
APPENDIX A
Comments Received on the
Draft Environmental Impact Statement

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APPENDIX A
COMMENTS RECEIVED ON THE
DRAFT ENVIRONMENTAL IMPACT STATEMENT

On December 19, 1997, the Section of Environmental Analysis (SEA) of the Surface Transportation Board (the Board) issued a Draft Environmental Impact Statement (Draft EIS) that evaluated the environmental impacts that could result from the proposed Conrail Acquisition. SEA prepared the Draft EIS in accordance with the requirements of the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321); the Board's environmental rules (49 CFR Part 1105); and other applicable environmental statutes and rules.

This Final Environmental Impact Statement (Final EIS) addresses the comments on the Draft EIS, as well as other environmental comments that SEA received during its ongoing environmental review, and it reflects SEA's further environmental analysis, including site visits and consultations. In addition, the Final EIS contains SEA's final environmental recommendations to the Board. The Board will consider SEA's recommendations and the environmental record before making a decision in this proceeding.

This appendix contains the 257 written comments on the Draft EIS that SEA received during the formal comment period that ended on February 2, 1998. SEA also fully considered comments received after February 2 during its environmental review process. Although they are not reproduced here, these comments are part of the Board's administrative record and the Board will consider them in making its decision.

Table A-1 lists the comments on the Draft EIS in order of comment date and organizes them as follows:

- Federal agencies.
- Applicants.¹
- National and regional groups.²

¹ "The Applicants" refers to CSX Corporation and CSX Transportation, Inc. (CSX); Norfolk Southern Corporation and Norfolk Southern Railway Company (NS); and Conrail, Inc., and Consolidated Rail Corporation (Conrail).

² This group also includes comments submitted anonymously or without addresses.

- States, regional, and local agencies, elected officials, organizations, and individuals, grouped by state.

The reproduced comment letters follow the order presented in Table A-1. For ease of reference, each page of each document contains the document identifier number, as listed in Table A-1.

SEA also provided an additional full 45-day comment period (ending April 15, 1998) specifically for refined hazardous materials transport, noise, and environmental justice analyses. SEA refined these analyses to be able to include information that was unavailable during its preparation of the Draft EIS and then opened this second comment period to allow the public to review all of its analysis. Table A-2 lists the letters SEA received during this comment period. The addendum to this Final EIS presents copies of these letters, along with SEA's responses.

Table A-3 is a list of comment letters that SEA received between publication of the final scope and service of the Draft EIS. Table A-4 is a list of comment letters that SEA received after Final EIS analysis and writing.

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

Federal Agencies		
Comment Date	Commentor, Subject of Document	Document ID
12/16/97	U.S. Department of the Interior, Bureau of Indian Affairs; Thank You Letter for Update on Intent to Prepare EIS	12/31/97 10:12:57 AM
1/6/98	U.S. Department of Housing and Urban Development, R. S. Carlson; Comment on Draft EIS	1/15/98 4:59:29 PM
1/27/98	U.S. Army Corps of Engineers, Florida District, H. K. Smith; Comment on Draft EIS	2/2/98 6:00:02 PM
1/28/98	U.S. Army Corps of Engineers, Buffalo District, NY, S. V. Metivier; Comment on Draft EIS	2/3/98 11:10:37 PM
1/29/98	U.S. Army Corps of Engineers, New York District, G. Nieves; Comment on Draft EIS	2/3/98 11:35:58 AM
1/30/98	U.S. Army Corps of Engineers, Detroit District, MI, R. Tucker; Comment on Draft EIS	2/3/98 2:29:02 PM
2/2/98	U.S. Department of Transportation, N. E. McFadden; Comment on Draft EIS	2/3/98 10:16:37 AM
2/2/98	U.S. Environmental Protection Agency, R. E. Sanderson; Comment on Draft EIS	2/4/98 11:49:40 AM
2/3/98	U.S. Department of the Interior, Office of Secretary, W. R. Taylor; Comment on Draft EIS	2/10/98 12:00:45 PM
2/6/98	U.S. Army Corps of Engineers, Pittsburgh District, PA, A. H. Rogalla; Comment on Draft EIS	2/11/98 9:55:55 AM
2/10/98	U.S. Coast Guard, G. Kassof; Comment on Draft EIS	2/17/98 3:48:52 PM
Applicants		
Comment Date	Commentor, Subject of Document	Document ID
2/2/98	Applicant, Norfolk Southern, B. Maestri; Comment on Draft EIS	2/2/98 4:17:23 PM
2/2/98	Applicant, CSX, D. G. Lyons, et al.; Comment on Draft EIS	2/3/98 10:22:58 AM
National/Regional Groups		
Comment Date	Commentor, Subject of Document	Document ID
12/21/97	Concerned Citizen; Opposition Letter and Newspaper Article	1/5/98 3:40:44 PM
1/28/98	William & Letha Smith; Environmental Concern	2/2/98 4:19:38 PM
1/29/98	Ohio-Kentucky-Indiana Regional Council of Governments, R. Victor; Comment on Draft EIS	2/2/98 5:09:20 PM
1/30/98	Conservation Law Foundation, R. B. Kennelly, Jr.; Comment on Draft EIS	2/2/98 11:19:21 AM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

National/Regional Groups		
Comment Date	Commentor, Subject of Document	Document ID
2/2/98	Amtrak-National Railroad Passenger Corporation, D. G. Avery, et al.; Comment on Draft EIS	2/3/98 10:04:04 AM
2/2/98	Transportation Communications International Union, M. M. Kraus; Comment on Safety Integration Plans and Draft EIS	2/2/98 6:20:02 PM
2/2/98	Allied Rail Unions, R. S. Eldeman, et al.; Comment on Safety Integration Plans and Draft EIS	2/3/98 1:29:58 PM
2/2/98	American Public Transit Association, D. Duff; Comment on Draft EIS	2/3/98 10:33:03 AM
2/2/98	E. I. Du Pont de Nemours and Company, C. N. Beinkampen; Comment on Safety Integration Plans	2/3/98 12:26:44 PM
State, Regional, and Local Agencies, Elected Officials, Organizations, and Individuals (grouped by state)		
Connecticut		
Comment Date	Commentor, Subject of Document	Document ID
1/6/98	Connecticut Historical Commission, J. W. Shannahan; Comment on Draft EIS	1/26/98 12:13:03 PM
1/30/98	Connecticut Department of Transportation, J. S. Sullivan; Comment on Draft EIS	1/30/98 1:14:21 PM
1/30/98	South Western Regional Planning Agency, CT, R. C. Carpenter; Comment on Draft EIS	2/2/98 4:21:18 PM
Delaware		
Comment Date	Commentor, Subject of Document	Document ID
1/29/98	Delaware State Senate, H. B. McDowell, III; Comment on Draft EIS	2/2/98 2:26:18 PM
2/2/98	Delaware Dept. of State, Division of Historical & Cultural Affairs, G. Davis; Comment on Draft EIS	2/10/98 12:26:44 PM
2/4/98	Delaware Department of Transportation, F. H. Schranck; Comment on Draft EIS	2/9/98 2:53:16 PM
Florida		
Comment Date	Commentor, Subject of Document	Document ID
12/17/97	Florida Department of State, Division of Historical Resources, G. W. Percy; Comment on Potential Impacts	12/31/97 9:38:53 AM
12/30/97	Florida State Clearinghouse; Clearinghouse Acknowledgment	1/12/98 8:21:47 AM
1/5/98	Hillsborough County Planning Commission, FL, R. B. Hunter; Comment on Draft EIS	1/16/98 11:49:40 AM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

Florida		
Comment Date	Commentor, Subject of Document	Document ID
1/29/98	North Central Florida Regional Planning Council, FL, S. Dopp; Comment on Draft EIS	2/3/98 11:26:57 AM
Georgia		
Comment Date	Commentor, Subject of Document	Document ID
12/23/97	Georgia State Clearinghouse, D. S. Stephens; Comment on Draft EIS	1/5/98 10:13:22 AM
1/25/98	Brian Williamson, Powder Springs, GA; Environmental Concern	2/3/98 11:23:18 AM
1/28/98	Richard T. Huber, Sr., Powder Springs, GA; Comment on Draft EIS	2/2/98 6:07:32 PM
1/29/98	Athens Clarke County, GA, J. M. Stockbridge; Comment on Draft EIS	2/3/98 2:58:36 PM
1/30/98	Atlanta Regional Commission, GA, H. West; Comment on Draft EIS	2/3/98 2:43:20 PM
Illinois		
Comment Date	Commentor, Subject of Document	Document ID
1/7/98	Lois M. Cooper, Danville, IL; Environmental Concern	1/20/98 4:11:07 PM
1/9/98	Village of Tilton, IL, C. Wantland; Environmental Concern	1/19/98 1:37:16 PM
1/13/98	Illinois Historic Preservation Agency, A. E. Haaker; Comment on Draft EIS	1/26/98 11:47:51 AM
1/15/98	Joe & Rita Mitchell, Chrisman, IL; Comment on Proposed Danville to Paris, IL Abandonment	1/27/98 12:39:09 PM
1/21/98	Champaign County, IL, F. DiNovo; Comment on Draft EIS	1/27/98 1:34:02 PM
1/21/98	Gene, Delores & Larry Quick, Danville, IL; Environmental Concern	2/2/98 6:02:49 PM
1/21/98	Village of Tolono, IL, C. McCormick; Comment on Draft EIS	1/23/98 9:14:07 AM
1/30/98	City of Danville, IL, R. E. Jones; Comment on Draft EIS	2/2/98 3:48:31 PM
2/2/98	Center for Neighborhood Technology, IL; Comment on Draft EIS	2/2/98 4:14:01 PM
not dated	Blue Island Greens, L. Trepanier, IL; Comment on Draft EIS	2/13/98 5:00:12 PM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

Indiana		
Comment Date	Commentor, Subject of Document	Document ID
1/2/98	Indiana Department of Natural Resources, L. D. Macklin; Conclusions of Environment Assessment Review	1/9/98 3:12:36 PM
1/12/98	The Four City Consortium, IN, C. M. Loftus, et al.; Request for Additional Information	1/16/98 9:18:31 AM
1/26/98	Frank and Frankie Eads, Princeton, IN; Comment on Draft EIS	2/2/98 3:48:08 PM
1/30/98	City of Fort Wayne, IN, P. Helmke; Comment on Draft EIS	2/2/98 5:35:27 PM
1/30/98	City of Lafayette, IN, D. Heath; Comment on Draft EIS	2/2/98 3:23:48 PM
2/2/98	City of New Haven, IN, L. H. Shaw; Comment on Draft EIS	2/5/98 4:06:26 PM
2/2/98	Indianapolis Power & Light Company, IN, B. Durham, et al.; Comment on Draft EIS	2/3/98 12:35:56 PM
2/2/98	The Four City Consortium, IN, C. M. Loftus, et al.; Comment on Draft EIS	2/3/98 10:08:49 AM
2/6/98	Indiana Department of Natural Resources, L. D. Macklin; Comment on Draft EIS	2/10/98 11:17:00 AM
Kentucky		
Comment Date	Commentor, Subject of Document	Document ID
1/20/98	City of Hopkinsville, KY, W. W. Bryan, Jr.; Comment on Draft EIS	2/2/98 3:34:55 PM
1/20/98	City of Madisonville, KY, P. H. Terry; Comment on Draft EIS	1/26/98 11:21:44 AM
1/20/98	Kentucky State Legislature, J. E. Bruce; Comment on Draft EIS	2/2/98 3:24:03 PM
1/22/98	Myrtle Jayne Wheeler Minix, Painsville, KY; Request for Clarification of Newspaper Notice	1/27/98 2:36:00 PM
1/28/98	Kentucky Transportation Cabinet, J. C. Codell III; Comment on Draft EIS	2/3/98 3:19:07 PM
Louisiana		
Comment Date	Commentor, Subject of Document	Document ID
1/21/98	City of New Orleans, LA, M. H. Morial; Comment on Draft EIS	2/3/98 11:38:46 AM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

Maryland		
Comment Date	Commentor, Subject of Document	Document ID
1/8/98	Maryland Office of Planning, L. C. Janey; Clearinghouse Acknowledgment	1/21/98 10:44:40 AM
1/28/98	Maryland Office of Planning, L. C. Janey; Comment on Draft EIS	2/10/98 11:20:48 AM
1/29/98	Department of Public Works & Transportation, MD, E. A. Daniel; Comment on Draft EIS	2/6/98 4:02:24 PM
1/29/98	Maryland Department of The Environment, S. Bieber; Comment on Draft EIS	2/4/98 5:02:57 PM
1/30/98	Baltimore Metropolitan Council, MD, J. Arason; Comment on Draft EIS	2/3/98 4:04:56 PM
1/30/98	Maryland Department of Transportation, H. L. Flechner; Comment on Draft EIS	2/2/98 10:46:35 AM
2/2/98	Maryland Department of Housing & Community Development, E. J. Cole; Comment on Draft EIS	2/5/98 5:08:43 PM
Massachusetts		
Comment Date	Commentor, Subject of Document	Document ID
1/13/98	Massachusetts Historical Commission, J. B. McDonough; Comment on Draft EIS	1/26/98 12:06:17 PM
1/27/98	Berkshire County Regional Planning Commission, MA, N. W. Karns; Comment on Draft EIS	2/2/98 5:55:05 PM
1/29/98	Montachusett Regional Planning Commission, MA, D. Jarvenpaa; Comment on Draft EIS	2/3/98 2:53:05 PM
Michigan		
Comment Date	Commentor, Subject of Document	Document ID
1/13/98	Southeast Michigan Council of Governments, J. M. Amberger; Request Extension for Draft EIS Comment	1/21/98 9:31:18 AM
1/27/98	City of Northville, MI, G. Word; Comment on Draft EIS	2/3/98 12:12:54 PM
1/27/98	Village of Holly, MI, M. A. Allison; Comment on Draft EIS	2/3/98 11:32:18 AM
1/28/98	Charter Township of Highland, MI, J. P. Stakoe; Comment on Draft EIS	2/2/98 5:14:59 PM
1/30/98	City of Monroe, MI, R. A. Hamilton; Comment on Draft EIS	2/2/98 5:43:55 PM
1/30/98	City of Wixom, MI, J. M. Dornan; Comment on Draft EIS	2/2/98 5:02:11 PM
1/30/98	Monroe County Planning Department & Commission, MI, M. K. Webb; Comment on Draft EIS	2/2/98 5:41:50 PM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

Michigan		
Comment Date	Commentor, Subject of Document	Document ID
1/30/98	Southeast Michigan Council of Governments, J. M. Amberger; Comment on Draft EIS	2/2/98 4:11:59 PM
1/30/98	Village of Milford, MI, A. Shufflebarger; Comment on Draft EIS	2/3/98 3:09:07 PM
2/1/98	City of Taylor, MI, T. Keyes; Comment on Draft EIS	2/3/98 4:29:00 PM
Mississippi		
Comment Date	Commentor, Subject of Document	Document ID
12/19/97	Mississippi State Clearinghouse; Clearinghouse Acknowledgment	1/7/98 12:04:40 PM
Missouri		
Comment Date	Commentor, Subject of Document	Document ID
1/20/98	Missouri Office of Administration Clearinghouse, MO, L. Pohl; Comment on Draft EIS	2/3/98 11:41:50 AM
New Jersey		
Comment Date	Commentor, Subject of Document	Document ID
1/27/98	Middlesex County Fire Academy, NJ, R. R. Zach; Environmental Concern	2/3/98 11:52:57 AM
1/28/98	Somerset County Chamber of Commerce, NJ, B. C. Roos; Comment on Draft EIS	2/2/98 3:57:36 PM
1/29/98	New Jersey Department of Environmental Protection HPO, D. P. Guzzo; Comment on Draft EIS	2/4/98 5:00:39 PM
1/30/98	County of Bergen, NJ, W. Schuber; Comment on Draft EIS	2/2/98 6:42:12 PM
1/30/98	Somerset County Planning Board, NJ, R. Bzik; Comment on Draft EIS	2/2/98 2:35:30 PM
1/30/98	Township of Woodbridge, NJ, J. M. Davy; Comment on Draft EIS	2/4/98 4:55:05 PM
1/30/98	Village of Ridgefield Park, NJ, M. T. Durkin; Comment on Draft EIS	2/2/98 2:51:42 PM
New York		
Comment Date	Commentor, Subject of Document	Document ID
1/9/98	New York State Department of State, W. F. Barton; Request for Completion of Form To Review Draft EIS	1/27/98 1:11:08 PM
1/13/98	Landmark Studios, Inc., NY, Z. Frank; Environmental Concern	1/16/98 2:36:39 PM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

New York		
Comment Date	Commentor, Subject of Document	Document ID
1/13/98	Rensselaer County Economic Development and Planning, NY, R. Pasinella; Environmental Concern	1/19/98 2:21:24 PM
1/27/98	St. Lawrence County, Board of Legislators, NY, R. S. Gray; Comment on Draft EIS	2/5/98 3:28:43 PM
1/28/98	Landmark Studios, Inc., NY, Z. Frank; Environmental Concern	1/30/98 8:38:27 AM
1/28/98	NY State Office of Parks, Recreation & Historic Preservation, R. L. Goll; Invitation to Meeting	2/2/98 5:19:54 PM
1/29/98	Orange County, NY, J. G. Rampe; Comment on Draft EIS	2/6/98 4:31:22 PM
1/29/98	Robert W. McKnight, Rochester, NY; Environmental Concern	1/30/98 8:41:59 AM
1/29/98	Schuyler County Environmental Management Council, NY, J. L. Murphy; Comment on Draft EIS	2/2/98 5:31:04 PM
1/30/98	Capital District Transportation Committee, NY, J. P. Poorman; Comment on Draft EIS	2/2/98 2:39:33 PM
1/30/98	Metro-North Commuter Railroad Company, NY, W. E. Zullig, Jr.; Comment on Draft EIS	2/2/98 4:04:51 PM
1/30/98	City of Dunkirk, NY, R. D. Kesicki; Environmental Concerns	2/16/98 4:07:10 PM
2/1/98	Tri-State Transportation Campaign, NY, E. Lloyd; Comment on Draft EIS	2/2/98 4:02:41 PM
2/2/98	New York City Economic Development Corporation, C. Spitulnik; Comment on Draft EIS	2/3/98 1:38:28 PM
2/2/98	Seneca Nation of Indians, Environmental Protection Dept., NY, L. Maybee; Comment on Draft EIS	2/3/98 3:35:26 PM
2/2/98	New York Department of Transportation, W. L. Slover, et al.; Comment on Draft EIS	2/3/98 10:21:13 AM
2/2/98	U.S. House of Representatives, NY & CT, J. Nadler, et al.; Comment on Draft EIS	2/3/98 1:34:21 PM
12/18/97	North Carolina Department of Administration, J. Furney; Clearinghouse Acknowledgment	12/30/97 9:04:06 AM
1/22/98	City of Rocky Mount, NC, P. F. Varney; Comment on Draft EIS	1/29/98 2:16:24 PM
1/29/98	North Carolina Department of Administration, C. Baggett; Comment on Draft EIS	2/3/98 2:20:06 PM
2/3/98	North Carolina Department of Administration, C. Baggett; Distribution List Of Environmental Document	2/10/98 11:33:51 AM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

North Carolina		
Comment Date	Commentor, Subject of Document	Document ID
2/4/98	North Carolina Department of Administration, C. Baggett; Comment on Draft EIS	2/10/98 11:27:07 AM
Ohio		
Comment Date	Commentor, Subject of Document	Document ID
12/17/97	Ohio Historical Society, OH, M. J. Epstein; Comment on Crestline, Ohio Rail Line Connection	12/30/97 2:54:27 PM
12/19/97	Ohio Historical Society, D. Snyder; Transmit Comments from Four Ohio Offices	12/31/97 9:06:08 AM
12/20/97	Ray and Lorie Neitrel, Lakewood, OH; Environmental Concern	12/30/97 3:13:25 PM
12/22/97	John A. Pfeifer, Bay Village, OH; Environmental Concern	1/7/98 12:12:10 PM
12/24/97	Ohio Historical Society, D. Snyder; Evaluation & Assessment of Connections & Railroad Yard Expansion	12/30/97 4:03:53 PM
12/26/97	Katherine A. Ingersoll, Lakewood, OH; Environmental Concern	1/5/98 3:44:28 PM
12/28/97	Lena MacFarlane, Cleveland West Shore Area, OH; Environmental Concern	1/5/98 2:59:04 PM
12/29/97	Northeast Ohio Four County Regional Planning & Dev. Org., OH, Chinn-Levy; Clearinghouse Acknowledgment	1/5/98 3:48:23 PM
1/2/98	Village of Wellington, OH, K. Webb; Environmental Concern	1/19/98 11:59:12 AM
1/3/98	M. Jones, Bay Village, OH; Environmental Concern	1/9/98 2:59:31 PM
1/5/98	Elton J. Nichols, Lakewood, OH; Environmental Concern	1/27/98 1:44:47 PM
1/5/98	F. G. Westerman, Rocky River, OH; Environmental Concern	1/9/98 3:05:02 PM
1/5/98	Mr. & Mrs. Christopher S. Hund, Bay Village, OH; Environmental Concern	1/9/98 11:59:57 AM
1/6/98	City of Olmsted Falls, OH, B. A. Walker; Comment on Draft EIS	1/16/98 9:23:24 AM
1/7/98	Saul J. Stone, Pickerington, OH; Comment on Conrail Signal Shop	1/16/98 9:45:18 AM
1/12/98	Bucyrus Historical Society, Bucyrus, OH, B. Anslow, Jr.; Response to 12/19/97 SEA Letter	1/26/98 12:15:52 PM
1/12/98	Jill and Brian Duffin, Rocky River, OH; Environmental Concern	1/21/98 9:19:12 AM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

Ohio		
Comment Date	Commentor, Subject of Document	Document ID
1/12/98	Lakewood Hospital, OH, W. R. Gorton; Environmental Concern	1/21/98 9:40:50 AM
1/13/98	Metro Regional Transit Authority, OH, R. K. Pfaff; Comment on Draft EIS	1/26/98 11:51:15 AM
1/13/98	Ohio House of Representatives, R. Damschroder, R. Gardner, C. R. Brading; Comment on Draft EIS	1/26/98 11:40:10 AM
1/15/98	Village of New London, OH, D. Sholes; Comment on Draft EIS	1/30/98 1:44:54 PM
1/16/98	Seneca Regional Planning Commission, OH, Mark R. Zimmerman; Comment on Draft EIS	1/27/98 1:24:55 PM
1/20/98	City of Olmsted Falls, OH, Councilwoman Ward II, J. Johnson; Environmental Concern	1/26/98 11:32:01 AM
1/20/98	Mid-Ohio Regional Planning Commission, OH, M. Ismail; Comment on Draft EIS	1/27/98 2:01:04 PM
1/21/98	City of Olmsted Falls, OH, T. C. Jones, et al.; Environmental Concern	2/2/98 6:08:08 PM
1/22/98	City of Cleveland, City Council 10th Ward, OH, R. Coats; Comment on Draft EIS	2/2/98 5:51:13 PM
1/22/98	Gail M. Schaffer, Vermilion, OH; Environmental Concern	1/29/98 2:00:34 PM
1/23/98	Mary Myracle, Vermilion, Ohio; Environmental Concern	2/4/98 4:45:13 PM
1/23/98	Sheila Myracle, Vermilion, OH; Environmental Concern	2/4/98 4:43:47 PM
1/25/98	Bob Higley, Vermilion, OH; Comment on Draft EIS	2/3/98 12:04:10 PM
1/26/98	Ashtabula County Commissioners, OH, D. S. Feher; Comment on Draft EIS	2/11/98 2:32:21 PM
1/26/98	City of Huron, City Council, OH, E. Asher; Comment on Draft EIS	2/6/98 4:15:49 PM
1/26/98	Eastgate Development and Transportation Agency, Citizens Advisory Board, OH, N. D. Brundage; Comment on Draft EIS	2/4/98 2:08:03 PM
1/26/98	Euclid Park, Forest Hills Park, Collinwood Coalition, OH, R. Coats, et al.; Comment on Draft EIS	2/2/98 5:54:17 PM
1/26/98	Jeanne Pauly, Vermilion, OH; Environmental Concern	2/3/98 12:18:33 PM
1/26/98	Ohio Senate, 19th District, D. Schafrath; Comment on Draft EIS	2/3/98 3:26:39 PM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

Ohio		
Comment Date	Commentor, Subject of Document	Document ID
1/26/98	Pamela J. Holt-Higley, Vermilion, OH; Environmental Concern	2/3/98 2:20:06 PM
1/26/98	Seneca County, OH, J. R. Nimz; Comment on Draft EIS	1/30/98 1:52:07 PM
1/27/98	City of Vermilion, OH, J. L. Davis; Comment on Draft EIS	2/6/98 1:26:56 PM
1/27/98	Oxford Township, OH, J. Stewart, et al.; Comment on Draft EIS	2/2/98 4:28:31 PM
1/27/98	Robert & Norma Pinkie, Vermilion, OH; Environmental Concern	2/6/98 10:54:49 AM
1/28/98	Faith-Based Organizing for Northeast Ohio, D. Wheeler, C. J. Matthews; Environmental Concern	2/12/98 10:21:20 AM
1/28/98	City of Fostoria, OH, J. E. Bailey, et al.; Comment on Draft EIS	2/2/98 5:37:09 PM
1/28/98	Clay and Diana Kilgore, Rocky River, OH; Environmental Concern	2/3/98 11:20:12 AM
1/28/98	U.S. Congress, 5th District, OH, P. E. Gillmor; Comment on Draft EIS	2/3/98 10:26:11
1/28/98	Board of Trustees of Vermilion Township, OH, C. W. Kishman; Comments on Draft EIS	2/2/98 5:21:54 PM
1/28/98	Berlin Township Trustees, OH; Environmental Concern	2/5/98 2:32:03 PM
1/28/98	City of Dayton, Water Department, OH, D. Gorby-Lee; Comment on Draft EIS	1/30/98 11:25:01 AM
1/28/98	Northeast Ohio Four County Regional Planning & Dev. Org., OH, Chinn-Levy; Comment on Draft EIS	1/28/98 4:27:53 PM
1/28/98	City of Ashtabula, City Council, OH, C. L. Lovas; Comment on Draft EIS	2/11/98 11:19:25 AM
1/29/98	Abington Arms, University Circle, Cleveland, OH, E. B. Heil; Environmental Concern	2/3/98 11:51:24 AM
1/29/98	Board of Huron County Commissioners, T. Boose, et al., OH; Comment on Draft EIS	1/30/98 1:41:22 PM
1/29/98	Church of the Covenant, University Circle, Cleveland, Ohio, A. J. Dahm; Environmental Concern	2/3/98 11:55:01 AM
1/29/98	Liz Pim, Lakewood, OH; Environmental Concern	2/3/98 11:14:37 AM
1/29/98	Huron Soil & Water Conservation District, OH, C. Brickner; Comment on Draft EIS	2/2/98 5:11:56 PM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

Ohio		
Comment Date	Commentor, Subject of Document	Document ID
1/29/98	Johanna Barbato, Vermilion, OH; Environmental Concern	2/3/98 2:22:55 PM
1/29/98	Lorain County Board of Commissioners, OH, R. Blair; Comment on Draft EIS	2/5/98 10:22:02 AM
1/29/98	Lorain County, OH, M. J. Vasi; Comment on Draft EIS	2/5/98 4:29:36 PM
1/29/98	Ronald J. Geil, Vermilion, OH; Environmental Concern	2/6/98 1:23:05 PM
1/29/98	Seneca County Commissioners, OH, K. J. Estep, et al.; Comment on Draft EIS	2/5/98 5:16:15 PM
1/29/98	Village of LaGrange, OH, D. R. Stewart; Comment on Draft EIS	2/3/98 11:58:57 AM
1/30/98	Citizens of Olmsted Falls, OH; Environmental Concern	2/4/98 4:15:03 PM
1/30/98	Cleveland Hearing & Speech Center, OH, B. P. Henri; Environmental Concern	2/3/98 11:48:14 AM
1/30/98	Erie County Commissioners, OH, M. Bixler; Environmental Concern	2/2/98 11:06:38 AM
1/30/98	Huron Township Board of Trustees, OH, D. R. Ritzenthaler, et al.; Comment on Draft EIS	2/3/98 3:30:02 PM
1/30/98	U.S. Congress, 11th District, OH, L. Stokes; Comment on Draft EIS	2/2/98 3:39:34 PM
1/30/98	Village of Oak Harbor, OH, T. Wilkins; Comment on Draft EIS	2/3/98 2:49:27 PM
1/30/98	Broadway Area Housing Coalition, OH, B. Reichtell; Environmental Concern	2/4/98 4:48:31 PM
1/30/98	City of Sandusky, Department of Engineering Services, OH, B. R. Smith; Comment on Draft EIS	2/2/98 3:43:12 PM
1/30/98	Northeast Ohio Areawide Coordinating Agency, OH; H. R. Maier; Comment on Draft EIS	2/2/98 11:31:21 AM
1/30/98	Ohio Canal Corridor, T. Donovan; Environmental Concern	2/4/98 4:39:45 PM
1/30/98	Associated Estates Management Company, OH, G. M. Eovito; Comments on Draft EIS	2/19/98 11:11:53 AM
1/30/98	Ben Gleason, Vermilion, OH; Environmental Concern	2/10/98 11:51:22 AM
1/30/98	Toledo Metropolitan Area Council of Governments, OH, W. L. Knight; Comment on Draft EIS	2/2/98 3:56:41 PM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

Ohio		
Comment Date	Commentor, Subject of Document	Document ID
1/30/98	University Circle Incorporated, OH, J. S. Wilbur, Jr.; Environmental Concern	2/3/98 11:42:52 AM
1/30/98	University Circle Police Department, OH, T. J. Peppard; Environmental Concern	2/3/98 11:19:55 AM
1/31/98	Hazel Cramer, Vermilion, OH; Environmental Concern	2/11/98 9:51:44 AM
1/31/98	Irene Fowler, Cleveland, OH; Environmental Concern	2/5/98 5:30:58 PM
1/31/98	Second Metropolitan Missionary Baptist Church, OH, Members; Environmental Concern	2/4/98 4:52:25 PM
2/1/98	Idelle White, Elyria, OH; Environmental Concern	2/5/98 4:57:31 PM
2/1/98	Fredrick Hood, Cleveland, OH; Environmental Concern	2/5/98 4:51:33 PM
2/1/98	Martha Pye, Lorain, OH; Environmental Concern	2/10/98 11:46:03 AM
2/1/98	Jeffrey L. Prokop, Avon Lake, OH; Environmental Concern	2/6/98 3:38:03 PM
2/1/98	William P. LaFrance, Lorain OH; Environmental Concern	2/5/98 4:10:11 PM
2/2/98	Cities of Bay Village, Rocky River & Lakewood, OH, S. J. Kalish, et al.; Comment on Draft EIS	2/3/98 2:13:55 PM
2/2/98	City of Berea, OH, G. M. Sponseller; Comment on Draft EIS	2/2/98 4:44:30 PM
2/2/98	City of Cleveland, OH, C. A. Spitulnik; Comment on Draft EIS	2/3/98 4:27:43 PM
2/2/98	City of East Cleveland, OH, E. Onunwor; Comment on Draft EIS	2/3/98 12:13:45 PM
2/2/98	Erie County Department of Engineering, OH, J. D. Farschman; Environmental Concern	2/4/98 5:08:36 PM
2/2/98	James & Evelyn Patton, Lorain, OH; Environmental Concern	2/5/98 3:58:14 PM
2/2/98	Marie Louise Kittredge, Cleveland, OH; Environmental Concern	2/6/98 4:02:33 PM
2/2/98	Ohio Attorney General, et al., K. G. O'Brien, et al.; Comment on Draft EIS	2/3/98 1:45:54 PM
2/2/98	Ohio Senate, J. E. Carnes; Comment on Draft EIS	2/6/98 3:30:07 PM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

Ohio		
Comment Date	Commentor, Subject of Document	Document ID
2/2/98	U.S. Congress, 10th District, OH, D. J. Kucinich; Comment on Draft EIS	2/3/98 1:24:33 PM
2/3/98	Isabelle H. Chamberlain, Vermilion, OH; Comment on Draft EIS	2/3/98 4:13:24 PM
2/3/98	Lakewood PTA Council, OH, P. Reed; Environmental Concern	2/3/98 2:55:27 PM
2/3/98	Larry J. Brandal, OH; Comment on Draft EIS	2/4/98 9:42:11 AM
2/3/98	Huntington Township Trustees, OH, J. E. Eaton; Comment on Draft EIS	2/10/98 12:20:52 PM
2/4/98	U.S. Congress, 10th District, OH, D. J. Kucinich; Addendum to Comment on Draft EIS	2/5/98 10:30:02 AM
2/4/98	City of Cleveland, OH, C. Spitulnik; Errata to Comments on Draft EIS	2/5/98 10:34:55 AM
2/5/98	Bessie Eva Nelson, Lorain, OH; Environmental Concern	2/5/98 5:27:10 PM
2/5/98	Charlean Lurry, Lorain, OH; Environmental Concern	2/5/98 5:25:40 PM
2/5/98	Rita A. Spinale, Lorain, OH; Environmental Concern	2/5/98 5:06:45 PM
2/5/98	Royalton Acres Development Corporation & Flair Corporation, D. N. Steiger, OH; Comment on Draft EIS	2/6/98 3:12:24 PM
2/6/98	Lorain County Community Alliance, OH, B. Blair; Comment on Draft EIS	2/11/98 9:44:43 AM
Pennsylvania		
Comment Date	Commentor, Subject of Document	Document ID
1/9/98	City of Erie, PA, J. A. Savocchio; Comment on Draft EIS	1/21/98 10:18:34 AM
1/13/98	Don L. Gaertner; Erie, PA; Environmental Concern	1/26/98 11:53:54 AM
1/19/98	Belknap Freeman, PE; Rosemont, PA; Comment on Draft EIS	4/6/98 10:57:25 AM
1/20/98	City of Harrisburg, PA, S. R. Reed; Comment on Draft EIS	1/30/98 11:12:41 AM
1/21/98	Beaver County Planning Commission, PA, R. W. Packer, Jr.; Comment on Draft EIS	1/27/98 2:06:26 PM
1/23/98	County of Allegheny, PA, C. W. Banks, et al.; Comment on Draft EIS	2/11/98 11:25:04 AM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

Pennsylvania		
Comment Date	Commentor, Subject of Document	Document ID
1/28/98	Port Authority of Allegheny County, PA, P. Skoutelas; Comment on Draft EIS	2/3/98 3:10:58 PM
1/29/98	Barry Longenecker, New Providence, PA; Comment on Draft EIS	2/2/98 5:05:56 PM
1/30/98	Historic Preservation Trust of Lancaster County, PA, R. J. Harris; Comment on Draft EIS	2/4/98 4:09:39 PM
1/30/98	Lancaster County Transportation Coordinating Committee, PA, T. L. Kauffman; Comment on Draft EIS	2/2/98 11:03:08 AM
1/30/98	Pennsylvania Turnpike Commission, D. E. Zazworsky; Comment on Draft EIS	2/2/98 11:10:24 AM
1/30/98	Southeastern Pennsylvania Transportation Authority, T. E. Hanson; Comments on Draft EIS and Safety Integration Plans	2/2/98 11:23:59 AM
1/30/98	Tri-County Regional Planning Commission, PA, R. E. Shaffer, Sr.; Comment on Draft EIS	2/3/98 4:20:08 PM
2/1/98	Richard H. Moffitt, Brownsville, PA; Comments of Draft EIS	2/5/98 4:54:13 PM
2/2/98	Southeastern Pennsylvania Transportation Authority, T. E. Hanson; Comments on Draft EIS and Safety Integration Plans	2/3/98 12:09:32 AM
2/2/98	Commonwealth of Pennsylvania, Lieutenant Governor's Office, M. S. Schweiker; Comment on Draft EIS	2/6/98 4:41:04 PM
2/2/98	Pennsylvania Department of Environmental Protection, B. A. Sexton; Comment on Draft EIS	2/5/98 2:56:54 PM
2/6/98	City of Harrisburg, Hydroelectric Project, PA, D. R. Lispi; Comment on Draft EIS	2/10/98 11:39:45 AM
South Carolina		
Comment Date	Commentor, Subject of Document	Document ID
1/7/98	Anderson County, SC, J. Ricketson; No Comment on Draft EIS	1/16/98 11:34:05 AM
Tennessee		
Comment Date	Commentor, Subject of Document	Document ID
2/2/98	Nashville Area Metropolitan Planning Organization, TN, P. Watson; Comment on Draft EIS	2/5/98 3:17:13 PM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

Virginia		
Comment Date	Commentor, Subject of Document	Document ID
1/7/98	West Piedmont Planning District Commission, VA, R. W. Dowd; Comment on Draft EIS	1/16/98 2:59:09 AM
1/15/98	Virginia Department of Conservation and Recreation, J. R. Davy, Jr.; Comment on Draft EIS	1/26/98 11:35:03 AM
1/20/98	Warren County Board of Supervisors, VA, J. Manaway; Comment on Draft EIS	2/2/98 5:38:19 PM
1/27/98	Town of Ashland, VA, D. W. Reynal; Comment on Draft EIS	2/3/98 11:16:14 AM
1/28/98	Commonwealth of Virginia, Dept. of Rail & Public Transportation, L. Bevon; Comment on Draft EIS	2/3/98 4:21:01 PM
1/28/98	Town of Stanley, VA, M. M. Graves; Comment on Draft EIS	2/4/98 2:18:19 PM
1/29/98	City of Lynchburg, VA, C. F. Church; Comment on Draft EIS	1/30/98 11:08:21 AM
1/29/98	Lord Fairfax Planning District Commission, VA, T. J. Christoffel; Comment on Draft EIS	2/4/98 4:02:37 PM
1/29/98	Town of Front Royal, VA, R. S. North; Comment on Draft EIS	2/2/98 5:41:27 PM
2/2/98	Northern Virginia Planning District Commission, J. V. Zee; Comment on Draft EIS	2/4/98 4:36:42 PM
2/2/98	Town of Haymarket, VA, S. J. Kalish, et al.; Comment on Draft EIS	2/3/98 10:30:29 AM
2/5/98	Northern Virginia Transportation Commission and Potomac and Rappahannock Transportation Commission, K. M. Sheys; Comment on Draft EIS	2/5/98 3:45:30 PM
2/6/98	Virginia Department of Environmental Quality, M. Murphy; Comment on Draft EIS	2/13/98 4:59:29 PM
West Virginia		
Comment Date	Commentor, Subject of Document	Document ID
1/28/98	West Virginia Development Office, F. Cutlip; Comment on Draft EIS	2/3/98 2:17:51 PM
1/30/98	West Virginia Division of Natural Resources, J. W. Rawson; Comment on Draft EIS	2/3/98 2:25:11 PM

**TABLE A-1
COMMENTS RECEIVED ON THE DRAFT EIS**

District of Columbia		
Comment Date	Commentor, Subject of Document	Document ID
1/5/98	Women Like Us, DC, B. L. Richardson; Request for Community Meeting and Comments on Environmental Concerns	1/9/98 3:07:19 PM
1/30/98	Washington Metropolitan Area Transit Authority, DC, J. C. Elkins; Comment on Draft EIS	2/2/98 2:58:13 PM
2/2/98	District of Columbia Department of Public Works, K. G. Laden; Comment on Draft EIS	2/2/98 3:32:05 PM
2/2/98	United Parcel Service, DC, A. F. Wellman; Comment on Draft EIS	2/2/98 5:03:30 PM



United States Department of the Interior



BUREAU OF INDIAN AFFAIRS

Eastern Area Office

Suite 260

3701 North Fairfax Drive
Arlington, Virginia 22203

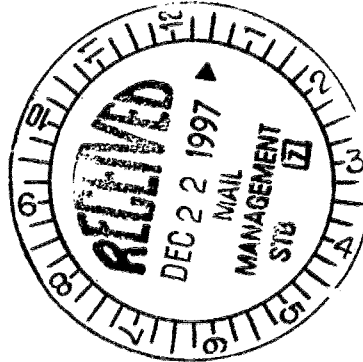
IN REPLY REFER TO:

Trust Services
Natural Resources

CENTRAL ADMINISTRATIVE UNIT
REC'D: 12/30/97
DOCUMENT # 12/31/97 10:12:57 AM

DEC 1 1997

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



Dear Ms. Kaiser:

Thank you for your letter of November 26, 1997, updating the Bureau of Indian Affairs (BIA) about the status of the CSX Corporation (CSX) and Norfolk Southern Corporation (NS) joint application to acquire Conrail Inc.

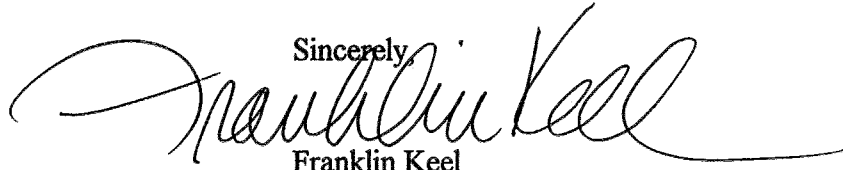
We appreciate the notification of intent to prepare an Environmental Impact Statement (EIS) for the proposed CSX-NS acquisition of Conrail Inc. and commend the Surface Transportation Board for notifying the two (2) federally-recognized Indian tribes (Seneca Nation of Indians & Poarch Band of Creek Indians) of its intent to evaluate the potential environmental impacts of this proposed action including any and/or all impacts on the Indian reservation trust lands and related trust resources of these tribes.

This type of open communication between non-BIA federal agencies and Indian tribes is an outstanding example of how other federal government agencies are recognizing Indian tribal governments and consulting with Indian tribes in assessing the impact of federal and non-federal actions on tribal trust lands and related trust resources.

We look forward to receiving copies of the various environmental documents related to this proposed action and will coordinate with the two tribes in preparing comments and input for your consideration in preparing the Environmental Impact Statement for the CSX-NS acquisition of Conrail Inc.

If we can be of further assistance to your agency concerning this matter, please do not hesitate to contact the Eastern Area Office of the Bureau of Indian Affairs.

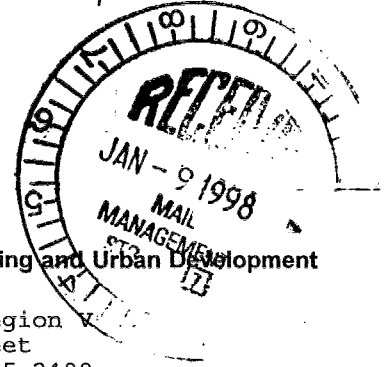
Sincerely,

A handwritten signature in black ink, appearing to read "Franklin Keel". The signature is written in a cursive style with a large initial "F" and a long horizontal flourish extending to the right.

Franklin Keel
Eastern Area Director



1/15/78 4.57-1111



U.S. Department of Housing and Urban Development

Columbus Office, Region
200 North High Street
Columbus, Ohio 43215-2499
January 6, 1998

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

CENTRAL ADMINISTRATIVE UNIT
REC'D: 1/14/98
DOCUMENT # 1/15/98 4:59:29 AM

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

Dear Ms. Kaiser:

This is in response to the request for comments concerning the proposal listed below. The U.S. Department of Housing and Urban Development has determined that the proposal does not present any special interests or concerns to HUD.

**Conrail Acquisition by CSX
and Norfolk Southern**

Thank you for the opportunity to comment. If you should require any further input from HUD, I may be reached at (614) 469-5737, x8252.

Sincerely,

Ross S. Carlson
Environmental Officer



DEPARTMENT OF THE ARMY
 JACKSONVILLE DISTRICT CORPS OF ENGINEERS
 P. O. BOX 4970
 JACKSONVILLE, FLORIDA 32232-0019

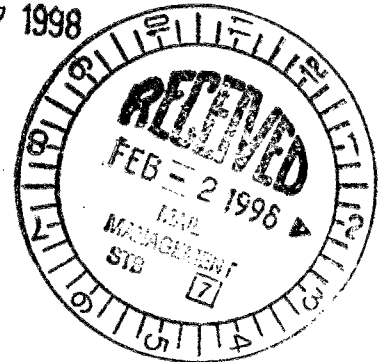


REPLY TO
 ATTENTION OF

Regulatory Division

COPY

JAN 27 1998



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

Dear Ms. Kaiser:

Thank you for mailing to us a copy of the Draft Environmental Impact Statement (DEIS) for the proposed acquisition of Conrail, Inc., by Norfolk Southern Railroad and CSX Railroad.

We note that the description of the analysis methods used in the preparation of the DEIS, at paragraph 3.15.3, specifically included consideration of U.S. Army Corps of Engineers permitting requirements under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. This office, the Regulatory Division of the Jacksonville District of the U.S. Army Corps of Engineers, administers the permitting program for activities occurring in Florida.

The Executive Summary, at page ES-24, and the specific discussion for Florida, at page FL-2, reports no construction activity in Florida. Therefore, an application for a permit is not required to be submitted to this office. However, if there are any changes that result in work in Florida, please advise this office at the address above. We will assist in determining whether the construction is in the location and of the nature that requires a permit.

Feel free to contact Bob Barron at the letterhead address or by telephone at (904) 232-2203.

Sincerely,

Hanley K. Smith
 Acting Chief, Regulatory Division

Attention: Elaine K. Kaiser
 Environmental Project Director
 Environmental Filing



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT #2/3/98 11.10.37A

REPLY TO
ATTENTION OF:

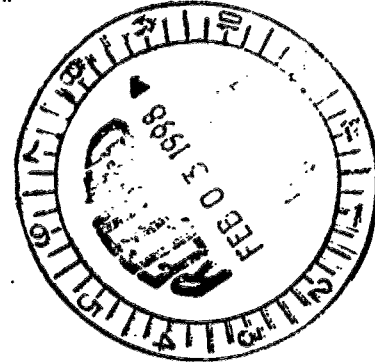
January 28, 1998

Regulatory Branch

SUBJECT: Department of the Army Processing No. 98-493-0001(1);
STB Finance Docket No. 33388; Draft Environmental Impact
Statement, "Proposed Conrail Acquisition"

**ENVIRONMENTAL
DOCUMENT**

Office of the Secretary
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001



Dear Ms. Kaiser:

This is in reference to the Draft Environmental Impact Statement (DEIS) received by this office on January 2, 1998 entitled "Proposed Conrail Acquisition." The transmittal requested comments prior to February 2, 1998.

I have reviewed the DEIS with regard to potential impacts to waters of the United States within the Buffalo District. Eight projects were identified for which Department of the Army authorization would potentially be required. These projects include the following:

New York:

- Gardenville Junction Construction (Erie County, NY)
- Blasdell Connection (Erie County, NY)

Ohio

- Collinwood New Intermodal Facility (Cuyahoga County, OH)
- Oak Harbor Connection (Ottawa County, OH)
- Willard Fueling Facility (Huron County, OH)
- Vermilion Connection (Erie County, OH)
- Abandonment: Toledo to Maumee
- Abandonment: Toledo Pivot Bridge

In each of these projects, the proposal would either directly impact a water of the United States or potentially impact a water of the United States. The DEIS correctly

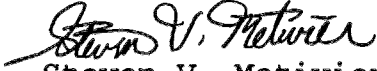
Regulatory Branch

SUBJECT: Department of the Army Processing No. 98-493-0001(1); STB Finance Docket No. 33388; Draft Environmental Impact Statement, "Proposed Conrail Acquisition"

indicates that Department of the Army authorization would be required for the placement of fill material into a water of the United States. The Buffalo District strongly encourages further coordination with this office prior to construction of any of the cited projects.

Questions pertaining to this matter should be directed to me at (716) 879-4314, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207-3199, or by e-mail at: Steven.V.Metivier@usace.army.mil

Sincerely,

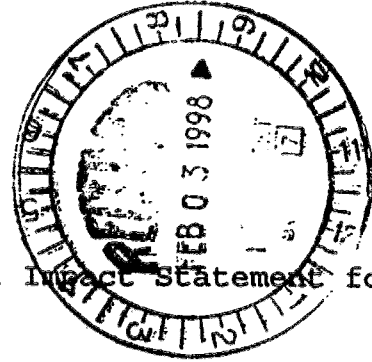

Steven V. Metivier
Biologist



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
NEW YORK, N.Y. 10278-0090

REPLY TO
ATTENTION OF

JAN 29 1998



Regulatory Branch

SUBJECT: Comments to the Draft Environmental Impact Statement for
Proposed Conrail Acquisition

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

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 11:35:58 AM

Dear Ms. Kaiser:

This is in response to your October 1, 1997 letter requesting comments on the Draft Environmental Impact Statement (DEIS) for the proposed acquisition of Conrail's assets by Norfolk Southern Railroad and CSX Railroad.

We have reviewed the DEIS and noted that the map of Little Ferry, Bergen County, New Jersey in Figure 5-NJ-5, Volume 3B of the DEIS depicts wetland areas regulated by New Jersey Department of Environmental Protection. Work in these and/or nearby areas may also be regulated by the U.S Army Corps of Engineers. Our jurisdiction would include the discharge of dredged or fill material into any wetlands, freshwater or tidal, on the site or into the waterway waterward of the spring high tide line. If such work is proposed within waters of the United States at Little Ferry, a Department of the Army permit from the New York District will be necessary. In order for us to accurately determine the extent of our jurisdiction on the site, a wetland delineation would need to be submitted for our review and approval. Once we receive a wetland delineation for the site, we will then be able to schedule a site inspection.

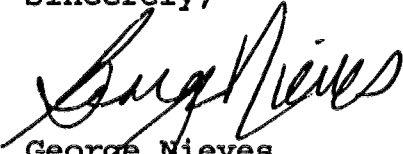
If the proposed work would not involve work within our jurisdiction, a permit will not be required and no further contact with this office will be necessary. If work is proposed within our jurisdiction, the appropriate application documents should be submitted at an appropriate juncture.

For impacts to waters of the United States at the Gardenville Junction at the City of Buffalo, Erie County, New York you will need to contact the US Army Corps of Engineers Buffalo District at 1776 Niagara Street, Buffalo, New York 14207-3199, ATTN: NCBCO-S.

ENVIRONMENTAL
DOCUMENT

If you have any questions regarding this letter, please contact Mr. James Cannon, of my staff, at (212) 264-0184.

Sincerely,



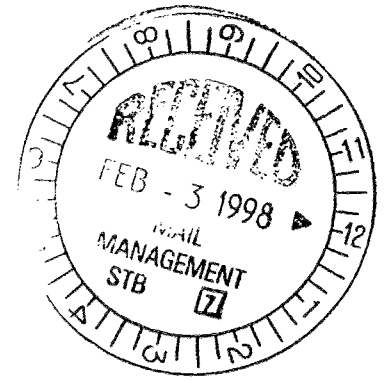
George Nieves
Chief, Western Permits Section



DEPARTMENT OF THE ARMY
 DETROIT DISTRICT, CORPS OF ENGINEERS
 BOX 1027
 DETROIT, MICHIGAN 48231-1027

January 30, 1998

IN REPLY REFER TO



Construction-Operations Division
 Regulatory Branch

File No. 97-200-0140E
**ENVIRONMENTAL
 DOCUMENT**

CENTRAL ADMINISTRATIVE UNIT
 REC'D: 2/3/98
 DOCUMENT # 2/3/98 2:29:02 PM

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

ATTN: Elaine K. Kaiser
 Environmental Project Director
 Environmental Filing

Dear Ms. Kaiser:

This is in response to the Draft Environmental Impact Statement (DEIS) for the "Proposed Conrail Acquisition" dated December 12, 1997 and received in this office December 24, 1997, wherein comments have been requested by February 2, 1998.

The Detroit District Corps of Engineers has the responsibility of regulating activities in the waters and wetlands of Michigan and the northern third of Indiana. The Corps' jurisdiction in Michigan is unique in the fact that we have joint regulating responsibilities with the Michigan Department of Environmental Quality (MDEQ) along all the navigable waters and their adjacent wetlands. Work along these areas, therefore, requires prior authorization from both governmental agencies. The remaining inland waters and/or wetlands will require prior authorization from the MDEQ only.

Within the DEIS it specifically stated that there would be new construction/connections and abandonments within the Detroit Districts jurisdiction limits and those actions would be permitted before the fact by the actual railway company. However, this office has yet to receive any such request. For your convenience, informational brochures and applications for both Indiana and Michigan have been enclosed. Please complete and return these applications to the attention of Mary C. Miller, Project Manager. Plan view and cross-sectional view drawings, in 8 1/2" format, should accompany the applications, along with a clear description of all quantities, dimensions, and nature of

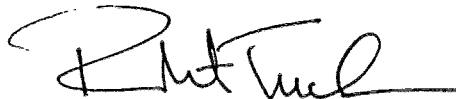
material placement or soil movement. Be advised that a wetland delineation, in accordance with the Corps of Engineers 1987 delineation Manual, must also be completed for each proposed work site to determine if any wetlands are present.

The authority of the Corps of Engineers to regulate construction or other work in navigable waters of the United States is contained in Section 10 of the Rivers and Harbors Act, Section 404 of the Clean Water Act and regulations promulgated pursuant to these Acts. Please be advised that filling and grading work, mechanized landclearing, ditching or other excavation activity, and piling installation constitute or otherwise involve discharges of dredged and/or fill material under the Corps' regulatory authority.

It was noted that the DEIS Volume 5B, Appendix L, section of environmental analysis sample consultation letter and recipients, did not identify the MDEQ as being on the contact list. Therefore, we recommend that you contact Ms. Peg Bostwick, Lake and Stream Protection Unit, Land and Water Management Division, MDEQ, P.O. Box 30458, Lansing, Michigan, 48909, (517)373-1950, for their comments and a determination of State permit requirements.

Should you have any questions, please contact Mary C. Miller at the above address or telephone (313) 226-2220. All correspondence should reference File Number: 97-200-014-0E.

Sincerely,



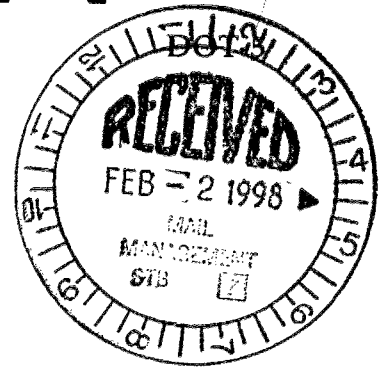
Robert Tucker
Chief, Enforcement Section
Regulatory Branch

Enclosures

MDEQ / Bostwick

COPY

Before the
Surface Transportation Board
Washington, D.C.



)
 CSX CORPORATION AND CSX TRANSPORTATION, INC.,)
 NORFOLK SOUTHERN CORPORATION AND NORFOLK)
 SOUTHERN RAILWAY COMPANY-- CONTROL AND) Finance Docket 33388
 OPERATING LEASES/AGREEMENTS--CONRAIL INC,)
 AND CONSOLIDATED RAIL CORPORATION)
)

Comments of the
United States Department of Transportation
on the
Draft Environmental Impact Statement

I. Introduction

The Surface Transportation Board ("STB" or "Board") in this proceeding is considering the proposed acquisition of Consolidated Rail Corporation and Conrail, Inc. ("Conrail") by Norfolk Southern Corporation and Norfolk Southern Railway Company ("NS") and CSX Corporation and CSX Transportation, Inc. ("CSX").¹ By Decision No. 6 (served May 30, 1997), the Board directed its Section of Environmental Analysis ("SEA") to prepare an Environmental Impact Statement ("EIS") in order to assess the transaction's potential impacts on, *inter alia*, the environment and safety. On December 12, 1997, the SEA issued a Draft Environmental Impact Statement ("DEIS") and sought comment thereon. The United States Department of Transportation ("DOT" or "Department") hereby offers these comments on the safety and environmental aspects of the DEIS.²

¹/ Collectively, these entities are referred to herein as "Applicants."

²/ These comments, of course, do not in any way reflect a view as to whether the pending transaction should be approved. DOT will address this fundamental issue in its brief on February 23, 1998.

The Department commends the Board for ordering the preparation of an EIS for this complicated and important matter. DOT's comments address the impacts of the pending transaction on the following major subject areas covered in the DEIS: (1) railroad safety, (2) rail passenger transportation, and (3) severely affected communities. We also wish to inform the SEA of our view that a purely technical application of environmental thresholds can result in real-world impacts being overlooked.

As discussed more fully below, the Department believes that (1) the safety integration plans ("SIPs") submitted by the Applicants appropriately address the safety issues raised by their operating plans for purposes of the EIS, (2) the DEIS recommendations concerning a 15 minute separation of passenger trains from other trains and implementation of industry guidelines for carriage of hazardous materials should not be adopted, (3) the consequences of the transaction for rail passenger transportation require oversight, (4) prospective impacts on communities are best resolved by STB action that will facilitate prompt resolution of mitigation problems by direct agreements between the Applicants and affected communities, and (5) the DEIS analysis isolates some of the "individual" impacts of the transaction in such a way that it fails to identify certain broader consequences and indeed whole communities. DOT recommends that the final EIS should focus more broadly in order to measure the transaction's true impacts more accurately, and for this reason we urge the Board to retain oversight.

II. Rail Safety Impacts

A. Safety Integration Plans

Following the Department's expression of concern about the effect that the proposed transaction might have on rail safety (DOT-3, filed October 21, 1997), the STB directed each of the Applicants to prepare a SIP. Decision No. 52, (served November 3, 1997). These plans were intended to explain in detail the steps to be taken by the Applicants to ensure that the division and integration of Conrail into the NS and CSX systems, and the formation and operation of the Shared Asset Areas ("SAA"s), occurred in a safe manner. DOT again extends its appreciation for the STB's prompt action.

As we explained earlier in this proceeding (DOT-4, filed December 3,

1997), the Applicants worked closely with the Federal Railroad Administration ("FRA") to produce the SIPs filed on December 3, 1997.³ Specifically, immediately following the issuance of Decision No. 52, FRA and the Applicants began a close dialogue regarding the contents of the SIPs. At that time FRA also developed merger-related Safety Integration Plan Guidelines ("SIPG"), which were crafted specifically for the Applicants, to address all of the safety concerns identified by FRA in the original application filed by Applicants and through its consideration of earlier rail mergers.⁴

Concurrently with the preparation of the SIPG, FRA and the Applicants established a ten member SIP review team made up of various FRA subject experts and Conrail/CSX/NS representatives. The team's initial purpose was to prepare SIPs that were as comprehensive as possible given the short time allotted for submission to the STB. Subsequently, the SIP review team continued to refine the SIPs and prepare for their implementation by the Applicants under the supervision of FRA, in the event that the STB approves the proposed transaction. DOT wishes to emphasize that each of the Applicants has cooperated fully with FRA and continues to do so, and we highly commend their efforts.

The primary criteria used by FRA in reviewing the SIPs were (1) that each safety item identified in the SIPG be thoroughly considered, (2) that provisions for the reasonable integration of the disparate procedures and cultures prevalent in the operations of the Applicants be developed for each safety item, and (3) that the integration process reflect a logical sequence of events, including the identification of workforce and resource allocations, and the delegation of authority necessary to carry out the stated action items.

The following are FRA's major findings with respect to the SIPs:

1. The SIPs demonstrate that each Applicant has systematically considered, and established procedures for integrating, all potentially significant sources of increased safety risk. These sources include the following:

³/ FRA is the agency within DOT that exercises plenary authority over the safety of the railroad industry. *See generally* 49 U.S.C. §§ 20101-53 and 49 C.F.R. § 1.49.

⁴/ The final version of the SIPG is attached hereto as Exhibit 1.

- a) Differences in employee cultures. These differences have required (i) the establishment of adequate lines of communication between management, labor, and field personnel, (ii) prevention of harassment and intimidation, and (iii) the provision of adequate training to employees;
- b) Differences in railroad management and operating procedures. These differences have necessitated taking advantage of the "best practices" and unique strengths of each carrier;
- c) Loss of institutional knowledge. This prospect has required integration of railroad field, mid-level, and senior management with knowledge of operating and safety practices; and
- d) The very large increase in the size of two major railroad systems, including train volumes, and potential additional workloads for management and labor of both NS and CSX.

2. The CSX, NS, and the Shared Assets Area SIPs adequately address all of the safety items listed in FRA's SIPG in a reasonable manner. Each identifies the significant safety issues and provides a detailed approach to integration through the implementation of a logical sequence of events involving detailed workforce and resource allocations that employ sound industry/engineering safety practices.

FRA has held extensive discussions with the Applicants in order to match specific timing and resource allocations, in terms of both manpower and expenses, to each safety action item identified in the SIPs. A common understanding of the issues and the Applicants' undertakings will be critical to assure a safe implementation of the SIPs under FRA direction, assuming the acquisition is approved. FRA is satisfied with the commitments made to date and will continue to work with the Applicants to address implementation issues as they arise.

Accordingly, the Department is satisfied that the SIPs address and satisfactorily mitigate every safety concern raised in the environmental review portion of this proceeding. The Applicants' commitments to cooperate with FRA, the accountability embodied in agreed-upon resource allocations, and the SIPs themselves have put FRA in a position to ensure that the SIPs are implemented by the Applicants in a timely manner, consistent with existing railroad safety laws. No other mitigation on this subject is necessary or appropriate.

Although DOT believes no further changes should be made to the SIPs, we request the 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.

B. Passenger/Freight Train 15 Minute Separation

The Department takes issue with the DEIS recommendation that passenger and freight trains operating on the same track be "cleared" by not less than 15 minutes temporal separation between them. DEIS, Executive Summary, at ES-17. This suggestion is not only impractical, but would unduly burden passenger and freight railroad operations.

Historically, railroads have not segregated passenger and freight trains for safety reasons. Rather, passenger trains received a preference over freight trains, which meant that slower-moving freight trains were kept out of the way of faster-moving passenger trains, because of the premium placed on passenger service. This practice endures, and both types of trains continue to operate safely in a "commingled" status.

The DEIS recommendation is predicated on "minimizing the potential conflicts" between passenger and freight trains, thereby reducing the risk of collisions. *Id.* There are three types of collisions at risk here: (1) head-on, (2) rear-end, and (3) "raking," that is, when a shifted load on one train strikes a train on an adjacent track. As discussed below, the proposed 15 minute temporal separation is not a good way of reducing the risk of head-on or rear-end collisions, and it is irrelevant to the prevention of raking collisions. The risk of collisions overall is best addressed uniformly under FRA's plenary rulemaking authority over railroad safety.

FRA and the railroad industry are now seeking to minimize the risk of head-on and rear-end collisions through operating rules and practices, track structure, and signal systems (including Advanced Train Control and Positive Train Separation), communications systems, and braking systems. Positive Train Separation holds the promise of virtually eliminating head-on and rear-end collisions. Indeed, FRA's Railroad Safety Advisory Committee is now working with FRA to develop standards for these systems, and the Applicants are all jointly developing such systems for their respective operations under a grant from FRA. A 15 minute temporal separation would thus hinder the installation of Positive Train Separation, which would be a step backward.

Neither would a 15 minute separation reduce the risk of "raking." On single line

track, one of two trains would have to be placed in a siding to permit the other to pass.⁵ On multiple line track, both trains would continue and pass each other. A temporal buffer would not change these operating realities.

This proposal also poses substantial operating problems. In many single track situations, there is insufficient trackage to accommodate freight trains "clearing up" for passenger trains by 15 minutes in each and every case. For example, passing sidings may not be long enough, or they may not be spaced at convenient intervals. This could result in freight trains being held at terminal points for extended periods.⁶

Not only would this be very disruptive of freight operations, it could create a cumulative crew fatigue issue. With expanded crew runs, some crew districts now extend over 300 miles. The federal hours of service laws, of course, still apply in these instances.⁷ Application of the 15 minute separation recommendation, however, could create any number of instances in which freight trains could not pass through such districts within the statutory limit of 12 hours. The necessary result would be re-staffing of the crews (together with the logistical and dispatching problems this creates) and inordinate delays for rail traffic.

In sum, the proposed 15 minute temporal separation is both inappropriate and unworkable, and it should be withdrawn.

C. Hazardous Materials Recommendation

The DEIS contains two recommendations to address increased or rerouted shipments of hazardous materials brought about by the merger. The Applicants would be required to: (1) implement guidelines of the Association of American Railroads ("AAR") concerning the carriage of hazardous materials (*i.e.*, circular OT-55-B) and develop emergency response plans on major or new routes on which hazardous

^{5/} Ordinarily this would be the freight train, although it could also be the passenger train for logistical reasons.

^{6/} It is also the unfortunate reality that prolonged waiting periods in sidings or terminal points increase the risk of vandalism to freight trains (particularly in more populated areas), which produces its own threat to safety. For example, safety appliances aboard trains may be tampered with or hazardous materials released.

^{7/} *Previously codified* at 49 U.S.C. §§ 21101-21108, now contained in various provisions in Title 49.

materials are transported, and (2) prepare emergency response plans and establish training programs for local communities in which new hazardous materials facilities are constructed. DEIS, Vol. 3B, Table 5-2.

The Department has consistently promoted emergency response planning and community awareness programs with respect to shipment of hazardous materials. We therefore agree that the applicants should be involved in such planning with the input of local communities. We cannot, however, endorse the imposition of AAR circular OT-55-B as though it were a federal regulatory standard.

DOT regulations establish minimum requirements for packaging, handling, and transporting hazardous materials. 49 C.F.R. Parts 171-180. These rules provide mandatory, uniform safety standards applicable to all movements of dangerous commodities, including those that move by more than one mode. Circular OT-55-B, by contrast, is more narrowly focused on large volume movements of a selected group of chemicals, and is written and intended as a "good practices" guide rather than a binding regulatory standard. It calls, for instance, for restrictions on the meetings and passings of trains carrying hazardous materials "when practicable," and requests "maximum reasonable efforts" to reduce coupling speeds of loaded, placarded tank cars to no more than "4 MPH." As salutary as the industry efforts represented in this document are, to accord them the status of a mandatory federal standard would be a mistake because it could confuse the regulated community in general, and the Applicants in particular, about their duty to comply with the Code of Federal Regulations.

DOT is also concerned, for example, that the adoption of the circular's "key train" concept (a train with more than a minimum number of cars or intermodal containers loaded with certain classes of hazardous materials) could lead to lower standards of care for other trains carrying hazardous materials. The Department's 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.

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 to attempt to create alternative binding standards in this area. DOT urges the 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 the Applicants have already developed plans to comply with all federal hazardous materials regulations. DEIS, Vol. 2, at 168-77 (CSX) and at 147-66 (NS).

III. Rail Passenger Transportation Impacts

The purchase and division of Conrail has the potential to affect rail passengers significantly, both commuter and intercity, particularly in the northeastern United States. Rail passenger transportation is an important national resource. Federal, state, and local governments have invested billions of dollars on capital equipment, operating subsidies, track acquisition, maintenance, and similar purposes for Amtrak and several commuter rail operators. This funding reflects a deep commitment to fundamental values such as reducing pollution and highway congestion, enhancing energy efficiency, and improving the quality of life, particularly in major metropolitan areas. *See, generally*, 49 U.S.C. §§ 5301 *et seq.* Much of this investment has been concentrated in the region affected by this transaction.

In this region, too, most passenger and freight railroads operate on each others' lines to some extent. DEIS, Vol. 1, chap. 4, at 4-22. They must therefore coordinate extensively, rely upon each other for dispatching in many instances, and otherwise accommodate sometimes inconsistent interests. DOT believes that Conrail, the various commuter rail agencies, and Amtrak have managed this interdependence in relatively harmonious fashion overall. Effectively eliminating Conrail and replacing it with NS and CSX introduces at least the potential for concern that this may not continue to be the case.

Although Amtrak operates nationwide and therefore has ongoing dealings with CSX and NS, its operations elsewhere are relatively infrequent, low in volume, and spread out over the day by comparison with those taking place in the most relevant area for present purposes, the Northeast Corridor. Moreover, neither CSX or NS has any real experience with the kind of high-volume commuter services they would encounter in former Conrail territory. As discussed below, these dissimilar backgrounds with respect to commuter rail transportation and other factors counsel caution and careful observation of the true impacts of the pending transaction.

Accurate assessment of the possible consequences of the pending application on passenger rail operations is crucial in this regard. The DEIS, however, contains

significant flaws and so in some cases does not accurately portray those consequences. In other cases it recommends inappropriate mitigation measures. In our view, the actual conditions that may emerge militate in favor of an oversight condition through which the Board can retain the ability to respond to demonstrations of adverse impact.

The DEIS appears to make several dubious assumptions. The first concerns the capacity of affected rail lines, a factor that undermines the DEIS's assessment of the acquisition's real impact on passenger railroads. The DEIS seems to assume that freight trains are evenly distributed over a 24-hour day. See DEIS, Vol. 5A, Appendix C, at C-1 through C-23. To the extent such trains operate disproportionately in periods when passenger trains also operate, this will understate the transaction's impact on rail passenger service.

A primary example is on the line segment from Washington, D.C. to Richmond, Virginia. Passenger operations on this line are conducted by both Virginia Railway Express ("VRE") and Amtrak. Currently there is an average of 44 daily passenger trains on the segment between Washington and Alexandria, Virginia, 30 between Alexandria and Fredericksburg, and 18 between Fredericksburg and Richmond. DEIS, Vol. 1 Chap. 4, at 4-39. Post-transaction, CSX intends to raise the number of average daily freight trains between Washington and Alexandria from 17.9 to 28.6 and from Alexandria to points south from 16.3 to 23.4. *Id.*

The DEIS concluded that the increased freight traffic levels were well within the capacity of these segments. DEIS, Vol. 3B, Chap. 5, at VA-15. That may or may not actually be the case. Most of this line has two main tracks with centralized traffic control, and so theoretically can absorb projected traffic levels. However, there are a number of physical and operating factors that can reduce the segment's capacity in reality. These include the location and spacing of crossovers, the single-track Quantico Bridge, the restrictions of VRE boarding platforms to the east track at most stations, and the bunching of freight and passenger trains at certain times of day.⁸

⁸/ For example, there is a significant number of freight trains passing through Alexandria between 4:40 AM and 9:50 AM., a period that coincides with VRE's morning "rush hour" and also includes Amtrak trains. CSX/NS-177, Rebuttal Verified Statement of John W. Orrison, Figure JWO-18 at HC 607-610. During this time a similarly large number of passenger trains also pass through Alexandria. *Id.* Delays to any one train during such busy periods often result in collateral delays to other trains, particularly since the dispatcher's options are limited by physical factors. Planned capital improvements (such as crossovers in Woodbridge and Aquia, Virginia, and design work on a new Quantico Bridge)

There is also an implicit assumption in the use of a statistic like "average daily traffic," that all freight trains will have the same impact on passenger service. DEIS, Vol. 5A, Appendix C, at C-1 through C-23. However, intermodal trains, coal trains, and grain trains travel at different speeds with different priorities and can have different effects on a freight railroad's capacity and, possibly, inclination to accommodate passenger operations.⁹ In certain instances, passenger train speeds also play a larger role. The Chicago - Detroit corridor is such an example. This is a highly competitive passenger market, in which Amtrak vies for business with airlines and the private automobile; consequently, there is little tolerance for delays. Maximum authorized passenger train speed is currently 79 miles per hour, but improvements will soon permit speeds of 100 miles per hour or higher on the Kalamazoo, Michigan to Porter, Indiana (97 mile) segment, thereby increasing the likelihood that freight trains will be overtaken here.¹⁰ The DEIS concludes that the existence of passing sidings and Amtrak's control of dispatching on this line will prevent the projected addition of 10 more freight trains daily from causing a problem. DEIS, Vol. 1, Chap. 4, at 4-28, -29. The existence of sidings and the performance of dispatchers are likewise relied upon to avoid capacity problems on the (147 mile) segment between Kalamazoo and Detroit, although Amtrak does not own or dispatch that portion. DEIS, Vol. 3, Chap. 5, at MI-14. The spacing of sidings, however, can allow for poorly planned meetings of passenger and freight trains, with the prospect of rippling delays in a market particularly sensitive to them. The entry of a third freight railroad, the Canadian Pacific, is also in prospect.¹¹ Close cooperation among the affected carriers will be necessary to match theoretical capacity to operating realities.

do not wholly alleviate DOT's concerns, particularly if they are not completed prior to increased freight operations. The Department believes that CSX, Amtrak, and VRE should work together to develop operating plans and performance standards to avoid disruptions.

^{9/} A generic treatment of freight trains also ignores such realities as the necessity for "helper" locomotives on certain track segments in certain circumstances. This additional traffic would consume capacity and potentially affect passenger trains.

^{10/} The State of Michigan and FRA are assisting Amtrak to install Positive Train Control on this segment.

^{11/} NS is reportedly discussing haulage rights for Canadian Pacific trains on this segment. DEIS, Vol. 1, Chap. 4, at 4-28.

One of the Department's most basic concerns in this aspect of the proceeding stems from the fact that the DEIS does not properly consider the transaction's impacts on passenger train reliability due to increased freight traffic.

SEA determined that impacts of freight operations on passenger rail service would be significant if the anticipated post-Acquisition increases in freight operations resulted in the need to reduce passenger service by one or more trains per day. However, the current operating agreements between the passenger service operators and the freight railroads preclude reduction in passenger service. Thus, any significant impact that would result from increased post-Acquisition freight operations could occur only after expiration of a current agreement.

DEIS, Vol. 1, at 3-16.

DOT finds this approach unacceptable for two reasons. First, it effectively defines away impacts -- an impact occurs only if one or more passenger trains must be canceled, but this cannot occur because operating agreements forbid it. This approach overlooks what could be the more significant impact of a substantial increase in freight traffic -- a decline in reliability of passenger service, a development that has potentially profound environmental consequences. Track capacity is a fluid concept. It is certainly possible to demonstrate that additional freight trains may be operated without interfering with commuter and inter-city passenger schedules. However, additional trains clearly create a greater potential for conflict with passenger trains. Freight trains do not always operate on firm schedules. Train numbers vary with the demand for service, and freight trains are subject to mechanical and other problems that interfere with the operation of passenger trains.

In addition to outright cancellations, erratic delays in passenger trains, particularly commuter operations, can have a serious impact on riders and can reduce ridership and thwart the goal of publicly supported passenger operations. The DEIS offers assurance that there is adequate capacity in all of the commuter rail corridors for the proposed additional freight operations. However, it should also discuss the potential effect on passenger train reliability. DOT notes that Amtrak and most of the commuter rail agencies may be close to agreement with the Applicants. We support this process, but urge the SEA to consider carefully the impact on passenger operation reliability of the proposed transaction, particularly in the absence of such agreements between the parties.

The second difficulty with the DEIS's treatment of this issue is that it is too narrowly confined to the period covered by existing agreements between Conrail and passenger rail agencies. *Id.* Regardless of whether such agreements terminate in as little as six months, their ordering of the current operational and financial relationships between freight and passenger railroads, in the view of the DEIS, again means that the purchase and division of Conrail has no effects cognizable by the SEA.

The Department considers this too restrictive a scope to measure the application's true potential effects. Quantitatively, these agreements will only govern the parties (and their successors) for a relatively short period. Most of the agreements will expire within either the usual three year term projected by rail merger applicants under the STB's rules, or the five year period set for oversight of the effects of the most recent rail merger. Finance Docket No. 32760, Union Pacific Corp., Union Pacific Railroad Co., and Missouri Pacific Railroad Co. -- Control and Merger -- Southern Pacific Transportation Co., St. Louis Southwestern Railway Co., SPCSC Corp., and the Denver & Rio Grande Western Railroad Co., Decision No. 44 (served August 12, 1996) ("UP/SP") at 146-47. Qualitatively, approval of the application will eliminate Conrail, a freight railroad with substantially more experience on the Northeast Corridor and in dealing with intercity and commuter rail operators than either CSX or NS. In Conrail's stead will be two freight railroads with much less exposure to the different problems presented by passenger rail agencies, whose operations tend to be concentrated in certain hours of the day, and for whom reliability and on-time performance are especially critical. Moreover, those two freight railroads have different histories and radically different track systems reaching different markets, and carrying different commodities, than Conrail. It is consequently at least plausible that NS and CSX will bring to the bargaining table very different goals and incentives in the near future, when existing contracts with passenger operators must be renegotiated.

The fact that the Applicants have entered into negotiations with such operators and have reached settlement agreements with several bodes well for future relations, and DOT commends these efforts. But this does not change the prospect, at least for the other operators, that their negotiations and relationships with CSX or NS may produce different results in the near future than would have been the case had Conrail continued in existence. The extent to which this proves so is a true measure of the impact of this transaction on these operators. Finally, of course, the continuing national interest in fostering passenger rail transportation extends beyond the terms of the current operating agreements.

DOT does not advocate that existing contract terms should remain forever unchanged, that passenger rail agencies should obtain whatever they please from NS and CSX, or any other particular outcome. On the basis of concerns broadly expressed by Amtrak and these commuter agencies, however, we strongly recommend that the STB retain jurisdiction for a five year period to monitor relevant developments regarding on-time performance and capacity, and to remain in a position to address passenger service issues that may arise.¹²

IV. Community Impacts

The DEIS also addresses the various potential consequences this transaction may have on affected communities, including noise, vibration, pollution, and vehicular traffic delays. As here relevant, the DEIS recommends that the communities most affected by projected rail traffic increases and reroutings should pursue negotiations with the Applicants in order to reach mutually satisfactory solutions. DEIS, Vol. 3B, at OH-140, -150; Vol. 3A. at IN-85. The specific communities are in Ohio (Cleveland, Lakewood, Rocky River, Bay

^{12/} The ICC refused to impose on-time conditions for the benefit of Amtrak in the railroad merger immediately preceding UP/SP, but that case presented very different facts from this one. Finance Docket No. 32549, Burlington Northern, Inc. & Burlington Northern R.R. - Control & Merger - Santa Fe Pacific Corp. & Atchison, Topeka & Santa Fe Railway, Decision served August 23, 1995 ("BN/SF"), at 97. The bases for the Commission's decision there were (1) the adequacy of existing contractual and statutory remedies, and (2) the absence of merger-related harm arising from increased freight traffic. Id. The very much larger number and complexity of rail passenger operations (intercity and commuter) here and the clear transaction-related increases in freight trains on affected lines projected in the Applicants' operating plans provide a rational basis to expect that the pending transaction is more likely to have an impact. The total absence of statutory protection for commuter agencies, the relatively short duration of existing agreements, and the replacement of Conrail (the freight carrier with the most experience with passenger operations) with two different freight carriers (with possibly the least exposure) suggests that in the near future there may be more problems in renewing operating agreements than has been the case in the past. The national, state, and local interest in passenger rail services offers a reason to be concerned by this prospect. Finally, the condition DOT tenders does not require proactive intervention by the Board, but simply a period of observation to monitor developments and not foreclose all possibility of further relief.

Village, and Olmsted Falls) and Indiana (East Chicago, Hammond, Gary, and Whiting). *Id.* The Department supports the general SEA approach in these cases of urging the parties to negotiate settlement agreements. However, we are concerned that this approach, without more precise guidance, may lead to interminable delays in a situation where the adverse consequences of such delay are likely to be substantial. We therefore urge the SEA in the final EIS to recommend that the Board take direct steps to facilitate a more timely mitigation of outstanding issues.

In the most recent rail merger case, the STB encouraged Reno and Wichita to negotiate agreements with the UP to resolve environmental issues identified in those communities, rather than mandating specific mitigation measures at the outset. UP/SP at 278-80. This basic approach is generally preferable to a binding regulatory condition because it is far more flexible and allows the parties to negotiate agreements that best suit their situations. Such agreements could include mitigation that encompasses issues of specific interest to a party that are beyond those that directly concern the STB, or that otherwise address concerns beyond traditional criteria for imposing merger conditions. For example, under existing precedent the Board would not itself impose a condition that addresses existing (pre-merger) problems, although private agreements that encompass such matters have traditionally been incorporated into conditions of regulatory approval at the request of the parties.¹³

It now appears that such a process is finally working in Wichita, where the STB has suspended issuance of the Final Mitigation Plan at the request of the UP and the community while they make progress toward an agreement. Finance Docket No. 32760, Decision No. 76 (served December 12, 1997). However, in Reno the same cannot be said. The STB approved the UP/SP merger with the proviso that UP could only operate two additional trains a day through these communities until the earlier of the completion of the final mitigation plan (which was to take eighteen months) or a settlement agreement was reached. UP/SP at 279-80. Since agreement has not yet been reached, that limitation continues to this day.

^{13/} See BN/SF at 83, in which the ICC accepted provisions in voluntary settlement agreements among parties that extended "far beyond" any the Commission would have imposed.

The Department is concerned that, without incentives to spur negotiations, following this approach again may lead to inordinate delays in reaching agreements mitigating the more complex and extensive problems posed by the Conrail acquisition. Since, unlike the Reno and Wichita situations, the affected areas already should have been examined comprehensively by the time the Board votes on the pending transaction, there is no basis to allow much time to pass while the matter is considered.¹⁴ Moreover, DOT submits that the facts of the instant transaction do not afford the luxury of extended negotiations.

As noted, the DEIS has again proposed that the affected communities and the railroads negotiate an agreement. If this can be accomplished in a timely manner, it is certainly the preferred approach. The Department strongly endorses a fair and equitable treatment of those areas that require mitigation, and believes that the affected parties themselves are in the best position, at least as an initial matter, to decide upon mutually acceptable mitigation measures.

It bears emphasis, however, that the situation in Cleveland and neighboring communities in northeastern Ohio, to take the most pressing example, is much more complicated than the situation faced in Reno or Wichita. Agreement must be reached between at least two railroads and several different communities. Some of the mitigation proposals solve one community's problem at the expense of another; some proposals solve one railroad's problem at the expense of the other. Noise impacts on residences, blockage of grade crossings, safety hazards at grade crossings, the avoidance of disproportionate effects on poor and minority residents, improved service to local industries, efficient transit of through trains, and cost, among other factors, must all be weighed and balanced fairly and sensitively. We understand, for instance, that the Mayor of Cleveland has identified potential impacts of the acquisition on the City, and has proposed mitigation measures. These mitigation measures, however, could have consequences for other communities. Reaching an agreement that meets the requirements of all of the interested parties in northeastern Ohio thus promises

^{14/} We discuss below, however, our conviction that the analytical approach followed in the DEIS has resulted in an incomplete identification of affected communities and areas. Adoption of the five year oversight period we propose should alleviate concerns on this score.

to be much more difficult than the problems faced after the UP/SP merger.¹⁵

The financial problems likely to face the Applicants in the event of a delay in their plans to stimulate and reroute traffic would seem to give them sufficient encouragement to reach timely agreements and to give the cities a certain leverage. However, without incentives to prompt the communities to avoid delay on their part, there is less prospect for reasonably prompt resolution. Moreover, since reaching an overall solution in an affected region like northeastern Ohio or northwestern Indiana requires cooperation from a number of stakeholders, it is by no means clear that comprehensive negotiated settlements can be reached in a timely fashion without assistance.

The Department proposes that the SEA facilitate this critical negotiation process by providing in the final EIS a clearer exposition of what needs to be mitigated and the measures the Board might order absent an agreement within a reasonable time. These measures should be carefully crafted to balance the environmental burdens placed on communities against the anticipated economic benefits to shippers so that, under the circumstances facing the communities and the Applicants, all parties have an incentive to negotiate on an accelerated basis.¹⁶ This would also help to foreclose at the outset any unrealistic expectations held by the participants as to the scope and cost of the mitigation measures that might be imposed in the absence of settlement, and thus make good faith negotiations more likely to follow.

The DEIS also proposes that the Applicants upgrade warning devices at 118 highway-rail crossings throughout the Conrail territory where train traffic will increase as a result of the pending transaction. DEIS, Executive Summary at ES-18. In reaching this recommendation, the SEA appears to have examined the projected volume of rail and vehicular traffic at individual crossings and other

^{15/} Moreover, if the agreed-upon mitigation program includes any substantial construction (e.g. rail or highway overpasses, significant sound barriers, etc.) additional environmental assessments may be required. Even if they are not, planning and construction could take one or two years.

^{16/} For example, a stringent limit on new train routings or operations would be likely to leave communities satisfied and less interested in hard bargaining. On the other hand, permission for NS and CSX to implement their operating plans without meaningful restrictions would leave the Applicants content with the status quo.

crossing-specific factors but no other considerations. DEIS, Vol. 1, Chap. 3, at 3-10.

The Department certainly supports mitigation to remedy transaction-related safety risks, and although the DEIS approach is appropriate for determining the risk presented at a single crossing, we believe that highway-rail crossing safety in the context of a comprehensive reordering of rail systems would be better served by adoption of a "corridor-based" analysis. The crossing-by-crossing approach used in the DEIS 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.¹⁷ By contrast, a corridor analysis focuses on train and vehicular traffic within a larger environment in an effort to reflect the way in which rail operations actually affect public safety and the way people and commerce move on surrounding roadways in a cohesive community. All crossings within such a community are examined, regardless of traffic volume at an individual location. Similarly, mitigation measures appropriate to this broader perspective are considered. These include crossing consolidation and low-cost improvements (e.g., clearing underbrush, pavement markings, etc.) in addition to installation or upgrading of automatic warning devices, grade separations, or other mitigation measures.¹⁸ A number of states, including Ohio, follow this approach in their administration of federal highway funds. Once a more accurate picture of the transaction's true effects is obtained, the Applicants should be required to mitigate those effects as a condition of approval. DOT offers its full assistance in identifying the transaction-related grade crossing problems.

In sum, the Department submits that the final EIS should include specific recommendations for interim measures and/or mitigation conditions that the

^{17/} The next section in these Comments underscores the cumulative consequence of such a narrowly-focused analysis: failure to identify whole communities at risk from the transaction.

^{18/} DOT has described this approach in a publication, Rail Highway Crossing Safety - Action Plan Support Proposal (June 13, 1994). A copy is attached hereto as Exhibit 2. FRA and the Federal Highway Administration have developed and distributed a checklist of items to be considered and analyzed when following this approach to community safety. Exhibit 3.

STB 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. Finally, we propose that examination and mitigation of transaction-related grade crossing problems use a corridor approach in order to identify and remedy such impacts in a more realistic fashion. The Applicants should be responsible for mitigation of those problems.

IV. Impacts Not Meeting SEA's Thresholds

The Department appreciates the need to establish thresholds, such as the increase in the number of trains or the average daily traffic ("ADT"), for identifying locations that warrant further analysis of possible environmental impacts. However, it should be understood that thresholds only prompt further consideration, and their satisfaction, *vel non*, does not by itself conclusively demonstrate the need (or lack thereof) for mitigation. As suggested above, a purely technical application of threshold criteria may result in a lack of attention to some communities that would otherwise suffer serious consequences without remediation. We urge the SEA and the Board to consider several real-world examples of such problems.

DOT suggests that Greenwich and New London, Ohio, qualify. Between them there is only one vehicular crossing with traffic sufficient to meet the 5,000 ADT threshold (Main Street in Greenwich), and both communities face significant increases in rail traffic if the transaction is consummated. CSX/NS-20, Vol. 3A at 435, 446; CSX/NS-54, Vol. 6B Errata - page 20. The DEIS does not consider these communities for any mitigation, but the analysis undertaken overlooks the fact that another rail line (of the Wheeling and Lake Erie Railroad, or "WLE") crosses the Conrail line in New London and the CSX line in Greenwich, and also parallels the line between the two towns. *Id.* Moreover, in Greenwich, a Conrail and a CSX line cross. Yet WLE traffic waiting to cross the rail lines in both cities already blocks crossings, and with increases in traffic after the acquisition, this will become more frequent. A separated grade crossing may be miles away and this group of crossings may be blocked for extensive periods of time -- as they will be in New London with adverse effects on public safety and community cohesion.

In Greenwich, a road with fairly light traffic (Kniffin Road) has three grade

crossings within two hundred yards.¹⁹ These three crossings will have nearly one hundred trains a day after the acquisition. CSX/NS-20, Vol. 3A at 435, 446. By considering the effects of this increase on each crossing separately, none may appear particularly intolerable. But trains on the lines that cross the town may block several crossings at the same time. Therefore, even if no one crossing meets the 5,000 ADT threshold, the Board should aggregate the traffic of several streets in close proximity to each other, and in such circumstances mitigation should be considered.

It must be emphasized that in the case of these two communities, CSX and the local authorities appear to have reached an agreement, and DOT has no desire to disturb such arrangements. We offer these situations only as support for the necessity for the final EIS, and the Board, to apply regulatory criteria not rigidly, but with an eye to the practical reality that will exist following any approval.

Lakewood, Ohio, is another example. Considered individually, only one of its vehicular crossings has sufficiently high ADT to meet the traffic threshold; yet train traffic following the integration of Conrail will clearly cut the town in half by blocking virtually all of its 27 crossings. BRL-2 at 7; CSX/NS-23, Vol 6B at 18-91. A more reasonable standard in such circumstances, in the Department's view, would be to adopt a corridor approach to consider impacts at all grade crossings and propose solutions that address the broader problems of emergency access, trespassers on railroad property, and noise. These could include requiring closing of some crossings and grade separation at others, based on the delays at all crossings that otherwise would be blocked without access to a grade separation.

Fostoria, Ohio, is another community as to which no mitigation measures are proposed in the DEIS, but which nonetheless faces very real transaction-related problems. The State of Ohio has described the impacts on Fostoria from significant transaction-generated increases in train traffic. OAG-4 at 33-34, and Exhibit 10. This community already experiences high levels of freight rail operations (more than 80 per day), which take place in a "U-shaped" configuration. *Id.* The three different rail lines pass through Fostoria at grade. When trains are stopped, waiting for trains on other lines before proceeding, they sometimes block all roadway access to two sections of the town. *Id.*, Exhibit 11. The addition of more trains poses a realistic risk of blocking off in particular those portions of Fostoria located in the middle of the "U" from access by

¹⁹/ Fin. Dkt. No. 33388 (Sub-No. 3), Decision No. 28331 (served October 10, 1997).

emergency vehicles in the not uncommon event that freight trains have to stop at particular locations. *Id.*, Exhibit 11, Verified Statement of Charles Dodge. Given that three busy rail lines cross at grade in the town, such stoppages are likely to occur more frequently in the future, with attendant risks for delayed emergency response times.

The inability to satisfy the ADT threshold and the lack of a national standard for emergency response times, however, are no bases to ignore the problem. To disregard the effects of closing all grade crossings leading to a neighborhood for a significant but undetermined length of time beyond that occurring under current circumstances is to accept a fundamental risk simply because there may be some difficulty in measuring it. The community and the railroad should be directed to negotiate over potential mitigation measures that address this and other issues, such as noise.

Berea, Ohio, is the Department's final example of a community on which there are likely to be substantial environmental impacts, but which has not been identified in the DEIS. A four lane highway in Berea (Front Street) crosses both of what the Applicants propose to make their main lines, and does so within very close proximity. This circumstance is not mentioned in the DEIS. Vehicles in Berea today face an average of 65.8 trains daily on these lines. CSX/NS-20, Col. 3A at 446-47; Vol. 3B at 462. The Applicants project an increase to about 75.7 trains per day. *Id.* Even this relatively small addition could exacerbate emergency response difficulties and the usual crossing risks. Moreover, if NS's proposal to relocate trains from the Cleveland-to-Vermilion route is adopted, total rail traffic on these lines in Berea would reach 100 trains per day. DEIS, Appendix S at 2.

The Department poses these examples not to impugn the validity of the DEIS overall, but in order to emphasize that the SEA and the Board must be flexible in their assessment of the impacts of this transaction. In cases where rail lines cross roads in close proximity to each other, or multiple rail lines cross the same roads, the impacts should be aggregated to obtain a realistic view of post-transaction consequences. Those communities already saturated with railroad traffic may face serious impacts from the addition of more trains per day, depending upon schedules and operating plans of the new carrier(s) serving the route. Impacts from trains that block vehicular crossings while waiting permission to proceed should be considered in communities where there will be a significant increase in trains that will cross at grade. Impacts on emergency vehicle access should receive special concern as a general matter because of the obvious risks involved.

DOT urges that the final EIS consider appropriate mitigation measures for

each of the communities named above that are similar to those recommended for the communities identified in the DEIS. That is, these communities and the Applicants should be encouraged by appropriate incentives to reach reasonably prompt resolution of the problems posed by this transaction. Because the discovery of the above communities raises a concern that there may be more such communities that have not been identified in the DEIS, we recommend that the SEA and the Board broaden their focus, consider a more flexible application of threshold criteria, and encourage communities with potential problems to communicate them to the STB. For this reason, therefore, the Department strongly recommends that a five year oversight period be established, during which the Board would remain receptive to demonstrations of transaction-related problems from previously unidentified communities.

V. Conclusion

The Department appreciates the Board's recognition that the consummation of this transaction could have a major impact on safety. The preparation of the SIPs ordered by the STB and their ongoing detailed cooperation with FRA reflect a genuine commitment by the Applicants to maintain safety. FRA will continue to work with the Applicants to assure the proper implementation of the SIPs, consistent with its regulatory authority over rail safety matters, should the Board approve the proposed transaction. However, other safety recommendations contained in the DEIS, specifically those concerning hazardous materials carriage and temporal separation between passenger and freight trains, would not improve safety and should not be adopted.

The introduction of NS and CSX to the high-volume intercity and commuter passenger operations of the northeastern United States may portend significant changes, notwithstanding the fact that operating agreements will order relationships for the very near future. For this reason, and because dubious assumptions prevent the DEIS from conveying a truly accurate picture of the consequences of the pending transaction for Amtrak and commuter rail operators, DOT strongly recommends that a five year oversight period be established to allow the Board to monitor performance and capacity developments in this important aspect of the case.

traffic generated or rerouted by the pending transaction will also have major impact on various communities, some of which the DEIS did not identify. The Department recommends that the Board impose conditions that promote reasonably prompt, effective, and flexible settlement agreements between the Applicants and the affected communities. We also encourage a more realistic application of the criteria by which communities facing such problems are identified. For this reason as well, DOT strongly supports a five year oversight period, during which the Board should remain receptive to demonstrations that transaction-related problems affect still more communities.

Respectfully submitted,



NANCY E. MCFADDEN
General Counsel

February 2, 1998

**Federal Railroad Administration (FRA)
Office of Safety**

SAFETY IMPLEMENTATION PLAN GUIDELINES

**November 7, 1997
Washington, D.C**

SAFETY IMPLEMENTATION PLAN GUIDELINES

Introduction

The Federal Railroad Administration (FRA) has determined from the mergers of the Union Pacific Railroad Company and the Southern Pacific Transportation Company and the Burlington Northern Railroad Company and the Atchison, Topeka and Santa Fe Railway Company that integrating operations of two Class 1 railroads into one railroad presents significant challenges to rail safety. Investigations of recent collisions, derailments, and other serious incidents reveal a correlation between inadequately planned operational integration of independent railroad entities and compromises of rail safety. Railroads merging with or acquiring other railroads must prepare thorough and complete, formal, written safety integration plans to ensure safe operations.

For these reasons, FRA submits the following guidelines that CSX Transportation, Incorporated (CSXT), and Norfolk Southern Corporation (NS) should address in their respective safety integration plans (SIP). The SIPs should focus on the formulation, development, issuance, and implementation of measures that address specific operational elements, as detailed below, necessary to ensure compliance with the Federal railroad safety laws and otherwise provide safe railroad operations. As one example of how a SIP should extend beyond the reach of present Federal railroad safety regulations, an acquiring carrier should assure that personnel in safety-critical positions are not so burdened with tasks unrelated to safety that they cannot adequately perform their safety-critical functions. Principally, CSXT's and NS's SIPs must: show how their practices differ from Conrail's; identify as the end state to be achieved once their respective acquisitions are consummated practices that will minimize or eliminate incidents and injuries, and promote a culture emphasizing rail safety; and demonstrate step-by-step how they will effect the transition from current circumstances to their desired end states while maintaining safety. FRA underscores the need for the acquiring railroads to define the steps or procedures proposed to integrate Consolidated Rail Corporation's (Conrail) operational plans with their own during the transition process (i.e., until the acquisition is complete). FRA concludes that a SIP addressing the subject areas below will strengthen CSXT's and NS's integral operational interests and ensure safe rail transportation.

Safety Integration Plan

1. **Content of Plan:** Provide the following information for each subject matter listed in number 2:
 - a. Itemized list or index of measures addressing (i) how Conrail differs from the acquiring railroad and best practices identified from either; (ii) description of how the railroad will operate once the acquisition is completed; (iii) step-by-step description of how elements of acquired property, including Conrail Shared Assets Operating Areas, will be integrated with operations of acquiring railroad; and (iv) efforts to comply with Federal regulations;

- b. Allocation of resources (e.g., work effort expressed as person-days per year, capital, facilities, and technology) directed to that subject;
- c. Schedule for implementing plans addressing that subject.

2. Subject Matters To Be Addressed In Plan

- a. Corporate Safety Culture
 - i. Management attitudes, directives, priorities, practices, and philosophies, within each operating administration or division, that is directed to employee training, staffing, health, morale and safety practices
 - ii. How organizational priorities will be balanced between (1) enhancing productivity (e.g., employment reduction and elimination of resource duplication) to achieve economic efficiency and (2) minimizing safety risks with no compromise of safety (e.g., narrowed communication forums between labor and management, excess hours, and loss of institutional knowledge)
- b. Training
 - i. Train and engine service personnel
 - ii. Roadway worker and bridge worker personnel
 - iii. Motive Power and Equipment personnel
 - iv. Dispatching and operating personnel
 - v. Signal and Train Control personnel
 - vi. Hazardous materials personnel
- c. Operating Practices
 - i. Operating rules, practices, and instruction
 - (1) Training and qualifying train crews
 - (2) Rulebook(s) to govern
 - (3) Standardizing operational testing programs
 - ii. Accidents/Incidents
 - (1) Reporting procedures for accidents/incidents
 - (2) Procedures available to employees perceiving intimidation and harassment under Railroad Accidents/Incidents regulations
 - iii. Alcohol and Drug
 - (1) Integration of Conrail program with acquiring railroads' programs
 - (2) Implementation of Post Accident Toxicological Testing and Random Drug and Alcohol Testing programs on acquired territories
 - iv. Locomotive Engineer Qualification and Certification
 - (1) Qualifying and certifying engineers on acquired territories.
 - v. Hours of Services laws
 - (1) Implementing measures for electronic recordkeeping
 - (2) Centralizing crew management functions
 - vi. Yard/terminal operations
 - (1) Training and instructing employees to ensure familiarity with rules

ENHANCE ENFORCEMENT OF TRAFFIC LAWS AT CROSSINGS

By improving the understanding and observation of existing traffic laws, collisions at highway-rail crossings will be reduced. Law enforcement initiatives and innovations reduce traffic law violations and therefore reduce collisions.

Objective: To establish an expanded and proactive outreach program to our Nation's traffic law enforcement community ranging from patrol officers to judges.

Objective: To reduce the number of traffic law and warning device violations at highway-rail crossings by increasing enforcement and judicial support.

To meet these objectives we will:

1. Encourage State officials to use Section 402 funds (Highway Safety Program) to support education programs for the law enforcement and judicial communities.
2. Develop police officer and judicial outreach program materials for Federal, State and local advocates.
3. Develop an information package to assist States in revising their rules of evidence to allow for the use of photographic and video evidence for traffic citations and enforcement.
4. Consider a rulemaking to define violations of automatic warning devices at highway-rail crossings (e.g., going around lowered gates) as a serious offense, for holders of Commercial Driver's Licenses (CDL).
5. Update and republish the 1983 compilation of state laws and regulations regarding highway-rail crossings.

ENHANCE RAIL CORRIDOR CROSSING REVIEWS AND IMPROVEMENTS

Traditionally, highway-rail crossings are selected for safety improvements one at a time based on the crossing's accident experience and highway and rail traffic counts. This fosters a bias toward urban areas and main roads where traffic densities are high, and excludes most low density crossings and those already equipped with automatic devices. In many cases, these crossings are not reviewed but would benefit from low cost improvements or could be eliminated.

Objective: To promote comprehensive and systematic corridor reviews of highway-rail crossings, especially those over our nation's Principal Railroad Lines (PRLs).

Objective: To eliminate little used and redundant crossings within corridors where alternatives exist, especially those on the National Highway System (NHS).

Objective: To upgrade signs and signals at all crossings, taking full advantage of available state-of-the-art technologies.

To meet these objectives we will:

1. Nominate PRL corridors for review and organize and promote State, local, MPO and industry safety corridor review programs.
2. Propose the elimination of crossings where NHS roads cross PRLs and

upgrading or elimination of all other NHS crossings, as part of the Safety Management System.

3. Promote the upgrading of existing signal circuitry and signage. In addition, States should consider the installation of STOP signs where warranted.
4. Review the allocation of responsibilities for the selection and installation of warning devices and the potential for uniform nationwide standards.
5. Make legislative proposals to provide Federal funds for bonuses, matched by the railroad(s), to local highway authorities for closing crossings.
6. Convene railroads, State DOTs and MPOs in regional meetings to facilitate integrated intermodal planning.
7. Update and republish the 1986 Handbook on highway-rail crossings, including a checklist of items to be considered in a corridor safety analysis.
8. Make a legislative proposal for incentive funding to promote the accomplishment of corridor safety programs.
9. Study the potential for a more equitable allocation of Section 130 funds to individual States, reflecting crossing needs and accident rates.

EXPAND PUBLIC EDUCATION AND OPERATION LIFESAVER ACTIVITIES

Over \$2.8 billion in Federal-aid funds have been invested by States for safety improvements at highway-rail crossings since 1973. Over half of these funds were for automated warning devices. However, half of all collisions occur at crossings equipped with these devices. To realize full benefit from the public investment in these devices, motorists must be educated in their responsibilities at all types of crossings.

Operation Lifesaver (OL) is an active, continuous public information and education program to help prevent and reduce crashes, injuries and fatalities and improve driver performance at our Nation's 280,000 public and private highway-rail crossings.

Objective: To increase public awareness of
1) hazards at crossings and,
2) motorist responsibilities at crossings.

To meet this objective we will:

1. Work with OL to plan, coordinate, initiate and sustain a nationwide mass-media and youth education campaign.
2. Develop new and updated driver-training materials related to crossing safety. Distribute materials to state officials.
3. Promote outreach to our Nation's truck and bus industry stressing the hazards of highway-rail crossings.
4. Discuss crossing safety with truck and bus operators during on-site compliance reviews by State and Federal inspectors.
5. Increase Federal funding to OL, Inc. on the condition that the increase be matched from non-public sources.

INCREASE SAFETY AT PRIVATE CROSSINGS

Private crossings are categorized as either farm, residential, recreational or industrial. Nearly two-thirds are farm crossings. However, most accidents occur at industrial crossings.

In the U.S., there are 110,000 private highway-rail crossings. More than 400 accidents and 40 deaths occur at these crossings each year. In most years, the number of deaths which occur at private crossings exceeds the number of on-duty deaths among railroad employees in all rail operations.

Objective: To develop and provide national, minimum safety standards for private crossings.

Objective: To eliminate the impediment to high speed rail operations posed by private crossings.

To meet these objectives we will:

1. Develop operational definitions and monitor accident rates for each private crossing category.
2. Conduct an informal safety inquiry to consider the definition of responsibilities, minimum safety requirements and warning device standards for each category.
3. Promote research to determine the feasibility of using railroad-dispatcher controlled cipher locks to secure highway barriers at private crossings.

IMPROVE DATA AND RESEARCH EFFORTS

Access to valid data is key to good decision making. Additionally, for progress to occur, research and innovation are necessary. However, for highway-rail crossing issues, institutional concerns regarding costs (research and potential implementation), liability and current convention often impede progress. With the Department's involvement and leadership these obstacles can be overcome.

Objective: To enhance the effectiveness of our resources through research and data analysis.

Objective: To promote research and champion plausible innovation.

Objective: To insure that timely and accurate information needed by decision makers is available.

To meet these objectives we will:

1. Host Research Roundtables/Workshops with highway safety, law enforcement, rail and transit industry officials, governors' highway safety representatives, academia, consultants and defense industry representatives to examine research needs.

2. Develop demographic information regarding accident fatalities.
3. Investigate causes of increasing accident severity and the potential for severity mitigation measures.
4. Examine the potential of providing additional information to the motorist through innovative signs, signals, lights and markings.
5. Review available automated presence and intrusion detection hardware and the potential effectiveness of existing and proposed technology for conveying emergency messages.
6. Develop a hardware/software package for automatically receiving and forwarding reports of malfunctions and emergency situations at highway-rail crossings.
7. Expand transit safety data to include specific data on shared rights-of-way accidents involving light rail vehicles.
8. Review and confirm DOT's currently available highway-rail crossing resource allocation procedures and accident prediction formulas.
9. Promote more systematic updating of the U.S. DOT/AAR National Highway-Rail Crossing Inventory.

PREVENT RAIL TRESPASS TRAGEDIES

Trespassing, with over a thousand deaths and injuries each year, presents the rail industry with a serious dilemma. Trespassers are not a single, cohesive group. Their one common attribute is the illegality of their act (trespassing). Because of this diversity, it is not likely that trespassers will respond to a single national initiative. Regional programs have more promise. The Department of Transportation will target this problem. Our goal is to prevent trespassing, not to make the railroad right-of-way safe for trespassers.

Objective: To raise public and police awareness of the unlawfulness of, and dangers inherent in, trespassing on railroad right-of-way.

Objective: To develop and make available sufficiently detailed information to prepare and focus trespass prevention campaigns.

To meet these objectives we will:

1. Conduct a demographic survey of past casualties to determine the types of individuals and activities involved.
2. Refine future railroad "Injury and Illness" reporting requirements to provide more detailed and useful information regarding trespasser casualties.
3. Conduct a second Workshop on Trespass Prevention in cooperation with Operation Lifesaver, railroad police and the industry.
4. Plan and promote regional anti-trespass campaigns in cooperation with Operation Lifesaver, railroad police and the industry.
5. Develop model code for possible adoption by State legislatures dealing with trespassers and vandals in cooperation with the rail industry.



U.S. Department
of Transportation

Federal Highway
Administration

Federal Railroad
Administration

Memorandum

Subject INFORMATION: Highway-Rail Crossing Safety,
Corridor Analysis Guide

Date May 17, 1995

From Associate Administrator for Safety
and System Applications, FHWA
Associate Administrator for Safety, FRA

Reply to HHS-20
Attn of RRS-23

To: FHWA Regional Administrators
FHWA Division Administrators
FRA Regional Directors

Low cost grade crossing safety improvements can best be identified when all crossings along a railroad corridor or in a given geographic area (urban area, county, highway district, etc.) are analyzed at the same time. This method of reviewing crossings is especially important for developing crossing consolidation programs.

A number of our respective field offices have requested guidance for conducting corridor reviews. In response to these requests, the FHWA and FRA jointly developed the attached "Corridor Analysis Guide" and a list of references for use in analyzing grade crossings for improvement. While the Guide includes an extensive list of items that should be investigated/considered when making reviews, State and local officials and the railroads may find it desirable to consider additional topics unique to a specific corridor or area.

We encourage you to share the Guide with State and local highway agencies, those agencies responsible for statewide and metropolitan planning processes, railroad regulatory agencies in the states, and the railroads. As more experience is gained with corridor reviews, it is likely that the Guide will need to be expanded or modified. Your feedback toward this end will be appreciated.

Bruce M. Fine

Dennis C. Judycki

Attachments

CORRIDOR ANALYSIS GUIDE

PROCEDURE

- I. Corridor Selection
- II. Organize Diagnostic Team
- III. Pre-site Visit Data Gathering and Review
- IV. On-site Crossing Assessment
- V. Update Inventory as Necessary
- VI. Post-site Visit Review and Recommendations
for Interim (if applicable) and Permanent Improvements

RESOURCES

1. Accident History
 - ▶ Number by severity
 - Involving train
 - Not involving train; train a contributing factor
 - Not involving train; train not a contributing factor
2. Crossing Inventory Data
3. Accident Prediction/Hazard Index Data
4. Maps
 - ▶ State/local
 - ▶ Railroad
5. Photographs
 - ▶ Ground
 - ▶ Aerial
6. State/local jurisdiction short- and long-range plans for crossing/highway improvements
7. Railroad short- and long-range plans for crossing improvements or abandonment/lease/sale
8. Traffic studies/projections (highway and railroad)
9. Multidisciplinary diagnostic team reviews
10. Funding source information

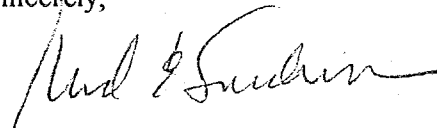
condition its approval of the proposed acquisition and division which limit the operation of the railroads, then the STB would have a continuing program responsibility for the approval and the resulting emissions. It appears that in some nonattainment and/or maintenance areas there will be a net increase in emissions above the de minimis levels; thus, a conformity determination may be necessary. EPA expects the STB to address our comments regarding General Conformity and recommends that this discussion be included in the final EIS. Please see our enclosed technical comments for our detailed concerns.

EPA also is concerned with the lack of justification for a number of critical assumptions used in the noise analysis. The noise mitigation results are directly related to the validity of these assumptions. The final EIS should offer a more substantive description of the STB's assumptions and their results or correct them.

Finally, although many minority or low income communities were identified by the STB, it appears that the STB has thus far made little effort to mitigate potential impacts. EPA believes that additional coordination may be appropriate in the communities identified and that mitigation should be discussed in the final EIS. Because the STB does not have extensive regional or field staff, the STB staff may want to contact the Environmental Justice Coordinators located in other federal regional or field offices to see if they can provide information on these potentially affected communities. Additionally, the Council on Environmental Quality issued its "Environmental Justice Guidance Under the National Environmental Policy Act" in December 1997. This guidance should be referred to during the preparation of the final EIS.

Thank you for the opportunity to review this document. If you have any questions regarding our review, the staff contact is Patricia Haman. She can be reached at 202-564-7152.

Sincerely,



Richard E. Sanderson
Director
Office of Federal Activities

Enclosures

Technical Comments

Air Quality:

Lake and Porter Counties in Indiana have been granted a nitrogen oxides (NO_x) waiver; however, Vanderburg, Marion, St. Joseph and Elkhart Counties all have maintenance plans and a NO_x budget. The NO_x emissions in these counties from the project (if above 100 tons per year) should be compared with the projected NO_x emissions in the maintenance plan to determine if the projected growth can be accommodated. If the NO_x emissions are found to be greater than the growth allowed by the maintenance plan, then mitigation measures could be implemented so the project can be found to conform.

Six Michigan counties were evaluated for potential impacts from the proposed Conrail Acquisition: Calhoun; Jackson; Kalamazoo; Monroe; Wayne; and Washtenaw. Monroe, Wayne, and Washtenaw are part of the Detroit-Ann Arbor, Michigan, metropolitan area which is an ozone maintenance area, and Wayne County is part of a nonclassifiable nonattainment area for carbon monoxide (CO). The Detroit-Ann Arbor, Michigan, area was redesignated to maintenance in 1995, but the areas subsequently violated the ozone standard in the same year. This violation prompted U.S. EPA to remove a NO_x waiver which was granted as part of the redesignation request. Please address this change in status in the final EIS.

EPA is also concerned that passenger or commuter trains which currently utilize freight train tracks affected by this acquisition may not be able to continue to provide valuable transportation services to the public. Specifically, because much of the area affected by this acquisition is in the Northeast corridor and is in non-attainment or maintenance status for ground level ozone, EPA is concerned that if these trains are unable to offer their services or must reduce service, their passengers may resort to additional single occupancy vehicle trips, potentially impeding an area's ability to attain the National Ambient Air Quality Standard for ozone. EPA thinks this potential resultant impact to air quality needs to be addressed in the final EIS.

The draft EIS assumes that relocation of intermodal facilities and increased truck activities at these facilities will have little impact on local roadway systems. However, the current conditions or Level of Service of these local roadways were not identified or the effects of the additional truck traffic evaluated. In the review of transportation projects, the effect of truck traffic and the percentage of truck traffic on local roadways contributes to operational and safety problems. The draft EIS also does not discuss the interaction of the proposed rail modifications with proposed transportation projects in the potentially affected states. There are a number of major highway projects that being undertaken near rail lines involved with this project. For example, the Erie East Side Access in downtown Erie, Pennsylvania (PA), will cross the relocated Norfolk Southern tracks in Erie; SR 322 in Dauphin County, PA, could be affected by changes in operation of the adjacent rail lines. Corridor H in West Virginia also could be affected. Coordination with the State Departments of Transportation should be undertaken for all activities within each state.

Hazardous Materials:

The impact of the proposal on hazardous materials transport is not discussed fully in the draft EIS. It is unclear why the draft EIS only recommends mitigation for hazardous materials transport for rail segments which, post-acquisition, exceed 10,000 car loads of hazardous materials per year. The transportation of hazardous materials is increasing substantially on some rail routes (e.g., N-477 by 133%) albeit still to a level lower than 10,000 car loads. The risk calculations used in the draft EIS do not imply or support a significant increase of risk of release at the 10,000 car load level nor does the draft EIS provide enough discussion to explain what those risks may mean to a community.

We also are concerned about the adequacy of the proposed mitigation for hazardous materials transport to effectively address an anticipated increase in release of hazardous materials. The proposed mitigation which would be required for an increase in hazardous materials transport appears limited to complying with Association of American Railroads "Key Route" guidelines (AAR Circular No. OT-55-B). These guidelines appear only to address specific measures designed to decrease the probability of train accidents or car failures as the cause of accidental releases of hazardous materials and not what happens should an accident occur. The Key Routes or Major Key Routes do not appear to take into account the population or proximity of communities adjacent to these routes. We also note that the analysis of incidents involving hazardous materials contained in Chapter 4 of the draft EIS shows that vehicle-train accident/derailment accounts for less than 5% of the causes of these incidents. We suggest that an appropriate mitigation plan would include provisions to address all causes of incidents involving release of hazardous materials. Although the STB's Section of Environmental Analysis (SEA), "... believes that CSX and NS should establish a formal Failure Mode and Effects Analysis (FMEA) for reducing risk of spills both for storage and transport of hazardous materials... [page 4-21 of the draft EIS]," EPA could find no specific requirements that this be addressed with specific mitigation measures, or that if conducted, the results would be implemented.

Noise:

In general EPA finds the noise analysis confusing and the methodological assumptions used not well documented. Specifically, we are concerned with the lack of justification for the mitigation criterion for wayside noise: "SEA considered noise impact of wheel/rail and locomotive engine noise (wayside noise) to warrant potential mitigation if any sensitive receptors are exposed to noise levels above 70 dBA-Ldn and have a 5 dB Ldn increase." Work done with airport-related noise [see Federal Agency Review of Selected Airport Noise Analysis Issues (Federal Interagency Committee on Noise), August 1992] indicates that threshold criteria for changes in noise levels should decrease with increasing absolute values. The SEA screening criterion goes the opposite direction, from 3 dBA change at 65 dBA to 5 dBA change at 70 dBA. The reason that this is a problem is that at the higher absolute levels, a greater percentage of people are "highly annoyed" for each dBA increase. Our concern is that this SEA mitigation threshold greatly underestimates the need for mitigation.

A number of other assumptions in the analysis which should be justified in the final EIS are:

- Why construction noise impacts were not analyzed nor discussed in the mitigation sections.
- The validity of the (implicit) assumption that post-acquisition traffic has the same day/night ratio as the pre-acquisition traffic.
- Why background noise was not included in the analysis and how its omission effects the noise mitigation outcome.
- Why the option of remote horn installations at crossings was not explored as a mitigation option.
- The need for mitigation for engine noise at switching or other engine "accelerating" areas.
- The feasibility of slower train speed through noise critical areas as a mitigation.

Finally, as a matter of clarification, while the draft EIS statement that "...noise effects in areas where the Ldn is less than 65 dBA are generally not considered adverse..." is true, the FICON group specifically concluded "...that it is prudent to provide for systematically analyzing noise levels below 65 dB in NEPA documents using the Screening Procedures indicated below. If done properly, this added level of analysis could provide useful information to both the public and decision-maker." (See Section 3.4, FICON.)

Water Quality:

Most of the rail segments show an increase in the number of train operations. Also, there is an increase in activity at rail yards and intermodal facilities. However, there is no discussion of the potential water quality impacts of this increased activity. Since little information is given on the environment surrounding the rail line segments it is impossible to ascertain if there are any water resources that could be sensitive to additional pollutant runoff. There is no discussion of storm water management treatment for any of the facilities or operational changes. Please address these impacts in the final EIS.

Safety:

The discussion on rail safety was confusing. Although the Federal Railroad Administration reports 2600 accidents nationally for 1996, the draft 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 increases in rail accidents from the associated increases in rail operations.

The impact of additional freight trains on passenger rail operations is not fully addressed. For example, on page MI-9 the draft EIS states, "Based on information the railroads provided and SEA's independent analysis, SEA determined that the increased risk for passenger train accidents for three of the four rail line segments exceeded SEA's criteria for significance. The draft EIS notes that one of the rail line segments, Kalamazoo to Porter, Indiana is owned and dispatched by Amtrak, a passenger rail service. SEA encourages Amtrak to implement any necessary modifications through its management of this rail line segment's operations. For the remaining two rail line segments, SEA anticipates that potential conflicts can be minimized by reinforcing passenger trains' priority over freight trains." We are concerned about the possibility that these conflicts may not be worked out and that increased freight rail operations may impinge on safe passenger rail service. We recommend that the final EIS address this concern in more detail.

Site-specific Analyses:

EPA is concerned with both the extent of the actions analyzed as well as the level of detail for those actions considered to "meet or exceed the Board's Environmental Thresholds". In particular, it appears that many of the activities resulting from the acquisition were not analyzed. We are unable to evaluate the direct and cumulative impacts of the changes to railroad operation or facilities as a result of the acquisition. For the segments or facilities evaluated in each of the states, regardless of the potential impact associated with the activity, the Board concludes a lack of significant impact with minimal data to support those assumptions.

In addition to these overriding concerns, EPA Region 5 expressed concern for specific sites in their review of the draft EIS. EPA believes additional analysis of potential impacts to watersheds, wetlands, and threatened or endangered species for construction/abandonment activities is needed for the following sites in:

<u>State</u>	<u>Activity</u>
Illinois	Exermont Connection
Illinois	Paris-Danville Abandonment
Illinois	Lincoln Avenue Chicago Connection
Illinois	59th Street Intermodal Facility
Indiana	Butler Connection
Indiana	South Bend to Dillion Junction Abandonment
Ohio	Oak Harbor, Ottawa County
Ohio	Willard Fueling, Huron/Seneca Counties
Ohio	Vermilion Connection, Erie County
Ohio	Toledo to Maumee Abandonment, Lucas County
Ohio	Columbus Connection, Franklin County
Ohio	Toledo Pivot Bridge Abandonment, Lucas County
Ohio	Collinwood New Intermodal Facility, Cleveland/Cuyahoga Counties

Best Management Practices:

It is in the public interest that the details of construction are accomplished with the most environmentally sound methods practicable. To avoid the necessity of detailed specifications for each construction detail, it is our opinion that Best Management Practices (BMP), as amended below, be followed. In addition, a disinterested third party should be contracted to supervise and audit the ongoing construction and abandonment activities from an environmental standpoint.

Best Management Practices (BMPs) listed in Volume 1, page 3-43, are well stated, but incomplete. They are expanded upon in Volume 4, Chapter 7.2.5; however, they are referred to as "General Mitigation for Proposed Constructions and Abandonments" and again in Volume 5A, Appendix I, where they are again referred to as "mitigation." It is our position that these are construction and abandonment management practices and not mitigation. To facilitate the review of such an extensive document, they should be compiled into one "Best Management Practices" section and referred back to when applicable, not repeated. Attached is a list provided by one of EPA's regions which we recommend be used to augment the BMP list in the draft EIS.

Recommended Best Management Practices

- a. We recommend the use of recycled materials and environmentally-sound products during construction. Abandonment activities should be coordinated with construction activities to take maximum advantage of reuse and recycled materials.
- b. Impacts or losses to wetlands should be avoided wherever possible. If wetland impacts are unavoidable, it must be demonstrated that there are no practicable alternatives available that would avoid or further minimize impacts to wetlands. Unavoidable wetland losses must be compensated for at a minimum of 1.5 acres of compensatory wetlands per each acre of naturally occurring wetlands impacted by the project at issue.
- c. Compensatory wetlands should be designed to replicate as closely as possible the specific mix of types, functions and values provided by the project-impacted wetlands. The compensatory wetlands should be established via the process of restoration to the extent feasible, and they should be located in an area as close as practicable to the project-impacted wetlands.
- d. If, in the course of the project, it is discovered that impacts will occur in a fen, bog, or a bottomland hardwood assemblage, the responsible parties will cease activities and contact the U.S. Army Corps of Engineers and the U.S. EPA immediately. These wetland resources are extremely scarce and cannot be adequately compensated for with existing mitigation and restoration technology.
- e. If trees will need to be cleared to accommodate the proposed project activities, compensation should be provided for the removed trees. Trees should be replaced with native saplings, if practicable, at a minimum ratio of 1:1, and replacement should occur as close as possible to the impacted areas. Replacement of removed trees would provide erosion control, increase the drainage capacity of the area, help mitigate the loss of habitat, and would improve aesthetics.
- f. Measures should be taken to protect vegetation from impacts that may be incurred by the use of heavy equipment. All activities should be restricted to the footprint of the project. The contractor should be required to install fences around the project area so that vegetation outside the immediate footprint is protected.
- g. To control erosion and spills, a staging area should be established for the construction equipment in an environmentally non-sensitive area, and all disturbed areas should be revegetated upon completion of the construction activities, preferably with native flora. The long root systems characteristic of native flora help hold the soil firmly in place. Also, natural vegetation works as an efficient filter, it provides habitat for wildlife, and improves aesthetics. "Natural landscaping" techniques maximize the use of native species thus reducing the need for fertilization and motorized maintenance.
- h. Construction activities will temporarily increase levels of noise, dust and carbon monoxide. Measures should be taken to minimize any adverse impacts. We suggest that the contractor be

required to control noise and fumes emitted by construction equipment by installing control devices and employing prescribed control methods.

i. The project plan should consider in every way possible the pollution prevention impacts of materials that are decommissioned from the rail line. When recycling or reuse is not a viable option, the project plan should specify how disposal of materials such as rail ties and potentially contaminated surrounding soils and ballast materials will be accomplished to ensure compliance with applicable solid and hazardous waste regulations.

j. In counties where threatened and endangered species are documented to exist but site visits to the project area did not find supportable habitat, the responsible parties will cease activities and contact the U.S. Fish and Wildlife Service and the appropriate state Department of Natural Resources immediately if construction or abandonment activities discover such habitat and/or species.

DATA COLLECTION AND ANALYSIS

Crossing Location/Description

- A. U.S.DOT/AAR number
- B. Highway/street name or number
- C. Railroad(s) name and milepost(s)
- D. Urban/rural
- E. Development
 - ▶ Open space
 - ▶ Residential
 - ▶ Commercial
 - ▶ Industrial
 - ▶ Institutional
- F. Crossing angle

Crossing Users

Highway

- A. AADT (current and projected)
 - ▶ Motor vehicle mix--cars, trucks, hazardous materials carriers, buses (school/for hire), emergency vehicles
 - ▶ Pedestrians (ADA requirements)
 - ▶ Bicycles
 - ▶ Other (farm machinery, oversize loads, etc.)
 - ▶ Seasonal variations
- B. Traffic generators in area (current and projected)
 - ▶ CBD, schools, shopping malls, industries, sports facilities, cultural facilities, etc.

Railroad

- A. Number of daily train movements (current and projected)
 - ▶ Day, night
 - ▶ Thru, switching
 - ▶ Freight, passenger, light rail, high-speed rail
 - ▶ Seasonal variations
- B. Traffic generators in area (current and projected)
 - ▶ Industries, rail yards, other

Roadway Approaching Crossing

- A. Functional Class
- B. Federal-aid Route
 - ▶ National Highway System
 - ▶ Other Federal-aid highway
 - ▶ None
- C. Roadway characteristics
 - ▶ Number and width of lanes (through, turning, truck)
 - ▶ Posted speed/projected changes
 - ▶ Shoulder (width, material, condition)
 - ▶ Roadway surface (material and condition)
 - ▶ Approach grades
 - ▶ Low-clearance (humped) crossing
 - ▶ Illumination
- D. Traffic Control Devices (Type and Condition)
 - ▶ Pavement markings
 - ▶ Passive signs
 - ▶ Active advance warning signs
 - ▶ Active devices at crossing
 - ▶ Railroad/highway signal interconnect/preemption
 - ▶ Compliance with MUTCD (all devices)
 - ▶ Day/night visibility
- E. Sight Distance
 - ▶ Approach to crossing
 - ▶ To/along tracks for vehicles approaching crossing
 - ▶ Along tracks from vehicles stopped at crossing
 - ▶ Weather-related factors
 - ▶ Seasonal factors

Railroad Approaching Crossing

- A. Principal Rail Line?
- B. Number of tracks and type (thru, siding)
- C. Train speed
 - ▶ Maximum timetable
 - ▶ Typical range
 - ▶ Projected changes

- D. Track circuit
 - ▶ Approaches
 - ▶ Island
 - ▶ Length
 - ▶ Speed setting
 - ▶ Type
 - Motion detection
 - Speed prediction

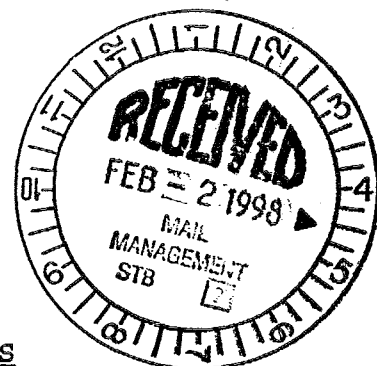
Crossing Surface

- ▶ Material
- ▶ Condition
- ▶ Length and width

Crossing Closure/Consolidation Candidates

- A. Distance/additional travel time to alternate crossing
- B. Alternate crossing at grade or grade separated
- C. Alternate crossing capacity, warning devices, etc.
- D. Impact on property owners in vicinity of crossing
- E. Means of access to alternate crossing
- F. Utility relocations
- G. Environmental impact (wetlands, waterways, train horns, etc.)
- H. Emergency access needs

CORRIDOR ANALYSIS GUIDE



REFERENCES AND RESOURCE DOCUMENTS

1. *Factors Influencing Safety at Highway-Rail Grade Crossings*, NCHRP Report 50, National Research Council, 1968. (T)
2. *Railroad Crossing Corridor Improvements: A Model Program Based on Field Reviews in Six States*, Report FHWA-DP-70-1, Federal Highway Administration, June 1986. (H)
3. *Railroad-Highway Grade Crossing Handbook - Second Edition*, Report FHWA-TS-86-215, Federal Highway Administration, September 1986. (H)
4. *Manual on Uniform Traffic Control Devices for Streets and Highways*, Federal Highway Administration, 1988 Edition. (G)
5. *Highway-Railroad Grade Crossings - A Guide to Crossing Consolidation and Closure*, Federal Railroad Administration/Federal Highway Administration, July 1994. (R1)
6. *Highway-Rail Crossing Elimination and Consolidation: A Public Safety Initiative*, AASHTO Committee Report from the National Conference of State Railway Officials, March 1995. (A)
7. *Highway-Rail Crossing Accident/Incident and Inventory Bulletin (Annual)*, Federal Railroad Administration, Office of Safety. (R2)

To obtain publications:

- (T) - Transportation Research Board
National Research Council
2101 Constitution Avenue NW
Washington, DC 20418
Telephone: (202) 334-3214
- (H) - Federal Highway Administration
Federal-Aid Program Branch (HNG-12)
Washington, DC 20590
Telephone: (202) 366-0450

- (G) - Government Printing Office (GPO)
Superintendent of Documents
Washington, DC 20402
Telephone: (202) 783-3238

- (A) - American Association of State Highway
and Transportation Officials
444 N. Capitol Street NW, Suite 249
Washington, DC 20001
Telephone: (202) 624-5086

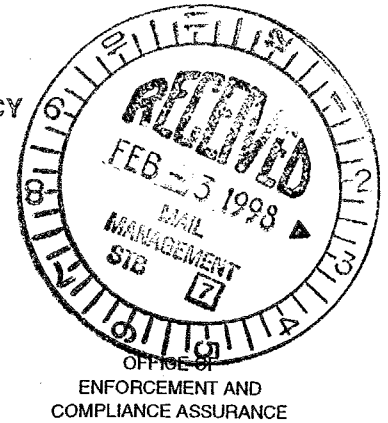
- (R1) - Federal Railroad Administration
Industry Operations and Safety
Analysis Division (RRP-12)
Washington, DC 20590
Telephone: (202) 366-0400

- (R2) - Federal Railroad Administration
Office of Safety (RRS-22)
Washington, DC 20590
Telephone: (202) 366-2760



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 2 1998



**ENVIRONMENTAL
DOCUMENT**

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

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/4/98
DOCUMENT # 2/4/98 11:49:40 AM

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

Dear Ms. Kaiser:

In accordance with the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is providing comments to you on the "Draft Environmental Impact Statement (EIS) for the Proposed Conrail Acquisition." Our comments are meant to build upon our previous scoping comments and technical assistance offered to you in 1997.

As outlined in this letter and technical enclosure, EPA has many specific concerns with the proposed acquisition; however, we think the impacts from the proposal can be successfully avoided, offset or mitigated. Therefore, EPA has rated the potential impacts from the acquisition as described in the draft EIS "EC" (environmental concerns). EPA rates the documentation of the draft EIS "2" (insufficient information) because, while EPA recognizes the difficulty in trying to analyze and document an undertaking which affects 24 states and the District of Columbia, we also think the draft EIS could have described more fully the potential impacts to and risk from air quality, noise, increased hazardous material transport, and the direct and cumulative impacts to water quality from increased rail operations and activity in rail yards and intermodal facilities. Our major issues are summarized below and our detailed technical comments are attached. The combined rating for the draft EIS is EC-2; a copy of our rating system is also enclosed.

EPA is concerned about the potential impacts to air quality that the proposed acquisition may impose. In our August 1997 scoping letter we indicated that the Surface Transportation Board (STB) needed to address the applicability of the General Conformity regulations of the CAA (40CFR 93.150-160). We further recommended that this information be included in the draft EIS. The draft EIS does not address our recommendation. If the STB has the ability to

SUMMARY OF RATING DEFINITIONS AND FOLLOW UP ACTION*

Environmental Impact of the Action

LO--Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC--Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO--Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU--Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1--Adequate

The EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2--Insufficient Information

The draft EIS does not contain sufficient information for the EPA to fully assess the environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3--Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640 Policy and Procedures for the Review of the Federal Actions Impacting the Environment

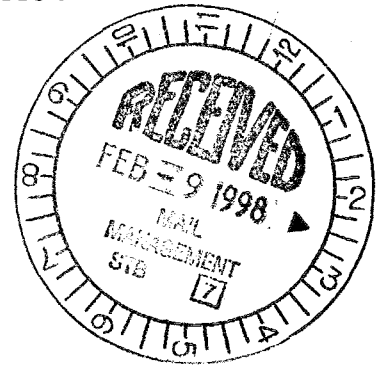


United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

ER 98/020

FEB 3 1998



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

**ENVIRONMENTAL
DOCUMENT**

ATTN: Ms. Elaine K. Kaiser, Chief
Section of Environmental Analysis (SEA)

Dear Sir/Madam:

The U.S. Department of the Interior has reviewed the Draft Environmental Impact Statement, Finance Docket No. 33388, "Proposed Conrail Acquisition," CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company. We have the following comments.

The Draft EIS showed one rail segment that occurs in Mississippi with a proposed increased environmental risk and exceedance of SEA's criteria for significance. Rail segment Site ID C-387 runs between Mobile, Alabama and New Orleans, Louisiana, and would have an increase in hazardous material transport. This segment passes through Jackson, Harrison, and Hancock Counties, Mississippi. It also crosses the Pascagoula, Biloxi, Wolf, and Pearl Rivers. These large river basins, and other lands along the rail route, have significant fish and wildlife resources including the following federally listed species:

brown pelican (*Pelecanus occidentalis*)
piping plover (*Charadrius melodus*)
bald eagle (*Haliaeetus leucocephalus*)
Gulf sturgeon (*Acipenser oxyrinchus desotoi*)
inflated heelsplitter (*Potamilus inflatus*)
Mississippi sandhill crane (CH) (*Grus canadensis pulla*)
ringed sawback turtle (*Graptemys oculifera*)

The increase in transport of hazardous material would have a significant impact to trust resources if a spill were to occur. The standard Hazardous Materials Emergency Response Plan may not be adequate to address immediate and long term fish and wildlife resource impacts.

Specific Comments

5-MS.5.2

We believe preventing a spill is much preferable to cleaning one up. Therefore, we recommend the following:

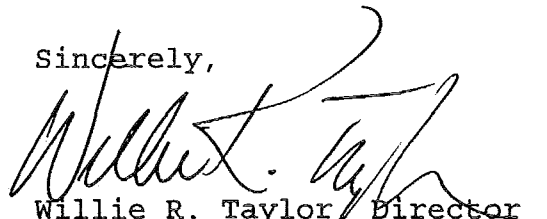
1. Lower speeds should be adopted across bridges within the listed basins.
2. Inspections of cars carrying hazardous materials along this route should be increased.
3. Inspection of rail lines along this corridor should be increased.
4. Emergency management plans should include guidelines for immediate consultation with Service personnel regarding potential adverse impacts to the listed species.

Summary

The proposed project could have significant adverse impacts on present and future natural resources in this area if a spill were to occur. The Surface Transportation Board should adopt the above measures to prevent such an event from occurring.

Thank you for the opportunity to provide these comments.

