line. The train would then have to back north on the NYS&W line until the locomotive could access the lead track into the Intermodal Terminal. During this backing move, Bergen Turnpike would be blocked. Similarly, a northbound train exiting the Intermodal Terminal would have to back south down the NYS&W line until the locomotive could access the connection track to the NYS&W line until all cars were on the NYS&W line and then would have to back south down the NYS&W line until the locomotive could access the connection track to the Conrail River Line. The Bergen Turnpike would similarly be blocked during this move.

Second, the location of the connection track will not affect most of the CSX trains passing through Ridgefield Park on the Conrail River Line. Through trains on the Conrail River Line generally will not operate over the connection track. The connection track will be used primarily by the trains entering or exiting the Little Ferry Intermodal Terminal.

Third, the location of the connection track will not affect the speed through Ridgefield Park of the trains operating over the connection track.

Fourth, the location of the connection track will not affect the number of trains that will stop in Ridgefield Park.

Fifth, locating the connection track north of Overpeck Creek will provide flexibility in the event that one of the two rail bridges over Overpeck Creek cannot be used. If the connection is located south of Overpeck Creek, CSX will not have the option of using the NYS&W bridge in the event the Conrail bridge is not in service. This flexibility will facilitate fluid rail traffic through Ridgefield Park and to and from other points on the Conrail River Line.

In order to further ensure that the construction of a connection track in Ridgefield Park will not result in adverse environmental effects in Ridgefield Park, CSX will comply with all mitigation measures imposed by the Board in Environmental Conditions 44 and 45 of Decision No. 89.

Ridgefield Park agrees that relocating the connection track about one-quarter mile north of the location originally proposed, consistent with this Agreement, will not result in adverse environmental effects on Ridgefield Park. Ridgefield Park accordingly agrees



The Honorable George D. Fosdick January 28, 1999 Page 4

to CSX's construction and operation over a connection track in Ridgefield Park. A copy of this Agreement will be filed with the Surface Transportation Board.

Please countersign this letter to indicate your agreement.

Sincerely,

Michael J. Brimmen Ing mist

Michael F. Brimmer Regional Vice President-State Relations CSX Corporation

Accepted and Agreed to:

George D. Fosolck

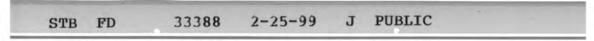
Mayor, Village of Ridgefield Park

lan Date

Attest:

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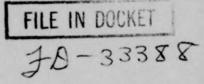
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Office of the Chairman

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



February 25, 1999

Mr. Brian J. Farkas 9780 N. CO RD 200 E Brazil, IN 47834-7702

Dear Mr. Farkas:

Thank you for your letter regarding the acquisition and division of Conrail by CSX and Norfolk Southern. Specifically, you express concern over the allocation process for engineers in the Indianapolis area and question whether there will be a sufficient number of qualified engineers left for safe and efficient rail operations in Indianapolis. You propose four potential solutions for the problem.

You should be aware that Mr. R.W. Godwin, General Chairman, Brotherhood of Locomotive Engineers, has written to Norfolk Southern regarding the issues that you raise in your letter, and has requested a written response from them. Therefore, it appears at this time that the matter is being dealt with by the relevant union at the labor-management level. I will have your letter and my response made a part of the public docket for the Conrail acquisition proceeding.

Sincerely,

Linda J. Morgan Linda J. Morgan

FILE IN DOCKET

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SURFACE TRAMSPORTATION

Dear Linda Morgan,

As an employee effected by the acquisition of Conrail by the NS and CSXT, I feel that there are certain issues that need to be brought up. I will try to be as brief a: possible, however please understand that there are many problems with the allocation process that need to be addressed.

First of all, I am an engineer working out of Avon Yards in Indiana. My railroad career began on May 6, 1996 and my engineer seniority date began on August 8, 1996. Since I have become an engineer, I have worked very hard and have become qualified in seniority districts B and C in Indianapolis, which is over 900 rail miles! I am not the only engineer who have worked hard to get qualified on as much territory as possible. NC Shilling, CO Warner, and GM Halfaker have also been qualified on as much territory. Sadly, this experienced group of employees will be replaced with less qualified and less experienced employees who are in training right now as student engineers.

I, along with 21 other engineers have been allocated to the Norfolk Southern, which <u>none</u> of us bid. According to steps one and two of the allocation process, we were assigned to INDIANAPOLIS - Norfolk Southern. However, after a group meeting that took place with NS management on January 7, we found out that we will have to move to Muncie, Indiana because there will not be any jobs in Indianapolis for Norfolk Southern. At Muncie we will have 12 pool jobs and 5 extra board positions for engineers. The extra board positions are to be filled by engineer seniority and the pool jobs will be prior right Conrail, with 3 of those pools having prior NS seniority. So actually, of the 22 employees forced from Indianapolis to Muncie, only <u>nine</u> are guaranteed employment! I have enclosed a letter from the NS management admitting that more engineers were taken from Indianapolis than needed.

The CSX agreed to keep 148 engineers out of Indianapolis for the step two bidding process. The step three bid sheets are now available at Avon, with 158 jobs up for bid for engineers. I believe that we have been wronged by the bidding process in this case because we were assigned to a different railroad at a different location even though we can hold jobs on the CSX at our home location!

In conclusion, I propose four (4) possible solutions for our problem:

1. Force the junior engineers who were allocated to the CSX to the NS, replacing in seniority order the portion of senior engineers already forced to the NS. I believe this will ensure more safe and qualified engineers running locomotives in the Indianapolis area.

2. Keep the 9 most junior engineers of the 22 allocated

to the NS from Indianapolis to ensure they will have a job.

3. Allow a flowback plan that has been used by Amtrack which would allow us to flow back to Indianapolis CSXT from the NS whenever we would have the opportunity to hold a job as engineers.

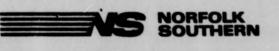
4. Start the bidding process over to step one.

I realize that the acquisition is already in process, but if the manpower issues are not addressed. I fear that we may run into another UP/SP disaster. I am currently working on the extra board, and I am working on my rest 90% of the time. If we lose 22 engineers out of Indianapolis, how are they going to run trains?

Enclosed is a list of all junior engineers and trainees who have been allocated to CSX Indianapolis and the letter I received from the Norfolk Southern. I thank you for your time in reading this letter.

Sincerely,

Brian J. Farkas Bria J. Farka



Norfolk Southern Corporation 223 East City Hall Avenue Norfolk, Virginia 23510-1728 David N. Ray Assistant Vice President Labor Relations (757) 629-2690

December 30, 1998

CRA-1

Dear Fellow Employee:

As described in Step 4 of the October 9, 1998 letter, a bulletin will be posted shortly listing NS assignments that will be operated on the former CR territory.

As a result of the allocation process described in the October 9, 1998 letter, NS was allocated more T&E employees in the Indianapolis area than originally anticipated.

An information session will be held in Indianapolis on January 7, 1999 at 12:00 p.m. (Noon) at the Holiday Inn Airport (2501 South High School Road) to discuss job opportunities for those Indianapolis employees allocated to **Norfolk Southern** in and around the Indianapolis area, including outlying point locations. Representatives from NS Transportation and Labor Relations Departments will be there to answer questions you may have concerning work opportunities on Norfolk Southern.

Very truly yours,

David N. Ray



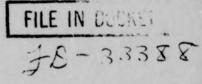
JUNIOR ENGINEERS ALLOCATED TO CSXT

NAME	EMPLOYEE NUMBER	SENIORITY
JB Sexton	767883	02-21-97
SR Grey	767877	02-02-98
CT Malone	767976	03-17-98
ED Pickerel	763513	03-17-98
R Krengel	768341	03-17-98
PE Lockhart	768007	04-16-98
TA Eastes	768128	04-16-98
DA Plummer	768498	11-02-98





Surface Transportation Board Bashington. 8.C. 20423-0001



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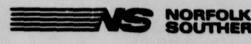
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Brian J. Farkas Brian J. Farkas



Norfolk Southern Corporation 223 East City Hall Avenue Norfolk, Virginia 23510-1728 David N. Ray Assistant Vice President Labor Relations (757) 629-2690

December 30, 1998

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Very truly yours,

David N. Ray



JUNIOR ENGINEERS ALLOCATED TO CSXT

• • • •

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CT Malone	76/976	03-17-98
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R Krengel	768341	03-17-98
PE Lockhart	768007	04-16-98
TA Eastes	768128	04-16-98
DA Plummer	768498	11-02-98





Surface Transportation Board

Washington, B.C. 20423-0001

FILE IN DOCKET

February 22, 1999

Mr. R.W. Godwin General Chairman **Brotherhood of Locomotive Engineers** 810 Abbott Road Suite 200 Buffalo, NY 14220

Dear Mr. Godwin:

Thank you for sending me a copy of your letter to Mr. David Ray, Assistant Vice President at Norfolk Southern (NS), regarding recent events following Step Two of the allocation of employees resulting from the Conrail Acquisition transaction. Specifically, you have sought a written response from Mr. Ray concerning the effect on certain employees located in Indianapolis. As I have done in the past, I will have your letter and any response that I receive from NS made a part of the public docket in the Conrail proceeding.

I appreciate your concerns and commitment to a safe and fair implementation of the Board-approved Conrail acquisition.

Sincerely,

Linda J. Morgan



General Committee of Adjustment

Brotherhood of Locomotive Engineers

Consolidated Rail Corporation

810 Abbott Road,	Suite 200,	Buffalo,	New	York	14220	IN	i I	
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R. W. GODWIN, General Chairman THOMAS B. VASSIE, Secretary-Treasurer Telephone: (716) 827-2653 FAX: (716) 827-2655

	February 10, 1999	CHAI	Fee 12	SURFACE
Mr. David N. Ray, Asst. Vice President Norfolk Southern Three Commercial Place Norfolk, VA 23510-2191		RMAR HOR	12 25 PH	RECEIVED E TRANSPORTA BOLRD
Dec Sin		GAN	66.	TION

Dear Sir:

I am writing in regard to the Norfolk Southern allocations of Locomotive Engineer on the Indianapolis Division. In the Step One Process, you should note the following information:

NS-NKF Agreement	E	C&T	YDM
Indianapolis-Elkhart Pool	7	7	0
Extra	2	2	0

After the Step Two Process, the following Conrail Locomotive Engineers were forced to the Norfolk Southern at Indianapolis:

1	N. C. Shilling	767580	01-10-95
2	E. E. Jones	767576	01-04-96
3	P. O. Estep	767581	04-20-96
4.	B. J. Farkas	768056	08-30-96
5.	C. O. Warner	768072	08-30-96
6.	S. L. Martoccio	768161	10-22-96
7.	P. G. Ferris	768190	10-22-96
8.	D. E. McKay	768163	10-22-96
9.	T. A. Eggert	768188	10-22-96
10.	S. D. Elston	767836	10-22-96
11.	M. T. Jamison	767730	10-22-96
12.	M. V. Snyder	767884	10-22-96
13.	G. M. Halfaker	763373	10-22-96
14.	J. A. Manley	767880	10-22-96

Norfolk Southern also forced the following Student Locomotive Engineers and Locomotive Engineers to work as Conductor/Trainmen at Indianapolis:

1.	A. J. Hines	767985	02-02-98
2.	J. M. Plummer	767970	02-02-98
3.	M. Kayser	590019	05-18-98
4.	A. Kilgore	590028	05-18-98
5.	C. M. Nance	590143	07-13-98
6.	J. D. Lee	590036	09-14-98

J. R. Waterford, Jr.	590124	09-14-98
D. Hatcher	570063	09-14-98
R. J. Niebur	570076	09-14-98
C. P. Kunz	590152	09-14-98
T. B. James	570144	11-02-98
M. M. McCartter	570163	11-02-98
J. G. McMaman	560182	11-02-98
P. Houser	570211	01-11-99
J. R. McCane	570218	01-11-99
	D. Hatcher R. J. Niebur C. P. Kunz T. B. James M. M. McCartter J. G. McMaman P. Houser	D. Hatcher 570063 R. J. Niebur 570076 C. P. Kunz 590152 T. B. James 570144 M. M. McCartter 570163 J. G. McMaman 560182 P. Houser 570211

Again, you have taken more Conrail Locomotive Engineer and Conductor/Trainmen than the amount of positions stated in the Step One Process. You forced 14 Locomotive Engineers to Norfolk Southern to cover 9 jobs protecting the Indianapolis-Elkhart Pool. You also forced 15 Student Locomotive Engineer - Conductors - Trainmen to protect the 9 positions to protect the service between Indianapolis and Elkhart.

We are being told by our Local Chairmen in Indianapolis that Norfolk Southern Officials are telling these Brothers and Sisters that they are going to use them in Peru, IN, Muncie, IN and Ft. Wayne, IN. All of these locations are far beyond the 30 mile limit under the New York Dock Agreements. All the fourteen (14) Locomotive Engineers forced under the Step Two Process to Norfolk Southern are covered under New York Dock and if forced to these locations they have three (3) choices:

Move and collect the New York Dock benefits

Take furlough and remain at home until called back to service by Norfolk Southern at Indianapolis Take a severance pay equal to their last years earnings

These Brothers and Sisters are not chattels or indentured servants of Norfolk Southern, CSXT or Conrail. They have options and I think it is time that Norfolk Southern and CSXT start telling them the truth and nothing but the truth. This "We cannot tell our plans because our competitors, CSXT or Norfolk Southern will take advantage of us". This statement is pure adulterated B.S.

The Norfolk Southern is holding twenty-nine Conrail employees (Locomotive Engineers, Conductor-Trainmen and Student Locomotive Engineers) captive in Indianapolis. The Norfolk Southern has not put one job up for bid within the thirty mile circle around Indianapolis.

There is a time to sow and a time to reap. Norfolk Southern and CSXT, when it comes to their new employees from Conrail, is sowing confusion, misinformation and something else than the truth. I can only imagine what the Norfolk Southern and CSXT will reap. I demand that Norfolk Southern and CSXT tell their future employees the truth and nothing but the truth.

Requesting a written reply on what you are doing with your fourteen (14) Locomotive Engineers and fifteen (15) Student Locomotive Engineers, and Conductors at Indianapolis. I remain

Sincerely yours,

R. W.Godwin General Chairman

C. V. Monin, President E. Dubroski, 1st Vice President L. D. Jones, V.P. & Nat'l. Leg. Rep. E. W. Rodzwicz, Vice President P. T. Sorrow, Vice President L. W. Sykes, District Chairman W. A. Thompson, District Chairman T. B. Vassie, Secretary/Treasurer J. P. Chappelie, NJ Leg. Chairman J. F. Collins, NYS Leg. Chairman N. D. Hendrickson, PA Leg. Chairman W. T. O'Brien, OH Leg. Chairman C. E. Way, IL Leg. Chairman G. J. Newman, MA Leg. Chairman W. M. Verdeyen, IN Leg. Chairman F. E. Parks, Local Chairman #121 - With Post Copy H. E. Ring, Local Chairman #597 - With Post Copy Linda Morgan, Chairperson STB Frank O'Bannon, Governor - Indiana Senators and Representatives - Indiana

c:





Surface Transportation Board Bashington, B.C. 20423-0001

32-33388

February 22, 1999

Mr. R.W. Godwin General Chairman **Brotherhood of Locomotive Engineers** 810 Abbott Road Suite 200 Buffalo, NY 14220

Dear Mr. Godwin:

Thank you for sending me a copy of your letter to Mr. David Ray, Assistant Vice President at Norfolk Southern (NS), regarding recent events following Step Two of the allocation of employees resulting from the Conrail Acquisition transaction. Specifically, you have sought a written response from Mr. Ray concerning the effect on certain employees located in Indianapolis. As I have done in the past, I will have your letter and any response that I receive from NS made a part of the public docket in the Conrail proceeding.

I appreciate your concerns and commitment to a safe and fair implementation of the Board-approved Conrail acquisition.

Sincerely,

Linda J. Morgan

Linda J. Morgan



General Committee of Adjustment

Brotherhood of Locomotive Engineers

Consolidated Rail Corporation

810 Abbott Road, Suite 200, Buffalo, New York 14220

R. W. GODWIN, General Chairman THOMAS B. VASSIE, Secretary-Tre Telephone: (716) 827-265 FAX: (716) 827-2655

THOMAS B. VASSIE, Secretary-Treasurer Telephone: (716) 827-2653 FAX: (716) 827-2655				
		2	1	SUR
	February 10, 1999	•*	3 12	-
Mr. David N. Bass Acet Mine Des 11				E
Mr. David N. Ray, Asst. Vice President Norfolk Southern			2	:3
Three Commercial Place			2	USA USA
				73
Norfolk, VA 23510-2191				TATION
Desci		1	66	NO
Dear Sir:				

I am writing in regard to the Norfolk Southern allocations of Locomotive Engineer on the Indianapolis Division. In the Step One Process, you should note the following information:

NS-NKP Agreement	E	C&T	YDM
Indianapolis-Elkhart Pool	7	7	0
Extra	2	2	0

After the Step Two Process, the following Conrail Locomotive Engineers were forced to the Norfolk Southern at Indianapolis:

1	N. C. Shilling	767580	01-10-95
2	E. E. Jones	767576	01-04-96
3	P. O. Estep	767581	04-20-96
4.	B. J. Farkas	768056	08-30-96
5.	C. O. Warner	768072	08-30-96
6.	S. L. Martoccio	768161	10-22-96
7.	P. G. Ferris	768190	10-22-96
8.	D. E. McKay	768163	10-22-96
9.	T. A. Eggert	768188	10-22-96
10.	S. D. Elston	767836	10-22-96
11.	M. T. Jamison	767730	10-22-96
12.	M. V. Snyder	767884	10-22-96
13.	G. M. Halfaker	763373	 10-22-96
14.	J. A. Manley	767880	10-22-96

Norfolk Southern also forced the following Student Locomotive Engineers and Locomotive Engineers to work as Conductor/Trainmen at Indianapolis:

A. J. Hines	767985	02-02-98
J. M. Flummer	767970	02-02-98
M. Kayser	590019	05-18-98
A. Kilgore	590028	05-18-98
C. M. Nance	590143	07-13-98
J. D. Lee	590036	09-14-98
	J. M. Flummer M. Kayser A. Kilgore C. M. Nance	J. M. Flummer 767970 M. Kayser 590019 A. Kilgore 590028 C. M. Nance 590143

7.	J. R. Waterford, Jr.	590124	09-14-98
8.	D. Hatcher	570063	09-14-98
9.	R. J. Niebur	570076	09-14-98
10.	C. P. Kunz	590152	09-14-98
11.	T. B. James	570144	11-02-98
12.	M. M. McCartter	570163	11-02-98
13.	J. G. McMaman	560182	11-02-98
14.	P. Houser	570211	01-11-99
15.	J. R. McCane	570218	01-11-99

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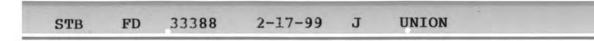
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Sincerely yours,

R. W.Godwin General Chairman

C. V. Monin, President E. Dubroski, 1st Vice President L. D. Jones, V.P. & Nat'!. Leg. Rep. E. W. Rodzwicz, Vice President P. T. Sorrow, Vice President L. W. Sykes, District Chairman W. A. Thompson, District Chairman T. B. Vassie, Secretary/Treasurer J. P. Chappelle, NJ Leg. Chairman J. F. Collins, NYS Leg. Chairman N. D. Hendrickson, PA Leg. Chairman W. T. O'Brien, OH Leg. Chairman C. E. Way, IL Leg. Chairman G. J. Newman, MA Leg. Chairman W. M. Verdeyen, IN Leg. Chairman F. E. Parks, Local Chairman #121 - With Post Copy H. E. Ring, Local Chairman #597 - With Post Copy Linda Morgan, Chairperson STB Frank O'Bannon, Governor - Indiana Senators and Representatives - Indiana

c:



Michael E. Donant 5320 Dunfred Cir. S.E. Canton, Ohio 44707-1075

Chairman Surface Transportation Board Case Control Unit STB Finance Docket No. 33388 1925 K Street N.W. Washington, D.C. 20423-0001

STB Chairman Linda Morgan,

I am again writing to you to express my concerns on the rail merger between Conrail, NS, and CSX.

