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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33388]

CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail, Inc. and Consolidated Rail Corporation.

AGENCY: Surface Transportation Board

ACTION: Notice of Final Scope of Environmental Impact Statement (EIS).

SUMMARY: On June 23, 1997, CSX Corporation and CSX Transportation, Inc. (CSX), Norfolk Southern Corporation, and Norfolk Southern Railway Company (NS), and Conrail Inc. and Consolidated Rail Corporation (Conrail) filed an application (primary application) with the Surface Transportation Board (Board) under 49 U.S.C. 11323-25. NS, CSX, and Conrail are jointly seeking authority for NS and CSX to acquire control of Conrail and for the subsequent division of some of Conrail's assets and for the joint operation of other Conrail assets. The proposed transaction involves more than 44,000 miles of rail lines and related facilities covering a large portion of the earlern United States. To evaluate and consider the potential environmental impacts that might result from the proposed transaction, the Board's Section of Environmental Analysis (SEA) is preparing an environmental impact statement (EIS). The Board has determined that an EIS is warranted due to the nature and scope of environmental issues that may arise. SEA published the draft scope of the EIS in the Federal Register on July 7, 1997, a 30-day public comment period on the draft scope ended August 6, 1997, and the final scope of the EIS is included as part of this notice. Changes made to the draft scope are detailed in the Response to Comments section of this notice.

Dates: SEA expects to distribute the Draft EIS for public review and comment in

November 1997.

Address: Office of the Secretary

Case Control Unit

STB Finance Docket No. 33388 Surface Transportation Board

1925 K Street, NW

Washington, DC 20423-0001

In the lower left-hand corner of the envelope, include:

Attention: Elaine K. Kaiser

Chief, Section of Environmental Analysis

Environmental Filing

For Further Information Contact: Mr. Michael Dalton, SEA Project Manager, Conrail Control Transaction, (202) 565-1530; or Ms. Dana White, SEA Environmental Specialist, at (202) 565-1552. (TDD for the hearing impaired: (202) 565-1695).

SUPPLEMENTARY INFORMATION

Background: The proposed transaction, also referred to as the proposed action, would result in the individual assignment of certain existing Conrail facilities and operations to either CSX or NS through operating agreements or other mechanisms, and the sharing and operation of other existing Conrail facilities and operations for the benefit of both CSX and NS. This would result in an expanded CSX rail system, an expanded NS rail system, and certain areas of joint ownership and operation. According to CSX, NS, and Conrail (collectively, Applicants), CSX and NS would continue to compete with each other in providing rail freight services and would expand their competition to areas in which Conrail is currently the only major rail carrier. Each of the two railroads would utilize its existing lines, would operate certain Conrail lines independently of the other, and would jointly operate certain Conrail lines.

Applicants anticipate that the proposed transaction would provide benefits that include: reduced energy usage, enhanced safety, reduced highway congestion, reduced system-wide air pollutant emissions, expanded competition, and a more efficient rail transportation system. The proposed transaction includes changes in railroad operations such as increases and decreases in train traffic, changes in activity at rail yards and intermodal facilities, rail line abandonments and rail line connection construction projects. The proposed transaction is detailed in the primary application, and is discussed in specific terms in the operating plans and the environmental report (ER) that are part of the application. The ER describes the physical and operational changes that would be associated with the proposed transaction and discusses the potential environmental impacts of those changes. Applicants also filed corrected and supplemental information in the Errata and Supplemental ER on August 28, 1997.

Applicants served the ER, the Errata and the Supplemental ER on appropriate Federal, state, and local agencies. Applicants also served these documents on affected cities with populations of more than 50,000, as well as on counties and regional planning organizations that could be affected.

Environmental Review Process and Alternatives: The National Environmental Policy Act (NEPA) process is intended to assist the Board and the public in identifying and assessing the potential environmental consequences of a proposed action before the Board may make a decision on a proposed action. During scoping, the first phase of the NEPA process, the Board's environmental staff, SEA, published a draft scope in July 1997, soliciting information and comments on the scope of environmental issues to be addressed in the EIS for the proposed transaction. Under the NEPA process, SEA will evaluate the potential environmental impacts of operational and physical changes that are related to the proposed transaction. Existing rail operations are the baseline against which the potential environmental impacts of the proposed transaction will be evaluated. SEA will not propose mitigation of environmental impacts relating

to existing rail operations and existing railroad facilities.1

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.²

Other parties may file inconsistent or responsive applications requesting modifications to the proposed transaction, such as requests for trackage rights or the acquisition of particular rail lines. The EIS will address potential environmental impacts and rail system changes proposed in the inconsistent and responsive applications.

Relationship with Other Agencies: The authority of the Board is broad and extends to all matters affecting change in rail operations resulting directly from the proposed transaction. Conditions may be imposed to mitigate adverse environmental impacts that are the result of the proposed transaction, or any alternative considered and approved by the Board. In determining appropriate conditions for the transaction, the Board will exercise its authority with due regard for the jurisdiction and expertise of other Federal agencies (e.g., the Federal Railroad Administration, the Environmental Protection Agency, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service).

Related Activities: NS and CSX requested, and the Board allowed, the proposed construction of seven small rail line connections (Seven Connections) totaling approximately four miles to be filed and reviewed separately from the primary application. This separate environmental review process will address only the potential environmental impacts of the physical construction of these Seven Connections and Applicants' proposed operations over these individual lines. The operational implications of the transaction as a whole, including proposed operations over these Seven Connections, if authorized, will be examined in the context of the

In merger and control cases, the Board's practice consistently has been to mitigate only those environmental impacts that result from the transaction. The Board, like its predecessor, the Interstate Commerce Commission, has not imposed mitigation to remedy preexisting conditions such as those that might make the quality of life in a particular community better, but are not a direct result of the merger (i.e., congestion associated with the existing rail line traffic, or the traffic of other railroads).

The Board has broad authority to impose conditions in railroad control transactions under 49 U.S.C. 11324 (c). However, the Board's power to impose conditions is not limitless; the record must support the imposition of the condition at issue. Moreover, there must be a sufficient relationship between the condition imposed and the transaction before the agency, and the condition imposed must be reasonable.

EIS that is being prepared for the proposed transaction.3

Public Participation: SEA encourages broad participation in the EIS process during scoping and review of the Draft EIS. Interested agencies and persons were invited to participate in the scoping phase by reviewing the draft scope of the EIS. Due to the broad geographic scope of the proposed transaction, SEA did not conduct public scoping meetings. However, in addition to publication of the draft scope of the EIS in the Federal Register on July 7, 1997, SEA implemented an extensive public outreach program to notify the public that SEA was soliciting comments on the draft scope of the EIS and to encourage public participation in the environmental review process.

SEA distributed information about the proposed transaction and SEA's intent to prepare an EIS through the following outreach activities:

- On July 3, 1997, a scoping package that included the draft scope of the EIS was distributed to approximately 1,900 Federal, state and local elected and agency officials. In this package, the Board also announced its intent to prepare an EIS and requested comments on the draft scope.
- On July 7, 1997, SEA published a notice in the <u>Federal Register</u> to announce the Board's
 intent to prepare an EIS, to publish the draft scope of the EIS, and to request comments on
 the proposed scope.
- In July 1997, a press release detailing this same information was distributed to the media in the 24 affected states, and a legal notice was placed in the newspapers with the highest circulation for each of the potentially affected counties.
- During July and August 1997, SEA also prepared and widely distributed a Fact Sheet describing the proposed transaction to 7,000 elected officials, agencies and organizations for cities and counties potentially affected by the proposed transaction.
- To further assist SEA in receiving input from the public, SEA established a toll-free environmental hotline (1-888-869-1997), established a website (www.conrailmerger.com), and initiated media monitoring services that involved a weekly review of newspaper articles.

The SEA study team established a comprehensive database to record and maintain all comments received in writing and via telephone and the website. Written comments on the draft

Board Decision No. 9 in this proceeding, issued June 12, 1997, granted Applicants' petition for waiver related to the Seven Connections and explained what the environmental review process for those projects would be. Specifically, SEA intends to prepare a separate Environmental Assessment for each of these small construction projects. However, if SEA determines that any one of the construction proposals could potentially cause, or contribute to, significant environmental impacts, then the project will be incorporated into the EIS for the overall proposed transaction, and will not be separately considered. Also, no rail operations can begin over these Seven Connections until completion of the EIS process, and issuance of a further decision.

scope of the EIS were due to the Board within the 30-day comment period, which ended on August 6, 1997. All comments have been placed in the Public Record for this proceeding. In preparing the final scope of the EIS, SEA has considered all the environmental comments.

Response to Comments: SEA received more than 170 comments concerning the draft scope of the EIS. Twenty-one comments were received from Federal agencies, including the U.S. Departments of Agriculture, Commerce, Housing and Urban Development, Interior, and Transportation; the U.S. Army Corps of Engineers; the U.S. Coast Guard; and the Environmental Protection Agency. Forty-eight comments were received from state agencies in AL, DE, FL, GA, IL, IN, KY, LA, MD, MA, MI, MS, MO, NC, NJ, NY, OH, PA, RI, SC, TN, VT, VA, and WV Seventy-eight comments were received from local, county, and regional agencies from the states of AL, DE, DC, FL, GA, IL, IN, KY, LA, MD, MA, MI, NC, NJ, NY, OH, PA, TN, and VA. Nine comments were received from citizens in DE, GA, and OH. Five businesses - including Interstate Commodities, Inc., Johnson Environmental Consulting Group, Inc., Newark (DE) Center for Creative Learning, Newark (DE) Day Nursery, and Port Richmond Community Council, Inc., provided comment, as did a rail carrier, National Railroad Passenger Corporation (Amtrak). Seven comments were received from other interested parties, including the League of Women Voters of New Castle County, DE; the American Public Transit Association; The Waterfront Historic Area League, New Bedford, MA; Indianapolis Power & Light Company, IN; Downtown Newark, DE, University of Delaware, DE, and Rutgers, The State University of New Jersey School of Law. The comments covered a broad range of topics, including air quality, water resources, noise, at-grade highway safety, rail accidents, emergency vehicle response times, hazardous materials transportation and spills, environmental justice, and current and future commuter rail service.

SEA reviewed and considered all comments received in its preparation of the final scope of the EIS. The final scope reflects changes made because of comments on the draft scope of the EIS. Other changes in the final scope of the EIS were made for clarification.

Specifically, the Safety Section of the final scope of the EIS provides that grade crossing safety generally will be considered for at-grade highway crossings with average daily traffic levels of 5,000 or more vehicles. In applying this threshold for the review of at-grade crossings in past environmental documents, SEA found it to be a conservative baseline.

SEA received several comments concerning hazardous waste. In response, section 1(D)(7) of the final scope of the EIS was added to indicate that the Draft EIS will assess the locations and types of hazardous waste sites and spills on the rights of-way of proposed construction projects and rail line abandonments. SEA notes, however, that other Federal and state agencies have primary jurisdiction for investigation, clean-up, and remediation of hazardous waste sites.

SEA received approximately 20 comments related to potential impacts on commuter rail service. In response, Section 2 of the final scope has been expanded to include an analysis of potential passenger diversions, and reasonably foreseeable commuter rail inception or expansion plans (i.e., where capital improvements are planned, approved, and funded). Section 2 also addresses comments requesting that SEA discuss the potential impacts of increased train traffic on movable (draw) bridges over navigable channels.

Section 4, Energy, has been clarified in the final scope to address estimated system-wide changes in energy efficiency (fuel use), including the impact of truck-to-rail diversions. Section

4(C) addresses the overall estimated changes in energy efficiency resulting from rail-to-truck diversions subject to the Board's regulatory thresholds in 49 CFR 1105.7(e)(4)(iv).

Section 5, Air Quality, has been expanded to include the calculation of net increases of emissions from the proposed transaction for counties where increases in locomotive emissions are projected to be 100 tons or more per year. Section 6, Noise, has been modified to reflect the actual data that are available to analyze noise impacts. Estimates of receptors will be developed where noise levels are predicted to rise to 65 decibels L_{dn} or greater as a result of rail traffic increases related to the proposed transaction.

Section 9, Environmental Justice, has been expanded in the final scope to include a report on the demographics in the vicinity of rail line segments with projected rail traffic increases of eight (8) trains or more per day. The portion of Section 3 of the final scope of the EIS, involving Socioeconomic Issues, includes a consideration of socioeconomic impacts to the extent that they result directly from changes to the physical environment due to the proposed transaction. That approach is consistent with the U.S. Supreme Court decision in Metropolitan Edison Co. v. People Against Nuclear Energy, 460 U.S. 766 (1982). Those most directly and immediately affected by the proposed transaction, the employees of the consolidating carriers, will be covered by the labor protection afforded by the Board in considering the merits of the proposed transaction. Therefore, these impacts need not be addressed in the EIS. Section 3 also has been expanded to specifically state that the EIS will address the potential environmental impacts of proposed rail line construction and abandonment activities on Native American reservations and sacred sites.

Several comments on the draft scope of the EIS suggested there be an analysis of the cumulative impacts of certain environmental effects related to the proposed transaction. The final scope of the EIS indicates the Draft EIS will undertake cumulative effects analyses related to the proposed transaction where such effects could have regional or system-wide impacts. The effects to be analyzed will include air quality and energy. Cumulative effects also may be analyzed for other projects or activities related to the proposed transaction where information is provided in a timely fashion to the Board describing those projects, their interrelationship to the proposed transaction, and the type and severity of the potential environmental impacts, and SEA determines that there is the likelihood of significant environmental impacts.

Parties of Record: The Board received 228 notices of designation as a Party of Record (POR). As stated in Board Decision No. 6 in this case⁴, copies of Board decisions, or read and notices will be served only on persons designated as PORs, members of Congress, and ernors on the Board's official service list. All other interested persons who wish to receive constant and notices served in this proceeding are encouraged to make advance arrangements with the Board's copy contractor, DC News & Data, Inc., at (202) 289-4357.

For Additional Information: Contact Mr. Michael Dalton, SEA Project Manager, Conrail Control Transaction, (202) 565-1530; or Ms. Dana White, SEA Environmental Specialist, at (202) 565-1552 [TDD for the hearing impaired: (202) 565-1695]. Summary information

Board Decision No. 6 was issued May 30, 1997, and published at 62 FR 29387-29391.

about the proposed transaction and the final scope of the EIS can be found at the following Internet web site: http://www.conrailmerger.com. Requests for summary environmental information on the proposed transaction and the EIS process can be made through SEA's toll-free Environmental Hotline at (888) 869-1997.

ENVIRONMENTAL REVIEW SCHEDULE

The Board has adopted a 350-day procedural schedule for this proceeding,⁵ and has determined that preparation of an EIS is warranted in this case. The 350-day schedule will permit SEA to prepare an EIS that fully considers the potential environmental consequences of this proposed action. Below is a discussion of how SEA plans to conduct the environmental review process in this case.

On June 23, 1997, Applicants filed an ER containing the information specified in the Board's environmental rules at 49 CFR 1105.7(e), as part of the primary application. The ER was served concurrently on the agencies listed in the Board's environmental rules at 49 CFR 1105.7(b), and other appropriate entities. The ER describes the physical and operational changes in the rail systems and facilities anticipated as a result of the proposed transaction. In the ER, Applicants also discuss the potential environmental impacts that would be associated with the anticipated changes. The Applicants have provided, and continue to provide, SEA with supplemental information to the ER. Also, as previously discussed, on August 28, 1997, the Applicants filed an Errata and Supplemental ER.

Based on the Council on Environmental Quality's (CEQ) regulations, the Board's environmental rules at 49 CFR 1105, the ER, the draft scope, the comments received on the draft scope, and all other information available to date, SEA has prepared this final scope of the EIS. This final scope of the EIS will be distributed to all PORs, interested parties, and appropriate agencies.

Based on SEA's independent environmental analysis, review of all information available to date, and consultations with appropriate agencies, SEA will prepare a Draft EIS. The Draft EIS will address relevant environmental concerns, as described in the final scope of the EIS, and will recommend appropriate environmental mitigation. In addition, the Draft EIS will include environmental impacts associated with any inconsistent or responsive applications or settlement agreements. SEA intends to serve the Draft EIS in November 1997. SEA will serve the Draft

See Decision No. 6. This schedule is based on the filing date (F) of the primary application, which was June 23, 1997.

Under the procedural schedule previously established for this proceeding in Decision No. 6, inconsistent and responsive applicants must provide a description of the proposed inconsistent or responsive application by August 22, 1997. Inconsistent and responsive applicants must file Responsive Environmental Reports or verified statements indicating that there are no potentially significant environmental impacts by October 1, 1997. They must file inconsistent and responsive applications by October 21, 1997. SEA anticipates that the issues addressed in the final scope of the EIS will be similar to issues that may be raised in any subsequent filing of inconsistent or responsive applications.

EIS on all PORs to this proceeding, all interested parties, appropriate Federal, state, and local government agencies, and any other parties specifically requesting a copy of the Draft EIS. In addition, the Environmental Protection Agency will publish a notice of the availability of the Draft EIS in the Federal Register. There will be a 45-day comment period on the Draft EIS, as required by CEQ regulations at 40 CFR 1506.10(c).

After considering comments on the Draft EIS, SEA will issue a Final EIS. The Final EIS will address comments on the Draft EIS and will include SEA's final recommendations, including appropriate environmental mitigation. Environmental comments not received in accordance with the 45-day comment period for the Draft EIS will not be incorporated into the Final EIS. The Final EIS and SEA's final environmental recommendations serve as the basis for the Board's disposition of environmental issues.

SEA plans to serve the Final EIS in late March or early April 1998, prior to the Board's voting conference, which currently is scheduled for April 14, 1998. At the voting conference, the Board will announce whether it will grant or deny the application, or grant it with appropriate conditions, including environmental mitigation conditions. The Board intends to serve a written decision in this case by June 8, 1998. In that decision, the Board will address both environmental and transportation issues and impose any conditions deemed appropriate.

Parties who wish to file an administrative appeal of the Board's written decision (including any environmental conditions that the Board might impose) may do so within 20 days from the service date of the Board's written decision, as provided in the Board's rules. Any interested party will have approximately two months to consider the Final EIS prior to commencement of the aforementioned period for filing administrative appeals. The schedule will provide adequate time to pursue administrative review of the Board's June 1998 decision after it is issued. Any administrative appeals will be addressed in a subsequent decision. This process is consistent with CEQ rules (40 CFR 1506.10 (b)).

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Pro	ected	Sche	dule'

•	Preliminary Environmental Report ⁸ submitted to SEA. (F-30).9	May 16, 1997
•	Primary Application and Environmental Report filed. (F).	June 23, 1997
•	Notice of Intent to Prepare an Environmental Impact	
	Statement and Environmental Impact Statement	
	Scoping Notice issued. (Federal Register Notice).	July 7, 1997
•	Comments on the Draft Scope of the Environmental Impact	
	Statement due (end of 30-day comment period).	August 6, 1997
•	Descriptions of Inconsistent and Responsive Applications filed. (F + 60).	August 22, 1997
•	Preliminary Draft Environmental Assessments for the Seven Separate	
	Construction Projects referenced in Decision No. 9.	September 5, 1997
•	Final Scope of the Environmental Impact Statement issued.	September 1997
•	Responsive Environmental Reports and Verified Environmental	
	Statements due. (F + 100).	October 1, 1997
•	Inconsistent and Responsive Applications due. (F + 120).	October 21, 1997
•	Draft Environmental Impact Statement served.	November 1997
•	Draft Environmental Impact Statement comments due	
	(end of 45-day comment period).	January 1998
٠	Final Environmental Impact Statement served.	Late March or Early April 1998
•	Oral Argument.	April 9, 1998
•	Voting Conference.	April 14, 1998
•	Final Decision served.	June 8, 1998
•	Administrative Appeals filing deadline.	June 29, 1998

Actual dates for environmental documents may vary slightly.

The Preliminary Environmental Report contained preliminary, descriptive information on the proposed transaction.

⁹ "F" is the filing date of the primary application. The Board established the time periods related to the filing date in the procedural schedule set out in Decision No. 6 in this proceeding.

Final Scope of the EIS: Proposed Action and Definition of Alternatives:

The proposed action is Applicants' proposed acquisition and control, jointly or individually, of Conrail's rail lines and facilities, as explained in the primary application's operating plan and ER. The proposed transaction includes changes in railroad operations such as increases and decreases in train traffic on rail lines, changes in activity at rail yards and intermodal facilities, and rail line abandonment and construction projects.

Reasonable or feasible alternatives that will be evaluated in the EIS are: (1) approval of the proposed transaction; (2) the No-Action alternative; and (3) approval of the proposed transaction with conditions, including environmental mitigation conditions. Proposed modifications to the proposed transaction as requested by other parties in their inconsistent or responsive applications also will be addressed in the EIS.

Environmental Impact Analysis

Analysis in the EIS will address proposed activities and their potential environmental impacts, as appropriate. The scope of the analysis will include the following types of activities:

- 1. Anticipated changes in level of operations on rail lines (e.g., an increase in average trains per day) for those rail line segments that meet or exceed the Board's thresholds for environmental review in 49 CFR 1105.7. In circumstances where the Board's environmental rules do not provide a threshold, the EIS generally will use increases of eight trains per day or more as the threshold for addressing environmental impacts.
- 2. Proposed rail line abandonments.
- 3. Proposed changes in activity at rail yards and intermodal facilities to the extent such changes may exceed the Board's thresholds for environmental analysis in 49 CFR 1105.7.
- 4. Proposed requests for trackage rights or rail line acquisitions that meet or exceed the Board's thresholds that may be included in inconsistent and responsive applications.
- 5. Proposed physical construction of rail line segments other than the Seven Connections discussed above and in Decision No. 9.10 Subsequent references to construction projects in this scoping document do not include these Seven Connections. Alternatives to construction may include feasible alternate alignments that may be environmentally preferable.

As noted in Decision No. 9, in reviewing the Seven Connections separately, the Board will consider the regulatory and environmental aspects of these proposed constructions and Applicants' proposed operations over these lines together in the context of whether to authorize each individual physical construction project. The operational implications of the proposed transaction as a whole, including operations over the four or so miles embraced in the Seven Connections, will be examined in the context of the EIS for the overall proposed transaction.

Environmental Impact Categories

The EIS will address potential impacts on the environment that will include the areas of safety, transportation systems, land use, energy, air quality, noise, biological resources, water resources, socioeconomic effects related to physical changes in the environment, environmental justice, and cultural and historic resources, as described below.

i. Safety.

The EIS will:

- A. Consider at-grade rail crossing accident probability and safety factors. This will generally include grade crossings with average daily traffic levels of 5,000 or more trips. 11 Accident probability analysis will address the potential for rail and vehicle accidents.
- B. Consider increased probability of train accidents and derailments due to increased traffic on a system-wide basis.
- C. Address potential effects of increased freight traffic on commuter and intercity passenger service operations.
- D. Discuss the potential environmental impacts of the proposed transaction on public health and safety with respect to the transportation of hazardous materials, including:
 - (1) Changes in the types of hazardous materials and quantities transported or rerouted;
 - (2) Nature of the hazardous materials being transported;
 - (3) Applicants' safety practices and protocols;
 - (4) Applicants' relevant safety data on derailments, accidents and hazardous materials spills;
 - (5) Contingency plans to address accidental spills;
 - (6) Probability of increased spills given railroad safety statistics and applicable Federal Railroad Administration requirements; and
 - (7) Location and types of hazardous substances at hazardous waste sites or hazardous materials spills on the right-of-way of any proposed connection or rail line abandonment site.
- E. Address local truck traffic increases attributable to increased intermodal activities.
- F. Address safety issues associated with the integration of differing rail operating systems and procedures.

2. Transportation Systems.

The EIS will:

Previous SEA environmental analyses have used the 5,000 average daily traffic level threshold.

A. Describe system-wide effects of the proposed operational changes, constructions, and rail line abandonments, and evaluate potential impacts on commuter rail service and intercity passenger (Amtrak) service. Estimates will be made of the number of passengers who may be diverted from commuter rail to other modes of transportation due to constraints resulting from the proposed transaction that limit the number of passenger trains.

B. Evaluate those commuter rail line segments that would experience increased freight traffic as a result of the proposed transaction for the capability of the rail line segments to accommodate the reasonably foreseeable addition of commuter trains.

C. Discuss potential effects on proposed passenger rail service where such future rail operation inception or expansion is reasonably foreseeable (i.e., where capital improvements are planned, approved, and funded).

D. Discuss potential diversions of freight traffic from trucks to rail and from rail to trucks, as appropriate.

E. Address vehicular delays at rail crossings and intermodal facilities due to increases in rail-related operations as a result of the proposed transaction. Estimates of typical delays at grade crossings will be made for crossings that have vehicle traffic levels of 5,000 ADT or more and that exceed train traffic increases of three trains per day for non-attainment areas or eight trains per day for attainment areas.

F. Discuss potential effects of increased train traffic on railroad bridges that cross navigation channels to the extent that such bridges allow only one mode of transportation to pass at a time.

3. Land Use and Socioeconomics.

The EIS will:

- A. Describe whether the proposed rail line construction and abandonment activities are consistent with existing land use plans.
- B. Describe environmental impacts associated with the proposed construction of new rail lines or expansion of facilities as to acres of prime farmland potentially removed from production.
- C. Discuss consistency of proposed rail line construction and abandonment activities with applicable coastal zone requirements.
- D. Address potential environmental impacts of proposed rail line construction and abandonment activities on Native American reservations and sacred sites.
- E. Address socioeconomic issues shown to be related to changes in the physical environment as a result of the proposed transaction.

4. Energy

The EIS will:

- A. Describe the potential environmental impact of the proposed transaction on transportation of energy resources and recyclable commodities to the extent that such information is available.
- B. Discuss estimated changes in energy efficiency from truck-to-rail diversions.

C. Discuss the effect on energy efficiency (fuel use) from rail-to-truck diversions based on estimates of diversions which are subject to the Board's thresholds in 49 CFR 1105.7(e)(4)(iv).

5. Air Quality.

The EIS will:

A. Evaluate air emissions increases where the proposed post-acquisition activity would exceed the Board's environmental thresholds in 49 CFR 1105.7(e)(5)(i), in an air quality attainment or maintenance area as designated under the Clean Air Act as it existed on the date the primary application was filed. 12 Thresholds are as follows:

(1) A 100 percent increase in rail traffic (measured in gross-ton miles annually) or an increase of eight trains a day on any segment of rail line affected by the proposal; or

(2) An increase in rail yard activity of at least 100 percent or more, or

(3) An increase in truck traffic at an intermodal facility of more than 10 percent of the average daily traffic or 50 vehicles a day.

B. Evaluate air emissions increases where the proposed post-acquisition activity would exceed the Board's environmental thresholds for a non-attainment area as designated under the Clean Air Act as of the date the application was filed. Thresholds for non-attainment areas are as follows:

(1) An increase in rail traffic of at least 50 percent (measured in gross-ton miles annually) or an increase of three trains a day or more; or

(2) An increase in rail yard activity of at least 20 percent; or

(3) An increase in truck traffic at intermodal facilities of more than 10 percent of the average daily traffic or 50 vehicles a day.

C. Discuss the net increase in emissions from increased railroad operations associated with the proposed transaction. Net emissions changes will be calculated for counties with projected transaction-related emissions increases of:

(1) 100 tons per year or more of any pollutant in attainment areas;

(2) 50 tons per year or more of nitrogen oxides or volatile organic compounds in serious¹³ ozone non-attainment areas; or

Air quality attainment areas are areas that comply with national ambient air quality standards for particulate matter, sulfur dioxide, nitrogen oxides, ozone, carbon monoxide, and lead. Non-attainment areas are areas that do not comply with one or more ambient air quality standards. Maintenance areas are areas that were non-attainment in the past but have air quality that complies with standards at present. All of these areas are designated by EPA.

Ozone non-attainment areas are further classified as Marginal, Moderate, Serious, Severe, or Extreme Areas. These classifications are based on the level, in parts per million (ppm), of ozone measured for each area. Serious Areas are defined as containing 0.160 to 0.180 ppm, and Severe Areas are defined as containing 0.180 to 0.280 ppm.

- (3) 25 tons per year or more of nitrogen oxides or volatile organic compounds in severe¹⁴ ozone non-attainment areas.
- D. Evaluate potential air quality benefits of system-wide emission reductions that would result from projected truck-to-rail diversions. Net increases, less any estimated reductions due to truck-to-rail diversions, will be compared to the entire emission inventory for affected non-attainment areas. This evaluation will be based on emission inventory data provided by the appropriate state agency.

E. Discuss the following information regarding the anticipated transportation of ozone depleting materials (such as nitrogen oxide and freon):

- (1) Materials and quantity;
- (2) Applicants' safety practices;
- (3) Applicants' safety record (to the extent available) on derailments, accidents, and spills;
- (4) Contingency plans to address accidental spills; and
- (5) Likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.
- F. Discuss potential air emissions increases from vehicle delays at rail crossings where the rail crossing is projected to experience an increase in rail traffic over the thresholds described above in Section 5(A) for attainment and maintenance areas, and in Section 5(B) for non-attainment areas, and which have an average daily vehicle traffic level above 5,000. Such increases will be factored into the net emissions estimates for the affected area.

6. Noise

The EIS will:

- A. Describe potential noise impacts of the proposed transaction for those areas that exceed the Board's environmental thresholds identified in Section 5A of the Air Quality discussion.
- B. Identify whether the proposed transaction-related increases in rail traffic will cause an increase to a noise level of 65 decibels L_{dn} or greater. If so, an estimate of the number of sensitive receptors (e.g., schools and residences) within such areas will be made.
- C. Identify transaction-related activities that have the potential to result in an increase in noise level of 3 decibels L_{dn} or more.

7. Biological Resources.

The EIS will:

- A. Discuss the potential environmental impacts of proposed rail line construction and abandonment projects on federal endangered or threatened species or designated critical habitats.
- B. Discuss the effects of proposed rail line construction and abandonment projects

C. Discuss the effect on energy efficiency (fuel use) from rail-to-truck diversions based on estimates of diversions which are subject to the Board's thresholds in 49 CFR 1105.7(e)(4)(iv).

5. Air Quality

The EIS will:

A. Evaluate air emissions increases where the proposed post-acquisition activity would exceed the Board's environmental thresholds in 49 CFR 1105.7(e)(5)(i), in an air quality attainment or maintenance area as designated under the Clean Air Act as it existed on the date the primary application was filed. 12 Thresholds are as follows:

(1) A 100 percent increase in rail traffic (measured in gross-ton miles annually) or an increase of eight trains a day on any segment of rail line affected by the

proposal; or

(2) An increase in rail yard activity of at least 100 percent or more; or

(3) An increase in truck traffic at an intermodal facility of more than 10 percent of the average daily traffic or 50 vehicles a day.

B. Evaluate air emissions increases where the proposed post-acquisition activity would exceed the Board's environmental thresholds for a non-attainment area as designated under the Clean Air Act as of the date the application was filed. Thresholds for non-attainment areas are as follows:

(1) An increase in rail traffic of at least 50 percent (measured in gross-ton miles annually) or an increase of three trains a day or more; or

(2) An increase in rail yard activity of at least 20 percent; or

(3) An increase in truck traffic at intermodal facilities of more than 10 percent of the average daily traffic or 50 vehicles a day.

C. Discuss the net increase in emissions from increased railroad operations associated with the proposed transaction. Net emissions changes will be calculated for counties with projected transaction-related emissions increases of:

(1) 100 tons per year or more of any pollutant in attainment areas;

(2) 50 tons per year or more of nitrogen exides or volatile organic compounds in serious¹³ ozone non-attainment areas; or

Air quality attainment areas are areas that comply with national ambient air quality standards for particulate matter, sulfur dioxide, nitrogen oxides, ozor c, carbon monoxide, and lead. Non-attainment areas are areas that do not comply with one or more ambient air quality standards. Maintenance areas are areas that were non-attainment in the past but have air quality that complies with standards at present. All of these areas are designated by EPA.