Sincerely,


Willie R. Taylor, Director
Office of Environmental
Policy and Compliance

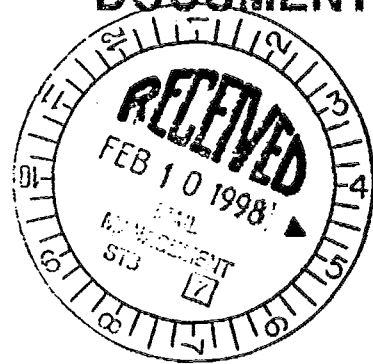


REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
PITTSBURGH DISTRICT, CORPS OF ENGINEERS
WILLIAM S. MOORHEAD FEDERAL BUILDING
1000 LIBERTY AVENUE
PITTSBURGH, PA 15222-4186

February 6, 1998

ENVIRONMENTAL
DOCUMENT



Operations and Readiness Division
Regulatory Branch

Ms. Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/11/98
DOCUMENT # 2/11/98 9:55:55 AM

Dear Ms. Kaiser:

This is in reply to your letter, dated December 19, 1997, regarding Draft Environmental Impact Statement (DEIS) for the Proposed Acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad.

We have reviewed the DEIS on potential environmental impacts within the regulatory boundaries of the Pittsburgh District. There does not appear to be impacts related to Section 404 of the Clean Water Act (33 CFR 320-330; 33 CFR 330, updated Nov. 22, 1991; 33 CFR 1344 or the Rivers and Harbors Act of 1899 (33 CFR 401, 403, 407)).

If further information is required, please contact me at (412) 395-7155.

Sincerely,

Albert H. Rogalla
Chief, Regulatory Branch

Enclosure

U.S. Department
of Transportation

United States
Coast Guard



United States Coast Guard
Bridge Branch

408 Atlantic Avenue
Boston, Ma. 02110-3350
Staff Symbol: obr
Phone: 617 223-8364
FAX: 617 223-8026

CENTRAL ADMINISTRATIVE UNIT

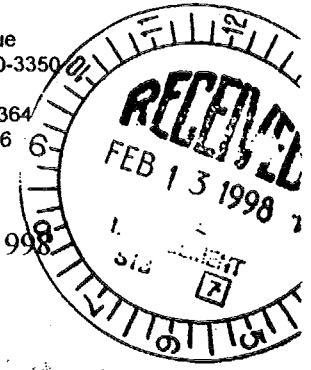
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REC'D: 2/17/98

February 10, 1998

DOCUMENT # 2/17/98

3:48:52 PM



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

**ENVIRONMENTAL
DOCUMENT**

Subject: Proposed Conrail Acquisition by CSX Corporation.

Dear Ms. Kaiser,

This is in response to your request for comments on the proposed Draft, Environmental Impact Statement for the Conrail acquisition by the CSX Corporation.

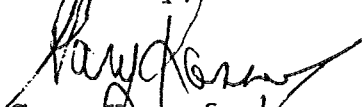
Our review has not identified any additional issues than those previously sent to you by our letter dated August 6, 1997. I have enclosed a copy for your file.

I would like to take this opportunity to briefly reiterate our comments regarding the Lehigh Valley Bridge across Newark Bay in New Jersey. Federal Regulations governing the operation of drawbridges specifically require that this bridge over Newark Bay listed under § 117.735 be operated so as to not delay openings of the draw for more than periods of five minutes. It has been a practice to back up trains across this bridge during the process under which trains are "made up" for periods of several hours. The Coast Guard has assessed civil penalties for past violations and will continue to enforce the regulations with regard to these delays.

We strongly recommend, once the acquisition is finalized, that steps be taken to prevent these delays by considering alternatives necessary to expand or reconfigure the train yard to correct this problem. In this regard, we would be happy to meet with the new management team to discuss this matter.

If you have any questions please do not hesitate to contact me at
(212) 668-7165.

Sincerely,



Gary Kassof
Bridge Administrator
First Coast Guard District
By direction of the District Commander

Encl: USCG ltr. dated August 6, 1997.
ACTNY Waterway Oversight

U.S. Department
of Transportation

United States
Coast Guard



Commander
First Coast Guard District

Battery Park Bldg.
New York, NY 10004-5073
Staff Symbol:(obr)
Phone:212-668-7165

16590

AUG 06 1997

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

Dear Ms Kaiser:

This is in response to your request for comments on the proposed EIS scope for the consolidation of Conrail assets with those of the CSX and Norfolk Southern railroad companies. I am providing comments on behalf of Admiral Richard M. Larrabee, First Coast Guard District Commander.

The First Coast Guard District's Bridge Administration program closely interfaces and coordinates with Conrail's operations in the northeast. The following issues/impacts should be included in the environmental impact statement process:

o marine safety implications and intermodal conflicts anticipated by increased rail service particularly across drawbridges; discuss increase in number and frequency of trains crossing bridges. ~~NOTE: Although the scope of the EIS is limited to marine safety, the impacts of increased rail service on bridge congestion and intermodal conflicts should be addressed.~~

o expansion of rail facilities (yards, stations) particularly where freight trains are "made up" and the impacts on drawbridge operations eg. Lehigh-Valley Bridge across Newark Bay, NJ.

o plans to construct, replace or rehabilitate bridge structures over waterways; CG bridge permits and construction approvals may be required. The Draft Scope of the EIS (p. 13) omits compliance with the federal bridge statutes (33 U.S.C. 401, 491, 525 et seq.)

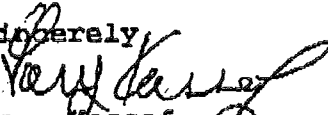
o discussion of maintenance program for bridges to include operational machinery (for drawbridges), protective fenders, navigational lighting.

o training program for drawbridge operators and dispatchers to include knowledge of bridge owner's/operator's responsibilities in accordance with 33 CFR 117.

o plans to remove all abandoned bridge structures across navigable waters of the United States.

Please provide a copy of the railroads' Environmental Report, if available as I haven't received one. Once the DEIS is published we will provide more in depth comments. In the meantime we are available to answer any questions you may have. Please contact the Bridge Administration Branch at 212 668-7165.

Sincerely,



Gary Kassof
Bridge Administrator
First Coast Guard District
By direction of the District Commander

CENTRAL ADMINISTRATIVE

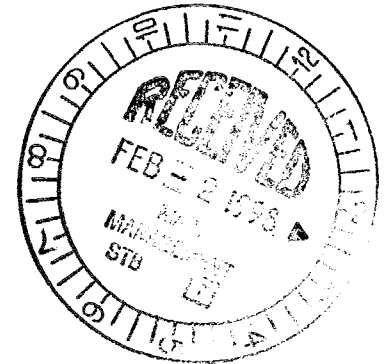
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BEFORE THE
SURFACE TRANSPORTATION BOARD

**ENVIRONMENTAL
DOCUMENT**

FINANCE DOCKET NO. 33388



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

NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY'S
COMMENTS

ON THE

DRAFT ENVIRONMENTAL IMPACT STATEMENT

FEBRUARY 2,
1998



**NORFOLK
SOUTHERN**

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1.0 INTRODUCTION AND SUMMARY

Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "NS" or "Norfolk Southern") hereby submit their comments on the December 12, 1997 Draft Environmental Impact Statement ("DEIS") prepared by the Surface Transportation Board's ("STB" or the "Board") Section of Environmental Analysis ("SEA") in Docket No. 33388. SEA has served the DEIS on over 2,000 persons and has provided a 45-day period for the submission of comments from all interested persons.

The six-volume DEIS documents the results of an exhaustive environmental analysis by SEA of the potential environmental impacts of the proposed Conrail Transaction ("Transaction"), involving the operation of rail service across 44,000 miles of the eastern United States. The DEIS addresses in comprehensive fashion every environmental issue which the Board is required to analyze independently in satisfaction of its obligations under the National Environmental Policy Act, 42 U.S.C. 4321, and the Board's own implementing regulations, 49 CFR 1105. The Board determined at the outset of this Transaction that it would prepare an Environmental Impact Statement ("EIS") to evaluate the potential impacts of the Transaction to ensure that the full range of environmental issues would be taken into consideration as the Board evaluated the application filed jointly by NS, CSX Corporation and CSX Transportation, Inc. (collectively, "CSX") and Conrail, Inc. and Consolidated Rail Corporation (collectively, "Conrail"). The Board tasked SEA, and the third-party environmental consultants retained by SEA, with preparing an EIS for the Board's consideration in conjunction with the Board's analysis of the various transportation and competitive issues presented by the Transaction.

The overall conclusion of the DEIS is that the proposed Transaction will produce substantial system-wide environmental benefits in several respects, and will not create any system-wide significant adverse environmental impacts. For example, as noted in the DEIS, on a system-wide basis the Transaction:

- "[W]ould reduce emissions for most air pollutants" (DEIS at ES-23);
- "[W]ould result in net annual reduction in fuel consumption of approximately 80 million gallons of diesel fuel" (DEIS at ES-22);
- "[I]s expected to benefit the national and regional highway systems by reducing truck traffic on major state, regional and U.S. highways" (DEIS at ES-21); and
- "[S]hould result in a slight safety improvement for rail transportation of hazardous materials" (DEIS at ES-19).

NS not only concurs with these important conclusions by SEA, it believes that the true benefits of the proposed Transaction--which must be balanced against its adverse impacts--are much greater than indicated in the DEIS. A discussion by NS of the significant environmental, safety, and other benefits of the Transaction follows at Section 3 of these comments.

Notwithstanding its acknowledgment of the correctness of the DEIS's overall conclusion of net system-wide environmental benefits, NS is concerned that the approach to implementation of the Board's obligations under NEPA, as demonstrated by some portions of the DEIS, indicates a potential misapplication of the principles of NEPA and may go beyond the limitations on the Board's legal authority in deciding railroad control applications. NS provides its analysis of these issues at Section 2 of these comments. In addition, NS believes that SEA's analysis of potential environmental impacts has, in certain instances, applied unduly conservative or flawed approaches or assumptions and thereby overestimated the predicted impacts. In those instances where NS takes issue with the approach, the analysis or other aspects of the DEIS's assessment of a particular environmental impact, NS sets out the basis for its conclusions at Section 4 of these comments. Through the DEIS, SEA has directed NS to "consult" with cities with unique circumstances and other specific local communities to seek to negotiate mutually-acceptable agreements to address potential environmental impacts. NS' response to this direction is provided in Sections 5 and 6. In addition, NS has identified a number of minor corrections to the DEIS which are primarily editorial in nature. These comments are provided in Section 7 and are for the purposes of clarification.

As discussed in detail in these comments, the following are the principal areas of NS concern with the analysis and recommendations of the DEIS:

The DEIS Unnecessarily Seeks to Mitigate All Environmental Impacts: 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 DEIS blurs this important distinction, however, with a variety of mitigation proposals that appear 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.

Proposed Passenger Rail Safety Mitigation: The DEIS identifies certain line segments over which both freight and passenger operations are conducted as warranting special safety mitigation consisting of establishing passenger trains as "superior" and requiring freight trains to clear the line 15 minutes before and, in some instances, 15 minutes after a passenger train passes. This proposal is unprecedented and would involve outdated, cumbersome procedures that would

seriously impact rail line efficiency. As demonstrated in these comments, no passenger safety mitigation is in fact warranted. The statistical analysis presented in the DEIS overstates the Transaction-related impacts of freight traffic increases and utilizes data not directly applicable to the safety concern for which the proposed mitigation is purportedly designed. Moreover, the question of passenger rail safety is most properly left to the jurisdiction of the Federal Railroad Administration (FRA). Assuming that any mitigation is appropriate, it should be in the form of railroad consultations with the FRA and the affected passenger rail agencies.

Proposed Interim Two-Train Per Day Limitation on Traffic Increases at Erie, PA: The DEIS proposes that traffic increases over NS' main line through Erie, PA be limited to two trains per day until completion of NS' proposed track relocation project (which project will move all NS operations through Erie to new trackage on the grade-separated Conrail right-of-way). In view of the substantial benefits (including environmental benefits) associated with the Transaction, this type of localized service limitation is not warranted in Erie (nor would such limitations be warranted in other localities), and it would have serious adverse ramifications for NS' proposed operating plan, particularly in the crucial Midwest to New York/New Jersey market. Moreover, there appears to be no analytical basis for the DEIS' selection of two trains per day as the number for such a limitation on traffic increases. This proposed limitation is particularly unjustified in view of the temporary nature of anticipated traffic increases through downtown Erie and the significant long-term environmental benefits that Erie will experience once the track relocation project is completed.

Proposed Mitigation for Highway/Rail At-Grade Crossings: The DEIS proposes that NS upgrade protection devices at 44 highway/rail at-grade crossings in order to mitigate perceived grade crossing safety issues, and the DEIS further proposes mitigation for certain crossings based on purported vehicle delay impacts. In both the safety and delay areas as respects grade crossings, the DEIS' proposed approach would displace the well-established authority of state transportation departments to conduct final analysis of and to prioritize grade crossing projects. Additionally, the methodology by which the DEIS identifies crossings requiring such mitigation is flawed. In the grade crossing safety context, the DEIS improperly utilizes a formula designed for ranking grade crossings according to a perceived need for crossing protection upgrade as the sole basis for determining the need for, and type of, crossing protection upgrades. In the grade crossing delay context, the DEIS improperly uses a method developed for assessing delay at signalized vehicular highway intersections for determining highway/rail at-grade crossings actually requiring mitigation. Finally, the DEIS recommendations threaten to disrupt well-established policies and practices regarding cost allocation for grade crossing improvements and grade separations.

Environmental Justice Analysis and Recommendations: The DEIS includes an unprecedented effort to apply an environmental justice analysis to consolidations of long-established transportation systems of broad geographical reach. In an attempt to work within the framework of an Executive Order that was principally designed for and is most logically applied to the localized siting of a new facility (as opposed to changed utilization of an existing infrastructure over a broad geographic area), SEA is sailing in uncharted waters. The substantial difficulties in attempting to apply to a transaction of this kind the Executive Order and the guidance and methodologies developed thereunder to date by other agencies, should counsel caution. Nevertheless, in the DEIS, SEA has utilized new processes and untested analytic methodologies for environmental justice, and has recommended consideration of untried mitigation strategies. The resulting environmental justice discussion in the DEIS fails to reflect any assessment of whether adverse impacts would be predominantly borne by minority or low-income populations or whether potential adverse impacts on minority or low-income communities would be more severe or greater in magnitude than among other affected populations. NS' analysis confirms that, in fact, the potential environmental impacts of the Transaction are not borne disproportionately by minority or low-income communities. There are other serious flaws in the environmental justice analysis of the DEIS. Moreover, for reasons described in Section 4.16 of these comments, application of environmental justice principles to this Transaction may, at most, lead to enhanced outreach and consultations with certain local communities, not to the imposition of mitigation measures beyond those that might otherwise be recommended to mitigate significant adverse impacts upon full consideration of the substantial environmental, safety and other benefits of the Transaction.

Noise Analysis and Potential Mitigation: While much of the treatment of noise in the DEIS is correct, the analysis significantly overstates potential noise levels on NS lines. This results from a combination of overly conservative methodology, application of noise models developed for CSX trains to the quieter NS trains, and failure to recommend or conduct site-specific measurements and analysis. There is, moreover, no analytic or other support in the DEIS for the suggestion that noise barriers be deemed the "preferred" method of mitigating noise.

In sum, NS believes 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 implementing regulations. SEA has clearly taken a "hard look" at all the attendant issues and its DEIS provides a good foundation for a comprehensive Final Environmental Impact Statement ("FEIS") in full compliance with the Board's obligations under NEPA. For publication of the FEIS in May, SEA should now in light of these comments consider what recommendations for mitigation are factually warranted, within the lawful purview

of the Board and consistent with the appropriate balance of public benefits and interests related to this Transaction.

2.0 APPLICABLE LEGAL PRINCIPLES

2.1 Scope of Environmental Impact Analysis and Standards Governing Proposed Mitigation Conditions

As the Board knows, this is the first railroad consolidation proceeding in which it has undertaken to prepare an Environmental Impact Statement (“EIS”) pursuant to the requirements of NEPA. In all previous cases, the Board and the ICC only performed Environmental Assessments (“EA”), because in each case the EA was able to conclude that the consolidations would have no significant environmental impacts if the parties complied with various mitigation conditions prescribed in the agency’s final decisions. As a result of the decision to prepare an EIS in this case, the Board’s SEA staff and the Applicants have been required to engage in a far more intensive and comprehensive analysis of the potential environmental impacts of the Transaction than in any previous case.

The DEIS represents SEA’s preliminary conclusions based on its comprehensive and exhaustive environmental review of the proposed Transaction. Its six volumes contain a detailed and wide-ranging analysis of the potential environmental effects of the Transaction. The DEIS also contains a lengthy list of proposed conditions recommended to be imposed on Applicants; these are proposed for the purpose of mitigating virtually every adverse environmental effect of the Transaction identified in the DEIS.

The FEIS issued by the Board in this case must conform to the requirements both of NEPA and the Board’s governing statute, the ICC Termination Act of 1995, 49 U.S.C. §§ 10101 et seq. (“ICCTA”). As discussed below, NS respectfully submits that a number of the mitigation conditions proposed in the DEIS, some of which are unprecedented and address far more than the impacts asserted, are not consistent with the Board’s basic function and responsibilities under NEPA and the ICCTA in several critical respects.

2.2 NEPA Only Requires the Board to Consider Environmental Effects. Imposition of Conditions Must Be Based on a Balancing of All Relevant Factors, Which the DEIS Does Not Do.

The proposed conditions appear to be based on the assumption that NEPA and/or the ICCTA require all adverse environmental effects to be mitigated before the Transaction can be approved. That assumption is not correct.

The fundamental command of NEPA is that federal agencies must consider -- or take a "hard look" at -- potential environmental impacts associated with the exercise of federal regulatory functions. Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 349 (1989). The obligations that it imposes on federal agencies are procedural in nature. Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 588 (1978) ("NEPA does set forth significant substantive goals for the Nation, but its mandate to the agencies is essentially procedural"). When, as the Board has determined to be the case here, a federal agency concludes that a proposed federal action may have significant impacts on the quality of the environment or the conservation of energy resources, the agency must prepare an Environmental Impact Statement assessing those impacts, and must consider the identified impacts in deciding upon its course of action. 42 U.S.C. § 4332 (2)(C). However, neither NEPA nor an EIS prepared in accordance with NEPA *requires* the agency to do more than consider the potential environmental impacts of its actions. They do not require the agency to take any measures to eliminate or mitigate *any* -- let alone *all* -- of those impacts. What mitigation measures to impose, if any, is a matter of the agency's discretion as defined and limited by its responsibilities and authority under its governing statute, as the Board's environmental regulations expressly recognize. 49 CFR 1105.10 (f). See also Strycker's Bay Neighborhood Council, Inc. v. Karlen, 444 U.S. 223, 227-28 (1980).

Under the ICCTA, the Board has broad, but not unlimited, authority to impose conditions on a transaction to ensure that it is consistent with the public interest. 49 U.S.C. § 11324(c). In deciding whether to impose any conditions, including environmental mitigation conditions, the Board must weigh and balance *all* considerations relevant to the ultimate public interest determination. These include not only specific adverse environmental effects, but also the positive environmental effects and the positive economic and other public benefits of the transaction. The Supreme Court has clearly ruled that there is a fundamental distinction between the process of considering the environmental impacts of a particular federal action under NEPA and a requirement that those impacts be mitigated. NEPA mandates only that environmental impacts be considered, *not* mitigated. Robertson, 490 U.S. at 352-53. In choosing a course of action, the agency properly must weigh positive environmental effects against adverse environmental effects and, even more importantly, must balance environmental factors against other relevant legal or policy considerations bearing on the propriety of the proposed action. Id. at 350. Indeed, the basic purpose of NEPA is to require a federal agency to "balance a project's economic benefits against its adverse environmental impacts," Hughes River Watershed Conservancy v. Glickman, 81 F.3d 437, 446 (4th Cir. 1996); the intent of NEPA is not to "elevate environmental concerns over other appropriate considerations" before the agency. Baltimore Gas and Electric Co. v. Natural Resources Defense Council, 462 U.S. 87, 97 (1983).

governing yard/terminal operations

- d. Motive Power and Equipment
 - i. Qualifying employees on inspections and tests of rolling equipment
 - ii. Implementing mechanical department maintenance and equipment service plans
 - iii. Implementing measures to ensure safe freight operations and compliance with the law when "blocking" and "block swapping" trains
 - iv. Ensuring a sufficient fleet service and inventory to carry out field operations
- e. Signal and Train Control
 - i. Operating budgets addressing
 - (1) Training
 - (2) Maintenance
 - (3) Capital improvements
 - (4) Research and development projects and programs
 - ii. Ensuring safety maintenance with integration of, or migration to, properties acquired, specifically, Automatic Cab Signal/Automatic Train Control systems and wayside and cab signal aspects and indications
- f. Track and Structures
 - i. Maintenance, management and rehabilitation of track and bridges
 - ii. Inspection program for track and bridges
 - iii. Sufficient employee (including supervisors) coverage for track and bridge safety
- g. Hazardous Materials
 - i. Programs addressing field operations and internal safety audits
 - ii. Need for comprehensive inspection program addressing:
 - (1) Field inspections
 - (2) Hazardous materials communication standards (e.g., shipping paper, marking, labeling, and placarding requirements)
 - (3) Employment staffing to implement program
 - (4) Emergency response practices and procedures
 - iii. Computer software systems to ensure immediate availability of hazardous materials shipping paper information
 - iv. Customer service centers
 - (1) Sufficient employment staff levels
 - (2) Timely generation and transmission of hazmat information on trains and shipments to customers and Federal officials
- h. Dispatching Operations
 - i. Measures to eliminate or minimize excess service performed and reduce maximum dispatching workloads, including criteria used for determining maximum safe workloads
 - ii. Integrating acquired dispatching system with acquiring railroads' systems

- i. Highway-rail Grade Crossings
Safety prevention and emergency response program addressing:
 - (1) Increase traffic volume, speeds, and track at crossings
 - (2) Improved warning devices
 - (3) Rail safety education of public
 - (4) Improved crossings with emphasis on closing existing crossings
- j. Allocation and deployment of personnel in following sectors:
 - i. Management of safety programs
 - ii. Roadway maintenance
 - iii. Motive Power and Equipment maintenance
 - iv. Dispatching operations
 - v. Train and Engine service
 - vi. Yard and terminal service
 - vii. Signal and Train Control maintenance
 - viii. Customer service centers
- k. Employee "Quality of Life" issues
 - i. Rest
 - ii. Travel/time away from home
 - iii. Perceptions of harassment or intimidation
 - iv. Health and wellness programs
 - v. Morale
 - vi. Availability and distribution of personal safety equipment (e.g., safety shoes, eye protection, and ear plugs)
- l. Relationship between freight and passenger service. Each plan to address the integration of freight and passenger operations on the following lines:
 - i. MARC
 - ii. SEPTA
 - iii. VRE
 - iv. METRA
 - v. NJTR
 - vi. MNCW
 - vii. MBTA
 - viii. Amtrak
- m. Information Systems Compatibility. Each plan to address information systems to be implemented that will provide for the uninhibited interchange of information between the acquiring railroads in the following areas:
 - i. Train consists
 - ii. Train performance
 - iii. Waybill/car movements
 - iv. Dispatching
 - v. Hazmat

- vi Crew management
- vii Accident/incident reporting and record keeping
- viii Equipment management (locomotives and freight cars)
- ix Emergency shutdowns



U.S. Department of Transportation
Federal Railroad Administration

Rail-Highway Crossing Safety Action Plan Summary

**Federal Highway Administration
Federal Railroad Administration
Federal Transit Administration
National Highway Traffic Safety Administration**



June 13, 1994

A-28-c

INTRODUCTION

Each day, we are reminded of the importance of our efforts to improve highway-rail grade crossing safety and trespass prevention. Highway-rail collisions and trespassing on rail properties are the number one and two leading causes of death in the entire railroad industry, far surpassing employee or passenger fatalities.

In 1993, grade-crossing deaths rose by 8.1% over 1992 and trespassing deaths remained high. Specifically, nearly 4,900 collisions occurred between highway users and on-track railroad equipment. More than 600 individuals were killed and over 1,800 were seriously injured in these collisions. These crashes occurred nearly equally at crossings equipped with automatic warning devices (flashing lights and sometimes gates) and at those not equipped. Also in 1993, more than 500 people died while trespassing on railroad rights-of-way.

On the United States' approximately 160,000 miles of rail rights-of-way, there are over 280,000 highway-rail intersections. Approximately 60,000 (21%) of these are equipped with automatic warning devices.

The very existence of crossings is a major challenge to growing rail traffic and higher speeds for both passenger and freight rail operations. Our efforts to develop a "seamless" national intermodal transportation network must resolve these challenges.

This *Action Plan* details six major goals and 55 actions, addressing some aspect of crossing safety or trespass prevention. To be successful, the proposed actions will require strong partnerships between local, State and Federal highway and rail officials, law enforcement, the rail and transit industries, Operation Lifesaver and the United States Congress. With this plan as our blueprint, we will work together to increase public awareness to help prevent these needless tragedies.

MAJOR INITIATIVES

- Enhance Enforcement of Traffic Laws at Crossings;
- Enhance Rail Corridor Crossing Reviews and Improvements;
- Expand Public Education and Operation Lifesaver Activities;
- Increase Safety at Private Crossings;
- Improve Data and Research Efforts;
- Prevent Rail Trespass Tragedies.

In this sense, the purpose of an EIS is fundamentally different from an EA, the form of environmental analysis that has been employed by the Board and the ICC in prior rail consolidation proceedings. The purpose of an EA is simply to assess whether the proposed federal action would have significant environmental effects warranting the preparation of an EIS. For this reason, any significant adverse environmental impacts identified in an EA *must* be fully mitigated as a condition to the proposed federal action, or else the agency would be required to perform a complete EIS *before* undertaking the proposed action. E.g., 46 Fed. Reg. 18026, 18037 (1981) (Agencies can include enforceable mitigation measures to conclude that an action does not require preparation of an EIS); Cabinet Mountains Wilderness/Scotchman's Peak Grizzly Bears v. Peterson, 685 F.2d 678 (D.C. Cir. 1982) (upholding Forest Service's use of mitigation measure to conclude no EIS was necessary). When, as here, a full EIS is prepared, there is *no* corresponding requirement that all identified adverse impacts be mitigated, but only the essentially *procedural* requirement that all environmental impacts be taken into consideration by the agency in deciding upon a course of action. Robertson, 490 U.S. at 352-53. In this case, the DEIS blurs this important distinction, as it proposes a plethora of mitigation measures that appear designed to alleviate or eliminate virtually every potential adverse impact of the Transaction, without regard to the impact of those measures upon other aspects of the Transaction or the costs to the transportation industry and shipping public. The Board is obligated by NEPA and the ICCTA to balance adverse environmental effects against offsetting positive environmental effects and, importantly, non-environmental public benefits of the Transaction.

In deciding this case, the Board must consider the very substantial benefits this Transaction will provide, benefits not only to the U.S. transportation system and the economies of the regions that NS and CSX will serve but also to the environment. Because NS believes that it is critical that the Board consider all of those benefits as part of its environmental review as well as in its decision on the merits, those benefits are summarized in Section 3 of these comments.

2.3 Several Proposed Mitigation Conditions Exceed Basic Limitations on the Board's Conditioning Power Long Recognized By the Board and the ICC.

The measures proposed in the DEIS to mitigate identified potential adverse environmental effects of the Transaction are also governed by the limitations on the Board's authority to impose conditions to its approval of a proposed rail consolidation. *See generally* CSX/NS-176 at 36-43. Any condition imposed by the Board must be directly related to the transaction at issue. As such, the proposed condition may appropriately address and ameliorate *only* those identified impacts that are directly attributable to the proposed transaction, and may not be designed to remedy pre-

existing conditions or effects unrelated to the transaction at issue. Indeed, SEA has acknowledged the clear-cut limitations on the Board's ability to impose mitigation to remedy environmental conditions that arise prior to the transaction or that would address circumstances that are not directly related to the Board's action. DEIS at 1-10. Accordingly, proposed conditions are justified *only* if they are narrowly tailored to remedy specific transaction-related harms. Proposed conditions are not warranted if other alternative remedies are available or if the proposed condition would improve the pre-transaction condition of third parties, would be operationally infeasible, or would disproportionately undermine the other public benefits of the proposed transaction. *See, e.g., BN/Santa Fe* at 55-56; *UP/SP* at 144.

Although the DEIS at several places makes reference to these established limitations on the Board's authority to impose environmental conditions (*e.g.,* DEIS at 7-31), it fails to apply these standards in critical respects. The DEIS identifies various adverse environmental effects that are claimed to be traceable to the Transaction but, in proposing measures to mitigate these identified harms, fails to assess whether the proposed mitigation is narrowly tailored to remedying *only* the Transaction-related harm, whether alternative remedies are available, and whether the proposed mitigation would be operationally feasible and preserve the other public benefits of the Transaction.

For example, the DEIS proposes that Applicants be required to (1) comply with various laws, regulations and private agreements that would be independently binding on them (measures that, by definition, are not necessary and for which alternative remedies exist), (2) install, with or without otherwise required state and federal funding, costly upgrades in highway/rail at-grade crossings that would more than rectify the claimed Transaction-related adverse impacts on accident rates and traffic delays (measures that, by definition, would improve pre-Transaction conditions), and (3) commit enormous funds to the installation of new rail facilities, limit the number of trains moving over certain line segments and implement new operating procedures and other measures that would disproportionately undermine the public benefits of the Transaction. In all of these respects, such proposed mitigation measures should be rejected.

In addition, the NEPA process and the Board's conditioning power should not be used to re-write industry-wide regulations and operating practices related to railway safety and operations. Just as the Board has recognized that its conditioning power may not be used to effectuate broad restructuring of the rail industry and the competitive balance among carriers (*see, e.g., BN/Santa Fe* at 55-56), so too it would be an inappropriate exercise of the Board's responsibility to consider environmental impacts of the Transaction to impose conditions that

fashion broad new safety and operating rules to which other major railroads are not subject and that fall within the regulatory responsibility of other federal and/or state agencies.¹

Such "de facto" rulemaking -- resulting in the selective imposition of new standards upon only a portion of the railroad industry -- is neither legally sound nor a prudent exercise in implementing federal transportation policy. SEA recognized this limitation in the DEIS in its proposal not to impose noise-impact abatement measures falling within the FRA's regulatory jurisdiction over train horn signals (DEIS at 3-36), but it strayed from this standard in several respects, including its proposals to require Applicants to (1) comply with a *proposed* industry-wide FRA regulation governing rail inspections, (2) alter the existing regulatory scheme governing selection and funding of grade crossing improvements, (3) maintain 15 and 30-minute separations between passenger and freight trains on certain line segments, without regard to FRA's passenger train safety role, prevailing industry standards and operating practices on similar rail lines, and (4) comply with various newly fashioned operating requirements and procedures governing transportation of hazardous materials, again without regard to the established FRA role in regulating the safe transport of hazardous materials, prevailing industry guidelines and operating practices in the handling of such traffic.

2.4 The DEIS's Recommended Mitigation to Impose Grade Crossing Protection Device Upgrades Conflicts with the Traditional Role of State DOTs.

SEA has recommended in the DEIS that 118 NS and CSX at-grade crossings be upgraded based on SEA's analysis of the predicted impact of the proposed Transaction upon safety conditions at those locations. NS will address the specific results of SEA's safety analysis at Section 4.3 below. A more fundamental issue, however, is raised by SEA's proposal to impose upon NS and CSX a requirement that they upgrade the 118 at-grade crossings in accordance with SEA's judgment, without state involvement, as to the need for additional protection devices, the priority of need, the design of such devices for individual locations and the funding of the cost of installing and maintaining such devices.

¹ The ICC recognized the wisdom and propriety of leaving to state and industry expertise decisions concerning industry practices that have traditionally been addressed through cooperative state/industry relationships. See, e.g., Yellow Freight System, Inc. of Indiana, Petition For Declaratory Order -- Weighing Shipments MCC Dkt. No. 40853 (served January 20, 1995). (ICC declined to regulate motor common carrier weighing practices where traditional mechanisms are in place for state/industry cooperative effort.)

It is important to understand that this issue is not tied only to a determination as to how the cost of SEA's recommendations for upgrading the 118 grade-crossings will be borne. Of greater concern is the undermining of a role assigned by federal statute and duly promulgated administrative regulations to state DOTs and other relevant state transportation agencies. The DEIS proposal to impose as mitigation requirements that NS and CSX install the specified protection devices at each location as indicated at Table 7-4 ("Preliminary Recommended Highway/Rail At-Grade Crossings That May Warrant Safety Improvements") would contravene the statutory authority granted to the state DOTs and other state bodies. It would also ignore and override the states' expertise necessary to assess the appropriate levels of crossing protection within their jurisdictions. Federal law assigns the determination of the need for, and priority to be assigned, the upgrading of a particular grade crossing to the state transportation agency charged with ensuring the road safety of its citizens. Federal law assigns to that state agency the right to determine the type of warning device that is most appropriate for the location in question. Traditionally, the state agency has worked with the railroads in a cooperative effort to allocate the costs of installing and maintaining the protection devices.

Many considerations are taken into account by the state agency in making its grade crossing determinations, and there is no one set of factors that is required to be considered universally to derive a common answer. Rather, a determination as to the need for, priority of, design, and funding for a grade crossing upgrade project is typically based on specific factors assigned degrees of importance by the state agency. These decisions are based on criteria as appropriate in each state. These decisions are not made in a vacuum, but instead take into appropriate account the different priorities that may be expressed within the state or a local community.

SEA's approach removes this very site-specific prioritization duty from the appropriate state regulatory body. It also attempts to apply a set formula for determining what design of protection device is to be installed at each of the 118 locations, without regard to site-specific conditions and variables. This approach is inconsistent with established practices and is simply unworkable. For example, in the DEIS SEA would require NS to install four-quadrant gates or median barriers at seven crossings in Indiana, Ohio, Pennsylvania and Virginia, based solely on SEA's significance criteria without required consideration of site-specific factors, and despite the fact that such devices are still experimental. These devices have not received FRA approval to date. Indeed, they are currently being installed and tested at limited, controlled locations with case-by-case state and local approval. In addition, these warning devices are not appropriate for any and all sites. States typically rely upon the Manual for Uniform Traffic Control Devices ("MUTCD") for guidance on warning devices; notably, the MUTCD has not approved the

installation and use of four-quadrant gates or median barriers. Obviously, NS cannot lawfully implement SEA's recommended mitigation without the express approval by the state, for the very same reason that one cannot unilaterally install a stoplight at a chosen location on a state roadway without first obtaining authorization from the state to do so.

As the above comments indicate, the only feasible way to determine how and when individual grade crossings in a state should be upgraded is through consultation by NS with the responsible state transportation agency. NS would provide the relevant state agencies with the necessary information it has developed to predict changes in NS train traffic as a result of the Transaction. Armed with that information, the state entities can assess the need for particular upgrades at individual locations. They can then determine, in consultation with NS, the desired timing and funding of the upgrade projects consistent with their other priorities.

2.5 Localized Service Limitations Should Not Be Imposed as Environmental Mitigation in This Case.

The significant economic and environmental benefits that can be expected to result from this Transaction can only be fully realized if the Applicants are permitted to implement the operating plans upon which such benefits are predicated. Among other things, the operating plans were designed to maximize the efficiency of each Applicant's expanded system, to improve service times, to satisfy the service needs of all existing shippers, to make rail transportation more attractive as compared to other modes of transportation to current and potential shippers, and to ensure that each Applicant can fully and effectively compete with the other. If artificial limitations are imposed upon NS' train operations in any particular locality, the above-mentioned goals of the operating plan will be impaired. Among the preliminary mitigation possibilities recommended by the DEIS (in Erie, Vol. 3B at PA-56), and which may be suggested for certain other locations by other parties, are restrictions on the number of trains which may be operated over a particular section of track or other routing or operating restrictions. Such restrictions are

not appropriate in this case.² They would: (1) create operational bottlenecks or clogs which will inhibit service and infect the network with congestion and delay, (2) preclude realization of transportation benefits of the Transaction, (3) reduce the environmental benefits of the Transaction, and (4) impose long-term rigidity on railroad operating decisions which would otherwise be entirely discretionary.

2.5.1 Operating Restrictions Would Create Bottlenecks and Clogs.

The parties and, indeed, many commentators in this proceeding have recognized the enormous challenge of allocating the assets of a single, integrated rail network between two operators, NS and CSX. The division is fundamental to the competitive benefits of the Transaction, but it is a mammoth and at the same time a delicate operation. The parties worked diligently to allocate routes so as to provide both competitive balance and operational integrity. Getting the physical plant right assures that the transition from single railroad to dual railroad service will occur safely and smoothly, with the fewest possible disruptions for shippers.

Among the most difficult allocations were those in urban areas, and urban geography consumed a large share of the effort for both NS and CSX. Making the transition from lines on a map to a determination of actual rail capacity presented an array of complex operational challenges. The roadbed, track structure, signaling, connections, and access to yards and sidings all go into the equation governing what traffic a line can actually handle.

The resulting plan for achieving division, transition, and balanced competitive capability is too fine to admit artificial adjustments. It has been reported, for example, that many operating problems experienced in the West by UP/SP rippled out from the closure of a single yard in Houston. A railroad is like a hydraulic line; a kink in one place can drastically affect the whole system.

² NS urges SEA to undertake a thorough examination of any mitigation options it might consider that have the potential to interfere with Applicants' Operating Plans. All potential adverse effects related to such mitigation proposals should be carefully analyzed before selection for recommendation. Even should SEA determine that a specific measure that could have other ripple effects on the railroad system is potentially available to address a significant local impact, SEA should, at a minimum, provide the Board with several alternatives to that measure so the Board can properly weigh all of the environmental, commercial and other benefits that would be disturbed and other adverse impacts that would flow from any tinkering by the Board with an Applicant's Operating Plan.

Arbitrary train limits or other operating restrictions (such as a directive to use one route in preference to another) are a particularly dangerous form of mitigation. For example, the two-train-increase ceiling proposed for Erie could mean the traffic will not be handled (see Transportation Benefits at Section 2.5.2 below), or trains will be held, combined, or otherwise handled in a less than optimal manner. As the experience of the West shows so well, sub-optimization of personnel and equipment use quickly balloons into train crew and motive power shortages with impacts on the adjoining parts of the network.

Similarly, train limits or routing directives in Cleveland or northern Ohio would risk upsetting a carefully planned equilibrium. Northern Ohio is where the "X" of the Conrail system crosses, and where the major lines of the New York Central and Pennsylvania intersected before the merger of those railroads. (Friedmann VS, Rebuttal Vol. 2A, pp. 165-66). Moreover, Conrail's announced strategy over the past decade was to concentrate rail traffic through Cleveland. *Id.* The disaggregation of these properties was particularly challenging, yet central to the competitive thrust of the undertaking. Applicants' solution puts CSX traffic through Cleveland on the so-called "Short Line," a wide, grade-separated route with excellent safety characteristics.

Adjustment and restrictions that have been proposed, and which are not acceptable, would make less use of the Short Line and more use of the Lakefront line. One suggestion would require construction of a two-mile long flyover, dividing and shadowing the city of Berea (southwest of Cleveland). The same proposal complicates access to Norfolk Southern's Rockport Yard, hurting service to shippers such as Ford Motor Company (Friedmann VS, Rebuttal Vol. 2A, p. 168), eliminates NS' access to its major ore dock at Whiskey Island, and entails increased train traffic and the construction of an embankment by a waterfall which Cleveland had desired to protect. The crimping of the operation again poses the strong probability of congestion.

The purpose of these general comments is not to provide an engineering assessment of each proposal. Rather, it is to point out that the introduction of arbitrary restrictions into a carefully engineered system will necessarily constrain the capacity of the system, and that congestion, delay, and attendant power and crew shortages and service failures are the predictable consequence.

2.5.2 Operating Restrictions Would Impair Transportation Benefits.

The EIS process involves balancing Transaction benefits (including environmental benefits) against environmental costs. Consequently, proposed mitigation must be evaluated in light of the price it exacts in lost Transaction benefits. Train limits and operating restrictions threaten the fundamental transportation benefits of the Transaction.

For example, a major commercial objective of NS in this Transaction is to use the Southern Tier route for its only access to New England and for an important second mainline to the Port of New York/New Jersey through New York State (Application, Vol. 1, pp. 528-30; Vol. 2B, p. 249; Vol. 3B, pp. 14-15, 38). The Southern Tier route, not the favored route today, needs every possible flexibility to compete with CSX's Water Level Route and to provide service comparable to that on NS' Pennsylvania Route, the routes which today have most of the East-West traffic.

Long-haul traffic which NS is projecting for the Southern Tier will move over Buffalo and Erie. The two-train-increase limit in Erie would prevent NS from handling traffic that is projected for Day 1 in competitive train service. Particularly since Erie will ultimately receive major environmental benefits from the Transaction through the construction of a bypass, an interim punitive restriction on NS' ability to use the Southern Tier effectively and to compete with CSX in the critical startup period is wholly unwarranted.

In northern Ohio, traffic from the former PRR lines to be operated by NS crosses to the former NYC line for movement to and from Chicago (Application, Vol. 1, p. 522). Train limits or operating restrictions here at the epicenter have the potential for major disruption to the fluidity of the system. The routes have been put together with attention to signals, curvature, grade, capacity and service. Even so, NS is not simply standing on its plans. For example, in order to avoid increased traffic at Lakewood, NS has volunteered, subject to funding, to work with local governments to build a connection to move some of the traffic through a more industrial corridor. However, any imposition of unilateral solutions would come at a cost to the Transaction which is always greater than appears on the surface. Ultimately, a wrench in the works at Cleveland would cripple the ability of one or both parties to provide efficient, competitive service along the critical East-West routes to Chicago. It would be highly unfortunate if the Applicants, who are making the greatest investment in new capacity the East has seen in decades, would find themselves hobbled by arbitrary limits on train operations.

2.5.3 Operating Restrictions Would Reduce Environmental Benefits.

The traffic which causes train increases in Erie, in and around Cleveland, and elsewhere on the network is either being removed from other routes or diverted from trucks or other modes of transportation. The environmental benefits of the Transaction are not independent of these traffic changes. On the contrary, traffic changes resulting in train increases in a real sense are the consequence and measure of the undisputed environmental benefits of the Transaction.

The substantial highway safety, energy efficiency, and pollution reduction improvements of the Transaction account for the preponderance of the net environmental benefits identified by the DEIS (see Section 3 below). These benefits come from diverting truck traffic, and to a lesser extent from handling rail traffic more efficiently, with fewer switches and interchanges.

Over half the train increases in the northern Ohio region are accounted for by the capture of business now moving by highway. Because northern Ohio is an interstate highway as well as a rail hub, with Interstate Highways 80, 90 and 77 criss-crossing the region, it will be among the major beneficiaries of the diversion of truck traffic. Train limits or other restrictions will keep much of the additional traffic from moving by rail, with adverse emissions, safety, fuel efficiency and highway congestion and maintenance consequences. Such limits and restrictions could also result in rerouting of rail traffic and resulting increases in adverse environmental impacts for different localities. The DEIS does not attempt to weigh these adverse consequences against the benefit of restrictions. The required balancing would be difficult, and reemphasizes the impropriety of using arbitrary train limits to try to reform the predicted but changeable downstream impacts of the Transaction.

2.5.4 Operating Restrictions Would Unduly Limit Operating Discretion.

Under normal circumstances, decisions about numbers of trains and routing of trains rest with railroad management. For example, in recent years, through voluntary coordination agreements with Conrail, NS has rerouted substantial volumes of north-south interchange from Potomac Yard (Washington) to Hagerstown, Maryland to take advantage of the more efficient interior route via Harrisburg (Application, Vol. 1, p. 510). Without this route, no carrier would be able to offer Northeast/Southeast doublestack service. Similarly, NS has agreed with Conrail to concentrate the interchange of auto traffic moving to and from the East at Cleveland, rather than leaving it dispersed among several other points.

Commercial initiatives, laudable in the context of coordinations, should not be stymied when they happen to surface in a control case. These operating and marketing adjustments go on continually in the railroad industry and do not require federal approval. In the context of a control proceeding, the Board should be very cautious about imposing restrictions that would disable an applicant railroad's ability to achieve efficient and commercially attractive operations.

In northern Ohio, traffic has varied among the involved routes as the economics of the industry, the demands of customers and the operating imperatives of the time have required. For example, the Cleveland Short Line corridor from Collinwood through East Cleveland handled well over 50 trains per day from the time of its completion in 1912 through the late 1950's, then still over 40 trains per day through the early 1960's. Thus, for about 50 years this corridor had train volumes greater than or equal to the volume that CSX now expects to operate over it. Now some interested parties would freeze the discretion which has permitted these adjustments.

The Transaction that is proposed facilitates routing and traffic changes, but as the history of train movements through Cleveland shows, such changes would go on in any event. Authorization of control does not cause trains to move on different routes in the same sense that construction of an interstate causes trees to be destroyed or farmland consumed. Because of the contingent and downstream connection between the financial transaction proposed and the train movements which give concern, the Board should be especially reluctant to impose operating restrictions on the Applicants.³

As explained above in Section 2.1, the Board is not required in this Transaction, as it was in the UP/SP merger, to mitigate every (or indeed, any) environmental impact it anticipates. In UP/SP, the Board was faced with no option other than to proceed, upon completion of its EA, with a full EIS *unless* it determined that no significant adverse environmental impacts would remain following Board-imposed mitigation. Hence, SEA had no viable option other than to recommend that the Board impose a restriction on the increase in train traffic at Reno and

³ Indeed, a recent search by NS of the Federal Register found *no* other merger, in *any* industry, regulated or unregulated, in 1997 for which an EIS was required. This is probably due to the fact that mergers per se are financial transactions which do not have automatic environmental consequences. The Federal Energy Regulatory Commission, for example, has "categorically excluded" merger approvals from the actions requiring either an EA or an EIS except where scenic rivers, wilderness areas or other unique resources are affected. 18 C.F.R. § 380.4. See also 61 Fed. Reg. 68595, 68605 (Dec. 30, 1996) (reaffirming categorical exclusion rule). No other sector of the American economy undergoes this kind of merger scrutiny, a fact which argues for extreme restraint in imposing burdensome conditions with unpredictable consequences.

Wichita pending selection and completion of mitigation to eliminate the adverse environmental impacts of the merger. Here, the Board faces no similar NEPA restriction or other legal impediments to the fulfillment of its task of balancing any localized environmental impacts with the system-wide environmental and other public benefits to be derived from the Conrail Transaction. Thus, the rationale applied by the Board for imposing traffic restrictions in UP/SP is neither relevant nor appropriate in this proceeding.

In view of the fact that the DEIS recognizes a number of system-wide environmental benefits associated with the proposed Transaction and does not identify any system-wide significant adverse environmental impacts, and the fact that restricting traffic on one line segment can have adverse effects on operating capacity, efficiency and the net benefits of the Transaction, localized environmental impacts should not be allowed to disrupt the overall operating plans developed by the railroads.

2.6 Opposition to STB Imposition of Negotiated Agreements as Conditions to STB Approval

SEA has indicated in the DEIS that it intends to impose as a condition of its approval of the Transaction any negotiated settlement agreements or other mutually-acceptable binding agreements pertaining to the Transaction that NS and CSX enter into with non-Applicants. SEA apparently intends to take all such agreements completed prior to the publication of the FEIS and recommend to the Board that it impose the terms of the agreements as environmental conditions to any decision approving the Transaction. DEIS at 7-4. SEA and the Board should, however, give serious consideration to whether this proposed action to impose conditions is in fact within the Board's authority and whether it is a prudent and necessary step.

While it is true that the Board and the ICC have in several instances involving railroad mergers and other consolidations conditioned agency approval upon the parties' compliance with various environmental mitigation measures, there is no basis in NEPA for requiring in all instances that negotiated agreements pertaining to mitigation be made formal conditions of Board approval. As explained at Section 2.1 above, NEPA mandates a process, not a result. Moreover, the present application by CSX, NS and Conrail is the first instance in which the Board has prepared an EIS to evaluate fully the range of potential environmental impacts associated with a proposed consolidation. Because of the fundamental differences between the process and end result of the preparation of an EIS versus the completion of an EA, as explained at Section 2.1 above, it is not necessary in this instance that the Board resolve each and every potential environmental impact that can be identified. Yet this is precisely what SEA suggests it would do

by requiring that all solutions to potential environmental impacts that the Applicants negotiate be imposed as formal conditions. Not only is this standard for imposing conditions unnecessarily stringent in the context of an EIS, which requires that the Board balance the identified adverse environmental impacts with the identified system-wide environmental, commercial, and other public benefits of the proposed Transaction, it fails to heed clear limits on the Board's authority to impose conditions.

Because of the amorphous nature of some of the perceived environmental impacts that may become the subject of negotiations between NS and affected entities, it can be expected that some of the negotiated solutions to the impacts will fall outside the limited authority of the Board to impose as mitigation measures. Moreover, any insistence by SEA that the terms of a negotiated agreement be converted into a Board-imposed condition would have an obvious dampening effect on the ability of NS to consider and agree to innovative, creative solutions to community concerns. The Applicants would likely be less willing to negotiate such agreements with the prospect hanging over their heads of the Board turning a voluntary, uniquely-tailored solution in a specific instance into a formal condition that could later be argued to have precedential effect because of the Board's imposition of the agreement as a condition of approval.

NS is actively seeking bilateral agreements with third parties where feasible and appropriate to address environmental concerns. The recognition in the FEIS of voluntary stipulated agreements between an Applicant and a third party is an appropriate alternative mechanism for addressing identified environmental issues related to the proposed Transaction. Such voluntary third-party agreements should be recognized as stipulations, not conditions of Board approval. The Board's ability to carry out its responsibilities does not require that such voluntary agreements become formal conditions of approval -- the Board will have continuing oversight following any decision to approve the Application. This oversight function will fully enable the Board to determine whether the Applicants are satisfying the terms of their voluntary agreements and to take appropriate steps in the event that intervention is required.

Moreover, SEA and the Board should not presume that the lack of a voluntary agreement between an Applicant and a third-party at the time of issuance of the FEIS and/or at the time of the Board's voting conference necessitates the imposition of a formal condition. As the DEIS itself recognizes, the consultative process is a far superior means for developing and implementing creative, mutually-beneficial solutions to local environmental impacts than is the formal conditioning process. The consultation process allows the parties to share responsibilities and costs in a manner that the Board could not impose unilaterally. However, the consultative process cannot be expected to produce across-the-board agreements over the course of a mere

few months. Creative solutions with public entities require many levels of review and approval before the public entity can commit itself to a binding agreement. Given these realities, SEA and the Board should allow the consultative process to continue beyond issuance of the FEIS, the voting conference or the implementation of the Transaction, in order to allow the process a full opportunity to produce optimal results. Applicants propose that they report the outcome of the consultations to the Board as consultations are concluded or as otherwise appropriate.

3.0 BENEFITS OF THE CONRAIL TRANSACTION

The proposed Conrail Transaction will provide substantial environmental, safety and socioeconomic benefits. NEPA requires that the Board, in choosing a course of action, properly weigh positive effects against adverse effects, and balance environmental factors against other relevant legal or policy considerations bearing on the merits of the proposed Transaction. The following sections summarize the environmental, safety and socioeconomic benefits of the proposed Transaction. These benefits should be properly recognized within the FEIS, and taken into account by the Board in reaching a decision and determining what, if any, mitigation is required.

3.1 Environmental Benefits

The Transaction's benefits start from the basic fact that railroads are the least polluting, most energy efficient, and safest freight transportation mode on land in the United States. Railroads' environmental advantages are especially pronounced when railroads are compared with trucks:

- **Railroads are more fuel efficient than trucks** — using the same amount of fuel, trains can move the same amount of freight three times farther than trucks.
- **Railroads pollute less than trucks** - because of their superior fuel efficiency, trains emit less air pollution than trucks hauling the same freight the same distance.
- **Transportation of hazardous materials (hazmat) is safer by rail than by highway** — Railroads have less than one-tenth the hazmat incidents of trucks when compared on an equal ton-mileage basis.
- **Railroads provide lower accident risk than trucks** — Significantly more truck collisions than train accidents occur on a per ton-mile basis.

The Transaction's environmental benefits derive mainly from diverting freight from trucks to railroads. These truck-to-rail diversions will be substantial over the entire Transaction; for NS' portion alone, there will be a reduction of an estimated 589,000 truck trips annually. This will result in system-wide energy savings, fewer air emissions, reduced wear and tear on highways, and less highway congestion, as well as safety and socioeconomic benefits.

3.1.1 Air Emissions Benefits

Air pollutant emissions will decrease notably as a direct result of the Transaction. In particular, hydrocarbons, carbon monoxide, nitrogen oxides, particulates and lead emissions will substantially decrease. The DEIS correctly recognizes that the Transaction will result in "...an overall improvement in air quality." DEIS at 4-70.

Railroads are more fuel efficient than trucks, and this efficiency translates into fewer pollution emissions from trains than from trucks hauling the same freight the same distance. The system-wide decreases in air pollutant emissions will result primarily from the substantial truck-to-rail diversions that will occur due to the Transaction, but will also result from more efficient rail routings that will be available through the expanded CSX and NS systems.

The DEIS also notes another air quality benefit, "...a reduction in the potential for accidental release of ozone-depleting materials..." DEIS at 4-62. This benefit is due to the reduction in car-miles and freight-handling in rail yards for these shipments as a result of the Transaction.

3.1.2 Energy Benefits

The combination of truck-to-rail diversions and more efficient rail routings will result in very significant reductions in fuel consumption. Various models and estimates by the Applicants and the Board project a range of savings in net annual reduction in diesel fuel consumption. Estimates range from a high of 133.6 million gallons of diesel fuel, to the most conservative estimate used in the DEIS (at 3-1) of approximately 80 million gallons of diesel fuel saved annually. Thus, the DEIS concludes that "there would be no significant environmental impacts on energy consumption...as a result of the proposed Conrail Acquisition" (DEIS at 4-49), although this actually represents a significant benefit.

3.1.3 Safer Hazardous Materials Transportation

Transportation of hazardous materials is safer by rail than by road. Railroads in the United States carry almost 2 million freight cars of hazardous materials annually; this is equivalent to almost 6 million trucks on U.S. roads. Yet, railroads have less than one-tenth the number of hazardous material incidents of trucks, despite equal ton-mileage. (Whenever a hazardous material leaks or spills from its container, it is considered an "incident" no matter how small the amount or minor the effect.) NS, in particular, has an excellent safety record. Of the 225,000

shipments of hazardous materials transported in 1996, less than one-tenth of one percent involved incidents, most of which were minor in nature and were shipper or tankcar owner-related.

The DEIS concludes, correctly, that "[o]verall, the proposed Acquisition should result in a slight safety improvement for rail transportation of hazardous materials and no significant system-wide adverse impacts related to hazardous materials transport." DEIS at ES-19. This improvement results from a decrease in rail car-miles of hazardous materials associated with more efficient routings and from a reduction in hazardous materials freight-handling in rail yards due to expansion of single-line service and reduction of interchanges. The expansion of single-line service and reduction of interchange (switching) is particularly important in improving hazardous materials transportation safety. Single-line service decreases the amount of rail car switching between tracks and carriers — and it is during switching that accidents are most likely to occur.

3.1.4 Enhancement of Long-Term Productivity

As required by NEPA, the DEIS considers the extent to which the Transaction would result in long-term productivity gains at the expense of short-term use of the environment and environmental impacts. The DEIS concludes that the short-term impacts would be more than offset by long-term gains in productivity, including increased productivity and efficiency of rail operations in the eastern United States. DEIS at 4-76. The long-term positive effects also include improved service and system-wide reductions in energy consumption, highway traffic congestion, highway accidents, and air pollutant emissions. NS concurs with this conclusion - the Transaction will have a net positive benefit for the environment and the economy.

3.1.5 Commitment of Resources

The DEIS evaluates the irreversible and irretrievable commitment of resources, including natural, physical, human, and fiscal resources; it concludes that the benefits of the proposed Transaction would outweigh the commitment of resources. DEIS at 4-77. NS agrees with this important conclusion in the DEIS.

3.1.6 Norfolk Southern's Environmental Policy

Another benefit of the Transaction will be the expansion of the best practices of NS' environmental commitment as selected Conrail operations and activities become part of the

expanded NS rail system. NS' environmental policy requires every employee to understand and comply with environmental requirements on the job. Government agencies are informed of any spill or hazardous materials incident regardless of the potential to cause environmental harm. Wastes are minimized through recycling, reduced consumption, and use of environmentally preferred materials and nonpolluting technologies. Cooperation is given to all governmental/environmental authorities. All laws and regulations related to protecting the environment and transporting environmentally sensitive materials are complied with in full. NS is committed to implement the best environmental practices of Conrail and NS after the Transaction.

Long-standing conservation practices at NS include collecting and recycling crossties, tires, paper, metal, aluminum, and rail car parts. Used rail is rewelded and reused. Lubricating oil and cleaning solvents are rejuvenated and reused. Tens of thousands of aging rail cars have been rebodied. NS works hard to be a sound environmental caretaker, and will utilize its proven environmental protection practices and programs to improve environmental management throughout its expanded system.

3.2 Safety Benefits

In addition to environmental benefits, the Transaction will bring about significant safety benefits which the Board should take into account as part of the NEPA balancing process. The most significant of these will result from the integration of Norfolk Southern's safety culture with that of Conrail. As SEA has noted (DEIS at B8-1), both NS and CSX had the lowest accident rates of all Class I railroads for the 1994 through 1996 period. Their rates have been lower than the Class I railroads as a whole. While Conrail's accident rate is higher than both NS and CSX, Conrail has been below or at the Class I accident rate average for the same period. DEIS at B8-1. The railroads' commitment to safety is reflected by these records and by their submission of detailed Safety Integration Plans to the Board in close coordination with the FRA.

3.2.1 Fewer Accidents

The greatest safety benefit from the Transaction will come from diverting freight from trucks to railroads. With an estimated reduction of 589,000 truck trips annually on the NS portion, there will be approximately 800 fewer truck crashes. This includes approximately 15 fewer fatal truck crashes involving one or more fatalities. DEIS, Volume 5A at B-14.

3.2.2 Reduced Switching

The expansion of single-line service (e.g., service via one railroad) that will result from the Transaction will also improve rail safety. Single-line service decreases the amount of rail car switching, where there is the greatest potential for collisions, derailments and employee injuries. The post-Transaction NS system will provide single-line service to an additional 245,000 freight units annually. Integration of some existing NS and Conrail terminals should reduce switching and improve safety as well.

3.2.3 Norfolk Southern Safety Program

One of the most important factors contributing to the environmental and safety benefits of the Transaction is NS' proven performance and commitment to safety. Within the railroad industry, NS is a safety leader, having recently earned the prestigious E.H. Harriman Memorial Gold Award for employee safety for the eighth straight year. NS strongly believes that safety is good business; its low number of injuries is proof its commitment is working. In 1996, NS employee injuries were one-fifth of what they were just eight years before. Since 1988, Norfolk Southern's train accident rate has dropped 31 percent, and is currently less than half that of the rail industry as a whole. Applying either NS or CSX's accident rate to the new lines will eliminate, even after accounting for new traffic, a net of approximately 50 rail accidents per year (Application, Vol. 6A, at 75).

Safely integrating NS' operations and activities with those of Conrail will be a key factor in maintaining and improving the safety of railroad operations. NS will accomplish this safe integration through, among other things, implementation of a comprehensive Safety Integration Plan (SIP) and by retaining key Conrail employees.

Safety Integration Planning. NS has been planning since the spring of 1997 how to integrate its part of Conrail in the safest and smoothest manner possible. In December 1997, NS submitted a comprehensive Safety Integration Plan to the Board, which documents all anticipated safety elements of the Transaction. NS has been and continues to consult with the FRA regarding the SIP and related planning for safe integration of operations.

Retaining Sufficient Employees. NS is committed to retaining sufficient numbers of Conrail employees (as well as Norfolk Southern's own valued workforce), particularly train crews and dispatchers. NS knows that a well-trained, skilled workforce is critical to safety. To underscore its commitment to retaining Conrail's institutional knowledge, NS has recently hired

several high-ranking Conrail employees knowledgeable about that carrier's operations and safety practices. For example, NS has already appointed Conrail's Director of Safety, William L. Barringer, to Director of Safety for NS, to capitalize on Conrail's own safety expertise and to meld smoothly the railroads' respective safety efforts. NS also plans to keep the same regional dispatching system in place to minimize the potential for disruption or disorientation, thereby ensuring that dispatchers are familiar with their territories.

3.3 Socioeconomic Benefits

The Transaction, and the resultant increased productivity and efficiency of rail operations in the eastern United States, will stimulate economic growth and deliver nearly \$1 billion in public benefits to the nation as well as significant unquantified benefits. CSX/NS-18, Volume 1 at 16. The Board should give proper weight to these benefits, as well as environmental and safety benefits, as part of the NEPA balancing process.

3.3.1 Economic Benefits to the Public

CSX and NS have documented in submissions to the Board that the Transaction will generate nearly \$1 billion in quantifiable public benefits. These benefits will result from the following:

- The proposed construction projects would increase transportation operation efficiency and improve service capabilities (shorter, more direct transportation routes), resulting in reduced transportation cost to shippers and consumers.
- These enhanced efficiencies would also facilitate the diversion of traffic from highways to rail. Over one million truck-to-rail diversions are predicted by NS and CSX, and NS alone anticipates approximately 589,000 diverted truckloads (Environmental Report at 2-2).
- In addition, truck-to-rail diversions would reduce fuel consumption by an estimated 133.6 million gallons of diesel fuel annually. DEIS at 4-47.
- Truck-to-rail diversions would also extend the life of the national highway system, and significantly reduce highway maintenance costs borne by federal, state and local agencies. The net savings from the Transaction to highway maintenance costs is approximately \$93 million per year (Environmental Report at 2-6).

- In addition to the normal capital expenditures the railroads' would spend to operate Conrail, NS and CSX plan to spend a combined \$1.3 billion for major capital improvements and equipment purchases. *[This \$1.3 billion is the largest expenditure for new capacity on a railroad in at least four decades.]* NS alone anticipates spending \$729 million in the first three years for projects such as rail corridor upgrades (\$130 million), improvements to existing Conrail routes (\$70 million) and new automobile facilities (\$30 million).
- Other important public economic benefits will include reduced highway congestion and new opportunities for industrial development.

3.3.2 Benefits to Shippers from Increased Competition and Access

The Transaction will bring about a dramatic increase in competition between railroads, and will strengthen rail as a competitor with trucks for freight movements. The shift of traffic from the highways to NS will save shippers \$92 million in annual logistics costs.

Conrail is presently the only Class I U.S. rail carrier operating throughout the Northeast section of the country. Shippers who are located in the Northeast thus lack the competitive and service benefits that come from having two strong rail networks serve them. The Transaction will introduce competitive Class I rail service for the first time since before the creation of Conrail for a substantial portion of the Northeast. The establishment of Shared Assets Areas for North Jersey, South Jersey/Philadelphia and Detroit and the restoration of rail competition for shippers served by the former Monongahela Railway will bring shippers in those areas the benefits of head-to-head competition between CSX and NS.

The expansion of CSX and NS's rail networks will also markedly improve rail service by creating new single-line service. Through the operation and use of Conrail's lines, CSX and NS will operate a number of new single-line routes, particularly between the Northeast and the Midwest and the Northeast and the Southeast. Shippers will benefit from the advantages of single-line service as compared to joint-line service in terms of timeliness, reliability and cost-effectiveness. There will be fewer interchanges, and more traffic will be able to bypass terminals, reducing delays and inefficiencies.

3.3.3 Industrial Development

Over the past seven years, NS' industrial development efforts have led the industry in creating economic growth and jobs in the Southeast and Midwest regions of the country. Just as NS' efforts have fueled growth in the areas it currently serves, so will the application of NS' proven industrial development strategy create substantial benefits for communities now served by Conrail. In 1997, 62 new industries located along NS' tracks, and 43 industries expanded existing facilities. Investments by these industries amounted to \$2.6 billion, and 7,300 new jobs were created in the communities NS serves. Eight of the last 12 automobile plants built in the U.S. were built along NS lines.

SECTION 4

4.0 PRINCIPAL COMMENTS ON ENVIRONMENTAL ISSUES

The following presents Norfolk Southern's comments on the scope, approach, methodology, technical analyses, conclusions, and recommended mitigation measures within the DEIS. These principal comments affect the DEIS conclusions and recommended mitigation measures. Overall, the DEIS provides a comprehensive assessment of the system-wide environmental effects of the proposed Transaction, and correctly concludes that the Transaction will have a net positive benefit on the environment and the economy. The DEIS analyses and conclusions regarding local impacts are equally comprehensive. However, there are several areas where NS has identified inappropriate analytical methods, technical inaccuracies, or other substantive errors in the DEIS which have led to erroneous conclusions and inappropriate recommendations for mitigation. Comments offered below support the DEIS where the analyses and conclusions are appropriate and accurate, and identify areas where the analysis or conclusions are inaccurate and mitigation inappropriate. In several areas where it appears improvements could be made to the DEIS, NS has offered a discussion of improvements or corrections and the results of their application, including the necessary technical justification for SEA's consideration.

4.1 Safety: Freight Rail Operations

For the freight rail operations safety analysis, the DEIS undertook both a system-wide and localized (rail line segment specific) safety analysis. The analyses estimated the probability of occurrence of freight train accidents that would result from the proposed Transaction.

4.1.1 Safety: Freight Rail Operations, System-Wide Analysis

The DEIS examined the system-wide freight operations accident risk for both pre- and post-Transaction configurations on all 1,022 rail line segments and 375 rail yards associated with the Transaction. To assess potential system-wide safety effects, the DEIS calculated the system-wide probability of an accident occurring based on the projected train activity data provided by NS and CSX in their Operating Plans. The DEIS concludes that the combined changes in freight traffic on rail line segments and freight activity in rail yards would result in a small overall decrease in the likelihood of freight rail accidents and derailments. DEIS at 4-10. Based on this analysis, the DEIS' findings are that the Transaction would not result in significantly adverse system-wide safety effects for freight rail operations and therefore, no system-wide mitigation measures are proposed.

NS believes the DEIS presents a well-founded, comprehensive analysis of the potential system-wide safety impacts from freight rail operations on the expanded NS and CSX systems. NS completely concurs with the DEIS conclusion of no significantly **adverse** system-wide safety effects from freight rail operations. Additionally, the Transaction will result in notably significant system-wide positive impacts on safety when the reduction in truck crashes resulting from truck-to-rail diversions is considered. The DEIS at 4-10 notes that the estimated reduction in truck-miles due to the Transaction could result in 1,600 fewer annual highway accidents. In addition, it should be noted that the latest statistics project a reduction of 31 fatal truck crashes, each involving one or more fatalities. DEIS at B-14. Significant environmental benefits such as this must be acknowledged and properly weighed against any adverse environmental effects when considering mitigation, as discussed in Section 2.2 above.

4.1.2 Safety: Freight Rail Operations, Segment-Specific Analysis

The DEIS performed segment-specific analyses of accidents on rail line segments where estimated increases in freight train traffic would exceed the Board's environmental thresholds for air quality and noise analysis. The DEIS estimates the average annual accident rate for freight operations on each specific segment and adjusts these estimates based on the track condition and on whether or not the segment has a train control signal system (which reduces the potential for accidents). The DEIS then 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. First, the Transaction is expected to result in substantially significant system-wide safety benefits primarily as a result of truck-to-rail diversions. Additionally, NS currently has numerous programs, the details of which can be found in the ER (Part 1, Section 3.3 and 7.2) and the SIP (DEIS, Volume 2), to effectively manage freight rail operations safety as evidenced by its consistently low accident rate. These safety benefits of the Transaction should be taken into consideration when evaluating the need to mitigate segment-specific safety concerns. Finally, 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.

The DEIS identifies four NS line segments which SEA has calculated will exceed the significance criteria defined in the DEIS. The significance criteria as described in the DEIS at B-13 to evaluate the significance for safety effects of freight rail operations are as follows.

“First, SEA compared the Acquisition-related change in accident rate for a rail segment to the normal fluctuation in the state-wide accident rate. Second, SEA determined if the rail segment is predicted to experience an accident more frequently than once every 100 years per route mile. If a rail line segment is predicted to have an increase in accident rate greater than the normal variations in state-wide accident rates and to have an accident more frequently than once every 100 years per route mile, SEA considered mitigation for safety impacts.”

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. Any condition imposed by the Board must be directly related to the Transaction’s impacts and may not be designed to remedy pre-existing conditions. The criterion of a predicted post-Transaction accident rate greater than one accident in 100 years would actually address existing conditions rather than just the Transaction-related change in traffic on the line segment.

This is verified by the calculations provided in Attachment B-1 of Appendix B of the DEIS. For example, the NS line segment Miami to Airline (N-086) exceeds the DEIS so-called significance criterion with a predicted post-Transaction accident rate of one accident every 78 years. However, this is not a Transaction-related impact, because the pre-Transaction predicted accident rate for the same segment is one every 88 years which is already greater than the DEIS significance threshold. This significance criteria encompasses pre-existing conditions and neither restricts its focus to changes related to the Transaction nor results in recommendations narrowly tailored to mitigate the potential changes in such impacts.

Additionally, this significance criterion appears to have been based on incorrect data. The DEIS at B-13 states that a criterion of one accident every 100 years was based on the national frequency of railroad accidents calculated from the 1996 FRA Accident/Incident Bulletins. The DEIS uses the values 1,078 total freight and passenger accidents and 126,682 miles of main line railroad tracks operated in the U.S. to calculate that a freight train accident can be expected to occur once every 117 years per route mile.

However, there is no reference to 1,078 total freight and passenger accidents in the 1996 FRA Accident/Incident Bulletins. In fact, on page 14 of the Accident/Incident Bulletin, No. 165 for the Calendar Year 1996, a total of 2,584 train accidents were reported. These statistics suggest that a freight rail accident can be expected to occur once every 49 years, not once every 117 years. 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.*

There is, moreover, no analytical basis for the mitigation the DEIS proposes for the four NS line segments that are purportedly above the DEIS significance criteria for freight rail operations safety. Recommended mitigation in the DEIS includes annual training of mechanical and track inspectors and compliance with a proposed FRA rule requiring certain frequencies of rail inspection. *NS opposes imposition of any mitigation that would constrain its ability to adopt equally or even more effective alternative inspection and training programs.*

The DEIS proposes for line segments identified as having a 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 FEIS 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.

Additional mitigation the DEIS recommends for the four NS line segments above the significance criteria includes annual training of mechanical and track inspectors for these locations. No justification is provided for this mitigation. The existing NS safety program is proven effective - the NS overall safety record is second to none. All NS inspectors receive extensive training and are fully qualified to provide inspections per NS standards. NS has systems in place to continually monitor and review the performance of its inspectors and to provide additional training when traffic or other condition changes warrant such training. The DEIS 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 FEIS.*

4.2 Safety: Passenger Rail Operations

The DEIS correctly reports that the Transaction will not result in any system-wide degradation in the safety of passenger rail operations that are conducted on the expanded NS and CSX systems following the proposed Transaction. NS and CSX are both experienced in safely handling passenger operations on their systems and in working cooperatively with Amtrak and

other passenger rail agencies to enhance safety. NS and CSX have achieved outstanding safety records in this area.

Nonetheless, on the basis of a statistical analysis of passenger and freight operations on the 197 rail line segments over which both freight and passenger operations are conducted, the DEIS (Chapter 7 at 7.2.2) concludes that a total of ten NS and CSX segments may warrant special safety mitigation measures. The DEIS therefore proposes that NS establish passenger trains as “superior,” and maintain 30-minute windows around passenger trains, on four NS line segments and possibly one additional route over which there are both freight and passenger operations.⁴ Identical mitigation is proposed for five CSX line segments. The NS segments are:

- Kalamazoo, MI to Porter, IN (N-497)
- Campbell Hall, NY to Port Jervis, NY (N-063)
- Jackson, MI to Kalamazoo, MI (N-120)
- West Detroit, MI to Jackson, MI (N-121)
- Porter, IN to Chicago, IL route (if the Canadian Pacific (CP) is granted or given haulage or trackage rights over any segment on this route.) This route consists of the following four segments: Porter, IN to Control Pt. 501, IN (N-308); Control Pt.

⁴ The DEIS is not internally consistent in its description of the proposed mitigation. Chapter 3, which identifies potential mitigation measures, does not even mention a separation rule among the options for consideration. See DEIS Sections 3.2.3 and 3.3.3. Further, Chapters 5 and 7 are not consistent in their description of the proposed mitigation. The proposed “superior” passenger train/freight train separation mitigation described in Chapter 7 of the DEIS contemplates that freight trains moving in the same or opposite direction on the same track on any of these line segments would need to be clear of the track at least 15 minutes before and 15 minutes after the expected arrival of a passenger train at any point. This proposed measure would thereby establish a 30-minute separation window around passenger trains moving on that track. See DEIS Section 7.2.2 at 7-12.

By contrast, the discussion of mitigation of the individual line segments found in the state-by-state sections of Chapter 5 of the DEIS does not use the term “superior trains.” Rather, Chapter 5 contemplates a proposed separation window under which freight trains, both opposing and moving in the same direction, would need to be clear of a point on the same track at least 15 minutes prior to the estimated arrival of a passenger train; no 15 minute window after a passenger train is proposed in Chapter 5. See DEIS at IL11-13, IN11-13, MI-7 through MI-9 and NY-8 through NY-10. Further, whereas the mitigation proposed in Chapter 7 contemplates that the separation requirements would not apply when the freight train is moving in the opposite direction away from the passenger train, there is no similar qualification in the Chapter 5 description of the proposed mitigation.

501, IN to Indiana Harbor, IN (N-042); Indiana Harbor, IN to South Chicago, IL (N-047); and South Chicago to Ashland Avenue, Chicago, IL (N-309).

Amtrak operates on segments N-497, N-120, N-121 and the Porter to Chicago route. On segment N-063, New Jersey Transit operates commuter train service for Metro North. Segment N-497 is owned by Amtrak, and Conrail currently operates a local train about twice a week on this segment. CP has haulage rights only over the Porter, IN to Control Pt. 501, IN (N-308) segment, a portion of the Porter to Chicago route. The CP traffic on this segment is now being hauled by CSX under CSX's trackage rights with Conrail over this segment.⁵ While NS anticipates that CP traffic will stay on the line post-Transaction and be hauled by NS, the net result is that there will be no increase in CP traffic - just a shift as to which railroad will carry that traffic. No final agreement has been reached by NS with CP regarding possible CP haulage rights over segments N-497, N-120 and N-121, as is more fully discussed in Section 4.22.1.

Norfolk Southern does not believe there are any adverse safety impacts to passenger rail operations as a result of this Transaction for the following reasons:

First, no passenger safety mitigation is warranted because, by any standard, operations on these line segments -- which are already subject to FRA safety oversight -- are demonstrably safe and will remain equally as safe following the Transaction. The statistical analysis conducted by SEA to ascertain whether mitigation is warranted relied on data and assumptions that overstated the Transaction-related impacts of modestly increased freight traffic. For example, in conducting its statistical review of passenger/freight train collisions, the DEIS utilized a collision rate that was based on collisions of a type that are unrelated to increased freight operations and that would not be addressed by the proposed mitigation, i.e., collisions resulting from freight trains and passenger trains operating on different tracks or from passenger trains hitting parked freight cars. The actual rate of passenger trains being hit from behind by freight trains operating on the same track, or vice-versa, is closer to zero, a fact that underscores the mitigation proposal addresses an unlikely safety risk.

Second, even assuming that some mitigation might be warranted on certain line segments, modern signaling systems and other safety controls offer the highest levels of safety without the cumbersome procedures and efficiency sacrifices inherent in the proposed mitigation

⁵ Presently CSX has trackage rights on this Conrail line from Porter to Pine Jct., Indiana, east of Gary. All CSX trains on their way to Michigan use this line, including the CP haulage traffic.

procedures. Train superiority and temporal separation practices of the type proposed in the DEIS, which are not even listed among the potential safety mitigation measures identified in Chapter 3 of the DEIS, have been outdated for decades, and their re-introduction on NS now could well detract from safety.

Third, the proposed 15/30 minute separations would disrupt freight service on all five identified line segments, particularly the Porter to Chicago route. This would impose a substantial burden on commerce and attract more freight to trucks, reversing the significant environmental and other public benefits of the Transaction. The DEIS gives no consideration to possible adverse impacts and the overall balance of effects that would result from its proposed mitigations.

Fourth, to the extent that any mitigation might be appropriate, such mitigation should be in the form of a requirement that NS consult with the FRA and the passenger rail agencies concerning safety enhancements that might be considered for these line segments. A consultation requirement would fully comport with the Board's obligation under NEPA to identify matters that other federal and state agencies might more appropriately address.

4.2.1 The Board Should Not Adopt Mitigation Measures That Interfere with the FRA's Exclusive Authority to Regulate the Safety of Passenger Operations.

The Board should tread cautiously before imposing any special safety condition applicable to train operations, particularly passenger train operations. While NS does not question the Board's right to address legitimate Transaction-related safety concerns through the NEPA process, the propriety of any proposed condition in the passenger safety area must be measured against the FRA's "plenary authority over the safety of the railroad industry."⁶ Section 202 of the Federal Railroad Safety Act of 1970, 49 U.S.C. §20101, grants the FRA the power to regulate "every area of railroad safety." The FRA has exercised that authority extensively, and as discussed further below is currently reviewing a variety of passenger train safety issues.

Congress has made clear that the FRA's role in regulating passenger train safety is exclusive. In explaining the 1973 deletion of language from section 801 of the Rail Passenger Service Act of 1970 that allowed the ICC to prescribe regulations "necessary to provide safe...service," the Conference Report on the Amtrak Improvement Act of 1973 stated as follows:

⁶ DEIS, Volume 5 at B-2.

The Conference substitute rewrites Sections 801 of existing law to clarify the jurisdiction of the Department of Transportation and the Interstate Commerce Commission over safety related and service related issues. First, this provision resolves a possible legislative inconsistency which results from the fact that Section 801 of existing law, as presently worded, authorizes the ICC to “prescribe such regulations as it considers necessary to provide safe and adequate service, equipment, and facilities for intercity rail passenger service.” The Federal Railroad Safety Act of 1970, enacted only two weeks prior to the rail passenger Service Act, defined the Secretary of Transportation’s jurisdiction to include “all areas of railroad safety.” It is the intent of the committee of conference to make clear that the Secretary’s jurisdiction over railroad safety is exclusive. The ICC, in prescribing its own regulations with respect to the adequacy of service, should take account of safety regulations prescribed by the Secretary of Transportation.

H.R. Conf. Rep. No. 93-587, at 12 (1973), reprinted in 1973 U.S.C.C.A.N. 2331, 2342 (emphasis added).

Congress’s message was unambiguous - the FRA has the sole authority to regulate rail safety. Moreover, nothing in the ICC Termination Act changes that fact. To the contrary, that statute curtailed the Board’s limited authority with respect to commuter operations. See 49 U.S.C. §10501(c) (2) (providing that the Board does not have jurisdiction over commuter agencies other than with respect to access to facilities).⁷ In view of the Board’s absence of authority to regulate with respect to passenger carrier safety matters, and FRA’s exclusive jurisdiction and ongoing activity in the area of passenger carrier safety, the Board should defer to its sister agency before adopting any passenger safety conditions, particularly a condition as far reaching as that proposed in DEIS Mitigation Measure 2(A) and (B).⁸

The FRA in fact has several pending rulemaking proceedings and other projects underway in connection with passenger safety. These include Passenger Equipment Safety Standards (FRA Docket No. PCSS-1), 62 Fed. Reg. 49730 (Sept. 23, 1997) and Passenger Train Emergency Preparedness (FRA Docket No. PTEP-1), 62 Fed. Reg. 8330 (Feb. 24, 1997). It is noteworthy that FRA has acknowledged the breadth of its interest in this area in its rulemaking notice at 62 Fed. Reg. 49732 (September 23, 1997) in the Passenger Equipment proceeding,

⁷ See H. Rep. 104-422, 104th Cong. 1st Sess. 167 (statement of Board jurisdiction modified to “reflect curtailment of regulatory jurisdiction in areas such as passenger transportation.”)

⁸ In fact, were the STB to impose the type of superiority/temporal separation proposed in the DEIS, such a condition could conflict with NS’ statutory right under section 402(e) to petition for relief from the preference rule for Amtrak operations.

...rail passenger safety does involve the safety of the railroad system as a whole, including the track structure, signal and train control systems, operating procedures, and station -- and platform-to-train interface design -- in addition to passenger equipment safety. To that end, FRA has active rulemaking and research projects in a variety of contexts that address non-equipment aspects of passenger railroad safety, including signal and train control systems.

The proposed separation measure could well intrude upon, or conflict with, FRA pending future proposals or plans to address passenger safety issues. Suffice it to say that any potential for conflict arising from the activities of more than one safety regulator should be scrupulously avoided.

The Board should also take note of the fact that neither the FRA nor any participant in the rail safety community known to NS has proposed a temporal separation rule as a means of enhancing passenger train safety. Neither Amtrak, New Jersey Transit or Metro North (nor any other commuter agency) have requested the proposed mitigation -- or any safety mitigation on any line segments -- in their filings with the Board. NS works closely with these agencies on safety issues, and at no point in its safety-related dealings with any of these agencies have the notions of passenger train superiority or mandated temporal separations of trains as a means of ensuring safety been raised by any of these parties.⁹

Notably, neither Amtrak nor any commuter agency has claimed that the Transaction will have any detrimental impact on the safety of their operations on any NS lines. Nor have any

⁹ Chapter 5 of the DEIS states that the potential for freight/passenger train conflicts could be reduced "by reinforcing passenger trains' priority over freight trains." This language is, at best, confusing, because there is no existing passenger train priority of the type contemplated in the proposed mitigation, and thus there is no rule to reinforce. It is possible that the DEIS is referring to the "preference" for Amtrak trains provided under section 402(e) of the Rail Passenger Service Act of 1970, 49 U.S.C. 24308(c). The proposed freight passenger train separation condition is entirely unlike the preference for Amtrak trains that is contemplated by that statute. Section 402(e) provides that except in an emergency, "Amtrak has preference over freight transportation in using a rail line, junction or crossing unless the Secretary of Transportation orders otherwise under this subsection." This statute does not require any temporal separation between Amtrak and freight trains, and does not apply to commuter operations at all. The purpose of the statutory preference for Amtrak, in fact, has nothing to do with safety, but rather was designed to address on-time performance issues that arose in the 1970's. See Hearings before the Senate Committee on Commerce on S. 1763, 93rd Cong., 1st Session at 46, 105 (1973).

passenger groups claimed that the Transaction will impair in any way the safe operations of passenger trains on any NS lines, including the five lines identified by SEA for mitigation. The proposed mitigation thus not only addresses a problem that does not (and will not following the Transaction) exist, but it lacks any safety constituency.

As a matter of sound public policy and respect for its sister agency, the Board should not intrude into a passenger safety area reserved for another agency that is already active in these matters. Nothing in NEPA requires that it do so. Rather, in addressing passenger safety mitigation, the Board would appropriately fulfill its NEPA role by identifying potential safety issues for FRA, leaving it to the agency to address those issues as it best sees fit. See Robertson v. Methow Valley Citizens Council, *supra*, 490 U.S. at 352-353 (1989) (NEPA “imposes no substantive requirement that mitigation measures actually be taken”; agency preparing NEPA document fulfills its duty by identifying and evaluating environmental consequences that can be addressed only by another agency).

4.2.2 The DEIS Fails to Justify the Conclusion That Any Mitigation is Warranted on the Identified NS Line Segments.

In determining the significance of impacts on passenger train safety, SEA first identified an annual rate at which passenger/freight train accidents occur. SEA then identified the line segments shared by passenger and freight trains on which there would be an increase of at least one freight train/day as a result of the Transaction. Using the accident rate data, SEA then determined for each of the identified line segments: (a) whether the proposed Transaction-related change in the projected accident rate on each line segment was greater than an annual increase of 25%, and (b) whether the accident frequency was less than one accident in 150 years. NS has several comments to offer on the SEA methodology and the significance factors used by SEA, as follows.

Appendix B of the DEIS explains that one element of the calculation of accident potential on the line segments that were reviewed in connection with the DEIS was a factor that assumed a passenger/freight train collision rate of 1.25 annually for Amtrak trains and 0.25 annually for commuter trains. See DEIS Appendix B at B-16. These accident rates were determined based on a review of freight/passenger train collisions over a four-year period, 1993 through 1996, inclusive. The collisions on which the DEIS accident rate was based are discussed below.

The list of collisions on which the DEIS relies is informative in several respects. First, it shows that there have been very few passenger/freight “collisions” in recent years (and in fact

fewer than identified by SEA as discussed below). Second, an analysis of the collisions identified by SEA also shows that the proposed mitigation addresses a "problem" of passenger/freight train separation distances that does not in fact exist.

Passenger/freight train collisions are very rare. Six passenger/freight collisions were used to calculate the accident rates used in the DEIS analysis. (Collisions involving passenger trains are identified on the list with the number "1" in either the Amtrak collision column or the commuter collision column.) There have in fact been only five such collisions during that four-year period, all but two of which occurred on the lines of Western railroads.

The list includes five Amtrak/freight train collisions and one commuter/freight train collision during the four year period studied, thus explaining the 1.25 and 0.25 annual accident rates. However, the one collision involving a commuter train was improperly included because it was not a commuter/freight train collision. Rather, that one accident was an Amtrak/MARC collision in Silver Spring in February 1996. Since this was a collision between two passenger trains, with no freight train involved, it should not have been counted in determining the rate of freight/passenger collisions. Accordingly, the actual annual rate of commuter/freight collisions during the four-year study period was **zero**, not 0.25 as applied in the DEIS.

Further, a closer analysis of the Amtrak accidents shows that the proposed separation rules are designed to address a situation that experience shows is highly improbable. At least four of the five Amtrak collisions on the list occurred in circumstances that would not be addressed by the proposed mitigation measure, *i.e.*, circumstances other than passenger and freight trains sharing the same track and traveling under power too closely to one another. The September 1993 collision occurred when an Amtrak train hit parked freight cars in a siding that was not long enough to accommodate the freight and passenger cars. The May 16, 1994 accident involving a CSX and Amtrak train occurred when the Amtrak train was struck by a trailer that had become unfastened from its mooring on a CSX train on an adjacent track and protruded over the track on which the Amtrak train was moving.¹⁰ Similarly, the February 1995 accident involving an Amtrak and a UP train occurred when the Amtrak train struck a load of steel that was projecting from a UP train located on an adjacent siding. A fourth collision on the list, which occurred on BN's lines in March 1995, was caused when the brakes on several parked BN

¹⁰ The CSX train was located on a passing track on a single-track route, and because it was on a different track would not have been subject to a separation rule. Improved securement of intermodal trailers will help avoid the recurrence of this type of accident.

cars failed, causing those cars to hit an Amtrak train. The freight cars were not connected to a locomotive at the time of the accident.

This review shows that at least four of the five collisions from which the 1.25 annual accident rate involving Amtrak trains was calculated occurred in circumstances that the proposed train separation mitigation rule would not have addressed, i.e., circumstances that are unrelated to the level of freight train traffic on the same track as the passenger train traffic. These accidents did not involve freight and passenger trains moving under power and operating on the same track, and thus a separation rule designed to address freight and passenger trains sharing the same track would not have prevented the accidents.¹¹

In fact, the proposed mitigation also would not address the causes of any of the major collisions involving passenger trains colliding with other trains over the last several years. A summary of these collisions is set forth in an FRA rulemaking notice on Passenger Equipment Safety Standards, 62 Fed. Reg. at 49730 (Sept. 23, 1997). Not one of the major collisions involved a passenger train colliding with a freight train operating on the same track. The one collision involving a freight and passenger train that ended up on the same track was the 1987 collision in Chase, MD between a Conrail and an Amtrak train. However, that collision resulted when the Conrail engineer, who was operating a freight train on another track, ignored signals and entered the track being used by the passenger train without permission. A separation rule of the sort proposed here would not have prevented a collision resulting from such actions by an engineer, who may have been impaired by drug use.¹²

The rate of passenger/freight collisions involving freight trains hitting passenger trains from behind or vice-versa on the same track is thus near or at zero, even on line segments where the level of passenger and freight train activity (pre and post-Transaction) is much higher than that on the segments identified in the DEIS for mitigation. (The projected level of increased freight train activity on the NS line segments identified for mitigation ranges between 4.1 trains and 9.2 trains on rail line segments N-497, N-063, N-120 and N-121 and 16.2 on rail line

¹¹ The remaining collision on the list was a March 1995 accident involving an Amtrak train operating on the BN system. NS is unable to find any reports concerning this accident, which suggests that the accident did not involve any loss of life, injuries or major property damage.

¹² The DOT/FRA drug testing rules were not in effect at the time. Neither were the rules regarding engineer certification, which impose penalties for abuse of prohibited substances.

segment N-042, which is part of the Porter to Chicago route. This route is double and triple track. Each of the line segments at issue can easily and safely accommodate these train increases). The facts thus show that the passenger train safety mitigation designed to address an increase in the level of freight train operations is simply not warranted.

In addition, SEA has applied an overly conservative threshold of 25% annual fluctuation in passenger train accident rate and a second tier criterion of an accident prediction value that would exceed one accident every 150 years. These factors appear to have been arbitrarily chosen, and their use would overstate any potential impact.

NS believes that the DEIS methodology for passenger rail line safety is too conservative and does not reflect NS' excellent safety history. NS has not had any accidents involving passenger/freight train collisions in over 30 years -- which is as far back as records and memory permit. By applying the national average passenger train accident rates instead of individual railroad accident statistics, the DEIS significantly overestimates the potential for any adverse post-Transaction safety impacts. This is demonstrated by considering the FRA train accident database, a much larger database with greater statistical confidence. Conrail has an accident rate that is close to the national average while the accident rate of NS is considerably lower. NS' average accident rate over the past three years is approximately 40% below the national average. Applying such a factor to the passenger rail safety analysis would more accurately predict accident probabilities on NS. Such a correction would show that rail line segments N-120, N-121, N-497, and N-063 will have a predicted post-Transaction interval between passenger collisions of over 150 years.

NS has reviewed the NS rail line segments where DEIS recommended "superior" trains. Dispatching for the segment Campbell Hall, NY to Port Jervis, NY (N-063) will be the responsibility of New Jersey Transit, and thus imposing mitigation under the EIS would be inappropriate. The segment Kalamazoo, MI to Porter, IN (N-497) is owned and dispatched by Amtrak and is neither the responsibility of NS, nor a suitable candidate for the imposition of mitigation under the FEIS.

NS also believes that the Porter, IN to Chicago, IL mitigation is unsubstantiated. The route consists of four segments: N-308, N-309, N-042 and N-047. Two of these segments (N-308 and N-309) are not even found in the DEIS analysis in Attachment B-2 (Appendix B, Volume 5-A) since they either have a predicted decrease in traffic or a negligible increase of 0.1 trains. For the segments N-042 and N-047, the DEIS itself indicates accident intervals of 3,970 years and 604 years, respectively. These rates are substantially less frequent than the 150-year interval

established by the DEIS for being significant, and thus these two segments should not have been included for mitigation. SEA should also refrain from imposing DEIS Mitigation No. 2(B) on this route because, as indicated earlier, there will be **no increase** in CP traffic on line segment (N-308) but only retention of the **same CP traffic** on the line if CP is given haulage rights by NS. This route is double and triple track with bi-directional CTC. Therefore, the entire route from Porter, IN to Chicago, IL should be deleted in the FEIS as requiring mitigation.¹³

4.2.3 The Proposed Mitigation Relies on Archaic Notions of Train Operation That Overlook the Existence of Modern Signaling.

Even assuming that some passenger safety mitigation were warranted, the proposed assignment of “superior” status to one type of train over another, and the proposed temporal separation of trains (e.g., the 15/30 minute separation rule proposed in the DEIS) would re-introduce into railroading outmoded and outdated operating procedures. The proposed mitigation is outdated in concept, would distract from safety, and would cause huge disruptions to NS’ operations (especially on the Porter to Chicago route), impairing NS’ ability to achieve significant Transaction-related safety and efficiency benefits.

While train superiority and temporal separation rules played a role in ordering train operations in the era prior to the introduction of modern train signals and communications, these procedures were rendered obsolete beginning in the early 20th century, with the advent of modern signals. Today, neither FRA rules nor rail operational rulebooks utilize the concepts of train superiority or temporal separation. Even when such rules were in effect -- decades ago and prior to the advent of modern signals -- rail rulebooks provided for a train to clear five minutes ahead of a passenger train schedule. On non-signaled main tracks, trains followed with a ten-minute interval. Trains were never required to remain clear of the track after passage of a train, merely to follow according to signal rules or the “dark territory” (no signals) separation prescribed. A 30-minute “balloon” around each passenger train was unheard of, even in the 1940's. Further, in the era when separation rules were in effect, such “superiority” rules were not

¹³ Also, the Board generally does not regulate haulage, which is a private contractual arrangement among carriers. The DEIS seems to equate haulage with trackage rights, but trackage rights are a Board-recorded legal right to use a rail line that may not be begun or terminated without Board approval. NS has no intention of granting CP trackage rights between Porter and Chicago. Finally, if any such mitigation is imposed on this particular route, at a minimum it should be tied to “commencement of haulage rights,” not the granting of such rights.

designed as a safety measure at all, but as a means of enhancing the opportunity for trains to maintain on-time schedules.

Each of the five NS line segments identified for mitigation is fully signaled with modern signals. Each line has Automatic Block Signals that provide the engineer with information about other trains or broken rails within the block covered by the signal. Each line is also equipped with Train Control System signals ("TCS"). This is a remote dispatcher-controlled centralized train control system that provides the train engineer with additional information about authority for movement including route and speed at control points, in addition to the "train or broken rail in block" information provided by Automatic Block Signals.

These signals and train control systems will allow NS trains and passenger trains to operate over the same track with safe headways of approximately four to five minutes between the trains. Such signals and systems provide tolerances that allow all trains, both freight and passenger, to safely share the same tracks. These systems are designed to prevent train collisions, while enhancing track capacity and service efficiency. The systems are recognized as safe by the FRA and are in use throughout the rail industry. The analysis of the collisions discussed above underscores the fact that signals are in fact working to prevent trains from being struck from the rear.

Modern signals and centralized train control provide a uniform and proven method of achieving the safe separation of trains that the DEIS seeks. By contrast, the temporal separation that is envisioned in the DEIS would not enhance safety beyond the levels achieved through these modern signal and train control systems, but could well detract from the safety of rail operations. The proposed mitigation measures would effectively undermine the utility and consistency of these safety systems on the five line segments, in favor of an unconventional, non-technological approach for those segments of the type that pre-dates modern railroad operations. The introduction of this type of unusual operating rule on the five line segments would undermine the safety that is achieved through the use of the uniform rules now in effect, introducing a "wild card" into NS train operations. From a safety perspective, the introduction of such non-uniform rules enhances the possibility of confusion and human error -- thereby resulting in the potential for a net reduction in safety.

4.2.4 The Proposed Mitigation is Inconsistent with the DEIS Description of Appropriate Passenger Train Safety Mitigation Set Forth in Sections 3.2.3 and 3.3.3 of the DEIS.

As noted above, the proposed mitigation is also not consistent with the DEIS description of appropriate passenger train safety mitigation. Beginning at DEIS, 3-7, Section 3.2.3 lists a series of potential passenger/freight train safety mitigation measures that the DEIS deemed appropriate to consider in connection with its analysis of Transaction-related safety impacts, but does not include passenger train superiority or temporal separations on the list.

The measures that are identified in the DEIS at Section 3.2.3 (and incorporated for passenger trains by Section 3.3.3) offer a more appropriate series of potential approaches to the enhancement of operating safety on lines over which both freight and passenger operations are conducted. As described in Appendix NS-1, NS already adheres to each of the pertinent safety mitigation measures that are identified in Chapter 3 of the DEIS and will do so with the line segments NS will operate. These measures provide a formidable, uniform and consistent measure of safety for the identified line segments, consistent with modern procedures and technologies. *The Transaction will not undermine, or change in any way, the utility of any of these safety measures, and thus no mitigation is required.*

4.2.5 The Proposed Mitigation Would Effectively Confiscate NS Lines, Lead to More Truck Traffic and Eliminate Important Transaction-Related Benefits.

Were the proposed mitigation rule adopted, it would cause huge disruptions to NS' east-west operations, effectively confiscating NS' ability to use the Porter, IN to Chicago, IL route and achieve significant Transaction-related safety and transportation benefits. In these circumstances, the absence of any demonstrable safety benefit offered by the proposal, and the absence of any evidence that the increased level of freight operations poses a risk to passenger safety, strongly argues against adoption of the proposed mitigation. Nothing in NEPA requires a different result.

A 15/30 minute separation rule on the NS system would, on at least some of the line segments identified for such mitigation, make it impossible for freight trains and passenger trains to share the same tracks during periods of significant passenger use of the tracks. The problem would be particularly acute on the Porter to Chicago route, over which significant Amtrak operations are conducted.

The 30-minute separation balloon would have the effect of terminating virtually all freight service on the Porter to Chicago route and thus on NS' Chicago to New York area main line during daytime hours. The effective confiscation of NS' major east-west line for the benefit of passenger service would not only terminate efficient rail operations, but would disable NS' efforts to divert time-sensitive intermodal freight from less safe, and less environmentally friendly, highway carriage to the national rail system.

Further, the availability of passenger transportation could also suffer. If 30 or 15 minute separation windows were adopted, NS would be unable to entertain any proposals from Amtrak to expand its services on this route, with additional frequencies without major investments, on Amtrak's part, in additional capacity. *The proposed mitigation would effectively destroy the operational basis on which NS is able to accommodate extensive Amtrak service on its lines, and hinder NS' ability to work cooperatively with Amtrak with respect to future passenger service enhancements.*

4.2.6 Any Additional Safety Measures Should Be Carefully Considered in Coordination with FRA and the Passenger Agencies.

For all of the reasons stated above, NS does not believe that any special mitigation measures are called for in connection with the line segments identified for mitigation in the DEIS. However, if any mitigation were to be imposed, the Board could appropriately consider a provision for consultations by NS with FRA and other relevant parties over possible further passenger train safety enhancements that may be appropriate for these line segments. Such a mitigation approach would be consistent with the settled proposition that where other governmental agencies have jurisdiction over matters that might warrant mitigation, the Board, lacking such jurisdiction, satisfies its NEPA obligations by identifying the issues that those agencies might address. See Robertson, 490 U.S. at 352-353; CEQ Release, 46 Fed. Reg. 18031-32 (an EIS can appropriately identify matters outside the lead agency's jurisdiction so as to alert appropriate officials of other agencies).

NS already retains an open dialogue on safety issues with the FRA and Amtrak. It is prepared to engage in careful and considered deliberation and study of safety issues on these line segments. Such considered rail industry and FRA safety consultations offer the appropriate response to any legitimate safety concerns involving passenger operations.

4.3 Safety: Highway/Rail At-Grade Crossings

The DEIS treatment of grade crossing safety provides some useful information for consideration by state Departments of Transportation (DOTs) but is otherwise seriously flawed. Most importantly, the DEIS is in direct conflict with federal statutes and duly promulgated regulations assigning the state DOTs the primary responsibility for highway railroad crossing warning systems. In doing so, the DEIS would displace States' authority and well-established methods and processes for mitigating any potential grade crossing safety impacts. *Rather than requiring mitigation based on flawed analysis, the more appropriate and readily available alternative is to require NS to provide information on expected train traffic levels and to consult with the state DOTs.* This would assure any significant impacts are properly mitigated based on the substantial expertise and established practices of those with the necessary expertise and the duly assigned responsibility for grade crossing safety.

The DEIS treatment would preempt states' discretion to select the best method for ranking crossings in their state for further analysis. The DEIS then prematurely leaps directly from what is designed and intended to serve only as a preliminary ranking method to a mitigation requirement, ignoring the critically important analysis by state DOTs of state, local and site-specific considerations. Such state analysis is critical to determine whether any upgrade to warning devices is in order and, if so, the best type and design of the upgrade. The DEIS has specified installation of some devices which have not been sanctioned by the Manual of Uniform Traffic Control Devices and which are being used only on an experimental or limited basis in carefully selected locations. These DEIS recommendations were apparently made without any site evaluation to assure the upgrade would be a safe alternative or is even feasible at the specified crossings. The DEIS also recommends upgrades at numerous grade crossings where the specified upgrades have already been made, and at others where the specified upgrades have already been funded and scheduled. This reinforces the need for these issues to be addressed by the state DOTs' experts in consultation with the railroads.

The DEIS applied the U.S. DOT Accident and Severity Prediction Formula to identify crossings which it believes should be upgraded. NS believes that SEA has misused the formula for an unintended purpose. The primary role of the formula is to help state DOTs rank crossings and to identify crossings that potentially need safety improvements. In short, the formula simply identifies crossings for further evaluation. The formula is not intended to be used, as the DEIS has done, as the sole basis for determining the need to upgrade the warning device at a crossing. Application of the formula is just part of the processes used by state DOTs, which take into account many other factors (including completion of field investigations) that may influence

accident rates. Only after the full process is completed can an informed judgment be made on whether the warning device at a crossing should be upgraded. The DEIS does not indicate that field investigations were completed, that FRA data were verified, or that the appropriateness of proposed upgrade measures was evaluated. Because these steps were not conducted as part of the analysis, the conclusions and recommendations for mitigation are largely unsubstantiated.

After careful review and analysis, NS believes that 34 of the 44 crossings recommended by SEA for permanent upgrade should be dropped from consideration for such upgrades based on one or more of the following reasons:

- They do not meet the DEIS Category A or Category B significance criteria using 1991-1995 accident histories.
- They do not meet the DEIS Category A or Category B significance criteria using 1992-1996 accident histories.
- The upgrade device has already been installed or is already scheduled and funded for construction.

4.3.1 Display of a Toll-Free Number

The DEIS recommends that NS install emergency information signs that prominently display a toll-free telephone number and a unique crossing number at all grade crossings with active warning devices. In addition, SEA recommends that NS provide 24-hour, seven-day-a-week staffing to respond to calls to the toll-free telephone number. NS has already, independently of the proposed Transaction, equipped all of its public crossings and certain private crossings with such signs. All crossings, public or private, with active warning devices are equipped with signs asking the public to report signal malfunctions to a toll free number. These signs are located on the signal mast, and, where applicable, on the gate. Passive crossings (including marked private crossings) have a sign, mounted on each crossbuck pole, urging motorists to report a stalled vehicle blocking a crossing or other emergency to the same toll-free telephone number. All calls are received by personnel at NS' Police Communications Center, which is staffed 24-hours a day, seven-days-a-week.

NS concurs that this is a prudent action. Upon approval of the proposed Transaction, NS will install signs that display a toll-free number and a unique crossing number on all Conrail public at-grade crossings allocated to NS within two years following the control date. Further,

NS and CSX will coordinate with the Conrail Shared Assets Operator to ensure that a similar program is implemented within the Shared Assets Areas, within the same time frame.

4.3.2 Discussion of Analysis Method

For individual grade crossings, SEA has proposed mitigation for upgraded warning devices at highway/rail crossings based solely on the outcome of an analytical method used to model potential risk of safety impacts. The analytical method is part of a procedure developed by the U.S. Department of Transportation and published in a document titled "Rail-Highway Crossing Resource Allocation Procedure - User's Guide, Third Edition, August 1987." The part of the procedure used by SEA is called the DOT Accident and Severity Prediction Formula. The formula predicts the number of accidents and casualties at a crossing based on data on the characteristics of and the reported collision history for the crossing which is obtained from FRA's crossing grade inventory and collision files. The data is prepared on an annual basis after all information from the previous year has been incorporated in the files.

The DEIS has used the DOT Accident and Severity Prediction formula for a non-intended purpose. The Rail-Highway Crossing Resource Allocation Procedure clearly states that the primary role of the formula is to rank crossings by number of predicted accidents in order to identify crossings that potentially qualify for safety improvements appropriate to state-wide needs. The procedure is not intended to single out crossings on a national basis without considering the many other factors, including criteria appropriate to the individual state, which may influence accident rates.

Further, the federal regulations do not dictate a particular hazard ranking formula, but instead leave it to each state to select a formula best suited to its needs. Thus, decisions as to grade crossing improvements are made by each state applying its own criteria, which may differ from criteria used in other states. This is consistent with the federal scheme calling for state highway authorities to utilize their expertise to improve crossing safety within their borders.

The Federal Grade Crossing Program is based on the premise that a state's traffic engineers, who have been making similar judgments on signalization of intersections throughout the state for many years, have a much higher degree of expertise in traffic control than does the railroad. Only in this manner can it be ensured that the crossings which the state deems most hazardous are upgraded before crossings which are deemed less hazardous, and that the state's determination of relative hazard is based on a hazard ranking formula chosen by the state.

The formula used in the DEIS is part of a DOT procedure referenced in the "Rail-Highway Crossing Resource Allocation Procedure Users's Guide, Third Edition" which states:

"Results of the DOT Procedure, findings of the diagnostic team, inclusion of any state warrants, and the judgment of state and local officials **should all be considered** before final improvement decisions are made" (emphasis added).

There is no indication in the DEIS that a diagnostic team evaluated the crossing sites and the proposed mitigation or that the appropriate state agencies were involved in the decision-making process.

A diagnostic team, consisting of experts with knowledge of local and state-wide needs, must conduct a field investigation to ensure the accuracy of the input data. (The FRA acknowledges that its grade crossing inventory database contains errors due to keypunch and submission errors.) The diagnostic team also needs to examine other critical factors that are not taken into consideration with the DOT Accident Prediction and Severity Formula, and which can only be examined by a field investigation. Examples of these factors include sight-distance, roadway geometrics, highway congestion, local topography, frequency of high-occupancy vehicles, and frequency of hazardous materials transport vehicles. Diagnostic teams can determine revised cost-effective improvement decisions for particular crossings where data from FRA files is found to be incorrect. The revised results obtained by the diagnostic team can then form a useful basis upon which state and local officials can finalize crossing improvement programs.

4.3.3 Four-Quadrant Gates and Median Barriers

The DEIS has proposed mitigation including the installation of four-quadrant gates and median barriers for certain NS crossings in Indiana, Pennsylvania, Virginia and Ohio. SEA's mitigation proposal appears to be based solely on the outcome of the DOT Accident and Severity Prediction Formula, without involvement of state and local officials or diagnostic review by such officials.

Four-quadrant gates and median barriers are not presently approved by the FRA or the Manual of Uniform Traffic Control Devices (MUTCD). The MUTCD places the responsibility for the design, placement, operation and maintenance of traffic control devices with the governmental body or official having jurisdiction. In virtually all states, traffic control devices are required by statute to substantially conform to the MUTCD. Experimental devices such as

four-quadrant gates and median barriers require a request for permission of experiment from the governmental agency or private toll facility responsible for the operation of the road or street on which the experiment is to take place.

Furthermore, in those instances in which four-quadrant gates and median barriers have been installed on an experimental basis, preliminary studies have been conducted first. Each such preliminary study involved an evaluation of the geometric features, road width, and other local conditions on a case-by-case basis. The study first identified if a need existed, and if so, what device was best suited to fulfill the need at each particular location. For instance, four-quadrant gates were found best suited for roadway facilities over 45-feet wide and median barriers were only deemed appropriate where there was no road or driveway connections within 70 to 100-feet of the crossing.

4.3.4 Funding of Grade Crossing Warning Upgrades

The DEIS is silent on funding for grade crossing upgrades and leaves unclear the mechanism for assuring the requisite and customary funding participation by state stakeholders. The proposed mitigation may thus be inconsistent with the message and the spirit of the national grade crossing safety program and with FHWA's requirements.

The assignment of the responsibility for grade crossing safety to governmental agencies has carefully evolved over many years. In the early 1960s, the Interstate Commerce Commission concluded:

Highway users are the principal recipients of the benefits following from rail-highway grade separations and from special protections at rail-highway grade crossings. For this reason the cost of installing and maintaining such separations and protective devices is a public responsibility and should be financed with public funds the same as highway traffic devices.

These general approaches were adopted by the U.S. Congress in 1973 when it enacted 23 U.S.C. § 130(d). The congressional mandate was implemented by FHWA's requirements in 23 C.F.R. § 924.9 and in 23 C.F.R. § 646.210 (1), which reads as follows:

- (1) Projects for grade crossing improvements are deemed to be of no ascertainable net benefit to the railroads and there shall be no required railroad share of the costs.

The DEIS has failed to acknowledge the process which state authorities might follow to evaluate a hierarchy of options on a cost effective basis. The foremost option is to close the crossing if it is deemed redundant and/or unsafe. A closed crossing eliminates the possibility of collision; however, closing a crossing is not always possible because of high traffic volumes or a lack of alternative routes. The second option is the installation of additional passive devices such as stop or yield signs. The third option is the addition of flashing lights or flashing lights and gates. The fourth option, and by far the most costly, is to grade separate the crossing.

4.3.5 Suggested Revisions and Corrections to Table 7-4

The following inconsistencies illustrate the weakness of the DEIS' use of the FRA formula to require specific mitigations.

NS reviewed the proposed mitigation in DEIS Table 7-4 at 7-26 to 7-33, and has identified thirteen crossings apparently inadvertently included as requiring mitigation. These 13 crossings as reported in Attachment B-7 of the DEIS do not have accident prediction values that meet the DEIS' proposed significance criteria of an increase of one accident every 100 years for a Category A crossing or an increase of one accident every 20 years for a Category B crossing (see Tables 4.3.1, 4.3.2 and 4.3.3). These crossings are as follows:

IN 484248X	NY 471825F	OH 473726P	MD 534887F
IN 484209G	PA 471940M	OH 473668W	
IN 484246J	PA 592290T	OH 473673T	
IN 478240E	PA 592320H	OH 473680D	

There are also several NS crossings included in DEIS Table 7-4 that already have upgrades completed. The installed devices meet or exceed the mitigation recommended by the DEIS. Also, the appropriate public agency with jurisdictional authority has scheduled improvements at several other locations that have been included in Table 7-4. These crossings are already funded and are due to be constructed within the next ten months, under the respective agency's grade crossing program. These crossings should be removed from Table 7-4.

NS locations where upgrades are already installed:

<u>AAR/DOT #</u>	<u>Type Device Installed</u>	<u>In-Service Date</u>
IL 479848P	Installed Flashing Lights With Gates	7/1/93
IN 478314U	Installed Flashing Lights With Gates	6/4/97
MD 469321F	Installed Flashing Lights With Gates	1/3/96
OH 472012W	Installed Flashing Lights With Gates	5/13/97
OH 481584W	Installed Flashing Lights With Gates	8/13/97
OH 481490V	Installed Flashing Lights With Gates	7/2/97

NS locations currently scheduled and funded:

IN 478216D	Project #05.0241	Add Gates
IN 478270W	Project #05.1062	Add Gates
OH 481546M	Project #10.0317	Add Flashing Lights with Gates
VA 468634S	Project #13.0458	Add Flashing Lights with Gates
IN 484282E	Project #05.0243	Add Gates

When SEA performed its highway/rail at-grade crossing analysis, the most recent five-years of accident history available was the 1991 through 1995 period. Accident history data for the period 1992 through 1996 subsequently became available. Applying the DOT Accident Prediction and Severity Formula to this most recent data, several crossings in Table 7-4 do not exceed the DEIS Category A or DEIS Category B significance criteria (see Tables 4.3.1, 4.3.2 and 4.3.3). *Based on analysis using the most recent accident history, the requirement to provide upgraded warning devices at the following crossings to mitigate safety impacts should be deleted.*

IN 474598M	OH 481547U	PA 535146X	PA 592295C
IN 484216S	OH 503133H	VA 468599F	OH 481660M
IN 484229T	OH 472284J	IN 484269R	

It is possible that utilizing the most recent accident history data for this analysis will result in additional crossings exceeding the significance criteria. In that event, such additional crossings would be added to those being brought to the attention of the state DOTs.

TABLE 4.3.1
 Norfolk Southern Analysis
 DOT Accident Prediction Summary
 1992 - 1996 Accident History

ST	TRN CO.	COUNTY	STREET	FRA ID	Estimated Annual Accident Frequency		CATEGORY	INCREASE IN FREQUENCY	TRIP THRESHOLD	STATE TOP 50
					Pre-Transaction	Post-Transaction				
IN	NS	MADISON	CO RD 100 E	474598M	0.023	0.044	B	0.021	NO	NO
IN	NS	CASS	CEDAR ST.	484216S	0.115	0.142	B	0.027	NO	NO
IN	NS	CASS	18TH STREET	484229T	0.111	0.135	B	0.036	NO	NO
IN	NS	TIPPECANOE	CR 900 N	484267C	0.390	0.462	A	0.072	YES	YES
IN	NS	TIPPECANOE	CR 700 N	484269R	0.106	0.132	B	0.026	NO	NO
IN	NS	TIPPECANOE	8TH STREET	484302N	0.103	0.120	B	0.017	NO	NO
IN	NS	TIPPECANOE	7TH STREET	484303V	0.175	0.199	A	0.024	YES	NO
IN	NS	TIPPECANOE	ROMIG ST	484306R	0.225	0.255	A	0.030	YES	NO
IN	NS	TIPPECANOE	5TH STREET	484308E	0.158	0.182	A	0.024	YES	NO
IN	NS	TIPPECANOE	4TH ST U.S. 231	484309L	0.102	0.116	B	0.014	NO	NO
IN	NS	TIPPECANOE	SMITH ST	484311M	0.103	0.118	B	0.016	NO	NO
IN	NS	TIPPECANOE	CO 172/ TURNER RD	484323G	0.169	0.194	A	0.025	YES	NO
IN	NS	ALLEN	NOTESTINE RD	478188C	0.196	0.233	A	0.037	YES	NO
IN	NS	ALLEN	ANTHONY BLVD	478226J	0.163	0.189	A	0.026	YES	NO
IN	NS	WABASH	OLIVE STREET	478313M	0.179	0.209	A	0.030	YES	NO
IN	NS	CARROLL	MERIDIAN LINE	484248X	0.090	0.112	B	0.022	NO	NO
IN	NS	MIAMI	CO RD 250 W	484209G	0.098	0.122	B	0.024	NO	NO
IN	NS	CARROLL	WASHING ST/ CR 100E	484246J	0.090	0.112	B	0.022	NO	NO
IN	NS	ALLEN	ENGLE ROAD	478240E	0.145	0.165	B	0.020	NO	NO
NY	NS	CHAUTAUQUA	LOOMIS STREET	471825F	0.068	0.081	B	0.013	NO	NO
PA	CR	CUMBERLAND	CRISWALL	592295C	0.117	0.137	B	0.020	NO	NO
PA	CR	FRANKLIN	GUILFRD SPRNGS RD	535146X	0.039	0.048	B	0.010	NO	NO
PA	CR	FRANKLIN	HAYES RD	535163N	0.242	0.274	A	0.032	YES	YES
PA	NS	ERIE	LUCAS	471940M	0.110	0.127	B	0.016	NO	NO
PA	CR	CUMBERLAND	SR74/ BRANDTSVILLE	592290T	0.120	0.135	A	0.025	YES	NO
PA	CR	CUMBERLAND	MILL	592320H	0.084	0.098	B	0.014	NO	NO
VA	NS	CLARKE	SR 7/ BERRYVILLE	468599F	0.025	0.031	B	0.006	NO	NO
OH	NS	LORAIN	KANSAS AVE.	472284J	0.032	0.043	B	0.012	NO	NO
OH	NS	MARION	190/ TOBIAS RD	481547U	0.107	0.116	B	0.009	NO	NO
OH	NS	TRUMBULL	BRADLEY-BROWNL	503133H	0.014	0.018	B	0.005	NO	NO
OH	CR	TRUMBULL	WARREN-SHARON RD.	544729H	0.157	0.186	A	0.029	YES	YES
OH	NS	ERIE	SKADDEN/ CR 42	481680M	0.064	0.111	B	0.047	NO	NO
OH	NS	SANDUSKY	UNKNOWN	473726P	0.026	0.044	B	0.018	NO	NO
OH	NS	SANDUSKY	KILBOURNE	473668W	0.117	0.153	B	0.047	NO	NO
OH	NS	SANDUSKY	CR292	473673T	0.088	0.125	B	0.037	NO	NO
OH	NS	SANDUSKY	CR175	473680D	0.012	0.021	B	0.008	NO	NO
MI	CR	WAYNE	PENNSYLVANIA RD.	511027V	0.133	0.200	B	0.083	YES	NO
MD	CR	WASHINGTON	REIFF CHURCH RD	534883D	0.088	0.104	A	0.015	YES	YES
MD	CR	WASHINGTON	SHAWLEY DR	534887F	0.027	0.034	B	0.008	NO	NO

TABLE 4.3.2
 Norfolk Southern Analysis
 DOT Accident Prediction Pre-Transaction Case
 1992 - 1996 Accident History

ST	TRN CO.	COUNTY	STREET	FRAID	EXISTING DEVICE	ADT	PRE TRNS PER DAY	EXPOSURE INDEX	DAY THRU	MAX. TT SPEED	MAIN TRKS FACTOR	HWY PAVED FACTOR	HWY LANES FACTOR	BASIC FORMULA INITIAL (ACCIDENTS/YR)	WEIGHTING FACTOR	OBSERVED ACCIDENTS 1992-1996	PREDICTED ACCIDENTS PER YR	NORMALIZING CONSTANTS (ACCIDENTS/YR)	
																		HP	HL	TO	PASSIVE LIGHTS A(0.824)	FLASHING LIGHTS A(0.871)
IN	NS	MADISON	CO RD 100 E	474598M	PASSIVE	619	2.6	27.868	1.347	1.587	1.000	1.000	1.000	0.041	10.949	0	0.028	0.023	
IN	NS	CASS	CEDAR ST.	484216S	PASSIVE	351	18.4	46.598	1.849	1.587	1.000	1.000	1.000	0.095	6.901	1	0.139	0.115	
IN	NS	CASS	18TH STREET	484229T	FLASHING LIGHTS	3000	18.4	171.411	1.492	1.000	1.211	1.000	1.200	0.125	5.728	1	0.160	0.111	
IN	NS	TIPPECANOE	CR 900 N	484267C	PASSIVE	1188	18.4	73.162	1.849	1.587	1.000	1.000	1.000	0.149	5.025	4	0.474	0.390	
IN	NS	TIPPECANOE	CR 700 N	484269R	PASSIVE	237	18.4	40.296	1.849	1.587	1.000	1.000	1.000	0.082	7.572	1	0.129	0.106	
IN	NS	TIPPECANOE	8TH STREET	484302N	PASSIVE	289	23.6	47.548	1.931	1.212	1.000	1.000	1.000	0.077	7.861	1	0.125	0.103	
IN	NS	TIPPECANOE	7TH STREET	484303V	FLASHING LIGHTS	1375	23.6	137.817	1.519	1.000	1.467	1.000	1.200	0.124	5.762	2	0.252	0.175	
IN	NS	TIPPECANOE	ROWIG ST	484306R	FLASHING LIGHTS	982	23.6	120.027	1.519	1.000	1.467	1.000	1.200	0.108	6.345	3	0.325	0.225	
IN	NS	TIPPECANOE	5TH STREET	484308E	PASSIVE	209	23.6	42.175	1.931	1.212	1.000	1.000	1.000	0.068	8.440	2	0.192	0.158	
IN	NS	TIPPECANOE	4TH ST U.S. 231	484309L	GATES	12060	23.6	64.807	1.931	1.000	1.353	1.000	1.153	0.112	6.180	1	0.151	0.103	
IN	NS	TIPPECANOE	SMITH ST	484311M	FLASHING LIGHTS	968	23.6	119.220	1.519	1.000	1.467	1.000	1.200	0.107	6.374	1	0.148	0.103	
IN	NS	TIPPECANOE	CO 179/ TURNER RD	484323G	PASSIVE	127	23.6	35.076	2.044	1.587	1.000	1.000	1.000	0.079	7.754	2	0.205	0.159	
IN	NS	ALLEN	NOTESTINE RD	478186C	PASSIVE	800	13.6	56.516	1.756	1.587	1.000	1.000	1.000	0.109	6.278	2	0.238	0.196	
IN	NS	ALLEN	ANTHONY BLVD	478226J	GATES	16330	13.6	60.060	1.845	1.000	1.353	1.000	1.328	0.114	6.081	2	0.243	0.179	
IN	NS	WABASH	OLIVE STREET	478313M	PASSIVE	250	19	41.591	1.965	1.587	1.000	1.000	1.000	0.090	7.142	2	0.218	0.179	
IN	NS	CARROLL	MERIDIAN LINE	484248X	PASSIVE	100	18.4	29.283	1.849	1.587	1.000	1.000	1.000	0.080	9.121	1	0.109	0.090	
IN	NS	MIAMI	CO RD 250 W	484209G	PASSIVE	155	18.4	35.244	1.821	1.587	1.000	1.000	1.000	0.071	8.288	1	0.119	0.098	
IN	NS	CARROLL	WASHINGTON ST/ CR 100E	484246J	PASSIVE	100	18.4	29.283	1.849	1.587	1.000	1.000	1.000	0.080	9.121	1	0.109	0.090	
IN	NS	ALLEN	ENGLE ROAD	478240E	FLASHING LIGHTS	11000	19	296.107	1.531	1.000	1.211	1.000	1.200	0.221	3.692	1	0.209	0.145	
NY	NS	CHAUTAUQUA	LOOMIS STREET	471825F	PASSIVE	154	13	30.212	1.843	1.587	1.000	0.551	1.000	0.034	11.938	1	0.083	0.068	
PA	CR	CUMBERLAND	CRISWALL	592295C	PASSIVE	1070	11.1	58.380	1.789	1.361	1.000	1.000	1.000	0.099	6.790	1	0.142	0.117	
PA	CR	FRANKLIN	GUILFORD SPRINGS RD	535146X	PASSIVE	770	11.1	51.888	1.696	1.260	1.000	1.000	1.000	0.077	7.896	0	0.047	0.039	
PA	CR	FRANKLIN	HAYES RD	535163N	PASSIVE	180	11.1	28.902	1.876	1.260	1.000	1.000	1.000	0.047	10.287	4	0.294	0.242	
PA	NS	ERIE	LUCAS	471940M	PASSIVE	100	13	25.752	1.846	1.587	1.000	0.551	1.000	0.029	12.685	2	0.134	0.110	
PA	CR	CUMBERLAND	SR74/ BRANDTVILLE	592290T	GATES	3684	11.1	36.508	1.790	1.000	1.353	1.000	1.153	0.059	9.213	2	0.179	0.120	
PA	CR	CUMBERLAND	MILL	592220H	PASSIVE	190	11.1	30.799	1.789	1.361	1.000	1.000	1.000	0.052	9.802	1	0.102	0.084	
VA	NS	CLARKE	SR 7 BERRYVILLE	468599F	GATES	5315	11.1	40.664	1.819	1.000	1.163	1.000	1.153	0.057	9.349	0	0.037	0.025	
OH	NS	LORAIN	KANSAS AVE.	472284J	GATES	3463	13.5	38.039	1.969	1.000	1.163	1.000	1.531	0.077	7.897	0	0.047	0.032	
OH	NS	MARION	190/ TOBIAS RD	481547U	PASSIVE	130	26	36.671	2.065	1.597	1.000	1.000	1.000	0.083	7.498	1	0.130	0.107	
OH	NS	TRUMBULL	BRADLEY-BROWNLEE	503139H	GATES	530	11.7	20.960	1.758	1.000	1.163	1.000	1.153	0.028	12.756	0	0.020	0.014	
OH	CR	TRUMBULL	WAPREN-SHARON RD.	544729H	FLASHING LIGHTS	2925	11.7	140.860	1.431	1.000	1.211	1.000	1.200	0.098	6.748	2	0.227	0.157	
OH	NS	ERIE	SKADEW CR 42	481660M	PASSIVE	800	1.4	24.370	1.307	1.309	1.000	1.000	1.000	0.029	12.669	1	0.077	0.064	
OH	NS	SANDUSKY	UNKNOWN	473726P	PASSIVE	210	7.7	27.917	1.628	1.470	1.000	1.000	1.000	0.046	10.381	0	0.031	0.026	
OH	NS	SANDUSKY	KILBOURNE	473668W	GATES	9330	7.7	43.091	1.869	1.000	1.183	1.000	1.153	0.055	9.488	2	0.174	0.117	
OH	NS	SANDUSKY	CR292	473673T	PASSIVE	330	7.7	32.998	1.628	1.527	1.000	1.000	1.000	0.057	9.353	1	0.107	0.088	
OH	NS	SANDUSKY	CR175	473690D	GATES	710	7.7	20.197	1.628	1.000	1.163	1.000	1.153	0.025	13.275	0	0.018	0.012	
MI	CR	WAYNE	PENNSYLVANIA RD.	511027V	FLASHING LIGHTS	10588	2	115.572	1.225	1.000	1.211	1.000	1.200	0.069	8.406	2	0.192	0.133	
MD	CR	WASHINGTON	REIFF CHURCH RD	534883D	PASSIVE	325	11.1	37.566	1.750	1.260	1.000	1.000	1.000	0.057	9.305	1	0.107	0.088	
MD	CR	WASHINGTON	SHAWLEY DR	534887F	PASSIVE	200	11.1	31.389	1.750	1.260	1.000	1.000	1.000	0.048	10.202	0	0.032	0.027	

TABLE 4.3.3
 Norfolk Southern Analysis
 DOT Accident Prediction Post-Transaction Case
 1992 - 1996 Accident History

ST	TRN CO.	COUNTY	STREET	FRA ID	EXISTING DEVICE	ADT	POST TRNS PER DAY	EXPOSURE INDEX	DAY THRU	MAX. TT SPEED FACTOR	MAIN TRKS FACTOR	HWY PAVED FACTOR	HWY LANES FACTOR	BASIC FORMULA INITIAL	WEIGHTING FACTOR	NO. YRS	NO. OBSERVED ACCIDENTS	PREDICTED ACCIDENTS PER YR	NORMALIZING CONSTANTS		
																			PASSIVE	GATES	
IN	NS	MADISON	CO RD 100 E	474593M	PASSIVE	619	11.8	48.769	1.714	1.567	1.000	1.000	1.000	0.092	7.039	5	0	0.054	0.044	0.142	0.135
IN	NS	CASS	CEDAR ST	484216S	PASSIVE	351	40.2	62.223	2.119	1.587	1.000	1.000	1.000	0.145	5.123	5	1	0.172	0.142	0.135	
IN	NS	CASS	18TH STREET	484229T	FLASHING LIGHTS	3000	40.2	236.265	1.627	1.000	1.211	1.000	1.000	0.187	4.213	5	1	0.194	0.135		
IN	NS	TIPPECANOE	CR 900 N	484267C	PASSIVE	1188	40.2	97.693	2.119	1.587	1.000	1.000	1.000	0.228	3.698	5	4	0.561	0.462		
IN	NS	TIPPECANOE	CR 700 N	484269R	PASSIVE	237	40.2	53.807	2.119	1.587	1.000	1.000	1.000	0.126	5.698	5	1	0.160	0.192		
IN	NS	TIPPECANOE	8TH STREET	484302N	PASSIVE	289	41	58.329	2.126	1.212	1.000	1.000	1.000	0.104	6.480	5	1	0.146	0.120		
IN	NS	TIPPECANOE	FLASHING LIGHTS	484303V	FLASHING LIGHTS	1975	41	172.900	1.615	1.000	1.467	1.000	1.000	0.165	4.656	5	2	0.287	0.199		
IN	NS	TIPPECANOE	ROMIG ST	484306R	FLASHING LIGHTS	982	41	150.560	1.615	1.000	1.467	1.000	1.000	0.144	5.167	5	3	0.368	0.255		
IN	NS	TIPPECANOE	5TH STREET	484308E	PASSIVE	209	41	51.738	2.126	1.212	1.000	1.000	1.000	0.145	7.016	5	2	0.220	0.182		
IN	NS	TIPPECANOE	4TH ST U.S. 231	484309L	GATES	12060	41	76.006	2.127	1.000	1.353	1.000	1.153	0.145	5.132	5	1	0.172	0.116		
IN	NS	TIPPECANOE	SMITH ST	484311M	FLASHING LIGHTS	966	41	149.568	1.615	1.000	1.467	1.000	1.000	0.143	5.193	5	1	0.171	0.118		
IN	NS	TIPPECANOE	CO 172/TURNER RD	484322G	PASSIVE	127	41	43.929	2.252	1.587	1.000	1.000	1.000	0.107	6.381	5	2	0.236	0.194		
IN	NS	ALLEN	NOTESTINE RD	478188C	PASSIVE	800	27.3	73.138	1.980	1.587	1.000	1.000	1.000	0.159	4.773	5	2	0.283	0.233		
IN	NS	ALLEN	ANTHONY BLVD	478226J	GATES	16330	27.3	73.725	2.083	1.000	1.353	1.000	1.328	0.159	4.794	5	2	0.282	0.233		
IN	NS	WABASH	OLIVE STREET	478313M	PASSIVE	250	34.9	52.084	2.186	1.587	1.000	1.000	1.000	0.125	5.702	5	2	0.254	0.209		
IN	NS	CARROLL	MERIDIAN LINE	484248X	PASSIVE	100	40.2	39.101	2.119	1.587	1.000	1.000	1.000	0.091	7.030	5	1	0.136	0.112		
IN	NS	MIAMI	CO RD 250 W	484209G	PASSIVE	165	40.2	47.060	2.085	1.587	1.000	1.000	1.000	0.108	6.326	5	1	0.149	0.122		
IN	NS	CARROLL	WASHINGTON ST CR 100E	484246J	PASSIVE	100	40.2	39.101	2.119	1.587	1.000	1.000	1.000	0.091	7.030	5	1	0.136	0.112		
IN	NS	ALLEN	ENGLE ROAD	478242E	FLASHING LIGHTS	11000	34.9	380.082	1.638	1.000	1.211	1.000	1.200	0.303	2.830	5	1	0.237	0.165		
NY	NS	CHAUTAUGUA	LOOKUIS STREET	471825F	PASSIVE	154	25.1	38.538	2.068	1.587	1.000	0.551	1.000	0.048	10.174	5	1	0.098	0.081		
PA	CR	CUMBERLAND	CRISWALL	592295C	PASSIVE	1070	19.6	72.049	1.974	1.361	1.000	1.000	1.000	0.134	5.428	5	1	0.168	0.137		
PA	CR	FRANKLIN	GULF RD SPRINGS RD	535146X	PASSIVE	770	19.6	63.791	1.870	1.250	1.000	1.000	1.000	0.104	6.483	5	0	0.059	0.048		
PA	CR	FRANKLIN	HAYES RD	535163N	PASSIVE	160	19.6	35.669	2.071	1.260	1.000	1.000	1.000	0.065	8.728	5	4	0.332	0.274		
PA	NS	ERIE	LUCAS	471940M	PASSIVE	100	25.1	32.848	2.070	1.587	1.000	0.551	1.000	0.041	10.960	5	2	0.154	0.127		
PA	CR	CUMBERLAND	SR74 BRANDTSVILLE	592290T	GATES	3684	19.6	43.155	1.974	1.000	1.353	1.000	1.153	0.076	7.915	5	2	0.202	0.185		
PA	CR	CUMBERLAND	MILL	592320H	PASSIVE	190	19.6	38.010	1.974	1.361	1.000	1.000	1.000	0.071	8.277	5	1	0.119	0.098		
VA	NS	CLARKE	SR 77 BERRYVILLE	466599F	GATES	5315	19.6	48.069	2.007	1.000	1.163	1.000	1.153	0.074	8.044	5	0	0.046	0.031		
OH	NS	LORAIN	KANSAS AVE	472284J	GATES	3483	34.1	49.659	2.317	1.000	1.163	1.000	1.531	0.118	5.938	5	0	0.064	0.043		
OH	NS	MARION	190 TOBIAS RD	481547U	PASSIVE	130	34.3	40.630	2.167	1.587	1.000	1.000	1.000	0.097	6.804	5	1	0.141	0.116		
OH	NS	TRUMBULL	BRADLEY-BROWNLEE	503139H	GATES	530	23.8	25.929	1.987	1.000	1.163	1.000	1.153	0.040	11.168	5	0	0.027	0.018		
OH	CR	TRUMBULL	WARREN-SHARON RD.	544729H	FLASHING LIGHTS	2925	23.8	188.543	1.547	1.000	1.211	1.000	1.200	0.142	5.206	5	2	0.268	0.186		
OH	NS	ERIE	SKADDEN/CR 42	481660M	PASSIVE	800	11.7	53.156	1.835	1.309	1.000	1.000	1.000	0.089	7.189	5	1	0.195	0.111		
OH	NS	SANDUSKY	UNKNOOWN	473728P	PASSIVE	210	27.2	44.528	2.020	1.470	1.000	1.000	1.000	0.092	7.056	5	0	0.054	0.044		
OH	NS	SANDUSKY	KILBOURNE	473668W	GATES	9590	27.2	62.164	2.074	1.000	1.163	1.000	1.153	0.100	6.675	5	2	0.228	0.165		
OH	NS	SANDUSKY	CR332	473673T	PASSIVE	330	27.2	52.934	2.020	1.527	1.000	1.000	1.000	0.119	6.147	5	1	0.152	0.125		
OH	NS	SANDUSKY	CR175	473669D	GATES	710	27.2	29.277	2.021	1.000	1.163	1.000	1.153	0.046	10.462	5	0	0.031	0.021		
MI	CR	WAYNE	PENNSYLVANIA RD.	511027V	FLASHING LIGHTS	10568	11.2	234.454	1.464	1.000	1.211	1.000	1.200	0.167	4.604	5	2	0.288	0.200		
MD	CR	WASHINGTON	REFF CHURCH RD	534863D	PASSIVE	325	19.6	46.361	1.930	1.260	1.000	1.000	1.000	0.078	7.800	5	1	0.126	0.104		
MD	CR	WASHINGTON	SHAWLEY DR	534887F	PASSIVE	200	19.6	38.739	1.930	1.260	1.000	1.000	1.000	0.065	8.669	5	0	0.041	0.034		

In sum, a review of the 44 NS highway/rail at-grade crossings where the DEIS proposed permanent warning device upgrades shows that 34 of them should not be included in Table 7-4 because of one or more of the following reasons:

- They do not exceed DEIS Category A or Category B significance criteria using the 1991 through 1995 accident histories;
- They do not exceed DEIS Category A or Category B significance criteria using 1992 through 1996 accident histories;
- The upgraded device has already been installed; or
- The upgraded device is already scheduled for construction.

