

GUIDE TO VOLUME 3

Volume 3 of the Proposed Conrail Acquisition Final EIS contains the following items:

- Contents of Chapter 5.
- Chapter 5, "Summary of Comments and Responses."
- Guide to the Final EIS.
- Glossary of Terms.
- List of Acronyms and Abbreviations.
- Contents of the Final EIS.

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CHAPTER 5

SUMMARY OF COMMENTS AND RESPONSES

Chapter 5 summarizes the comments that the Section of Environmental Analysis (SEA) received on the Draft Environmental Impact Statement (Draft EIS) regarding the proposed Conrail Acquisition and provides SEA's responses to those comment summaries. This chapter also provides an overview of the types of comments that SEA received from various entities and individuals.

SEA issued the Draft EIS for public review and comment on December 19, 1997. The formal 45-day period for reviewing and filing comments on the Draft EIS ended on February 2, 1998. Table 1-1 in Chapter 1, "Introduction and Background," of this Final Environmental Impact Statement (Final EIS) lists the milestone dates in the procedural and review schedule for the EIS.

SEA encouraged all recipients and reviewers to comment on its technical analyses and preliminary recommended mitigation measures in the Draft EIS. Subsequent to the Draft EIS, SEA prepared Errata and Supplemental Errata and issued them to the public for review as well. (See Appendix B, "Draft Environmental Impact Statement Correction Letter, Errata, Supplemental Errata and Additional Environmental Information, and Board Notices to Parties of Record," of this Final EIS for the content of these documents.) In this Final EIS, SEA has considered all comments on the Draft EIS, the Errata, and the Supplemental Errata that it received in a timely manner. Given the large volume of comments that SEA received, SEA summarized comments and grouped similar comments to present the information as succinctly as possible.

The organization of this chapter is as follows:

- Section 5.1 is an overview of the comments that SEA received from Federal agencies, the Applicants, national and regional groups as well as groups and individuals within specific states.
- Section 5.2 contains general comments on the Draft EIS, in summary form, followed by SEA's responses. This section includes comments regarding the Board's application review process, the environmental review process, and the system-wide technical analysis. The organization of the technical analysis discussion is by type of environmental issue category (such as safety at highway/rail at-grade crossings).

- Section 5.3 presents summarized comments on state and community issues and SEA's corresponding responses. The organization is by state (and within many states, also by city or region) and by environmental issue. This section includes comments from the Seneca Nation under the State of New York; the intent is to be consistent with the geographic organization of Section 5.3, not to imply a jurisdictional or political grouping. Section 5.3 contains the same environmental issue categories as Section 5.2, but focuses on each issue as it pertains to a particular location.

SEA's response to each summary of comments in Sections 5.2 and 5.3 addresses only the issues that the commentor(s) raised. That is, each response is specific to each summary and does not address environmental effects to which the commentor(s) did not refer. Other responses in this chapter, however, may address additional potential environmental impacts of the proposed Conrail Acquisition. Also note that SEA has addressed the comments within the scope of the environmental review process and the Board's jurisdiction. For example, many comments referred to pre-existing conditions, which are not part of SEA's environmental review. In addition, SEA sometimes received more than one comment referring to the same area of concern, and these comments were often diametrically opposed to one another. SEA has tried to balance its responses to those varied comments.

In cases where SEA's analysis led to mitigation of an issue that a commentor raised, the response provides a brief description or a reference to the location of the mitigation discussion in this Final EIS. In developing the final recommended mitigation measures, SEA modified a number of its Draft EIS preliminary recommendations to address concerns that commentors expressed. Chapter 7, "Recommended Environmental Conditions," of this Final EIS presents SEA's final recommended mitigation.

The Addendum to this Final EIS presents additional information and analysis of proposed mitigation measures, NS's "Mitigation Proposal for Train Frequencies in Greater Cleveland and Vicinity" (the "Revised Mitigation Proposal"), which would change rail traffic levels, particularly NS's traffic levels, in Cleveland and the surrounding area. NS's rerouting proposal shifts train traffic starting in Rochester, Pennsylvania, through Cleveland, and on to Oak Harbor, Ohio, removing 10.6 trains per day from NS's Nickel Plate Line through Cleveland and rerouting the trains on NS's Pittsburgh Line. NS's mitigation proposal generally reduces traffic in Ashtabula, East Cleveland, the University Circle area of Cleveland, and the West Shore communities of Cleveland. Traffic would generally increase along the Pittsburgh Line, along the Lakeshore Line in Cleveland, and in Berea. Chapter 4, "Summary of Environmental Review," Section 4.19, "Community Evaluations," and Appendix N, "Community Evaluations," of this Final EIS provide detailed information about the Greater Cleveland Area.

5.1 OVERVIEW OF COMMENTS

SEA received about 260 comment documents (ranging from short letters to report-length submittals) that provided comments on the Draft EIS. Of this total, local government agencies and elected officials submitted the greatest number of documents, followed by citizens and citizen groups, state agencies and state elected officials, regional groups, special interest and other groups, Federal agencies, businesses, members of Congress, and a Native American tribe. SEA also received comment documents from the Applicants, other railroads, and unions. Overall, SEA received comments from 18 states and the District of Columbia. Two states, Alabama and Rhode Island, neither acknowledged receipt of the Draft EIS nor submitted comments. Four states, Mississippi, Missouri, South Carolina, and West Virginia, acknowledged receipt of the Draft EIS but did not submit comments.

Appendix A of this Final EIS, "Comments Received on the Draft Environmental Impact Statement," contains a complete list of those who commented on the Draft EIS as well as photocopies (reduced) of the actual comment letters. Appendix A also includes a list of those who submitted comment documents late in the Final EIS writing process. Although SEA did not prepare responses to these comments, SEA has reviewed and considered them during the preparation of this Final EIS.

To prepare responses to the many comment documents, SEA identified and grouped specific comments according to environmental impact category and issue area, based on the categories and issue areas in the Draft EIS. In many instances, documents contained comments on more than one environmental issue and more than one state or geographical area. Using the method of categorizing and grouping comments, SEA identified more than 1,000 individual comments within the approximately 260 comment documents.

The following paragraphs give an overview of comments that public agencies, the Applicants, national and regional groups, and groups and individuals within specific states submitted to SEA. The overview does not discuss all comments, nor does it represent a complete discussion of all issues addressed in this Final EIS.

5.1.1 Federal Agencies

Federal agencies that submitted comments were the U.S. Departments of the Interior (DOI), Transportation (DOT), and Housing and Urban Development (HUD); the U.S. Environmental Protection Agency (EPA); the U.S. Army Corps of Engineers (USACE); and the U.S. Coast Guard (USCG).

DOI expressed several concerns, including the potential environmental impacts of hazardous materials transport on fish and wildlife resources. DOT's comments addressed the potential environmental impacts of the proposed Conrail Acquisition in several areas, including railroad safety, passenger rail transportation, and severely affected communities. HUD commented that the proposed Conrail Acquisition did not raise any special interests or present any special concerns to HUD. EPA commented on the air quality and noise analyses in the Draft EIS and

the potential environmental impacts of the proposed Conrail Acquisition on minority and low-income communities. Comments from USACE focused primarily on the potential environmental impacts of construction activities on wetlands and water resources. The USCG reiterated earlier comments concerning the potential impacts of rail traffic on travel along waterways relative to movable bridges.

5.1.2 Applicants

Norfolk Southern Railway Company and Norfolk Southern Corporation (NS) and CSX Corporation and CSX Transportation, Inc. (CSX) each submitted substantial documents expressing many concerns regarding the Draft EIS. Their documents included detailed comments on each environmental category that SEA studied in the Draft EIS. NS commented on SEA's approach to mitigation, the environmental justice analysis, and the way in which the Board should treat Negotiated Agreements and settlements in the final written decision. NS's comments also discussed Areas of Concern that SEA identified in the Draft EIS.

CSX suggested that SEA more fully recognize the benefits of the proposed Conrail Acquisition. Like NS, CSX commented on SEA's approach to mitigation and the manner in which the Board should treat Negotiated Agreements and settlements in the final written decision. CSX also requested that SEA not recommend any environmental conditions requiring the Applicants to modify or refrain from putting into effect their Operating Plans pending implementation of any mitigation.

5.1.3 National and Regional Groups

SEA received comments from several national and regional groups, including Amtrak and rail labor unions. Several regional agencies operate in more than one state. For purposes of summarizing comments, SEA assigned comment documents from regional planning agencies and regional transit providers to the state with the largest city in the region (for example, Washington, D.C. for the Washington Metropolitan Area Transit Authority, or Philadelphia for the Southeastern Pennsylvania Transportation Authority [SEPTA]). The exception is the Ohio-Kentucky-Indiana Regional Council of Governments, which appears in Appendix A, "Comments Received on the Draft Environmental Impact Statement," of this Final EIS under National/Regional Groups. This grouping also includes comments from individuals who did not provide a mailing address.

Amtrak provided comments on SEA's analysis of passenger rail impacts, passenger rail safety, and the Applicants' Safety Integration Plans. The rail labor unions (Transportation Communications International Union and Allied Rail Unions) also submitted comments on the Applicants' Safety Integration Plans. The American Public Transit Association (APTA) commented that the Draft EIS did not adequately state the potential impacts of the proposed Conrail Acquisition on passenger rail operations.

5.1.4 Alabama

SEA received no comments on the Draft EIS from public agencies, organizations, businesses, or citizens in Alabama.

5.1.5 Connecticut

The Connecticut Department of Transportation and the South Western Regional Planning Agency expressed concerns regarding the potential environmental impacts of truck emissions on air quality and truck traffic on highway congestion.

5.1.6 Delaware

The Delaware State Historic Preservation Office (SHPO) suggested, among other comments, that SEA expand its analysis beyond abandonment and construction-related effects on historic and cultural resources. The Delaware Department of Transportation voiced concerns over the potential impact of the proposed Conrail Acquisition on passenger rail service, the scope of SEA's air quality and noise analysis, and safety at highway/rail at-grade crossings.

5.1.7 Florida

The Hillsborough County Planning Commission requested that SEA conduct additional analysis of a rail line segment in Florida to determine whether there were potential environmental impacts related to hazardous materials transport.

5.1.8 Georgia

The Atlanta Regional Commission expressed concerns regarding the potential environmental impacts of rail traffic on air quality, the ability of local governments to respond to hazardous materials spills and releases, commuter operations, and the impacts associated with a proposed intermodal facility. The Athens-Clarke County Government also raised concerns about the potential impacts of the proposed Conrail Acquisition on proposed commuter operations in the Atlanta-to-Athens corridor.

5.1.9 Illinois

At the local level, several cities and counties expressed concerns about localized impacts in relation to delay and safety at highway/rail at-grade crossings, increased air pollutant emissions in their communities, SEA's safety and noise analysis, and hazardous materials transport. The commentors included the Village of Tilton, the Village of Tolono, the City of Danville, and Champaign County. In addition, local environmental advocacy groups raised concerns about the potential adverse impacts of the proposed Conrail Acquisition on minority and low-income communities.

5.1.10 Indiana

The Indiana Department of Natural Resources voiced concerns and requested additional information related to the potential impacts of abandonments and constructions on cultural and historic resources. At the local level, several cities, including Fort Wayne, Lafayette, and New Haven, expressed their concerns related to delay and safety at highway/rail at-grade crossings, noise, hazardous materials transport, and environmental justice. In addition, the Four City Consortium (East Chicago, Hammond, Gary, and Whiting) provided comments on potential environmental impacts associated with safety, traffic, transportation systems, energy, air quality, noise, land use and socioeconomics, and environmental justice. The Consortium's comments also raised the issue of cumulative effects. In addition, the Consortium requested that SEA conduct further analysis and evaluation of the Consortium's Alternative Routing Plan.

5.1.11 Kentucky

The Kentucky Transportation Cabinet and the Cities of Hopkinsville and Madisonville requested that SEA withdraw its recommendation for grade separations in Kentucky, based in part on existing State priority-setting processes.

5.1.12 Louisiana

The City of New Orleans expressed its concern about the potential for hazardous materials spills, contamination of groundwater, increased truck traffic, higher risk of rail accidents, and environmental justice impacts.

5.1.13 Maryland

The Maryland Office of Planning, Maryland Department of Transportation, Montgomery County Department of Public Works and Transportation, and Baltimore Metropolitan Council voiced their concern about potential environmental impacts of the proposed Conrail Acquisition on passenger rail operations and safety. In addition, the Maryland Department of the Environment raised several issues with regard to emissions and construction-related particulate matter (PM).

5.1.14 Massachusetts

The Berkshire Regional Planning Commission suggested that SEA clarify the potential environmental impacts of hazardous materials transport on a specific rail line segment and discussed the importance of cooperation from the Applicants regarding future passenger rail service.

5.1.15 Michigan

The Southeast Michigan Council of Governments raised concerns in several areas, including emergency response and passenger vehicle delay at highway/rail at-grade crossings. Several cities, including Northville, Wixom, Milford, and Taylor, as well as Monroe County, expressed concern about safety at highway/rail at-grade crossings and hazardous materials transport.

5.1.16 Mississippi

The Mississippi State Clearinghouse acknowledged receipt of the Draft EIS. However, no state or local agencies, organizations, businesses, or citizens in Mississippi submitted comments to SEA.

5.1.17 Missouri

The Missouri Office of Administration Clearinghouse acknowledged receipt of the Draft EIS. However, no state or local agencies, organizations, businesses, or citizens in Missouri submitted comments to SEA.

5.1.18 New Jersey

At the local level, concerns that cities and counties voiced included the potential environmental impacts of the proposed Conrail Acquisition on passenger rail service. In addition, the Township of Woodridge and the Village of Ridgefield Park provided comments on air quality, noise, hazardous materials transport, and delay at highway/rail at-grade crossings.

5.1.19 New York

The New York Department of Transportation, Metro-North Commuter Railroad Company (MNR), and Capital District Transportation Committee commented on the potential impacts of the proposed Conrail Acquisition on passenger rail service. They also commented on the need for competitive rail service into New York City to reduce truck traffic and emissions. The Seneca Nation of Indians offered comments related to hazardous materials at a specific rail yard, hazardous materials transport through the Nation's lands, emergency response to releases or spills, and environmental justice. In addition, the Nation suggested that SEA consider the Nation's definition of cultural resources and environmental justice and analyze these further. Several commentators raised concerns about the potential environmental impacts that the proposed Conrail Acquisition would have on the area east of the Hudson River.

5.1.20 North Carolina

The North Carolina Department of Administration consolidated the comments of several state agencies. The comments included a request for additional information on stormwater runoff management and the potential environmental impacts of increased rail traffic on rail yards and intermodal facilities.

5.1.21 Ohio

SEA received more than 100 comments from public agencies, organizations, businesses, and citizens in Ohio. The issue areas that commentors in Ohio addressed most frequently were safety; noise; and transportation systems, including highway/rail at-grade crossing delays and emergency response.

The comments from the Greater Cleveland Area included concerns over potential environmental or safety impacts from increased noise, vibration, traffic and emergency vehicle delay at highway/rail at-grade crossings, and hazardous materials transport, particularly on minority and low-income populations. Commentors in the northeastern Ohio region raised concerns about the potential impacts associated with increased train traffic along the NS route from Cleveland to Ashtabula. Specifically, the commentors voiced concerns about traffic delay and emergency response time at highway/rail at-grade crossings, emergency response training for hazardous materials transport, and highway/rail at-grade crossing safety. In northwestern Ohio, the concerns that commentors voiced included safety and delay at highway/rail at-grade crossings, highway/rail at-grade crossing closures, maintenance of highway/rail at-grade crossings, pedestrian safety, emergency response, and hazardous materials transport and training.

5.1.22 Pennsylvania

Several commentors in Pennsylvania, including the Port Authority of Allegheny County, the Southeastern Pennsylvania Transportation Authority, and the Tri-County Regional Planning Commission, voiced concerns about passenger rail service. Also, several commentors expressed concern over potential impacts related to delay and safety at highway/rail at-grade crossings, air quality, hazardous materials transport, and hazardous waste sites.

5.1.23 Rhode Island

SEA received no comments on the Draft EIS from public agencies, organizations, businesses, or citizens in Rhode Island.

5.1.24 South Carolina

The Anderson County government wrote to acknowledge receipt of the Draft EIS. However, SEA received no comments on the Draft EIS from other public agencies, organizations, businesses, or citizens in South Carolina.

5.1.25 Tennessee

The Nashville Area Metropolitan Planning Organization expressed concern about the potential environmental impacts of the proposed Conrail Acquisition on air quality and highway/rail at-grade crossing delay.

5.1.26 Virginia

The Virginia Department of Rail and Public Transportation raised concerns about potential crossing delay in specific communities. The Virginia Department of Environmental Quality submitted several comments on the air quality analysis. The Northern Virginia Transportation Commission (which operates the Virginia Railway Express [VRE]) provided extensive comments on the potential environmental impacts of the proposed Conrail Acquisition on passenger rail service in northern Virginia and the Washington, D.C. metropolitan area. At the local level, SEA also received comments on delay, air quality, passenger rail service, and noise.

5.1.27 West Virginia

The West Virginia Development Office and West Virginia Division of Natural Resources informed SEA that they had no comments.

5.1.28 District of Columbia

The Washington Metropolitan Area Transit Authority (WMATA) provided comments on common corridors and other potential environmental impacts on passenger rail service in the Washington, D.C. metropolitan area.

5.2 GENERAL COMMENTS ON THE DRAFT EIS

As the introduction to this chapter explains, Section 5.2 presents general and system-wide types of comments and SEA's responses. The comments in this section apply broadly to the decision-making process, the environmental analysis, and other related matters.

The first part of this section pertains to the Board's application review process—particularly those matters that the Board may wish to consider, but are not strictly part of the environmental review. Examples are commentors' support or opposition for the Acquisition, merits issues, and oversight. The second part of this section presents comment summaries and responses related to the National Environmental Policy Act of 1969 (NEPA) and the environmental review process, including public involvement, alternatives to the proposed Conrail Acquisition, impact assessment methodology, and mitigation measures. The third part presents comment summaries and responses related to technical analyses; the organization is by type of environmental issue (such as safety at highway/rail at-grade crossings).

Many of those who commented on the Draft EIS also contributed comments on the Safety Integration Plans of CSX and NS, which appeared in Volume 2 of the Draft EIS. SEA addresses these comments in Chapter 6, "Safety Integration Planning." of this Final EIS,

5.2.1 The Application Review Process

5.2.1.1 Support for the Proposed Conrail Acquisition

Summary of Comments. SEA received letters supporting the proposed Conrail Acquisition from several areas of the country. A special interest group from Chicago stated that it supported the proposed Conrail Acquisition to the extent that the Acquisition would increase the volume of freight moved by rail, “a substantially more energy efficient and environmentally benign transportation alternative than trucking.” However, the group also stated that the Applicants’ proposed Operating Plans were unclear concerning whether all communities and shippers would benefit equally.

Response. These particular comments represent opinions supporting the proposed Conrail Acquisition and do not require an environmental response by SEA. In making its final decision on the proposed Conrail Acquisition, the Board will consider the entire environmental record, including the Draft EIS, the Final EIS, and all public comments.

Summary of Comments. The Applicants stated that the Draft EIS did not address how the Board should balance the potential environmental impacts against the benefits of the proposed Conrail Acquisition. In the Applicants’ opinion, the Final EIS should recognize the tangible benefits, including the environmental benefits, of the proposed Conrail Acquisition.

NS stated that “traffic changes resulting in train increases in a real sense are the consequences and measure of the undisputed environmental benefits of the Transaction.” NS continued, “Since an EIS, rather than an EA, is being prepared in this case, there is no requirement that all identified adverse environmental impacts be mitigated. The D[raft] EIS blurs this important distinction, however, with a variety of mitigation proposals that appear to be designed to deal with virtually every potential localized adverse impact, and without adequate balancing of the potential adverse impacts against the positive benefits of the Transaction, including its environmental benefits.”

CSX commented that the public comment period and the Final EIS itself should permit the Applicants and other interested parties to suggest appropriate weighing of benefits against potential environmental impacts. According to CSX, the proposed Conrail Acquisition would have benefits with respect to safety, air quality, and energy consumption. The Final EIS should reflect that “the substantial system-wide beneficial environmental effects...overshadow the far more limited local impacts....”

Response. The EIS fulfills its purpose, which is to analyze both the potential benefits and adverse environmental impacts of the proposed Conrail Acquisition. NS is correct that no requirement exists to mitigate all impacts an EIS identifies; however, the Council on Environmental Quality’s (CEQ) NEPA regulations do require that an EIS include in the description of alternatives “appropriate mitigation measures not already included in the proposed action or alternatives” (40 CFR 1502.14(f)). Therefore, for all potentially significant adverse environmental impacts, the Draft EIS identifies mitigation measures

that the Board could impose as recommended environmental conditions of the proposed Conrail Acquisition. As the EIS discusses, SEA analyzed the potential environmental impacts, both positive and adverse, and system-wide and local, of the proposed Conrail Acquisition. Other potential impacts associated with the proposed Conrail Acquisition are merits issues and are analyzed separately from environmental issues.

5.2.1.2 Opposition to the Proposed Conrail Acquisition

Summary of Comments. Many commentors voiced opposition to the proposed Conrail Acquisition. Several individuals from Ohio asserted that any proposal that increased rail traffic in residential areas was “outrageous.” One citizen from New York City contended that the proposed Conrail Acquisition could doom that city’s economy. Other commentors remarked upon the “obscene profits” that would result from the Acquisition.

Response. These particular comments represent opinions opposing the proposed Conrail Acquisition. In making its final decision on the proposed Conrail Acquisition, the Board will consider the entire environmental record, including the Draft EIS, the Final EIS, and all public comments.

5.2.1.3 Merits

Summary of Comments. Several commentors from Connecticut to Illinois expressed concern that the proposed Conrail Acquisition would result in significantly reduced competition. Most of these commentors contended that this lack of competition would increase costs to their local shippers and have potentially negative impacts on their local economies. Ohio State Senator James E. Carnes noted that increasing shipping costs “could produce substantial losses of market share” for the local plastics industry. He also stated that given the high costs to “pay for feeder lines and abandoned lines ... [the proposed Conrail Acquisition would] create jobs in the Eastern United States at the expense of the Ohio Coal Industry.” Another Ohio Senator, Dick Schafrath, remarked that the proposed Conrail Acquisition would result in “community and commercial harm.” A nonprofit group in Illinois stated that “absence of meaningful freight rail competition has undermined the competitive position of shippers located in the area, resulting in a significant loss of business,” and noted that reducing capacity at the NS Calumet Yard would divert the transportation mode from rail to trucks.

Conversely, CSX and NS both commented that they expect enhanced competition between Class I railroads. To support that expectation, NS observed that “Conrail is presently the only Class I U.S. rail carrier operating throughout the Northeast

A few commentors referenced the merits of the proposed Conrail Acquisition other than competition and local economic stability. One commentor expressed concern regarding future ownership of a rail line segment in Orange County, New York. Another commented that the proposed Conrail Acquisition would occur at “taxpayers’ expense.” Yet another commentor was concerned about the proposed closure of a Conrail signal shop in Columbus, Ohio.

Faith-Based Organizing for Northeast Ohio stated its concern that CSX and NS would receive more than \$1.8 billion in yearly profits that would cover the costs for infrastructure improvements, yet would be exempt from real estate tax obligations. The organization objected to having the State of Ohio use “its public transportation dollars to subsidize the NS and CSX rail improvements.”

Response. It is SEA’s position that the appropriate means of addressing comments on the merits of the proposed Conrail Acquisition—such as those the comment summary cites that relate to economic conclusions, ownership or operating rights, tax issues, specific shop closures, profits, operating agreements, or competition among the railroads—is the Board’s review of the Application’s economic and competitive merits, not the environmental review process. The Board will consider the economic and competitive issues collectively with SEA’s environmental analysis before making its decision.

5.2.1.4 Consultation and Negotiation

Summary of Comments. DOT expressed its position that “prospective impacts on communities are best resolved by STB [the Board] action that will facilitate prompt resolution of mitigation problems by direct agreements between the Applicants and the affected communities.”

Response. In the Draft EIS, SEA encouraged the Applicants and potentially affected communities to negotiate agreements directed at mitigating potential environmental impacts on those communities. As of the date of this Final EIS, NS, CSX, or both have entered into numerous Negotiated Agreements with communities and with other governmental units, including passenger service organizations. Chapter 4, “Summary of Environmental Review,” Section 4.21.2, “Negotiated Agreements,” of this Final EIS contains a more detailed description and a listing of Negotiated Agreements associated with the proposed Conrail Acquisition. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS describes SEA’s recommended mitigation measures that incorporate Negotiated Agreements.

Summary of Comments. DOT asked “SEA and/or the Board to consult with FRA to the extent they may consider comments of other parties that are inconsistent with our findings.”

Response. Chapter 6, “Safety Integration Planning,” of this Final EIS addresses this issue.

Summary of Comments. DOT expressed the concern that, although DOT supports SEA’s general approach of urging communities affected by the proposed Conrail Acquisition to negotiate with the Applicants directly to reach mutually satisfactory solutions to potential community impacts, without more precise guidance or incentives this approach may lead to interminable and substantial delays in addressing such impacts. Specifically, DOT stated “that the final EIS should include specific recommendations for interim measures and/or mitigation conditions that the STB [the Board] would impose absent an agreement for the identified

communities. To hasten serious bargaining, DOT recommends that the issue of required mitigation be resolved as soon as possible, but in any event, no later than the Board's final decision on the application." In addition, DOT offered its assistance in identifying the highway/rail at-grade crossing problems related to the proposed Conrail Acquisition.

Response. SEA acknowledges DOT's contributions in identifying highway/rail at-grade crossings, specifically in Cleveland and neighboring northern Ohio communities. These areas are complicated because of the presence of two railroads, multiple potential environmental impacts, and interrelated consequences. SEA also agrees with DOT that the affected parties are in the best initial position to decide on mutually acceptable mitigation measures. It is precisely for these reasons that the Draft EIS encouraged the Applicants and the potentially affected communities to consult with one another to develop mutually acceptable resolutions to the issues.

Acknowledging that consultation between the Applicants and the various potentially affected communities could otherwise become protracted or delayed in addressing potential environmental impacts, SEA has reserved its alternative to recommend specific practicable mitigation actions. SEA does not intend to recommend continuing consultation as a final mitigation measure unless both the affected communities and the Applicant(s) formally request such dialog, and if so, the parties would specify a date within an oversight period by which, if the parties do not reach a formal agreement, SEA would recommend default mitigation. Such default mitigation action could be interim or final, depending on the status of agreement negotiations when SEA issues this Final EIS.

The Applicants still have the opportunity to supplant a recommended mitigation action with a Negotiated Agreement between the time SEA issues this Final EIS and the time the Board makes its decision. Beyond that, the Board could approve a Negotiated Agreement as an alternative to a condition based on an Applicant petition during the oversight period.

Summary of Comments. The City of Danville, Illinois expressed its support of SEA's recommendation to require binding arbitration between the City and the Applicants pursuant to a finding of potential adverse impacts.

Response. SEA specifically recommended that CSX meet with the community to reach a mutually acceptable binding agreement on the implementation of appropriate mitigation measures prior to release of this Final EIS. This did not entail binding arbitration. Chapter 7, "Recommended Environmental Conditions," of this Final EIS describes SEA's final recommended mitigation conditions.

Summary of Comments. The City Council of Ashtabula, Ohio commented, "In response to your offer to interested parties to comment, protest, and request protective conditions, we respond with the understanding that all comments, protests, and requests will be given full consideration, and that a follow up response be received from your Board."

Response. This Final EIS contains responses to comments, including requests for environmental conditions, that SEA received during the comment period on the Draft EIS. In its review of the economic and competitive merits of the case, the Board established a separate procedural schedule that included requests for protective conditions from Parties of Record.

5.2.1.5 Oversight and Enforcement Period

Summary of Comments. The Baltimore Metropolitan Council provided, in addition to its own comments, a letter from the Governor of the State of Maryland to the Board. The Governor stated, "It is our expectation and understanding that commitments made by the railroads in their Operating Plans, as approved by [the Board], will be subject to future enforcement via [the Board]."

Response. The Board will determine what conditions to impose on the Applicants as part of its final decision. The Operating Plans submitted by the Applicants, agreements entered into between the Applicants and other parties, and all other information that is part of the record will be considered in making such determinations. SEA recommends that the Board establish conditions of compliance and maintain enforcement jurisdiction during the oversight period. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS for SEA's mitigation recommendations.

Summary of Comments. Several commentors requested that the Board retain oversight of the proposed Conrail Acquisition for up to 5 years in order to assess the actual environmental impacts of the Acquisition, to enforce mitigation, or to provide dispute resolution through the Board's continuing authority in order to reduce environmental impacts and resolve disputes.

Response. In its most recent merger decision (the Union Pacific/Southern Pacific), the Board adopted a 5-year oversight period. However, the Board considers each oversight duration issue on a case-by-case basis. When there are legitimate concerns with respect to applicants' implementation of mitigation measures or a material change in the facts or circumstances upon which the Board relied in developing mitigation measures, the Board, upon the petition of any party that demonstrates such material changes or failure to implement mitigation measures, may review the final mitigation measures, if warranted. To assist the Board in this regard, the Board may impose reporting requirements upon applicants. The purpose of such requirements is to monitor the progress and effectiveness of imposed mitigation measures. Further, the Board has continuing jurisdiction over the actions it licenses (including acquisitions), and can use this jurisdiction to enforce compliance with its mitigation conditions.

5.2.2 The Environmental Review Process

5.2.2.1 Application of NEPA

Summary of Comments. Several commentors expressed concern regarding the way in which the Draft EIS applied NEPA principles and regulations, and questioned the adequacy of SEA's analysis. NS voiced concern that the approach to implementation of the Board's obligations under NEPA indicates a potential misapplication of NEPA principles and may go beyond the Board's authority in deciding railroad control applications. In contrast, Congressman Jerrold Nadler of New York commented that the Draft EIS did not comply with the requirements of the law or with its own stated standards for review, and the Cities of Cleveland and Berea, Ohio commented that the Draft EIS did not adequately address their specific issues and circumstances.

SEA received many comments arguing that the Draft EIS presented insufficient information. EPA rated "the documentation of the [D]raft EIS '2' (insufficient information) because...[the EPA] thinks the [D]raft EIS could have described more fully the potential impacts to and risk from air quality noise, increased hazardous materials transport, and direct and cumulative impacts to water quality issues from increased rail operations and activity in rail yards and intermodal facilities." Several commentors noted that the Draft EIS did not discuss key branch lines or geographic areas (for example, the New York City metropolitan area and southern New England) or evaluate potential environmental impacts in those areas. Congressman Nadler offered the opinion that the Draft EIS was "insufficient to meet any" of the legal requirements that govern SEA and the Board.

The Four City Consortium commented that the Draft EIS "failed to provide the public with sufficient meaningful information on the environmental impacts of the Conrail transaction to make an informed decision on the environmental merits of the Application."

Response. Under NEPA, the Board is required to analyze potential environmental impacts of the proposed action before it—in this case, the proposed Conrail Acquisition. The EIS discusses SEA's analysis and conclusions regarding potential environmental impacts, and, for certain impacts, presents mitigation that the Board may consider as conditions of approval for the proposed Conrail Acquisition. Chapter 4, "Summary of Environmental Review," Section 4.19, "Community Evaluations," and Appendix H, "Transportation: Roadway Systems Analysis," present SEA's site-specific analyses of potential environmental impacts on the areas east of the Hudson. Chapter 4 and Appendix H also provide additional analyses of issues and impacts related to Cleveland and the Four Cities.

SEA maintains that its analysis of impacts resulting from the proposed Conrail Acquisition is consistent with the Board's and CEQ's NEPA requirements and the scope of the EIS. The analysis and documentation that this Final EIS contains will assist the Board in making an informed decision. SEA maintains that mitigation conditions it is recommending to the Board are reasonable and warranted, even though they may not satisfy all the expectations and concerns of the Applicants or other parties.

Summary of Comments. NS expressed its opinion that “SEA has conducted a comprehensive assessment of the environmental aspects of the proposed Transaction that satisfies and exceeds the mandate of NEPA and the Board’s implementation regulations.”

Response. SEA acknowledges this comment.

5.2.2.2 Public Involvement

Summary of Comments. SEA received requests to extend the public review and comment period for the Draft EIS from the Public Utilities Commission of Ohio and the Ohio Rail Development Commission; the Southeast Michigan Council of Governments; the Village of Lagrange, Ohio; and the Trustees of Huntington Township in Wellington, Ohio.

Response. SEA acknowledged all requests for an extension of the public comment period by letter. The 45-day public review and comment period that SEA provided established the due date for public comments as February 2, 1998. CEQ’s regulations implementing NEPA require this public review and comment period. Also, because SEA conducted this environmental review process within the Board’s well-defined procedural schedule, sufficient time was necessary to review and respond to the public comments and to conduct appropriate additional analysis for inclusion in this Final EIS. Accordingly, SEA was unable to extend the comment period. SEA has considered all written comments on the Draft EIS that SEA received by February 2, 1998 and has incorporated them in this Final EIS. During development of this Final EIS, SEA has considered any written comments that SEA received after February 2, 1998; these comments are in the public record.

Summary of Comments. The Connecticut South Western Regional Planning Agency expressed concern that the statements in Tables 5-CT-1 and 5-CT-2 of the Draft EIS show no evidence of the comments that the Agency submitted in its July 31, 1997 letter. As such, the Agency resubmitted the letter and attachments with its comments. The Agency also requested that the Final EIS include its January 30, 1998 comment letter with all enclosures.

Response. The statements in Table 5-CT-1 and 5-CT-2 of the Draft EIS were simply to note who had provided data to SEA in addition to the Applicants. SEA assures the South Western Regional Planning Agency that it carefully considered the information the Agency provided and used that information in preparing the Draft EIS. As requested, Appendix A, “Comments Received on the Draft Environmental Impact Statement,” of this Final EIS includes the July 31, 1997 letter and attachments along with the January 30, 1998 letter.

Summary of Comments. The Connecticut South Western Regional Planning Agency commented that SEA should revise the Draft EIS to reflect the concerns that the Agency voiced in its January 30, 1998 comment letter. Furthermore, the Agency stated that SEA should revise the Draft EIS to recommend the conditions that the New York/Connecticut Congressional Intervention Petition demanded.

Response. SEA maintains that the adequacy of future service is a matter that the Board will address on the economic and competitive merits of the case; it is not an environmental issue that is appropriate for SEA to evaluate in this Final EIS.

The disparity in rail service east and west of the Hudson River does not, in itself, constitute a potential environmental impact. With respect to the concern that there will be increased truck traffic, Appendix H, "Transportation: Roadway Systems Analysis," of this Final EIS analyzes the potential for such increases. While a minimal number of trucks trips would shift to a route through the New York City metropolitan area, SEA does not expect significant adverse environmental impacts to occur.

Summary of Comments. The North Carolina Department of Administration stated that it had submitted comments during the scoping process but that SEA apparently did not address them or eliminated them from the Draft EIS.

Response. The Department appears to be referring to comments that it provided to the Applicants during the preparation of their Environmental Reports, prior to the Applicants' decision to submit a combined Application. The scoping comment period for the Draft EIS was July 7, 1997 to August 6, 1997. During this period, SEA received letters from the North Carolina Department of Environment, Health and Natural Resources Coastal Zone Management Program (indicating no potential significant impacts), the North Carolina Department of Cultural Resources, and the North Carolina Department of Transportation. SEA also received comments of the Department of Environment, Health and Natural Resources Water Quality Division and the North Carolina Wildlife Resources Commission; however, these were not related to EIS scoping.

SEA has addressed in a general manner the commentors' concerns relative to potential water quality, wildlife, and related natural resource impacts from potential spills or runoff from increased rail traffic based on comments on the Draft EIS from North Carolina and elsewhere. See Chapter 4, "Summary of Environmental Review," and Appendix L, "Natural Resources Analysis," of this Final EIS for more detail.

Summary of Comments. Women Like Us, an organization representing the Anacostia area of Washington, D.C., requested a community meeting in Anacostia to discuss the proposed Conrail Acquisition.

Response. SEA responded to the Women Like Us organization in a letter dated January 29, 1998. Because of the large number of potentially affected communities, SEA's public participation process has been designed to provide opportunities for information exchange through written comments and responses in the Final EIS. SEA will review all comments received and incorporate them into the Final EIS. In making its final decision on the proposed Conrail Acquisition, the Board will consider the entire environmental record, including the Draft EIS, the Final EIS, and all public comments.

Summary of Comments. University Circle Incorporated and Associated Estates Management Company requested a meeting between the Applicants, SEA, and the residents and institutions of University Circle, a cultural, medical, and educational center of Cleveland and northeastern Ohio. The companies indicated that the meeting would enable SEA to make a more informed decision that would benefit the community.

Response. SEA received many requests for meetings. Given the size of the study area, however, SEA is unable to attend all of them. Therefore, SEA has focused on obtaining public input through written comments. SEA has received and has considered comments from various parties in the Cleveland/University Circle area. SEA has also attended meetings and received a variety of other input on issues in the Cleveland area. See Chapter 4, "Summary of Environmental Review," Section 4.19, "Community Evaluations," and Appendix N, "Community Evaluations," of this Final EIS for further discussion of these issues.

Summary of Comments. Faith-Based Organizing for Northeast Ohio proposed that the Regional Rail Summit (including the Cities of Cleveland and Lorain as well as several other stakeholders) meet by the end of February 1998. The purpose of the Summit would "be to have all of the most adversely impacted communities meet together and forge a unified response to the acquisition." Summit participants would arrange meetings with the Applicants after the Summit. The letter requested that results of the Summit appear in the Final EIS.

Response. SEA staff attended a meeting in the area on January 31, 1998, and noted concerns raised. SEA received many comments from numerous parties in the Cleveland area. All comments received and information provided become part of the record on which the Board will base its decision. See Chapter 4, "Summary of Environmental Review," Section 4.19, "Community Evaluations," and Appendix N, "Community Evaluations," of this Final EIS for a more thorough discussion of issues in the Cleveland area.

5.2.2.3 Alternatives to the Proposed Conrail Acquisition

Summary of Comments. Many commentors suggested new alternatives or indicated that the alternatives evaluation in the Draft EIS was incomplete. For example, the Tri-State Transportation Campaign, a consortium of 13 environmental, transportation, and planning groups, stated that "the Board failed to consider many reasonable alternatives and highly significant alternatives to the proposed action." The Mayor of East Cleveland recommended that "SEA examine alternatives, such as re-routing trains..." to avoid potential environmental impacts on local residents.

Congressman Jerrold Nadler of New York State and 23 other members of Congress stated that the "D[raft] EIS must study viable alternatives" regarding truck traffic increases in New York City and southern New England in order to allow full consideration of the environmental impacts. They noted, "The State and City of New York believes that the transfer of the east of the Hudson assets to the CIAO (Conrail Shared Assets Operator) is a viable option the effects

of which should be reviewed in the EIS.... Granting the CIAO access to Fresh Pond to handle that traffic via the cross harbor floats, [which] have substantial unused capacity, ...and is a viable option which would mitigate present and future highway traffic across the Bronx.”

The Four City Consortium commented that SEA “failed to adequately consider the Consortium’s Alternative Routing Plan ...” as the Consortium set forth in an October 1997 letter to SEA. The Consortium was critical of SEA’s failure to consider and analyze alternatives. The City of Cleveland expressed a similar concern and also presented an alternative for further consideration in this Final EIS.

Response. SEA has reviewed the alternatives that various commentors proposed to determine whether they would be feasible and has further evaluated the potential environmental impacts of those feasible alternatives. The Board will evaluate alternatives that Parties of Record proposed through Inconsistent and Responsive (IR) applications relative to economic and competitive issues in the merits analysis process. The Board required IR parties to provide a Verified Statement that the proposal would have no potential significant environmental impacts or to provide a Responsive Environmental Report describing the potential environmental impacts. All 15 IR applications that the Board accepted in its decision No. 54 provided Verified Statements of no significant impacts. The Draft EIS and Chapter 4, “Summary of Environmental Review,” Section 4.20, “Inconsistent and Responsive Applications and Requests for Conditions,” of this Final EIS contain information on the IR applications.

SEA has continued to analyze alternatives in response to comments on the Draft EIS. This Final EIS presents the results of these analyses in Chapter 4, “Summary of Environmental Review”; Appendix H, “Transportation: Roadway Systems Analysis”; and Appendix N, “Community Evaluations.” The Board will consider the comments and results of the analysis of alternatives in making its final decision.

5.2.2.4 Methodology of the Impact Analysis

Summary of Comments. Congressman Jerrold Nadler and 23 other members of Congress from the States of New York and Connecticut jointly stated: “The D[raft] EIS first segments the various parts of the plan and then limits its analysis to local effects of each segment. To accomplish even that unlawful analysis, it then sets threshold criteria for a determination that an adverse environmental effect caused by truck traffic requires analysis. That threshold is an increase of 50 truck trips per day or a 10% increase on any roadway. There is no legal or logical basis for any such threshold.” The members of Congress also stated: “To conform with the minimum requirements of law, the exact amount of new traffic through northern Manhattan, the Bronx, and other regional neighborhoods must be determined and the adverse environmental effects reviewed and stated.... Indeed, the numbers in question are well over even the thresholds for impact analysis stated in Table K-1 of Appendix K. Thus, the lack of an impact analysis violates the law as well as even the standards accepted for this D[raft] EIS by the Board.”

Response. The Board's environmental rules (49 CFR 1105.7) establish certain thresholds for environmental analysis. In addition, for the scoping process for the EIS, SEA established project-specific thresholds for environmental analysis. SEA maintains that the Board's thresholds coupled with the project-specific thresholds are a reasonable approach for SEA to identify the activities that potentially could have adverse environmental impacts. Past actions have demonstrated that the Board's thresholds for environmental analysis for intermodal activity, which are either an average increase in truck traffic of more than 10 percent of the average daily traffic (ADT), or 50 vehicles a day on any affected road segment, are an appropriate screening level. Based on these thresholds, SEA concluded in the Draft EIS that there are four intermodal facilities in the northern New Jersey area where the projected level of intermodal activity would increase truck traffic by more than 50 trucks per day. SEA evaluated the impact of this increase in truck traffic on the local area road network in Chapter 5 of the Draft EIS, "State Settings, Impacts and Proposed Mitigation."

For this Final EIS, SEA expanded its review of the potential impacts of the increased intermodal activity to evaluate the potential impact of the proposed Conrail Acquisition on truck traffic in the New York City/northern New Jersey metropolitan area. Appendix H of this Final EIS, "Transportation: Roadway Systems Analysis," contains this analysis. As Appendix H discusses, SEA has concluded that the proposed Conrail Acquisition would have no significant environmental impacts in the New York City metropolitan area.

Summary of Comments. A citizen stated that the "Abandonments" discussion in Volume 6 of the Draft EIS did not provide information on what type of shipper would have to "resort to 'trucks.'" In addition, the citizen stated that he "still believe[s] rail access to a military facility is still a national asset" yet there is no mention in the Draft EIS "as to the abandonment of any form of military support infrastructure."

Response. According to Volume 6 of the Draft EIS, "Abandonments," the Applicants would abandon three Conrail rail line segments if the Board approves the proposed Conrail Acquisition. The Toledo-to-Maumee, Ohio (Toledo Back Belt), which is 7.5 miles in length, is the only rail line segment with a shipper located on it that would lose rail service. The Draft EIS identified that shipper as A & K Rail Materials in Section 4.1 of Volume 6. A & K Rail Materials currently ships 90 rail carloads over Conrail. SEA did not investigate the types of materials A & K ships; however, SEA has no reason to believe that either A & K or the materials it ships are related to this country's military support or infrastructure.

Summary of Comments. DOT expressed the concern that "a purely technical application of environmental thresholds can result in real-world impacts being overlooked."

Response. DOT's statement is accurate, and in recognition of the shortcomings of a purely technical application of environmental thresholds, SEA has evaluated impacts below thresholds of environmental analysis where circumstances demonstrated that such

evaluation was warranted and appropriate. The Board designed thresholds to identify potentially serious adverse environmental impacts. Only through the exercise of sound judgment and careful analysis can SEA identify those circumstances where a mechanical application of SEA's thresholds would result in a failure to consider adverse impacts. Thus, even in some cases where impacts did not meet or exceed the thresholds, SEA still conducted the appropriate analysis.

In SEA's experience, however, the thresholds that the Board uses have been a reasonable and practical means of limiting analysis to circumstances where there is potential for significant environmental impacts. See Chapter 4, "Summary of Environmental Review," of this Final EIS.

Summary of Comments. Many commentors questioned the methodology and/or assumptions that SEA used to prepare the Draft EIS. The commentors' primary concern was whether SEA had the ability to make an informed decision about the proposed Conrail Acquisition when its analyses to identify potential environmental impacts or mitigation were flawed. For example, the Huron Township Board of Trustees commented that the "assumptions and methodology used in the development of the EIS are certainly questionable, and require further review prior to any proposals being considered."

In another example, the City of Sandusky questioned the assumptions and methodologies used in developing the Draft EIS. Also, NS was of the opinion that SEA's analysis of potential impacts employed "unduly conservative or flawed approaches or assumptions and thereby overestimated the predicted impacts."

In addition, the Four City Consortium questioned the assumptions and methods SEA used to determine highway/rail at-grade crossing delay times. The Consortium stated that "SEA's apparent decision to evaluate individual crossings in the Four Cities in isolation, without any consideration of cumulative increases in crossing delays for contiguous crossings or a related group of crossings, is both arbitrary and a violation of the Board's statutory duty" to consider the cumulative environmental impacts. The Consortium also questioned the conclusions for potential energy-related impacts because of "SEA's incomplete evaluation of grade crossing delays"

The City of Cleveland commented that the Draft EIS "despite its bulk ... does not begin to address the serious harm that Cleveland and its suburban neighbors will experience. The shortcomings in the D[raft] EIS begin with problems in the methodology used to address certain of the impacts, and end with the failure to identify and recommend appropriate mitigation." Seneca County commented that the "general concern of the study was to evaluate the results of the merger against 'preacquisition' numbers instead of using this as an arena to fix some of the existing problems associated with rail commerce in a proactive manner."

DOT acknowledged that the Board needs to establish thresholds for environmental analysis, such as an increase in the number of trains per day or an increase in the ADT. DOT expressed the concern, however, that such thresholds only identify locations that warrant further analysis of

possible environmental impacts. DOT stated that “thresholds only prompt further consideration, and their satisfaction, *vel non* [or not], does not by itself conclusively demonstrate the need (or lack thereof) for mitigation.” DOT commented that a more reasonable standard in such circumstances would be to adopt a corridor approach to consider impacts at all grade crossings. DOT proposed that SEA adopt solutions addressing the broader problems of emergency access, trespassers on railroad property, and noise. DOT suggested that SEA and the Board consider several real-world examples, including the Cities of Greenwich, New London, Fostoria, Berea, and Lakewood, Ohio. Further, DOT stated that these examples were not intended to impugn the validity of the Draft EIS overall, but to emphasize that SEA and the Board must be flexible in their assessment of the impacts of this proposed Acquisition. In communities where a significant increase in trains at highway/rail at-grade crossings would occur, DOT recommended considering potential impacts from trains that block vehicular crossings while awaiting permission to proceed. DOT added that similar impacts on emergency vehicle access should also receive special attention.

Response. SEA conducted environmental analyses for those activities that meet or exceed the thresholds for environmental analysis in the Board’s environmental rules and in SEA’s scope of the EIS. The thresholds in the Board’s environmental rules (specified in 49 CFR 1105.7 (e)) have been in place since 1991. The Board has used them to assess air quality and noise in recent railroad mergers and acquisitions because they are a conservative and practical means of focusing analysis on those activities and areas with potential for significant environmental impacts. In circumstances where the Board’s regulations do not specifically provide a threshold, SEA generally applied increases of 8 trains a day as the threshold for addressing environmental impacts.

SEA considered agency and public comments to develop the scope of the EIS. The scope included an analysis of the potential environmental impacts on specific resource categories and cumulative effects on a regional or system-wide basis for the resource categories of air quality, energy, and transportation. Also, SEA evaluated cumulative effects on specific resource categories associated with other projects or activities that related to the proposed Conrail Acquisition, where local communities; local, regional, state, or Federal officials; or other interested parties provided information to SEA. In accordance with the scope of the EIS, however, SEA did not consider aggregated multiple resource effects in its cumulative effects analysis on a system-wide, regional, or local basis. Multiple resource effects are best addressed by the analysis and recommended mitigation, if appropriate, of individual resource categories.

SEA maintains that the assumptions and analysis methods that it used provide an adequate determination of the potential environmental impacts of the proposed Conrail Acquisition and development of appropriate mitigation. See Chapter 4, “Summary of Environmental Review,” of this Final EIS for further discussion.

5.2.2.5 Requests for Information and Corrections

Summary of Comments. NS and numerous state, regional, and local agencies provided general editorial corrections, clarifications, and additions to the Draft EIS. Many of these commentors expressed concern about details that the Draft EIS presented or omitted in relation to specific technical issue areas. These editorial comments would improve the accuracy of the Draft EIS, and “mainly note minor typographical or factual errors and inconsistencies and discrepancies.”

Response. SEA acknowledges the corrections, clarifications, and additions provided by the commentors. SEA has reviewed all of the comments it received and has incorporated pertinent information into this Final EIS as appropriate. In making its final decision on the proposed Conrail Acquisition, the Board will consider the entire environmental record, including the Draft EIS, the Final EIS, and all public comments.

Summary of Comments. A law firm representing the City of Cleveland provided errata to comments that the City had previously submitted; the City’s errata consisted of minor editorial and grammatical corrections.

Response. The errata to the City’s previous comments did not offer substantive changes to those comments nor to the Draft EIS. However, SEA considered the City’s comments in preparation of this Final EIS and has incorporated pertinent information into this Final EIS as appropriate.

Summary of Comments. The Bureau of Indian Affairs requested copies of the Draft EIS.

Response. SEA acknowledges the request and has responded by providing copies.

Summary of Comments. A citizen of Rosemont, Pennsylvania requested a copy of the Final EIS when the Board publishes it.

Response. SEA acknowledges the request and has added the commentor to the Final EIS distribution list.

Summary of Comments. The Tri-State Transportation Campaign, a “consortium of 13 environmental, transportation and planning groups,” requested that SEA develop and distribute a Supplemental Draft EIS. The commentors expressed several merit and environmental benefits related to providing an alternative to the Conrail routing system east of the Hudson River in the New York metropolitan area.

Response. SEA has considered these comments as well as a Petition for Intervention, two Responsive Applications, and several Requests for Conditions and analyzed the potential environmental impacts in Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS. SEA has concluded that any potential environmental impacts from the proposed Conrail Acquisition east of the Hudson River would be insignificant both individually and cumulatively.

SEA conducts the environmental review process and makes recommendations to the Board regarding environmental issues. SEA does not evaluate the potential economic (including competitive) benefits of proposed acquisitions. The Board considers such benefits when ruling on the economic merits of a proposed transaction. Therefore, SEA concludes that no Supplemental Draft EIS is warranted.

Summary of Comments. The Athens-Clarke County, Georgia, Planning Department requested updates on the Board's decision regarding the proposed Conrail Acquisition.

Response. The Board periodically publishes notices of its actions in the Federal Register and maintains an Internet site at www.conrailmerger.com. SEA will provide a copy of the Final EIS to the commentor. The Board expects to have its final written decision on July 23, 1998.

Summary of Comments. The Southern Wayne County Chamber of Commerce of Michigan requested a list of endorsers of CSX and NS, an example endorsement letter, and the "rationale for needing the endorsement."

Response. This issue is not within the scope of the environmental review process.

Summary of Comments. Lorain County, Ohio requested additional data and the opportunity to review and comment on the data beyond the February 2, 1998 comment period closure. Specifically, the County requested more information on the Cleveland-to-Vermilion rail line segment (N-080) rerouting proposal.

Response. SEA acknowledges the request for information and has responded by letter.

5.2.2.6 Mitigation

Summary of Comments. Congressman Jerrold Nadler of New York and 23 other members of Congress representing the States of New York and Connecticut jointly stated the following: "The EIS must review the environmental and economic significance of these similar and complementary proposals and if they do provide mitigation, the EIS must recommend approval of the petition conditioned on the acceptance by the Petitioners of: 1. extending of the CIAO across the New York Harbor by car-float to interchange directly with the Long Island Railroad and the Providence and Worcester east of the Hudson River and directly accessing Oak Point Yard, Harlem River Yard, and the New York Produce Terminal at Hunts Point; 2. allowing any operator to provide RoadRailer service on the entire Northeast Corridor; 3. access by another carrier on the lines accessing the region east of the Hudson."

Response. SEA recognizes the concerns that the 24 members of Congress representing New York and Connecticut raised. The Board considers the economic and competitive issues related to proposals of Parties of Record in the merits portion of the its review process. This Final EIS examines the potential environmental impacts of proposed alternatives to the extent that such alternatives are feasible and reasonable. SEA

discusses the environmental issues that the commentors raised relative to the activities in the New York City/northern New Jersey metropolitan area in Chapter 4, "Summary of Environmental Review," and Appendix H, "Transportation: Roadway Systems Analysis," of this Final EIS.

Summary of Comments. NS commented, "The D[raft] EIS proposes for line segments identified as having significant impact for freight rail operations safety that NS comply with a proposed FRA rule which could require certain frequencies of rail inspection based on ton-miles of traffic on a line. The current proposal would require such inspections at least once every 40 million gross ton-miles, or annually, whichever is more frequent. NS already conducts such inspections on an equal or more frequent basis and stipulates it would continue to do so. NS believes, however, that it would be inappropriate for the F[inal] EIS to recommend such a requirement as it would encroach upon the jurisdiction of FRA regarding freight rail safety operating rules, and have the effect of prematurely adopting a proposed rule which is currently subject to the proper FRA rulemaking process."

Response. In the interest of safe operations, SEA does not consider requiring the Applicants to follow the provisions of the proposed FRA rule prior to its formal adoption by FRA to be inappropriate, nor does SEA consider this requirement to be an encroachment on FRA's jurisdiction. The proposed mitigation measures would implement the draft FRA rule on a specific number of affected rail lines and allow for compliance with any final rule FRA adopts.

Summary of Comments. DOT stated, "We do not question that the industry may adopt higher standards for itself, so long as they are in addition to and not inconsistent with existing federal standards. DOT would, however, consider it unwise for the STB [the Board] to attempt to create alternative binding standards in this area. DOT urges SEA merely to commend these 'good practices' to the Applicants for appropriate use consistent with federal hazardous materials regulations. Finally, it is important to underscore that in the SIPs [Safety Integration Plans], the Applicants have already developed plans to comply with all federal hazardous materials regulations."

Response. SEA fully recognizes FRA's plenary authority with respect to railroad safety matters. However, where specific safety concerns arise as a result of the matter before the Board, it is appropriate for the Board to address such safety concerns. The imposition of the Association of American Railroads (AAR) Circular OT-55-B regarding the designation of key trains is such a safety concern. It would be appropriate to withdraw the adoption of AAR Circular OT-55-B at such time as FRA imposes standards that are equal to or higher than those that AAR Circular OT-55-B imposes. In addition, if a particular key route no longer meets the criteria for applicability of key route status, the requirements would no longer apply to that route.

Summary of Comments. CSX and NS submitted numerous comments regarding mitigation measures that the Draft EIS proposed. CSX agreed to comply with 14 mitigation measures that the Draft EIS recommended for construction and abandonment activities and with three

mitigation measures that it recommended for operations over connections in Crestline and Sidney, Ohio and Willow Creek, Indiana.

The principal issue that CSX and NS raised was the extent of the mitigation that SEA recommended in the Draft EIS. CSX commented that the Draft EIS recommended mitigation in situations where the Board's established policies and precedents do not require or permit the imposition of conditions. CSX indicated that, in some areas, the proposed mitigation infringes on the jurisdiction of other Federal or state agencies. NS cautioned that the Board must evaluate the proposed mitigation in light of the price it exacts in lost benefits of the proposed Conrail Acquisition. For example, train limits and operating restrictions threaten the fundamental transportation benefits.

Both CSX and NS commented that the Final EIS should acknowledge that voluntary stipulated agreements between the Applicants and a third party are appropriate mechanisms for addressing identified environmental issues related to the proposed Conrail Acquisition. However, CSX also stated that such voluntary agreements should not be conditions of the proposed Conrail Acquisition.

Response. SEA agrees that compliance with existing laws and regulations is not mitigation. However, SEA recommends that the Board establish conditions of compliance with several specific laws, rules, regulations, and permitting requirements to establish and maintain enforcement jurisdiction during the oversight period. This enforcement jurisdiction would be held jointly with the primary Federal, state, or local agency responsible for the law, rule, regulation, or permitting function. This joint jurisdiction would offer an additional means of compliance enforcement if a violation should occur during the oversight period.

SEA likewise recommends that the Board require, as a condition of approval, compliance with Negotiated Agreements and retain oversight jurisdiction because SEA based its mitigation recommendations in part on the implementation of those Negotiated Agreements. Because the affected individuals are not parties to, or may not be direct beneficiaries of, agreements between CSX and NS and the community governing bodies, those individuals may otherwise have difficulty in causing enforcement in the event that the agreement is breached or protracted. Because the agreements generally involve future performance, the Board, which is not a party to the agreement, must rely on the parties to mitigate adverse environmental impacts that the Board could otherwise have conditioned. Without being able to enforce the agreement, the Board could not forego alternative mitigation.

Regarding proposed mitigation actions that may rectify or improve pre-existing conditions, SEA recognizes that some mitigation measures for significant adverse environmental impacts would also mitigate some pre-existing conditions. For example, the construction of a grade separation, implemented to remedy a significant and substantial increase in traffic delay and risk of collision, would necessarily eliminate any traffic delay and safety risk that was present before the proposed Conrail Acquisition.

SEA acknowledges that significant public benefits are associated with the proposed Conrail Acquisition. While SEA has recommended mitigation actions to reduce or offset significant adverse environmental effects, SEA has strived to maintain a fair and open-minded approach when dealing with such issues. SEA recognizes that NEPA does not mandate mitigation for every significant adverse impact. SEA has sought to maintain an equitable balance between the cost of mitigation and the anticipated public benefits.

Summary of Comments. Many municipalities and individuals commented that the mitigation that the Draft EIS proposed would be insufficient to reduce or avoid potential environmental impacts. For example, statements such as “SEA’s recommended mitigation for the Four Cities, as set forth in the Draft EIS, completely fails to ameliorate these considerable impacts,” or “SEA must find that additional mitigation is required,” were common themes among a variety of commentors.

Several commentors proposed additional mitigation or mitigation that they thought would more specifically address the potential environmental impact. For example:

- The Cities of Bay Village, Rocky River, and Lakewood, Ohio (BRL) think, “The only mitigation step that will completely eliminate the harms of the NS proposal to BRL is adoption of the mitigation plan outlined by Mr. Maestri [of NS] on November 25, 1997.”
- The State of Delaware, Department of Justice, “believes that a long-range plan for the entire rail network should be established.”
- The State of Delaware, Department of Justice requested that “CSX and NS immediately commit to adopting and allocating funding programs towards implementing future FRA rules on train horn blowing procedures.”
- Jerrold Nadler and 23 other members of Congress stated that, jointly, the Congressional Delegation, the State of New York, the City of New York, and the Tri-State Transportation Campaign demanded action that would “result in substantial mitigation” of adverse effects and “constitute both an alternative and a means of mitigation.”
- The Draft EIS only recommends further consultation; the Final EIS should list each of the areas that SEA studied and identify the specific potential environmental impacts that would occur.

Response. Many commentors suggested that the mitigation measures that the Draft EIS identifies were insufficient to reduce or avoid impacts, or that the measures failed to adequately address the specific concerns of the communities; other commentors recommended additional or alternative mitigation actions. See Chapter 4, “Summary of Environmental Review,” and Chapter 7, “Recommended Environmental Conditions,” of this Final EIS. Commentors also suggested mitigation for pre-existing conditions, where no significant environmental impact would occur as a result of the proposed Conrail Acquisition. In addition, other commentors raised economic concerns or merits issues

associated with the proposed Conrail Acquisition. In accordance with Board policy, CSX and NS would provide relief or mitigation for many of these issues only when circumstances warrant, consistent with mitigation criteria and approaches SEA has established.

Some commentors highlighted specific issues within their communities so that SEA was able to more thoroughly analyze the circumstances, determine whether mitigation was warranted, and recommend reasonable mitigation actions, if warranted. This type of comment fulfills the purpose of a public review and comment process for a Draft EIS.

SEA clarifies that, according to CEQ's NEPA regulations and related NEPA case law, this Final EIS must identify significant adverse environmental impacts associated with the proposed Conrail Acquisition. However, the EIS does not need to prescribe mitigation measures for such impacts. Nevertheless, even though SEA and the Board have no obligation to mitigate significant adverse environmental impacts, SEA and the Board remain guided by national rail transportation policy [as stated in the Interstate Commerce Commission (ICC) Termination Act of 1995] and strive to identify mitigation measures when warranted and when reasonable, effective, and practicable measures are available.

Some commentors suggested that the Board require the Applicants to establish funding programs for implementing future rules or regulations imposed by other agencies. SEA has concluded, however, that such requirements are unwarranted. Any future regulatory requirements are likely to have independent implementation requirements that the Applicants would have to fund, regardless of current programs. To the extent that a new regulatory action would fall within the Board's oversight period for this proposed Conrail Acquisition, any affected party could petition the Board (under a material change of facts or circumstances rationale) for a more stringent rule implementation program for specific sites or rail line segments, as warranted.

Summary of Comments. SEA received a comment from Congressman Dennis J. Kucinich noting several contradictions within the Draft EIS. For example, Congressman Kucinich commented: "The D[raft] EIS is therefore ambiguous when it finds that the Cleveland-Vermilion line does not meet most criteria for mitigation, but later singles out the west side of Cleveland and West Shore communities as an area of particular concern.... These contradictions need to be reconciled—or at the very least—addressed in the Final EIS."

As another example, Congressman Kucinich commented that the Draft EIS stated, "Densely populated, residential areas are simply not appropriate places for a steady stream of horn blasts 37 times per day." Congressman Kucinich alleged that SEA contradicted its acknowledgment of his comments in the responsive application he submitted with its finding that this section of railroad is not eligible for mitigation. He went on to say that SEA's conclusions are ambiguous and that the Final EIS should clarify them.

Response. SEA applied thresholds for environmental analysis that the Board designed to identify potentially significant adverse environmental impacts (see Appendix N, "Community Evaluations," of this Final EIS). SEA also identified circumstances where mechanical application of thresholds would result in a failure to consider impacts that merit consideration even though the change did not meet or exceed one of the Board's thresholds for environmental analysis. Where environmental impacts would be potentially significant, SEA has recommended reasonable mitigation measures for the Board's consideration.

Mitigation of horn noise at highway/rail at-grade crossings is not appropriate at this time because of the overriding concern for safety. FRA is expected to issue rules and specifications regarding the use of train horns at all public highway/rail at-grade crossings during 1998. These rules would preempt local ordinances that ban train horns except where other safety measures provide the same level of safety. Quiet Zones or future whistle bans might occur where FRA found that the alternate safety measures were equal to the existing practice of train horns at highway/rail at-grade crossings. FRA is also studying safety measure technology, such as the placement of four-quadrant gates and automated horn systems, as alternatives to train horns. When FRA promulgates its Quiet Zone rules, a means may become available for communities to use that mechanism to deal with such horn noise problems.

While SEA has conducted additional analysis in certain areas, such as Cleveland, without rigidly adhering to the overall thresholds established, such additional analysis should not be construed as creating conflicts. By acknowledging and being responsive to comments made, SEA does not necessarily concede that it has adopted or agreed to all such statements.

Summary of Comments. The City of Sandusky, Ohio, Department of Engineering Services suggested that "a fund be established based on tonnage of goods moved that will be dedicated to solving the problems created by vehicular and rail conflicting movements."

Response. SEA has addressed highway/rail at-grade crossing delay and safety-related issues as well as emergency response delay attributable to increased freight traffic resulting from the proposed Conrail Acquisition (see Chapter 4, "Summary of Environmental Review," of this Final EIS). Further, SEA has recognized the circumstances under which a party may petition the Board for reconsideration of a matter when there are material changes to the facts on which the Board relied in developing mitigation measures.

SEA maintains that mechanisms currently exist to fund highway/rail at-grade crossing safety improvements; therefore, SEA does not recommend requiring the Applicants to establish the fund.

Summary of Comments. The City of Ashtabula City Council commented that, if adverse impacts should occur as a result of changes related to the proposed Conrail Acquisition, “the creator of that negative impact should compensate the community for their hardship.”

Response. The hardship question concerns vehicular traffic delays as a result of increased rail activity, as well as a risk to human life as a result of the inability of emergency response teams to move expeditiously through the City.

SEA is concerned with traffic delays and emergency response delays associated with the proposed Conrail Acquisition and has evaluated those matters in each community, including Ashtabula, with a view toward identifying the seriousness of the problem as well as developing mitigation measures to alleviate such problems should mitigation be warranted. However, the issue of monetary compensation is beyond the authority of an EIS and is an inappropriate response to a need for mitigation. If, in fact, mitigation is appropriate with respect to traffic and emergency response delays, the Board will decide which conditions to impose based on SEA’s final environmental recommendation and the public record. If the facts and circumstances upon which SEA based its recommendations change as a result of Acquisition-related activities, or if the mitigation that the Board directs is unsuccessful, then the Board, upon the petition of any party who demonstrates such material change or failure of mitigation, may review the final mitigation measures if warranted.

Summary of Comments. NS expressed the concern that the proposed limit of a two train per day increase on its main line through Erie, Pennsylvania would “have serious adverse ramifications for NS’ proposed operating plan, particularly in the crucial Midwest to New York/New Jersey market.” NS stated that there appears to be no analytical basis for the limitation and urged SEA to “undertake a thorough examination of any mitigation options it might consider that have the potential to interfere with Applicants’ Operating Plans.”

Further, NS commented that the Four City Consortium’s Proposed Alternative 2, which would “compel NS to grant CSX trackage rights over the NS Fort Wayne-Chicago main line” as well as construct several new connections, is not feasible. NS contended that the alternative would “significantly undermine NS’ service from Chicago to the Southeast.”

Response. SEA considered the impact of increasing the number of trains through Erie, and has reevaluated the 2 trains per day limit that the Draft EIS recommended as a proposed mitigation measure. See Chapter 4, “Summary of Environmental Review,” Appendix C, “Settlement Agreements and Negotiated Agreements,” and Appendix N, “Community Evaluations,” of this Final EIS for more detailed discussion of the Erie situation.

In Erie, NS anticipates an increase of 12.1 trains per day after the proposed Conrail Acquisition. SEA analyzed the impacts of this increase on several highway/rail at-grade crossings and identified those that potentially warrant mitigation. SEA has also evaluated the NS proposal to relocate its main line from its present locations along 19th

Street and place it adjacent to the grade-separated Conrail main line. SEA anticipates that the relocation will require 18 to 24 months to complete. SEA has encouraged NS and the City of Erie to arrive at a Negotiated Agreement that would allow NS to operate its forecasted traffic levels while committing to relocate the main line out of 19th Street on a schedule satisfactory to the City.

For the Four City Consortium proposal, SEA considered the impact of allowing CSX traffic to operate over NS's main line between Hobart and Van Loon. See Chapter 4, "Summary of Environmental Review"; Appendix C, "Settlement Agreements and Negotiated Agreements"; and the separate discussion in Appendix N, "Community Evaluations," of this Final EIS.

Summary of Comments. The Ohio Attorney General's office, the Ohio Rail Development Commission, and the Public Utilities Commission of Ohio asserted that the "Joint Application, as proposed, is not in the public interest and should be denied unless the Board directs" certain conditions. They stated these conditions as follows: (a) The Board should require the Applicants to identify and fund safety improvements necessary to address potential environmental impacts from an increase in rail operations within the State; and (b) the "Board should order and impose upon the Joint Applicants more stringent requirements regarding rail transportation of hazardous materials."

Response. SEA has identified numerous conditions for the proposed Conrail Acquisition, including conditions on safety and transportation of hazardous materials. Chapter 7, "Recommended Environmental Conditions," of this Final EIS discusses all conditions of the proposed Conrail Acquisition.

5.2.3 System-wide Technical Analysis

5.2.3.1 Safety: Highway/Rail At-grade Crossings

Summary of Comments. CSX volunteered to install emergency information signs displaying a toll-free telephone number and a unique highway/rail at-grade crossing number at all crossings with active warning device signals. In addition, CSX stated that it would provide 24-hour, seven-day-a-week staffing to respond to calls to the toll-free number. CSX noted that it is currently installing the signs on its existing system and would voluntarily expand the program to the Conrail rail lines that it would acquire if the Board approves the proposed Acquisition. CSX stated that the Final EIS may include this information but requested that the Board not include it as a condition of the approval.

Response. SEA acknowledges CSX's comment.

Summary of Comments. NS commented that it has already completed the Draft EIS recommendation that NS equip all of its public crossings and certain private crossings with information signs that display a toll-free telephone number for motorists to report emergencies. NS stated that on approval of the proposed Conrail Acquisition, it would install emergency

information signs displaying a toll-free number and a unique crossing number at all Conrail public highway/rail at-grade crossings that the proposed Conrail Acquisition would allocate to NS within 2 years of the control date. Further, NS and CSX offered to work with the Conrail Shared Assets Operator to ensure implementation of a similar program in the Shared Assets Areas within the same time frame.

Response. SEA acknowledges NS's comment.

Summary of Comments. NS and CSX both commented that the Draft EIS methodology is flawed because it relies on the accident prediction formula as the sole basis for determining the need for and type of highway/rail at-grade crossing warning upgrade. NS noted that DOT designed the accident formula to help state departments of transportation rank crossings and to identify crossings that potentially need safety improvements. NS indicated that each state and local community upgrades highway/rail at-grade crossings based on different criteria and priorities. CSX asserted that SEA's accident prediction analysis did not consider site-specific conditions and variables affecting safety measures before SEA designated recommended mitigation measures. CSX commented that SEA should recommend as a condition that state diagnostic teams conduct on-site reviews of those individual highway/rail at-grade crossings where there are potential safety concerns.

Response. NS is correct that the formula SEA used was designed to help state departments of transportation rank crossings and to identify crossings that potentially need safety improvements. SEA's use of the formula was appropriate because SEA used it to identify crossings that potentially need safety improvements. SEA used the formula because it provided a statistically valid means of assessing accident risk at highway/rail at-grade crossings. The formula provided a consistent means of analyzing safety at highway/rail at-grade crossings on all rail line segments throughout the NS, CSX, and Conrail systems.

SEA conducted site inspections of more than 280 highway/rail at-grade crossings, including all crossings identified in the Draft EIS for safety mitigation. The purpose of the site inspections was both to verify the characteristics reported in the FRA database and to develop appropriate mitigation measures that would address site-specific conditions.

SEA maintains that analyzing accident risk at individual highway/rail at-grade crossings is appropriate. The standard FRA accident risk calculation methodology uses this approach, which demonstrates its validity. However, SEA recognizes state departments of transportation responsibility for highway/rail at-grade crossing safety and acknowledges that a state department of transportation may use a corridor-based analysis. Consequently, SEA's recommended highway/rail at-grade crossing safety mitigation in the Final EIS includes the possibility that the Applicants may implement alternative safety improvements if they execute a Negotiated Agreement with the affected local jurisdiction and the state department of transportation. This may include a state department of transportation-performed corridor safety analysis as an alternative to the

crossing-specific mitigation that SEA recommended, as long as the crossing specified for mitigation is included in the corridor analysis.

Summary of Comments. NS stated that the Draft EIS does not indicate whether a diagnostic team evaluated the highway/rail at-grade crossing sites before proposing mitigation or whether the decision-making process involved appropriate state agencies. NS recommended that field investigations determine the accuracy of FRA input data for highway/rail at-grade crossings and determine revised cost-effective improvement decisions for highway/rail at-grade crossings where data are inaccurate. In addition, NS requested that a diagnostic team examine other critical factors “not taken into consideration with the DOT Accident Prediction Severity Formula,” including sight distance, roadway geometrics, highway congestion, local topography, frequency of high-occupancy vehicles, and frequency of hazardous materials transport vehicles.

Response. SEA conducted site visits at each of the highway/rail at-grade crossing locations where mitigation was recommended. Based on the findings of each site visit, SEA evaluated the overall feasibility of the proposed mitigation and considered all relevant factors in developing its final recommendations. SEA agrees with NS that diagnostic teams from the states and the Applicants should evaluate each site in depth before any upgrade is designed and implemented.

Summary of Comments. NS and CSX both objected to SEA’s recommended use of four-quadrant gates and median barriers. The Applicants noted that neither FRA nor the *Manual of Uniform Traffic Control Devices* (MUTCD) has approved these devices. NS stated, “In virtually all states, traffic control devices are required by statute to substantially conform to the MUTCD.” NS added that in instances where four-quadrant gates exist, their installation followed site-specific studies of geometric figures, road width, and other local conditions.

Response. SEA recognizes that neither FRA nor MUTCD have universally approved four-quadrant gates and median barriers. As a result, SEA’s recommended highway/rail at-grade crossing safety mitigation includes the possibility that CSX and NS may implement alternative safety improvements if they execute a Negotiated Agreement with the affected local jurisdiction and the state department of transportation. Such an agreement may include a corridor safety analysis by the state department of transportation, as an alternative to the individual crossing safety mitigation that SEA recommends, as long as the analyzed corridor includes the crossing specified for mitigation. This alternative mitigation strategy is especially appropriate for gate-protected crossings that warrant mitigation. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS contains SEA’s recommended mitigation conditions.

Summary of Comments. NS expressed concern that the Draft EIS did not explicitly identify which parties would be responsible for funding the highway/rail at-grade crossing upgrades. NS noted that traditionally state departments of transportation and the railroads have worked in a cooperative effort to allocate costs of installing and maintaining warning devices, but that government agencies have the ultimate responsibility for highway/rail at-grade crossing safety.

Response. SEA concurs that states and railroads typically cooperate to improve safety at highway/rail at-grade crossings. However, because the potential safety impacts identified in this analysis would be the direct result of increases in train traffic from the proposed Conrail Acquisition, SEA recommends that CSX and NS bear most of the costs of mitigation for highway/rail at-grade crossing upgrades if the Board approves the proposed Conrail Acquisition. Refer to Chapter 7, "Recommended Environmental Conditions," for SEA's final mitigation recommendations.

Summary of Comments. CSX commented that at many of the 118 highway/rail at-grade crossings that Table 7-4 of the Draft EIS identifies as sites potentially requiring improvements, either the suggested mitigation is already complete or funding and scheduling for installation have taken place. NS had similar comments about 34 of the 44 highway/rail at-grade crossings that SEA recommended for permanent upgrading. CSX and NS both commented that the identified crossings did not meet the EIS Category A or Category B significance criteria using either the 1991 through 1995 accident histories or the 1992 through 1996 accident histories. In addition, CSX noted that SEA used accident rates after the proposed Conrail Acquisition, but should have used accident rates before the proposed Conrail Acquisition, to determine whether some highway/rail at-grade crossings meet the Board's threshold for environmental analysis. CSX also disagreed with the recommended mitigation in the Draft EIS for the Toledo-to-Deshler rail line segment "because any impacts from increased traffic are independent of the Transaction."

Response. SEA considers the May 1997 increase in through train operations along the Toledo-to-Deshler rail line segment C-065 to be related to the proposed Conrail Acquisition. As a result, SEA continues to analyze this rail line segment based on an increase from 0.6 trains per day before the proposed Conrail Acquisition to 14.2 trains per day after the proposed Conrail Acquisition. SEA therefore did not eliminate the 16 warning device upgrades along this rail line segment that it recommended in the Draft EIS. SEA continues to recommend mitigation at these crossings in this Final EIS in Chapter 7, "Recommended Environmental Conditions."

SEA identified the highway/rail at-grade crossings that would warrant mitigation based on the accident risk that would result from the proposed Conrail Acquisition. The use of the existing accident risk is not appropriate because it would not account for the impacts of the proposed Conrail Acquisition. Therefore, SEA did not reanalyze highway/rail at-grade crossings nor modify its list of crossings warranting mitigation in response to this comment.

In this Final EIS, SEA removed from the list of locations warranting mitigation those highway/rail at-grade crossings where the Applicants have already upgraded warning devices. SEA understands that various crossings are under review by the appropriate state agencies. However, since SEA does not have a firm schedule for implementing funded or otherwise active improvements, SEA cannot be certain that the Applicants would implement these improvements in a timely manner. Thus, SEA continues to recommend mitigation at locations it identified as active projects. The Applicants would

have to complete the improvements within 2 years and certify on a quarterly basis to the Board that they would install the improvements during the 2-year period following the decision granting approval of the proposed Conrail Acquisition. See Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," and Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

SEA recognizes that state agencies and railroads typically cooperate to improve safety at highway/rail at-grade crossings. However, because the safety impacts that the analysis identified are the result of Acquisition-related increases in train traffic, the Applicants would be primarily responsible for the costs of mitigation if the Board approves the proposed Conrail Acquisition. In recognition of the role of states in improving crossing safety, SEA recommended an optional approach that would allow the states and the Applicants to agree on alternative mitigation if they execute a Negotiated Agreement with the affected local jurisdiction. This could include examining a rail corridor, as long as the corridor includes the crossing specified for mitigation.

The established baseline for the analysis is 1995. Therefore, SEA used 1991 to 1995 accident data in the accident risk analysis. All analyses used this baseline. To maintain consistency, SEA has continued to use this established baseline. The crossings that CSX identified remain as sites to be mitigated.

Summary of Comments. After reviewing the proposed mitigation measures in Table 7-4 of the Draft EIS, NS identified 13 highway/rail at-grade crossings that SEA "apparently inadvertently" included as requiring mitigation. NS commented that these crossings do not have accident prediction values that meet the significance criteria. These crossings are as follows: IN 484248X, IN 484209G, IN 484246J, IN 478240E, NY 471825F, PA 471940M, PA 592290T, PA 592320H, OH 473726P, OH 473668W, OH 473673T, and MD 534887F.

Response. SEA's analysis revealed that each of the highway/rail at-grade crossings that NS identified meets the criteria of significance as the Draft EIS describes in Chapter 3, "Analysis Methods and Potential Mitigation Strategies," and Appendix B, "Safety," and therefore each warrants mitigation. SEA identified the highway/rail at-grade crossings that would warrant mitigation based on accident risk that would result from the proposed Conrail Acquisition, as opposed to the present accident risk that NS suggested. The risk is not appropriate for SEA to use because it would not account for the impacts of the proposed Conrail Acquisition. Refer to Chapter 7, "Recommended Environmental Conditions," of this Final EIS for SEA's final mitigation recommendations.

Summary of Comments. NS identified the following highway/rail at-grade crossings in Table 7-4 of the Draft EIS where the currently installed devices meet or exceed the mitigation that the Draft EIS recommended: IL 479848P, IN 478314U, MD 469321F, OH 472012W, OH 481584W, and OH 481490V. In addition, NS listed the following highway/rail at-grade crossings as funded and scheduled for upgrade: IN 478216D, IN 478270W, OH 481546M, VA 468634S, and IN 484282E.

Response. SEA has updated the Draft EIS highway/rail at-grade crossing safety analysis to reflect the upgrades to warning devices. In this Final EIS, SEA removed from the list of locations warranting mitigation those highway/rail at-grade crossings where the Applicants have already upgraded warning devices. SEA understands that various crossings are under review by appropriate state agencies. However, since SEA does not have a firm schedule for implementing funded or otherwise active improvements, SEA cannot be certain that the Applicants would implement these improvements in a timely manner. Thus, SEA continues to recommend mitigation at locations it identified as active projects. The Applicants would have to complete the improvements within 2 years and certify the status of the improvements on a quarterly basis to the Board during the 2-year period following a decision granting approval of the proposed Conrail Acquisition. See Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," and Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Summary of Comments. NS stated that it had performed an accident analysis using historical data for 1992 through 1996 and identified several highway/rail at-grade crossings where SEA should delete its recommendation to provide upgraded warning devices: IN 474598M, IN 484216D, IN 484229T, OH 481547U, OH 503133H, OH 472284J, PA 535146X, VA 468599F, IN 484269R, PA 592295C, OH 481660M.

Response. The baseline that SEA established for the analysis is 1995; therefore, the safety analysis used accident data from 1991 through 1995. All analyses used this baseline for the Draft EIS and the Final EIS. To maintain consistency, SEA has continued to use this established baseline. Refer to Chapter 7, "Recommended Environmental Conditions," for SEA's final mitigation recommendations.

Summary of Comments. NS and CSX both commented that SEA's recommendation for NS and CSX to upgrade 118 highway/rail at-grade crossings meeting SEA's significance criteria would ignore established practice. Specifically, NS and CSX said it would undermine the role of the state departments of transportation as the parties with primary responsibility for highway/rail at-grade crossing warning devices. NS noted that Federal statutes and regulations assign to the state transportation agencies the task of determining the need for, type of, and priority of warning devices. NS pointed out that the Applicants must have the express approval of the state departments of transportation in order to implement recommended mitigation measures. CSX suggested that "it would be appropriate for the Final EIS to recommend ... a requirement that Applicants bring these crossings to the attention of the state agencies that have jurisdiction over highway/rail crossings."

Response. The Board is authorized by statute to impose conditions to protect public health and safety in its decisions regarding transactions such as the proposed Conrail Acquisition. Such conditions may include improved warning devices at highway/rail at-grade crossings where the Board finds that such improvements are appropriate to mitigate the potential safety impacts of transaction-related increases in train traffic. SEA agrees that the Applicants must have approval from the state departments of

transportation in order to implement recommended mitigation measures. The responsibility for funding the mitigation measures, however, lies with the Applicants.

Summary of Comments. DOT proposed that SEA use a corridor approach for its analysis and mitigation of potential safety impacts involving highway/rail at-grade crossings. DOT noted, “The crossing-by-crossing approach used in the D[raft] EIS isolates each crossing from its overall setting, and so in this case may present a distorted or otherwise unrealistic view of the impacts under study.”

Response. SEA determined that analyzing accident risk at individual highway/rail at-grade crossings on a system-wide basis is appropriate. SEA notes that the standard FRA accident risk methodology uses this approach, which SEA considers a demonstration of its validity. The FRA accident risk methodology includes actual accident history at each highway/rail at-grade crossing to explicitly reflect the characteristics of its overall setting. SEA did, however, conduct corridor-based analysis on nine areas in northwestern Ohio, as Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis,” in this Final EIS discusses. SEA recognizes, however, the state departments’ of transportation responsibility for providing highway/rail at-grade crossing safety and acknowledges that a state department of transportation may use a corridor-based analysis. Consequently, SEA’s recommended highway/rail at-grade crossing safety mitigation in this Final EIS includes the possibility that the Applicants may implement alternative safety improvements if they execute a Negotiated Agreement with the affected local jurisdiction and the state department of transportation. This may include a corridor safety analysis by the state department of transportation as an alternative to the individual crossing mitigation, as long as the crossing specified for mitigation is in the analyzed corridor.

Summary of Comments. The Seneca County (Ohio) Engineer and a former Director of Engineering with AAR stated that whistle bans would adversely affect safety. With a whistle ban in place, the County Engineer asked, “What will happen if and when the warning devices fail?”

Response. In the Draft EIS, SEA did not recommend any change in the sounding of train horns. SEA recognizes the importance of train horns to safety. The Draft EIS noted that FRA is developing rules that would allow communities and railroads to receive FRA approval for alternatives to train horns. The Draft EIS stated, “Until such regulations are in place, SEA does not believe it would be appropriate to recommend mitigation measures to reduce horn noise because of safety implications.”

Summary of Comments. A former Director of Engineering with AAR suggested that recommended mitigation may not be feasible. The commentator reasoned that, in order to allow for braking distance and prevent a train from colliding with a stalled vehicle, active warning devices may need to operate up to two minutes before the train arrives at the crossing. He concluded that this type of warning device would be costly and would increase the delay at crossings.

Response. SEA concurs with the commentor that the time and distance requirements for stopping trains make a notification mechanism impractical as a routine accident avoidance strategy. In the Draft EIS, SEA did not intend to suggest using a notification mechanism to directly stop oncoming trains. In the Draft EIS, SEA described the benefits of improved notification in order to inform railroads of obstructed highway/rail at-grade crossings. SEA recommended this notification to provide a prompt warning device and repair response to reduce the likelihood of accidents.

Summary of Comments. Two parties commented about the tendency of drivers to take risks at highway/rail at-grade crossings to avoid long delays. One resident of Princeton, Indiana noted that trains block crossings for long periods of time, causing people to take chances by driving in front of trains. This commentor stated that eight such deaths have occurred in that community in less than a year. The City of Sandusky, Ohio asked, "Will these drivers anticipate a long delay and therefore take the risk of crossing by going around guards or over the crossing while the lights are flashing?"

Response. SEA's safety analysis included the overall effect of risky driver behavior, but did not calculate the way behavior would vary at different highway/rail at-grade crossings. The analysis used a standard FRA method that applies a set of formulas to estimate the risk of accidents at each highway/rail at-grade crossing. These formulas represent a statistical analysis of actual accident experience at highway/rail at-grade crossings in the United States. FRA formulas reflect the fact that some people ignore flashing lights and drive around crossing gates, thus increasing the probability of accidents. By using actual accident history, SEA's analysis accounts for actual driver behavior by using these formulas.

There may potentially be increased delays at certain highway/rail at-grade crossings as a result of Acquisition-related train traffic increases. SEA understands that FRA does not include the amount of time that drivers must wait for trains to pass at a specific highway/rail at-grade crossing, so it cannot reflect variations among crossings in the probability that drivers would ignore warning devices.

Summary of Comments. A railroad signal expert, formerly a Director of Engineering with AAR, commented that SEA cannot require the Applicants to upgrade warning devices because the Federal government traditionally funds improvements to highway/rail at-grade crossings using highway trust funds.

Response. The Board has statutory authority to impose conditions to protect public health and safety in its decisions regarding transactions such as the proposed Conrail Acquisition. Such conditions may include improved warning devices at highway/rail at-grade crossings, where the Board finds that such improvements are appropriate to mitigate the safety impacts of increases in train traffic as a result of the proposed Conrail Acquisition.

SEA concurs with the commentor that Federal funds for upgrading warning devices at highway/rail at-grade crossings are available through the Federal highway program. The availability of such funds does not preclude the use of other funds, however, including those of the Applicants, for upgrading warning devices.

5.2.3.2 Safety: Hazardous Materials Transport

Summary of Comments. EPA commented that the Draft EIS did not fully discuss potential environmental impacts of hazardous materials transport. EPA questioned the significance criterion of an increase in hazardous materials transport to more than 10,000 carloads per year, stating that the risk calculations in the Draft EIS do not support a significant increase in risk at the 10,000 carload level. Also, EPA stated that “the [D]raft EIS [does not] provide enough discussion to explain what those risks may mean to a community.”

Response. SEA estimated potential changes in hazardous materials transport on each rail line segment associated with the proposed Conrail Acquisition, and estimated accident frequencies for those rail line segments that would have increased hazardous materials transport following the proposed Conrail Acquisition. The potential risk of a hazardous materials release during rail transport is primarily dependent on the likelihood of a hazardous materials rail car being involved in an accident. Because rail accidents are relatively infrequent, especially those involving hazardous materials releases, SEA determined that it would be appropriate to use thresholds for environmental analysis and significance criteria based on the number of hazardous materials cars per year on a rail line segment. Therefore, SEA used AAR’s 10,000 carloads per year value for key route designation as a criterion of significance for mitigation. AAR key route guidelines are based on industry experience nationwide. SEA concludes that this protective value would minimize potential impacts of hazardous materials transport.

SEA understands that there are more than 50,000 chemicals in use in the United States and does not consider it possible to predict the consequences of any given rail accident involving hazardous materials. SEA has provided additional information in Appendix L, “Natural Resources Analysis,” of this Final EIS regarding the classes, characteristics, and potential exposure pathways of chemicals that the Applicants transport. SEA has determined that the additional information, its analysis, and its recommended mitigation adequately address the potential environmental impacts of hazardous materials transport.

Summary of Comments. NS agreed with the conclusion in the Draft EIS that the proposed Conrail Acquisition would result in a slight safety improvement for hazardous materials transport and stated its expectation that the improvements would actually be greater than those the Draft EIS described.

Response. SEA acknowledges the comment.

Summary of Comments. NS objected to the proposed requirement to prepare a hazardous materials emergency response plan for each local emergency response organization along key

routes and major key routes. NS expressed concern that this would apply to each such organization in 63 counties in 10 states. NS stated its willingness to provide plans for each County to distribute to local emergency planning committees within the County. NS also expressed its willingness to provide a toll-free telephone number for the NS Police Communications Center in Roanoke, which can immediately access all NS dispatch centers, to each County for distribution to local emergency planning committees.

Response. SEA has concluded that the requirement to prepare a hazardous materials emergency response plan for each local emergency response organization along major key routes is not excessively burdensome.

Summary of Comments. NS commented that the Draft EIS definition of a key train was not correct. NS quoted the Draft EIS definition as follows: "The Association of American Railroads (AAR) defines a key train as any train handling five or more carloads of poison inhalation hazard (PIH) materials or a combination of 20 or more carloads containing hazardous materials." NS stated that the correct definition of a key train is any train "with five or more tank car loads of chemicals classified as Poison Inhalation Hazard (PIH) Zone A or B; or any train with combination of 20 or more car loads or intermodal tank loads of PIH (Hazard A or B), Division 2.1 Flammable Gas; Division 1.1 or 1.2 Explosives, and Environmentally Sensitive Chemicals (ESCs) as defined in Appendix A to the Circular."

Response. SEA used an abbreviated key train definition in the Draft EIS for editorial purposes only. Where the Draft EIS and the Final EIS describe key train mitigation requirements, however, SEA means the full definition from AAR Circular No. OT-55-B, dated October 19, 1993. That full definition is as follows: "Any train with five tank car loads of poison inhalation hazard (Hazard zone A or B) or 20 car loads of intermodal portable tank loads of a combination of PIH [Poison Inhalation Hazard] (Hazard zone A or B), flammable gas, Class 1.1 or 1.2 explosives (Class A), and environmentally sensitive chemicals shall be called a 'Key Train.'" Appendix A of Circular OT-55-B lists PIH (Hazard zone A or B) and environmentally sensitive chemicals with 49 Standard Transportation Commodity Codes designated number 49. The Draft EIS included a copy of AAR Circular OT-55-B as Attachment B-10 of Appendix B, "Safety."

Summary of Comments. NS suggested modifying Table 9-1 of the Draft EIS, Appendix B, "Safety," Volume 5A, pages B9-4 and B9-5. NS stated, "For Conrail, the table includes 'Key Routes' columns for 5,000-8,000 and 8,000-10,000 cars. These reflect tabulations of feeder routes to Conrail's 'key routes.' Neither OT-55B nor the criteria in the D[raft] EIS would consider routes with less than 10,000 carloads of hazmat to be 'key routes.' NS recommends the tables be modified to eliminate these columns to avoid confusion."

Response. SEA concurs with NS's comment. SEA based the columns showing "Pre-Acquisition Key Route" on information from large-scale key route maps, which SEA did not precisely link to the 1,022 rail line segments that describe the system. SEA did not use this information in the analysis. Therefore, SEA has deleted these two columns in the Final EIS.

Summary of Comments. EPA expressed concern that the mitigation measures proposed for hazardous materials transport do not account for the population or proximity of communities adjacent to key routes and major key routes. EPA also suggested that mitigation should address causes of all incidents, rather than just vehicle-train accidents. EPA noted the proposal for formal Failure Mode and Effects Analysis as mitigation for potential hazardous materials transport impacts, but could not find a requirement for the analysis or the implementation of its results in the Draft EIS.

Response. SEA did examine causes of all accidents, not just vehicle-train accidents, in developing the proposed mitigation measures. SEA proposed mitigation measures for key routes and major key routes that apply the best possible proven physical facility, responder, and carrier coordination technology to provide safety in hazardous materials transport at all locations. SEA has designed the proposed key route and major key route mitigation measures to protect high-density populations adjacent to the rail lines. These mitigation measures provide a higher margin of safety to rural populations than might be the case if SEA proposed different mitigation measures for different populations. SEA also notes that other Federal regulations governing hazardous materials transport—for example, those that DOT has promulgated—do not vary based on the population density along the transport corridor.

SEA recommends modifications to the original proposed mitigation measures to better reflect the scope of the Board's authority and the information SEA gained from the hazard analyses. SEA recommends that the Board require the Applicants to conduct formal hazard analyses for the rail yards and intermodal facilities where an increase in activities exceeds the criteria of significance for mitigation. Refer to Appendix F, "Safety: Hazardous Materials Transport Analysis," and Chapter 7, "Recommended Environmental Conditions," of this Final EIS for additional information.

Summary of Comments. CSX and NS stated that the term "major key route" does not agree with accepted terminology and recommended not using this terminology. CSX and NS concurred with SEA and the Draft EIS about using a threshold for environmental analysis for routes that would double in hazardous materials transport and exceed 20,000 carloads per year to trigger mitigation. However, CSX and NS recommended that the Board not call these segments "major key routes."

Response. SEA has concluded that the major key route terminology does not contradict any existing terminology and serves a useful purpose in the Draft EIS and this Final EIS.

Summary of Comments. CSX and NS commented that the Draft EIS incorrectly stated that the AAR key route guidelines include "measures for visual rail defect inspections at least twice per week." CSX explained that the guidelines require inspection frequency twice per year on main track and once per year on sidings. NS noted that the requirement is not for visual inspections, but for inspection by rail defect detection and track geometry inspection cars or any equivalent level of inspection.

Response. SEA concurs with CSX and NS. SEA has included the correct wording in Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Summary of Comments. CSX maintains that the proposed conduct of emergency response drills every 2 years on certain rail line segments with increased hazardous materials traffic (Mitigation Measure 4[B]) exceeds the Board's authority. CSX and NS agree that it would be useful to conduct, within 1 or 2 years after Day 1, one real-time or desktop emergency response simulation drill for the major key routes because of the proposed Acquisition-related increase in hazardous materials transport on those routes. However, CSX and NS noted that the Draft EIS did not demonstrate the need for similar drills on rail line segments that currently carry even larger volumes of hazardous materials. CSX stated that, after the one-time drill, it would follow the guidelines of AAR Circular OT-55-B with respect to key routes.

Response. SEA maintains that potential personnel changes that would occur over time justify the requirement that the Applicants perform emergency response drills. The drills would occur within 2 years of Board approval of the proposed Conrail Acquisition. SEA also concludes that requiring emergency response drills addresses, in part, the Board's responsibility to address potential safety impacts of the proposed Conrail Acquisition. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS for SEA's recommended mitigation.

Summary of Comments. CSX maintains that the proposed Failure Mode and Effects Analysis for hazardous materials incidents at rail yards and intermodal facilities (Recommended Mitigation Measure No. 6) exceeds the Board's authority. CSX's reasoning is that the proposal would apply to all rail yards and facilities, including those that either would not change or would decrease in activity following the proposed Conrail Acquisition. CSX and NS also stated that the proposed requirement would be redundant because of numerous existing CSX and other industry programs. These programs include the Railroad Tank Car Safety Research and Test Project of the Railway Progress Institute and AAR; CSX participation in the Chemical Manufacturers Association's Responsible Care Program, which includes risk assessments for hazardous materials transport and train accident prevention; and adherence to DOT's regulations governing hazardous materials transport (49 CFR 171-174).

Response. SEA recommends modifications to the originally proposed mitigation measure to better reflect the scope of the Board's authority and the information SEA obtained from the impact analysis. SEA recommends that the Board require the Applicants to conduct formal Failure Mode and Effects Analysis for the rail yards and intermodal facilities where the increase in activities exceeds SEA's criteria of significance for mitigation. The analysis could include shipper practices and communications between shippers and the Applicants. SEA has included this proposed mitigation in Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Summary of Comments. CSX maintains that the Board should not require any special mitigation measures for hazardous materials transport, but does not object to a number of the recommendations. Specifically, CSX would agree with the requirement to prepare a hazardous

materials emergency response plan for each local emergency response organization along major key routes, as the Draft EIS described in Recommended Mitigation Measures Nos. 3(A) and 4(A), respectively. CSX would also agree to mandatory adherence to AAR key train guidelines, as the Draft EIS described in Recommended Mitigation Measure No. 3(B). Further, CSX would agree to provide a toll-free telephone number in the hazardous materials emergency response plan to local emergency response organizations, as the Draft EIS described in Recommended Mitigation Measure No. 5.

CSX and NS noted that they do not think that the Board needs to impose adherence to the AAR key route guidelines as a condition of the proposed Conrail Acquisition, because CSX and NS already adhere to those guidelines. If the Board does impose such a condition, however, CSX and NS recommended that the Board structure the condition such that they would have the flexibility to adhere to any new industry standard that updates the requirements (specifically, those of AAR Circular OT-55-B). CSX and NS further recommended that any such condition expire 3 years after Day 1 of the proposed Acquisition, after which CSX and NS would designate key routes based on the actual level of hazardous materials their trains carry.

DOT stated that it cannot endorse the imposition of AAR Circular OT-55-B as though it were a Federal regulatory standard. DOT stated that doing so “could confuse the regulated community in general, and CSX and NS in particular, about their duty to comply with the Code of Federal Regulations [CFR].” DOT further expressed concern that the adoption of the AAR key train guidelines could lead to lower standards of care for other trains carrying hazardous materials. According to DOT, its “hazardous materials regulations impose higher standards for packaging, handling, and documentation of more dangerous commodities and less stringent standards for less dangerous items, in order to secure the same low level of risk for the transportation of all regulated commodities. The ‘key train’ concept, made mandatory, would tend to frustrate this interest.”

Response. SEA does not claim that, as a minimum level of mitigation, requiring CSX and NS to follow the provisions of AAR Circular OT-55-B for those rail line segments that would be affected by the proposed Conrail Acquisition would cause confusion, lower standards of care for hazardous materials transport, or frustrate the interests of fellow Federal agencies.

SEA recommends that the Board require CSX and NS to adhere to AAR Circular OT-55-B only on those rail line segments where the number of carloads of hazardous materials would increase beyond SEA’s criteria of significance following the proposed Conrail Acquisition (see Chapter 7, “Recommended Environmental Conditions,” of this Final EIS). SEA establishes these criteria as a means of (a) uniformly defining the concepts of “key routes” and “major key routes”; and (b) setting a minimum level of mitigation. SEA further recommends that the Board require CSX and NS to adhere to the most current version of Circular OT-55-B or to any successor documents, in order to preserve the regulatory flexibility that CSX and NS request. SEA does not recommend that the Board allow the proposed mitigation to expire after 3 years.

Summary of Comments. CSX and NS objected to Recommended Mitigation Measure No. 3(C), which would require them to comply with any of their own hazardous materials transport requirements that are more stringent than AAR guidelines. CSX and NS both stated their commitment to fulfilling AAR Circular OT-55-B guidelines; however, they asserted that they should have the flexibility to devise additional requirements and modify existing requirements based on experience.

Response. SEA does not consider the proposed requirement that the Applicants comply with any of their own hazardous materials transport requirements that are more stringent than AAR guidelines to represent an undue burden. However, SEA recommends that the Board require the Applicants to adhere to the most current version of AAR Circular OT-55-B, or to any successor documents, in order to preserve the regulatory flexibility that the Applicants request.

5.2.3.3 Safety: Passenger Rail Operations

Summary of Comments. Several commentors, including the State of New York, Amtrak, United Parcel Service, CSX, and NS, expressed opposition to the “Superior Train” mitigation, also known as temporal train separation mitigation. The Draft EIS indicated that the proposed mitigation would require “trains moving in the same or opposite directions on the same track on any of these line segments...to be clear of the track at least 15 minutes before and 15 minutes after the expected arrival of a passenger train at any point.” SEA proposed this mitigation in the Draft EIS to protect passenger trains that would operate on rail line segments with additional freight train traffic. The proposed mitigation would apply to trains on nine rail line segments (four NS and five CSX) that SEA projected could experience a significant increase in accident frequency as a result of the additional freight train traffic. The commentors claimed that the proposed mitigation would substantially reduce the capacity of the affected tracks in order to address an unlikely safety risk, namely, potential collisions between freight trains and passenger trains occupying the same track. Some of the commentors maintained that modern signal systems and automatic train protection technology make “train superiority and temporal separation rules” unnecessary on the affected lines. Others suggested that such rules could actually detract from the safety of passenger rail operations.

MNR, the Mass Transit Administration of the Maryland Department of Transportation, CSX, and NS commented that FRA has the exclusive authority to regulate railroad safety and is currently considering several “proposals relating to passenger train issues.” MNR suggested that “train superiority and temporal separation rules” should be the subject of an FRA rule-making procedure. The Maryland Department of Transportation commented that FRA and the National Transportation Safety Board should conduct an analysis to address “such questions as past experience with this approach [with respect to train superiority and temporal separation rules], potential safety benefits, routes where this might be beneficial, and impacts on present and future commuter and freight service operations and capacity expansion.” CSX urged the Board to fulfill its “NEPA role by identifying potential safety issues for the FRA, leaving it to that agency to address those issues as it sees fit.” NS suggested that if any passenger safety mitigation is

appropriate, "it should be in the form of railroad consultations with the FRA and the affected passenger rail agencies."

As a result of these concerns, the commentors asked the Board not to impose the proposed mitigation.

Response. SEA has reviewed its analysis and determined that four of the nine originally projected rail line segments would not experience increases in freight traffic or potential accident risk. SEA has also determined that modern signal systems and automatic train protection technologies that the Applicants employ may adequately address the increased risk of train collisions. Therefore, SEA withdraws its proposed mitigation of temporal separation of passenger and freight trains. See Chapter 4, "Summary of Environmental Analysis," Section 4.4, "Safety: Passenger Rail Operations," of this Final EIS for detailed discussion of SEA's recommended mitigation for passenger rail safety; also see Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Summary of Comments. EPA commented that potential conflicts between passenger and freight trains "may not be worked out and that increased freight rail operations may impinge on safe passenger rail service." EPA recommended that the Final EIS address this concern in more detail.

Response. SEA recognizes that passenger trains have priority in general railroad operations. Additional freight traffic on a rail line segment would have the effect of increasing congestion and delay, and straining the capability of the rail line segment. SEA initially proposed temporal separation so that this potential strain on capability would not result in increased collision probability. Based on comments that SEA received about this issue in the Draft EIS, SEA maintains that the collaborative efforts of the rail line segment owners and operators and FRA to apply new technology to an inherently safe railroad signal system would achieve the same objectives. SEA's recommended mitigation provides for the resolution of potential conflicts.

Summary of Comments. The Applicants questioned the statistical analysis that SEA conducted to reach its preliminary conclusion that nine rail line segments in use by both freight and passenger trains would warrant passenger safety mitigation. The Applicants asserted that the analysis "utilized a collision rate" that pertained to a type of collision that is unrelated to increased freight operations. The Applicants indicated that the proposed mitigation (temporal train separation of freight and passenger trains) would not address this type of collision. NS suggested that SEA used an overly conservative methodology for analyzing passenger rail operations safety "by applying the national average passenger accident rates instead of individual railroad accident statistics," and as a result overestimated the potential for adverse impacts on passenger service safety. CSX stated that "the accident rate factors appear to have been arbitrarily chosen, and the use of these factors would overstate transaction impacts."

Response. The best available information was the source of the statistics that SEA used to derive the constants to estimate the increase in passenger train accidents as a result of

increased freight traffic after the proposed Conrail Acquisition. SEA reexamined the data and determined that the calculation was representative of potential events. SEA notes that the commentors challenged specific characterization and calculations but not the potential for substantially greater risk on certain rail line segments. SEA determined that the application of railroad-specific accident rates as NS suggested was not appropriate because of the very small number of accidents occurring annually. SEA noted that when the occurrence of one event sharply changes the outcome of an estimated calculation, valid long-term projections are not possible. SEA notes that its methodology, which CSX characterized as arbitrary, was based on best available data and was properly conservative.

Summary of Comments. CSX raised a concern that the temporal separation of passenger trains by a 15- to 30-minute clearance, as the Draft EIS proposes, would offset the ability of the proposed Conrail Acquisition to obtain the projected highway-to-rail diversion rates. According to CSX, the result would be more highway truck traffic, especially in the I-95 corridor. CSX pointed out that truck-to-rail diversions offer a safety enhancement because the accident rate per ton-mile is approximately 300 percent lower for rail freight than for truck freight. As a result, CSX stated, "The safety benefit associated with this large number of diversions will obviously be sacrificed in whole or large part were the proposed mitigation adopted."

Response. SEA has reviewed its analysis and determined that modern signal systems and automatic train protection technologies that the Applicants employ adequately address the increased risk of train collisions. Therefore, SEA withdraws its proposed mitigation of temporal separation of passenger and freight trains. See Chapter 4, "Summary of Environmental Review," Section 4.4, "Safety: Passenger Rail Operations," of this Final EIS for a detailed discussion. For SEA's recommended mitigation for passenger rail safety, refer to Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Summary of Comments. NS commented that SEA's proposed temporal train separation mitigation for passenger rail safety would be inappropriate or was "unsubstantiated" for the NS rail line segments. NS maintained that passenger service operators own and/or dispatch rail line segments N-063 and N-497. NS added that the Porter, Indiana-to-Chicago, Illinois rail corridor (rail line segments N-308, N-309, N-042, and N-047) did not meet the 150-year accident interval that SEA used as the significance criterion under the second-tier analysis. NS argued that the separation mitigation "is inconsistent with the D[raft] EIS description of appropriate passenger train safety mitigation."

Response. SEA has seriously considered these comments and concluded that they represent valid concerns. SEA has reviewed its analysis and concurs that rail line segments N-308, N-309, N-042, and N-047 have negligible increases in risk and do not warrant mitigation. It is reasonable to expect the modern signal systems and automatic train protection technologies that the Applicants currently employ to adequately address the increased risk of train collisions. Therefore, SEA withdraws its proposed mitigation of temporal separation of passenger and freight trains.

Summary of Comments. NS and CSX each identified nine proposed mitigation measures that Chapter 3, “Analysis Methods and Potential Mitigation Strategies,” of the Draft EIS included in relation to passenger rail safety. In NS and CSX Exhibits 1 and 3, respectively, of their comments, they described how they have already implemented or are in the process of implementing these measures on the rail line segments that the Draft EIS identified for passenger train safety mitigation.

Response. SEA considered the nine potential mitigation measures that Chapter 3, “Analysis Methods and Potential Mitigation Strategies,” of the Draft EIS identified. SEA acknowledges that CSX and NS are completing implementation of these Best Management Practices (BMPs) to improve passenger rail safety. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for SEA’s recommended mitigation for passenger rail safety.

5.2.3.4 Safety: Freight Rail Operations

Summary of Comments. WMATA voiced concern that the proposed increased rail traffic resulting from the proposed Acquisition would increase the probability and potential severity of catastrophic rail accidents, which would increase WMATA’s risk of exposure and the associated costs of liability insurance and indemnification. To mitigate this risk and the associated costs, WMATA states that the Applicants should reimburse WMATA for the additional incremental costs of liability insurance and indemnification of the common corridor because of the risk.

Response. SEA has determined that before the proposed Conrail Acquisition, the seven rail line segments with portions immediately adjacent to WMATA’s Metrorail mass transit service have expected accident frequencies of less than one accident every 150 years per mile of route. With the changes anticipated as a result of the proposed Conrail Acquisition, if approved, the largest expected accident frequency on any of these rail line segments would be less than one per 135 years per mile of route. SEA has determined that each of the seven rail line segments would have an increase in expected accidents if the Board approves the proposed Conrail Acquisition; however, none of these seven rail line segments would have an expected interval between accidents that is near SEA’s mitigation criterion of 100 or fewer years between expected accidents per mile of route. SEA concludes that there is adequate risk management and that the proposed Conrail Acquisition would not result in significant adverse passenger rail service impacts.

Summary of Comments. NS commented that the Draft EIS “applies inappropriate significance criteria to the line segment predicted accident frequencies to recommend unwarranted mitigation. NS does not believe the Transaction will have adverse impacts on freight rail operations, and opposes any mitigation for freight rail operations safety for numerous reasons.” NS indicated that “the significance criteria of a predicted accident frequency greater than one every 100 years actually addresses pre-existing conditions rather than Transaction-related changes as well as being based on erroneous data.” NS stated, “The criterion of more than one accident predicted every 100 years is not an appropriate threshold to determine significance of safety effects from Transaction-related changes in freight rail operations.” NS continued that “this significance

criterion appears to have been based on incorrect data.... There are no NS line segments with pre- or post-Transaction predicted accident rates exceeding one every 49 years. For this reason, and the reason described above, no mitigation related to freight rail operation safety is justified or warranted.”

Response. SEA acknowledges the concern of NS regarding potential mitigation for freight rail safety, as Chapter 3, “Analysis, Methods and Potential Mitigation Strategies,” Section 3.2.2, Volume 1, of the Draft EIS explains. However, SEA has determined the criteria of significance for both the amount of change in the predicted accident rate and the interval between the estimated occurrences of accidents. SEA has adopted the dual criteria to avoid imposing mitigation for pre-existing conditions. SEA has concluded that the impact analysis and the criteria of significance are appropriate, and therefore the recommended mitigation is warranted.

Summary of Comments. NS raised a concern regarding the Draft EIS recommendation that the four NS rail line segments above the significance criteria include annual training of mechanical and track inspectors for these locations. NS indicated that its existing safety record is second to none and that all NS inspectors receive extensive training and are fully qualified to provide inspections to NS standards. NS stated, “The D[raft] EIS fails to provide a reasonable basis for implementing this specific annual training requirement. *For these reasons, NS believes there is no justification for any proposal to require annual training for these inspectors in the F[inal] EIS.*”

Response. The Applicants made a strong commitment to work with FRA through development and implementation of the Safety Integration Plans to address continued freight train safety, if the Board approves the proposed Conrail Acquisition. Therefore, SEA withdraws the proposed additional training of mechanical and track inspectors. SEA also recommends that the Board require CSX and NS to work with FRA for continued safety during and after the implementation process. For further discussion of the Safety Integration Plans, see Chapter 6, “Safety Integration Planning,” of this Final EIS.

Summary of Comments. CSX raised a concern over the conclusion in the Draft EIS that, on the basis of the statistical analysis, there would be a significantly increased risk of accidents on a limited number of rail line segments. Specifically, CSX expressed a concern because, on three line segments above the significance criteria, SEA proposed that CSX include annual training of train dispatchers, train mechanics, and track inspectors who dispatch trains, inspect cars, and check track, respectively, for these three locations. The three segments are Berea-to-Greenwich, Ohio; Greenwich-to-Willard, Ohio; and Willard-to-Fostoria, Ohio. The first of these segments is a part of Conrail’s system, while the latter two are a part of CSX’s current system. CSX stated, “CSX does not agree that there would be any increased risk of accident on these three line segments warranting special safety mitigation for two reasons: First, the proposed Conrail Acquisition will have no detrimental impact on the safety practices of CSX. CSX has achieved one of the highest levels of safety in the rail industry through its safety and operating practices. These practices will not change as a consequence of the Transaction.... Because CSX has a

better safety record than Conrail (as DOT reported in its October 21, 1997 comments, DOT-3 at 17), the accident risk on the Conrail line segments to be allocated to CSX should decrease. Second, CSX's Operating Plan was designed with full consideration of the existing capacities of the rail infrastructure and of planned capital improvements. The opportunity to acquire Conrail spurred CSX to undertake an unprecedented capital program to make improvements to its tracks, signaling systems and equipment, all of which promote safety as well as service to customers. Chief among these improvements is the doubletracking and associated signal upgrading (to bidirectional TCS [traffic control system] signals) of the CSX B&O line from Chicago to Greenwich, Ohio and improvements to the Conrail line from Greenwich through Cleveland." Because the three segments are included in this upgrade, CSX contends that the statistical methodology in the Draft EIS did not factor in the upgrading of these rail line segments. Additionally, CSX maintains that the significance criteria SEA used for freight rail safety overstated the actual safety risk on these rail line segments. CSX added that using FRA statistics, an accident may occur every 49 years, but not once every 117 years as the Draft EIS reports. As a result, CSX concluded that no mitigation is warranted on these segments.

Response. Because of the strong commitment CSX (and NS) made to work with FRA through the development and implementation of the Safety Integration Plan, SEA has withdrawn its recommendation for training of mechanical and track inspectors.

Summary of Comments. EPA indicated that the Draft EIS provided insufficient information. In particular, EPA stated, "The discussion on rail safety was confusing. Although the Federal Railroad Administration reports 2600 accidents nationally for 1996, the [D]raft EIS shows that there will be no accidents for hundreds of years. We believe that both the Board and the public need to understand the potential for increase in rail accidents from the associated increases in rail operations."

Response. For those rail line segments that met SEA's thresholds for environmental analysis, SEA estimated accident probabilities per mile per year on each rail line segment. For ease of understanding, SEA reported the estimates as the expected interval between accidents. SEA concluded that there is no conflict between FRA's report of a total of 2,584 accidents in 1996 and SEA's estimates that the interval between accidents on a given mile of rail line segment is hundreds of years. SEA divided 2,584 accidents between 1,078 mainline accidents and 1,506 yard and industrial track accidents. SEA focused analysis on the mainline accidents because of their greater severity and resultant potential for impact. There were 126,682 miles of mainline railroad in the United States in 1996. The likelihood of an accident in any one location, however, is very low. SEA maintains that the Draft EIS fairly characterizes the potential changes in rail accident frequencies that would likely occur as a result of the proposed Conrail Acquisition.

5.2.3.5 Safety: Other

Summary of Comments. The E. I. DuPont De Nemours & Company commended the Board for its concern about the safety aspects of the proposed Conrail Acquisition, and encouraged CSX and NS to consider adopting, where possible, SEA's BMPs already in place at Conrail (see

Appendix P, "SEA's Best Management Practices for Construction and Abandonment Activities," of this Final EIS). DuPont indicated that it values highly the Board's incorporation of safety planning and execution into the approval process for the proposed Conrail Acquisition.

Response. SEA acknowledges the comments from DuPont.

5.2.3.6 Transportation: Passenger Rail Service

Summary of Comments. Amtrak commented that the limited information that the Draft EIS provided regarding the calculation of rail line capacities suggested flaws in SEA's methodology. Amtrak indicated that the methodology did not seem to take into account the need to take track out of service for maintenance, the extended occupancy of mainline tracks by local trains performing switching, or the slower speeds of freight trains (compared with the maximum permissible speeds that SEA used), which result in longer track occupancy and reduced capacity. Amtrak also expressed concern that the Draft EIS assumed that its Porter, Indiana-to-Kalamazoo, Michigan rail line could handle all projected freight traffic increases. Amtrak disputed the claim in the Draft EIS that the sidings on the rail line would be sufficient to handle future traffic.

Response. SEA considered several factors in determining the capacity of rail line segments that both passenger and freight trains use, including:

- Number of main tracks.
- Train control system.
- Passing siding spacing and capacity.
- Crossover tracks.
- Times and frequency of freight service.
- Times and frequency of passenger service.
- Degree of train speed uniformity.

After reviewing these factors and the various operating plans, operating agreements, train volumes and schedules, and physical characteristics (including yards), SEA examined the capacity of each affected rail line segment. SEA then added the anticipated increases in freight train traffic that would result from the proposed Conrail Acquisition to evaluate the ability of the rail line segments to accommodate these higher volumes. If the analysis showed that the rail line segments could accommodate the higher volumes, SEA's preliminary conclusion was that the proposed Conrail Acquisition would have no adverse impact on passenger train operations.

Amtrak did not identify any rail line segments that would be unable to accommodate Amtrak trains according to its operating agreements with the Applicants because of either the proposed increase in the number of freight trains or yard capacity constraints. SEA concluded that the most important factor in Amtrak's ability to provide on-time performance is its ability to enforce the conditions of its operating agreements.

Amtrak is concerned about the capacity of its Michigan Line between Kalamazoo, Michigan and Porter, Indiana. This rail line segment is part of the Detroit, Michigan to Chicago, Illinois route on which 8 Amtrak trains operate daily. NS originally proposed to operate an unspecified number of haulage trains for the Canadian Pacific Railway (CPR) but has since withdrawn that proposal relative to Michigan.

Based on NS's decision not to pursue CPR haulage, SEA assumed that CPR haulage trains would not operate on the Michigan Line, and that CPR would continue to use its haulage rights on the CSX Detroit-to-Porter Corridor, which is freight-service only between Detroit and Grand Rapids. SEA stated in the Draft EIS that the capacity exists to operate some haulage trains on this Amtrak-owned route. Some capacity exists during the day, and considerable capacity exists at night, when only one or no passenger trains operate on the rail line segment.

Summary of Comments. Amtrak commented that the Draft EIS "seriously underestimates the capacity constraints Amtrak faces on the [Northeast Corridor]," including those hours between 10:00 p.m. and 6:00 a.m. Amtrak noted that passenger and commuter operations have grown "exponentially" since 1976, when Amtrak took over the corridor. Amtrak continued that planned improvements to the corridor would further restrict available capacity for passenger, freight, and commuter operations. Amtrak argued that the "assignment of nighttime freight trains to the two inside tracks while assigning off-hours passenger trains to the outside tracks" would not alleviate constraints on capacity between Newark and Trenton, New Jersey as the Draft EIS suggests. Amtrak added that the Draft EIS conclusions regarding the Northeast Corridor capacity "are ill-founded, and should not be retained in the [F]inal EIS."

Response. SEA analyzed the available capacity on the Northeast Corridor for moving freight, particularly between 10:00 p.m. and 6:00 a.m. SEA noted that substantial capacity exists, and recognized that Amtrak does track and catenary maintenance at night. In the Draft EIS, SEA did not direct Amtrak to use specific tracks at specific hours, such as the two inside tracks between Newark and Trenton, New Jersey. SEA stated that track capacity would be available for the additional freight trains included in the Applicants' Operating Plans. If Amtrak chooses not to use certain tracks for freight movements, it would not be a comment on the corridor's capacity but a statement of operating preference. If freight operations on the two inside tracks would increase maintenance expenses on those tracks, Amtrak can recover this increased expense in trackage rights fees. Amtrak preferred this approach in its Request for Conditions filed with the Board in October.

Summary of Comments. Amtrak commented that the Draft EIS contains three minor factual errors that SEA may want to correct in the Final EIS. They are as follows: (a) on page 4-28 of Volume 1, a misstatement that CPR filed a responsive application for trackage rights over Amtrak's line between Porter, Indiana and Kalamazoo, Michigan; (b) on page 4-39, a misstatement that Amtrak operates through the Virginia Avenue Tunnel in southeast Washington that CSX plans to improve; and (c) on page U-13 of Volume 5C, an incomplete statement of a

request for a performance oversight condition that Amtrak is requesting that the Board apply to Amtrak trains operated by both CSX and NS.

Response. Amtrak correctly noted three factual errors in the Draft EIS. However, none of them affected SEA's analyses involving Amtrak operations, nor does this Final EIS include any of that information.

Summary of Comments. Amtrak and DOT disputed the Draft EIS's conclusion that all of the rail lines that the Applicants share with passenger service could readily accommodate planned increases in freight service. They commented that the Draft EIS does not sufficiently consider the impacts on passenger train reliability that would result from increased freight traffic. DOT expressed the concern that the Draft EIS appeared to make "dubious assumptions" concerning the capacity of affected rail line segments—a factor that undermines the proposed Conrail Acquisition-related assessment of the potential environmental impacts on passenger railroads. The commentors added that the Draft EIS failed to take account of actual and projected freight train schedules in determining whether increases in proposed freight traffic would exceed a rail line's capacity. SEA assumed that the freight trains that would operate on each rail line following the proposed Conrail Acquisition would be spread evenly throughout each day, 365 days a year. This assumption, according to DOT, understated the potential impact of the Proposed Conrail Acquisition on passenger rail service. According to the commentors, SEA's analysis ignored numerous variables that affect train movements, including whether yards and terminal facilities that trains on those rail lines use would have enough capacity to absorb increases in traffic related to the proposed Conrail Acquisition. Amtrak concluded that adding freight traffic to the rail lines over which it operates would exacerbate the problems with on-time performance that Amtrak already experiences.

DOT also disputed a statement in the Draft EIS that it is possible to accommodate increased freight traffic on the rail line segment between Washington, D.C. and Richmond, Virginia. DOT noted that a "number of physical and operating factors" in addition to volume levels affect the capacity of a rail line segment.

DOT added that the train volume statistic does not account for the differences in types of freight trains and their effect on a freight railroad's capacity. DOT noted that intermodal, coal, and grain trains travel at different speeds and different priorities, and can therefore have different effects on railroad capacity. DOT recommended that CSX, Amtrak, and VRE work together to develop Operating Plans and performance standards to avoid disruptions in service. DOT also stated, "Close cooperation among the affected carriers will be necessary to match theoretical capacity to operating realities."

Response. In its analysis of rail line segment capacity, SEA assumed that if a rail line segment had capacity to accommodate the proposed increase in freight trains, the passenger trains using the rail line could operate following contractually agreed-upon schedules. SEA did not assume that dispatchers would evenly distribute operations over affected rail line segments throughout each day, although freight operations occur throughout the 24-hour day.

SEA's analysis of documents and information indicated that CSX has greatly improved the on-time performance of Amtrak trains between Washington, D.C., Richmond, Virginia, and Florida. The improvement indicated that on-time performance is not simply a function of rail line and rail yard capacity, but of operations management as well.

DOT identified the rail line segment between Washington, D.C. and Richmond, Virginia as an example of a rail line segment with both passenger and freight service concentrated in the same peak periods. SEA stated in the Draft EIS (page 4-39) that the Washington-to-Richmond rail line segment is the subject of a study being conducted by FRA, Amtrak, the State of Virginia, VRE, and CSX to identify needed improvements for future rail passenger service in this corridor. The study's objective is to identify the priority for capital spending on the rail line segment. SEA endorsed the study as the preferred course to identify and plan future capacity improvements.

SEA also considered the Rail Passenger Service Act (49 U.S.C. § 24308(c)), which authorizes DOT and FRA to enforce regulations requiring that passenger trains be dispatched before freight trains. The contract provides for priority of passenger trains over freight trains. Thus, while in theory the dispatchers could schedule a freight train in the midst of passenger train operations on a given rail line segment, the passenger trains are entitled to dispatching preference. Both Amtrak, DOT, and FRA have the power to enforce that entitlement.

Summary of Comments. DOT noted that Amtrak and most commuter rail agencies may be close to agreement with the Applicants; however, DOT urged SEA to carefully consider the impact of the proposed Conrail Acquisition on passenger operation reliability in the absence of such agreements. DOT expressed the concern that the treatment of this issue in the Draft EIS is too narrowly confined to the period of time covered by existing agreements between Conrail and passenger rail agencies. DOT considered this approach too restrictive in scope to accurately predict the potential effects of the proposed Conrail Acquisition. DOT stated that it is plausible that, when these existing agreements must be renegotiated in the near future, NS and CSX will bring different goals and incentives to the bargaining table.

Response. Operating access agreements between passenger and freight service providers require considerable time to formalize, particularly when capital spending is necessary in order to implement one or more of the parties' objectives. Mandating specific terms of operating access agreements and "arbitration procedures that will assure prompt resolution of disputes" is beyond the scope of this Final EIS. SEA also noted that most of the Tri-State area passenger rail service operates on rail lines that either a commuter authority or Amtrak owns, which gives them greater control over the agreement terms.

With regard to expiration of Amtrak's operating agreements with NS, CSX, and Conrail, the parties recently renewed existing operating agreements without causing service interruption or inconvenience to Amtrak's customers. SEA presumes that Amtrak negotiated the terms of these agreements to protect its interests. Additionally, SEA

concludes that Amtrak has significant legal and regulatory remedies at its disposal, in accordance with the Rail Passenger Service Act, that would ensure its continued operations.

