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MOC



Office of the Chairman

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

August 17, 1998

The Honorable Jerrold Nadler
United States House of Representatives
Washington, D.C. 20515

Re: Finance Docket No. 33388

Dear Congressman Nadler:

Thank you for your letter addressing certain issues related to the trackage rights that the Board provided to Canadian Pacific Railway Company (CP) in its decisions in the above proceeding. In your letter, you express your views as to CP's access to the Harlem River Yard and the Hunt's Point Terminal.

As you know, those issues are pending before the Board in formal proceedings, and I am therefore not permitted to comment on them. I assure you that the Board will issue a decision in the matter promptly.

I am having your letter and this response placed in the docket in the proceeding. Please do not hesitate to contact me if I can be of assistance in the future.

Sincerely,

Linda J. Morgan



Office of the Chairman

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

August 17, 1998

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

Re: Finance Docket No. 33388

Dear Congressman Oberstar:

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Sincerely,

Linda J. Morgan



Committee on Transportation and Infrastructure

Congress of the United States

House of Representatives

Washington, DC 20515

Bud Shuster
Chairman

James L. Oberstar
Ranking Democratic Member

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

August 6, 1999

David Heymsfeld, Democratic Chief of Staff

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

RE: Finance Docket No. 33388

Dear Chairman Morgan:

We have written to you twice previously concerning your effort to provide competitive rail service to New York City on the east side of the Hudson River. The Board's initial decision, on July 20, 1998, made clear that the Board wished to provide trackage rights, not restricted as to commodity or geographic scope, over the east-of-the-Hudson line. The Board's subsequent decisions, on December 18, 1998, and May 18, 1999, have not fully implemented that initial intention.

Two issues, at least, now appear to have been settled – the per-car-mile charges for the use of the east-of-the-Hudson line and the switching charges within New York City. While we find it odd that a switch for a mile or two from Oak Point to the Harlem River Yard could cost more than the cost of moving a car from Albany to New York, we will leave that issue aside.

What remains at issue is the access of Canadian Pacific Railway (CP) to various customers in New York. CP would like to have access to customers at the Harlem River Yard and at the Hunts Point Terminal. CSX is in various ways trying to prevent that access.

CP's trains from Albany to New York City pass through the Harlem River Yard on their way to the Oak Point Yard. Between the Harlem River Yard and the Oak Point Yard, they operate over track (the "Oak Point Link") that is not owned by CSX, but rather which is owned by the State of New York. CSX has a permit from the State of New York to use this track, but it is not an exclusive permit. CSX also has a permit to control dispatching on this track for safety purposes. It does not have a permit to use its dispatching authority to restrict any other railroad's economic opportunities.

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CHAIRMAN MORGAN

The Honorable Linda J. Morgan
August 6, 1999
Page Two

In your May 18th decision (Decision No. 123), you refer to "the necessity for CP's traffic to move through the Oak Point Yard." It is not clear to us what authority you have to dictate that CP traffic must move through the Oak Point Yard when CSX does not even own the tracks that serve the Oak Point Yard. Elsewhere in your May 18th decision, you say "CSX does not own the Harlem River Yard. CP is free to work out whatever arrangements it can with the State of New York, which owns the facility. Our intervention in that process is not appropriate, or even within our authority." CSX also does not own the Oak Point Link, and has no exclusive use permit for its use. Shouldn't CP be "free to work out whatever arrangements it can with the State of New York, which owns the facility"? Isn't your intervention with respect to the use of the Oak Point Link "not appropriate, or even within [your] authority"?

Aside from the legalisms of the issue, forcing CP to haul its Roadrillers to Oak Point, and then lose a day and pay CSX \$128.10 to switch each car back to the Harlem River Yard, doesn't make sense from the standpoint of *any* of the statutory policy criteria on the basis of which you are supposed to make your decisions. Usually when the Board chooses to suppress competition, it does so on the grounds that it needs to ensure adequate revenues for the railroads. This usually takes place in the context where one carrier has captive traffic, another carrier wants a piece of that traffic, and competition would presumably lead to lower rates for both carriers than what the shippers were previously paying.

In this case, however, the traffic is not captive. It is intermodal traffic that can easily move by truck. If the price is too high or the service too slow, the traffic will leave the railroad industry altogether, and leave *both* carriers with less adequate revenues. Forcing that traffic to pay an extra \$128.10 switching charge to move it from Oak Point back to the Harlem River Yard (through which it has just passed on the way down from Albany) and losing a day's time in doing so is not going to help CSX so much as it is going to transfer traffic to the trucking industry. Railroad revenues will be enhanced by giving shippers the best possible service, as our friends on Wall Street frequently say. The best possible service does not include an unnecessary backward switch to a yard through which the car has just passed.

We would also note that the Board has frequently concluded in the past, when railroad lines have become gridlocked, that congestion is due to a lack of adequate capacity and infrastructure. By forcing CP's traffic to go *through* the Harlem River Yard, be *classified* at the Oak Point Yard, and then be switched *back* to the Harlem River Yard, the Board will be creating congestion in the Oak Point Yard where none exists now and for which there is no justification. We hope that the Board does not wish to find itself in a position where the next outbreak of gridlock can be blamed on traffic restrictions imposed by the Board.

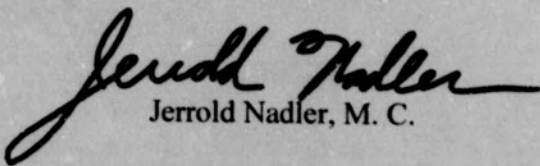
The other issue that remains in dispute is CP's access to the Hunts Point Terminal. Here CP does not ask for direct access. They are content to have access via a switch from CSX, yet apparently CSX refuses to provide them with that switch. You made clear in your December

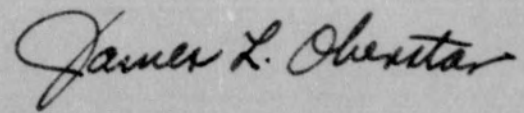
The Honorable Linda J. Morgan
August 6, 1999
Page Three

18th decision (Decision No. 109) that "CP will be permitted to access all shippers in the Bronx and Queens via a . . . switch performed by CSX." While you changed the switching fee, we would hope that that would not mean you would no longer honor CP's rights to serve any shipper in the Bronx and Queens, including shippers located at the Hunts Point Terminal, which is located in the Bronx.

With every good wish,

Sincerely,


Jerrold Nadler, M. C.


James L. Oberstar, M.C.

Committee on Transportation
and Infrastructure

U.S. House of Representatives

Washington, DC 20515-6256

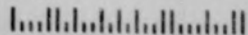
OFFICIAL BUSINESS



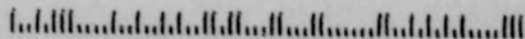
Brad Shuster

M.C.

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



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OPPENHEIMER WOLFF & DONNELLY
(ILLINOIS)

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

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

FEDERAL EXPRESS

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

July 30, 1999

ENTERED
Office of the Secretary

AUG - 2 1999

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Public Record



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

Dear Secretary Williams:

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

By letter dated April 19, 1999, counsel for CSX advised the Board that CSX and IC had devised a protocol for dispatching the Leewood-Aulon line and that the parties had agreed to test it over a three month period to August 1, 1999. At the end of that period, the parties would advise the Board of the results.

This is to advise the Board that overall the protocol has worked satisfactorily. However, in order to take into account operating and traffic flow changes resulting from on-going merger implementations on both CSX and IC, and to test the effectiveness of the protocol over a broader range of operating and traffic conditions, the parties have agreed to extend the test period an additional three months to November 1, 1999. As before, at the end of that period, the parties will report back to the Board.

Respectfully submitted,

William C. Sippel
Attorney for Illinois Central Railroad Company

WCS/pj

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

STB

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7-30-99

J.

EPIC

ENVIRONMENTAL PROTECTION & IMPROVEMENT COMPANY

305 PALMER ROAD
DENVER, NEW JERSEY 07834



(973) 361-3300
FAX (973) 328-1091

FD 33388

July 28, 1999

FAX #202-565-9004

Mr. Vernon Williams
Secretary
Surface Transportation Board
1925 K Street
Washington, DC 20423

RE: CSX and Norfolk Southern - Shared Assets Area

Dear Mr. Williams,

Since the purchase of Conrail by Norfolk Southern and CSX Railroads took effect on June 1, 1999 our company has suffered negative effects due to the poor performance of both railroads. Fortunately, we had the financial strength and were forced to spend several hundred thousand dollars to provide trucking services to our customers. EPIC is a solid waste transporter which provides service to several municipalities throughout New York and New Jersey. Our current railroad contracts total over six million dollars per year.

Since the split date, we have seen considerable improvement from CSX in its ability to service our company and a slight improvement from Norfolk Southern, although neither railroad is providing pre-split date service. The most glaring deficiency is currently being encountered in the Shared Assets area, the area supposedly serviced by both CSX and Norfolk Southern. It appears that neither rail company is seriously servicing this area; both companies deny responsibility for the lack of leadership and management in this area. Currently, our rail cars are being held up at Oak Island for seven days due to the inefficiencies in the Shared Assets area and service to our rail yard is less than 50% pre-split service.

We suggest that the Surface Transportation Board take whatever steps that are necessary to either force these railroads to

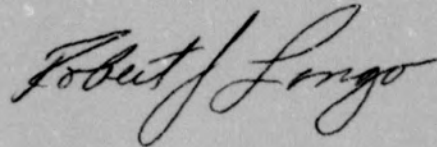
Mr. Vernon Williams
July 28, 1999
Page 2

provide service or force them to divest in this Shared Assets area to a company that cares about service and is not encumbered by the squabbling of two major railroads.

Thank you in advance for your cooperation in this matter, as it affects the health and welfare of many citizens in the Northern New Jersey area.

Very truly yours,

EPIC

A handwritten signature in cursive script, reading "Robert J. Longo". The signature is written in dark ink and is positioned above the printed name and title.

Robert J. Longo
President

RJL:jkb

cc: A.R. Carpenter, Chairman, President & CEO, CSX
Transportation
D.R. Goode, President & CEO, Norfolk Southern

STB

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7-22-99

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BUSINESS

CLF

Conservation Law Foundation



July 20, 1999

Mr. Vernon Williams
Office of the Secretary
Surface Transportation Board
1925 K Street, N.W. Room 700
Washington, D.C. 20423

Re: STB Finance Docket No: 33388 (Conrail Merger)

Dear Mr. Williams:

The Conservation Law Foundation is hereby withdrawing from this matter.
Please remove CLF from the service list.

Kindly date-stamp and return the enclosed copy of this letter to us in the enclosed,
postage prepaid envelope.

If you have any questions, please call me at 617-350-0990 ext. 744.

Thank you.

Very truly yours,

Richard B. Kennelly, Jr.
Staff Attorney

STB

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33388

7-13-99

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BUSINESS



Office of the Chairman

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

FILE IN DOCKET

FD-33388

July 13, 1999

Mr. T.W. Evans
Vice President - Materials Management
Weirton Steel Corporation
400 Three Springs Drive
Weirton, WV 26062-4989

Dear Mr. Evans:

Thank you for sending me a copy of your June 28, 1999 letter to Mr. David R. Goode, Chairman, President and Chief Executive Officer of Norfolk Southern Corporation. You express your gratitude for the smooth, safe and orderly transition from Conrail to Norfolk Southern rail service at Weirton Steel.

As you know, the Surface Transportation Board (Board) continues to closely monitor the implementation of the Conrail acquisition transaction, and is in regular contact with Norfolk Southern and CSX. As part of that process, the Board also is in frequent contact with affected shippers, and we very much appreciate hearing from you about the experience of Weirton Steel. We certainly share your interest in ensuring that the Conrail transaction is implemented as smoothly and safely as possible.

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

Sincerely,

Linda J. Morgan

Linda J. Morgan

WEIRTON
STEEL CORPORATION

T. W. Evans
Vice President - Materials Management
304-797-2234

June 28, 1999

FILE IN DOCKET

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

RECEIVED
SURFACE TRANSPORTATION
BOARD
JUL 9 12 58 PM '99
OFFICE OF
CHAIRMAN MORGAN

Dear Mr. Goode:

I write to express our gratitude for the smooth, safe and orderly transition from Conrail to Norfolk Southern rail service at Weirton Steel.

Any apprehension on our part was misplaced, and to date we have experienced minimal service disruptions notwithstanding the magnitude of the transition activities for your company. This result is undoubtedly due in part to the Norfolk Southern transition team of Mike Webb, John Schaal and John Pulasky of the Pittsburgh District Office and Tony Wade from Roanoke. We certainly appreciate their spirited efforts and hard work to make it happen.

We look forward to our developing business interests and mutual commitments in assuring the highest quality of rail services.

Sincerely,

Tom Evans

C: Ike Prilliaman
Don Seale
Gary Wendorf

pc: The Honorable Linda J. Morgan, Chairman, Surface Transportation Board

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BUSINESS

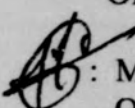
SURFACE TRANSPORTATION BOARD

Memorandum



DATE: July 12, 1999

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

FROM  : Mel Clemens, Director
Office of Compliance and Enforcement

SUBJECT : STB FINANCE DOCKET NO. 33388

Attached are three copies of my letter responding to concerns expressed by Mr. Robert E. Murray, President and Chief Executive Officer, The Ohio Valley Coal Company, regarding matters pertaining to the above docket. The letter should be placed in the correspondence section of the docket. As requested, I am providing the three paper copies 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: Ron Douglas
Charles Renninger



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

July 12, 1999

Office of Compliance and Enforcement

Mr. Robert E. Murray
President and Chief Executive Officer
The Ohio Valley Coal Company
56854 Pleasant Ridge Road
Alledonia, OH 43902

Re: Article in Coal Transportation Report

Dear Mr. Murray:

This responds to your letter to Secretary Williams dated July 8, 1999, expressing your concern about an article in the July 5th edition of *Coal Transportation Report*. In connection with its report on some differences between your company and the railroads that serve you, the article quoted a response by Board staff to a specific question posed by the reporter. You take issue with the remarks attributed to the Board's staff.

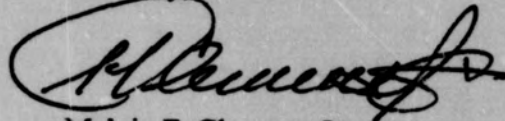
My office is responsible for addressing the operational and service issues associated with the recent Conrail transaction. In that capacity, we spend many hours each day discussing service issues with carrier management, with shippers that have contacted us, and with rail employees who have first-hand information to pass on. Our aim is to identify problem areas and then work with the carriers to help find solutions. We reviewed the written documents that you filed with the Board in the Conrail proceeding, and we worked extensively with the involved carriers to try to alleviate some of the service concerns that you had identified.

Although Board staff do not seek out the press, on occasion we are contacted by reporters, with whom we sometimes have conversations. When we were contacted by the reporter from the *Coal Transportation Report* about our perception of the rail service situation regarding your company, the response given was based on information we had obtained during follow-up conversations with the railroads on their combined efforts to improve your shipping situation. The quotation in the article that you have attached to your letter reflects our perception, which your letter also recognizes, that clear and substantial attempts had been made by the railroads to address your service concerns. The response did not express a bias, nor was it intended to be an expression of our opinion that your service problems had been resolved. Instead, it simply indicated our view that the involved railroads have worked very hard to provide requested service to your company (and to other shippers) during this service transition.

Letter to Robert Murray, Page 2.

I assure you that we have no agenda or bias, and that our only objective is to be of assistance during this implementation process.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Melvin F. Clemens, Jr.', with a large, stylized flourish at the end.

Melvin F. Clemens, Jr.
Director

cc: Chairman Morgan
Vice Chairman Clyburn
Commissioner Burkes
Norfolk Southern
CSXT, Inc.
M.F. McBride

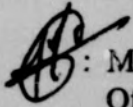
SURFACE TRANSPORTATION BOARD

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cc: Ron Douglas
Charles Renninger



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

July 12, 1999

Office of Compliance and Enforcement

Mr. Robert E. Murray
President and Chief Executive Officer
The Ohio Valley Coal Company
56854 Pleasant Ridge Road
Alledonia, OH 43902

Re: Article in *Coal Transportation Report*

Dear Mr. Murray:

This responds to your letter to Secretary Williams dated July 8, 1999, expressing your concern about an article in the July 5th edition of *Coal Transportation Report*. In connection with its report on some differences between your company and the railroads that serve you, the article quoted a response by Board staff to a specific question posed by the reporter. You take issue with the remarks attributed to the Board's staff.

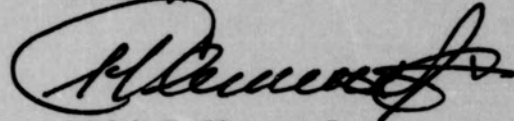
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Letter to Robert Murray, Page 2.

I assure you that we have no agenda or bias, and that our only objective is to be of assistance during this implementation process.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Melvin F. Clemens, Jr.', with a large, stylized initial 'M'.

Melvin F. Clemens, Jr.
Director

cc: Chairman Morgan
Vice Chairman Clyburn
Commissioner Burkes
Norfolk Southern
CSXT, Inc.
M. F. McBride

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Robert E. Murray
President & Chief Executive Officer



FD 33388

July 8, 1999

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

ENTERED
Office of the Secretary

JUL 09 1999

Part of
Public Record

Dear Mr. Williams:

Enclosed is an article from the July 5, 1999, edition of *Coal Transportation Report* ("CTR") wherein it is stated that "a 'source' at the Surface Transportation Board ("STB") defended the railroads" relative to the problems that have developed for The Ohio Valley Coal Company since June 1, as a result of the takeover of Consolidation Rail Corporation ("Conrail") by the Norfolk Southern Railway Company ("NS") and CSX Transportation, Inc. ("CSX"). The article goes on to quote the STB "source" as saying, "'from what I have been told by the railroads the fact of the matter is that Ohio Valley even had a train offered to it that it couldn't load. The train showed up and the mine foreman turned it back for whatever reason. I think OVCC will end the month one train load short - the one it couldn't load', said the source." "I think the railroads have made a heroic effort to get Mr. Murray the trains he needs", the STB "source" also said.

First, Mr. Williams, the statements by the STB "source" are absolutely false. The Ohio Valley Coal Company ("Ohio Valley") has promptly loaded every train that it has received and has not "turned back" any. Further, contrary to the STB "source", in June, Ohio Valley was shorted four (4) to six (6) trains, not "the one it couldn't load", and no, the railroads' efforts have not been "heroic".

I am hereby requesting that the STB "source" be identified to Ohio Valley and me. We have been damaged, and it is highly inappropriate that an STB representative would be making such blatantly false public comments without a verification from the shipper, in this case Ohio Valley. The STB "source", who advised CTR today that he or she did not want to be identified as a result of my specific request to CTR for identification of this person, not only has done a disservice to Ohio Valley and me, but also the STB. Such blatantly false statements by an STB representative clearly would lead any objective observer to believe that the STB is biased against the shippers in favor of the railroads. It is in the STB's interest to have this person identified and dealt with.

Mr. Vernon A. Williams
July 8, 1999
Page Two

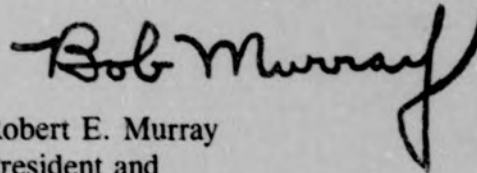
The correct information, Mr. Williams, is that Ohio Valley has promptly loaded every train that it has been provided. For the month of June, Ohio Valley came up four (4) trains short of the minimum that was to be shipped, and six (6) trains short of the hoped-for level of deliveries. Ohio Valley lost shipments of about 57,000 tons of coal worth over \$1.2 million.

One (1) of the minimum, and three (3) of the hoped-for, trains lost during the month was on the movement from Ohio Valley to FirstEnergy. However, the railroad shut down our shuttle train from Ohio Valley to our transloading facility on the Ohio River for three (3) days at the end of the month to provide crews for the shipments to FirstEnergy. This cost Ohio Valley three (3) additional 10,000 ton trains from the Mine to our river facility, for a minimum of four (4) lost trains during the month and up to six (6) trains.

There is no question that the NS and CSX have made a determined and sincere effort to make up the trains lost earlier in June as a result of the Conrail acquisition, although they should have never allowed the situation to occur in the first place. However, it is highly inappropriate for an STB "source" to be making false and biased public statements without verifying the situation with the shipper. Again, please identify this biased "STB 'source'" to the undersigned. The credibility of Ohio Valley and I have been damaged by the STB's "source's" blatantly false public conclusions and statements.

Sincerely,

THE OHIO VALLEY COAL COMPANY



Robert E. Murray
President and
Chief Executive Officer

REM/bjb
Enclosure

cc: M. F. McBride, Esq.
Linda J. Morgan, Chairman STB
William Clyburn, Vice Chairman STB
Wayne Burkes, Commissioner STB
Richard Allen, Esq.
Dennis Lyons, Esq.
Mr. J. W. Fox
Mr. Raymond L. Sharp

Murray Still Unhappy

Productive or not, CSX's path isn't without obstacles. For example, the Ohio Valley Coal Co. hit the Surface Transportation Board with its second misfile in as many weeks (CTR 6/21/99, p.1), this time disputing claims by CSX VP of coal sales and marketing Ray Sharp that CSX and NS are only three trains off the pace on deliveries from Ohio Valley's Powhatan #6 to FirstEnergy Corp.'s Eastlake and Ashtabula plants. Earlier this month, Ohio Valley CEO Bob Murray complained that since Day 1, only one of the 14 scheduled CSX/NS trains had arrived.

Ohio Valley now claims that as of June 18, only three trains had picked up coal. "The experience has been a financial disaster for Ohio Valley," said Murray in his latest letter.

But a source at the STB defended the railroads. "From what I've been told by the railroads, the fact of the matter is that Ohio Valley even had a train offered to it that it couldn't load. The train showed up and the mine foreman turned it back for whatever reason. I think OVCC will end the month one trainload short — the one it couldn't load," said the source. "I think the railroads have made a heroic effort to get Mr. Murray the trains he needs."

STB

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33388

7-9-99

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UNION



Office of the Chairman

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

FILE IN DOCKET

JD-33388

July 9, 1999

Mr. Joseph M. Scardino
1623 West 4th Street
Ashtabula, OH 44004

Dear Mr. Scardino:

Thank you for sending me a copy of your recent letter to Mr. Delbert Strunk, General Committee of Adjustment, United Transportation Union. In your letter, you raise a number of issues regarding the impact of the Conrail acquisition transaction on you and other former Conrail employees located in Ashtabula, OH.

I am certain that your union will work closely with you to address the concerns that you have raised. Because these matters eventually could go to arbitration and then come before the Surface Transportation Board on appeal, it would be inappropriate for me to comment on the merits of these matters.

I certainly appreciate your concerns. I will have your letter, my reply, and any other responses that I receive made a part of the public docket in the Conrail acquisition proceeding.

Sincerely,

Linda J. Morgan
Linda J. Morgan

1623 West 4th Street
Ashtabula, Ohio 44004
29 June 99

FILE IN DOCKET

Robert Strunk
United Transportation Union
General Committee of Adjustment
Norfolk and Western Railway
(NP & Wheeling & Lake Erie Districts)
817 Kilbourne Street
Bellevue, OH 44811-9407

OFFICE OF
CHAIRMAN MORGAN

JUL 6 3 13 PM '99

RECEIVED
SURFACE TRANSPORTATION
BOARD

Dear Brother Strunk:

I am a new NS Railroad employee at Ashtabula, Ohio, as the result of the June 1, 1999 acquisitions of Conrail. I have been employed in the railroad industry since May of 1962 or for 38 years.

Even during the beginning of the Penn Central era employment conditions were not as bad as they have been for the past month with the NS

On May 31, 1999, Conrail was paying me \$179.10 per day as a utility brakeman working at the Coal Dock. The NS is paying me, as of June 1, 1999, one day later, \$143.33 for the same position! I have enclosed copies of my most recent earnings statements as proof of what I am contending.

I was under the impression that our current Conrail contract would be honored and kept in tact until December 31, 1999. Neither the railroads nor the unions gave us any indication of a severe cut in pay.

Many of the former Conrail employees are facing financial disaster! I am hoping that a union officer of your stature is not going to offer, as a solution to our problems - The New York Dock Agreement! That document has more loopholes in it than a slice of Swiss cheese!!! We CAN NOT exist financially on hopes and empty promises!

The employees at Ashtabula need to have a more definitive solution to our problems. We MUST know about the provisions of our contract and that the General Committee members are fighting to reinstate our wages - daily rate, rest day rate, paid holidays, and vacation pay.

We need action and we need it NOW!!!!!!

The employees at Ashtabula are on edge, stressed, and ready to go totally ballistic over our working conditions! We do not even know our seniority district????

We are awaiting your immediate response and plan of action to rectify this horrendous situation, and we remain.

Yours truly,



Joseph M. Scardino
A member of U.T.U.
Local 1707
Ashtabula, Ohio

cc: J.D. Viall, L.C. #1707
J.D. Sandella, Sec. & Treas. #1707

STB

FD

33388

7-9-99

J

BUSINESS



Office of the Chairman

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

FILE IN DOCKET

FD-33388

July 9, 1999

Mr. G. Ray Medlin, Jr.
Chairman
Mr. James H. Hartung
President
Toledo-Lucas County Port Authority
One Maritime Plaza
Toledo, OH 43604-1866

Dear Messrs. Medlin and Hartung:

Thank you for sending me a copy of your letter to Mr. John Snow, Chairman, President, and Chief Executive Officer of CSX, Inc., regarding blockage by CSX trains of the entrance to the Presque Isle cargo docks. You indicate that the extent and regularity of these blockages have increased following the Conrail split date on June 1 of this year. And you seek the assistance of CSX in addressing blockage issues, including a proposed overpass as a permanent solution.

While your blockage issues may predate the Conrail acquisition transaction, the Surface Transportation Board (Board) certainly shares everyone's interest in ensuring that the Conrail transaction is implemented as smoothly and safely as possible. In this regard, I am having your letter and any responses that I may receive from CSX placed in the public docket for the Conrail transaction.

I appreciate your interest in this matter, and urge all involved parties to continue to work together to address these important issues.

Sincerely,

Linda J. Morgan
Linda J. Morgan



FILE IN DOCKET

June 17, 1999

Mr. John Snow
Chairman, President & CEO
CSX Transportation
One James Center
901 E. Cary Street
Richmond, Virginia 23219

OFFICE OF
CHAIRMAN MORGAN

JUN 21 4 53 PM '99

RECEIVED
SURFACE TRANSPORTATION
BOARD

Dear Mr. Snow:

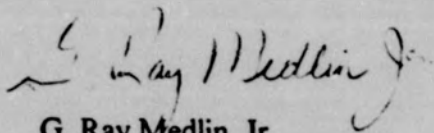
As is a matter of record, the Toledo-Lucas County Port Authority and CSX have enjoyed a long and cooperative relationship. This cooperation includes financing the upgrade to the coal docks in 1964, the construction of the TORCO facility in 1980, and subsequent refinancing in 1992. Unfortunately, this mutually beneficial relationship is being jeopardized due to trains blocking the entrance to the Port Authority's general cargo facility.

The Port Authority's general cargo docks adjacent to the Presque Isle facility (see attachment 1 - map) has a single entrance which crosses the CSX mainline tracks. Normal delays due to crossings of the Front Street access are expected. However, over the years, delays due to crew changes and mechanical failures have caused long-term blockage of the entrance to the general cargo facilities. More recently these blockages have increased in not only regularity but also in duration. It is not uncommon to have the entrance to the general cargo facility blocked for 45 minutes to an hour (see attachment 2). Then on June 1, as the CSX was completing its takeover of portions of Conrail, the facility entrance was blocked for 3 hours and 10 minutes. Similar blockages have occurred regularly since June 1.

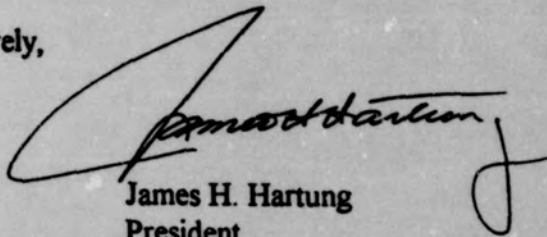
Repeated efforts over the past several years to address these blockages have proven unsuccessful. However, the Port Authority is completing plans for a new overpass to eliminate this on a permanent basis. Unfortunately, construction on this overpass will not be completed until the end of calendar year 2000 at the earliest. In the meantime, the Port Authority and the terminal operator are expecting increased delays caused by trains at the Front Street crossing.

The Toledo-Lucas County Port Authority would appreciate the assistance of CSX in addressing these blockage issues. The first step for CSX to take is to minimize the delays at the Front Street crossing. The second step is to ensure prompt review and approval of any plans for the new overpass which will provide a permanent solution to these issues. If you have any questions regarding these matters, please feel free to call.