4.3.6 Responsibilities and Jurisdiction for Upgrading Grade Crossing Safety Devices

The DEIS specifically states in Section 7.2.3.8 at 7-15 and Table 7-4 at 7-26 to 7-33, “CSX and NS shall upgrade warning devices at 118 highway/rail at-grade crossings in the States of Illinois, Indiana, Kentucky, Maryland, Michigan, New York, Ohio, Pennsylvania, and Virginia as listed and specified in Table 7-4.” This statement implies that NS has the authority to determine need and selection of traffic control devices. The *Manual of Uniform Traffic Control Devices* (MUTCD) Section 1A-3 and Section 8A-1 places this responsibility on the public agency with jurisdictional authority. While NS should report crossings that have the potential of increased accident probabilities due to a change in operational or physical characteristics, and NS may recommend a particular warning device, it is ultimately the responsibility of the public agency to confirm the need and select the type of device. Under most circumstances, the public agency will fund the project and maintain the devices. The railroad’s role is normally to coordinate the design and construction of the project. Therefore, the DEIS statement in Volume 4, Chapter 7, Section 7.2.3.8 at 7-15 should be revised to say:

“SEA has identified grade crossings in the States of Illinois, Indiana, Kentucky, Maryland, Michigan, New York, Ohio, Pennsylvania, and Virginia as listed in Table 7-4, that have been ranked using the DOT Accident and Severity Prediction Formula. CSX and NS should notify the appropriate State agency with jurisdictional authority of the potential of increased accident probabilities for these crossings due to a change in operational characteristics so these crossings can be evaluated to determine if closing of the crossing or upgrade of the warning device is needed.”

4.4 Safety: Rail Transport of Hazardous Materials

The DEIS concludes that "[o]verall, the proposed Transaction should result in a slight safety improvement for rail transportation of hazardous materials and no significant system-wide adverse impacts related to hazardous materials transport." DEIS at ES-19. NS concurs and expects the improvements to be greater than described in the DEIS as the best of NS' and Conrail's practices are implemented system-wide. The DEIS recommends mitigations on 29 NS and 4 Shared Assets Areas rail line segments based on expected increases in hazardous materials traffic.

NS concurs with the large majority of these recommendations as prudent, but has concluded that certain aspects of the analysis and certain recommendations are unreasonable or impractical and should be amended. Recommendations that could postpone implementation of the Operating Plan, such as requiring implementation of OT-55B guidelines prior to increasing hazardous materials traffic on a rail line segment, are neither justified nor reasonable. The Board is obligated, as discussed in Section 2, to balance adverse environmental effects against offsetting positive environmental effects and, importantly, non-environmental public benefits to the Transaction. The recommendation that would establish a permanent new "rule" requiring drills or desk-top simulations on some line segments should have a sunset provision to allow those lines to be treated consistently with other similarly situated rail line segments after the first three years. The recommended adoption of a Failure Mode and Effects Analysis (FMEA) is aimed at pre-existing conditions and contradicted by the DEIS conclusion that yard activity is expected to decrease as a result of the Transaction. Each of these topics is discussed in more detail below.

Safety, including safe transport of hazardous materials, is Norfolk Southern's highest priority. This unflagging commitment, which goes far beyond simply complying with existing regulations and accepted industry practices, has resulted in NS' industry-leading safety performance. NS is dedicated to being a responsible member of the communities it serves and is also motivated by the tenet that safety is good business. Simply put, accidents are both damaging and expensive, and NS is devoted to preventing them. NS participates in many voluntary programs such as the guidelines of AAR Circular No. OT-55B - "Recommended Railroad Operating Practices for Transportation of Hazardous Materials," Responsible Care®, and the North American Non-Accident Release (NAR) Program. The intention of such programs is to voluntarily reduce risks, improve railroad performance, and thus to alleviate the need for even more government regulation. These programs have been very effective at reducing risks through innovative approaches. It is important that these efforts be encouraged and that Applicants retain

the flexibility to continue to seek improvements. Recommendations in the DEIS should be considered in this context.

NS is committed to improvements it expects to be effective and concurs with a number of the recommendations presented in the DEIS. Many of these recommendations relate to practices which have already been voluntarily implemented by NS, and therefore are not required as a mitigation condition. In some cases, there are established, cooperative mechanisms in place for developing new rules or standards. These mechanisms involve the participation of NS and other railroads and effective use of their tremendous reservoir of experience and talent. NS only objects to DEIS recommended requirements that may create burdens without commensurate safety benefits and recommended requirements where existing industry practices already address the issue.

4.4.1 Key Route Requirements

The DEIS applies the definition of a "key route" from OT-55B as a significance criterion: when hazardous materials traffic has increased from below to above 10,000 hazardous materials car loads per year, a line segment becomes a key route. NS concurs that this is an appropriate threshold and has itself adopted a stricter threshold of 9,000 car loads. NS supports the intent of the DEIS recommendation that NS should meet "key route" requirements on new key routes and that these existing standards and practices mitigate potential risks. However, as these industry standards are revised and improved, NS should retain the flexibility to adopt updated practices.

In addition to the OT-55B standards, which NS is committed to fulfill regardless of the Transaction, the DEIS recommends four additional requirements for "new key routes". The first is that, if NS has more stringent requirements than the provisions of the AAR "Key Route" and "Key Train" guidelines, NS shall comply with its own requirements. NS does have more stringent requirements and will comply with these. However, NS objects to its proactive responsibility being established as a condition by the STB. The actions required would not apply to other railroads and thus would create an inappropriate double-standard. Further, it could inhibit changes to NS practices aimed at further improving safety performance. *The recommendation to require Applicants, as a condition, to comply with their own more stringent key route requirements is neither necessary nor appropriate. NS recommends it not be included in the FEIS other than to acknowledge that NS has more stringent requirements with which it will voluntarily apply.*

The second additional DEIS recommendation is that NS implement the OT-55B requirements prior to increasing hazardous materials traffic on these lines. NS does not believe that such a condition is warranted because it adheres as a matter of practice to the industry-standard key route safety procedures set forth in the AAR circular. Thus, to the extent that any line segments meet the key route volume thresholds, NS would as a matter of long-standing practice apply the key route safety measures. In the event that such a condition were imposed, however, NS recommends that the condition be worded so that NS may retain the flexibility to adhere to any new industry standard that replaces, modifies or supplements the existing requirements in OT-55B. Those standards were developed in 1993, and could well be revised in future years. NS should be able to adhere to any future revised version of these standards without the need to seek Board approval.

As to the timing of implementation of any condition that may be adopted, NS notes that a determination of whether a route is a key route or not is made based on an assessment of the level of hazardous materials traffic on the route during the previous twelve months. Further, there will be no immediate overall change in traffic levels on these routes on Day One. Rather, the projected traffic increases are based on a growth of traffic over a three year period.

While NS is nonetheless prepared to comply with existing key route requirements in OT-55B for the identified line segments as of Day One, NS submits that any condition that might be imposed should allow for a one-year period following Day One before such a requirement would become effective. Also, any such condition should expire at the end of three years following Day One, after which time the determination of whether a line segment should be treated as a key route should be made in the same manner that it is made throughout the rest of the NS system (and the national rail system generally), i.e., on the basis of the actual level of hazardous materials carried. If the key route criteria are met, the key route obligations would attach.

A three-year time frame for any mitigation measure concerning these line segments is appropriate because the traffic projections on which the mitigation has been proposed are three year projections. If the projections prove accurate with respect to these line segments, then the key route test will have been met and NS would apply the key route measures identified in the AAR Circular. On the other hand, NS should not be bound to adhere to the key route obligations on line segments as to which projections for increased hazardous material traffic in excess of the key route criteria are not met.

The third additional DEIS recommendation is that NS "prepare a Hazardous Materials Emergency Response Plan for each local emergency response organization along these [new key

route' and 'major key route'] rail line segments." This recommendation would appear to apply for each such organization in 63 counties in 10 states. Such an interpretation is too burdensome and unwieldy to implement. NS is prepared to provide plans for each county for distribution to Local Emergency Planning Committees (LEPCs) within that county. The plans would provide information about NS' hazardous materials emergency response practices and plans and instructions on railroad and other emergency contacts for the county. The NS-provided information will supplement each LEPC's own emergency response plans. NS concurs this is a prudent recommendation to help ensure emergency response organizations are prepared should an incident occur involving NS operations and activities.

It is obviously impractical and inappropriate for a railroad to prepare a detailed and customized plan to manage how a particular local emergency response organization would respond to an incident. NS is confident SEA did not intend its recommendation to be interpreted in this way, since it is to be expected that communities already have emergency response plans prepared by LEPCs as required by Section 303 of the Emergency Planning and Community Right-to-Know Act 41986 (SARA Title III). Notably, when Congress enacted SARA Title III, it did not require transporters to participate in the emergency planning process through the designation of facility emergency coordinators.¹⁴ Nonetheless, NS routinely cooperates with LEPCs in the planning process. The DEIS should not be interpreted to shift a responsibility already assigned by federal law. NS recommends this issue be clarified in the FEIS - *that the railroads will provide planning information to designated counties for distribution to the LEPCs about the railroads' plans and practices, and information on railroad and railroad-related emergency contacts that apply within the county.*

The fourth additional DEIS recommendation for new key routes is that NS shall provide a 24-hour toll-free telephone number to all emergency response organizations for each community located along "new key route" and "major key route" line segments. *NS concurs this is a prudent recommendation and will provide to each county, for distribution to LEPCs, a toll-free number for the NS Police Communications Center in Roanoke which can immediately access all NS dispatch centers.* Local emergency response personnel could quickly obtain information regarding the transport of hazardous materials on a given train and appropriate emergency response procedures in the event of a train accident or train-related hazardous materials release.

¹⁴ Section 327 of SARA Title III exempts transporters from all provisions of the statute, including the requirement to coordinate with the LEPCs, except for the emergency notification requirement for spills set forth in Section 304.

4.4.2 Key Train Requirements

The DEIS recommends that, before increasing the number of rail cars carrying hazardous materials on any train, NS shall comply with the AAR "Key Train" guidelines ("Recommended Railroad Operating Practices for Transportation of Hazardous Materials," AAR Circular No. OT-55B). *NS already complies with key train guidelines as a standard practice but urges that the FEIS not include such compliance as a condition for the reasons discussed in Section 4.4.1.*

4.4.3 Rail Line Segments on Which Hazardous Materials Traffic Doubles and Exceeds 20,000 Cars Per Year

The DEIS recommends certain requirements for rail line segments on which hazardous materials rail car traffic would double and exceed an annual volume of 20,000 cars per year as a result of the Transaction. NS concurs with the DEIS that this represents a significant change in hazardous materials traffic and that additional efforts are reasonable to increase the preparedness of local emergency response organizations. *NS concurs with the recommendation to provide emergency response planning information to affected counties as described above in Section 4.4.1 for new key routes.*

The DEIS also recommends that for line segments which exceed this higher threshold, NS shall implement a real time or desktop simulation emergency response drill with voluntary participation of local emergency response teams at least once every two years. NS concurs that it is reasonable to conduct one such drill within two years of Day One for rail line segments which exceed the threshold in order to orient and improve the preparedness of emergency response organizations. However, the recommendation in the DEIS would appear to be a permanent condition not having any "sunset" provision. It would also create a double-standard because the requirement would not apply to other rail line segments on NS or on other railroads which currently have as much or even more hazardous materials traffic. It would thus have the effect of rulemaking without the benefit of the cooperative and established rulemaking or standards setting process. The fact is, NS conducts drills already and should continue to be allowed to prioritize and schedule such drills as it does now in cooperation with state and local emergency response organizations. This recommendation should be modified for NS to *conduct one such drill for each line segment exceeding the threshold within two years of Day One.* This will appropriately "bring up to speed" local emergency response teams on these line segments, after which time these routes would be subject to the same NS management practices as other routes with similar hazardous materials traffic levels.

NS also recommends that the FEIS not utilize the term "Major Key Route." The term "key route" was established and defined by the Inter-Industry Task Force in OT-55B. While NS agrees that the DEIS threshold of a doubling of hazardous materials traffic plus an annual volume of 20,000 cars is reasonable, NS believes that the term "Major Key Route" would be confusing. The "key route" terminology should be reserved for the voluntary, proactive and effective industry efforts to provide safe transport of shippers' hazardous materials. *NS concurs with the threshold for routes that would double in hazardous materials traffic and exceed 20,000 hazardous materials car loads per year to trigger certain efforts (as modified above) but recommends the elimination of any and all use of the term "Major Key Route" in the FEIS.*

4.4.4 Failure Mode and Effects Analysis (FMEA) Program

The DEIS directs NS to establish a formal Failure Mode and Effects Analysis (FMEA) program for NS and Shared Assets Areas rail yards and intermodal facilities as mitigation to address the sources and consequences of spills of both stored hazardous materials and hazardous materials in transportation. This mitigation is without justification. The DEIS at 4-21 states that on a system-wide basis, the proposed Transaction "...should result in a modest, but virtually unmeasurable, decrease in hazardous material releases from derailments." The DEIS also states that, system-wide, the Transaction would result in fewer car miles per day of cars carrying hazardous material and a decrease in freight car handling in rail yards. *The DEIS also concludes, significantly, that the Applicants have the proper general measures in place to handle any potential increase in hazardous materials accidents.* DEIS at 4-21.

As an example of cooperative and proactive efforts by NS to improve safety of hazardous materials transport, NS is a member of Responsible Care® (a voluntary program) which includes management practices that address risk assessment issues. As noted at 2-152 in the DEIS in NS' Safety Integration Plan, NS intends to adopt the Conrail framework (including the Transportation Incident Severity Index process used by Conrail) for systematic categorization of shipper-caused releases. NS also participates in industry programs such as the North American Non-Accident Release (NAR) Program, as outlined in the NS SIP. This is another existing voluntary initiative for the purpose of reducing hazardous material incidents. The program is based on a four-phase effort: (1) data collection; (2) data analysis; (3) communication of results; and (4) follow-up with shippers.

These and other programs, such as the Railroad Tank Car Safety Research and Test Project and OT-55B, were established for the industry to manage risks responsibly and effectively (to be self-regulating) and thus avoid the need for government regulation.

Government regulation of existing voluntary industry programs is redundant and unnecessary and eliminates the incentive for companies to participate in voluntary industry programs. The DEIS recommendation for FMEA clearly targets existing conditions, which are already properly managed. This recommendation also circumvents the established rule-making process. *For the foregoing reasons, the FMEA requirement should not be included in the FEIS.*

4.4.5 NS Rail Line Segment Alexandria, VA to Manassas, VA (N-315)

The DEIS at VA-14 erroneously displays 16,000 for the number of post-Transaction hazardous materials cars per year on NS rail line segment Alexandria, VA to Manassas, VA (N-315). Consequently, the DEIS recommends new key route mitigation for this line segment. The correct projected post-Transaction hazardous materials shipments on this line is 6,000 cars per year and, therefore, this rail line segment is **not** expected to be a new key route. *NS recommends the FEIS correct the 16,000 post-Transaction value to 6,000 car loads of hazardous materials and remove this line segment from all recommended hazardous materials transportation safety mitigation discussions.*

4.5 Transportation: Passenger Rail Service Capability

The DEIS presents a comprehensive analysis of the expected effects of the Transaction on passenger train service. NS' review indicates that the analysis was thorough and reasonable, albeit conservative. NS concurs with the DEIS findings that no adverse impacts on passenger train service capability will occur and there is no need for mitigation.

4.6 Transportation: Highway/Rail At-Grade Crossing Delay

The DEIS evaluates the potential impact of the Transaction on grade crossing delays, both on a system-wide and local (e.g., crossing-specific) basis. NS concurs with the DEIS that, on a system-wide basis, it is impossible to predict actual delays that would occur as a result of Transaction-related changes in train traffic. However, NS believes the DEIS analysis of local effects should be amended. Specifically:

- The DEIS uses the wrong equation to determine traffic delays.
- The DEIS consideration of level of service exceeds SEA's regulatory scope.
- The DEIS displaces the authority of state and local agencies responsible for grade separation issues.

- The DEIS determination of where grade separations would be necessary is without critical site-specific considerations.
- The DEIS suggests the possibility of mandated negotiated agreements, which NS believes would be an improper requirement (See Section 2.6 of these comments).

NS believes that there are few, if any, crossings with significant delays as a result of the Transaction. However, if the FEIS concludes any crossings exceed a justifiable significance criteria for delays, NS recommends that Applicants be directed to consult with the appropriate state and local authorities. This established alternative is readily available and would allow prioritization and handling of such crossings in a manner consistent with other crossings in a particular state which may merit consideration of grade separation, including crossings not affected by the Transaction which could be of higher priority.

NS' observations on the DEIS treatment of grade crossing delays are discussed in more detail below. Additional technical details are presented in Appendix NS-2 of these comments.

The DEIS conducted emergency vehicle response delay analysis to determine the effect on response time of emergency vehicles from a crossing blocked by a passing train. The DEIS evaluated potential delay in two ways: delay per stopped vehicle; and total daily crossing blockage time. However, on a system-wide basis, the DEIS acknowledges that it is impossible to predict actual delays that would occur as a result of Transaction-related changes in train traffic. There are no national standards for measuring emergency response vehicle delay or the significance of any delay impacts. The preliminary conclusion of the DEIS is that no system-wide mitigation is recommended. NS concurs with this conclusion.

In Mitigation Measure No. 11 at 7-16, the DEIS recommends delay-related mitigation on NS crossings IN 474600L and IN 474601T due to an increase in average delay per stopped vehicle greater than 30 seconds. The DEIS has also made specific recommended mitigation on ten Lafayette, Indiana crossings and five Erie, Pennsylvania crossings¹⁵ in Mitigation Measures No. 22 and 23 due to changes in the level of service from Pre-Transaction to Post-Transaction which meet the DEIS proposed significance criteria. NS officials are instructed by the DEIS to

¹⁵ In SEA's January 21, 1998 Supplemental Errata, the DEIS was corrected to indicate that two of the five at-grade crossings at Erie would no longer meet SEA's threshold for mitigation due to a discovered error in SEA's calculations. Nonetheless, SEA states the correction should be ignored and the two crossings be included for mitigation because of their "close proximity." There is no justification for adoption of this new and arbitrary position.

consult with local officials and appropriate state DOTs to negotiate traditional separated grade crossing agreements or identify other mutually-acceptable approaches to address Transaction-related traffic delay impacts. In addition, SEA in its January 12, 1998 Errata to the DEIS directed NS to consult with the City of Cleveland to reach an agreement on measures to minimize or mitigate the effects of increased emergency vehicle delay. Possible mitigation measures suggested by SEA include increasing train speeds, upgrading communication between NS and the emergency dispatch center, or constructing grade separation. *NS does not believe that mandated negotiated-agreements are a proper mitigation approach.* (See Section 2.6 of these comments.)

The DEIS analysis of grade crossing delay finds no crossings in Cleveland are significantly impacted. No Transaction-related impact is mentioned that would suggest justification for the proposed mitigation. In like manner, there is no justification for SEA's recommended limitation of a two train increase in traffic through Erie, Pennsylvania for the reasons discussed at length in Section 5.6.

The DEIS has misused procedures contained within the Transportation Research Board's "Highway Capacity Manual" for a non-intended purpose. The DEIS defines level of service (LOS) as "... a measure of the operational efficiency of the highway/rail at-grade crossing using procedures contained in the Highway Capacity Manual (HCM)." In fact, the HCM does not address the operational efficiency of highway/rail at-grade crossings, and procedures do not exist to measure grade crossing efficiency in terms of LOS. A more detailed discussion of this issue is in Appendix NS-2. Moreover, the HCM does not contain the table shown at C-14 of the DEIS, which is purported to draw a correlation between LOS and delay at highway/rail at-grade crossings.

The DEIS does not explain the relationship between LOS and delay, but appears to have mischaracterized at-grade crossings as signalized intersections. The table presented in the DEIS purporting to correlate LOS and average delay per vehicle resembles, but in critical respects is not identical to, a table in the "Highway Capacity Manual" on page 9-6, titled "Table 9-1. Level-of-Service Criteria For Signalized Intersections." That table draws a correlation between LOS and stopped delay per vehicle, not LOS and average delay per vehicle as presented in the DEIS. It appears the DEIS has improperly modified this table to imply the same relationship between LOS and average delay per vehicles at a grade crossing.

In modifying the HCM, the DEIS has failed to acknowledge the fundamental differences in operational characteristics between signalized road intersections and highway/rail at-grade

crossings. The HCM defines level of service criteria for signalized intersections in terms of the average stopped delay per vehicle for a 15-minute analysis period. Delay at signalized intersections can be measured in the field or estimated using procedures contained in the HCM. These HCM procedures are complex empirical equations that are dependent upon a number of variables such as the quality of progression, the cycle length, the "green ratio", and the volume to capacity ratio that are unique characteristics to signalized road intersections, and have little or no relevance to highway/rail at-grade crossings. These procedures are inappropriate to estimate delay impacts of grade crossings.

Traffic signals and highway/rail at-grade crossings differ because traffic signals continuously operate in uniform cycles (red-green phase changes) throughout the majority of the day as opposed to intermittent crossing events at highway/rail at-grade crossings. Also, drivers do not have the same expectations from different types of warning devices. For instance, the HCM recognizes different LOS thresholds between signalized road intersections and road intersections only protected by stop signs. Drivers would reasonably expect longer intermittent delays at highway/rail at-grade crossings than for signalized intersections. Therefore, LOS as defined in the HCM for signalized road intersections cannot be directly applied to highway/rail at-grade crossings.

The equation used in the DEIS to decide LOS at highway/rail at-grade crossings is found in DEIS, Appendix-C at C-13 as Average Delay for All Vehicles. The equation over-simplifies a very complex traffic operation by making several general assumptions. For instance, the equation assumes that the period of critical delay at a crossing occurs during the peak hour of vehicular delay (i.e., during rush hour), the arrival rate of trains is spread evenly throughout the day, and vehicles arrive uniformly throughout the train blockage period. The equation also assumes that all trains are the same length and travel at the same speed through the crossing.

The flawed equation used by the DEIS to calculate at-grade crossing delays has resulted in overestimation of projected increases in average delay per vehicle at crossings. At two crossings (474600L and 474601T in Alexandria, IN) for which the DEIS recommends that NS consult with the community because the delay exceeds the significance criteria of 30 seconds, NS has used a more appropriate equation to recalculate the delay increase. The DEIS reports the delay increases to be 2.16 minutes and 1.68 minutes, respectively. NS' alternative equation shows a much lower delay increase of 0.73 minutes for each crossing. While NS acknowledges this would still exceed the 30 second criterion proposed in the DEIS, this demonstrates *the DEIS calculations overestimated these potential delays by over 100 percent. NS recommends use of the correct equation in the FEIS. Use of the incorrect equation has overstated potential delays.*

SEA relied on these overestimates of delays when proposing that delays be mitigated in Lafayette, Indiana; Erie, Pennsylvania; and Alexandria, Indiana.

System-wide, the assumptions made within the correct equation may be acceptable and the results may provide some useful screening of potential delay impacts. However, before recommending a final mitigation, a site-specific analysis should be done. Such an analysis would use more accurate data and would take into consideration actual site-specific characteristics and train/vehicular traffic patterns.

Generic modeled calculations may be revealed to be too conservative if a site-specific analysis determines, for example, that during the most congested period of vehicular traffic, no trains block the crossing. Conversely, actual conditions may show that during the peak train interval, very few vehicles use the roadway. At the site-specific level, various combinations of train length, train speed, vehicle arrival frequencies, and train frequencies should be considered based on actual conditions to decide the critical delay period.

Therefore, SEA should only use the results of this equation to "rank" the crossings in terms of delay severity, similar to the way the DOT Accident Prediction Formula is used to rank crossings for further evaluation of the need for warning device upgrades. After the crossings are ranked, state authorities should be notified that a change in the operational characteristics has taken place that may influence delay. The state authorities can then make their own determination regarding the need and method for mitigation. The state authorities are in a better position to consider all the other factors that influence a grade separation project, such as evaluating whether adequate alternative routes exist or determining the impact of purchasing additional right-of-way on adjacent land uses. NS recommends that the FEIS direct Applicants to consult with state DOTs about any potential grade crossing delay impacts rather than directing NS to participate in implementation of specific mitigation measures.

4.7 Transportation: Roadway Effects from Rail Facility Modifications

The DEIS considered the impact on local transportation systems of changes in truck activity at intermodal facilities, construction projects and abandonments. *NS concurs that the methods, analysis and results are reasonable and appropriate. In the following discussion, NS is providing updated information for SEA to use in the final analysis for the FEIS.*

The DEIS reports a new at-grade crossing would be constructed in Vermilion, Ohio. The DEIS recommends that NS fully fund the cost of raising Coen Road in order to create a level

highway/rail crossing. (See Volume 4, Chapter 7, Section 7.2.6, page 7-23; Volume 3A and 3B, Table 5-2, page 5-39; and Volume 3B, Chapter 5, Section 5-OH.10, page OH-40 and OH-41). NS has revised the proposed Vermilion, Ohio project since SEA evaluated the site. The new rail alignment will reuse the existing crossing in lieu of constructing a new at-grade crossing at Coen Road, as presented in the DEIS. *Therefore, no adjustment to the profile of Coen Road is needed.*

The DEIS reports a new at-grade crossing would be constructed in Oak Harbor, Ohio. The DEIS recommends that NS fully fund the cost of raising Toussaint-Portage Road in order to create a level highway/rail crossing. (See Volume 4, Chapter 7, Section 7.2.6, page 7-23 and 7-24; Volume 3A & 3B, Table 5-2, page 5-39; and Volume 3B, Chapter 5, Section 5-OH.10, page OH-39 and OH-40). The Oak Harbor, Ohio project involves the installation of connection track to be constructed between Conrail and Norfolk Southern lines. The proposed track is approximately 4,835 feet in length and will intersect Toussaint-Portage Road (Township Road #92) by means of an at-grade crossing. The proposed connection track will cross Toussaint-Portage Road at approximately 1,200-feet north of the existing Conrail crossing and approximately 950-feet south of the existing NS crossing. If approved by the state agency with jurisdictional authority, the proposed crossing will be equipped with mast-mounted flashing light signals with gates, activated by constant warning time circuitry.

The new connection track profile will descend to the proposed crossing at a rate of -0.30% from the existing NS track. The proposed track will remain level throughout the crossing before ascending at a rate of 0.24% to tie into the Conrail track. The proposed vertical alignment for the connection track will require that Toussaint-Portage Road be raised approximately 12-inches higher than the existing surface at the crossing. A smooth transition in the roadway profile will be made by constructing approximately 100-feet of run-off approaches on each side of the new at-grade crossings. *Therefore, the resulting crossing will not contribute to a "roller coaster"-type safety hazard for vehicles on Toussaint-Portage Road, and raising the road is not necessary.*

4.8 Transportation: Navigation

The DEIS evaluated a total of 13 movable bridges on NS and CSX line segments system-wide where Transaction-related increases in rail traffic are projected to meet or exceed the Board's thresholds for evaluation. SEA determined that the U.S. Coast Guard has jurisdiction over these movable bridges, and that, in accordance with U.S. Coast Guard regulations, navigation use (e.g., ships) has priority over trains. Therefore, the DEIS concludes that there are no system-wide or site-specific adverse impacts on navigation, including service to coastal and

inland ports. Norfolk Southern concurs with this conclusion. Conrail, CSX, and Norfolk Southern together serve a combined total of 17 ports on the Atlantic and Gulf coasts, and 27 ports on the Great Lakes and inland waterways. Service to these ports will be maintained and enhanced by the Conrail Transaction.

4.9 Energy

The DEIS concludes that there will be a large annual reduction in diesel fuel consumption and no significant adverse environmental impacts on transportation of energy resources or recyclable commodities as a result of the Transaction. DEIS at 4-49. NS concurs with this observation but, as with other benefits of the Transaction, the substantial environmental benefits from the savings in energy consumption are undervalued in the DEIS. *The net reduction in fuel consumption is a notably significant positive impact compared to other significance criteria in the DEIS. The fact that it is a positive impact does not diminish its significance; rather, the value of this benefit should be given appropriate emphasis in the Board's decision.*

The overriding impact of the Transaction on energy consumption is the decrease in annual diesel fuel consumption resulting from truck-to-rail diversions - *a net annual decrease for NS and CSX combined of approximately 133.6 million gallons*, according to the DEIS. Both the methodology employed in the DEIS for evaluating fuel savings and the application of that methodology are reasonable and appropriate. Fuel consumption is the most dependable indicator of the net positive impact expected from the Transaction on energy resources.

The DEIS further projects a total Transaction-related net annual reduction in fuel consumption of 80.1 million gallons. This is clearly a significant environmental benefit and should be stated as such in the DEIS. Nevertheless, that figure grossly understates the actual amount of benefit which NS believes is more accurately reflected by the truck-to-rail diversion impacts discussed above. The DEIS arrives at the 80.1 million gallon decrease after a confusing and misleading discussion which concludes by erroneously subtracting 53.5 million gallons from the 133.6 million gallon net decrease associated with truck-to-rail diversions. DEIS at 4-47. The DEIS incorrectly calculates that an annual increase of 53.5 million gallons is the net change in fuel consumption from factors other than truck-to-rail diversions. The DEIS bases this calculation on the rail traffic data provided by NS and CSX that projects increases in rail traffic greater than those associated with truck-to-rail diversions. The error occurs when the DEIS makes a faulty assumption that projected rail traffic increases not associated with truck-to-rail diversions have no off-setting decreases on other railroads or other modes of transport.

The fact is that essentially all Transaction-related increases in rail traffic on NS and CSX lines segments beyond those associated with truck-to-rail diversions would, but for the Transaction, be shipped on other railroads or by other transport modes. The resulting decreases on other railroads or other modes of transport have not proven feasible to model. However, it is obvious they will result at worst in no net change in fuel consumption since railroads are the most fuel efficient land-based method of transporting freight in the United States. Therefore, a conservative estimate would be to assume that Transaction-related net fuel changes associated with NS and CSX rail traffic increases other than truck-to-rail diversions would be zero.

NS recommends the FEIS adopt this reasoning and acknowledge that the Transaction-related net impact on fuel consumption is a net annual decrease of approximately 133.6 million gallons - a much larger benefit than the 80.1 million gallons stated in the DEIS.

The DEIS also analyzes proposed changes in operations at rail yards and intermodal facilities that could affect energy resources. Additionally, the DEIS considered the proposed Transaction's effect on the transportation of energy resources and recyclable commodities, and also considered the consumption of energy resulting from vehicular traffic delays at highway/rail at-grade crossings. The DEIS concluded that there would be no significant adverse environmental impacts on energy consumption, transportation of energy resources, or recyclable commodities as a result of the proposed Transaction.

NS concurs that no significant adverse impacts are expected on transportation of energy resources or recyclable commodities from the Transaction, but urges SEA to recognize the projected greater decrease in fuel consumption as a notably significant positive impact.

4.10 Air Quality

The analysis of air quality impacts in the DEIS is thorough and comprehensive. NS agrees that some of the details where the DEIS methods depart from Applicants' analysis in the ER represent improvements in methodology. NS concurs with the DEIS adoption and application of recent EPA Ozone Transport Assessment Group (OTAG) conclusions. These recent conclusions confirm that air impact issues are system-wide or regional; analysis and significance criteria related to local emissions are now moot. NS concurs with the results of the DEIS analysis that there are no significant local impacts, and that system-wide reductions in air emissions is a net positive impact resulting from the Transaction. *On the other hand, NS believes the DEIS, with its focus on local increases in emissions, both understates and undervalues the*

positive overall impact of the Transaction on air quality. The positive impact of the Transaction on air quality should be considered significant.

4.10.1 Methodology

The DEIS evaluated both system and county-wide emission increases and decreases from each rail line segment, rail yard, and intermodal facility, as well as emission changes due to truck-to-rail diversions, rail-to-rail diversions, and emissions from idling vehicles at grade crossings. SEA's independent analysis deviated from Applicants' method in selection of certain emission factors. *NS' review indicates the factors and methods used in the DEIS are sound. This is consistent with the October 24, 1997 letter from SEA to EPA which discusses SEA's methodology and EPA's view that the methodology used is reasonable and conservative.*

The DEIS analysis does, however, suffer from the same bias discussed above in Section 4.9. That is, except for the truck-to-rail diversions, the air quality analysis includes all the expected NS and CSX rail traffic increases but does not include offsetting traffic decreases for other railroads and transportation modes that currently carry that freight. This exclusion is not through oversight, but because it has not proven feasible to model these reductions in detail. Common sense concludes, however, that the offsetting air emissions benefits from decreased traffic on other railroads or modes can be expected to be of approximately the same magnitude as the air emissions increases from the shift of traffic to NS and CSX. As with energy impacts, analysis of the truck-to-rail diversions most accurately reflects the net impact on air quality that can be expected from the Transaction.

4.10.2 System and Regional Impacts vs. Local Impacts

The DEIS points out that the Ozone Transport Assessment Group (OTAG) found that because ozone problems are a regional concern, local control of NO_x is less productive than control of NO_x emissions on a regional level. Mitigation on a local level for the Northeast Ozone Transport Region (OTR) was therefore considered unnecessary by SEA since NO_x emissions in this region are expected to decrease. Therefore, it is obvious the projected net system-wide decrease in emissions expected to result from the Transaction is more relevant than local increases and decreases. NS concurs that ozone is largely a regional concern rather than a local concern and suggests that this observation be emphasized in the FEIS by stating that *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.*

4.10.3 Significance Criteria

The DEIS looked at overall air emission increases in terms of system-wide emission changes and county-by-county emission changes. System-wide, the Transaction would result in a net decrease in emissions. Local impacts of projected increases in activity were compared to the stationary source thresholds as a screening method, then compared to one percent of the existing county emissions. If the emission change from the Transaction was less than one percent of the existing county emissions, the change was considered insignificant. If the increase in emissions exceeded one percent of the existing county emissions, the emissions were then analyzed in terms of regional or multi-county emission changes. In some cases the emissions in a particular county exceed the one percent threshold. However, in no cases did SEA find that a particular county would be significantly affected by the Transaction.

NS concurs with this conclusion, noting however that establishment of local significance criteria, a practice reasonably employed by SEA for prior transactions, is inconsistent with OTAG's cited conclusions. *NS recommends further consideration of the implications of the recent OTAG conclusions and suggests that local air analysis and significance criteria is no longer relevant since it is a system and regional issue.*

4.10.4 Conclusions

The DEIS concludes there will not be a significant adverse impact on air quality resulting from the proposed Transaction either locally or system-wide. In fact, the DEIS finds there will be net system-wide reductions each year for five of the six pollutants analyzed, including reductions of over 4,500 tons of nitrogen oxides, over 6,000 tons of carbon monoxide and over 1,000 tons of volatile organic compounds and an "insignificant" net increase of 521 tons per year of sulfur dioxide (DEIS at 4-56). For nitrogen oxides, these reductions are equivalent to elimination of 180 major stationary sources (sources with nitrogen oxides emissions of 25 tons per year for severe ozone nonattainment areas), or to removing 300,000 passenger cars from the road. *The overall reductions in air emissions, particularly the reductions in ozone-related pollutants, represent the major impact of the Transaction on air quality and are a significant benefit.*

As mentioned above in the discussion of methodology, the DEIS presents a conservative analysis which does not account for all of the expected reductions in air emissions. *A more representative analysis of net system-wide air emissions impacts would be based on the truck-to-rail diversions which are expected to dominate the air and fuel impacts of the Transaction.*

Based on the same reasoning discussed above in Section 4.9 on fuel consumption, *such an analysis would result in estimated reductions in emissions over 60% higher than the DEIS has projected.*

New locomotive emissions standards were promulgated by EPA on December 17, 1997 and are discussed in the DEIS. The new standards will provide further substantial emissions reductions in the future. According to a U.S. EPA fact sheet on the new standards, the new emission standards will reduce nitrogen oxides emissions from locomotives by nearly two-thirds and hydrocarbons and particulates by half. This would result in an additional 304,000 tons per year reduction of nitrogen oxides emissions expected in 2005, and would be the equivalent of removing nearly 20 million passenger cars from the road.

4.10.5 Mitigation

The DEIS recommends that the railroads should use “best management practices” to minimize fugitive dust emissions that result from construction projects and associated activities. *NS already employs standard best management practices during construction activities to minimize fugitive dust, and is committed to using such practices to minimize dust during Transaction-related construction and associated activities.*

4.11 Noise

The DEIS provides a comprehensive, albeit highly conservative, analysis of potential noise impacts, and concludes that only a few rail line segments are likely to have significant adverse noise impacts. NS concurs with the noise impact significance criteria applied in the DEIS and the safety considerations recognized for horn noise by the DEIS. The general approach for modeling noise is appropriate for use as a screening tool. However, the DEIS applies a CSX noise model based on CSX noise measurements of CSX and Conrail trains and ignores equivalent data on noise measurements of NS trains. This information on measured NS train noise levels was supplied to SEA in Applicants’ ER. The data demonstrates that NS trains, which are typically shorter and operate at slower average speeds, are quieter than the DEIS suggests. SEA’s exclusive use of the CSX model and measurements significantly overstates noise levels on NS lines, as has been demonstrated by recent field measurements. Further, since all of the noise assessment models were intentionally developed to be conservative, the models should only be used as a screening tool to identify areas of potential concern for site-specific analysis. The DEIS also inappropriately and unnecessarily defines a “preferred” recommended mitigation approach. Appropriate mitigation, if warranted, should only be determined following

site-specific analyses of noise impacts, location and type of receptors, and other local conditions. These issues are discussed below and in Appendix NS-3.

The DEIS presents a noise analysis of local adverse impacts where railroad operations are expected to increase on rail line segments, intermodal facilities and rail yards. The DEIS only considers potential adverse local noise impacts. Noticeably absent is any discussion of the positive benefits in reduced noise level that will be experienced by communities and sensitive receptors along those lines and roads where train and truck traffic would decrease, and those lines proposed for abandonment. In order to provide some semblance of balance, *NS recommends the FEIS at least acknowledge that noise benefits will accrue wherever train or truck traffic will decrease as a consequence of shifts in traffic expected to result from the Transaction.*

The DEIS appropriately concludes that safety considerations necessitate the sounding of locomotive horns for crossings and take precedence over noise effects. This is consistent with FRA regulations which specify horn loudness and laws which require horns to be sounded at grade crossings to provide for public safety. Therefore, for areas near grade crossings, the DEIS does not consider noise mitigation to be feasible. *NS concurs with the conclusion that safety considerations necessitate the sounding of horns and with the precedence of public safety considerations and the existing FRA regulation.*

NS concurs that the significance criteria of 70 dBA and an increase of 5 dBA, applied in the DEIS for wayside and facility noise, is reasonable and appropriate.

4.11.1 The DEIS Fails to Apply NS Train Noise Data to NS Traffic.

The DEIS analysis of noise levels and contours related to NS rail operations purports to be based on noise levels which were based on measurements of NS trains. In fact, the DEIS impact analysis is consistent with use of a CSX noise model based on measurements of CSX and Conrail trains. As demonstrated by field measurements, this results in a significant overstatement of noise impacts on NS lines.

NS recognizes the validity of the general approach applied within the DEIS - applying noise models to project potential increases in noise levels as a screening tool to determine where there might be a significant noise impact. *NS also agrees that it is appropriate to be conservative in applying such a tool to screen for potential impacted areas.* This is the reason NS applied a conservative model in the Applicants' Environmental Report (ER) - to avoid underestimating potential noise impacts. As discussed in Appendix NS-3 of these comments, NS

used a model developed by Thornton Acoustics based on actual field measurements of NS trains. These measurements determined that the wayside SEL (the average Sound Exposure Level 100 feet from the track while the train passes) was 98.4 dBA for the representative NS train.

The train noise model used in the DEIS is apparently the CSX model from the ER. This CSX model is based on CSX field measurements of CSX and Conrail trains. As documented in the ER, Volume 6A, Appendix B, field measurements found CSX trains to be louder than either NS or Conrail trains.

Although the DEIS states that SELs of 98.4 dBA wayside noise and 108.5 dBA crossing noise were used to determine contours for NS trains (DEIS, Appendix F, page F-5), in fact the contours presented in the DEIS are consistent with SELs of 100 dBA (wayside noise) and 109.1 dBA (grade crossing noise). *Although this difference appears small, the CSX model represents approximately 50 percent higher noise energy from wayside noise than the Thornton Acoustics model due to the logarithmic nature of dBA.* The wayside noise level of 100 dBA in the DEIS was apparently derived by applying a model based on CSX measurements of CSX and Conrail trains to NS trains, which operate at slower speed and shorter train lengths than CSX trains. The noise at grade crossings (109.1 dBA) in the DEIS was apparently determined by adding the train noise (100 dBA) to the horn noise only (108.5 dBA).

Application of the incorrect SEL for NS trains in the DEIS results in significantly overstated L_{dn} 65 contour distances from the rail line over the already conservative model results based on noise measurements of NS trains. The measurements of NS trains and the Thornton Acoustics model were presented in detail in the noise methodology in Appendix B of Applicants' ER. The CSX model was presented in the same Appendix. The data on NS trains was apparently neither applied by the DEIS nor incorporated into a unified model for use in the DEIS. The DEIS does not indicate any attempt to validate the assumption that the CSX model is a better predictor of NS wayside noise than are the NS measurements and model.

4.11.2 The NS Model is Conservative.

NS and its consultant Thornton Acoustics recognized the need for a conservative model to avoid any possibility of understating potential noise impacts. The model was based on real-world measurements of NS trains, but conservative assumptions were made concerning shielding and background noise, effects which reduce the actual impact of a noise source. *Subsequent field measurements have confirmed that the Thornton Acoustics model is conservative and*

appropriate as a screening tool for NS trains since it consistently overstates actual noise impacts from passing trains.

The Thornton Acoustics noise model was based on noise measurements made in an open, flat field area in North Carolina adjacent to NS track over a four-day period. There were no structures present to shield (absorb or deflect) noise. There were essentially no noticeable sources of background or non-railroad noise. The model included a factor for background noise inputs, but for all modeling runs it was assumed that the background noise levels would be very low (50 dBA during daytime hours and 40 dBA during nighttime hours). Although standard shielding equations predict shielding of up to 10 dBA from structures between the noise source and the receptor, the Thornton Acoustics model restricted the maximum shielding attenuation in the model to 5 dBA and only if structures parallel to the track occupied at least 65 percent of the total frontage along the track. This very restrictive shielding assumption ensures the model provides a conservative, i.e., louder, estimate of noise levels. In addition, the quiet flat field noise measurements made in North Carolina accentuate the effects of train noise when compared to urban or town areas where the model is applied to determine impacts on receptors. The Thornton Acoustics model was intentionally made to be conservative.

4.11.3 Validation of the NS Model as a Conservative Screening Method

Some models are better than others, but a model is only a model and only predicts potential noise levels. By using a conservative model, NS recognized that any areas identified through modeling as having potential significant impacts could then be measured to determine the site specific sound levels from trains. *Additional field measurements recently conducted by Wyle Laboratories, a consultant to NS, confirm that the Thornton Acoustics model is both conservative and more accurate for NS trains than the model applied by the DEIS. The Thornton Acoustics model consistently overestimated noise levels when compared to actual measured noise levels, confirming that, as is the general case with models, this model is only appropriate as a screening tool.* The results are presented in more detail in Appendix NS-3 and summarized below.

In December 1997 and January 1998, noise measurements were performed by Wyle Laboratories on Norfolk Southern rail segments in Cleveland, Bellevue, and Clyde, Ohio and Fort Wayne and Lafayette, Indiana. The measurements were made in order to: (1) determine if the existing Norfolk Southern noise model was conservative or if it underestimated noise impacts, and (2) perform site-specific modeling in areas on NS line segments where the DEIS identified a noise concern. Several of the measurements include horn and/or bell noise, which

SEA has acknowledged should not be considered for purposes of determining significance of impact or mitigation. Results are shown below and in Table 4.11.1.

TABLE 4.11.1					
COMPARISON BETWEEN MEASURED AND MODELED NOISE VALUES					
Location	Distance (ft.)	Grade Crossing	Highest Measured SEL ^a	Thornton Predicted SEL	Percentage Over-Predictions ^b
Bellevue					
Site 1	100	Yes	106.2	108.5	69%
Site 2	230	Yes	98.4	102.7	170%
Site 3	650	Yes	88.9	95.5	356%
Clyde					
Site 1	100	Yes	106.0	108.5	78%
Site 2	330	Yes	95.0	100.2	231%
Site 3	545	Yes	93.4	96.7	115%
Ft. Wayne					
Site 1	130	No	88.4	96.6	561%
Site 2	200	No	89.6	93.6	151%
Lafayette					
Site 1	100	No	93.8	98.4	188%
Site 2	250	No	86.8	92.0	231%
Cleveland					
Site 1	300	Yes	63.2 ^c	67.7 ^c	182%
Site 2	200	No	56.8 ^c	62.7 ^c	289%
Site 3 ^d	235	No	60.8 ^c	63.0 ^c	65%
^a The measured SEL includes horn and/or bell noise for Bellevue, Clyde and Lafayette. ^b The percentage the Thornton model over-predicted the sound energy level over and above the actual measured level. ^c All Cleveland measurements and model estimates are L _{dn} values. ^d At this site, Conrail train noise was measured, and the predicted SEL is also based on Conrail train noise as predicted by the Thornton model.					

- Cleveland, Ohio - Noise measurements were made for 24 hour periods in each of three areas in Cleveland. In each case, a comparison was made between the measured L_{dn} noise value and the calculated L_{dn} noise value using the Thornton

Acoustics train noise model. In each case, the noise levels measured were lower than the NS model predicted. The Thornton Acoustics model overstated noise levels at the three locations between 2.2 dBA (66 % too high) to 6.1 dBA (307% too high); the DEIS values would overstate the actual values by approximately 3.6 dBA (129% too high) to 7.7 dBA (489% too high).

- Bellevue, Ohio - In Bellevue, Ohio, Wyle Laboratories performed noise measurements at three locations on an existing NS rail line segment. The Bellevue noise measurements were taken over a three-hour period. Three train pass-by noise measurements were made and subsequently compared to the Thornton Acoustics noise model predictions. For each site and train pass-by, the measured noise levels were lower, i.e., quieter, than the levels predicted by the Thornton Acoustics model.
- Clyde, Ohio - Wyle Laboratories performed SEL noise measurements at three locations in Clyde, Ohio along NS' Oak Harbor to Bellevue line segment. Two train pass-by noise measurements were made. The measured noise values were lower than the Thornton Acoustics model predicted for each site and train pass-by.
- Fort Wayne, Indiana - Wyle Laboratories performed SEL noise measurements at two locations in Fort Wayne, Indiana along an existing Norfolk Southern line segment. Three train pass-by noise measurements were made. The measured noise values were lower than the Thornton Acoustics model predicted for each site and train pass-by.
- Lafayette, Indiana - Wyle Laboratories performed SEL noise measurements at two locations in Lafayette, Indiana along an existing NS line segment. One train pass-by noise measurement was made at each location. The measured noise values were lower than the Thornton Acoustics model predicted for each site and train pass-by.

The comparison between Wyle Laboratories noise measurements and the predictions of the Thornton Acoustics noise model show that, in all cases, the Thornton Acoustics noise model overestimates the L_{dn} 65 dBA contour both at grade crossings and for wayside noise. *This conclusively confirms that the FEIS analysis should apply no higher noise levels than those predicted by the Thornton Acoustics model for NS trains and that modeled levels should be used only as a screening tool to determine where additional site-specific measurements are indicated.*

Only with this level of noise analysis can an accurate determination be made as to whether noise impacts are potentially significant.

4.11.4 Acoustic Shielding and Background Noise

The Thornton Acoustics and DEIS (CSX) models were all intentionally designed with conservative assumptions concerning acoustic shielding and background (non-railroad) noise. The modeling only applied a fraction of the shielding recommended by a Federal Highway Administration (FHWA) noise model. The recent measurements by Wyle Laboratories suggest *the full range of shielding from the FHWA model would provide a more accurate prediction of actual noise levels.* Also, urban areas and areas with other noise sources have higher background noise levels that reduce the impact of train noise. Therefore, potential noise impacts are overstated throughout the DEIS. Details are discussed in Appendix NS-3.

4.11.5 Exclusive Use of CSX Train Noise Levels for Shared Assets Areas

For the Shared Assets Areas, the DEIS apparently based noise projections solely on CSX model calculations for CSX's average train length and speed (102 dBA for wayside noise and 112.8 dBA for grade crossings [see DEIS Appendix F, Attachment F-1.]). This not only ignores the NS model for NS trains, it also ignores that the typical NS train operates at lower speeds and shorter length. *NS recommends the FEIS apply a weighted average SEL between CSX and NS trains for Shared Assets Area line segments since the Shared Assets Areas will have both NS and CSX trains.*

4.11.6 Arbitrary Inclusion of Noise as a Potential Environmental Justice Impact

The DEIS applies a dual-standard for consideration of noise impacts in the discussion of Environmental Justice on three levels:

1. An arbitrarily restrictive noise contour is established and used to define the affected area wherein the DEIS will address potential population characteristics for inclusion within the Environmental Justice category.
2. The DEIS identifies three line segments with DEIS-designated environmental justice communities as potentially warranting noise mitigation; *however, the three segments fail to meet the DEIS established noise criteria for significance.*

3. Although the DEIS analysis of noise finds no environmental justice communities with significant noise impacts warranting mitigation, the DEIS suggests continued evaluation is necessary to ensure there are no cumulative impacts which include noise - however, the same suggested analysis for potential cumulative impacts involving noise is not provided for other communities throughout the system.

The DEIS defines the “area of potential effect” for Environmental Justice analysis as the maximum area potentially exposed to the Board’s noise threshold of 65 dBA. The justification offered within the DEIS is that the 65 dBA threshold offers a practical, uniform approach to identifying an outer boundary where communities could be reasonably expected to experience localized environmental impacts. Norfolk Southern agrees this is a reasonable approach, given the available guidelines. However, as has been conclusively demonstrated, the use of either the DEIS (CSX) noise model, or the Thornton Acoustics (NS) noise model, overstates the actual measured level of noise associated with NS trains, and would therefore provide an exaggerated area for analysis. The DEIS 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 seven trains per day generates as much noise as an increase of eight trains per day - effectively lowering the analysis threshold for environmental justice communities from an increase of eight 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.

On page 3-51, Environmental Justice Analysis, the DEIS states, “SEA used the criteria for “significance” described in the preceding sections of this chapter.” Preceding DEIS Section 3.12.2, at 3-35, provides the mitigation criteria for noise and states, “SEA considered noise impacts . . .to warrant potential mitigation if any sensitive receptors are exposed to noise levels above 70 dBA L_{dn} and have a 5 dBA L_{dn} increase.” However, the NS line segments listed as having potential noise impacts at DEIS 7-48, Table 7-9 “Preliminary Communities that May Warrant Environmental Justice Mitigation,” do not meet the criteria SEA has defined as warranting noise mitigation. These line segments are: Cleveland to Ashtabula (N-075), White to Cleveland (N-081), and Youngstown to Ashtabula (N-082). In DEIS, Appendix F, Attachment F-1, the change in dBA for these three line segments is 4.5, 3.4, and 4.2, respectively. All three of the changes are well below the significant impact criterion.

The DEIS indicates that the Board is still considering the possibility that “cumulative” impacts on environmental justice communities could result from noise and from other unspecified factors, and that further study is required. However, the DEIS does not identify

significant potential noise effects in any of the environmental justice communities, and based on NS analyses presented here and in Section 4.16 below, NS does not believe that these communities will see significant adverse impacts of any kind. A finding of cumulative impact is based on the idea that synergies between multiple insignificant effects can create a significant effect. However, the DEIS contains no discussion of a link between insignificant noise effects and other insignificant effects, and provides no evidence that such a link exists. Similarly, the DEIS provides no justification for why further noise studies are warranted if it is already established that these communities do not have significant noise impacts, nor what these additional noise studies might consist of. The continued review of noise, and the consideration of insignificant noise as a potential cumulative effect for environmental justice communities where there is no significant noise impact, represents an unsupportable double-standard. *Environmental justice communities should be subject to the same noise thresholds and criteria contained in the DEIS and applied to other communities.*

NS recommends that a double-standard not be employed in the FEIS. The significance criteria established for the noise analysis elsewhere is reasonable, appropriate and sufficient, without creation of a second more stringent standard for particular communities based on demographic composition.

4.11.7 Practical Problems with DEIS Preferred Noise Mitigation

The DEIS recommends that, if and where noise mitigation is warranted, "noise barriers would be the preferred type of noise mitigation for substantially impacted areas." NS believes this is an arbitrary statement, and fails to consider site-specific variables and local considerations. *If noise mitigation is considered for any line segment, the consideration of potential alternatives should be based on a site-specific analysis of the noise impact, receptors, site conditions, and desires of the affected community, not with an arbitrary "one size fits all" mitigation measure.*

4.12 Cultural Resources

The DEIS, in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended, evaluated each proposed abandonment and construction action associated with the Transaction to determine whether cultural resources (e.g., historic properties) were adversely affected, and if so, what mitigation would be warranted. The DEIS applied the "Criteria of Effect and Adverse Effect" (36 CFR 800.9) developed by the Advisory Council on Historic Preservation as the criteria for determining whether there would be an adverse impact on cultural resources. In addition to SEA's own analysis of potential impacts to cultural resources,

each proposed abandonment and construction action was coordinated with the State Historic Preservation Officer (SHPO) for additional review. The DEIS (as amended by the January 12, 1998 Errata and the January 21, 1998 Supplemental Errata) concluded there are no adverse impacts to cultural resources along NS rail line segments from the Transaction.

NS concurs with the cultural resources evaluation approach and conclusions as presented in the DEIS (as amended by the two Errata). During the implementation of the proposed abandonment and construction activities, NS will continue to coordinate as required with the appropriate SHPOs to ensure that significant cultural resources are not adversely impacted by the Transaction-related activities.

During recent engineering studies on Conrail's Buffalo-Binghamton rail line (which will be operated by NS post-Transaction), a Conrail Bridge (No. 361.66) over the Genesee River near Portageville, New York, was found to be near the end of its useful life. The bridge is an 819-foot long steel viaduct carrying a single railroad track, and is currently rated for 263k (load rating) traffic at 10 mph due to its condition. The viaduct rests on six steel towers that were constructed in 1875. The design and age of the current structure preclude repair or renovation without replacing the entire bridge. NS is conducting further studies and working with federal state and local authorities, including consultation with the State Historic Preservation Officer, to evaluate alternatives to replace the existing bridge. The anticipated bridge replacement is in response to an existing condition, and is not related to the Transaction. NS will replace the bridge in full compliance with all applicable federal, state and local laws and regulations.

4.13 Hazardous Materials and Waste Sites

The DEIS evaluated the potential for the Transaction to affect existing hazardous waste sites within 500 feet of the Transaction-related rail line construction or abandonment activities. Investigation and cleanup of hazardous waste sites during construction or abandonment activities is controlled by several federal and state statutes and regulations. The DEIS therefore concluded that no further evaluation was necessary, and that additional mitigation measures were not warranted. *NS concurs with this conclusion. NS routinely coordinates with federal and state agencies as appropriate to ensure all hazardous waste sites where NS has responsibility are addressed in compliance with applicable laws and regulations, and in a manner protective of human health and safety and the environment. It will continue to do so.* NS does point out that, as a general rule, some sites only require the involvement of the appropriate state agency(ies) while others may require the involvement of U. S. EPA alone or, at times, joint State and EPA involvement - depending on the constituent or amount of contamination discovered. Applicants

should be given the flexibility they currently have to involve the most appropriate authority(ies) in cleanup matters consistent with legal requirements.

4.14 Natural Resources

The DEIS addresses natural resources (water and biological) for site-specific Transaction-related activities at rail line segment constructions and abandonments. SEA evaluated the site for the construction of the proposed NS connection at Vermilion, Ohio for its potential to impact natural resources. The DEIS at OH-105 indicated that a site visit determined the woodland area located south of the proposed Vermilion construction site may contain habitat for the endangered Indiana bat. However, a subsequent Errata to the DEIS (dated January 9, 1998, at page 13) indicated the Indiana bat is not historically documented in Erie County. The DEIS indicated the Vermilion construction site visit did not identify any potential habitat for other threatened or endangered species. No other potentially significant natural resource impacts were identified, although the bald eagle was identified in the DEIS as a threatened species known to occur in Erie County.

Although the wooded area south of the Vermilion construction site will not be directly affected by the construction, the DEIS recommends that NS consult with the U.S. Fish and Wildlife Service (USFWS) and the Ohio Department of Natural Resources to determine the potential effects to any federally-listed threatened or endangered species. Prior to initiating construction at the site, the DEIS at OH-105 directs NS to conduct a survey to determine the potential presence of the Indiana bat and the bald eagle.

NS does not concur with the DEIS proposed mitigation. NS believes that since the wooded area will not be directly affected by the construction, a survey for the Indiana bat is not necessary. According to NS' preliminary correspondence with the USFWS, dated January 12, 1998, a survey for the Indiana bat may not be needed even if the wooded area were to be affected by the construction. Also, based on the same preliminary correspondence, the USFWS believes a survey for the bald eagle would not be necessary because the Ohio Department of Natural Resources maintains good records of the nesting locations obviating the need for a survey. *Therefore, the proposed mitigation should be revised as follows: "NS should coordinate with the U. S. Fish and Wildlife Service and Ohio Department of Natural Resources prior to construction."*

NS concurs with the DEIS's three-step process for evaluating water resources (map review and analysis, field reviews, and evaluation of impacts) and for evaluating biological

resources (data collection, field review, and evaluation of impacts). The methodologies are applied appropriately and the findings in the DEIS are well-founded except for the unclear methodology for the distances used to identify biological resources described in Section 7.7 and the survey recommendation at Vermilion discussed above.

NS concurs that the proposed Transaction will not result in significant impacts to natural resources.

4.15 Land Use/Socioeconomics

The DEIS addresses land use and socioeconomic issues directly related to changes in the physical environment from the proposed Transaction-related rail line segment constructions and abandonments. The DEIS concludes there are no significant adverse effects on land use or socioeconomics resulting from the proposed Transaction. NS supports this conclusion. The DEIS conducted a thorough review of the proposed rail line segment constructions and abandonments for:

- consistency with local land use plans;
- effects on Prime Farmlands;
- consistency with State Coastal Zone Management Plans;
- need for relocation/demolition of any business or residence;
- consistency with local land use plans and other requirements if within Native American reservations; and
- effects on jobs as a direct result of or related to changes in the physical environment.

Proposed abandonments were also evaluated for suitability for alternative public uses and/or trail uses, and identification of alternative transportation modes for goods and services affected by the abandonment.

A few comments below offer clarification to the DEIS methodology and state-specific conclusions related to the Tolono, Illinois rail line segment construction and the Seneca Indian Nation/Cattaraugus Reservation in New York.

Tolono, Illinois The proposed Tolono Connection involves the construction and operation of a new rail line connection between the existing Illinois Central (IC) and NS lines. The City of Tolono, Illinois identified a potential concern that the proposed NS construction

activity would disturb Daggy Street and adjacent residential properties. This concern, expressed in comments by the City on the scope of the DEIS, was based on information within the Environmental Report which was misconstrued. *In a public meeting held to address the City's concerns, NS clarified that the construction of the Tolono Connection would occur entirely within the existing IC and NS rights-of-way and no additional land would be acquired for this construction.*

The DEIS concludes:

- “Because the proposed construction would not require the acquisition of land outside the existing railroad right-of-way, this activity would be consistent with the local land use plan.”
- “...the land use within the existing right-of-way is railroad. Therefore, there would be no effect on prime farmlands in the area.”
- “Based on the findings described above, 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.”

However, in the next paragraph, the DEIS goes on to contradict itself and recommend mitigation. Specifically, the DEIS provides a preliminary recommendation which states “...that the Board state, as a condition for approval of the Transaction, that Norfolk Southern does not disturb Daggy Street or residential properties at this location.” DEIS at IL-68 through 69.

NS does not believe this recommendation is necessary nor in keeping with the conclusions of the DEIS. In effect, the recommendation seeks to mitigate a potential effect that is not projected to happen and which SEA has determined is not an issue of concern. NS' proposed construction activity at Tolono would occur entirely within the existing IC and NS railroad rights-of-way and no additional land would be acquired for this construction. Further, NS has met with local officials to clear up the misunderstanding. *Therefore, there is no impact to Daggy Street, and there is no need for a mitigation requirement.*

Seneca Indian Nation, Cattaraugus Reservation, New York The DEIS departs from its stated methodology for land use and socioeconomic analyses in addressing Native American issues on the NS Ashtabula - Buffalo (N-070) rail line segment. The DEIS concludes that the N-070 rail line segment is projected to increase the transportation of hazardous materials from 7,000 carloads to 26,000 carloads per year. The DEIS recommends the following mitigation:

- Adhere to the provisions of the AAR for transport of hazardous materials, including: (1) restricting train speeds to 50 mph; (2) upgrading the track to Class 2 or better; (3) installation of wayside defect detectors; and (4) establishing a Hazardous Materials Response Plan, including accident simulations with local emergency response providers.
- Coordinate the preparation of the Plan with the Reservation, and assist the Reservation with emergency response preparedness as requested.

The DEIS also notes that SEA will conduct additional public outreach among the Seneca Indian Nation and the Cattaraugus Reservation. DEIS at NY-38.

NS has several concerns regarding the DEIS approach on this issue:

- *This rail line segment is neither a construction nor an abandonment, and thus does not meet the DEIS criteria for evaluation for land use and socioeconomic issues. Therefore, this line segment should not be addressed within this section of the DEIS.*
- The potential issue identified, hazardous materials transportation, is already addressed for this rail line segment in the appropriate sections of the DEIS (e.g., DEIS Table 5-2). *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 FEIS.*
- NS has raised several issues in Section 4.4 addressing the DEIS evaluation of hazardous materials transportation, including offering well-established mitigation measures (e.g., approaches to transportation of hazardous materials reflecting NS' excellent safety record) to address significant increases in hazardous materials rail traffic. These mitigation measures should be applied to the Cattaraugus Reservation in the same manner as they will be applied to other communities along rail lines projected to experience similar increases in hazardous materials transportation.
- The mitigation recommendation that NS "...assist the Reservation with emergency response preparedness as may be requested" is ambiguous and unsupported. This

requirement for additional, open-ended assistance is not specified for other non-Native American communities. *There is no justification for treating the Cattaraugus Reservation differently than any other community on the issue of increased hazardous materials transportation. This recommendation should not be included in the FEIS.*

- The DEIS does not state why the Seneca Indian Nation requires additional outreach. However, NS supports community outreach efforts with the Seneca Indian Nation (and all communities) to ensure information on the Transaction is available to the affected public and the community is informed so that it may participate in the EIS process.

4.16 Environmental Justice

NS strongly supports the objectives of inclusiveness and non-discrimination. However, the DEIS analysis of potential environmental justice effects of the Transaction is flawed and reflects a misapplication of sound environmental justice concepts. The analysis does not support additional mitigation and mitigation requirements predicated on it would exceed the legal authority of the Board. Specifically, NS believes:

- *There are substantial difficulties in attempting to apply the Executive Order on environmental justice and the guidance and methodologies developed thereunder by other agencies, to a transaction of this kind, which counsels caution.*
- *The Transaction will not have disproportionate effects on minority and low-income populations.*
 - *Potential impacts would not be borne predominantly by minority or low-income populations.*
 - *Effects on minority and low-income populations would not be more serious or greater in magnitude than on other populations.*
- *The Transaction will not have high and adverse effects on the “Environmental Justice communities” identified in the DEIS, disproportionately or otherwise.*

- *Communities identified as “Environmental Justice” communities in the DEIS are not predominantly minority or low-income.*
- *The environmental justice mitigation measures proposed in the DEIS are unjustified and impractical.*

4.16.1 Attempting to Apply to This Kind of Transaction the Executive Order on Environmental Justice and the Guidance and Methodologies Developed Thereunder by Other Agencies Presents Difficulties and Risks of Unforeseen Consequences, Which Counsels Caution.

The Executive Order on environmental justice defines its substantive standard as follows:

“Each federal agency shall conduct its programs, policies and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies and activities do not have the effect of excluding persons (including populations) from participation in, deny persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies and activities because of their race, color, or national origin.”¹⁶

To achieve its objectives, the Executive Order urges Federal Agencies to conduct elaborate population demographic analysis for, “identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects” on minority and low-income populations.¹⁷ While the Executive Order requests that independent agencies such as the Surface Transportation Board comply with the terms of the Order,¹⁸ the DEIS recognizes (at 3-46, note 4) that the Board is not bound to conduct environmental justice analyses, or to require mitigation on the basis of such analyses.

NS believes that the Board has always met the substantive standard of the Executive Order and can continue to do so through existing processes.¹⁹ However, the guidance and

¹⁶ Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, February 11, 1994, paragraph 2-2.

¹⁷ *Id.*, Sec. 1-101.

¹⁸ *Id.*, paragraph 6-604.

¹⁹ NS notes that the Board elected not to specifically address the terms of the Executive Order in the Burlington Northern / Santa Fe and Union Pacific / Southern Pacific railroad control proceedings, both of which post-dated the Executive Order.

methodologies developed to date by other agencies, applying the Executive Order to very different types of proposed actions, were not designed for, and are not well suited to, a rail consolidation of this kind. Attempting to apply such guidance and methodologies in this context, moreover, risks far-reaching and unforeseen consequences contrary to those intended.

First, the proposed action at issue – the Board’s decision whether to approve this Transaction – does not present the potential for discrimination that the Executive Order was designed to protect against. This is not a situation in which certain communities might be excluded from participating in the environmental review process or otherwise receive less environmental protection. Notice of the proceedings and relevant information have been widely circulated every place where there could be potential environmental impacts from the proposed Transaction. SEA has undertaken a comprehensive analysis of potential environmental impacts system-wide and at each point in the 44,000-mile system controlled by the Applicants. Minority and low-income communities have not been overlooked. Potential impacts in these communities have not been dismissed or treated less seriously than potential impacts in other communities, because the DEIS evaluations of potential impacts and the criteria for analysis and for recommended mitigation have been applied evenly and neutrally system-wide. Population demographics have not been a factor in determining potential impacts or mitigation measures. Rather, the driving factors have been increases in rail traffic projected across the entire 44,000-mile system based on operational capacity and market demand. *Where neutral criteria are plainly applied across the system, as in this case, additional demographic analysis is not necessary to ensure nondiscrimination.*

Application of the Executive Order to this proceeding is not necessary to protect against discrimination by NS or CSX. The DEIS does not suggest that NS and CSX, in deciding how to route their trains, had any intent to disfavor minority or low-income populations. Nor could such a claim plausibly be made. The numerous complex factors which were taken into account in deciding how to route trains are discussed in the Operating Plans.²⁰ The demographics of communities along the rail lines is not among them.

Moreover, orders or conditions based on incomplete or technically flawed environmental justice analysis could inadvertently create preferential treatment on the basis of minority status or income level. Nothing in the Executive Order requires or suggests preferential or unique

²⁰ The primary factors are the origin and destination points for the expected freight shipments, geographic factors such as route distance and terrain, and the capacity of the tracks, yards and intermodal facilities.

mitigation for impacts in a minority or low-income community compared to a non-minority or non-low-income community similarly situated with respect to the impacts. *The recommendation in the DEIS for NS to enter into binding agreements for additional mitigation with certain communities but not with non-minority or non-low-income communities similarly situated with respect to impacts is an example of preferential treatment not warranted under the Executive Order and is a violation of its directive and spirit.*

In its attempt to work within the framework of an Executive Order aimed at different kinds of transactions, the DEIS unavoidably dealt with new processes, untested analytic methodologies and untried mitigation strategies. The Board has never issued guidance or proposed rules that address the application of environmental justice concepts to the types of issues typically reviewed by the Board. Virtually all of the academic literature and guidance from other federal agencies with respect to environmental justice describes analysis of localized facility siting or construction decisions (e.g., where to locate an industrial facility, or whether to expand an airport). NS can find no precedent for environmental justice assessment of a financial transaction like the Transaction here, the principal environmental effect of which is to cause interrelated system-wide shifts in train and truck traffic throughout the eastern United States. The railroad rights-of-way at issue in the proposed action were established beginning in the mid-nineteenth century and were largely determined by the early twentieth century. Nearby land was developed with the full knowledge that freight trains moved along the tracks, in most cases with much greater frequency than they do today (e.g., in Cleveland, see Section 2.5.4) or would following the consummation of the proposed Transaction. Neither the Executive Order, nor any other guidance promulgated to implement the Order, directly addresses the type of action proposed here. NS believes that the DEIS environmental justice analysis is technically flawed, due in large part to the conceptual incompatibility of a facility siting model with the very different nature of this Transaction. Given that the Board is not required to conduct such analysis and that such analysis is not necessary to ensure inclusiveness and non-discrimination, a better approach is to review environmental analytic procedures to ensure non-discrimination, or to limit additional demographic analysis to new construction, as was proposed in the draft scoping notice for the EIS.

However, if the Board believes that environmental justice considerations in the future should become a distinct part of its processes, NS urges the Board to follow the lead of DOT and other agencies. The Board (like DOT and other agencies) should issue proposed rules or guidance on environmental justice analysis and seek input from community organizations, state and local governmental agencies, and other stakeholders before issuing final rules. The EIS

process is not the appropriate place for the Board to establish for the first time its policy and approach to environmental justice.

4.16.2 The Proposed Action Will Not Have Disproportionate Effects on Minority and Low-Income Populations.

The President's Executive Order on Environmental Justice directs Federal Agencies to identify and address "*disproportionately* high and adverse human health or environmental effects" on minority and low-income populations (emphasis added).²¹ The Applicants' Operating Plans have been devised to route freight traffic so as to provide the quickest, safest and most cost-effective rail transportation possible, to the benefit of persons of every racial and income group. Some lines will experience increased traffic and some will experience decreased traffic. Analysis of the minority and income status of populations adjacent to the rail lines, shown in Tables 4.16.1 and 4.16.2, discussed below, clearly shows that the increases and decreases in traffic over the 44,000 miles of rail lines at issue will not be borne by minority and low-income persons disproportionate to their presence along the rail lines. Since train routing decisions are not based on the status of the populations adjacent to the lines, this finding should come as no surprise.

The U.S. Department of Transportation's Order on Environmental Justice (as well as the literature in the field of environmental justice impact assessment) defines two tests to determine whether impacts are disproportionate: "Disproportionately high and adverse effect on minority and low-income populations means an adverse effect that:

- is predominantly borne by a minority population and/or a low-income population, or
- will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low income population."²²

Neither test is met in this Transaction.

²¹ Executive Order 12898, Sec. 1-101.

²² U.S. Department of Transportation, *Order to Address Environmental Justice in Minority Populations and Low-Income Populations*, February 3, 1997, page 25.

Potential impacts are not borne disproportionately by minority or low-income communities. Table 4.16.1 compares the minority and low income concentrations of populations that would experience increases in train traffic post-Transaction with the minority and low-income concentrations of populations residing adjacent to all of the rail lines to be controlled by the Applicants.²³ Table 4.16.1 clearly shows that the demographic makeup of communities that would see increases in train traffic is virtually identical to that of the system as a whole. It shows, additionally, that about 75 percent of the population adjacent to the rail lines involved in this Transaction that will experience train traffic increases is non-minority, and about 85 percent of the population so impacted is non-low-income. Potential impacts would therefore not be “predominantly borne” by minority or low-income communities on a system-wide basis.

Table 4.16.1: Comparison of Communities Where Train Traffic will Increase and Decrease Across the Expanded NS, CSX and Shared Assets Areas Systems

	Entire systems (NS, CSX and Shared Assets Areas)	Communities where:		
		Train traffic would increase above SEA threshold for analysis (8 trains per day)	Train traffic would increase by any amount	Train traffic would be unchanged or would decrease
Share of population with minority status	25%	22%	26%	24%
Share of population in poverty	15%	15%	15%	15%

On a system-wide basis, potential effects on minority and low-income populations would not “appreciably exceed,” or be “more severe” or “greater in magnitude” than among other adversely populations effected. Table 4.16.1 shows that communities that would see increased train traffic at or above the Board’s analytic threshold of eight trains per day are virtually identical in low-income concentration and, if anything, slightly lower in minority concentration

²³ Demographic data were gathered for populations adjacent to each rail line in the expanded NS, CSX and Shared Assets Areas systems using procedures similar to those described in the DEIS (Appendix K). Because NS’ analysis is system-wide, and, by contrast, the DEIS includes demographic data for only a small number of segments, there are two important differences in methodology. First, data were collected for this analysis at the postal zip code level instead of the census block group level used in the DEIS. Second, NS’ analysis does not isolate the portion of each zip code potentially affected by the Transaction. The DEIS provides no methodology for defining area of potential effect where the Transaction would result in benefits or in insignificant impact. This analysis is based solely on expected increases in traffic, as a surrogate for environmental impacts, and does not consider the mitigating effects of actions recommended by the DEIS.

than the system as a whole. Table 4.16.2 below focuses in on those segments where train traffic would increase. The table compares increases on segments with adjacent populations in the highest 20 percent in terms of minority and low-income concentration, with increases on other segments.²⁴ Table 4.16.2 clearly shows that, among communities adjacent to segments where train traffic would increase, those communities with the highest minority and low-income concentrations would not see bigger increases than the rest of the communities adjacent to such segments.

Table 4.16.2 Comparison of Rail Segments Where Train Traffic Would Increase (High Minority and Low-Income Concentration Segments Versus Other Rail Segments)

	Minority Concentration		Low-Income Concentration	
	Highest 20%	Other	Highest 20%	Other
Increase in train traffic (trains per day)	4.38	4.9	4.66	4.76

In the prevailing literature, statistical tests called “difference of means” tests are used to determine whether comparisons such as those made in Table 4.16.1 or Table 4.16.2 are “statistically significant,” i.e., whether differences in the demographic data are real or random ‘noise’ in the data. These tests - conducted on all the comparisons made in Tables 4.16.1 and 4.16.2 - confirm that differences in the average demographics of communities that will see various effects are not statistically significant.²⁵

²⁴ To construct the ‘highest 20%’ and ‘other segment’ groups, segments were ranked by minority or low-income concentration of adjacent populations from highest to lowest. Segments were then divided into five groups (quintiles). The sum of the populations in any quintile equals 20% of the total population adjacent to the entire system. The exercise was done separately for analysis of minority and low-income effects. The ‘highest 20%’ is the quintile with the highest minority or low-income concentration. The ‘other segments’ group includes the other four quintiles.

²⁵ As the literature suggests, difference of means tests are used to determine whether observed differences in minority and low-income concentrations are “statistically significant” at a 95% confidence level. See Vicki Been and Francis Gupta, “Coming to the Nuisance or Going to the Barrios? A Longitudinal Analysis of Environmental Justice Claims,” *Ecology Law Quarterly* v24 (1997) n1:1-56; Paul Mohai and Bunyan Bryant, “Environmental Injustice: Weighing Race and Class as Factors in the Distribution of Environmental Hazards,” *University of Colorado Law Review* v63 (1992) n4:921-932; and Andrew Szasz, Michael Meuser, Hal Aronson, and Hiroshi Fukurai, “The Demographics of Proximity to Toxic Releases: The Case of Los Angeles County,” Paper presented at the Annual Meetings of the American Sociological Association, Miami, FL, 1993.

Nowhere in the DEIS is there an assessment of whether impacts would be disproportionate, predominantly borne by minority or low-income populations, or whether potential impacts in low income communities would be more severe or greater in magnitude than among other affected populations. The only explanation of the DEIS methodology for determining whether effects on minority or low-income communities are disproportionate is as follows:

“SEA used a qualitative analysis approach which included review of several different factual circumstances, including cumulative effects of exposure to health and environmental impacts from many sources, to determine the significance levels on a local case-by-case basis. A determination of a significant environmental justice impact specifically included SEA’s consultation with affected communities.”²⁶

Such analysis can provide useful information, but it is not determinative of the question of whether impacts are predominantly borne by, or are more severe among, minority and low-income populations than among other populations on a system-wide basis. Members of communities consulted in such analysis would have limited knowledge of how other communities are being affected by the proposed action. Consultation might help to identify hypothetical cumulative effects (e.g., situations where individuals are more susceptible to effects because of site-specific circumstances) but the DEIS puts forward no reason why such consultation is needed only in minority or low-income communities, or why a community’s demographics could affect the potential for cumulative effects.

4.16.3 The Proposed Action Will Not Have High and Adverse Effects on the “Environmental Justice Communities” Identified in the DEIS.

The DEIS identifies seven rail segments along the expanded NS system that “may warrant environmental justice mitigation”²⁷ (see Table 4.16.3). The list is composed of rail segments that (1) exceed DEIS significance criteria for one or more environmental effects and (2) also exceed a DEIS threshold for minority or low-income concentration in the surrounding population.²⁸ The potential adverse effects identified on these segments include at-grade crossing safety (2 segments), freight rail safety (2 segments), and increased hazardous materials transport (5

²⁶ DEIS, Appendix K at 10-11.

²⁷ DEIS, Table 7-9, at 7-47 to 7-48.

²⁸ DEIS at 3-48 to 3-49.

segments). The DEIS also suggests that otherwise insignificant noise effects, in combination with other factors, could pose a “cumulative impact” on five of the seven segments.

**TABLE 4.16.3
NS RAIL SEGMENTS IDENTIFIED IN DEIS FOR ENVIRONMENTAL JUSTICE MITIGATION**

Segment	At-Grade Crossings	Freight Rail Safety	Hazmat Transport	Noise*
N-041	X		X	X
N-045	X		X	X
N-075			X	X
N-081			X	X
N-082			X	X
N-086		X		
N-090		X		

*Potential cumulative impact concern.

These rail segments, like all areas that could potentially experience effects, were appropriately subject to SEA assessment. NS is prioritizing outreach activities in minority and low-income communities near these segments as the DEIS directs. However, a closer look reveals that these communities will not experience significant impacts from the Transaction, much less impacts that are “disproportionately high and adverse.”

The initial step in the environmental justice methodology described in the DEIS is identification of health and environmental effects of the proposed Transaction.²⁹ The DEIS proposes system-wide and site-specific mitigation measures that SEA generally believes will “ensure” that no significant effects occur. Given these measures, NS sees no grounds for further environmental justice analysis. *There can be no disproportionately high and adverse effect on minority or low-income populations if there is no significant adverse effect at all, or if mitigation is in place to ameliorate the potential adverse condition.*

The failure to consider the benefits of proposed measures to promote at-grade crossing safety, freight rail safety, and safe hazardous materials transport is a major flaw in the DEIS environmental justice analysis. In this respect, the DEIS deviates from federal guidance and

²⁹ DEIS at 3-48.

accepted practice.³⁰ SEA proposes that its criteria-based at-grade crossing safety, freight rail safety, and safe hazardous materials transport measures be implemented in the identified environmental justice communities.³¹ The DEIS states that these measures would “address environmental impacts for these [environmental justice] communities.”³² The DEIS states that proposed mitigation measures are of the type that the Surface Transportation Board typically considers and imposes to “ensure freight safety”³³ and to “ensure safety at specific grade crossings.”³⁴ With respect to hazardous materials transport, the DEIS proposes system-wide measures to “prevent and quickly, efficiently and effectively respond to hazardous materials releases.”³⁵ The DEIS also proposes measures on these specific segments that “reduce potentially significant Acquisition related impacts resulting from the increased transportation of hazardous materials.”³⁶ Yet, the ameliorative effects of these mitigation measures are not taken into account by the DEIS’ environmental justice analysis.

Even in its consideration of potential impacts (i.e., those that could potentially occur absent measures to address them), the DEIS fails to demonstrate any reasonable connection to minority or low-income populations. The U.S. Environmental Protection Agency’s *Guidance on Incorporating Environmental Justice into EPA’s NEPA Compliance Analyses* notes that “the effects of proposed actions will often vary depending on the distance of the affected community from the action and the type of effect created by the action. Effects on the community should be

³⁰ The U.S. Department of Transportation’s Order on Environmental Justice states that, “in making determinations regarding disproportionately high and adverse effects on minority and low-income populations, mitigation and enhancements measures that will be taken and all offsetting benefits to the affected minority and low-income populations may be taken into account, as well as the design, comparative impacts, and the relevant number of similar existing system elements in non-minority and non-low-income areas.” U.S. DOT, *Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, paragraph 8.b.

³¹ DEIS recommended Mitigation Number 1 for at-grade crossing safety, at 7-11 to 7-12; DEIS recommended Mitigation Numbers 3(A), 3(B), 3(C), 4(A), 4(B), 5 and 6 for hazardous materials transport, at 7-12 to 7-14; DEIS recommended Mitigation Numbers 7(A) and 7(B) for freight rail safety, at 7-14 to 7-15. Table 7-4, at 7-26 to 7-33 for at-grade crossing safety; Table 7-5 and 7-6, at 7-34 to 7-42 for hazardous materials transport; Table 7-2, at 7-25 for freight rail safety.

³² DEIS at 7-18.

³³ DEIS at 3-7.

³⁴ DEIS at 3-11.

³⁵ DEIS at 3-14.

³⁶ DEIS at 3-14.

discussed in terms of *reasonable* increments from the site”³⁷ (emphasis in original). In fact, the DEIS identifies minority and low-income populations based on areas that would hypothetically be affected by an exaggerated 65 dBA noise contour.³⁸ But the DEIS identifies no significant adverse noise impact in any of the seven environmental justice communities.

Two of the segments identified in the DEIS, N-086 (Toledo, Ohio) and N-090 (Harrisburg, Pennsylvania), are singled out for environmental justice analysis solely because of potential freight rail safety effects. The DEIS analysis of freight rail safety focuses on freight train collisions, derailments, and collisions with train service vehicles.³⁹ Freight rail safety effects are considered significant in the DEIS if, absent mitigation, they were projected to produce at least one accident in 100 years.⁴⁰ Freight rail incidents are almost always confined to the tracks themselves and, as the DEIS points out, are infrequent in any case.⁴¹ Freight rail incidents are rarely noticeable to the neighboring community. NS submits that the very low risk of a freight rail incident, the effects of which are usually confined to the tracks themselves, does not create a “high and adverse effect” on surrounding populations.⁴² In addition, measures taken to improve freight rail safety are determined by regulatory requirements, industry practice, available technology, and the railroad operating plan. Freight rail safety measures must be implemented system-wide, not on a community-by-community basis.

Two of the segments identified in the DEIS, N-045 (Ft. Wayne, Indiana) and N-041 (Danville, Illinois), are singled out for environmental justice analysis in part because of potential at-grade crossing safety effects. The potential effects are related to incidents involving highway vehicles, not residences. The DEIS provides no evidence linking the highway traffic at these crossings to the relevant populations, i.e., there is no evidence that a potential at-grade crossing safety issue has a significant adverse effect on an environmental justice community located elsewhere along the line segment.

³⁷ U.S. EPA, *Interim Final Guidance on Incorporating Environmental Justice into EPA's NEPA Compliance Analyses*, September 30, 1997, page 5. (Emphasis added)

³⁸ DEIS at 3-48 to 3-50.

³⁹ In the DEIS, freight rail safety issues are analyzed separately from hazardous materials transportation and at-grade crossing safety. The DEIS identifies no significant hazardous materials transport effect or at-grade crossing safety effect on either of these two segments.

⁴⁰ DEIS at 3-8.

⁴¹ DEIS at 3-4.

⁴² See Section 4.1 above for further discussion of freight rail safety.

These two segments, along with three others, N-081 (Ashtabula and Cleveland, Ohio), N-082 (Ashtabula and Youngstown, Ohio), and N-075 (Ashtabula and Cleveland, Ohio), are also singled out because of projected increases in hazardous materials transport. Rail transport of hazardous materials does not create a “high and adverse” effect in these communities. In 1996, 99.96 percent of all hazmat shipments through the NS system arrived without incident.⁴³ That figure has steadily improved from 99.90 percent a decade ago.⁴⁴ Like freight rail safety, measures taken to ensure safe transport of hazardous materials must be applied system-wide, not community by community. In similar fashion, the DOT has issued comprehensive hazardous materials regulations at 49 CFR Parts 171-174, which are intended to make the possibility of a hazardous materials incident unlikely. Compliance with the DOT rules on a system-wide basis, coupled with NS’ voluntary proactive risk management efforts (see Sections 4.4 and 4.4.4 of these comments), means the possibility of an incident occurring is remote, further supporting NS’ position that the projected increased hazmat traffic on those two line segments will have no high or adverse effect on the communities along those lines.

The additional safety benefits of the proposed Transaction should also be recognized in the environmental justice analysis. Between 1994 and 1996, the NS system experienced 2.15 incidents per million train miles, 41 percent better than Conrail’s record of 3.63 incidents per million train miles. According to the DEIS, hazardous materials incidents on the NS system caused no injuries between 1992 and 1996, while incidents on the Conrail system caused nine injuries.⁴⁵ The DEIS recognizes that the proposed action will create fewer incidents and “an overall safety improvement for rail transportation of hazardous materials.”⁴⁶ These findings should be reflected in any environmental justice analysis.

Finally, the DEIS indicates that the Board is still considering the possibility that “cumulative” impacts on environmental justice communities could result from noise and from other unspecified factors. However, the DEIS does not find “cumulative” impacts in other non-minority, non-low-income communities. The DEIS does not identify significant potential noise effects in any of the environmental justice communities. And, based on the analysis presented here, NS believes that these communities will not see significant adverse impacts of any kind. A finding of cumulative exposure is based on the idea that the whole is sometimes bigger than the

⁴³ As explained previously, an “incident” involving hazardous materials transportation refers to any leak or spill of material from its original container, without regard to the amount released or its effect. The loss of one drop of material is labeled an “incident.”

⁴⁴ This represents a 60% improvement in the rate of hazmat incidents.

⁴⁵ DEIS at B8-1 – B8-4.

⁴⁶ DEIS at ES-19.

sum of its parts, e.g., that synergies between multiple insignificant effects create a significant effect. Neither the DEIS, nor the scoping documents that preceded it, discuss a link between insignificant noise effects and other effects. The DEIS provides no evidence that such a link exists. The DEIS contains no discussion of how the hypothetical cumulative effects are borne disproportionately in minority and low-income populations. A finding of cumulative effects must be based on sound science that is clearly explained.

NS supports the Board's efforts to reach out to these communities and all the communities affected by the Transaction. These efforts complement NS's own ongoing activities in community outreach. NS reiterates its intent, wherever mitigation measures are appropriate, to address significant human health and environmental impacts to implement such measures regardless of the race, color, national origin or socioeconomic status of the affected communities. *However, NS does not believe that conditions in these seven locations (or any other community along NS' expanded system) warrant additional environmental justice mitigation beyond what may otherwise be appropriate to ensure adequate opportunity to participate in the EIS process.*

4.16.4 "Environmental Justice" Communities in the DEIS Are Not Predominantly Low-Income or Minority.

According to the DEIS, in none of the seven communities is a majority of the potentially affected population classified as low-income. And in only one community, along NS line segment N-041, does the share of minority persons in the potentially affected population top 50 percent.⁴⁷

Six of the seven communities were identified as "environmental justice" communities within the DEIS because they exceeded by ten percentage points the minority or low-income concentration in the surrounding counties. NS could find no applicable precedent for the use of this standard. Presumably, the DEIS meant to identify those communities that might be disempowered relative to wealthier or otherwise demographically different neighbors. The standard may be appropriate for examining the siting of a waste station, an industrial facility or a power plant. In such cases, plausible alternatives might shift the distribution of impacts among two neighboring communities. But the DEIS threshold of 10 percent greater minority or low-income population than the surrounding county makes no sense in the context of the proposed

⁴⁷ Segment N-041, in which 63.7% of the population are minority persons. Demographic information for each community is contained in Appendix K of the DEIS.

Transaction. The DEIS identifies no locality in which a decision on the proposed Transaction will redistribute burdens among neighboring communities not located adjacent to the railroad.

The potential effects identified in the DEIS for these seven communities result from interdependent changes in rail traffic patterns across a 44,000-mile system that crosses county, state and even national borders, changes that are central to the benefits of the proposed Transaction. Therefore, NS urges that this standard for defining a community as minority or low-income be dropped from the FEIS.

4.16.5 The Environmental Justice Mitigation Measures Proposed in the DEIS Are Unjustified and Impractical.

Notwithstanding the acknowledgment that other proposed mitigation measures address all of the relevant environmental impacts in the seven environmental justice communities, the DEIS directs the applicants to “meet with these communities *to identify and agree on any further appropriate measures* to address the specific environmental impacts that may disproportionately impact these communities.”⁴⁸ The DEIS states further that, absent such agreement prior to issuance of the FEIS, “SEA may recommend that the Board, as a condition of the approval of the Application, direct CSX and NS to implement appropriate mitigation measures.”⁴⁹

It should be reiterated that the proposed Transaction will not have a disproportionate impact on minority and low-income communities in general, that the proposed Transaction will not have a high and adverse impact on the seven environmental justice communities identified in the DEIS, and that only one of these communities is predominantly made up of low-income or minority persons. For all these reasons, negotiation of further mitigation solely on the basis of population demographics would be inappropriate.

The Board is limited by its own regulations to condition approval of a proposed action on environmental mitigation only when that mitigation is directly related to the environmental impact of the proposed action.⁵⁰ Imposing mitigation based on the environmental justice analysis reflected in the DEIS, would, contrary to these regulations, be based not on evidence of additional human health or environmental impact on these communities, but rather solely on the

⁴⁸ DEIS at 7-18. (emphasis added)

⁴⁹ Id.

⁵⁰ 49 CFR 1180.1(d). The point is also made in the DEIS at 3-3.

minority or socioeconomic status of these communities. The additional mitigation proposed is not connected to any significant environmental impact of the proposed Transaction.

For example, consider the N-090 segment (Harrisburg, Pennsylvania) and the N-086 segment (Toledo, Ohio) that could see potential freight rail safety effects according to the DEIS. Based on the demographics of the surrounding populations, the DEIS characterizes these as environmental justice “communities” and recommends that NS consult and reach agreements with these “communities” for additional mitigation. There are two other segments in the NS system (N-047 (Indiana Harbor, Indiana) and N-077 (Oak Harbor, Ohio) that could see the same potential freight rail safety effects, according to the DEIS. The populations surrounding these segments do not exceed the DEIS environmental justice thresholds for minority or low-income concentration, so the DEIS does not call for additional mitigation. The DEIS does not claim that Harrisburg and Toledo would experience greater freight rail safety effects than would Indiana Harbor or Oak Harbor. In fact, freight traffic will increase by less than 10 percent in the Harrisburg and Toledo segments as contrasted with increases of 20 percent and 22 percent in the Oak Harbor and Indiana Harbor segments respectively.⁵¹ The DEIS does not identify a technical basis for the additional mitigation, and mitigation is not justified based on population demographics alone. *An order made on this basis would clearly be contrary to the Board’s regulations and the intent of the Executive Order.*

Furthermore, the method proposed in the DEIS for developing additional mitigation for DEIS-designated environmental justice communities -- negotiation of binding agreements with minority and low-income populations -- is impractical and inconsistent with existing guidance. Who has the authority to speak for “affected populations”? How are parties to be excluded from or included in the negotiation? Must there be unanimous agreement among all interested parties? If not, who must agree? Are the terms of the negotiation limited by the Board’s authority to impose mitigation, or are all issues on the table? Given that these negotiations are to be based on or are the basis for an order of the Board, are they governed by the Federal Advisory Committee Act? How would the terms of an agreement be enforceable against any party other than the Applicants?

Similar concerns were raised when the U.S. Department of Transportation proposed the notion of developing environmental justice mitigation through binding agreements with affected

⁵¹ DEIS at ES-8.

populations in its draft Order on Environmental Justice.⁵² The State of Colorado called the proposal “far too expensive and time consuming.” The National Association for the Advancement of Colored People (NAACP) argued that the option sent the “wrong message and should be removed” because it would create “powerful incentives for project sponsors and unrepresentative factions within a community to reach ‘agreements’ that are not truly representative of community sentiment.”⁵³ The NAACP pointed out that parties to such an agreement might unknowingly compromise their rights to settle environmental justice complaints through other means.⁵⁴ The State of California asked how it would determine, “when there really is community ‘buy in’?”⁵⁵ California pointed to the West Cypress Expressway reconstruction in Oakland, where successful negotiations with one community group prompted a lawsuit from another. “A significant amount of resources had to be expended in defending the suit.”⁵⁶ The New York City Bar Association, commenting generally in favor of environmental justice measures, called the proposal for negotiations with affected populations, “fraught with risk and unworkable. In particular, the identification of the appropriately representative group to enter into an agreement... which, in effect, waives the whole community’s environmental justice protections does not appear to be a task that a government agency is suited to undertake.”⁵⁷ Finally, the State of Illinois commented that mitigation measures likely to be of interest to affected populations would be “impractical” because funding of those measures would be beyond the authority of state or federal public works and transportation agencies.⁵⁸

In its Final Order, U.S. DOT noted that comments expressed “concern and uncertainty as to the implementation” of the negotiated agreement approach: “DOT agreed with the comments

⁵² DOT proposed three options (A – C) for developing mitigation for environmental justice impacts (paragraph 6 of the draft order). Option B included a requirement that “an agreement is reached with the potentially affected populations to proceed with the program, policy or activity.” U.S. DOT, *Proposed Order to Address Environmental Justice in Minority Populations and Low-Income Populations*, June 29, 1995, Option ‘B’, paragraph 6.b(1).

⁵³ Letter from Norman Chachkin, NAACP Legal Defense and Educational Fund, Inc., to Docket 50125, September 26, 1995, page 6.

⁵⁴ *Id.*, page 7.

⁵⁵ Letter from Howard Sarasohn, Program Manager, California Department of Transportation, to Docket 50125, August 24, 1995, page 2.

⁵⁶ *Id.*

⁵⁷ Letter from the Association of the Bar of the City of New York, Committee on Environment and Committee on Civil Rights, to Docket 50125, February 13, 1996, page 6.

⁵⁸ Letter from Kirk Brown, Secretary of Transportation, State of Illinois, to docket 50125, September 6, 1995, page 3.

and, accordingly, that paragraph has been deleted from the final order.”⁵⁹ NS recognizes that the Board is not bound by the DOT Order, but urges the Board to come to the same conclusion as DOT and public commentors on this matter.

NS is not opposed to additional consultation with individual communities. Our own outreach efforts to date are described in Sections 5 and 6 of these comments. Additional consultation may be useful, for example, in determining whether a particular at-grade crossing safety, freight rail safety or hazardous materials transportation mitigation strategy recommended by the DEIS can be tailored to address local concerns. Consultation may open the EIS process to input from a wider spectrum of interests. NS supports efforts to achieve these objectives. *But NS is opposed to binding negotiations of the type proposed in the DEIS, and to practices that might create preferential treatment on the basis of minority status or income.*

4.17 Cumulative Impacts

The DEIS evaluated system-wide cumulative effects of the Conrail Transaction, considering the scale and dimensions of the overall Transaction, including the effects on energy, air quality and transportation. Based on this evaluation, the DEIS concludes that the Transaction will result in a net positive cumulative effect. Norfolk Southern concurs with this conclusion - as stated in Section 3 herein, NS strongly believes that this Transaction will have a net positive benefit for the environment and the economy.

The DEIS also discusses evaluating cumulative impacts on identified environmental justice communities, but not, however, on other communities with similar potential impacts. The DEIS provides no supporting justification, analytical approach, or evidence supporting potential adverse cumulative effects at the local level. The DEIS includes no methodology for weighting and then combining the various potential adverse effects of rail traffic (grade crossing safety, traffic delays, noise, etc.). And of course, there is no quantification of the benefits of the Transaction on a localized basis. Further, there is apparently no consideration of the mitigation effects of measures SEA plans to require. NS believes this approach is flawed as discussed in detail in Section 4.16 above.

⁵⁹ U.S. Department of Transportation, *Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, preamble, page 7.

4.18 Relationship Between Short-Term Uses of the Environment and Enhancement of Long-Term Productivity

The DEIS considers the extent to which the Transaction would result in long-term productivity gains at the expense of short-term use of the environment and environmental impacts. Potential short-term impacts result from construction activities for new rail line connections. The short-term impacts identified by the DEIS are typically very limited in geographic scope, and readily mitigated by the railroad's existing Best Management Practices employed at construction sites. The DEIS concludes that the short-term impacts would be offset by long-term gains in productivity, including increased productivity and efficiency of rail operations in the eastern U. S. Long-term positive effects include system-wide reductions in energy consumption, highway traffic congestion, highway safety and air pollutant emissions. *Norfolk Southern concurs with this conclusion - the Conrail Transaction will have a net positive benefit for the environment and the economy.*

4.19 Irreversible and Irrecoverable Commitment of Resources

The DEIS evaluates the irreversible and irretrievable commitment of resources, including natural, physical, human and fiscal resources. The evaluation addresses resources committed to both operational changes and construction of new and/or modified intermodal facilities, rail yards and line segments. Operational changes on existing rail lines redistribute resources, but do not increase the use of irreversible and irretrievable resources. New construction activities typically involve use of land and construction materials, labor, and minor amounts of fossil fuels. Land use is an irretrievable commitment only for the period of use by the railroad; the land can later be converted to another use. The use of construction materials, labor, and fossil fuels represents a minor irretrievable use of resources; use of these materials will not have an adverse effect upon continued availability of these resources. Therefore, the DEIS concludes that the benefits of the proposed Transaction would outweigh the commitment of the described resources. The long-term positive effects include system-wide reductions in energy consumption, highway traffic congestion, and air pollutant emissions. *Norfolk Southern concurs with this conclusion - the Conrail Transaction will have a net positive benefit for the environment and the economy.*

4.20 Abandonments

SEA evaluated the potential for abandonment-related impacts on land use and socioeconomics, natural resources (water and biological), air quality, noise, cultural resources (historic and archeological), hazardous waste sites, transportation, and energy. The DEIS found that no significant impacts would result from the proposed abandonments. The findings in the DEIS are well-founded and the methodologies are appropriate for evaluating the potential for abandonment impacts.

In general, abandonments are expected to have a positive impact; therefore, mitigation measures were recommended on a system-wide basis. SEA recommended using "best management practices" to minimize soil erosion and sedimentation, restoring any adjacent properties that are disturbed during right-of-way salvage activities, controlling temporary noise caused by salvage equipment, restoring roads disturbed during removal activities, and contacting and coordinating activities with the State SHPO if any previously unknown archaeological remains are found. SEA also recommended that NS comply with all applicable federal, state, and local regulations regarding the control of fugitive dust and the handling and disposal of any waste materials. NS is committed to fulfill these requirements.

4.21 Construction

SEA evaluated proposed NS construction projects for 11 new connections and 1 bridge rehabilitation. The DEIS sets forth SEA's criteria for determining which constructions require environmental review (DEIS at 1-14). Normally, SEA does not evaluate the impacts of constructions and other activities that take place wholly within existing right-of-way. However, to ensure a thorough environmental review of the proposed merger, certain activities, even if they would occur solely within the existing railroad right-of-way, were reviewed in the DEIS. Specifically, SEA reviewed such projects if (1) they were major undertakings; (2) they would not be undertaken but for the proposed Conrail Transaction; and (3) they had the potential for environmental impacts outside the existing right-of-way (DEIS at 1-15).

NS concurs with the findings in the DEIS. The findings are well-founded and the methodologies are appropriate for evaluating the potential construction-related impacts.

During engineering studies on Conrail's Buffalo-Binghamton rail line, a Conrail Bridge (No. 361.66) over the Genesee River near Portageville, New York, was found to be near the end of its useful life. The bridge is an 819-foot long steel viaduct carrying a single railroad track, and is currently rated for 263k (load rating) traffic at 10 mph due to its design, age and condition. The viaduct rests on six steel towers that were constructed in 1875. The design and age of the current structure preclude repair or renovation of its load-handling capability without essentially replacing the entire bridge. NS is conducting further studies to evaluate alternatives to replace the existing bridge. The anticipated bridge replacement is in response to an existing condition, and is not related to the Transaction. NS will replace the bridge in full compliance with all applicable federal, state and local laws and regulations.

4.22 Other Miscellaneous Issues

4.22.1 Train Traffic Correction for CP Trains on the Michigan Line Segments

The presence in the DEIS of the W. Detroit to Jackson, Michigan (N-121) and Jackson to Kalamazoo, Michigan (N-120) line segments fails to consider important information provided by NS to SEA in October 30, 1997 correspondence. In that correspondence, NS clarified that the Canadian Pacific (CP) traffic that was included in the Operating Plan for these segments was not correct. As the October 30 letter specified, a final agreement with CP has not been reached. For the agreement to become final, CP would have to commit capital on the NS line and on the Amtrak line from Kalamazoo, Michigan to Porter, Indiana, including specialized locomotive equipment for the Amtrak line. No CP trains would be hauled on the NS or Amtrak lines until a final agreement has been reached. Further, by agreement with CSX, CP is required to send a minimum number of trains on the CSX line (from Detroit, MI to Grand Rapids, MI to Porter, IN). The specified minimum number of trains is confidential but would decrease the number of trains it would send on the NS line if a final agreement should be reached and if CP should choose to use its haulage rights with NS. With this understanding, the letter stated that the CP traffic should not have been added to these line segments. *The CP traffic should be deleted; as a result, the two line segments would not meet STB thresholds and, therefore, no longer need to be analyzed for environmental impacts.* Additionally, the CP trains should not have been added to the Amtrak line from Kalamazoo to Porter. The correct train data is included in Section 7.11 of these comments and should be used for these line segments for the FEIS.

4.22.2 Train Traffic Correction for Kankakee Connection

The Errata issued by SEA (January 12, 1998 Errata at 10, row 3, Subject - Construction) proposes to correct the DEIS at Chapter 5, page IL-22 by making the following correction: "according to the Application, approximately six trains per day will run over the new connection." This statement is only technically correct and is misleading. The ER did indicate this level of traffic, but in error. To correct this, October 2, 1997 correspondence from NS to SEA stated:

Traffic on the new connection would be zero trains per day after the Transaction but could increase later if the market for transportation services grows.

and;

The proposed project would allow NS to provide more consistent service for customers on these routes in anticipation of the growing future markets for transportation services in these areas.

Even though growth in the market for transportation services is anticipated, future traffic levels cannot be known at this time, and consideration of future market growth does not meet the Board's criteria for relation to the Transaction.

The DEIS was correct at Chapter 5, page IL-22. The DEIS was incorrect, however, in its discussion of the Kankakee connection at IL-74. The latter discussion and recommendations were based on outdated and incorrect information. (The initial error in the DEIS was compounded in SEA's January 12, 1998 Errata which proposed to eliminate the correct information and let the incorrect information stand.)

In summary, the correct information was properly reflected in the initial DEIS at IL-22. The January 12, 1998 Errata was incorrect. The discussion and references at Volume 3A, page IL-74 are incorrect. *Applying the correct information of zero trains per day, there is no potential impact in Kankakee. The FEIS should consistently reflect the correct information in its analysis.*

4.22.3 Miscellaneous Comments Addressed by CSX

NS concurs with CSX's comments on the DEIS regarding the Stark Development Board, Cross-Harbor Car Float Service, New Jersey Department of Transportation and New Jersey Transit Corporation and the Southeastern Pennsylvania Transportation Authority.

5.0 NORFOLK SOUTHERN RESPONSE TO DEIS DISCUSSION REGARDING COMMUNITIES WITH UNIQUE CIRCUMSTANCES

The DEIS identifies several communities with “unique circumstances” as areas of special concern. SEA conducted additional analyses and site visits to assess potential environmental impacts and public concerns in these communities. The DEIS identifies the following as communities with unique circumstances potentially affected by NS’ operations and activities following the Transaction:

- Lafayette, Indiana
- Muncie, Indiana
- Four Cities Consortium (Gary, East Chicago, Hammond, and Whiting, Indiana)
- Cleveland, Ohio
- Western Cleveland Suburbs, Ohio
- Erie, Pennsylvania

The DEIS directs NS to resolve potential environmental impacts in these communities through negotiation of binding agreements between and among the locally affected community, NS and the appropriate government agencies. SEA is also planning and implementing an expanded public outreach program in these (and other) communities to ensure adequate public access to information about the Transaction and the EIS process.

NS believes SEA’s approach of requesting binding agreements with the intent of imposing the agreements as conditions, as described within the DEIS, to be inappropriate. NS strongly opposes the imposition of negotiated agreements as a condition of approval of the Transaction (see Section 2.6). Agreements reached between the railroad and local communities should be recognized as stipulations by the Board, not made a condition of the Transaction approval.

Although NS does not believe negotiated settlements should be mandated as a mitigation measure, it does recognize the importance of ensuring the public’s access to information on the Transaction, and in working with affected communities to address specific issues wherever possible. Accordingly, NS has initiated a community coordination and outreach program with the communities identified above. The purpose of NS’ community outreach is to identify

community concerns relating to the Transaction, and provide information to the communities regarding NS operations and activities, including environmental and safety management programs. Where potential environmental impacts are identified and require mitigation, NS will coordinate potential mitigation strategies in an attempt to resolve the community concerns and potentially enter into memoranda of understanding (MOU's) with the affected parties.

NS' coordination efforts with the above communities are designed to be flexible and responsive to the needs of each community. Community-specific coordination and outreach efforts are summarized in the following sections. NS is willing to work with these communities to the extent practicable to mitigate the effects of increased train traffic. However, because these communities are located in or near long-standing major rail line routes and hubs, it is commercially and operationally infeasible to reroute large amounts of traffic away from these areas. Nonetheless, NS remains open to all constructive dialogues related to the Transaction and the potential impacts it may have on selected communities.

5.1 Lafayette, Indiana

The DEIS identifies potential environmental impacts for noise, transportation safety (eight at-grade crossings) and traffic delay (ten at-grade crossings) at Lafayette, which has a long-standing concern about the local impacts of railroad operations. The ongoing Lafayette Railroad Relocation Project, involving the relocation of the NS line and the removal of the existing NS tracks through Lafayette, was initiated to address existing conditions. The project will also offer mitigation for the transportation, noise, and air quality impacts of the Transaction, according to the DEIS. The Lafayette Railroad Relocation Project has been ongoing since the 1970's; completion is anticipated by 2001, pending final funding. The DEIS also includes additional mitigation requirements for Lafayette, including: directing NS to upgrade the at-grade crossing warning devices to mitigate the potential safety issues; and directing NS to meet with the City of Lafayette, Indiana DOT, and other appropriate parties to negotiate an interim mitigation plan to address potential vehicle delay at the ten crossings until the relocation project is completed.

There are several inconsistencies within the DEIS approach for Lafayette which overstate the need for special treatment:

- The DEIS concludes that Tippecanoe County is designated as attainment for all pollutants (DEIS at IN-46), and the Transaction-related air emissions would not

adversely affect air quality (DEIS at W-49). No need for air quality impact mitigation has been identified for Lafayette in the DEIS. However, in the Preliminary Recommended Mitigation section (DEIS at IN-89) for Lafayette, the completion of the Lafayette Railroad Relocation Project would reportedly mitigate air quality impacts. This is an inconsistent application in the DEIS of the basis for mitigation.

- The DEIS calculated the 65 dBA L_{dn} noise contours for pre- and post-Transaction conditions at the NS line segments Peru - Lafayette Junction and Lafayette - Tilton. These line segments exceed this DEIS threshold for evaluation, but do not exceed the 70 dBA L_{dn} and 5 dBA increase threshold as a significant impact. "SEA considered rail line segments eligible for noise mitigation for noise sensitive receptors exposed to at least 70 dBA L_{dn} and an increase of at least 5 dBA L_{dn} due to increased rail activity." DEIS at 3-35. Since noise levels at these rail line segments do not qualify as significant impacts, no mitigation is necessary for noise.

- The DEIS directs NS to upgrade safety warning devices at several crossings. However, as stated in Sections 2.4 and 4.3, of these comments, NS believes this requirement conflicts with state DOT authority to determine crossing upgrade priorities, and fails to consider site-specific variables.

- Traffic delay impacts identified at the ten NS at-grade crossings at Lafayette no longer meet the DEIS threshold for a significant impact resulting from the Transaction, as calculated within the January 21, 1998 Supplemental Errata. Nonetheless, the Supplemental Errata concludes that mitigation is required for the 10 crossings "...due to the unique conditions in this community with close proximity of these crossings to each other within an urban setting and the resultant effect on traffic delay along these roadways." Supplemental Errata, Table 1, at 3 of 4. Thus, the DEIS applies a more restrictive and arbitrary threshold for significance of traffic delays to Lafayette than to other communities. There is no supporting rationale for this more restrictive threshold, nor any supporting studies projecting "...the resultant effect on traffic delay along these roadways." In addition, the Lafayette Railroad Relocation Project will eliminate all highway/rail at-grade crossings, thus eliminating the projected vehicle delays.

The City of Lafayette is not significantly adversely impacted by the Transaction, as defined by the DEIS thresholds for significance. *The existence of multiple at-grade crossings is a pre-existing condition, with a plan to address the existing condition (the Lafayette Railroad Relocation Project) in place for the past several years, and now undergoing the final phase of construction. The additional temporary traffic delay related to the Transaction does not meet the DEIS requirements for significance, and therefore does not warrant special mitigation.*

Regardless of these inconsistencies, NS recognizes the importance of ensuring the public's access to information on the Transaction, and in working with affected communities to address specific issues and public concern wherever possible. Accordingly, NS has initiated a coordination and outreach program with the City of Lafayette and the Indiana DOT.

5.2 Muncie, Indiana

The DEIS notes that residents of Muncie have expressed concerns regarding traffic delays, including potential delays of emergency vehicles, that may result from increased train traffic on NS' line between Alexandria and Muncie. The DEIS directs NS to negotiate with the City of Muncie, Indiana DOT, and other appropriate parties to develop a binding agreement for the implementation and funding of measures to address safety and traffic concerns at seven highway/rail at-grade crossings in Muncie on the Alexandria to Muncie line.

There are several inconsistencies with this approach. In addition to NS' previously stated objection to mandated negotiations concerning grade crossings and Board imposition of stipulated agreements as conditions of approval (see Sections 2.4 and 2.6), the requirement for mitigation at Muncie is not based on any determination of potentially significant environmental impacts within the DEIS. The crossings at Muncie do not exceed the DEIS impact thresholds for significance for delay or safety, and therefore do not require mitigation. The sole reason for identifying Muncie as a community with unique circumstances appears to be the existence of public comments unsupported by technical analyses of impact.

Nonetheless, NS recognizes the importance of ensuring the public's access to information on the Transaction, and in working with affected communities to address specific issues and public concern wherever possible. Accordingly, NS has initiated a coordination and outreach program with the City of Muncie and the Indiana DOT. NS has also proposed to work with the Indiana DOT and other relevant governmental agencies to seek support and public funding for

upgrading seven existing grade crossings from Council Street to Morrison to include both automatic flashing lights and gates. NS submitted this proposal to SEA on November 25, 1997. A copy of the letter proposal is included in Volume 5B of the DEIS.

5.3 Four Cities Consortium, Indiana

The Four Cities Consortium is an association of East Chicago, Gary, Hammond, and Whiting, Indiana, formed to assess regional effects of the proposed Transaction. Its concerns focus on localized issues of safety and traffic delays at crossings. The DEIS identified potential significant safety impacts at four CSX at-grade crossings, but none for at-grade crossings on NS rail line segments. Traffic delay impacts were evaluated for 15 crossings (both CSX and NS), and the DEIS determined that levels of service remained unchanged and therefore no mitigation was warranted. However, recognizing the Four Cities Consortium's expressed concerns regarding potential delays for emergency vehicles, the DEIS recommends that NS and CSX negotiate with the Four Cities Consortium and the Indiana DOT to address potential traffic delay and safety concerns at nine at-grade crossings. Potential noise impacts were also addressed by the DEIS, but no significant noise impacts requiring mitigation were identified. The DEIS does not identify any disproportionate or specific impacts affecting low income or minority populations within the Four Cities Consortium area. Nonetheless, additional public outreach efforts are being conducted by SEA.

There are several inconsistencies with this approach to mitigation. In addition to NS' previously stated objection to mandated negotiations (see Section 2.6), the requirement for negotiated mitigation at the Four Cities is not based on any determination of potentially significant environmental impacts within the DEIS. The crossings within the Four Cities do not exceed the DEIS impact thresholds for significance for delay, and therefore do not require mitigation. The sole reason for identifying the Four Cities as a community with unique circumstances appears to be the existence of public comments unsupported by the DEIS technical analyses.

The Four Cities Consortium proposed two alternative plans, aimed principally at rerouting CSX train traffic. Implementation of the Consortium's Alternative 2 would compel NS to grant CSX trackage rights over the NS Fort Wayne - Chicago main line between Hobart and Van Loon, and construct new connections at Van Loon between NS and the Elgin, Joliet and Eastern Line at Pine Junction between the post-Transaction NS lines and CSX. *The proposed*

operations over NS' lines are not feasible, and, moreover, would significantly undermine NS' service from Chicago to the Southeast.

The Hobart-Van Loon trackage rights would burden an important NS main line that represents NS' only route between Chicago and Cincinnati, Atlanta, Jacksonville, New Orleans, the Virginias, and the Carolinas. This additional burden would be placed on the NS line at the same time that NS would be losing the use of a second main line route in this corridor (the former Conrail Fort Wayne - Hobart line, which NS only recently acquired and which will be assigned to CSX as part of the Transaction). Following the Transaction, NS would be left without a viable alternative routing for time-sensitive and other high priority trains between Chicago and the Southeast. The unanticipated addition of CSX trains to NS' line between Hobart - Van Loon would aggravate congestion problems on the line and would threaten NS' ability to maintain schedules for time-sensitive traffic, including passenger trains. Currently, there are 16 Amtrak passenger trains per day using the line east of Pine Junction.

With respect to the two new connections that would have to be constructed under the Four Cities Consortium Plan, the Pine Junction connection would be especially problematic for NS. Due to the track arrangement east of Pine Junction, this "connection" would actually involve the crossing (via two intermediate crossovers) of a line that will be allocated to NS - the extremely busy Conrail Chicago - Toledo mainline. A crossing at that location would cause severe disruption, at substantial costs, to NS' planned operations.

Although NS' analyses clearly show the Four Cities Consortium's proposed alternatives to be unworkable, and the DEIS determined there are little if any adverse environmental effects on the area from the Transaction, NS is committed to working with the Four Cities Consortium to address its concerns. NS and CSX have established a series of working groups with representatives of the Four Cities. These groups are scheduled to meet January 30 and February 11, 1998 to continue discussions of alternative routings and train traffic flows.

5.4 Cleveland, Ohio

After careful review of the DEIS, NS believes that, notwithstanding SEA's designation of the City of Cleveland as a community with "Unique Circumstances" warranting mitigation, the public concern that has been expressed with regard to post-Transaction train traffic increases in Cleveland, and the reality of fairly substantial traffic increases on some lines, **there are few**

significant adverse impacts expected. Indeed, the overall objective analysis of the environmental impacts presented in the DEIS for the Cleveland area shows that, on the whole, there are relatively few significant impacts expected, and that these are addressed by mitigation measures applied on a larger scale. The only potentially significant environmental effects identified in the Cleveland area are as follows:

- Noise impacts on portions of three CSX line segments (CSX has proposed a noise abatement plan).
- Four CSX and one NS line segments have been classified as Key Routes for Hazardous Materials (mitigation measures proposed for key routes ameliorate the potential significant impact from hazmat transport).
- Grade crossing delays at two crossings on CSX line segment (C-070).
- “Environmental justice” communities as defined by SEA have been identified along two CSX and two NS lines. (NS’ analyses, presented in Section 4.16, show there are no disproportionate high and adverse impacts on low-income and minority communities.)

Although there were no NS grade crossings that exceeded the DEIS 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. (London Road and Dillie Road crossings on the Cleveland to Ashtabula line segment [N-075]. DEIS at OH-146).

For the City of Cleveland as a whole, the DEIS directs CSX and NS to jointly and/or separately continue to consult with the City of Cleveland, the City of East Cleveland, the Ohio Department of Transportation, elected officials and others to address concerns about train traffic increases on the following line segments:

CSX - Quaker to Mayfield line segment

CSX - Mayfield to Marcy line segment

NS - Cleveland to White line segment

NS - Cleveland to Ashtabula line segment

The DEIS directs CSX and NS to negotiate a mutually-acceptable binding agreement on train routing through Cleveland and mitigation measures for those routes that could experience potentially significant environmental impacts. As stated previously, NS does not believe that negotiated settlements should be mandated as a mitigation measure, and Cleveland is no exception. Nonetheless, the Applicants have been meeting with City representatives and others in an attempt to fully address local concerns regarding the Transaction.

In December 1997, the City proposed that the Applicants "flip" ownership of selected lines traversing the City. Both railroads conducted an exhaustive operational, engineering, and environmental analysis of the proposal and reported back to Cleveland in mid-January 1998 that the flip proposal would not be feasible.

The alternative routings now proposed by the City (released publicly by the City of Cleveland on January 27, 1998), would result in NS traffic moving over the portion of the Short Line between Berea and Harvard/University Circle toward connections with its own Buffalo and acquired Pittsburgh lines. It would further result in all present and future CSX traffic moving between Berea and Collinwood over the Lakefront Line in order to connect with the newly acquired CSX route via Buffalo and upstate New York to the Northeast. This is essentially the same flip proposal examined by the railroad in December 1997. In the recent news release, dated January 27, 1998, from the office of Mayor White, the cost of the City's alternative was estimated by City consultants to be in the range of \$148 to \$171 million, with the need for a massive "fly-over" and other improvements in Berea at significant cost. The costs of the mitigation alternative proposed by the City are substantially disproportionate to the adverse environmental impacts identified within the DEIS.

Applicants' analysis confirmed that the routing alternative proposed by Cleveland would not be practical for several reasons. First, the alternate routing would adversely affect the primary mainlines of NS and CSX and would have these competing rail traffic flows intersecting at the town of Berea. This would create a massive bottleneck or "traffic jam," with resultant inefficiencies and delays in train traffic throughout this part of the system for both NS and CSX. Eliminating the "bottleneck" at the crossing would require construction of a massive "fly-over" at Berea to enable the unrestricted crossover of CSX and NS trains to and from their primary main lines. An unrestricted fly-over with the necessary 0.5 percent gradient and clearances for future improvements would be over two miles long, and would essentially cut the town of Berea in two. Construction would require almost two years, and could only begin after an exhaustive study and design period, including an assessment of environmental impacts, which would require

an additional one to two years (this assumes that the necessary federal, state, and local approvals were obtained in a timely manner). Construction would necessitate the disturbance and perhaps condemnation of existing residential and commercial structures, and would dramatically alter the existing character of the affected area. Of particular concern, but requiring further analysis, is the prospective impact of the construction on Berea's existing infrastructure, including highways, sewer lines, water lines, and utility and communication lines.

Applicants' analysis also indicated additional impracticalities in the proposed alternate route. A second track would be required at the Harvard Connection in order for NS to operate. The construction of this track would necessitate the building of a bulkhead in the adjacent creek basin and can be expected to adversely affect the environmentally sensitive waterfall located in Mill Creek which Cleveland had desired to protect. Also, in order for NS to maintain its critical operating base at Rockport Yard, substantial additional track construction would be required to be able to access Rockport Yard and the Ford Motor Company. The proposed alternate route would also adversely impact NS' efficient access to its major ore dock at Whiskey Island. **For these and other reasons, NS continues to oppose the flip of ownership of rail lines in Cleveland.**

Other responsive applications were filed by several parties for Cleveland expressing concern about the impact of increased train operations in the community. These included the City (Mayor White) and Congressmen Louis Stokes and Dennis Kucinich. A theme of all of these responsive applications has been to ask CSX and NS to reroute all rail traffic -- existing and future changes in trains -- away from Cleveland and consider reallocating rail lines within Cleveland.

Applicants stated in their rebuttal to these responsive applications that, while NS and CSX acknowledge that they are willing to work with Cleveland to the extent possible to mitigate impacts of increased traffic, the fact remains that the City of Cleveland has long served as a rail hub, and Conrail has concentrated its traffic flows through the city. In fact, historical train count data going back to the early 1900's show train traffic levels exceeding those anticipated by this Transaction.

NS and CSX presented to the City and other officials a set of detailed reasons why rerouting traffic flows away from Cleveland is neither commercially nor operationally feasible. Moreover, the potential alternatives for reallocating routes and rerouting rail traffic within

Cleveland entail disproportionate expense and/or pose operating problems that would create fundamental disruptions in the CSX and NS rail systems. It should be further emphasized that NS and CSX, in developing their Operating Plans, made efforts to mitigate the impact of increased rail traffic, for example CSX's routing traffic over the Short Line Subdivision. Without any additional mitigation, CSX is reportedly planning to invest over \$60 million in the Cleveland area for system improvements and upgrades, while NS is anticipating spending over \$48 million on new and expanded facilities in Ohio in addition to necessary system improvements and upgrades. Because of Cleveland's key position as an important rail hub, both carriers (NS and CSX) will offer assistance to Cleveland from Applicants' industrial development staffs to assist the greater Cleveland area in attracting new industry and expanding existing developments with rail access.

NS urges the Board to review the information presented by Applicants regarding the City of Cleveland in the rebuttal. NS also urges the Board to give proper weight to the substantial benefits of the Transaction as compared to the relatively minor impacts predicted by the DEIS when evaluating the need for and extent of any mitigation and/or "binding agreements" in Cleveland. A recent editorial in the Cleveland "Plain Dealer," a local newspaper, offers support for this rational position (see Figure 5.1). Key information provided to the Board by Applicants regarding the City of Cleveland's concerns include:

- Applicants' Rebuttal, Volume 1: Section X (pages X-1 thru X-4)
- Applicants' Rebuttal, Volume 2A: Verified Statement of John Orrison (pages 546-556)
- Applicants' Rebuttal, Volume 2A: Verified Statement of John Friedman (pages 164-171)

NS remains open to addressing identified significant impacts and in dealing with issues raised by the community in a constructive fashion. However, localized solutions that appear to potentially substantially impact the overriding public and environmental benefits of the Transaction may make certain negotiations challenging.

White drives the train

Cleveland's effort to reconfigure major rail deal
could damage others' interests – and its own

To his roles as airport master planner and stadium construction boss, Cleveland Mayor Michael R. White this week added an even more ambitious one: architect of a major railroad make-over.

AGENDA '98

THE REGION

To the consternation of professional railroad

planners, White proposed to resolve concerns arising from the sale of Conrail by requiring CSX and Norfolk Southern to swap routes they would operate when the Conrail deal gets regulatory approval.

Such a move would spare Cleveland neighborhoods the adverse affects of increased train traffic but could also transfer them to Berea, where Norfolk Southern and CSX tracks would come together.

To lighten the burden on that suburb, already a busy freight rail center, the White plan would call for construction of a 2-mile-long, double-deck flyover to carry tracks above the streets. The price tag is estimated at up to \$171 million, presumably to be paid by the railroads.

White, like Rep. Dennis J. Kucinich ahead of him, has embraced an issue that is loaded with populist appeal. The proposed Conrail carve-up sprung a few surprises on Greater Cleveland, beginning with Norfolk Southern's announcement that it would triple the number of trains it operates through the west shore suburbs and into Cleveland.

Then, CSX said it would run 44 trains a day on a loop from Collinwood through the East Side, Cuyahoga Heights and Brooklyn Heights to W. 150th St. and beyond. Interestingly, CSX intends to shift many freight trains from the Lakefront route, which area transportation planners covet for commuter services.

On Tuesday, the mayor said city officials had concluded that CSX-Norfolk Southern proposals would harm Cleveland and that if a resolution could not be negotiated, the city would take legal action to stop Conrail's dismemberment.

White seems to believe the damaging effects would outweigh economic benefits to the city, which promise to be substantial. New routings would provide direct connections between Cleveland and major markets in all directions. CSX alone has promised to expand the Collinwood yards as an intermodal hub, substantially increasing the work force at what once was a major facility on the city's railway network.

Nobody is faulting White, Kucinich or other political leaders for acting on constituents' genuine concerns. In Lakewood, for instance, Norfolk Southern should have anticipated that residents might worry, rightly, that most cross-city connections would be cut many more times a day, hindering emergency vehicles. Residents of the less affluent inner-city likewise have valid questions about the new setup.

But the rails were not laid yesterday. The fortunes of Greater Cleveland in many ways were shaped by its proximity to the tracks. The re-emergence of freight trains as a vital component of the nation's transportation system carries economic and environmental benefits that should be acknowledged.

It seems reasonable to demand that the railroads take measures against increased noise, as CSX has told Cleveland it would do. Issues like that and the prospect of traffic tie-ups in the suburbs could be resolved through negotiation. White, however, appears to have raised the stakes in a way that could throw the matter into court, where the city's long-term best interests might not be served.

Figure 5.1: Editorial from the *Plain Dealer*, a local newspaper in Cleveland, Ohio
January 30, 1998

5.5 Western Cleveland Suburbs

For the Western Suburbs of Cleveland, the DEIS directs NS to continue to consult with appropriate parties to address concerns about train traffic increases on the NS Cleveland to Vermilion rail line segment. NS has proposed a preliminary alternative routing plan (as set forth in Appendix S of the DEIS) to balance NS rail post-Transaction traffic on the Cleveland to Vermilion line segment and the Lakeshore Line through Berea. NS has stated from the beginning, however that implementation of this plan (estimated to cost nearly \$50 million) would require public funding. NS' view on this has not changed. The DEIS directs NS to negotiate a mutually-acceptable binding agreement on the construction and funding allocation for this plan prior to issuing the FEIS. NS is continuing consultations with parties from the Western Suburbs of Cleveland, as well as the State and other stakeholders, and those negotiations are on-going. Since October, 1997, NS has met with representatives of the Western Suburbs, as well as the Ohio Rail Development Commission and Public Utility Commission to discuss related issues. NS continues to meet and consult with representatives from these communities and agencies. Progress has been slowed due to the following factors: (1) uncertainty of public funding initiatives; (2) potential impacts of changes that the City of Cleveland seeks to make that could affect the Western Suburbs; and (3) environmental impacts that could result from the rerouting proposal for the Western Suburbs of Cleveland. No agreement has been reached to date.

5.6 Erie, Pennsylvania

The DEIS identifies potential significant environmental impacts involving pedestrian safety, emergency response, transportation safety (four at-grade crossings) and traffic delay (five at-grade crossings) as a result of NS' proposal to increase by 12 trains per day the number of freight trains on the NS main line that has run through the 19th Street corridor in Erie since 1882. The DEIS states that "the presence of the tracks results in the disruption delay and the potential for accidents involving roadway traffic along 19th Street." DEIS at PA-55.

NS and CSX included in their joint Application an agreement that would enable NS to reroute rail traffic from 19th Street to a new portion of NS track running parallel to the existing Conrail line north of downtown Erie that is to be operated by CSX post-Transaction. The new NS track would be constructed nearly exclusively on existing Conrail right-of-way. A description of the proposal by NS to reroute traffic to new track along the Conrail right-of-way

was submitted by NS in a letter to SEA, and is referenced in the DEIS at PA-55, and provided in Appendix S.

An important benefit of the rerouting proposal would be the elimination of long-present freight rail traffic, as well as post-Transaction increases in rail traffic that is now required to be routed along 19th Street. The Transaction would provide an opportunity to utilize the pedestrian and emergency vehicle crossing and road congestion advantages of the largely grade-separated Conrail corridor, following construction of the portion of the NS main line that would be rerouted off of 19th Street. However, because of the substantial infrastructure work required to accomplish the NS rerouting proposal, as well as the legal impediments to commencing construction on Conrail property prior to CSX control of the right-of-way and Board approval of the construction project, on Day One and for some time to come, NS will need to be able to continue operating freight trains on the existing route. NS estimates that the rerouting construction would require about 1.5 to 2 years to complete.

The DEIS originally indicated that a total of five existing at-grade crossings along the NS 19th Street corridor would exceed SEA thresholds for recommended mitigation due to potential traffic delay impacts. However, SEA subsequently discovered that an error had been made in its crossing delay calculations which resulted in the incorrect doubling of estimated traffic impacts. In SEA's January 21, 1998 Supplemental Errata, the DEIS was corrected to indicate, *inter alia*, that two of the five NS Erie at-grade crossings (Peach Street and Raspberry Street) along the 19th Street corridor included in Table 7-7 of the DEIS ("Preliminary Highway/Rail At-Grade Crossings That May Warrant Traffic Delay Mitigation") would no longer meet SEA's threshold criteria for mitigation. Despite having acknowledged that the DEIS erroneously identified those two crossings as meeting mitigation threshold criteria, SEA recommended in the Supplemental Errata that the error simply be ignored in favor of leaving the two Erie crossings on the DEIS' list of crossings recommended for mitigation. The rationale provided in the Errata suggests that SEA devised a new, heretofore unheard of, category for "measuring" impact -- a notion of "close proximity" to grade crossings that do meet SEA's threshold criteria. *There is no analytical support for such a deviation in the application of mitigation criteria and NS urges SEA to remove the two Erie crossings from its list of crossings recommended for mitigation.*

As to the appropriateness of the DEIS recommendation for mitigation of the other three at-grade crossings listed in Table 7-7 of the DEIS, NS has raised several substantive objections to

the DEIS approach and conclusions regarding safety of at-grade crossings (see Section 4.3).⁶⁰ In addition, as set out above at Section 2.3, it is not appropriate for the Board to displace the well-established role of state DOTs in determining the selection, priority and funding of grade crossing upgrades in communities within their jurisdiction. NS recommends that this important safety task be properly left to the state transportation agencies and the well-founded practices and procedures already in place for railroad/state cooperative resolution of grade crossing safety issues.

Moreover, the DEIS recommendation of a limit of two additional trains per day on the existing NS main line through the 19th Street corridor in Erie is without sound basis -- localized service limitations should not be imposed as environmental mitigation in this case (see Section 2.4). Having determined that certain of the NS grade crossings along 19th Street would meet the threshold criteria for mitigation consideration, the DEIS did not take into account several crucial facts.

First, the limit of a two-train per day increase in rail traffic pending completion of the proposed NS rerouting appears to have been taken from SEA's preliminary mitigation recommendations at Reno and Wichita in UP/SP. In that instance, SEA recommended that UP/SP be limited to running an additional two trains per day through Reno, Nevada and Wichita, Kansas pending completion of a post-EA mitigation study. The two-train limit was selected due to a desire to avoid SEA's threshold for air impact analysis in a non-attainment area, 49 CFR 1105.7(e)(5)(ii). This was necessitated by the fact that the environmental analysis of the UP/SP merger was being pursued by SEA through means of an EA, rather than an EIS, and therefore all significant impacts required mitigation. As described at Section 2.1 above, by choosing to prepare an EIS for the Transaction, the Board has eliminated the need to eliminate or mitigate all potentially significant environmental impacts--a fundamental distinction from the UP/SP scenario. Also, the DEIS acknowledges that, unlike the issue presented for further consideration in UP/SP, the Transaction would not have any significant air impact at Erie and that no mitigation is needed. DEIS at PA-43. Thus the reason for applying the train increase limit recommended in UP/SP at Reno and Wichita is simply not transferable to the circumstances of the Board's consideration of potential environmental impacts at Erie.

⁶⁰ It should be noted that the construction of the Erie rerouting proposal will completely negate any need for grade separation along the 19th street corridor.

Second, the increase in NS traffic along the 19th Street corridor will be only temporary, until completion of the physical improvements to reroute traffic to the Conrail right-of-way. Once completed, rail safety in Erie will benefit far more than just the removal of the post-Transaction increase in train traffic along 19th Street. Because NS plans to remove all freight traffic to the new route, existing as well as increased traffic will be taken out of downtown Erie. Extraneous grade crossings along 19th Street will be able to be closed. *This is a substantial benefit to Erie that NS believes far exceeds the temporary increase in traffic until the rerouting construction work is completed.*

Third, the DEIS fails to recognize that, as of Day One, there will be freight traffic waiting to be carried by NS along its Cleveland to Buffalo main line. This represents carloads of freight traffic that will, up until Day One, have been carried over the Conrail system. In order to be competitive, and in order to provide vital, timely service to shippers, NS must be able on Day One to assume its share of the Conrail traffic. The only feasible way for NS to do so is to move trains over its existing main line route through Erie pending completion of the relocation. *This is a critical aspect of the commercial benefits and viability of the Transaction.*

An arbitrary and artificial limit of two additional trains per day in Erie, because of the much broader ripple effects, would have catastrophic consequences to the ability of NS and CSX to create a smooth transition for eastern United States rail service on Day One and thereafter. NS urges SEA to eliminate from further consideration any recommendation to the Board of "temporary" limits to the proposed increase in NS train traffic at Erie on Day One.