Summary of Comments. The Rutgers Environmental Law Clinic commented on behalf of the Tri-State Transportation Campaign (Tri-State) that expansion of commuter or intercity rail passenger service has historically led to arguments among service providers about how track can be shared and the extent of new rail investment necessary to accommodate such expansion. Tri-State suggested that, as a condition of approval of the proposed Conrail Acquisition, the Board establish “arbitration procedures that will assure prompt resolution of disputes.” Tri-State also claimed that the Draft EIS should have considered the environmental consequences of (a) long delays that have characterized service expansion proposals in recent years, and (b) the possible failure of extending Amtrak operating agreements that will expire soon with Conrail, NS, and CSX.

Response. Operating access agreements between passenger and freight service providers require considerable time to formalize, particularly where capital spending is necessary to implement one or more parties’ objectives. Mandating specific terms of operating access agreements and “arbitration procedures that will assure prompt resolution of disputes” is beyond the scope of this Final EIS. SEA also noted that most of the Tri-State-area passenger rail service operates on lines owned by either a commuter authority or Amtrak, which gives them greater control over the agreement terms.

With regard to the expiration of Amtrak’s operating agreements with NS, CSX, and Conrail, the parties all recently renewed existing operating agreements without causing service interruption or inconvenience to Amtrak’s customers. Amtrak presumably negotiated the terms of these agreements to protect its interests. Additionally, Amtrak has significant legal and regulatory remedies at its disposal, in accordance with the Rail Passenger Service Act, that would ensure its continued operations.

SEA also noted that the State of New Jersey recently agreed with NS and CSX on a wide range of issues related to the proposed Conrail Acquisition, including the joint operation of freight and passenger service on several rail lines in that state.

Summary of Comments. The APTA “strongly” disagreed with the Draft EIS’s conclusion that “each of the rail line segments with commuter trains can accommodate the proposed Acquisition-related increase in freight traffic.” APTA cited as examples: (a) the VRE Fredericksburg corridor, where CSX projects a 40 percent increase (7 trains per day), and (b) MARC’s commuter Brunswick corridor, where there is a proposed increase of 7 to 8 freight trains per day. APTA also contended that the proposed Conrail Acquisition may have stalled discussions between CSX, NS, and potential passenger rail service providers in New Jersey, Philadelphia, and Cleveland and that the Draft EIS did not address these problems. APTA asked that the Board condition approval of the proposed Conrail Acquisition on implementing a “means to resolve disputes [over rail line capacity] between freight and commuter railroads, and to safeguard the public’s interest in and investment in passenger rail service.”

Response. Train operation after the proposed Conrail Acquisition over VRE's Fredericksburg Line would include CSX freight trains, approximately 18 Amtrak passenger trains per weekday, and 12 VRE commuter trains per weekday. As part of its analysis, SEA recognized that VRE operations on the Fredericksburg Line are affected by several suboptimal features of the CSX freight route from points as far north as Jessup, Maryland on the MARC Camden Line to points as far south as the single-track bridge at Quantico Creek on the VRE Fredericksburg Line. VRE has planned capital investments that would improve some of these suboptimal features in Virginia and facilitate the expansion of VRE service.

In addition, FRA, Amtrak, the Commonwealth of Virginia, VRE, and CSX are conducting a study of the Washington, D.C.-to-Richmond, Virginia corridor. The study will identify the needed improvements for future rail passenger service in this corridor and the priorities for capital spending.

CSX has demonstrated over the last 6 months that it can dispatch VRE trains in a timely manner to and from Washington, D.C. CSX's solution to the previous on-time performance problem was not an increase in rail line and yard capacity, but rather more effective control of operations, including program maintenance planning.

Regarding the capacity of MARC's Brunswick corridor, the State of Maryland's Mass Transit Administration in September 1997 entered into a new operating agreement with CSX for MARC commuter train service on the Camden and Brunswick Lines. The State of Maryland was satisfied with the new agreement and endorsed the proposed Conrail Acquisition. The new operating agreement permits expansion of service on the Brunswick Line to serve Frederick, Maryland with 6 trains per day. Furthermore, CSX will be responsible for land acquisition and construction of the Camden-Penn connection, which in addition to regular weekday service, will permit special trains to operate to Baltimore Orioles and Ravens games at Camden Yard via the Northeast Corridor. To protect existing service, there will be no change in commuter train operations on the Camden Line until the Camden-to-Penn connection is available. This connection will permit some MARC Penn Line (Northeast Corridor) trains to use Camden Station.

APTA did not provide a description of how the proposed Conrail Acquisition has stalled commuter rail service expansion in New Jersey, Philadelphia, and Cleveland. The Draft EIS examined the impact on planned commuter rail service that would use lines with a projected increase in the number of freight trains per day, if those plans were sufficiently advanced and funded. SEA concluded that passenger service proposals that are not yet funded are preliminary; therefore, this Final EIS could not address these proposals.

Summary of Comments. The Atlanta Regional Commission, the regional planning and intergovernmental coordination agency for the 64-city, ten-county region surrounding Atlanta, Georgia, requested that the EIS "examine all opportunities for cooperation on commuter rail and both CSX and Norfolk Southern should be required to work with the state departments of transportation on such opportunities as a part of the acquisition agreement." The Unified

Government of Athens-Clarke County commented that the Governor of the State of Georgia has allocated funds to perform preliminary engineering on the corridor between Athens and Atlanta for passenger service. The Unified Government expressed its hope that “the acquisition of Conrail by CSX and Norfolk Southern will further this effort.”

Response. In the Draft EIS, SEA analyzed the impacts the proposed Conrail Acquisition would have on passenger rail service using rail line segments that would experience an increase in freight trains, and on plans for passenger service that SEA received and that have been finalized and funded. SEA did not identify any adverse impacts on existing Amtrak service in Georgia. In addition, SEA did not receive information concerning commuter service plans for the Atlanta area or the Athens-to-Atlanta corridor to include in its analysis. SEA concluded the proposed Conrail Acquisition would not prevent the State of Georgia Department of Transportation or the Unified Government of Athens-Clarke County from negotiating an operating access agreement for commuter rail service that would utilize the properties of either NS or CSX. In this Final EIS, SEA did not address as yet unfunded or preliminary plans.

Summary of Comments. DOT commented that Conrail, the various commuter rail agencies, and Amtrak have managed to operate on each other’s lines “in relatively harmonious fashion.” DOT is concerned that replacing Conrail with CSX and NS “introduces at least the potential for concern” that this interdependent arrangement might not survive. Consequentially, DOT urged the Board to retain oversight as a condition of approval so it has “the ability to respond to demonstrations of adverse impact.”

Response. SEA’s analysis of existing and proposed passenger and commuter rail service indicated that the proposed Conrail Acquisition would not affect rail commuters and Amtrak passengers. SEA analyzed rail line segments that would carry both services and determined that their capacity would be sufficient to handle current traffic and CSX’s and NS’s projected freight increases.

The overwhelming majority of rail commuters that the proposed Conrail Acquisition could affect would continue to travel on rail line segments that either the commuter authorities or Amtrak dispatches. In the case of MARC trains on CSX rail lines in Maryland, SEA noted that such trains had excellent on-time performances, frequently better than Amtrak’s performance for MARC’s Penn Line on the Northeast Corridor. SEA also noted that Amtrak and VRE trains in the last six months have experienced dramatic improvements in on-time performance on the Washington-to-Richmond corridor. The renewed managerial attention by CSX has contributed to these improvements.

SEA did not analyze the potential impact of the proposed Conrail Acquisition on passenger service on-time performance. The Rail Passenger Service Act authorizes DOT and FRA to ensure that Amtrak trains receive dispatching preference over freight trains. SEA agreed with DOT’s assessment that the mutual interdependence among Conrail, Amtrak, and the commuter authorities has produced relatively “harmonious”

relationships. The proposed increased level of CSX and NS operations on Amtrak rail lines in the Northeast Corridor would necessitate a continued high degree of cooperation. SEA concluded that mutual interests would continue to promote the harmony to which DOT referred.

Summary of Comments. CSX opposed SEA's proposed temporal train separation mitigation measure that would require that freight trains be clear of the track 15 minutes before and after the expected arrival of a passenger train because such a condition would effectively disable CSX's use of the Fredericksburg, Virginia and Point of Rocks, Maryland line segments for freight movements "during periods of significant passenger use."

Response. SEA has reviewed its analysis and determined that modern signal systems and automatic train protection technologies that the Applicants employ adequately address the increased risk of train collisions. Therefore, SEA withdraws its proposed mitigation of temporal separation of passenger and freight trains. See Chapter 4, "Summary of Environmental Review," Section 4.4, "Safety: Passenger Rail Operations," of this Final EIS for a detailed discussion. For SEA's recommended mitigation for passenger rail safety, refer to Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Summary of Comments. APTA stated that the Draft EIS underestimated changes in transportation and congestion that would result from freight rail changes, hindering commuter rail operators from providing service. APTA continued that the Draft EIS "does not adequately address the effect of delays and lost productivity on the overall transportation system due to potential decreased commuter train use and attendant increased private vehicle use and traffic congestion."

Response. The analysis of passenger rail operations that the Draft EIS described did not identify a decrease in commuter train operations as a result of the proposed Conrail Acquisition. Therefore, no increase in private vehicle use would occur as a result of the proposed Conrail Acquisition.

5.2.3.7 Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. NS commented that the methodology that SEA used to identify highway/rail at-grade crossings that warrant mitigation is flawed. NS stated that the Draft EIS improperly used a methodology from the *Highway Capacity Manual* (HCM) that the Transportation Research Board developed for assessing delay at signalized roadway intersections. NS indicated that the HCM does not address the operational efficiency of highway/rail at-grade crossings, and procedures do not exist to measure highway/rail at-grade crossing efficiency in terms of level of service (LOS). In addition, NS stated that "the HCM does not contain the table shown at C-14 of the D[raft] EIS, which is purported to draw a correlation between [level of service] and delay at highway/rail at-grade crossings." NS indicated that the table in the Draft EIS resembled a table from the HCM, but described average delay per vehicle, not stopped delay per vehicle as in the HCM. NS indicated that the Draft EIS

improperly modified this table to imply the same relationship between LOS and average delay per vehicle at a grade crossing. NS asserted that there are considerable differences between the characteristics of a signalized intersection and a highway/rail at-grade crossing, and that the procedures for evaluating signalized intersections are “inappropriate to estimate delay impacts of grade crossings.”

NS stated that the equation SEA used to calculate delay oversimplified a very complex traffic operation. NS stated that by using this equation, SEA overestimated projected increases in average delay per vehicle at highway/rail at-grade crossings. NS cited examples of two crossings at which SEA overestimated delays by 100 percent. NS recommended that SEA use the correct equation in the Final EIS.

NS stated that the consideration of LOS exceeds the Board’s regulatory scope. NS stated that the Draft EIS displaced the authority of state and local agencies responsible for grade separation issues. NS remarked that the determination of need for grade separations in the Draft EIS lacks critical site-specific considerations. NS also stated that the recommendations in the Draft EIS threaten to disrupt well-established policies and practices regarding cost allocation for highway/rail at-grade crossing improvements and grade separations.

NS expressed the viewpoint that few, if any, highway/rail at-grade crossings would experience significant delays as a result of the proposed Conrail Acquisition. NS urged SEA to prepare a site-specific analysis before recommending final mitigation. NS noted, as an example, that few vehicles may use a roadway at the time that trains block the highway/rail at-grade crossing. NS suggested that SEA use the results of the analysis to rank the crossings in terms of delay severity. State authorities could make their own decisions about the need for mitigation. NS suggested that the Board direct the Applicants to consult with the appropriate state and local authorities, rather than to implement specific mitigation measures.

CSX commented that performing an initial screening for highway/rail at-grade crossing delay mitigation is an appropriate function of the Draft EIS, but a more detailed analysis, including site-specific information, must follow the initial screening. CSX stated that the Board should not undertake this site-specific analysis as part of the environmental review process. CSX indicated that CSX should consult with state agencies for appropriate recommendations with respect to vehicle delay concerns at specific highway/rail at-grade crossings. The state agencies should then determine whether to require any mitigation.

Response. In response to NS’s comments about SEA’s methodology, SEA provides the following explanation:

2. Use of the HCM LOS Criteria

SEA applied the principles in Chapter 9, “Signalized Intersections,” of the HCM to evaluate average delay for all vehicles. Although the manual bases LOS criteria on a 15-minute analysis period, SEA applied these criteria to a 24-hour period. Applying the criteria to a 24-hour period is appropriate because SEA used 24-hour data for all

elements of the analysis. SEA characterized highway/rail at-grade crossings as signalized intersections. The use of daily train volumes and daily highway traffic volume results in a uniform measure of daily operation at highway/rail at-grade crossings, similar to the uniform traffic signal cycle over a 15-minute analysis period. This approach permitted SEA to expand the period of the analysis from the 15 minutes in the manual to 24 hours in the Draft EIS.

Appendix C, "Traffic and Transportation," of the Draft EIS correlates LOS to the average delay per vehicle (page C-14). SEA determined the average delay per vehicle by calculating the total stopped vehicle delay over the entire day and dividing that figure by the ADT. NS indicated that this may be inconsistent with HCM Table 9-1, which relates LOS to stopped delay per vehicle (also described as average stopped delay per vehicle on HCM page 9-4). SEA's method, however, is consistent with the HCM because the manual defines average stopped delay as the total stopped delay that traffic experiences on a roadway approach or group of travel lanes during a designated time period, divided by the total roadway volume entering the intersection on the roadway approach or group of lanes during the same time period (see pages 1-9 and 1-10 of the HCM).

The definition of stopped delay per vehicle in the HCM is the same as SEA's definition of average delay per vehicle. In addition, the definition in the manual does not specify a particular time period; it specifies only the use of the same time period for calculating the total stopped delay and total traffic volume.

SEA notes that the manual uses the expression "stopped vehicle" to emphasize that it includes the delay while a vehicle is stopped but not any delay while a vehicle is slowing down. The Draft EIS correctly interpreted and used the relationship and formulas in the HCM.

The information available to SEA for preparing the Draft EIS included daily train counts, ADT volumes, average train lengths, and train speeds from the FRA database; track charts; and train timetables. SEA assumed that freight trains operate with no fixed schedule. As a result, SEA was unable to assume that trains would arrive during periods of low highway traffic volumes or that no trains would arrive during periods of high traffic volume.

2. Estimation of Delay per Stopped Vehicle

NS correctly identified the equation that SEA used to calculate average delay per stopped vehicle as one-half of the duration of the vehicle queue. This equation accounts for the time that the queue requires to dissipate after the train has passed the highway/rail at-grade crossing. Using this equation permits variation in the dissipating time for highways with different traffic volumes. The higher the traffic volume per travel lane, the greater the time needed for the queue to dissipate.

SEA assumed that the queue begins to dissipate after the train passes the highway/rail at-grade crossing and the warning device is no longer activated. SEA also assumed that vehicles arriving after the queue begins to dissipate do not stop but may slow down. SEA did not consider those vehicles that slow down to be delayed vehicles. This is consistent with the assumption concerning vehicle delay contained in the HCM.

SEA recognizes that there are several different methods for calculating vehicle delay. The method that NS suggested is valid, as is the method that SEA used in the Draft EIS. Another method could assume that the delay calculations should consider vehicles approaching the highway/rail at-grade crossing after the queue begins to dissipate. Such a method would result in shorter crossing delay per stopped vehicle but a larger number of delayed vehicles. These two factors would counterbalance each other, and the results would not change SEA's recommendations. Thus, SEA concludes that the delay calculations in the Draft EIS are reasonable and provide a sound basis for evaluating the effects of the proposed Conrail Acquisition on highway/rail at-grade crossings.

In addition, SEA notes that the Board has the authority to impose conditions to mitigate the potential significant environmental impacts of the proposed Conrail Acquisition. The Board recognizes that state transportation agencies have primary responsibility for implementing highway improvement projects.

The primary data source for this analysis was the FRA database of all highway/rail at-grade crossings in the United States. SEA made site visits to highway/rail at-grade crossings to collect more detailed information.

Summary of Comments. DOT commented that SEA should use a corridor approach to identify and mitigate potential environmental impacts at highway/rail at-grade crossings in a more realistic fashion. DOT stated that trains on rail lines that cross a town may block several highway/rail at-grade crossings at the same time. DOT indicated that even if no single highway/rail at-grade crossing meets the threshold for environmental analysis of 5,000 ADT, the Final EIS should aggregate the traffic of several streets close to each other. DOT expressed the opinion that the Board should make the Applicants responsible for mitigating these problems.

The State of Ohio also commented that the Draft EIS relied too heavily on a statistical analysis of numbers of vehicles, train cars, and speed. The State added that this analysis failed to take into account real-world conditions that block highway/rail at-grade crossings. The State indicated that the 5,000 ADT threshold for environmental analysis was too high and eliminated from the analysis highway/rail at-grade crossings that would experience severe potential environmental impacts. In addition, the State suggested that SEA could effectively evaluate this issue only through on-site field reviews in affected communities to examine the factors that contribute to highway/rail at-grade crossing blockages.

Response. SEA performed its primary analysis of delay at individual highway/rail at-grade crossings. This analysis provided the basis for evaluating the potential effects of

the proposed Conrail Acquisition along highways with their distinct physical characteristics, such as number of lanes, and ADT volumes.

SEA also conducted a highway corridor delay analysis at locations where roadways located within 800 feet of each other cross the rail line. SEA performed these corridor analyses in northwestern Ohio, the Cleveland area, and Lafayette, Indiana. See Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS for further discussion.

SEA applied a 5,000 ADT minimum threshold for its primary delay analysis. In SEA's experience, for roadways with ADT volumes below 5,000, the additional vehicle delay that would result from Acquisition-related increased train traffic would be minimal. However, SEA did not apply the 5,000 ADT minimum threshold for the corridor analysis.

SEA agrees that field observations are important and has conducted visits to many sites, including those recommended for mitigation in the Draft EIS. From these observations, SEA verified or modified its data describing the physical and operational characteristics of the crossings. Where appropriate, SEA performed revised analyses to reflect observed differences from the characteristics assumed in the Draft EIS.

Summary of Comments. CSX stated that the traffic delay analysis in the Draft EIS would be appropriate as a screening tool, but said that SEA should not use it to analyze potential environmental impacts in detail or to determine mitigation. CSX provided a critique of the Draft EIS analysis methodology and recommended another methodology for more detailed evaluations.

Response. SEA analyzed the change in vehicle delay that would result from the train traffic increase after the proposed Conrail Acquisition. SEA calculated the crossing delay per stopped vehicle, the average delay for all vehicles, and the resulting LOS for highway/rail at-grade crossings on rail line segments that met the Board's thresholds for environmental analysis. The primary data source for this analysis was FRA's database of all highway/rail at-grade crossings in the United States. SEA made site visits at crossings to collect more detailed information. This approach was the appropriate level of analysis for a study of this scope and magnitude. It was effective in determining the potential environmental impacts of the proposed Conrail Acquisition as well as those locations where mitigation would be warranted. SEA's approach was as follows:

1. Use of 30-Second Delay Criterion

SEA applied the 30-second delay criterion of significance to the crossing delay per stopped vehicle, which is the average amount of time a driver would have to wait at a highway/rail at-grade crossing when traffic stops to let a train pass. SEA applied this criterion only to stopped vehicles. Train length, train speed, and roadway traffic volume affect this measure of delay. SEA determined that a potential significant impact would

occur if vehicle delay at highway/rail at-grade crossings increased by 30 seconds. There is no universally accepted standard, but SEA maintains that this represents a driver tolerance level above which the driver perceives added delay for an intermittent blocked crossing event. In the Draft EIS, SEA identified two highway/rail at-grade crossings in Indiana—SR 9 (FRA ID 474600L) and Harrison Street (FRA ID 474601T)—that would meet the 30-second criterion. These crossings would meet the criterion mainly because average train speeds through these crossings would decrease from 40 mph before the proposed Conrail Acquisition to 20 mph after the proposed Acquisition. This is because NS estimates that 6.8 trains per day (out of 11.8) over this rail line segment would utilize a 10 mph connecting track near these crossings.

2. Use of the HCM LOS Criteria

SEA applied the principles in Chapter 9, “Signalized Intersections,” of the HCM in its evaluation of average delay for all vehicles. Although the LOS criteria in the manual are based on a 15-minute analysis period, SEA applied these criteria to a 24-hour period. Applying the criteria to a 24-hour period is appropriate because SEA used 24-hour data for all elements of the analysis. SEA characterized highway/rail at-grade crossings as if they were signalized intersections. The use of daily train volumes and daily highway traffic volume results in a uniform measure of daily operation at highway/rail at-grade crossings, similar to the uniform traffic signal cycle over a 15-minute analysis period. This approach permitted SEA to expand the period of the analysis from the 15 minutes in the manual to 24 hours in the Draft EIS.

Appendix C, “Traffic and Transportation,” of the Draft EIS correlates LOS to average delay per vehicle (page C-14). SEA determined the average delay per vehicle by calculating the total stopped vehicle delay experienced over the entire day and dividing that figure by the ADT. CSX indicated that this may be inconsistent with Table 9-1 in the HCM, which relates LOS to stopped delay per vehicle (the HCM also describes this as average stopped delay per vehicle on page 9-4). SEA’s method, however, is consistent with the HCM because the manual defines average stopped delay as the total stopped delay that traffic experiences on a roadway approach or group of travel lanes during a designated time period, divided by the total roadway volume entering the intersection on the roadway approach or group of lanes during the same time period (see pages 1-9 and 1-10 of the HCM).

The definition of stopped delay per vehicle in the HCM is the same as SEA’s definition of average delay per vehicle. In addition, the manual’s definition does not specify a particular time period; it specifies only the use of the same time period for calculating the total stopped delay and total traffic volume.

SEA notes that the manual uses the expression “stopped vehicle” to emphasize that it includes the delay while a vehicle is stopped but not any delay while a vehicle is slowing down. The Draft EIS correctly interpreted and applied the relationship and formulas in the HCM.

3. Estimation of Delay per Stopped Vehicle

CSX correctly identified the equation that SEA used to calculate average delay per stopped vehicle as one-half of the duration of the vehicle queue. This equation accounts for the time required for the queue to dissipate after the train has passed the highway/rail at-grade crossing. Using this equation permits variation in the dissipating time for highways with different traffic volumes. The higher the traffic volume per travel lane, the greater the amount of time required for the queue to dissipate.

SEA assumed that the queue begins to dissipate after the train passes the crossing and the warning device is no longer activated. SEA also assumed that vehicles arriving after the queue begins to dissipate do not stop but may slow down. SEA did not consider those vehicles that slow down to be delayed vehicles. This is consistent with the assumption concerning vehicle delay contained in the HCM.

SEA initially tested the equation for average delay per stopped vehicle suggested in the comment. This equation, with the constant 0.3 minutes to represent queue dissipation time, resulted in the same average delay time figures on highways with the same number of lanes but different traffic volumes crossing the same rail line segment. SEA concluded that this result was not realistic.

SEA recognizes that there are several different methods for calculating vehicle delay. The method suggested in the comment is valid, as is the method SEA used in the Draft EIS. Another method could assume that the delay calculations should consider vehicles approaching the highway/rail at-grade crossing after the queue begins to dissipate. Such a method would result in shorter crossing delay per stopped vehicle but a larger number of delayed vehicles. These two factors would counterbalance each other, and the results would not change SEA's recommendations. Thus, SEA concludes that the delay calculations in the Draft EIS are reasonable and provide a sound basis for evaluating the effects of the proposed Conrail Acquisition on highway/rail at-grade crossings.

4. The Importance of Field Observation

SEA agrees that field observations are important. SEA conducted visits to many sites, including those that the Draft EIS recommended for mitigation. From these observations, SEA verified or modified its data describing the physical and operational characteristics of the crossings. Where appropriate, SEA performed revised analyses to reflect observed differences from the characteristics that the Draft EIS assumed.

CSX indicated that field observations may show that during periods of peak roadway traffic, trains may not block the crossing and that there should be field verification of train speeds, train length, and highway vehicle arrival frequency. SEA concluded that such a level of analysis was not appropriate for this study. SEA used reasonable assumptions and data that accurately described train operations, including daily train counts; average train speeds from the FRA database, track charts, and train timetables;

and average train lengths that the Applicants provided. SEA assumed that freight trains do not operate on fixed schedules.

Summary of Comments. CSX commented that SEA should withdraw, modify, or supplement with alternative recommendations some of the mitigation measures that SEA recommended in the Draft EIS. CSX stated that “the proposed upgrading of certain grade crossings or construction of grade separations at CSX’s expense” recommended by the Draft EIS goes beyond the Board’s conditioning authority.

CSX indicated that 23 United States Code (U.S.C.), Section 130, allowed the Secretary of Transportation to require the Applicants to pay up to 10 percent of the costs of improvements that represented “a net benefit to the railroad.” CSX stated that the Secretary determined that highway/rail at-grade crossing improvements are of “no ascertainable net benefit to the railroads and there shall be no required railroad share of the costs.”

Response. SEA’s proposed mitigation in the Draft EIS reflected careful consideration of the information available in each case. Based on public comments on the Draft EIS, SEA revised its proposed mitigation in some cases where additional information or analysis showed a revision to be appropriate as part of its recommended mitigation in the Final EIS. If the Board approves the proposed Conrail Acquisition, the Board will determine the final environmental mitigation in each case, taking into account all public comments on the Draft EIS and SEA’s recommended mitigation in the Final EIS.

The Board has broad statutory authority to impose conditions to protect public health and safety in its decisions regarding transactions such as the proposed Conrail Acquisition. Such conditions may include upgrading highway/rail at-grade crossings or the construction of grade separations where the Board finds that such improvements are appropriate to mitigate the environmental effects of Acquisition-related increases in train traffic.

The Board’s authority to impose conditions, at 49 U.S.C. §11324(c), is consistent with rail transportation policy, at 49 U.S.C. §10101(8), which states that “it is the policy of the United States Government to operate such activities without detriment to the public health and safety.” Section 101(b) of NEPA (42 U.S.C. 4321) provides that it is the continuing responsibility of the Federal government to use all practicable means to provide safe and healthful surroundings and to attain the widest range of beneficial uses of the environment without degradation, risk to health or safety or other undesirable or unintended consequences. The NEPA implementing regulations, at 40 CFR §1505.3(a), direct Federal agencies to “include appropriate [mitigation] conditions in grants, permits, and other approvals.”

5.2.3.8 Transportation: Roadway Systems

Summary of Comments. EPA expressed the concern that the Draft EIS did not adequately address the potential environmental impacts from the relocation of intermodal facilities and

increased truck activity at these facilities. EPA stated that the “current conditions or Level of Service of these local roadways were not identified or the effect of additional truck traffic evaluated.” EPA suggested that the Board coordinate with the state departments of transportation on all proposed activities within each state.

Response. SEA’s analysis found that the projected increase in truck traffic resulting from the proposed Conrail Acquisition would add less than 10 percent to the existing traffic on the vast majority of roadways that trucks would use in the vicinity of intermodal facilities. At locations where the projected increases would exceed 10 percent, SEA compared the resulting volume to the capacity of the roadways and concluded that the existing roadways could accommodate the additional truck traffic with no potentially significant environmental impacts on the roadways.

Summary of Comments. The Tri-County Regional Planning Commission in Pennsylvania disagreed with the regional analysis methodology that SEA used to treat intermodal terminal access. The Commission suggested that the Draft EIS should have addressed these issues on a local level.

Response. SEA analyzed the potential local impact of truck traffic changes in activity at intermodal terminals, including the proposed facility at Rutherford, which is in the Tri-County area. The Draft EIS Volume 1, Chapter 3, “Analysis Methods and Potential Mitigation Strategies,” page 3-20 discussed the methods SEA used to determine transportation impacts from increased truck traffic at intermodal facilities. The Draft EIS, Volume 5A, Appendix C, “Traffic and Transportation,” pages C-19 and C-20 described the analysis. SEA considered the level of analysis to be appropriate.

5.2.3.9 Transportation: Other

Summary of Comments. NS commented that SEA should delete CPR traffic on the West Detroit-to-Jackson, Michigan (N-121) and Jackson-to-Kalamazoo, Michigan (N-120) rail line segments. NS explained that “as a result, the two line segments would not meet STB [the Board] thresholds and, therefore, no longer need to be analyzed for environmental impacts.”

Regarding train traffic on the Kankakee connection, NS noted, “In summary, the correct information was properly reflected in the initial D[raft] EIS at IL-22. The January 12, 1998 Errata was incorrect. The discussion and references in Volume 3A, page IL-74 are incorrect. *Applying the correct information of 0 trains per day, there is no potential impact in Kankakee. The F[inal] EIS should consistently reflect the correct information in its analysis.*” NS summarized other discrepancies in traffic data in the Draft EIS and suggested corrections SEA should make.

NS also commented that the Draft EIS “incorrectly states NS is currently constructing a new intermodal facility in Fulton County, Georgia which is related to the proposed Transaction.” NS added that “NS is currently in the process of seeking permits for a new intermodal facility in

Austell, Georgia which is located in Cobb County. However, this action is completely unrelated to the Transaction and therefore, all references to it should be removed from the F[inal] EIS.”

Response. SEA received a letter from NS dated October 30, 1997 stating that the volumes of trains per day for rail line segment N-121 from West Detroit to Jackson and rail line segment N-120 from Jackson to Kalamazoo include traffic from CPR. NS has withdrawn its proposal to operate this CPR traffic over these rail line segments. CPR traffic currently does and will continue to operate over CSX on a haulage rights basis. Therefore, this traffic should not be included in NS traffic volumes.

The original Environmental Report submitted with the Application in June 1997 stated that 6 trains per day would use the proposed Kankakee connection. NS subsequently revised the estimated changes to rail traffic on the connection in a letter dated October 2, 1997. This included statements that there would be zero (0) trains per day on the new connection, because it is intended for future traffic growth. The Draft EIS discussion on page IL-22 correctly reflects this information. However, the environmental justice discussion on page IL-74 incorrectly references the original projection of 6 trains per day on the new connection. The Supplemental Errata, dated January 12, 1998, incorrectly changed the text on page IL-22 to the 6 trains per day figure. SEA acknowledges the corrections in the data as noted by NS, and the Final EIS reflects these changes—that is, that there would be zero (0) trains per day on the new connection and that the connection is intended for future traffic growth.

SEA analyzed the potential impacts at the existing NS Fulton County Inman Intermodal Yard facility caused by the increase of 143 trucks per day. NS is currently seeking permits for a new intermodal facility in Austell, Cobb County, Georgia. SEA has determined that the action at Austell is unrelated to the proposed Conrail Acquisition.

5.2.3.10 Energy

Summary of Comments. The Maryland Department of the Environment recommended that projects use energy-efficient equipment to minimize secondary environmental impacts.

Response. SEA recognizes the Maryland Department of the Environment’s concern that projects should use energy-efficient equipment to minimize secondary effects. The Board has limited jurisdiction in its licensing and oversight of acquisitions, and cannot impose specific requirements on the Applicants as to the types of equipment that they would use in the implementation of the proposed Conrail Acquisition, if approved. However, SEA expects the Applicants would strive to maximize the energy efficiency of their operations.

5.2.3.11 Air Quality

Summary of Comments. The Tri-County Regional Planning Commission of Pennsylvania stated that the regional method used to identify air quality effects is inappropriate, and that the

analysis should have been done on a local level. The Commission recommended using local analysis to ensure compliance with existing air quality and congestion mitigation goals, the purpose of which is to meet Clean Air Act and Intermodal Surface Transportation Efficiency Act requirements.

Response. SEA has estimated emissions increases on a local (county) basis, as shown in the Draft EIS. Local impacts can be a concern for some pollutants, such as sulfur dioxide (SO₂). However, nitrogen oxides (NO_x) are the only pollutant for which local emissions increases were non-negligible anywhere in Pennsylvania. Recent studies by the Ozone Transport Assessment Group have shown that NO_x effects on ozone nonattainment are primarily a regional concern, rather than a local one. Therefore, SEA does not think that local NO_x emissions changes, particularly the relatively low and widely distributed emissions changes shown in the Draft EIS, would have any measurable effect on local ozone levels.

Summary of Comments. NS commented that there appears to be an inconsistency between impacts reported in Attachments E-2 and E-4 of Appendix E, “Air Quality,” of the Draft EIS. NS suggested that if the difference in the two sets of data is a result of Attachment E-2 presenting air pollutant emissions increases while Attachment E-4 presents net air pollutant emission changes, this could have been stated clearly in Appendix E, “Air Quality” of the Draft EIS.

Response. The apparent inconsistencies in the data in Attachments E-2 and E-4 of the Draft EIS that NS noted arise from two factors. First, CSX and NS provided data in E-2, which SEA used for screening purposes, while SEA generated the data in Attachment E-4 as part of its detailed analysis. Second, NS is correct in its suggestion that Attachment E-2 presented only the activities that exceeded the Board’s threshold for environmental analysis, while Attachment E-4 presented emissions changes (increases or decreases) for rail segments in all counties for which SEA performed a detailed emissions analysis. See Section 5.3.18, “Greater Cleveland Area—Air Quality,” of this chapter for further explanation.

Summary of Comments. NS commented that the emission factor for NO_x used in the rail line segment emissions calculations as presented in Table E-3, page E-9 is incorrect. NS stated the listed emission factor is 565.4 lb/Kgal, and the correct factor should be 564.2 lb/Kgal.

Response. SEA used the same locomotive NO_x emission factor used by the Applicants in their Environmental Report submitted with the Joint Control Application. Prior to completing the analysis, SEA reviewed this factor and thinks that it is valid and is representative of the current locomotive fleet average emission factor. Also, the minor change suggested is insignificant and would not change the results substantially nor alter the conclusions of the analysis.

Summary of Comments. NS commented that the emission factors for NO_x and volatile organic compounds for yard locomotives used in the rail yard emissions calculations as presented in

Table E-4, page E-10 are incorrect. NS stated the listed emission factor for NO_x is 830.7 lb/Kgal and should be 827.5 lb/Kgal; the listed emission factor for volatile organic compounds is 46.2 lb/Kgal and should be 46.0 lb/Kgal.

Response. SEA used the same NO_x and volatile organic compound emission factors for yard locomotives used by the Applicants in their Environmental Report submitted with the Joint Control Application. Prior to completing the analysis, SEA reviewed these factors and concluded that they are valid and representative of the current locomotive fleet average emission factors. Also, the minor changes suggested are insignificant and would not change the results substantially nor alter the conclusions of the analysis.

Summary of Comments. EPA stated that the Draft EIS could have described the air quality impacts more fully, and that the Board needed to address the applicability of the General Conformity Rules (40 CFR 93.150-160).

Response. EPA has stated that it is up to each Federal agency to review its own unique legal authority and determine what emission-generating activities it has the ability to control (see *General Conformity Guidance: Questions and Answers*, Office of Air Quality Planning and Standards July 13, 1994, page 14). The Board has examined the issue of control and has determined that it cannot practicably control railroad emissions as part of a continuing program responsibility.

EPA has defined "control" to mean "the ability to regulate in some way the emissions from the Federal action." This ability to regulate may be demonstrated directly, such as through the implementation of regulations or conditions on the nature of the activity that permits or approvals may establish, or indirectly by the design of the action (see *General Conformity Guidance: Questions and Answers*, EPA Office of Air Quality Planning and Standards, July 13, 1994, page 13). The Board has no legal jurisdiction to control train emissions; and therefore cannot make a General Conformity determination for the proposed Conrail Acquisition.

In support of this statement, SEA provides the following:

Under the Interstate Commerce Commission Termination Act, 49 U.S.C. 11323-25, the Board has the responsibility to review, and approve or disapprove, applications for the acquisition of control of railroads. The Board's approval or disapproval must be based on the evaluation of the following issues: (a) the effect of the proposed transaction on the adequacy of transportation to the public; (b) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction; (c) the total fixed charges that result from the proposed transaction; (d) the interest of rail carrier employees affected by the proposed transaction; and (e) the adverse effect, if any, that the proposed transaction would have on competition among rail carriers in the affected region or in the national rail system.

The Board licenses railroads as common carriers, meaning that railroads are required to accept goods and materials for transport from all customers upon reasonable request and at a reasonable rate. The Board does not regulate how many trains the railroads operate or where they can operate. Railroads are able to operate as many trains as they need in order to serve their customers, even though changes in operations may have the secondary effect of increasing or decreasing emissions in specific locations. Such changes are not subject to Board approval or jurisdiction. Board approval of the Acquisition would allow the transfer of ownership, but the approval would not cause an increase in railroad activities or emissions.

Although the NEPA process requires the Board to evaluate and disclose potential impacts of the Acquisition, it does not expand the Board's jurisdiction or authority relative to the approval or disapproval of the Acquisition. Therefore, although emissions may result from changes in train traffic, the Board does not base its approval on the changes in train traffic or the emissions potentially produced. The Board has examined the issue of control of emissions and has determined that it does not have the authority to practicably control railroad emissions as part of a continuing program responsibility.

Although the Board has broad authority to impose conditions, including environmental conditions developed through the environmental review process, its power is not limitless. Conditions imposed by the Board must be reasonable and must address issues directly related to the action under the Board's consideration. For example, in rail merger cases, agency policy has long been to focus on the potential environmental impacts related to changes in rail traffic patterns on existing lines. The agency's practice consistently has been to mitigate only those impacts that result directly from the merger. It is the Board's policy not to require mitigation of pre-existing conditions.

In developing and evaluating environmental mitigation options, the Board is also guided by the historical authority of ICC and Congressional intent regarding railroad regulation. Over the last 20 years, Congress has continued to reduce the regulatory role of ICC and the Board. The statute allows carriers to compete and to increase the efficiency of their services, with regulatory intervention to be employed only as a last resort to prevent an abuse of market power. See 49 U.S.C. 1010.

On applicability of General Conformity determinations, 40 CFR 51.853 subsection (b) covers situations such as the Board's action on railroad acquisitions and states: "A conformity determination is required for each pollutant where the total of direct and indirect emissions in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in paragraphs (b) (1) or (2) of this section." Paragraphs (b) (1) and (2)

provide emissions thresholds in tons per year for various pollutants and types of nonattainment and maintenance areas.

According to 40 CFR 51.852, the definition of "direct emissions" is "emissions of a criteria pollutant or its precursor that are caused or initiated by the Federal action and occur at the same time and place as the action." Emissions from train traffic are a product of market forces affecting the flow of goods and materials. The railroads decide on a continuous and ongoing basis which routes are most efficient to meet customers' needs. The Board does not regulate these factors; therefore, no direct emissions occur as a result of the Board's action.

Continuing, 40 CFR 51.852 defines "indirect emissions" as "those emissions of a criteria pollutant or its precursors that (1) are caused by the Federal action, but may occur later in time and/or may be farther removed in distance from the action itself but are still reasonably foreseeable; and (2) the Federal Agency can practicably control and will maintain control over due to a continuing program responsibility of the Federal Agency." Also, 40 CFR 51.852 defines emissions for which a Federal agency has a "continuing program responsibility" as "emissions that are specifically caused by an agency carrying out its authorities, and does not include emissions that occur due to subsequent activities, unless such activities are required by the Federal agency." The Board's approval does not require the railroads to transport more freight or transport freight by any specific route. Because the Board has no continuing program responsibility over railroad activities that take place after the approval of the Acquisition, there are no indirect emissions associated with the Board's action.

In addition, 40 CFR 51.852 defines "caused by" in relation to direct and indirect emissions as "emissions that would not otherwise occur in the absence of the Federal action." In the absence of the Board's approval, the same amount of freight would have to be moved to the same destinations. Such transport may be done by trucks, however, which are less energy-efficient and result in greater emissions of most pollutants than rail transport.

The preamble to the General Conformity Rules in the context of Federal activities in marketing electric power further clarifies this definition. Such activities are exempt from General Conformity because customers can get power from other sources; therefore, the emissions arising from generating the power are not the result of the Federal marketing activity (58 FR 63,226, Nov. 30, 1993). Freight transport is an analogous situation because freight transport will occur whether by the railroads or not.

Also on the topic of General Conformity, 40 CFR 51.852 defines a Federal action subject to General Conformity Rules as any activity that a Federal agency supports in any way, provides financial assistance for, licenses, permits, or approves. On the other hand, 40 CFR 51.853 (c)(2) identifies Federal actions not

subject to these rules. 40 CFR 51.853 (c) (2) (xiv) identifies “transfers of ownership, interests, and titles in land, facilities, and real and personal properties, regardless of the form or method of the transfer” as one of the Federal actions not subject to the General Conformity Rules. Therefore, under these definitions, the proposed Conrail Acquisition is exempt from General Conformity Rules because it is a transfer of ownership and titles.

Summary of Comments. EPA stated that Lake and Porter Counties in Indiana have been granted NO_x waivers, but that Vanderburgh, Marion, St. Joseph, and Elkhart Counties all have maintenance plans and a NO_x budget in place. EPA further stated that SEA should compare NO_x emissions in these counties with emissions projected in the maintenance plan; if they are greater than the growth allowed, then implementation of mitigation measures could bring the project into conformity.

EPA also stated that Monroe, Wayne, and Washtenaw Counties in Michigan are part of the Detroit-Ann Arbor, Michigan metropolitan area, which is an ozone maintenance area, and that Wayne County is part of a nonattainment area for carbon monoxide. A recent ozone violation in the Detroit-Ann Arbor area prompted EPA to remove the area’s NO_x waiver. EPA requested that SEA address these issues in the Final EIS.

Response. SEA recognizes that Lake and Porter Counties in Indiana have been granted NO_x waivers, and the Draft EIS correctly accounted for this issue.

With respect to Marion, St. Joseph, and Elkhart Counties, activities related to the proposed Conrail Acquisition do not result in any emissions increases above conformity thresholds; therefore, conformity requirements would not apply in any event. SEA used conformity thresholds to identify which counties would have detailed analysis of net emissions increases. Apart from the potential impacts of the proposed Conrail Acquisition, the Indiana Department of Environmental Management has projected that NO_x emissions in a 13-county area including Vanderburgh County would decrease by 5.7 percent between the years 1990 and 2006. The “Revision to Indiana State Implementation Plan, Maintenance Plan for Ozone Attainment, Vanderburgh County,” prepared by the Department, indicated that the last measured ozone National Ambient Air Quality Standards (NAAQS) violations in Vanderburgh County occurred in 1988.

SEA has estimated that the proposed Conrail Acquisition would temporarily increase rail-related NO_x emissions in Vanderburgh County by 2.18 percent of existing NO_x emissions in the County from all sources (see Appendix I, “Air Quality Analysis”). This temporary increase would be more than offset by the year 2007 by NO_x decreases resulting from EPA’s new rule to establish emissions standards for locomotives (see Appendix O, “EPA Rules on Locomotive Emissions,” of this Final EIS). Given this offset, plus the existing downward trend in Vanderburgh County NO_x emissions, SEA does not expect the temporary 2.18 percent increase in NO_x to affect attainment of the ozone NAAQS in the County.

The Board has determined that General Conformity Rules (40 CFR 93, Subpart B) do not apply to the proposed Conrail Acquisition. EPA has stated that "it is up to each Federal agency to review its own unique legal authority and determine what emission-generating activities it has the ability to control." (See *General Conformity Guidance: Questions and Answers*, EPA Office of Air Quality Planning and Standards, July 13, 1994, page 14.) The Board has examined the issue of control and has determined that it cannot practicably control railroad emissions as part of a continuing program responsibility. See the preceding response for additional discussion of General Conformity Rules.

The projected emissions increases for railroad activities exceeding Board thresholds in Washtenaw County, Michigan do not exceed SEA's emissions screening criteria for any air pollutant (see Appendix I, "Air Quality Analysis," Table I-1 of this Final EIS). SEA therefore did not perform a detailed emissions netting analysis for this county.

As described in the cumulative NO_x emissions analysis in Appendix I, "Air Quality Analysis," of this Final EIS, the NO_x emissions from locomotives in Monroe County in Michigan would decrease to below current (1995) levels by the year 2004, based on the combined effects of the proposed Conrail Acquisition and EPA's new emissions standards for locomotives. In addition, the cumulative NO_x emissions analysis shows that NO_x emissions in Wayne County would never exceed the General Conformity threshold of 100 tons per year. Also, as the Draft EIS shows in Section 5.MI.11, SEA's analysis demonstrated that the proposed Conrail Acquisition alone would cause very minor emissions increases: less than 0.25 percent of the total 1995 NO_x emissions in each of these two counties.

The Draft EIS showed that carbon monoxide (CO) emissions from railroad activities exceeding Board thresholds for analysis in Wayne County, Michigan would increase by only 14.5 tons per year as a result of the proposed Conrail Acquisition. This is a very small increase compared with the existing CO emissions in the County, which were estimated to be more than 644,000 tons per year in 1995 (EPA, 1996). The estimated increase in rail activities in Wayne County thus would be only about 0.002 percent of the 1995 CO emissions.

Summary of Comments. EPA expressed the concern that delayed or reduced passenger train service that currently uses freight train tracks may cause passengers to return to automobiles. This change in transportation modes potentially could impede an area's ability to attain the ozone standard. EPA requested that this issue be addressed in the Final EIS.

Response. Under the Rail Passenger Service Act of 1970 (49 U.S.C. § 24308(c)) and similar statutes, the Applicants have entered into contractual agreements with passenger rail operators that give passenger trains dispatch priority over freight trains in order to maintain passenger train schedules. The proposed Conrail Acquisition would not affect these contractual agreements. Increased freight train traffic resulting from the proposed Conrail Acquisition therefore should not affect passenger rail services, and SEA expects that there will be no diversion of passengers to automobiles. Accordingly, SEA does not

expect that the proposed Conrail Acquisition would affect air quality with respect to passenger train service.

Summary of Comments. Women Like Us, an organization representing the Anacostia area of Washington, D.C., asked what responsibility the Applicants would take for potential air quality impacts on public health.

Response. While railroads are not officially charged with overseeing air quality regulatory programs (this is the responsibility of EPA), railroads nationally will share substantially in the costs of EPA's new emissions standards for locomotive engines. EPA has estimated that the new emissions standards will cost the railroad industry nationally approximately \$89 million per year over the next 40 years (Locomotive Emissions Standards, Regulatory Support Document, EPA, Office of Mobile Sources, December 1997).

As shown in the Draft EIS (Table 4-15), locomotive emissions represent about 4.7 percent of nationwide emissions of NO_x, 1.8 percent of nationwide emissions of volatile organic compounds, and small fractions of emissions of CO and PM. The new emissions standards will eventually reduce locomotive fleet-wide average emissions of NO_x by 60 percent, particulate matter by 45 percent, and volatile organic compounds (or hydrocarbons HC) by 42 percent (EPA: Publication EPA 420-F-97-051, December 1997).

Summary of Comments. NS commented that the Draft EIS, with its focus on local increases in emissions, both understated and undervalued the positive overall impact of the proposed Conrail Acquisition on air quality.

Response. SEA maintains that it has not understated the positive value of the proposed Conrail Acquisition on air quality. While the air quality benefit would be generally positive on a system-wide basis because of emission reductions of most pollutants, the calculated changes in emissions of all pollutants would be a very small percentage of total emissions of air pollutants from all sources in the affected regions. SEA is also aware of EPA's new locomotive emissions standards, and has noted the beneficial effect that these standards would have in combination with the proposed Conrail Acquisition.

Summary of Comments. NS concurred with the statement in the Draft EIS that ozone is a regional concern rather than a local concern. NS suggested that the Final EIS emphasize this point with the following language: "No local mitigation options for NO_x are indicated because NO_x emissions will decrease at the system-wide level over the Northeast Ozone Transport Region (OTR) and will decrease further in the future due to the newly promulgated EPA locomotive standards."

Response. SEA is aware that EPA's new emissions standards for locomotive engines (see Appendix O, "EPA Rules on Locomotive Emissions," of this Final EIS) will result in emissions reductions from railroads that more than offset any local increases resulting

from the proposed Conrail Acquisition. However, recent studies by the Ozone Transport Assessment Group have shown that NO_x effects on ozone nonattainment are primarily a regional concern, rather than a local one. Therefore, SEA does not think that local NO_x emissions changes, particularly the relatively low and widely distributed emissions changes shown in the Draft EIS, would have any measurable affect on local ozone levels (see Appendix I, "Air Quality Analysis," of this Final EIS).

Summary of Comments. NS recommended additional consideration of the implications of the recent Ozone Transport Assessment Group conclusions, and suggested that local air quality analysis and significance criteria are no longer relevant, because ozone is a system-wide and regional issue.

Response. SEA does not agree that the Board's local analysis criteria are no longer relevant, as NS has suggested, based on the Ozone Transport Assessment Group's finding that the impact of NO_x emissions on ozone is primarily a regional or large-scale concern. The Board's criteria are intended to trigger evaluations of other pollutants in addition to ozone. Also, SEA maintains that it is important for the purpose of complying with the disclosure requirements of NEPA to make its best effort to identify the maximum emissions that may occur should the Board decide to approve the proposed Conrail Acquisition.

5.2.3.12 Noise

Summary of Comments. EPA commented that the noise analysis in the Draft EIS "could have described more fully the impacts to and risks from" noise. EPA expressed a concern with the lack of justification for a number of critical assumptions used in the analysis and requested that the Final EIS offer a "more substantive description" of the assumptions or correct them if necessary. Specifically, EPA objected to the lack of justification for the mitigation criteria for wayside noise, resulting in underestimating the need for mitigation. Other analysis issues for which EPA requested justification in the Final EIS are as follows: lack of construction noise impact analysis, the validity of the assumption that post-Acquisition traffic has the same day/night ratio as "pre-Acquisition" traffic, failure to include background noise in the analysis, failure to consider remote horn installations at crossings as a mitigation option, the need for mitigation of engine noise at switching or other engine accelerating areas, and the feasibility of slower train speed through noise-critical areas as a mitigation option.

Response. SEA stresses that the 70 A-weighted decibels (dBA) and 5 dBA day-night equivalent sound level (L_{dn}) noise increase criteria are mitigation criteria, not significance criteria. SEA performed an analysis of different mitigation criteria to evaluate the number of potential mitigation sites resulting from each criterion reviewed. Ultimately, SEA selected mitigation criteria that it considers reasonable and that provide mitigation to the most highly impacted areas.

SEA recognizes that other agencies implement different noise mitigation criteria. Use of other criteria for the proposed Conrail Acquisition could substantially increase the

number of mitigation sites and place an unrealistic and unreasonable burden on the Applicants. SEA maintains that its goal has been to develop reasonable and appropriate criteria and mitigation to address noise impacts. SEA notes that the concept of reasonableness exists in the Federal Highway Administration (FHWA) noise abatement guidance.

Regarding construction noise impacts, SEA anticipates that construction activities would be short-term in duration, and that any resulting impacts would likewise be temporary. The Applicants would minimize construction noise resulting from the proposed Conrail Acquisition in a similar fashion to construction noise abatement on projects regulated by other transportation-related agencies.

SEA considers valid the assumption that traffic would have the same day/night ratio after the proposed Conrail Acquisition. Rail traffic patterns vary with rail customer demands, and therefore it is not possible for SEA to determine a more accurate day/night traffic ratio. The Applicants have indicated that the assumed day/night ratio is appropriate on an annual basis.

SEA recognizes that it did not include background noise in the analysis; however, SEA has concluded that its omission is not likely to have a significant effect on the noise mitigation analysis outcome. Railroad traffic dominates noise levels in the area immediately adjacent to the track in most of the communities where it occurs, especially in areas with high L_{dn} values where SEA is recommending mitigation. Therefore, SEA maintains that it is reasonable and appropriate to use railroad traffic noise to model the L_{dn} in areas affected by the proposed Conrail Acquisition.

Regarding remote horn installations at highway/rail at-grade crossings, Congress directed FRA to issue rules and specifications regarding the use of train horns at all public crossings under the Swift Rail Act of 1994. These rules, including preliminary rules and specifications, are tentatively scheduled for release during 1998. The rules would preempt local ordinances that ban the use of train horns and whistles except where other demonstrable measures provide the same level of safety. Quiet Zones or future "whistle bans" might only occur where FRA found that the alternate safety measures were equal to the existing practice of sounding train horns and whistles at highway/rail at-grade crossings. FRA is studying safety measure technology, such as the placement of four-quadrant gates and automated horn systems, as alternatives to train horns. Details regarding the possibilities of Quiet Zones in specific communities, the use of alternatives to train horns as part of noise impact mitigation, and the overall effect of implementing these rules can only be addressed after the FRA rules are released.

The Board's final decision is likely to occur prior to the release of the final FRA rules. Because of the uncertainty of the content of the FRA rules, SEA did not recommend alternative safety measures to reduce horn noise at highway/rail at-grade crossings. However, the Draft EIS discussed the miscellaneous benefits and costs of these measures in detail.

EPA commented on the need to mitigate engine noise at switching or other engine accelerating areas. SEA evaluated rail yard activities that exceeded the Board's thresholds for analysis but did not exceed the mitigation criteria for noise impacts; therefore, SEA is not recommending mitigation in this case.

EPA also questioned why SEA did not consider slower train speeds in noise-sensitive areas as a mitigation option. SEA did not consider slower train speeds in noise-sensitive areas as an appropriate mitigation option for the following reasons:

- Slower train speeds in residential areas cause longer delays at highway/rail at-grade crossings.
- Public safety would not be enhanced if emergency response vehicles experience longer delays at highway/rail at-grade crossings.
- The system-wide truck-to-rail diversion is a tangible and fundamental benefit of the proposed Conrail Acquisition. Slower train speeds reduce the system-wide benefits of the truck-to-rail diversions by decreasing the advantages of rail transport.
- Federal regulations limit railroad workers to 12-hour shifts. Railroad companies schedule trains and staff resources based on the distance that a train can travel in 12 hours. At these endpoints, new crews assume control of the trains and the old crews take a mandated rest period. Slower train speeds could require relocation of the places where crews change and rest. System-wide changes of this nature are neither practical nor reasonable.

Finally, SEA notes EPA's reference to Section 3.4 of the Federal Agency Review of Selected Airport Noise Analysis Issues, but SEA maintains that airport noise issues should not be treated the same as rail noise issues.

Summary of Comments. CSX and NS commented that the Final EIS should acknowledge that noise levels would be lower in communities along rail line segments and highways where SEA projected that truck and train traffic would decrease as well as along those rail lines that CSX and NS proposed for abandonment.

Response. SEA recognizes that there would be lower noise levels in communities located along rail line segments and highways where truck and train traffic would decrease and along those rail line segments proposed for abandonment.

Summary of Comments. CSX commented that the Draft EIS "appropriately concludes that no mitigation can be imposed for horn noise, the dominant form of railroad noise, because FRA regulations require horns to be sounded at grade crossings for safety reasons." CSX commented that it would undertake a field investigation to better define potential noise impacts on segments where the wayside noise level exceeded the mitigation criteria. CSX and NS expressed concern

that the Draft EIS may have overstated potential noise impacts because of the overly conservative methodology and failure to recommend or conduct site-specific measurements and analysis.

CSX and NS commented that the mitigation criteria for noise are reasonable, but argued that mitigation that the Board imposes is problematic. CSX and NS stated that the Draft EIS contained no analytic or other support for the suggestion that noise barriers are the preferred mitigation methodology. CSX asserted that its field investigation would identify potential mitigation areas and possible mitigation strategies and would determine the need for consultation with local governments. NS recommended that SEA base mitigation alternatives on a site-specific analysis of potential noise impact rather than proposing an arbitrary mitigation measure such as noise barriers.

Response. With respect to the comments from CSX and NS regarding mitigation for horn noise and the pending FRA draft regulations, SEA points out that it conducted site-specific mitigation analyses that included site visits.

SEA notes the Applicants' concerns that the Draft EIS may have overstated noise impacts because of the overly conservative methodology for the noise analysis. However, SEA points out that much of the noise analysis that the Draft EIS contains reiterated the conclusions in the Environmental Report that the Applicants submitted.

SEA also notes the difficulties associated with performing a refined, or even a screening, analysis on an area as large as the one affected by the proposed Conrail Acquisition. SEA contends that a screening analysis, by nature, is intended to be conservative. This provides for an analysis that, system-wide, would not underestimate the noise levels or understate the potential impacts resulting from the proposed Conrail Acquisition. SEA concludes that the limitations that the geographic scope of the proposed Conrail Acquisition imposes require a conservative screening analysis.

SEA agrees that the Draft EIS may not have justified why noise barriers are the primary mitigation method. This Final EIS includes a discussion of why SEA considers noise barriers to be the primary noise mitigation method in Appendix J, "Noise Analysis." Again, SEA encourages CSX and NS to conduct additional field investigations to determine potential alternative mitigation strategies and to contact local governments. SEA maintains that there are several local governments that would also encourage such contact. Regarding the comment by NS that mitigation alternatives should be based on site-specific analyses of noise impacts, not on "arbitrary" mitigation measures such as noise barriers, SEA conducted site-specific mitigation analyses that included visits to each of the candidate sites for mitigation. SEA has revised its noise mitigation to provide more flexibility. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

SEA does not agree with the suggestion by CSX and NS that EPA's noise emission standards for new locomotives and railcars constitute de facto approval and acceptance

of Acquisition-related noise. The EPA noise emission standards limit maximum noise levels for locomotives and railcars. However, SEA's environmental rules also take into account increased train activities in terms of L_{dn} . Therefore, SEA maintains that L_{dn} -based noise mitigation criteria are appropriate and complementary with respect to the EPA noise emission standards.

Summary of Comments. NS commented that SEA should not apply "noise models developed for CSX trains to the quieter NS trains." NS explained that this model overstates noise levels on the NS lines, and SEA should use the models only as a screening tool to identify areas that may warrant site-specific analysis.

NS commented that its consultant confirmed that the Thornton Acoustics model "is both conservative and more accurate for NS trains than the model applied by the D[raft] EIS." NS noted that the Final EIS modeling should "apply a weighted average SEL [sound exposure level] between CSX and NS trains for Shared Assets Area line segments" because these areas would run both types of trains.

Response. With respect to the comments that NS submitted regarding the noise model and use of certain Sound Exposure Levels (SELs) in Shared Assets Areas, SEA notes that it used a wayside value of 102 dBA in the Draft EIS and in this Final EIS for trains in the Shared Assets Areas.

SEA used a wayside SEL value of 98.4 dBA in the Draft EIS and 100 dBA in the Final EIS for NS trains. SEA used the 100 dBA value because it better reflected the accuracy and variability of a limited set of noise monitoring values upon which NS based its original analysis. SEA used the 98.4 dBA value in the Draft EIS because much of the data presented in the Draft EIS were based on the Applicants' noise studies, which incorporated the 98.4 dBA value.

5.2.3.13 Cultural and Historic Resources

Summary of Comments. Many State Historic Preservation Officers and interested parties provided comments on the National Historic Preservation Act, Section 106 process.

Response. For more information regarding the Section 106 consultation process, see Chapter 3, "Agency Coordination and Public Outreach"; Chapter 4, "Summary of Environmental Review"; and Appendix K, "Cultural Resources Analysis," of this Final EIS.

Summary of Comments. The Delaware Division of Historical and Cultural Affairs, Historic Preservation Office noted that Appendix G (Volume 5A), "Cultural Resources," of the Draft EIS states that traffic changes for rail segments, rail yards, and intermodal facilities would have "little effect" on historic and cultural resources. The division requested justification for this statement.

The Office requested that recommendations for mitigation be considered for traffic changes, rail yards, and intermodal facilities.

Response. SEA prepared a detailed definition of the Area of Potential Effects as part of its concurrent Section 106 compliance process. The Area of Potential Effects definition recognized all of the criteria of adverse effect, but found that none were applicable to increased railroad traffic. Increased traffic would be limited to moving and handling more rail cars on the existing trackage, at intermodal facilities, or at rail yards. Increased rail traffic does not have the potential to adversely affect cultural resources because such railroad traffic is already part of the historic setting. No ground disturbance or physical alteration of existing facilities would result from increased rail traffic.

Summary of Comments. The Delaware Historic Preservation Office expressed concern regarding SEA's "typical" requirements for mitigation of potential impacts on archaeological properties because these measures do not appear to consider avoidance measures, which is "inconsistent with the Advisory Council's regulations." The commentor indicated that the steps outlined in the Draft EIS for addressing unanticipated discoveries were a "reversal of the steps required by 36 CFR Part 800.4, and sets all such projects up as 800.11 situations (addresses unanticipated discoveries)." Further, the commentor stated that the Draft EIS did not appropriately address 36 CFR 800.4 and 800.5.

Response. Appendix G of the Draft EIS, "Cultural Resources," presented a detailed methodology for identifying and treating archaeological properties in accordance with Section 106 and its implementing guidelines. Salvage operations associated with the abandonment process, such as the removal of rails, ties, ancillary structures, and ballast, usually are performed using equipment operated from the existing rail bed. This process therefore has a very low potential for disturbing archaeological resources that were not already disturbed during the original railroad construction. Because of the extent of this earlier disturbance and the nature of the salvage process, 36 CFR 800.11 procedures provide the most reasonable approach. According to 36 CFR 800.4 and 800.5, neither resource identification nor assessment of effects is reasonable or necessary.

5.2.3.14 Natural Resources

Summary of Comments. USACE, Jacksonville District, Florida, indicated that a permit application under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act would not be necessary based on the information in the Draft EIS.

Response. SEA recognizes that USACE would not require this permit based on the information that the Applicants provided.

Summary of Comments. EPA expressed a concern regarding increased pollutant loading as a result of increased activity at rail yards and intermodal facilities. EPA commented that there was a lack of discussion in the Draft EIS regarding water quality impacts, stormwater management facilities, operational changes, surrounding environment, and water resources.

Further, EPA commented that additional analysis is necessary to identify potential environmental effects on watersheds, wetlands, and threatened or endangered species associated with construction and abandonment activities at 13 construction and abandonment sites (four sites in Illinois, two sites in Indiana, and seven sites in Ohio).

Response. Appendix L, "Natural Resources Analysis," of this Final EIS includes discussions of potential water quality impacts and stormwater management, and descriptions of the methodologies that SEA used to determine the presence of, and potential impacts on, watersheds, wetlands, and Federally listed threatened and endangered species. Thus, SEA points out that Appendix L addresses EPA's concerns.

Summary of Comments. NS requested that the Final EIS clarify the natural resources methodology that it used to determine survey distances to "wildlife refuges and sanctuaries; national, state and/or local parks or forests." NS also requested that the Existing Conditions section of the Final EIS clearly identify those areas where no such conservation or preservation areas occur within the specified distance.

Response. SEA's methodology for identifying biological resources included surveying for wildlife refuges and sanctuaries, national, state and/or local parks or forests within 200 feet of the right-of-way boundary.

Summary of Comments. The DOI Office of Environmental Policy and Compliance provided comments regarding threatened and endangered species in the States of Alabama, Louisiana, and Mississippi. Specific river systems cited include the Pascagoula, Biloxi, Wolf, and Pearl Rivers. The commentor identified several Federally listed species as potentially occurring in these rivers. The commentor requested that emergency management plans for hazardous materials spills include guidelines for immediate consultation with DOI personnel regarding potential adverse environmental effects to listed species. These plans should also address both immediate and long-term effects to fish and wildlife resources.

Response. SEA concurs with DOI. SEA would recommend that the Applicants add a statement to the emergency management plans that directs the Applicants to contact the U.S. Fish and Wildlife Service (USFWS) representative as soon as is appropriate when a spill occurs. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS for further discussion.

5.2.3.15 Land Use and Socioeconomics

Summary of Comments. Numerous public agencies, individuals, and institutions expressed concern that property values and the tax base along railroad lines would decline because of increased rail traffic and noise.

Response. The scope of SEA's land use and socioeconomic analysis was limited to a determination of the consistency between the proposed Conrail Acquisition's rail line construction and abandonment activities and local land use plans. SEA has no evidence

that the proposed Conrail Acquisition would result in reduced property values. Railroad lines, abutting land uses, and property values generally are already established and are the result of many local conditions. Local land use planning processes exist and function, in part, to protect property values. In nearly all cases, SEA determined rail line construction and abandonment activities of the proposed Conrail Acquisition to be consistent with the local land use plans. Comments from communities and individuals provided no supporting quantitative analysis, only rather generalized remarks.

Summary of Comments. Many state and local agencies, individuals, and institutions commented that increased train traffic, crossing delays, potential air quality degradation, or recommended improvements would lead to a loss of business or impede economic development and redevelopment activities. The commentors cited a lack of access to downtown locations, business and industrial areas, and proposed projects as the reason for these potential environmental impacts.

Response. In accordance with the Board's environmental regulations and the scope of the EIS, SEA limited its land use and socioeconomic analysis to considering the consistency of the rail line construction and abandonment activities that would result from the proposed Conrail Acquisition with local land use plans and to evaluating the potential business loss that would be directly related to proposed constructions and abandonments. SEA determined that the proposed Conrail Acquisition rail line construction and abandonment activities were consistent with local land use plans, and no business losses would be attributed to proposed constructions or abandonments.

Overall economic effects related to the proposed Conrail Acquisition are merits issues outside of the scope of the EIS. SEA's review considered the effects of increased train traffic on downtown areas through specific resource-related analysis, including highway/rail at-grade crossing delay and safety analyses. Chapter 7, "Recommended Environmental Conditions," of this Final EIS presents SEA's final mitigation recommendations for these resource-related issues.

Summary of Comments. Several commentors stated their opposition to the use of taxpayers' money for the proposed Conrail Acquisition, including its use for infrastructure expansion or subsidies.

Response. The socioeconomic methodology addressed issues related to changes in the physical environment as a result of the proposed Conrail Acquisition. SEA found the issue of taxpayers' burden to be beyond the scope of the EIS for land use and socioeconomic analysis. The Final EIS identifies mitigation requirements for the Applicants, the implementation of which would be the responsibility of the Applicants, not taxpayers. Additionally, the Applicants, not taxpayers, are responsible for all costs associated with the preparation of this EIS.

Summary of Comments. NS commented that SEA departed from the land use and socioeconomic methodology in its analysis of the NS Ashtabula-to-Buffalo (N-070) rail line

segment through the Cattaraugus Reservation of the Seneca Indian Nation. NS contended that, based on the stated methodology in the Draft EIS, SEA should have applied the land use and socioeconomic analysis only to construction projects and abandonments, but not to a rail line segment for which SEA projected only a potential increase in hazardous materials transport.

NS added: "Since recommended mitigation for increased hazardous materials transportation would eliminate the potential for a significant impact, there is no need to repeat the issue under land use and socioeconomic issues, and it should not be addressed in this section of the F[inal] EIS."

Response. SEA included Native American nations in the land use and socioeconomics section of the EIS. Land use issues related to construction and abandonment activities are most closely related to issues of tribal sovereignty over land use changes. The evaluation determined that no construction or abandonment activities were proposed within the lands of the Seneca Nation, and therefore there was no need to evaluate land use and socioeconomics on those lands. The text reference remains in the land use section of the Final EIS for reasons of organization, clarity, and recognition of the Seneca Nation's jurisdiction.

5.2.3.16 Environmental Justice

Summary of Comments. Many commentors, including members of Congress and regional and local agencies, indicated that minority and low-income neighborhoods and areas are more adversely affected by the impacts of the proposed Conrail Acquisition, including increased rail traffic, air quality, hazardous materials transport, noise, socioeconomic, and emergency response. Some commentors stressed the need for the Board to follow Executive Order 12898 for environmental justice analysis.

Response. SEA recognizes that Executive Order 12898 calls for research and data collection in potentially affected minority and low-income populations. SEA has used the Executive Order in a manner that addresses minority and low-income populations that may experience disproportionately high and adverse environmental impacts. Where minority and low-income populations would potentially experience high and adverse environmental impacts, SEA conducted special public outreach efforts.

SEA has determined whether mitigation measures that this Final EIS recommends for other environmental issue areas would be sufficient to eliminate or mitigate the high and adverse impacts that these populations could experience in the absence of mitigation measures; if they would not be sufficient, SEA has recommended additional mitigation where practicable. Further, SEA has considered the appropriateness of modifying the recommended mitigation measures to meet the needs of minority and low-income populations experiencing disproportionately high and adverse impacts. SEA has also considered whether any additional recommended mitigation was reasonable and feasible to implement.

For further discussion, see Chapter 3, “Agency Coordination and Public Outreach”; Chapter 4, “Summary of Environmental Review”; Chapter 7, “Recommended Environmental Conditions”; and Appendix N, “Community Evaluations,” of this Final EIS.

Summary of Comments. NS commented that “there is no evidence that a potential [highway/rail] at-grade crossing safety issue has a significant adverse effect on an environmental justice community located elsewhere along the rail line segment.”

Response. SEA concurs with the commentor. SEA identified specific populations (by census block groups) that were located in proximity to where highway/rail at-grade crossing safety impacts would occur along a rail line segment. See Appendix M, “Environmental Justice Analysis,” of this Final EIS for further details.

Summary of Comments. Some commentors expressed concern about certain aspects of the Draft EIS environmental justice analytical methodology. The Applicants questioned the inclusion of populations that exceeded by 10 percentage points the minority and low-income concentration in the surrounding counties. The Southeast Michigan Council of Governments stated that the Draft EIS demographic data are not consistent with data supplied by HUD.

Response. Section 4.17, “Environmental Justice,” and Appendix M, “Environmental Justice Analysis,” of the Draft EIS presented the method for determining the Area of Potential Effect as well as the method for determining the percentage of minority and low-income populations within the Area of Potential Effect. Section 4.17, “Environmental Justice,” and Appendix M, “Environmental Justice Analysis,” of this Final EIS also include modifications in response to public comments. SEA generally derived the Area of Potential Effect from the maximum area potentially exposed to the Board’s noise thresholds of 65 dBA L_{dn} . SEA used this conservative approach to identify populations that would experience the most adverse noise effects and also to encompass areas that could be expected to experience other localized effects associated with the proposed Conrail Acquisition.

CSX suggests that demographic analysis of environmental justice populations is unnecessary, quoting the preamble to the DOT Environmental Justice Order. However, the preamble does not suggest that agencies need not begin analyzing demographic information merely because they have not done so in prior cases. To the contrary, the preamble emphasizes DOT’s intent “to insure that a process for the assessment of environmental justice factors becomes common practice” under NEPA. Indeed, the Order provides that “in implementing these requirements [to ensure non-discrimination under NEPA and related statutes] the following information should be obtained where relevant, appropriate, and practical:”

- “Population served and/or affected by race, color or national origin and income levels.

- “Proposed steps to guard against disproportionately high and adverse effects on persons on the basis of race, color or national origin.”
- The implementation of a process to evaluate demographic content within the areas affected by the proposed Conrail Acquisition is clearly consistent with DOT policy and does not create a process at odds with the underlying rationale of either the Executive Order or the DOT environmental justice strategy.

SEA used 1990 Census Population Data and a Geographic Information System to estimate the number of minority and low-income populations within the Area of Potential Effect. Based on the geographic scale of the proposed acquisition, SEA was unable to use multiple local databases. Census data is an accepted, recognized source for demographic statistical analysis.

SEA used the following guidance in addressing environmental justice: DOT’s Order on Environmental Justice (62 Federal Register 18377, April 15, 1997), the CEQ Guidance for Considering Environmental Justice under the National Environmental Policy Act (May 7, 1997), the CEQ Environmental Justice Guidance under the National Environmental Policy Act (1998), and the Interim EPA Guidance on Addressing Environmental Justice (September 30, 1997). The CEQ Guidance and EPA Guidance define populations as minority and low-income where either (a) the minority and low-income population of the affected area exceeds 50 percent, or (b) the minority and low-income population percentage of the affected area is meaningfully greater than the minority and low-income population in the general population or other appropriate unit of geographic analysis. SEA used the 50 percent figure to define environmental justice populations. SEA also used 10 percent as a measure of a meaningfully greater concentration of minority and low-income individuals. SEA chose the 10 percent figure so that pockets where minority and low-income individuals concentrate, but are not sufficient in number to constitute a majority of residents, do not predominantly bear disproportionately high and adverse impacts. SEA used county populations for comparison because EPA Guidance suggests comparison with “the next larger geographic area or political jurisdiction” and because counties offer a practical jurisdictional boundary that does not artificially dilute or inflate the affected environmental justice population. The 10 percent figure and the use of counties for demographic comparison are reasonable, appropriate, and consistent with the Executive Order, DOT Order, CEQ and EPA Guidance, and the purpose of SEA’s environmental justice analysis.

Summary of Comments. NS contended that the “D[raft] EIS approach to noise for environmental justice further overstates the extent of actual noise impacts by applying two arbitrary assumptions solely to environmental justice analysis: (1) assuming an increase of three to 7 trains per day generates as much noise as an increase of 8 trains per day—effectively lowering the analysis threshold for environmental justice communities from an increase of 8 trains per day to three; and (2) assuming that horn noise occurs along the entire line segment, not just at crossings. No justification is provided for this unfounded double standard.” Further,

NS stated that environmental justice communities should be subject to the same threshold and criteria as those in the Draft EIS, which SEA applied to other communities.

Response. The environmental justice analysis did not create a separate or distinct approach for analyzing noise effects. The environmental justice analysis overestimates noise effects only to identify the Area of Potential Effect (the study area). SEA was conservative in its use of noise contours as a basis, including assuming horn noise as a worst-case scenario, in order to be more inclusive of potentially affected populations. The method and analysis for identifying the environmental justice Area of Potential Effect is separate from the analysis of noise impacts, and does not influence that analysis in any way.

In general, SEA based the environmental justice Area of Potential Effect, or study area, on the noise contours, which marked the distance from the tracks where the noise levels would reach 65 dBA L_{dn} . SEA used these noise contours as a basis for the development of the environmental justice Area of Potential Effect because they offered a practical, uniform approach to identifying the communities that would experience adverse noise effects. The methodology also encompassed areas that could experience other localized effects such as traffic congestion, grade crossing delays, pedestrian and safety effects, and construction effects associated with the proposed Conrail Acquisition.

Summary of Comments. NS commented that requiring the Applicants to undertake mitigation or to consult or enter into binding agreements only with environmental justice communities solely on the basis of demographics constituted preferential treatment not warranted under the Executive Order. EPA, the City of Cleveland, Fort Wayne, and the Four City Consortium commented that the Draft EIS makes little effort to mitigate potential effects on minority and low-income populations.

Response. SEA conducted extensive notification of environmental justice populations with potential high and adverse effects to afford them the opportunity to participate in the Draft EIS review and the comment period. SEA also encouraged the Applicants to initiate consultation with the communities within which these populations reside to identify voluntary Applicant efforts to tailor recommended mitigation or develop alternative mitigation appropriate for these minority and low-income populations.

SEA does not consider requiring the Applicants to coordinate with local communities to be giving preferential treatment; rather, SEA considers this an effective tool for determining the special needs of the communities with disproportionately high and adverse impacts and for providing additional mitigation, where necessary and possible, to address those needs.

The CEQ Environmental Justice Guidance under NEPA maintains that agencies should ensure meaningful community representation in the process. The CEQ guidance also provides the following guidance regarding mitigation: "Throughout the process of public participation, agencies should elicit the views of the affected populations on measures

to mitigate a disproportionately high and adverse human health or environmental effect on a low-income population, minority population, or Indian tribe and should carefully consider community views in developing and implementing mitigation strategies.”

SEA did not consider community consultation, by itself, to be mitigation of significant environmental justice effects. At the issuance of the Draft EIS, SEA was working with Cleveland and East Cleveland to develop mitigation strategies for those communities. The community consultation that the Draft EIS described and SEA’s continued analyses were measures SEA used to better understand the issues in each community. This process would also assist SEA in determining whether the mitigation proposed by the other technical resource analyses in the EIS was sufficient to eliminate or mitigate the significant environmental justice effects, or, if further mitigation would be necessary, in determining the appropriateness of modifying recommended mitigation measures to meet the needs of a disproportionately affected minority and low-income population, and in determining whether any additional recommended mitigation was reasonable and feasible to implement.

Summary of Comments. NS and CSX stated that the Draft EIS failed to assess whether minority and low-income populations would experience disproportionate impacts. They contend that an analysis of disproportionality must assess the system-wide effects of the proposed action (rather than comparing rail line segments) and must statistically compare effects on minority and low-income populations to effects on non-minority and non-low-income populations. NS contends that their system-wide analysis demonstrates that the proposed Conrail Acquisition would not have a disproportionate impact on minority and low-income populations. By contrast, the City of Cleveland and others argue that SEA should analyze whether effects are disproportionate in specific environmental justice communities that are smaller than rail segments, because failure to do so masks impacts on disadvantaged populations.

Response. SEA does not consider the NS system-wide analysis to be adequate because the analysis does not address the fact that some communities may bear the majority of high and adverse effects or the most severe effects compared with the greater population along the entire rail system. Thus, the NS system-wide analysis does not adequately serve the purposes of the Executive Order or the public interest. SEA also concurs that if it limits its comparison to populations living adjacent to rail line segments, it may miss potential environmental impacts on smaller disadvantaged populations along these rail line segments. For the Final EIS, therefore, SEA analyzed effects at the block group level to account for this possibility.

As Appendix M, “Environmental Justice Analysis,” of this Final EIS discusses, and in response to public comments, SEA analyzed all block groups along threshold segments for multiple resource (noise, hazardous materials transport, traffic safety) effects. SEA applied standard statistical tools (that is, the Chi-Squared test, the Ratio of the Means, and the Pearsons Correlation Coefficient) to the database to compare effects among all populations, both environmental justice and non-environmental justice. Appendix M lists all communities that would bear high and adverse effects as well as those

environmental justice communities with high and very high multiple resource impacts. Based on this information and the public comments, this Final EIS describes which environmental justice populations would experience disproportionately high and adverse impacts in the absence of mitigation measures. Chapter 7, "Recommended Environmental Conditions," of this Final EIS outlines SEA's recommendations regarding mitigation for these populations.

Summary of Comments. EPA commented that the Draft EIS made little effort to mitigate potential environmental impacts on many minority and low-income communities. EPA recommended additional coordination for identified communities, using EPA environmental justice coordinators as resources. EPA suggested using CEQ's "Environmental Justice Guidance Under the National Environmental Policy Act" as a reference.

Response. This Final EIS addresses the question of whether environmental justice populations would experience disproportionate effects. SEA investigated whether the mitigation measures that SEA recommends in this Final EIS for other environmental issue areas would be sufficient to eliminate or mitigate the disproportionately high and adverse impacts on minority and low-income populations. If not, SEA recommended additional mitigation where practicable. SEA also considered the appropriateness of modifying the recommended mitigation measures to meet the needs of a minority and low-income population that would experience disproportionately high and adverse effects. Further, SEA considered whether it would be reasonable and feasible to implement any additional recommended mitigation. SEA's staff notified and coordinated with identified communities. This Final EIS references the CEQ Environmental Justice Guidance under the National Environmental Policy Act.

Summary of Comments. CSX and NS asserted, as follows, that the required site-specific outreach and negotiated settlements are not appropriate:

- The Draft EIS failed to provide any rationale, or the rationale is unclear, for Ft. Wayne, Indiana; Danville, Illinois; Youngstown, Ashtabula, and Toledo, Ohio; and Harrisburg, Pennsylvania.
- No significant noise impacts are present along entire rail line segments in Bellevue-to-Sandusky Docks, Ohio; Delaware County, Ohio; Detroit, Michigan; Ontario and Seneca Counties, New York; Cloggsville Junction and Marion, Ohio.
- The train traffic information used in Kankakee, Illinois was incorrect. Applying the correct information, there is no noise impact.

CSX and NS also objected to any requirement for consultation with local communities regarding mitigation measures for hazardous materials transport, specifically with respect to Bladensburg, Maryland; Washington, D.C.; Fort Wayne, Indiana; Tilton and Danville, Illinois; and Youngstown and Ashtabula, Ohio.

Response. The Draft EIS and this chapter, Section 5.2.3.16, "Environmental Justice," of this Final EIS provide the rationale for having the Applicants consult with local officials and community representatives.

CSX and NS stated that site-specific outreach was not appropriate along certain rail line segments because no significant noise impacts would occur on these segments. SEA did not recommend site-specific outreach and consultations with communities where the only potential impacts would involve noise levels in excess of 65 dBA L_{dn} but below the noise mitigation criterion of 70 dBA L_{dn} . SEA conducted outreach and consultation only for those locations that would experience substantial noise and at least one other significant environmental impact.

The environmental justice analysis in this Final EIS reflects the corrected Kankakee, Illinois train traffic information.

Summary of Comments. CSX and NS contended that because Executive Order 12898 is not binding for independent agencies such as the Board, the Board should not undertake an environmental justice analysis. They also contended that the Executive Order was designed primarily for the localized siting of facilities, that an environmental justice analysis was not employed in any previous Board control transactions and is not necessary for this proposed Acquisition because there was no intent to discriminate, and that if an environmental justice analysis is conducted, it should be limited to new construction projects and abandonments. In addition, they stated that the Board should establish its policy for environmental justice prior to the EIS process. Some commentors stressed the need for the Board to follow Executive Order 12898 for environmental justice analysis.

Response. Although Executive Order 112898 is not binding on independent agencies such as the Board, SEA chose to conduct an environmental justice analysis because the President requested independent agencies to comply with the Order (see Section 6-604 of the Order), particularly during the NEPA process; because a DOT Order and CEQ and EPA Guidance emphasize addressing environmental justice concerns in the NEPA context; and because the Board is responsible for ensuring that this proposed transaction is consistent with the public interest. In the context of the proposed Conrail Acquisition, SEA determined that the public interest warrants addressing whether the proposed Conrail Acquisition could have disproportionately high and adverse impacts on minority and low-income populations and, if so, whether reasonable and feasible mitigation measures could eliminate or mitigate disproportionate impacts. The public interest also warrants addressing whether it is appropriate to modify recommended mitigation measures to meet the needs of a minority and low-income population that would experience disproportionate effects.

The proposed and final scoping notice for this proposed transaction announced SEA's intent to conduct an environmental justice analysis, and the Draft EIS developed a six-step process for conducting the analysis. Thus, there has been ample opportunity for public comment on the environmental justice analysis for this proposed Acquisition.

Further rule making or policy making is unnecessary, impractical within the time frame for completion of this EIS, and would only delay this analysis.

Executive Order 12898 was not, as the commentor asserts, principally designed for and most logically applied to the localized siting of new facilities. The Executive Order states that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." The programs, policies, and activities of Federal agencies consist of more than the localized siting of facilities.

The commentors also assert that, because there was no intent on the part of CSX or NS to discriminate and because the Draft EIS does not present any evidence to the contrary, the application of the Executive Order is not necessary. However, the Executive Order, DOT Order, EPA Guidance, and CEQ Guidance provide direction that environmental justice analysis should assess unjustified disparate impacts in all cases, not just in cases where intentional discrimination exists.

The Applicants state that they took numerous factors into account in deciding how to route trains, and demographics of communities along the rail lines was not among them. SEA concludes that an environmental justice analysis is appropriate for precisely this reason, and because these communities have traditionally been underrepresented in these decision making processes.

Summary of Comments. CSX and NS commented that there was a very low risk of a freight rail incident; the effects are usually confined to the tracks themselves, and rail incidents do not have a major, adverse effect on surrounding populations. CSX and NS also disagreed with the concept of requiring the railroads to design a special mitigation strategy for freight rail safety and hazardous materials transport that could apply only in certain communities based on their demographic consideration.

Response. CSX and NS argued that freight rail safety was not an appropriate subject for environmental justice analysis because the effects of an incident would not create a disproportionately high and adverse impact on surrounding environmental justice populations. The Draft EIS revealed that only two rail line segments that met environmental justice demographic criteria would experience potentially significant freight rail safety impacts in the absence of mitigation. In this Final EIS, SEA recommended mitigation for these freight rail safety impacts that would be comparable to the mitigation it recommended for other areas with potentially significant freight rail safety impacts. However, neither segment would experience other potentially high and adverse impacts. Therefore, neither segment merited consideration for further environmental justice analysis.

Summary of Comments. NS commented that the environmental justice analysis in the Draft EIS did not take into account the effects of system-wide safety measures and other mitigation

measures on a local basis. NS further stated that additional benefits of the proposed Conrail Acquisition should be recognized.

Response. SEA provides a discussion of the benefits of the proposed Conrail Acquisition in Chapter 4, "Summary of Environmental Review," of this Final EIS. This discussion of benefits pertains primarily to air quality, energy, truck-to-rail diversions, and other system-wide analyses. By their system-wide nature, these benefits do not lend themselves to localized analysis.

Impacts on environmental justice communities are localized, and SEA only considers mitigation after determination of the demographics and impacts. SEA analyzed the pre-mitigation environmental effects in the Draft EIS. For the Final EIS, SEA further analyzed pre- and post-mitigation effects and determined whether effects were mitigated adequately.

Summary of Comments. NS commented that SEA's environmental justice analysis should not employ a cumulative effects analysis. The Draft EIS includes no methodology for weighting and combining the various adverse effects, and it would be impossibly complicated to attempt such a cumulative impacts analysis.

Response. The CEQ Environmental Justice Guidance Under NEPA provides the following direction: "Agencies should consider relevant public health data and industry data concerning the potential for multiple or cumulative exposure to human health or environmental hazards in the affected population and historical patterns of exposure to environmental hazards, to the extent such information is reasonably available." The EPA Interim Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses states that, when determining whether environmental impacts are disproportionately high and adverse, agencies are to consider "whether the environmental effects occur or would occur in a minority population or low-income population affected by cumulative or multiple adverse exposures from environmental hazards." Appendix M, "Environmental Justice Analysis," identifies and addresses those environmental justice communities with disproportionately high and adverse multiple resource impacts.

SEA's multiple resource analysis is a reasonable, practical, and appropriate approach to serve the purposes of the Executive Order, the DOT Order, the CEQ and EPA Guidance, and the public interest in the context of this proposed Conrail Acquisition.

Summary of Comments. Faith-Based Organizing for Northeast Ohio requested that "the Surface Transportation Board, U.S. Congressional Representatives and state and local officials draft industry-wide environmental justice standards designed to protect the health, safety and quality of life within the communities impacted by the railroad commerce. These standards should include specific limits on the number of trains allowed to travel through densely populated urban and suburban communities."

Response. In its environmental justice analysis, SEA referred to Executive Order 12898 on Environmental Justice, DOT's Order on Environmental Justice (DOT, April 16, 1997), CEQ's Guidance for Addressing Environmental Justice in NEPA Analysis (1997), and EPA's Interim Guidance on Addressing Environmental Justice (September 30, 1997). Establishing industry-wide standards for environmental justice is beyond the purview of the Board.

5.2.3.17 Cumulative Effects

Summary of Comments. The Seneca Regional Planning Commission (Ohio) commented on the evaluation of potential environmental impacts in the Draft EIS. The Commission expressed its concern "that multiplicity must be realized in evaluating impacts [on] Fostoria."

Response. The Commission's concern about multiplicity appears to pertain to the relationships of interlockings, increased train speeds, traffic flow projections, increased stopped trains, traffic delay, the increase in hazardous materials transport, the location of five rail line segments, and the areas known as the Iron Triangles. In effect, these matters pertain to multiple impacts and the overall result on emergency response, traffic delay, and safety. SEA addressed these potential environmental impacts subject to the Board's thresholds for environmental analysis and EIS scope. See Appendix G, "Transportation: Highway/Rail At-grade Crossing Delay Analysis," of this Final EIS.

Summary of Comments. Congressman Jerrold Nadler of New York, and 23 other members of Congress representing the people of the States of New York and Connecticut, commented that the Draft EIS "unlawfully fails to consider the cumulative effects of the plan in any regard" and that it "violated the law by segmenting the program, by localizing its separate effects and by ignoring cumulative effects."

Response. SEA relied on NEPA and CEQ's handbook, *Considering Cumulative Effects Under the National Environmental Policy Act*, to develop the cumulative effects methodology. According to the handbook, the goal of a cumulative effects analysis is the making of "a better decision, rather than a perfect cumulative effects analysis." With this guidance in mind, and without a precedent for Federal EIS cumulative effects analysis, SEA established an approach for evaluating potential cumulative effects in a thorough yet timely manner, within the geographic area that the proposed Conrail Acquisition encompasses. The methodology evaluated system-wide effects on air quality, energy, and transportation. SEA also evaluated localized potential impacts (that commentors made known to SEA within the scoping process) that may have represented a cumulative effect associated with the proposed Conrail Acquisition.

Regarding Congressman Nadler's concerns about the New York City/northern New Jersey metropolitan area and southern New England, SEA analyzed the potential environmental effects of truck traffic, and the results are presented in Appendix H, "Transportation: Roadway Systems Analysis," of this Final EIS.

Summary of Comments. Congressman Jerrold Nadler of New York and 23 other members of Congress, representing the people of the States of New York and Connecticut, expressed concern regarding the increased truck traffic on the highways of Manhattan and the Bronx because of those trucks driving to and from the North Jersey intermodal facilities. The commentors stated that “the cumulative effect of this traffic added to Rt. 95, the George Washington Bridge and the highways east of the Hudson is far greater than the local effect, yet is unmentioned.” Further, the commentors stated that improved cross-harbor rail car float service would “quickly raise traffic handled from nearly nothing to over 14 million tons per year (823,520 17-ton trucks per year, 2,261 trucks per day), with minimal investment in infrastructure.” The commentors derived this information from studies conducted by the City of New York.

Response. Several commentors expressed concerns that truck trips east of the Hudson River would increase if the Board approves the proposed Conrail Acquisition. They suggested that the Board impose various operational conditions including competitive access to the New York City/northern New Jersey metropolitan area, southern New England, as well as RoadRailer service (that is, Triple Crown Service) on the Northeast Corridor east of the Hudson River that would divert truck traffic to rail. SEA considered these comments as well as a Petition for Intervention, two Responsive Applications, and several Requests for Conditions. SEA analyzed the potential for increased truck trips and truck route shifts in the metropolitan area in Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS. SEA concluded that there would be no significant environmental impacts in the metropolitan area and southern New England as a result of the proposed Conrail Acquisition, either individually or cumulatively.

Section 5.3.1—Alabama

5.3 COMMENTS ON STATE AND COMMUNITY ISSUES

5.3.1 Alabama

SEA did not receive any comments from Alabama.

Section 5.3.2—Connecticut

5.3.2 Connecticut

Connecticut—Safety: Other

Summary of Comments. The South Western Regional Planning Agency of Connecticut disagreed with the following statement on page CT-2 of the Draft EIS: “CSX and NS anticipate that, due to predicted truck-to-rail diversions, Connecticut would experience a benefit in the areas of emissions, noise and safety.” The Agency maintains that the diversions would end on the west side of the Hudson River in New Jersey, thus resulting in more, not fewer, potential truck safety impacts in Connecticut.

Response. On further review of the Draft EIS, SEA found that the statement “Connecticut would experience a benefit in the areas of emissions, noise and safety” was inadvertently included on page CT-2 of the Draft EIS. As that page also stated, SEA did not evaluate air quality emissions, noise, safety, or other technical areas “based on the nature of the proposed Conrail Acquisition-related activities in Connecticut.” None of the changes in train traffic in Connecticut that would result from the proposed Conrail Acquisition exceeded the Board’s thresholds for environmental analysis.

Summary of Comments. The Connecticut Department of Transportation expressed the following concern: “NS enthusiastically indicated to CDOT [the Connecticut Department of Transportation], (prior to April of 1997) that RoadRailer-type service would figure prominently in its business and Operating Plans. Should this type of intermodal service flourish in southern regions, but terminate west of the Hudson River in the North Jersey Shared Assets Area, it must follow that a significant number of containers destined for points east of the Hudson River will complete the trip by truck on I-95. Paradoxically, a plan which purports to reduce traffic congestion, as well as enhance air quality and public safety, will have quite the opposite effect in Connecticut.”

Response. SEA conducted an analysis of the potential increase in truck traffic and shifts in truck traffic routes that the proposed Conrail Acquisition could cause in the New York City/northern New Jersey metropolitan area and southern New England. Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS contains this analysis. SEA determined that the projected increase in intermodal activity in northern New Jersey intermodal facilities was based on truck-to-rail diversions, not new truck movements to New Jersey. Therefore, SEA concluded that the activity would not result in a measurable increase in truck traffic in the New York metropolitan area or Connecticut. In addition, CSX proposes to divert some current truck traffic from the I-95 corridor by introducing new intermodal service from the southeastern United States to Boston, Massachusetts. This intermodal service would result in a minor decrease in truck traffic in Connecticut.

Section 5.3.2—Connecticut

Connecticut—Transportation: Passenger Rail Service

Summary of Comments. The South Western Regional Planning Agency of Connecticut commented that SEA should add the following words to the Draft EIS under the heading “Railroad Facilities” in Chapter 5, page CT-1 of Volume 3A of the Draft EIS: “Conrail has trackage rights on Amtrak and the Metro North Railroad from New York to New Haven, but has failed to use them except for local freight service.”

Response. SEA considers the language in the Draft EIS satisfactory as originally written. Day-to-day railroad operations are typically market driven and traditionally beyond the Board’s authority.

Connecticut—Transportation: Roadway Systems

Summary of Comments. The Connecticut Department of Transportation stated that approval of the Application in its current form would lead to increased traffic congestion. The Department disputed the statement in the Draft EIS that “no rail line segments, rail yards or intermodal facilities in Connecticut would experience increased traffic or activity....”

Response. SEA determined that no rail line segments in Connecticut would experience any increase in trains as a result of the proposed Conrail Acquisition. Appendix B, “Safety,” of the Draft EIS listed all rail line segments, including those in Connecticut. Appendix B also listed daily rail car switching activity at terminals, none of which occurred in the State of Connecticut. Information that CSX and NS provided indicates that CSX, NS, and Conrail do not have any existing or proposed intermodal facilities located in the State of Connecticut.

Summary of Comments. The Connecticut Department of Transportation stated that the Draft EIS underestimated truck use on I-95. According to the commentor, if intermodal service should “flourish in southern regions, but terminate west of the Hudson River in the North Jersey Shared Assets Area, it must follow that a significant number of containers destined for points east of the Hudson River will complete the trip by truck on I-95.”

The South Western Regional Planning Agency in Connecticut stated that heavy truck traffic on the congested I-95 corridor in Connecticut would increase as a result of intermodal activity in northern New Jersey. Further, the Agency indicated that the Board should address the increase in truck traffic on I-95 in Connecticut resulting from intermodal activity in northern New Jersey. The commentor requested mitigation and suggested using mitigation that the Intervention Petition of Congressman Jerrold Nadler and 23 other members of Congress proposed.

Response. SEA considered these comments as well as a Petition of Intervention, two Responsive Applications, and several Requests for Conditions, and it analyzed the potential for increased truck trips and truck trip route shifts in the New York

Section 5.3.2—Connecticut

City/northern New Jersey metropolitan area in Appendix H, "Transportation: Roadway Systems Analysis," of this Final EIS. SEA concluded that no significant environmental impacts would result from the proposed Conrail Acquisition in the New York City/northern New Jersey metropolitan area or southern New England.

Connecticut—Transportation: Other

Summary of Comments. The South Western Regional Planning Agency of Connecticut pointed out the need for a "rail intermodal directly across the Hudson River at New York City with rail intermodal continuing into southern New England along the Northeast Corridor." The Agency based this claim on the 1994 New England Transportation Initiative study, which forecasted severe congestion on limited-access facilities in Connecticut and Rhode Island by the year 2000. Similarly, the Conservation Law Foundation of Massachusetts noted the need to increase freight rail service between New York and New England "to reduce the dependence on highway trucking," especially on I-95.

The Agency added that train densities following the proposed Conrail Acquisition would be higher south of New York City than north of New York City, and it is logical that freight train operations would not conflict with passenger rail operations in the Northeast Corridor to the north of Newark, New Jersey. The Agency also stated that RoadRailer and container on flatcar service is feasible through Pennsylvania Station in New York City.

Response. The 1994 forecast of increasing truck traffic in Connecticut and Rhode Island is not directly related to the proposed Conrail Acquisition. It is a pre-existing condition and it is the Board's policy not to require mitigation in such circumstances. Nonetheless, SEA considered these comments as well as a Petition for Intervention, two Responsive Applications, and several Requests for Conditions, and analyzed the potential for increased truck traffic and truck trip route shifts in the New York City/northern New Jersey metropolitan area in Appendix H, "Transportation: Roadway Systems Analysis," of this Final EIS. SEA also considered the Applicants' Operating Plans, which indicated that RoadRailer and container on car service would not be introduced on the Northeast Corridor or through Penn Station because of operating and clearance conflicts. SEA concluded that any environmental impacts that could result from the proposed Conrail Acquisition in the metropolitan area and southern New England would be insignificant. SEA's responsibility and the scope of the EIS do not include evaluating merits issues such as the competitive aspects of the proposed Conrail Acquisition.

Section 5.3.2—Connecticut

Connecticut—Air Quality

Summary of Comments. The Connecticut Department of Transportation and South Western Regional Planning Agency of Connecticut commented that areas of the state affected by the proposed Conrail Acquisition are currently in nonattainment based on current levels of motor vehicle traffic in the I-95 corridor. The Department commented that contradictory statements in the Draft EIS warrant a reanalysis of the air quality impacts of the proposed Conrail Acquisition in Connecticut; for example, the statement that air quality in Connecticut would benefit from truck-to-rail diversions contradicted another statement that no rail line segments, rail yards, or intermodal facilities would experience increased traffic or activity. The Department further stated that traffic congestion and air quality in Connecticut would worsen if the Board approves the proposed Conrail Acquisition because truck-to-rail diversions would not extend east of the Hudson River. The Department expressed dissatisfaction that SEA considered only the obvious impacts of the Conrail Acquisition in Connecticut; according to the Department, in nonattainment areas such as the I-95 corridor, the potential primary and secondary environmental effects of the Conrail Acquisition require more detailed analysis.

Response. SEA determined that the truck-to-rail diversions that the Draft EIS projected to occur in Connecticut, and the associated air pollutant emissions reductions, are not related to intermodal traffic bound for New Jersey. Rather, the Applicants expect that shippers will use intermodal facilities in New England, if the Board approves the proposed Conrail Acquisition. Trains serving New England facilities would access the remainder of the CSX rail route network via Selkirk Yard near Albany, New York, and NS trains would use the Gilford Transportation Company lines.

With respect to potential additional truck trips between Connecticut and New Jersey, SEA does not expect the proposed Conrail Acquisition and the associated changes at intermodal facilities in the New York City/northern New Jersey metropolitan area to cause any additional truck trips in Connecticut. Therefore, SEA does not expect an increase in air pollutant emissions as a result of the proposed Conrail Acquisition from highway truck traffic in Connecticut. See Appendix, I, Air Quality Analysis,” of this Final EIS.

See Appendix H, “Transportation: Roadway Systems Analysis,” Section H.1, “New York City/Northern New Jersey Metropolitan Area,” of this Final EIS for further discussion on rail and truck traffic issues in the metropolitan area.

Summary of Comments. Congressman Jerrold Nadler of New York, representing himself and 23 other members of Congress from New York and Connecticut, commented that New York City is at the center of the nation’s largest nonattainment area, and that the Draft EIS deals only with local effects of increases in truck traffic in the areas around the northern New Jersey intermodal terminals. He also suggested that the EIS study viable truck rerouting alternatives that could mitigate the adverse effects of the proposed Conrail Acquisition.

Section 5.3.2—Connecticut

Response. As Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS describes, SEA does not expect the proposed Conrail Acquisition and associated increased truck lifts at the intermodal facilities in northern New Jersey to result in additional truck trips on roads or bridges. Although a minimal number of trucks could shift their routes across the metropolitan area, these shifts would not result in significant environmental impacts. Therefore, SEA concludes that the proposed Conrail Acquisition would not cause a significant increase in road congestion or a reduction in air quality in the New York metropolitan area.

Connecticut—Noise

Summary of Comments. The South Western Regional Planning Agency of Connecticut commented that truck-to-rail diversions ending on the west side of the Hudson River in New Jersey would cause more heavy truck noise in Connecticut.

Response. SEA evaluated the potential for increased truck traffic at intermodal facilities in northern New Jersey that would result from the proposed Conrail Acquisition. Based on its previous review of the Applicants’ Operating Plans, SEA identified no indication of significant change in existing truck traffic volumes in Connecticut. Therefore, SEA concluded that no basis exists to expect that the proposed Conrail Acquisition would cause noise impacts in Connecticut. See Chapter 4, “Summary of Environmental Review.”

Section 5.3.3—Delaware

5.3.3 Delaware

Delaware—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The Delaware Department of Transportation concurred with SEA's preliminary recommendation that the Board require CSX to consult with local agencies, the University of Delaware, the Delaware Department of Transportation, and appropriate parties to address potential safety concerns at the three highway/rail at-grade crossings in Newark. The Department stated that several overpasses and underpasses in Newark pose an immediate problem for traffic and pedestrian/bike safety, and recommended that the Board warrant mitigation at these locations. One example of a deficient overpass is Casho Mill Road in Newark.

Response. SEA identified concerns in Newark, Delaware in the Draft EIS and notes that these are existing conditions. SEA also notes that CSX has consulted with the University of Delaware, the City of Newark, and the Delaware Department of Transportation regarding safety concerns in Newark. SEA understands that CSX has reached a Negotiated Agreement with the parties to address the safety concerns, including pedestrian and bicycle safety.

Delaware—Safety: Hazardous Materials Transport

Summary of Comments. The State of Delaware, Department of Justice voiced concern about hazardous materials transport on the Wilsmere-to-Elsmere (C-084) and Bell-to-Edgemoor (N-010) rail line segments. The Department cited the Draft EIS Executive Summary as stating that these segments exceeded "threshold limits in hazardous material," but found no discussion of this issue in the Draft EIS. The Department requested that the Board clarify the analysis and respond to the Department before reaching any final decision. The Department also requested "proper time allotted in order to determine and respond to the SEA if there is a hazardous waste threshold limit exceeded in Delaware."

Response. Two rail line segments, N-010 and C-084, met SEA's threshold for analysis of hazardous materials transport. Although these segments appeared in the master segment table of the Draft EIS, SEA inadvertently omitted them from the discussion of the analysis in Chapter 5. Subsequent to the Draft EIS, the Applicants provided revised (reduced) information for rail line segment C-084 between Philadelphia, Pennsylvania and Wilsmere, Delaware. According to the revised data, the hazardous materials carloads would increase from 11,000 per year to 16,000 per year on rail line segment C-084. See Appendix F, "Safety: Hazardous Materials Transport Analysis," of this Final EIS.

The increase of hazardous materials transport on rail line segment C-084 following the proposed Conrail Acquisition is below SEA's significance criteria. However, this rail

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line segment is already a key route and would remain a key route. Therefore, SEA does not recommend additional mitigation.

Hazardous materials transport on rail line segment N-010 between Bell and Edgemoor, Delaware, would increase from 4,000 to 6,000 carloads per year following the proposed Conrail Acquisition. This increase is below SEA's significance criterion. Therefore, SEA does not recommend mitigation.

Delaware—Safety: Passenger Rail Operations

Summary of Comments. The Delaware Department of Justice stated that SEA did not accurately assess “the potential risks of an accident” involving passenger and commuter trains. The Department commented that it “would like to know how maintenance agreements for safety concerns and operations will be addressed ... for passenger operations through Delaware.”

Response. SEA respectfully disagrees with the Department's comment that it did not accurately assess “the potential risks of an accident” involving passenger and commuter trains. SEA recognizes that the potential risks of an accident involving passenger and commuter trains require thorough analysis. Chapter 3 of the Draft EIS, “Analysis Methods and Potential Mitigation Strategies,” presents SEA's analysis, which considered every rail line segment with passenger service and one or more additional freight trains per day as a result of the proposed Conrail Acquisition. For each rail line segment, SEA first determined an historic accident rate and estimated the annual passenger train accident rate on a train-mile basis. SEA then calculated the change in accident rate based on the anticipated change in the number of freight trains that would operate on the rail line segment.

Nationwide, the passenger train accident rate varies by approximately 30 percent from year to year. To be conservative, SEA determined whether the predicted Acquisition-related change in the projected accident rate was greater than 25 percent. SEA then determined whether each rail line segment would experience a projected accident frequency of greater than one accident every 150 years, which reflected an annual frequency based on actual history of passenger train service providers. Using these criteria, SEA identified each rail line segment that would likely have an accident more frequently than once every 150 years, and whose projected accident risk would increase by 25 percent or more. SEA recommended mitigation for each rail line segment that exceeded these criteria of significance.

SEA notes that FRA regulations regarding track safety include preventive maintenance provisions. These requirements, which the Applicants consider to be minimum standards, mandate inspections on a rigorous schedule, with documentation and remedial action when the inspectors identify problems. SEA reviewed the Applicants' Safety Integration Plans (Draft EIS, Volume 2). The Safety Integration Plans contain

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comprehensive explanations of the actions that the Applicants would take before implementing changes associated with the proposed Conrail Acquisition. These actions would implement preventive maintenance programs that meet or exceed FRA guidelines for maintenance. SEA is, therefore, confident in its evaluation of safety concerns in Delaware. Refer to Chapter 6, “Safety Integration Planning,” of this Final EIS for further discussion of the Safety Integration Plans.

Delaware—Safety: Freight Rail Operations

Summary of Comments. The Delaware Department of Transportation raised the following concern: “Because the SEA did not take into account the increased freight activity with preventive maintenance provisions, the Department feels that safety operations in both freight and passenger/commuter rail operations in Delaware was inaccurately evaluated.”

The Delaware Department of Transportation also raised the concern that, “the [Draft] EIS states that increased freight and operations require rehabilitation of the Shellpot Bridge. However, was there a proper assessment done to ensure that other bridges and high maintenance areas are not easily prone to accelerated safety concerns (i.e., secondary impacts of safety not evaluated)? This would not only include other Delaware rail bridges (underpasses and overpasses), but other freight and intermodal facilities, traffic intersections, sensitive land uses, and anticipated expansion areas as indicated within the [Draft] EIS.”

Response. FRA regulations regarding track safety include preventive maintenance provisions. These requirements, which the Applicants consider minimum standards, mandate inspections on a rigorous schedule, with documentation and remedial action when the inspectors identify problems. SEA and DOT reviewed, and DOT approved, the Applicants’ Safety Integration Plans that were included in the Draft EIS, Volume 2. The Safety Integration Plans contain comprehensive explanations of the actions that the Applicants would take before implementing changes associated with the proposed Conrail Acquisition. These actions would implement preventive maintenance programs that meet or exceed the FRA guidelines for maintenance. SEA is therefore confident in its evaluation of safety concerns in Delaware. See Chapter 6 of this Final EIS, “Safety Integration Planning,” for further discussion of the Safety Integration Plans.

Following implementation of the proposed Conrail Acquisition, CSX rail line segments in Delaware would have small increases in train activity. NS rail line segments (formerly Conrail rail line segments) would have small increases in activity, except that rail line segment N-010, a 1-mile segment that includes the Shellpot Bridge, would have an increase of nearly 7 trains per day on the average.

Two Amtrak rail line segments, S-001 and S-040, are part of the Northeast Corridor, which is a state-of-the-art mainline railroad. These rail line segments would have an increase of approximately 8 trains per day. Amtrak manages the maintenance and

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operation of the Northeast Corridor, and the Board does not have jurisdiction over Amtrak maintenance and operations. SEA analyzed freight rail safety for seven of the nine rail line segments in Delaware. In the Draft EIS, none of these segments met SEA's significance criteria that would warrant mitigation for freight rail safety. Proposed traffic changes on the other two rail line segments, C-771 and N-242, were below the Board's thresholds for environmental analysis.

Delaware—Transportation: Passenger Rail Service

Summary of Comments. The State of Delaware General Assembly adopted and sent to SEA a copy of a resolution “to reserve for future passenger rail use that portion of the existing Conrail lines in the State of Delaware that are included in the merger transaction of Conrail by Norfolk Southern Railroad and CSX Railroad.”

Response. SEA determined that the Applicants do not own rail lines that host passenger rail service in the State of Delaware. Neither the Applicants nor passenger service operators informed SEA about plans to initiate passenger service on Applicant-owned lines. Consequently, SEA did not consider them in its passenger rail service analysis. SEA determined that undefined and unfunded proposed passenger rail services were too speculative, and therefore, SEA did not evaluate them in the Final EIS. However, the State of Delaware can, if it wishes, move forward with its plans for future service.

Summary of Comments. The Delaware Department of Justice commented that the Draft EIS appeared to contain contradictory statements regarding commuter service and freight operations on one another's rail lines. According to the Department, the Draft EIS implied both that the commuter rail operates over freight rail lines and that freight carriers operate over commuter rail lines. It also asked (a) “why the Draft EIS did not consider SEPTA and the Delaware Department of Transportation's plan to expand commuter service “within the Stanton, Delaware region (i.e., Churchmans Crossing),” and (b) whether “the Conrail acquisition [would] impact the Department's future plans for additional frequency and times for commuter rail service along the Amtrak northeast corridor.”

Response. SEA's analysis of the effect of the proposed Conrail Acquisition on passenger service included the State of Delaware Department of Transportation's service on Amtrak's Northeast Corridor. SEA's analysis also included the September 1997 extension of SEPTA service from Wilmington to Newark, Delaware, because Stanton is between Wilmington and Newark. Any future plans that the Department may have to add passenger service at Stanton would probably consist of adding a station at Stanton at which existing en route SEPTA trains could stop.

SEA notes that the proposed service at Stanton would require the approval of Amtrak, as owner and operator of the Northeast Corridor. Neither NS nor CSX would need to concur on this matter if the Board approves the proposed Conrail Acquisition, which

Section 5.3.3—Delaware

would have no effect on the Department's future plans for commuter rail service. Freight service operates on lines owned and dispatched by SEPTA in Pennsylvania; however, SEPTA does not own rail lines in Delaware.

Because Amtrak owns and has train dispatching control of the Northeast Corridor, Amtrak is able to control the hours and conditions under which freight trains operate. SEA noted that an important constraint on expanding commuter rail service would be the 73 high-speed Amtrak trains that currently operate on the Northeast Corridor through Delaware, rather than the proposed Conrail Acquisition. SEA determined that no significant environmental effects on current or future planned passenger rail service in Delaware were likely as a result of the proposed Conrail Acquisition.

Delaware—Transportation: Roadway Systems

Summary of Comments. The Delaware Department of Transportation disagreed “with the assessment that there are no intermodal facilities or rail yards that would meet or exceed the Board’s threshold for environmental analysis.” The Department requested that “the EIS report further analyze and list increases in specific activities at certain intermodal facilities and rail yards.”

Response. SEA has reexamined this issue and confirms that no intermodal facilities or rail yards in Delaware meet the Board’s thresholds for environmental analysis. SEA agrees that the train activity would change at various rail yards in Delaware as a result of the proposed Conrail Acquisition; however, changes in yard activities would not affect truck traffic on nearby roadways. The proposed Conrail Acquisition would result in a decrease of 79 rail cars per day at the Wilsmere/Wilmington Yard, a decrease of 4 rail cars per day at the Edgemoor Yard, and an increase of 46 rail cars per day at the Harrington Yard. The Applicants neither operate nor plan to operate any intermodal facilities in the State of Delaware.

Delaware—Air Quality

Summary of Comments. The Delaware Department of Transportation commented that SEA evaluated air quality impacts in Delaware incorrectly. The Department stated that an air quality analysis should be conducted, and associated mitigation prescribed, on a local basis rather than a regional basis because freight operations are a stationary or linear source.

Response. Although the proposed Conrail Acquisition would lead to localized increases in emissions in Delaware, SEA does not expect that these emissions would cause air pollutant concentrations to exceed the health-based NAAQS. With respect to rail yards and intermodal facilities, the emission levels from such facilities are relatively minor compared to those at many stationary point sources. Because the emissions are also distributed over a large site, rather than concentrated at a single point, SEA expects any

Section 5.3.3—Delaware

effect on concentrations would be minor. Similarly, emissions from locomotives on rail line segments are distributed over a relatively large linear distance. In response to a number of comments requesting analysis of ambient concentrations resulting from locomotives on rail line segments, SEA performed a screening air quality impact analysis of these emissions. SEA used conservative assumptions in the analysis (see Appendix I, "Air Quality Analysis," of this Final EIS for the analysis). This analysis demonstrated that emissions from locomotives on rail line segments would not cause air pollutant concentrations to exceed the NAAQS in Delaware.

Summary of Comments. The Delaware Department of Transportation commented that it requires proof or concurrence, in the form of a letter from the Delaware Department of Natural Resources and Environmental Control's Air Quality Branch, of the statement in the Draft EIS that increases in air pollution are unlikely to affect compliance with air quality standards.

Response. SEA conducted the air quality analysis in accordance with the methodology described in the Draft EIS. Letters of concurrence from state air pollution agencies for impact analyses performed for the EIS are not required for the proposed Conrail Acquisition under NEPA regulations, the Clean Air Act, or State of Delaware air pollution regulations.

Summary of Comments. The Delaware Department of Transportation commented that truck diversions would not provide an immediate decrease in NO_x emissions of 49.18 tons per year in New Castle County as stated in the EIS.

Response. SEA agrees that all of the anticipated truck-to-rail diversions would not occur immediately. SEA expects that during the 3-year phase-in of the proposed Conrail Acquisition, truck-to-rail diversions would occur at the same rate as increased train traffic.

Summary of Comments. The Delaware Department of Transportation commented that the portion of the air quality analysis based on the existing county NO_x emissions budget is flawed because the data are from 1995. The Department stated that updated information and data are necessary to fully determine the air quality impacts. The Department disagreed with SEA's netting criteria because the use of such criteria dilutes the results.

Response. SEA used 1995 emissions data to evaluate air quality impacts because, at the time it was preparing the Draft EIS, 1995 data were available for all states in the entire project study area. While some states may have had data for more recent years, not all states did. Therefore, SEA used 1995 emissions data for a consistent impact analysis in each state.

Netting criteria focused the analysis on those counties with the greatest potential for emissions increases. Analyzing small increases and decreases elsewhere would not alter the results of the analysis significantly.

Section 5.3.3—Delaware

Delaware—Noise

Summary of Comments. The Delaware Department of Justice commented that, in the Draft EIS, SEA failed to consider or measure noise-sensitive receptors within the City of Newark.

Response. SEA disagrees with the comment that the Draft EIS failed to consider sensitive receptors within the City of Newark, Delaware. Where noise impacts exceeded the Board's thresholds for noise analysis, SEA conducted detailed noise impacts analyses and identified sensitive receptors. The Newark area would not have train traffic increases and associated noise increases that would exceed the Board's thresholds for analysis; therefore, noise impacts would be minimal.

Delaware—Cultural and Historic Resources

Summary of Comments. The Delaware Historic Preservation Office noted that, although the Shellpot Bridge was eligible for the National Register of Historic Places (NRHP), the State Historic Preservation Officer has not received a formal Determination of Eligibility for this property. The commentor also requested that the Applicants formally address that portion of the Northeast Corridor, historically known as the Wilmington Rail Viaduct, which is an identified historic property that includes rail lines, bridges, and other related structures.

Response. SEA has requested more detailed plans from NS regarding the proposed scope of work for the Shellpot Bridge and the Shellpot Connection. SEA will continue Section 106 consultation upon receipt of these plans. SEA will apply NRHP criteria to these properties and will formally request SHPO's concurrence with SEA's findings as part of the ongoing Section 106 process. SEA recommends that the Applicants defer performing any work on the Shellpot Bridge until Section 106 consultation is completed.

SEA has determined that the Amtrak-owned Northeast Corridor and the Wilmington Rail Viaduct are outside the Board's jurisdiction because Amtrak, who owns these lines, is not a party to the proposed Conrail Acquisition.

Summary of Comments. The Delaware Department of Transportation, through the Delaware Justice Department, commented that "according to NEPA guidelines, all additional bridges, building facilities, and rail yards that are expected to be improved or updated (as indicated) may be considered a secondary impact." The Department added the Draft EIS should have included a historic evaluation of an inventory of existing facilities.

The Department agreed that "NS shall undertake no construction or modification of the Shellpot bridge near Wilmington, DE, until completion of the Section 106 process" and identification of appropriate mitigation measures. The Department "cautions the interpretation of what is considered 'appropriate' mitigation." It added that the Delaware State Historic Preservation Officer "has and will require measures that extend beyond the reasonable and feasible thresholds

Section 5.3.3—Delaware

that may seem appropriate under the Section 106 regulations. In sum, the [A]pplicants may not adhere to the DE SHPO [Delaware State Historic Preservation Officer] measures for cultural resource identification, alternative analysis, and appropriate mitigation.”

Response. SEA identified, evaluated, and assessed the potential adverse effects that activities related to the proposed Conrail Acquisition would have on any historic properties where improvements, alterations, or abandonments would occur. In Delaware, only the Shellpot Bridge and its approaches have the potential for cultural resource impacts. SEA and its consultants are currently conducting Section 106 consultation with the Delaware SHPO to provide satisfactory mitigation of any potential adverse effects.

Delaware—Environmental Justice

Summary of Comments. The State of Delaware Department of Justice raised concerns about how SEA evaluated socioeconomic data and conducted public outreach to environmental justice populations in Delaware.

Response. SEA conducted the evaluation using 1990 Census data and a Geographic Information System (a tool used to determine which block groups fell within the Area of Potential Effect for a rail line segment or a site). The method for determining the percentage of minority and low-income populations within the Area of Potential Effect appears in the Draft EIS, Appendix K, “Environmental Justice,” page K-6. SEA determined the percentages of minority and low-income populations in the total population within the Area of Potential Effect. SEA compared these percentages to the following thresholds: The minority and low-income population percentage must be greater than 50 percent of the total population, or the minority and low-income population must be 10 percent greater in the Area of Potential Effect than in the county.

The Area of Potential Effect surrounding the four rail line segments (Edgemoor-to-Bell; Davis, Delaware-to-Perryville, Maryland; Wilsmere, Delaware-to-RG, Pennsylvania; Davis, Delaware-to-Arsenal, Pennsylvania) did not meet the environmental justice criteria for minority and low-income populations. In response to the concerns raised by the State of Delaware Department of Justice, for this Final EIS, SEA performed a more detailed review of environmental justice populations at the block group level. All of the block groups in the Area of Potential Effect along these segments fell within the lower three quintiles of the multiple resource effects score and would experience no disproportionate impacts. See Chapter 4, “Summary of Environmental Review,” and Appendix M, “Environmental Justice Analysis,” of this Final EIS for a more detailed discussion of the analysis.

Section 5.3.3—Delaware

Delaware—Cumulative Effects

Summary of Comments. The Delaware Department of Transportation commented that the Draft EIS did not address “future costs and secondary impacts/changes that are brought upon the State’s transportation system” as a result of the “extended market outreach expected.” The Department also stated that the Draft “EIS overlooks the induced, additive, and synergistic impacts of cumulative impacts.”

Response. SEA determined that economic modeling of the type described by the Department is a matter beyond the scope of the EIS, and one which lends itself to speculation on matters that are not reasonably foreseeable, and thus not encompassed in SEA’s cumulative impacts analysis.

Further, SEA considered agency and public comments in developing the scope of the EIS. The scope included an analysis of the potential environmental impacts on specific resource categories and cumulative effects on a regional or system-wide basis for the resource categories of air quality, energy, and transportation. Also, SEA evaluated cumulative effects on specific resource categories associated with other projects or activities that related to the proposed Conrail Acquisition where local communities, local, regional, state, or Federal officials, or other interested parties provided information to SEA. However, in accordance with the scope of the EIS, SEA did not consider aggregated multiple resource effects in its cumulative effects analysis on a system-wide, regional, or local basis. Multiple resource effects are best addressed by the analysis, and recommended mitigation, if appropriate, of individual resource categories.

Section 5.3.4—Florida

5.3.4 Florida

Florida—Safety: Hazardous Materials Transport

Summary of Comments. The Hillsborough County Planning Commission concurred with the finding in the Draft EIS that the proposed Conrail Acquisition would have no potential environmental impacts in Hillsborough County, with the exception of an increase in hazardous materials transport between Winston and Plant City. The Commission recommended that the Board require CSX to comply with the AAR key route guidelines before any increase in hazardous materials transport occurs.

Response. Although SEA used the most current information available to prepare Attachment ES-B in the Draft EIS, the Applicants provided revised information on specific rail line segments shortly after publication. Rail line segment C-403 between Winston and Plant City was one of the revised rail line segments. As a result, the revised information revealed that rail line segment C-403 would experience no increase in hazardous materials shipments following the proposed Conrail Acquisition. Therefore, SEA did not conduct further analysis or propose mitigation measures in the Final EIS for this segment.

Section 5.3.5—Georgia

5.3.5 Georgia

Georgia—Safety: Hazardous Materials Transport

Summary of Comments. DeKalb County, Georgia expressed concern about the doubling of hazardous materials transport through the County following the proposed Conrail Acquisition. The County also recommended that CSX bring rail line segments into compliance with AAR guidelines for hazardous materials transport. Further, the County requested that CSX develop a hazardous materials emergency response plan with the participation of County and municipal governments.

Response. In the Draft EIS, SEA estimated that hazardous materials transport on rail line segment C-354 between Athens and Atlanta, Georgia would increase by 132 percent following the proposed Conrail Acquisition. However, SEA changed this estimate based on new information that CSX provided. Rail line segment C-354 would actually have a 23 percent increase in hazardous materials transport (from 22,000 to 27,000 carloads per year) and is also already a key route. Therefore, CSX already complies with the applicable AAR standards along this rail line segment, and the proposed increase would not change this compliance requirement. SEA also notes that rail line segment N-022 between Spring and Scherer Coal, Georgia is already a key route. Therefore, NS already complies with AAR standards along this rail line segment, and the proposed increase would not change this compliance requirement. Therefore, SEA does not recommend that the Board require additional mitigation measures along rail line segments C-354 or N-022.

Georgia—Air Quality

Summary of Comments. The Atlanta Regional Commission, the Metropolitan Planning Organization for the Atlanta, Georgia area, commented that any increases in air pollutant emissions in the region would be significant, and it requested that the Final EIS more fully analyze impacts of increased levels of NO_x, volatile organic compounds, PM, and carbon monoxide on the Atlanta Region.

Response. SEA's analysis in the Draft EIS demonstrated that emissions increases of pollutants other than NO_x that are related to the proposed Conrail Acquisition would clearly not meet SEA's significance criteria in the Atlanta metropolitan area. As the Draft EIS shows, SEA analyzed net NO_x emissions in detail for two counties in the area that would have the greatest potential increases of emissions as a result of activities related to the proposed Conrail Acquisition. SEA summed NO_x emissions increases from Acquisition-related activities in the Atlanta area and determined that the total NO_x emissions increase represented only 0.14 percent of the total NO_x emissions in the area. This increase does not meet SEA's significance criteria. In addition, EPA's new emissions standards for locomotive engines (see Appendix O, "EPA Rules on

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Locomotive Emissions,” of this Final EIS) will result in emissions reductions from railroads that far exceed any increases resulting from the proposed Conrail Acquisition.

Georgia—Cumulative Effects

Summary of Comments. The Director of the Atlanta Regional Commission, Atlanta, Georgia noted that “both CSX and Norfolk Southern are proposing new intermodal facilities in the Atlanta Region—CSX in South Fulton County and Norfolk Southern in the City of Austell in Cobb County.” The Director did not find reference to these proposed facilities in the Draft EIS nor to the question of whether the proposed Conrail Acquisition would “affect the impact of these facilities on the Atlanta Region.” Two citizens from Powder Springs, Georgia also expressed concerns about the potential environmental impacts of the proposed intermodal facility in Cobb County.