FILE IN DOCKET

2/9/99

SURFACE TRANSPORTATION

Now that the merger is a "done deal", we must all move on with our lives. Whatever the outcome, we as employees must accept that which was done for us. The employees have no say in any matters that happen. We have elected Union officials that speak for us, or we have appointed White House officials that determine our fate.

In previous letters that I have written to your office, (on 5/22/98 and 7/30/98), I have shown that some employees will not benefit from New York Dock provisions that your office enforced at the time of the merger. They are not able to follow their work, therefore lose all benefits. Others, most against their will, feel they have no choice but to uproot their families and move to where the companies demand. But then there are still other employees, who prefer to stay with the railroads, but refuse to move. This is where my concerns come into play.

In order not to relocate to the NS and CSX shops, employees are bidding local track jobs to remain in the Ohio area. You have to understand this.....many of these employees have never worked on the track before. They may have 20 years or more railroad service, but working on the track will be completely foreign to most of these employees. Note the 4 Conrail employees who recently lost their lives while on duty. With the many years of experience they had between them, 71 years total, it is shown that working on the rail is dangerous.

Thanks to the companies involved, Conrail, NS, CSX and your board (STB), employee lives are at risk. But as you stated in a letter written to me (dated 8/2198) "We voted to pass this merger because it best serves public interest." It is a shame that employees do not rank as high as the general public.

Anyone for a game of Russian Roulette?

Thank You, Michael E. Donant STB FD 33388 2-17-99 J UNION

FILE IN 1

Michael E. Donant 5320 Dunfred Cir. S.E. Canton, Ohio 44707-1075

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Office of the Secretary

FEB 17 1999

Part of THOMAS W AUGMENTS, JR. LEO C. FRANEY JORN D. HE. FNER KEITH G. O'BRIEN BRYCE REA. JR. BRIAN L. TROLANO ROBERT A. WIMBISH LAW OFFICES

REA, CROSS & AUCHINCLOSS SUITE 570 1707 L STREET, N.W. WASHINGTON, D. C. 20036 (202) 785-3700 FACSIMILE: (202) 659-4934

MEI MANOPENERA DONALD E. CROSS (1923-1986

February 17, 1999

Honorable Vernon A. Williams Secretary Surface Transportation Board 1925 K Street, NW Room 711 Washington, DC 20423-0001

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

Request for 45 Day Extension for Completion of Negotiations for Grade Crossing Improvement

Dear Secretary Williams:

The State of Ohio by and through the Ohio Attorney General, Ohio Rail Development Commission and the Public Utilities Commission of Ohio hereby requests an additional 45 days extension of the time for completion of negotiations between applicants and Ohio regarding highway/rail at grade crossing improvements as provided for in Environmental Condition 8(B). See Decision no. 89, slip op. at 389. Pursuant to a previous request the Board extended the time for completion of negotiations to February 18, 1999. See Decision No. 108 served December 17, 1998.

Since issuance of Decision No. 89 and the extension provided for in Decision No. 108 the State of Ohio has worked diligently with applicants and responsible representatives of affected Ohio communities in focusing on grade crossing improvement objectives in corridors that will be affected by the forthcoming division of Conrail routes. As a result of these continuing efforts, Ohio has concluded comprehensive corridor arrangements with Norfolk Southern Railway Company (NS) including cost sharing arrangements and mutual commitments that will assure that all relevant Ohio highway/NS rail at grade crossings identified in Condition 8A will receive safety improvements which will meet or surpass changes recommended by SEA. Similarly, Ohio Honorable Vernon A. Williams February 17, 1999 Page Two

has reached comprehensive agreements in principal with CSX Transportation, Inc. (CSX) that will assure that all relevant Ohio highway/CSX rail at grade crossings identified in Condition 8A will receive safety improvements which will meet or surpass changes recommended by SEA.

Ohio requests an additional extension of 45 days which is needed to formalize arrangements with CSX and to provide the Board with a comprehensive report of the constructive results that have been achieved through cooperation between applicants and Ohio in the interest of all concerned.

We are authorized to represent that applicants concur in this request.

ncere Keith G

cc: Richard Allen, Esq. Dennis C. Lyons, Esq. Ms. Elaine K. Kaiser





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

FILE IN DOCKET

February 10, 1999

Mr. Richard A. Komacek P.O. Box 102 La Belle, PA 15450

Dear Mr. Komacek:

Thank you for sending me a copy of your letter of formal protest of the implementing agreement negotiated between your union, the Transportation Communications International Union, and the carriers involved in the recent Conrail acquisition transaction. I will have your letter made a part of the public docket for that proceeding.

Sincerely,

Linda J. Morgan Linda J. Morgan

D. J. SMITH ASST. VICE PRESIDENT LABOR RELATIONS NON-OPERATING

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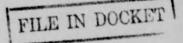
UNION PACIFIC RAILROAD COMPANY

1416 DODGE STREET OMAHA, NEBRASKA 68179



December 22, 1998

Files: 230-35 NYD-62 NYD-109



Mr J D Marshall President IBEW 57 Hays Hill Road Conway AR 72032

Dear Sir:

I have been furnished a copy of the letter you sent to Ms. Morgan with copy to Mr. Ike Evans. Due to my direct involvement with the issues you raised in your letter to Ms. Morgan, I have been asked to respond.

In your correspondence, you allege that the Union Pacific Railroad has failed to meet its obligations under three specific circumstances: The October 26, 1998, letter regarding the UP/MP merger; the June 20, 1995, letter regarding the UP/CNW merger; and the March 29, 1996, letter regarding the UP/SP merger.

Initially, I am curious as to the progression of the first two concerns you listed (UP/MP merger and UP/CNW merger). While I have been informed that claims have been submitted on both your concerns involving the Omaha Shop transfer and Marshalltown, Iowa, the Omaha Shop claims are not active; however, the C&NW claims may be pending. If these claims are within their time limits, there are formalized procedures for handling such claims to a resolution.

With reference to the March 29, 1996, letter, I was personally involved in the drafting of Mr. Marchant's letter. Contrary to your statement, the Carrier has complied with the intent of this letter. Union Pacific's current effort to subcontract is pursuant to criteria set forth in agreement dated September 25, 1964, as amended.

Without prejudice to the above, a meeting to discuss your concerns may be beneficial to clarify any misunderstandings that have occurred. General Director Dan Moresette and I will be available to meet with you and General Chairman Vic Janecek in my office in Omaha, Nebraska, at 9:00 A.M. on Tuesday, January 12, 1999.

Ms. Linda Morgan Mr. Ike Evans Mr. John Marchant Mr. Joe Santamaria Mr. Vic Janecek

CC:



INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 807 NORTH LITTLE ROCK, AR

FILE IN DOCKET

J. D. Marshall President

57 Hays Hill Rd. Conway, AR. 72032

January 11, 1999

D. J. Smith Asst. Vice President Labor Relations Non-operating 1416 Dodge Street Omaha, Ne.68179 SURFACE TRANSPORTATION N 14 1 35 PW 199 URANA MORGAN

Dear Sir,

This letter is in response of your letter dated December 22, 1998, and your phone call of January 6,1999 concerning a letter to Ms. Linda Morgan of the Surface Transportation Board.

The facts stated my letter are accurate but, we are not interested in debating these facts in a private meeting with you. If you are interested in debating these facts we would be very happy to debate them in front of the Surface Transportation Board.

We are not disagreeing that claims may have been filed for some of these items. What is a fact is that the Union Pacific Railroad never made any effort to establish this work at North Little Rock, Ar.

As stated above we would be very happy to meet with you in front of the Surface Transportation Board. At that time we could debate weather the Union Pacific Railroad made any effort to transfer the work spelled out in my letter of November 20, 1998.

Respectfully,

narshol

J. D. Marshali

cc: Ms. Linda Morgan Mr. Ike Evans Mr. Vic Janecek





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

FILE IN DOCKET

February 10, 1999

Mr. Robert C. Ludka, Jr. 4905 Boston Avenue Trevose, PA 19053

Dear Mr. Ludka:

Thank you for your letter regarding the acquisition and division of Conrail by CSX and Norfolk Southern (NS) and the effect that this transaction may have on you and on other Conrail employees. Specifically, you express concern over the handling of seniority for Conrail employees who had been Reading Railroad employees before Conrail came into existence.

The Board carefully examined this proposed transaction, found it to be in the public interest, and imposed the labor protective conditions set forth in <u>New York Dock Ry.--Control--</u> <u>Brooklyn Eastern Dist.</u>, 360 I.C.C. 60 (1979) (<u>New York Dock</u>) (copy enclosed). The <u>New York Dock</u> conditions were imposed to protect employees who may be adversely affected by the acquisition and division of Conrail. These conditions provide lost-income protection for up to 6 years, fringe benefit protection, moving expenses, and protection from losses from home sale, and for arbitration of disputes. These conditions are the most far reaching labor protective conditions that the Federal government imposes on private transactions such as the Conrail acquisition.

The <u>New York Dock</u> labor protective conditions have been found by the courts to constitute a fair and equitable arrangement to protect the interests of railroad employees as required by 49 U.S.C. 11347 (now 49 U.S.C. 11326). Additionally, the Board expects that the carriers will give careful consideration to the interests of the employees to avoid the imposition of undue hardships upon them.

As a part of the implementing process, officials of your union have negotiated with the carriers voluntary implementing agreements to avoid or mitigate those problems that have concerned you, as required by the <u>New York Dock</u> conditions. Article I, Section 11 of the <u>New York Dock</u> conditions requires that disputes with respect to the interpretation, application, or enforcement of such agreements, which cannot be resolved voluntarily, be submitted to arbitration. After such a matter has proceeded through arbitration, the Board will, of course, be available to accept an appeal from the decision of the arbitrator if it satisfies the requirements of 49 C.F.R. 1115.8 and the <u>Lace Curtain</u> standards the Board applies to determine which decisions of arbitrators it will review. <u>See Chicago and Northwestern Transp. Co.--Abandonment--Near Dubuque and Oelwein, IA</u>, 3 I.C.C.2d 729 (1987)(<u>Lace Curtain</u>), aff'd sub nom. <u>International Bhd. Of Elec. Workers c. I.C.C.</u>, 862 F.2d 330 (D.C. Cir. 1988).

I appreciate your concerns and am having your letter made a part of the public docket in STB Finance Docket No. 33388.

Sincerely

Linda J. Morgan Linda J. Morgan

Enclosure: New York Dock conditions

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FILE IN DOCKET

Robert C. Ludka Jr. 4905 Boston Avenue Trevose, Pennsylvania 19053 January 8, 1999 January 8, 1997 January 9, 1997 Janu

Linda J. Morgan Chairman Surface Transportation Board 1201 Constitution Avenue NW Washington, DC 20423

Dear Madam Chairman

I would like to bring to the attention of the Board that Conrail is NOT preserving the Equity Seniority Agreements that have been in place on the property since 1976, as out lined in the Conrail Shared Assets proposal submitted to the Surface Transportation Board. Copy enclosed.

I would like to know what is the Boards Position on this matter?

Can I Except the Board to correct it?

A number of Pre-Conrail Reading Railroad employees like myself were going to select Conrail Shared Assets as our Railroad of chose when Conrail was finally divestitured. As a result of Conrail NOT preserving the equities that we were working under since 1976, I and other former Reading employees will not be able to hold the positions that we could just one day prior to the split up of Conrail. Positions in terminals that historically belong to us.

This is a travesty to all Pre-Conrail employees, when our government will not protect our right to work in the terminals and locations that we hired in just 25 short years ago.

It is my dearest hope that you can correct this matter.

My Senator asked to be kept up to date on the acquisition of Conrail in his district.

Sincerely yours,

berb. C. Judka

Robert C. Ludka Engineer Member of The Brotherhood of Locomotive Engineers (215) 355-0317

cc Hon Arlen Spector United States Senator



PRIOR READING R.R.

APPENDIX A

SHARED ASSETS AREAS

Projected Seniority, Agreement, and Territory Changes Necessary Under the Operating Plan

I. INTRODUCTION

Under this bansaction both Norfolk Southern Rhilway Company and its subsidiaries (NS) and CSX Transportation, Inc. and its subsidiaries (CSX) will have full and equal rights to operate in each Shared Assets Area ("SAA"). The SAAs will be owned, operated and maintained by Consolidated Rail Corporation ("Conrail") for NS and CSX. To provide competitive alternatives, for the benefit of the public, Conrail is to provide NS and CSX with equal access to customers within a SAA. Conrail will provide appropriate switching, train breakup, and assembly services for CSX and NS, but will not participate in any rates, routes, or contract or billing arrangements with any shippers. All car movements within a SAA will remain in the accounts of CSX or NS. CSX and NS will pay Conrail for services in and access to the SAAs on the basis of usage plus an interest rental component.

II. TRANSPORTATION CRAFTS

L. General

The train and engine service operations within the SAAs are anticipated to continue as before the transaction, except for the changes described in the Operating Plans. The existing appropriate Conrail labor agreements for engine service, train service and yardmasters will continue to apply to Conrail employees within the SAAs, with the modifications made necessary by the changes in operations.

Conrail train and engine service employees and yardmasters working within each SAA will have their former Conrail seniority preserved. These employees may be required or will be permitted to exercise seniority out of a SAA only when furloughed within that SAA and until they stand for recall. Likewise, former Conrail employees working outside of the SAAs will have their seniority within a SAA preserved. They may also be required or will be permitted to exercise that seniority within a SAA only when they are furloughed outside that SAA and until they stand for recall.

CSX and NS road crews under their respective collective bargaining agreements will operate trains throughout each SAA to any point in it, as if operating in their own territory, in accordance with local movement guidelines to be agreed to by CSX and NS.

Operation of Croxton and E-Rail Yards will be allocated to NS and will not be operated as a part of the North Jersey SAA. The NS employees working in these facilities will be treated for seniority and agreement purposes in the same manner as employees working on the Southern Tier of the expanded NS system between Buffalo and Croxton. In order to ensure an av le work force and maintain employment opportunities in Croxton and E-Rail Yards, it is anticipated that necessary extra boards for train and engine service will be established at Croxton.

Operation of North Bergen Yard and Kearney Yard will be allocated to CSX and will not be operated as a part of the North Jersey SAA. It is intended that CSX employees working in these facilities will be covered for seniority and agreement purposes in the same manner as CSX employees working on the expanded CSX system north of New York. To ensure an available work force and maintain employment opportunities in North Bergen and Kearney Yards, it is

2 512

SURFACE FILE IN DO Springville, Ind 47462 47462 Dear Mo. Morgan, My name is Barry thillips and I am emplayed by CSXT, on Monon System Division I have 25 years of service with CSXT and I am greatly concerned about the crisis that occurred on Jan. 15, 1999 when an arbitrator appointed by U.S Government and acting under orders from the Surface hansportation Board of which you are Chairman, alrogated the Collective Bargaining agreement in its extincity, not only on ESX T but also on Conrail, and all of Norfalk Southern . This arbitrator, Mr. Friedenberger, has trampled upon the seniority rights of some 8,000 SMW & members! how 1 stroke of a pen, can eliminate bargaining agreements that have been in place for more than 50 years! I am pleading with you, to please overtuen the ruling of this arbitrator. I cover over 400 miles of track on the Monon System and if my collective bacquing agreement is done away with I will have to Cover 500 miles in all 4 directions ! So, you can Dee, my 400 miles of track I now cover, hasturned into some 3000 to 4000 miles of track ! I ask

you this, "What will this do to my family Ife?" I have 2 grown sons, however, I still have a wife that I love dearly and if I have to cover all of the track within this new territory that has been made by the arbidrator, "What is my wife to do, while I am gone, week after week, after week?" We have leer married over 35 years and I know that if this is not over turned, it will be an extreme hardship on our family life!

Also, re-aligning and making new seniority districts, dove-tailing all the members into those seniority districts could cause notonly me but hundreds of other men and women to lose their jobs! I for one would hate to have lose their jobs! I for one would hate to have this on my conscience for the rest of my life. These are just a five of the reasons why I am pleading with you to over-turn the arbitrator's decision and let our brigining agreements stand as they are. Please.