6.0 NORFOLK SOUTHERN COMMUNITY OUTREACH PROGRAM

The DEIS identifies several areas and communities where consultation and coordination with a local community or agency is recommended in order to resolve various potential environmental impacts or potential public concerns. The DEIS further recommends that NS negotiate binding agreements with affected communities to resolve potential environmental impacts. NS opposes the imposition of negotiated agreements as conditions to Board approval (see Section 2). Any negotiated agreements between NS and affected communities or agencies should be viewed as stipulations, not conditions, within the context of the Transaction. NS supports public outreach and coordination with neighboring communities. This section presents NS' response to the DEIS-directed community outreach for specific communities, other community outreach issues, and the need for consultation with state Departments of Transportation (state DOTs).

NS regularly meets with and hears the concerns of local citizens and government officials, in an effort to tailor its approach to doing business to community-specific needs wherever practicable. Examples of NS' current outreach efforts independent of the Transaction include:

- Operation Lifesaver, a program designed to reduce grade-crossing accidents and save lives by educating local communities and children.
- Working with state and local transportation agencies to improve grade crossing safety, including closing unnecessary grade crossings.
- Conducting Grade Crossing Collision Investigation courses for state and local agencies to assure proper investigative techniques, identify causes of collisions and improve safety.
- Meeting with interested communities to discuss railroad operations.

6.1 DEIS-Required Community Outreach

The DEIS recognizes that the recommended mitigation measures within the DEIS ameliorate the potential significant impacts. Nonetheless, the DEIS directs NS to resolve potential environmental impacts in several communities identified by the DEIS as “Environmental Justice Communities,” as well as other communities, through negotiation of binding agreements between the locally affected community, NS, and the appropriate government agencies. At page 7-18, the DEIS says:

“SEA’s Recommended Mitigation Nos. 1-18, and 28-41 would address potential significant environmental impacts for these communities, which may experience disproportionately high adverse effects as a result of the proposed Conrail Acquisition. Nevertheless, CSX and NS shall meet with these communities to identify and agree on any further appropriate measures to address the specific environmental impacts that may disproportionately impact these communities, or to develop other mitigation measures that might offset these disproportionate impacts. If the parties have not reach mutually-acceptable binding agreement on the implementation of appropriate mitigation measures to address environmental impacts resulting from the proposed Acquisition prior to issuing the Final EIS, SEA may recommend that the Board, as a condition of the approval of the Application, direct CSX and NS to implement appropriate mitigation measures.”

The DEIS directs NS to consult with the following communities:

- Fort Wayne, Indiana
- Alexandria, Indiana
- Tilton, Illinois
- Danville, Illinois
- Youngstown and Ashtabula, Ohio
- Toledo, Ohio
- Harrisburg, Pennsylvania
- Oak Harbor - Bellevue, Ohio.

SEA is also planning an expanded public outreach program in these (and other) communities to ensure adequate public access to information about the Conrail Transaction and the EIS process.

NS believes the requirement to negotiate binding agreements with these communities, and subsequent inclusion of such agreements as conditions of the Transaction, as described within the DEIS, to be flawed and inappropriate for the following reasons:

1. The potential environmental impacts to be resolved through negotiation are not identified within the DEIS. The Oak Harbor - Bellevue, Ohio NS line segment is the only exception, where a potential for a noise impact has been identified.
2. The DEIS also fails to identify the specific portion of the community (e.g., the actual people, neighborhood, or group) significantly affected by the Transaction. In most cases, the affected "community" described within the DEIS is based on the DEIS environmental justice analysis, and is not representative of actual social or political boundaries or local communities. This makes it difficult to properly focus outreach, and, if appropriate, mitigation.
3. The DEIS does not provide any rationale for treating these communities differently than any other communities throughout the system (see Section 4.16, Environmental Justice). Those communities labeled as "environmental justice" within the DEIS do not suffer any disproportionate or high and adverse impacts as a result of the Transaction.
4. NS strongly opposes the imposition of a requirement to negotiate agreements as a condition of approval of the Transaction (see Section 2.6). CEQ and DOT guidance on considering environmental justice issues during the EIS process suggest outreach, but do not suggest negotiations with the community.

Although NS does not believe negotiated settlements should be mandated as a mitigation measure, it does recognize the importance of ensuring the public's access to information on the Transaction. Accordingly, NS has initiated a community outreach program within the communities identified above. The purpose of NS' community outreach is to identify community concerns relating to the Transaction, and provide information to the communities

regarding NS operations and activities, including environmental and safety management programs. Resolution of concerns, by agreement or otherwise, is the ultimate goal of these efforts.

NS' community outreach program is designed to be flexible and responsive to the needs of each community. NS' community outreach program includes some combination of the following, tailored to the needs of the individual community and the identified issues (if any):

- Contact with local government officials and agencies
- Contact with local community leaders
- Contact with local newspapers and/or other media
- Meetings with local organizations and groups.

To date, NS has completed the initial planning phases of its community outreach program in response to the DEIS mandate. A kick-off meeting was held on January 15, 1998, to brief NS resident vice presidents, strategic planning, public affairs, and legal departments on the purpose and scope of the NS outreach efforts. Community-specific updates are provided below.

6.1.1 Fort Wayne, Indiana

Background - The DEIS has identified the NS Butler - Fort Wayne line segment (N-041) as having potential environmental justice impacts in Fort Wayne, Indiana, requiring outreach and a negotiated settlement. However, the DEIS fails to provide any rationale for this. In addition to the previous issues noted in Sections 2.6 and 4.16, and above, NS' concerns with this requirement at this community include:

- An at-grade crossing safety potential impact is identified at Estella Road and Anthony Boulevard in Fort Wayne near Sunnymede Woods. At-grade crossing safety issues are addressed and resolved at the direction of the Indiana DOT, not derived from negotiation with the local community (see Section 4.3 for additional NS comments on traffic safety). Therefore, there is no need to negotiate with the community outside the normal cooperative process addressing grade crossing safety.

- The segment is identified as a “major key route” for hazardous materials transportation. However, mitigation of increased hazardous materials transportation does not warrant providing special treatment to any single community (see Section 4.4 for additional NS comments on transportation of hazardous materials).
- The DEIS also identifies noise as a potential cumulative environmental impact, presumably due solely to the demographics of the population affected, as the projected noise levels on the rail segment do not meet the DEIS criteria for a significant impact (see Section 4.11 for additional NS comments on evaluation of noise, and Section 4.16 for additional NS comments on environmental justice). Further, the DEIS states that SEA is conducting additional studies to determine if the environmental justice population is impacted by noise. However, noise impacts are not determined by the minority status or income level of a community. Also, beyond the simple fact that these issues all spring from an increase in train traffic, there is no methodology specified in the DEIS for weighting and combining the various potential adverse effects of rail traffic (grade crossing safety, traffic delay, noise, etc.) into a determination of cumulative impact. Similarly, there is no methodology specified in the DEIS for defining and evaluating the benefits of the Transaction on a local basis.

The DEIS does not identify any specific environmental impacts which require mitigation through negotiation with the local community.

Status of Community Outreach - NS has initiated community outreach efforts with Fort Wayne, Indiana. Discussions with local officials and other outreach efforts are ongoing.

6.1.2 Alexandria, Indiana

Background - Alexandria is the hub of the NS Alexandria - Muncie line segment (N-040). Alexandria (Madison County) includes one at-grade crossing identified by the DEIS as requiring mitigation for safety (CR 100 E). The DEIS recommends upgrading the crossing safety warning devices from passive to flashing lights. The DEIS also identifies two crossings in Madison County which are projected to exceed the significance thresholds for traffic delay. The increased delays at these crossings are due to slower moving trains through the new Alexandria connection.

The DEIS recommends that NS coordinate with the City of Alexandria, the Indiana DOT, and other appropriate agencies to agree on mitigation measures to address the potential traffic delay impact.

Status of Community Outreach - NS has been engaged in discussions with City officials since early 1997 concerning plans for addressing traffic delays. NS has scheduled additional community outreach efforts in February 1998.

6.1.3 Tilton, Illinois

Background - The DEIS has identified NS' Lafayette, Indiana - Tilton, Illinois line (N-045) as having potential environmental justice impacts in Tilton, requiring outreach and a negotiated settlement. However, the DEIS fails to provide any rationale for this. In addition to the previous issues noted in Sections 2.6 and 4.16, and above, NS's concerns with this requirement at this community include:

- The segment is identified as a "major key route" for hazardous materials transportation. However, mitigation of increased hazardous materials transportation does not warrant providing special treatment to any single community (see Section 4.4 for additional NS comments on transportation of hazardous materials). Therefore, there is no need to negotiate with the community on this issue.
- The DEIS also identifies noise as a potential cumulative environmental impact, presumably due solely to the demographics of the population affected, as the projected noise levels on the rail segment do not meet the DEIS criteria for a significant impact (see Section 4.11 for additional NS comments on evaluation of noise, and Section 4.16 for additional NS comments on environmental justice). Further, the DEIS states that SEA is conducting additional studies to determine if the environmental justice population is impacted by noise. However, noise impacts are not determined by the minority status, or income level of a community. Also, beyond the simple fact that these issues all spring from an increase in train traffic, there is no methodology specified in the DEIS for weighting and combining the various potential adverse effects of rail traffic (grade crossing safety, traffic delay, noise, etc.) into a determination of cumulative

impact. Similarly, there is no methodology specified in the DEIS for defining and evaluating the benefits of the Transaction on a local basis.

The DEIS does not identify any specific environmental impacts which require mitigation through negotiation with the local community.

Status of Community Outreach - NS has initiated contacts with local officials in an effort to provide information on the proposed Transaction. NS will conduct additional outreach and hold informational meetings if they are requested.

6.1.4 Danville, Illinois

Background - The DEIS has identified the NS Lafayette, Indiana - Tilton, Illinois line segment (N-045) as having potential environmental justice impacts in Danville, Illinois, requiring outreach and a negotiated settlement. However, the DEIS fails to provide any rationale for this. In addition to the previous issues noted in Sections 2.6 and 4.16, and above, NS' concerns with this requirement at this community include:

- At-grade crossing safety potential impacts are identified at Campbell Crossing, City of Danville (described in the DEIS as "proximal to minority and low-income communities"). The DEIS reviewed demographics and traffic grade-crossing potential impacts along this rail line segment, and found that traffic grade-crossing delay and traffic accident potential impacts would not be disproportionate for minority or low-income populations along this segment. The DEIS specifically concludes for this rail segment that "...no environmental justice impacts exist for grade crossing." The DEIS further recommends that NS mitigate the potential traffic safety impact for this segment by upgrading the existing warning devices (see Section 4.3 for NS comments on traffic safety). At-grade crossing safety issues are addressed and resolved at the direction of the Illinois Department of Transportation, not derived from negotiation with the local community (see Section 4.3 for additional NS comments on traffic safety). Therefore, there is no need to negotiate with the community outside the normal cooperative process addressing grade crossing safety.

- The segment is identified as a “major key route” for hazardous materials transportation. However, mitigation of increased hazardous materials transportation does not warrant providing special treatment to any single community (see Section 4.4 for additional NS comments on transportation of hazardous materials).
- The DEIS also identifies noise as a potential cumulative environmental impact, presumably due solely to the demographics of the population affected, as the projected noise levels on the rail segment do not meet the DEIS criteria for a significant impact (see Section 4.11 for additional NS comments on evaluation of noise, and Section 4.16 for additional NS comments on environmental justice). Further, the DEIS states that SEA is conducting additional studies to determine if the environmental justice population is impacted by noise. However, noise impacts are not determined by the minority status or income level of a community. Also, beyond the simple fact that these issues all spring from an increase in train traffic, there is no methodology specified in the DEIS for weighting and combining the various potential adverse effects of rail traffic (grade crossing safety, traffic delay, noise, etc.) into a determination of cumulative impact. Similarly, there is no methodology specified in the DEIS for defining and evaluating the benefits of the Transaction on a local basis.

The DEIS does not identify any specific environmental impacts which require mitigation through negotiation with the local community.

Status of Community Outreach - NS has initiated contacts with local officials in an effort to provide information on the proposed Transaction. NS will conduct additional outreach and hold information meetings if they are requested.

6.1.5 Youngstown and Ashtabula, Ohio

Background - The DEIS has identified NS Youngstown - Ashtabula line segment (N-082) as having potential environmental justice impacts in both Youngstown and Ashtabula, requiring outreach and a negotiated settlement. However, the DEIS fails to provide any rationale for this. In addition to the previous issues noted in Sections 2.6 and 4.16, and above, NS' concerns with this requirement at this community include:

- At-grade crossing potential safety impacts are identified by the DEIS at Bradley-Brownlee Road and Warren Sharon Road, several miles north of Youngstown and away from environmental justice populations. At-grade crossing safety issues are addressed and resolved at the direction of the Ohio Department of Transportation, not derived from negotiation with the local community (see Section 4.3 for additional NS comments on traffic safety). Therefore, there is no need to negotiate with the community outside the normal cooperative process addressing grade crossing safety. Moreover, due to the distance of several miles between the grade crossings in issue and the environmental justice populations in Youngstown designated by the DEIS, there is no evidence of high and disproportionate impacts on environmental justice populations.
- The segment is identified as a “key route” for hazardous materials transportation. However, mitigation of increased hazardous materials transportation does not warrant providing special treatment to any single community (see Section 4.4 for additional NS comments on transportation of hazardous materials).
- The DEIS also identifies noise as a potential cumulative environmental impact, presumably due solely to the demographics of the population affected, as the projected noise levels on the rail segment do not meet the DEIS criteria for a significant impact (see Section 4.11 for additional NS comments on evaluation of noise, and Section 4.16 for additional NS comments on environmental justice). Further, the DEIS states that SEA is conducting additional studies to determine if the environmental justice population is impacted by noise. However, noise impacts are not determined by the minority status or income level of a community. Also, beyond the simple fact that these issues all spring from an increase in train traffic, there is no methodology specified in the DEIS for weighting and combining the various potential adverse effects of rail traffic (grade crossing safety, traffic delay, noise, etc.) into a determination of cumulative impact. Similarly, there is no methodology specified in the DEIS for defining and evaluating the benefits of the Transaction on a local basis.

The DEIS does not identify any specific environmental impacts which require mitigation through negotiation with the local community.

Status of Community Outreach - NS has initiated contacts with local officials in an effort to provide information on the proposed Transaction. NS will conduct additional outreach and hold informational meetings if they are requested.

6.1.6 Toledo, Ohio

Background - The DEIS has identified the NS Miami - Airline line segment (N-086) as having potential environmental justice impacts in Toledo, Ohio, requiring outreach and a negotiated settlement. The rationale for this is not clear. The only potential environmental impact identified in the DEIS is freight safety, calculated by the DEIS for this segment as an 88-year interval between train accidents per mile. (The DEIS threshold for freight safety is a 100-year interval). However, freight safety is not an issue directly affecting the community, nor is it an issue which is readily mitigated through negotiation with the local community. See Section 4.1 for additional NS comments on freight rail safety and Section 4.16 for additional comments on environmental justice issues.

Status of Community Outreach - NS has scheduled community outreach efforts to begin in February 1998.

6.1.7 Harrisburg, Pennsylvania

Background - The DEIS has identified the NS Harrisburg - Rutherford line segment (N-090) as having potential environmental justice impacts in Harrisburg, Pennsylvania, requiring outreach and a negotiated settlement. The rationale for this is not at all clear. The only potential environmental impact identified in the DEIS is freight safety, calculated by the DEIS for this segment as an 88-year interval between train accidents per mile. (The DEIS threshold for freight safety is a 100-year interval). However, freight safety is not an issue directly affecting the community, nor is it an issue which is readily mitigated through negotiation with the local community. See Section 4.1 for additional NS comments on freight rail safety and Section 4.16 for additional comments on environmental justice issues.

Status of Community Outreach - NS has scheduled a series of meetings with the Mayor of Harrisburg and other local officials. In these meetings, NS will ensure that information on the Transaction is available to the public.

6.1.8 Oak Harbor - Bellevue, Ohio

Background - The DEIS identifies the NS line segment Oak Harbor - Bellevue, Ohio (N-079) as having potential significant adverse noise impacts requiring mitigation. The DEIS directs NS to meet with communities along the rail line segment to negotiate an agreement to implement measures to reduce the wayside noise for sensitive receptors experiencing noise levels above 70 dBA L_{dn} and with an increase of 5 dBA or more. The DEIS does not, however, provide specifics on which receptors are potentially significantly impacted by increased noise levels related to the Transaction.

Status of Community Outreach - NS will conduct additional community outreach efforts along the Oak Harbor - Bellevue line segment to ensure information on the Transaction is available to the public. NS will also conduct further technical reviews, including noise level measurements, on the potential for significant noise impacts along this line segment, to identify specific receptors where there may be a significant adverse effect from increased noise, and to assess the feasibility and effectiveness of mitigation alternatives.

6.2 Additional Community Outreach

The DEIS describes a program of expanded public outreach by SEA in specific communities, including several low income and minority communities, to ensure full opportunity to participate in the review of the proposed Transaction. These communities are:

- Seneca Indian Nation, Cattaraugus Reservation, New York
- Bellevue - Sandusky, Ohio
- Kankakee, Illinois
- Chicago, Illinois
- Delaware County, Indiana
- Detroit, Michigan
- Ontario & Seneca Counties, New York
- Cloggsville Junction, Ohio.

The DEIS does not direct NS to conduct any community outreach within these communities, nor to negotiate any agreements to mitigate potential environmental justice or other impacts. However, NS recognizes the importance of community outreach and public participation in the EIS process. Therefore, NS will also conduct additional outreach efforts in these communities to ensure the public has access to information regarding the Transaction, if directed by SEA.

6.2.1 Seneca Indian Nation, Cattaraugus Reservation, New York

The DEIS identifies the NS line segment Ashtabula, Ohio - Buffalo, New York (N-070) as meeting the threshold for a "major key" route for hazardous materials transportation. According to the DEIS, the rail line segment traverses the federally-designated Seneca Indian Nation, Cattaraugus Reservation. The DEIS proposes to mitigate the potential impact of increased hazardous materials transportation through the Reservation through implementation (by NS) of the AAR guidelines on hazardous materials transportation, emergency response planning and assistance (to be coordinated between NS and the Seneca Indian Nation), and additional outreach by SEA to the Seneca Indian Nation within the Cattaraugus Reservation.

The mitigation recommendation that NS "...assist the Reservation with emergency response preparedness as may be requested" is ambiguous and unsupported. This requirement for additional, open-ended assistance is not specified for other non-Native American communities. There is no justification for treating the Cattaraugus Reservation differently than any other community on the issue of increased hazardous materials transportation. This recommendation should be deleted.

NS has also raised several issues in Section 4.4 addressing the DEIS evaluation of hazardous materials transportation, including offering well-established mitigation measures (e.g., safe approaches to transportation of hazardous materials reflecting NS' excellent safety record) to address significant increases in rail traffic. These mitigation measures should be applied to the Cattaraugus Reservation in the same manner as they will be applied to other communities along rail lines projected to experience similar increases in hazardous materials transportation.

6.2.2 Bellevue - Sandusky Docks, Ohio

The Bellevue - Sandusky Docks NS line segment (N-085) is identified in the DEIS as having potential environmental justice effects from increased noise, presumably due solely to the demographics of the population along the line segment. The DEIS noise impact evaluation does not identify this line segment as having significant noise impacts. Nonetheless, the DEIS has identified a need to conduct further reviews to determine if environmental justice populations are impacted by noise. These further reviews will include community outreach by SEA. Given the DEIS conclusion that there are no significant adverse noise impacts along the entire line segment, there is no basis for conducting further investigation of noise impacts on environmental justice populations. Noise impacts are not determined by the minority status or income level of a community. The January 12, 1998 Errata to the DEIS also identifies this line segment as having a potential traffic safety issue. NS comments on at-grade crossing safety are provided in Section 4.3.

6.2.3 Kankakee, Illinois

The planned new NS connection at Kankakee (line segment NC -01), is identified in the DEIS as having potential environmental justice effects from increased noise. This is based both on incorrect train traffic information and on unsupported reasoning. The correct information, supplied to SEA in October 2, 1997 correspondence from NS, is that traffic on this new connection would be zero trains per day after the Transaction. (The reason for the connection is anticipation of a growing need for transportation services, traffic which cannot be predicted and does not meet the Board's criteria for being related to the Transaction.) The initial DEIS provided the correct information at Chapter 5, page IL-22, although the information and discussion on page IL-74 was based on outdated and incorrect information. (As described in Section 4.22.2, herein, this error was compounded in SEA's January 12, 1998 Errata which proposed to eliminate the correct information and let the incorrect information stand.) Applying the correct information, there is no potential noise impact on environmental justice communities (or other populations) in Kankakee. *The FEIS should reflect the correct information for analysis of this connection.*

The DEIS discussion of potential impacts from increased noise on this connection is presumably due solely to the demographics of the population within Kankakee County. The DEIS noise impact evaluation does not identify this proposed new line segment as having significant noise impacts. Nonetheless, the DEIS has identified a need to conduct further reviews to

determine if environmental justice populations are impacted by noise. These further reviews will include community outreach by SEA. Given the DEIS conclusion that there are no significant adverse noise impacts along the entire line segment, there is no basis for conducting further investigation of noise impacts on environmental justice populations. Noise impacts are not determined by the minority status or income level of a community.

6.2.4 Delaware County, Indiana

The Alexandria - Muncie NS line segment (N-040) is identified in the DEIS as having potential environmental justice effects from increased noise, presumably due solely to the demographics of the population within Delaware County. The DEIS noise impact evaluation does not identify this proposed line segment as having significant noise impacts. Nonetheless, the DEIS has identified a need to conduct further reviews to determine if environmental justice populations are impacted by noise. These further reviews will include community outreach by SEA. Given the DEIS conclusion that there are no significant adverse noise impacts along the entire line segment, there is no basis for conducting further investigation of noise impacts on environmental justice populations. Noise impacts are not determined by the minority status or income level of a community.

6.2.5 Detroit, Michigan

The Detroit - N. Yard Shared Assets Areas line segment (S-021) is identified in the DEIS as having potential environmental justice effects from increased noise, presumably due solely to the demographics of the population within the affected section of Detroit. The DEIS noise impact evaluation does not identify this line segment as having significant noise impacts. Nonetheless, the DEIS has identified a need to conduct further reviews to determine if environmental justice populations are impacted by noise. These further reviews will include community outreach by SEA. Given the DEIS conclusion that there are no significant adverse noise impacts along the entire line segment, there is no basis for conducting further investigation of noise impacts on environmental justice populations. Noise impacts are not determined by the minority status or income level of a community.

6.2.6 Ontario and Seneca Counties, New York

The Corning - Geneva NS line segment (N-060) is identified in the DEIS as having potential environmental justice effects from increased noise, presumably due solely to the demographics of the population within Ontario and Seneca Counties. The DEIS noise impact evaluation does not identify this line segment as having significant noise impacts. Nonetheless, the DEIS has identified a need to conduct further studies to determine if environmental justice populations are impacted by noise. These further studies will include community outreach by SEA. Given the DEIS conclusion that there are no significant adverse noise impacts along the entire line segment, there is no basis for conducting further investigation of noise impact on environmental justice populations. Noise impacts are not determined by the minority status or income level of a community.

6.2.7 Cloggsville Junction (Cleveland), Ohio

The Cleveland - Shortline Junction NS line segment (N-074) is identified in the DEIS as having potential environmental justice effects from increased noise, presumably due solely to the demographics of the population adjacent to the line in Cleveland. The DEIS noise impact evaluation does not identify this line segment as having significant noise impacts. Nonetheless, the DEIS has identified a need to conduct further studies to determine if environmental justice populations (21 sensitive receptors) are impacted by noise. These further studies will include community outreach by SEA. Given the DEIS conclusion that there are no significant adverse noise impacts along the entire line segment, there is no basis for conducting further investigation of noise impacts on environmental justice populations. Noise impacts are not determined by the minority status or income level of a community.

6.3 Consultation with State Departments of Transportation

The DEIS directs NS to consult with state DOTs (and appropriate local agencies) to address potential safety and traffic delay issues related to the Transaction, and to negotiate "traditional" separated crossing agreements or identify other mutually-acceptable approaches to mitigate potential impacts. The DEIS, as corrected by the January 12, 1998 Errata and the January 21, 1998 Supplemental Errata, identifies for NS 44 at-grade crossings as requiring mitigation for safety and 18 NS at-grade crossings requiring mitigation for traffic delays. Further, the DEIS specifies mitigation measures and types of crossing upgrades for each crossing.

NS concurs with the DEIS recommendation for consultation with state DOTs and other appropriate agencies to address potential safety and traffic delay issues. NS recognizes the importance of ensuring that issues affecting highway traffic safety and delay are dealt with under the direction of state DOTs and other appropriate agencies. Accordingly, NS has initiated a program of consultation with state DOTs and other appropriate agencies, following NS' standard practice in coordinating highway/rail crossing issues with state DOTs and other appropriate agencies. The purpose of NS's consultation with the state DOTs and other appropriate agencies is to ensure that the Transaction-related changes in traffic safety and delay at highway/rail at-grade crossings are understood by the state DOTs, and become part of the state DOTs planning process for crossing upgrades and/or closures according to state priorities.

NS is conducting a consultation with the state DOTs listed below, in accordance with the potential impacts identified by the DEIS. This consultation includes describing the Transaction, describing the projected effects on highway/rail at-grade crossings as determined within the DEIS (plus Errata) and by NS's calculations, and requesting the state DOT enter the crossing in question into the state crossing safety planning process as appropriate. NS will then work with the state DOT as appropriate to identify and implement those mitigation measures considered warranted by the state crossing safety planning process.

<u>State DOTs*</u>	<u>Crossings With Potential Safety Issue</u>	<u>Crossings With Potential Delay Issue</u>
IL	1	
IN	27	13
MD	3	
MI	1	
NY	1	
OH	13	
PA	9	5
VA	2	

*State Departments of Transportation or similar agencies.

NS will also discuss with the state DOTs all crossings affected by significant increases in traffic volume or train speed and those subject to physical change resulting from Transaction-related construction. The state DOTs will then be able to evaluate fully and prioritize all crossings affected by the Transaction, based on each state's unique criteria.

7.0 ADDITIONAL COMMENTS ON ENVIRONMENTAL ISSUES

Norfolk Southern's principal, substantive comments on the DEIS analysis of environmental and safety topic areas are contained in Section 4.0 of this document. Additional comments provided in this section are for the purpose of clarification or improving accuracy, and mainly note minor typographical or factual errors and inconsistencies and discrepancies. The comments and clarifications offered by NS in this section are not expected to substantively affect the conclusions or recommendations of the EIS.

7.1 Safety: Freight Rail Operations

Comment No. 1

NS has noted several inconsistencies in accident rates (accidents per million train miles) used in several locations in the DEIS as follows.

Accidents Per Million Train Miles

	Page 3-7 Second Paragraph, Fourth Sentence	Page 4-9, Figure 4-2	Page B8-1, Table B8-1, Appendix B
Year 1978	15.0	14.5	--
Year 1995	4.0	3.71	3.71
Year 1996	--	3.69	3.69

In order to remain consistent with the second sentence in the second paragraph on page 3-7, the accident rate value for 1996 should be used instead of the 1995 value that was used, and the period 1978-1996 should be analyzed in the fourth sentence of that paragraph using the values of 14.5 for 1978 and 3.7 for 1996. With this change, the fourth sentence should be revised to say, "In the last 20 years, the accident rate has decreased from 14.5 accidents per million train miles (in 1978) to 3.7 accidents per million train miles (in 1996), an overall decrease of 75 percent in the accident rate." This revision results in the overall decrease changing from 73 percent to 75 percent.

Comment No. 2

The third sentence of the third paragraph on page 4-8 (Chapter 4, Volume 1, Section 4.4.2) says, "From 1970 until 1996, the national average accident rate has decreased from 15.0 to 3.7 accidents per million train-miles." In order to remain consistent with Section 3.2.2 on page 3-7 (Chapter 3), SEA should report the value over the last 20 years: 1978 to 1996. The accident rate in 1978 was 14.5 accidents per million train-miles as reported in Figure 4-2. SEA should revise the third sentence to say, "From 1978 until 1996, the national average accident rate has decreased from 14.5 to 3.7 accidents per million train-miles." However, if SEA's intent was to report the 1970 statistic, the correct value is 10.5 in lieu of 15.0 accidents per million train-miles.

Comment No. 3

The DEIS at 3-6 states the system-wide analysis examined accident risk for "all 119 rail line segments." It appears to NS that this sentence should read "all 1,022 rail line segments."

7.2 Safety: Highway/Rail At-Grade Crossings

Comment No. 1

NS has noted the following inconsistency on page B-5, (Volume 5A, Appendix B, Section B.3.2). The DEIS states, "SEA used the latest version of the FRA database to compile accident data for all crossings with at least one accident in the last five years." According to the grade-crossing tables located in Volume 3A & 3B, the analysis also includes grade crossings with zero accidents in the last five years. This should be corrected.

Comment No. 2

NS suggests a change to the title of Table B-7 on pages B-19 through B-21 (Volume 5A, Appendix B, Section B.4.3). The table is currently titled "Highway/Rail At-Grade Crossing Accident Index Roadway ADT More Than 15,000." Since Table B-7 also includes two other ranges of ADT's, the title should only read "Highway/ Rail At-Grade Crossing Accident Index."

Comment No. 3

NS suggests revisions to the definition of two factors in a formula presented in Section B.4.3, page B-22 (Volume 5A, Appendix B). The formula is presented under the heading "Segment-Specific Safety Effects Analysis:"

$$a = K \times EI \times DT \times MS \times MT \times HP \times HL$$

The definition for "a" should be revised to read, "a is the *unnormalized* initial predicted number of accidents per year," and the definition for "EI" should be revised to read "EI is the exposure index factor based on the product of the number of *average daily* roadway vehicles and *average* trains per day."

Comment No. 4

On page B-23 (Volume 5A, Appendix B, Section B.4.3), the second sentence of the second paragraph states, "FRA recommends that actual accident experience be limited to the 1991 through 1995 period, as..." NS suggests that this sentence be revised, replacing the portion of the sentence "1991 through 1995" with "*data for the most recent 5 years of history.*" NS notes that the period 1991 through 1995 was the most recent interval available at the time the DEIS analysis was conducted. However, more recent data (1992 through 1996) has since been released.

7.3 Safety: Rail Transport of Hazardous Materials

Comment No. 1

NS has noted that the definition of a "Key Train" as presented in the following sections of the DEIS is incorrect (Executive Summary, Glossary; Volume 1, Glossary; Volume 1, Chapter 4, Page 4-15; Volume 3A, Glossary; Volume 3B, Glossary; and Volume 5A, Glossary). The definition described in those DEIS sections is 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."

This definition is incorrect because PIH Zone A or B materials are not specified, and because the definition implies that any train that contains 20 or more hazardous material

loads regardless of hazard classification are defined as “Key Trains.” The correct definition should be: “ ‘Key Trains’ are any trains with five or more tank car loads of chemicals classified as Poison Inhalation Hazard (PIH) **Zone A or B**; or any train with a 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.” (Bold added).

Comment No. 2

NS notes that one of the requirements for key routes as stated on page ES-19 under the Hazardous Materials Transportation section is incorrect. The DEIS states “These AAR [key route] guidelines include **visual** rail defect inspections at least twice per week...” The correct definition, which includes neither visual inspections nor twice weekly inspections, is referenced at DEIS, Volume 5A, Appendix B-10, page 2 of AAR Circular No. OT-55B: *“2. Main Track on “Key Routes” must be inspected by rail defect detection and track geometry inspection cars or any equivalent level of inspection no less than two times each year; and sidings must be similarly inspected no less than one time per year.”* As a further note, FRA regulations specify weekly track inspections.

Comment No. 3

NS notes the following typographical error on page 4-61, Table 4-18 of the DEIS. The total number of rail cars should be 2,430 not 24,30.

Comment No. 4

NS notes the following misspelling on DEIS, Page 5-32, Table 5-2, Summary of Impacts Warranting Mitigation by State, for rail segment N-360: Berke County should be spelled Burke County.

Comment No. 5

NS suggests modifying Table 9-1 in Volume 5A, Appendix B, Page B9-4 and B9-5. 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 DEIS 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.

Comment No. 6

Table B9-2 on page B9-5 of the DEIS is persuasive in demonstrating that most reported hazardous materials incidents are of very small quantities very unlikely to have any noticeable impact for communities. However, the phrase “[t]he primary reason for most of the releases in the HMIRS database being non-reportable is their small size” is misleading, because all incidents regardless of their size must be reported, and is inconsistent with the fact that all releases have been reported in the HMIRS database.

7.4 Energy

Comment No. 1

As part of the system-wide analysis of energy consumption, the DEIS estimated changes in fuel consumption from increased delays at highway/rail at-grade crossings. (DEIS at 4-49.) This analysis considered this effect at crossings with average daily traffic (ADT) greater than 5,000 vehicles on rail line segments that met the Board’s thresholds for environmental analysis. (See Energy Consumption Changes from Highway/Rail At-Grade Crossing Delays, DEIS, Appendix D, Page D-7.) These were the same at-grade crossings analyzed for air quality impacts.

This analysis arbitrarily excludes at-grade crossings with ADT greater than 5,000 projected to experience decreases in train traffic. This analysis thereby overestimates fuel consumption and fails to assess the benefits (e.g., decrease in fuel consumption) associated with the Transaction.

7.5 Air Quality

Comment No. 1

NS notes that there appears to be some inconsistency in the impacts reported in DEIS Appendix E, Attachments E-2 and E-4. If the differences are intentional, perhaps an explanation of why the impacts are different should be supplied in the FEIS. For example, if the difference in the two sets of data is a result of Attachment E-2 presenting emissions increases while Attachment E-4 presents net emission changes, this could be stated clearly in Appendix E. Otherwise, if the differences were in error, they should be corrected in the FEIS.

Comment No. 2

NS suggests a correction to the title of Figure 4-6 on page 4-52 of the DEIS. Figure 4-6 does not indicate the specific pollutant(s) for which each of the shaded areas is designated nonattainment. It is logical therefore to infer that the shaded areas are non-attainment for SO₂, CO, Pb, and particulate matter. This is not correct. At a minimum the title could be modified to say "*Areas of Non-Attainment for SO₂, CO, Lead(Pb) and/or Particulate Matter.*" Also, it would be appropriate to add a reference to Attachment E-1 in Appendix E where the pollutant(s) for which a county is nonattainment are specified.

Comment No. 3

NS suggests the following correction to the first sentence of the first full paragraph on page 4-54 of the DEIS which currently reads: "... EPA's proposed new NO_x emission control requirements for 25 eastern states ...". The sentence should be modified to read, "*... EPA's proposed new NO_x emission control requirements for 22 eastern states and the District of Columbia ...*".

Comment No. 4

NS suggests that the third sentence of the third paragraph on page 4-63, which currently reads, "... EPA has determined that NO_x is not ...". be modified to read, "*... EPA has determined that NO_x emissions locally are not ...*".

Comment No. 5

NS suggests the following modification to the fourth sentence of the last paragraph on page E-7. The sentence currently reads, "These lengths were multiplied by the corresponding annual gross tons, and then by a fuel efficiency (gross ton miles/gallon, or GTM/gal.), and by an emission factor (lb/gallon) to obtain emissions estimates for each segment (see Section E.7.1)." The sentence should be reworded to read "*These lengths were multiplied by the corresponding annual gross tons, **divided** by a fuel efficiency (gross ton miles/gallon, or GTM/gal), and **multiplied** by an emission factor (lb/gal) to obtain emissions estimates for each segment (see Section E.7.1).*"

Comment No. 6

The emission factor for NO_x, is listed as 566.4 lb/Kgal on Table E-3, page E-9. The correct factor is **564.2 lb/Kgal**.

Comment No. 7

NS notes corrections to two emission factors used in Table E-4 on page E-10 of the DEIS. The emission factor for NO_x, is listed as 830.7 lb/Kgal, but should be **827.5 lb/Kgal**. The emission factor for VOC is listed as 46.2 lb/Kgal, but should be **46.0 lb/Kgal**.

7.6 Noise

Comment No. 1

In Appendix F, Attachment F-1, the DEIS indicates receptors along the Riverton Jct. to Roanoke line segment will experience a 5.0 dBA increase in noise level from the pre-Transaction to post-Transaction conditions. In the Applicants' Environmental Report (ER), noise receptors were expected to experience a 4.7 dBA increase along this line segment. Even applying the DEIS model, which we recommend be adjusted to accurately reflect NS train noise, it appears projected traffic changes would result in a 4.9 dBA increase. The equations used for this calculation follow:

- $10 * \log (\# \text{ of Pre-Transaction trains} / \# \text{ of Post-Transaction trains}) = \text{Change in dBA}$

where: # of Pre-Transaction trains = 3.9 and # of Post-Transaction trains = 12.1.

Comments No. 2

With reference to DEIS Appendix F, Attachment F-2, the following table identifies inconsistencies between the DEIS and information on operations submitted to SEA by NS in the ER and thereafter. The table below lists discrepancies in number of trucks, change in decibels (dBA) and distance to the 65 dBA Ldn contours at the intermodal facilities. NS requests that SEA verify the numbers presented in the DEIS for Luther. Also, the EIS should use the information for a proposed intermodal facility in Sandusky, OH and delete information for a proposed intermodal facility in Bellevue, OH since NS is no longer planning to construct a facility there.

Discrepancies in Number of Trucks, Change in Decibels and Distance to the 65 dBA Ldn Contours at Intermodal Facilities								
Location	ER Change in Trucks	DEIS Change in Trucks	ER Post-Act. Trucks/ Day	DEIS Post-Act. Trucks/ Day	ER Change in dBA	DEIS Change in dBA	ER Distance to 65 Ldn	DEIS Distance to 65 Ldn
Luther	63	194	251	382	<2	3	N/A	223
Sandusky*	71		71				73	
Bellevue*		65		65				69

*In a letter dated October 31, 1997 from NS to SEA, NS explained that the proposed new facility would be built at Sandusky rather than at Bellevue as had been indicated in the ER. In the same letter, a change in the projected number of trucks per day post-Transaction was provided.

Comment No. 3

The following table also lists discrepancies in the change in dBA and distances to the 65 Ldn contours at the intermodal facilities from DEIS, Appendix F, Attachment F-2. NS requests that SEA verify that the latest information provided by NS has been used in the DEIS. SEA may also wish to consider verifying the calculations for the intermodal facilities.

Discrepancies in Change in dBA and Distance to the 65 dBA Ldn Contour at Intermodal Facilities				
Location	ER Change in dBA	DEIS Change in dBA	ER Distance to 65 Ldn	DEIS Distance to 65 Ldn
Baltimore	2.7	3.0	83	145
E-Rail, Portside	6.9	7.0	not different	
Allentown	5.5	6.0	57	113
Rutherford	7.7	N/A	229	250
Pitcairn	not different		100	250

NS' consultant Burns & McDonnell, calculated the change in dBA using the formula below:

$$10 * \log (\# \text{ of pre-Transaction trucks} / \# \text{ of post Transaction trucks}) = \text{Change in dBA}$$

For example, at the Baltimore facility, the pre-Transaction number of trucks is 108; the post-Transaction number of trucks is 200. Using the equation above, the change in dBA was calculated to be 2.7 dBA. However, the DEIS lists 3.0 dBA.

The distance to the Ldn 65 contour was calculated using the equation from the ER (page B-39). The equation is shown below:

$$L_{dn} = 28.2 - 15 \log(D/450) + 10 \log [(H_d + 10 H_n)N_{total}/(H_d + H_n)]$$

where:

H_d = number of hours of operation during the daytime (7 am to 10 pm)

H_n = number of hours of operation during the night (10 pm to 7 am)

N_{total} = average number of daily operations

D = distance in feet to Ldn 65 contour

For example, at the Baltimore facility the number of daytime hours is 9, the number of nighttime hours is 1 and the average number of operations is 200. Using the above mentioned equation, the distance to the Ldn 65 contour is 83 feet. The DEIS lists 145 feet.

7.7 Natural Resources

Comment No. 1

The methodology for natural resources (DEIS at 3-41 and I-7) states, "The biological resources assessment included identifying and analyzing potential impacts to Federally listed threatened and endangered species, protected wildlife habitats and migration corridors, wildlife refuges and sanctuaries, national, state and/or local parks or forests, and protected unique or critical habitats." This methodology does not provide a specific distance from the construction or abandonment that was used for identifying biological resources, such as a parks or refuges, for inclusion in the analysis of potential impacts. However, varying distances to specific biological resources are provided in the following instances:

- The DEIS at IN-62 states, “SEA determined that there are no Federal or state parks, forests, preserves, refuges, or sanctuaries located **within or adjacent** to the proposed construction site at Tolleston.”
- The DEIS at IN-62 also states, “. . . there are no Federal or state parks, forests, preserves, refuges and sanctuaries that exist within **one mile** of the Tolleston site...”
- The discussion of the South Bend to Dillon Junction abandonment (DEIS at IN-68) states, “Kingsbury State Fish and Wildlife area is located approximately **one mile** southwest of Dillon Junction; and the Potato Creek Recreation Area is located less than **one mile** north of the proposed abandonment area. There are no sanctuaries, refuges, national, state, or local forest/parks within **500 feet** of the existing rail line for the proposed NS abandonment from South Bend to Dillon Junction.”

The FEIS should clarify the natural resources methodology regarding distances to wildlife refuges and sanctuaries; national, state and/or local parks or forests. Also, if none are within the specified distance, this should be clearly stated under the Existing Conditions section.

Comment No. 2

Under the column, Preliminary Recommended Mitigation for the Alexandria, IN Construction (DEIS at Volume 3A, Page 5-24, Table 5-2 and Volume 3B, Page 5-24, Table 5-2), the following text appears “NS shall use only EPA-approved herbicides during right-of-way maintenance.” The apparent error is that this statement is referenced under Environmental Justice in the technical area column, rather than the technical area for Natural Resources.

Comment No. 3

Under the Preliminary Recommended Mitigation heading for Tolono, Illinois Construction (DEIS at IL-62), there is an incorrect reference to CSX in the following sentence, “...SEA would require CSX to conform to its standard specifications during construction.” *The FEIS should contain the corrected reference to NS not CSX.*

7.8 Land Use/Socioeconomics

Comments No. 1

The reference to Native American Issues (DEIS at NY-38) appears to be associated with the Gardenville Junction construction because the text follows directly under the discussion of prime farmland at this construction. Separating the discussion of Native American Issues with a bolded heading similar to those used for constructions or abandonments could reduce the potential for confusion.

7.9 Abandonments

Comment No. 1

The Summary of Potential Effects and Preliminary Recommended Mitigation section (DEIS at IN-30) states, "Tables 5-IN-10 and 5-IN-11, presented at the end of this state discussion how..." There is no Table 5-IN-10 at the end of the Indiana State discussion. The reference actually appears to refer to Tables 5-IN-11 and 5-IN-12. If this is the case the sentence in question should be revised to say, "*Tables 5-IN-11 and 5-IN-12*, presented at the end of this state discussion, *show...*"

Comment No. 2

In both Figure 5-IN-4a (Volume 3A, Chapter 5) and Figure 2a (Volume 6) of the DEIS, the east end point for the South Bend to Dillon Junction Abandonment is in South Bend. The east abandonment end point on the figures should be moved to a point on the rail line approximately 200 feet northeast of U.S. Highway 20/31, southwest of South Bend. The correct end point is approximately 2 miles closer to Dillon Junction.

Comment No. 3

The Hazardous Waste Sites section (DEIS at Volume 6 Page 30) states, "...the EDR database report identified 13 sites including one NPL/CERCLIS site, four Indiana SPILLS sites, six LUST sites, and two RCRIS-TSD sites located within 500 feet of the proposed abandonment corridor." As discussed in Comment No. 2 above, the South Bend to Dillon Junction abandonment end point is located approximately 2 miles closer to Dillon Junction. Therefore, the hazardous spills sites located in South Bend are not within 500 feet of the proposed abandonment corridor. Therefore, this statement should be revised to

say, "...the EDR database report identified 2 sites (one LUST site and one RCRIS-TSD site) located within 500 feet of the proposed abandonment corridor."

Comment No. 4

The last sentence of the first paragraph (DEIS at Volume 6 page 25) Proposed Action section states, "Dillon is a rail crossing..." The sentence should be revised to say, "Dillon Junction is a rail crossing..."

Comment No. 5

The DEIS at Volume 6, page 67 states, "NS would also dispose of all materials that **could** be reused in accordance with state and local solid waste management regulations." NS believes the DEIS intended to say and therefore should be modified to, "NS would also dispose of all materials that **cannot** be reused in accordance with state and local solid waste management regulations."

7.10 Construction

Comment No. 1

The DEIS at IL-67 states, "The construction of the new connection at Kankakee, would convert approximately 2.3 acres to rail line right-of-way." *The correct acreage is 1.0 acre* as provided in a letter from NS to SEA dated October 16, 1997. The correct acreage should be used in the FEIS.

Comment No. 2

The DEIS at IN-69 states, "The proposed construction would require that NS acquire and convert approximately 3.9 acres of currently undeveloped land to rail line right-of-way." *The correct acreage is 0.4 acre* as provided in a letter from NS to SEA dated October 16, 1997. The correct acreage should be used in the FEIS.

Comment No. 3

The DEIS at IN-29 states, "The connection . . . would be approximately 1,750 feet long." *The correct length is 1,700 feet* as provided in a letter from NS to SEA dated October 16, 1997. The correct length should be used in the FEIS.

Comment No. 4

The Summary of Sites Mapped by EDR, Table H-1 (DEIS at H-10) contains a reference to a LUST site 317 feet east of the proposed site for the Butler, Indiana construction. However, under the Indiana Hazardous Materials and Waste Sites, Existing Environment at the Butler construction (DEIS at IN-54 and IN-55), the text states, "The Environmental Data Resources, Inc. (EDR, 1997) report identified no hazardous waste sites or related environmental concerns within 500 feet of the proposed connection." The inconsistency should be corrected in the FEIS.

7.11 Data Differences Between the DEIS and Information Provided SEA by NS

7.11.1 Train Traffic Data

Comment No. 1

Some of the traffic data included in the DEIS differs from what was provided by NS to SEA in the ER, the Operating Plan or in supplemental submissions. The following table presents discrepancies noted by NS of plus or minus 2 trains or greater, or discrepancies of plus or minus ten percentage points or greater. Explanations which follow the table address apparent errors which should be corrected in the FEIS. The reason for other discrepancies is unclear, and the discrepancies are pointed out here for SEA's consideration and appropriate use.

Segment Name	SEA #	Type of Data	DEIS*	Correct	Source
Indiana Hbr to S. Chicago	N-047	Percent change in MGT	22	40	Revised Table 1-4, submitted on 10/17/97
W. Detroit to Jackson	N-121	Post freight	12.1	3.7	See explanation below
		Change in trains	9.2	0.8	See explanation below
		Percent change in MGT	313	-25	See explanation below
Jackson to Kalamazoo	N-120	Post freight	12	3.4	See explanation below
		Change in trains	6.6	-2.0	See explanation below
		Percent change in MGT	162	-49	See explanation below
Burstall to Meridian	N-343	Post freight trains	16.2	18.2	See explanation below

Segment Name	SEA #	Type of Data	DEIS*	Correct	Source
Calumet to Landers	N-499	Percent change in MGT	-99	40.3	Operating Plan Errata, page 18
Ridgewood to Suffern	N-064	Percent change in MGT/GTM	123	32	Revised Table 1-4, submitted on 10/17/97

* As listed in DEIS Attachments B-1 through B-3

The differences in tonnage on the **Indiana Harbor to South Chicago** segment are likely a result of the exclusion of 14.6 million gross tons per year of CSX post-Transaction trackage rights trains. Neither these trains nor their tonnage were included in the Operating Plan and it appears their tonnage was not included in the DEIS either. The tonnage should have been included in the DEIS and should be reflected in the percent change in tonnage.

As discussed in Section 4.22 in these comments, the expected change in traffic on the **W. Detroit to Jackson** and **Jackson to Kalamazoo** line segments was modified by NS based on new information on the status of the potential for haulage of CP trains across these line segments (addressed in a correspondence to SEA on 10/30/97). The FEIS should be edited to reflect these modifications.

In the Operating Plan, the post-Transaction train numbers for the **Burstall, Alabama to Meridian, Mississippi** line segment were listed as 2 passenger trains per day, 18.2 freight trains per day and 18.2 total trains per day. The total trains per day column was incorrect; it should have read 20.2 trains per day. Thus, 18.2 freight trains per day post-Transaction is correct.

The reason for the other data discrepancies is unclear. This information is supplied for SEA's consideration.

7.11.2 Other Data

The DEIS at GA-21 in Table 5-GA-16 incorrectly states NS is currently constructing a new intermodal facility in Fulton County, Georgia which is related to the proposed Transaction. This is not the case. 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 FEIS.

APPENDIX NS-1

**DESCRIPTION OF NS COMPLIANCE WITH
POTENTIAL PASSENGER TRAIN SAFETY MITIGATION MEASURES
DESCRIBED IN CHAPTER 3 OF THE DEIS**

APPENDIX NS-1

DESCRIPTION OF NS COMPLIANCE WITH POTENTIAL PASSENGER TRAIN SAFETY MITIGATION MEASURES DESCRIBED IN CHAPTER 3 OF THE DEIS

Chapter 3 of the DEIS, Sections 3.2.3 and 3.3.3, describe a variety of potential mitigation measures for passenger rail safety as follows:

- Enhanced rail-safety programs, such as closer spacing of rail car defect detectors along rail lines.
- Increased frequency of track inspections, tank car inspections, and highway/rail at-grade crossing signal inspections.
- Toll-free numbers for use by emergency response forces in communities to contact railroad authorities.
- Training programs for community and emergency response personnel to enhance their abilities to respond to rail-related emergency incidents.
- Head-hardened rail-on-track curves in mountainous territory to reduce the risk of track breakage and serious derailments.
- Centralized train traffic control systems for safer rail operations.
- Replacement of old rails to reduce the risk of derailment.
- New track installation to increase the capacity of the rail line segment, which reduces the potential for train collisions.
- Improved rail signal system to make more efficient and safer use of track.

In this appendix, NS will describe its existing compliance programs with each of the nine measures described above. These measures will be employed by NS on each of the line segments operated by NS.¹

1. **Rail Safety Programs/Defect Detectors** - NS will maintain rail safety programs appropriate to the classification of the track on each of the four NS (now Conrail) involved line segments. With respect to defect detectors, Conrail's standard spacing for hot bearing detectors is 20 miles. Conrail presently has an approved

¹ N-063; N-120; N-121 and the Porter, IN to Chicago, IL route which consists of N-308, N-042, N-047, and N-309. Line segment N-497 is owned by Amtrak.

capital AFE to install 41 detectors to achieve nominal 20-mile spacing on lines where spacing presently exceeds this standard. Upon completion of this AFE, 20-mile nominal spacing will be achieved on these four line segments.

- 2(a). **Inspection of Track** - NS already has in place an inspection program which features twice weekly inspections (twice as frequent as the FRA requirements). In addition to these regular inspections, NS will perform more frequent inspections when: (a) ambient temperature conditions and/or temperature changes along the involved line segments create stresses in the track structure which produce the potential for track problems (such as kinks and pull aparts); and (b) weather conditions produce potential risks associated with the possibility of derailments caused by uncontrolled water flows or other weather phenomena as addressed in FRA Safety Advisory 97.

In addition, current NS standards require all main line rail to be tested at least once per year. Frequency of testing can be up to four times per year. NS testing frequency is based on density, traffic type, defect history, rail type and age. The NS track testing policy is more stringent in most cases than STB's proposed "at least once every 40 million gross ton-miles of rail traffic, or to inspect annually, whichever is more frequent."

- 2(b). **Inspection of Tank Cars** - Tank cars are inspected before acceptance at originating point, when received in interchange, and at any point where a train is required to be inspected (i.e., in yards where the car is put into a train). The cars may continue in transit only when the inspection indicates that the cars are in safe condition for transportation as required by 49 CFR 174.8 and NS Hazardous Materials Timetable Rule F.1 and F.2. The inspection is made from the ground and verifies that the car has no visible leaks and that all valves and openings are properly secured. Additional inspections in passenger corridors by railroads is not practical or necessary to ensure safety.
- 2(c). **Inspections of Highway/Rail At-Grade Crossing Warning Devices** - NS conducts monthly, quarterly and bi-annual tests and inspections of grade crossing warning devices in accordance with FRA and company standards and instructions. Such tests and inspections will continue to be done on the four lines.
3. **Toll Free Telephone Number** - The NS Police Communications Center has two toll free numbers (one is used for general emergencies and the other is displayed on railroad crossing devices). The general number is published in the phone books in all locations which NS operates. It has also been broadcast on the law enforcement network. Additionally, it is distributed at all Grade Crossing Collision Classes conducted by the NS police Department (approximately 30 classes per year).
4. **Emergency Response Training** - The NS Police Department conducts approximately 30 Grade Crossing Collision Courses each year. As part of that instruction, unique problems associated with passenger train collisions are

discussed. Passenger train locomotive and car schematics are included in the Operation Respond software NS donates to local communities. For more information on the Operation Respond program refer to the SIP at DEIS 2-159. Schematics for Amtrak, VRE, MARC and NJT will be included in version 3.2 of the OREIS software which will be available by January 1998.

5. **Head-hardened Rail** - None of the segments are located in mountainous territory. Application of head-hardened rail on these segments will be initiated in cases where this type of rail is justified by overall traffic levels and track curvature.
6. **Centralized Train Control** - Each of the four line segments mentioned is already equipped with centralized traffic control (CTC) signaling. When signal indications are complied with, these systems enhance safety by providing protection for opposing and following train movements on the same track, and allow for positive protection of roadway workers. In addition, these systems enable more efficient and fluid train operation.

In addition, Amtrak, Michigan DOT and CR (later NS) have a FRA grant for \$9 million to install and test a positive train separation system called Incremental Train Control System (ITCS) on the Kalamazoo to Porter line. The grant will equip 40 locomotives, and 10 wayside servers along 70 miles of track. Imposition of the 15/30 minute rule would nullify the value of this system.

On the Campbell Hall to Port Jervis line New Jersey Transit (NJT) is installing a similar system. The objective of the NJT project is to implement technology to make the railroad safer. It consists of two systems for enforcing civil speed restrictions, signal indications, and positive stops at "Stop" or "Stop and Proceed" signals. The complementary system, using wayside transponders at interlockings and automatic signals interfaced to signal aspects, is called PTS or Positive Train Separation. It will be integrated into the remaining existing wayside signal systems and operate in conjunction with and enhance the capabilities of the existing and future Continuous Cab Signal Systems and Automatic Train Control.

7. **Rail Replacement** - NS will replace rail on the involved segments based on wear and defects detected in accordance with applicable FRA requirements.
8. **Enhancement of Track Capacity** - NS believes that existing track capacity on the five involved line segments is sufficient to safely accommodate existing and foreseeable future traffic levels. Should future traffic levels develop where additional track capacity is needed to safely and efficiently accommodate train operations, NS is prepared to initiate necessary track construction projects. There appears to be sufficient space in the rights-of-way on the Kalamazoo - Jackson; Jackson - West Detroit; and Campbell Hall - Port Jervis segments to add track if necessary.

In addition, the lines at issue are projected to experience only modest freight train

frequency increase of 4.1 for the Campbell Hall to Port Jervis line; between 6.7 and 9.2 on the two segments between West Detroit and Kalamazoo and 6 on the Amtrak line between Kalamazoo and Porter, IN. The line between Porter, IN and Ashland Avenue, Chicago is divided into four segments with an increase of 0.1 train per day between Porter and CP 501; an increase of 16.9 trains between CP 501 and Indiana Harbor; and an increase of 4.1 trains between Indiana Harbor and South Chicago and a decrease of 16.2 trains between South Chicago and Ashland Avenue. This 38-mile line is double and triple track with bi-directional CTC and is not going to be taxed with the train frequency shifts listed above.

9. **Rail Signal Systems**- Improvements have been approved for the Campbell Hall - Port Jervis segment. Conrail presently has an approved capital AFE to eliminate the signal pole line on the Campbell Hall to Port Jervis line segment. This project will enhance signal system reliability and consequently improve passenger train safety. On the other three mentioned lines to be allocated to NS, pole lines have been eliminated, and the signal systems in use are both safe and reliable.

Also, see response to 6 above. In addition, NJT is adding wayside 4-aspect coded 100 hz Continuous Cab Signal Systems (CCSC) to an additional 214 track miles in 131 route miles of existing signaled territory, increasing ATC to about 76 percent of its system. The ATC portion of the project is expected to be completed by the end of 1998. Subsequent to installation of ATC all locomotives operating over such signal territory will be required to have ATC equipment. Imposition of the 15/30 rule would make the investment in these high-tech systems a waste of time and money as the railroad would be running as if the territory was dark, i.e., no signals at all.

APPENDIX NS-2

HIGHWAY/RAIL AT-GRADE CROSSING DELAYS

APPENDIX NS-2

HIGHWAY/RAIL AT-GRADE CROSSING DELAYS

In Volume 5A, Appendix C, Section C.4.3, pages C-11, C-12 of the DEIS, SEA has calculated the crossing delay per stopped vehicle by use of the following equation which the DEIS describes as "from" the Institute of Transportation Engineers, "Transportation and Traffic Engineering Handbook," Second Edition, 1982:

$$D_A = \frac{D_C \times (S_c/S_c - S_q)}{2}$$

This equation does not appear in the "Transportation and Traffic Engineering Handbook" in this form to represent a relationship of delay per stopped vehicle. Also, the equation is not semantically correct (i.e. S_c/S_c is equal to one). The equation SEA used to calculate crossing delay per stopped vehicle resembles the equation in the "Transportation and Traffic Engineering Handbook," for calculating the duration of the queue. The correct equation found in the publication that calculates the average minutes of vehicle delay is presented on the same page as the above equation in the ITE "Transportation and Traffic Engineering Handbook." The equation is expressed as follows,

$$d = r/2 (1 - s_r/q)$$

where,

d = average minutes of vehicle delay
 r = duration of blockade, minutes
 s_r = flow rate (vehicles per minute) at bottlenecks during blockade
 q = average arrival rate of traffic (vehicle per minute) upstream of bottleneck

The value of s_r is zero when the roadway is completely blocked as in the case of an at-grade railroad crossing. Therefore, the equation reduces to,

$$d = r/2$$

When an additional 0.30 minutes is added to allow for the waiting line of vehicles to dissipate, the equation resembles the average delay time equation presented in the Applicants' ER, Volume 6A, Appendix D, page 246. This equation was developed by the Stanford Research Institute "Guidebook for Planning to Alleviate Urban Railroad Problems," prepared for the Federal Railroad Administration and Federal Highway Administration, August 1974, RP-31, Volume 3, Appendix C and has been used previously in the Environmental Assessment prepared by SEA for the UP/SP merger. (STB, SEA. 1996. EA, Finance Docket No. 32760, Union Pacific Corporation, et. al. Control and Merger Southern Pacific Rail Corporation et. al.)

Therefore, the final form of the equation to calculate average delay per vehicle using the DEIS notation should be expressed as,

$$D_A = D_C/2 + 0.3$$

This equation will more accurately reflect the crossing delay per stopped vehicle definition as described in the DEIS Volume 1, Chapter 3, Section 3.7.1, page 3-17, that says SEA assumed that vehicles arrive at a crossing at a uniform rate and that the average delay for any particular roadway is half the time the crossing is activated ($D_C/2$), plus the time required for vehicles to disperse (0.3) after the train has passed.

In Volume 5A, Appendix C, Section C.4.3, the last paragraph on page C-16 describes Table C-5 as the variation of average delay per stopped vehicle with changes in train length and train speed for various roadway ADT volumes and number of roadway travel lanes. However, Table C-5 is titled "Blocked Crossing Times (in minutes)" which SEA defines differently than average delay per stopped vehicles. Furthermore, the ITE "Traffic Engineering Handbook" does not directly associate blocked crossing time and delay per stopped vehicle as functions of the number of lanes and ADT during a blocked crossing event. If it is SEA's intent to generate a table of average delay per stopped vehicle as defined in the ITE handbook, the table should contain the values generated by using the equation,

$$D_A = D_C/2 + 0.3$$

and the proposed table would be as follows:

Table C-5					
Average Delay per Stopped Vehicle (minutes)					
Train Speed	Train Length (in feet)				
	4,869	5,000	5,600	6,000	6,200
10	3.32	3.39	3.73	3.96	4.07
20	1.93	1.97	2.14	2.25	2.31
30	1.47	1.50	1.61	1.69	1.72
40	1.24	1.26	1.35	1.40	1.43
50	1.10	1.12	1.19	1.23	1.25

In Volume 5A, Appendix C, page C-14, the third paragraph says, "For crossing delay per vehicle, SEA determined that a significant impact would occur if vehicle delay at highway/rail at-grade crossings increased by 30 seconds. This figure represents a driver tolerance threshold above which the driver perceives added delay for an intermittent blocked crossing event."

The DEIS does not explain how the 30-second significance criteria was established. If this value is based on past research, it would be appropriate to cite the source. If SEA has performed their own study to derive at this value, details of that study should be included in the methodology. Furthermore, the 30-second criteria appears to be inconsistent with the statement in the DEIS Volume 1, Chapter 4, Section 4.9, page 4-44 that says, "There are no national standards for measuring emergency response vehicle delay or the significance of any delay impacts."

APPENDIX NS-3

ADDITIONAL NOISE MEASUREMENTS

APPENDIX NS-3

ADDITIONAL NOISE MEASUREMENTS

Noise measurements were performed on Norfolk Southern rail segments by Wyle Laboratories in Cleveland, Bellevue and Clyde, Ohio and Fort Wayne and Lafayette, Indiana. The measurements were performed in December, 1997 and January, 1998. The measurements were performed in order to: (1) determine if the existing Norfolk Southern noise model was conservative or underestimated noise impacts, and (2) perform site-specific modeling in areas where the STB identified a noise concern.

The noise model used in the Environmental Report (ER) was developed by Thornton Acoustics. The noise model was based on noise measurements made in a flat open field area in North Carolina over a four-day period. Wayside noise measurements were made at four locations perpendicular to the track at distances of 50, 100, 150 and 200 feet from track centerline. The train speed was measured by a radar gun and number of locomotives and rail cars were counted for each train pass-by. Thirty-six trains were measured for noise. The measurements were made without any horn soundings. Based on these noise measurements, SEL's were determined for trains traveling at 20 mph, 35 mph and 50 mph. For each train speed, train length was determined. For the model, trains were divided into three size categories (15 to 50 rail cars, 51 to 99 rail cars and 100 and greater rail cars). From evaluation of its system-wide operations, Norfolk Southern determined that the typical NS train travels at 35 mph and contains approximately 75 rail cars. For the representative NS train, the wayside noise SEL at a distance 100 feet from the track centerline was determined to be 98.4 dBA. The average attenuation rate of the noise was determined to be 4.8 dBA per doubling distance. A separate set of measurements were made of the locomotive with the horns soundings. The SEL noise level at 100 feet from a grade crossing was determined to be 108.5 dBA. The noise model was developed based on the measured data. Also included in the model was the option for background noise inputs. For all modeling runs it was assumed that the background noise levels would be relatively low. The background levels were set to 50 dBA during daytime hours (7 am to 10 pm) and 40 dBA during nighttime hours (10 pm to 7 am). The noise model allows for input runs used a shielding attenuation of 5 dB only if the structures parallel to the track occupied at least 65 percent of the total area parallel to the track. Further details of Norfolk Southern's noise model is contained in the Environmental Report, Volume 6A, Appendix B.

Wyle Laboratories performed noise measurements in Cleveland, Bellevue, and Clyde, Ohio and Fort Wayne and Lafayette, Indiana. The noise measurements in Cleveland were made in three areas for a 24 hour period. Two sites (Site 1 and 2) were on the NS Cloggsville to Ashtabula line segment and one site (Site #3) was on Conrail's Cloggsville to Short Line line segment. A comparison was made between the measured L_{dn} noise value and the calculated L_{dn} noise value using Thornton Acoustics' noise model. Thornton Acoustics' noise model predicted noise values 2.2 to 6.1 dBA higher than the measured noise values. The train noise levels were subtracted out of the 24 hour L_{dn} noise measurement to obtain the background noise levels. Background noise values from non-railroad sources ranged from 58 to 61.5 dBA.

In Bellevue, Wyle Laboratories performed noise measurements for three sites on an existing Norfolk Southern rail segment. The Bellevue noise measurements were taken over a three hour period. Three train pass-by noise measurements were made. A comparison was made between the measured noise value and the calculated noise values using the Thornton Acoustics' noise model. It is evident from the train pass-by noise measurements that horn noise affects the noise SEL values. Thornton Acoustics measured a noise SEL for a standard train at grade crossings to be 108.5 dBA at 100 feet from the track centerline. The highest measured SEL value at 100 feet from the track centerline was 106.2 dB. The lowest measured SEL value was 90 dBA. Thornton Acoustics determined a 4.8 dB spreading rate. At location 2,230 feet from the track, the highest measured SEL was 98.4 dBA. Thornton Acoustics' model predicts a 102.9 dBA SEL. At the third location, 650 feet from the track, the highest measured SEL was 88.9 dBA SEL while the modeled SEL value was 95.5 dBA. Thornton Acoustics' noise model over-predicts the noise values for each site and train pass-by.

Noise measurements were performed in Clyde, Ohio, along Norfolk Southern's Oak Harbor to Bellevue line segment. Wyle Laboratories performed SEL noise measurements at three locations. Two train pass-by noise measurements were made. A comparison was made between the measured noise value and the calculated noise value using Thornton Acoustics' noise model. It is evident from the train pass-by noise measurements that horn noise affects the noise SEL values. Thornton Acoustics' measured a noise SEL for a standard train at 108.5 dBA at 100 feet from the track centerline. The highest measured SEL value at 100 feet from the track centerline was 106.0 dB. The lowest measured SEL value was 97.4 dBA. Thornton Acoustic determined a 4.8 dB spreading rate. At location 2,330 feet from the track, the highest measured SEL was 95.0 dBA. Thornton Acoustics' model predicts a 100.2 dBA SEL. At the third location, 545 feet from the track, the highest measured SEL was 93.4 dBA SEL while the modeled SEL value was 96.7 dBA. Thornton Acoustics' noise model over-predicts the noise values for each site and train pass-by.

Noise measurements were performed in Fort Wayne along an existing Norfolk Southern line segment. Wyle Laboratories performed SEL noise measurements for two locations. Two train pass-by noise measurements were made. A comparison was made between the measured noise value and the calculated noise value using Thornton Acoustics' noise model. All crossings within the measurement area are separated. Thornton Acoustics measured a noise SEL for a standard train at 98.4 dBA at 100 feet from the track centerline. Thornton Acoustics determined a 4.8 dB spreading rate. For a location 200 feet from the track centerline, Thornton Acoustics' model predicts a 93.6 dBA SEL. The highest measured SEL value at 200 feet from the track centerline was 89.6 dB. The lowest measured SEL value was 75.8 dBA. At location 2,130 feet from the track, the highest measured SEL was 88.4 dBA. Thornton Acoustics' model predicts a 96.6 dBA SEL. Thornton Acoustics' noise model over-predicts the noise values for each site and train pass-by.

Noise measurements were performed in Lafayette along an existing Norfolk Southern line segment. Wyle Laboratories performed SEL noise measurements for two locations. One train pass-by noise measurement was made. A comparison was made between the measured noise value and the calculated noise value using Thornton Acoustics' noise model. All crossings within the measurement area are at grade. However, horn noise was not heard during the train

pass-by. It was noted that bell noise was heard during the pass-by. Thornton Acoustics measured a noise SEL for a standard train at 98.4 dBA at 100 feet from the track centerline. The highest measured SEL value at 100 feet from the track centerline was 93.8 dBA. Thornton Acoustics determined a 4.8 dB spreading rate. At location 2,250 feet from the track, the highest measured SEL was 86.8 dBA. Thornton Acoustics' model predicts a 92.0 dBA SEL. Thornton Acoustics' noise model over predicts the noise values for each site and train pass-by.

The comparisons between Wyle Laboratories noise measurements and Thornton Acoustics' noise model predictions show that in all cases, the Thornton Acoustics' noise model overestimates the L_{dn} 65 dBA contour at grade crossings and for wayside noise. It is evident in areas with a significant amount of structures, that shielding is an important consideration to determine actual noise impacts. The data consistently shows that the difference between Wyle Laboratories noise measurements and Thornton Acoustics' noise model is greatest where the building structure are most densely populated. Also, in areas with high background noise, the change in the total noise level is not necessarily equal to the change in the rail traffic only due to the logarithmic nature of the dB. For example, at Cleveland site #1, the background noise level is 61.5 dB. The measured L_{dn} from the rail traffic is 63.2 dB. The total measured L_{dn} was 65.4 dB. Assuming a 181 percent increase in rail traffic along this line as a result of the acquisition, the rail L_{dn} will increase by 4.5 dB. The post-acquisition rail L_{dn} will then be 67.7 dB and the total L_{dn} will be 68.6 dB. The total L_{dn} will increase by 3.2 dB due to the acquisition, not the 4.5 dB increase predicted by the noise model.

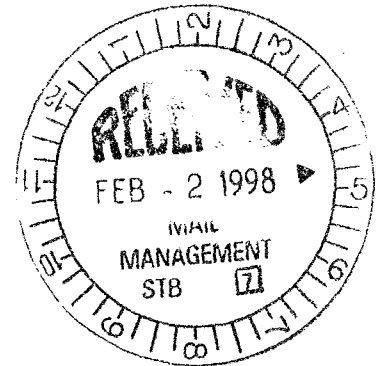
The Thornton Acoustics' noise model used in the ER is conservative compared to all noise measurements made by Wyle Laboratories. The model used to predict noise contours and levels in the DEIS further overestimates noise impacts and should be amended to adopt the Thornton Acoustics' predicted SELs for NS trains. The model would also be improved by application of additional acoustic shielding where justified by the presence of structures. Finally, it is apparent that noise models should be used only as a screening tool and that further local analysis needs to be performed in areas where the STB is considering mitigation.

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**ENVIRONMENTAL
DOCUMENT**

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388



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

CSX CORPORATION AND
CSX TRANSPORTATION, INC.'S
COMMENTS

ON

THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

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INTRODUCTION

CSX Corporation and CSX Transportation, Inc. hereby submit the following comments on the Draft Environmental Impact Statement ("DEIS") prepared by the Board's Section of Environmental Analysis ("SEA"), served December 12, 1997.

The present case represents the first occasion on which the Board (or its predecessor) has determined to prepare an EIS in a rail combination case. One of the basic purposes of an EIS is to identify all of the significant environmental impacts that may arise from a proposed federal agency action. The basic philosophy of the National Environmental Policy Act, 42 U.S.C. §§ 4321 et seq. ("NEPA"), is that federal agency actions that have significant environmental impacts should not be effected in ignorance of those environmental impacts. The potential impacts must be called clearly and plainly to the attention of the decision-maker(s) of the agency before the final decision is made, so that the agency may, in reviewing the action in question, balance the public interest and the performance of its statutory mandate against the environmental impacts that will arise from it.

The DEIS is clearly successful in this regard, as it fully identifies the potential environmental impacts of the proposed Transaction. The SEA and its consultants prepared a detailed, six-volume DEIS that carefully analyzes every potential significant environmental impact that could result from Board approval of the proposed Transaction. In addition, the DEIS offers preliminary recommendations for Board-imposed mitigation of adverse impacts. The comprehensiveness of the DEIS leaves little doubt that the Final EIS ("FEIS") will fully satisfy the requirements of NEPA.

Pursuant to the mandate of NEPA, the Board has exposed the DEIS to public comment. The public comments will doubtless call to the attention of the Board and its staff other possible methods of addressing the environmental impacts of the Transaction. The public comment period, and, indeed, the period throughout the preparation and exposure of the FEIS, should permit the Applicants and other interested parties to suggest the appropriate weighing of the benefits that flow from the Transaction as proposed -- both on environmental issues and on the basic public interest factors considered by the Board under its statutory authority -- against any adverse environmental impacts. It also should permit the Board to weigh and consider the extent to which any of the mitigation alternatives proposed in the DEIS might, on balance, cut too deeply into or even eliminate the benefits -- environmental and non-environmental -- of the Transaction. Such balancing will require the Board's consideration of whether other, more targeted mitigation approaches might be taken, or perhaps a realization reached that in some areas no mitigation is appropriate given the countervailing considerations, such as the broader impacts on the region or significant impacts that the mitigation would have on the transportation system.

Comments will no doubt be filed by numerous persons with concerns about various local impacts. Some local communities, understandably concerned only with their local interests, might request that the Board impose solutions that would effectively require redesigning CSX and NS's operating plans or postponing their implementation (effectively nullifying the Transaction). An example of this is the greater Cleveland area where the City of Cleveland has offered a plan requiring a redesign of the CSX/NS systems that would disrupt East-West traffic flows, as well as have significant adverse impacts on other local communities. If indulged, such requests would have catastrophic consequences for the CSX and NS rail networks, and indeed the national

transportation system, and would thwart the public and private benefits flowing from the Transaction.

It is important to note now that the DEIS concludes that the proposed Transaction will create important system-wide environmental benefits. Those positive impacts are in a number of areas, including enhanced safety, improved air quality and reduced energy consumption. For example, the DEIS predicts a decline in the likelihood of rail accidents and the release of hazardous materials, a decline in truck accidents and emissions due to the projected diversion of approximately one million intermodal units to the CSX and NS rail systems, a significant decline in energy use resulting from those diversions and a general improvement in the efficiency of rail operations. Further, no systemwide significant adverse environmental impacts are noted in the DEIS.

Because of the fact that the local and particular requires more explication and description than the general and the systemic, the DEIS inevitably devotes considerable attention to a discussion of particular local impacts and less attention to a discussion of the overall, systemwide benefits and other effects of the Transaction. This is entirely appropriate -- indeed necessary under NEPA -- as any discussion of numerous, unique local impacts will inevitably require more lengthy discussion. But it is important that the Board not lose sight of a crucial conclusion of the DEIS, namely, that the substantial systemwide beneficial environmental effects of the Transaction overshadow the far more limited local impacts discussed in such considerable detail. The FEIS should clearly reflect this.

While the DEIS does not discuss in any detail non-environmental benefits of the Transaction, since these are analyzed by other elements of the Board's staff and are to be, with

the environmental impacts, the material of the ultimate resolution and decision by the Board itself, the FEIS should nonetheless recognize them. It is also worthwhile to note them at this stage.

The Transaction brings, to a large segment of the Northeastern United States, rail-to-rail competition between Class I rail carriers for the first time in a generation. The Transaction enhances Class I rail-to-rail competition in a number of major markets in the Northeastern United States. The Transaction also extends the systems of two strong Class I railroads considerably and brings single-line rail service between many markets in the Southeastern United States and the Northeastern United States. These effects not only strengthen rail movements as a competitor against truck movements, thus producing more efficient railroads and many of the systemwide environmental benefits already mentioned, but also bring economic benefits to businesses, consumers and communities throughout the entire Eastern United States and indeed throughout the country at large. Strong railroads offer opportunities for growth and jobs in communities, including in lower-income communities where they are most needed.

The DEIS has well fulfilled its mission of identifying all of the significant environmental impacts that could flow from the proposed Transaction. However, there are two items of unfinished business which must be undertaken in preparing an FEIS.

First, the SEA, in taking its work and the vast work of its consultants from the DEIS stage to the FEIS stage, must permit the Board to fulfill its statutory charge of balancing the economic and other nonenvironmental benefits and the systemwide environmental benefits, against localized environmental impacts that may attend the Transaction, and of balancing possible remediation of those local impacts against the achievement of the great benefits of the Transaction. The DEIS, perhaps understandably, does not do this nor does it suggest how or when that balancing process

is going to be conducted. As we develop below, it is this balancing process which distinguishes the EIS process from the Environmental Assessment (“EA”) process, which has previously been employed in rail combinations by the Board and its predecessor. Just as the Board is not to single-mindedly devote itself to its transportation mission in ignorance of the environmental consequences -- which the process employed by the SEA clearly guarantees it will not -- the Board is not to devote itself single-mindedly to avoiding localized environmental impacts at the price of sacrificing its basic statutory mission. Thus, where the effect of a recommended remediation might be to reduce materially the overall public benefits of the Transaction, the FEIS should provide the Board with a broader menu of remediation alternatives. It should, as far as the SEA’s expertise permits, provide some suggestions as to the relative weight of the local environmental concerns and the systemwide environmental benefits, and the weight of the transportation policy benefits which the Transaction involves.

Second, while identifying localized environmental impacts and their optimum “freestanding” mitigation, (that is, mitigation not balanced against other factors), the DEIS in a number of cases overlooks the basic constraints under which the Board operates, in the environmental as well as other areas. Respectfully, CSX suggests that the DEIS has recommended environmental mitigation in situations where the Board’s established policies and precedents (even where an EA has been prepared) do not require -- or permit -- the imposition of conditions. Moreover, in some areas, the mitigation proposed by the DEIS would inappropriately extend the Board’s reach into areas reserved exclusively or primarily to other federal and state agencies.

Accordingly, CSX believes that in a number of areas the recommended mitigation measures which are set forth in the DEIS should be withdrawn, should be modified, or should be supplemented with alternative recommendations, in each case for ultimate resolution by the Board. Among the areas discussed in detail below where CSX believes the proposed mitigation measures set forth in the DEIS go beyond an appropriate use of the Board's conditioning authority are the following:

- the proposed 30-minute separation window around passenger trains in relation to freight trains;
- the proposed upgrading of certain grade crossings or construction of grade separations at CSX's expense;
- the proposed conduct of emergency response drills every two years on certain line segments that may experience more hazardous materials traffic;
- the proposed Failure Mode and Effects Analysis for hazardous materials incidents at yards;
- the proposed environmental justice mitigation; and
- the proposed mitigation for "unique" communities with pre-existing conditions (Newark and the Four Cities).

As to each of these measures, and others, it appears to CSX that one or more of the following conditions is present:

- (1) the recommended mitigation will unreasonably, and sometimes drastically, interfere with CSX's ability to run a viable and efficient freight railroad;

- (2) the recommended mitigation will unreasonably reduce the public benefits that the proposed Transaction was designed to create;
- (3) the recommended mitigation is unnecessary as alternative remedies are available;
- (4) the recommended mitigation attempts to cure environmental impacts that are unrelated to the Transaction;
- (5) the recommended mitigation is overbroad and reaches beyond any potential harm caused by the Transaction;
- (6) the recommended mitigation is not a feasible strategy for curing the identified environmental impact; and
- (7) the recommended mitigation would infringe on the jurisdiction of other bodies.

The DEIS is, by definition, a preliminary document. The comment process provides interested parties with the opportunity to assist the SEA in shaping the FEIS. CSX submits that, by addressing its concerns in the manner discussed in the subsequent sections of these comments, the SEA can provide the Board with a tool of environmental analysis that is best suited for enabling the Board to weigh the environmental costs of the proposed Transaction against the Transaction's environmental and other public benefits and to decide if, how, and to what extent, it will exercise its conditioning authority.

I. General Comments

A. The Purpose of an EIS Is Not To Resolve Every Identified Environmental Impact. An EIS Is Simply A Tool to Bring Environmental Considerations to the Decision-Maker's Attention

The DEIS represents an impressive undertaking by the SEA to identify and analyze every potential significant environmental impact that could result from Board approval of the proposed Transaction. The enormous effort and millions of dollars committed to the preparation of the DEIS are unparalleled in the history of the Board or Interstate Commerce Commission ("ICC") and reflect the seriousness with which the SEA approaches its environmental review process. While CSX respectfully disagrees with certain limited portions of this analysis, CSX, on the whole, agrees with and applauds the analytical process. However, upon completion of this analytical process, the FEIS should address the unfinished task that the authors of NEPA intended: to provide a finished document permitting the balancing process to be effected by the Board, without resolving every environmental impact identified by SEA's analytical process. Although well-intentioned, DEIS's attempt to devise a Board-controlled mediation for every identified environmental impact not only goes beyond that which is legally required by NEPA but also (1) does not facilitate the balancing test that the Board will ultimately apply and (2) runs the very real danger of intruding into the regulatory jurisdiction of other federal and state agencies and unnecessarily provoking conflicts with those agencies.

Federal law is quite clear as to what Congress intended, and what it did not intend, when, in 1969, it required all federal agencies to prepare an EIS before undertaking "a major Federal action" that would "significantly affect [] the quality of the human environment." 42 U.S.C. § 4332(2)(c). Congress intended to create a mandatory process that would ensure that federal

agencies would take a “hard look” at all significant environmental impacts of a proposed action and that the results of this “hard look” would be made available to the public. Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 349-50 (1989); Baltimore Gas and Electric Co. v. Natural Resources Defense Council, Inc., 462 U.S. 87, 97 (1983) (citing Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, 435 U.S. 519, 553 (1978)).

Congress, however, did not intend the EIS process to “require agencies to elevate environmental concerns over other appropriate considerations.” Baltimore Gas and Electric Co., 462 U.S. at 97 (citing Stryckers’ Bay Neighborhood Council, Inc. v. Karlen, 444 U.S. 223, 227 (1980)). Rather, the EIS process mandates that federal agencies, prior to undertaking major federal actions, “balance a project’s economic benefits against its adverse environmental effects.” Hughes River Watershed Conservancy v. Glickman, 81 F.3d 437, 446 (4th Cir. 1996); see Idaho v. Interstate Commerce Comm’n, 35 F.3d 585, 595 (D.C. Cir. 1994); Calvert Cliffs Coordinating Comm., Inc. v. United States Atomic Energy Comm’n, 449 F.2d 1109, 1113 (D.C. Cir. 1971). Once a federal agency identifies and evaluates the adverse environmental effects of a proposed transaction, NEPA’s goals are satisfied. See Simmons v. United States Army Corps of Engineers, 120 F.3d 664, 666 (7th Cir. 1997) (“[I]f a federal agency has heard all the objections to a plan and considered all the sensible options before it, the agency has fulfilled its duty.”) The agency is then free to conclude that the benefits of the proposed action outweigh the environmental costs and that the proposed action should go forward. Robertson, 490 U.S. at 350-51.

As part of the process of weighing the benefits and costs of a proposed action, a federal agency must include in its EIS a discussion of possible measures that can be taken to mitigate the identified adverse environmental impacts. See Robertson, 490 U.S. at 351-52. However, because NEPA mandates a process and not a result, the Supreme Court has made clear that NEPA does not require an agency to mitigate all (or indeed any) of the identified adverse environmental impacts. See id. at 352 & n.16. If an agency determines that, given the benefits of the proposed action, the identified impact need not be mitigated, the agency may approve the action without mitigation, even if the imposition of mitigation would fully remedy the identified harm. The weighing of the costs and benefits that go into this decision is left to the discretion of the agency.

The DEIS's attempt to remedy every identified potentially significant impact goes far beyond what is required in the EIS process and is more consistent with the abbreviated Environmental Assessment ("EA") process followed by the Board and the ICC in prior rail consolidation proceedings. However, the purpose of preparing an EA is to determine whether the action contemplated will have a significant adverse environmental effect requiring the preparation of an EIS. If an EA reveals that the proposed action will have a significant adverse environmental effect, the agency must either completely mitigate all significant impacts or prepare a full EIS. See Idaho, 35 F.3d at 595 (citing Cabinet Mountains Wilderness v. Peterson, 685 F.2d 678, 682 (D.C. Cir. 1982)); Roanoke River Basin Ass'n v. North Carolina, 940 F.2d 58, 62 (4th Cir. 1991). In stark contrast to the shorter EA process, where as here, the STB prepares an EIS, it has no corresponding obligation to mitigate every (or any) environmental impact, because the preparation and consideration of a legally sufficient EIS satisfies NEPA's procedural mandate. As the Supreme Court has explained, "[i]f the adverse environmental effects of the proposed action

are adequately identified and evaluated, the agency is not constrained by NEPA from deciding other values outweigh the environmental costs.” Robertson, 490 U.S. at 350.

While reciting the differences between the two processes, the DEIS also recommends some form of mitigation for every significant local environmental impact. This approach should now be complemented with a further balancing of the environmental impacts of the proposed Transaction against the Transaction's public benefits. By performing this balancing process, the Board will determine what weight the local environmental impacts will carry in its ultimate decision as to whether to approve the pending application. The Board may decide that (1) the public benefits of the proposed Transaction so outweigh the local environmental impacts that the Transaction should be approved without any environmental conditions; or (2) the public benefits of the proposed Transaction outweigh the local environmental impacts but that certain mitigation of environmental impacts, which will not reduce the public benefits, should be imposed.

Where the DEIS presently recommends a mitigation measure that would require Applicants to modify their respective Operating Plans, either permanently or pending implementation of the mitigation measure, or would otherwise significantly reduce the overall public benefits of the Transaction, CSX urges that the FEIS provide the Board with one or more alternative mitigation measures which would not significantly reduce the overall public benefits of the Transaction. The Board will thus be able to balance the local environmental impact and the costs of mitigating it in various ways against both the local and overall public benefits of the Transaction in deciding if, and how, it will exercise its conditioning authority.

The DEIS's preference for “in-house” mitigation -- through remedies created and administered by the Board alone -- for every identified environmental impact also runs the risk of

intruding into the exclusive or primary jurisdiction of other federal and state agencies. NEPA was not enacted to expand an agency's substantive jurisdiction. The DEIS puts the Board into the role of regulator of passenger train safety (a role which Congress has given exclusively to the Federal Railroad Administration ("FRA")), at-grade crossing safety (a role which Congress has given jointly to the FRA, the Federal Highway Administration ("FHWA"), and the states), and hazardous material safety (a role which Congress again has given exclusively to other federal agencies, including the Department of Transportation's Research and Special Programs Administration).¹

Any such intrusion into the regulatory jurisdiction of other federal agencies could result in the creation of unique and potentially conflicting new safety requirements outside the prescribed federal rulemaking process. Likewise, the intrusion into the regulatory jurisdiction of state agencies could result in an interference with state law and ignore established state-government procedures and priorities. Moreover, such intrusion is entirely unnecessary under NEPA. A lead agency, where it has identified environmental impacts for which it does not possess the necessary jurisdiction to impose mandatory mitigation measures, can satisfy its NEPA obligations by discussing the identified impacts and possible mitigation measures and leaving the decision as to whether to impose any mandatory mitigation to the agency with the proper jurisdiction. The Council on Environmental Quality addressed this precise issue in its "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations":

Q. How should an EIS treat the subject of available mitigation measures that are (1) outside the jurisdiction of the lead or

¹ The processes of these authorities in administering their responsibilities are described in Sections II.2.A.1 and II.8.B.2.

cooperating agencies, or (2) unlikely to be adopted or enforced by the responsible agency.

A. All relevant, reasonable mitigation measures that could improve the project are to be identified, even if they are outside the jurisdiction of the lead agency or the cooperating agencies, and thus would not be committed as part of the RODs of these agencies. Sections 1502.16(h), 1505.2(c). This will serve to alert agencies or officials who can implement these extra measures, and will encourage them to do so. Because the EIS is the most comprehensive environmental document, it is an ideal vehicle in which to lay out not only the full range of environmental impacts but also the full spectrum of appropriate mitigation.

46 Fed. Reg. 18026, 18031-32 (Mar. 23, 1983) (“CEQ Notice”). So long as the lead agency presents its mitigation recommendations for consideration by the agency possessing the appropriate substantive jurisdiction,² the lead agency may approve the proposed action and need not wait for the agency with jurisdiction to decide whether to implement the recommended mitigation. Robertson, 490 U.S. at 352-53.³

B. The DEIS Contains Many Mitigation Recommendations That Are Beyond the Scope of the Board’s Policies as to the Use of Its Conditioning Power

² It is important to understand that CSX is not suggesting that the Board abdicate its environmental review responsibilities to another agency. This would clearly be improper. See Idaho, 35 F.3d at 595. What CSX is suggesting is that the Board can and should satisfy its environmental review responsibilities by analyzing all significant environmental impacts and, where appropriate, leaving the imposition of mitigation to those agencies with the requisite authority to do so.

³ In other contexts, the ICC deferred to other federal and state agencies that have jurisdiction to regulate a matter relating to transportation. See, e.g., No. 40853, Yellow Freight System, Inc. of Indiana -- Petition for Declaratory Order -- Weighing Shipments (served Jan. 20, 1995) (deferring to jurisdiction of National Institute of Standards and Technology and states over truck weighing practices).

Even if the SEA concludes that the DEIS's attempt to mitigate every identified environmental impact is proper, the DEIS nonetheless recommends numerous mitigation measures that transcend, if not the Board's powers, its traditional approach to exercising those powers. The exercise of the Board's power to require mitigation is constrained by well-established limitations. The Board will not invoke its conditioning power where (1) no causal connection links the transaction and the alleged environmental harm, e.g., the alleged environmental harm is a pre-existing condition; (2) the mitigation is not narrowly tailored to remedy the alleged harm; (3) alternative remedies are available; (4) the mitigation would put the affected community in a better position than before the transaction; or (5) the mitigation, although potentially remedying a specific environmental harm, would reduce the overall public benefits of the transaction.⁴ See Union Pacific Corp., Union Pacific R.R. Co. & Missouri Pacific R.R. Co. -- Control and Merger -- Southern Pacific Transportation Co., St. Louis Southwestern Ry. Co., SPCSC Corp., & the Denver & Rio Grande Western R.R. Co., Decision No. 44, Finance Docket No. 32760 at 144 (1996) (hereinafter "UP/SP"); Burlington Northern, Inc., & Burlington Northern R.R. -- Control & Merger -- Santa Fe Pacific Corp. & Atchison, Topeka and Santa Fe Ry., Decision No. 38, Finance Docket 32549 (1995) (hereinafter "BN/SF"); DEIS, Vol. 1 at 1-10.

While the DEIS acknowledges these established limitations on the Board's imposition of environmental conditions, it fails to apply these standards in a number of critical respects. For example, the DEIS proposes that Applicants are required to (1) comply with various laws,

⁴ The Board has applied these factors even in cases where it relies solely on an EA to meet its NEPA obligations.

regulations and private agreements that would be independently binding on them (measures that, by definition, are not necessary and for which alternative remedies exist), (2) install, with or without otherwise required state and federal funding, costly upgrades at highway/rail at-grade crossings that would more than rectify the claimed transaction-related adverse impacts on accident rates and highway traffic movements, and (3) commit enormous funds to the installation of new rail facilities, limit the number of trains moving over certain line segments and implement new operating procedures and other measures that would disproportionately and drastically undermine the public benefits of the Transaction, and actually reduce the level of transportation services to the public. In all of these respects, the proposed mitigation measures should be narrowed and/or eliminated, or alternative approaches laid before the Board, in the issuance of the FEIS.⁵

In addition, the NEPA process and the Board's conditioning power is not properly used to re-write industry-wide regulations and operating practices related to railway safety and operations. Just as the Board has recognized that its conditioning power may not be used to effectuate broad restructuring of the rail industry and the competitive balance among carriers, see, e.g., BN/SF at 55-56, so too it would be an inappropriate exercise of the Board's responsibility to consider environmental impacts of the Transaction as a predicate to impose conditions that fashion broad new safety and operating rules to which other major railroads are not subject and that fall within the regulatory responsibility of other federal and/or state agencies. The DEIS itself recognizes this limitation in its proposal not to impose noise-impact abatement measures falling within the FRA's regulatory jurisdiction over the sounding of train horns, see Vol. 1 at 3-36, but

⁵ For specific applications, see Sections II.2, II.8, II.10 and II.11.

it has not conformed to this standard in several other respects, including its proposals to require Applicants to (1) comply with a proposed industry-wide FRA regulation governing rail inspections, (2) construct at-grade crossing protection devices at certain locations notwithstanding the existing regulatory regime governing selection and funding of grade crossing improvements, (3) maintain 15-minute separations between passenger and freight trains on certain line segments without regard to the prevailing industry standards and operating practices on similar rail lines, and (4) comply with various newly fashioned operating requirements and procedures governing the transportation of hazardous materials, again without regard to prevailing industry standards and operating practices in the handling of that traffic.

C. The Board Should Not Impose the Terms of Voluntary Agreements as Formal Conditions of Approval of the Transaction

The DEIS has suggested that the SEA intends to recommend that the Board impose as a condition of its approval of the proposed Transaction any negotiated settlement agreements or other mutually acceptable binding agreements pertaining to the Transaction that CSX and NS enter into with non-Applicants. Some parties have even suggested that all such agreements completed prior to the publication of the FEIS be imposed as environmental conditions to any decision approving the Transaction. Vol. 4 at 7-4. The SEA and the Board should, however, give serious consideration to whether the imposition of voluntary agreements as formal conditions is a prudent and necessary step.

First and foremost, the existence of a bilateral agreement between an applicant and an affected third party is an alternative mechanism for remediating an identified harm that obviates the need for the imposition of a formal condition. As the Board noted in UP/SP, the Board

expects Applicants to honor all representations and agreements. UP/SP at 12 n.14. Furthermore, the Board will have continuing oversight following any decision to approve the Application. This oversight function will fully enable the Board to determine whether the Applicants are satisfying the terms of their voluntary agreements and to take appropriate steps in the event that intervention is required. Accordingly, no reason exists to impose the terms of voluntary agreements as formal conditions to approval of the Transaction.

While it is true that the Board has in several instances involving railroad mergers and other consolidations conditioned its approval of the transaction in question upon the parties' compliance with various environmental mitigation measures, there is no basis in NEPA for requiring in all instances that negotiated agreements pertaining to mitigation of environmental impacts be made formal conditions of Board approval. As bilaterally-negotiated settlements, those agreements contain undertakings that go beyond the Board's standards for imposing conditions. Again, NEPA mandates a process, not a result. Moreover, where, as here, the Board has prepared an EIS rather than an EA, it is not necessary that the Board itself resolve each and every potential environmental impact that can be identified. A "process" resolution leaving the issue to private resolution or referring the issue to other regulatory agencies, federal or state, with experience in the matter and established procedures and practices, may be the most desirable result. Not only is the DEIS's proposal for imposing conditions unnecessary in the context of an EIS (which requires that the Board balance the identified significant adverse environmental impacts with the identified systemwide environmental and commercial benefits of the proposed Transaction), it fails to heed clear limits in the practices applied by the Board as to the imposition of conditions.

Because of the amorphous nature of some of the perceived environmental impacts that may become the subject of negotiations between CSX and affected entities, it can be expected that some of the negotiated solutions to the impacts will fall outside the practices of the Board in imposing mitigation measures. Moreover, any insistence that the terms of a negotiated agreement be converted into a Board-imposed condition would have an obvious dampening effect on the ability of CSX to consider and agree to innovative, creative solutions to community concerns. The Applicants would likely be less willing to negotiate such agreements with the prospect hanging over their heads of the Board turning a voluntary, uniquely-tailored solution in a specific instance into a formal condition that could later be argued to have precedential effect because of the Board's imposition of the agreement as a condition of approval. The need to so limit its conditioning authority have long been recognized by the Board and the ICC which often favorably commented on settlement agreements but declined to impose them as conditions.

D. The Inability of Applicants and Third Parties to Enter Voluntary Agreements by the Date of the Board's Decision Does Not Necessarily Require the Imposition of Formal Conditions

Just as the Board should not impose the terms of voluntary agreements as formal conditions, the SEA and the Board should not presume that the lack of a voluntary agreement at the time of the issuance of the FEIS and/or at the time of the voting conference necessitates the imposition of a formal condition. As the DEIS itself recognizes, the consultation process is a far superior means for developing and implementing creative, mutually-beneficial solutions to local environmental impacts than is the formal conditioning process. The consultation process allows the parties to share responsibilities and costs in a manner that the Board could not impose

unilaterally. However, the consultative process cannot be expected to produce across-the-board agreements over the course of a mere few months. Creative solutions with public entities require many levels of review and approval before the public entity can commit itself to a binding agreement. Given these realities, the SEA and the Board should allow the consultative process to continue beyond either issuance of the FEIS, the voting conference or the implementation of the Transaction. Applicants propose that they report the status of the consultations to the Board as consultations are concluded or as otherwise appropriate. What the SEA and the Board should not do, and need not do to satisfy NEPA, is to cut short the consultation process and impose rigid conditions before the consultation process has had a full opportunity to produce optimal results.

E. The SEA Should Not Recommend the Imposition of Any Environmental Conditions that Require Applicants to Modify or Refrain from Implementing Their Respective Operating Plans Pending Implementation of Mitigation

Well-established Board and ICC precedent teaches that the Board will only impose a condition where the condition “will produce public benefits (through reduction or elimination of the possible harm) outweighing any reduction to the public benefits produced by the merger.” BN/SF at 56; see UP/SP at 144. The approach of NEPA and the teachings of the courts as to the function of an EIS confirm the applicability of this balancing approach. The proposed Transaction is designed to produce a more efficient and competitive rail network. Key to the realization of these benefits is implementation on Day One (the day that the CSX and NS Operating Plans become effective) of those Operating Plans.

The projections of train traffic in Applicants' Operating Plans were not arrived at randomly. Quite to the contrary, the Operating Plans reflect the considered judgment of the respective applicants as to their best use of the two competing networks that will emerge from Board approval of the proposed Transaction. If the Board imposes a condition modifying Applicants' Operating Plans pending implementation of mitigation, neither Applicants nor shippers nor the American public will realize the competitive and other benefits of the Transaction on Day One. Instead, one or both of the Applicants will be required to operate their respective networks in a less than optimally efficient and competitive manner. The effects of such an impediment on competition may be long-lasting. The costs of not realizing the benefits of the proposed Transaction on Day One far outweigh the benefits of reducing a modest, temporary, and local environmental impact pending the implementation of mitigation. While Applicants have been and remain willing to work with affected communities to develop mutually beneficial mitigation measures, that mitigation should not come at the expense of the prompt, effective and enduring enjoyment of the overall public benefits that will result from Board approval of the proposed Transaction.

The situation here is readily distinguishable from UP/SP, where the Board imposed a condition modifying the UP Operating Plan until mitigation was implemented. In UP/SP, the SEA, after preparing an EA, found that the proposed transaction would have significant adverse effects in Reno, Nevada and Wichita, Kansas. Furthermore, the SEA concluded that additional studies were needed to identify adequate mitigation measures for these communities. Rather than delaying implementation of the entire transaction to prepare an EIS to take a "hard look" at the environmental impacts identified in the EA, the SEA chose to comply with NEPA by

recommending the complete and immediate prevention of any adverse environmental impacts. As the SEA had not yet recommended specific mitigation measures for Reno and Wichita, the SEA recommended, and the Board adopted, the only available option for avoiding the adverse impacts in the absence of an EIS: Prohibit the applicants from increasing traffic in Reno and Wichita until the completion of mitigation studies and the implementation of that mitigation.

Here, the SEA has chosen a different means of complying with NEPA, namely the preparation of an EIS, and does not have to recommend the elimination of every significant environmental impact, either immediately, or indeed, at all, as it was required to do in UP/SP. The SEA, therefore, should not use UP/SP as a model for developing its recommended environmental conditions. Instead, the SEA should recognize, when making its final mitigation recommendations, that the Board will only impose mitigation where the benefits of the mitigation outweigh any reduction to the public benefits to be realized by approval of the Transaction, and should provide the Board with the necessary tools to make this determination.

The Board, under an EIS, can weigh the benefits obtained from a constructive restructuring of freight rail transportation incident to a transaction within its jurisdiction against the necessary environmental impacts in determining whether mitigation should be ordered or the extent of mitigation. Likewise, it can and should weigh the benefits of the immediate systemwide efficiencies inherent in commencing execution of the Applicants' Operating Plans at once, rather than delaying the implementation of one or both of the plans in a specific area (which is apt to have impacts on transportation in other parts of the system) against permitting the environmental impacts to go unmodified for a period of time until plans for the remediation are finalized and/or the remediation put into effect.

Furthermore, it is essential that the SEA and the Board not allow a third party to impede approval of the Transaction by demanding that Applicants modify their Operating Plans either permanently or pending mitigation. Although Congress abolished the Interstate Commerce Commission in 1995, the Commerce Clause of the United States Constitution is still alive and well. The Commerce Clause grants Congress the power to regulate interstate commerce and where it has acted (and in some cases where it has not) prohibits the states from interfering with interstate commerce. Using its powers under the Commerce Clause, Congress has given the Surface Transportation Board, not any individual state or locality, the exclusive and plenary power to regulate railroad operations subject to Board jurisdiction, as well as railroad consolidations. See 49 U.S.C. §10501 (providing that the Board has “exclusive” jurisdiction over rail operations); Kings County, WA -- Petition For Declaratory Order -- Burlington, Northern R.R.Co. -- Stampede Pass Line, F.D. No. 33095 (served Sept. 25, 1996) (Board’s exclusive jurisdiction with respect to operations over rail line preempts local statutes). Thus, so long as the Board finds that the proposed Transaction is consistent with the public interest, the Board should approve the Transaction, even if a state or locality protests loudly that it deems the local environmental impact unacceptable. Simply put, the national interest in interstate commerce must take priority over a local environmental impact, if the only feasible remediation of that local impact would deprive the public of competitive or efficient transportation.

F. The Proposed Transaction Will Result in Numerous Systemwide Environmental Benefits and No Systemwide Significant Adverse Environmental Impacts

The DEIS concludes that there are numerous positive, systemwide environmental impacts that would flow from approval of the Transaction. CSX recognizes that, because positive impacts

do not require extended discussion of potential mitigation approaches and measures, the amount of text devoted to a discussion of positive impacts in the DEIS is small in comparison to the discussion addressing certain localized adverse impacts that SEA has preliminarily determined warrant mitigation. The positive impacts are, however, substantial and should be addressed in the FEIS in a manner consistent with their significance. These positive impacts of the Transaction are manifest in every major area of environmental analysis: safety, transportation, air quality, and energy.

Safety: The DEIS observes that predicted decreases in rail activities “would result in a small overall decrease in likelihood of freight rail accidents and derailments.” Chapter 4 at 4-10. The DEIS also correctly notes that the Transaction will reduce the opportunity for release of hazardous materials, resulting in “a slight safety improvement for rail transportation of hazardous materials and no significant systemwide adverse impacts related to hazardous materials transport.” Executive Summary at ES-19. This predicted decrease in the likelihood of accidents and derailments tells only part of the safety benefits that will accrue from the Transaction.

The October 21, 1997 comments submitted by the Department of Transportation and Federal Railroad Administration in this proceeding correctly observed that, “CSX and NS have had the two best safety records among large U.S. railroads for the last six years.” (DOT-3 at 17). In terms of the accidents/train miles measure used by DOT to assess rail safety performance, CSX has achieved the best record among all of the Class I railroads, with an accident rate that is one-half that of Conrail’s. While Conrail’s safety record has been commendable, the better record achieved by both CSX and NS offers a strong indicator that the Transaction will result in a net improvement of rail safety in the Eastern United States. The safety records of both CSX and NS

also stand in contrast to those of UP and SP. According to the DOT data described above, both of those Western railroads have had consistently higher accident rates than CSX or NS.

The level of safety planning, as reflected in the detailed Safety Integration Plans (“SIPs”) submitted by CSX and NS, further underscore the positive aspects of the Transaction. CSX has been engaged in detailed planning for the safe integration of Conrail since the spring of 1997, and this planning will have consumed well over one year by the time a decision is due to be issued in this proceeding. That level of planning effort, and CSX’s consultations with FRA concerning the integration of the railroads, is unprecedented in rail merger proceedings and underscores the importance that has been assigned to the achievement of a safe integration of the portions of the Conrail system allocated to the use of CSX. One important consequence of these planning efforts is that the best safety practices of CSX and Conrail will be identified and implemented on the expanded CSX system.

The Transaction will also significantly benefit highway safety. The truck diversion studies presented to the Board by CSX and NS indicate that a total of approximately 1 million intermodal units (trailers or containers) will be diverted from highway transport to the rail system. This diversion will result in a substantial net safety benefit. As noted in the DEIS, the associated reduction in truck-miles “could result in 1,600 fewer annual highway accidents,” including 31 crashes involving one or more fatalities. This projected savings in human lives deserves substantial weight in the environmental analysis of this Transaction.

Transportation: The transportation benefits associated with the Transaction -- enhanced rail competition, more efficient routings, new single-line rail opportunities and an improved infrastructure -- are uncontested in this proceeding. The DEIS does not address these benefits at

any length, but correctly concludes that the proposed Transaction “would positively contribute to a net overall improvement in both rail and highway transportation systems.” Vol 4 at p. 4-73.

Among the positive impacts identified in the DEIS are a more efficient use of rail system resources, a shift of freight from publicly funded highways to privately funded rail lines, and enhanced competitiveness of the rail system with highway carriage. As the DEIS correctly states, the “reduction in truck miles traveled would result in beneficial effects on air quality, energy consumption and the use and associated safety concerns of the interstate highway system.” Vol. 1 at 4-44.

The CSX Operating Plan describes at some length the new intermodal transportation opportunities that will be made possible by the Conrail acquisition, resulting from new single-line services linking, e.g., the northeast and the southeast, and the upper midwest with the southeast. These and other new single line routes will allow an expanded CSX system to compete for the transportation of cargo that has long been dominated by motor carriers, resulting in significant diversions to cleaner, safer and more fuel efficient rail transport. In addition, CSX is investing in substantial infrastructure improvements to its rail system, including improvements to intermodal terminals and to rail lines that will carry substantial amounts of freight projected to be diverted from highway carriage. The DEIS thus correctly concludes that the Transaction will benefit the highway system, result in reduced traffic and provide many shippers with more efficient routings. Executive Summary at ES-21. Highway maintenance costs will also decline.

The DEIS also correctly concludes that the Transaction “will have no significant effect on commuter rail.” Vol. 1 at 4-74. SEA properly determined that no transportation-related mitigation is required to address increased freight traffic on certain lines also used by New Jersey

Transit, Southeastern Pennsylvania Transportation Authority, the Maryland Rail Commuter System, Virginia Railway Express, or Amtrak.⁶ As the DEIS states, “there is sufficient capacity on all of these rail line segments [used by Amtrak] to accommodate the [projected] increases in freight trains,” and “[e]ach of the rail-line segments with commuter trains can accommodate the proposed Acquisition-related increase in freight traffic.” Chapter 4 at 4-30 and Executive Summary at ES-20.

Air Quality: The DEIS properly recognizes that the Transaction will result in “an overall improvement in air quality.” Chapter 4 at 4-70. SEA found that virtually all major emission components (including nitrogen oxides, breathable particulate matter, volatile organic compounds and carbon monoxide) will decrease as a consequence of the Transaction. These decreases are in large measure associated with the environmentally-friendly diversion of freight from highway to rail.

The DEIS also properly found another air quality benefit: “a reduction in the potential for accidental release of ozone-depleting materials. . . .” Vol. 1 at 4-62. This reduction is the result of a projected Transaction-related decrease in total car-miles and in freight handling at yards.

Energy: As in each of the other major areas of environmental concern, the Transaction will result in a net benefit to energy resources. This benefit will be realized in part because of reduced fuel consumption associated with truck diversions and more efficient rail routings. The annual reduction in fuel consumption resulting from truck to rail diversions would amount to 133.6 million gallons. See Vol. 1 at 4-47. As a result, SEA concluded that the Transaction

⁶ SEA did propose safety-related mitigation with respect to commuter and Amtrak operations on certain lines. This proposal is addressed in Section II.2 of these comments.

“would positively contribute to an overall net reduction in energy consumption.” Vol. 1 at 4-73. (The DEIS, however, erroneously reduces the predicted fuel savings by 53.5 million gallons, an amount of fuel attributed to increased rail operations. What the DEIS overlooks is that this increased fuel use by CSX and NS will be largely offset by decreased fuel use by other railroads and transportation modes.) SEA also correctly recognizes that the Transaction provides opportunities for more competitive routings and transportation alternatives for energy resources and for recyclable commodities.

* * *

As noted above, it is easy to lose the forest for the trees in an environmental review process that focuses on areas where mitigation may be appropriate and necessarily addresses general, environmental benefits relatively briefly. In this case, the over-arching fact that should not be obscured in the FEIS is that this Transaction presents an opportunity to achieve an important, and very significant, net plus for the environment in the areas of safety, transportation, air quality and energy. These benefits enhance the public interest. The FEIS should categorically so conclude. That conclusion and the non-environmental benefits of the Transaction are the benchmark against which local impacts and their appropriate remediation, if any, are to be measured.

II. Comments on Specific Mitigation Recommendations

CSX submits the following specific comments on the preliminary mitigation recommendations set forth in Volume 4, Chapter 7 of the DEIS.

1. Installation of Emergency Information Signs at At-Grade Crossings

The DEIS recommends that CSX and NS install emergency information signs that prominently display a toll-free telephone number and a unique crossing number at all at-grade crossings with active warning device signals. In addition, the SEA recommends that CSX and NS provide 24-hour, seven-day-a-week staffing to respond to calls to the toll-free telephone number.

Independently of the proposed Transaction, after consultation with the FRA, CSX has already begun installing emergency information signs meeting the SEA's specifications at at-grade crossings throughout the current CSX network. CSX anticipates that installation will be completed in the spring of 1998. CSX plans to expand this program to the Conrail lines which will be allocated to CSX if the Board approves the Transaction. CSX plans to assign crossing numbers to the at-grade crossings on the Conrail system, install the emergency information signs, and include the Conrail crossings in its database as soon as possible but in no case later than two years after the control date. Further, CSX and NS will coordinate with the Conrail Shared Assets Operator to ensure that a similar program is implemented within the Shared Assets Areas within that same time frame.

CSX will stipulate that it will voluntarily implement the safety measures described above. That stipulation accordingly may appropriately be included in the FEIS for consideration by the Board in evaluating the overall environmental effects of the Transaction. However, it would not

be appropriate for the Board to make any such voluntary program a condition of Board approval of the Transaction because it is not directly related to any effect from the Transaction. The recommendation applies to all at-grade crossings -- including those at which traffic will not increase significantly and those at which traffic will decrease as a result of the Transaction. Nevertheless, because CSX believes that the recommendation will have safety benefits apart from the Transaction, CSX has already commenced to implement the program on its own system and will voluntarily expand the program to the Conrail lines which will be operated by it if the Transaction is approved.

2. Safety: Passenger Rail Operations

The DEIS includes the most detailed analysis of effects on passenger rail services ever undertaken in the review of a railroad control transaction. The DEIS analyzes in detail all of the line segments shared by passenger trains and freight trains and appropriately concludes that there is adequate capacity on the lines for both the passenger traffic and the projected levels of post-Transaction freight traffic. Vol. 1 at 4-22 to 4-40. The DEIS concludes, however, based on a detailed statistical analysis, that Transaction-related traffic changes will significantly increase the risk of accidents between freight trains and passenger trains on about 15% of the miles (531 of 3,573 miles) shared by passenger and freight trains, and that these segments may thus warrant special safety mitigation measures. Vol. 1 at 4-12.

CSX strongly disagrees with the conclusion of the DEIS that the Transaction will have any adverse effect on the safety of passenger rail operations. Both CSX and NS are experienced in safely handling passenger operations on their systems and in working cooperatively with Amtrak and passenger agencies to enhance safety. Both railroads have achieved outstanding safety records, and both will continue after the Transaction to work proactively with passenger operators to ensure continued safety.

The DEIS proposes that CSX establish passenger trains as “superior,” and maintain 30 minute windows around passenger trains in relation to freight trains, on five CSX line segments over which there are both freight and passenger operations and where freight train operations are

expected to increase, albeit modestly.⁷ Although the DEIS never explains the purpose of the rule which was not suggested by FRA, Amtrak or any commuter agency, the recommendation appears to be designed to prevent head-on collisions with freight trains and to prevent freight trains from running into the back of passenger trains operating on the same track. Proposed Mitigation Measure No. 2(A), Chapter 7 at 7.2.2.⁸ In fact, the proposed mitigation would not enhance safety and would conflict with the FRA's exclusive right to regulate passenger train safety.

The CSX segments, identified in Table 7-3 for this mitigation, are:

Washington, D.C. to Point of Rocks, MD (C-003)
Savannah, GA to Jesup, GA (C-346)
Weldon, NC to Rocky Mount, NC (C-334)
Fredericksburg, VA to Potomac Yard, VA (C-101)
South Richmond, VA to Weldon, NC (C-103)

⁷ The DEIS is not internally consistent in its description of the proposed mitigation. Chapter 3, which identifies potential mitigation measures, does not even mention a separation rule among the options for consideration. See section 3.3.2, 3.3.3. Further, Chapters 5 and 7 are not consistent in their description of the proposed mitigation. The proposed superior train/train separation mitigation described in Chapter 7 of the DEIS contemplates that freight trains moving in the same or opposite direction on the same track on any of these line segments would need to be clear of the track at least 15 minutes before and 15 minutes after the expected arrival of a passenger train at any point. This proposed measure would thereby establish a 30 minute separation window around passenger trains moving on that track. See section 7.2.2 at p. 7-12.

By contrast, the discussion of mitigation of the individual line segments found in the state-by-state sections of Chapter 5 of the DEIS does not use the term "superior trains." Rather, Chapter 5 contemplates a proposed separation window under which freight trains, both opposing and moving in the same direction, would need to be clear of a point on the same track at least 15 minutes prior to the estimated arrival of a passenger train; no 15 minute window after a passenger train is proposed in Chapter 5. See sections 5-GA.4 at p. GA-5; 5-MD-5.1 At p. MD-9; 5-NC.4.1 at p. NC-4; 5-VA.5 at p. VA-8 and 5-DC.5.1 at p. DC-7. Further, whereas the mitigation proposed in Chapter 7 contemplates that the separation requirements would not apply when the freight train is moving in the opposite direction away from the passenger train, there is no similar qualification in the Chapter 5 description of the proposed mitigation.

⁸ Identical mitigation is proposed for four NS line segments and, subject to possible trackage rights for CP, a fifth NS segment.

Amtrak operates on each of these segments. In addition, CSX-operated MARC trains provide commuter services on the Washington/Point of Rocks line segment (“Point of Rocks” line) and Amtrak-operated VRE trains provide commuter services on the Fredericksburg /Potomac Yard segment (“Fredericksburg line.”) All but the Point of Rocks line form part of the north-south CSX corridor described in the CSX Operating Plan as the Atlantic Coast Service Route, a planned major traffic lane for transporting intermodal and general merchandise traffic between New England, the Middle Atlantic states, the Southeast and Florida.

CSX will show here as follows:

First, no passenger safety mitigation is warranted because, by any standard, operations on these line segments — which are already subject to FRA safety oversight -- are exceptionally safe and will remain equally as safe following the Transaction. The statistical analysis conducted by SEA to ascertain whether mitigation is warranted relied on data and assumptions that overstated the Transaction-related impacts of modestly increased freight traffic. For example, in conducting its statistical review of passenger/freight train collisions, the DEIS utilized a passenger train/freight train collision rate that was derived from collisions of a type that are unrelated to increased freight operations and that would not be addressed by the proposed mitigation, i.e., collisions resulting from freight trains and passenger trains operating on different tracks or from passenger trains hitting parked freight cars. The actual rate of passenger trains being hit head-on or from behind by freight trains operating on the same track, or vice-versa, is closer to zero, a fact that underscores that the mitigation proposal addresses an unlikely safety risk.

Second, even assuming that some mitigation might be warranted on certain line segments, modern signaling systems and other safety controls offer the highest levels of safety without the cumbersome procedures and efficiency sacrifices inherent in the proposed mitigation procedures. Train superiority and temporal separation practices of the type proposed in the DEIS, which are not even listed among the potential safety mitigation measures identified in Chapter 3 of the DEIS, have been outdated for decades, and their re-introduction on CSX now could well detract from safety.

Third, the proposed 15/30 minute separations would effectively curtail or significantly delay freight service on two of the five CSX line segments (Point of Rocks and Fredericksburg) during key daytime periods, imposing a substantial burden on commerce or forcing a reduction in the number of currently scheduled passenger trains on these lines. The proposed separations would not only result in CSX's inability to accommodate additional passenger service on these lines, but could well impair CSX's ability to divert time-sensitive traffic from highways to its rail system, thereby undermining important Transaction-related efficiency and safety benefits.

Fourth, to the extent that any mitigation might be appropriate, such mitigation should be in the form of a requirement that CSX consult with the FRA and the passenger agencies concerning safety enhancements that might be considered for these line segments. A consultation requirement would fully comport with the Board's obligation under NEPA to identify matters that other agencies might more appropriately address.

A. No Mitigation is Warranted on These Line Segments.

1. The Board Should Not Adopt Mitigation Measures That Interfere

With the FRA's Exclusive Authority to Regulate the Safety of
Passenger Operations

The Board should tread cautiously before imposing any special safety condition applicable to train operations, particularly passenger train operations. While CSX does not question the Board's right to identify legitimate, Transaction-related safety concerns through the NEPA process, the propriety of any proposed condition in the passenger safety area must be measured against the FRA's "plenary authority over the safety of the railroad industry."⁹ Section 202 of the Federal Railroad Safety Act of 1970, 49 U.S.C. 20101, grants the FRA the power to regulate "every area of railroad safety." The FRA has exercised that authority extensively, and as discussed further below is currently reviewing a variety of passenger train safety issues.

Congress has made clear that the FRA's role in regulating passenger train safety is exclusive. In explaining the 1973 deletion of language from section 801 of the Rail Passenger Service Act of 1970 that allowed the ICC to prescribe regulations "necessary to provide safe . . . service," the Conference Report on the Amtrak Improvement Act of 1973 stated as follows:

The Conference substitute rewrites Section 801 of existing law to clarify the jurisdiction of the Department of Transportation and the Interstate Commerce Commission over safety related and service related issues. First, this provision resolves a possible legislative inconsistency which results from the fact that Section 801 of existing law, as presently worded, authorizes the ICC to "prescribe such regulations as it considers necessary to provide safe and adequate service, equipment, and facilities for intercity rail passenger service." The Federal Railroad Safety Act of 1970, enacted only two weeks prior to the rail passenger Service Act, defined the Secretary of Transportation's jurisdiction over railroad safety to include "all areas of railroad safety." It is the intent of the committee of

⁹ DEIS, Vol. 5 App. B at B-2.

conference to make clear that the Secretary's jurisdiction over railroad safety is exclusive. The ICC, in prescribing its own regulations with respect to the adequacy of service, should take account of safety regulations prescribed by the Secretary of Transportation.

H.R. Conf. Rep. No. 93-587, at 12 (1973), reprinted in 1973 U.S.C.C.A.N. 2331, 2342 (emphasis added).

Congress's message was unambiguous -- the FRA has the sole authority to regulate rail safety. Moreover, nothing in the ICC Termination Act changes that fact. To the contrary, that statute curtailed the Board's limited authority with respect to commuter operations. See 49 U.S.C. 10501(c)(2)(providing that the Board does not have jurisdiction over commuter agencies other than with respect to access to facilities).¹⁰ In view of the Board's lack of authority to regulate with respect to passenger carrier safety matters, and FRA's exclusive jurisdiction and on-going activity in the area of passenger carriage safety, the Board should defer to its sister agency before adopting any passenger safety conditions, particularly a condition as far-reaching as that proposed in DEIS mitigation measure 2(a).¹¹

¹⁰ See H. Rep. 104-422, 104th Cong., 1st Sess. at 167 (Board jurisdiction modified to "reflect curtailment of regulatory jurisdiction in areas such as passenger transportation.")

¹¹ In fact, were the STB to impose the type of superiority/temporal separation proposed in the DEIS, such a condition could conflict with CSX's statutory right under section 402(e) of the Rail Passenger Service Act of 1976, 49 U.S.C. 24318, to petition for relief from the preference rule for Amtrak operations. The proposed freight passenger train separation condition is entirely unlike the preference for Amtrak trains that is contemplated by that statute or the CSX/Amtrak contract. Section 402(e) provides that except in an emergency, "Amtrak has preference over freight transportation in using a rail line, junction or crossing unless the Secretary of Transportation orders otherwise under this subsection." Neither this statute nor the Amtrak contract require any temporal separation between Amtrak and freight trains. The purpose of the statutory preference for Amtrak, in fact, has nothing to do with safety, but rather was designed to address on-time performance issues that arose in the 1970's. See Hearings before the Senate Committee on Commerce on S. 1763, 93rd Cong., 1st Sess. at 46, 105 (1973).

The FRA in fact has several pending rulemaking proceedings and other projects underway in connection with passenger safety. These include Passenger Equipment Safety Standards (FRA Docket No. PCSS-1), 62 Fed. Reg. 49728 (Sept. 23, 1997) and Passenger Train Emergency Preparedness (FRA Docket No. PTEP-1), 62 Fed. Reg. 8330 (Feb. 24, 1997). It is noteworthy that FRA has acknowledged the breadth of its interest in this area in its September 23, 1997 rulemaking notice in the Passenger Equipment proceeding:

rail passenger safety does involve the safety of the railroad system as a whole, including the track structure, signal and train control systems, operating procedures, and station- and platform-to-train interface design -- in addition to passenger equipment safety. To that end, FRA has active rulemaking and research projects in a variety of contexts that address non-equipment aspects of passenger railroad safety, including signal and train control systems.

62 Fed. Reg. 49732.

The proposed separation measure could well intrude upon, or conflict with, pending or future FRA proposals or plans to address passenger safety issues. Suffice it to say that any potential for conflict arising from the activities of more than one safety regulator should be scrupulously avoided.

The Board should also take note of the fact that neither the FRA nor any participant in the rail safety community known to CSX has proposed a temporal separation rule as a means of enhancing passenger train safety. Neither Amtrak, VRE nor MARC (nor any other commuter agency) has requested the proposed mitigation -- or any safety mitigation on any line segments -- in their filings with the Board. CSX works closely with these agencies on safety issues, and at no

point in CSX's safety-related dealings with any of these agencies have the notions of passenger train superiority or mandated temporal separations of trains as a means of ensuring safety been raised by any of these parties.

While Amtrak and VRE have filed comments with the Board requesting that certain conditions be imposed in connection with the Conrail acquisition (and MARC, through the State of Maryland, has supported the Transaction without requesting any conditions) none of these agencies have claimed that the Transaction will have any detrimental impact on the safety of their operations on any CSX lines. Nor have any passenger groups claimed that the Transaction will impair in any way the safe operations of passenger trains on any CSX lines, including the five lines identified by SEA for mitigation.

As a matter of sound public policy and deference to its sister agency, the Board should not intrude into a passenger safety area reserved for another agency that is already active on these matters. Nothing in NEPA requires that it do so. Rather, in addressing passenger safety mitigation, the Board appropriately fulfils its NEPA role by identifying potential safety issues for the FRA, leaving it to the agency to address those issues as it best sees fit. See Robertson, 490 U.S. at 352-353 (NEPA "imposes no substantive requirement that mitigation measures actually be taken;" agency preparing NEPA document fulfils its duty by identifying and evaluating environmental consequences that can be addressed only by another agency).

2. **The DEIS Fails to Justify the Conclusion that Any Mitigation is Warranted on the Identified Line Segments**

In determining the significance of impacts on passenger train safety, the DEIS first identified an annual rate at which passenger/freight train accidents occur. The DEIS then

identified the line segments shared by passenger and freight trains on which there would be an increase of at least one freight train/day as a result of the Transaction. Using the accident rate data, the DEIS then determined for each of the identified line segments (a) whether the Transaction-related change in the projected accident rate on each line segment would be greater than a presumed annual fluctuation of 25% and (b) whether the accident frequency was less than one accident in 150 years. CSX has several comments to offer on the DEIS methodology and the significance factors used in the DEIS as follows.

Appendix B of the DEIS explains that one element of the calculation of accident potential on the line segments that were reviewed in connection with the DEIS was a factor that assumed a passenger/freight train collision rate of 1.25 annually for Amtrak trains and 0.25 annually for commuter trains. See Vol. 5A, App. B at B-16. CSX understands that these accident rates were determined based on a review of freight/passenger collisions over a four year period, 1993 through 1996, inclusive.

Several points emerge from a review of the collisions that were considered in the preparation of the DEIS. First, there have been very few passenger/freight collisions in recent years. Second, an analysis of the collisions considered in the DEIS analysis shows that the proposed mitigation addresses a "problem" of passenger/freight train separation distances that does not justify the type of radical mitigation proposed, much less any mitigation.

Passenger/freight train collisions are very rare. Six passenger/freight collisions that occurred between 1993 and 1996 were considered in the calculation of the accident rates used in the DEIS analysis. There have in fact been only five such collisions during that four year period, all but two of which occurred on the lines of Western railroads.

The DEIS assumed that there were five Amtrak/freight train collisions and one commuter/freight train collision during the four year period studied, thus explaining the 1.25 and 0.25 annual accident rates. However, the one collision involving a commuter train was not properly considered because it was not a commuter/freight train collision. Rather, that one accident was an Amtrak/MARC collision in Silver Spring, Maryland in February 1996. Because this was a collision between two passenger trains, with no freight train involved, it should not have been counted in determining the rate of freight/passenger collisions. Accordingly, the actual annual rate of commuter/freight collisions during the four year study period was zero, not 0.25.

Further, a closer analysis of the considered Amtrak accidents shows that the proposed separation rules are designed to address a situation that experience shows is highly unusual. At least four of the five considered Amtrak collisions occurred in circumstances that would not be addressed by the proposed mitigation measure, *i.e.*, circumstances other than passenger and freight trains sharing the same track and traveling under power too closely to one another. The September 1993 collision that was considered in calculating accident rates occurred when an Amtrak train hit parked freight cars in a siding that was not long enough to accommodate the freight and passenger cars. The May 16, 1994 accident involving a CSX and Amtrak train occurred when the Amtrak train was struck by a trailer that had become unfastened from its mooring on a flat car that was part of a CSX train on an adjacent track and protruded over the track on which the Amtrak train was moving.¹² Similarly, the February 1995 incident involving an

¹² The CSX train was operating on an adjacent track, and because it was on a different track would not have been subject to a separation rule. CSX has taken several steps to prevent the recurrence of this type of accident, including improved securement of intermodal trailers.

Amtrak and a UP train occurred when the Amtrak train struck a load of steel that was projecting from a UP train located on an adjacent siding. A fourth collision that was considered occurred on BN's lines in March 1995, and was caused when the brakes on several parked BN freight cars failed, causing those cars to hit an Amtrak train. The freight cars were not connected to a locomotive at the time of the accident.

This review shows that at least four of the five collisions from which the 1.25 annual accident rate involving Amtrak trains was calculated occurred in circumstances that the proposed train separation mitigation rule would not have addressed, *i.e.*, circumstances that are unrelated to the level of freight train traffic on the same track as the passenger train traffic. These accidents did not involve freight and passenger trains moving under power and operating on the same track, and thus a separation rule designed to address freight and passenger trains sharing the same track would not have prevented the accidents. The appropriate annual accident rate that should have been used was thus 0.25 for Amtrak accidents, not 1.25.¹³

Had the appropriate (lower) accident rates for the type of accident of concern (*i.e.*, "head-on" and "hit from behind" accidents related to increased levels of freight operations) been used in the calculation of post-Transaction impacts, the predicted annual increases in accident rates shown on Attachment B-2 of Appendix B to the DEIS would have been markedly different.

¹³ The remaining collision considered in calculating the 1.25 annual accident rate was a March 1995 accident involving an Amtrak train operating on the BN system. In that incident, the Amtrak train, using a wye connection not normally used by passenger trains, backed into a BN locomotive located on the connection. It is not clear from the available facts that the proposed mitigation would have addressed this type of incident.

The expected post-Transaction passenger accident rate increase would have been much lower, underscoring that no mitigation is warranted on any of the identified line segments.

In fact, the proposed mitigation also would not address the causes of any of the few major collisions involving passenger trains colliding with other trains over the last several years. A summary of these collisions is set forth in an FRA rulemaking notice on Passenger Equipment Safety Standards, 62 Fed. Reg. at 49730 (Sept. 23, 1997). Not one of the major collisions involved a passenger train colliding with a freight train operating on the same track. The one collision involving a freight and passenger train that ended up on the same track was the 1987 collision in Chase, MD between a Conrail and an Amtrak train. However, that collision resulted when the Conrail engineer chose to ignore signals and occupy a track without permission. A separation rule of the sort proposed here would not have prevented a collision resulting from such actions by an engineer, who may have been disabled by drug use.¹⁴

The rate of passenger/freight collisions involving freight trains hitting passenger trains from behind or vice-versa on the same track is thus near zero. The facts thus show that passenger train safety mitigation designed to address an increase in the level of freight train operations is simply not warranted.

In addition, the 25% accident variability rate and 150 year accident occurrence factor used in the DEIS to assess significance appear to have been arbitrarily chosen, and the use of these factors would overstate Transaction impacts. The criteria used in the DEIS to assess the significance of safety impacts on passenger train operations was based on an assessment of

¹⁴ The DOT/FRA drug testing rules were not in effect at the time. Neither were the rules regarding engineer certification, which impose penalties for abuse of prohibited substances.

(1) post-Transaction accident variability and (2) a prediction of post-Transaction accident frequency. The DEIS identified for mitigation those line segments that, post-Transaction, would have a passenger/freight train accident variability rate of 25% or more and experience such an accident every 150 years or less.

A 25% accident variability criteria was chosen as a conservative proxy for the 30% annual accident variability rate that the DEIS reports for passenger train accidents over the last several years. See Volume 5A, App. B at B-17-B-18. However, the DEIS erred in using an annual accident variability rate as a “significance” factor -- if accidents varied 30% from some level before the Transaction, they can also be expected to vary 30% annually post-Transaction.

Instead of using the annual accident variability rate (or a “conservative” variation of it) as a measure of significance, the DEIS should have analyzed anticipated percentage increases in passenger train accidents that are Transaction-related in determining an appropriate measure of significance. CSX has undertaken such an analysis based on the post-Transaction accident percentage increases shown on Attachment B-2 of Appendix B. This analysis is reflected in the histogram of percentage changes in passenger accident rates set forth as Exhibit 1 and on the distribution chart of post-Transaction accident percentage increases set forth as Exhibit 2. Both of these exhibits are based on the data in Attachment B-2, which as shown above overstates the anticipated post-Transaction accident rates. A review of the distribution percentage changes based on post-Transaction increases in passenger accidents reveals that accident percentage increases of 39% or greater lie outside the expected range of the rate increases. The DEIS could appropriately have used a “conservative” factor of a “greater than 32%” increase in the post-Transaction accident rate as a measure of significance. This is because 32% is the end point of

the observed range of observations that are not “outliers,” i.e., that are part of the contiguous distribution of observations as shown on both exhibits. Had this more appropriate factor been used, four of the five CSX line segments would have dropped out of the mitigation pool-- Point of Rocks (29%); Weldon – Rocky Mount (30%), South Richmond – Weldon (25%) and Savannah - Jesup (32%).

As to the 150 year accident frequency factor, as discussed in greater detail below in connection with freight train safety (Mitigation Measure 7), the actual accident rate for each rail route mile is one accident every 49 years. Thus, a 70 year frequency factor would be quite conservative. That standard is met with respect to all of the CSX line segments identified for mitigation, except South Richmond-Weldon. However, the accident variability rate on that line segment is only 25%, which is lower than the significance threshold that CSX submits SEA should have used.

B. The Proposed Mitigation Relies on Archaic Notions of Train Operation That Overlook the Existence of Modern Signaling

Even assuming that some passenger safety mitigation were warranted, the proposed assignment of “superior” status to one type of train over another, and the proposed temporal separation of trains (e.g., the 15/30 minute separation rule proposed in the DEIS) would reintroduce into railroading operating procedures whose days have long since come – and are now long since gone. The proposed mitigation is outdated in concept and would detract from safety. While train superiority and temporal separation rules played a role in ordering train operations in the era prior to the introduction of modern train signals and communications, these procedures

were rendered obsolete beginning in the early part of this century, upon the advent of modern signals. Today, neither FRA rules nor rail operational rulebooks utilize the concepts of train superiority or temporal separation. Even when such rules were in effect -- decades ago and prior to the advent of modern signals -- rail rulebooks provided for a train to clear 5 minutes ahead of a passenger train schedule. On non-signaled main tracks, trains followed with a ten minute interval. Trains were never required to remain clear of the track after passage of a train, merely to follow according to signal rules or the "dark territory" (no signals) separation prescribed. A 30 minute "balloon" around each passenger train was unheard of, even in the 1940's. Further in the era when separation rules were in effect, such "superiority" rules were not designed as a safety measure at all, but as a means of enhancing the opportunity for trains to maintain on-time schedules.

Each of the five CSX line segments identified for mitigation is fully signaled with the modern signals used in large portions of the CSX system. Each line is equipped with Traffic Control System signals ("TCS"). TCS is a remote, dispatcher-controlled centralized traffic control system that provides the train engineer with substantial information about authority for movement including speed at control points, in addition to the "train or broken rail in block" information provided by intermediate block signals.

These signals and traffic control systems allow CSX trains and passenger trains to operate over the same track with safe headways of approximately four to five minutes between the trains. Such signals and systems provide tolerances that allow all trains, both freight and passenger, to safely share the same tracks. These systems are designed to prevent train collisions, while enhancing track capacity and service efficiency. The systems are recognized as safe by the FRA

and are in use throughout the rail industry. The analysis of the collisions discussed above underscores the fact that signals are in fact working to prevent trains from being hit in the rear.

In addition, the Point of Rocks and Fredericksburg line segments are double tracked and the latter segment is, in sections, triple tracked. Also, none of these line segments will experience a significant increase in the level of freight train operations -- those increases will range between 4.6 and 7.1 trains/day. These added frequencies can be accommodated with no compromise in safety. There are in fact several other line segments identified in Attachment B-2 to Appendix B of the DEIS on which both freight and passenger service levels are today much higher -- with no safety problem.