Response. SEA determined that the proposed development of intermodal facilities at Austell, Georgia (NS) and South Fulton County in Fairburn, Georgia (CSX) is unrelated to the proposed Conrail Acquisition. Even when they are considered along with the proposed Conrail Acquisition, SEA determined that they did not constitute a cumulative effect. SEA reviewed the locational characteristics, legal status, and construction timing of the two intermodal facilities, and their relationship to the proposed Conrail Acquisition. SEA determined that each intermodal facility is approximately 10 to 15 miles from the existing intermodal facilities—Hulsey (CSX) and Inman (NS)—subject to SEA’s review in the proposed Conrail Acquisition, and these facilities affect different roads. SEA analyzed the potential impacts of the existing NS Fulton County Inman Intermodal Yard facility that would result from the increase of 143 trucks per day. Further, planning for each facility began prior to the proposed Conrail Acquisition (1992 for Austell; 1993 for Fairburn), and each proposed facility was subject to NEPA review requirements, as well as local planning, regulatory, and transportation permitting and approval processes. CSX has obtained the necessary approvals for the Fairburn facility, and construction was scheduled to begin in March 1998.

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Chicago Metropolitan Area—Safety: Highway/Rail At-grade Crossings

Summary of Comments. Blue Island Greens of Illinois commented that SEA should provide an explanation of the potential environmental impacts of the proposed Conrail Acquisition on highway/rail at-grade crossings located at 135th-Broadway and at Western Avenue located on Railroad Segment C-010. Blue Island Greens remarked that, in the Draft EIS and Errata, SEA incorrectly reported these two highway/rail at-grade crossings to be in Calumet Park. Also, Blue Island Greens stated that the Board should allow an opportunity for public involvement and comment by its citizens regarding the mitigation measures that SEA recommended for those locations. The commentator added that SEA should complete a grade separation analysis because grade separations at these locations would prevent an increase in fatal accidents, particularly those involving pedestrians.

Response. SEA analyzed the highway/rail at-grade crossings at Broadway-135th Street in Cook County (FRA ID 163416P) and Dixie Highway (also known as Western Avenue, FRA ID 163415H) in Blue Island, Illinois. SEA understands that both of these crossings are equipped with gates. SEA's analysis showed that the proposed Conrail Acquisition would not have a significant effect on highway/rail at-grade crossing safety at Broadway-135th Street and Dixie Highway, and consequently, SEA does not recommend that the Board require mitigation measures for grade crossing safety at these locations.

Although the Draft EIS incorrectly identified the municipality in which these two highway/rail at-grade crossings are located, the accident risk analysis was correct.

Chicago Metropolitan Area—Safety: Hazardous Materials Transport

Summary of Comments. The Blue Island Greens of Illinois expressed a number of concerns related to hazardous materials transport and mitigation at Blue Island Junction and the adjacent area. The Greens suggested that SEA's significance criteria for determining whether to warrant mitigation for hazardous materials transport impacts were inadequate, arbitrary, and unreasonable. The Greens' explanation was that the significance criteria did not take into account the population living near the tracks, suggesting that a risk level acceptable in a rural area is not acceptable in an urban area. The Greens expressed concern that communities along key routes and major key routes, including Blue Island, currently lack active local emergency planning committees, emergency response plans, and training in emergency response. They requested that the Board require CSX and NS to fund the development or update of emergency response plans and training for emergency response personnel. The Greens also requested that the Board require CSX and NS to consult with communities in all areas with increases in hazardous materials transport, whether or not they met the Board's criteria for significance.

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Specifically, the Greens expressed concern that CSX would use Blue Island Junction, where three rail line segments converge, for transfers of hazardous materials, an activity that the Greens said the Draft EIS does not analyze. The Greens also requested that the Board require the Applicants to prepare emergency response plans, plume maps, a worst-case analysis, a notification system, and an escape plan for the 59th Street Intermodal Yard.

The Greens also commented that SEA has not considered cumulative effects that would result from increases in hazardous materials shipments on several lines and transfers to parallel lines. They specifically mentioned loads at Blue Island, Barr Yard, and on rail line segments C-011, C-023, C-417, and C-263.

Response. SEA proposed mitigation measures for key routes and major key routes that apply the best possible proven technology for physical facilities, emergency responder, and carrier coordination to ensure safety in the movement of hazardous materials. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS. SEA has designed the proposed key route and major key route mitigation measures to protect high-density populations adjacent to the rail lines. This, in turn, provides a higher margin of safety to rural populations than if SEA had proposed different mitigation measures for different populations. See Appendix F, “Safety: Hazardous Materials Transport Analysis,” of this Final EIS. SEA notes that other Federal regulations governing hazardous materials transport—for example, those that DOT has promulgated—do not vary based on the population density along the transport corridor.

Title III, Emergency Planning and Community Right-to-Know, of the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III) makes it mandatory for local emergency planning committees to plan for possible releases of hazardous substances. SARA Title III establishes State Emergency Response Commissions and requires that they, in turn, form Local Emergency Planning Committees. A publicly coordinated Local Emergency Planning Committee exists in every county in the United States and has responsibility for hazardous materials response planning for its locality.

SEA has determined that providing first-responder emergency services is a basic local government function that is funded through the general revenue taxation system. No changes associated with or resulting from the proposed Conrail Acquisition change those basic responsibilities. Also, SEA states that existing DOT and FRA regulations adequately protect public safety in the Blue Island area.

CSX originally projected that hazardous materials transport through Blue Island Junction would increase slightly if the Board approves the proposed Conrail Acquisition. After SEA published the Draft EIS, CSX revised its estimate of hazardous materials transport for those rail line segments at Blue Island Junction. CSX reported lower volumes of hazardous materials transport through Blue Island Junction both before and after the proposed Conrail Acquisition. These revised volumes clearly show that current

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operating conditions would remain essentially unchanged following the proposed Conrail Acquisition. The only change of note is the projected increase of hazardous materials that CSX would transport through the 59th Street Intermodal Facility. Because none of the activities exceed SEA's criteria of significance, SEA does not recommend hazardous materials related mitigation for the 59th Street Yard.

Chicago Metropolitan Area—Transportation: Passenger Rail Service

Summary of Comments. The Champaign County Department of Planning and Zoning commented that increased NS freight traffic would potentially delay or affect the reliability of two daily Amtrak trains serving Champaign County on Amtrak's trackage rights over the Illinois Central Railroad between Chicago, Kankakee, and Gilman. The Department noted that these increases on the rail line segment, combined with projected conflicting use of rail crossings and interlockings by other railroads, could cause more Amtrak delays.

Response. In response to this comment, SEA reviewed passenger train service in Champaign County and concluded that the proposed Conrail Acquisition would not adversely affect passenger rail service. The four Amtrak trains operating on the Illinois Central Railroad through the at-grade railroad interlockings at Kankakee, Tolono, and Tuscola would not be delayed by projected additional freight train volume. Because Illinois Central controls the three interlockings, it should not allow freight trains on intersecting lines that would block Illinois Central. Illinois Central affords operating priority to these passenger trains pursuant to operating agreement with Amtrak.

Chicago Metropolitan Area—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. CSX commented that only 3 additional trains per day would use the 95th Street highway/rail at-grade crossing in Evergreen Park as a result of the proposed Conrail Acquisition. CSX stated that it was appropriate for it to undertake consultation on this highway/rail at-grade crossing, but suggested that state agencies might find it prudent to take a "wait and see" approach toward mitigation because of the small increase in train traffic. CSX added that the Board should not intervene, and appropriate mitigation should be the responsibility of state and local agencies.

Response. SEA analyzed the 95th Street highway/rail at-grade crossing (FRA ID 163433F) in Evergreen Park for changes in delay resulting from the Acquisition-related increase in trains. The number of trains on the Blue Island Junction-to-59th Street rail line segment C-011 would increase by 3.4 trains per day, from 19.5 trains before the proposed Conrail Acquisition to 22.9 trains after the proposed Conrail Acquisition.

To correct a previous discrepancy in the number of roadway travel lanes at this location, SEA revised the delay calculations to use six roadway travel lanes. SEA's reanalysis indicated that the LOS at the 95th Street crossing would remain at LOS C, and the

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crossing delay per stopped vehicle would increase from 2.70 minutes per vehicle to 2.78 minutes per vehicle. As a result, SEA concluded that there would be no significant effect on vehicle delay at this highway/rail at-grade crossing.

Summary of Comments. CSX commented that, in Blue Island, neither the Dixie Highway nor the Broadway-135th Street highway/rail at-grade crossings would meet the significance criterion if SEA used the best available information. CSX indicated that capital improvements associated with the proposed Conrail Acquisition and CSX's Operating Plan would greatly improve traffic flow through Blue Island. Although train traffic would increase on the rail line affecting these highway/rail at-grade crossings, CSX pointed out that it expects train speeds to increase on that rail line, resulting in an overall increase in LOS at the highway/rail at-grade crossing. CSX indicated that it would consult with the City of Blue Island regarding these operational improvements. Therefore, CSX recommended that SEA delete these highway/rail at-grade crossings from this Final EIS. CSX added that the Board should not intervene, and appropriate mitigation should be the responsibility of state and local agencies.

Response. SEA recognizes that once implemented, CSX's capital improvements would increase train speeds through Blue Island. Nevertheless, SEA reviewed train operations at this location using a train speed of 20 mph for both before and after the proposed Conrail Acquisition in this Final EIS and in the Draft EIS. The LOS at both crossings would decrease from B to D as a result of the increase in the number of trains. See Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS.

SEA recommends that the Board require CSX to implement operational improvements in order to mitigate the significant impacts on delay. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS. This increase in train speed is consistent with the Applicant's indication that operating efficiencies and the resulting speed increase would be achieved as a result of the capital improvements associated with the proposed Acquisition.

Chicago Metropolitan Area—Transportation: Roadway Systems

Summary of Comments. The Center for Neighborhood Technology in Chicago, Illinois commented that unsatisfactory rail service would encourage shippers to use trucks instead of trains, overloading trucking firms and highway systems.

Response. In Chapter 4, "System-wide and Regional Setting, Impacts, and Proposed Mitigation," Section 4.8, "Traffic and Transportation: Highway System," the Draft EIS states "The proposed Acquisition would result in changes to the freight rail network that would cause reductions in truck traffic on major highways, including the interstate system and on regional, state, and U.S. primary routes." Based on estimates by CSX and NS, and an evaluation of their proposed Operating Plans, SEA projects that the proposed

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Conrail Acquisition would result in an annual net reduction in truck travel of approximately 1.03 million truck trips and approximately 782 million truck miles.

Chicago Metropolitan Area—Transportation: Other

Summary of Comments. The Center for Neighborhood Technology in Chicago, Illinois stated that the NS Operating Plan did not address how the “proposed restructuring of Calumet Yard will affect classification service to Lake Calumet industries.” The Center added that area manufacturers are “fearful that their already unreliable service might deteriorate further.”

Response. In response to the commentor’s concerns, SEA determined that Calumet Yard would retain its role as a yard that supports local industry. Calumet Yard is the principal NS yard in the Chicago area for classification, industrial switching, interchange, and train make-up. A Triple Crown Service facility is also located at Calumet Yard. As a result of the proposed Conrail Acquisition, the following activities would occur: most train classification functions would be transferred to the Elkhart, Indiana (currently Conrail) yard (as the NS Operating Plan states); Triple Crown Service’s activity would increase at Calumet Yard, with possible future expansion; and NS would also transfer some local industrial support functions to the two Conrail yards that they would acquire at 47th Street and Colehour. Consequently, the Applicants expect service to local industries to improve because the Applicants would primarily use Calumet Yard for local switching. The activity that would decline in Calumet Yard is the classification of through-trains that currently originate and terminate at Calumet Yard. The Applicants would transfer this activity to Elkhart.

Chicago Metropolitan Area—Air Quality

Summary of Comments. The Center for Neighborhood Technology in Chicago, Illinois stated that reducing the capacity at Calumet Rail Yard and increasing the number of freight trains would result in significant delays in freight shipments. According to the Center, these delays would cause shippers to divert freight from rail to truck, and the increased truck traffic would increase air pollutant emissions.

Response. The overall volume of truck travel in an area depends on the relative attractiveness of the truck, rail, and intermodal options available to the area’s freight customers, not on the level of freight train activity at a particular rail yard. The projected Acquisition-related decrease in activity at Calumet Yard would occur because the Yard’s rail car classification functions would be transferred to other facilities. There would be no change in Calumet Yard’s industrial switching services, which are the activities that serve local freight customers. There would be no increase in truck traffic and associated air pollutant emissions as a result of Acquisition-related changes in freight train activity at Calumet Yard.

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Chicago Metropolitan Area—Noise

Summary of Comments. CSX commented, “The D[raft] EIS directs CSX to consult with Chicago with respect to noise from truck traffic to the 59th Street intermodal facility even though the noise level does not meet the D[raft] EIS’s criteria for mitigation.” CSX stated that they have already consulted with the City and reached agreement on mitigation measures for the facility.

Response. SEA recognizes that CSX and the City of Chicago have reached an agreement regarding mitigation for impacts at this facility as a result of the proposed Conrail Acquisition. See Volume 5C of the Draft EIS for more information.

Chicago Metropolitan Area—Cultural and Historic Resources

Summary of Comments. The Illinois Historic Preservation Agency confirmed the accuracy of the cultural resource information that the Draft EIS presented for the State of Illinois. Specifically, the Agency indicated its anticipation of future consultation regarding the interlocking tower at 75th Street in Chicago and the cultural resources at Exermont, both of which are currently undergoing Section 106 consultation.

Response. SEA acknowledges this comment.

Summary of Comments. Regarding SEA’s recommendation in the Draft EIS that CSX take no steps to alter the 75th Street Interlocking Tower in Chicago until it completes the National Historic Preservation Act Section 106 process, CSX stated that the proposed demolition of the tower is unrelated to the proposed Conrail Acquisition. Nevertheless, CSX agreed to work with SEA and the Illinois State Historic Preservation Officer to document the tower before it is demolished.

Response. SEA acknowledges this comment.

Chicago Metropolitan Area—Environmental Justice

Summary of Comments. The Center for Neighborhood Technology in Chicago, Illinois commented that the proposed reduction in capacity at Calumet Yard would lead Calumet-area shippers to increase truck transport, thereby undermining the competitive position of industries providing jobs to low- and moderate-income communities.

Response. SEA determined that the proposed changes in activity at the Calumet Yard would result primarily from a reduction in switching and classifications of rail cars. The proposed changes would not reduce service to shippers because these activities would shift to other rail yards. Calumet Yard is a location for NS’s TCS intermodal operations which would continue to operate and may well expand in the future. Therefore, SEA does not expect any adverse impacts on industries or jobs.

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Chicago Metropolitan Area—Cumulative Effects

Summary of Comments. The Center for Neighborhood Technology in Chicago, Illinois commented that the Final EIS should address the potential environmental impacts of NS's planned restructuring and downsizing of Calumet Yard. The Center indicated that the same spirit of competition should extend to local switching services as well as line-haul traffic. "Otherwise, the result of the Proposed Acquisition for some communities may well be a shift of freight movement from rail to truck, with accompanying environmental consequences."

Response. SEA has received no evidence that a shift of freight movement from rail to truck would occur at Calumet Yard as a result of the proposed Conrail Acquisition. NS's proposed changes would result in improved service to local industries through both rail and truck modes at Calumet Yard. According to NS, Calumet Yard is the principal NS yard in the Chicago area for classification (sorting of rail cars in a rail yard), industrial switching, interchange, and train make-up, and it includes a TCS facility. NS anticipates that most train classification functions would be transferred to the Elkhart, Indiana yard (currently operated by Conrail) after the proposed Conrail Acquisition. NS would also transfer some local industrial support functions to two current Conrail yards—97th Street and Colehour—that NS would acquire after the proposed Conrail Acquisition. NS has stated that TCS service would increase at Calumet Yard, which would continue to support local industries. NS is also considering future expansion of the TCS facility. Consequently, NS expects service to local industries to improve, because the Applicants would primarily use Calumet Yard for local switching; only classification and through traffic would decline.

Eastern Central Illinois—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The Village Board of Tolono, Illinois commented that increased rail traffic poses a large risk to pedestrians who cross tracks, especially children walking to school. For example, one commentor noted that children are more likely to take risks when rail traffic blocks the tracks for long periods of time.

Response. SEA concurs that the safety of school children is a paramount concern. SEA's recommended mitigation includes the requirement that the Applicants sponsor and participate in Operation Lifesaver programs in these communities. Each year, the Applicants present these programs in accordance with school officials' requests. Chapter 7 of this Final EIS, "Recommended Environmental Conditions," presents SEA's recommended mitigation measures.

Summary of Comments. A resident of Danville commented that she was concerned about safety if rail traffic increases without improved scheduling and/or construction of an overpass at 4th Street. The resident also suggested that SEA secure documentation of fatalities at highway/rail at-grade crossings in the Danville area.

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Response. SEA understands that the Applicants do not plan to construct an overpass in the Danville, Illinois area. The safety analysis in the Draft EIS for the highway/rail at-grade crossings addressed all-inclusive accident rates, not just the incidence of fatalities. That safety analysis included all highway/rail at-grade rail crossings on affected segments within Vermilion County, Illinois, including Danville. The two affected rail line segments within Vermilion County are NS's N-033 and N-045. Of the 28 highway/rail at-grade crossings that SEA analyzed for safety in the Draft EIS, the proposed Conrail Acquisition would adversely affect only Campbell Crossing (FRA ID 479848P). However, field investigation indicated that the warning device at this crossing has been upgraded to a gate. As a result, this Final EIS contains no recommendations for highway/rail at-grade crossing safety in Vermilion County.

Summary of Comments. The City of Danville identified four locations where the train tracks are inactive and requested removal of the highway/rail at-grade crossings. The locations of these crossings are Jackson, Winter, Liberty, and Bowman Streets. The City also identified two grade separation structures, Fairchild Street and English Street, that are deficient in height.

Response. SEA analyzed only the impacts of the proposed Conrail Acquisition in this Final EIS. SEA understands that the inactive tracks and the height of existing grade separations at Fairchild Street and English Street are pre-existing conditions, and would not be the result of the proposed Conrail Acquisition. It is the Board's policy not to require mitigation of pre-existing conditions.

Summary of Comments. The City of Danville commented that SEA should consider overall potential impacts in determining mitigation for all highway/rail at-grade crossings in a town. In particular, SEA projects that accidents would increase at every crossing. The City noted that a separated grade crossing may be warranted at Third Street, South Street, Bowman Street, and Voorhees Street and requested further analysis and arbitration that is mandatory and binding for Applicants.

Response. SEA's safety analysis in the Draft EIS included all highway/rail at-grade crossings on rail segments in Vermilion County that met SEA's thresholds for environmental analysis. Of the 28 crossings SEA analyzed for safety, SEA determined that only Campbell Crossing (FRA ID 479848P) would be adversely affected by the proposed Conrail Acquisition. Field investigation indicated that the warning device at this crossing has been upgraded to a gate. SEA's analysis in both the Draft EIS and Final EIS showed that the increase in train traffic resulting from the proposed Conrail Acquisition would not warrant safety mitigation at 3rd Street, South Street, Bowman Street, or Voorhees Street. SEA does not recommend mitigation at these locations and does not consider arbitration appropriate. See Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," of this Final EIS for further detail.

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Summary of Comments. The Champaign County Planning Department identified a highway/rail at-grade crossing in the Village of Tolono that appears to meet SEA's criteria for significance. The CR 1000 E highway/rail at-grade crossing (TR 134 D, FRA ID 479930J) is "a Class A crossing with 3 accidents in the last 5 years and is projected to have an increase in accidents of .0118 ." The County recommended that SEA study the CR 1000 E highway/rail at-grade crossing in detail and evaluate possible mitigation measures.

Response. SEA's analysis of this crossing, which appeared in the Draft EIS, showed that this crossing did not meet SEA's criteria of significance. The projected accident frequency following the proposed Conrail Acquisition would be less than 0.15 (less than one accident every 7 years). At this level, an increase in accident frequency of 0.05 (one accident every 20 years or more frequent) would be needed to warrant mitigation. See the last paragraph of this response. SEA performed a further review of this crossing for this Final EIS and found that the warning device had recently been upgraded. The accidents at this crossing during the 5-year period had occurred prior to the warning device upgrade. The FRA accident risk analysis methodology includes only those accidents occurring after a change in safety warning device. The risk of an accident depends upon the characteristics of a highway/rail at-grade crossing and a change in the warning device changes those characteristics. Therefore, only those accidents that occurred after a change reflect existing rail crossing characteristics and are appropriate to use in a present risk calculation.

FRA information showed that the date the warning device at this highway/rail at-grade crossing changed was October 1995. Based on this change, the current accident rate of 0.0157 would increase to 0.0202 after the proposed Conrail Acquisition, a change of 0.0045. This increase does not meet the criterion of significance.

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Eastern Central Illinois—Safety: Hazardous Materials Transport

Summary of Comments. The Village of Tolono expressed concern that the proposed NS construction of the Tolono connection would increase the probability that the Village would experience accidents and fires involving hazardous materials. The Village stated that the local fire department does not have equipment to handle hazardous materials spills, and that the Draft EIS did not identify the types of hazardous materials that NS would transport, specific safety practices and protocols, or plans for responding to derailments and hazardous materials spills. The Village submitted letters from citizens that also expressed these concerns.

Response. SEA determined that construction of the proposed 1,600-foot-long Tolono connection would permit efficient movement of traffic between NS rail line segment N-033 and the Illinois Central Railroad. As the Draft EIS notes in Volume 3A pages IL-1 through IL-86, 2 trains per day would use the proposed connection, which NS would build within existing railroad right-of-way. Because the Illinois Central rail line segment is not a part of the proposed Conrail Acquisition, SEA evaluated only rail line segment N-033.

SEA estimated in the Draft EIS (Attachment B-3, Appendix B, “Safety,” Volume 5-A) that the interval between hazardous materials releases would decrease from 10,530 years to 6,555 years after the proposed Conrail Acquisition. SEA has concluded that this very small risk does not warrant mitigation beyond the existing key route designation. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS.

Summary of Comments. The City of Danville expressed concern about an increase in hazardous materials transport from 10,000 carloads per year to 46,000 on NS’s Tilton-to-Lafayette line, and recommended grade separations as mitigation for this and other potential environmental impacts such as traffic delays.

Response. SEA recommends that the Board require NS to implement major key route mitigation measures on the Tilton-to-Lafayette rail line segment following the proposed Conrail Acquisition. This rail line segment is already a key route, which means that NS currently adheres to AAR key route guidelines. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS, describes these guidelines. SEA does not consider grade separations as appropriate mitigation for increased hazardous materials transport. Further, SEA did not identify any highway/rail at-grade crossings in Danville, Illinois for which the predicted accident rate would warrant mitigation.

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Eastern Central Illinois—Safety: Freight Rail Operations

Summary of Comments. The Village of Tolono raised the concern that the higher probability of train accidents and derailments, presumably because of increased rail traffic, would expose local residents, especially children, to additional hazard.

Response. Rail line segment N-033 runs through Tolono from Tilton to Decatur, Illinois. The average daily number of freight trains would increase by 16.3 trains per day along this segment following the proposed Conrail Acquisition. SEA determined that this increase does not result in a change in expected accidents that exceeds SEA's criteria of significance. Therefore, SEA does not recommend mitigation. The post-Acquisition interval between expected accidents on rail line segment N-033 is 111 years. SEA would impose mitigation only if that interval were to be 100 years or less between expected accidents on a per-line-mile basis.

SEA notes that the level of railroad activity on rail line segment N-033, both in number of daily freight trains and annual gross tonnage, has always been at levels that warrant high maintenance standards, Class 4 track, and key route status. NS has indicated that it proposes to maintain those measures. FRA and NS also have extensive programs in place, including the Safety Integration Plan for the proposed Conrail Acquisition, to provide for the continuing safety of people living near rail lines. SEA does recommend key route mitigation for N-033. Refer to Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Eastern Central Illinois—Safety: Other

Summary of Comments. A resident of Danville raised a concern that "the steel in the Rail Bridge that spans the Vermilion River appears to be flaking. The integrity of this structure brings serious questions of safety. Will there be repair work done on this structure before increased rail traffic?"

Response. SEA notes that the concerns that the resident raised refer to conditions existing before the proposed Conrail Acquisition. SEA recognizes that NS has adequate maintenance programs, which include bridge maintenance and repair. Additionally, NS has committed to continue these maintenance practices after the proposed Conrail Acquisition in its Safety Integration Plan.

Summary of Comments. A resident of Danville expressed concern that NS has abandoned bundles of railroad ties on his property, along with remnants of steel beams. He asked whether NS would leave "additional environmental problems" uncorrected.

Response. SEA notes the concerns that the resident raised refer to conditions existing before the proposed Conrail Acquisition. With respect to the concern regarding the

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Applicants' right-of-way maintenance practices, however, SEA clarifies that the Board does not have jurisdiction regarding maintenance of rights-of-way. There are other local or state agencies that have jurisdiction over illegal dumping activities.

Eastern Central Illinois—Transportation: Passenger Rail Service

Summary of Comments. Champaign County, Illinois noted that SEA analyzed the potential environmental impacts that increased freight traffic could have on passenger service trains when both are using the same rail line segments. The County commented that SEA's analysis should also consider potential increases in train movements at rail/rail crossings and interlockers that intersect the rail line segments that passenger trains use and that SEA should determine the potential impacts on these passenger train services.

Response. SEA considered the potential impact of rail/rail crossings in its passenger service analysis. In accordance with the Rail Passenger Service Act, Amtrak service over rail/rail crossings is entitled to dispatching preference, even if another company controls the crossing. SEA concluded that the proposed Conrail Acquisition would not adversely affect passenger service at rail/rail crossings.

Eastern Central Illinois—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. The Director of the Champaign County Department of Planning and Zoning commented that the Illinois Route 130 highway/rail at-grade crossing at Philo had an ADT of 6,400 vehicles in 1991. The Draft EIS stated that the current ADT for this crossing was 3,500 vehicles. Because 18 more trains per day would pass this crossing if the Board approves the proposed Conrail Acquisition, the Director pointed out that the highway/rail at-grade crossing would exceed the Board's threshold for environmental analysis, and SEA should evaluate it in detail.

Response. SEA performed an additional analysis of vehicle delay at the Illinois Route 130 highway/rail at-grade crossing of rail line segment N-033. This analysis reflects the updated ADT volume of 6,400. The analysis results are contained in the Final EIS and show that this crossing would operate at LOS A before the proposed Conrail Acquisition and LOS B after the proposed Conrail Acquisition.

The crossing delay per stopped vehicle would increase from 1.16 minutes per vehicle before the proposed Conrail Acquisition to 1.19 minutes per vehicle after the proposed Conrail Acquisition. This highway/rail at-grade crossing delay would not meet SEA's criteria for a significant increase in vehicle delay.

Summary of Comments. The Board of Trustees of the Village of Tolono stated that the Draft EIS did not address the added delay resulting from the additional trains traveling through their

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community. They expressed a particular concern about the potential for added delay on U.S. Route 45.

Response. SEA identified the impact of the proposed Conrail Acquisition on the Village of Tolono by analyzing the change in delay from train traffic that would result from the proposed Conrail Acquisition. The number of trains on the NS Tilton-to-Decatur rail line segment N-033 would increase by 16.3 trains per day, from 22.7 trains per day before the Acquisition to 39.0 trains per day after the Acquisition, as shown in the Final EIS. None of the highway/rail at-grade crossings in Tolono on the NS rail line met the 5,000-highway-vehicle ADT threshold for traffic delay analysis. In SEA's experience, for roadways with ADT volumes below 5,000, the additional vehicular delay that would result from increased train traffic as a result of the proposed Conrail Acquisition would be minimal.

Benham Street, which provides access to U.S. Route 45, does not cross the NS rail line and would not be affected directly by the increase in the number of trains. However, NS proposes to construct a new rail connection between the north-south Illinois Central Railroad line and the east-west NS (Conrail) line that would cross Benham Avenue. NS expects the new rail connection to carry 2 trains per day. Based on SEA's review of the crossing configuration, freight traffic change, and minor alterations to highway/rail at-grade crossing warning devices for this new connection, SEA determined that the impacts on highway vehicle delay would not exceed SEA's criteria of significance.

Summary of Comments. The Village of Tolono commented that the increase in train traffic would reduce the ability of emergency vehicles (police, fire, and ambulance) to gain access from one side of the community to the other. The Village also noted that there would be a lack of crossings during construction, which would place a severe burden on emergency services.

Response. In the Tolono, Illinois area, SEA determined that the NS Tilton-to-Decatur rail line segment (N-033) met or exceeded the Board's threshold for environmental analysis. The time, 1.6 minutes, that only one train would cause a highway/rail at-grade crossing on this rail line segment to be blocked would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half the blocked crossing time, less than a minute. Because the average number of trains on this rail line segment would increase from 22.7 to 39.0 trains per day, the total time that each crossing would be blocked would increase from 36.3 minutes to 62.4 minutes per day as a result of the proposed Conrail Acquisition. The discussion in Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," Section G.2.1, "Emergency Response Vehicle Delay," of this Final EIS addresses SEA's analysis pertaining specifically to emergency response vehicle delay at highway/rail at-grade crossings.

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Emergency services in the area are north of the NS tracks. A fire station, police station, and ambulance service are west of U.S. Route 45, and a second fire station and rescue squad is east of U.S. Route 45. The highway/rail crossing of U.S. Route 45 and the NS tracks is grade-separated. This grade separation effectively provides access across the NS tracks to all parts of the community.

Blocked crossings are also a concern on the connector track that NS would construct in this area as a result of the proposed Conrail Acquisition. The connector would be in the southeast quadrant of the crossing of the north-south Illinois Central Railroad rail line segment and the east-west NS rail line segment. The time that a train would cause a highway/rail at-grade crossing on the connector to be blocked would be 3.4 minutes. Only 2 trains per day would use the connector, so the total time that a crossing would be blocked would be 6.8 minutes per day. Blocked crossings on the connector would delay emergency vehicles bound for the southeast part of the community, but construction of the connector would have little effect on streets and could be staged to allow continuous access.

Because the existing separated grade crossing provides access to the community, and the construction would not disrupt emergency vehicle access, SEA concluded that no mitigation is warranted.

Summary of Comments. The Board of Trustees of the Village of Tolono commented that the proposed Conrail Acquisition may force the closing of Benham, Elizabeth, Bourne, and Daggy streets in their community. The Board of Trustees explained that this would severely restrict vehicular traffic movement.

Response. As part of the proposed Conrail Acquisition, NS proposes to construct a new rail connection between the north-south Illinois Central Railroad line and the east-west NS (Conrail) line in the Village of Tolono. Based on SEA's review of the crossing configuration, freight traffic change, and minor alterations to highway/rail at-grade crossings, SEA concludes that the impacts on highway vehicle delay would not exceed SEA's criteria of significance along the new connection. NS cannot close streets unilaterally. During construction, NS must comply with state and local requirements for traffic maintenance.

Summary of Comments. The Mayor of Danville, Illinois commented that the proposed increase from 23.6 to 41.0 trains per day on NS's Tilton, Illinois-to-Lafayette, Indiana line would nearly double the average vehicular delays at every crossing in the City. The Mayor stated that the installation of grade separations at critical roadways could mitigate these conditions. The Mayor suggested that SEA investigate grade separations at 3rd Street, South Street, Bowman Street, and Voorhees Street.

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A resident of Danville stated that trains have blocked the 3rd Street crossing for excessive periods in the past. According to the resident, additional train traffic may cause additional blockage of this crossing. The resident stated that NS should build an overpass on 4th Street to solve this problem.

Several other residents of Danville stated that the addition of 25 more trains each day through the City, together with the switching activities, would cut Danville in half. The trains would block the streets for a greater share of the day, and people would not want to live in Danville.

Response. To identify the impact of the Acquisition on the City of Danville, SEA analyzed the change in delay that would result from the Acquisition-related increase in train traffic. The current delay problem cited by the commentors is not an impact of the Acquisition; it is an existing condition caused by trains that are already operating through Danville.

However, the number of trains on NS's Lafayette, Indiana-to-Tilton, Illinois rail line segment N-045 would increase by 17.4 trains per day, from 23.6 trains per day before the proposed Conrail Acquisition, to 41 trains per day after the proposed Conrail Acquisition. SEA analyzed the highway/rail at-grade crossings that the Mayor identified. SEA's analysis in both the Draft and Final EIS shows that the LOS at the Voorhees Street crossing (FRA ID 479854T) crossing would drop from LOS A to LOS B, and the crossing delay per stopped vehicle would increase from 1.20 minutes per vehicle to 1.22 minutes per vehicle. LOS at the Bowman Street crossing (FRA ID 479856G) would drop from LOS A to LOS B, and the crossing delay per stopped vehicle would increase from 1.09 minutes per vehicle to 1.11 minutes per vehicle. LOS at the South Street crossing (FRA ID 479863S) would remain at LOS B, and the crossing delay per stopped vehicle would increase from 1.28 minutes per vehicle to 1.31 minutes per vehicle. None of these crossings would meet SEA's criteria of significance. Therefore, mitigation of traffic delay at these locations is not warranted. Other highway/rail at-grade crossings in Danville did not meet the 5,000-highway-vehicle threshold for traffic delay analysis. For example, ADT on 3rd Street was 1,100. In SEA's experience, for roadways with ADT volumes below 5,000, the additional vehicular delay that would result from Acquisition-related increased train traffic would be minimal.

Summary of Comments. The Mayor of the Village of Tilton commented that the 14th Street highway/rail at-grade crossing is currently experiencing significant delays because of passing trains and switching. The Mayor also commented that adding more trains would cause problems at the 14th Street crossing because it is the only east-west street connecting the Central Park area of Tilton with emergency vehicles. The nearest alternative route would add 5 to 10 minutes to the response time. According to the Mayor, 14 additional trains per day would increase the delays. As the solution, the Mayor suggested that the Applicants build a viaduct or overpass at the 14th Street crossing.

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Response. To address the concerns that the Mayor of Tilton raised regarding change in delay from the increase in train traffic as a result of the proposed Conrail Acquisition, SEA analyzed the 14th Street highway/rail at-grade crossing in the Village of Tilton. SEA determined that the current delay problem the Mayor cited would not be a result of the proposed Conrail Acquisition; rather, trains that already operate through the Village of Tilton cause the delay. It is the Board's policy not to require mitigation of pre-existing conditions.

Also, SEA's analysis showed that the ADT on 14th Street would be 2,550, well below the 5,000- highway-vehicle threshold for traffic delay analysis. In SEA's experience, roadways with ADT volumes below 5,000 would experience only minimal additional vehicular delay from increased train traffic resulting from the proposed Conrail Acquisition. Therefore, mitigation of traffic delay at this location is not necessary.

With respect to the potential impacts of delay on emergency response vehicles, SEA determined that NS's Tilton-to-Decatur rail line segment met or exceeded the Board's threshold for environmental analysis. The time, 1.6 minutes, that a train would cause a highway/rail at-grade crossing on this rail line segment to be blocked would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half the blocked-crossing time, or less than a minute. The average number of trains on this rail line segment would increase from 22.7 to 39.0, so the total time that a crossing would be blocked would increase from 36.3 minutes to 62.6 minutes.

Emergency services in Tilton cover both sides of the NS tracks. Fire stations, which are also the bases for ambulance operations, are located on both sides of the tracks. The police station is west of the tracks, but the police patrol in beats on both sides of the tracks. Local officials told SEA that some trains move slowly through town or almost stop.

Although the highway/rail crossing of the NS tracks and 5th Street is not grade-separated, the highway/rail crossings of U.S. 150, I-74, and G Street/Glendale Avenue are all grade-separated, so emergency vehicles can cross the tracks when a train is passing through town. Therefore, no mitigation is warranted.

Summary of Comments. The City of Danville commented that the potential increase in trains on the north-south line from Tilton to Lafayette could increase response time for emergency services. The City noted that the "police station and ESDA are immediately adjacent to..." the rail line and can only cross it at a highway/rail at-grade crossing either at South Street or Main Street. A resident stated that blockages of the 3rd Street crossing have exceeded 20 minutes numerous times. The resident added that such blockages could jeopardize her personal safety because the nearest fire hydrant is on the other side of the tracks.

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Response. In the City of Danville, Illinois, SEA determined that the NS Lafayette-to-Tilton rail line segment (N-045) met or exceeded SEA's threshold for environmental analysis for emergency response. The time that a train would cause a highway/rail at-grade crossing on this rail line segment to be blocked would increase from 2.3 minutes to 2.4 minutes as a result of the proposed Conrail Acquisition, an increase of approximately 6 seconds. When delays affect emergency vehicles, the average delay would be half the blocked-crossing time, or 1.2 minutes. The average number of trains on this rail line segment would increase from 23.6 to 41.0, so the total time per day that a crossing would be blocked would increase from 55.3 minutes to 98.2 minutes. The discussion in Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," Section G.2.1, "Emergency Response Vehicle Delay," of this Final EIS addresses SEA's analysis pertaining specifically to emergency response vehicle delay at highway/rail at-grade crossings.

There are several alternate grade-separated highway/rail crossings in the area that provide access to all areas of the community when a train blocks at-grade crossings. Fire and ambulance services as well as hospitals are located on both sides of the NS tracks. The police station is located west of the tracks, but police officers patrol on beats on either side of the tracks. Emergency vehicles can use the grade-separated highway/rail crossings in the community to avoid delays caused by trains.

The number of switching movements in the area would not increase as a result of the proposed Conrail Acquisition, so they would not block crossings for additional time.

SEA notes that the comments raised on the blockages of 3rd Street describe a pre-existing condition. Because emergency services are on both sides of the tracks and separated grade crossings allow access across the tracks, SEA concluded that no mitigation is warranted.

Eastern Central Illinois—Transportation: Roadway Systems

Summary of Comments. The Village of Tolono President, writing on behalf of the Village, commented that the construction of the Tolono Connector would result in the closure or removal of Daggy Street, which would significantly affect local citizens and commercial traffic. The President further noted that the closure or elimination of Daggy Street is "clearly perceived as a negative impact."

Response. As the Draft EIS noted, NS stated that it does not anticipate that the construction of the Tolono Connector would affect adjacent road structures, including Daggy Street. SEA agrees with this assessment. The recommended mitigation in the Draft EIS included a condition that NS not close Daggy Street during the construction of the Tolono Connector. The recommended mitigation in this Final EIS clarifies SEA's intention by including a condition that NS not disturb Daggy Street or nearby residential

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properties during construction. NS shall limit construction to within the railroad's rights-of-way to avoid adverse impacts on streets and properties.

Eastern Central Illinois—Transportation: Other

Summary of Comments. A Danville, Illinois Alderwoman questioned the Draft EIS estimate of the number of trains that the railroad indicated run daily on the NS rail line between Lafayette, Indiana and Tilton, Illinois.

Response. SEA has concluded that the NS estimates of current and future train traffic are reasonable. For rail line segment N-045 between Lafayette Junction, Indiana and Tilton, Illinois, the current 23.6 trains per day would increase by 17.4 trains per day, to 41.0 trains per day. NS provided existing train data based on actual train counts and operating schedules for freight trains. NS submitted train projections as a revision to its June 1997 Operating Plan. SEA evaluated the Operating Plan and subsequent similar revisions for general accuracy, comparing them with other railroad operating data such as track charts and timetables. The Draft EIS Appendix A, "Rail Line Segments and Traffic Density Changes," Attachment A of the Draft EIS lists all rail line segments. Section A.4 of Appendix A describes the analysis methods for developing the train projections.

Eastern Central Illinois—Air Quality

Summary of Comments. The Board of Trustees of the Village of Tolono, Illinois and residents in Danville, Illinois commented that any increase in trains would result in increased air pollutant emissions. A resident asked how much additional pollution (in terms of tons of diesel emissions) would occur in Danville.

Response. SEA agrees that there would be an increase in air pollutant emissions in Tolono and Danville, Illinois. SEA did not attempt to estimate air pollutant emissions on a city-by-city basis for proposed Acquisition-related activities; instead, SEA estimated emissions for counties or independent jurisdictions that are separately classified by the EPA with respect to compliance with NAAQS.

Tolono is located in Champaign County, which is an ozone attainment area with relatively low existing NO_x emissions. SEA has concluded that the projected 2 percent increase in County NO_x emissions would not significantly affect local ozone levels or ozone attainment status. Emissions increases of pollutants other than NO_x in the County would be insignificant.

Danville is located in Vermilion County, a county for which SEA estimated pollutant emissions related to the proposed Conrail Acquisition. SEA's analysis estimated that emissions of NO_x in Vermilion County would increase by approximately 319 tons per

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year as a result of the proposed Conrail Acquisition, while emission increases of other pollutants would be negligible. The estimated NO_x emissions increase represents about 5 percent of the 1995 NO_x emissions in the County.

Recent studies by the Ozone Transport Assessment Group have shown that NO_x effects on ozone nonattainment are primarily a regional concern, rather than a local one. Therefore, SEA concludes that local NO_x emissions changes, particularly the relatively low and widely distributed emissions changes that the Draft EIS identified, would not have any measurable effect on local ozone levels in Champaign and Vermilion Counties.

Summary of Comments. The Mayor of Danville, Illinois stated that the increase in the number of trains from 24 to 41 on the Tilton-to-Lafayette line would cause an increase in air pollution emissions of over 100 tons per year, and that this increase would be disproportionate in Danville because of slow train speeds. The Mayor also stated that the increase in trains would cause a doubling of air pollutant emissions from motor vehicle delays.

Response. SEA understands that many cities must deal with slower-moving trains traveling through their jurisdictions. While air pollutant emissions may be somewhat higher (per mile traveled) with trains moving at slower speeds than with trains moving at higher speeds, SEA has determined that there are no cases where slow-moving trains have been shown to cause air quality problems. Also, unlike stationary emissions sources, which can affect given locations nearly continuously, emissions from moving locomotives are spread out over large areas, thus minimizing their impact on any one location. SEA agrees that increasing the number of trains per day from 24 to 41 in Danville, Illinois would likely cause an increase in Acquisition-related air pollutant emissions. However, this increase would not exceed the health-based NAAQS. The additional impacts analysis conducted for the Final EIS substantiates this conclusion. See Appendix I, "Air Quality Analysis," of this Final EIS.

Summary of Comments. NS commented that the Draft EIS stated that there would be no need for air quality mitigation for the town of Lafayette, Indiana (Draft EIS on page W-49). However, NS continued, in the Preliminary Recommended Mitigation section (Draft EIS on page IN-89) for Lafayette, the Draft EIS noted the completion of the Lafayette Railroad Relocation Project would mitigate air quality impacts. NS expressed a concern that this is an inconsistent and inappropriate use of mitigation in the Draft EIS.

Response. SEA agrees with the NS comment that air quality should not be listed on page IN-89 of the Draft EIS as an issue that would be mitigated by the depressed rail section being installed as part of the ongoing Lafayette Railroad Relocation Project. SEA has determined that potential air quality impacts resulting from the proposed Conrail Acquisition would be insignificant in Lafayette. Therefore, it is not appropriate to suggest that potential air quality impacts would be mitigated by the ongoing Lafayette Railroad Relocation Project.

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Eastern Central Illinois—Noise

Summary of Comments. Community groups expressed concern over the proposed increase in train volume that the Draft EIS identified. The Village of Tolono is concerned that the increased train volume would raise the level of noise for single-family dwellings in the community. According to the Draft EIS, the increase in train volume would result in a L_{dn} increase of 2.3 dBA, extending the 65 dBA contour 500 feet perpendicular to the tracks. The Village of Tolono stated that the increase in L_{dn} would expose more residents to train traffic noise. Further, the Village noted that the increased noise could have a negative effect on some property values in the residential area along Daggy Street, which is immediately adjacent to the NS/Illinois Central crossing.

Response. SEA recognizes the concerns of the Village of Tolono and that the Draft EIS predicted noise levels to increase as a result of the proposed Conrail Acquisition. SEA has recommended mitigation for areas that it predicted to exceed the mitigation criteria for engine and wheel/rail noise of an L_{dn} of 70 dBA and an increase of 5 dBA after the proposed Conrail Acquisition. SEA cannot mitigate horn noise impacts at this time because FRA has not yet promulgated its Quiet Zone rules. SEA determined that the areas in the Tolono region do not meet the mitigation criteria. Therefore, SEA maintains that the potential noise impacts on residential property values resulting from the proposed Conrail Acquisition would be minimal. Local land use planning processes exist in part to protect property values. SEA determined that rail line construction and abandonment activities related to the proposed Conrail Acquisition would be consistent with local land use plans. The commentors provided generalized remarks rather than a supporting quantitative analysis.

Summary of Comments. Champaign County and the Village of Tolono commented that the Draft EIS neglected to take into account horn noise near grade crossings and wheel noise at rail joint locations in villages along the line. The County and the Village specifically identified wheel squeal on the rail spur at Tolono. Tolono commented that trains on rail spurs generate wheel squeals not normally associated with mainline traffic and would generate additional noise through creation of the rail spur.

The Village of Tolono commented that horn noise from the Illinois Central crossing especially affects the Village, which is concerned because the Draft EIS concludes that the potential noise impacts do not warrant mitigation. The Champaign County Board requested a detailed study of the potential noise impacts in Tolono and an investigation of potential mitigation measures. The Champaign County Board suggested that “there may be room at the NS/I[llinois] C[entral] crossing to provide noise barriers of some kind.”

Response. Contrary to the commentors’ statement that the noise analysis neglected to account for horn noise near highway/rail at-grade crossings, SEA’s noise model did account for such noise (see Appendix F, “Noise,” of the Draft EIS). The comment

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suggesting that the noise analysis did not account for circumstances where the rails are jointed is partially correct. The noise model that SEA used in the analysis did not specifically account for areas where the rails are jointed; however, the noise model is a conservative screening model. This model predicts noise levels slightly higher than what might reasonably be expected to occur.

Regarding the issue of wheel noise for the proposed spur in Tolono, the Applicants could design the radius of this proposed spur to minimize wheel squeal typically associated with areas of curved track with tight radii.

Regarding the need for additional noise analyses in Tolono, SEA clarifies that, where the Board noise analysis thresholds were exceeded, SEA performed appropriate analyses. Similarly, where noise mitigation criteria were exceeded, SEA performed mitigation analyses and has proposed appropriate mitigation measures. SEA proposed no mitigation for areas that did not meet the mitigation criteria. This analysis did not include traffic that is not associated with the proposed Conrail Acquisition on the Illinois Central lines in Tolono.

Summary of Comments. Residents of Danville expressed concern that increased train traffic would result in more frequent blasting of air horns. The residents noted that “engineers start blowing the air-horns from the Main Street crossing, across South Street and quit south of the 3rd Street crossing, almost continuously. We must listen to this noise inside and outside our homes twenty-four hours a day and seven days a week.” The City of Danville commented that an increase in the number of trains along the NS line from Tilton to Lafayette, Indiana (from 23.6 to 41 trains per day) would increase noise in the community.

Response. SEA recognizes that increased daily train traffic could result in increased noise near the rail line. Currently, state and local regulations require trains to sound their horns one-quarter mile from highway/rail at-grade crossings, resulting in noise exposure to residences in the surrounding area. The purpose of sounding the horn is to warn motorists and others at the crossing that a train is approaching. FRA is assessing a device that delivers horn noise only to the area at or near the crossing (loudspeaker horn technology) as an alternative to rail horn soundings.

Another alternative FRA is considering is the use of four-quadrant gates or median barriers designed to keep motorists from driving around the crossing gate arm as a train approaches. Loudspeaker horn technology and four-quadrant gates could eliminate train horns at specific highway/rail at-grade crossings. FRA expects to incorporate the results of its evaluation of these alternative signaling technologies into its anticipated Quiet Zone rules. However, FRA has not promulgated the Quiet Zone Rule to date, and therefore SEA cannot incorporate it into this action at this time. Because safety is paramount, SEA does not recommend mitigating train horn noise.

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Summary of Comments. The Champaign County Department of Planning and Zoning commented that SEA estimated that the increase in train gross ton-miles between Tilton and Decatur would increase the number of residences and noise-sensitive land uses experiencing significant noise impacts by 56 percent along this rail line segment. The Department commented that the noise analysis in the Draft EIS “does not break down the location of noise impacted land uses by County or other civil division.”

Response. SEA acknowledges the Acquisition-related increase in the number of residential and other receptors that would experience potential noise impacts on the rail line segment between Tilton and Decatur. The Board’s regulations form the basis for the noise analysis contained in the Draft EIS. As explained in Appendix F of the Draft EIS, “Noise,” the regulations specify the thresholds for conducting noise analyses: when activities would cause an incremental increase of 3 decibels, and when activities would cause an increase to a noise level of 65 dBA L_{dn} .

An increase in train gross ton-miles, as SEA has projected for the subject rail line segment, would expand the potentially affected receptor population adjacent to the rail lines and within the area encompassed by the 65 L_{dn} noise contour. As required by the Board’s noise regulations, SEA’s analysis included an estimate of the number of potentially affected sensitive receptors. The Draft EIS presents Receptor Counts in Attachment F-1 to Appendix F, “Noise,” a table of rail line segments that meet the Board’s thresholds for noise analysis. This table also provides: (a) location information at the county-specific level, (b) specific rail line segment identification, and (c) wayside and crossing distances to the 65 dBA L_{dn} contour both before and after the proposed Acquisition. The potential dBA increase for the Tilton-to-Decatur rail line segment following the proposed Conrail Acquisition, would be 2.4, which is below SEA’s noise mitigation criteria of 70 dBA L_{dn} and an increase of 5 dBA L_{dn} .

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Summary of Comments. NS commented that the Peru-to-Lafayette Junction and Lafayette-to-Tilton rail line segments exceeded the Board's threshold for environmental analysis, but the noise analysis results did not meet noise mitigation criteria. NS stated that no noise mitigation is necessary for these segments based on lack of potential environmental impacts.

Response. SEA performed noise analysis on the N-046 Peru-to-Lafayette Junction and N-045 Lafayette-to-Tilton rail line segments. However, these rail line segments did not meet mitigation criteria and, therefore, SEA proposed no noise mitigation for them.

Eastern Central Illinois—Cultural and Historic Resources

Summary of Comments. CSX commented on the Draft EIS recommendation that CSX take no steps to alter the historic integrity of the rail line segment proposed for abandonment between Paris and Danville, Illinois until completion of the National Historic Preservation Act Section 106 process. CSX stated its understanding, based on a letter from the Illinois State Historic Preservation Officer to Elaine Kaiser, that the process has been completed. CSX also stated that it would contact the State Historic Preservation Office if archaeological resources become evident in the course of salvage activities, as the Draft EIS recommended.

Response. SEA acknowledges this comment.

Eastern Central Illinois—Hazardous Waste Sites

Summary of Comments. A letter from the Village Board President of Tolono summarized his understanding of the Board's regulations. The commentator stated that the Board's regulations require that the Applicants identify the 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.

Response. SEA notes that the Draft EIS and the Environmental Report that accompanied the Application met these regulatory requirements. The Draft EIS identified known hazardous waste sites within 500 feet of all proposed abandonments and new connections, including the one at Tolono. In addition, in Appendix F of their Environmental Report, the Applicants provided a listing of hazardous materials reportable system-wide incidents (that is, spills) for CSX, NS, and Conrail for 1991 through 1995.

Eastern Central Illinois—Natural Resources

Summary of Comments. The Village of Tolono raised a concern about the potential for increased flooding. It stated that the flooding could occur on adjoining residential areas as a result of placing fill to install the new rail spur in accordance with the proposed Conrail Acquisition. Further, the Village cited potential environmental impacts "of drainage patterns on

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nearby structures which would have to be carefully analyzed and taken into account in the event of any construction.”

Response. SEA has determined that the Tolono site is not within the 100-year floodplain; therefore, the flooding potential is minimal.

SEA has determined that the Applicants have developed BMPs to address stormwater runoff, erosion and sediment control, and impacts on surface waters, thereby minimizing potential environmental impacts during and after construction.

SEA concludes that NS should seek final design approval with the Illinois Department of Natural Resources and USACE to reduce the potential for flooding by the proposed construction. NS should also obtain applicable Federal, state, and local permits.

Eastern Central Illinois—Land Use and Socioeconomics

Summary of Comments. The Village of Tolono commented that the proposed Tolono Connector construction does not comply with the Village’s land use plan and zoning. The Village President stated, “It is impossible to imagine a more inconsistent use of land than heavy industrial rail use in the midst of single family residences.”

The Village also commented that the proposed construction would result in the closure of public streets necessary for commercial, residential, and emergency vehicle traffic. The Village expressed concerns that the proposed construction would damage water and storm sewer lines.

Response. In nearly all cases, SEA determined that the rail line construction and abandonment activities of the proposed Conrail Acquisition were consistent with local land use plans. SEA determined that there would be no significant impacts as a result of construction and abandonment activities associated with the proposed Conrail Acquisition in these communities. The Village of Tolono based its assertion of inconsistency upon an assumption that construction would expand beyond NS’s existing right-of-way into adjacent residences. NS has determined that the proposed construction would occur within existing railroad rights-of-way and would not involve closure of Daggy Street. SEA has determined that there would be no significant land use impacts as a result of new rail line construction activities associated with the proposed Conrail Acquisition at Tolono, as long as construction remains within the existing railroad right-of-way. SEA’s recommended mitigation would require that NS perform all construction work within the existing right-of-way.

Summary of Comments. The Champaign County Department of Planning and Zoning commented that the proposed new rail line construction in Sidney, analyzed in one of the seven Environmental Assessments (EAs) on the Seven Separate Connections, would “involve the

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conversion of approximately six acres of prime farmland and the separation of about 28 acres into an irregularly shaped area which will impede cultivation of some additional small area.”

Response. SEA evaluated the potential environmental impacts of the proposed construction in Sidney, Illinois in an EA that it issued to the public on October 7, 1997. Based on the EA and the public comments that it received, SEA informed the Board of its determination that the proposed construction, together with the associated recommended environmental mitigation, would not have a significant impact on the environment (including prime farmland). After considering the public comments and SEA’s recommendations, the Board issued a decision on November 25, 1997, approving the construction of the new rail line connection in Sidney. As a condition of this decision, the Board required NS to use BMPs in constructing the new connection.

Summary of Comments. NS commented that a proposed mitigation measure and condition at Tolono are inappropriate. NS stated that it had met with city officials and confirmed “that the construction of the Tolono Connection would occur entirely within the existing Illinois Central and NS rights-of-way and no additional land would be acquired for this construction.”

NS noted the following statement in the Draft EIS: “Based on the findings ... SEA has determined that there would be no significant impacts to land use associated with the proposed action at Tolono so long as construction remains within existing railroad right-of-way. Because there are no significant impacts, SEA does not recommend mitigation.” Nevertheless, NS pointed out, the Draft EIS contained a preliminary recommendation to “not disturb Daggy Street or residential properties at this location.” The commentor cited Draft EIS, pages IL-68 through 69. NS commented that it “does not believe this recommendation is necessary nor in keeping with the conclusion of the D[raft] EIS [that] ... there is no impact to Daggy Street, and there is no need for a mitigation requirement.”

Response. SEA developed its recommended mitigation, in part, to address concerns expressed by the Village of Tolono. Since SEA’s recommended mitigation is consistent with NS’s plans for the Tolono construction, SEA concludes that there is no need to remove this mitigation recommendation.

Eastern Central Illinois—General

Summary of Comments. The Village of Tolono, Illinois commented: “The document states that the construction would not result in any significant environmental impact. A review of the proposal together with the surrounding area and the comments from Village residents confirms that this statement is in error. There is a documented increase in noise, air pollution, traffic disruption, safety, and other effects on the adjacent residential area. The document notes that the “no action alternative would not cause further disruption to the citizens of Tolono. Given that alternative, rail spurs in other locations would give the desired connection with lesser impact.

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This no action alternative is a practical and viable one and should be considered as the primary alternative as it relates to the Village of Tolono.”

Response. SEA has reexamined the environmental impacts that the Draft EIS identified in Chapter 5, Section 5-IL. After this reexamination, which included additional site visits to the Village, SEA confirmed that the potential effects of the new connection are below the noise mitigation criteria.

In its noise analysis, SEA predicted a 2.4 dBA increase along rail line segment N-033 (which runs through Tolono) as a result of the projected increase of 16.3 trains per day. NS proposes to operate an average of 2 trains per day over the proposed new connection in Tolono (which connects rail line segment N-033 with an Illinois Central rail line segment). Based on the noise analysis methodology presented in the Draft EIS, SEA determined that the Acquisition-related increase in noise levels in Tolono does not meet the noise mitigation criteria and thus does not warrant mitigation. Additionally, although there would be a potential increase in NO_x emissions in Champaign County, SEA does not expect a significant adverse air quality impact. The percentage increase in NO_x emissions is modest, and the County currently is designated as in attainment for all pollutants.

As the Draft EIS states, SEA reviewed the crossing configuration, freight traffic change, and alterations to the highway/rail at-grade crossing devices for the new connection in Tolono. SEA verified that traffic-related impacts may be limited to short-term vehicular delays and detours during construction. SEA’s safety analysis showed a predicted increase in accident frequency in Champaign County from one accident every 294 years to one accident every 57 years. This accident rate falls below SEA’s criteria of significance.

In its initial analysis NS considered an alternative that would be approximately 4,600 feet long. NS determined that this alternative would result in more impacts than the proposed connection because it would require right-of-way acquisition and alterations at highway/rail at-grade crossings. Therefore, NS did not carry this alternative forward for detailed consideration. NS also discarded a “no-action alternative” at this location because it would not provide the necessary connection. After conducting its independent evaluation of these options, SEA concurred that neither alternative was reasonable for the Tolono area.

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Other Illinois—Cultural and Historic Resources

Summary of Comments. CSX agreed with the Draft EIS recommendation that CSX not construct or modify a new rail connection in Exermont, Illinois until it completes the National Historic Preservation Act Section 106 process.

Response. SEA acknowledges this comment.

Section 5.3.7—Indiana

5.3.7 Indiana

Indiana—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. NS commented that the Supplemental Errata called for mitigation at the ten NS highway/rail at-grade crossings in Lafayette even though the crossings no longer meet the Draft EIS significance criteria. NS stated that the Draft EIS applied a more restrictive and arbitrary significance criteria of traffic delays to Lafayette than to other communities. NS added that the Lafayette Railroad Relocation Project would eliminate all highway/rail at-grade crossings, thus eliminating the projected vehicle delays.

Response. SEA analyzed the change in vehicle delay in the City of Lafayette that would result from the increase in train traffic after the proposed Conrail Acquisition. The number of trains on the Peru-to-Lafayette rail line segment N-046 would increase by 21.8 trains per day, from 18.4 trains per day before the proposed Conrail Acquisition to 40.2 trains per day after the proposed Acquisition.

None of the ten highway/rail at-grade crossings in Lafayette would meet SEA's criteria of significance for vehicle delay, and SEA does not recommend traffic delay mitigation in this Final EIS. SEA changed its Draft EIS recommendation for this area because a pending version of the Intermodal Surface Transportation Efficiency Act legislation allocates funding for the Lafayette Railroad Relocation Project. Appendix N, "Community Evaluations," of this Final EIS discusses the proposed improvements in Lafayette. Chapter 7, "Recommended Environmental Conditions," of this Final EIS addresses the proposed mitigation for Lafayette in more detail.

Summary of Comments. NS stated the Draft EIS directed NS to negotiate with the City of Muncie for a binding agreement for the implementation and funding of measures to address traffic concerns at seven highway/rail at-grade crossings in Muncie. NS stated that the highway/rail at-grade crossings do not exceed the Draft EIS significance criteria for delay, and therefore do not warrant mitigation. NS suggested that public comment was the sole reason for this condition, which SEA did not support with technical analyses.

Response. SEA analyzed the change in vehicle delay in the City of Muncie that would result from the increase in train traffic after the proposed Conrail Acquisition. The number of trains on the Alexandria-to-Muncie rail line segment N-040 would increase by 9.2 trains per day, from 2.6 trains per day before the proposed Conrail Acquisition to 11.8 trains per day after the proposed Conrail Acquisition.

None of the five highway/rail at-grade crossings in Muncie would meet SEA's criteria of significance for vehicle delay; therefore, SEA does not recommend traffic delay mitigation. Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS discusses the proposed improvements in Muncie.

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Indiana—Air Quality

Summary of Comments. Indianapolis Power and Light Company stated that the air quality analysis in the Draft EIS was seriously flawed. They stated that by setting the thresholds for analysis of air quality at a level below which impacts are “not worthy of consideration,” SEA committed an error. They further stated that, because the Indianapolis area is a maintenance area for ozone, any increase in air pollutant emissions in the region may be a violation of the Clean Air Act and that increased emissions of diesel fumes from locomotives would cause additional violations of the Act.

Response. SEA considers the use of the Board’s activity thresholds for air quality analysis to be justified, as shown by the data in the Draft EIS, Appendix E, “Air Quality,” Attachment E-3, “County Total Emissions Increases for Threshold Activities, in Decreasing Order of Total NO_x.” These data indicate that numerous counties that have activity levels that barely exceed the thresholds also have very minor increases in emissions of all air pollutants. SEA therefore maintains that it is justified in excluding negligible air pollutant emissions from activities that are below the Board’s thresholds for environmental analysis.

Notwithstanding the above, SEA conducted an emissions analysis as part of this Final EIS for a CSX rail line segment in Marion County, Indiana because of a change in CSX’s Operating Plan (see Appendix I, “Air Quality Analysis,” of this Final EIS). CSX changed its Operating Plan as a result of a Settlement Agreement with the Louisville and Indiana Railroad. The estimated NO_x increase in Marion County, Indiana for this rail line segment is 14.2 tons per year. The projected decrease in NO_x resulting from truck diversions, estimated by the Applicants at 37 tons per year, would more than offset this minor NO_x emissions increase. Also, the new EPA locomotive engine emissions standards will result in reductions of NO_x and other pollutants that would easily offset any increases related to other activities that fall below Board thresholds for environmental analysis. See Appendix O, “EPA Rules on Locomotive Emissions,” of this Final EIS.

Summary of Comments. Indianapolis Power and Light Company stated that because of the uncertainty of train traffic increases in Indianapolis, coupled with increases from trucking coal to its power plants, the Applicants must take responsibility for mitigating increases in air pollutant emissions.

Response. SEA expects that emissions changes in the Indianapolis area as a result of the proposed Conrail Acquisition would be negligible. Although there may be uncertainty about future business growth and resulting railroad activity, these concerns are speculative and are beyond SEA’s responsibility under NEPA regulations, which require SEA to evaluate reasonably foreseeable impacts (40 CFR 1508.8(b)).

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Indiana—Cultural and Historic Resources

Summary of Comments. The Indiana State Historic Preservation Officer commented that his office had conducted a Section 106 review of the EA for “Willow Creek and Alexandria in Madison and Porter counties, Indiana.” The Officer stated, “As long as the project remains within areas disturbed by previous construction, no known historic buildings, structures, districts, objects, or archaeological sites listed in or eligible for inclusion in the National Register of Historic Places will be affected by this project.” In the event that construction, demolition, or earthmoving activities uncover archaeological artifacts or human remains, state law requires that work stop and the district office of the State Historic Preservation Office receive a report of the discovery within two business days.

Response. SEA acknowledges this comment.

Indiana—Hazardous Waste Sites

Summary of Comments. NS commented that there was a conflict in the Draft EIS regarding hazardous waste sites within the proposed abandonment of the South Bend-to-Dillon Junction (Indiana) rail line segment. The Draft EIS text stated that there were no concerns (Volume 6, page 30); however, Table H-1 indicated that one leaking underground storage tank site was present within 500 feet of the proposed abandonment. NS requested that this inconsistency be corrected.

Response. SEA determined that the leaking underground storage tank is within 500 feet of the proposed abandonment. SEA does not recommend that the Board propose mitigation measures. If NS encounters hazardous materials during construction, it would follow appropriate regulations and procedures that the Draft EIS described in Chapter 3, “Analysis Methods and Potential Mitigation Strategies,” and Appendix H, “Hazardous Materials and Waste Sites.” Because existing regulatory requirements of other agencies and standard construction practices of the Applicants adequately address potential disturbance of contaminated areas, SEA recommends that the Board not require additional mitigation.

Four City Area—Safety: Passenger Rail Operations

Summary of Comments. Amtrak, in a letter to FRA included with comments from the Four City Consortium (a regional organization in northwest Indiana consisting of the Cities of East Chicago, Hammond, Gary, and Whiting) described safety hazards it experienced between Hammond and Gary, Indiana, where there have been more than 50 highway vehicle accidents involving passenger and freight trains in the past 20 years. Amtrak requested that FRA examine highway/rail at-grade crossings and protective devices in that area.

Response. SEA encourages the Consortium to forward these concerns to FRA.

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Four City Area—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The Four City Consortium expressed concern that the increase in train traffic would create additional motorist frustration and cause more motorists to ignore active crossing warning devices. The Consortium noted that this problem is of particular concern on the Baltimore & Ohio Chicago Terminal (BOCT) Railroad Company line between Pine Junction and Calumet Park. The Consortium also commented that the proximity of several highway/rail at-grade crossings creates a situation where motorists attempt to speed to an adjacent crossing in an effort to beat the train and cross the tracks. Further, the Consortium remarked that reinstating the former Pennsylvania Railroad line between Hobart and Clark Junction could cause problems because motorists are unaccustomed to stopping at highway/rail at-grade crossings on this line.

Response. SEA's safety analysis included the overall effect of aggressive driver behavior, but it did not calculate the way such behavior would vary at different highway/rail at-grade crossings. The analysis used a standard FRA method that applies a set of formulas to estimate the risk of accidents at each highway/rail at-grade crossing. The basis for the development of the formulas was a statistical analysis of actual accident history at highway/rail at-grade crossings in the U.S. That actual history reflected the fact that some people ignore flashing lights and drive around crossing gates, and thus increase the probability of accidents. SEA used actual accident history; therefore, the formulas take into account actual driver behavior. See Chapter 4, "Summary of Environmental Review," of this Final EIS.

FRA does not include the amount of time that drivers must wait for trains to pass at a specific highway/rail at-grade crossing, so it cannot reflect crossing-to-crossing variations in the probability that drivers would ignore warning devices. See Appendix N, "Community Evaluations," of this Final EIS for further information.

Summary of Comments. The Four City Consortium commented that the Draft EIS does not propose specific mitigation measures for adverse safety effects. Furthermore, the Consortium stated that the thresholds for environmental analysis that SEA used for potential safety impacts, such as selecting rail line segments that would have an increase of 8 or more trains per day and would meet a predicted accident rate per year per mile, "appear to be arbitrary." The Consortium expressed concern regarding the application of thresholds for environmental analysis to the former Pennsylvania Railroad rail line segment from Hobart-to-Clarke Junction that is currently out of service and could not have had any accidents in the last 10 years.

Response. SEA's analysis determined the risk of increased train-vehicle accidents at highway/rail at-grade crossings as a result of increases in train traffic resulting from the proposed Conrail Acquisition. The analysis considered crossings on those rail lines that would meet the Board's thresholds for environmental analysis of an increase of 8 or more trains per day. SEA clarifies that the thresholds for environmental analysis are not

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arbitrary; the Board established these thresholds through the Federal regulatory process and incorporated them, based on SEA's criteria of significance, in the Board's environmental regulations at 49 CFR 1105. In the Draft EIS, SEA recommended mitigation at crossings where the analysis found that mitigation would be warranted. See Appendix N, "Community Evaluations," of this Final EIS for further discussion.

SEA notes that the Tolleston-to-Clarke Junction rail line segment C-024 and a portion of rail line segment C-026 are currently out of service and would have no accidents to include in the grade crossing safety analysis. SEA further notes that rail line segment C-024 would experience an increase from 0 to 5 trains per day, and rail line segment C-026 would experience an increase from 1 to 5 trains per day after the proposed Conrail Acquisition. These increases do not meet SEA's thresholds for environmental analysis. Therefore, SEA did not analyze these rail line segments for grade crossing safety.

Four City Area—Safety: Freight Rail Operations

Summary of Comments. The Four City Consortium expressed the following concern: "Motorists have become used to slow-moving trains, particularly on the BOCT line, which contributes to the around-the-gates problem. In addition, vehicles traveling on east-west Chicago Avenue, which parallels the BOCT line through East Chicago and Hammond, routinely attempt to beat a train to the next open crossing. These problems may be exacerbated by CSX's proposal to raise the maximum train speed on the BOCT line to 40 miles per hour, as motorists who desire to cross this line will not expect increased train speeds."

Response. SEA notes that the Applicants have committed to operational improvements that would allow an increase in freight train speed to 40 miles per hour and to change the highway/rail at-grade warning devices to state-of-the-art constant warning time devices. These changes would decrease the duration of highway/rail at-grade crossing blockages by reducing the time that trains are on the crossing and by reducing gate-down time before trains pass through the crossing.

SEA determined that two rail line segments in the Four Cities could experience significant safety impacts as a result of the proposed Conrail Acquisition. SEA predicted an increase in freight train accidents on rail line segment N-042. SEA also determined that crossing accidents and hazardous materials transport could increase on rail line segment C-027. Therefore, SEA recommends that the Board impose the mitigation measures that Chapter 7, "Recommended Environmental Conditions," of this Final EIS sets forth for these rail line segments.

The Four City Consortium's concern that the existence of several highway/rail at-grade crossings would be affected by higher train speeds is reasonable. However, SEA's experience in other rail mergers and consolidations suggests that, as the number of railroad companies decreases, the need for complex coordination diminishes

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proportionally. Chicago area railroad operations managers have established cooperative communication efforts completely separate from the proposed Conrail Acquisition. SEA understands that these coordination efforts have helped to improve train movements and scheduling of track outages for maintenance. SEA concludes that the combination of fewer entities and the existing communication and cooperation improvements by railroad operations management in the General Chicago Area would allow the Applicants to achieve improvements in train speed. See Appendix N, “Community Evaluations,” of this Final EIS.

SEA also points out that informational and educational efforts by the Applicants (for example, through Operation Lifesaver and in close cooperation with local police departments) typically precede significant increases in train speed through highway/rail at-grade crossings. SEA considers these efforts to be BMPs and does not recommend mitigation (see Appendix P, “SEA’s Best Management Practices for Construction and Abandonment Activities,” of this Final EIS). SEA does recommend, however, that the Board require the Applicants to implement Operation Lifesaver, as Chapter 7, “Recommended Environmental Conditions,” of this Final EIS discusses.

Four City Area—Safety: Other

Summary of Comments. The Four City Consortium expressed the following concern: “After reviewing the CSX and NS operating plans as set forth in the Railroad Control Application in this proceeding, the Four Cities Consortium determined that implementation of those plans is likely to make the serious existing rail-related public health and safety problems in their region significantly worse.”

Response. SEA conducted additional analysis specific to the Four Cities. See Appendix N, “Community Evaluations,” of this Final EIS. The Applicants have committed to improvements that would allow an increase in freight train speed to 40 miles per hour and would change the highway/rail at-grade crossing warning devices to state-of-the-art constant warning time devices. These changes would decrease the amount of time that trains block highway/rail at-grade crossings by shortening train pass-through time and gate down time at crossings. The primary public health issues associated with highway/rail at-grade crossings concern emissions from vehicles idling at crossings and potential delays to emergency response vehicles. SEA maintains that the improvements undertaken by CSX and NS would mitigate the effects associated with the increased number of trains.

SEA determined that two rail line segments in the Four Cities could experience significant environmental impacts as a result of the proposed Conrail Acquisition. On rail line segment N-042, the estimated increase in freight train accidents and crossing accidents would warrant mitigation; likewise, on rail line segment C-027, increased shipments of hazardous materials would also warrant mitigation. SEA recommends that,

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if the Board decides to approve the proposed Acquisition, it require the Applicants to implement the mitigation measures set forth in Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for these rail line segments.

Summary of Comments. The Four City Consortium voiced the following concern: “Train stoppages and blocked crossings occur so frequently that pedestrians, particularly children, routinely climb under or through trains to get from one side of the tracks to the other. Again, this problem will be exacerbated by the Applicants’ projected increases in train traffic in the region.”

Response. SEA clarifies that this is a pre-existing condition. Therefore, SEA encourages the Four City Consortium to work with local law enforcement and the Applicants to increase public education and deter people from this practice. SEA also points out that the Applicants have committed to operational improvements that would allow increased freight train speed and would change the highway/rail at-grade crossing warning devices to state-of-the-art constant warning time devices. These changes would decrease the amount of time that trains block highway/rail at-grade crossings by shortening train pass-through time and gate down time at crossings. See Appendix N, “Community Evaluations,” of this Final EIS for additional detail.

Four City Area—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. The Four City Consortium (East Chicago, Hammond, Gary, and Whiting, Indiana) expressed concerns about increased delay at railroad crossings. The Consortium agreed with the comment in the Draft EIS that “even a small increase in (crossing) delays could exacerbate the problems faced by an urban area with several grade crossings.” According to the Consortium, one of the most significant adverse environmental impacts on the Four City region would arise from the increased delay at highway/rail at-grade crossings. The Consortium voiced the opinion that these delays would have significant potential environmental impacts related to safety and air pollution as well as an adverse impact on cost in terms of the amount of time that occupants of delayed vehicles would incur.

The Consortium indicated that the Draft EIS calculated delay at only 15 of the 29 affected highway/rail at-grade crossings in the area with an ADT of greater than 5,000 vehicles. The Consortium added that it had evaluated all highway/rail at-grade crossings in the area, regardless of ADT volume, and claimed that its evaluation was more appropriate for evaluating cumulative effects of the proposed Conrail Acquisition.

Further, the Consortium indicated that the train speeds used to calculate highway/rail at-grade crossing delay times are inconsistent both with reality and with the Applicants’ own data. Also, SEA assumed in the Draft EIS that the increase in the average train length in northwestern Indiana would be 200 feet. According to CSX’s records for operations after the proposed Conrail Acquisition, the length would be 1,298 feet on certain northwestern Indiana lines. The Consortium calculated revised crossing delay times based on the train speed and train length

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information that it claimed is accurate. The Consortium recommended that the Final EIS reflect the corrected crossing delay times and that SEA calculate the delays for all 108 affected highway/rail at-grade crossings in the Four Cities, regardless of ADT volume.

Response. SEA agrees with the Four City Consortium. As the Consortium noted, 15 of the 29 highway/rail at-grade crossings in the Four Cities met the 5,000-highway-vehicle ADT threshold for traffic delay analysis. In SEA's experience, roadways with ADT volumes below 5,000 would experience only minimal additional vehicular delay from increased train traffic resulting from the proposed Conrail Acquisition. Therefore, SEA did not analyze more than the 15 specified highway/rail at-grade crossings.

SEA applied system-wide average values for train lengths that account for the mix of different trains on each rail line segment. SEA applied typical speed values for delay calculations that are less than the maximum speed allowed on rail line segments. This speed assumption produced conservative estimates of traffic delay at highway/rail at-grade crossings.

Chapter 4, "Summary of Environmental Review," Section 4.19.3, "Four City Consortium, Indiana," and Appendix N, "Community Evaluations," of this Final EIS present SEA's additional analysis of the Four Cities.

Summary of Comments. The Four City Consortium (East Chicago, Hammond, Gary, and Whiting, Indiana) requested additional information regarding train speed inputs used to calculate vehicle delay times in the Four Cities. The Consortium also requested information on all highway/rail at-grade crossings that SEA evaluated in the area, including the number of trains per day that SEA assumed; train length, speed, weight and power; ADT; number of roadway travel lanes; number of tracks; and warning devices.

Response. SEA notes that a number of tables in the Draft EIS presented the information the Four City Consortium requested. Five rail line segments are located in the Four Cities in Lake County: C-023, C-024, C-026, C-027, and N-042. Table 5-IN-9, "Highway/Rail At-Grade Crossing Vehicle Delay and Queues," in the Supplemental Errata to the Draft EIS lists 15 highway/rail at-grade crossings that SEA evaluated for traffic delay and presents the following information: trains per day, length of trains, train speeds, ADT, and number of roadway travel lanes. Appendix A, "Rail Line Segments and Traffic Density Changes," of the Draft EIS displays gross tonnage by rail line segment, where the analysis assumed the amount of power on each train would be typical of railroad practices. Table 5-IN-8, "Highway/Rail At-Grade Crossing Accident Frequency," in the Draft EIS lists the present type of warning devices at highway/rail at-grade crossings that SEA analyzed for safety. For the prediction of vehicle delay, SEA used a conservative approach that did not differentiate among different types of warning devices.

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Summary of Comments. NS commented that the Draft EIS directed NS to negotiate with the Four City Consortium and the Indiana Department of Transportation to address traffic delay concerns at nine highway/rail at-grade crossings in the Four Cities. NS stated that the highway/rail at-grade crossings do not exceed the Draft EIS significance criteria for delay, and therefore do not warrant mitigation. NS suggested that public comment was the sole reason for this condition, which SEA did not support with technical analyses.

Response. SEA disagrees with NS's comment in light of the fact that the CSX rail line segment C-023 runs through the Four Cities. SEA analyzed the change in vehicle delay in the Four Cities that would result from the increase in train traffic after the proposed Conrail Acquisition. The number of trains on the Pine Junction-to-Barr Yard CSX rail line segment C-023 would increase by 1.7 trains per day, from 30.0 trains per day before the proposed Conrail Acquisition to 31.7 trains per day after the proposed Acquisition.

None of the nine highway/rail at-grade crossings along this rail line segment in the Four Cities would meet SEA's criteria of significance for vehicle delay. Appendix N, "Community Evaluations," of this Final EIS discusses the proposed improvements in the Four Cities. Chapter 7, "Recommended Environmental Conditions," of this Final EIS addresses the proposed mitigation for the Four Cities in more detail.

Summary of Comments. CSX commented that the traffic delay calculations in the Draft EIS overstated the "post-Acquisition" traffic delay for the nine crossings in the Four Cities. CSX held that the calculations did not take into account the increased average speed on the Pine Junction-to-Barr Yard rail line segment that would result from the capital improvements and the operational improvements that CSX plans for the rail line and for its rail lines in the Chicago area as a whole. CSX stated that the increased speed would actually decrease traffic delays as a result of the proposed Conrail Acquisition.

CSX indicated that SEA directed CSX to consult with Gary, Indiana regarding a number of potential environmental impact categories. CSX added that the Draft EIS indicated that SEA may recommend mitigation in the Final EIS if CSX does not enter into a binding agreement regarding mitigation measures. CSX pointed out that it is currently consulting with Gary about these issues as part of its consultation with the Four City Consortium. CSX stated that it would inform SEA if it reaches an agreement with the Four City Consortium, and SEA can document the final agreement in the Final EIS for consideration by the Board.

CSX commented that the Board should not impose a voluntary agreement relating to a pre-existing condition in the Four Cities as a condition of approval for the proposed Conrail Acquisition. CSX also stated that it would not be appropriate for the Board to impose its own condition in the event that CSX and the Four City Consortium do not reach an agreement. CSX suggested that the Final EIS should simply document any voluntary agreement that CSX and the Four Cities may reach with respect to the pre-existing situation under discussion. If they reach

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no agreement by the time of the Final EIS distribution, the Final EIS should report that the parties are consulting.

Response. SEA analyzed the change in traffic delay that would result from the Acquisition-related increase in train traffic in the Four Cities. The number of trains on the Pine Junction-to-Barr Yard rail line segment C-023 would increase by 1.7 trains per day, from 30.0 trains per day before the proposed Acquisition to 31.7 trains per day after the proposed Acquisition. Because this increased number of trains did not meet the Board's thresholds for environmental analysis, SEA's analysis did not address highway/rail at-grade crossings along this rail line segment.

Chapter 4, "Summary of Environmental Review," Section 4.19.3, "Four City Consortium," of this Final EIS presents additional analysis regarding the Four City Consortium, Indiana. SEA encourages CSX and the Four City Consortium to continue discussions leading to a voluntary agreement between the parties. Appendix C, "Settlement Agreements and Negotiated Agreements," contains a listing of applicable agreements in place at the time of the printing of this Final EIS.

Summary of Comments. The Four City Consortium commented as follows: "The frequent crossing blockages habitually prevent emergency police, fire and ambulance vehicles from responding in a timely manner to calls that require such vehicles to use rail/highway at-grade crossings." The Four City Consortium noted that the emergency response problem is particularly acute at crossings along the BOCT rail line between Pine Junction and Calumet Park. When a train stops in the East Chicago and Hammond central business districts, it blocks several highway/rail at-grade crossings because of the close spacing of cross streets.

Response. The emergency response delays that the comment cited are pre-existing problems, not a result of the proposed Conrail Acquisition. CSX's original operating plan included an Acquisition-related increase of 5.7 trains per day on the BOCT rail line between Pine Junction and Calumet Park, which is part of the CSX Pine Junction-to-Barr Yard rail line segment (C-023). This increase is less than SEA's threshold for environmental analysis of an increase of 8 trains per day. SEA notes that in response to the concerns that the comment raised, CSX revised its Operating Plan to increase the train traffic on this rail line segment by 1.7 trains per day as a result of the proposed Conrail Acquisition.

In the Four Cities, the CSX Willow Creek-to-Pine Junction rail line segment (C-027) met or exceeded SEA's threshold for environmental analysis. All highway/rail at-grade crossings in the Four Cities on this rail line segment are grade-separated; therefore, the increase would cause no impacts on emergency response and mitigation is not warranted. Appendix N, "Community Evaluations," of this Final EIS contains a discussion of the effects of the proposed Conrail Acquisition on the Four Cities, Indiana area.

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Four City Area—Transportation: Roadway Systems

Summary of Comments. The Four City Consortium stated that the “negative impacts associated with the Application are largely attributable to the Applicants’ proposed increases in rail traffic movements over certain line segments heavily laden with rail/highway at-grade crossings....”

Response. SEA notes that it conducted site visits and additional analysis. SEA addresses these and other concerns in its additional analysis on the Four City Consortium in Chapter 4, “Summary of Environmental Review,” Section 4.19.3, “Four City Consortium, Indiana,” and Appendix N, “Community Evaluations,” of this Final EIS.

Four City Area—Transportation: Other

Summary of Comments. The Four City Consortium stated that the proposed Conrail Acquisition would have adverse environmental impacts. As reasons, they cited the planned reinstatement of rail service on a long-unused rail right-of-way that directly traverses the heart of Gary, Indiana and increased rail traffic over certain rail line segments. The attorneys proposed an alternative routing plan and recommended that the Board require the implementation of this plan as a condition of the proposed Conrail Acquisition. One part of the alternative routing plan would reroute some CSX traffic that would move between Willow Creek, Indiana and Calumet Park, Illinois. The rerouted traffic would move from the CSX/BOCT rail line via Pine Junction (Gary), Indiana to a parallel route consisting of Conrail’s Porter Branch (that CSX would acquire) between Willow Creek and would add a connection with the Indiana Harbor Belt’s Gary-Calumet Park line near Virginia Street in Gary as the alternative routing plan proposes.

The second part of the alternative routing plan is an alternative to CSX’s plan to acquire from NS and restore to service the portion of the former Pennsylvania Railroad’s Fort Wayne-to-Chicago line between Hobart, Indiana and Clark Junction (Gary), Indiana. The plan proposes that CSX reroute this traffic to a parallel route via the NS line between Hobart and Van Loon, Indiana, and from there via the Elgin, Joliet, and Eastern Railway Company rail line between Van Loon and a connection with both the Eastern Railway Company and CSX lakefront lines near Pine Junction.

The Consortium stated, “If, after considering the Four Cities’ ARP [alternative routing plan] in more detail, the SEA still believes that negotiation between the Applicants and the Consortium is the most appropriate mitigation action, then the Four Cities would request, at a minimum, that SEA’s Final EIS recommend that moratoriums be placed on (a) any increases in railroad traffic moving over the BOCT line between Pine Junction and Calumet Park above current levels (28 trains per day), and (b) the rehabilitation of, and reinstatement of service on, the former Pennsylvania Railroad line between Hobart and Clarke Junction.”

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Response. SEA's preference in resolving environmental concerns is to encourage the community and the Applicant to work together to develop a mutually agreeable solution. However, SEA realizes that agreements are not always reached; in such cases, SEA may independently develop and recommend mitigation. In the Four City Consortium case, SEA thoroughly evaluated both the Applicant's Operating Plans and the Consortium's proposed revisions on rerouting options. See Chapter 4, "Summary of Environmental Review," and Appendix N, "Community Evaluations," of this Final EIS for this additional analysis.

SEA has concluded that the reactivation of the former Pennsylvania Railroad line from Hobart-to-Clark Junction would not result in significant environmental impacts. SEA also determined that mitigation of the potential environmental impacts of the operation of additional freight trains on the Pine Junction-to-Barr Yard rail line segment could be achieved by the implementation of certain operational and safety improvements. Chapter 7, "Recommended Environmental Conditions," of this Final EIS describes SEA's recommended mitigation measures. CSX has also modified its operation plan to reroute some traffic from the Pine Junction-to-Barr Yard rail line segment, thus reducing the net increase to 1.7 trains per day on this segment. SEA concludes that because it has addressed the potential environmental impacts, a moratorium is inappropriate.

Four City Area—Energy

Summary of Comments. The Four City Consortium questioned the assumptions SEA used to identify energy-related impacts. The Consortium questioned why SEA accepted the Applicants' estimates of a net system-wide reduction in diesel fuel consumption while SEA acknowledged that the Applicants probably overestimated the truck-to-rail diversions that would occur. The Consortium also questioned the conclusion that mitigation would not be necessary for individual crossings because "there would be no significant system-wide changes in energy use due to vehicle crossing delays..." The Consortium commented that SEA's conclusions "ignore the cumulative impacts of grade crossing delays at the many interrelated grade crossings, particularly on the BOCT line between Pine Junction and Calumet Park. The Conrail transaction will clearly result in a substantial increase in fuel and oil consumption by idling vehicles delayed at blocked grade crossings in this region."

The Applicants also commented on the estimated fuel savings that the Draft EIS predicted. CSX and NS contended that the statement in the Draft EIS regarding a "post-Acquisition" fuel savings of 80.1 million gallons is incorrect; they estimated that the actual savings would be 133.6 million gallons. The Applicants maintained that the Final EIS should present this cost savings as a net positive impact.

NS also commented regarding fuel savings at highway/rail at-grade crossings. NS stated that the analysis described in the Draft EIS "arbitrarily excludes at-grade crossings with ADT greater

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than 5,000 projected to experience decreases in train traffic. This analysis thereby overestimates fuel consumption and fails to assess the benefits ... associated with the Transaction.”

Response. SEA based its system-wide analysis of the proposed Conrail Acquisition’s potential energy impacts on predicted diversions of freight from truck to rail transport. SEA concluded that a substantial reduction in fuel consumption would result from predicted truck-to-rail diversions, and that other sources of change in fuel consumption would be insignificant in comparison. SEA acknowledged in the Draft EIS that there was probably a level of duplication in the estimates of gross ton-miles diverted from truck to rail transport, because of the competitive nature of the proposed Acquisition. However, SEA concluded that the order of magnitude of the estimates, and thus the reduction in fuel consumption, was reasonable.

SEA estimated fuel consumption changes attributable to delays at highway/rail at-grade crossings that SEA studied for delay. For example, SEA evaluated crossings with a roadway ADT volume of 5,000 or more vehicles per day, which exceeded the Board’s thresholds for environmental analysis. SEA determined that, while consumption of fuel increased at highway/rail at-grade crossings, the overall potential environmental impacts would be insignificant when compared in magnitude to the system-wide reduction in fuel consumption attributable to truck-to-rail diversions.

With regard to the Applicants’ comments that the fuel savings that the Draft EIS presented were erroneous, SEA notes (as the Applicants commented) that the estimated reduction in fuel consumption as a result of predicted truck-to-rail diversions is 133.6 million gallons of diesel fuel. SEA estimated that, based on the Applicants’ projections, 53.5 million gallons of fuel would be consumed by increased rail traffic not related to truck-to-rail diversions. Thus, SEA estimated that the net reduction in fuel consumption from the proposed Conrail Acquisition would be 80.1 million gallons of diesel fuel, which would represent a substantial reduction in fuel consumption and would provide an overall benefit of the proposed Conrail Acquisition.

Finally, regarding NS’s comment on fuel savings at highway/rail at-grade crossings, SEA acknowledges that the Draft EIS’s analysis of potential energy impacts of delays at highway/rail at-grade crossings considered only those crossings that SEA studied for delay. SEA determined that the very small increase in fuel consumption at those crossings that it studied would be insignificant in comparison to the substantial reduction in fuel consumption attributable to truck-to-rail diversions. Further, SEA maintains that, while the delay analysis did not encompass crossings where there would be a decrease in train traffic, the potential energy impacts of these grade crossings would be similarly insignificant.

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Four City Area—Air Quality

Summary of Comments. The Four City Consortium commented that SEA inexplicably determined that the air quality impacts in Lake County would not be significant, despite the fact that NO_x emissions estimates in the Draft EIS exceeded SEA's significance criteria for the imposition of mitigation measures. The Consortium further stated that SEA not recommending mitigation measures for potential air quality impacts is unacceptable, in light of mitigation measures already undertaken by State, County, and local officials.

Response. SEA has concluded that the projected 2 percent increase in Lake County NO_x emissions would not significantly affect local ozone levels and would not affect ozone attainment status. Recent studies by the Ozone Transport Assessment Group have shown that NO_x effects on ozone nonattainment are primarily a regional concern, not a local one. Therefore, SEA concludes that the small local NO_x emissions changes that the Draft EIS showed would not have any measurable effect on local ozone attainment in Lake County. Accordingly, SEA is not proposing mitigation measures for NO_x emissions increases in Lake County. In addition, SEA expects EPA's new locomotive emissions rule to offset emissions increases from train traffic within a few years. See Appendix I, "Air Quality Analysis," of this Final EIS for further discussion.

Summary of Comments. The Four City Consortium commented that SEA failed to consider significant air quality impacts that would result from increased delays at highway/rail at-grade crossings in the Four Cities.

Response. SEA performed a screening air quality impact analysis of emissions from vehicles delayed at highway/rail at-grade crossings. SEA used conservative assumptions in the analysis, as described in Appendix I, "Air Quality Analysis." The analysis demonstrated that emissions from vehicles delayed at highway/rail at-grade crossings would not cause pollutant concentrations to exceed the NAAQS in the Four Cities.

Summary of Comments. The Four City Consortium stated that the air quality analysis in the Draft EIS was flawed because SEA evaluated only the potential environmental effects of highway/rail at-grade crossings with ADTs over 5,000 vehicles. The Consortium maintained that the air quality analysis should have included the potential effects of all highway/rail at-grade crossings in the Four Cities.

Response. As an example of the relative emissions contribution of highway/rail at-grade crossings with ADTs of fewer than 5,000 vehicles, SEA selected a representative county as an example to analyze. The results of SEA's analysis of all affected highway/rail at-grade crossings in Cuyahoga County, Ohio appear in the Draft EIS, Appendix E, "Air Quality," Section E.7.5, "Grade Crossings," and Attachment E-10, "Emissions for All Affected Roadway Crossings." This analysis demonstrates that emissions from highway/rail at-grade crossings with ADTs of fewer than 5,000 vehicles are minimal.

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Based on this conservative analysis, SEA concludes that contributions of air pollutant emissions from traffic at highway/rail at-grade crossings with ADTs of fewer than 5,000 would not significantly affect the outcome of the air quality analysis.

Summary of Comments. The Four City Consortium has requested that SEA, as a part of its Final EIS, conduct a conformity determination to ascertain the potential environmental impact of the Application on the Four Cities.

Response. SEA notes that the Board has determined that General Conformity does not apply to the proposed Conrail Acquisition. EPA has stated that “it is up to each Federal agency to review its own unique legal authority and determine what emission-generating activities it has the ability to control.” (See *General Conformity Guidance: Questions and Answers*, EPA Office of Air Quality Planning and Standards, July 13, 1994, page 14.) The Board examined the issue of control and determined that it cannot practicably control railroad emissions as part of a continuing program responsibility. See Chapter 4, “Summary of Environmental Review,” of this Final EIS for additional discussion of General Conformity Rules and their applicability.

Four City Area—Land Use and Socioeconomics

Summary of Comments. The Four City Consortium questioned the lack of land use and socioeconomic analysis for the Pennsylvania Railroad Hobart-to-Clarke Junction line. The Consortium noted that the rail line would require substantial rehabilitation to restore it to service. Also, the Consortium contended that reactivation would have potential negative environmental impacts on land use and socioeconomics.

Response. SEA evaluated the land use effects of proposed new rail line construction and rail line abandonments based on the EIS scope. Because neither is the case for this rail line, the asserted effects are beyond the scope of the EIS for land use and socioeconomics. SEA has no evidence that the legal status of the right-of-way has changed. While the reactivation of this rail line segment (which the Four City Consortium’s comment stated has been inactive for approximately 10 years) may cause effects, SEA determined that these effects would be beyond the scope of the EIS. Given the continued physical presence of the rail infrastructure, conditions do not support an assertion that the proposed reactivation would negatively affect land use.

Four City Area—Noise

Summary of Comments. The Four City Consortium expressed concern that three rail line segments met the Board’s noise threshold for environmental analysis, yet SEA proposed no mitigation. The rail line segments that the Consortium identified are the former Pennsylvania Railroad rail line segment between Tolleston and Clark Junction, the former Pennsylvania Railroad rail line segment between Warsaw and Tolleston via Hobart, and the CSX rail line

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segment between Willow Creek and Pine Junction. The Consortium commented that receptors near grade crossings would experience increased horn noise and requested that SEA consider an alternative routing plan (that the Consortium developed) for mitigation of noise impacts.

Further, the Consortium commented that SEA failed to consider noise impacts along the Pennsylvania Railroad Hobart-to-Clarke Junction rail line segment, which is currently inactive. The Consortium expressed concern that Roosevelt Manor, a proposed low-income housing project in Gary, would be located close to the rail line and would suffer noise impacts.

Response. SEA notes that the Board's regulatory thresholds for noise analysis are different from SEA's mitigation criteria. The regulatory thresholds establish when SEA should conduct noise analysis; SEA then uses the mitigation criteria to determine whether specific impacts warrant mitigation. This explains why some rail line segments may meet the Board's thresholds for environmental analysis but, after applying the mitigation criteria, SEA does not propose that the Board impose mitigation conditions.

SEA also recognizes that increased daily train traffic can result in increased noise near the rail line and at highway/rail at-grade crossings. Currently, regulations typically require trains to sound their horns one-quarter mile from highway/rail at-grade crossings, and this results in noise exposure to residences in the surrounding area. The purpose of sounding the horn is to warn motorists and others at the crossing devices of approaching trains.

FRA is developing Quiet Zone Rules to provide a mechanism for reducing noise impacts without sacrificing safety. FRA is also considering the use of four-quadrant gates or median barriers, which are designed to keep motorists from driving around the highway/rail at-grade crossing gate arm as a train approaches. FRA expects to incorporate the results of its evaluation of these alternative technologies into the FRA's proposed Quiet Zone Rules; however, FRA has not yet proposed these rules, and therefore, SEA cannot incorporate them into this action.

The Applicants are reviewing the alternative routing plan that the Four City Consortium developed; however, the Applicants have not made a decision regarding rerouting rail traffic in this region (see Appendix N, "Community Evaluations," of this Final EIS).

The commentator suggested that SEA failed to consider noise impacts along the Pennsylvania Railroad Hobart-Clarke Junction rail line segment, which is currently inactive. This suggestion is not correct because SEA performed a site-specific noise impact analysis for this rail line, which the Applicants designate as rail line segment C-026. See Chapter 4, "Summary of Environmental Review," and Appendix J, "Noise Analysis," for a discussion of the results of this analysis.

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In regard to the Four City Consortium's concern that the proposed Roosevelt Manor low-income housing project in Gary would lie in close proximity to this rail line segment and would experience noise impacts, SEA reviewed the location of the proposed Roosevelt Manor project. The proposed site is a vacant 20-acre parcel adjacent to rail line segment C-026. There are highway/rail at-grade crossings on both the east and west sides of the parcel. SEA determined that the distance to the 65 dBA L_{dn} contour of the post-Acquisition highway/rail at-grade crossing would be 361 feet. A large portion of the parcel lies within this contour line. SEA concluded that mitigation for highway/rail at-grade crossing noise is not warranted; however, the FRA Quiet Zone Rule may provide a mechanism to reduce the area of noise impacts from highway/rail at-grade crossing noise.

Four City Area—Environmental Justice

Summary of Comments. The Four City Consortium commented on the environmental justice analysis regarding:

- NS's planned reactivation of the Hobart-to-Clark Junction rail line segment, which would adversely affect the proposed Roosevelt Manor moderate- to low-income housing project.
- Failure to find significant impacts on environmental justice populations in the City of East Chicago and the Pine Junction-to-Calumet Park rail line segment.

The Four Cities Consortium also commented that its alternative routing plan reduces effects on environmental justice populations.

Response. SEA calculated the percentage of low-income population by using 1990 Census data and a Geographic Information System, which is a tool to determine which block groups fell within the Area of Potential Effect for a rail line segment or a site. SEA divided the low-income population by the total population within the Area of Potential Effect, and SEA used this percentage to determine whether the population within the Area of Potential Effect met the thresholds for environmental justice analysis. The thresholds are: the low-income population percentage must be greater than 50 percent of the total population, or the low-income population must be 10 percent greater in the Area of Potential Effect than in the county as a whole.

The Hobart-to-Clarke Junction rail line segment did not meet the initial environmental justice criteria for further analysis. See page K-19 in the Draft EIS, Appendix K.

The population in the Area of Potential Effect surrounding the Pine Junction-to-Barr Yard rail line segment (C-023), including Calumet Park, did not meet the initial environmental justice criteria for further analysis (see page K-19 in Draft EIS, Appendix

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K, “Environmental Justice”). The Willow Creek-to-Pine Junction rail line segment did meet the initial environmental justice criteria for further analysis. See page K-23 in the Draft EIS, Appendix K.

The Indiana Harbor, Indiana-to-South Chicago, Illinois rail line segment (N-047), which runs through East Chicago, did not meet the initial environmental justice criteria. The CP-501 to Indiana Harbor (N-042) rail line segment, which also runs through East Chicago, did meet the first environmental justice criterion for the presence of minority and low-income communities, but did not meet the second criterion. There were no environmental effects along the segment that met the thresholds for significance.

For the Final EIS, all of the block groups along these segments experienced multiple resource effects scoring in the low range, but there were no disproportionate impacts in any of these block groups.

SEA performed an analysis of alternatives in the Four Cities for this Final EIS, which is presented in Chapter 4, “Summary of Environmental Review.” See Appendix M, “Environmental Justice Analysis,” and Appendix N, “Community Evaluations,” of this Final EIS for a full discussion of the analysis and findings.

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Four City Area—Cumulative Effects

Summary of Comments. The Four City Consortium stated, “The Four Cities strongly urge the Board to evaluate, in a meaningful fashion, the significant cumulative environmental, safety, and socioeconomic impacts on the residents and communities of northwest Indiana region that would be created by the Applicants’ proposed incremental increases in railroad traffic using the BOCT Line between Pine Junction and Calumet Park and reinstatement of service on the portion of the Pennsylvania Railroad line between Hobart and Clarke Junction.”

Response. SEA has performed additional site visits and site-specific analysis to address these Four City Consortium concerns. Chapter 4, “Summary of Environmental Review,” Section 4.19, “Four City Consortium, Indiana,” and Appendix N, “Community Evaluations,” of this Final EIS discuss this analysis.

Summary of Comments. The Four City Consortium commented on NS’s reactivation of rail service on the Pennsylvania Railroad Hobart-to-Clarke Junction rail line segment, which has been inactive for the last 10 years. The Consortium stated that this would interfere with its plans to expand the Gary/Chicago Airport and impede plans for the redevelopment of Gary’s Lake Michigan waterfront. The Consortium continued, “SEA did not examine any cumulative impacts involving either of the two line segments of principal concern to the Four Cities: the BOCT rail line segment between Pine Junction and Calumet Park, and the former Pennsylvania Railroad rail line...” The Consortium added that “post-transaction operating plans will have a very substantial cumulative impact on the Four Cities region, particularly in the area of rail/highway grade crossing safety and delays.”

Response. SEA has no evidence that the reactivation of rail service on the Pennsylvania Railroad Hobart-to-Clarke Junction rail line segment would result in a cumulative effect that would interfere with the future expansion of the Gary/Chicago Airport. The presence of the rail line embankment would not affect the airport’s goal to upgrade from a reliever/general aviation airport to a commercial service airport for passengers. The principal runway is unaffected by the embankment. Airport plans are not sufficiently advanced for SEA to determine whether the presence of an active railroad line on this embankment represents a potential obstacle to airplanes landing on or departing from a future extended runway. The airport’s plan is not sufficiently advanced for Federal Aviation Administration to determine whether, or precisely how, such a condition would affect operations.

Also, SEA has determined that plans to expand the runway in the direction of the Conrail rail line are not sufficiently advanced to consider in its cumulative effects analysis for the proposed Conrail Acquisition. The airport layout plan, which guides present development, is scheduled for augmentation by a master plan update beginning in 1998. The airport has not planned, approved, and funded an extension of the runway bordered by a Conrail rail line. The airport acquired land as early as 1979, under the Airport

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Development Aid Program, to protect the existing runway approach. Problems with contamination and funding have slowed additional acquisitions. Future additional acquisition of commercial land, and relocation of Industrial Highway (Route 20) near the airport would be necessary to expand the runway to the northeast in the direction of the Conrail rail line.

Future development that is not railroad-related, such as Gary's Lake, Michigan waterfront, would likely include traffic analysis, where appropriate. SEA does not anticipate that increased rail traffic associated with the proposed Conrail Acquisition would impact such development.

SEA evaluated other potential projects or activities that, when combined with the proposed Conrail Acquisition, could create a cumulative effect. SEA became aware of these projects or activities through public comments from local agencies. SEA analyzed the potential environmental impacts on specific resource categories, and SEA considered agency and public comments to develop the scope of analysis for the EIS and to assess potential environmental impacts. Often, perceived cumulative effects are actually multiple resource effects, and cognizant agencies can best determine mitigation for potential impacts through resource-specific mitigation techniques. For the proposed Conrail Acquisition, however, individual resource category impacts in some instances did not exceed the respective thresholds that the Board established for analysis in the Draft EIS. In accordance with the scope of the EIS and as Chapter 4, "Summary of Environmental Review," Section 4.18, "Cumulative Effects," explains, SEA did not consider aggregated multiple resource effects in its cumulative effects analysis.

SEA did analyze highway/rail traffic delays resulting from increased freight rail traffic, and it determined that potential delays in the Four Cities would not be large enough to result in deterioration of the LOS. The LOS for roads in that area ranged from A to D. Acquisition-related increased train traffic would not cause LOS D roads to deteriorate.

Four City Area—General

Summary of Comments. The Four City Consortium requested detailed train speed data that SEA used in the Draft EIS for calculations for 15 highway/rail at-grade crossings. The Consortium requested this information in time to review and address it in comments prior to the February 2, 1998 comment period closure.

Response. SEA acknowledges the request for information and has responded by letter.

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Indianapolis Metropolitan Area—Transportation: Roadway Systems

Summary of Comments. According to Indianapolis Power & Light, the Applicants insist that trucks are the real competition for transporting coal to its Stout Plant. The commentor stated that, if the “Board were to accept the Applicants’ contention” that trucks are the preferred transportation mode to and from the Stout Plant, a significant volume of trucks would use area roadways following the proposed Conrail Acquisition, thereby adversely affecting traffic and road conditions.

Response. With respect to Indianapolis Power & Light’s concern regarding access to competition by shippers of coal to its Perry K and Stout Plants, SEA notes that issues relating to competition of the railroads are not within the scope of the environmental impact analysis. Rather, the Board will consider these issues collectively with SEA’s environmental analysis before making its decision.

Based on information from the Applicants and in Indianapolis Power & Light’s comment, and in view of the fact that rail access would remain available, SEA does not consider it to be a foregone conclusion that the proposed Conrail Acquisition would result in truck transport. SEA has determined that analysis of the potential environmental effects of such truck traffic is not within the final scope of the EIS.

Northeastern Indiana—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The City of New Haven, Indiana requested that the Board require the Applicants to install four-quadrant gates to create a “secured crossing” near the residential areas bordering the rail lines in New Haven at the following locations: West Street, Rose Avenue, Landin Road, North Rufus Street, Estella Avenue, Hartzell Road, and Main Street. The City noted that it has experienced two serious accidents involving trains and automobiles in the past 4 years.

Response. SEA’s safety analysis of the intersections that the comment notes showed that only Estella Avenue would potentially be significantly impacted by an increase in train traffic related to the proposed Conrail Acquisition. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for SEA’s mitigation recommendations. The State is already studying the upgrade of the flashing light warning device at this location independent of the proposed Conrail Acquisition. The Applicants would fund the installation of standard gate warning devices at this location. If other funds are available, however, the local authority may decide to install four-quadrant gates or other approved enhanced crossing warning systems at this and other locations.

Summary of Comments. The City of Fort Wayne, Indiana recognized that the installation of four-quadrant gates to create “secured” crossings would be necessary before it would be safe to

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delete train horns at the following intersections or locations: Lombard Street, Wabash Avenue, Fletcher Avenue, Winter Street, Brooklyn Avenue, and Nuttman Avenue.

Response. SEA noted that the Draft EIS did not recommend any change in the sounding of train horns. SEA recognizes the importance of train horns to safety. FRA is developing regulations that would allow communities and railroads to receive FRA approval for alternatives to train horns. SEA expects these potential regulations to address four-quadrant sites. The Draft EIS states, “Until such regulations are in place, SEA does not believe it would be appropriate to recommend mitigation measures to reduce train horns because of safety implications.”

Northeastern Indiana—Safety: Hazardous Materials Transport

Summary of Comments. The City of Fort Wayne, Indiana requested that the Applicants pay for upgrades to computers and for metering and testing equipment for the City’s emergency response team in response to a proposed fivefold increase in cars carrying hazardous materials.

Response. SEA recognizes the concerns of the City of Fort Wayne. SEA has recommended mitigation for rail line segments that were considered “key routes” as Chapter 7, “Recommended Environmental Conditions,” of this Final EIS discusses. SEA does not recommend additional mitigation.

Northeastern Indiana—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. CSX commented that the Draft EIS identified a recommended grade separation for the Randolph Street highway/rail at-grade crossing in Garrett. CSX indicated that it has been discussing this grade separation with the City of Garrett and the Indiana Department of Transportation since 1995. CSX stated that it has committed to sharing the cost of this construction, but the Indiana Department of Transportation has not funded the remainder of the cost at this time. CSX asserted that there is no reason for SEA to recommend any further action on this grade separation in the Final EIS. CSX added that “the suggestion of a binding arbitration procedure in the event that agreement is not reached by the time the Final EIS is issued is problematic.” CSX suggested that requiring such a condition would be beyond the Board’s jurisdiction.

Response. The Board has broad authority to impose certain conditions, such as grade separations, to mitigate the impacts of the proposed Conrail Acquisition. The Board recognizes agreements between the Applicants and local communities involving grade separations, as long as the parties develop a future implementation plan. Lacking an agreement, however, and because the increased train traffic and slow speeds resulting from the proposed Conrail Acquisition would significantly affect traffic delay at this crossing, SEA recommends mitigation as discussed in Chapter 7, “Recommended Environmental Conditions,” of this Final EIS.

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Northeastern Indiana—Noise

Summary of Comments. The Cities of Fort Wayne and New Haven, Indiana expressed a concern about railroad-related noise, particularly from train horns at highway/rail at-grade crossings near neighborhoods bordering rail lines. The Cities noted their interest in the FRA mandate, under the Swift Rail Act of 1994, to develop “whistle ban” regulations. The Cities cited the expected publication of the notice of proposed rule making in the first half of 1998 and expressed the hope that these rules would create opportunities to safely reduce train horn sounding at grade crossings. The Cities expressed interest in the development of loudspeaker horn technology at highway/rail at-grade crossings to reduce the potential noise impacts of train horns on nearby residences.

Response. SEA recognizes the commentor’s concern regarding noise at highway/rail at-grade crossings. Under the Swift Rail Act of 1994, Congress directed FRA to issue rules and specifications regarding the use of train horns at all highway/rail at-grade crossings. FRA is tentatively scheduled to release these rules, including preliminary rules and specifications, during 1998. These rules would preempt local ordinances that ban train horns and whistles except where other demonstrable measures provide the same level of safety. Quiet Zones or future whistle bans might only occur where FRA found that the alternate safety measures were equal to the existing practice of sounding train horns at highway/rail at-grade crossings. FRA is studying safety measures, such as the placement of four-quadrant gates and automated horn systems, as alternatives to train horns. FRA expects to incorporate the results of its evaluation of these alternative signaling technologies into its anticipated Quiet Zone Rule. However, FRA has not promulgated the Quiet Zone Rule to date, and therefore SEA cannot incorporate it into this action at this time. Because safety is paramount, SEA does not recommend mitigating train horn noise.

Northeastern Indiana—Hazardous Waste Sites

Summary of Comments. NS commented that there was a conflict on the number of hazardous waste sites within the proposed connection in Butler, Indiana. NS stated that Draft EIS text did not identify the leaking underground storage tank that is approximately 300 feet from the proposed connection listed in Table H-1 of Appendix H, “Hazardous Materials and Waste Sites,” of the Draft EIS. NS requested correction of the inconsistency in the Final EIS.

Response. Table H-1 of the Draft EIS is correct; there is one leaking underground storage tank within 500 feet of the site. The leaking underground storage tank is approximately 300 feet east of the proposed Butler Connection. SEA does not propose site-specific mitigation measures for pre-existing conditions. If NS encounters hazardous materials during construction, it would follow appropriate regulations and procedures that the Draft EIS described in Chapter 3, “Analysis Methods and Potential Mitigation Strategies,” and in Appendix H, “Hazardous Materials and Waste Sites.” Because

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existing regulatory requirements of other agencies and standard construction practices of the Applicants adequately address potential disturbance of contaminated areas, SEA recommends that the Board not require additional mitigation.

Northeastern Indiana—Cumulative Effects

Summary of Comments. The Mayor of the City of Fort Wayne, Indiana, suggested “that the cumulative impacts on this community, particularly in areas of safety, disruption of surface roads, noise, hazardous materials transport, and on low income and minority neighborhoods deserve additional consideration by the STB [the Board], even though the SEA has not found many of these issues to meet their thresholds of mitigation.”

Response. SEA considered agency and public comments in developing the scope of the EIS. The scope included an analysis of the potential environmental impacts on specific resource categories and cumulative effects on a regional or system-wide basis for the resource categories of air quality, energy, and transportation. Also, SEA evaluated cumulative effects on specific resources associated with other projects or activities related to the proposed Conrail Acquisition, where local communities; local, regional, state, or Federal officials; or other interested parties provided information to SEA.

When SEA identified unique or unusual local circumstances where the Board’s established thresholds were not met, SEA evaluated individual or cumulative effects. The Mayor of the City of Fort Wayne did not identify projects or activities that would cause SEA to treat the City differently from any other communities affected by the proposed Conrail Acquisition. SEA determined that the EIS adequately addressed the environmental impacts identified in the comment with respect to Fort Wayne on the basis of individual resource categories. In accordance with the scope of the EIS, SEA did not consider aggregated multiple resource effects in its cumulative effects analysis on a system-wide, regional, or local basis.

Southwestern Indiana—Safety: Hazardous Materials Transport

Summary of Comments. A citizen expressed a concern about the potential environmental impact of radioactive waste transport through Princeton, Indiana.

Response. CSX and NS shipped approximately 3,107 and 6,650 tons, respectively, of radioactive materials system-wide in 1996, which is less than 0.05 percent of the hazardous materials that the Applicants transport. SEA concludes that the regulatory system for transportation of radioactive materials has been successful in minimizing the safety impact from accidents involving such shipments. Few accidents have occurred involving shipments of radioactive materials (averaging less than 50 accidents out of three million annual shipments). Only a small number of those accidents have involved any release of the radioactive contents, and in these instances, radioactive contamination

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has been generally minor with no significant public safety consequences. Therefore, SEA expects no significant potential environmental impacts associated with radioactive materials transport to result from the proposed Conrail Acquisition.

Southwestern Indiana—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. Several residents of Princeton, Indiana stated that NS and CSX tracks cross at the south end of Princeton. According to the residents, the existing train traffic on these tracks blocks access to Princeton from the south for long periods of time. In addition, a Toyota truck factory south of Princeton will be operational by late 1998. This factory will ship its products by rail and could cause additional delay to vehicular traffic.

Response. SEA notes that the current delays that the residents of Princeton discussed are a pre-existing condition and therefore not an impact of the proposed Conrail Acquisition. Also, potential changes in railroad operations relating to the opening of the Toyota truck factory would not be an impact of the proposed Conrail Acquisition.

Nevertheless, SEA analyzed the Broadway Street (FRA ID 342475L) highway/rail at-grade crossing in Princeton for potential impacts from the proposed Conrail Acquisition. Changes in delay resulting from the proposed increase in trains on the Vincennes-to-Evansville rail line segment C-025 are not significant. LOS at the highway/rail at-grade crossing would remain at LOS B, and the crossing delay per stopped vehicle would increase from 1.60 to 1.64 minutes per vehicle.

Because the Broadway Street crossing remains at LOS B, it does not meet SEA's criteria of significance for vehicle delay. Therefore, SEA determined that mitigation of traffic delay at this location is not warranted.

Southwestern Indiana—Cumulative Effects

Summary of Comments. Two citizens in Princeton, Indiana expressed concern that the initiation of Toyota T100 vehicle shipments by rail through Princeton from the Toyota factory south of Princeton would exceed the thresholds for air quality, noise, and vehicular traffic analyses.

Response. SEA evaluated other potential projects or activities that, when combined with the proposed Conrail Acquisition, could create a cumulative effect. SEA became aware of these projects or activities through public comments from local agencies. SEA analyzed the potential environmental impacts on specific resource categories, and SEA considered agency and public comments to develop the scope of analysis for this EIS and to assess potential environmental impacts. Often, perceived cumulative effects are actually multiple resource effects, and cognizant agencies can best determine mitigation for potential impacts through resource-specific mitigation techniques. For the proposed

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Conrail Acquisition, however, individual resource category impacts in some instances did not exceed the respective thresholds that SEA established for analysis in the Draft EIS. In accordance with the scope of the EIS, SEA did not consider aggregated multiple resource effects in its cumulative effects analysis.

SEA analyzed the Broadway Street (FRA ID 342475L) highway/rail at-grade crossing in Princeton, Indiana for changes in delay resulting from the proposed increase in trains on the Vincennes-to-Evansville rail line segment C-025. This highway/rail at-grade crossing does not meet SEA's criteria for a significant increase in vehicle delay.

When SEA identified unique or unusual local circumstances, it evaluated individual or cumulative effects even though the impacts did not meet the Board's thresholds for environmental analysis. The commentors did not identify projects or activities that would cause SEA to treat Princeton, Indiana differently from any other community affected by the proposed Conrail Acquisition. SEA determined that the environmental impacts that the comment identified were adequately addressed with respect to Princeton on the basis of individual resource categories.

The commentor specifically addressed increased rail activity and vehicle traffic delay with regard to the planned opening of Toyota T100 vehicle assembly plant near Princeton. The Applicants have anticipated the associated increased rail activity and have incorporated this factor into their Operating Plans. SEA contacted Indiana Department of Transportation officials and identified no evidence of road changes that could result in additional vehicle traffic delays. Local authorities have not planned, approved, and funded any capital improvements, nor have they made any decisions to close or alter road/highway access related to the plant in order to accommodate the rail shipment activities. Therefore, SEA has determined that it is not necessary to consider plans for the Toyota plant in its cumulative effects analysis for the proposed Conrail Acquisition.

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5.3.8 Kentucky

Kentucky—Other

Summary of Comments. A citizen submitted a letter regarding previous and apparently unrelated actions involving businesses that had rail access in Kentucky.

Response. SEA acknowledges this comment. However, the issues that the citizen identified are not related to the proposed Conrail Acquisition.

Western Kentucky—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The Commonwealth of Kentucky Transportation Cabinet provided information on the seven highway/rail at-grade crossings that SEA identified as warranting safety warning device upgrades. Three of the crossings have recently received upgrades or approval for upgrades. The following upgrades have occurred: upgrade to flashing light signals and bell at the 7th Street crossing in Hopkinsville; proposed upgrade from passive to flashing light signals and bell at the Moss Avenue crossing in Earlington; and programming for upgrade from flashing light signals and bell to flashing light signals and automatic gates at the West Center Street crossing in Madisonville. The Transportation Cabinet added that crossings at Duffey Street in Hopkinsville and West Dixon Street in Sebree will “be considered for upgrade in one of our future Crossing Warning Device Improvement Programs.” The Transportation Cabinet does not concur with SEA’s recommended mitigation measure of separated grade crossings at East 9th Street in Hopkinsville or at West Noel Avenue in Madisonville because “implementation of grade separation projects would have severe impacts on many businesses and residences.” The City of Madisonville commented that the recommended mitigation of the separated grade crossing at West Noel Avenue is not appropriate for the site and that the measure would have potential environmental impacts. The City also noted that the Kentucky Transportation Cabinet, with input from local officials, determines the need for separated grade crossings.

Response. This Final EIS presents SEA’s analysis that includes the information on the three recently completed and/or programmed warning device upgrades at 7th Street in Hopkinsville, Moss Avenue in Earlington, and West Center Street in Madisonville, Kentucky. Based on revised information from the Applicants, the train volume on rail line segment C-021 would increase by 7.3 trains per day instead of 9.3 trains per day following the proposed Conrail Acquisition, which is below SEA’s threshold for environmental analysis for safety.

Western Kentucky—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. The Kentucky Transportation Cabinet noted that the Draft EIS proposed that the Board require CSX to consult with the Cabinet concerning the grade separation

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of West Noel Avenue in Madisonville and East 9th Street in Hopkinsville. The Cabinet stated that it cannot support grade separations at these locations.

CSX commented that the Draft EIS predicted a “post-Acquisition” LOS D at the East 9th Street highway/rail at-grade crossing in Hopkinsville. CSX indicated that their consultant (ICF Kaiser) computed the LOS after the proposed Conrail Acquisition to be C, using updated ADT from the Kentucky Transportation Cabinet. CSX maintained that this potential environmental impact does not warrant mitigation under the significance criterion of the Draft EIS; therefore, the Board should not require further consultation with regard to this highway/rail at-grade crossing. CSX added that the Board should not intervene, and appropriate mitigation should be the responsibility of state and local agencies.

CSX commented that the West Noel Avenue highway/rail at-grade crossing in Madisonville would have an LOS of D following the proposed Conrail Acquisition. CSX stated that the LOS D condition is a result of a 20 mph speed limit through Madisonville. CSX explained that the track would permit speeds of 50 miles per hour in this area, and that the trains need to operate at only 25 miles per hour to achieve LOS C. Therefore, CSX maintained that mitigation for traffic delay is not appropriate under these circumstances. CSX added that the Board should not intervene, and appropriate mitigation should be the responsibility of state and local agencies.

Response. SEA received revised operating data from CSX that indicated a projected increase of 7.3 trains per day on the Evansville, Indiana-to-Amqui, Tennessee rail line segment (C-021). The Draft EIS evaluated the change in traffic delay at the highway/rail at-grade crossings using ADT volumes in the FRA database. The Kentucky Department of Transportation later provided additional ADT data. SEA used the data to reanalyze the LOS at the East 9th Street highway/rail at-grade crossing (FRA ID 345267V), but did not use the additional ADT data for the West Noel Avenue highway/rail at-grade crossing (FRA ID 345331S) because the data appeared to be for a location some distance from the crossing.

The East 9th Street crossing delay analysis that SEA revised for the Final EIS used the ADT volume of 9,040 that the Kentucky Department of Transportation provided. LOS at the East 9th Street crossing would change from LOS B to LOS C, and the crossing delay per stopped vehicle would increase from 2.21 to 2.27 minutes per vehicle. This highway/rail at-grade crossing would not meet SEA’s criteria for a significant increase in vehicle delay, and, therefore, SEA does not recommend mitigation.

LOS at the West Noel Avenue crossing would change from LOS C before the proposed Conrail Acquisition to LOS D after the proposed Conrail Acquisition, and the crossing delay per stopped vehicle would increase from 2.39 to 2.46 minutes per vehicle as was the case when SEA used the original FRA data. This highway/rail at-grade crossing would meet SEA’s criteria for a significant increase in vehicle delay and would require mitigation.

Section 5.3.8—Kentucky

The Draft EIS recommended grade separations at West Noel Avenue in Madisonville and at East 9th Street in Hopkinsville as mitigation for the potential increase in vehicle delay resulting from the proposed Conrail Acquisition. The Supplemental Errata changed the recommended mitigation for these crossings from grade separations to a requirement for consultation between CSX and appropriate state and local officials.

Therefore, in the Final EIS, SEA does not recommend mitigation for delay at the East 9th Street highway/rail at-grade crossing. Furthermore, the Final EIS delay analysis for the West Noel Avenue highway/rail at-grade crossing indicates that increasing the typical train speed by 5 mph to 25 mph would mitigate the significant increase in delay at this crossing resulting from the Acquisition-related increase in train traffic. Train speeds are now restricted by ordinance to 20 miles per hour in Hopkinsville. SEA recommends that the Board require CSX to consult with City officials regarding the modification of this speed restriction and to implement necessary safety enhancements to permit this increase in speed.

Western Kentucky—Cultural and Historic Resources

Summary of Comments. State Representative James E. Bruce, Commonwealth of Kentucky, stated his objection to the East 6th Street and Dudley Street highway/rail at-grade crossings as well as the proposed East 9th Street separated grade crossing. He stated that, in his opinion, “this would detract from—rather than enhance—the current surroundings.” Each of these crossings is located in Hopkinsville.

The Mayor of the City of Hopkinsville, Kentucky expressed his opposition to the grade separation proposed for East 9th Street. The Mayor stated that the grade separation would “disrupt our community,” would result in “numerous adverse consequences” to the established commercial and historic area, and “is not appropriate for this site.”

The Transportation Cabinet of the Commonwealth of Kentucky and the Kentucky Secretary of Transportation voiced opposition to the proposed separated grade crossings at West Noel Avenue in Madisonville and East 9th Street in Hopkinsville. The Cabinet stated that it cannot support or endorse the proposed “mitigated separation.” The Cabinet indicated that the proposed mitigation would have a potential environmental impact on cultural resources. The Secretary termed this mitigation unreasonable.

Response. SEA notes that, as previously stated, based on revised train operating data, traffic on rail line segment C-021 would increase by only 7.3 trains per day as a result of the proposed Conrail Acquisition. Therefore, this rail line segment does not meet the Board’s thresholds for environmental analysis, and SEA withdraws any previously proposed mitigation condition.

Section 5.3.9—Louisiana

5.3.9 Louisiana

Louisiana—Safety: Hazardous Materials Transport

Summary of Comments. The Mayor of New Orleans, Louisiana, on behalf of the City, expressed concern about increased hazardous materials transport through Louisiana from Mobile, Alabama to New Orleans. The Mayor's concerns focused on an increased accident risk and potential environmental impacts that an accident would have on drinking water supplies, wetlands, and wildlife. The Mayor also expressed concern about potential exposures to hazardous fumes and questioned whether CSX and NS would prepare or implement the emergency response plans and drills that the Draft EIS recommended. Finally, the Mayor stated that there is no guarantee that sufficient staff would be available to carry out emergency response plans.

Response. Based on additional information that CSX provided after publication of the Draft EIS, SEA now estimates that hazardous materials transport on rail line segment C-387 through New Orleans would increase from the current 45,000 carloads per year to 54,000 carloads per year following the proposed Conrail Acquisition. This is a change from the increase from 44,000 carloads per year to 88,000 carloads per year that the Draft EIS reported. SEA notes that CSX has designated rail line segment C-387 a key route, and this designation would remain following the proposed Conrail Acquisition. SEA is confident that these measures and existing FRA and DOT regulations would effectively address concerns regarding hazardous materials transport, and SEA therefore does not recommend additional mitigation. Appendix L, "Natural Resources Analysis," of this Final EIS provides additional information on potential hazardous materials transport impacts on natural resources.

