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185-471

Congress of the United States
House of Representatives
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JUDICIARY COMMITTEE

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TRANSPORTATION AND
INFRASTRUCTURE COMMITTEE

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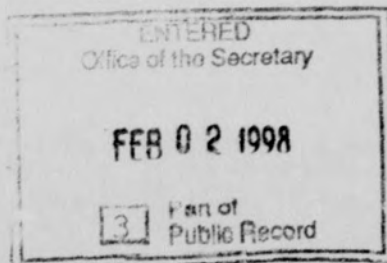
RAILROADS
SURFACE TRANSPORTATION
REGIONAL WHIP



February 2, 1998

By Hand Delivery

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



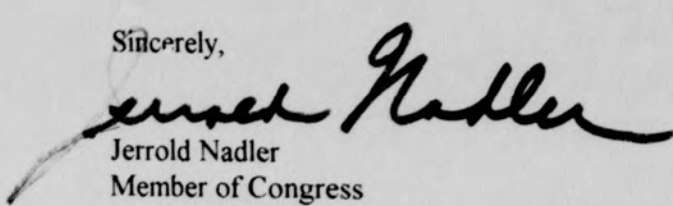
Dear Secretary Williams:

Enclosed for filing please find an original and 25 copies of our (Jerrold Nadler Et. Al.) comments on the Draft Environmental Impact Statement concerning docket #33388. Additionally you will find a 3.5" disk containing the text of the comments.

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

Thank you.

Sincerely,


Jerrold Nadler
Member of Congress

BEFORE THE SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388



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

COMMENTS OF JERROLD NADLER AND 23 OTHER MEMBERS OF CONGRESS
ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

Twenty four Members of Congress, variously representing the people of the States of New York and Connecticut comment on the Draft Environmental Impact Statement as follows:

INTRODUCTION

The Draft Environmental Impact Statement (DEIS) relating to the petition of CSX and Norfolk Southern (the Petitioners) to divide Conrail between them, assumes, as fact, that as CSX will acquire Conrail's assets east of the Hudson. It then finds that CSX does not intend to increase service on those assets. The DEIS therefore concludes that there is no reason for an environmental review or for any mitigation of adverse environmental effects. On this initial flawed premise the DEIS ignores the major adverse environmental and social-economic effects which are inevitable from the plan.

The petitioners have declared that they will allow no improvement of rail service in downstate New York or in southern New England. This fact is due exclusively to a deal made between the petitioners. At the same time they extol the benefits to be derived by this region from the high quality, competitive rail services which they will jointly provide in New Jersey. They declare that this increased service will benefit the east of the Hudson market. They declare that they will increase their market share east of the Hudson by using trucks to serve local industry from New Jersey rail heads. The DEIS ignores that aspect of the plan entirely. It also ignores the economic dislocation which can be expected by the partial, but not the complete, end of the Conrail monopoly by the applicants. Far from being a no-action plan for the down state New York and Connecticut, the plan will impose severe adverse environmental and economic changes on this metropolitan region to the extreme disadvantage of downstate New York and of Connecticut. The DEIS ignores all of these effects, fails to consider alternatives and is, thus, absolutely inadequate. The proposed acquisitions, unmodified to mitigate adverse environmental and economic consequences, are not in the public interest.

APPLICABLE STANDARDS

Congress made it clear in 42 USC 4331 that the goal of the environmental policy of the United States was, in relevant part, to:

- ...
(2) assure for all Americans, safe, healthful, productive and esthetically and culturally pleasing surroundings;
- (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
- ...
(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities;
- (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

To achieve these goals 49 USC 4332 mandates that the Board, as a federal agency, must review:

- i. the environmental impact of the proposed action,
- ii. any adverse environmental effects which can not be avoided should the proposal be implemented,
- iii. alternatives to the proposal,
- iv. the relationship between local short term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- v. any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Executive Order No. 12898 dated February 11, 1994 requires that:

To the greatest extent practicable and permitted by law,....each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations.

The DEIS is insufficient to meet any of these legal requirements or to "assure that (the

Board gives) proper consideration to the environmental consequences of their actions" Douglas County v. Babbitt 48 F. 3d 1495, 1498 (9th Cir. 1995). The DEIS also does not assure that the public is informed about the environmental impact of the proposed action. *Supra*.

PRELIMINARY STATEMENT

The DEIS first segments the various parts of the plan and then limits its analysis to local effects of each segment. To accomplish even that unlawful analysis it then sets threshold criteria for a determination that an adverse environmental effect caused by truck traffic requires analysis. That threshold is an increase of 50 truck trips per day or a 10% increase on any roadway. There is no legal or logical basis for any such threshold. The DEIS unlawfully fails to consider the cumulative effects of the plan in any regard. Here, the major cumulative effect is in the region east of the Hudson which includes the counties with the highest rates of respiratory disease in the nation. An increase of any amount of truck traffic requires in depth analysis. The price of any increase in such traffic is the serious illness or death of the residents of such a region which illnesses and deaths occur in direct proportion to any increase in such traffic. Thus, the DEIS violated the law by segmenting the program, by localizing its separate effects and by ignoring cumulative effects. The DEIS is also legally invalid as it sets thresholds for analysis, applied uniformly, which have no scientifically or legally established validity in any case but which ignore the environmental frailty of the regions in question. Indeed the addition of any truck traffic within a maximum non-attainment area, where people are presently dying in large numbers from the effects of the particulate emissions from already high levels of such traffic, is an absolutely unacceptable legal or moral result. Where, as here, the region is already well above any acceptable threshold for truck traffic, any plan for federal action which could even remotely result in an increase in such traffic requires a full review and the imposition of sufficient mitigation to neutralize such adverse effects. Any other result is irrational.

The action proposed is the partial end of the Conrail monopoly. Rather than break up this monopoly in its entirety, the petitioners urge that one area of the nation be left out. That area, being the city of New York and its eastern environs, has the nation's largest population center, its highest gross domestic product, a large minority population and the largest disparity between its richer and poorer residents. Not only does the plan not end the rail monopoly east of the Hudson, it is to maintain present levels of non-service in that area. Yet, petitioners project a marked increase of the rail market share of this region's freight to be achieved by trucking regional freight to and from the petitioner's New Jersey terminals. The downstate New York and Connecticut economy is, thus, to be placed in an untenable competitive position by the uneven end to the Conrail monopoly while at the same time tremendous environmental degradation is to be imposed on the region's poorest and sickest residents by the addition of at least one thousand trucks per day to the region's already overcrowded roads and bridges. Yet none of these effects is mentioned, let alone analyzed, in the DEIS.

The DEIS dismisses all suggested modifications of the plan as having no adverse environmental effects and, thus, not requiring analysis. Where, as here, the plan

provides for no mitigation of monumental adverse environmental and social-economic consequences of the action proposed, the possible mitigating effects of all practical alternative proposals must be analyzed.

The DEIS must be comprehensive enough to alert the Board and the public of the gravity of the error which has been urged upon them by these petitioners. The DEIS is thus entirely insufficient.

AIR QUALITY AND ENVIRONMENTAL JUSTICE

As set forth in detail in the congressional Delegation's Petition (page 8 footnote 7) and in the reply affidavits submitted previously, New York City is at the center of the nation's largest air quality non-attainment area. The Bronx, one of the City's five boroughs, is the epicenter of the non-attainment zone and as the direct result has the highest rates of respiratory disease in the nation. The map attached hereto as Exhibit A demonstrates why. The Bronx is crisscrossed by I-95-295, the Cross Bronx Expressway, I-87, the Major Deagan Expressway, I-278-95, the Bruckner Expressway and I-288, the Sheridan Expressway, all major trucking arteries. While taking no action to improve direct rail access to this region, the proposal before the Board calls for a large increase in use of the applicants' northern New Jersey intermodal terminal facilities to serve this market. Two thirds of the region's population live and work east of the Hudson. Two thirds of all cargo handled anywhere in the region will be en-route to or from the effected region, east of the Hudson. The proposal calls for an increase of 1,280 truck trips a day at the northern New Jersey terminals (Vol. 3 B pg. NJ-13-NJ-17) and deals only with the local effects of those proposed traffic increases (See ex NJ-36). However, it can be assumed that over one thousand of those trips will originate or terminate in downstate New York and Connecticut and that all of that traffic, no matter its origin or destination, must be routed via the George Washington Bridge, due to clearance restrictions on all other crossings and circuitry. Inevitably that traffic will traverse northern Manhattan and the Bronx.

Due to the focusing of truck traffic caused by the regional road system, northern Manhattan and the Bronx, under the petitioner's plan, will be burdened with a large increase in traffic. Also, due to the petitioner's plan, the same residents who's health will be markedly and adversely effected, will see no off-setting economic benefits from this increased traffic. This problem is not addressed in the DEIS.

To conform with the minimum requirements of law the exact amount of new traffic through northern Manhattan the Bronx and other regional neighborhoods must be determined and the adverse environmental effects reviewed and stated. It is clear that the addition of one thousand trucks per day to the 30,000 per day presently crossing Manhattan on Rt. 95 or to the 20,000 presently using the Cross Bronx Expressway including half of the 12,221 presently crossing to and from Connecticut, or to the 10,000 now using the Major Degan, is an unacceptable environmental result that requires mitigation. Indeed, the numbers in question are well over even the thresholds for impact analysis stated in table K-1 of Appendix K. Thus, the lack of an impact analysis violates

the law as well as even the standards accepted for this DEIS by the Board.

The stated goal of the petitioners is to draw traffic from all truck carriage. Trucks serving Westchester County and southern Connecticut, via all highway service, use the Tappan Zee Bridge in large numbers, See Exhibit A. If the NS-CSX plan is successful, a substantial amount of that traffic will be drawn away from the Tappan Zee Bridge and will cross the George Washington Bridge to access the North Jersey intermodal facilities. Again the addition of hundreds of heavy trucks to the highways of Manhattan and the Bronx is an inevitable and profound adverse environmental effect. The DEIS however confines its review of the environmental effects of this plan to truck traffic increases within areas close to the terminals, entirely within a confined area of New Jersey. This is particularly disturbing where, as here, the terminals are spread across Essex, Union and Bergen Counties, dividing the direct local effects between these areas. But this added traffic all concededly flows onto the Rt. -95 artery. The cumulative effect of this traffic added to Rt. -95, the George Washington Bridge and the highways east of the Hudson is far greater than the local effect, yet is un-mentioned. The DEIS does not comply with the requirements of the law or with its own stated standards for review. Indeed, any decision based upon an EIS which is conspicuously flawed in the inception and which does not deal with environmental problems, which are the obvious result of the plan reviewed, would be irrational.

The profound effect on truck traffic through the City of New York and on the already overcrowded highways of downstate New York and southwestern Connecticut is an actual, imminent and not a conjectural or hypothetical effect of the changes in throughput projected by the petitioners for the New Jersey facilities (See NJ-5 Volume 3B Chapter 5). It is suggested that the effects in question are avoidable. The steps demanded jointly by the Congressional Delegation, the State of New York, and the City of New York as well as those demanded by the Tri-State Transportation Campaign would all result in substantial mitigation of these inevitable adverse environmental effects and constitute both an alternative and a means of mitigation. The Board has an absolute obligation to "study, develop and describe appropriate alternatives to the recommended courses of action on any proposal which involves unresolved conflicts concerning alternative use of available resources". Such resources, it is submitted, include the health and safety of the residents of northern Manhattan and the Bronx, and of all residing along these overburdened highways as well as this region's finite highway capacity.

Therefore, the amount of the projected increase of truck traffic across New York City and in southern New England must be quantified to allow full consideration of the adverse environmental consequences to New York and Connecticut from increased use of New Jersey intermodal facilities. The DEIS must study viable alternatives. The amount of traffic which could be drawn off the region's highways in critical areas by direct rail freight service by car float and RoadRailer (TM) based services to and through the City of New York onto Long Island and to Westchester and Connecticut, must be quantified. If significant mitigation of the environmental and social-economic effects can be achieved by such service and if such service will not threaten the viability of the petitioners, it must be suggested to the Board in the EIS as a necessary condition to mitigate the inevitable adverse effects of the present plan.

ECONOMIC DISLOCATION WHICH IS AN INEVITABLE EFFECT OF THE PLAN DESTROYS THE LONG TERM EFFICIENT USE OF REGIONAL ASSETS

The plan will provide no improvement to rail service to the east of the Hudson River. Alternatives proposed by the Congressional Delegation, the goals of which have been endorsed by the City and State of New York, as well as the slightly different proposal made by the Tri-State Transportation Campaign, do provide improved services and would not only enhance economic opportunity east of the river but would remove over 14 million tons of freight from the highways each year in the near term with minimal investment in infrastructure.

Not only does the Bronx have the sickest lungs in the nation, it is also the poorest county in the State of New York. The median household income in the county is \$19,881 as compared with a national average of \$31,241. The unemployment rate in the Bronx is 9.8%, among the highest in the nation. 46.97% of the children of the Bronx live below national poverty levels. These are facts which are directly related to the hemorrhage of industrial activity which this City has experienced due to the withdrawal of effective rail transportation over the last quarter century. Continuing to block effective service to this City and region, as is the goal of the petitioners' plan, is not in the public interest nor does it assure the maintenance and enhancement of long-term productivity of this region's population and the efficient exploitation of its economic assets. These factors are not reviewed in the DEIS nor are the mitigating effects of the proposed alternatives.

The Board has the power to impose all the conditions demanded by the Congressional Delegation and by Tri-State Transportation Campaign. It may refuse to allow the continuation of an existing service pattern even where a monopoly is not created by the action proposed (but where one is simply maintained) where, as here, the public interest requires such action.

Here, the proposed action is not to cause harm to just a single shipper. It will harm a major population center. The public interest can not be served by any plan which maintains a monopoly over nearly one tenth of the nation's population, particularly where, as here, that monopoly declares in advance that it has no intention of serving that region and indeed has entered into a non-competitive agreement barring adequate service in that region. The petition is a declaration by the petitioners that they will not provide needed service and such declaration gives the Board the right and obligation to act.

The law provides that where, as here, an operator refuses to provide adequate service on a rail line, the Board may require conveyance of that line to a responsible operator which will provide needed services if the Board determines that:

- (A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over the line;

(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over the line;

(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

(D) the sale of such line will not have a significant adverse effect on the overall operational performance of the rail carrier operating such line; and

(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

CSX's statement, upon which the DEIS's non-analysis of regional effects is based, that it will not increase service over the lines to be transferred to it, is a refusal to serve shippers in the downstate region. That refusal is simply an extension of Conrail's standing similar refusal which has limited service to the presently inadequate level. The record also confirms the inadequacy of service provided by the harbor rail car float operator. The petition of the Congressional Delegation, joined by the State of New York and the City of New York, is a petition by the owners of the rail lines in question in the Congressional Delegation's petition (as well as those the subject of the Tri-State Transportation Campaign demands) seeking transfer of many of these assets and rights to the Conrail Shared Assets Operator (CSAO). These governmental officials are specifically defined as persons with standing to seek such relief under Section 10907 of Title 49. The State and City of New York, as owners of the effected non-petitioner rail lines, are persons with standing to seek inclusion of those lines in the merger plan under 11324(c). Therefore the transfer of the east of Hudson assets to the CSAO, is a viable option the effects of which must be reviewed in the EIS.

The current cross harbor float operator is handling 30 cars per day and that is an increase in its traffic. In spite of a \$5 per ton cost advantage over routing traffic via Conrail's Selkirk Yard (the only rail transportation option the petition contemplates maintaining) the cross harbor operation has no discernible share of Long Island or City traffic. That operator's service is unreliable and is not used by shippers due to a pattern of poor service and frequent breakdowns caused by its inability to maintain its assets. Studies conducted by the City, using highly respected experts in the transportation field, indicate that two thirds of the 98 million tons of freight generated in the downstate region, which is within the rail industry's usual market, could use the cross harbor operation if good service were available. It determined that institution of good service would quickly raise traffic handled from nearly nothing to over 14 million tons per year (823,520 17 ton trucks per year, 2,261 trucks per day), with minimal investment in infrastructure. The present operator is not and can not provide service needed by shippers who should be using the line. Therefore, the transfer of the line, as demanded, is not only a viable option, but it provides a positive environmental and economic result, in marked contrast to the plan as advocated by the petitioners.

Direct, all rail service, from Long Island points to landfills outside the area,

has been restricted by an agreement between the Long Island Railroad freight service operator, the New York and Atlantic Railroad, (NY&A) and the Borough President of Queens prohibiting the transport of municipal solid waste (MSW) through Queens via Conrail for five years. This agreement resulted from the long delays in movement of MSW cars through the NY&A interchange with Conrail at Fresh Pond, Jt. in Queens. The capacity of Conrail's present one-train-a-day service from Fresh Pond Jt. to Oak Point, combined with the limited capacity of Conrail's single-train-a-day from Oak Point west, combined with the lack of yard capacity at Oak Point, results in MSW cars being held at Fresh Pond, located in a residential neighborhood, for substantial periods of time creating, significant detrimental environmental effects in that area. The NY&A agreement with Queens constitutes an absolute refusal to handle traffic offered to the railroad. Thus, granting the CSAO access to Fresh Pond to handle that traffic via the cross harbor floats, which have substantial unused capacity, is mandated by 49 USC 10907 and is also a viable option which would mitigate present and future highway traffic across the Bronx.

In the face of this absolute refusal by CSX to provide service adequate to serve the shippers who wish to use rail services on Long Island, including Brooklyn and Queens many proposals are being made to barge MSW to the Bronx to be loaded on rail cars there. Transfer of facilities in southern New England, the Bronx and on Long Island to the CSAO, providing direct access by the Long Island Railroad and the Providence and Worcester to both petitioners, is mandated by law. It is a viable option which would greatly mitigate existing and future truck traffic, as well as the presently contemplated major concentration of MSW transfer operations in the Bronx and it must be considered by the EIS as available alternative.

The inevitable environmental degradation which can be predicted from the plan requires significant mitigation. The direct all rail diversion of 14 million tons of freight per year, 2,261 trucks per day, one part of the similar Congressional Delegation's and Tri-State's proposals, is a significant, environmentally positive step. The Congressional Delegation's Petition, that of the State and City of New York and that of Tri-State Transportation Campaign each constitute viable alternatives which are reasonable and available mitigating steps. The EIS must review the environmental and economic significance of these similar and complementary proposals and if they do provide mitigation, the EIS must recommend approval of the petition conditioned on acceptance by the Petitioners of:

1. extending of the CSAO across New York Harbor by car-float to interchange directly with the Long Island Railroad and the Providence and Worcester east of the Hudson River and directly accessing Oak Point Yard, Harlem River Yard, and the New York Produce Terminal at Hunts Point;
2. allowing any operator to provide RoadRailer service on the entire Northeast Corridor;
3. access by another carrier on the lines accessing the region east of the Hudson.

CONCLUSION

The plan will end the balance in economic disabilities of the Northeast. Downstate New York and Connecticut are to remain economically isolated at the end of the CXS system. CSX assures the Board that it will provide no increase in Conrail's one-train-per-day in each direction policy. In marked contrast, New Jersey will receive full competition between two well financed railway giants. Such a change will inevitably cause a new exodus of employment opportunity from New York and Connecticut. It will cause the spread of industrial development in New Jersey, invading presently open spaces. No review of the social-economic effects of ending a monopoly in one third of the region and continuing it in the other two thirds can be found in the DEIS. Where, as here, monumental environmental and social-economic consequences are an inevitable result of the action proposed, the agency has an obligation to fully review those changes and to take appropriate steps to mitigate. Pursuant to the mandate contained in Executive Order 12898, and applicable law, where, as here, the inevitable result of the proposed federal action will be to move jobs away from an already impoverished, largely minority, population while subjecting that population to substantial environmental degradation, such plan must be rejected or modified to impose extensive mitigation.

For the above reasons and for those asserted by other interested parties, relative to this region, the Congressional Delegation urges extensive revision of the EIS to conform to the requirements of law.

Dated, New York, N.Y.
January 30, 1998

Respectfully submitted
McHugh & Sherman
Attorneys for the Congressional Delegation

John F. McHugh, Esq.
20 Exchange Place
New York, N.Y. 10005
212-483-0875

Exhibit A

Regional Truck Volumes

Annual Average Daily Truck Traffic (1993/94)



CAMBRIDGE
SYSTEMATICS

STB

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Metro-North Railroad

AIRBORNE EXPRESS

January 30, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

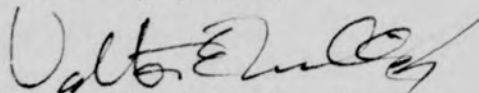
Re: Finance Docket No. 33388 -- CSX Corp./Norfolk Southern
Corp. -- Control and Operating Leases/Agreements --
Conrail

Dear Ms. Kaiser:

Transmitted herewith are the original and ten (10) copies of Metro-North Commuter Railroad Company's comments on the Draft Environmental Impact Statement in connection with the above-captioned proceeding. These comments are submitted pursuant to the procedures set forth in your December 12, 1997 letter to interested parties. A computer diskette containing the text of the filing in Word Perfect 5.1 format which is convertible into Word Perfect 7.0 also is enclosed.

If you have any questions concerning this filing, please contact me at 212-340-2027. Thank you for your courtesy in this matter.

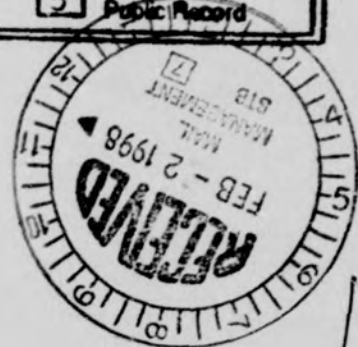
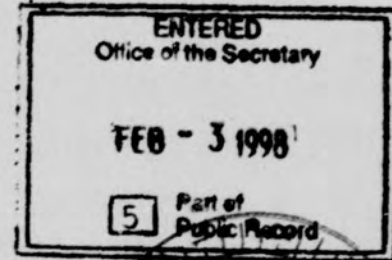
Sincerely yours,


Walter E. Zullig, Jr.
Special Counsel

Attorney for Metro-North Commuter
Railroad Company

Enclosures

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**ENVIRONMENTAL
DOCUMENT**

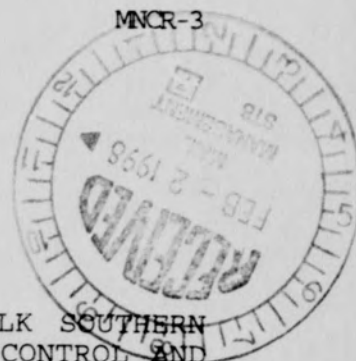
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ENVIRONMENTAL DOCUMENT

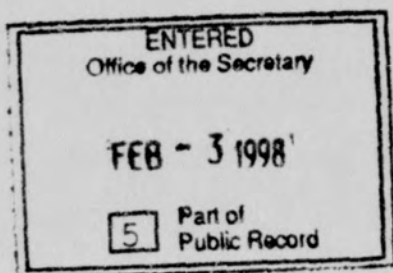
BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY -- CONTROL AND OPERATING LEASES/AGREEMENTS -- CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION -- TRANSFER OF RAILROAD LINE BY NORFOLK SOUTHERN RAILWAY COMPANY TO CSX TRANSPORTATION, INC.



METRO-NORTH COMMUTER RAILROAD COMPANY'S COMMENTS
ON THE DRAFT ENVIRONMENTAL IMPACT SETTLEMENT



RICHARD K. BERNARD
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Special Counsel

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347 Madison Avenue
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(212) 340-2027

Attorneys for:

METRO-NORTH COMMUTER RAILROAD COMPANY

Dated: January 30, 1998

Due Date: February 2, 1998

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

METRO-NORTH COMMUTER RAILROAD COMPANY'S COMMENTS
ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

Metro-North Commuter Railroad Company ("Metro-North") hereby submits its comments on the Draft Environmental Impact Statement ["DEIS"] on the proposed acquisition of Conrail by Norfolk Southern and CSX. The DEIS was prepared by the Surface Transportation Board's Section of Environmental Analysis ["SEA"] and distributed on December 12, 1997.

Our comments are set forth in three sections. The first section pertains to Metro-North's operations east of the Hudson River on the Harlem, Hudson and New Haven Lines which radiate in the east and north directions out of Grand Central Terminal in New York City. The second section pertains to Metro-North's West of Hudson service, in particular to that segment between Suffern, NY and Port Jervis, NY where the NS/CSX proposal contemplates transfer of the existing Conrail owned trackage to Norfolk Southern. This segment is used by passenger trains operated under contract for Metro-North by NJ Transit Rail Operations, Inc. ("NJ Transit"). The third section relates to a matter of general applicability.

Section I -- East of Hudson Operations

- (A) The discussion of commuter rail service contained in Volume 1 of the DEIS (§ 4.7.1) states that Metro-North carries 201,000 daily passengers. Based on 1997 ridership, that number should be 218,000 daily passengers.
- (B) The ownership information regarding several line segments set forth in the "Master Table Of All Rail Line Segments" (attachment ES-B to the Executive Summary) appears to contain some incorrect information regarding Metro-North lines. Specifically, segments C-701 through and including C-705 are listed as presently in Conrail ownership to be transferred to CSX ownership. This is true only insofar as freight service responsibility is concerned. Legal ownership of segments C-701 and C-702 is vested in the State of Connecticut. That portion of segment C-703 between Norwalk and the New York-Connecticut state line also is owned by the State of Connecticut; the section between the state line and New Rochelle is owned by Metropolitan Transportation Authority, a public benefit corporation of the State of New York and Metro-North's parent agency. Segments C-705 and C-729 are owned by American Premier Underwriters, Inc. and subject to a long term lease to Metropolitan Transportation Authority. All of these lines are maintained and controlled by Metro-North which operates commuter railroad service over them.

- (C) There is discussion of New York State Railroad Passenger Service at pages NY-14 through NY-16 of Volume 3-B. At the bottom of page NY-14 the statement is made that Metro-North, Amtrak and Conrail conduct operations pursuant to the rules developed by the Northeast Operating Rules Advisory Committee. This statement is incorrect as to Metro-North which employs its own operating rules. That same paragraph contains a statement that Metro-North carries 61.3 million passengers annually on its three main lines. During the calendar year 1997, 62.6 million passengers were transported by Metro-North.

Section II -- Suffern-Port Jervis Line

- (A) Fifteen minute clearing window for passenger trains. To address passenger rail safety, the DEIS proposes that Norfolk Southern establish passenger trains as "superior," and maintain certain separations (30 minutes according to Chapter 7 and 15 minutes according to Chapter 5) between passenger and freight trains, on several line segments over which there are both freight and passenger operations. See proposed Mitigation Measure No. 2(A), Chapter 7 at 7.2.2 and Chapter 5 at 5-NY.5.1. The line segment between Campbell Hall and Port Jervis (N-063) would be one of these segments.

(1) The Description of the Proposed Mitigation in the DEIS is
Confusing and Inconsistent

Chapter 3 of the DEIS describes a series of potential mitigation measures that the Board might consider in the event that a determination were made that some acquisition-related mitigation was appropriate with respect to passenger train safety. See section 3.3.3 (which refers to the list of potential mitigation measures set forth in connection with freight train safety in section 3.2.3). Nowhere in Section 3.3.3 or the section cross-referenced in it - in fact nowhere in Chapter 3 - is there any reference to the freight/passenger train separation rules as an appropriate or potential mitigation measure that might be warranted.

Such a separation rule nonetheless appears (and the potential mitigation measures listed in Chapter 3 do not) in the sections of the DEIS (Chapters 5 and 7) describing the mitigation that SEA has proposed. However, to further confuse matters, the descriptions of the proposed train separation rule in Chapters 5 and 7 are not consistent with one another.

The proposed superior train/train separation mitigation described in Chapter 7 of the DEIS contemplates that freight trains moving in the same or opposite direction on the same track on any of these line segments would need to be clear of

the track at least 15 minutes before and 15 minutes after the expected arrival of a passenger train at any point. This proposed measure would thereby establish a 30 minute separation window around passenger trains moving on that track. See Section 7.2.2 at p. 7-12.

By contrast, the discussion of mitigation of the individual line segments found in the state-by-state sections of Chapter 5 of the DEIS does not use the term "superior trains." Rather, Chapter 5 contemplates a proposed separation window under which freight trains, both opposing and moving in the same direction, would need to be clear of a point on the same track at least 15 minutes prior to the estimated arrival of a passenger train; no 15 minute window after a passenger train is proposed in Chapter 5. See Sections 5-NY.5.1 at pages NY-9 and NY-10. Further, whereas the mitigation proposed in Chapter 7 contemplates that the separation requirements would not apply when the freight train is moving in the opposite direction away from the passenger train, there is no similar qualification in the Chapter 5 description of the proposed mitigation. The Executive Summary reflects the "Chapter 7" description.

While the DEIS is internally inconsistent as between Chapter 3 (no train separation rule even contemplated), Chapter 5 (a 15 minute rule) and Chapter 7 (a thirty minute rule), for the

variety of reasons described below, Metro-North submits that neither the mitigation proposed in Chapter 5 nor that described in Chapter 7 is necessary and appropriate.

(2) There is no Evidence that the Proposed Mitigation will Enhance Safety

The statistical review of passenger/freight train collisions undertaken by SEA considered collisions of a type that would not be addressed by the proposed mitigation, i.e., collisions resulting from freight trains and passenger trains operating on different tracks or from passenger trains hitting parked freight cars. The actual rate of passenger trains being hit from behind by freight trains or vice versa, is closer to zero, and thus the mitigation proposal addresses an unlikely safety risk.

(3) The Proposed Mitigation Relies on Archaic Notions of Train Operation That Overlook the Existence of Modern Signaling and will not Enhance Safety

Even assuming that some mitigation were warranted, the proposed assignment of "superior" status to one type of train over another, and the proposed temporal separation of trains (e.g., the 15/30 minute separation rule proposed in the DEIS) would re-introduce railroad operating procedures which have

been outdated for decades. While train superiority and temporal separation rules played a role in ordering train operations in the era prior to the introduction of modern train signals and communications, these procedures are obsolete on lines having modern signal systems.

The Port Jervis Line presently is equipped with a Centralized Traffic Control System ("CTC"), a remote dispatcher-controlled system with automatic block signals that provide the engineer with information about other trains on the line segment, as well as other important information.

Such signals and systems provide tolerances that allow all trains, both freight and passenger, to safely share the same tracks. These systems are designed to prevent train collisions, while enhancing track capacity and service efficiency. The systems are recognized as safe by the FRA and are in use throughout the rail industry.

Metro-North plans installation of a new signal system to further enhance safety on this line. NJ Transit presently is installing automatic train control/positive train stop with cab signals on the portion of the Southern Tier Line between Hoboken and Suffern, which it owns. During the next few years Metro-North plans to extend this system the remaining 65 miles from Suffern to Port Jervis at a cost of \$33.4 million. Upon

completion, it will be necessary for Norfolk Southern or any other freight operator to use properly equipped locomotives as lead units on all trains traversing this line. This project will greatly enhance safety since an emergency breaking application will be instituted in the event that an engineer should pass a stop signal. We respectfully submit that both the existing signal system and the planned state of the art system can be relied upon to properly separate trains without resort to the 15/30 minute separation rule proposed in the DEIS.

The reintroduction of outmoded concepts of train superiority and temporal separation also is a move in the wrong direction from the perspective of efficient train operations. A 15/30 minute separation rule would make it difficult for freight trains and passenger trains to share the same tracks for during certain periods of the day. Metro-North's present Trackage Rights Agreement with Conrail provides that passenger trains shall have priority and we expect that arrangement to continue regardless of whether Metro-North or Norfolk Southern obtains control of the Port Jervis Line. That being said, it also is necessary to state that Metro-North and its West of Hudson Service Operator, NJ Transit, do not desire to disrupt Norfolk Southern's important freight operations or to make it more difficult for NS to move its trains over the line. Clearly the temporal separation envisioned in the DEIS would

reduce the capacity of the line at a time when the capacity needs to be enhanced to accommodate the additional passenger and freight trains which NS and Metro-North are planning to operate over it. What is needed is very careful dispatching by personnel who are sensitive to the needs of each service, not a series of rigid rules which would be more suitable to non-sigaled ("dark") territory from a past era in railroading.

(4) The Proposed Mitigation could Impair Metro-North's Plans for Additional Passenger Trains

Quite frankly, Metro-North also fears that its plans for additional passenger train operations, as set forth herein and in its testimony previously filed in this proceeding [MNCR-2] could be impaired if the 15/30 minute separation windows were to be mandated. This mitigation measure would effectively decrease the capacity of the line and make it more difficult for both passenger and freight services to co-exist on the same trackage. Both service operators would have a more difficult time working together in a cooperative spirit to accommodate each other if confronted with a rigid rule of this nature. The importance of this cooperation becomes even more apparent when one considers that much of the future passenger service expansion will be filling in some of the existing gaps between passenger trains during off-peak hours and on

weekends. As these trains are added, there will be fewer "windows" of time when no passenger trains are on the line and it will be increasingly necessary for freight and passenger trains to pass each other enroute.

(5) Additional Safety Measures Should be Carefully Considered in Coordination with FRA and Other Passenger Railroads

Section 202 of the Railroad Safety Act of 1970 [49 U.S.C. § 20101], grants to the Federal Railroad Administration the power to regulate "every area of railroad safety". FRA has promulgated extensive safety regulations and presently is considering several additional proposals relating to passenger train issues. No proposal similar to the 15/30 minute time separation has been proposed to or is under consideration by FRA. Moreover, to the best of our knowledge, no passenger or freight railroad operating in the United States has requested the evaluation of such a proposal. Under these circumstances, Metro-North submits that any adoption of such a drastic departure from modern railroad operating practice should be handled by the Federal Railroad Administration by means of the rule making process. This would enable careful and deliberate consideration by FRA and all concerned parties.

(B) Capacity of the Line. The discussion of New York State Passenger Rail Service at Section 5-NY.8 contains references

to the Suffern-Port Jervis Line including the fact that Norfolk Southern proposes increasing traffic to a total of 12 trains per day. The provision dealing with the summary of potential effects and preliminary recommended mitigation [5-NY.8.1] states that based on the evaluation of railroad capacity issues and information provided by the Applicants including Metro-North operating plans and existing and projected train traffic, SEA concluded that the existing capacity of the commuter rail line segments could accommodate the proposed increase in freight train levels. Further discussion of this line appears at pages 4-33 through 4-36 where it is observed that the portion of the line with single track and passing sidings does not permit substantial operating flexibility during the commuter peak periods.

In order to enable a more complete evaluation of this matter, we are providing the following information:

- Metro-North's present operation on the Port Jervis Line consists of 17 revenue and one non-revenue passenger train on Monday through Thursday; on Fridays there is one additional revenue passenger train. Saturday service consists of seven revenue passenger trains. On Sundays there are six revenue and one non-revenue passenger train. The current operating timetable, containing the schedules of both revenue and non-revenue passenger

trains, is attached as Exhibit A.

- Toward the end of 1996, Metro-North reached agreement with NJ Transit Rail Operations, Inc. on the business terms of a long term operating agreement covering this line. Two of the principal provisions of this agreement are Metro-North's capital contribution toward NJ Transit's Secaucus Transfer Project and NJ Transit's agreement to operate additional passenger trains for Metro-North. That agreement was signed on October 6, 1997 and became effective as of July 1, 1996. Some of the agreed-upon schedule enhancements were incorporated into the October 26, 1997 timetable. The agreement also provides for a total of up to seven roundtrip (i.e., 14 trains) weekday off-peak trains and up to eight roundtrip Metro-North express trains on each Saturday, Sunday, and holiday. Moreover, effective with the opening of the Secaucus transfer station in 2002, NJ Transit also has agreed to operate one additional peak hour Metro-North express train in each direction. A copy of the relevant pages from the new Metro-North/NJ Transit agreement is attached as Exhibit B. The agreement reflects the minimum number of new trains; even more service could result from future negotiations between Metro-North and NJ Transit.

- Attached as Exhibit C is a Verified Statement of Howard Permut which was filed with the Board in support of Metro-North's comments and request for conditions in this proceeding. This statement and the attached tables demonstrate the service increases and ridership growth which have been attained during the period of Metro-North's stewardship over this line. It sets forth the projected growth in Port Jervis Line service and ridership which will be accelerated by the completion of the Secaucus Transfer station in 2002. It also discusses the capital investment already made by Metro-North for this line as well as the future investment of \$93.5 million needed to bring the line to a proper condition to accommodate a reasonable level of passenger service and freight operation. Finally, Mr. Permut's statement references an additional \$104,000,000 of capital improvements to support the long term service expansion plans through the year 2020. We are providing this information because we believe Metro-North should be given control of this line either by purchase acquisition or a very long term lease in order to justify the planned capital investment of public funds to bring the line to the proper condition for the projected operations. The line in its present state simply cannot accommodate the added service planned by both NS and Metro-North.

Based on the information provided in Volume 1, pages 4-35 and 4-36, we assume NS has advised SEA that it plans to operate the freight trains during the periods of little or no passenger traffic. However, some of the schedules filed by NS in this proceeding do not bear that out. See, e.g., NS-19, book 2 of 4, at page 3 showing the schedule of train DSCGRX(1) between Chicago and Croxton at times which were in direct conflict with several westbound passenger trains. Although we appreciate NS's intention to operate freight service primarily during the non-passenger periods, as pointed out in Section II A (4) infra, there will be fewer such periods as passenger service is expanded pursuant to our contract with NJ Transit. Thus, some enhanced facilities and very careful dispatching will be needed to enable the passenger and freight operations to co-exist on this line. We also believe NS may have made some changes in its projected freight schedules contained in NS-19 and suggest that SEA further pursue this matter.

- (C) Hazardous Materials Transport. In Volume 3B, page 5-30, it is recommended that line segments designated N-062 and N-063 comprising the territory between Suffern and Port Jervis, NY be designated as a new Key Route for the transportation of hazardous materials. Further elaboration of this is contained at page NY-13 which indicates that hazardous material carloads over these segments will increase from zero pre-acquisition to 18,000 post-acquisition.

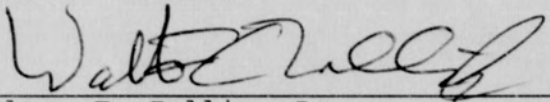
Metro-North concurs in the recommendation that NS bring this rail line segment into compliance with AAR Key Route standards and practices. Because the route now would host a very substantial level of hazardous material carloads, as compared with virtually none at present, we further recommend NS develop a Hazardous Materials Emergency Responsive Plan and take further measures as if this were a Major Key Route. Although much of this railroad line traverses areas of low population density, some portions pass through developed communities which should have the proper information and hazardous materials emergency response training.

Section III -- Matter of General Applicability

- (A) Highway-Rail grade crossings. Metro-North supports the recommended steps for enhancing safety at highway-rail grade crossings as set forth in Volume IV, Section 7.2.1.

Respectfully submitted,

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General Counsel



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Railroad Company

Dated: January 30, 1998

Due Date: February 2, 1998

[63227/WEZ]

MILE POST	BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE	MONDAYS - FRIDAYS INCLUSIVE, EXCEPT MAJOR HOLIDAYS - EASTWARD														
		X150	1144	1200	1148	1600	48	1148	50	1802	1202	1150	1152	52	1204	
		A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	
0.1	HOBOKEN	A 123	A 610	A 615	A 641	A 644	A 648	A 712	A 718	A 723	A 726	A 735	A 745	A 749	A 751	
2.2	TERMINAL TOWER	122	609	614	640	643	647	711	717	722	725	734	744	748	750	
	WEST END	118	603	610	634	637	641	705	711	716	718	728	738	742	743	
5.0	HARMON COVE		S 557		S 628		S 659					S 722				
7.6	PASCACK JCT		553		624	630	633	655	703	709		718	729	734		
8.4	RUTHERFORD		S 551		S 622		S 653					S 716				
11.5	GARFIELD		S 545		S 616		S 647					S 710				
12.9	PLAUDERVILLE		S 542		S 613		S 644					S 707				
14.2	BT		540		611		626	642	656			705	722	727		
15.5	BROADWAY		S 538		S 609		S 640					S 703				
16.7	RADBURN		S 535		S 606		S 637					S 700	S 718			
18.2	GLEN ROCK		S 532		S 603		S 634					S 657	S 714			
5.0	WEST SECAUCUS			605								713			738	
7.6	KINGSLAND			S 601							S 709				S 734	
8.2	LYNDHURST			S 559							S 707				S 732	
9.3	DELAWARE										S 704				S 729	
10.6	PASSAIC			S 554							S 701				S 726	
12.2	CLIFTON			S 551							S 658				S 723	
13.3	PATERSON JCT			549							655				720	
15.0	XW			546							652				717	
15.6	PATERSON			S 544							S 650				S 715	
17.7	HAWTHORNE			S 540							S 646				S 711	
19.4	GLEN ROCK			S 537							S 643				S 708	
20.3	RIDGEWOOD JCT	1252	530	535	601		619	632	649		641	655	713	720	706	
20.9	RIDGEWOOD		S 529	S 534	S 600		S 631				S 640	S 654	S 712		S 705	
22.1	HOBOKUS		S 526	S 531	S 557						S 637	S 651	S 709		S 702	
23.4	WALDWICK		S 523	S 528	S 554						S 634	S 648	S 706		S 659	
23.6	WC	1248	521	526	552		615	627	645		632	646	704	718	657	
24.7	ALLENDALE		S 520		S 551		S 605				S 645	S 703				
26.6	RAMSEY		S 517		S 548		S 621				S 641	S 659				
29.3	MAHWAH		S 512		S 543		S 616				S 635	S 653				
30.5	SUFFERN	1240	S 510		S 541		S 607	S 613	S 637		S 632	S 650	S 708			
30.9	SUFFERN YARD	1238	508		539			611			630	648				
34.5	SLCATSBURG						S 601		S 631					S 701		
37.2	TUXEDO						S 556		S 626					S 656		
44.9	HARRIMAN						S 545		S 615					S 645		
47.8	CP CENTRAL VALLEY						540		610					640		
55.5	SALISBURY MILLS-CORNWALL						S 531		S 601					S 631		
63.4	CP HUDSON JUNCTION						523		553					623		
64.7	CP HALL						522		552					622		
65.6	CAMPBELL HALL						S 520		S 550					S 620		
71.9 D	MIDDLETOWN						S 513		S 543					S 613		
69.1	CP HOWELLS						507		537					607		
73.8	OTISVILLE						S 501		S 531					S 601		
86.7	CP BC						443		513					543		
87.5	PORT JERVIS						S 440		S 510					S 540		
	Equipment Disp - From Train	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	
	From Westbound Arr. Time	1121	1101	X119	Start	Start	Start	Start	Start	Start	X121	Start	Start	Start	X123	
		NOTE	139	506							521				616	

NOTES X150 - WILL NOT RUN MONDAY OR DAY AFTER MAJOR HOLIDAYS

MILE POST	BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE	MONDAYS - FRIDAYS INCLUSIVE, EXCEPT MAJOR HOLIDAYS - EASTWARD															
		1604	1252	1606	1154	54	1608	1254	1206	1610	1156	1256	1400	1158	56		
		A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.		
0.1	HOBOKEN	A 754	A 805	A 808	A 810	A 814	A 817	A 823	A 830	A 832	S 834	A 844	A 847	A 849	A 855		
2.2	TERMINAL TOWER	753	804	807	809	813	816	822	829	831	833	843	846	848	854		
2.2	WEST END	745	796	799	802	806	808	817	822	823	826	838	840	843	848		
5.0	HARMON COVE		S 751								S 820	S 832					
7.6	PASCACK JCT.	738	747	752	756	759	802	810		816	816	828		836	840		
8.4	RUTHERFORD		S 745								S 814	S 825					
11.5	GARFIELD		S 738									S 819					
12.9	PLAUDERVILLE		S 736									S 816					
14.2	BT		734		747	752		801			807	813		827	833		
15.5	BROADWAY		S 730		S 745						S 811						
16.7	RADBURN		S 727		S 742			S 757			S 803	S 808		S 823			
18.2	GLEN ROCK				S 739						S 800			S 820			
5.0	WEST SECAUCUS								816				834				
7.6	KINGSLAND								S 812				S 830				
8.2	LYNDHURST								S 810				S 828				
9.3	DELAWARE								S 807				S 825				
10.6	PASSAIC								S 804				S 822				
12.2	CLIFTON								S 801				S 819				
13.3	PATERSON JCT.								758				806				
15.0	XW								754								
15.6	PATERSON								S 753								
17.7	HAWTHORNE								S 748								
19.4	GLEN ROCK								S 745								
20.3	RIDGEWOOD JCT.		723		737	745		753	743		757	805		817	826		
20.9	RIDGEWOOD		S 722		S 736			S 752	S 742			S 804		S 816			
22.1	HOBOKEN				S 733			S 748	S 739			S 801		S 813			
23.4	WALDWICK				S 730			S 745	S 736			S 758		S 810			
23.6	WC		717		728	741		743	732			753	756	808	822		
24.7	ALLENDALE				S 727						S 752			S 807			
26.6	RAMSEY				S 723	S 737					S 748			S 803			
29.3	MAHWAH				S 717	S 731					S 743			S 758			
30.5	SUFFERN				S 714	S 728					S 740			S 755	S 814		
30.9	SUFFERN YARD				712						738			753			
34.5	SLOATSBURG					S 721									S 808		
37.2	TUXEDO					S 717									S 803		
44.9	HARRIMAN					S 706									S 752		
47.8	CP CENTRAL VALLEY					701									747		
55.5	SALISBURY MILLS-CORNWALL					S 651									S 738		
63.4	CP HUDSON JUNCTION					642									730		
64.7	CP HALL					641									729		
65.6	CAMPBELL HALL					S 639									S 727		
71.9 D	MIDDLETOWN					S 632									S 720		
69.1	CP HOWELLS					626									713		
73.8	OTISVILLE					S 620									S 707		
86.7	CP BC					603									650		
87.5	PORT JERVIS					S 600									S 647		
	Equipment Disp - From Train	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.		
	From Westbound Arr. Time	Start	1201	Start	Start	Start	Start	1203	X125	Start	Start	1251	X141	Start	Start		
			852					727	713			739	800				

NOTES

MILE POST	BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE	MONDAYS - FRIDAYS INCLUSIVE, EXCEPT MAJOR HOLIDAYS - EASTWARD															
		1612	1208	1210	1160	1182	58	1184	1108	1160	1108	60	1212	X180	X6		
		A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.		
0.1	HOBOKEN	A 903	A 920	A 942	A 947	A 1047	A 1107	A 1207	A 107	A 203	A 307	A 404	A 424	A 438	A 457		
2.2	TERMINAL TOWER	902	919	941	946	1046	1106	1206	106	202	306	403	423	437	456		
2.2	WEST END	858	915	937	942	1042	1100	1200	100	158	302	357	417	433	451		
5.0	HARMON COVE				S 931	S 1031		S 1146		S 146		S 347					
7.6	PASCACK JCT.				927	1027		1142		142		343		424	444		
8.4	RUTHERFORD				S 925	S 1025		S 1140		S 140		S 341					
11.5	GARFIELD				S 919	S 1019		S 1134		S 134		S 335					
12.9	PLAUDERVILLE											S 332					
14.2	BT					915	1015	1130		130		S 330			433		
15.5	BROADWAY				S 913	S 1013		S 1128		S 128		S 328					
16.7	RADBURN				S 910	S 1010		S 1125		S 125		S 325					
18.2	GLEN ROCK				S 907	S 1007		S 1122		S 122		S 322					
5.0	WEST SECAUCUS			904	926			1049		1249		249		407			
7.6	KINGSLAND		S 900	S 922				S 1045		S 1245		S 245		S 403			
8.2	LYNDHURST		S 858	S 920				S 1043		S 1243		S 243		S 401			
9.3	DELAWARE		S 855	S 917													
10.6	PASSAIC		S 852	S 914				S 1039		S 1239		S 239		S 357			
12.2	CLIFTON		S 849	S 911				S 1036		S 1236		S 236		S 354			
13.3	PATERSON JCT.		847	909				1034		1234		234		351			
15.0	XW		844	906				1031		1231		230		348			
15.6	PATERSON		S 843	S 905				S 1029		S 1229		S 229		S 347			
17.7	HAWTHORNE		S 839	S 901				S 1025		S 1225		S 225		S 343			
19.4	GLEN ROCK		S 836	S 858				S 1022		S 1222		S 222		S 340			
20.3	RIDGEWOOD JCT.		834	856	905	1005	1020	1120	1220	120	220	320	338	426			
20.9	RIDGEWOOD		S 833	S 855	S 904	S 1004	S 1019	S 1119	S 1219	S 119	S 219	S 319	S 337				
22.1	HOBOKEN		S 830	S 852	S 901	S 1001	S 1016	S 1116	S 1216	S 116	S 216	S 316					
23.4	WALDWICK		S 827	S 849	S 858	S 958	S 1013	S 1113	S 1213	S 113	S 213	S 313	S 333				
23.6	WC		826	847	856	956	1012	1112	1212	112	212	312	331	422			
24.7	ALLENDALE				S 853	S 953	S 1011	S 1111	S 1211	S 111	S 211	S 311					
26.6	RAMSEY				S 850	S 950	S 1008	S 1108	S 1208	S 108	S 208	S 308					
29.3	MAHWAH				S 846	S 946	S 1004	S 1104	S 1204	S 104	S 204	S 304					
30.5	SUFFERN				S 842	S 942	S 1002	S 1102	S 1202	S 102	S 202	S 302			414		
30.9	SUFFERN YARD				840	940		1100	1200	100	200						
34.5	SLOATSBURG							S 955				S 255			406		
37.2	TUXEDO							S 951				S 251					
44.9	HARRIMAN							S 940				S 240			358		
47.8	CP CENTRAL VALLEY							935				235			355		
55.5	SALISBURY MILLS-CORNWALL							S 926				S 226					
63.4	CP HUDSON JUNCTION							918				218			340		
64.7	CP HALL							917				217			339		
65.6	CAMPBELL HALL							S 915				S 215					
71.9 D	MIDDLETOWN							S 908				S 208					
69.1	CP HOWELLS							902				202			326		
73.8	OTISVILLE							S 856				S 156					
86.7	CP BC							838				138					
87.5	PORT JERVIS							S 835				S 135					
	Equipment Disp - From Train	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.		
	From Westbound Arr. Time	Start	X127	X129	1103	1105	Start	1107	1151	1109	1153	51	1253	1601	53		
			812	835	825	851		940	1143	1243	143	1156	318	343	315		

NOTES X*60 - RUNS FRIDAYS, WED 11/26/97 AND TUES 12/23/97 ONLY.
X6 - WILL NOT RUN WED 12/31/97.