Modern signals and centralized traffic control provide a uniform and proven method of achieving the safe separation of trains that the DEIS seeks. By contrast, the temporal separation that is envisioned in the DEIS would not enhance safety beyond the levels achieved through these modern signal and traffic control systems, but could well detract from the safety of rail operations. The proposed mitigation measures would effectively undermine the utility and consistency of these safety systems on five line segments, in favor of an unconventional, non-technological approach for those segments of the type that pre-dates modern railroad operations. The introduction of this type of unusual operating rule on five line segments would undermine the safety that is achieved through the use of the uniform rules now in effect, introducing a "wild card" into CSX train operations. From a safety perspective, the introduction of such non-uniform rules enhances the possibility of confusion and human error -- thereby resulting in the real potential for a net reduction in safety.

Moreover, as noted above, the proposed mitigation is also not consistent with the DEIS description of appropriate passenger train safety mitigation, as set forth in Chapter 3 of the DEIS. Section 3.2.3 lists a series of potential passenger/freight train safety mitigation measures that the DEIS deemed appropriate to consider in connection with its analysis of acquisition-related safety impacts, but does not include passenger train superiority or temporal separations on the list.

The measures that are identified in section 3.2.3 (and incorporated for passenger trains by section 3.3.3) offer a more appropriate series of potential approaches to the enhancement of operating safety on lines over which both freight and passenger operations are conducted. As described in Exhibit 3 to these Comments, CSX already adheres to each of the pertinent safety mitigation measures that are identified in Chapter 3 of the DEIS with respect to the five line segments at issue. These measures provide a formidable, uniform and consistent measure of safety for those five line segments, consistent with modern procedures and technologies. The Conrail acquisition will not undermine, or change in any way, the utility of any these safety measures, and thus no mitigation is required.

C. The Proposed Mitigation Would Significantly Impair Operations on the CSX Lines, Lead to More Truck Traffic and Eliminate Important Transaction-Related Benefits

Were the proposed mitigation rule adopted, it would cause huge disruptions to CSX's north-south operations, effectively disabling CSX's use of the Fredericksburg line segment for freight movements and eliminating significant Transaction-related safety and transportation benefits resulting from improved intermodal service. In these circumstances, the absence of any demonstrable safety benefit offered by the proposal, and the absence of any evidence that the

modestly increased level of freight operations poses a risk to passenger safety, strongly argues against adoption of the proposed mitigation.

A 15/30 minute 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. Both freight and passenger service would suffer as a consequence.

Simulations undertaken by CSX have shown that the 30 minute separation balloon would have the effect of terminating or severely curtailing and delaying freight service on the Fredericksburg line (and thus on CSX's Atlantic Coast Service Route) for several blocks of daytime hours, particularly in the morning, late afternoon and early evening, or conversely, sharply reducing passenger service during these key hours. Assuming the current level of passenger service was maintained, CSX would have to radically alter its train operations and would be unable to meet its goals of providing enhanced service to time-sensitive intermodal freight moving on the Atlantic Coast Service Lanes. Alternatively, CSX might not be able to continue to accommodate the high level of passenger use of this line segment, which now accommodates 21 Amtrak trains and 12 VRE trains daily. While the level of impacts would not be quite as dramatic on the Point of Rocks line (which now accommodates 8 Amtrak and 17 MARC trains), it would be considerable and interfere significantly with freight operations on that line segment as well.

The massive interference with CSX's major north-south line would not only impair efficient rail operations, but would disable CSX's efforts to divert time-sensitive intermodal

freight from less safe, and less environmentally friendly, highway carriage to the national rail system. Indeed, one of the major public benefits of the CSX/NS acquisition of Conrail is the substantial improvement of intermodal rail transit times on the major "I-95" corridor between the Northeast and Southeast and the consequent projected diversion of large volumes of truck traffic to new Boston-Florida single-line rail service provided along the Atlantic Coast Service Lane. Four of the five CSX line segments on which the proposed mitigation would apply (all but the Point of Rocks segment) are vital links in the new north-south intermodal service that CSX proposes to initiate. The transportation benefits of that service would be sacrificed as a consequence of this proposed mitigation measure.

Safety would also suffer if the diversions are not achieved. According to DOT statistics, in 1993 (which is representative) the accident rate per ton mile was 0.4382 for trucks and 0.0015 for rail.¹⁵ Rail diversions thus offer a safety enhancement, as the approximately 300% lower rail accident rate illustrates. (The Environmental Report submitted with the Application reports that projected highway to rail diversions would result in a total of over 1,690 fewer annual truck crashes, including 429 crashes involving injuries and 21 crashes involving one or more fatalities.) A large number of projected diversions to the CSX Atlantic Coast Service Route are predicated on the diversion of freight off of the "I-95" Corridor – over 26,000 truckloads annually. See Application, Volume 2A, Verified Statement of Joseph Bryan at 257. The safety benefit associated with this large number of diversions will obviously be sacrificed in whole or large part were the proposed mitigation adopted.

¹⁵ Source: DOT: 1993 Commodity Flow Survey.

Further, the availability of passenger transportation could also suffer. If the proposed separation windows were adopted, CSX would be unable to entertain any proposals from commuter agencies to expand their services on these line segments, and would need to carefully re-evaluate its options with respect to continued passenger operations on certain segments. The proposed mitigation would effectively destroy the operational basis on which CSX is able to accommodate extensive Amtrak and commuter services on its lines, and hinder CSX's ability to work cooperatively with these passenger service providers with respect to future passenger service enhancements.

D. Any Additional Safety Measures Should Be Carefully Considered in Coordination with the FRA and the Passenger Agencies

For all of the reasons stated above, CSX does not believe that any special mitigation measures are called for in connection with the five line segments identified for mitigation in the DEIS. However, if any mitigation were to be imposed, the Board could appropriately consider a provision for consultations by CSX with the FRA and other relevant parties over possible further passenger train safety enhancements that may be appropriate for these line segments. Such a mitigation approach would be consistent with the settled proposition that where other governmental agencies have jurisdiction over matters that might warrant mitigation, the Board, lacking such jurisdiction, satisfies its NEPA obligations by identifying the issues that those agencies might address. See Robertson, 490 U.S. at 352-353; CEQ Notice, 46 Fed. Reg. 18031-32 (an EIS can appropriately identify matters outside the lead agency's jurisdiction so as to alert appropriate officials of other agencies).

CSX already retains an open dialogue on safety issues with the FRA and the passenger agencies. It is prepared to engage in careful and considered deliberation and study of safety issues on these line segments with all interested parties, specifically, FRA, Amtrak, VRE and MARC. Such considered rail industry and FRA safety consultations offer the appropriate response to any significant safety concerns involving passenger operations that may be identified.

3-6. Safety: Hazardous Materials Transportation

The DEIS includes the most detailed analysis of hazardous materials transportation ever undertaken in the environmental review of a control transaction. For the first time, the SEA required Applicants to isolate the hazardous materials component of their projected post-Transaction traffic so that potential changes in hazardous materials flows could be separately analyzed. The total volume of hazardous materials transported by rail is not expected to change materially as a result of the Transaction. However, because of changes in traffic patterns, some line segments will experience an increase in annual carloads of hazardous materials while other line segments will experience no change or a decrease. The DEIS proposes a series of measures designed to address the safe transportation of hazardous materials. As discussed further below, some of these measures overlap with existing CSX and industry practices, while others are not Transaction-related. Although CSX does not believe that any special mitigation measures are required, CSX does not object to a number of the recommendations, as explained below.

Any proposed measures should be considered in light of the fact that the DEIS concludes that the Transaction “should result in a slight safety improvement for rail transportation of hazardous materials and no significant systemwide impacts relating to hazardous materials transport.” Executive Summary at ES-19. Any proposals should also consider that CSX has an

extraordinarily successful record in the safe transportation of hazardous materials -- e.g., only 5 cars transporting hazardous materials experienced a release in 1996 even though 338,000 hazardous materials carloads were transported that year by CSX. CSX's pro-active efforts to enhance the safety of hazardous materials transportation are described at length in the Environmental Report that accompanied the Application (Volume 6A at 121-125) and in the CSX Safety Integration Plan at 168-177. CSX will not describe here all of the programs that it has in place with respect to the safe transportation of hazardous materials (several of which are described below), but encourages SEA to make note of these measures and programs in the FEIS.

The proposed series of mitigation measures concerning the transportation of hazardous materials would apply to line segments that would, based-on three year traffic projections presented by CSX and NS, become so-called "key routes" and "major key routes."¹⁶ As the DEIS reports, CSX determined just prior to the publication of the DEIS, that the data that CSX supplied to SEA overstated the extent of post-acquisition hazardous materials transportation. CSX has now supplied corrected data to SEA.

The key route concept comes from voluntary industry guidelines developed by the Association of American Railroads ("AAR"), to which CSX, NS and Conrail all subscribe. AAR's Key Route Guidelines are set forth in AAR Circular No. OT-55-B, "Recommended Railroad Operating Practices for Transportation of Hazardous Materials." According to the AAR definition, "key routes" are those line segments "with a combination of 10,000 car loads or intermodal portable tank loads of hazardous materials, or a combination of 4,000 car loadings of

¹⁶ As discussed further below, the term "major key route" does not comport with accepted industry terminology and CSX recommends not using this terminology.

PIH (Hazard Zone A or B), flammable gas, Class 1.1 or 1.2 explosives (Class A), and environmentally sensitive chemicals, over a period of one year.”

A table showing the 18 current or allocated CSX line segments and Shared Assets segments that CSX has determined (based on traffic projections) might become key routes post-Transaction is attached to this submission as Exhibit 4. Seven of the line segments would become new key routes based on traffic projections. These are shown in Part B of Exhibit 4.¹⁷ An additional 11 line segments, nine of which are today key routes, are projected to experience a doubling in hazardous material traffic and carry hazardous materials volumes in excess of 20,000 carloads annually. These routes, shown on Part A of the Exhibit, are addressed in connection with proposed Mitigation Measures 4(A) and 4(B).

Mitigation Measure 3(A). This measure would require that CSX comply with the OT-55-B guidelines before increasing the number of cars carrying hazardous materials on the line segments that are projected to experience increased hazardous materials traffic. This measure would apparently apply even if those line segments do not actually meet the key route thresholds.

CSX does not believe that any condition is warranted because it adheres as a matter of long-standing practice to the industry-standard key route safety procedures set forth in the AAR Circular. Thus, to the extent that any line segments meet the key route volume thresholds, CSX would apply the key route safety measures. Further, as Exhibit 4 shows, several of the line

¹⁷ An analysis of the CSX hazardous materials traffic plan data identifies six additional segments on which traffic projections indicate that the key route thresholds might be met. Those are segments C-766, C-767, C-768, C-769, S-232 and S-233, all currently on the Conrail system. No mitigation is warranted with respect to these line segments because Conrail already adheres to the Circular OT-55-B measures on these segments and CSX will continue that practice.

segments at issue are already key routes. No mitigation of the sort proposed in measure 3(A) is required for these line segments.

In the event that the Board imposes a condition, however, CSX recommends that the condition be structured so that CSX may retain the flexibility to adhere to any new industry standard that replaces, modifies or supplements the existing requirements in Circular OT-55-B. Those standards were developed in 1993, and could well be revised in future years. CSX should have the flexibility to adhere to any revised version of these standards that may be adopted in the future without the need to seek Board approval to modify a condition that requires adherence to the Circular OT-55-B requirements.

CSX also notes that the statement in the DEIS (Vol. 4 at 7-13) that the AAR's key route guidelines include "measures for visual rail defect inspections at least twice per week" is incorrect. Section II, paragraph B(2) of Circular OT-55-B states that main track on key routes "must be inspected by rail defect detection and track geometry inspection cars or any equivalent level of inspection no less than two times each year; and sidings must be similarly inspected no less than one time each year." FRA guidelines dictate minimum standards for track inspections.

As to the timing of implementation of any condition that may be adopted, CSX notes that a determination of whether a route is a key route or not is generally made based on an assessment of the level of hazardous materials traffic on the route during the previous twelve months. CSX is nonetheless prepared to comply with existing Key Route requirements in Circular OT-55-B for the identified line segments as of "Day One" (the date on which CSX and NS will implement their separate operating plans). However, any such condition should expire at the end of three years following Day One, at which time the determination of whether a line segment should be treated

as a key route should be made in the same manner that it is made throughout the rest of the CSX system (and the national rail system generally), i.e., on the basis of the actual level of hazardous materials carried. If the key route criteria are met, the key route obligations would attach to the specific line segment.

A three-year time frame for any mitigation measure concerning these line segments is appropriate because the traffic projections on which the mitigation has been proposed are three-year projections. If the projections prove accurate with respect to these line segments, then the key route test will have been met and CSX would apply the key route measures identified in the AAR Circular. On the other hand, CSX should not be bound to adhere to the key route obligations on line segments as to which the projections for increased hazardous material traffic in excess of the key route criteria are not met.

Proposed Mitigation Measure 3(A) also contemplates preparation of a Hazardous Materials Emergency Response Plan ("HMERP") for each local emergency response organization along the identified line segments. CSX understands that such organizations are the Local Emergency Planning Committees ("LEPC's"). CSX notes that under the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§11001 *et seq.*, LEPC's are already required by law to develop hazardous materials emergency response plans. While this statute imposes no obligations on railroads, CSX will comply with the proposed mitigation measure, which it intends to implement by preparing and distributing an HMERP to appropriate county officials for distribution to the LEPC's. This HMERP -- which would supplement the plans already developed by the LEPC's -- would embrace information that CSX already makes available to local planning officials today, such as dispatcher phone numbers, an emergency response book

that contains information on how to address hazardous materials incidents, information on tank cars, and certain traffic flow information.

Mitigation Measure 3(B). Under this proposed mitigation measure, CSX would be obligated to comply with the AAR “Key Train” requirements before increasing the number of rail cars carrying hazardous materials on any train. These requirements are also set forth in AAR Circular No. OT-55-B, which defines a “key train” as one “with five or more tank car loads of poison inhalation hazard (Hazard Zone A or B) or 20 cars loads or intermodal portable tank loads of a combination of PIH (Hazard Zone A or B), flammable gas, Class 1.1 or 1.2 explosives (Class A), and environmentally sensitive chemicals.”

CSX agrees to adhere to this mitigation proposal, subject to the same caveat discussed above concerning possible future revisions or supplements to the standards currently described in Circular No. OT-55-B. CSX assumes that the intent of SEA is to require, as of Day One, that whenever CSX operates a train that, by virtue of the number of hazardous materials cars on the train and nature of those materials, meets the definition of a Key Train as set forth in the AAR Circular, CSX must comply with the Key Train requirements as to that train.

Mitigation Measure 3(C). This proposed measure would provide that if CSX has more stringent requirements than the provisions of the AAR “Key Route” or “Key Train” guidelines, it must comply with those requirements. CSX believes that it should have the flexibility to devise additional requirements and to modify those requirements based on experience. Thus, CSX does not believe that it would serve the public’s interest in safety for it to be tied to any specific requirements that may be in place today, but may be determined not to be justified tomorrow. Nor would it be fair to CSX to impose a requirement that effectively requires it to maintain

practices that no other railroad in similar circumstances would be obligated to maintain. This type of condition might serve, counter-productively, to stifle safety advancements.

As noted above, CSX agrees to adhere to the current industry safety standards for key routes for the identified line segments and key trains as set forth in Circular OT-55-B, or in any future modification of, or supplement to, those requirements. Adherence to these requirements offers a full and sound measure of safety. To the extent that CSX might do more, that choice should not be fettered by a condition obligating it to continue any additional practices where, for example, such additional practices are determined not to meaningfully enhance safety. For these reasons, CSX submits that this proposed mitigation measure should not be adopted.

Mitigation Measure 4(A). This proposed measure would apply to certain key routes which are defined in the DEIS to be those line segments on which hazardous materials traffic is projected to double and to exceed 20,000 carloads annually. Part A of Exhibit 4, which is based on the revised CSX data, indicates that there will be ten such key routes on the CSX system and one in the North Jersey Shared Assets Area. The additional mitigation proposed in 4(A) for these key routes is the preparation of HMERP's (as proposed for key routes in 3(A)) for local emergency response organizations along these segments. CSX agrees to this proposed mitigation measure.

CSX appreciates that SEA intends to impose a somewhat greater level of mitigation for routes that may carry a higher volume of hazardous materials than are transported on those lines currently. However, CSX does not believe that it is constructive, and that it could be confusing, to assign new terminology to such routes by calling them "major key routes," as the DEIS does. This terminology is not used or known in the rail or chemical industries or to hazardous materials

regulators and, in CSX's view, there is no need to introduce such terminology – the proposed mitigation can be imposed merely with reference to the hazardous materials volume on specific line segments without calling them “major key routes.”

Mitigation Measure 4(B). This proposed measure would obligate CSX to conduct real time or desktop emergency response drills at least once every two years with local emergency response officials on the line segments subject to the measure 4(A) proposed mitigation. CSX notes that this recommendation does not have a “sunset” provision and would not apply to other rail line segments, which currently carry as much or more hazardous materials traffic. As such, its implementation would create a double-standard.

CSX agrees that it would be useful to conduct one real-time or desktop emergency response simulation drill with local emergency response personnel within one year after Day One with respect to those routes projected to experience a doubling of hazardous materials traffic and carry in excess of 20,000 hazardous materials cars/year. Such a drill would be useful in familiarizing the local personnel with the HMERP's. Following the conduct of this drill, CSX proposes that it adhere to the requirements of Circular OT-55-B, as it may be amended in the future, with respect to these key routes. Such adherence is designed to ensure the continued safety of such routes. To the extent that local communities desire to conduct additional safety drills or to coordinate planning efforts with CSX, CSX is prepared to cooperate in such efforts, as it does today. However, the need for an emergency drill every two years has not been demonstrated for these line segments any more than it has been demonstrated for line segments that today (unrelated to the Transaction) carry even larger volumes of hazardous materials.

The impact that justifies a one-time drill is the projected Transaction-related increase of hazardous materials on these line segments. Once that drill has been conducted with the local emergency response officials, there is simply no Transaction-related justification for differentiating between these line segments and others that transport similar or even larger volumes of hazardous materials.

Mitigation Measure 5. This proposed measure would require CSX to provide a toll-free telephone number to local emergency response organizations on the line segments to which measures 3(A) and 4(A) would apply. The number would allow these personnel prompt access to the information about the nature of the hazardous materials cargoes on a particular train and appropriate response procedures in the event of a spill.

CSX does not oppose this proposal. CSX would provide this telephone number in the HMERP and would not otherwise make the number public.

Mitigation Measure 6. This proposal would require CSX to establish a so-called “Failure Mode and Effects Analysis” (“FMEA”) program for all CSX and Shared Assets Area rail yards and intermodal facilities to address sources and consequences of spills of hazardous materials that are stored or transported. The goal of this program would be to identify potential causes for spills and eliminate them prior to any possible incident.

CSX does not concur in this mitigation proposal for two fundamental reasons. First, the proposal does not address any Transaction-related impacts, but would apply to all rail yards and facilities, including those that will experience no change as a result of the Transaction or a decrease in activity. To that extent, the proposed mitigation exceeds the proper scope of mitigation as SEA itself has described that scope: “[t]he environmental mitigation condition . . .

must be directly related to the impact caused by the Acquisition.” Vol. 1 at 3-3. In fact, the DEIS acknowledges that the Transaction will result in a systemwide decline in yard activity and a consequent increase in the safety of hazardous materials transportation. Executive Summary at ES-19. The DEIS also concludes, at the same page, that CSX has procedures in place for handling hazardous materials storage and spills at its yards.

Imposition of a new condition of this type is thus directly contrary to SEA’s own stated standard for imposition of conditions. The recommendation is clearly targeted at an existing condition -- one which the DEIS acknowledges that CSX has procedures for handling. The measure should thus be rejected.

The second reason that proposed Mitigation Measure 6 should be rejected is that CSX has in place numerous programs that are the functional equivalent of an FMEA program. The proposed mitigation measure would impose a redundant, and thus pointless, requirement. The rail industry has for many years been actively engaged in identifying the causes of hazardous materials incidents and in eliminating those causes through a variety of programs in which CSX is an active participant. These efforts have resulted in a dramatic decline in hazardous materials releases over the last several years -- FRA statistics show that rail accidents involving hazardous materials releases decreased from 139 in 1978 to 34 in 1996. As noted above, at CSX, in 1996 out of 338,000 carloads carrying hazardous materials transported, there were only four derailments, involving five cars that resulted in the release of hazardous materials. Further, the number of CSX derailments with hazardous materials releases has declined dramatically and consistently over the last several years, from 15 in 1990 to only 3 in 1997. The success of several on-going

programs -- which are as effective for yard safety as line-haul safety -- renders the proposed mitigation redundant and therefore unnecessary.

Among the on-going industry programs designed to determine and eliminate the causes for hazardous materials spills is the Railroad Tank Car Safety Research and Test Project of the Railway Progress Institute and AAR. This Project, which has been active since 1970, is responsible for numerous studies and programs that have led to safer tank car transportation, including programs that have identified the vulnerabilities of tank cars and have led to improvements to tank car head protection, couplers, thermal protection standards and tank car bottom outlet protection. The Project has several on-going studies to further identify tank car vulnerabilities and develop improvements.

Another industry risk mitigation measure in which CSX participates is the AAR derailment prevention program that is designed to review accidents, assess their causes and consider prevention techniques. This program involves regular meetings/teleconferences involving CSX and other rail officials at which a variety of accident assessment/prevention issues are addressed.

In addition, as described in greater detail at pages 174-175 of the CSX SIP, CSX is a participant in CMA's Responsible Care program. One of the conditions of participation in that program is that CSX undertake risk assessments with respect to the transportation of hazardous materials. CSX does so in a variety of ways. These include the following:

1. CSX uses a Track Management Program model to assess the gross tonnage of freight moving over particular line segments, the characteristics of the traffic (including the extent to which hazardous materials and passengers are carried on the line segment) and the information

obtained from track inspections. This data is input into the model to allow CSX to assess where and how to devote capital to track upgrades, thereby reducing the level of risk on particular line segments.

2. CSX also does a risk assessment on chemical traffic that it transports to determine, based on flammability, toxicity, environmental impacts, and other relevant factors, whether a particular chemical poses a high, medium or low risk. Emergency training programs involving local emergency response personnel are geared to line segments based on the results of this analysis.

3. CSX reviews where non-accidental releases ("NAR's") occur on its system and works to identify trends in terms of types of cars, sources of cargo, and other factors. This process allows for risk-management planning to address causes of such incidents. This program has been successful. In 1997, CSX experienced the lowest number of NAR's of any recent year to date on the CSX system.

4. CSX implements a Train Accident Prevention program known as the TAPS program. This program consists of a series of committees -- a headquarters committee and separate committees for each service route, hump yard and satellite facility. The purpose of these committees is to analyze train accidents that occur on lines or at yards and other facilities (including accidents that result in the release of hazardous materials), determine the causes of these accidents and develop action plans to avoid repetition of such accidents.

In addition to these formal risk assessment and analysis programs, CSX's SIP, at pages 168 through 184, also discusses a variety of hazardous materials safety programs that are implemented by CSX. These include inspection and training programs and emergency notification

programs. In addition, as the SIP indicates, CSX intends to carefully review the Conrail hazardous materials program (which is similar in most major respects to the CSX program) and to retain those elements of the Conrail program that reflect the best industry practices.

Further, in addition to rail industry programs and CSX's own programs, CSX adheres to the requirements imposed by federal regulations adopted by DOT's Research and Special Programs Administration ("RSPA") for the transportation of hazardous materials. See 49 CFR at Sections 171 through 174. These detailed regulations of a sister agency of the Board govern virtually every phase of the safety of hazardous materials while they are in the possession of CSX.

In light of the substantial risk prevention efforts and safety regulations that are already in place, the need for any further mitigation in the nature of a mandatory new FMEA program has not been demonstrated. CSX already has active programs to address the sources and consequences of hazardous materials spills on its lines and facilities. Establishing a new FMEA program of the sort described in Mitigation Measure 6 would do no more than divert resources and energies from proven, existing programs to a redundant new program, the need for which has not been shown.

Finally, as a practical matter, the Board has neither the resources nor the expertise to draft regulations for, and enforce, a new safety program which would apply to hundreds of rail yards and intermodal facilities. The Board is not a safety regulatory agency. Any such effort would also present a serious risk of intruding on the jurisdiction of another federal agency and imposing requirements which would conflict with other federal regulations. Nothing in NEPA obligates the Board to pro-actively require the adoption of new programs that would neither enhance safety

beyond the level achieved by other programs and the regulations of other agencies nor address any Transaction-related impacts. The Board should accordingly not do so.

7. Safety: Freight Rail Operations

The DEIS includes the most detailed analysis of freight rail safety ever undertaken in the environmental review of a control transaction. For the first time, the SEA undertook a statistical analysis of the accident risk on a segment-by-segment basis. Although the DEIS concludes that there will be “a small overall decrease in the likelihood of freight rail accidents and derailments” as a consequence of the Transaction. (Vol. 1 at 4-10), the DEIS concludes on the basis of the statistical analysis that there will be a significantly increased risk of accident on a limited number of line segments. In proposed Mitigation Measure 7(A), SEA has proposed that CSX comply on three identified line segments with the FRA’s proposed rule, and any final rule that may eventually be issued by the FRA, in Docket No. RST-90-1, which contemplates “ton-mile based” inspections. Under the proposed rule, such inspections would have to be conducted at least once every 40 million gross ton miles of traffic on the line, or annually, whichever is more frequent. Proposed Mitigation Measure 7(B) would require annual training of CSX mechanical and track inspectors that dispatch trains, or check track, respectively, on the three identified line segments. These mitigation measures would apply over the following three line segments:

Berea to Greenwich, Ohio (C-061);

Greenwich to Willard, Ohio (C-068); and

Willard to Fostoria, Ohio (C-075).

The first of these segments is part of Conrail’s system today; the latter two are part of CSX’s current system. 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 Transaction 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. CSX has carefully planned for the Transaction so that there will be no compromise on safety -- track maintenance and inspection standards, signal and communication systems and workforce training will not be reduced or compromised in any way. In fact, CSX's safety practices will be extended to the portion of the Conrail system to be allocated for CSX's use. Because CSX's safety record is better than Conrail's (as reported by DOT 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 signals) of CSX's B&O line from Chicago to Greenwich, Ohio and improvements to the Conrail line from Greenwich through Cleveland. See Application, Vol. 3A at 260. All three CSX segments identified in the DEIS as having a significantly increased risk of accident are on this line. This approximately \$200 million project, already underway and due to be completed by Day One, will result in these segments being among the most up-to-date on the entire CSX system. They will form part of the high-speed east-west corridor that CSX intends to use for the transportation of time-sensitive intermodal freight. It appears that the DEIS's statistical methodology did not factor in the upgrading of these line segments.

In addition, the significance criteria used by SEA for freight rail safety overstated the actual safety risk on these line segments. The DEIS included as part of its criteria a determination of whether the line segments at issue could experience an accident more frequently than every 100 years. The 100 year threshold was based on the proposition that in 1996 there were 1,078 freight and passenger train accidents on 126,682 miles of main line track, yielding an accident rate of one accident every 117 years on each rail mile. The DEIS then applied a more conservative figure of one accident every 100 years on each rail mile to assess significance.

However, FRA statistics indicate that there were actually 2,584 train accidents in 1996, not 1,078. See 1996 FRA Accident/Incident Bulletin. This means that on each mile of the rail system, an accident may occur every 49 years, not once every 117 years as reported in the DEIS. According to the DEIS, each of the three CSX line segments has a far lower post-Transaction accident rate than 49 years -- Berea to Greenwich (94 years); Greenwich to Willard (93 years) and Willard to Fostoria (95 years). See Attachment B-1 in Volume 5A. Accordingly, no mitigation is warranted on these segments for this additional reason.

Notwithstanding that the case for mitigation on the identified segments appears open to question, CSX's current annual track inspection and training programs with respect to these line segments, and associated personnel, already cover the requirements that are proposed as mitigation. While CSX does not believe that any mitigation is warranted, and opposes imposition of a condition that would constrain its ability to adopt equally effective alternative inspection and training programs, it would not change its current practices if these mitigation measures were imposed.

8. Safety: Highway/Rail At-Grade Crossings

In Table 7-4, the DEIS identifies 118 highway/rail at-grade crossings where improvements might be required. These recommendations are the result of an in-depth analysis by the SEA as to existing traffic at these crossings and the projected increases in traffic following the Transaction. As the basis for its analysis, the DEIS relies on DOT's Accident and Severity Prediction Formula to identify areas of potential mitigation. This formula is used to rank and identify potentially dangerous crossings. Although the result of this examination was the list of crossings mentioned above, this list should not constitute the final recommendation to the Board. The formula is appropriate for the DEIS because it identifies potential environmental safety concerns and highlights them for responsible state agencies. Further analysis, however, reveals that many of the crossings in Table 7-4 already have the suggested mitigation in place or that the recommended improvements have been funded and scheduled for installation. In other cases, more recent information reveals that mitigation is not necessary.

As discussed below, the FEIS should recognize the important state role in evaluating grade crossing safety. Although the Federal Highway Administration ("FHWA"), and to a lesser extent the Federal Railroad Administration ("FRA"), provide oversight and guidance in this area, the state agencies with jurisdiction over highways are in the best position to determine the proper level of warning device required at the highway/rail crossings. If the Board were to direct CSX to consult with state authorities, the Board would fully and properly fulfill its NEPA role. Specifically, it would be appropriate for the FEIS to recommend (1) an appropriate methodology to identify crossings that may sustain a Transaction-related impact thereby warranting some form of crossing improvement, and (2) a requirement that Applicants bring these crossings to the

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circumstances associated with a particular crossing. A state brings this information to the table when seeking FHWA approval of its plan for warning device protection.

Indiana begins with the federal accident data for each at-grade crossing in the state. The federal data also is used to evaluate the cost/benefit ratio of various improvement alternatives at a crossing, such as installing flashers or gates. This federal data, however, cannot incorporate every possible factor that influences the number of accidents at a crossing, and the data available is not always completely accurate. To compensate for this, Indiana adds to its analysis by performing a diagnostic site review, using actual accident history, and reviewing other pertinent factors. This analysis forms the basis for selecting and prioritizing safety improvement projects. Cost/benefit analyses are used in determining the final priority list. Thus, the crossings with the highest accident risk are not necessarily included in the final upgrade program.

Ohio and Kentucky use a methodology similar to Indiana's approach. These states use FHWA/FRA data to determine a preliminary crossing safety ranking, and then perform a diagnostic survey of each site that considers vehicle traffic and recent accident history. In Ohio, the survey team consists of the local highway authority, the Ohio Rail Development Corporation, the railroads, the FHWA and the Public Utilities Commission of Ohio. The states "update" the FHWA/FRA-method results before completing their final priority lists if changes in rail crossings (e.g. improved safety measures) recently have been performed. The states also consider field observations for their final listing.

Recently, Michigan proposed a four-factor methodology for prioritizing crossing upgrades: (1) a Five Year Car-Train Crash Frequency; (2) FHWA/FRA Top 100 Crossings in Michigan based on the FHWA/FRA Accident Prediction Equation; (3) Calculated Exposure

Reduction Potential Through Conventional Treatment (e.g. adding flashing-light signals to a crossing with passive warning; adding gates to a crossing with flashing-light signals; and adding gates to a crossing with flashing-light signals which are suspended on cantilever arms) ; and
(4) An identification of crossing needs based on field observations. After considering these factors, the state will decide on appropriate rail crossing upgrades.

3. The FEIS Should Recommend Consultation with
Appropriate State Agencies

By directing mitigation at certain highway/rail crossings, the SEA has stepped into the shoes of the states and the FHWA as the final arbitrator of the type of warning device required at each affected highway/rail crossing. Although the SEA has undertaken the responsibility of determining the appropriate level of warning devices, it has not done so in a manner consistent with the established regulatory process. Most importantly, the SEA has not obtained the type of information upon which states rely in making grade crossing decisions. As a result, the DEIS's recommendations are over-inclusive. For example, many of the improvements identified in the DEIS already are in place or are scheduled to be put in place in the near future. In other instances, more recent information indicates that mitigation is not warranted.

CSX's consultation with the state of Ohio demonstrates how the system should function. CSX has been working with the Public Utilities Commission of Ohio ("PUCO") and the Ohio Rail Development Corporation ("ORDC") to perform several rail corridor studies in northwest Ohio. In these studies, the parties placed particular emphasis on improving the consolidation of vehicular traffic at crossings, thereby reducing the number of crossings with a lower level of signal protection. Following joint field studies by CSX, PUCO, and ORDC, recommendations for signal

upgrades and improvements were developed and suggestions were made for closure of certain crossings.

One of the results of these outreach and consultation efforts was an agreement between CSX and PUCO/ORDC as to the proper level of crossing safety improvements needed for CSX's track improvements on the line segment from Greenwich, Ohio in Huron County to the Ohio/Indiana border at a point in Defiance County ("the B&O Corridor"). The DEIS examines crossings on the B&O Corridor and arrives at the same conclusions as PUCO and ORDC for three crossings -- 142 366F, 142 178R and 142 179X.¹⁸ PUCO and ORDC, however, recommended improvements at a number of additional crossings in the B&O Corridor that are not addressed in the DEIS. Thus, if the FEIS's final recommendation is for the Applicants to consult with appropriate state agencies, it is likely that the state mitigation will equal or exceed that currently in the DEIS.

Another area where the DEIS recommends mitigation involves crossings on the Toledo to Deshler line segment (segment C-065). Although the DEIS identifies fifteen crossings on this segment as requiring mitigation, CSX does not believe that mitigation is appropriate because any impacts from increased traffic are independent of the Transaction. The CSX Operating Plan, which provides the basis for the traffic figures in the DEIS, provides 1995 base figures and post-Transaction projected figures. The 1995 base for the CSX Toledo to Deshler line segment is 0.6 trains per day, and the projected post-Transaction traffic is 14.2 trains per day, for an increase of 13.6 trains per day on average. This increase led to the conclusion in the DEIS that the Transaction would result in certain impacts (including increased traffic) on this 36-mile line

¹⁸ For these crossings, the mitigation recommended in the DEIS already has been installed or is funded and scheduled for installation.

segment. However, in May, 1997, CSX resumed through train operations over the this line segment for reasons unrelated to the Transaction. Present traffic on the line is about 14 trains per day. Thus, there is no significant Transaction-related impacts on this line segment and no grade crossing mitigation would be appropriate in connection with this proceeding.

CSX has, however, worked with the state authorities to determine if traffic increases on the Toledo-Deshler line warranted any grade crossings upgrades. Of the fifteen crossings identified in the DEIS for this segment, PUCO already has determined that no improvements are warranted at eight crossings.¹⁹ For the remaining seven crossings in the DEIS, improvements that meet or exceed the DEIS requirements have been funded and scheduled for installation at five of the crossings.²⁰ Another crossing, 155 798S, does not trigger mitigation thresholds when 1992-96 data are applied to the DOT formula. Only as to one crossing on this line segment, 155 821J, would further consultation be appropriate if the increased traffic were indeed Transaction- related.

CSX is required to consult with the states regardless of whether the Board so orders. By ordering specific mitigation at a particular crossing, however, the Board runs the risk of inconsistent treatments at different crossings. A better approach would be to direct Applicants to consult with the party with the most expertise in this area, the state, to determine the appropriate level of improvement that may be warranted. This approach has worked successfully in the past and should be allowed to continue here.

¹⁹ These crossings are 155 789T, 155 799Y, 155 812K, 155 814Y, 155 819H, 155 820C, 155 839U, and 155 840N.

²⁰ These crossings are 155 755Y, 155 794P, 155 804T, 155 818B, and 155 838M.

C. The DEIS Overstates the Problem

Not only should the SEA allow the established regulatory process to address the potential safety issues identified in the DEIS, but a review of the DEIS reveals that only a few of the CSX crossings at issue actually may require additional mitigation.

First, as noted above, the fifteen crossings on the Toledo to Deshler line segment are not experiencing any traffic increases because of the Transaction. Thus, these fifteen crossings should not be subject to any mitigation.

In addition to these non-Transaction related crossings, CSX's consultant, ICF Kaiser, reviewed the DEIS methodology to determine whether the sixty-two (62) CSX rail crossings identified in the DEIS, including the fifteen on the Toledo to Deshler segment, were appropriately categorized. The results of ICF Kaiser's review are presented at Exhibit 5. This Exhibit has four components: (1) a report from ICF Kaiser summarizing its findings, (2) an appendix²¹ with a description of the current status at each crossing, (3) a summary table that highlights crossings where the DEIS incorrectly applies its own criteria and where mitigation would not be triggered if the most recent accident data (1992-96) were applied to the DEIS methodology, and (4) a table that contains ICF Kaiser's analysis as to all the CSX crossings. An explanation of the results of ICF Kaiser's review follows.

The DEIS separates highway/rail crossings into two categories. Category A consists of highway/rail crossings with an accident frequency rate of at least one accident every seven years (0.15 or higher accident frequency rate). The DEIS considers a projected accident frequency

²¹ For twenty-two of the crossings, the DEIS apparently lists an incorrect city, street or DOT crossing number. This information has been corrected in the Appendix prepared by ICF Kaiser. Crossings where information has been corrected are noted with an asterisk.

increase of 0.1 or greater for these crossings to be significant. Category B consists of highway/rail crossings with accident frequency rates of less than 0.15. For these crossings, a projected increase in accidents of 0.01 (an accident every 20 years), is viewed as significant.

ICF Kaiser identified eight (8) crossings that do not meet the DEIS Category A or Category B significance criteria. See Table 1 at Exhibit 5. It appears that the DEIS relies on the post-Transaction accident rates to determine whether a threshold was reached. If the correct pre-Transaction threshold is used, then no mitigation is required. Consequently, these crossings should be eliminated from further consideration. The crossings in this category are as follows:

342 417R	155 484V
155 632M	155 615W
155 496P	228 774H
155 391B	228 780L

ICF Kaiser's review also identified twenty-three (23) crossings where the state agency with jurisdictional authority already has reviewed the crossing, independent of the Transaction. These crossings already have in place, or are funded and scheduled to have in place, improvements that meet or exceed the recommendations in the DEIS. Consequently, these crossing should be eliminated from further consideration. The crossings in this category are:

142 179X	502 682Y
345 318D	155 755Y
345 329R	155 794P
342 470C	155 804T
342 481P	155 818B
342 416J	155 838M
342 425H	155 372W
342 850J	142 366F

155 645N	518 456X
518 507F	518 476J
532 688W	518 382H
142 178R	

For one crossing, 155 392H, the Indiana Department of Transportation already has reviewed the crossing and determined that the appropriate upgrade would be additional gates and improved control circuitry. The DEIS recommends a four-quadrant gate or a median barrier. As noted above, state transportation agencies are in the best position to determine the appropriate level of warning device that should be installed at each crossing in its jurisdiction. Thus, the decision of Indiana's DOT should be afforded deference. Consequently, this crossing should be eliminated from further consideration in the FEIS.

One crossing, 342 473X, was closed on May 22, 1996. Consequently, this crossing should be eliminated from further consideration.

ICF Kaiser identified another nine (9) crossings where the state agency with jurisdictional authority has begun analyzing the crossing. As of this date, however, final decisions have not been made and funding has not been approved. These state reviews should be permitted to continue. CSX will inform the appropriate state agency of the information in the DEIS relevant to each of these crossings. The crossings in this category are:

342 493J	155 465R
342 413N	155 476D
155 633U	155 380N
155 419P	511 027V
155 394W	

For the remaining twenty (20) crossings, ICF Kaiser reapplied the DEIS formula using more current accident history data than was available to the SEA. The FRA recommends that the accident data applied to the DOT formula be limited to the most recent five²² years. The DEIS relies on data from 1991-95 in its analysis. Since the completion of the DEIS, however, data from 1996 has become available. ICF Kaiser applied the more current data from 1992-96 to the DEIS methodology and found that sixteen (16) of these crossings²³ no longer triggered the DEIS category A or B significance criteria. These crossings are:

518 391G	155 799Y
342 829D	155 812K
155 637W	155 814Y
232 122V	155 819H
155 789T	155 820C
155 840N	155 839U
155 760V	155 395D
155 798S	345 269J

For the four (4) crossings not eliminated by the 1992-96 data, one is on the Toledo to Deshler line segment and should not be subject to any Transaction-related impacts (155 821J). For the three (3) remaining crossings, CSX agrees that further consultation with state officials may be appropriate to determine whether an upgrade is warranted. These crossings are:

345 246C	345 362R
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²² See DOT/FRA Railroad-Highway Grade Crossing Handbook (FHWA-TS-86-215) (2d. Ed.) (Sept. 1986) at 73 (stating that “[a]ccident history information older than five years may be misleading because of changes that occur to crossing characteristics over time.”)

²³ As is noted on Table 1, all eight (8) crossings that the DEIS incorrectly identified as triggering a threshold also would not require mitigation using the 1992-96 data.

345 331S

9-11 Transportation: Highway/Rail At-Grade Crossing Delay

9. Increased Train Timetable Speeds

This recommended mitigation measure was deleted in the Supplemental Errata to the

DEIS.

10. Highway/Rail At-Grade Crossing Delay: Grade Separation Recommended The DEIS identifies Randolph Street in Garrett, Indiana as an at-grade crossing which meets the significance criteria for traffic delay mitigation, including for construction of a grade separation. This determination does not come as a surprise, as CSX has been in discussions with the City of Garrett and the Indiana Department of Transportation since 1995 regarding the possibility of a separation. There appears to be general agreement that the project has merit. Preliminary designs have been completed.

The unresolved question has been whether and when the project will receive priority for funding by the Indiana DOT. A railroad typically contributes five percent (5%) toward the construction of a grade separation where, as here, the separation will allow a grade crossing to be closed. CSX has offered to contribute more than the typical share because of the operational benefits of this separation. However, the Indiana Department of Transportation has not to date allocated funding for the balance. Discussions are ongoing and CSX is optimistic that the project will be funded and constructed.

The DEIS has served the purpose of identifying a crossing with a potential vehicle delay problem to the appropriate authorities -- the City of Garrett and the Indiana Department of Transportation. In this case, as explained above, the appropriate authorities were already aware of the situation, independent of the Transaction. There is no reason why the FEIS must recommend any further action with respect to this matter.

Moreover, 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 cannot find any statutory authorization by which the Board could compel the Indiana Department of Transportation to

enter into binding arbitration against its will, and it appears that Constitutional limitations would prohibit such a compelled arbitration. Perhaps the Indiana Department of Transportation would agree to such an arbitration (provided that state law would permit it to arbitrate a matter involving expenditure of public funds) as a condition on its availing itself of the Board's conditioning power, but it is far from clear why it would choose to do so. An arbitration is not a free-for-all. Like more formal legal proceedings, an arbitration proceeds through the application of rules to facts. The DEIS does not suggest any rules to determine the appropriate share of a grade separation at Randolph Street to be paid by CSX. CSX submits that the controlling precedent for determining CSX's share is set forth in the decisions of the Board's predecessor and in the Highway Safety Act of 1973 and regulations promulgated thereunder by the Secretary of Transportation, as explained below. The law is clear -- CSX's share of the cost of building a grade separation at Randolph Road should be 5 percent.

After a comprehensive investigation of train/motor vehicle accidents at rail-highway grade crossings, the ICC made the following finding:

(13) That highway users are the principal recipients of the benefits flowing from rail-highway grade separations and from special protection at rail-highway grade crossings. For this reason, the cost of installing and maintaining such separations and protective devices is a public responsibility and should be financed with public funds the same as highway traffic devices.

Interstate Commerce Commission Report No. 33440, Prevention of Rail-Highway Grade-Crossing Accidents Involving Railway Trains and Motor Vehicles, *supra*, 322 I.C.C. at 87.

The same policy consideration underlies 23 U.S.C. § 130(b), which governs the use of federal funding for the elimination of hazards of rail-highway crossings, including construction of

grade separations. Section 130(b) provides that the Secretary may require a railroad to pay for that share of a grade separation which represents the "net benefit to the railroad," but in no case greater than 10 percent. The Secretary has exercised his statutory authority under this provision through regulation at 23 C.F.R. § 646.210(b) and capped the railroad share at 5 percent:

(1) Projects for grade crossing improvements are deemed to be of no ascertainable net benefit to the railroads and there shall be no required railroad share of the costs.

* * *

(3) On projects for the elimination of existing grade crossings at which active warning devices are in place or ordered to be installed by a State regulatory agency, the railroad share of the project costs shall be 5 percent.

(4) On projects for the elimination of existing grade crossings at which active warning devices are not in place and have not been ordered installed by a State regulatory agency, or on projects which do not eliminate an existing crossing, there shall be no required railroad share of the project cost.

There is no apparent reason why the unanimous conclusion of the Board's predecessor, Congress and the Secretary of Transportation as to the appropriate share of railroad funding for a grade separation should be liable to be set aside by an arbitrator (or set aside by the Board) simply because attention has been drawn to a grade crossing through the NEPA review of a control transaction. There is no basis in any of this authority for penalizing a railroad by requiring a greater share from it on the ground that it has increased train traffic through a grade crossing, either by growing its business or because it has decided to reroute trains to provide more efficient service, whether in the context of a control transaction or otherwise.

CSX respectfully submits that the Board need not venture into these waters fraught with such legal uncertainty. As with grade crossing protection, there are well-established federal and

state programs and procedures for identifying and funding grade separations. The persons responsible for those programs will evaluate Randolph Street in light of the train traffic levels predicted in the CSX Operating Plan, and will balance the needs in the City of Garrett against the needs in other cities and towns in Indiana which may be as great or greater but which do not happen to be affected by the Transaction. Because the Board has chosen to undertake an EIS, it does not need to mitigate every potentially significant impact prior to approval of the Transaction.

11. Highway/Rail At-Grade Crossing Delay: Consultation Recommended

The DEIS (Supplemental Errata) identifies seven at-grade crossings on the CSX system which meet the significance criteria for traffic delay mitigation, but which do not meet the criteria for construction of a grade separation. The DEIS recommends that CSX consult with appropriate agencies to address potential traffic delay at these crossings. In the event that these consultations do not result in binding agreements, the DEIS suggests that the FEIS may recommend that CSX participate in the implementation of specified traffic delay mitigation. The seven crossings are as follows:

Dixie Hwy., Blue Island, IL
Broadway-135th St., Blue Island, IL
95th St., Evergreen Park, IL
E. 9th St., Hopkinsville, KY
W. Noel Ave., Madisonville, KY
Vine St, Hamilton, OH
Township Ave., Cincinnati, OH

A. The DEIS Performed Its Function As a Screening Tool

The DEIS identified these crossings for potential mitigation based on application of the Highway Capacity Manual Level of Service criteria for signalized intersections to the railroad grade-crossing context. This is the first time SEA has utilized this approach in assessing vehicle delay at grade crossings. CSX might have selected a somewhat different model. See the report of ICF Kaiser at Exhibit 6. However any model which includes only a limited number of factors can only be used as an initial screening tool for more detailed analysis.²⁴ CSX thus does not recommend using a different model in the FEIS.

²⁴ The DEIS formula is based on the following six factors: length of train, train speed, number of trains per day, average daily vehicle traffic, vehicle flow rate and number of road lanes.

CSX believes that it is the appropriate function of the EIS in this context to perform an initial screening analysis. This analysis provides a basis for the Board to determine whether the Transaction will cause widespread traffic delay problems. In light of the relatively limited number of crossings identified through this screening analysis, the Board can be confident that the Transaction will not produce this adverse effect.

Before mitigation is determined to be appropriate at a particular crossing, however, the screening analysis must be followed by much more detailed analysis. That detailed analysis requires site-specific information. CSX does not believe that this site-specific analysis should be undertaken by the Board through the environmental review process. That is the province of state and local transportation agencies. Those agencies have both the expertise regarding local conditions and the ability to prioritize local needs which the Board lacks. The appropriate recommendation with respect to the seven crossings identified as raising vehicle delay concerns is for CSX to consult with state agencies. It should then be entirely up to the state agencies to determine whether anything, and if so what, should be done.

B. Evaluation of the Seven Crossings Recommended for Consultation

With respect to three of the seven crossings, it appears that the significance criterion of the screening assessment (decrease to a post-Transaction level of service ("LOS") of D) would not be met if the best available information were used. These crossings are:

Dixie Hwy., Blue Island, IL
Broadway-135th St., Blue Island, IL
E. 9th St., Hopkinsville, KY

Therefore, these crossings should be deleted in the FEIS.

The Blue Island crossings are both on the Barr Yard to Blue Island line segment in the Chicago area. Based on the increased train traffic on the line, the DEIS predicts a decrease in LOS from B to D. In fact, however, ICF Kaiser has determined that LOS, as measured in the DEIS, will actually increase from a present level of E to C. See Exhibit 6, Table 1. The DEIS assumes a train speed of 20 mph both before and after the Transaction. In fact, however, average train speeds at these crossings are presently closer to 10 mph than 20 mph because of movements in and out of Barr Yard. Average train speeds after the Transaction are expected to average about 25 mph. This segment will benefit from the capital improvements planned for the Chicago area in connection with the Transaction and the implementation of the CSX Operating Plan which will allow for more fluid movements through Chicago, including in and out of Barr Yard. Accordingly, CSX expects that vehicle delays at the Dixie Highway and Broadway-135th St. crossings will decrease as a result of the Transaction even though more trains will operate through the crossings. CSX does not believe that any further mitigation is appropriate.

The DEIS also predicts a decrease to a post-Transaction LOS of D at the East 9th Street crossing in Hopkinsville, KY, based on an ADT of 16,000. The most current information from the Kentucky Transportation Cabinet, however, puts the ADT at 9,040. ICF Kaiser has computed the post-Transaction LOS using the more recent ADT as C, which does not warrant mitigation under the criterion of the DEIS. See Exhibit 6, Table 1. CSX therefore does not believe that consultation is required with respect to this crossing.

The DEIS should not be faulted; it could not reasonably take into account such specific information in the case of all the grade crossings to be examined on a 44,000-mile rail system. The DEIS has well performed its function as an initial screening tool.

CSX believes that it is appropriate to undertake consultation with respect to the remaining four crossings. It should be noted, however, that three of the remaining crossings are expected to experience increases of only three trains/day. These crossings are:

95th St., Evergreen Park, IL
Vine St, Hamilton, OH
Township Ave., Cincinnati, OH

With such a small predicted increase in train traffic, it is very difficult to determine in advance the actual effect of the Transaction on traffic delay. An increase in train traffic may not even occur on Day One. In addition, the daily operating time schedule of all the trains on these segments, which can make a material difference in vehicle delay, is not presently known. Moreover, a slight increase in average speed could effectively cancel out any increased vehicle delay from the few additional trains. With respect to 95th Street in Evergreen Park, IL, for example, the improvements in traffic flows in the Chicago area as a result of the implementation of the CSX Operating Plan might increase average speeds through this crossing such that vehicle delays might actually decrease at the crossing. It would thus not be surprising if the state agencies thought it prudent to take a "wait-and-see" approach with respect to these crossings.

With respect to the final crossing identified in the DEIS -- West Noel Ave. in Madisonville, KY -- it is worthy of note that this crossing will have a post-Transaction LOS of D, as measured in the DEIS, only because CSX defers to a local ordinance and operates through town at 20 mph. The track would permit speeds up to 50 mph. CSX would only have to operate at 25 mph to bring the LOS to C under the formula used in the DEIS. It would not be appropriate to require CSX to undertake any mitigation for vehicle traffic delay under these circumstances. Moreover, the City of Madisonville informed the Board by letter dated

January 20, 1998 that it did not believe any mitigation was warranted at this crossing.

It should be clear from this discussion that the final determination whether there is in fact a vehicle delay problem at these crossings and, if so, what mitigation might be appropriate, should be left to the state and local agencies which ordinarily handle these matters. There is no reason why the Board should intervene in this process.

12. Noise

A. The DEIS Indicates That There Are Not Widespread Significant Noise Impacts

The DEIS provides a comprehensive analysis of potential noise impacts and concludes that communities on only seven line segments (five CSX, one NS, and one in a Shared Assets Area) may have significant adverse noise impacts. In light of this analysis, the Board can be confident that the Transaction will not produce widespread unacceptable noise impacts.

The DEIS correctly reports that noise levels on some line segments will increase with increases in train traffic as a result of rerouting and diversions of traffic from other rail carriers and trucks. Where there is a rerouting or a diversion from another rail carrier, there will be commensurate decreases in noise impacts along other rail line segments. Where there is a diversion from trucks, there will be a commensurate decrease in noise impacts along the highways from which the freight was diverted. These decreases in noise levels were not specifically documented in the DEIS given the enormity of the task and the absence of a need for such particularized information. However, the FEIS should clearly acknowledge that there will be reduced noise levels along some line segments and highways in order to place in context the documented increases in noise.

The DEIS 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. The DEIS concludes that mitigation for wayside noise is warranted where the wayside noise level exceeds 70 dBA L_{dn} and where the increase in wayside noise level as a result of the Transaction is 5 dBA L_{dn} or greater.

CSX will undertake field investigation of noise impacts on the identified line segments to better define the impacts. The DEIS employs a conservative screening methodology which is not designed to fully account for the effects of shielding, topography and background noise levels. The screening methodology thus overstates the actual noise impacts. Relevant local conditions will be identified during the field investigation. If it appears that the mitigation threshold criteria of the DEIS are met in a particular area, CSX will evaluate potential mitigation strategies.

B. SEA Should Exercise Caution in Imposing Noise Mitigation Measures Beyond Those Required by EPA

To our knowledge, this is the first time that significance criteria for wayside noise impacts have been suggested in a Board environmental review process. CSX believes that the significance criteria of 70 dBA and a 5 dBA increase set forth in the DEIS are reasonable. However, any form of Board-imposed mitigation for wayside noise is problematic for a number of reasons.

First, as stated above, horn noise predominates over wayside noise, but horn noise cannot legally be curtailed. Thus, the persons who experience the highest levels of railroad noise are those who live near grade crossings where the horns are sounded, but those residences are not in the areas proposed for mitigation. Horn noise levels drop as one moves away from grade crossings until at some point the wayside noise predominates. The areas which are candidates for mitigation under the DEIS criteria typically include a few houses at the edges of towns. Although the mitigation criteria make sense from a logical perspective, from a practical perspective it might seem odd to the residents of New London, Ohio, for example, that CSX might propose, or the

Board might require, the construction of a noise barrier for a handful of residents on the outskirts of town who experience lower noise levels than the other residents of the town.²⁵

Second, the issue of railroad noise has not, of course, arisen for the first time in this proceeding. The Environmental Protection Agency ("EPA"), in consultation with the Department of Transportation, regulates noise emissions from railroad equipment and facilities pursuant to Section 17 of the Noise Control Act of 1972, 42 U.S.C. § 4916. EPA has chosen to regulate by controlling the noise emissions at the source (locomotives and rail cars) and has rejected the approach of shielding receptors by noise barriers.²⁶ Inconsistent state and local regulation is expressly preempted. 42 U.S.C. § 4916(c). The areas proposed for mitigation were identified because of Transaction-related changes in train traffic (and thus noise levels) on the line segments. The absolute noise levels expected in these areas after the Transaction, however, are comparable to those experienced and to be experienced in many other communities at present and post-Transaction. In setting its noise emission standards, EPA has determined that these noise levels are acceptable. The Board should thus consider carefully whether it is prudent to impose additional noise mitigation measures as conditions in this proceeding.

As stated above, CSX is in the process of field investigation of the areas identified as potentially warranting mitigation and evaluation of possible mitigation strategies. Based on this analysis, CSX will determine whether consultation is appropriate with certain local governments.

²⁵ This concern does not apply in Cleveland and East Cleveland where the line through the residential areas is entirely grade separated and therefore horn noise is not an issue. CSX has already undertaken field investigation on the Mayfield to Marcy, OH and Quaker to Mayfield, OH line segments and has recently presented a proposed noise mitigation plan to the Cities of Cleveland and East Cleveland.

²⁶ EPA's regulations are described more fully in the comments of NS.

As noted above, CSX has already proposed a noise mitigation plan to Cleveland and East Cleveland and will continue to consult with those jurisdictions about that proposal.

C. There Are No Transaction-related Impacts on
the Deshler to Toledo Line Segment

With respect to the Deshler to Toledo line segment, CSX does not believe that any mitigation is appropriate in connection with Finance Docket No. 33388 because any impacts (noise or other) are not related to the Transaction. The CSX Operating Plan, which provides the basis for the traffic figures in the DEIS, provides 1995 base figures and post-Transaction projected figures. The 1995 base for the CSX Deshler to Toledo line segment is 0.6 trains per day, and the projected post-Transaction traffic is 14.2 trains per day, for an increase of 13.6 trains per day on average. This increase led to the conclusion in the DEIS that the Transaction would result in certain impacts (including noise impacts) on this 36-mile line segment. However, in May, 1997, CSX resumed through train operations over the Deshler to Toledo line segment for reasons unrelated to the Transaction. Present traffic on the line is about 14 trains per day. There will thus be no significant Transaction-related impacts on this line segment and thus no mitigation would be appropriate in connection with this proceeding.

14, 16, 17. Cultural and Historic Resources.

14. Exermont, IL

The DEIS recommends that CSX undertake no construction or modification of a new rail line connection in Exermont, Illinois until completion of the Section 106 process of the National Historic Preservation Act (16 U.S.C. 470f, as amended) (the "Section 106 process").

CSX will comply with this condition. On January 28, 1998, CSX provided the latest set of construction drawings to SEA and its contractors so that a Phase II archeological survey of the area in question could be completed by SEA's contractors.

16. 75th Street Interlocking Tower

The DEIS recommends that CSX maintain its interest in and take no steps to alter the historic integrity of the 75th Street Interlocking Tower in Chicago, IL until completion of the Section 106 process.

The proposed demolition of the 75th Street Interlocking tower is in no way related to this Transaction. The proposed connection at 75th Street will not affect the tower. CSX automated the 75th Street Interlocking in the fall of 1997 to improve operations through the interlocking. The tower is slated for demolition because it is no longer needed to control the interlocking.

Nonetheless, CSX has agreed to work with SEA and the Illinois State Historic Preservation Officer to document the tower before it is demolished.

17. Collinwood Rail Yard, Cleveland, OH

The DEIS recommends that CSX complete cultural and historic resource documentation for the Lake Shore and Michigan Southern (New York Central) Shops District at the Collinwood rail yard in Cleveland, Ohio no later than 180 days following the effective date of a final written

decision by the Board. Based on CSX's understanding of the documentation required, CSX will comply with this condition. CSX would like this work to commence as soon as possible to ensure that there is adequate time to complete it before construction planned for the yard begins. The Collinwood Yard will play a major role in CSX's planned intermodal services between the Eastern U.S. and Chicago, and its expansion will facilitate the environmentally-beneficial truck diversions that are projected.

19. Environmental Justice

In Finance Docket No. 33388, SEA is undertaking for the first time a specific analysis of the "environmental justice" effects of a proposed railroad control transaction. The DEIS presents the minority and low-income percentage of the population residing in the area potentially affected (as defined in the DEIS) by increases in traffic on rail line segments, increases in activity at rail yards, increases in truck traffic to intermodal facilities, and construction of new connections. Vol. 5A, App. K. The DEIS then recommends that CSX consult with communities having a certain percentage of minority and low-income individuals (often less than 50%) regarding mitigation of certain effects the DEIS says are "high and adverse." If that consultation does not result in binding agreements to implement mitigation measures, the DEIS indicates that the FEIS may recommend that such measures be imposed as conditions.

CSX strongly believes that the procedures used by the Board in all prior control transactions were adequate to ensure nondiscrimination in those proceedings and are adequate to ensure nondiscrimination in this proceeding. Demographic analysis is not required to protect against discrimination because the Board's implementation of the NEPA process applies neutral criteria to identify potential impacts and recommend mitigation throughout the entirety of the rail systems involved in the control proceeding. The DEIS improperly applies an analytical framework developed in the very different context of facility siting decisions to the analysis of operational changes on a fixed rail infrastructure. The proper analysis in this context requires a systemwide approach. Systemwide, this Transaction does not disproportionately affect minority or low-income populations.

In Executive Order No. 12898, dated February 11, 1994, President Clinton directed federal executive branch agencies to examine the effects of their actions on minority and low-income communities. Specifically, the Executive Order (Section 1-101) provides:

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

The Executive Order requests that independent agencies, like the STB, comply with the Order. Section 6-604. The DEIS acknowledges that the STB is not bound by the terms of Executive Order 12898. Vol. 1 at 3-46. To the extent that the Order requires that the Board undertake a special demographic analysis, the Board should exercise its discretion not to do so. However, CSX believes that the Board may fully comply with the Executive Order through its existing regulations and procedures.

A. The Board's Traditional Environmental Review Process Adequately Protects Against Discrimination

Without expressly stating that it was conducting an "environmental justice" analysis, the Board has always applied the principles of the Executive Order through its existing environmental review process as set forth in its regulations (49 C.F.R. Part 1105). The effort reflected in the DEIS to develop new procedures to achieve those objectives is unnecessary. The DOT, for example, has made it clear that the Executive Order does not necessarily require any new process at all:

The Department does not intend that this Order be the first step in creating a new set of requirements. The objective of this Order is the development of a process that integrates the existing statutory and regulatory requirements in a manner that helps ensure that the interests and well being of minority populations and low-income populations are considered and addressed during transportation decision making.

62 Fed. Reg. 18377, 18378 (April 15, 1997). To date, the Board has not published an environmental justice strategy or other guidance document on implementation of the Executive Order. If the Board believes that it should adopt new procedures to comply with the Executive Order, the Board should initiate a rulemaking. CSX respectfully submits that it is not appropriate to launch a major new requirement in the environmental review process of this proceeding without prior public notice and comment.

It is not necessary for the Board to undertake special demographic analyses of the particular action presented here -- the approval of a railroad control application. The Board correctly decided that such an analysis was not required in its review of the Burlington Northern/Santa Fe and Union Pacific/Southern Pacific railroad control proceedings, both of which post-dated Executive Order 12898.

1. This Railroad Control Proceeding Does Not Present An Opportunity for Discrimination By the Board

The federal action at issue here -- the Board's decision whether to approve this Transaction -- does not present the potential for discrimination that the Executive Order was designed to protect against. Section 2-2 of the Executive Order sets forth the Order's substantive standard:

Each federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such programs, policies, and activities, because of their race, color, or national origin.

As with prior control applications, SEA has undertaken a comprehensive analysis of potential environmental impacts from this Transaction, independent of demographic considerations. This is not a situation in which an impact on minority or low income individuals might be overlooked, as the same analytical methods to identify potentially significant impacts were applied to all line segments, yards and intermodal facilities. Similarly, this is not a situation in which impacts on minority or low income persons could be dismissed or treated as less serious than impacts on others, because criteria for recommending mitigation were applied neutrally. Even making the unwarranted assumption that the Board might have some desire to discriminate (which it most assuredly does not), it did not have readily available demographic data to include or exclude impact areas on this basis. Given the lack of data, if for no other reason, everyone had to be treated equally.

Moreover, this is not a situation in which certain communities might be excluded from participating in the environmental review process. Notice of the proceeding and relevant information were widely circulated -- through distribution of Applicants' Environmental Report, the draft and final scoping notices, information packages from SEA, the DEIS and other means -- to more than 2,000 federal, state and local agencies everywhere where there could be environmental impacts from the Transaction throughout the eastern United States and the

Midwest. Moreover, the DEIS was translated into Spanish, and CSX understands that SEA is undertaking various outreach efforts in minority and low-income areas.

Thus, a demographic analysis is not necessary to ensure nondiscrimination. Where neutral criteria are plainly applied across the board, and no persons are excluded from the process, the Board can complete its environmental review without special consideration of race, national origin and income status.

Furthermore, CSX does not read the Executive Order to require preferential treatment of minority and low-income persons, so demographic information need not be considered for this purpose. Nothing in the Executive Order requires mitigation for safety concerns, noise, or traffic delay in one community but not a second community similarly situated with respect to the expected level of impacts, the only difference being the demographic composition of the communities. That is not to say, however, that where the Board determines that mitigation is warranted in a community based on neutral criteria, consultation about the most effective implementation of the mitigation is inappropriate. As discussed above, the Board uses screening assessment tools to identify problem areas, but the resolution of problems will often be more effective if specific local conditions are taken into account.

2. This Railroad Control Proceeding Does Not Present An Opportunity for Discrimination By CSX or NS

Similarly, application of the Order to this railroad control proceeding is not necessary to protect against any potential discrimination by CSX or NS. CSX and NS must take Conrail's rail network as it is; they propose to build a few short connections between existing lines, but are not building new routes. There were thus no significant decisions to be made regarding where to site

new facilities, the classic situation in which special environmental justice analyses have been undertaken.

Moreover, neither CSX nor NS had any reason either to favor or disfavor minority or low income populations in deciding how to route their trains after the Transaction. The factors which were taken into account in routing trains were transportation-related, and are discussed in the Operating Plans.²⁷

As the verified statements of John W. Orrison and D. Michael Mohan (Application Vols. 3A and 3B) attest, the Operating Plans for the expanded CSX and NS systems and for the Shared Assets Areas were devised to route freight traffic so as to provide the quickest, safest and most cost-effective rail transportation possible east of the Mississippi River, to the benefit of persons of every racial and income group. Some lines, yards and intermodal facilities will experience increased traffic under the Operating Plans, and some will experience decreased traffic.²⁸ Because minority and income status of populations in the vicinity of rail lines were not factors in the decision how to route the trains, it is to be expected that the increases and decreases in traffic over the 44,000 miles of rail lines at issue in the Transaction will be borne by minority and nonminority groups and persons of various income levels in reasonable proportion to their

²⁷ The primary factors are the origin and destination points for the expected freight shipments, geographic factors such as route distance and terrain, and the capacity of the tracks, yards and intermodal facilities.

²⁸ Systemwide, the total volume of rail freight traffic is predicted to increase because of the Transaction, with corresponding environmental benefits from decreased truck traffic. Systemwide, the total amount of activity in rail yards is expected to decrease because the expanded systems will allow for longer hauls and better blocking opportunities, with associated environmental benefits.

presence along the rail lines. As explained in NS' comments on the DEIS, that is what a statistical analysis conducted in response to the DEIS in fact demonstrates.

Thus, because of the fundamental nature of a major railroad control application and the standard environmental review thereof under NEPA, there is no significant risk of discrimination against minority and low-income populations. The Board should conclude that its existing procedures for control transactions fully satisfy Executive Order 12898. To the extent that the Board believes that the Order requires something more than its existing procedures in control transactions, the Board should exercise its discretion not to apply Executive Order 12898 in this proceeding. The appropriate procedure would be to initiate a notice and comment rulemaking for application to future Board proceedings. Such a procedure would allow for a full and open exploration of the criteria to be used in any environmental justice analysis to be undertaken in future cases.

B. If the Board Chooses to Apply a Demographic Analysis, It Must Employ a Methodology That is Consistent With the Executive Order

As is apparent from SEA's discussion of environmental justice (Vol. 1 at 3-46 to 3-52; Vol. 5A at K-1 to K-12), neither the Executive Order nor any guidance promulgated to implement the Order directly addresses the type of federal action presented here -- approval of a major railroad control transaction. The Department of Transportation's final order establishing procedures for applying the Executive Order to DOT programs, dated April 15, 1997, provides the most relevant guidance as it was drafted with transportation systems in mind, but even it stops far short of setting forth any directly applicable methodology. Department of Transportation Order to Address Environmental Justice in Minority Populations and Low-Income Populations, 62 Fed. Reg. 18377 (Apr. 15, 1997). Accordingly, SEA was faced with the challenging task of devising an analysis for this Transaction without any precedent and with very little guidance.

1. The Scope of Review is Too Broad

The Board should have limited the scope of its environmental justice review to new construction projects, and perhaps abandonments, related to the Transaction. The situation presented here is quite different from the situation which typically gives rise to an environmental justice concern -- the siting of a new facility. The railroad rights-of-way presently owned by CSX, NS and Conrail were established beginning in the mid-nineteenth century and were largely determined by the early twentieth century. Land was developed along the railroad tracks with full

knowledge that freight trains moved over the tracks.²⁹ It is, therefore, not appropriate to apply environmental justice methodologies developed in the context of choosing a site for a new facility.

In the draft scoping notice for the EIS, SEA had proposed to apply environmental justice analysis only to the proposed new construction projects and abandonments, which was consistent with the usual application of the concept. In the final scoping notice, SEA expanded the scope of its environmental justice analysis to include traffic and activity changes on existing infrastructure. SEA had it right the first time.

²⁹ The level of freight traffic on any given rail line varies through the years, sometimes greatly, with shifts in the origin and destination of shipments, the overall level of economic activity, plant closings and openings, competition from other railroads, development of substitute products for those shipped by existing rail customers, competition from trucks, and other factors. Moreover, a railroad's decision to change the level of traffic on a line is not ordinarily subject to review by any federal agency. Accordingly, it would not be reasonable for any individual or community along a rail line to expect that the level of traffic which existed in 1995 or any other year would never change.

What persons living along a rail line can expect, however, is that railroads will operate through their communities in compliance with company policies, railroad industry standards, and federal regulations designed to protect their health and welfare. Railroads are, of course, subject to comprehensive legal requirements imposed by the Federal Railroad Administration, Environmental Protection Agency, and other agencies. CSX, NS and Conrail also have adopted a host of industry standards and have implemented their own company-specific programs, particularly in the area of safety, which go beyond federal regulation. The company policies, industry standards and regulations are designed to promote safety and protect the environment whether one train or one hundred trains per day utilize a line. And it should go without saying that the company policies, industry standards and regulations are designed to provide the same high level of protection to all persons living in proximity to rail lines, regardless of their race, national origin or annual income.

2. The DEIS Fails to Determine Whether the Proposed Action Will Have a Disproportionate Effect on Minority and Low-Income Populations

Executive Order 12898 quite purposefully did not direct federal agencies to identify and address all "high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations." Section 1-101. Rather, the Order directed federal agencies, where "practicable" and "appropriate," to identify and address "disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations." *Id.* (emphasis added).

The DEIS writes the critical disproportionality requirement out of the Order. Although the DEIS acknowledges the disproportionality requirement several times (Vol. 1 at 3-47, Step 4; Vol. 5A, App. K at K-3 and K-10), it is never applied.

The DOT Order defines the disproportionality requirement as follows:

g. Disproportionately high and adverse effect on minority and low income populations means an adverse effect that:

(1) is predominately borne by a minority population and/or a low-income population, or

(2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

62 Fed. Reg. at 18381. The DEIS adopted the first part of the definition at Vol. 5A, page K-10.

Significantly, however, it improperly truncated the second part of the definition to omit the

reference to the comparative effects suffered by non-minority and non-low-income populations.

Id.

As explained below, CSX believes that analysis of disproportionality requires a statistical analysis of all the persons affected by the Transaction. The DEIS did not present any such statistical analysis. It did not present any analysis which compared the impacts on non-minority and non-low-income persons to those on minority and low-income persons. The DEIS states the following as its sole explanation of the methodology for determining whether adverse effects disproportionately affect minority or low-income communities:

SEA used qualitative analysis approach which included review of several different factual circumstances, including cumulative effects of exposure to health and environmental impacts from many sources, to determine the significance levels on a local case-by-case basis. A determination of a significant environmental justice impact specifically included SEA's consultation with affected communities.

Vol. 5A at K-10 to K-11. With all due respect, this analysis is relevant only to the question whether certain effects are "high and adverse," not whether they disproportionately affect certain populations. The answer to the question whether an impact is disproportionate cannot come from consultation with minority and low-income populations, who presumably have little knowledge of how other communities are being affected by the Transaction. The answer must come from statistical analysis to determine whether similar impacts occur in other communities which are not predominately minority or low income.

In order to determine whether the Transaction would have disproportionate effects on minority or low-income populations, one would need to assess the systemwide effects of the

proposed train traffic patterns on the populations along the 44,000 miles of rail line presently owned by CSX, NS and Conrail which are at issue in this Transaction.³⁰

The DEIS may have sought to avoid analysis of the disproportionality requirement because a rigorous application of that requirement to a rail transaction involving 44,000 miles of rail line would have been more difficult by many orders of magnitude than any such analysis performed under the Executive Order to date. The correct response, however, to this problem is for the Board to conclude that the type of demographic analysis in this context is not "practicable" and not "appropriate" (Executive Order Section 1-101), particularly because the Board is not even required to comply with the Executive Order. What is not permissible is for the DEIS simply to ignore this critical element of the analysis.

The DEIS compares the demographic composition of the population living in proximity to some of the rail line segments to that of the surrounding counties as a whole, but this is not an appropriate comparison group for purposes of analysis of disproportionality with respect to a fixed infrastructure such as a rail line system extending throughout the eastern United States. The DEIS may have been misapplying CEQ's formulation of disproportionality in taking this approach:

SEA used the following process to define whether an impact is disproportionately high and adverse on the affected population: 1) "determine whether environmental effects are significant, as employed by NEPA; and 2) determine whether these impacts are or may be having an adverse impact on minority populations or low-income populations that appreciably exceeds or is likely to exceed

³⁰ It is notable that the DEIS's summary of systemwide impacts did not even include environmental justice. Vol. 1 at 4-6. Environmental justice is improperly identified as only a "site-specific environmental issue."

those on the general population or other appropriate comparison group (CEQ Guidelines)."

Vol. 5A, App. K at K-3.

The DEIS analyzed the community around each individual rail segment as a separate population. While there may be some appropriate uses for a segment-by-segment analysis, a rail segment is not the equivalent of an individual facility, the typical subject of an environmental justice analysis. Segment end points are places where the level of train traffic changes, either because there is an origin or destination point, a rail yard or intermodal facility, or a junction point between rail lines. Rail segments vary greatly in length, from a minimum of one mile to a maximum of about 250 miles. The rail facility at issue in this Transaction is the entirety of the CSX, NS and Conrail systems. One should thus analyze the impacts on a systemwide basis. NS has undertaken a systemwide analysis of all CSX, NS and Conrail line segments using demographic information sorted by zip code which demonstrates that the Transaction will not have a disproportionate impact on minority or low income persons. The NS analysis is presented in its comments.

NS's analysis determined that the population in proximity to the rail lines involved in the Transaction is approximately 25% minority and 15% low-income.³¹ Of course, the composition of the individual communities along the rail lines varies from one end of the percentage scale to the other. CSX and NS do not control land use patterns, and cannot move their infrastructure. Therefore, any comparison of rail impacts can only be among the communities residing in proximity to the rail lines, not to persons residing elsewhere. Executive Order 12898 cannot

³¹ These figures are only very slightly higher than the composition of the United States as a whole, which is approximately 24% minority and 13% low-income.

prohibit rail transportation, or require mitigation which would be so extensive as to make rail transportation uneconomic, simply because some communities along rail lines have a higher percentage of minority and low-income persons than the rail population as a whole or the nation as a whole.³²

The NS analysis shows that the impact of the Transaction is not disproportionate because it is not "predominately borne by a minority population and/or a low income population." 62 Fed. Reg. At 18381. About 75% of the impact is borne by the non-minority population and about 85% of the impact is borne by the non-low-income population. In addition, the impact on minority and low-income persons is consistent with their proportion in the rail population as a whole.

Moreover, the adverse effect suffered by the minority population and/or low-income population will not be "appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population," the second criterion in DOT's definition of disproportionality. See id. The nature of the impacts are the same throughout the system, primarily safety concerns, noise and traffic delay. Using neutral criteria, the DEIS identifies the communities that are expected to experience significant impacts as a result of the Transaction. Some of these communities are predominately minority or low-income, and others are not. These are the segments to which mitigation is targeted. The

³² Taking the Executive Order to the extreme also points out how difficult it is in the context of a Transaction of this nature to account for the offsetting benefits to minority individuals and populations from rail traffic in terms of reduced truck traffic, improved employment opportunities supported by rail transportation, and other effects.

DEIS's "environmental justice" analysis is not necessary to ensure that these communities are not excluded from the benefits of mitigation.

C. Specific Recommendations for Consultation
with Communities with Significant Minority
or Low-Income Populations

The DEIS directs CSX to "consult with elected officials, appropriate local agencies, and community representatives" in the cities and towns listed on Table 7-9 to address the particular environmental impacts identified in Table 7-9, to the extent that those impacts are disproportionate. As explained above, this Transaction will not have a disproportionate impact on minority or low-income populations. There is thus no basis for directing CSX to embark upon special "environmental justice" consultations.

To the extent that (1) the application of neutral criteria has identified impacts potentially warranting mitigation, and (2) the crafting of the mitigation is properly informed by local considerations, CSX has undertaken and will continue to undertake consultations with appropriate officials regardless of the demographic composition of the community. With respect to the first point, because the Executive Order does not require a lower threshold for requiring mitigation in communities which are predominately minority or low income, there is no basis for directing CSX to consult with any communities in addition to those which have been identified for potential mitigation through application of SEA's neutral criteria.³³ With respect to the second

³³ Specifically, as explained below, SEA identified noise impacts on the Barr Yard-Blue Island, IL, Willow Creek-Pine Junction, IN, and Marion-Ridgeway, OH line segments, and at the 59th Street Chicago Intermodal Yard, even though the impacts do not meet SEA's neutral criteria for noise impacts. The DEIS states that although noise mitigation is not warranted "at this time," "noise effects have been included to consider potential cumulative effects." Vol. 4 at 7-48. CSX objects to any attempt to apply a cumulative effects analysis in this specific context. The DEIS includes no methodology for weighting and then cumulating the various adverse effects of rail traffic (grade crossing safety, traffic delay, noise, etc.). And of course there is no quantification in

point, there are some impacts which by their nature must be addressed through uniform, systemwide (if not nationwide) standards and are thus not the appropriate subjects of consultations with cities and towns designed to fine-tune mitigation in light of local conditions. Freight rail safety issues, including transportation of hazardous materials, fall into this category. Freight rail safety issues are comprehensively regulated by federal agencies, primarily the Federal Railroad Administration. State regulation is preempted by the federal regulatory scheme and by the Commerce Clause of the United States Constitution. Accordingly, it would not be consistent with sound transportation policy for CSX to undertake consultation with cities and towns regarding the design of special mitigation of any potential freight rail safety impacts identified in the DEIS. CSX will adhere to freight rail safety conditions proposed in the DEIS with respect to specific line segments that meet the DEIS' neutral tests of "significant impact." Further, CSX routinely meets with communities along its rail lines to discuss a wide variety of issues of interest to the communities. CSX will continue its community relations efforts. What CSX objects to is a discussion for the purpose of designing a special mitigation strategy for freight rail safety and hazardous materials transportation that would apply only in certain communities because of their demographic composition.

the DEIS of the benefits of the Transaction on a localized basis -- reduction of truck traffic, positive economic effects, and the like. It would be impossibly complicated to attempt such a cumulative impacts analysis in every community along the 44,000 miles of rail lines involved in this Transaction. NEPA does not require the impossible, nor does anything in the Executive Order on environmental justice require SEA to devise such a complex analysis specifically for minority and low-income populations. Independent evaluation of the neutral criteria for each of the impact areas SEA has devised and applied is sufficient.

The potential impacts which may be appropriate for consultation are thus grade crossing safety, traffic delay, and noise. The identification of the appropriate entity to consult with regarding appropriate mitigation measures depends on the nature of the issue.

The DEIS strongly encourages CSX to enter into "mutually-acceptable binding agreement[s] on the implementation of appropriate mitigation measures." Vol. 4 at 7-18. It must be noted, however, that whereas it might be appropriate to consult with a particular official about mitigation, it might not be appropriate to enter into an agreement with that particular official. For example, a local official might desire a grade separation, but the state would normally vest the decision whether to undertake a grade separation in a state official. Any agreement regarding the separation would have to be between CSX and the state official, not the local official.

CSX does not believe that agreements are appropriate with "community representatives" who are not representatives of duly-constituted state or local government agencies. SEA has conducted "outreach" to educate and solicit the views of community groups about the Transaction. Those community groups can make their views known to their governmental representatives. If the view of a particular group does not persuade their governmental representatives, however, there is no basis for an agreement between the group and CSX. In its draft order on environmental justice, DOT had proposed "an agreement . . . with the potentially affected protected populations" as one option for addressing disproportionately high and adverse effects." 60 Fed. Reg. 33899, 33901 (June 29, 1995). Numerous commentators opposed the provision as unworkable and subject to abuse. DOT agreed, and deleted the proposal from its final order on environmental justice. 62 Fed. Reg. 18377, 18378 (April 15, 1997). CSX agrees as well, and does not plan to enter into any such agreements.

Having stated these general points, we will now address the DEIS's specific directions.

1. Barr Yard to Blue Island, IL

The DEIS directs CSX to consult with Blue Island with respect to traffic delay. Two crossings are identified which may warrant mitigation for vehicle delay impacts -- Dixie Highway and Broadway-135th St. These crossings were included in Mitigation Measure 11. As explained above in connection with Mitigation Measure 11, CSX expects that capital improvements planned in connection with the Transaction and the implementation of CSX's Operating Plan will greatly improve traffic flow through Blue Island. Accordingly, it does not appear that any additional mitigation is required. CSX will consult with the City of Blue Island about these operational improvements.

2. 59th Street Chicago Intermodal Yard

The DEIS 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 DEIS's criteria for mitigation. CSX's proposed intermodal facility at 59th Street is addressed below in connection with Mitigation Measure 24. As explained below, CSX has already consulted with the Chicago City Council in connection with CSX's rezoning application for the facility and has reached agreement on mitigation measures for the facility as conditions to the approval of the rezoning application.

3. Willow Creek to Pine Junction

SEA has directed CSX to consult with Gary, Indiana with respect to a number of impact categories. Gary is a member of the Four Cities Consortium. As explained below in connection

with Mitigation Measure 27, CSX is presently consulting with Gary about these issues as part of its consultation with the Four Cities.

4. Alexandria Junction to Washington, DC

SEA has directed CSX to consult with Bladensburg, MD and Washington, DC with respect to hazardous materials transport because this route is expected to become a key route after the Transaction. As explained above, CSX does not believe that consultation is appropriate with local communities regarding the design of special mitigation measures related to transportation of hazardous materials through their communities. However, CSX will coordinate with Washington, DC and Prince George's County, MD regarding the Hazardous Materials Emergency Response Plans recommended in Mitigation Measure 3.

5. Quaker to Mayfield, Mayfield to Marcy, OH

CSX is in the process of consulting with Cleveland and East Cleveland with respect to a number of impact categories, as explained below in connection with recommended Mitigation Measure 21.

6. Marion to Ridgeway, Ohio

In the errata to the DEIS, SEA directed CSX to consult with respect to mitigation of noise impacts in Marion, Ohio. For the reasons set forth below, CSX respectfully suggests there is no basis for any noise mitigation in Marion.

First, SEA's stated concern in Marion, Ohio is noise impacts, but this segment does not meet the SEA's criteria for noise mitigation. Nor can noise be considered as a cumulative impact in Marion, because no other impacts have been identified that warrant mitigation. The objective of the Executive Order is nondiscrimination, not preferential treatment.

Second, it is not clear that any noise mitigation in Marion would even benefit minority or low-income persons. As stated in Appendix K (Vol. 5A at K-43), the population along the Marion-Ridgeway line segment, a 23.2-mile-long line segment in Marion and Hardin Counties, is 5.3% minority and 24.2% low-income. This segment was identified as raising environmental justice concerns because the low-income percentage is reportedly more than 10% higher than the low-income population of Marion and Hardin Counties as a whole. As explained above, this is not a permissible application of the disproportionality requirement of the Executive Order. Disproportionality can only be determined on a systemwide basis. Presumably the DEIS was seeking to identify those communities that might have less political influence than their wealthier, nonminority neighbors in the county. Relative power within the county might be an appropriate concern if the Board were deciding whether to approve the construction of a new rail line through Marion and was looking at two different routes, but the approach makes no sense in the context of the action actually before the Board.

The problem with the DEIS's approach becomes more apparent when one focuses on the precise area of the noise impacts. A maximum of about 50 residences within Marion on the Marion-Ridgeway segment would likely experience a perceptible increase in noise from increased traffic on the line.³⁴ If a noise barrier were built along the rail line in the vicinity of these affected residences, for example, it would benefit only the occupants of these homes. It would not benefit anyone else in Marion. The relevant population for purposes of an environmental justice analysis is thus the residents of these 50 or fewer houses. CSX cannot readily determine the race, national

³⁴ If shielding were fully taken into account (the model is not designed to do so), it is likely that many fewer residences would actually be affected.

origin or income level of this small population. Thus, it is far from clear that any noise mitigation in Marion would benefit the persons the Executive Order was issued to protect.

21, 24, 25, 27. Communities with Unique Circumstances

21. Cleveland

The DEIS directs CSX and NS jointly and/or separately to "continue to consult with the City of Cleveland, the City of East Cleveland, the Ohio Department of Transportation, elected representatives for Cleveland and other appropriate parties to address concerns about train traffic increases on the CSX's Quaker to Mayfield and Mayfield to Marcy rail line segments and NS's Cleveland to White and Cleveland to Ashtabula rail line segments." It further directs CSX and NS to "negotiate a mutually-acceptable binding agreement on train routing through Cleveland and mitigation measures for those routes that could experience potential significant environmental impacts."

The major rail routes of Conrail being allocated to CSX and NS in the Transaction form an "X", one leg of which is the Conrail lines from Boston and New York City (via Albany) to St. Louis and the other is the lines from New York (via Philadelphia) to Chicago. The cross-point of the Conrail "X" is in the Greater Cleveland area. One of the core concepts of the Transaction's allocation of the Conrail routes is that CSX will take the first-named leg of the "X", and NS will take the other leg. The "X" will no longer be operated as part of a single system, but the two legs of the "X" will be operated on a competitive basis by the two carriers.

Collectively, on the two branches of the "X", approximately 80-90 trains per day will be operated through Cleveland under the two carriers' operating plans. It should be noted that the Transaction will not materially change the number of trains traversing Cleveland on Day One (although traffic may ultimately increase in Cleveland as elsewhere on the CSX and NS systems as the benefits of the Transaction induce the diversion of freight from truck to rail). However,

instead of operations at the center point of the "X" being coordinated by a single railroad operating in its overall best economic interest, two rivals will operate their competitive services. The two railroads have proposed operating plans and allocations of routes in the Cleveland area that will permit each of the two to operate without interference with the other -- interference which could, of course, potentially lead to a "Houston" situation such as was encountered after the *UP/SP* combination and potentially one that would be more difficult to cure. Exhibit 7 shows the general layout of Conrail's lines through Cleveland, known locally as the "Lake Shore Line" and the "Short Line." CSX will principally operate over the Short Line and NS will principally operate over the Lake Shore Line. The end points of the CSX line segments as defined in the CSX Operating Plan are shown on Exhibit 7 for reference.

A. CSX Consultation Efforts to Date

Prior to the directive in the DEIS, CSX began meeting with appropriate state and local authorities throughout Ohio to consider creative options for addressing local concerns. Over the past eight months, CSX has met with PUCO and ORDC officials, and has cooperated with them in rail line studies to determine the need for improved rail grade crossing protection on certain line segments, among other things. CSX also has participated in many other public and private meetings. A variety of issues have been addressed, including economic development opportunities, safety at grade crossings, hazardous materials transport, commuter rail service, and other issues.

With respect to the Greater Cleveland area, CSX for several months has had meetings and conducted similar discussions with the Mayor of Cleveland and other City of Cleveland officials,

and the Mayors and officials of the Cities of East Cleveland, Brook Park, Berea, Olmsted Falls, and of Cuyahoga County.

Such meetings include:

- August 26, 1997 - Meeting with the Chairman of the Transportation Task Force of the Cleveland Growth Association ("CGA") to present the CSX operating plan and discuss the compatibility of routing plans with future development plans of the area;
- October 22, 1997 - Meeting with City of Cleveland's planning, law, and safety directors to discuss routing issues;
- October 28, 1997 - Meeting between CSX President John Snow and the Mayor of Cleveland to discuss that City's opposition to the CSX operating plan;
- November 6, 1997 - Meeting with East Shore Development Corporation to discuss the expansion at Collinwood Yard;
- November 7, 1997 - Meeting with commuter rail representatives, Cleveland Port Authority and the Director of the County Planning Commission to brief them on the Transaction;
- November 13, 1997 - Meeting with Collinwood area city councilman to discuss intermodal expansion;
- November 13, 1997 - Meeting with CGA staff member to discuss acquisition plan and commuter rail options;
- November 13, 1997 - Meeting with RTA to discuss commuter rail planning status;
- November 19, 1997 - Meeting with the Mayor of Berea to explain the acquisition and operating plan;
- December 5, 1997 - Meeting with the Mayor of Cleveland's staff to explain the rationale for the operating plan;
- January 12, 1998 - Meeting with the Mayor of Brook Park to discuss the operating plan and mitigation issues;

- January 14, 1998 - Meeting with City of East Cleveland officials, including the Mayor's Chief of Staff, the Police and Fire Chiefs, EMS Director and city councilmen to discuss the acquisition, noise mitigation, neighborhood beautification, job training and training and equipment for emergency responders;
- January 16, 1998 - Field inspection of Chicago intermodal facilities by City of Cleveland councilmen and other Cleveland officials to demonstrate improvements proposed for Collinwood Yard.
- January 21, 1998 - Joint CSX/NS meeting with the Mayor of Cleveland and his staff to discuss alternative routing proposals;
- January 21, 1998 - Joint CSX/NS meeting with the Mayor of Berea and the Mayor of Olmsted Falls to discuss alternative routings;
- January 22, 1998 - Train trip for the Mayor of Cleveland and other Cleveland officials, City of East Cleveland officials, and Cleveland area business associations to present the operating plan, Collinwood expansion plan, economic impact report, noise mitigation plan and CSX hazardous materials safety program;
- January 26, 1998 - Meeting with the Mayor of East Cleveland to discuss mitigation;
- January 27, 1998 - Joint CSX/NS meeting with the City of Cleveland Mayor and his staff to evaluate alternative routing proposals;
- January 30, 1998 - Meeting with clergy association leadership to discuss the operating plan and hazardous materials safety; and
- January 31, 1998 - Public meeting held by clergy association to discuss the operating plan and hazardous materials safety.

In dealings with most of the authorities contacted, substantial progress has been made.

However, as of the date of these comments, the City of Cleveland remains opposed to the Transaction's allocation of lines and routing of traffic through Cleveland. Mayor White recently proposed to "flip" the allocation and have CSX operate over the "Lake Shore Line" between

Berea and Collinwood Yard through downtown Cleveland and have NS operate over the "Short Line" between Berea and the Harvard connection (near Marcy) to the Conrail line to Pittsburgh and between Berea and Mayfield to NS's line to Buffalo.

CSX and NS have carefully analyzed alternative routing options, but no alternative routings for CSX and NS traffic through Cleveland have been found that would not involve (a) significant disruption and delay of East-West traffic flows, (b) substantial construction - related environmental impacts and enormous construction expenses, (c) delay and/or disruption of the implementation of competitive service under the Transaction, and (d) adverse environmental impacts both in the City of Cleveland and in other parts of Greater Cleveland. In fact, CSX and NS continue to believe that Applicants' allocation of lines and the routing of traffic through the Greater Cleveland area represent the most effective means of achieving the objectives of the Transaction and maximizing the public benefits for both national and local interests. The rail line allocations and proposed routings set forth in the Application:

- are consistent with the historical use of these lines;
- promote effective competition between CSX and NS and efficient, reliable service for East-West traffic moving through Cleveland;
- are cost-effective and make efficient and beneficial use of existing railroad infrastructures; and
- do not cause significantly different environmental impacts than alternative routings.

B. Applicants' Proposed Routing is Consistent with the Historical Use of the Lines

Cleveland historically has been a major hub for East-West railroad traffic. All of the Ohio predecessors of Conrail as well as the predecessors of CSX and NS have had major rail presences

in Cleveland for decades. More significantly, Conrail has designed its system so that both of its major routes cross in Cleveland, making Cleveland the center of its system. As a result, Cleveland is the most direct and efficient routing for traffic between Chicago and eastern points and, as detailed in Applicants' Rebuttal, rerouting traffic away from Cleveland is neither commercially nor operationally feasible and would substantially diminish the quality and competitiveness of East-West rail transportation. Rebuttal Verified Statement of John W. Orrison, Rebuttal Vol. 2A at HC-79 to HC-85.

Likewise, no viable alternatives have been identified for reallocating lines or rerouting rail traffic within Cleveland. Conrail presently uses two routes through Cleveland, the "Lake Shore Line" and the "Short Line." Both lines connect the Collinwood Yard on the northeast side of Cleveland with Berea to the southwest of Cleveland. Each line is approximately 20 miles long. As a result of the Transaction, NS will operate over the Lake Shore Line and CSX over the Short Line.

Both lines have carried substantial freight traffic since they were built. The Lake Shore Line was built in the mid 1800's by a predecessor of the Lake Shore and Michigan Southern Railway ("LS&MS"). At the turn of the century, the LS&MS was the western main line of the New York Central and Hudson River Railroad extending from Buffalo, NY through Cleveland to Chicago. Increasing amounts of passenger and freight traffic made it necessary to complete a four-main-track line from Buffalo to Toledo and farther West. In 1902, LS&MS created a subsidiary, the Cleveland Short Line Railway Company, to construct a belt line of railroad around the City of Cleveland and provide facilities for interchange between the eight railroads then serving Cleveland.

The Short Line was designed for high volume freight traffic. It is entirely grade separated through Cleveland and East Cleveland, in some places running on elevated track and in others through cuts below grade. The Short Line became an integral part of the expansion to four main tracks, and upon its completion in 1912, it became the bypass for freight traffic. By 1915, the line consisted of 19.64 miles of main track, 19.17 miles of second (main) track and 22.23 miles of sidings, making it well suited for handling heavy volumes of freight traffic.

Inter-yard pullers as well as through freight trains were scheduled across the Short Line for many years, averaging 30-40 freight trains per day. As the Lake Shore Line carried a heavy volume of regular passenger service as well as freight trains, the Short Line provided an efficient route for handling freight trains. The opening of the Cleveland Union Terminal in 1930 and its associated passenger route reduced some of the traffic on the Lake Shore Line by relocating a substantial amount of passenger train traffic to the Short Line. Nonetheless, even with the decrease in passenger traffic on the Lake Shore Line, the Short Line continued to carry between 25-30 freight trains per day throughout the 30's, 40's and 50's.

In connection with the construction of the Cleveland Union Terminal, the New York Central ("NYC") constructed a new alignment for its passenger trains from the Lake Shore Line at Collinwood and along the Short Line between Collinwood and University Circle (near Mayfield on Ex. 7). At University Circle, the passenger route diverted from the Short Line to reach the terminal. This line is now used by the RTA. This part of the Short Line -- the part that Cleveland says will be unacceptably affected by the passage of 40 freight trains per day -- had a multiple track right of way, with two tracks for passenger trains and two tracks for freight trains. All NYC passenger trains serving Cleveland moved over this line. As a result, regularly scheduled

passenger trains on this line averaged between 20 and 30 trains per day during the 1940's and 1950's and about 10 trains per day during the 1960's.³⁵ In addition, mail and express trains (including mail-carrying through passenger trains that did not have passenger stops in Cleveland) used this route to access the Union Terminal complex. As stated above, the RTA continues to operate along or near the Short Line in Cleveland and East Cleveland.

Conrail continues to route traffic over the Short Line to relieve congestion on the Lake Shore Line as needed, particularly during periods of heavy maintenance on the Lake Shore Line. During these times, an average 30-40 trains per day traverse the line.

It should be emphasized, therefore, that CSX's proposal to operate approximately 40 trains per day over the Short Line is not a deviation from the historical use of this line, but a resumption of the service for which the line is particularly well suited.

C. The Proposed Allocation Promotes Competitive, Efficient and Reliable Rail Service

The Applicants' plan for allocating lines and routing traffic through Cleveland is an important part of the overall plan to provide more efficient, cost-effective, reliable and competitive interstate rail transportation between the East Coast and points West. Allocating the Lake Shore Line to NS and the Short Line to CSX gives each carrier a direct through route through and beyond Cleveland that does not require the difficult task of sharing track or crossing the other's line anywhere at grade -- which with 80-90 trains a day planned could lead to chaos. Applicants identified no other way to accomplish this. Having parallel and non-interfering routes eliminates the very real problem of a bottleneck at Berea where the two Conrail lines cross. The

³⁵ It should be noted that most of the homes in this area were built in the 1920's and 1930's during the years of heaviest train traffic.

elimination of the bottleneck results in improved transit time for CSX and NS East-West trains. In addition, the ability of CSX and NS each to fully control the movements of its trains (and particularly time-sensitive intermodal trains which compete with trucks) unimpeded by the movements of the other carrier promotes more efficient and reliable East-West service.

Applicants' proposed allocation and routing enable CSX and NS to achieve their objective of each having a high quality, two-main-track route through Cleveland with the expenditure of reasonable sums to improve the existing rail infrastructure. CSX plans to spend about \$40 million to improve the Short Line and Collinwood Yard, including restoring double tracking to all but about one-and-a-half miles of the line, upgrading the signal system to install TCS on the newly constructed track, installing continuous welded rail, installing a defect detector at Marcy, and upgrading the intermodal facility at Collinwood Yard.³⁶ These investment decisions have been based on practical assessments of the costs and benefits of the proposed improvements.

D. Potential Alternatives for Reallocating Lines and Rerouting Traffic Entail Disproportionate Expense and Inefficiency Compared to Applicants' Proposed Routings

The City of Cleveland's proposal for reallocating lines and rerouting traffic through that City would entail disproportionate expense and pose operating problems that significantly undermine any purported benefits of such proposals. In order to avoid an increase of traffic on the CSX Quaker to Mayfield and Mayfield to Marcy segments, the City of Cleveland has proposed that the allocation of lines be "flipped," assigning the Short Line to NS and the Lake Shore Line to CSX. The proposed alternative would result in NS traffic moving over the Short

³⁶ CSX's investment in capital improvements in the Greater Cleveland area will total about \$75 million.

Line between Berea and the Harvard connection (near Marcy) and then onto its acquired Pittsburgh line or between Berea and Mayfield and onto its own Buffalo line. CSX traffic would move between Berea and Collinwood over the Lake Shore Line to its newly acquired routes to New York City/Northern, New Jersey via Buffalo and upstate New York.

This alternative would result in CSX and NS having to cross each other's lines at grade at Berea, creating either a major bottleneck at the crossing point or the need for an extensive and costly separation. It would also make it extremely difficult for NS to reach several facilities that it will serve, without substantial additional investment. In fact, the proposal would require several major construction projects, beyond those now contemplated, including:

- Construction of a flyover at Berea to enable the unrestricted crossover of CSX and NS trains to and from their connecting routes. An unrestricted crossover with about a 0.5% gradient and clearance for future improvements would be approximately 10,000-11,000 feet long and take at least 2 years to construct. Construction would necessitate the disturbance of existing residential and commercial structures, and would dramatically alter the existing character of the impacted area. In addition, the construction could potentially affect Berea's existing subterranean infrastructure, including sewer lines, water lines and utility and communication lines. Finally, the potential noise impacts of an elevated superstructure would require additional assessment and potentially significant mitigation efforts;
- Construction of a second track at the Harvard Connection in order for NS to operate. The construction of the track would necessitate the building of a bulkhead in the adjacent creek basin and could adversely affect the environmentally sensitive waterfall located in Mill Creek;
- Construction of substantial additional track required for NS to access Rockport Yard (where it maintains an operating base) and Ford Motor Company; and

- Initiation of a project to facilitate NS's efficient access to Whiskey Island, where iron for use in local steel production is transloaded from lake cargo vessels.

The costs of this proposal are unrealistically disproportionate to the benefits.

Construction of the mammoth superstructure of the flyover alone could cost in excess of \$100 million, without even considering the costs and impacts of relocating utilities, or the costs of related environmental mitigation.³⁷ But the true costs associated with this proposal go far beyond the capital needed to construct the additional projects. They also include the high public and private costs of entirely postponing and/or disrupting implementation of the Transaction,³⁸ risks of very serious environmental impacts in Berea, and serious on-going operational and customer service issues when construction is completed. Such detriments fly in the face of the railroad transportation policy goals of promoting sound, economical, competitive and efficient service.

Any suggestion that CSX and NS could share the Lake Shore Line is equally impractical. There is not sufficient right-of-way to accommodate new separate tracks. Sharing the same tracks would not give the shippers the benefit of two efficient, reliable East-West routes offered by two strong competitors. Like the "flip" alternative, it would create in Cleveland a bottleneck for the two competing routes, resulting in decreased efficiency and the unreliability of East-West movements. Similar problems of crossing at ground level, as in the "flip" alternative, would be created.

³⁷ Cleveland's consultant Parsons Brinckerhoff has estimated the cost of Cleveland's alternatives at \$148 to \$171 million, a significant item of which is the flyover structure at Berea. CSX has not yet developed its own estimates of the cost of the structure.

³⁸ Cleveland is not what Reno and Wichita were to the *UP/SP* combination -- points where operations could be frozen without systemwide damage. Cleveland is the central point on the Conrail route system and is central to the new long-haul operations of both CSX and NS.

Another proposal has been made to have a "neutral terminal operator" in Cleveland, presumably with operations conducted similarly to those of the unitary Conrail. But that would not resolve the problem; if there is to be coordination of the movements of CSX and NS through Cleveland, the coordination has to extend systemwide, since the trains that will move through Cleveland will be in large part trains making long-haul runs over most of the extended systems, East and West, of the two carriers upon the implementation of the Conrail route allocation. Thus, what is at issue is not the management of local traffic moving through Cleveland, but the efficient operation of interstate and even transcontinental traffic. While it is true that Conrail could economically and efficiently progress trains through Cleveland without the need for separations, the situation here is different. Unlike Conrail, a terminal operator would not have control over the scheduling and operation of all pertinent train movements from origin to destination. It may be expected that for competitive reasons CSX and NS would tend to schedule origination and arrival times for their long-haul movements that would put the competitive movements in Cleveland at about the same time of day. The terminal operator, therefore, would not be in a position to coordinate and facilitate the efficient movement of interstate rail traffic converging on Cleveland from all directions.

These proposed tinkering with the allocation of Conrail routes through Cleveland would have the most serious consequences. They would either entirely prevent the implementation of the CSX and NS operating plans (effectively annulling the Transaction), postpone their implementation while the necessary construction work was completed, or compromise them by greatly reducing capacity while construction proceeds at the critical throat of the system.

Rather than providing the benefits of more efficient and competitive rail service, the alternatives would create impediments to such service and thus be a disservice to the nation and to the City of Cleveland.

E. Rerouting Trains from the Lake Shore Line to the Short Line Will Have Significant Benefits for Cleveland Itself

CSX's Operating Plan will not only benefit the national transportation system, but will also benefit the City of Cleveland itself in a number of ways.

First, the Short Line is entirely grade separated through the City of Cleveland. A significant number of trains will be rerouted onto the Short Line, decreasing the number of trains traversing at-grade crossings on the Lake Shore Line. This will promote greater safety, decrease delays at crossings and promote improved vehicular traffic flows. Indeed, CSX's efforts to move traffic away from downtown Cleveland and onto the Short Line is consistent with the City of Cleveland's own prior proposals to do the same.

Second, the proposed upgrading of the Short Line will increase the speed at which trains traverse the line, thus shortening the overall "presence" of trains over line segments traversing Cleveland neighborhoods, and will also promote safe transport of freight through Cleveland.

Third, use of the Short Line will decrease the number of trains affected by the drawbridge on the Lake Shore Line. The drawbridge is opened, on average, 6,000 times a year. During the peak period in the summer, the bridge is opened approximately 3,000 times, primarily to permit passage of pleasure boats. Decreasing the number of trains crossing the drawbridge promotes smoother, more efficient operations for both vessels and trains through Cleveland.

Fourth, the implementation of the Operating Plan will allow Cuyahoga County (which includes Cleveland) to realize a net savings of over 1.9 million truck miles in truck diversions, which means a reduction of 4.15 truck accidents annually (1.06 of which would involve injuries) and net savings of about \$230,000 in annual highway maintenance costs. These benefits will be lost if the CSX and NS Operating Plans are not fully implemented.

Moreover, the impacts that will be experienced on the Short Line will be no different in nature or greater in magnitude than the impacts currently being experienced on the Lake Shore Line. Cleveland has described the impacts from CSX train traffic on residents living in proximity to the Short Line, without acknowledging that there are about the same number of residents in Cleveland along the Lake Shore Line. Both the Lake Shore Line and the Short Line pass through a mix of industrial, commercial and residential areas. Under the CSX Operating Plan approximately 40 CSX trains will pass through Cleveland each day. Whether they traverse Cleveland on the Lake Shore Line or on the Short Line they will unavoidably create some noise. The significant noise impacts are largely restricted to the first row of structures along the tracks. The number of Cleveland residents living along the Short Line is roughly comparable to the number of residents living along the Lake Shore Line.

The residents along the Lake Shore Line have been living their lives without serious adverse effects with higher levels of Conrail traffic on the Lake Shore Line than CSX is proposing to route over the Short Line. There are numerous locations throughout the eastern United States, including its major metropolitan centers, where rail traffic exceeds 40 trains per day. Comprehensive federal regulation, along with industry standards and company practices, ensure that rail freight transport will perform its important function in the economy without unacceptably

affecting the communities through which it passes, in terms of noise, safety or issues of public inconvenience such as traffic delay. Compared to other communities which do not have the benefit of a grade-separated rail corridor (including that portion of the Lake Shore Line in Cleveland near Kirtland Park where there are grade crossings), train traffic over the Short Line will have relatively less adverse effect because horns will not sound at grade crossings, there will be no risk of accidents at grade crossings, and vehicles will not be delayed at grade crossings.

CSX analyzed the noise impacts from its proposed operations over the Short Line in Cleveland and East Cleveland.³⁹ CSX identified about 250 residences on the Quaker to Mayfield and Mayfield to Marcy line segments which meet the DEIS's criteria for significant impact (70 dBA L_{dn} and an increase of 5 dBA L_{dn}). These residences are all in the first row of structures adjacent to the rail line. CSX proposed mitigation for 235 of the residences. The proposed mitigation is low noise barriers to shield the wheel/rail noise. High noise walls to block locomotive noise were determined not to be feasible. Although locomotive noise is louder than the wheel/rail noise, it is experienced for a much shorter time period. Because CSX recognized that the low barriers would not shield all rail noise, CSX proposed in addition to provide an offsetting benefit -- landscaping -- to provide a visual barrier and generally improve the appearance of the rail corridor.

To the extent that transport of hazardous materials has been raised as a concern, existing regulations and programs already ensure that the risk of a release of hazardous materials is

³⁹ TranSystems Corporation, "Evaluation of Noise Impacts From Proposed CSX Operations in Cleveland and East Cleveland, Ohio" (Jan. 1998).

extremely low. CSX will also comply with proposed Mitigation Measure 4 with respect to the Short Line, and provide enhanced emergency response training in Cleveland and East Cleveland.⁴⁰

CSX offered its noise mitigation plan as the most direct response to increased noise levels on the Short Line, and CSX is willing to consult with Cleveland and East Cleveland regarding other forms of offsetting benefits as well.⁴¹

Thus, looking solely at the interests of the residents of Cleveland itself, CSX does not believe that routing trains over the Short Line creates greater adverse effects than routing trains over the Lake Shore Line, as Cleveland has proposed. Indeed, the rerouting will provide a number of important benefits to Cleveland. To the extent that a significant change in traffic patterns will result from the Transaction, however, CSX has pledged to mitigate the effects of the change, either directly through measures such as noise barriers or indirectly by providing some offsetting benefits. Moreover, when one looks more broadly at the interests of the residents of the Greater Cleveland area, Mayor White's proposal is even less desirable because it seeks to impose on its neighbor to the southwest, Berea, a mammoth rail flyover structure which would have serious adverse effects in that community, both during the construction period and thereafter.

F. Conclusion

Consistent with the national rail transportation policy, the rail allocation and routing plan proposed by Applicants promotes "a safe and efficient rail transportation system," "ensure[s] the

⁴⁰ The routing choice between the Lake Shore Line and the Short Line will not affect the volume of hazardous materials moving through Cleveland, just the precise location.

⁴¹ Some programs of general benefit to the community which have been suggested and will be considered by CSX include capital improvement programs, commercial renovation rebate programs, housing renovation allowances, and employment training and preference programs.

development and continuation of a sound rail transportation with effective competition among rail carriers and other modes," and "foster[s] sound economic conditions in transportation and ensure[s] effective competition and coordination between rail carriers." 49 U.S.C. § 10101(3), (4) and (5). No alternative plan and no mitigation that would change the routing plan would be consistent with this standard.

The rail lines through Cleveland, given the basic geography of the Conrail system, will constitute a throat of commerce for the two carriers in their separate operation of the allocated parts of the Conrail system. For them to operate competitively, without interference with one another, the plan proposed by them is the only realistic plan. Effecting any of the alternative solutions would cause years of disruption and postponement of the implementation of a beneficial transaction that has been very long in its achievement already. Local opposition based on noise impacts -- which CSX has pledged to mitigate -- should not be permitted to cut this throat of commerce or choke it for a lengthy period of time. No mitigation involving route relocation in Cleveland ought to be proposed in the FEIS. If proposed, it should be rejected by the Board.

The only significant environmental impacts arising from use of the Short Line are noise impacts. The appropriate mitigation for this impact is not to throw out the Applicants' operating plans, but to implement a noise mitigation plan including noise barriers and offsetting benefits as CSX has offered to implement. The balancing that an EIS process involves is particularly important in a situation such as this.

24. Chicago, Illinois

The DEIS describes CSX's proposed construction of a new intermodal facility at 59th Street in Chicago, Illinois. The DEIS directs CSX to consult and reach a mutually-acceptable binding agreement with respect to traffic and noise mitigation measures for this facility.

As the DEIS reports, CSX filed a rezoning application with the City of Chicago which was supported by detailed reports documenting both potential benefits and adverse effects from the 59th Street facility (including increased traffic and noise). The application was thoroughly considered by the Chicago City Council and its staff. CSX engaged in extensive consultations with the communities surrounding the 59th Street facility, including with the City Council Members in Ward 15 and Ward 16, who supported the application.

On December 10, 1997, just after the DEIS went to print, the City Council approved the rezoning application. The approval included conditions designed to address adverse effects of the facility. CSX will submit documentation of the approval to SEA. CSX believes that this approval fully satisfies the recommendation in the DEIS, and that the FEIS should report that this matter has been resolved. Accordingly, no condition is warranted.

25. Newark, Delaware

CSX currently operates an average of 26.9 trains per day through Newark, Delaware (the Wilmere-Baltimore line segment of the CSX Operating Plan). The CSX Operating Plan projects that traffic on this line segment will increase only 1.9 trains per day. As the DEIS acknowledges, this minor increase in traffic does not exceed the Board's thresholds for environmental analysis. Vol. 3A at DE-16 to DE-17. CSX agrees with the conclusion in the DEIS that the "minor increase in train traffic would have only a minor incremental effect on the community." Vol. 3A at DE-17. The concerns raised by Newark in Finance Docket No. 33388 relate to pre-existing conditions. Id.

Despite these conclusions, the DEIS recommends that CSX consult with local agencies, the University of Delaware and the Delaware Department of Transportation regarding pedestrian safety issues. Vol. 4 at 7-21. The DEIS suggests that SEA might recommend mitigation in the FEIS if CSX does not enter into a binding agreement regarding mitigation measures.

CSX voluntarily commenced consultation with the University of Delaware and local agencies regarding pedestrian safety in Newark before SEA issued the DEIS. Those discussions have been very productive to date and CSX is optimistic that an agreement will be reached regarding a variety of measures that will enhance pedestrian safety in Newark. CSX will inform SEA if it reaches agreement with one or more parties regarding pedestrian safety in Newark, and SEA can document that agreement in the FEIS for consideration by the Board in evaluating the overall environmental effects of the Transaction.

However, it would not be appropriate for the Board to condition approval of the Transaction on any such voluntary agreement relating to what is clearly a pre-existing (non-

Transaction-related) situation in Newark. Nor would it be appropriate for the Board to impose any mitigation in the event that an agreement is not reached. The Board has repeatedly held that it will not impose conditions to address pre-existing matters. See UP/SP at 145; BN/SF at 56. This limitation is recognized in the DEIS itself. Vol. 1 at 1-10, 3-3. It is sufficient that the FEIS simply document any voluntary agreement that may be reached with respect to the pre-existing situation under discussion or, in the absence of such an agreement at the time of the FEIS, report that the parties are consulting.

27. The Four Cities Consortium

CSX, NS and Conrail currently operate freight rail service on a number of line segments through the cities of East Chicago, Hammond, Gary, and Whiting, Indiana (collectively referred to as the "Four Cities"). The DEIS analyzed the effect of traffic increases on vehicle delay at nine grade crossings in the Four Cities. The DEIS acknowledges that there is an existing problem with vehicle delay in the Four Cities. The DEIS concludes that the slightly increased delays resulting from Transaction-related traffic increases do not meet the DEIS's criteria for mitigation. Vol. 3A at IN-84.⁴²

Despite these conclusions, the DEIS recommends that CSX consult with representatives of the Four Cities, the Indiana Department of Transportation, and other appropriate parties regarding at-grade crossing delay and safety issues. Vol. 4 at 7-21. The DEIS suggests that SEA might recommend mitigation in the FEIS if CSX does not enter into a binding agreement regarding mitigation measures.

CSX notes at the outset that the traffic delay calculations in the DEIS for the nine crossings overstate the post-Transaction traffic delay. The calculations do not take into account the increased average speed on the Pine Junction to Barr Yard Line segment which will result from the capital improvements and operational improvements planned for the line and the Chicago area as a whole. When the increased speed is taken into account, CSX expects that traffic delays at the nine crossings will actually decrease as a result of the Transaction. See Joint Rebuttal

⁴² The DEIS also analyzed the effects of traffic increases on grade crossing safety throughout the Four Cities and concludes that traffic increases on the Willow Creek to Pine Junction line segment warrant grade crossing protection upgrades at four grade crossings on this segment. This recommendation is addressed in connection with recommended Mitigation Measure 8 above.

Verified Statement of James C. Rooney and T. Stephen O'Connor, Rebuttal Vol. 2 B at HC-277 /
to HC-317.

CSX voluntarily commenced consultation with the Four Cities and the Indiana Department of Transportation before the DEIS was issued. Those discussions have been very productive to date and CSX is optimistic that an agreement will be reached regarding a variety of measures in the Four Cities. CSX will inform the SEA if it reaches agreement with respect to the Four Cities, and the SEA can document that agreement in the Final EIS for consideration by the Board in evaluating the overall environmental effects of the Transaction.

However, it would not be appropriate for the Board to make any such voluntary agreement relating to what is clearly a pre-existing condition in the Four Cities 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. The Board has repeatedly held that it will not impose conditions to address pre-existing matters. See UP/SP at 145; BN/SF at 56. This limitation is recognized in the DEIS itself. See DEIS, Vol. 1 at 1-10, 3-3. It is sufficient that the FEIS simply document any voluntary agreement that may be reached with respect to the pre-existing situation under discussion or, if no agreement is reached by the time of the FEIS, report that the parties are consulting.

28-41. Recommended General Mitigation for
Proposed Construction Projects and
Abandonments

The DEIS recommends that CSX comply with fourteen specified mitigation measures in all construction and abandonment activities described in the DEIS. CSX will do so.

45. Cultural and Historic Resources Review of
Paris to Danville, IL Abandonment

The DEIS recommends that CSX retain its interest in and take no steps to alter the historic integrity of the line segment proposed for abandonment between Paris and Danville, IL until the Section 106 process is completed. CSX understands from a letter from the Illinois Historic Preservation Agency to Elaine Kaiser, dated January 13, 1998, that the Section 106 process is completed with respect to this line segment. CSX will contact the Illinois SHPO if archeological resources are found during the course of salvage activities, as recommended in the DEIS.

47, 48, 49. Operations over Four CSX Connections

The DEIS recommends that CSX comply with three specified mitigation measures in its operations over its connections at Crestline, Ohio, Willow Creek, Indiana, Greenwich, Ohio and Sidney, Ohio. CSX will do so.

III. Miscellaneous Comments

The DEIS notes that certain comments and requests for conditions (“CRCs”) filed on October 21, 1997 “raise environmental issues that SEA is considering” and that these issues will be considered “until the Final EIS is published.” Vol. 1 at 2-36. The DEIS also observes that it did not consider the Applicants’ December 15, 1997 rebuttal evidence and argument, which was filed three days after the DEIS was served. The 88 CRCs that requested conditions are listed in Appendix U of Volume 5C of the DEIS. That list also sets forth in very summary form what the DEIS describes as “the potential environmental effects of the conditions requested.” Vol. 1 at 2-36. In this section of its comments, CSX will briefly respond to two of the descriptions of potential environmental effects found in Appendix U -- specifically, the description of the environmental impacts of the conditions requested by certain members of the U.S. House of Representatives from New York and Connecticut and by Stark Development Board.

In addition, CSX will briefly respond to suggestions found in Chapter 5 of the DEIS with respect to the New Jersey Department of Transportation and New Jersey Transit Corporation, Southeastern Pennsylvania Transportation Authority, proposed Rockland County, NY commuter service and Amtrak service at Dunkirk, NY. With the exception of the Rockland County matter (which was not the subject of any filing with the Board of which CSX is aware), CSX has responded fully to each of the parties in its December 15 rebuttal. Specific references to the relevant portion of that rebuttal are set forth below.

1. Stark Development Board

The Stark Development Board (“SDB”), an economic development entity based in Stark County Ohio, has filed comments with the Board that request that CSX and NS offer special conditions with respect to an intermodal terminal (known as the Neomodal Terminal) located in that county on the lines of Wheeling & Lake Erie (“W&LE”) Railroad. Specifically, SDB requests a series of broad conditions that would require CSX and NS to (1) provide competitive pricing, schedules, market access and reliability to Neomodal, (2) work with W&LE to assure competitive rates, (3) integrate Neomodal into the CSX and NS systems and market it as if it were their own terminal, and (4) enter into long-term lift contracts to repay the loans used to pay for the Terminal’s construction. Alternatively, SDB asks that CSX and/or NS be required to purchase the Neomodal Terminal at fair market value and integrate it into their systems.

While the DEIS does not, and has no reason to, evaluate the merits of SDB’s requested conditions, the DEIS does note that the closing of the Neomodal Terminal might result in the “loss of environmental benefits like reduced highway congestion and air pollution.” DEIS, Appendix U at U-19. CSX briefly responds to this remark in the DEIS to ensure that the SEA does not confuse the general environmental benefits of intermodal rail transportation -- of which there are many -- with the merits of SDB’s requested condition -- of which there are none.

Simply put, the failure of the Neomodal Terminal to attract business is entirely unrelated to the proposed Transaction. The primary problem facing the Terminal is the Terminal’s location -- it is not located on or near either CSX’s or NS’ mainlines and is distant from major population and commercial centers. In an intermodal market where most freight is time sensitive, and where

competition with the door-to-door services offered by motor carriers is keen, SDB's decision to locate its Neomodal terminal far from CSX or NS mainlines places that terminal at a distinct disadvantage. All freight moving to or from the Terminal must be switched with W&LE at the nearest CSX and NS yards, an operation that adds both time and expense to the interchange of intermodal units.

For these reasons, the Neomodal terminal is not a financial success today -- a situation having nothing to do with the Transaction. Moreover, the Transaction will not reduce the level of intermodal service available to shippers or the area served by Neomodal. CSX respectfully refers the SEA to pages HC-471 through HC-477 of Volume 1 of Applicants' Rebuttal and to the Rebuttal Verified Statement of Peter Rutski of Volume 2 of Applicants' Rebuttal, for a detailed discussion of why the Board should deny SDB's request for conditions.

In sum, CSX is a firm believer in the economic and environmental benefits of intermodal rail transportation. As the truck diversion studies presented to the Board by CSX and NS indicate, approximately one million intermodal units (trailers or containers) will be diverted from highway transport to the rail system as a result of the proposed Transaction, thereby reducing highway congestion, air pollution, and highway accidents. Indeed, NS and CSX continue to serve Neomodal and to market that facility. However, the overall benefits of intermodal rail transportation do not justify a Board-imposed condition that requires Applicants to provide special treatment to, and indeed to finance or purchase, an intermodal facility of uncertain economic viability for whose creation they were not responsible.

2. East Side of Hudson Issues

Several commentors, including the Tri-State Transportation Campaign (TSTC) and Congressman Nadler, have requested that the Board require CSX and NS to take over the car float service across New York Harbor, currently operated by the New York Cross Harbor Railroad (NYCH). The common element uniting these requests for conditions is the long absence of a rail crossing over the Hudson River south of Albany. This is not a result of the Transaction. While the DEIS does not, and has no reason to, evaluate the feasibility or the merits of a Board-imposed takeover of NYCH, which is suggested by some commentors, the DEIS does note that a “[f]loat operation could reduce congestion on some segments by cutting 300 miles off shipments from New York to New Jersey.” DEIS, Vol. 5C at U-12. CSX briefly responds to this remark in the DEIS to make the point that the Board should not conscript CSX and NS to operate the NYCH’s existing car float service.

CSX welcomes all studies and analyses that consider methods for connecting rail lines on opposite sides of the river. The New York City Economic Development Corporation (“NYCEDC”) has recently launched a two year, \$5 million study, to commence this Spring, to consider alternatives to cross harbor freight movement. CSX has stated its willingness to participate as a resource in this study. If the NYCEDC or any other entity successfully develops a new Hudson River rail crossing, CSX will carefully analyze the merits of the new crossing to take advantage of it.

However, there is a significant difference between recognizing the limits of the current Hudson River crossings and requiring CSX and NS to operate NYCH’s car float service -- a

takeover that NYCH has not requested. In their December 15 filing with the Board, CSX and NS/ argued that TSTC and Congressman Nadler and his colleagues are attempting to use this forum to address a geographical reality that is wholly unrelated to the Transaction. See Applicants' Rebuttal, Vol. 1 at HC-133-36. The question of how to best carry rail traffic from one side of the Hudson River to the other existed well before the proposed Transaction. The Board should permit CSX and NS to utilize existing facilities and should certainly not attempt to address environmental or other consequences of a long-standing geographical reality by unilaterally requiring CSX and NS to purchase an operation which neither railroad desires to conduct. Neither should the Board impose any condition related to this matter while a study is underway to review the usefulness and feasibility of cross-harbor operations.

The DEIS also states that, "SEA has determined that the desired access improvement to the east side of the Hudson River would facilitates freight transport for lower New England." Chapter 5 at NY-42. To the extent that this statement is a reference to the car float operation, it has been addressed above. To the extent that it may also refer to proposals to operate freight trains through Hudson River passenger train tunnels, those proposals are addressed in Applicants' Rebuttal, Vol. 1 at HC-124-33 and in Vol. 2, Rebuttal Verified Statement of R. Paul Carey at HC-37-9 and Rebuttal Verified Statement of John W. Orrison at HC-597. As shown in the referenced portions of Applicants' Rebuttal, freight train operations through existing tunnels under the Hudson River and midtown Manhattan are not feasible due to clearance and operational constraints, as well as a local ordinance that would preclude such operations were they even possible.

3. New Jersey Department of Transportation and New Jersey Transit Corporation

The New Jersey Department of Transportation, the New Jersey Transit Corporation, and New Jersey Transit Rail Operations, Inc. (collectively referred to as "NJT") have requested that the Board require Applicants to cooperate with NJT in its efforts to initiate light rail transit service on Conrail's Bordentown Secondary between Trenton and Camden. The Bordentown Secondary will become part of the South Jersey/Philadelphia Shared Assets Area upon Board approval of the proposed Transaction. The DEIS does not recommend any mitigation with regard to the NJT's proposed light rail transit service. However, the DEIS "encourages" Applicants "to contact New Jersey Transit to ensure that the proposed Acquisition would not adversely affect any planned activities." Vol. 3B at NJ-38.

The DEIS was issued before Applicants filed their Rebuttal on December 15, 1997. Applicants' opposition to NJT's requested condition regarding its light rail project on Conrail's Bordentown Secondary was fully addressed in that document and will not be repeated herein. See Applicants' Rebuttal, Vol. 1 at HC-245 to 56; Rebuttal Verified Statement of R. Paul Carey, Vol. 2A at HC-34; Rebuttal Verified Statement of Paul Reistrup, Vol. 2B at HC-225.

Discussions are continuing with NJT on a variety of issues. CSX will inform SEA if it reaches agreement with NJT, and SEA can document that agreement in the FEIS for consideration by the Board in evaluating the overall environmental effects of the Transaction. However, it would not be appropriate for the Board to make any such voluntary agreement relating to the agreement 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 Applicant's Rebuttal.

4. Southeastern Pennsylvania Transportation Authority

The Southeastern Pennsylvania Transportation Authority (“SEPTA”) has requested that the Board require Applicants to cooperate with SEPTA in its efforts to initiate light rail transit service on Conrail’s Morrisville and Harrisburg lines. Use of these lines will be allocated to NS, although CSX will have trackage rights over the Morrisville line. The DEIS does not recommend any mitigation with regard to SEPTA’s proposed light rail transit service. However, the DEIS “encourages” Applicants “to meet SEPTA . . . to ensure that the proposed Acquisition can be accomplished with out adversely affecting commuter rail plans.” Vol. 3B at PA-52.

The DEIS was issued before Applicants filed their Rebuttal on December 15, 1997. Applicants’ opposition to SEPTA’s requested condition regarding its light rail project on Conrail’s Morrisville and Harrisburg lines was fully addressed in that document and will not be repeated herein. See Applicants’ Rebuttal, Vol. 1 at HC-260-63; Rebuttal Verified Statement of R. Paul Carey, Vol. 2A at HC-34; Rebuttal Verified Statement of Paul Reistrup, Vol. 2B at HC-225.

Discussions are continuing with SEPTA on a variety of issues. CSX will inform SEA if it reaches agreement with SEPTA, and SEA can document that agreement in the FEIS for consideration by the Board in evaluating the overall environmental effects of the Transaction. However, it would not be appropriate for the Board to make any such voluntary agreement relating to the agreement 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 Applicant’s Rebuttal.

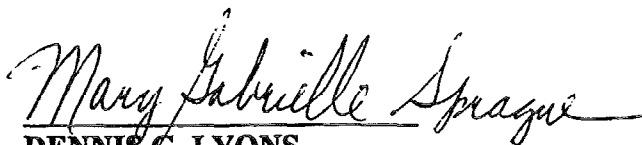
5. New York Rail Passenger Service

The DEIS notes that Rockland County, New York is studying the possibility of restoring commuter service on Conrail's River Line. The River Line would be allocated to CSX if the Transaction is approved, and would be part of CSX's main route between New York and Selkirk and from Selkirk east to Boston and west to Chicago. Because Rockland County never informed CSX of its study, CSX first learned of Rockland County's intentions when reading the DEIS. CSX will 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.

The DEIS states that the City of Dunkirk, NY desires to have Amtrak's Lake Shore Limited stop there and reports that the "City and CSX reached a service agreement, but a dispute developed over the need to refurbish the existing station, which is owned by Conrail." Vol. 3B at NY-15. The DEIS has not accurately reported the facts. There is no agreement between CSX and the City with respect to such service. Amtrak has previously considered a Dunkirk stop, but has no plans to add a stop at Dunkirk for its Lake Shore Limited. That train -- the only Amtrak train to traverse Dunkirk -- passes through the city at about 4 a.m. on its eastbound and westbound trip, an hour that is not particularly conducive to a successful passenger operation. See Rebuttal, Vol. 1 at HC-279-80. Further, new passenger service at Dunkirk has nothing to do

with this Transaction. Whether such service is to be provided is a matter properly left for consideration by Amtrak, the City and Conrail or CSX in due course. It is not a matter that the Board should consider here.

Respectfully submitted,



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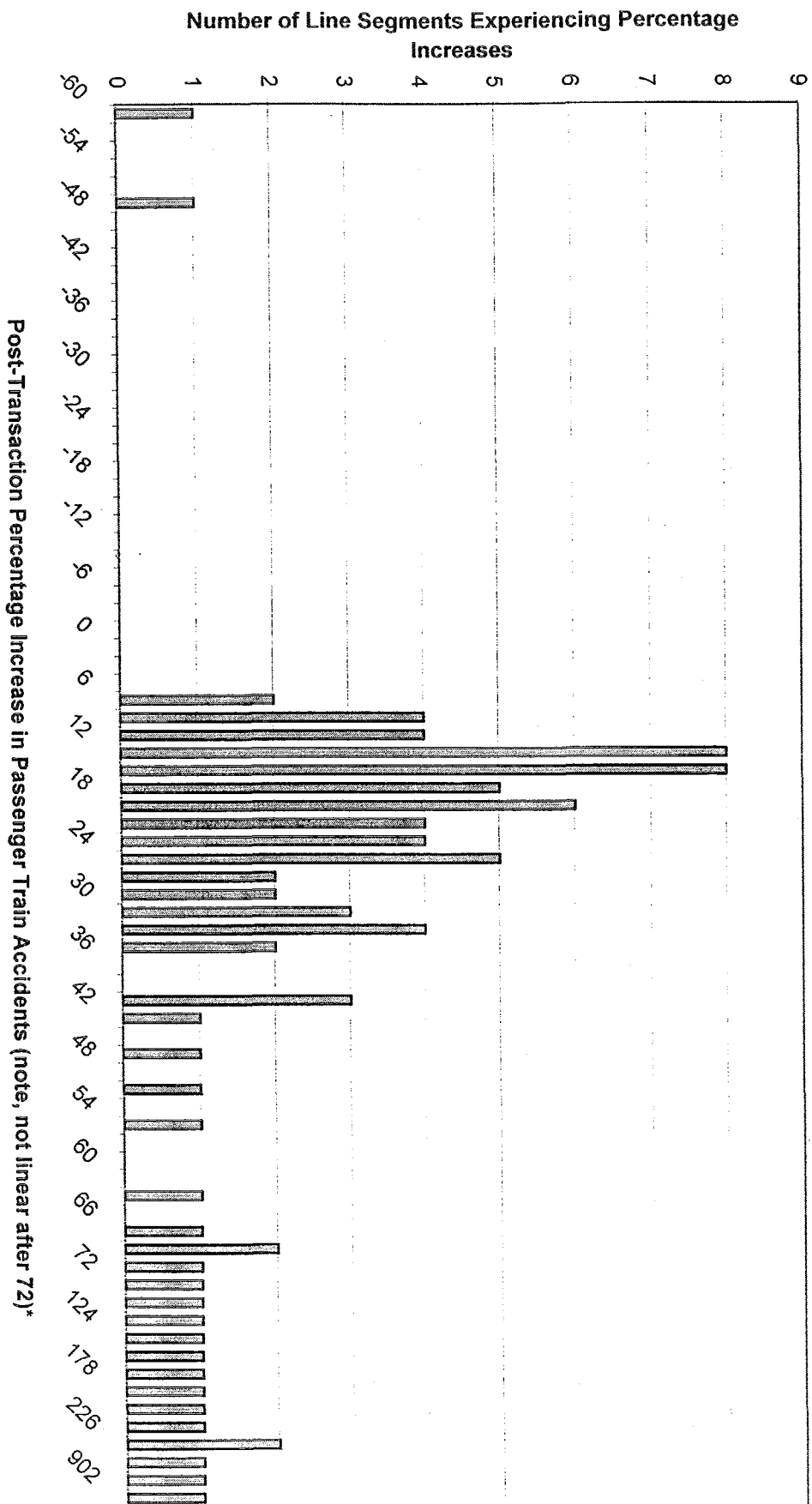
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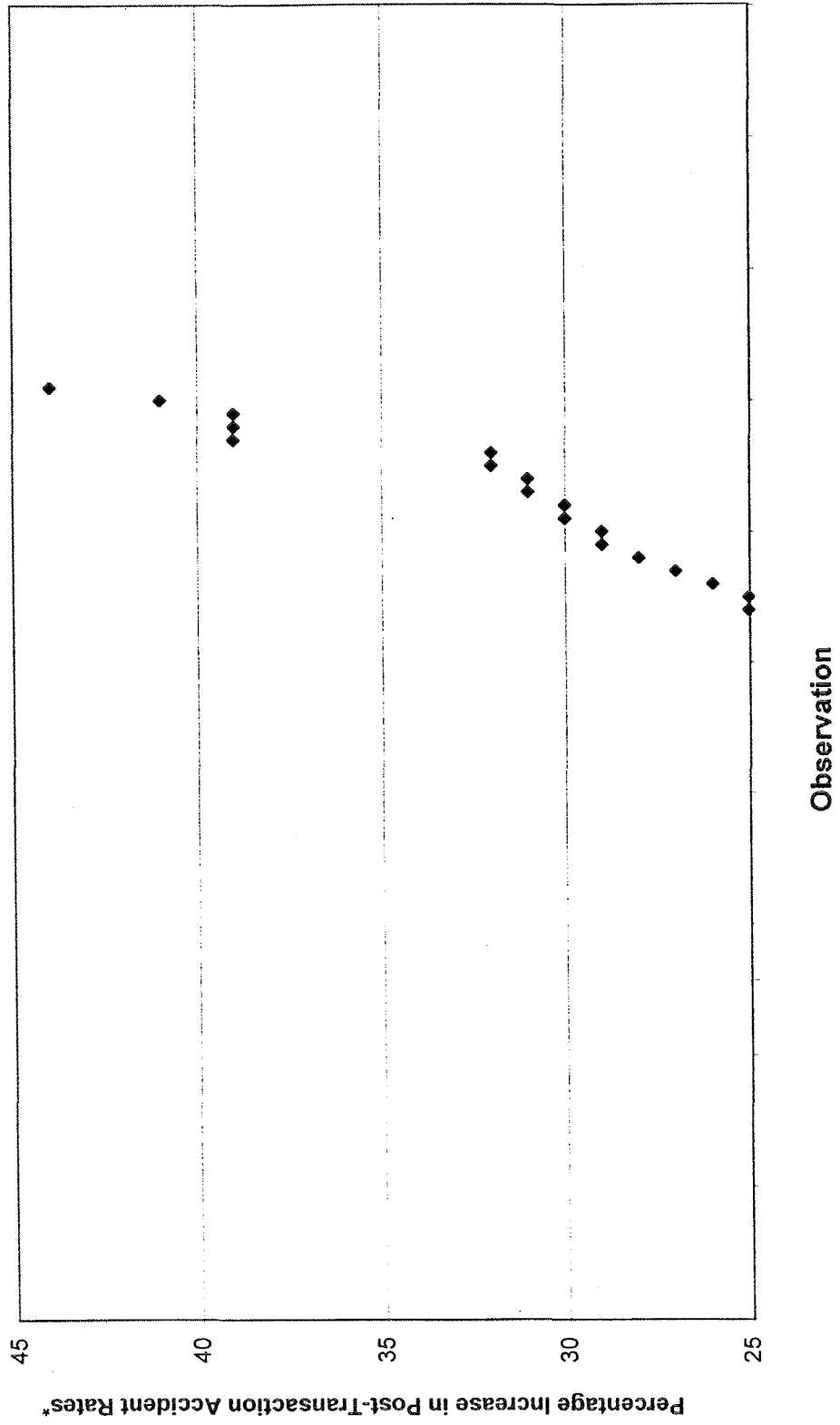
February 2, 1998

Exhibit 1
Histogram of Percentage Changes in Freight Passenger Accident Rate, Post-Transaction
(DEIS Data)



* Based on data in Attachment B-2 of Appendix B of DEIS.