Louisiana—Transportation: Roadway Systems

Summary of Comments. The Mayor of New Orleans expressed concern over the proposed increase in truck traffic around NS's Oliver intermodal facility. The Mayor stated that the increased traffic would "create abundant problems for the residents living near the station and for those who travel on Almonaster Avenue, Florida Avenue, Elysian Fields Avenue and Louisa Road."

Response. SEA's analysis determined that the potential environmental impact of additional traffic around the Oliver intermodal facility would be small. The additional truck traffic resulting from the increased truck traffic at the facility would cause an increase in traffic on the major roadways used by trucks that would be below SEA's criteria of significance. As the Draft EIS notes, traffic on Florida Avenue would increase by 2.07 percent, and would not result in significant environmental impacts. See Appendix H, "Transportation: Roadway Systems Analysis," of this Final EIS.

Section 5.3.9—Louisiana

Louisiana—Air Quality

Summary of Comments. The Mayor of the City of New Orleans, Louisiana commented that the Draft EIS did not discuss how increased truck traffic around the Oliver intermodal facility would affect air quality conditions in the community.

Response. In response to the Mayor's comment, SEA points out that it does not expect emissions from trucks accessing the Oliver intermodal facility to cause exceedances of the health-based NAAQS. The projected increase of 63 trucks per day (see the Draft EIS, Table 5-LA-1) represents an ADT increase on affected roadways of only 0.08 to 2.07 percent (see the Draft EIS, Table 5-LA-4). Therefore, SEA does not recommend mitigation.

Louisiana—Noise

Summary of Comments. The Mayor of New Orleans commented that the Draft EIS did not discuss how increased truck traffic on Florida Avenue, Almonaster Avenue, and Louisa Road would affect noise conditions.

Response. As Appendix F, "Noise," Attachment F-2 of the Draft EIS shows, truck traffic at the NS intermodal facility at Oliver Yard in New Orleans would increase from 64 trucks per day before the proposed Conrail Acquisition to 127 trucks per day after the proposed Conrail Acquisition. Thus, traffic would increase by 63 trucks per day, exceeding the Board's thresholds for noise analysis. Noise levels generated by truck traffic would increase by 3 dBA. If truck traffic generated by the intermodal yard were the only audible sound in the area, a 3 dBA increase would be perceivable to most people. However, there are no sensitive receptors in the study area affected by existing operations, and there would not be an effect on sensitive receptors if the Board approves the proposed Conrail Acquisition. Therefore, SEA does not anticipate that the increased truck traffic associated with the proposed Conrail Acquisition would cause a noise impact in the study area.

Table 5-LA-4 of the Draft EIS shows existing ADT volumes and projected increases for Louisa Road, Almonaster Avenue, and Florida Avenue. The noise analysis results show that the total daily truck traffic increase would be less than 3 percent of the ADT for all the study area roadways. This would not result in a perceivable increase in noise impacts along these roadways. See Appendix J, "Noise Analysis," of this Final EIS.

Section 5.3.10—Maryland

5.3.10 Maryland

Maryland—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The Montgomery County (Maryland) Department of Public Works and Transportation disagreed with SEA's estimate of the accident frequency at CSX's Randolph Road highway/rail at-grade crossing. The Department recommended that the Board consider requiring CSX to contribute to the costs of a grade separation at this location. The Department obtained accident data from the Maryland Automobile Accident Reporting System that showed three, two, and one accident at the Randolph Road highway/rail at-grade crossing during 1980-1985, 1986-1987, and 1994-1997, respectively. Thus, the accident rate was at least one every 3 years, higher than the 19-year interval that the Draft EIS projected for Category A highway/rail at-grade crossings. Also, the Department noted that if Maryland maintained a list of the "Top 50" high-risk highway/rail at-grade crossings, the Randolph Road crossing would be the top-rated crossing and the top candidate for grade separation.

Response. SEA's analysis determined that the Randolph Road highway/rail at-grade crossing is on rail line segment C-003, which would not have an Acquisition-related increase of 8 or more trains per day, and therefore does not meet SEA's threshold for environmental analysis. However, SEA did analyze this segment for grade crossing safety. For those segments that met the threshold, SEA applied a standard FRA analytical technique that uses actual accident history as well as information on roadway characteristics, warning devices, track characteristics, and train operations. The Department's use of accident history going back to 1980 is not consistent with FRA methodology. Documentation of FRA methodology notes that accident history older than 5 years reflects highway/rail at-grade crossing characteristics that typically no longer exist, and so does not represent the present accident risk. See Chapter 4, "Summary of Environmental Analysis," of this Final EIS.

Because of the unusual circumstances regarding this crossing—a high ADT volume of 41,000 and an increase of 7 trains per day—SEA did review the safety analysis at this crossing. SEA used the actual accident history that the FRA database contains, which shows two accidents between 1991 and 1995. SEA also used varying speeds, including the 45 mph that the Department suggested. The grade crossing safety analysis results show an accident rate of 0.2249, which would change to 0.2355 after the proposed Conrail Acquisition, a change of 0.0106. SEA concludes that no mitigation is warranted.

Maryland—Safety: Passenger Rail Operations

Summary of Comments. Montgomery County, Maryland requested that "SEA conduct an evaluation of the extent to which increased freight traffic may have [sic] on safety aspects of CSX operation in the 11.4 miles where CSX is in 'common corridor' alignment adjacent to Metrorail passenger service." The County indicated that it and WMATA submitted preliminary

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comments on this situation in the summer of 1997. The County added that the Draft EIS does not address these concerns, and “as of the date of the D[raft] EIS, no site visits to the common corridor segments had been made in response to our or WMATA’s comments on this issue.”

Response. SEA notes that these comments all address the issue of freight train accidents in the corridor adjacent to WMATA’s Metrorail that have the potential to impact Metro operations.

SEA has conducted additional analysis to address passenger train and hazardous materials transport in the common corridor with WMATA Metrorail that included the following seven rail line segments (with the corresponding Metrorail line in parentheses): C-034, Jessup-to-Alexandria Junction (WMATA Green Line); C-003, Washington-to-Point of Rocks (WMATA Red Line) (two locations); C-030, Alexandria Junction-to-Benning (WMATA Orange Line); C-101, Fredericksburg- to-Potomac Yard (WMATA Yellow and Blue Lines); S-011, Bowie-to-Landover (WMATA Orange Line); C-035, Landover-to-Anacostia (WMATA Orange Line); and N-315, Alexandria-to-Manassas (WMATA Blue Line).

The number of freight trains would increase on all seven rail line segments. However, the increase on each segment would be fewer than SEA’s threshold for environmental analysis of an 8-train-per-day increase. SEA undertook additional analysis to address freight train safety, passenger train safety, and hazardous materials movement that included all seven rail line segments.

SEA used the expected interval between freight train accidents to assess the change in safety that would be anticipated if the Board approves the proposed Conrail Acquisition. SEA’s analysis indicated that the interval between accidents would decrease on each of the rail line segments cited above (that is, accidents would become statistically more frequent). However, SEA also notes that on rail line segment C-034, the shortest interval between expected freight train accidents is 154 years now and would be 138 years following the proposed Conrail Acquisition. Five of the seven rail line segments would have intervals greater than the current level of 154 years. Thus, SEA determined the general level of safety would not meet SEA’s criteria of significance, and SEA does not recommend mitigation.

Maryland—Safety: Freight Rail Operations

Summary of Comments. The Department of Public Works for Montgomery County, Maryland expressed a concern that helper locomotives, operating in the “push” mode, could potentially contribute to derailments along the eastbound downgrade of the CSX Metropolitan Branch located in Montgomery County and Washington, D.C. In light of the National Transportation Safety Board’s recommendation to discontinue the practice, the Department suggested that SEA

Section 5.3.10—Maryland

evaluate the risk of seven additional trains operating in this corridor if CSX continues this practice.

Response. SEA understands that the National Transportation Safety Board, the Federal agency responsible for safety oversight of all transportation activities, issued Recommendation R-87-058 following two derailments in 1987 in the Silver Spring-Rhode Island “common corridor” shared by CSX and WMATA. A significant causative factor in these derailments was the use of pusher or helper locomotives at locations other than the head end of the train, and R-87-058 included a recommendation that CSX discontinue the use of pusher locomotives.

A joint WMATA/CSX safety task force reviewed possible methods of improving safety. WMATA and CSX agreed to 13 safety-specific recommendations for the operations, which resulted in the National Transportation Safety Board closing the recommendation with the designation “Acceptable Action.” As a result of the WMATA/CSX task force efforts, CSX developed specific instructions for the safe operation of trains with helper or pusher locomotives for inclusion in its Operating Special Instructions.

SEA understands that these instructions include requirements that, whenever possible, CSX detach helper locomotives before reaching the joint corridor, or, in those cases where the helper locomotive must remain with the train, that the helper not apply power in the critical portions of the joint corridor. SEA concluded that CSX, by using this process, has satisfactorily addressed the derailment of individual trains, and any change in the number of trains does not pose a significant potential risk that would require SEA to perform additional analysis or recommend additional mitigation measures.

Summary of Comments. The Department of Public Works for Montgomery County, Maryland expressed a concern over the 6-mile CSX rail line segment (C-003) between the former QN Tower and Georgetown Junction. The Department pointed out that a 1989 Metro study cited this rail line segment as having a high risk factor. At Georgetown Junction on this rail line segment, a multi-fatality collision occurred between MARC and Amtrak while a CSX westbound freight train was stopped. Therefore, the Department maintained that, with three major freight train accidents having occurred in 9 years, SEA should update its evaluation of this rail line segment. The Department recommended that SEA mandate a CSX speed restriction through the common corridor segments limiting freight operations to 40 to 45 mph instead of the current 55 mph.

Response. SEA recognizes the County’s concern regarding the rail line segment between QN Tower in Washington, D.C. and Georgetown Junction in Silver Spring, Maryland (C-003). SEA’s analysis in the Draft EIS identified that potentially significant Acquisition-related passenger rail safety impacts could occur on this rail line segment. In response to the County’s comment, SEA reviewed its analysis. However, SEA determined that additional analysis of this rail line segment was not warranted. SEA concluded that it is reasonable to expect the modern signal systems that the Applicants

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use will adequately address the increased risk of train collisions. In addition, upon commencement of planned service to and from Frederick, Maryland, MARC trains would operate on only one of the two Brunswick rail line tracks, leaving the other track exclusively for freight service, in accordance with the Operating Agreement between CSX and MARC that they executed in September 1997. Therefore, SEA withdraws its proposed mitigation of temporal separation of passenger and freight trains, and recommends that the Board require that the Applicants work with FRA to apply the best current and future management practices and technologies to avoid hazards. SEA does not recommend additional mitigation such as train speed restrictions through this common corridor area.

Maryland—Transportation: Passenger Rail Service

Summary of Comments. The Maryland Office of Planning consolidated comments on the Draft EIS and submitted them on behalf of various governmental bodies, including Harford County, Maryland. Harford County expressed concern that increased freight traffic would “impact the need for future MARC service” in the County.

Response. SEA concluded that the proposed Conrail Acquisition would not affect Harford County’s plans to increase MARC passenger service. Harford County would experience the lowest increase in the number of freight trains as a result of the proposed Conrail Acquisition of any county or city along the Northeast Corridor between New York and Washington. The number of freight trains on rail line segment S-238 through Harford County would increase by 1.3 trains per day, to a total of 15.6 trains per day.

Amtrak’s Northeast Corridor in Harford County has passenger stations at Aberdeen and Edgewood. MARC Penn Line trains serve both stations with 7 trains per day, and Amtrak serves Aberdeen with 11 trains per day. Harford County is on the rail line segment between Perryville and Baltimore, Maryland. SEA noted that a significant constraint on expanding local MARC service would be the 73 high-speed Amtrak trains, most of which operate on the Northeast Corridor at times the proposed MARC commuter trains would likely be added.

Maryland—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. The Montgomery County Department of Public Works and Transportation stated that SEA should use an operating speed of 45 mph instead of 50 mph to calculate delay at the Randolph Road highway/rail at-grade crossing. The Department pointed out that long trains often travel below 35 mph because of an uphill grade. The Department indicated that this would result in longer vehicle delay at this highway/rail at-grade crossing.

The Department commented that CSX’s projected increase in tonnage would result in one of the following: (a) trains longer than the 6,200 feet that the Draft EIS cited; (b) the operation of

Section 5.3.10—Maryland

more, but shorter trains; or (c) substantially slower westbound (upgrade) speeds than the Draft EIS cited. The Department indicated that any of these changes would cause substantial additional delay at the following highway/rail at-grade crossings: Randolph Road, Forest Glen Road, South Summit Avenue, and Chestnut Street.

Response. In its analysis of highway/rail at-grade crossing delay, SEA determined maximum operating speeds and then adjusted these speeds downward to obtain typical operating speeds and to reflect the factors cited by the commentor. The train lengths are averages provided by the Applicants. SEA continued to use the same factors in the Final EIS as it used in the Draft EIS.

In response to the comment, SEA performed a delay analysis for train speeds of 45 mph and 40 mph, while maintaining the same train length and train counts presented in the Draft EIS. At 45 mph, the LOS both before and after the proposed Conrail Acquisition would be B. At 40 mph, the LOS before the proposed Conrail Acquisition would be B, and the LOS after the proposed Conrail Acquisition would be C. See Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis,” of this Final EIS. SEA concluded, based on this further analysis, that no mitigation for crossing delay is warranted.

Maryland—Transportation: Other

Summary of Comments. The Baltimore Metropolitan Council commented that the Draft EIS did not address the need for improved clearances for the double-stack service that NS proposed for Amtrak’s Northeast Corridor to Perryville. The Council added that the Draft EIS did not address the potential impacts of construction on the Perryville community, a concern that the Maryland Office of Planning also voiced.

Response. The issue regards improvements to allow double-stack movements along an existing rail corridor. These improvements would occur within current railroad right-of-way. According to NS’s Operating Plan, NS intends to fund the construction necessary for Amtrak to increase vertical clearances along the Northeast Corridor from Perryville to Baltimore. Raising the catenary clearances would accommodate the operation of double-stack equipment. For land use consistency for the proposed construction and abandonment activities, SEA applied its land use methodology in its analysis. The cited improvement is beyond both the scope of the EIS and SEA’s jurisdiction over the proposed Conrail Acquisition.

Maryland—Air Quality

Summary of Comments. The Maryland Department of the Environment reminded SEA about the following state requirements related to air quality and construction activities:

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- The Applicants must take reasonable precautions to prevent particulate matter from becoming airborne during construction activities.
- The Applicants must obtain a State Permit to Construct for any boilers or other equipment capable of producing air pollutant emissions.
- State regulations prohibit cutback asphalt from being used during June, July, and August.

Response. SEA acknowledges these comments from the State of Maryland and expects Applicants to adhere to regulatory requirements.

Summary of Comments. The Maryland Department of the Environment stated that SEA needs to include an air quality analysis for Harford County, a designated severe nonattainment area for ozone.

Response. SEA projects the increase in rail traffic on rail line segments in Harford County, Maryland to be below the Board's threshold for environmental analysis of 3 trains per day. Therefore, SEA expects that the proposed Conrail Acquisition would result in small emissions changes of all pollutants in the County and that there would be no significant adverse effects on compliance with the health-based NAAQS. SEA performed the air quality analysis in accordance with the approved EIS scope published in the Federal Register (62 FR 51500-51506, October 1, 1997).

Maryland—Noise

Summary of Comments. The Maryland Department of the Environment commented that increasing nighttime freight traffic could make living near the rail stations “less attractive from a noise standpoint.”

Response. SEA recognizes the concerns of the Maryland Department of the Environment regarding potential noise increases relating to additional nighttime freight traffic. See Chapter 4, “System-wide and Regional Setting, Impacts and Proposed Mitigation” of the Draft EIS, Section 4.7, “Transportation: Passenger Rail Operations.” As shown in Table 4-7, “Current and Proposed Operations on Amtrak’s Northeast Corridor,” of the Draft EIS, the proposed increases in freight train traffic represent a small fraction of the total train traffic on rail line segments in Maryland. SEA recognizes that nighttime events may be considered a nuisance, and SEA weighted them heavily in the calculation of an L_{dn} . Considering that the proposed additional freight train traffic in the Maryland portion of the Northeast Corridor represents a small fraction of the total train traffic on this route, SEA does not expect the additional trains to have a significant effect on the L_{dn} in the surrounding areas. SEA concluded that potential noise impacts did not warrant mitigation.

Section 5.3.10—Maryland

Maryland—Cultural and Historic Resources

Summary of Comments. The Maryland Historic Trust stated that the proposed Conrail Acquisition, which would result in increased train operation on 13 rail line segments, construction of one rail line connection in Hagerstown, and construction of one intermodal facility in Baltimore, would have “no effect on historic properties, including historic structures and archeological sites, eligible for inclusion in the National Register of Historic Places.”

Response. SEA acknowledges this comment.

Maryland—Land Use and Socioeconomics

Summary of Comments. The Maryland Department of the Environment commented, “Lighting for security and parking needs to be shielded from nearby residences.”

Response. In accordance with the Board’s environmental regulations and the scope of the EIS, SEA limited its land use and socioeconomic analysis to considering the consistency of proposed rail line construction and abandonment activities with existing land use plans. In this Final EIS (Chapter 7, Attachment A), SEA recommends that the Applicants practice best construction management techniques for all construction projects. In general, local land development regulations also provide regulatory standards for site improvements, including lighting direction for abutting nonresidential uses.

Maryland—Cumulative Effects

Summary of Comments. The Chairman of the Transportation Steering Committee of the Baltimore Metropolitan Council commented that the analysis of the proposed NS Triple Crown Service in Volume 3A of the Draft EIS did not address the potential environmental impacts that construction would have on the Perryville community.

Response. SEA reviewed the comments regarding the NS Triple Crown Service improvements near Perryville, Maryland. The improvements are raised catenaries to allow the operation of double-stack equipment. The only potentially affected facilities were bridge clearances and overhead electrical wires. SEA determined that all improvements would be within current rights-of-way and that no changes are required for the bridges and electrical wires.

Section 5.3.11—Massachusetts

5.3.11 Massachusetts

Massachusetts—Safety: Hazardous Materials Transport

Summary of Comments. The Berkshire Regional Planning Commission stated that the Executive Summary of the Draft EIS showed the New York-to-Westfield, Massachusetts rail line as meeting the Board's hazardous materials transport threshold for environmental analysis, but Volume 3A did not provide a site-specific analysis. The Commission requested an explanation for this. It also requested assurance that the proposed Conrail Acquisition would not absolve CSX or Conrail from any future liability for hazardous materials releases.

Response. SEA prepared the Executive Summary, Attachment ES-B of the Draft EIS, using the most current information available. Shortly after the publication of the Draft EIS, the Applicants provided revised information on specific rail line segments. Rail line segments C-725 and C-726, from Springfield-to-Westfield, Massachusetts and from Westfield, Massachusetts-to-Selkirk, New York, respectively, were segments with revised information. The revised information showed that after the proposed Conrail Acquisition, rail line segment C-725 would experience a slight reduction in freight traffic and no change in hazardous materials transport, while rail line segment C-726 would experience a 17 percent decrease in hazardous materials shipments and a 1 percent decrease in freight traffic after the proposed Conrail Acquisition. As a result, neither rail line segment meets the Board's thresholds for environmental analysis. Therefore, SEA did not conduct further analysis or propose mitigation measures.

SEA points out that there are numerous state and Federal laws and regulations that establish hazardous materials cleanup responsibility. SEA also notes that the Applicants would not be absolved of any future liability as a result of the proposed Conrail Acquisition.

Massachusetts—Transportation: Passenger Rail Service

Summary of Comments. The Berkshire Regional Planning Commission and the Conservation Law Foundation commented on the need for cooperation among CSX, as the proposed successor to Conrail, and the Massachusetts Bay Transportation Authority, Amtrak, and the Planning Commission to provide faster, increased, and more efficient passenger rail service in Massachusetts.

Response. SEA determined that the proposed Conrail Acquisition would not affect passenger service on Conrail's Boston Line in the States of Massachusetts and New York because the Applicants did not project an increase in freight trains on that rail line. Amtrak has historically provided limited service on this route because of the low average speed. The route has significant curvature and grades because of the nature of the terrain, making it noncompetitive in travel time.

Section 5.3.11—Massachusetts

The Conservation Law Foundation's statement that the Boston Line is FRA Class 5 track, which would permit 90 mph passenger train operations, is incorrect. The Boston Line is FRA Class 4, which permits a maximum passenger train speed of 80 mph. However, the many speed restrictions on the Boston Line, related to curvature and gradients, currently result in a much lower average speed. Nonetheless, Berkshire Regional Planning Commission, the Massachusetts Bay Transportation Authority, and Amtrak are free to discuss their proposals with CSX if the Board approves the proposed Conrail Acquisition.

Massachusetts—Transportation: Other

Summary of Comments. The Conservation Law Foundation's Massachusetts office stated that "CSX should make every effort to create an efficient intermodal transfer in the port of Boston, eliminating the current reliance on trucks to transfer cargo from the port to the railyards." The Foundation noted that Conrail currently transfers freight cargo from the port in South Boston several miles by truck to its rail yard, a step that is "clearly highly inefficient."

Response. SEA determined that the change in intermodal traffic that would occur at Beacon Park Yard as a result of the proposed Conrail Acquisition would not exceed thresholds for environmental analysis. According to the Applicant's plan, Beacon Park Yard would experience a decrease of 157 rail cars handled each day. SEA concluded that container traffic between the Port of Boston and Beacon Park Yard would also be likely to decrease, and, therefore, performed no access studies related to the Port.

Section 5.3.12—Michigan

5.3.12 Michigan

Michigan—Natural Resources

Summary of Comments. The Detroit District of USACE stated that the Applicants shall apply for permits for new construction, connections, and abandonments in the Detroit District's jurisdictional areas. Further, the Detroit District stated that activities in Michigan would require coordination with the Michigan Department of Environmental Quality, because of established joint regulatory responsibilities.

Response. SEA acknowledges that if the Board approves the proposed Conrail Acquisition, certain railroad activities would require further Federal, state, and local agency permits. SEA agrees that the Applicants have the responsibility to secure all required permits.

Southeastern Michigan—Safety: Highway/Rail At-grade Crossings

Summary of Comments. Several communities expressed concern about the potential risk of automobile accidents resulting from increases in rail traffic. Residents of Monroe County and Detroit, Michigan provided comments expressing safety concerns. Many of these communities have experienced accidents at highway/rail at-grade crossings.

Response. SEA's safety analysis addressed the potential for increased accident risk. SEA determined the risk of increased train-vehicle accidents at highway/rail at-grade crossings as a result of increases in train traffic related to the proposed Conrail Acquisition. The occurrence of previous accidents at highway/rail at-grade crossings did not, by itself, indicate the need for mitigation as a condition of the proposed Conrail Acquisition. The Draft EIS identified mitigation only for potential significant increases in accident risk as a result of increases in train traffic following the proposed Conrail Acquisition. The Draft EIS did not attempt to mitigate existing accident risk.

SEA's analysis considered highway/rail at-grade crossings on those rail line segments that would have large enough increases in train traffic (8 or more trains per day) to cause a potentially significant impact on accident risk. SEA's method for calculating accident risk takes into account actual accident history at each highway/rail at-grade crossing, using that history as an indication of how the physical characteristics of the highway/rail at-grade crossing would affect the increase in accident risk. See Chapter 4, "Summary of Environmental Review," of this Final EIS for further discussion.

Summary of Comments. The Village of Milford commented that track maintenance has caused roadways to "peak," making the approaches increasingly dangerous. The Village requested that CSX correct the approaches to the highway/rail at-grade crossings.

Section 5.3.12—Michigan

Response. SEA recommended improvements to mitigate only those potential environmental impacts that would result from the proposed Conrail Acquisition. It is the Board's policy not to require mitigation of pre-existing conditions. Therefore, characteristics that existed prior to the proposed Conrail Acquisition, such as a peak at a highway/rail at-grade crossing, where there is a difference in elevation between the roadway and the rail line, would require improvement only if the improvement would mitigate an impact resulting from the proposed Conrail Acquisition. SEA would recommend mitigation if an increase in the number of trains across such a crossing resulting from the proposed Conrail Acquisition would create a potentially significant safety impact. SEA's analysis in the Draft EIS found that no highway/rail at-grade crossings in the Village of Milford, Michigan would exceed SEA's significance criteria or warrant mitigation.

Summary of Comments. The Monroe County Planning Commission expressed concern that increased rail traffic and "faulty crossing warning systems" could cause delays in the event of a nuclear plant emergency evacuation.

Response. SEA understands there are three evacuation routes for the Fermi Nuclear Power Plant in Monroe County. Only one of these routes crosses railroad tracks affected by the proposed Conrail Acquisition. SEA encourages local emergency response and power plant personnel to coordinate with the Applicants to ensure that contact with the Applicants and pertinent rail operations procedures are included in the emergency response plan for the power plant. SEA recommends that the Board require the placement of toll-free telephone numbers that persons can use to report malfunctioning crossing safety devices. In addition, SEA recommends mitigation for adverse delay impacts. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

SEA noted that Monroe County was concerned about faulty wiring that apparently was identified at a highway/rail at-grade crossing. While the commentor did not identify which one of several railroad companies that operate within the County is responsible for the wiring at that highway/rail at-grade crossing, SEA understands that regulations that FRA promulgated govern the inspection and operation of crossing warning appliances.

Summary of Comments. The City of Dearborn Office of Emergency Management requested the current 24-hour emergency number for derailment/leak notification and inquired as to whether the number would change in the future. The Monroe County Road Commission requested railroad contact numbers to report problems on highway/rail at-grade crossings.

Response. SEA has recommended that, as a condition of approval, the Board require the Applicants to provide toll-free phone numbers as part of the hazardous materials emergency response plans. The Applicants would provide these plans to the local emergency response agencies, including 24-hour emergency response numbers. SEA is

Section 5.3.12—Michigan

currently not aware of any future changes to the emergency response phone number. The emergency response agencies would receive notification of any phone number changes.

SEA has also recommended that the Board impose a condition requiring the Applicants to post a toll free number at certain highway/rail at-grade crossings. SEA maintains that these numbers would provide a system for the public to report problems at the crossings. See Chapter 7, “Recommend Environmental Conditions,” of this Final EIS.

Southeastern Michigan—Safety: Hazardous Materials Transport

Summary of Comments. The City of Northville, Michigan stated its opposition to the proposed Conrail Acquisition because of a projected 75 percent increase in hazardous materials transport through the City. The City noted that it “is not equipped to handle a catastrophic disaster which could result from a hazardous material accident or spill.”

Response. SEA has determined that rail line segment C-221, between Wixom and Plymouth, Michigan would experience only an 8 percent increase in hazardous materials transport following the proposed Conrail Acquisition. This increase differs from estimates presented in the Draft EIS because it is based on an analysis of new data that CSX supplied to SEA. The projected 8 percent increase is below SEA’s criteria of significance for hazardous materials transport safety. Therefore, SEA does not recommend additional mitigation.

Summary of Comments. Local governments in southeastern Michigan expressed concerns about the proposed increase in hazardous materials transport through Monroe County, Michigan; from Ecorse, Michigan through Carleton, Michigan to Toledo, Ohio; and on the Conrail line through Ypsilanti and Willow Run, Michigan. The local governments focused on the need for emergency response training, equipment, public education, warning systems, and drills. They also asked about CSX’s willingness to provide financial and training support to meet emergency response needs. One commentor requested information on the percentage by which hazardous materials transport would increase throughout Michigan. The City of Monroe requested that SEA make every effort to divert unnecessary hazardous materials freight around the Monroe urban area and to take adequate measures to safeguard the public.

Response. SEA has determined that providing first-responder emergency services is a basic local government function, which is funded through the general revenue taxation system. No changes associated with or resulting from the proposed Conrail Acquisition change those basic responsibilities. SEA encourages the local governments to work with the Applicants on emergency response planning efforts.

SEA did not estimate the total percent increase in hazardous materials transport throughout the entire State of Michigan; however, SEA did estimate the percent increase in hazardous materials transport on individual rail line segments. Based on information

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provided by the Applicants, SEA estimated that the change in hazardous materials transport on rail line segments in Michigan would range from a 100 percent decrease to a 67 percent increase.

SEA determined that only one rail line segment—C-040 between Carleton, Michigan and Toledo, Ohio—would remain a designated key route for hazardous materials transport following the proposed Conrail Acquisition. SEA concluded that changes in hazardous materials transport on the other rail line segments were below SEA's criteria of significance. See Appendix F, "Safety: Hazardous Materials Transport Analysis," of this Final EIS for a list of all rail line segments that SEA analyzed. Because rail line segment C-040 is currently a key route, SEA does not recommend additional mitigation.

Summary of Comments. The Southeast Michigan Council of Governments asked whether the anticipated increase in hazardous materials transport through Monroe County included future disposal of low-level and high-level radioactive waste from nuclear power plants. The Council also asked about quantities of radioactive and biological waste included in hazardous materials transport and about the likelihood of an accident involving radioactive waste.

Response. Although the Applicants do not currently transport any commercial nuclear power plant spent fuel or high-level waste, they could do so in the future. The Applicants do transport other types of radioactive materials, and transport companies make about 3 million highway, rail, air, and sea shipments of radioactive materials each year in the United States. Regulating the safety and security of these shipments is the joint responsibility of DOT and the Nuclear Regulatory Commission (NRC). The Federal regulatory system protects transport workers and the public by setting performance standards for the packages and by setting limits on the radioactive contents and radiation levels for packages and vehicles. Package marking and labeling, vehicle placards, and shipping papers describing the materials provide information on radioactive shipments. DOT has regulatory jurisdiction over radioactive shipments while the material is in transit. DOT also establishes shipping categories, sets the standards for labeling of radioactive shipments, and establishes criteria for containers that shippers use for smaller quantities of radioactive materials.

NRC, which licenses the organizations shipping and receiving the radioactive materials, ensures that its licensees meet DOT shipping requirements. NRC also establishes the requirements for the design and manufacture of packages for larger quantities of radioactive materials. Typical of small-quantity shipments using packages meeting DOT requirements are radioactive materials for medical diagnostic tests and therapy. These shipments constitute the major portion of all shipments of radioactive materials each year. For these shipments, shippers use packaging (classified as "Type A") that is designed to withstand the rigors of normal transportation without damage. For larger quantities of radioactive materials, shippers design the containers to withstand accident conditions without releasing their contents. Shippers use these packages ("Type B") for

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industrial irradiators, medical radiation therapy devices, and some radioactive wastes. The accident evaluation criteria for these containers include impact, puncture, heat, and submersion in water. Spent fuel shipping casks are specialized Type B containers that shippers use to transport used fuel from nuclear reactors. Trucks or rail cars carry these large shipping casks. As with all Type B containers, shippers seal them to prevent leakage and heavily shield them to minimize the radiation levels. NRC also imposes security requirements on shipments of spent fuel and on shipments of larger quantities of highly enriched uranium or plutonium. These security measures include route evaluation, escort personnel and vehicles, communications capabilities, and emergency plans. NRC notifies state governments in advance of spent fuel shipments and those large-quantity shipments of radioactive waste requiring Type B containers.

The regulatory system for transportation of radioactive materials has been successful in minimizing safety impacts. Few accidents have occurred involving shipments of radioactive materials (an average of fewer than 50 accidents out of a total of 3 million annual shipments). Only a small number of those accidents have involved any release of radioactive contents. In those instances, radioactive contamination has been generally minor with no public safety consequences. System-wide in 1996, CSX and NS shipped approximately 3,107 and 6,650 tons, respectively, of radioactive material, which may have included some low-level waste. This is less than 0.05 percent of the total hazardous materials that the Applicants transport. In the Draft EIS, SEA estimated the frequency of a hazardous materials release on the rail line segments in Monroe County (C-040, N-295, and N-476) at less than one in 1,000 years. Because less than 1 percent of hazardous materials would be radioactive materials, the frequency of a radioactive materials release would be less than one in 100,000 years.

Available data on hazardous materials transport do not specify biological waste as a separate category. DOT regulates transport of infectious waste in the same manner as other hazardous materials, however, and SEA concludes that these practices adequately address the safe handling and transport of these materials.

Summary of Comments. The City of Wixom stated a concern that municipalities in Oakland County need to be able to properly react to any emergency involving hazardous materials, particularly because CSX has notified the City to expect an increase in the number of trains.

Response. SEA concludes that rail line segment C-220 between Holly and Wixom, Michigan would experience an 18 percent increase in hazardous materials shipments following the proposed Conrail Acquisition. Additionally, rail line segment C-221 between Wixom and Plymouth, Michigan would experience an 8 percent increase in hazardous materials shipments following the proposed Conrail Acquisition. SEA acknowledges these concerns; however, these increases are below SEA's criteria of significance. Both segments, however, are currently key routes, which means that CSX already takes a number of measures to mitigate hazardous materials transport impacts,

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pursuant to AAR Circular OT-55-B. Therefore, SEA does not recommend that the Board require additional mitigation measures.

Southeastern Michigan—Safety: Passenger Rail Operations

Summary of Comments. The Southeast Michigan Council of Governments stated that SEA’s proposed mitigation for two rail line segments (West Detroit-to-Jackson, N-121, and West Detroit-to-Dearborn, S-210) in Michigan would require freight trains to be clear of the tracks that passenger trains use at least 15 minutes before the estimated arrival of a passenger train. The council asked SEA to clarify “whether the recommended 15 minute freight train track clearing is an improvement on the current practice or just reinforcement of it.” The Council also requested that SEA further analyze the frequency and severity of accidents that could occur on rail line segments that passenger and freight trains use.

Response. SEA reviewed its analysis and determined that modern signal systems and automatic train protection technologies that the railroads currently employ may adequately address the increased risk of train collisions throughout the post-Acquisition system. Therefore, SEA withdraws its proposed mitigation of temporal separation of passenger and freight trains. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS describes SEA’s recommended mitigation measures that address passenger rail operations safety. Additionally, NS revised the projected number of freight trains on both rail line segments N-120 and N-121. The number of trains per day after the proposed Conrail Acquisition would be below the Board’s thresholds for environmental analysis.

Southeastern Michigan—Safety: Freight Rail Operations

Summary of Comments. The Southeast Michigan Council of Governments indicated a concern over the “accident duration rates” for the three segments presented in Table 5-MI-5 on page MI-6 of the Draft EIS. The Council’s concern lay “in the fact that these three segments’ accident duration rates did decrease by factors ranging from 1.6 to 5.5. Since SEA could not accurately predict either frequency or severity of actual accidents, we question whether the area may need to be investigated further. Further clarification or analysis by SEA is necessary in the final EIS.”

Response. SEA estimated average annual accident rates on rail line segments because there is no way to predict actual accidents. SEA’s analysis of accident rates used reliable data and verifiable procedures. This approach provided conservative results that formed a valid basis for assessing changes in accident risk and identifying needs for mitigation.

SEA notes that since SEA published the Draft EIS, traffic routing arrangements among several railroads have changed such that the number of trains on the West Detroit-to-Jackson rail line segment N-121 and the Jackson-to-Kalamazoo rail line segment (N-120) would increase by less than one per day. Therefore, SEA determined that there

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would be no decrease in the time interval between expected accidents. As the Draft EIS showed (see Chapter 5, “State Settings, Impacts and Proposed Mitigation”), accident rates on all three rail line segments did not meet or exceed SEA’s threshold for mitigation for freight rail accidents.

Southeastern Michigan—Safety: Other

Summary of Comments. The Southeast Michigan Council of Governments, on behalf of the Village of Milford, and the Village itself commented that CSX disposes of replaced railroad ties along the embankment of the rail line; allows brush and junk trees to grow; does not paint overpasses; requires the use of fully automatic signals at pedestrian crossings (for pedestrians only), which the municipality must install at its own expense; and raises track grades, making crossings ever-increasing “humps.” These conditions exist in a fully developed community, not an open rural area. The Village asked, “Will the CSX policy of maintenance within communities be reviewed and a greater commitment made?”

Response. SEA understands that the concerns raised refer to conditions existing before the proposed Conrail Acquisition. SEA acknowledges the concern regarding the Applicant’s maintenance policies; however, the Board does not have jurisdiction regarding maintenance of facilities and rights-of-way within municipalities.

Summary of Comments. The Township of Highland expressed concern over the proposed increase in rail traffic (a 20 percent increase in daily tonnage, requiring longer trains and an additional 1.2 trains daily). Representatives of the Township “think it’s reasonable to expect assurances that all safety issues associated with this increased rail traffic will be addressed by CSX prior to its implementation. A letter to that effect would be appreciated.”

Response. SEA notes that state and Federal law would require the Applicants to maintain safety practices and standards and meet current safety regulations if the Board approves the proposed Conrail Acquisition. DOT and FRA, the Federal agencies charged with oversight of railroad safety, have reviewed the Safety Integration Plans and concluded that the plans adequately address all of the issues that Highland Township raised. Therefore, SEA does not recommend that the Board require further mitigation.

Summary of Comments. The City of Monroe voiced its safety concern that “the southbound Conrail track traverses a residential area in the east-central part of Monroe, and closely abuts a City street, Kentucky Avenue. In this area, some of the rail track lies less than thirty feet (30’) from residences. The track prevents vehicle access to homes by eliminating the possibility of driveways and parking, and lies within a few feet of pedestrian sidewalks with no barrier protection.”

Response. SEA acknowledges the concern regarding this condition; however, the concerns raised refer to conditions existing before the proposed Conrail Acquisition.

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SEA does not recommend that the Board impose mitigation relating to conditions existing prior to the proposed Conrail Acquisition. Rail line segment N-295, between Airline (Toledo), Ohio and River Rouge, Michigan, would experience increases in freight rail traffic from 11.6 trains per day to 14.5 trains per day, which is below the Board's thresholds for environmental analysis.

Southeastern Michigan—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. The City of Wixom stated that the information in the Draft EIS for highway/rail at-grade crossings in Wixom may not be correct. The source of the discrepancy may be the switching operations at a nearby Bulk Intermodal Distribution Services yard. The City recommended that the Final EIS analyze the crossings and consider site-specific mitigation.

Response. SEA did not analyze the highway/rail at-grade crossing delay on the rail line segments through Wixom because the rail line segments did not meet the Board's thresholds for environmental analysis. Also, the Board does not regulate railroad operations, such as train speed, dispatching, or yard operations. The local government may wish to discuss these operational considerations with CSX.

Summary of Comments. The City of Monroe commented that the existing high level of train movements on the CSX track irritates motorists. The City Council commissioned a feasibility study for a grade separation on Elm Avenue. The City stated that the problem would become more severe with the 50 percent increase in train traffic that SEA projected as a result of the proposed Acquisition and requested that the Board require CSX to grade separate Elm Avenue in Monroe.

Response. SEA has determined that the number of trains passing the Elm Avenue highway/rail at-grade crossing in the City of Monroe would increase from 21.9 trains per day to 33.1 trains per day as a result of the proposed Conrail Acquisition. In the Draft EIS, the analysis showed that the crossing delay per stopped vehicle would increase from 1.55 minutes to 1.59 minutes. This Final EIS shows that the average crossing delay per stopped vehicle would increase from 1.80 minutes to 1.84 minutes. In both the Draft and this Final EIS, the analysis indicated a LOS B for conditions at the Elm Avenue highway/rail at-grade crossing both before and after the proposed Conrail Acquisition. See Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS. The proposed Conrail Acquisition would not change the LOS, and therefore SEA does not recommend mitigation at the Elm Avenue highway/rail at-grade crossing.

Summary of Comments. The Special Projects Manager for the City of Taylor commented that the traffic counts in the Draft EIS are lower than those available from the Wayne County Department of Public Service. The lower traffic counts would affect the analysis of highway/rail at-grade crossing delays. The Manager requested that SEA use Wayne County's traffic counts

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in the analysis. The Manager also expressed serious concerns about traffic delay and the associated LOS on the area roadways because of increased train traffic following the proposed Conrail Acquisition.

Response. SEA determined that the Applicants have revised the train volumes on the affected rail line segment N-121. This rail line segment no longer meets the Board's threshold for environmental analysis. Therefore, SEA did not analyze this rail line segment in this Final EIS. The Carleton-to-Ecorse rail line segment (S-020) met or exceeded SEA's threshold for environmental analysis. SEA obtained revised traffic counts for the highway/rail at-grade crossings in Taylor. Sibley, Pennsylvania, and Allen Roads met the 5,000-highway-vehicle ADT threshold for traffic delay, and SEA analyzed delay at these crossings with the revised traffic counts. The Final EIS analysis indicates a LOS A for conditions both before and after the proposed Conrail Acquisition at the Sibley highway/rail at-grade crossing. The Final EIS analysis indicates a LOS A before the proposed Conrail Acquisition and a LOS B after the proposed Conrail Acquisition at the Pennsylvania and Allen Roads highway/rail at-grade crossings. See Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS. Therefore, SEA determined that no adverse effect on roadway vehicle delay would result from the proposed Conrail Acquisition and mitigation of traffic delay in Taylor is not warranted.

Summary of Comments. The Southeast Michigan Council of Governments expressed concern about existing delays at highway/rail at-grade crossings. The Council stated that Michigan communities are concerned that an increase in freight rail traffic would further exacerbate this problem. The City of Plymouth and Plymouth Township voiced concern about extended blockage of their highway/rail at-grade crossings. Trenton, Michigan indicated that Lathrop Street currently experiences vehicular congestion from rail traffic. Trenton was uncertain whether the proposed Conrail Acquisition would exacerbate this condition. Monroe County expressed concern that the increase in traffic on the CSX line between Carlton, Michigan and Toledo, Ohio would cause additional delay at highway/rail at-grade crossings in the County.

Response. To identify the potential impact of the proposed Conrail Acquisition on communities in southeastern Michigan, SEA analyzed changes in highway traffic delay that would result from increases in train traffic as a result of the proposed Conrail Acquisition. The current traffic delay problems the Council cites are not a result of the proposed Conrail Acquisition, as they are caused by trains that are already operating through the area. See Chapter 4, "Summary of Environmental Review," of this Final EIS.

In response to the City of Plymouth and Plymouth Township, SEA notes that the number of trains on the Detroit-to-Plymouth rail line segment (C-214) would decrease by 2.8 trains per day, from 24 trains per day to 21.2 trains per day. Therefore, SEA determined that no adverse effect on roadway vehicle delay would result from the

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proposed Conrail Acquisition and mitigation of traffic delay in Plymouth is not necessary.

In response to the City of Trenton, the number of trains on the Airline, Ohio-to-River Rouge, Michigan rail line segment (N-295) running parallel to Lathrop Street in Trenton would increase by fewer than 3 trains per day. This increase is below the Board's threshold for environmental analysis. In response to Monroe County, the number of trains on the Carleton-to-Ecorse rail line segment (S-020) would increase by 9.2 trains per day, from 2.0 trains per day to 11.2 trains per day. This rail line segment passes along the western side of Trenton and would not add to congestion problems on Lathrop Street. Highway/rail at-grade crossings on the Carleton-to-Ecorse rail line segment did not meet the 5,000-highway-vehicle threshold for traffic delay analysis. Based on SEA criteria for significance, roadways with ADT volumes below 5,000 would experience only minimal additional vehicular delay from increased train traffic resulting from the proposed Conrail Acquisition. See Appendix G, "Transportation: Highway/Rail At-grade Crossing Delay Analysis," of this Final EIS.

Summary of Comments. The Monroe County Planning Department and Commission expressed concern that the significant increase in traffic on the CSX line between Carleton, Michigan and Toledo, Ohio and the minor increase in traffic on the Conrail (NS) line between Detroit and Toledo would mean more blocked highway/rail at-grade crossings on Telegraph Road and other area roadways. They requested that CSX and NS provide the Monroe County Road Commission with a telephone number for reporting problems on highway/rail at-grade crossings and stated that the Board needs to address these problems.

Response. SEA analyzed the change in traffic delay that would result from Acquisition-related increases in train traffic in Monroe County. The number of trains on the CSX Carleton-to-Toledo rail line segment (C-040) would increase by 11.2 trains per day, from 21.9 trains per day before the proposed Conrail Acquisition to 33.1 trains per day after the proposed Conrail Acquisition. The number of trains on the NS (Conrail) Airline (Toledo), Ohio-to-River Rouge, Michigan rail line segment N-295 would increase by 2.9 trains per day, from 11.6 trains per day before the proposed Conrail Acquisition to 14.5 trains per day after the proposed Conrail Acquisition, which did not meet the Board's environmental threshold for analysis.

In addition, SEA analyzed the Stewart Road, Elm Street, Front Street, Dunbar Street, and Lakewood-Lunapier Street highway/rail at-grade crossings. LOS at the Stewart Road crossing (FRA ID 232148X) would remain at LOS B, and the crossing delay per stopped vehicle would increase from 1.35 minutes per vehicle to 1.38 minutes per vehicle. LOS at the Elm Street crossing (FRA ID 232147R) would also remain at LOS B, and the crossing delay per stopped vehicle would increase from 1.80 minutes per vehicle to 1.84 minutes per vehicle. LOS at the Front Street crossing (FRA ID 232146J) would change from LOS B to LOS C, and the crossing delay per stopped vehicle would increase

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from 2.37 minutes per vehicle to 2.43 minutes per vehicle. LOS at the Dunbar Street crossing (FRA ID 232140T) would remain at LOS B, and the crossing delay per stopped vehicle would increase from 1.48 minutes per vehicle to 1.51 minutes per vehicle. LOS at the Lakewood-Lunapier Street crossing (FRA ID 232129T) would remain at LOS B, and the crossing delay per stopped vehicle would increase from 1.49 minutes per vehicle to 1.53 minutes per vehicle. None of these highway/rail at-grade crossings would meet SEA's criteria for a significant increase in vehicle delay.

The Draft EIS recommended that CSX and NS install emergency information signs that display a toll-free telephone number for reporting problems and unique crossing numbers at all highway/rail at-grade crossings with active warning devices. Independent of the proposed Conrail Acquisition, CSX has already begun to install emergency information signs meeting SEA's specifications at highway/rail at-grade crossings throughout the CSX network. CSX expects to complete the installation of the signs by spring 1998. In addition, NS has already, independent of the proposed Conrail Acquisition, equipped all public highway/rail at-grade crossings with emergency information signs. See Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS for further information.

CSX and NS plan to expand the sign installation program to include the Conrail rail line segments acquired through the proposed Conrail Acquisition before the Applicants increase train traffic on the rail line segments. Further, CSX and NS will coordinate with the Conrail Shared Assets Operator to ensure the implementation of a similar program in the Shared Assets Areas within the same time period. SEA recommends that the Board require the Applicants to install toll-free telephone numbers and temporary notification signs at each of the public highway/rail at-grade crossings on the rail line segments that would have an increase of 8 or more trains per day, as Chapter 7, "Recommended Environmental Conditions," of this Final EIS discusses.

Summary of Comments. The Southeast Michigan Council of Governments commented that increased rail traffic could cause delays in evacuating the area around the Enrico Fermi II Nuclear Power Plant in the event of an emergency.

Response. SEA has determined that the Enrico Fermi II Nuclear Power Plant has north, south, and west emergency evacuation routes. Only the west evacuation route is affected by the CSX Carlton-to-Toledo rail line segment (C-040). The time that a highway/rail at-grade crossing would be blocked because of a train would be 2.3 minutes after the proposed Conrail Acquisition, compared to the current value of 2.2 minutes, an increase of approximately 6 seconds per train. The previous response discussed the potential delay effects in this area. SEA determined that none of these highway/rail at-grade crossings would meet SEA's criteria for a significant increase in vehicle delay and does not recommend mitigation.

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The discussion in Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis,” Section G.2.1, “Emergency Response Vehicle Delay,” of this Final EIS addresses SEA’s analysis pertaining specifically to emergency response vehicle delay at highway/rail at-grade crossings.

Summary of Comments. Plymouth Township and the City of Plymouth expressed concern that emergency vehicles would be unable to reach an emergency in a timely manner because of blocked streets. They are particularly concerned that “larger blocks of cars to be used in shipping will exacerbate an already serious safety problem.” They noted that only one route from the Township into the City is completely free of highway/rail at-grade crossings.

Response. SEA recognizes the concerns of the City of Plymouth and Plymouth Township. In the Plymouth, Michigan area, no rail line segment met or exceeded the Board’s threshold for environmental analysis. See Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis,” Section G.2.1, “Emergency Response Vehicle Delay,” of this Final EIS for further analysis.

Summary of Comments. Monroe County raised the concern that a significant increase in traffic on the CSX line between Carleton, Michigan and Toledo, Ohio, and a minor increase in traffic on the current Conrail line between Detroit, Michigan and Toledo, Ohio, which would become an NS line, would result in more blocked highway/rail at-grade crossings. The County stated that the result would be a delay of emergency vehicles.

Response. SEA has determined that the CSX Carlton-to-Toledo rail line segment (C-040) in Monroe County met or exceeded the Board’s threshold for environmental analysis. The time that a train would cause a highway/rail at-grade crossing on this rail line segment to be blocked would increase from 2.2 to 2.3 minutes as a result of the proposed Conrail Acquisition, an increase of approximately 6 seconds per train. When delays affect emergency vehicles, the average delay would be half the blocked-crossing time, slightly over a minute. The average number of trains on this rail line segment would increase from 21.9 to 33.1 trains per day, so the total time that a crossing would be blocked would increase from 48.3 minutes to 74.9 minutes per day as a result of the proposed Conrail Acquisition. See Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis,” Section G.2.1, “Emergency Response Vehicle Delay,” of this Final EIS.

Each township in Monroe County has its own fire department and ambulance service. The sheriff’s office assigns patrol units to specific areas in the County. There are no grade-separated highway/rail crossings on the CSX rail line segment in the County. Local officials told SEA that train switching often causes extended delays at highway/rail at-grade crossings, and raised a concern that additional trains resulting from the proposed Conrail Acquisition could add to delays caused by switching.

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The pre-existing switching movements in Monroe County serve local businesses and would not increase as a result of the proposed Conrail Acquisition.

Because emergency services exist on both sides of the CSX tracks and the average delay to an emergency vehicle would be short, no mitigation is warranted in Monroe County.

Summary of Comments. The City of Taylor, Michigan expressed concern that the proposed increase in train traffic could affect the emergency response activities of police, fire, and rescue services.

Response. SEA's analysis revealed that no rail line segment in the Taylor, Michigan area met or exceeded the Board's threshold for environmental analysis.

Southeastern Michigan—Transportation: Other

Summary of Comments. The City of Monroe, Michigan requested that the Board "support the need to eliminate the southbound Conrail track thru the Monroe Area and encourage the Federal Highway Administration [FHWA] to fully fund the Monroe Area Rail Consolidation plan as approved June 2, 1997 by the FHWA." The City claimed that NS could eliminate the southbound Conrail track by implementing the plan or by using the northbound Conrail tracks as a bi-directional line through the area.

Response. As Appendix A, "Rail Line Segments and Traffic Density Changes," of the Draft EIS showed, SEA determined that rail traffic on the Conrail rail line segment (N-295), which NS would acquire, through Monroe would increase from 11.6 trains per day to 14.5 trains per day. Therefore, SEA did not analyze the highway/rail at-grade crossings on rail line segment N-295 because this rail line segment did not meet the Board's threshold for environmental analysis (3 trains per day in a nonattainment area). SEA notes that the City has developed a rail corridor consolidation plan that would eliminate a series of highway/rail at-grade crossings.

Summary of Comments. The Village of Holly, Michigan recommended that the Board require CSX to meet annually with municipalities in Western Oakland County to address the increase in freight rail traffic through this area. The Village stated that the additional freight rail traffic resulting from the proposed Conrail Acquisition "will have an impact on our community."

Response. SEA determined that the train increases resulting from the proposed Conrail Acquisition for the rail line segments that go through Holly did not exceed the Board's thresholds for environmental analysis (see Appendix T, "Final Environmental Impact Statement Rail Line Segments," of this Final EIS). For the Flint-to-Holly rail line segment (C-219), the current 12.8 trains per day would increase by 1.2 trains per day to 14.0 trains per day. For the Holly-to-Wixom rail line segment (C-220), the current 11.3 trains per day would increase by 1.2 trains per day to 12.5 trains per day. SEA

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evaluated both segments for potential increases in hazardous materials transport. Results of the revised hazardous materials transport analysis appear in Chapter 4, “Summary of Environmental Review,” of this Final EIS.

Summary of Comments. The Southeast Michigan Council of Governments requested information on the amount of freight rail service from intermodal terminals in New York and Baltimore to Detroit. The Council also requested details, if available, on intermodal transport to/from Detroit.

Response. The NS and CSX Operating Plans listed various train schedules but did not list specific breakdowns of types or amounts of traffic between points. Traffic at intermodal terminals appeared as total numbers. CSX and NS provided truck increases at the various intermodal terminals, but not by specific origins and destinations.

CSX and NS truck activity projections show that the Melvindale facility would increase by 58 trucks per day. The combined Conrail/CSX Detroit-Livernois facility would increase by 27 trucks per day. Similarly, the NS Delray facility would increase by 47 trucks per day. The Draft EIS Chapter 5, “State Settings, Impacts and Proposed Mitigation,” Volume 3A, presents SEA’s analysis for the Melvindale intermodal facility, which is the only one of the three intermodal facilities that met the Board’s threshold for environmental analysis. Total ADT increases for Melvindale represent less than 2 percent of all affected roadways. SEA concluded that no mitigation was warranted.

Southeastern Michigan—Noise

Summary of Comments. The City of Taylor, Michigan expressed concern that, to date, it has not had any contact with the Applicants to discuss various methods of noise mitigation, as SEA recommended in the Draft EIS.

Response. SEA recognizes the concerns of the City of Taylor. Rail line segment S-020 runs through the southeastern corner of the City. Results of SEA’s noise impact analysis indicate that a few receptors adjacent to rail line segment S-020 in Taylor met the noise mitigation criteria. Refer to Appendix J, “Noise Analysis,” of this Final EIS for details regarding the location of these receptors and to Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for SEA’s mitigation recommendations.

Summary of Comments. The Southeast Michigan Council of Governments commented on the need for noise mitigation for the Detroit-to-North Yard rail line segment. The Council requested that the Final EIS include a complete list of all communities and groups involved in the mitigation process, a full description of the process that SEA used, and the basis for conclusions.

Response. SEA calculated that the Detroit-to-North Yard rail line segment S-021 would experience an increase of 5.3 freight trains per day and a resulting 2.2 dBA L_{dn} noise

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increase. See Appendix J, “Noise Analysis,” of this Final EIS for a full explanation of SEA’s methodology. SEA considered mitigation for noise-sensitive receptors that it predicted would be exposed to at least 70 dBA L_{dn} and an increase of at least 5 dBA L_{dn} . The S-021 rail line segment does not meet these mitigation criteria. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for a list of all communities involved in the mitigation process.

Summary of Comments. The Monroe County Planning Commission requested a list of specific mitigation measures that the Applicants would complete in the noise abatement area in Monroe County, Michigan. The Commission also requested a list of some examples of previously implemented abatement measures (preferably in the Toledo, Ohio vicinity). The County requested that the Applicants consider mitigation along the CSX line running from Carlton, Michigan to Toledo, including the City of Monroe. The City of Monroe expressed concern with noise and vibration that daily rail operations generate in the vicinity of a school and playground in the City.

Response. This Final EIS includes discussions of all candidate sites eligible for noise mitigation and the mitigation measures that SEA recommends for those areas. The Carleton-to-Ecorserail line segment (S-020), which crosses Monroe County, is eligible for mitigation. For discussions of SEA’s mitigation analysis and the recommended mitigation, see Chapter 7, “Recommended Environmental Conditions,” and Appendix J, “Noise Analysis,” of this Final EIS.

Regarding other mitigation measures that the commentor’s letter mentions, SEA has concluded that it is beyond the scope of this Final EIS to discuss mitigation measures previously implemented. The mitigation discussion included in this Final EIS is limited to those areas that meet the mitigation criteria that SEA established for this proposed Conrail Acquisition.

SEA recognizes that Federal Transit Administration guidance addresses ground-borne vibration. SEA notes that the vibration velocity of a freight train traveling at 50 mph 10 feet from the tracks is 95 dB (re /micro-inch/second). This value is substantially below cosmetic damage criteria (106 dB re 1 micro-inch/second), which is lower than structural damage criteria (126 dB re 1 micro-inch/second). SEA considers it unlikely that vibration levels would exceed any damage criterion, and thus unlikely that freight train activity at any level would cause damage to buildings in the study area. See Appendix J, “Noise Analysis,” of this Final EIS for more detailed discussion.

Southeastern Michigan—Hazardous Waste Sites

Summary of Comments. A staff member of the Areawide Water Quality Board expressed a concern regarding water quality in the Rouge River. The Rouge River is located approximately 1,000 feet from the proposed Ecorse Junction connection. The commentor stated that the river

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and the Detroit sewer system should be protected to the fullest extent possible from construction activities that would disturb the Ecorse Junction hazardous waste sites and contribute contaminants from runoff. The Water Quality Board recommended coordinating site surveys with the Michigan Department of Environmental Quality and the Wayne County Department of Environment and Health.

Response. With respect to the commentor's concern about potential construction impacts on the Rouge River, SEA notes that it did not identify a necessity to recommend any additional mitigation with respect to hazardous waste sites. Existing regulations would require the Applicants to address any hazardous wastes that construction activities disturb. SEA concludes that these existing requirements would adequately protect the Rouge River and area sewer systems.

Southeastern Michigan—Natural Resources

Summary of Comments. A representative of M.O.S.E.S. (no definition provided) requested information with regard to potential environmental impacts on wildlife in Michigan.

Response. SEA provided specific discussions on wildlife in Michigan in Volume 3A, Chapter 5 of the Draft EIS. SEA determined that the proposed Conrail Acquisition would have no impact on Federally listed endangered and threatened species or on indigenous wildlife in the State of Michigan.

Southeastern Michigan—Environmental Justice

Summary of Comments. The Southeast Michigan Council of Governments questioned why SEA did not evaluate the proposed construction at Ecorse Junction (NX-08), activity at the Rougemere rail yard (CY-03), and the West Detroit-to-Delray rail line segment for potential environmental justice impacts.

Response. SEA determined that the Area of Potential Effect surrounding the Ecorse Junction (NX-08), Rougemere rail yard (CY-03), and the West Detroit-to-Delray rail line segment (S-022) met the demographic environmental justice criterion (minority and low-income populations). However, none of these sites met the second criterion for environmental justice analysis (environmental effects that met the criteria of significance). Therefore, SEA determined that there would be no significant adverse impact on the potentially affected environmental justice population at these sites and did not recommend mitigation.

For the Final EIS, 16 of 19 block groups along rail line segment S-022 met the initial criterion for environmental justice populations. However, all of the block groups ranked low in the ranking analysis for disproportionality. See Appendix M, "Environmental Justice Analysis," for the methodology and Chapter 4, "Summary of Environmental Review," of this Final EIS for analysis findings.

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Southeastern Michigan—Cumulative Effects

Summary of Comments. The Chairman of the Monroe County Planning Commission commented that “railroad support of Monroe’s ongoing project to consolidate east side rail lines (Conrail/NS and C[anadian]N[ational]N[orth]A[merica]) is essential to its success.”

Response. SEA evaluated whether other past, present, or reasonably foreseeable future projects or activities, when combined with potential impacts of the proposed Conrail Acquisition, could result in a significant cumulative effect. SEA was made aware of these projects and activities through site visits and agency and public comments that various agencies provided to SEA within the schedule that the Board specified in the EIS scoping process. The Monroe County Planning Commission comments did not reach SEA in time for inclusion in the Draft EIS. Nevertheless, it is within the scope of the analysis of cumulative effects to consider the concerns the County noted. The County indicated that it has ongoing planning projects to consolidate rail lines. SEA contacted the Michigan Department of Transportation officials, who confirmed the status of planning and partial funding of a grade separation improvement and planning for rail consolidation. SEA determined that the rail line consolidation was not reasonably foreseeable; that is, that officials had not planned, approved, and funded capital improvements and completed operating access agreements. SEA determined that the consolidation was not sufficiently advanced to consider in its cumulative effects analysis for the proposed Conrail Acquisition.

SEA has concluded at this time that there would be no other significant cumulative effects associated with the proposed Conrail Acquisition that would warrant mitigation.

Southeastern Michigan—General

Summary of Comments. The City of Taylor, Michigan stated that it was concerned with “the lack of information the City of Taylor has received from the SEA of the Surface Transportation Board.”

Response. SEA has conducted extensive public notification and public outreach activities in the course of the preparation of the Draft and Final EIS. SEA has published notices in the Federal Register for scoping of the EIS, availability of the Draft EIS, commenting on the Draft EIS, and availability of information via the Internet website and hotline that it established for the proposed Conrail Acquisition. In addition, SEA provided Wayne County, Michigan with a copy of the Draft EIS. Because of the many communities in the 24 states where the EIS encompasses Acquisition-related activities, SEA was unable to make direct contact with each community.

Section 5.3.13—Mississippi

5.3.13 Mississippi

Mississippi—Safety: Hazardous Materials Transport

Summary of Comments. DOI expressed concern about potential environmental impacts of hazardous materials spills on rail line segment C-387 on threatened and endangered species in Mississippi. DOI was specifically concerned about potential environmental impacts on the Pascagoula, Biloxi, Wolf, and Pearl River basins. DOI recommended the following mitigation measures for hazardous materials transport along rail line segment C-387:

- Lower speeds across bridges within the listed basins.
- Increased inspections of cars carrying hazardous materials along this route.
- Increased inspections of rail lines along this route.
- Include in emergency response plan, guidelines for immediate consultation with USFWS personnel regarding potential environmental impacts on listed species in the event of a spill.

Response. Based on additional information that CSX provided subsequent to publication of the Draft EIS, SEA has determined that hazardous materials transport on rail line segment C-387 would increase from the current 45,000 carloads per year to 54,000 carloads per year following the proposed Conrail Acquisition. This is a change from 44,000 carloads per year to 88,000 carloads per year that the Draft EIS reported. Therefore, rail line segment C-387 would remain a key route following the proposed Conrail Acquisition. SEA further recommends that the Board require CSX to notify the USFWS of any accident involving a reportable release of hazardous materials that could enter the Pascagoula, Biloxi, Wolf, and Pearl River basins on rail line segment C-387 between New Orleans and Mobile. SEA maintains that these mitigation measures, combined with the existing key route requirements, sufficiently address DOI's concerns.

If the Board requires lower speeds across bridges, delay at highway/rail at-grade crossings could increase. FRA has regulations that dictate track safety standards and the applicable train speeds for each class of track. DOT, following its review and approval of the CSX's and NS's Safety Integration Plans in Volume 2 of the Draft EIS, did not recommend any additional mitigation in this regard. SEA concludes that the accident history of rail line segment C-387 does not demonstrate an adverse safety condition that warrants increased inspections of rail cars and rail lines.

Section 5.3.14—Missouri

5.3.14 Missouri

The Missouri Office of Administration Clearinghouse acknowledged receipt of the Draft EIS. However, no state or local agencies, organizations, businesses, or citizens in Missouri submitted comments to SEA.

Section 5.3.15—New Jersey

5.3.15 New Jersey

New Jersey—General

Summary of Comments. The State of New Jersey Department of Environmental Protection provided comments on the Responsive Environmental Report of New Jersey Transit Corporation.

Response. The issues the Department identified are not related to the Draft EIS.

Northeastern New Jersey—Safety: Hazardous Materials Transport

Summary of Comments. The Middlesex County Fire Academy expressed appreciation for past support from Conrail for hazardous materials emergency response training and urged that this support continue following the proposed Conrail Acquisition.

Response. The Applicants' Safety Integration Plans, furnished in Chapter 2 of the Draft EIS, "Proposed Action and Alternatives," set forth plans for further improvements in safe operating practices. SEA acknowledges the Fire Academy's appreciation of Conrail's past support.

Summary of Comments. The Township of Woodbridge voiced concern about previous hazardous materials leaks from rail cars as well as the storage of tank cars containing hazardous materials on track in residential areas. Woodbridge also expressed concern about increased hazardous materials transport between Trenton and Port Reading, and the Township stated its hope that SEA could help to open lines of communication with the new management.

Response. SEA did not evaluate the environmental effects of pre-existing conditions. SEA points out that numerous other laws and rules govern hazardous materials releases. SEA did, however, evaluate the potential environmental impacts of hazardous materials transport and found that the following rail line segments traversed Woodbridge Township, New Jersey:

- C-769 Trenton-to-Port Reading.
- N-210 E Rail TV-to-Port Reading.
- N-211 Port Reading-to-South Amboy.
- N-212 Bound Brook-to-Port Reading.
- S-229 Port Reading Junction-to-Port Reading.

SEA found that these rail line segments would experience an overall 10 percent increase in hazardous materials transport following the proposed Conrail Acquisition. However, SEA determined that only rail line segment C-769 would experience an increase in hazardous materials transport that would exceed SEA's criteria of significance. See

Section 5.3.15—New Jersey

Chapter 4, “Summary of Environmental Review,” and Appendix F, “Safety: Hazardous Materials Transport Analysis.” SEA recommends that the Board require CSX to implement key route mitigation measures on rail line segment C-769, as this Final EIS discusses in Chapter 7, “Recommended Environmental Conditions.”

Northeastern New Jersey—Transportation: Passenger Rail Service

Summary of Comments. Bergen County, New Jersey commented that the proposed increases in freight traffic related to the Conrail Acquisition could undercut the County’s plans to expand its passenger rail capacity. The County in its “Planning Essay” attached to its comment letter described three specific rail line segments—the New York, Susquehanna and Western; the West Shore; and the Northern Branch—that it plans to use for passenger service.

Response. SEA reviewed Bergen County’s “Planning Essay” and concluded that it does not represent a formal, funded plan for passenger service on the rail line segments described. The proposed Conrail Acquisition would have little impact on the River Line. CSX would add only 1.2 freight trains per day from Ridgefield Heights, New Jersey to Newburgh, New York (C-758).

The Applicants did not propose an increase in freight operations on the Northern Running Track, which is part of the North Jersey Shared Assets Area, to Orange County, New York. The New York, Susquehanna and Western Railway is not an Applicant in the proposed Conrail Acquisition and has not entered into a Settlement Agreement with the Applicants. Therefore, its rail line segments are not subject to the Board’s jurisdiction in the proposed Conrail Acquisition.

Northeastern New Jersey—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. The Village of Ridgefield Park commented that the Draft EIS stated that there are no highway/rail at-grade crossings in the Village. Ridgefield Park suggested that SEA evaluate two highway/rail at-grade rail crossings in the Village: Mt. Vernon Street and the Bergen Turnpike. The Village stated that the New York, Susquehanna and Western Railway operations currently block these major thoroughfares for up to an hour. The Village is concerned that increased activity at the Little Ferry Yard would block these crossings even more.

Response. With respect to the Village of Ridgefield Park’s concerns, SEA has analyzed the change in delay from increases in train traffic that would result from the proposed Conrail Acquisition. The current delays at crossings in this area are not an impact of the proposed Conrail Acquisition; rather, the cause of the delays is the New York, Susquehanna and Western Railway trains that already operate through the area. These delays are a pre-existing condition, beyond the scope of the EIS, and it is the Board’s policy not to require mitigation of pre-existing conditions. As a result of the proposed Conrail Acquisition, the number of trains on the Ridgefield Heights-to-Newburgh, New

Section 5.3.15—New Jersey

York rail line segment (C-758) would increase by 1.2 trains per day, from 23.6 trains per day to 24.8 trains per day. Because this increased number of trains did not meet the Board's thresholds for environmental analysis, SEA's analysis did not address highway/rail at-grade crossings along this rail line segment.

Summary of Comments. The Village of Ridgfield Park expressed concern about emergency response. The concern arises from the possibility that emergency vehicles in the Department of Public Works yard on the western side of the railroad tracks would be unable to respond in a timely fashion to fires or other emergencies that might occur when trains block the tracks. The Village requested that SEA conduct a comprehensive analysis of highway/rail at-grade crossings at Mount Vernon Street and the Bergen Turnpike.

Response. SEA's analysis has determined that the Applicants propose no changes in rail line segment traffic that would exceed the Board's thresholds for environmental analysis in the Ridgfield Park, New Jersey area. These delays represent pre-existing conditions. It is the Board's policy not to require mitigation of pre-existing conditions.

Northeastern New Jersey—Transportation: Roadway Systems

Summary of Comments. The Tri-State Transportation Campaign indicated that the use of intermodal facilities could reduce truck traffic on congested Trans-Hudson highway crossings. An independent study, *The Oak Point Link Market Development Initiative*, dated May 1994, estimated the potential for three intermodal facilities located east of the Hudson River. Tri-State stated that these intermodal facilities would "help to accommodate increased intermodal traffic projected by the applicants, reducing their investment in, and potential negative environmental consequences of, yard expansion in North Jersey."

Response. This comment raises a prospective competition issue, which is beyond the scope of the EIS. SEA's analysis of intermodal facilities focused on the Applicants' existing and proposed facilities where activities could meet or exceed the Board's thresholds for environmental analysis.

Summary of Comments. Two commentors, the County of Bergen and the Tri-State Transportation Campaign, expressed concern about congestion in New Jersey. They stated that the proposed Conrail Acquisition would affect already congested areas. Tri-State noted that the potential "environmental impacts are not adequately addressed in the [Draft] EIS" and the "Railroad Consolidation Procedures require that the applicants detail any impact that changes in service may have on the public welfare."

Response. SEA considered these comments as well as a Petition of Intervention, two Responsive Applications, and several Requests for Conditions, and it analyzed the potential environmental impacts in Appendix H, "Transportation: Roadway Systems Analysis," of this Final EIS. SEA concluded that any potential environmental impacts

Section 5.3.15—New Jersey

east of the Hudson River that would result from the proposed Conrail Acquisition would be insignificant.

Summary of Comments. The Village of Ridgefield Park commented that the expansion of the Little Ferry Yard would create a significant volume of additional rail traffic, which would worsen the area's existing traffic problems. Further, the Village stated that the Board should "consider both immediate and long-term impacts of the railroads' activities both in and around the Village."

Response. SEA's analysis found that the potential environmental impacts of additional truck traffic on the Village of Ridgefield Park would be small. The additional truck traffic associated with the expansion of the Little Ferry Yard would increase traffic on major roadways by less than nine percent of the traffic volumes before the proposed Conrail Acquisition. The information that SEA gathered during its site visit showed that none of the trucks traveling to and from the Little Ferry Yard pass through the Village. See Appendix H, "Transportation: Roadway Systems Analysis." Although not all trucks use major roads, and some could therefore travel through the Village, the number would be likely to be small and would not result in significant impacts.

Northeastern New Jersey—Transportation: Other

Summary of Comments. Bergen County, New Jersey expressed a general concern over the ability to move people and goods by rail within a highly congested area. The County stated that new rail transit capacity is essential to the area's economic health.

Response. SEA has concluded that the proposed Conrail Acquisition would have little impact on rail line segments in Bergen County. CSX would add only 1.2 freight trains per day from Ridgefield Heights, New Jersey to Newburgh, New York.

Summary of Comments. The Tri-State Transportation Campaign raised a concern over the Applicants' estimate of environmental benefits from the diversion of truck traffic to rail in the Tri-State region (east of the Hudson). Tri-State pointed out that the Applicants estimated they would divert more than 1.35 million truck loads per year to rail within the downstate New York area. This value exceeds the 1.03 million truck loads that the Applicants expect to divert to rail for the entire eastern portion of the U.S. Tri-State noted that, in the Draft EIS, the Board raised concerns about the validity of the Applicants' estimate and suggested that the Applicants exaggerated the benefit by double counting. Tri-State asserted however, that the Board neither investigated the exaggeration nor explained the reason for its concern. Tri-State recognized that the estimates may be imprecise, but maintained that the potential truck-to-rail diversion would be significant.

Tri-State further commented that the Board never considered the conditions that Tri-State submitted that would result in competitive intermodal rail east of the Hudson.

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Response. SEA considered these comments as well as a Petition for Intervention, two Responsive Applications, and several Requests for Conditions, and analyzed the potential environmental impacts in Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS. SEA concluded that any environmental impacts that could result from the proposed Conrail Acquisition east of the Hudson would be insignificant. SEA’s responsibility and the scope of the EIS exclude evaluating merits issues such as the competitive aspects of the proposed Conrail Acquisition. Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS discusses truck-to-rail diversions.

Summary of Comments. The Tri-State Transportation Campaign in New Jersey stated, “While restored competitive rail service in the West of Hudson sector would produce substantial environmental benefits, these effects are not evaluated in the D[raft] EIS.” Tri-State proposed that the Board require the Applicants to “make a special effort to retain carload freight in North Jersey.” Tri-State noted that relocating freight away from the North Jersey Shared Assets Area would increase truck miles in the region.

Response. The Board will address merits issues in its review of the Application, but the Board traditionally does not regulate day-to-day operations, which are primarily dependent on market forces. SEA notes, however, that the Tri-State area would experience an increase in freight traffic on nearly all rail line segments. Additionally, SEA understands that the Applicants intend to increase intermodal facility usage (see Appendix B, “Safety,” Attachment B-4, of the Draft EIS).

For example, the Applicants expect the principal carload handling yard, Oak Island, to increase the number of rail cars handled each day by 230. These data suggest that the carload traffic in the northern New Jersey service area would increase, a further indication that both NS and CSX expect substantial carload business in the northern New Jersey service area. In the Draft EIS, SEA projected that the proposed Conrail Acquisition would divert over one million truck trips system-wide. Chapter 4, “Summary of Environmental Review,” and Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS provide additional information on issues in the New York City/northern New Jersey metropolitan area.

Summary of Comments. USCG stated that railroads often use the Lehigh Valley Bridge across Newark Bay to build trains and that this practice hampers the drawbridge operation of the bridge.

Response. SEA determined that waterborne navigation has the right-of-way at movable bridges and that USCG would continue to monitor channel blockage incidents in accordance with existing regulations.

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Northeastern New Jersey—Air Quality

Summary of Comments. The Township of Woodbridge, New Jersey expressed the concern that the increased number of trains would increase the number of complaints about trains idling behind residences, and that train emissions are an added cause of complaints during the spring and summer seasons.

Response. Locomotives idling for extended periods near residences are pre-existing conditions, not effects of the proposed Conrail Acquisition. It is the Board's policy not to require mitigation of pre-existing conditions. See Chapter 4, "Summary of Environmental Review," and Appendix I, "Air Quality Analysis," of this Final EIS for additional potential air quality impacts of idling locomotives. SEA's analysis demonstrates that idling locomotives would not cause problems in meeting the NAAQS.

Summary of Comments. The County Executive of Bergen County, New Jersey commented that residents and workers would be affected by any increase in air pollutant emissions.

Response. SEA has concluded that the 0.65 percent increase in NO_x emissions in Bergen County, New Jersey would not produce any discernible effect on air quality. Other pollutant changes in the County would be clearly negligible. Recent studies by the Ozone Transport Assessment Group have shown that NO_x effects on ozone nonattainment are primarily a regional concern, rather than a local one. Therefore, SEA does not believe that local NO_x emissions changes, particularly the relatively low and widely distributed emissions changes shown in the Draft EIS, would have any measurable effect on local ozone levels. Furthermore, the EPA's new emissions standards for locomotives will reduce railroad-related NO_x emissions to well below current levels. This would more than offset any small local increases resulting from changes in rail traffic associated with the proposed Conrail Acquisition.

Summary of Comments. Officials of Bergen County stated that the proposed Conrail Acquisition could violate the General Conformity Rules, which apply to air quality.

Response. The Board has determined that General Conformity does not apply to merger and acquisition applications. EPA has stated that "it is up to each Federal agency to review its own unique legal authority and determine what emission-generating activities it has the ability to control." (*General Conformity Guidance: Questions and Answers*, EPA Office of Air Quality Planning and Standards, July 13, 1994, page 14.) The Board examined the issue of control and determined that it cannot practicably control railroad emissions as part of a continuing program responsibility. See Section 5.2.3.11, Air Quality, for additional discussion of General Conformity Rules and SEA's discussion of applicability.

Section 5.3.15—New Jersey

Summary of Comments. Officials of Bergen County commented that the calculation of the “emissions off-set” is flawed because SEA’s calculation used the entire system-wide emissions rather than emissions in Bergen County.

Response. This comment is based on the assumption that General Conformity applies and that SEA should therefore compare county emissions with General Conformity thresholds. SEA calculated net emissions changes on a system-wide basis, on a region-wide basis (for the Northeast Ozone Transport Region), and on a county-by-county basis for those counties analyzed. SEA did not use the system-wide net emissions decrease (or offset analysis) as justification for not applying General Conformity Rules. Rather, the Board has determined that General Conformity Rules do not apply to its decisions to approve or deny mergers. See Section 5.2.3.11, “Air Quality,” of this chapter for additional discussion of General Conformity Rules and SEA’s discussion of applicability.

Summary of Comments. The Village of Ridgely commented that increasing numbers of idling and slow-moving trains would increase air pollution in the Village.

Response. Locomotives idling for extended periods at the New York, Susquehanna and Western Railway refueling and light maintenance facility are pre-existing conditions, not the effects of the proposed Conrail Acquisition. SEA notes that the New York, Susquehanna and Western Railway is not an Applicant in the proposed Conrail Acquisition. Also, it is the Board’s policy not to require mitigation of pre-existing conditions.

With respect to locomotive operations on rail line segments, SEA performed a dispersion modeling analysis to ascertain whether Acquisition-related increases in locomotive exhaust emissions might cause ambient concentrations to exceed the health-based NAAQS. SEA performed the air quality analysis on a conservative screening basis, including idling locomotives and locomotives operating at slow speeds, and it did not account for the significant overall reduction in diesel locomotive exhaust emissions that will result from EPA’s new emission rules for locomotives, issued in December 1997 (see Appendix O, “EPA Rules on Locomotive Emissions,” of this Final EIS). All modeled air pollutants were less than the NAAQS, and demonstrate that diesel locomotive exhaust emissions from rail line segments should not cause adverse air quality effects in the Village of Ridgely. Appendix I, “Air Quality Analysis,” of this Final EIS contains details of this study.

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Northeastern New Jersey—Noise

Summary of Comments. The Township of Woodbridge expressed concern that FRA criteria for noise ignore the “legitimate public health concerns and special circumstances” of residents who live within 50 feet of the tracks. The Town also commented that the Draft EIS did not provide an analysis of potential noise impacts on the Port Reading section of Woodbridge.

Response. Because the Board has no authority over horn sounding procedures, it is not appropriate for SEA to warrant mitigation of locomotive horn noise. The noise analysis in this Final EIS addresses all rail line segments that the proposed Conrail Acquisition would affect and that SEA identified as meeting the Board’s thresholds for noise analysis. Increases in freight train traffic that SEA predicted for rail line segment C-769, which has an endpoint in Port Reading, did not exceed the Board’s thresholds for noise analysis. Therefore, SEA performed no noise analysis for this segment.

Northeastern New Jersey—Natural Resources

Summary of Comments. The New York District of USACE provided a map of Little Ferry, Bergen County, New Jersey that depicted wetland areas regulated by the New Jersey Department of Environmental Protection. USACE indicated that any work in these and nearby wetland areas would require a Department of the Army permit from the New York District.

Response. SEA acknowledges that certain railroad activities would require Federal, state, and local agency permits. SEA agrees that the Applicants have the responsibility to secure all required permits.

Summary of Comments. USCG stated that Federal regulations governing the operation of the Lehigh Valley Bridge across Newark Bay require that trains delay the operation of this drawbridge no more than 5 minutes. USCG stated that Conrail has used this bridge in the past for building trains, causing the bridge to be inoperable for several hours. USCG commented that it has assessed civil penalties for past violations and will continue to enforce the regulations. USCG strongly recommended that the Applicants take steps to prevent these delays by expanding or reconfiguring the train yard.

Response. Based on evaluations for the Draft EIS, the rail line segments (S-220 and S-222) containing the Lehigh Valley Bridge across Newark Bay in New Jersey did not meet or exceed the Board’s environmental analysis thresholds. However, according to the data listed in Table A-1 in Appendix A of the Draft EIS, “Rail Line Segments and Traffic Density Analysis,” if the Board approves the proposed Conrail Acquisition, the freight rail traffic over the Newark Bay Drawbridge would remain approximately the same after the proposed Conrail Acquisition at 18.5 trains per day. For this reason, SEA determined that through freight train movement as a result of the proposed Conrail Acquisition would not affect drawbridge operation. The delay conditions described by

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the commentor are apparently the result of present train operations and not a result of the proposed Conrail Acquisition. The Board does not have unlimited authority, and it is the Board's policy not to require mitigation of pre-existing environmental impacts, such as impacts resulting from existing railroad operations or land development in the vicinity of the railroads. However, SEA encourages USCG to consult directly with the Applicants on this issue. SEA notes, however, that the number of rail cars that the Applicants would handle within Oak Island Yard would increase by 230 cars per day. Depending on the manner that Oak Island Yard operates, this increased switching activity could result in an increase in the number of times cars are pulled out of the yard onto the bridge, then pushed back into the yard. This movement could have an impact on the ability of the bridge operator to open the bridge for navigational purposes.

Northeastern New Jersey—Environmental Justice

Summary of Comments. The Rutgers Environmental Law Clinic, commenting for the Tri-State Transportation Campaign, stated that, by imposing Tri-State's proposed conditions outlined in its comments on the draft scope of the EIS, the Board would improve environmental justice conditions in Tri-State's region.

Response. SEA evaluated the comments for the metropolitan New York area. A substantive discussion of this issue and the results of the evaluation can be found in Chapter 4, "Summary of Environmental Review," and Appendix M, "Environmental Justice Analysis," of this Final EIS.

Other New Jersey—Transportation: Passenger Rail Service

Summary of Comments. The Somerset County, New Jersey Chamber of Commerce and the Somerset County Planning Board commented that they are strong proponents for reactivating the West Trenton passenger rail service, and are working with NJT on the West Trenton study. The County requested that the Board approve the proposed Conrail Acquisition on two conditions: (a) that the West Trenton line accommodate dual use of both freight and future passenger rail service and (b) that existing passenger rail service serving Somerset County, including that on the Raritan Valley Line, which ties into Penn Station in Newark, New Jersey, not experience adverse effects at the expense of expanded freight service.

Response. SEA's analysis showed that Conrail ceased to be the operating contractor for passenger service on the Conrail West Trenton Line in the early 1980s. Since then, the Conrail Trenton Line has been a freight service-only operation, with rationalization of the rail line track and signal system consistent with a freight-only service on the 25-mile segment between Bound Brook and West Trenton. If the Board approves the proposed Conrail Acquisition, the rail line segment would carry 4.3 fewer freight trains per day, a 27 percent reduction. Although NJT has begun preliminary planning for commuter service on the rail line segments, SEA determined that NJT's proposal for West Trenton

Section 5.3.15—New Jersey

passenger rail service is not sufficiently advanced and does not have capital funding or operating access agreements for SEA to consider reasonably foreseeable.

Other New Jersey—Cumulative Effects

Summary of Comments. USACE, Philadelphia District, referred to a proposal by the New Jersey Transit Corporation to upgrade and improve existing rail facilities along the Conrail line known as the Bordentown Secondary in order to operate a light rail transit system between Trenton and Camden. The District indicated that it could complete its review of the Corporation's delineation of Federally regulated waters and wetlands along the rail line by the end of January and that additional pre-Application meetings would follow. The District also stated that the necessary authorizations from USACE would likely take the form of Army Nationwide Permits.

Response. SEA reviewed the proposal by the New Jersey Transit Corporation and found that it has no operating or property agreements with Conrail and has not filed for a required FRA safety waiver. Thus, SEA determined that the Corporation's proposal to operate a light rail transit system between Trenton and Camden, New Jersey is not sufficiently advanced for SEA to consider reasonably foreseeable. Therefore, SEA did not evaluate the potential cumulative effects of the proposed Conrail Acquisition and the Corporation's light rail proposal in this Final EIS.

Section 5.3.16—New York

5.3.16 New York

New York—Transportation: Passenger Rail Service

Summary of Comments. The Capital District Transportation Committee in Albany, New York expressed concern that implementation of the proposed Conrail Acquisition would not accommodate passenger trains in the State of New York “over the long term” with regard to on-time performance and high-speed rail service.

Response. SEA recognizes CSX’s willingness to increase maximum authorized passenger train speeds to 79 mph, where possible, on the Amtrak Empire Service corridor between Albany and Buffalo. CSX also stated its willingness to negotiate further improvements with passenger train service on the Empire Service corridor. Planning for this work is still preliminary. SEA maintains that the operating agreement between Conrail and Amtrak provides a framework in which the planning could go forward.

With regard to the Committee’s concern about future on-time performance, Amtrak has the necessary legal and regulatory tools pursuant to the Rail Passenger Services Act of 1970 so that CSX would give its trains dispatching and operating priority. The Rail Passenger Services Act (49 U.S.C. § 24308(c)) authorizes DOT and FRA to enforce regulations requiring the dispatch of passenger trains before freight trains.

Summary of Comments. MNR commented that the Draft EIS contains several inaccuracies, as follows: (a) Daily ridership in 1997 was 218,000 and annual ridership was 62.6 million (Section 4.7.1 of the Draft EIS, “Intercity Passenger Rail Service,” said daily ridership was 201,000, and page NY-14 in Volume 3B said annual ridership was 61.3 million), (b) The “Master Table of All Rail Line Segments” in the Executive Summary contained errors regarding ownership of certain lines. The State of Connecticut is the legal owner of rail line segments C-701 and C-702 and the portion of rail line segment C-703 between Norwalk and the New York-Connecticut state border; Metropolitan Transportation Authority, MNR’s parent agency, owns the section of rail line segment C-703 between the state border and New Rochelle; American Premier Underwriters, Inc. owns rail line segments C-705 and C-729 and leases them to Metropolitan Transportation Authority; and MNR maintains and operates these rail lines for commuter service, (c) On pages NY-14 through NY-16 of Volume 3B, the Draft EIS incorrectly stated that MNR operates pursuant to rules that the Northeast Operating Rules Advisory Committee developed, but MNR stated that it operates under its own rules.

Response. SEA appreciates the factual corrections MNR provided in its comments. For analytical purposes, SEA considered ownership in terms of operating management and control of railway assets by Metro-North, rather than ownership described as American Premier Underwriters, Inc., State of Connecticut, and New York Metropolitan Transit Authority, for their respective holdings.

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While the Draft EIS incorrectly implied that Metro-North always operates following rules developed by the Northeast Operating Rules Advisory Committee, Metro-North trains operating between Suffern and Port Jervis, and on the Pascack Valley Line between Spring Valley, New York and Hoboken, New Jersey do follow Northeast Operating Rules Advisory Committee's rules. The Suffern-to-Port Jervis rail line segments were the only MNR rail lines that SEA analyzed in the Draft EIS because they are the only ones that would experience an increase in rail traffic that exceeds the Board's thresholds for environmental analysis.

New York—Transportation: Other

Summary of Comments. The Capital District Transportation Committee in New York expressed a general concern about competitive freight rail access on the east side of the Hudson River. The committee stated that it would monitor the matter and did not see the need for the Board to impose conditions on the proposed Conrail Acquisition specific to the region.

Response. SEA considered these comments as well as a Petition for Intervention, two Responsive Applications, and several Requests for Conditions, and analyzed the potential for increased truck traffic and truck traffic route shifts in Appendix H, "Transportation: Roadway Systems Analysis," of this Final EIS. SEA concluded that any environmental impacts that could result from the proposed Conrail Acquisition in the New York City/northern New Jersey metropolitan area would be insignificant. SEA's responsibility and the scope of the EIS do not include evaluating merits issues such as the competitive aspects of the proposed Conrail Acquisition. Furthermore, it is the Board's policy not to require mitigation of pre-existing conditions.

New York—Air Quality

Summary of Comments. The New York City Economic Development Corporation commented that the Board's regulations for a required minimum air quality analysis are not rigorous enough to provide a good measure of the impacts of the proposed Conrail Acquisition on air quality in the metropolitan New York City region. They also stated that the impacts from added trucks on regional roadways, and the added congestion from those trucks, would add additional NO_x emissions to the region.

Congressman Jerrold Nadler of New York, representing himself and 23 other members of Congress from New York and Connecticut, commented that New York City is at the center of the nation's largest nonattainment area, and that the Draft EIS deals only with local effects of increases in truck traffic in the areas around the northern New Jersey intermodal terminals. He also suggested that the EIS must study viable truck rerouting alternatives that could mitigate the adverse effects of the proposed Conrail Acquisition.

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Response. SEA clarifies that it prepared the air quality analysis in the Draft EIS in accordance with NEPA regulations and the approved scope of the EIS.

SEA does not expect the proposed Conrail Acquisition and associated increased truck lifts at the intermodal facilities in northern New Jersey to result in additional truck trips on metropolitan area roads or bridges. See Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS. Although a minimal number of trucks could shift their routes across the metropolitan area, these shifts would not result in significant environmental impacts. Therefore, SEA concluded that the proposed Conrail Acquisition would not cause a significant increase in road congestion or reduction in air quality in the New York metropolitan area.

New York—Noise

Summary of Comments. The New York City Economic Development Company commented that the Draft EIS did not take into account the potential noise impacts from increased truck traffic in New York City neighborhoods.

Response. SEA evaluated comments indicating that intermodal facilities in northern New Jersey would substantially increase or alter truck traffic in the New York City/northern New Jersey metropolitan area. SEA concluded that there would not be any significant change in truck traffic volumes or routes in the metropolitan area. Therefore, SEA concludes that no basis exists to expect that the proposed Conrail Acquisition would cause adverse noise impacts in the New York metropolitan area. See Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS for more detailed discussion of potential truck traffic impacts in the metropolitan area.

New York—Land Use and Socioeconomics

Summary of Comments. The Seneca Nation of Indians, Environmental Protection Department stated: “The Seneca Nation does not recognize New York State jurisdiction specifically relating to permit requirements....Any individual or entity requesting work or proposing activity to be performed on the land of the Seneca Nation must recognize and abide by tribal rules.”

Response. SEA concurs that the Seneca Nation’s jurisdiction over permit requirements is a matter of tribal sovereignty. SEA has determined that the Seneca Nation’s jurisdiction over land use is consistent with SEA’s methodology. SEA points out that SEA’s methodology involved evaluating the potential land use effects of proposed new constructions and rail line abandonments; however, the proposed actions related to the proposed Conrail Acquisition through lands of the Seneca Nation do not constitute a land use issue. The proposed Conrail Acquisition would result in increased rail traffic on an existing rail line through the Seneca Nation, but it would not cause physical impacts on tribal land through proposed abandonments or construction activities.

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New York Metropolitan Area—Safety: Highway/Rail At-grade Crossings

Summary of Comments. MNR in New York City “supports the recommended steps for enhancing safety at highway-rail grade crossings” as the Draft EIS set forth.

Response. SEA acknowledges the comment and MNR’s support for SEA’s recommended mitigation.

New York Metropolitan Area—Transportation: Roadway Systems

Summary of Comments. Congressman Jerrold Nadler and 23 other members of Congress collectively submitted a comment that raised many issues with respect to the Draft EIS. The New York City Economic Development Corporation also submitted a comment that raised similar concerns. The commentors stated that the Draft EIS addressed only local effects of significant increases in truck trips related to activity at northern New Jersey intermodal facilities. Congressman Nadler noted that much of the added truck traffic “must be routed via the George Washington Bridge” and “Inevitably that traffic will traverse northern Manhattan and the Bronx.” Congressman Nadler also stated that “to conform with the minimum requirements of the law the exact amount of new traffic through northern Manhattan and the Bronx and other regional neighborhoods must be determined and the adverse environmental effects reviewed and stated.” Congressman Nadler concluded that mitigation would be necessary to lessen the potential environmental impact of the added truck trips in the region.

The New York City Economic Development Corporation also expressed a concern that the Draft EIS failed to consider the potential environmental impacts of the increased truck trips to and from the northern New Jersey intermodal facilities. The Development Corporation suggested that “SEA should study carefully the potential numbers of additional truck trips, the likely routes, as well as the numbers of additional truck miles traveled in New York (including Long Island), New Jersey, Connecticut, and other states in New England that may feed traffic to the north New Jersey terminals....”

Response. SEA considered these comments as well as a Petition of Intervention, two Inconsistent and Responsive (IR) applications, and several Requests for Conditions. SEA analyzed the potential for increased truck traffic and truck trip route shifts in the New York City/northern New Jersey metropolitan area in Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS. This analysis focused on the truck route across the George Washington Bridge, northern Manhattan, and the Bronx. SEA concluded that, although an insignificant number of route shifts could occur, no significant environmental impacts would result from the proposed Conrail Acquisition in the metropolitan area.

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New York Metropolitan Area—Air Quality

Summary of Comments. The New York State Department of Transportation said that the proposed Conrail Acquisition threatens to impede New York State’s ongoing efforts to protect air quality in nonattainment areas of the State, including the success of air quality improvement plans. The Department also claimed SEA’s conclusion that no mitigation was required (based on including system-wide air pollutant emissions reductions from truck-to-rail diversions) was erroneous.

Response. SEA notes that the Draft EIS indicated that emissions changes of pollutants other than NO_x would clearly be insignificant in all local areas of New York State. Recent studies by the Ozone Transport Assessment Group have shown that NO_x effects on ozone nonattainment are primarily a regional concern, rather than a local one (see Chapter 4, “Summary of Environmental Review,” and Appendix I, “Air Quality Analysis,” of this Final EIS). Therefore, SEA concluded that NO_x emissions changes in local areas of New York, particularly the relatively low and widely distributed emissions changes shown in the Draft EIS, would not have any measurable effect on local ozone levels. Furthermore, EPA’s new emissions standards for locomotives will reduce railroad-related NO_x emissions to well below current levels. See Appendix O, “EPA Rules on Locomotive Emissions,” of this Final EIS. This would more than offset any small local increases as a result of rail traffic adjustments associated with the proposed Conrail Acquisition.

SEA did rely on truck-to-rail freight diversion in performing its analysis to calculate net emissions changes. If these diversions do not actually occur, or are lower than the Applicants projected, there would be a smaller decrease in truck emissions and a smaller increase in rail emissions.

Summary of Comments. The New York State Department of Transportation commented that the county-level air quality analysis was flawed because SEA either disregarded small increases of NO_x emissions or shifted the focus to the regional (state-wide) analysis without providing mitigation. The New York State Department of Transportation commented that the truck-to-rail air quality analysis was flawed because SEA admits to potential double counting of truck-to-rail diversions as supplied separately by NS and CSX.

Response. Based on its analysis, SEA does not consider it necessary to provide mitigation for small local NO_x emissions increases when these increases would have an insignificant effect on air quality, as recent Ozone Transport Assessment Group studies demonstrate. Therefore, SEA concludes that mitigation is not warranted for the small predicted NO_x emissions changes on a local basis.

SEA acknowledges that there is a potential for “double-counting” truck diversions because both NS and CSX have pursued many of the same markets and estimated their

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truck-to-rail freight diversions independently. To avoid such double-counting, the Applicants would have been required to perform a coordinated marketing analysis, which could have raised anti-trust concerns. However, if the combined truck-to-rail diversions were overestimated, there would be a smaller decrease in truck emissions and a smaller increase in rail emissions. Therefore, SEA maintains that potential “double-counting” does not affect its conclusion that the potential air quality impacts of the proposed Conrail Acquisition would be negligible.

Summary of Comments. The Tri-State Transportation Campaign stated that SEA should reanalyze the potential air quality impacts in a 33-county area of New York State to calculate the air quality benefits more accurately based on the information in the New York State IR application.

Response. The New York State IR application requested that the Board impose conditions on the proposed Conrail Acquisition to facilitate more rail service in the New York City metropolitan area east of the Hudson River (see Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS for further discussion). A potential benefit of such a service could be reduced traffic congestion, resulting in an improvement in existing air quality.

While new rail-related services or facilities may help to reduce emissions, it is not the Board’s responsibility to attempt to rectify existing air quality problems. These problems, which are caused largely by motor vehicles and the multitude of other emissions sources in the area of concern, would not be exacerbated by the proposed Conrail Acquisition. The Draft EIS demonstrated that system-wide emissions of all pollutants, except sulfur oxides (SO_x), would decrease. The additional analysis suggested by the Tri-State Transportation Campaign is outside of SEA’s EIS scope and responsibility. SEA acknowledges the air quality concerns expressed by the commentor, but it concludes that the problems would not be a result of the proposed Conrail Acquisition.

New York Metropolitan Area—Land Use and Socioeconomics

Summary of Comments. Congressman Jerrold Nadler of New York, 23 other members of Congress, the New York City Economic Development Corporation, and Orange County questioned the definition of the term “socioeconomics” in the EIS scope. The commentors stated that the proposed Conrail Acquisition did not foster competition in “the City of New York and the eastern environs” and ignored enhanced economic opportunity and economic development.

Response. In accordance with the Board’s environmental regulations and the scope of the EIS, SEA limited its land use and socioeconomic analysis to considering the consistency of proposed rail line construction and abandonment activities with existing land use plans and evaluating potential business loss directly related to proposed

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constructions and abandonments. Overall economic effects related to the proposed Conrail Acquisition, including competition are merits issues and are not part of SEA's direct environmental review responsibility.

New York Metropolitan Area—Environmental Justice

Summary of Comments. Congressman Jerrold Nadler and 23 other members of Congress expressed concern that the Conrail “monopoly” in “the City of New York and its eastern environs,” including the Bronx, would remain intact after the proposed Conrail Acquisition. The members of Congress commented, “The action proposed is the partial end of the Conrail monopoly. Rather than break up this monopoly in its entirety, the petitioners urge that one area of the nation be left out. That area, being the City of New York and its eastern environs, has the nation’s largest population center, its highest domestic product, a large minority population and the largest disparity between its richer and poorer residents.”

Response. Distribution of Conrail assets and other competitive features are merits issues and not part of SEA's environmental review responsibility. Based on the Application, SEA concluded that there would be no environmental justice impacts on the metropolitan area because conditions would not exceed the Board's thresholds for environmental analysis.

New York Metropolitan Area—General

Summary of Comments. Several members of the U.S. House of Representatives expressed concern about solid waste transport by rail from Long Island, New York to landfills outside the area. The commentors stated that the Long Island Railroad freight services operator, the New York and Atlantic Railroad, and the Borough President of Queens had reached an agreement prohibiting municipal solid waste transport through Queens via Conrail. This agreement resulted from long delays of cars carrying municipal solid waste through the New York and Atlantic interchange with Conrail at Fresh Pond Junction in Queens. The letter suggested that granting the Conrail Shared Assets Operator access to Fresh Pond to handle the traffic via harbor floats is a viable option.

Response. The agreement prohibiting municipal solid waste transport through Queens involves the New York and Atlantic Railroad and the Borough of Queens solution to remedy a pre-existing condition and is not a result of the proposed Conrail Acquisition. It is not appropriate or within the Board's jurisdiction to interfere with agreements between railroads and local government. Further, SEA considers it unfair to characterize such an agreement between two independent parties as a refusal by the railroad to handle traffic. It is a speculative assertion that merely granting access would create any substantial changes in outcome relative to solid waste transport. The existing agreement between the New York and Atlantic Railroad and Queens has a 5-year term, and the commentors will be free to discuss their concerns with the Borough of Queens, the New

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York and Atlantic Railroad, the Conrail Shared Assets Operator, and other concerned parties when the agreement lapses.

Other New York—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The Schuyler County, New York Environmental Management Council commented that although many of the rural highway/rail at-grade crossings did not meet the roadway traffic threshold for environmental analysis, they would experience a significant change in rail freight tonnage. The Council posed the question, “Will our 500% increase [in gross freight tonnage] be sufficient to result in upgraded traffic warning signals?”

Response. The formulas that SEA used to calculate accident risk included the number of trains at a highway/rail at-grade crossing, not tonnage. SEA concluded that the number of trains is the best measure of the exposure of roadway traffic to circumstances with the potential for accidents. SEA also evaluated each rail line segment for the proposed tonnage, because a given tonnage could be distributed in any number of trains. SEA did not analyze highway/rail at-grade crossings in Schuyler County because no rail line segments in the County met SEA’s threshold for such analysis (8 trains per day increase) and, therefore, did not warrant consideration of mitigation.

Summary of Comments. Orange County, New York provided the following list of highway/rail at-grade crossings for which there was no calculation of accident frequencies in the Draft EIS: Danskammer Road and River Road, Township of Newburgh; Park Place, Washington Street, South William Street, and Renwick Street, City of Newburgh; Verplank Avenue, Township of New Windsor; Shore Road, Clark Street, and Hudson Street, Village of Cornwall-on-Hudson; Station Road, Village of Highland Falls; USMA South Dock and Mine Road, Town of Highlands; and East Village Road, Town of Tuxedo. The County stated that CSX owns the rail lines at all these locations except East Village Road, which NS owns.

Response. SEA did not analyze the above highway rail at-grade crossings because CSX and NS rail line segments did not meet the SEA’s threshold for environmental analysis of safety impacts. This threshold is an increase of 8 or more trains per day that would result from the proposed Conrail Acquisition.

Other New York—Safety: Hazardous Materials Transport

Summary of Comments. The Seneca Nation noted that the Draft EIS identified a key route through the Cattaraugus Reservation in Irving, New York where hazardous materials transport would increase from 7,000 to 26,000 carloads per year. The Nation stated that it lacks the capacity to respond to emergencies involving hazardous materials and asked how CSX and NS would address this concern.

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NS stated that the recommendation in the Draft EIS that NS “assist the Reservation with emergency response preparedness as may be requested” should be deleted because SEA did not propose similar requirements for other communities. NS stated that well-established mitigation measures described in the Draft EIS should be applied to the Cattaraugus Reservation in the same manner as other communities.

Response. Rail line segment N-070, which traverses the Cattaraugus Reservation, would become a key route and a major key route if the Board approves the proposed Conrail Acquisition. SEA recommends that the Board require NS to implement the steps necessary for key routes and major key routes before NS increases the number of rail cars carrying hazardous materials on a rail line segment identified as a key or major key route. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for SEA’s recommended mitigation measures. SEA’s recommendation that NS assist the Cattaraugus Reservation with emergency response preparedness is consistent with the major key route requirement that NS prepare an emergency response plan and spill recovery plan with the local volunteer fire department located within the Cattaraugus Reservation.

Summary of Comments. The Schuyler County, New York Environmental Management Council expressed concern about training and equipment needs for emergency response personnel along the Corning-to-Geneva, New York rail line segment N-060.

Response. NS has estimated minimal shipments of hazardous materials over rail line segment N-060 if the Board approves the proposed Conrail Acquisition; therefore, SEA does not recommend that the Board require any mitigation measures on this rail line segment.

Summary of Comments. MNR concurred with SEA’s recommendation that NS bring rail line segments N-062 and N-063 between Suffern and Port Jervis, New York into compliance with AAR key route guidelines. MNR further recommended that NS develop a hazardous materials emergency response plan and treat the Suffern-to-Port Jervis route as if it were a major key route. Orange County, New York expressed concern about proposed increases in hazardous materials transport on these rail line segments. Orange County also noted that the Draft EIS did not identify the types of materials the Applicants would transport through the County or estimate how hazardous materials transport by rail would decrease transport by truck.

Response. SEA has evaluated the NS rail line segments N-062 between Suffern and Campbell Hall, New York and N-063 between Campbell Hall and Port Jervis, New York. SEA has determined that the anticipated increase in hazardous materials transport following the proposed Conrail Acquisition would not be sufficient to warrant the major key route designation. See Chapter 4, “Summary of Environmental Review,” and Appendix F, “Safety: Hazardous Materials Transport Analysis,” of this Final EIS.

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Regarding Orange County's comment on the identification of types of hazardous materials for transport, SEA did not consider it practical to identify the specific hazardous materials that NS transports through every community in the rail system. Furthermore, the scope of the EIS does not address this issue. Appendix L, "Natural Resources Analysis," of this Final EIS provides a list of the most common hazardous materials that the Applicants transport. Appendix B, "Safety," of the Draft EIS provides additional related information. Furthermore, SEA notes that, based on 1994-1995 data that DOT supplied, transport per billion ton-miles of hazardous materials by truck is ten times more likely to experience an incident than by rail. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Other New York—Safety: Passenger Rail Operations

Summary of Comments. Orange County, New York commented that "safety mitigation measures do not take into account the number and spacing of railroad passenger stations with the expected [Metro-North Railroad] increase in the number of passenger trains per week on NS Segments N-062 and N-063." The County also expressed concern about the "inadequacy of the Moodna Viaduct on the Suffern-to-Campbell Segment (N-062) both in terms of structural soundness and carrying capacity."

Response. SEA acknowledges the concerns Orange County raised. Regarding the number and spacing of passenger stations, automatic block signals protect the train movements of MNR's Port Jervis Line. The New Jersey Transit Rail Operations dispatching center controls bi-directional signals and sidings on that rail line. In addition, SEA has received new data subsequent to the publication of the Draft EIS. NS has informed SEA that it is proposing three fewer freight trains on the 30-mile segment between CP-Hudson Junction and Port Jervis. The New York, Susquehanna and Western Railway would operate one freight train per day, utilizing its trackage rights, for a total of 9.0 freight trains per day, an increase of 1.1 freight trains per day.

This reduction in overall freight traffic may further improve passenger rail safety on the segment between CP-Hudson Junction and Port Jervis. If the proposed Conrail Acquisition is approved, NS would assume responsibilities for Conrail's contractual obligations to maintain the rail line in a state of good repair, including the 3,200-foot steel viaduct at Moodna Creek. SEA noted that both freight and passenger trains are authorized to operate at up to 30 miles per hour on the viaduct. NS has an interest in maintaining this rail line in good repair because the rail line is NS's principal route from Buffalo to New York and New Jersey. Capacity improvements to the rail line segment between Suffern and Port Jervis are matters that would be covered by the operating access agreement between MNR and NS.

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Other New York—Transportation: Passenger Rail Service

Summary of Comments. The Mayor of Syracuse, New York, commenting on behalf of the Syracuse Metropolitan Transportation Council, requested that CSX work with the State of New York and the Empire Corridor Task Force in examining and developing strategies to increase passenger train speeds “in the New York-Albany-Buffalo corridor.” The Mayor indicated that CSX, in its Operating Plan, stated it would honor existing contracts but did not discuss the issue of working with the State and Amtrak to improve passenger service in the Empire Corridor.

Response. SEA acknowledges the issue of improved passenger service identified in the comment. CSX indicated to SEA that it would operate Amtrak service on the New York-to-Albany-to-Buffalo corridor in accordance with Amtrak’s Operating Agreement. Amtrak renegotiated this agreement, which covers a 10-year period, with Conrail in 1996. CSX, in its Operating Plan, indicated that it would raise the maximum authorized speed for passenger service to 79 miles per hour, where possible. This is the maximum speed permitted on the New York-to-Albany-to-Buffalo corridor, which does not have a signal system with an automatic train-stop feature. Because the contractual arrangement governs the passenger train speed and predates the proposed Conrail Acquisition, SEA did not intercede in this matter. This does not preclude CSX, the State of New York, and the Empire Corridor Task Force from working together to increase passenger train speeds on the corridor.

Summary of Comments. CSX stated that, contrary to a statement in the Draft EIS, it has not reached a service agreement with the City of Dunkirk, New York that would allow Amtrak’s Lake Shore Limited to stop there. In addition, CSX asserted that such service would not be related to the proposed Conrail Acquisition. Instead, CSX requested that the Board let the parties involved resolve the proposed service issue independently. CSX stated that it “is not a matter that the Board should consider here.”

Response. SEA notes the correction. The City of Dunkirk’s dispute with Conrail relates to the specific conditions of a 1995 agreement to lease the passenger station to the City for restoration of Amtrak passenger service. The dispute predates the proposed Conrail Acquisition; therefore, SEA did not include it in its analysis. SEA also concluded that the proposed Conrail Acquisition would not affect Amtrak’s Lake Shore Limited, which is the only passenger train through Dunkirk, New York operating on the Conrail rail line between Buffalo, New York and Cleveland, Ohio. Freight traffic over this rail line segment, which would be acquired by CSX, would increase by less than one train per day.

Summary of Comments. The State of New York and MNR commented that the 30-minute clearance “window” that SEA proposed as a safety mitigation measure would reduce the capacity of the Port Jervis-to-Seffern, New York rail line segment (without enhancing safety) and would impede MNR’s plans to expand passenger service on the rail line. APTA also opposed the

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window because it would adversely impact passenger operations and thereby increase highway congestion. MNR indicated that its current agreement with Conrail giving passenger trains priority would continue to govern operation of the rail line. MNR also provided its current operating timetable and train numbers to assist SEA in further evaluating the rail line's capacity. These commentors requested that the Board reject the mitigation that SEA recommended (as well as any other "rigid rules"), and MNR requested support for train dispatching sensitive to the needs of both passenger and freight service. DOT has also stated that the "consequences of the transaction for rail passenger transportation require oversight." DOT was concerned with the requirement for "logistics and dispatching" resulting from the temporal separation between passenger and freight trains.

Response. SEA recognizes the concerns this and other similar comments address. SEA noted unanimous opposition to the 30-minute temporal separation and has reconsidered this issue. SEA does not recommend the mitigation in this Final EIS. See "Safety: Passenger Rail Operations," of this Final EIS for a detailed discussion of the problems with temporal separation of trains operating on a rail line used jointly for passenger and freight service.

Summary of Comments. MNR provided the Verified Statement of Howard Permut in the comment it filed with the Board in support of its request for conditions that discussed the capital improvement investments MNR intends to make on the Port Jervis Line to support long-term passenger service expansion plans. MNR is seeking "control of this line either by purchase acquisition or a very long-term lease in order to justify the planned capital investment of public funds" The Verified Statement concluded that the rail line, in its present capacity, cannot accommodate the trains that MNR and NS would add. The Verified Statement also suggested that NS may have proposed some freight schedules that would lead to conflicts with MNR passenger trains and that SEA should "further pursue this matter."

Response. SEA acknowledges the concerns raised in the comment that MNR submitted. As part of its analysis, SEA recognized that MNR's long-term plans include a 100 percent increase, from 17 trains per day to 33 trains per day, by the year 2020 on the Suffern-to-Port Jervis rail line segment. Such an increase would severely restrict freight train movements except during late-night hours on this single-track rail line. Additionally, MNR suggested in its comments that the rail line would require substantial capital improvements to accommodate the added commuter trains.

Although Conrail had considered the idea of a sale or a long-term agreement prior to the proposed Conrail Acquisition, NS has declined to continue negotiations for the sale of the Suffern-to-Port Jervis rail line segment of the Southern Tier Line to MNR. Conrail's Southern Tier Line between Croxton, New Jersey and Buffalo, New York via Binghamton, Corning, and Hornell, New York has had a minor operating role in the Conrail service network. This rail line, however, would become one of the two NS east-

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west main line routes (the other would be through Harrisburg and Pittsburgh, Pennsylvania) if the Board approves the proposed Conrail Acquisition.

NS has stated its willingness to provide MNR with a 5-year operating agreement, with the provision that MNR trains continue to receive priority. NJT would continue to exercise dispatching control of the rail line. MNR and NS would be responsible for negotiating the operating access agreement. The Board has no jurisdiction over such matters.

MNR also noted that NS proposed that a freight train, IMSLCX (intermodal St. Louis, Missouri to Croxton, New Jersey), departs at 5:00 p.m. from Port Jervis, opposing five MNR trains en route from Suffern on a single-track rail line. SEA concluded that NS would be forced to adjust this proposed freight schedule before commencing operations, since NJT would have dispatching control of the rail line.

SEA has also noted that the New York, Susquehanna and Western Railway, which has trackage rights on the 30-mile rail line segment between Campbell Hall (CP-Hudson Junction) and Port Jervis, en route to Binghamton, frequently operates more trains on this rail line segment than Conrail. However, NS informed SEA that after NS prepared its Operating Plan, the New York, Susquehanna and Western Railway reduced the number of trains it would expect to operate over the rail line from four per day to one per day if the Board approves the proposed Conrail Acquisition. Therefore, the total number of trains that would operate over the rail line segment would increase by only 1.1 trains per day rather than 4.1 trains per day, which would reduce the potential for freight train interference on this route.

Summary of Comments. CSX noted that it learned from the Draft EIS about a study by Rockland County, New York on the possibility of restoring commuter rail service on Conrail's River Line. CSX indicated that it would "be willing to evaluate Rockland County's proposal if and when Rockland County's study receives the endorsement of a public agency authorized by the state of New York to operate commuter rail services."

Response. SEA noted Rockland County's (New York) interest in the restoration of commuter train service on the Conrail River Line. The River Line has not had passenger service for nearly 40 years. SEA did not analyze the effect of the proposed Conrail Acquisition on this proposed service because Rockland County has not prepared a formal plan or identified a source of funding.

Summary of Comments. MNR commented on a rail line segment between Suffern, New York and Port Jervis, New York, where the proposed Conrail Acquisition would transfer existing Conrail-owned trackage to NS. Passenger trains that New Jersey Transit Rail Operations, Inc. operates under contract for MNR use this rail line segment. MNR noted that the new operating

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agreement with New Jersey Transit Rail Operations “reflects the minimum number of new trains; even more service could result from future negotiations between Metro-North and N.J. Transit.”

Response. SEA determined that Conrail’s Southern Tier Line between Croxton, New Jersey and Buffalo, New York via Binghamton, Corning, and Hornell, New York has had a relatively minor operating role in the Conrail service network. This rail line segment, however, would become one of the two NS east-west main line routes if the Board approves the proposed Conrail Acquisition. NS declined to continue negotiations for the sale of the Suffern-to-Port Jervis rail line segment of the Southern Tier Line to MNR, which Conrail had entertained prior to the proposed Conrail Acquisition. However, NS stated its willingness to provide MNR with a 5-year operating agreement, continuing the provision that MNR trains would receive priority. NJT would continue to exercise dispatching control of the rail line.

SEA recognized that MNR’s long-term plans include a 100 percent increase to 33 trains per day by 2020 on the Suffern-to-Port Jervis rail line segment. Such an increase would severely restrict freight train movements except in the late-night hours on this single-track rail line, unless the involved parties agree to undertake capacity improvements. MNR has stated that it would provide these capital improvements to the extent that they are related to expanded commuter service.

After publication of the Draft EIS, NS informed SEA that there would be three fewer proposed freight trains on the 30-mile rail line segment between Campbell Hall (CP-Hudson Junction) and Port Jervis. The New York, Susquehanna and Western Railway would operate one freight train per day, exercising its trackage rights, for a total of 9.0 freight trains, an increase of only 1.1 freight trains per day.

Other New York—Transportation: Other

Summary of Comments. The Syracuse, New York Metropolitan Transportation Council requested that the Board thoroughly review the potential environmental impact of the proposed Conrail Acquisition on short line and regional railroads. The Council commented that the Draft EIS failed to mention the interaction between the expanded CSX and the short line and regional railroads.

Response. Consistent with the scope of the EIS, SEA evaluated the potential effects of the proposed Conrail Acquisition as it relates to the Applicants’ rail activities. However, if short line or regional railroads were to file an IR application, Board regulations require IR applications to provide analyses of environmental impacts or provide Verified Statements that indicate no potential significant environmental impacts. This analysis would consider only environmental impacts on the Applicants’ rail lines. Most IR applicants submitted Verified Statements. The Board evaluates issues pertaining to the relationships or interaction among the Applicants and regional or short line railroads as

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merits (competitive or economic) issues. SEA does not consider such issues in its environmental review.

Summary of Comments. The Rensselaer County, New York Economic Development and Planning Department expressed concern about a short rail line segment between Rensselaer and Troy. The track serves several businesses in the South Troy Industrial Park. The Department requested that the Applicants maintain and continue the track and notify the Department of plans for this track.

Response. Conrail currently operates the Troy Industrial Track between a connection with their Chicago Line in Rensselaer at CP-143 and Troy. Because of the low train traffic, industrial nature, and short length of this rail line segment, SEA did not include it in Attachment A-1, “Master Table of All Rail Line Segments,” Appendix A, “Rail Line Segments and Traffic Density Analysis,” of the Draft EIS. CSX would operate this trackage with no anticipated changes after the proposed Conrail Acquisition.

Other New York—Air Quality

Summary of Comments. The County Executive of Orange County, New York expressed concern about air quality exceedances and their likely impact on the County’s ozone air quality compliance levels.

Response. SEA analyzed emissions in Orange County, New York in the Draft EIS based on the Applicants’ Operating Plans available at that time. Since the issuance of the Draft EIS, the Applicants have changed their Operating Plans such that there will no longer be any rail-related activity in Orange County that exceeds the Board’s thresholds for air quality analysis. SEA’s analysis in the Draft EIS concluded that the increase in NO_x emissions in Orange County, would not significantly affect ozone levels there. Because of the change in rail activity in Orange County, rail-associated emissions will be substantially lower than previously estimated. SEA concludes that the proposed Conrail Acquisition would have negligible air quality impacts in Orange County.

Other New York—Cultural and Historic Resources

Summary of Comments. Recent engineering studies on Conrail’s Buffalo-to-Binghamton rail line segment determined that the bridge over the Genesee River near Portageville (Conrail Bridge No. 361.66, also known as the Portageville Bridge) is near the end of its useful life. The bridge, which dates to 1875, is an 819-foot-long steel viaduct resting on six steel towers. Because of its design and age, NS concluded that it would not be possible to repair or renovate the bridge without replacing the entire structure. NS is conducting additional studies and is consulting with Federal, state, and local authorities, including the New York SHPO, to evaluate alternatives for replacing the existing bridge. NS will replace the bridge in full compliance with all applicable Federal, state, and local laws and regulations if the Board approves the proposed

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Conrail Acquisition. NS states that the proposed bridge replacement is in response to a pre-existing condition and is not related to the proposed Conrail Acquisition. Therefore, NS claims that the Board does not have jurisdiction over the bridge's replacement.

Response. SEA attended a meeting in Portageville, New York with representatives of Conrail, NS, and state and local agencies to discuss the condition of the Portageville Bridge over the Genesee River in Letchworth State Park. SEA also reviewed Federal law and past Board decisions related to its jurisdiction over the bridge's proposed replacement. SEA concluded that NS's proposal to replace the Portageville Bridge is in response to an existing condition and that the bridge replacement would, therefore, not be related to the proposed Conrail Acquisition.

According to NS and Conrail, the bridge is currently rated for 263,000 pounds (load rating) of traffic at 10 miles per hour because of its deteriorating condition, and NS must eventually replace it. Because of the way it was built, the 128-year-old bridge is not a good candidate for strengthening. NS anticipates that it would construct the new bridge on a parallel alignment adjacent to the current bridge, which it would continue to use until it completed the construction of the new bridge.

The Board (and its predecessor, ICC) has jurisdiction over and must issue a certificate authorizing the construction of rail line extensions and additions pursuant to 49 U.S.C. § 10901(a) before a railroad may undertake such work. However, ICC concluded that Congress did not intend for the Board to regulate a railroad's investment in existing systems when Congress passed the statute. In *City of Detroit v. Canadian National Railway Company et al.*, 9 ICC 2d 1208, 1215 (December 1993), the ICC stated, "If anything, Congress sought to encourage railroads to improve existing services before extending a line or constructing a new one. Congress did not give any intention that it intended to erect regulatory hurdles to a carrier investing its capital to improve its own plant." *City of Detroit* involved Canadian National's plan to construct a new railroad tunnel adjacent to an older tunnel under the St. Lawrence River, making it factually parallel to the Portageville Bridge. ICC agreed with Canadian National that ICC did not have jurisdiction because the new tunnel was necessary to upgrade Canadian National's existing rail route and replace an outdated facility. The United States Court of Appeals for the District of Columbia concurred. See *Detroit/Wayne County Port Authority v. Interstate Commerce Commission*, 59 F.3d 1314 (D.C. 1995).

Whether or not the Board approves the proposed Conrail Acquisition, SEA concluded that the owner of the Buffalo-to-Binghamton, New York rail line segment on which the bridge is located will need to replace it because the bridge is nearing the end of its useful life. As in *City of Detroit*, that owner, whether it is Conrail or NS, may invest "its capital to improve its own plant" without the Board's authorization.

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At the meeting that SEA attended, New York State's Office of Parks, Recreation and Historic Preservation indicated that if SEA did not include the Portageville Bridge in this Final EIS, the Office would prepare an EIS pursuant to the state Environmental Quality Review Act. The bridge's historic character and location within a state park also requires that the Office conduct biological and archaeological surveys. Because the Genesee River is a navigable waterway, USCG will likely have ultimate Federal jurisdiction over the bridge's replacement.

Other New York—Hazardous Waste Sites

Summary of Comments. The Seneca Nation of Indians stated that it would not consider reclaiming the Salamanca Yard because the Seneca Nation has major concerns about diesel and polychlorinated biphenyl (PCB) contamination on site. The Seneca Nation noted that EPA and possibly the New York State Department of Environmental Conservation have documented spills.

Response. SEA has determined that there would be no changes in the use of the Salamanca Yard as a result of the proposed Conrail Acquisition. However, SEA also notes that the Salamanca Yard is within the corporate limits of Great Valley, Pennsylvania, not a parcel under the jurisdiction of the Seneca Nation.

Other New York—Natural Resources

Summary of Comments. The Buffalo District of USACE noted that eight projects in New York and Ohio were identified in the Draft EIS that would directly or potentially impact waters of the United States. A Department of the Army authorization would be required for fill material placement into a water of the United States. The commentor encouraged further coordination with the Buffalo District.

Response. SEA acknowledges that certain railroad activities would require Federal, State, and local agency permits. SEA agrees that the Applicants have the responsibility to secure all required permits.

Other New York—Environmental Justice

Summary of Comments. The Seneca Nation of Indians, Environmental Protection Department, commented, "Although there is a significant increase through the Cattaraugus Reservation, there are no identified environmental justice impacts to Seneca Nation community in the EIS. How does CSX and Norfolk Southern plan to address the limited capacity to respond in some communities."

Section 5.3.16—New York

Response. SEA determined that rail line segment N-070, which runs through the northeastern corner of the Cattaraugus Reservation, did not meet the first criterion for environmental justice analysis for the Draft EIS, which included Native American people in the demographic assessment of minority populations (see Chapter 4, “Summary of Environmental Review,” and Appendix M, “Environmental Justice Analysis,” of this Final EIS). In the more detailed analysis for the Final EIS, populations in the four block groups within the Area of Potential Effect in the Cattaraugus Reservation did not meet the population criteria based on the multiple resource effects analysis. SEA provided an additional analysis of specific Native American issues in the land use analysis (see Appendix K, “Environmental Justice,” of the Draft EIS).

Other New York—General

Summary of Comments. The Mayor of Dunkirk, New York requested that NS relocate to the Conrail line “in the interest of safety, health and welfare for our fine residents.”

Response. SEA conducted additional analysis on two rail line segments, C-690 and N-070, in the Dunkirk area. The two rail line segments are parallel south of Dunkirk, diverge through town, and then come in close proximity again north of Dunkirk. Conrail currently operates rail line segment C-690, which has many highway/rail grade separations. The Conrail corridor has two main line tracks and one siding track through Dunkirk. This rail line segment would convert to CSX ownership if the Board approves the proposed Conrail Acquisition. NS operates a single-track rail corridor, N-070, which has several highway/rail at-grade crossings. After the proposed Conrail Acquisition, rail line segment C-690 would experience an increase of 0.7 trains per day to 50.8 trains per day; the NS segment would experience an increase of 12.1 trains per day to 25.1 trains per day.