MILE POST	BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE	MONDAYS - FRIDAYS INCLUSIVE, EXCEPT MAJOR HOLIDAYS - EASTWARD													
		1112	1360	1114	X132	1116	1262	X134	X118	1118	X120	9264	X122	1120	X124
		P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.
0.1	HOBOKEN	A 504	A 512	A 534	A 556	A 605	A 608	A 621	A 643	A 653	A 657	A 704	A 710	A 722	A 727
2.2	TERMINAL TOWER	503	511	533	554	604	607	620	642	652	656	703	709	721	726
2.2	WEST END	456	501	526	546	557	600	614	636	647	651	656	704	714	722
5.0	HARMON COVE		S 456				S 563					S 652			
7.8	PASCACK JCT		451				549		629			647	653		
8.4	RUTHERFORD		S 448				S 545					S 645			
11.5	GARFIELD														
12.9	PLAUDERVILLE														
14.2	ST		441				537		622			637	643		
15.5	BROADWAY						S 535								
16.7	RADBURN		S 437				S 532					S 632			
18.2	GLEN ROCK						S 529								
5.0	WEST SECAUCUS		451		521	539	551		607		642	646		709	717
7.6	KINGSLAND	S 447		S 517		S 547			S 636				S 705		
8.2	LYNDHURST	S 445		S 515		S 545			S 636				S 703		
9.3	DELAWANNA	S 442		S 512		S 542			S 633						
10.6	PASSAIC	S 439		S 509		S 539			S 630						
12.2	CLIFTON	S 436		S 506		S 536			S 627				S 659		
13.3	PATERSON JCT		433		503	528	533		556		624	635		654	705
15.0	XW		430		500	525	530		553		622	632		651	702
15.6	PATERSON	S 429		S 459		S 529			S 620				S 650		
17.7	HAWTHORNE	S 425		S 455		S 525			S 616				S 646		
19.4	GLEN ROCK	S 422		S 452		S 522			S 613				S 643		
20.3	RIDGEWOOD JCT		420	433	450	518	520	527	546	615	610	625	626	632	641
20.9	RIDGEWOOD	S 419	S 432	S 449	517	S 519	S 526	545	S 609		S 625		S 640		655
22.1	HOBOKUS	S 416		S 446		S 516			S 606				S 637		
23.4	WALDWICK	S 413		S 443		S 513			S 603				S 634		
23.6	WC		412		442		512	522		606	602	621	621	626	633
24.7	ALLENDALE	S 411		S 441		S 511			S 601				S 632		
26.6	RAMSEY	S 408		S 438		S 508			S 558				S 629		
29.3	MAHWAH	S 404		S 434		S 504			S 554				S 625		
30.5	SUFFERN	S 402		S 432		S 502			S 552				S 623		
30.9	SUFFERN YARD		400		430		500		545					621	
34.5	SLOATSBURG														
37.2	TUXEDO														
44.9	HARRIMAN														
47.8	CP CENTRAL VALLEY														
55.5	SALISBURY MILLS-CORNWALL														
63.4	CP HUDSON JUNCTION														
64.7	CP HALL														
65.6	CAMPBELL HALL														
71.9 D	MIDDLETOWN														
69.1	CP HOWELLS														
73.8	OTISVILLE														
86.7	CP BC														
87.5	PORT JERVIS														
	Equipment Disp - From Train		P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.
	From Westbound Arr. Time		1113	1307	1115	1355	1155	1206	1311	1257	1157	1213	1213	1259	1159
			245	419	356	507	435	507	535	551	512	611	611	618	551
									NOTE		NOTE	NOTE			641

NOTES X120 - WILL NOT RUN THURS 12/31/97
9264 - WILL RUN THURS 12/31/97 ONLY

MILE POST	BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE	MONDAYS - FRIDAYS INCLUSIVE, EXCEPT MAJOR HOLIDAYS - EASTWARD													
		1268	1214	1168	X126	X182	1122	82	X128	X68	X164	X92			
		P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	A.M.	A.M.	A.M.			
0.1	HOBOKEN	A 748	A 838	A 1006	A 1011	A 1018	A 1018	A 1125	A 1150		A 1243	A 102			
2.2	TERMINAL TOWER	748	837	959	1010	1017	1015	1124	1149		1242	101			
2.2	WEST END	742	833	953	1006	1012	1010	1119	1145		1237	1255			
5.0	HARMON COVE	S 736													
7.8	PASCACK JCT	730		944	959	1004					1229				
8.4	RUTHERFORD	S 728		S 642											
11.5	GARFIELD														
12.9	PLAUDERVILLE														
14.2	ST	720		935	952										
15.5	BROADWAY														
16.7	RADBURN	S 716		S 931											
18.2	GLEN ROCK														
5.0	WEST SECAUCUS		828				1005	1113	1139						
7.6	KINGSLAND						S 1109								
8.2	LYNDHURST	S 823					S 1000	S 1107							
9.3	DELAWANNA														
10.6	PASSAIC							S 1103							
12.2	CLIFTON	S 817					S 954	S 1100							
13.3	PATERSON JCT		815				852	1058	1128						
15.0	XW		813				850	1055	1125						
15.6	PATERSON							S 1053							
17.7	HAWTHORNE							S 1049							
19.4	GLEN ROCK	S 807					S 944	S 1046							
20.3	RIDGEWOOD JCT		712	805	928	945	942	1044	1119			1229			
20.9	RIDGEWOOD	S 711	S 804	S 929			S 841	S 1043							
22.1	HOBOKUS	S 708						S 1040							
23.4	WALDWICK	S 705	S 800				S 937	S 1037							
23.6	WC		700	756	921	940	935	1035	1115			1225			
24.7	ALLENDALE			S 920				S 1034							
26.6	RAMSEY			S 917				S 1031							
29.3	MAHWAH														
30.5	SUFFERN			S 912				S 1026				1221			
30.9	SUFFERN YARD			910			928			A 135					
34.5	SLOATSBURG							S 1020		128		1214			
37.2	TUXEDO							S 1015							
44.9	HARRIMAN							S 1004		114		1201			
47.8	CP CENTRAL VALLEY							959		1252		1157			
55.5	SALISBURY MILLS-CORNWALL							S 950							
63.4	CP HUDSON JUNCTION							942		1237		1142			
64.7	CP HALL							941		1236		1141			
65.6	CAMPBELL HALL							S 939							
71.9 D	MIDDLETOWN							S 932							
69.1	CP HOWELLS							926		1225		1130			
73.8	OTISVILLE							S 920		1219		1120			
86.7	CP BC							903		1202		1103			
87.5	PORT JERVIS							S 900		1159		1100			
	Equipment Disp - From Train		P.M.	P.M.	A.M.	P.M.	P.M.	P.M.	P.M.	P.M.	A.M.	P.M.			
	From Westbound Arr. Time		1261	1217	1119	1219	1621	1169	61	1221	67	1625	65		
			646	736	844	928	921	907	756	1105	1151	1146	946		
										NOTE		NOTE			

NOTES X68 - RUNS FRIDAYS ONLY
X92 - WILL RUN WED 11/26/97, WED 12/24/97, AND WED 12/31/97 ONLY

MILE POST	BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE	MONDAYS - FRIDAYS INCLUSIVE, EXCEPT MAJOR HOLIDAYS - WESTWARD													
		1101	X119	X121	X123	1201	X125	1203	1251	1103	X127	X141	1105	X129	1107
		AM	AM	AM	AM	AM	AM	AM	AM	AM	AM	AM	AM	AM	AM
0.1	HOBOKEN	S 1235	430	445	540	S 605	635	S 642	S 700	S 713	S 725	736	S 741	759	S 830
2.2	TERMINAL TOWER	1236	431	446	541	606	636	641	701	714	726	737	742	800	831
2.2	WEST END	1240	435	450	545	610	640	645	705	718	730	741	746	804	835
5.0	HARMON COVE								S 710						
7.8	PASCACK JCT.								713						
8.4	RUTHERFORD								S 715						
11.5	GARFIELD														
12.9	PLAUDERVILLE														
14.2	BT								721						
15.5	BROADWAY														
16.7	RADBURN								S 724						
18.2	GLEN ROCK														
5.0	WEST BECAUCUS	1245	440	455	550	615	645	650		723	735	746	751	809	840
7.8	KINGSLAND	S 1249						S 654		S 727			S 755		S 844
8.2	LYNDHURST	S 1251				S 620				S 729			S 757		S 846
9.3	DELAWARE									S 732			S 800		S 849
10.6	PASSAIC	S 1255				S 624		S 659		S 735			S 803		S 852
12.2	CLIFTON	S 1258				S 627		S 702		S 738			S 806		S 855
13.3	PATERSON JCT.	100	451	506	601	629	658	704		740	745	A 800	808	819	857
15.0	XW	103	458	509	604	632	701	707		743	748		811	822	900
15.6	PATERSON	S 105				S 634		S 708		S 745			S 813		S 902
17.7	HAWTHORNE	S 109				S 638				S 749			S 817		S 906
19.4	GLEN ROCK	S 112				S 641				S 752			S 820		S 909
20.3	RIDGEWOOD JCT.	114	501	516	611	643	708	715	728	759	801		822	830	911
20.9	RIDGEWOOD	S 116				S 645		S 717	S 730	S 801			S 824		S 913
22.1	HOBOKUS	S 119				S 648				S 804			S 827		S 916
23.4	WALDWICK	S 122				S 651		S 725	S 738	S 807			S 830		S 919
23.6	WC	123	A 506	A 521	A 616	A 652	A 713	A 727	A 739	808	A 812		S 831	A 835	920
24.7	ALLENDALE	S 125								S 810			S 833		S 922
26.6	RAMSEY	S 129								S 814			S 837		S 926
29.3	MAHWAH	S 133								S 818			S 841		S 930
30.5	SUFFERN	S 137								S 823			S 849		S 938
30.9	SUFFERN YARD	A 139								A 825			A 851		A 940
34.5	SLOATSBURG														
37.2	TUXEDO														
44.9	HARRIMAN														
47.8	CP CENTRAL VALLEY														
55.5	SALISBURY MILLS-CORNWALL														
63.4	CP HUDSON JUNCTION														
64.7	CP HALL														
65.6	CAMPBELL HALL														
71.9 D	MIDDLETOWN														
69.1	CP HOWELLS														
73.8	OTISVILLE														
86.7	CP BC														
87.5	PORT JERVIS														
	Equip Disposition - To Train	AM	AM	AM	AM	AM	AM	AM	AM	AM	AM	AM	AM	AM	AM
	Next EB Departure	1144	1200	1202	1204	1252	1206	1254	1256	1160	1208	1400	1162	1210	1164
		508	526	632	657	717	732	743	756	840	826	808	940	847	1100

NOTES

MILE POST	BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE	MONDAYS - FRIDAYS INCLUSIVE, EXCEPT MAJOR HOLIDAYS - WESTWARD															
		51	1151	1109	1153	53	93	1601	1113	1253	1603	1115	99	1155	1605		
		AM	AM	AM	PM	PM	PM	PM	PM	PM	PM	PM	PM	PM	PM	PM	PM
0.1	HOBOKEN	S 830	S 1035	S 1135	S 1235	S 130	S 130	S 132	S 135	S 225	S 232	S 245	S 255	S 325	S 332		
2.2	TERMINAL TOWER	831	1036	1136	1236	131	131	133	136	226	233	246	256	326	333		
2.2	WEST END	835	1040	1140	1240	135	135	137	140	230	237	250	300	331	337		
5.0	HARMON COVE		S 1047		S 1247					S 237				S 337			
7.8	PASCACK JCT.	843	1050		1250			143	145		240	245		308	340	345	
8.4	RUTHERFORD	S 845	S 1052		S 1252		S 145			S 242				S 342			
11.5	GARFIELD		S 1056		S 1256					S 248				S 348			
12.9	PLAUDERVILLE		S 1101		S 1301					S 251				S 351			
14.2	BT	862	1103		1303		162			253			315	353			
15.5	BROADWAY	S 950	S 1106		S 1306					S 256				S 356			
16.7	RADBURN	S 958	S 1109		S 1309		S 158			S 259				S 359			
18.2	GLEN ROCK	S 1001	S 1112		S 1312		S 159			S 302				S 402			
5.0	WEST BECAUCUS			1145						145			255				
7.8	KINGSLAND		S 1149							S 149			S 259				
8.2	LYNDHURST		S 1151							S 151			S 301				
9.3	DELAWARE									S 154			S 304				
10.6	PASSAIC		S 1155							S 157			S 307				
12.2	CLIFTON		S 1158							S 200			S 310				
13.3	PATERSON JCT.			1200						202			312				
15.0	XW			1203						205			315				
15.6	PATERSON		S 1205							S 207			S 317				
17.7	HAWTHORNE		S 1209							S 211			S 321				
19.4	GLEN ROCK		S 1212							S 214			S 324				
20.3	RIDGEWOOD JCT.	1003	1114	1214	1114	158	202			216	304		327	322	404		
20.9	RIDGEWOOD	S 1005	S 1116	S 1216	S 1116	S 120	S 204			S 218	S 306		S 329		S 408		
22.1	HOBOKUS	S 1008	S 1119	S 1219	S 1119					S 221	S 309		S 332		S 409		
23.4	WALDWICK	S 1011	S 1122	S 1222	S 1122					S 224	S 317		S 335		S 412		
23.6	WC	1012	1123	1223	1123	204	208			225	A 318		336	327	413		
24.7	ALLENDALE	S 1014	S 1125	S 1225	S 1125					S 227			S 338	S 330	S 415		
26.6	RAMSEY	S 1018	S 1129	S 1229	S 1129	S 207	S 211			S 231			S 342	S 334	S 419		
29.3	MAHWAH	S 1022	S 1133	S 1233	S 1133					S 235			S 346	S 338	S 423		
30.5	SUFFERN	S 1030	S 1141	S 1241	S 1141	S 213	S 217			S 243			S 354	S 346	S 431		
30.9	SUFFERN YARD	A 1143	A 1243	A 143						A 245			A 356		A 433		
34.5	SLOATSBURG	S 1038				S 219	S 223							S 382			
37.2	TUXEDO	S 1040				S 224	S 228							S 357			
44.9	HARRIMAN	S 1051				S 235	S 239							S 408			
47.8	CP CENTRAL VALLEY					241	245							412			
55.5	SALISBURY MILLS-CORNWALL	S 1105				S 251	S 255							S 422			
63.4	CP HUDSON JUNCTION	1114				256	303							430			
64.7	CP HALL	1115				300	304							431			
65.6	CAMPBELL HALL	S 1117				S 302	S 306							S 433			
71.9 D	MIDDLETOWN	S 1124				S 309	S 313							S 440			
69.1	CP HOWELLS	1130				A 315	319							446			
73.8	OTISVILLE	S 1136				S 325								S 452			
86.7	CP BC	1153				342								509			
87.5	PORT JERVIS	A 1156				A 345								A 511			
	Equip Disposition - To Train	PM	PM	PM	PM	PM	PM	PM	PM	PM	PM	PM	PM	PM	PM	PM	PM
	Next EB Departure	60	1108	1168	1158	28		X160	1112	1212	Finish	1114	Finish	1116	Finish		
		135	1200	100	200	328		348	400	331		430		500			
						NOTE	NOTE	NOTE		NOTE		NOTE		NOTE		NOTE	

NOTES

1601 - WILL RUN WED 12/24/97, AND WED 12/31/97 ONLY
 1603 - WILL RUN FRIDAYS AND WED 11/26/97, TUES 12/23/97, WED 12/24/97, AND WED 12/31/97
 1605 - WILL RUN WED 11/26/97, WED 12/24/97, AND WED 12/31/97 ONLY
 53 - WILL NOT RUN WED 12/31/97
 93 - WILL RUN WED 12/31/97 ONLY
 99 - WILL RUN WED 12/24/97 AND WED 12/31/97 ONLY

MILE POST	BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE	MONDAYS - FRIDAYS INCLUSIVE, EXCEPT MAJOR HOLIDAYS - WESTWARD															
		1307	55	1209	1157	1355	1607	57	1311	1159	1257	0159	1609	1213	59		
		P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.		
0.1	HOBOKEN	S 335	S 400	S 415	S 420	S 425	S 435	S 445	S 449	S 455	S 458	S 458	S 507	S 515	S 517		
2.2	TERMINAL TOWER	336	401	416	421	426	436	446	450	456	459	459	508	516	518		
5.0	WEST END	341	405	420	425	431	441	451	454	501	504	504	513	521	523		
5.0	HARMON COVE					S 437				S 510	S 510						
7.8	PASCACK JCT.		413		432	440	448	458		507	513	513	520		530		
8.4	RUTHERFORD					S 442				S 516	S 516						
11.5	GARFIELD					S 448				S 522	S 522						
12.9	PLAUDERVILLE					S 451				S 525	S 525						
14.2	BT		420		439	451		505		515	527	527			537		
15.5	BROADWAY					S 456				S 530	S 530						
16.7	RADBURN					S 459				S 520	S 533	S 533					
18.2	GLEN ROCK					S 502				S 523	S 536	S 536					
5.0	WEST BECAUCUS	345		425					459					528			
7.8	KINGSLAND	S 349		S 429					S 503					S 530			
8.2	LYNDHURST	S 351		S 431					S 506					S 533			
9.3	DELAWARE	S 354		S 434					S 509					S 536			
10.6	PASSAIC	S 357		S 437					S 512					S 539			
12.2	CLIFTON	S 400		S 441					S 515					S 542			
13.3	PATERSON JCT.	402		443					517					544			
15.0	XW	405		446					520					547			
15.8	PATERSON	S 407		S 448					S 522					S 549			
17.7	HAWTHORNE	S 411		S 452					S 526					S 553			
19.4	GLEN ROCK	S 414		S 455					S 529					S 556			
20.3	RIDGEWOOD JCT.	417	427	458	448	504		512	532	525	538	538		559	544		
20.9	RIDGEWOOD	A 419		L 500	S 448	A 507		A 535	S 527	L 540	L 540	L 540		L 602			
22.1	HOBOKEN			L 503	L 451				L 530	L 543	L 543	L 543		L 605			
23.4	WALDWICK			S 506	L 454				L 533	S 549	S 549	S 549		S 606			
23.6	WC		432	A 507	L 455			517	L 534	A 551	550			A 611	549		
24.7	ALLENDALE				L 457				L 536		L 552						
26.6	RAMSEY				L 501				L 540		L 556						
29.3	MAHWAH				L 506				L 545		L 601						
30.5	SUFFERN	S 441		S 510			S 526		S 549		S 605				S 558		
30.9	SUFFERN YARD			A 512					A 551		A 607						
34.5	SLCATSBURG	S 447					S 532								S 605		
37.2	TUXEDO	S 452					S 537								S 610		
44.9	HARRIMAN	S 503					S 548								S 621		
47.8	CP CENTRAL VALLEY	507					552								625		
55.5	SALISBURY MILLS-CORNWALL	S 517					S 602								S 635		
63.4	CP HUDSON JUNCTION		525				610								643		
64.7	CP HALL		526				611								644		
65.6	CAMPBELL HALL	S 528					S 613								S 646		
71.9 D	MIDDLETOWN	S 535					S 620								S 653		
65.1	CP HOWELLS		541				626								659		
73.8	OTISVILLE	S 547					S 632								S 705		
86.7	CP BC		604				649								722		
87.5	PORT JERVIS	A 607					A 652								A 725		
	Equip Disposition - To Train	1360	Finish	1262	1118	X132	Finish	Finish	X134	1120	X118	1120	Finish	X120	Finish		
	Next EB Departure	432		522	545	517			545	621	606	621	NOTE	620	NOTE		

NOTES: 1159 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97
 1257 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97
 9159 - WILL RUN WED 12/24/97 AND WED 12/31/97 REPLACES 1159 AND 1257
 1609 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97
 59 - WILL NOT RUN WED 12/31/97

MILE POST	BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE	MONDAYS - FRIDAYS INCLUSIVE, EXCEPT MAJOR HOLIDAYS - WESTWARD															
		1181	1259	1611	1613	61	1215	1163	1261	1615	1117	63	1165	1617	1217		
		P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.		
0.1	HOBOKEN	S 522	S 528	S 528	S 538	S 542	S 545	S 547	S 554	S 604	S 615	S 623	S 626	S 636	S 641		
2.2	TERMINAL TOWER	529	532	535	544	548	551	554	561	610	621	629	636	642	646		
5.0	HARMON COVE		S 537						S 608				S 641				
7.8	PASCACK JCT.	535	540	541	551	556			601	609	617		636	644	649		
8.4	RUTHERFORD		S 543						S 612				S 647				
11.5	GARFIELD		S 549						S 618				S 653				
12.9	PLAUDERVILLE		S 551						S 621				S 656				
14.2	BT	544	554		604			610	623			643	658				
15.5	BROADWAY		S 557						S 626				S 700				
16.7	RADBURN	S 548	S 600					S 614	S 629				S 703				
18.2	GLEN ROCK	S 551	S 603					S 617	S 632				S 708				
5.0	WEST BECAUCUS					558						626				651	
7.8	KINGSLAND					S 600					S 630				S 656		
8.2	LYNDHURST					S 603					S 633				S 659		
9.3	DELAWARE					S 606					S 636				S 702		
10.6	PASSAIC					S 609					S 639				S 705		
12.2	CLIFTON					S 612					S 642				S 708		
13.3	PATERSON JCT.					614					644				710		
15.0	XW					617					647				713		
15.8	PATERSON					S 619				S 649					S 715		
17.7	HAWTHORNE					S 621				S 653					S 719		
19.4	GLEN ROCK					S 626				S 656					S 722		
20.3	RIDGEWOOD JCT.	553	605			611	626	619	634	658	650	708			725		
20.9	RIDGEWOOD	S 555	L 608			L 631	S 621	L 636	S 700		S 710				S 727		
22.1	HOBOKEN	L 558	L 611			L 634	L 625	L 640	L 703		S 713				S 730		
23.4	WALDWICK	L 601	S 614			S 640	L 629	S 644	L 706		S 716				S 735		
23.6	WC	602	A 618			616	A 641	630	A 646	707	655	717			A 736		
24.7	ALLENDALE	L 604						L 632		L 709		S 719					
26.6	RAMSEY	L 608						L 636		L 713		S 723					
29.3	MAHWAH	L 613				L 625		L 641		L 717		S 727					
30.5	SUFFERN	S 617				S 629		S 645		S 721	S 704	S 731					
30.9	SUFFERN YARD	A 619						A 647		A 723		A 733					
34.5	SLCATSBURG					S 635					S 710						
37.2	TUXEDO					S 640					S 715						
44.9	HARRIMAN					S 652					S 726						
47.8	CP CENTRAL VALLEY					656					730						
55.5	SALISBURY MILLS-CORNWALL					S 705					S 739						
63.4	CP HUDSON JUNCTION					713					747						
64.7	CP HALL					714					748						
65.6	CAMPBELL HALL					S 716					S 750						
71.9 D	MIDDLETOWN					S 724					S 757						
65.1	CP HOWELLS					730					803						
73.8	OTISVILLE					S 736					S 809						
86.7	CP BC					753					826						
87.5	PORT JERVIS					A 756					A 829						
	Equip Disposition - To Train	Finish	X122	Finish	Finish	62	X124	Finish	1264	Finish	Finish	Finish	Finish	Finish	1214		
	Next EB Departure		636			900	651		700						756		

NOTES: 1611 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97
 1615 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97
 63 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97

Notes

MILE POST	BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE	MONDAYS - FRIDAYS INCLUSIVE, EXCEPT MAJOR HOLIDAYS - WESTWARD															
		1187	1619	1119	85	1189	1621	1219	87	1221	1171	1625	1121	1173	86		
		P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.		
0.1	ROCKY HAVEN	S 710	S 715	S 735	S 740	S 805	S 815	S 835	S 825	S 1015	S 1032	S 1040	S 1120	S 1150	S 1180		
2.2	TERMINAL TOWER	711	716	736	741	806	816	836	826	1016	1033	1041	1121	1151	1181		
	WEST END	716	721	740	746	811	820	840	831	1020	1037	1045	1125	1156	1186		
5.0	HARMON COVE	S 722				S 817			S 837		S 1043			S 1202	S 1202		
7.8	PASCACK JCT.	725	728		753	820	828		840		1046	1053			1205	1205	
8.4	RUTHERFORD	S 727				S 822			S 842		S 1048			S 1207	S 1207		
11.5	GARFIELD	S 733				S 828			S 848		S 1054			S 1213	S 1213		
12.9	PLAUDERVILLE	S 736				S 831			S 851		S 1057			S 1216	S 1216		
14.2	BT	738			800	833			853		1059			1218	1218		
15.5	BROADWAY	S 740				S 835			S 855		S 1101			S 1220	S 1220		
16.7	RADBURN	S 743				S 838			S 858		S 1104			S 1223	S 1223		
18.2	GLEN ROCK	S 746				S 841			S 1001		S 1107			S 1226	S 1226		
5.0	WEST SECAUCUS			745				845		1025			1130				
7.8	KINGSLAND			S 750				S 850		S 1029			S 1134				
8.2	LYNDHURST			S 752				S 852		S 1031			S 1136				
9.3	DELAWANNA			S 755				S 855		S 1034			S 1139				
10.6	PASSAIC			S 758				S 858		S 1037			S 1142				
12.2	CLIFTON			S 801				S 901		S 1040			S 1145				
13.3	PATERSON JCT.			803				803		1042			1147				
15.0	XW			806				806		1045			1150				
15.6	PATERSON			S 808				S 908		S 1047			S 1152				
17.7	HAWTHORNE			S 812				S 912		S 1051			S 1156				
19.4	GLEN ROCK			S 815				S 915		S 1054			S 1159				
20.3	RIDGEWOOD JCT.	748		817	807	843		817	1003	1056	1106		1201	1228	1228		
20.9	RIDGEWOOD	S 750		S 819		S 845		S 919	S 1005	S 1058	S 1111		S 1203	S 1230	S 1230		
22.1	HOMOKUS	S 753		S 822		S 848		S 922	S 1008	S 1101	S 1114		S 1206	S 1233	S 1233		
23.4	WALDWICK	S 756		S 825		S 851		S 927	S 1011	S 1104	S 1117		S 1211	S 1236	S 1236		
23.8	WC	757		826	812	852		A 928	1012	A 1105	1116		1212	1237	1237		
24.7	ALLENDALE	S 759		S 828		S 854		S 1014		S 1120			S 1214	S 1238	S 1238		
26.6	RAMSEY	S 803		S 832		S 858		S 1018		S 1124			S 1218	S 1243	S 1243		
29.3	MAHWAH	S 807		S 836		S 902		S 1022		S 1128			S 1222	S 1247	S 1247		
30.5	SUFFERN	S 811		S 842	S 821	S 905		S 1026		S 1132			S 1226	S 1251	S 1251		
30.9	SUFFERN YARD	A 813		A 844		A 907				A 1134			A 1228	A 1253			
34.5	SCOTTSBURG				S 827			S 1032							S 1257		
37.2	TUXEDO				S 832			S 1037							S 102		
44.9	HARRIMAN				S 843			S 1046							S 113		
47.8	CP CENTRAL VALLEY				847			1052							117		
55.5	SALISBURY MILLS-CORNWALL				S 856			S 1101							S 126		
63.4	CP HUDSON JUNCTION				904			1109							134		
64.7	CP HALL				905			1110							135		
65.6	CAMPBELL HALL				S 907			S 1112							S 137		
71.9	MIDDLETOWN				S 914			S 1119							S 144		
69.1	CP HOWELLS				920			1125							150		
73.8	OTISVILLE				S 926			S 1131							S 156		
86.7	CP BC				943			1148							213		
87.5	PORT JERVIS				A 946			A 1151							A 216		
		P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	P.M.	A.M.	A.M.	A.M.		
	Equip Disposition - To Train	Finish	Finish	1168	Finish	1122	X162	X126	Finish	X128	Finish	X164	X150	1148	70		
	Next EB Departure			910		928	928	940		1115		1153	1238	611	724		
														NOTE	NOTE		

NOTES: 1173 - RUNS MONDAY TO THURSDAY ONLY. WILL NOT RUN ON WED 11/26/97 AND WED 12/24/97
 69 - RUNS FRIDAYS ONLY. WILL RUN WED 11/26/97 AND WED 12/24/97

MILE POST	BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE	SUNDAYS AND MAJOR HOLIDAYS - WESTWARD													
		X187	1801	X89	9951	9153	9953	97	9955	X189	1803	81	1851	1853	1807
		A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	P.M.	P.M.
...	HOBOKEN														
0.1	TERMINAL TOWER		S 1235		S 108	S 145	S 205	S 245	S 305	801	S 840	S 907	S 955	S 240	S 440
2.2	WEST END		1236		108	146	206	246	306	802	841	908	956	241	441
5.0	HARMON COVE		1240		110	150	210	250	310	808	845	912	1000	245	445
7.6	PASCACK JCT.				S 117		S 217		S 317				S 1005	S 250	
8.4	RUTHERFORD				121		221		321				1009	254	
11.5	GARFIELD				S 123		S 223		S 323				S 1011	S 256	
12.9	PLAUDERVILLE				S 129		S 229		S 329				S 1017	S 302	
14.2	BT				S 132		S 232		S 332						
15.5	BROADWAY				136		236		336				1020	306	
16.7	RADBURN				S 137		S 237		S 337				S 1022	S 307	
18.2	OLEN ROCK				S 140		S 240		S 340				S 1025	S 310	
5.0	WEST BECAUCUS				S 143		S 243		S 343				S 1028	S 313	
7.6	KINGSLAND		1245			155		255		811	850				450
8.2	LYNDHURST		S 1249			S 159		S 259			S 854				S 454
9.3	DELAWANNA		S 1251			S 201		S 301			S 856				S 456
10.6	PASSAC														
12.2	CLIFTON		S 1255			S 205		S 307			S 900				S 500
13.3	PATERSON JCT.		S 1258			S 208		S 310			S 903				S 503
15.0	XW		100			210		312		826	905				505
15.6	PATERSON		103			213		315		829	908				508
17.7	HAWTHORNE		S 105			S 215		S 317			S 910				S 510
18.4	OLEN ROCK		S 109			S 219		S 321			S 914				S 514
20.3	RIDGEWOOD JCT.		S 112			S 222		S 324			S 917				S 517
20.9	RIDGEWOOD		114		145	224	245	326	345	840	919	935	1029	314	519
22.1	HOBOKUS		S 116		S 148	S 227	S 248	S 329	S 348		S 921	S 937	S 1031	S 316	S 521
23.4	WALDWICK		S 119		S 151	S 230	S 251	S 332	S 351		S 924		S 1034	S 319	S 524
23.8	WC		S 122		S 154	S 233	S 254	S 335	S 354		S 927		S 1037	S 322	S 527
24.7	ALLENSDALE		123		156	234	255	336	355	849	928	942	1038	323	528
26.6	RAMSEY		S 125		S 157	S 236	S 257	S 338	S 357		S 930		S 1040	S 325	S 530
29.3	MAHWAH		S 129		S 201	S 239	S 301	S 342	S 401		S 934		S 1044	S 329	S 534
30.5	SUFFERN		S 133		S 205	S 243	S 305	S 346	S 405		S 938		S 1048	S 333	S 538
30.9	SUFFERN YARD		S 137		A 209	A 247	A 309	S 354	S 409		S 942	S 949	S 1052	S 337	S 542
34.5	SLOATSBURG	1239	A 139	139				A 411	A 705	A 944			A 1054	A 339	A 544
37.2	TUXEDO	1245		145				S 403			S 955				
44.9	HARRIMAN							S 407			S 959				
47.8	CP CENTRAL VALLEY			158				S 418			S 1010				
55.5	SALISBURY MILLS-CORNWALL	102		202				422			1014				
63.4	CP HUDSON JUNCTION							S 432			S 1024				
64.7	CP HALL	120		220				440			1032				
65.6	CAMPBELL HALL	121		221				441			1033				
71.9 D	MIDDLETOWN							S 444			S 1035				
69.1	CP HOWELLS							S 451			S 1042				
73.6	OTISVILLE	134		234				457			1048				
86.7	CP BC	140		240				S 503			S 1054				
87.5	PORT JERVIS	157		257				520			1111				
		A 200		A 300				A 523			A 1114				
		A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	P.M.	P.M.
		NOTE		NOTE	NOTE	NOTE	NOTE	NOTE	NOTE						

NOTE X187 - WILL RUN A.M. ON MONDAY 2/16/98 ONLY
X89 - WILL NOT RUN ON MAJOR HOLIDAYS
X189 - WILL NOT RUN ON MAJOR HOLIDAYS
9951, 9153, 95, 9953, 97 - WILL RUN ON THURS 1/1/98 ONLY

MILE POST	BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE	SUNDAYS AND MAJOR HOLIDAYS - WESTWARD			
		85	1811	87	1859
		P.M.	P.M.	P.M.	P.M.
...	HOBOKEN				
0.1	TERMINAL TOWER	S 840	S 845	S 1005	S 1140
2.2	WEST END	841	846	1006	1141
5.0	HARMON COVE	845	850	1010	1145
7.6	PASCACK JCT.	S 850		S 1015	S 1150
8.4	RUTHERFORD	854		1019	1154
11.5	GARFIELD	S 856		S 1021	S 1156
12.9	PLAUDERVILLE	S 702		S 1027	S 1202
14.2	BT	S 705			
15.5	BROADWAY	707		1030	1205
16.7	RADBURN	S 709		S 1032	S 1207
18.2	OLEN ROCK	S 712		S 1035	S 1210
5.0	WEST BECAUCUS	S 715		S 1038	S 1213
7.6	KINGSLAND		S 859		
8.2	LYNDHURST		S 901		
9.3	DELAWANNA				
10.6	PASSAC		S 905		
12.2	CLIFTON		S 908		
13.3	PATERSON JCT.		910		
15.0	XW		913		
15.6	PATERSON		S 915		
17.7	HAWTHORNE		S 919		
18.4	OLEN ROCK		S 922		
20.3	RIDGEWOOD JCT.	716	824	1038	1214
20.9	RIDGEWOOD	S 718	S 826	S 1041	S 1216
22.1	HOBOKUS	S 721	S 829	S 1044	S 1219
23.4	WALDWICK	S 724	S 832	S 1047	S 1222
23.8	WC	725	833	1048	1223
24.7	ALLENSDALE	S 727	S 835	S 1050	S 1225
26.6	RAMSEY	S 731	S 839	S 1054	S 1229
29.3	MAHWAH	S 735	S 843	S 1058	S 1233
30.5	SUFFERN	S 738	S 847	S 1101	S 1237
30.9	SUFFERN YARD		A 949		A 1239
34.5	SLOATSBURG	S 744		S 1107	
37.2	TUXEDO	S 749		S 1112	
44.9	HARRIMAN	S 800		S 1123	
47.8	CP CENTRAL VALLEY	804		1127	
55.5	SALISBURY MILLS-CORNWALL	S 815		S 1138	
63.4	CP HUDSON JUNCTION	823		1146	
64.7	CP HALL	824		1147	
65.6	CAMPBELL HALL	S 826		S 1149	
71.9 D	MIDDLETOWN	S 833		S 1156	
69.1	CP HOWELLS	839		1202	
73.6	OTISVILLE	S 845		S 1208	
86.7	CP BC	902		1225	
87.5	PORT JERVIS	A 905		A 1228	
		P.M.	P.M.	A.M.	A.M.

Agreement for Operation by NJ TRANSIT RAIL OPERATIONS, INC.
of Certain Rail Passenger Service on the Main Line/Bergen County
Line, and Pascack Valley Line for METRO-NORTH COMMUTER RAILROAD
COMPANY

This Agreement, executed this 6th day of October, 1997
to be effective as of July 1, 1996 (except as otherwise herein
expressly provided), is made between NJ TRANSIT RAIL OPERATIONS,
INC. ("NJTRO"), an instrumentality of the State of New Jersey, with
offices at One Penn Plaza East, Newark, New Jersey 07105, and
METRO-NORTH COMMUTER RAILROAD COMPANY ("M-N" or "Metro-North"), a
public benefit corporation of the State of New York with offices at
347 Madison Avenue, New York, New York 10017.

WITNESSETH:

WHEREAS, effective July 1, 1985 NJTRO and Metro-North entered
into an agreement entitled "Agreement between NJ TRANSIT Rail
Operations and Metro-North Commuter Railroad for Certain Rail
Passenger Service on the Main Line/Bergen County Line and Pascack
Valley Line" (the "Prior Agreement"); and

WHEREAS, supplemental letter agreements dated October 7, 1991
and September 27, 1995 and another such agreement effective May 23,
1994 were entered into by the parties (the "Supplemental
Agreements"); and

WHEREAS, pursuant to Section 2.02 of the Prior Agreement, the
Prior Agreement was terminated by NJTRO for the purpose of
negotiating a new agreement; and

WHEREAS, pursuant to Section 2.03 of the Prior Agreement,
NJTRO continued to provide rail passenger service and Metro-North
continued to reimburse NJTRO for said rail passenger service
pending the execution of a new agreement, and

WHEREAS, NJTRO and Metro-North have reached agreement on
appropriate new terms and conditions for provision of and
compensation for services described herein as a replacement for the
Prior Agreement and the Supplemental Agreements;

NOW, THEREFORE, in consideration of the foregoing recitals and
mutual promises contained herein, NJTRO and Metro-North agree as
follows effective as of July 1, 1996 (except as otherwise herein
expressly provided):

3.03 NJTRO Control

NJTRO retains the right to establish the overall policies governing the management and operational control of the M-N Service Area, including but not limited to dispatching and control of all trains, except (i) as otherwise provided in this Agreement, and (ii) for any management and maintenance performed by M-N or third parties on properties required for M-N Service beyond the end of NJTRO ownership at M.P. 31.5 on the Main Line/Bergen County Line. This right to maintain operational control shall include, but not be limited to, the flexibility to adjust schedules and consists on a daily basis, regardless of other provisions of this Agreement, based on emergency or other unanticipated circumstances with which NJTRO management may be presented on any given day.

3.04 NJTRO Operations

(a) Effective July 1, 1996, NJTRO shall provide the M-N Service in accordance with the operating schedules identified in Exhibit 1 hereto, and as they may be amended from time to time pursuant to this Agreement or other agreement of the Parties. Upon the commencement of service to the Secaucus Transfer Station, the said operating schedules (as the same may have been amended as herein provided) shall be revised to provide that all trains operated in M-N Service (except Shuttle Trains) shall stop at that station unless M-N otherwise directs NJTRO.

(b) The scheduled non-stop running time between Suffern and Hoboken shall be 41 minutes and shall not be changed without the agreement of both Parties. Said running time shall be incorporated into the next timetable change after execution of this Agreement.

(c) Within 90 days after the execution of this Agreement, the Service Standards set forth in Exhibit 2 hereto shall be established, observed and reported to M-N by NJTRO for all trains operated in M-N Service. M-N may also perform random inspections at Hoboken and Port Jervis to observe compliance. Delays reasonably attributable to track, signal system and other right-of-way problems in the territory West of Suffern shall be excluded from the on time performance calculations as per Exhibit 2, Items 1 through 4.

(d) NJTRO shall perform "E-cleaning" of the Metro-North owned fleet of coaches on a 90-day cycle at Hoboken or the Meadows Maintenance Complex. The cost of this work is included in the Base Cost set forth in Section 7.01(a). This work shall be performed in accordance with NJTRO's standards applicable to its coaches as set forth in Exhibit 9. NJTRO shall furnish weekly records of all E-cleaning performed on coaches used in M-N Service on the Port Jervis Line to Metro-North's Superintendent-West of Hudson. In the event that experience demonstrates that the work is not being

performed adequately, in M-N's judgement, the parties will meet to develop remedial action.

(e) NJTRO shall perform overnight car cleaning at Port Jervis, which shall include the functions set forth in Exhibit 8.

(f) The parties will conduct monthly meetings to review operations, finances and other matters relating to the M-N Service. Each party will provide to the other its data regarding compliance with the Service Standards at said meetings.

3.05 Service Changes--Port Jervis Line

(a) One additional AM Peak NY State Express Train shall be operated and one additional PM Peak NY State Express Train shall be operated effective with the October 1997 timetable. Said new trains shall operate on the schedules shown in Exhibit 3 subject to minor adjustments. NJTRO acknowledges that M-N has provided NJTRO with one additional cab car and three additional coaches for operation of these trains. Pursuant to Section 5.02(b) of this Agreement, NJTRO will provide the locomotive for these trains until M-N has acquired and provided to NJTRO a new or remanufactured locomotive. The annual costs of operating these additional trains shall be \$501,000 based on FY'96 dollars. Such costs shall be adjusted to reflect changes in the AAR Index as provided in Section 7.01(a).

(b) The following additional service shall also be operated effective with the October 1997 timetable on the schedules shown in Exhibit 3, subject to minor adjustments:

- Convert existing train 54 to a NYS Express Train;
- Convert existing trains 55, 57 and 63 to NYS Express Trains;

NJTRO acknowledges that M-N has provided NJTRO with one additional cab car for operation of these trains. Pursuant to Section 5.02(b) of this Agreement, NJTRO shall provide an additional locomotive for these trains until M-N has acquired and provided to NJTRO a new or remanufactured locomotive. The annual costs of the service changes covered by this Section 3.05(b) shall be \$330,000 based on FY'96 dollars. Such costs shall be adjusted to reflect changes in the AAR Index as provided in Section 7.01(a).

(c) Effective with the opening of the Secaucus Transfer Station, the following service shall be added if requested by Metro-North at least 90 days prior to such station's opening (so long as NJTRO gives Metro-North sufficient advanced notice of such opening to permit 90-days' notice; otherwise such request will be given reasonably in advance of such station opening):

- One M-N Express Train or, if M-N so elects with NJTRO concurrence, a NYS Express Train to arrive Hoboken between the hours of 6:45 AM and 9:15 AM;
- One M-N Express Train or, if M-N so elects with NJTRO concurrence, a NYS Express Train to depart Hoboken between the hours of 5:15 PM and 8:15 PM.

The costs of the additional trains authorized by this subsection (c) shall be calculated on an incremental basis in accordance with the provisions of Exhibit 5. Operation of the additional trains authorized by this subsection (c) is subject to the condition that sufficient Metro-North equipment is available, as calculated pursuant to Exhibit 4A.

(d) Upon Metro-North's request, additional AM Peak and PM Peak NYS or M-N Express Trains shall be operated provided that M-N provides sufficient equipment, sufficient NJTRO crews are available to operate such trains and the additional trains do not exceed NJTRO's physical capabilities or unreasonably interfere with NJTRO's then existing or planned trains. The costs of any such additional M-N Service trains shall be calculated on an incremental basis in accordance with the provisions of Exhibit 5.

(e) Upon Metro-North's request, a total of up to seven round trip weekday off-peak¹ NYS or M-N Express Trains and up to eight round trip NYS or M-N Express Trains on each Saturday, Sunday and holiday shall be operated provided that (i) sufficient equipment owned by M-N and/or NJTRO is available, and (ii) NJTRO has available to it with such schedule change crews to operate the additional service requested by M-N pursuant to this subsection (e). In any event, subject only to the condition that sufficient M-N and/or NJTRO equipment is available, any additional service requested by M-N as provided in this subsection shall be operated no later than one year following M-N's request for such additional service as from time to time (but not more frequently than every six months) made. The costs of any such trains shall be calculated on an incremental basis in accordance with the provisions of Exhibit 5.

(f) Upon Metro-North's request, special one-day/pre-holiday trains shall be operated or timetable changes made to allow for such special service, provided that sufficient M-N and/or NJTRO equipment is available. The costs or credits of any such trains shall be calculated on an incremental basis in accordance with the provisions of Exhibit 5.

(g) To the extent that M-N is obligated to furnish additional equipment to permit the M-N Service or schedule changes authorized

¹All trains other than AM Peak or PM Peak Trains.

pursuant to the provisions of this Section 3.05 to be implemented, such equipment shall be compatible with the equipment then used in the Hoboken equipment pool for M-N Service.

(h) NJTRO and M-N are jointly responsible for service changes to Common and Connecting Trains.