Sincerely Jarry J. Phillips General Chairman - BM, WE Monon System Division CSX Diansportation

PS should you wish to call, home - 812-279-6380



Office of the Chairman

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

FILE IN DOCKET

February 10, 1999

Mr. Larry L. Phillips General Chairman - BMWE R#3, Box 724 Springville, IN 47462

Dear Mr. Phillips:

Thank you for your letter expressing concern over the effect that the acquisition and division of Conrail by CSX and Norfolk Southern (NS) may have on you and on other rail employees. Specifically, you strongly oppose the recent arbitration award issued by William E. Fredenberger, Jr., under the New York Dock labor protective conditions imposed by the Surface Transportation Board (Board) in approving the Conrail acquisition transaction.

The Board has imposed the New York Dock conditions to protect employees who may be adversely affected by the acquisition and division of Conrail. These conditions provide lostincome protection for up to 6 years, fringe benefit protection, moving expenses, and protection from losses from home sale, and they provide for arbitration of disputes arising from the implementation of the approved transaction. These conditions are the most far reaching labor protective conditions that the Federal government imposes on private transactions such as the Conrail acquisition.

As you probably know, the Brotherhood of Maintenance of Way Employees is appealing the Fredenberger award to the Board. Because the matter is pending before the Board, it would be inappropriate for me to comment further on this proceeding.

I appreciate your deep concern over the matter, and I am having your letter and my response made a part of the public docket for this proceeding.

Sincerely,

Linda J. Morgan Linda J. Morgan



JOHN C. HANCOCK General Chairman

J. ALLEN GLOVER, JR. R. GERALD FOSTER Vice General Chairmen





3035 POWERS AVE., SUITE 2 JACKSONVILLE, FL 32207 PHONE: (904) 739-6016 FAX: (904) 739-5635

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GENERAL COMMITTEE GO-851 CSX/SCL - FECR - WSSB - HPTD - GM - GARR - SCPR - SCCR

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

77841

To Whom It May Concern:

Please remove my name from the Service (Mailing) List for Finance Docket No. 33338 - "<u>CSX Corporation & CSX Transportation, Inc., Norfolk Southern</u> <u>Corporation and Norfolk Southern Railway Company - Control and Operating</u> <u>Leases/Agreements - Conrail, Inc. and Consolidate Rail Corporation.</u>"

Thank you.

Very truly yours

January 1, 1999

FD No. 33388

STB

/tvp

John C. Hancock General Chairman



"Taking Care Of Business"



193252

LAKE FOREST OFFICE

ONE WESTMINSTER PLACE

LAKE FOREST, IL 60045

LAW OFFICES

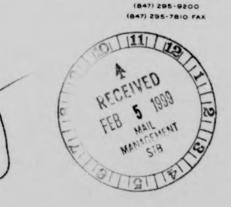
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601 THIRTEENTH STREET, N.W. SUITE 1200 WASHINGTON, D.C. 20005

> (202) 639-6000 (202) 639-6066 FAX

JOHN H. BROADLEY



(202) 639-6010

February 5, 1999

Honorable Vernon A. Williams Secretary, Surface Transportation Board 1925 K Street, N.W. Suite 700 Washington, DC 20423 Office of the Secretary FEB - 5 1999

Public Record

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

Dear Mr. Williams:

We have received a copy of the "Motion to Strike Unauthorized Pleading of The Indiana Rail Road Company, And Request That The Board Do So Without Awaiting Replies To The Motion" which Indianapolis Power & Light ("IP&L") filed on February 3. Besides being unique in contemporary jurisprudence, that motion is both unnecessary and unwarranted.¹

The subject of IP&L's motion -- our letter to you on behalf of The Indiana Rail Road Company ("INRD"), dated February 3, 1999 -- is not a pleading. As IP&L has emphasized, INRD is not a party to the captioned proceeding, a point INRD made *at length* in its letter. Nor does INRD's letter request any relief or oppose any party's request for relief. It is not a "pleading" within the meaning of F.R.Civ.P. 7(a) nor a motion or petition under F.R.Civ.P. 7(b) and the Board's comparable rules. It is simply a letter advising the Board of INRD's views on a matter of importance to INRD that has been raised with the Board by letters from Norfolk Southern and others. Such communications are clearly contemplated by 49 C.F.R. § 1102.2,

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¹ The procedures proposed by IP&L clearly went out of fashion with the ratification of the Fifth Amendment, if not earlier.

v

which acknowledges communications volunteered by persons who are not a party, and which prohibits those communications only if they are *ex parte*. Indeed, the Board undoubtedly receives similar communications from many interested non-parties. Moreover, in view of 49 U.S.C.11324(f), our letter would not be improper in this proceeding even if it were *ex parte*, which it clearly is not.

Similarly, there is no basis for IP&L's insistence that INRD's February 3 letter is "unauthorized." IP&L Mot. at 3. IP&L has identified no law or regulation that prohibits submission of such a letter or that requires the Board to strike it. The only regulation referenced in IP&L's motion is 49 C.F.R. § 1104.4 -- a rule relating to attestation and verification, plainly inapplicable here.² IP&L has offered no authority whatsoever for its broad claim that non-parties "ha[ve] no right to make any submission to the Board." IP&L Mot. at 1. That is not, and never has been, the law.

Moreover, granting IP&L's motion would not "protect the record in these proceedings" from any threat posed by INRD's February 3 letter. IP&L makes the plainly wrong assertion that:

... INRD has previously conducted itself as a party, notwithstanding Decision No. 93. It filed a petition for review of Decision No. 96, notwithstanding Decision No. 93.

It is therefore critical to protect the record in these proceedings for the Board to strike INRD's letter, or INRD will again pretend to have been a party to these proceedings, file another Petition for Review, and rely on the arguments in its letter....

Counsel for IP&L is well aware that in its petition for review of Decision No. 96 INRD made clear to the court that INRD had *not* been a party to the proceedings before the Board, and was relying for standing on the exception to the party aggrieved requirements of 28 U.S.C. 2344 that had been sustained by the Fifth Circuit in <u>Wales Transportation, Inc. v.</u> <u>Interstate Commerce Commission</u>, 728 F.2d 774 (5th Cir. 1984). Indeed, counsel for IP&L was served with INRD's Second Circuit Form C-A in which INRD outlined *in detail* the nature of its claim for standing to seek judicial review as a non-party to the administrative proceeding. A copy of INRD's Form C-A for No. 98-4387 is attached. Moreover, in its brief in opposition to IP&L's motion to dismiss for lack of standing, INRD again outlined *in detail* the basis for its claim that the party aggrieved requirement did not apply where the Board had clearly acted in excess of its power. A copy of INRD's brief in opposition to IP&L's motion to dismiss is attached hereto.

² While 49 CFR 1104.4 is technically inapplicable, counsel for INRD represents without reservation that the letter complies with its requirements.

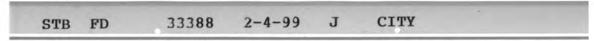
Finally, INRD is totally unable to understand how its letter can "cause any delay in this proceeding...." INRD does not believe the Board has jurisdiction under 49 U.S.C. 11321 et seq. to enter the type of order that NS is requesting, and if the Board enters such an order INRD will take such actions as are necessary and proper under the law and the Constitution to protect its interests. If the Board decides that an ancillary proceeding under 49 U.S.C. 11102(a) is necessary for Norfolk Southern to secure the type of open access rights to INRD's line and Stout Plant that it has asked for, INRD is confident that the Board will commence an appropriate proceeding and direct NS to serve a proper complaint on INRD. INRD's letter simply offers its views on matters that have *already* been put before the Board by parties. IP&L's undoubtedly sincere wish to prevent the Board from hearing those views is an insufficient basis for the Board to strike INRD's letter.

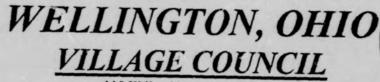
Yours very truly,

John Broadling

John Broadley

cc: Chairman Linda Morgan Vice-Chairman Clyburn Louis Mackall, Esq. (STB) Frederick Birkholz, Esq. (CSX) Richard A. Allen, Esq. (NS) Karl Morell, Esq. (ISRR) Michael McBride, Esq. (IP&L)





115 Willard Memorial Square 44090

Barb O'Keefe, Mayor

February 2, 1999

Harold Sumpter, President Joe McQua.d Al Kimmich Dan Haldeman Guy Wells Fred Alspach

Surface Transportation Board Finance Docket No. 33338 Attn: Vernon A. Williams, Secretary 1925 K. Street, NW Washington, D.C. 20423-0001

Ohio Rail Development Commission Thomas M. O'Leary, Executive Director 50 West Broad St., 15th Floor Columbus, OH 43215

Dear Mr. O'Leary,

Following the holidays and some real winter weather to slow us up, it is time to move forward with the issue of increased train traffic through the Village of Wellington as well as the Wellington Fire District and Southern Lorain County Ambulance District territories. There have been several instances through the winter and agreeably some times trains will get the better of us. However, a more recent incidence which occurred on Saturday, January 30th at approximately 3:15 p.m. is most concerning.

A southbound train had all four Village road crossings blocked for over thirty minutes. In that time the Wellington Fire District was extremely delayed to a cali, because they could not get across the tracks, and traffic was backed up one half mile in all four directions. I can verify the times because it took my wife thirty-five minutes to travel the one mile from the US Post Office through town to our house. This whole situation was absolutely ridiculous. The entire Village was at a complete stand still. The citizens of Wellington and the surrounding area should not be treated this way by the CSX Rail Corporation. Enclosed is a news clip on the issue. If a public meeting were to be held today, I would fear for any person standing on behalf of the railroad.

We must renew our efforts to do what we can to alleviate these kinds of situations. Chief Walker of the Wellington Fire District and Director Leiby of the Southern Lorain County Ambulance are prepared to negotiate and move forward with this problem. I urge your office to facilitate a meeting with all the principals involved as soon as possible. I am ready to assist in this effort.

Sincerely, Fur Alyach

Fred Alspach, Councilman

cc: Congressman Gillmor; Tom Drake, CSX

Gebruary 2, 1999 WELLINGTON ENTERPRISE

Villagers annoyed at train traffic

Along with the increase in train traffic through Wellington comes an increase in sitting in a car or truck, and waiting.

And for a lot of village residents, as well as people passing through town, this inconvenience can be troubling, particulary during the peak traffic hours.

For Laura Jones, who lives on South Main, her drive to work in Elyria can be a nail-biter. Jones punches a time clock and sometimes she has had to leave for work extra early because of the fear of having to stop and wait at the tracks.

Recently, during what can be described as a heavy traffic time of day, a train passing through the village was at a dead stop, tying up both State Routes 58 and 18. Traffic in all four directions coming in and going out of Wellington were also nearly stopped, with

CONTINUED on page 3

Annoyed ...

CONTINUED from page 1

many of the vehicles making illegal u-turns to try and get out through a different road.

When asked about printing, or advising of a schedule of the trains that pass through the village several times daily, Kenneth Cannon, the assistant chief train dispatcher located in Indianapolis, said it just isn't possible to produce.

"The trains that pass through Wellington are Class One Freight trains," he said during a phone interview, "It's not like with a mail train or a passenger train. With freight, whenever cars are available and we have the power and the men available, the trains go. We have scheduled departure and arrival times at each station but not at the intermediate points, such as Wellington."

Cannon stated that there is no work done in the area, so there is no reason for the trains to do anything but pass through. However, he did have several possible reasons for the delay a couple of weel's ago that backed up the village for more than 30 minutes.

"In wave of any mechanical breakdown, such as a draw bar dropping, brakes sticking, a hot box or an air hose problem, the trains must stop," he explained. "With any of these malfunctions, the train has to stop immediately to avoid any chances of a possible derailment."

"Another possibility is a shift change in the case of violation of hours of service," he continued. "Federal law states that a train (and crew) have 12 hours to get from point A to point B, and that crews cannot work any more than 12 hours in a 24-hour period. If a violation occurs, and that could happen anywhere, a train is stopped and must wait-for the replacement crew to come aboard."

Cannon said he also would assure village residents that seeing a train stopped for possible malfunctions is nothing with which to be concerned. A a matter of fact, it is just the opposite.

"When they stop they are doing what is mandatory to keep the train safe."

But for now-with the chance of a train going through town at any given moment, about the only answer for residents who have to be somewhere at a certain time is to do just what Jones does, and give yourself extra time.



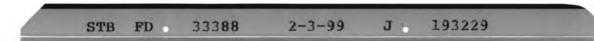
Lorain-Medina Rural Electric Cooperative, Inc.

22898 West Road P.O. Box 158 Wellington, Ohio 44090-0158

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

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ENTERED Office of the Secretary

JOHN H. BROADLEY 03 1993

Park of Public Record (202)639-6010

February 3, 1999

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

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

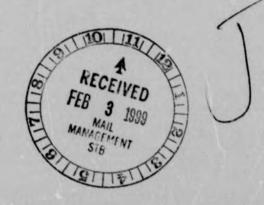
Dear Mr. Williams:

I have received copies of letters sent to you pursuant to ordering paragraph no. 8 of Decision No. 96 entered in the captioned proceeding relating to the negotiation of interchange arrangements between Indiana Southern Railroad (ISRR) and Norfolk Southern (NS). I note that in its most recent filing, NS has strayed far beyond the confines of providing a report under ordering paragraph no. 8 and has asked the Board to *order* The Indiana Rail Road Company ("INRD") to grant certain trackage rights to NS. INRD would like to clarify on a number of points to ensure that its silence is not interpreted either by the parties to the captioned proceeding or the Board as acquiescence in positions taken by the parties in those letters.

1. Party status of INRD in the captioned proceeding

At the time Decision Nos. 89 and 96 were entered, INRD was not, and is not now, a party to the captioned proceeding. In Decision No. 93 the Board summarily rejected INRD's attempt to intervene in and become a party to

LAKE FOREST OFFICE ONE WESTMINSTER PLACE LAKE FOREST, IL 60045 (847) 295-9200 (847) 295-9200



the proceeding. Because it is not a party to the proceeding and because the Board has refused it party status, INRD believes that any order of the Board issued in the captioned proceeding that purports to be directed to INRD and that either (i) requires INRD to take some action, or (ii) prohibits INRD from taking some action is *ultra vires* and would deny INRD due process under the Fifth Amendment to the Constitution.¹ Indeed, in <u>The Indiana Rail Road Company v.</u> <u>Surface Transportation Board</u>, Case No. 98-4387, recently docketed in the Second Circuit, INRD is taking the position that the portion of ordering paragraph no. 8 in Decision No. 96 that prohibits INRD from imposing switching charges on NS for traffic moving to IP&L's Stout Plant is *ultra vires* and denies INRD due process under controlling Supreme Court authority.²

2. INRD's obligation to negotiate interchange issues

In ordering paragraph no. 8 of Decision No. 96 the Board plainly directed CSX, NS, ISRR, and IP&L to negotiate regarding the details of an interchange at MF 6. Even if INRD were a party to this proceeding and subject to the Board's jurisdiction in this matter (neither of which is the case), the issue of interchange arrangements between ISRR and NS at milepost 6 is unrelated to INRD. No interchange arrangements at MP 6 that are within the realm of reason could affect INRD or require INRD's participation in negotiations.

3. The Board's authority to order INRD to grant trackage rights.

In its most recent filing in response to ordering paragraph no. 8, NS has asked the Board to *order* INRD to grant trackage rights to NS over INRD's line between the Belt and Stout Plant. The law is clear that the Board has

² We note that the Board has supported the motion of Indianapolis Power & Light Company to dismiss that petition for review on the grounds that INRD was not a party to the proceeding below, conceding INRD's non-party status.

¹ Excepting, of course, the Board's power under 49 U.S.C. 721(c) and 721(d) to compel INRD's testimony in the proceeding or the testimony of INRD employees.

jurisdiction to order one rail carrier to grant trackage rights to another (freight) carrier over its lines under only two sections of the Interstate Commerce Act -- 49 U.S.C. 11102(a) relating to terminal trackage rights, and 49 U.S.C. 11123 relating to service failure. There is no evidence that NS is seeking Board action under section 11123, and there is absolutely no factual basis on which the Board could find an emergency exists with respect to rail service to Stout Plant. Nor is there any evidence that NS is seeking to invoke Board action under Section 11102(a). NS has not made any claims that, if true, would meet the statutory standards of that section nor has it made the type of allegations that would be necessary to meet the requirements of the Board's competitive access regulations. Whatever the power of the Board under 49 U.S.C. 11321 et seq. to impose conditions on the applicants (a matter we will address below), it is well settled that the Board's authority under the merger provisions of the Interstate Commerce Act does not extend to the compulsory inclusion of non-consenting railroads in mergers. See e.g. St. Joe Paper Co. v. Atlantic Coast Line R. Co., 347 U.S. 298, 305 (1954) ("Congress has consistently and insistently denied the Interstate Commerce Commission the power to take the initiative in getting one railroad to turn over its properties to another railroad in return for assorted securities of the latter.")

4. <u>The Board cannot order CSX to compel INRD to enter into</u> a trackage rights agreement

As an alternative to its request that the Board order INRD to grant trackage rights to NS, NS asks the Board to order CSX to compel INRD to grant trackage rights to NS. Presumably, NS seeks such an order from the Board under Section 11321 et seq. It is undisputed that CSX owns 89% of Midland United which in turn owns 100% of INRD and has the *power* to compel INRD to enter into the transaction. It is equally undisputed, however, that INRD is a separate corporate entity from CSX. Because INRD has minority stock holders, CSX is not free under Indiana law to use INRD for its own purposes. Indiana law makes clear that stock holders in close corporations owe a fiduciary duty to each other. *See e.g.* <u>Barth v. Barth</u>, 659 N.E.2d 559, 561 (Ind. 1995). Moreover, under Indiana law CSX's directors owe a duty of loyalty *to INRD* and to *all of INRD*'s *stock holders*. <u>Id</u>. at 561 n.6. CSX cannot voluntarily engage in self-dealing by causing INRD to enter into transactions (such as the proposed grant of trackage

rights to NS) that would be for the benefit of CSX but that would be detrimental to INRD, and a Board order to do so entered in this proceeding would not provide CSX immunity to do so.³

The Board's approval of a transaction authorizes the applicant to ignore otherwise applicable state law where the state law imposes "obstacles in the path of otherwise lawful plans of reorganization." *Callaway v. Benton*, 336 U.S. 132, 140-41 (1949). The merger before the Board, however, does not include the grant of trackage rights by INRD to NS, nor, indeed, does it include any transaction to which INRD would be a necessary party, and as we have pointed out above, the Board does not have the power to compel INPD involuntarily to participate in the merger. In order to immunize implementation of a transaction from restrictions of state law -- *that transaction* -- the grant of trackage rights by INRD to NS -- must be before the Board and approved by the Board. That is plainly not the case now.⁴

While the Board's failure to require the inclusion of INRD in the merger and to require INRD to become an applicant limits, to some degree, the Board's ability to address competition issues presented by the merger, the Board is not without remedies that can be effected by the applicants without breaching their fiduciary or other duties under Indiana law. For example, the Board can

⁴Thus, the situation here is distinguished from *Schwabacher v. United States*, 334 U.S. 182 (1948), where preferred stock holders in a company that was a *party* to the merger before the Commission sought to take advantage of state appraisal rights to obtain more from their stock than was provided for by the merger agreement approved by the Commission. Here, the transaction to which the state law would apply -- the grant of trackage rights to NS -- is not before the Board and has not been approved by the Board.