The Draft EIS noted nine highway/rail at-grade crossings with gates for the NS rail line segment through Dunkirk. A site visit confirmed that all NS crossings on this segment are gated. SEA’s safety analysis indicated that the potential Acquisition-related increase in accident risk would be below the criteria of significance. In addition, SEA did not identify a significant highway/rail at-grade crossing delay issue.

In response to the comment, SEA evaluated the possibility of constructing a bypass route for NS. SEA evaluated possible locations for providing a connection between the two rail line segments in order for NS to move its operations adjacent to the Conrail/CSX corridor and thus eliminate at least nine grade crossings. Although the connection appears to be feasible through an abandoned rail yard at Hyde Creek, significant issues relating to right-of-way and construction costs remain. For example, the existing Conrail bridges (which provide the grade separations for that corridor) cannot accommodate another track without major construction. In addition, the relocation could range in cost from \$5 million to \$25 million.

Section 5.3.16—New York

Summary of Comments. Rensselaer County, New York requested confirmation of track ownership of the rail line segment between Rensselaer and Troy. The County noted that SEA's master list of rail line segments does not show this rail line segment.

Response. Conrail currently owns the rail line segment between Rensselaer and Troy. SEA confirms that CSX would assume ownership of this rail line segment under the proposed Conrail Acquisition.

Section 5.3.17—North Carolina

5.3.17 North Carolina

North Carolina—Safety: Passenger Rail Operations

Summary of Comments. The City of Rocky Mount, North Carolina expressed concern that Table 5-2 of the Draft EIS indicated an “expected increase in the number or frequency of passenger train accidents in our area (Segment C-334)” because of a cooperative effort between the City of Rocky Mount and Amtrak to increase passenger rail service in the area.

Response. In the Draft EIS, SEA determined that the accident interval for rail line segment C-334 (between Weldon and Rocky Mount) would decrease from an estimated one accident every 101 years to one accident every 78 years as a result of the proposed Conrail Acquisition, as Table 5-NC-2 showed. However, SEA subsequently revised its analysis of the rail line segment’s capacity through Rocky Mount. SEA concluded that the double-track, reverse-signaled main line could efficiently accommodate CSX’s proposed increase of 6 freight trains per day, for a total of 25.5 trains, in addition to the 8 Amtrak trains that currently use the rail line each day. SEA’s analysis also included the increased level of switching activity proposed at the Rocky Mount terminal.

SEA also determined that modern signal systems and operational strategies that the Applicants currently use should adequately address the increased risk of train collisions on those rail line segments that exceed SEA’s criteria of significance. SEA is not recommending additional mitigation in those areas. SEA determined that there are no rail line segments that would exceed SEA’s criteria of significance in the Rocky Mount, North Carolina area.

SEA points out that CSX is obligated both by the Rail Passenger Service Act of 1970 and its operating agreement with Amtrak to give operating priority to Amtrak trains. Amtrak delays result from many different causes. Amtrak provided data indicating that for the period between October 1996 and September 1997, 13.2 percent of the total minutes of Amtrak delays on CSX rail lines were attributable to freight train interference. However, maintenance work and related orders to limit train speed in an area caused 27 percent of the passenger service delays. SEA understands that CSX and Amtrak are currently producing improved on-time performance in compliance with the terms of the operating agreement.

SEA also notes that in July 1997, CSX established the position of Vice President—Passenger Service Integration, in recognition of the need to improve the performance of both intercity Amtrak and commuter train operations. Since then, the on-time performance of Amtrak trains has dramatically improved on those routes that had substandard performance, particularly the Amtrak trains that serve Rocky Mount.

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North Carolina—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The City of Rocky Mount, North Carolina expressed a longstanding concern about the time that trains need to clear highway/rail at-grade crossings in the central business district. In the past, the City unsuccessfully encouraged CSX to improve conditions in the south end of town so that southbound trains could clear the downtown crossings more quickly. The City stated its concern that the proposed Conrail Acquisition, which would increase the number of freight trains significantly, would exacerbate traffic delays. The delays would disrupt the scheduled service for the City’s bus system and hurt efforts to revitalize the central business district.

Response. The CSX rail line segments (C-446, C-334, and C-335) that run through Rocky Mount would not experience an increase in traffic or activity from the proposed Conrail Acquisition that would meet or exceed the Board’s thresholds for environmental analysis. It is the Board’s policy not to require mitigation of pre-existing conditions.

Summary of Comments. The City of Rocky Mount, North Carolina expressed concern over highway/rail at-grade crossing safety and equipment reliability. The City remarked that gates at downtown highway/rail at-grade crossings have gone down randomly with no train in sight, frustrating motorists and increasing the frequency of “gate-running.”

Response. SEA has recommended improvements to mitigate only potential significant environmental impacts resulting from the proposed Conrail Acquisition. SEA did not suggest improvements for existing conditions such as those the City describes. The proposed Conrail Acquisition would not result in any rail line segment in North Carolina having an increase of 8 trains or more per day, which is SEA’s threshold for environmental analysis. Therefore, SEA did not analyze safety at highway/rail at-grade crossings in this state.

North Carolina—Safety: Hazardous Materials Transport

Summary of Comments. The State of North Carolina stated that its scoping comments had not been addressed. In the State’s scoping comments, the Department of Environment, Health, and Natural Resources and the Wildlife Resources Commission expressed concern about potential impacts of hazardous materials spills into aquatic and terrestrial habitats from track areas and intermodal facilities. The Commission requested that the Draft EIS provide information on procedures and equipment that would be in place to contain hazardous materials spills into terrestrial and aquatic habitats, with special emphasis on anadromous fish in the Roanoke River and the Carolina heelsplitter, a Federally listed endangered freshwater mussel, in Waxhaw Creek.

In addition, the State requested clarification regarding SEA’s methodologies for its analysis of impacts of increased rail traffic to natural resources. The State also requested that SEA identify

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the type and quantity of chemicals that could enter surface waters and that SEA identify mitigation measures to protect surface water quality.

Response. SEA carefully considered all scoping comments it received, including those of the State of North Carolina. SEA understands the State's concern about potential environmental impacts on natural ecosystems. It is the Board's policy not to require mitigation of pre-existing conditions. SEA considered environmental impacts and recommends mitigation where SEA determined through its analysis that SEA's criteria of significance would be exceeded.

SEA understands that five CSX rail line segments cross or are proximate to the Roanoke River and Waxhaw Creek in North Carolina. Those segments are C-103, C-334, C-443, C-444, and C-447. SEA determined that rail line segments C-443 and C-447 currently carry no hazardous materials and would carry none following the proposed Conrail Acquisition. SEA notes that rail line segments C-103 and C-444 would carry hazardous materials in the same volumes (23,000 and 1,000 carloads per year, respectively) following the proposed Conrail Acquisition as they do now. SEA understands that currently rail line segment C-334 carries 23,000 carloads of hazardous materials and would carry 24,000 carloads following the proposed Acquisition. This is less than a 5 percent increase in hazardous materials volume, which is well below SEA's criteria of significance. Therefore, SEA does not recommend specific mitigation for these rail line segments; however, SEA notes that rail line segments C-103 and C-334 are currently designated as key routes and CSX, therefore, must meet the requirements of AAR Circular OT-55-B.

Appendix L, "Natural Resources Analysis," of this Final EIS addresses the concern for accidental releases of transport materials into the environment, including releases into surface water and stormwater runoff. This appendix provides general information on the procedures that the Applicants and Federal regulatory agencies currently have in place to respond to hazardous materials releases, including releases into terrestrial and aquatic habitats. SEA clarifies that existing procedures would remain in place following the proposed Conrail Acquisition.

Summary of Comments. The City of Rocky Mount, North Carolina expressed concern about potential accidents associated with proposed increases in hazardous materials transport through the City.

Response. SEA determined that rail line segments C-446, C-334, and C-335 in North Carolina between Rocky Mount and Parmele, Weldon and Rocky Mount, and Rocky Mount and Contentnea, respectively, would experience a combined 9 percent increase in hazardous materials shipments after the proposed Conrail Acquisition. None of the rail line segments noted exceed SEA thresholds for hazardous materials transport.

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North Carolina—Transportation: Passenger Rail Service

Summary of Comments. The City of Rocky Mount, North Carolina commented that Amtrak passenger trains serving Rocky Mount on rail line segment C-334 could experience delay because of the increase in freight train traffic that SEA estimated in the Draft EIS for the proposed Conrail Acquisition. The City noted that it wants to encourage travel by rail and expressed concern about freight traffic interfering with Amtrak's scheduled service.

Response. SEA acknowledges the concerns cited by the City of Rocky Mount. SEA confirms that CSX is obligated both by the Rail Passenger Service Act of 1970 and its operating agreement with Amtrak to give operating priority to Amtrak trains. Amtrak provided data that showed that for the period between October 1996 and September 1997, 13.2 percent of the total minutes of Amtrak delays on CSX rail lines were attributable to freight train interference. However, maintenance-of-way work and related slow orders caused 27 percent of the passenger service's delays. CSX and Amtrak are presently producing dramatically improved on-time performance according to the terms set forth in the operating agreement.

Additionally, CSX recently created the position of Vice President—Passenger Service Integration in recognition of the need to improve the performance of both intercity Amtrak and commuter train operations. Since then, the on-time performance of Amtrak trains has dramatically improved on those routes that had substandard performance, particularly the Amtrak trains that serve Rocky Mount.

In response to the issue of capacity, SEA analyzed the rail line segment's capacity through Rocky Mount (C-334) and concluded that the double-track, reverse-signaled main line could efficiently accommodate CSX's proposed increase of 6 freight trains per day, for a total of 25.5 freight trains per day, in addition to the 8 Amtrak passenger trains per day that currently use the rail line. SEA's analysis also included the increased level of switching activity proposed at the Rocky Mount terminal.

North Carolina—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. The City of Rocky Mount, North Carolina commented that long delays at highway/rail at-grade crossings would result in delayed public safety (police, fire, and rescue) response. The City noted that, when trains block the crossings, public safety vehicles must take "the long way around" to get to the emergency site because the railroad tracks split the City.

Response. The Applicants' proposed changes in rail line segment traffic through Rocky Mount would not exceed the Board's thresholds for environmental analysis in the Rocky Mount, North Carolina area. Therefore, SEA recommends no mitigation for highway/rail at-grade crossing delay.

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North Carolina—Transportation: Roadway Systems

Summary of Comments. The City of Rocky Mount, North Carolina stated that a limited number of separated grade crossings are available to the public. The City also noted that the Sutton Road underpass is inadequate because the underpass frequently floods, and can only accommodate passenger cars and pickup trucks. The City hired a consultant to study alternative locations for separated crossings and stated, “we hope that the post acquisition railroad will cooperate with us in accomplishing whatever crossing improvements we pursue following the completion of our consultant’s work.”

Response. The condition of the Sutton Road underpass is pre-existing and not a result of the proposed Conrail Acquisition. It is the Board’s policy not to require mitigation of pre-existing conditions.

Summary of Comments. The North Carolina Wildlife Resources Commission stated that the Final EIS should discuss any secondary development that the Applicants anticipate in conjunction with the increase in freight movement. The Wildlife Commission stated that such development would primarily occur at intermodal facilities.

Response. Activity at intermodal facilities in North Carolina would not increase sufficiently to meet the Board’s thresholds for environmental analysis as a result of the proposed Conrail Acquisition. Therefore, SEA concluded that development related to the proposed Conrail Acquisition would not be extensive.

North Carolina—Transportation: Other

Summary of Comments. The North Carolina Wildlife Resources Commission questioned the Draft EIS conclusions that increased traffic on the Hamlet-to-Monroe, North Carolina and Monroe, North Carolina-to-Clinton, South Carolina segments and at area rail yards or intermodal facilities did not exceed the Board’s thresholds for environmental analysis.

Response. The projected train increases for the two referenced rail line segments do not exceed the Board’s thresholds for environmental analysis (see Appendix T, “Final Environmental Impact Statement Rail Line Segments,” of this Final EIS for the master table of all rail line segments). For rail line segment C-350 between Hamlet and Monroe, the current 20.4 trains per day would increase by 2.6 trains per day. For rail line segment C-351 between Monroe, North Carolina and Clinton, South Carolina, the current 13.1 trains per day would increase by 2.5 trains per day.

The projected carload increases for rail yards in North Carolina do not exceed the Board’s thresholds for environmental analysis (see the Draft EIS, Appendix B, “Safety,” Attachment B-4).

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Similarly, the projected truck traffic increases for intermodal facilities in North Carolina do not exceed the Board's thresholds for environmental analysis. At the existing CSX Charlotte facility, the current 53 trucks per day would increase by 39 to 92 trucks per day. At the existing NS Charlotte facility, the current 122 trucks per day would increase by 36 to 158 trucks per day. NS has also proposed a new Triple Crown Service facility that would generate 20 trucks per day; however, this increase would not exceed the Board's thresholds.

SEA expects the proposed Conrail Acquisition to have insignificant environmental effects in the state of North Carolina.

North Carolina—Air Quality

Summary of Comments. The North Carolina Division of Air Quality stated that no State air quality permit would be required for the proposed Conrail Acquisition, and that the Applicants must comply with the State's open burning provisions during any land-clearing activities.

Response. SEA agrees with the North Carolina Department of Air Quality's comment that no State air quality permit is required for the proposed Conrail Acquisition. SEA also agrees the Applicant should comply with the State's open burning provisions should any land clearing activities occur.

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5.3.18 Ohio

Ohio—Safety: Highway/Rail At-grade Crossings

Summary of Comments. Several communities expressed concern about the potential risk of automobile accidents resulting from increases in rail traffic. Residents of Vermilion, Olmsted Falls, Huron Township, Wellington, and Fostoria, and the Eastgate Development and Transportation Agency, serving Mahoning and Trumbull Counties in Ohio, provided comments expressing safety concerns. Many of these communities have experienced accidents at highway/rail at-grade crossings.

Response. SEA acknowledges the concerns these commentors expressed. SEA's safety analysis addressed the potential for increased accident risk by determining the risk of increased train-vehicle accidents at highway/rail at-grade crossings as a result of increases in train traffic related to the proposed Conrail Acquisition. See Chapter 4, "Summary of Environmental Review" of this Final EIS. The occurrence of previous accidents at highway/rail at-grade crossings did not, by itself, indicate the need for mitigation as a condition of the proposed Conrail Acquisition. The Draft EIS identified mitigation only for potential increases in accident risk as a result of increases in train traffic from the proposed Conrail Acquisition. The Draft EIS did not attempt to mitigate accident risk existing prior to the proposed Conrail Acquisition.

SEA's analysis considered highway/rail at-grade crossings on those rail line segments that would have Acquisition-related increases in train traffic of 8 or more trains per day. SEA's method for calculating accident risk takes into account actual accident experience at each highway/rail at-grade crossing, using that experience as an indication of how the physical characteristics of the highway/rail at-grade crossing would affect the increase in accident risk. See Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," of this Final EIS. The Draft EIS and this Final EIS recommend mitigation at highway/rail at-grade crossings where SEA determined that mitigation would be appropriate. Chapter 7 of this Final EIS, "Recommended Environmental Conditions," presents SEA's recommended mitigation measures.

Summary of Comments. The Ohio Attorney General, the Ohio Rail Development Commission, and the Public Utilities Commission of Ohio commented that SEA should use a corridor approach to evaluate safety at highway/rail at-grade crossings rather than identifying single crossings over a scattered area.

Response. SEA determined that analyzing accident risk at individual highway/rail at-grade crossings is appropriate because it provides the most accurate risk avoidance results. SEA determined that FRA's use of this approach in the standard FRA accident risk analysis methodology demonstrates its validity. However, SEA recognizes the states' responsibility to provide highway/rail at-grade crossing safety and acknowledges

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that a state may use a corridor-based analysis. Consequently, SEA's recommended highway/rail at-grade crossing safety mitigation in this Final EIS includes the possibility of a state-performed corridor safety analysis as an alternative to the individual crossing mitigation, as long as the crossing specified for mitigation is in the analyzed corridor.

Summary of Comments. The Ohio Attorney General, the Ohio Rail Development Commission, and the Public Utilities Commission of Ohio requested that the Applicants reach and finalize agreements with Ohio to address issues such as mitigation measures and cost allocation. The commentors stated that the Applicants commit to full compliance with such agreements prior to increasing train traffic over existing levels. The commentors also said that the Applicants should be required to assume a significant role in funding safety improvements on corridors where the proposed Acquisition will directly contribute to increased public risk. The commentors further stated that Ohio should be a partner in the selection of highway/rail at-grade crossings for safety improvement, and that SEA staff should coordinate with Ohio officials to ensure that the Board has the best information possible with which to identify and select crossings.

Response. SEA assures the commentors that the Applicants must comply with the Board's conditions, including required environmental mitigation, if the Board approves the proposed Conrail Acquisition. The Applicants would be solely responsible for fully funding the warranted mitigation specified in those conditions. If the commentors desire improvements that would create greater benefits than the warranted mitigation, and if they are willing to provide additional funding to support those improvements, then the commenting agencies should bring this willingness to the Applicants' attention. SEA encourages state and local governments to consult and negotiate with the Applicants to develop mutually acceptable improvements.

SEA recognizes a states' responsibility to provide highway/rail at-grade crossing safety. Consequently, SEA's recommended highway/rail at-grade crossing safety mitigation in Chapter 7, "Recommended Environmental Conditions," of this Final EIS includes the possibility of a state-performed corridor safety analysis as an alternative to the individual crossing mitigation. If CSX or NS reach an agreement with the governing agency to do so, the crossing specified for mitigation should be in the analyzed corridor.

SEA incorporated additional information provided by Ohio and other state and local governments in its reanalyses for this Final EIS.

Summary of Comments. The Ohio Attorney General, the Ohio Rail Development Commission, and the Public Utilities Commission of Ohio commented that they see flaws in using 1995 base year information for accident analysis, noting that the risk level at a highway/rail at-grade crossing can change dramatically from year to year. They added that 1995 data do not reflect current train volumes and local ADT data are more reliable than the FRA database.

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Response. The Applicants used 1995 data in their Application to the Board because those data were the most recent data available at that time. For consistency, SEA also used 1995 data for its analysis in both the Draft and this Final EIS. Because the safety analysis required actual accident data for a five-year period, SEA used accident data for the period from 1991 to 1995.

SEA's analysis accurately reflects the variation in accident risk from year to year. FRA's accident risk methodology directly includes factors that could change from year to year, such as the number of trains and the proportion of trains that run at night. SEA used the proper data for these factors for cases before as well as after the proposed Conrail Acquisition. The methodology also includes actual accident data to reflect other characteristics of highway/rail at-grade crossings that are not readily quantifiable, such as sight distances. These nonquantifiable characteristics are characteristics that typically would not vary substantially from year to year; where they do, the methodology requires the use of accident data only for the period after the change. SEA followed that practice in its analysis. The use of the 1991 to 1995 actual accident history data provided a valid reflection of highway/rail at-grade crossing characteristics for the analysis.

SEA updated the safety analysis using information it collected in site visits and from data that states, local public agencies, and the Applicants provided. In this Final EIS, SEA removed from the list of locations warranting mitigation those highway/rail at-grade crossings where the Applicants have already upgraded warning devices. SEA understands that appropriate state agencies are currently reviewing various crossings. However, since SEA does not have a firm schedule for implementing the improvements, SEA cannot be certain that the Applicants would implement these improvements in a timely manner.

Thus, SEA continues to recommend mitigation at locations identified as active projects unless the Applicants certify that improvements would be in place within 2 years of any decision granting approval of the proposed Conrail Acquisition. See Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," and Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

SEA concurs that local ADT volumes are, in many cases, more reliable than the volumes in the FRA database. However, the accident risk analysis addressed approximately 2,000 highway/rail at-grade crossings, and SEA did not have local ADT data for all of them. State and local governments have provided local ADT volumes for some crossings. For those crossings, SEA reanalyzed the accident risk using the local ADT volumes and included the results of its reanalysis in this Final EIS.

Summary of Comments. The Ohio Attorney General, the Ohio Rail Development Commission, and the Public Utilities Commission of Ohio commented that the analysis should not use the FRA accident prediction formula as the sole basis for selecting highway/rail at-grade

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crossings for upgrading. Their rationale was that the FRA formula serves primarily as a tool for prioritizing highway/rail at-grade crossings and allocating available funding. Furthermore, the commentors wanted to use a localized approach, rather than rely on generalized thresholds.

Response. SEA determined that the FRA accident risk analysis methodology is a valid method for identifying potential safety risk increases and the need for mitigation. As the comment notes, the typical use of the methodology is to set priorities for improvements and to allocate funding. SEA maintains that the FRA methodology was also appropriate for use in this Final EIS because it enabled SEA to estimate the changes in accident risk resulting from Acquisition-related increases in train traffic. Based on this analysis, SEA identified locations that warranted mitigation as a condition of the proposed Conrail Acquisition. See Chapter 4, “Summary of Environmental Review,” of this Final EIS.

SEA recognizes a state’s responsibility to provide highway/rail at-grade crossing safety. SEA has considered the possibility of a state-performed corridor safety analysis as an alternative to the individual highway/rail at-grade crossing safety mitigation in this Final EIS.

Summary of Comments. The Ohio Attorney General, the Ohio Rail Development Commission, and the Public Utilities Commission of Ohio commented that upgrades to warning devices should include both gates and flashing lights, rather than just flashing lights. The commentors added that SEA should reconsider the use of four-quadrant gates and barriers as a safety mitigation measure. Their rationale was that these devices are experimental and would require additional time and expense to secure necessary approvals.

Response. SEA recommended an upgrade from a passive device to flashing lights without gates where that change would mitigate the increased accident risk resulting from the Acquisition-related increase in train traffic. Flashing lights are a standard accepted warning device that would be effective in mitigating increased accident risk. See Chapter 4, “Summary of Environmental Review,” of this Final EIS. If Ohio wishes to add gates where SEA recommended flashing lights at highway/rail at-grade crossings, SEA encourages Ohio to discuss such additions with the Applicants.

SEA recognizes that four-quadrant gates and median barriers are experimental and are not universally accepted. As a result, SEA’s recommended highway/rail at-grade crossing safety mitigation in this Final EIS includes the possibility of a state department of transportation-performed corridor safety analysis as an alternative to the individual crossing safety mitigation that SEA recommended, as long as the crossing specified for mitigation is included in the analyzed corridor. This alternative mitigation strategy is especially appropriate for gate-protected crossings that warrant mitigation. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for SEA’s mitigation recommendations.

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Summary of Comments. The Ohio Attorney General, the Ohio Rail Development Commission, and the Public Utilities Commission of Ohio commented that “construction of grade separations should be made a larger part of the mitigation effort in Ohio, particularly in areas where post-merger train traffic volumes are expected to increase dramatically over existing levels.” The commentors noted that grade separations eliminate the opportunity for train-vehicle collisions. They added that, in its analysis, SEA should also evaluate the feasibility of permanently closing public highway/rail at-grade crossings to vehicular traffic.

Response. SEA concurs that closing highway/rail at-grade crossings to vehicular traffic is an effective means of improving safety, but SEA is unable to recommend such closing as mitigation because to do so is beyond the Board’s jurisdiction. Highway/rail at-grade crossing closure is within the jurisdiction of state and local governments; therefore, SEA has no regulatory purview over them. SEA’s analysis shows that its recommended warning device improvements are sufficient to mitigate the potential negative environmental impacts of the Acquisition-related increases in train traffic.

Ohio—Safety: Hazardous Materials Transport

Summary of Comments. The Ohio Attorney General, Ohio Rail Development Commission, and Public Utilities Commission requested that the Board impose more stringent requirements regarding rail transport of hazardous materials. Specifically, the commentors asked the Board to require the Applicants to:

- Conduct more frequent track and equipment inspections than those in AAR Circular OT-55-B.
- Expand employer and public response training programs and report annually for the next five years regarding the nature and effectiveness of these programs, including the number of railroad employees devoted to track and equipment inspection activities; the frequency and nature of classes; and the number of people who receive training.
- Fund equipment purchases, travel, and tuition for advanced emergency response training and development of community emergency response plans for public agencies in corridors with significant increases in hazardous materials traffic.
- Report annually on hazardous materials incidents and any FRA violations on key routes and major key routes.
- Bring all key routes, not just new ones, into compliance with OT-55-B.

The commentors expressed concern that the AAR key route operating practices (in Circular OT-55-B) are voluntary and that it is unclear whether legal sanctions exist for failure to follow

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them. They also described the practices as a minimal baseline for acceptable operations rather than “a goal of excellence.” The commentors noted that “railroad lawsuits” have prevented Ohio from implementing its own safety regulations for hazardous materials transport on rail line segments. The commentors also stated that “the Board should urge development of specific monetary sanctions for patterns of violations of key route and major key route conditions established by the Board.” The commentors added that any money from these payments should fund community emergency response training and equipment grants.

Response. SEA concluded that track and equipment inspections more frequent than those specified in AAR Circular OT-55-B are not necessary to bring about safe transport of hazardous materials. AAR based their recommended operating practices on industry experience across the nation over long periods of time. SEA recommends that the Board require the Applicants to implement key route and major key route mitigation measures for all rail line segments in Ohio that would meet SEA’s criteria of significance for changes in hazardous materials transport. See Chapter 7, “Recommended Environmental Conditions,” and Appendix F, “Safety: Hazardous Materials Transport Analysis,” of this Final EIS.

SEA has determined that providing first-responder emergency services is a basic local government function, which is funded through the general revenue taxation system. No changes associated with or resulting from the proposed Conrail Acquisition changed those basic responsibilities. FRA regulations require the Applicants to report hazardous materials incidents and FRA violations on all routes, and these reports are available to the public.

All existing key routes, by definition, already comply with AAR Circular OT-55-B; however, legal sanctions do not exist for a railroad’s failure to follow these voluntary operating practices. It is SEA’s understanding that the Applicants already generally exceed the requirements of AAR Circular OT-55-B. FRA and DOT have exclusive jurisdiction over rail safety, and the Board cannot mandate monetary sanctions for violations.

Ohio—Transportation: Passenger Rail Service

Summary of Comments. The Metro Regional Transit Authority of Akron, Ohio and an individual from Cleveland, Ohio commented that the proposed Conrail Acquisition would permanently constrain both existing and potential passenger rail services. The Authority asserted that SEA should (a) consider the possible impacts on passenger service of increased freight traffic after current agreements between the Applicants and passenger service operators expire; (b) perform a detailed analysis of the diversion of rail passengers to highway transportation that the expiration of those contracts would cause; (c) expand the scope of the EIS to address the potential negative impact on commuter rail operations and the proposed “stop at the Broadway Harvard intersection”; and (d) retain jurisdiction so that the proposed Conrail Acquisition “can

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be accomplished without negative consequences on passenger rail operations.” The Authority was concerned that a result of the proposed Conrail Acquisition would be the elimination of the stop at the Broadway Harvard intersection.

Response. SEA has considered the Amtrak passenger rail service in the Akron area and does not expect changes in it or in any existing Amtrak operating access agreement if the Board approves the proposed Conrail Acquisition. With regard to potential environmental impacts that the proposed Conrail Acquisition could have on passenger service after existing contracts expire, Amtrak has legal and regulatory tools available under the Rail Passenger Services Act to negotiate new agreements. Although the Act does not cover commuter passenger service, many commuter authorities own the rail lines over which they operate. The others can protect their operations on lines that freight railroads own by negotiating operating access agreements with the owners. Consequently, SEA does not foresee any potential termination of either intercity or commuter rail services that would cause rail passengers to divert to highway transportation modes.

SEA has reviewed the Metro Regional Transit Authority’s preliminary plan to initiate commuter rail service in the Canton-to-Akron-to-Cleveland corridor. The Authority has not finalized plans or identified stops. No construction funding exists to date. Therefore, SEA did not analyze the potential impact of the proposed Conrail Acquisition on the service or the possibility of a Broadway Harvard stop. If the Authority wished to use Conrail’s line between CP-Hudson (Hudson, Ohio) and Cleveland, it would require an operating access agreement with the line’s owner. This agreement would probably require some changes in the track and signaling configuration of the 25-mile rail line segment to accommodate both freight and passenger service. SEA has not expanded the scope of the EIS to address potential impacts on unfunded commuter rail operations, nor has SEA recommended that the Board retain jurisdiction over the proposed Conrail Acquisition where there has been no demonstration of significant change or impact.

Ohio—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. The Attorney General, the Ohio Rail Development Commission, and the Public Utilities Commission of Ohio commented that the Board should more widely recommend construction of grade separations as mitigation in areas with train increases in order to relieve problems with emergency vehicle response. The commentors identified the City of Fostoria, Ohio as a major railroad junction where existing railroad traffic and switching operations negatively affect emergency vehicle response. In particular, two areas of the community (the Iron Triangles) have severe problems with reliable and direct access/egress as a result of slow-moving, heavy rail traffic blocking highway/rail at-grade crossings. The commentors strongly recommended grade separations in this area at Town Street under the NS line and at Tiffin Street over the CSX line. They also recommended that the Board consider a grade separation at the Jones Road crossing, where the nearest alternate crossing would add

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3.6 minutes to the response time for ambulance service. In addition to Fostoria, the commentors listed the following communities that may need grade separation to solve emergency response concerns: Ashtabula, Olmsted Falls, Berea, Bellevue, Defiance County, Oak Harbor, Clyde, Greenwich, Wellington, Grafton, New London, and Cleveland.

Response. Chapter 7, “Recommended Environmental Conditions,” presents SEA’s mitigation recommendations, if any, for each of these communities. Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis,” Section G.2.2, “Fostoria, Ohio,” of this Final EIS describes the potential effects of the proposed Conrail Acquisition in Fostoria. Within this chapter, Section 5.3.18, “Ohio,” see the Northeastern Ohio subsections for discussion of Ashtabula; the Greater Cleveland Area subsections for discussion of Olmsted Falls, Berea, and Cleveland; and the Northwestern Ohio subsections for Oak Harbor, Greenwich, Wellington, and New London.

In Bellevue, Ohio, four rail line segments met or exceeded the Board’s threshold for environmental analysis. The four rail line segments are the NS Oak Harbor-to-Bellevue rail line segment (N-079), the NS Bellevue-to-Sandusky Docks rail line segment (N-085), the NS Bucyrus-to-Bellevue rail line segment (N-071), and the NS Bellevue-to-Vermilion rail line segment (N-072).

For each of these four rail line segments, SEA determined that the blocked-crossing time caused by a single train would increase from 4.2 minutes to 4.3 minutes as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be approximately 2.2 minutes.

The average number of trains on the NS Oak Harbor-to-Bellevue rail line segment would increase from 7.7 to 27.2 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 32.3 minutes to 116.6 minutes per day.

The average number of trains on the NS Bellevue-to-Sandusky Docks rail line segment would increase from 1.4 to 12.9 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 5.9 minutes to 54.2 minutes per day.

The average number of trains on the NS Bellevue-to-Bucyrus rail line segment would increase from 26.0 to 34.5 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 109.2 minutes to 147.9 minutes per day.

The average number of trains on the NS Bellevue-to-Vermilion rail line segment would increase from 15.6 to 27.0 trains per day as a result of the proposed Conrail Acquisition,

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which would increase the total blocked-crossing time from 65.5 minutes to 115.8 minutes per day.

Police, fire, hospital, and ambulance services in Bellevue are located north of the Oak Harbor-to-Bellevue and the Bellevue-to-Sandusky tracks. Local officials informed SEA that about half the calls are to areas south of the tracks. There are highway/rail at-grade crossings at Southwest Street, Kilbourne (SR 18) and Flat Rock Road, as well as at all county roads outside the City. There are two grade-separated highway/rail crossings, one that provides east-west access on SR 20 and another that provides north-south access on SR269. When emergency services personnel find a crossing blocked, they radio to another unit to take another route if they are unable to do so themselves. Many trains are slow-moving or stopped. One train blocks several crossings, which forces emergency services personnel to travel some distance to cross the tracks if they are not aware of the train in advance. SEA concluded that, because the existing separated grade crossings provide reasonable access across the tracks, mitigation is not warranted. Additionally, NS and the City of Bellevue have entered into an agreement to address various environmental issues.

In Defiance County, Ohio, within the City of Defiance limits, the CSX Deshler, Ohio-to-Willow Creek, Indiana rail line segment (C-066) met or exceeded the Board's thresholds for environmental analysis. SEA determined that the blocked-crossing time caused by a train on this rail line segment, currently 1.9 minutes, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be less than 1 minute. The average number of trains on this rail line segment would increase from 21.4 to 47.7 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 39.9 minutes to 91.1 minutes per day.

Fire, police, and ambulance services are located north of the CSX tracks, near State Route 424. A hospital with ambulance service is also located on the north side of the tracks, near Second Street.

Within the City of Defiance, there are six separated grade crossings at Clinton, Jefferson, Washington, Perry, Summit, and Wayne Streets. However, neither the highway/rail at-grade crossing at Ottawa Avenue in Defiance, which is an emergency vehicle route, nor the crossing at U.S. Route 24 in Defiance County is grade-separated. In response to comments that SEA received regarding Defiance, Ohio, SEA completed a field inspection of the highway/rail at-grade crossing on U.S. Route 24. SEA determined that the rail line crossed the highway at an extremely skewed angle, decreasing traffic visibility. As a result of this inspection, SEA recommends that the Board require the installation of highway signal devices at the highway/rail at-grade crossing on U.S. Highway 24 (see Chapter 7, "Recommended Environmental Conditions," of this Final EIS).

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In Clyde, Ohio, the NS Oak Harbor-to-Bellevue rail line segment (N-079) met or exceeded the Board's threshold for environmental analysis. SEA determined that the blocked-crossing time caused by a single train on this rail line segment would decrease from 2.6 minutes to 2.4 minutes as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be 1.2 minutes. The average number of trains on this rail line segment would increase from 7.7 to 27.2 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 20.2 minutes to 65.0 minutes per day.

The police station in Clyde is located south of the tracks; fire stations are located on both sides of the tracks. Ambulance service is located approximately 3 miles northeast of Town, although plans are for the EMS service to move to the fire station north of the tracks. Hospitals are located 7 miles away in Bellevue and 10 miles away in Fremont. Although there are no separated grade crossings in Clyde, there are alternative routes that are grade-separated. Local officials informed SEA that trains often block both Elm Street and State Route 57, the two main emergency routes crossing the tracks. Elm Street and State Route 57 are approximately 3,400 feet apart and trains are often longer than that. SEA concluded that because the amount of time that a train would block a crossing would be relatively short, no mitigation is warranted in Clyde.

In Grafton, Ohio, the CSX Berea-to-Greenwich rail line segment (C-061) met or exceeded the Board's thresholds for environmental analysis. SEA determined that the blocked-crossing time caused by a train on this rail line segment would increase from 1.8 minutes to 1.9 minutes as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be less than 1 minute. The average number of trains on this rail line segment would increase from 14.5 to 53.0 trains per day as a result of the proposed Conrail Acquisition, which would increase the total time that a crossing would be blocked from 25.7 minutes to 101.8 minutes per day.

In Grafton, police, fire, and ambulance services are located south of the tracks, and the two hospitals and a second fire station are located north of the tracks. Volunteers who must travel from home or work provide fire and ambulance services in Grafton. There are no separated grade crossings in the area. Local officials informed SEA that trains sometimes create delays of as much as 10 minutes. Because the typical blocked-crossing time would be relatively short, SEA has determined that no mitigation is warranted in Grafton.

Summary of Comments. The Ohio Attorney General, the Ohio Rail Development Commission, and the Public Utilities Commission of Ohio submitted a joint comment on the proposed Conrail Acquisition. They stated that grade separations relieve vehicle traffic congestion and should be a larger part of the mitigation plan in Ohio.

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The commentors cited the City of Fostoria as one example of the serious problems with traffic delay that Ohio has experienced. They noted that other locations that they had determined would have serious traffic delay problems following the proposed Conrail Acquisition include Cleveland, Ashtabula, Olmsted Falls, Berea, Bellevue, Defiance County, Oak Harbor, Clyde, Greenwich, Wellington, Grafton, and New London. The commentors stated that these locations may require grade separations to resolve highway/rail at-grade crossing delay problems effectively. They indicated that the Draft EIS recommended increased train speed to solve delay problems at some highway/rail at-grade crossings, and recommended consultation with state and local highway officials to resolve other delay problems. The commentors maintained that increasing train speeds through urban areas would not be a safe and workable solution for highway/rail at-grade crossing congestion unless SEA analyzed this approach in detail and determined it safe and feasible.

Further, the commentors recommended that the Board require the Applicants to reach agreements with the State of Ohio that address all areas of concern as a condition of approval of the proposed Conrail Acquisition. The commentors voiced opposition to SEA's recommendation that CSX and NS participate in mediation and binding arbitration with local and state officials where grade separations are necessary to address traffic delays related to the proposed Conrail Acquisition. They indicated that the State of Ohio is responsible for the safety and health of Ohio's communities and should be solely responsible for negotiating with CSX and NS. Also, the commentors stated that SEA should resolve any fundamental differences that may arise during the negotiations.

Response. SEA has performed a detailed analysis of vehicle delay at highway/rail at-grade crossings. SEA analyzed all areas of Ohio, with special attention given to the Greater Cleveland Area (see Appendix N, "Community Evaluations," of this Final EIS). At locations where SEA's analysis showed that the traffic delay impact of the proposed Conrail Acquisition would be significant, SEA recommended measures to mitigate the impact. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

At selected locations, including Vine Street in Butler County and Township Avenue in Hamilton County, SEA recommended speed increases of 5 mph in combination with implementing necessary safety enhancements to permit such increases, and with appropriate infrastructure improvements. At Kilbourne Street in the town of Bellevue in Sandusky County, SEA does not recommend mitigation because reasonable mitigation measures are not practicable to implement, because of its proximity to the railroad yard.

SEA agrees that appropriate approvals from the state and local authorities are needed to implement the warranted mitigation strategies.

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Ohio—Air Quality

Summary of Comments. The Ohio Environmental Protection Agency commented that the Draft EIS did not adequately address key air quality issues. Based on its review of the Draft EIS, the Agency estimated that NO_x emissions in Ohio would increase by 7,000 tons per year; however, SEA did not propose any mitigation.

Response. The Ohio Environmental Protection Agency's estimate of the NO_x emissions increase in Ohio of approximately 7,000 tons per year takes into account those counties for which SEA performed a detailed NO_x emissions netting analysis. SEA chose those counties for analysis because they were shown to have potential railroad activity increases that could meet or exceed the Board's thresholds for analysis. SEA determined that these activity increases could cause emissions above SEA's NO_x emissions screening levels; however, SEA did not analyze counties that may have shown sizable decreases in railroad activity and NO_x emissions. Therefore, the Agency's projected increase of 7,000 tons per year of NO_x emissions for Ohio may be overestimated considering that SEA did not analyze all decreases.

Even if the 7,000 tons per year NO_x increase were accurate, it is still important to put this value in context. NO_x emissions in Ohio for 1995 are approximately 1,114,000 tons per year, based on EPA's emissions inventory (EPA 1996). A 7,000-tons-per-year increase would represent only about 0.6 percent of this total.

Additionally, EPA recently issued a rule (see Appendix O, "EPA Rules for Locomotive Emissions," of this Final EIS) that will result in a substantial decrease in nationwide NO_x emissions from locomotives (see Appendix I, "Air Quality Analysis," of this Final EIS). Based on the Ozone Transport Assessment Group 1990 emissions inventory, railroad NO_x emissions in Ohio were approximately 45,000 tons per year. According to the data presented in Table 9 of EPA document EPA 420-F-97-051, the decrease in fleet average locomotive NO_x emissions should be 15.7 percent by the year 2003 under this new rule. This percentage decrease, applied to a total emissions amount of 45,000 tons per year, would offset the 7,000-tons-per-year increase in NO_x. In subsequent years, the new NO_x emission standards applied to new or rebuilt locomotives would further reduce NO_x emissions, reaching an ultimate reduction of nearly 60 percent in fleet-average NO_x emissions by the year 2040.

Summary of Comments. The Ohio Environmental Protection Agency stated that the Draft EIS did not provide sufficient information to determine the impact of the Acquisition on the 1-hour and 8-hour national air quality standards for ozone.

Response. SEA has determined that the potential air quality impacts of the proposed Conrail Acquisition with respect to the new 8-hour and existing 1-hour NAAQS for ozone would be negligible. As shown in the Draft EIS, some regional redistribution of

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NO_x would likely occur. However, system-wide emissions of ozone precursor pollutants (NO_x and volatile organic compounds) would decrease. The projected NO_x emissions increases in some local areas having poor current air quality would be offset in a few years by decreases in locomotive NO_x emissions as a result of EPA's new emissions standards for locomotives. See Appendix I, "Air Quality Analysis," and Appendix O, "EPA Rules for Locomotive Emissions," of this Final EIS.

Summary of Comments. The Ohio Environmental Protection Agency commented that the Draft EIS did not address the impact of increased particulate matter less than 10 microns in diameter (PM₁₀) on NAAQS for particulate matter.

Response. SEA has determined that local (county or jurisdictional) increases of PM₁₀ emissions as a result of the proposed Conrail Acquisition would be quite small in comparison to stationary source permitting thresholds (generally 100 tons per year), as shown in Appendix E, "Air Quality," Attachment E-3 of the Draft EIS. The estimated PM₁₀ emissions increases shown in the Draft EIS do not account for the offsetting effects of truck-to-rail freight diversions. Also, the vast majority of PM₁₀ emissions shown would result from freight locomotives traveling on rail line segments. Therefore, the small amounts of increased PM₁₀ in any county would be emitted in a widely dispersed manner and would be expected to have a negligible effect on air quality in any area of Ohio.

A related concern with respect to the NAAQS for PM₁₀ is that some gaseous pollutant emissions react in the atmosphere to form "secondary PM₁₀." NO_x, the pollutant emitted in the greatest quantity by railroad locomotives, can be converted to secondary PM₁₀. The conversion process in the atmosphere is quite slow, however, and the impacts are therefore a regional concern, rather than a local one. Because the net NO_x emissions (and PM₁₀ emissions) system-wide would decrease slightly as a result of the proposed Conrail Acquisition (see Table 4-17, "Estimated NO_x Emissions Changes in Northeast Ozone Transport Region in Tons per Year," of the Draft EIS), SEA concluded that the proposed Conrail Acquisition would not adversely affect PM₁₀ levels in Ohio.

PM₁₀ and NO_x emissions from locomotives will be reduced further in the future because of implementation of the new EPA rule establishing emissions standards for new and remanufactured locomotives (see Appendix O, "EPA Rules for Locomotive Emissions," of this Final EIS).

Central Ohio—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The Mid-Ohio Regional Planning Commission expressed concern that the analysis in the Draft EIS omitted a highway/rail at-grade crossing in Franklin County, Ohio. The crossing is at Williams Road and has an ADT of over 6,000 vehicles. The

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Commission stated, “This grade crossing meets the fundamental criteria to be included in [Table 5-OH-8] for safety purposes and we are concerned that it was not considered.”

Response. SEA has determined that the Williams Road highway/rail at-grade crossing in Franklin County, Ohio is not located on a rail line segment that would experience an increase of 8 or more trains per day as a result of the proposed Conrail Acquisition. Because the rail line segment does not meet SEA’s thresholds for environmental analysis, SEA did not perform an analysis for the Williams Road highway/rail at-grade crossing.

Central Ohio—Environmental Justice

Summary of Comments. The Mid-Ohio Regional Planning Commission commented that SEA did not perform environmental justice analysis or recommend proposed mitigation for the area around the Discovery Park intermodal facility.

Response. While the Area of Potential Effect surrounding the Discovery Park intermodal facility met the initial environmental justice criterion for the presence of minority populations (76.2 percent), the facility did not meet the second criterion for environmental justice analysis: there were no environmental effects at the facility that met SEA’s criteria of significance. Therefore, SEA did not consider the Discovery Park facility a potentially affected environmental justice population and did not recommend mitigation. See Chapter 4, “Summary of Environmental Review,” and Appendix M, “Environmental Justice Analysis,” of this Final EIS.

Greater Cleveland Area—Note to the Reader

The Addendum to this Final EIS presents additional information and analysis of proposed mitigation measures, NS’s “Mitigation Proposal for Train Frequencies in Greater Cleveland and Vicinity” (the “Revised Mitigation Proposal”), which would change rail traffic levels, particularly NS’s traffic levels, in Cleveland and the surrounding area. NS’s rerouting proposal shifts train traffic starting in Rochester, Pennsylvania, through Cleveland, and on to Oak Harbor, Ohio, removing 10.6 trains per day from NS’s Nickel Plate Line through Cleveland and rerouting the trains on NS’s Pittsburgh Line. NS’s mitigation proposal generally reduces traffic in Ashtabula, East Cleveland, the University Circle area of Cleveland, and the West Shore communities of Cleveland. Traffic would generally increase along the Pittsburgh Line, along the Lakeshore Line in Cleveland, and in Berea. Chapter 4, “Summary of Environmental Review,” Section 4.19, “Community Evaluations,” and Appendix N, “Community Evaluations,” of this Final EIS provide detailed information about the Greater Cleveland Area.

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Greater Cleveland Area—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The City of Berea, Ohio expressed concern that an increase in rail traffic would lead to more accidents at highway/rail at-grade crossings. Specifically, the City cited the proposed 83.8 percent increase in trains per day. The City recommended grade separations at Front Street and Bagley Road.

Response. SEA's analysis of Acquisition-related highway/rail at-grade crossing safety impacts, in both the Draft EIS and this Final EIS, showed that the proposed Conrail Acquisition would not result in potential significant impacts at either the Front Street or Bagley Road highway/rail at-grade crossings. SEA determined that at present, both crossings are equipped with flashing lights and gates and have relatively low predicted accident rates, and it concluded that neither crossing warrants mitigation. See Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," of this Final EIS for details.

Summary of Comments. BRL commented that the Draft EIS was deficient because SEA analyzed highway/rail at-grade crossing safety on a crossing-by-crossing basis rather than by using the DOT approach. The latter approach examines cumulative effects for the entire corridor or rail line segment. For example, BRL would experience an accident increase of one every 2 years at highway/rail at-grade crossings. BRL expressed particular concern that accidents could occur at "any one of the 36 contemplated crossings in BRL, rather than at a single pre-identified crossing...."

Response. SEA determined that the FRA accident risk analysis methodology is a valid method for identifying potential safety risk increases and the need for mitigation. SEA maintains that the FRA methodology was also appropriate for use in this Final EIS because it enabled SEA to estimate the changes in accident risk resulting from Acquisition-related increases in train traffic. Based on this analysis, SEA identified locations that warranted mitigation as a condition of the proposed Conrail Acquisition. See Chapter 4, "Summary of Environmental Review," of this Final EIS.

Summary of Comments. BRL requested a separate section in the Final EIS for addressing potential impacts on pedestrians. BRL noted that a large number of school children from 22 elementary and middle schools cross the tracks each day.

U.S. Congressman Louis Stokes from Cleveland, Ohio; a resident of Rocky River, Ohio; and the Parent Teacher Association of Lakewood, Ohio commented that increased rail traffic poses a large risk to pedestrians who cross tracks, especially children walking to school. For example, one commentator noted that children are more likely to take risks when rail traffic blocks the tracks for long periods of time.

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Response. SEA concurs that the safety of school children is a paramount concern. SEA's recommended mitigation includes the requirement that the Applicants sponsor and participate in Operation Lifesaver programs in schools in these communities each year, as school officials request. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS. The final scope of the EIS did not include an analysis of the potential safety impacts specific to pedestrians, including school children.

Summary of Comments. BRL requested justification for the use of maximum operating speeds in the accident analysis.

Response. SEA's use of maximum operating speeds in the safety analysis applies the most conservative approach. Higher train speeds produce a prediction of higher accident rates at highway/rail at-grade crossings with passive warning devices. FRA methodology indicates that train speed is not a factor in accident frequency at highway/rail at-grade crossings with active warning devices such as flashing lights and gates.

Summary of Comments. The City of Cleveland, Ohio expressed concern over an expected increase in the rate of deterioration of highway/rail at-grade crossings resulting from the proposed increase in the number of trains. In addition, the City stated its concern about diminished safety to vehicles that cross the uneven tracks. Specifically, the City recognized the crossings at East 40th, East 39th, East 53rd, Bessemer, London, Nottingham, and West 110th as potentially subject to increased deterioration.

Response. SEA notes that the physical conditions at the highway/rail at-grade crossings in Cleveland are pre-existing conditions. In addition, three of the crossings identified, East 40th, East 39th, and East 53rd, would experience a decrease in traffic as a result of the proposed Conrail Acquisition. Finally, SEA has determined that the rate of deterioration of a highway/rail at-grade crossing is primarily a result of truck and automobile traffic and not the level of train traffic. SEA, therefore, has concluded that the proposed Conrail Acquisition would have no significant effect on the rate of deterioration of the highway/rail at-grade crossings in Cleveland.

Summary of Comments. The Lorain County, Ohio Commissioners expressed concern that with increases in the number of trains per day, and with trains operating at speeds of 60 mph, more accidents would occur. The Commissioners also noted that the Draft EIS used a significance criterion of an increase of one accident every 13 years, but the Village of Wellington had experienced four accidents resulting in death in the last 8 years. Of the 35 highway/rail at-grade crossings in the County, SEA found only Pitts Road to have a significant likelihood of increased accidents. A resident of Lorain County commented that "safety of the residents should be of major concern to you."

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Response. In the Draft EIS, SEA presented an analysis that reflects its efforts to address mitigation of safety impacts resulting from the proposed Conrail Acquisition. SEA concluded that the accident risk calculations in the Draft EIS provide a reliable measure of safety impacts. SEA used FRA data from 1991 through 1995 and applied a standard FRA analytical technique that uses actual accident experience as well as information on roadway characteristics, warning devices, track characteristics, and train operations to identify crossings that meet SEA's criteria of significance. In addition, field investigation indicated that the warning device at the Pitts Road crossing has been upgraded to a gate. See Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," of this Final EIS for details on specific crossings.

Summary of Comments. One resident of Bay Village, a West Shore suburb of Cleveland, Ohio expressed concern that a collision between a train and a vehicle at a highway/rail at-grade crossing could lead to a train derailment.

Response. SEA evaluated this potential for a derailment resulting from a collision between a train and a vehicle. SEA acknowledges that, although collisions do occur, they are relatively infrequent events and generally do not result in the derailment of the train. SEA determined that potentially significant impacts on residential areas from derailments caused by train/vehicle collisions would not result from the proposed Conrail Acquisition.

Summary of Comments. The Township Board of Vermilion, Ohio commented that Stanley Road and Barnes Road would need gates and lights because of the projected increase in train traffic.

Response. SEA has analyzed the Stanley Road and Barnes Road highway/rail at-grade crossings. The analysis indicates that the proposed Conrail Acquisition would have no significant impact on these crossings. The accident frequency at Stanley Road would increase by 0.0115 accidents per year and at Barnes Road would increase by 0.0123 (see Appendix N, "Community Evaluations," of this Final EIS). Therefore, no safety mitigation would be warranted. See Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," of this Final EIS.

Summary of Comments. The Village of Olmsted Falls, Ohio requested that SEA consider the use of grade-mounted horn systems, outlined on page F-12 of the Draft EIS, at the following highway/rail at-grade crossings: FRA ID 524364Y, FRA ID 524367U, and FRA ID 524363S on rail line segment C-061. The Village noted that the State of Ohio gives individual communities the right to introduce regulations for highway/rail at-grade crossing warning devices within the municipal corporate limits.

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Response. SEA acknowledges the alternatives that the Village of Olmsted Falls suggested. SEA has analyzed the three highway/rail at-grade crossings located on rail line segment C-061 in Cuyahoga County (FRA ID 524364Y, 524367U, and 524363S) for potential safety impacts resulting from the proposed Conrail Acquisition. SEA's analysis showed that the proposed Conrail Acquisition would not increase accident frequencies to exceed SEA's criteria of significance and, thus, would have no significant impact on highway/rail at-grade crossing safety at these locations; therefore, no mitigation would be warranted. FRA may promulgate horn noise regulations in the near future which address grade-mounted horn systems, among other factors. See Appendix C, "Settlement Agreements and Negotiated Agreements," and Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," of this Final EIS.

Summary of Comments. The Village of Lagrange, Ohio commented that there is a need for flashing lights at all of the Township's highway/rail at-grade crossings, which the Village thinks would become more deadly if the Board allows increased rail traffic.

Response. SEA acknowledges the concern of the Village of Lagrange and has conducted a safety analysis of all highway/rail at-grade crossings on affected rail line segments within Lorain County. The results of the analysis in the Draft EIS show that the proposed Conrail Acquisition would significantly impact the Pitts Road crossing (FRA ID 518507F). Field investigation indicated that the warning device at the Pitts Road crossing has been upgraded to a gate. SEA's analysis did not identify significant impacts at other highway/rail at-grade crossings in the Township. As a result, this Final EIS contains no recommendations for highway/rail at-grade crossing safety in the Township. See Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," of this Final EIS.

Summary of Comments. Congressman Dennis J. Kucinich of Ohio disputed the finding in the Draft EIS that increases in rail traffic on the Cleveland-to-Vermilion rail line would have no significant impact on safety at highway/rail at-grade crossings in the Cleveland West Shore suburbs of Lakewood, Rocky River, Bay Village, and Westlake, Ohio. Congressman Kucinich commented that actual experience reveals that accidents in this area exceed the Board's criteria for significance and that imprecise "predicated accident rates" are not reliable enough. He noted that two crossings, Cook Avenue and Andrews Avenue, experienced two accidents between 1991 and 1995, and added, "Two accidents in four years not only exceeds the predicted accident rate, but also meets the Board's 'criteria for significance'." The Congressman concluded, "Therefore, the only appropriate mitigation is to not allow an increase in freight train traffic along the West Shore line."

Response. SEA concluded that the accident risk calculations in the Draft EIS provided a reliable measure of safety impacts. SEA applied a standard FRA analytical technique that uses actual accident history as well as information on roadway characteristics, warning devices, track characteristics, and train operations. SEA determined that an

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upgrade of the highway/rail at-grade crossing warning devices at both Cook Avenue and Andrews Avenue gates occurred in December 1996, following the accidents that the commentor noted. SEA's analysis showed that neither location warrants further highway/rail at-grade crossing safety mitigation. See Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," and Appendix N, "Community Evaluations," of this Final EIS for further details.

Greater Cleveland Area—Safety: Hazardous Materials Transport

Summary of Comments. U.S. Congressman Louis Stokes of Ohio expressed concern that increased rail traffic through low-income neighborhoods in Cleveland would include shipments of hazardous materials. He requested that the Board provide effective mitigation for the potential environmental impacts of the increased rail traffic.

Response. To mitigate the potential impacts of increased hazardous materials transport, SEA recommends that the Board require the Applicants to implement key route and major key route mitigation measures. These measures apply to all rail line segments in the Greater Cleveland Area that meet SEA's significance criteria regardless of the economic status or demographic composition of the potentially affected areas. See Appendix F, "Safety: Hazardous Materials Transport Analysis," of this Final EIS for a complete list of key and major key routes. Chapter 7, "Recommended Environmental Conditions," of this Final EIS discusses key route and major key route mitigation measures. The primary purpose of these measures is to prevent hazardous materials spills and to address prompt and appropriate responses to derailments and spills.

Summary of Comments. Several commentors, including the Board of Trustees of the Township of Vermilion, Ohio, voiced concern about increases in hazardous materials transport through Vermilion and asked SEA to reconsider the potential environmental impacts of the proposed Conrail Acquisition. One commentor stated that preparation of emergency response plans was not a sufficient response to this concern because of the proximity of the rail line to Lake Erie, which serves as a water supply and a recreational resource.

Response. SEA recommends that the Board require NS to implement key route and major key route mitigation measures on rail line segment N-080 between Cleveland and Vermilion, Ohio following the proposed Conrail Acquisition. Chapter 7, "Recommended Environmental Conditions," of this Final EIS discusses key route and major key route mitigation measures. Overall, hazardous materials transport through Vermilion, which includes rail line segments N-072, N-293, and N-294 between Vermilion and Bellevue, Cleveland and Vermilion, and Vermilion and Oak Harbor, respectively, would decrease by 21 percent. SEA concludes that the recommended mitigation measures would be adequate to protect residents and Lake Erie. Appendix L, "Natural Resources Analysis," and Appendix N, "Community Evaluations," of this Final

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EIS provide additional information on potential hazardous materials transport impacts on natural resources.

Summary of Comments. Many commentors, including local officials, members of Congress, the City of Olmsted Falls, and the Lakewood PTA, expressed concerns about the potential for an accident involving hazardous or radioactive materials transport in suburban Cleveland, Bay Village, Rocky River, Olmsted Falls, and Lorain County, Ohio. Some concerns pertained to evacuation routes in the event of a potential hazardous materials spill, or accidents involving hazardous materials in University Circle, an area with three hospitals and housing for low-income elderly and mobility-disabled residents. The Mayor of East Cleveland expressed opposition to the proposed Conrail Acquisition because he contends that the Draft EIS did not adequately address hazardous materials transport and other potential environmental impacts. Congressman Kucinich described the proposed mitigation for increased hazardous materials transport through Cleveland as inadequate and stated that the Board should not permit the proposed increase. A group of citizens objected to increased hazardous materials transport through poor communities. A comment from BRL noted that the Draft EIS “predicts a 252.4% increase in hazmat releases on the Cleveland to Vermilion line segment.”

Response. SEA recommends that the Board require the Applicants to implement key route and major key route mitigation measures on all rail line segments in the Greater Cleveland, Lorain County, and Cuyahoga County areas that met SEA’s criteria of significance for hazardous materials transport. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS discusses key route and major key route mitigation measures. The primary purpose of these measures is to prevent hazardous materials spills and to address prompt and appropriate responses to derailments and spills. In addition, subsequent to the Draft EIS comment period, East Cleveland entered into separate agreements with CSX and NS. See Appendix C, “Settlement Agreements and Negotiated Agreements,” of this Final EIS.

DOT and NRC regulations govern the transport of radioactive materials. In 1996, radioactive materials consisted of less than 0.05 percent of the total hazardous materials that the Applicants transported. Therefore, SEA does not recommend further mitigation.

Summary of Comments. The Mayor of Lagrange, Ohio requested that the Applicants prepare an emergency response plan for rail personnel and local service providers, as well as provide and fund annual joint training, if the Board approves the proposed Conrail Acquisition.

Response. After SEA completed the Draft EIS, SEA received additional information regarding rail line segment C-061, which runs from Berea through Lagrange to Greenwich, Ohio. Based on that information, SEA determined that along this rail line segment, hazardous materials transport would increase from 16,000 to 46,000 carloads per year following the proposed Conrail Acquisition. This increase meets SEA’s

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significance criteria for major key route mitigation. Therefore, SEA recommends that the Board require CSX to implement major key route mitigation measures as Chapter 7, “Recommended Environmental Conditions,” of this Final EIS discusses. SEA has determined that providing first-responder emergency services is a basic local government function, funded through the general revenue taxation system. No changes associated with or resulting from the proposed Conrail Acquisition changed those basic responsibilities.

Summary of Comments. The Board of Commissioners of Lorain County, Ohio, recognizing the proposed designation of the Berea-to-Greenwich rail line segment C-061 as a major key route for hazardous materials transport, expressed concern the mitigation that SEA proposed in the Draft EIS is insufficient. The Commissioners recommended that the Board require the Applicants to meet the following conditions for approval of the proposed Conrail Acquisition: reduce the number of trains on the segment; prepare an emergency response plan; fund an annual joint training program for rail personnel and local service providers; and provide advance notification of nuclear shipments. The Lorain County Community Alliance passed a resolution supporting the Commissioners’ recommendations. Several citizens of Lorain also expressed concern about hazards related to chemical spills and toxic waste.

Response. SEA acknowledges the concerns raised by the Board of Commissioners of Lorain County, but considers the proposed mitigation for rail line segment C-061, running between Berea and Greenwich, Ohio, to be sufficient. Regarding the proposed Conrail Acquisition, the Board has maintained that limiting the number of trains traveling on a specific rail line segment is beyond its jurisdiction. However, the Board may require specific reasonable mitigation measures prior to allowing additional traffic on a rail line segment.

SEA estimated in the Draft EIS (Volume 5A, Appendix B, “Safety,” Attachment B-3, page 5 of 8) that the interval between hazardous materials releases would decrease from once every 6,761 years to once every 2,420 years after the proposed Conrail Acquisition. The change in annual hazardous materials carloads would be from 16,000 to 46,000 after the proposed Conrail Acquisition, which designates the rail line segment as a major key route. Because the evaluation indicated a low risk associated with the proposed increase, SEA considers the proposed mitigation of rail line segment C-061 sufficient and appropriate for major key route mitigation. For SEA’s recommendations, refer to Chapter 7, “Recommended Environmental Conditions,” of this Final EIS.

SEA strongly encourages CSX, as a part of its Emergency Response Plan, to work with Lorain County to provide adequate training for both rail personnel and local service providers.

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Summary of Comments. The City of Berea, Ohio expressed concern about hazardous and radioactive materials transport through Cuyahoga County, citing FRA statistics that show 4.243 million tons of hazardous materials were shipped along the Cleveland-to-Berea axis in 1995. The City stated that the 83.8 percent increase in train traffic projected in the Draft EIS would result in 7.799 million tons of hazardous materials transported through Berea. The City requested that the Board determine the frequency and magnitude of radioactive material transport along the Cleveland-to-Berea axis and estimate the resulting risk to Berea and other densely populated areas in the event of an accident or derailment. The City also requested that the Board require the Applicants to prepare a City-specific hazardous materials emergency response plan and assist in the training of Berea police, fire, and emergency personnel as a condition of the proposed Conrail Acquisition:

Response. For rail line segments that would transport relatively large quantities of hazardous materials, SEA has adopted a conservative benchmark for mitigation. SEA's analysis determined that only one rail line segment in Berea would exceed the significance criteria that would warrant mitigation. Therefore, SEA recommends that the Board require CSX to implement major key route mitigation measures on rail line segment C-061 between Berea and Greenwich, Ohio following the proposed Conrail Acquisition. Chapter 7, "Recommended Environmental Conditions," of this Final EIS discusses major key route mitigation measures, which include development of emergency response procedures and coordination with local emergency response agencies. The Addendum to this Final EIS discusses effects of NS's mitigation proposal on hazardous materials transport through Berea. SEA maintains that it is impractical to determine the frequency and magnitude of radioactive materials transport specifically along the Cleveland-Berea axis, as well as to conduct location-specific risk analyses.

Transport companies make about 3 million shipments of radioactive materials each year in the United States by highway, railroad, aircraft, and ship. Regulating the safety and security of these shipments is the joint responsibility of DOT and NRC. The Federal regulatory system protects transport workers and the public by setting performance standards for the packages and by setting limits on the radioactive contents and radiation levels for packages and vehicles. Package marking and labeling, vehicle placards, and shipping papers describing the materials provide information on radioactive shipments. DOT has regulatory jurisdiction over radioactive shipments while the material is in transit. DOT also establishes shipping categories, sets the standards for labeling of radioactive shipments, and establishes criteria for containers that shippers use for smaller quantities of radioactive materials.

NRC, which licenses the organizations shipping and receiving the radioactive materials, ensures that its licensees meet DOT shipping requirements. NRC also establishes the requirements for the design and manufacture of packages for larger quantities of radioactive materials. Typical of small-quantity shipments using packages meeting DOT requirements are radioactive materials for medical diagnostic tests and therapy. These

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shipments constitute the major portion of all shipments of radioactive materials each year. For these shipments, shippers use packaging (classified as “Type A”) that is designed to withstand the rigors of normal transportation without damage. For larger quantities of radioactive materials, shippers design the containers to withstand accident conditions without releasing their contents. Shippers use these packages (“Type B”), for industrial irradiators, medical radiation therapy devices, and some radioactive wastes. The accident evaluation criteria for these containers include impact, puncture, heat, and submersion in water. Spent fuel shipping casks are specialized Type B containers that shippers use to transport used fuel from nuclear reactors. Trucks or rail cars carry these large shipping casks. As with all Type B containers, shippers seal them to prevent leakage and heavily shield them to minimize the radiation levels. NRC also imposes security requirements on shipments of spent fuel and on shipments of larger quantities of highly enriched uranium or plutonium. These security measures include route evaluation, escort personnel and vehicles, communications capabilities, and emergency plans. NRC notifies state governments in advance of spent fuel shipments and those large-quantity shipments of radioactive waste requiring Type B containers.

SEA understands that the regulatory system for transportation of radioactive materials has been successful in minimizing safety impacts. Few accidents have occurred involving shipments of radioactive materials (averaging fewer than 50 out of a total of 3 million annual shipments). Only a small number of those accidents have involved any release of the radioactive contents. In these instances, radioactive contamination has been generally minor with no public safety consequences. System-wide in 1996, CSX and NS shipped approximately 3,107 and 6,650 tons, respectively, of “radioactive material,” which may include some low-level waste. This is less than 0.05 percent of total hazardous materials transport.

SEA has determined that providing first-responder emergency services is a basic local government function, funded through the general revenue taxation system. No changes associated with or resulting from the proposed Conrail Acquisition changed those basic responsibilities. SEA encourages the City to coordinate with the Applicants to support local emergency response planning efforts.

Summary of Comments. The City of Cleveland, Ohio expressed concern about projected increases in hazardous materials transport through residential neighborhoods in east and west Cleveland, particularly University Circle, a major cultural and employment center. The City’s concerns included provision of evacuation routes for hazardous materials emergencies. The City stated that the hazardous materials transport study “seems designed to trivialize the increased risk and to avoid finding impacts that are sufficient to warrant further study or mitigation, or both.”

Further, the City stated its concern that two rail line segments in Cleveland, C-072 and C-073, would have the largest increase in hazardous materials transport in the entire system, but that SEA recommended no mitigation. The City urged SEA to use an accident significance criterion

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more stringent than one accident per 100 years in areas with high population densities and stated that the Board should study mitigation for hazardous materials transport through the Cleveland area. Characterizing the proposed mitigation measures as inadequate, the City requested that the Board require the Applicants to build spill containment and collection facilities along rail line segments C-072, C-073, and N-075 and described a conceptual design for such facilities.

In addition, the City indicated that the Draft EIS understated the number of carloads of hazardous materials transported on rail line segments C-072 and C-073 by ignoring their proximity to each other and to rail line segment N-075. The City stated that the Board should carefully study whether the Short Line is suitable for conversion from a “little-used bypass” to a main line freight service.

The City also described alternative routes to address hazardous materials transport and other potential environmental impacts, noting that the Board could require mitigation for these alternative routes as well.

Response. SEA recognizes the City of Cleveland’s concerns regarding hazardous materials transport. SEA recommends that, following the proposed Conrail Acquisition, the Board require CSX and NS to implement both key route and major key route mitigation measures on rail line segments C-072 between Mayfield and Marcy, Ohio; C-073 between Quaker and Mayfield, Ohio; and N-075 between Ashtabula and Cleveland, Ohio. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS discusses SEA’s recommended key route and major key route mitigation measures.

SEA has determined that the significance criterion of one accident per 100 years is sufficiently conservative to protect high-density populations. SEA proposed mitigation for all rail line segments that met SEA’s criteria of significance; SEA maintains, however, that it is not practicable to require spill collection and containment facilities for all rail line segments used for hazardous materials transport.

SEA maintains that the hazardous materials transport study completely analyzes the risks and properly identifies the impacts requiring mitigation. Appendix N, “Community Evaluations,” of this Final EIS presents an analysis of alternative routes, including the Short Line in the Cleveland area.

Summary of Comments. Faith-Based Organizing for Northeast Ohio was concerned that the increase of hazardous materials through Cuyahoga and Lorain Counties and the elimination of safety and maintenance jobs would negatively affect hazardous materials transport and safety. The organization recommended that the Board impose “a moratorium on the elimination of any and all safety and maintenance jobs by CSX and NS as a result of this acquisition.”

Response. As the Draft EIS describes, SEA recommends that the Board require CSX and NS to implement mitigation measures on a number of rail line segments in Cuyahoga

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and Lorain Counties where hazardous materials transport would increase above SEA's criteria of significance. SEA is confident that these mitigation measures and existing FRA and DOT regulations, which FRA and State of Ohio inspectors enforce, would protect public safety. Although it is true that the Applicants intend to eliminate certain safety and maintenance-related jobs by substituting other processes and procedures, this does not mean that there would be potential adverse effects on safety. The Applicants must still comply with DOT and FRA regulations regarding hazardous materials transport. As an example, SEA points out that the Applicants still have to meet requirements to inspect rail tracks twice weekly and all trains, including those carrying hazardous materials, every time they leave a rail yard. Although the hazardous materials shipments on the rail line segments through Cuyahoga and Lorain Counties would increase, SEA understands that FRA's policy is to shift inspection locations and frequency based on traffic density, thus providing additional inspections on the rail lines in question. Therefore, SEA concluded that FRA and Ohio Public Utility Commission would provide adequate inspections following the proposed Conrail Acquisition. Chapter 6, "Safety Integration Planning," Section 6.3.11, "Staffing and Workload," presents safety-related labor issues.

Summary of Comments. CSX commented that it would comply with proposed Mitigation Measure No. 4 in the Draft EIS with respect to the Short Line in Cleveland, Ohio and would provide enhanced emergency response training in Cleveland and East Cleveland.

Response. SEA acknowledges CSX's willingness to comply with the recommended mitigation measure. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Summary of Comments. The Village of Wellington, Ohio expressed concern about hazardous materials transport through the area. The Village focused on the risk of derailments and spills and the need for resident evacuation in the event of a spill.

Response. SEA recommends that the Board require CSX to implement key route and major key route mitigation measures on rail line segment C-061, which runs through Wellington between Berea and Greenwich, Ohio. Chapter 7, "Recommended Environmental Conditions," of this Final EIS discusses key route and major key route mitigation measures. The primary purpose of these measures is to prevent hazardous materials spills and to address prompt and appropriate responses to derailments and spills.

Greater Cleveland Area—Safety: Freight Rail Operations

Summary of Comments. Councilman Coats of the 10th Ward of Cleveland, Ohio and the Euclid Park, Forest Hills Park, Collinwood Coalition of Cleveland are opposed to the proposed Conrail Acquisition. They stated that a train accident in the 10th Ward could occur, and therefore pose

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significant health hazards and cause emergency situations. This concern stems from their joint opinion that train cargo “is virtually unregulated.”

Response. SEA does not agree that train cargo is “virtually unregulated.” SEA points out that DOT and FRA have promulgated extensive regulations, which the Draft EIS described, governing cargo packaging and labeling, as well as standards for maintenance and operation of freight cars, trains, and track (see Appendix B, “Safety”). SEA maintains that these regulations, together with AAR key route and key train guidelines (AAR Circular OT-55-B) and proposed mitigation that Chapter 7, “Recommended Environmental Conditions,” of this Final EIS discusses, provide for safe hazardous materials transport and effective response in the event of an accident.

Summary of Comments. A resident of Bay Village, Ohio requested termination of the freight traffic along the rail line running through Bay Village-Westlake. The reason for this request is concern over possible derailment or a collision causing a derailment that would result in a disastrous loss of life, injuries, and severe destruction of homes.

Response. The presence of freight traffic in Bay Village and Westlake (on NS’s Cleveland-to-Vermilion rail line segment) is a pre-existing condition, and the Board does not have the authority to order its termination. In accordance with the scope of the EIS, SEA analyzed the potential environmental impacts resulting from Acquisition-related increases in train traffic on this rail line segment. SEA’s evaluation predicted that the interval between train accidents would be greater than one accident in 100 years. This does not exceed SEA’s freight train accident criteria of significance. Therefore, SEA does not recommend mitigation.

Summary of Comments. Congressman Dennis J. Kucinich, representing Ohio’s 10th District, expressed concern because FRA “does not require railroads to report rail operation accidents in a form that will reveal the number of accidents that have occurred on a particular rail segment. Thus, it is not possible to know if the NS Cleveland-Vermilion line has experienced more accidents than the ‘predicted accident rate.’ However, while applying an imprecise ‘predicted accident rate’ may be acceptable when dealing with sparsely populated and/or highly industrialized areas, it is not acceptable when dealing with densely populated, residential areas where accidents can be far more devastating. A different calculation is needed when determining if mitigation is needed for densely populated, residential areas.” The Congressman expressed a particular concern that “the west side of Cleveland and the West Shore communities are densely populated, residential areas. Lakewood is particularly vulnerable in this area as it has 27 at-grade crossings within 2.7 miles. Clearly, imprecise ‘predicted accident rates’ are not reliable enough under these circumstances.” The Congressman expressed a further concern that “assuming railroads use appropriate containers—hazardous material transport is not dangerous in and of itself, and is only dangerous when an accident occurs. This being tautological, it begs the question: how can SEA justify its finding that the potential increase in rail operation and at-grade crossing accident rates are not significant? Given the circumstances of a 255 percent

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increase in hazardous materials being transported through a densely populated, residential area—in conjunction with the geographic and traffic patterns of the area—application of an imprecise ‘predicted accident rate’ is rendered all the more inappropriate for the west side of Cleveland and the West Shore communities.”

Response. SEA recognizes the concerns that Congressman Kucinich raised. SEA has considered the issue and concludes that it is inappropriate to estimate accident rates using different methodologies for urban and rural populations. SEA used a conservative approach to estimate accident frequencies, and SEA’s proposed mitigation measures in Chapter 7 of this Final EIS, “Recommended Environmental Conditions,” apply the best technology to address safety in the movement of hazardous materials at all locations. SEA also notes that other Federal regulations governing hazardous materials transport (for example, those that DOT has promulgated) do not vary based on the population density along the transport corridor. SEA also evaluated the accident potential for highway/rail at-grade crossings in Cuyahoga County and highway/rail at-grade crossings in Lorain County. SEA determined that potentially significant impacts could result at only two of these locations and has recommended location-specific mitigation measures, as Chapter 7, “Recommended Environmental Conditions,” of this Final EIS discusses. Also see Appendix N, “Community Evaluations,” of this Final EIS.

Summary of Comments. Congressman Dennis J. Kucinich, representing Ohio’s 10th District, asked the following question concerning the City of Brooklyn, Ohio: “If the Conrail merger is approved, what noise and safety mitigation will be offered to the residents living adjacent to the Conrail line parallel to Brookpark Road?”

Response. SEA understands that rail line segment C-069 runs through the City of Brooklyn, Ohio, parallel to Brookpark Road. SEA has conducted site visits to the area to examine this rail line segment. Hazardous materials transport on this rail line segment would increase from 4,000 carloads per year to 41,000 carloads per year if the Board approves the proposed Conrail Acquisition. SEA recommends that the Board require CSX to implement the key route and major key route mitigation measures described in Chapter 7, “Recommended Environmental Conditions,” of this Final EIS. SEA did not identify any other safety or noise effects that would warrant mitigation in the Brooklyn area.

Summary of Comments. Congressman Dennis J. Kucinich, representing Ohio’s 10th District, expressed the concern that even though “SEA finds that the NS Cleveland-to-Vermilion line is one rail line segment that meets or exceeds the Board’s environmental thresholds, of these areas that exceed the Board’s thresholds for further analysis, only one—hazardous material transport—warranted SEA to recommend mitigation.” The Congressman further stated that “these conclusions are ambiguous when coupled with SEA’s later conclusion that the area affected by NS’s proposal nearly triple freight train traffic on its Cleveland-Vermilion line is concerning enough to merit special consideration.”

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Response. SEA has identified the NS Cleveland-to-Vermilion rail line segment N-080 as a segment that meets or exceeds the Board’s thresholds for environmental analysis, and hazardous materials transport is the only individual specific mitigation measure that SEA recommends for the rail line segment. However, SEA also made preliminary recommendations in the Draft EIS, because of the unique problems associated with the BRL corridor, for NS to conduct further consultations with the affected communities to resolve outstanding issues involving new rail connections, possible grade separations, upgrading warning devices, and closing highway/rail at-grade crossings. NS has proposed an alternative routing plan, as the Draft EIS discusses (Volume 3B, page OH-0138 to 0139), to reduce the potential environmental impacts of concern that Congressman Kucinich noted. A discussion of this mitigation plan and SEA’s recommended mitigation for rail line segment N-080 appears in Chapter 4, “Summary of Environmental Review,” Section 4.19, “Community Evaluations,” and Appendix N, “Community Evaluations,” of this Final EIS. Also see Chapter 7, “Recommended Environmental Conditions,” for mitigation measures related to hazardous materials transport.

Greater Cleveland Area—Safety: Other

Summary of Comments. The City of Olmsted Falls, Ohio commented in opposition to the proposed Conrail Acquisition. The City expressed concern about the proposed increase in rail traffic between Vermilion, Ohio and Cleveland, Ohio “thereby creating health and safety concerns to the residents of this City.”

Response. As a result of the proposed Conrail Acquisition, the number of trains moving between Vermilion and Cleveland, Ohio on rail line segment N-293 through Olmsted Falls, Ohio would decrease by 15.5 trains per day. SEA clarifies that increases in rail traffic between Vermilion and Cleveland as a result of the proposed Conrail Acquisition would occur on rail line segment N-080, which does not pass through Olmsted Falls. See Chapter 4, “Summary of Environmental Review,” Section 4.19, “Community Evaluations,” and Appendix N, “Community Evaluations,” of this Final EIS for detailed information about the Greater Cleveland Area. Also, see the Addendum to this Final EIS for discussion of the potential effects of NS’s “Revised Mitigation Proposal.”

Summary of Comments. The Mayor of East Cleveland, Ohio commented that the Draft EIS did not adequately address safety issues in and around East Cleveland.

Response. SEA has addressed safety issues in and around East Cleveland. SEA’s proposed mitigation measures, discussed in Chapter 7, “Recommended Environmental Conditions,” of this Final EIS, apply the best possible proven technology to provide safety in the movement of hazardous materials at all locations. In addition, subsequent to the Draft EIS, the City of East Cleveland has reached separate agreements with CSX and NS regarding potential environmental impacts of the proposed Conrail Acquisition.

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See Appendix C, “Settlement Agreements and Negotiated Agreements,” of this Final EIS.

Summary of Comments. A resident of Rocky River, Ohio commented that the current train traffic causes a backup of traffic, including school buses, and that the situation would become worse after the proposed Conrail Acquisition. The resident added that the backup poses a safety problem for children getting on and off the school buses as well as crossing the streets. Also, after a train clears the intersection, cars speed up in an attempt to make up time, thereby putting pedestrians at greater risk.

Response. SEA recognizes the concern for the safety and welfare of children and pedestrians. As presented, the resident’s comment describes existing conditions that may be exacerbated by any increase in the numbers of trains traveling through Rocky River as a result of the proposed Conrail Acquisition. Chapter 4, “Summary of Environmental Review,” and Appendix N, “Community Evaluations,” of this Final EIS presents the analysis of the potential safety impacts in the Greater Cleveland Ohio area, including the Rocky River area.

SEA analyzed the potential impacts on highway/rail at-grade crossing safety, delay, and pedestrian issues in the western suburbs of Cleveland that would result from the Acquisition-related increase in train traffic. SEA also conducted several site visits to the area. In Rocky River, the Vermilion-to-Cleveland rail line segment (N-080) would experience a train traffic increase from 13.5 trains per day to 34.1 trains per day as a result of the proposed Conrail Acquisition. SEA determined that the effect on LOS at the highway/rail at-grade crossings along this rail line segment would be minor. None of these crossings that SEA analyzed would meet SEA’s criteria of significance for vehicle delay.

SEA’s safety analysis included the overall effect of risky driver behavior, but SEA did not calculate the way such behavior would vary at different highway/rail at-grade crossings. The analysis used a standard FRA method that applies a set of formulas to estimate the risk of accidents at each highway/rail at-grade crossing. The basis for the development of the formulas was a statistical analysis of actual accident history at highway/rail at-grade crossings in the United States. That history reflected the fact that some people ignore flashing lights and drive around crossing gates, and thus increase the probability of accidents. Because SEA used actual accident history, the formulas take into account actual driver behavior. The FRA method of analysis does not address the amount of time that drivers must wait for trains to pass a specific highway/rail at-grade crossing, so it cannot reflect crossing variations in the probability that drivers would increase driving speeds to makeup lost time.

SEA recommended improvements that would mitigate potential significant environmental impacts from the proposed Conrail Acquisition. Pre-existing conditions,

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such as an increase in driving speeds to make up for time lost at highway/rail at-grade crossings, are not within the purview of the Board or SEA, but are within the jurisdiction of the local authorities. SEA encourages each local jurisdiction to work with the Applicants to promote safety on any streets, roads, and highways that have public highway/rail at-grade crossings. See Chapter 4, “Summary of Environmental Review,” Section 4.19, “Community Evaluations,” and Appendix N, “Community Evaluations,” of this Final EIS for detailed information about the Greater Cleveland Area. Also, see the Addendum to this Final EIS for discussion of the potential effects of NS’s “Revised Mitigation Proposal.”

Summary of Comments. The Board of Commissioners of Lorain County, Ohio has passed a resolution generally opposing the approval of the proposed Conrail Acquisition. However, the Commissioners provided a list of conditions for consideration if the Board approves the proposed Conrail Acquisition. Specifically, the Commissioners recommended one safety condition to “institute and fund an annual joint training program for rail personnel and local providers.” The Lorain County Community Alliance supported the Commissioners’ recommendations.

Response. SEA recommends that the Board require NS to implement the mitigation measures for major key routes, as Chapter 7, “Recommended Environmental Conditions,” of this Final EIS discusses, along rail line segment N-080, which runs from Cleveland through Lorain to Vermilion, Ohio. SEA has determined that providing first-responder emergency services is a basic local government function that is funded through the general revenue taxation system. No changes associated with or resulting from the proposed Conrail Acquisition changed those basic responsibilities. See Chapter 4, “Summary of Environmental Review,” Section 4.19, “Community Evaluations,” and Appendix N, “Community Evaluations,” of this Final EIS for detailed information about the Greater Cleveland Area. Also, see the Addendum to this Final EIS for discussion of the potential effects of NS’s “Revised Mitigation Proposal.”

Summary of Comments. A resident of Cleveland, Ohio expressed opposition to the proposed Acquisition as follows: “Bad Materials and other foreign matter will be traveling in my neighborhood. Families, men, women, and children will be affected. Our health and environment will decline.”

Response. SEA recommends that the Board require the Applicants to implement key route and major key route mitigation measures on all rail line segments in the Greater Cleveland, Lorain County, and Cuyahoga County areas that met SEA’s significance criteria for hazardous materials transport. See Appendix F, “Safety: Hazardous Materials Transport Analysis,” of this Final EIS for a complete listing of affected rail line segments in the Greater Cleveland Area. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS discusses key route and major key route mitigation

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measures. The primary purposes of these measures are to prevent hazardous materials spills and to address prompt and appropriate responses to derailments and spills.

Summary of Comments. Two residents of Lorain, Ohio expressed opposition to “anymore trains traveling” through Lorain because “it would mean disaster for the ill and also for the children.” A resident of Cleveland, Ohio and a resident of Elyria, Ohio each expressed opposition to the proposed Acquisition. Both stated, “there are far-reaching effects of this proposed merger that warrant the ut-most consideration,” such as “the potential for health hazards that are compounded by the proposed elimination of Railroad Maintenance Employees.”

Response. SEA has interpreted the comments as focusing upon the health, environmental, and safety-related impacts from increases in hazardous materials transport by train as a result of the proposed Conrail Acquisition. SEA’s review of hazardous materials transport provided the most comprehensive review of these potential environmental impacts. To address the potential health, environmental, and safety-related impacts that the proposed Conrail Acquisition might cause in Greater Cleveland and the Lorain County areas, SEA performed extensive analysis on each rail line segment within the area. The analysis looked at each rail line segment for the increases and/or decreases in numbers of trains, types of hazardous materials transported, and environmental conditions, among others. See Appendix F, “Safety: Hazardous Materials Transport Analysis,” of this Final EIS.

As a result of the analysis, SEA recommends that the Board require the Applicants to implement key route and major key route mitigation conditions on all rail line segments in the Greater Cleveland, Cuyahoga County, and Lorain County areas that meet SEA’s significance criteria for hazardous materials transport. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS discusses key route and major key route mitigation conditions. The primary purpose of these mitigation conditions is to prevent hazardous materials spills and to address prompt and appropriate responses to derailments and spills. These mitigation conditions also include expanded employee emergency response training and coordination with local emergency response organizations.

SEA maintains that these mitigation conditions and existing FRA and DOT regulations would protect public safety. Although the hazardous materials transport through Cuyahoga and Lorain Counties would increase, SEA concludes that the appropriate measure to provide for public safety following the proposed Conrail Acquisition is the adoption of the key route/key train requirements.

Summary of Comments. A resident of Vermilion, Ohio voiced strong opposition to the large increase in rail traffic through Vermilion that would result from the proposed Conrail Acquisition. He stated, “All of the horn blowing resulting from heavy rail traffic greatly diminishes its warning effect.”

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Response. SEA recognizes the commentor's concern; however, the use of train horns is a requirement of state and local laws and railroad operating practices (see Appendix J, "Noise Analysis," of this Final EIS). As a result of the proposed Conrail Acquisition, the average number of trains moving through Vermilion would increase by 7.6 percent. FRA is reviewing the effectiveness of various highway/rail at-grade crossing warning devices aimed at minimizing the amount of noise generated by train horns at crossings while maintaining public safety. Should FRA approve these warning devices for use in the future, the communities would then have the opportunity to explore noise reduction alternatives.

Summary of Comments. The City of Cleveland, Ohio expressed a concern that the increased train traffic would result in safety hazards and decreases in emergency response times.

Response. SEA conducted several site visits and additional emergency response analysis for Cleveland. In addition, SEA has addressed safety issues in and around Cleveland. SEA's proposed mitigation measures, which Chapter 7, "Recommended Environmental Conditions," of this Final EIS discusses, apply the best possible proven technology to enhance train traffic safety in the movement of hazardous materials for key routes and major key routes. See Appendix N, "Community Evaluations," and Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS.

Greater Cleveland Area—Transportation: Passenger Rail Service

Summary of Comments. Faith-Based Organizing for Northeast Ohio, United WE-CAN!, Broad-Faith Organizing for Lorain's Development (BOLD), and United Pastors in Mission of Northeast Ohio; the Lorain County Community Alliance; and a resident of Lorain, Ohio expressed concern about the potential impact of the proposed Conrail Acquisition on the future of commuter rail service in the area. Faith-Based Organizing asked the Board to impose a condition requiring that "CSX and NS guarantee access to their rail lines for proposed future commuter projects, and that NS guarantees access to the rail lines from Lorain-Westshore-Cleveland...."

Response. SEA acknowledges these comments on commuter rail service. After reviewing the relevant issues, SEA determined that the proposed commuter rail service involving Lorain, Westshore, and Cleveland is not sufficiently advanced to consider in the Final EIS. SEA did not analyze the proposed Conrail Acquisition's potential impact on current or future passenger service plans where it did not receive an Operating Plan or an identified source of funding.

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Greater Cleveland Area—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. Flair, a development corporation in Olmsted Falls, Ohio commented that additional rail traffic on rail line segment C-061 would worsen an already unacceptable traffic situation at highway/rail at-grade crossings FRA ID 524367U and 524368B. Flair indicated that traffic blockage on Columbia Road of 2.8 hours per day is untenable. Flair also considered it unreasonable to expect the residents of the Raintree community to endure any further delays when attempting to reach their homes. Flair noted that the only egress from the Raintree community is to Sprague Road, and the access road is next to highway/rail at-grade crossing FRA ID 524368B. Flair added that residents of the Raintree community must travel at least 4.3 miles to bypass that crossing and must cross another highway/rail at-grade crossing, which trains may also block. Flair stated that this condition would worsen if rail traffic on rail line segment C-061 increases following the proposed Conrail Acquisition.

Response. SEA analyzed the change in delay that would result from the Acquisition-related increase in train traffic at the Columbia Road (FRA ID 524367U) and Sprague Road (FRA ID 524368B) highway/rail at-grade crossings in Olmsted Falls. The number of trains on the Berea-to-Greenwich rail line segment (C-061) would increase by 38.5 trains per day, from 14.5 trains per day before the proposed Conrail Acquisition to 53.0 trains per day after the proposed Conrail Acquisition.

The analysis of Columbia Road showed that the ADT on the roadway was 9,500. LOS at the crossing would change from LOS A to LOS B, and the crossing delay per stopped vehicle would increase from 1.24 minutes per vehicle to 1.33 minutes per vehicle. This crossing would not meet SEA's criteria for a significant increase in vehicle delay.

The analysis of Sprague Road showed an ADT on the roadway was 996, which did not meet SEA's threshold for traffic delay analysis of 5,000 ADT. In SEA's experience, for roadways with ADT volumes below 5,000, the additional total vehicular delay that would result from Acquisition-related increased train traffic would be minimal. The current delay problem cited by the commentor is not an impact of the proposed Conrail Acquisition, but is caused by trains that are already operating through the area. Mitigation of traffic delay is not appropriate for pre-existing conditions, and is not necessary in this area. NS and CSX have executed a Negotiated Agreement with the Cities of Olmsted Falls and Brook Park, Ohio. See Appendix C, "Settlement Agreements and Negotiated Agreements."

Summary of Comments. A resident of Avon Lake, Ohio commented that the increased train traffic would isolate his area from the other side of the tracks for an average of 10 hours per day.

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Response. SEA analyzed the change in vehicle delay in Avon and Avon Lake that would result from the Acquisition-related increase in train traffic. The number of trains on the Vermilion-to-Cleveland rail line segment (N-080) would increase by 20.6 trains per day, from 13.5 trains per day before the proposed Conrail Acquisition to 34.1 trains per day after the Acquisition.

SEA analyzed the Avon Center Road/SR 83 (FRA ID 472258U) and Miller Road (FRA ID 472269G) highway/rail at-grade crossings. At both crossings, the total amount of time that the tracks would be blocked by passing through trains would increase from about 26 minutes per day before the proposed Conrail Acquisition to 66 minutes per day after the proposed Acquisition, far less than the 10 hours a day cited in the comment. The amount of delay experienced by a stopped vehicle would remain at approximately one minute. LOS at the crossings would remain at LOS A, so neither crossing would meet SEA's criteria for a significant increase in vehicle delay. SEA notes that NS has offered to divert approximately 18 to 20 trains per day from this corridor. See Chapter 4, Summary of Environmental Review," Section 4.19, "Community Evaluations," and Appendix N, "Community Evaluations," of this Final EIS for more detail. See the Addendum to this Final EIS for a discussion of the potential effects of NS's proposed "Revised Mitigation Proposal."

Summary of Comments. The City of Berea, Ohio requested that SEA prepare a comprehensive city-wide EIS to determine the full potential environmental impacts of the proposed Conrail Acquisition on the community. According to the City, such an EIS would reveal that key highway/rail at-grade crossings, including Front Street, Bagley Road, and Sheldon Road, would require grade separations for mitigation.

Response. SEA conducted several site visits to Berea and analyzed the change in vehicle delay in the City that would result from the Acquisition-related increase in train traffic. The number of trains on the Berea-to-Greenwich rail line segment C-061 would increase by 38.5 trains per day, from 14.5 trains per day before the proposed Conrail Acquisition to 53.0 trains per day after the proposed Conrail Acquisition. SEA updated the ADT and analyzed the Bagley Road (FRA ID 524363S) highway/rail at-grade crossing on this rail line segment. As presented in both the Draft and this Final EIS, the LOS at this crossing would decrease from LOS A to LOS B. The crossing delay per stopped vehicle, as calculated in this Final EIS, would increase from 1.19 minutes per vehicle to 1.28 minutes per vehicle. This crossing would not meet SEA's criteria of significance for increased vehicle delay.

The number of trains on the Short-to-Berea rail line segment C-074 would increase by 31.9 trains per day, from 13.4 per day before the proposed Conrail Acquisition to 45.3 trains per day after the proposed Conrail Acquisition. SEA updated the ADT and analyzed the Front Street highway/rail at-grade crossing on this rail line segment. The LOS at this crossing would decrease from LOS A to LOS C. The crossing delay per

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stopped vehicle would increase from 1.69 minutes per vehicle to 1.84 minutes per vehicle. This crossing would not meet SEA's criteria of significance for increased vehicle delay.

The number of trains on the Cleveland-to-Vermilion rail line segment N-293 would not increase after the proposed Conrail Acquisition. Therefore, SEA did not analyze the Sheldon Road and Front Street highway/rail at-grade crossings of this rail line segment because there would be no potential environmental impact from the proposed Conrail Acquisition.

The number of trains on the CSX Lester-to-Cleveland rail line segment C-213, located in the eastern part of Berea, would not increase after the proposed Conrail Acquisition. SEA did not analyze highway/rail at-grade crossings of this rail line because there would be no potential environmental impacts from the proposed Conrail Acquisition.

See Chapter 4, "Summary of Environmental Review," Section 4.19, "Community Evaluations," Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," and Appendix N, "Community Evaluations," of this Final EIS. Also, see the Addendum to this Final EIS for a discussion of potential effects of NS's "Mitigation Proposal for Train Frequencies in Greater Cleveland and Vicinity."

Summary of Comments. The City of Cleveland, Ohio stated that the increased train traffic following the proposed Conrail Acquisition would increase congestion and decrease access to various areas of the City. The City asked, "What, for example, will be the impact on the infrastructure from increased delays to vehicle traffic at crossings?" The City stated that drivers would seek alternative routes through residential neighborhoods when trains block traffic at highway/rail at-grade crossings. The City added that the quality of life in these neighborhoods would suffer as a result of the increased traffic.

Also, the City of Cleveland stated that the Draft EIS understated the total blocked time for Dille Road because SEA used too high a train speed in the calculations. The City indicated that SEA should have used 35 mph instead of 50 mph.

The "Cleveland Solution" that the City proposed includes an underpass at Nottingham/Dille Road to mitigate the potential traffic impacts at Dille Road. The City suggested an additional grade separation at London Road.

Response. SEA analyzed the change in delay that would result from the Acquisition-related increase in train traffic in Cleveland and conducted several site visits to the potentially affected rail crossings. The number of trains on the Cleveland-to-Ashtabula rail line segment N-075 would increase by 23.6 trains per day, from 13.0 trains per day before the proposed Conrail Acquisition to 36.6 trains after the proposed Acquisition. The LOS at the Dille Road crossing (FRA ID 472093Y) would change from LOS A to

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LOS B, and the crossing delay per stopped vehicle would increase from 1.49 minutes per vehicle before the proposed Conrail Acquisition to 1.51 minutes per vehicle after the proposed Acquisition. This highway/rail at-grade crossing would not meet SEA's criteria for a significant increase in vehicle delay.

SEA has reviewed the train time tables and concluded that it was appropriate to use a train speed of 50 mph at the Dille Road crossing, as Appendix A of the Draft EIS explained.

Summary of Comments. BRL indicated that NS suggested that Lakewood close several highway/rail at-grade crossings. BRL stated that this is not an action the Board can require, and Lakewood advised NS on several occasions that it will not close streets for the convenience of NS. BRL pointed out that the Draft EIS indicated that the BRL area had one highway/rail at-grade crossing every quarter mile, but there is one every 485 feet in Lakewood. BRL indicated that the Supplemental Errata established that the average delay at the five crossings that SEA analyzed would increase by 163 percent. According to BRL, this additional delay is a cost to the public resulting from the NS proposal to increase net operating benefits. The BRL questioned the use of maximum speed for average delay calculations, while SEA used "typical freight train speed" for air quality calculations. BRL suggested that SEA relabel Table 5-OH-53 "Minimum Delay at At-grade Crossings."

BRL stated that approximately 20 percent of the NS trains through its area use the Clague Siding. BRL pointed out that Clague Siding crosses Columbia Road at a highway/rail at-grade crossing; therefore, the delay calculations on Columbia Road should reflect the use of the siding.

BRL stated that the criteria used to consider the potential environmental impact of additional rail traffic on highway traffic are unclear and should be clarified in the Final EIS. The Draft EIS cited two criteria, (a) a "post-Acquisition" LOS E or F regardless of the "pre-Acquisition" condition, or (b) a reduction from "pre-Acquisition" LOS C or better to a "post-Acquisition" LOS D. BRL stated that the Draft EIS did not indicate which of these two standards SEA used. BRL added that the LOS analysis does not allow for a mitigation recommendation unless the "pre-Acquisition" condition was poor at best. According to BRL, this was true in all but the most extreme situations.

BRL stated that the delay figures presented in Table 5-OH-11 (Revised) in the Supplemental Errata are incorrect for the following reasons: (a) SEA used the maximum speed in the calculations instead of the average speed; (b) SEA calculated delays using a "post-Acquisition" trains-per-day figure that NS has been unable to verify; and (c) SEA should have used 0.66 minutes for gate closure and opening before and after the train passes rather than 0.5 minutes.

Response. SEA has analyzed the change in vehicle delay in the BRL areas that would result from the Acquisition-related increase in train traffic. In addition, SEA conducted several site visits to the potentially affected area (see Appendix G, "Transportation:

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Highway/Rail At-grade Crossing Traffic Delay Analysis,” of this Final EIS). The number of trains on the Vermilion-to-Cleveland rail line segment N-080 would increase by 20.6 trains per day, from 13.5 trains per day before the proposed Conrail Acquisition to 34.1 trains per day after the proposed Conrail Acquisition. Although the greater number of trains would increase average delay, the effect on the LOS at the highway/rail at-grade crossings along the rail line segment would be minor. At the Bunts Road, Columbia Road, and West 117th Street crossings, the LOS would decrease from LOS A to LOS B. At the Dover Center Road and Bradley Road crossings, the LOS would remain at LOS A. None of these highway/rail at-grade crossings would meet SEA’s criteria of significance for increased vehicle delay.

SEA calculated vehicle delay only for the increase in through trains, not changes in trains on sidings or in rail yards. The Board does not regulate railroad operations, such as train speed, dispatching, or yard operations, and cannot impose restrictions on operations on sidings or in rail yards.

SEA used three criteria to determine whether an increase in vehicle delay at a highway/rail at-grade crossing would be significant: (a) LOS E or F after the proposed Conrail Acquisition, regardless of the condition before the proposed Acquisition, (b) a reduction from LOS C before the proposed Conrail Acquisition to LOS D after the proposed Acquisition, or (c) an increase in the delay per stopped vehicle of 30 seconds or more. The first criterion provides mitigation for a highway/rail at-grade crossing with significant delay because of an increase in trains as a result of the proposed Conrail Acquisition, regardless of the LOS before the proposed Acquisition.

In response to the comments about the delay figures presented in Table-5-OH-11 (Revised), SEA has the following clarifications: (1) The accident-prediction analysis used the maximum timetable speed, but the delay and air quality calculations used typical operating speeds. The use of typical speeds instead of maximum speeds prevented underestimating the delay. (2) The Applicants provided SEA with the proposed number of trains operating on each rail line segment after the proposed Conrail Acquisition. (3) The 0.5 minute assumption for gate closure/opening in the delay calculations for the entire study is the standard input for the equation in the FRA method. (Stanford Research Institute, *Guidebook for Planning to Alleviate Urban Railroad Problems*, prepared for the Federal Railroad and Highway Administration, August 1974, RP-31, Volume 3, Appendix C.)

Chapter 7, “Recommended Environmental Conditions,” of this Final EIS addresses the proposed mitigation for the BRL areas. Also see the Addendum to this Final EIS for a discussion of NS’s change in train traffic in the BRL area resulting from NS’s “Mitigation Proposal for Train Frequencies in Greater Cleveland and Vicinity.”

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Summary of Comments. The Lorain County, Ohio Board of Commissioners, the Lorain County Community Alliance, and an individual Commissioner expressed opposition to the proposed Conrail Acquisition, partly because of the increase in average traffic delay time. The commentors stated, “The conclusions are less than realistic when looked at logically.” In addition, the commentors disagreed with the results of the Supplemental Errata dated January 21, 1998. Specifically, they questioned the finding that highway/rail at-grade crossings in Wellington Village would decrease from an existing LOS A to LOS B after the proposed Conrail Acquisition. The Commissioners noted, “It is not logical that an increase in the number of trains per day from 14 to 54; an increase in train length from 5,260 feet to 6,200 feet; an increase in the number of vehicles delayed per day from 145 to 583; an increase in the number of vehicles in line per lane (2) from 14 to 16; and increases in average delay per vehicle, could take place, and the result be a level of service determination of B.” Although the commentors opposed the proposed Conrail Acquisition, they stated that the Board should impose conditions if the Board approves the proposed Acquisition. The commentors requested that the Board require the Applicants to build a grade separation at the North Main Street highway/rail at-grade crossing in Wellington as a condition for approval of the proposed Conrail Acquisition. The Lorain County Community Alliance also called for a grade separation at North Main Street in Wellington. Its comment stated that their members had voted to affirm the Board of Commissioners’ views on the proposed Conrail Acquisition.

Response. SEA identified the impact of the proposed Conrail Acquisition on the Village of Wellington by analyzing the change in delay that would result from the Acquisition-related increase in train traffic. LOS is a measure of the operational efficiency of the highway/rail at-grade crossing using procedures contained in the Transportation Research Board’s HCM. LOS is measured by the average vehicle delay for all daily vehicles at a crossing and ranges from LOS A (free flowing) to LOS F (severely congested). LOS B is assigned to crossings with an average delay per vehicle of more than 5 seconds but not more than 15 seconds.

SEA analyzed the North Main Street (FRA ID 518510N) and Herrick Avenue (FRA ID 518509U) highway/rail at-grade crossings. SEA also conducted site visits to the potentially affected crossings. As the comment noted, the number of trains on the Berea-to-Greenwich rail line segment C-061 would increase by 38.5 trains per day, from 14.5 trains per day to 53.0 trains per day after the proposed Conrail Acquisition. LOS at the North Main Street crossing would decrease from LOS A to LOS B because the average delay per vehicle would increase from 2.50 to 10.61 seconds per vehicle. Crossing delay per stopped vehicle would increase from 1.17 minutes per vehicle to 1.26 minutes per vehicle. LOS at the Herrick Avenue crossing would decrease from LOS A to LOS B because the average delay per vehicle would increase from 2.48 to 10.51 seconds per vehicle. Crossing delay per stopped vehicle would increase from 1.16 minutes per vehicle to 1.25 minutes per vehicle. Neither crossing would meet SEA’s significance criteria for vehicle delay.

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Summary of Comments. A resident of Lorain, Ohio expressed her strong opposition to the proposed Conrail Acquisition because increased train traffic would tie up traffic at highway/rail at-grade crossings.

Response. SEA analyzed traffic delay at nine highway/rail at-grade crossings in Lorain County. The analysis of the existing conditions indicated LOS A at each of these highway/rail at-grade crossings. After the proposed Conrail Acquisition, delay would remain at LOS A on two of the highway/rail at-grade crossings, but would become slightly worse (LOS B) on the remaining seven crossings. The average delay per vehicle at the nine crossings would range from 4.49 seconds to 13.62 seconds. These delays are well within the acceptable limits, and SEA does not recommend mitigation for these crossings.

Summary of Comments. Congressman Dennis J. Kucinich, who represents the 10th Congressional District of Ohio, which includes the City of Brooklyn, commented that an increase in rail traffic on the Cleveland-to-Medina CSX rail line segment would lengthen delays for American Greetings workers on American Road. The Congressman explained that highway traffic could queue as far as Tiedeman Road. He stated that SEA should investigate whether the potential delay on American Road warrants mitigation.

The Congressman added that SEA should investigate the increased rail traffic on the Conrail line and determine its effects on Ridge Road traffic. He noted that Ridge Road is a major north-south commuter route between Cleveland and the southwestern suburbs, and if SEA determines that there is a potential environmental impact, SEA should recommend mitigation.

Response. SEA notes that the CSX Lester-to-Cleveland rail line segment C-213, which is the same rail line segment to which Congressman Kucinich referred and which crosses American Road and Ridge Road in Brooklyn, would not experience an increase in the number of trains per day after the proposed Conrail Acquisition. SEA did not analyze the highway/rail at-grade crossings along this rail line segment because this rail line segment does not meet the Board's thresholds for environmental analysis.

Summary of Comments. Congressman Dennis J. Kucinich, who represents Ohio's 10th District, which includes the west side of Cleveland, disagreed with the Draft EIS regarding highway/rail at-grade crossing delays in Cuyahoga County. He indicated that the Draft EIS stated for Cuyahoga County, "Of the 12 crossings analyzed in Cuyahoga County, 10 would have a minimal increase in crossing delay per stopped vehicle." The two highway/rail at-grade crossings that would experience more than a minimal delay are not along NS's Cleveland-to-Vermilion rail line segment that affects the Congressman's district. The Congressman added that it "defies logic that the SEA could determine that tripling the freight train traffic in an area with more at-grade crossings than anywhere else in the country will have only 'minimal' effects." He noted that the increased number of vehicles experiencing delays is more than minimal.

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Congressman Kucinich maintained that the proposed Conrail Acquisition would disproportionately affect the Cities of Berea and Olmsted Falls. He stated that train traffic would increase by 83.8 percent in this area. He indicated that this would affect access for residents as well as school buses and commercial vehicles. He suggested that the Applicants install grade separations on the following roadways to mitigate the problem: Berea (Front Street, Sheldon Road, West Street, Bagley Road), Olmsted Falls (Columbia Road, Maple Way), and Olmsted Township (Fitch Street).

Response. SEA acknowledges the concerns of Congressman Kucinich regarding traffic delay. SEA has performed additional analyses that address these concerns. Chapter 4, “Summary of Environmental Review,” of this Final EIS addresses the results of SEA’s analysis of many issues pertaining to the Cleveland area. See also Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis,” and Appendix N, “Community Evaluations,” of this Final EIS.

Summary of Comments. The City of Olmsted Falls, Ohio stated that the train traffic figures on rail line segments N-293 and C-061 are incorrect, because they do not reflect special trains, passenger trains, short engine hauls, and work trains. The addition of these trains, which the delay analysis did not include, would increase the total time that trains block highway/rail at-grade crossings in Olmsted Falls. The City requested that SEA contact the Conrail Dearborn Division for the Erie-to-Chicago rail line and the Conrail Indianapolis Division for the Berea-to-St. Louis rail line to obtain accurate train traffic information. The City asked SEA to use this information for the delay calculation in the Final EIS.

The crossing blockages affect school bus deliveries to two elementary schools, one parochial school, one middle school, and one high school. The City stated that the “delay in educational attendance must be addressed.”

The tracks bisect the City and block traffic on State Route 252, Columbia Road. The traffic on Columbia Road crossing rail line segment C-061 is more than 9,500 ADT, and the traffic on Columbia Road crossing rail line segment N-293 is more than 11,500 ADT. The City stated that the Final EIS should use the correct volumes for these roadways for calculation of delay.

The City indicated that another recurring problem with rail line segment N-293 involves trains that stop and block highway/rail at-grade crossings as well as trains that reduce their speed below 30 mph as they approach the crossover of rail line segments C-061 and N-293 in the City of Berea. The City stated that it understood the Applicants would eliminate this crossover, but found no reference to the elimination in the Draft EIS.

Response. SEA analyzed the change in delay that would result from the Acquisition-related increase in train traffic in the City of Olmsted Falls. SEA also conducted several site visits to the area. The train data for the affected rail lines contained in the Draft and this Final EIS are consistent with the Applicants’ Operating Plans for through freight

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trains. SEA concluded that passenger trains would have little effect on delay. Consideration of special trains, short engine hauls, and work trains is not within the scope of the EIS.

SEA analyzed the changes in vehicle delay resulting from the proposed increase in trains on the Berea to Greenwich rail line segment (C-061). None of the highway/rail at-grade crossings would meet SEA's criteria for significant increase in vehicle delay. SEA does not anticipate a significant impact on school bus operations as a result of the proposed Conrail Acquisition.

SEA analyzed Columbia Road (FRA 524367U) where it crosses rail line segment C-061 with a revised ADT volume of 9,500 in the Final EIS. The crossing would not meet SEA's criteria for significant increase in vehicle delay. SEA did not analyze the Columbia Road highway/rail at-grade crossing on rail line segment N-293 for vehicle delay because the number of trains on the segment would not increase, based on the information that the Applicants submitted. However, SEA notes that NS's April 1998 "Mitigation Proposal for Train Frequencies in Greater Cleveland and Vicinity," which the Addendum to this Final EIS discusses, would redirect more trains to this rail line segment.

SEA reviewed the Operating Plans for the crossover in the City of Berea. The existing train operations require Conrail trains to slow down and stop to avoid conflict with other Conrail trains crossing between rail line segments N-293, C-074, and C-061. NS would operate rail line segment N-293, and CSX would operate rail line segments C-061 and C-074 if the Board approves the proposed Conrail Acquisition. The crossover would not physically be eliminated, but the use of the crossover would be reduced because the rail line segments would be operated by separate railroads. See Chapter 4, "Summary of Environmental Review," and Appendix N, "Community Evaluations," of this Final EIS.

Summary of Comments. A resident of Rocky River, Ohio stated that train traffic through his neighborhood has recently increased to 16.4 trains per day. Previously, approximately ten trains passed through the community each day. This increased train traffic has already blocked access to his home, which is two blocks from the track. A further increase in train traffic would exacerbate the problem. The resident recommended that the Board consider several solutions, such as requiring NS to build a new track south of Cleveland or imposing a limit of 13.5 trains per day through Rocky River.

Response. To identify the potential environmental impact of the proposed Conrail Acquisition on Rocky River, SEA analyzed the change in delay that would result from an Acquisition-related increase in train traffic. The current delay problem the commentator cited is not a potential impact of the proposed Conrail Acquisition; it is caused by pre-existing trains that already operate. The number of trains on the Vermilion-to-Cleveland rail line segment (N-080) would increase after the proposed Conrail Acquisition by 20.6

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trains per day, from 13.5 trains per day before the proposed Acquisition to 34.1 trains per day after the proposed Acquisition. None of the highway/rail at-grade crossings in Rocky River met the 5,000-vehicle ADT threshold for delay analysis. In SEA's experience, for roadways with ADT volumes below 5,000, the additional vehicular delay that would result from Acquisition-related increased train traffic would be minimal. See Chapter 4, "Summary of Environmental Review," Section 4.19, "Community Evaluations," and Appendix N, "Community Evaluations," of this Final EIS for detailed information about the Greater Cleveland Area. Also, see the Addendum to this Final EIS for discussion of the potential effects of NS's "Revised Mitigation Proposal."

Summary of Comments. Councilman Coats of the 10th Ward of Cleveland, Ohio and the Euclid Park, Forest Hills Park, Collinwood Coalition in northeast Cleveland stated that delays in traffic at highway/rail at-grade crossings could create a life-threatening problem for their communities. The Councilman and the Coalition stated that trains now rarely use the tracks, and an increase in train traffic would affect many people.

Response. SEA analyzed the change in delay that would result from the Acquisition-related increase in train traffic in Cleveland. SEA also conducted site visits to the area. The number of trains on the Cleveland-to-Ashtabula rail line segment (N-075) would increase by 23.6 trains per day, from 13.0 trains per day before the proposed Conrail Acquisition to 36.6 trains per day after the proposed Acquisition. LOS at the Dille Road crossing (FRA ID 472093Y) would change from LOS A to LOS B, and the crossing delay per stopped vehicle would decrease from 1.49 minutes per vehicle to 1.51 minutes per vehicle. This highway/rail at-grade crossing would not meet SEA's criteria for a significant increase in vehicle delay. Chapter 4, "Summary of Environmental Review," of this Final EIS addresses the comments for the Cleveland area.

Summary of Comments. The Mayor, the City Council, and the Councilwoman for Ward II of Olmsted Falls, Ohio commented that 80 to 100 trains currently pass through the City each day, and there are no overpasses or underpasses to relieve auto or truck traffic. They stated that the proposed Conrail Acquisition would increase train traffic through the City, which would result in greater mental anguish for residents waiting for long and stopped trains. Periods of heavy rail traffic would totally isolate Olmsted Falls from the north and the south.

Response. SEA analyzed highway/rail at-grade crossings in the City of Olmsted Falls for changes in vehicle delay resulting from the proposed increase in trains on the Berea-to-Greenwich rail line segment (C-061). See Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS. The number of trains would increase by 38.5 trains per day, from 14.5 trains per day before the proposed Conrail Acquisition to 53.0 trains per day after the proposed Acquisition. LOS at the Columbia Road (FRA ID 524367U) crossing would drop from LOS A to LOS B, and the average crossing delay per stopped vehicle would increase from 1.24 minutes per vehicle to 1.33 minutes per vehicle. This crossing does not meet SEA's criteria for a

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significant increase in vehicle delay. The other highway/rail at-grade crossings in Olmsted Falls did not meet the 5,000-vehicle ADT threshold for traffic delay analysis. In SEA's experience, for roadways with ADT volumes below 5,000, the additional vehicular delay that would result from Acquisition-related increased train traffic would be minimal.

Summary of Comments. The Village of Wellington commented that Route 58 and Route 18 are the two state highway routes that serve the Village. Each of these highways experiences heavy auto and truck traffic. The Conrail Berea-to-Greenwich rail line segment (C-061) intersects both highways, and the existing rail traffic significantly disrupts traffic flow on the State highways. Because the traffic on this line would increase from 14.5 to 53.0 trains per day following the proposed Conrail Acquisition, the Village expressed concern that traffic could be at a complete standstill for lengthy periods of time.

Response. SEA analyzed both the Route 58 and Route 18 highway/rail at-grade crossings in the Village of Wellington for changes in vehicle delay resulting from the proposed increase in trains on the Berea-to-Greenwich rail line segment. LOS at the Route 58 (North Main Street, FRA ID 518510N) crossing would drop from LOS A to LOS B, and the crossing delay per stopped vehicle would increase from 1.17 to 1.26 minutes per vehicle. LOS at the Route 18 (Herrick Avenue, FRA ID 518509U) crossing would drop from LOS A to LOS B, and the crossing delay per stopped vehicle would increase from 1.16 to 1.25 minutes per vehicle. LOS B is well within acceptable limits and does not exceed SEA's criteria for a significant increase in vehicle delay. Therefore, these rail line segments would not warrant traffic delay mitigation (see Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS).

Summary of Comments. The City of Cleveland, Ohio expressed concern that additional trains would block highway/rail at-grade crossings and jeopardize emergency response times. The City stated that it agreed with the Draft EIS that the Draft EIS understated the actual impacts of crossing delay because emergency response times are so significant and difficult to quantify. The City requested that CSX and NS mitigate the problems that increased delays at highway/rail at-grade crossings cause. Further, the City stated, "SEA should require a recheck of the data for all of the crossings in the City to determine whether the actual speeds of the trains through crossings are, like Dille Road, less than the posted speed at the track at that location." Finally, the City noted, "SEA should require NS and CSX to work with the City to identify the actual delays expected to occur at busy grade crossings and to implement plans to mitigate these delays and insure that the residents of the affected areas will not suffer from increased response time for police, fire, and rescue vehicles delayed by an increase in the frequency and length of trains crossing City arterial streets."

Congressman Louis Stokes and community leaders from the 10th Ward in the northeast portion of Cleveland, Ohio commented that the proposed increase of trains could cause delays in

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emergency vehicle traffic, creating a life-threatening problem for the communities. Congressman Stokes stated, “Worse yet, these are areas that already have emergency service response times slower than more affluent parts of the City.”

NS stated, “Although there were no NS grade crossings that exceeded the D[raft]EIS threshold for significance for traffic delay, nonetheless, the January 12, 1998 Errata recommends that NS consult with the City of Cleveland to reach agreement on measures to minimize or mitigate the effects of ‘increased’ emergency response vehicle delay.”

Response. Appendix N, “Community Evaluations,” of this Final EIS contains a discussion of the effects of the proposed Conrail Acquisition on the Cleveland, Ohio area. See Section N.1.3, “Potential Environmental Impacts of the Alternative Actions and Recommended Mitigation.” The discussion in Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis,” Section G.2.1, “Emergency Response Vehicle Delay,” of this Final EIS addresses SEA’s analysis pertaining specifically to emergency response vehicle delay at highway/rail at-grade crossings.

SEA used a consistent analysis base for determining delay at highway/rail at-grade crossings. SEA used the posted speed limit in the calculation, with the exception of higher-speed facilities, where SEA estimated the operating speed by using a speed 10 miles per hour lower than the current speed limit.

SEA identified three areas in the City of Cleveland where emergency services may be affected by the proposed Conrail Acquisition. These include the Collinwood-Nottingham area in northeast Cleveland, the Edgewater area in northwest Cleveland, and the Aetna Road area in central Cleveland.

In the Collinwood-Nottingham area, the NS Cleveland-to-Ashtabula rail line segment (N-075) met or exceeded the Board’s thresholds for environmental analysis. SEA determined that the blocked-crossing time caused by a train on this rail line segment, currently 2.1 minutes, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be slightly more than 1 minute. The average number of trains on the NS rail line segment would increase from 13 to 36.6 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 27.1 minutes to 77.7 minutes per day.

In the Collinwood-Nottingham area, a small area bounded by a rail spur near Catalpa Road on the north and Ivanhoe Road on the south is isolated from emergency services by the NS Cleveland-to-Ashtabula rail line segment, which is the northwestern boundary of this area. The separated grade crossings in this area are approximately 3 miles apart. The crossings of Ivanhoe Road on the south and East 222nd Street on the north are grade-separated. Emergency service providers for this area are located northwest of the NS

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tracks. Local officials stated to SEA that response time could be up to 7 minutes longer if emergency vehicles need to divert to one of the grade separations to cross the tracks. During 1996, there were more than 17,000 calls for emergency services in this area, according to local officials. There is a police station located in this area, and a medical center and ambulance service located just north of the City limits, each located southeast of the NS rail line segment, but these providers serve a different jurisdiction and respond to emergencies in the Collinwood-Nottingham area only during mutual-aid situations.

Because there are separated grade crossings in the area, SEA has concluded that no mitigation is warranted in the Collinwood-Nottingham area.

In the Edgewater area in northwest Cleveland, the NS Cleveland-to-Vermilion rail line segment (N-080) met or exceeded the Board's thresholds for environmental analysis. SEA determined that the blocked-crossing time caused by a train on this rail line segment, currently 2.1 minutes, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be slightly more than 1 minute. The average number of trains on the NS rail line segment would increase from 13.5 to 34.1 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 28.1 minutes to 72.5 minutes per day.

In the Edgewater area, there are six highway/rail at-grade crossings between West 110th Street and West 117th Street. In order to avoid the highway/rail at-grade crossings, emergency vehicles must travel nearly 2 miles out of their way, adding 4 minutes to the emergency response time. There are a police station and a hospital located in the area south of the NS Vermilion-to-Cleveland rail line segment. Fire stations are located on both sides of the tracks.

Because there are separated grade crossings in the area, SEA concluded that mitigation is not warranted. With NS's "Revised Mitigation Proposal," the NS Cleveland-to-Vermilion rail line segment would not meet the Board's thresholds for environmental analysis.

In the Aetna Road area, the NS White-to-Cleveland rail line segment (N-081) and the CSX Mayfield-to-Marcy rail line segment (C-072) met or exceeded the Board's thresholds for environmental analysis. On the White-to-Cleveland rail line segment, SEA determined that the blocked-crossing time caused by a train, currently 3.3 minutes, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be approximately 1.7 minutes. The average number of trains on this rail line segment would increase from 12.5 to 29.7 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 40.8 minutes to 99.2 minutes per day.

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On the Mayfield-to-Marcy rail line segment, SEA determined that the blocked crossing time caused by a train would increase from 2.1 minutes to 2.3 minutes per train. When delays affect emergency vehicles, the average delay would be slightly more than 1 minute. The average number of trains on this rail line segment would increase 3.4 to 43.8 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 7.1 to 99.1 minutes per day.

In the Aetna Road area, there are two fire stations and a hospital located west of both the White-to-Cleveland and the Mayfield-to-Marcy rail line segments, and a police station is located east of these rail line segments. Emergency medical service operates from one fire station. Bessemer Road and Aetna Road have highway/rail at-grade crossings along the White-to-Cleveland rail line segment, but the highway/rail crossings on the Mayfield-to-Marcy rail line segment are grade-separated.

With regard to NS's "Revised Mitigation Proposal," SEA determined that the blocked-crossing time caused by a train on the NS White-to-Cleveland rail line segment, currently 3.3 minutes, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be approximately 1.7 minutes. The average number of trains on the NS White-to-Cleveland rail line segment would increase from 12.5 to 40.3 trains per day under NS's "Revised Mitigation Proposal," which would increase the total blocked-crossing time from 40.8 minutes to 134.6 minutes per day.

Because there are separated grade crossings in this area, SEA concluded that mitigation is not warranted in the Aetna Road area. Mitigation would also not be warranted under the Cloggsville Alternative.

Summary of Comments. The City of Berea, Ohio and DOT expressed concern that additional trains would disrupt the emergency response time of fire, medical, and police services in the area. The City stated that, because of trains, the industrial area south of Bagley Road and west of the Berea-to-Greenwich rail line segment "is blocked from police, fire, and hospital access at Bagley Road and access through the Rocky River Drive is difficult at best and treacherous at the extreme." Further, the City maintained that congestion at the Rocky River Drive and Sheldon Road grade separations hinders emergency service access to the residential areas north of Bagley Road. The City estimated that, if the Board approves the merger, trains would block area highway/rail at-grade crossings every 24 minutes.

Response. SEA conducted additional analysis and site visits, as appropriate, in response to public comments regarding the potential impacts of the proposed Conrail Acquisition on emergency response in the City of Berea, Ohio. Appendix N, "Community Evaluations," Section N.1.3, "Potential Environmental Impacts of the Alternative Actions and Recommended Mitigation," of this Final EIS contains a discussion of the potential effects of the proposed Conrail Acquisition on the Cleveland, Ohio area. The

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discussion in Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis,” Section G.2.1, “Emergency Response Vehicle Delay,” of this Final EIS addresses SEA’s analysis pertaining specifically to emergency response vehicle delay at highway/rail at-grade crossings. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS addresses SEA’s recommended mitigation.

In Berea, two rail line segments, the CSX Short-to-Berea rail line segment (C-074) and the CSX Berea-to-Greenwich rail line segment (C-061), met or exceeded the Board’s thresholds for environmental analysis. On the CSX Short-to-Berea rail line segment, SEA determined that the blocked-crossing time caused by a train would increase from 2.3 minutes to 2.5 minutes as a result of the proposed Conrail Acquisition, which is an increase of approximately 12 seconds per train. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be approximately 1.3 minutes. The average number of trains on this rail line segment would increase from 13.4 to 45.3 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 30.8 minutes to 113.3 minutes per day.

On the CSX Berea-to-Greenwich rail line segment, SEA determined that the blocked-crossing time caused by a train would increase from 1.8 minutes to 1.9 minutes as a result of the proposed Conrail Acquisition, which is an increase of approximately 6 seconds per train. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be less than a minute. The average number of trains on this rail line segment would increase from 14.5 to 53.0 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 26.1 minutes to 100.7 minutes per day.

The police, fire, and ambulance facilities, as well as the main hospital, in Berea are located south of both the CSX and NS tracks. There is one grade-separated crossing of both the CSX and NS tracks at Rocky River Drive. Local officials told SEA that emergency vehicle drivers typically use this underpass to reach the northern and western parts of the community when trains block the tracks, although traffic congestion in the underpass affects emergency vehicles using it. When there are trains on both the CSX and NS tracks in Berea, two areas are difficult to reach. One is the area between the NS CP-190-to-Berea rail line segment and the CSX Short-to-Berea rail line segment south of Sheldon Road, which can be reached only by a grade separation at the crossing of Eastland Road and the Short-to-Berea rail line segment. The other is the industrial area south of West Bagley Road and west of the Berea-to-Greenwich rail line segment.

NS’s train frequency modifications (see the Addendum to this Final EIS for a discussion of NS’s “Mitigation Proposal for Train Frequencies in Greater Cleveland and Vicinity” and Appendix N, “Community Evaluations,” of this Final EIS) would also increase train traffic through Berea. SEA has determined that the CSX Short-to-Berea, CSX Berea-to-

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Greenwich, and the NS CP-190-to-Berea rail line segments would all exceed the Board's thresholds for environmental analysis in NS's "Revised Mitigation Proposal."