Ozone non-attainment areas are further classified as Marginal, Moderate, Serious, Severe, or Extreme Areas. These classifications are based on the level, in parts per million (ppm), of ozone measured for each area. Serious Areas are defined as containing 0.160 to 0.180 ppm, and Severe Areas are defined as containing 0.180 to 0.280 ppm.

on wildlife sanctuaries or refuges, and national or state parks or forests. 8. Water Resources. The EIS will: A. Discuss whether potential impacts from proposed rail line construction and abandonment projects may be inconsistent with applicable federal or state water quality standards. B. Discuss whether permits may be required under Sections 404 or 402 of the Clean Water Act (33 U.S.C. 1344) for any proposed rail line construction and abandonment projects, and whether any such projects have the potential to encroach upon any designated wetlands or 100-year floodplains. 9. Environmental Justice. The EIS will: A. Report on the demographics in the immediate vicinity of any area where major activity such as an abandonment or construction is proposed. B. Report on the demographics in the vicinity of rail lines with projected rail traffic increases above eight trains per day. C. Evaluate whether such activities potentially have a disproportionately high and adverse health effect or environmental impact on any minority or low-income group. 10. Cultural and Historic Resources. The EIS will address potential impacts from proposed rail line construction and abandonment projects on cultural and historic resources that are on, or immediately adjacent to, a railroad right-of-way. 11. Cumulative Effects The EIS will: A. Address cumulative effects of environmental impacts that have regional or system-wide ramifications. This analysis will be done for environmental impacts that warrant such analysis given the context and scope of the proposed transaction. The environmental effects to be analyzed include air quality and energy. B. Evaluate cumulative effects, as appropriate, for other projects or activities that relate to the proposed transaction, where information is provided to the Board that describes (1) those other projects or activities, (2) their interrelationship with the proposed transaction, (3) the type and severity of the potential environmental impacts; and SEA determines that there is the likelihood of significant environmental impacts. This information must be provided to the Board within sufficient time to allow for review and analysis within the schedule for the preparation of the EIS. C. Discuss the potential environmental impacts of construction or facility modification activities within railroad-owned property affected by the proposed - 15 -

merger, and additional environmental impacts related to the proposed transaction but not subject to Board approval, in order to identify cumulative impacts.

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By the Board, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

Vernon A. Williams

Secretary

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FD 33388 10-1-97 K 182353



Argeo Paul Cellucci Governor

The Commonwealth of Massachusetts Executive (ffice of Transportation and Construction Ton Sark Slaza, Boston MA 02116 3969

September 30, 1997

Patrick J. Moynihan Secretary and MBTA Chairman

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

ENTERED
Office of the Secretary

OCT = 6 1997

Part of Public Record

Attention:

Eleine K. Kaiser, Chief Section of Environmental Analysis Environmental Filing

RE:

Responsive Environmental Report and Verified Environmental Statement in STB Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements-Conrail, Inc. and Consolidated Rail Corporation.

Dear Ms. Kaiser:

My name is Dennis Coffey and I serve as the Director of Railroad Policy & Property Management for the Commonwealth of Massachusetts. I have over twenty years of experience in freight and passenger railroad operations and management. I have been in my current position since July, 1993.

The actions proposed by the Commonwealth of Massachusetts on August 22, 1997 in their responsive application regarding the acquisition of Conrail are not anticipated to have significant environmental impacts. The specific proposed actions include the reassignment of dispatching responsibility for the Boston Line to the Commonwealth of Massachusetts and the transfer of certain branch line ownership to EOTC. This action is organizational in nature, and will have no environmental impacts.

The other proposed action involves revising the plan to assure open access for Massachusetts shippers and local railroads to connect to both CSX and NS. This access is not anticipated to increase the proposed traffic on the rail lines in excess of the thresholds established in 49 C.F.R. 1105.7(e)(4) and therefore, will not have significant environmental impacts.

Elaine Kaiser September 30, 1997 page 2

I, Dennis Coffey, declare under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement.

Very truly yours,

Dennis Coffey
Director Railroad Policy
& Property Management
Deputy General Counsel

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of September, 1997, I served a copy of the foregoing Executive Office of Transportation and Construction's Comments on the Proposed Environmental Impact Statement Scope by first class mail, postage prepaid, upon:

Richard A. Allen, Esq. Zuckert, Scoutt & Rasenberger, LLP 888 Seventeenth Street, N.W. Suite 600 Washington, D.C. 20006-3939

Administrative Law Judge Jacob Leventhal Federal Energy Regulatory Commission 888 First Street, N.E., Suite 11F Washington, D.C. 20004-1202

Paul A. Cunningham, Esq. Markins Cunningham 1300 19th Street, N.W., Suite 600 Washington, D.C. 20002

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

James C. Bishop, Jr., Esq. Norfolk Southern Corporation Three Commercial Place Norfolk, VA 23510-2191

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

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P. Michael Giftos, Esq. CSX Transportation, Inc. 500 Water Street Jacksonville, FL 32202 Samuel M. Sipe, Jr., Esq. Steptoe & Johnson, LLP 1330 Connecticut Avenue., N.W. Washington, D.C. 20036-1795

. . . .

Timothy O'Toole, Esq.
Constance L. Abrams, Esq.
Consolidated Rail Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19101

and upon all other Parties of Record in this proceeding.

John D. Cirame

Deputy General Counsel for the Commonwealth of Massachusetts Executive Office of Transportation and Construction BUSINESS





U.S. TRACKWORKS



September 19, 1997

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

Re: Acquisition of Conrail by CSX and Norfolk Southern, STB Finance Docket No. 33388

Dear Mr. Williams:

I am writing to express my strong support for the proposed acquisition of Conrail by Norfolk Southern and CSX.

I believe this proposal will have a very positive impact on our area. No folk Southern is a company which has pursued business very aggressively in other areas and I'm sure they will do the same in this case. Their pursuit of intermodal business will help alleviate the overcrowding of the major interstate route between Detroit and Chicago as well as many others.

With CSX and Norfolk Southern we will have two railroads which will provide very good service and who will not be content with status quo. I firmly believe this proposed acquisition will greatly benefit the shippers and the general public in our area.

Yours very truly.

Benamelmax

Bert Tameling

President





INDIANA DEPARTMENT OF NATURAL RESOURCES

LARRY D. MACKLIN, DIRECTOR

Division of Historic Preservation and Archaeology 402 W. Washington St., Rm. 274 Indianapolis, Indiana 46204 tel: 317-232-1646 fax: 317-232-0693

DOCUMENT

SEP 2 5 1997 MAIL MANAGEMENT STB (2)

September 19, 1997

Elaine K. Kaiser, Chief Section of Environmental Analysis Surface Transportation Board Washington, D.C. 20423

Dear Mr. Kaiser:

We have reviewed the proposed construction of railroad connections at Alexandria and Willow Creek associated with the Norfolk Southern, CSX, and Conrail railroad acquisition project in Alexandria, Monroe Township, and Portage, Portage Township, Madison and Porter counties, Indiana [FINANCE DOCKET #33388]. This review has been conducted pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f) and implementing regulations found at 36 C.F.R. Part 800.

As long as no buildings or structures will be demolished or altered and the project remains within areas disturbed by previous construction, no known historical, architectural or archaeological sites listed in or eligible for inclusion in the National Register of Historic Places will be affected by this project. Therefore, the Section 106 review process is comple'e. However, if any archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that work must stop and that the discovery must be reported to the Division of Historic Preservation and Archaeology within two (2) business days. Additionally, in the event that artifacts or features are discovered during the implementation of the federally assisted project, activity, or program and a plan has not been developed, it is the federal agency's responsibility to contact the Advisory Council on Historic Preservation in accordance with 36 C.F.R. Section 800.11(b)(2). Thank you for your cooperation.

Very truly yours,

Larry D. Macklin

State Historic Preservation Officer

LDM:SLW:MMD:smg

cc: Richard Starzak, Myra L. Frank & Associates, Inc.



Domino's Pizza, Inc. 30 Frank Lloyd Wright Drive P.O. Box 997 Ann Arbor, Michigan 48106-0997

September 19, 1997

Mr. Vernon A. Williams, Secretary Surface Transportation Board STB Finance Docket No. 33388 1925 K Street, NW Washington, D.C. 20423-0001 Telephone: 313-930-3030

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Dear Mr. Williams,

I am writing in support of the agreement between CSX Corporation and Norfolk Southern Corporation on the acquisition of Conrail assets.

A merger consolidating rail services for the eastern United States will have a profound impact on important industries in Michigan such as automotive, agricultural and mining concerns. I would also anticipate stronger, more healthy economic benefit from an expansion of the existing Conrail service and options by the combination of assets with that of CSX and NS as well as removing a virtual monogoly in areas serviced by Conrail.

With due deliberation and thought, I would like to again express my support for this agreement. I appreciate your time and attention to this matter. Thank you.

Best regards,

Thomas R. Minick

Vice President of Services

cc: file

33388 9-23-97

ENVIRONMENTAL DOCUMENT **DURKIN & BOGGIA**

COUNSELLORS AT LAW

MARTIN T. DURKINS PHILIP N. BOGGIA**

PRISCILLA M BOGGIA

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CENTENNIAL HOUSE 71 MT VERNON STREET P. O. BOX 378 RIDGEFIELD PARK, N.J. 07660

> (201) 641-0006 FAX NO. (201) 641-6649

September 19, 1997

Vernon A. Williams Secretary Surface Transportation Board Washington, D.C. 20423

Re: STB Finance Docket No. 33388

Dear Mr. Williams:

This office represents the Village of Ridgefield Park, New Jersey, which on or about September 5, 1997 filed a Notice of Intention to Participate in Proceedings and a Motion to Late-File the Notice of Intention in the referenced matter. Subsequent to that filing, this office received a copy of the Surface Transportation Board's Decision No. 31 (dated September 10, 1997) in the matter.

I have been advised by the Surface Transportation Board's Office of Public Services that I may obtain copies of all prior decisions in the referenced matter by putting my request in writing to your attention. This letter constitutes that request.

Please advise if there is any charge for the materials I have requested. Thank you for your attention to this matter.

Very truly yours,

Martin T. Durkin Martin T. Durkin

STB FD 33388 9-23-97



ENVIRONMENTAL DOCUMENT

State of New Jersey

Christine Todd Whitman Governor Department of Environmental Protection

Office of Program Coordination PO Box 418 Trenton, NJ 08625-0418 Phone 609-292-2662 Fax 609-777-0942

September 15, 1997



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

Attn.: Elaine K. Kaiser

Chief, Section of Environmental Analysis

Environmental Fili

Re: STB Finance Docket No. 33388

CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating

Leases/Agreements - Conrail, Inc. and Consolidated Rail Corporation

Dear Secretary:

The Office of Program Coordination of the New Jersey Department of Environmental Protection has completed its review of the Environmental Report (ER) prepared collectively by CSX Corporation and CSX Transportation (CSX), Norfolk Southern Corporation and Norfolk Southern Railway Company (NS), and Conrail, Inc. and Consolidated Rail Corporation (Conrail); and the Notice of Intent to Prepare an Environmental Impact Statement (EIS) on the above reference application. We offer the following comments for your consideration regarding air quality, New Jersey land use regulations and review coordination.

AIR QUALITY

The ER states that the benefits of the acquisition include reduced energy usage, enhanced safety as a result of diverting trucks to rail transport, reduced highway congestion, and reduced air emissions. The following table lists the emissions reduction

expected from the acquisition system wide covering the area of the United States eastward of the Mississippi River.

Truck-to-Rail Air Emission Changes (tons per year)

Truck-to-Rail Diversions	NO _x	СО	VOC	SO ₂	PM	Pb
Emissions from Increased Rail Traffic	14,393	1598	534	932	364	.0302
Emissions from Decreased Truck Traffic	(16,941)	(7429)	(1,473)	(551)	(1971)	(.086)
Net Truck-to-Rail Emissions Impact	(2,548)	(5,831)	(939)	381	(1607)	(.0562)

Traffic changes other than truck-to-rail diversions are expected to result in a reduction in diesel fuel consumption due to rerouting and diverting existing rail traffic to shorter, more efficient routes. The ER goes on to say that activities at rail yards and intermodal facilities would result in minor changes in fuel consumption. The ER claims rail-to-truck diversions are expected to be minimal and their impact on fuel consumption would be negligible. The overall effects on fuel consumption from rail-to-rail diversions, rerouting, and changes in activity at rail yards and intermodal facilities would be minor compared to the truck-to-rail effects and have not been analyzed in detail for this report. According to the report the primary change in fuel consumption for the acquisition would result from truck-to-rail diversions, a net savings of more than 120 million gallons annually of diesel fuel consumption.

According to federal regulations, only localized areas where increases in traffic above specified thresholds are expected have to be addressed. As for air quality the specified thresholds used are the emissions limits set in Federal Department of Transportation regulations, 49 CFR 1105.7. The thresholds set in nonattainment areas for rail line segments are increases of 3 trains per day or at least 50 percent as measured in gross ton miles. The thresholds set in nonattainment areas for rail yards are increases of at least 20 percent in carload activity. The thresholds set in nonattainment areas for intermodal facilities are increases of truck traffic greater than 10 percent of average daily traffic or 50 trucks per day.

The report appears to be a good estimate of emissions from their proposed actions. NO_x emissions appear to be the highest due to the use of diesel fuel for both locomotives and trucks. In NJ there are 5 rail line segments expected to have increases in activity (increase of 31 freight trains per day) and 12 segments that will have decreases (a decrease of about 65 freight trains per day). Even though there will be a decrease of about 34 freight trains per day in the state, further examination reveal there is really an increase in train miles. By multiplying the number of trains by rail line mileage causes an increase of about 143 train miles per day in a six-county region of New Jersey that includes Bergen, Essex, Hudson, Mercer, Middlesex, and Union Counties. It is estimated that this increase

would amount to about an increase ranging from 66 to 118 tons per year (tpy) of NO_x emissions since the weight of each train varies. Also, as mentioned above, the rule does not require them to assess the impacts of decreases. There are no expected reductions in rail cars expected and no rail line abandonments. There is one small construction project in Little Ferry that is planned. There are three intermodal facilities which are expected to have a large net increase in tractor trailer activity; Little Ferry is expected to have an increase of 177 trucks per day, South Kearny 78, and Elizabeth 385. The emission estimates for the increases at the intermodal facilities are provided in the following table.

Intermodal Facilities that Meet STB Thresholds for Environmental Analysis (tons per year)

Intermodal Facility Location/Name	NOx	co	VOC	SO ₂	PM	Pb
Little Ferry	4.1	7.4	1.0	1.3	1.6	.00008
South Kearny	2.0	3.6	0.5	0.7	0.8	.000039
Elizabeth	9.82	17.49	2.35	1.85	4.21	.000188
Total Emissions	15.92	28.49	3.85	3.85	6.61	.000307

The total NOx emissions from the locomotives (rail lines) together with the emissions from the trucks at the intermodal facilities amount to approximately 80 to 130 tons per year. Some of these emissions may be offset due to truck-to-rail diversions out of state that terminate in state, but probably not enough to significantly reduce the amount, and as mentioned above they did not assess the impact of the decrease in operations because they were not required to do so.

At the microscale level, truck traffic is a concern but if one converts annual average daily traffic (AADT) to peak hour, using a conservative factor, the truck traffic is not that severe. Using a factor ranging from .30 to .15 predicts a range of 53 to 27 trucks per hour for the Elizabeth facility. In passenger car equivalents this would amount to about 106 to 54 vehicles per hour. The ElS should evaluate the effect these facilities will have on air quality. In addition, the emissions reported in this ER should be compared to the numbers the program has calculated for railroads in the State's emission inventory. The ER also mentioned that the EPA has proposed new rules to control emissions from diesel locomotive engines back in February 11, 1997 which may reduce emissions further.

The ER does admit to causing environmental impact on air quality in New Jersey, but did not quantify the net effect. The estimated increase ranging from 66 to 118 tpy of NO_x from the increase in rail operations does exceed the NO_x threshold of 25 tons per year for stationary sources and the general conformity rule for nonattainment areas, but since railroads are classified as mobile source the threshold for stationary sources does not apply. According to EPA Region II, the federal general conformity rule would apply only if the Surface Transportation Board conditionally approves the acquisition and would have continuing oversight of the operations of the companies. On the other hand, the federal

¹Highway Capacity Manual Special Report 209, December 1986, pp. 2-9 and 3-13.

transportation conformity rule would apply to the truck emissions (16 tpy of NO_x) because their emissions are mobile source highway emissions, railroad emissions are considered off-highway emissions. The truck NO_x emissions may not be considered significant and amounting to about 0.05 tons per day. If the NO_x emissions are considered regionally significant, they may have to be included in the regional emissions analysis for the region. The analysis done for the EIS should determine if the emissions are significant, and/or contain information or a statement from the MPO, in the region where the action or project is located, regarding whether the project is regionally significant. The EIS should also contain a traffic analysis or a carbon monoxide (CO) hotspot analysis for the intermodal facilities to see if there would be a problem with CO.

NEW JERSEY LAND USE REGULATIONS

The sale and transfer of ownership of existing rail lines in the State should have minimal impact to resources regulated in New Jersey by our Department's Land Use Regulation Program. Increases or decreases in rail traffic, without construction, will not require review by the Program. Utilization of existing rail lines for increased or decreased traffic would be consistent with he Federal Coastal Zone Management Act. Acting under Section 307 of the Federal Coastal Zone Management Act, the proposed sale and redistribution of assets and minor construction of interchange tracks is consistent with the Rules on Coastal Zone Management as amended to October 16, 1995.

There is no proposed abandonment of any line in the State and thus this section needs no further discussion. The proposed construction of the connector tracks in the Borough of Little Ferry, Bergen County will require site plans to determine the extent of actual permit jurisdiction. A review of the portion of the Weehawken Quadrangle, as submitted in the ER, shows that the proposed connector tracks will potentially be within 500 feet of Mean High Water. In this area the Hackensack Meadowlands Commission has jurisdiction on activities above Mean High Water. A review of the parcel under the Waterfront Development Statutes will only be required if filling is to take place outshore of the Mean High Waterline. In addition, the proposed railbed may be regulated under the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.). A site plan with topography and both Floodway and Flood Plain plotted on it will be required prior to a determination. Construction of the connector tracks with any required State permits would be consistent with the Rules on Coastal Zone Management.

The Report does not address the proposed New Jersey Transit Camden to Trenton Light Rail Project utilizing portions of the trackage or right-of-way of the Conrail Bordentown Secondary Line. This project, which would reintroduce passenger service along the line, is in the planning phase. Permit coordination with Land Use Regulation Program has included delineation of Freshwater and Coastal Wetlands, review of Waterfront Development and Riparian jurisdiction, and review under the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.). It is curious that there is no mention of this project in the submitted documentation. The utilization of all of the Conrail Camden

Cluster, of which the Bordentown Secondary is a portion, apparently will continue as a joint ownership and operation under Conrail supervision. A discussion of the potential impacts of the sale to the Light Rail Project should be included in the Draft Environmental Impact Statement.

In regard to tidelands issues, many of the older railroad lines have grants from the Legislature of our State dating back to the 1800's and 1900's. However, our Department's Tideland Management Program has found many rail road crossings of tidal areas that either were not the subject of tidelands grants or the rights-of-ways were widened after a grant was received, and the rail road did not purchase the extra land from the State. As title is being transferred, all of the crossings for present tidal streams (those which exist today, as opposed to streams which existed long ago and have been filled in) should be investigated and title should be cleared by the railroads. For the former streams, it has been the policy of many administrations to not require title to be cleared. However, it would be a matter of good housekeeping for the railroads to clear all of these issues up at once. (And, whatever entities are financing this or insuring title may require it to be done anyway.)

Researching this issue will be a major undertaking for the Tideland Management Program and we urge the railroads to provide our Department with plans for the lines which are being transferred, as soon as possible. This is not a project that we will be able to handle on a last minute basis.

COORDINATION

The Office of Program Coordination is responsible for coordinating Departmental reviews of National Environmental Policy Act (NEPA) documents (NOI, EA, EIS, etc.). Thus, when the Draft EIS is completed, please send six copies directly to our office, at the above listed address (401 East State Street, 7th Floor, if an express delivery service is used), to insure a timely comprehensive review.

Thank you for giving the New Jersey Department of Environmental Protection an opportunity to be part of the EIS scoping process. We hope that our comments will help you with the preparation of the Draft EIS.

Lawrence Schmidt

Director

Office of Program Coordination

K PUBLIC 9-23-97 33388 FD

Federal DOGUMENTAL SEP 23 1997 I am writing because of MAIL Concern of the passibility of increased Nachway haffice of Norfolk and Southern ni 46 western suburbo of Cleneland Ohio FB33288. as a resident of Bay Village Chio, of am very much appared to the increase in haffie. The safety issue is my biggest concern. Meholy a Bay billage is rail lacked by 5 entersections. Han emergency accurs many minutes may be list waiting for the Trains to pass. presented puch committee against the

encrease en sait traffice DIANE lavan 29000 Buchanan An Bay Village Ohio 44140 8352749

33388 9-22-97 K HC - OR

9129 97 7:35.41 AM

SEA's Environmental Hotline

Retrieval Form (888) 869-1997

ENVIRONMENTAL DOCUMENT

Date:	9/22

8.11

Date: 1/d2	Time:	Initials: 3F
CALLER INFORMATION:		
Name: Nancy Mugaver	Telephone Number:	(312) 353-4890
- I want	Telephone Number.	(312) - 33 7070
Title:		
Agency: U.S. EPA	Chicago (Region 5)	
Street Address: 77	W. Jackson Blub.	Mail codo B-19J
	State: TL	Zip Code: 60604-3596
REASON FOR CALL:		
Requested Fact Sheet Requested a call back Requested an Environment Inquired about comment of Registered a comment		recevie it.
FOLLOW-UP ACTION TA	KEN:	
□ Returned call		
□ Sent fact sheet	\	
Sent environmental report	1 9/22/97	
□ Other action taken		
NOTES: Com on only	ignal report is this?	/SER
Added to	16 9/22/97	

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ENVIRONMENTAL DOCUMENT

Representation of the control of the



September 17, 1997

Mr. Vernon A. Williams Sec. S.T.B 1925 K Street NW Washington, D.C 20423

CSX ACQUISITION OF CONRAIL

I would like to thank you for taking the time to read this correspondence as I know you are a very busy man. If you will bear with me, I would first like to identify myself and give my background to you. My name is Lovell M. Everts. I am an employee of Conrail. I hired in with the Penn Central Railroad on 12/11/73. I became an employee of Conrail at it's inception in 1976. I am a 42 year old male married for 24 years to a wonderful woman, Leann. I have two daughters 21 and 16. I have taught Sunday School at North Eastwood Church for the past five years. I am currently attending Indiana University / Purdue University at Indianapolis (IUPUI) working on an undergraduate degree in General Studies. My grandfather retired from the Nickel Plate Railroad and my father is retired from Conrail. The reason for this information is to let you know of my deep heritage with the railroad industry. I have an intense concern over my future in the railroad industry and strong convictions in my beliefs, henceforth; this is the reason I am writing you.

I am a member of the United Railway Supervisors Association and Transport Workers Union. I am a dues paying member to both of these unions but currently am represented by U.R.S.A. Our last labor agreement expired in December of 1994. As of this writing my union is one of the few unions who have not settled their collective bargaining agreement with the carrier (Conrail). I have just talked with a Ms. Nancy Beyer from your office who assures me that this acquisition will not take place unless all unions have a collective bargaining agreement in place. As of the date of this letter, I have been told by my local chairman that a.) we are waiting for a Federal Mediator or

33388 9-22-97 BUSINESS

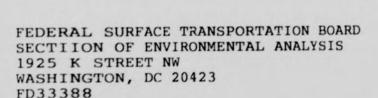
TURTLE PLASTICS

7450-A INDUSTRIAL PARK • LORAIN, OH 44053 216 -282-8008 • FAX / 216 -282-8822 or 800 - 437-1603



ENVIRONMENTAL DOCUMENT

September 15, 1997



We live at 23230 Sheppards Pt in Bay Village. Our home is one block from the N&S Railroad line that is being considered for a large increase in traffic.

We walk and ride bikes across these tracks often and feel that the increase in traffic will be a real danger to our family. If there are alternate routes avaiable through less populated areas then I would urge you to try to convince the railroad to switch.

Thank you

Tom Bradley-Norton

Karen A Bradley, M.D.

ENVIRONMENTAL DOCUMENT

SEP 22 1997 ROCKY RIVER, DHID 44116

9/16/98

Dear Sir:

A have lived in Rocky River for 35 years, and this year it was voted by the "Cleverander magazine" as the Mo. 1 Suburb in Cuyahoga County

The possible diceision of the Morthfolk R.R. to thingle the daily troffic of their trains the subuit, greatly distints my wife and me. We are about 11/2 miles from the tracks and even now cere nightly very aware of the trains passing

We are Serviors and are determined to live pass on We Jare in good health and effort to stop this convented and speak for the people in our neighborho

We trust you can prevent a beautiful

a faithful voter and supporter of environmental concerns.

> yours truly Mr. + Mrs. Suchard Gregon 19020 East Shoreland Rocky River, oher 44116

ENVIRONMENTAL DOCUMENT

Surface Transportation Board Section of Environmental Analysis 1925 K Street, N. W., Room 504 Washington, DC 20423-0001



Re: CSX Corporation and CSX Transportation, Inc., Norfolk Southern

Corporation and Norfolk Southern Railway Company

Control and Operating Leases/Agreements-

Conrail Inc. and Consolidated Rail Corporation Finance

Docket No. 333888

The Natural Resources Conservation Service has reviewed your 1997 Environmental Report in connection with CSX and Norfolk Southern joint application to acquire control of Conrail. Currently, there are no local adverse environmental land use concerns for this acquisition.

Thank you for including the Natural Resources Conservation Service in your environmental assessment of this proposed project.

Sincerely,

PAUL DeARMAN

Assistant State Conservationist for Technology

BUSINESS





Bay - Westlake Office 27115 Knickerbocker Road Bay Village, Ohio 44140 (216) 835-2800

September 9, 1997

Federal Surface Transportation Board Section of Environmental Analysis 1925 K Street NW Washington, DC 20423 ENVIRONMENTAL DOCUMENT

RE: FD 33388

Dear Sirs,

We are writing this letter in opposition to the Norfolk & Southern Railroad's proposal to increase railroad traffic through the westshore communities from 13 to approximately 38 trains per day. The safety, health, and economic impact could be very devastating to such a densely populated area. While railroads play a vital role in our country, common sense has to exist when the safety and welfare of thousands of individuals are at stake. We urge you to fight this issue and have Norfolk and Southern find alternate routes.

Sincerely.

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Bay Village Westlake Smythe Cramer Co

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Bay Village Westlake Smythe Cramer Co

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Carol Cloud

Carol C



8-29-97 K CTTTES



Lord Fairfax Planning District Commission

"Serving local governments of the Northern Shenandoah Valley"

103 East Sixth Street - Front Royal, Virginia 22630-3499

Phone: (540) 636-8800 • Fax: (540) 635-4147 • E-Mail: lfpdc@shenlet.net

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Robert M. Sager Vice Chairman

Benjamin H. Weddle, Jr. Treasurer

> Walter M. Duncan Secretary

Thomas J. Christoffel, AICP Executive Director

> COMMISSIONERS January, 1997

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*Robert M. Sager
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Kris C. Tierney

*Nora Belle Comer Allen J. Cubbage Ronald W. Good

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*David A. Nelson

WARREN COUNTY B.K. "Brett" Haynes, Jr. "Benjamin H. Weddle, Jr.

FRONT ROYAL

*Walter Duncan
Robert L. Tennett, Jr.
James S. Wells

*Lowell B. Baughan William P. Menefee

*Larry G. Aruse

*Mayor Harry R. Applegate James C. Massey

*Joy B. Shull

*Fowin C. Daley John B. S. broth Plarry S. Smith Timothy A. Younans ENVIRONMENTAL DOCUMENT

MEMORANDUM

To:

August 26, 1997

Commissioners, Lord Fairfax Planning District Commission

AUG 2 9 1997 p

MAIL

MANAGEMENT

Transportation Planning Technical Committee;

Local Elected Officials, CAOs and Planning Directors

Economic Developers and Chamber of Commerce Directors

From: Tom Christoffel, Executive Director

Subject: CSX/Norfolk Southern/Conrail Agreement - Local and Regional Impact Information Meeting - Thursday, September 11, 1997

Conference Room - New Market Battlefield - New Market - Exit

264 I-81 - follow signs - Phone: 540-740-3101

In response to the Environmental Impact request related to the CSX/NS/Conrail merger, the Transportation Planning Technical Committees of Lord Fairfax PDC and Central Shenandoah PDC have scheduled the referenced joint meeting Thursday, September 11, at the conference room in the New Market Battlefield Hall of Valor Board Room. Mr. George Conner from the Virginia Department of Rail & Public Transit will be present. He is inviting representatives from the railroads. Issues raised involve both environmental and economic impact of the merger, particularly as to through train traffic impacts on towns like Front Royal and Luray; rail crossing safety in all jurisdictions due to increased traffic; deterioration and potential loss of line capacity from Winchester to Staunton along CSX/NS rails. The way in which excursion train proposals will be handled is also a concern. Significant through routing may interfere with the goal of local rail service. The overall objective based on the LFPDC Transportation Planning Technical Committee thinking is that the long term goal is to preserve and keep viable the rail capacity of the region in concert with other modes of transportation.

I have also asked the Surface Transportation Board, which is handling the Environmental Impact statement, if they would have a technical person available to attend the September 11 meeting and whether an economist who could give an overview of rail trends and the impact of this merger on long term economic growth for our transportation hub.

*Executive Committee

The review process by the STB is under a 350 day schedule. A copy is attached. The Environmental Impact Statement will be published in November, 1997 and have a 45 day comment period. As this region is concerned about economic and environmental impacts, this will be the window of opportunity to raise issues. For information on the report, contact Pat Kadel, Associate Planner, at 540-636-8800.

The meeting will run from 10 until Noon. The Battlefield has arranged for a caterer for lunch at a cost of \$5 - \$6.50. Given local knowledge in rail issues, it may be important to have some time at lunch or the early afternoon to continue discussion. If you plan to attend - please confirm by September 8, to Marie Weaver at 540-636-8800 indicate whether or not you will stay for lunch.

Proposed Agenda

Moderator, Kim Fogle, Chair, LFPDC Transportation Committee
10 a.m. New Market Battlefield Conference Room

- 1. Introductions and review of agenda.
- 2. George Conner, Virginia Department of Rail and Public Transportation- overview of process from State perspective State role in rail
- 3. Surface Transportation Board technical staff Processes and deadlines 350 day review time line. Environmental impact due out November, 1997 and comments back due within 45 day comment period January 1998. Final decision served June 8, 1998.
- 4. Economic overview of rail changes and their economic impact in the Shenandoah Valley speaker requested
- 5. Railroad representatives presentations.
- 6. Questions and discussion.
- 7. Other items, further meeting schedules,....

8. Adjourn.

Enclosure

cc: George Conner, VDRPT Elaine K. Kaiser, STB

6.3.1. TPTC.Railmeeting

Projected Schedule7

	Preliminary Environmental Report 8 submitted to SEA. (F-30)9	May 16, 1997
	Primary Application and Environmental Report filed. (F)	June 23, 1997
	Notice of Intent to Prepare an Environmental Impact	
	Statement and Environmental Impact Statement	
	Scoping Notice issued. (Federal Register Notice).	July 7, 1997
	Comments on the Draft Scope of the Environmental Impact	
	Statement due (end of 30-day comment period).	August 6, 1997
	Descriptions of Inconsistent and Responsive Applications filed.	
	(F + 60).	August 22, 1997
	Last day to file Preliminary Draft Environmental	
	Assessments for the Seven Separate Construction Projects	
	referenced in Decision No. 9.	September 5, 1997
	Final Scope of the Environmental Impact Statement issued.	September, 1997
	Responsive Environmental Reports and Verified Environmental	
	Statements due. (F + 100).	October 1, 1997
	Inconsistent and Responsive Applications due. (F + 120).	October 21, 1997
, .	Draft Environmental Impact Statement served.	November, 1997
	Draft Environmental Impact Statement comments due	
7	(end of 45-day comment period).	January, 1998
	Final Environmental Impact Statement served.	Late March or Early April, 1998
	Oral Argument.	April 9, 1998
	Voting Conference.	April 14, 1998
	Final Decision served.	June 8, 1998
		55 11 22 1222

June 29, 1998

Administrative Appeals Filing Deadline

Actual dates may vary slightly. These are the dates that will apply if the Board accepts the primary application as filed on June 23, 1997.