³ Regardless of the preemption provisions of 49 U.S.C. 11321, a Board order directing a party before it to breach a fiduciary duty owed to another person and take action that would amount to constructive (if not actual) fraud under state law, would seem to stretch the Board's undoubtedly broad conditioning authority under the merger provisions of the act well beyond the breaking point.

place NS in precisely the position Conrail is today vis a vis service to Stout Plant by granting NS precisely the rights that the Department of Justice's witness, Dr. Woodward, proposed -- trackage rights of the Belt to an interchange with ISRR at MP 6 plus trackage rights on the Belt to serve Stout Plant directly through any build-out that IP&L might construct. See DOJ-1, Woodward V.S. at 24. Alternatively, the Board has other remedies available that would be within the applicants' power to satisfy without breaching fiduciary obligations to INRD or anyone else.

5. NS's interpretation of the Board's decisions maybe in error

Finally, NS and INRD have assumed that the Board granted NS direct access to the Stout Plant in the form of trackage rights over INRD's tracks instead of IP&L's requested relief of direct access to Stout Plant via a build-out to the Belt. While the Board's language in Decision Nos. 89 and 96 is subject to that interpretation, the language is imbiguous. The Board did not use the phrase "trackage rights" when referencing INRD in those decisions and did not address compensation for any trackage rights, suggesting it may not have contemplated such an arrangement. However, the Board did say, in reference to the interchange at milepost 6, that it "... was necessary to permit NS to compete as Conrail does now at Stout." (Decision 96, at 14). Conrail does not now compete by having trackage rights over INRD but does compete in the manner "he Board specifically ordered for NS: by preserving the option for direct acc

The only express reference in Board decisions to NS trackage rights over INRD's line is in Decision No. 93 denying INRD leave to intervene. There, the Board asserted that IP&L and DOJ had asked for NS trackage rights over INRD. IP&L of course, made no such express request, and neither did DOJ in its comments and request for conditions. DOJ's sole reference to NS trackage rights over INRD was in its final brief when it used the term -- again in the larger (erroneous) context of putting NS in the same competitive position at Stout Conrail is today.

INRD does not intend to make by this letter, and this letter should not be construed as, a general appearance in the captioned proceeding.

Yours very truly,

John Broadling

John Broadley

cc: Chairman Linda Morgan Vice-Chairman Clyburn Louis Mackall, Esq. (STB) Frederick Burkholz, Esq. (CSX) Richard A. Allen, Esq. (NS) Karl Morell, Esq. (ISRR) Michael McBride, Esq. (IP&L)





Surface Transportation Board Washington, 0.C. 20423-0001

FILE IN DOCKET

Office of the Chairman

Mr. Michael R. Conroy 201 Faculty Road Duncannon, PA 17020-9789

Dear Mr. Conroy:

Thank you for your letter regarding the acquisition and division of Conrail by CSX and Norfolk Southern (NS) and the effect that this transaction may have on you and on other Conrail employees. You state that CSX might not hire Conrail employees who moved Conrail coal trains that originate in Brownsville, PA, and that NS wants to integrate its and Conrail's employees into a single seniority district.

The Board carefully examined this proposed transaction, found it to be in the public interest, and imposed the labor protective conditions set forth in New York Dock Ry .-- Control--Brooklyn Eastern Dist., 360 I.C.C. 60 (1979) (New York Dock) (copy enclosed). The New York Dock conditions were imposed to protect employees who may be adversely affected by the acquisition and division of Conrail. These conditions provide lost-income protection for up to 6 years, fringe benefit protection, moving expenses, and protection from losses from home sale, and for arbitration of disputes. These conditions are the most far reaching labor protective conditions that the Federal government imposes on private transactions such as the Conrail acquisition.

The New York Dock labor protective conditions have been found by the courts to constitute a fair and equitable arrangement to protect the interests of railroad employees as required by 49 U.S.C. 11347 (now 49 U.S.C. 11326). Additionally, the Board expects that the carriers will give careful consideration to the interests of the employees to avoid the imposition of undue hardships upon them.

As a part of the implementing process, officials of your union have negotiated with the carriers voluntary implementing agreements to avoid or mitigate those problems that have concerned you, as required by the New York Dock conditions. The Board, however, is not and in my view should not be involved in these negotiations or in the ratification process by union members. After completion of the process, if you believe that the agreement as a whole, or some specific provision of it, fails to satisfy the minimum requirements of the statute or the New York Dock conditions, you may bring that matter to the Board's attention. See Norfolk & Western R.R. Co. v. Nemitz, 404 U.S. 37 (1971).

I appreciate your concerns and am having your letter made a part of the public docket in STB Finance Docket No. 33388.

Sincerely

Linda J. Morgan

Enclosure: New York Dock conditions

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12/07/98

FILE IN DOCKET

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RECEIVED SURFACE TRANSPORTATION

Surface Transportation Board Suite 820 1925 K Street Northwest Washington, DC. 20423-0001

Attn. Linda J. Morgan - Chairman

Dear Ms. Morgan

I am writing to you in your capacity as the Head of the Surface Transportation Board. I am a employee of Conrail. and also the President of UTU Local - 215 at Harrisburg, Pa. My first concern is that of a Conrail employee that is going through a catastrophic change in his life. The working conditions on Conrail have steadily declined on Conrail almost to the point of slavery. I think that if things continue the way they have, that the Conrail takeover by the NS and the CSX is headed the same way as the UP and SP merger. This is a scary thought not only from the point of rail congestion but also from the effects on employees and their families.

There are two issues that I would like to bring to your attention. First is the Coal Trains that originate in Brownsville, Pa. that were hauled on former Conrail lines to Baltimore, Md. and are now being detoured over the CSX lines to Baltimore, Md. We just assumed that when the takeover was complete, the men would be able to follow their work as was the case when Conrail was formed. It has just come to our attention that the CSX has no intention of taking on any former Conrail employees on this portion of railroad. It was stated that this is a former CSX line and the freight belongs to the former CSX employees. This will cost former Conrail employees jobs in the Pittsburgh, Pa. area. Any suggestions or help on how to correct this problem will be greatly appreciated.

The second is the seniority issue. It seems that the NS wants to take all the protection that seniority has afforded the Conrail employees away. They want to take all former Conrail seniority districts and merge them into one big seniority district. This will give people the ability to bid a job from Chicago to the Alantic Coast. This may sound like a step forward from the present system, but it is not. I was employed when Conrail was formed. They used a similar plan only on a smaller scale and it caused people to move around which forced others to move around. It created a shortage of employees at certain locations and caused others to be laid off because of an over abundance of employees at other locations. This creates a situation where you have people that are not familiar with that section of the railroad operating trains. This is a recipe for disaster. I am sure that this is not the only way that the seniority issue has to be addressed. If nothing else this should be done in stages. When a bill is passed in government that affects many people, there is never a hard and fast date set of implementation. Instead there is usually a schedule that doesn't start immediately and is stretched out over years untill it is fully implemented.

My hope is that you could help to address these issues. For the last year we have heard little or nothing on what we are to expect when the NS takes over. Now in the last month we are presented with a contract that our union wants us to endorse. They came to us at a meeting so we could ask questions but they didn't have a copy for us to read. First no information, now one meeting and we are to endorse something we can't even read? This is presented as "The way it is with no options". This is to be implemented in the beginning of February. I am sure that the takeover can be completed with the existing seniority system in place and modified later. This certainly doesn't seem to affect the profits of Conrail. For the first nine moths of 1997 Conrail generated \$ 331 million dollars. The first nine months of 1998 it generated \$ 395 million dollars. Please help these two employee issues. Thanks.

Sincerely Yours

Michael & Conrolf

Michael R. Conroy 201 Faculty Road Duncannon, PA. 17020-9789 (717) 834-4732

cc: Gus O. Owens Arlen Spector Rick Santorum George W. Gekas William F. Goodling Bud Shuster D. W. Dunlevy

Vice Chairman Senator Senator House of Representatives House of Representatives House of Representatives Pa. Legislative Representative UTU





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

FILE IN DOCKER

January 29, 1999

Mr. R.W. Godwin General Chairman Brotherhood of Locomotive Engineers 810 Abbott Road Suite 200 Buffalo, NY 14220

Dear Mr. Godwin:

Thank you for sending me copies of the letters you sent to CSXT and Norfolk Southern regarding your protest of Step One and Step Two of the allocation of employees resulting from the acquisition of Conrail. Please keep me informed as to the progress of this matter.

You previously have serve me a letter expressing concern as to whether the involved railroads will have a work force sufficient for the safe operation of the new rail systems. I have now received responses from both Mr. David Goode, Chairman, President and Chief Executive Officer of Norfolk Southern Corporation, and Mr. John Snow, Chairman, President, and Chief Executive Officer of CSX Corporation. I am enclosing copies of their responses, which address your concerns. Locause disputes regarding the allocation of employees remain the subject of negotiation, I will not comment further on these matters.

I appreciate your concerns and commitment to a safe and fair implementation of the Board-approved Conrail acquisition. In that regard, I will have all of these materials made a part of the public record in the Conrail proceeding.

Sincerely,

Linde & Morgan

Linda J. Morgan

Enclosures



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

January 5, 1999

John W. Snow Chairman, President Chief Exceditve Officer SURFACE TRAYSPORTATION 03 5. 83 FILE IN DOCKE PH

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

Dear Linda:

This letter is in response to your letter of December 17, 1998 in which you asked for comments to Mr. Godwin's December 3, 1998 letter. In his letter, Mr. Godwin expressed concern over the alleged reductions of 149 locomotive engineer positions at seven specific locations. Because of these alleged reductions, Mr. Godwin questioned whether CSXT would have sufficient engineer work forces for its Day One operations. Initially, I want to assure you that CSXT plans to have a sufficient number of engineers to operate its allocated Conrail lines after the split of Conrail.

The reduction in the number of the engineer positions referenced by Mr. Godwin was primarily the result of allowing Conrail engineers at the terminals which will be divided among CSXT, NSR and/or Conrail ("split locations"), to exercise their seniority to a location that post transaction will be operated exclusively by either CSXT or NS. This process effectively allowed the employees to choose their new employer prior to the Day One split. The seniority exercise was mercly a "paper" move and no employee has actually been relocated.

This "paper" exercise of seniority (as well as the attrition experienced by Conrail since August when the numbers used in Mr. Godwin's letter were developed, and the removal of 50 student engineers at Buffalo from the engineer allocation process) did, however, reduce the actual number of engineers remaining at each of these seven split locations who were available to be allocated among CSXT. NSR and/or Shared Assets Area. However, the decrease referenced in Mr. Godwin's letter was only in the number of actual engineers <u>available</u> at these seven locations to be allocated among the railroads. It did not reflect any decrease in the number of engineer <u>positions</u> at these locations on Day One.

In the near future, the railroads will actually "bulletin" or announce the number of engineer positions for their Day One operations. CSXT expects that many of the engineers who made the abovereferenced paper exercise of seniority to "lock-in" their new employer will not actually move, but will remain at their current position, thus avoiding the reductions that concerned Mr. Godwin. However, even if a number of these engineers actually do transfer, CSXT will have the ability to utilize junior engineers to cover the shortages caused by such transfers.

Moreover, CSXT is confident that there will be a sufficient number of engineers to fill any engineer requirements that may develop at any of these seven split locations. First, there are approximately 150 engineers on Conrail who currently are working in train service positions because of insufficient engineer Chairman Linda J. Morgan January 5, 1999 Page 2

seniority to hold an available engineer position on Conrail. These currently inactive Conrail engineers alone should be sufficient to meet any contingency.

Additionally, CRC, CSXT, and NS have assiduously planned to avoid engineer shortages with respect to the Conrail transaction. Currently, on Conrail there are 163 qualifying engineers in training on the job. Another 102 engincer candidates are now in school and scheduled to begin on-the-job training this month. Finally, there are 150 trainmen designated to begin engineer training in 1999.

CSXT does not intend to diminish the task of training and qualifying engineers. However, comprehensive plans have been made, and are ready to be implemented to ensure that a sufficient qualified engincer work force is in place at all locations on Day One. As previously indicated, CSXT, NS and Conrail plan to advertise and award the engineer positions on their allocated Conrail lines well in advance of Day One. This should allow employees sufficient time to satisfy the engincer qualification requirements if the bullctining process reveals a potential shortfall of qualified engineers at a specific location.

Accordingly, CSXT believes that there will be sufficient qualified engineers in place on Day One to handle the anticipated traffic.

Sincerety,



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

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RECEIVED SURFACE TRANSPORTATION

January 4, 1999

The Honorable Linda J. Morgan Chairman, Surface Transportation Board 1925 K Street, NW - Suite 715 Washington, DC 20423-0001

Dear Ms. Morgan:

I am pleased to respond to Mr. Godwin's letter of December 3, 1998 and your letter of December 17, 1998 concerning the sufficiency of the locomotive engineer workforce for the new Norfolk Southern rail system. First and foremost, safe rail operations will not be compromised. Mr. Godwin's letter implies a net reduction in locomotive engineer positions when in fact the changes in the number of engineers at the locations shown is largely a function of the workforce allocation process and the active Conrail workforce, all of which has been allocated to CSXT, NS and shared assets. Further, a considerable number of locomotive engineers are currently being trained on Conrail and on Norfolk Southern and soon will be available for service.

The differences in the numbers of engineers by location cited in Mr. Godwin's letter are not because Conrail has "done away" with positions. The higher numbers of engineers are from a "snapshot" conducted in August; the lower numbers show the Conrail workforce at the indicated locations on November 9, 1998. The changes reflect a combination of normal attrition at these locations and voluntary movements of engineers on Conrail as engineers have changed their home terminal locations in accordance with the negotiated implementing agreements. (Additionally, the August numbers for Buffalo included 50 student engineers who were not counted in the November count.) Any surplus of engineers at one location, or shortage at another, will be promptly remedied through operation of the seniority system, as employees bid for available positions. Further, to put the numbers at these particular locations in perspective, I note that Conrail had approximately 2,575 engineers to be allocated between Norfolk Southern, CSXT and Conrail shared assets.

The Honorable Linda J. Morgan January 4, 1999 Page 2

Conrail, Norfolk Southern, and CSXT are acutely aware of the necessity of having sufficient train and engine (T&E) personnel. In 1998 Conrail hired 975 T&E employees, compared to an average of slightly over 300 T&E new hires in each of the previous three years. Similarly, Norfolk Southern hired 1,800 T&E employees in 1998, compared to an average of 675 for each of the previous three years. Conrail has 362 engineer trainees who have completed classroom training in 1998 (compared to an average of 204 over the previous five years). NS has 382 engineer trainees who completed classroom training in 1998, compared to an average of 258 since 1993. NS anticipates enrolling 480 employees in its engineer training program in 1999, while Conrail's Conway facility will train an additional 323 this year. We are taking all appropriate steps to ensure that a sufficient and safe engineer workforce will be in place for the new operations.

The process of dividing Conrail's train and engine service workforce continues with the cooperation of the BLE and the UTU and is nearly complete. With each step forward in the process, we are able to assess our workforce needs with a new level of detail, including planning for attrition and qualification of employees on unfamiliar territory. Of course, we continue to solicit the input of union representatives as to potential shortage locations. We remain convinced that our staffing levels in train and engine service will satisfy the service needs of our customers and ensure safe operations of NS'expanded system.

Sincerely,

B.K

David R. Goode

DRG/tmw

cc: T. T. O'Toole J. W. Snow R. W. Godwin



General Committee of Adjustment

Brotherhood of Locomotive Engineers

Consolidated Rail Corporation

810 Abbott Road, Suite 200, Buffalo, New York 14220

R. W. GODWIN, General Chairman THOMAS B. VASSIE, Secretary-Treasurer Telephone: (716) 827-2653		FILE IN DOCKET			
FAX: (716) 827-2655	December 22, 1998	HAISW	EC 29	BURFACE	
Mr. David N. Ray, Asst. Vice President Norfolk Southern Three Commercial Place Norfolk, VA 23510-2191	Mr. Howard S. Emerick, Asst. Employee Relations - CSXT 500 Water Street J455 Jacksonville, FL 32202	V.P. OF	4 13 PN 98	ECEIVED TRANSPORTATION ECAND	

Dear Sirs:

On behalf on B.ofL.E. Divisions #382, #421 and #659 located at Buffalo, New York and the B.ofL.E.-Conrail-G.C.ofA., this office is protesting Step One of the allocation of Employees (Locomotive Engineers). We base our protest on the fact that Norfolk Southern, CSXT and Conrail failed to provide accurate information on Step One. Ultimately, because of this failure to provide accurate information, caused Step Two to be inaccurate in the numbers of Locomotive Engineers for Norfolk Southern and CSXT.