On the NS CP-190-to-Berea rail line segment, SEA determined that the blocked-crossing time caused by a train, currently 1.6 minutes, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be less than a minute. The average number of trains on this rail line segment in the Applicants' Operating Plans would decrease from 48.4 to 32.9 trains per day as a result of the proposed Conrail Acquisition, but the NS train frequency modification would increase the average number of trains on this rail line segment to 63.1 trains per day, which would increase the total blocked-crossing time from 77.4 minutes to 101.0 minutes per day.

SEA recommends mitigation to improve the ability of emergency vehicles to avoid blocked crossings in Berea as a result of either the Applicants' Operating Plans or NS's "Mitigation Proposal for Train Frequencies in Greater Cleveland and Vicinity." See Chapter 7, "Recommended Environmental Conditions," of this Final EIS for a discussion of SEA's recommended mitigation.

Summary of Comments. The Lorain County, Ohio Board of Commissioners and a few residents of the County expressed concern that additional trains would disrupt the ability of fire, medical, and police services to respond to emergencies in a timely matter. The Commissioners stated that the Draft EIS "does not account for the geographic isolation from necessary emergency services, such as fire and ambulance protection"

The Village of Wellington, Ohio commented that the disruption in traffic flow resulting from the proposed increase in trains would be more than just an aggravation or inconvenience. The Village noted that "it is dangerous for the people that require vital and immediate attention to be deprived of timely service by our police, fire, and ambulance departments just because of train traffic." The Town is split in half by the tracks, with the police and ambulance on one side and the fire department on the other side of the tracks. The neighboring community of Huntington Township expressed concern over the effect of the proposed Conrail Acquisition because the Township depends on Wellington's fire and ambulance service.

The Village of Lagrange, Ohio commented that increased rail traffic and train length would isolate one side of the Village/Township from emergency vehicles and personnel.

A resident of Avon Lake, Ohio commented that areas would be cut off from the other side of the tracks for an average of 10 hours per day, thereby restricting access for emergency services such as fire, medical, and police.

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Response. In Wellington and Lagrange, the CSX Berea-to-Greenwich rail line segment (C-061) met or exceeded the Board's thresholds for environmental analysis. The time that a train would cause a highway/rail at-grade crossing on this rail line segment to be blocked would increase from 1.8 minutes to 1.9 minutes as a result of the proposed Conrail Acquisition, an increase of approximately 6 seconds per train. When delays affect emergency vehicles, the average delay would be half the blocked-crossing time, which in this case would be less than a minute. The average number of trains on this rail line segment would increase from 14.5 to 53.0 trains per day, so the total time that a crossing would be blocked would increase from 25.7 minutes to 101.2 minutes per day as a result of the proposed Conrail Acquisition. The discussion in Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," Section G.2.1, "Emergency Response Vehicle Delay," of this Final EIS addresses SEA's analysis pertaining specifically to emergency response vehicle delay at highway/rail at-grade crossings.

There are two fire stations in Wellington, one on each side of the CSX rail line segment, allowing fire protection on both sides. Ambulance service and the police station are both located south of the CSX tracks, but there are several alternate crossings both to the north and south that can be used when trains block SR 58 or SR 18. Because blocked crossing time in Wellington would be relatively short, SEA has determined that no mitigation is warranted.

Huntington Township is located south of Wellington on SR 58. As the fire and ambulance service in Wellington is also located south of the CSX rail line segment, the proposed Conrail Acquisition would not affect emergency service to Huntington Township.

In Lagrange, the police station is south of the tracks, and local officials informed SEA that the majority of police calls are north of the tracks. The fire and ambulance service is north of the tracks, and about half of the calls are to the south side of the tracks. There are no grade-separated crossings in the area. Because blocked crossing time would be relatively short, SEA concluded that no mitigation is warranted.

In the Avon Lake area, the NS Vermilion-to-Cleveland rail line segment (N-080) met or exceeded the Board's thresholds for environmental analysis. The time that a train would cause a highway/rail at-grade crossing on this rail line segment to be blocked, 1.6 minutes, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half the blocked-crossing time, less than a minute. The average number of trains on this rail line segment would increase from 13.5 to 34.1 trains per day, so the total time that a crossing would be blocked would increase from 21.7 minutes to 55.8 minutes per day as a result of the proposed Conrail Acquisition. Because blocked-crossing time would be relatively short, SEA concluded that no mitigation is warranted in Avon Lake. Under NS's "Revised Mitigation

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Proposal,” the NS Cleveland-to-Vermilion rail line segment (N-080) does not meet the Board’s thresholds for environmental analysis.

NS has provided SEA with a rerouting proposal that would divert a number of trains away from the Cleveland-to-Vermilion (N-080) rail line segment. See Appendix N, “Community Evaluations,” of this Final EIS for more details.

Summary of Comments. BRL collectively expressed concern over the increase in response time that would result from increases in train traffic. BRL disagreed with the Draft EIS conclusion that it is impossible to predict actual delays that would occur as a result of changes in train traffic related to the proposed Conrail Acquisition. BRL also objected to the Draft EIS conclusion that train traffic “potentially” affects emergency response time and argued, “It is fact.” BRL further noted that “the D[raft]EIS has failed to recognize that changes in the total blocked crossing time per day are a more than reasonable tool to estimate changes in the number of emergency vehicles that would be delayed every year in [Bay Village, Rocky River, and Lakewood] if NS is allowed to operate 34.1 trains per day.”

BRL stated that “emergency service providers are blocked by NS trains approximately 253 times per year under current conditions.” BRL suggested that this number would increase by roughly the same percentage as the proposed increase in the number of trains. Using this methodology, BRL estimated that trains would delay approximately 640 emergency vehicles per year, which amounts to almost two emergency vehicles per day. BRL stated that this increase in the number of delayed emergency vehicles is “an unacceptable result and requires mitigation.”

Congressman Dennis J. Kucinich, Lakewood Hospital, Lakewood PTA, and several residents of Lakewood, Ohio expressed concern that increases in rail traffic through the Cleveland West Shore suburbs of Lakewood, Rocky River, and Bay Village would cause delayed response for emergency vehicles. Lakewood Hospital pointed out that there is only one underpass in the City of Lakewood; the location of the hospital is south of the rail lines, but 30 percent of the ambulance and paramedic runs to the hospital originate north of the rail lines. Congressman Kucinich commented that “the only appropriate mitigation for the West Shore is to keep freight traffic at or below current levels.”

Response. SEA conducted additional analysis and site visits, as appropriate, in response to these comments regarding the potential impacts of the proposed Conrail Acquisition on emergency response in BRL. Appendix N, “Community Evaluations,” Section N.1.3, “Potential Environmental Impacts of the Alternative Actions and Recommended Mitigation,” of this Final EIS contains a discussion of the effects of the proposed Conrail Acquisition on the Cleveland, Ohio area. The discussion in Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis,” Section G.2, “Emergency Response Vehicle Delay,” of this Final EIS addresses SEA’s analysis pertaining specifically to emergency response vehicle delay at highway/rail at-grade crossings.

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In BRL, the NS Vermilion-to-Cleveland rail line segment (N-080) met or exceeded the Board's thresholds for environmental analysis. SEA determined that the average blocked-crossing time caused by a train on this rail line segment, currently 1.6 minutes in Bay Village and 2.1 minutes in Rocky River and Lakewood, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half the blocked-crossing time, less than a minute in Bay Village and slightly more than a minute in Rocky River and Lakewood. The time differs because trains operate at different speeds along this rail line segment, and the speed difference is not expected to change. The average number of trains on this rail line segment would increase from 13.5 to 34.1 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 21.7 minutes to 55.8 minutes per day in Bay Village and from 28.1 minutes to 72.4 minutes per day in Rocky River and Lakewood.

Bay Village has one fire station, which also houses the ambulance service, and one police station. It has mutual-aid agreements with North Olmsted, Rocky River, Lakewood, Fairview, and several other municipalities. Emergency personnel in Bay Village have access to three hospitals, Lakewood Hospital, Fairview Hospital, and St. John West Shore Hospital, all of which are approximately 7 to 8 miles from the fire and police stations.

In Bay Village, there is one highway/rail grade separation located on Clague Road. In addition, there are five highway/rail at-grade crossings in Bay Village. These are located at Bradley Road, Basset Road, Kahoon Road, Dover Center Road, and Wolf Road. Emergency service providers use all of these highway/rail at-grade crossings as key routes.

Bay Village is located north of the tracks, but 25 of 29 of the Bay Village firefighters live south of the tracks in Westlake. Local officials said that the firefighters must often respond from home. Bay Village personnel often help Westlake in emergencies and must cross the tracks.

In Rocky River, both a police station and a fire station are located south of the Vermilion-to-Cleveland tracks. Lakewood Hospital is the nearest hospital used by the emergency services. There are three grade-separated highway/rail crossings at Smith Court, Blount Street, and W. Clifton Boulevard. About 15 percent of the Emergency Medical Services runs are to the area north of the tracks.

Officials in Rocky River and Lakewood complained of delays of up to 10 minutes. Trains operating on the Clague siding near Bay Village may cause this delay.

In Lakewood, two fire stations are south of the tracks and one station is north of the tracks. The Lakewood Police Department has three stations, all south of the tracks.

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Their beats cross the tracks. Lakewood Emergency Medical Services, which has two rescue squads, is based at Lakewood Hospital, south of the tracks. Local officials informed SEA that about 26 percent of the EMS calls are to locations north of the tracks.

To improve the ability of emergency vehicles to avoid blocked crossings, SEA recommends mitigation in the Lakewood area. Mitigation is not warranted in Rocky River because the existing grade separations provide access to the community. In Bay Village, mitigation is not warranted because the higher train speeds there would block crossings for shorter periods. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS addresses recommended mitigation.

The Cloggsville Alternative would reduce traffic through the BRL area. Under the Cloggsville Alternative, the average number of trains on the NS Vermilion-to-Cleveland rail line segment would increase from 13.5 to 16.4 trains per day as a result of the proposed Conrail Acquisition, an increase of 2.9 trains per day, which is less than the Board’s thresholds for environmental analysis. SEA determined that mitigation would not be warranted in BRL with this alternative. See Chapter 4, “Summary of Environmental Review,” Section 4.19, “Community Evaluations,” and Appendix N, “Community Evaluations,” of this Final EIS for detailed information about the Greater Cleveland Area. Also, see the Addendum to this Final EIS for discussion of the potential effects of NS’s “Revised Mitigation Proposal.”

Summary of Comments. The City of Olmsted Falls, Ohio passed and sent to SEA a resolution stating that adding more rail traffic would block highway/rail at-grade crossings and cause an increase in response time for emergency vehicles. The City expressed concern that a blocked crossing would force emergency vehicles to turn around and go to another hospital farther away than Southwest General Health Center. Furthermore, the City noted, “An increase in daily freight train use would adversely affect the ability of all types of coordinated mutual aid responses between the City of Olmsted Falls and the surrounding communities to best utilize each other’s paramedics, fire and police forces and equipment in a predictable and timely fashion.”

Numerous residents signed a petition opposing the proposed Conrail Acquisition, citing the potential delay in emergency response. The City concluded that a separated grade crossing and communications between the Applicants and the emergency dispatch center would resolve the situation. Royalton Acres Development Corporation and Flair Corporation, builders of homes in the City, commented as follows: “Additional rail traffic along segment C-061 will worsen an already unacceptable traffic situation at crossings FRA ID 524367U and 524368B,” resulting in “unacceptable delays of emergency vehicles....”

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Response. In Olmsted Falls, Ohio, the CSX Berea-to-Greenwich rail line segment (C-061) met or exceeded the Board's thresholds for environmental analysis. The time that a train would cause a highway/rail at-grade crossing on this rail line segment to be blocked would increase from 1.8 minutes to 1.9 minutes as a result of the proposed Conrail Acquisition, an increase of approximately 6 seconds per train. When delays affect emergency vehicles, the average delay would be half the blocked-crossing time, less than a minute. The average number of trains on this rail line segment would increase from 14.5 to 53.0 trains per day, so the total time that a crossing would be blocked would increase from 25.7 minutes to 101.2 minutes per day as a result of the proposed Conrail Acquisition.

All of the emergency services are located north of the CSX rail line segment. According to emergency response officials in Olmsted Falls, approximately 25 percent of the calls for fire and ambulance service are for locations south of the CSX rail line segment. There is no grade-separated highway/rail crossing in Olmsted Falls. Fire department officials told SEA that they must drive to the CSX tracks to determine whether they are blocked, and then decide whether to call for mutual aid or find another route. They said that they often encounter slow or stopped trains. SEA concluded that the cause of slow and stopped trains in Olmsted Falls is a siding, which extends through town, where trains stop to wait for the passage of other trains on the through track. If the Board approves the proposed Conrail Acquisition, CSX plans to double-track this rail line segment, so trains would no longer need to wait in Olmsted Falls, and the cause of pre-existing delay would be removed. NS and CSX have executed a Negotiated Agreement with the Cities of Olmsted Falls and Brook Park, Ohio.

NS's train frequency modifications, based on NS's "Mitigation Proposal for Train Frequencies in Greater Cleveland and Vicinity," would result in an increase of 6.7 trains per day on N-293d instead of a reduction of 15.5 trains per day. Because the time that a train would cause a highway/rail at-grade crossing to be blocked would be relatively short, SEA concluded that no mitigation is warranted. See Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," Section G.2.1, "Emergency Response Vehicle Delay," of this Final EIS, and the Addendum to this Final EIS.

Greater Cleveland Area—Transportation: Roadway Systems

Summary of Comments. The City of Cleveland, Ohio expressed concern over the estimate of truck traffic associated with the proposed Collinwood Yard intermodal facility. The City stated, "Increased truck traffic to and from the new Collinwood Yard intermodal facility is conservatively estimated by the [A]pplicants to show growth of only 49 trucks per day, see D[raft]EIS vol. 3B at OH-42, in order to avoid the 50 truck per day threshold that would require further study."

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Response. The Board's thresholds for environmental analysis at intermodal facilities require analysis if the ADT on roadways leading to and from the facility would increase by at least 10 percent, or 50 trucks per day. To address this comment, SEA analyzed the potential environmental impact of the proposed 49 truck-per-day increase at the Collinwood intermodal facility. The increase in daily truck traffic would be less than 1 percent of the ADT for all roadways that trucks would use in the vicinity of the facility. These results confirm SEA's conclusion that the increase in truck trips related to the proposed Conrail Acquisition at the Collinwood intermodal facility would have no significant impact on traffic on the surrounding roadways, 152nd Street, and Interstate 90.

Greater Cleveland Area—Transportation: Other

Summary of Comments. A resident of Vermilion, Ohio requested that the Board protect the North Shore communities of Lake Erie from the "harms created by the proposed rail mergers." The commentor expressed concern over the fourfold increase in rail traffic in the area.

Response. SEA reviewed train density data for the two rail line segments that intersect in Vermilion. If the Board approves the proposed Conrail Acquisition, NS would own and operate both rail line segments. According to the Applicants, the Conrail Lakeshore rail line segment N-293 would experience a change from 48.4 trains per day to 32.9 trains per day, a decrease of 15.5 trains per day.

Traffic along the NS Main Line (N-080) would experience an increase from 13.5 trains per day to 34.1 trains per day, an increase of 20.6 trains per day. Because NS would own both rail line segments, this would result in approximately 5.1 more trains per day operating through Vermilion. See Chapter 4, "Summary of Environmental Review," and Appendix N, "Community Evaluations," for discussion of alternatives.

Summary of Comments. In response to the Draft EIS, a commentor representing Abington Arms, a HUD-assisted high-rise apartment building in Cleveland, Ohio expressed concern over the proposed increase in freight rail traffic from 20 trains per day to approximately 81 trains per day on a route through the Little Italy area. The commentor requested that the Board "consider the alternate routes proposed by our City of Cleveland Mayor White."

Response. In response to comments on the Draft EIS, SEA has considered the potential environmental impacts of increased rail activity in the vicinity of Abington Arms in Cleveland. Both Conrail and NS operate in a shared corridor for approximately 2 miles in this area. In the Draft EIS, NS presented a proposed mitigation plan in response to community concerns for the suburbs on the west side of Cleveland. However, that mitigation proposal did not reduce train traffic on the east side of Cleveland. On April 10, 1998, NS submitted to SEA a revised mitigation Operating Plan that would reduce the train traffic through the Little Italy area to a total of 26.0 trains per day after the proposed Conrail Acquisition. With approval of this proposed revised mitigation plan,

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the total traffic through Little Italy would amount to 69.8 trains per day including CSX traffic.

In this Final EIS, SEA has evaluated numerous alternatives, including those that Cleveland Mayor Michael White proposed. Several of the alternatives significantly reduce the number of trains that operate past Abington Arms each day. For a complete analysis of those alternatives, see Chapter 4, “Summary of Environmental Review,” and Appendix N, “Community Evaluations,” of this Final EIS.

Summary of Comments. The Mayor of East Cleveland, Ohio expressed concern that the Draft EIS did not “adequately address issues regarding safety, transportation of toxic materials and substantial increase in volume of rail traffic in and around the City of East Cleveland.” The Mayor requested that SEA reexamine the potential environmental impacts on the City.

Response. SEA conducted additional analysis in the East Cleveland area. In addition, subsequent to filing its comment, the City of East Cleveland reached agreements with CSX and NS regarding potential environmental impacts of the proposed Conrail Acquisition. See Appendix C, “Settlement Agreements and Negotiated Agreements,” of this Final EIS.

Summary of Comments. The City of Olmsted Falls, Ohio and a local business, the Flair Corporation, protested any attempt to “vacate usage of the current Norfolk Southern (former Nickel Plate) Tracks known as segment N-80 on the Cleveland-Vermilion Run and divert traffic to segment N293 also known as the Cleveland to Vermilion Run or to Segment C-061 known as the Berea to Greenwich Run.” The City questioned the accuracy of freight rail traffic volumes on rail line segments N-293 and C-061 and asked that the Board confirm the volumes, which the City considered low. Flair, a development corporation in Olmsted Falls, expressed concern over the proposed 239 percent traffic increase from 16 to 54.2 trains per day.

Response. Two rail corridors pass through Olmsted Falls: Conrail’s Lakeshore Line (rail line segment N-293) connecting Cleveland and Vermilion, Ohio passes through the city center on an east-west axis, and Conrail’s Indianapolis Line (rail line segment C-061) connecting Cleveland and Greenwich, Ohio passes through the southeast portion of Olmsted Falls on a northeast-southwest alignment. Should the Board approve the proposed Conrail Acquisition, NS would acquire rail line segment N-293 and CSX would acquire rail line segment C-061. NS currently owns and operates the Nickel Plate Route (rail line segment N-080) that passes through Lakewood.

The commentator expressed concern that NS might vacate the use of rail line segment N-080 and divert all of the rail traffic from N-080 onto rail line segment N-293. According to a rerouting alternative that NS proposed in Appendix S, “Railroad Mitigation Plans,” of the Draft EIS, NS plans to reroute approximately 18 trains per day from rail line segment N-080 to rail line segment N-293. This shift of rail traffic would

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result in 50.6 trains per day operating on the N-293 segment through Olmsted Falls, an increase of 2.2 trains per day over levels before the proposed Conrail Acquisition. Because this potential increase is only slightly above the current levels, SEA did not analyze the potential impacts of this increase. SEA notes that NS indicated a willingness to assist in providing a separated grade crossing at Fitch Road in the west side of Olmsted Falls.

Should the Board approve the proposed Conrail Acquisition, rail traffic on rail line segment C-061 would increase from 38.5 trains per day before the proposed Conrail Acquisition to 53.0 trains per day after the proposed Conrail Acquisition. SEA's analysis indicated that none of the highway/rail at-grade crossings along this rail line segment would meet SEA's criteria of significance.

The train volume data for the affected rail lines that the Draft EIS contained and that this Final EIS contains are consistent with the Applicants' Operating Plans for through freight trains. These numbers have been revised to reflect slight adjustments between CSX and NS. With the exception of the shift in rail traffic from rail line segment N-080 to rail line segment N-293, the train data that CSX and NS furnished are consistent with their Operating Plans. See Appendix C, "Settlement Agreements and Negotiated Agreements," and Appendix N, "Community Evaluations," of this Final EIS as well as the Addendum to this Final EIS.

Summary of Comments. The City of Cleveland, Ohio proposed two alternative routing arrangements "designed to prevent the potentially devastating impact of the enormous increase in freight traffic that will result from the CSX/NS proposal." The City requested that the Board consider the alternatives, which would "allow CSX and NS to move cross-country traffic efficiently through the city." The City also asked the Board to impose train limits or curfews "that hold the neighborhoods harmless from the impacts they will experience from the implementation of [the] Applicants' proposal."

Response. For each proposed alternative, SEA considered the change in number of trains and hazardous materials transport, and the resultant potential environmental impact on air quality, noise, and highway traffic delay. SEA also considered mitigation opportunities. Appendix N, "Community Evaluations," of this Final EIS provides a detailed analysis and evaluation of numerous alternatives for routing trains through the City of Cleveland.

Placing a permanent cap on the number or length of trains going through Cleveland would have ripple effects throughout the entire CSX and NS systems and could lead to gridlock of rail traffic. Congress has mandated that railroads have the flexibility to operate their systems as business demands, while satisfying safety regulations. The Board does not regulate railroad operations, such as train speed, dispatching, yard operations, or the number or length of trains.

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Summary of Comments. BRL stated that NS provided no data to support the train volume estimates on which the Draft EIS analyses rely. The Cities requested that “the F[inal] EIS reexamine the train count issue and provide all data used to ‘verify’ the number of trains expected to operate over the Cleveland to Vermilion line segment.” Further, the Cities claimed that if NS cannot verify the number of trains on this link, SEA cannot determine the potential environmental impacts.

Response. SEA notes that the Applicants furnished train count data in their Primary Application. NS and CSX independently derived these data from modeling a representative sample of 1995 waybill information. National waybill information regarding routing and commodity data is compiled on behalf of all railroads by the AAR. CSX and NS completed separate modeling efforts for their individual railroads and, where appropriate, added the rail traffic each railroad would receive from the apportioned Conrail system. In addition, they added intermodal, automotive, and bulk (including coal and grain traffic) trains to the total.

The Applicants then incorporated growth projections for each traffic corridor. By comparing these traffic levels with existing track capacity, each Applicant evaluated whether track and signal improvements would be necessary to support the forecasted rail traffic.

SEA notes that 13.5 trains per day operated through BRL over NS’s rail line segment N-080 in 1995. According to NS, the number grew to 16.4 trains per day by 1997. This increase is a result of normal growth and is not related to the proposed Conrail Acquisition. This number corresponds to the figures offered by a Lakewood community group that observed approximately 16 trains per day during an informal survey conducted in September 1997.

The train count data represents CSX’s and NS’s “best estimate” of the levels of traffic expected to operate over a particular rail line segment each day. The modeling information determined annual volumes, which were then divided by the number of days in a year, resulting in a daily “average.” Because of weekly and seasonal variations and because of shipper demands, the number of trains that operate could vary considerably on a given day. See Appendix N, “Community Evaluations,” of this Final EIS as well as the Addendum to this Final EIS.

Summary of Comments. The Ohio Attorney General, the Ohio Rail Development Commission, and the Public Utilities Commission of Ohio collectively expressed concern over the potential environmental effects of the proposed Conrail Acquisition in the Cleveland area. They commented that it is not “the optimal plan when the adverse safety and environmental impacts are taken into account.” The commentators recommended that the Applicants consider two alternatives that the City of Cleveland suggested. These alternatives “would route most of the increased rail traffic that would result from the proposed [A]cquisition through Cleveland

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and neighboring industrial corridors” and “would ameliorate most of the worst adverse environmental impacts.” The commentors further urged “that the STB [the Board] require that essential safety and environmental agreements between Cleveland area communities, State officials and the Applicants be concluded prior to any increase in existing traffic levels.”

Response. SEA concurs with the commentors’ recommendation to consider routing alternatives. Appendix N, “Community Evaluations,” of this Final EIS gives a detailed analysis and evaluation of seven principal alternative concepts for routing trains through Cleveland, including those alternatives that the City of Cleveland provided. For each alternative, SEA has considered the change in number of trains and hazardous materials transport, and the subsequent impact on air quality, noise, and highway traffic delay. SEA has also considered the mitigation needs for each of the seven alternatives. Where appropriate, SEA has included mitigation as a condition in Chapter 7, “Recommended Environmental Conditions,” of this Final EIS.

Summary of Comments. Congressman Dennis J. Kucinich and Louis Stokes, both representatives of the Cleveland, Ohio area, stated that the Board should not approve the proposed Conrail Acquisition without sufficient mitigation in affected communities. Congressman Kucinich opposed the increase in rail traffic in Cleveland unless it is “mitigated by adequate and appropriate grade separations in the Cities of Berea and Olmsted Falls.” Congressman Stokes cited an increase in rail traffic of between 100 and 1,200 percent.

Congressman Kucinich commented that the train traffic increase resulting from the proposed Conrail Acquisition should not occur until the Applicants complete the mitigation for the potential environmental impacts of the proposed Conrail Acquisition. Congressman Kucinich recommended removing freight traffic from single-track rail line segments through densely populated residential areas. He suggested reserving these tracks for a commuter rail.

Response. Subsequent to the Draft EIS, the City of Olmsted Falls, Ohio reached an agreement with NS and CSX (see Chapter 4, “Summary of Environmental Review,” of this Final EIS). This agreement addresses the comment and satisfies the requirements of this Final EIS. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS contains the results of SEA’s evaluation regarding a grade separation in Berea.

SEA notes that although Congressman Kucinich proposes commuter rail service in the Cleveland area, no service currently exists, nor has the city approved capital funding. The Cleveland-related analysis in Appendix N, “Community Evaluations,” of this Final EIS identifies many issues related to impacts and alternatives that SEA considered for the proposed Conrail Acquisition. SEA did not analyze potential effects on commuter rail service unless the service is in operation or the community has committed capital and operating funding.

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Summary of Comments. The Mayor and Law Director of the City of Berea, Ohio both commented that trucks become stuck in the Rocky River Drive railroad overpass approximately 12 times per year. This leaves Sheldon Road, at the far northeastern corner of the City, as the only crossing point within the City. The Mayor and Law Director suggested refurbishing the existing overpass at Rocky River Road.

Response. The cited problem is an pre-existing situation, not an impact that would result from the proposed Conrail Acquisition. The Draft EIS evaluated only the potential environmental impacts of the proposed Conrail Acquisition. Furthermore, it is the Board's policy not to require mitigation of pre-existing conditions.

Summary of Comments. A citizen of the City of Vermilion stated that the proposed Conrail Acquisition would bring about tremendously increased train traffic on the local tracks. This could result in the rerouting of school buses, which could increase student ride time as well as fuel consumption. The citizen commented that both of these conditions would be very detrimental to a school system with existing financial strains.

Response. SEA clarifies that, as a result of the original proposed Conrail Acquisition, the number of trains moving between Vermilion and Cleveland, Ohio on rail line segment N-293d through Olmsted Falls and Elyria would decrease by 15.5 trains per day, and rail traffic between Vermilion and Cleveland would increase by 20.6 trains per day on rail line segment N-080. These two segments, which NS would own and operate, intersect in Vermilion. NS would construct two new connections west of Vermilion. SEA notes that, because NS would operate the two rail line segments, SEA forecasts the total number of trains per day over the two segments to increase by 7.1 trains per day. See the Addendum to this Final EIS for discussion of potential effects of NS's "Mitigation Proposal for Train Frequencies in Greater Cleveland and Vicinity."

Summary of Comments. A resident of Rocky River, Ohio expressed concerns regarding the increase in train traffic that would result from the proposed Conrail Acquisition. The commentator expressed an opinion that the best scenario would be for "NS to build a new train track south of Cleveland in areas not developed yet." The resident further suggested that the next best scenario would be for the Board to limit NS to 13.5 trains per day through the area, letting NS decide where to route the remaining trains. The commentator also stated that NS should be required to improve its tracks, gates, and lights at highway/rail at-grade crossings; improve rail segments before being allowed to increase the segment speed; and take care of noise problems.

Response. As part of the proposed Conrail Acquisition, NS would take control of the Conrail main line that connects Berea with Vermilion south of Rocky River. This main line could serve as an alternative route for NS traffic that would otherwise travel through Rocky River. In response to citizen and community comments (received prior to the issuance of the Draft EIS), NS has proposed to shift most of the Acquisition-related increase in train traffic from the Nickel Plate Route through Rocky River to the more

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southerly route through Berea. In this way, NS proposes to keep train traffic levels through Rocky River at the 1997 level. As part of the NS mitigation plan, NS would make numerous highway/rail at-grade crossing improvements between Cleveland and Vermilion. The Draft EIS discussed this proposed mitigation in Volume 3B, page OH-138. SEA analyzed this alternative as one of several rail traffic routing options through the Cleveland area. This Final EIS presents a discussion of the Cleveland routing options analysis and findings in Chapter 4, “Summary of Environmental Review”; Chapter 7, “Recommended Environmental Conditions”; and Appendix N, “Community Evaluations.”

Summary of Comments. A resident of Vermilion, Ohio expressed the opinion that “the merger would be very devastating not just [to] Vermilion, but to the entire state of Ohio” because it will increase the traffic along rail line segments adjacent to Lake Erie. The resident stated: “Instead of considering something that could possibly endanger the future of such a valuable asset, you should be considering the use of eminent domain to acquire the tracks for use by passenger rail, enhancing access to Lake Erie, and increasing its value.”

Response. According to national safety data, hazardous materials transport by train is more than ten times safer per ton-mile than by truck. In the Draft EIS, SEA determined that 20.6 additional trains per day would move over the rail line segment adjacent to Lake Erie (N-080) if the Board approves the proposed Conrail Acquisition. Additionally, this rail line segment would become a major key route because of the increase in the volume of hazardous materials transport. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for the mitigation measures that SEA recommends. While the Board has authority to impose conditions on the transaction that would mitigate environmental impacts, it does not possess the power of eminent domain, and therefore would not attempt to acquire and alter the use of the subject rail line segment. See the Addendum to this Final EIS for discussion of potential effects of NS’s “Mitigation Proposal for Train Frequencies in Greater Cleveland and Vicinity.”

Summary of Comments. The Lorain County Board of Commissioners and Lorain County Community Alliance of Ohio recommended that the Board limit or restrict rail car switching activities to night hours to reduce congestion on the surrounding roadway system.

Response. The Board does not regulate railroad operations, such as train speed, dispatching, or yard operations, and cannot impose operating conditions as a part of the proposed Conrail Acquisition. The Board does not regulate day-to-day operations. Local governments are responsible for resolving switching issues at highway/rail at-grade crossings.

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Summary of Comments. The Village of Wellington, Ohio stated that the increased rail traffic would cause a rapid deterioration of the highway/rail at-grade crossings in its community. The Village noted that the resulting maintenance of these crossings would affect the community when the crossings are closed for repairs.

Response. The Board does not regulate day-to-day railroad operations and maintenance activities. Any possible deterioration of track would be the responsibility of CSX and NS as part of their maintenance programs. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS.

Greater Cleveland Area—Air Quality

Summary of Comments. A resident of Lorain, Ohio commented that the effects of increased air pollution from the proposed Conrail Acquisition would be devastating to people.

Response. SEA did determine that increasing the number of trains per day in Lorain, Ohio would likely cause an increase in project-related air pollutant emissions. However, the change is not large enough to cause any discernible difference in air quality in Lorain. The health-based NAAQS would not be exceeded as a result of Acquisition-related activities in Lorain. The additional air quality impact analyses documented in Appendix I, “Air Quality Analysis,” of this Final EIS substantiate this conclusion.

Summary of Comments. Congressman Dennis J. Kucinich, representing the 10th Congressional District in Ohio, commented that mitigation is warranted for air pollution emissions that are a direct result of increased train traffic in his district. He further commented that SEA’s determination that no mitigation is needed is flawed, because projected net NO_x emissions in Cuyahoga County, Ohio are significantly above the Board’s significance criteria for air quality mitigation.

The Congressman also stated that the increased NO_x emissions would represent a 3.5 percent increase in the County’s NO_x emissions, as computed by EPA. According to the Congressman, this increase means that significant additional reductions in NO_x emissions would be needed to meet the Clean Air Act requirement for a 3 percent reduction in NO_x emissions per year.

The City of Berea, Ohio commented that a comprehensive city-specific EIS should be conducted and that it would demonstrate that mitigation of air pollution emissions would be necessary in the Berea area. The City also stated that the increased NO_x emissions would represent a 3.5 percent increase in the County’s NO_x emissions. According to the City, this increase would mean that significant additional reductions in NO_x emissions would be needed to meet the Clean Air Act requirement for a 3 percent reduction in NO_x emissions per year.

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The City also commented that the increase in air pollution emissions from freight traffic is quantifiable, while decreases in emissions from truck-to-rail diversions is not known or measurable.

Response. SEA acknowledges the Congressman's comment; however, SEA does not agree with the Congressman's statements that NO_x emissions in Cuyahoga County would increase by 3.5 percent of the current county total. This comment is based on information in CSX's and NS's Environmental Report, not on the Draft EIS.

It is true that CSX's and NS's original Environmental Report, filed on June 23, 1997, showed approximately 1,500 tons per year of additional NO_x emissions in Cuyahoga County. This was a conservatively high estimate of NO_x emissions changes in the County, however, because it did not account for decreases in emissions resulting from rail-to-rail freight diversions or truck-to-rail freight diversions. SEA's analysis in the Draft EIS, which accounts for these diversions, shows a NO_x emissions increase of slightly over half that amount (Draft EIS, page OH-50). SEA's projected increase of 787 tons per year is only 1.29 percent of EPA's 1995 total NO_x emissions estimate for Cuyahoga County (EPA 1996), as opposed to the 3.5 percent value that the Congressman cited.

This Final EIS presents SEA's additional analyses (see Appendix I, "Air Quality Analysis") to evaluate the combined or cumulative effects of proposed activities related to the proposed Conrail Acquisition and EPA's final rule establishing emissions standards for new and rebuilt locomotive engines (see Appendix O, "EPA Rules on Locomotive Engines," of this Final EIS). As shown in Appendix I, "Air Quality Analysis," of this Final EIS, the maximum NO_x emissions increase in any year because of the cumulative effects of these actions would be 664 tons per year (1.09 percent of the 1995 inventory) in the year 2001. By the year 2005, the effect of the new locomotive emissions standards is projected to more than offset the estimated NO_x increase associated with the proposed Conrail Acquisition.

SEA maintains its conclusion that an approximately 1 percent (temporary) increase in NO_x emissions in Cuyahoga County would not significantly affect local air quality. Furthermore, as the Draft EIS explains, the Ozone Transport Assessment Group recently demonstrated that NO_x impacts on ozone levels are primarily a regional (multi-state) concern, rather than a local issue that could be solved by local county emissions budgets. The expected NO_x reductions projected on a multi-state and system-wide level resulting from the proposed Conrail Acquisition actually would have a slight positive effect on reducing ozone formation.

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Summary of Comments. BRL asked for clarification of inconsistencies in data for Cuyahoga County in Attachments E-2, E-3, and E-4 in Appendix E, “Air Quality,” of the Draft EIS.

As an example, BRL noted Attachment E-3 states that the NO_x increase for Cuyahoga County would be 1,272 tons per year, a figure derived from Attachment E-2, page 9. However, the Attachment E-2 NO_x totals are substantially smaller than the totals in Attachment E-4. Also, Attachment E-2, page 8 finds the NO_x increase for the Vermilion-to-Cleveland rail line segment to be 39.66 tons per year. In contrast, Attachment E-4, page 9 finds the NO_x increase for the same rail line segment to be 111.76 tons per year. The Final EIS must resolve these apparent discrepancies.

Response. Differing sources of NO_x and CO emissions information produced apparent inconsistencies in the data in Attachments E-2, “Emissions Increases for Rail Activities Projected to Exceed Board Analysis Thresholds,” and E-4, “Emissions Changes for Rail Line Segments Included in Detailed County Netting Analyses,” of the Draft EIS. The railroads submitted information used in Attachment E-2. SEA generated Attachment E-4. SEA does not recognize any known error in its analysis.

One should not compare the NO_x and CO emissions totals for counties listed in the two attachments, as they represent different analyses. Attachment E-2 represents only railroad activities that exceed Board thresholds for air quality analysis. These county emissions totals were used for screening purposes to determine which counties to analyze in detail, based on whether the total emissions exceeded SEA’s emissions screening criteria. Attachment E-3 was also based on this data.

Attachment E-4 represents only rail line segments (no rail yards, intermodal facilities, or highway/rail at-grade crossings). This list includes all rail line segments with any emissions changes (positive or negative) for the counties listed, which are all of the counties included in SEA’s detailed emissions netting analysis.

SEA found a number of data values in Attachment E-2 with which it disagreed, but corrected information in Attachment E-2 only if it would have affected whether a given county would be included in the detailed emissions analysis. In the case of NS’s Cleveland-to-Vermilion rail line segment, SEA maintains that the 39.66 tons per year value provided by the Applicants is incorrect. Because the threshold activities in Cuyahoga County triggered a detailed analysis regardless of the error (NO_x emissions from listed threshold activities in Cuyahoga County were significantly greater than 100 tons per year, even with the error), SEA did not correct this or other possible discrepancies for Cuyahoga County in Attachment E-2. SEA concluded that the value of 111.76 tons per year shown in Attachment E-4 is more accurate. SEA used this value in its detailed NO_x emissions analysis for Cuyahoga County (see Draft EIS, Table 5-OH-20). See Appendix I, “Air Quality Analysis,” of this Final EIS for further information.

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Summary of Comments. BRL disagreed with SEA's conclusion that increased emissions in Cuyahoga County, which exceed the emissions screening level, are not sufficient to warrant environmental mitigation. They commented that the costs of mitigation should be part of CSX's and NS's operating costs.

Response. SEA maintains that an approximately 1 percent temporary increase in NO_x emissions in Cuyahoga County is not sufficient to warrant mitigation. Furthermore, as explained in the Draft EIS, the Ozone Transport Assessment Group has recently demonstrated that NO_x impacts on ozone levels are primarily a regional (multi-state) concern, rather than a local issue that could be solved by reducing local emissions. The expected NO_x reductions projected on a multi-state and system-wide level resulting from the proposed Conrail Acquisition would actually have a slightly positive effect on reducing ozone formation. See Appendix I, "Air Quality Analysis," of this Final EIS for further information.

Summary of Comments. BRL commented that the air quality analysis is flawed because the analysis used incorrect train speeds. They stated that train speeds in the BRL area are much slower than the speeds shown in the Draft EIS.

Response. Based on SEA's air quality analysis methodology, train speeds would affect only the estimated emissions from motor vehicles delayed near highway/rail at-grade crossings. Such emissions are a small part of the total emissions changes estimated for the proposed Conrail Acquisition. However, SEA performed a screening air quality impact analysis of air pollutant emissions from motor vehicles delayed at highway/rail at-grade crossings. SEA used conservative assumptions in the analysis, including the lowest train speeds, as Appendix I, "Air Quality Analysis," of this Final EIS describes. The analysis demonstrated that air pollutant emissions from motor vehicles delayed at highway/rail at-grade crossings would not cause pollutant concentrations to exceed the health-based NAAQS in BRL.

Summary of Comments. BRL commented that potential air quality impacts at the Columbia Road highway/rail at-grade crossing must be recalculated to reflect the use of the Clague Siding by 20 percent of the freight trains. The BRL added that the Draft EIS did not address the impact of these trains idling on the siding for two hours or more.

Response. SEA notes that some trains currently stop on the Clague siding and idle their locomotive engines. This is a pre-existing condition not related to the proposed Conrail Acquisition. It is the Board's policy not to require mitigation of pre-existing conditions. SEA recognizes, however, that existing, regularly occurring rail activities in the vicinity of a highway/rail at-grade crossing might increase the background air pollutant levels (concentrations unrelated to the proposed Conrail Acquisition) simultaneously with any effects of activities related to the proposed Conrail Acquisition. SEA performed screening air quality impact analyses of emissions from vehicles delayed at highway/rail

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at-grade crossings and from idling locomotives. SEA used conservative assumptions in these analyses, as described in Appendix I, “Air Quality Analysis,” of this Final EIS. These analyses demonstrated that emissions from vehicles delayed at highway/rail at-grade crossings and from idling locomotives would not cause air pollutant concentrations to exceed the health-based NAAQS in the Clague siding area.

Summary of Comments. BRL commented that the air quality analysis in the Draft EIS ignored CO impacts resulting from motor vehicles queued at the highway/rail at-grade crossing at Hird Avenue in Lakewood, Ohio. BRL expected these levels to exceed the “significant impact level” by substantial amounts. BRL stated that SEA should perform a refined air quality modeling assessment for motor vehicles queuing at all highway/rail at-grade crossings in the BRL area, and include the results in the Final EIS.

Response. SEA performed a screening air quality impact analysis of emissions from motor vehicles delayed at highway/rail at-grade crossings. SEA used conservative assumptions in the analysis, as described in Appendix I, “Air Quality Analysis,” of this Final EIS. The conservative assumptions result in high estimated CO concentrations compared to the concentrations that would be calculated with refined modeling. The analysis demonstrated that emissions from vehicles delayed at highway/rail at-grade crossings, including Hird Avenue, would not cause pollutant concentrations to exceed the health-based NAAQS in BRL.

Summary of Comments. The City Council of Olmsted Falls, Ohio commented that increasing the number of freight trains in their community would make the air quality worse; the air quality is already poor because of proximity to the City of Cleveland. The Council also stated that increased numbers of freight trains would worsen the long delays suffered by traffic stopped on State Route 252, causing increased air quality problems.

Response. SEA agrees that increasing the number of trains in Olmsted Falls, Ohio would likely cause an increase in project-related air pollutant emissions. However, the change is not large enough to cause any discernable change in air quality. Acquisition-related activities in Olmsted Falls would not cause ambient pollutant levels to exceed the health-based NAAQS. SEA also determined that incremental changes in vehicle delay on State Route 252 would not cause significant adverse air quality impacts. The additional air quality impact analyses documented in Appendix I, “Air Quality Analysis,” substantiate these conclusions.

Summary of Comments. Several Council members and residents from Olmsted Falls, Ohio commented that increases in trains would lessen the quality of life because of diminished air quality.

Response. SEA points out that any increase in overall rail traffic in Olmsted Falls would likely cause an increase in air pollutant emissions. SEA expects, however, that such

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increases would be only a small fraction of the total emissions from all sources in the Olmsted Falls area. The projected increases in NO_x and CO emissions, for example, are only 1.29 percent and 0.03 percent, respectively, of the totals for Cuyahoga County. SEA concluded that the proposed Conrail Acquisition would not cause air pollutant emissions to exceed the health-based NAAQS in Olmsted Falls. The additional air quality impact analyses that Appendix I, "Air Quality Analysis," of this Final EIS documents substantiate these conclusions.

Summary of Comments. A resident from Lakewood, Ohio claimed that the increase in dust and debris from the increased number of trains proposed in the Conrail Acquisition would make living close to the tracks unbearable.

Response. SEA agrees that increasing the number of trains per day in Lakewood, Ohio would likely cause an increase in Acquisition-related air pollutant emissions. SEA maintains that there would be no adverse air quality impacts associated with the proposed Conrail Acquisition. With respect to dust or particulate matter, however, SEA performed a dispersion modeling analysis to determine whether increases in locomotive exhaust emissions related to the proposed Conrail Acquisition might cause ambient concentrations to exceed the health-based NAAQS. SEA performed the air quality analysis on a conservative screening basis, and did not account for the significant overall reduction in diesel locomotive exhaust emissions that will result from EPA's new locomotive emission standards issued in December 1997. All estimated worst-case concentrations were below the NAAQS for all pollutants, including particulate matter. These results demonstrate that diesel locomotive exhaust emissions from rail line segments should not cause adverse air quality effects in Lakewood. Appendix I, "Air Quality Analysis," of this Final EIS contains details of this study.

With respect to debris, the Applicants use modern locomotives, rail cars, and freight handling practices that are designed to prevent objects from falling from trains to the ground. SEA concluded that any increase in debris resulting from an increase in the number of trains would be negligible.

Summary of Comments. Several residents in Vermilion and the University Circle area of Cleveland, Ohio indicated that the Draft EIS stated that increased freight rail operations would increase air pollutant emissions.

Response. SEA agrees that freight rail operations would increase in some areas of Ohio if the proposed Conrail Acquisition is approved. This could increase air pollutant emissions temporarily in some local areas, including the City of Vermilion and the University Circle and Abington Arms area in Cleveland. SEA expects, however, that such emissions increases would be small relative to existing emissions, and short-lived because the increases would be offset by locomotive emissions decreases resulting from EPA's new rule to control such emissions from new and rebuilt locomotive engines. See

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Appendix O, “EPA Rules on Locomotive Emissions.” Also, SEA has conducted air quality impact screening analyses that show only negligible impacts from criteria air pollutants and potentially carcinogenic air pollutant emissions from locomotives (see Appendix I, “Air Quality Analysis,” of this Final EIS).

Summary of Comments. Residents of Rocky River, a West Shore suburb of Cleveland, Ohio, asked SEA to identify the potential air quality impacts that arise from stopped (idling) trains and the blockage of cars at highway/rail at-grade crossings in Rocky River.

Response. SEA points out that to the extent that stopped trains currently block motor vehicle traffic at highway/rail at-grade crossings, these are pre-existing conditions and therefore are not a result of the proposed Conrail Acquisition. It is the Board’s policy not to require mitigation of pre-existing conditions. However, SEA performed a screening air quality impact analysis of air pollutant emissions from vehicles delayed at highway/rail at-grade crossings using conservative assumptions, as Appendix I, “Air Quality Analysis,” of this Final EIS describes. The analysis demonstrated that air pollutant emissions from motor vehicles delayed at highway/rail at-grade crossings would not cause air pollutant concentrations to exceed the health-based NAAQS in Rocky River.

Summary of Comments. The property manager of University Circle, a collection of institutional, residential, and retail properties in Cleveland, Ohio, and the President of the Church of the Covenant in University Circle expressed concerns regarding the increase in air pollutants that not only significantly impact air quality, but also may be introducing carcinogenic and other pollutants into the area, with wide-reaching medical repercussions on the local residents.

The City of Cleveland, Ohio said that the Draft EIS only addressed regional air quality impacts, not local air quality impacts. The City disagreed that increases in train operations in one location would be offset by decreases in another location. They noted that air quality impacts are a localized issue that must be addressed on that level.

The City also stated that the Draft EIS failed to analyze PM_{10} , which may have serious health consequences to the young, the elderly, and the infirm.

The City of Cleveland also commented that SEA should have utilized dispersion modeling along critical corridors with increasing rail traffic to evaluate the potential for a localized impact, particularly with respect to PM_{10} .

In addition, the City of Cleveland provided summary results of its own air quality impact analysis in the University Circle area of Cleveland. The City predicted that the proposed Conrail Acquisition would result in increased air pollutant emissions resulting from increased train traffic. The City maintains that the Final EIS should include additional analyses that specifically address the concentration and dispersion of air pollutants on sensitive receptors and populations.

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The President of Case Western Reserve University in Cleveland said he was disturbed that emissions from train engines would be quadrupled in an area that has air currents that do not rapidly disperse. Therefore, he noted, particulates and other emissions resulting from increased train traffic might concentrate in the University Circle area, having adverse implications for public health.

Response. SEA performed a dispersion modeling study to ascertain whether locomotive exhaust emissions increases related to the proposed Conrail Acquisition might cause or significantly contribute to adverse carcinogenic and noncarcinogenic health effects on the public in the University Circle area and similar urban areas. SEA performed the air quality modeling on a conservative screening basis, and did not account for the significant overall reduction in diesel locomotive exhaust emissions that will result from EPA's new emission standards for locomotives, which it issued in December 1997.

SEA maintains its assertion that an approximately 1 percent increase (temporarily) in NO_x emissions in Cuyahoga County is not sufficient to warrant mitigation. Furthermore, as explained in the Draft EIS, the Ozone Transport Assessment Group has recently demonstrated that NO_x impacts on ozone levels are primarily a regional (multi-state) concern, rather than a local issue that could be solved by reducing local emissions. The expected NO_x reductions projected on a multi-state and system-wide level resulting from the proposed Conrail Acquisition would actually have a slightly positive effect on reducing ozone formation. See Appendix I, "Air Quality Analysis," of this Final EIS for further information.

SEA compared the screening dispersion modeling results with the NAAQS, the Ohio Environmental Protection Agency's Maximum Acceptable Ground-Level Concentrations for air toxics, and representative diesel exhaust health effects data from the Health Effects Institute and EPA. SEA used the Health Effects Institute and EPA data to establish threshold concentrations of diesel particulate matter and gaseous organic substances found in diesel exhaust. Concentrations below these thresholds should not pose any adverse health effects to the public.

All conservative concentrations that SEA modeled were less than all NAAQS, the Ohio Environmental Protection Agency's Maximum Acceptable Ground-Level Concentrations, and the threshold concentrations based on Health Effects Institute and EPA health effects data. These results demonstrate that diesel locomotive exhaust emissions should not cause or contribute to any adverse carcinogenic and noncarcinogenic health effects in the University Circle area. Appendix I, "Air Quality Analysis," of this Final EIS contains details of this modeling study.

Contrary to the City of Cleveland's comments regarding PM₁₀, SEA did analyze PM₁₀ emissions for the Draft EIS; the total PM₁₀ emissions from activities related to the proposed Conrail Acquisition, however, was less than the emissions screening level.

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Also, SEA has conducted air quality impact screening analyses that show only negligible impacts from PM₁₀ emissions from locomotives. Therefore, SEA does not expect PM₁₀ emissions related to the proposed Conrail Acquisition to cause ambient pollutant concentrations to exceed health-based NAAQS.

Greater Cleveland Area—Noise

Summary of Comments. Communities, groups, and individuals in the Cleveland, Ohio area expressed concern that increased train traffic would result in potential noise impacts. University Circle Incorporated, a nonprofit planning and service organization for University Circle (a cultural, medical, and educational center in Cleveland), commented that increased train traffic would be problematic to the Cleveland Orchestra. Associated Estates Management Company commented that increased train traffic through University Circle would result in noise impacts on office and retail space in close proximity to the Mayfield Road elevated tracks. The Church of the Covenant and Case Western Reserve University, both in the University Circle area, expressed concern about noise impacts resulting from increased rail traffic. The Cleveland Hearing and Speech Center expressed concern that increased noise would affect its clients, who are persons with significant hearing loss resulting from long-term exposure to noise, and persons who suffer from psychological consequences from noise exposure. The residents of 10th Ward in the northeastern area of Cleveland commented that a dramatic increase in train traffic and increases in noise would diminish the quality of life. A citizen in Rocky River, a West Shore suburb of Cleveland, stated a concern about traffic blockages associated with increased train traffic, which would result in more noise at the citizen's residence. A citizen in the Broadway neighborhood of Cleveland expressed concern about noise impacts from increased train traffic.

Response. SEA realizes that increased daily train traffic can result in increased noise impacts on communities near the rail line. Where the increases would exceed the Board's thresholds for environmental analysis, SEA performed site-specific noise analyses. In accordance with Board regulations, SEA identified and counted potentially affected noise-sensitive receptors near these rail lines. Sensitive receptors included but were not limited to schools, residences, retirement communities, and nursing homes.

The Church of the Covenant and the Cleveland Hearing and Speech Center are more than 1,500 feet away from the tracks, where the expected noise levels do not exceed the Board's thresholds for noise analysis.

Case Western Reserve University is located along CSX's Quaker-to-Mayfield rail line segment (C-073). This rail line segment is eligible for noise mitigation. SEA identified two buildings that appear to be part of the university campus and would exceed the mitigation criteria.

SEA performed a noise analysis to determine the potential noise effects of the proposed Conrail Acquisition on activities inside the Severance Hall concert facility in Cleveland.

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Three rail systems use the tracks in this area—CSX, NS, and the local Greater Cleveland Regional Transit Authority commuter rail line. At its closest point, the Severance Hall building is approximately 1,800 feet from the rail line. The CSX line is closest to Severance Hall, the Regional Transit Authority line is farthest from it, and the NS line runs between the two other rail lines. For the CSX Mayfield-to-Marcy rail line segment (C-072), 43.8 trains per day would pass through this area after the proposed Conrail Acquisition, according to CSX's Operating Plan. This would be an increase of 40.4 trains per day over the current level of 3.4 trains per day. For the NS Cleveland-to-Ashtabula rail line segment (N-075), daily operations would increase from 13 to 36.6 trains per day after the proposed Conrail Acquisition, an increase of 23.6 trains per day. The Regional Transit Authority's rail line operations would remain the same after the proposed Conrail Acquisition.

To evaluate the potential noise impacts of the additional train traffic on Severance Hall activities, SEA used equations published in Chapter 6 of the Federal Transit Administration *Transit Noise and Vibration Impact Assessment* (Report No. DOT-T-95-16). In addition to the 1,800-foot distance between Severance Hall and the rail lines, SEA's assumptions included a SEL of 102 dBA at 100 feet, (3 locomotives and 75 cars per train for the CSX and NS lines), an even spacing of traffic volume over the course of a day, and a train speed of 40 miles per hour. Also, given the shielding provided by many buildings and topographical variations (including a 30-foot cut for the rail lines) between Severance Hall and the rail line, SEA added a 10 dBA shielding factor to the analysis. No horn sounding occurs in this area; therefore, SEA accounted only for wayside (train engine and wheel/rail) noise in its analysis.

Given the above assumptions, SEA's analysis yielded an hourly equivalent noise level ($L_{eq(h)}$) of 47 dBA outside the Severance Hall facility, based on rail-related noise sources only.

The Board's regulations consider only vehicular traffic noise for intermodal facilities where truck activity to and from the facility could result in an increase in noise. However, in this case, SEA also considered the traffic noise source of the six-lane U.S. Route 20 roadway passing within 100 feet of the facility. SEA estimated that the minimum $L_{eq(h)}$ at Severance Hall from the traffic noise is in the lower 60s on the dBA scale (approximately 15 dBA louder than the anticipated rail noise at the facility). When two sound levels differ by more than 10 dBA, the combined sound level is the same as the louder sound, and the quieter sound is usually masked by that louder sound. Given this information and the information discussed above, the noise that the rail traffic increase would generate would not be perceptible over the background noise sources in the area around Severance Hall. See Appendix F, "Noise," of the Draft EIS and Chapter 4, "Summary of Environmental Review," and Appendix J, "Noise Analysis," of this Final EIS.

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Summary of Comments. Some private citizens from Vermilion and Lorain, Ohio expressed concern about potential noise impacts from increased train traffic and train horns through their communities. The Citizens Advisory Board of the Eastgate Development and Transportation Agency, serving Mahoning and Trumbull Counties, commented that increased rail traffic along the Youngstown-to-Ashtabula rail line segment would exceed 100 percent, resulting in noise impacts.

Response. SEA recognizes that increased daily train traffic could result in greater wayside noise (train engine and wheel/rail noise) near the rail line. SEA notes that rail line segments N-072 and N-080 pass near Vermilion and Lorain. SEA has determined that approximately 240 noise sensitive receptors would experience noise levels of 65 dBA L_{dn} or more as a result of increased train traffic, compared with 170 noise-sensitive receptors associated with existing train traffic along rail line segment N-072. In addition, SEA has determined that approximately 4,800 noise-sensitive receptors would experience noise levels of 65 dBA L_{dn} or more as a result of increased train traffic, compared with 2,500 noise-sensitive receptors associated with existing train traffic along rail line segment N-080.

Also, SEA has determined that approximately 330 noise-sensitive receptors would experience noise levels of 65 dBA L_{dn} or more as a result of increased train traffic, compared with 200 noise-sensitive receptors associated with existing train traffic along rail line segment N-082 (Youngstown-to-Ashtabula). See Appendix J, "Noise Analysis," of this Final EIS.

As Appendix F, "Noise," of the Draft EIS explains, SEA considered mitigation for noise receptors it predicted would be exposed to at least 70 dBA L_{dn} and an increase of at least 5 dBA as a result of locomotive and wheel/rail noise associated with increased rail activity.

Based on SEA's review, this rail line segment is not eligible for noise mitigation because predicted noise levels resulting from the proposed Conrail Acquisition do not meet the noise mitigation criteria. See Appendix N, "Community Evaluations," of this Final EIS for a discussion of alternatives and their impacts.

Currently, state and local regulations require trains to sound their horns one-quarter mile from highway/rail at-grade crossings, resulting in noise exposure to residences in the surrounding area. The purpose of sounding the horn is to warn motorists and others at the crossing of a train's approach. FRA is assessing a device that delivers horn noise only to the area at or near the crossing (loudspeaker horn technology) as an alternative to rail horn soundings. SEA cannot recommend horn noise mitigation at this time because sounding the train horn is a primary safety concern.

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Another alternative that FRA is considering is the use of four-quadrant gates or median barriers designed to keep motorists from driving around the crossing gate arm as a train approaches. Loudspeaker horn technology and four-quadrant and median gates could eliminate the sounding of train horns at specific highway/rail at-grade crossings. FRA expects to incorporate the results of its evaluation of these alternative signaling technologies into its anticipated Quiet Zone Rules. However, FRA has not promulgated the Quiet Zone Rules to date, and therefore SEA cannot incorporate it into this action.

For SEA's mitigation recommendations for train noise, see Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Summary of Comments. A private citizen in Lakewood, Ohio expressed concern about potential noise impacts from increased train traffic and horn noise in the commentor's community.

Response. SEA recognizes that increased daily train traffic can result in increased noise near the rail line. Where potential impacts exceeded the Board's thresholds for noise analysis, SEA performed a site-specific noise analysis. In accordance with the Board's regulations, SEA identified and counted affected receptors near such rail lines. Similarly, where predicted noise level increases exceeded mitigation criteria established for the proposed Conrail Acquisition, SEA performed a site-specific mitigation analysis. Results of these analyses are presented in Chapter 5, "State Settings, Impacts and Proposed Mitigation," of the Draft EIS and Appendix J, "Noise Analysis," of this Final EIS.

Lakewood is located along NS's Vermilion-to-Cleveland rail line segment (N-080). Predicted Acquisition-related traffic increases of 20.6 trains per day would cause the thresholds for noise analysis to be exceeded; therefore, SEA conducted a site-specific noise analysis and counted affected receptors in this area. As Table 5-OH-42 in Chapter 5, "State Settings, Impacts and Proposed Mitigation," of the Draft EIS shows, the number of noise-sensitive receptors that SEA predicted would experience an L_{dn} of 65 dBA would increase from 2,194 to 4,439 following the proposed Conrail Acquisition.

As Appendix F, "Noise," of the Draft EIS explains, SEA considered mitigation for noise receptors it predicted would be exposed to at least 70 dBA L_{dn} and an increase of at least 5 dBA as a result of locomotive and wheel/rail noise associated with increased rail activity.

Based on SEA's review, this rail line segment is not eligible for noise mitigation because predicted noise levels resulting from the proposed Conrail Acquisition do not meet the noise mitigation criteria. See Appendix N, "Community Evaluations," of this Final EIS for a discussion of alternatives and their impacts.

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Currently, state and local regulations require trains to sound their horns one-quarter mile from highway/rail at-grade crossings, resulting in noise exposure to residences in the surrounding area. The purpose of sounding the horn is to warn motorists and others at the crossing. FRA is assessing a device that delivers horn noise only to the area at or near the crossing (loudspeaker horn technology) as an alternative to rail horn soundings. SEA cannot recommend horn noise mitigation at this time because sounding the train horn is a primary safety concern.

Another alternative FRA is considering is the use of four-quadrant gates or median barriers, which are designed to keep motorists from driving around the crossing gate arm as a train approaches. Loudspeaker horn technology, and four-quadrant and median gates could eliminate train horns at specific highway/rail at-grade crossings. FRA expects to incorporate the results of its evaluation of these alternative signaling technologies into its anticipated Quiet Zone rules. However, FRA has not promulgated the Quiet Zone Rule to date, and therefore, SEA cannot incorporate it into this action.

Summary of Comments. The Cleveland Hearing and Speech Center asked why noise abatement regulations for the railroad industry are not similar to those that apply to airports.

Response. Railroads operate on a fixed guideway, the railroad tracks. The use of train horns for safety purposes to prevent accidents where the rail lines cross public or private roads is a necessity. Airplane noise varies by type of aircraft and flight patterns, which are dependent on wind direction, runway length and location, and governing noise ordinances. For these and other reasons, railroad and airport noise regulations differ.

Summary of Comments. Congressman Dennis J. Kucinich, representing the 10th Congressional District of Ohio and the City of Brooklyn, asked what noise mitigation SEA and the Board would offer to residents living adjacent to the Conrail line parallel to Brookpark Road and to residents living adjacent to Idlewood Drive. The Congressman expressed concern about the lack of noise mitigation considerations along CSX's Cleveland-to-Medina rail line segment, which abuts the Spring Crest-Pepper Ridge Drive neighborhood; the NS Cleveland-to-Vermilion corridor; and the west side of Cleveland and the West Shore Communities.

Response. To address noise considerations, SEA conducted site-specific noise and mitigation analyses on rail line segments it predicted would exceed analysis criteria. SEA considered mitigation for noise sensitive receptors meeting the mitigation criteria of 70 dBA L_{dn} and a 5 dBA increase after the proposed Conrail Acquisition. Sites that do not meet these criteria are not eligible for noise mitigation.

The rail line segment (C-069) that runs parallel to Brookpark Road between Brooklyn and Brookpark and near Idlewood Drive does not meet SEA's criteria for noise mitigation. The rail line segment that Congressman Kucinich referred to as Cleveland-to-Medina is apparently the Cleveland-to-Lester rail line segment (C-213), which would

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have no train traffic increases from the proposed Conrail Acquisition, and therefore no potential noise impacts warranting mitigation. Similarly, the Cleveland-to-Vermilion rail line segment (N-080) did not meet SEA's mitigation criteria for noise.

This Final EIS includes a discussion of these and other sites that are eligible for noise mitigation. See Chapter 4, "Summary of Environmental Review"; Chapter 7, "Recommended Environmental Conditions"; Appendix J, "Noise Analysis"; and Appendix N, "Community Evaluations," of this Final EIS.

Summary of Comments. The City of Olmsted Falls and Flair Corporation of Ohio (a company based in Olmsted Falls) expressed a general concern about increased noise from freight traffic and commented on potential noise impacts and mitigation along rail line segment C-061. The City requested that SEA calculate the L_{dn} on rail line segment C-061 for housing developments immediately before the FRA ID 524367U and 524368B highway/rail at-grade crossings, and that SEA consider mitigation measures for potential noise impacts at these crossings. The City commented that the L_{dn} would exceed 70 dBA in residential areas unless the Applicants implement mitigation. Olmsted Falls also requested mitigation by means of grade-mounted horn systems at four highway/rail at-grade crossings along rail line segment N-293, which are already in a 65 to 70 dBA L_{dn} situation because of their proximity to the Cleveland Hopkins International Airport.

Flair Corporation expressed concern about potential noise impacts on residents on Raintree Boulevard, Summerset Lane, Laurel Drive, Cyprus Drive, and Magnolia Drive (the Raintree Community) resulting from increased train traffic along rail line segment C-061. The Corporation commented that existing noise levels in the community from train whistles and wayside noise exceed 70 dBA L_{dn} , and "any increase in traffic would exacerbate the situation to an intolerable level."

Response. SEA recognizes the concerns regarding the potential for increased noise levels along rail line segment C-061 as a result of the proposed Conrail Acquisition. Both CSX and NS as well as SEA performed noise analyses to determine predicted noise levels at affected sensitive receptors. SEA based those analyses on accepted methodologies and the Board's regulations, and then specifically modeled locomotive horns at highway/rail at-grade crossings. SEA does not perform noise analysis for areas outside the 65 dBA L_{dn} noise contour line. For further information regarding methodology, see Appendix F, "Noise," of the Draft EIS and Appendix J, "Noise Analysis," of this Final EIS.

SEA also recognizes that in some areas, noise mitigation is warranted. Eligibility for mitigation is based on the mitigation criteria of 70 dBA L_{dn} with a 5 dBA L_{dn} increase from engine and wheel/rail noise. For further information, see Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

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SEA also recognizes that airport noise affects existing noise levels in Olmsted Falls and that this analysis did not account for airport noise. Hopkins International Airport has not yet completed its EIS (begun in April 1998) evaluating the effects of the planned expansion on noise contours. Therefore, SEA has determined it is not sufficiently advanced to consider in this Final EIS.

SEA notes the request for grade mounted horn systems at highway/rail at-grade crossings along rail line segment N-293. SEA recognizes that increased daily train traffic can result in increased noise near the rail line and highway/rail at-grade crossings. Currently, regulations typically require trains to sound their horns one-quarter mile from grade crossings, which results in noise exposure to residences in the surrounding area. The purpose of sounding the horn is to warn motorists and others at the crossing of an approaching train. FRA is assessing a device that delivers horn noise only to the area at or near the crossing.

FRA is also considering the use of four-quadrant gates or median barriers; these options are designed to keep motorists from driving around the crossing gate arm as a train approaches. Such innovations could eliminate train horns at specific highway/rail at-grade crossings. FRA will incorporate results of its evaluation of these alternative safety devices into its proposed Quiet Zone rules. However, FRA has not yet promulgated Quiet Zone Rules, and therefore, SEA cannot incorporate such measures into this action.

In response to comments and requests from Flair Corporation, SEA reiterates that none of the areas in Olmsted Falls meet the noise mitigation criteria. With respect to the Flair Corporation's comment that the combination of train whistles or horn noise and wayside noise exceed 70 dBA L_{dn} , SEA notes that trains are required to sound their whistles or horns at highway/rail at-grade crossings. SEA cannot require mitigation of such horn noise. For details regarding noise mitigation, see Chapter 7, "Recommended Environmental Conditions," and Appendix J, "Noise Analysis," of this Final EIS.

Summary of Comments. The City of Berea, Ohio commented on potential noise impacts as a result of increased train traffic through Berea. The City requested the construction of grade separations at Bagley Road, Front Street, and Sheldon Road to mitigate potential noise impacts in key locations in Berea. The City also requested a separated grade crossing at West Street in Olmsted Falls and construction of a noise barrier for noise mitigation along North Rocky Drive and adjacent to the tracks at Abbeyshire Drive.

Response. Results of the noise analyses that SEA performed on rail line segments near the City of Berea indicated that predicted noise levels meet or exceed the mitigation criteria. SEA conducted site-specific mitigation analyses along portions of rail line segments C-061 and C-074. SEA has recommended specific mitigation for sites on C-061 and C-074. Appendix J, "Noise Analysis," and Chapter 7, "Recommended Environmental Conditions," of this Final EIS present the results of the mitigation

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analysis and SEA's recommended mitigation. SEA did not consider grade separations to be appropriate potential noise mitigation options for the proposed Conrail Acquisition; however, SEA has recommended noise barriers or sound insulation treatments for noise mitigation where it predicted that potential impacts would meet the mitigation criteria.

Summary of Comments. BRL expressed concern about potential noise impacts from increased rail traffic from 13.5 to 34.1 trains per day on the Cleveland-to-Vermilion rail line segment. BRL expressed concern that SEA proposed no mitigation although noise would affect 4,439 receptors on this rail line segment, which is 83 percent higher than on any other rail line segment. BRL commented that the Draft EIS "errs in that it omits any consideration of the number of 'sensitive' receptors in the determination of whether mitigation is required." Further, BRL commented that the Draft EIS mitigation criteria (based on the number of trains) were an unreasonable basis on which to determine the need for mitigation. BRL requested that the Final EIS abandon the 70 dBA and 5 dBA L_{dn} increase standard in favor of one that is consistent with HUD's approach.

Also, BRL commented on mitigation of horn noise and FRA's pending rule making. BRL's suggestion was that mitigation occur through rerouting of traffic.

BRL commented that approximately 20 percent of the trains on the Cleveland-to-Vermilion rail line segment would use Clague Siding. BRL requested that the Final EIS address potential noise impacts from idling locomotives at the Clague Siding.

Response. SEA recognizes concerns expressed by BLR regarding predicted increases in Acquisition-related noise levels. SEA performed an analysis based on accepted methodologies and the Board's regulations. SEA considers the mitigation criteria established for the proposed Conrail Acquisition to be reasonable and appropriate. Therefore, SEA disagrees with the suggestion that the mitigation criteria err in that they omit any consideration of the number of sensitive receptors in the determination of whether mitigation is warranted.

SEA also disagrees with the suggestion that the mitigation criteria are arbitrary in that the criteria ignore standards adopted by other Federal agencies. SEA conducted an evaluation of mitigation criteria and the corresponding number of affected receptors. Use of mitigation standards adopted by other Federal agencies would result in general mitigation requirements. Because of the unusually large geographic coverage of the proposed Conrail Acquisition, such general mitigation requirements are not reasonable to impose on the Applicants. SEA notes that the concept of reasonableness exists in FHWA noise mitigation guidelines. Therefore, SEA maintains that its noise mitigation criteria are reasonable and appropriate.

Finally, SEA also clarifies that HUD does not have jurisdiction to approve the proposed Conrail Acquisition; therefore, HUD noise standards are not appropriate to use as

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thresholds in this noise analysis. The noise analysis appropriately conforms to accepted methodologies and the Board's regulations.

Regarding comments addressing rerouting as a possible mitigation alternative, the Board has jurisdiction over the proposed Conrail Acquisition as proposed. The Board has considered several alternative routing scenarios. See Appendix N, "Community Evaluations," for a discussion of all alternatives and Appendix J, "Noise Analysis," of this Final EIS.

Finally, SEA notes that the Board's regulations and the EIS scope do not include analysis of locomotive noise emissions from sidings. The number of locomotives and the time spent idling at sidings is not data SEA has, nor is it likely that such noise impacts would exceed levels of moving trains.

Summary of Comments. The City of Cleveland, Ohio commented that a "significant increase in train frequencies" would result in potential noise and vibration impacts to residential neighborhoods in the City. Cleveland expressed concern that the noise analysis in the Draft EIS is "oversimplified" in that it includes the number of additional receptors in the 65 dBA contour but does not quantify the noise increase for these receptors. The City referred to its own study, which consisted of continuous monitoring of the Short Line (rail line segment C-073 in the Draft EIS). Based on the study, the City commented that the Draft EIS did not consider the following: the actual nature of sensitive receptors for which SEA predicted a potential environmental impact; the noise level at the receptor; the effectiveness of proposed mitigation; the potential environmental impact of locating additional track closer to some homes; and whether alternative routes would experience less of a potential environmental impact.

The City commented that the Draft EIS criteria of 70 dBA and 5 dBA increase are "too high," and that "the Draft EIS does not take into consideration situations where ambient noise is low yet incremental increases in noise are significant."

Also, the City requested that the Final EIS include a study of increased vibration along rail line segments that would experience the largest increase in train frequencies, and that SEA determine the location of the sensitive receptors that are least likely to tolerate substantial increases in vibration.

Response. SEA analyzed rail line segments exceeding the Board's thresholds for noise analysis and counted affected receptors. Where noise levels exceeded mitigation criteria, SEA conducted site-specific mitigation analyses. SEA does not agree that the noise analysis in the Draft EIS is "oversimplified" because it did not quantify the noise level increase at each receptor. The Board's regulations require that the analysis count affected receptors when noise levels exceed certain thresholds. These regulations do not require quantification of noise level increases at all locations.

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The Board's regulations consider the nature of certain sensitive receptors that the regulations specifically identify, such as residences, schools, libraries, retirement communities, and nursing homes. Because of the large geographic area affected by the proposed Conrail Acquisition, it was not practical or reasonable for SEA to make site visits to all locations with sensitive receptors. SEA did, however, conduct numerous site visits and made extensive use of recent aerial photographs and maps in the noise analysis. For similar reasons, it was not practical or reasonable to conduct noise monitoring at every location where affected receptors were located.

This Final EIS incorporates details of the mitigation analysis, which addresses the predicted effectiveness of recommended mitigation measures. See Appendix J, "Noise Analysis," and Chapter 4, "Summary of Environmental Review," of this Final EIS for further discussion. SEA selected the mitigation criteria that would provide mitigation for a reasonable amount of the most highly affected receptors. SEA considers this approach to be reasonable and appropriate.

SEA notes that a freight train traveling at 50 mph produces a vibration velocity of 95 dB (re 1 micro-inch per second) at 10 feet from the trucks. This value is substantially below cosmetic damage criteria (106 dB re 1 micro-inch/second), which is lower than structural damage criteria (126 dB re 1 micro-inch/second). It is unlikely that vibration levels would exceed any damage criterion and thus unlikely that freight train activity at any level would cause damage to buildings in the study area.

Further, existing FTA vibration impact criteria address the potential impact of vibration levels at a sensitive receptor for a single event only. Therefore, an increase in the number of freight trains does not affect the vibration levels per event or the likelihood of exceedance of the single-event criterion. There are no impact guidelines that assess potential vibration impacts on the basis of increases or decreases in the number of daily train operations.

Summary of Comments. The City of Cleveland commented on the technical report entitled "CSX Noise Analysis, Cleveland, Ohio." The City expressed concern that CSX's methodology used the L_{eq} noise metric, which is based on short-term monitoring for a single train event and is not normally used in train noise impact assessments. The City commented on the CSX methodology, which projects a 65 dBA L_{dn} noise contour based on a train noise model and projects a 70 dBA L_{dn} contour using the "erroneous assumption that there would be a 5 dBA increase halfway between the 65 dBA contour and the railroad tracks." The City cited an impact assessment procedure that is the "widely accepted standard" that SEA should have used in the analysis.

The City commented that the projected noise increases at residential areas adjacent to the tracks in the East 131st Street vicinity of Cleveland (CSX Zone 3) would be higher than the level that the CSX report projected. The City based its projection on continuous monitoring that the City's

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consultant performed at a sensitive residential property adjacent to the tracks. The City also monitored day and nighttime noise levels in the Puritas-Longmead neighborhood and determined that future noise levels would increase both at night and in the daytime. The City commented that the CSX study “fail to mitigate the noise impacts that will be created by the dramatic increase of freight traffic that CSX proposes to run on the Short Line through the neighborhoods of Cleveland and East Cleveland and through the University Circle district.”

CSX commented that its analysis of the noise impacts from its proposed operations over the Short Line in Cleveland and East Cleveland resulted in CSX providing mitigation for 235 residences. CSX stated that its proposed mitigation would consist of low noise barriers to shield wheel/rail noise and landscaping to provide a visual barrier (“an offsetting benefit”). CSX commented that it is willing to consult with Cleveland and East Cleveland regarding other forms of offsetting benefits.

Response. These comments from the City of Cleveland address a technical report that CSX prepared. SEA did not perform this analysis or prepare the referenced report, and therefore, SEA cannot respond. SEA recognizes the mitigation analyses that CSX performed and encourages the Applicants to consult with affected communities regarding mitigation.

The rail line segments that the City referred to are apparently C-072 and C-073 (the Short Line). C-073 runs near the University Circle area and 131st Street. Both of these rail line segments exceed SEA’s noise mitigation criteria. SEA determined that there are approximately 200 affected receptors along rail line segment C-073 and approximately 100 along rail line segment C-072. SEA has made its recommended noise mitigation more flexible to allow CSX and NS to work with the communities to achieve the desired approach to noise mitigation.

Greater Cleveland Area—Cultural and Historic Resources

Summary of Comments. The management of Abington Arms (a rental apartment complex) expressed concern about the proposed Conrail Acquisition and its potential impacts on Little Italy, a historic district. The commentator did not present specific information regarding potential environmental impacts on the Little Italy area.

Response. SEA prepared a detailed definition of the Area of Potential Effects as part of the NHPA, Section 106 compliance process. The Area of Potential Effects definition recognizes all of the criteria of adverse effects, but SEA determined that none were applicable to increased railroad traffic. Increased traffic is limited to moving and handling more rail cars on the existing trackage, and it does not have the potential to affect cultural resources because such railroad traffic is already part of the historic setting. Increased rail traffic would not require any ground disturbance or physical alteration of existing facilities. However, should it be necessary to construct grade

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separations or noise mitigation walls along any rail line segments in the vicinity of NRHP-eligible historic properties or districts, such as the Little Italy historic district, SEA would conduct further Section 106 analysis and consultation within the Area of Potential Effects related to this construction.

Summary of Comments. The Ohio Canal Corridor provided comments on the Ohio and Erie Canal National Heritage Corridor from Cleveland to Zoar, Ohio and the Mill Creek Waterfall. The Ohio Canal Corridor noted the 45-foot Mill Creek Waterfall and an unspecified community's plans to provide access to the waterfall through Garfield Park. A commuter rail stop near the Broadway/Turney intersection would provide access to the park system. The Mill Creek Waterfall represents the center of early settlement in Cleveland.

The Ohio Canal Corridor also voiced a concern involving the extension of the Cuyahoga Valley Scenic Railroad between Rockside Road and Tower City in Cleveland's Flats. Any surplus trackage that resulted from approval of the proposed Conrail Acquisition would enable the Scenic Railroad to complete a downtown Cleveland connection, which is vital to the growth of the Scenic Railroad; this would be the only scenic railroad in the United States to link to the urban center of a major city. The organization supported any agreements that would further these community projects.

Response. In the Draft EIS, SEA did not identify any activities other than increased railroad traffic on rail line segments near the Ohio and Erie Canal National Heritage Corridor. Increased traffic would be limited to moving and handling more rail cars on the existing trackage and does not have the potential to adversely affect cultural resources like the Ohio and Erie Canal because such railroad traffic is already part of the historic setting. Increased rail traffic would not require any ground disturbance or physical alteration of existing facilities. The Draft EIS did not identify any railroad right-of-way acquisitions, track additions, or track changes in the area near the Mill Creek Waterfall or Garfield Park. Therefore, should the Board approve the proposed Conrail Acquisition, access to these properties would not change with respect to the existing railroad right-of-way.

A railroad may voluntarily agree to sell or donate its property, which would provide an opportunity for the Cuyahoga Valley Scenic Railroad to make agreements if surplus trackage becomes available. However, the Board cannot force a railroad to sell or donate its property as a condition to obtaining acquisition authority, as stated in its Implementation of Environmental Laws (7 I.C.C.2d 7).

Summary of Comments. The City of Cleveland, Ohio commented that, while the Draft EIS stated that abandonment and new construction are the activities most likely to cause impacts, the City recognizes that "isolation; introduction of elements that are out of character; neglect; and transfer, lease, or sale" may also constitute adverse environmental effects. The City requested that SEA conduct further impact evaluations with regard to increased train frequencies.

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Specifically, the City noted that two historic districts, Little Italy and the Hessler Road and Court District, are within one-half mile of activities related to the proposed Conrail Acquisition. In addition, two National Register districts (Mather College and Wade Park) “lie in the immediate vicinity.” The City also noted that 17 individually listed properties are in the immediate vicinity of activities related to the proposed Conrail Acquisition. The City indicated that increased noise levels and particulate matter (air pollution) were items of concern. In addition, the City requested a “careful analysis” of the proposed Conrail Acquisition and potential impacts on the City’s historic resources.

Response. SEA prepared a detailed definition of the Area of Potential Effects as part of the National Historic Preservation Act, Section 106 compliance process. The Area of Potential Effects definition recognizes all of the criteria of adverse effects, but SEA determined that none were applicable to increased railroad traffic. Increased traffic is limited to moving and handling more rail cars on the existing trackage, and does not have the potential to affect cultural resources because such railroad traffic is already part of the historic setting. Increased rail traffic would not require any ground disturbance or physical alteration of existing facilities. However, should it be necessary to construct grade separations or noise mitigation walls along any rail line segments in the vicinity of NRHP-eligible historic properties or districts, such as those that the City mentioned, SEA would conduct further Section 106 analysis and consultation within the Area of Potential Effects related to this construction.

Summary of Comments. CSX agreed with the Draft EIS recommendation that CSX complete cultural and historic resource documentation for the Lake Shore and Michigan Southern Shops District at the Collinwood Yard in Cleveland before CSX begins proposed construction at the yard.

Response. SEA acknowledges this comment.

Greater Cleveland Area—Natural Resources

Summary of Comments. Vermilion Township and Huron County requested that SEA evaluate drainage structures such as culverts, bridges, and farm tiles so that activities associated with the proposed Conrail Acquisition do not result in flooding or additional stormwater runoff to adjacent properties.

Response. SEA has determined that the Applicants have developed BMPs to address stormwater runoff, erosion and sediment control, and impacts on surface waters, thereby minimizing impacts during and after construction. See Appendix P, “SEA’s Best Management Practices for Construction and Abandonment Activities,” of this Final EIS.

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NS would have to seek final design approval from the Ohio Department of Natural Resources and USACE to minimize the potential for flooding at the proposed construction in Vermilion Township.

SEA also determined that the proposed increase in rail traffic would not increase levels of water runoff and flooding in the areas adjacent to the rail lines.

Summary of Comments. The Broadway Area Housing Coalition and the Ohio Canal Corridor expressed concerns about the Mill Creek Waterfall. The commentors noted that the Mill Creek Waterfall is 45 feet in height and has been adversely affected by train traffic. Specifically, land next to the tracks has eroded, and debris has been deposited in the waterfall. Their concern is that additional train traffic would cause further adverse effects to the surrounding area.

Response. SEA acknowledges the concerns regarding the Mill Creek Waterfall. However, it is the Board's policy not to require mitigation of pre-existing conditions, such as the railroad right-of-way condition in this case. In addition, SEA does not have jurisdiction regarding maintenance of railroad right-of-way.

Summary of Comments. The Mayor of the City of Vermilion, Ohio cited a recent stormwater management study that noted drainage obstructions associated with railroad culverts on Edson Creek, west of the City. The Mayor requested that this area be given an extensive review prior to any upgrades of the drainage system.

Response. SEA determined that there is no construction planned for the area; therefore, there would be no impact on existing conditions. Also, NS's proposed two new rail connections in Vermilion would not affect the Edson Creek area.

Summary of Comments. NS did not concur with the mitigation measure SEA proposed in the Draft EIS for the Indiana bat and the bald eagle. NS requested that SEA clarify the methodologies that it used to determine survey distances for identifying biological resources for Vermilion as Section 7.7 of the Draft EIS and the wildlife survey describe. NS also requested inclusion of the following statement in the Final EIS concerning mitigation for potential environmental impacts on threatened and endangered species in Ohio: "NS should coordinate with the U.S. Fish and Wildlife Service [USFWS] and Ohio Department of Natural Resources prior to construction."

Response. In accordance with natural resources methodology, SEA contacted the Ohio Department of Natural Resources and USFWS to determine the presence of any Federally listed threatened or endangered species. SEA concluded that there are no listings of Federally protected species within the proposed project area. However, SEA identified, through coordination with the Department and USFWS, the potential presence of habitat for the Indiana bat within the vicinity of the proposed construction site. SEA

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verified this potential during a site visit, which involved review of the project area and the area within 200 feet of the proposed construction site.

SEA concurs with NS's objection to the proposed mitigation that NS perform a survey for the bald eagle. Based on further coordination with USFWS and the Department and an additional site visit, SEA determined that there is minimal potential for the presence of the bald eagle and therefore, there would be no effect on the bald eagle. SEA also concluded that NS still must coordinate with USFWS and the Department to determine the need for a survey for the Indiana bat. Based on consultation with USFWS, this coordination should be in the form of a report on habitat at the Vermilion site. The report must contain an evaluation of cavity trees and exfoliating bark, type of tree present, and photo documentation. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Greater Cleveland Area—Land Use and Socioeconomics

Summary of Comments. A citizen from Vermilion expressed concern that the promise of 90 jobs in Cleveland "does not enhance any other community for the cost in safety, decrease in property values or quality of life drained from it by the proposal."

Response. In accordance with the Board's environmental regulations and the scope of the EIS, SEA limited its land use and socioeconomic analysis to considering the consistency of proposed rail line construction and abandonment activities with existing land use plans, and evaluating potential business loss directly related to proposed constructions and abandonments. Overall economic effects related to the proposed Conrail Acquisition are merits issues and are not part of SEA's direct environmental review responsibility.

Summary of Comments. University Circle Incorporated, a nonprofit planning and service organization for University Circle (a cultural, medical, and educational center in Cleveland), commented that the increase in train traffic from the proposed Conrail Acquisition would adversely affect the Circle's economic progress and plans.

Response. In accordance with the Board's environmental regulations and the scope of the EIS, SEA limited its land use and socioeconomic analysis to considering the consistency of proposed rail line construction and abandonment activities with existing land use plans, and evaluating potential business loss directly related to proposed constructions and abandonments. SEA evaluated the land use effects of construction and abandonments by contacting agencies with statutory authority over land use planning. Consistent with the scope of the EIS, SEA contacted the City of Cleveland, Ohio to verify the consistency of any proposed construction or abandonment activities that would result from the proposed Conrail Acquisition. The City of Cleveland determined that the proposed construction activity at Collinwood Yard would be consistent with local land

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use plans. As noted in the Draft EIS, the University Circle area was not subject to proposed construction or abandonment. The overall economic effects related to the proposed Conrail Acquisition are merits issues and are not part of SEA's direct environmental review responsibility.

Greater Cleveland Area—Environmental Justice

Summary of Comments. Congressman Louis Stokes commented that emergency response times near at-grade crossings are slower than in more affluent parts of the City, and that the increase in rail traffic associated with the proposed Conrail Acquisition would further slow the response times.

Response. SEA performed an analysis of emergency response in Cleveland for this Final EIS (see Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," Section G.2, "Additional Analysis in Response to Public Comments"). SEA considered highway/rail at-grade crossing delay in conducting its environmental justice analysis. For this Final EIS, SEA determined whether these effects would be disproportionately high and adverse on minority and low-income populations. See Appendix M, "Environmental Justice Analysis," of this Final EIS for further discussion of SEA's environmental justice analysis. SEA gathered information by means of public comments and site visits and used this information together with the analysis methods developed to determine disproportionality. See Chapter 4, "Summary of Environmental Review," of this Final EIS for a full discussion of the methodology for determining disproportionality. SEA concluded that there would be no disproportionately high and adverse highway/rail at-grade crossing delay impacts on minority and low-income populations in Cleveland.

Greater Cleveland Area—Cumulative Effects

Summary of Comments. The Ward II Councilwoman in Olmsted Falls, Ohio disagreed with the preliminary finding in the Draft EIS that there would be no significant cumulative effects for any of the issue areas. Also, the Mayor, the Ward II Councilwoman, and other city officials requested that NS install grade-mounted horn systems at four at-grade crossings on rail line segment N-293. They indicated that the L_{dn} along this segment already approaches 65-70 decibels because it is located under the approach path to Cleveland Hopkins International Airport. Additionally, they stated that the airport has announced plans to extend the major southwest/northeast runway from 8,999 feet to 12,500 feet, which would increase the L_{dn} for nearly half the town to 70-75 decibels.

Response. In response to comments on the Draft EIS, SEA evaluated other potential projects or activities that, when combined with the proposed Conrail Acquisition, could create a cumulative effect. SEA became aware of these projects or activities through public comments from local agencies. SEA analyzed the potential environmental

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impacts on specific resource categories, and SEA considered agency and public comments to develop the scope of analysis for this EIS and to assess potential environmental impacts. Often, perceived cumulative effects are actually multiple resource effects, and cognizant agencies can best determine mitigation for potential impacts through resource-specific mitigation techniques. For the proposed Conrail Acquisition, however, individual resource category impacts in some instances did not exceed the respective thresholds that SEA established for analysis in the Draft EIS. In accordance with the scope of the EIS, SEA did not consider aggregated multiple resource effects in its cumulative effects analysis.

Under the Swift Rail Act of 1994, Congress directed FRA to issue rules regarding the use of train horns at all public highway/rail at-grade crossings. These rules, including preliminary rules and specifications, are tentatively scheduled for release during mid-1998. These rules would preempt local ordinances that ban train horns and whistles except where other demonstrable measures provide the same level of safety. Quiet Zones would be allowed at highway/rail at-grade crossings where FRA finds that alternative safety measures are equally effective as train horns. FRA is studying safety technologies such as four-quadrant gates and automated horn systems as alternatives to train horns. SEA cannot address details regarding the implementation of Quiet Zones until FRA issues its final rules.

Train traffic would decrease from 48.4 trains per day to 32.9 trains per day on rail line segment N-293. Therefore, SEA has determined that mitigation for this rail line segment would not be necessary.

With regard to the planned runway expansion at Hopkins International Airport, the comment specifically addressed noise and nearby highway/rail at-grade crossing safety. The airport initiated an EIS in April 1998 to evaluate the planned runway expansion, which would accommodate an increased capacity after the year 2000. Existing regulations that would be in effect in the year 2000 include requirements that aircraft meet more stringent Stage 3 noise technical standards. For this reason, SEA cannot accurately assess assumptions regarding the ultimate extent of noise contours and L_{dn} values at nearby crossings at this time. In conjunction with the EIS, the airport will complete a new airport layout plan and a noise compatibility plan in conformance with Federal Aviation Regulation Part 150. The airport facility EIS will consider the potential effects of noise upon nearby crossings as part of its evaluation, as it establishes noise contour data. Notwithstanding the lack of accurate noise data at this time, SEA has determined that this runway extension action is not sufficiently advanced to consider in this Final EIS because it has not been planned, approved, and funded for capital improvements.

When SEA identified unique or unusual local circumstances that did not meet SEA's thresholds, SEA evaluated individual or cumulative effects. The Mayor, the Ward II

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Councilwoman, and other city officials did not identify projects or activities that would cause SEA to treat the City differently from any other community affected by the proposed Conrail Acquisition. SEA has determined that the potential environmental impacts that the comment identified were adequately addressed with respect to Olmsted Falls, Ohio on the basis of individual resource categories.

Summary of Comments. BRL commented that “while individual environmental components of the NS proposal, e.g. noise and air quality degradation, are discussed, albeit incorrectly, the cumulative impact of these components is ignored.” Referring to DOT’s October 21, 1997 preliminary comments, BRL stated that DOT addressed highway/at-grade crossings on an NS rail line segment through Lakewood that SEA projected would experience a large increase in trains per day. BRL quoted DOT as saying that all highway/rail at-grade crossings “should be analyzed together as a corridor and mitigation measures designed to reduce risk along entire segments rather than on a crossing-by-crossing basis.” BRL added that “it is the total impact of the NS proposal on BRL that must determine whether a mitigation proposal meets the Board’s three criteria.” In its conclusion, BRL indicated that the individual potential environmental impacts of the proposed Conrail Acquisition would be severe, and when “considered in the aggregate, they amount to nothing less than an assault on quality of life.”

Response. SEA considered agency and public comments in developing the scope for the EIS. The scope included an analysis of the potential environmental impacts on specific resource categories and cumulative effects on a regional or system-wide basis for the resource categories of air quality, energy, and transportation. Also, SEA evaluated cumulative effects on specific resource categories associated with other projects or activities that related to the proposed Conrail Acquisition, where local communities, local, regional, state, or Federal officials, or other interested parties provided information to SEA. However, in accordance with the scope of the EIS, SEA did not consider aggregated multiple resource effects in its cumulative effects analysis on a system-wide, regional, or local basis. Multiple resource effects are best addressed by the analysis and recommended mitigation, if appropriate, of individual resource categories. BRL has not brought any matter to SEA’s attention that warrants treatment of the resource categories on other than an individual basis.

Summary of Comments. The City of Cleveland called attention to the rail line segment adjacent to the Rainbow Babies and Children’s Hospital and the Abington Arms apartment complex, which is home to senior citizens and handicapped persons. The City expressed concern about the increase in carcinogenic pollutants “and the cumulative effect that may result from exposure to numerous carcinogens.”

Response. SEA performed a dispersion modeling study to ascertain whether Acquisition-related increases in locomotive exhaust emissions might cause or contribute to carcinogenic health effects on the public. All studies estimated conservative concentrations of carcinogenic pollutants that were below applicable standards, criteria,

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or significance levels. Therefore, SEA did not recommend mitigation. Refer to Chapter 4, “Summary of Environmental Review,” and Appendix I, “Air Quality Analysis,” of this Final EIS for additional details.

Greater Cleveland Area—General

Summary of Comments. A Lakewood, Ohio resident requested the rationale regarding specific current nighttime freight train operations over a rail line segment.

Response. SEA points out that railroads operate 24 hours a day to meet market and customer requirements throughout the country. The Applicants contend that they require this flexibility so that they can meet interstate commerce needs. Traditionally, the Board does not dictate the number, length, or times of operations of freight trains. SEA conducted site visits to Lakewood to assist in the analysis of alternatives for the Cleveland area, and assumed a 24-hour schedule in its analysis. See Appendix J, “Noise Analysis,” of this Final EIS and the Addendum to this Final EIS for a discussion of NS’s “Mitigation Proposal for Train Frequencies in Greater Cleveland and Vicinity.”

Summary of Comments. A citizen of Vermilion, Ohio, commented that Vermilion is a beautiful town and attracts many visitors. The citizen stated that train traffic would double through Vermilion and the Applicants should recognize the “town’s quality of life ... as an important factor in addition to the concerns relating to the railroad business.”

Response. The scope of the EIS identified numerous safety and environmental areas that the proposed Conrail Acquisition may affect. SEA has addressed operational issues in accordance with the scope and discussed the potential transportation-related impacts on Vermilion in the Draft EIS. See Appendix N, “Community Evaluations,” of this Final EIS for routing alternatives in the Greater Cleveland Area.

Northeastern Ohio—Safety: Highway/Rail At-grade Crossings

Summary of Comments. Northeast Ohio Areawide Coordinating Agency requested that the Applicants negotiate with affected communities to determine appropriate protection at highway/rail at-grade crossings. The Agency noted that “particular concern should be given to those crossings which have more than 8,000 vehicles per day on the roadway and more than 24 trains per day on the railroad.”

Response. SEA’s highway/rail at-grade crossing safety analysis addressed the safety risk at all highway/rail at-grade crossings on rail line segments that would have an Acquisition-related increase of 8 or more trains per day. The analysis did not use a threshold for minimum roadway traffic volumes. SEA’s highway vehicle threshold for environmental analysis is more rigorous than the Agency suggested, providing a more comprehensive safety analysis of highway/rail at-grade crossings than would result from

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the Agency's suggested thresholds. SEA's train volume threshold is a measure of the change in the number of trains rather than the absolute number of trains because the change is a better reflection of the potential effects of the proposed Conrail Acquisition.

SEA created flexibility in its mitigation by allowing the Applicants to negotiate with affected local jurisdictions and state Departments of Transportation to implement alternative safety improvements in the vicinity of a highway/rail at-grade crossing that SEA identified for mitigation. The alternate safety improvement shall include improvement at the identified crossing among the series of crossings that would be included.

Summary of Comments. The City of Ashtabula, Ohio commented that the replacement and/or upgrade of several highway/rail at-grade crossings in the city would be essential to ensure greater safety. The City also noted that Table 5-OH-8 in the Draft EIS incorrectly states that there is a flashing light at the Main Street crossing (FRA ID 471983Y, rail line segment N-070). Instead, the City indicated, the protection for this highway/rail at-grade crossing is a gate warning device.

Response. SEA's safety analysis that the Draft EIS described included all highway/rail at-grade crossings on rail line segments within the City of Ashtabula and Ashtabula County that met SEA's thresholds for environmental analysis. SEA understands that NS operates all three affected rail line segments in Ashtabula County (N-070, N-075, and N-082). SEA determined in the Draft EIS that the Acquisition-related increase in trains would adversely affect only one of the 58 crossings analyzed for safety—Walter Main Road (FRA ID 472012W). SEA recommended the upgrade of the passive warning device at this highway/rail at-grade crossing to flashing lights. However, field investigation indicated that SEA's recommended warning device upgrade is in place at this crossing. As a result, the analysis indicated no crossings in Ashtabula County that would warrant mitigation.

The analysis in this Final EIS includes all revised data that the Applicants provided to SEA, including the warning device information the City cited.

Northeastern Ohio—Safety: Hazardous Materials Transport

Summary of Comments. The Eastgate Development and Transportation Agency of Youngstown, Ohio expressed concerns about a proposed increase in hazardous materials transport on the Youngstown-to-Ashtabula rail line. The Agency described hazardous materials transport as the most important environmental issue because of residential development near the rail line. The Agency asked that SEA ensure that appropriate emergency response procedures are in place to respond to derailments or hazardous materials releases and that those procedures are acceptable to local emergency response organizations.

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Response. Based on SEA's analysis and information that CSX and NX provided, the Youngstown-to-Ashtabula rail line segment (N-082) would become a key route following the proposed Conrail Acquisition. SEA recommends that the Board require NS to implement key route mitigation measures as discussed in Chapter 7, "Recommended Environmental Conditions," of this Final EIS. These recommended mitigation measures include development of emergency response procedures and coordination with local emergency response agencies.

Summary of Comments. The City of Ashtabula, Ohio expressed concern about hazardous materials transport through the City. The City stated that the "controlling railroad body" should be responsible for regulating hazardous materials transport through the City and should partially fund any necessary training of local rescue crews.

Response. SEA has identified two CSX rail line segments, C-060 between Ashtabula and Quaker, Ohio, and rail line segment C-690 between Buff Seneca, New York and Ashtabula, Ohio that are already key routes, which means that CSX is already required to adhere to AAR key route guidelines for these rail line segments. SEA recommends that the Board require NS to implement key route and major key route mitigation measures on rail line segments N-070 between Buffalo FW, New York-to-Ashtabula, Ohio and N-075 between Ashtabula-to-Cleveland, Ohio following the proposed Conrail Acquisition because of the potential environmental impacts resulting from the increase in the volume of hazardous materials that NS would transport. See Chapter 7, "Recommended Environmental Conditions," for SEA's specific recommendations. SEA has determined that providing first-responder emergency services is a basic local government function, funded through the general revenue taxation system. No changes associated with or resulting from the proposed Conrail Acquisition altered those basic responsibilities. See the Addendum to this Final EIS for additional information.

Northeastern Ohio—Safety: Other

Summary of Comments. The Ashtabula, Ohio City Council expressed concern over an increase in rail traffic through the City as a result of the proposed Conrail Acquisition. In addition, the Council stated that "there are many evenings trains [that] travel at very slow rates of speed or are stopped on multiple railroad crossings simultaneously, that if someone wanted to they could jump on the trains with little concern for injury. This occurs on a daily basis, and continues to increase as we are experiencing increased rail traffic already without such a proposed acquisition."

Response. SEA recognizes that the City Council's concern is related to the increase in rail traffic that would result from the proposed Conrail Acquisition. Information provided by the Applicants shows that rail traffic on the rail line segments originating or terminating at Ashtabula would increase by approximately 36 percent. SEA analyzed all highway/rail at-grade crossings meeting SEA's criteria for analysis of delay. SEA

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determined that the Main Avenue and West Avenue highway/rail at-grade crossings in the City would experience changes in delay as a result of the proposed increase in trains on NS's Ashtabula-to-Buffalo FW rail line segment (N-070) and NS's Cleveland-to-Ashtabula rail line segment (N-075). This analysis showed that the crossing delay per stopped vehicle would increase from 1.13 to 1.15 minutes per vehicle at Main Avenue and from 1.37 to 1.39 minutes per vehicle at West Avenue, or 1.2 seconds per vehicle. Drivers would be unlikely to notice this increase, which is well below SEA's significance criterion of a 30-second increase in vehicle delay (see Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS). See also the Addendum to this Final EIS.

SEA shares the City's concern for the safety of individuals who might jump on the trains, but this concern relates to a pre-existing condition that the proposed Conrail Acquisition would only affect minimally.

Northeastern Ohio—Transportation: Passenger Rail Service

Summary of Comments. The Northeast Ohio Areawide Coordinating Agency, which represents all county, municipal, and township governments in Cuyahoga, Geauga, Lake, Lorain, and Medina Counties, stated that it is involved in a Federally-funded study evaluating the feasibility of instituting commuter rail service on existing tracks throughout northeast Ohio. The Agency requested that the Board consider this in its decision on the proposed Conrail Acquisition.

Response. SEA determined that the Northeast Ohio Areawide Coordinating Agency's planning for commuter rail service for Northeast Ohio is not sufficiently advanced to consider in this Final EIS. SEA did not analyze the potential impact of the proposed Conrail Acquisition on passenger service plans where the passenger rail organizations have not entered into agreements with the owner of the trackage and do not have an Operating Plan or a source of capital funding.

Summary of Comments. The Northeast Ohio Four County Regional Planning and Development Organization, representing governments in Portage, Stark, Summit, and Wayne Counties, forwarded comments from the Akron Metropolitan Area Transportation Study and the Metro Regional Transit Authority of Akron. The commentors noted that the Board disregarded recommendations that the Akron Metropolitan Area Transportation Study submitted in August of 1997 to "evaluate the impacts of the acquisition on proposed passenger rail service" and the possibility of "freight railroads rejecting the idea of commuter service on their lines." The Study requested delay of the proposed Conrail Acquisition "until the Applicant has satisfactorily addressed these concerns."

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Response. SEA determined that the plans for rail commuter service in Portage, Stark, Summit, and Wayne Counties in Ohio were not sufficiently advanced to be included in the passenger service analysis. The Northeast Ohio Four County Regional Planning and Development Organization did not provide SEA with an Operating Plan nor did it identify a capital funding source.

Northeastern Ohio—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. The City Council of Ashtabula, Ohio stated that the proposed Conrail Acquisition would cause a threefold increase in traffic delays at highway/rail at-grade crossings in the City. The City Council recommended that CSX and NS construct three grade separations on the east-west rail lines and two grade separations on the north-south rail lines at a height that would allow access by tractor-trailers and fire equipment. The City Council stated that if the Board does not make this request a condition of the proposed Conrail Acquisition, the Applicants should provide at least one grade separation on each rail line as well as a grade separation on State Route 84.

Response. Four rail line segments that met Board thresholds for analysis traverse Ashtabula. SEA analyzed all highway/rail at-grade crossings on rail line segments meeting SEA's criteria of analysis for delay in the City of Ashtabula for changes resulting from the proposed Conrail Acquisition. Specifically, the increase in trains on NS's Ashtabula-to-Buffalo rail line segment (N-070) and NS's Cleveland-to-Ashtabula rail line segment (N-075) triggered evaluation at only two highway/rail at-grade crossings: Main Avenue and West Avenue. While the average delay per vehicle would increase, the effect on LOS would be minimal. LOS at the Main Avenue (FRA ID 471983Y) crossing would drop from LOS A to LOS B, and the crossing delay per stopped vehicle would increase from 1.13 minutes per vehicle to 1.15 minutes per vehicle. LOS at the West Avenue (FRA ID 471989W) crossing would drop from LOS A to LOS B, and the crossing delay per stopped vehicle would increase from 1.37 minutes per vehicle to 1.39 minutes per vehicle. None of these highway/rail at-grade crossings would meet SEA's criteria for a significant increase in vehicle delay. Therefore, SEA concludes that no mitigation for vehicular traffic delay is warranted. See Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS.

Summary of Comments. The City Council of Ashtabula, Ohio stated that an increase in rail traffic following the proposed Conrail Acquisition would hamper the police, fire, and rescue services in the community, resulting in a higher risk to human life. The City Council recommended that the Applicants construct five separated grade crossings. If the construction of these grade separations is not a condition of the proposed Conrail Acquisition, the City Council suggested that the "controlling railroad body" construct a fully furnished fire station on the south side of the railroad tracks to mitigate this problem.

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Response. In Ashtabula, Ohio, three rail line segments, the NS Ashtabula-to-Buffalo rail line segment (N-070), the NS Cleveland-to-Ashtabula rail line segment (N-075), and the NS Youngstown-to-Ashtabula rail line segment (N-082), met or exceeded SEA's threshold for environmental analysis for emergency response.

SEA determined that the hospital, fire, police, and ambulance facilities in Ashtabula are located north of the NS tracks. Currently, no local streets are grade-separated in Ashtabula.

SEA determined that the blocked-crossing time caused by a train on the NS Ashtabula-to-Buffalo rail line segment (N-070), currently 2.1 minutes, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be slightly more than 1 minute. The average number of trains on this rail line segment would increase from 13.0 to 25.2 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 27.1 minutes to 53.5 minutes per day.

SEA determined that the blocked-crossing time caused by a train on the NS Cleveland-to-Ashtabula rail line segment, currently 2.1 minutes, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be slightly more than 1 minute. The average number of trains on this rail line segment would increase from 13.0 to 36.6 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 27.1 minutes to 77.7 minutes per day.

SEA determined that the blocked-crossing time caused by a train on the NS Youngstown-to-Ashtabula rail line segment would increase from 2.3 minutes to 2.4 minutes as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be approximately 1.2 minutes. The average number of trains on the NS rail line segment would increase from 11.7 to 23.8 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 27.4 minutes to 57.0 minutes per day.

SEA concluded that because there are no separated grade crossings along the NS rail line segment, trains may delay emergency calls to the south of the NS tracks.

Therefore, SEA recommends mitigation to assist emergency vehicles in Ashtabula to avoid delay. See Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," Section G.2.1, "Emergency Response Vehicle Delay," of this Final EIS for the analysis, and Chapter 7, "Recommended Environmental Conditions," of this Final EIS for a discussion of SEA's recommended mitigation.

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Northeastern Ohio—Transportation: Roadway Systems

Summary of Comments. The Metro Regional Transit Authority submitted a comment through the Northeast Ohio Four County Regional Planning and Development Organization. The Transit Authority expressed the concern that, if freight railroads decide to restrict use of their lines, this may force rail passengers to use other modes, such as private vehicles. The Transit Authority contended that the additional demand would affect an overburdened highway system.

Response. SEA's analysis of passenger rail operations described in the Draft EIS did not identify a decrease in commuter train operations as a result of the proposed Conrail Acquisition. Therefore, no increase in private vehicle use would occur as a result of the proposed Conrail Acquisition.

Northeastern Ohio—Noise

Summary of Comments. NS commented that the Draft EIS identified three rail line segments for mitigation within proposed environmental justice communities that failed to meet Draft EIS criteria of significance for noise. These rail line segments are Cleveland-to-Ashtabula (N-075), White-to-Cleveland (N-081), and Youngstown-to-Ashtabula (N-082).

Response. SEA notes NS's comments. SEA does not propose noise mitigation measures for the three rail line segments to which NS refers.

Northeastern Ohio—Cumulative Effects

Summary of Comments. The Executive Director of the Northeast Ohio Areawide Coordinating Agency indicated that the Agency is in the middle of a study that the Intermodal Surface Transportation Efficiency Act funded. The study is on the feasibility of commuter rail on existing tracks throughout northeastern Ohio.

Response. SEA has reviewed the Northeast Ohio Areawide Coordinating Agency's letter and has determined that the Agency's commuter rail service feasibility study for northeastern Ohio is not sufficiently advanced to consider the rail service reasonably foreseeable for the purposes of cumulative effects analysis. Cumulative effects analysis applies to planned, approved, and funded capital improvements with completed operating agreements for access. Therefore SEA did not evaluate the potential cumulative effects of the proposed Conrail Acquisition with respect to the Agency's commuter rail proposal.

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Northwestern Ohio—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The Ohio Attorney General, the Ohio Rail Development Commission, and the Public Utilities Commission of Ohio concurred with SEA's recommendations for mitigation measures at nine passively protected highway/rail at-grade crossings on the Toledo-to-Deshler rail line segment (C-065), a previously dormant segment. The commentors recommended, however, that the mitigation measures include both flashing lights and traffic control gates. Also, the commentors noted that increased traffic on this rail line segment is not solely an issue related to the proposed Conrail Acquisition because CSX began raising the level of train traffic in May 1997. The Public Utilities Commission has directed installation of gates and lights at the following five locations since the reactivation of this rail line segment: Main Street (FRA ID 155755Y) in Henry County and Kellogg Road (FRA ID 155794P), Middletown Pike (FRA ID 155804T), Eckel Junction Road (FRA 155818B), and Ford Road (FRA ID 155838M) in Wood County.

Response. SEA recommended upgrades where that change would mitigate the increased accident risk resulting from the Acquisition-related increase in train traffic. Flashing lights are a standard accepted warning device that would be effective in mitigating increased accident risk. If Ohio wishes to add gates where SEA recommended flashing lights at highway/rail at-grade crossings on the Toledo-to-Deshler rail line segment (C-065), SEA encourages Ohio to discuss such additions with the Applicants.

SEA acknowledges the May 1997 increase in through train operations along the Toledo-to-Deshler rail line segment C-065. However, for consistency in its review, SEA continues to analyze this rail line segment based on an increase from a level of 0.6 trains per day before the proposed Conrail Acquisition (1995 Operating Plan) to 14.2 trains per day after the proposed Conrail Acquisition. The reanalysis in this Final EIS reflects new information that SEA received about changes in existing warning devices at highway/rail at-grade crossings. See Chapter 7, "Recommended Environmental Conditions," and Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," of this Final EIS.

Summary of Comments. The Toledo Metropolitan Area Council of Governments of Ohio supported the recommendations in the Draft EIS to eliminate grade differentials and improve highway/rail at-grade crossing protection in Oak Harbor and Vermilion. The Council of Governments requested that the Board require these changes as a condition of the proposed Conrail Acquisition.

Response. SEA recommended improvements that would mitigate environmental impacts resulting from the proposed Conrail Acquisition. Conditions that existed before the proposed Conrail Acquisition, such as grade differentials, would require improvement only if doing so would mitigate an Acquisition-related impact, not a pre-existing condition.

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SEA's analysis calculates the risk of train-vehicle accidents at all highway/rail at-grade crossings where the increase in the number of trains would exceed SEA's thresholds for environmental analysis. The analysis method takes into account the way that the physical characteristics of each highway/rail at-grade crossing affect the risk of accidents. The method reflects these characteristics by including actual accident history in the formulas that SEA used to calculate the risk of accidents. See Chapter 7, "Recommended Environmental Conditions," and Appendix E, "Safety: Highway/Rail At-grade Crossing Analysis," of this Final EIS for details.

Summary of Comments. State Senator Schafrath expressed concern about the effect of the proposed Conrail Acquisition on the safety of the children going to and from school in Greenwich and Willard and noted the need for underpasses and "proper signalization."

Response. The Draft EIS presented SEA's safety analysis that included all highway/rail at-grade crossings on affected rail line segments within Huron County, Ohio. The methodology for this Final EIS remains much the same as in the Draft EIS. The six affected segments within Huron County are C-061, C-067, C-068, C-075, N-079, and N-085. Of the 36 crossings that SEA analyzed for safety in the Draft EIS, none met SEA's criteria for mitigation. However, based on comments, field visits, and updated information about crossing characteristics, SEA performed additional analysis. In the Final EIS, SEA identified one crossing that would warrant mitigation. This is Greenwich East Town Line (FRA ID 518488D) located northeast of Greenwich on rail line segment C-061. SEA notes that the analysis shows that no new grade separations are warranted in Huron County. See Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," of this Final EIS.

Summary of Comments. The Seneca County Planning Commission of Ohio asked whether the Board would require CSX to upgrade all the highway/rail at-grade crossings in the County to alleviate a crossing problem where there is a difference in elevation between the roadway and the rail line. The County Engineer requested that the Board require CSX to upgrade all highway/rail at-grade crossings to meet standards the County has recently adopted. At a minimum, the County Engineer stated, CSX should install lights and gates at all crossings on its rail line segment C-075.

Response. SEA recommends improvements to mitigate only those environmental impacts that would result from the proposed Conrail Acquisition. It is the Board's policy not to require mitigation of pre-existing conditions. Characteristics that existed prior to the proposed Conrail Acquisition, such as a crossing where there is a difference in elevation between the roadway and the rail line, would require improvement only if it would mitigate an impact related to the proposed Conrail Acquisition. SEA would recommend mitigation if an increase in the number of trains across such a crossing resulting from the proposed Conrail Acquisition would create a potentially significant safety impact.

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The analysis that the Draft EIS presented calculated the risk of train-vehicle accidents at all highway/rail at-grade crossings, including crossings with differences in elevation, where the increase in the number of trains would exceed SEA's thresholds for environmental analysis. The analysis method takes into account the ways in which physical characteristics of each highway/rail at-grade crossing, such as crossings with differences in elevation, affect the risk of accidents. The method reflects these characteristics by including actual accident history in the formulas that SEA used to calculate the risk of accidents.

The Draft EIS identified two of the 34 highway/rail at-grade crossings on the Willard-to-Fostoria rail line segment (C-075), Gillick Road and Morrison Road, that would require safety mitigation. Further analysis SEA performed in the preparation of this Final EIS identified the need for an upgrade at one additional highway/rail at-grade crossing at Holmes Street (FRA ID 142181Y). However, field investigation indicated that SEA's recommended warning device upgrades are already in place at these crossings. As a result, this Final EIS contains no recommendations for highway/rail at-grade crossing safety mitigation on rail line segment C-075 (see Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis").

Summary of Comments. Seneca County, Ohio commented that the number of highway/rail at-grade crossings that SEA identified as Class A is low. SEA classified four highway/rail at-grade crossings in the County as Class A, even though the County consistently ranks in the top five Ohio counties for grade crossing fatalities.

Response. SEA's highway/rail at-grade crossing safety analysis addressed all-inclusive accident rates, not just the incidence of fatalities. SEA used the same analysis for highway/rail at-grade crossings in Seneca County as for all other highway/rail at-grade crossings.

Summary of Comments. The Erie County, Ohio Engineer submitted a table of minimum upgrades at 31 highway/rail at-grade crossings that he said were necessary to offset increased rail traffic following the proposed Conrail Acquisition. The Engineer recommended that the Board require the Applicants to remove brush and obstacles for better visibility at 11 locations, add gates at three locations, and add gates and flashers at 14 locations.

The City of Sandusky, Ohio commented that there would be an increased need for safety measures if highway/rail at-grade crossings experience the same amount or more vehicular traffic combined with the increase in rail traffic density. The City recommended separated grade crossings or relocations of rail lines.

The Oxford Township Trustees of Ohio stated, "We strongly feel that all crossings [in the Township] should be equipped with safety gates and lights." The Trustees cited the increase of

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11 trains per day on the Vermilion-to-Bellevue rail line segment and the “numerous deaths ... at three of the four crossings in Oxford Township” as reasons for the improvements.

The Trustees of Berlin Township, Ohio commented that the increase in train traffic would cause additional risk to motorists at all highway/rail at-grade crossings. The Berlin-Milan Local School District Superintendent noted that school buses must cross the tracks many times each day in an area where snow, ice, fog, and rain can set in quickly and create adverse driving conditions.

Response. In the Draft EIS, SEA presented SEA’s safety analysis that included all highway/rail at-grade crossings on rail line segments within Erie County, Ohio (which includes the City of Sandusky) meeting SEA’s threshold for environmental analysis. SEA has determined that, of the three rail line segments within Erie County, NS operates two, N-072 and N-085, that met SEA’s thresholds for highway crossing safety. Of the 33 highway/rail at-grade crossings that SEA analyzed for safety, the proposed Conrail Acquisition would adversely affect only Skadden/CR42 (FRA ID 481660M). See Appendix E, “Safety: Highway/Rail At-grade Crossing Safety Analysis,” of this Final EIS. SEA recommended improving the warning device at this location to flashing lights in both the Draft EIS and this Final EIS. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS contains SEA’s recommendations regarding mitigation. SEA determined that no other crossings in Erie County would exceed SEA’s significance criteria and concluded that these crossings do not warrant mitigation.

Summary of Comments. The Toledo Metropolitan Area Council of Governments of Ohio commented that the Board must require CSX and NS to help fund upgrades of highway/rail at-grade crossing protection. Of the twenty locations in the area, many currently have crossbucks and would need upgrading to flashing lights and gates. The Council noted that state and Federal funding is already limited for existing problem crossings.

Response. The Council did not identify the specific highway/rail at-grade crossings that would require upgrades. SEA recommended that the Applicants install improved warning devices as a condition of the proposed Conrail Acquisition in locations where the analysis revealed that Acquisition-related increases in train traffic met SEA’s thresholds. Where the installation of improved warning devices would be a condition of the proposed Conrail Acquisition, the Applicant would bear the cost of the improvement. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS presents SEA’s recommended mitigation measures.

Summary of Comments. The Toledo Metropolitan Area Council of Governments of Ohio commented that the continued raising of rail lines over level terrain, for maintenance and rehabilitation purposes, has resulted in very unsafe, steep (humped) highway/rail at-grade crossings.

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Response. In response to the Council of Governments' comment, SEA explains that recommended improvements mitigate only those environmental impacts that would result from the proposed Conrail Acquisition. It is the Board's policy not to require mitigation of pre-existing conditions. Characteristics that existed prior to the proposed Conrail Acquisition, such as steep highway/rail at-grade crossings where there is a difference in elevation between the roadway and the rail line, would require improvement only where increases of potential environmental impacts would result from the proposed Conrail Acquisition.

The Draft EIS described SEA's analysis that calculated the risk of train-vehicle accidents at all highway/rail at-grade crossings, including steep ones, where the increase in the number of trains would meet SEA's thresholds for environmental analysis. SEA's analysis method takes into account how the physical characteristics of each highway/rail at-grade crossing affect the risk of accidents. SEA's method reflects these characteristics by including actual accident history in the formulas that it used to calculate the risk of accidents. See Appendix E, "Safety: Highway/Rail At-grade Crossing Safety Analysis," of this Final EIS for SEA's analysis methodology.

Summary of Comments. Erie County, Ohio expressed concern that SEA's analysis of predicted increases in accident rates showed that only one out of 36 highway/rail at-grade crossings in the County was above the criteria of significance. The County noted that SEA proposed the addition of flashing lights as mitigation at the Skadden Road highway/rail at-grade crossing, yet this crossing already has flashing lights. The County also expressed concern that SEA did not review roadways with less than 5,000 ADT for safety at highway/rail at-grade crossings.

Response. SEA analyzed all highway/rail at-grade crossings on rail line segments that would have an Acquisition-related increase of 8 or more trains per day, including highway/rail at-grade crossings with ADT of less than 5,000 vehicles. SEA did not apply a minimum threshold for roadway traffic in the safety analysis.

SEA understands that the existing flashing light at Skadden Road is not a standard warning device, but rather a light that flashes continuously whether or not a train is approaching. Because it does not actively warn drivers of approaching trains, SEA considers it a passive device. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS for SEA's recommendations for highway/rail at-grade crossings.

Summary of Comments. Seneca County, Ohio commented on the method that SEA used to determine increases in accident rates between cars and trains. The County's comment stated, "SEA appears to have analyzed each line separately and has not taken into account the major adverse compounding effect that drastically increasing three Class I Lines (C-070 by 10 trains; C-075 by 22 trains; N-071 by 8 trains) will have in one county."

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Response. SEA determined that analyzing accident risk at individual highway/rail at-grade crossings is appropriate (see Chapter 4, “Summary of Environmental Review,” of this Final EIS). The standard FRA accident risk methodology uses this approach, which SEA considers a demonstration of its validity. The FRA methodology does not indicate that there is any compounding effect of multiple crossings or multiple rail lines. SEA, however, acknowledges the potential for a corridor-based analysis. Consequently, SEA’s recommended highway/rail at-grade crossing safety mitigation in Chapter 7, “Recommended Environmental Conditions,” of this Final EIS includes an optional approach that would allow the states and the Applicants to agree on alternative measures. This could include a state-performed corridor safety analysis as an alternative to the individual crossing mitigation, as long as the crossing specified for mitigation is in the analyzed corridor.

Northwestern Ohio—Safety: Hazardous Materials Transport

Summary of Comments. The Seneca County Regional Planning Commission of Ohio expressed concerns about training for emergency response organizations, involvement in developing emergency response plans, and the number of drills the Applicants plan for major key routes. The Commission recommended that the Applicants develop a separate emergency response plan for the Sandusky River in Tiffin, Ohio. The Seneca County Commissioners and Engineer stated that the proposed major key route designation for rail line segments C-070 and C-075 was not sufficient mitigation to protect citizens living along those routes. The Commissioners and Engineer stated that “CSX should provide training for the local EMS, fire, [and] police” at least every six months. They added that CSX should communicate “with the EMA Director at least monthly” on what hazardous materials CSX would transport through the area during the month.

Response. SEA recommends that the Board require CSX to implement key route and major key route mitigation measures in Seneca County on rail line segments C-070 and C-075, between Marion and Fostoria, and Willard and Fostoria, respectively, following the proposed Conrail Acquisition. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for more information. The primary purpose of these measures is to prevent hazardous materials spills and to address prompt and appropriate responses to derailments and spills.

Summary of Comments. Huron County, Ohio expressed concerns about the increased potential for an accident that would release hazardous materials along Section Line 30 as a result of the expansion of the Willard Yard. The County requested help from CSX for emergency response planning, training, drills, and equipment that the County would need to prepare for hazardous materials incidents.

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Response. To address Huron County's concerns adequately, Chapter 7, "Recommended Environmental Conditions," of this Final EIS presents SEA's mitigation recommendations for rail line segments in the vicinity of the Willard Yard. All Willard Yard improvements would be within the existing boundaries and include improved roadways within the yard for emergency vehicles to bypass trains. SEA recommends that the Board require the Applicants to implement key route mitigation on rail line segment N-072 between Vermilion and Bellevue, and on rail line segment N-079 between Oak Harbor and Bellevue. SEA also recommends that the Board require the Applicants to implement major key route mitigation measures on rail line segments C-061 between Berea and Greenwich, on C-068 between Greenwich and Willard, and on C-075 between Willard and Fostoria following the proposed Conrail Acquisition.

SEA has determined that providing first-responder emergency services is a basic local government function, funded through the general revenue taxation system. No changes associated with or resulting from the proposed Conrail Acquisition changed those basic responsibilities. SEA encourages the Applicants to participate in and support local emergency response planning efforts and to make their response resources, including contractors, available to the public response agencies during incidents involving hazardous materials.

Summary of Comments. The Village of Oak Harbor, Ohio stated that its emergency response department is well trained and estimated costs of hazardous materials suits as high as \$24,000. The Village noted that it is discussing this and other issues with NS.

Response. SEA has determined that the total annual volume of carloads of hazardous materials moving through Oak Harbor would not change. Annually, 76,000 carloads of hazardous materials move through Oak Harbor. Because of rail traffic shifts, one of the four rail line segments in Oak Harbor (N-079 between Oak Harbor and Bellevue) would become a key route as a result of the proposed Conrail Acquisition. SEA recommends mitigation for rail line segments that were considered "key routes" as discussed in Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

SEA has determined that providing first-responder emergency services is a basic local government function, funded through the general revenue taxation system. No changes associated with or resulting from the proposed Conrail Acquisition changed those basic responsibilities.

Summary of Comments. The City of Fostoria, Ohio expressed concern about increased hazardous materials transport through the City and noted that the "State of Ohio filing" included mitigation recommendations.

Response. SEA recommends that the Board require the Applicants to implement key route and major key route mitigation measures on the rail line segments that pass through

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Fostoria and exceed the criteria of significance. These rail line segments include C-070 between Marion and Fostoria, C-075 between Willard and Fostoria, and C-228 between Fostoria and Toledo. Chapter 7, "Recommended Environmental Conditions," of this Final EIS discusses the mitigation measures that SEA recommends for key routes and major key routes. The primary purpose of these measures is to prevent hazardous materials spills and to address prompt and appropriate responses to derailments and spills.