**Exhibit 2
Partial Distribution of Post-Transaction Accident Percentage Increases**



A-121-b

* Based on data in Attachment B-2 of Appendix B of DEIS.

EXHIBIT 3

DESCRIPTION OF CSX COMPLIANCE WITH POTENTIAL PASSENGER TRAIN SAFETY MITIGATION MEASURES DESCRIBED IN CHAPTER 3 OF THE DEIS

Chapter 3 of the DEIS, sections 3.2.3 and 3.3.3, describe a variety of potential mitigation measures for passenger rail safety as follows:

- Enhanced rail-safety programs, such as closer spacing of rail car defect detectors along rail lines.
- Increased frequency of track inspections, tank car inspections, and highway/rail at-grade crossing signal inspections.
- Toll-free numbers for use by emergency response forces in communities to contact railroad authorities.
- Training programs for community and emergency response personnel to enhance their abilities to respond to rail-related emergency incidents.
- Head-hardened rail-on-track curves in mountainous territory to reduce the risk of track breakage and serious derailments.
- Centralized train traffic control systems for safer rail operations.
- Replacement of old rails to reduce the risk of derailment.
- New track installation to increase the capacity of the rail line segment, which reduces the potential for train collisions.
- Improved rail signal system to make more efficient and safer use of track

In this exhibit, CSX will describe its existing compliance, on the five line segments identified for passenger train safety mitigation, with each of the nine measures described above.

1. Rail Safety Programs/Defect Detectors -- On each of the five CSX line segments at issue, and in fact on each line segment on which passenger operations are conducted on the CSX system, CSX applies special safety measures to enhance passenger safety. These measures are described below.

With respect to rail car defect detectors, these are already in place on each of the identified CSX segments. The industry standard is the placement of detectors approximately 40 miles apart. CSX has exceeded this standard on all of these line segments. The 42 mile Point of Rocks line segment thus has four detectors, with a fifth located just west of the Point of Rocks

terminus of this segment. The approximately 50 mile Fredericksburg line segment has five detectors, with a fifth located just north of Potomac Yard. The 45 mile Savannah-Jesup segment has three detectors. The 33 mile Weldon-Rocky Mount segment has 3 detectors, while the 65 mile South Richmond-Weldon segment has 4 detectors. These detectors are strategically located at appropriate distances and at points of ingress and egress from each of the segments.

2. Regular Inspection of Track -- CSX already has in place a program to inspect these segments at least twice per week, consistent with FRA requirements.

3. Toll Free Telephone Number -- The third potential mitigation measure identified in Chapter 3 is the establishment of toll free telephone numbers for use by emergency response forces to contact railroad authorities. This measure is already in place.

4. Emergency Response Training -- The fourth listed potential mitigation measure is training programs for local emergency response organizations. Such programs are already available to communities. As described at pages 218-219 of CSX's Safety Integration Plan, CSX has undertaken a variety of emergency safety activities in connection with MARC operations. CSX has worked closely with MARC officials to assist and instruct Emergency Responder Training classes for fire departments and medical teams along the Point of Rocks line. CSX also developed a complete training program for its crews operating MARC trains. That program keeps crews abreast emergency equipment and passenger evacuation instructions. In conjunction with Amtrak and Maryland commuter officials, CSX has prepared an emergency training video which it shows to all such crews. Crews are also periodically tested to ensure compliance with collision prevention and response procedures.

Similar training is undertaken in coordination with VRE and Amtrak. Further, crews operating VRE and MARC trains have been equipped with cellular phones for emergency use in the event that radio communications cannot be used for any reason. These phones have been pre-programmed with all pertinent numbers that the conductor needs.

5. Head-Hardened Curves -- The fifth potential mitigation measure identified in Chapter 3 is head-hardened rail-on-track curves in mountainous territory. None of the CSX line segments identified for mitigation traverses mountainous territory and therefore these measures are not relevant.

6. Centralized Traffic Control -- The sixth potential mitigation measure is centralized traffic control. As discussed above, each of the five segments at issue here already has an operational traffic control system. These systems offer a significant safety enhancement, eliminating the possibility of two trains receiving conflicting signals.

7. Replacement of Old Rails -- CSX adheres fully to FRA requirements in terms of track replacement.

8. Enhancement of Track Capacity -- The eighth potential passenger train mitigation measure is the enhancement of track capacity. There is no capacity problem in terms of current or projected freight and current passenger operations with any of the five lines that have been identified. The lines at issue are projected to experience only modest freight train frequency increases of between 4.6 and 7.1 trains/day, and these lines can readily handle this increased activity. Further, in order to accommodate increased passenger service, capacity improvements are being undertaken on both the Point of Rocks and the Fredericksburg lines, which are the two lines over which there are commuter, as well as Amtrak, operations. A track capacity enhancement project is already funded and in advanced engineering stages on the Point of Rocks line, while track improvements have been funded for the Fredericksburg line and some construction has begun.

9. Rail Signal Systems -- The final potential mitigation measure identified by SEA is improved rail signal systems. CSX is in the midst of a signal upgrade program in which pole lines are being replaced with more reliable (and easier to maintain) solid state microprocessors. This work has already been completed on the South Richmond–Weldon and Weldon–Rocky Mount segments, which now have radio-based code lines and electronic track circuits. Additional signal upgrades are also planned for the Savannah-Jesup and other line segments. The signal systems currently in place on each of the line segments provide fully adequate protection against train collisions.

Further, as discussed in the CSX SIP at page 141, an automatic train control system with cab signals is already in place on the Fredericksburg (RF&P) line. This system will be modified so that it is compatible with the system in use on certain of the Conrail lines and the Northeast Corridor. CSX, Amtrak and VRE locomotives operating on this segment are all required, under CSX rules, to be equipped with cab signals. A cab signal system is also being developed for use on the Point of Rocks line. By means of these cab signal systems, engineers are able to see the governing signal in the locomotive cab, thereby enhancing safety by reducing the possibility of missed signals.

EXHIBIT 4

Preliminary Rail Line Segments That May Warrant Key Route Mitigation¹

State	Site ID	Post-Transaction Operator	Segment	County
Part A. Post-Transaction Routes On Which Projected Hazardous Materials Traffic Would Double And Exceed 20,000 Carloads Annually				
NJ	S-032	Shared	Port Newark to Bayway, NJ	NJ: Union and Essex
Marion --- Toledo, Ohio				
OH	C-070	CSX	Marion to Fostoria, OH	OH: Marion, Wyandot, and Seneca
OH	C-228	CSX	Fostoria to Toledo, OH	OH: Seneca and Wood
Quaker --- Fostoria, Ohio				
OH	C-073	CSX	Quaker to Mayfield, OH	OH: Cuyahoga
OH	C-072	CSX	Mayfield to Marcy, OH	OH: Cuyahoga
OH	C-069	CSX	Marcy to Short, OH	OH: Cuyahoga
OH	C-074	CSX	Short to Berea, OH	OH: Cuyahoga
OH	C-061	CSX	Berea to Greenwich, OH	OH: Cuyahoga, Lorain, and Huron
OH	C-068	CSX	Greenwich to Willard, OH	OH: Huron
OH	C-075	CSX	Willard to Fostoria, OH	OH: Huron and Seneca
OH IN	C-066	CSX	Deshler, OH to Willow Creek, IN	OH: Henry and Defiance IN: DeKalb, Noble, Marshall, Elkhart, Kosciusko, LaPorte, Porter, St. Joseph, and Lake
Part B. Post-Transaction Routes Projected To Meet Key Route Criteria				
GA	C-377	CSX	Manchester to Lagrange, GA	GA: Troup and Meriwether
NJ Cabin, Kentucky --- Marion, Ohio				
KY OH	C-230	CSX	NJ Cabin, KY to Columbus, OH	KY: Greenup OH: Franklin, Pickaway, Ross, Pike, and Scioto
OH	C-229	CSX	Columbus to Marion, OH	OH: Franklin, Delaware, and Marion
Relay, Maryland --- Washington, DC				
MD	C-037	CSX	Relay to Jessup, MD	MD: Anne Arundel, Baltimore, and Howard
MD	C-034	CSX	Jessup to Alexandria Junction, MD	MD: Howard and Prince George's
MD	C-031	CSX	Alexandria Junction, MD to Washington, DC	MD: Prince George's DC: Washington, DC
DC				
SC	C-344	CSX	Ashley Junction to Yemassee, SC	SC: Berkeley, Charleston, and Colleton

¹ Routes on which AAR Circular No. OT-55-B measures are already in place are shown in bold.

Preliminary Rail Line Segments That May Warrant Key Route Mitigation¹

State	Site ID	Post-Transaction Operator	Segment	County
Part A. Post-Transaction Routes On Which Projected Hazardous Materials Traffic Would Double And Exceed 20,000 Carloads Annually				
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OH	C-228	CSX	Fostoria to Toledo, OH	OH: Seneca and Wood
Quaker --- Fostoria, Ohio				
OH	C-073	CSX	Quaker to Mayfield, OH	OH: Cuyahoga
OH	C-072	CSX	Mayfield to Marcy, OH	OH: Cuyahoga
OH	C-069	CSX	Marcy to Short, OH	OH: Cuyahoga
OH	C-074	CSX	Short to Berea, OH	OH: Cuyahoga
OH	C-061	CSX	Berea to Greenwich, OH	OH: Cuyahoga, Lorain, and Huron
OH	C-068	CSX	Greenwich to Willard, OH	OH: Huron
OH	C-075	CSX	Willard to Fostoria, OH	OH: Huron and Seneca
OH IN	C-066	CSX	Deshler, OH to Willow Creek, IN	OH: Henry and Defiance IN: DeKalb, Noble, Marshall, Elkhart, Kosciusko, LaPorte, Porter, St. Joseph, and Lake
Part B. Post-Transaction Routes Projected To Meet Key Route Criteria				
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NJ Cabin, Kentucky --- Marion, Ohio				
KY OH	C-230	CSX	NJ Cabin, KY to Columbus, OH	KY: Greenup OH: Franklin, Pickaway, Ross, Pike, and Scioto
OH	C-229	CSX	Columbus to Marion, OH	OH: Franklin, Delaware, and Marion
Relay, Maryland --- Washington, DC				
MD	C-037	CSX	Relay to Jessup, MD	MD: Anne Arundel, Baltimore, and Howard
MD	C-034	CSX	Jessup to Alexandria Junction, MD	MD: Howard and Prince George's
MD	C-031	CSX	Alexandria Junction, MD to Washington, DC	MD: Prince George's DC: Washington, DC
DC				
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¹ Routes on which AAR Circular No. OT-55-B measures are already in place are shown in bold.

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OH	C-069	CSX	Marcy to Short, OH	OH: Cuyahoga
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OH IN	C-066	CSX	Deshler, OH to Willow Creek, IN	OH: Henry and Defiance IN: DeKalb, Noble, Marshall, Elkhart, Kosciusko, LaPorte, Porter, St. Joseph, and Lake
Part B. Post-Transaction Routes Projected To Meet Key Route Criteria				
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NJ Cabin, Kentucky --- Marion, Ohio				
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OH	C-229	CSX	Columbus to Marion, OH	OH: Franklin, Delaware, and Marion
Relay, Maryland --- Washington, DC				
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MD	C-031	CSX	Alexandria Junction, MD to Washington, DC	MD: Prince George's DC: Washington, DC
DC				
SC	C-344	CSX	Ashley Junction to Yemassee, SC	SC: Berkeley, Charleston, and Colleton

¹ Routes on which AAR Circular No. OT-55-B measures are already in place are shown in bold.

EXHIBIT 5

ANALYSIS OF THE IDENTIFICATION OF RAILROAD
CROSSINGS POTENTIALLY REQUIRING MITIGATION
IN THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR THE PROPOSED CONRAIL ACQUISITION

February 2, 1998

Submitted to:

CSX Corporation and CSX Transportation, Inc.

Submitted by:

ICF Kaiser

9300 Lee Highway

Fairfax, Virginia 22031

I. Summary of Results

ICF Kaiser analyzed the sixty-two (62) CSX railroad crossings identified in the DEIS as requiring mitigation. ICF Kaiser performed a multi-step review of the DEIS findings to determine if the DEIS had characterized each crossing appropriately according to its own criteria.

First, ICF Kaiser determined that eight (8) crossings did not meet the DEIS' Category A or Category B significance criteria and were, therefore, inadvertently identified in the DEIS. It appears that the DEIS relied on the post-Transaction accident rates to determine whether a threshold was exceeded. If the correct pre-Transaction accident rate is used, no mitigation would be required at these eight crossings (reference Table 1, column 19).

Second, ICF Kaiser determined which of the remaining crossings already had in place, or were funded and scheduled to have in place, warning devices that met or exceeded the DEIS recommendation. Twenty-three (23) crossings meet this standard (reference Appendix).

Third, ICF Kaiser determined that at one crossing, the state agency with jurisdictional authority recommended an improvement that was different from what was recommended in the DEIS (reference Appendix).

Fourth, ICF Kaiser determined that another nine (9) crossings are in the process of being examined by appropriate state agencies for non-Transaction related issues. These projects are not yet funded and scheduled (reference Appendix).

Fifth, ICF Kaiser determined that one crossing was closed, and therefore cannot be subject to mitigation (reference Appendix).

Sixth, for the remaining twenty (20) crossings, ICF Kaiser recalculated the DEIS formula using more current accident history data than were available to the SEA. The DEIS relies on data from 1991-95 in its analysis. Since completion of the DEIS, data from 1992-1996 have become available. When these data are applied to the DEIS methodology, sixteen (16) crossings no longer trigger the DEIS Category A or B significance criteria (reference Table 1, column 20).

Finally, for the remaining four crossings, one is on the Toledo to Deshler line and should not be subject to any Transaction-related impact (155821J). For the final three crossings, consultation with state authorities may be appropriate (reference Appendix).

II. Detailed Methodology

The DEIS evaluated safety implications to motorists from increased train operations on rail line segments resulting from the proposed Acquisition.

The standard FRA method of calculating crossing safety was used. The procedure is described in Appendix B of the DEIS. The method calculates the risk of an accident at a highway/rail at-grade crossing based upon the characteristics of the grade crossing and statistical information regarding historic accident experience. The historic data are based on FRA records of accidents and incidents, along with the inventory of physical and functional crossing characteristics. ICF Kaiser performed calculations independent of those performed in the DEIS, using the same methodology. Calculations were performed for the pre- and post-Transaction train traffic conditions, and are presented on the attached Table 2. The method uses three formulae (reference pp. 22-24 of the DEIS):

$$a = K \times EI \times DT \times MS \times MT \times HP \times HL \quad [1]$$

$$B = [T_0 / (T_0 + T)] * (a) + [T / (T_0 + T)] * (N/T) \text{ where } T_0 = 1 / (0.05 + a) \quad [2]$$

$$\begin{aligned} A &= 0.8239 \times B \text{ (for crossings protected by passive devices only).} \\ &= 0.6935 \times B \text{ (for crossings protected by flashing lights only).} \\ &= 0.6714 \times B \text{ (for crossings protected by gates and flashing lights)} \end{aligned} \quad [3]$$

where:

a = the initial predicted number of accidents per year.

K = the basic accident prediction formula constant.

EI = the exposure index factor based on the product of the number of roadway vehicles and trains per day.

DT = the factor for the number of trains per day during daylight.

MS = the factor for maximum timetable speed.

MT = the factor for number of main tracks.

HP = the factor for paved roadway.

HL = the factor for number of roadway lanes.

B = the weighted average of predicted accident rate and actual accident history.

T = the number of years of recorded accident history.

T_0 = the weighting factor in DOT accident prediction formula.

N = the number of accidents recorded for a crossing in T years.

A = the final predicted number of accidents per year.

The first formula [1] is the result of multiple regression analyses performed on data from the FRA databases. The factors K through HL used to calculate (a) were derived using the methodology outlined in the attached reference Table, 3-1, "Equations for Crossing Characteristic Factors."¹ The value (a) is the Basic Yearly Accident Rate, calculated by ICF Kaiser for the pre-and post-Transaction train traffic loads [reference Table 2, columns 35 and 36]. All values used in formula [1] can be found in attached Table 2, columns 9 - 34. Variables that change between the pre- and post-Transaction case are listed in separate columns, side-by-side.

The results (a) of the first formula serve as an input to the second formula [2], which averages the initial predicted accident rates for a highway/rail at-grade crossing with the actual experience. FRA recommends that actual accident experience be limited to the most recent five year period. ICF Kaiser used data from the 1996 FRA database to obtain accident rates for 1992-1996 [reference column 9]. The second formula yields B, the weighted average of predicted accident rate and actual accident history for pre- and post-Transaction data [reference Table 2, columns 37 and 38].

The pre- and post-Transaction values (B) are adjusted in the third formula [3], which applies a constant to yield the Final Predicted Number of Accidents per Year (A). This value is again calculated for the

¹ Table 3-1, Rail-Highway Crossing Resource Allocation Procedure User's Guide, Third Edition, August, 1987.

pre- and post-Transaction cases [reference Table 2, columns 39 and 40]. The constant in formula [3] adjusts for the level of protection provided by warning devices at a specific crossing.

Criteria of Significance for Highway/Rail At-Grade Crossing Safety Effects

The DEIS used the following criteria to determine if each specific crossing warranted mitigation measures:

- The crossing was in the top 50 for the state in pre-Transaction accident rate; or
- The crossing had accident frequencies of at least 0.15 per year pre-Transaction and an increase of at least 0.01 accidents per year post-Transaction; or
- For crossings that did not meet or exceed the 50 highest frequencies or the 0.15 accident rate, the DEIS considered an increase of at least 0.05 accidents per year as significant.

ICF Kaiser applied these criteria to the calculated pre- and post-Transaction values of (A) to ascertain whether segments warranted potential mitigation, per the independent calculations using 1992-1996 data. Column 42 of Table 2 displays 'Y' if the segment warrants mitigation, and 'N' if it does not, *per the ICF Kaiser calculations using 1992-1996 FRA data.*

For comparison purposes, ICF Kaiser hand-entered the pre- and post-Transaction values of (A) calculated in the DEIS [reference Table 2, columns 43 and 44]. Column 47 displays the results of applying the DEIS criteria for safety mitigation to these DEIS values of (A).

Note that in both columns 42 and 47, a lower case 'y' represents a crossing in the top 50 crossings for a given state's accident frequencies, per 1996 FRA data.

Appendix: Crossing Safety Mitigation

(*) - indicates change from DEIS

Crossing: 345246C (KY)
Subdivision: Henderson
Segment: Evansville, IN to Amqui, TN
Segment ID: C-021
City (*): Pembroke (Hopkinsville in DEIS)
Street (*): Duffy Street (Duffey Street in DEIS)
DEIS present device: passive
DEIS recommended device: flashing lights
Status: consultation with state may be appropriate
Notes:
In top 50 crossings for state, per DEIS.

Crossing: 345269J (KY)
Subdivision: Henderson
Segment: Evansville, IN to Amqui, TN
Segment ID: C-021
City: Hopkinsville
Street: E 6th Street
DEIS present device: passive
DEIS recommended device: flashing lights
Status: crossing does not meet thresholds using 1992-96 data

Crossing: 345318D (KY)
Subdivision: Henderson
Segment: Evansville, IN to Amqui, TN
Segment ID: C-021
City (*): Earlington (Madisonville in DEIS)
Street: W Moss Ave
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights funded and scheduled

Crossing (*): 345329R (KY) (155645N in DEIS)
Subdivision: Henderson
Segment: Evansville, IN to Amqui, TN
Segment ID: C-021
City: Madisonville
Street: W Center St
DEIS present device: flashing lights
DEIS recommended device: gates
Status: flashing lights and gates funded and scheduled

Crossing: 345331S (KY)
Subdivision: Henderson
Segment: Evansville, IN to Amqui, TN
Segment ID: C-021
City: Madisonville
Street: W Noel Ave
DEIS present device: flashing lights
DEIS recommended device: grade separation
Status: consultation with state may be appropriate

Crossing: 345362R (KY)
Subdivision: Henderson
Segment: Evansville, IN to Amqui, TN
Segment ID: C-021
City: Sebree
Street: W Dixon
DEIS present device: flashing lights
DEIS recommended device: gates
Status: consultation with state may be appropriate

Crossing: 342470C (IN)
Subdivision: C E & D
Segment: Vincennes, IN to Evansville, IN
City: Princeton
Segment ID: C-025
Street: CR 100 N
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 342473X (IN)
Subdivision: C E & D
Segment: Vincennes, IN to Evansville, IN
Segment ID: C-025
City: Princeton
Street: Spring St
DEIS present device: passive
DEIS recommended device: flashing lights
Status: crossing closed

Crossing: 342481P (IN)
Subdivision: C E & D
Segment: Vincennes, IN to Evansville, IN
Segment ID: C-025
City: Princeton
Street: Mulberry St
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 342493J (IN)
Subdivision: C E & D
Segment: Vincennes, IN to Evansville, IN
Segment ID: C-025
City (*): Fort Branch (Princeton in DEIS)
Street: W John St
DEIS present device: passive
DEIS recommended device: flashing lights
Status: current state project for preexisting conditions/ not yet funded

Crossing: 342413N (IN)
Subdivision: C E & D
Segment: Vincennes, IN to Evansville, IN
Segment ID: C-025
City: Vincennes
Street: Hart St
DEIS present device: flashing lights
DEIS recommended device: gates
Status: current state project for preexisting conditions/ not yet funded

Crossing: 342416J (IN)
Subdivision: C E & D
Segment: Vincennes, IN to Evansville, IN
Segment ID: C-025
City: Vincennes
Street: Perry St
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 342417R (IN)
Subdivision: C E & D
Segment: Vincennes, IN to Evansville, IN
Segment ID: C-025
City: Vincennes
Street: Buntin St
DEIS present device: passive
DEIS recommended device: flashing lights
Status: DEIS incorrectly classified.
Notes:
Crossing does not meet thresholds using 1992-1996 data.

Crossing: 342425H (IN)
Subdivision: C E & D
Segment: Vincennes, IN to Evansville, IN
Segment ID: C-025
City: Vincennes
Street: S 15th St
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 342829D (IN)
Subdivision: C E & D
Segment: Vincennes, IN to Evansville. IN
Segment ID: C-025
City (*): Haubstadt (Stacer in DEIS)
Street: Stacer Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Crossing does not meet thresholds using 1992-1996 data

Crossing: 342850J (IN)
Subdivision: Evansville Terminal
Segment: Vincennes, IN to Evansville. IN
Segment ID: C-025
City: Evansville
Street: Ohio St
DEIS present device: flashing lights
DEIS recommended device: gates
Status: gates funded and scheduled

Crossing: 155632M (IN)
Subdivision: Garrett
Segment: Willow Creek, IN to Pine Jct, IN
Segment ID: C-027
City: Gary
Street: Countyline Rd
DEIS present device: flashing lights
DEIS recommended device: gates
Status: DEIS incorrectly classified.
Notes:
Crossing does not meet thresholds using 1992-1996 data.

Crossing: 155633U (IN)
Subdivision: Garrett
Segment: Willow Creek, IN to Pine Jct, IN
Segment ID: C-027
City: Gary
Street: Hobart Rd
DEIS present device: flashing lights
DEIS recommended device: gates
Status: current state project for preexisting conditions/ not yet funded

Crossing: 155637W (IN)
Subdivision: Garrett
Segment: Willow Creek, IN to Pine Jct, IN
Segment ID: C-027
City: Gary
Street: Lake St
DEIS present device: gates
DEIS recommended device: 4-quadrant gates or median barriers
Status: Crossing does not meet thresholds using 1992-1996 data

Crossing: 155645N (IN)
Subdivision: Garrett
Segment: Willow Creek, IN to Pine Jct, IN
Segment ID: C-027
City: Gary
Street: Clarke Rd
DEIS present device: flashing lights
DEIS recommended device: gates
Status: gates funded and scheduled

Crossing: 232122V (OH)
Subdivision: Saginaw
Segment: Carleton, MI to Toledo, OH
Segment ID: C-040
City (*): Toledo (Alexis in DEIS)
Street: Conneau (State Line Rd)
DEIS present device: gates
DEIS recommended device: 4-quadrant gates or median barriers
Status: Crossing does not meet thresholds using 1992-1996 data
Notes:
Ohio PUCO analyzed crossing after the installation of gates and found no accidents since gates installed.

Crossing: 518507F (OH)
Subdivision: N/A
Segment: Berea, OH to Greenwich, OH
Segment ID: C-061
City: Wellington
Street: Pitts Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 532688W (OH)
Subdivision: N/A
Segment: Bucyrus, OH to Adams, IN
Segment ID: C-062
City (*): Lafayette (City not identified in DEIS)
Street: Lafayette Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 502682Y (OH)
Subdivision: N/A
Segment: Crestline, OH to Bucyrus, OH
Segment ID: C-064
City: Galion
Street: Biddle Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 155755Y (OH)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City: Deshler
Street: Main St
DEIS present device: flashing lights
DEIS recommended device: gates
Status: flashing lights and gates funded and scheduled

Crossing: 155789T (OH)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City (*): Weston (Bowling Green in DEIS)
Street: Range Line Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Crossing does not meet thresholds using 1992-1996 data
Notes:
Ohio PUCO determined no improvements warranted.

Crossing (*): 155794P (OH) (155794T in DEIS)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City (*): Tontogany (Bowling Green in DEIS)
Street: Kellogg Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 155798S (OH)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City (*): Tontogany (Tontogany in DEIS)
Street: Washington St
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Crossing does not meet thresholds using 1992-1996 data

Crossing: 155799Y (OH)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City (*): Tontogany (Tontogany in DEIS)
Street (*): Tontogany Rd (Tontogany Rd in DEIS)
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Crossing does not meet thresholds using 1992-1996 data
Notes:
Ohio PUCO determined no improvements warranted.

Crossing: 155804T (OH)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City: Haskins
Street: Middletown Pike
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 155812K (OH)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City: Perrysburg
Street (*): Five Point Rd (Fire Point Rd in DEIS)
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Crossing does not meet thresholds using 1992-1996 data
Notes:
Ohio PUCO determined no improvements warranted.

Crossing: 155814Y (OH)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City: Perrysburg
Street: Roachton Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Crossing does not meet thresholds using 1992-1996 data
Notes:
Ohio PUCO determined no improvements warranted.

Crossing: 155818B (OH)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City: Perrysburg
Street: Eckel Jct Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 155819H (OH)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City: Perrysburg
Street: Eckel Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Crossing does not meet thresholds using 1992-1996 data
Notes:
Ohio PUCO determined no improvements warranted.

Crossing: 155820C (OH)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City: Perrysburg
Street: Eckel Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Crossing does not meet thresholds using 1992-1996 data
Notes:
Ohio PUCO determined no improvements warranted.

Crossing: 155821J (OH)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City: Perrysburg
Street: W Boundary St
DEIS present device: gates
DEIS recommended device: 4-quadrant gates or median barriers
Status: consultation with state may be appropriate

Crossing: 155838M (OH)
Subdivision: Toledo Terminal
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City: Rossford
Street: Ford Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 155839U (OH)
Subdivision: Toledo Terminal
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City: Rossford
Street: Bates Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Crossing does not meet thresholds using 1992-1996 data
Notes:
Ohio PUCO determined no improvements warranted.

Crossing: 155840N (OH)
Subdivision: Toledo Terminal
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City: Rossford
Street (*): Schreier Rd (Schrick Rd. in DEIS)
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Crossing does not meet thresholds using 1992-1996 data
Notes:
Ohio PUCO determined no improvements warranted.

Crossing: 155419P (IN)
Subdivision: Garrett
Segment: Deshler, OH to Willow Creek, IN
Segment ID: C-066
City (*): Nappanee (Elkhart in DEIS)
Street: CR 9
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Current state project for preexisting conditions/ not yet funded.
Notes:
Crossing does not meet thresholds using 1992-1996 data.

Crossing: 155391B (IN)
Subdivision: Garrett
Segment: Deshler, OH to Willow Creek, IN
Segment ID: C-066
City (*): Syracuse (Warsaw in DEIS)
Street (*): Seventh St - Front (Seventh St in DEIS)
DEIS present device: flashing lights
DEIS recommended device: gates
Status: DEIS incorrectly classified.
Notes:
Crossing does not meet thresholds using 1992-1996 data. Current state project for preexisting conditions/
not yet funded.

Crossing: 155392H (IN)
Subdivision: Garrett
Segment: Deshler, OH to Willow Creek, IN
Segment ID: C-066
City (*): Syracuse (Warsaw in DEIS)
Street: Huntington St
DEIS present device: gates
DEIS recommended device: 4-quadrant gates or median barriers
Status: Two extra gates are being installed, but NOT 4-quadrant gates or
median barriers. Control circuitry being modernized.
Notes:
DEIS incorrectly classified.

Crossing: 155394W (IN)
Subdivision: Garrett
Segment: Deshler, OH to Willow Creek, IN
Segment ID: C-066
City (*): Syracuse (Warsaw in DEIS)
Street: Main/Syr-Web
DEIS present device: flashing lights
DEIS recommended device: gates
Status: Current state project for preexisting conditions/ not yet funded

Crossing: 155395D (OH)
Subdivision: Garrett
Segment: Deshler, OH to Willow Creek, IN
Segment ID: C-066
City (*): Syracuse (Warsaw in DEIS)
Street: Oak St
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Crossing does not meet thresholds using 1992-1996 data

Crossing: 155484V (IN)
Subdivision: Garrett
Segment: Deshler, OH to Willow Creek, IN
Segment ID: C-066
City (*): Walkerton (Portage in DEIS)
Street (*): CR 875 E
DEIS present device: passive
DEIS recommended device: flashing lights
Status: DEIS incorrectly classified.
Notes:
Current state project for preexisting conditions/ not yet funded. Crossing does not meet thresholds using 1992-1996 data.

Crossing: 155496P (IN)
Subdivision: Garrett
Segment ID: C-066
Segment: Deshler, OH to Willow Creek, IN
City (*): Union Mills (Portage in DEIS)
Street: 500 W
DEIS present device: passive
DEIS recommended device: flashing lights
Status: DEIS incorrectly classified.
Notes:
Crossing does not meet thresholds using 1992-1996 data.

Crossing: 155465R (IN)
Subdivision: Garrett
Segment: Deshler, OH to Willow Creek, IN
Segment ID: C-066
City (*): Teegarden (Plymouth in DEIS)
Street: First Rd - Smith
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Current state project for preexisting condition/ not yet funded
Notes:
Crossing does not meet thresholds using 1992-1996 data.

Crossing: 155476D (IN)
Subdivision: Garrett
Segment: Deshler, OH to Willow Creek, IN
Segment ID: C-066
City (*): Walkerton (Plymouth in DEIS)
Street: Thorn Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Current state project for preexisting conditions/ not yet funded.
Notes:
Crossing does not meet thresholds using 1992-1996 data.

Crossing: 155372W (IN)
Subdivision: Garrett
Segment: Deshler, OH to Willow Creek, IN
Segment ID: C-066
City (*): Kimmell (Kendallville in DEIS)
Street (*): CR 500 W
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 155380N (IN)
Subdivision: Garrett
Segment: Deshler, OH to Willow Creek, IN
Segment ID: C-066
City (*): Cromwell (Kendallville in DEIS)
Street: 900 W
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Current state project for preexisting conditions/ not yet funded.
Notes:
Crossing does not meet thresholds using 1992-1996 data.

Crossing: 155615W (IN)
Subdivision: Garrett
Segment: Deshler, OH to Willow Creek, IN
Segment ID: C-066
City (*): Portage (between Chestertown and Valparaiso in DEIS)
Street: CR 900 North
DEIS present device: gates
DEIS recommended device: 4-quadrant gates or median barriers
Status: DEIS incorrectly classified.
Notes:
Crossing does not meet thresholds using 1992-1996 data.

Crossing: 142366F (OH)
Subdivision: Willard
Segment: Deshler, OH to Willow Creek, IN
Segment ID: C-066
City: Defiance
Street: Jackson St
DEIS present device: flashing lights
DEIS recommended device: gates
Status: Flashing lights and gates in place.

Crossing: 155760V (OH)
Subdivision: Toledo
Segment: Deshler, OH to Toledo, OH
Segment ID: C-065
City: Deshler
Street: North St
DEIS present device: passive
DEIS recommended device: flashing lights
Status: Crossing does not meet thresholds using 1992-1996 data.
Notes:
Ohio PUCO determined that no improvements warranted.

Crossing: 518456X (OH)
Subdivision: N/A
Segment: Greenwich, OH to Crestline, OH
Segment ID: C-067
City: Shelby
Street: Main St
DEIS present device: flashing lights
DEIS recommended device: gates
Status: gates in place

Crossing: 518476J (OH)
Subdivision: N/A
Segment: Greenwich, OH to Crestline, OH
Segment ID: C-067
City: Shelby
Street: Base Line Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates in place

Crossing: 228774H (OH)
Subdivision: Columbus
Segment: Marion, OH to Fostoria, OH
Segment ID: C-070
City (*): Alvada (Fostoria in DEIS)
Street: Main St
DEIS present device: passive
DEIS recommended device: flashing lights
Status: DEIS incorrectly classified.
Notes:
Crossing does not meet thresholds using 1992-1996 data.

Crossing: 518382H (OH)
Subdivision: N/A
Segment: Marion, OH to Ridgeway, OH
Segment ID: C-071
City (*): La Rue (City not identified in DEIS)
Street (*): CR 245 (Marsh Rd in DEIS)
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 518391G (OH)
Subdivision: N/A
Segment: Marion, OH to Ridgeway, OH
Segment ID: C-071
City: La Rue
Street: Section St
DEIS present device: gates
DEIS recommended device: 4-quadrant gates or median barriers
Status: Crossing does not meet thresholds using 1992-1996 data.
Notes:
Ohio PUCO analyzed accident rates after gate was installed and determined that no further mitigation was warranted.

Crossing: 142178R (OH)
Subdivision: Willard
Segment: Willard, OH to Fostoria, OH
Segment ID: C-075
City: Tiffin
Street: Gillick Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates funded and scheduled

Crossing: 142179X (OH)
Subdivision: Willard
Segment: Willard, OH to Fostoria, OH
Segment ID: C-075
City: Tiffin
Street: Morrison Rd
DEIS present device: passive
DEIS recommended device: flashing lights
Status: flashing lights and gates in place

Crossing: 228780L (OH)
Subdivision: Columbus
Segment: Willard, OH to Fostoria, OH
Segment ID: C-070
City: Fostoria
Street: TWP 0180
DEIS present device: passive
DEIS recommended device: flashing lights
Status: DEIS incorrectly classified.
Notes:
Crossing does not meet thresholds using 1992-1996 data.

Crossing: 511027V (MI)
Subdivision: N/A
Segment: Carleton, MI to Ecorse, MI
Segment ID: S-020
City: Taylor
Street: Pennsylvania Rd
DEIS present device: flashing lights
DEIS recommended device: gates
Status: Current state project for preexisting condition/ not yet funded

TABLE 3-1. EQUATIONS FOR CROSSING CHARACTERISTIC FACTORS

GENERAL FORM OF BASIC FORMULA: $e = k \times EI \times DT \times MS \times MT \times HP \times HL$

CROSSING CHARACTERISTIC FACTORS							
CROSSING CATEGORY	FORMULA CONSTANT	EXPOSURE INDEX FACTOR	DAY THROUGH TRAINS FACTOR	MAXIMUM TIMETABLE SPEED FACTOR	MAIN TRACKS FACTOR	HIGHWAY PAVED FACTOR	HIGHWAY LANES FACTOR
	K	EI	DT	MS	MT	HP	HL
PASSIVE	0.0006938	$((c \times t + 0.2)/0.2)0.37$	$((d + 0.2)/0.2)0.178$	$e^{0.0077ms}$	1.0	$e^{-0.5966(hp-1)}$	1.0
FLASHING LIGHTS	0.0003351	$((c \times t + 0.2)/0.2)0.106$	$((d + 0.2)/0.2)0.1131$	1.0	$e^{0.1917mt}$	1.0	$e^{0.1826(hl-1)}$
GATES	0.0005745	$((c \times t + 0.2)/0.2)0.2982$	$((d + 0.2)/0.2)0.1781$	1.0	$e^{0.1512mt}$	1.0	$e^{0.1420(hl-1)}$

c = number of highway vehicles per day

t = number of trains per day

mt = number of main tracks

d = number of through trains per day during daylight

hp = highway paved? yes = 1.0 and no = 2.0

ms = maximum timetable speed, mph

hl = number of highway lanes

EXHIBIT 6

ANALYSIS OF THE METHODOLOGY FOR ESTIMATING TRAFFIC
DELAY AT RAILROAD/HIGHWAY AT-GRADE CROSSINGS
AS USED IN THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR THE PROPOSED CONRAIL ACQUISITION

February 2, 1998

Submitted to:

CSX Corporation and CSX Transportation, Inc.

Submitted by:

ICF Kaiser

9300 Lee Highway

Fairfax, Virginia 22031

Summary

ICF Kaiser reviewed the highway/rail at-grade crossing delay analysis used in the Draft Environmental Impact Statement (DEIS) for the Conrail Acquisition. A delay analysis like the one used in the DEIS can be appropriate as a screening tool to determine which crossings, if any, might cause a delay problem. However, the particular analysis used in the DEIS should not be used for a final characterization of impacts or a determination of mitigation. More specifically:

1. The 30-second delay criterion used for determining significant impact needs further evaluation;
2. The use of the Level of Service (LOS) criteria from the Transportation Research Board's Highway Capacity Manual (HCM), which was designed for signalized intersections, may not directly transfer to highway/rail at-grade crossings;
3. The analysis over-estimates stopped vehicle and average vehicle delays; and
4. The analysis did not include field observations that would indicate critical information such as actual queue size, actual average daily traffic (ADT), and the number of trains passing during the peak morning and evening traffic periods.

The approach in the DEIS tends to over-estimate the potential impacts of the transaction on railroad crossing delay. Determining whether significant (or even adverse) impacts might occur based on an approach that excludes site-specific information and input from the cognizant transportation agencies is inherently imprecise. Correctly implemented, parts of the methodology used in the DEIS could serve as an initial screening tool for examining a large number of crossings. However, this methodology is too simple to be used as a decision-making tool where large capital expenditures or operational changes are suggested as a possible solution (e.g., grade separations or changes in train speed). Efforts to calculate crossing-specific delay times without conducting field work (e.g., placing each crossing into the context of its surrounding road network, identifying nearby grade-separated crossings, observing actual queues and train lengths, as well as the number of trains that occur during peak morning and evening traffic periods) will result in a rough approximation of actual delay time. The discussion below includes an overview of the methodology used in the DEIS and addresses the use of the LOS criteria and the estimation of delay per stopped vehicle.

Overview of the Methodology Used in the DEIS

The DEIS analyzed traffic delay at highway/rail at-grade crossings to determine the potential impact on roadway performance. This approach is greatly expanded as compared to SEA's previous environmental documents. Using single-train event delays and delays occurring over an entire day as impact measures, the DEIS applied the average delay for all vehicles to determine an acceptable LOS for highway/rail at-grade crossings (LOS category "C" or better). Next, it established a criterion of 30-seconds for crossing delay per individual vehicle as a significant impact. However, the DEIS did not explain its selection of this 30-second criterion (whether this value came from earlier work or a recent derivation is not indicated). On the other hand, for measuring impacts to emergency response vehicles, the DEIS acknowledges that "[t]here are no national standards for measuring emergency response vehicle delay or the significance of any delay impacts." (reference Vol. 1, page 4-44) Absent any government standards or research to the contrary, the same conclusion should apply to common vehicle delay. Although estimated increases in delay can be used as an indicator of a potential delay problem, the actual need for any mitigation must consider a number of site-specific factors, not just vehicle delay, and must ultimately be determined by the transportation agency having jurisdiction over the road in question.

Use of Highway Capacity Manual Level of Service Criteria

LOS criteria are used to measure delay at signalized intersections and on stretches of highway. The DEIS used the LOS criteria for signalized intersections as a method for analyzing highway/rail at-grade crossing delays. The LOS criteria for signalized intersections, which are stated in terms of the average stopped delay per vehicle for a 15-minute analysis period, measure factors such as driver discomfort and frustration, fuel consumption, and lost travel time. Although not explicitly stated, the DEIS apparently characterized all highway/rail at-grade crossings as signalized intersections. The DEIS's table (reference page C-14), which correlates LOS and average delay per vehicle, is somewhat similar to the one found in the HCM entitled "Level-of-Service Criteria For Signalized Intersections." However, the HCM table

draws a correlation between LOS and delay per stopped vehicle,¹ not LOS and average delay for all vehicles² as presented in the DEIS.

In using the LOS criteria for highway/rail at-grade crossings, the DEIS did not acknowledge fundamental differences in operational characteristics between signalized intersections and grade crossings. Traffic signals and highway/rail at-grade crossings differ because traffic signals continuously operate in uniform cycles (red-green cycles) throughout most of the day as opposed to sporadic crossing events at highway/rail at-grade crossings.

Estimation of Delay Per Stopped Vehicle

In Volume 5A, Appendix C, pages C-11 and C-12 of the DEIS (as corrected by the errata dated January 21, 1998), crossing delay per stopped vehicle was calculated using the following equation which the DEIS sources to the Institute of Transportation Engineers, "Transportation and Traffic Engineering Handbook," Second Edition, 1982:

$$D_A = \frac{D_C \times (S_c / S_c - S_q)}{2} \quad [1]$$

where:

- D_A = crossing delay per stopped vehicle, in minutes
- D_C = time the train takes to pass the highway/rail at-grade crossing, including time for gate closing and opening, in minutes
- S_c = vehicle departure rate per minute per lane; (the basis for this is a rate of 1,400 vehicles per hour per lane, according to field measurements)
- S_q = vehicle arrival rate per minute per lane; (the basis for this is the daily traffic volumes for the roadway)
- 2 = factor to account for the average of the minimum and maximum vehicle delay

This equation does not appear in the "Transportation and Traffic Engineering Handbook" in this form to represent a relationship of delay per stopped vehicle. The equation the DEIS used to calculate crossing delay per stopped vehicle resembles the equation in the "Transportation and

¹ The DEIS defines this as the average amount of time a stopped vehicle would have to wait when traffic is stopped to let a train pass (reference Vol. 1, page 3-17).

² The DEIS defines this as the average delay experienced by all vehicles that would cross the tracks. This average delay figure includes both vehicles that would and would not be delayed by trains (reference Vol. 1, page 3-18).

Traffic Engineering Handbook,” for calculating the duration of the queue. The correct equation found in the publication that calculates the average minutes of vehicle delay is presented on the same page as the above equation in the “Transportation and Traffic Engineering Handbook.” The equation is expressed as follows,

$$d = r/2 (1 - s_r/q) \quad [2]$$

where: d = average minutes of vehicle delay
 r = duration of blockage (in minutes)
 s_r = flow rate (vehicles per minute) at bottlenecks during blockade
 q = average arrival rate of traffic (vehicle per minute) upstream of bottleneck

When the roadway is completely blocked (i.e., s_r = 0), as in the case of an at-grade railroad crossing, the equation reduces to:

$$d = r/2 \quad [3]$$

When an additional 0.30 minutes is added to allow for the waiting line of vehicles to dissipate, the equation resembles the average delay time equation presented in the Applicants’ Environmental Report, Volume 6A, Appendix D, page 246. This equation was developed by the Stanford Research Institute “Guidebook for Planning to Alleviate Urban Railroad Problems, prepared for the Federal Railroad Administration and Federal Highway Administration, August 1974, RP-31, Volume 3, Appendix C and has been used previously in the Environmental Assessments prepared for the BN/SF and UP/SP mergers.

$$D_a = D_c/2 + 0.3 \quad [4]$$

where: D_a = average delay time in minutes
 D_c = time required for the train to pass the crossing in minutes
 +0.3 = a constant to allow the waiting line of vehicles to dissipate

This equation more accurately reflects the crossing delay per stopped vehicle description presented earlier in the DEIS (reference Vol. 1, page 3-17) which states that the DEIS assumed that vehicles arrive at a crossing at a uniform rate and that the average delay for any particular roadway is half the time the crossing is activated, plus the time required for vehicles to clear the queue after the train has passed. However, rather than using this equation, which better reflects their description, the DEIS adopts equation [1] presented above. The rationale for the use of this equation is unclear.

The Importance of Field Observations

Field observations are important because generic modeled calculations may be revealed to be too conservative. For example, field observations could determine that during the most congested period of vehicular traffic, no trains block the crossing. Actual conditions may also show that during the peak train interval, very few vehicles use the roadway. At the site-specific level, various combinations of train length, train speed, vehicle arrival frequencies, and train frequencies should be considered based on actual conditions to decide the critical delay period.

Specific Vehicle Delay Time Calculations

In Table 1, LOS has been recalculated using the best available information for three grade crossings recommended for consultation. The table displays the inputs used in the DEIS's calculation of crossing delay per vehicle for these three crossings. The table also shows the average delays (in both minutes and seconds) for all vehicles and the resultant LOS category. Table 1 shows that when the best available information is used, the DEIS's criterion for mitigation (a decrease to LOS D) is not met.

TABLE 1. VEHICLE DELAY TIME CALCULATIONS FOR RAILROAD/HIGHWAY GRADE CROSSINGS USING DEIS METHODOLOGY AND BEST AVAILABLE INFORMATION

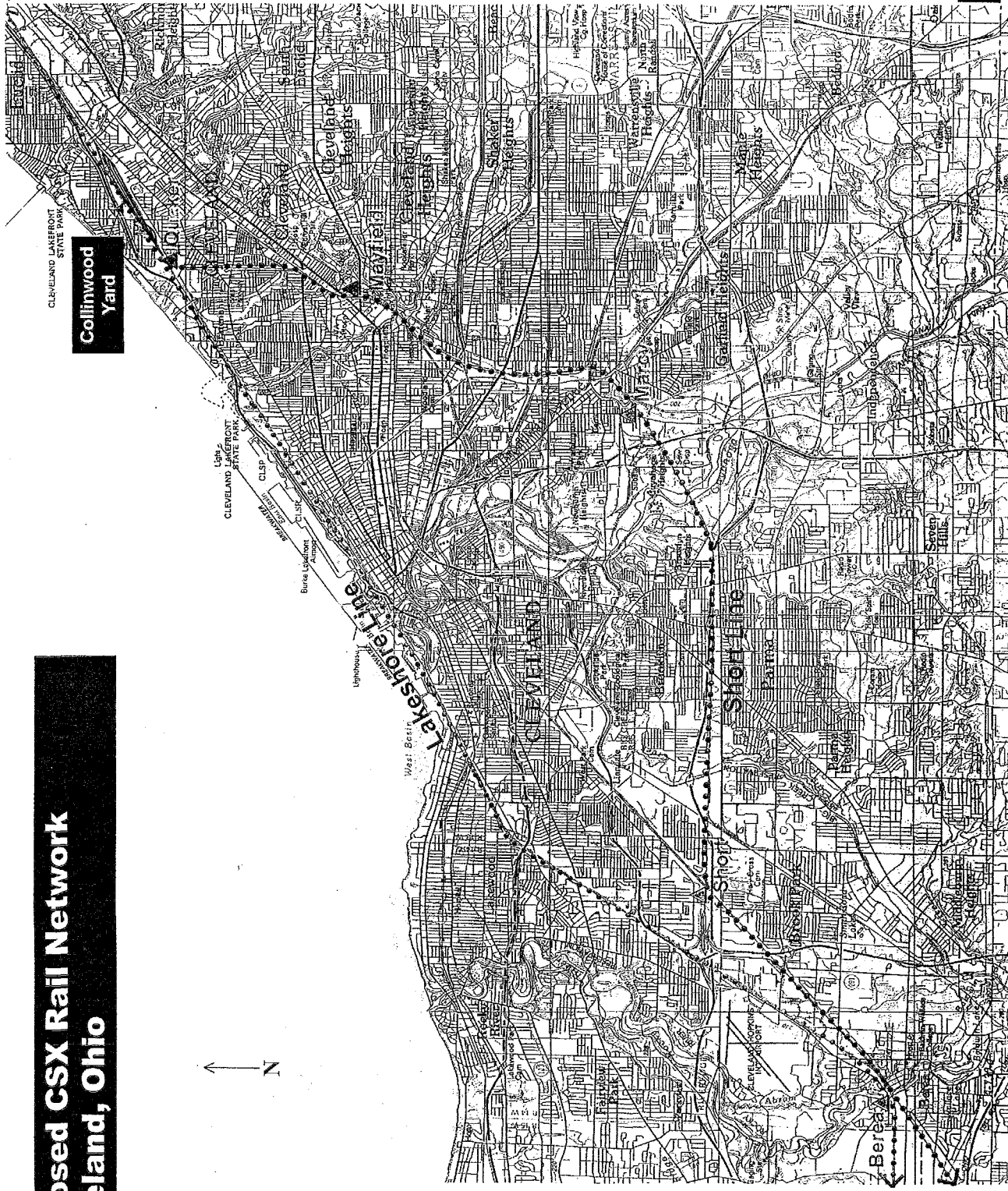
DEIS RECOMMENDED MITIGATION: CONSULT WITH APPROPRIATE AUTHORITIES

State	City	Site ID	Segment Description	Crossing	Length of Train (ft)			Train Speed (mph) ¹			Blocked Crossing Time for Trains D _c (minutes)			Number of trains per day (N)			Average Daily Traffic (ADT) in DEIS	ADT (best available information) ²	No. of Road Lanes (NL)	Crossing Delay per Vehicle = D _c (minutes)		Average Delay for all Vehicles (minutes)		Avg. Delay for all Vehicles (seconds)		Errata LOS		LOS (Using best available data)
					Pre	Post	Δ	Pre	Post	Δ	Pre	Post	Δ	Pre	Post	Δ				pre	post	pre	post	pre	post			
IL	Blue Island	C-010	Barr Yard, IL to Blue Island Jct, IL	Dixie Hwy / Western Avenue	6,000	6,200	200	10	25	15	7.32	3.32	-4.00	17.0	32.9	15.9	15,400	21,000	4	pre: 5.32 post: 2.41	pre: 0.92 post: 0.37	pre: 55.16 post: 21.95	pre: B post: D	pre: E post: C	C			
IL	Blue Island	C-010	Barr Yard, IL to Blue Island Jct, IL	Broadway/135 th St.	6,000	6,200	200	10	25	15	7.32	3.32	-4.00	17.0	32.9	15.9	7,250	NA	2	pre: 4.67 post: 2.12	pre: 0.81 post: 0.32	pre: 48.35 post: 19.24	pre: B post: D	pre: E post: C	C			
KY	Hopkinsville	C-021	Evansville, IN to Amqui, TN	Broadway/135 th St. E. 9 th St.	6,000	6,200	200	25	25	0	3.23	3.32	0.09	23.4	32.7	9.3	16,000	9,040	2	pre: 2.21 post: 2.27	pre: 0.23 post: 0.34	pre: 13.89 post: 20.52	pre: C post: D	pre: B post: C	C			

1. The pre-Transaction speeds are based on actual operating speeds. The post-Transaction speed for Dixie Highway/Western Avenue and Broadway/135th Street reflect speed increases resulting from implementation of the CSX Operating Plan.

2. The best available ADT is based on more recent data collected by telephone from the Kentucky Transportation Cabinet and the City of Blue Island Planning Office.

Proposed CSX Rail Network Cleveland, Ohio



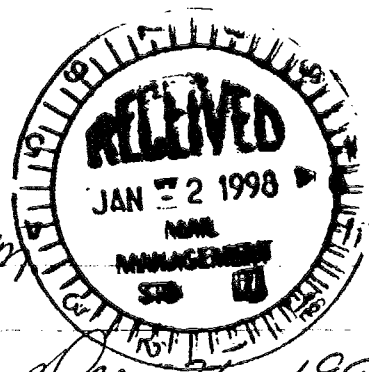
To Toledo & Chicago

To Indianapolis & Chicago

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/5/98

DOCUMENT # 1/5/98 3:40:49 PM



Dec 21, 1997

U.S. Surface Transportation Board
Washington, D.C.

ENVIRONMENTAL
DOCUMENT

Gentlemen:

I view of the attached more than the little people are against this split. the only ones for it are the ones that will reap monetary profits.

Conrail has been slow in order to promote this split so they will make obscene profits for the officials that buy out.

a Concerned
Citizen again

Conrail takeover worries shippers

By MIKE MAGNER
NEWHOUSE NEWS SERVICE

WASHINGTON — Shippers of goods in the West are growing increasingly concerned about the proposed takeover of two railroad giants in the East.

Automakers, chemical companies and electric utilities are among the industries that have been squeezed by bottlenecks since Union Pacific Corp. acquired Southern Pacific Rail Corp. last year in the biggest rail merger in history.

Union Pacific's problems, largely blamed on beleaguered crews running more trains over fewer tracks, have led many rail-dependent industries to raise warning signals about the proposed sale of Conrail to CSX Corp. and Norfolk Southern Corp.

The \$10.2 billion Conrail purchase would give the two Virginia

Some fear merger of 2 rail giants could result in service bottlenecks

railroads' dominance over rail service in the eastern United States, with a 44,000-mile network linking every major city except Boston, Miami and Tampa, Fla.

But first the sale must be approved by the U.S. Surface Transportation Board, which replaced the Interstate Commerce Commission in 1995 as the nation's rail overseer. The board plans to decide on the sale in July.

"The Conrail deal isn't even consummated, but the concern would be if they go through same kind of meltdown as Union Pacific has gone through, we will have the same kind of worker fatigue and stress and the same kind of problems," said William Gebo, manager of North American rail services for Dow Chemical Co.

But more than \$20 million this year due to stalled rail shipments from its plants in Texas and Louisiana, Gebo said. Much of the freight had to be shifted to trucks at higher rates.

The Big Three automakers, who ship 70 percent of their new vehicles by rail, have had similar problems making deliveries to dealers in the West.

"Logistically, it's a disaster," said a Ford Motor Co. spokesman Tom Klipstine. "Once you start to have bottlenecks in one part of the industry, it affects the whole industry."

The tie-ups have increased shipping times by about 10 percent and forced some GM plants to stockpile cars, Klipstine said. Ford Motor Co. has reported similar problems.

GM generally supports mergers if done for sound business reasons, Klipstine said, but the Union Pacific delays have raised concerns about the Conrail takeover. "When you have problems, you have second thoughts about everything."

Advocates for the sale say it will result in cheaper and more efficient rail service because CSX and Norfolk Southern will aggressively compete for business, but share access to virtually all trunk lines east of Kansas City.

The two railroads, now serving the Midwest and the South, would divide up the 11,000-mile Conrail system linking the Midwest and the Northeast. Conrail was created by Congress in 1976 out of six bankrupt railroads, including Penn Central and New York Central.

SEE RAIL/4-G

Conrail takeover concerns shippers

RAIL FROM 1-G

"You're going from three companies and, if you will, a lock on the Northeast that Conrail has had since its creation, to two competing, strong companies," said Marcus Higginbotham, a spokesman for Norfolk Southern.

In their proposal to the Surface Transportation Board in June, CSX and Norfolk Southern claimed their consolidated services would attract enough freight to take a million trucks off the nation's highways, reducing air pollution, traffic accidents and road damage.

The American Trucking Association called that an "unsubstantiated claim," but said even if it were true, it would be a net loss from the industry.

The Federal Railroad Administration, which regulates train safety, has raised similar con-

cerns, leading the Surface Transportation Board to demand detailed safety plans this month from both CSX and Norfolk Southern.

Many businesses, including some that complained about poor service from Conrail, are urging approval of the sale. Nearly 500 of them, along with a few environmental groups, have joined a Washington lobbying group organized by CSX and Norfolk Southern, Transportation Advocates for Competition (TRAC).

"The merger's going to be the best thing for the whole country," said John Meyer, manager of rail operations for Hager Group Cos. near Grand Rapids, Mich., a group of wood-product suppliers that joined TRAC.

"We need the competitive balance in the East," said Meyer. He complains that Conrail is not responsive when there are freight delays.

Fourteen governors, mainly

from Northeastern and Southern states served primarily by one railroad, also have endorsed the Conrail sale.

But the high cost of the deal is troubling, two big industry groups opposed to it said in joint comments to the Surface Transportation Board.

The Chemical Manufacturers Association and the Society of the Plastics Industry noted that Conrail was worth \$6.3 billion and its stock was selling for \$71 a share on Oct. 15, 1996, when CSX offered \$8.1 billion, or \$89 a share, to acquire the railroad.

Norfolk Southern, seeking to avoid domination by CSX in the East, then offered \$100 a share. In April, the two railroads agreed to jointly purchase Conrail for \$115 a share, or \$10.2 billion.

If the sale is approved, the two railroads would have to raise an extra \$3.9 billion in debt. The chemical and plastics groups

said. In fact, the purchase plan calls for eliminating 10,000 jobs in the first year, while adding only 1,109 new ones, they said.

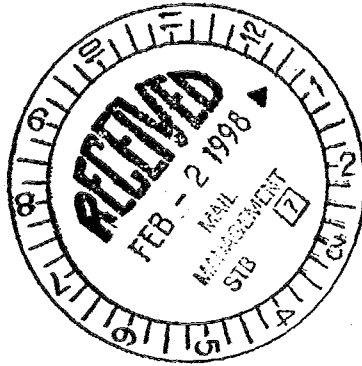
"Norfolk Southern and CSX can pay for their purchase of Conrail stock only if they faultlessly execute their strategy of increasing traffic while cutting personnel and costs substantially," the two groups said. "It is doubtful this can be done."

Power companies that rely exclusively on the railroads for coal shipments fear their dependence could lead to rate increases.

Consumers Energy Co., a large Michigan utility that uses 7.5 million tons of Western coal annually, has asked the Surface Transportation Board to block the Conrail sale.

"Ultimately, it will be high-volume, captive traffic — such as Consumers' coal traffic — which will finance the debt arising from the acquisition through unreasonably high rail rates," the utility told the board.

ENVIRONMENTAL
DOCUMENT



CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/2/98
DOCUMENT # 2298 4:19:38

Jan-28-1998

Re: Finance Docket No. 33388 - C S X
and Norfolk Southern - Control and
Acquisition - Community Notification.

We live at the corner of 3rd St.
and Adams. The 3rd St crossing is
about 1 block from our house. The
crossing is blocked numerous times
during the day. This causes more
traffic in our driveway with people
having to turn around. With increased
trains the situation will be worse.

Also ^{with} more trains the noise pollution
will be worse - Especially since the
trains have to whistle for the crossing.

Respectfully,

William & Leika Smick

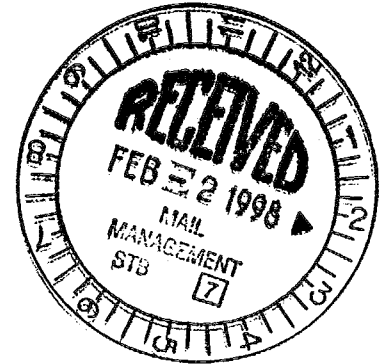
CENTRAL ADMINISTRATIVE UNIT

January 29, 1998

REC'D: 2/2/98

DOCUMENT # 2/2/98 5:09:20 PM

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



ATTENTION: ELAINE K. KAISER

Dear Secretary:

We have reviewed the Draft Environmental Impact Statement "Supplemental Errata" and offer comments on Table 5-OH-11 (dated 1/20/89).

For Hamilton County, Ohio, the grade crossings listed at Winton Road (Segment No. C-063) and Mitchell Avenue (Segment No. C-063) do not exist anymore. The track which crossed these roads was used as an industrial spur track until a few years ago before it was abandoned and the track taken up. The mainline CSX tracks which run parallel to this line (see map) are the line which you referring to. This line, however, does not cross Winton Road or Mitchell Avenue. On the map, the mainline CSX line is shown in pink and the abandoned CSX industrial spur is shown in yellow.

We have enclosed the original plus ten copies as you requested. If you have any questions regarding the above information, please call me at (513) 621-6300.

Sincerely,

A handwritten signature in cursive script that reads "Reginald Victor".

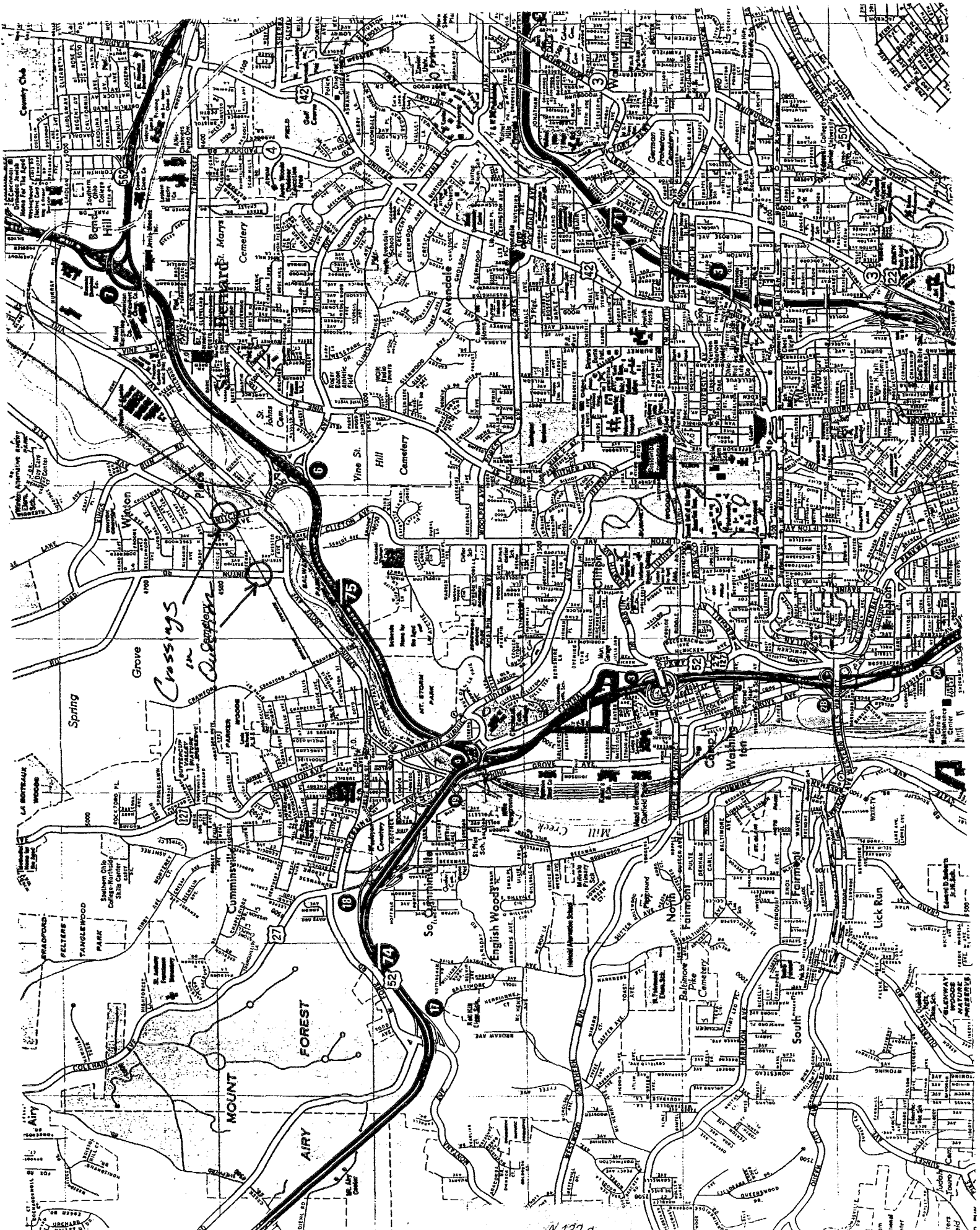
Reginald G. Victor
Transportation Engineer

Enclosures

A-131-d

Serving the Counties of

Boone • Butler • Campbell • Clermont • Dearborn • Hamilton • Kenton • Warren



Crossings in Cemetery

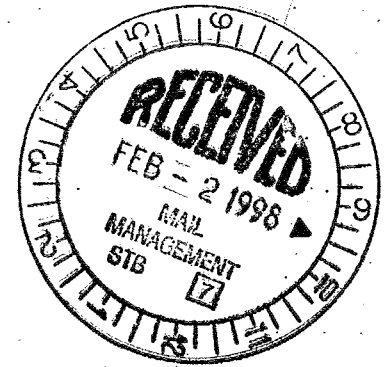
Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423

PROPOSED CONRAIL ACQUISITION
FINANCE DOCKET NO. 33388
DRAFT ENVIRONMENTAL IMPACT STATEMENT SUPPLEMENTAL ERRATA

Table 5-OH-11 (Revised)
Ohio
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

County	Seg. No.	Crossing FRA ID	Roadway Name	Number of Roadway Lanes	ADT	Pre Acquisition						Post Acquisition						Level of Service with Mitigation			
						Trains per day	Train Speed (mph)	Train Length (feet)	No. of Veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min./veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service	Trains per day	Train Speed (mph)	Train Length (feet)	No. of Veh. Delayed per day		Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min./veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service
Franklin	N-073	481472X	LINCOLN	2	9,810	26.0	40	4,869	334	18	1.33	5.43	B	34.3	40	5,000	449	19	1.36	7.44	B
Franklin	N-073	481467B	WEBER	2	8,078	26.0	40	4,869	295	16	1.27	5.18	B	34.3	35	5,000	419	18	1.43	8.69	B
Franklin	N-073	481470J	COOK	2	11,424	26.0	40	4,869	388	22	1.43	5.82	B	34.3	40	5,000	523	22	1.45	7.99	B
Hamilton	C-063	152346W	WINTON RD	4	21,820	28.2	20	6,000	1670	43	2.89	26.59	D	31.2	20	6,200	1902	44	2.98	31.15	D
Hamilton	C-063	152347D	MITCHELL AVE.	2	14,930	28.2	20	6,000	1143	58	3.52	32.31	D	31.2	20	6,200	1301	60	3.62	37.86	D
Hamilton	C-063	152355V	TOWNSHIP AVE	2	9,270	28.2	20	6,000	710	36	2.70	24.80	C	31.2	20	6,200	808	37	2.78	29.05	D
Hamilton	C-063	152356C	SEYMOUR	2	6,560	28.2	35	6,000	314	16	1.52	8.75	B	31.2	35	6,200	357	16	1.56	10.20	B
Hamilton	C-063	152357J	NORTHBEND	2	6,300	28.2	35	6,000	305	16	1.51	8.69	B	31.2	35	6,200	346	16	1.55	10.13	B
Hamilton	C-063	152368W	WYOMING AVE	2	7,210	28.2	35	6,000	346	18	1.56	8.97	B	31.2	35	6,200	393	18	1.60	10.45	B
Hamilton	C-063	152370X	MARION RD	2	6,260	28.2	35	6,000	300	15	1.50	8.65	B	31.2	35	6,200	341	16	1.54	10.09	B
Hamilton	C-063	152376N	SHARON RD	3	14,040	28.2	35	6,000	673	23	1.70	9.76	B	31.2	35	6,200	764	24	1.74	11.38	B
Hamilton	C-063	152380D	PRINCETON PIKE	4	25,630	28.2	35	6,000	1229	31	1.98	11.38	B	31.2	35	6,200	1306	32	2.03	13.27	B
Hamilton	C-063	152381K	CRESENTVILLE RD.	4	8,740	28.2	35	6,000	419	11	1.41	8.09	B	31.2	35	6,200	476	11	1.44	9.44	B
Hamilton	N-076	524743Y	VINE ST	4	8,560	33.9	35	5,600	467	10	1.33	8.70	B	38.6	35	5,000	487	9	1.22	8.31	B
Hamilton	N-076	524746J	BEECH ST	2	11,060	33.9	35	5,600	604	26	1.73	11.32	B	38.6	35	5,000	630	23	1.58	10.81	B
Hamilton	N-078	524719X	SHALLEY RD	2	9,680	11.7	35	5,600	182	22	1.63	3.68	A	18.9	35	5,000	270	21	1.49	4.99	A
Hamilton	N-078	524707D	HALUCK RD	2	6,200	11.7	35	5,600	117	14	1.42	3.21	A	18.9	35	5,000	173	13	1.30	4.55	A
Hamilton	N-078	524712A	KEMPER RD	2	5,980	11.7	35	5,600	113	14	1.41	3.19	A	18.9	35	5,000	167	13	1.29	4.32	A
Hamilton	N-078	524713G	READING RD	4	11,820	11.7	35	5,600	223	14	1.41	3.18	A	18.9	35	5,000	329	13	1.29	4.31	A
Hamilton	N-078	524740D	TOWNSHIP AVE	2	7,570	11.7	35	5,600	175	17	1.49	3.38	A	18.9	35	5,000	210	16	1.37	4.57	A
Hamilton	N-078	524722F	WYOMING ST	2	9,270	11.7	35	5,600	110	9	1.31	2.96	A	18.9	35	5,000	258	20	1.47	4.90	A
Hamilton	C-062	524742S	MURRAY ST.	3	5,830	11.7	35	5,600	110	9	1.29	2.96	A	18.9	35	5,000	162	8	1.20	4.02	A
Hamilton	C-062	524743Y	MAIN ST	2	6,310	5.9	40	5,600	54	13	1.29	1.32	A	13.9	40	6,200	138	14	1.39	3.65	A
Hamilton	C-067	518481E	MAIN ST	2	5,100	14.5	50	5,600	91	9	1.04	2.24	A	31.3	45	6,200	229	11	1.22	6.56	B
Lake	C-060	524829E	LAKE ST SR. 528	2	8,810	48.3	50	5,600	524	16	1.20	8.57	B	54.2	50	6,200	633	17	1.29	11.16	B
Lake	C-060	524803C	HOPKINS RD	2	8,850	48.3	50	5,600	526	16	1.20	8.59	B	54.2	50	6,200	636	17	1.30	11.17	B
Lake	C-060	524800G	PELTON RD	2	5,650	48.3	50	5,600	336	10	1.07	7.60	B	54.2	50	6,200	406	11	1.15	9.89	B
Lake	C-060	524793Y	BERIE ST	2	8,300	48.3	50	5,600	494	15	1.08	8.40	B	54.2	50	6,200	596	16	1.27	10.93	B
Lake	C-060	524791K	BEIDLER RD-E:361ST	2	5,450	48.3	50	5,600	324	10	1.06	7.55	B	54.2	50	6,200	392	10	1.14	9.82	B
Lake	C-060	524789I	E. 305TH ST	2	11,170	48.3	50	5,600	664	20	1.33	9.47	B	54.2	50	6,200	803	21	1.43	12.33	B
Lake	C-060	524787A	LLOYD RD	2	7,400	48.3	50	5,600	440	13	1.14	8.11	B	54.2	50	6,200	532	14	1.22	10.56	B
Lake	N-075	472039F	LIBERTY ST	2	8,810	13.0	50	4,869	128	14	1.09	1.89	A	36.6	50	5,000	366	14	1.11	5.53	B
Lake	N-075	472040A	CHESTNUT ST	2	5,980	13.0	35	4,869	142	16	1.34	3.03	A	36.6	35	5,000	409	16	1.37	8.88	B
Lake	N-075	472044C	MONTGOMERY AVE	4	19,260	13.0	50	4,869	279	15	1.13	1.96	A	36.6	50	5,000	801	16	1.15	5.72	B
Lake	N-075	472045J	JACKSON ST.	2	5,230	13.0	50	4,869	76	8	0.95	1.66	A	36.6	50	5,000	218	9	0.97	4.84	A
Lake	N-075	472046R	HUSLEY RD	2	6,360	13.0	50	4,869	92	10	0.99	1.72	A	36.6	50	5,000	265	10	1.01	5.04	A
Lake	N-075	472048E	HOPKINS RD	2	5,460	13.0	50	4,869	79	9	0.96	1.67	A	36.6	50	5,000	227	9	0.98	4.88	A
Lake	N-075	472056W	ERIE ST	2	8,570	13.0	50	4,869	134	14	1.08	1.88	A	36.6	50	5,000	356	14	1.10	5.48	B
Lake	N-075	472064N	RUSH RD	2	6,164	13.0	50	4,869	89	5	0.88	1.54	A	36.6	50	5,000	256	5	0.90	4.50	A
Lake	N-075	472068R	LLOYD RD	2	7,400	13.0	35	4,869	139	15	1.33	3.01	A	36.6	35	5,000	399	16	1.36	8.82	B

January 30, 1998



BY OVERNIGHT COURIER

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W., Room 715
Washington, DC 20423-0001

Attn: Elaine K. Kaiser, Environmental Project Director
Environmental Filing

Re: STB Finance Docket No. 33388
Draft Environmental Impact Statement, "Proposed Conrail Acquisition"

Dear Ms. Kaiser:

The Conservation Law Foundation ("CLF") appreciates the opportunity to submit comments on the Draft Environmental Impact Statement ("DEIS") for the proposed merger involving the acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad Corp. (the "Conrail merger").

CLF is New England's oldest environmental organization, with offices in Massachusetts, Vermont, New Hampshire and Maine. CLF's mission is to solve the environmental problems that threaten the people, natural resources, and communities of New England, using law, economics and science to design and implement strategies that conserve natural resources, protect public health, and promote vital communities in our region. CLF has long supported rail as an environmentally and economically sensible alternative to endless highway expansion and resulting urban sprawl and air pollution.

CLF's comments are on three issues, each of which was inadequately addressed in the DEIS. If the Surface Transportation Board ("STB") ultimately approves the merger application, CLF respectfully urges that the STB should impose the following three conditions:

1. CSX must cooperate with the Massachusetts Bay Transportation Authority ("MBTA") and Amtrak in the provision of improved, faster passenger rail service and increased access between Boston, Massachusetts and Albany, New York;

A-132-c

Conservation Law Foundation

2. 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 rail yards; and
3. CSX must make every effort to improve freight rail service east of the Hudson River - especially from the ports of New York and New Jersey to New England.

Passenger service between Boston and Albany is hampered by the low speed limits imposed by Conrail. Although the track is Class Five and could accommodate speeds of 90 miles per hour, Conrail has mandated that no train exceeds 60 m.p.h. In order to attract passengers away from their cars -- where they can travel on Interstate 90, a highway with a speed limit of 65 m.p.h. -- passenger trains must be able to take advantage of the full speed capacity of the track infrastructure. CSX should make every effort to facilitate such improved service.

Currently, freight cargo that comes into the port in South Boston is transferred by truck for several miles to Conrail's rail yard. This extra step is clearly highly inefficient. The City of Boston is currently engaged in major planning, design and reconstruction with respect to several interstate highways and the entire South Boston seaport district. Now is an excellent opportunity for Conrail and CSX to work with the City and the Commonwealth of Massachusetts to explore connecting the rail facilities directly at the seaport, to make an efficient intermodal transfer from ship to rail without the use of trucks. If the merger is approved, CSX should be instructed to make every effort to bring such an intermodal facility into being.

Similarly, CSX should expand its provision of freight service between New York and New England to reduce the dependence on highway trucking--currently, Interstate 95 in Connecticut is heavily stressed by truck traffic, a situation that is inefficient, unsafe and uneconomic. The STB should accordingly extend two-carrier rail competition to destinations east of the Hudson River, to end Conrail's monopoly there rather than merely transferring it to CSX. This can be achieved if the STB requires CSX and NS to modify their acquisition and operating plans, with the key being for NS to extend its operations into the sector east of the Hudson River.

Specifically, NS should be required to purchase and operate cross-harbor car float facilities from New Jersey to Brooklyn, to restore this system to at least its former capacity. NS should also establish service on the Northeast Corridor to Connecticut and Massachusetts, joining CSX and providing competition in this key sector. A viable, active rail option is desperately needed in this congested truck route. Other specific improvements would enhance these basic capacities, but these are the minimum requirements the STB should impose on the merger if it is approved, and the final EIS should document the clear efficiencies and resulting environmental benefits to be gained from these changes.

Conservation Law Foundation

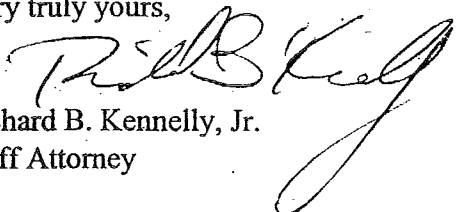
Some of the important economic and environmental benefits of trains include:

- **Efficiency:** Passenger trains are three times as energy-efficient as commercial air and six times as efficient as a car with one occupant. Freight trains are up to nine times more efficient than trucks. Switching only five per cent of U.S. highway driving to electrified rail would save more than one-sixth the amount of oil imported from the Middle East.
- **Air pollution:** Compared to heavy trucks, freight trains emit one-third the carbon dioxide and nitrogen oxide and one-tenth the hydrocarbons and diesel particulates.
- **Land use:** Trains can encourage more compact land-use patterns and concentrate economic development around town centers, rather than contributing to urban sprawl, as highways invariably do. More rail also translates into less traffic congestion and paved-over land; one railroad track can carry as many people per hour as eight lanes of highway.
- **Revitalization:** Trains can help revitalize old downtown areas that were originally built around rail. By adding a new travel option, rail increases tourism and economic development. A recent study of Virginia Metrorail concluded that the state had realized a \$1.2 billion net gain in tax revenues alone from its investment in trains. Other studies have shown that residential property values go up with access to rail.

For these and other reasons, CLF requests that you include analysis and conclusions in the final EIS with respect to these issues, so that the final EIS would urge the STB to impose the three conditions specified above should the STB approve the merger.

Thank you for considering these comments.

Very truly yours,

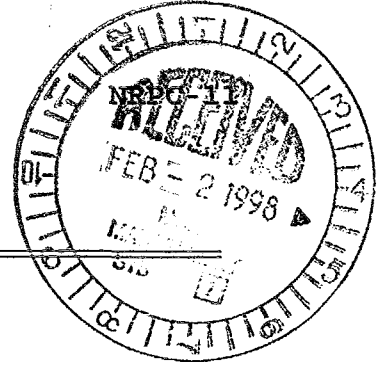

Richard B. Kennelly, Jr.
Staff Attorney

A-133-a

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 10:04:04 AM

ENVIRONMENTAL DOCUMENT

BEFORE THE
SURFACE TRANSPORTATION BOARD



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

Finance Docket No. 33388

COMMENTS OF THE
NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)
ON THE BOARD'S DRAFT ENVIRONMENTAL IMPACT STATEMENT
AND ON THE APPLICANTS' SAFETY INTEGRATION PLANS

NATIONAL RAILROAD PASSENGER
CORPORATION

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BEFORE THE
SURFACE TRANSPORTATION BOARD

CSX CORPORATION AND CSX)	
TRANSPORTATION, INC., NORFOLK)	
SOUTHERN CORPORATION AND NORFOLK)	
SOUTHERN RAILWAY COMPANY --)	Finance Docket No. 33388
CONTROL AND OPERATING LEASES/)	
AGREEMENTS -- CONRAIL INC. AND)	
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The National Railroad Passenger Corporation ("NRPC" or "Amtrak") appreciates this opportunity to comment on the Draft Environmental Impact Statement ("DEIS") published by the Section of Environmental Analysis ("SEA") in these proceedings on December 12, 1997, as well as on the "Safety Integration Plans" submitted by the Applicants and included by SEA in the December 12 issuance.

In its comments, Amtrak will naturally focus on those portions of the DEIS that examine the impact of the proposed transaction on passenger rail operations -- and especially on those passages and preliminary conclusions in the DEIS that, we believe, should be modified in the final EIS. While Amtrak's comments will necessarily focus on those aspects of the DEIS to which it takes exception, Amtrak recognizes the very difficult task that SEA has faced in attempting, under very tight dead-

lines, to assess the impacts of a transaction that, if approved by the Board, will lead to changes in rail operations of far greater magnitude than have resulted from any prior rail merger.

As requested by SEA, these comments are divided into two parts: Part I, immediately following this introduction, addresses SEA's own conclusions regarding potential adverse impacts on commuter and intercity passenger service from the proposed transaction. Part II, which begins on page 18, comments separately on the "Safety Integration Plans" previously filed by NS and CSX, covering both their respective separate post-transaction operations and their proposed "Shared Assets Area" operations.

PART I COMMENTS ON THE DEIS

I. INTRODUCTION

The DEIS preliminarily finds that, in general, the proposed transaction (the "Conrail Acquisition") will not adversely affect either the operations or safety of Amtrak's passenger services. The DEIS concludes, among other things, that all of the lines used for passenger service have adequate capacity to handle proposed increases in freight operations without forcing reductions in present Amtrak train frequencies. The one exception relates to safety on nine line segments, eight of which are owned by freight railroads,¹ over which Amtrak operates and

¹ The ninth segment is the rail line between Kalamazoo, MI and Porter, IN which is owned by Amtrak. The DEIS identifies a similar risk on a tenth line segment, shared by freight and

that will experience increases in freight traffic as a result of the Acquisition. The DEIS preliminarily concludes that the Acquisition will unacceptably increase the risk of passenger-freight train collisions on these line segments, and proposes mitigation in the form of a 30-minute "window" for each passenger train.

Amtrak respectfully disagrees with the DEIS's conclusion that the merger is unlikely to cause capacity problems, and resulting deterioration in Amtrak's on-time performance, on any of the CSX, NS and Conrail-owned lines over which Amtrak operates. Amtrak also disagrees with the DEIS's conclusion that the merger will create appreciably increased safety risks on the nine line segments identified for mitigation measures, and with the efficacy and wisdom of the 30-minute window proposed to mitigate those perceived risks. In both cases, Amtrak believes that these preliminary conclusions result from shortcomings in the methodologies and data relied upon that, if corrected, would yield very different conclusions.

We discuss these points in greater detail below.²

commuter trains, over which Amtrak does not operate.

²In addition to the points discussed below, there are also three minor factual errors in the DEIS relating to Amtrak that SEA may wish to correct in the final DEIS. Page 4-28 of Volume 1 of the DEIS erroneously states that Canadian Pacific Railway has filed a responsive application for trackage rights between Detroit and Chicago, including rights over the Amtrak-owned line between Porter, IN and Kalamazoo, MI. Page 4-39 of the same volume incorrectly states that Amtrak operates through the Virginia Avenue Tunnel in Southeast Washington that CSX intends to improve. Finally, the summary of requests for conditions in Volume 5C of the DEIS at page U-13 states that the on-time

Consistent with the framework employed in Amtrak's October 21 Comments, we first discuss the DEIS's conclusions regarding the transaction's impact on passenger service safety and operations on the Amtrak-owned Northeast Corridor ("NEC") between Washington and New York, and then turn to its analysis of impacts on passenger service on other lines over which Amtrak operates.³

II. THE NORTHEAST CORRIDOR

The DEIS concludes that the Conrail Acquisition will have no adverse effects on passenger service on the NEC, both because of Amtrak's ownership and control of the NEC and because there is substantial excess capacity on the NEC during the nighttime hours to accommodate the increases in NEC freight train operations planned by the Applicants.

Amtrak agrees with SEA that Amtrak's ownership and control of the NEC is an important safeguard in ensuring that neither Amtrak nor commuter train services on the NEC will be harmed by the Acquisition. However, as discussed below, the DEIS appears to significantly overestimate the available capacity on the NEC for additional nighttime freight operations, and thus the NEC's ability to accommodate (i) all of Applicants' planned increases in freight operations on the schedules Applicants have proposed, and (ii) Applicants' plans to replace Conrail's freight

performance oversight condition Amtrak is seeking would apply only to Amtrak trains that will be operated by CSX, whereas it would actually apply to trains operated by NS as well.

³For convenience we discuss the Kalamazoo, MI to Porter, IN line in the latter context, even though it is owned by Amtrak.

operations between New York and Philadelphia with those of three separate entities (NS, CSX, and the Conrail Shared Assets Organization), and to have both NS and CSX share Conrail's operating rights between Philadelphia and Washington.⁴

A. Safety

The DEIS's analytic framework for identifying any adverse effects on the safety of rail passenger operations from the proposed transaction's changes in freight operations found no such problems on the NEC, and therefore proposed no mitigation conditions.

As indicated above, Amtrak agrees that safety will not be compromised on the NEC (for the reason, among others, that Amtrak will require strict compliance with its safety regulations and will not permit operations that might compromise safety). We therefore defer our discussion of the flaws in the DEIS's methodology for quantifying safety impacts and its proposed mitigation measures to the discussion of non-NEC effects in Section III, below.

A. Capacity

The DEIS concludes generally that there is substantial excess capacity to handle more freight traffic on the NEC during late night and early morning hours, despite several acknowledged bottlenecks, and that Amtrak can control the timing of freight

⁴Amtrak remains hopeful that its ongoing negotiations with the Applicants will produce a mutually satisfactory agreement on accommodation of Applicants' planned changes in NEC freight operations and operating rights.

access to preclude any operations that would interfere with passenger service.

Amtrak believes that the DEIS seriously underestimates the capacity constraints Amtrak faces on the NEC, even during the 10:00 p.m. - 6:00 a.m. period during which there are relatively few passenger trains operating. Comparisons of current and proposed freight levels to those that prevailed when Amtrak took over the Corridor in 1976 are meaningless, because passenger operations -- and especially commuter operations -- have grown exponentially since then, even during the late night and early morning hours. (See Amtrak's October 21 Comments, Verified Statement of James L. Larson ("Larson V.S."), at 9-10.) Track maintenance operations, which must be conducted almost entirely during the nighttime hours, typically entail temporary outages that further limit the NEC's capacity for significantly-increased freight service. Planned improvements to the Corridor -- both those planned for enhancing intercity passenger operations and bringing the NEC to a state of good repair, and those proposed by Applicant NS -- will cause still more restrictions on available capacity, especially at night. (*Id.*)

Amtrak takes particular exception to the DEIS's assumption that any capacity constraints on the most heavily-used portion of the Corridor, between Newark and Trenton, NJ, could be alleviated through assignment of nighttime freight trains to the two inside tracks while assigning off-hours passenger trains to the outside tracks. In the first place, as indicated in Amtrak's

comments (Larson V.S., at 7), the inside tracks are maintained to especially stringent standards to accommodate high-speed Metro-liners, and Amtrak tries to minimize freight use of those tracks because such operations cause significantly-increased track degradation and higher track maintenance expense. Second, because of operational and maintenance requirements, it is not possible to segregate passenger and freight operations in the manner that the DEIS assumes,⁵ even on portions of the NEC that have four tracks.⁶

This is not to say that some additional freight operations cannot be accommodated on this segment or elsewhere on the NEC. Rather, it is to emphasize that there are no easy "fixes". Thus, any determination of where, at what times, and in what numbers additional through freight trains can be handled, can only be made through a detailed, line-segment-specific analysis of the available track infrastructure, actual passenger and

⁵Because of operating and maintenance requirements, freight trains cannot be kept off the inside tracks altogether between Newark and Trenton or elsewhere. For example, Conrail's principal yards in the Newark and Trenton areas -- Oak Island and Morrisville -- can only be accessed via one of the inside tracks, and portions of the "clearance" route between Newark and Trenton for freight trains carrying high loads are via the inside tracks. Conversely, Conrail's Linden and Metutchen Yards in Northern New Jersey can only be accessed from track 1, an outside track that must also accommodate virtually all nighttime northbound Amtrak and commuter trains (because the northbound platforms at most commuter train stations, and the Metropark station where nearly all nighttime Amtrak trains stop, can only be accessed from track 1).

⁶Between Baltimore and Perryville, MD, which according to Applicants' operating plans will continue to have the highest density of freight traffic following the Acquisition, portions of the line have only two tracks.

freight train schedules and operating characteristics, maintenance of way track occupancy requirements, etc. Understandably, the DEIS preparation has not entailed any such comprehensive study of the NEC; but the necessary corollary is that the DEIS's preliminary conclusions and observations regarding the NEC capacity situation are ill-founded, and should not be retained in the final EIS.

III. PASSENGER OPERATIONS ON FREIGHT LINES

A. Safety

Amtrak applauds SEA's recognition of the critical need to protect the safety of passenger train operations from any adverse effects of the proposed transaction. While rail passenger service has traditionally been among the very safest modes of transportation, as the DEIS acknowledged, there is no room for "good enough" where safety is at issue. Even a single accident that results in the death or injury of an Amtrak passenger or employee is one too many.

Unfortunately, the DEIS's attempt to identify potential safety effects with an elaborate statistical analysis, although clearly well-intentioned and the product of much thought and effort, is fatally flawed, and as a consequence it has produced seriously misleading results. Moreover, the DEIS's recommended mitigation condition -- a 15-minute "window" before and after each passenger train on certain lines, during which freight trains would have to be cleared from the track the passenger train is using -- would do nothing to enhance safety, while

making it much more difficult, if not outright impossible, for passenger and freight services to co-exist efficiently on the affected lines.

At the outset, it is important to understand that collisions between freight trains and passenger trains occupying the same track -- the only type of accident that the thirty-minute window is intended to prevent -- are extraordinarily rare. Indeed, in Amtrak's nearly 27 years of existence, during which time it has operated over two million trains on lines shared with freight service, there has been only one such incident that resulted in fatalities to Amtrak passengers or employees: the tragic 1987 collision at Chase, Maryland, on the Northeast Corridor that resulted in the deaths of 16 Amtrak passengers and crew members. That collision was caused by a speeding Conrail "light engine" consist that was operated in blatant disregard of applicable safety rules and ultimately ignored a series of slow and stop signals to enter the path of a high speed Amtrak train.⁷

It is quite unlikely the addition of more safety rules would have prevented a collision that was caused by the Conrail crew's total disregard of the rules that were already in place.

⁷The Conrail locomotives were operated by Conrail employees who had recently used marijuana, and had cab signals and audible warning devices that had been intentionally disabled or otherwise rendered inoperable. The Conrail engineer, who subsequently pled guilty to manslaughter, admitted that he had violated numerous other safety rules, including failing to call out signals and failing to maintain a proper lookout.

The manner in which SEA calculated the frequency of collisions between Amtrak and freight trains results in a vast overstatement of the risk of such collisions. First, in concluding that there would be an average of 1.25 such collisions per year, SEA relied upon data from a period of just four years (1993-96) during which it identified a total of five such collisions. Given the rarity of such incidents, reliance upon data derived from only a very short period is likely to produce a result that is not representative of long term trends. Second, it appears that the five collisions SEA identified include all collisions between Amtrak and freight trains during this period, including those that resulted from an Amtrak train striking a load projecting from a freight train on an adjacent track and those that occurred on wyes and sidings (to which the 15-minute rule presumably would not apply). As a result, all of the calculations of passenger-freight train collision risks contained in the DEIS, including those for lines as to which SEA concluded that no mitigation was required, dramatically overstate the risk of the only type of collision -- a collision between a passenger train and a freight train occupying the same main line track -- that the mitigation condition is intended to prevent. Indeed, Amtrak is not aware of a single such collision that occurred during the four-year period (1993-96) from which SEA derived its accident frequency rate.

Another significant flaw in the methodology employed by the DEIS is its failure to give adequate recognition to the

advanced safety systems Amtrak has installed on the NEC. While the DEIS assumed that the existence of an Automatic Train Stop ("ATS") or Automatic Train Protection ("ATP") system would reduce the risk of a collision by 30%, when compared to a line equipped with signals but no other safety enhancements, Amtrak believes that the 30% figure understates the safety benefits of the ATS and speed control systems installed on the NEC, to say nothing of the more advanced "Advanced Civil Speed Enforcement System" ("ACSES") that Amtrak is presently developing for installation on portions of the NEC.⁸ While the failure to take account of the advanced safety systems on the NEC had no effect on the DEIS's recommended mitigation measures (since, even under SEA's methodology, mitigation was not deemed necessary on any portion of the NEC), the DEIS suggested that mitigation might be required on the Amtrak-owned Kalamazoo, MI to Porter, IN line without giving any consideration to the safety benefits of the Positive Train Control ("PTC") system presently being installed on the majority of this line segment as the result of a project in which FRA is participating.

Far from enhancing safety, a 30-minute separation rule might actually create risks of its own. It could induce a false sense of security on the part of affected crew members that in turn would lead to reduced vigilance, and even a willingness to "cheat" a bit on restrictions that all involved would realize are

⁸SEA's methodology also appears to have assumed that cab signal systems unaccompanied by ATS or ATP systems conferred no additional safety benefits, which obviously is not the case.

unduly harsh. Moreover, all of the lines for which the DEIS proposes the 30-minute separation rule have not only Automatic Block Signals (ABS) but also TCS (Traffic Control System) signal and switch operation, which provides an additional layer of human supervision and control to catch and forestall any mistakes that might be made by train crews. The proposed rule would have the perverse effect of requiring train crews to ignore the signals provided by these systems if they conflicted with the 15-minute rule, e.g., to stop and wait at a signal which otherwise would have allowed the train to proceed.

For the foregoing reasons, Amtrak urges SEA not to recommend the proposed 30-minute separation rule as a condition on any of the Applicants' rail lines. While Amtrak remains concerned that the increased freight usage on these and other lines following the merger that has prompted SEA to consider this rule will adversely affect the on-time performance of Amtrak's trains, it does not believe that this additional freight traffic will have an appreciable impact on safety.

B. Capacity and On-Time Performance

The DEIS concludes that all of the Applicants' lines that are shared by passenger service, including the CSX and Conrail lines about which Amtrak expressed particular concern in its October 21 Comments, can readily accommodate planned increases in freight service without preventing Applicants from meeting their contractual obligations to Amtrak. Amtrak is compelled to disagree, both with the apparent standards the DEIS used in

assessing passenger impacts, and with its conclusion that no adverse effects requiring mitigation are threatened.

The first and most pervasive flaw in the DEIS's approach is its failure to take account of actual and projected freight train schedules in determining whether increases in post-merger freight traffic would exceed a line's capacity. Instead, SEA assumed that the freight trains operated on each line following the Acquisition would be spread in a perfectly even fashion throughout the day, seven days a week, 365 days a year. Needless to say, this "perfect world" assumption does not comport with reality. Most rail lines experience numerous peaks and valleys in freight traffic in a single day because, among other things, intermodal trains tend to depart terminals in the evening and arrive very early in the morning, local freight service tends to be concentrated in the daylight hours, and trains moving in the same direction have a tendency to bunch up in "fleets", particularly on congested or single track lines. Volumes on most lines are higher during the week than on weekends, and there are also significant seasonal variations in freight traffic.⁹ Assuming that the Acquisition will create no capacity problems because freight trains will spread themselves out in a perfectly optimal fashion is like concluding that a highway with a capacity of 1,000 cars per hour will have adequate capacity as long as its

⁹See STB Service Order No. 1518, *Joint Petition for Service Order*, Decision served Oct. 31, 1997, at 6 (noting that seasonal increases in freight traffic would exacerbate the congestion problems that occurred after the Board's approval of the UP/SP merger).

total usage does not exceed 24,000 cars a day. As any rush hour commuter can attest, the reality will be otherwise.

It is particularly surprising that the DEIS reached its sweeping preliminary conclusions about post-merger capacities on passenger-train carrying lines without any apparent consideration of whether yards and terminal facilities accessed by those lines would have enough capacity to absorb merger-related increases in traffic. The need to utilize main line tracks and passing sidings to "hold" numerous trains that cannot be accommodated in overcrowded yards and intermodal terminals has been a principal cause of the unprecedented delays to both freight and Amtrak trains that have occurred on the Union Pacific and Southern Pacific Railroads following the Board's approval of their merger.¹⁰

¹⁰While the DEIS provided few details about how rail line capacities were calculated, and no information about the assumptions used or the capacities calculated for specific line segments, the information provided suggests other flaws in the methodology employed that would have contributed to overestimations of available capacity. For example, there is no indication that the methodology took into account, among many other things, the need to take tracks out of service for maintenance; the extended occupancy of main line tracks by local trains performing switching; or the fact that the average speed of some freight trains is considerably slower than the maximum permissible speeds that SEA apparently assumed to be the norm, which results in longer track occupancy that reduces capacity.

With respect to the Amtrak-owned portion of the Michigan Line between Porter, IN and Kalamazoo, MI the DEIS suggests that the line will be able to absorb all additional freight traffic that may result from haulage operations of Canadian Pacific Railway between Detroit and Chicago because it has "frequent sidings". (DEIS, vol. 1, p. 4-28). In actuality, additional and/or lengthened sidings may be required on both the Amtrak and Conrail-owned segments of the Michigan line in order to accommodate the (presently unquantified) number of CP haulage trains that will operate over this line, given that (i) the

Another major flaw is the DEIS's equation of adverse effect with a need to eliminate at least one passenger train outright. In fact, however, as Amtrak explained in its October 21 Comments, the most common effect of increased freight congestion on passenger operations is a material decrease in the on-time performance of the passenger trains. Amtrak's witness Larson described the serious problems Amtrak has been experiencing for some time with excessive train delays on certain of CSX lines slated for increased freight traffic after the Acquisition. There is every reason to believe that adding additional freight traffic to these lines will exacerbate the on-time performance problems that Amtrak already faces.

It is beyond cavil that intercity passenger trains must operate on schedule with a high degree of consistency if they are to meet the needs of the traveling public. The Board and its predecessor have recognized this on many occasions, beginning as far back as 1969.¹¹ Congress itself emphasized the importance of ensuring on-time Amtrak operations when it gave Amtrak trains

Amtrak-owned segment is being upgraded for higher speed service (something the DEIS does not mention), and (ii) the number and length of the sidings on the Michigan Line is based upon present passenger train requirements and the (minimal) volume of freight traffic that presently operates over the line, and not on the number and size of the freight trains that will utilize this line if the Acquisition is approved.

¹¹See *Adequacies -- Passenger Service -- Southern Pacific Co. Between California and Louisiana*, 335 I.C.C. 415, 434 (1969).

statutory priority over freights for dispatching purposes. See 49 U.S.C. § 24308(c).¹²

In sum, the methodology SEA used in its preliminary examination of adverse passenger service impacts is seriously flawed, as is the DEIS's assumption that the only such adverse impact worthy of consideration is the outright exclusion of passenger trains. The final EIS should acknowledge the limitations and shortcomings of the methodology the DEIS employed to quantify line capacities. It should also recognize that reductions in the on-time performance of Amtrak trains, caused by proposed freight service changes, would constitute adverse impacts on the quality of the human environment, and that such impacts must, if possible, be appropriately mitigated through the conditioning process.

The five-year on-time performance oversight condition that Amtrak has proposed is a reasonable and measured response to this problem. It will allow the Board to take into account the actual impact of the Acquisition on Amtrak's passenger service on specific lines, as opposed to the theoretical impact that will occur if (i) the hundreds of line capacity measurements SEA has calculated are all correct, (ii) Applicants' freight train operations are unerringly conducted in a manner that optimizes use of each line segment's capacity, and (iii) Applicants experience none of the yard and terminal congestion problems, and the

¹²See also 49 U.S.C. § 24101(c), requiring Amtrak trains to reach stations within 15 minutes of scheduled times "to the maximum extent feasible".

resulting spillover effects on main lines, that have followed the Board's approval of the UP/SP merger.

Amtrak's proposed condition also avoids the need for the Board to decide now, based on theoretical studies rather than actual experience, whether conditions should be imposed requiring Applicants to make capacity-enhancing improvements like those that SEA states it would have recommended if it had found that increases in freight traffic would adversely impact Amtrak's operations. It gives the Applicants the flexibility to address such problems by rescheduling their own operations, modifying dispatching procedures, or taking other steps that minimize or avoid the need for significant capital expenditures. Amtrak urges SEA to recommend the adoption of Amtrak's proposed condition in its final EIS.

IV. CONCLUSION

Amtrak recommends that, in the Final EIS, SEA not recommend that the Board impose the DEIS's proposed 30-minute separation rule, which is not necessary for safety reasons, and which could seriously hinder efficient passenger and freight operations on the affected rail lines. However, the final EIS should recognize the adverse impact that projected increases in freight operations over certain CSX and Conrail lines is likely to have on the on-time operation of Amtrak's trains, and should recommend that the Board impose the five-year oversight condition that Amtrak has recommended.

PART II
COMMENTS ON THE SIPS

Amtrak safety personnel have reviewed the "Safety Integration Plans" ("SIPs") filed by NS and CSX and incorporated in the DEIS and have the following comments:

Continued Use of NORAC Rules: As Amtrak has indicated in its prior filings, and as the Applicants have confirmed in their SIPs, all post-Acquisition operations over the NEC will be governed by the NORAC rules utilized by Amtrak, Conrail, and virtually all freight railroads and commuter authorities in the Northeast. In addition, the Applicants have represented that post-Acquisition operations over lines NS and CSX will acquire from Conrail, including those in the "Shared Assets" areas, will initially be conducted under NORAC rules. However, Applicants have also indicated that, over the longer term, they are considering adopting different sets of operating rules, including perhaps the rules NS and CSX currently use on their own lines, to govern lines acquired from Conrail.

The development of the NORAC rules was encouraged by the FRA. Those rules have been in effect for nearly ten years, and the Conrail operating employees who will be employed by Applicants if the Acquisition is approved are well acquainted with them. The principle behind the NORAC rules is that the adoption of a unified set of operating rules that apply on all railroads operating in a region enhances safety, particularly where there

are numerous trackage rights operations and extensive passenger services. Therefore, the possibility that Applicants will choose to adopt operating rules for properties acquired from Conrail that are different from the NORAC rules utilized on adjacent rail lines owned by Amtrak and commuter rail authorities that are traversed by the same trains operating over the former Conrail lines is a cause for some concern.¹³ Amtrak urges the Board to impose a condition specifying that the Board's prior approval shall be required before NS and CSX may adopt operating rules other than the NORAC rules for operations over lines to be acquired from Conrail.

Conversion of Cab Signal System on CSX Washington-Richmond Line: In response to DOT's concerns that the merger could result in a shortage of locomotives equipped with the 100HZ cab signal system utilized on the NEC and Conrail, CSX has represented that it will modify the cab signal system on its Washington to Richmond, VA line from 60HZ to 100HZ. As CSX notes, this will allow locomotives equipped with cab signals to be utilized on any line that requires them in the Northeast, and thus eliminate the incompatibility problems that could result in shortages of locomotives equipped with NEC-compatible cab signals. Amtrak

¹³For example, were Applicants to adopt operating rules for former Conrail lines other than NORAC rules, commuter trains that operate over both Amtrak-owned and former Conrail lines in the Boston area, and virtually all local freight trains that operate over the NEC, would be subject to two, and possibly three, different sets of operating rules that would change during their relatively short journeys depending upon which railroad they were operating over.

believes that CSX's plans for conversion of the Washington-to-Richmond line's cab signal system address DOT's concerns, and should be imposed as a condition of the Acquisition.

ACSES System: While CSX's SIP expressly states that CSX will cooperate with Amtrak in the development of the advanced ACSES train control system being developed for the NEC, the NS and CSAO SIPs do not specifically mention ACSES. Amtrak will, of course, require all railroads operating over the NEC to operate ACSES-compatible equipment after that system is installed. It assumes that the general representations in the NS and CSAO SIPs that operations over the NEC will conform to all applicable Amtrak operating rules encompass both ACSES and other safety-related modifications to its NEC operating rules that Amtrak may in the future adopt.

Respectfully submitted,

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VERIFICATION

I, Lee Williams, declare, under penalty of perjury, that I am General Manager - Safety and Environmental Control of the Northeast Corridor Strategic Business Unit of the National Railroad Passenger Corporation (Amtrak), that I have read Part II of the foregoing Comments, that the facts stated therein are true and correct to the best of my knowledge, and that I am qualified and authorized to submit this verification.

Executed on February 2, 1998.

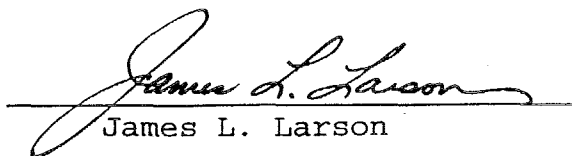


Lee Williams

VERIFICATION

I, James L. Larson, declare, under penalty of perjury, that I am Assistant Vice President - Operations of the National Railroad Passenger Corporation (Amtrak), that I have read Part I of the foregoing Comments, that the facts stated therein are true and correct to the best of my knowledge, and that I am qualified and authorized to submit this verification.

Executed on February 2, 1998.


James L. Larson

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served this 2nd day of February, 1998, by hand delivery upon:

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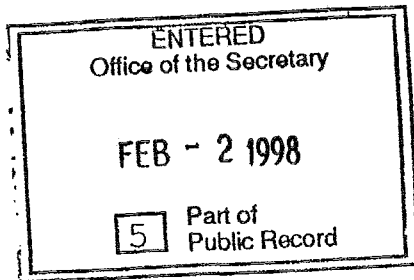
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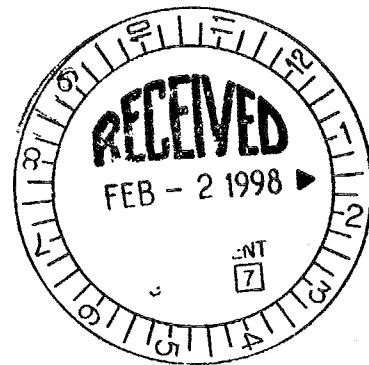
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BEFORE THE
SURFACE TRANSPORTATION BOARD



**ENVIRONMENTAL
DOCUMENT**

STB FINANCE DOCKET NO. 33388

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

**COMMENTS OF THE TRANSPORTATION•COMMUNICATIONS
INTERNATIONAL UNION TO PROPOSED SAFETY INTEGRATION PLANS**

I. Introduction

The Transportation•Communications International Union (TCU) offers these Comments in response to the Safety Integration Plans (SIPs) submitted by Norfolk Southern (NS) and CSX, as required by the Board in Decision No. 52, issued on November 3, 1997. The TCU represents individuals employed in the carmen and clerical crafts on CSX, NS and Conrail. By virtue of their successful completion of an apprenticeship and journeyman program, the carmen are fully trained and qualified to conduct the freight car inspections and air brake tests mandated by federal law. Among the clerical employees the TCU represents are highly trained crew callers.

The SIPs submitted by the Applicants inadequately address the need for properly conducted freight car inspections and air brake tests with respect to: (1) the Applicants'

overreliance upon ill-trained and unqualified train crews to perform such inspections and tests; and (2) the Applicants' potential reliance upon a "block swapping" inspection procedure that is currently the subject of a joint study between the Federal Railroad Administration (FRA), Conrail, and the TCU. Further, the SIPs fail to address the concern (raised by the TCU in our earlier comments) over problems that are likely to arise from the Applicants' intent to rapidly consolidate crew calling operations.

II. The Applicants' SIP Submission Fail to Adequately Address the Need for Truly Qualified Personnel to Inspect Freight Cars and Air Brake Systems.

As noted in its initial comments in this matter, one of the TCU's primary safety-related concerns arising from this transaction is the proper inspection of freight cars utilized by CSX and NS following consummation of the transaction. In the SIPs subject to comment here, the carriers involved make assurances that they will utilize "qualified employees" to conduct the necessary air brake tests and pre-departure freight car inspections. See CSX SIP (Draft EIS Vol. 2), at 123; NS SIP (Vol. 2), at 122; CSAO SIP (Vol. 2), at 30. These assurances by the carriers beg the question of what constitutes a "qualified employee." Although train crews are permitted to conduct certain types of freight car inspections (i.e., pre-departure inspections regulated pursuant to 49 C.F.R. Part 215, Appx. D), their ability to do so is dependent upon the level of training they have received in detecting freight car defects.

FRA Director of Safety Edward English raised this very point in his Verified Statement accompanying the comments of the U.S. Department of Transportation regarding this transaction:

FRA is also concerned that the Applicants have enough individuals with adequate qualifications to perform train air-brake tests, pre-departure inspections of freight cars, and daily locomotive inspections, as required by federal law.

Verified Statement of Edward English, at 32 (emphasis added). As the TCU noted in its prior comments on this matter, both Applicants have proposed to eliminate interchange points throughout the existing Conrail system to allow smooth "through train" operations, see CSXT Operating Plan, Application Vol. 3A, §4, at 180-256; NS Operating Plan, App. Vol. 3B, §4, at 110-194, resulting in an increased distance between interchange points. Because qualified mechanical inspectors are predominantly stationed at interchange points, the elimination of these interchanges increases the likelihood that the Applicants will increasingly seek to utilize trainmen to perform 1,000 mile and pre-departure air brake inspection procedures. See TCU-6, Verified Statement of Richard A. Johnson, at 13.

As TCU noted in its earlier comments, the labor organization that represents trainmen -- the United Transportation Union (UTU) -- has previously testified before the FRA that its members are poorly trained for and unqualified to conduct such inspections. In the section of its SIP devoted to training issues, however, NS says nothing about training conductors to perform such tests; likewise, the CSAO SIP does not refer at all to air brake test and inspection training for its train crews. Though CSX's SIP expressly refers to the portion of its current conductor training program devoted to train inspection and air brake tests, CSX SIP, at 66, it is the TCU's understanding based upon informal discussions with FRA inspectors that the FRA has recently focused significant attention on conductor inspections in Augusta, Georgia. At that facility, CSX had eliminated qualified mechanical inspector positions and substituted train crew inspections, with the result that a substantial number of freight cars moved out of that facility with numerous undetected defects. Thus, the Board needs to question the effectiveness of CSX's program to train conductors to perform air brake tests and freight car inspections.

The consequences of permitting inspections by un- or underqualified train crews are perhaps best understood in light of recent safety reports from Conrail's Oak Island yard, located in Newark, New Jersey. In June and July of 1997, in correspondence directed to the Regional Administrators for the FRA's Regions 1 and 2, the TCU reported an alarming number of defects appearing on freight cars inspected at the Oak Island yard. See June 13, 1997, correspondence from BRC Gen. Vice President H.B. Lewin to FRA Region 1 Administrator Mark McKeon; June 16, 1997, correspondence from Lewin to McKeon; July 2, 1997, correspondence from Lewin and TWU IVP John Czuczman to FRA Region 2 Administrator David Myers; July 3, 1997, correspondence from Lewin to McKeon (TCU Exhibit 1). Included among these defects were inoperative or otherwise defective air brakes, leaking train lines, burnt brake shoes, and defective hand brake brackets. These defects were detected by qualified mechanical inspectors and, had they been undetected, could very well have resulted in derailments or collisions. The potential human cost of such accidents is magnified by the fact that Oak Island is located in the heart of the "Chemical Corridor," where substantial amounts of hazardous material freight is shipped. The "Chemical Corridor" is also one of the most densely populated geographic regions in the proposed CSX-NS-CSAO system.

The use of train crews, rather than qualified mechanical inspectors, to conduct necessary air brake tests and freight car inspections raises serious fatigue and hours of service issues. For example, conducting a proper intermediate air brake test requires the individual conducting the test to walk the full length of the train on both sides and determine whether the air brakes apply and release on both sides of each and every car on the train. With large consist trains, this procedure normally requires in excess of two hours to perform. By increasing the duties allocated to train crews to incorporate conducting these air brake tests and inspections, the

applicants will place greater strain on the ability of their train crews to comply with federal hours of service laws. At the same time, these added duties will increase fatigue among those crews, increasing the risk of train accidents or incidents that arise from human error. The SIPs submitted by the applicants say nothing about how they will address the fatigue and hours of service complications that arise specifically from assigning additional inspection and air brake test duties to the core duties performed by train crews.

The above problems cannot be answered by the applicants' vague promises of compliance with federal freight car inspection and air brake test statutes and regulations. Neither the NS nor the CSAO SIP answers the question of how train crews operating in those segments of the combined system will be adequately trained to supplant qualified mechanical inspectors in performing such tests and inspections. CSX's assertions that its training program for conductors will address these problems are undermined by the problems uncovered by the FRA at the carrier's Augusta yard. These safety problems are further complicated by the fatigue and hours of service issues raised by having train crews perform these inspections. The alarming number of air brake and other freight car defects found by mechanical inspectors (whose qualifications are beyond dispute) at Oak Island and other locations within the CSX, NS and Conrail systems make clear just how high the safety stakes truly are.

The Board has an express duty to see that transactions subject to its jurisdiction are implemented safely. The SIPs submitted by the applicants are insufficient to address many of the safety issues related to freight car inspections and air brake tests, and that the Board should not approve this transaction until the SIPs are amended to adequately deal with these concerns.

III. The Applicants' SIP Submissions Also Fail to Effectively Address Inspection Concerns With Respect to "Block Swapping" of Freight Cars.

Another aspect of the SIPs under consideration that is of considerable concern to the TCU is the practice of "block swapping" which, as stated by CSX in its SIP, "is utilized by all Class 1 railroads today, including CSXT and Conrail[.]" CSX SIP (Vol. 3A), at 133. Block swapping is a carrier practice by which the carrier switches a block or several blocks of cars from one train to another. Block swapping is not prohibited per se by FRA rules; however, FRA rules do require that a pre-departure mechanical inspection must be conducted whenever a freight car or block of cars is placed on a train. 49 C.F.R. §215.13. Likewise, whenever cars or blocks of cars are added to a train, the carrier is also required to conduct an initial terminal air brake test, as required by 49 C.F.R. §232.12.¹

Based upon informal discussions with FRA inspectors, TCU understands that both CSXT and Conrail in particular have engaged in a regular practice of block swapping without complying with existing federal safety regulations. In the latter case, the FRA oversaw a joint study between Conrail and the TCU, by which alternative inspection practices would be utilized by the carrier when specified trains in the Conrail system were "block swapped." Both Applicants cite this joint study in their SIPs, though they reserve judgment on applying it pending the outcome of the study. CSX SIP, at 133; NS SIP, at 122; CSAO SIP, at 32-33. One specific

¹ The FRA recognizes a narrow exception to this rule. Where a single, solid block of cars which has been previously tested is attached to a train, the carrier is not required to inspect the entire train, so long as the brakes on each and every car within the block have been inspected. 49 C.F.R. §232.12(a)(1)(ii). Rather, in that circumstance, the carrier need only determine that the pressure as gauged from the rear of the train is the same as that applied from the front. However, it is important to note that FRA has interpreted this exception to apply **only** when a **single** block of cars is added to a train. Further, the carrier is required to perform a pre-departure mechanical inspection of all cars in the block regardless of whether a single block or several blocks are added to a train.

requirement of these alternative procedures was that all inspections conducted pursuant to those procedures would be done by qualified mechanical inspectors, rather than by train crews. In application, however, this joint study has been unsuccessful, as a result of Conrail's failure to utilize qualified mechanical inspectors or, alternatively, merely removing trains from the list to be block swapped under the joint study procedures. As a result, the TCU has disavowed these alternative practices and it is our understanding that the FRA is likewise ready to abandon the joint study.

Both applicants state that they will perform block swap air brake inspections in accordance with FRA regulations. Regardless of whether or not such trains are "block swapped," these regulations demand that full mechanical inspections be conducted on any freight car attached to a train consist, and that full air-brake tests be conducted in all instances except when a single block of cars is attached. As noted above, TCU understands that both Conrail and CSX have engaged in block swapping without conducting the necessary inspections and tests; thus, a merely vague assertion that the Applicants will comply with federal regulations is inadequate. Indeed, the NS and CSAO SIPs specifically state that "[b]lock swapping' inspection practices as they now exist on Conrail" will continue after the transaction is consummated. NS SIP (Draft EIS, Vol. 2(B)), at 122; CSAO SIP (Vol. 2(C)), at 33. As stated above, Conrail's prior record of compliance with federal regulations on block swapped trains is anything but encouraging.

Given the record of both CSX and Conrail with respect to complying with federal regulations in block swapping situations, as highlighted by the recent Conrail joint study experience, the TCU respectfully submits that the best way to ensure such compliance is for the Board to demand a stronger and more definitive statement from the Applicants as to how they will insure that federal safety rules will be followed in the block swapping context. Further, the

Board should condition approval of the transaction upon strict oversight by the FRA of the Applicants' compliance with such rules.

IV. The Applicants' SIPs Fail to Address TCU's Concerns With Respect to Excessive Hours Worked By Crew Callers in the CSX System.

In its October 21, 1997, comments regarding the pending transaction, the TCU expressed serious concerns with respect to the excessive amounts of overtime worked by crew callers in the CSXT system. Those comments noted that regular crew management positions in the CSXT system remained unfilled and that the guaranteed extra board was staffed below the levels required by the collective bargaining agreement. See TCU-6 at 13. Those comments also cited the FRA's Safety Assurance and Compliance Program Report for CSXT, where the FRA concluded that, in the CSXT system, "The crew management staff is regularly overwhelmed given the demands of the job." Thus, we noted that the consolidation of Conrail's and CSXT's crew management systems, which under CSXT's Application was to be conducted over a seven month period, would exacerbate existing staffing problems resulting in increased fatigue among crew callers and errors in crew management which could undermine safety. The problems cited in the TCU's prior comments have not diminished since its October comments. Indeed, CSXT's crew calling operations are still understaffed by between twenty and thirty positions, and overtime problems among CSXT crew callers cited in TCU's earlier comments have not diminished.

The drastic increase in freight service that CSXT will undertake as a result of this transaction will only serve to exacerbate the current strain CSXT is experiencing with respect to crew management and, consequently, undermine the safe implementation of this transaction.

CSXT's proposed twenty-four week schedule for transferring Conrail's crew management operations to Jacksonville is far too rapid to allow for any useful assessment of how safely the transfer is being implemented. Therefore, in order to ensure that the transfer of Conrail's crew management operations is accomplished safely, the Board should condition approval of the transaction upon CSXT's adoption of an extended schedule for the transfer. Further, approval of the transaction should be conditioned upon strict FRA oversight of CSXT's crew calling operations, both during and for a reasonable period following the transfer of crew management operations.

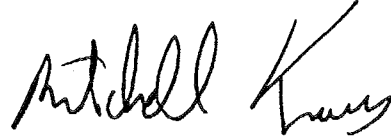
Respectfully submitted,



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Rockville, MD 20850
(301) 948-4910

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Comments of the Transportation•Communications International Union to Proposed Safety Integration Plans were served on all Parties of Record via first-class mail, postage prepaid, this 2nd day of February, 1998.



Mitchell M. Kraus



Brotherhood Railway Carmen Division
TRANSPORTATION • COMMUNICATIONS
INTERNATIONAL UNION
 AFL-CIO, CLC



H. B. LEWIN
 General Vice President

June 13, 1997

Mr. Mark H. McKeon
 Regional Administrator
 Region 1
 Federal Railroad Administration
 55 Broadway, Room 1077
 Cambridge, MA 02142

Office File: CR04-02-97-965-Oak Island.150

Dear Mr. McKeon:

Please be advised that we have received a complaint concerning the movement of defective equipment into the Conrail Oak Island, New Jersey facility from various locations on the Conrail system in violation of Power Brake and Safety Appliance Regulations.

Below is a list of defective cars which were inspected on outbound at the Oak Island facility. As you can see, there are numerous cars which contain defective conditions under 49 CFR §231, Safety Appliance, 49 CFR §232, Power Brake as well as 49 CFR §215, mechanical defects which were also discovered during inspection.

April 2, 1997

Train	Car No.	Defect	
BA-2	ADMX 29516	231	hand rail broken
ALBF	CNW 69819	232	retainer valve defective
OIAL	ATSF 524740	215	broken coupler

April 3, 1997

Train	Car No.	Defect	
OIAL	CSXT 137423	215	door
OIAL	CR 588636	231	hand hold defective
OIAL	CR 579804	231	brake step defective
OIAL	EJE 18775	232	air brakes defective
OIAL	CR 579592	231	ladder defective - AR

Mr. Mark McKeon

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June 13, 1997

April 4, 1997

Train	Car No.	Defect	
PIOI	BAR 6690	231	ladder defective
PIOI	MERX 0006	231	sill step defective
PIOI	MERX 0090	231	uncoupling lever defective
ALOI	CR 598533	215	loose backing ring
ALOI	RBOX 34737	215	draft gear
ALOI	CNW 612761	215	door

April 5, 1997

Train	Car No.	Defect	
OIAI	TTWX 570473	232	air cut out
OIAI	ATSF 622768	231	uncoupling lever defective
OIAI	SFLC 254216	215	thin flange
OIAI	FCEN 96269	215	load over
OIAI	SOU 50317	232	brake beam defective

April 6, 1997

Train	Car No.	Defect	
OI-60	GATX 20829	232	brake shoes worn and air cut out
ALBF	ACFX 44666	232	retainer valve defective
ALBF	ACFX 66681	232	angle cock defective
PIOI	GVSR 768052	215	backing ring
PIOI	PSPX 5979	231	uncoupling lever bracket defective
PIOI	GVSR 137016	231	uncoupling lever defective
PIOI	GVSR 129000	231	ladder defective - BR

April 8, 1997

Train	Car No.	Defect	
PN-1	CR 604625	231	hand hold defective
PN-1	NLG 5805	232	brake shoe worn
OIAL	TTZX 83755	232	excess piston travel
OIAL	SOU 526132	232	excess piston travel

April 9, 1997

Train	Car No.	Defect	
OIAL	ASAB 7387	215	door
OIAL	ETTX 820165	215	door
OISE	ETTX 803543	232	brake shoe burnt
NSSE	AWDX 331	215	door rail

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June 13, 1997

April 10, 1997

Train	Car No.	Defect	
OIAL	CR 582153	215	load over
OIAL	DROW 60826	215	door handles
OIAL	MP 268337	232	top rod worn out
OI60	DC 11010	215	door rail
BFAL	PC 598094	231	brake step defective
OI-14	IC 563758	232	air brakes cut out
PN-1	CR 598490	231	ladder defective
PN-1	CR 604649	231	crossover board defective
CSSE	TTJX 81961	215	thin flange - L3

April 11, 1997

Train	Car No.	Defect	
PN-1	ATW 16002	231	crossover board defective - A
PN-1	QC 74868	232	air brakes cut out
PN-1	QC 76009	232	retainer valve defective
OIAL	CNIS 417095	231	end ladder defective - BR
OIAL	ADWX 60022	215	bolster and wheel
OIAL	AWDX 307	215	door
PIOI	FRDN 4125	231	ladder defective - AR
PIOI	CR 604643	231	running board defective
PIOI	GATX 3832	231	sill step defective
PIOI	GATX 13383	231	running board defective
PIOI	GATX 71776	232	brake shoe burnt
NSSE	CN 623363	215	shelled wheel

April 12, 1997

Train	Car No.	Defect	
OIAL	ASAB 7413	215	door rail
OIAL	PC 592057	231	ladder defective
OIAL	CR 585070	231	ladder defective - AR
OIAL	CP 80490	232	brake shoe burnt
OICA	CITX 27522	231	crossover board defective - B
OICA	SOU 565364	232	slack adjuster defective
OICA	SSAM 16281	215	end of cushioning device
OICA	NATX 75041	215	thin flange

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June 13, 1997

April 13, 1997

Train	Car No.	Defect	
PIOI	iC 580237	215	thin flange - R3
PIOI	CR 588610	231	hand hold defective
PIOI	MERX 0105	231	hand hold defective - A
PIOI	MERX 0086	231	hand hold defective
SESA	VELX 78397	215	thin flange - R2
SESA	TTJX 80407	215	end of cushioning device
ALBF	CR 582374	231	brake step defective
BFAL	GLNX 86338	231	running board defective

April 14, 1997

Train	Car No.	Defect	
OIAL	CNW 543007	232	train line defective
OIAL	SP 292504	232	train line defective
OIAL	CR 581732	231	ladder defective
OIAL	NS 451104	215	door
OIAL	SP 247245	215	door

April 15, 1997

Train	Car No.	Defect	
OIAL	WP 64523	232	retainer valve defective
OIAL	CNIS 417095	231	ladder defective - AR
OIAL	NSHR 1273	231	ladder defective
OIAL	MTTX 472668	231	hand hold defective - BR
OI60	NW 190450	231	sill step bent - BR
OI60	CR 885191	231	sill step bent - AL
OI60	TTJX 81993	232	brake shoes burnt

April 16, 1997

Train	Car No.	Defect	
OIAL	ACFX 65008	231	sill step bent
OIAL	PC 592096	232	slack adjuster defective
OIAL	WG 83008	232	retainer valve defective
NSSE	UTLX 200084	232	retainer valve defective

April 17, 1997

Train	Car No.	Defect	
OIAL	ADMX 60044	215	thin flange
OIAL	SOU 551318	215	thin flange

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June 3, 1997

April 18, 1997

Train	Car No.	Defect	
PN-1	CNIS 417177	231	crossover board bent - AB
PN-1	CR 604658	231	crossover board bent - A
OIAL	NSHR 1076	232	slack adjuster defective
OIAL	UMP 9618	232	reservoir pipe defective
OIAL	HPLX 405511	232	air brakes cut out
OIAL	GLNX 3620	231	uncoupling lever defective
OIAL	IC 151673	231	ladder defective
OIAL	HPLX 405549	215	thin flange - L4
ALBF	AMGX 4320	231	ladder defective
ALBF	AN 2004	215	draft gear
ALBF	CR 889137	215	draft gear
ALBF	AEX 5347	215	draft gear
CSSE	CN 415126	232	retainer valve defective

April 19, 1997

Train	Car No.	Defect	
OICA	LNAC 5827	232	retainer valve defective
OIAL	BAR 8826	232	no piston travel
401	TTGX 911520	232	retainer valve defective
401	TTGX 940178	215	defective coupler
401	TTGX 254888	231	uncoupling lever defective

April 20, 1997

Train	Car No.	Defect	
OI14	GVSF 530812	232	no piston travel
OICA	SM 4152	232	train line defective
ALBF	CR 231607	232	train line defective
ALBF	SOU 523859	215	door

The number of defective cars showing up in these trains simply do not all occur in route. These defects are being missed upon initial inspection or are simply not being observed for the lack of inspections or blocks are being swapped by Conrail without having been inspected.

Mr. Mark McKeon
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June 13, 1997

It would be appreciated if your office would investigate these allegations to ascertain the source and advise this office as to your findings. Please refer to our office file number with regard to future correspondence. Thanking you in advance for your cooperation and assistance in this matter.

Yours truly,



H. B. Lewin
General Vice President

slm

cc: R. A. Johnson
J. J. Parry
B. Fine
J. T. Schultz
A. Wybraniec
C. Marshall Friedman

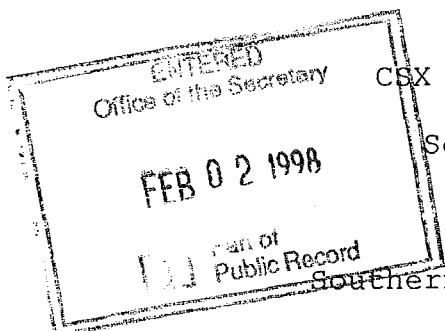
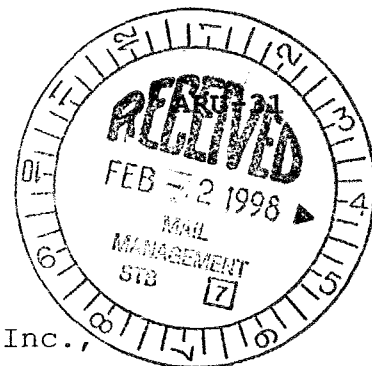
**ENVIRONMENTAL
DOCUMENT**

BEFORE THE
SURFACE TRANSPORTATION BOARD

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98
DOCUMENT # 2/3/98 1:29.58 PM

Finance Docket No. 33388



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

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

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

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

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

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

I. GENERAL COMMENTS REGARDING SAFETY INTEGRATION PLANS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. COMMENTS OF INDIVIDUAL ORGANIZATIONS REGARDING SAFETY INTEGRATION PLANS

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

A. The Brotherhood Of Maintenance Of Way Employes

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

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

B. Brotherhood Of Railroad Signalmen

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

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

C. Brotherhood Of Locomotive Engineers

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

CONCLUSION

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

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

Respectfully submitted,

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Dated: February 2, 1998



William G. Mahoney
Richard S. Edelman

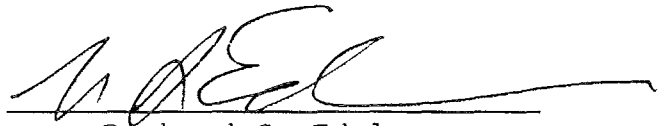
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Locomotive Engineers; Brother-
hood of Maintenance of Way
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road Signalmen; International
Brotherhood of Boilermakers &
Blacksmiths; International
Brotherhood of Electrical
Workers; The National Confer-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

CERTIFICATE OF SERVICE

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

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

A handwritten signature in black ink, appearing to read 'R. S. Edelman', written over a horizontal line.

Richard S. Edelman

Statement Of Richard A. Inclima

BEFORE THE SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

Comments of the
Brotherhood of Maintenance of Way Employes

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

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

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

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

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

BMWE's comments will primarily focus on the potential safety

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

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

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

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

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

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

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

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

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

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

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

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

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

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

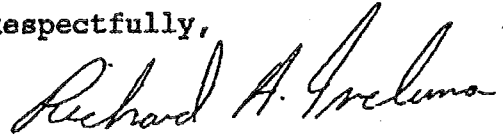
The Board must also assure that employees of the parties to this transaction are completely trained and qualified regarding how operating rules will be integrated to comply with the Railroad Operating Rules regulations, 49 CFR Part 217. Applicant employees on the three carriers are likely employing different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

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

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

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

Respectfully,

A handwritten signature in cursive script that reads "Richard A. Greluma".

Director of Education and Safety
Brotherhood of Maintenance of Way
Employees

Statement Of Roland E. McKenzie



UNITED GENERAL COMMITTEE

Brotherhood of Railroad Signalmen

ROLAND E. MCKENZIE, GENERAL CHAIRMAN

January 30, 1998

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

Statement of Roland E. McKenzie:

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

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

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

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

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

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

Suite 200, 951 Rohrerstown Road, Lancaster PA 17601

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

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

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

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

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

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Statement of Roland E. McKenzie:

January 30, 1998

Page Three

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

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

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

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

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

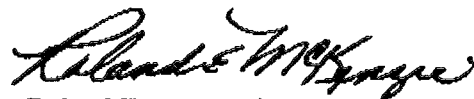
A-151-a

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

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

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

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



Roland E. McKenzie
General Chairman

Date January 30, 1998

Cc: File

A-151-b

Event Number: 238698 00 39 57849

Location Name: N MARIENBUEN MARION OH

Line Name: INDIANAPOLIS LINE Mile Post: 100.77

Problem: GATE BROKE Sw / Sig / Trk:

Reported By: LOCAL PD Time + Date Reported: 19:38 1/1/98

Employee	Employee Name	Dep. Time	Dep. Date	Off Duty	Travel	On Time	Rest Start	Rest End	Mgmt Ctr	Meals
Dispatched	FERRY, TONY	19:48	1/1/98	22:00		3:00				0
	BLUM, GARY	20:00	1/1/98	23:00		3:00				0

Failure: GATE OFF Repairs: RESET

Cause: UNKNOWN Delays:

Clear Time + Date: 21:00 1/1/98 Cleared By: FERRY, TONY

Notes: REMOUNTED GATE AND TESTED

Event Number: 238700 60 42 57849 TD Employee: HARRY SPEELMAN

Location Name: 6TH ST FINDLAY OH

Line Name: TOLEDO BR. Mile Post: 45.05

Problem: GATES GOING UP AND DOWN Sw / Sig / Trk:

Reported By: LOCAL PD Time + Date Reported: 20:27 1/1/98

Employee	Employee Name	Dep. Time	Dep. Date	Off Duty	Travel	On Time	Rest Start	Rest End	Mgmt Ctr	Meals
Dispatched	COLE, LEONARD	20:30	1/1/98	23:30		3:00			57849	0

Failure: NONE Repairs: NONE

Cause: UNKNOWN Delays:

Clear Time + Date: 21:46 1/1/98 Cleared By: COLE, LEONARD

Notes: NO ANSWER FROM DISPATCHER /// COA. TESTED CROSSING WITH NO EXCEPTIONS NOTED.