Sincerely,



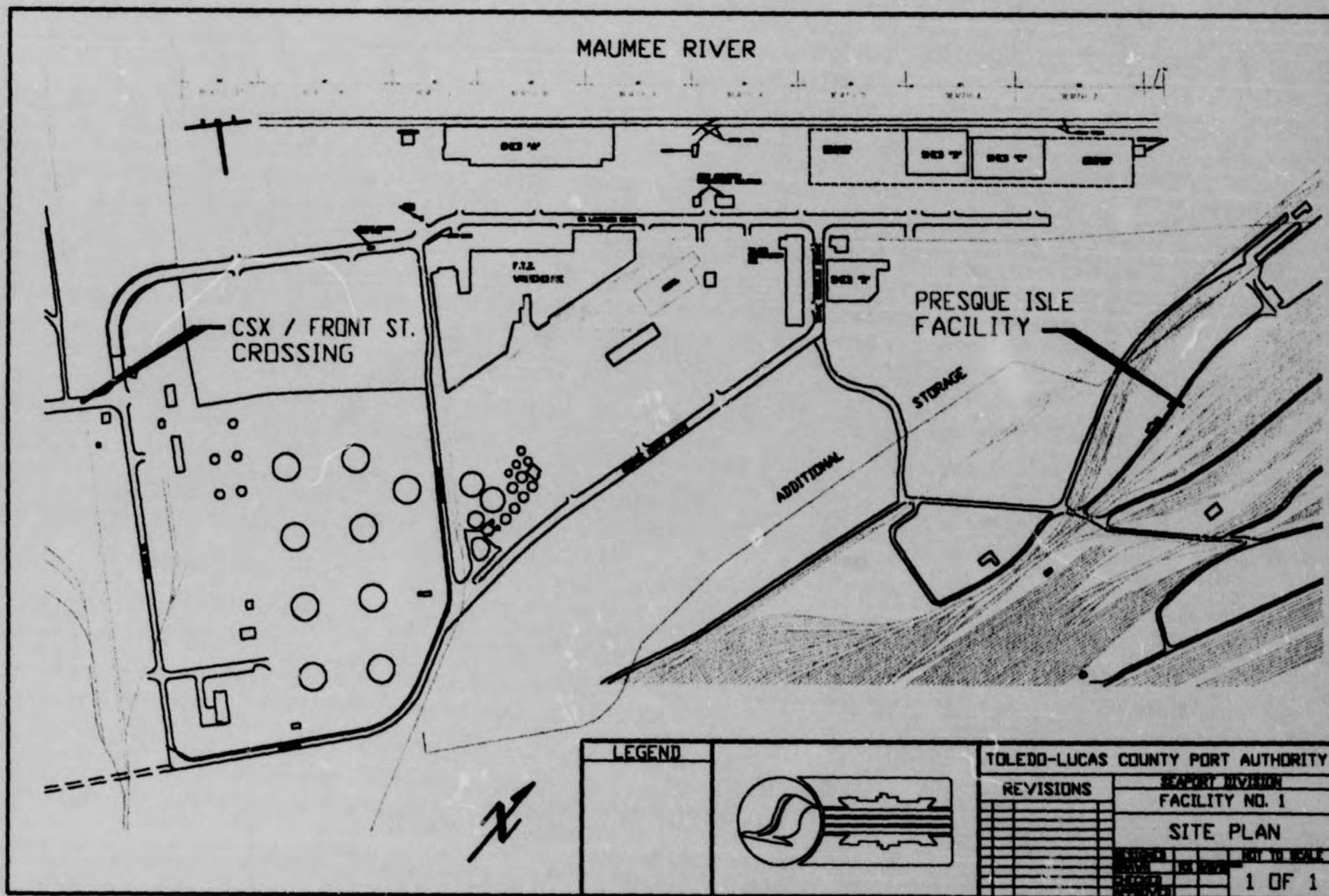
G. Ray Medlin, Jr.
Chairman



James H. Hartung
President

cc: The Honorable Michael DeWine, U.S. Senate
The Honorable George Voinovich, U.S. Senate
The Honorable Marcy Kaptur, U.S. House of Rep.
Jolene M. Molitoris, Adm, Fed. Railroad Admin.
Linda J. Morgan, Chrmn, Surface Transp. Board
Toledo-Lucas Co. Port Authority Bd. Of Dir.
Southwood J. Morcott, Dana
Phil Winteringham, Toledo World Industries

GRM/JHH/gaj



TRAINS BLOCKING ENTRANCE TO PORT OF TOLEDO

<u>DATE</u>	<u>STOP</u>	<u>START</u>	<u>EXCESS TIME</u>
8/6/98	1 20p m	2 00p m	
8/11/98	8 10a m	8 48a m	38 min.
8/12/98	12 34p m	12 49p m	
8/12/98	1 52p m	2 15p m	
8/13/98	11 00a m	11 29a m	29 min
8/14/98	9 00a m	9 15a m	
8/14/98	12 35p m	12 45p m	
8/17/98	10 25a m	10 39a m	
8/17/98	10 50a m	11 31a m	41 min.
8/19/98	1 12p m	3 00p m	1hr.48min
8/20/98	10 55a m	11 30a m	35 min.
8/21/98	9 35a m	10 50a m	1hr.15min
8/21/98	2 40p m	3 08p m	28 min.
8/21/98	4 05p m	4 37p m	32 min.
8/24/98	11 00a m	11 05a m	
8/28/98	12 58p m	1 15p m	
8/31/98	11 43a m	12 46p m	1hr 3min.
8/31/98	12 58p m	1 11p m	
9/1/98	10 42a m	11 05a m	
9/3/98	11 52a m	1 33p m	1hr 41 min
9/3/98	2 15p m	2 32p m	
9/3/98	2 42p m	2 49p m	
9/8/98	11 00a m	11 07a m	
9/15/98	8 00a m	9 40a m	1hr 40 min
9/15/98	10 05a m	10 10a m	
9/15/98	11 40a m	11 47a m	
9/15/98	2 20p m	3 02p m	42 min
9/16/98	9 45a m	10 15a m	30 min
9/16/98	11 05a m	12 25p m	1hr 20min
9/16/98	2 24p m	3 42p m	
9/18/98	9 51a m	12 50p m	2hr59min
9/23/98	7 50a m	8 01a m	
9/24/98	1 50p m	2 00p m	

<u>DATE</u>	<u>STOP</u>	<u>START</u>	<u>EXCESS TIME</u>
9/25/98	8 40A M	8 56A M	
9/25/98	10 45A M	10 54A M	
10/1/98	9 07A M	9 21A M	
10/1/98	12 05P M	1 30P M	1hr25min
10/1/98	2 40p m	2 55p m	
10/2/98	10 40a m	10 45a m	
10/5/98	9 08a m	9 35a m	27 min.
10/6/98	1 50p m	2 09p m	
10/9/98	9 20a m	9 59a m	39 min.
10/9/98	2 10p m	2 57p m	47 min.
10/12/98	2 20p m	2 49p m	29 min.
10/13/98	8 17a m	8 41a m	
10/13/98	10 00a m	10 34a m	34 min.
10/14/98	2 45p m	3 12p m	
10/15/98	8 50a m	9 05a m	
10/15/98	12 00p m	12 12p m	
10/20/98	7 55a m	8 25a m	30 min.
10/20/98	2 10p m	2 16p m	
10/21/98	11 45a m	12 10p m	25 min
10/27/98	9 19a m	9 53a m	34 min
10/28/98	11 44a m	12 25p m	40 min
11/2/98	2 25p m	2 41p m	
11/3/98	9 50a m	10 16a m	26 min.
11/3/98	1 34p m	1 41p m	
11/5/98	8 30a m	8 41a m	
11/5/98	12 10p m	12 30p m	
11/6/98	8 25a m	8 40a m	
11/6/98	2 10p m	2 18p m	
11/10/98	7 20a m	8 45a m	1hr25min
11/10/98	10 10a m	10 17a m	
11/10/98	10 50a m	10 57a m	
11/10/98	12 40p m	1 01p m	
11/13/98	12 50p m	1 50p m	1 hr.

<u>DATE</u>	<u>STOP</u>	<u>START</u>	<u>EXCESS TIME</u>
11/16/98	9 26A M	9 38A M	
11/19/98	10 26A M	11 25A M	59 MIN.
11/20/98	11 00A M	11 45A M	45 MIN.
11/22/98	2 00P M	2 08P M	
11/22/98	3 19P M	3 33P M	
11/22/98	7 20A M	8 20A M	1 HR
11/23/98	12 00P M	12 45P M	45 MIN.
11/30/98	7 15A M	7 35A M	
11/30/98	9 20A M	9 40A M	
11/30/98	4 11P M	4 18P M	
12/1/98	12 25P M	12 31P M	
12/2/98	11 21A M	12 11P M	50 MIN.
12/2/98	1 35P M	1 50P M	
12/3/98	2 00P M	2 06P M	
12/4/98	10 54A M	11 06A M	
12/4/98	3 44P M	3 55P M	
12/8/98	7 57A M	8 05A M	
12/9/98	9 10A M	9 21A M	
12/10/98	12 27p m	12 31p m	
12/10/98	3 00p m	4 19p m	1hr19min.
12/14/98	7 34a m	7 42a m	
12/14/98	10 23a m	11 02a m	39 min.
12/14/98	1 50p m	2 01p m	
12/15/98	7 35a m	7 43a m	

TRAINS BLOCKING ENTRANCE TO PORT OF TOLEDO

1

DATE	STOP	START	EXCESS
12/17/98	9:59	10:07	0:08
12/17/98	13:20	13:32	0:12
12/18/98	8:44	8:50	0:06
12/18/98	9:59	10:12	0:13
12/18/98	11:51	12:33	0:42
12/18/98	12:45	12:50	0:05
12/22/98	9:00	10:21	1:21
12/23/98	13:10	13:14	0:04
12/27/98	13:30	14:28	0:58
12/29/98	11:29	11:35	0:06
12/30/98	7:45	7:52	0:07
12/30/98	10:38	10:47	0:09
01/04/99	9:45	10:38	0:53
01/04/99	13:15	13:45	0:30
01/07/99	14:30	15:40	1:10
01/09/99	13:53	14:10	0:17
01/12/99	10:05	10:12	0:07
01/19/99	7:50	8:03	0:13
01/19/99	12:35	13:20	0:45
01/19/99	14:50	15:35	0:45
01/20/99	14:05	14:11	0:06
01/21/99	10:43	10:51	0:08
01/21/99	12:09	12:15	0:06
01/21/99	14:12	15:06	0:54
01/22/99	9:27	9:31	0:04
01/22/99	12:54	13:04	0:10
01/22/99	13:55	13:59	0:04
01/25/99	13:40	14:08	0:28
01/25/99	14:40	15:05	0:25
01/25/99	15:27	16:00	0:33
01/26/99	9:45	10:11	0:26
01/26/99	15:54	16:05	0:11
01/28/99	6:30	8:10	1:40
02/02/99	9:36	9:45	0:09
02/03/99	7:30	7:54	0:24
02/04/99	10:05	10:11	0:06
02/04/99	12:50	12:56	0:06
02/05/99	8:00	8:40	0:40
02/05/99	10:40	10:54	0:14
02/05/99	12:40	12:54	0:14
02/05/99	14:45	15:38	0:53
02/08/99	8:00	8:22	0:22
02/08/99	10:27	10:40	0:13
02/09/99	12:15	12:59	0:44
02/10/99	12:56	13:06	0:10

DATE	STOP	START	EXCESS
02/10/99	14:00	14:08	0:08
02/11/99	13:55	14:35	0:40
02/11/99	14:50	15:11	0:21
02/16/99	7:00	7:54	0:54
02/16/99	8:00	8:40	0:40
02/18/99	8:44	9:16	0:32
02/19/99	12:42	13:10	0:28
02/23/99	8:30	8:48	0:18
02/23/99	10:45	11:00	0:15
02/23/99	14:45	15:26	0:41
02/24/99	7:58	8:20	0:22
02/25/99	14:09	14:15	0:06
03/01/99	12:50	12:55	0:05
03/02/99	14:32	14:38	0:06
03/04/99	13:58	14:04	0:06
03/04/99	15:22	15:45	0:23
03/09/99	10:40	10:52	0:12
03/11/99	10:34	10:45	0:11
03/11/99	13:55	14:01	0:06
03/12/99	12:05	13:35	1:30
03/12/99	13:56	14:05	0:09
03/12/99	14:40	15:27	0:47
03/15/99	10:05	10:40	0:35
03/15/99	11:00	11:12	0:12
03/16/99	9:45	11:20	1:35
03/17/99	8:34	8:37	0:03
03/18/99	12:29	12:35	0:06
03/18/99	14:45	14:47	0:02
03/18/99	15:10	15:40	0:30
03/19/99	11:22	11:30	0:08
03/19/99	15:15	15:25	0:10
03/19/99	16:25	16:35	0:10
03/22/99	9:30	9:41	0:11
03/22/99	12:15	12:19	0:04
03/22/99	16:05	16:20	0:15
03/23/99	8:10	8:40	0:30
03/23/99	10:21	10:29	0:08
03/23/99	11:18	12:50	1:32
03/23/99	13:20	13:30	0:10
03/24/99	13:44	15:58	2:14
03/25/99	8:15	8:24	0:09
03/25/99	13:29	13:40	0:11
03/26/99	8:00	8:04	0:04
03/26/99	9:40	9:45	0:05
03/26/99	10:10	10:30	0:20

TRAINS BLOCKING ENTRANCE TO PORT OF TOLEDO

2

DATE	STOP	START	EXCESS
03/26/99	10:20	11:45	1:25
03/26/99	12:00	12:40	0:40
03/26/99	12:49	12:56	0:07
03/27/99	8:20	8:50	0:30
03/27/99	12:40	12:50	0:10
03/27/99	12:55	13:30	0:35
03/27/99	16:05	16:10	0:05
03/29/99	13:48	14:15	0:27
03/30/99	7:56	9:22	1:26
03/30/99	11:44	12:04	0:20
03/30/99	12:50	13:00	0:10
03/30/99	14:51	15:01	0:10
03/30/99	15:43	16:00	0:17
03/31/99	9:48	9:53	0:05
03/31/99	12:02	12:45	0:43
03/31/99	12:51	12:55	0:04
03/31/99	13:30	14:15	0:45
04/01/99	8:30	10:19	1:49
04/01/99	13:25	13:48	0:23
04/06/99	9:02	9:10	0:08
04/06/99	14:43	14:54	0:11
04/07/99	7:44	7:55	0:11
04/08/99	16:35	16:40	0:05
04/09/99	11:20	13:27	2:07
04/09/99	14:55	15:25	0:30
04/09/99	16:02	16:22	0:20
04/12/99	9:03	9:11	0:08
04/13/99	8:15	8:20	0:05
04/13/99	16:40	17:35	0:55
04/14/99	8:30	8:40	0:10
04/14/99	15:50	16:06	0:16
04/15/99	12:46	12:50	0:04
04/16/99	14:25	14:35	0:10
04/16/99	15:06	15:59	0:53
04/19/99	16:10	16:14	0:04
04/21/99	11:05	11:07	0:02
04/22/99	11:54	12:09	0:15
04/23/99	14:55	15:09	0:14
04/26/99	11:22	11:38	0:16
04/27/99	15:09	15:17	0:08
04/28/99	7:35	8:03	0:28
04/28/99	13:49	14:04	0:15
04/28/99	14:20	14:53	0:33
04/29/99	14:37	14:59	0:22
04/30/99	14:00	14:51	0:51

DATE	STOP	START	EXCESS
05/03/99	12:29	12:37	0:08
05/04/99	11:35	12:15	0:40
05/05/99	15:50	16:16	0:26
05/06/99	8:47	9:33	0:46
05/07/99	10:40	10:45	0:05
05/07/99	13:21	14:26	1:05
05/10/99	14:51	15:06	0:15
05/10/99	15:23	15:55	0:32
05/11/99	12:54	13:06	0:12
05/12/99	14:06	14:30	0:24
05/13/99	13:15	14:12	0:57
05/14/99	12:44	13:05	0:21
05/17/99	8:44	9:08	0:24
05/17/99	9:25	9:28	0:03
05/20/99	8:22	9:10	0:48
05/20/99	10:14	10:20	0:06
05/20/99	13:34	13:38	0:04
05/21/99	11:40	11:45	0:05
05/21/99	12:28	12:43	0:15
05/21/99	12:53	13:29	0:36
05/24/99	15:45	16:43	0:58
05/25/99	12:44	13:09	0:25
05/25/99	13:48	14:01	0:13
05/25/99	15:10	15:20	0:10
05/26/99	9:28	9:34	0:06
05/26/99	10:58	11:09	0:11
05/26/99	11:44	11:48	0:04
05/26/99	14:40	14:54	0:14
05/27/99	15:04	15:12	0:08
05/28/99	12:48	14:32	1:44
05/28/99	15:01	15:50	0:49
06/01/99	10:44	13:54	3:10
06/02/99	11:53	11:55	0:02
06/03/99	10:17	10:22	0:05
06/03/99	11:34	11:42	0:08
06/03/99	15:14	17:00	1:46
06/04/99	14:19	14:37	0:18

STB

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7-8-99

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JUL 09 1999

Part of
Public Record

Robert E. Murray
President & Chief Executive Officer

July 8, 1999



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

Post-it Fax Note		7671	Date	7/8/99	# of pages	3
To		Vernon Williams				
From		R.E. Murray				
Co./Dept.		Co.				
Phone #		Phone #				
Fax #		Fax #				

Dear Mr. Williams:

Enclosed is an article from the July 5, 1999, edition of *Coal Transportation Report* ("CTR") wherein it is stated that "a 'source' at the Surface Transportation Board ("STB") defended the railroads" relative to the problems that have developed for The Ohio Valley Coal Company since June 1, as a result of the takeover of Consolidation Rail Corporation ("Conrail") by the Norfolk Southern Railway Company ("NS") and CSX Transportation, Inc. ("CSX"). The article goes on to quote the STB "source" as saying, "'from what I have been told by the railroads the fact of the matter is that Ohio Valley even had a train offered to it that it couldn't load. The train showed up and the mine foreman turned it back for whatever reason. I think OVCC will end the month one train load short - the one it couldn't load', said the source." "I think the railroads have made a heroic effort to get Mr. Murray the trains he needs", the STB "source" also said.

First, Mr. Williams, the statements by the STB "source" are absolutely false. The Ohio Valley Coal Company ("Ohio Valley") has promptly loaded every train that it has received and has not "turned back" any. Further, contrary to the STB "source", in June, Ohio Valley was shorted four (4) to six (6) trains, not "the one it couldn't load", and no, the railroads' efforts have not been "heroic".

I am hereby requesting that the STB "source" be identified to Ohio Valley and me. We have been damaged, and it is highly inappropriate that an STB representative would be making such blatantly false public comments without a verification from the shipper, in this case Ohio Valley. The STB "source", who advised CTR today that he or she did not want to be identified as a result of my specific request to CTR for identification of this person, not only has done a disservice to Ohio Valley and me, but also the STB. Such blatantly false statements by an STB representative clearly would lead any objective observer to believe that the STB is biased against the shippers in favor of the railroads. It is in the STB's interest to have this person identified and dealt with.

Mr. Vernon A. Williams
July 8, 1999
Page Two

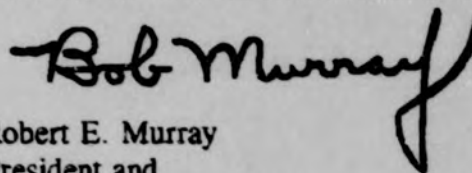
The correct information, Mr. Williams, is that Ohio Valley has promptly loaded every train that it has been provided. For the month of June, Ohio Valley came up four (4) trains short of the minimum that was to be shipped, and six (6) trains short of the hoped-for level of deliveries. Ohio Valley lost shipments of about 57,000 tons of coal worth over \$1.2 million.

One (1) of the minimum, and three (3) of the hoped-for, trains lost during the month was on the movement from Ohio Valley to FirstEnergy. However, the railroad shut down our shuttle train from Ohio Valley to our transloading facility on the Ohio River for three (3) days at the end of the month to provide crews for the shipments to FirstEnergy. This cost Ohio Valley three (3) additional 10,000 ton trains from the Mine to our river facility, for a minimum of four (4) lost trains during the month and up to six (6) trains.

There is no question that the NS and CSX have made a determined and sincere effort to make up the trains lost earlier in June as a result of the Conrail acquisition, although they should have never allowed the situation to occur in the first place. However, it is highly inappropriate for an STB "source" to be making false and biased public statements without verifying the situation with the shipper. Again, please identify this biased "STB 'source'" to the undersigned. The credibility of Ohio Valley and I have been damaged by the STB's "source's" blatantly false public conclusions and statements.

Sincerely,

THE OHIO VALLEY COAL COMPANY



Robert E. Murray
President and
Chief Executive Officer

REM/bjb
Enclosure

cc: M. F. McBride, Esq.
Linda J. Morgan, Chairman STB
William Clyburn, Vice Chairman STB
Wayne Burkes, Commissioner STB
Richard Allen, Esq.
Dennis Lyons, Esq.
Mr. J. W. Fox
Mr. Raymond L. Sharp

Murray Still Unhappy

Proactive or not, CSX's path isn't without obstacles. For example, the Ohio Valley Coal Co. hit the Surface Transportation Board with its second initiative in as many weeks (CTR 6/21/99, p.1), this time disputing claims by CSX VP of coal sales and marketing Ray Sharp that CSX and NS are only three trains off the pace on deliveries from Ohio Valley's Powhatan #6 to FirstEnergy Corp.'s Eastlake and Ashland plants. Earlier this month, Ohio Valley CEO Bob Murray complained that since Day 1, only one of the 14 scheduled CSX/NS trains had arrived.

Ohio Valley now claims that as of June 18, only three trains had picked up coal. "The experience has been a financial disaster for Ohio Valley," said Murray in his latest letter.

But a source at the STB defended the railroads. "From what I've been told by the railroads, the fact of the matter is that Ohio Valley even had a train offered to it that it couldn't load. The train showed up and the mine foreman turned it back for whatever reason. I think OVCC will end the month one trainload short — the one it couldn't load," said the source. "I think the railroads have made a heroic effort to get Mr. Murray the trains he needs."

STB

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BUSINESS

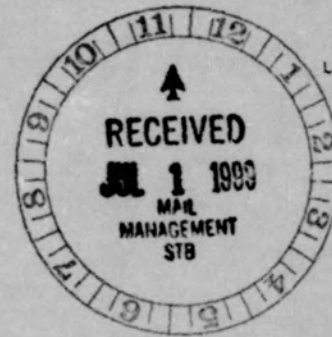
ARNOLD & PORTER

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DENNIS G. LYONS
(202) 942-5858

June 30, 1999



NEW YORK
DENVER
LOS ANGELES
LONDON

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

Re: Indianapolis Power & Light Company v. Surface
Transportation Board and United States of America,
No. 99-1231

Dear Mr. Langer:

Enclosed for filing in the above-referenced matter are an original and four copies of the "Opposition of Intervenors CSX Corporation and CSX Transportation, Inc. to Petition, Indianapolis Power & Light Company's Motion to Transfer."

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

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

Respectfully yours,

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

Enclosures
via hand delivery

cc:
Honorable Vernon A. Williams
Parties listed on the Service List

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

_____)	
INDIANAPOLIS POWER & LIGHT COMPANY,)	
)	
Petitioner,)	
)	
v.)	No. 99-1231
)	
SURFACE TRANSPORTATION BOARD and)	
UNITED STATES OF AMERICA,)	
)	
Respondents.)	
_____)	

**OPPOSITION OF INTERVENORS
CSX CORPORATION AND CSX TRANSPORTATION, INC. TO
PETITIONER INDIANAPOLIS POWER & LIGHT COMPANY'S
MOTION TO TRANSFER**

CSX Corporation and CSX Transportation, Inc. (collectively, "CSX"), who have filed a Motion for Leave to Intervene as a Matter of Right in this matter, hereby oppose the Motion to Transfer filed by Petitioner Indianapolis Power & Light Company ("IPL").

IPL has made an interesting sort of "dual" presentation. In responding to the Surface Transportation Board's Motion for Partial Dismissal of its Petition on the grounds that the Petition for Review is untimely insofar as it seeks review of Decisions Nos. 89 and 96, IP&L says that that issue should be left to the Second Circuit after a transfer there. In the present Motion to Transfer, IPL says that the case should be transferred to the Second Circuit because it involves review of Decisions Nos. 89 and 96,

other Petitions for Review of which are pending in the Second Circuit. There appears to be an element of circularity in these arguments.

The case should not be transferred to the Second Circuit because (1) Decisions Nos. 89 and 96 are not properly before this Court or any court for review on IPL's tardy Petition, and (2) nothing resembling the subject matter of Decision No. 125, which is properly before this Court, is pending in the Second Circuit.

We will develop these two points separately in an effort to avoid confusion.

(1) Decisions Nos. 89 and 96 Are Not Properly Within the IPL Petition for Review Filed in This Court, Since Review of Them Is Out of Time. — This topic has been covered by the Surface Transportation Board (the "Board" or the "STB") in its motion for partial dismissal of the Petition for Review, filed June 21, 1999, as well as CSX's similar motion filed June 24, 1999. Both in its reply brief and in the Motion to Transfer, IPL claims that the timely Petition for Reconsideration of Decision No. 89, filed by IPL in August 1998, enlarged its time for petitioning for review of Decision No. 89. So it did, but only until the Petition for Reconsideration was disposed of and for 60 days thereafter. The Board in fact disposed of the Petition for Reconsideration in Decision No. 96, served October 19, 1998. The Board was very precise as to what it did. It said this (Decision No. 96 at 26):

8. The IP&L-15 petition for clarification or reconsideration is granted in part and denied in part, as indicated in this decision. In Decision No. 89, the second sentence of footnote 151 (Decision No. 89, slip op. at 94 n.151) is revised to

read as follows: "As explained below in the section entitled Indianapolis Power and Light, the condition we are imposing on traffic to IP&L's Stout plant will result in availability of direct NS service free of CSX and/or INRD switching charges." CSX, NS, ISRR, and IP&L should attempt to negotiate a mutually satisfactory solution respecting any MP 6.0 interchange problems (and respecting any related problems that may be necessarily incidental to a MP 6.0 interchange problem), and should advise us, no later than December 18, 1998, of the status of their negotiations.

So the Petition for Reconsideration was disposed of; it was partly granted and partly denied. The partial grant was effected by revising a sentence in the earlier decision and by ordering a negotiation among the parties "respecting any MP 6.0 interchange problems" and any "necessarily incidental" problems thereto, and ordering them to report back to the Board. As to the denial of relief, that covered everything else asked for by IPL and was — a denial. The time for filing a Petition for Review with respect to Decisions Nos. 89 and 96 accordingly ran out 60 days following October 19, 1998, or on December 18, 1998. IPL filed no petition for review of any order of the Board in the Conrail matter during that period. The present Petition for Review, its only such Petition, was filed about six months later.

IPL's notion that under what IPL calls the "final order" doctrine, Decisions Nos. 89 and 96 are not yet final for court review is preposterous. A total of nine Petitions for Review were filed by various interests to review those Decisions and, except for a number of them which have been voluntarily dismissed, they are pending before the United States Court of Appeals for the Second Circuit. Perhaps what IPL is saying is that those Decisions are in themselves a "final order" but that you could also view those

Decisions plus Decision No. 125, as "represent[ing] a single 'final order.'" Motion at 2. That is certainly an interesting notion, but it is not found in this Court's decision in State of Alaska v. FERC, 980 F.2d 761, 298 U.S. App. D.C. 384 (1992), or in any of the other decisions cited by IPL or, we believe, anywhere else.¹ All that the Alaska case holds is that an order which decides a particular issue in the midst of an ongoing administrative process — such as determining the reasonableness of rates, involved in that case — is not a final order and that those who are aggrieved by it have to wait until the outcome of the case. Here, Decisions Nos. 89 and 96 authorized CSX and the Norfolk Southern companies ("NS") to take out of voting trust the stock of Conrail for which they had paid over \$10 billion, to take control of Conrail, and to divide its assets between them, all of which they have done. To say that an order which had consequences of that sort — the relief requested by CSX and NS in their Application — is not a final order but a step in an overall administrative determination focusing on milepost 6.0 is to let the tail wag the dog.

IPL sought broad-scale relief in the proceedings that led up to Decision No. 89. In IPL's final major submission to the Board, its brief filed February 23, 1998, it sought 14 items of relief, set forth on the attached Exhibit A. They ranged from trackage rights

¹ Indeed, the authorities cited by IPL undercut its position. In ICC v. Brotherhood of Locomotive Engineers, 482 U.S. 270 (1987), the Court held that the mere fact that an administrative agency responds to an untimely petition for reconsideration by denying it but in the process discussing the merits of the case does not open up those merits for fresh judicial review. Id. at 282-83. A similar view was taken in a case in this Court cited by IPL, Crowley Caribbean Transport, Inc. v. Pena, 37 F.3d 671, 308 U.S. App. D.C. 374 (1994), relying on the Brotherhood of Locomotive Engineers decision. See 37 F.3d at 675-76, 308 U.S. App. D.C. at 378-79.

between MP 6.0 for Indiana Southern into the Stout Plant; similar trackage rights into IPL's other plant in Indianapolis (the "Perry K" Plant); that the entirety of Indianapolis be turned into a "Shared Assets Area" so that all of the former Conrail facilities and tracks would be shared between CSX and NS; that NS should have direct access to local shippers rather than access through switch; that the Union Pacific and the Burlington Northern be required to participate in through rates with NS at Kansas City on Western coal movements coming to Indianapolis; etc., etc. All of the relief just mentioned requested was denied; some of the other relief requested by IPL in the 14 points set forth in Exhibit A which had been requested by other parties as well were granted;² others were denied; all this took place as part of Decision No. 89. The only upshot of the discussions launched by the Board in Decision No. 96 was that the interchange point for the Indiana Southern movements into Stout was changed. To say that the Board's action in reserving the physical suitability of an interchange at MP 6.0 left all those issues rejected by the Board in the case open and made either the entire Decision No. 89 or the parts of it that affected IPL's wish list non-final is insupportable. The Alaska case does not suggest that there can co-exist two "final orders," one containing the other:

² NS, not Indiana Southern, was granted trackage rights into the Stout Plant. This was as requested by the Department of Justice. IPL had requested it as alternative relief. See Appendix A, point 5. It is interesting to note that the interchange point, MP 6.0, the choice of which caused the Board to order discussions between the parties, was proposed by IPL itself. See Appendix A, point 2. IPL got what it wanted as far as this was concerned, but it turned out that interchange at MP 6.0 was not satisfactory from an operational standpoint, and the parties later agreed the interchange would take place at a nearby railroad yard.

(i) Decision No. 89 subject to the revisions made in Decision No. 96, and (ii) the entirety of those Decisions plus Decision No. 125.

This case does not involve the principle of "party finality" discussed in United Transportation Union v. ICC, 871 F.2d 1114, 276 U.S. App. D.C. 374 (1989). Under that doctrine if Party A files a petition for review within 60 days of an administrative agency's decision without filing a petition for review and Party B files such a petition for judicial review but within the period for filing a petition for reconsideration with the agency files such a petition, Party B's petition for review must be dismissed or denied (subject to refiling after the disposition of the petition for reconsideration), but Party A's may stand. See 871 F.2d at 1118, 276 U.S. App. D.C. at 378. Here, Decision No. 89 became final for IPL with Decision No. 96 when IPL's timely petition for reconsideration was denied in large part and granted to a limited degree on October 19, 1998. But, as the Brotherhood of Locomotive Engineers decision, cited above, holds, no discussion by the Board thereafter of what had gone before could open up what had gone before. The only exception is that there was left open what the Board expressly opened its decision, which was the location of the point of interchange for service to the Stout Plant. As the court said in the United Transportation Union case, it is not the case that "a decision can be final for some purposes but not others" (871 F.2d at 1117, 26 U.S. App. D.C. 377). Decision No. 89 became a final decision for everything that it decided, with Decision No. 96, on October 19, 1998.