(i) Any M-N Service or schedule changes authorized by this Agreement shall be implemented upon ninety (90) days' notice by the party desiring the change, except for the changes authorized by Subsection (a), (b), (c) and (e) above which shall become effective as provided in those subsections. With respect to the Main Line/Bergen County Line, M-N may amend the schedules therefor unilaterally at any time on ninety (90) days' notice to NJTRO for the purpose of eliminating a train from M-N Service. The certification requirements of Section 2.04 shall apply to any such notice.

(j) The costs of any additional trains requested by M-N above the level specified in Exhibit 1 hereof not covered by subsections (a) and (b) hereof shall be calculated on an incremental basis in accordance with the provisions of Exhibit 5. The credit for M-N Service reductions requested by M-N shall be calculated on an incremental basis in accordance with the provisions of Exhibit 5.

(k) In accordance with the provisions of Section 3.01 hereof, Metro-North is responsible for making appropriate arrangements with Conrail or any successor in interest thereto for the use of its line and facilities west of Milepost 31.5 at Suffern for any service change authorized by this Section 3.05. In the event that Conrail or its successor in interest to such line and facilities should take exception to any of the service changes authorized by this Section 3.05, such service change shall be held in abeyance until arrangements with Conrail or such successor to permit such change have been made.

3.06 Service Changes--Pascack Valley Line

(a) Upon Metro-North's request, special one-day/pre-holiday trains shall be operated or timetable changes made to allow for such special service, provided that sufficient equipment and NJTRO crews are available.

(b) NJTRO and M-N are jointly responsible for the any service changes to Common Trains.

(c) In the event that NJTRO proposes the discontinuance of a particular Common Train, M-N has the right to retain that train to serve M-N Stations.

(d) Any service or schedule changes authorized by this section 3.06 shall be implemented upon ninety (90) days' notice by

VERIFIED STATEMENT

OF

HOWARD PERMUT

My name is Howard Permut, and my business address is 347 Madison Avenue, New York, New York 10017. I am Vice President of Planning and Development for Metro-North Commuter Railroad ("Metro-North"), a position I have held since 1991. From 1983 through 1991, I was Director of Planning and Marketing for Metro-North.

Metro-North has funded commuter railroad passenger service between Hoboken, New Jersey and Port Jervis, New York since January 1, 1983. This service is operated by NJ Transit Rail Operations, Inc. ("NJ Transit") under an operating agreement with Metro-North and is an extension of NJ Transit's commuter service beyond the limits of its territory at Suffern, NY.

Metro-North recently successfully renegotiated a new contract with NJ Transit that grants Metro-North explicit rights to significantly expand service in the future as well as commits Metro-North to fund certain capital improvements to meet projected growth in ridership (described in more detail below).

Growth In Port Jervis Line Service and Ridership Since 1983

The amount of service provided on the Port Jervis line and the number of customers making use of the line have both grown dramatically in the fourteen years since Metro-North started funding and improving the service (See Table 1 attached).

The overall number of trains operated weekly on the Port Jervis line has increased from 22 to 99 (corresponding to an increase of 350%, 1982 to present) while the number of customers using the line grew 69% between 1984 and 1996 (the last year for which complete data is available). Reflecting the fact that the Port Jervis line serves both commuters and discretionary ridership markets, Metro-North has increased service on the line during both peak and off-peak periods on weekdays as well as on weekends and holidays.

Projected Growth in Port Jervis Line Service and Ridership: 1996 - 2020

Orange County population is projected to be the fastest growing county in the MTA District over the next ten years. Furthermore, the County is experiencing significant demographic change by becoming more of a residential service area to the Manhattan and New York City job market. This trend will be accelerated by the completion of the Secaucus Transfer station in 2002. The opening of this new link in the transportation network will for the first time provide Port Jervis line customers commuter rail access to midtown Manhattan (at Penn Station). Port Jervis line customers (as well as customers using other NJ Transit Hoboken Division rail lines) destined for midtown Manhattan will be able to transfer to Northeast Corridor rail service at Secaucus thereby receiving a significantly faster and more reliable trip than they could previously get by transferring to PATH service at Hoboken. The reduced travel time and improved reliability for travel to Midtown is expected to produce significant gains in rail ridership, both by improving Metro-North's market share among Orange County residents currently making such trips to Midtown as well as by spurring overall higher growth in total travel to Midtown from the County in the years following the opening of the transfer station.

In total, this will result in significant increases in Port Jervis line ridership over the next 23 years. By the year 2020, total annual ridership on the Port Jervis line is projected to grow to 2.1 million (corresponding to a 173% increase from 1996 levels) and Metro-North plans to increase the number of trains operated from 99 to 203 per week (increase of 105%) during that same 23 year period.

Port Jervis Line Capital Expenditures

In support of the major service improvements that have already been made or are planned in the near future, Metro-North has made major capital improvements on the Port Jervis line. Overall, Metro-North has expended \$101.1 million (1997 \$) in capital funds on the line since 1983 (See Table 3 for details). This includes Metro-North's contribution of \$53 million toward the construction of the Secaucus Transfer station now underway in the Meadowlands.

This money is in addition to the significant capital investment made by New York State DOT in the early 1980's to upgrade the portion of the Port Jervis line between Harriman and Middletown. This work included major track rehabilitation, signal improvements, and the construction of three new rail stations and rehabilitation of one major station with associated parking.

In addition, Metro-North estimates that an investment of \$93.5 million, of which \$88.5 million is for right-of-way improvements, would be needed to bring the Port Jervis Line to a proper condition to accommodate a reasonable level of passenger service and freight operation.

Finally, Metro-North has developed plans for \$104 million (1997 \$) worth of additional capital improvements on the Port Jervis line to support the railroad's long-term service expansion plans for the line through 2020.

TABLE 1
PORT JERVIS LINE: HISTORICAL GROWTH IN SERVICE AND RIDERSHIP

HISTORICAL RIDERSHIP TRENDS: 1984 -1996			
	1984	1996	% CHANGE FROM 1984
ANNUAL RIDES	516,296	871,848	+ 69%

HISTORICAL TRENDS IN SERVICE PROVIDED: 1982 - 1997			
# TRAINS OPERATED	1982	Oct. 1997	% Change
WEEKDAY PEAK	4	10	+150%
WEEKDAY OFF-PEAK	0	7	NA
TOTAL WEEKDAY	4	17	+325%
WEEKEND	2	13	+550%
TOTAL WEEKLY	22	99*	+350%

* Includes Friday only train

TABLE 2
PORT JERVIS LINE: PROJECTED GROWTH IN SERVICE AND RIDERSHIP

PROJECTED RIDERSHIP TRENDS: 1996 - 2020		
	1996	2020
ANNUAL RIDES	871,848	2,121,700
% CHANGE FROM 1996	-	+173%
ANNUAL AVG. GROWTH RATE 1996 - 2020	-	+4.3%/YR.

LONG-TERM SERVICE PLAN: 1996 - 2020		
# TRAINS OPERATED	Oct. 1997	2020
WEEKDAY PEAK	10	16
WEEKDAY OFF-PEAK	7	17
TOTAL WEEKDAY	17	33
WEEKEND	13	37
TOTAL WEEKLY	99*	203*
% CHANGE FROM 1997	-	+105%

* Includes Friday only trains

TABLE 3

PORT JERVIS LINE

Capital Expenditures

PROJECT	\$ 1997
EXPENDED	
Purchase 17 Coaches	\$23.0
6 Locomotives	9.6
Rebuild 1 Locomotive	1.3
Station Improvements	2.7
Parking Improvements	1.1
Secaucus Transfer (Des/Contr.)	56.3
Port Jervis Capacity Imp. Study	0.6
Port Jervis Yard Improvements	4.4
Misc. Improvements	2.0
Total Expended	\$101.1
FUTURE - Immediate	
Purchase 2 Locomotives	5.0
Signal Cable (58 Miles)	14.0
Electronic Signal System	33.4
Continuous Welded Rail (48.5 Miles)	29.1
Tie Replacement/Surfacing	12.0
Total Immediate	\$93.5
FUTURE - 2020 Service Plan	
40 Coaches	\$52.0
6 Locomotives	27.0
Station/Parking Improvements	15.0
Passing Sidings Improvements	10.0
Total Future - Service Plan	\$104.0
TOTAL	\$298.6

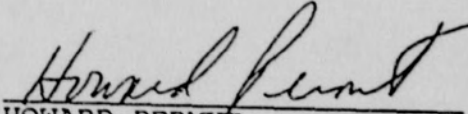
Note: This excludes the cost to maintain existing rolling stock and infrastructure in a state of good repair.

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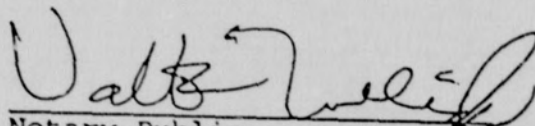
Verification

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

Howard Permut, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated to the best of his knowledge, information and belief.


HOWARD PERMUT

Subscribed and sworn to
before me this 20th day
of October, 1997.


Notary Public

WALTER E. ZULLIG, JR.
Notary Public, State of New York
No. 60-9820426
Qualified in Westchester County
Commission Expires Sept. 30, 1998

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HOPKINS & SUTTER

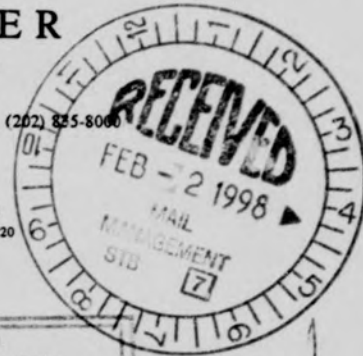
(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

888 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20006-4103 (202) 835-8000

FACSIMILE (202) 835-8136

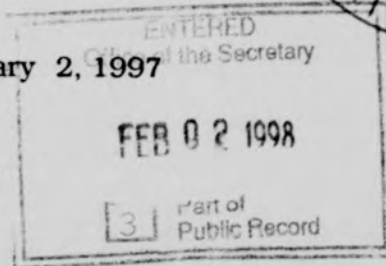
INTERNET <http://www.hopsut.com>

CHICAGO OFFICE THREE FIRST NATIONAL PLAZA 60602-4205
DETROIT OFFICE 2800 LIVERNOIS SUITE 220 TROY, MI 48063-1220



CHARLES A. SPITULNIK
(202) 835-8196

February 2, 1997



Office of the Secretary
Case Control Branch
ATTN: STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Attention: Elaine K. Kaiser
Chief, Section of Environmental Analysis
Environmental Filing

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

Dear Ms. Kaiser:

Enclosed are an original and twenty-five (25) copies of the Comments of The New York City Economic Development Corporation on the Draft Environmental Impact Statement (NYC-19) for filing in the above-referenced proceeding. An additional copy is enclosed for file stamp and return with our messenger. Please note that a copy of this filing is also enclosed on a 3.5-inch diskette in WordPerfect 5.1 format.

Sincerely,

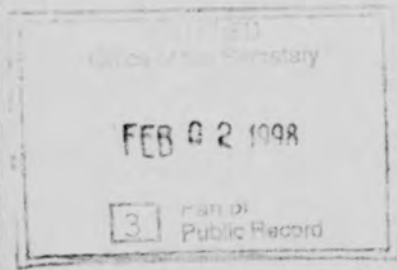
Charles A. Spitulnik

Enclosures

cc: The Honorable Jacob Leventhal
All Parties of Record

185469

Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423



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

**COMMENTS OF
THE NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT**

New York City Economic Development Corporation ("NYCEDC"), by its undersigned counsel, hereby submits its comments with respect to the Draft Environmental Impact Statement (the "DEIS") served by the Board's Section of Environmental Analysis ("SEA") on December 12, 1997. The DEIS was prepared to analyze the impact on the environment of the proposed acquisition of Conrail Inc. and Consolidated Rail Corporation ("Conrail") by CSX Corporation and CSX Transportation, Inc. (collectively, "CSX") and Norfolk Southern Corporation and Norfolk Southern Railway Company ("NS")¹.

While recognizing limited potential adverse impacts on a portion of the greater region of which New York City is a major part, the DEIS provides no analysis whatsoever of the impacts on the City itself. This is a glaring omission in view of the

¹CSX and NS are sometimes referred to collectively herein as "Applicants".

Applicants' statement that availability of direct rail competition in Northern New Jersey will be sufficient for potential shippers, including intermodal shippers, who are located on the east side of the Hudson River and the New York Harbor, suggesting that substantial volumes of truck traffic will be moving over the highways and bridges that lead to and cross the River to reach those terminals. R.V.S. Kalt at 15-17. To provide a complete picture of the impact of the transaction on the metropolitan region, of which the City is a major part, the final EIS should include an analysis of the impact on the air quality and other aspects of the environment that will be adversely affected by the introduction of more trucks to the region's highways and greater congestion at and surrounding the already crowded choke points such as the affected bridges' toll plazas.

In a Rebuttal Verified Statement filed with respect to the City's joint application with New York State for trackage rights over lines on the east side of the Hudson River, including lines in Queens and the Bronx², Seth O. Kaye, Director of the Mayor's Office of Transportation for the City of New York, explained the issues already facing New York City. See, Rebuttal Verified Statement of Seth O. Kaye, included in Joint Rebuttal Statement of the State of New York and the New York City Economic Development Corporation, NYS-25/NYC-18 (Public Version), filed January 14, 1998. He stated the following:

Nearly 50,000 trucks cross the City's bridges and tunnels daily. These trucks are then routed on only three major truck routes that must provide access to the New York City, Long Island, and Southern New England markets. Endemic traffic congestion, air pollution, and infrastructure deterioration are some obvious symptoms of this access problem. ... It is important to understand that the impacts of encouraging further truck movements to northern New Jersey for the

²This joint responsive application has been docketed at Finance Docket NO. 33388 (Sub-No. 69).

benefit of competitive rail access is a serious concern for the City with respect to economic development and improving air quality. In recognizing the impact of transportation policy on air quality, the City is concerned that the lack of competitive rail access to New York City will hinder its efforts to improve air quality and to come into compliance with the Clean Air Act.

Id. at 1.³ He went on to note that EPA has designated the City or a portion of the City as being in non-attainment with three of the six criteria pollutants -- ozone, carbon monoxide, and particulate matter -- and that the City is part of the New York Metropolitan Area ("NYMA"), which EPA has designated as a severe non-attainment area for ozone. *Id.* at 3. Continuing, he noted the following:

Because the City is in severe non-attainment for ozone, the City must reduce emissions so as to attain the NAAQS for ozone by 2007. As a severe non-attainment area, the City must also achieve steady interim reductions in ozone before 2007 so that it will be able to attain the NAAQS by 2007. The NYMA was required to reduce volatile organic compounds -- an ozone precursor -- by 15 percent by 1996 and must further reduce volatile organic compounds by an additional three percent for each year between 1996 and 2007. The Clean Air Act also requires reductions in nitrogen oxides -- another ozone precursor.

Trucks and other motor vehicles are a major source of ozone precursors in New York City. For example, in its Proposed Revision to the New York SIP dated March 1997, the New York State Department of Environmental Conservation indicates that in 1990, motor vehicles were responsible for 43 percent of the total emissions of volatile organic compounds and 43 percent of the total emissions of nitrogen oxides in the NYMA. Moreover, heavy duty diesel vehicles are responsible for a disproportionately large share of the emissions of nitrogen oxides from on-road vehicles in the NYMA.

Id. at 3-4. He concluded by noting that:

The need for additional truck trips in the City in order to carry goods to New Jersey will likely impede efforts to improve the City's air quality. Moreover, the added congestion that may be caused by increased truck trips could increase the emissions attributable to idling vehicles.

³A copy of Mr. Kaye's Verified Statement is attached to these Comments at Tab 1.

In sum, reliance on motor carrier freight transportation between New York City and Northern New Jersey will have a negative impact upon the City from both an economic perspective, as well as an air quality perspective.

Id. at 5.

The increased traffic that Applicants project will move to and from the terminals in northern New Jersey forms the basis for a substantial part of New York City's concern, yet the DEIS provides no assessment whatsoever of the potential impacts of this traffic on the environment in the communities surrounding the terminals. According to the DEIS, Applicants project a total of 333,666 increased lifts per year at the Little Ferry, Croxton, E-Rail, South Kearny, North Bergen and Portside intermodal terminals. See DEIS vol. 5A, Appendix E, Attachment E-6 at p. 2 of 3. Some of this traffic will originate in northern New Jersey. However, much of it will originate in New York City, on Long Island or in southern New England, moving to the intermodal terminals via New York City's highways and bridges. While the DEIS does study the impact of that traffic at the terminals, showing increases in various pollutants at those locations, it does not inquire into the source of that traffic and does not study the impact of the increased truck traffic on emissions. Nor does it recognize, and therefore provides no analysis of, the potentially significant impacts on air pollution in other parts of the New York metropolitan region that will share the burden of this increased motor carrier freight transportation.

The City of New York is concerned because the DEIS fails to consider the full magnitude of truck diversions to and from New Jersey that is likely to occur. Even if the joint responsive application for trackage rights on the east side of the Hudson is

approved, the impact of the potential traffic to and from these terminals on the surrounding communities must be assessed.

Applicants' reliance upon the thresholds included in 49 C.F.R. Part 1105 for determining potential impacts on air quality misses this point. The Board's regulations here provide a floor, not a ceiling on the scope of the analysis, and to effectively address potential impacts the DEIS should take a broader look. A broader perspective is even more crucial in the context of the New York metropolitan region, one of the largest population and commercial centers in the world. For the purposes of this transaction, the required minimum analysis is not sufficiently rigorous to provide a good measure of the impacts of the proposed transactions on air quality in New York City. The threshold analysis looks only at the obvious and direct effects on increases by line segment, rail yard, or intermodal facility. Adding additional truck trips to the region to carry goods to and from New Jersey will likely increase emissions of nitrogen oxides in both New Jersey and New York. Moreover, the added congestion on roadways linking New York and New Jersey that may be caused by increased truck trips could slow traffic. This increased traffic congestion will further increase pollutant emissions.

Further, the SEA has failed to comply with the regulations requiring it to study alternatives to the transaction structure that Applicants have proposed. 42 U.S.C.A. § 4332(C)(3)(iii)(1994). Here, the SEA has studied only one alternative -- no transaction. The SEA should instead be studying additional viable alternatives, including those proposed by NYCEDC.

For the Final EIS to be complete, which the DEIS is not, SEA should study carefully the potential numbers of additional truck trips, the likely routes, as well as the

number of truck miles travelled in New York (including Long Island), New Jersey, Connecticut, and other states in New England that may feed traffic to the northern New Jersey terminals absent the availability of competitive service that will be provided by the trackage rights the City and State are jointly seeking in the responsive application in F. D. No. 33388 (Sub-No. 69). Additionally, the DEIS should examine the air quality implications of increased traffic congestion caused by an increase in the number of trucks travelling on City streets and the Hudson River crossings. Moreover, SEA should take into consideration the impacts of this increased truck traffic on noise, economic development and other quality of life issues in the affected City neighborhoods.

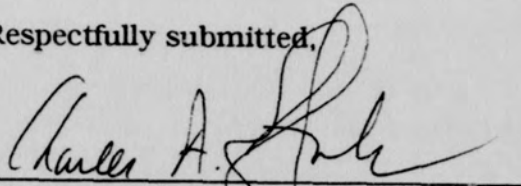
CONCLUSION

The DEIS does not address any issues regarding air quality or other impacts on the City of New York from the changes in traffic patterns projected to result from this transaction. Other counties in the New York State and New Jersey region are addressed because they house line segments, yards or terminals that will see direct effects from the transaction. The problems this transaction will create go beyond those isolated locations. New York City, working with its neighbors in these counties, is constantly assessing ways to reduce emissions and improve air quality. To insure presentation of a complete picture of the environmental impacts of the proposed transaction, SEA should undertake a study of the sources of the intermodal traffic Applicants project for the New Jersey terminals, and determine the impacts along the routes to and from those terminals. In view of the Applicants' reliance upon the availability of direct rail

competition in northern New Jersey, the Final EIS should consider fully the impact of this additional traffic on the entire region, including the City. While approval of the City's and State's joint responsive application will diminish this impact by keeping some of the traffic off the congested highways, the Final EIS must include a careful assessment of the impact on the City. Without that, and approval of the trackage rights on the line on the east side of the Hudson, as well as a determination of the further mitigation that will be required to resolve the environmental concerns, the Final EIS will be as incomplete in this respect as the DEIS.

Dated: February 2, 1998

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Charles A. Spitulnik", written over a horizontal line.

Charles A. Spitulnik
Rachel Danish Campbell
Hopkins & Sutter
888 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 835-8000

Attorneys for the New York City
Economic Development Corporation

CERTIFICATE OF SERVICE

I hereby certify that on February 2, 1998, a copy of the Comments of The New York City Economic Development Corporation on the Draft Environmental Impact Statement (NYC-19) was served by hand delivery upon the following:

The Honorable Jacob Leventhal
Administrative Law Judge
Federal Energy Regulatory Commission
888 First Street, N.E.
Suite 11F
Washington, D.C. 20426

John M. Nannes
Skadden, Arps, Slate, Meagher
& Flom L.L.P.
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

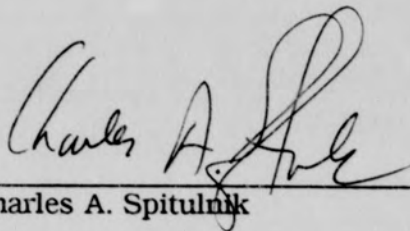
Samuel M. Sipe, Jr.
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888 Seventeenth Street, N.W.
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Washington, D.C. 20006-3939

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

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

and by first class mail, postage pre-paid upon all other Parties of Record in this proceeding.



Charles A. Spitulnik

TAB 1

Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423

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

**REBUTTAL VERIFIED STATEMENT OF
SETH O. KAYE**

I am Seth O. Kaye, Director of the Mayor's Office of Transportation for the City of New York. In that capacity, I am responsible for coordinating the City's policy on a variety of transportation issues, including aviation, surface transportation, maritime activity, and freight movement. I have also been involved in ensuring that air quality issues are considered in the development of the City's transportation policy. In the formulation of transportation initiatives and related issues, the City places a strong emphasis on creating an environment that is both hospitable to business and that improves the quality of life in New York City. With this in mind, the Mayor's Office of Transportation is very concerned about the impacts of freight movement into and out of New York City.

Nearly 50,000 trucks cross the City's bridges and tunnels daily. These trucks are then routed on only three major truck routes that must provide access to the New York City, Long Island, and Southern New England markets. Endemic traffic

congestion, air pollution, and infrastructure deterioration are some obvious symptoms of this access problem. Given that New York City is accessible to people and goods by only a limited number of bridges and tunnels, rail freight access offers the best alternative for the fast, efficient, and economical movement of goods. To this end, the Mayor's Office of Transportation has been working with NYCEDC in its effort to prevent the expected negative impacts of not providing competition on the Hudson Line. It is important to understand that the impacts of encouraging further truck movements to northern New Jersey for the benefit of competitive rail access is a serious concern for the City with respect to economic development and improving air quality. In recognizing the impact of transportation policy on air quality, the City is concerned that the lack of competitive rail access to New York City will hinder its efforts to improve air quality and to come into compliance with the Clean Air Act.

Pursuant to the Clean Air Act, the United States Environmental Protection Agency ("EPA") has promulgated National Ambient Air Quality Standards ("NAAQS") for six pollutants. Those six pollutants -- known as "criteria pollutants" -- are ozone, carbon monoxide, particulate matter, sulfur dioxide, nitrogen dioxide, and lead. The NAAQS specify the maximum concentrations for each pollutant in the ambient air that EPA has deemed to be adequately protective of human health. As required by the Clean Air Act, for each pollutant, EPA has classified each area in which the pollutant concentration exceeds the applicable NAAQS based on the severity of the pollution. Based on these classifications, the Clean Air Act prescribes certain control measures and establishes deadlines by which each non-

attainment area must come into attainment. The Clean Air Act further provides for sanctions for failure to reach attainment by the applicable deadlines.

The Clean Air Act also requires that each state develop and submit to EPA for approval a State Implementation Plan ("SIP"). The SIP sets forth what measures -- including those mandatory measures prescribed by the Act -- the state will undertake to attain the NAAQS.

EPA has designated the City or a portion of the City as being in non-attainment with three of the six criteria pollutants -- ozone, carbon monoxide, and particulate matter. All three of these pollutants may pose serious threats to human health. Ozone is an irritant that is believed to cause permanent damage to human lung tissue. It particularly affects the young, the elderly, and those suffering from asthma and other respiratory diseases. Carbon monoxide bonds strongly with hemoglobin in the blood, impairs mental functions and fetal development, and aggravates cardiovascular diseases. Particulate matter less than ten microns in diameter ("PM₁₀") can be inhaled into the lungs and can cause respiratory problems.

The City is part of the New York Metropolitan Area ("NYMA"), which EPA has designated as a severe non-attainment area for ozone.¹ Because the City is in severe non-attainment for ozone, the City must reduce emissions so as to attain the NAAQS for ozone by 2007. As a severe non-attainment area, the City must also achieve steady interim reductions in ozone before 2007 so that it will be able to attain the NAAQS by 2007. The NYMA was required to reduce volatile organic

¹ The Clean Air Act sets forth five non-attainment classifications for ozone based on the severity of the ozone pollution: marginal, moderate, serious, severe, and extreme.

compounds -- an ozone precursor -- by 15 percent by 1996 and must further reduce volatile organic compounds by an additional three percent for each year between 1996 and 2007. The Clean Air Act also requires reductions in nitrogen oxides -- another ozone precursor.

Trucks and other motor vehicles are a major source of ozone precursors in New York City. For example, in its Proposed Revision to the New York SIP dated March 1997, the New York State Department of Environmental Conservation indicates that in 1990, motor vehicles were responsible for 43 percent of the total emissions of volatile organic compounds and 43 percent of the total emissions of nitrogen oxides in the NYMA. Moreover, heavy duty diesel vehicles are responsible for a disproportionately large share of the emissions of nitrogen oxides from on-road vehicles in the NYMA.

Among the measures undertaken by the City and State to reduce ozone pollution are preconstruction review and stringent controls on stationary sources, more stringent vehicle inspection and maintenance programs, reformulated fuels, and reformulated consumer products (such as paints, hairsprays, and deodorants).

The City also suffers from carbon monoxide pollution. EPA has classified the City as a moderate non-attainment area for carbon monoxide.² Motor vehicles are a large contributor to the City's carbon monoxide pollution problem. The City and State have made efforts to reduce carbon monoxide emissions by conducting preconstruction review of proposed projects to ensure compliance with the carbon monoxide standards, implementing traffic control measures and measures to reduce

² The Clean Air Act sets forth two classifications for both carbon monoxide and particulate matter non-attainment areas: moderate and serious.

vehicle miles travelled, and controlling stationary sources of carbon monoxide, among other things.

Finally, New York County (Manhattan) has been designated by EPA as a moderate non-attainment area for PM_{10} . Diesel engines (such as those used in trucks that would likely be used to transport goods to rail lines across the Hudson River) are a major source of particulate pollutants.

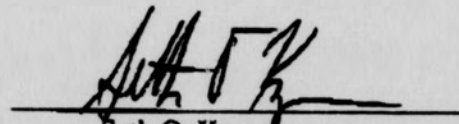
Compliance with the ozone and particulate matter NAAQS may become more difficult in the future because EPA has recently promulgated stricter NAAQS for both pollutants based on a review of scientific data to determine whether the existing NAAQS are sufficiently protective of public health. The stricter ozone and particulate matter NAAQS may require the City and State to take additional measures to come into compliance.

As set forth above, motor vehicle emissions are major contributors to ozone, carbon monoxide, and particulate matter pollution in New York City. The need for additional truck trips in the City in order to carry goods to New Jersey will likely impede efforts to improve the City's air quality. Moreover, the added congestion that may be caused by increased truck trips could increase the emissions attributable to idling vehicles.

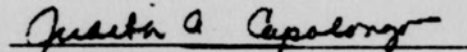
In sum, reliance on motor carrier freight transportation between New York City and Northern New Jersey will have a negative impact upon the City from both an economic perspective, as well as an air quality perspective. For that reason, NYCEDC's Responsive Application, which is designed to relieve motor vehicle congestion by offering freight shippers competitive rail service along the East side of the Hudson River, should be approved.

VERIFICATION

I, Seth O. Kaye, verify under penalty of perjury that I have reviewed the foregoing Rebuttal Verified Statement, and that all of the facts stated therein are true and correct. Further, I certify that I am qualified and authorized to verify and file this Rebuttal Verified Statement on this 14th day of January, 1998.


Seth O. Kaye

Subscribed and sworn to
before this 14th
day of January 1998.


Notary Public Commissioner of Deeds

~~My commission expires:~~

JUDITH A. CAPOLONGO
Commissioner of Deeds, City of New York
No. S-1425
Cert. Filed in New York County
Commission Expires October 23, 1999

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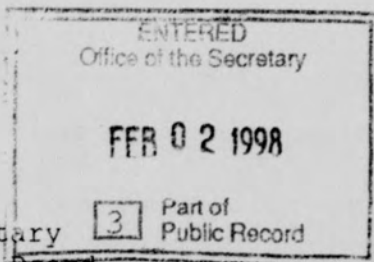
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FRANCISCO J. RUBEN

February 2, 1998



Via Hand Delivery

Vernon Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Suite 700
Washington, D.C. 20423



Re: CSX/NS--Conrail, F.D. No. 33388

Dear Mr. Williams:

Enclosed for filling are twenty-six (26) copies of the foregoing Comments Of The Allied Rail Unions In Response To Draft Environmental Impact Statement (ARU-31), and a disk in WP 5.1, in the above captioned matter. Please file-stamp the extra copy and return them to me via the courier who will be waiting.

Thank you for your assistance in this matter.

Sincerely,

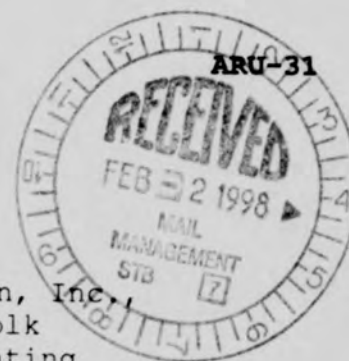
Richard S. Edelman

Enclosures

185468

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388



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

**COMMENTS OF THE ALLIED RAIL UNIONS IN RESPONSE TO
DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Pursuant to Decision No. 52 in this proceeding, the Allied Rail Unions¹ submit these Comments concerning the safety analysis component of the environmental study of the proposed acquisition of control of, and division of, the Consolidated Rail Corp. ("Conrail") by CSX Transportation Inc. ("CSXT") and Norfolk Southern Corp. ("NS").² The ARU will first highlight a few general problems with Applicants' Safety Integration Plans

¹ "Allied Rail Unions" means the American Train Dispatchers Department/BLE ("ATDD"); Brotherhood of Locomotive Engineers ("BLE"); Brotherhood of Maintenance of Way Employees ("BMWE"); Brotherhood of Railroad Signalmen ("BRS"); International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers ("IBB"); International Brotherhood of Electrical Workers (IBEW); The National Conference of Firemen & Oilers/SEIU ("NCFO"); Sheet Metal Workers' International Association ("SMWIA"); and Transport Workers Union of America.

² ARU incorporates in these Comments the arguments set forth in their earlier Response of Allied Rail Unions Concerning Environmental Report (ARU-21). ARU also incorporates herein the facts and arguments set forth at pp. 60-68 of their Comments Volume I (ARU-23).

("SIP") that are of concern to all of the ARU unions. ARU will then provide a summary of points made by individual unions that have provided statements concerning safety issues specific to their crafts which are attached to these Comments.

I. GENERAL COMMENT, REGARDING SAFETY INTEGRATION PLANS

A. Conflict Between CSX and NS Pronouncements On
Safety Culture And The CSX And NS Labor Relations
Plans

In their respective SIPs, both CSX and NS relied heavily on their plans for positive "Safety Cultures". *E.g.* CSX SIP at 28-46, 213; NS SIP at 6-7, 27-29, 205-214. CSX discussed a Safety Culture based on "mutual trust, respect and openness" (CSX SIP at 28), noted alleged corporate principles of valuing employees and respecting their dignity (*id.* at 31), stated an intention to establish safety planning teams which would include representatives of rail labor (*id.* at 45) and noted the importance of good morale which it said flowed from "respect for the views of its employees" and "establishment of an atmosphere of trust and co-operation" (*id.* at 213). NS spoke about the importance of labor-management meetings on safety matters (NS SIP at 29), recognized the importance of employee "quality of life" issues (*id.* at 205) and also stressed the value of good morale (*id.* at 214-15). However, CSX and NS fail to see any connection between a positive Safety Culture and a positive Labor Relations Culture. Unfortunately, the Applicants' Labor Relations Cultures,

especially as exemplified in their Appendices A to their Operating Plans and in their Rebuttal arguments, are antithetical to the Safety Cultures that they claim to endorse. On the labor relations side of things there is autocratic dictation of terms, not mutual respect trust and openness; and employee morale is afforded no weight when respect for employee views would become the slightest bit inconvenient in connection with the carriers' single-minded efforts to unilaterally implement rules that are perceived as advantageous to the carriers.

The ARU has shown that if CSX and NS implement the Transaction in the manner described in the their Operating Plans, their responses to the ARU's discovery, and their Rebuttal, employees represented by the ARU unions will lose significant rights under the rates of pay, rules and working conditions set forth in existing collective bargaining agreements ("CBA") as a result of unilateral action by CSX and NS.

Applicants have stated that *most* employees will not lose collective bargaining rights or their current representation and will work under CBAs that contain *many* of the same or *similar* provisions. Applicants' Rebuttal (CSX/NS-176) at 581-82. Applicants' Rebuttal repeatedly says that the CBAs of Conrail and CSX and NS are similar, functionally equivalent, or qualitatively comparable on balance. *E.g.* Applicants' Rebuttal at 573, 636-37. However, CSX and NS have not refuted the specific and detailed

declarations of officers of the ARU unions which show that employees will lose CBA rights under Applicants' plans. Applicants have also failed to state that the agreements they plan to impose contain "the same" terms as the existing agreements applicable to affected employees; or, more importantly, that individual provisions of the existing CBAs that are more advantageous for affected employees than comparable provisions in the agreements they plan to impose unilaterally will be "preserved". The various locutions employed by CSX and NS to minimize the loss of CBA rights of affected employees only confirm that, under Applicants' plans, some employees will in fact lose bargaining rights and/or their current union representation, and many will lose CBA rights.

Applicants have also taken issue with AP's assertion that they plan unilateral implementation of their planned changes, noting that they intend to employ the *New York Dock* processes which involve "negotiations" and then "arbitration". Applicants' Rebuttal at 611. However, the sort of negotiations and arbitration that have occurred in recent years under *New York Dock* could not reasonably be characterized as bilateral; and the positions advanced by Applicants do not suggest any acknowledgment of bilateral processes.

In recent years, *New York Dock* arbitration has become a process whereby arbitrators and the Board rubber-stamp the plans

of the carriers, and in those rare instances where an arbitrator fails to accept the position of the carrier, the Board reverses the arbitrator. In the late 1980s the ICC took control of the process by assuming authority to review decisions of *New York Dock* arbitrators. Then the Commission held that *New York Dock* arbitrators are functionally agents of the STB whose decisions are reviewable for perceived failure to endorse carrier proposals that are claimed to be necessary to enhance the ICC/STB approved transaction, or even when they are not consistent with STB "policy". And some courts have accepted the notion that *New York Dock* arbitrators are the equivalent of Administrative Law Judges for the agency.

Additionally, the ICC/STB pronounced that *New York Dock* arbitrations are designed to foster any changes designed to realize that sort of efficiencies that the carriers presumably desired in effecting the approved transaction. The Board has further held that CBAs must give way to promotion of carrier efficiency, even when the efficiency cited is merely a reduction in labor costs. *CSX-Corp. Control--Chessie System*, (O'Brien Review Decision) F.D. No. 28905 (Sub-No. 27) (12/7/95). Moreover, as described in the ARU Comments and the Carriers' Rebuttal, the way the ICC/STB has defined the CBA rights preservation component of Art. I §2 of the *New York Dock* conditions, that provision has virtually ceased to exist. As a

result of these ICC/STB applications of the conditions, arbitrators have begun to simply impose the plans which the carriers have described as generally promoting efficiencies or savings (e.g. *O'Brien Review Decision* and decisions cited in Applicants' Rebuttal at 659-661, 673-674; ARU Vol III at 268). Since the Board's agents take this approach, and since the Board has stepped in when the carriers have not prevailed, it is entirely appropriate to describe the current *New York Dock* process as unilateral.

Indeed, the Applicants' positions with respect to issues raised by labor in this proceeding affirm the ARU characterization. CSX and NS ascribe a worthless meaning to Art. I §2, i.e. that it preserves only vested and accrued benefits such as pensions. *Id.* at 650. However, railroad industry retirement benefits are predominantly statutory, and Applicants would exclude such rights as supplemental unemployment benefits from the scope of Art. I §2. *Id.* Thus, Applicants would essentially limit the scope of preservation of agreement rights to a matter already protected by statute. Moreover, CSX and NS assert that application of the "protections" must enhance efficiency which is, in turn, described as savings for the carriers. And they state that the proposed Operating Plans and Appendices A reflect their best judgments on how to achieve efficiencies, so consideration of the existing CBAs and the

interests and desires of the affected employees and their unions are largely irrelevant. See e.g. Applicants' Rebuttal at 634-639, 648-649, 653-654. The Applicants' approach is perhaps best exemplified by the arrogant and condescending attitude expressed by their Labor Relations Vice Presidents in their joint deposition in which they revealed that they really had not read any of the Conrail CBAs, did not care about them and believed that their concerns about uniformity in payroll systems and ease of administration for labor relations officers and supervisors clearly outweighed any interests that employees might have in particular substantive CBA provisions which were attained through the give and take of collective bargaining. See excerpts of transcript, ARU Comments Vol. III (ARU-25) at 127-165. Thus it is quite clear that the Applicants see labor relations as a command process and not a bilateral process; and they plan to invoke the authority of this agency to legitimize their unilateral actions.

However, when CSX and NS were asked to explain how they will insure safe operations after they divide Conrail's trackage, they attempted to assure the FRA and the Board that safety concerns would be satisfactorily addressed and they relied heavily on asserted plans for Safety Cultures based on relations with their employees and their unions founded on mutual trust, respect, cooperation, openness and a recognition of the importance of

respect for the dignity of their employees and high employee morale. Such Safety Cultures are simply not compatible with the Labor Relations Cultures described above. If management can, and is prepared to, use the processes of this agency to abrogate solemnly undertaken contractual commitments, if management is willing to ignore employee interests allegedly because of costs involved with programming payroll systems or training labor relations staff, then management is not committed to relationships based on mutual trust respect, co-operation and openness; nor is it willing to recognize the importance of employee dignity and morale. To invoke administrative authorization to eliminate rights that were obtained through the give-and-take process of collective bargaining, where every employee gain was bought and paid for, is to deny a relationship of mutual trust, cooperation and openness and to reveal contempt for employee dignity and employee morale.

ARU is not alone with respect to concerns about the impact of railroad industry labor relations on railroad safety. In its report on CSXT's safety problems the FRA stated:

The ability to eliminate safety hazards and promote prevention of injuries, collisions, and derailments, is dependent upon an atmosphere of mutual trust, respect, and openness. Unfortunately, for decades the railroad industry has been characterized by a culture that engenders an adversarial relationship between management and labor rather than one of cooperation. Getting the job done without admitting a need for help is

the standard, leading to reluctance to ever take "bad news to the boss." The significance of this culture as an impediment to maximizing safety performance is readily evident throughout the U.S. rail system.

Executive Summary of FRA report on CSXT Operations at viii, ARU Comments Vol. III (ARU-25) at 227.

In short, the Safety Cultures described by the SIPs are fundamentally incompatible with the Labor Relations Cultures of these carriers. Accordingly, fundamental elements of the Applicants' SIPs are predicated on a false image of their relations with their employees.

B. CSX and NS Have Not Adequately Answered Safety Questions Engendered By Their Staffing Plans And Their Plans For Very Large Seniority Districts

The ARU has asserted that Applicants' plans to reduce their work forces will have adverse consequences for the safety of their operations. These assertions are supported by the reports issued by the FRA regarding post-transaction Union Pacific-Southern Pacific operations which found that tremendous emphasis had been placed on eliminating employees without regard for the consequences with respect to safe operations, and by the FRA report on CSXT which found that CSXT was already inadequately staffed in many crafts. Applicants responded by simply asserting that they will be adequately staffed. CSX SIP at 56, 123, 147, 162; NS SIP at 7, 143. But mere reiteration of prior assurances that the post-transaction operations will be adequately staffed

does not answer the concerns raised by the ARU or by the FRA. CSX and NS have not explained why they believe that the numbers of workers in each craft that they anticipate will be adequate to insure safe operations. In particular, Applicants have not explained how they can adequately maintain their track, right of way and signal systems with at least 500 fewer maintenance of way employees and 15 fewer signalmen, when they do not plan to abandon or downgrade any track, and they plan to upgrade track and run more and longer trains more frequently at faster speeds than at present.

Applicants assert that these job reductions will have no impact on safety because the remaining forces will be more productive due to their use of regional and system gangs. CSX SIP at 162; NS SIP at 143. But they have provided no details to support such bald claims. For example, they have not shown that the productivity level of current regional maintenance of way gangs is such that they would be able to replace 500 employees. They also have not shown that the existing maintenance of way work forces have sufficient "down time" for their work years to be increased to permit them to absorb the work that would have been done by the 500+ furloughed employees. Moreover, even if the Applicants could show that existing forces could absorb the work of 500+ employees under given current traffic levels and train speeds, they have not shown how existing forces could possibly

perform all necessary maintenance adequately when CSX and NS are running longer and heavier trains more often and at faster speeds. Moreover, comparisons to the larger job reduction projections in the UP/SP (Applicants' Rebuttal at 579) transaction are not valid because UP was planning to abandon certain lines and to sell others and UP was not projecting levels of increased traffic comparable to the projections put forth by CSX and NS. Thus Applicants have not adequately answered safety questions engendered by their plans to reduce their work forces.

Applicants have also failed to adequately address the concerns raised by ARU regarding the very large seniority districts planned for post-consummation operations. See ARU Comments Vol. I (ARU- 23) at 45-47; Response Of Allied Rail Unions Concerning Environmental Report (ARU-21) at 6-7. CSX and NS have attempted to minimize the potential for safety problems inherent in very large seniority districts simply by asserting that there will be no such problems, and noting that very large districts already exist elsewhere. Applicants rebuttal at 663-667 and 680-681. However, the problems raised by ARU can not be dismissed merely by denying their validity. As the ARU union officials explained, requiring employees to cover very large territories means that employees will work less frequently in familiar areas; safety is enhanced when operating employees,

dispatchers, maintenance of way employees and signalmen work areas where they have had significant prior experience.

Applicants have attempted to minimize the significance of this problem by saying that just because an employee may be placed within a very large district, that does not mean that he or she will be assigned all over the district. Applicants' Rebuttal at 667. However, Applicants certainly have not offered any commitments in that regard. Indeed they have not explained why they need such large districts if employees will not really be required to work at any location within a very large district; nor have they suggested a willingness to accept an arrangement whereby seniority districts would have sub-districts and employees could bid outside the sub-districts, but would not be obligated to accept work outside their sub-districts. Moreover, the Applicants have failed to acknowledge that the provisions of the *New York Dock* conditions could be used to compel employees to accept faraway assignments because refusal of an assignment within one's district can be used to deny benefits. Most employees may be regularly assigned to work relatively near their homes, but some employees could be compelled to accept faraway assignments on a regular basis, and many employees could be required to do so on an occasional basis. Such an inequitable and unnecessary arrangement must have a negative effect upon employee morale.

CSX and NS have also challenged ARU's assertion that very large seniority districts create safety problems, noting various places where very large districts already exist. Applicants' Rebuttal at 664-667, 680-681. However, the occurrence of the safety problems cited by ARU depends on the frequency with which the carrier actually assigns employees to faraway and less familiar work locations, the potential for such assignments increases significantly when very large seniority districts are created. ARU further submits that the safety problems cited by the FRA on UP and CSXT -- too few workers stretched too thin, and inadequately trained workers -- are related in part to overlarge seniority districts.

Thus ARU submits that the CSX and NS SIPs have failed to adequately answer the safety concerns raised by the ARU.

II. COMMENTS OF INDIVIDUAL ORGANIZATIONS REGARDING SAFETY INTEGRATION PLANS

In addition to the Comments above which address the Transaction related safety concerns of all of the ARU organizations, a number of the ARU unions have specific comments which are appended to this memorandum and summarized below.

A. The Brotherhood Of Maintenance Of Way Employees

The statement of Richard A. Inclima, BMWE Director of Education and Safety (Attachment 1 hereto) identifies a number of problems with Applicants' SIPs that are specific to BMWE-represented employees. Among other things, Mr. Inclima shows

that the Applicants' planned reductions in maintenance of way forces will have significant adverse effects on the safety of their operations. Moreover, Mr. Inclima takes issue with Applicants' assertion that increased reliance on regional and system gangs will allow Applicants to maintain smaller maintenance of way work forces. Indeed, he notes that increased reliance on such gangs can have adverse consequences for safety. Mr. Inclima also explains that Applicants' plan to use very large seniority districts will likewise have adverse effects on safe operations. Finally, Mr. Inclima notes that Applicants have failed to provide adequate explanations of their plans regarding future line sales and abandonments and the potential effects of such actions on track maintenance, their plans regarding training for their maintenance of way forces or their plans regarding coordination of dispatching and maintenance of way work.

B. Brotherhood Of Railroad Signalmen

The Statement of Roland E. McKenzie, General Chairman United General Committee [Conrail] addresses a number of deficiencies in the CSX and NS SIPs with respect to signalmen. Among other things, Mr. McKenzie explains that the very large seniority districts planned by CSX and NS will have adverse effects on the safety of operations. Mr. McKenzie also explains the importance of the Conrail signal service desk to day-to-day operational safety as well as long term tracking and analysis of signal

problems; CSX and NS plan to eliminate the service desk and this will impair efforts to maintain safe operations on the lines to be acquired by CSX and NS. Mr. McKenzie also demonstrates that Applicants have failed to provide adequate information regarding important safety issues pertaining to the planned Shared Assets Areas. Finally, Mr. McKenzie notes that Applicants' current plans will impair employee morale which will adversely affect the overall safety of train operations.

C. Brotherhood Of Locomotive Engineers

In *Ex Parte No. 574, Safe Implementation of Board Approved Transaction*, the Brotherhood of Locomotive Engineers submitted Comments which referred to problems in the CSX and NS SIPs which relate specifically to engineers. Among other things BLE criticized the SIPs for inadequate arrangements for training of engineers and familiarization of engineers with new territories and new equipment. BLE also expressed serious reservations about CSX and NS plans to protect engineers from harassment and retaliation in connection with reporting of safety problems. The ARU respectfully incorporates those comments in *Ex Parte No. 574* into these Comments.

CONCLUSION

For all of the foregoing reasons, the ARU submits that the final EIS should state that the Applicants' SIPs have not adequately responded to the issues raised by the Federal Railroad

Administration which led to the Board's issuance of Decision No. 52 in this proceeding.