Event Number: 238705 60 38 57849 TD Employee: HARRY SPEELMAN

Location Name: BR 13 GREENWICH OH

Line Name: INDIANAPOLIS LINE Mile Post: 52.7

Problem: GATES DOWN Sw / Sig / Trk:

Reported By: LOCAL PD Time + Date Reported: 21:06 1/1/98

Employee Dispatched

Failure: NONE Repairs: NONE

Cause: NONE Delays:

Clear Time + Date: 21:08 1/1/98 Cleared By: SD

Notes: BELONGS TO THE CSX

Event Number: 238708 60 38 57849 TD Employee: GREG TORRENCE

Location Name: CP 80 & EAST GALION OH

Line Name: INDIANAPOLIS LINE Mile Post: 80.3

Problem: CODE UNIT DOWN, CRASHED, ... ETC Sw / Sig / Trk:

Reported By: DISPATCHER Time + Date Reported: 22:17 1/1/98

Employee Dispatched

Failure: Repairs:

Cause: Delays:

Clear Time + Date: 22:52 1/1/98 Cleared By: SD

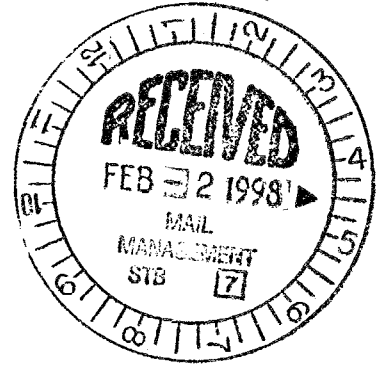
Notes: CP came back on line so Disp was calling in, hold.

CONRAIL SERVICE DESK DATA 1997

1997	Crossings	Switches	Signals	M W Support	Code	Detectors	Coverage	Derailment	Radio	Trk Crctis	AEI	Power	Other	TOTALS
No I D Available	1		1		5				1	1				17
Connecticut	4													4
Washington DC	2	22	43	27	11	4	4	3	2	34			12	164
Delaware	401	1	20	44	6	16	5	4	7	2			32	538
Illinois	674	186	203	200	80	91	131	14	37	210		8	131	1867
Indiana	3001	709	1012	1035	230	310	534	55	151	677		21	530	8274
Massachusetts	515	231	217	241	61	51	217	14	31	208		4	100	1893
Maryland	149	22	59	73	21	26	6	5	14	32		6	23	436
Michigan	1380	347	296	360	108	73	80	18	42	337		8	126	3156
New Jersey	2085	629	376	513	160	99	142	27	58	538		17	363	6024
New York	2959	1293	1194	1464	593	386	432	86	153	1159		44	732	10626
Ohio	4729	1604	1890	2360	554	584	963	100	368	1832		47	952	16919
Ontario, Canada			1											1
Pennsylvania	2180	2109	1768	1922	555	608	532	82	272	1469		54	932	12824
Prov of Quebec	109		32	25	2	2	3	3	2	11		1	28	218
West Virginia	195	2	5	49	1	30	5	5	26	3		2	32	350
TOTAL	18394	7167	7117	9333	2387	2280	3064	409	1184	8333	71	211	801	89911
Dispatch Notify	10547	23	46	184	10	21	8	10	8	43		3	211	11418
Midnight-Noon	7391	2898	3054	2534	1012	1048	1068	189	409	2864		41	1457	23981
Noon-Midnight	11002	4269	4063	5798	1375	1232	1977	220	755	3468		172	2541	36910
Washington DC		2												0
Delaware	47			24	1	1	2	2					2	79
Illinois	10	1		7		1	1	1		1			1	22
Indiana	41	2	2	101	11	1	15	7		3			8	181
Massachusetts	25	2	4	16			3	4		4			2	61
Maryland	9			19	2	1				1				32
Michigan	67	4	5	32	3		4	1	1	6		2		126
New Jersey	172	2	3	52	1	2	5	3		3		1	9	253
New York	135	18	15	160	21	5	19	13		9		1	22	418
Ohio	53	22	6	128	11	3	15	14		8			3	263
Ontario, Canada														0
Pennsylvania	95	9	4	88	6	3	11	7		15		1	6	245
Prov of Quebec	5			14		2	2	2		1		1		25
West Virginia	10			21	1	2	5						1	40
TOTAL	869	80	39	662	57	19	82	53	1	51	8	2	54	1785



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October 21, 1997

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Management and Finance

President

William W. Millar

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

Dear Secretary Williams:

I write to provide the comments of the American Public Transit Association (APTA) regarding STB Finance Docket No. 33388, *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements-Conrail, Inc. and Consolidated Rail Corporation*. Many of the Association's commuter rail members are submitting their own comments directly to the STB or comments are being made on their behalf by their respective state governments. The views presented here do not necessarily represent those of the individual transit agencies or the government of states in which they are located.

Overview

The relationship of a commuter railroad to a freight railroad is that of a captive shipper - a purchaser of service who frequently pays a higher price and gets inferior service. As outlined below, APTA is concerned that the pending acquisition will perpetuate this unequal relationship, further degrading the service and economics of America's current and future publicly owned commuter railroads. Our concerns are based upon the applicants' representations in their filing, prior commuter railroad experience with the applicants, and prior commuter railroad experience with large-scale freight railroad mergers.

We urge the STB to put into place, as a stipulation to this acquisition, a process that will provide a means to resolve future disputes between freight and commuter railroads, and safeguard the public's interest in and investment in passenger rail service.

Background

About APTA

The American Public Transit Association is a private, nonprofit trade association that represents the North American transit industry. Established in 1882, APTA has more than 1,100 members including local mass transit systems, manufacturers and suppliers, and consultants to the transit industry. More specifically, APTA includes among its members approximately 400 American public and private mass transit systems, which carry over 95 percent of those using public transit in the United States.

APTA's Commuter Rail Members. APTA's fourteen U. S. commuter rail members include the eleven commuter railroads that will be affected by the pending acquisition, railroads that carry over 352 million passengers a year and over 1.2 million passengers every weekday. A list of APTA's commuter railroad members is attached.

Our commuter railroad members who are affected by the acquisition are located along the length of the East Coast – from Massachusetts south through Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and Florida; as well as in the center of the nation, in Indiana and Illinois. In these corridors, commuter railroads play a central role in assuring mobility in the nation's largest and most densely populated urban areas, areas that also suffer from some of the worst traffic congestion and poorest air quality in the United States.

Significant Growth in Commuter Rail. The demand for commuter rail service is growing across the nation; indeed, ridership has increased 8.8% between 1993 and 1996. Established transit systems have gained 26 million new passenger trips a year during this period and new commuter rail operations that have recently become operational have experienced a 27% growth in ridership during the period.

Playing a role in the growth of commuter rail ridership has been the fact that since 1983 commuter railroads have invested billions of public tax dollars to improve their systems. These improvements have included investments in equipment and service, as well as investments in track and track structures. It is important to note that improvements to track and track structures have benefited both the commuter railroads and freight railroads. While a significant amount of the financing for these improvements has come from local, county and state resources, federal investments have clearly been the key element in the revival of commuter rail passenger service.

In a recently released report entitled *Commuter Rail: Serving America's Emerging Suburban/Urban Economy*, the economic benefits that commuter rail operations provide to the public were estimated to be \$5.2 billion a year. The report also noted that over 180 of the Fortune 500 companies are headquartered in areas served by the nation's commuter rail systems. These employers, as well as businesses of all sizes, rely upon the availability of efficient and effective commuter rail service to get workers to their jobs, on time, every day.

Without a doubt, the continued success and the future growth of commuter rail service is central to both regional and national economic strength, and the attainment of key national objectives. It is in this context that APTA provides comments about the proposed acquisition, an action that must be considered in light of both its current and future impact on commuter rail operators.

Comments

Transportation System Access

The most critical area of concern to commuter railroads regarding the proposed acquisition is the impact that it will have upon their ability to access railroad rights-of-way (ROW) in their service areas. While some commuter railroads own their own ROW and receive rents from freight railroads for the right to operate over commuter lines to reach freight customers and terminals, many more make rent payments to freight railroads for the right to operate over freight lines in providing commuter rail service.

All three of the freight railroads involved in this action – Conrail, CSX and NS – have existing operating agreements with commuter railroads. In a very real sense, commuter and freight rail operations are interconnected and interdependent, each having the ability to affect the economics and operating success of the other. The complexities of this relationship and the potential limitations that the acquisition could place on the ability of commuter railroads to provide passenger service at current levels, as well as to grow in the future, cannot be casually dismissed -- as has been done in the current application to the STB.

The inter-relationship of the freight and commuter railroads is further complicated by the way capital investments supporting commuter rail operations have been financed. It is important to understand that improvements made to upgrade freight tracks to permit passenger rail operations are generally carried out with public funds. In financing track, signal and related improvements to increase speeds to the level needed for efficient commuter rail operations or to achieve ride conditions appropriate for passenger operations, commuter railroads use public funds. In some cases these funds are federal grant receipts and in others they involve the use of state or local funds, including proceeds from long term debt.

The freight railroads, and specifically CSX, NS and Conrail, have benefited significantly from the investment of public funds, investments that have helped them obtain additional capacity and improve their private sector operations.

These investments of public funds makes it even more imperative that commuter rail interests in and access to the freight railroads be protected.

In looking at the proposal at hand, the STB has established a three-year period in which to assess the implications and impacts associated with the acquisition. Unfortunately, that timeframe does not cover the period when many existing operating agreements expire and when the issue of trackage rights governing future commuter rail operations will be reexamined. By focusing on such short term, three-year, projections of freight traffic, the STB will not be able to ensure that existing and future commuter rail operators receive fair or even reasonable treatment from CSX and NS beyond that period.

Based upon past experience, we fully expect that commuter railroads that rent access to the trackage of or rights from CSX and NS will be faced with projections of increased freight traffic in their next round of negotiations. This increase in freight traffic will, in all likelihood, result in demands that commuter rail service be reduced or that the commuter rail operators finance additional capital improvements to accommodate the increased traffic. A close examination of the renegotiated operating rights agreements that have been approved to date will reveal that reductions have already been made in commuter rail service in order to accommodate increased freight traffic. While these reductions may have been made in light of other gains by our members, this is a one-time situation brought on by the need for CSX and NS to receive support for this merger. APTA is concerned that this will not be true in the future.

Existing service. The CSX and NS application identifies freight traffic increases that are expected to occur in the corridors that are shared with commuter rail operators. However, the application fails to demonstrate that the shared track/capacity issue has been considered in detail and that commuter rail systems can be assured that their operations will not be affected. Among the freight traffic increases that are cited in the application are seven additional trains a day in VRE's Fredricksburg corridor (a 40% increase) and seven to eight trains a day in MARC's Brunswick corridor. While some might not perceive these to be major increases, they are when considered in light of current traffic in the corridors. We expect that increases such as these could have a significant impact on commuter rail operations.

System expansions. Also of great concern is the impact of the proposed acquisition on plans that commuter rail operators have been developing to expand their operations in the future. These expansion plans, which are undertaken to address regional goals for economic development and growth, or to find low cost solutions to congestion problems, are supportive of broader national economic and environmental goals.

Because commuter railroads generally utilize federal funds to finance expansion of their systems, these plans take a long time to become operational. Many of our commuter rail members' long-term plans to expand their operations through the use of rail freight tracks/ROW, which are not currently used or are underused, could be negatively affected by the acquisition.

The two examples that follow demonstrate how important it is that assurances be made to commuter rail agencies that reasonable accommodation will be made to allow them to access the rail lines for the operation of expanded levels of rail passenger service:

NJ TRANSIT has been working on the expansion of its commuter rail network for a number of years. Using both federal and state funds, the agency has been studying the potential for commuter rail service to be restored in corridors that have been under the control of Conrail in southern New Jersey and the NYS&W in northern New Jersey. The planned expansions of the commuter rail system are important components in the State of New Jersey's plans to realize its economic, mobility, and environmental goals.

The Southeastern Pennsylvania Transportation Authority (SEPTA) is another transit agency that is actively pursuing system expansion and New Start funding. The proposed Cross County and Schuylkill Valley Metro projects are focusing on new light rail lines or commuter rail service along existing freight rail corridors, parallel to active Conrail freight service. Both projects respond to changing regional demographic, development and travel needs, as well as the need for transit agencies to serve new markets, promote economic development and support community revitalization. The Schuylkill Valley Metro would also reconnect the Philadelphia and Reading metropolitan areas for the first time since 1981.

New commuter rail starts. Across the United States, there is keen interest in initiating new commuter rail services. As part of the nation's agenda to enhance mobility and air quality through the reduction of automobile traffic and regional plans to encourage economic development and growth, these efforts are made possible through the use of federal and/or local funds, including funds raised by long-term public debt. New commuter operations, utilizing existing freight rights-of-way, are in advanced stages of planning in: Portland, Maine; Burlington, Vermont; Raleigh-Durham, North Carolina; Jacksonville and Tampa, Florida; Atlanta, Georgia; Nashville and Memphis, Tennessee; Cleveland, Ohio; Milwaukee, Wisconsin; and St. Louis, Missouri.

In light of the large number of "new starts" commuter rail operations that are actively under consideration, it is important that the CSX/NS acquisition not be allowed to become a deterrent to the development of new systems.

If this acquisition leads to greater restrictions on access to freight railroad rights-of-way, the establishment of new commuter rail operations could be affected. APTA believes that the STB should use this acquisition as an opportunity to promote cooperation between CSX and NS and commuter rail operations, ensuring that rights-of-way that are necessary for passenger service are available to the public, over the long term.

The central importance that access to CSX and NS lines has for current commuter rail operators, as well as future growth in the service, clearly indicates the need for a way to resolve disputes on this issue. In their discussions with the applicants, some commuter rail operators have been able to agree upon some form of accommodation regarding access issues. However, many of these accommodations were influenced by the need for public agency support for the proposed acquisition, a factor that will not be present in the future. APTA believes that, as a condition to the approval of this acquisition, the STB needs to define a process that will ensure that fair and reasonable operating rights agreements can be established in the future, with fair and reasonable compensation to CSX and NS. Such an action by the Board will assure that commuter rail service in freight corridors is protected for the American public interest in the future.

Operating Service and Schedules

Closely associated with the issue of operating rights and the ability of our members to access freight lines, is the issue of how freight operations affect commuter rail service and schedules. Because the proposed acquisition directly affects some of the most highly concentrated rail corridors in the nation, where freight traffic shares space with heavily-used commuter and intercity passenger service, the issue of operating performance and ability to maintain on-time service schedules is critical. We expect that where increases in freight traffic are projected on lines that are also used for passenger traffic, conflicts between freight and commuter rail service schedules will also increase. The 40% increase in freight traffic in VRE's Fredricksburg corridor is illustrative of an area where on-time performance problems could be expected.

The experience of the Southern California Regional Rail Authority (see comments dated August 1, 1997 in Finance Docket No. 32760 [Sub-No. 21]) with recent rail mergers confirms the potential for freight traffic to interfere with established passenger operations. This point has been underscored in even more recent media accounts regarding Metrolink's (California) on-time performance problems on its Riverside Line that it rents from the Union Pacific. The problems that the Union Pacific has encountered following its recent merger has made it difficult for several of our members to get railroad management to focus on commuter rail issues. Dispatching and coordination problems have gone unresolved, on-time performance is not a concern and communications in general have been difficult as the freight railroad has focused on its own problems.

Commuter rail service issues have had very low, or no, priority and commuter passengers have suffered through unnecessary delays and degradations in the quality of service that they receive. The freight railroad has focused on backed-up freight traffic and ignored its commuter rail partners.

Our concern regarding this issue is further underscored by the prior experience of our members with the parties to the acquisition and the parties' stated desire to adopt existing agreements, some of which are outdated. Both NS and CSX, in spite of the existence of operating agreements designed to protect commuter operations, have caused significant schedule problems for the Virginia Railway Express (VRE). In incidents that occurred during the summers of 1996 and 1997 that were reported in local media accounts, VRE's ability to operate its service in accordance with published schedules was negated by the actions of the freight railroad owners.

Such interference, which results in delays in commuter rail service and poor on-time performance, encourages passengers to view transit services as unreliable. When faced with poor on-time performance, these riders have the option to return to their cars and will do so, further impacting the environmental and safety of the riders (see APTA's comments STB Environmental Impact Statement). In our experience, and in survey after survey conducted by transit properties across the nation, unreliable service and poor on-time performance are the biggest factors that cause transit riders to abandon public transit service in favor of private automobiles.

We note that the operating plans that have been formulated by CSX and NS provide no details about how they will accommodate passenger operations and work cooperatively with commuter rail operators to ensure that their schedules are maintained in shared corridors. Schedule interference, dispatching, and maintenance procedures are critical to assessing the impact of the acquisition, and the STB must insure that the efforts of commuter rail operators to provide high quality service to customers will not be undermined by the actions of the freight railroads. As with the issue of access, it is important that the STB provide a means to resolve potential disputes beyond the three-year timeframe, ensuring that future freight traffic increases are not a reason for commuter rail schedules and service to be interrupted.

In addition, we think it is appropriate to move towards incentive-based operating agreements in shared corridors, an idea that most freight railroads have not been willing to consider in the past.

Railroad Retirement

The Railroad Retirement System, like Social Security, is a pay-as-you-go pension system that is a holdover from the days when freight and passenger rail operations were combined. Under the provisions of the Railroad Retirement Act, both commuter and freight railroads are charged a payroll tax based upon the number of active employees working for each system. This tax supports the pensions provided to railroad employees across the country -- the only private sector retirement system that is mandated by Congress.

Over the years, freight railroad employment has dropped significantly as employees have retired and the industry has consolidated, while commuter rail operations and their publicly funded workforces have expanded. This new environment has created a situation in which commuter rail operators -- funded by public and taxpayer dollars -- are providing large and growing subsidies to the freight railroads in the form of pension payments to freight railroad retirees. The workforce reductions that will result from the proposed acquisition, as well as the previous freight railroad mergers, have served to exacerbate the current situation in which commuter rail employer tax burdens are three times that of FICA-based employers. APTA is concerned that the proposed action will result in additional cross-subsidization of the freight railroads by publicly funded commuter railroads.

APTA suggests that the STB review the 1990 report "Commission on Railroad Retirement Reform". Further, the impact that this acquisition and further declines in freight railroad employment will have on commuter rail systems needs to be considered by the STB in conjunction with the Railroad Retirement Board. The STB needs to impose conditions to this acquisition that will ensure that CSX and NS fund any negative financial impacts of the merger upon the commuter railroads' contributions to railroad retirement.

Conclusion

In the freight industry there is a group of customers who are known as "captive shippers," railroad customers who have no other alternatives in moving their products and are tied to one railroad. Because there is no competition for their business, captive shippers frequently pay higher rates and get poorer quality service.

The relationship of a commuter railroad to a freight railroad is that of a captive shipper. Commuter railroads that rent their tracks/ROW do not have an alternative way to transport their passengers. If they cannot use the tracks/ROW at the time that their customers want to travel, there is no need for their service. If their use of the railroad is subject to frequent delays, the quality of their service will be poor and it will go unused. And if they cannot gain reliable access to the railroad -- the only alternative is to abandon their passengers.

Our nation needs to maximize the public's use of mass transportation systems in order to enhance mobility and improve the environment. The establishment of cooperative and mutually beneficial relationships – not captive shipper relationships – between freight and commuter railroads is essential to the success and efficiency of the industry. The STB's review of the acquisition of Conrail's assets and rights by CSX and NS will play a role in how those relationships are defined in the future.

The American Public Transit Association urges you and the Board to ensure that commuter rail operations can continue to provide the American public with high quality and efficient transportation service.

Sincerely,

William W. Millar

William W. Millar
President

FH:mat

cc APTA Commuter Rail Members

APTA's Commuter Railroad Members

Caltrain, San Carlos, CA

Connecticut Department of Transportation, Newington, CT

Mass Transit Administration of Maryland (MARC), BWI Airport, MD

Massachusetts Bay Transportation Authority, Boston, MA

Metra, Chicago IL

MTA - Metro-North Commuter Railroad, New York, NY

MTA - Long Island Railroad, Jamaica, NY

New Jersey Transit Corporation, Newark, NJ

Northern Indiana Commuter Transportation District (NICTD), Chester, IN

Southeastern Pennsylvania Transportation Authority (SEPTA), Philadelphia, PA

Tri-County Commuter Rail Authority, Ft. Lauderdale, FL

Trinity Railway Express, Dallas, TX

Southern California Regional Rail Authority (Metrolink), Los Angeles, CA

Virginia Railway Express (VRE), Arlington, VA

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**ENVIRONMENTAL
DOCUMENT**

CENTRAL ADMINISTRATIVE UNIT

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February 2, 1998

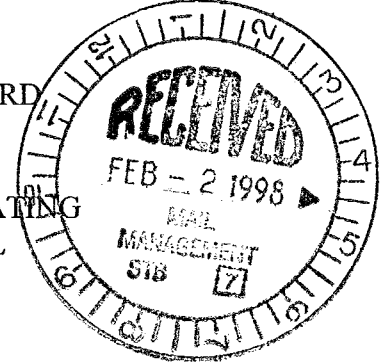
BEFORE THE SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 33388

CSX CORPORATION ET AL - CONTROL AND OPERATING
LEASES/AGREEMENTS - CONRAIL, INC. ET AL

COMMENTS

E. I. DU PONT DE NEMOURS & COMPANY, INC.



DuPont is a \$43 Billion diversified chemical manufacturer with over 200 manufacturing sites and almost 100,000 employees worldwide. DuPont has long been recognized as a leader in safety, with close to a 200 year heritage of commitment to safe manufacture, handling and distribution of its products. DuPont's corporate policy is to ship only materials which can be handled, transported and used safely.

DuPont is also a major U.S. rail shipper, with over 50,000 shipments annually, including a significant portion which are hazardous materials. DuPont also has six major plants as well as numerous customer and transloading or terminal facilities in the Northeast. Thus, DuPont has a vital interest in the safe and seamless implementation of the Conrail acquisition.

DuPont commends the Board for its concern about the safety aspects of this transaction and for its foresight in Decision 52 of requiring Safety Integration Plans (SIP's) to be filed by the two acquiring railroads, as part of the Environmental Impact Statement.

DuPont further suggests that the content of the SIP's be incorporated in any future Board oversight process. Recent experience in the West only serves to underscore the importance of having well conceived and comprehensive plans for integrating the various operations, processes, and cultures related to safety. Implementation of the Conrail acquisition will be even more complex than those in the West, since it involves a unique division of an efficiently operating rail network. DuPont also believes that systemically including similar SIP's in other future rail transactions would be constructive.

DuPont feels so strongly about safety that we have already met individually with both CSX and Norfolk Southern to discuss the details of their respective SIP's. Additional follow-up meetings are planned. Both railroads have an outstanding safety record, and have made a good faith effort to plan for the safe integration of Conrail into their operations. The draft SIP's contain an excellent overview of their plans for a seamless transition. As would be expected at this point, many specific implementation details are not yet included and/or have yet to be developed.

DuPont, for these and other reasons, does not wish to comment on the specifics of the Plans at this time, but encourages the Applicants to continue development of them so that all safety processes are clearly defined, in place, and understood prior to "Day 1".

DuPont further encourages the Applicants to consider adopting where possible Best Practices already in place at Conrail.

One excellent example of such a Best Practice in Conrail's Five Year Plan is for implementation of the Chemical Manufacturers Association (CMA) Responsible Care® Partnership Program.

In summary, DuPont has high value for the Board's incorporation of safety planning and execution into the approved process for the Conrail acquisition. DuPont also supports inclusion of the SIP requirement in any further mergers, divestitures, or acquisitions which come before the Board.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C N Beinkampen", with a horizontal line extending to the right.

Charles N. Beinkampen
Director Global Distribution



STATE OF CONNECTICUT
CONNECTICUT HISTORICAL COMMISSION

January 6, 1998

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

CENTRAL ADMINISTRATIVE UNIT
REC'D: 1/23/98
DOCUMENT # 1/20/98/2:13:8



Subject: Finance Docket No. 33388
CSX and Norfolk Southern
Control and Acquisition - Conrail

**ENVIRONMENTAL
DOCUMENT**

Dear Ms. Kaiser:

The State Historic Preservation Office has reviewed the Environmental Impact Statement prepared concerning the above-named project. This office expects that the proposed undertaking will have no effect on historic, architectural, or archaeological resources listed on or eligible for the National Register of Historic Places. This comment upon our understanding that no changes to rail line segments, rail yards, or intermodal facilities and no new construction projects are proposed within Connecticut.

This office appreciates the opportunity to have reviewed and commented upon the proposed undertaking.

We recommend that the responsible agency provide concerned citizens with the opportunity to review and comment upon the proposed undertaking in accordance with the National Historic Preservation Act of 1966 and the Connecticut Environmental Policy Act.

For further information please contact Dr. David A. Poirier, Staff Archaeologist.

Sincerely,

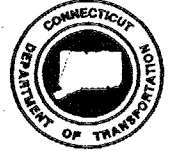
John W. Shannahan
Director and State Historic
Preservation Officer



STATE OF CONNECTICUT

DEPARTMENT OF TRANSPORTATION

2800 BERLIN TURNPIKE, P.O. BOX 317546
NEWINGTON, CONNECTICUT 06131-7546

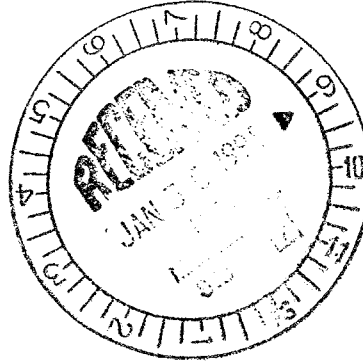


Office of the
Commissioner

January 30, 1998

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Office of the Secretary
Case Control Unit
Finance Docket Number 33388
Surface Transportation Board
1925 K Street, NW, Room 500
Washington, D.C. 20423-0001



Attention: Elaine K. Kaiser

Ladies and Gentlemen:

Subject: Finance Docket 33388, Draft EIS

The Connecticut Department of Transportation (CDOT) appreciates the opportunity to comment on the Surface Transportation Board's (STB) "Draft Environmental Impact Statement, Proposed Conrail Acquisition" (DEIS) dated December 12, 1997.

Based upon the discussion of the impacts that the subject Acquisition may have on the state of Connecticut (DEIS, Volume 3A, Chapter 5), it appears that CDOT was unsuccessful in fully articulating the nature and depth of its concern for an unconditioned approval of the Primary Application. This is clearly demonstrated by a significantly understated categorization of the nature of CDOT's comments as "Air."

As stated in our August 5, 1997 submittal, the areas in Connecticut that will be directly affected by the Acquisition are not in attainment with the US Environmental Protection Agency's National Ambient Air Quality Standards. Notwithstanding the noise and public safety impacts associated with the current level of traffic congestion in the I-95 corridor, vehicular emissions in the corridor are what continue to seriously undermine efforts to achieve attainment. Clearly, traffic congestion and air quality are inextricably linked in this region.

Seemingly contradictory statements in the DEIS suggest that a general reconsideration of the impacts of the Acquisition in the state of Connecticut is appropriate. For example, it is stated in the DEIS that, "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." This assertion is apparently contradicted by the statement in the very same section that "...no rail line segments, rail yards or intermodal facilities

in Connecticut would experience increased traffic or activity..." Realistically, it is conceivable, if not likely, that traffic congestion and air quality will worsen if the Primary Application is approved in its current form.

In sharp contrast to CSX, NS enthusiastically indicated to CDOT (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.

To generally improve rail freight service in the region, as well as to address almost certain environmental impacts, CDOT recommended that the STB approve the Primary Application only with conditions to ensure full competitive access to Connecticut for two or more Class I carriers; to ensure competitive connections to national markets for short-line and regional railroads in New England; to provide true incentives for the truck-to-rail diversion of traffic in the I-95 corridor; and to ensure the application of uniform, competitive rates for shippers in Connecticut and other areas east of the Hudson River.

The Department contends that by extending the North Jersey Shared Assets Area as far easterly as New Haven, the aforementioned conditions could be rather simply met. Obviously, this would require greater use of an improved carfloat operation in New York Harbor and operation of RoadRailer-type trains through Penn Station, as commuter operations permit. Though each of these service options represent a viable alternative to a circuitous routing around the state of Connecticut, neither is currently utilized.

As a minimum, the STB must direct the CSX and NS to negotiate further with affected carriers to establish, by date certain, competitive rail access and effective gateways for markets east of the Hudson River. Then, assuming the STB retains jurisdiction as requested by CDOT and many other parties of record, specific conditions should be imposed if competitive access to the region has not been created.

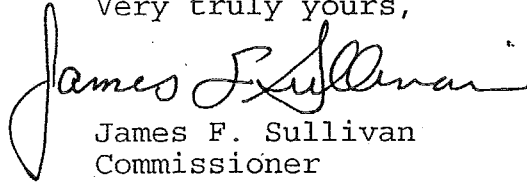
Given the limited information contained in the aforementioned section of the DEIS, CDOT is not wholly satisfied that the less obvious impacts of the Acquisition have been fully considered. It is CDOT's position that in areas of nonattainment,

January 30, 1998

such as the I-95 corridor in Connecticut, both the primary and secondary impacts of the Acquisition deserve far greater scrutiny. Further, there should be a far greater willingness on the part of the STB to exercise its full authority in prescribing mitigation in such areas.

Therefore, we respectfully request that the Board reconsider the environmental impacts that the Acquisition will have in the state of Connecticut.

Very truly yours,

A handwritten signature in cursive script that reads "James F. Sullivan". The signature is written in dark ink and is positioned above the typed name and title.

James F. Sullivan
Commissioner

SOUTH WESTERN REGIONAL PLANNING AGENCY

DARIEN GREENWICH NEW CANAAN NORWALK STAMFORD WESTON WESTPORT WILTON
1 SELLECK STREET, SUITE 210, EAST NORWALK, CT 06855 TEL: (203) 866-5543 FAX: (203) 866-6502

ENVIRONMENTAL DOCUMENT

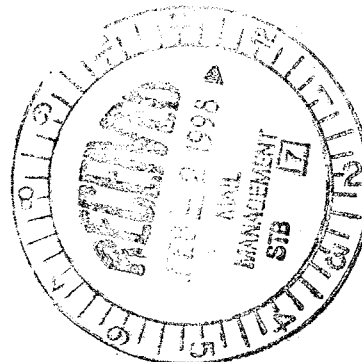
January 30, 1998

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98

DOCUMENT # 2/2/98 4:21:18 PM

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001
Attn: Elaine K. Kaiser
Environmental Project Director
Environmental Filing



RE: Draft Environmental Impact Statement
"Proposed Conrail Acquisition"

Dear Ms. Kaiser:

Thank you for furnishing us with a copy of the above document, which had a service date of December 12, 1997.

Unfortunately, despite the fact that we had submitted (under date of July 31, 1997) written comment on the Notice of Intent to prepare an EIS, we did not receive the Draft EIS until January 7, 1998, and then only at our request.

We have reviewed the Draft EIS in particular Volume 3A, Chapter 5 State Settings, Impacts and Proposed Mitigation - Connecticut pp. CT-1 thru CT-5 and figure 5-CT-1.

1. **Principal Objection**

We respectfully disagree with the following statement in the first paragraph on page CT-1:

"There are no proposed Conrail Acquisition related activities in Connecticut that meet or exceed the Board's thresholds for environmental analysis."

As we clearly stated in our July 31, 1997 comment, the CSX/NS plan for Conrail provides that: 1) Only CSX will operate east of the Hudson River, and thus there will be no direct rail competitive service available east of the Hudson River, and 2) Neither CSX nor NS plans to operate truck-competitive rail intermodal service directly along the Northeast Corridor north and east of Newark, New Jersey.

EQUAL OPPORTUNITY EMPLOYER

A-156-b

Both CSX and NS clearly state that they will vigorously seek to divert to rail intermodal a significant amount of truck traffic now operating on the I-95 corridor, (Atlantic seaboard). If they are successful, the heavy truck traffic on I-95 in Connecticut, already intense, will increase significantly. ConnDOT reports that the 1996 average daily trailer truck traffic on I-95 is 10,416 trailer trucks, or 8% of a total traffic level of 130,200 vehicles/day. These added trucks on I-95 will be operating to and from CSX and NS intermodal terminals in Northern New Jersey. (Please refer to EIS, Volume 3B, Chapter 5, Page NJ-5 which indicated a total increase of 1,280 additional daily truck trips, an increase of 89%, to and from the four intermodal terminals in Northern New Jersey) (Enclosure 3) Also, we understand that NS may establish a rail/truck intermodal terminal near Middletown in Orange County, New York, which will add more trucks to I-84 through Danbury, Waterbury and Hartford. As may be seen by the enclosed map ("NETI" Study - 1994) of Connecticut and Rhode Island showing limited access highways expected to be severely congested by the Year 2000, we need a rail intermodal directly across the Hudson River at New York City with rail intermodal continuing into southern New England along the Northeast Corridor. (Enclosure 4)

Action Requested

The section of Environmental Analysis of the Surface Transportation Board should address this issue and recommend appropriate mitigation. We strongly believe that the appropriate mitigation is to recommend that the conditions demanded by the Intervention Petition of Congressman Jerrold Nadler and 23 other Members of Congress should be made condition of final approval of the CSX/NS Railroad Control Application.

2. Other comments on specific paragraphs in Connecticut Section:

- Page CT-1 - Transportation Facilities

Add words: "The principal truck highway corridor for New England is I-95, which, unlike I-84 and I-90, is a direct, water-level route directly along the Northeast Corridor, and thus is particularly attractive to long-distance, heavy truck traffic."

- Railroad Facilities

Add words: "Conrail has trackage rights on Amtrak and the Metro North Railroad from New York City to New Haven, but has failed to use them except for local freight service. And, Conrail limits the Providence and Worcester Railroad in the exercise of their overhead trackage rights to the movement of stone only, and then, no further west than Fresh Pond Junction, Long Island, N.Y.

- Page CT-2 - Proposed Conrail Acquisition Facilities in Connecticut

We strongly disagree with the statement:

"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."

We would respond the rail portion of these truck to rail diversions will end on the west side of the Hudson River in New Jersey. Connecticut will therefore have more, not less, diesel truck emissions, heavy truck noise and truck safety impact. Also, we would suggest that the single, planned CSX Boston to Atlanta intermodal train via Albany, N.Y. is too circuitous as to be competitive with trucks on I-95. Rail intermodal on the electrified NEC means clean air!

- Page CT-3 - Passenger Rail Service, Amtrak and Commuter Rail
We note that in Volume 1, Chapter 4 Section 4.7 Transportation: Passenger Rail Operations at Page 4-28 the following conclusion has been drawn:

"After the proposed Acquisition, the number of freight trains on the NEC still would be no more than the number of freight trains on the NEC prior to the formation of Conrail in 1976. Since that time, there has been an increase in NEC capacity as a result of the Northeast Corridor Improvement Program (NECIP), including many of the facilities already mentioned and signal improvements. Through its operating control of the NEC, Amtrak controls the schedule for the necessary "track-out" time for maintenance of way, a substantial amount of which is done at night. As stipulated in the current Operating Agreement, which would be assumed by NS and CSX, it would be necessary for the Applicants and Amtrak to schedule freight operations carefully on the NEC.

In summary, the proposed increases in the number of freight trains on the Northeast Corridor should not affect existing passenger operations. These passenger operations occur mainly during the daytime hours. SEA believes at this time that there would be no Acquisition-related impact on passenger service on the Northeast Corridor by freight operations."

We would therefore conclude that, if the conditions demanded by the Intervention Petition of New York and Connecticut Members of Congress had actually been proposed as part of the CSX/NS Plan, the Section of Environmental Analysis would logically have drawn a similar conclusion as stated above regarding operations on the Northeast Corridor north of Newark, N.J., while giving due consideration of the particular concentration of rail traffic through the Penn Station tunnels. Indeed, a review of Table 4-7 Current and Proposed Operations on Amtrak's Northeast Corridor (pg. 4-25) the proposed post-acquisition train densities south of New York City are significantly higher than those north of New York City. In further support of this conclusion, we enclose an excerpt of our January 13, 1998 Rebuttal Statement to Applicants Rebuttal of December 1997. (Enclosure 2)

- Page CT-4 - Tables 5 CT-1 and 5-CT-2
We are amazed that the statements in both these tables, which, in our view, show no appreciation or understanding of the comments submitted by this Agency in its July 31, 1997 letter with enclosures.

Accordingly, we enclose a copy of our July 31, 1997 letter for your review.
(Enclosure 1)

3. **Conclusion**

In our opinion, the analysis contained in the Draft EIS could be summed up as follows: Because CSX plans little or no new service east of the Hudson River, and NS plans to confine their operations to west of the Hudson River, there are no "Acquisition Related" impacts to measure, and therefore no mitigation is necessary. We strongly believe that, given the CSX/NS plan, which gives the fullest intermodal advantage to the southern half of the Northeast Corridor, while denying these same advantages to the northern half of the Northeast Corridor, an Acquisition Related impact exists and should be remedied by the STB.

It should be noted that in 1985, Amtrak, Conrail and Norfolk Southern were prepared to permit operation of a "Road Railer" train carrying perishables from Florida to Hunt's Point Market in The Bronx through the Penn Station tunnels. And, even more significant, in January, 1997, Norfolk Southern officials, in a presentation before the Connecticut Public Transportation Commission, proposed to operate Road Railer and single container-on-flatcar trains directly through the Penn Station tunnels and northerly to New Haven, Connecticut!

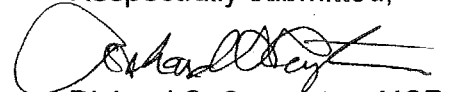
Action Requested

The draft environmental impact statement should be revised to reflect the foregoing concerns, and to recommend the conditions demanded by the New York/Connecticut Congressional Intervention Petition.

We respectfully request that this letter, with all its enclosures, be reproduced in the Final EIS.

Thank you for this opportunity to comment.

Respectfully submitted,


Richard C. Carpenter, AICP
Executive Director

Enclosures

1. SWRPA July 31, 1997 letter to STB
2. Excerpt from January 31, 1998 Rebuttal Statement
3. Current and proposed truck traffic to/from N.J. Terminals (EIS p. NJ-5)
4. Map from "NETI" study showing year 2000 severe traffic congestion in Conn. & R.I.

cc: Hon. Christopher Shays, Member of Congress (R-4th Conn.)
Hon. Robert Russell, Chairman SWRMPO
William Hutchison, Jr., Chairman SWRPA
Hon. James Sullivan, Commissioner, ConnDOT

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SOUTH WESTERN REGIONAL PLANNING AGENCY

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July 31, 1997

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

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

**RE: Notice of Intent to Prepare an EIS
STB Railroad Control Application - Finance Docket No. 33388
(CSX Corporation et al)**

Dear Ms. Kaiser:

Thank you for your letter of July 3, 1997, informing us of your intent to prepare an Environmental Impact Statement (EIS) on the above named Railroad Control Application, and your request for comments on the proposed EIS scope that is part of the notice.

The South Western Regional Planning Agency consists of eight towns and cities in the southwestern corner of Connecticut. (These municipalities include Darien, Greenwich, New Canaan, Norwalk, Stamford, Weston, Westport and Wilton.)

Both I-95 and the Northeast Corridor rail line run directly through our region.

The South Western Region is also located near the center of the Greater New York/New Jersey/New England Air-Quality Non-Attainment area. See copy of portion of map entitled Air Quality Attainment Status Fig. 1-4, page 68 of volume 6A of 8, Docket No. 33388. The location of South Western Region is marked with an arrow. (Attachment 1)

At their regular meeting of July 7, 1997 the South Western Regional Planning Agency, (SWRPA) in accordance with their 1995 Regional Plan of Conservation and Development (Attachment 2) and in support of a letter dated June 18, 1997 from the South Western Region Metropolitan Planning Organization (SWRMPO) to Governor John Rowland of Connecticut (Attachment 3), unanimously authorized testimony to be submitted to the Surface Transportation Board, based on SWRPA and SWRMPO policy.

In addition to the excerpt from the SWRPA 1995 Regional Plan in Attachment 2, please see the excerpt from the SWRMPO Long Range Transportation Plan. (Attachment 4)

PURPOSE OF OUR COMMENT

The purpose of our comment is: 1) to inform the STB of our regional transportation policy, which advocates high speed, truck competitive, low-profile, intermodal rail freight service along the entire Northeast Corridor (NEC) directly through New York City, 2) to comment on the scope of the draft EIS to be prepared by the Surface Transportation Board's Section of Environmental Analysis, (SEA) and to urge that this EIS consider the environmental impact of not providing direct intermodal rail freight service directly along the NEC north of Newark, New Jersey to Boston, Massachusetts, and 3) to comment on the Railroad Control Application itself, in support of 1) and 2) above.

1. SOUTH WESTERN REGIONAL TRANSPORTATION POLICY

Official advisory land use/transportation policy of the South Western Region is set forth in the 1995 Regional Plan of Conservation and Development at pp. 68-70, prepared and adopted by the South Western Regional Planning Agency (SWRPA) (see Attachment 2)

The South Western Region Metropolitan Planning Organization, (SWRMPO) consists of the eight Mayors and First Selectmen and the three Transit Districts of the region. In cooperation with the Connecticut Department of Transportation, SWRMPO sets transportation policies and priorities for the region. The SWRMPO is deeply concerned about the rail freight service which will result from the division of Conrail between CSXT and Norfolk Southern.

To formally express this concern, SWRMPO sent a letter under date of June 18, 1997 to Governor John Rowland of Connecticut, urging him to request the STB to amend the proposal to provide for the shared use of the entire Northeast Corridor. (See Attachment 3)

This proposal is based on the Long Range Transportation Plan of the South Western Region Metropolitan Planning Organization (See Attachment 4)

2. COMMENT ON THE SCOPE OF THE DRAFT EIS

ENVIRONMENTAL IMPACT EAST OF HUDSON RIVER

The joint CSXT/NS plan to operate Conrail includes extensive and detailed environmental impact statements for many track connections, increased yard operations, and increased freight train density levels. These environmental studies even include the impact of abandoning several relatively obscure rail branch lines in western Indiana.

Despite the fact that the area east of the Hudson River (N.Y.C., LI, Conn. and Mass.) is part of the largest air quality non-attainment area in the U.S.A, there has been no environmental study of the impact of continuing (and therefore not improving) the present limited rail freight service east of the Hudson River.

In the draft scope of the EIS prepared by the STB Section of Environmental Analysis (SEA) it states:

"Under the NEPA process, SEA will evaluate only the potential environmental impacts of operational and physical changes that are directly related to the proposed transaction. SEA will not consider environmental impacts relating to existing rail operations and existing railroad facilities."

We would argue that the operational and physical changes proposed in this application, i.e. the new joint use of the southern half of the Northeast Corridor (Washington, DC - Newark) will environmentally impact the northern half (Newark-Boston) unless the same direct, competitive, intermodal rail freight service which will be available in the southern half is extended to the northern half of the Northeast Corridor.

In the EIS scope under Impact Category (pp. 36335-36336 of 62FR) the EIS will discuss: 1) the potential transportation system impacts of diversions of freight from trucks to rail and rail to trucks, as appropriate, 2) the energy impacts of diversions as above, 3) the air quality impacts of increases in truck traffic of more than ten (10) percent of the average daily traffic or fifty (50) vehicles a day, and evaluate emissions increases if the proposed transaction affects a Class I or Non-Attainment area as designated under the Clean Air Act, 4) the noise impact of an incremental increase in noise level of three decibels Ldn or more, and the 5) the environmental justice impacts of whether the result of the proposed contrast between rail service provided to the northern and the southern half of the Northeast Corridor would have a disproportionately high and adverse health affect or environmental impact on any minority or low-income group.

We would conclude that all of the foregoing impacts pertain to the Northeast Corridor.

3. COMMENT ON RAILROAD CONTROL APPLICATION

PROBLEM

Vehicular traffic congestion on I-95 has long been a serious problem, and is expected to worsen. A significant part of this problem are the large number of tractor trailers which operate every hour of the day. By contrast, not one through freight train of any kind operates over the parallel Northeast Corridor rail line north of Newark, N.J. This heavy truck traffic could be reduced, were competitive, north-south intermodal rail freight service provided directly along the Northeast Corridor rail line.

OPPORTUNITY

The division of the Conrail system between the Chessie System (CSXT) and Norfolk Southern (NS) railroads presents a major opportunity to improve rail freight service in the Northeastern U.S. The Surface Transportation Board (STB) review of the proposed division should maximize this opportunity.

Improvement will come from direct competition between CSXT and NS and between both railroads and the trucking industry. This competition should be reflected in 1) lower freight rates, 2) longer single line service without costly interchange between different railroads, 3) new and greatly improved north-south rail services instead of only the east-west service provided by Conrail and, finally 4) shared use of the Northeast Corridor (NEC) for high-speed, truck-competitive intermodal rail freight trains.

LESS SERVICE EAST OF HUDSON RIVER

Unfortunately, New York City, Long Island, Connecticut and New England will not fully share in these improvements. See Attachment 5 for Triple Crown Network and north-south Routes which, unfortunately, do not extend east of the Hudson River.

BACKGROUND AND PROPOSED CSXT/NS PLAN

The April, 1997 agreement between CSXT and NS, which constitutes the plan now before the STB, provides that only CSXT will operate east of the Hudson River, denying or significantly reducing the major benefits of direct competition, lower freight rates and direct, truck-competitive intermodal service to New York City, Long Island, Connecticut and New England.

Prior to this agreement, NS had stated its intention of operating directly along the entire NEC, through Penn Station, New York City, using "Roadrailer" type intermodal equipment and single container-on-flatcar type trains, both of which can operate in the restricted overhead clearance environment of the NEC. It reported that success was being achieved in solving the operating concerns of Amtrak and the commuter railroads. NS, which operates the Roadrailer trains, wants to use the NEC so it can directly compete with trucks.

Unfortunately, CSXT has no such plans for direct service along the NEC through New York City. Instead, only one conventional intermodal train is planned, operating between Atlanta, Georgia and Boston, Massachusetts, using the longer, slower route via Albany, New York.

Unfortunately, too, under the present plan now before the STB, the low profile Roadrailer trains will not provide service east of the Hudson River because only NS (and not CSXT) operates this type of equipment.

Roadrailleurs, which can operate through Penn Station New York City and the river tunnels and which can operate at passenger train speeds, will, however, for the first time, be operated by NS on the NEC, but only on the southern half, from Washington, DC to Newark, NJ.

The northern half of the NEC from Newark, New Jersey to Boston, Massachusetts, with fewer passenger trains than the southern half, will remain underutilized during off peak hours. Late at night, and until early dawn, it will be essentially empty. Such underutilization is particularly disturbing because the NEC is, like the highway system, owned, maintained and operated by the public. The public sector, like the private sector, should expect and receive the best possible return on its investment. (See Attachment 6 for Comparative Train Densities on NEC.)

The existing joint CSXT/NS application proposes joint passenger and freight operation of the Northeast Corridor (NEC) from Washington, DC north to Newark, NJ, which proposal we fully and enthusiastically support.

This joint use of the NEC is also important to Norfolk Southern, and we quote from p.226 of Vol. 3B of 8 (NS Operating Plan)

"The existing Roadrailer round trip between Newark and Atlanta, which operates five days a week, will be rerouted from the Hagerstown route to the NEC. Substantial mileage will be saved. This new route will permit TCS (Triple Crown Service) to compete with motor carriers for traffic between the Northeast and the Carolinas, something it cannot do using the Hagerstown route."

As may be seen, direct intermodal rail freight operation on the NEC is shorter in miles and permits direct competition with trucks, thus fulfilling one of the primary stated objectives of the Railroad Control Application presently before the STB.

North of Newark, New Jersey, the alternate routes to the NEC stated in the CSXT and NS operating plans are the proposed CSXT route to Boston via the existing Conrail lines: i.e. River Line to Albany and the Boston Line to Boston, or, as proposed by NS, the Hagerstown/ Harrisburg/ Scranton/ Binghamton/ Schenectady/Hoosac Tunnel route via Norfolk Southern, Delaware & Hudson (Canadian Pacific) and Guilford Transportation Industries lines.

Based on the NS statement quoted above, neither of these routes permit Triple Crown Services (TCS) or single container-on-flatcar intermodal (which can also operate through Penn Station) to directly and effectively compete with highway trucking along the entire north-south I-95 route.

Thus, extension of joint passenger/freight operations along the NEC through New York City and northeast to Boston and New England is the only practical competitive intermodal alternative to continued highway truck congestion.

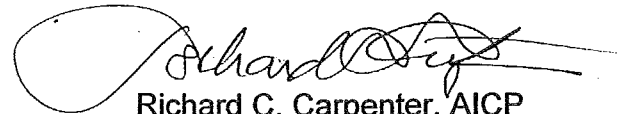
PROPOSED ACTION BY THE SURFACE TRANSPORTATION BOARD

Accordingly, we advocate that the EIS include a full review of this proposal, including the impact of a continuation of the status quo on air quality, safety, health and the economy. Such a review would be performed with a view toward persuading the STB to grant approval of the Railroad Control Application with appropriate conditions, namely, 1) permit and require operation of Roadrailer and single container-on-flatcar service through New York City via Penn Station to New Haven, Connecticut and beyond, and 2) require, in the interest of competitive rail freight service, joint access along this route to both CSXT and NS.

We fully acknowledge and appreciate that the freight service on the NEC should be high speed and compatible with intercity passenger and commuter rail operations.

Thank you for this opportunity to offer our comment.

Respectfully submitted,

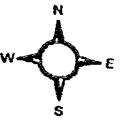


Richard C. Carpenter, AICP
Executive Director

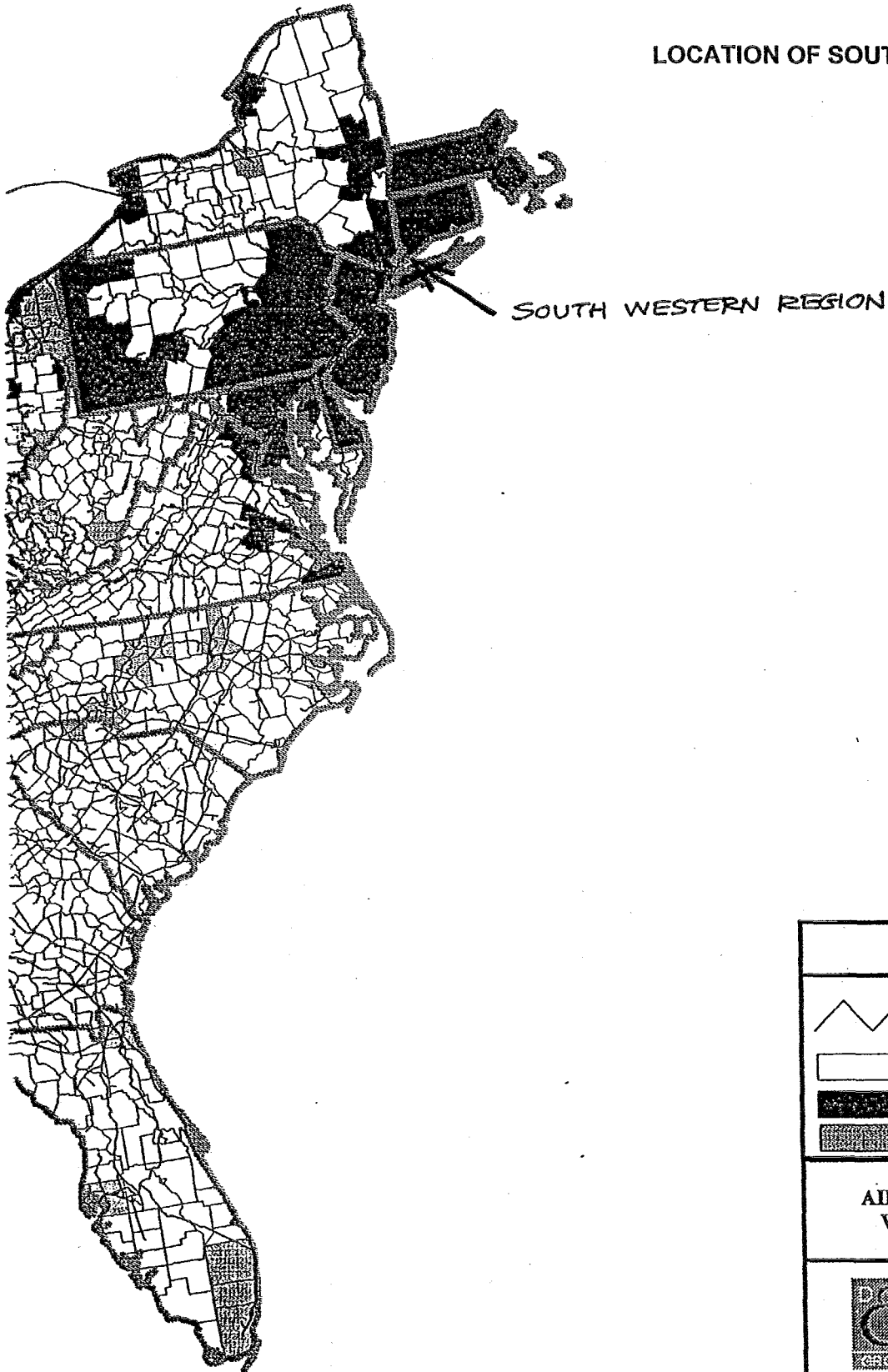
Attachments (6)

1. Location of South Western Region
2. SWRPA Plan
3. Letter to Governor Rowland
4. SWRMPO Plan
5. Network and Route Maps
6. Comparative Train Densities

cc: Hon. Henry Sanders, Chairman, SWRMPO
William Hutchison, Chairman, SWRPA
Hon. James Sullivan, Commissioner, ConnDOT
Congressional Delegation



LOCATION OF SOUTH WESTERN REGION



LEGEND





-  Expanded CSX and NS Systems, Shared Areas and NEC including Trackage Rights and Haulage
-  Attainment
-  Non-Attainment
-  Maintenance

Figure 1-4
**AIR QUALITY ATTAINMENT STATUS
WITHIN EXPANDED CSX AND NS
SYSTEMS AND SHARED AREAS**



DAMES & MOORE
A DAMES & MOORE GROUP COMPANY

The South Western Regional Planning Agency
Connecticut

SWRPA PLAN

1995
Regional Plan of
Conservation and Development

December 1995

8.

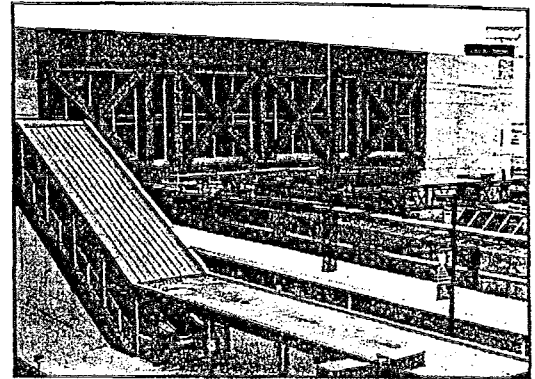
station location is adjacent to the Wheels Bus "pulse point" station in downtown Norwalk, and would provide direct connections from the station to employment sites throughout the city.

Danbury Peak-Hour Train Service

There is also a need for additional train service on the Danbury branch of the railroad, particularly running north during the peak afternoon rush hour. At present, there is inadequate rush hour train service running north to Danbury, even though there are many workers now commuting into the Region from the Danbury area each day. The addition of northbound train service between 4:45 and 6:00 PM would increase the convenience and efficiency of using mass transit to commute into the Region to work, a major goal of the 1995 Regional Plan. As a direct result of SWRPA efforts, PM peak hour northbound service was initiated in July, 1995. However, additional service is needed.

Increase Use of Rail System for Interstate Freight

A major contributing factor to the severe congestion and air quality problems plaguing the northeast corridor is the truck traffic which must use the region to get from New England to New York and points south and west. While the completion of I-287 in northern New Jersey offers a new way for truck traffic to bypass New York City and the South Western Region, going up the New York State Thruway to



The northeast corridor rail system can support additional freight usage to alleviate road congestion. Here, an Amtrak mail express train passes through Stamford station.

Newburgh instead of using the George Washington Bridge and I-95, additional freight traffic should be shifted onto the Region's rail network.

A new proposal for the larger tri-state region would greatly facilitate the transfer of some truck freight to rail lines. The Access to the Core plan being developed jointly by the Port Authority of New York and New Jersey, the Metropolitan Transit Authority, and New Jersey Transit would include provisions for direct rail freight access to Manhattan, possibly via the West Side Line and Oak Point link to New England, and to Long Island via the Hell Gate Line. Also, Road-Railer and single-container-on-flatcar service should be inaguarated through the Penn Station



Additional commuter parking lots, such as this satellite lot in Westport, are encouraged to increase rail usage.

tunnels. SWRPA supports the development and implementation of plans which could substantially reduce truck traffic and congestion throughout the Northeast Corridor.

7.5 Plan Policies

SWRPA's adopted transportation policies address a wide range of legislative, physical planning, and demand management issues:

- Encourage development of a balanced transportation system which uses a variety of modes operating in a complementary way to save energy, reduce congestion, improve air quality and highway safety, strengthen urban centers, and finally, to meet the needs of

all residents, including the transit-dependent and the disabled. Human-scale design and "traffic calming" techniques should be used.

- With the knowledge that financial resources are limited, analyze alternative fiscal and technical transportation strategies to meet regional needs. Such alternatives should:
 1. Promote truck-competitive, intermodal rail freight service along the Northeast Corridor.
 2. Promote shuttle buses to and from railroad stations.
 3. Promote improvement of highway safety laws, especially speed limits, and elimination of defective equipment on cars, buses and trucks. Increase State Police Troop "G" staffing to enforce safety laws. Increase weigh station operation and education in driving safety practices.
 4. Promote the use of less convenient locations and higher parking charges for single occupancy vehicles and also a weight/distance tax for heavy trucks.

7.6 Between Now and 2005

Seven specific areas of planning and programming emphasis are needed to help achieve the goals of the regional plan for improved transportation management and reduced automobile and truck traffic on the

Region's limited-access highway network.

- Complete capital maintenance programs for the Metro-North New Haven commuter rail line, ensuring continued and enhanced service, including through service at Stamford-New Haven to Hartford.
- Plan and implement an improvement program for U.S. Route 7 and Route 1 corridors. The SWRMPO should continue to advocate the completion of new U.S. 7 to Danbury.
- Continue traffic safety and traffic management improvements for U.S. Route 7, the Merritt Parkway, and I-95, especially:
 1. Construct the full interchange between the Merritt Parkway and U.S. 7, and extend New U.S. 7 from Grist Mill Road to Route 33 South in Wilton.
 2. Exit 8 approaches to I-95.
- Begin to shift some long haul truck freight to intermodal rail freight along the Northeast Corridor rail line.
- Provide for additional commuter parking at rail stations along the entire line to encourage transit use.
- Complete the planned enhancement of Stamford's Transportation Center, with expanded capacity through the use of center island platforms.
- Plan for the effect of additional traffic to and from outside the Region due to economic development not under our control.

LETTER TO GOVERNOR ROWLAND



**METROPOLITAN
PLANNING
ORGANIZATION**

One Selleck Street Suite #210 East Norwalk, CT 06855
Telephone: 203-866-5543 Fax: 203-866-6502

June 18, 1997

Hon. John G. Rowland
Room 200
State Capitol
Hartford, CT 06106

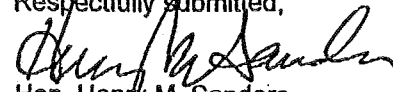
Dear Governor Rowland:

The South Western Region Metropolitan Organization has been deeply interested in the rail freight service which will result from the division of Conrail between the Norfolk Southern Corporation (NS) and the CSXT Corporation (CSXT). We respectfully urge you, as Governor, to request the Surface Transportation Board to amend the proposal before it to provide for the shared use of the entire Northeast Corridor. This would provide for competition along the Northeast Corridor and will encourage enhanced intermodal rail freight service, to ease congestion on I-95.

The mutual agreement reached in April between NS and CSXT provides that only CSXT will take over Conrail in New England and east of the Hudson River, including Conrail's trackage rights over Metro North between New York City and New Haven. NS by contrast, had proposed direct operation of "Road Railer" and single containers on flatcars through Penn Station, and directly along the Northeast Corridor toward Boston. CSXT now proposes the more circuitous routing (over 100 miles longer) from Boston west to Albany, thence south along the west bank of the Hudson River to Northern New Jersey. NS clearly states that it had been working out all operating concerns relating to direct operations thru Penn Station with Amtrak and the Long Island Railroad and with Metro North for operation on the New Haven Line.

We note that the CSXT/NS agreement of April 1997 allows for the joint use of the Amtrak Northeast Corridor from Philadelphia to Newark, which shares track space with New Jersey Transit and SEPTA trains. Accordingly, we urge that this same principle of shared usage could and should be extended eastward, across the Hudson River at least to New Haven, where Conrail trackage rights end. Continuation east and north in cooperation with the several existing regional railroads would then be possible. The proposed division of Conrail between NS and CSXT is now before the Surface Transportation Board for a decision.

Respectfully submitted,


Hon. Henry M. Sanders,
Chairman

cc: Congressional Delegation

w04rjfkzeryesccs

12.

MPO ENDORSED

SWRMPO PLAN

SOUTH WESTERN REGION
LONG RANGE
TRANSPORTATION PLAN
1997-2017

FOR PUBLIC RELEASE

6/19/97

South Western Regional Planning Agency
One Selleck Street Suite 210
East Norwalk, CT 06855
(203) 866-5543

FREIGHT SERVICE

Background

The South Western Region is situated along the primary freight service route to and from New England. Along the Northeast Corridor, within the South Western Region, the two transportation facilities which are available for freight transport are I-95 and the Northeast Corridor Rail Line, known locally as the New Haven Rail Line.

There is not a single through freight train operating east of New York City on the Northeast Rail Corridor. While the use of the Northeast Rail Corridor is restricted by low overhead clearance, horizontal clearance restrictions, intensive passenger train use, the Penn Station tunnels are the only direct crossing of the Hudson River and limited terminal facilities. This line is, however physically capable of accommodating "Road-Railer" and "Single-stack container" trains as well as freight cars that are not "over dimension".

Currently, all through rail freight which enters and leaves New England uses two rail routes through western Massachusetts. Trains from northern New Jersey and points south are forced to travel 150 miles north to Albany to cross the Hudson Rivers. This circuitous route increases the cost of rail shipments and increases delay so the a major portion of New England freight is moved by truck.

As noted in the South Western Region Long Range Transportation Plan 1993-2013, additional freight movement problems included:

1. Congested highways and streets slow trucks in many areas. This is compounded by poor curbside management.
2. Reliable delivery schedules are hard to maintain as a result of highway crowding; incidents, accidents, and construction delay; and circuitous routings caused by commercial traffic restrictions and outmoded, insufficient highway infrastructure.
3. Freight costs are high, relative to the rest of the nation, because of highway congestion, construction, incidents, also minimal use of rail, and the higher costs of doing business in the New York area. There is a lack of competitive warehousing and distribution centers east of the Hudson River.
4. Air pollution, particularly carbon monoxide and particulate matter, is generated by trucks and is locally intensified by prolonged truck idling and congestion. No effective air pollution control measures for large trucks exist at present.
5. Highways, along with water mains and other subsurface infrastructure, are damaged and fail at a faster rate as a result of heavy truck use. There are many missing, restricted or insufficient highway links.

Recent Developments and Proposals

There are three recent developments and proposals which affect the viability of rail freight in the South Western Region.

1. Proposed Merger of Eastern Railroads

Late in 1996, Conrail and CSXT railroad management announced plans to merge into a single railroad. This would reduce the number of major railroads in the eastern U.S. from three to two-the other being the Norfolk Southern Corporation. Norfolk Southern opposed the proposed CSX/Conrail merger and made a counter proposal. Negotiations are underway between the three companies. A final public determination will be made by the Surface Transportation Board which is the successor to the Interstate Commerce Commission (ICC). The Coalition of Northeastern Governors have adopted a policy concerning this merger, which calls for competitive service and Norfolk Southern representatives have publicly proposed and are actively pursuing the operation to "Road Railer" type and single container on flatcar intermodal trains directly through the Penn Station tunnels and along the Northeast Corridor/New Haven Rail line into southern New England. This proposal is consistent with the South Western Region transportation policy for many years.

2. New York Harbor Tunnel

Early in 1997, Mayor Rudolf Giuliani of New York City, proposed a rail freight tunnel under New York Harbor, which would provide a direct full clearance rail connection between the national rail freight system and New York City and New England.

3. Rhode Island Proposed Containerport

Rhode Island voters recently approved a state bond issue to finance capital improvements for a containerport on Narragansett Bay at the former Naval Air Station at Quonset Point. Direct North East Rail Corridor freight service connections would benefit this facility.

Process

Continue to monitor freight activities and studies and to participate in the Connecticut Public Transportation Commission (CPTC) and other organizations that discuss or impact freight. Findings and recommendations will be incorporated into future Transportation Plans and programs as appropriate.

Recommendations

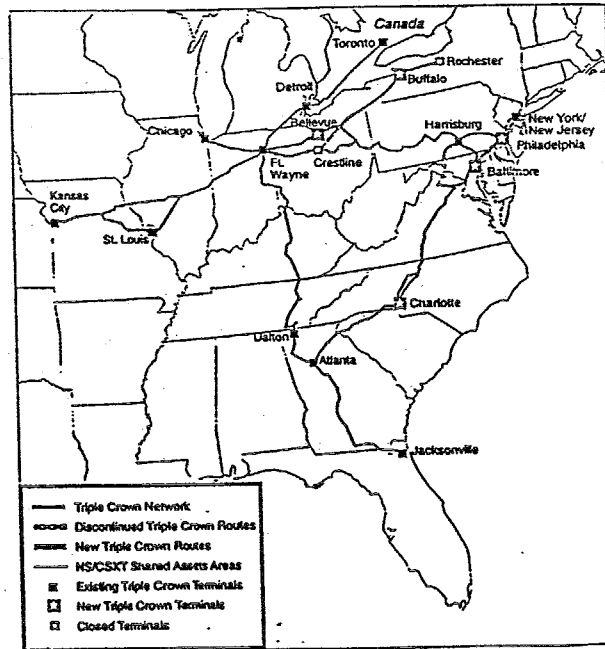
- Improve Rail Competitiveness
 - a. Revise public policy to actively promote and subsidize if necessary high-speed intermodal rail freight service along the Northeast Corridor via the Penn Station's tunnels, and directly along the Northeast Corridor Rail line.

- b. Provide full overhead clearance sufficient for "double-stack" containers. Encourage Connecticut to cooperate with New York, Rhode Island, and Massachusetts in this venture.
 - c. Continue advocacy through the Connecticut Public Transportation Commission (CPTC) as well as direct recommendations to appropriate state officials and the intermodal policies of the South Western Region Long Range Transportation Plan.
 - d. Identify and propose solutions to barriers to rail freight transport.
- Support those railroads who desire to provide high-speed intermodal rail freight service along the Northeast Corridor through New York City.
 - Support competitive rail freight service for New York City and all of New England by at least two major national railroads.
 - Support the proposed New York Harbor rail freight tunnel.
 - Support Incident Management Activities to reduce incident related congestion
 - Improve truck efficiency and safety
 - a. Support increased State Police patrols on I-95 and continue current enforcement activities.
 - b. Continue to support truck inspection activities.
 - c. Integrate freight movement, such as requiring off-street loading areas, into site planning, design and approval process. Provide incentives for retrofitting existing buildings with off-street loading areas.
 - d. Support alternative-fuel truck fleets.

NETWORK AND ROUTE MAPS

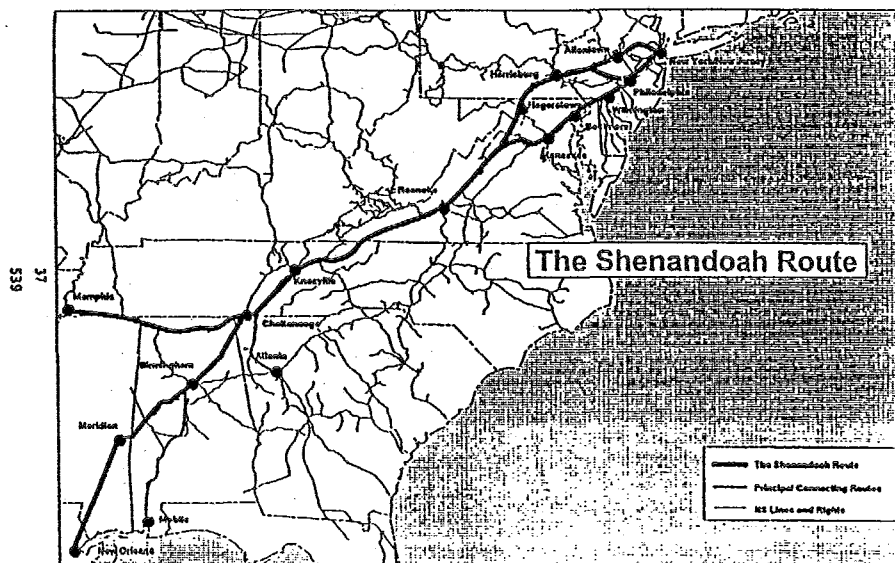
**NEW YORK CITY, LONG ISLAND AND NEW ENGLAND
WILL NOT BE DIRECTLY SERVED BY THE RAIL NETWORK OF
THE NEW TRIPLE CROWN NETWORK**

Figure TLF - 14
The New Triple Crown Network



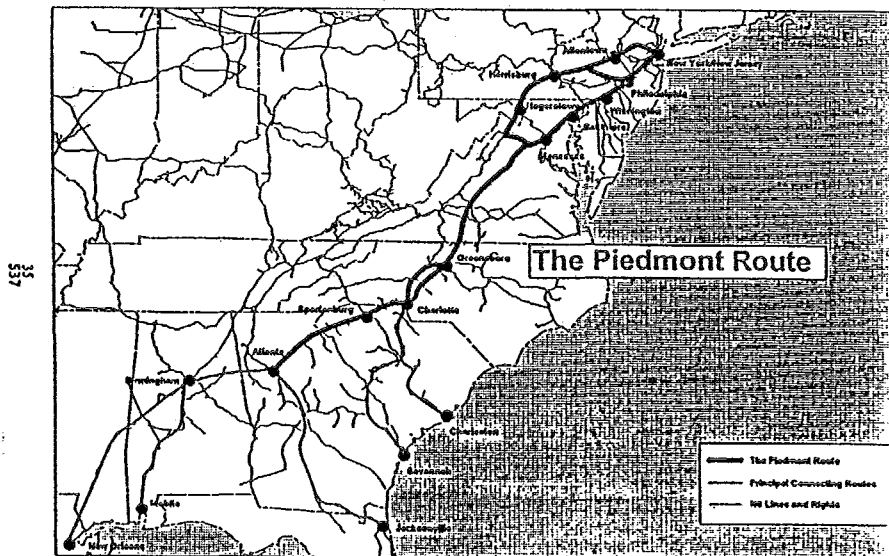
**NEW YORK CITY, LONG ISLAND AND NEW ENGLAND
WILL NOT BE DIRECTLY SERVED BY EITHER THE
SHENANDOAH OR THE PIEDMONT ROUTES**

NETWORK AND ROUTE MAP:



The Shenandoah Route

Figure JWM-1f



The Piedmont Route

Figure JWM

COMPARATIVE TRAIN DENSITIES

COMPARATIVE TRAIN DENSITIES
NORTHEAST CORRIDOR RAIL LINE (NEC)

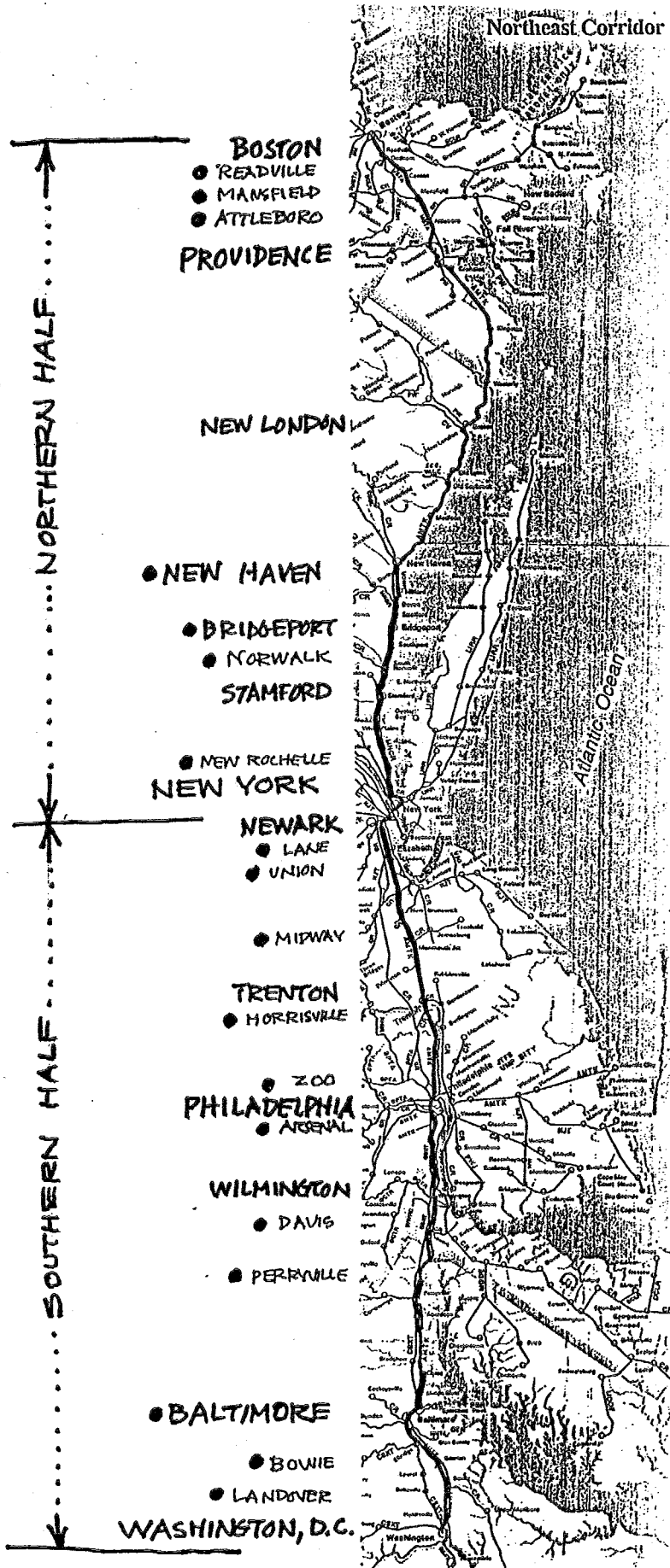
NORTHERN HALF (NEC) Newark, N.J. - Boston, Mass.									
LOCATION	MILES	EXISTING		PROPOSED		TOTAL	CHANGE		
		PASS.	FRT.	PASS.	FRT.				
Mass. Mansfield - Readville Attleboro - Mansfield	15.9 7.2	70 44	4 4	70 44	4 4	74 48	0 0		
Conn. Bridgeport - New Haven Norwalk - Bridgeport	16.0 15.5	102 92	3 2	102 92	3 2	105 94	0 0		
N.Y/Conn. New Rochelle - Norwalk	25.0	192	5	192	5	197	0		
SOUTHERN HALF (NEC) Washington, D.C. - Newark, N.J.									
LOCATION	MILES	EXISTING		PROPOSED		TOTAL	CHANGE		
		PASS.	FRT.	PASS.	FRT.				
N.J. Lane - Union Union - Midway Midway - Morrisville, PA.	7.1 21.6 17.3	240 166 156	3.4 3.4 3.4	240 166 156	11.0 11.0 11.0	251 177 167	+7.6 +7.6 +7.6		
PA. Morrisville - Zoo (Phila.) Arsenal (Phila.) - Davis, Del.	28.5 25.0	132 116	3.4 2.3	132 116	7.1 10.5	139 127	+3.6 +8.2		
Del/Md. Davis - Perryville	21.1	67	4.5	67	12.4	79	+7.9		
Md. Perryville - Baltimore Baltimore - Bowie Bowie - Landover	32.4 28.6 8.3	77 99 99	14.3 2.4 3.2	77 99 99	15.6 7.7 12.5	93 107 112	+1.3 +5.3 +9.3		

SOURCE: Joint CSXT/NS Railroad Control Application, June 1997.

Note: See other side for LOCATION MAP OF NORTHEAST CORRIDOR RAIL LINE (NEC)
Locations listed above are identified with a dot.

working 6/trains.cri

LOCATION MAP OF NORTHEAST CORRIDOR RAIL LINE (NEC)



Certification of Richard C. Carpenter

Richard C. Carpenter, certifies under penalty of perjury as follows:

I am the Executive Director of the South Western Regional Planning Agency located in the southwestern corner of the State of Connecticut, at 1 Selleck Street, Suite 210, E. Norwalk, Ct. 06855. As such I am familiar with truck and rail traffic in southwestern Connecticut, the greater New York/New Jersey area, and in Southern New England.

Interstate Route 95, which traverses southwestern Connecticut, and is the most direct and only water level interstate route into New England, is one of the most heavily used truck routes in the United States. Heavy truck congestion on that highway is a major economic, safety and environmental problem.

At present, trucks servicing southern New England and crossing the Hudson River, have several options for access to the rest of the nation. They may use the Massachusetts Turnpike Bridge (I-90), the Newburg/Beacon Bridge (I-84) the New York Thruway Bridge (I-287) or the George Washington Bridge (I-95 and I-80). I understand that CSX Norfolk Southern intend to launch a major marketing campaign to service New England traffic from their terminals in Northern New Jersey. To the extent that this strategy is successful it will exacerbate the already critical truck traffic congestion, particularly on route I-95. Safety of motorists will be gravely affected and the already horrendous environmental problems associated with this heavy concentration of trucks will increase in direct proportion to the success of the CSX-NS marketing effort. A continued and indeed a successful effort by the rail industry to serve the New England market from New Jersey, instead of crossing the River directly by rail to New York City or Southern Connecticut points, is therefore directly contrary to the public interest and should not be allowed.

The Providence and Worcester Railroad and the Petitioners state that conflicts with passenger services eliminate service on the Northeast Corridor as a viable option or limit it to such an extent that the Board need not consider it. I attach hereto as Exhibit H, a copy of the New Haven Railroad April, 1946 employee timetable, (#159) which shows all scheduled passenger, and mail and express train movements between New York City and New Haven. I also attach as Exhibit I hereto a copy of the July, 1946 New Haven Railroad freight service timetable which lists all through freight movements. I note that in 1946, the same track structure as exists today was in service, with the exception that there are now three instead of four tracks for the short distance of 12 miles from Devon to New Haven, Connecticut. However, in 1946, the signal system on this line was considerably less sophisticated than today. Then, the signal system provided for two tracks east and two tracks west, instead of the four track bi-directional traffic control system that exists today, which provides considerably greater train capacity. Train speeds are slightly higher today, as compared with 1946.

The following train density comparisons are of interest:

	1946	1998
New Rochelle-Stamford	228 Passenger 22 freight	225 passenger 5 freight
Total	250	230
Woodmont-New Haven	111 Passenger 24 Freight	83 passenger 3 freight
Total	135	86
Pelham Bay-Hellgate Bridge	29 passenger 22 freight	27 passenger 2 freight
Total	51	29

The argument that there is no track capacity for freight services is not consistent with the former record of the New Haven Railroad.

Institution of freight service on the Northeast Corridor through New York would provide New England shippers with the first viable alternative to truck service since the Penn Central ended through freight services via the Bay ridge (Brooklyn) - Greenville (New Jersey) car floats.

RoadRailer service through Pennsylvania Station in New York is feasible. I personally attended tests of RoadRailer equipment through Pennsylvania Station of August 3, 1982. I saw RoadRailer trains passing through the station. Indeed, I am depicted in the photograph of that test which was published in Railway Age, Exhibit B to the affidavit of John F. McHugh above. Single container-on-flatcar (COFC) through the Penn Station tunnels is also feasible. Just such rail intermodal equipment presently runs at high speed through the Channel Tunnel between and England and France.

The reduction of truck dependence in New England and the reduction of emissions from truck traffic on Route 95 both in Connecticut and in New York State, are high regional priorities and the Board should not approve any plan which fails to address this truck congestion and emissions problem. The congressional proposal takes immediately available, practical steps to open two new access routes for this traffic to be handled by rail. Clearly, this constitutes a reasonable step to mitigate the effects of the planned CSX-NS marketing effort and would both better serve the shippers of this region with lower cost as well as more reliable services. Most significantly, the environment will be significantly improved to the extent that any such service is successful which is in marked contrast to the effect of the present CSX-NS proposal. Indeed, at a public meeting of the Connecticut Public Transportation Commission, in early 1997, but prior to their negotiations with CSX, representatives of Norfolk Southern stated their desire to operate Roadrailer and single container-on-flatcar (COFC) trains through the Penn Station tunnels.

State of New York, City of New York
January 12, 1998


Richard C. Carpenter

DRAFT ENVIRONMENTAL IMPACT STATEMENT
Finance Docket No. 33388
"PROPOSED CONRAIL ACQUISITION"
Volume 3B Chapter 5
Page NJ-5

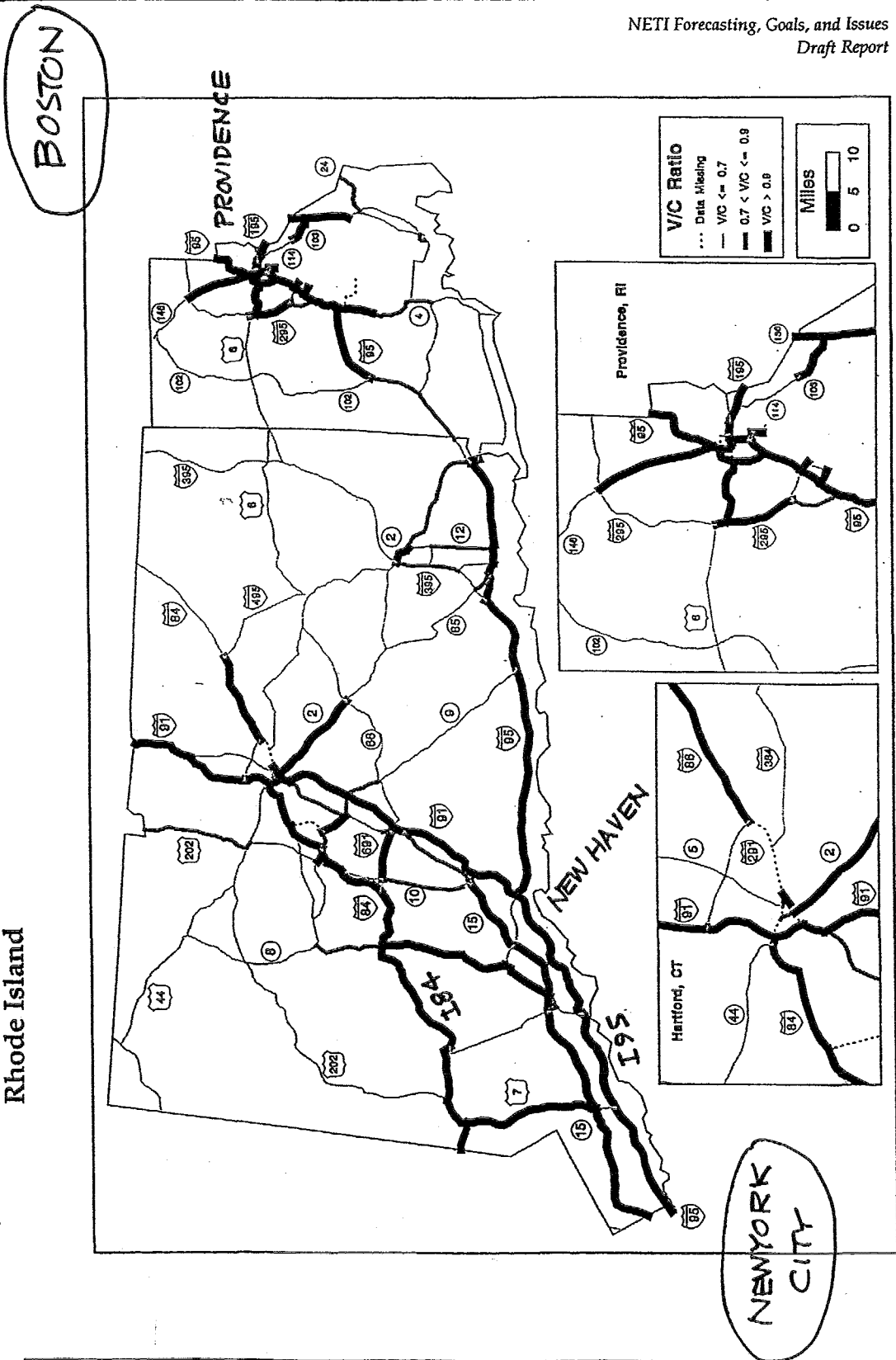
CURRENT AND PROPOSED TRUCK TRAFFIC TO/FROM INTERMODAL TERMINALS IN NORTHERN NEW JERSEY					
OPERATOR	TRUCKS/CONTAINERS		TRUCKS TRIPS/DAY		
LOCATION	CURRENT	PROPOSED	CURRENT	PROPOSED	DIFFERENT
-CSX LITTLE FERRY Bergen County, N.J.					
	215	392	430	784	+354
-CSX SOUTH KEARNY Hudson County, N.J.					
	410	488	820	976	+156
-NS E-RAIL Union County, NJ.					
	72	407	144	814	+670
-CSX/NS PORTSIDE Union/Essex, Counties, N.J.					
	26	76	52	152	+100
TOTAL	723	1,363	1,446	2,726	+1,280 +88.5%

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YEAR 2000 SEVERE TRAFFIC CONGESTION =

NETI Forecasting, Goals, and Issues
 Draft Report

Figure 2.6 Low Growth Forecast Volume to Capacity Ratios - Connecticut and Rhode Island



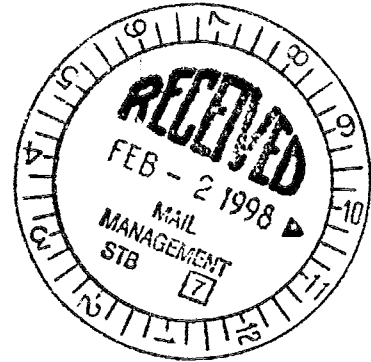


CENTRAL ADMINISTRATIVE UNIT

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SENATE
STATE OF DELAWARE
LEGISLATIVE HALL
DOVER, DELAWARE 19901



HARRIS B. McDOWELL, III
MAJORITY WHIP
2311 BAYNARD BOULEVARD
WILMINGTON, DELAWARE 19802
HOME: 302-656-2921
SENATE OFFICES
WILMINGTON: 302-571-3724
DOVER: 302-736-4147

**ENVIRONMENTAL
DOCUMENT**
January 29, 1998

COMMITTEES
ADMINISTRATIVE SERVICES/ENERGY, CHAIRMAN
SUNSET, CHAIRMAN
COMMUNITY AFFAIRS
ETHICS
HEALTH & SOCIAL SERVICES/AGING
JUDICIARY
SMALL BUSINESS

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

Dear Ms. Kaiser

Attached is State of Delaware House Concurrent Resolution No. 59 and ten copies passed January 29, 1998, by the House of Representatives and Senate of the State of Delaware General Assembly.

The Resolution urges the Surface Transportation Board 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.

Please consider this submission for the Finance Docket No. 33388 regarding the "Proposed Conrail Acquisition."

If there are any questions about the resolution of the Delaware General Assembly, please do not hesitate to contact me .

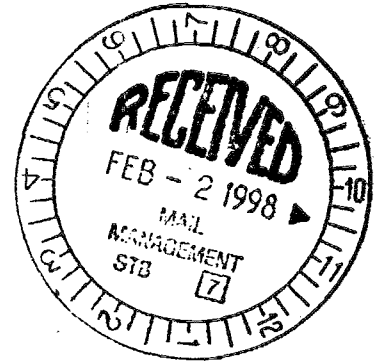
Sincerely,

Senator Harris B. McDowell, III, chair
Senate Energy and Transit Committee

cc: Rep. David Ennis
94644



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
LEGISLATIVE HALL
DOVER, DELAWARE 19903



JOANN M. HEDRICK
CHIEF CLERK

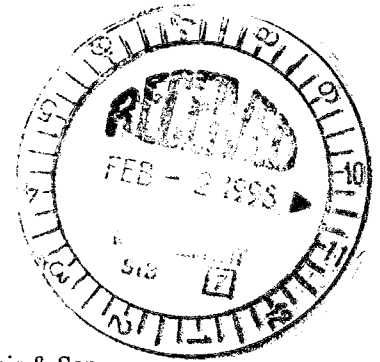
ROOM 107
(302) 739-4087

I, JOANN M. HEDRICK, CHIEF CLERK OF THE DELAWARE
HOUSE OF REPRESENTATIVES, DO HEREBY CERTIFY THAT THE
ATTACHED COPY OF:

HOUSE CONCURRENT RESOLUTION No. 59

IS THE SAME ACT THAT WAS PASSED BY THE HOUSE OF
REPRESENTATIVES AND THE SENATE OF THE 139TH GENERAL
ASSEMBLY.


JOANN M. HEDRICK
CHIEF CLERK



SPONSOR: Rep. D. Ennis & Sen. McDowell

HOUSE OF REPRESENTATIVES

139TH GENERAL ASSEMBLY

59

HOUSE CONCURRENT RESOLUTION NO. _____

JAN 29 1998

URGING THE SURFACE TRANSPORTATION BOARD TO RESERVE FOR FUTURE PASSENGER RAIL USE THAT PORTION OF THE EXISTING CONRAIL LINES IN THE STATE OF DELAWARE INCLUDED IN THE MERGER TRANSACTION OF CONRAIL BY NORFOLK SOUTHERN RAILROAD AND CSX RAILROAD.

1 WHEREAS, the Surface Transportation Board is presently accepting public
2 comment on a Draft Environmental Impact Statement, Finance Docket No. 3388; and

3 WHEREAS, the Surface Transportation Board's Draft Environmental Impact
4 Statement pertains to the "Proposed Conrail Acquisition" regarding CSX Corporation and
5 CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway
6 Company; and

7 WHEREAS, this proposed Conrail acquisition by Norfolk Southern Railroad and
8 CSX Railroad will impact the people of Delaware now and in the future; and

9 WHEREAS, the House of Representatives and Senate recognize the benefits
10 which accrue to the people of this state by the presence of the existing Conrail rail lines
11 throughout this state;

12 NOW, THEREFORE:

13 BE IT RESOLVED, that the House of Representatives and Senate of the 139th
14 General Assembly believes that it is extremely important to the economy of this state to

15 reserve the use of the existing Conrail rail lines that are included in the merger transaction
16 by Norfolk Southern Railroad and CSX Railroad.

17 BE IT FURTHER RESOLVED, that by reserving the use of these existing
18 Conrail rail lines they will be available for future passenger rail service.

19 BE IT FURTHER RESOLVED, that the preservation of these existing Conrail
20 rail lines for future passenger rail service will contribute significantly to the reduction of
21 VOCs and other air-borne pollutants, as identified by the Clean Air Act, as well as carbon
22 dioxide and other greenhouse gases.

23 BE IT FURTHER RESOLVED, that a copy of this House Concurrent Resolution
24 be delivered immediately to the Surface Transportation Board, 1925 K Street, NW,
25 Washington, DC 20423-0001.

SYNOPSIS

This Resolution urges the Surface Transportation Board to consider the preservation of existing Conrail rail lines in this state for future passenger service.

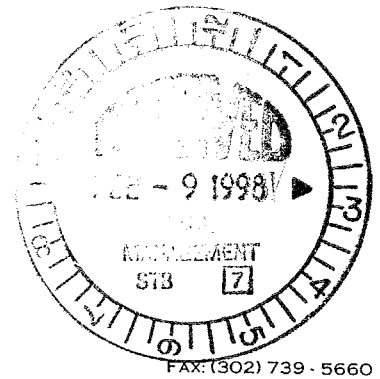
CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/10/98 12:20
DOCUMENT # 2/10/98 12:20:44PM



STATE OF DELAWARE
DEPARTMENT OF STATE
DIVISION OF HISTORICAL AND CULTURAL AFFAIRS
HISTORIC PRESERVATION OFFICE

15 THE GREEN
DOVER • DE • 19901-3611

TELEPHONE: (302) 739 - 5685



FAX: (302) 739 - 5660

February 2, 1998

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

ENVIRONMENTAL
DOCUMENT

ATTN: Elaine K. Kaiser, Chief
Environmental Project Director
Environmental Filing

RE: CSX and Norfolk Southern control and acquisition of Conrail; Draft Environmental Impact Statement (DEIS)

Dear Ms. Kaiser:

Attached is the original letter containing the DE SHPO's comments on the DEIS, fax cover sheet, and fax confirmation, regarding the above-referenced. Ten copies of these documents, as well as this letter, are also enclosed.

I would like to add two editorial comments concerning the DEIS. First, it would be helpful if the FEIS contained more detailed maps of the rail segments under consideration. In Delaware, several of the line segments are very close together, making it difficult to identify segment starting/ending points on the small scale maps provided in the DEIS. Second, the DE SHPO's previous correspondence with STB (letter dated October 16, 1998), was not included with other SHPO correspondence in Appendix M of the DEIS.

Thank you for your consideration of these comments. If you have any questions, please do not hesitate to contact me.

Sincerely,

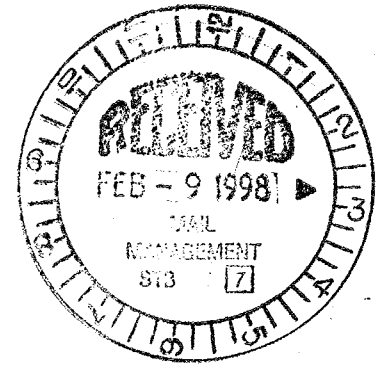
Gwen Davis
Archaeologist

Enclosures
cc: Martha Catlin, ACHP

A-164-b



STATE OF DELAWARE
DEPARTMENT OF STATE
DIVISION OF HISTORICAL AND CULTURAL AFFAIRS
HISTORIC PRESERVATION OFFICE
15 THE GREEN
DOVER • DE • 19901-3611



FAX: (302) 739 - 5660

TELEPHONE: (302) 739 - 5685

January 30, 1998

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

ATTN: Elaine K. Kaiser, Chief
Environmental Project Director
Environmental Filing

RE: CSX and Norfolk Southern control and acquisition of Conrail; Draft Environmental Impact Statement (DEIS)

Dear Ms. Kaiser:

Thank you for providing us with the DEIS documents. Our comments concern sections relating to compliance with Section 106 of the National Historic Preservation Act, generally, and issues affecting the State of Delaware, specifically. Where relevant, specific sections of the DEIS are cited.

APPROACH TO CULTURAL RESOURCES

In general, the DE SHPO finds the Surface Transportation Board, Section of Environmental Analysis (SEA)'s approach to identifying historic properties, and determining potential impacts thereon, to be inconsistent with Section 106 of the National Historic Preservation Act, and its implementing regulations (36 CFR Part 800).

In a number of locations within the DEIS, SEA indicates that it considers only construction and abandonment activities to be relevant to effects on historic properties. Appendix G (Volume 5A), specifically states that traffic changes for rail segments, rail yards, and intermodal facilities have "little effect" on historic and cultural resources. However, SEA provides no justification for this statement. It could well be argued that an increase of eight (8) trains per day on a line that runs through a historic district would have an effect, as defined in 36 CFR Part 800.9(a), and

Adverse Effects, as defined by 36 CFR Part 800.9(b)(2) and (3), specifically. We recognize that SEA had to develop and apply several criteria to address various environmental effects, such as noise and air quality. Nevertheless, SEA should recognize that even if these thresholds, either for environmental analysis or for significance, are not met by a certain rail segment, it does not necessarily mean that the Criteria of Adverse Effect established under 36 CFR Part 800.9(b) do not apply.

SEA also indicates that the Board is limited to imposing mitigating conditions on the Applicants only in circumstances involving abandonment and new constructions. This is cited as an additional reason for not looking at historic properties in terms of effects from the other three identified activity areas. However, this limitation does not impede the SEA from making recommendations for mitigation on a host of other environmental areas affected by activities that do not relate to abandonment or construction, as evidenced in Volume 4.

Volume 1, Chapter 3, Section 3.13.3 discusses potential mitigation strategies for effects on historic properties. SEA indicated that "typically", the Board will require HABS/HAER documentation for effects on structures. Although this is recognized as a standard mitigation measure, the SEA also should recognize that 36 CFR Part 800 requires that avoidance and minimization alternatives to Adverse Effects also be considered.

The SEA's discussion of "typical" Board requirements for mitigation of archaeological properties also seems to lack consideration of avoidance of resources, and is inconsistent with the Advisory Council's regulations. The DEIS states that the railroad will be required to "cease construction or abandonment salvage activities if significant archaeological resources are identified during salvage of a rail line approved for abandonment or new construction of a rail line. Activities could resume after the railroad contacts the appropriate SHPO regarding identification and evaluation of any artifacts that have been discovered." This is 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). Additionally, it appears to entrust the reporting of "significant archaeological resources" to rail construction workers, who may not have the expertise to identify such properties.

DELAWARE

Volume, 3A Chapter 5-DE describes the potential impacts to Delaware. Only four of the nine rail segments met the Board's threshold for environmental analysis. SEA did not find that transportation, energy, hazardous materials/waste sites, natural resources or land use/socioeconomics were relevant technical areas for analysis in Delaware. (This seems to contradict

chart provided in Executive Summary, which indicates that several lines met the threshold for HAZMAT issues). Of the remaining technical areas, SEA found that only Cultural Resources required further study (i.e, compliance w/Section 106 re Shell Pot Bridge). Nevertheless, SEA will also recommend coordination among CSX and concerned groups in the City of Newark regarding existing and future safety concerns, particularly at-grade crossings, despite the fact that the increase in rail traffic was not considered significant by the Board's standards. Volume 4 provides SEA's Preliminary Recommended Environmental Mitigation for these two issues, in comments Numbers 13 and 25, respectively. The DE SHPO concurs that these recommendations are appropriate.

However, in general, the DE SHPO views the Section 106 process to be incomplete for the entire undertaking, not just the Shell Pot Bridge. Specifically, 36 CFR Part 800.4 and 800.5 (identification, evaluation and determination of effects on historic properties), have not been appropriately addressed. Appendix G contains an overview of the SEA's research concerning identification and evaluation of historic properties. SEA identifies steps such as background research, development of historic contexts, application of the National Register of Historic Places criteria, and application of 36 CFR Part 800.9 (criteria of effect). In another section--Volume 3A, Chapter 5-DE--SEA indicates that, apparently through this process, they determined the Shell Pot Bridge to be eligible for the National Register. Note, however, that the DE SHPO has not received any formal Determination of Eligibility for this property. To the best of our knowledge, the only information SEA collected concerning this property is that which we ourselves provided to your consultant, McGinley Hart. Recently, the Delaware Department of Transportation has provided a draft historic context for railroad bridges. This may prove helpful in the formal evaluation of this, and other affected properties in Delaware.


The DE SHPO also provided information concerning other resources or potential resources on/near the Shell Pot Connector, as well as on the main CSX and Amtrak (NEC) lines; information on the latter was sent to the Applicants' consultant, Dames and Moore. We have no indication that the presence of these properties has been taken to account. Neither of the consultants visited our office to acquire complete information on known and potential historic properties in the Area of Potential Effect for the project. In particular, the Northeast Corridor, historically known as the Wilmington Rail Viaduct, is itself an identified historic property, that includes rail lines, bridges, and other related structures. Significant traffic increases are expected on rail segments on the Northeast Corridor. The STB and/or the Applicants will need to formally address affects on this historic property.

Letter to E. Kaiser
January 30, 1998
Page 4

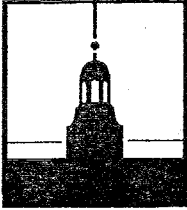
Thank you for your consideration of these comments. If there is any way in which we can assist the STB with fulfilling its Section 106 responsibilities in Delaware, please do not hesitate to contact me, or Gwen Davis, at (302) 739-5685.

Sincerely,



 Joan N. Larrivee
Deputy State Historic Preservation Officer

cc: Martha Catlin, ACHP



DELAWARE STATE HISTORIC PRESERVATION OFFICE
15 THE GREEN, DOVER, DE 19901
(302) 739-5685
FAX (302) 739-5660

FAX TRANSMITTAL SHEET

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

ATTN: Elaine K. Kaiser, Chief
Environmental Project Director
Environmental Filing

From:
Joan N. Larrivee
Deputy SHPO

Company:
STB/SEA

Date:
Feb. 2, 1998

Fax Number:
(202) 565-9000

Total Number of Pages including Cover:
5

Re:

CSX and Norfolk Southern control and acquisition of Conrail; Draft Environmental Impact Statement (DEIS)

Notes/Comments

DE SHPO comments regarding the DEIS. Original with 10 copies will follow ASAP. Any questions, please contact Gwen Davis at number cited above.

A-165-c

(Note: faxed from DAREC/Parks+Rec. office)

MESSAGE CONFIRMATION

02/02/98 19:44

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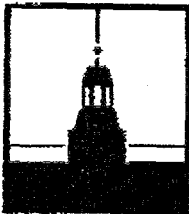
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02/02/98

19:40

DE STATE PARKS;DOVER CENTRAL OFF → 912025659000

NO.001 P01



DELAWARE STATE HISTORIC PRESERVATION OFFICE
15 THE GREEN, DOVER, DE 19901
(302) 739-5685
FAX (302) 739-5660

FAX TRANSMITTAL SHEET

To:

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

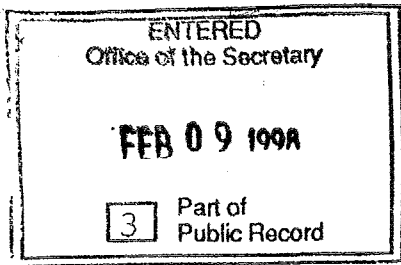
ATTN: Elaine K. Kaiser, Chief
Environmental Project Director
Environmental Filing

From:

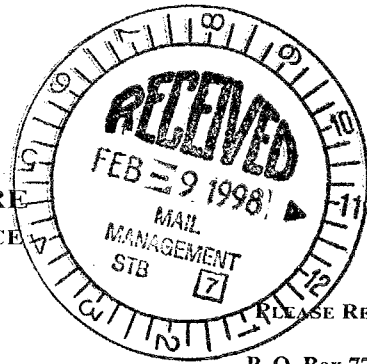
Joan N. Larrivee
Deputy SHPO

Company:
STB/SEA

Date:
A-165-d Feb. 2, 1998



STATE OF DELAWARE
DEPARTMENT OF JUSTICE



M. JANE BRADY
ATTORNEY GENERAL

February 4, 1998

RELEASE RESPOND TO:

COPY

P. O. Box 778
Dover, DE 19903
Ph: (302) 739-4575
Fax: (302) 739-6119
fschranck@smtp.dot.state.de.us

Via Federal Express &
Regular Mail

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

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/9/98
DOCUMENT # 2/9/98 2:53:16 PM

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

ENVIRONMENTAL
DOCUMENT

**RE: Draft Environmental Impact Statement, Proposed Conrail Acquisition,
Comments from the Delaware Department of Transportation (DelDOT)**

Dear Ms. Kaiser:

The Delaware Department of Transportation (DelDOT) has reviewed the Draft Environmental Impact Statement (EIS) for the proposed Conrail acquisition by CSX and Norfolk Southern (NS). We find the report clear and concise in some areas of analysis. However, there are several unresolved issues that must be addressed and further detailed. For your records, the Department and State strongly recommend that the Surface Transportation Board's Section of Environmental Analysis (SEA) consider or conditionally accept the following comments and conditions before the final analysis of the EIS may be evaluated.

Specifically, there are several areas:

Air Quality

The Department feels that the determination of air quality impacts in Delaware have been collected and evaluated incorrectly.

Emission estimates within the EIS show that the increased countywide air pollutant emissions will exceed the threshold for New Castle County, Delaware. The assessment also concludes that there will be localized increases in emissions, a concern for many Delawareans. However, the analysis of determining the overall impact with mitigation measures was

evaluated on a regional basis. We feel that impacts with mitigation measures should be determined on a localized basis, since the entire freight operations are a stationary or linear source.

In addition, the EIS in Delaware also states that increases in air pollution are not likely to affect compliance with air quality standards. However, there is no proof or concurrence in this statement or assessment. In order to be consistent with NEPA guidelines, the Department would like to see a concurrence letter from the Delaware Department of Natural Resources and Environmental Control's Air Quality Branch. The letter should state that there will be no impacts to air quality standards in New Castle County and within the State.

Within the evaluation table for Annual NO_x Emission Summary in New Castle County, the Department feels that truck diversion will not have immediate decrease of 49.18 annual tons per year. In addition, the denominator that is used to conclude a .61% increase in county NO_x emissions is outdated. Specifically, the analysis used to compare and evaluate the Existing County Total NO_x emissions comes from a 1995 figure. With such an outdated base figure, the overall percent increase of air pollution may be reaching the 1% threshold. The Department feels that updated information and numbers are necessary to fully determine and summarize the air quality analysis. The applicants "Netting" criteria used is not the best method, since it only dilutes numbers and figures.

In evaluating the air pollution data for Delaware, the anticipated NO_x emission from freight rail will be approximately 184.85 annual tons per year. From an overall basis in New Castle County, this amount may be considered significant in Delaware (despite it not exceeding a countywide 1% increase). In Delaware, we consider this additional amount significant due to our smaller and localized region. As a result, the Department further suggests that the SEA should conditionally accept the proposed Conrail acquisition only if proper coordination, permits, and/or concurrence has been obtained from the Delaware Department of Natural Resources and Environmental Control's Air Quality Branch.

Commuter Service and Passenger Rail Service

DelDOT, through the cooperation of SEPTA officials, has contracted for a major commuter line and station in Newark, DE (along the Amtrak's Northeast Corridor). This station and location is key to the multimodal system and the administration's mission in providing alternative transportation choices. The passenger service of SEPTA in Newark to Wilmington and locations further north has been a major regional investment in this State. Future plans not indicated within the EIS assessment are to expand this SEPTA service line and offer service within the Stanton, DE region (i.e. Churchmans Crossing). Why was this not considered?

What is also questionable within the EIS report is that the Department's commuter rail service (SEPTA in Delaware) operates over freight carriers. However, the EIS also mentions that freight carriers operate over regional commuter lines (i.e. DelDOT's new SEPTA contract).

The Department is not sure what to believe and is concerned over the contradictions of these statements. These need clarification.

Overall, will the Conrail acquisition impact the Department's future plans for additional frequency and times for commuter rail service along the Amtrak northeast corridor? The Department would like to know, in writing or in proof, that the Delaware regional commuter service (i.e. the DelDOT - SEPTA contract) will not be impacted currently or into the future. This also includes additional commuter rail service plans to expand service and frequency of times. There is no indication of this within the EIS report.

Cultural Resources

According to the 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. Therefore, an inventory of existing facilities should have been historically evaluated.

Overall, the Department agrees that NS shall undertake no construction or modification of the Shellpot bridge near Wilmington, DE, until completion of the Section 106 process of the National Historic Preservation Act (16 U.S.C. 470f., as amended) and appropriate mitigation measures are identified. However, with this commitment, the Department cautions the interpretation of what is considered "appropriate" mitigation. Over the years, DelDOT's coordination on past and current projects with the Delaware State Historic Preservation Office (DE SHPO) has not always been a give and take process. It is the Department's belief that cultural resource measures obligated by applicants will be extended beyond the most feasible, reasonable, and appropriate measures as desired by the applicants. The DE SHPO has and will require measures that extend beyond the reasonable and feasible thresholds that may seem appropriate under the Section 106 regulations. In sum, the applicants may not adhere to the DE SHPO measures for cultural resource identification, alternative analysis, and appropriate mitigation.

Environmental Justice

The Department would like to know how the applicant obtained information in Delaware for evaluating the social-economic data of land uses and people who live along the rail lines. How did they conduct, collect, or verify the data to determine that minority or a low-income population did not meet the threshold for further environmental justice analysis? It seems that there was no field evaluation or consultation with area representatives, so this evaluation could be incorrectly documented.

The EIS report indicates that a copy of the report has been placed/sent to area locations with high proportions of minority and low income populations. However, the applicants never considered the time, transportation needs, literacy, and ability to understand and interpret such a lengthy, complex, and professional document. By the time an individual or community is aware and can understand the available information and associated impacts, it is after the fact.

Therefore, the Department would like to know in what areas of Delaware's minority and low-income populations was this EIS report made available. Who are the points of contact and were they explained the background of the project? Were they able to explain or understand the associated impacts so they could disseminate information out into their community?

Hazardous Waste

Two rail line segments, Wilsmere to Elsmere (C-084) and Bell to Edgemore (N-010), were determined in the executive summary as exceeding threshold limits in hazardous material. However, within the individual report and analysis for Delaware, there was no discussion or mention of this exceeded threshold. In fact, within the Delaware Summary of Analysis (Vol. 3-A), the applicants determined that the site specific analysis did not apply. The Department questions this analysis due to inaccuracies in indication levels. Will the Conrail acquisition impact hazardous waste threshold limits? The Department does not know because there are two different assessments within the EIS. The Department would like this formal analysis clarified and a response back to the Department before any final EIS decision is reached. In addition, the Department would also like proper time allotted in order to determine and respond to the SEA if there is a hazardous waste threshold limit exceeded in Delaware.

Areas of Special Concern – Newark, DE

The EIS mentions that the increase in freight trains may have minor adverse effects on the public (particularly pedestrian) safety, noise, emergency vehicle response, and hazardous material transport. The EIS determined that the minor increase in train traffic would have only a minor incremental effect on the community. However, this increase will tend to worsen the pre-existing conditions. In fact, they will be aggravated by the increased train traffic.

The Department concurs with the preliminary recommendation that CSX shall consult with local agencies, the University of Delaware, DelDOT, and other appropriate parties to address potential safety concerns regarding the three highway/rail at-grade crossings in Newark. Specifically, CSX shall meet with these parties to negotiate a binding mutual agreement on the implementation and funding allocation for measures to address safety concerns at these crossings. Appropriate measures could include quadrant gates, pedestrian gates and fences, pedestrian overpasses, safety education, or other measures to address pedestrian safety.

At this point, there have been no appropriate alternative mitigation measures by freight carriers that have included consultation with the Department. Since the Department feels that mutual agreements stated above may never be reached before the release of the final EIS, the Department feels that additional measures shall also be included as a developing alternative mitigation.

As an additional provision, there are several overpasses and underpasses that pose as an immediate problem for traffic and pedestrian/bike safety. It is the Department's position

that CSX shall also consult with local agencies, the University of Delaware, DelDOT, and other appropriate parties regarding overpasses and underpasses throughout the Newark, DE. Specifically, one example is located at Casho Mill Road in Newark.

Further Analysis Needed – Cumulative Impacts

It appears that the EIS overlooks the induced, additive, and synergistic impacts of cumulative impacts.

The EIS states that both CSX and NS plan to undertake future facility improvements in Delaware as part of the proposed Conrail acquisition. As it stands, the proposed Conrail acquisition related activity that would meet or exceed the Board's thresholds for environmental analysis in Delaware include increased train operations on a total of four line segments.

However, the Department disagrees with the assessment that there are no intermodal facilities or rail yards that would meet or exceed the Board's thresholds for environmental analysis. The Department requests that the EIS report further analyze and list increases in specific activities at certain intermodal facilities and rail yards.

The EIS also states that Delaware shippers would gain new and more efficient routes and services. Even the Port of Wilmington would gain extended market reach to the midwest and southeast through the expanded CSX and NS networks. As it stands, the proposed Conrail acquisition related changes would be largely limited to changes in train operations on existing rail lines. However, with the extended market outreach expected there are also futures costs and secondary impacts/changes that are brought upon the State's transportation system. This was not addressed in the EIS.

Because the SEA did not take into account the increased freight activity with preventative maintenance provisions, the Department feels that safety operations in both freight and passenger/commuter rail operations in Delaware was inaccurately evaluated. In addition, the SEA did not accurately assess and conclude in estimating the potential risks of an accident.

The Department would like to know how maintenance agreements for safety concerns and operations will be addressed. The safety and increased maintenance concerns are also important factors for passenger operations through Delaware. What will be the future maintenance agreements shared by Amtrak, CSX, NS, and other governing agencies such as DelDOT?

Overall, the Department would like a commitment that maintenance of facilities and infrastructure needs will consider improvements that go beyond replacing in-kind structures or the least expensive options. For example, the overpass at Casho Mill Road in Newark is a one lane overpass that is extremely dangerous and is a safety concern. A longer span bridge is needed to address concerns both for rail service and transportation service along the road. When this bridge is replaced (or any other for this matter) the Department, along with many governing agencies, public officials, and citizens, feels that multimodal needs and the safety

for this bridge should be addressed. This would include the provision of signs, lighting, sidewalks/bike lane additions, drainage, clearance, traffic calming, and/or wider travel lanes.

Within the EIS, the Department would like to know how CSX and NS plan to undertake facility improvements so as not to inhibit potential impacts caused by hazardous waste, traffic flow, multimodal investments and facilities, cultural and historic resources (including bridges and stations), noise, and passenger traffic. Even though the immediate Conrail acquisition may not immediately impact intermodal facilities and rail yards, future actions will. For example, the EIS states that there will be certain facility improvements in the future. How can the SEA properly consider any secondary impacts when CSX and NS appear to be segmenting phases and projects for future actions? There should be a direct correlation with impacts indicated for all anticipated future actions and facility improvements.

As a result, the Department does not concur with the statement that "there will be no intermodal facilities and rail yards that would meet or exceed the Board's thresholds for environmental analysis and there are no new connections or proposed abandonment." The Department believes that a long-range plan for the entire rail network should be established.

In addition, the 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 EIS.

Realizing that increased freight train activity would increase the probability of a freight train accident, the Department would also like an analysis or evaluation of the increased maintenance program. Specifically, there should be a base line structural analysis of bridges (at underpasses or overpasses, creeks/streams, etc.) and other anticipated maintenance areas. The EIS should discuss these existing base line conditions and how the expected weight and frequency travel consolidation will potentially increase maintenance operations.

As a specific provision in Delaware, the Department would like a commitment from the CSX and NS that they will partner with DelDOT both financially and administratively to determine that:

- On a continual basis, traffic and pedestrian safety at at-grade crossings and at overpasses and underpasses will be improved as reasonably needed or warranted.
- The Department would also like to see a document or special conditions for continual inspection of bridges, rail lines, and safety equipment (gating and lighting, etc.) at grade intersections.
- The SEA should also request a commitment for added maintenance. The Department and State do not expect rail companies to implement a maintenance or replacement program

February 4, 1998

solely after an accident occurs. We want to ensure that an accident never happens. The Department wants a formal commitment and dedication that maintenance and inspection schedules are implemented on a more frequent basis. These measures should be adopted and concurred before the SEA approves of the acquisition application.

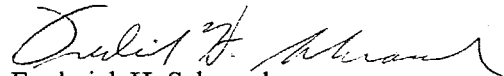
Noise

From the noise appendix table, the Department does not believe the consultants considered or measured sensitive noise receptors within the City of Newark. Noise study impacts in Newark should be considered because there are many sensitive receptors throughout this community.

The Department is also requesting that CSX and NS immediately commit to adopting and allocating funding programs towards implementing the future FRA rules on train horn blowing procedures. This should include a major commitment to instill or retrofit safety features, barriers, lights, and crossing arms, when required.

I hope that the Department's comments and stated positions are clear. If you have any questions or clarification, please contact me at 302-739-4575.

Very truly yours,



Frederick H. Schranck
Deputy Attorney General

FHS/mh

cc: Honorable Thomas R. Carper, Governor of Delaware
Anne Canby, Secretary of Transportation
Raymond Harbeson, Chief Engineer
Eugene Abbott, Director of Planning
Joseph Wutka, Assistant Director of Planning
Eli Cooper, Assistant Director of Intermodal Programs
Therese Fulmer, Manager, Environmental Studies
Michael Hahn, Senior Transportation Planner



CENTRAL ADMINISTRATIVE UNIT

REC'D: 12/30/97
DOCUMENT # 12/31/97 9:38-53 AM

FLORIDA DEPARTMENT OF STATE
Sandra B. Mortham
Secretary of State

DIVISION OF HISTORICAL RESOURCES



December 17, 1997

Ms. Elaine K. Kaiser
Section of Environmental Analysis
Office of the Secretary, Case Control Unit
Finance Docket No. 33388
1925 K Street, N.W.
Washington, DC 20423-0001

In Reply, Refer to
Robin D. Jackson
Historic Sites Specialist
Project File No. 975467

ENVIRONMENTAL
DOCUMENT

RE: Cultural Resource Assessment Request
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: Final Scope of the Environmental Impact Statement
Florida

Dear Ms. Kaiser:

In accordance with the procedures contained in 36 C.F.R., Part 800 ("Protection of Historic
Properties"), we have reviewed the referenced project(s) for possible impact to historic properties
listed, or eligible for listing, in the National Register of Historic Places. The authority for this
procedure is the National Historic Preservation Act of 1966 (Public Law 89-665), as amended.

A review of the Florida Site File indicates that no significant archaeological or historical sites are
recorded for or likely to be present within the project area. Furthermore, because of the project
location and/or nature it is unlikely that any such sites will be affected. Therefore, it is the opinion
of this office that the proposed project will have no effect on historic properties listed, or eligible
for listing, in the National Register of Historic Places.

If you have any questions concerning our comments, please do not hesitate to contact us. Your
interest in protecting Florida's historic properties is appreciated.

Sincerely,

George W. Percy, Director
Division of Historical Resources
and
State Historic Preservation Officer

GWP/Jrj

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250 • (850) 488-1480
FAX: (850) 488-3353 • WWW Address <http://www.dos.state.fl.us>

ARCHAEOLOGICAL RESEARCH
(850) 487-2299 • FAX: 414-2207

HISTORIC PRESERVATION
(850) 487-2333 • FAX: 922-0496

HISTORICAL MUSEUMS
(850) 488-1484 • FAX: 921-2503

Rec'd
CALL
1/9/98

1/12/98 8:21:47 AM

Surface Transportation Board - Draft Environmental Impact
Statement - Proposed Conrail Acquisition - CSX Corporation,
Norfolk Southern Corporation and Norfolk Southern Railway
Company - Control and Operating Leases / Agreements -
Finance Document Number: 33388 - Florida.

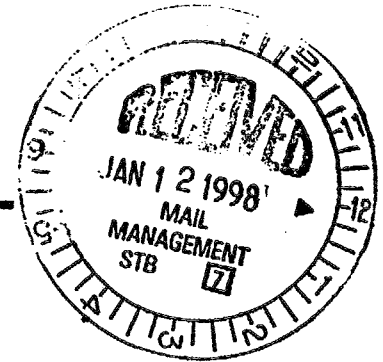
SAI# FL9712260822C

The above-described project was received by the Clearinghouse on 12/26/97,
and has been forwarded to the appropriate reviewing agencies. The clearance letter and
agency comments will be forwarded to you no later than 2/9/98,
unless you are otherwise notified. Please refer to the above State Application Identifier
(SAI) number in all written correspondence with the Clearinghouse regarding this project.
If you have any questions, please contact the Clearinghouse at (904) 922-5438.

Hillsborough County
City-County
Planning
Commission



ENVIRONMENTAL DOCUMENT



Michael M. English
Chairman

January 5, 1997

Laura Swain
Vice-Chairman

Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Mary C. Alvarez
Member-at-Large

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/14/98

DOCUMENT # 1/16/98 11:49:40 AM

Edward D. Dees
Ronald A. Govin
J. E. (Dooley) Houghtaling
Christine Malzone
Demetria L. Merritt
Jan T. Smith
Jacqueline R. Wilson

RE: Docket No. 33388, "Proposed Conrail Acquisition"

Robert B. Hunter, AICP
Executive Director

Dear Mrs. Kaiser:

The Hillsborough County City-County Planning Commission has reviewed the draft Environmental Impact Statement, Docket No. 33388, "Proposed Conrail Acquisition." The Commission concurs with the findings of this report, namely, that this project will have no environmental impacts in Hillsborough County, with the exception of an increase in hazardous waste transport between Winston, FL and Plant City, FL (Site Id. C-403).

Consistent with the preliminary mitigation recommendation by the Surface Transportation Board's Section of Environmental Analysis (SEA), the Planning Commission would like to recommend that, at a minimum, CSX be required to bring the rail segment into compliance with Association of American Railroads (AAR) key route standards and practices prior to any increase in the transport of hazardous waste.

Thank you for the opportunity to comment on this project. Should you have any questions, future correspondence concerning this project should be directed to Shawn C. College, Senior Environmental Planner at (813) 272-5940.

Sincerely,

Robert B. Hunter,
Executive Director

601 E. Kennedy, 18th Floor
P.O. Box 1110
Tampa, Florida 33601-1110
813/272-5940
FAX 813/272-6258
FAX 813/272-6255
Internet E-Mail:
planning@cftnet.com

CC: Phil Waldron, City Manager
Plant City, FL

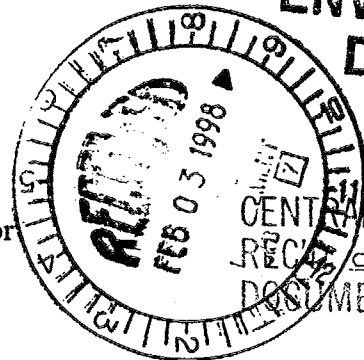
North Central Florida Regional Planning Council

2009 NW 67 PLACE, SUITE A, GAINESVILLE, FLORIDA 32653-1603
(352) 955-2200 SUNCOM 625-2200 FAX (352) 955-2219

ENVIRONMENTAL
DOCUMENT

January 29, 1998

Elaine K. Kaiser, Environmental Project Director
Surface Transportation Board
Section of Environmental Analysis
1925 K Street
Washington, DC 20423-0001



RE: Surface Transportation Board - Finance Docket No. 33388 - CSX and Norfolk Southern -
Control and Acquisition - Conrail: Draft Environmental Impact Statement

Dear Ms. Kaiser:

The North Central Florida Regional Planning Council functions as the Regional Clearinghouse for Planning District III as designated by the State of Florida pursuant to Presidential Executive Order 12372.

The following comment is submitted on the above-referenced item in accordance with State Clearinghouse procedures.

The North Central Florida Regional Planning Council has no comment on this item.

Comments on this item were requested by the Council from 28 local governments located within the region. No comments on this item were received by the Council from any of these local governments. Please do not hesitate to call if you have any questions concerning this matter.

Sincerely,

Steven Dopp
Senior Planner



CENTRAL ADMINISTRATIVE UNIT
REC'D: 12/31/97
DOCUMENT # 1/5/98 10:13:22 AM

OFFICE OF PLANNING AND BUDGET

ZELLMILLER
GOVERNOR

TIMBURGESS
DIRECTOR

GEORGIA STATE CLEARINGHOUSE MEMORANDUM EXECUTIVE ORDER 12372 REVIEW PROCESS

TO: Elaine F. Kaiser
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

FROM: Debra S. Stephens, Administrator
Georgia State Clearinghouse

DATE: 12/23/97

SUBJECT: Executive Order 12372 Review

PROJECT: EIS: CSX Corp., Norfolk & Conrail Consolidation

STATE ID: GA971010002

CFDA#:

The State level review of the above referenced document has been completed. As a result of the environmental review process, the activity this document was prepared for has been found to be consistent with state social, economic, physical goals, policies, plans, and programs with which the State is concerned.

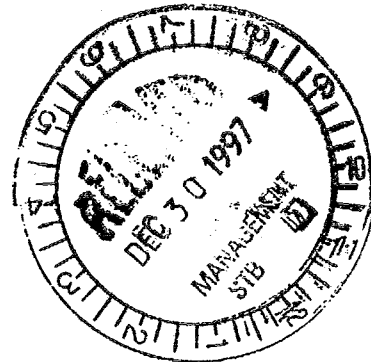
Additional Comments:

None.

DSS

ENCL: DOT/Office of Intermodal Programs, December 22, 1997

Form SC-4-EIS-4
January 1995



AN EQUAL OPPORTUNITY EMPLOYER

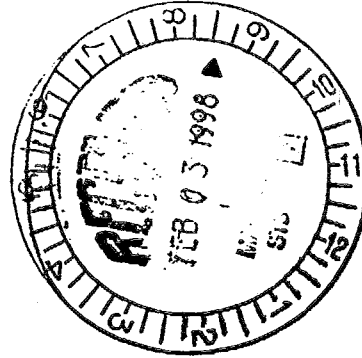
270 WASHINGTON ST., S.W. • ATLANTA, GEORGIA 30334-8500

A-168-d

ENVIRONMENTAL DOCUMENT

1/25/98

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



Attn.: Ms. Elaine K. Kaiser

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98

DOCUMENT # 2/3/98 11:23:18 AM

Dear Ms. Kaiser:

I am writing to you as a citizen of Cobb County, Georgia with comments and certain concerns regarding the draft environmental impact statement for the "Proposed Conrail Acquisition". My concerns relate to material in Volume 3A, Chapter 5, Section 5-GA, "Georgia Cumulative Effects". These concerns include the failure to include in Georgia's cumulative effects a related Norfolk Southern intermodal facility planned for Cobb County Georgia.

The proposed 830 acre intermodal facility would surround Clarkdale, Georgia, a historic village listed on the National Register of Historic Places. It would also severely impact 112 acres of wetlands through stormwater discharges, and destroy another 25 acres of wetland and replace them with retention ponds. In addition, the facility will place up to 1,643 additional tractor-trailors onto U.S. Highway 278 each day, severely impacting the air quality in Cobb County. Please note, Cobb County is a non-attainment area under the Air Quality Standards of the Clean Air Act. The existing traffic situation on U.S. Highway 278 is already bumper-to-bumper during peak hours each day.

As a result of the proposed project's detrimental effects on the densely populated residential areas which surround the proposed site, the local government with jurisdiction (Austell, Georgia) denied Norfolk Southern's request for a heavy industrial zoning. In an extremely unusual action that many feel violates the U.S. Constitution, Norfolk Southern then decided not to appeal the zoning, but rather obtained a federal court ruling that indicates the planned facility is NOT subject to local or state zoning laws or police powers.

Since the court ruling essentially leaves local or state governments with no authority to police or regulate railroad activities, we are totally dependent upon the federal NEPA and wetland process to review this planned facility. Again, we feel that this action is a gross misuse of the powers conferred by federal Interstate Commerce statutes.

We are asking that the Army Corps require a separate environmental impact statement for the proposed Cobb County facility. The Federal EPA has agreed with our initial assessment (that the project requires additional review), and we are waiting on the Army Corps' wetland permit decision.

Please note, the Georgia impacts outlined in your "Proposed Conrail Acquisition" Draft Environmental Impact Statement DO NOT contain the correct impact information for Georgia. We would ask that the Draft Impact Statement, and your Georgia analysis be modified to include the impact information outlined for Cobb County in the Army Corps' and EPA's review.

Thank you for the opportunity to comment on these matters. Please note that all of the local governments in this region of Georgia (Cobb County, Douglas County, Cities of Powder Springs, Austell, Clarkdale, Douglasville, and East Point) are on record opposing this facility. In addition, our congressman (Rep. Barr) and state legislators are also working with us on this situation.

Sincerely,



Brian Williamson
4690 Springgate Drive
Powder Springs, GA 30073

Attachments

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

**Atlanta Federal Center
61 Forsyth Street S.W.
Atlanta, Georgia 30303-3415**

OCT 30 1997

4WMD/WCWQGB/RL

Colonel Grant M. Smith
District Engineer
ATTN: Aaron Valenta
U.S. Army Corps of Engineers
P.O. Box 889
Savannah, Georgia 31402-0889

SUBJ: Norfolk Southern - 970001170

Dear Colonel Smith:

This is in response to your request for comments on the above referenced public notice. Norfolk Southern is seeking to impact approximately 24.8 acres of wetlands in connection with construction of an intermodal terminal facility on an 830 acre site. The facility will be used to annually shift up to 600,000 trailers or containers to and from rail cars. As mitigation for the project's wetland impacts the applicant originally proposed to preserve 87.6 acres of wetlands, and create 21.4 acres of wetlands. The applicant also proposed creating 21 acres of "bioretention" ponds. The proposed impact site is located near Austell, Cobb County, Georgia.

The Environmental Protection Agency (EPA) has reviewed the public notice and the large amount of supporting information provided by the applicant about the project. EPA has also reviewed many of the comments from environmental organizations and members of the public. Our review of the information raised a number of concerns regarding the project. We presented the concerns in detail in our letter of October 6, 1997, and recommended that the permit for the project, as proposed at that time, be denied. Our primary areas of concern were the scope of the alternatives analysis and the proposed compensatory wetland mitigation plan. We also acknowledged the many comments EPA has gotten from the public concerning stormwater impacts, noise, water quality impacts in the watershed, changes in land use, air quality impacts, increased traffic, and impacts to historic resources among others. EPA recommended that your office evaluate these issues to the fullest extent in the public interest review and under the National Environmental Policy Act. This is particularly important due to the applicant's apparent exemption from local land use controls.

On October 20, 1997, Robert Lord of my Wetlands Section Staff met with representatives of Norfolk Southern and members of your North Section staff to discuss EPA's concerns. Norfolk

Southern presented additional information on the alternatives analysis, which appears to have been more extensive than what was described in the application. Norfolk Southern also proposed additions and amendments to the compensatory wetland mitigation plan. These proposed changes and additional information made considerable progress in addressing EPA's concerns. However, we have yet to receive written documentation of the proposed changes to the application.

Since our October 6th letter, EPA has received additional comments and information from the public and local governments concerning the project. We have not fully evaluated this information. Unfortunately the Memorandum of Agreement on Section 404(q) does not allow much time between the 3(a) and 3(b) letters to address changes to a project by the applicant or to respond to a large volume of comments generated by a project such as this one. Also, your office has scheduled a public hearing on this project for November 12, 1997. We intend to have a representative attend the hearing and will would like to factor the public's comments into our evaluation of the project.

Therefore, based on the information currently on hand and yet to be reviewed, and pending the public hearing, our original concerns with this project have yet to be resolved. Thus, EPA has determined that this project does not comply with the Section 404(b)(1) Guidelines and we recommend that a permit for the project, as originally proposed, be denied. EPA has also determined that this project, as originally proposed, will impact aquatic resources of national importance and we retain the option to refer this project through the procedures outlined in the 1992 Memorandum of Agreement between EPA and the Department of Army, Part IV, Elevation of Individual Permits, paragraph 3(b), regarding Section 404(q) of the Clean Water Act.

Thank you for the opportunity to review this public notice. We look forward to continuing to work with your office, the applicant and other interested parties to resolve our concerns with the project. Should you have any questions regarding our comments, please contact Robert Lord of the Wetlands Section at 404-562-9408.

Sincerely,



John H. Hankinson, Jr.
Regional Administrator

cc: see attached list



SAVANNAH DISTRICT, CORPS OF ENGINEERS

NORTH AREA SECTION
3485 NORTH DESERT DRIVE
BUILDING 2, SUITE 102
ATLANTA, GEORGIA 30344

AUG 07 1987

REPLY TO
ATTENTION OF:

Regulatory Branch
970001170

JOINT PUBLIC NOTICE
Savannah District/State of Georgia

The Savannah District has received an application for a Department of the Army Permit, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), as follows:

Application Number: 970001170

Applicant:

Norfolk Southern
Attention: Mr. Larry Etherton
99 Spring Street, SW.
Atlanta, Georgia 30303

Location of Proposed Work: The site is located between C. H. James Parkway/U.S. 278 and Austell Powder Springs Road in Austell, Cobb County, Georgia. The site is traversed by Westside Road and Mathis Drive and includes Sweetwater Creek. The site is adjacent to but does not include the Thread Mill Mall or the associated historic neighborhood of Clarkdale.

Description of Work Subject to the Jurisdiction of the U.S. Army Corps of Engineers: To fill 24.76 acres of wetlands, streams and impoundments during the construction of an intermodal facility on an 830 acre site. The applicant proposes to impact 24.76 acres of the total 137.17 acres of waters of the U.S. found on the site. The applicant proposes to preserve 87.6 acres of wetlands, create 21.4 acres of wetland and 21.03 acres of bioretention. Bioretention would occur in the 4 detention facilities proposed for the site. These detention basins would be designed to provide wetland habitat and be planted with mast producing tree saplings. Wetland creation would occur at three on-site locations which are adjacent to Sweetwater Creek. These three sites would be excavated to a depth to intercept groundwater, planted with wetland plant species and monitored for 5 years to determine the success of the sites.

This facility would be used to shift the transportation of containers and trailers between highway and rail movement. The facility would be designed to handle 600,000 trailer/container lifts annually onto or off of rail cars. The facility would include 31,000 feet of rail loading and unloading track to accommodate 310 rail cars (each 100 feet in length), contain

54,000 feet of rail, support/storage track and 15,000 of rail lead track. The facility would also include 5,000 trailer/chassis parking spaces and 2,600 spaces for container storage.

The water quality control measures would consist of both structural and biological measures. A Spill Prevention Control and Countermeasure Plan and a Stormwater Pollution Prevention Plan would be developed for the facility before it is put into operation. In addition, control structures would be installed on all storm drain outfalls and on the detention pond outlet structures. This would allow isolation of any spilled material and would prevent the discharge of any material to Sweetwater and Powder Springs Creeks. Runoff from the equipment maintenance area would be pretreated using an oil/water separator prior to discharge into the sanitary sewer system. The stormwater detention ponds would be designed to provide sediment storage and a degree of nutrient uptake thereby reducing nitrogen and phosphorus loading in the receiving streams.

BACKGROUND

This Joint Public Notice announces a request for authorizations from both the U.S. Army Corps of Engineers and the State of Georgia. The applicant's proposed work may also require local governmental approval.