(2) *The Reviewability of Decision No. 125 Does Not Authorize Any Transfer to the Second Circuit.* — If it is acknowledged that review can only be sought by IPL at this time with respect to Decision No. 125, the Motion for Transfer must fail, despite IPL's assertion to the contrary. Motion at 3. Both (i) the two earlier Decisions — Decision No. 89 and Decision No. 96 disposing of the Petitions for Reconsideration of Decision No. 89 — and (ii) Decision No. 125 are final orders of the Board. The venue of the IPL Petition at bar is proper in the District of Columbia Circuit. Section 2112 of title 28 does not address the occurrence of Petitions for Review from two separate final orders that happen to be rendered in the same docket.

No case law cited by IPL supports its view that Section 2112 requires or authorizes a transfer of a Petition properly filed as the sole petition in the 10-day priority period to a court where some earlier final order is the subject of petitions for review. The only case cited is this Court's transfer of the petition for review of Decision No. 96 by the Indiana Rail Road Company,³ but Decision No. 96, with Decision No. 89, constituted a final order. That Petition was filed while there already were Petitions for Review of Decision No. 89 pending in the Court of Appeals for the Second Circuit, and Decision No. 96 was simply the Decision which denied reconsideration of Decision No. 89. The Indiana Rail Road Company Petition was properly transferred, since it purported to seek review of Decision No. 96 even though Indiana Rail Road Company had not participated

³ Not to be confused with Indiana Southern; they are two different and competing railroads.

in the filings before the Board which led to Decisions Nos. 89 and 96, its petition to intervene having been denied by the Board as untimely. That Petition for Review of Indiana Rail Road Company was in fact then dismissed by the Court of Appeals for the Second Circuit, indeed on motion made by IPL itself, on the grounds that, not having been a party to the agency's proceedings, Indiana Rail Road Company could not seek judicial review of them. See Erie-Niagara Rail Steering Committee v. STB, 167 F.3d 111 (2d Cir. 1999).

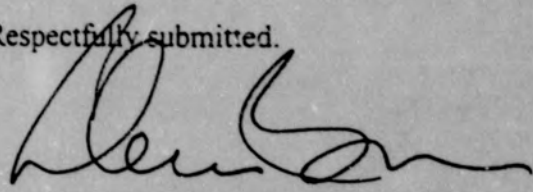
It may be that (although IPL does not say so) that IPL is relying on some form of "forum non conveniens" argument or on the view that the Second Circuit is a preferable forum for the consideration of the present petition because the present case and the cases in the Second Circuit both involve rail service in Indianapolis. But, as noted, the petition of Indiana Rail Road Company, the only petition challenging the arrangements made in Indianapolis, has been dismissed by the Second Circuit. To be sure, another Petition for Review filed by Indiana Rail Road Company is still pending in the Second Circuit, but the only issue raised by that petition is whether the Board abused its discretion in refusing to permit Indiana Rail Road Company to intervene in the case before the Board after the Board had made its major decision, No. 89. The only remedy the court could order on that Petition would be to permit Indiana Rail Road Company to intervene at this late date before the Board. In the meantime, however, Indiana Rail Road Company has, by vote of its Board of Directors, agreed to take the actions required of it by the Board's orders in Decisions Nos. 89 and 96, they have been taken, and railroad operations in Indiana are

proceeding under the Board's orders. Accordingly, there is no basis for transfer even under some theory of "forum non conveniens" or of relative convenience, theories on which IPL does not expressly rely and which does not appear to have any basis in the governing statutes. See 28 U.S.C. §§ 2321-2323, §§ 2341-2350.

CONCLUSION

For the reasons stated, there is no basis for a transfer of the specialized issues decided in Decision No. 125 to the Second Circuit. IPL's petition, to the extent it seeks review of the Decisions now under review in the Second Circuit, is grossly out of time. There are no substantive issues involving Indianapolis in the Second Circuit in any event, and even if the Court were to consider the relative efficiency of transferring or not transferring, there would be no basis for a transfer. The Motion for Transfer should be denied.

Respectfully submitted.



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

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

June 30, 1999

EXHIBIT A

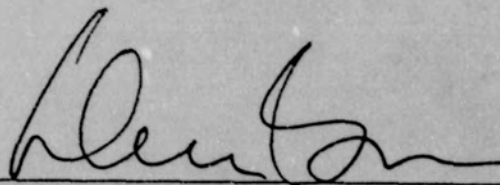
Relief Requested by Indianapolis Power & Light Company

1. Indiana Southern be granted overhead trackage rights between MP 6.0 on its Petersburg Subdivision and IPL's Perry K Plant located on Conrail;
2. Indiana Southern be granted overhead trackage rights between MP 6.0 on its Petersburg Subdivision and IPL's Stout Plant located on the INRD;
3. Indianapolis is to be a "shared assets area," including an equal sharing of trackage, the Avon and Hawthorne Yards, and direct access to each of the short lines that serve Indianapolis;
4. Regardless of the access remedy adopted for Indianapolis, IPL must continue to have the right to build out to the Indianapolis Belt so as to be served directly by ISRR or NS at its Stout Plant;
5. In the alternative to condition No. 3, NS should have direct access to local shippers, direct access to short lines serving Indianapolis such as ISRR, and especially direct access to IPL's Stout and Perry K Plants;
6. Both Perry K and Stout Plants should be deemed "2 to 1" points;
7. ISRR and NS (if Indianapolis is not a "shared asset area") should be required to pay CSX either a trackage rights fee set at CSX's costs, or a switching charge set at CSX's or Indiana Rail Road's costs (depending on which carrier delivers the traffic to IPL's plants) but not both, on a direct passthrough basis to IPL;
8. Traffic in Indianapolis handled by NS, especially IPL's unit trains of coal, need not be delivered to, or picked up from, the Hawthorne Yard, but instead may be delivered by NS, or picked up by NS, directly from shippers;
9. Oversight of CSX's switching services will be provided to ensure that ISRR and NS (if Indianapolis is not a "shared asset area") receive efficient, non-discriminatory service;
10. The Board and the Indianapolis shippers, including IPL, must have the ability to audit CSX's costs that are the bases for the trackage rights fee and the switching charge that NS must pay, with the Board empowered to review and prescribe a lower, reasonable fee or charge, if appropriate, on an expedited basis;

11. Indefinite oversight is required to ensure that traffic via Kansas City or other interchanges to NS from western carriers is efficient;
12. The transaction should not be permitted to take effect until all necessary labor implementation agreements and detailed operations plans are in place;
13. Union Pacific and BN/SF be required, if requested by IPL or NS, to participate in a through rate with NS at Kansas City on a nondiscriminatory basis *vis-à-vis* Chicago and St. Louis, or, in the alternative, CSX be required to give NS access on a nondiscriminatory basis over one of its lines from St. Louis or Chicago to Indianapolis, so that NS can compete effectively with CSX for probable western coal movements to Indianapolis, as Conrail could today; and
14. IPL must be provided equal access for NS and CSX/INRD at Stout and Perry K for the receipt of coal, as Drs. Kahn and Dunbar recommended. If the Board is disinclined to adopt this remedy, it should in the alternative require NS and CSX to accept "bottleneck rate" jurisdiction for IPL, as Drs. Kahn and Dunbar also recommended. Finally, if the Board is disinclined to adopt either of these two remedies, the Board must impose a rate cap with adjustments for cost changes using the Rail Cost Adjustment Factor (Adjusted) for IPL, subject to oversight, at both its Perry K and Stout Plants, as Drs. Kahn and Dunbar recommended in the alternative to their preference for structural remedies.

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of June, 1999, a copy of the foregoing
"Opposition of Intervenors CSX Corporation and CSX Transportation, Inc. to Petitioner
Indianapolis Power & Light Company's Motion to Transfer," was served by first class
mail, postage prepaid, or more expeditious manner of delivery, on all parties of record to
this case, as named on the attached Service List.

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

Dennis G. Lyons

SERVICE LIST

Michael F. McBride, Esq.

Brenda Durham, Esq.

LeBoeuf, Lamb, Green & MacRae, L.L.P.
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The Honorable Janet Reno

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CHEMICAL MANUFACTURERS ASSOCIATION



ENTERED
Office of the Secretary

June 29, 1999

JUL 01 1999

Part of
Public Record



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

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

Dear Secretary Williams:

The Chemical Manufacturers Association (CMA) is writing to advise the Surface Transportation Board (Board) that the U.S. chemical industry has been adversely affected by rail service disruptions related to the Conrail transaction. CMA commends CSX and Norfolk Southern (NS) for cooperating with their customers during the implementation of that complex transaction, both before and after June 1. Nevertheless, the Board should know that rail service -- particularly in the Northeast and Midwest -- has not been acceptable.

CMA is a non-profit trade association whose member companies account for 90% of the productive capacity for basic industrial chemicals in the United States. CMA members depend heavily on railroads for the safe and efficient transportation of raw materials and finished products, which typically move in tank cars and hopper cars that are owned or leased by shippers. The chemical industry annually ships 140 million tons by rail and pays almost \$5 billion in freight charges. CMA was a party of record in Finance Docket No. 33388 and participates in the Conrail Transaction Council (CTC).

CMA has been especially concerned about the possibility that shippers might be harmed during the implementation of the Conrail transaction. On October 21, 1997, in joint comments filed with the Society of the Plastics Industry, Inc. (see CMA-10, pages 28-32), we noted the importance of pre-implementation issues, including --

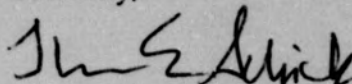
- "SAA [Shared Assets Area] management and operations protocols, including establishment of Management Information Systems ('MIS') in the SAAs" and
- "Extension or integration of their own MIS by NS or CSX to their respective portions of Conrail's assets."

Many of the service disruptions experienced by CMA members appear to be related to MIS implementation. At the June 23 CTC meeting, CMA orally summarized all member-company reports of rail service disruptions. CMA also provided a written

summary of those reports to NS and CSX. Other shipper organizations reported similar service problems, which were acknowledged by CSX and NS. Since that meeting, we have received additional reports from CMA members. We enclose a copy of our revised summary, which reflects information from 25 chemical companies, and request that you include it as part of the record in Finance Docket No. 33388.

If you have any questions about this matter, please contact me at 703-741-5172.

Sincerely,



Thomas E. Schick
Counsel
Distribution Team

Enclosure

cc: Dennis G. Lyons, Esq.
 Counsel for CSX
Richard A. Allen, Esq.
 Counsel for NS
Paul Samuel Smith, Esq.
 Counsel for DOT
Martin W. Bercovici, Esq.
 Counsel for SPI
Edward H. Rastatter
 Secretary, CTC

CHEMICAL MANUFACTURERS ASSOCIATION

Summary of NS/CSX Problems Since June 1

TYPES OF PROBLEMS

Delays

Lost cars

Empties not returned

Computer glitches

"Ping-pong" (instead of going from origin to destination, the car goes to places that shouldn't even be on the route and may even return to the origin, thus it "ping pongs" through the rail system)

Safety (time-sensitive products)

Getting through to railroad

EFFECTS

Shutdowns of facilities

Shutdowns of customers

Transloading to trucks

Staff resources (7 day weeks)

AREAS OF CONGESTION/PROBLEM ROUTES

CSX

Pittsburgh area

Selkirk, NY

Atlanta, GA

Texas to Pittsburgh

Kansas City

NS

Toledo, OH

Bellevue, OH

Cincinnati, OH

Cleveland, OH

Columbus, OH
Portsmouth, OH
Baltimore, MD
Conway, PA
Elkhart, IN
Knoxville, TN
Charleston, TN
Birmingham, AL
Louisville, KY
Ohio to Memphis
Allentown, PA
Indianapolis, IN
Elkhart, IN
Niagara Falls, NY
Olean, NY
Adrian, MI
South Carolina to Illinois

SAA

Detroit
Philadelphia
New Jersey

CHEMICAL MANUFACTURERS ASSOCIATION

Notes From Members Concerning NS and CSX Problems

COMPANY 1 (6/13)

We have 3 facilities in the Philadelphia. Shared Access Area, and service has been unacceptable since 6/1.

Neither carrier's systems have worked as advertised and there still is no integration with SAA operating systems. We are averaging an extra 3 - 7 days per shipment outbound.

It is ugly so far, and it seems neither carrier has made much progress on either the systems problems or the service area - which is our biggest concern. We have not shut down any customers yet, but are whisker close to several; and lack of empties has forced 5% diversion to tank trucks. Both carriers have done a very good job of managing the exception shipment "shutdown cars" to avoid run outs at customers. (This means that if a car absolutely must get to a customer, they will make every effort to pick it up and deliver)

6/15 update

Situation has worsened since June 1 on both carriers, no signs of returning to consistency, don't expect to get back to normal until middle of next month.

Harrisburg to Buffalo, got to Binghamton, turned around back to Harrisburg
People in the yards don't seem to have same information as central computer

One plant is 35 shipments behind

Delaware to Albany, 20 day cars, pulling back to plant haven't gotten very far.

6/21 update

CSX has increased resources in Delaware Valley, situation improving.

NS - yards still backed up, still misrouting, not fixing problems fast enough

Expect to get things right by mid July, partly because auto, coal and chemicals take downturn then.

Still waiting for some cars that left June 1. Minimum transit times are close to doubling.

SAA in NJ moving okay, but once leaves, problems.

COMPANY 2 (6/11)

We had some problems in the computer area but that has cleared up. Everything seems fine at this time. Will advise if this changes.

COMPANY 3 (6/11)

Experiencing problems on CSX and NS. CSX mishandling cars from Texas to Pittsburgh, bypassing Pittsburgh going to Cumberland MD, delays have caused us to reduce production and we have trucked in materials for the last couple of days. Also having problems on shipments from Pittsburgh to Georgia, delays on NS in Cincinnati and Portsmouth, Ohio, Louisville and West Virginia.

COMPANY 4 (6/14)

In Toledo, Ohio, NS has shut down main line, trains are tied up - parked, they are backed up at grade crossing. They are also moving a lot more trains through Toledo than before, problems were anticipated, but not this bad...NS is in a totally chaotic situation, accepting no freight. Seem to be having trouble with getting train crews and former Conrail employees are not doing it NS way (pettiness). Car from Newark Delaware that left June 1 still hasn't made it to Ohio on NS. Having trouble getting customer service at NS

CSX seems to be running pretty good.

COMPANY 5 (6/14)

Only ship 3 cars a week, but problems on NS, is responsive and doing everything possible, had 3 empties, took weeks to return, almost had to shut a plant down, but when told, they got the car to him. Example: a car left Ohio bound for Memphis 2 weeks ago, was still in Indiana.

NS story - STB did not allow them to do computer system integration with them until June 1 (?)...

Have to make them aware of problems, they don't seem to know unless they are notified.

Automated Tracking System - customers can access, but not very informative, they need to improve system.

COMPANY 6 (6/14)

Service on NS and CSX is poor at best. NS has been able to get us only 4 of 22 empties on their system. We've had to convert to truck as much as possible, but some customers will not take truck deliveries. We are clearly in danger of shutting down several key accounts. It does not appear to be getting better on either carrier.

COMPANY 7 (6/15)

Experiencing delays and lost cars, customers have shut down.

COMPANY 8 (6/15)

Most of problems related to programming problems on computer, having problems in Cleveland, Detroit, Indiana (lost cars OR not moving at all).

COMPANY 9 (6/15)

We are seeing delays of 3-4 days or longer on both NS and CSX, NS policy where NS personnel are told NOT to give out any ETA's makes it very hard to plan business. Some trucking of product is occurring due to railcar delays to customers in the Northeast. We hear that the delays in the Northeast are due to crew & power shortages and yard congestion, especially at Buckeye, Conway, Allentown, Buffalo, and Selkirk.

COMPANY 10 (6/15)

We have seen service deteriorate on the Norfolk Southern since the June 1 takeover date. On several occasions, we have and are trucking product to customers in order to avert plant shutdowns. The NS is telling us it will be 2 to 3 weeks before they can get the service issues sorted out. In the meantime, their customer service center is totally swamped with calls.

Specifics:

Cars still at Cleveland Rockport after going to Indianapolis and then back to Rockport.

Both RR's losing track of cars, i.e., NS says gave car to CSX, CSX has no record, records inaccurate

COMPANY 11 (6/17)

Delays ranging from 2 to 5 days are being experienced in Ohio for both NS and CSX. Cause ranges from EDI failures to severe congestion in key yards, cars being moved incorrectly, no bills. Railroads are noting it will likely take several weeks for the problems to ease. As a result of these problems we are adding up to 5 days to our "normal" transit times. If delays continue for another month we will likely begin to experience empty car supply problems first and then face production cutbacks as we suffer containment problems at plants.

COMPANY 12 (6/18)

NS shipments – Louisiana to Columbus, OH, wrongly routed, went from Columbus to Pittsburgh by mistake, have been using tank trucks to get to customer. Eight day moves taking more than 20 days.

COMPANY 13 (6/18)

CSX choking a bit, but has improved and not gridlocked, we prepared contingency plans with customers, using trucks when necessary. Problems have been in the Northeast, Ohio, Indiana

COMPANY 14 (6/19)

Having terrible problems, lost between CT and PA, and cars from TX, 2 weeks worth of cars missing, shutting down part of plant, moving stuff to trucks, shutting down plant \$500,000 day in lost sales.

COMPANY 15 (6/21)

Problems with CSX delivery of cars that originated on NS: We are beginning to experience significant delays in product moves we have in the corridor moving from Niagara Falls, NY into a Michigan plant. This is a raw material supply which could potentially disrupt plant operations. Also due to the hazard of the product, we are limited to rail supply only and cannot convert to tank trucks for the interim.

6/24 Update

Shut down Michigan plant three days ago, haven't received delivery since June 1. Starting to look like Houston situation all over again. Bringing in some product on one ton cylinders by truck, which takes additional resources to handle.

COMPANY 16 (6/21)

Experiencing significant delay in movement from South Carolina to Illinois on NS. Product is time sensitive from a safety point of view – will have to be returned if not delivered within 90 days. Close to shutdown of plant. NS says they are taking care of autos, coal and then everyone else.

COMPANY 17 (6/21)

CSX and NS having computer problems, service snafus (misroutings) and general confusion. Specific problems – Wyoming to Chicago gateway and beyond and also in SAA of Philly.

COMPANY 18 (6/21)

NS problem with movement from Alabama to Elizabeth, NJ, taking forever. NS citing computer problems, were unable to trace cars today, not giving any date when these things can be straightened out, already filing claims because we have moved to truck. Problems started in mid May with Conrail.

COMPANY 19 (6/21)

Buffalo/Niagara can't get product out or empties back. CSX and NS are both having problems. Movement of empties from TN to Buffalo, hung up in Cincinnati for several days, now outside of Buffalo, not moving. Can't get loads to customers in Richmond, VA or Adrian, MI, close calls at other places. Seems to be worsening.

COMPANY 20 (6/22)

Performance is NOT improving. Congestion continues to be a major problem effecting the Northeast. This is effecting both inbound deliveries and outbound empties. The railroads are doing their best to respond when plant/customer shutdowns are at risk. It is still difficult obtaining accurate and stable ETA's for railcars in the North East. The NS computer system has been down several times today. Computer and EDI problems with the NS continues to cause inaccurate information, visibility issues, and some "no billing" that effects both inbound and outbound loads.

Several plants and customers close to shutdown, customers also. Problem areas:

North East

- * Aliquippa, PA (CSX)
- * Bellevue, OH (NS)
- * Conway, PA (NS)
- * Elkhart, IN (NS)
- * Monaca, PA (CSX)
- * Selkirk, NY (CSX)

South East

- * Atlanta, GA (CSX)
- * Knoxville, TN (NS)
- * Birmingham, AL (NS)

Concerned about CN/IC, have no resources left if there are problems.

COMPANY 21 (6/22)

Inability to provide regular train service has affected delivery of product to customers. The severe incidents are on the NS system, which continues to present most of the ongoing problems. CSX appears to be providing consistent service levels across the system. Our experience shows that the level of service is down, but that they are fluid. Service delays are in the 2 to 4 day range, with occasional periods of longer times waiting for power and crews to be assigned. The longer power problems are usually solved in the 8 to 12 hour time frame of when the train was scheduled to depart.

The NS system problems are a different story altogether. Service failures appear to be centered on several major yards to be plugged, such as Elkhart, IN, Conway, PA, Allentown, PA, Columbus, OH, Olean, NY and Cincinnati, OH. The time delays in getting cars out of these yards are as long as 12 or more days, especially Elkhart. As Elkhart is probably the worst of the terminals we are not receiving regular switching at an IN facility as all the cars from this facility must go through Elkhart. It also appears that full trains are being parked at such places as Driftwood, PA waiting for an opportunity to get into Allentown or Olean for switching.

The NS is trying to go around these yards and seem to be moving trains to such places as Louisville, KY. In order to keep current customers orders filled we are having to locate transfer facilities so that trucks can be loaded and sent to customers for continuing operations. We have had to do this in Columbus, OH, Detroit, MI and Louisville, KY. To the NS credit they are continually advising that if we have an alternate method of supply such as trucking or switching to CSX that we should be utilizing those options.

To date we are not seeing a major change in the level of NS service, although in conversations with NS representatives they have said that service has improved in the last week. We are still waiting to see this happening for ourselves, and at this point we are not. The customer service information that we are receiving is difficult to obtain as telephone lines are extremely busy and they have been told not to call terminals to see what is happening to cars that are in place for long periods of time. It would be very helpful to us as customers, to have specific contacts established who have the ability to obtain good information on when we can expect situations to improve in certain areas. This would allow us to plan on what material will need to be shipped to protect ongoing customer requirements.

COMPANY 22 (6/22)

Problems in Decatur, IL, Indianapolis, NJ SAA, lost cars, delays. Railroads doesn't know where car is going, can't i.d. cars. Trucking materials all over the country to avoid shutdowns. Concerned about CN/IC adding to problem.

COMPANY 23 (6/25, situation as of 6/21)

Both CSXT and NS are making adjustments but things in general are not much better and in some ways have gotten worse, It appears that improvements may not be realized for at least a month to acceptable levels.

NORFOLK SOUTHERN

There is significant congestion in Allentown, Buffalo, Shared Asset Areas, Columbus, Elkhart and Conway. Spreading to Tennessee.

CSX

Problems in Indianapolis, Cincinnati and Louisville. Oak Island (NJ Shared Asset) and the New York to Baltimore corridor congested along with Selkirk. Seeing improvement in some places, such as Philadelphia.

COMPANY 24 (6/25)

CSX: Experiencing considerable delays out of Cincinnati and other areas (MA, NJ, Kansas City). Cars are not moving or going in the wrong direction. We have missed deliveries and had to increase costs due to moving trucks.

NS: Severe problems, closed down plant in Green Bay several times, problems getting tank cars to and from Cincinnati, Lexington, KY (shutdown), Baltimore, Georgia and the Carolinas. Company makes well-know consumer products.

Feels this is more severe to company than UP meltdown, affecting more plants more severely.

COMPANY 25 (6/25)

We have 285 cars moving loaded on the NS, with 133 of these cars delayed. After looking at the total number of loads on the NS and the total number of hours cars are delayed, we are adding 3 to 4 transit planning days to cars shipping to points served by the NS RR.

We have 191 cars moving loaded on the CSXT. 45 of these cars are delayed. After following the same formula, we are adding 1 to 2 transit planning days to cars shipping to points served by the CSXT.

STB

FD

33388

6-30-99

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MOC



Office of the Chairman

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

FILE IN DOCKET

June 30, 1999

FD-33388

The Honorable William V. Roth, Jr.
United States Senate
104 Hart Senate Office Building
Washington, D.C. 20510-0801

Dear Senator Roth:

Thank you for your letter of May 28, 1999, requesting information on behalf of State Senator J. Dallas Winslow and his constituent, Mr. Anthony Undorf, on the speed and number of post-Conrail Acquisition (Acquisition) trains using the CSX line near Shipley Ridge, in Wilmington. You also have requested information on the overall impact of the Conrail Acquisition on Delaware.

As part of the Board's review of the Acquisition, the Board's Section of Environmental Analysis (SEA) completed an Environmental Impact Statement (EIS) for the Acquisition and found that it should not result in any significant physical or operational changes in Delaware. Proposed changes as a result of the Acquisition would be largely limited to changes in train operations on existing rail lines. The rehabilitation of the Shellpot Bridge in Wilmington is the only construction-related activity in Delaware associated with the proposed Acquisition.

With particular respect to Mr. Undorf's concerns, the operating plan for the Acquisition shows that the CSX RG Tower to Wilmer rail line that passes near Mr. Undorf's community will experience an increase in train movements from 22.9 trains per day to 26.4 trains per day, an increase of 3.5 trains per day. The pre-acquisition and post-acquisition train speed on the RG Tower to Wilmer rail line where it passes through Mr. Undorf's community is 50 miles per hour.

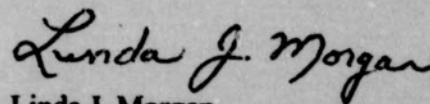
Regarding historical train count data, I have attached below for your information the address of Mr. Robert Allen, General Manager Safety, Environmental & Operating Practices, at CSX Transportation, Inc., who should be able to assist you with obtaining historical data on train counts for CSX. The Board does not maintain historical traffic data for CSX. His address is as follows:

Mr. Robert Allen
General Manager
Safety, Environmental & Operating Practices
CSX Transportation
500 Water Street, 12th Floor
Jacksonville, FL 32202

The Honorable William V. Roth, Jr.

I hope that this information is helpful to you. If I may be of further assistance, please feel free to contact me.

Sincerely,

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

Linda J. Morgan

WILLIAM V. ROTH, JR.
DELAWARE

104 HART SENATE OFFICE BUILDING
TELEPHONE: 202-224-2441

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
FINANCE

GOVERNMENTAL AFFAIRS
JOINT COMMITTEE ON TAXATION
JOINT ECONOMIC COMMITTEE

May 28, 1999

FILE IN DOCKET

CHAIRMAN
OF
COMMITTEE
ON
MORGAN

JUN 1 4 10 PM '99

RECEIVED
SURFACE TRANSPORTATION
BOARD

Mr. Dan King
Director of Congressional & Public Services
Surface Transportation Board
Room 842
1925 K Street NW
Washington, DC 20423-0001

Dear Mr. King:

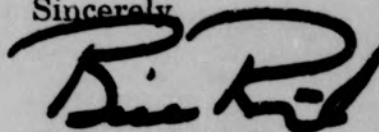
Enclosed please find a letter from State Senator Dallas Winslow regarding my constituent Mr. Anthony Undorf, and his concern with increased use and speed of trains using the CSX line near his home.

Please review his questions and concerns and respond to Rob Clemens at (302) 573-6291 in my Wilmington office, or send any correspondence to:

3021 Federal Building
844 King Street
Wilmington, DE 19801

Thank you in advance for your attention to this matter.

Sincerely,



William V. Roth, Jr.
United State Senate

WVR/rc

DALLAS WINSLOW
STATE SENATOR
Fourth District



SENATE
STATE OF DELAWARE
LEGISLATIVE HALL
DOVER, DELAWARE 19901

COMMITTEES
Energy & Transit
Finance
Highways & Transportation
Judiciary

May 21, 1999

The Honorable William V. Roth Jr.
3021 Federal Building
King Street
Wilmington DE 19801

Dear Senator Roth:

I am writing today on behalf of Mr. Anthony Undorf who lives at 808 Bezel Road in Shipley Ridge, Wilmington 19803. Mr. Undorf contacted my office because he believes the trains using the CSX line are speeding. Also, he has noticed an increase in the number of trains using this line.

Mr. Undorf is aware of the recent merger between the CSX, Conrail and Southern Railroads and he wants to know how this merger is going to affect Delaware. Specifically, he would like a count of the number of trains that used the CSX line, on an average daily basis for last year and compare it with the count from five and ten years ago.

Will you please contact the Federal Railroad Administration on our behalf and communicate your findings with Mr. Undorf.

Thank you for your assistance on our behalf.

Sincerely,

A handwritten signature in cursive script that reads "J. Dallas Winslow".

J. Dallas Winslow
State Senator
4th Senatorial District

JDW/jd
Cc: Mr. Anthony Undorf
2711400076

4629 Talley Hill Lane, Wilmington, DE 19803
Home: 302-764-9728 Office: 302-577-5131 Senate Offices: Dover 302-739-5048 Fax: 302-739-5049
Wilmington: 302-577-8714 Fax: 302-577-3269 E-Mail: j.dallaswinslow@carvel@pub_defender

STB

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6-30-99

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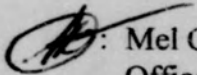
SURFACE TRANSPORTATION BOARD

Memorandum



DATE: June 30, 1999

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

FROM  : Mel Clemens, Director
Office of Compliance and Enforcement

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

Attached are three copies of letters from this office to CSX and Norfolk Southern requiring the inclusion of additional data in the performance reporting required in the above proceeding, which are to be committed to the docket for public reference. As requested, I am providing the three paper copies to Ron Douglas, two for the docket and one for 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 Burke,
Richard Armstrong
Ron Douglas
Charles Renninger



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

June 25, 1999

Office of Compliance and Enforcement

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

Dear Mr. Price:

This letter will confirm our discussions regarding my responsibilities under Finance Docket No. 33388, Decision No. 89, to monitor the implementation of the Conrail acquisition. In so doing, I must assess the current level of reporting, the operating conditions, and the need for additional information, and must impose to the degree I believe is necessary, additional data requirements. It is my assessment that additional data should be included with the weekly reports now being filed with this office by CSX related to the acquisition of Conrail.

Specifically, in assessing the operating conditions on the former Conrail lines acquired by CSX, it is my conclusion that the Board's monitoring will be aided by three additional data elements. First, I believe that it is necessary to have a daily snapshot view, Monday through Friday, of the of the acquired lines in terms of multiple main lines and sidings that are blocked by trains that are in other than normal movement status. It is my view that this report, as noted, would be a daily snapshot total, e.g., 1430 hours, for sidings and for multiple main lines, and would include a total for each category for the week. Second, I think that it is important, particularly considering the apparent congestion on the acquired lines, to establish whether there are interchange problems between CSX and NS, and between CSX and other railroads that would impede CSX's operations. Therefore, I would like a daily, Monday through Friday, offered-and-refused in interchange report for traffic offered to NS and refused; traffic offered to other connections and refused; and a daily total and weekly average for traffic offered by CSX and refused. Third, I think it is imperative to begin to report on trains delayed by cause, e.g., trains delayed for lack of crews; trains delayed for lack of power; or trains delayed due to congestion or congestion-related staging. As above, this report will be a daily snapshot total, e.g., 0600 hours, for Monday through Friday, and should include a weekly total of trains delayed.