The Preliminary Environmental Report contained preliminary, descriptive information on the proposed transaction.

[&]quot;F" is the filing date of the primary application. The Board established the time periods related to the filing date in the procedural schedule set out in Decision No. 6 in this proceeding.

FD 33388 8-28-97 K CITIES



ENVIRONMENTAL DOCUMENT

DEAN C. FOSTER, P.E., P.S. BUTLER COUNTY ENGINEER

August 20, 1997



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

Attn Elaine K. Kaiser, Chief Section of Environmental Analysis Environmental Filing

Dear Ms. Kaiser:

We are in receipt of the environmental review process for the proposed CSX Corporation, CSX Transportation Inc., Norfolk Southern Corporation, and Norfolk Southern Railway Corporation filing application jointly seeking authorization to acquire control of Conrail and subsequently division of Conrail's assets. As the County Engineer for Butler County, Ohio, the safety of the traveling public is our number one priority.

We have accessed the internet at SEA's Conrail Acquisition Web Page for further information regarding the increase of train traffic in Butler County. As outlined under the "Safety" page and the "Transportation System" pages, the safety of at grade railroad crossings will be studied. However, the information of how much train traffic was very general.

From a 1994 Ohio Rail Map produced from the Ohio Department of Transportation, Butler County has 7 railroad lines crossing the County. Of the 7 lines, 4 are categorized in Class A of Gross Traffic Density, one is a branchline and 2 lines are less that one million tons gross traffic density. Also according to the map, the Class A gross traffic density lines are either CSX, NS or Conrail.

We would like to know the anticipated traffic volumes of the Class A lines in Butler County Specifically, we need the train traffic volume on the old Norfolk and Western line at mile post 20.38 which is also identified by the Federal Crossing Number 524-962M. This crossing is with Crescentville Road. The average daily

vehicle traffic on this road is over 15,000 vehicles per day. It is our intent to secure Federal Assistance to construct a grade separation eliminating an existing safety hazard. Attached is the letter to Mr. Robert Marvin, Chief of Railroad Division for the Public Utilities Commission of Ohio, requesting help in securing Federal Funds for this crossing.

Any information and/or assistance in helping us achieve our goal of constructing a grade crossing at Crescentville Road crossing would be greatly appreciated.

Sincerel

Dean C. Foster, P.E., P.S.

Butler County Engineer

DCF/rcj

cc: Tom King Robert Marvin



DEPARTMENT OF TRANSPORTATION

1890 County Services Parkway Marietta, Georgia 30008-4014 Phone: (770) 528-1600 Fax: (770) 528-1601

August 18, 1997

Office of the Secretary
Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington DC 2043-0001

ENVIRONMENTAL DOCUMENT



Attention:

Elaine K. Kaiser

Chief, Section of Environmental Analysis

Environmental Filing

Subject:

Notice of Intent to Prepare an Environmental Impact Statement (EIS) and Request for Comments on Proposed EIS Scope in STB Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail, Inc. and Consolidated Rail Corporation

The Cobb County Department of Transportation (Cobb DOT) has reviewed the correspondence, dated July 3, 1997, and documents you had transmitted to Mr. David Hankerson, County Manager, about the proposed EIS score for the consolidation of CSX, Norfolk Southern, and Conrail. Listed below are transportation and traffic comments that are requested to be considered in the preparation of the EIS documents. The comments are identified with the alpha-numeric system used in your above mentioned letter.

1. Safety

- A. Support the evaluation to address rail highway grade crossing safety factors, as appropriate.
- B. Support the consideration of increased probability of train accidents, derailments, and other incidents, as appropriate.

2. Transportation System

C. Support addressing, as appropriate, vehicular delays at rail crossings and intermodal facilities due to increase in rail related operations.

Notice of Intent to Prepare an Environmental Impact Statement (EIS) August 18, 1997 Page 2

5. Air Quality

- A. Support the evaluation of air emission increases that exceed the Board's environmental thresholds in 49 CFR 1105.7(e)(5)(i), in an air quality attainment or maintenance area as designated under the Clean Air Act regarding an increase in truck traffic of more than ten (10) percent of the daily average traffic or fifty (50) vehicles a day.
- B. Support the evaluation of emission increases, if the proposed transaction affects a Class I or non-attainment area as designated under the Clean Air Act regarding an increase in truck traffic of more than ten (10) percent of the daily average traffic or fifty (50) vehicles a day.

There are, however, sections of the proposed EIS where additional analysis is recommended. In the Air Quality portion under Section F, the proposed work is only to discuss potential air emission increases from vehicle delays at rail crossings. Cobb County has at grade rail crossings in areas of dense commercial and residential activity which experience regular delays. For example, this situation exists for the CSX lines at Cherokee Street in Kennesaw, Roswell Street (State Route 120) in Marietta, and Paces Ferry Road in Vinings. With the projected increase in rail operations, vehicular delay will increase thereby exacerbating the air quality non-attainment status. Work beyond just the discussion stage needs to be conducted to quantify air emission increases from vehicular delay.

Cobb DOT, primarily through the County's Transportation Improvements Program, evaluates road/rail crossings for improvements. With the potential increase in negative impacts to vehicular safety and operations from the increase in railroad operations, an evaluation should be conducted of capital improvements to address these concerns. A result of this analysis should also include potential cost sharing by the railroads to implement necessary improvements.

Notice of Intent to Prepare an Environmental Impact Statement (EIS) August 18, 1997 Page 3

I realize that the STB requested responses by August 6, 1997 and hope that the delay in transmitting these comments does not compromise their consideration. Please contact me at the address above or at (770) 528-1664 if you have any questions or require additional information.

Sincerely,

Daniel B. Dobry, Jr., P.E.

Deputy Director

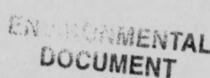
cc: David Hankerson, County Manager
James M. Croy, P.E., Director
Roger P. Henze, AICP, Transportation Planning
John L. Hibbard, P.E., Operations

W. Denny Meier, P.E., Engineering



August 21, 1997

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





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

Dear Ms. Kaiser:

As a follow-up to a recent conversation with your staff, I am forwarding a copy of a letter previously addressed to Mr. Vernon A. Williams, Secretary for your consideration and inclusion in your files. I would also like to thank your staff for their prompt response to my inquiry regarding the status of my letter to Mr. Williams.

Sincerely,

Richard M. Novak Executive Director

enclosure

June 11, 1997

Mr. Vernon A. Williams, Secretary Surface Transportation Board STB Finance Docket No. 33388 1925 K Street NW Washington, D.C. 20423-0001 AUG 27 1997 AUG MANAGEMENT STB

Dear Secretary Williams:

This letter is being sent in regard to the proposed dismemberment of Conrail, Inc. to CSX Transportation and the Norfolk Southern Railway Company.

The Lorain Port Authority is charged with development of Lorain's waterfront area. In the past few years great strides have been made in re-development of our community's waterfront areas. Additionally, major projects are in process that will be impacted by the proposed merger. These projects include:

Grove Site Project/Intermodal Transportation Center
 East-West Commuter Rail Extension Cleveland to Lorain

One of this community's primary goals is to develop the Port of Lorain as the Intermodal Transportation Center for Lorain County and the surrounding area. The transportation hub would be located on the "Grove Site" within the heart of Lorain's Central Business District and will unite this community's waterfront with community and regional and local users.

The success of this project depends upon the extension of commuter rail service from Cleveland to Lorain. It is essential that the NS-CSX merger of Conrail ensure the preservation of east-west access for Lorain and throughout Northeastern Ohio. The extension of service to Lorain is included in both the Greater Cleveland Regional Transit Authority's (RTA) and areawide planning agency's (NOACA) long range plans. A portion of the Norfolk Southern Line currently serving this proposed route had recently been proposed for abandonment for purchase by RTA. Our position on this abandonment is contrary to positions normally associated with possible abandonments. In this case, we are in favor of it since it would provide essential east-west linkages. At the least, we would appreciate the Surface Transportation Board's favorable consideration of joint rail lines for both passenger and freight rail. Traditionally, railroads do not encourage dual usage of rail lines. However, we feel this policy needs to be reviewed as part of the merger process.

2. North-South Rail Corridor - Wellington to Lorain

The development of a north-south rail corridor between the City of Wellington and the Port of Lorain via USS/Kobe Steel is also an essential issue that needs to be considered by the Surface Transportation Board as part of the merger. The rail corridor would provide raw material access from the south to one of this community's largest employers. The provision of an additional means to access raw materials is important to USS/Kobe's bottom line. As a principal user of the Port of Lorain it is imperative that this rail corridor project be provided consideration as part of the merger process.

Of additional importance to the Lorain Port Authority is a request that state and/or local agency's be provided the first right of refusal for acquisition of abandoned rail lines. This action would provide opportunities for future comprehensive development.

On behalf of the Board of Directors we thank you for your thoughtful consideration and appreciate the opportunity to present these important issues affecting our community.

Sincerely,

Richard M. Novak Executive Director

Congressman Sherrod Brown Senator Michael DeWine Senator John Glenn

cc:

BUSTNESS



Norfolk Southern Corporation 1500 K Street, N.W., Suite 375 Washington, D. C. 20005 202 383-4166 202 383-4425 (Direct) 202 383-4018 (Fax) CENTRAL ADMINISTRATIVE UNIT
REC'D: 8-27 5:902
DOCUMENT 9-3-97 8:32:39 Am
System Director
Environmental Protection

ENVIRONMENTAL DOCUMENT

ADMINISTRATIVELY CONFIDENTIAL

August 27, 1997

BY HAND

Elaine K. Kaiser
Chief
Surface Transportation Board
Section of Environmental Analysis
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: Finance Docket No. 33388: CSX and NS -- Control and Acquisition --

Conrail: Segment Mileage in Selected Counties

Dear Ms. Kaiser:

This letter provides you with the information for the three outstanding counties noted in our August 26, 1997 response to your August 21, 1997 request for the length of rail line segments in certain counties. As indicated in our August 26 letter, we needed to verify the information pertaining to the rail line segments in Vanderburgh County in Indiana and Hardin and Allen Counties in Ohio.

We have now completed our review for those three counties:

Vanderburgh County, Indiana

The only rail line segments in Vanderburgh County other than CSX segments pertain to a small branch line which is not included in the Operating Plan. No change in rail traffic is projected for this branch line; the associated line segments are not addressed in the Environmental Report.

Elaine K. Kaiser August 27, 1997 Page 2

Hardin and Allen Counties, Ohio

The only rail line segments in these counties included in the Operating Plan are CSX, not NS segments. As in Vanderburgh County, Indiana, the only other line segment in Hardin and Allen counties pertains to a small branch line that is not included in the Operating Plan and for which no traffic change is projected; the associated line segment is not addressed in the Environmental Report.

Should you have any questions about this response, please let me know so I can provide you with any additional information you may need.

Sincerely yours, Bruro Maestrip of

Bruno Maestri Systems Director

Environmental Protection

cc: Morton

Novak

Sadler

Sprague

8-27-97 K 33388 FD



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue Room N755 Indianapolis, Indiana 46204-2249

(317) 232-5533

FAX: (317) 232-0238

Writer's Direct Line

FRANK O'BANNON, Governor CURTIS A. WILEY, Commissioner

Re:

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

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

Environmental documentation for the authorization of CSX Transportation, Inc. (CSX) and Norfolk Southern Corporation and Norfolk Southern Railway Company (NS) to acquire control of Conrail and for the subsequent division of Conrail's assets by CSX and NS.

August 20, 1997

ENVIRONMENTAL

DOCUMEN'I

Dear Mr. Secretary:

At this very early stage in the development and preparation of the required Draft Environmental Impact Statement (DEIS), the Environmental Assessment Section of the Indiana Department of Transportation does not have pertinent comments. We have no site specific knowledge of the four (4) Indiana sites where there are proposed rail line construction projects.

We would, however, request that we be given the opportunity to review and comment on the portions of the DEIS that will either impact or require the acquisition of right-of-way from the State of Indiana. The submission of any document to be reviewed for our comment should be sent to the following address:

Mr. Steve Cecil, Chief
Division of Preliminary
Engineering and Environment
160 North Senate Avenue
IGCN, Room N848
Indianapolis, Indiana 46204-2218

Sincerely,

James E. Juricic, Manager Environmental Assessment Section

Division of Prefiminary

Engineering and Environment

JEJ/CAA

K PHRT.TC

Surface Transportation MENTALAUG 27 1997 b Lea Sei, So I resident of Bay Village for over 40 years, I whole heartedly object to the increase in train traffee that is being considered by Norfolk Southern , proposal. Meally tripling the train traffer going through Day Village would be derestating in emergency situations to all of us residents. Fince their is only one over pass a delay of 15 minutes to reach this oreignor could mean a difference of life or death Thear stop this proposal. Most Sincerely Dachuea & Markourch 467 hape Foust Des 440-835-3411 Thay Vellage Oh 44140

DOCUMENTAL

Mally Regan.
"20566 Beachwood Dr.
Rocky River, OH 44116
August 20, 1997

AUG 27 1997 > -10

Elaine Kaiser

Office of the Secretary.

Care Control Unit SD 33388

Surface Transportation Board.

1925 K. St. N.W.

Washington DC 20423-0001

Dear Ms. Kaiser,

I am writing to voice, my concern about the recent articles in the Cleveland Plain Dealer regarding the Norfolk Southern Railroad and the plans they have to increase traffic on the northern line to thirty-light trains per day. Os a life long resident of Cleveland's west-side suburbs (Lakewood and now Rocky River) I am vehernently opposed to the increased traffic volume.

As I understand it, Lakewood contains the most densely populated stretch of tracks in the entire United States with 9,000 period children traversing the tracks on a daily basis. Buy Village and Rocky River are also predominantly residential cities and have been heralded by Cleveland Magazine as the number 1

City in Cleveland in 1996 and 1997, respectively. If Norfolk Southern proceeds with their plan, I am sure the quality of life in these cities will certainly diminish, not to mention property values, energency response time, etc.

The safety concerns surrounding the proposal are immense. As I write this letter, I have been informed that as recently, as a few hours ago, a fakewood man was struck and killed by at train at the "Hall" intersection in Lakewood. One can only think that the increased traffic would result in more accidents and fatalities of this kind.

It is my understanding that the southern tracks are just as convenient a route and are located in a far less residential area. I hope that the Surface Iransportation Board will consider this as a visible alternative and to be a superior choice for the railroad in accomplishing their goals as well as ensuring the safety of our citizens.

Sincerely, Mally Regan

8-25-K 388

PENNSYLVANIA 15009-2129



BOARD OF BEAVER COUNTY COMMISSIONERS

BEA SCHULTE

JOHN A ANTOLINE NANCY LOXLEY

E-Mail planningcommission@co.beaver.pa.us

Fax (412) 775-3915

RICHARD W. Packer, Jr.
Acting Director
Voice (412) 728-5700

E-Mail

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

Attention: Elaine K. Kaiser, Chief

Section of Environmental Analysis/Environmental Filing

RE: **Environmental Reports:**

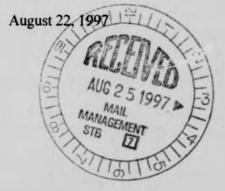
Volumes 6A, 6B & 6C

Dear Ms. Kaiser:

JAMES A MITCH, Chairperson THOMAS STONER Vice Chairperson

On July 15, 1997 the Beaver County Planning Commission received three volumes--Environmental Reports 6A, 6B and 6C-- of CSX's and Norfolk & Southern's Railroad Control Application on their proposed acquisition of Conrail, presumably for our information and possible review. The Commission had responded to requests for comments from the railroads' environmental consultants in early 1997.

Volume 6A, Part 1 - Overview and Description of Proposed Action, and Volume 6B, Part 2 - Operational Impacts of Rail Line Segments, Rail Yards and Intermodal Facilities have been reviewed. Volume 6C, Part 3-Proposed Abandonments and Part 4-Proposed Construction Projects include no proposed abandonments or construction projects for Pennsylvania and it appears that the proposals in other states would not impact this area. Comments directly address Volume 6B, Part 2-Operational Impacts of Rail Line Segments, Rail Yards and Intermodal Facilities, Chapter 19-Pennsylvania.



Elaine K. Kaiser, Chief Page 2 August 22, 1997

There are major discrepancies in the description of the CSX's Rankin Junction (Allegheny County) to New Castle (Lawrence County) Beaver County rail line segment and its impacts. These discrepancies appear to arise from the intermixing of two different rail segments in the analysis—both of which provide a route between Rankin Junction and New Castle via Beaver County. These lines are the former B&O line angling across northeastern Beaver County and the former P&LE (Pittsburgh & Lake Erie RR) main line running north to south through the length of Beaver County (see enclosed County map).

The former P&LE, CSX line is the line we believe the analysis is meant to address for these reasons. It was the line highlighted when CSX's railroad consultant asked the Planning Commission for comments about the potential impacts of increased rail activity. CSX purchased it relatively recently because it provided a much higher quality, more direct right-of-way than the old B&O route. It appears to receive heavy use while the former B&O route is lightly used by CSX. It probably is the line with the average 28.9 trains a day and projected 38.3 trains a day that the impact analysis is based on.

To cite some specific inconsistencies/errors:

- The Air Impact Analysis is based on a 9.7 mile segment in Beaver County which
 comes in from Butler County. This describes the former B&O, CSX line yet the rail
 traffic apparently is based on the P&LE, CSX segment which is about 20 miles long
 in Beaver County and which comes in from Allegheny County (Section 19.1.1.1.2).
- 2. The Noise Impact Analysis indicates that no Distance-to-Ldn (Noise) Contour calculations were done since the segment has no grade crossings, and therefore no train warning-horn blasts as required before at-grade crossings (Table, page 19-32). The B&O, CSX line has about 10 public at-grade crossings in Beaver County and many more in Butler and Allegheny Counties. The P&LE, CSX line has almost no public-road, at-grade crossings.
- 3. Assuming the P&LE, CSX line should be the basis of the impact analysis:
 - This line has an at-grade public road crossing over 14th Street in Monaca Borough, Beaver County.

Elaine K. Kaiser, Chief Page 3 August 22, 1997

- b. The length of the Beaver County segment is about 21 miles not 9.7 miles.
- c. Figure 2-21.1 and other maps should show the former P&LE, CSX line in bold line, not the former B&O line to the northeast of it.

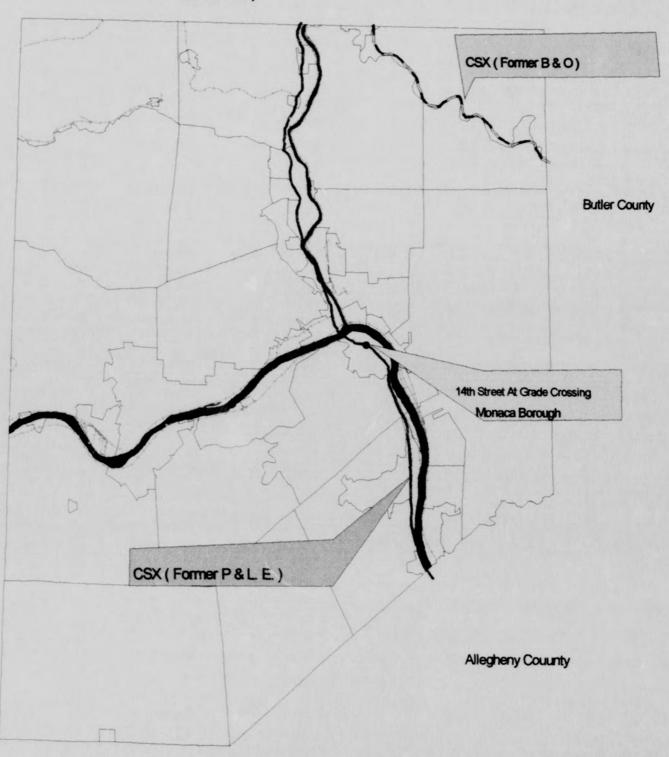
The Norfolk and Southern's analysis of its rail line segments and the Conway Yards apparently found that there would be no activity level increases or impacts above threshold levels. If there are any indications that these assumptions may not be correct, the Environmental Impact Statement should reflect these changes in status. In addition, as indicated in our draft scope impact letter, there might be some significant impacts apparent locally even when thresholds are not exceeded by N&S or CSX.

If there are any questions please contact this office.

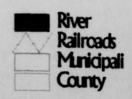
Very truly yours,

Richard W. Packer, Jr. Acting Director

RWP/BL/my Enclosure Lawrence County



CSX Railroads Lines
Beaver County, Pennsylvania
Prepared by: The Beaver County Planning Commission
August, 1997



Lord Fairfax Planning District Commission

"Serving local governments of the Northern Shenandoah Valley"
103 East Sixth Street - Front Royal, Virginia 22630-3499
Phone: (540) 636-8800 • Fax: (540) 635-4147 • E-Mail: lfpdc@shentel.net

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Robert M. Sager Vice Chairman

Benjamin H. Weddle, Jr. Treasurer

> Walter M. Duncan Secretary

Thomas J. Christoffel, AICP Executive Director

> COMMISSIONERS January, 1997

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WARREN COUNTY B.K. "Brett" Haynes, Jr. "Benjamin H. Woddle, Jr.

> *Wafter Duncara Robert L. Tennett, Jr. James S. Wells

*Lowell B. Baughan William P. Menefee

MIDDLETOWN Larry G. Kruse

*Mayor Harry R. Applegate James C. Massey

*Joy B. Shull

*Edwin C. Daley John B. Schroth Harry S. Smith othy A. Youmans

*Executive Committee

August 15, 1997

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

1925 K Street, N.W.
Washington, D.C. 20423-0001

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

Your letter dated July 3, 1997 - Notice of Intent to Prepare an environmental Impact Statement (EIS) and Request for Comments on Proposed EIS Scope in STB Finance Docket No. 3388, CSX Corporation and CSX Transportation, Inc., Norfolk southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreement-Conrail, Inc. and Consolidated Rail Corporation.

ENVIRONM

Dear Ms. Kaiser:

Re

The referenced letter requested comments by August 6, 1997. This Commission's Transportation Planning Technical Committee held its Quarterly meeting August 14 to review rail issues in this region and the Central Shenandoah Planning District.

Transportation Committees from both regions will meet in early September with staff from the Virginia Department of Rail and Public Transit in order to determine the key issues and provide recommendations to their respective Planning District Commissions for potential action at September quarterly meetings.

Therefore we require an extension of the August deadline. Enclosed is a copy of the previous comments provided to Mr. Gabe Hernandez. Agency Coordinator, Burns & McDonnell relative to Finance Docket 33286.

Since rail issues are complex and not everyday matters for local governments and their planners, I am interested in learning whether or not the Surface Transportation Board has any technical assistance staff that could provide background information at the regional meeting tentatively



Surface Transportation Board STB Finance Docket No. 33388 August 15, 1997

scheduled for September 10 or 11, or which may be available for other local meetings. This region is a transportation hub and effective use of transportation resources is a key strategy for long term economic viability. This includes concern for the status of existing rail which is under utilized. At the same time, quality of life is a primary goal for the region. Achieving balance is the challenge. I look forward to your response.

Sincerely

Thomas J. Christoffel
Executive Director

Enclosure

cc: Commissioners and CAOs

Transportation Planning Technical Committee

Mr. Bill Strider, Executive Director, Central Shenandoah PDC

Mr. Harold E. Neale, Commonwealth Transportation Board, Staunton District

The Honorable John Warner

The Honorable Frank Wolf

The Honorable Kevin G. Miller

The Honorable H. Russell Potts, Jr.

The Honorable Raymond R. "Andy" Guest

The Honorable Beverly J. Sherwood

The Honorable Jay Kenneth Katzen

The Honorable Joe T. May

The Honorable Glenn M. Weatherholtz

Mr. Leo J. Bevon, Director, Virginia Department of Rail and Public Transportation

1/2/2 LN



Lord Fairfax Planning District Commission

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*Joy B. Shull

WINCHESTER
*Edwin C. Daley
John B. Schroth
Harry S. Smith
Timothy A. Youmans

*Executive Committee

January 30, 1997

Mr. Gabe Hernandez, Agency Coordinator Burns & McDonnell 9400 Ward Parkway Kansas City, Missouri 64114

Re: Increased Train Traffic - Norfolk Southern's Proposed Acquisition of Conrail (Finance Docket 33286) - Project No. 96-678-4

Dear Mr. Hernandez:

In response to your request for input regarding environmental issues related to increased train traffic in Virginia, information was provided to this region's Transportation Planning Technical Committee, Economic Development Directors and local officials. A meeting was held today, January 30 to discuss the issues and develop comments for this response.

Of the communities in this Planning District on the indicated path of traffic increase, Warren County and the Town of Front Royal will be most impacted by any increase in traffic. They have experienced increases in through traffic to the degree that facilities are already inadequate.

In order to determine the nature of impacts, I must first request more information relative to the specific types of traffic planned. To further assess impact it will be necessary to know the types of trains, either corporate or merchant haulage; how many engines the trains will have, and the length; the types of commodities carried and their hazard rating; the timing of the trains, e.g. day or night and time slots; and where the scheduling will be done so that the community can be apprised of changes.

At this time, the majority of County rail crossings are in adequate relative to turning, sight distance and grade. To get access to Happy Creek Industrial Park, for example, the access onto Route 606 is poor for trucks and school busses. There are also many private crossings to populated subdivisions. A large portion of the Town's northeastern land area is cutoff by existing track. Improved access is required and may be made more difficult by traffic increases. There is limited funding to signalize rail intersections and the localities must use their State road allocations for the match. Increased train traffic will increase these risks.



January 30, 1997 Page 2 of 2 Norfolk Southern

Much of the track follows the Shenandoah River or crosses tributaries of the river. The Local Emergency Response teams do not have the equipment to handle major spills and protect the South Fork of the Shenandoah River as the Front Royal's water supply or further on the mainstem the Town of Berryville.

As a result of increased train traffic in the region, more individuals have been complaining about the impact on their sleep time or their journey to work. While this is not a public safety issue, it is an anticipated impact.

To the extent that new traffic is through traffic, there will be no local benefit to the economy as the community is impacted. A local government fiscal impact will be the demand for crossing safety improvements, many of which will require significant work beyond the even costly step of signalizing.

This represents the questions and comments raised to date by the localities. We look forward to receiving the information requested so that the communities of the region can continue to participate in the process.

Sincerely

Thomas J. Christoffel Executive Director

I homas J. Christoffel

cc: TPTC

6/3 LN

33388 8-20-97 K



Office of Ocean and Coastal Resource Management

1362 McMillan Avenue, Suite 400 Charleston, SC 29405

(803) 744-5838

FAX (803) 744-5847

August 8, 1997

ENVIRONMENTAL DOCUMENT

Ms. Elaine K. Kaiser Section of Environmental Analysis Surface Transportation Board Washington, DC 20423 AUG 2 0 1997
MAIL
MANAGEMENT
STB 17

Re: CSX Corporation and CSX
Transportation, Inc.
Norfolk Southern Railway Company
Various Counties

Dear Ms. Kaiser:

The staff of the Bureau of Ocean and Coastal Resource Management (OCRM) certifies that the above referenced project is consistent with the Coastal Zone Management Program. New construction must address the impact on wetlands, and permits for alteration of wetlands must be obtained prior to construction. Project sponsors should contact the OCRM concerning additional approvals that may be required.

Interested parties are provided ten days from receipt of this letter to appeal the action of the OCRM.

Sincerely

Robert D. Mikell

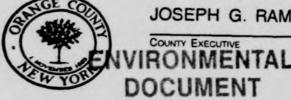
Manager, Planning and

and Federal Certification Section

JHA/26555/jk

CC:

Mr. Christopher L. Brooks Mr. H. Stephen Snyder 33388 8-20-97 K



August 13, 1997

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



Attention: Ms. Elaine K. Kaiser

Chief, Section of Environmental Analysis

Environmental Filing

Re: Comments on Proposed EIS Scope in STB Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company -- Control and Operating Leases/Agreements -- Conrail, Inc. and Consolidated Rail Corporation

Dear Ms. Kaiser:

When we responded to you by the announced deadline of August 6, 1997, we focused our remarks and concerns on the impacts that the proposed CSX/Norfolk Southern takeover of Conrail would have on the passenger/commuter lines in our County. Recently, it was brought to our attention that we might possibly lose opportunities for meaningful freight service and new jobs in the overall restructuring of rail freight service. Therefore, we would like to express our concerns on the freight and goods movement side as it affects our County.

The Conrail tracks in our County provide door-to-door delivery of freight to established businesses located in and around our small urban centers. These centers traditionally benefitted from rail service, but, today they are dependent upon trucks, many of which are unable to negotiate the narrow rectilinear street system. It is our concern and desire that every possible opportunity should be exploited to maintain rail freight service in industrial areas located in and around our urban cores.

Sincerely

Joseph G. Rampe County Executive

/mmj

-20 - 97K PIIRT.TC

DOCUMENT

August 15, 1997



Dear Ms. Kaiser, FD 33388

The environmental impact of increased train traffic in our neighborhood and the adjacent communities will be significant. These are middle class to upper middle class homes in very stable suburbs. The noise, even now, has increased over former years and the potential of more traffic would make life distressful.

There are train tracks south of this area which go through an industrial area which would be much more appropriate.

I would appreciate any help you can give us, as homeowners, to help protect the value of our homes and the "peace and quiet" of our neighborhood. Thank you.

Sincerely,

Alice Alexander 20641 Beachwood Dr.

Rocky River, OH 44116

alice alexander

Georgia Department of Natural Resources

Lonice C. Barrett, Commissioner

Historic Preservation Division

Mark R. Edwards, Division Director and State Historic Preservation Officer 500 The Healey Building, 57 Forsyth Street, N. W., Atlanta, Georgia 30303 Telephone (404) 656-2840 Fax (404) 657-1040

August 7, 1997

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

ENVIRONMENTAL DOCUMENT



Attention:

Elaine K. Kaiser, Chief

Section of Environmental Analysis

Environmental Filing

RE:

Proposed Acquisition of Conrail by Norfolk-Southern and CSX, Inc.

Statewide HP970707-005

Dear Ms. Kaiser:

The Historic Preservation Division (HPD) has received your correspondence dated July 3, 1997 concerning the "Notice of Intent to Prepare an Environmental Impact Statement (EIS) and Request for Comments on Proposed EIS Scope in STP Finance Docket No. 33388," related to the proposed acquisition of Conrail by Norfolk-Southern and CSX, Inc. Thank you for providing our office with this information.

In previous letters to consultants representing both Norfolk-Southern and CSX, HPD stated its opinion that the acquisition of Conral by Norfolk-Southern and CSX, in itself, does not constitute an undertaking which would require review under Section 106 of the National Historic Preservation Act. However, it is important to remember that the proposed construction or abandonment of rail lines or other structures or facilities associated with rail lines does have the potential to affect historic resources which are listed in or eligible for listing in the National Register of Historic Places, and will need to be reviewed by our office in accordance with Advisory Council on Historic Preservation regulations 36 CFR Part 800. We look forward to working with the Surface Transportation Board as it confipletes the Section 106 review process.

If we may be of further assistance, please contact David R. Bennett, Environmental Review Associate Planner, at (404) 651-6624.