Respectfully submitted,

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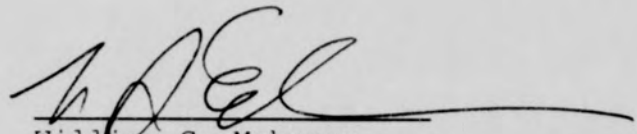
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Union of America

Dated: February 2, 1998



William G. Mahoney
Richard S. Edelman

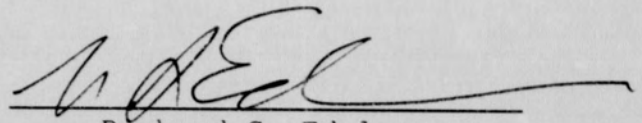
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road Signalmen; International
Brotherhood of Boilermakers &
Blacksmiths; International
Brotherhood of Electrical
Workers; The National Confer-
ence of Firemen & Oilers/SEIU;
Sheet Metal Workers Interna-
tional Association; and
Transport Workers Union of
America

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served one copy of the foregoing Comments Of The Allied Rail Unions In Response To Draft Environmental Impact Statement, by first-class mail to other parties on the restricted service list.

Dated at Washington, D.C. this 2nd day of February, 1998.



Richard S. Edelman

**Statement Of
Richard A. Inclima**

BEFORE THE SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

Comments of the
Brotherhood of Maintenance of Way Employees

The Brotherhood of Maintenance of Way Employees (BMWE) is a labor union representing 50,000 railroad track and bridge maintenance workers in the U.S. and Canada. BMWE respectfully submits the following comments to the docket.

BMWE urges the Board to fully consider the safety ramifications of the proposed Conrail acquisition especially in light of the safety and operational difficulties which continue to plague the recently merged Union Pacific and Southern Pacific Railroads. In that transaction, the operational and safety ramifications of the merger had not been thoroughly detailed by the Applicants for consideration and review by the Board. Since January 1997, nine on-duty employees were killed on the job at UPSP, more than double the number of fatalities from the previous year. Five of the fatalities occurred in three separate train-to-train collisions between June and August 1997 on the UPSP. There were also numerous other train accidents/incidents which had potentially serious safety and health ramifications for railroad

workers and the general public. These types of accidents underscore the operational difficulties which can and do occur in large financially inspired rail mergers.

To this very day operational difficulties plague the merged UPSP properties. Freight trains sit idle in rail yards, unable to move due to operational gridlock caused by the merger of these two colossus railroads. The American economy suffers from the UPSP's inability to service customers and move goods. Nationwide, rail employment continues to decline as carriers cut jobs and capital improvements to expedite the retirement of massive debt resulting from the financing of mergers and other railroad transactions. It is entirely possible that the NS/CSX/Conrail acquisition will result in operational and safety difficulties across the Eastern United States similar to those experienced by the UPSP.

We urge the Board to insist Applicants satisfy their obligation to submit complete and concise safety integration plans detailing how they will assure the safe integration of Conrail into their own already vast rail systems. The Board, with the assistance of FRA, should undertake a more comprehensive and detailed analysis of this transaction to assure that the Applicant's have developed safety integration plans which provide and maintain the requisite level of safety.

BMW's comments will primarily focus on the potential safety

risks posed by the proposed acquisition of the Conrail System by NS and CSX as they relate to track, bridges, and structures. We urge the Board to consider the lack of specific details in the Applicants' submissions regarding the construction, renewal, and maintenance of track, bridges, and structures on the proposed merged properties. We believe the Board and FRA should determine specifically whether the individual Applicants can safely integrate operations based upon details of a comprehensive plan. Among other safety related issues, the Applicant's must be required to maintain sufficient manpower and equipment to safely and effectively maintain their right-of-way infrastructures across the entire proposed merged territories.

In reviewing the safety implications of the proposed Conrail acquisition, the Board should first undertake a comprehensive review of existing manpower levels in the maintenance of way (M/W) department of all three individual carriers. The Board should then closely compare these work force levels to the force levels anticipated upon completion of the merger. In the Labor Impact Exhibit filed on July 7, 1997, the three railroads state their intentions to abolish a total of 584 maintenance of way positions by the end of Year 2. A force reduction of this magnitude in M/W employment is difficult to comprehend in light of FRA's recent Safety Assurance and Compliance Program (SACP) audit report of CSX, dated October 16, 1997. In its SACP report, FRA found "that CSX lacks a fully consistent, sound track program across all parts of

the system." Safety exceptions were noted by FRA in the following areas at CSX: track inspections, control of water saturation of track structures, vegetation control, roadway worker protection compliance, test car operations, procedures manual, and defective rail detection. FRA also determined "that some CSXT track inspection and maintenance goals are based solely on the minimum Federal standards rather than more comprehensive CSXT standards. BMW is also aware of problems with CSXT's bridge inspection and maintenance program. The very fact that CSXT is not maintaining its infrastructure to CSXT standards is indicative of current severe shortages in its maintenance of way work force levels. These infrastructure maintenance deficiencies will likely be further exacerbated if the pending merger is approved.

Norfolk Southern will also eliminate hundreds of M/W positions as part of its merger plans. While FRA has not yet conducted a SACP safety audit of NS, it is not unreasonable to assume that FRA will identify similar infrastructure safety deficiencies at NS. Even if no such conditions exist on NS, the Board must consider what safety impact the elimination of hundreds of M/W positions will have on NS over the long term. BMW believes that the elimination of 584 maintenance of way positions will result in the merged railroads operating with less than adequate M/W force levels. Further reductions in already depleted M/W forces will likely result in increased track related derailments and potential public harm. These infrastructure maintenance concerns are

amplified in this transaction due the dense population of urban Eastern states and the large number of commuter and Amtrak passenger trains which will operate over the merged territories.

NS and CSX profess that planned reductions in their track maintenance forces will be offset by expanding the territories over which regional and system gangs will operate on the combined systems. However, the Applicants have failed to demonstrate that expanding the geographic territories of mechanized track maintenance crews will have a positive effect on safety.

BMWE believes that the expansion of regional and system gang territories can have the exact opposite adverse impact on the safety of the combined railroads' infrastructure. As territories of system and regional gangs increase, the program frequency of such gangs to work on any particular track segment decreases. With expanded territories, there will be a corresponding decrease in the number of times regional and system gangs will be able to revisit an area for additional production maintenance. As system gangs operate with reduced frequency on any given segment of track, the maintenance needs on that segment of track will increase due to less programmed maintenance and the anticipated increase in traffic volume.

As production gang territories increase, track maintenance between visits by regional and system gangs will become

increasingly dependant upon the utilization of maintenance of way section forces. Ironically it is maintenance of way section forces, a segment of the maintenance of way work force that has already been seriously depleted under the carriers' regional and system gang concept, which will likely suffer the brunt of the proposed steep reductions in M/W work force levels.

Thus, the Board must fully consider the impact of M/W work force reductions on the safe operation of the merged systems over the long term. In highly leveraged mergers of this nature, the Board must exercise broad authority to determine whether such workforce reductions are justified by economies of scale and better utilization of manpower and equipment as Applicants profess, or whether the reduction in work force levels is actually due to the carriers' desire to pay down their highly leveraged debt by laying off employees and curtailing track, bridge, and equipment maintenance.

Expanding the seniority districts of maintenance of way personnel poses a significant safety hazard to these employees who will be required to travel farther from home for longer periods of time in order for the corporations to reap their perceived business benefit. Expanding the already vast seniority districts of regional and system gangs will cause increased workplace fatigue and possible psychological and emotional stresses among M/W personnel forced to spend anywhere from weeks to months at a time

away from their families. Clearly, quality of life issues for M/W employees and their families have not been addressed by the Applicants. The burden of generating business benefits to support this merger should not be born by railroad employees and their families who have no choice other than to acquiesce to the will the these corporate giants.

In reviewing M/W workforce levels in this transaction the Board should also require the normalization of work force accounting to reflect the impact of seasonality inherent to M/W work. For example, a carrier may claim that it employs a M/W work force of 1,000. However, it is highly likely that a significant number of those 1,000 employees do not work year round due to the seasonality of M/W work. Thus, the Board should require the Applicants in this transaction to normalize their work force accounting to reflect the true number and geographic location of M/W employees projected to work each month inclusive of main and secondaries lines, yards, and sidings. In this manner, the Board will be positioned to determine the average number of M/W employees maintaining the infrastructure at different periods and geographic locations throughout the four seasons. Such accounting is especially critical to analysis of transactions such as this where a significant portion of the merged properties operate in northern climates where the track and bridge maintenance "window" is very narrow due to seasonal conditions.

The Board should also require Applicants to account for all pending and future abandonments, spin-offs, or sale of parallel lines. Such a requirement would allow the Board and FRA to analyze what impact increased traffic density may have on the remaining lines to be operated within the system. As traffic density grows due to increased business and the addition of traffic diverted from lines no longer in the system, track capacity is strained and the ability to conduct track and bridge maintenance and inspection is severely undermined. With more and more traffic being hauled on fewer track miles, the availability of track time for maintenance, inspection, and renewal becomes problematic because moving trains remains the carriers' number one priority. This problem is further magnified in light of the fact that merged railroads tend to offset their transaction debts by curtailing their work force and expanding the territories of their remaining employees after Board approval of the transaction)

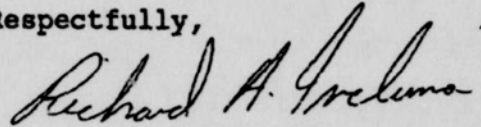
The Board must also assure that employees of the parties to this transaction are completely trained and qualified regarding how operating rules will be integrated to comply with the Railroad Operating Rules regulations, 49 CFR Part 217. Applicant employees on the three carriers are likely employing different variations of operating rules and practices, timetables, special instructions, bulletins, etc., governing the movement of trains and on-track equipment. Concise integration of different operating rules and

procedures is paramount to the safe operation of any merged rail system. The successful integration of rules and procedures system wide becomes especially critical in this instant case due to the vast expanse of high density territories^V subject to the pending transaction. Difficulties in integrating operating rules, procedures, and corporate cultures grow exponentially in relation to the size of the merger. Details outlining employee operating rules training and instruction, employee safety training, and the integration of differing corporate cultures should also be closely scrutinized by the Board and FRA.

Full integration of train dispatching and emergency response procedures also needs closer Board scrutiny. Detailed information regarding how the Applicants plan to integrate different train dispatching and emergency response procedures on the merged properties should be further analyzed by the Board. Train dispatchers should be required to take familiarization trips over their assigned territories and no dispatcher should be allowed to dispatch a territory unless carrier has provided the dispatcher with initial and thereafter annual familiarization trips over the territory. Complete knowledge of physical characteristic is a necessity for train dispatchers, train crews, and M/W work crews. Therefore, the Board should assure Applicants satisfy operational requirements to assure all employees possess the required physical characteristics and operating rule qualifications prior to operating on any segment of the system.

The BMWWE appreciates this opportunity to submit these comments
to Finance Docket No 33388.

Respectfully,

A handwritten signature in cursive script, reading "Richard A. Grelunas". The signature is written in dark ink and is positioned below the word "Respectfully,".

Director of Education and Safety
Brotherhood of Maintenance of Way
Employees

**Statement Of
Roland E. McKenzie**



UNITED GENERAL COMMITTEE

Brotherhood of Railroad Signalmen

ROLAND E. MCKENZIE, GENERAL CHAIRMAN

January 30, 1998

Response of the Brotherhood of Railroad Signalmen to the CSX and NS Safety Integration Plan.

Statement of Roland E. McKenzie:

Neither CSX nor NS addressed safety and movement of trains through the SAA (Shared Asset Areas). Presently, Conrail can control the flow of it's own traffic in and out its yard areas. If the merger is approved with the CSX and NS they cannot. Traffic will be converging into those areas from all sides with both fighting over whose traffic is going to be handled first. This will undoubtedly be congested and a nightmare.

Neither the CSX nor NS had adequately addressed employee safety. As both railroad plans indicate, they desire to expand employee's seniority districts and work territories. This expansion covers several states. Employees would be required to spend much of their work life traveling to unfamiliar territories. This exposure coupled with sleep deprivation is extremely unsafe.

In the SAA it's indicated that training would continue, since the Conrail C&S training facility will be closed in Columbus, Ohio. The Signal Training in the SAA's will be non existent.

One aspect I note in the SIP is the corporate attitude toward drugs and alcohol and its testing. Norfolk and Southern does not and is not willing to submit its managers to drug and alcohol testing.

The following comments center around the abolition of Conrail's Service Desk and its relation to the SIPs filed by CSX and NS. The Service Desk is manned by C&S (Communications and Signals) employees, represented by the Brotherhood of Railroad Signalmen, 24 hours per day, 365 days per year. Present staffing consists of 12 Assistant Inspectors and 5 Inspectors, supervised by a URSA Supervisor and a Nonagreement Engineer, who concurrently manage the Signal and Communication Repair Shop and Training Center.

The Service Desk, located in Columbus, Ohio, currently serves Conrail as a "clearing hours" for both incoming and outgoing telephone (primarily) calls related to problems or incidents involving Signal Systems, Rail Highway Crossing Warning Systems, Communications Systems and various other systems or problems associated with the movement of trains. By collective bargaining agreement, the "Desk" serves to contact and dispatch Signal employees represented by the BRS for the trouble calls involving Maintainer's work outside their assigned hours. In practice, as the name Service Desk implies, the facility actually provides round-the-clock service handling incoming calls from the public private industry, law enforcement and emergency service agencies and Conrail Dispatchers and employees. These calls concern signal failures, rail highway warning systems failures or false actuations, trespassers, crossing accidents and potentially hazardous conditions such as automobiles stuck on the track or trackside fires or other emergency situations. The Service Desk employee takes the incoming call, determines the proper

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FAX 717-394-1404

717-394-8363

Statement of Roland E. McKenzie:
January 30, 1998
Page Two

course of action according to Conrail's policies and dispatches either the appropriate Maintainer or other Carrier employee, generally acting as liaison between Dispatchers, maintainers, the public and Carrier Officers. This work continues whether during normal tours of duty or after hours. During periods of inclement weather, derailments or signal cutovers requiring round-the-clock coverage, it provides coordination of the necessary forces coming and going, retaining and enforcing hours of Service requirements during the process. Additionally, the Service Desk logs all corrective action taken as result of dispatching C&S employees, tracking corrective actions taken, actual hours worked, rest periods, etc.

The Desk serves as the depository for all records of permission for the application of jumpers (form CS39, sample enclosed), required when a signal or related apparatus is removed from service. The location of the device, action taken, times dates and names of the employees involved is recorded, as well as the removal of the jumpers when the device is restored to service. Dispatcher notification of this action, rail highway crossing warning system malfunction, signal system failure or any other action involving the safe movement of trains or the safety of the employees or the public is customarily coordinated with the Service Desk.

The information gathered and generated by the Service Desk employee is used to generate individually numbered Event reports (samples enclosed). These Event reports as well as the telephone conversations, are permanently stored through the use of recorded telephone lines and compute records. This process provides ready access in the event of the need for investigation of any Event by Carrier Offices, FRA Inspectors or others. Further, it provides a detailed database which can be queried to provide trends in trouble areas such as broken rails, pole line failures, vandalism, false activation of crossing warning devices or manufacturer's product reliability, to name a few. Reports tracking the events are generated daily and distributed electronically to a multitude of locations throughout the Conrail operating system.

Enclosed also, is a spreadsheet detailing the Events generated by the Service Desk for 1997. As one can see, nearly 61,000 Events were logged by the Desk for the calendar year, all of which were in one form or another relative to the safe and efficient operation of trains and thus capable of impacting the safety of Conrail's employees, the employees of other Carriers or the public. This means that on average, each day, over 166 safety related Events occurred which required the attention of Conrail employees whose sole responsibility were those Events. Over 18,000 Events alone were attributed to rail highway crossings, with another 24,000 attributed directly to switches, signals track circuits and code systems, all of which come under Federal regulations. Of the 18,394-rail highway crossing related events, 10,57 required Dispatcher notification as required under FRA regulations. 1755 Events involving the use of jumpers or the temporary removal apparatus from service were logged. These figures are even more indicative of the actual work involved when it is considered that many of the events required multiple tasks, such as when an event occurs involving rail highway crossing warning devices that must be reported to the Dispatcher, local law enforcement and includes a CS 39. This is in addition to fielding the

Statement of Roland E. McKenzie:

January 30, 1998

Page Three

originating call and locating and dispatching an employee or employees to address the problem. It is important to realize that nearly every event requires one or more related telephone calls in order to process, with the majority requiring multiple calls.

The SIP filed for the CSAO's makes no reference to the method(s) by which this critical safety function will be accomplished. Bearing in mind that the CSAO's are to be staffed by existing Conrail employees, it can only be assumed that these duties will be added to the workload of employees already carrying an optimum workload. There is no mention of either the physical means by which the incoming and outgoing calls are to be made, or where; nor is there mention of the training required for different employees to accomplish the necessary work. Bear in mind that Conrail Service Desk employees have performed this function, either on the Division level or as the consolidated desk, in excess of ten (10) years.

Commencing on Day 1, CSX proposes to route all incoming calls to their Police Department in Jacksonville. From there, it is assumed that the calls will be sorted and forwarded to the appropriate entity, who will then act upon them accordingly, resulting in built-in delays in dispatching personnel to complete critical safety related repairs. That particular function concerning the calling of Signal employees is currently handled by Electronic Specialist working in the Jacksonville Dispatching center, whose duties include calling Signal employees and performing the necessary signal work associated with the Dispatching Center. CXS does point out their intention to transfer their allocated workforce from the Conrail Service Desk to the Jacksonville Dispatching, but no mention is made of the training necessary to transform the Service Desk Assistant Inspector/Inspector to a Electronic Specialist. Nor do they consider that the current CSX employees will be totally unfamiliar with the acquired Conrail lines and vice versa for the transferred Conrail employees. If in fact any Conrail employees elect to accept the transfer. Further, no concern or plan of action was discussed to handle the safety complications that may occur as the result of operating under separate Operating Rules.

One last issue concerning the CSX SIP is that of employee morale. Put simply, it is doubtful that the mixing of cultures of the South, North and Northeast that must occur with the melding of

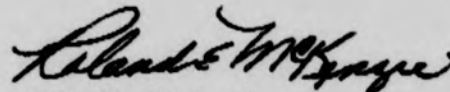
operations that CSX plans, will occur with as little impact as CSX indicates in their SIP. Given their attention to that detail, which is essentially none as express in the SIP, serious ramifications concerning safety of train operations could occur. CSX's inattention to detail would have us believe that there will be no language, custom or understanding barriers incurred complicating the communications between these geographic regions. This is quite simply an unlikely scenario.

Statement of Roland E. McKenzie:
January 30, 1998
Page Four

Like CSX, NS proposed from Day 1, to route all calls to their Police Department, in Roanoke, Virginia. From there, the calls will presumably be sorted and those concerning signal or rail highway crossings requiring the attention of signal personnel, all of which are safety related, will once again presumably, be routed to the appropriate Dispatcher who will then dispatch the appropriate signal employee. Even more so than the CSX plan, this results in unavoidable delays in dispatching the appropriate employee to correct a safety sensitive problem. Further, it increases the workload on already taxed Dispatchers and Police personnel and dramatically increases response time and margins for error. There is no provision for training the Dispatchers for the additional workload. Nor is there mention of any type of database, other than for rail highway crossings, from which to draw information or in which to store information. This problem will be compounded at all phases of the process by NS's intent to reassign mileposts to the acquired Conrail lines.

Employee morale and thus their attention to safe operating practices will erode quickly under the NS plan. It is inconceivable that the Dispatchers and Police will accept the additional burden of work with enthusiasm. This will result in poor communication, delayed communication or no communication between the Police, Dispatchers and Signal personnel. Obviously, a Dispatcher will be forced to prioritize his/her work and the burdensome task of calling Signal employees in the middle of the night will doubtlessly fall somewhere short of the top priority. This will adversely affect the overall safety of train operation, the employees and the public.

I declare under penalty of perjury 28 USC 1746 that the foregoing is true and correct.



Roland E. McKenzie
General Chairman

Date January 30, 1998

Cc: File

Event Number: 238698 60 39 57849
 Location Name: N MAVERHUEB MARION OH
 Line Name: INDIANAPOLIS LINE
 Problem: GATE BROKE
 Reported By: LOCAL PD
 Time + Date Reported: 19:38 1/1/98
 Mile Post: 100.77
 Sw / Sig / Trk:
 Employees
 Dispatched: PERRY, TONY 19:40 1/1/98 23:00 3:00
 GARY, GARY 20:00 1/1/98 23:00 3:00
 Failure: GATE OFF
 Cause: UNKNOWN
 Repairs: RESET
 Delays:
 Cleared By: PERRY, TONY
 Cleared Time + Date: 21:00 1/1/98
 Notes: REMOUNTED GATE AND TESTED

Event Number: 238700 60 42 57849 TD Employee: HARRY SPEELMAN
 Location Name: 6TH ST FINDLAY OH
 Line Name: TOLEDO BR.
 Problem: GATES GOING UP AND DOWN
 Reported By: LOCAL PD
 Time + Date Reported: 20:27 1/1/98
 Mile Post: 45.05
 Sw / Sig / Trk:
 Employees
 Dispatched: COLE, LEONARD 20:30 1/1/98 23:30 3:00
 Failure: NONE
 Cause: UNKNOWN
 Repairs: NONE
 Delays:
 Cleared By: COLE, LEONARD
 Cleared Time + Date: 21:46 1/1/98
 Notes: NO ANSWER FROM DISPATCHER /// COA. TESTED CROSSING WITH NO EXCEPTIONS NOTED.

Event Number: 238705 60 38 57849 TD Employee: HARRY SPEELMAN
 Location Name: BR 13 GREENWICH OH
 Line Name: INDIANAPOLIS LINE
 Problem: GATES DOWN
 Reported By: LOCAL PD
 Time + Date Reported: 21:06 1/1/98
 Mile Post: 52.7
 Sw / Sig / Trk:
 Employees
 Dispatched:
 Failure: NONE
 Cause: NONE
 Repairs: NONE
 Delays:
 Cleared By: SD
 Cleared Time + Date: 21:08 1/1/98
 Notes: BELONGS TO THE CSX

Event Number: 238708 60 38 57849 TD Employee: GREG TORRENCE
 Location Name: CP 80 & EAST GALION OH
 Line Name: INDIANAPOLIS LINE
 Problem: CODE UNIT DOWN, CRASHED, . . ETC
 Reported By: DISPATCHER
 Time + Date Reported: 22:17 1/1/98
 Mile Post: 80.3
 Sw / Sig / Trk:
 Employees
 Dispatched:
 Failure:
 Cause:
 Repairs:
 Delays:
 Cleared By: SD
 Cleared Time + Date: 22:52 1/1/98
 Notes: CP came back on line as Disp was calling in, hold.

CONRAIL SERVICE DESK DATA 1997

1997		Crossings	Switches	Signals	MW Support	Code	Detectors	Coverage	Derailment	Radio	Trk Crcts	AEI	Power	Other	TOTALS
No 1 D Available	Events	1		1		5				1	1			81	17
Connecticut	Events	4													4
Washington DC	Events	2	22	43	27	11	4	4	3	2	34			12	184
Delaware	Events	401	1	20	44	6	16	5	4	7	2			32	838
Illinois	Events	674	188	203	200	80	91	131	14	37	210	8	131	1867	
Indiana	Events	3001	709	1012	1035	230	310	534	55	151	677	9	21	530	8274
Massachusetts	Events	515	231	217	241	61	51	217	14	31	208	3	4	100	1893
Maryland	Events	149	22	59	73	21	26	6	5	14	32		8	23	436
Michigan	Events	1380	347	286	360	108	73	80	18	42	337	3	8	126	3186
New Jersey	Events	2095	629	376	513	160	99	142	27	58	538	7	17	363	8024
New York	Events	2959	1293	1194	1484	593	386	432	86	153	1159	11	44	732	18626
Ohio	Events	4729	1604	1890	2360	554	584	983	100	368	1832	16	47	952	16819
Ontario, Canada	Events			1											1
Pennsylvania	Events	2180	2109	1768	1922	555	608	532	82	272	1489	21	54	932	12824
Prov of Quebec	Events	109		32	25	2	2	3	3	2	11	1		28	218
West Virginia	Events	195	2	5	49	1	30	5		26	3		2	32	380
															0
TOTAL	Events	18384	7167	7117	8333	2387	2280	3064	409	1184	6333	71	211	8801	88811
Dispatch Notify	Events	10547	23	46	184	10	21	8	10	8	43	1	3	211	11118
Midnight-Noon	Events	7391	2888	3054	2534	1012	1048	1068	189	409	2864	36	41	1457	23881
Noon-Midnight	Events	11002	4269	4063	5799	1375	1232	1977	220	755	3468	37	172	2541	38810
		Crossings	Switches	Signals	MW Support	Code	Detectors	Coverage	Derailment	Radio	Trk Crcts	AEI	Power	Other	0
Washington DC	CS 39		2												2
Delaware	CS 39	47			24	1	1	2	2					2	79
Illinois	CS 39	10	1		7		1	1			1			1	22
Indiana	CS 39	41	2	2	101	11	1	15	7		3			8	181
Massachusetts	CS 39	25	2	4	16			3	4		4	1		2	61
Maryland	CS 39	9			19	2	1				1				32
Michigan	CS 39	67	4	5	32	3		4	1	1	6	1	2		128
New Jersey	CS 39	172	2	3	52	1	2	5	3		3	1		9	253
New York	CS 39	135	18	15	160	21	5	19	13		9	1		22	418
Ohio	CS 39	53	22	6	128	11	3	15	14		8			3	283
Ontario, Canada	CS 39														0
Pennsylvania	CS 39	95	9	4	88	6	3	11	7		15	1		6	245
Prov of Quebec	CS 39	5			14			2	2		1	1			25
West Virginia	CS 39	10			21	1	2	5						1	40
TOTAL	CS 39	669	60	39	862	57	19	82	53	1	51	6	2	54	1785

STB

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33388

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K

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1/5

SLOVER & LOFTUS

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PETER A. PFOHL

ENVIRONMENTAL
DOCUMENT

ENTERED
Office of the Secretary

FEB 03 1998

Part of
Public Record

February 2, 1998



BY HAND DELIVERY

Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
ATTN: STB Finance Docket No. 33388
1925 K Street, N.W.
Washington, D.C. 20423-0001

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

Dear Ms. Kaiser:

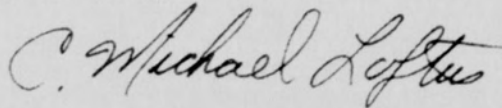
Enclosed please find an original and ten (10) copies of the Comments On Draft Environmental Impact Statement by The Cities of East Chicago, Indiana; Hammond, Indiana; Gary, Indiana; and Whiting, Indiana (collectively, The Four City Consortium) (FCC-13) filed in the referenced proceeding. Also enclosed, please find three (3) computer diskettes containing these Comments in WordPerfect 5.1 and 6.0 formats.

We have included an extra copy of the filing. Kindly indicate receipt by time-stamping this copy and returning it with our messenger.

Elaine K. Kaiser
February 2, 1998
Page 2

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "C. Michael Loftus".

C. Michael Loftus
An Attorney for the Cities of
East Chicago, Indiana; Hammond,
Indiana; Gary, Indiana; and
Whiting, Indiana (collectively,
The Four City Consortium)

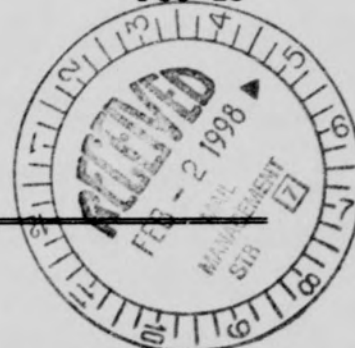
CML/raw
Enclosures

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

ENVIRONMENTAL
DOCUMENT

BEFORE THE
SURFACE TRANSPORTATION BOARD

FCC-13



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

Finance Docket No. 33388

COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT
BY THE CITIES OF EAST CHICAGO, INDIANA; HAMMOND,
INDIANA; GARY, INDIANA; AND WHITING, INDIANA
(COLLECTIVELY, THE FOUR CITY CONSORTIUM)

THE CITIES OF EAST CHICAGO,
INDIANA; HAMMOND, INDIANA;
GARY, INDIANA; AND WHITING,
INDIANA (COLLECTIVELY, THE
FOUR CITY CONSORTIUM)

OF COUNSEL:

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

Dated: February 2, 1998

By: C. Michael Loftus
Christopher A. Mills
Peter A. Pfohl
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Attorneys for The Four City
Consortium

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BEFORE THE
SURFACE TRANSPORTATION BOARD

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

Finance Docket No. 33388

COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT
BY THE CITIES OF EAST CHICAGO, INDIANA; HAMMOND,
INDIANA; GARY, INDIANA; AND WHITING, INDIANA
(COLLECTIVELY, THE FOUR CITY CONSORTIUM)

I.

INTRODUCTION

The Cities of East Chicago, Indiana; Hammond, Indiana; Gary, Indiana; and Whiting, Indiana (collectively the "Four City Consortium" or the "Four Cities") hereby submit their Comments with respect to the Draft Environmental Impact Statement ("EIS") prepared for this proceeding by the Board's Section of Environmental Analysis ("SEA") and served on December 12, 1997. As directed by Decision No. 52 served November 3, 1997, these Environmental Comments also include the Four City Consortium's response to CSX's and NS' Safety Integration Plans ("SIPs") filed on December 3, 1997.¹

¹ The purpose of each SIP is to describe the programs and processes by which CSX and NS plan to administer safety standards and plan to integrate their safety programs to ensure safe post-

(continued...)

The Four City Consortium consists of four contiguous communities located in Lake County in northwestern Indiana, immediately south and east of Chicago, Illinois. As a result of their strategic location, the Four Cities are traversed by numerous railroad lines, including every major line used by CSX, NS and Conrail to move traffic between the Chicago area and eastern points. There are approximately 208,000 residents in the Four Cities who are significantly and constantly impacted by the over 150 trains that pass through their neighborhoods daily.

The Four City Consortium was formed for the purpose of evaluating the proposed acquisition and division of Conrail by CSX and NS in terms of its potential environmental and other impacts on the Four Cities region; developing and proposing alternatives (including environmental mitigating measures) designed to ameliorate any adverse impacts on the region identified by the Four Cities; and providing regional input to the Board in its environmental review process.

In the Board's procedural schedule adopted for this proceeding, it determined that preparation of an EIS was warranted in its consideration of the Application because the proposed transaction has the potential for significant environmental impact. Decision No. 6, (served May 30, 1997) at 2-3. The Board, through its SEA, has conducted an initial environmental review of the proposed Conrail acquisition. The SEA's Draft EIS

¹(...continued)
merger operations. The Applicants' SIPs have been included by the Board as part of its Draft EIS.

contains an analysis of the potential environmental impacts of the proposed Conrail acquisition, and preliminary recommendations for environmental mitigation.²

The SEA has invited comments from the public addressing both the environmental and safety impacts of the proposed Conrail acquisition, and SEA's preliminary analyses and recommendations for mitigating the possible environmental effects of the proposed transaction contained in the Draft EIS. Under the Board's procedural schedule, after consideration of the above written comments, SEA anticipates issuing a Final EIS in late May, 1998.³ A final decision on environmental mitigation conditions will be made at the Board's voting conference scheduled for June 8, 1998 and in its written decision which will be served by July 23, 1998.

² According to SEA, the information used in preparing the Draft EIS was provided by the Applicants in their Environmental Report and Operating Plans filed with their Application in this proceeding, an Errata to the Environmental Report and Supplemental Environmental Report submitted by the Applicants on August 28, 1997, as well as information gained through supplemental environmental information directly provided by the Applicants to SEA. Other information used by SEA in preparing the Draft EIS included comments that have been submitted from interested parties to this proceeding as well as comments from the public. Additionally, in preparing the Draft EIS, the SEA consulted with other federal agencies, conducted its own independent environmental analysis, and conducted site visits. SEA engaged the assistance of a number of third-party contractors to assist with environmental analysis and field work, and to help prepare the Draft EIS. See Draft EIS, Vol. 1 at 1-8 to 1-11.

³ As announced in the Board's July 3, 1997 Notice of Intent to Prepare an Environmental Impact Statement, the Final EIS will address comments submitted on the Draft EIS and will include SEA's final recommendations, including appropriate environmental mitigation.

SUMMARY OF POSITION

After reviewing the CSX and NS operating plans as set forth in the Railroad Control Application in this proceeding, the Four Cities determined that implementation of those plans is likely to make the serious existing rail-related public health and safety problems in their region significantly worse. Accordingly, on October 21, 1997, the Four City Consortium filed Comments and Request for Conditions with respect to the merits of the proposed transaction (FCC-9) ("October 21 Comments"). In their October 21 Comments -- copies of which were provided to SEA -- the Four Cities identified and described the adverse environmental consequences likely to result from the Conrail transaction (particularly in the areas of rail/highway at-grade crossings delay/safety/emergency response), and proposed a solution intended to preserve the Applicants' post-acquisition routing flexibility for rail traffic moving to and from Chicago, while at the same time reducing the transaction's adverse impacts on their communities. The negative impacts associated with the Application are largely attributable to the Applicants' proposed increases in rail traffic movements over certain line segments heavily laden with rail/highway at-grade crossings, and the Applicants' planned reinstatement of rail service on a long-unused rail right-of-way that traverses directly through the heart of Gary, Indiana.

The Four Cities have conducted a review of the Draft EIS, as well as a review of the Application, the Applicants'

Safety Integration Plans ("SIPs") filed on December 3, 1997, and the Applicants' December 15, 1997 Rebuttal filing, and have specifically analyzed these documents as they pertain to environmental considerations and preparation of comments on the Draft EIS. In summary, the Consortium has concluded that both the Applicants and SEA (the latter through its analysis in the Draft EIS) have failed to consider adequately the significant adverse safety, socioeconomic, and environmental impacts in the Four Cities associated with the Applicants' proposed post-transaction operations. The SEA also failed to analyze adequately the Consortium's Alternative Routing Plan as required under applicable federal laws, regulations, and orders. Additionally, the SEA failed to consider adequately the significant cumulative impacts on the Four Cities that are associated with the proposed transaction. Finally, the SEA's recommended mitigation for the Four Cities, as set forth in the Draft EIS, completely fails to ameliorate these considerable impacts.

The reasons for the foregoing conclusions are detailed in the accompanying verified statements of Michael L. Cervay, the Director of Planning and Community Development for the City of Gary, Indiana ("Cervay Environmental V.S."); Philip H. Burris of L.E. Peabody & Associates, Inc. ("Burris Environmental V.S."); and Dr. Gary M. Andrew of L.E. Peabody & Associates, Inc. ("Andrew Environmental V.S.") as well as in the Four Cities' comments set forth below.

To be sure, SEA has recognized the legitimacy of some of the Four Cities' concerns and, indeed, has acknowledged in the Draft EIS that "even a small increase in [crossing] delays could exacerbate the problems faced by an urban area with several grade crossings."⁴ Accordingly, the Draft EIS contains SEA's recommendation that:

CSX and NS consult with representatives of the Four City Consortium and the Indiana Department of Transportation to address potential traffic delay and safety concerns at the nine highway/rail at-grade crossings in these communities [with a pre-acquisition level of service D]. Specifically, CSX and NS would meet with these parties to negotiate a mutually-binding agreement on the implementation and funding allocation for measures to address traffic delay and safety concerns at these crossings.

Draft EIS, Vol. 3A at IN-85; see also IN-87.

The Four Cities are appreciative of the SEA's acknowledgement of the negative environmental impacts of the proposed transaction on communities in northwest Indiana. The Four Cities also agree that the most efficient way to address the adverse impacts of the proposed transaction should be through negotiations among the affected parties (which the Four Cities wish had occurred before the filing of the Application). However, in the event the parties are unable to achieve an agreement prior to the SEA's completion of the Final EIS (expected in late-May, 1998), the Consortium strongly believes that upon careful consideration, the SEA must find that additional mitigation is required under

⁴ Draft EIS, Vol. 3A, Ch. 5 at IN-85.

applicable governing federal policies and principles for mitigating the significant environmental impacts that are likely to result from the Conrail control transaction as proposed by the Applicants.

The Four Cities have met on several occasions with CSX and NS representatives (and with Indiana DOT) in an effort to negotiate a mutually-acceptable solution to the problems raised by the Applicants' proposed post-transaction operating plans. Additional meetings are scheduled. It is uncertain at this time whether an agreement can be reached that will obviate the necessity for the imposition of environmental mitigating conditions.

With regard to the Four Cities, the Draft EIS specifically "invites public comments on appropriate mitigation that the Board could require in an event that a mutually-acceptable binding agreement cannot be reached prior to the release of the final EIS." Id. at IN-87. Accordingly, the Four Cities are submitting these detailed Comments on the Draft EIS. It is the Four Cities' intention to supplement these comments, as appropriate, upon the conclusion of the discussions with CSX and NS.

ENVIRONMENTAL RELIEF REQUESTED

To ameliorate the substantial adverse environmental, safety, and socioeconomic impacts of the Applicants' proposed transaction, the Four City Consortium respectfully requests that SEA recommend in its Final EIS that any approval of the Application be conditioned on the imposition of the Consortium's Alternative Routing Plan ("ARP") as well as continued Board oversight

to ensure that the ordered mitigation is achieved in the manner intended.

The ARP is described in detail in the Four Cities' Comments filed with the Board (with separate copies submitted to SEA) on October 21, 1997. It has two principal aspects. The first aspect of the ARP involves rerouting some CSX traffic that is projected to move between Willow Creek, IN and Calumet Park, IL from the CSX/BOCT line via Pine Junction (Gary), IN⁵ to a parallel route consisting of Conrail's Porter Branch (to be acquired by CSX) between Willow Creek and a proposed new connection with the Indiana Harbor Belt's ("IHB") Gary-Calumet Park line near Virginia Street in Gary.

The second aspect of the Four Cities' ARP involves an alternative to CSX's plan to acquire from NS and restore to service the portion of the former Pennsylvania Railroad ("PRR") Fort Wayne-Chicago line between Hobart, IN and Clarke Junction (Gary), IN, at a cost of \$13 million.⁶ Under the ARP, the post-transaction traffic that CSX proposes to move over this line

⁵ "BOCT" is the acronym for the Baltimore & Ohio Chicago Terminal Railroad Company, a wholly-owned CSX subsidiary. BOCT owns the portion of the Willow Creek to Calumet Park line between Pine Junction and Calumet Park. This BOCT line segment is particularly problematic because it is a heavily-used line having 20 rail/highway at-grade crossings over a distance of approximately six miles. Nine of these crossings have average daily vehicle counts ("ADT") above the SEA's threshold of 5,000.

⁶ This out-of-service line has 23 rail/highway at-grade crossings, many of which have been paved over. CSX proposes to rehabilitate this line to provide an alternative route for certain bulk trains that would otherwise operate via CSX's main line through Willow Creek.

would be rerouted to a parallel route via the NS's line between Hobart and Van Loon, IN, and thence via the Elgin, Joliet and Eastern Railway Company ("EJE") between Van Loon and a connection with both the EJE and CSX lakefront lines near Pine Junction.

The Four Cities' October 21 Comments demonstrated why their requested condition is necessary to minimize the adverse impacts that would result from the Conrail transaction. The Consortium also has clearly shown that this requested condition is operationally feasible, will produce positive public benefits, and will not cause any reduction in the public benefits otherwise produced by the transaction. In the analysis below, the Four Cities will also demonstrate the significant environmental impacts that are implicated by the transaction and how their proposed ARP will ameliorate many of these impacts.

If, after considering the Four Cities' ARP in more detail, the SEA still believes that negotiation between the Applicants and the Consortium is the most appropriate mitigation action, then the Four Cities would request, at a minimum, that the SEA's Final EIS recommend that moratoriums be placed on (1) any increase in railroad traffic moving over the BOCT line between Pine Junction and Calumet Park above current levels (28 trains per day), and (2) the rehabilitation of, and reinstitution of service on, the former PRR line between Hobart and Clarke Junction. These recommended moratoriums should remain in place until the Applicants and the Four Cities come to a binding resolution of this matter.

II.

ARGUMENT

SCOPE OF FOUR CITIES' COMMENTS

The Four Cities' Comments on the Draft EIS are divided into two separate parts. First, the Comments will review the statutory and regulatory framework governing the Board's review of the environmental impacts of the proposed Conrail acquisition, and the authority of the Board to impose conditions, including environmental conditions, to mitigate potentially adverse environmental impacts. Second, the Comments will address the environmental impacts on the Four Cities' region that would be caused by the proposed transaction and the manner in which these impacts should be mitigated in the Final EIS.

The SEA's Draft EIS identified eleven separate areas of environmental impact which SEA used for its analysis of the Applicants' proposed post-transaction operational activities. Through its "threshold screening process," described in detail in Appendices A through K of the Draft EIS, SEA essentially identified those activities that it believed warranted further review for possible mitigation. For the Four Cities, the most significant environmental impacts are caused as a result of increases in rail traffic over certain line segments, and re-instatement of rail operations over a long-unused rail right-of-way. Of the eleven areas of potential environmental impacts, the Consortium has identified eight of them as seriously impacting the Four Cities Region. These eight include the following:

- Safety;
- Traffic and Transportation Systems;
- Energy;
- Air Quality;
- Noise;
- Land Use and Socioeconomics;
- Environmental Justice; and
- Cumulative Impacts.

Each of these areas is evaluated, in turn, in the second part of these Comments on the Draft EIS. The Four Cities' analyses of these eight areas will include, among other things, a critique of SEA techniques and computational formulas utilized in its threshold screening process (as well as suggested corrections); a discussion of local impacts that SEA has failed to evaluate adequately (or impacts which SEA failed to evaluate altogether); a critique of the Applicants' operational assumptions impacting environmental analyses (and suggested remedial actions to correct for those flawed assumptions in the Final EIS); and proposed remedies to mitigate individual environmental impacts. In sum, this analysis seeks to offer meaningful suggestions on areas requiring additional review, and actions that SEA should take in the Final EIS to respond appropriately to the severe adverse environmental impacts the proposed transaction is likely to have on the Four Cities.

A. The Environmental Review Process

1. The Statutory Framework Governing STB Environmental Review of Proposed Mergers/ Consolidations

On June 23, 1997 CSX, NS, and Conrail filed a joint Application with the Board seeking authority for CSX and NS to acquire control of Conrail. The railroad control transaction that has been proposed by the Applicants, involving over 44,000 miles of rail lines and related facilities owned by these railroads, is a "major transaction" under the Board's regulations at 49 C.F.R. Part 1180 governing railroad consolidations.

As part of the Board's review of railroad control applications, the Board is required to evaluate economic, competitive, and environmental considerations. When evaluating a proposed railroad merger or control transaction, the Board's standard for approval is whether the transaction is "consistent with the public interest." 49 U.S.C. § 11324(c).⁷

The Four Cities' October 21, 1997 Comments set forth in detail the law governing the Board's review of proposed merger or consolidation transactions, and that discussion will not be repeated here. In general, however, under the Board's regulations, the Board must perform a "balancing test" in determining whether a proposed railroad consolidation is in the public interest. In conducting that test, the Board must weigh "the

⁷ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (1995), established the STB as well as its jurisdiction over railroad control transactions, including the Conrail control transaction being considered in this proceeding. The Board's governing standards for railroad consolidations are set forth at 49 U.S.C. § 11324.

potential benefits to applicants and the public against the harm to the public." 49 C.F.R. § 1180.1(c). If the Board determines that the overall effect of a proposed transaction is in the public interest, it still has broad authority to impose conditions on the consolidation in order to ameliorate potential adverse effects, including the authority to impose environmental mitigation conditions.

The Board in its Notice of Final Scope of Environmental Impact Statement (EIS), issued in this proceeding on October 1, 1997, set forth three separate alternatives that it will consider when reviewing the proposed transaction's impact on the environment:

In making its decision in this proceeding, the Board will consider public comments and SEA's environmental analysis contained in the EIS, including any proposed environmental mitigation. The alternatives SEA will consider in the EIS are: (1) approval of the transaction as proposed; (2) disapproval of the proposed transaction in whole (No-Action alternative); and, (3) approval of the proposed transaction with conditions, including environmental mitigation conditions.

Id. at 3 ("Notice of Final Scope"), see also Draft EIS, Executive Summary at ES-6.

The Board's standards for imposing environmental conditions in merger and control cases are consistent with its general authority to impose conditions in railroad control transactions under 49 U.S.C. § 11324(c). Among other things, "the record must support the imposition of the condition at issue, . . . there must be a sufficient relationship between the condition imposed

and the transaction before the agency, and the condition imposed must be reasonable." Notice of Final Scope at 3 n.2.

2. Requirements of the EIS Process

The statutory framework governing the EIS review process includes the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321 et seq., the regulations issued by the Council on Environmental Quality ("CEQ"), 40 C.F.R. Pts. 1500-1508, and the Board's own environmental rules, 49 C.F.R. Pts. 1105 et seq., as well as other applicable environmental statutes, orders, and guidelines. Under NEPA, Congress declared that as a "national environmental policy" each federal agency should become a "trustee of the environment," with the responsibility to "assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings." 42 U.S.C. § 4331(b).

As noted above, the EIS process was devised to ensure that major federal actions with the potential for significant environmental impacts are closely evaluated. The EIS is a device that is designed to identify impacts, analyze impacts, and consider alternatives to proposed actions that might have significant environmental impacts. The CEQ regulations provide that the purpose of the EIS is as follows:

The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which

would avoid or minimize adverse impacts or enhance the quality of the human environment.

40 C.F.R. § 1502.1. One of the most important areas that an agency must focus on in an EIS is a detailed evaluation and assessment of alternatives to proposed actions. Because of the importance of this component of the EIS, the CEQ rules for addressing alternatives are set forth in detail below:

§ 1502.14 Alternatives including the proposed action.

This section is the heart of the environmental impact statement. . . . [I]t should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:

(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives.

When considering the "significance" of a transaction, CEQ Regulations require examination of both "context" and "intensity." See Id. at 1508.27. Context usually means that the impact of a proposed action should be evaluated in the context of the impact on a specific region or locale. Intensity, which refers to the severity of the impact, also requires an examination of the cumulative impacts on the environment of an action, even if individual environmental impacts themselves are not considered to be significant. CEQ Rules explain that "significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment," and that "significance cannot be avoided by terming an action temporary or by breaking it down into small component parts." Id. at § 1508.27(b)(7). CEQ Rules further define cumulative impact as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." Id. at § 1508.7

The requirement that an agency take a "hard look" at proposed actions, and not leave it up to the parties or the public to analyze a transaction for environmental impacts, is a central tenet of NEPA. Delegation of an agency's NEPA responsibilities is frowned upon as "the Commission may not delegate to parties and intervenors its own responsibility to independently investigate and assess the environmental impact of the proposal

before it." Illinois Commerce Comm'n v. ICC, 848 F.2d 1246, 1258 (D.C. Cir. 1988).

Finally, under CEQ rules, any recommended mitigation measures in an EIS are required to be effective enough to solve the problem at hand. There are five categories of mitigation measures that agencies must consider, including: i) avoiding impacts altogether, ii) minimizing impacts; iii) rectifying impacts through restoration of the affected environment; iv) reducing or eliminating the impact over time; and/or v) compensating for impacts by replacing or providing substitute resources or environments. Id. at § 1508.27(b)(7). On the subject of mitigation, the United States Supreme Court in Robertson v. Methow Valley Citizen's Council, 490 U.S. 332 (1989), stated:

To be sure, one important ingredient of an EIS is the discussion of steps that can be taken to mitigate adverse environmental consequences. The requirement that an EIS contain a detailed statement of possible mitigation measures flows both from the language of the Act and, more expressly, from CEQ's implementing regulations. Implicit in NEPA's demand that an agency prepare a detailed statement on "any adverse environmental affects which cannot be avoided should the proposal be implemented," is an understanding that an EIS will discuss the extent to which adverse affects can be avoided.