The fact are as follows:

EXHIBIT ONE:

Attachment (A) - October 9, 1998 signed by Robert S. Spenski, Vice President Labor Relations, Norfolk southern, K. R. Peifer, Vice President, Labor Relations, CSXT and D. A. Arouca, Vice President, Labor Relations, Consolidated Rail Corporation clearly stated it in Step 1. A list of locations is attached to this letter to assist you in determining which locations have been allocated to each Railroad and which location will be divided. You will have thirty (30) days from the date of this letter to exercise your prior, prior, pri Conrail seniority UNDER CONRAIL RULES to the Conrail location of your choice. This exe of seniority will be a "paper" move only. A "physical" move will not be required. If you ____ose to change your Conrail work location, you Must fill out the enclosed form with your EMPLOYEE NUMBER, your NAME and LOCATION SELECTION, the form must be sent by Certified Mail to:

Conrail Workforce Management System P. O. Box 1206 Dearborn, MI 48121-1206

EXHIBIT TWO:

"Step 2. Step 2 is only applicable to employees who, after their exercise of seniority in Step 1, above, are assigned to one of the twelve locations: North Jersey, South Jersey/Philadelphia, Ashtabula, Benning, BUFFALO, Chicago, Cleveland. Creatine, Toledo, Columbus, Detroit or Indianapolis. If you are at one of these twelve locations that will be allocated between CSXT and NSR, or what will become SAA and be split between CSXT, NSR and Conrail, a bulletin will be posted advising you of the NUMBER OF POSITIONS available at that location for each Carrier (see the attached list of approximate assignments). The bulletin will require you to select by Certified Mail the Carrier for which you wish to work and those selections will be assigned in accordance with your earliest date of hire seniority. If the number of employees selecting a particular Carrier at the location exceeds the number of positions for that location, the junior employee will be allocated to the other Carrier(s)."

EXHIBIT THREE:

Locations Divided Between CSXT and NSR and Anticipated Assignments at those for Each Carrier (T&E and Yardmasters)

		BUFFALO	
NS-NKP Agreement	E	I	Ydm
Buffalo - Toledo Pool (Cleveland)	14	16	
Buffalo - Binghamton Pool	12	15	
Buffaio - Renovo	6	6	
Extra	8	26	
CSXT - Conrail Agreement			
Buffalo - East	34	34	
Buffalo - West	55	55	
Buffalo - Ashtabula	10	10	
Buffalo - Niagara	3	3	
Frontier Yard	29	50	15
Ohio Street	2	2	
Seneca Yard	6	8	5
Niagara Yard (CSXT Territory)			
Kenmore Yard	3	3	
Extra	53	31	

In regard to Locomotive Engineers, the number of Locomotive Engineers for CSXT is 96 and for NSR is 40.

EXHIBIT FOUR:

Initialed Implementing Agreement between CSX Transportation Inc. and its Railroad Subsidiaries, Norfolk Southern Railway Company and its Railroad Subsidiaries and Consolidated Rail Corporation and their Employees Represented by Brotherhood of Locomotive Engineers

Article II - Workforce Allocations - Section 2 states:

"Where such a location is divided by CSXT and Norfolk Southern (Or in case of SAA, by CSXT, NSR and CRC), BULLETINS WILL BE POSTED IN THE CRC CAPS SYSTEM AT END OF THE THIRTY (30) DAY PERIOD ADVISING LOCOMOTIVE ENGINEERS AT THAT LOCATION OF THE NUMBER OF LOCOMOTIVE ENGINEERS TO BE ALLOCATED EXCLUSIVELY TO NSR AND THE NUMBER TO BE ALLOCATED EXCLUSIVELY TO CSXT (OR, IN THE CASE OF THE SAA, THE NUMBER IF ANY TO BE ALLOCATED TO CRC). Such allocation will be made by accepting bids by Certified Mail from Locomotive Engineers at that location. At the expiration of fifteen (15) days, Locomotive Engineers will be assigned on the basis of their Locomotive Engineer's seniority. Service needs of each Carrier left unfilled at the expiration of the bulletin period will be filled by those Locomotive Engineers remaining at the location.

The Locomotive Engineers represented by Divisions #382, #421 and 659 and represented by the B.ofL.E.-Conrail-G.C.ofA. feel that the Carrier deliberately changed the numbers of Locomotive Engineers needed in Buffalo between the information stated by the Carrier between Step One and Step Two, to insure that no Locomotive Engineer would bid to a location entirely NSR or CSXT. The changes of numbers at Buffalo for the Locomotive Engineers cannot be defended by the Carrier as Errors covered by its codicil in its Step 2 statement (see the attached list of Approximate Assignments). On the Step One Process the information showed that one hundred and ninety five Locomotive Engineers were allocated to CSXT and forty Locomotive Engineers were allocated to Norfolk Southern at Buffalo, NY. After every Locomotive Engineer picked Buffalo, New York as their location, and just before they bid for the Carrier of their choice, the Carrier in the Step Two Process, reduced the CSXT allocation from One Hundred and ninety-five Locomotive Engineer to One Hundred and forty-four. This is a difference of fifty-one Locomotive Engineers allocated to CSXT. The Norfolk Southern allocation went up from forty Locomotive Engineers.

We can place the change for the Norfolk Southern (forty to forty-four Locomotive Engineer) within the realm of an approximate mistake. We cannot accept fifty-one Locomotive Engineers decrease as a mistake. It is the feelings of the Locomotive Engineers and this office that it was a deliberate act to inflate the number of Locomotive Engineer in the Step One Process. This would insure that very few Locomotive Engineers would bid other locations to work for the Carriers of their choice, leaving one or both Carriers short of Locomotive Engineers at Buffalo, NY.

Buffalo, NY was the only location of the twelve (12) split locations that this Carrier(s) orchestrated phenomena happened.

It is the opinion of the members and officers of Divisions #382, #421 and #659 and this office that Locomotive Engineers at Buffalo, N.Y. have a fair chance to exercise their seniority to a location or carrier in Step One and Step Two. With this in mind, I respectfully request that Steps One and Two be done over with proper information, especially the numbers of Locomotive Engineers needed at each location to allow all the Brothers and Sisters to have a fair and impartial chance to pick their locations and the Carrier they wish to work for.

Requesting a written reply from all parties concerned, I remain

Sincerely yours.

R. W. Godwin General Chairman

RWG:rm

C. V. Monin, President E. Dubroski, 1st Vice President L. D. Jones, V.P. & Nat'l. Leg. Rep. E. W. Rodzwicz, Vice President P. T. Sorrow, Vice President L. W. Sykes, District Chairman W. A. Thompson, District Chairman T. B. Vassie, Secretary, Treasurer J. P. Chappelle, NJ Leg. Chairman J. F. Collins, NYS Leg. Chairman N. D. Hendrickson, PA Leg. Chairman W. T. O'Brien, OH Leg. Chairman C. E. Way, IL Leg. Chairman G. J. Newman, MA Leg. Chairman W. M. Verdeyen, IN Leg. Chairman K. F. LeFauve, Local Chairman #382 J. F. Murphy, Local Chairman #421 W. I. Swart, Acting Local Chairman #659 Linda Morgan, Chairperson, Surface Transportation Board D. R. Goode, Pres/Chrm./CEO - NS J. W. Snow, Pres/Chrm./CEO - CSX R. S. Spenski, Vice President - NS K. R. Peifer, Vice President - CSX T. K. Male, District Lead Manager CACD/CAPS

c:

EXHIBITS

One	Attachment (A) - October 9, 1998 letter signed by Spenski, Peifer and Arouca
Two	Step Two of the October 9, 1998 letter signed by Spenski, Peifer and Arouca
Three	Locations Divided between CSXT and NSR and anticipated assignments at those locations for each Carrier (T&E and Yardmasters)
Four	Initialed Implementing Agreement between CSX Transportation Inc. and its Railroad Subsidiaries, Norfolk Southern Railway Company and its Railroad Subsidiaries and Consolidated Rail Corporation and their Employees Represented by Brotherhood of Locomotive Engineers
Five	Article S-e-2(b) of the Agreement between Consolidated Rail Corporation and the Brotherhood of Locomotive Engineers effective January 1, 1979, revised through August 1, 1996

October 9, 1998

Dear Fellow Employee:

This letter is to advise you of the opportunity and the process for selecting CSXT, NS or the Conrail Shared Asset Areas as your future employer. Agreements that were negotiated by your Union Officers and General Chairmen on your behalf will soon be sent out. Both the Organizations and the Carriers believe that our employees should receive as much time as possible in advance of actual implementation to decide where and for whom they would like to continue their careers. This letter includes detailed information concerning which Carrier will be operating particular lines and terminals; the anticipated types and number of jobs at those locations by Carrier; and the Collective Bargaining Agreement that will be applicable at each location.

The selection process will work as follows:

STEP 1. A list of locations is attached to this letter to assist you in determining which locations have been ellocated to each railroad and which locations will be divided. You will have thirty (30) days from the date of this letter to exercise your prior prior, prior or Conrail seniority under Conrail rules to the Conrail location of your choice. This exercise of seniority will be a "paper" move only. A "physical" move will not be required. IF you choose to change your Conrail work location, you MUST fill out the enclosed form with your EMPLOYEE NUMBER, your NAME and LOCATION SELECTION. the form MUST be SENT BY CERTIFIED MAIL to:

> Conrail Workforce Management System P. O. Box 1206 Dearborn, MI 48121-1206

If you wish to continue working at your current work location, you do not need to do anything during this thirty (30) day period unless and until you are notified that you are displaced. At the end of the thirty (30) day period, if you have been displaced from your present location, you will be contacted and have the opportunity to make a "paper" exercise of your seniority under Conrail rules to any location your seniority permits. UNLESS YOU END UP AT ONE OF THE TWELVE LOCATIONS THAT WILL BE DIVIDED AMONG THE CARRIERS, YOUR WORK LOCATION AT THE END OF THE THIRTY (30) DAY PERIOD WILL DETERMINE THE CARRIER FOR WHICH YOU WILL BE WORKING.

Exhibit One

STEP 2. Step 2 is only applicable to employees who, after their exercise of seniority in Step 1 above, are assigned to one of the twelve locations: North Jersey, South Jersey/Philadelphia, Ashtabula, Benning, Buffalo, Chicago, Cleveland, Crestline, Toledo, Columbus, D troit, or Indianapolis. If you are at one of these twelve locations that will be allocated between CSXT and NSR, or what will become a SAA and be split between CSXT, NSR and Conrail, a bulletin will be posted advising you of the number of positions available at that location for each Carrier (see the attached list of approximate assignments). The bulletin will require you to select by Certified Mail the Carrier for which you wish to work and those selections will be assigned in accordance with your earliest date of hire seniority. If the number of employees selecting a particular Carrier at the location exceeds the number of positions for that Carrier at the location, the junior employee will be allocated to the other Carrier(s).

STEP 3 After you have selected a location and selected or been allocated to a Carrier, your name will be placed on the proper seniority district roster for that Carrier.

STEP 4 After the contract selection process has been completed and the Carrier and location designated, the actual CSXT, NSR, or Conrail assignments will be advertised to the appropriate seniority districts. The bulletins will designate starting times, rest days, and onduty times for yard assignments; home and away-from-home terminals for road assignments, and expiration and effective dates. The advertisement period will be fourteen (14) days. Assignments will be awarded based upon your new seniority as defined in the transaction and Collection Bargaining Agreements.

If you have any questions regarding the allocation process, please contact your current labor representative for guidance.

very cruly yours,

U. A. Brouce Vice President Labor Relations Consolidated Reil Corporation

K. R. Peifer / Vice President Labor Relations CEX Transportation, Inc.

R. S. Spenski Vice President Labor Relations Worfolk Southern Reilway Co.

Exhibit two

B. Locations <u>divided between CSKT and</u> assignments at those locations for Tardmasters):	each C	arris	It (TES and				
BUFFALO				COLAMBUS			
NS - MEP Agreement		I	XIN	HE - HE Agreement		I	XIII
Buffelo - Toledo Pool (Cleveland)	14	16		Columbus - Noraine Pool	-	-	
Buffalo - Binghamton Pool	12	15		Columbus - Lordstown Pool	20	2	
Juffalo - Renovo Pool	6	6		Columbus Yard		33	
Extra		26		Columbus Local	19		8.
	10			Batra	1	1	
SKT - Conrail Agreement	40	I	XIM	"Tarthasters covered by NS-NEP Agreement	,	24	2*
Buffalo - East	34	34		CETT - BEO Barosment	-	-	
Buffalo - West	55	55		State of the second state of the	E	I	XIM
Buffalo - Ashtabula	10	10		Marysville - Tolede	15		
Buffalo - Niagra	3 29	3		Columbus - Indianpolis		15	
Frontier Yard	29	50	15	Backeten Vand	-	4	
Ohio Street	2	2		Columbus Local	ž		•
Seneca Yard	6		5	Kenton Local	-	-	
Niagra Yard			5	Marysville Local	-	2	
Kennore Yard	253	3		Extra		28	
Extra		31				28	
CLEVELAND	96			CRESTLINE			
				NS - HEP Agreement	-		
NS - NKP Agreement	E	I	XIM	BO - HAF ADIESTERIC	E	I	XDM
				Crestline - Conway Pool	10	10	
Cleveland - Conway Pool	12	15		Crestline Local	1	1	
Cleveland - Mingo Pool	3	3		Crestline - Columbus Pool	10	10	
Bedford Yard		18	•	Extra	7	7	
Bedford Local	1	1					
Rockport Yard	10	18		CSTT - BLO Agreement		I	XIN
Other Tards	20	26	4		-	-	
Estra	23	48	2	Road Sitra	16	16	
CSET - Conrail. BEO Agreements		I	IDM	antra	7	to	
Cleveland - Buffalo	12	12					
Cleveland - Columbus	12	12					
Collimond Tard	11	17	5				
Extra	15	45	1				

Exhibit Three 2

- Where such a location becomes entirely NSR or CSXT, all of the engineers at the location at the end of the thirty (30) day period will likewise become exclusively employees of NSR or CSXT.
- 2. Where such a location is divided by CSXT and NSR, (or, in the case of SAA, by CSXT, NSR and CRC), bulletins will be posted in the CRC CAPS system at the end of the thirty (30) day period advising engineers at that location of the number of engineers to be allocated exclusively to NSR and the number to be allocated exclusively to CSXT (or, in the case of the SAA, the number, if any, to be allocated to CRC). Such allocation will be made by accepting bids by certified mail from engineers at that location. At the expiration of fifteen (15) days, engineers will be assigned on the basis of their engineer seniority. Service needs of each Carrier left unfilled at the expiration of the bulletin period will be filled by those engineers remaining at the location.
- 3. For the purpose of this Article II(A) only, the term "actively employed" likewise encompasses those employees on leave(s) of absence, furloughed, sick and/or injured and returning to service from forms of discipline. Such employee upon returning to service shall have thirty (30)

Exhibit Four

Newark to Canal Bridge, MP 18.3 (Delmarva Br.); Ragan to Bridge (Shellpot Br.); Perryville to Fishing Creek, MP 20.3 (Port Road); Wilmington to Townsend, MP 29.0 including all trackage of the former Reading and Penn Central between Wilmington and switching limits of the Philadelphia Terminal; Perryville to Fishing Creek, MP 23 (Port Road); Newark, Del. to Reybold).

Delmar Zone

Embraces all yard service and all road service originating within the territory: Townsend, MP 29.0 to Pocomoke, MP 31.5 (Pocomoke Sec.); Harrington to Snow Hill.

Baltimore Zone

Embraces all yard service and all road service originating within the territory: Oak, MP 62.9 to Bowie, MP 120.5 (ML Philadelphia to Washington); Baltimore to Cockeysville, MP 14.7 (North Central Br.).

Washington Zone

Embraces all yard service and all road service originating within the territory: Bowie, MP 120.5 to Washington, D.C., (ML Philadelphia to Washington); Landover, MP 128.8 to Potomac Yd., (ML Landover to South Bend); Bowie to Morgantown (Pope's Creek Sec.) and Morgantown.

Article S-e-2 - ADVERTISEMENT

(a) New assignments, readvertised assignments, extra lists and vacancies shall be advertised every Wednesday. The advertising period shall close 11:59 P.M. the following Saturday, and assignments shall be made effective 11:00 A.M. the following Wednesday.

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Cyhibit Five

NOTE: In order to avoid any loss of time due to changing assignments, an engineer bidding from a regular assignment that is not under advertisement may remain on the assignment he has bid from for a period not to exceed 48 hours from the time the assignment becomes effective.

(b) The advertisement notice shall contain sufficient information to identify the assignments, the location of the designated officer of the Corporation to whom applications for assignments are to be sent, and the date and the time the advertisement period closes.

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(c) For assigned road service, the advertisement notice shall show the home terminal; whether it is on a straightaway or turnaround basis or a combination thereof and, where applicable, the away-from-home terminal or terminals; the days on which the assignment shall work; and the assigned reporting time.

(d) For pool service, the advertisement notice shall show the home terminal; the territory over which the pool shall operate; for each service operated by a pool, whether it is on a straightaway or turnaround basis or a combination thereof and, where applicable, the away-from-home terminal or terminals.

(e) For assigned yard service, the advertisement notice shall show the job number or symbol, the on-off duty point, the days off, and the on-duty time.

(f) Vacancies caused by sickness, temporary disability, suspension or leave of absence shall be advertised when it is anticipated that the engineer shall be off duty for a period of 30 calendar days or when such engineer has been off duty for a period of 30 calendar days.

(g) After an extra yard assignment has worked 5 consecutive days and started at the same reporting point and on the same trick, it shall be regarded as a new regular yard assignment and shall be subject to advertisement.

(h) Regular assignments, except in pool freight service, shall be readvertised when any of the following permanent changes are made in such assignments:

(1) Yard Service:

Changing the starting time 30 minutes or more.

Changing the points for going on and off duty.

Changing the rest days of an assignment.

Changing to road basis of pay or vice versa.



General Committee of Adjustment

Brotherhood of Locomotive Engineers.

Consolidated Rail Corporation

810 Abbott Road, Suite 200, Buttalo, New York 14220

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R. W. GODWIN, General Chairman THOMAS B. VASSIE, Secretary-Treasurer Telephone: (716) 827-2653 FAX: (716) 827-2655

January 11, 1999

Mr. Howard S. Emerick, Asst. V.P. Employee Relations - CSXT 500 Water Street J455 Jacksonville, FL 32202 FILE IN DOCKET

Norfolk Southern Three Commercial Place Norfolk, VA 23510-2191

Mr. David N. Ray, Asst. Vice President

Dear Sirs:

I am writing in regard to your joint letter of January 6, 1999, (copy attached) answering my joint letter to you gentlemen. The B.ofL.E.-Conrail-G.C.ofA. requests that we set up a date to meet and discuss very serious flaws in the Step One and Step Two Process at Buffalo, New York.