Sincerely,

Jeffrey L. Durbin Environmental Review Coordinator

JLD:drb

8-19-97 K

of TIPPECANOE COUNTY

20 NORTH 3RD STREET LAFAYETTE, INDIANA 47901-1209 (765)423-9242 (765)423-9154 [FAX] JAMES D. HAWLEY, AICP EXECUTIVE DIRECTOR

14 August, 1997 Ref. No.: 97-545 DOCUMENT



Surface Transportation Board Attn: Elaine K. Kaiser 1925 K Street, N.W. Washington DC 20423-0001

In Re: EIS for Conrail acquisition by Norfolk Southern & CSX

Dear Board Members.

As a contacted Interested Party and the Metropolitan Planning Organization for this area, we are interested in the effect of increased train usage through our community by Norfolk Southern.

On two of the Norfolk Southern Rail line segments entering the Greater Lafayette area, significant increases in daily train volumes would occur. Peru to Lafayette (18.38 to 40.20) and Lafayette to Tilton, Illinois (23.58/40.99). Both exceed the threshold numbers specified for air quality and noise impact analysis.

While we are progressing well with the Lafayette Railroad Relocation project to eliminate 24 grade crossings strung diagonally through the City of Lafayette, the work is not yet finished. Completion is expected by 2001. I feel that noise factors will probably be mitigated by the design of the depressed and bermed new rail corridor and air quality impacts lessened. It will be our concern that air quality in this <u>attainment area</u> is not harmed by additional emissions.

We anticipate that major impacts of the future increased number of trains will be reduced since they will be traveling in their own corridor, mostly parallel to the Wabash River. If the increased volume of trains was to have occurred without the Railroad Relocation project, impacts would have been substantial and crossing closures plus accidents in the city, would have created grid lock on the street system. Noise would have been a major impact.

Please provide a copy of the environmental impact study addressing the aforementioned issues.

We are most interested in maintaining smooth traffic flows through the area both on the street network and the rail system.

Please contact our office if there are questions.

Sincerely,

James D. Hawley
Executive Director

JDH:gyr

cc: Matt Brooks, INDOT

Cliff DeLaCroix, Norfolk Southern

7-10-97 33388



ENVIRONMENTAL DOCUMENT

George V. Voinovich • Governor Donald C. Anderson • Director

July 1, 1997

Office of the Secretary
Cast Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K St., N.W.
Washington, D.C. 20423-0001
ATTN:Elaine K. Kaiser, Chief
Section of Environmental Analysis
Environmental Filing



RE: Pailroad Control Application: Finance Docket No. 33388

To Whom It May Concern:

The Ohio Coastal Management Program (OCMP) was approved by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration and became effective on May 16, 1997. The ar proval can be reviewed in the Federal Register (pp. 28448-9, May 23, 1997). One of the mandates of the OCMP is the requirement for federal consistency. The OCMP document indicates that federal actions reasonably likely to affect any land or water use or natural resource of the coastal zone, regardless of location, be consistent with approved state coastal management programs. Federal actions include:

- Federal agency activities and development projects;
- Private applicant activities that require federal licenses, permits or other forms of approval; and
- State and local government activities conducted with federal assistance.

This letter serves to make you aware of this program. As such, the Railroad Control Application (Volume 6C Environmental Report, pp.427) should be corrected to reflect the change in status of the OCMP. If you have any questions or need additional information, please contact me at 614/265-6411 (kim.baker@dnr.state.oh.us).

Sincerely,

Kimberly A. Baker, Env. Program Administrator Division of Real Estate and Land Management

Kimberly A. Baken

33388 6-9-97 K 180114 STB FD



K

1

INDIANA DEPARTMENT OF NATURAL RESOURCES

LARRY D. MACKLIN, DIRECTOR

Executive Office 402 W. Washington Street, Rm. W-256 Indianapolis, IN 46204-2748

June 4, 1997

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



RE: DNR #5418 - NS-2, Certificate of Additional Service: CSX Corporation and CSX Transportation Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company -- Control and Operating Lease/Agreements -- Conrail, Inc, and Consolidated Rail Corporation, Finance Docket No. 33388

Dear Secretary:

The Department of Natural Resources has reviewed this project in response to early coordination requests made by the applicants to fulfill requirements of the National Environmental Policy Act of 1969. Copies of or agency's responses concerning impacts to fish, wildlife, and botanical resources are enclosed for your information.

We appreciate the opportunity to be of service in this matter. If we can be of further assistance, please do not hesitate to contact Steve Jose at (317) 232-4080.

Sincerely,

Larry D. Macklin, Director
Department of Natural Resources

mid T. Herbet, we

LDM:SHJ

Enclosures

Office of the Secretary

JUN 1 0 1997

Part of Public Record



LARRY D. MACKLIN, DIRECTOR

Executive Office 402 W. Washington Street, Rm. W-256 Indianapolis, IN 46204-2748

March 14, 1997

Ms. Carole W. Peter, Environmental Scientist Dames & Moore One Continental Towers 1701 Golf Road, Suite 1000 Rolling Meadows, IL 60008



Re: DNR #6205 - Proposed consolidation of CSX and Conrail Railroads: Haley, Vigo County; Milford Junction, Kosciusko County; and Willow Creek, Porter County

Dear Ms. Peter:

Per your request in accordance with the National Environmental Policy Act of 1969, the Indiana Department of Natural Resources has reviewed the above referenced project and offers the following comments for your information.

This proposal will not require the formal approval of our agency pursuant to the Flood Control Act (IC 14-28-1).

The Natural Heritage Program's data have been checked and, to date, no plant or animal species like d as state or federally threatened, endangered, or rare have been reported to occur in the project vicinity.

The project site at Willow Creek occurs adjacent to Portage Woodland Park which has been acquired, developed, or both with federal Land and Water Conservation Act funds. A Section 6(f) conversion may be required if the project negatively impacts the outdoor recreation capacity of the park. Please contact the Division of Outdoor Recreation at (317) 232-4070 for more detailed information concerning this.

Fish, wildlife, and botanical resource losses as a result of this project can be minimized through implementation of the following measure. All bare and disturbed areas should be revegetated with a mixture of grasses (excluding all varieties of tall fescue) and legumes upon completion.

We appreciate the opportunity to be of service and apologize for not being able to respond sooner in this matter. If we can be of further assistance, please do not hesitate to contact Steve Jose at (317) 232-4080.

Sincerely.

Larry D. Macklin, Director Department of Natural Resources

ind L. Herbit to

LDM:SHJ

cc: Jonathan Heald, Division of Water, IDNR, Indianapolis, IN

"EQUAL OPPORTUNITY EMPLOYER"



LARRY D. MACKLIN, DIRECTOR

Executive Office 402 W. Washington Street, Rm. W-256 Indianapolis, IN 46204-2748

April 4, 1997

Ms. Carole W. Peter, Environmental Scientist Dames & Moore One Continental Towers 1701 Golf Road, Suite 1000 Rolling Meadows, IL 60008



Re: DNR #6211 - Proposed consolidation of CSX and Conrail Railroads: Avon Yard, Hendricks County; Elkhart Yard, Elkhart County

Dear Ms. Peter:

Per your request in accordance with the National Environmental Policy Act of 1969, the Indiana Department of Natural Resources has reviewed the above referenced project and offers the following comments for your information.

This proposal will not require the formal approval of our agency pursuant to the Flood Control Act (IC 14-28-1).

The Natural Heritage Program's data have been checked and, to date, no plant or animal species listed as state or federally threatened, endangered, or rare have been reported to occur in the project vicinity.

As long as no construction is anticipated, this project will have minimal effects on fish, wildlife, and botanical resources. Please re-coordinate with our agency if future construction is proposed.

We appreciate the opportunity to be of service and apologize for not being able to respond sooner in this matter. If we can be of further assistance, please do not hesitate to contact Steve Jose at (317) 232-4080.

Sincerely,

onicoro,,

Larry D. Macklin, Director Department of Natural Resources



LARRY D. MACKLIN, DIRECTOR

Executive Office 402 W. Washington St., Rm. W-256 Indianapolis, IN 46204-2748

April 7, 1997

Ms. Julie Sanford, Project Manager Burns & McDonnell 9400 Ward Parkway Kansas City, Missouri 464114

Re: DNR #6228 - Proposed acquisition of Conrail by Norfolk Southern; North and Cent

Dear Ms. Sanford:

Per your request in accordance with the National Environmental Policy Act of 1969, the Indiana Department of Natural Resources has reviewed the above referenced project and offers the following comments for your information.

This proposal will require the formal approval of our agency pursuant to the Flood Control Act (IC 14-28-1) if any construction, excavation, or fill will occur in or on the floodway of a stream, river, ditch, or other flowing water body that drains over one square mile. A copy of this letter should be included with permit application materials.

The Natural Heritage Program's data have been checked and, to date, no plant or animal species listed as state or federally threatened, endangered, or rare have been reported to occur in the project vicinity.

Right-of-way maintenance concerns the Division of Fish and Wildlife. Wildlife species utilize railroad rights-of-ways due to the generally undisturbed vegetation and soil conditions found in these areas. The division recommends the use of burning during early spring months to control vegetation along railroad rights-of-ways rather than mowing or herbicide treatment. This method minimizes impacts to wildlife and botanical resources. As long as no construction is anticipated, this project will have minimal effects on fish, wildlife, and botanical resources. Please re-coordinate with our agency if future construction is proposed.

We appreciate the opportunity to be of service and apologize for not being able to respond sooner in this matter. If we can be of further assistance, please do not hesitate to contact Steve Jose at (317) 232-4080.

Sincerely,

Larry D. Macklin, Director

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Department of Natural Resources



Executive Office 402 W. Washington Street, Rm. W-256 Indianapolis, IN 46204-2748

April 15, 1997

LARRY D. MACKLIN, DIRECTOR

Ms. Carole W. Peter, Project Manager Dames & Moore One Continental Towers 1701 Golf Road, Suite 1000 Rolling Meadows, IL 60008

Re: DNR #6257 - Proposed CSX siding extension, Turman Creek, Knox and Vigo counties

Dear Ms. Peter:

Per your request, dated 5 February 1997, in accordance with the National Environmental Policy Act of 1969, the Indiana Department of Natural Resources has reviewed the above referenced project and offers the following comments for your information.

This proposal will require the formal approval of our agency pursuant to the Flood Control Act (IC 14-28-1) for construction in a floodway. Please include a copy of this letter with permit application materials.

The Natural Heritage Program's data have been checked and, to date, no plant or animal species listed as state or federally threatened, endangered, or rare have been reported to occur in the project vicinity.

It appears that this project will impact bottomland hardwood forest along Turman Creek and palustrine wetlands along the east side of the railroad tracks. Please submit more detailed construction information so that our agency can assess potential impacts to these and other fish, wildlife, and botanical resources.

We appreciate the opportunity to be of service and apologize for not being able to respond sooner in this matter. If we can be of further assistance, please do not hesitate to contact Steve Jose at (317) 232-4080.

Sincerely,

Larry D. Macklin, Director

Department of Natural Resources



INDIANA DEPARTMENT OF NATURAL RESOURCES
Executive Office

Executive Office 402 W. Washington St., Rm. W-256 Indianapolis, IN 46204-2748 LARRY D. MACKLIN, DIRECTOR

April 4, 1997



Ms. Carole W. Peter Environmental Scientist Dames & Moore One Continental Towers 1701 Golf Road, Suite 1000 Rolling Meadows, IL 60008

Re: DNR #6258 - Proposed consolidation of CSX and Conrail railroads; Michigan Avenue Yard; East Chicago, Lake County

Dear Ms. Peter:

Per your request and in accordance with the National Environmental Policy Act of 1969, the Indiana Department of Natural Resources has reviewed the above referenced project. Our agency offers the following comments for your information.

This proposal will not require the formal approval of our agency pursuant to either the Flood Control Act (IC 14-28-1) or the Lake Preservation Act (IC 14-26-2).

The Natural Heritage Program's data have been checked and, to date, no plant or animal species listed as state or federally threatened, endangered, or rare have been reported to occur in the project vicinity.

Fish, wildlife, and botanical resource losses as a result of this project should be minimal and reasonable. All bare and disturbed areas should be revegetated with a mixture of grasses (excluding all varieties of tall fescue) and legumes upon completion.

We appreciate this opportunity to be of service and apologize for not being able to respond sooner in this matter. If we can be of further assistance, please do not hesitate to contact Steve Jose at (317) 232-4080.

Sincerely,

Larry D. Macklin

Department of Natura' Resources

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LDM:SHJ:rhb



Executive Office 402 W. Washington Street, Rm. W-256 Indianapolis, IN 46204-2748

April 15, 1997

LARRY D. MACKLIN, DIRECTOR

Ms. Carole W. Peter, Project Manager Dames & Moore One Continental Towers 1701 Golf Road, Suite 1000 Rolling Meadows, IL 60008

Re: DNR #6259 - Proposed CSX increases in activities: Terre Haute Yard; Vigo County

Dear Ms. Peter:

Per your request, dated 5 February 1997, in accordance with the National Environmental Policy Act of 1969, the Indiana Department of Natural Resources has reviewed the above referenced project and offers the following comments for your information.

This proposal may require the formal approval of our agency pursuant to the Flood Control Act (IC 14-28-1) for construction in a floodway. If any construction, excavation, or filling will occur in or on the floodway of a stream which drains more than one square mile, formal approval will be required. Please include a copy of this letter with any permit application materials.

The Natura! Heritage Program's data have been checked and, to date, no plant or animal species listed as state or federally threatened, endangered, or rare have been reported to occur in the project vicinity.

Please provide construction plans to our agency if and when they become available. Our agency will assess potential impacts to fish, wildlife, and botanical resources at that time.

We appreciate the opportunity to be of service and apologize for not being able to respond sooner in this matter. If we can be of further assistance, please do not hesitate to contact Steve Jose at (317) 232-4080.

Sincerely,

Larry D. Macklin, Director

Department of Natural Resources



LARRY D. MACKLIN, DIRECTOR

Executive Office 402 W. Washington St., Rm. W-256 Indianapolis, IN 46204-2748

May 12, 1997



Mr. Gabe Hernandez Agency Coordinator Burns & McDonnell 9400 Ward Parkway Kansas City, MO 64114

Re: DNR #6363 - Proposed new rail line construction; Norfolk Southern/CSX acquisition of Conrail; Lake County

Dear Ms. Hernandez:

Per your request and in accordance with the National Environmental Policy Act of 1969, the Indiana Department of Natural Resources has reviewed the above referenced project. Our agency offers the following comments for your information.

This proposal will not require the formal approval of our agency pursuant to either the Flood Control Act (IC 14-28-1) or the Lake Preservation Act (IC 14-26-2).

The Natural Heritage Program's data have been checked and, to date, no plant or animal species listed as state or federally threatened, endangered, or rare have been reported to occur in the project vicinity.

We appreciate this opportunity to be of service. If we can be of further assistance, please do not hesitate to contact Steve Jose at (317) 232-4080.

Sincerely,

Larry D. Macklin

Department of Natural Resources

evid T. Herbst,

LDM:SHJ:rhb



Executive Office 402 W. Washington Street, Rm. W-256 Indianapolis, IN 46204-2748

April 4, 1997

LARRY D. MACKLIN, DIRECTOR

MAIL

Ms. Carole W. Peter, Environmental Scientist Dames & Moore One Continental Towers 1701 Golf Road, Suite 1000 Rolling Meadows, IL 60008

Re: DNR #6216 - Proposed consolidation of CSX and Conrail Railroads with Potential Traffic Increases on Rail Line Segment in Clark, Clay, Elkhart, Hancock, Hendricks, Kosciusko, Lake, Madison, Marion, Marshall, Putnam, Starke, and Vigo counties

Dear Ms. Peter:

Per your request, dated 15 January 1997, in accordance with the National Environmental Policy Act of 1969, the Indiana Department of Natural Resources has reviewed the above referenced project and offers the following comments for your information.

This proposal will require the formal approval of our agency pursuant to the Flood Control Act (IC 14-28-1) if any construction, excavation, or filling will occur in or on the floodway of a river, stream, ditch, or other flowing water body which drains greater than one square mile.

The Natural Heritage Program's data indicate that significant remnants of ecologically significant prairie vegetation occur along the right-of-way between Donaldson and Groverton in Starke County. While increased use does not pose any impacts to this area, a change of right-of-way maintenance may. Therefore, our Division of Nature Preserves staff recommends that herbicides not be used to control vegetation along this segment.

Right-of-way maintenance also concerns the Division of Fish and Wildlife due to the possible presence of the state-threatened Franklin's ground squirrel. This species utilizes railroad rights-of-ways (see attached distribution map) due to the generally undisturbed soil conditions found in these areas. The division recommends the use of burning during early spring months to control vegetation along railroad rights-of-ways. This method can minimize and avoid impacts to Franklin's ground squirrels.

As long as no construction is anticipated, this project will have minimal effects on fish, wildlife, and botanical resources. Please re-coordinate with our agency if future construction is proposed.

We appreciate the opportunity to be of service and apologize for not being able to respond sooner in this matter. If we can be of further assistance, please do not hesitate to contact Steve Jose at (317) 232-4080.

Sincerely,

Larry D. Macklin, Director
Department of Natural Resources

LDM:SHJ

Enclosure

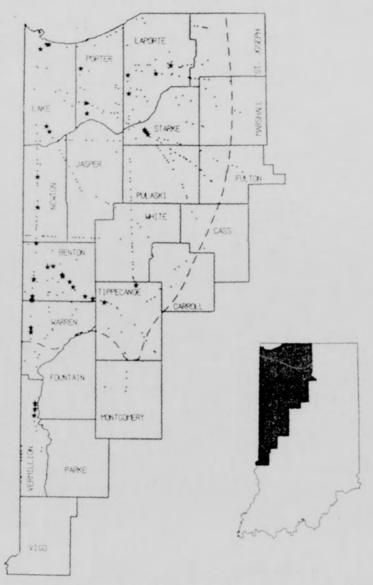


Fig. 1.—Distribution of occupied (stars) and unoccupied (dots) survey sites for Franklin's ground squirrels in NW Indiana, 1984-1990. Dashed line represents historic range as described from Mumford and Whitaker (1982)

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SURFACE TRANSPORTATION BOARD Washington, DC 20423

Section of Environmental Analysis

May 28, 1997

Andrew R. Plump Zuckert, Scoutt & Rasenberger 888 Seventeenth Street, N.W. Washington, D.C. 20006-3930

Mary Gabrielle Sprague Arnold & Porter 555 Twelfth Street, N.W. Washington, D.C. 20004-1202

> Re: Proposed Conrail Merger -- Contents of Environmental Report -- Finance Docket No. 33388

Dear Mr. Plump and Ms. Sprague:

The purpose of this letter is to address the Preliminary Environmental Report (PER) dated May 16, 1997 and the Environmental Report (ER) hat will accompany the application for the proposed merger.

SEA has reviewed the PER, and found it acceptable and useful in providing descriptive information about the proposed merger. However, we note that certain information pertaining to proposed rail line segment activity, trackage rights operations, and commuter agency schedules was not included in the PER because it was not yet available. It is our understanding that this information will be provided to us prior to or with the ER. Also, applicants should provide SEA with a separate confidential letter that clearly identifies all changes to the information provided in the PER.

The contents of the ER should comply with the requirements set forth in 49 CFR 1105.7. In preparing the ER, applicants also should include the information requested in my letter of April 21, 1997, pertaining to the PER. In addition, the ER should address the following areas:

1. Rail Line Segments: A listing of all rail line segments, the existing and proposed train traffic, and the proposed train traffic changes on each segment, if any.

For each rail line segment in the proposed post-merger rail system, identify the proposed increases in daily train traffic (number of trains), and proposed decreases in daily train traffic. If there is no change, so indicate. Please provide the segment lengths and milepost identification for the endpoints of each rail line segment. A system map showing existing and proposed rail traffic for each rail line segment is desirable. Also, provide the pre-merger and proposed gross ton-mile amounts for each rail line segment and the system-wide traffic density charts. Please identify any rail line segments that have pre-existing trackage rights.

2. Intermodal Facilities and Rail Yards: List of all intermodal facilities and rail yards where there is any proposed change in level of activity - increases, decreases, or closures.

Provide details on the existing and proposed carload activities and truck traffic at these facilities.

3. Constructions: Description of the alternatives considered for proposed construction activities and the rationale for selecting the proposed constructions.

Discuss the adjacent land uses for proposed construction projects that would require new right-of-way and any anticipated environmental impacts, such as safety, noise, air quality, water quality, wetlands, historic and cultural, etc.

4. Passenger Rail Service: A detailed description of how NS and CSX would accommodate planned post-merger commuter and Amtrak services over the next five years on rail line segments where an increase in freight traffic is proposed.

Identify any passenger service contracts that will expire within five years. Include detailed information on proposed changes in freight service on shared passenger lines on Amtrak's Northeast Corridor.

- 5. Ports: Identification and description of the inland waterway ports, in addition to the seaports, served by the proposed post-merger rail systems.
- 6. Environmental Analysis:
 - (a) Air Quality: Description of air quality impacts of potential increased traffic delays at grade crossings.

Identify grade crossings with average daily trips (ADTs) of more than 5,000 for rail line segments that would exceed the Board's thresholds for analysis.

Letter to Mr. Plump and Ms. Sprague May 28, 1997 Page 3

Discussion of fugitive dust.

Discuss any air quality impacts that would be caused by fugitive dust at rail yards and intermodal facilities.

- (b) Environmental Justice: Description of applicants' methodology for assessing environmental justice impacts and the results of that assessment.
- (c) Hazardous Materials: Identification and description of those rail line segments over which there would be a substantial increase in hazardous materials transportation.

Include information on your existing and planned hazardous materials management policies and emergency response plans.

(d) Safety: Discussion of rail accident history for the past five years.

In addition, please organize information in the ER on a state-by-state and rail activity basis (e.g., constructions). Whenever possible, provide information in electronic formats -- text in WordPerfect 7.0 and maps in GIS-based formats. Also, the ER should include a thorough environmental analysis, a description of environmental effects, the underlying documentation, and suggested mitigation. As you know, the Board may reject insufficient and inadequate ERs.

I thank you for your cooperation and look forward to ongoing coordination and exchange of information regarding project data and methodologies as SEA proceeds with its environmental review. If you have any questions or concerns, please call Harold McNulty for rail operations at (202) 565-1539, Michael Dalton for environmental matters at (202) 565-1530, and me for legal and other issues at (202) 565-1538.

Sincerely yours,

Elaine K. Kaiser, Chief

Elaure of favor

Section of Environmental Analysis

cc: DeLeuw Cather & Company HDR Engineering, Inc.



SURFACE TRANSPORTATION BOARD Washington, DC 20423

Section of Environmental Analysis

May 9, 1997

Mary Gabrielle Sprague Arnold & Porter 555 Twelfth Street, N.W. Washington, D.C. 20004-1202

Andrew R. Plump Zuckert, Scoutt & Rasenberger 888 Seventeenth Street, N.W. Suite 600 Washington, D.C. 20006-3959

Re: 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

Dear Ms. Sprague and Mr. Plump:

Pursuant to 49 CFR § 1105.7(g), we are granting your request of May 6, 1997 for a limited waiver of the agency consultation requirements in preparation of an Environmental Report.

As you note in your request, 49 CFR § 1105.10(d) provides for a complete waiver of an applicant's environmental reporting obligations if the applicant agrees to retain an independent third-party consultant to work under the supervision and control of the Surface Transportation Board's Section of Environmental Analysis (SEA). You state, however, that CSX and Norfolk Southern do not seek to avail themselves of this complete waiver as they plan to submit a detailed Environmental Report with the joint application and serve it on all appropriate parties. CSX and Norfolk Southern are seeking only a limited waiver of provisions of 49 CFR § 1105.7, which require consultation with appropriate agencies in preparation of the Environmental Report.

Specifically, you request that further consultation with Federal, state, and local agencies concerning potential environmental effects of the proposed merger be undertaken by SEA rather

Letter to Ms. Sprague and Mr. Plump May 9, 1997 Page 2

than the applicants. You suggest that to undertake consultation at this preliminary stage would not afford agencies with sufficient information to provide meaningful comment. In addition, such preliminary consultation would simply add needless layers of review, and, thus, burden and possibly confuse agencies.

We agree that such preliminary consultation would risk confusing and burdening agencies without affording them a reasonable opportunity to provide meaningful comment. As a result, SEA feels that it has adequate justification to grant this request. If we can be of further assistance, please contact either Michael Dalton at (202) 565-1530 or myself at (202) 565-1538.

Sincerely yours,

Elaine K. Kaiser, Chie

Section of Environmental Analysis

cc: De Leuw, Cather and Company HDR Engineering ARNOLD & PORTER

555 TWELFTH STREET, N.W. WASHINGTON, D.C. 20004-1202

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

NEW YORK
DENVER
LOS ANGELES
LONDON

MARY GABRIELLE SPRAGUE (202) 942-5773

May 6, 1997

BY HAND

Elaine K. Kaiser, Chief Surface Transportation Board Section of Environmental Analysis 1925 K Street, N.W. Washington, D.C. 20423-0001

> Re: Finance Docket No. 33388/ Consultation Process

Dear Ms. Kaiser:

We are writing to request that further consultation with federal, state and local agencies and other persons, regarding potential environmental effects of the proposed joint acquisition of control of Conrail by CSX Corporation and Norfolk Southern Corporation, be undertaken by the Surface Transportation Board's Section of Environmental Analysis ("SEA") and/or SEA's independent third party consultants (DeLeuw, Cather & Company and HDR Engineering, Inc.), rather than by the Applicants.

As you know, earlier this year CSX (through Dames & Moore) and Norfolk Southern (through Burns & McDonnell) each sent out hundreds of letters to government agencies seeking comments with respect to their former separate proposals for acquisition of control of Conrail (Finance Dockets No. 33220 and 33286). Very little useful information was obtained from this effort. Virtually all of the agency responses to those letters indicated that the agencies could not provide meaningful input until they could review the overall proposal, the details of which would not be available until each Application was filed and each Environmental Report distributed.

The goal of the consultation process is to afford agencies "reasonable opportunity to provide meaningful input." 49 C.F.R. § 1105.7(c). We do not wish to burden the agencies with premature requests for

ARNOLD & PORTER

Elaine K. Kaiser May 6, 1997 Page 2

information and comments. Moreover, we believe that there is a significant risk of confusion if the public is again contacted at this stage by the Applicants' consultants and then later by the Board's consultants. Rather, we believe that the procedure which would best fulfill the letter and spirit of the National Environmental Policy Act and of the Board's implementing regulations would be for SEA and/or its consultants to consult with appropriate agencies after Applicants file their joint application and distribute the Environmental Report. That report will be organized so as to facilitate the ability of agencies in the different states to comment on matters within their jurisdiction.

As you know, 49 C.F.R. § 1105.10(d) provides for a complete waiver of a railroad's environmental reporting obligations in the event, as here, that the railroad agrees to retain an independent third party consultant to work under SEA's supervision. SSX and Norfolk Southern do not seek to avail themselves of this complete waiver, as a detailed Environmental Report will be submitted with the joint application and served on all appropriate parties. We are seeking only a limited waiver of those provisions of 49 C.F.R § 1105.7 which require consultation with appropriate agencies in preparation of the Environmental Report.

We look forward to your response to this proposal.

Sincerely,

Mary Gabrielle Sprague

Attorney for CSX Corporation

Andrew R. Plump

Attorney for Norfolk Southern Corporation

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

Office of the Secretary

May 8, 1997

Richard A. Allen, Esq. Zuckert, Scoutt & Rasenberger, L.L.P. 888 Seventeenth St., N.W. Washington, D.C. 20006 3939

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

Dear Mr. Allen:

Summary. By letter dated April 24, 1997, you submitted, on behalf of Norfolk Southern Corporation (NSC), CSX Corporation (CSXC), and Green Acquisition Corporation (Acquisition), and pursuant to 49 CFR 1013.3(a), an Amended and Restated Voting Trust Agreement (hereinafter referred to as Joint-VTA-1) that NSC, CSXC, and Acquisition propose to enter into with an institutional trustee, Deposit Guaranty National Bank (Leposit Guaranty or Trustee), and a limited liability company to be formed shortly (LLC). NSC and CSXC intend that the Trustee will hold, in the voting trust (hereinafter referred to as the Joint Voting Trust) to be established pursuant to Joint-VTA-1, all common shares of Conrail Inc. (CRI): (1) acquired previously, and separately, by NSC and CSXC and currently held in the separate voting trusts referenced below; or (2) hereafter acquired by NSC and CSXC pursuant to the Third Supplement (the Third Supplement, dated April 10, 1997) to the Second Offer to Purchase (the Second Offer,

NSC is the parent holding company of Norfolk Southern Railway Company (NSR).
NSC and NSR are referred to collectively as NS.

² CSXC is the parent holding company of CSX Transportation, Inc. (CSXT). CSXC and CSXT are referred to collectively as CSX.

³ CRI is the parent holding company of Consolidated Rail Corporation (CRC). CRI and CRC are referred to collectively as Conrail.

Richard A. Allen May 7, 1997 Page 2

dated December 6, 1996). NSC and CSXC intend that the Joint Voting Trust to be established pursuant to Joint-VTA-1 will be a single consolidated voting trust ultimately superseding and replacing the previously established separate voting trusts.

In my opinion, the Joint Voting Trust to be established under Joint-VTA-1 will effectively insulate NSC and CSXC, and their respective affiliates, from the violation of Subtitle IV of Title 49 of the United States Code (Subtitle IV of Title 49) and the policy of the Surface Transportation Board (the Board) that would result if NSC and/or CSXC were to acquire, without authorization, what would otherwise be a controlling interest in CRI's carrier subsidiaries.

Background: The CSX-VTA's. By letter dated October 23, 1996, Mr. Dennis G. Lyons submitted, on behalf of CSXC and Acquisition (which was then a wholly owned subsidiary of CSXC), a voting trust agreement (hereinafter referred to as CSX-VTA-1) proposed to be entered into by and between CSXC, Acquisition, and a trustee, for use in connection with the acquisition, by CSXC and Acquisition, of a controlling interest in CRI. On November 1, 1996, Mr. Lyons submitted a revised VTA (hereinafter referred to as CSX-VTA-2), which provided that Deposit Guaranty was to be the trustee in place of the previously designated trustee. By letter dated November 1, 1996, I advised that, in my opinion, the voting trust to be established under CSX-VTA-2 would effectively insulate CSXC and its affiliates from the violation of Subtitle IV of Title 49 and the policy of the Board that would result if CSXC were to acquire, without authorization, what would otherwise be a controlling interest in CRI's carrier subsidiaries.

On November 26, 1996, CSXC, acting through Acquisitic 1, bought and paid for approximately 19.9% of the common stock of CRI. This stock was deposited in a voting trust (hereinafter referred to as the CSX Voting Trust) pursuant to a voting trust agreement in the form of CSX-VTA-2.

By letter dated December 27, 1996, Mr. Lyons submitted, again on behalf of CSXC and Acquisition, another revised VTA (hereinafter referred to as CSX-VTA-3) proposed to be entered into by and between CSXC, Acquisition, and Deposit Guaranty. By letter dated January 8, 1997, I advised that, in my opinion, the voting trust to be established under CSX-VTA-3 would effectively insulate CSXC and its affiliates from the violation of Subtitle IV of Title 49

⁴ The Second Offer, dated December 6, 1996, was made by CSXC. The Third Supplement, dated April 10, 1997, includes NSC as a co-bidder.

and the policy of the Board that would result if CSXC were to acquire, without authorization, what would otherwise be a controlling interest in CRI's carrier subsidiaries.⁵

Background: The NS-VTA's. By letter dated October 25, 1996, you submitted, on behalf of NSC and Atlantic Acquisition Corporation (Acquiror), a voting trust agreement (hereinafter referred to as NS-VTA-1) proposed to be entered into by and between NSC, Acquiror, and a Bank (to be named as trustee) for use in connection with the acquisition, by NSC and Acquiror, of a controlling interest in CRI. By letter dated November 1, 1996 (addressed to your colleague, Mr. James A. Calderwood), I advised that, in my opinion, the voting trust to be established under NS-VTA-1 would effectively insulate NSC and its affiliates from the violation of Subtitle IV of Title 49 and the policy of the Board that would result if NSC were to acquire, without authorization, what would otherwise be a controlling interest in CRI's carrier subsidiaries.