The additional reports described above should be filed with your weekly shared assets reporting and should be discussed to the degree necessary in your cover letter transmitting the reports. Please contact me immediately if there are any questions related to this requirement.

Sincerely,

Melvin F. Clemens, Jr.
Director



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

June 25, 1999

Office of Compliance and Enforcement

George A. Aspatore, General Solicitor
Norfolk Southern Corporation
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. In so doing, I must assess the current level of reporting, the operating conditions, and the need for additional information, and must impose to the degree I believe is necessary, additional data requirements. It is my assessment that additional data should be included with the weekly reports now being filed with this office by NS related to the acquisition of Conrail.

Specifically, in assessing the operating conditions on the former Conrail lines acquired by NS, it is my conclusion that the Board's monitoring will be aided by three additional data elements. First, I believe that it is necessary to have a daily snapshot view, Monday through Friday, of the of the acquired lines in terms of multiple main lines and sidings that are blocked by trains that are in other than normal movement status. It is my view that this report, as noted, would be a daily snapshot total, e.g., 1430 hours, for sidings and for multiple main lines, and would include a total for each category for the week. Second, I think that it is important, particularly considering the apparent congestion on the acquired lines, to establish whether there are interchange problems between NS and CSX, and between NS and other railroads that would impede NS's operations. Therefore, I would like a daily, Monday through Friday, offered-and-refused in interchange report for traffic offered to CSX and refused; traffic offered to other connections and refused; and a daily total and weekly average for traffic offered by NS and refused. Third, I think it is imperative to begin to report on trains delayed by cause, e.g., trains delayed for lack of crews; trains delayed for lack of power; or trains delayed due to congestion or congestion-related staging. As above, this report will be a daily snapshot total, e.g., 0600 hours, for Monday through Friday, and should include a weekly total of trains delayed.

The additional reports described above should be filed with your weekly shared assets reporting and should be discussed to the degree necessary in your cover letter transmitting the reports. Please contact me immediately if there are any questions related to this requirement.

Sincerely,

Melvin F. Clemens, Jr.
Director

STB

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33388

6-29-99

J

BUSINESS



Raymond L. Sharp
Vice President
Coal Sales & Marketing

500 Water Street J170
Jacksonville, FL 32202
(904) 359-1993
Fax: (904) 359-7426



June 16, 1999

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

Subject: Finance Docket Number 33388

Dear Mr. Williams:

On June 14, 1999, Mr. Bob Murray of the Ohio Valley Coal Company sent a letter advising the Surface Transportation Board of his concerns about coal shipments to Eastlake and Ashtabula Power Plants of First Energy. Specifically he stated that CSXT is giving priority to coal moving from other mines at the expense of coal moving from Ohio Valley Coal Company which is now on the Norfolk Southern (NS) system. Mr. Murray's opinion is that this alleged action is due to the fact that the Ohio Valley Coal Company's movement is a joint movement.

CSXT has not and will not under any circumstances give priority to coal shipments in the fashion described by Mr. Murray. It is true that CSXT and the NS are behind three (3) trains on the June shipment schedule of Ohio Valley Coal Company. The slowdown in service experienced after June 1 is now improving. The specific action taken is to adjust the interchange locations between the Norfolk Southern and CSXT for better crew utilization. Also both railroads are gaining experience in the new traffic patterns that have developed in the greater Cleveland area. It is my understanding that the number of empty coal cars in the Cleveland-Ashtabula, Ohio area is coming into balance.

This is a situation that has only just developed and appears to be of a short-term nature. CSXT and NS are actively engaged in making the necessary adjustments. Mr. Bill Fox of NS and I met with Mr. Murray on June 14 to address his concerns expressed in his June 12 letter and CSXT is communicating closely with the coal receiver to insure the scheduled deliveries from Mr. Murray's operation are made.

Thank you for your consideration in this matter.

Sincerely,

Raymond L. Sharp
Vice President - Coal Sales & Marketing

Mr. Vernon A. Williams

June 16, 1999

Page 2

CC: Mr. Richard Allen, Esq.
Mr. Wayne Burkes, Commissioner, STB
Mr. A. R. "Pete" Carpenter
Mr. William Clyburn, Vice Chairman, STB
Mr. J. W. "Bill" Fox, Jr.
Mr. David R. Goode
Mr. Dennis Lyons, Esq.
Ms. Linda J. Morgan, Chairman, STB
Mr. Robert E. Murray
Mr. James L. Parks
Mr. John W. Snow
Mr. Robert N. Stoller

STB

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6-28-99

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BUSINESS

FD-33388



Office of the Chairman

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

June 28, 1999

Mr. Edward Hamberger
President and CEO
Association of American Railroads
50 F Street, NW
Washington, DC 20001

Dear Mr. Hamberger:

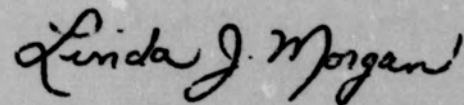
It has been almost 4 weeks since the Conrail acquisition split date. As you well know, during this period, certain implementation issues have arisen that have affected rail service in the East. This letter is to update you on the Board's activities in this regard and to encourage the continued efforts of the entire rail industry to ensure that the Conrail transaction is implemented as smoothly and safely as possible.

The Board has been actively involved in monitoring the operational aspects of the Conrail implementation process since its inception. As you know, the Board closely reviewed the significant planning efforts of NS and CSX prior to the June 1 split date. Beginning in August 1998 and continuing since the split, Board representatives have had regular conversations with NS and CSX officials, as well as discussions with officials of other railroads, and are in frequent contact with affected customers and rail employees. In particular, Board representatives have worked with interested parties to focus on possible private-sector solutions to address implementation problems and service issues that have arisen. By letter, I have specifically urged cooperation and mutual assistance on the part of NS and CSX, with a special focus on resolving interchange issues between NS and CSX. I also have written the Chairman of the Conrail Transaction Council, updating him on the Board's efforts to date and offering assistance as appropriate. And the Board continues to receive and analyze relevant performance data regarding the integration of the Conrail system and is requesting additional data to further assist the Board in monitoring service performance during the implementation process.

I know that the various Class I carriers have been working to assist NS and CSX, in particular through the offering of locomotives and crews and the realigning of service patterns. This continued cooperation and assistance is critical to the ultimate success of the Conrail integration process. The Board looks forward to being kept informed as to ongoing industrywide efforts in this regard.

The Board will continue to focus its efforts on ensuring as smooth and safe a Conrail implementation process as possible, and we look forward to working with you and other interested parties to that end.

Sincerely,

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

Linda J. Morgan



Office of the Chairman

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

June 28, 1999

Mr. Jack Prugh
Millennium
5026 Campbell Boulevard
Suite H
White Marsh, MD 21236-5979

Dear Mr. Prugh:

I understand that you are assuming the Chairmanship of the Conrail Transaction Council, and I would like to take this opportunity to update you on the Board's activities with regard to implementation issues that have been brought to the Board's attention since the June 1st Conrail acquisition split date. We share your interest in ensuring that the Conrail transaction is implemented as smoothly and safely as possible, and in finding appropriate ways to address and resolve the problems that shippers have recently faced during this implementation period.

The Board has been actively involved in monitoring the operational aspects of the Conrail implementation process since its inception, as has the Transaction Council. As you know, the Board carefully reviewed the significant planning efforts of NS and CSX prior to the June 1 split date. Beginning in August 1998 and continuing since the split, Board representatives have had regular conversations with NS and CSX officials, as well as discussions with officials of other railroads, and are in frequent contact with affected customers and rail employees.

In particular, Board representatives have worked with interested parties to focus on possible private-sector solutions to address implementation problems and service issues that have arisen. We have established an open line of communication with NS and CSX to ensure that informal complaints received by the Board are promptly addressed. Also, by letter, I have specifically urged cooperation and mutual assistance on the part of NS and CSX, with a special focus on resolving interchange issues between NS and CSX. I also have written the President of the Association of American Railroads (AAR), updating him on the Board's efforts to date and emphasizing the importance of industrywide cooperation. And the Board continues to receive and analyze relevant performance data regarding the integration of the Conrail system and is requesting additional data to further assist the Board in monitoring service performance during the implementation process.

Additionally, as you probably know, various Class I and shortline carriers have been working together to assist NS and CSX, in particular through the offering of locomotives, crews, and switching services, and the realignment of service patterns. And NS and CSX continue to redefine their operations to better serve their customers. The Board will continue to monitor ongoing industrywide efforts and would appreciate being kept informed by the Transaction Council of any initiatives it believes are appropriate to address implementation issues.

The Board will continue to focus significant efforts on the Conrail implementation process. We look forward to working with you and other interested parties to that end.

Sincerely,

Linda J. Morgan
Linda J. Morgan

STB

FD

33388

6-25-99

J

BUSINESS

Asphalt Roofing Manufacturers Association

4041 powder mill road, suite 404
calverton, maryland 20705-3106

tel: 301.348.2002
fax: 301.348.2020



Via Facsimile

Correspondence

Thursday, June 24, 1999

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

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

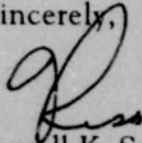
Dear Mr. Clemens:

The Asphalt Roofing Manufacturers Association ("ARMA"), the trade association representing North American manufacturers of asphalt shingles and roll goods, is writing this letter because of the concern many of our members have with the unacceptable service being provided by Norfolk Southern Corporation ("NS") and CSX Corporation ("CSX"). Since the June 1, 1999 acquisition of Conrail assets was consummated pursuant to the Surface Transportation Board's ("STB") decision in the above-referenced docket number, NS and CSX have not adequately serviced many of our members. This is particularly true for those in the Midwest that are dependent on the Chicago gateway and Shared Assets Areas, as defined in the aforesaid STB decision. This situation is causing significant downtime, transportation shortages, changes in production schedules and lost wages and sales. The extensive disruption of rail service is intolerable and we request the STB to take appropriate measures to resolve these egregious failures in customer service that flow directly from the acquisition of Conrail assets by these carriers.

We are aware of reports by the news media that say NS and CSX are making progress. However, little improvement in customer service has actually been effected and the transportation problems, absent regulatory intervention, seem likely to continue over the foreseeable future. Additional time delays, disruption or lack of service, and questions that go unanswered by the carriers are having a crippling effect on many of our member company plant operations. ARMA understands that your office is charged with extensive operational monitoring and is receiving in-depth weekly reports on both Conrail lines acquired by CSX and NS and pre-existing CSX and NS lines. We respectfully request your intervention to remedy this situation.

Please let us know if we may provide additional information to assist your office in its oversight role. We would appreciate any advice that you can give concerning steps taken to remedy the continuing failures in customer service noted herein. Thank you in advance for your attention and consideration.

Sincerely,



Russell K. Snyder
General Manager

Cc:

The Honorable John McCain, Chair, Senate Commerce, Science & Transportation- U.S. Senate Washington, DC
The Honorable Thomas Bliley, Jr., Chair, House Commerce Committee- U.S. Senate Washington, DC
The Honorable Kay Bailey Hutchison, Chair, Senate Surface Transportation and Merchant Marine- U.S. Senate Washington, DC

STB

FD

33388

6-25-99

J

BUSINESS



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

June 25, 1999

Office of Compliance and Enforcement

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

Dear Mr. Price:

This letter will confirm our discussions regarding my responsibilities under Finance Docket No. 33388, Decision No. 89, to monitor the implementation of the Conrail acquisition. In so doing, I must assess the current level of reporting, the operating conditions, and the need for additional information, and must impose to the degree I believe is necessary, additional data requirements. It is my assessment that additional data should be included with the weekly reports now being filed with this office by CSX related to the acquisition of Conrail.

Specifically, in assessing the operating conditions on the former Conrail lines acquired by CSX, it is my conclusion that the Board's monitoring will be aided by three additional data elements. First, I believe that it is necessary to have a daily snapshot view, Monday through Friday, of the of the acquired lines in terms of multiple main lines and sidings that are blocked by trains that are in other than normal movement status. It is my view that this report, as noted, would be a daily snapshot total, e.g., 1430 hours, for sidings and for multiple main lines, and would include a total for each category for the week. Second, I think that it is important, particularly considering the apparent congestion on the acquired lines, to establish whether there are interchange problems between CSX and NS, and between CSX and other railroads that would impede CSX's operations. Therefore, I would like a daily, Monday through Friday, offered-and-refused in interchange report for traffic offered to NS and refused; traffic offered to other connections and refused; and a daily total and weekly average for traffic offered by CSX and refused. Third, I think it is imperative to begin to report on trains delayed by cause, e.g., trains delayed for lack of crews; trains delayed for lack of power; or trains delayed due to congestion or congestion-related staging. As above, this report will be a daily snapshot total, e.g., 0600 hours, for Monday through Friday, and should include a weekly total of trains delayed.

The additional reports described above should be filed with your weekly shared assets reporting and should be discussed to the degree necessary in your cover letter transmitting the reports. Please contact me immediately if there are any questions related to this requirement.

Sincerely,

Melvin F. Clemens, Jr.
Director



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

June 25, 1999

Office of Compliance and Enforcement

George A. Aspatore, General Solicitor
Norfolk Southern Corporation
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. In so doing, I must assess the current level of reporting, the operating conditions, and the need for additional information, and must impose to the degree I believe is necessary, additional data requirements. It is my assessment that additional data should be included with the weekly reports now being filed with this office by NS related to the acquisition of Conrail.

Specifically, in assessing the operating conditions on the former Conrail lines acquired by NS, it is my conclusion that the Board's monitoring will be aided by three additional data elements. First, I believe that it is necessary to have a daily snapshot view, Monday through Friday, of the of the acquired lines in terms of multiple main lines and sidings that are blocked by trains that are in other than normal movement status. It is my view that this report, as noted, would be a daily snapshot total, e.g., 1430 hours, for sidings and for multiple main lines, and would include a total for each category for the week. Second, I think that it is important, particularly considering the apparent congestion on the acquired lines, to establish whether there are interchange problems between NS and CSX, and between NS and other railroads that would impede NS's operations. Therefore, I would like a daily, Monday through Friday, offered-and-refused in interchange report for traffic offered to CSX and refused; traffic offered to other connections and refused; and a daily total and weekly average for traffic offered by NS and refused. Third, I think it is imperative to begin to report on trains delayed by cause, e.g., trains delayed for lack of crews; trains delayed for lack of power; or trains delayed due to congestion or congestion-related staging. As above, this report will be a daily snapshot total, e.g., 0600 hours, for Monday through Friday, and should include a weekly total of trains delayed.

The additional reports described above should be filed with your weekly shared assets reporting and should be discussed to the degree necessary in your cover letter transmitting the reports. Please contact me immediately if there are any questions related to this requirement.

Sincerely,

Melvin F. Clemens, Jr.
Director

STB FD-33388 6-24-99 J ID-BUSINESS.

J

ARNOLD & PORTER

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

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

DENNIS G. LYONS
(202) 942-5858

NEW YORK
DENVER
LOS ANGELES
LONDON

June 24, 1999

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

Re: Indianapolis Power & Light Company v. Surface
Transportation Board and United States of America,
No. 99-1231

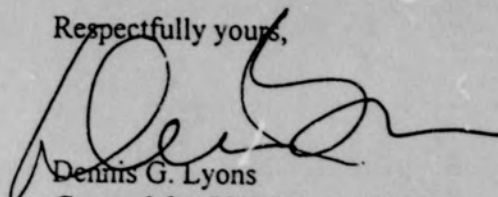
Dear Mr. Langer:

Enclosed for filing in the above-referenced matter are an original and four copies of the "Motion of CSX Corporation and CSX Transportation, Inc. to Dismiss the Petition for Review Insofar As It Seeks Review of Decisions Nos. 89 and 96 of the Surface Transportation Board in Finance Docket No. 33388."

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

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

Respectfully yours,



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

Enclosures
via hand delivery

cc:

Honorable Vernon A. Williams
Parties listed on the Service List

INDIANAPOLIS POWER & LIGHT COMPANY,
Petitioner,
v.
SURFACE TRANSPORTATION BOARD and
UNITED STATES OF AMERICA,
Respondents.

CSX Corporation and CSX Transportation, Inc. (collectively, "CSX"), who have moved to intervene as a matter of right in this matter, hereby move that the Petition for Review in this matter be dismissed as out of time insofar as it seeks review of Decisions Nos. 89 and 96. The ground is that the Petition for Review, which was filed on June 16, 1999, was not filed within 60 days after the dates of service of those two Decisions.

In the present Petition for Review, Indianapolis Power & Light Company ("IPL") seeks review of three Decisions of the Surface Transportation Board (the "Board" or the "STB") in Finance Docket No. 33388, entitled "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.” The first of the three Decisions appealed from, Decision No. 89, was served on July 23, 1998; in it, the Board, in a 424-page decision, approved the transaction in which CSX and the Norfolk Southern companies would acquire control over Conrail Inc. and Consolidated Rail Corporation (collectively, “Conrail”) and would divide most of its assets for operation between them. The Decision imposed approximately 50 operating and commercial conditions and numerous environmental and reporting conditions on the applicants. In the second Decision, Decision No. 96, served October 19, 1998, the Board disposed of certain Petitions for Reconsideration and Clarification of Decision No. 89, timely filed, including one by IPL. In the third Decision, Decision No. 125, served May 20, 1999, the Board responded to a Petition for Clarification or Reconsideration of a later Decision of the Board, in Decision No. 115, served February 8, 1999, by granting CSX’s Petition for Clarification and denying relief to certain other parties, including IPL, which were seeking various items of relief relating to the provision of rail service to one of IPL’s plants in Indianapolis.

The history of the controversies which were determined in Decision No. 125 is outlined in the Motion to Dismiss filed by the Board on June 21, 1999, and we refer the Court to the discussion contained in that Motion. In essence, the point is that the earlier Decisions were not opened up for reexamination either in the proceedings were resolved by Decision No. 125 or in the proceedings that were resolved by the Decision which led

to it, Decision No. 115. Decision No. 96, in one situation, expressly left open a narrow issue — the location of an interchange point — and provided a process whereby that issue would be resolved and accordingly how a particular aspect of one of the conditions in the earlier decision in Decision No. 89 would be implemented. To the extent that there was anything left open in Decision No. 96, it was the point about the location of the interchange point, which Decision No. 96 itself left open.¹ The subsequent Decisions concerned the outcome of the process launched by Decision No. 96; they did not reopen Decision No. 96 or the earlier decision in Decision No. 89. To be sure, however, the Board did give some consideration in Decisions Nos. 115 and 125 as to whether the interchange movement itself was adequate (as the language quoted in the footnote indicated it might), but there was no opening up by the Board of anything decided in Decision No. 96, except that, as the parties proposed and as the Board determined, a different interchange point was selected. Accordingly, neither Decision No. 89 nor

¹ The Board said in Decision No. 96 (at 14):

It was our intent in imposing relief at the Stout plant, including an interchange at milepost 6, to ensure efficient and competitive service, including service from coal origins on ISRR. DOJ, the primary advocate of the NS/ISRR interchange at milepost 6, explained that this remedy, together with direct access by NS at Stout, was necessary to permit NS to compete as Conrail does now at Stout. From the record before us, we cannot determine whether an interchange at milepost 6 is sufficient to provide the relief we contemplated. Accordingly, we will direct applicants and ISRR to negotiate a mutually satisfactory solution to this problem and report back to us in 60 days. If the parties are unable to agree on a solution, we will fashion one. (footnote omitted)

Decision No. 96 was reopened, and the only issues properly before the Court are those decided in Decision No. 125.

For the reasons set forth in the Board's Motion, it is clear that the Petition for Review is hopelessly out of time insofar as it seeks review of Decisions Nos. 89 and 96, since the 60-day period established in 28 U.S.C. § 2344 for filing Petitions for Review from those Decisions ran prior to the end of 1998, six months or more prior to the filing of the present Petition; and those Decisions were not reopened by the Board in the subsequent proceedings which led to Decisions Nos. 115 and 125. Those later Decisions involved implementation of one aspect of the earlier Decisions, not any reopening of them or any petition to reopen them.

In addition to the authorities cited by the Board, we call to the Court's attention its decision in *National Association of Reversionary Property Owners v. Surface Transportation Board, et al.*, 158 F.3d 135, 332 U.S. App. D.C. 325 (1998). In that decision, the petitioner ("NARPO") sought review, under the same jurisdictional statutes involved here, 28 U.S.C. §§ 2321 and 2344. In that case, the Interstate Commerce Commission (the "ICC"), predecessor to the Board, promulgated a set of rules in a rulemaking proceeding of interest to NARPO which was completed in 1986. NARPO participated before the ICC but did not seek judicial review of the rules promulgated. Two years later, at the request of NARPO, the ICC requested public comments on a specific issue raised by NARPO, but, in a decision in 1989, the ICC determined not to change its original rules in the way suggested by NARPO. NARPO sought

administrative reconsideration, but the ICC denied reconsideration in 1990, and NARPO did not seek judicial review. In 1994, NARPO requested a new rulemaking proceeding, seeking the same change it had sought earlier, which the ICC denied; this time, NARPO sought judicial review. This Court affirmed, in an unpublished decision (cited at 158 F.3d at 140, 332 U.S. App. D.C. 330), stating that an agency decision not to initiate rulemaking is accorded extraordinary deference and is only reversed in a "rare and compelling case," not found by the Court.

After the Board succeeded to the ICC on January 1, 1996, the Board opened a rulemaking proceeding concerning the rules in question (i) to implement the statutory changes made in the governing statute by the Act which abolished the ICC and provided for the Board as its successor, and (ii) to consider making certain other changes. The Board did not identify that it was considering any change regarding the issue that NARPO had raised in its prior petitions. NARPO filed a request with the Board that its views on the point which it had raised in the earlier petitions be adopted by the Board, and the Board denied that request. NARPO filed a Petition for Review in this Court, and the Board filed a Motion to Dismiss on the grounds that the Petition for Review was untimely. This Court granted the Motion, finding that the notice of rulemaking issued by the Board in 1996 did not "reopen" the earlier Decisions which were substantively adverse to NARPO; that, accordingly, the only actions of the Board or its predecessor of which review was being sought were the older decisions imposing the rule with which

NARPO disagreed; and that, accordingly, that the Petition for Review was grossly out of time.

Insofar as the present Petition seeks to review Decisions Nos. 89 and 96, it is similarly out of time. It was no part of the agenda of the Board in Decisions Nos. 115 and 125 to open up anything that was decided in Decision No. 89 or Decision No. 96. There were fresh issues presented and decided by the Board in Decisions Nos. 115 and 125, as to the implementation of actions done in Decisions Nos. 89 and 96, with respect to which the Petition for Review is timely, but none of the issues decided by Decision No. 89 or No. 96 was opened by the Board, and none of the motions or petitions that were disposed of in Decision No. 125 purported to be a Petition for Reconsideration of either of those two Decisions. Accordingly, the Petition is out of time insofar as it seeks review of the two earlier Decisions.

If anything, this case is an *a fortiori* case to the NARPO case; there is more reason here to declare that Decisions Nos. 89 and 96 are final and that review of them is too late than was the case in the rulemaking decisions (or refusals to change rules) which NARPO sought belatedly to challenge in court. The NARPO case involved rulemaking, and as is well known, an administrative agency may change its rules from time to time after compliance with the Administrative Procedure Act and the presentation of a rational basis therefor. See generally Garland, "Deregulation and Judicial Review," 98 Harv. L. Rev. 505 (1985). On the other hand, the proceedings here were of an adjudicative nature, authorizing a particular transaction on a particular set of conditions. The

proposition, in such a case, that any action of the Board implementing an original decision involves opening up the entirety of that original decision, thereby making the original decision freshly subject to judicial review, would be most unsettling to parties who acted under the original decision.

The fact that the Board in Decision No. 89 imposed a five-year oversight condition in which it expressly reserved jurisdiction "in order to implement the five-year oversight condition imposed in this decision and, as necessary, to impose other conditions and/or to take other action" makes a strict enforcement of the rule followed in the NARPO case most important. If any exercise of, or request for the Board to exercise, its oversight powers had the effect of making the original decision open to a fresh judicial review at any time during the five-year period, the effect would be to transfer the Board's powers to reopen the decision — to the extent the Board, in its lawful discretion, so determines — to the courts. The mere fact that an implementing decision relates to an earlier decision does not mean that judicial review of the implementing decision opens up the original decision where the agency did not take that action itself.

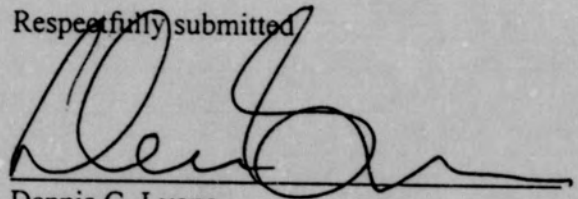
The issue is of particular relevance in view of the suggestion by IPL that the Court might wish, *sua sponte*, to transfer this case to the United States Court of Appeals for the Second Circuit, where various timely Petitions for Review of Decision No. 89 are pending. Since the present Petition can properly be brought only with respect to Decision No. 125, which is not part of the subject matter of any of the petitions in the Second

Circuit, there is no basis, under 28 U.S.C. § 2112, or otherwise, for the suggestion that the present Petition should be transferred.

CONCLUSION

For the reasons stated herein and in the similar Motion filed by the Surface Transportation Board, the Petition for Review should be dismissed as untimely to the extent that it seeks review of Decisions Nos. 89 and 96.

Respectfully submitted

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

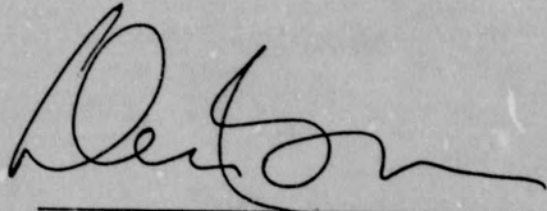
Dennis G. Lyons
ARNOLD & PORTER
555 Twelfth Street, N.W.
Washington, D.C. 20004-1202
202-942-5858

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

June 24, 1999

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of June, 1999, a copy of the foregoing
"Motion of CSX Corporation and CSX Transportation, Inc. to Dismiss the Petition for
Review Insofar As It Seeks Review of Decisions Nos. 89 and 96 of the Surface
Transportation Board in Finance Docket No. 33388," was served by first class mail,
postage prepaid, or more expeditious manner of delivery, on all parties of record to this
case, as named on the attached Service List.

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

Dennis G. Lyons

SERVICE LIST

Michael F. McBride, Esq.

Brenda Durham, Esq.

LeBoeuf, Lamb, Green & MacRae, L.L.P.

1875 Connecticut Avenue, N.W., Suite 1200

Washington, D.C. 20009-5728

The Honorable Janet Reno

Attorney General of the United States

950 Pennsylvania Avenue, N.W.

Washington, D.C. 20530

John P. Fonte, Esq.

U.S. Department of Justice

Antitrust Division

601 D Street, 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. 20423-0001

Richard A. Allen, Esq.

Scott M. Zimmerman, Esq.

Zuckert, Scrutt & Rasenberger, L.L.P.

888 Seventeenth Street, N.W., Suite 600

Washington, D.C. 20006

STB

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33388

6-24-99

J

BUSINESS



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

John W. Snow
Chairman, President
Chief Executive Officer

June 24, 1999

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

Dear Chairman Morgan:

Thank you for your recent letter concerning the Conrail integration. It is especially good to know that our efforts to keep the Board and our customers advised of our transitional problems have been helpful.

I share your belief that cooperation between CSX and NS is critical to promote efficient and competitive rail service in the East. Since we came to terms with NS on the joint acquisition of Conrail, I believe that overall we have worked well with NS to see this transaction consummated. I know that you and your staff have been advised of many areas of CSX/NS joint efforts such as the detailed operating plans for the Shared Assets companies, the allocation of equipment and systems, and the retention and development of people we need to run CSX, NS and Conrail. On many occasions, David Goode and I have addressed personally the need for cooperation between our organizations to promote the implementation of the Conrail transaction. I will continue to promote that sense of cooperation throughout CSX in the months ahead.

These efforts of cooperation have continued through the transition period beyond Split Date. Examples of these include: regular meetings and communications between operating officials from Ron Conway on down; the operation of provisional trains to handle traffic moving between the NS and CSX portions of Conrail; the sharing of facilities and the granting of additional trackage rights to improve flows; and the continued cooperation between the technology groups of CSX and NS.

Our independent and joint efforts resulted in a successful, but not perfect, implementation of the Conrail transaction and we're working closely together to resolve the issues that have subsequently emerged. These efforts are paying dividends and I can assure you the lines of communication and cooperation are wide open. As you appreciate from our informal reports, CSX continues to have heavy terminal volumes and our on-time performance has not yet matched Conrail's pre-Split Date peak levels. There are

Chairman Linda J. Morgan

Page 2

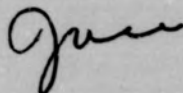
June 24, 1999

several reasons for this, including heavier traffic volumes and the operation of a larger number of trains than we anticipated on key routes. We have been reacting quickly and making modifications to our operating plans to improve these situations.

But, as your letter points out, close operational cooperation between CSX and NS needs to be an ingredient in each of our plans for successful implementation. I agree with your assessment that interchanges between NS and CSX should be carefully monitored by our companies to ensure that critical interline flows and car service between the carriers are handled efficiently. To this end, CSX and NS are appointing senior operating officials, John Orrison and Hugh Kiley, respectively, to monitor our interchanges in the Conrail territory and to work toward alleviating service disruptions that may occur at those facilities. I have also asked Ron Conway to report to you on our progress with this interchange initiative as well as other areas of cooperation between CSX and NS.

Thank you again for your continued interest in the successful implementation of the Conrail transaction.

Sincerely,



/bfd

cc: Ron Conway

STB

FD

33388

6-24-99

J

BUSINESS



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

June 24, 1999

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

Dear Chairman Morgan:

The transition from planning to implementing the Conrail transaction has served to remind us all what a complex thing a large rail network is. June has been a long month, but I do believe we are gaining on more normal operations and will soon see measurable improvements in our new network's efficiency.

I speak continually with NS' people on the front lines of Conrail implementation. Their efforts to meet our customers' needs hour by hour really have been quite extraordinary. Responding to your concerns about interchange, I have made sure NS' people understand that NS and CSX should work together, within the bounds of our relationship as competitors and the limits of our physical facilities, to bring about a smooth transition. So that no opportunity is lost to enhance operations interface, we have arranged for senior officers of NS and CSX to confer regularly on interchange issues. With this process in place, I am confident we will soon increase efficiency at points where NS' and CSX's new systems intersect.