Id. at 347-351.

3. The Inadequacy of the SEA's Draft EIS

In the sections below, the Consortium will demonstrate the inadequacies of the Draft EIS as it pertains to the Four Cities, and show how those inadequacies can and should be ad-

dressed in the Final EIS. Specifically, the analysis will show that the SEA's examination of the proposed transaction fails adequately to inform the public of the proposed action because the agency failed to take a "hard look" at its adverse environmental impacts. The Draft EIS also insufficiently analyzed reasonable alternatives, including the Four Cities Alternative Routing Plan.⁸ Among other things, under the CEQ regulations set forth above, SEA: i) did not "rigorously explore and objectively evaluate" the reasonable alternative proposed by the Four Cities for railroad operations, ii) did not "devote substantial treatment" to the Four Cities' alternative in sufficient detail to adequately inform the public "so that reviewers may evaluate their comparative merits;" and iii) did not "identify the agency's preferred alternative or alternatives."

The SEA also failed to address adequately the substantial cumulative impacts that the proposed transaction will have on the Four Cities. This issue will be outlined in more detail below. However, suffice it to say, the Draft EIS insufficiently addressed the significant cumulative impacts of the Application on northwest Indiana, especially in light of the standard that such impacts must be viewed in the context of "other past,

⁸ As noted above, the Four Cities sent copies of their Comments and Request for Conditions directly to SEA, emphasizing the need to consider their contents in development of SEA's environmental analysis. (see Counsel's Exhibit 1). Four Cities' counsel also contacted SEA and advised that the Four Cities were prepared to respond to any questions SEA might have concerning the Consortium's Comments or its Alternative Routing Plan. The SEA's contractor in the Chicago area did, in fact, meet with representatives of the Four Cities in November, 1997.

present, and reasonably foreseeable future actions." The SEA found no appreciable cumulative impact in the Four Cities despite the fact that, combined, there are over 150 trains that pass through the Four Cities, the Four Cities have a total of 243 at-grade rail/highway crossings (many of which are extremely close together with resulting significant interrelated impacts), and the number of vehicles crossing rail lines at-grade exceeds 450,000 daily. See October 21 Comments, Argument at 11. Meanwhile, the region is a severe non-attainment area for a number of air pollutants, contains a population well over 50 percent minority, which is largely low-income, and has suffered for years from the impacts of regional environmental degradation.

The Draft EIS also fails to provide the public with sufficient meaningful information on the environmental impacts of the Conrail transaction to make an informed decision on the environmental merits of the Application. For the Four Cities, SEA found only isolated instances of significant impacts. Even in those individual instances where environmental thresholds were met, SEA largely brushed off such impacts as insignificant because the impacts were "offset systemwide" or, upon further review, the SEA concluded that the impacts were not actually significant enough to require mitigation.

Finally, while the Draft EIS at Volume 4 contains a laundry list of possible mitigation actions, by-and-large it contains no "detailed statement of possible mitigation measures." For the Four Cities, the SEA did not propose the Consortium's

proffered Alternative Routing Plan as a possible mitigation measure. Instead, the Draft EIS largely requests parties to "negotiate" matters where conflicts exist. As noted above, the Four Cities have been engaging in (and will continue until agreement or impasse) such negotiations with the Applicants over planned post-transaction movements in the area. While discussions have taken place, no resolution has been reached. If such negotiations fail, the SEA (and the Board) have a clear responsibility to consider environmental mitigating conditions such as the Four Cities' Alternative Routing Plan.

B. Environmental Impacts on the Four Cities

1. Safety

In their October 21 Comments, the Four Cities identified a number of safety problems that will be caused by the Conrail transaction -- and, in particular, by the Applicants' post-transaction operating plans. These adverse safety effects result from a combination of the large number of heavily-used rail/highway at-grade crossings in the region, and the increase in rail traffic projected for certain problematic lines. These lines include, in particular, the BOCT line between Pine Junction and Calumet Park and the former PRR line between Hobart and Clarke Junction. The adverse impacts on safety identified by the

Four Cities as a direct result of the Conrail transaction include the following:⁹

- Increased likelihood of crossing accidents. The increases in train traffic and, in some cases, train speeds will result in an increased likelihood of at-grade crossing accidents. Already, many residents and workers in the Four Cities are so frustrated by endemic crossing delays that they have developed an unfortunate habit of ignoring active crossing protection devices and running (or driving) around lowered crossing gates if a train is not actually occupying the crossing. This dangerous situation will be exacerbated by projected increases in train frequency, particularly on the BOCT line. The proposed reinstitution of train operations on the PRR Hobart to Clarke Junction line, which has been out of service for ten years, will also be problematic in terms of ignoring crossing protection devices as motorists have become used to crossing this line without having to worry about whether a train may be approaching.

- Interference with the provision of EMS services. The frequent crossing blockages habitually prevent emergency police, fire and ambulance vehicles from responding in a timely manner to calls that require such vehicles to use rail/highway at-grade crossings. Again, this problem is particularly acute with

⁹ See the Verified Statements by the City Planners of each of the Four Cities (Kimberly Gordon of East Chicago, Donald Thomas of Hammond, Michael Cervay of Gary, and Daniel Botich of Whiting), included in the Four Cities' October 21 Comments; Cervay Environmental V.S. at 16-20; Burris Environmental V.S at 13-17.

respect to the crossings on the BOCT line, which runs in an east-west direction through the heart of the central business districts of East Chicago and Hammond. A total of 20 highways and streets cross the six-mile segment of this line between Pine Junction (Gary) on the east and the Indiana/Illinois state line on the west.¹⁰ These 20 crossings are so closely spaced that when a train stops anywhere in East Chicago or Hammond (as frequently occurs due to the existence of seven different at-grade railroad crossings of the BOCT line in these two communities alone), several rail/highway at-grade crossings are inevitably blocked. The projected increase from 27 to 33 trains per day over this segment, combined with their greater length and weight, will cause an already-intolerable safety situation to become worse.

- Climbing under and through stopped trains. Train stoppages and blocked crossings occur so frequently that pedestrians, particularly children, routinely climb under or through trains to get from one side of the tracks to the other. Again, this problem will be exacerbated by the Applicants' projected increases in train traffic in the region.

- Increased train speeds. Motorists have become used to slow-moving trains, particularly on the BOCT line, which contributes to the around-the-gates problem. In addition, vehicles traveling on east-west Chicago Avenue, which parallels the BOCT

¹⁰ Nine of these crossings, all located in East Chicago and Hammond, have average daily vehicular traffic counts ("ADT") greater than 5,000.

line through East Chicago and Hammond, routinely attempt to beat a train to the next open crossing. These problems may be exacerbated by CSX's proposal to raise the maximum train speed on the BOCT line to 40 miles per hour, as motorists who desire to cross this line will not expect increased speeds.¹¹

* * *

The DEIS acknowledges that these safety problems exist,¹² but it completely ignores their cumulative impact and proposes no specific mitigation measures to ameliorate the adverse safety effects of the Conrail transaction that are of principal concern. Moreover, SEA's thresholds for analysis of safety impacts (a line segment having an increase of eight or more trains per day as a result of the transaction and for which a statistical predicted accident rate per year per mile is met) appear to be arbitrary, certainly as applied to the out-of-service Hobart to Clarke Junction line.¹³

¹¹ As a practical matter, the stoppages caused by the large number of railroad at-grade crossings of the BOCT line will inhibit trains using this line from reaching anything approaching the full timetable speed. Nonetheless, any increase in speeds on this line could raise serious safety concerns.

¹² For example, the DEIS states at page IN-84 in Chapter 5 (Volume 3A) that "SEA acknowledges the concern identified by the Four City Consortium regarding the proposed Acquisition's potential impact on emergency vehicle response times. Similarly, at page IN-85 the following general statement is made: "SEA recognizes the concerns of the Four City Consortium regarding the pre-existing conditions and acknowledges that even a small increase in delays could exacerbate the problems faced by an urban area with several at-grade crossings."

¹³ The PRR Hobart to Clarke Junction line will have a post-acquisition "increase" of only five trains per day, and
(continued...)

Nor does the DEIS indicate that SEA has considered any alternatives to the Applicants' proposal, such as the Four Cities' Alternative Routing Plan, that would ameliorate these adverse safety effects. Although it was certainly reasonable for the SEA to encourage the parties to address these issues, the failure of the SEA to evaluate the Four Cities' Alternative Operating Plan in the Draft EIS effectively deprives the Four Cities of the opportunity to respond in these Comments to any errors, unjustified criticisms, etc., that might be made in such evaluation. Fulfillment of its statutory duties under NEPA requires SEA to consider specific measures to mitigate the transaction's identified adverse safety impacts.

We also note that, in compliance with Decision No. 52 served November 3, 1997, the Applicants have filed Safety Integration Plans ("SIPs") with respect to their post-transaction operations over their systems as reconfigured as a result of the acquisition and division of Conrail's lines. These SIPs were filed on December 3, 1997, or six weeks after the Four Cities' October 21, 1997 Comments were filed. Despite that fact, the Applicants' SIP's are very general in nature, and they do not address any of the specific safety concerns raised in the Four

¹³ (...continued)

since the pre-acquisition train frequency has been zero for the last ten years, obviously there have been no at-grade crossing accidents on this line for ten years. It is self-evident that the reactivation of 23 closed at-grade crossings on this line will cause enormous safety problems for motorists who are used to ignoring the possibility that a train may be approaching a crossing.

Cities' Comments. This is even more reason why these concerns must be addressed, and appropriate mitigation recommended, in the Final EIS for this case.

2. Traffic and Transportation Systems

One of the most significant adverse environmental impacts on the Four Cities region arising from the Conrail transaction relates to delays to vehicular traffic at rail/highway at-grade crossings. These delays have a significant impact on safety (as described in the preceding section) and air pollution emissions (described below), as well as an adverse economic impact resulting from unproductive time incurred by vehicle occupants while waiting for blocked crossings to clear.

In evaluating at-grade crossing vehicular delays in the Four Cities region, the DEIS considered only crossings having an ADT of 5,000 vehicles or greater as even eligible for mitigation. It also refused to consider mitigation for any individual crossing unless either (1) its post-acquisition "level of service" (LOS), as measured by average delay per vehicle in seconds, would be at "E" or worse (i.e., an average delay per vehicle of greater than 40 seconds) regardless of its pre-acquisition LOS, or (2) its LOS would decline from a pre-acquisition LOS of "C" or better (i.e., an average delay per vehicle of 25 seconds or less) to a post-acquisition LOS of "D" (i.e., an average delay per vehicle of 26 to 40 seconds).

The SEA's ADT and LOS thresholds may be reasonable for viewing the impacts of the transaction on individual grade

crossings, in terms of possible mitigation such as improvements to crossing protection devices. However, SEA's apparent decision to evaluate individual crossings in the Four Cities in isolation, without any consideration of cumulative increases in crossing delays for contiguous crossings or a related group of crossings, is both arbitrary and a violation of the Board's statutory duty to consider the cumulative environmental impacts of the proposed Conrail transaction. It is also inconsistent with SEA's determination to consider delay times for crossings having ADT's of less than 5,000 vehicles in other geographic areas affected by the transaction.

For example, in Cuyahoga County, Ohio, SEA decided to analyze all highway/rail grade crossings, regardless of whether they had an ADT of 5,000 vehicles. The reason for this was SEA's conclusion that Cuyahoga County had a relatively high incidence of vehicle delays at the many grade crossings in the county. See Draft EIS, Vol. 5A at E-17. However, according to Mr. Cervay, who has planning experience in Cuyahoga County as well as in Gary, "at-grade highway/railroad crossing problems are significantly worse in Lake County [Indiana] than in Cuyahoga County." Cervay Environmental V.S. at 26 n. 15. SEA's failure to conduct the same kind of detailed grade crossing delay study for the Four Cities region that it conducted for Cuyahoga County is puzzling at best, and arbitrary at worst.¹⁴ SEA should correct this

¹⁴ Similarly, in Tippecanoe County, Indiana, the SEA analyzed ten grade crossings in the City of Lafayette notwithstanding
(continued...)

oversight by analyzing all of the impacted grade crossings in the Four Cities for possible mitigation measures.

In addition to the inconsistencies described above, SEA's calculations of crossing delay times in the Four Cities are understated for at least three different reasons which are explained below.¹⁵

a. Number of Crossings Studied.

First, SEA inexplicably calculated delay times only for 15 of the 29 affected rail/highway grade crossings in the Four Cities having an ADT of 5,000 vehicles or more. In addition, as noted above, SEA did not study any of the grade crossings in the Four Cities having ADT's of less than 5,000 vehicles. The Four Cities, on the other hand, studied a total of 108 grade crossings (all those impacted by the changes in routings and rail traffic volumes that will result from the Conrail transaction, regardless of their ADT levels). Andrew Environmental V.S. at 6-8. The Four Cities' approach is consistent with the statutory directive to consider cumulative environmental impacts. This directive mandates that in circumstances presented by the Four Cities (and

¹⁴(...continued)
standing that they did not meet the LOS threshold criteria described above, and recommended preliminary mitigation until a proposed railroad relocation project (already in the works) can be completed or implemented. See DEIS, Vol. 3A at IN-89.

¹⁵ A fourth error in SEA's calculations has already been corrected. The SEA's original formula for calculating average delay times used the time for the last vehicle in the queue for each crossing, rather than the average time for all vehicles in the queue. This error was corrected in the Supplemental Errata to the DEIS served on January 21, 1998.

Cuyahoga County, Ohio), where a large number of contiguous grade crossings of lines that will experience a significant increase in rail traffic exist, delay times should be calculated for all of the impacted crossings.

b. Train Speeds.

Second, the train speeds used as inputs to SEA's formula used to calculate individual crossing delay times are inconsistent both with reality and with the Applicants' own data. As indicated by Messrs. Andrew and Burris in their accompanying testimony, SEA assumed that most trains would operate at maximum timetable speeds (with minor reductions in some instances to reflect operating conditions known to SEA's contractor). Thus, for the BOCT line between Pine Junction and Calumet Park, SEA assumed an average train speed of 25 MPH.¹⁶ For the PRR Hobart to Clarke Junction line segment, SEA assumed an average train speed of 10 MPH which is this line's present maximum timetable speed (although, in reality, this line segment is out of service at the present time).

In fact, maximum train speeds are very rarely (if ever) achieved on the six-mile segment of the BOCT line located in Indiana. The principal reason for this is the large number of at-grade railroad crossings of this line segment -- all of which are controlled by railroads other than CSX. Andrew Environmental V.S. at 13-14; Burris Environmental V.S. at 19-20. This means

¹⁶ The maximum authorized timetable train speed for this line is actually 35 MPH. Burris Environmental V.S. at 19.

that CSX trains frequently stop to allow trains to clear one or more of these crossings.¹⁷ According to CSX's own data, the actual average speed of trains moving over the BOCT line between Pine Junction and Barr Yard is 12.0 MPH. Andrew Environmental V.S. at 13.

CSX plans to increase the maximum authorized timetable train speed on the entire BOCT line between Pine Junction and Barr Yard from FRA Class 2 to FRA Class 3 track safety standards, thereby permitting an increase in the theoretical maximum train speed to 40 MPH. However, this is unlikely to have any material impact on actual train speeds on the six-mile segment of this line between Pine Junction and State Line Tower on the Indiana/Illinois border. The reason is that the same seven railroad grade crossings of this segment (all controlled by carriers other than CSX) will continue to exist -- which means that CSX trains will continue to have to stop on this segment to wait for railroad crossings to clear just as they do today. In addition, the CSX trains using this line after the Conrail transaction is consummated will be longer and heavier than the trains presently using the line, which means that the deceleration/acceleration time for trains that have to stop on this line will be longer than at present. However, to be conservative, the Four Cities have assumed that the post-transaction average train speed on the

¹⁷ The crossing delay study conducted by the Four Cities in September 1997 indicated that 58% of the CSX trains using the BOCT line between Pine Junction and State Line Tower come to a complete stop. Burris Environmental V.S. at 20-21.

BOCT line will increase by 10% compared with the pre-transaction level, which yields an average train speed of 13.2 MPH. Andrew Environmental V.S. at 14-15; Burris Environmental V.S. at 21-22.

With respect to the PRR Hobart to Clarke Junction line segment, CSX plans to restore this line to service and upgrade it from FRA Class 1 to FRA Class 3 track safety standards, thus also permitting a theoretical maximum train speed of 40 MPH. Again, however, the actual average train speed on this line is likely to be far less than the maximum timetable speed.¹⁸ The PRR line has two at-grade railroad crossings that will be controlled by CSX after the transaction is consummated, but that will have both a higher traffic density and a higher priority in terms of train movements through the crossings than the PRR line. This line also will connect with the CSX and Conrail lakefront lines (the latter to be acquired by NS), which will also have a very high traffic density and priority of movement. For these reasons, and based on data from CSX indicating that comparable lines have an average train speed that is less than 40% of the maximum authorized speed, a more appropriate post-transaction average actual train speed for the Hobart to Clarke Junction line segment is

¹⁸ The Applicants have both utilized the full maximum timetable speeds in their calculations of individual crossing delay times. See Joint Rebuttal Verified Statement of James C. Rooney and T. Stephen O'Connor at 14-17 (HC-293 to 296). The use of full timetable train speeds as projected post-transaction average speeds is clearly unsupportable and unacceptable. The recent western service crisis being experienced by the Union Pacific Railroad demonstrates that the Board cannot and should not take such unsubstantiated and claimed operational improvements made in the context of a railroad control proceeding at face value.

14.6 MPH. Andrew Environmental V.S. at 14-15; Burris Environmental V.S. at 22-24.

c. Train Length.

The time a train occupies a grade crossing is a factor of its length as well as its speed. SEA's calculations generally assume an increase in average train length in northwestern Indiana of only 200 feet as a result of the Conrail transaction. However, this is inconsistent with CSX's own records, which indicate a post-transaction increase in average train length of 1,298 feet for the BOCT line between Pine Junction and Barr Yard. Andrew Environmental V.S. at 11-12; Burris Environmental V.S. at 24-25. This significant increase in train length has a substantial effect on calculation of vehicle delay times at grade crossings.

* * * *

The Four Cities' consultants have used SEA's own corrected formula for calculating crossing delay times, and have corrected the SEA's data inputs to reflect all impacted crossings, average actual train speeds, and the actual change in average train lengths. The result is that the Conrail transaction will result in a total increase in annual vehicle crossing delay time in the Four Cities from 204,385 hours to 355,265 hours, an increase of 150,880 hours or approximately 74%. Andrew Environmental V.S. at 9; Burris Environmental V.S. at 11. Implementation of the Four Cities' Alternative Routing Plan would reduce the total post-transaction annual vehicle delay time to

214,645 hours -- a very substantial mitigation of the 355,265 delay hours caused by Applicants' operation plans. Id.

In the final EIS for this proceeding, SEA should correct the data input errors to the formula used to calculate crossing delay times, and it should also calculate delay times for all 108 affected grade crossings in the Four Cities. As indicated above, these corrections clearly warrant mitigation for the significant net increase in crossing delay time that will result from the Applicants' post-transaction operating plans.

3. Energy

The SEA's consideration of potential increases in the consumption of energy resources (i.e., fuel) involved an analysis of truck-to-rail traffic diversions as a result of the Conrail transaction. Although the SEA acknowledged that the Applicants' have probably overestimated the truck-to-rail diversions that will occur, it basically accepted their figures indicating that the transaction will result in a net reduction in fuel consumption of approximately 80 million gallons of diesel fuel system-wide. *Burris Environmental V.S.* at 26-27.

The SEA also evaluated rail/highway grade crossings with an ADT of greater than 5,000 vehicles. Using a fuel consumption factor for idling vehicles of .65 gallons per hour, the SEA essentially determined that because there would be no significant system-wide changes in energy use due to vehicle crossing delays, no mitigation is necessary for individual crossings. The SEA also appeared to determine that any increased energy consump-

tion caused by vehicles idling at grade crossings was offset by overall fuel consumption reductions likely to result from post-acquisition truck-to-rail diversions.

With respect to the Four Cities region, the SEA's conclusions again ignore the cumulative impacts of crossing delays at the many interrelated grade crossings, particularly on the BOCT line between Pine Junction and Calumet Park. The Conrail transaction will clearly result in a substantial increase in fuel and oil consumption by idling vehicles delayed at blocked grade crossings in this region.

The SEA's failure to consider mitigation for energy (fuel and oil consumption) impacts in the Four Cities is a direct result of SEA's incomplete evaluation of grade crossing delays, discussed in the preceding section. When the revised total vehicle crossing delay time as calculated by Messrs. Andrew and Burris in their accompanying testimony is taken into account, the result is a post-transaction increase in fuel consumption. This causes annual fuel consumption costs caused by grade crossing delays to increase from \$180,208 to \$313,344. Burris Environmental V.S. at 38. If the Four Cities' Alternative Routing Plan were implemented, the total annual increase in fuel and oil consumption costs due to grade crossing delays would drop to \$209,400. Id. at 43, 48.

4. Air Quality

The Four Cities currently experience some of the worst air quality problems encountered anywhere in the midwest. Lake

County, in which the Four Cities are geographically situated, has the poorest overall air quality of any area in the State of Indiana.¹⁹ Cervay Environmental V.S. at 21. These impacts are largely a result of the heavy industrial activities that have sustained the area economically over the last century. Lake County does not meet Clean Air Act standards for air quality, and, as the Draft EIS has recognized, it is categorized by the Environmental Protection Agency ("EPA") as a severe "nonattainment" area for the emission of Ozone ("O3") (which is produced in part by volatile organic compounds ("VOCs")), oxides of nitrogen ("NOx"), and other chemical pollutants. Lake County is also partially nonattainment for Sulfur Dioxide ("SO2"), Carbon Monoxide ("CO"), and Particulate Matter ("PM").

Because of these air pollution problems, the Four Cities, in conjunction with state and federal officials, and with the cooperation of businesses and the public, have expended considerable time and resources in developing programs to improve area air quality. As a direct result of the severe pollution problems facing northwest Indiana, EPA has organized the Northwest Indiana Environmental Initiative. The Initiative is designed to focus resources and attention on improving the region's environment. Additionally the Initiative has developed an Action Plan, which includes strategies for improving northwest Indiana

¹⁹ Mr. Cervay's Environmental V.S. outlines in considerable detail the significant air quality impacts that the proposed transaction would have in the Four Cities. The economic consequences of these impacts are further quantified in Mr. Burris' Environmental V.S.

environmental problems. Cervay Environmental V.S. at 21-22, Exhibit MLC-2.

A significant problem facing the Four Cities is the emission of mobile source pollutants from vehicles, including ozone-producing VOCs, NOx, and CO emissions. Enforcement provisions of the Clean Air Act strictly regulate such emissions and the State of Indiana and local officials have spent considerable energy and resources on actions to conform with the EPA enforced standards. Among other things, EPA recently approved the State's Rate-Of-Progress Plan, which requires Lake County to take steps sufficient to reduce weekday ozone emissions by at least 15 percent over a six- year period. Id. at 24-25, Exhibit MLC-4. Lake County pollution control efforts include the implementation of an enhanced vehicle emission testing program, and requirements that gasoline providers sell only reformulated gasoline and install vapor recovery equipment on gasoline pumps. Id. at 25.

Unfortunately, the Draft EIS largely fails to consider the significant air pollution impacts that the proposed transaction would have on the Four Cities. As has been demonstrated throughout the Four Cities' October 21 Comments and in these Comments on the Draft EIS, these impacts will result from the increased blockage of highway traffic at railroad grade crossings that will occur as a result of the Applicants' post-transaction operating plans for this area.

In examining air quality impacts in the Draft EIS, for some communities -- such as those in Cuyahoga County, Ohio, as

previously discussed -- SEA decided to analyze all highway/rail at-grade crossings impacted by the Application, including those with ADT volumes under 5,000 vehicles. For Lake County, the SEA only considered crossings with ADT's over 5,000 vehicles, despite the well-documented at-grade highway/rail crossing problems that have been brought to the SEA's attention by the Four Cities. Cervay Environmental V.S. at 25-26. The Final EIS should consider the air pollution impacts of all impacted grade crossings in the Four Cities, and not just those crossings with ADT's over 5,000 vehicles.

- a. The SEA Failed to Consider Potential Sanctions Facing the Four Cities that are Implicated by the Transaction.

While northwest Indiana has made progress in improving air quality, the area must do much more to overcome environmental air quality problems in order to achieve Clean Air Act requirements. Under the SEA's formulae utilized for calculating air quality impacts in this proceeding, SEA concluded that net NOx emissions will increase by 83.76 net tons per year in Lake County. See Draft EIS, Vol. 3A at IN-41, Table 5-IN-22. While this level of impact is significantly above the SEA's threshold of 25.0 tons per year for the imposition of mitigation, SEA inexplicably determined that the impact was not significant enough to impose mitigation for the Four Cities.

Unfortunately, the SEA's analysis fails to consider the substantial impacts of non-action in the case of air quality in the Four Cities. Because of the Four Cities' nonattainment air

quality status, and specifically, its severe nonattainment status for NOx, any increases in air pollution may cause the region to violate its compact with EPA which requires it to substantially reduce ozone and other air pollution emissions as required under the federal Clean Air Act. Among other things, the Clean Air Act requires any increased sources of NOx emissions above 25 tons per year to be offset by a ratio of 1.3 to 1. See 42 U.S.C. § 7511a(d); Cervay Environmental V.S. at 27-28. Additionally, the Four Cities are facing the threat of sanctions in the form of blocked federal highway assistance grants for failing to achieve Clean Air Act standards, as well as other sanctions. See 42 U.S.C. § 7509; Cervay Environmental V.S. at 27. Again, SEA has acknowledged that significant air pollution impacts for the Four Cities are implicated by the proposed transaction, but its recommendations fail to comport with these critical federal/state compliance requirements.

For the above reasons, the Four Cities request that SEA, as part of its Final EIS, conduct a conformity determination to ascertain the impact of the Application on the Four Cities. Under the requirements of NEPA, in determining the significance of a potential impact on the environment, agencies are required to ascertain "[w]hether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment." 40 C.F.R. § 1508.26. Additionally, the Clean Air Act specifies that "[n]o department, agency, or instrumentality of the Federal Government shall . . . permit[]

or approve[] any activity which does not conform to an implementation plan after it has been approved or promulgated under section 7410 of this title." 42 U.S.C. § 7506(c)(1). Section 7410 is a reference to state implementation plans, which are compacts between the states and EPA in the achievement of air quality standards. Cervay Environmental V.S. at 23. Conformance assurance is the "affirmative responsibility" of the agency head, who must ensure that activities will not:

- (i) cause or contribute to any new violation of any standard in any area;
- (ii) increase the frequency or severity of any existing violation of any standard in any area; or
- (iii) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

Id. at 7506(c)(1)(B).

Because of the potential conflict of the Applicants' post transaction plans with federal/state air quality standards, as demonstrated above, the SEA should undertake a conformity determination for the Four Cities prior to any approval of the proposed Conrail Transaction. The Four Cities believe that their Alternative Routing Plan, if imposed as an environmental mitigating condition, would obviate the need for such a determination because of the amelioration of impacts that it would achieve.

b. The Draft EIS Failed to Consider the
 Socioeconomic Impact of Increased Air
 Pollution.

There would be significant socioeconomic impacts caused by post-transaction increases in air pollution in the Four Cities. In his accompanying verified statement, witness Burris has quantified the economic impacts on the Four Cities of the degradation in air quality caused by the transaction. In total, the anticipated costs associated with the implementation of the Applicants' post transaction plans on the Four Cities is \$3.4 million annually. Burris Environmental V.S. at 32. Mr. Burris has also measured the economic impact from emissions caused by vehicle delays at rail/highway grade crossings in the Four Cities, based on Federal Railroad Administration economic modeling formula. Specifically, Mr. Burris compared the cost of air pollution impacts that would be caused by Applicants' proposed operations over the Willow Creek to Calumet Park line segment and the Hobart to Clarke Junction line segment versus the cost of air pollution impacts resulting from current operations. The result is that annual vehicle emission costs will increase from \$463,000 under current operations to nearly \$851,000 under the Applicants' proposal. Id. at 36.

Additionally, as discussed below in the Land Use and Socioeconomics section, the Four Cities are involved in extensive economic redevelopment plans, largely involving the restoration and development of the Lake Michigan waterfront which spans the entire northern boundary of all of the Four Cities. Cervay

Environmental V.S. at 11-16. These plans are part of a larger effort that is being made by the region to move away from heavily industrial economic activities, and to promote cleaner forms of economic growth for the region. The restoration of the waterfront at Buffington Harbor alone already has resulted in over \$25 million in new annual tax revenues for the City of Gary alone.

Id. at 12. To attract additional visitors to the region, and to continue to expand waterfront opportunities, however, significant improvements will be needed in the area of air quality in particular, as well as in other areas of environmental clean up.

* * * *

Unfortunately, despite acknowledging in the Draft SEA that significant air pollution impacts will result from the Conrail transaction, the SEA is not recommending -- and the Applicants are not initiating -- any air quality mitigation for the Four Cities. Such inaction is clearly unacceptable, especially in light of the important mitigation actions that state, county, and local officials have already undertaken to improve the region's air quality to conform to Clean Air Act standards, and in light of the critical importance of improved air quality for the success of areawide economic development efforts.

5. Noise

The SEA examined two kinds of noise impacts potentially resulting from the Applicants' post-transaction operating plans. These were wayside noise (i.e., wheel/rail interaction noise) and horn noise (which is an additional noise source at grade cross-

ings). SEA analyzed potential increases in noise for line segments experiencing a post-transaction increase of eight trains per day or a 100% increase in annual gross ton-miles. The noise thresholds used to determine whether mitigation is warranted were an incremental increase in noise levels of three decibels ("dBA") or more, or any increase resulting in a noise level of 65 dBA or greater.

For line segments meeting the SEA's environmental noise-analysis thresholds, SEA identified sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities and nursing homes) in the affected area and quantified the noise increase for those receptors. For areas affected by wayside noise, SEA recommended mitigation for noise-sensitive receptors exposed to at least 70 dBA and an increase of at least five dBA due to increased rail activity.

Using these criteria, the SEA identified three line segments in the Four Cities as meeting its thresholds for noise analysis: the former PRR line segment between Tolleston and Clarke Junction, the former PRR line segment between Warsaw and Tolleston via Hobart, and the CSX line segment between Willow Creek and Pine Junction.²⁰ However, the SEA proposed no mitigation for any of these line segments. For receptors near grade crossings that would experience increases in horn-sounding noise

²⁰ SEA also determined that the Conrail line segment between CP-501 and Indiana Harbor (to be acquired by NS) met the thresholds for noise analysis, but that the increase in noise due to increased rail activity was insignificant and thus that receptor counts were unnecessary.

levels, SEA determined that mitigation was not feasible due to FRA regulations requiring locomotive horns to be blown at rail/highway grade crossings. For those areas affected by wayside noise, the SEA determined that none of the receptors was exposed to at least 70 dBA and an increase of at least five dBA due to increased rail activity, and therefore that no noise mitigation was warranted.

Although the SEA considers grade separations to be a noise mitigation option, it normally "does not consider grade separations to be cost-effective solely for noise mitigation." Draft EIS, Vol. 5A at F-11. However, the Four Cities have proposed an Alternative Routing Plan that makes extensive use of existing grade separations on the elevated IHB line which parallels the BOCT Pine Junction-Calumet Park line several miles to the south. The Four Cities have shown that their Alternative Routing Plan is a cost-effective mitigation option for a number of adverse environmental impacts, including increased noise pollution. In the Final EIS, the SEA should consider the Alternative Routing Plan as an effective means of mitigating noise as one of the cumulative impacts on the Four Cities resulting from the Applicants' proposed post-transaction train operations.

The SEA also failed to consider the fact that the PRR Hobart-Clarke Junction line is presently an inactive line that incurs no noise impacts from rail operations. A proposed low-income Gary housing project described by Mr. Cervay would lie in close proximity to this line, and would contain numerous recep-

tors (residences) that would suffer new noise impacts from the re-institution of rail service on this line. Cervay Environmental V.S. at 5-8. The SEA made no attempt to determine whether such impacts warrant mitigation.

6. Land Use and Socioeconomics

In determining the impact of the proposed transaction on land use and socioeconomics, the SEA scope of review was very narrow. In particular, the SEA's final order on the scope of the EIS review stated that the EIS would consider whether any proposed constructions or abandonments were "consistent with existing land use plans." See Notice of Final Scope of Environmental Impact Statement (EIS), served October 1, 1997, at 12. Additionally, the scoping order stated that SEA would "address socioeconomic issues shown to be related to changes in the physical environment as a result of the proposed transaction." Id.

For the Four Cities, the SEA did not identify the former PRR Hobart to Clarke Junction line segment in its analysis of land use and socioeconomics. As stated in these comments, CSX plans to acquire this inactive line from NS and restore it to service. Rehabilitation/construction costs are estimated at \$13 million. Because of its long inactivity, and because of the substantial rehabilitation work that would be necessary to restore this line into service, the line should be considered to be a construction project that meets the requirements of SEA's scoping order for consideration of land use and socioeconomic impacts.

Even if the SEA does not consider rehabilitation of the Hobart-Clarke Junction line to be a "construction project," because of its long inactivity, there will be substantial socioeconomic issues related to changes in the physical environment that would be caused by the restoration of this line to service. For these reasons, the SEA should consider the land use and socioeconomic impacts of construction on the former PRR line in its Final EIS.

In his accompanying testimony, Michael Cervay, the Director of Planning and Community Development for the City of Gary, has described a number of adverse socioeconomic impacts that will result from the reinstitution of rail service on the Hobart to Clarke Junction line. Cervay Environmental V.S. at 5-8 and 11-16. As is detailed in Mr. Cervay's statement, restoration of this line would negatively impact important housing, airport, and waterfront development plans in the Four Cities. For example, the line constitutes the northern boundary of the planned Roosevelt Manor low-income housing project. Because the PRR line has been inactive for the last ten years, and because of its poor condition, development plans for the housing project were made by the City of Gary and community planners involved with the project with the understanding that the housing project would not be impacted by future railroad operations. Restoration of the PRR line to service will cause significant impacts in terms of noise, air pollution, and traffic at reopened rail/highway grade crossings in the immediate vicinity.

The reinstatement of rail service on the PRR line would also interfere with the Four Cities' plans to expand the Gary/Chicago Airport. Cervay Environmental V.S. at 8-11. The PRR line passes immediately to the east of the airport. The airport's expansion plans have been ongoing for the past several years, and airport authorities anticipate that the expansion will include the institution of passenger service as well as increased cargo service. Without increasing the length of the runways and runway safety buffer zones, as required by Federal Aviation Administration regulations, the airport will be unable to take on passenger service and to handle increasing amounts of air cargo. If the out-of-service PRR line is reactivated, the runway extensions (and thus the airport expansion itself) will be blocked.

Finally, reinstatement of the PRR would impede plans for the redevelopment of Gary's Lake Michigan waterfront. Cervay Environmental V.S. at 11-16. As has been stated elsewhere in these comments, the redevelopment of the lakefront is a critical component of the region's long-term economic growth plans. The lakefront Buffington Harbor gaming facilities, which were opened two years ago, attract 10 to 12 million visitors annually, and provide thousands of jobs for local residents. The reactivated PRR line would intersect with the CSX and Conrail (NS) lakeshore main lines directly south of Buffington Harbor. The result would be to create significant vehicular and pedestrian congestion problems and disrupt the lakefront redevelopment plans in this area.

For all of these reasons, the SEA in its Final EIS should evaluate, for possible mitigation through the Four Cities' Alternative Routing Plan, the significant land use and socioeconomic impacts that the reinstatement of the former PRR line between Hobart and Clarke Junction would have on the Four Cities.

7. Environmental Justice

a. Implications of the President's
Environmental Justice Order

Under Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, issued February 11, 1994 ("Environmental Justice Order"), the President ordered all federal agencies

to the greatest extent practicable and permitted by law . . . to make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

Guidance orders for the implementation of the Environmental Justice Order have been issued by several departments and agencies, including the CEQ, EPA, and the Department of Transportation ("DOT"). While CEQ and EPA have issued only draft guidance on procedures to be used for implementing the Environmental Justice Order, DOT issued a final order on environmental justice on February 3, 1997.²¹ The DOT Environmental Justice Order req-

²¹ See Department of Transportation (DOT) Order to Address Environmental Justice in Minority Populations and Low-Income Populations, 62 Fed. Reg. 18377 (Apr. 15, 1997). ("DOT Environmental Justice Order").

quires that all DOT offices ensure that steps are taken to ensure that any approved actions do not disproportionately impact minority or low-income populations.²² The DOT Environmental Justice Order directs that any "programs, policies or activities that will have a disproportionately high and adverse effect" on minority or low income populations should be avoided if at all possible.²³ Under the DOT Environmental Justice Order, such programs, policies, or activities may only be carried out if:

(1) a substantial need for the program, policy or activity exists, based on the overall public interest; and

(2) alternatives that would have less adverse effects on protected populations (and that still satisfy the need identified in subparagraph (1) above), either (i) would have other adverse social, economic, environmental or human health impacts that are more severe, or (ii) would involve increased costs of extraordinary magnitude.

The DOT Environmental Justice Order provides further guidance as follows:

²² While it is unclear whether the Board, as an independent entity established within DOT, is legally bound by the terms of the DOT Environmental Justice Order, in the Draft EIS, SEA stated that it is following the Order, as well as other draft guidance documents issued by other agencies addressing the implementation of the Executive Order. See Draft EIS, Vol. 3 at 3-47.

²³ "Programs, policies, and/or activities" as defined under the Order include "all projects, programs, policies, and activities that affect human health or the environment, and which are undertaken or approved by DOT." In addition, "disproportionately high and adverse effect on minority and low-income populations" is defined generally as an "adverse effect that . . . is predominately borne by a minority population and/or a low-income population."

DOT officials will ensure that [such actions] will only be carried out if further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effect are not practicable. In determining whether a mitigation measure or an alternative is "practicable," the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account.

In the Draft EIS, the SEA generally identified its environmental threshold criteria for environmental justice analysis as follows. First, SEA examined population areas surrounding rail line segments potentially impacted by the proposed transaction.²⁴ SEA then determined whether greater than 50 percent of the population in these areas is minority or low income.²⁵ If the requisite threshold requirements were met, SEA examined whether a population zone on either side of a rail line segment (from 400 feet to 1,500 feet) was potentially impacted from an environmental perspective.

b. The SEA's Proposed Mitigation for Four Cities' Environmental Justice Impacts is Inadequate

The Applicants' proposed post-transaction operating plans present significant environmental justice concerns for the Four Cities, which have a substantial minority and low-income

²⁴ For nonattainment air quality areas, such as Lake County, Indiana, the SEA's threshold criteria was to examine rail line segments with anticipated increases in traffic levels of 3 trains/day.

²⁵ The SEA defined a minority person as "someone who is Black (Non-Hispanic), Hispanic, Asian American, American Indian or Alaskan Native. Draft EIS, Vol. 1, at 3-49. The SEA noted that while "poverty thresholds vary by size," it established a threshold of \$12,674 for a family of four, as set forth under the Department of Health and Human Services poverty guidelines.

population. 84 percent of the Gary population (97,626 of the total population of 116,646) is non-white/minority. 81 percent of the East Chicago population (28,264 of the total population of 34,740) is non-white/minority.

In the Draft EIS, SEA determined that the Warsaw to Tolleston (via Hobart) and the Tolleston to Clarke Junction line segments, both constituting part of the former PRR Fort Wayne line, present significant environmental justice impacts. Additionally, the SEA determined that the BOCT Willow Creek to Pine Junction line presents significant environmental justice impacts. See Draft EIS Vol. 5 at IN-74.

The SEA states in the Draft EIS that it has been conducting additional public outreach as well as additional studies to determine exactly how the environmental justice populations identified are impacted. In terms of mitigation, the Draft EIS states that for the State of Indiana, "SEA is currently developing additional mitigation strategies [beside public outreach] in coordination with the local communities in Indiana surrounding the sites and rail line segments" and will report on these strategies in the Final EIS." Draft EIS Vol. 5 at IN-81. In the Draft EIS, SEA concludes that it is "determin[ing] the extent and nature of the potential environmental justice impacts. If an environmental justice impact exists, SEA will determine if mitigation would be practicable." Id.

The SEA's environmental justice analysis for the Four Cities is deficient in several regards. First, while the SEA

identified populations in the City of Gary to be affected by environmental justice impacts, it did not determine the population of the City of East Chicago, which is 81 percent minority, to be significantly impacted. In particular, the BOCT Pine Junction to Calumet Park line passes directly through East Chicago on the northern edge of the central business district. As described by East Chicago's Director of Planning and Business Development, Kimberly Gordon, in her Verified Statement in the Four Cities' October 21 Comments, the BOCT line has a number of heavily-used highway grade crossings that cause numerous safety and quality of-life problems for East Chicago residents and workers. See October 21 Comments, Gordon V.S. at 4-6.

Despite Ms. Gordon's detailed account of the safety and environmental hazards caused by the Pine Junction to Calumet Park line segment (whose rail traffic will increase by six trains per day as a result of the Conrail transaction), and even though the community surrounding this line meets the Board's threshold standards, SEA apparently did not consider the area to be significant for environmental justice purposes. As noted above, SEA only considered the Willow Creek to Pine Junction line segment to have environmental justice impacts. However, a majority of the Pine Junction to Calumet Park line passes through the minority neighborhoods of Gary and East Chicago. For these reasons, the Board should include this line segment as significantly impacted for environmental justice mitigation purposes.

Reinstatement of the PRR Hobart to Clarke Junction line segment would also produce substantial environmental justice impacts on the heavily minority population of Gary. This line constitutes the northern border of the Roosevelt Manor low- to moderate-income housing project site. The SEA did not consider the fact that restoring this line segment to service would adversely impact the development of Roosevelt Manner and the future residents that will be purchasing new homes in the community. Cervay Environmental V.S. at 6-7. This area is populated by an 88 percent minority population. Id.²⁶

The Four Cities strongly believe that SEA must impose environmental justice mitigation in order to comply with environmental justice requirements. It is important to note that the two rail line segments that SEA has determined to be significantly impacted in terms of environmental justice, the former PRR line from Warsaw to Clarke Junction via Hobart and the CSX/BOCT line from Willow Creek to Pine Junction, are in part the very same line segments that the Four Cities have targeted as presenting significant safety, crossing delay, socioeconomic, and other environmental problems. Under the Four Cities' Alternative Routing Plan, the PRR line between Hobart and Clarke Junction would remain inactive post-transaction, and a significant portion of the rail traffic that would otherwise move over the CSX/BOCT

²⁶ This impact was also brought to SEA's attention by the Four Cities in their October 21 Comments. Cervay V.S. at 8-9, and Attachment No. 1.

line via Pine Junction would be shifted to other lines with a higher proportion of rail/highway grade separations.

As stated above, under applicable environmental justice requirements, if environmental justice populations are impacted, the SEA is required to impose an alternative if that alternative "would have less adverse effects on protected populations." The SEA failed to consider the Alternative Routing Plan as a potential means of mitigating environmental justice impacts. The Four Cities, both herein and in their October 21 Comments, have clearly demonstrated that the Alternative Routing Plan would have far less environmental impacts than the Applicants' proposal and would also produce substantial economic savings as compared to the Applicants' proposed operations plans. Accordingly, the law requires that the Alternative Routing Plan be implemented as an environmental justice mitigation measure.

8. Cumulative Impacts

The legal framework for the Board's consideration of the cumulative environmental impacts of the proposed transaction is set forth in the statutory review section at pages 12-17 above, and will not be repeated in detail here. In summary, NEPA's definition of cumulative impact is precisely what the phrase itself implies: impacts that individually may not be deemed significant, but when considered together on an incremental, cumulative basis, in context with past, present and other reasonably foreseeable actions, are significant. See the discussion at page 16, above. The CEQ guidance regulations provide

that "[c]umulative impacts can result from individually minor but collectively significant actions taking place over a period of time." 40 C.F.R. § 1508.7.

In the Draft EIS, the SEA states that it has reviewed the cumulative impact of the proposed transaction, not just on a systemwide basis, but also on a regional basis. See DEIS, Vol. 3 at 3-52. The SEA's methodology was to consider past, present, and planned projects and activities that could, when considered with potential impacts on the proposed Conrail acquisition, result in significant regional cumulative effects on air quality, safety, and transportation systems. Among other things, SEA stated that its Draft EIS would discuss the potential environmental impacts of construction or facility modification activities within railroad-owned right-of-way property . . . and additional environmental impacts related to the proposed transaction but not subject to Board approval." Id. at 3-53. However, the SEA did not examine any cumulative impacts involving either of the two line segments of principal concern to the Four Cities: the BOCT line between Pine Junction and Calumet Park, and the former PRR line between Hobart and Clarke Junction.

It should be readily apparent from both the Four Cities' October 21 Comments and these comments on the Draft EIS that the Applicants' post-transaction operating plans will have a very substantial cumulative impact on the Four Cities region, particularly in the area of rail/highway grade crossing safety and delays. A distinctive example of the serious cumulative

impact of the grade crossing problems facing the Four Cities' 208,000 residents is the "around-the-gates" phenomenon identified by Dr. Andrew (and the planning officials from each of the Four Cities). See, e.g., Andrew V.S. in the Four Cities' October 21 Comments at 16. In a September 1997 study of rail/highway grade crossings in the Four Cities, the study personnel witnessed an average of 484 vehicles per day ignoring railroad/highway safety devices at the twelve crossings studied. Id. Drivers throughout the Four Cities are at great risk of death or bodily injury to themselves and their passengers as a result of these actions. The September 1997 fatal Amtrak collision with a truck at a grade crossing in Gary, described in Mr. Cervay's accompanying testimony, demonstrates in graphic detail the seriousness of the problem. Cervay Environmental V.S. at 17-19. The flashing lights and warning gates at this crossing were operating properly when the collision occurred. Id.

The close proximity of numerous at-grade highway/rail grade crossings in the Four Cities is particularly problematic on the BOCT Pine Junction to Calumet Park line, which traverses western Gary as well as both the East Chicago and Hammond business districts. The 6.0-mile segment of this line in Indiana has 20 rail/highway grade crossings, nine of which are arterial roads as indicated by their ADT's which exceed 5,000 vehicles. These grade crossings are often used interchangeably by motorists when train crossing blockage occurs. Cervay Environmental V.S. at 19-20. For example, when motorists on one (or more) of the nine

main north-south arterial routes face blocked grade crossings on this line, they will often speed ahead to the next crossing in an attempt to "beat the train" across the intersection. The dangerous situation that this phenomenon has created cannot be overstated. Since trains on this line almost always block more than one grade crossing at a time, such crossing attempts by motorists are often futile. This creates even more motorist frustration.

While no single grade crossing of the BOCT line may warrant mitigation under the thresholds used by the SEA, collectively they present an enormous problem in terms of vehicle delay and safety. As indicated earlier in these Comments, the SEA deemed just such a form of cumulative impact in Cuyahoga County, Ohio, to warrant consideration of mitigation. There is simply no rational basis for failing to consider the cumulative impacts of delays at the numerous closely-spaced grade crossings on the BOCT line.