By letter dated November 6, 1996, you submitted, again on behalf of NSC and Acquiror, an alternative version of NS-VTA-1 (hereinafter referred to as NS-VTA-2). By letter dated November 18, 1996, I advised that, in my opinion, the voting trust to be established under NS-VTA-2 would effectively insulate NSC and its affiliates from the violation of Subtitle IV of Title 49 and the policy of the Board that would result if NSC were to acquire, without authorization, what would otherwise be a controlling interest in CRI's carrier subsidiaries.

By letter dated January 31, 1997 (as supplemented by an errata letter dated February 3, 1997), you submitted, again on behalf of NSC and Acquiror: NS-VTA-3, which was another alternative version of NS-VTA-1; and NS-VTA-4, which was an entirely new voting trust agreement. By letter dated February 14, 1997, I advised that, in my opinion, the voting trusts to be established under NS-VTA-3 and NS-VTA-4 would effectively insulate NSC and its affiliates from the violation of Subtitle IV of Title 49 and the policy of the Board that would result if NSC were to acquire, without authorization, what would otherwise be a controlling interest in CRI's carrier subsidiaries.⁶

⁵ The letters and other submissions respecting the CSX-VTA's were docketed in STB Finance Docket No. 33220.

⁶ The letters and other submissions respecting the NS-VTA's were docketed in STB Finance Docket No. 33286.

On February 18, 1997, NSC, acting through Acquiror, bought and paid for approximately 9.9% of the common stock of CRI. This stock was deposited in a voting trust (hereinafter referred to as the NS Voting Trust) pursuant to a voting trust agreement substantially in the form of NS-VTA-3.

The Joint Conrail Acquisition Transaction. Joint-VTA-1 reflects the fact that whereas NSC and CSXC formerly planned to pursue two separate CRI acquisition transactions, they now plan to pursue one joint CRI acquisition transaction. Under the Third Supplement to the Second Offer, CSXC and NSC, acting in concert through Acquisition, are now offering to purchase all outstanding common shares of CRI for \$115 per share in cash. Unless further extended, the Second Offer will expire on May 23, 1997.

NSC and CSXC have agreed that, upon consummation of the Second Offer (as supplemented by the Third Supplement), they will establish a single consolidated voting trust to hold: (i) the CRI shares previously acquired by NSC and CSXC and now held in the separate voting trusts; and (ii) the remaining CRI shares to be acquired in the Second Offer (as supplemented by the Third Supplement). This single consolidated voting trust will be an amended and restated version of the CSX Voting Trust (i.e., the voting trust established pursuant to CSX-VTA-2), which is currently holding the 19.9% of the common stock of CRI acquired by Acquisition for CSXC on November 26, 1996.

NSC and CSXC intend to form a new limited liability company (LLC), to which CSXC will contribute both 100% of the stock of Acquisition and also a specified amount of cash, and to which NSC will contribute both 100% of its interest in the approximately 9.9% of the common stock of CRI now held in the NS Voting Trust and also a specified amount of cash. NSC and CSXC will have equal voting control of LLC, but it is contemplated that NSC will own 58% of the equity of LLC and that CSXC will own 42% of the equity of LLC. The cash contributed by NSC and CSXC to LLC will be transferred to Acquisition to pay for the remaining CRI shares that Acquisition will acquire pursuant to the Second Offer (as supplemented by the Third Supplement). Upon consummation of the Second Offer (as supplemented by the Third Supplement), Acquiror will cause the trustee of the NS Voting Trust to transfer to the Trustee of the Joint Voting Trust to be established pursuant to Joint-VTA-1 the approximately 9.9% of the common stock of CRI now held in the NS Voting Trust. Once this stock has been transferred, the NS Voting Trust will be terminated.

The Joint Voting Trust: My Opinion. In my opinion, the Joint Voting Trust to be established under Joint-VTA-1 will effectively insulate NSC and CSXC, and their respective affiliates, from the violation of Subtitle IV of Title 49 and the policy of the Board that would

result if NSC and/or CSXC were to acquire, without authorization, what would otherwise be a controlling interest in CRI's carrier subsidiaries. By and large, the language of Joint-VTA-1 mirrors the language of the prior VTA's submitted by NSC and CSXC (respecting such matters as the irrevocability of the voting trust, the independence of the Trustee, the ban on direct or indirect business arrangements or dealings between the Trustee and either NSC or CSXC, etc.), and, like the language in the prior VTA's, effectively insulates NSC and CSXC from premature control of CRI.

The key issue concerns the control of CRI prior to such time (if ever) as the Board approves, and NSC and CSXC consummate, control of CRI.

Joint-VTA-1 provides, in general, that, prior to the merger of an Acquisition subsidiary into CRI (at which time CRI shall become a wholly owned subsidiary of Acquisition), the Trustee shall vote the Trust Stock with respect to all matters in the same proportion as all shares of CRI Common Stock other than Trust Stock are voted with respect to such matters. This provision is acceptable because, during the time it is effective, it will leave control of CRI in the hands of CRI shareholders other than NSC and CSXC.

Joint-VTA-1 further provides, in general, that, after the merger of an Acquisition subsidiary into CRI, the Trustee shall vote the Trust Stock "in accordance with the instructions of a majority of the persons who are currently the directors of [CRI] and their nominees as successors and who shall then be directors of [CRI]." This provision is acceptable because, during the time it is effective, it will leave control of CRI in the hands of its current directors and/or successors nominated by the current directors.

Joint-VTA-1 further provides "that if there shall be no such persons qualified to give such instructions hereunder, or if a majority of such persons refuse or fail to give such instructions, then the Trustee shall vote the Trust Stock in its sole discretion, having due regard for the interests of the holders of Trust Certificates as investors in the stock of [CRI], determined without reference to such holders' interests in railroads other than the subsidiaries of [CRI]."

This provision is acceptable because, during the time it is effective, it will leave control of CRI in the hands of an independent Trustee.

Divestiture. I think it appropriate to reiterate and emphasize what I said in my prior letters concerning the divestiture of the CRI stock that will be necessary in the event that either:

(a) the CRI control transaction does not receive regulatory authorization; or (b) the CRI control transaction does receive regulatory authorization, but NSC and CSXC choose not to exercise that authorization. If the CRI control transaction ultimately collapses, the Board will have the

authority to approve both a plan of divestiture and the sale (or other disposition) of the CRI stock, whenever such divestiture and disposition take place, and whether or not the person acquiring the CRI stock requires 49 U.S.C. 11323 authority to consummate such acquisition. See Santa Fe Southern Pacific Corp.--Control--SPT Co., 2 I.C.C.2d 709, 834 (1986) (the jurisdiction of the Interstate Commerce Commission "to oversee the orderly divestiture" of the Trust Stock is "inherently within [its] authority to approve consolidations and acquisitions of control.").

Informal Staff Opinion Not Binding On Board. My opinion respecting the Joint Voting Trust to be established under Joint-VTA-1 is an informal staff opinion that is not binding on the Board. See 49 CFR 1013.3(a).

Merits Not Considered. In arriving at my opinion respecting the Joint Voting Trust to be established under Joint-VTA-1, I have given no consideration whatsoever to the merits of the 49 U.S.C. 11323-25 control application that NSC and CSXC have indicated they intend to file on or about June 10, 1997. Thus, my opinion should not be interpreted by any person as an indication that I think the Board will or will not approve any such application.

Ancillary Matter. By letter dated April 25, 1997, Mr. Michael F. McBride, representing American Electric Power Service Corporation, Atlantic City Electric Company, Delmarva Power & Light Company, Indianapolis Power & Light Company, and The Ohio Valley Coal Company, has asked that, in arriving at my opinion respecting the Joint Voting Trust to be established under Joint-VTA-1, I consider certain pleadings (hereinafter referred to as the ACE-1 and CURE-1 pleadings) that were filed in STB Finance Docket No. 33388 on or about April 18, 1997. See Decision No. 4, slip op. at 1-2 (reference to the ACE-1 and CURE-1 pleadings). See also Decision No. 4, slip op. at 2-3 (discussion of the issues raised in the ACE-1 and CURE-1 pleadings).

For the reasons below, in arriving at the opinion expressed in this letter, I have given no consideration to the ACE-1 and CURE-1 pleadings. My opinion is limited to the question whether the Joint Voting Trust to be established under Joint-VTA-1 will effectively insulate NSC and CSXC, and their affiliates, from the violation of Subtitle IV of Title 49 and the policy of the Board that would result if NSC and/or CSXC were to acquire, without authorization, what would otherwise be a controlling interest in CRI's carrier subsidiaries. The ACE-1 and CURE-1 pleadings are not directed to this question; rather, these pleadings (particularly the ACE-1 pleading) are directed to the question whether the price NSC and CSXC have agreed to pay for the CRI shares still outstanding is too high. This is a matter that the Board has addressed. See Decision No. 4, slip op. at 3 (any arguments respecting the reasonableness of the purchase price

will be addressed by the Board in its review of the merits of the 49 U.S.C. 11323-25 control application).

Public Docket. A copy of this letter will be placed in the public docket in STB Finance Docket No. 33388.

Sincerely,

Vernon A. Williams Secretary

cc: Dennis G. Lyons
Arnold & Porter
555 Twelfth Street, N.W.
Washington, D.C. 20004-1202

Michael F. McBride LeBoeuf, Lamb, Greene & MacRae 1875 Connecticut Avenue, N.W. Washington, D.C. 20009-5728

4-21-97 STB FD 33388

ENVIRONMENTAL DOCUMENT

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

Office of Economics, Environmental Analysis, and Administration

April 21, 1997

#33220

Andrew Plump Zuckert, Scoutt & Rasengberger 888 Seventeenth Street, N.W. Washington, D.C. 20006-3939

Re: Preliminary Environmental Report

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

Dear Mr. Plump:

On April 10, 1997, CSX, NS and Conrail notified the Surface Transportation Board that they intend to file a joint application for CSX and NS to acquire control of Conrail Inc. Because of the substantially changed circumstance of this new proposal, I am setting forth the type of information and documentation that should be included in the Preliminary Environmental Report (PER) to be submitted by CSX and NS. This information is similar to that discussed in my letter to you dated February 7, 1997.

General

The PER should be as informative and detailed as possible. In preparing the PER, please write in lay terms and present the information in a clear, organized, and comprehensive manner. The PER should include a table of contents, an executive summary, and an appendix containing technical documentation and other appropriate data. As often as possible, there should be summary tables that group information in appropriate categories for "at-a-glance" review (e.g., identification of rail lines with proposed traffic increases and descriptions of proposed activities on a state-by-state basis).

The PER must clearly explain the planned changes in railroad operations for (1) NS and its portion of Conrail, (2) CSX and its portion of Conrail, and (3) those portions of Conrail to be operated jointly by NS and CSX. It should include technical explanations and supporting documentation of the methodologies used to project proposed operational changes as well as the methodologies that will be used to measure environmental impacts. Maps and graphics should be provided to help illustrate the scope and location of proposed activities.

Andrew Plump April 21, 1997 Page 2

The content of the PER should be consistent with the Board's environmental rules at 49 CFR 1105, with the exception of the environmental impact analysis. The environment impact analysis will be included in the Environmental Report filed with the application.

The PER is a preliminary, confidential working document for SEA's internal use prior to the formal filing of the Environmental Report. Please be sure to hand deliver directly to SEA ten hard copies of the PER and one copy on a 3.5-inch diskette in WordPerfect 7.0. Please be prepared to provide tables, maps, and graphics in electronic format. Also, please make sure to mark the PER and any related documents as "Administratively Confidential, Working Draft."

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The content of the PER should cover the information listed below:

- Description of the overall proposed merger and related activities. Provide a detailed discussion of the planned changes in the system, including supporting operating data to the extent available.
- 2. Identification of rail line segments that would experience post merger traffic increases or decreases. Rail line segments, to the extent practical, should be the same as line segments shown on NS, CSX and Conrail annual gross ton-mile density charts for the base year used for the joint application. For each rail line segment, show the existing daily average number of through trains and the projected daily average number of post-merger through trains for each carrier using the line segment; i.e., the owning carrier and each trackage rights carrier including both freight and passenger carriers.
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and area of construction; and (c) number of trains proposed over each new rail line construction.

- With respect to ports, a description of proposed operational changes, if any, in coastal, in-land and Great Lakes port areas.
- 8. Submission or availability, at a central location in Washington D.C., of employee time tables and track charts for NS, CSX and Conrail.
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 - a. Proposed merged system that distinctly shows all lines to be operated by (1)
 NS, (2) CSX, and (3) jointly operated by NS and CSX.
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 - d. When an average train is to be used in the environmental impact analysis methodology, the assumptions used to calculate the average.

Andrew Plump April 21, 1997 Page 4

- e. The methodologies used to determine environmental impacts, including, but not limited to, the following: biological resources, cultural resources, water quality, land use, energy, traffic, hazardous materials and environmental justice.
- 11. Available written agency and public comments to date. Also, please list and describe meetings and phone consultations.
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Sincerely yours,

Sauce | Chief

Section of Environmental Analysis

cc: De Leuw Cather & Company HDR Engineering, Inc.

33388 FD

Mary Gabrielle Sprague Arnold & Porter 555 Twelfth Street, N.W. Washington, D.C. 20004-1202

ENVIRONMENTAL DOCUMENT

Re: Preliminary Environmental Report

Finance Docket No. 33388, CSX Corporation and CSX
Transportation, Inc., Norfolk Southern Corporation and Norfolk
Southern Railway Company -- Control and Operating
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Mary Gabrielle **Sprague** April 21, 1997 Page 2

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Mary Garbrielle Sprague April 21, 1997 Page 4

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Sincerely yours,

Elaine K. Kaiser, Chief

Section of Environmental Analysis

cc: De Leuw Cather & Company HDR Engineering, Inc.

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

Office of Economics, Environmental Analysis, and Administration

April 21, 1997

Mary Gabrielle Sprague Arnold & Porter 555 Twelfth Street, N.W. Washington, D.C. 20004-1202

Re: Preliminary Environmental Report

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Mary Garbrielle Sprague April 21, 1997 Page 4

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Section of Environmental Analysis

cc: De Leuw Cather & Company HDR Engineering, Inc.

ENVIRONMENTAL DOCUMENT

SURFACE TRANSPORTATION BOARD Washington. DC 20423

Section of Environmental Analysis

MEMORANDUM

DATE: May 21, 1997

To:

Chairman Linda J. Morgan

Vice Chairman Gus Owen

From:

Elaine K. Kaiser, Chief

Section of Environmental Analysis

Re:

Preparation of an EIS for the Proposed Conrail Merger

STB Finance Docket No. 33388

This memo is being furnished to you for your consideration in determining an appropriate procedural schedule for the proposed Conrail merger.

Because of the nature and scope of the environmental issues that are likely to arise in connection with this proceeding, SEA has determined, based on all the environmental information available to date, including the Preliminary Environmental Report, that preparation of an Environmental Impact Statement (EIS) is warranted in this proceeding. This proposed merger is far more environmentally complex (e.g., intercity rail passenger service and commuter service) than the recently-decided UP/SP merger proceeding. Moreover, an EIS is warranted because the statutory time frames for completing this merger case would not permit us to first do an Environmental Assessment (EA) and then subsequently prepare an EIS, if SEA determined that an EIS was legally required.

Upon service of the Board's decision on the procedural schedule, I will place a copy of this memo in the public record.

cc: General Counsel Henri Rush Director Konschnik Director Gardner Julia Farr 1-16-97



Facsimile Transmittal Coy United States Environmental Protection Agency National Vehicle and Fuel Emissions Laboratory Ann Arbor, Michigan 48105

FAX TO:

Elaine Kaiser

FAX NUMBER:

[F] 202-565-9019

PHONE NUMBER:

[V] 202-565-1538

LOCATION:

Surface Transportation Board

Bob Johnson

FAX NUMBER

(313) 741-7816

PHONE NUMBER:

(313) 668-4393

DIVISION/BRANCH:

EPCD/HLEP

D: 4:

04/15/97

NUMBER OF PAGES INCLUDING THIS COVER SHEET:

2

MESSAGE: The public hearing concerning the proposed emission standards for locomotives and locomotive engines, originally scheduled on April 18, 1997, has been rescheduled on May 15, 1977. Please see the attache draft Federal Register notice for additional details.

Please mode Constant of Every user.

04-46-97 07:18AM FROM EPA RDSD ANN ARBOR TO 912025659010

ENVIRONMENTAL PROTECTION AGENCY 40 CFR Part 92 [FRL-]

33388

Emission Standards for Locomotives and Locomotive Engines

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of Postponement of Public Hearing and Extension of

Comment Period

SUMMARY: On February 11, 1997 (62 FR 6365), EPA published a Notice of Proposed Rulemaking (NPRM) that proposed emission standards for locomotives and locomotive engines. EPA is changing the date on which it will hold the public hearing for that NPRM and extending the written comment period.

DATES: The public hearing will be held on May 15, 1997, starting at 9:30 a.m. Persons wishing to present oral testimony are requested to notify EPA on or before May 8, 1997 to allow for an orderly scheduling of oral testimony. Written comments must be received on or before June 16, 1997.

ADDRESSES: The public hearing will be held at the Crown Plaza Hotel (313-729-2600), which is located at 3000 Merriman Road. Romulus, Michigan. Written comments are to be addressed to: EPA Air and Radiation Docket, Attention: Docket No. A-94-31, Room M-1500, Mail Code 6102, U.S. EPA, 401 M Street, S.W., Washington DC 20460.

FOR FURTHER INFORMATION CONTACT: For information on this rulemaking contact: John Mueller, U.S. EPA, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105; Telephone: (313) 668-4275, Fax: (313) 741-7816. Requests for hard copies of the rulemaking documents should be directed to Carol Connell at (313) 668-4349.

List of Subjects in 40 CFR Part 92

Environmental protection, Air pollution control, Railroads.

Mary D. Nichols,

Assistant Administrator for Air and Radiation

project manager,
we should
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check to a place of
on mailing
list-

4-16-97 33388 \mathbf{n} LD



National Vehicle and Fuel Emissions Laboratory Ann Arbor, Michigan 48105

FAX TO:

Elaine Kaiser

FAX NUMBER:

[F] 202-565-9019

PHONE NUMBER:

[V] 202-565-1538

LOCATION:

Surface Transportation Board

FROM:

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FAX NUMBER:

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- 04-45-97 07:18AM

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TO 912025659010

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DATES: The public hearing will be held on May 15, 1997, starting at 9:30 a.m. Persons wishing to present oral testimony are requested to notify EPA on or before May 8, 1997 to allow for an orderly scheduling of oral testimony. Written comments must be received on or before June 16, 1997.

ADDRESSES: The public hearing will be held at the Crown Plaza Hotel (313-729-2600), which is located at 8000 Merriman Road, Ror lus, Michigan. Written comments are to be addressed to: EPA Air and Radiation Docket, Attention: Docket No. A-94-31, Room M-1500, Mail Code 6102, U.S. EPA, 401 M Street, S.W., Washington DC 20460.

FOR FURTHER INFORMATION CONTACT: For information on this rulemaking contact: John Mueller, U.S. EPA, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105; Telephone: (313) 668-4275, Fax: (313) 741-7816. Requests for hard copies of the rulemaking documents should be directed to Carol Connell at (313) 668-4349.

List of Subjects in 40 CFR Part 92

Environmental protection, Air pollution control, Railroads.

Mary D. Nichols,

Assistant Administrator for Air and Radiation

project manager we show ilroads. get a Copy + Cherk to a place a nailing

Note

4-15-07 33388 STB



THE COUNCIL

EMMA J. WILLIAMS

CITY OF NEW ORLEANS
ROOM 1E04 CITY HALL
NEW ORLEANS, LA. 70112

April 10, 1997

FD# 332204 33286

Interstate Commerce Commission c/o Service Transportation Board 1925 K Street N. West Washington, D.C. 20423-0001

RE: April 17, 1997 Public Hearing On Hazardous Materials Rail Safety

Gentlemen:

At the April 17, 1997 regular Council meeting, Council President Jim Singleton and District "D" Councilmember Roy E. Glapion, Jr., will move to defer the public hearing on safety issues relative to rail transportation of hazardous materials within the City. The public hearing had been scheduled as First Order of Business at the April 17th meeting.

Councilmembers Singleton and Glapion believe that there is a need for all interested parties to acquire a better understanding of the issues involved prior to conducting the public hearing in order to insure a more productive and positive result. Your input and participation in this preparatory process is invited and will be greatly appreciated.

You will be notified of the date and time to which the public hearing has been deferred immediately upon its being rescheduled.

If you have any questions, comments or concerns, please let me know.

With regards, I remain

Emmle J. Welliams Bul

Emma J. Williams Clerk of Council

EJW/bwk

Possible MARC-CSX Deal Won't Please All Passengers

Orioles Fans May Have Reason to Cheer, but Changes Would Inconvenience Some Commuters

By Michael Abramowitz Washington Post Staff Writer

Maryland is near agreement on a new commuter rail contract with CSX Transportation Inc. that would cheer baseball fans but inconvenience some other passengers, officials said vesterday.

One part of the plan would restore a southbound train from Camden Yards after Baltimore Orioles games, officials said. The service was canceled abruptly before last season, angering many fans from the Washington area. Now they must board express buses at the end of games.

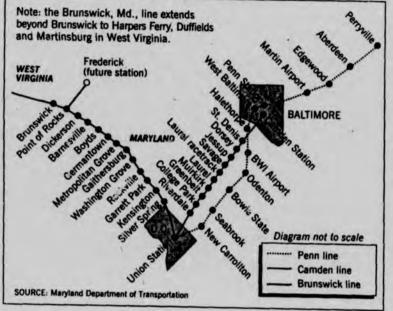
On the other hand, along Maryland Commuter Rail Service's Brunswick line, between Martinsburg, W.Va., and Union Station, about 5,500 daily commuters could face earlier departure times, according to a member of MARC's official citizens advisory panel.

Daryl S. Borgquist, a MARC commuter who lives near Leesburg, said rail officials have informed him that the last evening train from Union Station would be moved up a half-hour, to 7:25 p.m. They also have told him that the last morning train to Union Station would leave earlier in the day.

Borgquist said the changes could disrupt the lives of many parents who drop children at day care by a certain hour.

They won't be able to get the kid to day care," Borgquist said. "They would have to find another way to get to work."

Maryland and CSX officials would not offer details about the new con**MARC RAIL SYSTEM**



BY DAVE COOK-THE WASHINGTON POST

tract, pending an announcement within the next several weeks. But Anthony Brown, a spokesman for the Maryland Mass Transit Administration, acknowledged that "in some instances there is some reduced service."

Brown said the state is trying to balance commuter rail needs with the need to provide freight trains with greater access to CSX tracks. "There are going to be adjustments to the schedules," he said.

Brown also said MARC remains committed to no fare increases.

Maryland has had a stormy relationship with CSX, even as it has tried to expand commuter rail service between Washington and Baltimore and elsewhere. About 20,000 riders use MARC trains daily, the vast majority on the Camden and Penn lines connecting the two major cities.

The state has been paying CSX about \$15 million a year to operate the commuter service. The last contract expired in October 1995, and the two sides have been operating the system under a temporary contract while they negotiate a new five-year agreement.

CSX long has complained that commuter service is unprofitable.

but the company had to make accommodations because it wanted state support in its unrelated quest to take over some Conrail lines, state officials said.

A final agreement remains contingent on resolving several disputes. Maryland officials say CSX wants the state to assume any liability for last year's Amtrak-MARC crash in Silver Spring, which killed 16 passengers and crew members. State officials said they had not agreed to such a provision.

They also said return service from Orioles games may not be restored immediately.

One plan under discussion is to build a small connection between the Camden and Penn lines in Baltimore, a move that would enable CSX to run more freight trains without interfering with commuter service.

FOR MORE INFORMATION

For schedules, fares and station lists for MARC rc utes, click on the above symbol on the front page of The Post's Web site at www.washingtonpost.com



2-2-98 K CITIES 33388 FD

CITY OF BEREA - "City of Champions"

Stanley J. Trupo
MAYOR

January 31, 1998

11 Berea Commons Berea, Ohio 44017 (216) 826-5800 FAX (216) 826-1446



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

Attn: Elaine K. Kaiser

Chief, Section of Environmental Analysis

Environmental Filing

Re: STB Finance Docket No. 33388

Dear Ms. Kaiser:

Enclosed for filing please find the original and 11 copies of "Comments of the City of Berea (Requesting Conditions) to Draft Environmental Impact Statement" being submitted relative to the above matter.

Kindly time stamp the extra copy and return it to the undersigned in the return envelope provided for your convenience. Thank you for your attentions and courtesies in this matter.

Very truly yours,

CITY OF BEREA

Gregory M. Sponseller

Director of Law

GMS: jb Encs.

DOCUMENT



BEFORE THE SURFACE TRANSPORTATION BOARD

ENVIRONMENTAL DOCUMENT

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 CITY OF BEREA (REQUESTING CONDITIONS) TO ERAFT ENVIRONMENTAL IMPACT STATEMENT

The City of Berea Respectfully Submits the following comments to the Draft EIS in the above-referenced matter:

I. Executive Summary

The City of Berea is uniquely situated and, therefore, uniquely impacted among the Westshore communities due to the convergence of the two rail lines within the City limits of Berea.

Berea is primarily a densely populated residential area with limited highway access that is frequently blocked by railroad traffic under the current 80.3 train per day baseline. Additionally, Berea's population under the 1990 US census is 19,051 and has remained in the 18,000 to 20,000 range for years. In that same period, the percentage of minority residents is approximately 6.9% black and Hispanic residents. It is significant to the abatement and remediation requests as set forth herein that approximately 86% of the black residents of the City of Berea reside in the census tracts adjacent to the rail lines. See, Attachment J. Community Reinvestment Area Report, City of Berea, 1994 Planning Resources Incorporated. Over one-third (37%) of the black population of Berea resides in the census tracts lying in the northeast area of Berea which, although geographically small, is densely populated and would be impacted by the proposals set forth in the CSX/NS applications in virtually every manner.

In June, 1997, CSX, and NS filed a railroad control application with the Surface Transportation Board to acquire control of Conrail Inc. and Consolidated Rail Corporation (Finance Docket No. 33388). As part of the Railroad Control Application, NS and CSX have proposed increasing freight traffic on the Berea-Greenwich and Short-

Berea routes from 27.9 trains per day to 101.5 trains per day (Vol. 6B of 8, EIS Draft, page 356, Chart 18-3). NS and CSX have also proposed decreasing the freight traffic along the Cleveland-Vermillion route through Berea from 52.4 trains per day to 28.4 trains per day (Vol. 3B of 8, page 462). The net post acquisition increase in trains per day through Berea, if the merger were to be approved as originally proposed, would be from 80.3 trains per day, to 129.9 trains per day, an increase of 49.6 trains per day, or a 61.8 percent increase.

Under the original plan. NS proposed increasing freight traffic along NS's Cleveland-Lakewood-Vermillion route from 16.4 trains per day to 34.1 trains per day, an increase of 17.7 trains per day (Vol. 5C, Nov. 25, 1997 letter of . On November 25, 1997, NS amended its application to reroute the additional 17.7 trains originally proposed for Cleveland-Lakewood-Vermillion, to the Cleveland-Berea-Vermillion route. The additional 17.7 trains per day under the amended proposal would increase Berea's train traffic from 129.9 trains per day to 147.6 trains per day. This represents an 83.8 percent increase in train traffic through Berea above the pre-acquisition baseline of 80.3 trains per day.

The Berea-Greenwich route is an northeast-southwest line southwest of Cleveland, Ohio, originates in the southwest corner of Cuyahoga County, traverses the southern half of Lorain County, and approaches Greenwich from the southeast corner of Huron County. The Short-Berea route traverses the southwestern quarter of Cuyahoga County from downtown Cleveland to Berea, Ohio. The Conrail mainline along the Cleveland-Berea-Vermillion route traverses the southwest quarter of Cuyahoga County from downtown Cleveland through Berea. Ohio, and across the northern half of Lorain County to Vermillion. All these routes, with respect to Berea, traverse heavily populated urban/suburban residential neighborhoods.

The Berea-Greenwich route is an northeast-southwest line southwest of Cleveland, Ohio, originates in the southwest corner of Cuyahoga County, traverses the southern half of Lorain County, and approaches Greenwich from the southeast corner of Huron County. The Short-Berea route traverses the southwestern quarter of Cuyahoga County from downtown Cleveland to Berea, Ohio. The Conrail mainline along the Cleveland-Berea-Vermillion route traverses the southwest quarter of Cuyahoga County from downtown Cleveland through Berea, Ohio, and across the northern half of Lorain County to Vermillion. All these routes, with respect to Berea, traverse heavily populated urban/suburban residential neighborhoods.

It is the intent of this response to the Draft Environmental Impact Statement (DEIS) to present information about the impact of the proposed Conrail merger Berea, Ohio. Berea is a densely populated residential area with limited highway access that is frequently blocked by railroad traffic under the 80.3 train per day baseline. This report will present information on the possible effects an 83.8 percent increase in train traffic will have on Berea: emergency response time, hazardous and nuclear material transport, reductions in railroad labor and railroad safety, air pollution emissions and noise pollution.

In the area of emergency response time, this report will focus on medical emergency response times. The increasing transport of hazardous and nuclear material via railroad will be examined. Information about the decades-long trend to reduce railroad safety and maintenance personnel, and the overall safety of railroad transportation will be presented. There will also be a section detailing information about the significant increase in air pollution emissions as well as noise pollution as a result of the proposal by CSX and NS to significantly increase the number of trains to be routed through Berea, Ohio.

II. Purpose and Need for Agency Action

It is the contention of the City of Berea, I in its Petition for intervention and Party of Record status, that due to the residential nature of the City, a comprehensive city-specific Environmental Impact Statement (EIS) should be conducted forthwith. It should include all relevant information in this report. It is also the contention of Berea that an objective analysis will reveal that the existing freight train traffic *already* presents considerable hazards to this residential community. It will further reveal that any increase in traffic, especially an increase of the magnitude proposed by the applicants, will have such an adverse effect that mitigating measures, other than grade separations at key highway-rail crossings, will have a regligible impact. It will further reveal that mitigation will be necessary for noise and air quality. It is the position of the City of Berea that unless grade separations are built at the current grade-crossings at Front Street and Bagley Road, the Conrail merger application should be denied.

III. Description of the Affected Environment

Mitigation will be necessary for environmental justice, noise, safety, air quality and traffic flow. It is the position of the City of Berea that unless such environmental justice, noise and air quality and traffic flow concerns of Berea are addressed and grade separations are built at key current grade-crossings, including the heavily traveled crossings at From Street, and at Bagley and Sheldon Roads, that the Conrail merger application should be denied.

Berea, Ohio, is a city in the southwestern corner of Cuyahoga County, less than 14 miles from downtown Cleveland, and adjacent to Cleveland Hopkins International Airport. Berea is mostly residential, with a growing base of light industry to the south of Bagley Road and west of the Berea-Greenwich route. The residential base is also growing with new homes to the north of the Conrail mainline west of the Rocky River. The community is served by police and fire stations to the east of the tracks. Berea is primarily served by Southwest General Hospital in Middleburg Heights, Ohio, immediately adjacent to the City of Berea to the east.