I talk often with John Snow, and each company's senior operating officers are also frequently in touch. Rest assured that we understand our obligations to the Board and the shipping public and will continue doing everything humanly possible to fulfill them. Our interests, CSX's interests and the Board's interests are absolutely congruent when it comes to making this transaction a success. I look forward to giving you and your staff frequent updates on the progress of Conrail implementation.

Sincerely,

A handwritten signature in dark ink, appearing to be "David R. Goode", written over a circular scribble.

David R. Goode

STB

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6-23-99

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MOC



Office of the Chairman

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

FILE IN DOCKET

FD-33388

June 23, 1999

The Honorable Steven C. LaTourette
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman LaTourette:

Thank you for your letter of April 30, 1999, concerning the Conrail acquisition and the impact it will have on the City of Geneva's ability to provide emergency services to its residents. Safety to communities and emergency vehicle access are a great concern of the Board, and many local government leaders raised these issues during the environmental review process in the Conrail Acquisition proceeding. To address issues concerning emergency vehicle access, the Board's Section of Environmental Analysis (SEA) conducted highway/rail at-grade crossing vehicle delay and queues' analyses to identify highway/rail at-grade crossings with the potential to experience increased post-merger delay times. SEA found the predicted increases for delay on the segments in Geneva to be below the criteria for significance.

To analyze the effects of the proposed Conrail Acquisition on the roadway system at existing highway/rail at-crossings, SEA identified the crossings on rail line segments that would exceed the Board's environmental analysis thresholds. SEA then calculated potential changes in vehicle delay at these crossing where average daily traffic (ADT) volumes are 5,000 or greater. SEA concluded that the potential effect of increased train traffic for highways with ADT volumes below 5,000 would be experienced by very few drivers and the additional vehicular delay would be minimal.

All highway/rail at-grade crossings in Geneva had an average daily traffic less than 5,000 and therefore crossing delay impacts were not considered significant. The analysis indicates that Geneva will experience some negligible increases in post-acquisition delay times on the CSX Transportation, Inc. (CSX) and Norfolk Southern Railway Company (NS) lines that cross the city. Delay time on the CSX line located north of the fire station will increase from 1.03 minutes to 1.05 minutes per stopped vehicle for a total increase of .02 seconds per vehicle. On the Norfolk Southern line south of the fire station, the crossing delay time per stopped vehicle will increase from 1.08 minutes to 1.17 minutes, for a total increase of .09 seconds per stopped vehicle. Thus, SEA determined that the increase in delay-time at the Geneva crossings was not significant and that no mitigation was warranted. Although post-merger delay times on the segments in Geneva were found to be below the criteria for significance, SEA acknowledges that time is critical for emergency vehicles to reach the scene of a fire and that even a small increase in delay could exacerbate problems when blocked grade crossings hinder the movement of emergency vehicles.

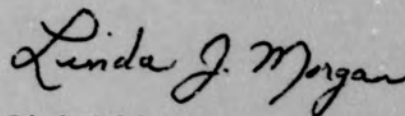
In this regard, we note that these lines will experience an increase in post-acquisition traffic of 4.7 CSX trains and 23.6 NS trains. The increase in train movements will increase the incident of delay, but will not increase, however, the crossing delay time per stopped vehicle. Given the negligible increases in post-acquisition delay times on both the CSX and NS, coupled with emergency vehicle's priority crossing over other stopped vehicles, the fire department should experience only minimal delay time if stopped by a passing train.

Public outreach was undertaken in Geneva to solicit comment on the Draft Environmental Impact Statement (DEIS) and to solicit community input in the environmental process. SEA distributed the DEIS to the local public library, announced the document availability to area newspapers, radio stations, area organizations, city and elected officials, and environmental justice organizations. SEA also distributed the Final Environmental Impact Statement to the local library and city officials. No comments were received from the City of Geneva.

The Board maintains monitoring and enforcement authority over the Conrail Acquisition. If there is a material change in the facts or circumstances that would affect the imposition of mitigation in this proceeding, the Board will review that information, upon petition by any party who demonstrates such material changes.

I hope that this information is helpful to you and Chief Lenart of the Geneva Fire Department. If you have any questions or require additional information, please feel free to contact me.

Sincerely,

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

Linda J. Morgan



Steven C. LaTourette
Congress of the United States
19th District, Ohio
April 30, 1999

RECEIVED
SURFACE TRANSPORTATION
BOARD
MAY 12 2 14 PM '99
OFFICE OF
CHAIRMAN MORGAN

Mrs. Linda J. Morgan, Chairman
Surface Transportation Board
Room 4126
1201 Constitution Avenue, N.W.
Washington, D.C. 20423-0001

FILE IN DOCKET

Dear Chairman Morgan,

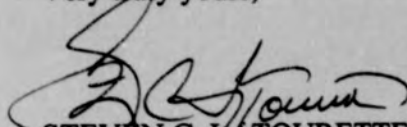
I am writing concerning the Conrail acquisition and the impact it will have on the City of Geneva's ability to provide emergency services to its residents.

Enclosed please find a letter from the Chief of the Geneva Fire Department, Mr. Tim Lenart. As you can see, Mr. Lenart makes a very compelling argument. As Chief Lenart states, "it would be very difficult for a fire chief to tell someone who has lost a loved one or all their worldly possessions I'm sorry but we were delayed by a train."

Accordingly, I would appreciate it if you would study the impact of the acquisition on Geneva's ability to provide emergency assistance, and share your findings with me. Additionally, I would like to be informed what actions the Surface Transportation Board will undertake to mitigate the problems Chief Lenart outlines in his correspondence.

Chairman Morgan, I appreciate your time and expeditious consideration of this matter. I remain

Very truly yours,


STEVEN C. LATOURETTE
Member of Congress

SCL/mjr

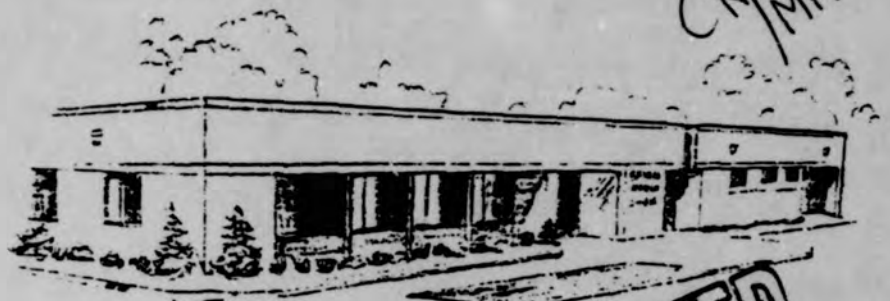
cc. Mrs. Diane Liebman, Vice President
Railroad Federal Affairs
CSX Corporation

City of Geneva

Division of Fire

44 North Forest Street • Geneva, Ohio 44041

(440) 466-3321

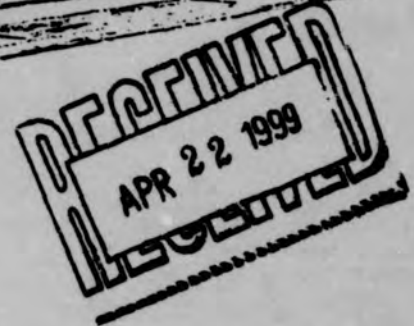


April 20, 1999

Congressman Seven LaTourette
1 Victoria Place RM 320
Painesville, Ohio 44077

APR 27 1999

MR



Dear Congressman LaTourette.

cc. Dave

The recent merger of Con Rail and the CSX railroads has increase the train traffic through the City of Geneva. The increased train traffic has caused some great concerns about fire safety to me, as fire chief, and the citizens of Geneva. The Geneva Fire Department protects approximately 24 Square miles, half of this area is north of the Con Rail railroad tracks. The fire departments quickest route of response to this area is the North Broadway corossing in Geneva, there are two other crossing in the city Eagle Street and Austin Rd. which are only a few hundred feet apart. Often when a blocks one crossing the other two are also blocked. In a fire emergency and the crossings are blocked the fire department has two options, one is go west which will add approximately 15 to 20 minutes to the response time or go east which is even longer. When a fire doubles in size every 30 seconds and this type of a delay is unacceptable.

One Answer would be to build an over pass at the Austin road crossing. This would be a costly project and one the city can not afford. Another system that could be installed in a train monitoring system which would allow the fire dispatcher to inform the responding fire apparatus what crossings are blocked and adjust the response accordingly.

The railroads have a responsibility to the citizens of our area as will as the larger cities. It would be very difficult for a fire chief to tell someone who has lost a loved one or all their worldly possessions" I'm sorry but we were delayed by a train". Thank you for your attention to this concern.

Yours in Safety.

Chief Tim Lenart
Geneva Fire Department

STB

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6-23-99

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UNION



Office of the Chairman

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

FILE IN DOCKET

JA-33388

June 23, 1999

Mr. David Post
Member
Transportation Communication Union
177 New Hampshire Drive
Lower Burrell, PA 15068

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

Dear Mr. Post:

As you have indicated that you are familiar with the subjects covered in my correspondence with Mr. George Donahue (his letters to me dated November 25, 1998 and February 6 and 22, 1999 and my responses dated January 12, March 16 and April 7, 1999), I will not repeat in detail the matters addressed in that correspondence.

I am sorry that you are so dissatisfied with the agreement to implement the Conrail transaction entered into between your representatives and rail management. It is apparent that your principal objection is to the provisions that require you to accept a position for which you are qualified even if it requires that you move your residence in order to remain entitled to the protective benefits provided under the agreement. Among these benefits are up to six years salary protection, retraining, if necessary, and moving and relocation expenses. You have argued that it is not fair for the agreement to require that you and others similarly situated in Pittsburgh exercise seniority to obtain a position, if the new position requires you to move, because (1) some other voluntary agreements have not required employees to move, (2) the Board indicated that Illinois Central employees could not be required to move to Canada or forfeit their protective benefits under New York Dock, and (3) in other cases involving review of arbitral decisions the Board has held that the New York Dock conditions do not require dismissed employees to accept recall to a position that would require a change of residence unless the agreement under which they were working at the time they were dismissed provided for involuntary transfers of employees.

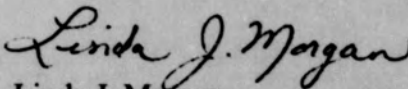
Without going into detail, because the Board could be involved in a request to review an arbitral decision if you elect to pursue the matter through arbitration, one cannot necessarily conclude that these situations are similar to the situation that you and your fellow Pittsburgh TCU employees are in. In connection with the suggestion in your letter that you are foreclosed

from pursuing arbitration because you are not a union official, I would call to your attention that Article I, Section 11 of New York Dock expressly provides for arbitration "[i]n the event the railroad and its employees . . . cannot settle any dispute or controversy with respect to the interpretation application or enforcement of any provision of [these conditions]."

As with Mr. Donahue, I offer you the assistance of the Board's Office of Congressional and Public Services should you desire to pursue your arbitral remedies. That Office can be reached at (202) 565-1592.

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

Sincerely,


Linda J. Morgan

FILE IN DOCKET

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

June 11, 1999

RECEIVED
SURFACE TRANSPORTATION
BOARD

JUN 14 3 41 PM '99
OFFICE OF
CHAIRMAN MORGAN

Dear Ms. Morgan:

This has reference to Finance Docket No. 33388 authorizing the Acquisition of Consolidated Rail Corporation (CR) by Norfolk Southern Corporation (NS) and CSX Corporation (CSXT). In Decision No. 89 which approved the transaction, the Board and the Carriers acknowledged that the major job losses would occur in basically 2 crafts: the clerical craft (TCU) and the track maintenance craft (BMWE). I have about 10 years service in each of these crafts and have 5 years experience in management as a Supervisor of Damage Prevention for Conrail. In a prior life many years ago, I recall studying about Business and Governmental Regulation and how government was being blamed for the demise of 6 railroads in the northeast quadrant of the country and how government would also resurrect it by consolidating them into one railroad. It was 1973, I was 20, Richard Nixon was the President who authorized it and none of the expert Economists at Pitt gave the plan little more than a prayer of succeeding.

In any event, I feel well qualified, almost duty bound, to speak out on behalf of myself and the other Customer Service Agents (clerks) in Pittsburgh who take great exception to the implementing agreement reached between TCU and the Carriers. As it stands now, I, as a member of a group called supplemental extra board employees (SEB), am expected to assist the NS, CSXT and SAA for at least the next 6 months in integrating our computer information system with theirs. As SEB's we will be required to move from job to job as needed to fill in for clerks who are in training or are in the process of moving south, this will create a very demanding challenge for all SEBs. According to the **unratified implementing agreement** signed Nov. 2nd 1998 by all involved parties, SEB's will be able to bid on positions in N&W District 52 and in the event that we cannot secure a position by the time the NS is moved out of the NCSC in Pittsburgh we will be **furloughed without protection**.

In the event this becomes a reality for any one of the SEB's we feel we are entitle to New York Dock protection since we will have exercised our seniority to the fullest extent without a change in residence, and this is all our current collective bargaining agreement requires. I have read the views of the Board on this issue in the Labor Impact areas of Finance Docket 33388 No. 89. and understand your position that the Board feels this is best left to negotiation during the implementation process. The Board also feels that it "should not intervene unless it can be shown that unusual circumstances require more stringent protection than the level mandated in our usual conditions." It is the unusual circumstances of this particular transaction that I would now like to address.

TCU, Secretary Slater of the Department of Transportation, Senator Arlen Specter and others have urge the STB to enhance the doctrine of New York Dock because of the unusually long distance the clerical force will be required to move just to retain their positions. The Board to date has felt that as long as the Carriers pay for the expense of moving, they should be allowed to exploit the "fundamental bargain" of NYD of **requiring** employees to move around in exchange for the benefits NYD provides.

We disagree with the Board on this issue, since the two mergers prior to ours, the BNSF and UPSP, were given the **option** to move. Additionally, very recently the board approved the CN-IC acquisition **without requiring** any of the clerical force to change their place of residence, or be denied NYD benefits. Conrail employees in general and Conrail clerks in particular have always been treated differently and this is no exception. We were the only Class I Railroad in America without lifetime job protection even though our General Chairman, Anthony Santoro repeatedly proclaimed that "No arbitrator in the world could deny us the same job protection that all Class I railroads enjoy." TCU went through the very lengthy and expensive

procedure required under the Railway Labor Act and the National Mediation Board to obtain a Section 6 Notice on this very issue. We wonder then, why General Santoro agreed to let this and any other outstanding Section 6 Notices vaporize with his signing of the pre-takeover implementing agreement?

In the BNSF merger, employees were given 4 **choices** including being placed on a reserve board, where they would receive full pay and benefits if they had less than 10 years to retirement age. Why would the Board and TCU treat the Conrail Clerical force any differently? Especially when one considers the sacrifices that were made to turn six railroads that, by definition, had no worth into one of the most advanced rail networks in the nation, if not the world, that commanded a price of over 10 billion dollars!

Another unusual and very significant circumstance that makes the Conrail breakup different is that the rank and file were **never given the opportunity to ratify** the implementing agreement, even though direct requests were made to that effect. I know the BNSF agreement was subject to ratification and I strongly suspect the other two were also. I, for one find this very disturbing, as this agreement will have a major impact on all of Conrail's clerical force and their families. Moreover, it makes a mockery of the collective bargaining process and is particularly insulting since the CR "acquisition" was, in Wall St. parlance, a **hostile takeover**. This fact alone suggests that this transaction called for **more protection** by the STB than the other three, not less!

I understand the right of the carriers to move work to wherever they may choose. This is their right as the new owners. However, in order to require Conrail's clerical staff to move along with this work, provisions of our collective bargaining agreement (CBA) must be modified or abrogated altogether. As you know, the Supreme Court has held that the carriers do in fact have this right as long as they can prove that it is *necessary* to the transaction. (Norfolk & W. Ry. V. American Train Dispatchers' Ass'n, 499 U.S. 117, 127-28 (1991)). A benefit not solely to the corporation but also to the public interest must be demonstrated in order for this privilege to be realized by the railroads involved. To the Board's credit, none of our CBA provisions were altered, as the carrier requested, prior to granting approval of the transaction. However, nothing prevents the carriers from requesting and being granted changes in the future and this is why it is imperative that a decision in this matter be resolved now.

The carriers would be very hard pressed to argue that transferring over 500 clerks hundreds of miles, is necessary to this transaction. With the advent of digital technology, powerful personal computers and the Internet, it is now very possible to perform all clerical functions related to our jobs from any place in the nation literally within seconds. In fact, the carriers have inadvertently acknowledged this by offering some managers whom chose not to relocate or work for them, positions in Pittsburgh working out of their homes. These offers were extended after these managers had already received obscene bonuses of hundreds of thousands of dollars.

The Conrail clerical force is old by any standard, the average age being around 50. Practically all are paid 100% of their base rate and have 4 or 5 weeks vacation, accumulated sick time and personal time. When one factors in the higher cost of medical insurance, and the costs associated with transferring people 1000 miles, the cost effectiveness of such a decision is suspect. Suspect that is if you believe the carriers will not seek to abrogate their own protective agreements in the near future citing the rapid advancement in digital communications and this transition as the justification needed to achieve this goal. Only a fool would believe the carriers are not already planning this strategy. After all, it makes perfect business sense and as one Vice-President/Millionaire once told me "there are no morals in business."

Our CBA has provisions that allow for **voluntary transfer** of clerical employees across the system. This is far different than a **mandatory provision requiring** employees to transfer or risk losing their protective benefits. As you know, the distinction is anything but trivial. Under its Lacey standard of review, the STB ruled in Finance Docket No. 28905 (Sub-No.25) commonly referred to as the *Dennis* precedent and in Finance Docket 28905 (Sub-No. 28) that "absent a provision in their collective bargaining agreement that would permit involuntary transfer, dismissed employees do not forfeit their dismissal allowances if they refuse to accept a recall to work that would require them to relocate to a location that would require a change in residence. In Docket No. 28905 (Sub-No.28) the Board under your leadership

stated in its decision that "New York Dock requires the exercise of seniority rights under the terms of a protected employee's working agreement. As required by New York Dock, claimants fully exercised their seniority under the applicable working agreement." The Board agreed with the arbitrator's decision that employees would not be denied their NYD benefits.

In *Norfolk and Western v. Nimitz*, the court rule that Section 5(2)(f) provides for mandatory compensation for employees affected by a consolidation. Moreover, while the "notwithstanding" provision provides the means by which carriers and unions can negotiate, but it is also a condition of the first sentence in 5(2)(f) calling for a **fair and equitable** arrangement for the affected railroad employees. Our implementing agreement is neither fair nor equitable. When a CEO is given a bonus of over 22 million dollars for dismantling what took nearly a quarter century to create; when his senior staff all became multimillionaires for helping in this endeavor and mere floor manager receive \$250,000 to \$500,000 without being required to move or even work for the new carriers, our "agreement" can hardly be called fair and equitable. In fact, it is laughable. Clerks on the hand have been given the wonderful opportunity of following their \$35,000/year jobs and the carriers will pay their moving expenses. Anyone who decides to stay in their home seniority district will, according to this "agreement" be permitted to collect \$202/week unemployment for a few months, provided of course that they are eligible. Welfare recipients fare better insofar as they are provided with free medical and dental care. Fair? Equitable? Of course not. This is why I most of the others believe strongly that this implementing "agreement" is in violation of the Interstate Commerce Act and therefore unenforceable.

My final and probably most persuasive argument comes not from me but from the court. Long ago, in the case of the *United States et al. V. Lowden et al.*, U.S. 225 (12-4-39) the authority of the ICC and subsequently the STB to protect the interest of affected employees in rail consolidations was challenged. In deciding in favor of the ICC, Mr. Justice Stone wrote:

"In the preparation and execution of the plan (for consolidation) it speedily became apparent that the great savings which would result from consolidation could not be effected without profoundly affecting the private interests of those immediately concerned in the maintenance of the existing nationwide railway system, the railroad security holders and employees. The security holders are usually, though not always favorably affected by economies resulting from consolidation. But the commission has estimated in its report on unification of the railroads that 75% of the savings will be at the expense of railroad labor."

Later in the opinion he wrote:

"It is thus apparent that the steps involved in carrying out the Congressional policy of railroad consolidation in such manner as to secure the desired economy and efficiency will unavoidably subject railroad labor relations to serious stress and its harsh consequences may so seriously affect employee morale as to require their mitigation both in the interest of the successful prosecution of the Congressional policy of consolidation and of the efficient operation of the industry itself, both of which are of public concern within the meaning of the statute. One must disregard the entire history of railroad labor relations in the United States to be able to say that the just and reasonable treatment of railroad employees in mitigation of the hardship imposed on them in carrying out the national policy of railway consolidation, has no bearing on the successful prosecution of that policy and no relationship to the maintenance of an adequate and efficient transportation system."

Mr. Justice Stone continued later:

"The now extensive history of legislation regulating the relations of railroad employees and employers plainly evidences the awareness of Congress that just

and reasonable treatment of railroad employees is not only an essential aid to the maintenance of a service uninterrupted by labor disputes, but that it promotes efficiency, which suffers through loss of employee morale when the demands of justice are ignored."

I can tell you without any hesitation that morale at the former National Customer Service Center is at an all time low. And who could blame us, when men and women from a very different culture ride in on their black horses and overnight take over the operations, which we once cared about. I can also tell you that from speaking with friends in the Maintenance of Way Department, morale there has hit bottom too.

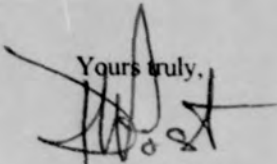
In Decision No. 89 the Board wrote "The Board understands and appreciates the sacrifices that rail labor has made throughout the period of downsizing and restructuring in the rail industry, and *New York Dock* was developed to compensate employees for those sacrifices." George Donohue, a fellow clerk has written to you on numerous occasions explaining in excellent detail why he and I and most of the clerks here in Pittsburgh believe that the implementing "agreement" we were never permitted to vote on is in violation of not only the letter but also the spirit of *New York Dock*. Your responses have indicated that we must pursue our dispute through normal arbitration. This causes a major problem since neither one of us are union officials, just two of many clerks who feel profoundly disfranchised and are seeking a fair and equitable resolution to our dispute. How then do we pursue this on behalf of ourselves and all others that agree with us?

And finally, when the demands of justice that Mr. Justice Stone wrote so eloquently about, are ignored is not the Board failing to perform its most fundamental role to protect the public interest? Might the Board in fact be placing the public's interest in harm's way?

Please, Chairman Morgan, demonstrate the leadership necessary and revisit this deplorable "agreement" for the benefit of all concerned. I hope you'll agree that it violates Section 5(2)(f) and *New York Dock*.

Thank you for patience and any assistance you can provide.

Yours truly,



David Post
Member - Transportation Communication Union

Cc: Congressman Ron Klink - We are your constituents. You are no longer a weatherman and this is not a partly sunny / partly cloudy situation. For God's sake, take a stance, Congressman!

Senator Arlen Specter - Any assistance you could provide would be greatly appreciated.

Rodney Slater - Secretary of Transportation

Anthony Santoro - General Chairman, Transportation Communications Union

STB FD-33388 6-22-99 ID-BUSINESS

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194843



Robert E. Murray
President & Chief Executive Officer



June 18, 1999

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

ENTERED
Office of the Secretary

JUN 22 1999

Part of
Public Record

Re: Finance Docket No. 33388

Dear Mr. Williams:

This is in follow-up to my letter of June 14, 1999, as well as that of June 16 to you from Mr. Raymond L. Sharp, Vice President Coal Sales and Marketing of CSX Transportation, Inc. ("CSX").

Very disappointingly, Mr. Sharp, in his letter, attempts to play down the disastrous situation that has been created for The Ohio Valley Coal Company's ("Ohio Valley") Powhatan No. 6 Mine and its employees. He misleadingly portrays the impact on Ohio Valley by stating "It is true that CSXT and the NS are behind three (3) trains on the June shipment schedule of Ohio Valley Coal Company. The slowdown in service experienced after June 1 is now improving".

In our June 14 letter, we stated "Through Saturday, June 11, Ohio Valley only received one (1) train for loading, and that 'Service to Ohio Valley's Powhatan No. 6 Mine has virtually ceased', which are the words of our customer, FirstEnergy Corp." The schedule provided to the CSX and Norfolk Southern Railway Company ("NS") was for a minimum of twelve (12), and, hopefully, fourteen (14), trains during the month of June for Ohio Valley to meet its obligations to FirstEnergy Corp. ("FirstEnergy") and vice versa. As of today, June 18, with the month nearly two-thirds over, Ohio Valley has received for loading only three (3) trains, as shown in the attached schedule, of the fourteen (14) that FirstEnergy and Ohio Valley had contemplated moving. We believe that you will agree that Mr. Sharp's words regarding "being behind three (3) trains" is not correct and does not portray the real fact that, with the month nearly two-thirds gone, Ohio Valley has received only three (3) of fourteen (14) hoped-for trains.

We further stated in our letter that "CSX origin coal on the former MGA Railroad, where the CSX and NS now have joint trackage rights, is making its way just fine to our market at the Eastlake Plant from competing mines". That statement was, and is, factual, because we investigated and got the numbers of the trains that were moving solely on the CSX from mines on the MGA in Pennsylvania to Ohio Valley's market at the Eastlake Plant of FirstEnergy. Whether CSX is deliberately moving coal from their own origins in preference to taking an approximately 20-mile hand-off from the NS to the Eastlake and Ashtabula Plants is known only to them, and we want to believe that this is not the case. However, as stated, our competitors' coal was moving as of the June 14 writing of my letter, and Ohio Valley's was not.

56854 PLEASANT RIDGE ROAD • ALLEDONIA OHIO 43902

(740) 926-1351 • FAX (740) 926-1615

Mr. Vernon A. Williams

June 18, 1999

Page 2

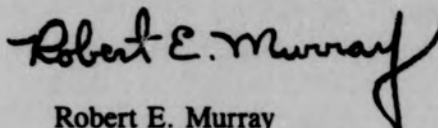
We do believe that the NS and CSX realize that they have failed to provide any semblance of service to Ohio Valley since their acquisition of Consolidated Rail Corporation ("Conrail") and are sincerely attempting to make the necessary corrections. However, we must dispute Mr. Sharp when he states that "CSXT and NS are behind three (3) trains on the June shipment schedule of Ohio Valley" and his implication that this situation is minor and of short duration.

This experience has been a financial disaster for Ohio Valley, which is an independent mining firm that must have continuous and full deliveries of the coal it has produced, processed, and stockpiled at great expense, as well as concomitant cash flows. With only twelve (12) days to go in the month of June, it will be impossible for CSX and NS to deliver the remaining nine (9) trains that were to be our minimum shipment to FirstEnergy, or the eleven (11) additional trains that our customer and we had hoped for, in view of the fact that only three (3) trains have been provided for loading in the eighteen (18) days since the CSX and NS acquisition of Conrail.

Thank you for your attention to this matter.

Sincerely,

THE OHIO VALLEY COAL COMPANY



Robert E. Murray
President and
Chief Executive Officer

REM:arw

Enclosure

cc: Mr. John W. Snow
Mr. David R. Goode
Mr. A. R. Carpenter
Mr. J. W. Fox
Mr. Raymond L. Sharp
Mr. James L. Parks
Mr. Robert N. Stoller
Ms. Linda J. Morgan, Chairman STB
Mr. William Ciyburn, Vice Chairman STB
Mr. Wayne Burkes, Commissioner STB
Dennis Lyons, Esq.
Richard Allen, Esq.

06/18/99

OHIO VALLEY COAL
FirstEnergy JUNE

<u>TRAIN NUMBER</u>	<u>PERMIT NUMBER</u>		<u>ORIGINAL LOAD DATE</u>	<u>ACTUAL LOAD DATE</u>	<u>SCHEDULED TONNAGE</u>	<u>100,000 ACCUM TOTAL</u>
TL-672	OHX 01	EASTLAKE	06/06/99	06/15/99	9,424.0	9,424.0
N/A	OHX 02	EASTLAKE	06/10/99	SHOULD LOAD TODAY		9,424.0
N/A	OHX 03	EASTLAKE	06/13/99			9,424.0
N/A	OHX 04	EASTLAKE	06/15/99			9,424.0
N/A	OHX 05	EASTLAKE	06/20/99			9,424.0
N/A	OHX 06	EASTLAKE	06/24/99			9,424.0
N/A	OHX 07	EASTLAKE	06/27/99			9,424.0
N/A	OHX 08	EASTLAKE	06/30/99			9,424.0
			<u>ORIGINAL LOAD DATE</u>	<u>ACTUAL LOAD DATE</u>	<u>TONNAGE</u>	<u>ACCUM TOTAL</u>
TL-670	OHH 01	ASHTABULA	06/04/99	06/06/99	9,789.0	9,789.0
N/A	OHH 02	ASHTABULA	06/11/99	06/13/99	9,258.5	19,027.5
N/A	OHH 03	ASHTABULA	06/13/99			19,027.5
N/A	OHH 04	ASHTABULA	06/25/99			19,027.5
					TOTAL	28,451.5
					BALANCE DUE (+/-)	(79,548.5)

STB

FD

33388

6-22-99

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ENTERED
Office of the Secretary

JUN 22 1999

Part of
Public Record



Robert E. Murray
President & Chief Executive Officer

June 18, 1999

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

~~CONFIDENTIAL~~
~~CONFIDENTIAL~~
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Re: Finance Docket No. 33388

J

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56854 PLEASANT RIDGE ROAD • ALLEDONIA OHIO 43902
(740) 926-1351 • FAX (740) 926-1615

Mr. Vernon A. Williams
June 18, 1999
Page 2

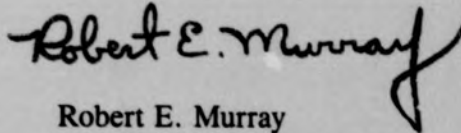
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Thank you for your attention to this matter.

Sincerely,

THE OHIO VALLEY COAL COMPANY



Robert E. Murray
President and
Chief Executive Officer

REM:arw
Enclosure

cc: Mr. John W. Snow
Mr. David R. Goode
Mr. A. R. Carpenter
Mr. J. W. Fox
Mr. Raymond L. Sharp
Mr. James L. Parks
Mr. Robert N. Stoller
Ms. Linda J. Morgan, Chairman STB
Mr. William Clyburn, Vice Chairman STB
Mr. Wayne Burkes, Commissioner STB
Dennis Lyons, Esq.
Richard Allen, Esq.