The Hobart to Clarke Junction line segment involves a change from zero trains per day at present to five trains per day post-acquisition, and the reopening of 23 inactive rail/highway grade crossings. This will result from CSX's proposal (at a cost of \$13 million) to rehabilitate this line segment and restore it to service. The Draft EIS indicates that SEA did evaluate "several different railroad related projects that do not normally require the approval of the Board such as proposed modifications of existing railroad properties, [and that it] included analysis of three of these projects in the Draft EIS because it concluded

that these projects could have potentially significant environmental effects off of existing right-of-way." Draft EIS, Vol. 1 at 3-56. Because SEA elected not to mention the specific projects analyzed in the Draft EIS, it is uncertain whether SEA evaluated CSX's proposed reinstatement of service on the Hobart to Clarke Junction line segment.

The Four Cities have outlined in great detail the significant cumulative environmental, safety, and socioeconomic impact that would result from the reinstitution into service of the PRR Hobart to Clarke Junction line. The reinstatement of this line would interfere with the Roosevelt Manor Affordable Housing Initiative, the expansion and upgrading of the Gary/Chicago Airport, and the ongoing development of the Lake Michigan lakefront area.

In discussing the cumulative effects of the Conrail transaction on the State of Indiana, the Draft EIS discusses cumulative impacts in only four short paragraphs. See Draft EIS, Vol. 5 at IN-81 to IN-82. The Draft EIS states that SEA is "unaware of any activities that would require a cumulative effects analysis" in the State, and that "[d]ue to a lack of cumulative effects, no mitigation measures are necessary." The Four Cities strongly urge the Board to evaluate in a meaningful fashion the significant cumulative environmental, safety, and socioeconomic impacts on the residents and communities of northwest Indiana region that would be created by the Applicants' proposed incremental increases in railroad traffic using the BOCT

line between Pine Junction and Calumet Park and the reinstitution of service on the portion of the PRR line between Hobart and Clarke Junction.

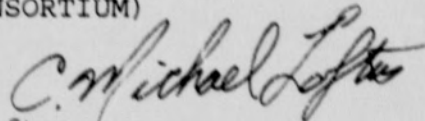
CONCLUSION

For all of the reasons set forth above and in the accompanying verified statements, the SEA should re-evaluate the adverse environmental impacts that the Applicant's post-acquisition operating plans would have on the Four Cities. As related earlier, the Four Cities' discussions with CSX and NS are continuing and the Four Cities will supplement these Comments as appropriate when the discussions are concluded. If the parties are unable to achieve an accommodation, the SEA should recommend in the Final EIS that the Four Cities' proposed Alternative Routing Plan be imposed as an appropriate environmental mitigating condition to approval of the Application that would ameliorate the adverse impacts in a manner that is consistent with the

overall objectives of CSX and NS in their proposal to acquire
Conrail.

Respectfully submitted,

THE CITIES OF EAST CHICAGO,
INDIANA; HAMMOND, INDIANA;
GARY, INDIANA; AND WHITING,
INDIANA (COLLECTIVELY, THE
FOUR CITY CONSORTIUM)



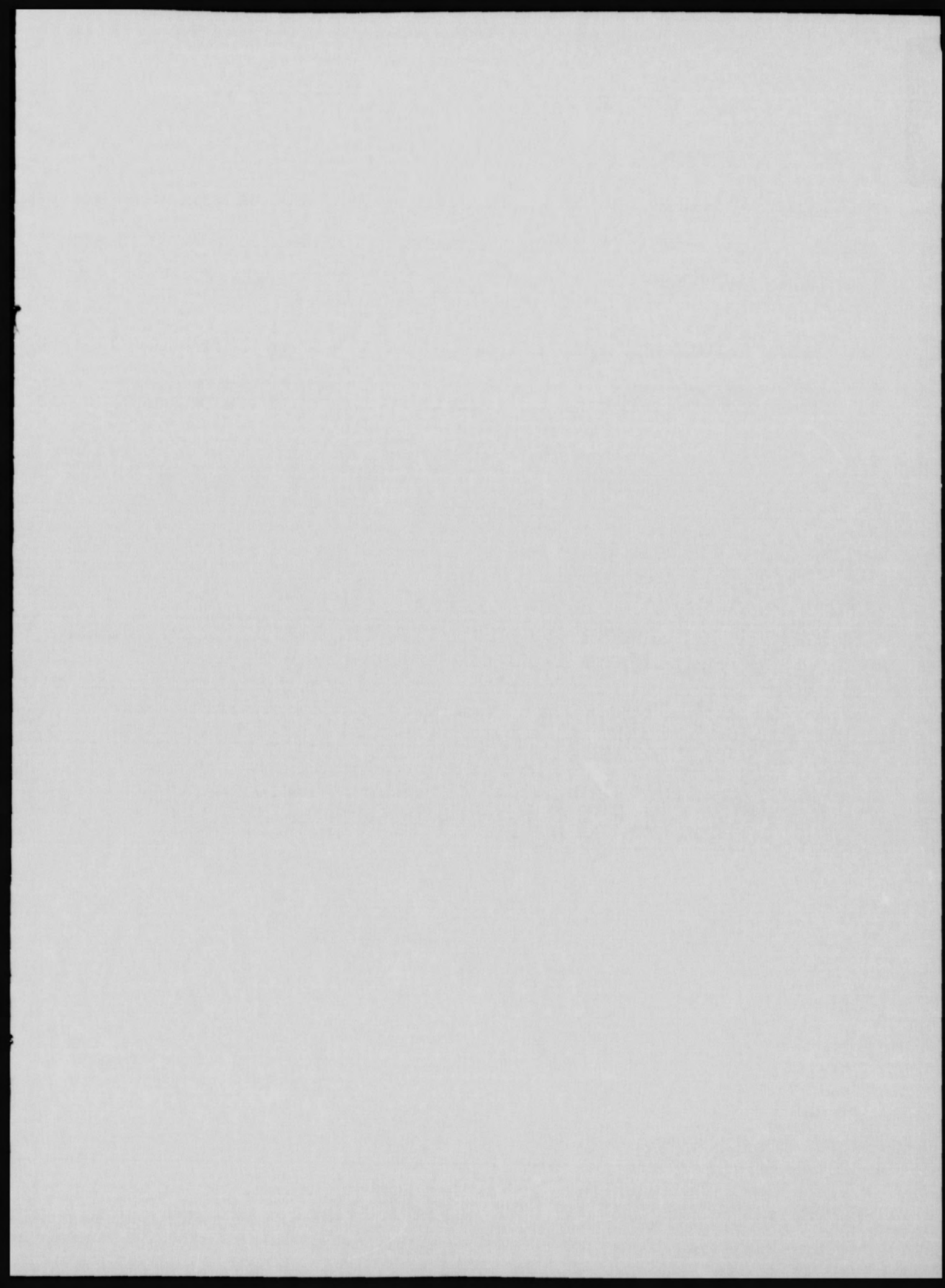
OF COUNSEL:

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

Dated: February 2, 1998

By: C. Michael Loftus
Christopher A. Mills
Peter A. Pfohl
1224 Seventeenth Street, N.W.
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Attorneys for The Four City
Consortium



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FRANK J. PERGOLIZZI
ANDREW B. KOLFSAR III

STAMP & RETURN

202 347-7170

October 21, 1997

BY HAND DELIVERY

Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
ATTN: STB Finance Docket No. 33388
1925 K Street, N.W.
Washington, D.C. 20423-0001

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

Dear Ms. Kaiser:

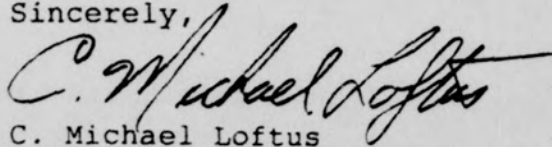
Enclosed please find three (3) copies of the Comments and Requests for Conditions of the Cities of East Chicago, Indiana; Hammond, Indiana; Gary, Indiana; and Whiting, Indiana (collectively, The Four City Consortium)(FCC-9) filed today with the Board as part of the above-referenced proceeding. Also enclosed, please find a computer diskette containing the text of this document in WordPerfect 5.1 format.

These copies of the Four Cities' Comments are being sent to the SEA because of the extensive negative environmental impacts that the Applicants' proposed division of Conrail would have on the Four Cities area, located in northwestern Indiana. The Four Cities' Comments address these environmental impacts in detail, which primarily are the result of Applicants' plans to move their traffic over line segments containing numerous at-grade highway/rail crossings. The Four Cities' Comments also describe an Alternative Routing Plan that was developed to mitigate the negative environmental and related impacts that would be caused under the Applicants' plan, while requiring only minimal adjustments to the Applicants' proposed operations plan. The Four Cities are requesting that the Board condition any approval of the Application on the imposition of this important alternative plan.

Elaine K. Kaiser
October 21, 1997
Page 2

Through an October 1, 1997 letter, you invited the public to submit comments on the potential environmental impacts that might result from the above-referenced transaction, and which might assist the SEA in their preparation of a draft and final Environmental Impact Statement ("EIS"). The Four Cities intends to fully participate in the environmental portion of this proceeding. We hope that the enclosed comments will assist you in better understanding the enormous environmental implications of the transaction on the Four Cities and northwest Indiana and that you will closely review these impacts as you develop the EIS.

Sincerely,



C. Michael Loftus
An Attorney for the Cities of
East Chicago, Indiana; Hammond,
Indiana; Gary, Indiana; and
Whiting, Indiana (collectively,
The Four City Consortium)

Enclosures

CERVAY

CSX CORPORATION AND CSX)	
TRANSPORTATION, INC. AND NORFOLK)	
SOUTHERN CORPORATION AND)	
NORFOLK SOUTHERN RAILWAY)	
COMPANY -- CONTROL AND OPERATING)	Finance Docket No. 33388
LEASES/AGREEMENTS -- CONRAIL INC.)	
AND CONSOLIDATED RAIL)	
CORPORATION)	
)	
)	

INTRODUCTION

My name is Michael L. Cervay and I am Director of the Department of Planning and Community Development for the City of Gary, Indiana. My background and responsibilities as City Planning Director are set forth in detail in my Verified Statement included with the Comments and Request for Conditions (FCC-9) filed in this proceeding on October 21, 1997 by the northwestern Indiana cities of East Chicago, Hammond, Whiting, and Gary (collectively known as the "Four City Consortium" or the "Four Cities"). As stated therein, my responsibilities for the City of Gary include managing a number of City programs and activities including those involving the City's transportation networks, economic development, housing, and tourism and recreation, among others. I also serve as a Commissioner on the Board of the Northwestern Indiana Regional Planning Commission, and I am

knowledgeable of the many planning and development challenges facing the communities in northwestern Indiana.

The Four Cities' October 21 Comments in this proceeding apprised the Board of the serious environmental, safety, and planning-related problems that are associated with CSX Transportation, Inc.'s ("CSX") and Norfolk Southern Railway Company's ("NS") (collectively referred to as the "Applicants") proposed post-transaction railroad operations and movements through the Four Cities and, in particular, through Gary.¹ These problems would result primarily from the Applicants' plans to increase the post-transaction railroad traffic moving over at-grade highway/rail crossings in the Four Cities and over line segments traversing heavily populated residential areas. The Applicants' proposed operations would also significantly interfere with regional land use and development plans. The Four Cities' October 21, 1997 Comments and my prior Verified Statement also urged the Board to adopt the Alternative Routing Plan as proposed by the Four Cities as a means of mitigating the adverse consequences of the proposed transaction.

One area of particular concern to the Four Cities in this proceeding is CSX's planned purchase and reinstatement of the out-of-service portion of the former Pennsylvania Railroad Fort Wayne-Chicago line (the "PRR line") between Hobart, Indiana

¹ The Four Cities' October 21, 1997 Comments included testimony from each of the four elected mayors and four city planners (including myself), from other federal and state elected officials, and from expert economic and engineering consultant witnesses.

and Clarke Junction, Indiana.² As mentioned in my previous Verified Statement, CSX projects that five trains per day will move over the currently unused Hobart to Clarke Junction line segment. See FCC-9, V.S. Cervay at 10. A major portion of this line segment, running from approximately Interstate 65 to Clarke Junction, spanning a distance of approximately 6 miles, will directly impact thousands of Gary residents and a number of City land use and development projects.

The purpose of this statement is, first, to inform the Board's Section of Environmental Analysis ("SEA"), which I understand is charged with preparing the Environmental Impact Statement ("EIS") in this proceeding, of the serious harm that would be caused to several important local and regional housing, infrastructure, and community development programs and plans if the former PRR line between Hobart and Clarke Junction is reinstated to service. CSX's plans for this line segment could put in jeopardy present plans by the City of Gary to assist in the construction of dozens of units of affordable (low-income) housing, plans for expanding the Gary/Chicago Airport, and regional waterfront development plans along Lake Michigan. Second, this statement will address two areas that I believe were not adequately addressed by the Board in its Draft EIS, and which

² This out-of-service line has 23 at-grade rail/highway crossings. CSX proposes to rehabilitate the PRR line in order to provide an alternative route for five daily bulk trains that would otherwise operate via CSX's main line through Willow Creek. According to the Applicants, restoring this line to service will cost \$13 million.

are of considerable concern to the Four Cities: at-grade highway/ railroad crossing safety problems and air pollution problems.³

I.

REINSTATEMENT OF THE FORMER PRR LINE WOULD SERIOUSLY IMPAIR
IMPORTANT HOUSING, AIRPORT, AND WATERFRONT DEVELOPMENT PLANS

I have had the opportunity to review the Application, the Applicants' Rebuttal (submitted to the Board on December 15, 1997), and the Board's Draft EIS filed on December 12, 1997 as they pertain to the Four Cities. Unfortunately, in both their Application and their Rebuttal the Applicants have failed to acknowledge any safety, environmental, or land use problems associated with the reinstatement of the PRR line between Hobart and Clarke Junction. CSX's planned reinstatement of the former PRR line through Gary appears to ignore serious environmental, safety, and other land use impacts in favor of uncertain efficiency gains. Additionally, the SEA in its Draft EIS did not consider any impacts associated with the reinstatement of this

³ Elsewhere in these Comments on the Draft EIS, and in particular in the Verified Statement of Philip H. Burris, the Consortium sets forth in detail the safety, congestion, air pollution, noise, environmental justice and other environmental problems associated with the reinstatement of the PRR line. While I concur with these concerns, in the interest of brevity I will not rehash this analysis. Nevertheless it is, of course, critical that the Board consider all environmental and safety impacts associated with the reinstatement of the PRR line, in addition to the land use, safety, and air pollution impacts mentioned in this Verified Statement, when it considers mitigation for the Four Cities in the Final EIS.

line.⁴ Despite the Applicants' (and the SEA's) failure to take into consideration the numerous problems that would be caused by the reinstatement of the former PRR line, the resulting impacts are of utmost concern to northwestern Indiana's elected representatives, regional planning officials, and residents and businesses for the reasons set forth below.

A. Reinstatement of the PRR Line Would Interfere with the Roosevelt Manor Affordable Housing Initiative

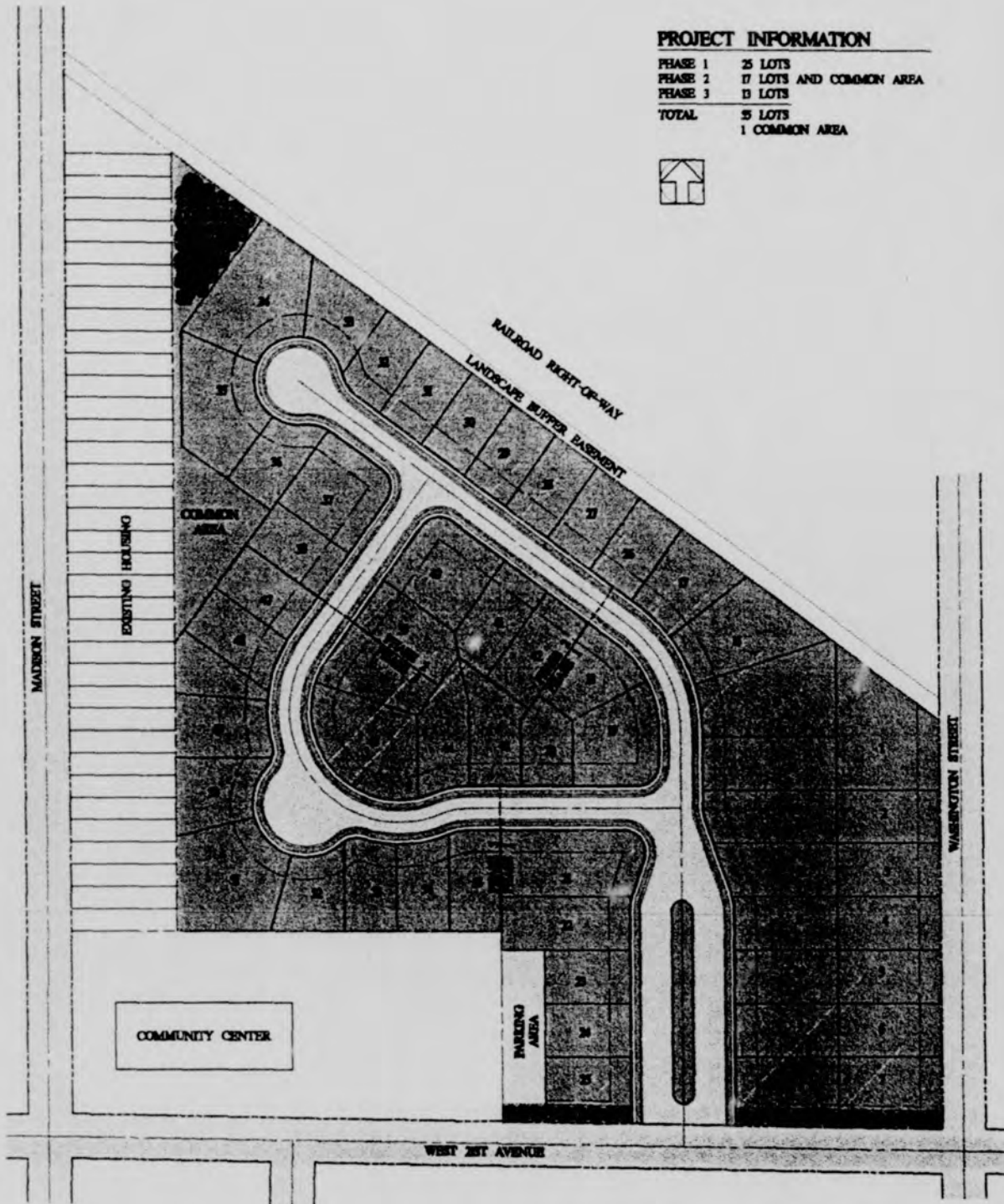
In my previous Verified Statement submitted to the Board in this proceeding, I attached a copy of a letter from the Broadway Area Community Development Corporation ("BACDC") discussing the Roosevelt Manor housing project. As referenced therein, since 1996 the BACDC has been engaged in consultations with Gary, federal and state officials with respect to the redevelopment of a 10-acre vacant property site, involving the construction of approximately 40 to 50 low- to moderate-income single family homes.⁵ This property is located in the Midtown neighborhood of Gary and is displayed on the map on the following page.

⁴ Four Cities officials and representatives of the Applicants have met during the past month to discuss the Applicants' planned operations in northwestern Indiana and the Consortium's concerns. During those meetings, the negative impacts that would result from reinstatement of the PRR line were discussed. Discussions between the Four Cities and the Applicants are ongoing, but to date no resolution has been achieved.

⁵ The homes will have an average construction cost of \$90,000 per unit, and will be situated on 50' X 125' lot parcels.

PROJECT INFORMATION

PHASE 1	25 LOTS
PHASE 2	17 LOTS AND COMMON AREA
PHASE 3	13 LOTS
TOTAL	55 LOTS 1 COMMON AREA



OPTION 1

ROOSEVELT MANOR



BLACKBURN ARCHITECTS, INC.
ARCHITECTURE - LANDSCAPE ARCHITECTURE - ENGINEERING - INTERIOR DESIGN

DATE: AUGUST 12, 1977
NOT TO SCALE
PROJECT NUMBER: MEVS

Substantial progress has been made on the actual development of the Roosevelt Manor housing project. An architect has been retained to design a site plan and infrastructure improvements, and phases I and II environmental testing is complete. Additionally, in consultation with the City of Gary, project planners have secured funding assistance through a federal Department of Housing and Urban Development ("HUD") program that will provide a total of \$250,000 in grants to prospective future low- and moderate-income home buyers in the form of down payment assistance.

The PRR Hobart to Clarke Junction line constitutes the northern boundary of the Roosevelt Manor site, which is located south of the Tolleston railroad crossing. The portion of the PRR line between Hobart and Tolleston has been out of service for approximately ten years. The track is significantly deteriorated, with shrubs and small trees growing between the tracks, etc., and most at-grade rail/highway crossings have been paved over. To our knowledge, Conrail (the successor to the PRR) had no plans to reinstate service over this line. Because of Conrail's long-standing lack of interest in reinstating the former PRR line north of Hobart to service, and because of the line's poor condition, City and BACDC planners assumed the line would continue to be inactive, and our plans were made with the understanding that development of the Roosevelt Manor housing project would not be impacted by future railroad operations.

The reinstatement of railroad operations by CSX over the PRR line would adversely impact the development of Roosevelt Manor and would harm the lives of families that will be purchasing new homes in the community. As noted above, the PRR line forms the northern boundary of the proposed housing development. Reinstatement of this line to service would pose substantial health and safety risks for families and children who will live and play in the community. Even if CSX proposed to place buffers or barrier mechanisms along this line (which it has not), the future residents would be exposed to safety and environmental harms associated with daily railroad operations. The proposed railroad operations would increase noise and air pollution due to both the five daily trains that would operate over the line and the reopening of 21 at-grade rail/highway crossings between Hobart and Tolleston which presently are closed.

In addition to the above problems, significant environmental justice concerns are raised by CSX's proposed operations over this line segment, which would disproportionately impact minority and low income populations. The City of Gary is comprised of an 84 percent non-white, minority population. According to 1990 United States Census data, the census tract in which Roosevelt Manor is to be constructed is comprised of an 88 percent non-white, minority population. Additionally, 43 percent of persons residing within this census tract have incomes below the poverty level. As mentioned above, the Roosevelt Manor

housing project is designed primarily for low or moderate income families. Of the initial 38 housing units to be constructed, 23 (or 61 percent) are slated for families with household incomes below \$37,120 -- which is well-below the Lake County median household income of \$46,400 for a family of four. There is a household income limitation of \$53,360 for the other initial 15 Roosevelt Manor homes slated for construction.

In summary, the proposed reinstatement of the PRR line between Hobart and Clarke Junction will have significant adverse effects on desperately needed housing development plans for low/moderate income Gary citizens that have not been addressed by SEA in its draft EIS.

B. Reinstatement of the PRR Line Would Interfere with Gary/Chicago Airport Expansion Plans

The portion of the Hobart-Clarke Junction line north of Tolleston forms most of the eastern boundary of the Gary/Chicago Regional Airport.⁶ Reinstatement of this line segment to service would also impact plans by the Gary/Chicago Airport to construct a new east-west runway and related buffer zones which is necessary to obtain the Federal Aviation Administration ("FAA") certification necessary for expansion of the airport. The planned expansion of the Gary/Chicago Airport offers the City

⁶ The airport was formerly known as the Gary Airport. In the fall of 1997, the Gary Airport Authority renamed the airport as the Gary/Chicago Airport in recognition of its new role as a regional airport through a 1995 Compact made with the City of Chicago to form a bi-state airport authority.

and the region a vitally important opportunity for economic development.

Together with federal, state, and private entities, the City has been actively planning a multimillion dollar Airport expansion project. In February, 1994 the first phase of the master plan for expansion was completed, and the second planning phase is currently underway.

The Gary/Chicago Airport is currently certified by the FAA as a Reliever/General Aviation Airport. The expansion plans for the airport will allow it to accommodate larger aircraft and more traffic, which is needed to reduce serious air traffic congestion problems being experienced at the Chicago O'Hare and Midway Airports. Increased air cargo and potential commercial air passenger service are envisioned.

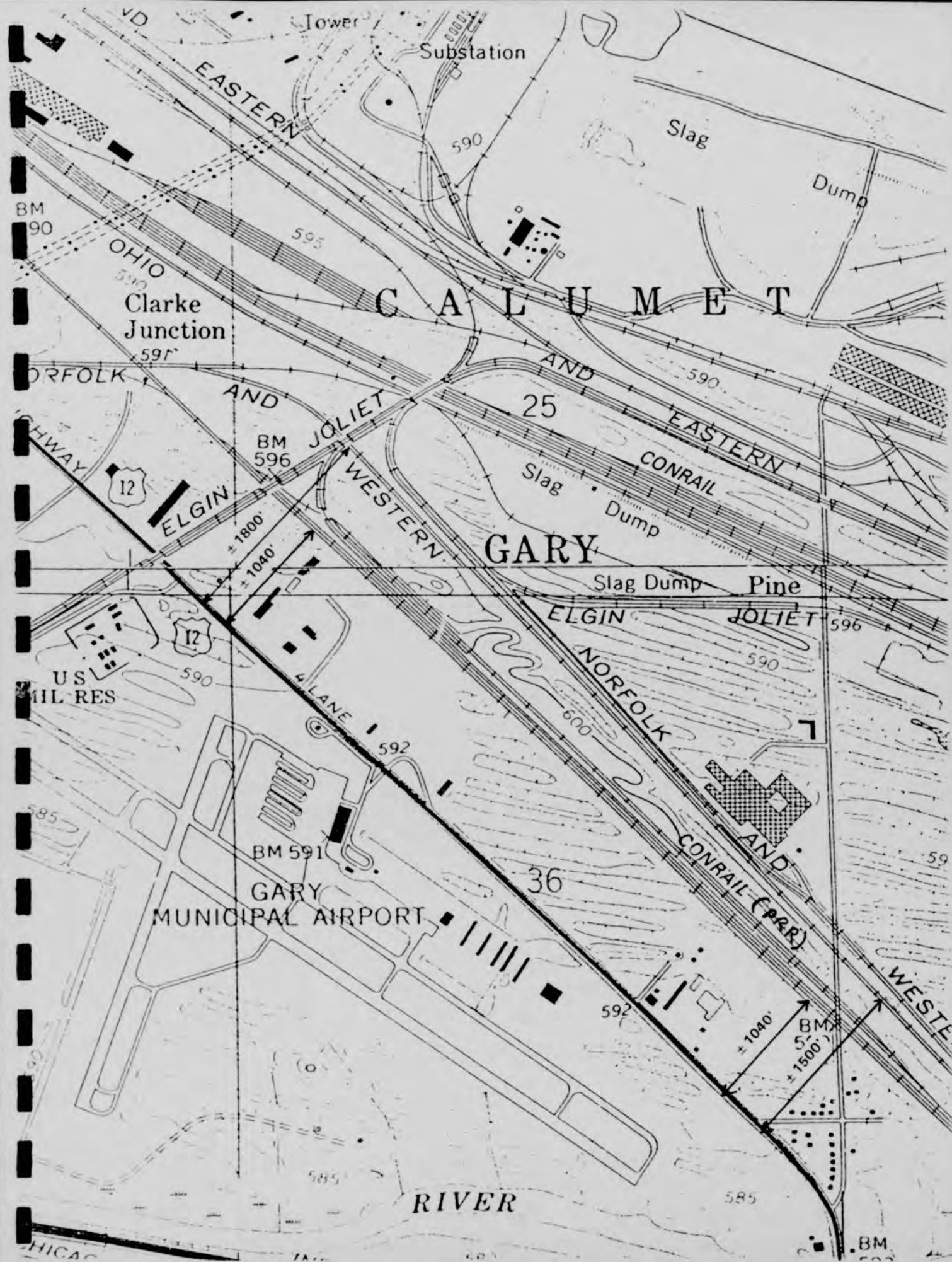
In order to expand operations at the Gary/Chicago Airport, its FAA certification must be upgraded from its present level of Reliever/General Aviation to Utility/Transport. Certification as a Utility/Transport Airport, however, will require at a minimum the lengthening of runway safety areas. Applicable FAA regulations will require 1,000 feet long by 500 feet wide runway safety areas at the ends of both the existing north-south runway and a proposed new (second) east-west runway. Additionally, under applicable federal regulations, every vertical foot of rise beyond the end of each runway buffer zone requires that an additional 50 feet of horizontal ground be clear of any obstruction within the runway safety buffer area.

The location of the Gary/Chicago Airport is shown on the map on the following page. The PRR line between Hobart and Clarke Junction lies in close proximity east of the Gary/Chicago Airport. If this line is reactivated, it will directly interfere with the City's airport expansion plans because it results in a 23-foot hard obstruction above the elevation of the track (which represents the height of trains operating over the line). As a result, 1,150 feet of additional clear land with no vertical obstruction at the east end of the Airport's existing or new runways (above and beyond the 1,000 foot minimum runway safety area) will be necessary for the Gary/Chicago Airport to obtain FAA certification as a Utility/Transport Airport."

Absent the Conrail control transaction and CSX's plan to acquire the PRR line from NS and restore it to service, the City had planned to negotiate with NS to remove the track and vacate the portion of the line that is directly adjacent to the airport.⁸ This action would allow the airport expansion plans to proceed as planned. CSX's plan to restore the line to service, however, obviously would prevent the removal of this

⁷ The proposed reinstatement of the PRR line may also cause additional clearance problems because of the line's potential connections with (and crossings of) other railroad lines on the north, including an elevated line of the Elgin, Joliet & Eastern Railroad. These problems would likely require the acquisition of additional land for airport operations under the FAA's safety requirements.

⁸ As stated in the Four Cities' October 21, 1997 Comments, the PRR line segment between Tolleston and Clarke Junction is in inoperable condition, and some sections of track have already been removed. See FCC-9, Argument at 19-20 n.10.



obstruction. This would effectively block the planned expansion of the Gary/Chicago Airport.

CSX's proposal to upgrade the PRR line and to recommence its operation would be an extremely wasteful exercise. In essence, if the Application is approved in its current form, CSX will be expending considerable sums of money to reinstate a line to handle very light traffic -- five trains per day -- on land that will be needed in the near future to make room for the expansion of the Gary/Chicago Airport. The acute problems that the reactivation of the former PRR line would present to airport expansion plans are detailed in the attached letter from the firm of R.W. Armstrong, the City's airport engineering consultants, to Gary/Chicago Airport Authority officials. See Exhibit MLC-1. R.W. Armstrong prepared the master plan for the present site of the Airport in 1994. The letter was sent in response to a request made by Airport Authority officials that the firm review and report on the impact of the proposed reactivization of the PRR line on airport expansion plans.

For all the above economic, planning, and environmental perspective, the reinstatement of the PRR simply does not make sense.

C. Reinstatement of the PRR Line Would Impede Plans for the Redevelopment of the Gary Lakefront

CSX's proposed reinstatement of the PRR Hobart to Clarke Junction line segment would also adversely impact public investments already made and the pending plans for the

redevelopment of the Lake Michigan lakefront area. A central component of the Four Cities' plans for future economic development is its lakefront area. In particular, the Gary lakefront planning area spans approximately 25 square miles, bounded on the north by Lake Michigan, on the south by U.S. Route 12/20, on the east by County Line Road in the Miller Beach neighborhood, and on the west by the Gary/East Chicago boundary at Cline Avenue (State Route 912).

Regional lakefront development initiatives are significant undertakings, as much of the Lake Michigan shore area in Lake County, Indiana has been utilized primarily for industrial purposes for nearly a century. Gary's lakefront redevelopment efforts originated a few years ago with the redevelopment of Buffington Harbor. The Buffington Harbor casino project was first initiated in 1995 as a result of the issuance by the State of Indiana of two out of a total of five gaming licenses on Lake Michigan in an effort to assist economically distressed areas of the state. The project has been extremely successful, supplying thousands of jobs for area residents, and providing approximately \$25 million in tax revenues annually for the City.

The City has put together a draft waterfront master plan that, in its first phase, targets resources on the continued development of Buffington Harbor, including the construction of a performance arena seating approximately 5,000 people, a 301-room hotel (that is currently under construction), a 2,000- to 2,500-

car parking structure, and other retail and restaurant facilities. This first phase also includes railroad relocation and consolidation efforts. The second phase of the lakeshore redevelopment program includes major plans to restore and preserve the natural waterfront areas and improved vehicular and pedestrian access to the lakeshore. Included in this plan is the restructuring of the area into arranged neighborhoods that will include businesses (including retail, commercial, and conference/convention facilities), marina and harbor facilities, residential housing, museums, and parks and other open spaces for recreation and waterfront access.

Presently, vehicular and pedestrian access to the lakeshore is severely limited due in part to the many railroad tracks that parallel the entire lakeshore area. The proposed reinstatement by CSX of the PRR line from Hobart to Clark Junction is particularly problematic because it will intersect with CSX's and Conrail's lakeshore main lines⁹ directly south of Buffington Harbor. The result would be the disruption of lakefront planning opportunities, increased vehicular and pedestrian congestion, and exacerbated environmental and safety problems.

As part of Gary's waterfront development plan, a consolidation and/or relocation of the lakefront yards of the Elgin, Joliet & Eastern Railroad ("EJE") and the Indiana Harbor

⁹ I understand that the Conrail lakeshore line is to be acquired and operated by NS.

Belt Railroad ("IHB"), as well as the Conrail and CSX lakefront rail corridor will be necessary to optimize waterfront development and to promote pedestrian and vehicular access to the lakefront.¹⁰ Negotiations and engineering designs are underway among EJE and IHB, major local shippers (including Inland Steel, USX, and NIPSCO Industries), and the Cities of Gary and East Chicago. These efforts are expected to make more than 600 acres of contiguous lakefront property available for economic development.

In particular, a major thoroughfare system is planned to upgrade roads and improve access to the waterfront. Currently, as a result of the railroad and industrial land uses, vehicular access to the lakeshore is extremely limited. One of the major access points to the waterfront is planned from Cline Avenue. Under CSX's plan, the reactivated PRR line will connect with the lakefront lines at this same location. Another access point is planned for Clark Road, which intersects and crosses the former PRR line north of U.S. 12. The reactivation of the former PRR will greatly complicate these and other planned roadway access and movement plans.

The reactivation of the former PRR line by CSX will also impact the City's plans for the construction of pedestrian

¹⁰ I understand that a similar railroad relocation project has been undertaken by the City of Cincinnati, Ohio, where the City is developing a Central Riverfront project. Under an agreement between Cincinnati and NS, NS has agreed to vacate its track along the Ohio River to permit riverfront development. These plans are detailed in the Comments of City of Cincinnati, submitted to the Board in this proceeding on October 21, 1997.

walk and traffic ways in and around the waterfront. Extensive recreational and access trails for pedestrians are planned to connect the lakefront attractions to one another and to provide direct access from the existing southern neighborhoods. The additional railway traffic caused by the reactivation of the former PRR line will greatly complicate and, at a minimum, significantly increase the costs of the City's overall efforts to create a network of coordinated pedestrian/vehicular passageways to access the waterfront area and its plans to maximize the interconnection of neighborhoods, businesses, and various attractions.

Finally, it is important to stress that the continued redevelopment of the Gary waterfront and the enhancement and expansion of the Gary/Chicago Airport cannot be viewed in isolation from each other. In many ways, the two projects are mutually dependant upon one another. The existing Buffington Harbor development has attracted 10 to 12 million visitors annually, who travel to the area exclusively by highway vehicle. In terms of tourism development, it is expected that the enhancement and expansion of Buffington Harbor, and the other waterfront developments as set forth above, will attract many more thousands of weekly visitors. Meanwhile, the airport's expansion and, more specifically, its provision of passenger air transportation service, will promote access to the region for many visitors who might otherwise be unable to visit due to vehicular travel time concerns or for other reasons. The

upgraded Airport therefore will bring a whole new influx of visitors, convention business, etc. to the area which will greatly bolster the City's revitalization efforts and benefit lakefront businesses.

Ultimately, the hard work and planning being undertaken by Gary and officials of the other members of the Four City Consortium to preserve and revive the lakefront will hinge on the continued dialogue and coordination of a number of public and private participants who have joined together to develop a viable economic initiative. Further infrastructure investments, expansion and enhancement of the airport, reconfiguration of transportation corridors, rail line consolidation/relocation, and environmental cleanup are all necessary components to making the lakefront development a viable and thriving economic and community enterprise. The City of Gary is committed to making this important plan work and we are extremely concerned about CSX's plans to revive a long unused rail line segment (arrived at without any consultation with the Four Cities) which would significantly harm these important community revitalization plans.

II.

APPLICANTS' POST-TRANSACTION PLANS PRESENT SERIOUS INCREMENTAL SAFETY AND ENVIRONMENTAL IMPACTS

A. The Board and the Applicants Do Not Adequately Address Significant At-Grade Crossing Safety Problems

As stressed elsewhere in this statement and throughout the Four Cities' comments submitted in this proceeding (both in

our October 21, 1997 filing and in this filing), one of the Four Cities' major concerns with the Conrail transaction as proposed is its effect on at-grade railroad/highway crossings. In his verified statement, Mr. Burris outlines in great detail the environmental problems that the Application presents for the Four Cities. These include significant public health, safety, and economic problems which are in large part attributable to planned incremental increases in rail traffic over selected Four Cities line segments that contain a large number of at-grade rail/highway crossings. In considering these important impacts, it is critically important that the Board and SEA understand exactly why the Four Cities are so adamant about the need for mitigating the negative safety and environmental impacts that the Applicants' plan will have on the well-being of our citizens and communities.

Attached to this statement are press reports from last fall on the September 15, 1997 crash of Amtrak Train 371, the Pere Marquette, which struck an 18-wheel gravel truck at the Clark Road at-grade crossing in Gary (at Conrail Milepost 499.29), killing the driver and injuring 11 passengers and one Amtrak employee. See Exhibit MLC-2. This train was traveling from Grand Rapids, Michigan to Chicago, Illinois on the Conrail lakefront line (which is to be acquired by NS). This unfortunate incident demonstrates the dangerous conditions that are facing area citizens, railroad passengers, and railroad employees as a

result of trains operating over the numerous at-grade crossing corridors in the Four Cities.

Unfortunately, this accident is only one of several similar recent incidents occurring in the area. As reflected in a letter submitted to the Federal Railroad Administrator by Amtrak Chairman Thomas M. Downs, the accident is one of nine similar incidents that have occurred in the area involving Amtrak passenger trains since November 1995. See Exhibit MLC-3. These accidents have caused three deaths and several injuries. Mr. Downs' letter to the Federal Railroad Administrator explains that, because the railroad rights-of-way along the lakefront are not consolidated, and because highway traffic must cross several sets of tracks, "this area is dangerous, even when all railroad operating rules are followed and safety devices and crossing protection are functioning as intended." In response to Mr. Down's request, the FRA is coordinating efforts with other federal and state agencies, the City of Gary, and the railroads, to more closely study the many problem crossings located between Hammond and Gary.

Merely one-half mile to the south of where the September 15 Amtrak crash occurred, directly east of the Gary/Chicago Airport, Clark Road also crosses the PRR line between Clarke Junction and Tolleston at-grade. This is the same line segment, presently out of service, which CSX proposes to reactivate as part of its post-acquisition operating plan. If CSX's plans for the former PRR line are approved, 7,500 new daily

vehicle crossings will occur at the reactivated line's grade crossing of Clark Road -- a location where there are currently no active vehicular crossings. As I have indicated in this statement, Clark Road is anticipated to be a primary access point for vehicular traffic to and from the waterfront. Therefore, traffic levels are expected to increase significantly as the waterfront development activity grows.

Apparently, SEA's Draft EIS did not consider post-transaction operations over the Clark Road/PRR line crossing to be significant enough to warrant serious mitigation action. My understanding is that the SEA has recommended merely that gates be installed at this crossing. This is not sufficient mitigation. The Clark Road crossing where the September 15 train crash occurred has both flashing lights and gates. The driver of the truck involved in the September 15, 1997 Amtrak crash apparently ignored activated flashing lights and lowered gates. Unfortunately, such illegal crossings are not uncommon in the Four Cities. Despite the City's efforts to prevent illegal vehicular crossings, frustrated citizens who encounter numerous at-grade train crossings on a daily basis frequently ignore warning devices. Put simply, the Board must do much more than ordering the installation of two gates to mitigate the significant human safety problems inherent in the Applicants' post-transaction operating plans for the Four Cities region.

Amtrak President Downs's letter to the FRA points out a problem that is endemic to the Four Cities area, and that the

Draft EIS also fails to take into account. This is the large number of grade crossings in our region, which produces severe cumulative problems in terms of crossing delays. Several of the rail lines in the Four Cities region have numerous grade crossings located within close proximity to each other, and that are used interchangeably by motorists when train crossing blockage occurs. This is particularly problematic with respect to the east-west CSX line between Pine Junction and the Indiana/Illinois state line at State Line Tower. This line has 20 highway grade crossings, most of which are located in the central business districts of East Chicago and Hammond. While not all of these crossings meet the SEA's threshold for study in terms of possible mitigation (a daily average of 5,000 vehicles using the crossing), they all constitute alternatives for crossing this busy CSX line when one (or more) of the more heavily utilized crossings is blocked -- particularly when a train is stopped which occurs several times each day. These crossings cannot be considered in isolation from each other, and cumulatively they carry an enormous daily vehicular traffic volume.

III.

THE FOUR CITIES' AIR QUALITY CONCERNS

A. Four Cities' Air Quality Problems

Northwest Indiana has long suffered the effects of severe pollution caused during the past century largely as a

result of the industrial activities that have been the economic lifeblood of the region. Lake County, in which the Four Cities are located, continues to face severe environmental problems. These problems include air pollution, contaminated water and sediments, and numerous hazardous waste sites.

Lake County does not meet federal standards for air quality, and is categorized as a severe "nonattainment" area under the federal Clean Air Act for Ozone ("O3"), which is affected by emissions of volatile organic compounds ("VOCs") and oxides of nitrogen ("NOx"), and other air quality pollutants. Parts of Lake County are also nonattainment for Sulfur Dioxide (SO2), Carbon Monoxide ("CO"), and Particulate Matter ("PM").

According to Environmental Protection Agency ("EPA") statistics, Lake County has the poorest overall air quality of any area within Indiana. While efforts to clean up the area's air quality have not been easy, in the past several years, EPA, in conjunction with the Indiana Department of Environmental Management ("IDEM"), and county and local governments have spent a considerable amount of energy and resources in coordinating strategies to improve regional pollution related problems. Results are beginning to be achieved through various means, including stricter enforcement, rulemaking developments, and public awareness efforts. Achieving and maintaining healthy air-quality standards is extremely important to supporting a healthy community and citizenry.

In 1992, together with the assistance of IDEM, EPA organized the Northwest Indiana Environmental Initiative. The Initiative is designed to address the severe environmental problems facing the northwest Indiana region (covering Lake, Porter, and LaPorte Counties) and is managed by EPA. It is the first geographic program of its kind organized by EPA's Region 5.¹¹ Among other things, the Initiative has developed the Northwest Indiana Environmental Initiative Action Plan. First adopted in 1992, the Action Plan sets forth short and long term strategies for improving northwest Indiana environmental problems. The Northwest Indiana Environmental Action Plan is attached as Exhibit MLC-4.¹² The Initiative has been an important catalyst for promoting citizen involvement and implementing regional environmental remediation initiatives.

B. Emission Control and Mobile Source Standards

A major element of the Clean Air Act of 1990 was the inclusion of more stringent state mobile source air pollution reduction measures. Mobile sources of air pollution are produced

¹¹ EPA's Region 5 consists of the states of Minnesota, Wisconsin, Illinois, Michigan, Ohio, and Indiana.

¹² Included in Exhibit MLC-4 are maps displaying the Northwest Indiana Environmental Initiative Area. These maps also show the population densities, percent minority population, and percent low-income population of northwest Indiana, as compiled from U.S. Census Bureau data. Among other things, these maps show the substantial environmental justice populations of the Four Cities.

primarily from automobiles, buses, trucks, and other vehicles.¹³ A major component of vehicle emissions is ozone producing VOCs and NOx emissions, as well as CO. The EPA estimates that emissions from highway vehicles represent 33 percent of the overall national VOCs and 40 percent of the overall NOx emissions. To address the problems of mobile source pollution, among other things, the Clean Air Act tightened tailpipe emission standards for cars, buses, and trucks, and expanded Inspection and Maintenance ("I/M") programs for the testing of vehicles. As described below, the Act also imposes strict penalties on regions for failure to adopt comprehensive strategies to meet new federal pollution limitation standards.

The principal vehicle for the planning and adoption of programs aimed at attaining federal Clean Air Act standards is the State Implementation Plan ("SIP"), which in Indiana is developed and coordinated by IDEM. Under federal law, regional transportation plans must conform to the state SIP generally and to the transportation emission control measures included in the SIP in particular. For nonattainment areas, such as Lake County, failure to comply with the SIP can result in federal sanctions, including the loss of critical federal highway assistance grants.¹⁴ As is indicated in the attached news article,

¹³ They also come from off-highway mobile sources including railroads, snowmobiles, farm, and construction and lawn/garden equipment.

¹⁴ Sanctions for failure to attain clean air standards are set forth at 42 U.S.C. §§ 7509, Sanctions and Consequences of Failure to Attain. Besides economic sanctions, the Administrator

Northwest Indiana is struggling to solve its vehicle congestion problems in order to meet emission requirements, and unless additional steps are taken to improve traffic congestion/vehicular ozone emissions, there is a possibility that federal sanctions may be imposed. See Exhibit MLC-5. Another enforcement provision of the Clean Air Act that is targeted at severe nonattainment areas, such as Lake County, is the imposition of certain pollution offset requirements for VOC and NOx emissions. Under the Act, new sources or modifications of existing sources of pollution which increase emissions of VOCs or NOx by 25 tons per year or more must be offset by other area emission reductions at a ratio of 1.3 to 1. 42 U.S.C. § 7511a(d).

1. Indiana's 15 Percent ROP Plan

This past summer, EPA approved the State of Indiana's Rate-Of-Progress ("ROP") plan that governs the State's continued implementation of ozone attainment goals. See 62 Fed. Reg. 38457, at Exhibit MLC-6. The plan was submitted in accordance with the Clean Air Act, which requires states with ozone nonattainment areas classified as moderate and above to submit a SIP revision known as a 15% ROP plan. In short, states must implement plans that reflect actual reductions in weekday ozone

of EPA can also require that an area with increased sources of emissions offset any new emissions through reductions in other emissions, with a ratio of emission reductions to increased emissions of at least 2 to 1. The Administrator can also upgrade an area to the next level of nonattainment status, which would impose even more environmental mitigation requirements.

VOC emissions of at least 15 percent in the area over a 6 year period. For the State of Indiana, EPA has classified the counties of Lake and Porter as one of two state ozone nonattainment areas subject to the 15% ROP plan.

Several emission reduction programs have been undertaken in Lake County to help the area achieve Clean Air Act requirements. Lake County pollution control efforts include the implementation of an enhanced biennial vehicle I/M program for the testing of automobiles and light duty truck tailpipe emissions, the requirement that all gasoline providers in the county sell only reformulated gasoline, and the requirement that vapor recovery equipment be installed for gasoline pumps to capture vapors escaping during fueling. Even with these extremely complex and expensive ozone reducing programs, however, unless additional steps are taken to reduce the amount of pollution vehicles emit in northwest Indiana, Clean Air Act standards will be extremely difficult to meet.