Please call my office to set up a meeting date and location. I remain

RWG:rm

C:

C. V. Monin, President
E. Dubroski, 1st Vice President
L. D. Jones, V.P. & Nat'l. Leg. Rep.
P. T. Sorrow, Vice President
E. W. Rodzwicz, Vice President
L. W. Sykes, District Chairman
W. A. Thompson, District Chairman
T. B. Vassie, Secretary/Treasurer
J. P. Chappelle, NJ Leg. Chairman
J. F. Collins, NYS Leg. Chairman
N. D. Hendrickson, PA Leg. Chairman
W. T. O'Brien, OH Leg. Chairman

Sincerely yours.

R. W. Godwin General Chairman

C. E. Way, IL Leg. Chairman G. J. Newman, MA Leg. Chairman W. M. Verdeyen, IN Leg. Chairman K. F. LeFauve, Local Chairman #382 J. F. Murphy, Local Chairman #421 W. I. Swart, Local Chairman #659 Linda Morgan, Chairperson - STB J. W. Snow, Chrm./CEO/Pres. D. R. Goode, Pres/Chrm./CEO - NS K. R. Peifer, Vice President - CSX R. S. Spenski, Vice President - NS T. K. Male, Dist Lead Mgr. CACD/CAPS January 6, 1999

Mr. R. W. Godwin, General Chairman Brotherhood of Locomotive Engineers 810 Abbott Road, Suite 200 Buffalo, NY 14220

Dear Mr. Godwin:

This refers to your letters of December 22, 1998 (with corrected copy ited December 29, 1998) addressed to the undersigned and your letter of December 17, 1998 addressed to Messrs. Peifer and Spenski which has been referred to us for response.

As you correctly note in your letters, the method of allocating locomotive engineers between CRC, CSX, and NS was derived from the Implementing Agreements reached between the parties. After reviewing the agreements, the process and your specific concerns, we believe that the allocation was completed in accordance with those agreements. While it is unfortunate that some engineers' seniority did not permit them to hold the railroad of their choice, it should be noted that the vast majority of engineers were allocated to their preferred Carrier.

Further, your proposal that engineers who were not allocated to the Carrier of their choice be given the opportunity to move to their Carrier of choice when additional engineers are promoted is not contemplated by the agreements. Moreover, this proposal is not in accordance with the UTU Implementing Agreements. No modification in this regard is possible, therefore, without the agreement of the UTU.

In light of all of the above, we do not believe it is appropriate to redo the process and are not agreeable to doing so. However, we are willing to meet to discuss the application of the Implementing Agreements if you so desire. Of course, if we are unable to reconcile our interpretations of the agreements, the recourse would be to arbitrate the matter. If you wish to meet to discuss the matter, please contact our offices so that a mutually agreeable date may be arranged.

H. SEmuik

H. S. Emerick

D. N. Ray

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

FILE IN DOCKET

January 27, 1999

Mr. David Goode Chairman, President and CEO Norfolk Southern Corporation **3** Commercial Place Norfolk, VA 23510-2191

Dear Mr. Goode:

Thank you for your timely and responsive answer to my letter regarding outstanding issues yet to be resolved between NS and CSX in anticipation of the Conrail acquisition split date. I commend your continued commitment to resolving these various matters privately and as expeditiously as possible, and I look forward to continuing to be kept apprised as appropriate.

I will have your joint letter made a part of the record in the Conrail acquisition proceeding, along with my letters to you.

Sincerely,

Linda J. Magan Linda J. Morgan



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

FILE IN DOCKET

January 27, 1999

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

Dear Mr. Snow:

Thank you for your timely and responsive answer to my letter regarding outstanding issues yet to be resolved between CSX and NS in anticipation of the Conrail acquisition split date. I commend your continued commitment to resolving these various matters privately and as expeditiously as possible, and I look forward to continuing to be kept apprised as appropriate.

I will have your joint letter made a part of the record in the Conrail acquisition

proceeding, along with my letters to you.

Sincerely,

inda, Morgan Linda J. Morgan



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

January 14, 1999

FILE IN DOLKET

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

Dear Chairman Morgan:

We are writing in response to your letters to us of December 14, 1998, in which you asked for information about what efforts are being made by CSX and Norfolk Southern to resolve outstanding issues prior to Day One.

For more than eighteen months, numerous teams from both NS and CSX have been working diligently on the plans for implementation of Day One. Both our railroads are absolutely committed to assuring that the commencement of separate operations over the former Conrail system is carried out in as smooth and professional a manner as is humanly possible. In the course of this process, our two railroads have grappled with and amicably resolved literally thousands upon thousands of issues. However, as might be expected in a transaction of this magnitude and complexity, we have not been able to agree on every single issue.

Following numerous attempts to resolve our differences on certain key elements of the Conrail transaction, CSX ultimately availed itself of the arbitration provisions of the Transaction Agreement. Thus far, CSX has filed eight arbitrations covering thirteen separate disputes.

Two of the thirteen disputes relate solely to financial matters and will have no effect on the feasibility or efficacy of implementing Day One operations. Another of the disputes concerns pre-Closing treatment of certain CSXI intermodal contracts covered by the Board's Decision 110 ruling in December of 1998. That dispute will also not affect the parties' ability to implement separate operations on Day One.

The remaining ten disputes all deal with operational matters. Of those ten, CSX and NS have agreed that two such matters (involving South Kearny Yard in New Jersey and Seneca Yard in Buffalo) will be arbitrated and resolved prior to Day One.

With respect to the remaining eight operational matters in dispute, the parties have agreed to try to work out temporary operating accommodations that will allow Day One operations to commence without delay. The parties have exchanged proposals for such temporary accommodations and those proposals are now under review by each of us. We have a high degree of confidence that these eight operating issues can be resolved in at least a temporary fashion that poses no threat to the full implementation of separate operations on Day One and that any subsequent rearrangements produced by arbitral decisions can be effected without significant disruption to the parties' respective operations.

Aside from these particular matters, as we continue to work towards Closing other issues may arise, which we will endeavor to resolve. Closing also requires necessary labor implementing agreements and certification that required IT systems are in place.

On a track parallel to the arbitrations, we continue to explore solutions to our disputes outside the context of arbitration.

Please be assured that we at NS and CSX recognize the enormous importance - not only to CSX and NS, but to the entire rail industry - of being able to accomplish a full and flawless implementation of separate operations on Day One. Both NS and CSX appreciate your interest in this matter and assure you that we are doing everything possible to prevent any missteps in achieving a successful implementation of Day One.

Very truly yours,

David R. Goode

John W. Snow



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

John W. Snow Chairman, President Chief Executive Officer SURFACE 20 ATATION FILE

January 14, 1999

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

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Very truly yours,

John W. Snow

Davia R. Goode



904 366 2902 TO B 1 202 565 9004 P.01/03

FACSIMILE TRANSMISSION



CSX TRANSPORTATION, INC. Law Department 500 Water Street Jacksonville, Florida

Telecopier No. (904) 366-2902

TO:

Name: Firm: Location: Fax Number: Vernon A. Williams Surface Transportation Board Washington, D.C. (202)565-9004

F033388

3 Pages (Including Cover)

FROM:

Name: Fred R. Birkholz Senior Counsel S/C J150 Phone: (904)359-1191

If problem with transmission, please contact SHIRLEY at (904) 359-1259.

Date: January 19, 1999

Time:

Subject:

Comments:

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law.

If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service.



Fred R. Birkholz* Senior Counsel

"Admitted in Iowa, Missouri, Kentucky and Maryland. Florida: Authorized House Counsel. Active in Kentucky, Maryland and Florida.

January 19, 1999

Via Fax: 202-565-9004 and U. S. Mail

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

(904) 359-1191

Law Department 500 Water Street Speed Code J-150 Jacksonville, FL 32202 Fax (904) 359-7518 Telephone (904) 359-3100 Writer's direct telephone line:

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 Mr. Williams:

In Decision No. 111 decided December 22, 1998, the Board extended until January 19, 1999 the time for Applicants, ISRR and IP&L to negotiate a mutually satisfactory solution to the milepost 6 interchange issue referred to in Decision 89.

CSXT hereby reports to the Board that CSXT, NS and ISRR have agreed that the NS/ISRR interchange for coal trains to IP&L's Stout Plant will occur at Crawford Yard. In addition CSXT and NS have agreed on the trackage rights necessary for NS to operate from Crawford Yard to the connection with the INRD track serving the Stout Plant. CSXT has been informed that the INRD has had discussions with NS, but has not yet reached agreement with NS regarding NS access to the Stout Plant. The Board will recall that INRD, a carrier in which CSX has a majority, but less than 100 per cent stock interest, has filed a Petition for Review of the Board's decision in this matter.

As to coal trains to/from the IP&L Perry K Plant, CSXT and ISRR have agreed that the interchange will occur at Crawford Yard.

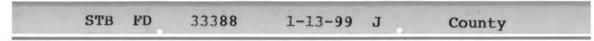
Very truly yours, R. Birkholz

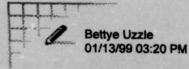
· · · ·

The Honorable Vernon A. Williams January 19, 1999 Page 2

cc(via fax and U. S. Mail):
Richard Allen, Norfolk Southern
Michael McBride, IP&L(202-342-1608)
(202-986-8143)
(202-783-6947)
John Broadley, INRDcc(202-783-6947)
(202-639-6066)

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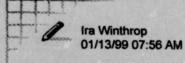




To: John McMorrow/STB@STB cc: Subject: web question

Mr. McMorrow, please file this in the docket , This is in reference to Docket No.FD- 33388 CSX. Thank you.

----- Forwarded by Bettye Uzzle/STB an 01/13/99 03:14 PM ----



To: Bettye Uzzle/STB@STB cc: Arlene Jeffcoat/STB@STB Subject: web question

User Feedback Page

All fields marked with are required

First Name		Stanley
Middle Initial		J
Last Name		Keysa
Company	0/	County of Erie
Address 1	C	95 Franklin St Rm 1062
Address 2		Buffaio, NY 14202
Phone Number		716-858-8557
Fax Number		716-858-7248
E-mail	•	keysas@bflo.co.erie.ny.us
E-mail	•	keysas@bflo.co.erie.ny.u

Comments

See attached

acsimile Cover Sheet

ax copies to:

Secretary, Surface Transportation Board

Stanley J. Keysa, Esq. Deputy Commissioner for Planning & Economic Development County of Erie 95 Franklin Street Buffalo, NY 14203

voice: 716-858-8557

fax: 716-858-7248

January 8, 1999

ages to follow: two (2)

egarding: "Regional & Local Authorities Committee to Promote Growth of Rail Traffic to and from the Greater Buffalo area."

t the request of Michael F. Brimmer, CSX Corp. Regional Vice President for State Relations, the meeting which had been scheduled for Wednesday, January 13th has been cancelled.

ou will be notified of an adjourned date as soon as it is scheduled.

egional and Local Authorities Committee to Promote Growth of Rail Traffic ame: Telepi	
tanley J. Keysa, Esq., Dep. Comm. for Planning & Economic Development	keysas@bflo.co.erie.ny.us
ounty of Erie, 95 Franklin St, Rm 1062, Buffalo, NY 14202	716-858-8557 716-858-7248
enneth J. Swanekamp, Director of Business Assistance	
ounty of Erie, 95 Franklin St, Rm 1060, Buffalo, NY 14202	716-858-6710 716-858-7248
onald Hayes, Admin. Asst. To Congressman Jack Quinn	
03 Main St, Rm 240, Buffalo, NY 14203	716-845-5257 716-847-0323
TC Mark Feierstein, Commanding Officer	
S Army Corps of Engineers, 1776 Niagara Street, Buffalo, NY 14207	716-879-4200 716-879-4195
DR Paul Preusse, Commanding Officer	
S Coast Guard, 1Fuhrman Boulevard, Buffalo, NY 14203	716-843-9528 716-843-9594
ichael J. Ziolkowski, Hazardous Materials Inspector	
S DOT, FRA Office of Safety, 111 West Huron St, Rm 909B, Buffalo, NY 1	4202 716-551-3955 716-551-3959
homas Blanchard (or Holly Sinnott)	4202 716-856-8111 716-856-1744
mpire State Development Corporation, 424 Main St, Ste 700, Buffalo, NY 1	4202 710-050-0111 710-050-1744
teve Slawik, Director of Economic Development Bureau (or Ron Lammerts)

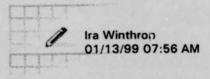
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ate:

YS Dept of Transportation, Bdlg 7A Rm 303, 1220 Washington Ave, Albany	12232 518-457-7331	518-485-5688
urt Felgemacher, Municipal Program / Rail Section YS Department of Transportation, 125 Main Street, Buffalo, NY 14203	716-847-3233	716-847-3080
am Ferraro, Commissioner of Planning and Economic Development (or Mich	ael Casale)	
ounty of Niagara, Niagara County Office Building, Lockport, NY 14094	716-439-7235	716-439-7267
Ian DeLisle President (or Kevin Greiner)		
uffalo Economic Renaissance Corporation, 620 Main Street, Buffalo, NY 142	716-842-6923	716-842-1779
nthony Schill, Director of Operations		
iagara Frontier Transportation Authority, 181 Ellicott St, Buffalo, NY 14203	716-855-7631	716-855-7466
harles Frederiksen, Executive Director (or Tim Trabold, Principal Analyst) reater Buffalo-Niagara Regional Transportation Council, 438 Main St, Ste 5		
ohn Cappellino, Project Manager 716-85	6-2026 716-856-3203	
rie County lundustrial Development Agency, 424 Main St, Ste 300, Buffalo, N	Y 14202716-856-6525	716-856-6754
ichael F. Brimmer, Regional VP, State Relations	Mike_Brimmer@csx.co	m
SX Corp., 101 Intrerchange Plaza, Ste 103, Cranbury, NJ 08512-9547		609-409-2045
R. (Russ) Hamilton, Regional Account Manager		
SX Transportation, Postal Station A, Box 695, Hamilton, Ont. L8N 3K7	905-574-0808	905-574-8536
dward Tucker, NE Regional Director of Industrial Development		
SX Corp., 100 N. Chambers St, Ste 200, Baltimore, MD 21201	410-613-6263	410-237-1807
erald Edward, Manager, Industrial Development @ Buffalo		
SX Corp., Reiman Street, Sloan, NY 14212	716-891-6054 716-89	1-6054
lexander H. Jordan, Corporate Affairs and Strategic Planning		
orfolk Southern Corporation, 210 North Ave, New Rochelle, NY 10801-6402 TB-CSX.WPD (12/15/98) Type 1	914-632-7771	914-632-3412

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To: Bettye Uzzle/STB@STB cc: Arlene Jeffcoat/STB@STB Subject: web question

FD 33388

User Feedback Page

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First Name Middle Initial Last Name Company Address 1 Address 2 Phone Number Fax Number E-mail Stanley
 J
 Keysa
 County of Erie 95 Franklin St Rm 1062 Buffalo, NY 14202
 716-858-8557 716-858-7248
 keysas@bflo.co.erie.ny.us

Comments

See attached

acsimile Cover Sheet

ax copies to:	Secretary, Surface Transportation Board
rom:	Stanley J. Keysa, Esq. Deputy Commissioner for Planning & Economic Development County of Erie 95 Franklin Street Buffalo, NY 14203
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Regional and Local Authorities Committee to Promote Growth of Rail Traffic to and from the Greater Buffalo area." ame: **Telephone:** Fax: tanley J. Keysa, Esq., Dep. Comm. for Planning & Economic Development keysas@bflo.co.erie.ny.us 716-858-8557 716-858-7248 ounty of Erie, 95 Franklin St, Rm 1062, Buffalo, NY 14202 enneth J. Swanekamp, Director of Business Assistance ounty of Erie, 95 Franklin St, Rm 1060, Buffalo, NY 14202 716-858-6710 716-858-7248 onald Hayes, Admin. Asst. To Congressman Jack Quinn 03 Main St, Rm 240, Buffalo, NY 14203 716-845-5257 716-847-0323 TC Mark Feierstein, Commanding Officer S Army Corps of Engineers, 1776 Niagara Street, Buffalo, NY 14207 716-879-4200 716-879-4195 **DR Paul Preusse, Commanding Officer** S Coast Guard, 1Fuhrman Boulevard, Buffalo, NY 14203 716-843-9528 716-843-9594 ichael J. Ziolkowski, Hazardous Materials Inspector S DOT, FRA Office of Safety, 111 West Huron St, Rm 909B, Buffalo, NY 14202 716-551-3955 716-551-3959 homas Blanchard (or Holly Sinnott) mpire State Development Corporation, 424 Main St, Ste 700, Buffalo, NY 14202 716-856-8111 716-856-1744 teve Slawik, Director of Economic Development Bureau (or Ron Lammerts) YS Dept of Transportation, Bdlg 7A Rm 303, 1220 Washington Ave, Albany 12232 518-457-7331 518-485-5688 urt Felgemacher, Municipal Program / Rail Section YS Department of Transportation, 125 Main Street, Buffalo, NY 14203 716-847-3233 716-847-3080

am Ferraro, Commissioner of Planning and Economic Development (or Michael Casale)

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orfolk Southern Corporation, 210 North 914-632-3412	Ave, New Rochelle, NY 10801-6	914-632-7771
TB-CSX.WPD (12/15/98)	Туре 1	

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FILE IN DOCKET

P.O. Box 102 La Belle, PA 15450 January 5, 1999

Mr. J. F. Glass Senior Director – Labor Relations Consolidated Rail Corporation 2001 Market Street Philadelphia, PA 19101

Mr. A. P. Santoro, Jr. General Chairman Transportation Communications Union System Board of Adjustment No. 86 309 A Street Wilmington, DE 19801 SURFACE TRANSPORTATION

RE: STB Finance Docket 33388 and ICC finance Docket No. 31875

Gentleman:

Please consider this letter as my formal protest of the Implementing Agreement as negotiated between the Carrier(s) involved, CSX Corporation and CSX Transportation Inc., Norfolk Southern Corporation and Norfolk southern Railway Co. Control and Operating Leases/Agreements, Conrail Inc. and Consolidated Rail Corporation, and the Organization, Transportation- Communications International Union, Finance Docket 33388.