06/18/99

OHIO VALLEY COAL
FirstEnergy JUNE

<u>TRAIN NUMBER</u>	<u>PERMIT NUMBER</u>		<u>ORIGINAL LOAD DATE</u>	<u>ACTUAL LOAD DATE</u>	<u>SCHEDULED TONNAGE</u>	<u>108,000 ACCUM TOTAL</u>
TL-672	OHX 01	EASTLAKE	06/06/99	06/15/99	9,424.0	9,424.0
N/A	OHX 02	EASTLAKE	06/10/99	SHOULD LOAD TODAY		9,424.0
N/A	OHX 03	EASTLAKE	06/13/99			9,424.0
N/A	OHX 04	EASTLAKE	06/15/99			9,424.0
N/A	OHX 05	EASTLAKE	06/20/99			9,424.0
N/A	OHX 06	EASTLAKE	06/24/99			9,424.0
N/A	OHX 07	EASTLAKE	06/27/99			9,424.0
N/A	OHX 08	EASTLAKE	06/30/99			9,424.0
			<u>ORIGINAL LOAD DATE</u>	<u>ACTUAL LOAD DATE</u>	<u>TONNAGE</u>	<u>ACCUM TOTAL</u>
TL-870	OHH 01	ASHTABULA	06/04/99	06/06/99	9,769.0	9,769.0
N/A	OHH 02	ASHTABULA	06/11/99	06/13/99	9,258.5	19,027.5
N/A	OHH 03	ASHTABULA	06/18/99			19,027.5
N/A	CHH 04	ASHTABULA	06/25/99			19,027.5
					TOTAL	28,451.5
					BALANCE DUE (+/-)	(79,548.5)

STB

FD

33388

6-21-99

J

BUSINESS



Office of the Chairman

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

June 21, 1999

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

Dear Mr. Snow:

It has now been three weeks since the Conrail split date. Both CSX and NS have faced transitional implementation challenges related to such issues as information technology, crew availability, and yard and main line operations. Both CSX and NS have continued to diligently work through these issues and have been conscientious about keeping customers and the Board informed of their progress in addressing these transitional problems.

While these issues for the most part relate to the discrete operations of each of the railroads, there are issues that relate more directly to the interface between CSX and NS. As we all know, the working relationship between CSX and NS -- although the companies are competitors -- is an integral part of the overall success of the implementation of the Conrail acquisition.

In this regard, it is critical that CSX and NS work constructively and in the spirit of industry cooperation to resolve the transitional problems that each railroad faces. Accordingly, we are particularly interested in the assistance that each railroad can provide the other on a short-term basis, or in other private-sector alternatives for resolving implementation issues. In addition, we are concerned with the issues that have arisen at various points of interchange between CSX and NS, including matters related to unanticipated delivery of traffic at interchange points that cannot be handled as expected.

The Board believes that it is important for CSX and NS to focus their efforts on these issues and to provide informally a report to us on the results of their efforts. Given the urgency of resolving Conrail transitional issues, the Board would expect a status report as expeditiously as possible.

There are many issues associated with the implementation of the Conrail acquisition, and the Board will continue to monitor all aspects of the implementation. As appropriate, however, we will continue to focus on specific aspects of the transaction that seem to require particular attention, and it is in that vein that this letter is being written.

We all share a common interest in ensuring that the Conrail acquisition is effectuated as smoothly and safely as possible, and that the public benefits are realized as envisioned. In this regard, the Board appreciates the continuing cooperation as we work through this transition, and is committed to providing any assistance as appropriate.

Sincerely,

Linda J. Morgan

Linda J. Morgan

STB

FD

33388

6-21-99

J

BUSINESS

194843



Robert E. Murray
President & Chief Executive Officer

June 18, 1999

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



ENTERED
Office of the Secretary

JUN 22 1999

Part of
Public Record

Re: Finance Docket No. 33388

Dear Mr. Williams:

This is in follow-up to my letter of June 14, 1999, as well as that of June 16 to you from Mr. Raymond L. Sharp, Vice President Coal Sales and Marketing of CSX Transportation, Inc. ("CSX").

Very disappointingly, Mr. Sharp, in his letter, attempts to play down the disastrous situation that has been created for The Ohio Valley Coal Company's ("Ohio Valley") Powhatan No. 6 Mine and its employees. He misleadingly portrays the impact on Ohio Valley by stating "It is true that CSXT and the NS are behind three (3) trains on the June shipment schedule of Ohio Valley Coal Company. The slowdown in service experienced after June 1 is now improving".

In our June 14 letter, we stated "Through Saturday, June 11, Ohio Valley only received one (1) train for loading, and that 'Service to Ohio Valley's Powhatan No. 6 Mine has virtually ceased', which are the words of our customer, FirstEnergy Corp." The schedule provided to the CSX and Norfolk Southern Railway Company ("NS") was for a minimum of twelve (12), and, hopefully, fourteen (14), trains during the month of June for Ohio Valley to meet its obligations to FirstEnergy Corp. ("FirstEnergy") and vice versa. As of today, June 18, with the month nearly two-thirds over, Ohio Valley has received for loading only three (3) trains, as shown in the attached schedule, of the fourteen (14) that FirstEnergy and Ohio Valley had contemplated moving. We believe that you will agree that Mr. Sharp's words regarding "being behind three (3) trains" is not correct and does not portray the real fact that, with the month nearly two-thirds gone, Ohio Valley has received only three (3) of fourteen (14) hoped-for trains.

We further stated in our letter that "CSX origin coal on the former MGA Railroad, where the CSX and NS now have joint trackage rights, is making its way just fine to our market at the Eastlake Plant from competing mines". That statement was, and is, factual, because we investigated and got the numbers of the trains that were moving solely on the CSX from mines on the MGA in Pennsylvania to Ohio Valley's market at the Eastlake Plant of FirstEnergy. Whether CSX is deliberately moving coal from their own origins in preference to taking an approximately 20-mile hand-off from the NS to the Eastlake and Ashtabula Plants is known only to them, and we want to believe that this is not the case. However, as stated, our competitors' coal was moving as of the June 14 writing of my letter, and Ohio Valley's was not.

56854 PLEASANT RIDGE ROAD • ALLEDONIA OHIO 43902

(740) 926-1351 • FAX (740) 926-1615

Mr. Vernon A. Williams

June 18, 1999

Page 2

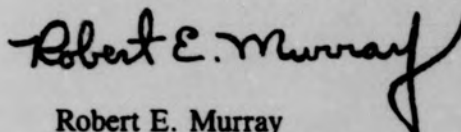
We do believe that the NS and CSX realize that they have failed to provide any semblance of service to Ohio Valley since their acquisition of Consolidated Rail Corporation ("Conrail") and are sincerely attempting to make the necessary corrections. However, we must dispute Mr. Sharp when he states that "CSXT and NS are behind three (3) trains on the June shipment schedule of Ohio Valley" and his implication that this situation is minor and of short duration.

This experience has been a financial disaster for Ohio Valley, which is an independent mining firm that must have continuous and full deliveries of the coal it has produced, processed, and stockpiled at great expense, as well as concomitant cash flows. With only twelve (12) days to go in the month of June, it will be impossible for CSX and NS to deliver the remaining nine (9) trains that were to be our minimum shipment to FirstEnergy, or the eleven (11) additional trains that our customer and we had hoped for, in view of the fact that only three (3) trains have been provided for loading in the eighteen (18) days since the CSX and NS acquisition of Conrail.

Thank you for your attention to this matter.

Sincerely,

THE OHIO VALLEY COAL COMPANY



Robert E. Murray
President and
Chief Executive Officer

REM:arw

Enclosure

cc: Mr. John W. Snow
Mr. David R. Goode
Mr. A. R. Carpenter
Mr. J. W. Fox
Mr. Raymond L. Sharp
Mr. James L. Parks
Mr. Robert N. Stoller
Ms. Linda J. Morgan, Chairman STB
Mr. William Clyburn, Vice Chairman STB
Mr. Wayne Burkes, Commissioner STB
Dennis Lyons, Esq.
Richard Allen, Esq.

06/18/99

OHIO VALLEY COAL
FirstEnergy JUNE

<u>TRAIN NUMBER</u>	<u>PERMIT NUMBER</u>		<u>ORIGINAL LOAD DATE</u>	<u>ACTUAL LOAD DATE</u>	<u>SCHEDULED TONNAGE</u>	<u>108,000 ACCUM TOTAL</u>
TL-672	OHX 01	EASTLAKE	06/06/99	06/15/99	9,424.0	9,424.0
N/A	OHX 02	EASTLAKE	06/10/99	SHOULD LOAD TODAY		9,424.0
N/A	OHX 03	EASTLAKE	06/13/99			9,424.0
N/A	OHX 04	EASTLAKE	06/15/99			9,424.0
N/A	OHX 05	EASTLAKE	06/20/99			9,424.0
N/A	OHX 06	EASTLAKE	06/24/99			9,424.0
N/A	OHX 07	EASTLAKE	06/27/99			9,424.0
N/A	OHX 08	EASTLAKE	06/30/99			9,424.0
			<u>ORIGINAL LOAD DATE</u>	<u>ACTUAL LOAD DATE</u>	<u>TONNAGE</u>	<u>ACCUM TOTAL</u>
TL-670	OHH 01	ASHTABULA	06/04/99	06/06/99	9,789.0	9,789.0
N/A	OHH 02	ASHTABULA	06/11/99	06/13/99	9,258.5	19,027.5
N/A	OHH 03	ASHTABULA	06/16/99			19,027.5
N/A	OHH 04	ASHTABULA	06/25/99			19,027.5
					TOTAL	28,451.5
					BALANCE DUE (+/-)	(79,548.5)

STB

FD

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6-17-99

J

BUSINESS

JUN -17 99 (THU) 12:38

P. 001



Raymond L. Sharp

Vice President

Coal Sales & Marketing

500 Water Street J120

Jacksonville, FL 32202

(904) 359-1993

Fax: (904) 359-7426



June 15, 1999

Mr. Vernon A. Williams

Secretary

Surface Transportation Board

1925 K Street, NW.

Washington, D.C. 20423-0001

Subject: Finance Docket Number 33388

Dear Mr. Williams:

On June 14, 1999, Mr. Bob Murray of the Ohio Valley Coal Company sent a letter advising the Surface Transportation Board of his concerns about coal shipments to Eastlake and Ashtabula Power Plants of First Energy. Specifically he stated that CSXT is giving priority to coal moving from other mines at the expense of coal moving from Ohio Valley Coal Company which is now on the Norfolk Southern (NS) system. Mr. Murray's opinion is that this alleged action is due to the fact that the Ohio Valley Coal Company's movement is a joint movement.

CSXT has not and will not under any circumstances give priority to coal shipments in the fashion described by Mr. Murray. It is true that CSXT and the NS are behind three (3) trains on the June shipment schedule of Ohio Valley Coal Company. The slowdown in service experienced after June 1 is now improving. The specific action taken is to adjust the interchange locations between the Norfolk Southern and CSXT for better crew utilization. Also both railroads are gaining experience in the new traffic patterns that have developed in the greater Cleveland area. It is my understanding that the number of empty coal cars in the Cleveland-Ashtabula, Ohio area is coming into balance.

This is a situation that has only just developed and appears to be of a short-term nature. CSXT and NS are actively engaged in making the necessary adjustments. Mr. Bill Fox of NS and I met with Mr. Murray on June 14 to address his concerns expressed in his June 12 letter and CSXT is communicating closely with the coal receiver to insure the scheduled deliveries from Mr. Murray's operation are made.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Raymond L. Sharp".

Raymond L. Sharp

Vice President - Coal Sales & Marketing

Mr. Vernon A. Williams
June 16, 1999
Page 2

CC: Mr. Richard Allen, Esq.
Mr. Wayne Burkes, Commissioner, STB
Mr. A. R. "Pete" Carpenter
Mr. William Ciyburn, Vice Chairman, STB
Mr. J. W. "Bill" Fox, Jr.
Mr. David R. Goode
Mr. Dennis Lyons, Esq.
Ms. Linda J. Morgan, Chairman, STB
Mr. Robert E. Murray
Mr. James L. Parks
Mr. John W. Snow
Mr. Robert N. Stoller

STB

FD

33388

6-15-99

J

UNION



Office of the Chairman

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

FILE IN DOCKET

FD-33388

June 15, 1999

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

Dear Mr. Godwin:

I have received copies of your letters to Mr. Joseph Tschurilow, Office of the Inspector General of the U.S. Department of Transportation, and to Mr. Howard S. Emerick, Assistant Vice President for Employee Relations at CSXT. You raise safety concerns regarding locomotive engineers following the acquisition of Conrail by CSXT and Norfolk Southern.

As before, I will have your letter and any response that I receive made a part of the public docket in the Conrail proceeding. Again, 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-Treasurer
Telephone: (716) 827-2653
FAX: (716) 827-2655

May 28, 1999

RECEIVED
SURFACE TRANSPORTATION
BOARD
JUN 4 12 22 PM '99
OFFICE OF
CHIEF COUNSEL
MORGAN

FILE IN DOCKET

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

Dear Sir:

I am writing in regard to your letter of May 28, 1999, concerning expediting the qualification process of Locomotive Engineers with the use of rides on theater cars or any other vehicle for expedited trips over territory. In good conscience, I can not be a part to this self-serving and an unsafe plan to qualify Locomotive Engineers over territory they never worked over.

In 1999, four of my Brothers have been killed in the line of duty. I will not allow CSXT or Norfolk Southern to use such an inherently unsafe program to qualify Locomotive Engineers.

If the CSXT puts this program in place and a person is injured or killed because of this scatterbrain program, I will do everything in my power to have that person(s) disqualified from any safety-sensitive position. I will sit down with you and CSXT Operating people to set up a safe and timely program to qualify Locomotive Engineers.

I remain

Sincerely yours,

R. W. Godwin
General Chairman

RWG:rm



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

May 17, 1999

FILE IN DOCKET

OFFICE OF
CHAIRMAN MORGAN

MAY 19 1 54 PM '99

RECEIVED
SURFACE TRANSPORTATION
BOARD

Mr. Joseph Tschurilow, CPA
U.S. Dept. of Transportation
Office of Inspector General
26 Federal Plaza, Room 3134
New York, NY 10278

Dear Sir:

I am writing in regard to your request concerning how many locations have Locomotive Engineers working on Extra Boards and Pools seven (7) days a week. Based on information from my Local Chairmen of Jurisdiction, the following locations have this serious safety problem:

Toledo, Ohio

Extra Boards/Pools - Locomotive Engineers are working seven days a week with eight (8) to twelve (12) hours of rest. Pools and Extra Locomotive Engineers cannot not mark off for any reason. These trains run both East and West out of Toledo. Trains are standing for rested crews.

Buffalo, New York

Lines East - Locomotive Engineers are working seven days a week on the Extra Board. On the Buffalo / DeWitt Pool, Locomotive Engineers are working three to four round trips a week. The Pool between Buffalo and Selkirk (a 600 mile round trip) are making 3-1/2 trips a week. Rest time for these Extra Boards and Pools is eight (8) to sixteen (16) hours.

Lines West - Locomotive Engineers on the Extra Board are working seven (7) days a week with rest periods being eight (8) to twelve (12) hours. The Lines West Pool -- Buffalo to Cleveland -- are making three to four round trips to Cleveland. The crews can mark off. The Buffalo-Toledo (300 Miles) and the Buffalo-Crestline is regular assigned jobs and the crews can mark off.

Indianapolis, IN

Extra Boards and Pools for Locomotive Engineers are very short of Locomotive Engineers and Conductors and everyone, East and West out of Indianapolis, are working seven days a week. Rest period range from eight (8) to twelve (12) hours and no one can mark off. Trains are standing for rested crews.

Elkhart, IN

A mirror of Indianapolis

Chicago, IL

Very short of men. Yard jobs holding for rested Locomotive Engineers

Cleveland, OH

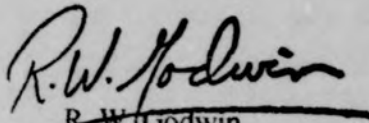
Extra Boards and Pools for Locomotive Engineers are short. Trains are not being held for crews, but the crews are only getting eight (8) to ten (10) hours of rest.

With the short time I had to work on this project, these are the only locations I received response from the B.ofL.E. Local Chairmen of Jurisdiction. In my experience on my day-to-day talking to B.ofL.E. Officers and Members, every location on Conrail are short of Locomotive Engineers and Conductors. I do not see any improvement in the next three or four years. Locomotive Engineers and Conductors are retiring faster than they can hire and qualify Locomotive Engineers and Conductors. In fact, the Carriers, (Conrail, CSXT and Norfolk Southern) are rushing people through training for Locomotive Engineers and Conductors. In my opinion, the Carriers are fudging the reports. Example: The Student Locomotive Engineer is assigned an assignment that works eleven hours, and the Carrier reports that the Student Locomotive Engineer had eleven (11) hours throttle time. In fact, the Student Locomotive Engineer had only three hours throttle time. This is happening every day.

What is the answer to these problems? There is no answer unless you can turn back time four years and then order the Railroads to hire more people. Of course we cannot do that. So for the next four or five years, we will have to see Locomotive Engineers and Conductors working seven days a week in an on-going fatigued condition. We will see Student Locomotive Engineers who are not fully qualified running trains seven days a week in the same condition as the veteran Locomotive Engineer.

This is a mixture that ADDS up to a very dangerous situation to the employees and the public. I remain

Sincerely yours,


R. W. Godwin
General Chairman

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. Rodzicz, 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
All Local Chairmen - With Post Copy
Michael Goldstein, Reg. Mgr. US DOT - Office of Inspector General
Rodney Slater, Secretary - DOT
Daniel Patrick Moynihan, Senator - NY
Charles E. Schumer, Senator - NY
Jack Quinn, Representative - NY
Jolene Molitoris, Administrator FRA
Linda Morgan, Chairman STB

WORKEmployee Relations
500 Water Street, J455
Jacksonville, FL 32202

May 28, 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 our previous discussion in connection with the Conrail transaction, particularly with respect to qualifying former Conrail Engineers on CSXT trackage.

During our discussions it was agreed that there were still a significant number of Engineers who were not qualified on CSXT trackage, particularly in the Buffalo to Chicago corridor. We agreed, in an effort to expedite the qualification process, that it would be appropriate to have these Engineers, even though assigned to pool turns, called to ride the "theater car" or any other vehicle for expedited trips over territory. It was understood that these conductors could be called out of turn during this period of qualification without penalty. Engineers so called would be compensated on the basis of earnings lost or mileage of the assignments operated.

Additional, we agreed that it might be equally important to have the same flexibility in qualifying crews in the early days following June 1, 1999 in other corridors where customer sensitive traffic is handled, particularly as follows:

Willard/Crestline - Cleveland
Garrett - Willard, Toledo and Columbus
Toledo - Cleveland
Toledo - Detroit (SAC/Trenton Line)
Buffalo - Willard/Crestline
Marysville - Cincinnati, Garrett and Cleveland
Columbus - Garrett
Indianapolis - Columbus

It is understood that Engineers used out of turn to qualify will be compensated as indicated in the earlier letter, i.e., earnings lost or mileage of the assignment operated.

Very truly yours,

Howard S. Emerick

STB

FD

33388

6-15-99

J

194769

179765



Robert E. Murray
President & Chief Executive Officer

June 14, 1999



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

ENTERED
Office of the Secretary

JUN 15 1999

Part of
Public Record

Re: Finance Docket No. 33388

Dear Mr. Williams:

Since the day of the acquisition of Consolidated Rail Corporation ("Conrail") by CSX Transportation, Inc. ("CSX") and Norfolk Southern Railway Company ("NS"), "service to The Ohio Valley Coal Company's ("Ohio Valley") Powhatan No. 6 Mine has virtually ceased", in the words of our customer, FirstEnergy Corp. ("FirstEnergy"). Enclosed is my letter of June 11, 1999, to the two (2) railroads setting forth the problem that they have created for Ohio Valley and FirstEnergy, regarding which there seems to be no effort to address by the railroads.

During the month of June, 126,000 tons, fourteen (14) unit trains, was to be delivered from Ohio Valley's Powhatan No. 6 Mine to FirstEnergy's Eastlake and Ashtabula, Ohio Plants. Through Saturday, June 11, Ohio Valley only received one (1) train for loading. Eleven (11) telephone calls were made to the CSX on Thursday alone, but to no avail.

Ohio Valley is an independently owned Company with bills to pay. The coal has been mined and is on the ground at our Powhatan No. 6 Mine, but the CSX and NS refuse to provide service, even though they know that 126,000 tons must be delivered in June.

It is important to point out that Ohio Valley had a one-line haul to the Eastlake and Ashtabula Plants on Conrail. We now have a two-line haul, with the Eastlake and Ashtabula stations now served by CSX and Ohio Valley served by NS. You should be aware that CSX origin coal on the former MGA Railroad ("MGA"), where the CSX and NS now have joint trackage rights, is making its way just fine to our market at the Eastlake Plant from competing mines. However, the Ohio Valley coal movement, which is handed off from the NS and carried by CSX for about twenty (20) miles, has been placed at a virtual standstill. This is exactly what we told the Surface Transportation Board might happen, because the CSX would give priority to moving coal from their origin mines to their destination plants at the expense of moving coal from Ohio Valley, which is now on the NS, a short distance of about twenty (20) miles.

Mr. Vernon A. Williams
June 14, 1999
Page 2

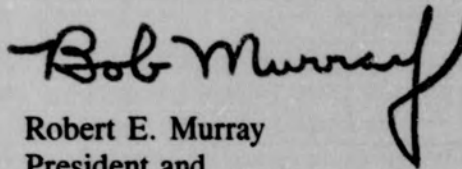
Ohio Valley and my family, as the owners of the Company, are being severely damaged by the refusal of the CSX and NS to provide service to our Mine. Furthermore, FirstEnergy will confirm that Ohio Valley is currently the only supplier to the Ashtabula Plant, and their stockpiles, due to the hot weather, are very low.

Please address this critical issue immediately, as Ohio Valley must pay its bills and is being very much damaged. We have paid all the costs of mining, processing, and stockpiling this coal, but our service has virtually ceased in favor of movements on the MGA from CSX origin to CSX destination, rather than NS origin to CSX destination.

What recourse and what damages can an independent Company such as ours claim from the railroads' failure to serve us since the acquisition of Conrail?

Sincerely,

THE OHIO VALLEY COAL COMPANY



Robert E. Murray
President and
Chief Executive Officer

REM:arw
Enclosure

cc: Mr. John W. Snow
Mr. David R. Goode
Mr. A. R. Carpenter
Mr. J. W. Fox
Mr. Raymond L. Sharp
Mr. James L. Parks
Mr. Robert N. Stoller
Ms. Linda J. Morgan, Chairman STB
Mr. William Clyburn, Vice Chairman STB
Mr. Wayne Burkes, Commissioner STB
Dennis Lyons, Esq.
Richard Allen, Esq.



Robert E. Murray
President & Chief Executive Officer

June 12, 1999

Mr. Raymond L. Sharp
Vice President
Coal Sales and Marketing
CSX Transportation, Inc.
500 Water Street
Jacksonville, Florida 32201

Mr. J. W. Fox
Vice President, Coal Marketing
Norfolk Southern Corporation
110 Franklin Road, S.E.
Roanoke, Virginia 24042

Dear Ray and Bill:

Rail service from The Ohio Valley Coal Company's ("Ohio Valley") Powhatan No. 6 Mine to the Eastlake and Ashtabula plants of FirstEnergy Corporation ("FirstEnergy") has come to an almost total standstill subsequent to the acquisition of Consolidated Rail Corporation ("Conrail") by CSX Transportation, Inc. ("CSX") and Norfolk Southern Corporation ("NS").

As of yesterday, June 11, 1999, only one (1) train, containing 9,769 tons, has been shipped from Ohio Valley to the aforementioned plants of FirstEnergy. The FirstEnergy/Ohio Valley schedule for June calls for 126,000 tons to be shipped, with a 108,000 ton minimum.

Our numerous calls to the NS and CSX since the acquisition, including eleven (11) to the CSX in Jacksonville on Thursday alone, have gone unheeded. Ohio Valley cannot stand the economic damage being caused to us by the NS/CSX inability to move our tonnage. The coal is mined and waiting in a stockpile at Ohio Valley, but we cannot get train service.

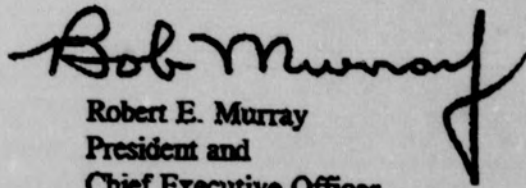
As you know, the single line Conrail movement has become a two (2) line NS/CSX haul from the Ohio Valley's Powhatan No. 6 Mine to Eastlake and Ashtabula. Apparently, the two railroads have utter gridlock in the Collinwood Yard area of Cleveland, even though there are other routes into these plants.

Mr. Raymond L. Sharp
Mr. J. W. Fox
June 12, 1999
Page 2

Please, immediately, correct this problem which began at the inception of this two-line haul. Ohio Valley does not want to be forced to involve other parties in an attempt to get this standstill situation corrected.

Sincerely,

THE OHIO VALLEY COAL COMPANY



Robert E. Murray
President and
Chief Executive Officer

REM/MKB
REM99\SHARPF\FOX1.WPD

cc: Mr. A. R. ("Pete") Carpenter
Mr. John W. Snow
Mr. David R. Goode
Mr. James L. Parks
Mr. Robert N. Stoller

STB

FD

33388

6-14-99

J

BUSINESS



Robert E. Murray
President & Chief Executive Officer

June 14, 1999



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

Re: Finance Docket No. 33388

Dear Mr. Williams:

Since the day of the acquisition of Consolidated Rail Corporation ("Conrail") by CSX Transportation, Inc. ("CSX") and Norfolk Southern Railway Company ("NS"), "service to The Ohio Valley Coal Company's ("Ohio Valley") Powhatan No. 6 Mine has virtually ceased", in the words of our customer, FirstEnergy Corp. ("FirstEnergy"). Enclosed is my letter of June 11, 1999, to the two (2) railroads setting forth the problem that they have created for Ohio Valley and FirstEnergy, regarding which there seems to be no effort to address by the railroads.

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It is important to point out that Ohio Valley had a one-line haul to the Eastlake and Ashtabula Plants on Conrail. We now have a two-line haul, with the Eastlake and Ashtabula stations now served by CSX and Ohio Valley served by NS. You should be aware that CSX origin coal on the former MGA Railroad ("MGA"), where the CSX and NS now have joint trackage rights, is making its way just fine to our market at the Eastlake Plant from competing mines. However, the Ohio Valley coal movement, which is handed off from the NS and carried by CSX for about twenty (20) miles, has been placed at a virtual standstill. This is exactly what we told the Surface Transportation Board might happen, because the CSX would give priority to moving coal from their origin mines to their destination plants at the expense of moving coal from Ohio Valley, which is now on the NS, a short distance of about twenty (20) miles.

Mr. Vernon A. Williams

June 14, 1999

Page 2

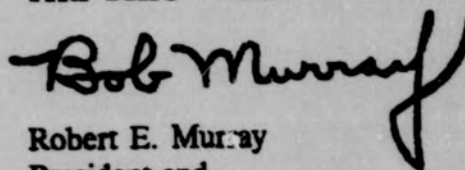
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Sincerely,

THE OHIO VALLEY COAL COMPANY



Robert E. Murray
President and
Chief Executive Officer

REM:arw

Enclosure

cc: Mr. John W. Snow
Mr. David R. Goode
Mr. A. R. Carpenter
Mr. J. W. Fox
Mr. Raymond L. Sharp
Mr. James L. Parks
Mr. Robert N. Stoller
Ms. Linda J. Morgan, Chairman STB
Mr. William Clyburn, Vice Chairman STB
Mr. Wayne Burkes, Commissioner STB
Dennis Lyons, Esq.
Richard Allen, Esq.



Robert E. Murray
President & Chief Executive Officer

June 12, 1999

Mr. Raymond L. Sharp
Vice President
Coal Sales and Marketing
CSX Transportation, Inc.
500 Water Street
Jacksonville, Florida 32201

Mr. J. W. Fox
Vice President, Coal Marketing
Norfolk Southern Corporation
110 Franklin Road, S.E.
Roanoke, Virginia 24042

Dear Ray and Bill:

Rail service from The Ohio Valley Coal Company's ("Ohio Valley") Powhatan No. 6 Mine to the Eastlake and Ashtabula plants of FirstEnergy Corporation ("FirstEnergy") has come to an almost total standstill subsequent to the acquisition of Consolidated Rail Corporation ("Conrail") by CSX Transportation, Inc. ("CSX") and Norfolk Southern Corporation ("NS").

As of yesterday, June 11, 1999, only one (1) train, containing 9,769 tons, has been shipped from Ohio Valley to the aforementioned plants of FirstEnergy. The FirstEnergy/Ohio Valley schedule for June calls for 126,000 tons to be shipped, with a 108,000 ton minimum.

Our numerous calls to the NS and CSX since the acquisition, including eleven (11) to the CSX in Jacksonville on Thursday alone, have gone unheeded. Ohio Valley cannot stand the economic damage being caused to us by the NS/CSX inability to move our tonnage. The coal is mined and waiting in a stockpile at Ohio Valley, but we cannot get train service.

As you know, the single line Conrail movement has become a two (2) line NS/CSX haul from the Ohio Valley's Powhatan No. 6 Mine to Eastlake and Ashtabula. Apparently, the two railroads have utter gridlock in the Collinwood Yard area of Cleveland, even though there are other routes into these plants.

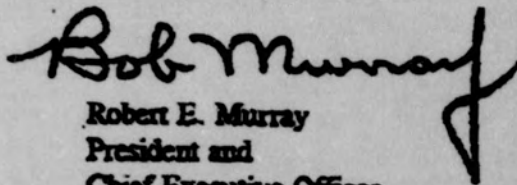
SUITE 111 • 29525 CHAGRIN BOULEVARD • PEPPER PIKE OHIO 44122 • (216) 765-1240

Mr. Raymond L. Sharp
Mr. J. W. Fox
June 12, 1999
Page 2

Please, immediately, correct this problem which began at the inception of this two-line haul. Ohio Valley does not want to be forced to involve other parties in an attempt to get this standstill situation corrected.