Although overpasses at Rocky River Drive and at Sheldon Road relieve some congestion at the Front Street and Bagley Road grade crossings, they are of limited use. The industrial area described above is blocked from police, fire, and hospital access at Bagley

Road and access through Rocky River Drive is difficult at best and treacherous at the extreme. The residential area north of Bagley Road are primarily south of Sheldon Road and east of Rocky River Drive. Police and fire department access to these areas is difficult because of congestion at the grade separations at Rocky River Drive and Sheldon Roads, and often access is out of the way. This is especially problematic for emergency access to Southwest General Hospital. A particularly difficult situation occurs when commercial semi trucks attempt access through the overpass at Rocky River Drive. Approximately twelve times per year, a truck becomes stuck under the overpass, completely blocking access across Berea except through Sheldon Road at the far northeast corner of the city. See Attachment I, Traffic Flow analysis, incorporated herein.

IV. Description of Alternatives

Berea already experiences an average of 80.3 trains per day. On Mondays and Tuesdays, that number is closer to 70 trains per day. But on Thursdays, Fridays, Saturdays, and Sundays, the number rises closer to 100 trains per day. The train traffic is a virtual wall to anyone trying to cross from one side of the tracks to the other. The existing number of trains is the saturation point.

Any increase in train traffic through Berea will have to be accompanied by the construction of grade separations at Sheldon Road. Bagley Road and at Front Street (for both tracks) to meet the health, safety and welfare needs of the residents of the City of Berea. This is especially necessary at Front Street, just east of the switch between the Conrail mainline and the Short-Berea route. The two rail lines, between Front Street and the switch, form a triangle with Front Street, in which traffic will often be trapped between two sets of trains. The rail lines crossing Front Street must be separated from the road to facilitate reasonable highway traffic if there is to be an increase in rail traffic through Berea. There are many emergency response situations where minutes can make the difference between life and death. Police and firefighters face such situations every day.

A. Emergency Response Time

There are many emerency response situations where minutes can make all of the difference between life and death.

There are 17 identifiable factors that contribute to the outcome of cardiac arrest. Of these, the most important factor is the time between the onset of cardiac arrest and cardiopulmonary resuscitation (CPR). The second most important factor affecting the outcome of cardiac arrest is the time to defibrillation in cases of ventricular fibrillation (when the heart is still quivering as opposed to being completely stopped). And the third most important factor affecting the outcome of cardiac arrest is the time between the onset of cardiac arrest and the initiation of basic life support and advanced life support. The American Heart Association has recommended that patients receive basic life support within four minutes, and advanced life support within eight minutes, both of which can be administered by EMS personnel.

Given an increase of freight traffic from 80.3 to 147.6 trains per day, there will be an average of more than 6 trains per hour traversing the city every day. It curently takes on average four minutes for a train to pass through a grade crossing. On average, therefore, 24 minutes out of every hour of every day, on average, will see Berea experience blocked access to emergency services. More than one third of the time, on average, an EMS team will encounter a passing train at a grade crossing and will be forced to double its response time to eight minutes, beyond the time recommended for basic life support, and just within the recommended time for advanced life support. See, Traffic Count Attachment I, incorporated herein by reference.

Thousands of motor vehicles travel the affected City streets. (See Attachment H).

B. Hazardous Material and Nuclear Waste Transport

According the Federal Railroad Administration (FRA), approximately 11.353 million tons of hazardous material were shipped through Cuyahoga County in 1995 (Attachment A). Cleveland is a major corridor city for railroad traffic; therefore, it highly probable that an 83.8 percent increase in train traffic along the Cleveland-Berea axis will result in a comparable increase in the shipments of hazardous material along the Cleveland-Berea axis. According to the FRA, 4.243 million tons of hazardous material were shipped by along the Cleveland-Berea axis in 1995. An 83.8 percent increase will result in the transport of 7.799 million tons of hazardous material traversing Berea.

According to the Federal Code of Regulations (49 CFR 172.101), there are more than 3,000 materials classified as hazardous, including arsenic, chloroform, cyanides, formaldehyde, lead, mercury, and propane — a highly flammable liquefied petroleum gas which comprises the bulk of transported hazardous material. Chemical product shipments via rail increased by 27 percent between 1991 and 1995, totaling 1.8 million carloads. In 1995 alone, there were 1,330 incidents involving hazardous materials released from rail cars (Attachment B. pg. 16). Yet chemical rail transport is exempt from federal and community "right-to-know" laws. It should be noted, however, that FRA data on hazardous material transport and accidents are derived from the industry's own reports, and the General Accounting Office finds these reports "inaccurate and incomplete" (Attachment C, pg. 1).

Because radioactive material is considerably more dangerous than hazardous material, it is classified and regulated differently. The Department of Energy has confirmed that radioactive waste passes through Cuyahoga County, although the frequency and exact quantities were not obtainable. Furthermore, it has been recently reported that radioactive waste passes along the Conrail tracks through Berea on a regular basis (Attachment D). The frequency and magnitude of radioactive material being transported along the Cleveland-Berea axis should be determined by the Surface Transportation Board as part of the environmental analysis required under federal law. The findings should be used to

calculate the level of risk to Berea and other densely populated areas in the event of an accident or derailment.

The United States Congress is currently considering H.R. 1270, a bill that legislates the siting of a temporary high-level nuclear waste storage facility near Yucca Mountain in Nevada. High-level waste consists mostly of the spent nuclear fuel rods from commercial nuclear utility reactors. Should this bill become law, Cuyahoga County will become a major transportation route for high-level radioactive waste traveling from the East Coast to Nevada.

Approximately 2,733 rail shipments of high-level radioactive waste will traverse Cuyahoga County en route to Nevada, much of which will be transported via the Conrail mainline. Large rail casks weighing about 125 tons would contain high-level radioactive waste, defined as spent nuclear fuel rods contaminated with plutonium and other highly radioactive elements. The average rail cask will carry about 175 pounds of plutonium. To date, no transport cask has had full-scale physical testing (Attachment E, pg. 2).

Three years inside the reactor core makes the fuel over a million times more radioactive than unused fuel. Unshielded, irradiated reactor fuel that has been stored for ten years will deliver a lethal dose to anyone within a meter in less than three minutes. A single pound of plutonium could cause cancer in every person alive today if it were divided and deposited in the lung tissue. It is estimated that a fully prepared state emergency response system capable of responding to an accident involving high-level radioactive waste would costs \$5.6 million annually in 1981 dollars, an expense Ohio has not anticipated. (Attachment E. pg. 1).

C. Reductions in Labor and Railroad Safety

According to R.W. Godwin, general chair of the Brotherhood of Locomotive Engineers, NS and CSX will lay off hundreds of railroad workers whose jobs are to maintain safe railroad cars and track conditions. These layoffs are system wide. The consequences for the general public could be lethal considering the movement of hazardous material and nuclear waste by rail through the densely populated communities of Cuyahoga County, including Berea. The table below is a summary of anticipated layoffs by NS and CSX resulting from the proposed acquisition of Conrail:

Carmen	Inspect and maintain rail freight cars: 330 positions abolished		
Trackmen	Inspect and maintain tracks, switches and crossings: 473 positions abolished		
Signalmen	Inspect and maintain wayside signals and crossing protection: 54 positions transferred and 25 abolished		
Railroad Police Officers	Protect railroad equipment and signals from vandalism: 46 positions abolished		
Locomotive Inspect and maintain locomotives: 5 boilermakers abolished Maintenance electricians abolished, 46 laborers abolished, 85 machinists			

Supervisors	Oversee maintenance workers: 78 jobs abolished
Train Dispatchers	Insure safe passage of trains: 25 jobs abolished

These anticipated layoffs come after almost two decades of declining maintenance and safety personnel on railroads. For example, between 1985 and 1995, Union Pacific doubled the ratio of its car shipments to workers from 85:1 to 170:1. Freights trains at one time were served by five or six people, but are now frequently staffed by one engineer and one conductor. (Attachment B, pg. 17)

Railroad employees are expected to work 12-hour shifts, take eight hours off, then return to work. But despite the 12-hour limit, the FRA recently found that Union Pacific routinely violates this limit, keeping workers on the job as long as 17 hours. Furthermore, rail workers can be called back to the job with little more than two hours notice. One NS engineer was quoted in *The Washington Monthly* as saying: "I've been forced to go out when I was so exhausted I hallucinated. . . I've seen things that weren't there, almost gone past signals I thought were one color when they were another." (Attachment B, pg. 17). At the same time that railroads have significantly reduced staff, the Federal Railroad Administration (FRA) has reduced the number of safety inspectors. Currently, there are 380 inspectors for over one million cars and 300,000 miles of track. (Attachment B, pg. 19).

The decrease in safety inspections results from FRA instituting a new cooperative safety program in 1993. Rather than use violations and civil penalties against railroads for noncompliance with safety regulations, "FRA has emphasized cooperative partnerships with other federal agencies, railroad management, labor unions, and the states." (Attachment F, pg. 4).

Because railroad safety has improved greatly over the last three decades — due in large part to technological advances — GAO could not determine the effectiveness of FRA's program. However, if should be noted that "FRA has implemented its Safety Assurance and Compliance Program with 33 railroads. This method has improved the safety on many large railroads, but Norfolk Southern Corporation has refused to participate until FRA substantiates safety problems at the railroad." (Attachment F, pg. 5, emphasis added). That a major railroad company would refuse to participate in a safety program instituted by the federal government does not bode well for the residents of Berea who rely upon the federal government as well as the railroad for their very safety.

Accidents at railroad crossings are the leading cause of deaths associated with the railroad industry; almost half of all rail-related deaths are caused by collisions of trains and vehicles at public crossings (Attachment C, pg. 1). More than 1,000 people die each year as a result of grade-crossing accidents (Attachment F, pg. 4). Any increase of rail traffic through Berea, particularly an increase of 83.8 percent for a total number of trains approaching 150 per day, require grade separations at the major rail-highway crossings of Front Street and Bagley Road.

D. Emissions

Since most locomotives in the US are powered by diesel engines, air pollution emitted by trains will consist mostly of Particulate Matter (PM) and precursors to ozone (Nitrogen Oxides or NOx, and Hydrocarbons or HC). Locomotives account for nearly five percent (5 percent) of all air pollution emission in the country.

According to the applicants' application, air pollution emission will *increase* in Cuyahoga County by 1,800 tons per year, or 3.6 million pounds, as a result of the increase in freight traffic (Railroad Control Application, Vol. 6B, pg. 364-365). These air pollution emissions include Nitrogen Oxides (NOx), Carbon Monoxide (CO), Volatile Organic Compounds (VOC), Sulfur Dioxide (SO₂), Particulate Matter (PM) and Lead (Pb). CSX rail traffic will increase the above air pollution emissions in Cuyahoga County by almost 1,000 tons per year. NS rail traffic will increase the above air pollution emissions by more than 800 tons per year. Combined, this is an increase of 1,800 tons per year.

Of the 1,800 tons of air pollution emissions, the applicants estimate that 1,505,19 tons will consist of NOx. According to figures from the Environmental Protection Agency (EPA), 1,505,19 tons per year of NOx is equivalent to increasing automobile traffic by 86,505 passenger cars (Attachment G, pg. 3). Additionally, NOx combine with Hydrocarbons (HC) in the atmosphere to form secondary PM (which was not estimated in the Railroad Control Application). For every 100 tons of NOx emisted, approximately 4 tons of secondary PM is formed. Thus, there will be an additional increase of secondary PM by 60 tons per year.

NOx emissions have significant health and environmental effects. NOx is a major component of smog and acid rain. NOx emissions combine with HC in the atmosphere and, in the presence of sunlight, form ground-level ozone. NOx also contributes to the secondary formation of breathable PM. NOx can react with ammonia, other constituents, and moisture to form certain types of PM, including nitrate fine particles and acidic aerosols.

Ozone is a highly reactive pollutant that damages lung tissue, causes congestion, and reduces vital lung capacity, in addition to damaging vegetation. Acid rain damages buildings and crops, and degrades lakes and streams (and it should be noted that Berea. Ohio, is bisected by the Rocky River, a major tributary to Lake Erie and part of the Cleveland MetroPark System). PM causes headaches, eye and nasal irritation, chest pain, and lung inflammation. Environmental impacts of PM include reduced visibility and deterioration of buildings.

Healthy adults who exercise moderately can experience a 15 to 20 percent reduction in lung function from exposure to low levels of ozone over several hours. Damage to lung tissue may be caused by repeated exposures to ozone, which can lead to a shortened life span. Ozone aggravates asthma, and 14 Americans die every day from asthma, a rate three times greater than just 20 years ago.

Because children breathe more air per pound of body weight than adults, increases in ground-level ozone is even more harmful to them. Children make up 25 percent of the population but comprise 40 percent of the asthma cases. Children also comprise a disproportionate number of asthma attacks, increased use of medication, and more emergency room visits as a result of ozone exposure.

PM easily reaches the deepest recesses of the lungs. Scientific studies have linked PM, especially fine particles (alone or in combination with other air pollutants), with premature death, aggravated asthma, and chronic bronchitis. As is the case with ozone, the elderly, children and individuals with preexisting heart or lung disease are especially vulnerable.

Cuyahoga County is currently not attaining the National Ambient Air Quality Standards for Sulfur Dioxide (SO₂) or PM10, particles smaller than 10 micrometers in diameter. Therefore, any increase in emissions as a result of increased freight traffic will cause a further delay in attaining the EPA's new Ambient Air Quality Standards for PM2.5 (which will not take effect for several years).

Cuyahoga County does meet EPA's current 1-hour 0.12 parts per million (ppm) ozone standard. However, based on the most recently available quality assured data (1993-1995), the county does not meet EPA's recently issued 8-hour 0.08 ppm ozone standard. An increase in NOx emissions, a precursor to ozone formation, would exacerbate this problem.

According to estimates reported to EPA for Cuyahoga County in 1990, 15,263 tons per year of NOx are emitted from stationary sources, and 26,804 tons per year of NOx are emitted from mobile sources, resulting in a total NOx emission estimate of 42,067 tons per year for Cuyahoga County in 1990. Thus, 1,500 tons per year of NOx would be an increase of approximately 3.5 percent.

Under the Clean Air Act, areas that do not meet the ozone standards are required to achieve a 3 percent reduction per year (after growth) in VOC and/or NOx emissions. While the implementation plan for EPA's new 8-hour 0.08 ppm ozone standard will not be final until late 1998, it seems very likely that it will include a continuation of the 3 percent per year rate-of-progress measure. A 3.5 percent increase in NOx in the air means that significant additional reductions of NOx from local businesses or vehicles would be needed to offset this increase to meet the ozone standard expeditiously.

The applicants state that they have only estimated the increase in air pollution emissions, and not the decrease in emissions resulting from less truck traffic. However, it should be noted that the increase in air pollution emissions from freight traffic is a guaranteed, quantifiable amount; whereas, the decrease in emissions from truck traffic is not known or measurable. In fact, due to increased rail traffic, PM10 emissions from railroads have doubled between 1970 and 1995. Yet this increase in PM10 emissions has not resulted in

a concomitant reduction in truck traffic emissions during the same period. Moreover, according to area shippers along the Cleveland-Berea axis, reduced competitive opportunities caused by the Conrail acquisition could actually increase the truck traffic among the Cleveland-area shippers (Attachment H).

E. Noise

Noise pollution is considerably more difficult to quantify; however, qualitatively it is no less harmful to a community's well-being than air pollution emissions. According to the Railroad Control Application, noise pollution will increase significantly as a result of the proposal by NS and CSX to increase train traffic through Berea by 83.8 percent. With trains passing through Berea at a rate of six times per hour, or at a duration of 24 minutes out of every hour, residents can expect constant disruptions from horns and engine noise. Constructing grade separations at Bagley Road and Front Street will eliminate horn-blowing at two key locations in Berea and will remove noise from the ground level.

V. Conclusion

Given the reductions in railroad workers, increasing rail shipments, including those of hazardous materials and nuclear waste, severely limited options for improved grade-crossing safety, increasing emissions and noise pollution, and the potentially divisive and isolating nature of the increased rail traffic through the City of Berea-a community unique among the Westshore communities with respect to the CSX/NS application, the City of Berea submits that increasing the number of freight trains to the order of magnitude sough by CSX/NS is totally unacceptable. The health and safety of the people of Berea and the surrounding area are at stake.

However, if the application is to be approved, the City of Berea seeks conditions in the form of remediation and abatement, as follows: The City hereby seeks conditions and mitigation for Berea through noise abatement, city-specific emergency programs and training, and grade separations, as follows, and consistent with the issues raised herein further requests: i) that a noise barrier be constructed along North Rocky River Drive behind the homes on the north side of the tracks on North Rocky River Drive and the nursing home located in close proximity thereto; ii) that a noise barrier be constructed adjacent to the rails at Abbevshire Drive; iii) that adequate grade separations be constructed for a) Sheldon Road (over or underpasses), b) Front Street (for both tracks, consistent with the FIS, but not necessarily as an overpass), and c) Bagley Road (where traffic flow is very high); iv) that the rail siding along and parallel to Butternut lane be eliminated; v) that a grade separation be constructed at West Street in Olmsted Falls, (but sought by The City as noise abatement for the residents of Berea living very near to the area); vi) that the applicants prepare a city-specific hazardous material emergency response program and assist in the training of Berea police, fire and emergency personnel; and vii) that the present overpass at North Rocky River Drive be refurbished, and The City further seeks that the environmental study address the impact upon and the concomitant needs of the City of Berea and its residents, including aesthetic remediation and other just relief as this Board deems proper, or alternatively, The City seeks a denial of the railroad control application filed with the STB to acquire control of Conrail Inc. and Consolidated Rail Corporation in Finance Docket No. 33388.

VI. Attachments

The following attachments are submitted in support of these comments:

Attachment A: Hazardous Material Flows charts from Federal Railroad Administration.

Attachment B: The Washington Monthly, "The Case For More Regulation", October 1997

Attachment C: General Accounting Office, Railroad Safety: DOT Faces Challenges in Improving Grade Crossing Safety, Track Inspection Standards, and Passenger Car Safety, March 5, 1996.

Attachment D: Letter from FRA Administrator Jolene M. Molitoris to Congressman Dennis J. Kucinich, January 21, 1998.

Attachment E: Nuclear Information and Resource Service, Questions and Answers: High-Level Nuclear Waste Shipments, April 2, 1997.

Attachment F: General Accounting Office, Rail Transportation: Federal Railroad Administration's New Approach to Railroad Safety, July 1997.

Attachment G: Environmental Protection Agency, Environmental Benefits of Proposed Emission Standards for Locomotives, February 1997.

Attachment H: Anita R. Brindza, Statement to the Federal Railroad Administration, September 21, 1997.

Attachment I Traffic Studies. City of Berea.

Attachment J Community Reinvestment Area Report, City of Berea, 1994 Planning Resources Incorporated.

Attachment K Drawings of Berea City Engineer depicting distance between railroad tracks and housing along right of way.

A signed original of these comments together with 10 copies thereof are being sent via US mail to:

Office of the Secretary Case Control Unit STB Finance Docket 33388 Surface Transportation Board 1925 K Street, NW Washington D.C.

ATTN: Elaine K. Kaiser

Chief, Environmental Analysis Section Environmental Filing

Respectfully submitted,

rouella

City of Berea

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Attachment A

Hazardous Material Flows at the Cuyahoga County Line

Current Railroad	Location of County Line Crossing looking from Cleveland 1/	Former RR	Post CR Acquisition RR	Amtrak Line	Revenue Tons of Hazmat <u>2</u> / (000)
CR	Northeast	NYC	CSXT	Yes	3667
NS	Northeast	NW	No change	No	477
WE	Southeast	NW	No change	No	36
CR	Southeast	PRR	NS	Yes	2200
NS `	West	NW	No change	No	676
CR	West (to Chicago)	NYC	NS	Yes	2778
CR	Southwest (to Col.)	NYC	CSXT	No	1406
CSXT	Southwest	ВО	No Change	No	59

^{1/} If a line/location is not shown, there was no hazmat flow in 1995.

^{2/} Source: FRA analysis of the 1995 Carload Waybill Sample

Attachment B

The Case for More Regulation

If you thought ValuJet's deadly cargo was poorly regulated, wait till you hear what the trucks and trains are getting away with

BY NURITH C. AIZENMAN

N MARCH OF 1996, ALL 1,700 RESIDENTS OF Weyauwega, Wisconsin skipped town for three weeks-involuntarily. The reason for their impromptu spring break: an 81-car train carryling propane and sodium hydroxide derailed and exploded just outside the city center, creating a toxic fire so dangerous the entire community had to be evacuated while authorities struggled to contain it. But the Weyauwegans should consider themselves lucky. In Chicago this past August, 19 people were treated for chemical exposure at area hospitals after the hose on a truck pumping sulfur trioxide into a holding tank broke and released a 50 foot high lethal cloud. And in California several years earlier, 700 people fell ill after a tanker-car full of metam sodium plunged into the Sacramento River, killing all water life within 40 miles and contaminating California's largest reservoir.

These events point to a disturbing trend: serious accidents involving the transport of hazardous materials, or "hazmats," on trucks and trains have become an almost daily occurrence. In 1995 alone, there were 12,712 incidents involving hazardous materials released from trucks and 1,330 from rail cars. But what's really remarkable about these cases is that they were not more disastrous. Considering the recent massive increase in the volume of hazardous materials streaming across our nation's highways and railroads, combined with the industry's cavalier attitude towards safety and the government's cross-your-fingers-and-hope-for-the-best approach to regulation, it's a wonder we haven't witnessed a truly devastating catastrophe. Environmentalists warn it's only a matter of time before we're treated to a tragedy on the scale of the 1984 accident in Bhopal,

India—where 3500 people were suffocated in their sleep by a 20-ton cloud of methyl isocyanate seeping from a Union Carbide plant.

That's not to say there haven't been lots of close calls. Last December, the Department of Transportation's Federal Railroad Administration (FRA) discovered that despite the fact that military bombs being carried aboard a Union Pacific train had broken through their containers and were protruding onto the floor of a flat car, the company had allowed the train to travel from Oklahoma to California through several major terminals without taking any corrective action. As one FRA official noted in an internal memo: "[Union Pacific] needs a big time wake up call.... The way we see it, if they can't take care of class A explosives, makes you wonder what they are doing with other HM [hazardous materials]."

And there are plenty of other hazardous materials to wonder about. Between 1990 and 1995, hazmat transport by rail increased 27 percent to almost 1.8 million cars a year, each one carrying a payload that makes the lethal cargo aboard ValuJet flight 592 look like a shipment of fire-retardant blankets. Pick your poison: there are toxicby-inhalation chemicals like chlorine and hydrogen fluoride, which can roll across miles of countryside in ground-hugging clouds that burn your body tissue, fill your lungs with fluid and cause you to literally drown in your own juices. There are explosives like ammonium nitrate - mix that with a little fuel and it's Oklahoma City time. Then, of course, there are your run-of-themill flammables, like liquefied petroleum gas, or propane, which comprises the bulk of the roughly four billion tons of hazardous materials hauled across our highways every year, and which, when released, vaporizes into a volatile gas that can ignite into a jet flame if so much as a spark comes near. And finally, there's the mother of all hazmats, nuclear waste, which could become a lot more familiar if the government goes ahead with plans to open a temporary nuclear materials repository in Nevada. By as early as 1999, up to 100,000 shipments of highly radioactive spent fuel from reactors across the country could begin the long journey to the storage site by rail and truck—in containers whose crash worthiness has been tested almost exclusively through computer simulations. With all these goodies making their way from sea to shining sea, perhaps it's not surprising that even some chemical company executives are reaching for their gas masks. "It scares the living daylights out of me," confides one former DuPont official.

Dying for a Job

The ugly reality of our industrial advances and booming economy is that we need—or at least want—more and more products made from dangerous substances. Unless we drastically change our consumption habits, one way or another these hazardous materials are going to have to be lugged around the country. But surely our government and industries have taken steps to ensure that the vehicles hauling these toxins are piloted by specially trained experts—crack professionals, alert and ready for the worst, right? Try zombified novices, bleary-eyed and poorly prepared.

To start with, hazardous material transporters are dangerously overworked. At the railroads, the rise in hazardous shipments has been accompanied by large scale downsizing. According to a study by an environmental group called The Good Neighbor Project, between 1985 and 1995, Union Pacific, by far the nation's largest hazmat rail carrier, doubled the ratio of its car shipments to workers from 851 to 1701. Freight trains once served by teams of 5 or 6 people are now left in the hands of one engineer and a conductor. This duo is expected to work for up to 12 hours, take 8 hours off (for eating, sleeping, bill paving, etc.), then come back for more. The length of their shifts is bad enough: It's hard to imagine staying focused on your favorite TV show for 12 hours straight, let alone an endless stretch of railroad track-especially as viewed from an overheated, deafeningly loud engine cabin. But to make matters worse, rail workers are generally scheduled without regard to the basic requirements of a normal sleep cycle. Thus an engineer who is happily tucked in bed at 3 a.m. on one morning, is just as likely to find himself at the head of a 70car train at 3 a.m. on the next-having received no more than two hours advance nonce. "I've been forced to go out when I was so exhausted I hallucinated." recalls one

Norfolk Southern engineer, "Twe seen things that weren't there, almost gone past signals I thought were one color when they were another."

Maybe that's what happened to the engineer of a Union Pacific train who was killed in July after he sped past a rail stop sign near Rossville, Kansas, and collided with an oncoming train. Hazardous materials aboard his train were burned in the crash, and Rossville's residents had to be evacuated. The collision was one of three fatal Union Pacific accidents since June that finally prompted the Federal Railroad Administration to launch an 80man inspection of the rail company - the most extensive investigation in the agency's history. After a week of probing, the FRA declared itself shocked, shocked, to discover that everyone from dispatchers, to engineers, to vard workers, were being "worked to the bone." Yet for years rul workers' unions have complained about such problems; last spring the Brotherhood of Locomotive Engineers even tried to shut Union Pacific down with a strike over safety, but they were halted by a court order. Still, according to the FRA's spokesman Jim Gower, the FRA "wasn't really aware of the vastness of the problem."

But this was only the tip of the iceberg. The FRA also found that Union Pacific routinely violates the already onerous 12-hour work limit—often keeping workers on duty for up to 17 hours at a stretch. Topping it all off, the agency determined that the training many workers receive is grossly inadequate and in some cases nonexistent—with some employees ordered to operate sophisticated equipment they've never been taught to use.

Among the things a good training program might emphasize would be the importance of watching for smaller problems that could be the harbinger of bigger ones. But even if they were taught to do so, rail workers might be disinclined to report any trouble they find. Many rail companies reward managers with a cash bonus tied the safety record of the track under the manager's jurisdiction. CSX Transportation, for instance, has awarded a total of \$45 million in company stock since 1995 under its "Take Stock in Safety" program. Sounds like a great incentive system, but the result, according to United Transportation Union's legislative director, J.M. Brunkenhoefer, is that many middle managers strongly discourage the rail workers they supervise from reporting accidents-threatening potential whistle blowers with either layoffs or "investigations" into the whistle blower's responsibility.

Of course, the railroads sometimes run into pesky FRA rules requiring that certain types of accidents be reported, for instance those in which a rail worker is injured seriously. No problem—the companies simply send workers to the doctor with a special note, like one

from CSX that asks that "whenever possible, use of equally prudent NON-REPORTABLE treatment is encouraged in order to minimize reporting of less significant minor injuries to the Federal Railroad Administration." Among the "reportable" treatments doctors are urged to avoid: "issuing a prescription, injections, closing a wound with sutures, butterfly, staple or steristrip, application of immobilizing cast, sling or splint, ... [and] restriction of employee's work activity." To be sure, the letter assures doctors that "appropriate treatment should be based upon your professional medical judgment;" but the message from CSX management to the doctor and, more importantly, to its employees couldn't be more blunt: Don't Rock the Boat.

That message was apparently heard loud and clear by the team aboard a CSX train that sideswiped an Amtrak passenger car and caused a derailment near Arlington, Va, this past July. Twice during the train's two-hour journey, crews on passing trains radioed the CSX crew with the warning that one of its flatcars was leaning precariously. Nonetheless, the crew ignored the warning and continued forward because a CSX supervisor had already inspected the car and insisted there was no danger.

Highway to Hell

But intimidated, badly trained and dog-tired as they may be, rail workers are still the envy of truckers. That's because while truckers can only be legally required to drive a mere 10 hours a day, trucking companies routinely-and knowingly-put them on schedules that make a mockery of the law. Consider the timetable of 23-year-old Peter Conway, the driver of a semitrailer loaded with 9,200 gallons of propane headed east on I-287 through New York state in July of 1994. Some time earlier, Conway's truck had been side-lined by a breakdown for 10 hours. Like most truckers, he was being paid by the mile as opposed to the hour; so after his rig was fixed, Conway faced a Hobson's choice: make up the lost time or take a financial hit. He opted to press on. On July 27, Conway's truck drifted off the left shoulder of the highway near White Plains and struck the column of an overpass. The propane leaking from his truck's damaged tank ignited-propelling the container 300 feet through the air onto a nearby house, which was quickly engulfed in flames. Conway was killed, and 23 others were injured. Although Conway had falsified the log book in which he was legally required to enter his work time, federal investigators were able to determine that he had been driving almost continuously for over 35 bours. Their unsurprising conclusion: Conway had dozed off at the wheel.

He's certainly not the first, nor the last, to have done

so. A recent government study found that up to 40 percent of truck crashes were probably caused by fatigue. Another study determined that at least 58 percent of truckers had violated hours-of-service rules. In fact, log books are so routinely doctored that truckers have taken to calling them "comic books."

But even if he's awake, there's no guarantee the driver of that monster hazmat truck roaring up behind you on the highway is even marginally competentor that his rig is remotely safe. Take the case of Willis Curry, a Washington D.C. trucker who, since 1988, has managed to amass 31 citations for such traffic violations as speeding, carrying overweight loads, disobeying red lights and ignoring railroad cross warnings. Back in January, the Department of Transportation's Federal Highway Administration (FHWA) informed Curry's employer of his record and he was promptly fired. But the FHWA waited until April to alert D.C. authorities that his license should be revoked. Two months later Curry, still the proud bearer of a D.C. license and now a driver for a local dump truck company, collided with the car of a young mother and her one-year-old son.

Police determined that the brakes on Curry's dump had failed. This should not have come as a surprise. Curry's vehicle gave a whole new meaning to the term "dump" truck. It had been cited for 28 mechanical safety violations in two random inspections last year. And during the first inspection the truck's wiring was so defective that when the brake pedal was pushed the windshield wipers starting going. On both occasions the truck had been ordered off the road for repairs.

But the story doesn't end there. After Curry's accident, no action was taken to investigate the dump's owner, or to revoke Curry's license. It wasn't until ten days later, when Curry made a routine request for a duplicate license, that a city clerk happened to notice his record and confiscated his license. And Curry quickly managed to win it back, with the proviso that he only drive between 4 a.m. and noon on weekdays. At 2 p.m. the very next week, Curry was once again behind the wheel when the brakes on his dump failed a second time, causing the 30-ton truck to veer out of control and roll over onto a car driven by a teenage honor student. The boy was killed instantly. It is small consolation that Curry's truck wasn't carrying anything more dangerous than sand. Next time we may not be so lucky.

It's hard to say which was the greater menace to society, Curry or his truck. And that's not unusual. On the rare occasions when the Department of Transportation does random roadside inspections, nearly one out of every three rigs they pull over is found to be either unsafe, driven by an unsafe trucker, or both.

Danger Zone

Defective equipment is a problem with which rail workers are also all too familiar. A 1995 surprise inspection of a Union Pacific rail yard in Fort Worth, Texas, found that 37 percent of the rail cars there were faulty—over a third of them with brake problems. And according to Union Pacific itself, 12 percent of the 8,000 plus chemical tank cars it inspected last year turned up "exceptions" like poor positioning of the tops on the cars, or mislabeling of their contents. That wasn't news to rail employees; they say it's not uncommon to work on a train with up to eight "sleeper cars" whose contents, hazardous or otherwise, are unknown to them.