On December 2, 1998, I was forced to pick an employment location, to be effective on the "split date", which I did under protest. At that time, I was instructed that I must make a pick of jobs within the merged operation and that I should file a letter of protest should I choose to do so. This was done by telephone conversation with TCU Vice General Chairman James Poniger.

It is my position that I am covered by the New York Dock Protective Conditions as imposed by the Interstate Commerce Commission and agreed to by Conrail Corporation under Finance Docket No.31875 which merged the Monongahela Railway Company into Conrail. The protection period commenced on June 1, 1993 and was to run for six-year period through May 1999.

Now, I am being told that I must accept a position in Mt. Laurel, NJ in order to retain this NYD protection. Under the Monongahela Railway – Conrail Implementing Agreement, I was only required to accept employment, first, on the former Monongahela Railway Co. property and if not available, exercise seniority within Seniority District No. 13, (Conrail Pittsburgh District).

It is my position that the Implementing Agreement negotiated under STB Docket No.33388 cannot supersede the rights afforded me under protective benefits under ICC Docket 31875 and place me in a worse position with regard to compensation and work location than that agreed to effective October 10, 1991.

The acquiring Carriers, CSX and NS, have agreed to assume the debts, obligations and contracts of Conrail Corporation. I feel that in fairness to myself, my benefits under NYD should be maintained through the original six-year period ending June 1, 1999. Further, If the Split dates occurs prior to June 1, 1999; I should be afforded the options granted under ICC Docket 31875, since Conrail will cease to exist at this time. Therefore I feel I should be entitled to severance pay under requirements of New York Dock Protective Conditions as imposed by the ICC under finance Docket 31875.

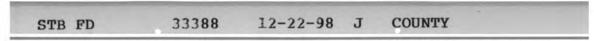
Will you kindly acknowledge receipt and advise your position on this matter so that I can properly pursue any and all remedies available to me? Thank you for your consideration in this matter.

Yours truly,

Yours truly, Richard R. Imacch

Richard A. Komacek

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





County of Erie

DENNIS T. GORSKI COUNTY EXECUTIVE

DEPARTMENT OF ENVIRONMENT AND PLANNING

RICHARD M. TOBE

December 15, 1998

Government Invitees (see attached list)

Re: "Greater Buffalo Area Regional and Local Authorities Committee"

Pursuant to the direction of the federal Surface Transportation Board in its decision of July 23, 1998 regarding the sale of Conrail to CSX and Norfolk Southern, I again invite you to come together to discuss issues relating to increasing the use of rail for regional economic development. As with the initial meeting on October 27, 1998, this meeting will not retry the issues involved in the pending appeal by the Erie/ Niagara/ Chautauqua Rail Steering Committee (ENCRSC) of the STB decision.

Both Michael F. Brimmer (CSX Corporation Regional Vice President for State Relations) and Alexander H. Jordan (Corporate Affairs and Strategic Planning for Norfolk Southern Corporation) have asked that the GBARLAC use this meeting to listen to their concerns and ideas on relieving congestion at CP Draw. Please notify me of any additional items you want discussed.

This second meeting is scheduled for 1:30 pm on Wednesday, January 13, 1998 at the Advanced Training Center, 275 Oak Street between Genesee and Sycamore, in downtown Buffalo. Free parking is available on the east side of the building. Kindly confirm whether you or a representative will be able to participate in this initial meeting by leaving a message with my office at 858-8557.

Very truly yours,

STANLEY J. KEVSA Deputy Commissioner for Planning & Economic Development

SJK:ms

cc: Surface Transportation Board Michael F. Brimmer Alexander H. Jordan Hon. Dennis T. Gorski

ERIE COUNTY OFFICE BUILDING, 95 FRANKLIN STREET, BUFFALO, NEW YORK 14202 (716) 858-8390 FAX (716) 858-7248 . INTERNET . www.erie.gov

Excerpt from Decision, STB Fin Doc 33388, 7/23/98 @ pg 88:

Other Pemedies. Following a request made by Chairman Morgan at the close of oral argument, CSX proffered a number of additional conditions and representations that it agreed could be imposed to accommodate concerns raised by parties in the Buffalo area. Even though we do not think that these proferred conditions and representations in and of themselves would be adequate to addres: the concerns of the Buffalo parties, they are clearly beneficial and complement the procompetitive conditions we are imposing for Buffalo.

1. As discussed previously, we will require CSX to adhere to the agreements it has separately reached with CN and CP/D&H providing both lower switching fees in the Greater Buffalo area and increased access to these carriers for cross-border, truck-competitive traffic

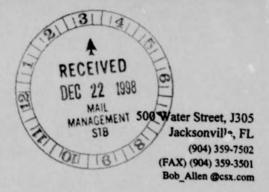
2. We will also require CSX to meet with regional and local authorities in the Buffalo area to establish a committee to promote the growth of rail traffic to and from the Greater Buffalo area. The committee will meet periodically to address the region's industrial and economic development goals and opportunities for Jiversion of truck traffic to rail, as consistent with safe, efficient, and profitable rail service.

3. We will hold CSX to all of its representations related to the Buffalo area, most notably those regarding its plans for investment in new connection: and upgraded facilities in the Buffalo area, including: (1) upgrading Conrail's existing computer technology and fueling facilities at Buffalo; (2) maintaining or increasing current employment levels in the Buffalo area; (3) providing overhead trackage rights to NS through Buffalo to Suspension Bridge; (4) working with NS and other carriers operating in the Buffalo area to schedule switching and through movements within the area's rail network so as to reduce congestion at points such as CP Draw; and (5) investing substantial funds in network improvements to reduce shipping time and enhance service reliability for rail shippers in the Greater Buffalo area.

Finally, while we believe the competitive and other benefits resulting from our approval of this transaction will reduce rates and enhance service for rail shippers in the Buffalo area, we have decided to take the additional step of initiating a 3-year rate study to assess whether our assessment proves to be correct, or whether Buffalo-area shippers will be subjected to higher rates because of this transaction.



Robert V. Allen Gen Mgr. Safety, Env. & Oper. Practices



December 11, 1998

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:

Pursuant to Environmental Condition 9 of Decision No. 89, served July 23, 1998 (Appendix Q at page 399), CSX hereby notifies the Surface Transportation Board that CSX successfully completed negotiations with the City of Garrett and the Indiana Department of Transportation regarding construction of a grade separation of Randolph Street and the CSX rail line in Garrett, Indiana. Construction of that grade separation is currently in progress.

Please contact me (904-359-7502) if you have any questions.

Respectfully yours,

Robert V. Allen

cc: Elaine K. Kaiser, Chief, Section of Environmental Analysis Phelps H. Klika, Chief, INDOT Division of Design



92763 ...



Robert V. Allen Gen Mgr. Safety, Env. & Oper. Practices

Office of the Secretary

DEC 9 1 1998

Part of Public Record

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

500 Water Street, J305 Jacksonville, FL

(904) 359-7502

(FAX) (904) 359-3501

Bob Allen @csx.com

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

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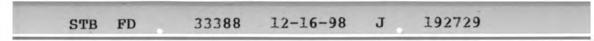
Please contact me (904-359-7502) if you have any questions.

Respectfully yours,

Vh

Robert V. Allen

cc: Elaine K. Kaiser, Chief, Section of Environmental Analysis Phelps H. Klika, Chief, INDOT Division of Design



192729

LEBOEUF, LAMB, GREENE & MACRAE

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) 986-6000 TELEX: 440274 FACSIMILE: (202) 986-8102

> WRITER'S DIRECT DIAL: (202) 986-8050

December 11, 1998

LOS ANGELES NEWARK PITTSBURGH PORTLAND, OR SALT LAKE CITY SAN FRANCISCO BRUSSELS PARIS MOSCOW ALMATY LONDON ALPARTMENSHIP

SÃO PAULO IN ASSOCIATION WITH TAVARES GUERREIRO ADVOGADOS

VIA FACSIMILE

Surface Transportation Board Office of the Secretary 1925 K Street, N.W., Seventh Floor Washington, DC 20423-0001 Attn: Mr. Cambridge A RECEIVED DEC 16 | 1998 MARA MANAGEMENT STU

Re: Finance Docket No. 33388 -- Change to Service List

Dear Mr. Cambridge:

Please remove the following name from the official service list in the abovereferenced matter:

> Linda Breggin, Esq. LeBoeuf, Lamb, Greene & MacRae, L.L.P. 1875 Connecticut Avenue, N.W. Washington, D.C. 20009-5728

Citice of the Secretary

Sincerely,

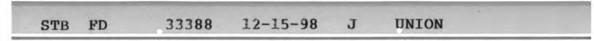
michael & meBicle

DEC 16 1998

Part of Public Record Michael F. McBride Brenda Durham

Attorneys for American Electric Power Service Corporation, Indianapolis Power & Light Company, The Fertilizer Institute

cc: All Parties of Record



FILE IN DOCKET



Office of the Chairman

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

78-33388

December 15, 1998

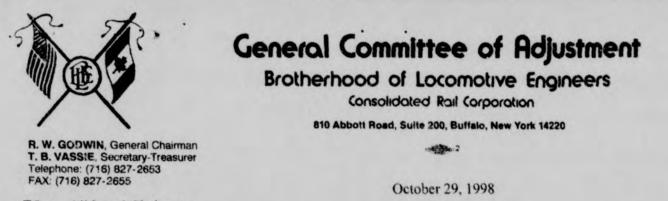
Mr. R.W. Godwin General Chairman Brotherhood of Locomotive Engineers 810 Abbott Road Suite 200 Buffalo, NY 14220

Dear Mr. Godwin:

Thank you for sending me a copy of the letter you sent to your members regarding manpower needs and safety issues arising from the acquisition of Conrail. I also note that you have sent a copy of your letter to Mr. John Snow and Mr. David Goode, for their information. I appreciate your keeping me informed about this matter. I will have this material made a part of the public record in that proceeding.

Sincerely,

inda J. Magan Linda J. Morgan



TO: All Local Chairmen

Dear Sirs and Brothers:

Enclosed you will find a copy of a letter I sent to Norfolk Southern, Assistant Vice President, David Ray, concerning the errors the NS made in manpower needs at Shire Oaks, Waynesburg and East of Conway, PA. I thank Brother Bob Woodruff for his astute calculations of the manpower (Locomotive Engineers) in regard to a safe operation of handling the freight that we handle presently and the influx of freight when the NS takes over.

Seven (7) Brothers were killed on the Union Pacific because they, like the NS and CSXT, had grossly underestimated the number of people they needed to move the traffic. With this in mind, I am requesting that each and everyone of you take a long hard look at the proposed manpower the NS and CSXT are proposing. Then, estimate the number of people you honestly believe you need to safely man the trains (Yard Jobs and Extra Boards). Take a close look at how short you are in your present Pools and Extra Boards. Look at how many Student Locomotive Engineers and Conductors are ready to step up immediately and how many weeks, months or year(s) it will take for the rest to become qualified Locomotive Engineers and Conductors.

If the UTU representatives want to provide the short comings in manpower in the craft of Conductor/Brakeman, please feel free to forward this information to this office. I would be proud to address these concerns. Brothers and Sisters, we need your help and we need it now. No one knows your shortages of manpower or the unsafe conditions like you do. Reporting manpower shortages or unsafe conditions after some one is injured or killed is too late. I remain

Fraternally your duri Godwin

General Chairman

N. D. Hendrickson, PA Leg. Chairman W. T. O'Brien, OH Leg. Chairman R. T. Pentland, DofC Leg. Chairman J. G. Small, IL Leg. Chairman G. J. Newman, MA Leg. Chairman W. M. Verdeyen, IN Leg. Chairman Post Copies to Local Chairmen J. W. Snow,. Pres/Chrm./CEO - CSX D. R. Goode, Pres/Chrm./CEO - NS

RWG:rm

C:

C. V. Monin, President
E. Dubroski, 1st Vice President
L. D. Jones, V.P. & Nat'l. Leg. Rep.
E. W. Rodzwicz, Vice President
L W. Sykes, District Chairman
W. A. Thompson, District Chairman
T. B. Vassie, Secretary/Treasurer
J. P. Chappelle, NJ Leg. Chairman
J. F. Collins, NYS Leg. Chairman



General Committee of Adjustment

Brotherhood of Locomotive Engineers

Consolidated Rail Corporation

810 Abbott Road, Suite 200, Buffalo, New York 14220

R. W. GODWIN, General Chairman THOMAS B. VASSIE, Secretary-Treasurer Telephone: (716) 827-2653 FAX: (716) 827-2655 -2

October 29, 1998

Mr. David N. Ray, Asst. Vice President Norfolk Southern Three Commercial Place Norfolk, VA 23510-2191

Dear Sir:

I received a call from B.ofL.E. Local Chairman, Robert T. Woodruff, Division #325, Division of Jurisdiction East of Conway. Brother Woodruff, after studying the information provided by NS in regard to the operation East of Conway, stated that NS has understated the numbers of Locomotive Engineers they need to support their operation at Shire Oaks, Waynesburg and Conway East.

Difference in the breakdown is as follows:

LOCATION Shire Oaks	NS NUMBER 57 Locomotive Engineers	REALITY NUMBER Based on the jobs working and the present shortage at Shire Oaks, Brother Woodruff states the NS will need 73 Locomotive Engineers for a safe operation.
Waynesburg	43 Locomotive Engineers	Based on the jobs working and the present shortage at Waynesburg, Brother Woodruff states the NS will need 53 Locomotive Engineers for a safe operation
Conway East	131 Locomotive Engineers	Based on the present jobs working and the present shortage at Conway East, Brother Woodruff states the NS will need 151 Locomotive Engineers for a safe operation.

We, the B.ofL.E.-Conrail-G.C.ofA. learn from our past and from our errors. The Union Pacific Ry. low balled the amount of employees and seven (7) of our Brothers and Sisters died tragic deaths. We do not want a repeat performance on what is now Conrail.

My expert in the Shire Oaks, Waynesburg and Conway East is Bob Woodruff. He has been adjusting the Extra Board and Pools in Conway East for over ten years. Things are so bad in regard to the number of Locomotive Engineers in these areas, he has Freight Pools that need more Locomotive Engineers. However, if he increases the Pools, he has no one to protect the Extra Boards.

WE ARE NOT GOING TO DIE FOR THE RAILROADS ANYMORE

With the influx of NS traffic through Conway, the situation will go from bad to worse. When this happens, we are looking at a Union Pacific like calamity. 1 urge you to contact your NS Operating people and order them to re-assess your numbers, not only in Shire Oaks, Waynesburg and Conway East, but every area you intend to take over in the next four to six months. An ounce of prevention is worth more than a pound of cure. The Members of the B.ofL.E.-Conrail-G.C.ofA. do not want to attend funerals or memorials because the NS and CSXT did a hurry-up half ass assessment of their manpower needs when they takeover Conrail.

Thanking you in advance for your time and effort, and requesting a written reply, I remain

RWG:rm

c:

C. V. Monin, President E. Dubroski, 1st Vice President L. D. Jones, V.P. & Nat'l. Leg. Rep. E. W. Rodzwicz, Vice President L. W. Sykes, District Chairman W. A. Thompson, District Chairman T. B. Vassie, Secretary/Treasurer J. P. Chappelle, NJ Leg. Chairman J. F. Collins, NYS Leg. Chairman N. D. Hendrickson, PA Leg. Chairman W. T. O'Brien, OH Leg. Chairman R. T. Pentland, DofC Leg. Chairman J. G. Small, IL Leg. Chairman G. J. Newman, MA Leg. Chairman W. M. Verdeyen, IN Leg. Chairman All Local Chairmen - With Post Copy William Clinton, President - USA Arlen Specter, Senator Rick Santorum, Senator Thomas M. Foglietta, Representative Chaka Fattah, Representative Robert A. Borski, Representative Ron Klink, Representative

Sincerely yours

R. W. Godwin General Chairman

> John E. Peterson, Representative Tim Holden, Representative Curt Weidon, Representative Jim Greenwood, Representative Bud Shuster, Representative Joseph M. McDade, Representative Paul E. Kanjorski. Representative John P. Murtha, Representative Jon D. Fox, Representative William J. Coyne, Representative Paul McHale, Representative Joseph R. Pitts, Representative George W. Gekas, Representative Mike Doyle, Representative William F. Goodling, Representative Frank R. Mascara, Representative Philip S. English, Representative Tom Ridge, Governor of PA Linda Morgan, Chairman STB Jolene Molitoris, Administrator FRA J. W. Snow, Pres/Chrm./CEO - CSX D. R. Goode, Pres/Chrm./CEO - NS

WE ARE NOT GOING TO DIE FOR THE RAILROADS ANYMORE





Office of the Ubairman

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

December 14, 1998

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

Dear Mr. Snow:

As we all know, much work is being done in anticipation of Day One, when the Conrail split is effectuated pursuant to the Board's approval of the Conrail acquisition by CSX and Norfolk Southern (NS). The Board is specifically monitoring various aspects of the implementation, including progress on labor implementing agreements, information technology, infrastructure and capacity improvements, and environmental and safety activities. In addition, the Board continues to render decisions as necessary to implement conditions imposed by it in approving the Conrail acquisition.

The Board is aware that there are implementation matters that are not formally before it but that continue to be under discussion between CSX and NS in anticipation of Day One. As you know, one such issue involving two CSXI intermodal contracts has recently become the subject of a pending Board proceeding. As the Board has stated in prior decisions, it continues to be interested in ensuring that all details of the transaction as approved by the Board are finalized sufficiently in advance of Day One to ensure as smooth a transition as possible. In this regard, the Board is concerned about service disruptions and the less than full implementation of the Board's decision that might occur because important and fundamental issues remain unresolved between CSX and NS.

As it has also repeatedly stated, the Board would hope that CSX and NS could resolve any such remaining matters between them. I am certain that substantial efforts are underway to address the key issues that appear to remain unresolved. I would appreciate it if you would inform me as to what these efforts are, and when these issues might be resolved. I would be interested in your response as soon as possible, and given that Day One could be as early as March 1, 1999, I would appreciate hearing from you by January 15, 1999. I know you share my interest in ensuring that the Conrail acquisition is implemented as smoothly as possible. Thank you for your prompt attention to this matter. If I may be of further assistance, please do not hesitate to contact me.