Sincerely,

THE OHIO VALLEY COAL COMPANY


Robert E. Murray
President and
Chief Executive Officer

REM/MKB
REM99SHARPFOX1.WPD

cc: Mr. A. R. ("Pete") Carpenter
Mr. John W. Snow
Mr. David R. Goode
Mr. James L. Parks
Mr. Robert N. Stoller

STB FD

33388

6-7-99

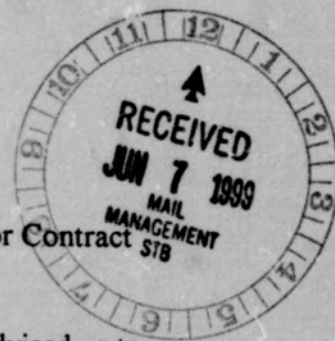
J

UNION

Linda Morgan, Chairperson
Surface Transportation Board
Washington D.C.

June 1, 1999

Subj. Conrail Labor Contract



With reference to the attached file, the National Mediation Board has advised us to direct our inquiry to the Surface Transportation Board.

Therefore, please review this file, advising us of your decision at the address listed below.

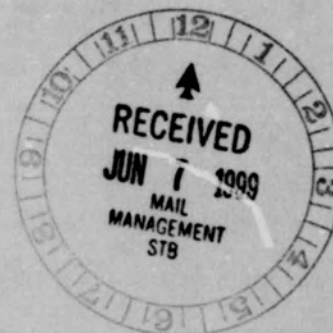
George J. Donahue
258 Pennsylvania Blvd.
Pittsburgh, Pa. 15228
Phone: 412-531-1343

J. Herb Kerekesch
E. C. Kadar
H. W. Lucking
E. F. Gladish



(202) 692-5000

NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572



May 25, 1999

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

Dear Mr. Donahue:

Your recent correspondence, dated April 29th and May 11th, to Chief of Staff Stephen E. Crable was forwarded to me for reply. In your letters you requested arbitration concerning provisions of an implementing agreement reached between your labor organization and Conrail, CSX Transportation and Norfolk Southern.

The NMB has no statutory authority to grant the remedy that you seek. The agency cannot compel arbitration. The role of the NMB was correctly stated in the NMB's letter to you dated May 6, 1999. Your inquiry should be directed to the Surface Transportation Board for a response.

Sincerely,

Roland Watkins
Director, Arbitration Services

Stephen E. Crable
Chief of Staff
National Mediation Board
Washington, D. C. 20005

May 11, 1999
Subj. Arbitration Request



Dear Mr. Crable:

Please refer to our letter to you dated April 6, 1999, and your response to us dated May 6, 1999.

We requested arbitration because we believe the Implementing Agreement, reached between Conrail (CR), Norfolk Southern (NS), CSX Transportation (CSXT) and the Transportation Communications International Union (TCU), does not satisfy the provisions or the intent of the New York Dock Agreement (NYD), specifically Article I, Section 3.

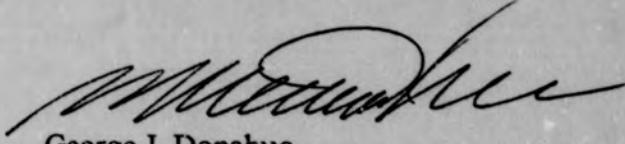
We are therefore of the opinion that the agreement is improper, even though it was signed by our labor organization, TCU, who was aware of our concerns. TCU knows this agreement is substandard, when compared with other implementing agreements involving Class 1 railroads, but chose to sign it for reasons of which we are unaware.

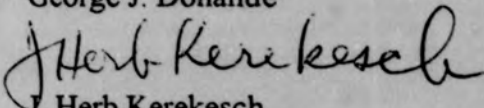
Apparently the National Mediation Board is bound to accept whatever agreements labor and management arrive at, to the exclusion of the provisions of the NYD, and regardless of other implementing agreements arrived at in similar situations. If this is true, please let us know in your response to this letter.

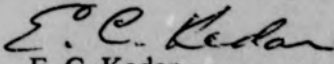
In any case, we will once again approach the Surface Transportation Board with this issue, because we believe that the Agreement is improper and we don't know how else to resolve the problem.

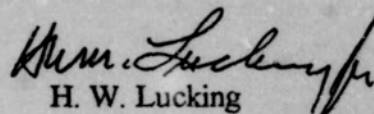
As the June 1, 1999 "Split Date" is rapidly approaching, we await your prompt reply.

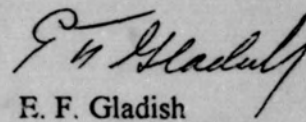
Please respond to:
George J. Donahue
258 Pennsylvania Blvd.
Pittsburgh, Pa. 15228


George J. Donahue


J. Herb Kerekesch


E. C. Kadar


H. W. Lucking


E. F. Gladish

CC: Linda Morgan, Chairperson, STB

Attached are copies of our continuing correspondence with the National Mediation Board's Mr. Crable. Because time is growing short, we are forwarding copies to you, for your information and further handling, if necessary.

TCU

Congressman William Coyne
Senator Arlen Specter
Senator Rick Santorum



(202) 692-5000

NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

May 6, 1999



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

Dear Mr. Donahue:

This letter will acknowledge your April 6, 1999 letter which was received on April 19, 1999. In the letter, you and four other employees request that the National Mediation Board (NMB) consider the "issues" raised in your letter and the accompanying documents and order arbitration.

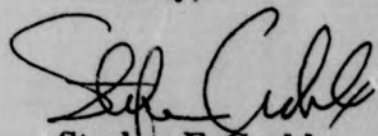
In the letter you expressed your dissatisfaction with certain provisions of the implementing agreement reached between Conrail, CSX Transportation and Norfolk Southern. In the accompanying documents, you state that you do not seek a determination that the agreements are improper. It is unclear as to the nature of your arbitration request since an agreement was reached between your organization and the carriers.

The NMB has no statutory authority to grant your request for arbitration. Under New York Dock, the NMB only has authority to select an arbitrator if the parties are unable to agree to a neutral. In this case, the parties reached an agreement thereby eliminating the need for an arbitrator.

Review of the accompanying documents reveals that you have pursued this matter with the Surface Transportation Board which is the proper forum. It is also unclear as to whether you have voiced your concerns to your labor organization.

I regret that we are unable to be of any assistance.

Sincerely,


Stephen E. Crable
Chief of Staff

Stephen Crable
Chief of Staff
National Mediation Board
Washington, D. C. 20005

April 6, 1999

Subj. Arbitration Request



We request that the Mediation Board consider the issues raised in this letter and the attached file for arbitration. Since we dispute the current Implementing Agreement, these issues must be resolved prior to the Conrail split date currently scheduled for June 1, 1999. We further request that the arbitration be handled in an efficacious manner.

We are not concerned with the formalities or protocols involved in reaching an implementing agreement, as outlined in Article I, Section 4 of the New York Dock (NYD). We are, however, very concerned with the functionality of such an agreement as it relates to protecting the rights of Conrail employees, as outlined in Article I, Section 3 of the NYD.

The parties involved in the negotiation of the Conrail (CR), Norfolk Southern (NS), CSX Transportation Company (CSXT), Transportation Communications Union (TCU) Implementing Agreement, which is the contract signed November 2, 1998, violated the rights of Conrail's clerical employees by circumventing employee ratification of labor protective issues that had remained unresolved in the Conrail National Agreement (CNA). In the absence of any provisions in the CNA for employee ratified labor protection, we believe that the Implementing Agreement should have been subject to rank and file ratification, since it superseded the CNA in establishing labor protection. Furthermore, one can only conclude that previous industry standards of employee protection, as approved by the STB in recent mergers of class 1 railroads, should be applied in the CR/NS/CSXT/TCU Implementing Agreement, as outlined in Article I, Section 3, of the New York Dock Agreement. When compared with other implementing agreements involving class 1 railroads, such as: UP/SP, BN/ATSF and CN/GTW, the CR/NS/CSXT/TCU Implementing Agreement is far below the industry standard, and here are some of the reasons why:

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

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

(3) Those provisions of the Implementing Agreement, which relate to any adverse or inferior conditions that may occur as the result of a relocation, are insignificant when compared to industry standards established in other recent contracts, with regard to protection for spouses and families.

(4) The time period that passed after employees first saw their job selection list was not sufficiently adequate to allow an individual to make an informed decision. The job descriptions were incomplete at the time the "irrevocable" choice had to be made, and some of the important details that affected certain choices were not completely explained prior to the "rundown" or job selection day. An example is the way the so-called Supplemental Extra List would be used, and how long it would be allowed to exist.

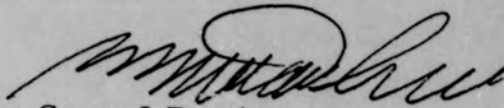
(5) There is nothing in the NYD which deprives an employee of severance allowance if such employee elects not to move over 30 miles from their residence. This was never adequately explained.

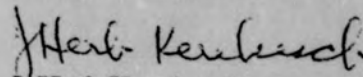
(6) NYD Article I, Section 3, provides that an employee may elect to choose the benefits of the NYD over any other agreement. We were not offered this choice during the "rundown" process, nor was there an adequate explanation as to why we weren't offered this choice.

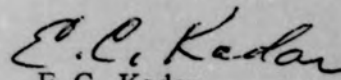
This Implementing Agreement must be brought in line with industry standards established on other class 1 railroads. Also, the recent "rundown", or job selection process, should be redone, making sure that all employees are advised of and understand the ramifications of their "irrevocable" choice. The employees should be given their right to ratify their protection provisions, which previously was denied. The entire Implementing Agreement must be brought up to industry standards and be in compliance with the NYD.

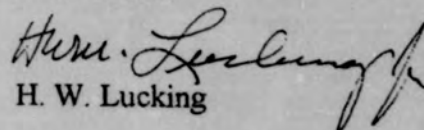
Please send response to: George J. Donahue
258 Pennsylvania Blvd.
Pittsburgh, Pa. 15228

Attach.


George J. Donahue


J. Herb Kerekesch


E. C. Kadar


H. W. Lucking

E. F. Gladish



Office of the Chairman

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



March 16, 1999

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

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

Dear Mr. Donahue:

This responds to your letter of February 6, 1999.

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

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

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

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

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

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

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

Sincerely,

Linda J. Morgan
Linda Morgan

February 19, 1999

Linda Morgan
Surface Transportation Board

Please direct reply to the above message to one or both of the following addresses:

Employees of Conrail
RIDC Park West
15 Summit Park Drive
Pittsburgh, PA

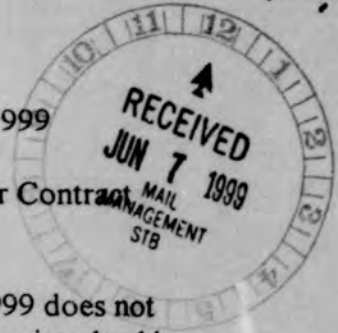
or:

George Donahue
258 Pennsylvania Blvd.
Pittsburgh, PA 15228

Linda Morgan
Chairperson
Surface Transportation Board

February 6, 1999

Conrail Labor Contract



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

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

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

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

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

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

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

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

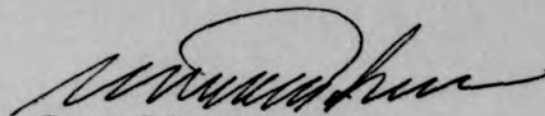
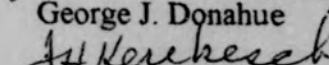
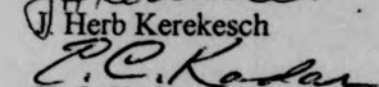
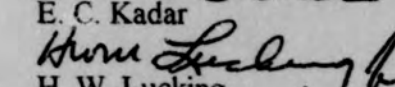
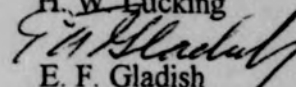
The Board declined to allow the carriers to override the Conrail contracts forcing the parties to negotiate an agreement. Was it the intent of the Board to allow the parties to reach an Implementing Agreement which satisfies the protocol of Article I, Section 4 of the NYD, but fails to satisfy the intent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

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

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

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

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


George J. Donahue

J. Herb Kerekesch

E. C. Kadar

H. W. Lucking

E. F. Gladish

NAMES OF PETITIONERS

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

PRINT

SIGN

P.A. BURCHFIELD

P.A. Burchfield

G. J. CORKERY

G. J. Corkery

G.W. Burkett

Glen W. Burkett

C. J. MILLK

C. J. Millk

G.F. Kuzma

G.F. Kuzma

E. RIEDEL

E. Riedel

D.R. BECK

D. Beck

J.R. BOBEK

J. Bobek

L.A. DONFRIO

L. A. Donfrío

R. G. Gordon

Richard G. Gordon

W.D. HOLLAMAN

W.D. Holloman

L.J. DOONE

L. J. Doone

L. K. HERON

Lynda A. Heron

Chris C. ATAFED

Chris C. Atafed

J.D. COOK

J. D. Cook

NAMES OF PETITIONERS

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

PRINT

SIGN

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

NAMES OF PETITIONERS

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

PRINT

SIGN

Thom Kalmeyer	<i>Thom Kalmeyer</i>
WAYNE WILSONBY	<i>Wayne Wilsonby</i>
Robert Griffith, Jr.	<i>Robert Griffith, Jr.</i>
LOUIS NEWMAN	<i>Louis Newman</i>
LAWRENCE J ZIGARELL	<i>Lawrence J. Zigarell</i>
CK. CRANFORD	<i>Chas R D</i>
J F SOMMERS	<i>James F Sommers</i>
TERRY I. KATLEN	<i>Terry I. Katlen</i>
Kathy I. Brown	<i>Kathy I. Brown</i>
DEBORAH J. WEBB	<i>Deborah J Webb</i>
MICHAEL J. GIANNOTTA	<i>Michael J Giannotta</i>
Thomas L IGOU	<i>Thomas Lynn Igou</i>
ROBERT H JONES	<i>R H Jones</i>
TUNISIA P. MASON	<i>Tunisia P. Mason</i>
Gregory K. Reilley	<i>Gregory K. Reilley</i>

NAMES OF PETITIONERS

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

PRINT

SIGN

B. L. KEENEN	B. L. Keenen
C. Findlay	C. Findlay
R. P. MELI	R. P. Meli
J. H. QUATMAN	J. H. Quatman
R. M. ESCHNER	R. M. Eschner
V. S. HAMILTON	V. S. Hamilton
M. E. SOMMERS	M. E. Sommers
P. J. NICHOLS	P. J. Nichols
N. E. RENNIE	N. E. Rennie
N. L. SAWYER	N. L. Sawyer
D. L. MALLORY	D. L. Mallory
J. D. COSENTINO	J. D. Cosentino
E. F. WALL	E. F. Wall
D. L. CAGLE	D. L. Cagle
D. J. HELLNER	D. J. Hellner

NAMES OF PETITIONERS

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

PRINT

SIGN

<u>R W McAdams</u>	<u>RW McADAMS</u>
<u>K R Fye</u>	<u>K. R. Fye</u>
<u>KATHLEEN LEHANE</u>	<u>Kathleen Lehane</u>
<u>W. L. MAYNARD</u>	<u>W. L. Maynard</u>
<u>WAYNE R LATIMER</u>	<u>Wayne R Latimer</u>
<u>R. L. Blackburn</u>	<u>Robert L Blackburn</u>
<u>R BORKO</u>	<u>R Borko</u>
<u>P E HUMELSON</u>	<u>P E Humelson</u>
<u>P. F. MIGNANELLI</u>	<u>P. F. Mignanelli</u>
<u>J. T. SPERANZA</u>	<u>J. T. Speranza</u>
<u>L. D. BOSAK</u>	<u>L. D. Bosak</u>
<u>L. N. Zanger</u>	<u>L. N. Zanger</u>
<u>J. W. HEIDECCKER SR.</u>	<u>JW Heidecker Sr</u>
<u>J. R. FRIEBIS</u>	<u>J. R. Friebis</u>
<u>K. S. HENERY</u>	<u>K. S. Henry</u>

NAMES OF PETITIONERS

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

PRINT

SIGN

J. D. CARTER

Jack D. Carter

I. C. ZIMPFER

Linda C Zimpfer

N. G. MUHA

Doreen G. Muha

L. R. BUTLER

Linda R. Butler

C. BOGER

C. Boger

G. R. MANCO

G R Manco

T. E. O'DRINGER

T. E. O'Dringer

M. J. SALEY

mj Saley

G. D. HORSLEY

G. D. Horsley

P. F. QUIGLEY

P. F. Quigley

HM Vucetic

Hm Vucetic

R. HERRERA

~~BA SERRERA~~

Gen. Babcock

~~James F. Babcock~~

Eugene S. Babcock

James F. Talerico

James F. Talerico

S. P. GREGELY

S. P. Gregely

NAMES OF PETITIONERS

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

PRINT

SIGN

Debra J Stephens

Debra J Stephens

HOWARD E. HAYES

Howard E. Hayes

Anthony R. GERACI

Anthony R. Geraci

CAROLLYNN FRALEY

Carol Lynn Fraley

John B. Kidd

John B. Kidd

DAVID A. NICHOLS

David A. Nichols

Curtis F. Smith

Curtis F. Smith

GARY D BOVAN

Gary D Bovan

E. L. EAKINS

E L Eakin

David R. Stephens

David R. Stephens

Edward J Goletz

Edward J Goletz

DONALD R ROSBAUGH

Donald R Rosbaugh

Thomas V. Walker

Thom V. Walker

MARY FINGLEHART

Mary Finglehart

Tom BUCKINGHAM

T. Buckingham

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PRINT	SIGN
JAMES RAE MOON	James Rae Moon
B.A. MITCHELL	B.A. Mitchell
ELIZABETH WILLIAMS	Elizabeth Williams
ROBERT J. KOWNACK	Robert J. Kownack
R. ELLENWOOD	R. Ellenwood
FRANCIS H. NORTROP	F. H. Northrop
RAYMOND A. STIGLICH	R.A. Stiglich
JULIANNA B. MILLER	Julianne B. Miller
F. J. Newcomb, Jr.	F. J. Newcomb, Jr.
J.A. BARABAS	J.A. BARABAS
JUDY SPADGLER	Judy Spadgler
WILLIAM M. LIST	William M. List
RALPH CARROLL	R. Carroll
L.K. PAXTON	L.K. Paxton
M.J. CIESLAK	M.J. Cieslak

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SIGN

N. M. DEAL

N. M. Deal

B. L. WATSON

B. L. Watson

J. M. BUSH

J. M. Bush

A. P. DESHAIS

A. P. Deshaies

J. C. SHUSS

J. C. Shuss

Mary McKnight

Mary McKnight

SAMUEL P. WAITE

Samuel P. Waite

DAVID J. NEMES

David J. Nemes

KEVIN J. CHANDLER

Kevin J. Chandler

Eugene F. DAVIDSON

Eugene F. Davidson

CANDICE R. ECKHARDT

Candice Eckhardt

JOSEPH WEBER JR

Joseph Weber Jr.

Charles Kelley

Charles Kelley

DONALD H. BUCK

D. H. Buck

HENRY J. WOZETEK

Henry J. Wozetek

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SIGN

Joseph Magyano	Joseph E Magyano
C E McCourt	C E McCourt
Louis Cuccichini	L Cuccichini
S.G. PRICE	Sglin
D.R. BURHAM	DR Burnham
J A MARCOCELLI JR	J A marcoselli Jr
Madeline V Conti	Madeline V Conti
C F Burgoon	CF Burgoon
R.G. LINCK	R.G. Linck
B.F. AKER	Bruce F Aker
J.T. PHILBIN	J.T. Philbin
David W Clark	David W Clark
S.E. VONSCIO	S.E. Vonscio
Lloyd Parks	Lloyd PARKS
M L DeAngelis	m.l. DeAngelis

NAMES OF PETITIONERS

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

PRINT

SIGN

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

NAMES OF PETITIONERS

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SUBJECT: CONRAIL LABOR CONTRACT

PRINT

SIGN

R M Dwork

R M Dwork

F G Archual

F. G. Archual

R. L. JONES

Ruby R Jones

B. O. BOWLANDER

B. O. Bowlander

SL Schell

SL Schell

N L BRENNER

N L Brenner

Y. J. Betts

Gloria J Betts

M B QUAGLIARUCCI

Mary B Quagliarucci

K. LEE

Kathryn Lee

J C BOLEK

J C Bolek

C E FRER

C E Frer

A E SILVIA

A E Silvia

M. P. ORSI

Michael P. Orsi

W. E. WALTON

William E. Walton

NAMES OF PETITIONERS

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

PRINT

SIGN

JUDITH BARANOWSKI

J. Baranowski

NORM SNYDER

Norm Snyder

WILLIAM F. ROWICK

Will F. Rowick

DIANE J. JENSEN

Diane Jensen

PAUL LIVADA

Paul Livada

RICK BAKER

Rick Baker

STEPHEN PALKO JR

Stephen Palko Jr.

KEVIN S. BARIDO

Kevin S. Barido

DJ GRAHAM

DJ Graham

HC MAYVILLE

HC Mayville

ANDREW T. LETLOW

Andrew T. Letlow

MARY ANN BRESCH

MaryAnn Bresch

BARBARA KESSLER

Barbara Kessler

NAPOLEON BOYD

Napoleon Boyd

B L BARCH

BA Barch

NAMES OF PETITIONERS

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

PRINT

SIGN

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

NAMES OF PETITIONERS

TO: LINDA MORGAN, CHAIRPERSON - SURFACE TRANSPORTATION BOARD
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SIGN

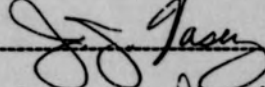
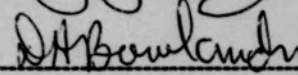
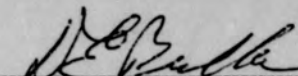
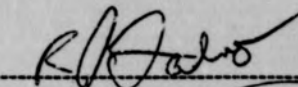

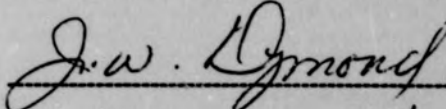
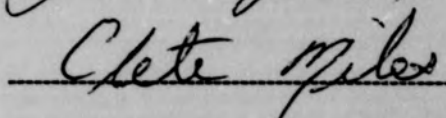
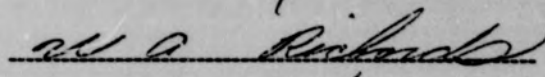
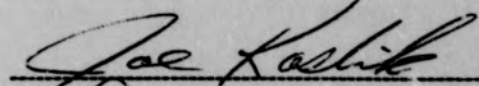
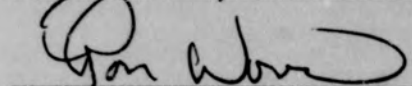
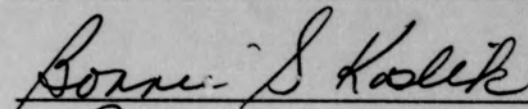
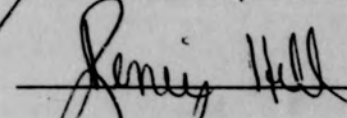
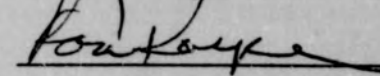
<u>THOMAS B. McDONALD</u>	<u>Thomas B. McDonald</u>
<u>Patricia S. Murphy</u>	<u>Patricia S. Murphy</u>
<u>DOUGLAS A. GORDON</u>	<u>Douglas A. Gordon</u>
<u>ROBERT K. NICKENS</u>	<u>Robert K. Nickens</u>
<u>JOHN T. LAZAROW</u>	<u>John T. Lazarow</u>
<u>JAMES P. RANDALL</u>	<u>James P. Randall</u>
<u>REYNALDO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

NAMES OF PETITIONERS

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

PRINT

SIGN

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

NAMES OF PETITIONERS

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

PRINT

SIGN

E. S. Olden

E. S. Olden

JAMES B. BARRETT

James B. Barrett

A. J. SEAMAN

A. J. Seaman

H. E. BROCKWAY

Harry E. Brockway

R. C. DULLEN

R. C. Dullen

ALLEN J. PANNETTA

Allen J. Pannetta

NAMES OF PETITIONERS

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

PRINT

SIGN

J.E. Mc CARTY

J.E. Mc CARTY

A.E. Barrett

A.E. Barrett

DAVID M. PIERCE

David M. Pierce

JOHN F. FERENCY

John F. Ferency

P.J. HOGUE

P.J. Hogue

D.F. McEACHERN

D.F. McEACHERN

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

SIGN

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

NAMES OF PETITIONERS

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

PRINT

SIGN

J. E. Myers

J. E. Myers 191021

E. W. Getty

E. W. Getty

R. A. Komacek

R. A. Komacek

B. M. Bell

Barbara M. Bell

J. I. PARSON

J. I. Parson

G. L. Piccioni

G. L. Piccioni

L. S. FERRELL

L. S. Ferrell

J. M. GLUSICA

J. M. Glusica

R. A. CHARNOVICH

R. A. Charnovich

P. D. Appleby

P. D. Appleby

L. D. ROBERTS

L. D. Roberts

D. A. DIDDOCK

D. A. Diddock

J. J. FLAHERTY JR.

John J. Flaherty Jr.



Office of the Chairman

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



January 12, 1999

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

Dear Mr. Donahue:

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

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

¹ As relevant, that section provides:

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

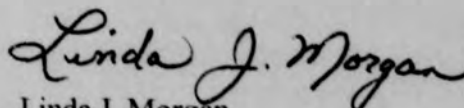
(continued...)

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

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

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

Sincerely,


Linda J. Morgan

¹(...continued)

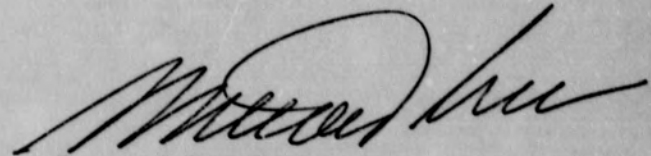
Should the members be unable to agree upon the appointment of the neutral member within 10 days, the parties shall then within an additional 10 days endeavor to agree to a method by which a neutral member shall be appointed, and, failing such agreement, either party may request the National Mediation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

Linda Morgan
Chairperson
Surface Transportation Board

November 30, 1998

Attached is a letter faxed to your office on Wednesday, November 25, 1998 including additional signatures (with more signatures to follow).

Our selection process is scheduled to start at 7 A.M. December 1, 1998. Your immediate attention and response to this matter would be appreciated. Please respond to the Employees of Conrail at RIDC Park West, Pittsburgh, Pa. 15275-1105 or George J. Donahue, 258 Pennsylvania Blvd. Pittsburgh, Pa. 15228

A handwritten signature in dark ink, appearing to read "George J. Donahue", with a stylized, flowing script.

George J. Donahue

Linda Morgan
Chairperson
Surface Transportation Board

November 23, 1998

Conrail Labor Contract



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

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

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

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

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

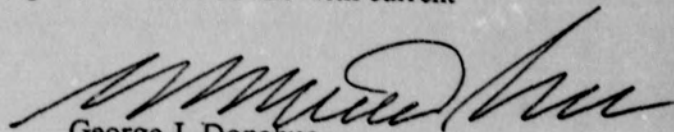
(4) The language, which protects spouses and family in the event of extreme or adverse conditions, that may occur after the move is insignificant compared to industry standards set in past contracts.

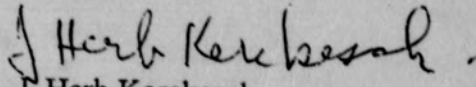
(5) The proposed selection process is inappropriate because, the time allotments from the time the employees see the job selection list is insufficient to discuss with family members prior to making one's selection. Also, the job descriptions are incomplete with regard to various shift and start time.

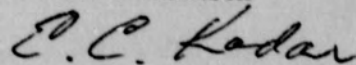
We the undersigned employees dispute this contract (Article I, Section 11, Par. A. This contract is unfair and inequitable. It does not meet the conditions of the NYD and is not comparable to industry standards previously approved by the STB. Any time or procedural restrictions should be set aside as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

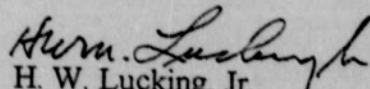
of this contract until Nov. 7, 1998. We request that this dispute be made part of the record and that the STB revisit this contract and related material and make the appropriate adjustments to meet the conditions of the NYD, and bring this contract in line with current class I railroad industry standards.

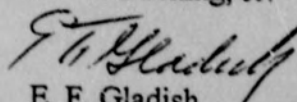
cc. The Tarasi Law Firm
All Pennsylvania Senators
All Pennsylvania Congressmen
Association for Union Democracy
Department of Justice Anti-Trust Div.
Department of Labor


George J. Donahue


J. Herb Kerekesh


E. C. Kadar


H. W. Lucking, Jr.


E. F. Gladish

Print Name

Lily Bosak

JAMES C. GREGG

JERRY R. FRIEBIS

CHARLES F. MIGNANELLI

Phyllis James

JOSEPH T. SPERANZA

Robert L. Blackburn

KATHLEEN LEHANE

MARY GARGEMI

KATHRYN SMITH

C. G. CLARK

L. G. CATH

R. F. MARKER

N. L. SAWYER

M. D. Chmielewski

T. E. OBRIGER

M. J. SALEY

K. J. DIMARCO

R. S. CIMURELL

R. A. STIGLICH

C. E. DAHL

S. P. GREGELY

Sign Here

Lily Bosak

James C. Gregg

Jerry R. Friebis

Charles F. Mignanello

Phyllis James

Joseph T. Speranza

Robert L. Blackburn

Kathleen Lehane

MARY GARGEMI

KATHRYN SMITH

Charles G. Clark

Larry G. Cath

Richard F. Marker

N. L. Sawyer

M. D. Chmielewski

T. E. OBRIGER

M. J. Saley

Kathleen S. Dimarco

R. S. Cimurell

R. A. Stiglich

C. E. Dahl

S. P. Gregely

Print Name Here

Sign Here

P.A. BURCHFIELD

G. J. CORKERY

R G Gordon

G W Burkett

LIZ RIEDEL

CARY MILLER

Rodney C. Dullen

ELIZABETH WILLIAMS

NEVIN R. GROFF

DENNIS R. BELK

DAVE WAGNER

HENRY J. WOZETEK

Jeanne Miller

DONALD A. WOOD

Thyl Parker

Charles E. King

DAVID W CLARK

Fred Pullman

K. R. FYE

N. E. Rennie

Carol H. Lewis

~~BOB McADAMS~~

BOB McADAMS

PAUL STOKA

P.A. Burchfiel

G. J. Corkery

R. G. Gordon

G. W. Burkett

Liz Riedel

Cary Miller

Rodney C. Dullen

Elizabeth Williams

Nevin R. Groff

Dennis R. Belk

Dave Wagner

Henry J. Wozetek

Jeanne Miller

Donald A. Wood

Thyl Parker

Charles E. King

David W. Clark

K. R. Fye

N. E. Rennie

CAROL H. LEWIS

BOB McADAMS

Paul J. Stoka

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Robert J. Kownacki

Carol Lynn Fraley

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Lawrence J. Doone

William Holloman

Kathryn Lee

Michael L Royer

~~JAMES SOMMERS~~

James J Sommers

Michael Adams

Curtis F. Smith

E J Solety

~~Dennis E Rasile~~

~~Tim Pergram~~

Tim Pergram

DENNIS E. RASILE

PAUL R TURNER

T. E. Buckingham

Andrew Eckhardt

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Debra J Stephens

Robert J. Kownacki

Carol Lynn Fraley

Anthony R. Geraci

Lawrence J. Doone

William Holloman

Kathryn Lee

Michael L Royer

Donald Hosbaugh

Michael Adams

Curtis F. Smith

Jim Bush

Gary Englehart

Tim Pergram

Edna Montcastle

Dennis E. Rasile

Paul R Turner

Becky L. Watson

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ROBERT L. ACKER

DEBORAH J. WEBB

ROBERT H JONES

WILLIAM E. WALTON

THOMAS L. IGOU

STEPHANIE V. WILLIAMS

JAY T. FORNWALT, JR.