This is no minor inconvenience. Different hazardous materials pose different risks and, in the event of an accident, it's essential for emergency responders to know what they're dealing with. For instance, if an unsuspecting fireman unleashed a fire hose on an accident involving metarn sodium, rather than dousing any flames, there's a good chance the water would react with the chemical to form a nasty mustard gas-like compound. Similarly, if an emergency crew allowed a small amount of water to drip over a spill of hydrogen peroxide, the heat generated by the subsequent chemical reaction could cause nearby fuel to erupt into a major inferno.

Just as frightening as the trains themselves are the tracks on which they travel. About 85 percent of rail transport occurs over "dark" areas where there is no automated signaling. Instead, engineers must rely on dispatchers to talk them through their journey. Yet, as the FRA recently "discovered," dispatchers are often unfamiliar with the tracks through which they are expected to guide a train—in many cases they haven't even traveled the route once. So perhaps it's not surprising that a June FRA inspection of Union Pacific found that 80 percent of dispatcher orders contained at least one error.

And even when there are signals along the track, they are not necessarily configured to maximize safety. In a 1993 overhaul of a stretch of railroad whose users include a Maryland commuter service line, the railroad's owner, CSX, did away with a large number of warning signals along the track. Under the new system, vellow "slow down" signals indicating that a red "stop" signal is soon too follow are now placed before some train stations even if the "stop" sign they are referring to lies way beyond the station. So engineers driving trains that make station stops must somehow remember to pull out of the station at a slow speed; the intermediate signals that would have reminded them about the abrupt stop signal coming up after the station are no longer there. It's hard to conceive of a more accident-prone system. Yet neither CSX nor the FRA so much as paused to consider

the safety implications before installing it.

Three years after CSX put in the new system, the inevitable occurred. On a snowy night in February of 1996, the engineer of a Maryland commuter train forgot (or didn't notice) the yellow signal before the Kensington, Md., station and pulled out of the station at 60 miles an hour. By the time he saw the stop sign and slammed on the brakes it was too late. Moments later he smashed into the fuel tank of an oncoming Amtrak. Eleven people were killed in the crash and subsequent conflagration. Still, despite instituting some other safety changes, CSX has kept the risky signal system in place.

A Free Ride

But how does the industry get away with it? Where are all those government regulators conservatives are so fond of disparaging? Turns out they're not nearly as meddlesome as the GOP would have you think. A July study by the General Accounting Office (GAO)—which monitors federal agencies for Congress—found that in just one year, the number of safety inspections conducted by the FRA decreased by 23 percent. And between 1992 and 1995 the percentage of railroads inspected for hazardous materials safety by the FRA fell from 34 percent to 21 percent.

That's hardly surprising considering how depleted the FRA's forces are. "You've got 380 inspectors for over 1 million cars and 300,000 miles of track," notes the United Transportation Union's Brunkenhoefer. Compare that with the Federal Aviation Administration's 3,028 inspectors—132 for hazardous materials alone—and it's tough not to agree with Brunkenhoefer that "the FRA is stretched too thin." Last year, Representative James Oberstar, the ranking minority member of the House Transportation Committee, introduced a bill that would have doubled the number of inspectors. But the Republican leadership didn't even allow a hearing on it.

Oberstar plans to reintroduce his bill this fall. But he's unlikely to get much thanks from the FRA. The agency has long been criticized for failing to stand up to the railroads, but the current climate in Washington has the FRA positively cowed. Discussing the FRA's role with agency officials is an almost eerie experience—the party line they spout couldn't be more anti-regulatory if it had been drafted by Newt Gingrich: The lack of inspectors? "Not an issue," FRA spokesman Jim Gower hastens to assure, "We've streamlined and are able to do more with less." How? "By making use of the inspectors the rullroads employ." The GAO is underwhelmed by the FRA's new approach. In its July report, the GAO expressed concern that the FRA leaves almost all oversight of bridge safety in the hands of railroad companies.

But the FRA maintains there's no cause for alarm; it's all part of a new "cooperative" way of doing business that began under the Clinton administration. The idea is to more away from using violations and civil penalties as the primary means of obtaining compliance with the regulations. Instead, the agency relies on "partnerships" with the railroad companies. If you're wondering what that means, take a look at the way the FRA has responded to the results of its-admittedly laudable-massive investigation of Union Pacific. You might expect that the agency's discovery that rail employees are being dangerously overworked would prompt it to change the rules governing their schedule. How retro! "New regulations are not the answer," the FRA's Gower patiently explains. Instead, the FRA will simply ask Union Pacific to mend its ways: "After all, it's in their own interest." Union Pacific officials agree - pointing out that they're hiring an additional 2,600 employees this year. But just how much relief will those new hires be able to provide for the company's exhausted 54,000-strong work force? Officials like Barry Sweedler at the National Transportation Safety Board (NTSB)—the independent agency responsible for investigating accidents and making recommendations to transportation regulatorsthink the FRA is being naive. "What you have today is an industry that's willing to accept a certain number of collisions every year," observes Sweedler.

To be sure, over the years the FRA has introduced some important technical requirements that have made rail transport safer. For instance, it recently decreed that all train cars must be linked with special couplers to help prevent them from separating during derailments. For added protection, tanks carrying hazmats are required to be fitted with steel head shields, coated in thermal insulation, and equipped with special devices to keep their bottom outlets from being sheared off in the event of an accident. Unfortunately, the railroads don't have to fully comply with all these new regs until 2006.

Even many of the FRA-mandated innovations that are actually in use were required by the FRA only after fatal foot-dragging. That was the case with a backup braking system called a "two-way end-of-train device" that allows an engineer to use a radio signal to apply brakes from the back of his train if his I comotive brakes fail. The FRA did not mandate use of the devices on all trains traveling through mountainous terrain until February of 1996 - seven years after the NTSB first recommended them, and only after a runaway train had derailed at the bottom of the steep Cajon Pass in Califormia not once, but raise Similarly, while the FRA has fafter over a decade of urging by the NTB) finally conceded the considerable potential of using satellite-based

proximity warning systems to alert engineers, and even apply the brakes, when one train is speeding or about to collide with another, the agency is now merely helping the rail companies run pilot projects - rather than insisting that they install it on a timetable.

And there are still plenty of cheap and life-saving innovations out there that the FRA continues to ignore. Take the laser systems that could be used to alert trains when the track over vulnerable areas like bridges has been misaligned. Such misalignments have been the cause of some of the most hornific accidents in recent memory-like the 1993 Alabama derailment in which 47 people perished. Yet though cheap models of this system have been put forward, the FRA has no plans to require them. Heck, they still don't even mandate that engine cabins be equipped with radios!

The Department of Transportation's record on hazmat trucking is just as deplorable. As you may have gathered from the case of dump truck driver Willis Curry, enforcement of the law by the Department's Federal Highway Administration is laughable. A March study by the Department's Inspector General-a sort of inhouse independent watchdog-found that in 1995, only 25 percent of trucking companies were reviewed by the Federal Highway Administration (FHWA) to see if they complied with safety rules. What's more, about twothirds of the nation's interstate carriers have never been rated for safety. Most alarming, the Inspector General determined that 22 percent of trucking companies with high rates of on-the-road violations and accidents had never been rated for safety, and 42 percent had not been rated in the past two years.

What's going on? Part of the problem is that the 529 federal and state inspectors available to the FHWA are simply incapable of covering all 345,000 interstate trucking companies. But the Inspector General also found that FHWA inspectors were spending far too much time on less urgent activities like educational outreach. Furthermore, while the Department of Transportation does maintain a national database of driver and vehicle violations that it uses to identify high-risk targets for inspection, the criteria for determining who is high-risk puts too much weight on factors like how many passengers a vehicle carries, instead of how many times it has been pulled off the road for being unsafe. To make matters worse, violations of state and local traffic laws are often never entered into the database. Why? Because states are not actually required by the FHWA to transmit the information. Of course, states are required to pass on the results of federally-funded safety compliance reviews and random roadside inspections, but they usually fail to do so quickly. Even when they do, the FHWA

takes its own sweet time -often waiting for over a year before entering the data into the system.

When the FHWA bothers to conduct inspections, it tends to favor the velvet-fist-in-the-velvet glove approach. According to the Inspector General, FHWA inspectors consistently underreport violations, and lowball fines. For instance, the penalties for 81 carriers surveyed did not include over half of the major violations found during their inspection. But the FHWA had a ready explanation for this dismal performance 'we're a regulatory agency, not an enforcement agency."

The trucking companies clearly share that impression. To get a sense of how little they fear the FHWA, you need only consider that in the Inspector General's survey, over a third of the companies deemed unsatisfactory by FHWA inspectors had to be inspected and scolded two more times before they deaned up their act. Moreover - and this is the clincher - most of these delinquent companies were allowed to keep their trucks on the road even while they continued to fail one inspection after another. To cite just one example, a Missouri hazardous materials carrier continued to operate without interruption despite the fact that it had failed two general inspections-and despite the fact that one out of every two of its trucks had to be pulled out of service when stopped for random inspections along the road. It's enough to drive longtime highway safety advocate Gerald Donaldson to distraction. "Words fail me on the extent of the FHWA's ineptness," he lighs.

Officials at the National Transportation Safety Board are just as infuriated. Apart from imploring the FHWA to enforce existing regulations, the board continues to urge the agency, and the Department of Transportation in general, to come up with better rules: like getting trucking companies to pay employees by the hour, lowering the maximum number of allowable consecutive driving hours, and introducing simple monitoring devices on trucks to ensure that the law is followed. Yet not only has the FHWA turned a deaf ear to these suggestions, the agency is actually contemplating the trucking industry's request to raise the limit on hours.

Among the other possible improvements that could make hazardous materials trucks safer that the Department of Transportation has chosen to ignore anti-lock brakes, a better internal compartment system to prevent the liquid in tankers from violently sloshing around and causing the truck to roll over, technology to keep the top and bottom ports of tankers from springing a leak when such rollovers do occur, and steel head shields like those used to such great effect on train tank cars. Many of these changes have long been advocated by the NTSB based on its investigation of senous accidents. But, once

again, the Department of Transportation simply buries its head in the sand.

Regulation Redeemed

If your blood pressure is rising at the thought of all this incompetence, just think of how the NTSB's Barry Sweedler must feel after 27 years of observing it. Sweedler gets a slight catch in his voice as he describes the downside of his job: "When we respond to a tragedy where people have lost their lives, and we invest a lot of time trying to figure out what needs to be done to see that it doesn't happen again, and then we make our recommendation, and nothing happens, and then we see the same accident happen over again-and over, and over again. That's what frustrates me the most."

However frustration is not going to save us from the ever-increasing volume of hazardous materials flowing through our communities. It's time to re-think the conventional wisdom that regulation is a bad word. In recent years, conservatives have largely succeeded in convincing us that regulators are our number one enemy, strangling businesses with yards of expensive and impractical red tape. And the conservative cause has actually been helped by many liberals - who are quick to defend whatever regulation exists, without bothering to clack how well it's working. Meanwhile, the Department of Transportation has all too readily absorbed the mood in Washington, speaking proudly of its new "partnership" with trucking and rail companies, as if having good relations with those industries were the primary goal. It's not. The government's duty is to protect the publicand it is falling seriously short.

Of course, it's not hard to understand why the regulators have lost sight of their mission: Like most of us, they don't enjoy hearing complaints from the people they work with, and no one howls louder than the industries being regulated. But both the government and the public need to start greeting those protests with a hefty grain of salt. From the dangerous overworking of employees, to the appalling condition of their vehicles, to the lack of inspections and penalties for safety violations, to the failure to install new life-saving technologies, the troubles plaguing the transport of hazardous materials by train and truck provide a dramatic illustration of how the real problem can be not too much government regulation, but far too little. If you think this lesson only applies to trucks and trains, just consider what smarter and tougher regulation could have done for the folks aboard Valulet flight 592. And by the way, how do you feel about that hamburger in your freezer?

Research assistance provided by Samuel Seidel.

Attachment C



Testimony

Before the Subcommittee on Railroads, Committee on Transportation and Infrastructure, House of Representatives

Hearing held on March 5, 1996 Statement Submitted on April 1, 1996

RAILROAD SAFETY

DOT Faces Challenges in Improving Grade Crossing Safety, Track Inspection Standards, and Passenger Car Safety

Statement for the Record by Phyllis F. Scheinberg, Associate Director, Transportation and Telecommunications Issues, Resources, Community, and Economic Development Division



Madam Chairman and Members of the Subcommittee:

We appreciate the opportunity to provide this statement for the record on several issues affecting safety on the nation's rail lines. Recent rail accidents at Cajon Pass, California, Silver Spring, Maryland; and Weyauwega, Wisconsin, have heightened concern about the safety of passenger and freight lines in the United States. Since 1987, GAO has issued many reports describing safety problems on the nation's rail lines. This statement is based on recent GAO reviews of safety at highway railroad crossings, the adequacy of track safety inspections and enforcement, and the safety of passenger cars operated by commuter railroads and Amtrak. In summary, we found the following:

• Accidents at railroad crossings are the leading cause of deaths associated with the railroad industry; almost half of all rail-related deaths in the United States are caused by collisions of trains and vehicles at public railroad crossings. In 1994, these collisions killed 501 people and injured 1.764 others. Strategies to improve safety at railroad crossings include targeting funds to high-risk areas through revisions in the Department of Transportation's (DOT) formula for distributing railroad improvement funds to the states; closing more railroad crossings; installing new technologies, such as four-quadrant gates, at the most dangerous crossings; and developing education and enforcement programs that increase the public's awareness of the dangers of railroad crossings. Although DOT has an action plan incorporating these strategies, the plan will be costly to implement and will require DOT to seek congressional approval to implement key proposals.

• The Federal Railroad Administration (FRA) has developed an overall strategy for inspecting and enforcing track safety standards. As we recommended in our 1994 report, to further strengthen the rail safety program, FRA needs to include site-specific data on volumes of passenger and hazardous materials traffic in its inspection plan and improve the reliability of its accident and injury data. Information on the numbers of passengers and amounts of hazardous materials transported is important, since train routes carrying these types of traffic must be adequately maintained to prevent accidents that will injure passengers or expose populated areas to chemical risks. Accurate and complete information on the numbers of accidents and injuries is equally important in identifying high-risk routes. However, FRA's database, derived from the industry's reports to FRA, is inaccurate and incomplete. Without reliable information.

Radroad Safety Continued Emphasis Needed for an Effective Track Safety Inspection Program, GAO RCED 34-56 Apr. 22 1994)

on passenger and hazardous materials traffic, accidents, and injuries, FRA and its inspectors do not have the means to direct inspectors to the routes that have the highest potential for accidents.

• Although Amtrak and commuter railroads transport over 20 and 330 million passengers, respectively, each year, FRA has established few regulations concerning passenger car safety. FRA does not have minimum safety standards for mechanical components on passenger cars, as it does for freight cars and locomotives. In 1984, FRA informed the Congress that it planned to study the need for standards governing the condition of safety-critical passenger car components. The Congress subsequently directed FRA, in the Swift Rail Development Act of 1994, to complete rulemaking governing passenger car safety by 1999.

Improving Railroad Crossing Safety

On October 25, 1995, Americans were reminded of the dangers that drivers/passengers often face when they travel over railroad crossings in the United States. On that day, in Fox River Grove, Illinois, seven high school students were killed when a commuter train hit a school bus.

The potential for tragedies like the one at Fox River Grove is significant—the United States has over 168,000 public highway-railroad intersections. The types of warning for motorists at these crossings range from no visible devices to active devices, such as lights and gates. About 60 per cent of all public crossings in the United States have only passive warning devices—typically, highway signs known as crossbucks. In 1994, this exposure resulted in motor vehicle accidents at crossings that killed 501 people and injured 1,764 others. Many of these deaths should have been avoided, since nearly one-half occurred at crossings where flashing lights and descended gates had warned motorists of the approaching danger.

In August 1995, we issued a comprehensive report on safety at railroad crossings. We reported that the federal investment in improving railroad crossing safety had noticeably reduced the number of deaths and injuries. Since the Rail-Highway Crossing Program—also known as the section 130 program—was established in 1974, the federal government has distributed about \$5.5 billion (in 1996 constant dollars) to the states for railroad crossing improvements. This two-decade investment, combined with a reduction in the total number of crossings since 1974, has significantly lowered the accident and fatality rates—by 61 percent and 34 percent.

Railroad Safety: Starts of Efforts to Improve Railroad Crossing Safety (GAO/RCED-95-191, Aug. 3, 265)

respectively. However, most of this progress occurred during the first decade, and since 1985, the number of deaths has fluctuated between 466 and 682 each year (see app. 1). Since 1977, the federal funding for railroad crossing improvements has also declined in real terms. Consequently, the question for future railroad crossing safety initiatives will be how best to target available resources to the most cost-effective approaches.

Our report discussed several strategies for targeting limited resources to address railroad crossing safety problems. The first strategy is to review DOT's current method of apportioning section 130 funds to the states. Our analysis of the 1995 section 130 apportionments found anomalies among the states in terms of how much funding they received in proportion to three key risk factors: accidents, fatalities, and total crossings. For example, California received 6.9 percent of the section 130 funds in 1995, but it had only 4.8 percent of the nation's railroad crossings, 5.3 percent of the fatalities, and 3.9 percent of the accidents. Senators Lugar and Coats have proposed legislation to change the formula for allocating section 130 funds by linking the amounts of funding directly to the numbers of railroad crossings, fatalities, and accidents. Currently, section 130 funds are apportioned to each state as a 10-percent set-aside of its Surface Transportation Program funds.

The second means of targeting railroad crossing safety resources is to focus the available dollars on the strategies that have proved most effective in preventing accidents. These strategies include closing more crossings, using innovative technologies at dangerous crossings, and emphasizing education and enforcement. Clearly, the most effective way to improve railroad crossing safety is to close more crossings. The Secretary of Transportation has restated FRA's goal of closing 25 percent of the nation's railroad crossings, since many are unnecessary or redundant. For example, in 1994, the American Association of State Highway and Transportation Officials found that the nation had two railroad crossings for every mile of track and that in heavily congested areas, the average approached 10 crossings for every mile. However, local opposition and localities' unwillingness to provide a required 10-percent match in funds have made it difficult for the states to close as many crossings as they would like. When closing is not possible, the next alternative is to install traditional lights and gates. However, lights and gates provide only a warning, not positive protection at a crossing. Hence, new technologies such as four-quadrant gates with vehicle detectors, although costing about \$1 million per crossing, may be justified when

accidents, ersist at signalled crossings. The Congress has funded research to develop innovative technologies for improving railroad crossing safety.

Although installing lights and gates can help to prevent accidents and fatalities, it will not preclude motorists from disregarding warning signals and driving around descended gates. Many states, particularly those with many railroad crossings, face a dilemma. While 35 percent of the railroad crossings in the United States have active warning devices, 50 percent of all crossing fatalities occurred at these locations. To modify drivers' behavior, DOT and the states are developing education and enforcement strategies. For example, Ohio—a state with an active education and enforcement program—cut the number of accidents at crossings with active warning devices from 377 in 1978 to 93 in 1993—a 75-percent reduction. Ohio has used mock train crashes as educational tools and has aggressively issued tickets to motorists going around descended crossing gates. In addition, DOT has inaugurated a safety campaign entitled "Always Expect a Train," while Operation Lifesaver, Inc., provides support and referral services for state safety programs.³

DOT's educational initiatives are part of a larger plan to improve railroad crossing safety. In June 1994, DOT issued a Grade Crossing Action Plan. and in October 1995, it established a Grade Crossing Safety Task Force. The action plan set a national goal of reducing the number of accidents and fatalities by 50 percent from 1994 to 2004. As we noted in our report, whether DOT attains the plan's goal will depend, in large part, on how well it coordinates the efforts of the states and railroads, whose contributions to implementing many of the proposals are critical. DOT does not have the authority to direct the states to implement many of the plan's proposals, regardless of how important they are to achieving DOT's goal. Therefore, DOT must rely on either persuading the states that implementation is in their best interests or providing them with incentives for implementation. In addition, the success of five of the plan's proposals depends on whether DOT can obtain the required congressional approval to use existing funds in ways that are not allowable under current law. The five proposals would (1) change the method used to apportion section 130 funds to the states. (2) use Surface Transportation Program funds to pay local governments a bonus to close crossings, (3) eliminate the requirement for localities to match a portion of the costs associated with closing crossings.

(4) establish a \$15 million program to encourage the states to improve rail

Operation Lifesaver is a private, not-for profit organization supported by federal and railroad funds and dedicated to improving safety through education and improved law enforcement. Operation Lifesaver programs are currently operated in 43 states.

corridors, and (5) use Surface Transportation Program funds to increase federal funding for Operation Lifesaver.

Finally, the action plan's preposals will cost more money. Secretary Pena has announced a long-term goal of eliminating 2,250 crossings where the National Highway System intersects Principal Rail Lines. Both systems are vital to the nation's interstate commerce, and closing these crossings is generally not feasible. The alternative is to construct a grade separation—an overpass or underpass. This initiative alone could cost between \$4.5 billion and \$11.3 billion—a major infrastructure investment.

DOT established the Grade Crossing Safety Task Force in the aftermath of the Fox River Grove accident, intending to conduct a comprehensive national review of highway-railroad crossing design and construction measures. On March 1, 1996, the task force reported to the Secretary that "improved highway-rail grade crossing safety depends upon better cooperation, communication, and education among responsible parties if accidents and fatalities are to be reduced significantly." The report provided 24 proposals for five problem areas it reviewed: (1) highway traffic signals that are supposed to be triggered by oncoming trains. (2) roadways where insufficient space is allotted for vehicles to stop between a road intersection and nearby railroad tracks; (3) junctions where railroad tracks are elevated above the surface of the roadway, exposing vehicles to the risk of getting hung on the tracks; (4) light rail transit crossings without standards for their design, warning devices, or traffic control measures; and (5) intersections where slowly moving vehicles, such as farm equipment, frequently cross the tracks.

Improving Track Safety

Under the Federal Railroad Safety Act of 1970, as amended, FRA is responsible for regulating all aspects of railroad safety. FRA's safety mission includes 1) establishing federal rail safety rules and standards; 2) inspecting railroads' track, signals, equipment, and operating, ractices; and 3) enforcing federal safety rules and standards. The railroads are primarily responsible for inspecting their own equipment and facilities to ensure compliance with federal safety regulations, while FRA monitors the railroads' actions.

We have issued many reports identifying weaknesses in FRA's railroad safety inspection and enforcement programs. For example, in July 1990, we reported on FRA's progress in meeting the requirements, set forth in the Federal Railroad Safety Authorization Act of 1980, that FRA submit to

the Congress a system safety plan to carry out railroad safety laws. The act directed FRA to (1) develop an inspection methodology that considered carriers' safety records, the location of population centers, and the volume and type of traffic using the track and (2) give priority to inspections of track and equipment used to transport passengers and hazardous materials. The House report accompanying the 1980 act stated that FRA should target safety inspections to high-risk track-track with a high incidence of accidents and injuries, located in populous urban areas. carrying passengers, or transporting hazardous materials. In our 1990 report, we found that the inspection plan that FRA had developed did not include data on passenger and hazardous materials routes-two important risk factors. In an earlier report, issued in April 1989, we noted problems with another risk factor-accidents and injuries.3 We found that the railroads had substantially underreported and inaccurately reported the number of accidents and injuries and their associated costs. As a result, FRA could not integrate inspection, accident, and injury data in its inspection plan to target high-risk locations.

In our 1994 report on FRA's track safety inspection program, we found that FRA had improved its track inspection program and that its strategy for correcting the weaknesses we had previously identified was sound. However, we pointed out that FRA still faced challenges stemming from these weaknesses. First, it had not obtained and incorporated into its inspection plan site-specific data on two critical risk factors—the volume of passenger and hazardous materials traffic. Second, it had not improved the retiability of another critical risk factor—the rail carriers' reporting of accidents and injuries nationwide. FRA published a notice of proposed rulemaking in August 1994 on methods to improve rail carriers' reporting. In February 1996, FRA reported that it intended to issue a final rule in June 1996.

To overcome these problems, we recommended that FRA focus on improving and gathering reliable data to establish rail safety goals. We specifically recommended that FRA establish a pilot program in one FRA region to gather data on the volume of passenger and hazardous materials traffic and correct the deficiencies in its accident/injury database. We recommended a pilot program in one FRA region, rather than a nationwide program, because FRA had expressed concern that a nationwide program would be too expensive. The House and Senate Appropriations

Railroad Safety New Approach Needed for Effective FRA Safety Inspection Program GAO RCED-30-194, July 31, 1980).

Rulroad Safety FRA Needs to Correct Deficiencies in Reporting Injuries and Accidents GAO RCED-84109, Apr. 5, 1989).

Conference Committee echoed our concerns in its fiscal year 1995 report and directed the agency to report to the Committees by March 1995 on how it intended to implement our recommendations. In its August 1995 response to the Committees, FRA indicated that the pilot program was not necessary, but it was taking actions to correct the deficiencies in the railroad accident/injury database. For example, FRA had allowed the railroads to update the database using magnetic media and audited the reporting procedures of all the large railroads.

We also identified in our 1994 report an emerging traffic safety problem—the industry's excessive labeling of track as exempt from federal safety standards. Since 1982, federal track safety standards have not applied to about 12,000 miles of track designated by the industry as "excepted;" travel on such track is limited to 10 miles per hour, no passenger service is allowed, and no train may carry more than five cars containing hazardous materials. We found in our 1994 report that the number of accidents on excepted track had increased from 22 in 1988 to 65 in 1992—a 195-percent increase. Similarly, the number of track defects cited in FRA inspections increased from 3,229 in 1988 to 6,057 in 1992. However, with few exceptions. FRA cannot compel railroads to correct these defects. According to FRA, the railroads have applied the excepted track provision far more extensively than envisioned. For example, railroads have transported hazardous materials through residential areas on excepted track or intentionally designated track as excepted to avoid having to comply with minimum safety regulations. In November 1992, FRA announced a review of the excepted track provision with the intent of making changes. FRA viewed the regulations as inadequate because its inspectors could not write violations for excepted track and railroads were not required to correct defects on excepted track.

FRA stated that changes to the excepted track provision would occur as part of its rulemaking revising all track safety standards. In February 1996, FRA reported that the task of revising track safety regulations would be taken up by FRA's Railroad Safety Advisory Committee. FRA noted that this committee would begin its work in April 1996 but did not specify a date for completing the final rulemaking. The Congress had originally directed FRA to complete its rulemaking revising track safety standards by September 1994.

Improving Passenger Car Safety In September 1993, we issued a report examining whether Amtrak had effective procedures for inspecting, repairing, and maintaining its

passenger cars to ensure their safe operation and whether FRA had provided adequate oversight to ensure the safety of passenger cars. We found that Amtrak had not consistently implemented its inspection and preventive maintenance programs and did not have clear criteria for determining when a passenger car should be removed from service for safety reasons. In addition, we found that Amtrak had disregarded some standards when parts were not available or there was insufficient time for repairs. For example, we observed that cars were routinely released for service without emergency equipment, such as fire extinguishers. As we recommended, Amtrak established a safety standard that identified a minimum threshold below which a passenger car may not be operated, and it implemented procedures to ensure that a car will not be operated unless it meets this safety standard.

In reviewing FRA's oversight of passenger car safety (for both Amtrak and commuter rail), we found that FRA had established few applicable regulations. As a result, its inspectors provided little oversight in this important safety area. For more than 20 years, the National Transportation Safety Board has recommended on numerous occasions that FRA expand its regulations for passenger cars, but FRA has not done so. As far back as 1984, FRA told the Congress that it planned to study the need for standards governing the condition of safety-critical passenger car components.

Between 1990 and 1994, train accidents on passenger rail lines ranged between 127 and 179 accidents each year (see app. 2). In our 1993 report, we maintained that FRA's approach to overseeing passenger car safety was not adequate to ensure the safety of the over 330 million passengers who ride commuter railroads annually. We recommended that the Secretary of Transportation direct the FRA Administrator to study the need for establishing minimum criteria for the condition of safety-critical components on passenger cars. We noted that the Secretary should direct the FRA Administrator to establish any regulations for passenger car components that the study shows to be advisable, taking into account any internal safety standards developed by Amtrak or others that pertain to passenger car components. However, FRA officials told us at the time that the agency could not initiate the study because of limited resources.

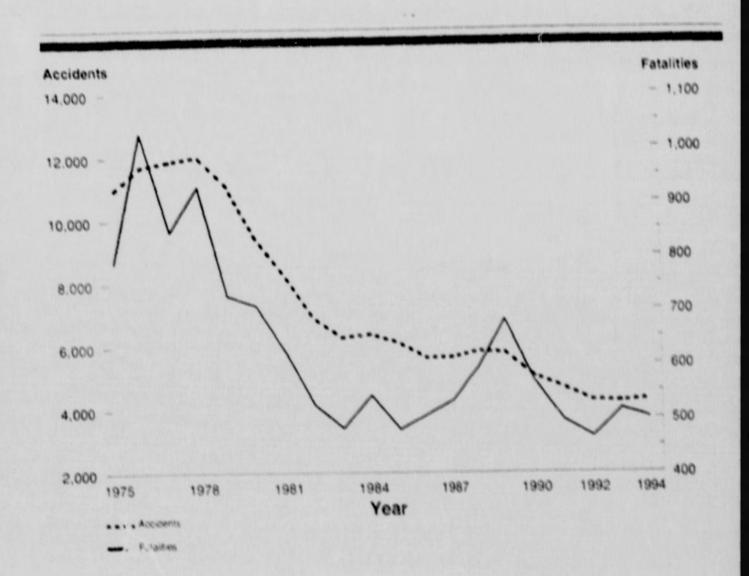
Subsequently, the Swift Rail Development Act of 1994 required FRA to issue initial passenger safety standards within 3 years of the act's

^{*}Amtrak Safety: Amtrak Should Implement Minimum Safety Standards for Passenger Cars (GAO/RCED-83-136) Sept. 22 (308)

enactment and complete standards within 5 years. In 1995, FRA referred the issue to its Passenger Equipment Safety Working Group consisting of representatives from passenger railroads, operating employee organizations, mechanical employee organizations, and rail passengers. The working group held its first meeting in June 1995. An advance notice of proposed rulemaking is expected in early 1996, and final regulations are to be issued in November 1999. Given the recent rail accidents, FRA could consider developing standards for such safety critical components as emergency windows and doors and safety belts as well as the overall crashworthiness of passenger cars.

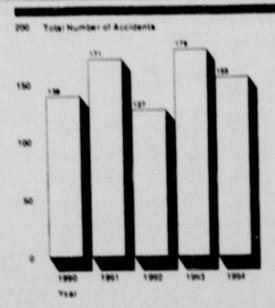
In conclusion, safety at highway-railroad crossings, the adequacy of track safety inspections and enforcement, and the safety of passenger cars operated by commuter railroads and Amtrak will remain important issues for Congress, FRA, the states, and the industry to address as the nation continues its efforts to prevent rail-related accidents and fatalities.

Accidents and Fatalities at Public Railroad Crossings 1975-94



Source GAO's analysis of disa from FRA

Passenger Rail Accidents 1990-94



Note 1: Analysis includes data from Amirak, Long Island Rail Road, Metra (Chicago), Metro-North (New York), Metrolink (Los Angeles), New Jersey Transit, Northern Indiana, Port Authority
Transi-mudson (New York), Southeastern Pennsylvania Transportation Authority and Tri-Rail
(Forda)

Note 2: Data for Amtrax include statistics from several commuter railroads, including Califran (California), Conn DOT, Manyland Area Rail Commuter (excluding those operated by CSX), Massachusetts Bay Transportation Authority, and Virginia Railway Express.

Source GAO's analysis of data from FRA

Related GAO Products

Railroad Safety: FRA Needs to Correct Deficiencies in Reporting Injuries and Accidents (GAO RCED-80-100, Apr. 5, 1989).

Railroad Safety: DOT Should Better Manage Its Hazardous Materials Inspection Program (GNORCED 30-43, Nov. 17, 1989).