C. The Draft EIS Fails to Protect the Four Cities From the Air Pollution Hazards Caused by the Application

A significant cause of air pollution that is impacted by the Applicants' proposed post-transaction operations in the Four Cities is the issue of emissions caused by highway traffic blocked at highway/rail at-grade crossings. As I understand from reviewing the Draft EIS, before analyzing an at-grade crossing for air pollution impacts, the SEA required several threshold criteria to be met. First, for nonattainment air quality areas,

such as Lake County, the SEA required there to be an increase of at least three trains per day over the impacted line segment, or a 50 percent increase in annual gross ton miles. From that group of selected line segments, the SEA elected to examine only those segments with rail crossings that have estimated average daily vehicle traffic counts of over 5,000.

For the Four Cities, this threshold criteria implemented by SEA for air pollution impact analysis eliminated dozens of crossings from review. Meanwhile, for at least one geographic area impacted by the Application, Cuyahoga County, Ohio, SEA decided to analyze all highway/rail at-grade crossings, including those with volumes over 5,000 vehicle per day and those with under 5,000 vehicles per day. The SEA apparently selected Cuyahoga County for more detailed analysis because it believed that the county had a relatively high amount of vehicle delays due to railroad/highway at-grade crossings. See Draft EIS, Vol. 5A, at E-17. Despite the serious highway/rail at-grade crossing congestion problems facing the Four Cities, which were outlined in detail in the Four Cities October 21, 1997 Comments submitted to the Board and to SEA, SEA elected not to conduct a detailed air emission analysis for all of the Four Cities' at-grade crossings over impacted line segments. The SEA's final EIS should include an analysis of all Lake County at-grade

highway/rail crossings, and not just those with over 5,000 vehicle movements.¹⁵

In the Draft EIS, SEA concluded that only one criteria pollutant met its thresholds for mitigation for Lake County. SEA determined that net NOx emissions increases for the county are 83.76 tons/year, significantly above the 25.0 tons/year threshold for imposing mitigation. However, SEA concluded that upon further review, NOx emissions in Lake County are not a significant factor contributing to area Ozone formation. SEA also concluded that because the increased NOx emissions are under 1 percent of existing (1995) county-wide NOx emissions, that mitigation is not necessary for the region.

The SEA's recommendations in the Draft EIS are inadequate for mitigating significant Four Cities' air pollution impacts for several reasons. First, they ignore the fact that any increase in air pollution levels caused by post-transaction incremental increases in traffic over lines in the Four Cities region will create significant impacts on the area's ability to meet required federal air quality standards. As mentioned above,

¹⁵ Immediately prior to assuming my current position as Gary City Planner, for 13 years I worked for the City of Cleveland and I lived during that time in Cuyahoga County, Ohio. While there, I served as an alternate to the Mayor of Cleveland on the Metropolitan Planning Organization for the Northeast Ohio Area Coordinating Agency. My experience as planner both in Cuyahoga County and Lake County gives me a unique perspective on environmental and safety issues facing the two areas. My experience is that while the air quality problems facing Lake and Cuyahoga counties are fairly similar, at-grade highway/railroad crossing problems are significantly worse in Lake County than in Cuyahoga County.

a number of far reaching programs have been implemented in Lake County that are designed to help the region meet Clean Air Act requirements. Increased emissions caused by the Applicants' planned post-transaction train movements could negate gains from these exacting enforcement programs.

As indicated above, if Lake County fails to meet requisite federal clean air standards, it faces the imposition of sanctions, including the potential loss of significant sources of federal highway funding. Additionally, the transaction may subject Lake County to strict federal air pollution emission offset requirements that require it to offset any new or increased NOx emissions of over 25 tons/year by a ratio of 1.3 to 1. For Lake County, that could mean that under the Board's NOx determined levels of 83.76 tons/year for Lake County estimated to result from the transaction, the county may be required to obtain an additional 109 tons/year of offsets. SEA has ignored these critically important ramifications in analyzing the impact on air quality of the Applicants' post-transaction plans.

The Application's negative impact on public health is by itself an important enough reason for the Board to impose more stringent and appropriate mitigation on the Applicants than the Draft EIS proposes for northwest Indiana. For the Four Cities, mitigating the Application's negative impacts on air quality is also vitally important to achieving our regional economic development goals. As mentioned in detail in this statement, the Four Cities are striving to promote new and cleaner forms of

economic growth for the region, with the focus being on waterfront development.

Anyone who has traveled through northwest Indiana is immediately aware of the severe pollution problems facing the area. Environmental mitigation is an essential part of waterfront planning. The Four Cities ability to draw residents and businesses to the proposed waterfront neighborhoods, and visitors from beyond northwest Indiana to these new businesses/attractions will largely depend on our success in cleaning up the environment. What is clear is that without cleaner air quality, along with other planned environmental restoration and remediation, the economic potential of the region's waterfront development plans will not be realized.

IV.

CONCLUSION

Local and regional officials have expended considerable time, energy, and resources in the promotion and adoption of efficient and environmentally benign infrastructure and development programs and policies to enhance the well-being of northwest Indiana citizens. As described in detail above, CSX's proposed reinstatement of the former PRR line would interfere with major community and regional redevelopment projects. Their plans would also cause serious safety and environmental problems (including environmental justice, air quality, etc.) which the Applicants and the SEA in its Draft EIS do not sufficiently address.

The Four Cities' Alternative Routing Plan provides an alternative to reinstatement of the out-of-service PRR line, which would easily accommodate the additional trains (five daily) that CSX has proposed moving over the line. The Alternative Routing Plan would not interfere with the important housing, airport, and lakefront development projects discussed above, which could proceed unimpeded. It would also eliminate the need to reinstate 23 highway at-grade crossings of the PRR line between Hobart and Clarke Junction, and the imposition of 115 new daily train/highway crossings in an area where there are currently no such crossings.

The Draft EIS indicates that SEA has examined all proposed construction projects to be undertaken by the Applicants to determine their impact on local land use plans. Unfortunately, in its evaluation, SEA did not consider CSX's major \$13 million construction project involving the restoration to service of the currently unused Hobart to Clarke Junction line segment. It is imperative that SEA (and the Board) closely examine the reinstatement of this line segment and the problems detailed in my testimony as it prepares the Final EIS for this major federal action. This analysis is especially important in light of the fact that the entire City of Gary, including the population residing along the PRR line, meets the Board's threshold requirements for environmental justice mitigation.

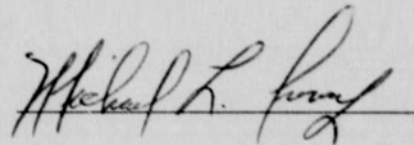
The Alternative Routing Plan set forth by the Four Cities provides a cooperative regional plan that minimizes the

Conrail transaction's impacts on northwestern Indiana while accommodating regional rail traffic movements. Upon further evaluation, I believe the Board will clearly see that the problems associated with the Applicants' plans to reinstate the Hobart to Clarke Junction line segment as outlined above are significant, and that the Consortium's Alternative Routing Plan should be adopted as a low-impact means of mitigation.

Verification

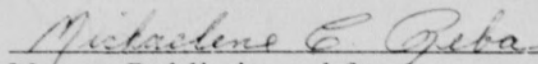
State of Indiana)
)
) ss:
)
County of Lake)

Michael L. Cervay, being duly sworn, deposes and says that he has read the foregoing statement, known the contents thereof, and that the same are true as stated to the best of his knowledge, information and belief.

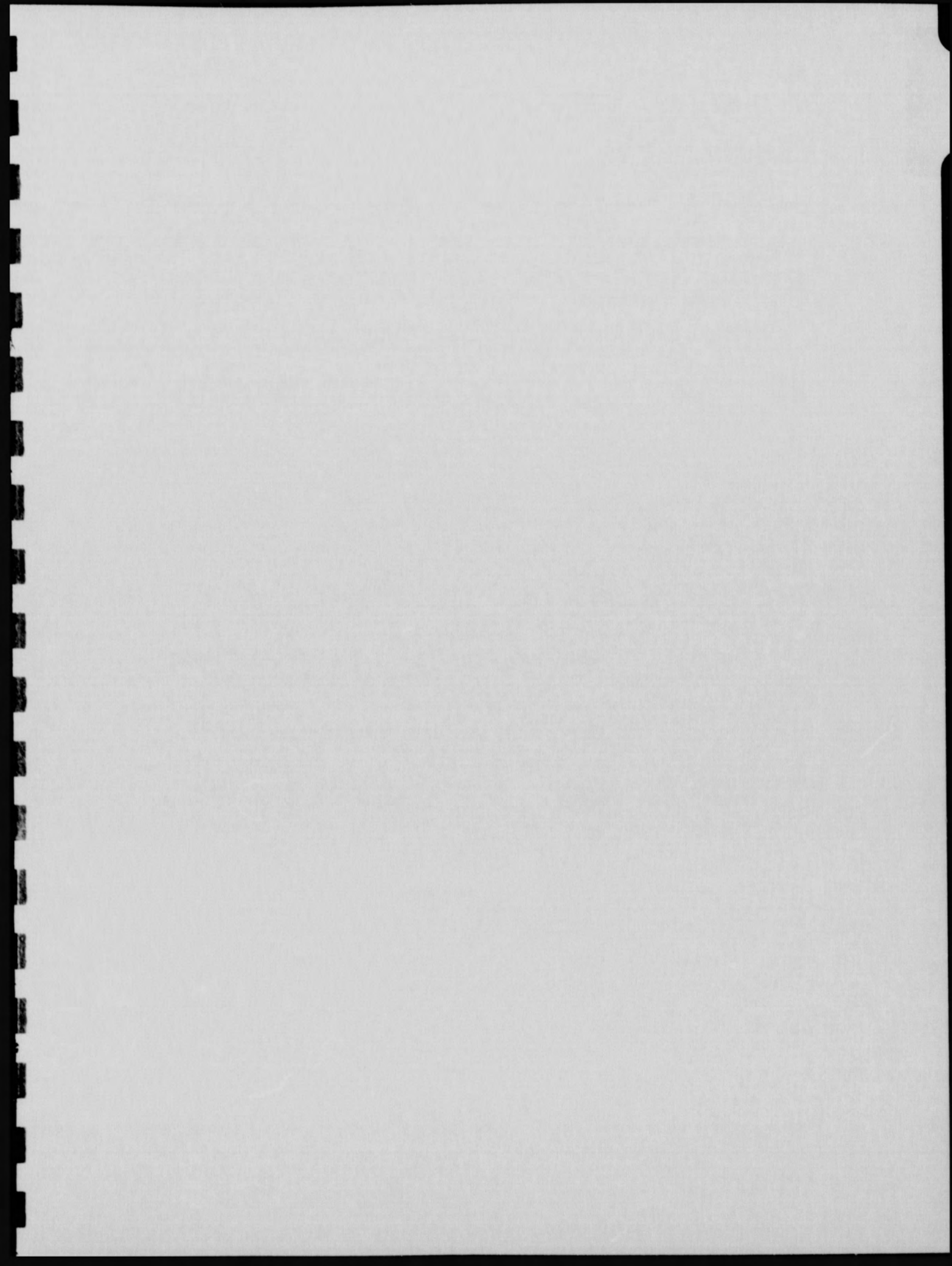


Subscribed and sworn to before
me this 30th day of January,
1998:

MICHAEL E. C. REBA
NOTARY PUBLIC STATE OF INDIANA
LAKE COUNTY
MY COMMISSION EXP. FEB. 18, 1999



Notary Public in and for the
State of Indiana





January 29, 1998

Mr. Moses A. Dilts
Vice President
Gary-Chicago Airport Authority
6001 West Industrial Highway
Gary, Indiana 46406

RE: Railway Reactivation North of Industrial Highway
Gary-Chicago Airport Impacts

Dear Mr. Dilts:

We are writing in response to your request for information on the impacts of reactivating an inactive rail line located northeast of Industrial Highway near Gary-Chicago Airport. **We recommend that the Airport Authority oppose any reactivation of this inactive rail line.**

We understand that there is a proposal being considered where the former Pennsylvania Railroad Ft. Wayne-Chicago Line ("PRR line") would be reactivated by CSX. The reactivation of this rail line would prevent the airport expansion plans. A segment of this line is located directly northeast of the Gary-Chicago Airport. In summary, because of the increasing activity and interest in the Airport and partnership with the City of Chicago to market and encourage the use of the airport, the Airport Authority is planning for an extended east-west runway or replacement runway to provide a longer landing surface and expanded capacity. The re-institution of rail service by CSX on the former PRR line will limit or stop the Airport expansion plans.

Although you are familiar with the facts, we have summarized the primary points that have led us to our recommendation to oppose reactivation of the PRR line.

- The Gary-Chicago Airport is one of the most important economic assets of the area. The airport is one of the closest aviation facilities to the downtown Chicago area. It has unused capacity will be tapped to meet the demands of Northwest Indiana and Southern Chicago residents and businesses.
- In 1995, the City of Gary joined forces through a Compact with the City of Chicago to form a bi-state airport authority, overseeing the capital improvements of the system of airports serving the Chicago area, including O'Hare International, Midway, and Gary-Chicago Airport. Under this compact agreement, significant capital investment has been and will be made in the Gary-Chicago Airport annually. In addition, a joint marketing effort is underway.

Mr. Moses A. Dilts
Gary-Chicago Airport Authority
January 29, 1998
Page Two

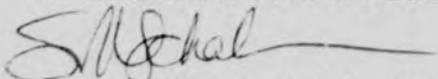
- The combination of capital and marketing investments is expected to produce new commercial activity. The local community and Airport Authority are promoting an incentive pool to attract candidate users to the facility. Several interested aviation operators are talking with the Airport about new passenger and cargo service.
- The present airfield configuration is confined on all sides by the toll road, power lines, Calumet River, and railroad tracks. To extend the existing runways presents serious challenges. While some of the standards have been grandfathered for the present airfield, in order to clear the approach areas and meet the rigorous demands of larger transport aircraft, reorientation or development of a new parallel east-west runway will be required to meet FAA threshold requirements for the upgrading of the Airport.
- The existing primary commercial service airports serving the Chicago area demonstrate the depth of the metropolitan area's aviation demands. O'Hare is the busiest airport in the world; and yet, despite the heavy activity at O'Hare, Midway's passenger and cargo activity continues to grow. Through the partnership with the City of Chicago, opportunities exist to allow growth to continue in the Chicago area, through the expansion of the Gary-Chicago Airport.
- The proposal to reactivate the former Pennsylvania Railroad Ft. Wayne-Chicago Line will negatively impact or block the expansion of the Airport. Accordingly, we oppose the reintroduction into service of the former PRR line.

Given these facts, we encourage the Airport Authority and communities within the service area of the Gary-Chicago Airport **to oppose the reactivation of the former PRR line.**

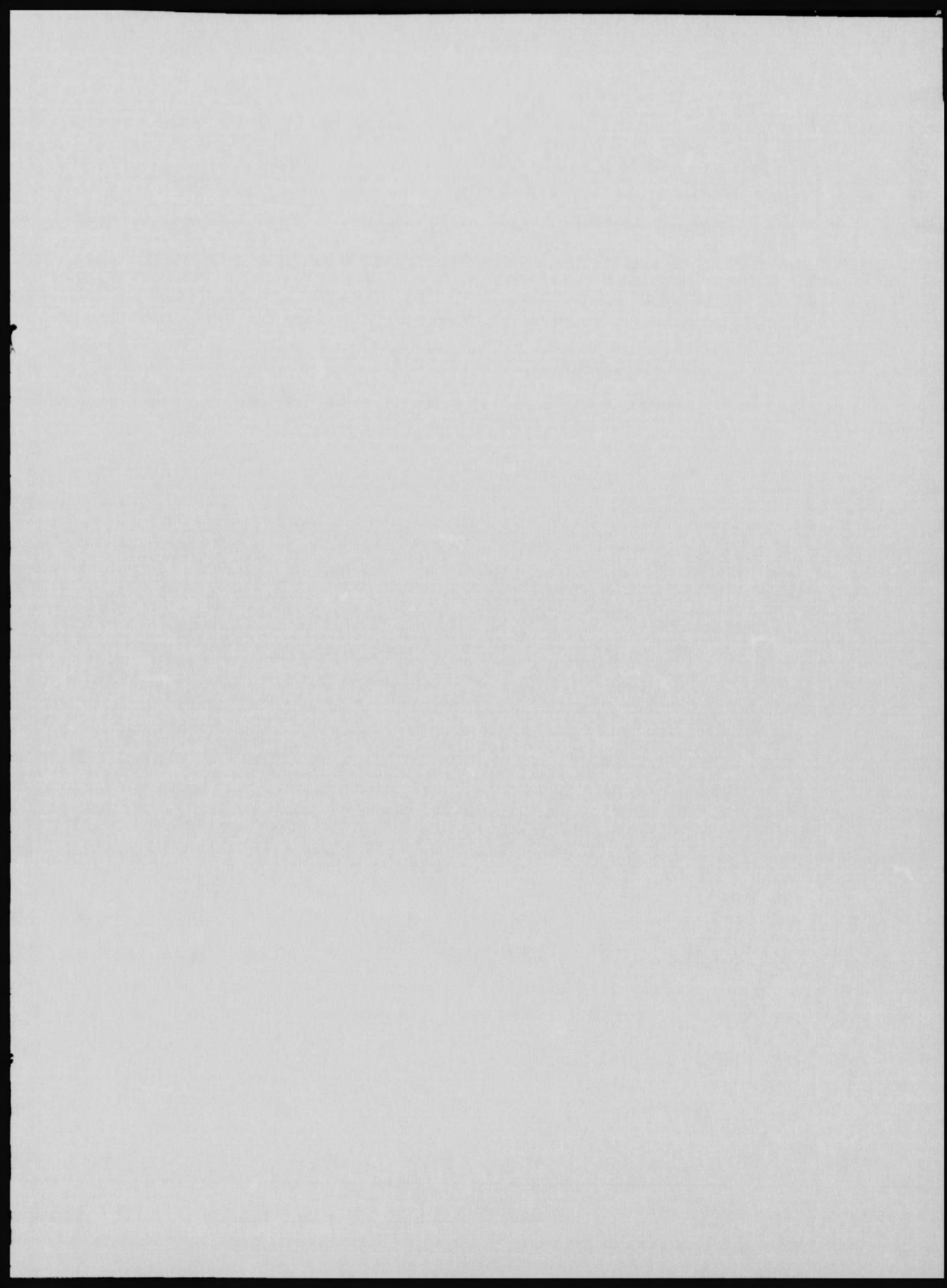
Please call me if you need additional information in regard to the facts provided within this letter.

Sincerely,

R. W. ARMSTRONG & ASSOCIATES, INC.



Susan M. Schalk, A.A.E., AICP
Vice President



Amtrak train, truck collide; Lake Station driver is killed



Traffic patrolman Agnes Roberts views damage to an Amtrak passenger train that struck a tractor trailer Monday morning on North Clark Road.

■ Witnesses said the truck driver ignored flashing lights and lowered gates.

By Lori Caldwell
Staff Writer

CHICAGO — An Amtrak train collided with a tractor trailer Monday morning, killing a Lake Station truck driver and injuring seven rail passengers.

It was the second incident in four days involving a passenger train and a truck in the series of crossings on North Clark Road, police said.

Wayne H. Ford, 34, of Lake Station, a driver for L.J.D. Trucking of Hammond, ignored flashing lights and lowered gates as he proceeded across the multi-track crossing in the industrial area about 10 a.m., witnesses said.

Holland was hauling ore for Jack Moran Transport Inc. of Gary, Patrolman Agnes Roberts said.

The engineer saw the truck on the track, got on the brake and just fell back, Roberts said. "That's about all you can do."

The driver, David Benz of Chicago, was not injured in the crash, police said.

The Erie-Morgantown passenger train originated in Grand Rapids, Mich., and was scheduled to arrive at Union Station in Chicago about 10:30 a.m.

Seven passengers were treated for bumps and bruises at The Meenades Hospital, Northlake Campus, which saw 47 of the passengers.

Another 16 passengers were

Please see Crash, Page A6



Emergency workers look at the tractor trailer which derailed when it was struck by the Amtrak train.



The track was damaged in several places as a result of the collision.

group seeks
v for women

Diet drug component banned

Regulation from FDA on medical
device under

"In a commercial structure, even in a home, the bathroom is the most expensive per square foot," Amodio said.

Crash

Truck driver was killed instantly in crash

Continued from Page A1

taken to St. Catherine Hospital in East Chicago for evaluation, but none were injured, a spokeswoman said.

Amtrak arranged for alternate transportation for its customers, who were all taken to the Genesis Center after being checked at the hospitals, Chief John Hoby said.

The impact ripped apart the truck, sending large rocks and pieces of the cab and engine flying down the track.

Hibbard's body was thrown about 200 feet. He was killed instantly, police said. A Lake County deputy coroner pronounced him dead at 11:34 a.m.

Witnesses told Roberts that Hibbard had stopped at the crossing gate then proceeded across. There are three sets of multiple tracks between the gates, with short pieces of road between the groupings.

The passenger train was westbound, state maintenance highway 141.

The rail corridor has been identified by the Indiana Department of Transportation as one of the most dangerous in the state. Indiana ranks fourth in the nation in crossing deaths.

On Friday morning, an Amtrak passenger train struck a tractor trailer at a crossing on North Clark Road, Roberts said.

In that accident, the truck driver was trapped in the truck but was fatally injured, Roberts said. No one on the train was injured.

He was extremely lucky, Roberts said of the truck driver, who was not killed.

Passenger Dave Betlejowski was in the last car of the train Monday. "We were slow through the yard and had not speeded up to full speed," he said. Betlejowski was returning home from a weekend in Michigan.

The train got behind. That last car almost hit me, Betlejowski said. "I was sitting in the back of the train, and I was looking out the window. I saw the truck and I was thinking, 'I'm going to die.'"

The train slowed down, and the truck driver was able to get out of the truck. "I was sitting in the back of the train, and I was looking out the window. I saw the truck and I was thinking, 'I'm going to die.'"

Through the train and debris, a red and white striped light was seen. "I was sitting in the back of the train, and I was looking out the window. I saw the truck and I was thinking, 'I'm going to die.'"

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valve damage in 100 other patients on the drugs.

Other symptoms included chest pains, shortness of breath and swollen ankles.

Fenfluramine was approved by the FDA in 1974 and phentermine was approved in 1959. But they were never approved for use together.

The furor over the drugs began in July when Mayo Clinic researchers released their study that linked the drugs to patients who showed up in operating rooms with unusual leaking heart valves.

Since the study was formally published in the New England Journal of Medicine in August, more cases have turned up, giant diet centers like Nutri-System have discontinued using the fenfluramine and the drugs sales have fallen sharply, according to IMS America, which tracks pharmaceutical sales.

But it wasn't until cardiologists around the country began checking the hearts of patients who were taking the diet drugs yet showing no symptoms of heart disease that the FDA decided to act.

Nearly 100 patients from five medical centers who were taking the drugs with no symptoms were checked by echocardiogram—an ultrasound of the heart. Thirty percent showed abnormal heart valves.

Clearly, with that information,

study results at a meeting with the FDA on Friday, Wyeth-Averett Laboratories, based in Philadelphia, agreed to voluntarily withdraw both drugs.

The company manufactures Pondimin and sells Redux. The company has also pulled the drugs from other countries.

Wyeth-Averett has sent letters to 450,000 physicians and pharmacists are running full-page ads in newspapers today, and are offering advice and refunds to anyone with unused drugs.

For doctors who treat obese patients, reaction to the withdrawal has been mixed.

I talked to two of my patients who really regret that they have to stop taking it," said Dr. Arthur Frank, a physician in Washington, D.C.

"I said, 'I wish I had the option of assessing whether the risk of heart disease is greater because of my weight, or because of the pills. Now, she doesn't have that option anymore.'"

Still, he said, "The FDA action is very prudent. It's clearly necessary."

Some physicians, who were reluctant to condemn the drug combination they say can be effective, said obesity itself is a serious health risk.

Obesity, the second leading cause of preventable death, can lead to heart disease, diabetes and

is prescribed.

Hitzig is studying how fen phen works to stop addictions like alcohol and cocaine, depression and obsessive compulsive disorders. "I'm afraid we're throwing the baby out with the bath water."

For Potter, the drug withdrawal makes her breathe easier. She still has 80 pounds she wants to lose. But now, she's trying a low-salt, low-fat diet.

Her sister, once she stopped taking the drugs, gained back all of the weight. "It's just not worth it," Potter said.

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Please see Spend, Page B6

Gary Post-Tribune 9/17/97

Trains move slowly past accident scene

■ Amtrak service resumes
through the North Clark
Road crossing, where two
accidents have occurred in
five days.

Post-Tribune Staff Report

GARY — Amtrak trains resumed
service through Northwest Indiana
on Tuesday, a day after a train collid-
ed with a tractor-trailer, killing the
truck driver.

Train speeds, however, were
restricted near North Clark Road
where the accident happened.

Wayne Hibbard, 34, of Lake Sta-
tion was killed when he drove his
tractor-trailer around lowered gates
at the rail crossing, according to
police.

Marc Magliari, Amtrak
spokesman, said Tuesday the morn-

ing train from Chicago arrived in
Niles, Mich., only 13 minutes late.
Magliari said about 12 Amtrak
trains pass through that crossing
each day.

Next Tuesday, Operation Life-
saver, a national rail-safety group,
will be in Northwest Indiana to pro-
mote rail-crossing awareness,
Amtrak officials said.

The group has invited several
area law enforcement officials, pub-
lic officials and judges to participate
in the campaign.

As part of the effort, they will
board a train that will pass through
the North Clark Road crossing,
which was the site of another train-
truck wreck on Friday.

That rail corridor has been identi-
fied by the Indiana Department of
Transportation as one of the most
dangerous crossings in the area.

In the Friday accident, the truck
driver was trapped in his truck, but
received only minor injuries,
according to reports.



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EXHIBIT MLC-3

September 25, 1997

Honorable Jolene M. Moulton
Administrator
Federal Railroad Administration
U. S. Department of Transportation
400 Seventh Street, SW
Washington, DC 20590

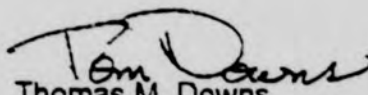
Dear Jolene:

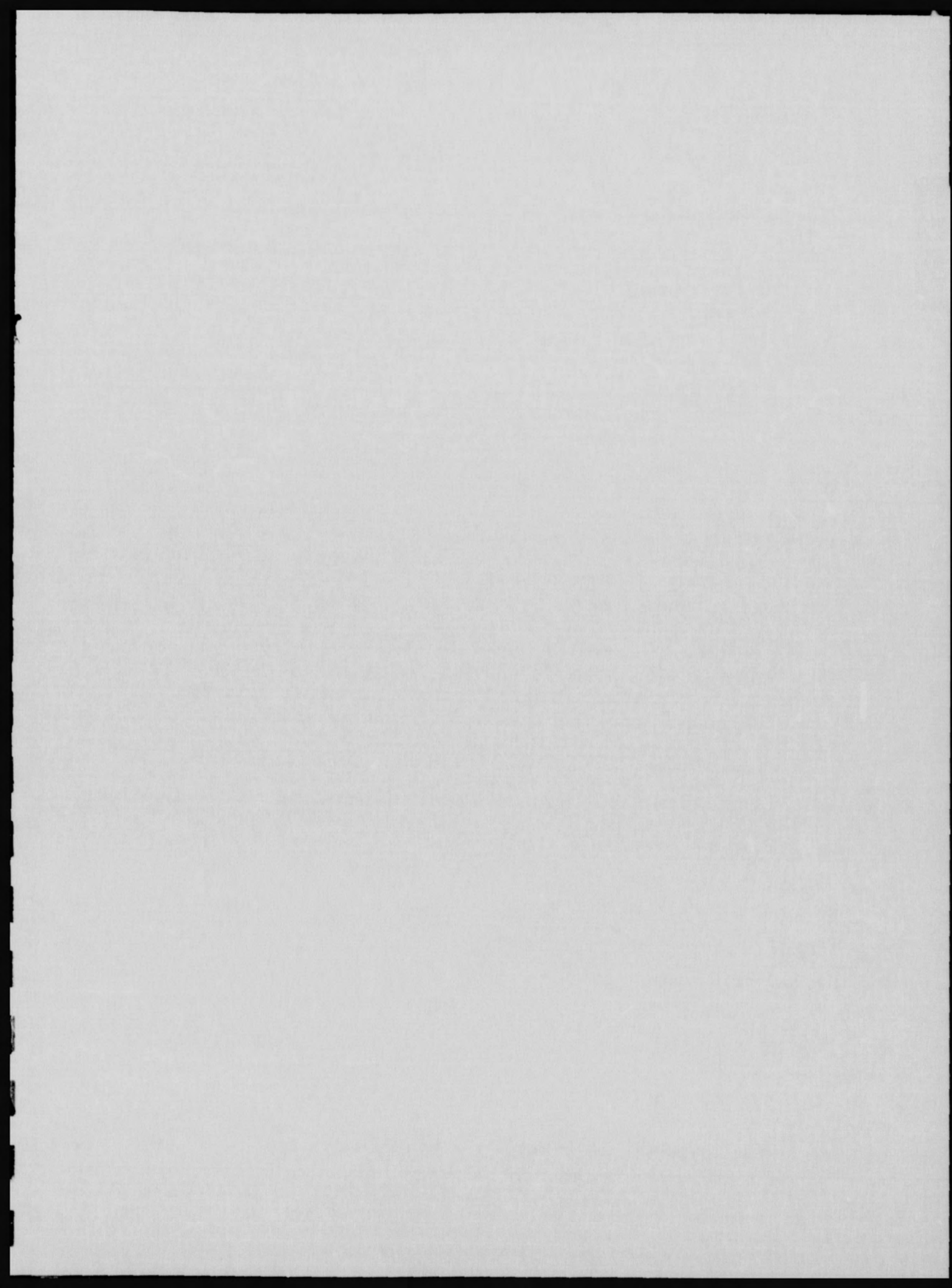
On September 15, 1997, Amtrak Train 371, the Pere Marquette, which was headed toward Chicago from Grand Rapids, Michigan, struck an 18-wheel gravel truck at Clark Road, 8 miles east of Hammond, Indiana, at Conrail MP 499.29. As a result, the entire consist including a locomotive and four passenger cars derailed incurring injuries to eleven passengers and one employee. The truck driver was killed.

This crossing accident was the ninth similar occurrence involving Amtrak passenger trains in this area since November 1995. Several have resulted in injuries to people on the train and there have been three fatalities in the vehicles that have been struck. There have been over 50 accidents involving passenger and freight trains in the past 20 years in this particular area between Hammond and Gary. Conrail and CSX tracks are parallel to each other and highway traffic is required to cross both sets of tracks. As you can see, this area is dangerous, even when all railroad operating rules are followed and safety devices and crossing protection are functioning as intended.

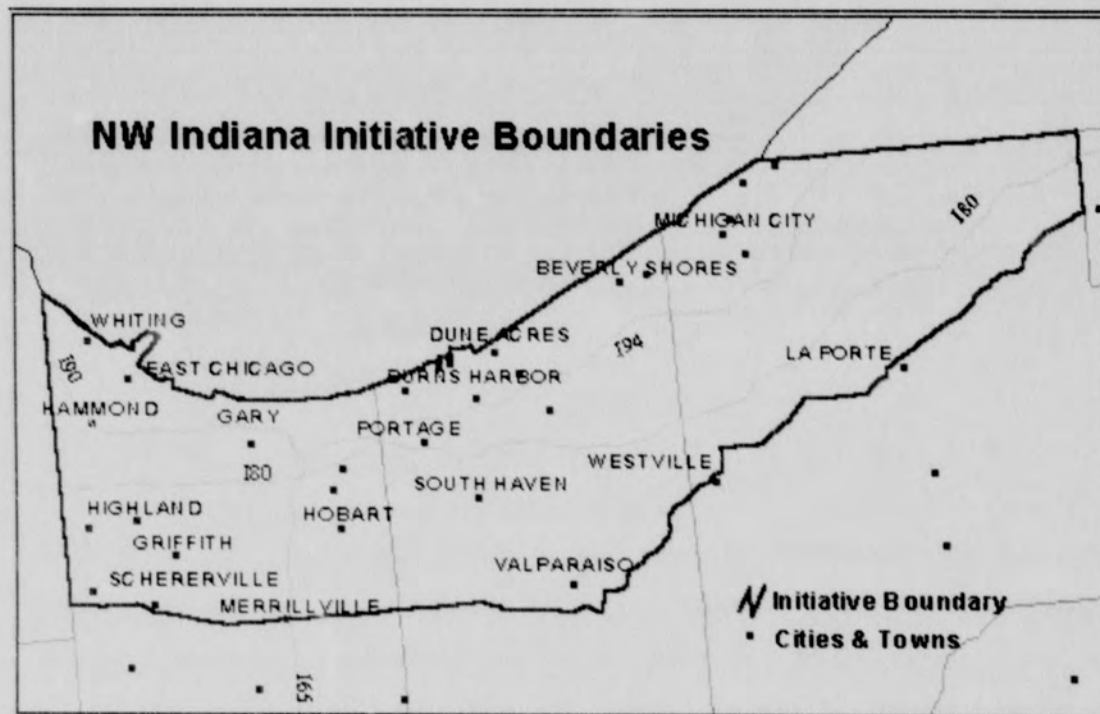
This situation is of great concern to us at Amtrak. I am requesting that you arrange for your staff to examine the crossings, their protective devices and surrounding terrain to determine what can be done to effectively eliminate or greatly reduce the potential danger to all trains, passengers, operating crews, and to the public in this area. Your assistance would be greatly appreciated. If Amtrak can be of any help, please contact me immediately.

Sincerely,


Thomas M. Downs
Chairman, President and
Chief Executive Officer



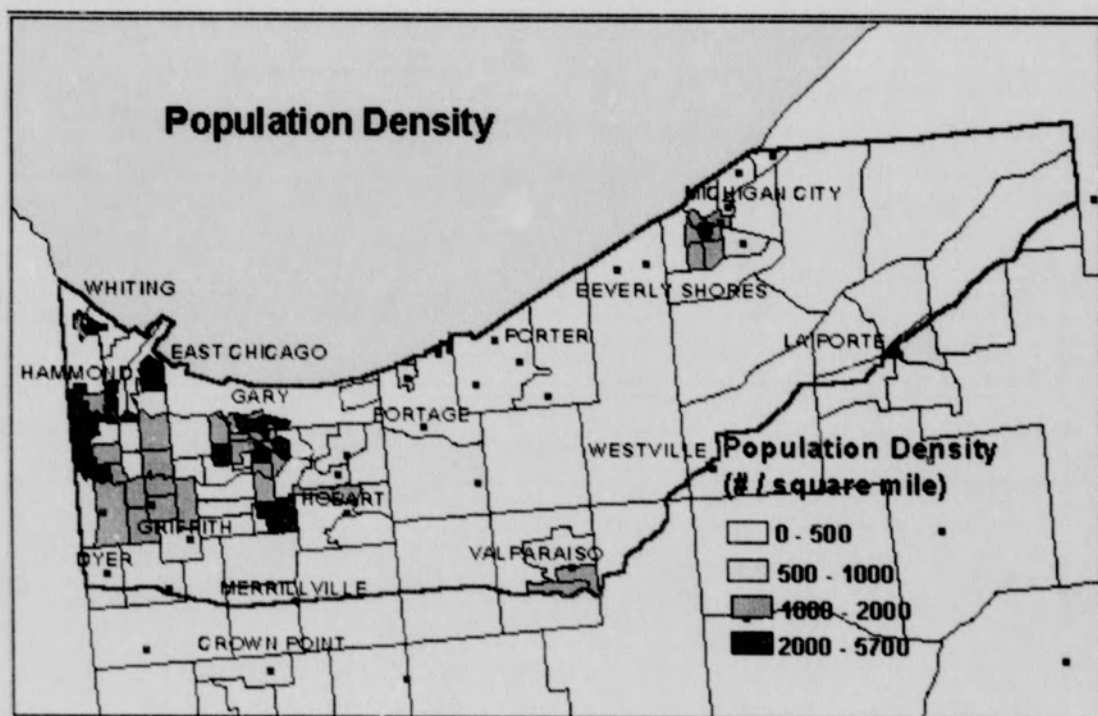
NW INDIANA INITIATIVE AREA

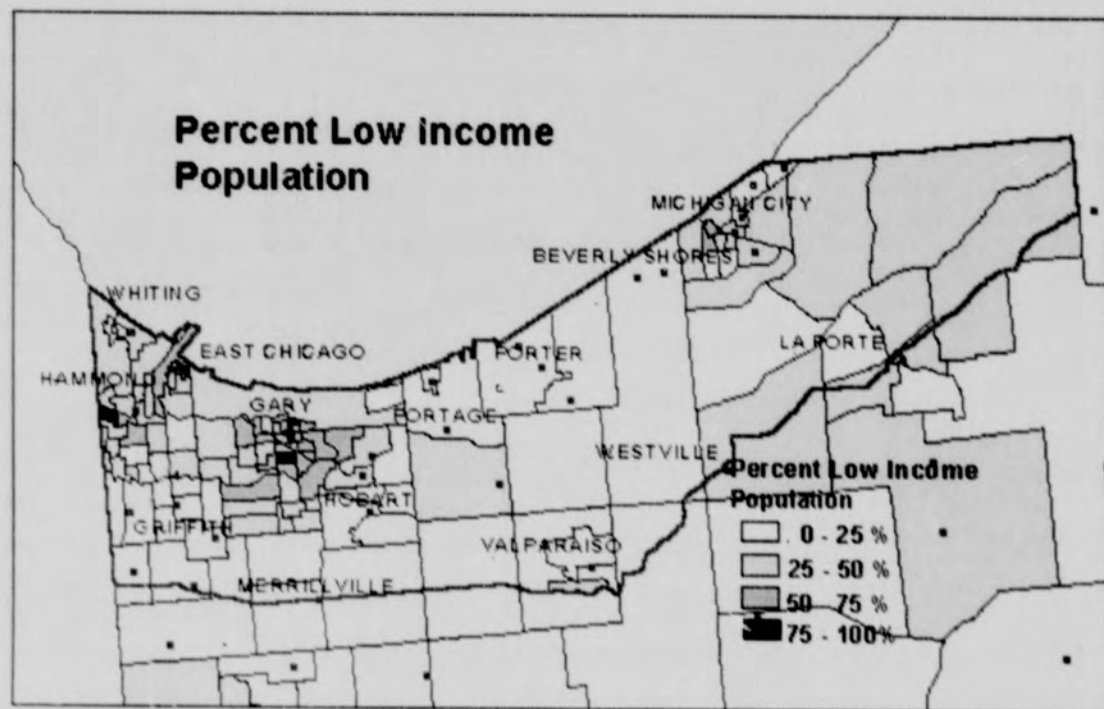
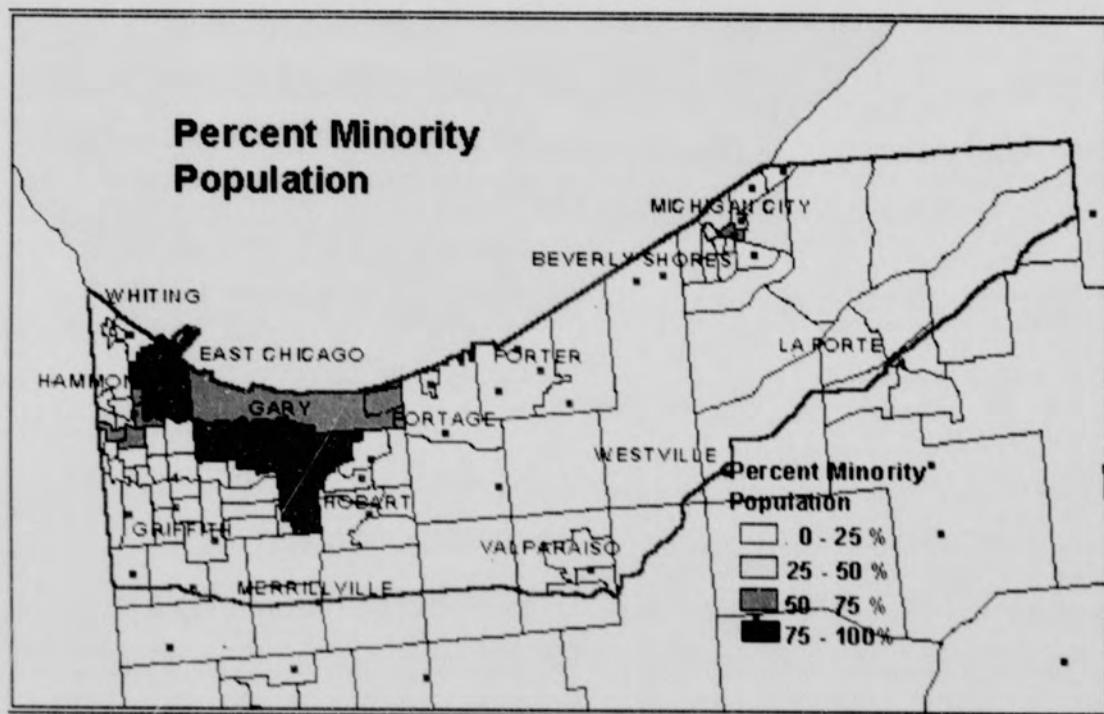


NW INDIANA INITIATIVE AREA

Demographic Maps

The following maps for the EPA's NW Indiana Initiative area were developed from the 1990 Decennial Census as published by the U.S. Bureau of the Census. The data are reflected in census tracts.





Northwest Indiana Environmental Initiative Action Plan

I. Background and Vision of the Northwest Indiana Environmental Initiative

- Northwest Indiana has suffered the effects of severe pollution through a century of industrial activity. As a consequence, contamination threatens the health and vitality of communities and surrounding ecosystems. The air quality of Lake and Porter counties does not meet Federal standards. Five to ten million cubic yards of contaminated sediments cover the bottom of the Grand Calumet River and Indiana Harbor Ship Canal, of which 150,000 cubic yards enter Lake Michigan each year. Millions of gallons of petroleum float atop the ground water in certain portions of Northern Lake County. Hundreds of sites require clean up, including seven Superfund sites and numerous leaking underground storage tank sites. The extent of these and other environmental challenges require special governmental action. During the last several years, EPA and IDEM have worked together to prevent further degradation and have begun developing long term solutions to restore ecological balance in the region.
- Starting with the 1992 Northwest Indiana Action Plan, EPA and IDEM joined in the Northwest Indiana Environmental "Initiative," designed to direct significant federal and state resources to the region. We have pursued certain short term strategies to relieve immediate threats to the environment and provide the ground work for longer term, more comprehensive solutions for the region. The heightened enforcement strategy of EPA and IDEM sends an important signal to the affected communities that future abuses will not be tolerated and past wrongs will be remediated.
- With the current Northwest Indiana "Action Plan," we intend to continue our geographic focus on Northwest Indiana. It reflects our agencies' continued commitment to work cooperatively to address some of the most environmentally challenging problems in the nation. Both agencies seek to clean up major waterways and contaminated lands, reduce the use of toxic substances, restore and protect strained ecosystems, and foster practices among industry and citizens that are sustainable for the long term health of the environment and people of Northwest Indiana. To that end, we have established a collaborative management arrangement involving teams from both agencies to craft strategies and work with the community to achieve the objectives of this Action Plan. By sharing information and strategically focusing our joint resources, we can use the limited resources each have to maximize governmental efforts in the area. Together, U.S. EPA and IDEM have already enhanced our communications and coordination in Northwest Indiana. Our evolving relationship allows us to continue collaborative strategies, maximize our resources, and bring about better environmental results for everyone in Northwest Indiana.

II. Major Environmental Goals and Key Principles of the Northwest Indiana Environmental Initiative:

- EPA and IDEM seek environmental restoration of the region and elimination of serious environmental stresses now threatening Lake Michigan. Several strategies, many initiated through the 1992 Northwest Indiana Action Plan, will be pursued under the Action Plan, including: improving the area's air quality; cleaning up contaminated sediments in the Indiana Harbor Ship Canal and Grand Calumet River; remediating and restoring contaminated lands and ground water; using pollution prevention as a tool to develop an overall environmental strategy with local industry and citizens; attaining high compliance with state and federal environmental laws; and continuing to develop and implement the Remedial Action Plan (RAP) for the Grand Calumet River, Indiana Harbor Ship Canal and Nearshore Lake Michigan Area of Concern and the Lake Michigan Lakewide Management Plan (LaMP).
- Several key principles will guide our efforts. Success will be measured through:
 - achieving tangible environmental improvements;
 - developing creative solutions and non-traditional ways of dealing with environmental problems that foster cooperation among affected groups;
 - closely coordinating strategies and action with other federal and state agencies and local governments;
 - encouraging involvement by affected groups such as industry, environmental groups, and citizens; and
 - using integrated, multi-media approaches consistent with long term environmental goals.
- The Initiative is based on a collaborative effort between EPA and IDEM. We have agreed to work together, sharing resources and information, and engaging in informed decision-making by involving all those who hold a stake in the process.

III. Scope of the Northwest Indiana Environmental Initiative

- This Initiative focuses on the most industrialized and developed portions of Northwest Indiana. Its geographic boundary approximates a crescent along the shore of Lake Michigan. In Lake County, the Action Plan addresses the area north of Route 30; in Porter County, the area north of Route 30 west of Valparaiso and north of Route 2 to the east of Valparaiso; and in LaPorte County, the area north of Route 2.

- This "Initiative" complements other major environmental planning efforts underway in Northwest Indiana, though their geographic boundaries differ. The RAP, which is lead by IDEM, designates the northern portion of Lake County as its area of concern. Both the LaMP, which is lead by EPA, and the Coastal Zone Management Program (CZMP), which is lead by DNR, address the drainage basin of Lake Michigan, although the boundaries for the CZMP have not been finalized. A number of watershed management planning efforts focus on drainage areas for specific waterbodies, including the Trail Creek Watershed in LaPorte County and the watersheds for George and Wolf Lakes in Hammond. IDEM's Northwest Regional Office augments these planning processes, and supports traditional regulator activities by providing services to the counties of Lake, Porter, and LaPorte.
- The objectives of this Action Plan represent strategies that EPA and IDEM have identified as critical to the long term restoration and protection of the region. NOTE: SPECIFIC ACTIVITIES UNDER EACH OBJECTIVE DO NOT REPRESENT ALL THE ACTIVITIES ENGAGED IN BY THE TWO AGENCIES, NOR DO THE OBJECTIVES THEMSELVES INDICATE ALL MATTERS OF CONCERN. RATHER, THEY REPRESENT THOSE ACTIVITIES THAT BOTH AGENCIES HAVE AGREED ARE CONDUCTIVE TO JOINT COLLABORATION OR IN NEED OF STRONG COORDINATION TO SUPPORT LONG TERM RESTORATION AND PROTECTION EFFORTS. Activities not jointly undertaken by EPA and IDEM will still be coordinated through the Initiative and be consistent with major Initiative strategies. The result of such cooperation will bring about stronger communications, more effective use of resources, and a better environment.

IV. Relationship of the Northwest Indiana Action Plan with Other Planning Processes

The effectiveness of this Action Plan depends greatly on maintaining close coordination and frequent communications with other major planning processes underway in the region. The activities under the Action Plan will further mutual goals shared by these longer term planning processes, and augment ongoing regional regulatory activities required by state and federal laws. Efforts will be made to strengthen communications and coordination among federal, state, and local units of government and agencies, as well as with private groups working within Northwest Indiana. Such coordination will ensure that the Initiative promotes broadly shared environmental priorities and the cooperative use of government and private resources to address regional problems.