Cornelius Rogers

C E FRANK

YVONNE J. BETTS

S. L. SCHILL

Robert L. Acker

DJ Webb

RH Jones

W.E. Walton

T. L. Igou

S. V. Williams

Jay T. Fornwalt, Jr.

Cornelius Rogers

C E Frank

Yvonne J. Betts

S. L. Schill

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CHARLE L. GARCIA
ARMAND P. DESHAIS
ROBERT J RYAN

Charles L. Garcia
Armand P. Deshaiss
Robert J Ryan

DANIEL R McMULLEN

Daniel R McMullen

DAVID A KLIMENKO

David A Klimenko

ELIO PANCOTTINI

Elio Pancottini

Michael Donovan

Michael B. Donovan

BARBARA MITCHELL

Barbara Mitchell

Rocco C. Di Marco

Frank J. Squarilli

Rocco C. Di Marco

Rocco C. Di Marco

PETER R. SPOSITO

Peter R. Sposito

B.L. KEENER

B.L. Keener

J.D. COSENTINO

John Cosentino

BOB BOWLANDER

Bob Bowlander

JOHN QUATMAN

John Quatman

JACK W. MAYHEW, JR

Jack W. Mayhew Jr

ANTHONY E SILVIA

Anthony E. Silvia

Douglas A. Wheat

Douglas A. Wheat

Pamela J. Nichols

Pamela J. Nichols

R.M. ESCHNER

Reinold M. Eschner

M.P. ORSI

Michael P. Orsi

D L CAGLE

D L Cagle

M. J. GIANNOTTA

M. J. Giannotta

Rud. Xiger

Rud. Xiger

Cynthia Findlay

Cindy Findlay

Mary E. Sommers

Mary E. Sommers

Fred G. Archual

Fred G. Archual

Robert L. Griffith, Jr.
Mary B. Quaquarucci
C.K. CRANFORD
~~Charles~~ ARCONO D. SEYMOUR
Peggy S. PALFREY
Ruby L. JONES
TERRY I. KATLEW
Teresa J. Thompson
RUTHANN ONDICH
J. J. STONE
R. L. TALSTEIN
M. BRADFORD
RICH CARLO
DONALD WALTERS SR
NORMAN L. BRENNER
Reid J. Coene
R.J. Falvo
TC SULLIVAN
JEROME CARUBIA
JAMES R. WILSON
ELMER F. HALL
~~Lawrence Paxton~~
LAWRENCE PAXTON
THOMAS ALLEN

Robert L. Griffith, Jr.
Mary B. Quaquarucci
C.K. CRANFORD
Charles D. Seymour
Peggy S. Palfrey
Ruby L. Jones
Terry I. Katlew
Teresa J. Thompson
Ruthann Ondich
J.J. Stone
R.L. Talstein
Marie Bradford
Rich Carlo
Donald Walters SR
Norman Brenner
Reid J. Coene
R.J. Falvo
TC Sullivan
Jerome Carubia
James R. Wilson
Elmer F. Hall
L.K. Faulk
Thomas Allen

PRINT Name Here

DAVID S. WOOD

Douglas Weaver

BRUCE ALLEN

LEE ANN TERNIN

PAUL LIVADA

KEVIN BARDO

Kathleen Datcher

RON MELI

ANTHONY F. KUBIAK SR.

ROSE P. LEVY

ANGELO SANTILLI

James C. Bolek
Dennis Wood

DENNIS WOOD

CARDYN S. WILSON

TOM FLAHERTY

ANDREW T. LETLOW

STEVEN A. FRANKS

Phyllis Merchant

napoleon Boyd

W. S. Lippman

Sign Here

David S. Wood

Douglas Weaver

Bruce Allen

Lee Ann Ternin

Paul Livada

Kevin S. Bardo

Kathleen Datcher

Ron Meli

Anthony F. Kubiak Sr.

Rose P. Levy

Angelo Santilli

Dennis Wood

Cardyn S. Wilson

Tom Flaherty

Andrew T. Letlow

Phyllis Merchant

Napoleon Boyd

Linda Morgan
Chairperson
Surface Transportation Board

November 23, 1998

Conrail Labor Contract

Robert J. Lindsay

643072 Lead Clerk Dearborn, MI.

William J. Hardy

672677

Lead Clerk Dearborn MI

Leonard L. Pichinski

668411

Assign. Clerk Dearborn MI

Garrett J. Jorgensen

675304

Assignment Clerk Dearborn, MI

Dennis L. Holloway

297320

Assignment Clerk Dearborn, MI

C. L. Moreno

891999

Assignment Clerk Dearborn, MI

B. J. Miller

752439

Assignment Clerk Dearborn, MI

A. L. Nipon

7645468

CREW DIST

C. J. Moore

644658

CREW - DIST

M. Seemann

429417

Assign. Clk. Dearborn, MI

P. M. Butler

110390

Crew Disp.

F. M. Fernandez

261578

CC CC

C. Doherty

768895

" "

D. L. Runk

689106

Assignment Clerk Dearborn

W. L. Robinson

423616

Crew Disp.

D. A. Walkonis

693290

Crew Disp

A. J. McEachern

689769

Mail Clerk

P. J. Bond

673445

Admin. Asst.

J. LaMontaine

768047

Clerk-typist

Linda Morgan
Chairperson
Surface Transportation Board

November 23, 1998

Conrail Labor Contract

Robert K. Nickens 448012
Robert K. Nickens DEARBORN MI X-Bd
TB McDONALD 752050

Thomas B. McDonald DEARBORN MI X-Bd

N. Swartek 751830
N. Swartek Dearborn MI X-Bd
G.G. Flis 671963

Carl Winkley Jr 670315 - Assign CLK'D"
Southfield MI

Fred E. Bergin
FRED E. BERGIN 6836 ALMOND LN, CLARKSTON 48346-2218

FRED. WEISS

Fred Weiss

Julia Ramsey 261504

Kenneth L. Fraughn 690161 - ASSN CLK DBN

Patricia A. Murphy 686371 ASSY CLK DB

Douglas A. Gordon 672818 assignment clk.

HENRY T. WRIGHT

Henry T. Wright

MARY LOU PAKLEDIN #2, 68615, Clerk

L. L. Lantz 684556

Robert J. Flahie 686045 TCU

Linda Morgan
Chairperson
Surface Transportation Board

November 23, 1998

Conrail Labor Contract

Elmer Lypnisha
436 THIRD ST.
PITCAIRN, PA. 15140

Dennis M. Wymek. TCU.

William L. Spang
1303 Wilson St.
McKEESPORT, PA 15132

Dana Lay
ANNA LAY
3117 TREELINE DR.
MURRYSVILLE PA 15668

Marbeth N. Wilder
47 ave + Belle Estates
New Eagle, Pa 15067

Print Here

PAUL QUIGLEY

C.R. ELLENWOOD

JOHN THOMPSON

Sign Here

Paul Quigley

C.R. Ellenwood

John Thompson

Waynesburg, PA

NAME

SIGNATURE

J E MYERS

G L Piccioni

T.S. ALTOMORE

E W Getty

L J FERRELL

P. D. Appleby

H.D. MILLER

Barbara M. Bell

J I. PARSON

M.C. BACKOS

C.K. Burden

J. M. GLUSICA

R.E. HERBEL

L. D. ROBERTS

D.A. DIDDICK

R.E. BRUSHY

R. A. CHARNOVICH

J E Myers

G L Piccioni

T.S. Altomore

E. W. Getty

L J Ferrell

P. D. Appleby

H.D. Miller

Barbara M. Bell

J I. Parson

M.C. Backos

C.K. Burden

J M Glusica

R E Herbel

L. D. Roberts

D.A. Diddick

R.E. Brushy

R A Charnovich

Linda Morgan
Chairperson
Surface Transportation Board

November 23, 1998

Conrail Labor Contract

One Piece Crew Dispute

Judith Nikoloff Ch. Spt 764525
Natalie Norter Budget Clerk 680870
H. J. Bencak Engineer Accountant 942378
Theresa Howell Div. Engr 297364
Kathy Vance Div. Engr 767170
Carolyn Myers - Payroll 768048
Edward Van Baar - Payroll - 671688
Sydney R. Althouse Payroll 645671
Della Nametm Payroll 768966
Maurice Kinds Payroll 752011
Edith D. Beckham Payroll 766155
Chris Fauce - Payroll - 768030
Kimberly Rave - payroll - 759332

Print Name Here

HOWARD HAYES

NICK SAVINA

Eugene F. DAVIDSON

H. M. Vucetić

S. A. Birtle

E. J. PIET

M. FASONE

F. McGraw

W. G. Eden

R. R. GRESTL

R. A. BURG

RAYMOND SHANAHAN

RODOLFO HERRERA

R. L. ROBBINS

Madelaine V. Conti

JERRY WANGAMAN

J. T. Phil

B. J. Kuester

Lynda K. Heron

LAWRENCE KARONZ

Louis A. Russo

Jack

JACK D. CARTER

IRMA C. ZIMPFER

W. A. MacKinnon

Linda Butler

NOREEN MUHA

CLIFFORD BERGER

Lionel Haugen

Sign Here

Howard Hayes

Nick Savina

E. F. Davidson

H. M. Vucetić

Susan A. Birtle

E. J. PIET

M. Fasone

F. McGraw

W. G. Eden

R. R. Grestl

R. A. Burg

Raymond Shanahan

Rodolfo Herrera

R. L. Robbins

Madelaine V. Conti

J. T. Wangaman

Lynda K. Heron

Lawrence F. Karonz

Louis A. Russo

Jack D. Carter

Irma C. Zimpher

W. A. MacKinnon

Linda Butler

Noreen Muha

Clifford Berger

Lionel Haugen

STB FD

33388

5-27-99

J

FEDS

FD-33388



Office of the Chairman

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

May 27, 1999

The Honorable Jolene M. Molitoris
Administrator
Federal Railroad Administration
400 7th Street, S.W.
Washington, D.C. 20590

Dear Administrator Molitoris:

Thank you for your First Briefing Report involving safety integration in the Conrail Acquisition proceeding. The report, which describes the activities that the Federal Railroad Administration (FRA) has taken pursuant to the Memorandum of Understanding (MOU) agreed to by the Board and FRA regarding the ongoing safety integration process in that case, covers the period between July 23, 1998 and April 15, 1999. Under the MOU, the next periodic report will be due October 15, 1999. I hope that by this time, which will be some four and one-half months after the split date, FRA will have had a full opportunity to complete its review of the safety issues, if any, associated with splitting up Conrail. If so, then the October 15 report would be the last one under this MOU.

I very much appreciate FRA's efforts in monitoring the railroads' safety progress pursuant to the MOU, and I hope that the agencies can continue to work cooperatively within their respective authorities for the public good.

Sincerely,

Linda J. Morgan

cc: The Honorable Rodney E. Slater

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Office of the Chairman

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

FD-33388

May 27, 1999

The Honorable Rodney E. Slater
Secretary
Department of Transportation
400 7th Street, SW
Washington, D.C. 20590

Dear Secretary Slater:

You and I have committed to working together in the spirit of cooperation to promote the safe implementation of Board-approved transactions. In this regard, as you know, both the Federal Railroad Administration (FRA) and the Board recently have worked together, using each agency's existing authority, to ensure that major rail merger transactions approved by the Board are safely implemented. The purpose of this letter is both to update you on these activities and to express my concern that the cooperative approach that we envisioned, in furtherance of our shared goal of common sense government, could be undermined if each agency does not continue to focus its activities on matters within its jurisdiction.

Background. Specifically, both FRA and the Board are vested with authority to assure safety in the railroad industry. You are of course thoroughly familiar with FRA's general authority, under 49 U.S.C. 20101 and 20102, over safety enforcement regarding railroad operations. The Board — in addition to its statutory authority and expertise in economic regulation and service matters and assessment of environmental impacts of railroad industry operations — is also responsible for promoting a safe rail transportation system in general and, in particular, in connection with its approval of mergers. The rail transportation policy provides, in relevant part, that, "[i]n regulating the railroad industry, it is the policy of the United States Government . . . to promote a safe and adequate rail transportation system," 49 U.S.C. 10101(3), [by requiring rail carriers to] "operate transportation facilities and equipment without detriment to the public health and safety . . ." 49 U.S.C. 10101(8). The rail transportation policy applies to all transactions subject to the Board's jurisdiction and gives content to the "consistent with the public interest" standard that the Board uses in determining whether to approve railroad mergers and acquisitions under 49 U.S.C. 11323-11325. See 49 U.S.C. 11324(c).

In the Conrail Acquisition proceeding, FRA and the Board recognized the need to work together, using each agency's existing authority, to ensure that the proposed transaction would be safely implemented. Specifically, at the request of FRA and various rail labor organizations, the

Board required the applicants to file detailed safety integration plans (SIPs), developed within guidelines established by FRA, explaining how the proposed operational aspects of the acquisition would be implemented safely. The Board and FRA also entered into a Memorandum of Understanding (MOU), with the concurrence of the Department of Transportation, regarding the ongoing safety integration process. Under the terms of the MOU, the railroads will continue to coordinate with FRA regarding what needs to be addressed in the SIPs to ensure that the Conrail Acquisition is safely implemented, and FRA will advise the Board of applicants' progress in executing the plans.

On May 4, 1999, shortly before the date on which the division of the assets of Conrail is to be effected (June 1 or Day One), FRA sent the Board its First Briefing Report regarding safety integration of the Conrail Acquisition proceeding. The report covers the period between July 23, 1998, and April 15, 1999, and it states that, at this time, "there are no performance/safety conditions identified or foreseen by FRA on the NS, CSX, or CSAO acquired territories which the agency believes warrant STB oversight actions to correct deficiencies." The MOU provides that, as directed, FRA will continue to provide periodic reports to the Board regarding the railroads' progress, and that the Board, in light of any request made by FRA, will determine any appropriate action to take regarding the railroads' safety integration plans.¹

Issues. I appreciate FRA's efforts in monitoring the railroads' progress in the Conrail Acquisition pursuant to the MOU. However, I am concerned about FRA's suggestion in its First Briefing Report that it intends to expand the scope of its safety inquiry to monitor the service provided by the railroads, compliance with the service-related conditions that the Board imposed in its final decision, and competitive aspects of the merger. Such an expansion of FRA's activities could have an adverse effect on the pending SIPs rulemaking proceeding, because the principal objection at the May 4, 1999 hearing on the rulemaking from the railroads was that FRA not use the SIP process to attempt to enlarge its jurisdiction. Such an approach would also unnecessarily encroach upon the Board's jurisdiction.

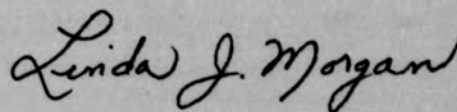
Furthermore, I understand that, in addition to FRA's safety monitoring activities under the MOU, FRA has hired a consultant and is seeking from the railroads detailed operations performance data that would duplicate, and in some instances go beyond, traffic and train flow data already being received by the Board to address potential service problems associated with the Board-approved Conrail Acquisition. I can understand that FRA might be of the view that service problems could have safety-related implications. I also understand that FRA may take

¹ The Board and FRA entered into a similar MOU process for the recent CN-IC merger. Moreover, the two agencies, working cooperatively, developed proposed FRA and Board rules to enable each agency to ensure adequate and coordinated consideration of safety integration issues in covered rail transactions. Comments have been received on the agencies' proposal and, on May 4, 1999, the Board and FRA held a joint public hearing to hear oral testimony on the proposed rules.

the position that more detailed operational reporting and more invasive FRA monitoring of service could thus avert potential safety problems. However, any substantial attempt by FRA to regulate service issues would duplicate the Board's own monitoring activities relative to the Conrail Acquisition; could lead to inconsistent results or conflicting directives; and, importantly, could unnecessarily frustrate the applicants' ability to efficiently and successfully implement the transaction. As you know, the Board has clear statutory authority to address service-related issues and require remedial action, and its final decision explicitly provided for five years of Board oversight for the Conrail Acquisition.

Conclusion. I respect the FRA's expertise in safety matters, and we at the Board entered into the MOU in order to take advantage of that expertise in carrying out the Board's safety-related responsibilities to the benefit of both agencies and the public interest. We are not second-guessing FRA's conclusions as to safety, and I am certain that you would not want to have FRA officials second-guessing the Board's actions regarding service issues or other matters within the Board's jurisdiction. Complementary actions can better promote common sense government and the smooth implementation of the Conrail transaction, goals I know we both share. I trust that, as we work through the Conrail Acquisition implementation process, and other transactions of concern, each agency will continue to focus its activities on matters within its jurisdiction.

Sincerely,

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

Linda J. Morgan

cc: The Honorable Jolene Molitoris

STB

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5-25-99

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BUSINESS



Office of the Chairman

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

FILE IN DOCKET

FD-33388

May 25, 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:

As we are all acutely aware, we are only one week away from Day One in the Conrail acquisition transaction, and I understand that certain issues remain between CSX and NS as we approach this critical day. I am certain that you share my expectation that matters should be addressed with a view toward the smooth implementation of operations on Day One. While overall implementation of your transaction is a dynamic, evolving process, and adjustments undoubtedly will continue to be made by your respective companies, it is imperative that the transition to occur on Day One and continue afterwards should be as incident-free as possible. I know that you share my concerns and that we all look forward to the successful completion of the implementation process.

Sincerely,

Linda J. Morgan
Linda J. Morgan

STB

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33388

5-25-99

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BUSINESS



Office of the Chairman

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

FILE IN DOCKET
FD-33388

May 25, 1999

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

Dear Mr. Goode:

As we are all acutely aware, we are only one week away from Day One in the Conrail acquisition transaction, and I understand that certain issues remain between NS and CSX as we approach this critical day. I am certain that you share my expectation that matters should be addressed with a view toward the smooth implementation of operations on Day One. While overall implementation of your transaction is a dynamic, evolving process, and adjustments undoubtedly will continue to be made by your respective companies, it is imperative that the transition to occur on Day One and continue afterwards should be as incident-free as possible. I know that you share my concerns and that we all look forward to the successful completion of the implementation process.

Sincerely,

Linda J. Morgan
Linda J. Morgan

STB

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33388

5-25-99

J

UNION



Office of the Chairman

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

FILE IN DOCKET

FD-33388

May 25, 1999

Mr. William M. Verdeyen
Chairman
Indiana State Legislative Board
Brotherhood of Locomotive Engineers
6035 Lakeview Drive, Apt. B
Indianapolis, IN 46224

Dear Mr. Verdeyen:

I have received your letter of May 19 inquiring about the status of correspondence sent to me by Mr. Frank Parks and Mr. Harold Ring, regarding the acquisition and division of Conrail by CSX and Norfolk Southern (NS), and the effect of this transaction on the Brotherhood of Locomotive Engineers (BLE) and on the Conrail employees represented by the BLE. You state that no answer has been received by Mr. Parks and Mr. Ring, and ask for a response before June 1.

Please be advised that I responded to this correspondence by letter dated April 14, 1999, a copy of which is enclosed. I also have today mailed new copies to Mr. Parks and Mr. Ring. I appreciate your concerns and assure you that the Board remains committed to a fair and safe implementation of the Conrail transaction under the procedures in place. I am having your letter made a part of the public docket in STB Finance Docket No. 33388. If I may be of further assistance, please do not hesitate to contact me.

Sincerely

Linda J. Morgan
Linda J. Morgan

Enclosure



Office of the Chairman

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

FILE IN DOCKET

April 14, 1999

F. E. Parks
Local Chairman, Div. 121
H. E. Ring
Local Chairman, Div. 597
Brotherhood of Locomotive Engineers
32 Oak Center
Mooresville, IN 46158

Dear Mr. Parks and Mr. Ring:

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 as Local Chairmen of the Brotherhood of Locomotive Engineers on Conrail and on the Conrail employees whom you represent. Specifically, you express concern over the handling of the allocation of Conrail locomotive engineers among the applicant carriers and of those employees' seniority.

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). 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.


As a part of the implementing process, it is the Board's understanding that your union has ratified an implementing agreement with the carriers covering the transaction except for one district on CSX, which currently is in arbitration. Article I, Section 11 of the New York Dock 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 Lace Curtain standards the Board applies to determine which decisions of arbitrators it will review. See Chicago and Northwestern Transp. Co.--Abandonment--Near Dubuque and Oelwein, IA, 3 I.C.C.2d 729 (1987)(Lace Curtain), aff'd sub nom. International Bhd. Of Elec. Workers v. I.C.C., 862 F.2d 330 (D.C. Cir. 1988).

I appreciate your concerns and assure you that the Board remains committed to a fair and safe implementation of the Conrail transaction under the procedures in place. I am having your letter made a part of the public docket in STB Finance Docket No. 33388.

Sincerely

Linda J. Morgan

Linda J. Morgan



Brotherhood of Locomotive Engineers

INDIANA STATE LEGISLATIVE BOARD

6035 LAKEVIEW DRIVE, APT. B
INDIANAPOLIS, IN 46224

OFFICE: (317) 247-4017

HOME: (812) 894-2944

FAX: (812) 894-2146

W. M. VERDEYEN
Chairman

FILE IN DOCKET

OFFICE OF
CHAIRMAN MORGAN

MAY 24 4 11 PM '99

RECEIVED
SURFACE TRANSPORTATION
BOARD

May 19, 1999

Honorable Linda Morgan
Chairman Surface Transportation Board
1925 K. St. Northwest Suite 820
Washington, D. C., 20423

Dear Ms. Morgan

Recently Mr. Frank Parks and Mr. Harold Ring, Brotherhood of Locomotive Engineers, Local Chairmen for Divisions 121 and 597 in Indianapolis, IN, sent you a letter on March 1, 1999 pertaining to the forced placement of twenty two (22) Locomotive Engineers to the Norfolk Southern railroad in Indianapolis.

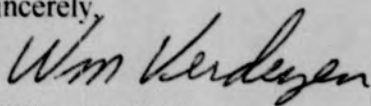
As of this date they have not received a response to their letter. With the pending takeover of Conrail scheduled for June 1, 1999, both of these Local Chairman and the 22 Engineers that will be affected by your decision on their placement, are anxiously waiting for your reply.

I am sure that this was an oversight, as your time is valuable in these closing days before this takeover of Conrail by the NS and CSX. A timely response before the June 1, deadline would be greatly appreciated.

If you have already sent a reply please furnish my office a copy of that document.

Thanking you in advance for your attention to this matter.

Sincerely,



William M. Verdeyen
Chairman INSLB

C: F Parks LC Div. 121
H. Ring LC Div. 597

STB

FD

33388

5-18-99

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MOC



Office of the Chairman

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

FILE IN DOCKET

78-33388

May 18, 1999

The Honorable Julia Carson
U.S. House of Representatives
Washington, D.C. 20515-1410

Dear Congresswoman Carson:

Thank you for your recent letter regarding the preservation of competition in Indianapolis and throughout the State of Indiana following approval by the Surface Transportation Board (Board) of the proposal by CSX and Norfolk Southern to acquire Conrail. Specifically, you express support for the condition imposed by the Board to ensure that Indianapolis Power & Light Company (IP&L) would not suffer competitive harm as a result of the Conrail transaction.

As you know, the Board already has issued a number of decisions concerning the IP&L condition and its implementation. The Board remains committed to the proper implementation of that condition and to assuring that the Conrail acquisition transaction will not competitively harm IP&L. Because certain issues remain pending before the Board regarding the IP&L condition, it would be inappropriate for me to comment further at this time.

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

Sincerely,

Linda J. Morgan

Linda J. Morgan

JULIA CARSON
10th District, Indiana

COMMITTEE ON
BANKING AND FINANCIAL
SERVICES

Subcommittee on Housing and
Community Opportunity

COMMITTEE ON
VETERANS' AFFAIRS
Subcommittee on Health

Internet:
<http://www.house.gov/carson>

Congress of the United States
House of Representatives
Washington, DC 20515-1410

WASHINGTON OFFICE:
1541 Longworth Building
Washington, DC 20515
(202) 225-4011
(202) 225-5633 Fax

DISTRICT OFFICE:
300 E. Fall Creek Pkwy N. Dr.
Suite 201
Indianapolis, IN 46205
(317) 283-6516
(317) 283-6567 Fax

E-Mail:
rep.carson@mail.house.gov

FILE IN DOCKET

April 27, 1999

The Honorable Linda J. Morgan, Chairwoman
The Honorable William Clyburn, Vice Chairman
The Honorable Wayne Burkes, Commissioner
Surface Transportation Board
1925 K Street, N.W., Room 715
Washington, D.C. 20423-0001

RECEIVED
SURFACE TRANSPORTATION
BOARD
APR 30 2 03 PM '99
OFFICE OF
CHAIRMAN MORGAN

Re: Finance Docket No. 33388

Dear Chairwoman Morgan, Vice Chairman Clyburn, and Commissioner Burkes:

I have become aware that the STB, as a result of the acquisition of Conrail by CSX and NS, has issued certain decisions aimed at preserving current competitive options for shippers in Indianapolis. Specifically, I am pleased to learn that the STB recognized that Indianapolis Power & Light Company was entitled to a continuation of the effective competition that it now has for transportation of coal to its Indianapolis power plants.

It is essential that true rail competition be maintained so that transportation of coal to Indianapolis Power & Light Company remains efficient and economical. Preservation of the current competition is also crucial to allowing the Indiana Southern Railroad to continue transporting grain and other commodities to Indianapolis, including coal to IPL.

I am aware that there are issues pertaining to the preservation of this competition that remain unresolved. I am concerned that this important matter remains unsettled. The possible increases in the delivered price of electricity and grain commodities and the resulting harm to Indianapolis' consumers if competition is

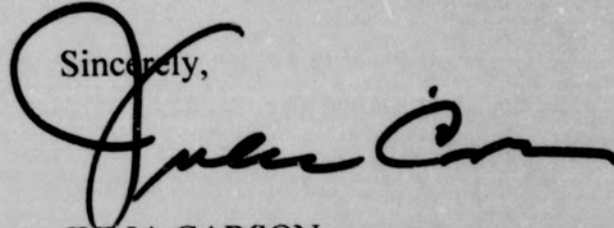
April 27, 1999

Page 2

not maintained are troubling. The STB's decision to preserve IPL's rail competition is noteworthy.

I look forward to final resolution of this matter. Please keep me informed.

Sincerely,

A handwritten signature in black ink, appearing to read "Julia Carson". The signature is fluid and cursive, with a large initial "J" and a distinct "C" at the end.

JULIA CARSON
Member of Congress

JC:sdc

STB FID-33388 5-18-99 J ID-MOE



Office of the Chairman

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

FILE IN DOCKET

FA-33388

May 18, 1999

The Honorable Richard G. Lugar
United States Senate
Washington, D.C. 20510-1401

Dear Senator Lugar:

Thank you for your recent letter regarding the preservation of competition in Indianapolis and throughout the State of Indiana following approval by the Surface Transportation Board (Board) of the proposal by CSX and Norfolk Southern to acquire Conrail. Specifically, you express support for the condition imposed by the Board to ensure that Indianapolis Power & Light Company (IP&L) would not suffer competitive harm as a result of the Conrail transaction.

As you know, the Board already has issued a number of decisions concerning the IP&L condition and its implementation. The Board remains committed to the proper implementation of that condition and to assuring that the Conrail acquisition transaction will not competitively harm IP&L. Because certain issues remain pending before the Board regarding the IP&L condition, it would be inappropriate for me to comment further at this time.

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

Sincerely,

Linda J. Morgan

Linda J. Morgan

RICHARD G. LUGAR

INDIANA

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

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

United States Senate

WASHINGTON, DC 20510-1401

April 29, 1999

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

FILE IN DOCKET

CHAIRMAN MORGAN

MAY 3 3 31 PM '99

RECEIVED
SURFACE TRANSPORTATION
BOARD

RE: Finance Docket 33388

Dear Ms. Morgan:

I am writing to share with you my continued interest in ensuring a competitive, balanced and efficient rail transportation network in Indiana.

I understand the STB continues its work to monitor the situation involving efforts by the Class I and short-line railroads to implement the July, 1998 decision, and subsequent Board decisions, intended to ensure direct competitive rail access for Indianapolis Power and Light's (IPL) Stout power generation facility in Indianapolis.

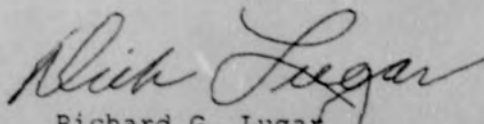
As I indicated in my previous correspondence to you about this matter, maintaining competitive access for rail transportation in the Indianapolis area is very important to the strength of our State's economy and to the continued efficient flow of intrastate and interstate commerce.

Included as part of the STB's approval last year of the Conrail acquisition plan submitted by CSX Transportation and the Norfolk Southern Railroad, the Board's decision in the IPL matter was an important one. The condition imposed by the Board in the IPL situation will help ensure competitive movement of products and commodities within the Indianapolis area and throughout the Hoosier State.

I wanted to share with you my interest in the progress of this important matter. I am hopeful the STB will continue its work to ensure the decisions made by the Board are implemented in an appropriate and timely manner.

Thank you for your consideration.

Sincerely,



Richard G. Lugar
United States Senator

RGL/rhr