Railroad Safety: More FRA Oversight Needed to Ensure Rail Safety in Region 2 (GNORCED 20:140, Apr. 27, 1990).

Railroad Safety: New Approach Needed for Effective FRA Safety Inspection Program (GAORCED 20-194, July 31, 1990).

Financial Management: Internal Control Weaknesses in FRA's Civil Penalty Program (GAO-RCED 91-47, Dec. 26, 1990).

Railroad Safety: Weaknesses Exist in FRA's Enforcement Program (GAORCED 91.72, Mar 22, 1991).

Railroad Safety: Weaknesses in FRA's Safety Program (GAO/T RCED-91-32, Apr. 11, 1991).

Hazardous Materials: Chemical Spill in the Sacramento River (GAOT-RCED-91-87, July 31, 1991).

Railroad Competitiveness: Federal Laws and Policies Affect Railroad Competitiveness (GAONCED-92-16, Nov. 5, 1991)

Railroad Safety: Accident Trends and FRA Safety Programs (GAO7-RCED 92-23, Jan. 13, 1992).

Railroad Safety: Engineer Work Shift Length and Schedule Variability (GAONCED-92-133, Apr. 20, 1992).

Amtrak Training. Improvements Needed for Employees Who Inspect and Maintain Rail Equipment (GAO NCED 30-68, Dec. 8, 1992).

Amtrak Safety: Amtrak Should Implement Minimum Safety Standards for Passenger Cars (GAO NCED 33-196, Sep. 22, 1993).

Railroad Safety: Continued Emphasis Needed for an Effective Track Safety Inspection Program (GNORCED 34 Sc. Apr 22, 1994).

Related GAO Products

Amtrak's Northeast Corridor: Information on the Status and Cost of Needed Improvements (GAORCED-95-151BR, Apr. 13, 1995).

Railroad Safety: Status of Efforts to Improve Railroad Crossing Safety (GAO-RCED-95-191, Aug. 3, 1995).

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Attachment D



US Department of Transportation

16:05

Federal Railroad
Administration

Administrator

400 Seventh St., S.W. Washington, D.C. 20590

JAN 2 1 1998

The Honorable Dennis J. Kucinich U.S. House of Representatives Washington, D.C. 20515

Dear Congressman Kucinich:

Thank you for your letters on behalf of one of your constituents concerning radioactive materials being shipped on Consolidated Rail Corporation (Conrail) trains near his home on Preston Avenue in Cleveland, Ohio. Your office asked us to identify the radioactive material (including radioactivity), the origin and destination of the shipments, the number of times this material was shipped over the Conrail line through Ohio's 10th District, the amount of radioactive materials transported, and the number of railcars utilized during these shipments.

Our investigation disclosed that the material is under the name "radioactive material, low specific activity, n.o.s." Low specific activity means that the material has very low levels of radioactivity. The actual level of radioactivity for these shipments is 1.85 times 10 to the ninth power Becquerels. This level of radioactivity is generally emitted from natural ore materials which are mined from the earth. According to the shipper's material fact sheet, these shipments pose no risk to persons handling or transporting the packagings, or the general public.

These shipments originate in Boyertown, Pennsylvania and are transported by highway to Scranton, Pennsylvania. From Scranton, the shipments are transported by rail to Cisco, Utah and then by highway to the final destination in Blanding, Utah.

About 40,000 pounds of radioactive material is placed in each intermodal box. Anywhere from two to ten intermodal boxes are loaded on individual railcars. From October 1997 until January 16, 1998, 824 shipments (i.e., intermodal boxes) were transported on approximately 200 railcars that passed through Cleveland, Ohio. The shipper informs us that the final shipments are expected to leave Boyertown on January 30.

I appreciate your interest in railroad safety and look forward to working with you on other transportation issues of importance to you and your constituents.

400 LOUS

*

Goleve M. Molitorie

Jolene M. Molitoris

Administrator

Attachment E

Nuclear Information and Resource Service

(202)328-0002 fax (202)462-2183

1424 16th St NW Suite 601, Washington, DC 20036

Questions and Answers: High-Level Nuclear Waste Shipments

What is in a high-level nuclear waste cask?

Irradiated fuel from commercial nuclear utility operation of nuclear power reactors. Three years inside the reactor core makes the fuel over a million times more radioactive than unused fuel. The total—the Department of Energy projects 85,000 metric tonnes by the time the existing reactors close—contains 95% of all of the radioactivity of the projects Age. The shipping program and the Bills in Congress that would authorize it, will transfer the liability for Nuclear Age. The shipping program and the Bills in Congress that would authorize it, will transfer the liability for this waste from the nuclear utilities to the US taxpayer. It will take thirty years, or more, of continuous shipping to move the fuel from reactor sites to Nevada. The first year and each year after, more irradiated fuel will move than all the shipments of this material to date. Today, only about 35% of the projected 85,000 metric tonnes has been generated.

How dangerous is this stuff?

Unshielded, irradiated reactor fuel that has been stored for 10 years will deliver a lethal dose to anyone within a meter in less than three minutes. Radiation, even lethal levels, cannot be detected by human senses. Splitting uranium atoms releases heat that is used to make electricity, it also increases radioactivity. The broken pieces of uranium atoms are lighter elements called fission products. These include strontium-90, cobalt-60 and cesium-137, all sources of intensely penetrating radiation. Cesium is chemically similar to potassium. If released to the environment, it concentrates in the muscle and gonads in the body, as well as in cow's and mother's milk. Cesium can be concentrated by the food chain. Humans, being at the top of the food chain, may receive an ingested dose of cesium thousands of times higher than the concentration in the immediate environment. The intense gamma radiation of fission products is an immediate danger to those exposed in an accident. A large rail cask holds as much cesium as would be released by 200 Hiroshima bombs. The total shipping program will move almost 2 million times more cesium than was released at Hiroshima. Cesium is just a fraction of the radioactivity in the shipping casks and in the bomb that destroyed Hiroshima August 6, 1945.

What about long term impacts?

Each cask contains radioactive elements like plutonium that will persist if released to the environment for hundreds of thousands of years. An average rail cask will carry about 174 pounds of plutonium. A total of almost 2 million pounds of plutonium will be mobilized on the roads and rails nationally. Plutonium is well-known as a carcinogen. For reference, a single pound of plutonium could cause cancer in every person alive today, if it were divided and deposited in the lung tissue. If instead, all 2 million pounds of plutonium were released to the environment, (lowering the dose), there would be at least 1,500,000 fatal cancers from plutonium 239 alone. There would also be many non-fatal cancers as well as a bost of non-cancer effects, genetic effects, sterility and other human suffering. Other species would also be affected. The total plutonium 239 in the shipping campaign is 128 times more than the total released to the environment by below-ground weapons tests, worldwide.

Is there radiation risk, even if there is no accident in my community?

Yes. Federal regulation allows radiation to penetrate the shielding of the transport cask at a rate up to 10 millirems an bour measured 2 meters from the cask. This would be comparable to a chest x-ray for each bour that a worker or a member of the public was close to the cask. Traffic jams or stops for fueling are situations that count lead to repeated or ongoing radiation exposures for individuals living and working along transport routes. Cumulative repeated or ongoing radiation exposures for individuals living and working along transport routes. Cumulative low-dose radiation exposure impose a measurable impact in a population. Health studies have shown that this type of exposure causes more cancer per unit of dose than acute exposures in the higher dose range. If a person is exposed to millirems, once a year, the Nuclear Regulatory Commission assigns a 1 in 2850 chance of fatal cancer from that lifetime exposure.

What is "Multi-Purpose Canister Base Case?"

A scenario defined by the Department of Energy for projections about the shipping campaign. It assumes the use of the largest containers that are possible at each site (rail preferred over truck). The Multi-Purpose Canister (MPC) would seal huge amounts of waste—the large one holds 21,000 pounds—in a container at the reactor site. This canister would seal huge amounts of waste—the large one holds 21,000 pounds—in a container at the reactor site. This canister is then to be put in a transport overpack for shipping. The large rail MPC holds over 20 times the radioactive waste as the old truck casks. The MPC has not yet been built, tested or licensed. To date, no transport cask has had as the old truck casks. The MPC has not yet been built, tested or licensed. To date, no transport cask has had full-scale physical testing. The Department of Energy has instead relied on computer simulations. The scenario also assumes no new reactors. Current reactor operations are projected to end in 2030.

What about the Bottom Line-the Economic Factors?

Part of routine transport for this dangerous material is local preparedness. Local emergency responders will in nearly all cases be the first to assess an accident scene. The Nuclear Regulatory Commission (NRC) estimated in 1981 (NUREG/CR-2225) that the price tag for a fully prepared state emergency response system would cost \$5.6 million (NUREG/CR-2225). This does not include infrastructure improvements and main/enance that are likely annually (1981 dollars). This does not include infrastructure improvements and main/enance that are likely associated with state efforts to designate alternate routes. Congress is making no direct effort to ensure any level of funding will be available. Other economic impacts include cost of unrecovered health impacts, negative effects on business, tourism, property value and property marketability, and unclear liability for these effects.

NRC also made a 1980 estimate of the costs associated with an accident. Even a small fraction of the radioactivity in a single shipping cask were released in an urban area, the clean up costs would be on the order of \$2 billion dollars. "Clean up" means transferring the radioactivity somewhere else. Though it started as high-level waste, clean-up from contamination would currently be designated "low-level" waste. It is not clear who would pay for the clean-up or disposal from a high-level civilian waste transport accident. In most cases "clean-up" would scar the site or alternately, quite a bit of radioactivity may be left behind as a 'sacrifice zone.'

Factoids:

Total "Base Case" projected rail casks: 9,421; total truck casks: 6,217. 15,638 casks total.

If Congress lifts the cap on how much waste could go to an "interim storage site" and if instead of the "MPC Base-Case" scenario, only trucks are used, there would be over 60,000 shipments nationwide.

An average rail car carries 174 pounds of plutonium. A truck cask carries 38 pounds of plutonium.

The shipment of 85,000 MTU of high-level waste will also move 1,800,000 pounds of plutonium.

The plutonium 239 alone in these shipments could generate over 1,500,000 cancers if released. This amount of plutonium 239 is more than 120 times greater than the total released to date by below-ground nuclear weapons testing, worldwide.

The total of 85,000 metric tonnes that is to be shipped contains nearly 2 million times more cesium than the Hiroshima bomb.

10/17/95

return to Don't Waste America page

Attachment F

GAO

Report to Congressional Requesters

July 1997

RAIL TRANSPORTATION

Federal Railroad Administration's New Approach to Railroad Safety



GAO

United States General Accounting Office Washington, D.C. 20548

Resources, Community, and Economic Development Division

B-275984

July 23, 1997

The Honorable James L. Oberstar
Ranking Democratic Member
Committee on Transportation and
Infrastructure
The Honorable Robert E. Wise. Jr.
Ranking Democratic Member
Subcommittee on Railroads
Committee on Transportation and
Infrastructure
The Honorable Bruce F. Vento
House of Representatives

In response to your request, this report provides information on operational and safety trends in the railroad industry, and describes how the Federal Railroad Administration (FRA) has responded to these trends by developing a new partnering approach for improving safety on the nation's rail lines.

As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies of this report to interested congressional committees, the Secretary of Transportation, and the Administrator of FRA. We will also make copies available to others upon request.

If you or your staffs have any questions, I can be reached at (202) 512-2834. Major contributors to this report are listed in appendix V.

John H. Anderson, Jr.

Director, Transportation Issues

John H. anderson Sp.

Executive Summary

Purpose

In 1980, the Congress passed the Staggers Rail Act, which fostered substantial changes in the railroad industry. By 1995, fewer large freight railroads accounted for most of the industry's revenue and train miles. At the same time, these freight railroads substantially reduced their workforce and track networks. In response, the Congress and railroad labor have raised concerns that these changes in the industry could compromise safety.

The Ranking Democratic Member of the House Committee on Transportation and Infrastructure, the Ranking Democratic Member of that Committee's Subcommittee on Railroads, and Representative Bruce F Vento asked GAO to describe (1) relationships that existed between operational and safety trends in the railroad industry from 1976 to 1995 and (2) the Federal Railroad Administration's (FRA) approach to improving safety on the nation's rail system. GAO was not able to identify any direct relationships between operational and safety trends because of limitations in the data that were available for the 1976 to 1995 period. Therefore, this report provides information on safety trends for the entire railroad industry and describes how FRA has responded to both operational and safety trends to develop a new partnering approach to improving safety on the nation's rail lines. In addition, chapter 1 provides information on operational trends in the freight industry.

Background

In 1995, the railroad industry consisted of Amtrak (the nation's largest passenger railroad). 14 large freight railroads—collectively known as class I railroads—as well as over 600 regional and smaller railroads. The industry had changed significantly since the Staggers Rail Act made it federal policy that railroads would rely, where possible, on competition and the demand for services, rather than on regulation to establish reasonable rates. Prior to the act, several of the largest freight railroads were earning a negative rate of return on investment and at least three were bankrupt. The deregulation contributed to changes in the composition and operation of the rail industry. From 1976 through 1995, the nation's largest freight railroads cut costs: increased the tonnage each train carried and the distance this tonnage was carried; downsized their workforce, and eliminated, sold, or abandoned thousands of miles of unprofitable or little used track.

Since 1970 FRA has been responsible for regulating all aspects of passenger and freight radroad safety under the Federal Radroad Safety Ac

of 1970, as amended ¹ In that capacity, FRA prescribes regulations and issues orders that relate to railroad equipment, track, signal systems, operating practices, and those aspects of railroad workplace safety that pertain primarily to the movement of trains. The Occupational Heriland Safety Administration (OSHA) regulates those aspects of railroad workplace safety that are typical of any industrial workplace. FRA also enforces the Hazardous Materials Transportation Act as it pertains to the transportation of hazardous materials by rail.

Results in Brief

Railroad safety has improved significantly over the past 20 years. Reported accident and injury rates are down 70 and 74 percent, respectively, from 1976 levels. Railroad industry representatives attribute the reductions to improvements made to the railroads' plant and equipment. However, labor representatives expressed concern that, despite this progress, heavier loads and increased traffic may adversely affect rail safety in the future. Rail safety data indicate that the progress in reducing accidents has slowed in recent years. While preliminary data for 1996 show improvements in key safety statistics, about 1,000 people die each year as a result of grade-crossing accidents and trespassing, 11,000 railroad employees are injured, and thousands of people are evacuated from their homes as a result of the hazardous materials that are released during train accidents.

FRA instituted an important shift in its safety program in 1993 to address safety problems in the rail industry. Rather than using violations and civil penalties as the primary means to obtain compliance with railroad safety regulations. FRA has emphasized cooperative partnerships with other federal agencies, railroad management, labor unions, and the states. The partnering efforts generally focus on the nation's larger railroads and have resulted in FRA inspectors' conducting fewer site-specific inspections of the railroad industry overall. While the preliminary data for 1996 show improvements, it is too early to determine if FRA's new approach will sustain a long-term decline in accidents and fatalities. In addition, FRA has allocated fewer resources to responding to concerns about the level of workplace injuries for railroad employees and railroad bridge safety

In 1994, the Enderal Railroad Safety Act of 1970, and other federal railroad safety statutes, with regeated codified, and remacred as chapters 201-213 of title 49. United States Code.

Principal Findings

Safety on the Nation's Railroads Has Generally Improved

Safety on the nation's railroads has improved since 1976, although the most rapid decrease in accidents occurred before 1987. FRA and industry officials attribute these improvements to advancements in technology, increased investment focused on a downsized infrastructure, and a more scientific approach toward reducing injuries. However, class I freight railroads, which account for most of the industry's revenue and train-miles, are now using fewer people, locomotives, and cars to haul more tonnage over fewer miles of track. Labor officials believe that these changes in operations could lead to more rail collisions and accidents as a result of greater congestion and fewer qualified employees to perform essential maintenance. While current safety trends are positive, it is uncertain how further advancements in technology or reductions in employment will affect safety in the future.

Nonetheless, further improvements in safety are needed, since more than 1,000 people die each year as a result of fatal collisions between cars and trains or as a result of trespassers on railroad property being struck by trains. Hazardous materials releases resulting from train accidents showed no clear trends between 1978 and 1995. About 261,000 people were evacuated across the United States because of rail-related hazardous materials releases occurring over these years. Concerns remain about evacuations because the volume of chemical traffic increased by over one-third from 1976 to 1995.

FRA's New Safety Strategy Involves Partnerships

Beginning in 1993. FRA reassessed its safety program to leverage the agency's resources and established a cooperative approach that focused on results to improve railroad safety. With rail traffic expected to grow through the remainder of the 1990s and beyond. FRA anticipated the need for new approaches to enhance site-specific inspections. As a result. FRA formalized this shift with the establishment of three new initiatives. First, in 1994. FRA took the lead responsibility for coordinating the Department of Transportation's multiagency plans to reduce fatalities at rail-highway crossings. Second. In 1995. FRA formally established the Safety Assurance and Compliance Program through which the agency works cooperatively with railroad labor and management to identify and solve the root causes of systemic problems facing the railroads. Third. In 1996. FRA established the Railroad Safety Advisory Committee to develop recommendations for

the agency's more complex or contentious rulemakings by seeking consensus among the parties affected by the rulemakings.

It is too early to determine if FRA's collaborative efforts will produce a sustained decline in rail accidents and fatalities. FRA credits its grade-crossing plan with contributing to a 19-percent drop in fatalities in 1996. Whether the plan contributed to the decline is uncertain: Past trends indicate that the total number of railroad fatalities declined by 34 percent from 1976 to 1983 (from 1.630 to 1.073) but then fluctuated within a range of 1.036 and 1.324 deaths between 1983 and 1995. FRA has implemented its Safety Assurance and Compliance Program with 33 railroads. This method has improved the safety on many large railroads, but Norfolk Southern Corporation has refused to participate until FRA substantiates safety problems at the railroad. With regards to the Advisory Committee, the FRA Administrator has referred seven major rulemaking tasks to it. While the committee has developed proposed regulations on track safety and radio communications standards, efforts to develop freight power brake regulations have encountered problems in the negotiations among FRA. railroad labor, and railroad management

To accommodate the new initiatives. FRA has shifted some of its resources away from site specific inspections, which have historically served as FRA's primary means of ensuring compliance with safety regulations. The 53,113 inspections conducted in 1995 were 23 percent below the 68,715 inspections conducted in 1994. As a result, a greater number of railroads are not receiving inspections, and inspectors are conducting fewer reviews of the railroads' own inspection efforts.

In addition, there are two important areas of railroad safety that FRA'S collaborative approach does not systematically address: workplace safety for railroad employees and the structural integrity of railroad bridges. While a 1978 policy statement by FRA provides guidance on which workplace safety issues FRA and OSHA should cover, the two agencies inspection presence on railroad property varies greatly. FRA routinely inspects the railroads' track, equipment, and operating practices. In contrast, OSHA inspectors visit railroad property only in response to an employee or union complaint about working conditions or when investigating a workplace accident. In January 1997, FRA revised its injury reporting requirements to capture additional information on workplace injuries, including where an injury occurred, what activity was being performed at the time, and what was the probable cause of the injury. According to FRA, the new information will provide better data for future

rulemakings. Because these requirements only recently became effective. FRA has yet to accumulate sufficient data for analysis. Once sufficient data are collected, the agency will be able to determine the causes of the most frequent and serious injuries and focus efforts on corrective actions.

FRA does not have regulations governing the structural integrity of the 100.700 railroad bridges in the nation. Instead, a 1995 Statement of Agency Policy provides guidelines for railroads to use for the formulation of their own bridge management programs. FRA inspectors do not cite specific defects for bridge conditions, nor do they recommend violations, as they do for track, signal, or equipment problems. Instead, FRA inspectors call conditions to the attention of railroad bridge maintenance and engineering officials. According to FRA, inspectors normally use informal procedures to advise railroad personnel of bridge problems. If a bridge condition presents a hazard of death or personal injury, and the bridge owner does not correct the condition, FRA exercises its emergency authority to restrict or prohibit train operation over the bridge. The railroad industry agrees with FRA's policy that regulations are not needed to address issues related to structural conditions of bridges. Railroad labor officials disagree and note that bridge safety is equally as important as track safety, for which FRA has regulations.

Recommendations

Administrator to, in cooperation with the industry, where appropriate,

(1) analyze injury data collected under the revised reporting requirements to determine the workplace safety issues that lead to the most numerous or the most serious injuries: (2) in areas where efforts to obtain voluntary corrective action do not addres the causes of these injuries, consider developing regulations; and (3) use appropriate mechanisms, including the Safety Assurance and Compliance Program, to ensure that a finding oppotential structural problems on a bridge is properly addressed by the bridge owner.

Agency Comments and GAO's Response

(DOT) for its review and comment—40 met with departmental officials, including the FRA Administrator. Deputy Administrator and Associate Administrator for Safety. The officials indicated that they agreed with many portions of the draft report's historical perspective but said that the report did not adequately reflect the more recent accomplishments and potential 6. 'e Safety Assurance and Compliance Program. The officials

said that this program represents a fundamentally new approach to working with railroads to ensure regulatory compliance and accelerate safety improvements. The officials explained that although old methods of encouraging regulatory compliance contributed to a substantial reduction in railroad accidents between 1978 and 1986, the agency had determined that further progress would require new approaches.

FRA officials maintained that the Safety Assurance and Compliance Program provides the tools to leverage its limited resources while achieving continued safety improvements. The approach was based on President Clinton's directive to federal regulatory agencies that inspection and enforcement programs be designed to achieve results, not punishment. The officials indicated that the program establishes a framework for FRA to work cooperatively with railroad management and labor to identify and solve key safety issues. The officials indicated that while the program provides new tools to further enhance railroad safety. FRA will continue to make full use of all the enforcement options at its disposal as necessary and has begun to focus on enforcement where it is most likely to reduce accidents, injuries, and hazardous materials releases. FRA officials produced statistics that they maintain demonstrate the program's substantial accomplishments during the 3 years since its initial implementation. Finally, while agreeing with two of GAO's three recommendations, FRA commented on GAO's recommendation that the agency consider developing regulations to address the issues that continue to cause the most numerous or serious workplace injuries. FRA officials said that the agency would limit its consideration of regulations to those areas that are related to train operations.

In response to FRA's comments, GAO included additional information on the accomplishments the agency's new rail safety program has achieved by highlighting safety statistics for 1993 through 1996 and providing detailed information on the successes with the Safety Assurance and Compliance Program. GAO also included FRA's performance goals for improving rail safety that illustrate how rail safety has improved since 1993. However, reaching conclusions on FRA's new safety program by isolating safety improvements over the most recen. 3-year period ignores past trends in railroad safety. Over the past 20 years, noteworthy reductions in railroad accidents, fatalities, and injuries were often followed by periods in which railroad safety subsequently worsened. As GAO concluded, it is too early to tell if FRA's efforts will sustain improvements in railroad safety over an extended period of time. Finally GAO disagrees with FRA's contention that the agency should limit its consideration of regulations to those areas that

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Executive Summary

are related to train operations. FRA would have matters related to non-train operations under the purview of OSHA. But should FRA's analysis of workplace safety data show a preponderance of non-train-related injuries, the agency should not foreclose the need to consider regulations covering such injuries. Additional agency comments are included in chapter 3. FRA officials had additional technical and clarifying comments that GAO incorporated throughout the report, where appropriate.

Attachment G

Office of Mobile Sources



Environmental Fact Sheet

Environmental Benefits of Proposed Emission Standards for Locomotives

The Environmental Protection Agency (EPA) is proposing emission standards for oxides of nitrogen (NOx), hydrocarbons (HC), carbon monoxide (CO), particulate matter (PM) and smoke for newly manufactured and remanufactured locomotives and locomotive engines. The proposed standards will achieve approximately a two-third reduction in NOx emissions and will reduce HC and PM emissions by half.

Overview of Rulemaking

EPA is proposing emission standards for locomotives that will provide significant emission reductions to help states comply with National Ambient Air Quality Standards (NAAQS) for ozone and PM. The proposed rule is expected to be finalized by the end of 1997 and take effect in 2000. Since locomotive emissions have not been regulated before, it was necessary for EPA to create a comprehensive program, including not only emission standards, but also test procedures and a full compliance program. Three separate sets of emission standards are proposed, with applicability of the standards dependent on the date a locomotive is first manufactured. The first set of standards (Tier 0) are proposed to apply to locomotives and locomotive engines originally manufactured from 1973 through 1999, any time they are remanufactured in calendar year 2000 or later. The second and third sets of standards (Tier I and Tier II) will apply to locomotives and locomotive engines originally manufactured on or after January 1, 2000 (Tier II standards) or standards or stan

dards will take effect on January 1, 2005). These locomotives and locomotive engines will also be required to meet the same standards at each subsequent remanufacture. The Agency is also proposing a rigorous emission testing program to make sure that locomotives comply with these standards for the life of the locomotive.

Health and Environmental Concerns

Most locomotives in the U.S. are powered by diesel engines. Thus locomotives have significant NOx emmissions, as well as HC and PM emissions, all of which have significant health and environmental effects. NOx is a major component of smog and acid rain. NOx emissions combine with HC in the atmosphere to form ground-level ozone, the primary constituent of smog. Ozone is a highly reactive pollutant that damages lung tissue, causes congestion, and reduces vital lung capacity, in addition to damaging vegetation. Acid rain damages buildings and crops, and degrades lakes and streams. NOx also contributes to the formation of secondary PM. PM causes headaches, eye and nasal irritation, chest pain, and lung inflammation. Environmental impacts of PM include reduced visibility and deterioration of buildings.

Locomotive Emission Inventories

Locomotive NOx emission are estimated to represent about 4.7 percent of NOx emissions from all mobile and stationary sources in the U.S. Locomotive PM and HC emissions are both estimated to represent less than one-quarter of one percent of total national emissions. Thus, the focus of the proposed regulation is on NOx emission reductions. It should be noted that in some urban areas that have very high rail traffic, such as Chicago or El Paso, NOx emissions can represent nearly one-tenth of the total NOx inventory.

Current National Locomotive Emission Inventories

	Metadions Persear Percention of Aprenton AlkSources			
NOx	980,000	4.7		
PM-10	24,000	0.1		
HC	38,000	0.2		

What Are the Environmental Benefits?

When fully phased-in, the proposed emission standards will reduce NOx emissions from locomotives by nearly two-thirds, and HC and PM emissions by half. However, they will also achieve very significant emission reductions in the near term. These reductions, which are shown below, are being heavily relied upon by those areas that have very high rail traffic, as well as Southern California, which has moderately high rail traffic and very significant air quality needs. To put these national NOx emission reductions into context, the 348,000 ton per year reduction expected in 2005 would be equivalent to removing about 20 million pasenger cars from the road. In addition, NOx emission reductions will also lead to reductions in ambient concentrations of secondary PM. It has been estimated that about 4 tons of nitrate particulate is formed from every 100 tons of NOx emitted. Thus, the secondary PM reduction expected in 2005 is about 14,000 tons per year.

Projected National Emission Reductions (Metric Tons Per Year)

Year	2005	2010	2015	2020
NOx	348.000	382.000	417,000	451.000
PM	300	1,700	3,200	4,700
HC	400	2,500	4,500	6,600
Secondary PM*	14,000	15,000	17,000	18,000

^{*} Assume 4 tons of nitrate particulate formed for each 100 tons of NOx emitted.

Reductions from Existing Locomotive Fleet

The fact that so much of the NOx emission reduction will come early in the program is due to the Tier 0 standards that apply to existing locomotives when they are remanufactured. These standards are a unique feature of this proposed regulation, and would represent the first time that EPA has regulated the remanufacturing of an existing fleet on such a large scale. Such regulation of the remanufacturing process is critical because locomotives are generally remanufactured five to ten times during their total service lives (typically 40 years or more). Standards that would only apply to locomotives originally manufactured after the effective date of the rule would not achieve significant emissions reductions until those future locomotives replaced a significant number locomotives in the existing fleet. For the first 13 years of the program, the majority of projected NOx emission reductions will be the result of the Tier 0 emission standards that apply to existing locomotives.

Projected NOx Emission Reductions From Locomotives Manufactured Before and After January 1, 2000 (Metric Tons Per Year)

Year	2005	2010	2015	2020	
Tier 0 (Pre-2000 Locomotives)	275,000	234,000	194,000	153,000	
Tier I & II (Later Locomotives)	73,000	148,000	223,000	298,000	

For More Information

Information on the proposed rule is available electronically via the EPA Internet server via the dial-up modem on the Technology Transfer Network (TTN), an electronic bulletin board system (BBS).

World Wide Web:http://www.epa.gov/OMSWWW

TTN BBS: 919-541-5384 (1200-1440 bps, no parity, 8 data bits, 1 stop bit); voice helpline 919-541-5384.

For further information on the proposed rule, please write to:

U.S. Environmental Protection Agency Engine Programs and Compliance Division 2565 Plymouth Road Ann Arber, MI 48105

or call: (313) 668-4333.

Attachment H

STATEMENT TO THE FEDERAL RAILROAD ADMINISTRATION SEPTEMBER 21, 1997

BY:

WESTERN-ELMWOOD-BEREA CORPORATION (WEBCO) Anita R. Brindza, Executive Director

The Western-Elmwood-Berea Corporation (WEBCO) is a twenty-three year old industrial-based not-for-profit economic development corporation primarily serving the manufacturing and service base on the west side of Cleveland in the Berea Road/West 117th Street area. The forty member group focuses on industrial retention and growth through strategies based in investment, vision, planning, cohesion and collaboration.

The WEBCO membership is opposed to any decision by the Surface Transportation Board that will divert freight traffic now being served by CONRAIL on the line that runs through the heart of the west side manufacturing district to the area of the airport and city of Berea. WEBCO does not support putting additional freight on the Westshore line that runs through the heart of residential neighborhoods in Cleveland and the west suburbs.

Receipt of raw materials and shipping of finished products by WEBCO members and other industrial plants is now virtually "invisible" to the residential population of Cleveland and its suburbs due to the availability of below grade or above grade track service that CONRAIL provides. Most residents remain unaware of the large machinery, paper products, chemicals, steel, automotive components and other raw materials and finished products that are shipped weekly in and out of the west side via rail.

If companies were forced into making a decision to only ship via truck, surface traffic would quadruple. For every rail car that now is utilized, it would take three to four tractor trailers to service the company's needs. Quadrupling truck traffic exponentially increases the liklihood of accidents throughout our area.

In addition to safety issues, it is critical to note that many of the WEBCO member companies have been in business more than 50 years and employ hundreds of Cleveland and Lakewood residents in good paying positions with full benefits. At a time when companies are attempting to compete in a global economy, forcing manufacturers to increase costs through higher shipping expenses and perhaps longer shipping times only defeats our ability to remain competitive in the marketplace. When operating costs soar, businesses close, residents are laid-off and tax dollars are lost.

This stable, viable and growing industrial pocket of industry WEBCO represents has been serviced by CONRAIL and its predecessor for decades. Most of the companies own railroad sidings connecting their businesses to CONRAIL service. Whether the sidings are currently in use or not, the access to rail is imperative relative to decisions and choices about current and future competitiveness. Industrial real estate is greatly devalued when rail service is diminshed or abandoned.

In closing, I stress the key works are SAFETY and COMPETITIVENESS. The WEBCO companies strongly advocate to maintain the status quo on the rail line that now services their current and future needs. While the trackage is in need of investment, the status quo is far more desirable than shipping through residential neighborhoods or losing access to the tracks through any merger agreements. Ensuring the public's safety and the ability to make sound business decisions are paramount to the WEBCO membership.

Thank you.

Western-Elmwood-Berea Corporation The One Fifteen Hundred Building 11500 Franklin Blvd. Suite 104 Cleveland, Ohio 44102 (216) 228-4383 Fax: 228-3328

Rick Wiedemer, Hinkley Lighting, President Anita R. Brindza, Executive Director ATTACHMENT I