V. Public Involvement in the Northwest Indiana Environmental Initiative

- EPA and IDEM are committed to providing citizens of Northwest Indiana with opportunities for input into the decision making process. We recognize that public involvement is important to our success. Consequently, our process to revise
- the 1992 Northwest Indiana Action Plan began with several "roundtable" meetings held among agency representatives and community leaders in Northwest Indiana. The comments of more than 60 individuals, representing industry, environmentalist, labor, and local government, helped guide the preparation of this Action Plan. In addition, the final draft of this Action Plan was widely circulated for public review and comment before final adoption. Our Action Plan seeks to create wide spread understanding of environmental challenges in Northwest Indiana and foster development of opportunities for the public and industry to cooperatively address environmental problems. To achieve this goal, IDEM and EPA will: (1) enhance public access to information concerning environmental problems (including consent decrees, technical documents and reports); (2) provide the public with opportunities for input and interaction; (3) identify and communicate both challenges and milestones; and (4) maintain flexibility to allow for implementation of new and different communication strategies to meet the public's changing priorities and needs.

VI. Environmental Justice

- Protecting the public health and the environment for everyone in Northwest Indiana is central to our mission. Yet because of the level of past environmental degradation, the historic concentration of industry in the region, the environmental issues presented by industry located there, and the presence of ethnic and socio-economic minorities within certain communities, the environmental challenges of Northwest Indiana raise unique concerns. Although our geographic initiative has allowed us to focus resources and efforts on Northwest Indiana, with this current Action Plan we have made emerging environmental justice issues an important consideration for our agencies.
- As society at large struggles with environmental justice concerns, EPA and IDEM are focusing on this issue. We are committed to working with the public to develop a mutual understanding of environmental justice and a direction for our work. By involving minority communities in our outreach efforts and exploring ways that we can be responsive to their concerns, we will further our efforts to protect everyone in Northwest Indiana, regardless of ethnic background or financial resources. As we identify and define environmental justice issues, we will undertake appropriate responses to them.

VII. Sustainable Development.

In the December 1993 roundtable meetings, several commenters suggested that "Sustainable Development" should be included in the Action Plan. EPA and IDEM agree that the concept and practice of sustainable development should be one of the guiding principles of how we accomplish our goals in Northwest Indiana. Indeed, President Clinton, announcing his Executive Order creating the President's Council on Sustainable Development, stated the following: "to grow the economy and preserve the environment for our children and our children's children, bringing together some of the most innovative people from business, from government, from the environmental movement, the civil rights movement, and the labor movement...I am asking [the Council] to find new ways to combine economic growth and environmental protection; to promote our best interests in the world community; to bring our people together to meet the needs of the present without jeopardizing the future."

But sustainable development as a global vision for the Northwest Indiana area is not so clearly defined. EPA and IDEM recognize that the agencies need to begin working with the communities of the area to come to some common understandings of what sustainable development is, what the desired outcomes of work should be, who the interested parties are, and what roles parties can and should play. The agencies will work together with the public to open up avenues for dialogue on these issues. For example, currently there is a significant movement toward redeveloping abandoned and unused urban sites. EPA and IDEM both recognize the importance of this "Brownfields" concept. EPA sees its role as one of removing impediments to redeveloping these Brownfield sites, providing the market with clear signals of EPA's interests, sharing information, and testing ideas. IDEM has an active role in cleaning up these sites through various state programs including the state's Voluntary Clean Up program. In addition, both agencies are engaged in transportation planning activities aimed at promoting growth patterns consistent with our environmental goals. These activities will be continued, and other activities will be explored, as we cooperate with communities in Northwest Indiana in the development of a shared vision of sustainable development for their region.

VIII. Implementation and Future Review of the NWIAP

- The Action Plan, with its six major strategies - Air Quality, Compliance and Enforcement, Land and Ground Water Remediation, Pollution Prevention, Remedial Action and Lakewide Management Plans, and Sediments - will be implemented jointly by EPA and IDEM. This Action Plan is not inflexible. It will be assessed continuously for progress by the agencies, and periodically reviewed by the public for major shifts in strategies and changing environmental priorities. Joint agency committees have been charged with implementation for strategies not already coordinated and implemented through base program work. Our agencies will work cooperatively with the public to ensure that the goals of this Initiative are achieved. Indicators of progress based on tangible environmental improvements will be developed and reported to the public. Our six strategies follow, with a brief explanation of our goals and objectives and the major activities that will guide our efforts over the next several years.

AIR QUALITY

Goal:

The air quality in Northwest Indiana will not interfere with the citizens' enjoyment of their region or threaten their health.

Objective:

To improve the area's air quality by: ensuring compliance with the new Clean Air Act Amendment requirements for the area; taking all steps needed to achieve and maintain health-based air quality standards; involving the public and improving their awareness of what we all can do to lessen air pollution; and initiating targeted efforts through enforcement, rule development, and public awareness.

Definitions:

- Criteria Pollutants: Pollutants identified in Title I of the Clean Air Act that include carbon monoxide, lead, nitrogen oxides, ozone, particulate matter, and sulfur dioxide.
- VOC: Volatile organic compounds, active in formation of ozone/smog.
- PM-10: Fine particulate matter (measured as PM-10).
- Title III: Portion of Clean Air Act Amendments of 1990 that outlines hazardous air pollutant control program.
- Title V: Portion of Clean Air Act Amendments of 1990 that outlines new state operating permit program.

Background:

- Lake County has the poorest overall air quality of any area within Indiana. Over the years, portions of this county have not met state and federal health standards for most of the criteria air pollutants. The smog problem persists in Porter County and possibly LaPorte County. Northwest Indiana, and Lake County in particular, also have high air emissions of

hazardous air pollutants.

- EPA and IDEM have spent considerable time and effort developing new rules and programs and enforcing existing laws to improve air quality in this region. These efforts have resulted in substantial improvement in air quality, especially for particulate matter, sulfur dioxide and carbon monoxide. However, problems still persist for ozone and other hazardous air pollutants.
- New control plans for particulate matter and sulfur dioxide have been established and are being implemented. The State of Indiana is working with Illinois, Wisconsin, and Michigan on a new smog/ozone control program aimed at eliminating the health threat from ozone before 2007. IDEM is also launching the Title III (Air Toxics) program that will lead to substantial reduction in emissions of hazardous air pollutants to reduce risk to public health. EPA is participating in developing these new programs and in guaranteeing their success.

Major Activities:

1. IDEM and EPA will develop a targeted compliance and enforcement strategy aimed at addressing the area's major air quality problems (ozone, PM-10 and toxic substance exposure). IDEM will work to reduce major nuisance problems related to odor, dust, and other air quality problems.
2. IDEM will prepare a statewide air toxic substances control program with an emphasis on activities in Northwest Indiana that will both evaluate the extent of excessive risk and address major problems with rules, compliance and outreach efforts. EPA will actively support IDEM through technical assistance and other means. The state air toxic substances program will incorporate all mandatory elements of the hazardous pollutant provisions of the Clean Air Act Amendments.
3. IDEM will work with the Clean Air Act Advisory Council - Northwest Indiana Committee to focus on their concerns relative to air quality in Northwest Indiana.
4. IDEM and EPA will continue to coordinate and cooperate in the Lake Michigan Ozone Project, and develop control measures to reduce ozone and smog.
5. IDEM and EPA will continue to coordinate closely on all significant regulations and programs required as part of the Clean Air Act Ozone State Implementation Plan to assure that the state rules and programs meet the federal requirements and to assure that EPA's review process supports the state's actions.
6. IDEM will collect and evaluate air quality monitoring data in the area to track improvements, and will increase sampling for hazardous air pollutants as part of the air toxic substances program.
7. IDEM and EPA will promote pollution prevention approaches during compliance and enforcement activities, public outreach efforts and, whenever practical, rulemaking.
8. IDEM will work to secure approval from EPA on the state's Fine Particulate Matter Implementation Plan and then closely coordinate state and federal compliance activities in the area.
9. IDEM will pilot an odor control program for the area, working with EPA wherever there is federal authority for effective air pollution reduction.
10. IDEM will implement an effective enhanced vehicle emission testing program with assistance from EPA that will provide better service to the motorists and more emission reductions.
11. IDEM will incorporate air quality consideration into transportation planning decisions and identifying effective mobile source control measures.
12. IDEM will prioritize implementation of the Clean Air Act's new Title V operating permits for major sources in Lake and Porter counties. IDEM's Small Business and Technical Assistance Program will work to assure compliance with Clean Air Act requirements for small businesses in the area.

Opportunities for Public Involvement

IDEM and EPA will develop a targeted compliance and enforcement strategy aimed at addressing the area's major air quality problems (ozone, PM-10 and toxic substance exposure). IDEM will work to reduce major nuisance problems related to odor, dust, and other air quality problems.

- IDEM and EPA will meet regularly to discuss progress and coordination on joint efforts in Northwest Indiana. The IDEM/EPA Northwest Indiana Air Committee is responsible for communicating on all matters involving or affecting the other agency to assure proper coordination and effective actions.
- The public, industry and local government can participate in meeting these objectives through IDEM's Clean Air Act Advisory Committee, public meetings and hearings, and other public processes associated with regulatory activity.

COMPLIANCE AND ENFORCEMENT

Goal:

Reduce the quantities of conventional and toxic pollutants existing within and entering the environment in Northwest Indiana.

Objective:

Use enforcement actions and other statutory authorities to achieve a high level of compliance with all federal and state environmental laws and to remediate contaminated sites.

Definitions:

- Supplemental Environmental Project (SEP): A project carried out by a polluter which has direct environmental benefits and is not otherwise required by law. Such projects can be used to offset a portion of the cash penalty.
- RCRA: Resource Conservation and Recovery Act of 1976; the law established rules to monitor hazardous substances from the time of production to disposal. It requires that safe procedures be used in treating, handling, using and disposing of hazardous substances.

Background:

- Many of EPA's and IDEM's joint efforts under the Action Plan focus on remediation and restoration of Northwest Indiana because of the environmental degradation that has occurred over many decades. But the long term benefits to the environment and to the citizens in Northwest Indiana, as well as the success of the Initiative, depend on whether ongoing regulated activities comply with federal and state environmental laws and regulations, now and in the future. Therefore, it is critical that IDEM and EPA continue our joint efforts in determining the compliance status of the industries and other regulated facilities operating in Northwest Indiana, and when appropriate, vigorously enforce against those not in compliance.
- Northwest Indiana presents difficult challenges with regard to compliance and enforcement for several reasons. First, many industries located in Northwest Indiana were established decades prior to modern environmental laws and regulations. Their processes and equipment were not designed to control or limit pollution into the environment. Some of these facilities have had difficulty adapting their processes and equipment to meet current environmental standards. As a result, many have experienced chronic compliance problems. In addition, and unfortunately, there have been some who have chosen to locate in Northwest Indiana who have not taken their environmental responsibilities and obligations seriously. Regulating such facilities requires vigilance and aggressiveness. Finally, because of the past significant degradation of all the environmental media - air, water and land - compliance and enforcement strategies must take into account that pollution can be shifted from one medium to another. As a result, IDEM and EPA will continue to focus on environmental improvement through a multi-media approach to compliance and enforcement, and by actively seeking through enforcement actions remediation of past contamination.

Major Activities:

1. Coordinate state and federal enforcement actions through the Compliance and Enforcement Committee (CEC) to ensure efficient use of state and federal resources.
2. Prioritize and target inspections and enforcement to ensure compliance.
3. Research the legal judicial facets of sediment remediation, the remediation of contaminated ground water and the development of natural resource damage claims to enable state and federal enforcement personnel to bring cases which, if successful, will compel the remediation of past damages to the environment. Evaluate cases to determine the applicability of additional statutory authorities.
4. Consistent with Number 1, both agencies will pursue civil litigation and seek voluntary actions to remediate contaminated sites, including contaminated sediments in the Grand Calumet River/Indiana Harbor Ship Canal, and compel responsible parties to undertake clean up at contaminated sites to remove hazardous, toxic and solid wastes and to clean up leaking underground storage tanks.
5. EPA will follow its Supplemental Environmental Project Policy to facilitate inclusion of environmental and pollution prevention projects in its enforcement settlements. IDEM will complete its Supplemental Environmental Project Policy in order to do the same.
6. Work with local governments to identify their authorities and use them more effectively to address violators, including open dumpers, air pollution sources, and industrial dischargers to municipal sewage treatment plants.
7. At permitted and closing RCRA sites, prioritize and complete closure and/or corrective action.
8. Implement a compliance and enforcement strategy which increases inspection surveillance of and enforcement against sources of Volatile Organic Compounds (VOCs), Particulate Matter (PM-10), and toxic sources.
9. Continue to implement the Great Lakes Enforcement Strategy dated 9-15-93 for reducing toxic discharges to Grand Calumet River Indiana Harbor Ship Canal.

Opportunities for Public Involvement:

- The citizens of Northwest Indiana have the opportunity and responsibility to be aware of problems and call them to the attention of their city and/or county officials, or contact IDEM or EPA about them. Additionally, citizen suit provisions exist in many state and federal laws, as another means to bring about compliance with the law.

LAND AND GROUND WATER REMEDIATION

Goal:

Protect Northwest Indiana from the release of hazardous substances, petroleum or petroleum-related substances and clean up of contaminated lands and ground water.

Objective:

Prevent the release of hazardous substances, petroleum or petroleum-related substances to the land or ground water; if releases occur, ensure the immediate containment and clean up; and use all applicable Federal and State authorities and programs to address the containment, removal and/or treatment of hazardous substances, petroleum or petroleum-related substances currently contaminating land or ground water of Northwest Indiana.

Definitions:

- Northwest Indiana Brownfields Redevelopment Project: A local initiative of East Chicago, Gary, and Hammond and IDEM to identify properties unused because of potential environmental contamination, and to encourage their remediation and reuse.
- Superfund: The Comprehensive Environmental Response, Compensation and Liability Act of 1980; the federal law which established a mechanism for identification and remediation of the worst hazardous substance contaminated sites in the U.S.
- Voluntary Remediation Program: A cooperative initiative between the state and private parties in which contaminated sites are remediated with state oversight and, upon successful completion of the remediation, a Covenant Not To Sue is issued to the property.
-

Background:

- Northwest Indiana has been the site of substantial industrial activity for over 100 years. Past industrial practices in Northwest Indiana often did not consider their future impact upon the environment and have resulted in significant contamination of the soils and ground water. This historical contamination has not only resulted in potential threats to human health and the environment but is now impacting the local economies through the real or perceived threat of environmental liability on properties within Northwest Indiana.
- IDEM and EPA have many different programs within their authority over the prevention and correction of pollution of the land and ground water. Northwest Indiana, because of its size and density, presents a major challenge to all involved. Through this Action Plan, EPA and IDEM will work to coordinate, and where possible, accelerate addressing land and ground water contamination.

Major Activities:

1. Continue to coordinate and aggressively pursue targeted actions to protect and remediate contaminated land and ground water through federal and state Superfund emergency and remedial programs, petroleum clean ups, corrective actions, closures and non-traditional efforts.
2. Improve coordination with other units of government to enhance protection and achieve clean up where no one agency or department has complete authority, and foster partnerships with other major stakeholders.

Efforts will continue to work with state and federal agencies, such as the Indiana Department of Natural Resources, Indiana Department of Commerce, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, the National Biological Survey, and local units of government. Through such efforts EPA and IDEM can effectively extend their programs and resources to address egregious problems over which neither agency has complete authority.

3. Identify and encourage the use of both innovative approaches and innovative technologies for land and ground water remediation.

The August 1994, execution of a voluntary Memorandum of Cooperation (MOC) by IDEM and EPA with local

industries is an example of an innovative approach to a vexing problem. The MOC describes a way to prevent future releases of petroleum to the Indiana Harbor Ship Canal from the ground water beneath the properties of the signatories. Several companies have agreed to voluntarily take measures to prevent the migration of petroleum to the canal which may be currently occurring. EPA and IDEM will also continue to research and use, where appropriate, new technologies to enhance the effectiveness of clean up actions.

4. Continue efforts to map, locate, and define the extent and thickness of petroleum-related products on or within the soils and ground water.

The continuing mapping efforts will provide the location of pockets of "floating oil" on the ground water; assist in prioritizing clean ups and assist in evaluating the impacts on the environment.

5. Continue to assist and coordinate with the Northwest Indiana Brownfields Redevelopment Project through the identification of potential sites and through the innovative use of Indiana's Voluntary Remediation Program. IDEM and EPA will also seek out further opportunities to work with local units of government and industry for further "Brownfield" redevelopment opportunities throughout the entire geographic initiative area.

The implementation of the "Brownfields" approach will not only provide enhanced clean up and the protection of green fields outside the metropolitan areas but has the potential to result in positive economic impacts.

6. Identify and resolve regulatory barriers to achieving remediation of contaminated sites.

The purpose of this activity is to clearly define the authorities and tools state and federal staff may use to prevent and or address spills, releases or existing contamination in the most effective manner. IDEM and EPA will review and develop a "tool box" of mechanisms which may be employed to obtain compliance under state and federal hazardous substance and oil pollution legislation.

Opportunities for Public Involvement:

IDEM and EPA rely on the public to help identify suspected locations of contamination in the soil and/or ground water. We will keep the public current on activities associated with clean ups and continue to encourage their participation in formal comment periods used to gather input on site specific projects. Throughout the implementation of this element of the Action Plan, EPA and IDEM will continue to look for and provide opportunities for further cooperation with the public, government agencies and industry.

POLLUTION PREVENTION

Goal:

Integrate pollution prevention and environmental stewardship into industry practices and public behavior in Northwest Indiana.

Objective:

IDEM and EPA will engage in a consistent effort promoting pollution prevention and environmental stewardship in Northwest Indiana. In general, IDEM will take the lead on pollution prevention in the region. Through this consistent effort by the agencies, industry and the public in Northwest Indiana can adopt pollution prevention and environmental stewardship practices. Success will be measured by integration of pollution prevention measures into other Action Plan activities. When this objective is met, the pollution prevention and environmental stewardship committee should no longer be necessary.

Definitions:

- Environmental Waste: All environmental pollutants, wastes, discharges or emissions, regardless of whether or how they are regulated, and regardless of whether they are released to the general environment or the workplace environment.
- CFR: Code of Federal Regulations.
- Toxic Materials: For purposes of this Action Plan, toxic materials are substances on the CERCLA Hazardous Substance list (40 CFR Part 302), and they also include toxic chemicals as defined by 40 CFR Part 372.

Background:

- Pollution prevention and, in the broader sense, environmental stewardship, are the primary mechanisms for positive change for IDEM and EPA activities in Northwest Indiana. Each agency has committed resources to the issues and will continue to emphasize pollution prevention as a priority. These efforts will be aggressively incorporated into the agencies' activities whenever possible.
- Indiana's program seeks a dramatic shift in perspective to pollution prevention, rather than incremental shifts towards this best approach. These incremental shifts from disposal to treatment to recycling, and then finally prevention, delay the time when the economic and environmental benefits of prevention can be realized. To promote this shift, Indiana has a strong definition of pollution prevention that is unique in the United States.
- EPA and IDEM believe it is important to recognize that while there are differences between state and federal pollution prevention legislation, EPA and IDEM are committed to working as partners in Northwest Indiana to achieve reductions in the generation of pollution and/or its release to the environment.
- Pollution prevention means the use of practices that reduce or eliminate the industrial use of toxic materials or the hazards associated with an environmental waste without diluting or concentrating the waste before the release, handling, storage, transport, treatment, or disposal of the waste.
- Pollution prevention consists of activities that directly impact the production of a product or the providing of a service. It includes product reformulation, production process redesign, housekeeping, environmental and process training, inventory control, preventive maintenance, energy conservation by the energy producer, and on-site closed-loop recycling. It does not include waste burning, waste exchanges, most recycling, or environmental remediation activities.
- Environmental stewardship includes pollution prevention, but is a broader concept. It means activities that protect the environment either directly or indirectly. Some examples of activities that are not pollution prevention but are environmental stewardship include: energy conservation (unless activity is by energy producer), waste minimization, environmental education, household hazardous waste collection, and sediment remediation.
- IDEM and EPA have active pollution prevention and environmental stewardship efforts in the region. For the most part, IDEM has taken the lead in implementing these efforts, with financial and/or technical support from EPA. The exceptions to this are the Steel Industry Pollution Prevention effort, which is entirely state funded, and EPA's Hazardous Waste Minimization Assessments, which were entirely federally funded. Other efforts include the Enviromobile, Hazardous Waste Minimization Studies, and the Grand Calumet River District Pollution Prevention Effort. In general, IDEM has taken the lead on these efforts with support from EPA.

Major Activities:

1. The Pollution Prevention Implementation Committee will aggressively integrate pollution prevention objectives into the other components of this Action Plan over the next two years. IDEM will facilitate integration by assigning a representative of the Office of Pollution Prevention and Technical Assistance to work on each of the objectives that address preventing future pollution. EPA will work with its staff to ensure that pollution prevention is an integral part of the Action Plan and the agency's efforts.
2. The EPA, with IDEM support, will continue to assist companies in their efforts to identify and evaluate pollution prevention, waste minimization, and environmental stewardship opportunities. In the future, assessment results will distinguish between pollution prevention, waste minimization, and environmental stewardship.
3. IDEM, with the support of EPA, has developed a measure of pollution prevention progress among manufacturers in the region. This committee will work with the citizens to get the information out in a format that is understandable.
4. This committee will promote opportunities within this Initiative for public and industry awareness of and participation in pollution prevention and environmental stewardship activities.

Opportunities for Public Involvement:

- The public, industry and local government are already working toward pollution prevention and environmental stewardship by participating in household hazardous waste collection, and environmental education, including the Enviromobile, teacher education, and continuing public forums on pollution prevention and environmental stewardship.

REMEDIATION ACTION PLAN AND LAKEWIDE MANAGEMENT PLAN

Goal:

Eliminate pollution that impairs beneficial uses in Lake Michigan and the Grand Calumet Area of Concern and restore those beneficial uses.

Objective:

Implement Annex 2 (see definition below) of the Great Lakes Water Quality Agreement (GLWQA) through the use of an ecosystem approach to address the environmental problems which impair beneficial uses of Lake Michigan and the Grand Calumet Indiana Harbor Ship Canal Area of Concern.

Definitions:

- Annex 2: A section within the GLWQA that requires any Great Lakes State with an area of concern to prepare a Remedial Action Plan (RAP). Annex 2 also requires the United States and Canada prepare Lakewide Management Plans (LaMP's) for each of the five Great Lakes.
- Area of Concern (AOC): A geographic area that fails to meet the objectives of the GLWQA and where such failure has caused or is likely to cause impairment of beneficial uses. There are 43 AOCs' surrounding the Great Lakes, one of which is in Indiana. The Grand Calumet Indiana Harbor Ship Canal Area of Concern is bounded by the State of Illinois on the west, Porter County on the east, Interstate 80/94 on the south, and the Indiana portion of Lake Michigan on the north.
- Ecosystem: The interacting components of air, land, water, and living organisms, including humans.
- Great Lakes Water Quality Agreement: A product of the 1909 Boundary Waters Treaty between the United States and Canada. The agreement, last amended in 1987, was negotiated and signed by both countries to protect and restore the water quality of the five Great Lakes and the waterways which connect them.
- Impairment to beneficial use: A change in the chemical, physical, or biological integrity of the Great Lakes System sufficient to cause any of the following: restrictions on fish and wildlife consumption; tainting of fish and wildlife flavor; degradation of fish and wildlife populations; fish tumors or other deformities; bird or animal deformities or reproduction problems; degradation of benthos; restrictions on dredging activities; eutrophication or undesirable algae; restrictions on drinking water consumption, or taste and odor problems; beach closings; degradation of aesthetics; added costs to agriculture or industry; degradation of phytoplankton and zooplankton populations; and loss of fish and wildlife habitat.
- International Joint Commission: The Boundary Waters Treaty of 1909 between the United States and Canada established a six-member commission which oversees water quality matters with regards to the Great Lakes and advises both countries. The commission reviews Lakewide Management Plans and Remedial Action Plans.
- Combined Sewer Overflow: A combined sewer system is a sewer system owned by a state or municipality that collects waste water and storm water through a single-pipe system and conveys it to a publicly owned treatment works plant. A combined sewer overflow is a structural device which discharges from the combined sewer system at a point prior to the publicly owned treatment works plant.

Lakewide Management Plans: A comprehensive effort to identify the critical pollutants within a Great Lake and determine what steps need to be taken to eliminate lakewide problems caused by both conventional and toxic pollutants.

- Remedial Action Plan: The identification of the causes of use impairments within a harbor, bay or tributary to a Great Lake, and the development of an implementation plan and schedule to address the problems which caused the impairments using an ecosystem approach.

Background:

- Annex 2 of the GLWQA requires Indiana to prepare a RAP for the Grand Calumet/Indiana Harbor Ship Canal AOC. In addition, Annex 2 requires the United States Government to lead the development of a lakewide management plan for Lake Michigan. Close collaboration between the federal government and the state of Indiana on both planning efforts is essential to their ultimate success and the long term protection and restoration of the AOC. While IDEM is charged with developing the process to produce a RAP, the comprehensive nature of the problems facing Northwest Indiana will require the continued involvement of many stakeholders, public and private, as long-term ecosystem approaches are pursued. EPA provides a uniquely supportive role of the State's RAP efforts, offering financial, technical and capacity building resources. Moreover, Indiana's contribution to the Lake Michigan LaMP will rely heavily on the remedial strategies developed through the RAP. The LaMP, in turn, will assist the development of the RAP by assessing the environmental impacts of current loadings to Lake Michigan and helping identify how future loadings can be reduced.
- Stage 1 of the RAP, an assessment of beneficial use impairments, was completed in January 1991. The development of key strategies to address such impairments during Stage II, which is the implementation phase of the RAP process, will be completed in 1995. The long term protection and restoration of the AOC is the chief aim of the tasks targeted initially for implementation or subsequently selected in bi-partisan fashion.
- Considerable progress has been made through IDEM and EPA's cooperation on AOC activities. Enforcement actions taken against polluters located within the AOC has prevented hundreds of thousands of pounds of pollutants from

entering the environment. A household hazardous waste collection program, funded by EPA and implemented by IDEM, resulted in the proper disposal of many harmful substances which might have ended up in the sewers, landfills or waterways. Another joint project between the agencies resulted in the Grand Calumet Sanitary Districts Toxic Pollution Prevention Project. This voluntary, collaborative project works with cities and industries to reduce discharges of chemicals to sewage treatment plants and, ultimately, the Grand Calumet River. Future efforts will include identifying further opportunities, and working with local communities, to minimize the adverse impacts of combined sewer overflows which have historically resulted in annual discharges of up to 7.3 billion gallons of untreated sewage and storm water in the Grand Calumet and Indiana Harbor Ship Canal.

Major Activities:

1. Identify persistent toxic substances and the sources from which they are being released into, and are affecting the ecosystem health of, Lake Michigan from the Grand Calumet River and Indiana Harbor Ship Canal through the review of existing data and information.
2. Estimate, on a gross scale, total pollutant loadings from the Grand Calumet River and Indiana Harbor Ship Canal into Lake Michigan through the review of all existing information systems, such as the Toxic Release Inventory, data bases, and sediment transport information generated by the U.S. Army Corps of Engineers.
3. For future reduction activities, develop critical pollutant load estimates for individual sources where data exists, and develop monitoring plans to gather data where none currently exist.
4. Identify and implement short-term and long-term pollution prevention and environmental stewardship activities to further reduce critical pollutant loads to Lake Michigan.
5. Complete the revisions to the Stage I RAP called for by the International Joint Commission in its review of the document. Establish a firm schedule to complete all remaining components of the Stage II RAP.
6. Implement watershed management plans for both Wolf and George Lakes and for the Grand Calumet River Lagoons at Marquette Park. Support the restoration of natural areas, especially wetlands, to continue the ecosystem restoration required by Annex 2.
7. Develop greater public involvement in pollution control, ecosystem protection, and the responsibilities of municipal government through workshops, open houses, and other events as may be determined by the agencies and the public and by facilitating open house events.
8. Support and provide special assistance to the LaMP/RAP Toxic Pollution Prevention Project as it expands in scope, providing limited technical assistance to dischargers to the Grand Calumet River and Indiana Harbor Ship Canal to reduce these dischargers' toxic pollutant loads on a voluntary cooperative basis.

Opportunities for Public Involvement:

- Annex 2 requires that the public be extensively involved in the development of every facet of both the RAP and LaMP. To meet this requirement the State of Indiana has established the Citizens Advisory for the Remediation of the Environment (CARE). CARE is an advisory group to the state composed of citizen members representing a broad array of backgrounds and interests. EPA and the four Great Lakes States rely on citizen input from groups such as the LaMP public forum. Additionally, both IDEM and EPA have held, and will continue to host, public workshops on specific issues brought forward by the public. The Action Plan was initiated to address several of the most difficult immediate environmental problems facing Northwest Indiana; the RAP process, however, is designed to protect and restore the environment in the Grand Calumet Area of Concern through the development of long term remedial and preventive strategies. That environment is shaped by the citizens of the area and the RAP must reflect their views of the future and what must be done to create that future.

SEDIMENTS

Goal:

To reduce the adverse impacts of contaminated sediments flowing into Lake Michigan from the Indiana Harbor Ship Canal and the Grand Calumet River and to restore these waterbodies for uses including fishing and wildlife habitat.

Objective:

EPA and IDEM will support the development of and implementation of the RAP for the Area of Concern to protect Lake Michigan from toxic sediments and restore the Grand Calumet River-Indiana Harbor Ship Canal ecosystem. These efforts will control contaminated sediments by means including dredging, in-place treatment and disposal.

Background:

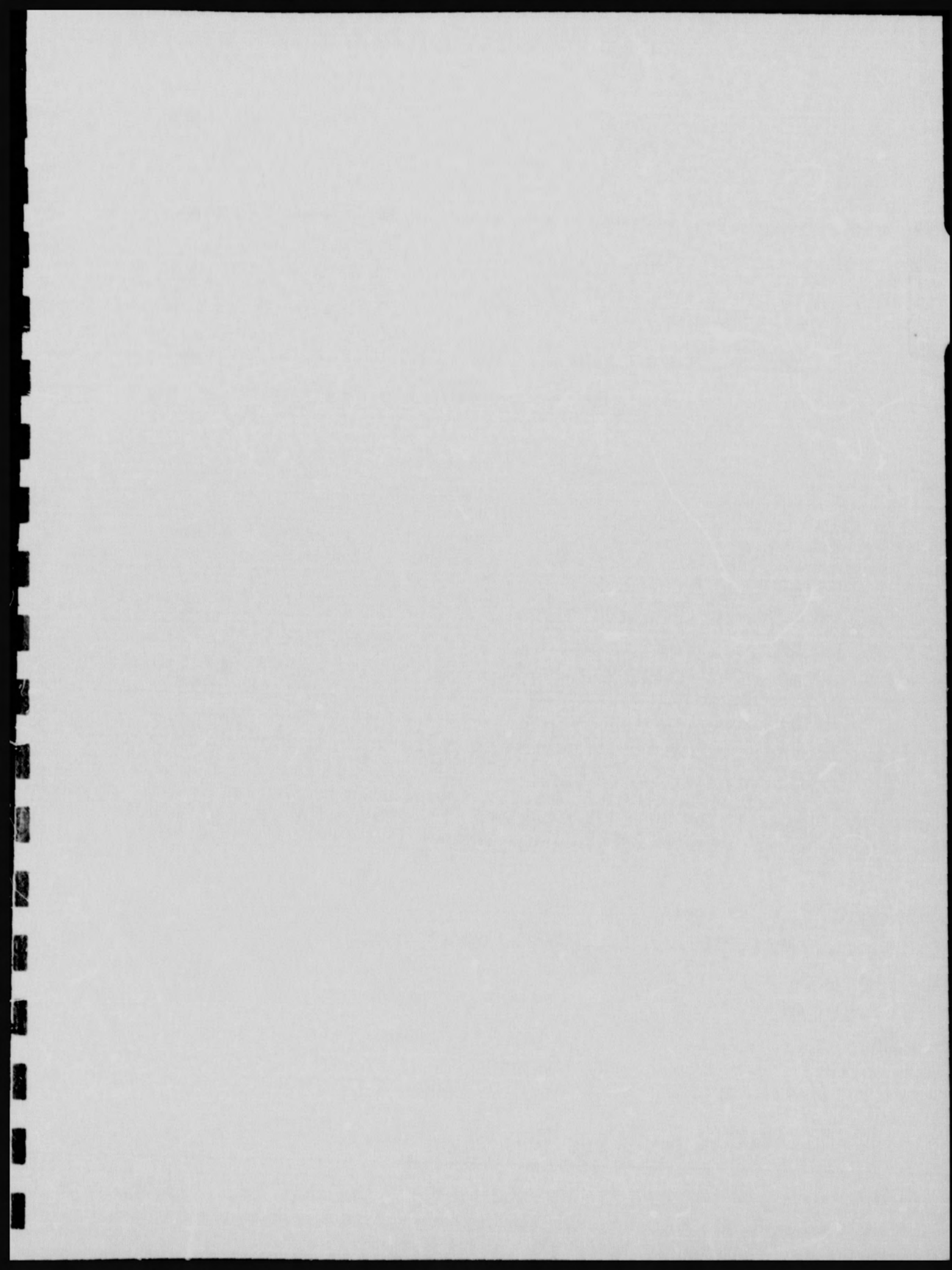
More than twenty-five percent of the nation's steel making capacity is located in Northwest Indiana, along with several major petroleum facilities and other manufacturing plants. Largely as a result of past industrial pollution, substantial deposits of contaminated sediments have formed in the area's various waterbodies. The U.S. Army Corps of Engineers estimates that the Grand Calumet River and the Indiana Harbor and Ship Canal alone contain five to ten million cubic yards of contaminated sediments. This accumulation is due in large part to the suspension of maintenance dredging since 1972 because of the contaminated sediments. This in turn has led to approximately 150,000 cubic yards of these sediments carried into southern Lake Michigan annually. Therefore, IDEM and EPA have developed and will continue to develop strategies, not only to remediate existing contaminated sediment deposits, but to prevent future sediment contamination. Development of sediment disposal facilities, with public participation, is central to the resolution of this problem.

Major Activities:

- Because of the extent and variability of sediment contamination, EPA and IDEM have divided their activities into two categories. Category I consists of on-going or planned projects in the Indiana Harbor Ship Canal and Grand Calumet River aimed primarily at protecting Lake Michigan from the effects of contaminated sediments and improving quality. Category II activities involve development of further actions, using a basin or ecosystem wide approach. These activities will proceed, to the extent possible, as a joint venture between EPA and IDEM. Other long-range control and prevention strategies, such as ground water characterization, source controls, and ground water remediation, will eventually be developed as part of the RAP for the Area of Concern.
-
- Category I activities will:
 - pursue the dredging and disposal of contaminated sediments from the navigable portion of the Indiana Harbor Ship Canal -- the Federal Navigation Channel -- by cooperating with the U.S. Army Corps of Engineers. Such dredging will create a trap to reduce the flow of contaminated sediments into Lake Michigan. For other areas of the Indiana Harbor Ship Canal, IDEM and EPA will use all available tools, including the Inland Steel and LTV Steel Consent Decrees, to control as much sediment as possible;
 - focus on controlling contaminated sediments in the East Branch of the Grand Calumet River using all appropriate tools, including the implementation of the USX and Gary Consent Decrees;
 - pursue contaminated sediment control for the West Branch of the Grand Calumet River.
 - define appropriate measures for remediation and disposal of sediments addressed by the foregoing actions.
 - continue study of environmental conditions in the Indiana Harbor Ship Canal Grand Calumet River ecosystem and organize data to support site-specific actions, as well as analysis of basin-wide impacts of various sediment clean up or control alternatives.
- Category II activities will:
 - begin development of a comprehensive treatment/storage/disposal strategy for sediments removed from the Indiana Harbor Ship Canal and Grand Calumet River.
 - continue to identify and evaluate available mechanisms including enforcement, corrective action, and voluntary projects, to address non-remediated areas of the Indiana Harbor Ship Canal and Grand Calumet River;
 - continue the development of individual strategies targeting specific polluters and broad strategies bringing together "responsible parties" to address key geographic areas.

Opportunities for Public Involvement:

The successful completion of this strategy requires significant public outreach by EPA and IDEM, and other involved agencies, on all aspects of this sediments strategy. The agencies will seek out opportunities for education and dialogue with the public regarding sediment control and remediation, and encourage their participation and comment on future sediments work.



Portage Times

Dec. 4, 1997

Planners warned that road funding is at risk



"How are we going to get people to accept alternatives? The last time we tried this, people rejected it."

Rep. Chester Dobis,
D-Merrillville

■ Northwest Indiana not meeting regulations on traffic congestion, air quality.

BY ROBIN BIESEN
Times Staff Writer

PORTAGE - Transportation planners are warning Northwest Indiana motorists to get serious about alternative transportation, such as car pooling and mass transit.

The region's share of federal highway money might hang in the balance.

At a meeting Wednesday of the Northwestern Indiana Regional Planning Commission Executive Board, transportation planner Darren Henderson said the days when the region was able to squeak by federal regulations on traffic congestion and air quality are numbered.

"Northwest Indiana has done nothing so far to comply with federal (highway funding) legislation. The region has been able to pass the air quality test without modifications," Henderson said. "We are

See PLANNERS-2

quickly reaching the wall with air quality conformity. We will not get federal funding for expansion unless we make some changes."

State Rep. Chester Dobis, D-Merrillville, a member of the NIRPC board, doesn't dispute the need to reduce the number of single-occupant cars that crowd the region's thoroughfares.

Dobis, squared off with NIRPC planners, though, over the need to re-study the issue of the region's overcrowded highways.

"What is different today than it was when you studied this 10 years ago?" Dobis asked those in charge of re-studying the problem. "Isn't there a study you can dust off instead of spending money to do it again?"

It is going to take more than another study to change the

behaviors that contribute to the problem of congested highways and poor air quality, he said.

"How are we going to get people to accept alternatives?" Dobis asked. "The last time we tried this, people rejected it."

Steve Strains, director of transportation planning for NIRPC, said it would take massive behavior modification to change what has become the status quo in Northwest Indiana.

"This goes to the basic issue of land use and transportation," Strains said. "We have to teach people to think differently about how we travel and we have to think about the alternatives that we provide for people."

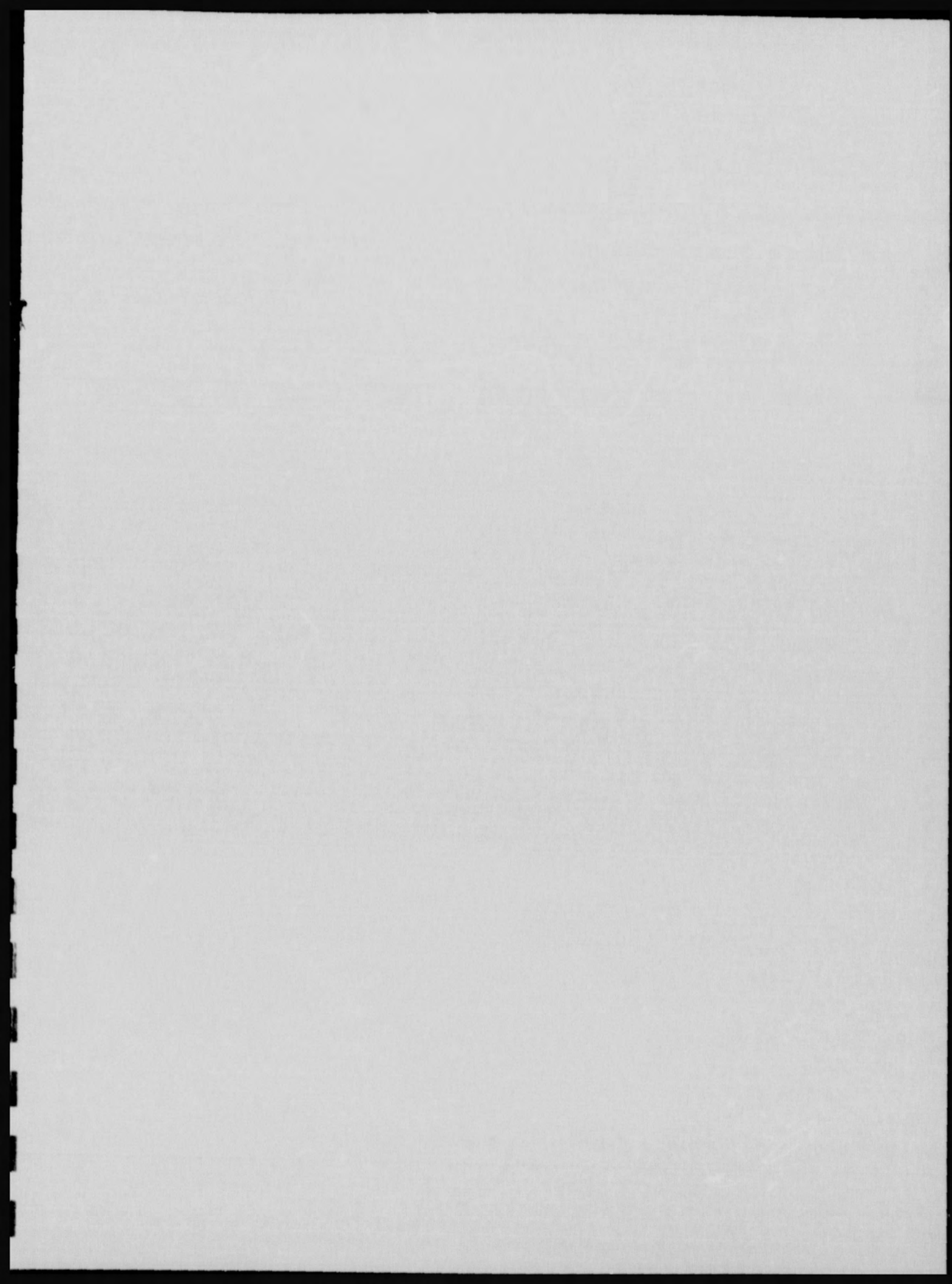
At the heart of the issue has been the region's propensity to sprawl away from the urban, industrial cores.

Building new highways or adding capacity to existing corri-

dors simply encourages the problem to continue and escalate, Strains said.

"We can't continue to build and expand roads the way we used to," Strains said. "That is an option we can look at only after we look at other ways to mitigate congestion."

A report detailing the environmental impact of proposed road expansion projects is due to be delivered to the executive board in February.



Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2 of Commandant Instruction M16475.1 (series), this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available by contacting Commander (mps), Eighth Coast Guard District, 501 Magazine Street, New Orleans, LA 70130-3396.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart F of Part 165 of Chapter 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191, and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A new § 165.T08-041 is added to read as follows:

§ 165.T08-041 Safety Zone: St. Andrew Bay, Panama City Florida, Hathaway Landing Marina

(a) Location. The following area is a safety zone. In the vicinity of Hathaway Landing Marina between W 85-44° 9' N 30-11° 5' and W 85-44° 9' N 30-11° 3', and W 85-45° 1' N 30-11° 7' and W 85-45° 1' N 30-11° 4'. The zone is needed to protect personnel and property associated with the Jet Ski Waverunner Exhibition.

(b) Effective date. This section becomes effective at 11:30 A.M. July 20, 1997. It terminates at 4:30 P.M. on July 20, 1997 unless terminated sooner by the Captain of the Port. (c) Regulations. In accordance with the general regulations in § 165.23 of this part, entry

into this zone is prohibited unless authorized by the Captain of the Port.

Dated: June 12, 1997

J.J. Kichner,

Captain, U.S. Coast Guard, Captain of the Port Mobile, Alabama

[FR Doc. 97-18992 Filed 7-17-97; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN53-3; FRL-5860-4]

Approval and Promulgation of State Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 26, 1995, and June 13, 1997, the State of Indiana submitted a Rate-Of-Progress (ROP) plan to reduce Volatile Organic Compounds (VOC) emissions in Lake and Porter Counties by 15 percent (%) from 1990 baseline levels by November 15, 1996, as a requested revision to the Indiana State Implementation Plan (SIP). On April 3, 1997, EPA issued a direct final approval of the Lake and Porter Counties 15% ROP plan, 3% contingency plan, and an Indiana Agreed Order requiring VOC emission controls on Keil Chemical Division, Ferro Corporation, located in Lake County (Keil). On the same day (April 3, 1997) EPA proposed approval and solicited public written comment on these requested SIP revisions. This proposed rule established a 30-day public comment period noting that if adverse comments were received regarding the direct final rule EPA would withdraw the direct final rule and publish an additional final rule to address the public comments. Adverse comments were received during the public comment period relating to the Keil SIP revision. EPA withdrew the direct final rule on May 23, 1997. In today's action, EPA is finalizing approval of the 15% ROP plan. Final action on the 3% contingency plan and the Keil agreed order will be addressed in a subsequent rulemaking action. The 15% ROP plan has reduced VOC emissions in Lake and Porter Counties by approximately 68,242 pounds (lbs) per day. VOC emissions combine with oxides of nitrogen in the atmosphere to form ground-level ozone, a pollutant which can cause inflammation of the lungs, decrease lung capacity, and aggravate asthma. The rationale for this rulemaking is discussed below.

DATES: This final rule is effective August 18, 1997.

ADDRESSES: Copies of the SIP revision request are available for inspection at the following address: (It is recommended that you telephone Mark J. Palermo at (312) 886-6082, before visiting the Region 5 office.)

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT:

Mark J. Palermo, Environmental Protection Specialist, Air Programs Branch (AR-18J) (312) 886-6082.

SUPPLEMENTARY INFORMATION:

I. Background on 15% ROP Requirements

On November 15, 1990, Congress enacted amendments to the 1977 Clean Air Act (Act); Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. Section 182(b)(1) requires States with ozone nonattainment areas classified as moderate and above to submit a SIP revision known as a 15% ROP plan. This plan must reflect an actual reduction in typical ozone season weekday VOC emissions of at least 15% in the area during the first 6 years after enactment (i.e., by November 15, 1996). The emission reductions needed to achieve the 15% requirement must be calculated using a 1990 anthropogenic VOC emissions inventory as a baseline, minus emissions that have been reduced by: (1) The Federal Motor Vehicle Control Program (FMVCP) measures for the control of motor vehicle exhaust or evaporative emissions promulgated before January 1, 1990; and (2) gasoline Reid Vapor Pressure (RVP) regulations promulgated by November 15, 1990 (55 FR 23666, June 11, 1990). In addition, the plan must account for net growth in emissions within the nonattainment area between 1990 and 1996.

In Indiana, two ozone nonattainment areas are subject to the 15% ROP plan requirement: The Lake and Porter Counties portion of the Chicago severe ozone nonattainment area, and the Clark and Floyd Counties portion of the Louisville moderate ozone nonattainment area. This rulemaking action addresses only the plan for Lake and Porter Counties; the Clark and Floyd Counties 15% ROP plan was approved on May 7, 1997 (62 FR at 24815).

II. Indiana's 15% ROP Submittal

The Act requires States to observe certain procedural requirements in developing SIPs and SIP revisions for submission to EPA. Section 110(a)(2)