.

.. .

Sincerely,

Linda J. Mayan

Linda J. Morgan



STANLEY BOSTITCH

Knollwood Drive P. O. Box 911 Clinton CT. 06413-0911 Ph. (860) 669-8618 / Fax. (860) 669-4084

Dec. 03, 1998

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

Dear Secretary Williams,

In my capacity as Plant Manager for Stanley Bostitch in Clinton, CT, I am responsible for the procurement of raw material, primarily wire rod, for our Plant's usage.

Although we have rail receiving capability the vast majority of our rod is received via truck, our major supplier being located in Perth Amboy, New Jersey. This supplier ships approximately 70,000 tons of material to our Plant on an annual basis. Because of a circuitous rail routing, truck has been the mode of choice and necessity. This tonnage equates to approximately 3,000 truck trips annually between Perth Amboy, N.J. and Clinton, CT now moving via Route I-95.

Stanley Bostitch supports actions that would introduce additional rail competition over the Northeast Corridor between New Haven, CT and Fresh Pond, NY, in that such actions could provide a time competitive option, versus truck, for the movement of wire rod from New Jersey to Connecticut. It is our hope that by providing such competition the STB would provide an incentive to the railroads to pursue this traffic and thereby provide Stanley Bostitch with the benefits intended of the Conrail acquisition.

Sincerely,

Michael McColgan

Michael McColgar Plant Manager





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

Office of the Chairman

December 14, 1998

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

Dear Mr Goode:

As we all know, much work is being done in anticipation of Day One, when the Conrail split is effectuated pursuant to the Board's approval of the Conrail acquisition by Norfolk Southern (NS) and CSX. The Board is specifically monitoring various aspects of the implementation, including progress on labor implementing agreements, information technology, infrastructure and capacity improvements, and environmental and safety activities. In addition, the Board continues to render decisions as necessary to implement conditions imposed by it in approving the Conrail acquisition.

The Board is aware that there are implementation matters that are not formally before it but that continue to be under discussion between NS and CSX in anticipation of Day One. As you know, one such issue involving two CSXI intermodal contracts has recently become the subject of a pending Board proceeding. As the Board has stated in prior decisions, it continues to be interested in ensuring that all details of the transaction as approved by the Board are finalized sufficiently in advance of Day One to ensure as smooth a transition as possible. In this regard, the Board is concerned about service disruptions and the less than full implementation of the Board's decision that might occur because important and fundamental issues remain unresolved between NS and CSX.

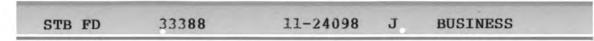
As it has also repeatedly stated, the Board would hope that NS and CSX could resolve any such remaining matters between them. I am certain that substantial efforts are underway to address the key issues that appear to remain unresolved. I would appreciate it if you would inform me as to what these efforts are, and when these issues might be resolved. I would be interested in your response as soon as possible, and given that Day One could be as early as March 1, 1999, I would appreciate hearing from you by January 15, 1999.

I know you share my interest in ensuring that the Conrail acquisition is implemented as smoothly as possible. Thank you for your prompt attention to this matter. If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

nda J. Morgan

Linda J. Morgan





Office of the Chairman

Burface Transportation Board Bashington, B.C. 20423-0001

FILE IN DOCKET

November 24, 1998

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

Dear Mr. Snow:

Enclosed is a letter from Mr. George T. Casey, Director/Chairman of the UTU Massachusetts/RI State Legislative Board, that includes a letter to CSX Transportation Operating Department employees from Mr. Ronald J. Conway, Executive Vice President - Operations for CSX'f. Mr. Casey questions the cause of crew mark-offs as presented by Mr. Conway in his letter, and has sought advice from the Surface Transportation Board (Board) on the matter as part of the Board's oversight of the Conrail Acquisition proceeding.

Given your commitment, as well as that of the Board and other involved parties, to ensuring a safe and efficient implementation of the recently approved Conrail Acquisition, I have advised Mr. Casey that I would be asking you to respond to the concerns that he has raised. Please assist the Board by responding to us by December 2, 1998.

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

Sincerely,

Linda J. Magan

Linda J. Morgan

Enclosure



Office of the Chairman

Burface Transportation Board Bashington, D.C. 20423-0001

November 24, 1998

FILE IN DOCKET

Mr. George T. Casey Director/Chairman UTU Massachusetts/RI State Legislative Board 42 Oak Knoll Road Natick, MA 01760

Dear Mr. Casey:

Thank you for your letter expressing concern over safety, service, and crew mark-offs on the CSX rail system. You have included a letter from Mr. Ronald J. Conway, Executive Vice President - Operations for CSXT, regarding the situation.

Specifically, you question the cause of the crew mark-offs as presented by Mr. Conway, and you ask advice from the Surface Transportation Board (Board) on the matter as part of the Board's oversight of the Conrail Acquisition proceeding. I am forwarding your letter and Mr. Conway's attached letter to Mr. John Snow, Chairman, President, and Chief Executive Officer of CSX Corporation, and I am asking Mr. Snow to respond by December 2, 1998, to the questions you have raised. After I have received Mr. Snow's response, I will be back in touch with you.

I appreciate your concern over this matter, and I assure you that the Board remains committed to the safe and efficient implementation of the recently approved Conrail Acquisition. In that regard, I will have your letter and my response made a part of the public docket.

Sincerely,

Linda & Moyan

Linda J. Morgan

George T. Casey Legislative Director

42 Oak Knoll Road Natick, MA 01760 office 508-875-5933 home 508-653-3160



FILE IN DOCKET

united transportation union

Massachusetts/Rhode Island State Legislative Board LO-024 AFL-CIO

AMTRAK-CONRAIL-SPRINGFIELD TERMINAL-QUINCY BAY TERMINAL-PROVIDENCE & WORCESTER-NEW ENGLAND CENTRAL

October 26, 1998

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

Subject: Conrail Break-Up

Dear Chairperson Morgan:

CH	Oct	SUR
CHAIRMAN	Oct 29	SURFACE
N.M.	ω	BOARD
MORGAN	3 01 PM .36	RD
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Attached please find a letter received by the undersigned from Mr. Ronald J. Conway, Executive Vice President-Operations, CSX, citing his concerns regarding " their ability to consistently provide good service to customers due to excessive crew mark-offs". The UTU Massachusetts Legislative Board shares his concern, but not for the same reasons.

The only purpose this letter can serve, is to advance the Carriers' strategy of blaming the operating department employees in advance for what they perceive to be a "Union Pacific-East" scenario when the actual "split" date arrives. Mr. Conway cites hiring of over 1500 T & E employees this year; what he fails to reveal is how many they have retained. He further suggests that crew mark-offs are impacting the operation. Does any of this sound familiar ?

The Surface Transportation Board has retained jurisdiction over this transaction for the purposes of "safety oversight" and I would suggest that the alleged "excessive crew mark-offs" Mr. Conway refers to are the result of crew shortages caused by both lack of new employees and fatigue from those already employed and stretched to the productive/safe limits.

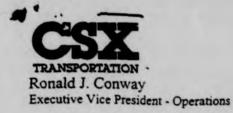
Would you please acknowledge and advise.

Verytruly yours,

Jenue

George 7. Casey, Director/Chainman UTU Massachusetts/RI State Legislative Board

cc: C. L. Little, International President UTU J. M. Brunkenhoefer, NLD UTU Conrail UTU General Chairmen Conrail SLD's



500 Water Street Jacksonville, FL 32202 (904) 359-7695 Fax: (904) 359-7674

October 8, 1998

Dear Fellow Operating Department Employee:

As we start the Fall season, we are facing a number of significant challenges. One of the most compelling is our need to improve safety. During September alone, 160 teammates suffered some degree of injury making this one of the worst safety months in recent CSXT history. This poor performance has relegated us to <u>last place</u> among the major freight railroads. In terms of train accidents, the overall number is down. Yet there were about 60 human factor derailments in September as a result of noncompliance with Operating Rules 103 and 104. About 57 percent of those involved in these incidents had over 15 years' service. Such numbers do not reflect the level of professionalism I know we have as a railroad team.

So where do we go from here? First and foremost, I need your help. To get started, I recently implemented a "Vice President's Safety Team" in which my top VPs spend two days in the field, watching, learning, listening, and talking about safety. The labor union leaders are included in the team. So far, the VP team has been to the FBU, COBU, and Jacksonville Service Lane, and met with over 1,800 craft teammates and identified 227 projects to improve safety. For example, we know there are serious concerns with the field training of new hires. To address this, I have asked Jim Schultz, VP and Chief Safety Officer, to work with rail labor and general managers to develop a collaborative on-the-job training partnership. Another common area of concern is with crew resources management. In this arena, Susan Hamilton, General Manager - Train Crew Utilization, has been engaged in a number of initiatives with labor representatives and the FRA to improve the system. For example, during the fourth quarter we will have in place a pilot project allowing home access via the internet to the crew management data base. Thanks to preliminary testing by 25 T&E volunteers, we identified several technology issues to address prior to the rollout of this product. You will continue to see improvements in our crew management area as a result of the ongoing efforts.

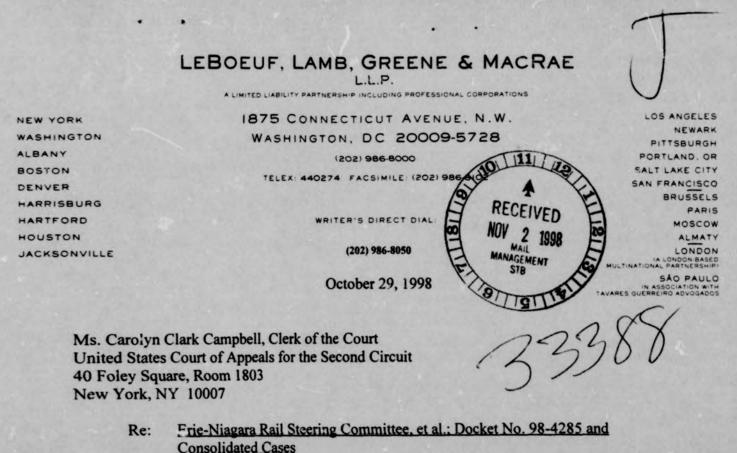
Another challenge is our inability to consistently provide good service to customers due to excessive crew markoffs in some areas. This is particularly moubling since we have hired over 1,500 T&E employees this year at a cost of about \$4.5 million. We pay about \$500,000 a week in extra board guarantees, and have about 159 on reserve boards. Despite the extensive hiring and extra board people, we still delayed 41 trains awaiting crews on September 29 - a typical weekday for us. Weekends and holidays are even worse. We can't continue this way. We are unable to serve our customers and we are facing the loss of business to competition - be it trucks or the NS. Why is this happening and how can we fix it?

We are working with the labor leaders and FRA to revitalize our railroad. The new compact is designed to promote a new way of doing business based upon trust. The new development policy is a good example. But if this approach is to work, we need to show it through results. We need to win - to be the best in safety and service. There are those who are questioning our resolve and our basic railroading abilities based upon the results I outlined above.

I need your input and suggestions so we can make the breakthrough in safety and service performance. Please feel free to contact me via company e-mail, or via my internet e-mail address Ron_Conway@csx.com, or write me a note at the address on this letterhead. I will respond. Together we can make CSXT the premier rail service provider.

Yours truly,





<u>_____</u>

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 <u>National Industrial Transportation League</u> <u>v. Surface Transportation Board and United States of America</u>, 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 7 Me Bride

Michael F. McBride Attorney for The Fertilizer Institute

cc(w/encl.): All Parties of Record

ERIE NIAGARA RAIL STEERING	COMMITTEE	et al.) e subporting o	fidevit (Lec	al Rule 27
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v.			NOTICE OF N	INTION	
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etterney in charge of cases			firm and of mon	NET IN Charge	
Michael F. McBride, Esq.	-		Louis Mackall, Esg.		
LeBoeuf, Lamb, Greene & Ma 1875 Connecticut Avenue, N	cRae, LLP	1200	Office of General Counse	1	
Washington, D.C. 20009-57	.w., Suite	1200	Surface Transportation E 1925 K Street, N.W.	board	
(202) 986-8000			Washington, D.C. 20423-	0001	
las consent of opposing counsel.	n page 2)		(cont'd on page 2)		
A. been sought?	E Ya	3 No	EMERGENCY MOTIONS. MOTIONS FO		
B. been obtained?	A Yes	O No	INJUNCTIONS PENDING APPEAL	-	
las service been effected?	E Ye	3 No	Has request for relief been made below?		
s oral argument desired?	U Yes	2 No	(See F.R.A.P. Rule &)	C Ye	O No
(Substantive motions only)			Would expedited appeal eliminate need		
aquested return date:			for this motion?	0 Ye	CNO
(See Second Circuit Rule 27(b))			If No, explain why not:		~ ~
las argument date of appeal been set:				•	
A. by scheduling order?	O Ye	K No			
B. by firm date of argument notice?	O Ye	No No	Will the purties agree to maintain the		
C. If Yes, enter date:		-	status quo until the motion is heard?	JYe	O No
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Surface Transportation Bo	ard				
rief statement of the relief requested:		1000		2	
Intervention as of right.					
intervention as of right.					
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ORDER

The Fartilizer Institute

Defention RI. O Plaintif CDe

Signed name must	-	primed	benes
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Michael F. McBride

October 29, 1998

Kindly leave this space blank

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IT IS HEREBY ORDERED that the motion be and it hereby is

mand Annial Previous requests for similar relief and disposition:

None.

Statement of the issuets) 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):

Intervention is permitted as a matter of right under 28 U.S.C. § 2323.

. . . .

CONT. from page 1

Dennis G. Lyons,	Esq.	Richard Allen, Esq.
Arnold & Porter		Zuchert, Scoutt & Rasenberger
555 12th Street,	N.W.	888 17th Street, N.W., Suite 600
Washington, D.C.	20004-1202	Washington, D.C. 20006-3939

RULES OF THE UNITED STATES COURT OF APPEALS for the SECOND CIRCUIT supplementing

Federal Rules of Appeilate Procedure

Lucal Rule 27 Motions

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(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. Attidavits 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 permussion 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.

4

Office & Paris Office Address & Lefephune Number

· (Note: Local Rule 27 (3) supercedes and requires four copies.)

Income 98-4285 Muiled States Count of Appeals I OR THE SACOND CIRCUIL I DR ATL STEERING MMITTEE, et al., Petitioners,	AIL STEERING <u>al</u> ., Petitioners,	RFACE TRANSPORTATION BOARD and e UNITED STATES OF AMERICA, Respondents.	NOTICE OF MOTION	lichael F. McBride eBceuf, Lamb, Greene & MacRae, L.L. 1875 Connecticut Avenué, N.W. Suite 1200 Mashington, D.C. 20009-5728 (202) 986-8000	Channel and the
luich States C 10k 114 Store	IE NIAGARA RAIL MMITTEE, <u>et al</u> .,	RFACE TRANSPORTATION BOARD e UNITED STATES OF AMERICA Respond	NOTICE OF	tichael F. McBride LeBceuf, Lamb, Gre L875 Connecticut A Suite 1200 Mashington, D.C. (202) 986-8000	1 (Mananath

IN THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

)
ERIE NIAGARA RAIL STEERING)))
COMMITTEE, et al.,)
Petitioners,	;
ν.)
SURFACE TRANSPORTATION BOARD and the UNITED STATES OF AMERICA,))))
Respondents)

Docket No. 98-4285

RENEWED MOTION OF THE FERTILIZER INSTITUTE TO INTERVENE AS A MATTER OF RIGHT

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 ch 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.

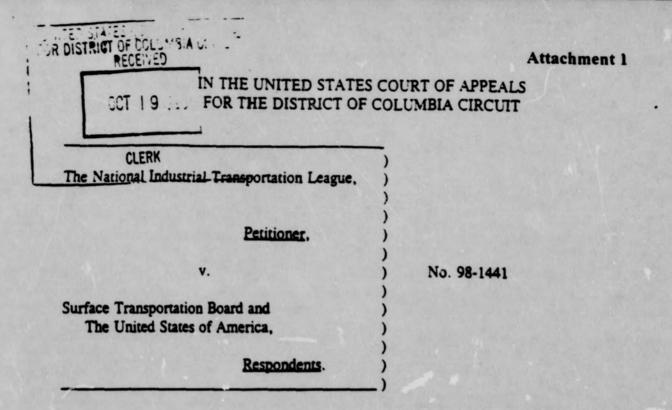
Columbia Circuit, TFI respectfully requests that the Court grant its Motion to Intervene as a Matter of Right, pursuant to 28 U.S.C. § 2323.

Respectfully submitted,

michael F. MeBride

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



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, <u>CSX Corporation and CSX Transportation. Inc.</u> 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. Me Bride

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.

No. 98-1441

Surface Transportation Board and The United States of America,

Respondents.

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. m. Bride

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)

Anorneys 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,)

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. Weshington, 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

No. 98-1441

Richard Allen, Esq. Zuckert, Scoutt, Rasenberger 888 17th Street, N.W., Suite 600 Washington, DC 20006-3939

michael 7. mcBrik

Michael F. McBride

Hnited 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

Consolid	ated	with 9	8-1440.	98-1441	98-1443	Ī

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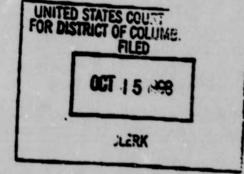
Upon consideration of the unopposed motions of the Surface Transportation Board to transfer petitions for review to the United States Court of Appeals for the Second Circuit, it is

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: 1.0 BY:

Deputy Clerk



IN THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

)	
) ERIE NIAGARA RAIL STEERING COMMITTEE, <u>et al.</u> ,	
Petitioners.	
v.)	
SURFACE TRANSPORTATION BOARD and) the UNITED STATES OF AMERICA,)	
Respondents.)	

Docket No. 98-4285

AFFIDAVIT OF COUNSEL FOR THE FERTILIZER INSTITUTE IN SUPPORT OF THE RENEWED MOTION TO INTERVENE AS A MATTER OF RIGHT

My name is Michael F. McBride. I am counsel to The Fertilizer Institute

("TFI").

TFI today 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

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,

. m.Bide

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 Reno 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. Mubrile

Michael F. McBride