Summary of Comments. Several commentors in the Sandusky, Ohio area expressed concerns about increased hazardous materials transport, particularly adjacent to Sandusky Bay. The City of Sandusky stated that increased training and awareness for emergency response organizations was insufficient mitigation. The City recommended evaluating each community for the types of incidents that may occur and the associated appropriate response. Also, the City stated that the Applicants should purchase emergency response equipment for those communities that lack adequate equipment. The Oxford Township Board of Trustees found the proposed increase in hazardous materials transport between Vermilion and Bellevue, Ohio alarming. The Trustees expressed concern about potential additional hazardous materials spills and requested that mitigation include key route designation and "more than material accident simulations." The Erie County Commissioners expressed similar concerns regarding hazardous materials transport and mitigation along the Vermilion-to-Bellevue, Oak Harbor-to-Bellevue, and Cleveland-to-Vermilion rail line segments, noting that Erie County has had four derailments and five accidents at the Bellevue Yard since 1990. The Commissioners also expressed concerns regarding potential hazardous materials spills near hospitals, schools, and retirement care centers near the tracks. The Berlin Township Trustees stated that hazardous materials transport concerns its residents and that the volunteer fire department does not have the equipment or personnel to handle a hazardous materials derailment.

Response. SEA has reviewed the comments from a number of concerned entities within Erie County, Ohio. In response, SEA has conducted site visits as a part of its analysis.

Rail line segments N-072 and N-079 between Vermilion and Bellevue, Ohio and Bellevue and Oak Harbor, Ohio, respectively, would become key routes after the proposed Conrail Acquisition because of the potential increase in the volume of hazardous materials that NS would transport. SEA recommends that the Board require NS to implement mitigation measures for key routes before increasing the number of rail cars carrying hazardous materials on a rail line segment that would become a key route as a result of the proposed Conrail Acquisition. SEA notes that the number of cars switched at Bellevue Yard would decrease by more than 25 percent as a result of the proposed Conrail Acquisition. SEA concludes that the combination of decreased yard activity and facility improvements from key route implementation would adequately address safety concerns. Chapter 7, "Recommended Environmental Conditions," of this Final EIS describes SEA's recommendations. SEA maintains that these mitigation measures would adequately address the potential safety risks associated with increased

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transportation of hazardous materials through these areas, including those in proximity to hospitals, schools, retirement care centers, and receiving bodies of water.

Although it is beyond SEA's authority to require the Applicants to pay for local emergency response equipment and/or training, SEA encourages the communities to discuss local emergency response concerns with the Applicants to develop mutually agreeable mechanisms. Given the more than 50,000 generic chemicals and 80,000 trade name chemicals and mixtures in use throughout the nation, it would be impractical to evaluate the types of incidents that may occur in or near each community that could experience potential environmental impacts and to prepare specific response plans for every possible incident. Rather, SEA recommends that planning, prevention, and response focus on more manageable groupings or classifications of chemicals.

Summary of Comments. The Toledo Metropolitan Area Council of Governments of Ohio raised concern about the financial burdens on local communities purchasing equipment to respond to hazardous materials transport emergencies. The Council supported a requirement for emergency response training and urged that the Applicants underwrite a state-wide or regional fund to assist local communities in purchasing additional training and safety equipment. The Council also supported other mitigation measures, including track and mechanical inspections, key route designations, and development of emergency response plans and drills.

Response. SEA evaluated the potential safety impacts of hazardous materials transport and determined that only rail line segment C-228 between Fostoria and Toledo in the Toledo metropolitan area would become a major key route as a result of the proposed Conrail Acquisition. SEA recommends that the Board impose the mitigation measures for key routes and major key routes for this rail line segment as Chapter 7, "Recommended Environmental Conditions," of this Final EIS describes.

SEA has determined that providing first-responder emergency services is a basic local government function, funded through the general revenue taxation system. No changes associated with or resulting from the proposed Conrail Acquisition changed those basic responsibilities. SEA encourages the Council to coordinate with the Applicants to support local emergency response planning efforts.

Summary of Comments. The City Council of Huron, Ohio stated that it would not support the proposed Conrail Acquisition until satisfied that the Applicants had implemented safety measures to ensure safe hazardous materials transport throughout Erie County.

Response. SEA evaluated freight train accident potential and hazardous materials transport on rail line segments passing through Huron, Ohio. SEA determined that the predicted freight train accident frequency did not exceed the SEA's criteria of significance. SEA also determined that rail line segment N-072 between Vermilion and Bellevue, Ohio and rail line segment N-079 between Bellevue and Oak Harbor, Ohio

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would become key routes following the proposed Conrail Acquisition. Therefore, SEA recommends that the Board require NS to implement key route mitigation measures on these rail line segments, as Chapter 7, “Recommended Environmental Conditions,” of this Final EIS discusses.

National documentation shows that, on a ton-mile basis, compared with trucks and barges, railroads have the safest record in hazardous materials transport. SEA also notes that the Applicants must comply with the requirements of DOT and the requirements of the railroad industry through AAR Circular OT-55-B.

Northwestern Ohio—Safety: Freight Rail Operations

Summary of Comments. The Seneca County Regional Planning Commission of Ohio is concerned that operating key trains at 50 mph and freight trains at speeds of 80 mph between Chicago, Illinois and Cleveland, Ohio is inherently dangerous. The Commission stated, “Because dispatch for CSX is in Jacksonville, Florida, the potential for an accident related to dispatch error in relating speeds and the further potential that error is in response to a ‘full train inspection’ of a Key Train, warrants consistency in train speeds.”

Response. SEA understands that the operation of freight trains at different speeds, depending on various factors of train makeup—such as key train status, types of cars in the train, train weight, and train length—is common practice on North American railroads. SEA is not aware of any evidence that this practice increases the potential for accidents, particularly given modern communications and signaling equipment in use on trains and in dispatching centers.

Summary of Comments. The Seneca County Regional Planning Commission of Ohio expressed the following concern if the Board approves the proposed Conrail Acquisition: “The increased potential change in safety of the Major Key Route (C-075) going into Fostoria, OH is ‘significant.’ The increase to the Key Route (C-070) going into Fostoria is not ‘significant’ in that the accident interval is less than 100 but it is much lower than pre acquisition (256 down to 162). The Regional Planning Commission is concerned about realizing multiplicity in evaluating impacts on Fostoria.

1. The interlock
2. The Iron Triangle areas
3. The increase train speeds
4. The position of 4 rail segments (one key, one major key)
5. The increase of hazardous waste
6. Traffic flow projections
7. Increased stopped trains and traffic.”

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Response. SEA notes that the projected decrease in hazardous materials transport on the NS rail line would partially offset the increased hazardous materials transport on the CSX rail lines through Fostoria after the proposed Conrail Acquisition. SEA recommends that the Board require CSX to implement mitigation measures for key routes on the Marion-to-Fostoria rail line segment (C-070) and the Fostoria-to-Toledo rail line segment (C-228), and for major key routes on both of those rail line segments and the rail line segment east from Fostoria to Willard (C-075). See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for more information on these measures.

Northwestern Ohio—Safety: Other

Summary of Comments. Congressman Paul E. Gillmor, representing the 5th District of Ohio, stated that the district’s major area of concern relates to public safety of drivers, pedestrians, and school children. He added that SEA must adequately address this concern, which he shares with his constituents.

Response. SEA appreciates the concern for the safety and welfare of children, pedestrians and motorists, and recognizes that their safety and welfare may be affected by any increase in the numbers of trains traveling through Ohio’s 5th Congressional District as a result of the proposed Conrail Acquisition.

SEA’s response to this comment encompasses three areas of public safety: (a) rail traffic safety; (b) hazardous materials transport safety; and (c) rail/public safety. Chapter 7, “Recommended Environmental Conditions,” of this Final EIS addresses SEA’s recommended mitigation for the following rail line segments in Ohio’s 5th Congressional District:

- C-061 Berea, Ohio to Greenwich, Ohio.
- C-065 Deshler, Ohio to Toledo, Ohio.
- C-066 Deshler, Ohio to Willow Creek, Indiana.
- C-067 Greenwich, Ohio to Crestline, Ohio.
- C-068 Greenwich, Ohio to Willard, Ohio.
- C-205 Sterling, Ohio to Greenwich, Ohio.
- C-206 Fostoria, Ohio to Deshler, Ohio.
- C-227 Lima, Ohio to Deshler, Ohio.
- C-228 Fostoria, Ohio to Toledo, Ohio.
- C-680 Stanley, Ohio to Dunkirk, Ohio.
- N-072 Vermilion, Ohio to Bellevue, Ohio.
- N-077 Oak Harbor, Ohio to Miami, Ohio.
- N-080 Cleveland, Ohio to Vermilion, Ohio.
- N-085 Bellevue, Ohio to Sandusky Dock, Ohio.
- N-293 Cleveland, Ohio to Vermilion (2), Ohio.

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- N-294 Vermilion, Ohio to Oak Harbor, Ohio.
- N-303 Airline, Ohio to Butler, Indiana.
- N-467 Bellevue, Ohio to Ft. Wayne, Indiana.
- N-476 Oakwood, Michigan to Butler, Indiana.

Total rail line segment mileage = 884 miles

1. Rail Traffic Safety

1996 data were the last complete year of data available from FRA on “reportable accidents.” SEA analyzed the “reportable accident” data available for the rail line segments in Ohio’s 5th Congressional District. SEA determined, based upon the probabilities prior to the proposed Conrail Acquisition, that there would be 4.94 “reportable accidents” per year on the 884 miles of rail line segments in the District. Furthermore, SEA determined, based upon the probabilities after the proposed Conrail Acquisition, that there would be 6.31 “reportable accidents” per year on the 884 miles of rail line segments in the District. Therefore, if the Board were to approve the proposed Conrail Acquisition, the rail line segments in Ohio’s 5th Congressional District would experience a probabilistic increase of 1.37 “reportable accidents” per year, as a result of the increase in rail traffic. As Chapter 3, “Analysis Methods and Potential Mitigation Strategies,” of the Draft EIS explains, SEA developed criteria of significance for requiring freight train safety mitigation. Based upon the analysis, for three of the District’s rail line segments, C-061, C-068 and N-077, SEA recommends that the Board require freight train safety mitigation conditions. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS.

2. Hazardous Materials Transport Safety

SEA’s review of hazardous materials transport provided a comprehensive review of these potential environmental impacts. To address the potential health, environmental, and safety-related impacts, which the proposed Conrail Acquisition might cause in Ohio’s 5th Congressional District, SEA analyzed each rail line segment within the area (see Appendix F, “Safety: Hazardous Materials Transport Analysis,” of this Final EIS). SEA proposed mitigation measures for key routes and major key routes that apply proven physical facility, responder, and carrier coordination technology to provide safety in the movement of hazardous materials at all locations. SEA analyzed all changes in freight rail traffic and hazardous materials transport that would occur in Ohio following the proposed Conrail Acquisition.

SEA maintains that this analysis and the mitigation measures it proposes in Chapter 7, “Recommended Environmental Conditions,” of this Final EIS, when viewed in conjunction with existing FRA and DOT regulations, adequately address the potential environmental impacts that would result from the proposed Conrail Acquisition. Based on the analysis, SEA recommends designating rail line segments C-068, C-065, C-067,

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and C-205 as new major key routes and rail line segment N-072 as a new key route. SEA recommends designating rail line segments C-228 and N-080 as both new key routes and new major key routes.

3. Rail/Public Safety

SEA analyzed the change in vehicle delay along rail line segments in Ohio's 5th Congressional District that would result from the Acquisition-related increase in train traffic. As Table 5-OH-9 of the Draft EIS presents, SEA determined that rail line segments C-061, C-065, C-066, C-067, N-080, and N-085 would warrant mitigation of specific highway/rail at-grade crossings located in the Ohio Counties of Defiance, Erie, Henry, Lorain, Richland, and Wood.

SEA's safety analysis included the overall effect of risky driver behavior, but did not calculate the way that behavior would vary at different highway/rail at-grade crossings. The analysis used a standard FRA method that applies a set of formulas to estimate the risk of accidents at each highway/rail at-grade crossing. The basis for the development of the formulas was a statistical analysis of actual accident history at highway/rail at-grade crossings in the United States. That actual history reflected the fact that some people ignore flashing lights and drive around crossing gates, and thus increase the probability of accidents. SEA used actual accident history, and therefore, the formulas take into account actual driver behavior.

Northwestern Ohio—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. DOT commented on highway/rail at-grade crossing delays in Fostoria. DOT indicated that these rail lines pass through Fostoria at grade, creating a U-shaped configuration. According to DOT, more than 80 trains per day currently pass through the community. DOT stated that trains must often stop to wait for other trains to pass, which may block access to two sections of the community. DOT commented that the addition of trains would increase blockage of access to those parts of Fostoria in the middle of the U-shaped area.

The Seneca Regional Planning Commission of Ohio stated that changes to four rail line segments (C-075, C-070, C-206, and C-228) would affect Fostoria. The Commission noted that stopped trains waiting for interlock availability would cause traffic delays.

Response. The cited delay problem resulting from turning and switching trains is a pre-existing situation and not an impact of the proposed Conrail Acquisition. This delay arises from trains that currently operate through the area. It is the Board's policy not to require mitigation of pre-existing conditions.

SEA examined highway/rail at-grade crossings in Fostoria and all of Seneca County for changes in vehicle delay resulting from the proposed increase in trains from the proposed

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Conrail Acquisition. SEA calculated vehicle delay only for increases in through trains. SEA identified one highway/rail at-grade crossing that satisfied SEA's threshold for environmental analysis. This crossing is U.S. Route 224 (FRA ID 481606U), located along the Bucyrus-to-Bellevue rail line segment (N-071). The LOS at this crossing would remain at LOS A, both for conditions before and after the proposed Conrail Acquisition. The crossing delay per stopped vehicle would increase from 0.95 minutes per vehicle before the proposed Conrail Acquisition to 0.97 minutes per vehicle following the proposed Conrail Acquisition. This crossing did not meet SEA's criteria of significance for increased vehicle delay.

The other highway/rail at-grade crossings in Seneca County did not meet the 5,000-vehicle threshold for environmental analysis of traffic delay. In SEA's experience, roadways with ADT volumes below 5,000 would incur minimal additional vehicle delay.

See Chapter 7, "Recommended Environmental Conditions," of this Final EIS for SEA's final recommended mitigation, and Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS for discussion of traffic delay in the Fostoria area.

Summary of Comments. The Toledo Metropolitan Area Council of Governments pointed out that there is an increased propensity for trains to barely "hang over" highway/rail at-grade crossings and block them unnecessarily. The Council of Governments stated that engine crews cause this problem because they do not know the exact location of the last car on the train. The Council explained that, although this issue is not directly related to the proposed Conrail Acquisition, it would like the Board to address the issue.

Response. SEA notes that the Board does not regulate railroad operations, such as train speed, dispatching, or yard operations, and cannot impose operating practices as part of the proposed Conrail Acquisition conditions. The blockage of crossings that the Council cited is a pre-existing condition, not a result of the proposed Conrail Acquisition. It is the Board's policy not to require mitigation of pre-existing conditions. Therefore, SEA encourages local governments to resolve this existing issue with the railroads.

Summary of Comments. The City of Sandusky commented that the proposed Conrail Acquisition would increase rail traffic in the City, which would disrupt motor vehicle and pedestrian traffic movements in many areas. The City also stated that the diversion of freight from truck to rail after the proposed Conrail Acquisition would increase the need for grade separations. The City noted that "the number of trucks making local deliveries and using local routes will remain the same and may in fact increase depending upon the location of an intermodal facility." The truck traffic and increased train traffic "leads toward an increased need for safety measures as well as inconvenience issues which will force grade separations." The City suggested that "The solution is to separate the conflicting movements through individual grade separations...."

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“The City of Sandusky also questions the applicability of the average vehicle delay time. Using the average time allows the actual delay (from the time crossing guards go down to when they return to the up position) to be divided in half.... Total length of delay experienced by the first vehicle in the queue is the factor which leads to irritation and the decision for risk taking and is therefore the time that must be used in analysis and decision making.” The City also expressed concern over SEA’s threshold for environmental analysis of 5,000 ADT for highway/rail at-grade crossings. The City indicated that the assumption that roadway segments carrying less than 5,000 ADT would not experience problems at crossings is not valid, because the peak seasonal traffic can be much higher. The City asked, “Where did the ADT originate and what year were the traffic counts taken?” The City also questioned whether the analysis considered peak-hour traffic resulting from industrial locations. The City stated that SEA could use train speed to change the traffic delay threshold for environmental analysis.

The City of Sandusky is finalizing a comprehensive plan that emphasizes the protection of the western section of the City for residential and industrial development. The City remarked that increased rail traffic from the proposed Conrail Acquisition would isolate this portion of the City. Furthermore, the City pointed out, it has identified the need for a grade separation on U.S. Route 6 to correct this problem.

Response. SEA evaluated 36 highway/rail at-grade crossings in Erie County, Ohio for safety, and three for delay. As noted in Chapter 3, “Analysis Methods and Potential Mitigation Strategies,” Section 3.7.1, “Methods for Highway/Rail At-grade Crossing Delay Analysis,” of the Draft EIS and in the Supplemental Errata, the delay analysis included the assumption of a uniform arrival rate of vehicles at a highway/rail at-grade crossing. In order to evaluate the overall effect on drivers, SEA calculated the average delay, which is half the time it takes for a train to pass, including the time for gate closing and opening, plus the time for vehicles to disperse after the train has passed. Drivers who arrive near the beginning of a crossing event are delayed for a longer time, while these who arrive near the end of a crossing event are delayed for a shorter time. If the analysis had used the total crossing blockage time—that is, the total length of delay experienced by the first vehicle in the queue—it would have overstated the average delay per vehicle and the LOS would have been incorrect.

In SEA’s experience, for roadways with ADT volumes below 5,000, the additional vehicle delay that would result from Acquisition-related increased train traffic would be minimal. The primary data source for the ADT volumes used in the vehicle delay analysis was the FRA database of all highway/rail at-grade crossings in the United States.

Because freight trains do not operate on fixed schedules, SEA assumed that trains can arrive during any part of the day, including hours of light roadway traffic and heavy roadway traffic. For this reason, SEA did not examine peak-hour traffic. However, SEA added a significant conservative factor by doubling the uniform hourly rate of daily traffic. This factor (that is, one-twelfth of the ADT) has the practical effect of assuming

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high hourly traffic volumes in the calculation of average vehicle delay per single train event.

Of the highway/rail at-grade crossings that SEA evaluated, none near Sandusky meet SEA's criteria for mitigation of delay. Only two, Skadden Road and Bradshar on rail line segment N-085, meet criteria for mitigation of safety.

A related traffic concern around Sandusky could also include the NS proposal to build a new Triple Crown Service facility along the east side of the existing NS rail yard approximately two miles southwest of downtown Sandusky. The proposed facility would handle 71 trucks per day after the proposed Conrail Acquisition. Chapter 4, "Summary of Environmental Review," Section 4.8, "Transportation: Roadway Systems," and Appendix H, "Transportation: Roadway Systems Analysis," of this Final EIS describe the analysis of the impacts that the proposed facility would have on the highway system. The analysis shows that the total increase in daily truck traffic would be less than 7 percent of the ADT on the roadways that trucks would use to reach the intermodal facility. Therefore, SEA has concluded that these truck increases would have no significant effects on the area roadways.

In light of the analysis, SEA concludes that no grade separation is warranted for U.S. Route 6 or any other roadway facility in Sandusky.

Summary of Comments. The Village of Oak Harbor, Ohio commented that the Draft EIS did not address the delay problems at the State Route 163 highway/rail at-grade crossing in downtown Oak Harbor. The Village pointed out that there is currently a problem with delay at this crossing and that, with a 200 percent increase in train traffic, there would be a 200 percent increase in traffic backups.

Response. In response to the comment from the Village of Oak Harbor on the Draft EIS, SEA has conducted a site visit. Also, SEA has further analyzed the highway/rail at-grade crossing at State Route 163 (Water Street) (FRA ID 473754T) in the Village for changes in delay that would result from the increase in train traffic because of the proposed Conrail Acquisition. The number of trains on the Oak Harbor-to-Bellevue rail line segment N-079 would increase by 19.5 trains per day, from 7.7 trains per day to 27.2 trains per day. The LOS at this crossing would decrease from LOS A to LOS B, and the crossing delay per stopped vehicle would increase marginally from 1.34 to 1.37 minutes per vehicle. This highway/rail at-grade crossing would not meet SEA's criteria of significance for vehicle delay (see Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS). Therefore, SEA does not recommend any traffic delay mitigation at this location.

Summary of Comments. The State Senator for District 19, Ohio, which includes the towns of Greenwich and Willard, pointed out that changes resulting from the proposed Conrail

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Acquisition could cause long delays and increased anxiety for motorists. The Senator stated that the Ohio Senate had introduced Senate Concurrent Resolution 14, which opposes the sale of Conrail to CSX and NS unless the Board imposes conditions to mitigate the commercial and community harm that the proposed Conrail Acquisition would cause.

Response. To identify the impact of the proposed Conrail Acquisition on Greenwich and Willard, SEA analyzed the change in delay that would result from the Acquisition-related increase in train traffic. The number of trains on the Berea-to-Greenwich rail line segment (C-061) would increase by 38.5 trains per day, from 14.5 trains per day before the proposed Acquisition to 53.0 trains per day after the Acquisition. The number of trains on the Greenwich-to-Crestline rail line segment (C-067), which passes through Willard, would increase by 16.8 trains per day, from 14.5 trains per day before the proposed Conrail Acquisition to 31.3 trains per day after the proposed Conrail Acquisition.

SEA analyzed the Main Street highway/rail at-grade crossing (FRA ID 518481F) in Greenwich (see Appendix G, “Transportation: Highway/Rail At-grade Crossing Delay Analysis,” of this Final EIS). The existing LOS at the crossing would decrease from LOS A to LOS B, and the crossing delay per stopped vehicle would increase from 1.04 minutes per vehicle to 1.22 minutes per vehicle. Reduction of LOS A to LOS B is within acceptable limits. This crossing would not meet SEA’s criteria for a significant increase in vehicle delay. Other highway/rail at-grade crossings in Greenwich and Willard did not meet the 5,000 vehicle threshold for traffic delay analysis. In SEA’s experience, for roadways with ADT volumes below 5,000, the additional vehicular delay that would result from Acquisition-related increased train traffic would be minimal. Therefore, SEA does not recommend any traffic delay mitigation at these locations.

Summary of Comments. The Seneca County Engineer and the Seneca County Board of Commissioners stated that the Draft EIS incorrectly indicated that train traffic passes only through Fostoria. The County Engineer and the Board of Commissioners indicated that the Draft EIS overlooked train traffic that CSX and NS switch and turn in Fostoria on a regular basis. These activities result in stopped trains that block city streets, county roads, and township roads. The commentors stated that trains often block roads for more than one hour. The County Engineer expressed concern that an additional 40 trains per day passing through Fostoria would totally disrupt vehicle movement. The commentors also raised a concern that the Draft EIS considered only crossings with 5,000 or greater ADT. They stated that SEA should conduct a detailed review of Fostoria’s crossings, regardless of ADT, to determine the effects of the increased train traffic on the area roadways.

Response. SEA considered freight train traffic volumes on all rail line segments in Fostoria affected by the proposed Conrail Acquisition. The master segment listing appears in the Draft EIS, Appendix A, “Rail Line Segments and Traffic Density Changes.” SEA considered switching operations only as related to the potential effect

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on average train speeds, a factor in SEA's calculation of highway/rail at-grade crossing delay. Further discussion on the rationale for the 5,000 ADT appears in Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS. Appendix G also provides additional discussion on Fostoria in Section G.2.2, "Fostoria, Ohio." Also see Chapter 7, "Recommended Environmental Conditions," of this Final EIS for SEA's final recommended mitigation.

Summary of Comments. Congressman Paul E. Gillmor, representing the 5th District of Ohio in the U.S. House of Representatives, stated his concern that the increase in rail traffic from the proposed Conrail Acquisition would cause traffic delays for his constituents.

Response. SEA analyzed the increase in vehicle delay that would result from the Acquisition-related increase in train traffic that exceeds SEA's thresholds for environmental analysis.

SEA's analysis shows that, of all the crossings in the 5th District, one crossing—Kilbourne (FRA ID 473668W) in Sandusky County—would experience a significant delay impact. The close proximity of this street to a train yard prevents mitigation as SEA would typically recommend to reduce delay. Specifically, speeding up trains to reduce delay is not a viable solution in this instance.

In addition to delay at individual crossings, SEA performed a corridor analysis for groups of crossings located within 800 feet of each other (see Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS). NS has executed a Negotiated Agreement with the City of Bellevue (where Kilbourne Street is located) to address the communities' concerns. See Appendix C, "Settlement Agreements and Negotiated Agreements," of this Final EIS.

Summary of Comments. The Huron County Board of County Commissioners commented that CSX should provide private highway/rail at-grade crossings for farms that would lose access to fields following the proposed Conrail Acquisition.

Response. All private crossing agreements that are currently in effect would remain in effect after the Acquisition, should the Board decide to approve the proposed Conrail Acquisition. There is no new Acquisition-related construction in Huron County that would result in the reduction of access to existing farms.

Summary of Comments. The Erie County Commissioners of Ohio stated that increased rail traffic resulting from the proposed Conrail Acquisition would disrupt the motor vehicle traffic movements in many areas of Erie County. The Erie County Sheriff's Department commented that it had received numerous calls from citizens regarding trains obstructing public rights-of-way, including State Route 99, Patten Tract Road, and Ransom Road.

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The Erie County Department of Engineering of Ohio suggested that “an overpass should be constructed over the existing N&W Railroad” because of the high volume of truck and other traffic on State Route 99. The Department further stated, “There already are major highway traffic delays there with the existing volume of rail traffic, and this can only get worse by completing this acquisition.”

The Commissioners stated that some of the assumptions and methodologies that SEA used in the Draft EIS do not address the concerns of smaller urban and rural communities. They expressed concern that SEA analyzed only three crossings in Erie County, and only roadways over 5,000 ADT. The Commissioners remarked that the conclusion in the Draft EIS that the largest increase in maximum queue would be one vehicle is unrealistic.

Response. SEA analyzed highway/rail at-grade crossings in Erie County for changes in delay resulting from the proposed increase in trains on all affected rail line segments: Bellevue-to-Vermilion (N-072), Vermilion-to-Cleveland (N-080), and Bellevue-to-Sandusky Docks (N-085). SEA’s analysis for this Final EIS confirms that the same three crossings meet SEA’s traffic delay criteria: Water Street, State Street, and Tiffin Road (State Route 101).

According to the FRA database, none of the other highway/rail at-grade crossings in Erie County meet the 5,000 highway vehicle ADT threshold for traffic delay analysis. The ADT on State Route 99 was 2,300 vehicles, 540 vehicles on Patten Tract Road, and 250 vehicles on Ransom Road. SEA has determined that roadways with ADT volumes below 5,000 would experience only minimal additional vehicular delay as a result of the proposed Conrail Acquisition.

SEA conducted site visits to Erie County. In addition to analysis of delay at individual crossings, SEA performed a corridor analysis for groups of crossings located within 800 feet of each other. SEA included all such roadways in this corridor analysis, including those with ADT volumes less than 5,000. This grouping analysis helped to address delay concerns of smaller urban and rural communities.

Because these roadways are near the NS yard at Bellevue, there may be delays related to NS yard operations. SEA concluded that delays related to yard operations would not increase because NS estimated the average number of daily cars switched at Bellevue Yard to decrease by more than 25 percent if the Board approves the proposed Conrail Acquisition. The Board does not regulate railroad operations, such as train speed, dispatching, or yard operations; therefore, the local government may wish to discuss these operational considerations with NS. SEA did not consider mitigation of traffic delay necessary.

Summary of Comments. The Board of Trustees of Vermilion Township, Ohio stated that the Township would receive a connection that would join Conrail and NS rail lines on Coen Road.

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The Trustees noted that this connection would cause added traffic congestion in Vermilion City and Vermilion Township. This would have an enormous impact on pedestrians and vehicles attempting to use the highway/rail at-grade crossing.

The Mayor of Vermilion commented that Vermilion is the only community that would experience the full environmental impact of the proposed Conrail Acquisition. He stated that there are seven highway/rail at-grade crossings and five separated grade crossings in Vermilion. The Mayor added that the community needs more separated grade crossings because the limited grade separations and the increased rail traffic would adversely affect the entire southeast portion of the City of Vermilion and all of Brownhelm Township. The Mayor stated that the increased rail traffic would limit or restrict the efficient delivery of goods and services. He recommended that the Board not approve the proposed Conrail Acquisition until the Applicants address these issues in a manner that will not depreciate the existing or future quality of life in his community.

A resident and business owner in Vermilion stated the proposed Conrail Acquisition would result in an average of two trains per hour traveling through Vermilion. The commentor added that this frequency of train traffic would cause too-frequent delays for north-south traffic seeking access to major interstate highways. A resident in Vermilion voiced strong opposition to the proposed Conrail Acquisition because of the great increase in rail traffic through Vermilion. The resident stated that none of the highway/rail at-grade crossings in his community have grade separations, and that switching, slow, or stopped trains frequently block the crossings. The resident indicated that this situation would worsen if rail traffic increased. Another resident of Vermilion stated that the proposed Conrail Acquisition would tremendously increase traffic on the existing tracks in her community, which would make vehicular travel more difficult.

Response. In this Final EIS, SEA reanalyzed the changes in vehicle delay at highway/rail at-grade crossings in the City of Vermilion that would result from the increase in train traffic after the proposed Conrail Acquisition. The analysis in the Draft EIS and in the Supplemental Errata did not accurately describe the vehicle delay at the Water Street and the State Street highway/rail at-grade crossings because the original analysis inadvertently used train traffic data from a different rail line segment.

SEA reanalyzed the two highway/rail at-grade crossings using train traffic data for the correct rail line segment, the Vermilion-to-Cleveland rail line segment N-080. The number of trains on this rail line segment would increase by 20.6 trains per day, from 13.5 trains per day before the proposed Conrail Acquisition to 34.1 trains per day after the Acquisition. The revised analysis showed that the LOS at the Water Street crossing (FRA ID 472306G) would remain at LOS A, and the crossing delay per stopped vehicle would increase from 0.99 to 1.01 minutes per vehicle. LOS at the State Street crossing (FRA ID 472308V) would drop from LOS A to LOS B, and the crossing delay per stopped vehicle would increase from 0.95 to 1.05 minutes per vehicle. Neither crossing would meet SEA's criteria of significance for vehicle delay. The other highway/rail at-grade crossings in Vermilion did not meet the 5,000-vehicle threshold for vehicle delay.

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analysis. In SEA's experience, for roadways with ADT volumes below 5,000, the additional vehicle delay that would result from increases in train traffic would be minimal. See Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS.

Although there are existing grade separations on the NS line, they are east of the Vermilion River, not in the center of the community. The current delay problems that the comment cited are not an impact attributable to the proposed Conrail Acquisition because they are the result of train traffic already operating through the area.

At the time that SEA prepared the Draft EIS, NS planned a new highway/rail crossing on Coen Road at the Vermilion connection. In the Draft EIS, SEA's preliminary recommendation was for the Board to require NS to raise the Coen Road elevation between the existing NS crossing and the new crossing to minimize the "roller coaster" effect of the grade variation.

As the Draft EIS presented, NS has proposed construction of a new rail alignment that would use the existing crossing at Coen Road and thereby maintain the existing trackage and railroad elevation at Coen Road. Although this would eliminate the proposed new crossing at Coen Road, the divergent angles of the new alignment could create potential safety impacts related to sight distances at the highway/rail at-grade crossing. See the Cloggsville Alternative in Appendix N, "Community Evaluations," of this Final EIS for a description of this new rail alignment.

If NS does not implement the Cloggsville Alternative, SEA recommends that the Board require NS to raise the elevation of Coen Road between the existing NS crossing and the proposed new crossing. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS. Also see the Addendum to this Final EIS.

Summary of Comments. The City of Fostoria, Ohio expressed concern that, with increases in rail traffic, emergency vehicles would not have access to segments of the community for extended periods of time. According to the City, CSX and NS currently perform switching and turning movements that cause trains to block city streets and county roads. The City estimates that this activity would block at least one highway/rail at-grade crossing for more than 12 of the 24 hours in a day. The City requested the construction of separated grade crossings in the two areas known as the Iron Triangles, which tracks completely surround. State Representative Damschroder commented, "What good is an ambulance to a dying person if it can't get to them?" He also noted that Fostoria does not have the funds to build grade-separated crossings, and there should be no expectation for the City to build them. U.S. Congressman Gillmor, together with the Seneca County Commissioners, Seneca Regional Planning Commission, Toledo Metropolitan Area Council of Governments, and the Seneca County Engineer, addressed the potential impact of train traffic on emergency response and commented on the need for separated grade crossings in Fostoria. In addition, the County Commissioners noted that it is not

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uncommon for CSX to close a crossing for repair work without advising the proper emergency response agencies.

Response. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for SEA’s mitigation recommendations for Fostoria. The discussion in Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis,” Section G.2.2, “Fostoria, Ohio,” of this Final EIS addresses SEA’s analysis pertaining specifically to emergency response vehicle delay at highway/rail at-grade crossings in Fostoria.

Summary of Comments. Huron County, Ohio voiced concern about the risk to public safety in Greenwich, Willard, and New London if emergency vehicles cannot respond because trains are blocking highway/rail at-grade crossings. In Greenwich, the County has reached an agreement with CSX to replace highway/rail at-grade crossings at U.S. Route 224 and Townsend Avenue with separated grade crossings. As a result of the Willard Yard expansion, CSX has agreed to participate financially in an overpass at Section Line 30. The County stated its opinion that CSX should pay 100 percent. In New London, where all of the safety forces are on the south side of the tracks, the County has asked CSX to provide an underpass at Euclid Road. State Senator Schafrath commented, “It is critical that these remaining concerns be resolved prior to the approval of the acquisition.”

The Village of New London, Ohio commented that its volunteer fire department and emergency medical services “are going to be greatly impaired with an additional 50 trains passing through the Village on a daily basis.” The Village recommended that the Board consider an underpass to allow emergency vehicles access to the residents and territories they serve.

Response. Appendix G, “Transportation: “Highway/Rail At-grade Crossing Traffic Delay Analysis,” Section G.2.1, “Emergency Response Vehicle Delay,” of this Final EIS provides information relevant to this subject. In Greenwich, the CSX Greenwich-to-Crestline rail line segment (C-067) met or exceeded SEA’s threshold for environmental analysis for emergency response. The time that a train would cause a highway/rail at-grade crossing on this rail line segment to be blocked would increase from 1.8 minutes to 2.1 minutes as a result of the proposed Conrail Acquisition, an increase of approximately 18 seconds per train. When delays affect emergency vehicles, the average delay would be half the blocked-crossing time, slightly more than a minute. The average number of trains on this rail line segment would increase from 14.5 to 30.1 trains per day, so the total time that a crossing would be blocked would increase from 25.7 minutes to 62.2 minutes per day as a result of the proposed Conrail Acquisition.

Also in Greenwich, a new connector would link the CSX Berea-to-Greenwich rail line segment (C-061) to the CSX Greenwich-to-Willard rail line segment (C-068). The time that a train would cause a highway/rail at-grade crossing on the connector to be blocked would be 3.3 minutes. When delays affect emergency vehicles, the average delay would

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be half the blocked-crossing time, 1.7 minutes. The average number of trains on the connector would be 23 trains per day, so the total time that a crossing would be blocked would be 75.9 minutes per day.

In Greenwich and Willard, Ohio, the CSX Greenwich-to-Willard rail line segment (C-068) met or exceeded SEA's threshold for environmental analysis. The time that train would cause a highway/rail at-grade crossing on this rail line segment to be blocked would increase from 1.8 minutes to 1.9 minutes as a result of the proposed Conrail Acquisition, an increase of approximately 6 seconds per train. When delays affect emergency vehicles, the average delay would be half the blocked-crossing time, less than a minute. The average number of trains on this rail line segment would increase from 32.5 to 55.2 trains per day, so the total time that a crossing would be blocked would increase from 57.6 minutes to 105.4 minutes as a result of the proposed Conrail Acquisition.

In Greenwich, ambulance, police, and fire services are south of the Greenwich-to-Willard rail line segment (C-068). There is no separated grade crossing in Greenwich on this rail line segment, although Townsend Street is grade-separated where it crosses the CSX Sterling-to-Greenwich rail line segment (C-205) and Wheeling and Lake Erie rail line segments. The proposed connector would use this existing Townsend Avenue grade separation. Because the blocked-crossing time in Greenwich would be short, SEA concludes that no mitigation is warranted for emergency vehicle delay.

In Greenwich and New London, Ohio, the CSX Berea-to-Greenwich rail line segment (C-061) met or exceeded SEA's threshold for environmental analysis for emergency response. The time that a train would cause a highway/rail at-grade crossing on this rail line segment to be blocked would increase from 1.8 minutes to 1.9 minutes as a result of the proposed Conrail Acquisition, an increase of approximately 6 seconds per train. When delays affect emergency vehicles, the average delay would be half the blocked-crossing time, less than a minute. The average number of trains on this rail line segment would increase from 14.5 to 53.0 trains per day, so the total time that a crossing would be blocked would increase 25.7 minutes to 101.2 minutes per day as a result of the proposed Conrail Acquisition.

In Willard, all emergency services are south of the CSX Greenwich-to-Willard rail line segment (C-068) tracks. The service area for all emergency services extends north of the tracks, and the service area for fire and rescue also extends into the surrounding rural area. There are three separated grade crossings in Willard. Because emergency vehicles can use the existing separated grade crossings in Willard, SEA concludes that no mitigation is warranted for emergency vehicle delay.

In New London, all emergency services are south of the CSX Berea-to-Greenwich rail line segment (C-061), which divide the community. There are no grade-separated

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highway/rail crossings in New London. While the number of trains on the rail line segment would increase, train speed would increase so that the blocked crossing time would be short. SEA concludes that no mitigation is warranted for emergency vehicle delay.

SEA cannot recommend the construction of a separated grade crossing at Euclid Road in New London. The crossing is at present closed to highway traffic, and no information indicates that its opening to traffic is necessary to mitigate the effects of the proposed Conrail Acquisition.

However, during the New London site visit to evaluate Euclid Road, SEA evaluated the State Route 162 highway/rail at-grade crossing located west of the New London town center. Parallel CSX and Wheeling and Lake Erie Railroad mainline tracks that cross within 50 feet of each other traverse State Route 162. While on site, SEA observed that a Wheeling and Lake Erie Railroad approaching this highway/rail at-grade crossing did not activate the CSX safety/warning devices. Because of the increased potential for vehicles to either become trapped between the two main lines or to become trapped on one of the main lines, SEA recommends that CSX interconnect the operation of its warning devices at its highway/rail at-grade crossing of State Route 162 in New London with the device of Wheeling and Lake Erie Railroad at the same location so that the devices at both crossings operate for trains on either rail line. For further information, see Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Summary of Comments. The Village of Oak Harbor, Ohio expressed concern that trains stopping traffic at the State Route 163 highway/rail at-grade crossing would interfere with fire department response. The fire department, located one-half block east of the crossing, is a volunteer force. Therefore, personnel have to arrive at the station promptly when responding to a call. The Village also remarked that highway/rail at-grade crossing blockages could interfere with fire trucks leaving the station.

Response. In Oak Harbor, two rail line segments, the NS Oak Harbor-to-Bellevue rail line segment (N-079) and the NS Oak Harbor-to-Miami rail line segment (N-077), met or exceeded SEA's criteria for environmental analysis for emergency response. The NS Oak Harbor-to-Bellevue rail line segment (N-079) runs north-south through the community, but the NS Oak Harbor-to-Miami rail line segment (N-077) does not affect emergency services because it runs east-west at the northern edge of the community. Emergency vehicles serving the area north of the Oak Harbor-to-Miami rail line segment (N-077) can access this area using Locust Street, which crosses the NS Vermilion-to-Oak Harbor rail line segment (N-294) that would have fewer trains resulting from the proposed Conrail Acquisition.

The time that a train would cause a highway/rail at-grade crossing on the Oak Harbor-to-Bellevue rail line segment to be blocked, 2.1 minutes, would not change as a result of the

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proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half the blocked-crossing time, slightly more than a minute. The average number of trains on this rail line segment would increase from 7.7 to 27.2 trains per day, so the total time that a crossing would be blocked would increase from 16.0 minutes to 57.8 minutes per day as a result of the proposed Conrail Acquisition. See Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," Section G.2.1, "Emergency Response Vehicle Delay," of this Final EIS.

Emergency service providers in Oak Harbor are located east of the Oak Harbor-to-Bellevue rail line segment (N-079). The highway/rail crossings at Park Street and South Railroad Street are grade-separated. The Park Street grade separation is several blocks from the location of the emergency service providers.

The queue of vehicles on Water Street because of a passing train would not change as a result of the proposed Conrail Acquisition. The average queue would be 16 cars both before and after the proposed Acquisition, so the queue would extend approximately 400 feet back from the stop bar for the railroad tracks. This queue could affect westbound egress from the fire station, which is located about one-half block east of the tracks.

SEA recommends mitigation for the emergency response impacts in Oak Harbor. Chapter 7, "Recommended Environmental Conditions," of this Final EIS addresses recommended mitigation.

Summary of Comments. A State Representative and the Seneca Regional Planning Commission of Ohio stated that increased blockage of highway/rail at-grade crossings would divert traffic to other routes, worsening congestion in the Iron Triangle areas in Fostoria. The State Representative requested that SEA deny the proposed Conrail Acquisition unless CSX and NS provide Fostoria with sufficient separated grade crossings.

Response. SEA analyzed highway/rail at-grade crossings in Fostoria for changes in vehicle delay resulting from the proposed increase in trains from the proposed Conrail Acquisition. SEA calculated vehicle delay only for increases in through trains. SEA identified one highway/rail at-grade crossing that satisfied SEA's criteria for analysis. This crossing is U.S. Route 224 (FRA ID 481606U), located along the Bucyrus-to-Bellevue rail line segment (N-071). This crossing did not meet SEA's criteria of significance for increased vehicle delay.

SEA conducted site visits and contacted CSX and NS to refine its analysis of emergency vehicle delay at specific highway/rail at-grade crossings in Fostoria. Based on its study, SEA recommends that CSX and NS take certain actions to relieve the potential emergency response issues for the Iron Triangle areas, both east and west of Fostoria. In response to the State Representative, SEA concludes that separated grade crossings are not warranted to solve the problem that the commentors cited.

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- See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for SEA’s final recommended mitigation, and Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis,” of this Final EIS for discussion of traffic delay and emergency response.

Summary of Comments. The Erie County, Ohio, Engineer commented that the Draft EIS did not address an existing underpass on Miller Road. The underpass, located about midway between the Cities of Sandusky and Bellevue, provides the only means of emergency access between the east and west sides of the railroad tracks. The County Engineer recommended that the “underpass be reconstructed to accommodate physically large fire equipment and provide for other situations including but not limited to medical, or those of a national emergency nature.”

Response. The proposed Conrail Acquisition would not affect the dimensions of the underpass on Miller Road, which are pre-existing characteristics. It is the Board’s policy not to require mitigation of pre-existing conditions. Therefore, SEA does not recommend mitigation for this underpass.

Summary of Comments. The Erie County Commissioners of Ohio stated that the increase in rail traffic following the proposed Conrail Acquisition would isolate sections of Sandusky, Huron, and Vermilion, thereby affecting the County’s ability to provide emergency services to those areas. The Commissioners noted that the Final EIS must address response to public safety calls, as Erie County has a limited number of separated grade crossings. The Commissioners commented that these conditions increase the risk of delaying both emergency services and the delivery of necessary care to those in need of such services. Also, the Commissioners indicated that Oxford Township has no fire department and must depend on neighboring townships for fire protection. The Commissioners remarked that increasing train traffic by 11 trains per day would jeopardize fire protection in Oxford Township because highway/rail at-grade crossing delays are already significant.

The City of Sandusky, Ohio commented that train increases occurring after the proposed Conrail Acquisition could have a direct impact on emergency response to the entire west end of the City. The NS Bellevue-to-Sandusky Dock rail line segment crosses two major roadways, Tiffin Avenue (State Route 101) and Venice Road (U.S. Route 6). The City voiced a concern that increases of 11.7 trains per day resulting from the proposed Acquisition would cause the closing of each highway/rail at-grade crossing for 6.5 minutes, 11 times a day, or 1 hour and 11 minutes each day.

Oxford Township, Ohio raised a concern about additional trains on the NS east-west line from Vermilion-to-Bellevue, which cuts through the middle of the Township. According to the Township, additional trains would greatly impact its fire protection and emergency medical services. The Township does not have a fire department of its own and must rely on volunteer fire departments from the adjoining Townships of Milan and Groton. The southern part of Oxford Township has a water source for fire protection services, located in the Town of Kimball,

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but this arrangement is ineffective when highway/rail at-grade crossing delays occur. Huron Township, Ohio also identified Oxford Township as an area where crossing delays have the effect of nullifying fire protection. Huron Township posed the question, “Is the loss of human life, due to train crossings being blocked so that emergency vehicles cannot access a community, not a valid and reasonable request for further consideration and alternate plans for such a merger?”

The City, the Township, and several residents of Vermilion, Ohio commented that they were concerned that increased train traffic would cut off many residents from receiving adequate emergency response. The City stated that there are no grade separations in the southwest section of the City, causing it to be isolated from the area of the community where emergency services are located. Vermilion Township Board of Trustees commented that increased rail activity in the City and Township would have an “enormous impact on crossings being blocked to emergency vehicles....” A resident of the City also noted that the tracks cross each north-to-south street, effectively cutting Vermilion in half, with the emergency vehicles located north of the tracks. Another resident pointed out that the only alternative routes are Vermilion Road and Baumhart Road, each necessitating at least a 15-minute detour.

A citizen from Vermilion, Ohio commented that emergency response time in his community would increase following the proposed Conrail Acquisition. He stated that the NS tracks do not have grade separations in Vermilion and that switching, slow, or stopped trains frequently block the highway/rail at-grade crossings. The citizen remarked that bypassing these blockages would take 15 minutes or longer. He stated that additional rail traffic resulting from the proposed Conrail Acquisition would exacerbate the problem.

Response. In the Sandusky, Ohio area, the NS Bellevue-to-Sandusky Dock rail line segment (N-085) met or exceeded SEA’s thresholds for environmental analysis for emergency response. SEA determined that the blocked-crossing time caused by a train on this rail line segment would increase from 4.2 minutes to 4.3 minutes as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be approximately 2.2 minutes. The average number of trains on the NS rail line segment would increase from 1.4 to 12.9 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 5.9 minutes to 55.3 minutes per day.

A hospital and a police station are located north of the Bellevue-to-Sandusky Docks rail line segment, and fire stations are located on both sides. Tiffin Road (State Route 101) and Venice Road (U.S. Route 6) have highway/rail at-grade crossings.

The additional Acquisition-related trains would operate only on the portion of the rail line segment south of the NS Sandusky Yard. The Acquisition-related trains would not affect emergency vehicle delay along the portion of the rail line segment that is located north of the yard. Therefore, SEA determined that no mitigation is warranted.

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In Huron, SEA determined that no rail line segment met SEA's thresholds for environmental analysis.

In Oxford Township, Ohio, the NS Bellevue-to-Vermilion rail line segment (N-072) met or exceeded SEA's thresholds for environmental analysis. SEA determined that east of Kimball, the blocked-crossing time caused by a train on this rail line segment, currently 1.6 minutes, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be less than 1 minute. The average number of trains on this rail line segment would increase 15.6 to 27.0 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 25.1 to 44.2 minutes per day.

West of Kimball, trains would operate at slower speeds near the Bellevue Yard. SEA determined that the blocked-crossing time caused by a train would increase from 1.7 minutes to 1.8 minutes as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be less than 1 minute. The increase in the average number of trains on this rail line segment would cause the total blocked-crossing time to increase from 27.0 to 47.6 minutes per day as a result of the proposed Conrail Acquisition.

Oxford Township does not have its own emergency service providers. It relies on surrounding area fire and police services. Oxford Township has five highway/rail at-grade crossings. Because the time that a train would cause a highway/rail at-grade crossing to be blocked would be short, and because the volume of emergency calls in the area is historically low, SEA has determined that no mitigation is warranted.

In Vermilion, Ohio, two rail line segments, the NS Vermilion-to-Cleveland rail line segment (N-080) and the NS Bellevue-to-Vermilion rail line segment (N-072), met or exceeded SEA's thresholds for environmental analysis for emergency response. On the NS Vermilion-to-Cleveland rail line segment, SEA determined that the blocked-crossing time caused by a train, currently 2.1 minutes, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be slightly more than 1 minute. The average number of trains on this rail line segment would increase from 13.5 to 34.1 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 28.1 minutes to 72.4 minutes per day.

SEA determined that the Cloggsville Alternative, which the Draft EIS discussed, would reduce the average number of trains through Vermilion on the Vermilion-to-Cleveland rail line segment to 16.4 trains per day. This estimated increase is below SEA's threshold for environmental analysis.

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On the NS Bellevue-to-Vermilion rail line segment, SEA determined that the blocked-crossing time caused by a train on this rail line segment, currently 1.6 minutes, would not change as a result of the proposed Conrail Acquisition. When delays affect emergency vehicles, the average delay would be half this blocked-crossing time, which would be less than 1 minute. The average number of trains on this rail line segment would increase from 15.6 to 27.0 trains per day as a result of the proposed Conrail Acquisition, which would increase the total blocked-crossing time from 25.1 to 44.2 minutes per day. SEA determined that the Cloggsville Alternative would not affect this rail line segment.

The base alternative would include the construction of a new connection between the Vermilion-to-Sandusky and the Vermilion-to-Cleveland rail line segments near Coen Road west of Vermilion. The Cloggsville Alternative would include the construction of a second connection between the Bellevue-to-Vermilion and the Vermilion-to-Berea rail line segments in the same vicinity. SEA determined that the blocked-crossing time caused by a train on either of the connections would be 2.8 minutes in both the base alternative and the Cloggsville Alternative. In the base alternative, an average of 26 trains per day would block the Coen Road highway/rail at-grade crossing for 72.8 minutes per day. In the Cloggsville Alternative, an average of 39.5 trains per day would block the Coen Road highway/rail at-grade crossing for 110.6 minutes per day.

In Vermilion, the main fire station is located north of the Cleveland-to-Vermilion tracks, and a volunteer fire station is located south of the tracks. Ambulance service is based north of the Vermilion-to-Berea tracks, and also in a neighboring community southeast of Vermilion. The emergency service area extends to the south and west well beyond the Vermilion city limits. The Vermilion area has eight separated grade crossings. Only one is in the eastern portion of the community. According to local officials, fire trucks travel across tracks only about twice a week. Local officials indicated that the fire personnel do not know that a highway/rail at-grade crossing is blocked until they arrive at it. SEA concludes that emergency service to the southwest part of Vermilion would be affected by the increased train traffic on both rail line segments.

SEA recommends mitigation to improve the ability of emergency vehicles to avoid blocked crossings in Vermilion. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS for a discussion of SEA's recommended mitigation. The discussion in Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," Section G.2.1, "Emergency Response Vehicle Delay," of this Final EIS addresses SEA's analysis pertaining specifically to emergency response vehicle delay at highway/rail at-grade crossings.

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Northwestern Ohio—Transportation: Roadway Systems

Summary of Comments. Congressman Paul E. Gillmor, representing the 5th District of Ohio, expressed concern that the “redeployment of trains caused by the acquisition may...force farm machinery onto major highways....” He urged the Board to approve the proposed Conrail Acquisition only if it redresses the negative impacts.

Response. SEA has determined that delay at private highway/rail at-grade crossings is too small to be a potentially significant environmental impact.

SEA expects added delay resulting from the proposed Conrail Acquisition to farm machinery at private highway/rail at-grade crossings to be so small that operators would be unlikely to divert to major roads. At public highway/rail at-grade crossings in Ohio, the maximum delay per stopped vehicle that would occur after the proposed Conrail Acquisition would be less than 3 minutes, of which less than 10 seconds would result from the Acquisition-related increase in train traffic. Diverting to major roads would add far more time to farm machine trips, especially at the low speeds at which they operate. Therefore, the volume of farm machinery traffic that would divert to major roads from a private highway/rail at-grade crossing to avoid the increase in delay would be minimal.

Summary of Comments. The City of Sandusky and Erie County, Ohio expressed concern over the proposed intermodal facility NS would locate in Sandusky. The City noted that NS did not contact City officials regarding this decision, and that the City is unaware of the impact of the proposed Conrail Acquisition. The City requested that NS keep it informed of any planned activities, and that the Board answer its questions before evaluating any impacts.

The County also requested additional information regarding the proposed facility. The County stated, “It is noted that the truck traffic is projected to increase by 65 trucks/day and this increase would need to [be] addressed and the impact determined.”

Response. SEA understands that NS proposes to build a new Triple Crown Service intermodal facility at the northwest side of the existing NS rail yard approximately 2 miles southwest of downtown Sandusky. The proposed facility would handle 71 trucks per day as a result of the proposed Conrail Acquisition. See Chapter 4, “Summary of Environmental Review,” Section 4.8.2, “Public Comments and Additional Evaluations,” and Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS for a description of the analysis. The analysis showed that the total daily increase in truck traffic would be less than 7 percent of the ADT for all roadways that trucks would use in the vicinity of the facility. SEA concluded that the increase in truck traffic would have no significant environmental impact on the area roadways.

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Summary of Comments. The Toledo Metropolitan Area Council of Governments of Ohio requested that the Board require, as a condition of approval of the proposed Conrail Acquisition, SEA's recommendation to raise a roadway between two proposed crossings in the area (Oak Harbor and Vermilion). The Council of Governments stated that doing so would reduce the "roller-coaster effect" of the change in grades.

NS provided updated information for SEA to use in this Final EIS. NS cited the Draft EIS as recommending that NS raise the highway/rail at-grade crossing at Toussaint-Portage Road in Oak Harbor, Ohio to create a level highway/rail at-grade crossing. NS stated that the Draft EIS recommended that NS fully fund the cost of this project. NS explained that, under the new plan, it would make some changes to the track profile to eliminate the need for raising the Toussaint-Portage Road.

Response. At the time that SEA prepared the Draft EIS, NS planned a new highway/rail crossing on Coen Road at the Vermilion connection. In the Draft EIS, SEA's preliminary recommendation was for the Board to require NS to raise the Coen Road elevation between the existing NS crossing and the new crossing to minimize the "roller coaster" effect of the grade variation.

As the Draft EIS discussed, NS has proposed construction of a new rail alignment that would use the existing crossing at Coen Road and thereby maintain the existing trackage and railroad elevation at Coen Road. Although this would eliminate the proposed new crossing at Coen Road, the divergent angles of the new alignment could create potential safety impacts related to sight distances at the highway/rail at-grade crossing. See the Cloggsville Alternative in Appendix N, "Community Evaluations," of this Final EIS for a description of this new rail alignment.

If NS does not implement the Cloggsville Alternative, SEA recommends that the Board require NS to raise the elevation of Coen Road between the existing NS crossing and the proposed new crossing. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS. Also see the Addendum to this Final EIS.

NS has also revised its plans for the Oak Harbor connection. The connection would be approximately 4,835 feet long. The proposed connection would cross Toussaint-Portage Road approximately 1,200 feet north of the existing Conrail highway/rail at-grade crossing and approximately 950 feet south of the existing NS highway/rail at-grade crossing. The proposed vertical rail alignment would be lower than NS previously proposed, and would require that NS raise Toussaint-Portage Road approximately 12 inches higher than the existing surface at the highway/rail at-grade crossing instead of the previously indicated 10 feet. NS has indicated that it would create a smooth transition in the roadway profile by constructing approximately 100-foot-long runoff approaches on each side of the new highway/rail at-grade crossing. For SEA's

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recommendations, see Chapter 7, “Recommended Environmental Conditions,” of this Final EIS.

Northwestern Ohio—Transportation: Other

Summary of Comments. The City of Sandusky, Ohio Department of Engineering Services requested that SEA clarify a statement in the Draft EIS which predicted that an additional 10.3 trains per day would use the rail line segment between Bellevue and Sandusky Docks, Ohio. The Department asked whether the trains would use the east-west connection and the current Conrail east-west main line, or would dead-end at the dock.

Response. SEA has determined that, for rail line segment N-085 between Bellevue and Sandusky Dock, the current 1.4 trains per day would increase by 11.5 trains per day to 12.9 trains per day. This increased train traffic would primarily consist of coal train traffic bound for the Sandusky transloading facility north of the existing NS/Conrail railroad crossing. Some additional train traffic would also use the existing NS/Conrail connection in the southeast corner of the railroad crossing. Therefore, all additional trains would traverse that portion of rail line segment N-085 between the north end of the Sandusky Yard and the NS/Conrail railroad crossing. See Appendix T, “Final Environmental Impact Statement Rail Line Segments,” of this Final EIS for the master table of all rail line segments.

Summary of Comments. The Huron Township Board of Trustees of Ohio voiced concern regarding maintenance of the highway/rail at-grade crossings in Huron Township. Several highway/rail at-grade crossings, including Camp Road, Rye Beach Road, and a crossing in the City of Huron are in “poor and inexcusable condition.” According to the Trustees, local citizens complain about these highway/rail at-grade crossings on a regular basis. The Trustees indicated that, “if maintenance and improvement of these areas were a trade-off for the increased speed and usage, perhaps the public would be more accommodating of such an acquisition.”

Response. In response to this comment, SEA visited Huron Township. SEA acknowledges the Trustees’ concern but explains that the problem the commentator cited is a pre-existing problem, not a result of the proposed Conrail Acquisition. It is the Board’s policy not to require mitigation of pre-existing conditions.

Summary of Comments. The Seneca County Board of Commissioners of Ohio stated that it was common in the past for CSX to close a highway/rail at-grade crossing for repairs without seeking the needed permits. The Commissioners stated that the crossing may be closed for 3 to 8 weeks, with no workers at the site for weeks. The Commissioners asked if there was “any way to mitigate better response to the local agencies as well as minimizing the closure time of the crossing.”

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Response. Because the Board does not regulate day-to-day railroad operations, including temporary closures for highway/rail at-grade crossing repairs, it cannot impose operating conditions as part of the proposed Conrail Acquisition. Only local governments can enforce such regulations and permitting processes.

Summary of Comments. A Cincinnati resident who owns a farm near the Willard Yard stated that, if CSX constructs the additional fueling track west of Daniels Road (the Willard Fueling Facility), he would lose access to part of his farm. He stated that he currently has a farm crossing access and asked whether the railroad would provide him with a farm crossing access to the rear portion of his farm.

Response. SEA points out that, subsequent to the Draft EIS, CSX has withdrawn its plans to construct the Willard Fueling Facility to which the farm owner referred. CSX does continue to propose other construction at the Willard Yard, but none is planned west of Daniels Road.

Summary of Comments. The County Engineer of Erie County commented that the Final EIS should reconsider possible major reconstruction at the Perkins Avenue-Cleveland Road highway/rail at-grade crossing of the Conrail tracks just east of the City of Sandusky. The County Engineer noted that the Draft EIS did not address this issue. Further, the County Engineer stated that roadway vertical alignment at several highway/rail at-grade crossings would require upgrades because of the increased rail traffic resulting from the proposed Conrail Acquisition. The County Engineer identified these roadways as Coen Road, Barnes Road, and Smokey Road.

The Erie County Commissioners stated that the Draft EIS “determined that the Coen Road crossing would be significantly affected and it is SEA’s preliminary recommendation that NS consider the following mitigation strategy to alleviate the vertical alignment of Coen Road. Raise the elevation of Coen Road between the NS crossing and the new crossing to minimize the ‘roller coaster’ effect of the grade variation.” The Commissioners stated that Table 5-2 of the Draft EIS, “Summary of Impacts Warranting Mitigation By State,” indicated that NS shall raise the elevation for Coen Road. The Commissioners requested that the Board change the word “consider” on page OH-41 of the Draft EIS to “shall” as in Table 5-2.

Response. The Draft EIS evaluated the potential impacts of the proposed Conrail Acquisition. The Draft EIS did not address the Perkins Avenue-Cleveland Road overpass because any deficiency at that location is a pre-existing problem, not a potential result of the proposed Conrail Acquisition. It is the Board’s policy not to require mitigation of pre-existing conditions.

The vertical alignments of Coen, Barnes, and Smokey Roads are also pre-existing conditions. Improvement of vertical alignments would be warranted as part of the proposed Conrail Acquisition if the improvements were necessary to mitigate the impacts

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of an Acquisition-related increase in train traffic. The analysis in the Draft EIS found that the impacts of the Acquisition-related increase in train traffic at the three highway/rail at-grade crossings would not be significant; therefore, SEA did not recommend mitigation.

At the time that SEA prepared the Draft EIS, NS planned a new highway/rail crossing on Coen Road at the Vermilion connection. In the Draft EIS, SEA's preliminary recommendation was for the Board to require NS to raise the Coen Road elevation between the existing NS crossing and the new crossing to minimize the "roller coaster" effect of the grade variation.

As the Draft EIS discussed, NS has proposed construction of a new rail alignment that would use the existing crossing at Coen Road and thereby maintain the existing trackage and railroad elevation at Coen Road. Although this would eliminate the proposed new crossing at Coen Road, the divergent angles of the new alignment could create potential safety impacts related to sight distances at the highway/rail at-grade crossing. See the Cloggsville Alternative in Appendix N, "Community Evaluations," of this Final EIS for a description of this new rail alignment.

If NS does not implement the Cloggsville Alternative, SEA recommends that the Board require NS to raise the elevation of Coen Road between the existing NS crossing and the proposed new crossing. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS. Also see the Addendum to this Final EIS.

Summary of Comments. NS provided updated information for SEA to use in the Final EIS. NS noted that the Draft EIS indicated that NS would construct a new highway/rail at-grade crossing at Coen Road in Vermilion, Ohio. However, NS has revised the proposed Vermilion project since SEA evaluated the site. NS stated that the new rail alignment would reuse the existing highway/rail at-grade crossing in lieu of constructing a new highway/rail at-grade crossing at Coen Road. NS indicated that the new plan would require no adjustment to the profile of Coen Road.

Response. At the time that SEA prepared the Draft EIS, NS planned a new highway/rail crossing on Coen Road at the Vermilion connection. In the Draft EIS, SEA's preliminary recommendation was for the Board to require NS to raise the Coen Road elevation between the existing NS crossing and the new crossing to minimize the "roller coaster" effect of the grade variation.

As the Draft EIS discussed, NS has proposed construction of a new rail alignment that would use the existing crossing at Coen Road and thereby maintain the existing trackage and railroad elevation at Coen Road. Although this would eliminate the proposed new crossing at Coen Road, the divergent angles of the new alignment could create potential safety impacts related to sight distances at the highway/rail at-grade crossing. See the

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Cloggsville Alternative in Appendix N, “Community Evaluations,” of this Final EIS for a description of this new rail alignment.

If NS does not implement the Cloggsville Alternative, SEA recommends that the Board require NS to raise the elevation of Coen Road between the existing NS crossing and the proposed new crossing. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS. Also see the Addendum to this Final EIS.

Summary of Comments. The Huron City Council of Ohio stated by resolution that it would not support the proposed Conrail Acquisition unless it receives written assurance that the Applicants would maintain the highway/rail at-grade crossings within the City limits. The Council requested specific maintenance attention for the highway/rail at-grade crossings at Rye Beach Road, Main Street, River Road, and Berlin Road.

Response. SEA visited Huron Township, and acknowledges the Council’s concern. The Board does not regulate day-to-day railroad operations and maintenance activities, and current conditions are pre-existing problems, not a result of the proposed Conrail Acquisition. Any possible deterioration of track would be the responsibility of CSX and NS as part of their maintenance programs. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS.

Northwestern Ohio—Air Quality

Summary of Comments. Congressman Paul E. Gillmor of the 5th District of Ohio commented that the redeployment of trains after the proposed Conrail Acquisition may decrease air quality for his constituents.

Response. SEA is aware that Ohio’s 5th Congressional District is composed of primarily rural counties in northwestern Ohio. Most of these counties have very low existing emissions of NO_x. Consequently, because these rural counties would receive additional rail traffic associated with the proposed Conrail Acquisition, they would tend to show relatively large percentage increases in total NO_x. The projected total NO_x emissions in these counties would still be quite small, however, compared with the NO_x emissions in counties that have previously experienced ozone attainment problems. Therefore, SEA does not expect that the proposed Conrail Acquisition would have any noticeable effects on air quality in these rural counties. In addition, the cumulative effects of proposed activities associated with the proposed Conrail Acquisition, together with EPA’s final rule establishing emissions standards for new and rebuilt locomotive engines (see Appendix O, “EPA Rules on Locomotive Emissions,” of this Final EIS), would result in net NO_x emissions decreases within a few years (see Appendix I, “Air Quality Analysis,” of this Final EIS).

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As explained in the Draft EIS, the Ozone Transport Assessment Group recently demonstrated that NO_x impacts on ozone levels are primarily a regional (multi-state) concern, rather than a local issue that could be solved by reducing local emissions. The expected NO_x reductions projected on a multi-state and system-wide level associated with the proposed Conrail Acquisition actually would have a slightly positive effect on reducing ozone formation.

Summary of Comments. Seneca County, Ohio questioned the potential air quality impacts caused by stopped (idling) trains and by the blockage of cars at highway/rail at-grade crossings in Seneca County.

Response. SEA notes that, to the extent that stopped trains currently block motor vehicle traffic at highway/rail at-grade crossings, these are pre-existing conditions and are therefore not a result of the proposed Conrail Acquisition. It is the Board's policy not to require mitigation of pre-existing conditions. However, SEA performed a screening air quality analysis of air pollutant emissions from motor vehicles delayed at highway/rail at-grade crossings, as well as idling locomotives, using conservative assumptions as Appendix I, "Air Quality Analysis," and Appendix O, "EPA Rules on Locomotive Emissions," of this Final EIS describe. The analysis demonstrated that air pollutant emissions from motor vehicles delayed at highway/rail at-grade crossings and idling locomotives would not cause air pollutant concentrations to exceed the health-based NAAQS in Seneca County.

Northwestern Ohio—Noise

Summary of Comments. The Toledo Metropolitan Council of Governments of Ohio requested that CSX and NS implement "noise control measures" on three rail line segments that SEA analyzed in Toledo—the Toledo-to-Deshler rail line segment (C-065), Oak Harbor-to-Bellevue rail line segment (N-079), and the Carleton-to-Ecorse, Michigan rail line segment (S-020). The Council requested noise mitigation from Carleton to Toledo. The Village of Oak Harbor requested that the Final EIS address noise mitigation.

NS commented that the Draft EIS identified rail line segment N-079 as having potential noise impacts that may warrant mitigation. However, NS added, the Draft EIS "does not provide specifics on which receptors are potentially significantly impacted by increased noise levels related to the transaction."

Response. SEA conducted site-specific noise and mitigation analyses on rail line segments that would exceed analysis criteria. SEA's results demonstrate that rail line segments C-065, N-079, and S-020 would be eligible for noise mitigation. This Final EIS discusses the results of the mitigation analyses SEA performed for these segments. See Chapter 4, "Summary of Environmental Review"; Chapter 7, "Recommended

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Environmental Conditions”; and Appendix J, “Noise Analysis,” of this Final EIS for further information.

Summary of Comments. Congressman Paul E. Gillmor, representing the 5th District of Ohio, expressed concern about increased noise from train deployments in this district.

Response. Several rail line segments that would be affected by the proposed Conrail Acquisition travel through the 5th Congressional District of Ohio. These rail line segments include: C-061, C-062, C-065, C-066, C-067, C-068, C-070, C-075, C-206, C-228, C-695, N-072, N-077, N-079, N-080, N-085, and N-086.

As the Draft EIS and Chapter 4, “Summary of Environmental Review,” and Appendix J, “Noise Analysis,” of this Final EIS describe, SEA conducted site-specific noise analyses and mitigation analyses on rail line segments it predicted would exceed the Board’s thresholds for noise analysis. A rail line segment must have receptors that meet the mitigation criteria of an L_{dn} of 70 dBA and a 5 dBA L_{dn} increase from engine and wheel/rail noise as a result of the proposed Conrail Acquisition. Sites that do not meet these criteria are not eligible for mitigation. Of the many rail line segments in the 5th Congressional District of Ohio, rail line segments C-061, C-065, and N-079 are eligible for mitigation. See the discussion in Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for a more detailed evaluation of the mitigation measures that SEA proposes for these rail line segments.

Summary of Comments. The Seneca County Commissioners expressed concern about the failure rate of loudspeaker horn technology at highway/rail at-grade crossings.

Response. Under the Swift Rail Act of 1994, Congress directed FRA to issue rules and specifications regarding the use of train horns at all public highway/rail at-grade crossings. FRA has tentatively scheduled these rules, including preliminary rules and specifications, for release during 1998. These rules would preempt local ordinances that ban train horns and whistles except where other demonstrable measures provide the same level of safety. Quiet Zones or future whistle bans might occur where FRA found that the alternate safety measures were equal to the existing practice of train horns at highway/rail at-grade crossings. FRA is studying safety measures, such as the placement of four-quadrant gates and automated horn systems, as alternatives to train horns. SEA cannot address details regarding the use of Quiet Zones and alternatives to train horns as part of noise impact mitigation until the FRA rules are released. The Board’s final decision is likely to occur prior to the release of the final FRA regulations.

Northwestern Ohio—Cultural and Historic Resources

Summary of Comments. The Ohio State Historic Preservation Office, through ongoing project coordination, “doesn’t object to the proposed construction of the Crestline connector” and

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concurs with a determination of “no effect” on the Crest Tower, a property eligible for inclusion in the NRHP.

Response. SEA acknowledges this comment.

Summary of Comments. The Bucyrus Historical Society of Ohio provided the following information: “The Bucyrus Historical Society now owns the building known as the Toledo and Ohio Central Railroad Passenger Station, located on East Rensselaer Street in Bucyrus, Ohio. Norfolk Southern has also pledged to deed us a 110 ft. by 230 ft. parcel, appr. (0).58 acre, on which the building stands. This parcel will not interfere with the N/S plan for a spur line in the area.”

Response. SEA acknowledges this comment.

Northwestern Ohio—Natural Resources

Summary of Comments. The Seneca County Regional Planning Commission requested bringing the concrete river wall up to current design standards “through the Army Corps of Engineers” to protect the rail line from 500- to 1,000-year flood events.

Response. This issue is not related to the proposed Conrail Acquisition.

Summary of Comments. The Erie County, Ohio Department of Engineering provided a list that indicated minimum required upgrades at intersections and other locations, including culvert and ditch work at Coen Road in Vermilion, Ohio.

Response. SEA has determined that this comment relates to pre-existing conditions and is not a result of the proposed Conrail Acquisition. NS’s proposed construction at Vermilion affects the existing crossing at Coen Road. However, SEA does not anticipate a change in drainage as a result of the proposed construction.

Northwestern Ohio—Land Use and Socioeconomics

Summary of Comments. The Seneca County Engineer commented, “The ‘extensive’ capital improvements proposed for Fostoria, need to be extended to the surrounding Townships.”

Response. In accordance with the Board’s environmental regulations and the scope of the EIS, SEA limited its land use and socioeconomic analysis to considering the consistency of proposed rail line construction and abandonment activities with existing land use plans, and evaluating potential business loss directly related to proposed constructions and abandonments. In nearly all cases, local jurisdictions determined that the rail line construction and abandonment activities of the proposed Conrail Acquisition were consistent with local land use plans. SEA did not analyze municipal Capital

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Improvements Programs, but rather consistency with land use plans. SEA's analysis of other technical environmental areas considered operational changes that are part of the proposed Conrail Acquisition, and resulted in recommendations for capital improvements and other mitigation activities.

Summary of Comments. The City of Sandusky Commissioners commented that their City has been designated as an "Impacted City" reflecting distress factors related to socioeconomic conditions. The Commissioners indicated that "any use of city funds to address the impacts of the proposed rail acquisition would have the effect of reducing funds available to meet recognized local needs"

Response. In accordance with the Board's environmental regulations and the scope of the EIS, SEA limited its land use and socioeconomic analysis to consideration of consistency with local land use plans and potential business loss directly related to proposed constructions and abandonments. SEA determined that no business losses would result from constructions or abandonments.

This Final EIS recommends mitigation measures for potential significant impacts resulting from the proposed Conrail Acquisition. The Applicants, not the taxpayers, would be financially responsible for these requirements and are responsible for all costs associated with the preparation of the EIS. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Northwestern Ohio—Environmental Justice

Summary of Comments. The Seneca Regional Planning Commission stated that rail line segment C-075 in Tiffin and Fostoria, Ohio warranted environmental justice mitigation, as discussed in Chapter 7, "SEA's Preliminary Recommended Environmental Mitigation," of the Draft EIS. The Commission expressed concern about flooding, train delays, hazardous materials transport, and emergency response.

Response. Rail line segment C-075 did not meet the first criterion (population criteria) for environmental justice for the Draft EIS, so SEA did not carry it forward for further analysis at that time. For the more specific analysis for the Final EIS, block groups along C-075 in Fostoria and Tiffin did meet the population criterion and did have multiple-resource effects that are high and adverse. Based on the model developed for analyzing disproportionality, however, the block groups in Fostoria did not meet SEA's disproportionality criteria. See Appendix M, "Environmental Justice Analysis," of this Final EIS.

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Northwestern Ohio—Cumulative Effects

Summary of Comments. The Mayor and other officials of the City of Fostoria, Ohio commented that “neither the individual nor the cumulative impacts of the increased rail traffic are considered on a community wide basis for safety and grade crossing delays,” even though SEA identified rail line segments C-070 and C-075 as meeting the threshold for environmental analysis. Similarly, the County Engineer of Seneca County, Ohio suggested that SEA, in addition to analyzing each rail line separately, should take into account the potential “major adverse compounding effect” of increasing the use of rail line segments C-070, C-075, and N-071 in Seneca County.

Response. SEA considered agency and public comments to develop the scope of the EIS. The scope included an analysis of the potential environmental impacts on specific resource categories and cumulative effects on a regional or system-wide basis for the resource categories of air quality, energy, and transportation. Also, SEA evaluated cumulative effects on specific resource categories associated with other projects or activities that related to the proposed Conrail Acquisition, where local communities; local, regional, state, or Federal officials; or other interested parties provided information to SEA. However, in accordance with the scope of the EIS, SEA did not consider aggregated multiple resource effects in its cumulative effects analysis on a system-wide, regional, or local basis. Multiple resource effects are best addressed by the analysis and recommended mitigation, if appropriate, of individual resource categories.

Northwestern Ohio—General

Summary of Comments. The City of Sandusky Department of Engineering Services stated: “Page OH-9 of Chapter 5 Volume 3B indicates that NS notified SEA that its intermodal facility would be moved to Sandusky, Ohio. There has been no contact to the City from NS regarding this issue and the City has no idea of what is being planned or the impact of this action.”

Response. NS had originally planned to move the existing Triple Crown Service intermodal facility at Crestline to Bellevue. In October 1997, NS notified SEA that it would move this intermodal facility to Sandusky rather than to Bellevue. SEA could not complete the environmental analysis of the Sandusky site in time for inclusion in the Draft EIS. The Draft EIS stated that the Final EIS would include an environmental analysis of the Sandusky site. Appendix H, “Transportation: Roadway Systems Analysis,” of this Final EIS contains the roadway system analysis for the proposed Sandusky Triple Crown Service site.

Summary of Comments. Members of the Huron City Council passed a resolution expressing concerns relating to “many environmental issues in Erie County, Ohio that have not been resolved regarding the CSX/NS proposed railroad merger” The Council stated that it “will

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not support the merger of CSX/NS unless all environmental issues and concerns in Erie County, Ohio have been addressed and resolved.”

Response. The Board will consider all environmental issues and concerns related to Erie County in its decision on the proposed Conrail Acquisition.

SEA has issued this Final EIS only after considering all the comments on the Draft EIS, conducting further independent environmental analysis, and consulting with appropriate agencies and communities. This Final EIS addresses the comments on the Draft EIS and includes SEA’s final recommendations, including appropriate environmental mitigation (see Chapter 7, “Recommended Environmental Conditions”). This Final EIS and SEA’s final environmental recommendations serve as the basis for the Board’s disposition of environmental issues, including the imposition of appropriate environmental conditions. It has been the Board’s policy that it does not mitigate pre-existing problems—only potential significant environmental impacts that would arise from changes as a result of the proposed Conrail Acquisition warrant mitigation.

Southwestern Ohio—Safety: Hazardous Materials Transport

Summary of Comments. The City of Dayton, Ohio expressed concerns about increased potential for hazardous materials spills in Well Field Protection Areas following the proposed Conrail Acquisition because of increased hazardous materials transport. The City recommended that SEA require specific training for CSX and NS employees on mitigating potential contaminant impacts in sensitive groundwater areas.

Response. Appendix L, “Natural Resources Analysis,” of this Final EIS provides information on the potential hazardous materials transport impacts on natural resources, including groundwater. SEA notes four rail line segments in the well field protection areas the City identified in the comment:

- C-224, between Hamilton, Ohio and Dayton, Ohio.
- C-225, between Dayton, Ohio and Sidney, Ohio.
- N-078, between Dayton, Ohio and Ivorydale, Ohio.
- N-291, between Alton, Ohio and Dayton, Ohio.

SEA understands that following the proposed Conrail Acquisition, these rail line segments would experience less than an 8 percent total increase in hazardous materials shipments, which is within the normal annual variability. Because the projected increase in hazardous materials transport for each individual rail line segment is lower than SEA’s criteria of significance, SEA does not recommend that the Board require additional mitigation measures for these rail line segments. Two of these segments, C-224 and C-225, already are key routes, which means that CSX already provides annual training in hazardous materials handling and equipment inspection for their employees.

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Southwestern Ohio—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. CSX commented that only three additional trains per day would use the Vine Street highway/rail at-grade crossing in Hamilton and the Township Avenue highway/rail at-grade crossing in Cincinnati, Ohio as a result of the proposed Conrail Acquisition. CSX stated that it was appropriate to undertake consultation on these highway/rail at-grade crossings, but suggested that State agencies might find it prudent to take a “wait and see” approach toward mitigation considering the small increase in train traffic. CSX added that the Board should not intervene, and appropriate mitigation should be the responsibility of State and local agencies.

Response. SEA analyzed the Vine Street highway/rail at-grade crossing in Hamilton and the Township Avenue highway/rail at-grade crossing in Cincinnati for changes in traffic delay resulting from the proposed Conrail Acquisition. The number of trains on the Cincinnati-to-Hamilton rail line segment C-063 would increase by 3.0 trains per day, from 28.2 trains before the proposed Acquisition to 31.2 trains after the Acquisition. The LOS at the Vine Street crossing (FRA ID 152407K) would change from LOS C to LOS D, and the crossing delay per stopped vehicle would increase from 2.47 minutes per vehicle to 2.54 minutes per vehicle. The LOS at the Township Avenue crossing (FRA ID 152355V) would change from LOS C to LOS D, and the crossing delay per stopped vehicle would increase from 2.70 minutes per vehicle to 2.78 minutes per vehicle. The increase in vehicle delay at these highway/rail at-grade crossings would meet SEA’s criteria for a significant impact.

While the increase in the number of trains is relatively small at these crossings, low train speeds contribute to delay. SEA’s analysis for this Final EIS delay for both highway/rail at-grade crossings indicates that increasing the typical train speeds by 5 mph to 25 mph would mitigate the significant delay at these crossings resulting from Acquisition-related increases in train traffic. SEA recommends that the Board require CSX to improve its operating efficiency at both locations in order to achieve the higher speed and implement necessary safety enhancement to permit these higher speeds. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS.

Summary of Comments. The Ohio-Kentucky-Indiana Council of Governments pointed out that the highway/rail at-grade crossing that the Draft EIS listed for Winton Road in Hamilton County no longer exists. The Council of Governments stated that this highway/rail at-grade crossing was for a former industrial spur. The Council of Governments also indicated that the main line CSX track that is parallel to this abandoned spur line is the rail line to which the Draft EIS referred, but the main line track does not cross Winton Road or Mitchell Avenue.

Response. SEA concurs and has eliminated this highway/rail at-grade crossing from this Final EIS.

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Other Ohio—Transportation: Roadway Systems

Summary of Comments. The Trustees of Berlin Township, Ohio expressed the concern that the proposed Conrail Acquisition would have many potential negative effects on the community. The Trustees stated that the proposed closure of Smokey Road and Jeffries Road in Berlin Township would increase travel times and transportation costs for local school students, and would increase fire and ambulance response times.

Response. In the Draft EIS, SEA did not recommend the closing of either of the roads mentioned, nor did the Applicants propose closing these roads. Because Smokey and Jeffries Roads carry fewer than 5,000 vehicles per day, SEA did not analyze them for highway delay. Where SEA's analysis of the rail line segments in Erie County indicates levels of potential environmental impact resulting from the proposed Conrail Acquisition that are above its criteria of significance, SEA has recommended appropriate mitigation. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS.

Other Ohio—Energy

Summary of Comments. A citizen of Ohio raised a concern that if freight rail traffic reduces passenger traffic, displaced commuters would return to the highways, increasing energy consumption and worsening highway congestion.

Response. SEA analyzed the potential impacts of the proposed Conrail Acquisition on passenger rail services, including commuter rail. SEA determined that sufficient capacity exists on rail line segments used by passenger and commuter rail services to accommodate the increases in freight rail traffic as the Applicants proposed. As such, SEA does not anticipate a reduction of passenger rail traffic that would result in increased energy consumption on highways.

Other Ohio—Noise

Summary of Comments. CSX stated, "In the errata to the D[raft] EIS, SEA directed CSX to consult with respect to mitigation of noise impacts in Marion, Ohio." CSX also commented that there is no basis for noise mitigation in Marion, Ohio because the potential environmental impacts do not meet SEA's significance criteria for noise mitigation.

Response. Rail line segments C-070 and C-071 in Marion, Ohio did not meet noise mitigation criteria; therefore, SEA did not include these on the listing of rail line segments requiring preliminary noise mitigation in the Draft EIS. After publication of the Errata, SEA's noise analysis confirmed that these two rail line segments do not meet noise mitigation criteria. See Appendix J, "Noise Analysis," of this Final EIS.

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Pennsylvania—Safety: Hazardous Materials Transport

Summary of Comments. Lieutenant Governor Schweiker of Pennsylvania expressed his appreciation for a longstanding, productive relationship between Pennsylvania's local emergency planning committees and Conrail's local hazardous materials field staff. The Lieutenant Governor stated his understanding that NS does not currently have locally based hazardous materials staff and expressed his desire that NS continue to provide local hazardous materials staff on its Conrail lines following the proposed Conrail Acquisition. The Lieutenant Governor requested that the Board require such staff system-wide as a condition of the proposed Acquisition.

Response. NS's Safety Integration Plan, included in Volume 2 of the Draft EIS, indicates that NS would maintain hazardous materials officer positions in its Conrail divisions following the proposed Conrail Acquisition.

Pennsylvania—Safety: Passenger Rail Operations

Summary of Comments. SEPTA expressed a concern over CSX's proposed routing of local freight traffic to the Lansdale Cluster via SEPTA's Main Line. SEPTA pointed out that, although the Draft EIS does not say so, CSX and NS may intend to route local freight traffic to the Lansdale Cluster from either West Falls or Woodburne via Abrams Yard. "If CSX does not intend to use Abrams Yard, SEPTA asserts that the environmental and safety impacts of the alternative route through SEPTA's Main Line have not been addressed." SEPTA stated, "A thorough analysis of this issue would yield the conclusion that routing freight traffic through SEPTA's Main Line is unworkable."

"According to NS' Operating Plan," SEPTA continued, "NS proposes to grant CSX permanent overhead trackage rights to operate excess dimensional traffic (which it is assumed could mean double-stack freight trains, as well as multi-level and high-and-wide), including double-stack freight trains, over (1) the Norristown Connector (owned by SEPTA), (2) the track between CP-River (West Falls) and Abrams, Pennsylvania and (3) Conrail's Morrisville Line between CP-King and Woodburne (CP-Wood), Pennsylvania, plus run-around rights on a short portion of SEPTA's Norristown Line. See NS Operating Plan, Volume 3B at page 108. The Applicants provide no information as to the volume and frequency of freight traffic CSX plans to operate pursuant to this grant of permanent trackage rights or the environmental and safety impacts to the Norristown area. At page 4-37 of the D[raft] EIS, it is stated that the proposed transaction would have no adverse effect on SEPTA's passenger service on the Norristown, Pennsylvania Connector due to NS's proposed increase of only 2.6 freight trains per day in that area. The D[raft] EIS nowhere addresses NS's proposed grant of permanent trackage rights to CSX, the environmental impact of increased double-stack freight traffic in the Norristown area or the

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potential threat CSX's dimensional freight traffic poses to SEPTA's maintenance of safe and reliable passenger service on its existing Route R6 Norristown Line."

Response. SEA concluded that CSX's proposed routing of Lansdale Cluster traffic via Greenwich Yard, using the SEPTA Main Line between Newtown Junction and Lansdale, does not pose a public safety threat. SEA notes that freight traffic to and from Lansdale used the main line until 1993, when the Stoney Creek Branch was rehabilitated to permit the movement of excess dimensional traffic. SEA understands that, in CSX's opinion, there is little excess dimensional traffic moving to and from Lansdale and that CSX intends to work with NS to move that traffic onto the Stoney Creek Branch. CSX stated, in its letter of March 25, 1998 to SEA, that it plans to operate trains on the SEPTA Main Line between midnight and 4:15 a.m., when SEPTA does not schedule commuter service. SEA also notes that SEPTA dispatches the Main Line, and that both Conrail and SEPTA use Northeast Operating Rules Advisory Committee Operating Rules.

Regarding the movement of CSX excess dimensional traffic via Norristown, SEA notes that CSX's plans call for, at most, one additional automotive train on that route after completion of the Virginia Avenue Tunnel clearance project. SEA understands that CSX does not plan to use the backup moves that SEPTA describes in its comment to route trains between the Morrisville Line (rail line segment N-217) and the rail line segment between West Falls and Abrams (N-220). CSX states, in its letter of March 25, 1998, that it plans to route its trains around Abrams Yard. SEA also notes that SEPTA dispatches and maintains the entire rail line that it uses through Norristown, and that the CSX trains would occasionally operate on a short segment of the rail line. For these reasons, SEA has determined that CSX's plan does not pose any special risk to SEPTA's commuter service.

Pennsylvania—Hazardous Waste Sites

Summary of Comments. The Pennsylvania Department of Environmental Protection conducted studies at Conrail's facilities and found contamination. The Department requested that the Board require CSX and NS to incorporate investigations for contamination in all future construction projects at Conrail facilities where fueling, maintenance, or related operations have occurred. The Department stated that it looks forward to reviewing the analysis methods and mitigation strategies in the Final EIS.

Response. SEA notes that pre-existing conditions that are not a result of the proposed Conrail Acquisition are outside the Board's jurisdiction. SEA would assess the potential environmental impacts of any future construction projects when CSX and NS submit them to the Board for approval, if necessary. CSX and NS would be responsible for assessing and remediating, if necessary, any existing contamination. Existing Federal and state regulations address remediation of contaminated areas.

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Southeastern Pennsylvania—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The Tri-County Regional Planning Commission for the Harrisburg, Pennsylvania area commented that the Draft EIS did not mention speed limits and that several municipalities desire a reduction in speeds through the Commission's jurisdictions.

Response. SEA notes that three rail line segments run through the Tri-County area near Harrisburg, Pennsylvania but did not meet the Board's thresholds for environmental analysis. Therefore, SEA did not evaluate the potential safety effects on these rail line segments (see Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS). SEA notes that the communities may discuss this matter with CSX and NS to determine whether reducing train speeds is warranted.

Summary of Comments. The Tri-County Regional Planning Commission for the Harrisburg, Pennsylvania area requested consideration of a highway/rail at-grade crossing for additional safety measures beyond the current flashing light warning device. The Commission cited the Duke Street intersection in Hummelstown Borough, Pennsylvania as under the 5,000 ADT threshold for environmental analysis but noted that the area is growing because of recent subdivision approvals.

Response. SEA has determined that the Duke Street highway/rail at-grade crossing in Hummelstown Borough, Pennsylvania is not located on a rail line segment that would experience an increase of 8 or more trains per day as a result of the proposed Conrail Acquisition. As such, the Duke Street highway/rail at-grade crossing does not meet the Board's thresholds for environmental analysis. Therefore, SEA did not analyze this rail line segment or the Duke Street highway/rail at-grade crossing. SEA notes, however, that for all rail line segments that would exceed the Board's 8 train per day threshold, SEA analyzed safety risks at each highway/rail at-grade crossing regardless of ADT volumes.

Southeastern Pennsylvania—Safety: Hazardous Materials Transport

Summary of Comments. SEPTA commented that SEA proposed no mitigation measures for an increase of 15,000 cars per year containing hazardous materials on SEPTA's Route R8. According to SEPTA, this would be a 300 percent increase.

Response. After SEA completed the Draft EIS, it received revised information regarding hazardous materials transport on rail line segments C-766 between West Falls, Pennsylvania and CP-Newtown Junction, Pennsylvania and C-767, between CP-Newtown Junction and CP-Wood, Pennsylvania. Based on that information, SEA determined that following the proposed Conrail Acquisition, shipments of hazardous materials along these rail line segments would increase from 5,000 to 19,000 and 6,000

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to 19,000 carloads per year, respectively. Because these increases meet the SEA criteria of significance for key route mitigation, SEA recommends that the Board require CSX to implement key route mitigation measures as discussed in Chapter 7, “Recommended Environmental Conditions,” of this Final EIS. SEA noted that SEPTA routes R-3 and R-8 operate on portions of rail line segment C-767.

Southeastern Pennsylvania—Safety: Passenger Rail Operations

Summary of Comments. SEPTA expressed concern that the increased number of freight trains would affect “its ability to provide safe and reliable commuter services and to expand those operations to meet the growing needs of the region.”

Response. CSX states (in its March 25, 1998 letter to SEA) that CSX plans its train operation to be on the SEPTA Main Line between midnight and 4:15 a.m., when it does not schedule commuter service. SEA also notes that SEPTA dispatches traffic on the Main Line, and that Conrail and SEPTA currently follow Northeast Operating Rules Advisory Committee Operating Rules. SEA concluded that the CSX plan does not pose any special risk to SEPTA commuter service.

SEA did not analyze the effect of the proposed Conrail Acquisition on SEPTA’s preliminary plan for transit service on Conrail’s Morrisville and Harrisburg Lines because SEPTA has not finalized its plan, nor have the Applicants provided capital funding. (The Request for Conditions that SEPTA filed with the Board on October 20, 1997 refers to this light rail service as a non-railroad mode of transportation.) Because SEPTA’s plan is still in a study phase, SEA did not consider mitigation to be appropriate. SEA noted that the preliminary plan would involve the operation of light rail vehicles over trackage rights on these rail lines. SEA points out that operation of such vehicles on rail lines with freight trains would require an unprecedented exemption from FRA’s safety standards.

The proposed Conrail Acquisition would divide ownership of the Stoney Creek Branch between Norristown and Lansdale in such a way that CSX would use the SEPTA Main Line to reach Lansdale. Conrail and the Pennsylvania Department of Transportation rehabilitated the Stoney Creek Branch to provide freight trains with an alternative to the use of the SEPTA Main Line, where 164 passenger trains operate per weekday.

SEA concluded that, under the proposed Operating Plans, the Applicants would unnecessarily return local freight trains to SEPTA’s Main Line. SEA concluded that SEPTA, CSX and NS would all benefit if they retained the current operating arrangement and CSX acquired haulage rights over NS’s portion of the Stoney Creek Branch. Under this arrangement, SEA understands that CSX would avoid using the constrained SEPTA Main Line, while NS would receive additional revenue attributable to the Branch. SEA urges the parties to resolve this concern in the interest of both minimizing the effect of

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the proposed Conrail Acquisition on SEPTA's Main Line passenger service and providing more efficient freight service to the Lansdale Cluster.

SEA analyzed the impact of the proposed Conrail Acquisition on SEPTA's Norristown Line. SEA determined that the 2.6 freight train per day increase, which would result in a total of 10.3 freight trains on the half-mile Norristown Connector after the proposed Conrail Acquisition, would not adversely affect SEPTA passenger service. SEA understands that the increase would be temporary until the Applicants complete the plan to increase clearances on the Pattenburg Tunnel on the Lehigh Line in New Jersey. Because the freight traffic increase would be small, and because SEPTA controls the interlocking for the half-mile rail line segment, SEA concluded that the proposed temporary increase would not affect SEPTA passenger service on the Norristown Line.

SEA notes that CSX would reduce the number of freight trains per day over the Conrail Trenton Line. Therefore, SEA concludes that SEPTA's service on the R3 West Trenton Line would not experience potential environmental impacts if the Board approves the proposed Conrail Acquisition.

Southeastern Pennsylvania—Safety: Freight Rail Operations

Summary of Comments. The Tri-County Regional Planning Commission, representing Perry, Dauphin, and Cumberland Counties, Pennsylvania is concerned with the maintenance, repair, and upgrade of facilities in response to the proposed increase in rail traffic resulting from the proposed Acquisition. This concern stems from the 1997 freight derailment on the Rockville Bridge and a fatal accident in Hummelstown Borough, Pennsylvania.

Response. SEA understands that the Rockville Bridge is a historic stone arch bridge and the derailment on this bridge occurred as a result of failure of a portion of the bridge. SEA points out that NS has committed to evaluate all rail line segments that would receive increased traffic as a result of the proposed Conrail Acquisition and to complete any improvements that the Board requires before any increase in traffic. In its Safety Integration Plan, NS has committed to maintain its program of inspection, maintenance, and repair. This program would include the Rockville Bridge.

Although the FRA investigation is not yet complete, SEA understands that inadequate signal maintenance contributed to the accident that caused a fatality in Hummelstown Borough. NS has made a strong commitment to proper training of maintenance personnel and to provision of adequate maintenance staff.

SEA recommends that the Board require additional highway/rail at-grade crossing safety mitigation. The additional mitigation is based on SEA's analysis of the NS projected activity in these three counties, as the Draft EIS describes in Chapter 3, "Analysis Methods and Potential Mitigation Strategies," Table-5-PA-7. SEA has determined that

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Criswall and York Roads in Cumberland County, where rail line segment N-091 crosses Mill, would warrant mitigation (see Chapter 7, “Recommended Environmental Conditions,” of this Final EIS). However, SEA does not recommend mitigation for any other highway/rail at-grade crossings in Cumberland, Perry, and Dauphin Counties, which SEA determined to be below the criteria of significance.

Southeastern Pennsylvania—Transportation: Passenger Rail Service

Summary of Comments. SEPTA, which provides commuter services in and around Philadelphia, Pennsylvania commented that operating changes and additional trains CSX and NS have proposed on rail lines SEPTA shares would “cause significant adverse operational, safety and environmental impacts to SEPTA’s passenger transit service” SEPTA cited the Applicants’ plans to add to the SEPTA Main Line freight movements that now move over the Stoney Creek Branch to the “Lansdale Cluster” and on the Norristown, Morrisville, West Trenton, and Airport rail line segments. SEPTA pointed out that the Pennsylvania Department of Transportation will begin renovating I-95 in the year 2000 “in areas currently served by SEPTA’s Routes R3 [West Trenton line] and R7. As part of a mitigation plan, SEPTA’s Routes R3 and R7 will serve as an alternate means of travel for drivers displaced by the PADOT [Pennsylvania Department of Transportation] renovations.” SEPTA also objected that the Applicants are “blocking” SEPTA’s planned expansion along the Harrisburg and Morrisville lines. It urged the Board to consider these operating concerns and address them with the Applicants or impose mitigation measures if the Board approves the proposed Conrail Acquisition.

SEPTA also stated its concern that “CSX will route dimensional, doublestack freight through Norristown, Pennsylvania using a ‘wye’ movement...” SEPTA asserted that the potential environmental impacts of the Draft EIS did not address the assumed routing of freight traffic in this area.

SEPTA stated that CSX and NS failed to provide proposed freight traffic volumes and frequencies for CSX in the Norristown area. The commentator noted that the Draft EIS did not address NS’s proposed grant of permanent trackage rights to CSX nor the impact of increased double-stack freight traffic in the Norristown area. SEPTA expressed concern that “CSX’s undisclosed use of the trackage rights to be granted by NS will cause an increase in freight traffic not addressed by the D[raft]EIS.”

The Draft EIS indicated that the freight traffic on the rail line segment between Eastwick and Marcus Hook, Pennsylvania would increase from 3.0 to 7.8 trains per day. SEPTA stated that CSX and NS indicated verbally that said increase was incorrect. SEPTA added that no errata sheet was published nor additional analysis conducted to correct the error.

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Response. The proposed Conrail Acquisition would divide ownership of the Stoney Creek Branch between Norristown and Lansdale, Pennsylvania in such a way that CSX would use the SEPTA Main Line to reach Lansdale. Conrail and the Pennsylvania Department of Transportation rehabilitated the Stoney Creek Branch in order to provide freight trains with an alternative to the SEPTA Main Line, where 164 passenger trains operate per weekday. Under the proposed Operating Plans, local freight trains would be returned to the SEPTA Main Line.

SEA concludes that SEPTA, CSX, and NS would all benefit if they retain the current operating arrangement and CSX acquires haulage rights over NS's portion of the Stoney Creek Branch. Under this arrangement, CSX would avoid using the constrained SEPTA Main Line, while NS would receive additional revenue attributable to the Branch. Although such an arrangement would not require regulatory approval, SEA urges the parties to resolve this concern in the interest of both minimizing the proposed Conrail Acquisition's effect on SEPTA's Main Line passenger service and providing more efficient freight service to the Lansdale Cluster. In the event CSX chooses to operate local freight service on the SEPTA Main Line, it would not adversely affect passenger service because SEPTA owns and controls the Main Line on which only approximately 1 additional freight train per day would operate.

SEA analyzed the impact of the proposed Conrail Acquisition on SEPTA's Norristown Line and determined that the 2.6 freight train per day increase, for a total of 10.3 freight trains per day on the half-mile Norristown Connector, would not adversely affect SEPTA passenger service. The increase would be temporary until the work planned to increase clearances on the Pattenburg Tunnel on the Lehigh Line in New Jersey was complete. Because the freight traffic increase would be small, and SEPTA controls the interlocking for the half-mile rail line segment, SEA concluded that the proposed temporary increase would not affect SEPTA passenger service on the Norristown Line. SEPTA expressed concern that new dimensional and intermodal freight service would interfere with its passenger service. Dimensional train service consists of very short trains of high/wide loads operated at times that present minimum interference with other traffic, requiring special authorization. SEA concluded that the few dimensional shipments that would move through Norristown would not adversely impact SEPTA's system.

In its analysis, SEA considered a double-stack intermodal railroad car to have the same effect on passenger service as other types of railroad equipment. Double-stack train service is not normally considered by railroad companies as dimensional traffic, subject to special authorization for movement. Furthermore, there is no indication in the NS Operating Plan that it would create an Atlantic Coast double-stack route for CSX via Norristown, or elsewhere.

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SEA concluded that plans SEPTA is developing for passenger service on Conrail's Morrisville and Harrisburg Lines are neither complete nor fully funded. Thus, SEA did not consider them in its passenger service analysis.

Finally, SEA notes that CSX would reduce the number of freight trains per day over the Conrail Trenton Line. Therefore, SEA concludes that SEPTA's service on the R3 West Trenton Line would not experience potential environmental impacts if the Board approves the proposed Conrail Acquisition.

Summary of Comments. The Tri-County Regional Planning Commission, which represents Perry, Cumberland, and Dauphin Counties in Pennsylvania, indicated that Chapter 5-PA.8 of the Draft EIS (which concerns "Future Services Under Study" for "Passenger Rail Service") did not describe the Major Investment Study currently underway regarding future rail service in the Harrisburg, Pennsylvania area.

Response. SEA noted that although commuter rail service is being studied in the Harrisburg, Pennsylvania metropolitan area, no capital funding has been approved. Therefore, SEA did not analyze the potential effect of the proposed Conrail Acquisition on commuter service plans for which it did not receive an operating plan or information identifying a source of funding for construction.

Summary of Comments. CSX commented that it is continuing discussions with SEPTA regarding SEPTA's proposed light rail passenger service on Conrail's Morrisville and Harrisburg rail line segments. While the Draft EIS encourages CSX to "meet [with] SEPTA...to ensure that the proposed Acquisition can be accomplished without adversely affecting commuter rail plans," CSX indicated it would not be appropriate for the Board to make any voluntary agreement it might reach with SEPTA "a condition of Board approval of the Transaction. Nor would it be appropriate for the Board to impose its own condition in the event that an agreement is not reached, for the reasons stated in Applicants' rebuttal."

Response. SEA did not analyze the effect of the proposed Conrail Acquisition on SEPTA's preliminary plan for light transit service on Conrail's Morrisville and Harrisburg Lines because the plan has not been finalized nor has capital funding been provided. (SEPTA's Request for Conditions, filed with the Board on October 20, 1997, refers to this light rail service as a non-railroad mode of transportation.) Therefore, SEA did not consider mitigation to be appropriate. SEA noted the preliminary plan would involve the operation of light rail vehicles over trackage rights on these lines. The operation of such vehicles on lines with freight trains would require an exemption from FRA's safety standards.

Summary of Comments. A citizen of Rosemont, Pennsylvania commented that the Applicants' proposals to increase freight rail traffic on Amtrak's Northeast Corridor could be in conflict with Amtrak's business development plans. According to the commentor, Amtrak is studying a

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potential change in its electric traction catenary system from a 25 Hertz 12,500 Volt to a 60 Hertz 25,000 Volt system. The commentor stated that the “height of the electric traction catenary (on the Northeast Corridor) is already a limiting factor on use of double stack container loads” and this proposed change in power source would essentially “decrease the existing overhead clearance almost a foot all over the New York-Washington and Harrisburg Routes.”

The commentor claimed that the decrease in clearance would restrict freight rail competition in the transport of high loads.

Response. The Operating Access Agreement governs the use of Amtrak’s Northeast Corridor by Conrail or its successors, as well as by Special Instructions issued by Amtrak.

The overhead electric catenary system on Amtrak’s Northeast Corridor imposes vertical clearance restrictions on freight traffic. These restrictions, which vary by location, presently preclude the operation of double-stack container trains. Amtrak continues to be engaged in the examination of modernization options associated with conversion to a 60 Hertz 25,000 volt electric traction catenary system. The Pennsylvania Railroad Company installed the present 25 Hertz 12,500 volt system in the 1930s. If Amtrak were to implement the modernized electric traction system it is studying, further reduction of the Northeast Corridor’s vertical clearance would not be necessary. Amtrak has other options for either maintaining or improving vertical clearance if it updates the Northeast Corridor’s electric traction system. Amtrak has not yet finalized its plans.

NS proposed in its Operating Plan to improve the clearance on the Northeast Corridor for double-stacking trains between Baltimore and Perryville, Maryland. While doing so would be a major engineering task, the plan is both feasible and consistent with Amtrak’s plans to modernize the electric traction catenary system.

Southeastern Pennsylvania—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. SEPTA commented that it expects CSX’s dimensional freight traffic to execute a “run-around” or “wye” movement as it proceeds from West Falls to Abrams, Pennsylvania (Norris Interlocking) and through to Conrail’s Morrisville Line. SEPTA stated that CSX’s run-around movement would interfere with SEPTA’s Route R6 trains for lengthy periods of time and would block heavily traveled highway/rail at-grade crossings.

Response. In response to SEPTA’s comment, SEA has analyzed traffic delay at highway/rail at-grade crossings along rail line segments where the number of trains would increase by 8 or more per day. The number of trains on the West Falls-to-Abrams rail line segment (N-217) would decrease by 3.3 trains per day, from 17.3 trains per day before the proposed Conrail Acquisition to 14.0 trains per day after the proposed Conrail Acquisition. The number of trains on the Morrisville-to-Abrams rail line segment (N-220) would increase by 2.6 trains per day, from 7.7 trains per day before the proposed

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Conrail Acquisition to 10.3 trains per day after the proposed Conrail Acquisition. These rail line segments do not meet SEA's thresholds for environmental analysis. Also, because the Board does not regulate railroad operations, such as train speed, dispatching, or yard operations, SEPTA may wish to discuss operational considerations directly with NS.

Southeastern Pennsylvania—Transportation: Roadway Systems

Summary of Comments. The Tri-County Regional Planning Commission of Pennsylvania stated that CSX and NS should consider an alternative route for truck traffic accessing the proposed intermodal facility at Rutherford Yard. The Commission described the alternative route in its comment. The Commission commented that the suggested alternative route would allow trucks to access the facility easily while avoiding a congested intersection and the "serpentine" Rupp Hill Road.

Response. SEA has conducted a site visit to the existing Rutherford Triple Crown Service intermodal facility. SEA has identified two routes that trucks now use to reach the Triple Crown Service facility and assumed that trucks would use the same routes to reach the proposed intermodal facility. The Draft EIS incorrectly described the routes because of errors in street names. Correctly designated, one of the routes is: I-83 or I-283 to U.S. 322, to Rupp Hill Road, to Grayson Road, to the facility entrance. The other route is: I-83 or I-283 to U.S. 322, to Grayson Road, with backtracking to the facility entrance. The error in street names did not affect the traffic analysis described in the Draft EIS, and therefore the analysis was correct.

The Tri-County Regional Planning Commission commented that trucks use a different route that includes Mushroom Hill Road to reach the facility. During a site visit, a large sign posted at the entrance and exit to the facility advised truck drivers not to use Mushroom Hill Road. SEA's analysis of probable truck routes revealed that Mushroom Hill Road does not provide access to the facility. See Appendix H, "Transportation: Roadway Systems Analysis," of this Final EIS.

SEA notes that local governments would be able to influence the design of the proposed intermodal facility through enforcement of local standards. Local governments must grant access permits for entrances to roadways, and they can require that the entrances be at locations that would encourage trucks to use the desired routes.

Summary of Comments. The Tri-County Regional Planning Commission, representing Perry, Dauphin, and Cumberland Counties in Pennsylvania, commented: "A full disclosure on the Rutherford and/or Harrisburg sites is needed prior to assessing the impact on the local environment and a specific written clarification of proposed action is requested."

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Response. NS proposes to relocate the existing Conrail conventional facility located in Harrisburg, Pennsylvania to a site adjacent to the existing Triple Crown Service facility near Rutherford, Pennsylvania. As discussed in the Draft EIS, the conventional intermodal facility would handle an additional 330 trucks per day. These trucks would be in addition to the current 68 trucks per day handled at the existing Triple Crown Service facility for a total of 398 trucks per day. Because each added truck equals two trips (one in and one out) on the local area roads, the increase of 330 trucks would result in a total increase of 660 truck trips per day. SEA has reviewed the Draft EIS and identified two routes that the document had incorrectly identified; however, SEA concludes that the information in the Draft EIS, with the corrections to the routing, represents a full disclosure of the potential environmental impacts of the proposed Conrail Acquisition as it relates to the Harrisburg and Rutherford intermodal sites.

Summary of Comments. The Lancaster County Transportation Coordinating Committee of Pennsylvania expressed concern that an additional 330 daily trucks (660 truck trips) accessing a proposed intermodal facility would use “deficient and unsafe portions of US 30” in Lancaster County. The Committee noted that the additional truck trips on U.S. 30 would contribute to existing problems on the route, including heavy truck traffic and recent fatal accidents.

Response. As part of its analysis, SEA conducted a site visit to the Rutherford Triple Crown Service intermodal facility. SEA determined that few through trucks use U.S. 30, apparently because truck drivers are aware of its condition and because the Pennsylvania Turnpike is available as an alternative route. The additional truck traffic on State Route 283 and U.S. 30 that would result from the proposed Conrail Acquisition would generally be limited to traffic that local customers generate. SEA has concluded that this amount of traffic is only a small percentage of the 330 trucks that would be created by the proposed Conrail Acquisition, and that this increase would not have a significant environmental impact on U.S. 30 in Lancaster County.

Southeastern Pennsylvania—Transportation: Other

Summary of Comments. The Tri-County Regional Planning Commission of Pennsylvania expressed a concern that the Draft EIS did not adequately address the potential impact of the proposed Conrail Acquisition on the Cumberland and Perry County, Pennsylvania railways.

Response. The purpose of the EIS is to evaluate the environmental effects of the proposed Conrail Acquisition. SEA’s responsibility and the scope of the EIS exclude evaluating merits issues regarding the interaction between the Applicants and regional and short line railroads.

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Southeastern Pennsylvania—Air Quality

Summary of Comments. The Tri-County Regional Planning Commission of Pennsylvania stated that the Applicants should put more effort into mitigating air pollutant emissions from the proposed intermodal facility at Rutherford Yard. The Commission also requested that SEA measure local air quality impacts.

Response. SEA notes that the Draft EIS demonstrated that emissions from the proposed intermodal facility at Rutherford yard would be insignificant compared to county-wide emissions, and would not affect regional attainment and maintenance of the NAAQS. SEA does not expect emissions at intermodal facilities to cause exceedances of the NAAQS in the local area around the facility. Because the individual emissions sources are distributed over a large site, rather than concentrated at a single point, the effect of the proposed facility on ambient concentrations is expected to be minor. Therefore, SEA is not proposing air quality mitigation measures or air quality monitoring for this facility. See Chapter 4, “Summary of Environmental Review,” and Appendix I, “Air Quality Analysis,” of this Final EIS.

Summary of Comments. The Lancaster County Transportation Coordinating Committee and the Metropolitan Planning Organization for Lancaster County, Pennsylvania stated that the air quality analysis in the Draft EIS did not account for 330 additional truck trips per day needed to reach the proposed intermodal facility in Rutherford Heights, Pennsylvania. The Committee stated that the emissions from those truck trips should be estimated and included in the County totals for comparison to the significance criteria.

Response. SEA has projected that the 330 additional truck trips would add emissions of 5.2 tons per year of NO_x, 9.3 tons per year of CO, 1.2 tons per year of volatile organic compounds, 0.3 tons per year of particulate matter, and 0.1 tons per year of SO₂ at the intermodal facility. These amounts would not exceed any of SEA’s emissions screening levels in Lancaster County. Additional truck-related emissions would occur on local roads near the facility, but SEA concludes that these emissions would be too small and widely dispersed to create air quality problems.

Southeastern Pennsylvania—Noise

Summary of Comments. The Lancaster County Transportation Coordinating Committee requested that the Final EIS note the names of all communities with locations on rail line segments in Pennsylvania that might qualify for Quiet Zones under the new FRA rules on train horn-blowing procedures.

Response. SEA cannot determine a community’s eligibility for implementing Quiet Zones along rail lines because FRA has not yet proposed the Quiet Zone regulation.

Section 5.3.19—Pennsylvania

Southeastern Pennsylvania—Cultural and Historic Resources

Summary of Comments. The Historic Preservation Trust of Lancaster County, Pennsylvania provided comments on the Enola Branch of the Low-Grade Line of the Pennsylvania Railroad. The Trust requested that SEA consider the Trust to be an “interested person pursuant to Section 106 and 36 CFR Part 800.” The Trust objected to the methods that Conrail used in its review of the rail line and the Section 106 process involving Conrail’s abandonment of the Enola Branch of the Low-Grade Line. The Trust indicated that, based on the State Historic Preservation Officer’s 1994 resource evaluation, the entire railroad line, inclusive of all of the property Pennsylvania Railroad purchased and developed, is eligible for listing in the NRHP. The Trust indicated that SEA based its evaluation on the 1989 State Historic Preservation Officer’s determination, which only addressed specific bridges or crossings as eligible for the NRHP. One resident of New Providence, Pennsylvania also raised concerns about the Enola Low-Grade Line in Southern Lancaster County. Specifically, the resident requested that SEA complete the Section 106 process for the rail line segment prior to any alterations. Further, the resident requested that SEA include the rail line segment and stone arch bridges in the Final EIS because the State Historic Preservation Officer has determined that these areas are eligible for listing on the NRHP.

Response. SEA acknowledges these comments pertaining to the proposed abandonment of the Enola Branch of the Low-Grade Line in Lancaster County. SEA clarifies that this was a previous Conrail abandonment action, separate from and unrelated to the proposed Conrail Acquisition.

Summary of Comments. The Advisory Council on Historic Preservation (ACHP) informed SEA of citizens’ concerns regarding Section 106 review for the proposed abandonment of a portion of the Enola Branch of the Low-Grade Line of the Pennsylvania Railroad. ACHP stated that, although the Board and Conrail have discussed the abandonment since 1989, ACHP has not yet received formal notification that Section 106 consultation has begun, nor is it aware of how the Board has identified and involved interested persons as Section 106 requires. In its effort to determine the nature of its role in the Section 106 review, ACHP requested that the Board provide detailed background information on the identification and evaluation of historic properties associated with the entire Enola Branch of the Low-Grade Line, including whether the properties should be treated as historic districts or as individually eligible properties. ACHP intends to forward this information to the Keeper of the Register for review. Pending ACHP’s receipt of the Keeper’s review, ACHP has advised the Board not to finalize a Memorandum of Agreement mitigating potential impacts on historic properties associated with the abandonment.

Response. SEA clarifies that the proposed abandonment of the Enola Branch of the Low-Grade Line in Lancaster County is the subject of a separate abandonment action (ICC Docket No. AB 167-1095X) and is unrelated to the proposed Conrail Acquisition. On October 3, 1989, Conrail filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments, to abandon approximately 66.5 miles of track known as the

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Enola Line in Lancaster and Chester Counties, Pennsylvania. The ICC's SEA, known then as the Section of Energy and Environment, issued an EA on November 1, 1989. As a result of consultations with the Pennsylvania Historical and Museum Commission, SEA recommended a condition in the EA requiring Conrail to retain its interest in and take no steps to alter the historical integrity of the bridges located on the Enola Branch until completion of Section 106 review. The Board (ICC's successor agency), the Pennsylvania Historical and Museum Commission, Conrail, and representatives of Lancaster County, among others, continue to be involved in that case. The Enola Branch abandonment is, however, separate and apart from the proposed Conrail Acquisition.

SEA has discussed the Conrail Acquisition (Finance Docket No. 33388) in some detail with the ACHP on two separate occasions earlier this year (in a January 5, 1998 conference call and a January 14, 1998 meeting at SEA). During the January 14, 1998 meeting, SEA identified all projects associated with the proposed Conrail Acquisition and systematically summarized the involvement of historic properties. At the conclusion of the January 14, 1998 meeting, SEA agreed to submit to the ACHP detailed background information on the identification, effects assessment, and recommended mitigation associated with the proposed Conrail Acquisition as SEA finalizes this EIS.

Summary of Comments. A citizen of Rosemont, Pennsylvania commented on the proposed rehabilitation of Shellpot Bridge and its eligibility for inclusion in the National Register of Historic Bridges. The commentor disagreed with the Draft EIS, stating that NS shall undertake no construction of the Shellpot Bridge, near Wilmington, Delaware until completion of the Section 106 process of the Historic Preservation Act. The commentor remarked that restrictions that the Section 106 process of the Historic Preservation Act impose would constitute a "taking of property" because the Shellpot Bridge is "a facility that serves a wider purpose in Interstate Commerce, particularly as it serves to by-pass freight trains around another establishment."

Response. SEA points out that the recommended mitigation constitutes neither a property taking nor an undue delay. Shellpot Bridge, which is currently inoperable, is in disrepair and has been out of service for at least a decade. Under NS's proposal, the bridge would be restored to a functional condition. The Section 106 consultation process would require the Applicants to maintain the historical integrity of the bridge during restoration efforts. The consultation would be coordinated with NS's development of restoration plans and would take place concurrently with other permitting activities (such as those that USCG and USACE require).

Southeastern Pennsylvania—Natural Resources

Summary of Comments. The Mayor of the City of Harrisburg indicated that existing drainage facilities along the Conrail line and within the City are inadequate and result in periodic flooding, which, in turn, creates safety hazards. The Mayor requested that "Norfolk Southern Railway

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Company, Inc. be directed to correct the situation as a condition of approval of the acquisition of Conrail.”

Response. SEA determined that this comment relates to pre-existing conditions and is not a result of the proposed Conrail Acquisition. It is the Board’s policy not to require mitigation of pre-existing conditions.

Southeastern Pennsylvania—Environmental Justice

Summary of Comments. A citizen of Rosemont, Pennsylvania commented on Appendix K, “Environmental Justice,” of the Draft EIS. The commentator stated that “it is not conducive to good race relations in its singling out and defines areas that are given a stigma of being below par. There is an impression of building ‘expectations,’ yet not identifying anything constructive as a consequence of what any increased activity might be, such as added jobs from the area in say a ‘yard activity.’”

Response. SEA notes that Executive Order 12898 calls for research and data collection in potentially affected minority and low-income populations. These populations traditionally have been distanced from the political decision-making process. Further, high and adverse environmental impacts often disproportionately affect disadvantaged populations. SEA maintains that it has approached the spirit and letter of the Executive Order in a manner that recognizes those populated areas that may be subjected to disproportionately high and adverse environmental impacts.

Southeastern Pennsylvania—Cumulative Effects

Summary of Comments. SEPTA commented that it is studying the feasibility of using a portion of Conrail’s Harrisburg Main Line from Norristown to Reading and Conrail’s Morrisville rail line from Glen Loch to Morrisville. SEPTA referred to Table 5-PA-35 in the Draft EIS, which indicates that freight traffic may limit the potential for passenger service to expand. SEPTA asserted that it has met “to no avail” with the Applicants in an attempt to ensure that the proposed Conrail Acquisition can occur without adversely affecting SEPTA’s commuter rail plans.

The Chairman of the Tri-County Regional Planning Commission in Harrisburg, Pennsylvania stated that “Section 5-PA.8 Passenger Rail Service fails to indicate under the ‘Future Services Under Study’ subsection, the pending Major Investment Study currently being financed in the Harrisburg region. The proposed corridor for rail service runs from Carlisle Borough in Cumberland County, through Harrisburg City in Dauphin County, to Lancaster City in Lancaster County.” The Chairman expressed the desire to have a “meaningful discussion” with the freight operator.

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Response. SEA has determined that the studies are not sufficiently advanced for SEA to consider their implementation reasonably foreseeable with regard to the planning, approval, and funding of capital improvements and the completion of operating agreements for access. Therefore, SEA did not evaluate the potential cumulative effects of the proposed Conrail Acquisition together with the SEPTA and Tri-County proposals in the Draft EIS.

Southeastern Pennsylvania—General

Summary of Comments. A citizen of Rosemont, Pennsylvania commented that the Draft EIS placed “the onus on the railroads” for mitigation of highway/rail at-grade crossing problems. The citizen referenced the Interstate Commerce Commission’s Docket #33440 of February 1964, titled “Prevention of Rail Highway Grade Crossing Accidents Involving Railway Trains and Motor Vehicles,” as it relates to safety and “Rail Highway Crossings at Grade.” The Docket states that “the cost of installing and maintaining such systems and protective devices is a public responsibility and should be financed with public funds the same as highway traffic devices.” To the commentator’s knowledge, Docket #33440 “is not known to have been declaimed null and void” and the Board should take it into consideration.

Response. The ICC’s Docket No. 33440, which it decided on January 22, 1964, was the culmination of a three-year long proceeding to address collisions between trains and motor vehicles. The ICC designed it to address these growing risks outside of the context of a consolidation proceeding such as the proposed Conrail Acquisition. While the ICC’s finding that the commentator cited remains the basis for financing highway/rail at-grade crossing protection, the Board is responsible for considering and mitigating potential safety impacts associated with the proposed Conrail Acquisition, if appropriate. Consequently, SEA has recommended that the Board require the Applicants, at their cost, to upgrade existing warning devices at public highway/rail at-grade crossings in numerous locations if the Board approves the proposed Conrail Acquisition. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS for SEA’s final recommended mitigation.

If CSX or NS reach agreement with an impacted local jurisdiction and the responsible state Department of Transportation, CSX or NS may implement alternative measures that achieve at least an equivalent level of safety.

Northwestern Pennsylvania—Safety: Highway/Rail At-grade Crossings

Summary of Comments. A resident of Erie, Pennsylvania requested the removal of trains and tracks from 19th Street.

Response. NS and the City of Erie have reached an agreement whereby NS would relocate its operations onto new tracks located along the existing Conrail (future CSX)

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corridor and would remove the tracks from 19th Street. For a discussion of this relocation plan, see Appendix N, “Community Evaluations,” of this Final EIS.

Northwestern Pennsylvania—Transportation: Highway/Rail At-grade Delay

Summary of Comments. NS commented that the Draft EIS originally indicated that five highway/rail at-grade crossings in Erie, Pennsylvania would exceed SEA’s significance criteria because of the potential environmental impacts of traffic delay. NS indicated that the Supplemental Errata corrected the delay calculations, resulting in two of the five highway/rail at-grade crossings no longer requiring mitigation. NS stated that SEA recommended ignoring this error and keeping all five crossings on the list for mitigation. NS stated that there is no analytical support for such a deviation in the application of mitigation criteria. NS urged SEA to remove the two Erie highway/rail at-grade crossings from the list that SEA recommended for mitigation.

Response. SEA analyzed the change in vehicle delay that would result from the increase in train traffic after the proposed Conrail Acquisition. SEA’s revised analysis in the Final EIS shows that the highway/rail at-grade crossings at Peach Street, Sassafras Street, Cherry Street, and Liberty Street meet the criteria of significance. SEA added Peach Street to this list from the Draft EIS Supplemental Errata after observing during field visits that it is a two-lane rather than four-lane street. SEA recognizes that the Raspberry Street crossing does not meet the criteria of significance for vehicle delay.

NS and the City of Erie have reached an agreement whereby NS would relocate its operations onto new tracks located along the existing Conrail (future CSX) corridor and would remove the tracks from 19th Street. For a discussion of this relocation plan, see Appendix N, “Community Evaluations,” of this Final EIS.

Northwestern Pennsylvania—Transportation: Roadway Systems

Summary of Comments. The City of Erie, Pennsylvania requested that the Applicants properly reconstruct intersections following the removal of the 19th Street tracks.

Response. NS has reached an agreement with the City of Erie regarding potential environmental impacts. NS proposes to remove the tracks from 19th Street in conjunction with the proposed Conrail Acquisition. Chapter 4, “Summary of Environmental Review,” of this Final EIS specifically addresses many issues for the Erie area.

Summary of Comments. The Mayor of Erie, Pennsylvania commented that industrial rail customers along 19th Street, where CSX and NS would remove the tracks after the proposed Conrail Acquisition, would not receive adequate rail service. He also requested that the Board require CSX and NS to construct appropriate highways, roadbeds, sidewalks, etc., after removal of the tracks.

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Response. SEA has conducted numerous site visits to Erie and performed additional analysis. The 19th Street relocation plan that NS submitted (see Appendix S, “Railroad Mitigation Plans,” of the Draft EIS) does not specifically indicate the disposition of the existing NS 19th Street main line following relocation. However, NS has reached an agreement with the City of Erie that includes removal of these tracks. See Chapter 4, “Summary of Environmental Review”; Appendix C, “Settlement Agreements and Negotiated Agreements”; and Appendix N, “Community Evaluations,” of this Final EIS for a discussion of the additional analysis and relocation plan.

Southwestern Pennsylvania—Safety: Hazardous Materials Transport

Summary of Comments. The Beaver County Planning Commission of Pennsylvania asked SEA to require CSX and NS to use AAR key route guidelines as minimum mitigation measures. The Commission recommended that SEA mandate that the Applicants provide 24-hour telephone access from dispatching centers to emergency responders along key routes as preliminary mitigation. The Commission also requested that SEA require the Applicants to adopt the voluntary AAR guidelines for major key routes and involve local municipalities through emergency management agencies.

Response. SEA has determined that Beaver County, Pennsylvania contains the following rail line segments:

- C-082 Rankin-to-New Castle, Pennsylvania.
- N-095 Rochester-to-Youngstown, Ohio.
- N-264 Jacks Run-to-Conway East, Pennsylvania.
- N-275 Conway East-to-Rochester, Pennsylvania.
- N-280 Rochester-to-Yellowcreek, Pennsylvania.
- N-285 Rochester, Pennsylvania-to-Alliance, Ohio.

Overall, these rail line segments would experience a 36 percent reduction in hazardous materials transport after the proposed Conrail Acquisition. Only on rail line segment N-095 would hazardous materials transport increase above SEA’s criteria of significance. SEA recommends that the Board require NS to implement key route mitigation measures on rail line segment N-095 as this Final EIS discusses in Chapter 7, “Recommended Environmental Conditions.” The primary purpose of these measures is to prevent hazardous materials spills and to address prompt and appropriate responses to derailments and spills. SEA concludes that hazardous materials transport in Beaver County would not increase sufficiently for SEA to recommend major key route mitigation measures for all rail line segments in the County. See Appendix F, “Safety: Hazardous Materials Transport Analysis,” of this Final EIS.

Summary of Comments. The Local Emergency Planning Committee of Allegheny County, Pennsylvania expressed its appreciation of the efforts of Mr. Tim Mannas of “Conrail’s Local

Section 5.3.19—Pennsylvania

Hazardous Materials Field staff” in the County. The Committee noted that NS “does not employ Hazardous Materials Field Personnel” and requested that the Board require NS to provide hazardous materials staff in the Pittsburgh, Pennsylvania, area as a condition of approval of the proposed Conrail Acquisition.

Response. SEA notes that NS has stated its intention to comply with the committee’s request. NS’s Safety Integration Plan, included in Volume 2 of the Draft EIS, indicates that NS would maintain hazardous materials officer positions in its Conrail divisions following the proposed Conrail Acquisition.

Southwestern Pennsylvania—Transportation: Passenger Rail Service

Summary of Comments. The Port Authority of Allegheny County, Pennsylvania commented that the Final EIS should broaden its commuter transportation analysis to include other modes of transit, specifically “busway projects.” The commentator added that the Board should require the Applicants to cooperate with the Port Authority in negotiating agreements associated with such projects.

Response. SEA acknowledges the issues this comment addresses. Other modes of transit, such as dedicated busways, are beyond the scope of the EIS.

Southwestern Pennsylvania—Transportation: Roadway Systems

Summary of Comments. The Pennsylvania Turnpike Commission stated that the Draft EIS did not address increased activity at the Pitcairn intermodal facility. Further, the Commission stated that the Draft EIS did not address potential environmental impacts on the existing highway system and on the proposed Mon/Fayette Expressway.

Response. SEA analyzed increased activity at the Pitcairn intermodal facility, as well as the potential environmental impact of an additional 228 truck trips to and from the facility. Chapter 5 of the Draft EIS described the analysis.

The Draft EIS identified a truck route between the Pitcairn intermodal facility and I-376 using State Route 48 and Wall Street. The analysis showed that the additional truck traffic would not have a significant environmental impact because the increase in ADT resulting from the trucks would be less than 2 percent on any of the roadways.

SEA did not analyze the potential environmental impact of additional truck traffic resulting from the proposed Conrail Acquisition on the proposed Mon/Fayette Expressway, because the section near the Pitcairn intermodal facility would not be open to traffic until 2008 at the earliest, well after the proposed Conrail Acquisition. However, in response to this comment, SEA performed additional analysis on the potential environmental impacts of additional truck traffic on the proposed Mon/Fayette

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Expressway. SEA assumed that if the proposed Mon/Fayette Expressway is built, truck traffic from the Pitcairn site bound for the new expressway would use Wall Street, State Route 48, and State Route 130. The Southwestern Pennsylvania Regional Planning Commission provided projected traffic data for the year 2020 for both the proposed Mon/Fayette Expressway and State Route 130. A conservative analysis assumed that all of the 228 additional truck trips would use both roadways and showed that the additional trucks would increase traffic by less than 2 percent on both roadways. Therefore, SEA concluded that the increase in truck traffic from the Pitcairn facility would have no significant impact on the proposed Mon/Fayette Expressway.

Southwestern Pennsylvania—Transportation: Other

Summary of Comments. The Pennsylvania Turnpike Commission expressed a concern about potential impacts on its proposed PA 51-to-Pittsburgh Mon/Fayette Expressway project. The project would affect six area rail line segments (C-082, C-086, N-263, N-268, N-269, and N-270). In its preliminary expressway design, the Commission proposed relocating several miles of CSX track. The Commission stated a concern that, with increased freight rail traffic on the line, it would be unable to move the track and would have to reevaluate the expressway project. The Commission asked SEA to address this issue.

Response. SEA acknowledges this comment and understands that the Pennsylvania Turnpike Commission considered relocating the CSX main line as a portion of its PA 51-to-Pittsburgh Mon/Fayette Expressway project.

SEA concluded that the proposed Conrail Acquisition would not prevent the Commission from negotiating a Right-of-Entry agreement for expressway construction that could utilize the properties of either NS or CSX, or both.

Summary of Comments. The Port Authority of Allegheny County, Pennsylvania asked SEA to clarify train volume information that the Draft EIS provided. The Port Authority stated that the 15.5 trains per day shown in Table A-1 of the Draft EIS for the Thomson-to-Jacks Run rail line segment (N-269) for 1996 is lower than the 25 trains per day value that Conrail provided. In addition, the Port Authority asked whether CSX based the intended volume reduction to 9.9 trains per day on this segment on the 15.5 trains-per-day value or on other factors.

Response. SEA determined that, according to NS's Operating Plan, NS intends to operate 9.9 trains per day on the Thomson-to-Jacks Run rail line segment (N-269). This represents a reduction of 5.6 trains per day from operation levels before the proposed Conrail Acquisition. NS would also acquire a Conrail rail line segment, Pitcairn-to-Jacks Run (rail line segment N-263), which parallels and is located across the Monongahela River from N-269 under the proposed Conrail Acquisition. The train volume count on rail line segment N-263 would increase by 3.8 trains, from 32.8 trains per day before the

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proposed Conrail Acquisition to 36.6 trains per day after the proposed Conrail Acquisition. Also, 4.0 passenger trains operate daily over the N-263 rail line segment.

SEA notes that the slight decrease in traffic levels over one route nearly offsets the increase in rail traffic over the other rail line segment. SEA understands that NS intends to operate both segments interchangeably. Depending on operating and maintenance requirements, NS could reroute traffic from one rail line segment to the other.

NS derived rail traffic levels by modeling waybill data of rail shipments. SEA concurs that this represents a reasonable method to determine realistic operating levels. NS compiled train volume data on only longer-haul through freight information.

Although the Port Authority may be interested in the right-of-way of N-269 for a possible expressway alignment, SEA recommends that the Port Authority discuss its proposal directly with NS, as SEA does not consider the matter to be related to the proposed Conrail Acquisition.

Section 5.3.20—Rhode Island

5.3.20 Rhode Island

SEA did not receive any comments from Rhode Island.

Section 5.3.21—South Carolina

5.3.21 South Carolina

The Anderson County government wrote to acknowledge receipt of the Draft EIS. However, SEA received no comments on the Draft EIS from other public agencies, organizations, businesses, or citizens in South Carolina.

Section 5.3.22—Tennessee

5.3.22 Tennessee

Tennessee—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. The Nashville Area Metropolitan Planning Organization stated that the train speeds that SEA used to calculate delay for five highway/rail at-grade crossings in Davidson County were 5 to 10 mph too high. The organization requested that SEA recalculate the delay figures for these roadways.

Response. SEA reviewed track charts and train time tables and could not independently confirm the validity of the train speeds that the commentor cited. SEA continued to use the same factors in this Final EIS as it used in the Draft EIS.

In response to the comment, SEA performed a delay analysis at the five highway/rail at-grade crossings in Davidson County based on the train speeds that the commentor suggested. Two of the crossings (Craighead and UNA-Antioch) would operate at LOS B both before and after the proposed Conrail Acquisition. The other three crossings (Berry Road, Davidson Road, and Thompson Lane) would operate at LOS B before the proposed Conrail Acquisition and at LOS C after the Acquisition (see Appendix G, "Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis," of this Final EIS). Therefore, SEA concluded that these potential traffic delay impacts do not warrant mitigation.

Tennessee—Air Quality

Summary of Comments. The Nashville Area Metropolitan Planning Organization provided a correction to the attainment status of Davidson County, Tennessee. The Planning Organization stated that Davidson County is in attainment for particulate matter; this correction should be implemented in the Final EIS.

Response. SEA anticipated that changes in air quality attainment status with respect to the NAAQS would occur during the course of its air quality analysis. To avoid confusion and make sure that the analysis took place at a consistent point in time for all geographical areas, SEA assessed impacts on air quality by using the attainment status as of the date of the Applicant's submittal of the Rail Control Application, which was June 23, 1997. SEA understands that a number of areas have had changes in attainment status since that date, including Davidson County, but does not think that these changes materially affect its conclusions regarding the significance or insignificance of potential air quality impacts.

Section 5.3.23—Virginia

5.3.23 Virginia

Virginia—Safety: Highway/Rail At-grade Crossings

Summary of Comments. The Town of Ashland, Virginia commented that Table 5-VA-4 in the Draft EIS, which shows highway/rail at-grade crossing accident frequency, omitted CSX rail line segments in Virginia.

Response. SEA notes that Table 5 -VA-4 of the Draft EIS does not mention these CSX rail line segments through the Town of Ashland, Virginia because they did not meet SEA's thresholds for environmental analysis (an increase of 8 or more trains per day). Therefore, SEA did not analyze the accident risk at highway/rail at-grade crossings on these segments.

Virginia—Safety: Hazardous Materials Transport

Summary of Comments. NS stated that the post-Acquisition number of 16,000 carloads of hazardous materials on the Alexandria-to-Manassas, Virginia rail line segment on page VA-14 of the Draft EIS was incorrect. NS stated that the correct figure is 6,000 carloads.

Response. Hazardous materials transport volume on the Alexandria-to-Manassas rail line segment (N-315) would be 6,000 carloads per year following approval of the proposed Conrail Acquisition. Therefore, SEA withdraws the Draft EIS recommendation that the Board require NS to follow AAR key route guidelines on rail line segment N-315.

Virginia—Safety: Freight Rail Operations

Summary of Comments. The Town of Ashland, Virginia expressed the concern that the greater length and number of trains resulting from the Acquisition, coupled with the high density of residents in proximity to the tracks, would increase the potential danger to the residents.

Response. SEA estimated that freight traffic on the Richmond-to-Doswell rail line segment (C-102) through Ashland, Virginia would increase from 17.8 trains per day to 24.8 trains per day following the proposed Conrail Acquisition. SEA estimated that even with the seven train per day increase, the interval between train accidents per mile would still be greater than the 150-year criteria of significance (refer to the Draft EIS, Appendix B, "Safety," Attachment B-2). Therefore, SEA does not recommend mitigation. SEA notes that FRA as well as CSX and NS have extensive programs in place, including the Safety Integration Plans for the proposed Conrail Acquisition, that would help to provide for the continued safety of people living near rail lines.

Section 5.3.23—Virginia

Virginia—Transportation: Passenger Rail Service

Summary of Comments. The Town of Ashland, Virginia commented that the Town has extensively utilized Amtrak, with “eight passenger trains with regular stops in Ashland.” However, the Draft EIS’s “analysis of passenger rail service does not show Ashland among those localities with Amtrak service (Volume 3-B, page VA-14).” The Town did not want the proposed Conrail Acquisition to “impede the continued potential for growth of Amtrak services in the area.”

Response. SEA did not list all points served by passenger trains in the Draft EIS, but illustrated cities with passenger train service. Amtrak will decide future service levels through Ashland, including whether to add trains or station stops. The Commonwealth of Virginia, FRA, Amtrak, VRE, and CSX are presently conducting a study of the Washington, D.C.-to-Richmond, Virginia rail corridor to identify needed capacity improvements for future rail passenger service in this corridor.

Summary of Comments. The Lord Fairfax Planning District Commission and the Town of Stanley, Virginia, in the form of identical resolutions, each commented that increased freight traffic resulting from the proposed Conrail Acquisition could interfere with the expansion of passenger rail service for Civil War battlefield tourists. The commentors requested that the Board consider “the high probability of more significant ... impacts ... due to increases in rail traffic volume”

Response. SEA has determined that the rail line segments the commentors are referring to are (a) NS’s Shenandoah Valley line between Hagerstown, Maryland and Roanoke, Virginia and (b) NS’s Manassas-to-Riverton Junction, Virginia rail line segment (N-325), which connects to the Shenandoah Valley, Virginia Line. Neither of these routes currently has passenger service. SEA is not aware of any formal planning, preliminary or otherwise, for passenger rail service on either rail line. According to NS’s Operating Plan, the rail line segment between Manassas and Riverton Junction would carry 2.5 fewer freight trains, a reduction of 22 percent.

Summary of Comments. The Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission, which jointly own VRE, disputed the Draft EIS’s preliminary conclusion that the proposed Conrail Acquisition would have no adverse effect on VRE’s current commuter services on the Fredericksburg and Manassas rail line segments. VRE argued that NS would increase the number of freight trains on the Manassas rail line segment by four and that CSX would substantially increase trains on the “already highly congested Fredericksburg Line” during VRE rush hour operations. VRE also noted that CSX does not have plans to improve the capacity of the Fredericksburg Line and appears to be relying on “publicly funded improvements.” Therefore, VRE disagreed with SEA in that the proposed train increases are “well within the capacity” of the affected lines. VRE urged SEA to reexamine

Section 5.3.23—Virginia

its operations and “develop conditions for inclusion in the [Final EIS] to mitigate the adverse impact of the proposed Conrail Acquisition on VRE.”

Response. SEA analyzed the CSX and NS routes VRE utilizes, including a short segment on Conrail, and concluded that VRE service would not be adversely affected as a result of the proposed Conrail Acquisition.

SEA is aware that there are operating constraints between Washington, D.C. and Richmond, Virginia that limit capacity. The most significant of these is the combination of the 10 mph single-track Virginia Avenue Tunnel and the double-track Potomac River Bridge. Together these create a funneling effect, which the speed restriction exacerbates, that increases the time required for a freight train to move through this area. The following constraints further restrict freight train movement:

- Limited crossover capability between Alexandria and Richmond, Virginia.
- Track configuration at the Lorton AutoTrain Terminal.
- Single-track bridge at Quantico Creek.
- Steep gradient of Franconia Hill.

SEA notes that FRA and Amtrak, with input from the Commonwealth of Virginia, VRE, and CSX, are conducting a study of the CSX Washington, D.C.-to-Richmond, Virginia corridor as a supplement to their Annual Report to Congress. The report identifies and prioritizes the capital improvements required to expand future commuter rail service and accommodate increased train speeds on this route.

SEA concluded that CSX has been able to dramatically improve the on-time performance of VRE and Amtrak. On-time performance between Washington, D.C. and Richmond, Virginia is more a function of CSX managerial operations than that of rail line and rail yard capacity. In addition, VRE has an ambitious capital spending plan that would increase the operating flexibility of the Fredericksburg Line.

The operating access agreement between VRE and CSX states that any expansion of VRE commuter service is conditional on assurances from VRE’s owners, the Northern Virginia Transportation Commission, and the Potomac and Rappahannock Transportation Commission, that they would finance capital improvements to expand the capacity of CSX’s Richmond, Fredericksburg and Potomac Subdivision. Because VRE’s owners have not altered their plans to expand VRE commuter service, it was reasonable for CSX to assume in its Operating Plan that VRE’s owners would continue implementing several planned capital improvements. SEA concluded that the operating access agreement between CSX and VRE governs the allocation of capital expenditures, and that SEA could not change or nullify the terms of that agreement in the course of analyzing the environmental impacts of the proposed Conrail Acquisition.

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SEA recognizes that the 8-mile CP-Virginia Avenue-to-Potomac Yard rail line segment (C-002) and AF interlocking, south of the Alexandria, Virginia passenger station, is not an ideal railway alignment. However, the route has sufficient capacity, including Traffic Control System bi-directional signaling, to accommodate the 10.1 additional freight trains per day projected if it were effectively managed and dispatched. Of the 8 miles in this rail line segment, 4.7 miles in Virginia have three main tracks. This rail line segment would be used on a weekday by 24 VRE trains, 20 Amtrak trains, and 29 CSX and NS freight trains. The passenger trains tend to be clustered northbound in the morning peak period between 6:00 a.m. and 9:00 a.m. and southbound in the afternoon peak period between 4:00 p.m. and 7:00 p.m.

The 51-mile segment between AF interlocking and VRE's Fredericksburg Yard has bi-directional signaling. It is double-track, except at Quantico Creek Bridge. According to CSX's Operating Plan, this rail line would have an increase of 7.1 freight trains per day and would be utilized on weekdays by 12 VRE and 18 Amtrak trains. Even with these previously mentioned constraints, CSX has demonstrated, as noted by DOT in its comments on the Draft EIS, that freight trains with appropriate horsepower-per-ton ratings can operate during passenger train peak periods without impacting VRE's on-time performance. If VRE implements its planned capital improvements program, the added operating capacity and flexibility would significantly improve the efficiency of train movements on the Fredericksburg Line.

On the 26-mile, double-track Manassas rail line segment between AF interlocking in Alexandria and Broad Run, South Manassas, NS proposed an increase of two freight trains per day, for a total of 10 freight trains per day on this TCS bi-directional signaled line. Presently, 12 VRE and three Amtrak trains use this rail line segment on weekdays. SEA concluded that this rail line segment has sufficient capacity to handle the current and proposed traffic.

SEA noted that NS's Operating Plan would move coal trains on the more indirect route through Enola, Pennsylvania (not Harrisburg) to Chevy Chase, Maryland (not Baltimore) rather than the more direct route via Washington, D.C. SEA also observed that the route through Enola encounters substantially fewer passenger trains and avoids the operating constraints of the Virginia Avenue Tunnel in Washington, D.C. and the B&O Tunnels in Baltimore, Maryland on Amtrak's Northeast Corridor. NS would be acting within its operating discretion by routing trains over a longer route if it achieved the primary objectives of efficiency and reliability.

Summary of Comments. VRE disagreed with a statement on page 4-39, Volume I, of the Draft EIS that said improvements to the Virginia Avenue Tunnel "would improve the movement of both passenger and freight trains through this tunnel" and suggested that SEA carefully review VRE operations. VRE contended that neither VRE nor Amtrak trains run through the tunnel. While VRE acknowledged that the improvements could increase capacity between Potomac

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Yard and CP-Virginia Avenue, it argued that SEA apparently did not analyze (a) the magnitude of increased capacity on the CP-Virginia Avenue-to-Potomac Yard rail line segment (C-002) as a result of the tunnel improvements, or (b) the increase in delays or reduction in capacity on the line during the period when the Applicants are making improvements. VRE suggested that SEA and the Board “establish conditions to mitigate the adverse impact on VRE operations during the construction” on the tunnel.

Response. SEA did not assume in its analysis that passenger trains operate through the Virginia Avenue Tunnel. VRE and Amtrak trains are entitled to dispatching preference on the lines in question, including the rail line segment between Potomac Yard and CP-Virginia Avenue. Therefore, it is not necessary for SEA to determine the exact magnitude of the line capacity expansion that would result from CSX’s improvements to the Virginia Avenue Tunnel. In CSX’s Rebuttal filed on December 15, 1997, it stated that those improvements would permit an increase in operating speed through the Tunnel from 10 mph to 25 mph. SEA noted that such an improvement would have the effect of reducing by 50 percent the time required for a freight train to move between CP-Virginia Avenue and RO interlocking (the point at which Conrail ownership currently ends and CSX ownership begins), across the Potomac River. This reduction in freight train occupancy time would allow more time for the movement of VRE and Amtrak trains.

Virginia—Transportation: Highway/Rail At-grade Crossing Delay

Summary of Comments. The Town Council of Ashland, Virginia stated that SEA should revise the Draft EIS to correct train speeds of 50 mph to 35 to 45 mph depending on the time of day, through the area and should recalculate the delays on Route 54 to reflect higher traffic volumes than the volumes the Draft EIS reported. The Council stated that, in 1997, CSX committed to maintain these slower speeds through Ashland. The Council also requested that SEA revise the queue calculations to reflect the corrected delay. Traffic counts for England Street by the Virginia Department of Transportation were significantly higher than the counts in the Draft EIS. The Council suggested that, if the LOS on England Street deteriorates to an unsatisfactory level, CSX should provide some form of mitigation. The Council voiced the opinion that grade separation on Route 54 in the historic downtown would be inappropriate, but suggested that CSX consider an alternative crossing for grade separation.

Response. SEA reanalyzed the delay at the England Street (FRA ID 860459F) crossing in the Town of Ashland using the updated ADT volumes from the Virginia Department of Transportation and with the adjusted train speed. The new ADT volume the reanalysis used is 16,549. SEA performed a further review of train timetables and determined that an appropriate operating train speed for England Street is 40 mph.

The reanalysis is contained in this Final EIS and shows that this crossing would operate at LOS B both before and after the proposed Conrail Acquisition. Crossing delay per stopped vehicle would increase from 2.17 minutes per vehicle to 2.23 minutes per

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vehicle. The England Street crossing would still not meet SEA's criteria for a significant increase in vehicle delay. Therefore, SEA concluded that mitigation of traffic delay is not warranted.

Summary of Comments. The Virginia Department of Environmental Quality stated that certain highway/rail at-grade crossings in Prince William County and Manassas City, Virginia were experiencing "unacceptable congestion and delay" during the peak commuting hours because of train traffic. The Department remarked that the Virginia Department of Transportation began to investigate this delay. The Department asked, "How are the existing unacceptable crossing delays incorporated into and reflected in this study?"

Response. SEA analyzed vehicle delay at highway/rail at-grade crossings along rail line segments that met SEA's thresholds for environmental analysis. The present delay problem that the Department of Environmental Quality cited would not be a potential impact of the proposed Conrail Acquisition, because it is related to pre-existing train operations. Three rail line segments run through Prince William County, Virginia. The number of trains on the Alexandria-to-Manassas rail line segment (N-315) would increase by 1.8 trains per day—that is, from 7.8 trains per day before the proposed Conrail Acquisition to 9.6 trains per day after the proposed Acquisition. The number of trains on the Manassas-to-Montview rail line segment (N-316) would increase by 1.3 trains per day from—that is, from 13.7 trains per day before the proposed Conrail Acquisition to 15.0 trains per day after the proposed Acquisition. The number of trains on the Riverton Junction-to-Manassas rail line segment (N-325) would decrease by 2.5 trains per day—that is, from 11.3 trains per day before the proposed Conrail Acquisition to 8.8 trains per day after the proposed Acquisition. These rail line segments did not meet SEA's thresholds for environmental analysis (an increase of 3 or more trains per day for rail line segments in air quality nonattainment areas).

Summary of Comments. The Virginia Department of Environmental Quality asked SEA for the following explanations:

1. The rationale and mathematical equation that SEA used to estimate "Average Delay for All Vehicles" on page C-13. The Department stated, "Based on the equation, the units do not work out correctly."
2. "[T]he use of conversion factor '24'—number of hours per day to be divided by conversion factor '1440'—number of minutes per day."
3. "[W]hy the spreadsheet exhibited in Table 5-VA-7 contains units for "Average Delay per Vehicle (All Vehicles)" as 'sec/veh' whereas the aforementioned equation provides units of 'min/veh'."

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4. “[W]hy the mathematical equation used to evaluate the ‘Number of Vehicles Delayed per Day’ did not incorporate the same assumptions used by the ‘Maximum Vehicle Queue’ equation to address peak hour traffic.”
5. “[T]he derivation of factor ‘0.0833’ in the ‘Average Delay for All Vehicles’ equation and how peak hour traffic was weighted.”

Response. The average delay for all vehicles represents the estimated average delay that all drivers experience over an entire day. The average delay includes both drivers who would and drivers who would not experience delay from trains. SEA calculated the average delay by dividing the total vehicle delay over the entire day, expressed in vehicle-minutes of delay, by the ADT volumes.

SEA developed the equation in the Draft EIS to calculate the average delay for all vehicles at a highway/rail at-grade crossing. The equation is the estimated delay per stopped vehicle (the average amount of time a driver would wait at a crossing when a train is passing) multiplied by the number of vehicles that would experience delay over the entire day, and then divided by the ADT.

SEA estimated average delay for all vehicles from the following equation:

$$D_v = D_c \times N \times D_A \times (24/1,440) \times 0.0833$$

Where:

D_v = Average delay for all vehicles, in minutes per vehicle.

D_c = Time required for a train to pass a highway/rail at-grade crossing, including time for gate closing and opening, in minutes per train.

N = Number of trains per day.

D_A = Crossing delay per stopped vehicle, in minutes per vehicle.

24 = Number of hours per day.

1,440 = Number of minutes per day.

0.0833 = A factor to define the amount of daily traffic in an hour (1 day/24 hours), multiplied by 2 to be conservative.

The units in the equation do indeed work out correctly. That is the purpose of the conversion factors that the commentor noted.

The difference in units between Table 5-VA-7 in the Draft EIS and the description of the formula in the text is not significant. The spreadsheet data in the table did not reflect all of the conversion factors that SEA used. The difference is simply a result of the computer program that SEA used for computations.

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The analysis did not calculate vehicle delay in the peak hour because predicting the portion of daily trains that would pass a highway/rail at-grade crossing in the peak hour is not possible. Because trains do not run on fixed schedules, the equation reflects the assumption that the specified number of daily trains would arrive at random times over the entire day. Random train arrivals would have an equal chance of occurring at any hour of the 24-hour day, so the hourly highway traffic volume would be 1/24 of the ADT. However, if SEA had assumed an equal distribution of highway traffic over the entire day, the analysis would have risked underestimating vehicle delay because highway traffic does have peaks. To avoid this risk, SEA doubled the assumed hourly rate of highway traffic; hence, $2 \times (1/24) = 0.0833$, the factor in the formula. This factor made the calculations sufficiently conservative to serve the purpose of the analysis.

The equation that SEA used to calculate maximum queue lengths differed from that used to calculate vehicle delay because of differences in the purposes of the calculations. Unlike the vehicle delay calculation described above, the maximum queue length explicitly represented peak-hour highway traffic characteristics. In calculating queue lengths, SEA did not have to use the general 0.0833 factor but could instead use a more typical peak-hour factor, which was 10 percent. SEA used the results of the vehicle delay analysis, not the maximum queue length, to determine the need for mitigation.

Summary of Comments. The Town of Ashland, Virginia commented that extended highway/rail at-grade crossing delays for emergency vehicles in excess of 5 minutes may endanger lives and property. The Town noted that a fire station and rescue squad are one block away from the highway/rail at-grade crossing, with high-occupancy college dormitories located across the tracks from the two stations.

Response. The average number of trains on the CSX Richmond-to-Doswell rail line segment (C-102) would increase from 17.8 trains per day to 24.8 trains per day as a result of the proposed Conrail Acquisition. This increase is less than SEA's threshold for environmental analysis (an increase of 8 or more trains per day). Therefore, SEA did not analyze vehicle delay for crossings on rail line segment C-102. See Chapter 4, "Summary of Environmental Review," of this Final EIS.

Virginia—Transportation: Roadway Systems

Summary of Comments. The Town of Ashland, Virginia stated that the Draft EIS used erroneous information regarding England Street. The Town noted that Virginia Department of Transportation traffic volume information for England Street, rail line segment C-102, is higher than in Table 5-VA-7 (revised). SEA's Supplemental Errata dated January 21, 1998, showed reduced average vehicle delays and corresponding levels of service in both "pre-Acquisition" and "post-Acquisition" conditions. The Town stated, "However, the Table still shows a vehicle count (ADT) of 7,775 at the England Street crossing." The Town added that the Virginia Department of Transportation conducted traffic counts on England Street within three blocks of

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and on either side of the tracks. The resulting daily traffic volumes were 9,654 and 16,549 vehicles per day. The Town noted that the actual count “is therefore at least 24 percent and as much as 213 percent higher than indicated in the [Draft] EIS.” The Town requested that the Board “provide a special review of the unique circumstances in Ashland, in light of the erroneous data....”

Response. SEA performed revised analysis of the highway/rail at-grade crossing delay based on the updated England Street ADT volume of 16,549. Appendix G, “Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis” of this Final EIS contains the results of the revised analysis. The results show that the crossing would continue to operate at LOS B both before and after the proposed Conrail Acquisition. The crossing delay per stopped vehicle would increase from 2.17 minutes per vehicle to 2.23 minutes per vehicle. This increase would not meet SEA’s criteria for a significant increase in vehicle delay.

Summary of Comments. The Virginia Department of Environmental Quality requested the CSX and NS truck diversion data by jurisdiction, if possible.

Response. SEA acknowledges this comment. The truck-to-rail diversions are located in a table in Appendix E, “Air Quality,” Attachment E-7, “Emissions Decreases from Truck-to-Rail Diversions in Counties Analyzed,” in the Draft EIS. This table lists all counties in Virginia that SEA evaluated with available truck-to-rail diversion data.

Virginia—Transportation: Other

Summary of Comments. The Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission jointly commented that the Fredericksburg Line is one of the most capacity-constrained rail line segments of the entire CSX system. The Commissions asserted that the methodology that CSX and NS used to estimate freight train densities did not consider the passenger operations of VRE (which the Commissions jointly own). The Commissions stated that scheduling adjustments and refinements would not resolve the issue.

The Commissions pointed out that Federal funding is available for track and signal improvements between the Potomac River and Telegraph Road and the Woodbridge/Aquia crossover. The Commissions continued that “unless CSX is prepared to represent that it will make the improvements even if public funding is not forthcoming, SEA should not assume that the improvements will be made or factor the improvements into its consideration of the environmental impact of the proposed Conrail acquisition.”

The Commissions added that “there is no indication that SEA conducted any analysis of (i) the magnitude of increased capacity on the Potomac Yard to CP - Virginia Avenue line as a result of the Virginia Avenue tunnel improvements or (ii) the increase in delays or reduction in

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capacity on the line during the period when the improvements are being made.” The Commissions stated, “SEA needs to establish conditions to mitigate the adverse impact on VRE operations during the construction.”

Response. SEA has analyzed the CSX and NS routes that VRE commuter trains use, including a short segment on Conrail, and concludes that the proposed Conrail Acquisition would not adversely affect VRE service.

SEA is aware that there are operating constraints between Washington, D.C. and Richmond, Virginia that limit capacity. The most significant of these is the combination of the 10-mile-per-hour single-track Virginia Avenue Tunnel and the double-track Potomac River Bridge. Together, these create a funnel effect, and the speed restriction greatly increases the length of time that a freight train requires to move through this area. Additional operating constraints are the limited crossover capability between Alexandria and Richmond, Virginia; the track configuration at the Lorton AutoTrain Terminal; the single-track bridge at Quantico Creek, Virginia; and the steep gradient of Franconia Hill, Virginia.

SEA notes that FRA and Amtrak, with input from the Commonwealth of Virginia, VRE and CSX, are conducting a study of the CSX Washington-to-Richmond corridor, as a supplement to their Annual Report to Congress. The report will identify and prioritize the capital improvements needed to expand future rail service and increase train speeds on this route. This study is addressing many of the sub-optimal operating characteristics that the above response describes.

SEA concludes that CSX has recently been able to improve on-time performance for VRE and Amtrak. On-time performance between Washington and Richmond is less a matter of line and yard capacity than of managerial attention to operations by CSX. In addition, VRE has an ambitious capital spending plan that would increase the operating flexibility of the Fredericksburg Line.

The operating access agreement between VRE and CSX states that any expansion of VRE commuter service is conditional on assurances from VRE’s owners (the Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission) that they would finance capital improvements to expand the capacity of CSX’s Richmond, Fredericksburg, and Potomac Subdivision. VRE’s owners have not indicated any change in plans to expand their service. Thus, it was reasonable for CSX to assume in its Operating Plan that VRE’s owners would continue implementing several planned capital improvements. SEA concluded that the operating access agreement between CSX and VRE governs the allocation of capital expenditures, and that SEA could not change or nullify the terms of that agreement in the course of analyzing the potential environmental impacts of the proposed Conrail Acquisition.

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The 8-mile rail line segment between CP-Virginia Avenue in Southwest Washington, D.C. and AF interlocking south of the Alexandria, Virginia passenger station is not an ideal railway alignment. Of the 8 miles in this rail line segment, 4.7 miles in Virginia have three main tracks. On a weekday, 24 VRE trains, 20 Amtrak trains, and 29 CSX and NS freight trains would use this rail line segment. The passenger trains tend to cluster northbound in the morning peak period between 6:00 a.m. and 9:00 a.m. and southbound in the afternoon peak period between 4:00 p.m. and 7:00 p.m. The route has sufficient capacity, including Traffic Control System bi-directional signaling, to accommodate the projected 10.7 additional freight trains per day, but only if CSX effectively manages the system and dispatches the trains.

The 51-mile rail line segment (C-101) between AF interlocking and Fredericksburg also has bi-directional signaling. It is double-track except at Quantico Creek Bridge. According to CSX's Operating Plan, this rail line would have an increase of 7.1 freight trains per day. On weekdays, 12 VRE and 18 Amtrak trains would use this rail line. Even with the above-mentioned operating constraints on this rail line, CSX has demonstrated (as DOT noted in its comments on the Draft EIS) that freight trains with appropriate horsepower-per-ton ratings can operate during passenger train peak periods without affecting VRE's on-time performance. If VRE implements its planned capital improvements program, the added operating capacity and flexibility would significantly improve the efficiency of train movements on the Fredericksburg Line.

On the 26-mile, double-track Manassas Line between AF interlocking in Alexandria and Broad Run, South Manassas rail line segment (N-315), NS proposed an increase of two freight trains per day, for a total of 10 freight trains per day on this Traffic Control System bi-directional signaled rail line. Presently, 12 VRE and three Amtrak trains use this rail line segment on weekdays. SEA concluded that this rail line segment has sufficient capacity to handle all of the current and proposed traffic.

SEA noted that NS's Operating Plan proposes to move coal trains on the more circuitous route through Enola, Pennsylvania (not Harrisburg) to Chevy Chase, Maryland (not Baltimore) rather than the more direct route via Washington, D.C. SEA also observed that the route through Enola encounters substantially fewer passenger trains and avoids the operating constraints of the Virginia Avenue Tunnel in Washington, D.C. and the B&P Tunnels in Baltimore, Maryland on Amtrak's Northeast Corridor. NS would be acting within its operating discretion if it routed trains over a longer route as long as it achieved the primary objectives of efficiency and reliability.

SEA did not assume in its analysis that passenger trains operate through the Virginia Avenue Tunnel. Passenger trains have not done so on a regular basis since early in this century.

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VRE and Amtrak trains are entitled to dispatching preference on the lines in question, including the rail line segment between Potomac Yard and CP-Virginia Avenue. Therefore, it is not necessary for SEA to determine the exact magnitude of the rail line capacity expansion that would result from CSX's improvements to the Virginia Avenue Tunnel. In the rebuttal that CSX filed on December 15, 1997, it stated that those improvements would permit an increase in operating speed through the tunnel from 10 mph to 25 mph. SEA noted that such an improvement would have the effect of reducing by 50 percent the time that a freight train requires to move between CP-Virginia Avenue and RO interlocking, across the Potomac River. This reduction in freight train occupancy time would allow more time for the movement of VRE and Amtrak trains.

SEA notes that changes in normal operations would be necessary while CSX is improving the Virginia Avenue Tunnel. SEA urged VRE and Amtrak to work within the framework of their respective operating access agreements to minimize the potential impact on their affected operations. Assuming that CSX would shift all of its freight operations to nighttime hours, work on the Virginia Avenue Tunnel during the day would minimize the impact on VRE and Amtrak, while CSX freight operations at night would be relatively free of interference by passenger operations.

Summary of Comments. The City of Lynchburg, Virginia opposed any aspect of the proposed Conrail Acquisition that would reduce rail traffic through the City. In addition, the City requested that SEA clarify "the impact of the proposed Acquisition on rail service to Lynchburg before the EIS is finalized."

Response. SEA has determined that the Applicants expect that the number of freight trains per day on various rail line segments that pass through the Lynchburg area to remain the same or increase slightly from existing levels (see Appendix A, "Rail Line Segments and Traffic Density Changes," of the Draft EIS). The number of freight cars that the NS Montview yard handles daily would decrease by 9 cars per day. SEA based these projections on traffic flow models for the entire NS and CSX systems showing conditions both before and after the proposed Conrail Acquisition. SEA determined that the freight traffic increase and concurrent yard activity decrease would result from better sorting of freight cars at the origin to allow freight cars to move longer distances before switching in a yard. SEA recognizes this prevailing trend in the railroad industry, and concluded that the projected decrease in the number of cars handled in Montview would result from a higher proportion of through trains.

Summary of Comments. The Towns of Front Royal and Stanley, Virginia, Warren County, Virginia, and the Lord Fairfax Planning District Commission of Virginia noted, in separate comments, that "the train traffic projections are highly speculative given the strategic location of Riverton Junction for east coast and midwestern rail traffic and the high probability of increased through freight traffic." The commentors requested that the Board consider the high

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probability of more significant potential environmental impacts on the community as a result of the proposed Conrail Acquisition.

Response. As Attachment A-1, “Master Table of All Rail Line Segments,” of Appendix A, “Rail Line Segments and Traffic Density Changes,” in the Draft EIS noted, the rail line segments between Roanoke and Riverton Junction (N-100) and between Riverton Junction and Harrisburg (N-091) would experience traffic level increases of 8.2 and 8.5 trains per day, respectively, following the proposed Conrail Acquisition. On the segment between Riverton Junction and Manassas (N-325), NS anticipates a reduction of 2.5 trains per day.

NS derived rail traffic volumes from a computer model of a 1 percent sample of 1995 waybill information (waybills are routing and commodity information that accompany each rail shipment). NS reviewed each segment to determine whether the levels predicted by the model are realistic. Section A.4 of Appendix A, “Rail Line Segments and Traffic Density Changes,” of the Draft EIS described the analysis methods for developing the train projections in more detail.

In the Draft EIS, SEA analyzed the impacts of the proposed Conrail Acquisition on the segments that experienced an increase of 8 or more trains per day if the increase in traffic levels occurred within an attainment area. Accordingly, SEA analyzed the two rail line segments (N-091 and N-100) between Roanoke and Harrisburg.

SEA notes that NS’s Operating Plan reserved the right to route additional traffic over the Roanoke-to-Riverton rail line segment should NS’s negotiations with the North Carolina Railway Company fail to achieve an operating agreement satisfactory to both parties. Since this matter predates the proposed Conrail Acquisition and is governed by a contractual arrangement between the North Carolina Railway Company and NS, SEA neither interceded nor speculated on train volume changes. SEA anticipates, however, that any increase in NS traffic along the Shenandoah Valley rail line (rail line segments N-091 and N-100) would result in a corresponding decrease in the Manassas-to-Riverton Junction rail line segment.

The Operating Plan represents the Applicant’s best estimate for rail traffic activities 3 years after the proposed Conrail Acquisition. The potential for additional shipments in this or any other area exists in the future, subject to the Applicant’s response to a continually changing economic climate. SEA has determined that significant environmental impacts would not result from the proposed Conrail Acquisition and concluded that no mitigation is warranted.

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Summary of Comments. The Commonwealth of Virginia Department of Rail and Public Transportation expressed a concern that the recommendation of a 15-minute clearance window before and after the arrival of a passenger train would reduce a line's capacity. The Department suggested that the Board study the recommendation further before taking final action.

Response. SEA reviewed its analysis and determined that modern signal systems that the Applicants employ may adequately address the increased risk of train collisions. Therefore, SEA is withdrawing its proposed mitigation of temporal separation of passenger and freight trains and does not recommend further mitigation.

Summary of Comments. CSX expressed concern that the "15/30 minute train separation rule on the CSX system would make it impossible for freight trains and passenger trains to share the same tracks during periods of significant passenger use of the tracks on the Fredericksburg and Point of Rocks line segments, over which both commuter and Amtrak operations are conducted." CSX stated that both freight and passenger service would suffer if the Board requires the proposed rule.

Response. SEA reviewed its analysis and determined that modern signal systems and automatic train protection technologies that the Applicants employ may adequately address the increased risk of train collisions. Therefore, SEA is withdrawing its proposed mitigation of temporal separation of passenger and freight trains and does not recommend further mitigation. SEA encourages FRA to exercise its regulatory authority over passenger rail safety and directly address rail line segments that passenger trains and an increased number of freight trains use.

Summary of Comments. The Virginia Department of Environmental Quality requested an explanation of "why the impact to the port activities in Hampton Roads, Virginia was below the screening thresholds when in fact Sect. 5-VA.2 indicated that the '...Mono[n]gahela coal fields of western Pennsylvania would add another source of coal traffic for the CSX-served export docks at Newport News, and NS-served export docks at Norfolk.'"

Response. SEA has determined that CSX enters the Hampton Roads area on rail line segment C-232, for which CSX projects a decrease of 1.0 train per day from the existing level of 9.6 trains per day. As Appendix A, "Rail Line Segments and Traffic Density Changes," of the Draft EIS showed, this rail line segment is the likely path for transport of coal originating in the Monongahela region. Monongahela coal transported into the Hampton Roads area on the NS rail line would arrive on the Norfolk-to-Burkeville rail line segment (N-417), for which CSX projects an increase of 1.1 trains per day from an existing level of 20.4 trains per day. The Applicants expect tonnage figures associated with the trains per day to remain essentially unchanged.

In their Operating Plans, the Applicants explain their intentions for routing Monongahela coal to the Hampton Roads area. While the data listed in the paragraph above do not

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show a substantial increase in coal traffic, the redistribution of overall rail traffic following the proposed Conrail Acquisition may reflect a decrease in general merchandise traffic to and from this area that may be offset by increases in coal movements.

Virginia—Air Quality

Summary of Comments. VRE stated that the increasing numbers of freight trains on the tracks would cause schedule delays for its passenger service. According to VRE, this situation would lead to passengers returning to automobiles and increasing air pollution emissions.

Response. Under the Rail Passenger Service Act of 1970 (49 U.S.C. § 24308(c)) and similar statutes, the Applicants have entered into contractual agreements with passenger rail operators that give passenger trains dispatch priority over freight trains in order to maintain passenger train schedules. The proposed Conrail Acquisition would not affect these contractual agreements. Increased freight train traffic following the proposed Conrail Acquisition therefore should not affect passenger rail service, and SEA expects that there will be no diversion of passengers to automobiles. Accordingly, SEA does not expect any adverse air quality effects of the proposed Conrail Acquisition relative to passenger rail services.

Summary of Comments. The Town Councils of Front Royal and Stanley, Virginia and the Board of Supervisors of Warren County, Virginia noted that SEA concluded that there was only minimal air quality effect in Warren County, despite the fact that the estimated levels of air pollutants exceeded SEA's significance criteria for mitigation.

Response. SEA's analysis, which Chapter 5, "State Settings, Impacts and Proposed Mitigation," of the Draft EIS (see Table 5-VA-17) presented, indicated that there would be potential NO_x emissions in Warren County greater than SEA's emissions screening levels before and after the netting analysis. SEA's analysis also indicated that the potential NO_x increase would exceed 1 percent of the County's 1995 NO_x emissions. SEA determined, however, that these effects would not be significant, as discussed below.

SEA considered the effect that increases in NO_x emissions from Acquisition-related activities would have on ozone concentrations. Warren County is an ozone attainment area with low existing NO_x emissions. SEA concluded that the relatively low (2.2 percent) projected increase in County-wide NO_x emissions would not significantly affect local ozone levels or the County's ozone attainment status. This conclusion is based on recent studies by the Ozone Transport Assessment Group, which have shown that NO_x effects on ozone nonattainment are primarily a regional concern, rather than a local one. Therefore, SEA has concluded that local NO_x emissions changes, particularly the relatively low and widely distributed emission changes identified in the Draft EIS, would

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have no measurable effect on local attainment of ozone air quality standards. EPA's new locomotive emissions rules would largely offset emissions increases from increased train traffic over the next few years.

Summary of Comments. The Virginia Department of Rail and Public Transportation commented that the air quality analysis presented in the Draft EIS for Page County, Virginia is flawed. The Department explained that the Draft EIS did not account for emissions reductions resulting from truck-to-rail freight diversions in Page County. Further, the Department claimed that the diversions should have some positive effect in Page County.

Response. SEA disagrees that the air quality analysis presented in the Draft EIS for Page County is incorrect, because there would be no truck diversions (and associated emissions reductions) in the County. The truck diversion emissions reductions in the area would be a result of a decrease in truck traffic on Interstate 81, which runs parallel to the northwestern border of Page County. In addition, NS and CSX provided data that showed no interstate highways serving as major trucking routes passing through the County. For these reasons, SEA does not expect emissions reductions in Page County as a result of truck-to-rail freight diversions.

Although SEA does agree that emission benefits of the diversion of freight from truck to rail could extend beyond the counties identified in the Draft EIS, the actual analysis focused on the counties for which such data were available.

Summary of Comments. The Office of Air Data Analysis of the Virginia Department of Environmental Quality commented that the proposed Conrail Acquisition would have a noticeable air quality impact locally and regionally in Virginia and that the Final EIS must address the potential environmental impacts at both the local and regional levels.

Response. SEA has determined that the proposed Conrail Acquisition would not pose a noticeable air quality impact in Virginia. Emissions of all pollutants except NO_x would change by negligible amounts. SEA estimated that emissions of NO_x would decrease by a small amount (647 tons per year; see Table 4-17 of the Draft EIS) in Virginia. This represents a decrease of approximately 0.1 percent of the estimated half million tons of NO_x emitted in Virginia in 1995 (EPA 1996). See Appendix I, "Air Quality Analysis," of this Final EIS.

Summary of Comments. The Office of Air Data Analysis of the Virginia Department of Environmental Quality commented that the Board must make a conformity determination in any ozone nonattainment areas, regardless of the screening criteria that SEA established for the EIS. The Department also commented that a General Conformity determination is necessary for the Richmond and Hampton Roads, Virginia nonattainment areas, regardless of EIS screening criteria.

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According to the Department, the Board must make a determination that the transportation aspect of its action complies with the transportation conformity rules (40 CFR 51.853(a)).

Response. The Board has determined that General Conformity Rules (40 CFR 93, Subpart B) do not apply to the proposed Conrail Acquisition. EPA has stated that “it is up to each Federal agency to review its own unique legal authority and determine what emission-generating activities it has the ability to control.” (See *General Conformity Guidance: Questions and Answers*, EPA Office of Air Quality Planning and Standards, July 13, 1994, page 14.) The Board has examined the issue of control and has determined that it cannot practicably control railroad emissions as part of a continuing program responsibility. See Section 5.2.3.11, “Air Quality,” of this chapter for additional discussion of this issue and SEA’s discussion of applicability.

Transportation conformity rules (40 CFR 93, Subpart A) also do not apply to the Board’s possible approval of the proposed Conrail Acquisition. These rules apply only to highway or transit projects proposed for funding by or requiring approval of the Federal Highway Administration or the Federal Transit Administration.

Summary of Comments. The Office of Air Data Analysis of the Virginia Department of Environmental Quality commented that air quality impacts occur on the borders of two Prevention of Significant Deterioration Class I areas and a serious nonattainment area. The Department continued that SEA should conduct the impact analysis by treating the entire affected area containing the Class I areas and the nonattainment area in order to capture all of the potential benefits and “disbenefits.” The Department added that, where rail line segments come within 10 kilometers of a Class I area, SEA should consider minimizing highway/rail at-grade crossing delay and fugitive emissions to avoid potential environmental impacts on local air quality.

Response. SEA recognizes the concerns of the Virginia Department of Environmental Quality. SEA has evaluated NO_x emissions on a regional and system-wide basis, rather than simply a local basis such as near Class I areas. This is because the primary concerns posed by NO_x emissions are regional and larger-scale issues such as acid rain, ozone formation, and haze. SEA’s analysis has demonstrated that larger-scale NO_x emissions would decrease as a result of the proposed Conrail Acquisition.

SEA does not expect emissions from highway/rail at-grade crossing delay to be significant along rail lines located in close proximity to Prevention of Significant Deterioration Class I areas. This is because the high traffic levels that might cause a concern for highway/rail at-grade crossings are generally located in urbanized areas, whereas the Class I areas (National Parks and Wilderness Areas) are generally in relatively undeveloped, rural areas.

Section 5.3.23—Virginia

If the Board approves the proposed Conrail Acquisition, SEA recommends that the Board require the Applicants to take appropriate measures to minimize fugitive dust emissions for all proposed construction projects, regardless of location. See Chapter 7, “Recommended Environmental Conditions,” of this Final EIS.

Summary of Comments. The Office of Air Data Analysis of the Virginia Department of Environmental Quality commented that SEA should share information on the emission benefits from truck VMT removal and the “disbenefit” from highway/rail at-grade crossing delay with the local Metropolitan Planning Organization.

Response. For Metropolitan Planning Organizations or other groups, SEA has estimated the air quality (emissions) benefits and “disbenefits” related to the proposed Conrail Acquisition for Counties and jurisdictions in which emissions increases exceed SEA’s screening levels (see Chapter 5, “State Settings, Impacts and Proposed Mitigation,” of the Draft EIS). SEA emphasizes that these are simply projections, however, and that rail-related emissions can increase or decrease at any time subject to freight service supply and demand. Each Metropolitan Planning Organization is responsible for tracking air pollutant emissions budgets within its jurisdiction. Metropolitan Planning Organizations could use SEA’s methodologies for calculating such emissions increases and decreases to track all existing and future rail-related emissions, not just those changes that could occur if the Board approves the proposed Conrail Acquisition.

Summary of Comments. The Office of Air Data Analysis of the Virginia Department of Environmental Quality recommended that SEA perform localized hot-spot analyses for highway/rail at-grade crossings and intermodal facilities that experience additional operations. The Department also suggested that SEA strengthen the air quality analysis at highway/rail at-grade crossings by using peak hour delays during summer ozone conditions instead of the annual daily average delay.

Response. In response to a number of comments expressing concerns about air quality near highway/rail at-grade crossings, SEA has conducted a generic, conservative air quality impact analysis, as Appendix I, “Air Quality Analysis,” of this Final EIS describes. This analysis demonstrates that such locations would not experience an increase in concentrations of CO exceeding the health-based NAAQS.

SEA does not expect that air pollutant emissions from intermodal facilities would cause exceedances of the CO NAAQS or any other NAAQS. The amount of CO emitted within such facilities is relatively minor compared to that emitted from many stationary sources, and stationary sources do not typically cause any threat to CO attainment. CO attainment problems are generally limited to locations near very congested intersections. Also, ozone is not a localized problem that highway/rail at-grade crossings cause, so SEA did not consider summer peak-hour traffic at such crossings in its evaluation of potential ozone impacts.

Section 5.3.23—Virginia

Summary of Comments. The Office of Air Data Analysis of the Virginia Department of Environmental Quality suggested that it would be beneficial to prepare a summary table of NO_x emissions for all counties in Virginia that the proposed Conrail Acquisition would affect, not just those counties with activities above the Board's thresholds for environmental analysis. The Department also commented that the data in Table 4-17 are incorrect; the air quality analysis did not include emissions changes from all counties in Virginia that the proposed Conrail Acquisition would affect.

Response. SEA has estimated and has disclosed (in Volume 3, Section 5-VA.11, of the Draft EIS) for state agency, metropolitan planning organization, or other use, the net NO_x emissions changes related to the proposed Conrail Acquisition for counties and jurisdictions where increases would exceed SEA's screening levels. SEA emphasizes that these are simply projections, however, and that rail-related emissions can increase or decrease at any time, subject to the forces of supply and demand for freight service, apart from the proposed Conrail Acquisition. Therefore, SEA did not estimate projected emissions changes where it is expected that such changes would clearly have negligible effects.

Virginia—Noise

Summary of Comments. The Loud Fairfax Planning District Commission, serving local governments of the Northern Shenandoah Valley, Virginia expressed a concern about the conclusion in the Draft EIS that there would be only a minimal potential for adverse noise effects, despite the fact that potential noise effects exceed the Board's thresholds for environmental analysis.

Response. SEA clarifies that, based on the Applicants' predicted increases in train traffic related to the proposed Conrail Acquisition, the Board's thresholds for noise analysis were exceeded on three rail line segments in Virginia. Table 5-VA-18 of the Draft EIS showed these three rail line segments.

SEA projected that two of these three rail line segments would experience noise increases as a result of the proposed Conrail Acquisition. Because the projected increases are below the Board's thresholds for noise analysis, SEA determined that these increases did not warrant further analysis. Only rail line segment N-091, which runs through Warren County, and is near Front Royal, required additional noise analysis. SEA performed a site-specific noise analysis for rail line segment N-091 and identified the number of affected receptors in Appendix J, "Noise Analysis," of this Final EIS.

SEA notes that it does not expect rail line segment N-091 to experience Acquisition-related noise increases that meet or exceed the noise mitigation criteria that SEA established for the proposed Conrail Acquisition. These criteria are an L_{dn} of 70 dBA and an increase of 5 decibels for engine and wheel/rail noise related to the proposed

Section 5.3.23—Virginia

Conrail Acquisition. Because SEA does not predict noise levels on rail line segment N-091 to exceed these criteria, it does not recommend mitigation measures for this rail line segment. Further, SEA cannot mitigate horn noise impacts at this time because FRA has not yet promulgated Quiet Zone Rules and because train horns are of paramount importance to safety.

Summary of Comments. NS commented on discrepancies in the Draft EIS in regard to the noise analysis. Specifically, NS identified Appendix F, “Noise,” Attachment F-1, where the Draft EIS indicated receptors along the Riverton Junction-to-Roanoke rail line segment in Augusta County, Virginia that would experience a 5.0 dBA increase in noise level after the proposed Conrail Acquisition. NS stated that its calculations resulted in a 4.9 dBA increase. NS also noted inconsistencies between the information in Attachment F-2 of Appendix F, “Noise,” of the Draft EIS and information on operations that NS had submitted to SEA in NS’s Environmental Report. NS pointed out discrepancies in the number of trucks, change in decibels, and distance to the 65 dBA L_{dn} contours at intermodal facilities.

Response. SEA acknowledges NS’s comment regarding the predicted noise increase for the Riverton Junction-to-Roanoke rail line segment. SEA maintains that its calculation of the predicted noise increase is correct.

SEA also notes NS’s comments regarding additional discrepancies between the Environmental Report that NS submitted and the corresponding data that the Draft EIS presented. SEA has reviewed these discrepancies and has resolved them with assistance from NS. For further discussion, see Appendix F, “Noise,” in the Draft EIS and Appendix J, “Noise Analysis,” in this Final EIS.

Summary of Comments. The Virginia Department of Environmental Quality commented that at the local level, “where rail segments come within 10 Km of a Class 1 area, consideration should be made to minimize ... noise” that affects local resources.

Response. SEA does not expect noise increases at highway/rail at-grade crossings to be significant along rail lines located in close proximity to Class I areas (National Parks and Wilderness areas). This is because most highway/rail at-grade crossings are generally located in urbanized areas, whereas the Class I areas are generally in relatively undeveloped, rural areas. State and local railroad operating practices require locomotives to blow their horns at highway/rail at-grade crossings. SEA cannot mitigate horn noise impacts at this time because FRA has not yet promulgated Quiet Zone Rules. Neither the Board nor the Prevention of Significant Deterioration regulations require train noise mitigation near Class I areas. Therefore, SEA does not recommend noise mitigation measures for highway/rail at-grade crossings located in close proximity to Class I areas.

Section 5.3.23—Virginia

Virginia—Cultural and Historic Resources

Summary of Comments. The Town of Ashland noted that the Ashland historic downtown business district is within 30 feet of the railroad tracks.

Response. SEA has prepared a detailed definition of the Area of Potential Effects as part of its concurrent Section 106 compliance process. The definition of Area of Potential Effects recognized all of the criteria of adverse effect, but found that none were applicable to increased railroad traffic. Increased traffic would be limited to moving and handling more rail cars on the existing trackage and does not have the potential to adversely affect cultural resources in the Ashland Historic Downtown District because such railroad traffic is already part of the historic setting. Increased rail traffic would not require any ground disturbance or physical alteration of existing facilities.

Virginia—Land Use and Socioeconomics

Summary of Comments. The Virginia Department of Environmental Quality commented that proposed activities must receive all applicable permits and approvals listed under the Enforceable Programs of the Virginia Coastal Resources Management Program.

Response. The Board's environmental regulations at 49 CFR 1105.9 require that proposed construction and abandonment activities be consistent with state Coastal Zone Management Plans. The Applicants shall obtain all permits required by the Virginia Coastal Resources Management Programs for proposed activities. Refer to Chapter 7, "Recommended Environmental Conditions," of this Final EIS for final mitigation measures that SEA recommends.

Virginia—Cumulative Effects

Summary of Comments. The Loud Fairfax Planning District Commission, Virginia provided a resolution it had passed regarding the proposed Conrail Acquisition. The resolution "...petitions the Surface Transportation Board to consider the high probability of more significant environmental impacts on this region and its communities due to increase in rail traffic volume"

Response. The Board has established thresholds for environmental analysis to evaluate potential environmental impacts of the proposed Conrail Acquisition. If SEA determined that an activity (rail line segment, intermodal facility, rail yard, construction, or abandonment) meets or exceeds a threshold, SEA performed a more detailed environmental analysis. SEA then applied criteria of significance specific to each technical discipline.

Section 5.3.23—Virginia

Within the Loud Fairfax Planning District Commission, SEA identified two NS rail line segments (N-091 and N-100) that met or exceeded the threshold for environmental analysis. SEA determined that two highway/rail at-grade crossings had safety concerns and significant impacts: SR 7 (Clarke County) and Rockland Road (Warren County). SEA concludes that the Draft EIS and this Final EIS adequately describe the potential environmental impacts of the proposed Conrail Acquisition in this region and has recommended mitigation to address those impacts. See Chapter 7, "Recommended Environmental Conditions," of this Final EIS for SEA's mitigation recommendations.

Section 5.3.24—West Virginia

5.3.24 West Virginia

The West Virginia Development Office and West Virginia Division of Natural Resources informed SEA that they had no comments.

Section 5.3.25—District of Columbia

5.3.25 District of Columbia

District of Columbia—Safety: Passenger Rail Operations

Summary of Comments. The Government of the District of Columbia, Department of Public Works, expressed concern that the Draft EIS does not present an analysis of the potential accident risk from increased freight train activity in the common corridor with Washington Metropolitan Area Transit Authority (WMATA) Metrorail. The Department pointed out that the Draft EIS states that the proposed Acquisition would result in increased tunnel clearance at the Virginia Avenue Tunnel, thus accommodating increased freight and eliminating a current restriction affecting passenger rail operations; however, the Department added, the Draft EIS does not indicate whether the proposed improvements meet or exceed the Board's thresholds for environmental analysis of safety impacts.

Response. SEA conducted additional analysis to address passenger train and hazardous materials transport in the common corridor with WMATA Metrorail that included the following seven rail line segments (the corresponding Metrorail line is shown in parentheses): C-034, Jessup-to-Alexandria Junction (WMATA Green Line); C-003, Washington-to-Pointof Rocks (WMATA Red Line) (two locations); C-030, Alexandria Junction-to-Benning (WMATA Orange Line); C-101, Fredericksburg-to-Potomac Yard (WMATA Blue Line); S-011, Bowie-to-Landover (WMATA Orange Line); C-035, Landover-to-Anacostia (WMATA Orange Line); and N-315, Alexandria-to-Manassas (WMATA Blue Line).

SEA used the expected interval between freight train accidents to assess the change in safety that would be anticipated if the Board approves the proposed Conrail Acquisition. SEA's analysis indicated that the interval between accidents would decrease on each of the rail line segments cited above (that is, accidents would become statistically more frequent). However, SEA determined that on rail line segment C-034, the shortest interval between expected freight train accidents is now 154 years and would be 138 years following the proposed Conrail Acquisition. Five of the seven rail line segments would have intervals greater than the current level of 154 years. Thus, SEA concluded that the general level of safety would not decrease below the Board's criteria of significance and SEA does not recommend mitigation.

Conrail had planned to improve the Virginia Avenue Tunnel before considering the proposed Conrail Acquisition. Therefore, the proposed tunnel improvements are unrelated to the proposed Conrail Acquisition and SEA does not recommend mitigation.

Section 5.3.25—District of Columbia

District of Columbia—Safety: Freight Rail Operations

Summary of Comments. WMATA commented that the Draft EIS did not include an analysis of the common corridors of freight rail and rapid rail operations. WMATA indicated that, for the Final EIS, the Board may need to develop a segment-specific method for evaluating common corridor safety because the methods for evaluating freight and passenger rail operation safety impacts do not apply to common corridor safety. WMATA pointed out that, since the start of rapid rail operations in 1976, two freight rail accidents have occurred in the common corridor. These accidents resulted in physical damage and service disruption to the rapid rail system. WMATA commented that, for 32 miles of common corridor, the freight rail accident frequency per route mile is once every 16 years, which greatly exceeds the 100 years for freight train accidents. To further mitigate the increased risk in common corridors, WMATA stated that the Board should require more than the mitigation strategies that the Board identified on page 3-7 of the Draft EIS. Specifically, WMATA suggested that the Board could require the Applicants to do the following: publish and distribute their plan for the integration of the BMPs of Conrail and their safety processes in accordance with the Volume 2 of the Draft EIS, Safety Integration Plans; institute speed restrictions in the common corridor, as the CSX and WMATA Joint Safety Committee recommended in 1988; install a Hot Box Detection System on each freight track; install a High-and-Wide Load Detection System on each freight track; and install a Dragging Equipment Detection System on each freight track.

Response. WMATA identified five rail line segments (C-003, C-034, C-035, C-101, and N-315) adjacent to its mass transit rail operations. SEA identified two additional rail line segments—Alexandria Junction-to-Benning (C-030) and Bowie-to-Landover (S-011). WMATA calculated an accident frequency of one accident every 16 years on the basis of two freight train accidents on 32 miles of common corridor since WMATA mass transit rail operations began in 1976. Converting this experience to a per-mile interval consistent with SEA's usage yields an expected interval of 336 years between accidents per route-mile (that is, the product of 21 years times 32 route-miles divided by two accidents). This estimate is consistent with SEA's estimates that range from 154 years to 1,770 expected years between accidents per route-mile on the seven rail line segments before the proposed Conrail Acquisition, and the estimates that range from 138 to 693 years after the proposed Conrail Acquisition.

In analyzing accidents and estimating rates of occurrence, SEA used statistics covering a large geographic area, adjusting the occurrences to reflect the parameters of the rail line segment such as class of track and method of control. The statistics that WMATA cited represent a small geographic area. The accuracy of specific predictions diminishes as the sample size, in this case the geographic area, decreases. In fact, the WMATA/CSX Task Force evaluations and the National Transportation Safety Board investigations determined that the two derailments that resulted in intrusion to WMATA resulted from a specific set of operating practices involving helper locomotives and train handling. CSX has modified those operating practices, and further derailments have not occurred.

Section 5.3.25—District of Columbia

District of Columbia—Safety: Other

Summary of Comments. Women Like Us, a community group representing the Anacostia area of Washington, D.C., voiced concern about public safety measures in Anacostia.

Response. SEA evaluated all changes in freight rail traffic and hazardous materials transport that would occur in the District of Columbia and in adjacent areas of Maryland following the proposed Conrail Acquisition (see Appendix F, “Hazardous Materials Transport Analysis,” of this Final EIS). Based on its evaluation of all data, SEA concludes that this analysis and the mitigation measures proposed in Chapter 7, “Recommended Environmental Conditions,” of this Final EIS, adequately address the potential effects resulting from the proposed Conrail Acquisition.

District of Columbia—Transportation: Roadway Systems

Summary of Comments. Women Like Us, a community group representing the Anacostia area of Washington, D.C., commented about traffic congestion in southeastern Washington, D.C. The commentator stated that the Draft EIS did not elaborate on how SEA would address this issue.

Response. In the District of Columbia, the proposed Conrail Acquisition would not include the construction or expansion of any intermodal facilities, rail yards, or new connections that would significantly affect highway congestion in southeastern Washington, D.C. For this reason, SEA did not address the issue of congestion in southeastern Washington, D.C.

District of Columbia—Air Quality

Summary of Comments. Women Like Us, a community group representing the Anacostia area of Washington, D.C., commented that because of the increased number of trains in their community, they would be exposed to poorer air quality.

Response. SEA agrees that increasing the number of trains per day in the Anacostia area of Washington, D.C. would likely cause an increase in Acquisition-related air pollutant emissions. However, the projected increase caused by Acquisition-related air pollution emissions is so small that it would not create a discernable difference in air quality in that area. The health-based NAAQS would not be exceeded as a result of Acquisition-related activities in Anacostia. Also, EPA’s new emissions rules for locomotive engines (see Appendix O, “EPA Rules on Locomotive Emissions,” of this Final EIS) is expected to result in emissions reductions from railroads that far exceed any increases resulting from the proposed Conrail Acquisition.

Section 5.3.25—District of Columbia

Summary of Comments. The Washington, D.C. Department of Public Works stated that the air quality analysis in the Draft EIS was flawed because it did not account for the emissions reduction and maintenance plans of the Washington Metropolitan Area Air Quality Committee, a regional planning organization in Virginia and Maryland.

Response. SEA prepared the Draft EIS in accordance with NEPA, which requires evaluation and disclosure of potentially significant air quality impacts of the proposed Conrail Acquisition. The Washington Metropolitan Area Air Quality Committee is responsible for evaluating the relationship of potential air quality impacts resulting from the proposed Conrail Acquisition to its own plans. The Draft EIS properly disclosed the emissions changes in the Washington, D.C. area that could result from the proposed Conrail Acquisition.

District of Columbia—Noise

Summary of Comments. Women Like Us, a community group representing the Anacostia area of Washington, D.C., commented that the potential for noise pollution would increase and ultimately adversely affect the community. The residents of Anacostia would like to know “what kind of measures will be taken to deal with this issue as it relates to the health of the community?”

Response. SEA performed noise impact analyses to identify sensitive receptors that would experience increased noise levels after the proposed Conrail Acquisition. SEA performed those analyses when it determined that rail line segments, as a result of the proposed Conrail Acquisition, would meet the following thresholds for noise analysis: an incremental increase in noise level by 2 dBA or greater, and an increase to a noise level greater than 65 dBA L_{dn} . Where these criteria were met, SEA counted the affected sensitive receptors. Sensitive receptors included but were not limited to schools, residences, retirement communities, and nursing homes.

As the Draft EIS stated, SEA predicted that noise levels on rail line segment C-035 (the segment in the vicinity of Anacostia) would exceed the thresholds for noise analysis. Based on SEA’s review, there are no highway/rail at-grade crossings on segment C-035; however, SEA identified four sensitive receptors within the 65 dBA L_{dn} contour line for existing wayside noise levels. SEA predicted that 31 sensitive receptors would be within the 65 dBA L_{dn} contour line for future wayside noise levels after the proposed Conrail Acquisition.

SEA recommends noise mitigation for areas that meet mitigation criteria that SEA established for the proposed Conrail Acquisition. SEA based mitigation eligibility on the following criteria: a noise level of 70 dBA L_{dn} and a 5 dBA L_{dn} increase in wayside (engine and wheel/rail) noise levels resulting from the proposed Conrail Acquisition. SEA cannot provide mitigation for horn noise at highway/rail at-grade crossings, because

Section 5.3.25—District of Columbia

horn blowing is necessary for safety and because FRA has not yet promulgated its Quiet Zone Rules. SEA did not find that the noise level increase in the Anacostia area approached the above-mentioned noise mitigation criteria (see Chapter 4, “Summary of Environmental Review,” and Appendix J, “Noise Analysis,” of this Final EIS). Therefore, SEA has not recommended noise mitigation measures for this area.

Summary of Comments. The Government of the District of Columbia, Department of Public Works, commented that the Draft EIS did not state whether the proposed Virginia Avenue Tunnel improvements “would meet or exceed the Surface Transportation Board thresholds for environmental analysis of noise...” impacts.

Response. SEA notes that the improvements to the referenced tunnel are part of a longstanding CSX project and independent of the proposed Conrail Acquisition. Regardless, where proposed traffic on rail line segments exceeds the Board’s thresholds for noise analysis, SEA performed the appropriate noise analyses. The analysis showed noise impacts that would result from increased train traffic along the CP-Virginia-to-Potomac Yard rail line segment (C-002) would be less than 2 dBA L_{dn} ; therefore, SEA views the impact as minimal.

Summary of Comments. The Government of the District of Columbia, Department of Public Works expressed concern that SEA did not analyze ground-borne vibration in the Draft EIS, thereby ignoring Federal Transit Administration guidance that states: “ground-borne noise sounds louder than broadband noise.”

Response. SEA recognizes that Federal Transit Administration guidance addresses ground-borne vibration. SEA notes that a freight train traveling at 50 mph produces a vibration velocity of 95 dB (1 micro-inch per second) 10 feet from the tracks. This value is substantially below cosmetic damage criteria (106 dB re 1 micro-in./sec), which are lower than structural damage criteria (126 dB re 1 micro-in./sec). It is unlikely that vibration levels would exceed any damage criterion and, thus, unlikely that freight train activity at any level would cause damage to buildings in the study area. See Appendix J, “Noise Analysis,” of this Final EIS for discussion of this issue.

Further, existing Federal Transit Administration vibration impact criteria assess the potential impact of vibration levels at a sensitive receptor for a single event only, so an increase in the number of freight trains does not affect the vibration levels per event nor the likelihood of exceeding the single-event criterion. There are no impact guidelines that assess potential vibration impacts on the basis of increases or decreases in the number of daily train operations. In addition, Board regulations do not require a vibration evaluation.

Section 5.3.25—District of Columbia

District of Columbia—Land Use and Socioeconomics

Summary of Comments. Women Like Us, a community group representing the Anacostia area of Washington, D.C., asked how many residents from Ward 8 (in the Anacostia area) would gain employment through the proposed Conrail Acquisition.

Response. In accordance with the Board's environmental regulations and the scope of the EIS, SEA limited its land use and socioeconomic analysis to considering the consistency of proposed rail line construction and abandonment activities with existing land use plans and evaluating potential business losses that would be directly related to proposed constructions and abandonments. In the Draft EIS, SEA evaluated the proposed Conrail Acquisition for evidence of direct job losses related to proposed constructions and abandonments. The Applicants did not propose any construction or abandonment activities in the Anacostia area, so SEA identified no evidence of direct job losses. In accordance with the scope of the EIS, SEA did not evaluate any potential increases in employment as a result of the proposed Conrail Acquisition.

District of Columbia—Environmental Justice

Summary of Comments. The Government of the District of Columbia, Department of Public Works, commented that the Draft EIS did not state whether the proposed Virginia Avenue Tunnel improvements "would meet or exceed Surface Transportation Board's thresholds for environmental analysis of...environmental justice."

Response. The Virginia Avenue Tunnel improvements in the District of Columbia that the Draft EIS noted are not a part of the proposed Conrail Acquisition. Therefore, SEA did not analyze potential environmental justice impacts. Conrail, in cooperation with CSX, had initiated and planned the improvements prior to and independent of the initiation of the proposed Conrail Acquisition.

**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**

GUIDE TO THE FINAL ENVIRONMENTAL IMPACT STATEMENT

This Final Environmental Impact Statement (Final EIS) evaluates the potential environmental impacts that could result from the proposed Acquisition of Conrail Inc. and Consolidated Rail Corporation (Conrail) by CSX Corporation and CSX Transportation, Inc. (CSX) and Norfolk Southern Corporation and Norfolk Southern Railway Company (NS). The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) has prepared this document in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321); the Council on Environmental Quality (CEQ) regulations implementing NEPA; the Board's environmental rules (49 CFR Part 1105); and other applicable environmental statutes and regulations.

SEA issued the Draft EIS on December 19, 1997. Subsequently, SEA issued an Errata (January 12, 1998) and a Supplemental Errata (January 21, 1998) to clarify statements and analyses in the Draft EIS. The 45-day public comment period closed February 2, 1998. This Final EIS provides responses to comments, questions, and issues that the public, agencies, and other document reviewers raised. It describes SEA's additional environmental analysis and includes SEA's final environmental mitigation recommendations to the Board.

To assist the reader in the review of this document, each volume contains a Guide to that volume and a Table of Contents for each chapter in that volume. In addition, each individual volume also contains a Guide to the Final EIS, a Glossary of Terms, a List of Acronyms and Abbreviations, and the Table of Contents of the Final EIS. Specifically, the Final EIS document includes the following volumes:

Executive Summary Volume

The **Executive Summary** provides an overview of the proposed Conrail Acquisition, including the potential environmental impacts and the mitigation measures that SEA recommends to address those impacts. In addition, the Executive Summary Volume contains the **Letter to Interested Parties** that SEA attached to copies of this Final EIS, the **Information Sources** that SEA used for preparing both the Draft EIS and the Final EIS documents, and the **Index** of keywords and phrases that appear in this Final EIS.

Volume 1: Chapters 1, 2, and 3

- Chapter 1, "Introduction and Background," describes the purpose and need for the project, the proposed action, and the alternatives to the proposed action. It also sets forth the jurisdiction of the Board and outlines SEA's environmental review process. In addition, this chapter presents an overview of SEA's agency coordination and the public comment process.
- Chapter 2, "Scope of the Environmental Analysis," identifies the proposed Conrail Acquisition-related activities that SEA analyzed. This chapter includes a table presenting the thresholds SEA used to identify activities for environmental analysis and explains project activities that differ from those set forth in the Draft EIS.
- Chapter 3, "Agency Coordination and Public Outreach," describes SEA's public outreach activities to notify interested parties and environmental justice populations of the potential environmental impacts of the proposed Conrail Acquisition and of the availability of the Draft EIS and the Final EIS. Additionally, the chapter explains SEA's distribution of the Draft EIS and the Final EIS, explains the methods that SEA used to facilitate the public comment process, and describes the agency coordination that SEA performed as part of the environmental review process. Chapter 3 also reviews the historic properties outreach activities that SEA conducted in Ohio.

Volume 2: Chapter 4

- Chapter 4, "Summary of Environmental Review," outlines the additional environmental analysis that SEA conducted for each environmental issue area since preparation of the Draft EIS. Specifically, it explains the methods of analysis, presents the public comments and additional evaluations, identifies the results of the analysis, and reviews SEA's assessment of environmental impacts. In addition, this chapter describes SEA's refinement of the mitigation measures recommended in the Draft EIS, SEA's final recommended mitigation measures, anticipated environmental benefits, and the adverse environmental impacts of the proposed Conrail Acquisition.

Volume 3: Chapter 5

- Chapter 5, "Summary of Comments and Responses," contains summaries of the comments that SEA received on the Draft EIS and SEA's responses to the comments. The chapter provides the following: (a) an overview of the comments, including those

from Federal agencies, the Applicants, and national and regional groups as well as groups and individuals within specific states; (b) general comments on the Draft EIS, including the Application review process, the environmental review process, and the system-wide technical analysis; and (c) comments on state and community issues, organized by state and environmental issue category.

Volume 4: Chapter 6

- Chapter 6, "Safety Integration Planning," sets forth the purpose and topics of the Safety Integration Plans and presents summaries of comments that reviewing agencies and the public submitted about the Safety Integration Plans. The chapter also includes SEA's analysis and response to those comments and provides SEA's conclusion and recommended conditions regarding the Safety Integration Plans.

Volume 5: Chapter 7

- Chapter 7, "Recommended Environmental Conditions," describes the final environmental mitigation conditions that SEA recommends to address significant adverse environmental impacts that could result from the proposed Conrail Acquisition.

Volume 6: Appendices

- These four volumes (6A through 6D) include appendices containing the comments on the Draft EIS and the analysis by the technical disciplines as well as appendices containing public outreach and agency consultation information and documents.

Volume 6A contains the following appendix:

- A. Comments Received on the Draft Environmental Impact Statement.

Volume 6B contains the following appendices:

- B. Draft Environmental Impact Statement Correction Letter, Errata, Supplemental Errata and Additional Environmental Information, and Board Notices to Parties of Record.
- C. Settlement Agreements and Negotiated Agreements.
- D. Agency Consultation.
- E. Safety: Highway/Rail At-Grade Crossing Safety Analysis.
- F. Safety: Hazardous Materials Transport Analysis.
- G. Transportation: Highway/Rail At-grade Crossing Traffic Delay Analysis.
- H. Transportation: Roadway Systems Analysis.
- I. Air Quality Analysis.

Volume 6C contains the following appendices:

- J. Noise Analysis.
- K. Cultural Resources Analysis.
- L. Natural Resources Analysis.
- M. Environmental Justice Analysis.

N. Community Evaluations.

Volume 6D contains the following appendices:

- O. EPA Rules on Locomotive Emissions.
- P. SEA's Best Management Practices for Construction and Abandonment Activities.
- Q. Example Public Outreach Materials.
- R. All Relevant Board Decisions.
- S. Index for the Draft Environmental Impact Statement.
- T. Final Environmental Impact Statement Rail Line Segments.
- U. List of Preparers.

Addendum Volume

The **Addendum** contains information SEA did not include in the other portions of the Final EIS because of production timing constraints. The Addendum contains SEA's evaluation and additional analyses SEA conducted for train traffic rerouting proposed as mitigation for the Greater Cleveland Area. The Addendum also contains additional analysis of the proposed connection in Alexandria, Indiana (one of the Seven Separate Connections) as well as comments received during an additional comment period and summaries of, and responses to, those comments.

GLOSSARY OF TERMS

abandonment:

The discontinuance of service on a rail line segment and the salvaging and/or the removal of railroad-related facilities for reuse, sale, and/or disposal.

Acquisition:

The proposal by CSX, NS, and Conrail to acquire control of Conrail's assets and its basic railroad operations.

active warning devices:

Traffic control devices that give positive notice to highway users of the approach or presence of a train. These devices may include a flashing red light signal (a device which, when activated, displays red lights flashing alternately), a bell (a device which, when activated, provides an audible warning, usually used with a flashing red light signal), automatic gates (a mechanism added to flashing red light signals to provide an arm that can lower across the lanes of the roadway), and a cantilever (a structure equipped with flashing red light signals and extending over one or more lanes of traffic).

Advanced Civil Speed Enforcement System (ACSES):

A supplement to the Automatic Cab Signal (ACS) and Automatic Train Control (ATC) systems currently in place within the Northeast Corridor (NEC), ACSES uses a series of transponders to communicate location and other factors to passing trains whose on-board computers utilize the information to achieve system function. These functions include: (1) civil speed enforcement; (2) temporary speed enforcement, including protection of roadway workers; and (3) enforcement of positive stop at interlocking home signals and Control Points (CPs).

adverse environmental impact:

A negative effect, resulting from the implementation of a proposed action, that serves to degrade or diminish an aspect of human or natural resources.

Advisory Council on Historic Preservation (ACHP):

An independent Federal agency charged with advising the President and Congress on historic preservation matters and administering the provisions of Section 106 of the National Historic Preservation Act.

air-brake test:

A test made prior to train departure, required by Federal Railroad Administration regulations and by railroad rules to ensure that a train's air-brake system is functioning as intended and that certain devices are within prescribed tolerances and physical parameters.

Allied Rail Unions (ARU):

A group of unions representing railroad employees, including the Brotherhood of Locomotive Engineers, the Brotherhood of Railroad Signalmen, and the Brotherhood of Maintenance-of-Way Employees.

Applicants:

CSX Corporation and CSX Transportation, Inc. (CSX), Norfolk Southern Railway Company and Norfolk Southern Corporation (NS), and Conrail Inc. and Consolidated Rail Corporation (Conrail).

Application:

A formal filing with the Surface Transportation Board related to railroad mergers, acquisitions, constructions, or abandonments. Applications may be either Primary Applications or Inconsistent and Responsive (IR) Applications. See *Primary Application* and *Inconsistent and Responsive (IR) Application*.

- Area of Potential Effect(s) (AoPE):** The geographic area surrounding a rail activity where an individual (or resource) or group of individuals (or resources) could likely experience adverse environmental effects. For this Final EIS, where applicable, the different technical disciplines determined their own specific definitions of this term for their individual technical disciplines.
- attainment area:** An area that EPA has classified as complying with the National Ambient Air Quality Standards specified under the Clean Air Act.
- authorized speed:** Maximum permitted speed for a specific train at a specific location, taking into account the prevailing weather conditions (for example, restrictions due to heavy rain, extreme heat or cold).
- Automatic Block System (ABS):** A series of railroad signals that indicate track occupancy in the block (length of track of defined limits) ahead and govern the use of a consecutive set of blocks by a train. These signals include wayside track signals and cab signals (signals displayed in the locomotive cab instead of, or in addition to, wayside track signal displays), or both. This system combines automatic detection of train position with control of signals.
- Automatic Train Control (ATC):** A system that has components installed on both trains and tracks that, when working together, will cause the train brakes to apply automatically if the engineer fails to respond to a condition requiring train speed to be reduced.
- Best Management Practice (BMP):** Technique that various parties (for example, the construction industry) use to provide protection from adverse impacts to the environment. The Board may designate these techniques as mitigation measures.

- block group:** A small population area that the U.S. Census Bureau uses to measure and record demographic characteristics. The population of a block group typically ranges from 600 to 3,000 people and is designed to reflect homogeneous living conditions, economic status, and population characteristics. Block group boundaries follow visible and identifiable features, such as roads, canals, railroads, and above-ground high-tension power lines.
- block swapping:** The process of moving groups of cars with a common destination (called "blocks") from one train to another.
- Board:** The Surface Transportation Board, the licensing agency for the proposed Conrail Acquisition.
- bulletins:** Documents addressed to train crews and other operating employees specifying temporary or local operating rules and restrictions.
- cab signaling:** System that provides signal indications in the locomotive cab instead of, or in addition to, wayside signal displays.
- carload:** A unit of measure used to describe commodities transported on a railroad typically in a boxcar, tank car, flat car, hopper car, or gondola.
- centralized traffic control system:** A signal system that allows for the movement of trains in either direction on designated tracks at the maximum authorized speed, in accordance with the wayside or cab signals or both.
- census tract:** Small, relatively permanent statistical subdivisions of a county containing between 2,500 and 8,000 persons. The U.S. Bureau of Census designs census tracts to reflect homogeneous living conditions, economic status, and population characteristics.

Clean Air Act (Clean Air Act Amendments): The Clean Air Act of 1970 and the subsequent amendments, including the Clean Air Act Amendments of 1990 (42 U.S.C. 7401-7671g); the primary Federal law that protects the nation's air resources. This act establishes a comprehensive set of standards, planning processes, and requirements to address air pollution problems and reduce emissions from major sources of pollutants.

Clean Water Act: The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*) is the primary Federal law that protects the nation's waters, including lakes, rivers, aquifers, and coastal areas. This act provides a comprehensive framework of standards, technical tools, and financial assistance to address the many causes of pollution and poor water quality, including municipal and industrial wastewater discharges, polluted runoff from urban and rural areas, and habitat destruction. Specifically, the Clean Water Act provides for the following:

- Requires major industries to meet performance standards to ensure pollution control.
- Charges states and tribes with setting specific water quality standards appropriate for their waters and developing pollution control programs to meet them.
- Provides funding to states and communities to help them meet their clean water infrastructure needs.
- Protects valuable wetlands and other aquatic habitats through a permitting process that conducts land development activities and other activities in an environmentally sound manner.

coastal zone: According to the Coastal Zone Management Act of 1972, lands and waters adjacent to the coast that exert an influence on the uses of the sea and its ecology, or whose uses and ecology the sea affects.

Coastal Zone Management Act (CZMA):

The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451-1464; P.L. 92-583), is also known as “Federal Consistency With Approved State Coastal Management Programs” (15 CFR 930). This Federal act preserves, protects, develops, and, where possible, restores or enhances the resources of the nation's coastal zone for the present and for future generations. The provisions of 15 CFR 930.30 ensure that all Federally conducted or supported activities, including development projects directly affecting the coastal zone, are consistent with approved state coastal management programs as much as possible.

collective bargaining agreement:

An agreement between a union and an employer that defines the scope of work, rates of pay, rules, and working conditions for the union's members.

common corridor:

For the purposes of this Final EIS, a railroad line segment that accommodates both public mass transportation service and passenger and freight train operations by using separate tracks adjacent to each other in the same right-of-way or area.

compensation wetlands (compensatory wetlands):

Wetlands that an agency or entity creates, enhances, or preserves to mitigate for unavoidable impacts on existing wetlands that occur as a result of implementation of the agency's or entities' proposed action. These compensation (or compensatory) wetlands replace, “in kind”, wetlands that an agency or entity partially or totally fills or drains during its construction or earth-moving activities.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA):

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601-9675; P.L. 96-510); the Federal act that provides EPA with the authority to clean up inactive hazardous waste sites and distribute the cleanup costs among the parties who generated and/or handled the hazardous substances at these sites.

Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS):	Federal database containing information on potential hazardous waste sites that states, municipalities, private companies, and private persons have reported to the EPA, pursuant to Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act. This database contains sites that are either proposed for inclusion on, or are currently on, the National Priorities List (NPL) and sites that are in the screening and assessment phase for possible inclusion on the NPL.
condition:	A provision that the Board imposes as part of any decision approving the proposed Conrail Acquisition and that requires action by one or more of the Applicants.
conductor:	The operating employee on a train responsible for safe and efficient train movement in accordance with all railroad operating rules and special instructions.
Conrail Shared Assets Operations:	See <i>Shared Assets Areas</i> .
consist:	The number and type of locomotives and cars included in a train, considering special factors such as the tonnage and the placement of hazardous materials cars and "high-wides" (oversize dimension cars).
constant warning time:	A motion-sensing system with the capability of measuring train speed and providing a relatively uniform warning time by warning signal devices to highway traffic at highway/rail at-grade crossings.
Control Date:	The date on which the merger can become effective, following formal approval of the Board.

Council on Environmental Quality (CEQ):

Federal agency responsible for developing regulations and guidance for agencies implementing the National Environmental Policy Act.

craft employee:

Term applied to a railroad employee qualified in a specific railroad operating or maintenance activity (for example, locomotive engineer, train dispatcher, signal maintainer, or car inspector).

crew caller:

Term applied to a railroad employee who is responsible for notifying train crews when and where to report for duty.

crew calling:

Process of notifying train crew members when and where their next tour-of-duty will start. Labor agreements commonly specify that railroads call train crews a minimum of 2 hours before crew members are required to begin their tour-of-duty.

critical habitat:

The specific sites within the geographical area occupied by a threatened or endangered species that include the physical or biological features essential to the conservation of the species. These areas may require special management considerations or protection. These areas include specific sites outside the geographical areas occupied by the species at the time of the listing that are essential for the conservation of the species.

criteria of significance:

The criteria SEA developed specifically for the proposed Conrail Acquisition to determine whether a potential adverse environmental effect is significant and may warrant mitigation.

cross-tie:

Transverse wooden, concrete, or steel beam supporting the rails of a railroad track.

cultural resource: Any prehistoric or historic district, site, building, structure, or object that warrants consideration for inclusion in the National Register of Historic Places. A cultural resource that is listed in or is eligible for listing in the National Register of Historic Places is considered a historic property (or a significant cultural resource). For the purposes of this Final EIS, the term applies to any resource more than 50 years old for which SEA gathered information to evaluate its significance. In addition, this Final EIS addresses potential environmental impacts of the proposed rail line construction and abandonment activities on Native American reservations and sacred sites.

cumulative effects: Effects resulting from the incremental impacts of the proposed Conrail Acquisition when added to other past, present, and reasonably foreseeable future actions, regardless of which agency (Federal or non-Federal) or person undertakes such actions, as described in 40 CFR 1508.7. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

Day 1: In the event that the Board approves the proposed Conrail Acquisition, the date (as the Applicants determine through mutual agreement) when operating responsibility for the acquired railroad is transferred to the Applicants' organizations.

decibel (dB): A unit of noise measured on a logarithmic scale that compresses the range of sound pressures audible to the human ear over a range from 0 to 140, where 0 decibels represents sound pressure corresponding to the threshold of human hearing, and 140 decibels corresponds to a sound pressure at which pain occurs. Noise analysts measure sound pressure levels that people hear in decibels, much like other analysts measure linear distances in yards or meters. A-weighted decibel (dBA) refers to a weighting that accounts for the various frequency components in a way that corresponds to human hearing.

- degradation:** To change a habitat, either terrestrial or aquatic, so that it no longer meets the survival needs of a particular species of plant or wildlife. Such change could include reducing the feeding area, modifying the vegetation type, and limiting the available shelter.
- detector car:** One of two types of rail equipment designed to detect imperfections in railroad track structure. Rail detector cars detect internal imperfections within the rail, using ultrasonic techniques. See also *track geometry inspection car*.
- dimensional traffic:** A freight shipment requiring special authorization for movement because of height, width, length, or gross weight.
- dispatcher (train):** The railroad operating employee responsible for issuing on-track movement and/or occupancy authority through the use of remotely controlled switches, signals, visual displays, voice control written mandatory directives, and/or all of the above.
- dispatcher desk:** The workstation from which a train dispatcher controls a specific portion of a railroad's network.
- dispatching:** The process of real-time planning, supervising, and controlling of train movements.
- disproportionality (test for):** A comparison test to assess whether potentially high and adverse impacts of an action are predominantly borne or more severe or greater in magnitude in an Environmental Justice (EJ) population than a non-EJ population within the current analysis scale (that is, at the system, state, county, segment, or block group level).
- double-stack freight service:** The transport of two intermodal containers stacked on top of each other on one platform of an intermodal rail flat car.

- double tracking:** Construction of a second railroad track immediately adjacent to an existing track, to perform railroad activities similar to those occurring on the existing track.
- emergent species:** Any type of aquatic plant whose vegetative growth is mostly above the water.
- emissions:** Air pollutants that enter the atmosphere.
- endangered species:** A species that is in danger of extinction throughout all or a significant portion of its range. Federal and state laws protect these species.
- Endangered Species Act (ESA):** The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; P.L. 93-205), as amended in 1978, is the primary Federal law protecting endangered and threatened wildlife and plant species. The purpose of the law is to provide for the conservation of habitat for such species.
- engineer (railroad):** Employee responsible for operating a railroad locomotive in accordance with train-handling practices, signal indications, operating rules, speed limits, and the technical requirements of the particular locomotive.
- Environmental Impact Statement (EIS):** A document that the National Environmental Policy Act requires Federal agencies to prepare for major projects or legislative proposals having the potential to significantly affect the environment. A tool for decision-making, it describes the positive and negative environmental effects of the undertaking, and alternative actions and measures to reduce or eliminate potentially significant environmental impacts.

**Environmental Justice
(EJ):**

For purposes of this document, SEA defines environmental justice as the mission discussed in Executive Order (EO) 12898 "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 11, 1994). This EO directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their programs, policies, and activities on minority and low-income populations in the United States. EO 12898 also calls for public notification for environmental justice populations, as well as meaningful public participation of environmental justice populations. In this document, SEA used the guidance provided in the Department of Transportation Order on Environmental Justice, the Council of Environmental Quality, Environmental Justice Guidance under the National Environmental Policy Act, and the Interim Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA analysis to analyze potential disproportionately high and adverse impacts on environmental justice populations for rail segments, intermodal facilities, rail yards, and new construction.

**Environmental Justice
(EJ) population:**

A population within an Area of Potential Effect whose minority and low-income composition meets at least one of the following criteria: (1) The percentage of minority and low-income population in the Area of Potential Effect is greater than 50 percent of the total population in the Area of Potential Effect; or (2) The percentage of minority and low-income population in the Area of Potential Effect is at least ten percentage points greater than the percentage of minority or low-income population in the county of which the Area of Potential Effect is a part.

**Environmental Resource
Category:**

Any of the environmental issues that serve as the major topics of impact analysis for this EIS. Examples include land use, natural resources, noise, hazardous materials, cultural resources, water quality, or air quality.

Environmental Resource Score (ERS): The impact score determined for an environmental resource category within a (block group) Area of Potential Effect. A typical ERS ranges from 0 to 6, reflecting the relative impact on the Area of Potential Effect compared with impacts on other Areas of Potential Effect. For the Environmental Justice analysis, SEA calculated an ERS for noise, hazardous materials transport, and traffic safety and delay.

equipment: For a railroad, a term used to refer to the mobile assets of the railroad, such as locomotives, freight cars, and on-track maintenance machines. Also used more narrowly as a collective term for freight cars operated by the railroad.

equipment restrictions: Operating instructions that restrict certain types of locomotives or freight cars from operating over selected line segments.

Errata: A list of corrections to the Draft EIS, prepared to facilitate public review of the Draft EIS and to clarify some of the information contained therein.

Executive Order (EO) 12898: Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority and Low-Income Populations," issued in February of 1994; directs Federal agencies to identify and address as appropriate "disproportionately high and adverse human health or environmental effects," including interrelated social and economic effects, of their programs, policies, and activities on minority populations and low-income populations in the United States.

extra board crew caller position: Railroad employee who does not have a regularly assigned position but who works on an on-call basis.

- floodplain:** The lowlands adjoining inland and coastal waters and relatively flat areas and flood-prone areas of offshore islands, including, at a minimum, those areas that have a 1 percent or greater chance of flood in any given year (also known as a 100-year or a Zone A floodplain).
- Four City Consortium:** An alliance of the cities of East Chicago, Hammond, Gary, and Whiting, Indiana.
- freight car inspections:** Pre-departure tests required for railroad freight cars pursuant to Federal Railroad Administration regulations.
- fugitive dust:** According to EPA regulations, those particulate matter emissions that could not “reasonably pass” through a stack, chimney, vent, or other functionally equivalent opening. Examples of fugitive dust include wind-borne particulate matter from earth-moving and material handling during construction activities.
- Geographic Information System (GIS):** A computer system for storing, retrieving, manipulating, analyzing, and displaying geographic data. GIS combines mapping and databases.
- grade crossing:** See *highway/rail at-grade crossing*.
- grade separation:** See *separated grade crossing*.
- gross ton-mile:** A measure of railroad production that represents the weight of cars and freight movement in terms of total tons per mile transported system-wide or over a specific rail line segment. Specifically, 1 ton of railroad car and loading carried 1 mile.

- haulage right(s):** The limited right (or combination of limited rights) of one railroad to have their freight traffic moved by another railroad over the designated lines of the other railroad.
- hazardous materials:** Substances or materials that the Secretary of Transportation has determined are capable of posing an unreasonable risk to human health, safety, and property when transported in commerce, as designated under 49 CFR Parts 172 and 173.
- hazardous wastes:** Waste materials that, by their nature, are inherently dangerous to handle or dispose of (for example, old explosives, radioactive materials, some chemicals, some biological wastes). Usually, industrial operations produce these waste materials.
- high-and-wide load:** Load on a freight car that exceeds the normal height and/or width limits for general operation over a railroad. Such loads may move only with special operating precautions to prevent damage to wayside structures and trains on adjacent tracks.
- high-profile crossings:** A condition at a highway/rail at-grade crossing where the elevation of the tracks is above the elevation of the approaching roadway. This condition, generally the result of the periodic raising of the tracks for maintenance of the track bed, can affect sight distance for highway users and can become a hazard for trucks and trailers with low ground-clearance. This is also referred to as "hump crossings".
- highway/rail at-grade crossing:** The general area of an intersection of a public or private road and a railroad where the intersecting rail and highway traffic are at the same level.

historic property: Any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places (NRHP). The term "eligible for inclusion in the NRHP" pertains to both properties that the Secretary of the Interior has formally determined to be eligible and to all other properties that meet NRHP listing criteria.

horn noise (train): Noise that occurs when locomotives sound warning horns in the vicinity of highway/rail at-grade crossings.

hours-of-service regulations: Federal Hours of Service Law, which Federal Railroad Administration enforces, governing maximum shift lengths and minimum rest periods for railroad operating employees. These employees include train crew, train dispatchers, and signal maintainers, as well as mechanical employees such as hostlers who move equipment for the purpose of test and inspection.

Implementing Agreement: An agreement between a railroad company and an employee union regarding working conditions on a combined system, and specifying the corresponding seniority districts, work locations, and other terms and conditions of employment.

Inconsistent and Responsive (IR) application: Proposal to the Surface Transportation Board that Parties of Record submitted prior to October 21, 1997, requesting modifications of, or alternatives to, the proposed Conrail Acquisition.

Indian tribe: According to Indian Self-Determination and Education Assistance Act (25 U.S.C. 450-458; P.L. 93-638), any Indian tribe, band, nation, or other organized group or community recognized as eligible for the special programs and services that the United States provides to Indians because of their status as Indians.

interchange point: Point at which two or more railroads join to exchange freight traffic.

interlocking: An arrangement of switch, lock, and signal devices that is located where rail tracks cross, join, or separate. The devices are interconnected in such a way that their movements must succeed each other in a predetermined order, thereby preventing opposing or conflicting movements.

intermodal facility: A site consisting of tracks, lifting equipment, paved and/or unpaved areas, and a control point for the transfer (receiving, loading, unloading, and dispatching) of trailers and containers between rail and highway, or between rail and marine modes of transportation.

jurisdictional wetland: Wetlands that the U.S. Army Corps of Engineers regulates under Section 404 of the Clean Water Act (33 U.S.C. 1344).

key route: For the purposes of this Final EIS, a rail line segment that carries an annual volume of 10,000 or more carloads of hazardous material.

key train: Any train with five or more tank carloads of chemicals classified as a Poison Inhalation Hazard (PIH), or with a total of 20 rail cars with any combination of PIHs, flammable gases, explosives, or environmentally sensitive chemicals.

L_{dn} : The day-night average noise sound level, which is the receptor's cumulative noise exposure from all noise events over a full 24 hours. This is adjusted to account for the perception that noise at night is more bothersome than the same noise during the day.

$L_{eq(h)}$: The hourly energy-averaged noise level.

- labor relations culture:** Philosophy by which an employer and/or parties to a collective bargaining agreement conduct labor-management relations.
- land use consistency:** Determination of whether the proposed Conrail Acquisition represents a change that is consistent with local land use plans in effect, based on consultation with local and/or regional planning agencies and/or a review of the official planning documents that such agencies have prepared.
- Level of Service (LOS):** A measure of the operational efficiency of a roadway vehicle traffic stream using procedures that consider factors such as vehicle delay, freedom to maneuver, traffic interruptions, comfort and convenience, and safety. Traffic analysts express LOS as letter grades, ranging from Level of Service A (free flowing) to Level of Service F (severely congested); they measure LOS by the average delay for all vehicles. Specifically, Level of Service A describes operations with very low delay (less than 5.0 seconds per vehicle); Level of Service B describes operations with delay in the range of 5.1 to 15.0 seconds per vehicle; Level of Service C describes operations with delay in the range of 15.1 to 25.0 seconds per vehicle; Level of Service D describes operations with delay in the range of 25.1 to 40.0 seconds per vehicle; Level of Service E describes operations with delay in the range of 40.1 to 60.0 seconds per vehicle; and Level of Service F describes operations with delay in excess of 60.0 seconds per vehicle.
- low-income population:** A population composed of persons whose median household income is below the Department of Health and Human Services poverty guidelines.
- maintenance area:** An area classified by EPA as meeting National Ambient Air Quality Standards (NAAQS) and which previously (within the last 10 years before reclassification) did not meet NAAQS.

- maintenance-of-way:** The activity of maintaining the track and structures of a railroad.
- major key route:** For the purposes of this Final EIS, a rail line segment where the annual volume of hazardous material it carries is projected to double and also exceed 20,000 carloads as a result of the proposed Conrail Acquisition.
- Mechanical Department:** Department of the railroad primarily responsible for the maintenance and inspection of locomotives, freight cars, and other moving equipment.
- Memorandum of Agreement (MOA):** With regard to cultural resources for the Final EIS, a legally binding document executed under 36 CFR 800.5(e)(4) that either specifies the process a Federal agency will undertake in order to avoid, reduce, or mitigate adverse effects on historic properties by the implementation of a proposed action, or documents the acceptance of such effects in the public interest. The parties who sign a MOA generally include the lead agency, the State Historic Preservation Office, the Advisory Council on Historic Preservation, and sometimes other interested parties.
- Memorandum of Understanding (MOU):** An agreement that two or more parties execute that sets forth the specific duties and responsibilities of each party. For the purposes of this Final EIS, MOU is an agreement that the Applicants may negotiate with communities.
- minority population:** A population composed of persons who are Black (non-Hispanic), Hispanic, Asian American, American Indian, or Alaskan Native.
- mitigation:** An action taken to prevent, reduce, or eliminate adverse environmental effects.

 motive power:	Locomotives operated by the railroad.
 multi-level rail car:	A two- or three-level freight car, designed for transporting automotive vehicles.
 Multiple Resource Score (MRS):	For the Environmental Justice analysis, a measure of aggregate impacts used to identify the geographic areas of greatest concern. This score sums the environmental resource scores for hazardous materials transport, noise, and traffic safety and delay and forms the basis for the tests for disproportionality.
 National Ambient Air Quality Standards (NAAQS):	Air pollutant concentration limits established by the EPA for the protection of human health, structures, and the natural environment.
 National Environmental Policy Act (NEPA):	The National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347; P.L. 91-190) is the basic national charter for the protection of the environment. It establishes policy, sets goals, and provides means for carrying out the policy. Its purpose is to provide for the establishment of a Council on Environmental Quality and to instruct Federal agencies on what they must do to comply with the procedures and achieve the goals of NEPA.
 National Historic Preservation Act (NHPA):	The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470-470t <i>et seq.</i> ; P.L. 89-665), is the basic legislation of the Nation's historic preservation program that established the Advisory Council on Historic Preservation and the Section 106 review process. Section 106 of the NHPA requires every Federal agency to "take into account" the effects of its undertakings on historic properties.

National Priorities List (NPL):

A subset of CERCLIS; EPA's list of the most serious uncontrolled or abandoned hazardous waste sites identified for possible long-term remedial action under the Superfund Program.

National Register of Historic Places (NRHP):

Administered by the National Park Service, the Nation's master inventory of known historic properties, including buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological, or cultural significance at the Federal, state, and local levels.

Native American:

According to the Native American Graves Protection and Repatriation Act of 1990, as amended (25 U.S.C. 3001 *et seq.*; P.L. 101-601), of, or relating to, a tribe, people, or culture that is indigenous to the United States.

Native American lands:

According to the regulations of the Advisory Council on Historic Preservation in 36 CFR 800.2, as modified by the scope of this EIS, all lands under the jurisdiction or control of an Indian tribe, including all lands within the exterior boundaries of any American Indian reservation.

Negotiated Agreement:

An agreement between CSX, NS, or both, and one or more communities or other governmental units that addresses potential environmental impacts or other issues.

No-Action Alternative:

The proposed acquisition of Conrail by CSX and NS does not take place under this alternative; also the present setting for the pre-Acquisition conditions.

- noise:** A disturbance or annoyance of an intruding or unwanted sound. Noise impacts essentially depend on the amount and nature of the intruding sound, the amount of background sound already present before the intruding or unwanted sound occurred, and the nature of working or living activity of the people occupying the area where the sound occurs.
- noise contour:** Lines plotted on maps or drawings connecting points of equal sound levels.
- noise-sensitive receptor:** Location where noise can interrupt ongoing activities and can result in community annoyance, especially in residential areas. The Board's environmental regulations include schools, libraries, hospitals, residences, retirement communities, and nursing homes as examples of noise-sensitive receptors.
- nonattainment area:** An area that EPA has classified as not complying with the National Ambient Air Quality Standards promulgated under the Clean Air Act.
- Northeast Corridor (NEC):** Railroad right-of-way between Boston, Massachusetts and Washington, D.C. on which Amtrak and others operate; Amtrak is responsible for operation and maintenance on all of the route, except the route segment between New Haven, Connecticut and New Rochelle, New York.

Northeast Operating Rules:	Rules that govern railroad operations, adapted by members of the Northeast Operating Rules Advisory Committee (NORAC). These operating rules apply to all railroads when working on any NORAC member's territory. The NORAC members are Bay Colony Railroad, Conrail Inc. and Consolidated Rail Corporation (Conrail), Delaware & Hudson Railway company, Guildford Transportation Industries, National Railroad Passenger Corporation (Amtrak), New Jersey Transit (NJT), New York Susquehanna & Western Railway Corporation, Providence & Worcester Railroad Company, and Southeastern Pennsylvania Transportation Authority (SEPTA).
notices:	Documents addressed to engineers and other operating employees detailing temporary or local operating rules and restrictions.
on-track (maintenance) equipment:	Track and other maintenance equipment provided with flanged wheels and able to move along railroad track.
operating employee:	Railroad employee engaged in the operation of trains, including a member of the train crew; a train dispatcher; and a track, a signal, and an equipment maintenance employee.
Operating Plans:	Documents that CSX and NS provided as part of the Application, detailing their planned railroad operations following the proposed Conrail Acquisition.
operating practices:	Safety and operating rules, practices, and procedures contained in operating rulebook, timetable, special instructions, or any other company-issued instructions and the management decisions implementing those rules and instructions that govern the movement of trains and work on or around active tracks.

- operating rules:** Written rules of a railroad governing the operation of trains and the conduct of employees responsible for train operations when working on or around active tracks.
- Operation Lifesaver:** A non-profit public information and safety education program dedicated to eliminating collisions, deaths, and injuries at highway/rail at-grade crossings and on railroad rights-of-way. It is composed of a broad-based coalition of Federal, state, and local government agencies, private safety groups, and transportation industry representatives.
- particulate matter (PM):** Airborne dust or aerosols.
- Party of Record (POR):** Party that notified the Board of their active participation in the proceeding about the proposed Conrail Acquisition. When submitting a filing to the Board, the POR must also notify the entire POR service list.
- passive warning devices:** Traffic control devices that do not give positive notice to highway users of the approach or presence of a train. These devices may include signs and pavement markings, located at, or in advance of, railroad crossings to indicate the presence of a crossing and the presence of a train. These signs are either regulatory or non-regulatory and may include parallel track signs, crossbucks, stop signs, yield signs, and constantly flashing lights.
- positive train separation:** Mechanism included in positive train control, an experimental, automated safety system, using Global Positioning System (GPS) technology, onboard computers and wayside information inputs to control train movement. In the event of failure on the primary safety system, positive train control reduces the risk of single-point failure (that is, human error).

posted speed: Maximum speed permitted at a specific location on the railroad network irrespective of train type.

Prevention of Significant Deterioration (PSD) Class I Areas: National parks and wilderness areas designated under the Clean Air Act as areas for which users are to maintain air quality at pristine levels, with very small increases in air pollution levels allowed.

Primary Application: The formal filing of documents with the Surface Transportation Board by applicants for railroad mergers, acquisitions, constructions, or abandonments. The Primary Application contains Operating Plans and information describing related construction projects. It also includes an Environmental Report, describing the physical and operational changes associated with the proposed action and the potential environmental effects of that action.

prime farmland: According to Natural Resources Conservation Service, land having the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops.

proposed Conrail Acquisition: The proposed acquisition of Conrail's physical assets and operating systems by CSX and NS, for which the Applicants are seeking approval from the Board.

public uses: According to 49 U.S.C. 10905 and STB Regulations "Surface Transportation Manual," Section 1105.7(3)iv, those identified alternative public purposes for the use of rail properties proposed for abandonment or discontinuance, including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation.

queue: A line of vehicles waiting at a highway/rail at-grade crossing for an obstruction to clear.

- rail line segment:** For the purposes of this Final EIS, portions of rail lines that extend between two terminals or junction points.
- rail route:** Line of railroad track between two points on a rail system.
- rail spur:** A railroad track that typically connects to the main line at only one end and provides rail service to one or more railroad freight customers. A rail spur could also parallel the main line.
- rail yard:** A location or facility with multiple tracks where rail operators switch and store rail cars.
- receptor:** See *noise-sensitive receptor*.
- regional and system gang:** A group of railroad maintenance-of-way employees that work a particular region or an entire railroad system.
- remediation (remedial actions):** Actions taken to mitigate the adverse effects, or potential adverse effects, to the environmental or to the public health and welfare resulting from the release or spill of hazardous substances.
- Request for Conditions:** A document filed with the Board by a party to this proceeding on or before October 21, 1997, that requests the Board to impose one or more specified requirements on the Applicants as a condition to the Board's approval of the proposed Conrail Acquisition.
- Resource Conservation and Recovery Act (RCRA):** The Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 *et seq.*; P.L. 94-580) is a Federal act governing the generating, storing, transporting, treating, and disposing of hazardous waste.

**Resource Conservation
and Recovery
Information System
(RCRIS):**

Federal database containing information on facilities that generate, transport, store, treat, and/or dispose of hazardous waste.

**Responsive
Environmental Report
(RER):**

A report, submitted by an Inconsistent and Responsive applicant, that contains detailed environmental information regarding the activities proposed in its IR Application and complies with the requirements for environmental reports in the Board's rules at 49 CFR 1105.7(e).

restricted speed:

A speed that will permit a train to stop within one-half the range of vision of the railroad employee controlling the movement of the train; the train must stop before passing improperly aligned switches, a defect in the track structure, deliberately placed objects, or striking other railroad equipment. According to Federal Railroad Administration regulations, this speed is not to exceed 20 miles per hour.

retarder:

In railroad yards, a braking device, usually power-operated, built into a railroad track to reduce the speed of cars by means of brake-shoes which, when set in braking position, press against the sides of the lower portions of the wheels.

right-of-way:

The strip of land for which an entity (for example, a railroad) has a property right to build, operate, and maintain a linear structure (for example, a rail line).

roadmaster:

Railroad supervisor responsible for track inspection and maintenance over a specified portion of the railroad network.

**Safety Assurance and
Compliance Program
(SACP):**

Federal Railroad Administration program to audit railroad safety practices and to ensure compliance with Federal regulations.

- safety culture:** The manner in which management and employees in an organization view and approach the issue of safety, including both formalized rules and informal practices in the organization.
- Safety Implementation Plan Guidelines (SIPG):** A series of acquisition-related guidelines that the Federal Railroad Administration developed for CSX and NS, detailing a list of safety concerns that CSX and NS must address in their Safety Integration Plans.
- Safety Integration Plans:** Plans that the Applicants prepared and submitted to the Board to explain how they propose to provide for the safe integration of their separate corporate cultures and operating systems, if the Board approves the proposed Conrail Acquisition.
- Section 106 review process:** The review process set forth in Section 106 of the NHPA (16 U.S.C. 470) that requires every Federal agency to “take into account” the effects of its undertakings on historic properties and affords the ACHP the opportunity to comment on those undertakings and their effects.
- seniority district:** A geographic area within which a group of employees in a specific labor union (for example, engineers, dispatchers) are authorized and expected to work.
- seniority rights:** The priority one employee has over another employee in bidding for available positions, choice of work assignments, and similar matters, based on length of employment in a specified category. Agreements between railroad companies and labor unions specify such rights.
- sensitive receptor:** See *noise-sensitive receptor*.

separated grade crossing: The site where a local street or highway crosses railroad tracks at a different level or elevation, either as an overpass or as an underpass.

service: The official notification and delivery of Board decisions and notices (including EAs and EISs) by the Secretary of the Board to persons involved in a particular proceeding.

Settlement Agreement: An agreement negotiated between CSX or NS or both and one or more parties, including other railroads, that addresses concerns or requests of the party (or parties). Generally, such an agreement addresses competitive customer service or labor issues.

Seven Separate Connections: Seven new rail line connection construction projects in Illinois, Indiana, and Ohio. These projects total approximately 4 miles of new track. CSX and NS requested that the Board give early consideration and approval to the physical construction of these particular connections.

Shared Assets Areas: Areas comprising Conrail facilities in southeastern Michigan, northern New Jersey, and southern New Jersey/Philadelphia that CSX and NS would share and Conrail Shared Assets Operations would operate for the benefit of both CSX and NS, if the Board approves the proposed Conrail Acquisition.

shifted load: An improperly secured freight car load that has moved and may protrude beyond the allowed dimensional limits.

shipment: A unit of freight given to the railroad for movement to its destination by an individual customer.

- siding:** A track parallel to a main track that is connected to the main track at each end. A siding is used for the passing and/or storage of trains.
- signal maintainer:** Railroad employee who maintains signal and communications systems.
- socioeconomic:** For this Final EIS, job loss directly attributable to changes in the physical environment as a result of construction and abandonment activities and other activities related to the proposed Conrail Acquisition project.
- Sound Exposure Level (SEL):** For a transient noise event such as a passing train, equivalent to the maximum A-weighted sound level that would occur if all of the noise energy associated with the event were restricted to a time period of 1 second. The SEL accounts for both the magnitude and the duration of the noise event; noise analysts use SEL to calculate the day-night average noise level.
- Spill Prevention, Control, and Countermeasures Plan (SPCCP):** A site-specific document written to detail measures to prevent discharges of oil into waters of the United States (as defined in the Clean Water Act). Facilities with aboveground storage capacities in a single container greater than 660 gallons, or the aggregate aboveground storage capacity greater than 1,320 gallons, or total underground storage capacity greater than 42,000 gallons are required to prepare SPCCPs.
- superior train:** For purposes of this Final EIS, a passenger train operating on the same track network with freight trains. Superior trains must have track clear of all trains not less than 15 minutes prior to their arrival. See *temporal train separation*.

- Supplemental Environmental Report:** A report that analyzes the environmental impacts of operating changes related to a Settlement Agreement between an Applicant and another railroad that exceed the Board's thresholds when added to changes proposed in the Applicants' Operating Plans.
- switch:** The portion of the track structure used to direct cars and locomotives from one track to another.
- switching:** The activity of moving cars from one track to another in a yard or where tracks go into a railroad customer's facility.
- temporal train separation:** The time separation of passenger trains that share rail lines with freight trains, in order to reduce the possibility of train collisions. See *superior train*.
- territory:** The portion of a railroad's track network under the management of a particular supervisor.
- threatened species:** A species that is likely to become endangered within the foreseeable future throughout all or part of its range. Federal and state laws protect these species.
- threshold for environmental analysis:** A level of proposed change in railroad activities that determines the need for SEA's environmental review. For the proposed Conrail Acquisition, SEA used the Board's environmental rules at 49 CFR Part 1105 to determine the activities that it would examine for air and noise impacts ("Board thresholds"). For other issue areas, SEA developed appropriate thresholds to guide its environmental review ("SEA thresholds"). The term "Board thresholds", as used in this EIS, may refer to either Board or SEA thresholds.

- timetable:** A document that identifies key railroad line features over a defined portion of the network. The features usually include distances, speed limits, track layout, type of signaling, location and length of passing sidings, and the local applicability of specific operating rules. Operating rules are often published with the timetable.
- track geometry:** Dimensional description of railroad track and individual rails compared to optimal design criteria.
- track geometry inspection car:** Rail vehicle equipped with instruments to make continuous, in-motion measurements of variations in the track gauge, alignment, and cross level.
- trackage right(s):** The right (or combination of rights) of one railroad to operate over the designated trackage of another railroad including, in some cases, the right to operate trains over the designated trackage; the right to interchange with all carriers at all junctions, the right to build connections or additional tracks to access other shipper or carriers. See also *haulage right(s)*.
- trackage rights agreement:** An agreement between two parties that defines the trackage rights granted to one party over the tracks of a second party.
- traffic volume (highway):** The number of highway vehicles that pass over a given point during a given period of time, often expressed on an annual, daily, hourly, and sub-hourly basis. For the purposes of this Final EIS, SEA expressed highway traffic volumes on a daily basis.
- traffic volume (rail):** The total volume of rail traffic that passes over a given rail line segment, typically expressed in either trains per day or annual million gross tons per year.

- train (freight):** A conveyance transported by one or more locomotives typically with 40 to 150 freight cars, measuring approximately 5,000 to 8,000 feet in length. For the purposes of this Final EIS, does not apply to locals, work trains, switch-engine movements, or engine-only movements.
- train (passenger):** Equipment composed of one or more rail cars designed to carry passengers, propelled by a locomotive or self-propelled, moving from one place to another.
- train crew:** Employees assigned to operate a train, usually an engineer, a conductor, and one or more trainmen.
- train defect detector:** An electronic device located alongside a rail track that monitors passing trains to determine the presence of certain potentially dangerous conditions, such as an overheated wheel bearing ("hot box") or a shifted load that protrudes from the rail car.
- trainman:** Member of a train crew responsible for assisting the engineer and conductor in operating the train, especially with switching cars.
- trainmaster:** Railroad operations supervisor responsible for managing train and yard operations and operating employees on a defined portion of the railroad network.
- transient noise event:** An intermittent occurrence of noise, such as the passing of a train that generates such noise.
- Transportation Department:** Department of the railroad responsible for day-to-day train operations and dispatching.

- Triple Crown Service (TCS):** An expedited intermodal service offered by both Conrail and NS. TCS trains do not require the use of flat cars, but rather use specially designed dual-mode highway trailers that are coupled together with two-axle rail wheel sets that support the ends of the trailers for the rail portion of the rail-highway movement. The equipment used is similar to "RoadRailer" equipment.
- turnout:** The portion of railroad track structure where a single track divides into two tracks.
- Verified Statement:** A party's sworn statement that provides information to the Board.
- vibration velocity:** The rate of change of displacement of a vibration. Noise analysts often express measurements of vibration in terms of velocity because velocity correlates well with human response to vibration.
- waybill:** Document or computer record containing details of a rail shipment: origin, destination, route, commodity, freight rate, car or cars used, and similar information.
- wayside:** Adjacent to the railroad track, as in "wayside signals" or "wayside defect detectors."
- wayside noise:** Train noise adjacent to the right-of-way that comes from sources other than the horn, such as engine noise, exhaust noise, and noise from steel train wheels rolling on steel rails.

wetlands:

According to 40 CFR Part 230.41, those "areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions," generally including swamps, marshes, bogs, and similar areas.

yardmaster:

Railroad operations supervisor responsible for railroad operations and employees in a railyard.

LIST OF ACRONYMS AND ABBREVIATIONS

AAR	Association of American Railroads
ABS	Automatic Block System
ACHP	Advisory Council on Historic Preservation
ACS	Automatic Cab Signals
ACSES	Advanced Civil Speed Enforcement System
ADT	Average Daily Traffic
Amtrak	The National Railroad Passenger Corporation
ANSI	American National Standards Institute
AoPE	Area of Potential Effect(s)
APL	American Presidents Line
APTA	American Public Transit Association
ARU	Allied Rail Unions
ASTM	American Society for Testing and Materials
ATC	Automatic Train Control
B&O	Baltimore & Ohio Railroad Company
B&OCT	Baltimore & Ohio Chicago Terminal Railroad Company
BIA	Bureau of Indian Affairs
BMP	Best Management Practice
Board	Surface Transportation Board
BOCT	Baltimore & Ohio Chicago Terminal Railroad Company
BRL	The Cities of Bay Village, Rocky River, and Lakewood, Ohio
CAA	Clean Air Act of 1970
CAAA	Clean Air Act Amendments of 1990
CEQ	Council on Environmental Quality
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CERCLIS	Comprehensive Environmental Response, Compensation, and Liability Information System
CFR	Code of Federal Regulations
CO	carbon monoxide
Conrail	Conrail, Inc. and Consolidated Rail Corporation
CP	Control Point
CPR	Canadian Pacific Railway
CRC	Comments and Requests for Conditions
CSX	CSX Corporation and CSX Transportation, Inc.

List of Acronyms and Abbreviations

CTC	Centralized Traffic Control
CZM	Coastal Zone Management
CZMA	Coastal Zone Management Act of 1972
dB	decibel
dBA	A-weighted decibels
DES	Division of Endangered Species
DOI	U.S. Department of the Interior
DOT	U.S. Department of Transportation
EA	Environmental Assessment
EDR	Environmental Data Resources, Inc.
EIS	Environmental Impact Statement
EJ	Environmental Justice
EO	Executive Order
EPA	U.S. Environmental Protection Agency
ERS	Environmental Resource Score
ESA	Endangered Species Act of 1973
FAA	Federal Aviation Administration
FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
FIRM	Flood Insurance Rate Map
FMEA	Failure Mode and Effects Analysis
FRA	Federal Railroad Administration
FRA ID	Federal Railroad Administration Identification Number
FTA	Federal Transit Administration
GIS	Geographic Information System
GPS	Global Positioning System
HABS	Historic American Buildings Survey
HAER	Historic American Engineering Record
HCM	The Transportation Research Board's <i>Highway Capacity Manual</i>
HMERP	Hazardous Materials Emergency Response Plan
HMIS	Hazardous Materials Information System
HUD	Department of Housing and Urban Development
ICC	Interstate Commerce Commission
ID	Identification
IHB	Indiana Harbor Belt Railroad Company
IR	Inconsistent and Responsive [application]
ISTEA	Intermodal Surface Transportation Efficiency Act
IT	Information Technology
LAL	Livonia, Avon, and Lakeville Railroad Corporation
L_{dn}	day-night equivalent sound level
L_{eq(h)}	hourly energy-averaged sound level
LOS	Level of Service
LUST	Leaking Underground Storage Tank

List of Acronyms and Abbreviations

MARC	Maryland Rail Commuter (Maryland's Mass Transit Administration's Commuter Rail Service)
MBTA	Massachusetts Bay Transportation Authority
Metra	Northeast Illinois Regional Commuter Railroad Corporation
min./veh	minutes per vehicle
MNR	Metro-North Railroad (Metro-North Commuter Railroad Company)
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
mph	miles per hour
MRS	Multiple Resource Score
MRTA	Metro Regional Transit Authority of Akron, Ohio
MUTC	Manual of Uniform Traffic Control Devices
N/A	Not Applicable
NAAQS	National Ambient Air Quality Standards
NEC	Northeast Corridor
NEPA	National Environmental Policy Act of 1969
NFIP	National Flood Insurance Program
NHPA	National Historic Preservation Act of 1966
NHTSA	National Highway Traffic Safety Administration
NJT	New Jersey Transit
NORAC	Northeast Operating Rules Advisory Committee
NO_x	nitrogen oxide
NPDES	National Pollutant Discharge Elimination System
NPL	National Priorities List
NPS	National Park Service
NRC	Nuclear Regulatory Commission
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places
NS	Norfolk Southern Railway Company and Norfolk Southern Corporation
NWI	National Wetlands Inventory
NYCH	New York Cross Harbor
O₃	ozone
OAR	Office of Air and Radiation (within Environmental Protection Agency)
OHPO	Ohio Historic Preservation Office
OMS	Office of Mobile Sources (within Environmental Protection Agency)
OTR	Ozone Transport Region
PCB	polychlorinated biphenyl
PDEA	Preliminary Draft Environmental Assessment
PIH	Poison Inhalation Hazard
P.L.	Public Law
PM	particulate matter
PM₁₀	particulate matter less than 10 microns in diameter
POR	Party of Record

List of Acronyms and Abbreviations

PSD	Prevention of Significant Deterioration
P&W	Providence & Worcester
QA/QC	Quality Assurance/Quality Control
RCRA	Resource Conservation and Recovery Act of 1976
RCRIS	Resource Conservation and Recovery Information System
RER	Responsive Environmental Report
RQ	Reportable Quantity
SACP	Safety Assurance and Compliance Program
SARA	Superfund Amendments and Reauthorization Act of 1986
SCS	Soil Conservation Service
SEA	Section of Environmental Analysis
sec/veh	seconds per vehicle
SEL	Sound Exposure Level
SEPTA	Southeastern Pennsylvania Transportation Authority
SHPO	State Historic Preservation Office
SIPG	Safety Implementation Plan Guidelines
SPCCP	Spill Prevention, Control, and Countermeasures Plan
Stat.	Statute
STB	Surface Transportation Board
SO₂	sulfur dioxide
TCS	Triple Crown Service
TLCPA	Toledo-Lucas County Port Authority
TMACOG	Toledo Metropolitan Area Council of Governments
Tri-Rail	Florida Tri-County Commuter Rail Authority
USACE	U.S. Army Corps of Engineers
U.S.C.	United States Code
USCG	U.S. Coast Guard
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
VRE	Virginia Railway Express
WMATA	Washington Metropolitan Area Transit Authority

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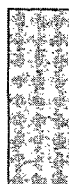
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