STATE OF GEORGIA

Water Quality Certification: The Georgia Department of Natural Resources, Environmental Protection Division, intends to certify this project at the end of 30 days in accordance with the provisions of Section 401 of the Clean Water Act, which is required by an applicant for a Federal Permit to conduct an activity in, on, or adjacent to the waters of the State of Georgia. Copies of the application and supporting documents relative to a specific application will be available for review and copying at the office of the Environmental Protection Division, Floyd Towers East, Suite 1070, 205 Butler Street, SW., Atlanta, Georgia 30334, during regular office hours. A copying machine is available for public use at a charge of 25 cents per page. Any person who desires to comment, object, or request a public hearing relative to State Water Quality Certification must do so within 30 days of the State's receipt of application in writing and state the reasons or basis of objections or request for a hearing. The application can also be seen in the Savannah District U.S. Army Corps of Engineers, North Area Section, 3485 North Desert Drive, Building 2, Suite 102, Atlanta, Georgia 30344.

State-owned Property and Resources: The applicant may also require assent from the State of Georgia which may be in the form of a license, easement, lease, permit, or other appropriate instrument.

U.S. ARMY CORPS OF ENGINEERS

The Savannah District must consider the purpose and the impacts of the applicant's proposed work, prior to a decision on issuance of a Department of the Army Permit.

Cultural Resources Assessment: Review of the latest published version of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion are located at the site or in the area affected by the proposed work. Presently unknown archaeological, scientific, prehistorical, or historical data may be located at the site and could be affected by the proposed work. According to the applicant, within the Area of Potential Effects, historic resources eligible for the National Register of Historic Places are limited to the existing Clarkdale Historic District. This historic site is located adjacent to the project site and would be adversely effected by its development. Ten archaeological sites were recorded during intensive surveys of the site. According to the applicant, these sites are recommended ineligible for the NRHRP and no additional investigations are recommended.

Endangered Species: Pursuant to Section 7(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), we request from the U.S. Department of the Interior, Fish and Wildlife Service and the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, or any other interested party, information on whether any species listed or proposed for listing may be present in the area.

Public Interest Review: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of

property ownership and in general, the needs and welfare of the people. Extensive studies have been submitted by the applicant and included: flood hazards, water quality, air quality, traffic studies, noise impacts, light impacts, hazardous materials and wetlands.

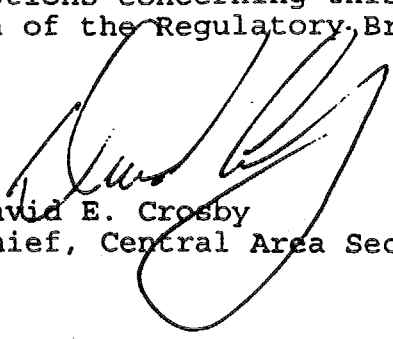
Consideration of Public Comments: The U.S. Army Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Application of Section 404(b)(1) Guidelines: The proposed activity involves the discharge of dredged or fill material into the waters of the United States. The Savannah District's evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act.

Public Hearing: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application for a Department of the Army Permit. Requests for public hearings shall state, with particularity, the reasons for requesting a public hearing. The decision whether to hold a public hearing is at the discretion of the District Engineer, or his designated appointee, based on the need for additional substantial information necessary in evaluating the proposed project.

Comment Period: Anyone wishing to comment on this application for a Department of the Army Permit should submit comments in writing to the Commander, U.S. Army Corps of Engineers, North Area Section, 3485 North Desert Drive, Building 2, Suite 102, Atlanta, Georgia 30344, no later than 30 days from the date of this notice. Please refer to the applicant's name and the application number in your comments.

If you have any further questions concerning this matter, please contact Mr. Aaron Valenta of the Regulatory Branch at (404) 763-7945.



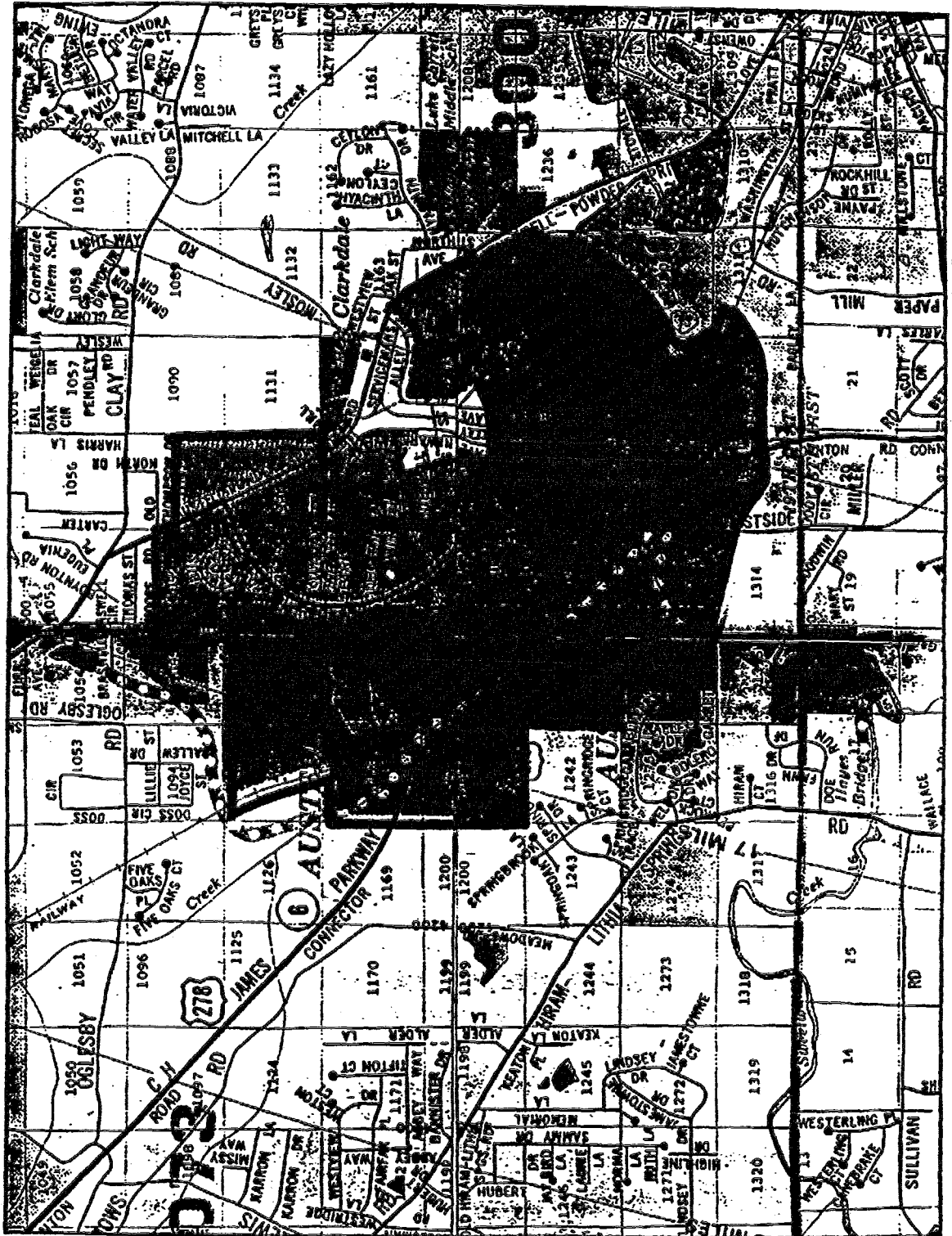
David E. Crosby
Chief, Central Area Section

Enclosures

1. General Location Map
2. Wetlands Location Map
3. Facility Design Map
4. Drainage System and Pond Layout
5. General Location Map

GENERAL LOCATION MAP

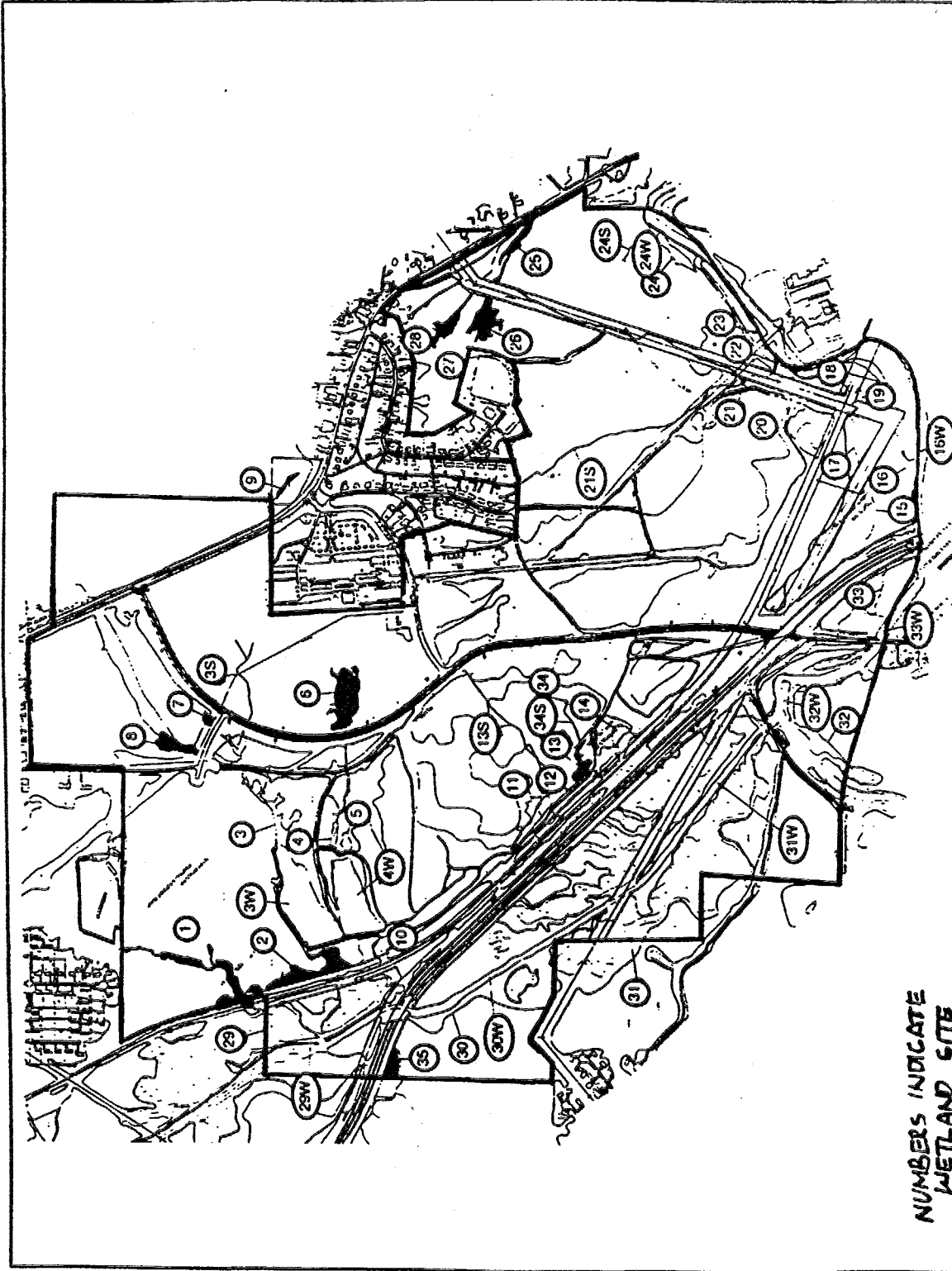
Norfolk Southern Railway Company, Intermodal Facility, Austell, GA



Piedmont O'sent-ersley

ENCLOSURE #1
GENERAL LOCATION MAP

WETLANDS



**NUMBERS INDICATE
WETLAND SITES**

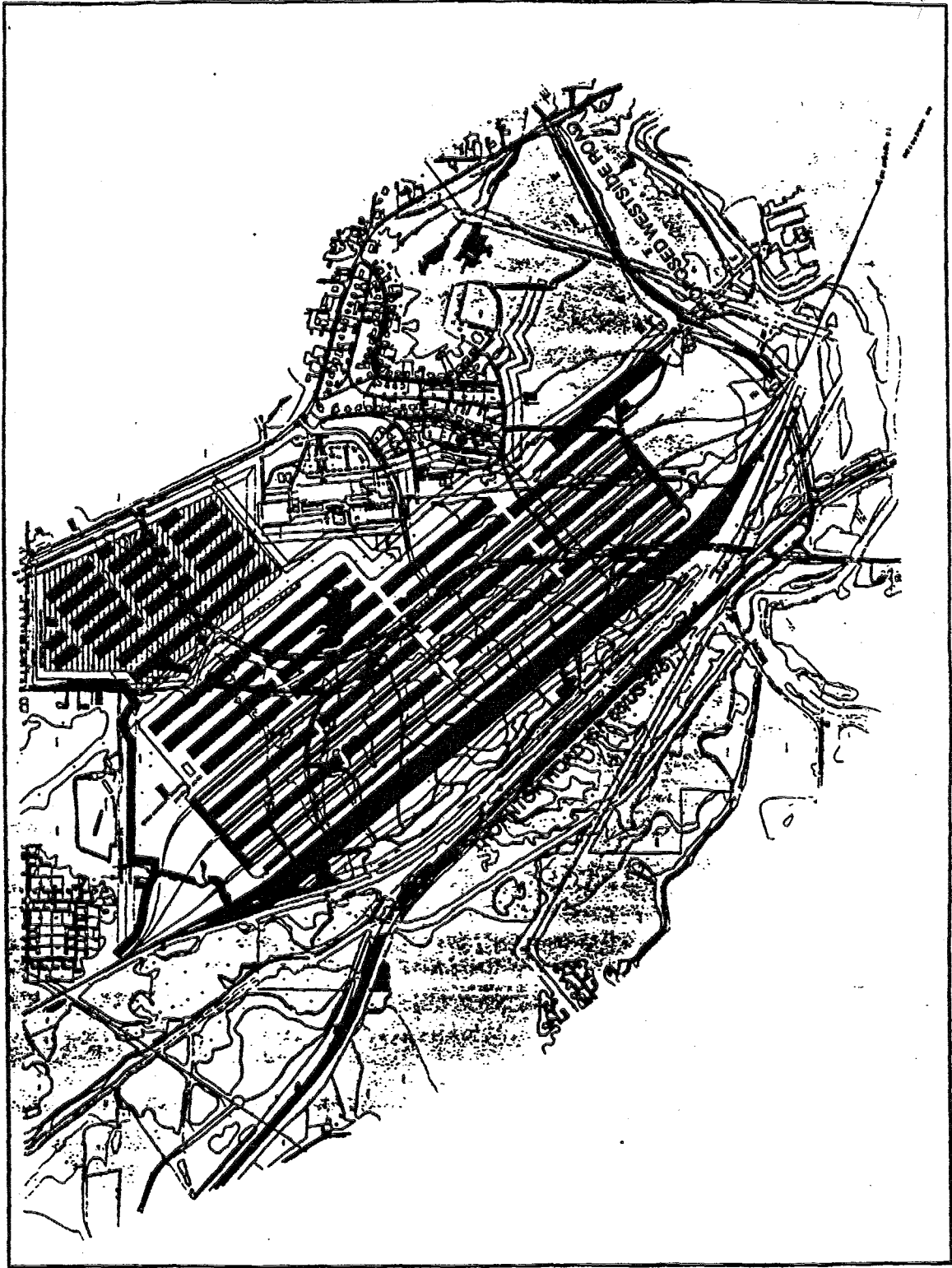
Norfolk Southern Railway Company, Intermodal Facility, Austell, GA
62264/rpt 591

PiedmontOsenHensley

ENCLOSURE #2
WETLAND LOCATION MAP

A-171-c

FACILITY DESIGN MAP



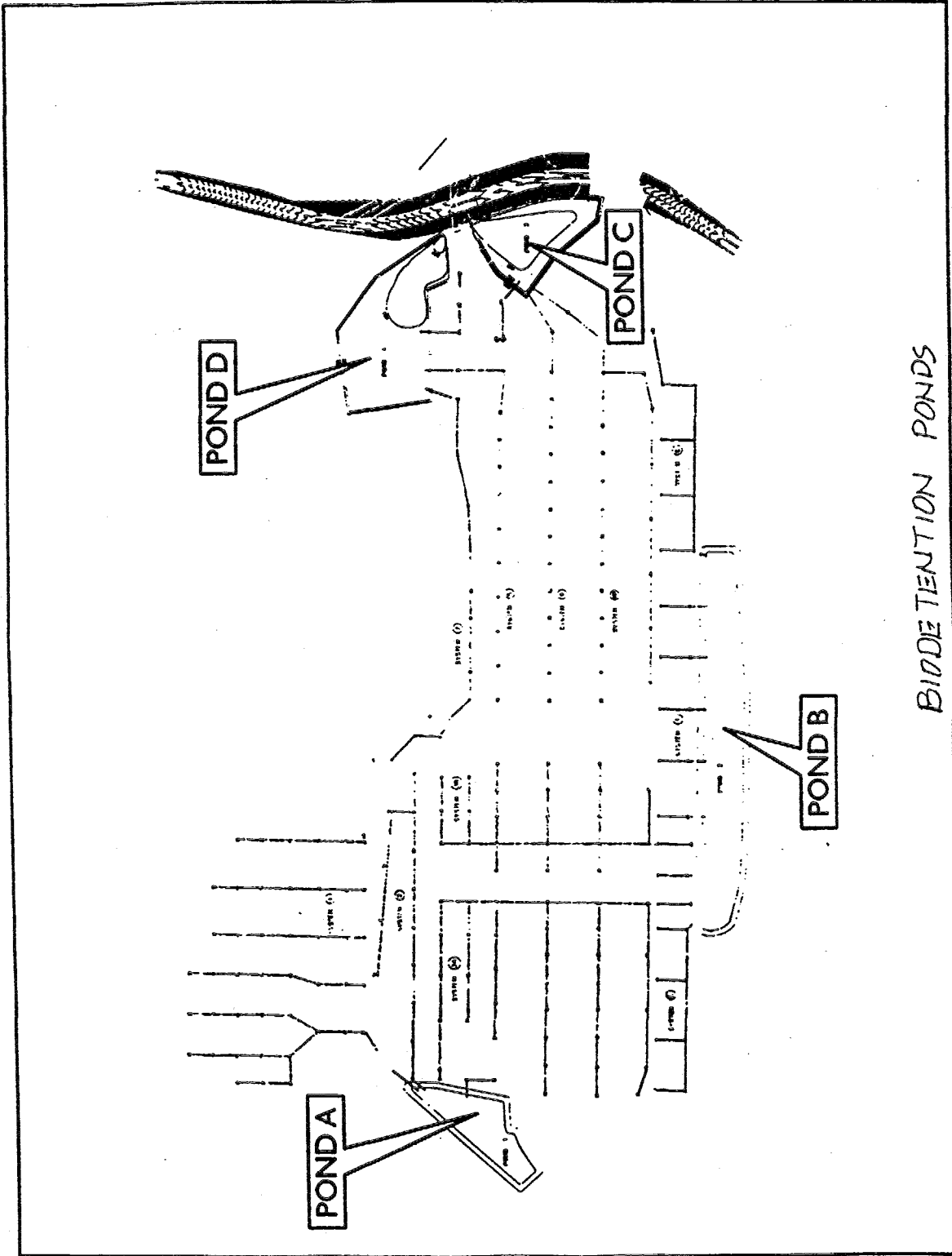
PiedmontOlsenHensley

Norfolk Southern Railway Company, Intermodal Facility, Austell, GA
e22e4/mr 591

ENCLOSURE #3
FACILITY DESIGN MAP

A-171-d

DRAINAGE SYSTEM AND POND LAYOUT



BIDDE TENTION PONDS

Norfolk Southern Railway Company, Intermodal Facility, Austell, GA

62264/pt 591

PiedmontOlsenHensley

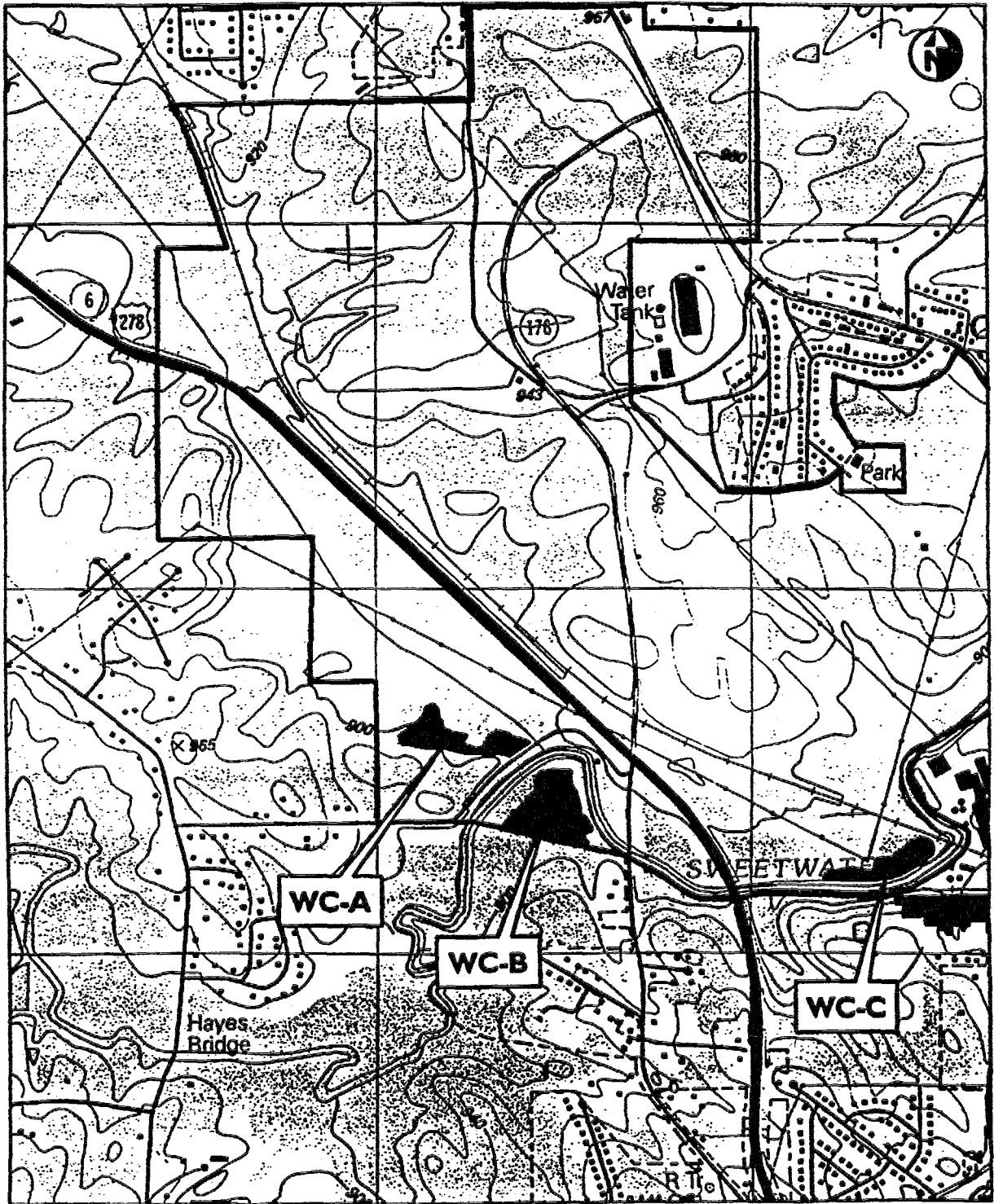
ENCLOSURE #4
DRAINAGE SYSTEM & POND LAYOUT

GENERAL LOCATION MAP

FIG. 4

Norfolk Southern Railway Company
Intermodal Facility, Austell, GA

WETLAND CREATION SITES



Source: USGS Topographic Quadrangle, Austell, GA (1992).

62264/RPT 591

WETLAND CREATION SITES
A-172-b

PiedmontOlsenHensley
ENCLOSURE #5
GENERAL LOCATION MAP

**U.S. ARMY ENGINEER DISTRICT, SAVANNAH
CORPS OF ENGINEERS
100 WEST OGLETHORPE AVE
PO BOX 889
SAVANNAH, GA 31402-0889**

OFFICIAL BUSINESS

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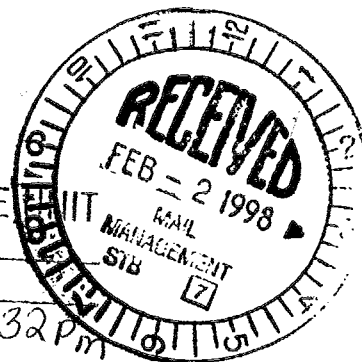
**US Army Corps
of Engineers
Savannah District**

A-172-c

January 28, 1998

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

CENTRAL ADMINISTRATIVE
REC'D: 2/2/98
DOCUMENT # 2/2/98



Dear Sirs:

ENVIRONMENTAL DOCUMENT

I have reviewed your Draft Environmental Impact Statement (Draft EIS) for the "Proposed Conrail Acquisition", Finance Docket No. 33388, issued by the Surface Transportation Board (STB), and would like to offer the following comments for your consideration and inclusion in the record.

The Draft EIS appears to be adequate except for the exclusion of one very important major project that is planned by the Norfolk Southern Railway Company (NS) - the construction and operation of an Intermodal-Rail Yard Facility in the Austell-Clarkdale-Powder Springs area in Cobb County, Georgia. This proposed 830-acre Intermodal-Rail Yard Facility is obviously linked if not directly dependent upon the Proposed Conrail Acquisition; and, it is clearly evident from the following data that this proposed Facility needs to become an integral part of the Draft EIS.

1. PROJECT LANDS

The proposed 830-acre project area is directly adjacent to the Boundaries of the City Limits of Austell, Clarkdale (a registered National Historic Site) and Powder Springs, Georgia. Project lands are relatively undisturbed and of valuable and highly productive mixed mature pine and upland hardwoods, bottomland hardwoods and 22 acres of highly productive unique wetlands. The woodlands are known to support excellent populations of deer, wild turkey, squirrel, rabbit and a wide variety of raptors and song bird species; whereas, the wetlands support good populations of game fish species, resident muskrat and beaver, as well as, resident and migratory waterfowl and wading bird populations. The waters immediately adjacent to the project area, Sweetwater and Powder Springs Creeks, also support the Alligator Snapping Turtle, a State Threaten reptile species, and the Highscale Shiner, a State Threaten fish species. In addition, the wetland areas that are proposed to be filled and destroyed also support a stand of a unique tree species - the Bald Cypress - which is far north of its normal northern range.

2. PROJECT FEATURES

The Project, as presently proposed, requires the excavation, filling, leveling and compacting some 450 acres of land. It is not known what NS plans to do with the remaining 380 acres of land, but it is anticipated that NS eventually plans to use these lands to expand their planned facility. Initial operation presently calls for 600,000 lifts annually, with a projected need of 800,000 lifts by the year 2005. To meet the initial need of 600,000 lifts annually, it is projected that 3,500 diesel semi-trucks (1 every 25

seconds), 100+ diesel powered trains (4 to 5 per trains/hour through the Cities of Austell, Clarkdale, and Powder Springs); and, a multitude of various types of diesel equipment will be operating in or adjacent to the project site daily. Based on this information, it is projected that there will be an increase of 25% in truck and train traffic in the area to meet the projected need of 800,000 lifts annually.

3. AIR QUALITY

The entire metropolitan Atlanta area, which consists of 14 Georgia Counties, is designated as a "Non-Attainment Area", or an area with significant air quality pollution levels. The Federal Highway Administration has formally advised the State of Georgia that if the air pollutant levels in the Metropolitan Atlanta area are not significantly reduced soon, Federal Highway Cost Sharing Funds will be withheld from the State. Therefore, one must question the rationale used by NS to develop the Austell/Clarkdale/Powder Springs Intermodal Facility when their present Inman and East Point Facilities and CSX's Georgia Facility are already contributing measurable air borne pollutants to the "Non-Attainment Area". Construction and operation of their proposed facility in Cobb County would obviously result in a further degradation of the air quality in this area potentially to hazardous breathing levels within the Cities of Austell, Clarkdale and Powder Springs as well as the immediately adjacent lands in Douglas and Paulding Counties.

4. WATER QUALITY

Construction and operation of the proposed Intermodal Facility will result in a 450-acre flat, level, compacted and paved (unvegetated) area interlaced with some 20 miles of track and a large number of semi-trailer parking spaces. Implementation of this project could result in substantial silt runoff into Sweetwater and Powder Springs Creeks during construction, and a considerable amount of pollutants being discharged during operational activities. For instance, on September 24, 1997, we experienced a 5.31 inch rainfall in the proposed project area. This would equate to nearly 20,000 acre feet of surface water laden with silt and/or contaminants spilling directly into Powder Springs and Sweetwater Creeks. As a result, a more elevated water level of Sweetwater Creek would have occurred in the Sweetwater Creek State Park area and in the Cities of Austell and Lithia Springs, as well as an elevated level of contaminants in Sweetwater Creek, a stream from which the Cities of Lithia Springs and East Point, Georgia, obtain their drinking water.

I also would like to bring to the attention of the STB the results of a December 1997 Well Feasibility Study recently conducted by Emery & Garrett Groundwater, Inc. for the City of Powder Springs. It should be noted that the Study Design was developed in mid-1996 with a primary objective to find additional water supply sources for the City of Powder Springs. Presently, most municipal and industrial water supplies in the Atlanta Metropolitan Area are derived from surface waters taken from rivers, streams and/or impoundments. Many, like the City of Powder Springs, are concerned that these water supplies will not be able to meet the rising demands for projected future withdrawal needs in view of the projected population growth rates in the area. Subsequently, this Study was contracted in June of 1997 before NS's proposed

Intermodal Facility in Cobb County was publicly advertised by the Savannah District Corps of Engineers in a August 7, 1997, Public Notice. It also must be pointed out that at no time during the Study was the Contractor made aware of the NS's proposed Intermodal Facility. The first phase of the City's Study was completed in December 1997 with the following findings:

- a. Six (6) potential water producing well siting locations were identified within the boundaries of the City of Powder Springs, with the potentially best producing Well Site being located on Powder Springs Creek immediately adjacent to and west of NS's existing rail line and north of the C. H. James Parkway (Ref. attached map).
- b. It also must be noted that this Well Site is adjacent to and just west of the proposed NS Intermodal Facility. Construction and subsequent operation of this facility could most certainly result in measurably less ground water recharge in the area as well as a significant contamination of this highly valuable drinking water source.

4. NOISE

It is firmly believed by many of the Cobb County citizens that the cumulative noise levels during the continual 24-hour operation of NS's Proposed Intermodal Facility will result in noise levels that could far exceed the dB comfort levels experienced by humans. A comprehensive study needs to be conducted by NS to determine the 24-hour cumulative average noise levels on all sides of the project area immediately adjacent to the site. Such a study needs to measure the 24-hour cumulative dB levels of the following equipment, all in simultaneous operation:

1.3 Stackers
26 Hostler Cabs
6 On site Diesel Tractors
3.4 Cranes and Sideloaders
4 On side Diesel Locomotives
3,500 diesel Trucks with Trailers
100 Diesel Locomotives with 50-100 Rail Cars¹

5. TRAFFIC

Traffic on the C. H. James Parkway is expected to become severely congested with the increase train and heavy truck traffic. It also is anticipated that the rates of minor and serious traffic accidents, along with the rate of human fatalities, are expected to substantially increase. Construction of the facility, as presently planned, will require the relocation of Westside Road directly across from the entrance of Garrett Middle School. This would result in increased commuter and semi-trailer traffic at the School entrance during both morning and evening school bus traffic periods, with a potential increase in

¹ Trains moving through or by the site, each to include an appropriate number of flat wheels.

hazardous traffic conditions for our school children. In the downtown Powder Springs area on the primary road entering the City from the West - Brownsville Road, present train traffic of approximately 50 trains/day currently creates significant traffic congestion problems. What will it be like with operation of the Intermodal Facility and 100 to 150 trains passing through the downtown area of Powder Springs each and every day?

6. AESTHETICS

No matter how high you build a levee or noise barrier, the site of a "Containerized Cargo Handling Rail Yard" along with that many diesel trains and such a large number of diesel trucks and trailers in what is now a relatively clean, undisturbed and unpolluted residential area, in the opinion of many if not most of the Citizens of Cobb County, is a totally unacceptable and unaesthetical addition to present environmental conditions. These factors in concert with the substantial increase in noise levels, air pollution, water pollution, traffic, traffic congestion, traffic accidents and the loss of a beautiful pleasing and picturesque scenic vista, in all probably would result in a severe degradation of our living environment.

7. ENVIRONMENTAL JUSTICE

The most immediate and severely impacted citizenry group in the entire proposed project area will be the residents of Clarkdale, Georgia. Not only is the entire Community included on the National Register of Historical Sites, but the Community basically consists of Senior Citizens living on low, fixed retirement incomes. Since this Intermodal Facility should definitely be an integral part of the "Proposed Conrail Acquisition", provisions of Executive Order 12898 must be taken into full consideration to prevent a disproportionately high and adverse environmental impacts to this Citizenry group.

8. GENERAL CONCERNS

For the record, a number of the groups or individuals that have taken formal positions of opposition to NS's proposed Intermodal Rail-Yard Facility as presently planned include the following:

U. S. Senator Paul Coverdale
U. S. Congressman Bob Barr
Georgia Senator Steve Thompson
Georgia Representative Earl Ehrhart
Georgia Representative Roy Barnes
Cobb County Commissioners
Douglas County Commissioners
Cobb Municipal Association
The City of Austell
The Community of Clarkdale
The City of Lithia Springs
The City of Powder Springs

The City of East Point
Many of the Citizens of Cobb, Douglas and Paulding Counties

In conclusion, I am of the opinion that the proposed NS Intermodal Facility must become an integral part of the Draft EIS for the "PROPOSED CONRAIL ACQUISITION". To do less, in my professional opinion, would violate the intent of the U. S. Congress with the passage of the National Environmental Policy Act (42 U.S.C. 4321), as amended, and do a great injustice to the Citizens of Cities of Austell, Clarkdale, Lithia Springs and Powder Springs, as well as those citizens in the unincorporated portions of Cobb County and adjacent lands in Douglas and Paulding Counties.

Sincerely,

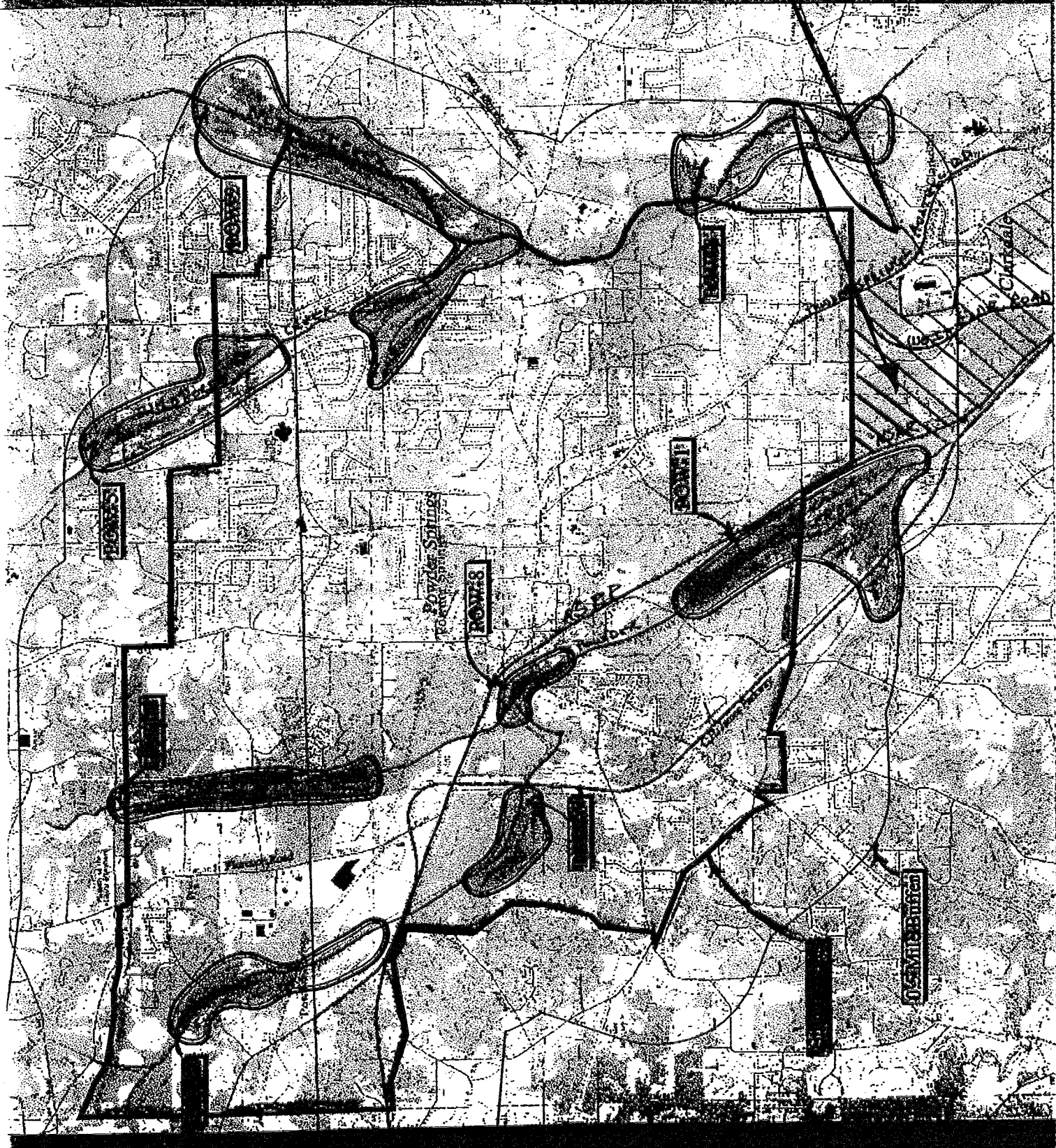


Richard T. Huber Sr.
3881 Macedonia Road
Powder Springs, Georgia 30127

cc: Council of Environmental Quality
U. S. Senator Paul Coverdell
U. S. Congressman Newt Gingrich
U. S. Congressman Bob Barr
District Engineer, Savannah Corps of Engineers
State Senator Steve Thompson
State Representative Earl Ehrhart
Cobb Co. Commissioner Woody Thompson
Marietta Daily Journal

Attachment

*Map of ...
...
...*



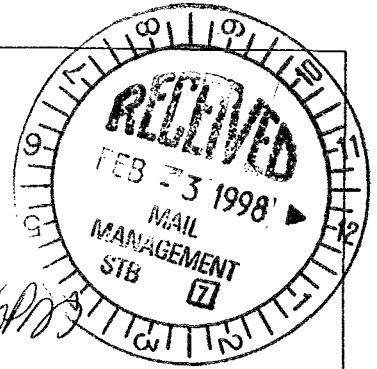


**ATHENS
CLARKE
COUNTY**

January 29, 1998

CENTRAL ADMINISTRATIVE UNIT

REC'D 2/3/98
DOCUMENT # 2/3/98 2:58:36 PM



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

ENVIRONMENTAL DOCUMENT

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

RE: DECISION ID NO. 28629

Dear Ms. Kaiser:

This letter is in response to the December 12, 1997, Draft Environmental Impact Statement (EIS) sent to the Unified Government of Athens-Clarke County. In the EIS, comments were made about the feasibility of commuter rail between Athens and Atlanta and the impact the Conrail acquisition would have on a commuter rail line. Since the release of the Draft EIS in early December, an event has occurred which has increased the probability of commuter rail within the next 4-7 years.

To promote the commuter rail effort, the Governor of the State of Georgia has allocated approximately \$4 million for preliminary engineering for the corridor between Athens and Atlanta, making this segment a top priority. Presently, the Unified Government of Athens-Clarke County has allocated approximately \$2 million in sales tax revenues toward the design of a Multi-Modal Transportation Center (MMTC). The MMTC would serve as a transportation hub for the region and would also accommodate commuter rail.

These efforts at the state and local levels indicate the commitment of the transportation community to offer the public alternative ways to travel. It is the hope of the Unified Government of Athens-Clarke County that the acquisition of Conrail by CSX and Norfolk Southern will further this effort.

Please continue to keep us informed of all activities involving the acquisition of Conrail by CSX and Norfolk Southern, so that we may continue to effectively plan for the possibility of commuter rail in our region. As previously stated, commuter rail is a key element in the location and design of our Multi-Modal Transportation Center (MMTC) and the acquisition of Conrail could play a role in this development.

A-174-b

PLANNING DEPARTMENT

120 W. Dougherty Street • Athens, Georgia 30601 • (706) 613-3515 • FAX (706) 613-3844



If you should have any questions, please feel free to contact me at (706) 613-3515. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Stockbridge". The signature is fluid and cursive, with the first name "John" being the most prominent.

John M. Stockbridge

Planning Director

Project Director, Athens-Clarke-Oconee Regional Transportation Study (ACORTS)

JMS

cc: Al Crace, Manager
Bob Snipes, Deputy Manager
Phil Sutton, Assistant Manager
Jeff Prine, SPLOST IV Project Manager

Atlanta Regional Commission
200 Northcreek, Suite 300
3715 Northside Parkway
Atlanta, Georgia 30327-2809

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98

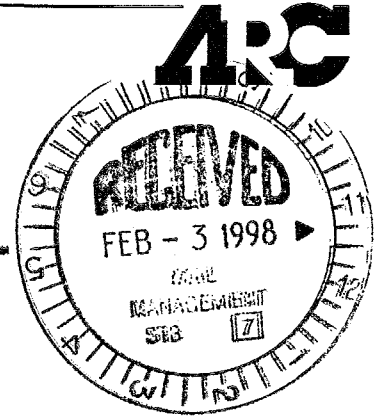
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Harry West
Director

January 30, 1998

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

**ENVIRONMENTAL
DOCUMENT**



Attention: Elaine K. Kaiser, Environmental Project Director--Environmental Filing

Dear Ms. Kaiser:

The Atlanta Regional Commission (ARC) is the regional planning and intergovernmental coordination agency for the 64-city, 10-county Atlanta Region (Cherokee, Clayton, Cobb, DeKalb, Douglas, Fayette, Fulton, Gwinnett, Henry, and Rockdale counties). ARC also is the designated Metropolitan Planning Organization (MPO) under the Intermodal Surface Transportation Efficiency Act (ISTEA). It is in these capacities that we offer the following comments on the Draft Environmental Impact Statement (EIS) on the "Proposed Conrail Acquisition."

1. The Atlanta Region plus the adjoining counties of Paulding, Forsyth, and Coweta comprise a 13-county non-attainment area under the Clean Air Act Amendments. The Region's current problem is nitrogen oxides. The State of Georgia and the Atlanta Regional Commission are working very hard to meet air quality standards. The Draft EIS states that while there are localized increases in emissions, "the increases are not likely to affect compliance with air quality conformity." Any additional increases in nitrogen oxides are significant. In addition, we also are concerned about increases in volatile organic compounds, particulate matter, and carbon monoxide. Therefore, we request that the Final EIS more fully analyze this matter, particularly nitrogen oxides, on the Atlanta Region.

2. As the Atlanta Region attempts to meet air quality standards, commuter rail will be important to us as an alternative mode of travel. The Draft EIS should examine all opportunities for cooperation on commuter rail and both CSX and Norfolk Southern should be required to work with State Departments of Transportation on such opportunities as a part of the acquisition agreement.

3. At present 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. We do not find reference in the Draft EIS to these proposed facilities and whether the acquisition will affect the impact of these facilities on the Atlanta Region.



Surface Transportation Board
January 30, 1998
Page 2

4. A concern pointed out by DeKalb County, one of our member counties, is that the total increase of hazardous materials traveling through DeKalb and the State of Georgia would more than double after the acquisition. Their recommendations (find attached) include bringing CSX rail line segments into compliance with the Association of American Railroads standards and practices for hazardous materials and to require CSX to develop Hazardous Materials Emergency Response Plan with the participation of county and municipal governments.

We appreciate the opportunity to comment on the Draft EIS and request that the Surface Transportation Board respond to the comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Harry West', is written over the typed name.

Harry West
Director

Enclosure



DEKALB COUNTY, GEORGIA

PLANNING DEPARTMENT

MANUEL J. MALOOF CENTER
1300 COMMERCE DRIVE, SUITE 400
DECATUR, GEORGIA 30030-3221

January 26, 1998

Atlanta Regional Commission
3715 Northside Parkway
200 Northcreek, Suite 300
Atlanta, Georgia 30327

RE: Draft EIS on Proposed Conrail Acquisition by CSX/NS

Thank you for the opportunity to review the Draft EIS on the proposed Conrail acquisition. As a result of the proposed acquisition, the railroads would change the routing of many car loads of hazardous materials. While some rail lines would carry increased volumes of cars containing hazardous material, other lines would experience a shift of hazardous materials from one rail line to another. The total increase of hazardous materials traveling through DeKalb County (and the state) would more than double after the acquisition.

Both preliminary mitigation recommendations should be required to be completed before the acquisition is approved. The first recommendation is to bring CSX rail line segments into compliance with the Association of American Railroads standards and practices for hazardous materials. The second recommendation, that CSX develop a Hazardous Materials Emergency Response Plan with the participation of county and municipal governments, also should be required.

Another area of concern is with the air quality analysis. The Draft EIS states that while there are localized increases in emissions, "the increases are not likely to affect compliance with air quality." As the Atlanta region struggles with its Regional Transportation Plan (RTP) to meet air quality conformity, any additional increases in nitrogen oxides, volatile organic compounds, particulate matter, and carbon monoxide are significant. Although no details are given for the air quality analysis, conformity is an important issue for the region and some sort of mitigation should be recommended.

Sincerely,


Raymond R. White, Planning Director

A-175-b

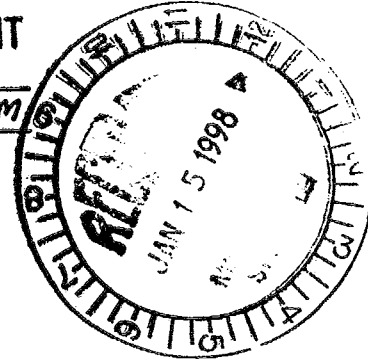
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January 7, 1998



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

Subject: Finance Docket No. 33388 - CSX and Norfolk Southern - Control and Acquisition - Community notification

Attn: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

Good day,

Thank you for your letter directed to me as alderman on the Danville City Council on the above subject, giving notice that comments from the public are welcome. The following comments are submitted not as an alderman but as a property owner and resident of Danville at 311 East 3rd Street, Danville, IL.

My husband, Bill, and I share environmental and rail traffic concerns. Our property at 311 East 3rd Street (7.6 acres) abuts the Norfolk Southern Railroad bed northeasterly approximately 865 feet, between East 3rd Street and South Street, Danville.

Since our purchase of this property we have been very concerned about several areas the Draft Environmental Impact Statement addresses.

SAFETY:

A. Grade Crossing Safety

1. I challenge the number of trains the railroad indicated that run daily on the Norfolk-Southern line between Lafayette, Indiana and Tilton, Illinois.
2. Considering an engineer must actually see a red or green light before proceeding; the 3rd Street crossing (No. 479864Y) is blocked with gates down frequently each day. There have been several times that the 3rd Street crossing has been blocked for more that one hour and forty-five minutes (1' 45") and many, many times in excess of 20 minutes. The blocking of the 3rd Street crossing jeopardized our personal safety and compromises the integrity of our home in case or fire or other emergency. Our home within the city limits on the east side of the railroad bed, however the fire hydrant that would be used in case of a fire is west of the tracks. Blocked crossing - we have a big problem.

When the crossing has been blocked by a train for more than twenty (20) minutes we have called 911 to file a report and complaint . We have filed complaints with different departments in the City of Danville government: mayor, fire chief, police chief, and public works director, to no avail. **My personal feeling is: the railroad companies make up a multi-billion dollar empire with powerful P.A.C. support. When a gray-haired grandma calls 911 to complain about a train blocking 3rd Street in Danville, the railroad personnel smile at each other, say "So.....who cares!" and goes back to the "big board" in Atlanta.**

East 3rd Street is a **major artery for pedestrian and automobile traffic** traveling from South Gilbert Street east and then south/west to South View Middle School on Ninth Street and into a dense residential area . One solution to trains blocking the 3rd Street crossing is to build an overpass east on Fourth Street, from South Gilbert across the tracks to Highland Blvd.

Safety: you bet'cha I am concerned if rail transportation increases without the improvement of scheduling and/or building an overpass across the NS railroad bed.

3. I suggest that you secure documentation of fatalities at grade crossing in the Danville area.

TRANSPORTATION:

A: I realize whether we are in a **bull or bearish economy** the transportation of hard goods increases each year. The semi tractor/trailer industry can not move the products with as much efficiency as the railroads. I have no objection to the expansion of the railroads only if they solve the problem areas listed on your Proposed Acquisition Fact Sheet, i.e. safety, traffic, air quality, water quality, noise, cultural/historical resources and energy with **safety being the number one issue.**

AIR QUALITY:

A: With the increase in trains/diesel units, how much diesel effluent will be put into the air? Here I have special concerns since I am asthmatic and must continually medicate for irritants and allergens. The effluent particles invade homes and increase household chores with the homemaker continuously fighting dirt and dust deposits. How many additional tons of effluent will be discharged into the air adding to our pollution problems.

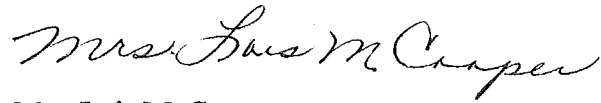
ENVIRONMENTAL IMPACT:

A: 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?

B: We walk in our woods frequently. We found bundles of railroad ties abandoned on our property along with remnants of steel beams. Will there additional environmental problems left un-corrected?

Thank you for allowing me to submit my comments on the Norfolk Southern and CSX Proposition. If I can furnish further information please write, phone or Email. A public hearing would negate mis-information that gets passed along during the finalization of proposition such as the NS/CSX/Conrail merger.

Respectfully,

A handwritten signature in cursive script that reads "Mrs. Lois M. Cooper".

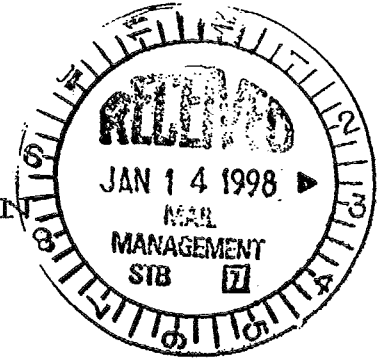
Mrs. Lois M. Cooper

311 East 3rd Street
Danville, IL 61832-7201
Email: lcooper@soltec.net
Phone: 1-217-446-7058

**ENVIRONMENTAL
DOCUMENT**

VILLAGE OF TILTON

P. O. Box 6008
201 W. 5th Street
Tilton, Illinois 61833
Conrad (Dutch) Wantland
(217) 442-4178



January 9, 1998

CENTRAL ADMINISTRATIVE UNIT
REC'D: 1/15/98
DOCUMENT # 1/19/98 1:37:16 PM

To Whom it may concern;

In response to the Finance Docket No. 33388:

The Village of Tilton has a major problem with the railroad adding 14 more trains, that would be crossing on 14th street crossing. We are now in a constant struggle in trying to keep the crossing open because of the 24 trains, plus the switching of cars, that is done on the 14th street crossing. We have tried to work with the railroad on many occasions to solve the problem, by adding 14 more trains a day the only solution would be for the CSX and Norfolk Southern to build a viaduct or overpass, over the 14th street crossing. It is very important that the crossing be left open, as that is the only East West street connecting the Central Park area, of Tilton with the emergency vehicles, such as ambulance and fire trucks and the police. To use the alternate route, add 5 to 10 minute on the response time, and as you know that could be a matter of life and death.

Your help on this problem would be greatly appreciated. Enclosed is a newspaper clippings stating some of the problem the Village of Tilton are having.

A handwritten signature in cursive script that reads 'Conrad Wantland'.

Conrad Wantland
Mayor of Tilton

More train traffic possible for Tilton

By JODI HECKEL
News-Gazette Staff Writer

TILTON — The village of Tilton could be seeing a lot more train traffic — and street traffic tie-ups — if a proposed railroad merger is approved.

Tilton Mayor Conrad "Dutch" Wantland told village board members on Thursday that the proposed merger would increase the number of trains traveling through the village daily to 41. About 24 trains now pass through the village each

day.

The increased traffic would be the result of a proposed acquisition of Conrail by the CSX and Norfolk Southern railroads.

The trains travel along the Norfolk Southern tracks between Tilton and Lafayette, Ind. The train traffic has generated complaints from residents that say trains block the railroad crossing at 14th Street and back up traffic for extended periods of time.

When that crossing is

blocked, they say the only way to get between the east and west sides of town is over the G Street overpass or by taking the Cathin-Tilton Road on the north side of town.

"It will just close that road more," Wantland said. "Right now, it's a problem. Adding 17 more trains will really be a problem. We were looking for help, not something to close it more. That's a major east-west road for our emergency vehicles — our police, our fire, our

ambulance. Nothing short of an overpass would cure the situation."

Wantland said he received information about the increase in train traffic from the Surface Transportation Board, which is conducting an environmental analysis of the effects the proposed acquisition will have. Wantland said he will request the railroads pay for a viaduct over the tracks to alleviate the

See TILTON, A-6

Tilton

Continued from A-1

problem.

Last January, village officials voted to raise the fine on railroads that block street crossings from \$5 per offense to \$500. But the village backed off the plan a month later, citing the cost of enforcing the ordinance.

Trustees decided to let prosecutors enforce a state law on the matter.

The Surface Transportation Board will make its decision on the acquisition in July.

In other business:

■ Gutterridge asks for demolition help. Michael Gutterridge, owner of Gutterridge Harley-Davidson, 1606 Georgetown Road, told the board he is plan-

ning to expand his business to the west. He said he is hoping to purchase the land at S W. 16th St., where Dyno-Tune is now located.

Gutterridge said he wants to build an addition onto his building that would extend 80 feet to the west and put a larger parking lot to the west of that where the Dyno-Tune business is located. He asked the village to help by removing the Dyno-Tune building.

"My request is not out of line because I can't receive money from the TIF or enterprise zone as some new businesses have," Gutterridge said.

He did not have a cost estimate for demolition.

The board expects to vote on the question at its February meeting.



Illinois Historic

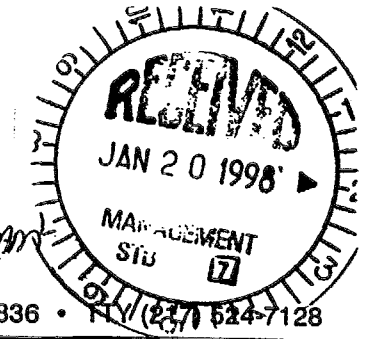
Preservation Agency

1 Old State Capitol Plaza • Springfield, Illinois 62701-1507 • (217) 782-4836 • FAX (217) 524-7128

CENTRAL ADMINISTRATIVE UNIT

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Various Counties

STB-CSX and Norfolk-Conrail acquisition

Finance Docket No. 33388

IHPA Log #12062497, 970107004P-S

January 13, 1998

Elaine Kaiser
Environmental Project Director
Environmental Filing
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

**ENVIRONMENTAL
DOCUMENT**

Dear Ms. Kaiser:

Our office has reviewed the Draft Environmental Impact Statement for the Proposed Conrail Acquisition. The statements in Volume 3A of the report regarding cultural resources in Illinois are accurate. We look forward to further consultation regarding the interlocking tower at 75th Street in Chicago and the archaeological investigations at Exermont. If you have any questions, please contact either Ms. Tracey Sculle, Cultural Resources Manager, 217/785-3977 or Mr. Joseph Phillippe, Staff Archaeologist, 217/785-1279.

Sincerely,
Anne E. Haaker

Anne E. Haaker
Deputy State Historic
Preservation Officer

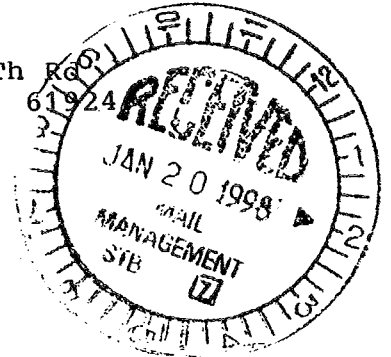
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c: Paul McGinley

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CENTRAL ADMINISTRATIVE UNIT

January 15, 1998

16307 E 2500th Rd
Chrisman, IL 61924



Surface Transportation Board
Section of Environmental Analysis
1925 K Street, NW
Washington, DC 20423-0001

Dear Elaine K. Kaiser,

We heard that you are closing the Conrail railroad tracks, between Danville & Paris in Illinois. Therefore, we are interested in purchasing the land, two miles North of Chrisman near marker mile post 106.72. Our family, has owned land on both sides of the tracks, for over 125 years.

We would like to know who to contact, in order to purchase the land, or more information about what we need to do. If you would like to contact us, are phone number is (217)269-3007, after 6 p.m., or a phone number for us to call, to speak to someone in charge of this.

Sincerely yours,

Joe & Rita Mitchell

Champaign
County
Department of

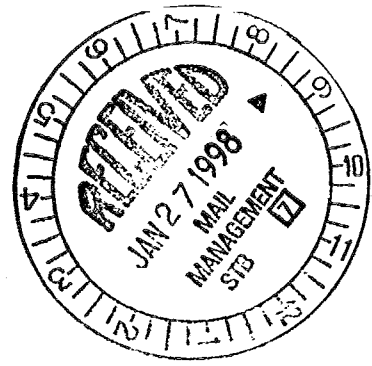
**PLANNING &
ZONING**

Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708
TDD (217) 384-3864
FAX (217) 328-2426

January 21, 1998

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



RE: Comments on Draft Environmental Impact Statement - Finance Docket No. 33388
Proposed Conrail Acquisition

Dear Ms. Kaiser:

I have reviewed the draft EIS for Finance Docket No. 33388 regarding both the proposed operational changes and construction projects as they would affect Champaign County and have the following comments.

1. Safety: Highway/Rail At-Grade Crossings

According to the EIS the criteria of significance for Class A crossings is a projected increase of .01 accidents per year. Class A Crossings are defined as ones with a current accident rate of .015 or more.

The EIS indicates that all Champaign County crossings fall below these thresholds except for CR 1000 E (TR 134D, FRA ID. 479930J). This crossing, located at the west edge of the Village of Tolono, is a Class A crossing with 3 accidents in the last 5 years and is projected to have an increase in accidents of .0118 [Table 5-IL-8]. The EIS notes, however, that "...these predicted increases (were found) to be below the criteria of significance." [p. IL-14]. This finding contradicts the SEA's criteria of significance. While the projected increase in the accident rate by itself is only slightly above the threshold of significance the current accident rate is forty times the threshold value!

I believe that by the SEA's criteria this is a significant and problematic crossing. It sees heavy semi-trailer truck traffic from a nearby grain storage facility and the crossing geometry is very poor (see enclosed Map No.1).

The CR 1000 E crossing should be studied in detail and possible mitigation measures should be evaluated.

2. Transportation: Passenger Rail Service

Impacts on the two daily Amtrak trains that serve Champaign County* will be proportionate to the increase in potentially conflicting freight train movements that could cause a delay to the Amtrak trains. These will arise from increased traffic on the Illinois Central related to NS trackage rights between Chicago, Kankakee and Gilman and by crossing movements at Kankakee, Tolono, Tuscola and Effingham. The City of New Orleans may also be affected by operating changes further south.

According to the EIS the proposed acquisition will lead to an increased NS train frequency using trackage rights on the Illinois Central between Kankakee and Gilman of five trains per day which is partially offset by a small reduction in crossing movements at Kankakee (-2.6 tpd). Additionally the additional train frequency on the NS (*nee* Wabash) line will add approximately 18 potential conflicting crossing movements at Tolono and the proposed new connection at Sidney will also add 6 potentially conflicting crossing train movements on the Union Pacific at Tuscola which will be offset by a similar reduction at Effingham. Any increase in potentially conflicting movements between Effingham and New Orleans appears to be small. Approximately 20 additional potentially conflicting train movements will be added between Chicago and Carbondale. Some additional conflicting movements may be added further south.

The SEA analysis only considers increased train movements on lines over which passenger trains also operate. It does not consider impacts from increased train movements through crossings or interlocking plants that intersect such lines. This is particularly important since railroads not hosting Amtrak trains through a given crossing or interlocking plant have no incentive to ensure on-time performance for the affected Amtrak trains. The SEA analysis concludes that the impacts on Amtrak operations in Illinois are not significant but there is likely to be some negative impact on the on-time performance of Amtrak trains operating on the Illinois Central.

The analysis of impacts should consider increases in potentially conflicting train movements at crossings or interlocking plants particularly where such crossings or inter-lockings are under the control of the railroad not hosting Amtrak trains.

* Nos. 58/59, the *City of New Orleans* and Nos. 391/392 the *Illini*.

3. Transportation: Roadway Crossing Delay

The SEA analysis sets a threshold of an increase of 8 tpd and an existing traffic volume of 5,000 ADT for its analysis of potential crossing delays. The EIS does not include analysis of the Ill. Rt. 130 crossing at Philo which the SEA indicates has an ADT of 3,500. Illinois Department of Transportation maps, however, indicate that this crossing had an ADT of 6,400 in 1991* and is anticipated to experience an increase of 18 tpd in train movements. (See enclosed Map No. 2).

Our data indicates that this crossing exceeds the threshold of significance and it should be evaluated in detail.

* Traffic counts in 1996 were not conducted at the same location but other counts in the area suggests that traffic on this stretch of Ill. Rt. 130 has increased approximately 10% since 1991.

4. Noise

The EIS indicates that there would be an increase of 64% in train gross ton miles between Tilton and Decatur. This is estimated to increase the number of residences and other noise sensitive land uses experiencing significant noise impacts from 946 to 1,477 or 56% along this rail line segment. The analysis does not break down the location of noise impacted land uses by County or other civil division.

The most intensive impacts will be to areas near grade crossings and track crossings or turnouts. The former due to sounding locomotive horns on approach to the grade crossing and the former due to wheel impacts at points where the rails are interrupted. The greatest impacts in Champaign County are likely to be in the villages along the line (Homer, Sidney, Philo, Tolono, Sadorus and Ivesdale). Tolono will be particularly affected due to the noise associated with the Illinois Central crossing. The background noise level in Tolono, however, is higher because of the presence of the Illinois Central. SEA concludes that these impacts are significant but do not warrant mitigation.

The impacts in Tolono are likely to be severe and disproportionate. It would also appear that there may be room at the NS / IC crossing to provide noise barriers of some kind.

The noise impacts in Tolono should be studied in detail and potential mitigation measures investigated.

5. Land Use Socio/Economics

The Sidney project (Finance Docket No. 33888, Sub. 5) will involve the 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. The Tolono project will occur entirely within existing railroad ROW and so raises few land use issues.

Increased noise in Tolono (see discussion above) may have a negative effect on some property values in the residential area along Dagy Street which is immediately adjacent to the NS/Illinois Central crossing. The existing nuisance created by the crossing may already be capitalized in the current value of these properties.

Pending the results of a detailed study of the noise impacts in Tolono it may be appropriate to evaluate the property value impacts in the most intensively affected areas in Tolono and provide for compensation to the landowners if no feasible mitigation measures are identified.

I hope these comments are useful. If you have any questions please feel free to contact me at any time. You may also reach me by e-mail at: fddpz@ccrpc.org.

Sincerely,

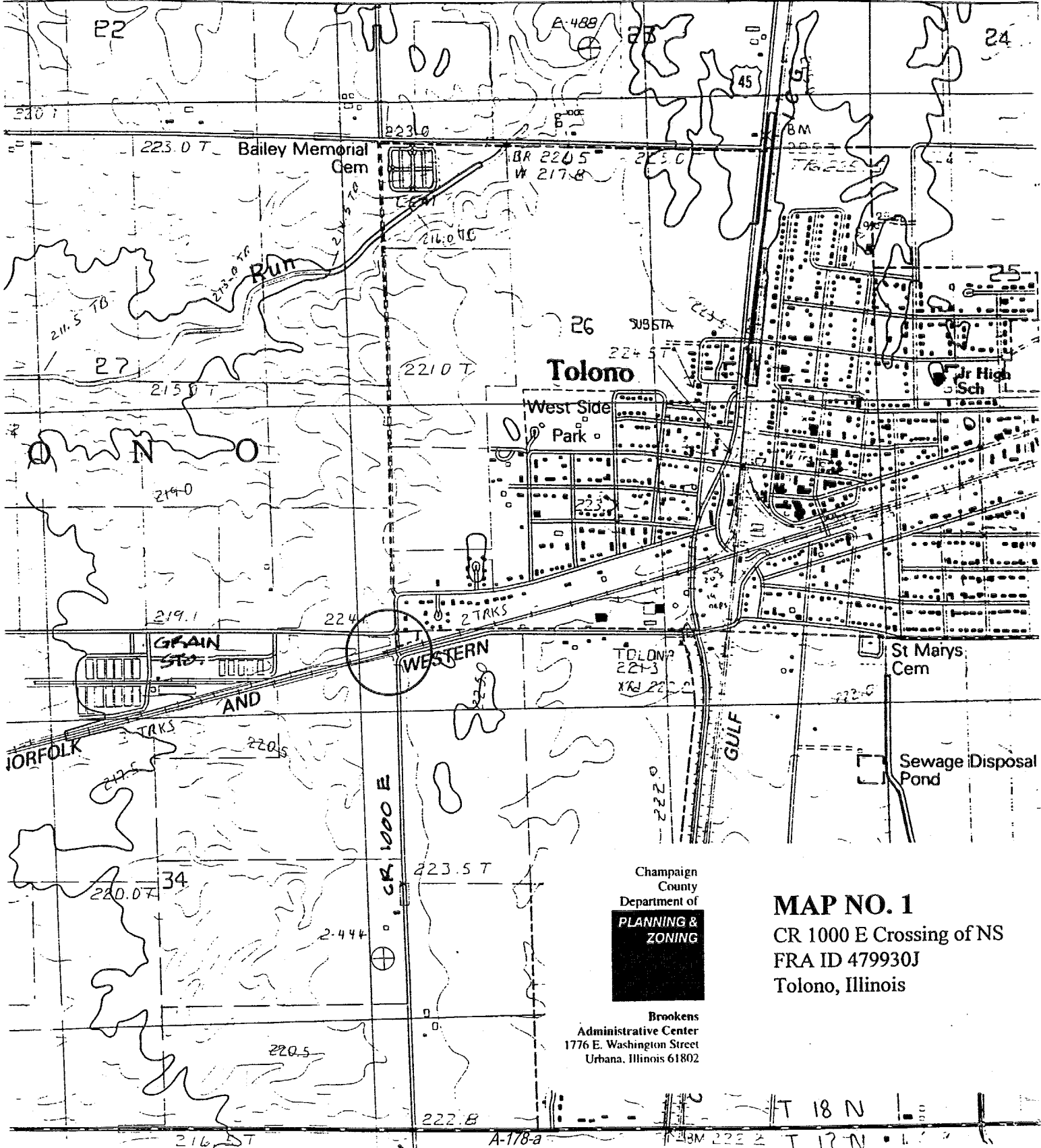


Frank DiNovo
Director

xc.: Environment & Land Use Committee, Champaign County Board
Mayor Cecil McCormick, Village of Tolono

TOLONO QUADRANGLE ILLINOIS 7.5 MINUTE SERIES (TOPOGRAPHIC)

390 391 520000 FEET 393 88°



Champaign
County
Department of
**PLANNING &
ZONING**

Brokens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

MAP NO. 1
CR 1000 E Crossing of NS
FRA ID 479930J
Tolono, Illinois

A-178-a

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January 21, 1998

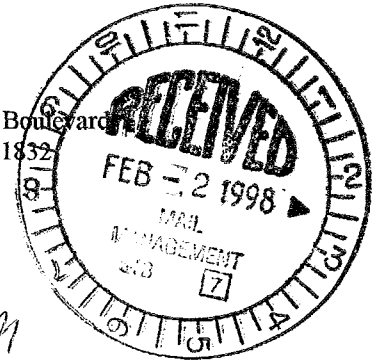
ENVIRONMENTAL DOCUMENT

645 Highland Boulevard
Danville, IL 61832

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

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98
DOCUMENT # 2/2/98 6:02:49 PM



Subject: Finance Docket No. 33388 - CSX and Norfolk Southern - Control and Acquisition - Community Notification

Attn: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

Good morning:

The Quick families have been life-long residents of the 3rd Street Crossing area, here in Danville, Illinois. The following comments relate to the Norfolk Southern/C.S.X. acquisition and control of the Conrail Railroad.

We have seen an increase in the volume of trains at the East 3rd Street crossing. This is in addition to the switch engines with only a few cars. With the addition of trains we have seen the change from coal fired engines to diesel engines; air-horn blasting has become more frequent; and the crossing is blocked many more times.

The addition of more trains and switch engines making up longer trains going through our neighborhood, will mean that we will have additional air pollution from the fumes of the diesel engines. This is a definite health hazard especially for the elderly.

Increased trains will insure the air horns will be blasting away more frequently. Now there are times when engineers start blowing the air-horns from the Main Street crossing, across South Street and quit south of the East 3rd Street crossing, almost continuously. We must listen to all this noise inside and outside our homes twenty-four hours a day and seven days a week. This does get on a persons nerves. Therefore, increasing the train traffic will add to noise pollution.

We have a nice town and are hoping for growth, however the addition of 25 more trains will add to the blocking of streets all through Danville and will certainly hinder people from wanting to live here. Having 50 trains a day, plus switching will cut our town in half.

We agree the trains have been updated tremendously, at the price of poorer air quality, time wasted at blocked crossings, poor overpasses and underpasses, and irritation caused by more and longer air-horn (noise pollution) blasting. We ask you to consider our deep concerns which will impact our neighborhood and our town.

Respectfully,

Mr. Gene Quick

Mrs. Gene (Delores) Quick

Mr. Larry Quick

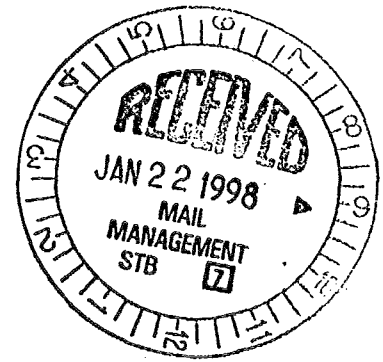
Home phone: 1-217-442-7534

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/22/98

DOCUMENT # 1/23/98 9.14-07 AM

VILLAGE OF TOLONO
507 W. STRONG STREET
TOLONO, ILLINOIS 61880
(217) 485-5212



ENVIRONMENTAL DOCUMENT

January 21, 1998

Attention: Alaine K. Kaiser
Office of the Secretary
Case Control Unit
Finance Docket #33388
Surface Transportation Board
1925 K Street N.W.
Washington D.C. 20423-001

U P S Overnight

Dear Ms Kaiser,

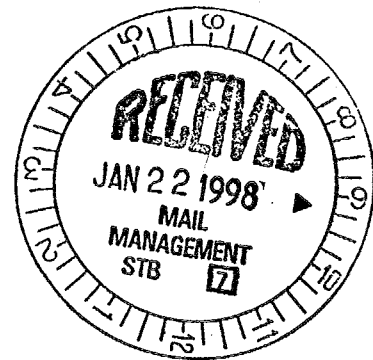
I am writing on behalf of the Village of Tolono. Enclosed is a response to your draft of the Environmental Impact Statement dated December 12, 1997. The enclosed document has been reviewed and approved by the Board of Trustees for the Village of Tolono as our official response to the Environmental Impact Statement.

Our response is based upon comments from community members, investigation by the Village and a study by our engineering firm. In the event that you have additional questions or comments with regards to our materials, please feel free to contact us. Pursuant to your request, I am enclosing one original and ten copies.

Village of Tolono, Illinois

By: Cecil McCormick
Cecil McCormick,
Village Board President

Enclosure



**REVIEW OF DRAFT ENVIRONMENTAL STATEMENT
FINANCE DOCUMENT # 33388
CCX AND NORFOLK SOUTHERN CONTROL AND ACQUISITION
SERVICE DATE 12/12/97 COMMENT DATE: 2/2/98 DECISION I.D. #28629**

**PREPARED/SUBMITTED BY
VILLAGE OF TOLONO, ILLINOIS**

JANUARY 20, 1998

Adopted by Resolution by the
Board of Trustees of the Village of Tolono
This 20th day of January, 1998

REVIEW OF DRAFT ENVIRONMENTAL STATEMENT
FINANCE DOCUMENT # 33388
CCX AND NORFOLK SOUTHERN CONTROL AND ACQUISITION
SERVICE DATE: 12/12/97 COMMENT DATE: 2/2/98 DECISION I. D. #28629
VILLAGE OF TOLONO, ILLINOIS
JANUARY, 1998

**ASSESSMENTS OF THE PROPOSED RAIL LINE SEGMENT CONSTRUCTION
SOUTHEAST OF THE INTERSECTION OF THE IC AND NS LINE.**

This summary will address the proposed construction activities discussed in the draft environmental impact statement prepared by the surface transportation board section of the environmental analysis. The purpose is to address the proposed construction activities as they affect citizens of Tolono and their surrounding environment. It will address the potential impacts that include the areas of safety, transportation systems, land use, air quality, noise pollution, and socio-economic issues.

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 lessor impact. 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.

The following represents a specific review of the proposal and a summary of comments drawn from community members, Village officials, engineers and related professionals.

I. SAFETY

A. There is an increased probably of train accidents and derailments that expose local residents to additional hazard in the area. This hazard is particularly risky to area children. The proposed new spur would add another track to the main railroad crossing area for school children and during construction there would be no access across the tracks for the children.

The increased volume of train traffic would be from 21 to 39 trains per day on the Norfolk Southern line. The new traffic related to the spur line will be 2 trains per day. As a result, the probably of train accidents due to individuals crossing the tracks, and in particular, children crossing the tracks, presents a very real and detrimental risk. On the South side of the tracks, a home for the disabled creates additional pedestrian traffic by its residents.

B. The current draft of the environmental impact statement glosses over some very significant safety questions. The Surface Transportation Board provides for the environmental impact statement to require the following details:

"Discuss the potential environmental impacts of the proposed transaction on public health and safety with respect to the transportation of hazardous materials, including:

- (1) Changes in the types of hazardous materials and quantities transported or re-routed;
- (2) Nature of the hazardous materials being transported;
- (3) Applicants' safety practices and protocols;
- (4) Applicants' relevant safety data on derailments, accidents, and hazardous materials spills;
- (5) Contingency plans to address accidental spills;
- (6) Probability of increased spills given railroad safety statistics and applicable Federal Railroad Administration requirements; and
- (7) Location and types of hazardous substances at hazardous waste sites or hazardous materials spills on the right-of-way of any proposed connection or rail line abandonment site."

Tables in Chapter 5 of the Draft Document constitute a cursory summary but do not provide any detail and specifically do not address the particular issues in Champaign County and more importantly in Tolono, Illinois as they relate to the above criteria. The fact that detail for these important items is noticeably absent from the review is of great concern to the Village and members of the community. Trains traveling on the new spur line which will carry hazardous materials appear to be within 75 feet +/- the single family residences that are pre-existing along the railway. The local fire district does not have the equipment to handle hazardous material spills next to the residential areas especially with the increased probability of accidents and derailments. In addition, there is an increased probability of fires which would also present an unreasonable and dangerous challenge to the local fire district. The remaining unaddressed concerns involve questions on the types of hazardous materials the railroad cars will be transporting, specific safety practices, protocol and how they will have an impact on addressing this increased risk, and specific plans that will address potential derailments and resulting hazardous spills as they relate to these residential homes.

II. TRANSPORTATION

A. There will be additional vehicular delays at railroad crossings caused by the increase in train traffic. The report does not address the specific increase in time on the Norfolk Southern line when the number of trains has increased by 18 per day. At 15 miles per hour, the total delay in time for 39 trains per day is 2 hours 36 minutes per day assuming there is no train stoppage which would block crossing. Based on the day to day reporting of community members, it is clear that existing train traffic routinely blocks all of the crossing for an excessive amount of time. Access from one side of the community to the other is already stressed due to delays caused by trains. Any increase in train traffic would greatly burden an already stressed access to U.S. Route 45 from the east side of Tolono at Benham Street. The report does not address the continuing increase in the use of Benham Street nor does it address this increase of burden on the Village. The result in additional delay of traffic would clearly have a large negative impact on vehicular traffic at these crossing. More importantly, there would be an increased delay in the ability for emergency vehicles (police, fire and ambulance) to gain access from one side of the community to the other.

B. During construction, the lack of crossings would put a severe burden on emergency vehicles in the community. For residents, the lack of crossing including the closure of an arterial street (Benham) and a collector street (Elizabeth) and a local street (Bourne) would severely restrict vehicular traffic and have a significant impact on the ability of the average citizen to conduct business or otherwise reside in the community.

C. Daggy Street is a truck route used by farmers to deliver grain to the local elevators in addition to the use by the surrounding community. Closure during construction or potential overall elimination would have a significant impact on local citizens and this commercial traffic and could potentially require a change in the designation to one of the Village's other streets. This is clearly perceived as a negative impact.

III.

LAND USE

A. In reviewing the proposed rail construction as it relates to land uses there are the following observations. Rail construction will have a substantial impact on the residents adjacent to the new spur and along the Norfolk Southern tracks. The construction does not comply with the Village's land use plan in that the area adjacent to the proposed spur is zoned R-2, medium density residential. Almost all the residences built in the area are comprised of owner-occupied single family dwellings. It is impossible to imagine a more inconsistent use of land than heavy industrial rail use in the midst of single family residences.

In the event that the proposed spur will take place under R-2 Zoning it would be clearly inconsistent with the existing zoning use of the property. In the event that the proposed expansion takes place on the property adjacent to R-2, while potentially not directly violating R-2 zoning itself, the use will clearly be inconsistent with that of single family residences immediately adjacent to the use.

During construction there will be significant disturbance, noise, and risk proposed to these pre-existing properties. After construction, use of this property will burden adjoining property owners with excess noise, pollution, and risk of accidents and derailments.

B. There are no apparent effects on farm land.

C. There are no apparent effects on coastal areas.

IV.

AIR QUALITY

A. There will be a demonstrable increase in air emissions. The report noted an increase in the number of freight trains per day which will exceed the threshold number for air quality impact analysis. Based on the report, increases of VOC or NOx are considered to be significant if emissions exceed certain levels. Data in the report states that the increase rail activities would result in the increased levels of all pollutants. Thus, under the existing proposal there would be a demonstrated increase in air emissions and a significant decrease in air quality for the community.

V.

NOISE POLLUTION

A. With regard to noise impact on the immediate area, the report confirms that an increase in the number of freight trains will logically mean an increase in level of noise. Based upon a review of this draft, this increase will exceed the threshold number for noise impact analysis. Thus, it is reasonable to conclude that there will be a significant impact of noise on the immediate area which is comprised of owner occupied single family dwellings.

B. The report states that the change in train volume will result in an Ldn increase of 2.3 dBA exceeding the threshold for noise analysis. The current 65 dBA contour of 150 feet would

extend to 500 feet perpendicular to the tracks. Based upon this analysis it appears that within the report that there is a net effect of noise on the community is that more residents will be exposed to more noise resulting from the increased train traffic. Community members and others generally interpret this to be a significant and negative impact.

C. The references to noise in the report neglects to take into account the noise from wheel squeals on the spur. It is clear that trains on spurs generate wheel squeals not normally associated with main line traffic. While not quantified in the report, it seems obvious that wheel squeals would general additional noise as a result of the creation of the spur.

VI.

SOCIO-ECONOMIC ISSUES

In reviewing the socio-economical issues directly related to the changes in the physical environmental as a result of the construction, it is clear that the construction would result in the closure of public streets necessary for commercial, residential, and emergency vehicle traffic. In addition, there are concerns regarding damage to existing utilities which would be crossed. A trunk line water main which serves the southern portion of the village, the mobile home park, and other homes further south have no loop. If it is damaged, no other water service would be available until the damaged trunk line is repair. In addition, a 27 inch diameter storm sewer which serves the west side of the village and the newly constructed Route 45 retention basin is the only available storm water outlet. If it were to be damaged, no other storm water outlet would be available until it was repaired.

Installation of the spur would require borrow material which would result in increased elevations from the new construction. This raises the potential for increased flooding on adjoining residential areas. Storm water patterns are always effected by construction and the addition of improvous areas. Thus, a critical concern is the impact of drainage patterns on nearby structures which would have to be carefully analyzed and taken into account in the event of any construction.

CONCLUSION

A significant number of community members gave oral an written input in response to the information circulated by the railroad and community leaders. Attached, and by reference incorporated herein, are copies of letters received from area citizens.

The current draft includes a number of changes from the first draft resulting from comments at a public hearing about the original draft proposing the rail spur. It was explained that the original proposal overstated the size of the proposed rail spur and the current draft significantly reduces the size but still raises a number of concerns. It delivers the same amount of traffic as was originally proposed and while certain aspects have been corrected and issues addressed, the current draft of the impact statements still glosses over critical noise, air, and safety concerns originally raised in the first draft and raised again in this review.

Based upon current data in the environmental impact statement, a review of the site, discussion with community members, and thoughtful analysis, it is reasonable to conclude that the proposed merger raises significant safety issues, hazardous materials issues, transportation issues, land issues, socio-economic issues, noise pollution issues, and air quality issues that suggest that alternatives to adding a larger number of trains and a rail spur are far more preferable.

11 Nov 97

Miller & Henderson
Law Offices

Mr. Marc R. Miller

I attended the hearing and listened to the presentation by people from Norfolk and Southern.

In regards to the Spur Expansion, I would not be immediately impacted like the residents along Naggy St. I understand their concerns and would share them if my house was that close to the railroad — the present storage track as well as the spur. I live at the almost extreme north end of Tolono and this does move me away from the noise and other problems associated with trains using the spur.

I also listened to the presentation as it pertained to the almost doubling of the number of trains that will travel through Tolono if the Norfolk Southern does in fact acquire the additional company tracks as

they are attempting to do. This has nothing to do with the "Spur Expansion" as I understood their presentation.

My concern now has to do with the added dangers involved with more trains and movement across our village streets. The impact this will have on the movement of emergency vehicles and people and the difficulty in responding to people/businesses in need.

An additional concern of mine is the increase in hazardous materials that will be in our village at any given time and how our small Fire Protection District can react to some emergency situation dealing with these types of products. While I am quite proud and pleased with the Fire Protection District and have great faith in their training and abilities, are we putting people in harms way, both them and the general public?

I understand, I think, the driving forces that require business to get bigger in order to compete and turn a profit. However this doesn't lessen my concerns. Another consideration is how long before Norfolk Southern will approach the state/village with a suggestion to close a crossing because they too recognize the potential for accidents as well as the expense in upkeep to a crossing.

You may use any, all or none of this letter and I will be available if you wish to talk to me in person.

Paul J.
Paul E. Fulkerson
603 N. Calhoun
Tolono, IL 61880
Ph 485-8000

October 8, 1997

Village of Tolono
P.O. Box 667
Tolono, IL 61880

RE: Norfolk Southern Proposal

Gentlemen:

We as residents of 110 E. Marshall in Tolono are very much opposed to the proposed spur. We find the railroad crossings already blocked by trains much of the time delaying our getting in and out of Tolono. These are not just small delays, much of the time and sometimes more than one crossing is affected. We are already concerned about emergency vehicles being able to move freely in Tolono, and the complete closing of another crossing will, of course, only add to this problem greatly.

There are many young children in our neighborhood and the increased traffic would be a danger.

The noise from the trains is already significant, and additional noise will make things even more difficult. We find it trying to even leave windows open because of the noise.

The thought of hazardous material being routed through Tolono is also cause for concern. What would happen if a spill occurred? Who will be responsible for protecting the people of Tolono?

We wish to vigorously register our opposition to this proposal.

Very truly yours,

Frank R. Krasnowski

Patricia A. Krasnowski
Frank R. Krasnowski
Patricia A. Krasnowski

Nov. 13. 1996

RE: NORFOLK SOUTHERN TOLONO SPUR EXPANSION

Gentlemen,

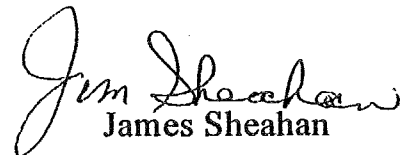
I've lived in Tolono six years. Railroads are part of our life here. I live on the tracks.

To this date the railroad has done no housekeeping along their tracks. Weeds have not been cut in this period. If any repairs are done, the old parts ---ties, spikes, plates to hold ties in place, etc are left to lie in the weeds where they are thrown. The railroads are very inconsiderate.

I find it difficult to believe anything they say. They will do as they please. Tolono has no legislation to control what they do. I think they should have.

I don't think you should wait until they start work on this project. I believe they will do this no matter what we Tolono citizens want. I repeat--they are inconsiderate.

Yours Truly.


James Sheahan

Village of Talono

November 12, 1997

RE: Norfolk Southern Talono Spur Expansion

TO Whom It May Concern:

In response to your request for resident concerns.

Our concerns are as follows.

1. The property values will decrease. Who will pay for the decrease in the value of the property.
2. If the railroad goes through with the spur expansion what is next to come? A rail yard? Who will want to live by a rail yard.
3. Having the fire and emergency services being delayed in getting to and from emergency situations.
4. Having more dangerous chemicals being transported or sitting idle in town.

5. Children having to cross a busier crossing trying to get to or from school or wherever they need to be.
6. Having the crossings being blocked more frequently which might make you or your children late.
7. Having increased noise from whistles that blow and banging of the cars also from squeaking of the wheels. We want be able to have our windows open for fresh air because of the increased noise.

Sincerely,

Terry Charles and Elizabeth Charles
204 South Bourne St.
Tolono, Ill 61880

Norfolk Southern Proposal;
Village Of Tolono.

With more trains running through town, there is always more danger of something going wrong. We have enough trouble getting across the crossings now. More trains would slow down traffic drastically.

I live at 117 E. Daggy, and from what I can see now we would have to give up the road in front of our home, or worse.

The quality of the air would also be lower, from diesel fumes and rail dust.

The added noise would make it harder to rest, especially for the little ones and those with breathing disorders.

I built our home 24 years ago, hoping we wouldn't have to move again. I'm 74 years old and I don't know where we would go if we had to move.

Having more trains would add to the danger of hazardous waste spills here in town.

If we have to have crossings closed here in town it would cause us to drive farther. It would be harder to get emergency vehicles to this part of town.

I do hope you will take all this into consideration before adding a spur onto the railroad.

Yours Truly.

Lawrence N. Wray

11-9-97

Norfolk And Western

Norfolk And Southern Proposal
Village of Tolono, Ill.

First I want everyone to know I'm not trying to stand in the way of progress.

I'm in favor of progress, but do we need to moove people, or endanger lives to get this progress.

I hope if the railroad does decide to go through, it will find a better way then to crowd us out.

I listened to the railroad people at the meeting the other night, but I dont understand how they could between the spur and the main rail.

I know if the railroad people decide to go through I cant do much to stop them or change their minds, but I've said what I have to say, so thanks for listening.

get

Lawrence & O'Connell Warfield

117 E. DAGGY PO Box 655

Tolono, Il. 61880

105 N. Elizabeth
Tolono, IL 61880
October 9, 1997

ATTN: NORFOLK SOUTHERN PROPOSAL
Village of Tolono
P.O. Box 667
Tolono, IL 61880

I live 2 houses north of the Elizabeth Street Railroad crossing. I have lived near railroad tracks nearly all my life. But since I have lived in Tolono near the Norfolk Southern tracks there has been a real concern to me for the children that have to cross the tracks.

The tracks have been blocked too much of the time with stopped trains. The trains blocking the crossing and the pressure to be at school on time have caused children to cross between railroad cars. It's also been reported to me that someone witnessed a youngster pushing his bicycle underneath a stopped train.

I have worked at the Tolono Village Hall since 1973 and have heard numerous complaints about trains blocking the railroad crossings.

If the rail traffic increases, I can't possibly imagine the potential hazard this will cause our school children.

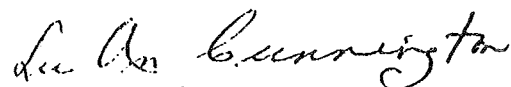
The complacency by the adults and young adults over the railroad crossings blocked, have made them do some very unsafe (and sometimes stupid) things. But when you have to deal with the blocked crossings day after day sometimes frustration takes over and accidents happen. I know of 2 deaths caused by going around the arms, since I have lived here.

Another real concern I have is the need for emergency medical treatment and fire protection. My husband is a volunteer fireman, and I know minutes can be the difference between life and death. Several years ago (maybe 15) the Tolono Fire Dept. responded to a call on the south end of town when the crossing arms were down. Two or three of the firemen left the emergency vehicle that was blocked by the crossing arms, and responded on foot for a few blocks. They knew they were responding to a heart attack call and timing was critical. The wife believed her husband was already dead, however the firemen began CPR and to this day this man is still alive and doing well. Had this been farther than a few blocks that man would have died.

Please consider the safety and health of the Tolono residents by not proceeding as planned.

P.S.

Not only are the arms down by stopped trains, there are no trains in sight.


Lu An Cunnington

September 27, 1997

Attn: Norfolk Southern Proposal
Village of Tolono
P.O. Box 667
Tolono, Il. 61880

RE: Rail Spur

To Whom It May Concern:

In response to your request for resident input.

1. Safety:

- A. Fire and emergency services could be delayed in getting to and from any situation that arises.
- B. Danger in more chemicals being transported through Tolono that might possibly derail and leak due to switching of trains.
- C. Children, elderly or anyone having to cross the tracks at any given time. (example: children going to school, elderly have to walk to go to the grocery store)

2. Transportation:

- A. This will close all major intersections to get across to the east side of Tolono. **THIS MAKES NO SENSE AT ALL.**
 - 1. Who will be held responsible for any DEATH that might happen due to no emergency vehicle being unable to get across the track.
 - 2. I'm sure the Village of Tolono will not want to be sued due to a death. We have lived in Tolono around these tracks all our lives and know for a fact that these trains are on the tracks for a long period of time.
 - 3. It is my understanding from some years ago each time a train has the crossing blocked, should be for a short period of time such as 10- 15 minutes. We have been held at a crossing for 30 minutes or longer.
 - 4. Will cause problems when we go to and from work. We will never know when to leave to go to work due to the trains coming and going.
 - 5. Children may be late for school, late getting home,

late getting to the next bus stop to get on the next bus.

6. Sunday morning, Sunday evening and Wednesday evening when we are trying to go to Church. With trains possibly blocking crossing.
7. Traffic accidents may occur due to people in line trying to get out of line and find another way to get in or out of town.
8. Unity High School and Unity Junior High School activities at the schools or away. Other school bring buses here for school activities. They could be late to and from and parents waiting to pick up the children will be worried and upset.

3. Land Use:

- A. Property values will decrease. who wants to live by a rail yard ? We don't
- B. Who wants to live where you can't open your windows, be out side without hearing all the noise due to just going through or being the switching station for 30-45 minutes or longer .
- C. We have enough noise now without more. WHY can't this be done outside of Tolono in the Country. Such as somewhere between Tolono and Pesotum or Tolono and Philo where few people are living. This would make more since.

4.. Air Quality:

- A. They will be burning an increase amount of train fuel in town and be doing this by spending more time in town.
- B. People with health problems. (example: breathing, lungs etc.)

5. Noise:

See #3 A and B

- A. The noise from all the switching, hooking and unhooking will increase and is already bad.
- B. Your nerves can only take so much noise.

6. Socio Economic/Human Issues:

- A. Quality of life? You will never be able to committ to anything You might have an appointment in town or outside of town but not get there on time.
- B. If we are late for work, we could lose our jobs due to the fact that the work force doesn't understand LATE for any reason.

Due to all the trains now in Tolono, the crossing arms are down and no trains are in sight. Even though it's against the law to cross with the arms down, it will happen more often. Is Tolono going to have a crossing guard on duty 24 hours a day for protection? **MAYBE THE RAILROAD SHOULD BE RESPONSIBLE FOR PROVIDING A CROSSING GUARD AT EACH CROSSING 24 HOURS A DAY AT THEIR EXPENSE.**

It seems that the convenience is for the railroad and could care less about the people who live in Tolono or visiting.

Sincerely,

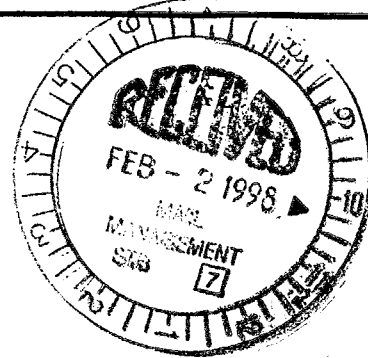
Terry Charles Elizabeth Charles

Terry Charles and Elizabeth Charles
204 South Bourne St.
Tolono, IL 61880



January 30, 1998

ENVIRONMENTAL DOCUMENT



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

Subject: Finance Docket No. 33388-CSX and Norfolk Southern-Control
and Acquisition-Community notification

Attn: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

Dear Surface Transportation Board,

The City of Danville, Illinois, is pleased and grateful to have the opportunity to comment on the draft EIS for the proposed Conrail Acquisition. Danville has been a partner with all the railroads down through the years to our mutual benefit. Legend has it that John Dillinger once came to Danville to scope out banks to rob but decided against it because there were too many railroad crossings.

The proposed acquisition brings several issues to the forefront for us as they relate both significantly and detrimentally to the the City of Danville.

Conrail owns and maintains a spur line through Danville that starts at Jackson St. south of Fairchild and goes north and northeast out of town. There are two grade separation structures at Fairchild and English Streets. Both of these grade are deficient in height. There are at-grade crossings at Jackson, Winter, Liberty and Bowman. Although these crossings are intact, the rails, the ties and the tie plates have been removed from the roadbed for all the stretches in between. We have been placed in the compromising position of placing "Exempt" signs at the crossings. We believe the railroad should be obligated to remove these structures and crossings or put the track back in service. It has been out of service for years.

The N S line from Tilton to Lafayette will experience a major increase in the number of trains from 23.6 to 41 per day. The number of hazardous materials cars on this line goes from 10,000 to



46,000 per year, a 460% increase. Projected accidents increase at every crossing in town. Average delays nearly double at every crossing in town. Air pollution from the trains increase significantly, over one hundred tons per year for the aggregate emissions along the entire line. This impact is increased for Danville disproportionately because of the lower train speed limits. No data was presented for the increased air pollution from the increased average vehicle delays resulting from the increase in trains, however this amount should nearly double also. Noise goes up significantly along this line, impacting several residential neighborhoods in town.

Our police station and ESDA are immediately adjacent to this line and can only cross it at an at-grade crossing either at South St. or Main Street. So we have a circumstance requiring a potential increase in response from emergency services (i.e. an increase in trains, hazardous materials, etc.) that by its own operation decreases our ability to respond (i.e. doubling waiting times at crossings). This has a ripple effect in our Fire Dept. response where secondary, backup, and support units often cross this line.

All of these conditions can be mitigated with selective implementation of grade separation structures along critical roadways. We would urge the SEA to take another look at Danville's overall picture as opposed to microanalyzing each crossing. We believe that a further analysis of this situation may warrant a grade separation structure at 3rd St., South St., Bowman and Voorhees Streets.

We concur with the SEA's recommendation to require binding arbitration with the railroads pursuant to a finding of an adverse impact which has been clearly demonstrated in Danville by the SEA's excellent and thorough job on the EIS.

Thank you for your consideration in this matter.

Sincerely yours,


Robert E. Jones
Mayor

cc: Lois Cooper, Alderman
Thomas Stone, City Engineer

TS/ck

CENTRAL ADMINISTRATIVE UNIT

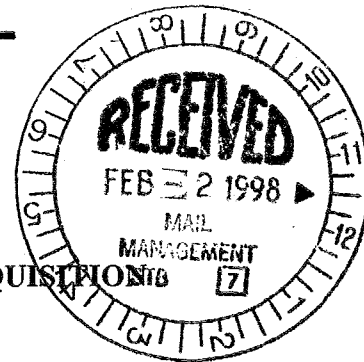
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ENVIRONMENTAL DOCUMENT

BEFORE THE
SURFACE TRANSPORTATION BOARD

CSX AND NORFOLK SOUTHERN, CONTROL AND ACQUISITION
Finance Docket No. 33388



COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

CENTER FOR NEIGHBORHOOD TECHNOLOGY

2125 West North Avenue

Chicago, IL 60647

(773) 278-4800

In June 1997, two major freight railroads, CSX Corporation and Norfolk Southern Corporation, filed a joint application with the Surface Transportation Board (STB) to acquire and divide the assets of Conrail Inc. As part of the environmental review of the application, the STB directed its Section of Environmental Analysis (SEA) to prepare a Draft Environmental Impact Statement (Draft EIS) to address environmental issues and provide preliminary recommendations for mitigating possible effects of the Proposed Acquisition. The SEA has made the Draft EIS available for public review and is currently seeking public comments from all interested parties. The Center for Neighborhood Technology submits the following statement in response to the SEA's request.

The Center for Neighborhood Technology is a twenty-year-old not-for-profit organization which works to achieve sustainable community development through its four major program areas: transportation and air quality, sustainable manufacturing and recycling, community energy, and research and development. Located in the city of Chicago, the Center has developed a series of innovative projects which have had significant impacts in the fields of pollution prevention, energy conservation, and community development planning. The Center is a founding member and Chicago affiliate of the Surface Transportation Policy Project, and co-convenor of the Chicagoland Transportation and Air Quality Commission, a 130-member coalition that addresses issues of regional land use and planning. Projects sponsored by the Center in the area of transit-oriented development have been cited by the President's Council on Sustainable Development, of which the Center's president, Scott Bernstein, is a member.

The Surface Transportation Board is required by statute to approve a proposed rail acquisition if it determines the transaction is consistent with the public interest. By all indications, the public benefits of the Proposed Acquisition are substantial. Currently, much of the northeastern United States is served by Conrail alone, requiring both Norfolk Southern and CSX to interchange freight with Conrail in order to reach customers there. The proposed split of Conrail operations would introduce single-line service to northeastern markets, eliminating the need for costly and time-consuming intermediate switching. More efficient, single-line service will stimulate economic growth and shift freight movement from truck to rail, alleviating traffic congestion, wear and tear on highways, and lessening air pollution.

The Center for Neighborhood Technology is supportive of efforts to increase the volume of freight moved by rail, a substantially more energy efficient and environmentally benign transportation alternative than trucking. To the extent the Proposed Acquisition promises to bring about such a shift, the Center supports the Application. However, it is not clear from the petitioners' proposed Operating Plans that approval of the Application, as it stands, will benefit all communities and shippers equally.

The Center's concerns focus in particular on the likely effects of the Proposed Acquisition on industrial establishments and community residents located in the vicinity of the Lake Calumet area of southeast Chicago (see attached map). The center of Chicago's once-thriving steel industry, the area still provides employment for over 10,000 manufacturing workers. Leading industries include the steel-coil division of Joseph T. Ryerson and Son, which employs 400 workers at its Pullman facility. The area has highly-developed freight transportation infrastructure, including extensive rail coverage, deep water dockage, and barge access to the Mississippi River and St. Lawrence Seaway via the Calumet River.

At present, rail service to industries in the vicinity of Lake Calumet is provided almost entirely by Norfolk Southern, which maintains, and refuses to relinquish, exclusive trackage rights to customers on the eastern and western sides of Lake Calumet (see map). Classification service is provided by Norfolk Southern's Calumet Yard, where congestion and unavailability of crews have delayed shipments to and from Calumet industries for years. The absence of meaningful freight rail competition has undermined the competitive position of shippers located in the area, resulting in a significant loss of business.¹

The Proposed Acquisition threatens to make a bad situation worse. In its Operating Plan filed with the STB in support of the Application, Norfolk Southern anticipates a substantial reduction of capacity at Calumet Yard:

"The Operating Plan contemplates eliminating most classification and train functions performed at Calumet Yard and transferring them to [Norfolk Southern's] Elkhart, Indiana facility. This change will facilitate the reduction of 20 yard crews and the transfer of one local to Burns Harbor to serve Gary Sugar Works. We anticipate that three operating supervisors, three clerical positions, and four utility trainmen positions can be eliminated at Calumet. Seven locomotive units can be reassigned elsewhere. We also expect the elimination of sixty-five mechanical department positions."
(Operating Plan, Volume 3B, p. 184)

How the proposed restructuring of Calumet Yard will affect classification service to Lake Calumet industries is not addressed in the Operating Plan. Area manufacturers are thus understandably concerned, fearful that their already unreliable rail service might deteriorate further.

The Center for Neighborhood Technology is aware that the Surface Transportation Board has established a process for receiving comments related to the economic and competitive merits of the Proposed Acquisition, which is separate from the environmental review process. However, the Center respectfully submits that the proposed reduction of capacity at Calumet Yard is likely

¹See Illinois International Port District, Request for Conditions to the Approval of Application, Verified Statement of Anthony G. Ianello.

to have consequences which fall well within the scope of concerns addressed in the Draft Environmental Impact Statement. In particular, it is likely to lead Calumet area shippers to transport goods increasingly by truck rather than by rail, impacting regional air quality, traffic congestion, and undermining the competitive position of industries which provide jobs for residents of nearby low- and moderate-income communities.

It is well recognized that unsatisfactory rail service encourages shippers to move freight by truck that would otherwise be moved by rail. With more and more industries making the shift to just-in-time inventory control methods, on-time deliveries are more important now than ever before. Nothing demonstrates this better than Union Pacific Railroad's current struggle to integrate the operations of Southern Pacific following their 1996 merger. Unreliable rail service in the West has displaced an enormous amount of freight from rail to highways, leaving many over-the-road trucking firms operating at full or near-full capacity.

The public interest would not be served by a shift of freight from rail to truck in the Calumet area any more than it is served in the above instance. Air quality in the Calumet region is already poor. According to a 1994 study, fifty-four southeast Chicago firms failed to meet federal Emergency Planning and Community Right to Know (EPCRA) standards, producing 56,000 tons of carcinogens, 21,000 tons of developmental toxins, 221 tons of genetic toxins, and 38,000 tons of chronic toxins per year.²

Currently, the entire Lake Michigan basin is in severe non-attainment with the 1990 Clean Air Act Amendment's Ozone standard, largely due to emissions from the Gary-Chicago-Milwaukee Corridor. Under orders from the U.S. Environmental Protection Agency (EPA), Illinois and other states bordering Lake Michigan are required to prepare and implement plans which will reduce 1990 emissions of Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_x) at least 15 percent by the year 2007. The EPA's "Mobil5a" Mobile Source Emission Model shows that every million truck miles generate over 2.7 tons of VOC and 15.7 tons of NO_x.

In addition, in July 1997 the EPA announced new standards for particulate matter under the national ambient air quality standards (NAAQS), which the agency has determined are necessary to protect public health and the environment. The regulations include new standards for "fine" particles (smaller than 2.5 micrometers in diameter), which penetrate deeply into the lungs, leading to serious health effects. Studies indicate that diesel trucks produce nearly 5 percent of fine particle emissions.³ The introduction of more truck traffic into the Calumet area of Chicago can only worsen an already grim environmental situation, making compliance with federal clean air standards an ever-distant possibility.

There is, however, an alternative. The Illinois International Port District (the "Port of Chicago"), which operates Lake Calumet's harbor facilities, has filed a Request for Conditions to the approval of the Proposed Application. The Port of Chicago proposes that the STB remedy the lack of competitive rail service to the Lake Calumet area by requiring Norfolk Southern to grant operating rights to alternative freight carriers. Specifically, Norfolk Southern should provide trackage rights and access to Lake Calumet customers to two short line railroads, the Chicago South Shore and South Bend Railroad and Chicago Rail Link. Alternatively, or in addition to this, operating rights should be extended to CSX, which holds overhead trackage rights east of Lake Calumet under the proposed Operating Plan (see map).

² Source: "A Guide to Southeast Chicago's Major Polluting Industries," Citizens for a Better Environment, 1994.

³ Source: E.H. Pechan & Associates, "National PM Study: OPPE Particulate Programs Implementation Evaluation System, Final Report to EPA," Sept. 1994; E.H. Pechan & Associates, "Updates to Fugitive Emission Components of the National Particulate Inventory, Jan. 29, 1996.

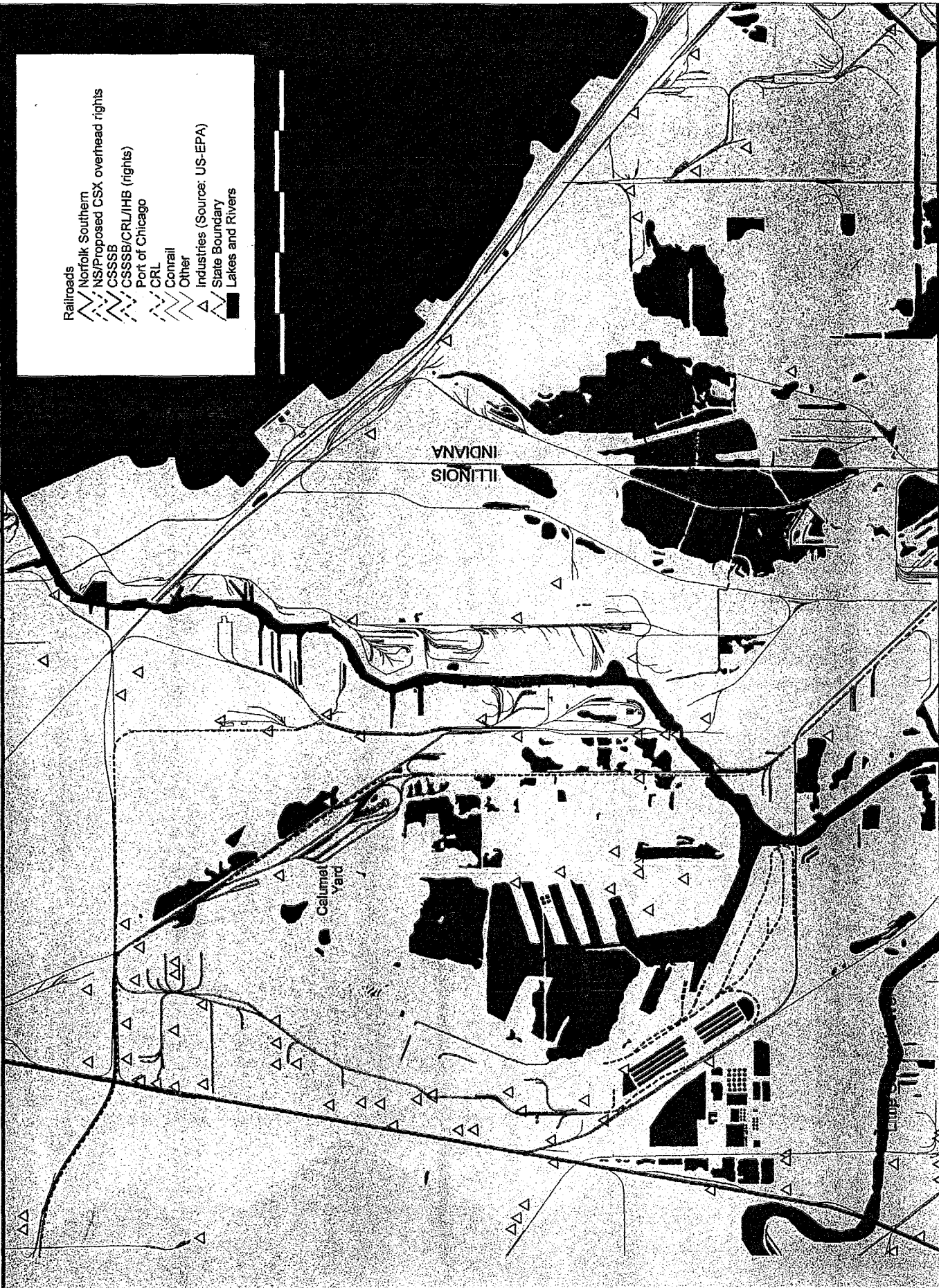
The Center for Neighborhood Technology supports the Port of Chicago's Request for Conditions. As a result of a 1959 Interstate Commerce Commission decision, *Illinois Central Railroad Company, et al. Construction and Trackage Rights, Lake Calumet Harbor, Cook County, Ill.*, 307 ICC 493 (October 5, 1959), the Chicago South Shore and South Bend Railroad and Chicago Rail Link both have operating rights over Norfolk Southern-owned track into the southwest portion of Lake Calumet Harbor. However, neither carrier is allowed to serve industrial customers along this stretch of track, nor are they permitted access to potential customers further north and east of Lake Calumet along Norfolk Southern's lines. The Center urges that rail access be extended to these portions of the Lake Calumet area, providing industries there with a choice of competitive rail services. Norfolk Southern should continue switching traffic bound for Norfolk Southern destinations, but neutral switching services should be provided to shippers requiring access to competing railroads such as CSX and Burlington Northern.

The remedy sought by the Center promises to impose little hardship upon Norfolk Southern. First, the area in question generates low volumes of freight. Second, since Norfolk Southern would continue to switch its own customers, the only business it stands to lose is short-haul traffic bound for alternative points, an insignificant share of Norfolk Southern's overall business. Finally, competitive rail service will encourage more shippers to use rail. As the size of the overall rail shipping pie increases, Norfolk Southern's business in the area may well stabilize or even increase in the long run.

The Draft Environmental Impact Statement identifies only one outcome of the Proposed Acquisition serious enough to warrant mitigation measures in Chicago: the construction of a new intermodal facility at an abandoned Conrail yard on 59th Street. The Center for Neighborhood Technology urges the SEA to address the likely environmental consequences of Norfolk Southern's planned restructuring and downsizing of Calumet Yard in its Final EIS. Norfolk Southern justifies its Application by arguing that intensified competition and improved rail efficiencies resulting from the Proposed Acquisition will generate unprecedented public benefits (Application Before the Surface Transportation Board, Section 1180.6(a)(2)(i)). The STB should take steps to ensure that the same spirit of competition extends 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.

This statement is endorsed by the Citizens Commission for Clean Air in the Lake Michigan Basin (CCCALMB), a consortium of environmental groups from the four Lake Michigan states coordinated by Citizens for a Better Environment, The Center for Neighborhood Technology, and The Hoosier Environmental Commission. The Commission has been involved with the process of clean air compliance in all four Lake Michigan states, as well as being a member of the USEPA Ozone Transport Assessment Group and the Lake Michigan Air Directors Consortium. Alex Johnson has been CCCALMB's president since its inception.

Citizens Commission for Clean Air in Lake Michigan
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- Railroads**
- Northfolk Southern
 - NS/Proposed CSX overhead rights
 - CSSSB
 - CSSB/CRL/IHB (rights)
 - Port of Chicago
 - CRL
 - Conrail
 - Other
 - Industries (Source: US-EPA)
- State Boundary**
- Lakes and Rivers

SEA - Conrail

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CENTRAL ADMINISTRATIVE UNIT

ENVIRONMENTAL DOCUMENT

REC'D: 2/13/98

DOCUMENT # 2/12/98 5:00:12 PM

Office of the Secretary Case Control Unit Finance Docket No. 33388
Surface Transportation Board 1925 K Street, NW Washington DC 20423-0001
Attention: Elaine K. Kaiser, Environmental Project Director, E. Filing

Comments of Lionel Trepanier and the Blue Island Greens to the SEA and Board regarding the Conrail acquisition DEIS. John Wisner tells Trepanier comments he placed in the Mail February 2nd to be considered timely.

It's a Greens' position to support development of rail lines and the leveling of a playing field that has subsidized Truck and Air transport at the expense of Rail transport. Also, the Greens call for the reduction, restriction, limitation and removal of Hazardous Materials whenever and wherever possible, including during transport and storage on rails.

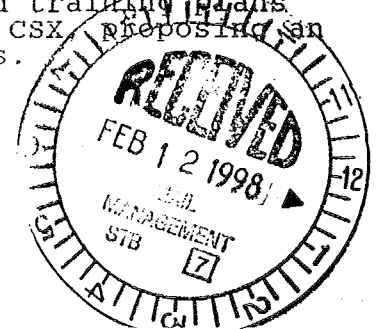
We suggest that the criteria used by SEA and the Board for their determination of where to require mitigation for increases in Haz-Mat shipments are inadequate and arbitrary and unreasonable.

Under the CSX NS Conrail proposal communities along approximately 117 Train routes are to receive some assurance of Hazardous Material (Haz-Mat) safety protections based upon a significance determination based upon the increasing hazard shipments thru or near these communities. Consider that communities proposed for Haz-Mat shipment increases that are currently on key routes even prior to the acquisition were already without effective Chemical spill response plans. Increasing the number of loads of Haz-Mat thru these communities without requiring a showing of effective emergency planning on each route proposed for a Haz-Mat shipment increase is unreasonable. Also the SEA and Board have not considered the cumulative impact on communities; specially noting but not limited to, Blue Island, Illinois; of increases in Haz-Mat shipments on several lines and transfers to parallel lines.

Actually a number of Key routes and Major Key routes set for Haz-Mat shipment increases under the proposal are already without real emergency response and prevention activities. Including Blue Island, many affected communities currently hosting Key Routes and even Major Key routes are without active LEPCs or effective Emergency or Evacuation plans. Increasing the Haz-Mat levels on these lines without requiring the Railroads to participate in Emergency Planning with the affected communities is unreasonable and dangerous.

And for all these communities and rail segments where the planned acquisition would increase the shipments of Hazardous Materials the Board should require CSX and NS to fund and develop with the input of and for the consideration of the affected communities, and the LEPCs, a Hazardous Materials Emergency Response Plan, or update; as well as railroad assistance, including funding, in the update of the affected LEPC Emergency Response Plans and training.

Based upon increases in the existing levels of Hazardous Materials shipments due to this acquisition the Railroads and the Board have a duty to insure that all routes and communities experiencing a potential increase in Haz-Mat shipment accident impacts have or are at least afforded the opportunity to develop emergency response, prevention, and training plans with the cooperation and funding of the railroads, NS and CSX. The proposed increase in the potential for Hazardous Material accidents.



For EVERY rail segment where the planned acquisition would increase the shipment of Hazardous Materials the Board should require the railroads to demonstrate that they have consulted with the affected communities at large and done their part under SARA Title III, the Emergency Planning and Community Right to Know Act (this has not happened in Blue Island nor Cook County, Illinois) in addition to your recommended mitigation 4(a) from page 7-13.

The criteria for mitigation for Haz-Mat shipment increases should also consider the surrounding community population and especially if the rail line is adjacent a chemical plant, Oil refinery or other explosive risk.

TWO AT GRADE CROSSINGS IN BLUE ISLAND

Further the Board should allow opportunity for public involvement and comment of the people of Blue Island upon mitigation measures that might be requested for two at grade crossings on Seg. C-010 in Blue Island. The people of Blue island have had no opportunity to comment upon mitigation required as a result of the acquisition. It was not until February 2, 1998 that we could confirm the need for CSX consultation with the people of Blue island based upon the difficulty the SEA had in providing information upon actual location of Highway at Grade crossings requiring mitigation that were repeatedly incorrectly reported to be in Calumet Park in the DEIS and Errata. The citizens of Blue island should be afforded a clear explanation of the impacts at the CSX crossings at 135-Broadway and at Western Ave. And an opportunity to voice their concerns and desires. This has not occurred yet.

The SEA should consider pedestrian impacts at the two grade crossings in Blue island. For this pedestrian dependant population a proper Grade separation analysis is not complete. Lacking of information of impact upon pedestrian movements the Board is underestimating and not having the opportunity to consider the impacts of the proposal upon the people of Blue Island.

The "Haz-Mat Black Hole" at Blue Island Junction. Consider that the proposal for transfer of hazardous materials at Blue Island Junction is tantamount to the impacts of a rail yard for the purpose of Environmental Justice and NEPA (National Environmental Policy Act) analysis classification. This refers to the "Haz-Mat Black Hole" at Blue Island Junction. The documentation shows 3 rail line segments converging at Blue Island Junction. Of these three lines, two show large but unequal increases in the number of Haz-Mat shipments. The third shows a slight decrease in Haz-Mat shipments. The numbers just don't add up! Expecially respond to the Hazardous Material (Haz-Mat) hole at Blue Island Junction.

Apparently the Railroad (CSX) proposes although the DEIS has not disclosed, the use Blue island Junction as a rail yard for unloading or otherwise breaking off many thousand shipments of Hazardous Materials. The DEIS has not analysed the potential accident increases resulting from this unloading, transfer and parallel rail line shipment of these Hazardous Materials. The rail yard operations at Blue Island Junction should be analyzed individually and cumulatively with the other Haz-Mat impacts here.

The Master Table of All Rail Line Segs should include all lines designated to take shipments of Hazardous Materials at Junctions such as Blue Island Junction.

SEA - Conrail

Greens / Trepanier 3-3

Cumulative Impacts analysis proposed for Hazardous Materials shipments.

The SEA and the Board should disclose and consider Mitigation of cumulative impact of increase Hazardous material shipments at Blue Island, Illinois and any other likewise affected communitities. As an example the cumulative increases in movements of Haz-Mat at Blue Island well exceeds 20,000 loads; at the Barr Yard, thirteen-thousand; and on Seg. C-011, seven-thousand loads, Blue Island Jct to 59th Street; and on Seg. C-023, eleven-thousand loads, Pine Jnt. to Barr Yard; and segment C-417, three-thousand loads, Blue Island Junction to Clearing; C-263, thirteen-thousand loads, Dolton to 75th Street; as well the attendant, yet undisclosed increases at the sub serving rail lines and rail yards such as the IHB rail yard at Blue island Illinois, and at Blue island Junction; requires the Board consider the cumulative impact on our communities of the cumulative increase in Hazardous material accident impacts and need for emergency planning, prevention and community education.

Without the mitigation of grade separation at western Ave and Broadway-135th there would likely be an increase in fatal accidents such that you should review the following disclosure included in the DEIS, "45 fewer accidents and save 1 life per year./ Illinois DEIS V. 5A, Table B-6."


Critique of criteria of significance for Haz-Mat rail accidents.

The criteria of significance, 'one accident expected every 100 years or less per mile of route', is arbitrary and capricious. It is reasonable and necessary to consider the greater impact of Haz-Mat accidents in urban areas vs. rural areas and also exacerbating pre-Acquisition conditions of contaminated air and possible industrial explosions adjacent the Tracks. Like consider in Blue island CSX has been moving explosives thru an Oil Refinery that stores 35,000 gallons of Hydrogen Fluoride, an extreme inhalation hazard chemical. An accident risk of 1 in a hundred that might be acceptable in a rural area is totally unacceptable for tracks just feet away from this refinery. Yet the SEA DEIS analysis of impacts of increase risk of Haz-Mat rail accidents and their arbitrary criteria of 1 accident per 100 years per mile of track ignores these reasonable factors that should be taken in consideration in determination of significance of Hazardous material accident risk increases.

The analysis of train delay in Blue Island considered exacerbating a pre-Acquisition condition and likewise the SEA should consider the exacerbation of existing Haz-Mat risks in Blue Island. The potential risk to our community from this acquisition is also significant because freight train accidents - in a chemical industrial corridor - present greater potential hazard.

We criticize the Preliminary Recommended Mitigation pg IL-85 59th Street Intermodal Construction. We ask SEA and the Board add a new bullet item - Development of an Emergency Response Plan. Plume mapping Worst Case analysis. Notification system. Escape plan, etc, for the Yard.

Thank-you for taking these comments.
Please respond to the issues we have raised as well.


Lionel P. Trepanier, personally and behalf the Blue Island Greens.
Secretary Blue island Greens, 708 396 - 1624
12601 Maple Blue island Illinois 60406

attention of the state agencies that have jurisdiction over highway/rail crossings. Where, as here, there are other governmental agencies responsible for representing the interests of the constituencies at issue, the Board can appropriately rely on those agencies to address any crossing safety or delay issues that the final EIS identifies. See Robertson, 490 U.S. at 352-53; C.E.Q. Notice, 46 Fed. Reg. 18026, 18031-32 (Mar. 23, 1983). Thus, it is entirely proper for the FEIS to recommend further consultation with appropriate state agencies. Once the relevant crossings are identified, the state agencies can review the individual circumstances at each crossing, recommend whether improvements are warranted, and work with the FHWA to install appropriate warning devices..

A. The DOT Accident and Severity Prediction Formula Should Not Be the Sole Basis for Requiring an Upgrade

The DEIS relies on the DOT Accident and Severity Prediction Formula to identify crossings that it believes should be upgraded. However, the formula's primary function is to rank and identify potentially dangerous crossings. Once potential sites are so identified, a state diagnostic team usually performs an in-depth on-site review to determine if an upgrade is warranted. It does not appear that this important on-site review was incorporated into the recommendations in the DEIS. Such a review would reveal that for some crossings, improvements already have been installed or that mitigation is otherwise not necessary. More importantly, by relying solely on the DOT formula for its recommendations, the DEIS does not take advantage of the lead role played by each state in deciding the appropriate warning device that should be placed at each crossing.

The DOT formula alone was not designed to result in a recommendation for a particular type of warning device. Ordinarily, the FHWA and FRA rely on the expertise of state highway

officials for this information. Indeed, the DOT User's Guide, which contains the DOT Formula used in the DEIS, acknowledges that "the judgment of state and local officials should all be considered before final improvement decisions are made." See Rail-Highway Crossing Resource Allocation Procedure - User's Guide, Third Edition, August 1987." The reason for state involvement is that the DOT formula does not incorporate crucial factors into its ranking such as: sight-distance, roadway geometrics, highway congestion, local topography, frequency of high-occupancy vehicles, and frequency of hazardous material transport vehicles. This information is obtained from on-site state diagnostic teams. Moreover, data that are applied to the DOT formula are obtained from FRA's crossing grade inventory and collision files, which are subject to keypunch and submission errors.

Not only did the DEIS fail to consider site-specific circumstances, but the DEIS has proposed the installation of certain devices, such as four-quadrant gates and median barriers, that are not approved either by the FRA or the FHWA's Manual of Uniform Traffic Control Devices ("MUTCD"). The MUTCD places responsibility for design, placement, operation, and maintenance of warning devices with the governmental body or official having jurisdiction. See MUTCD at 8A-1. In most states, warning devices at highway/rail crossing are required by statute to conform substantially to the MUTCD. Experimental devices such as four-quadrant gates and median barriers usually require specific permission from the state agency or toll facility responsible for the operation of the road where the experiment would take place.

Moreover, four-quadrant gates are best suited for roadway facilities more than 45 feet wide and median barriers are appropriate where there are no road or driveway connections within 70 to 100 feet of the crossing. Thus, even if such improvements were appropriate, without on-

site reviews it cannot be determined whether conditions exist that would allow installation of these measures.

The above points underscore that the appropriate recommendation for the FEIS would be for Applicants to consult with appropriate state officials under the established regulatory scheme. This would allow for consideration of all relevant facts and the installation of appropriate warning devices at all crossings.

B. The Established Regulatory Scheme Provides a Comprehensive Approach to Grade Crossing Safety

The DEIS's proposed mitigation measures, requiring the upgrading of certain crossings and the construction of grade separations at other crossings, interject the Board into an established and well-functioning federal-state regulatory regime. Although the DEIS properly identifies areas of concern, the final decisions on improvements should be left to the state agencies with the most knowledge and expertise in this area. Without such a give and take with FHWA, FRA, and the states, the Board would, in effect, be intruding on the funding and safety jurisdiction of its sister DOT agencies (FHWA and FRA), while also assuming a role reserved to the states of prioritizing and determining the appropriate warning device that should be installed at each crossing.

This is not a role that the Board should play. Nothing in NEPA suggests or requires that the Board, through its environmental-conditioning process, venture into areas where Congress has established a very sophisticated funding mechanism and assigned specific safety and funding roles to other federal agencies within DOT. It is perfectly acceptable for the Board to rely on these state and federal agencies to make crossing decisions.

1. The Established Federal Role

The FHWA, with assistance from the FRA, works with the respective state representatives to regulate safety and fund improvements at highway/rail crossings. These responsibilities began in 1970 with the passage of the Highway Safety Act (“HSA”) and the Federal Railroad Safety Act (“FRSA”). Section 205 (a) of the HSA called for “. . . a full and complete investigation and study of the problem of providing increased highway safety at public and private ground-level rail highway crossings. . . .” See Pub. L. 91-605, 84 Stat. 1714. Similarly, the FRSA directed the Secretary of Transportation to undertake “. . . a comprehensive study of the problem of eliminating and protecting railroad grade crossings and to provide recommendations for appropriate action.” See Pub. L. 91-458, 84 Stat. 971.

In response to Congress’s direction, the Department of Transportation (“DOT”) prepared a two-part study. Part I, which DOT submitted to Congress in 1971, addressed the crossing safety problem. In 1972, DOT submitted Part II of the study, which provided various recommendations, including a federal spending program to improve grade crossing safety.

One year later, Congress passed the Highway Safety Act of 1973. Pub. L. 93-87, 87 Stat. 250 (1973). As amended, the HSA governs the distribution of funds to states for the elimination of hazards at rail-highway grade crossings. To be eligible for funding, the Act requires the states to survey and analyze crossings and establish a schedule for improving those found to present the highest hazard levels.

The primary federal role in grade crossing improvements is one of funding. FHWA funds are apportioned to the states in the following manner: fifty (50) percent of the money is apportioned according to the ratio of the number of public crossings in each state to the total

number of public crossings in the entire country. 23 U.S.C. § 130(f). The remainder is apportioned on the basis of area, population and road mileage. See 23 U.S.C. §§ 104, 130. Federal funds may be used for improvements to any public highway/rail crossing, whether on or off the federal-aid highway system. 23 U.S.C. § 130.

When it was enacted, the federal funding statute, at Section 130(b), presented the Secretary of Transportation with the option of requiring the railroads to pay a small share (up to ten percent) of the costs of improvements that represented a “net benefit to the railroad.” When the Secretary promulgated implementing regulations for Section 130, however, these regulations explicitly recognized that the railroads derived no ascertainable benefit from grade crossing improvements:

(1) Projects for grade crossing improvements are deemed to be of no ascertainable net benefit to the railroads and there shall be no required railroad share of the costs.

23 C.F.R. § 646.210(b) (emphasis added). Indeed, these regulations reaffirmed existing policy at the ICC. In the early 1960's, the ICC authorized a comprehensive investigation of train/motor vehicle accidents at highway/rail crossings. The finding that resulted from the investigation was that:

highway users are the principal recipients of the benefits flowing from rail-highway grade separations and from special protection at rail-highway grade crossings. For this reason, the cost of installing and maintaining such separations and protective devices is a public responsibility and should be financed with public funds the same as highway traffic devices.

Interstate Commerce Commission Report No. 33440, Prevention of Rail-Highway Grade Crossing Accidents Involving Railway Trains and Motor Vehicles, 322 I.C.C. 1, 87 (Jan. 22, 1964).

Despite these well-established funding responsibilities, the DEIS can be read to suggest that CSX and NS should bear full responsibility for the costs of proposed mitigation at the crossings identified in Table 7-4. Simply because a crossing has been identified in a NEPA review of a railroad control transaction, however, does not mean that the established regulatory and funding system should be ignored. Requiring CSX and NS to bear the full costs of these improvements would be inconsistent with federal regulations and the spirit of the national grade crossing safety program.

2. The Role of the States

According to DOT, “[j]urisdiction over highway/rail grade crossings resides primarily with the States.” Department of Transportation “Railroad-Highway Grade Crossing Handbook” at 19 (FHWA-TS-86-215) (2d. Ed.) (1988). While the FHWA and FRA provide federal oversight, funding and guidance, in most instances, it is the states that are most familiar with the needs and dangers posed by a particular crossing. It is the states, therefore, that perform the on-site inspections and it is the states that are charged with protecting the health and welfare of its citizens. The federal government’s role is one of funding and approval of state determinations.

In the majority of the states, the overall authority for highway/rail crossing safety and consolidation lies with the state agency that oversees and regulates transportation. In a limited number of states, the responsibility for crossing safety and consolidation is vested in regulatory bodies with a broader scope, such as the Public Utilities Commission or the Public Service Commission. A few states apportion the responsibility among the state transportation agencies and other state agencies.

Regardless of the administrative structure, to qualify for federal funding, each State must “conduct and systematically maintain a survey of all highways to identify those railroad crossings that may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose.” 23 U.S.C. § 130(d). Pursuant to FHWA regulations, each state receiving federal aid also is required to develop a “highway improvement program” that establishes priorities to address highway hazards and provides guidance as to the evaluation and implementation of remedial measures. 23 C.F.R. § 924. In developing those priorities, the states are directed to consider and rank the dangers posed by grade crossings. 23 C.F.R. § 924.9(a)(4). Having developed this program, each state must evaluate its effectiveness and costs, § 924.13, and file yearly reports with the FHWA. 23 C.F.R. § 924.15.

Using the DOT’s Accident and Severity Prediction Formula, the FHWA calculates the accident risk at each crossing for all states based upon the characteristics of the grade crossing and statistical information on historic accident experience. The states, however, supplement this information with more recent data, (e.g., average daily traffic and accidents), and conduct site visits before deciding whether to upgrade highway/rail crossings. Under this approach, the individual needs of the local community can be considered along with any unique safety concerns for a particular crossing.

The DEIS recommends grade crossing mitigation in four states involving CSX lines: Indiana, Kentucky, Michigan and Ohio. As is discussed below, each of these states has developed an in-depth process for analyzing the type of warning devices that should be installed at highway/rail crossings. The states are in a unique position to assess the current status and



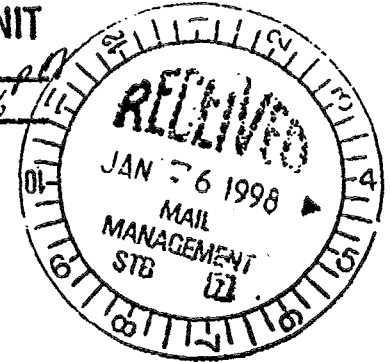
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INDIANA DEPARTMENT OF NATURAL RESOURCES

LARRY D. MACKLIN, DIRECTOR

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January 2, 1998

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

Dear Mr. Williams:

We have reviewed the Environmental Assessment for the proposed acquisition and control of Conrail at Willow Creek and Alexandria in Madison and Porter counties, Indiana [FINANCE DOCKET #33388]. This review has been conducted pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f) and implementing regulations found at 36 C.F.R. Part 800.

As long as 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. However, if any archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that work must stop and that the discovery must be reported to the Division of Historic Preservation and Archaeology within two (2) business days. Additionally, in the event that artifacts or features are discovered during the implementation of the federally assisted project, activity, or program and a plan has not been developed, it is the federal agency's responsibility to contact the Advisory Council on Historic Preservation in accordance with 36 C.F.R. Section 800.11(b)(2). Thank you for your cooperation.

Very truly yours,

for Larry D. Macklin
State Historic Preservation Officer

LDM:SLW:RSW:smg

"EQUAL OPPORTUNITY EMPLOYER"

A-185-d



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

Dear Ms. Kaiser:

The Cities of East Chicago, Indiana; Hammond, Indiana; Gary, Indiana; and Whiting, Indiana (collectively, the "Four City Consortium" or the "Four Cities") hereby request that the Board's Section of Environmental Analysis ("SEA") provide them with additional information concerning the train speed inputs used by SEA's environmental contractor in calculating vehicle delay times at certain at-grade rail/highway crossings in the Four Cities area that will be adversely impacted by the Applicants' operating plans after the Conrail control transaction is consummated. The vehicle delay times calculated by SEA's contractor are included in the Draft Environmental Impact Statement ("DEIS") in the above proceeding served on December 12, 1997.

The information requested is necessary to enable the Four City Consortium to provide meaningful comments with respect to the DEIS's analysis of the environmental impacts of the Conrail transaction on the Four Cities region. Such comments are due on February 2, 1998. The information requested may also be useful in facilitating a negotiated solution to the problems raised by the Four Cities, as suggested by SEA, which would avoid

Elaine K. Kaiser
January 12, 1998
Page 2

the necessity for asking the Board to impose environmental mitigating conditions.

On October 21, 1997, the Four City Consortium filed Comments and Requests for Conditions in this proceeding which described certain negative environmental impacts from the Applicants' proposed division of Conrail. The negative impacts result primarily from Applicants' plans to move more traffic over line segments containing numerous highway/rail grade crossings. The Four Cities' Comments propose an Alternative Routing Plan that was developed to mitigate these negative environmental and related impacts, while requiring only minimal adjustments to the Applicants' proposed operating plans.

In the DEIS, SEA recognizes the concerns raised by the Four City Consortium, and recommends that the Applicants consult with the Four Cities and other appropriate parties to address the potential traffic delay and safety concerns raised by the Four Cities with respect to certain rail/highway grade crossings. (DEIS, Volume 3A, Chapter 5 at page IN-85.) The Four Cities and the Applicants are in the process of attempting to negotiate a mutually-acceptable agreement for measures to address these problems (which may include aspects of the Alternative Routing Plan). The first meeting of the parties for this purpose took place last Friday, and further meetings will be held in the near future.

One of the principal issues in dispute between the Four Cities and the Applicants is the amount of delay time that is or would be incurred by vehicles at certain rail/highway grade crossings in the Four Cities region that are impacted by the Applicants' operating plans. Crossing delay times are influenced heavily by train length and speed, among other factors. In order to be able to comment intelligently on the DEIS and respond to the Applicants' contentions, it is critical for the Four Cities to know what train speeds and other assumptions were used by the SEA's environmental contractor in developing crossing delay estimates for these crossings.

The DEIS indicates that SEA has analyzed 15 at-grade rail/highway grade crossings in the Four Cities area for vehicle delay. (Id., Volume 3A, Chapter 5 at page IN-84.) The Four Cities' consultant has inquired informally of SEA's environmental contractor as to the inputs used to calculate delay times for these crossings, including the train speeds used. However, the contractor would not divulge the specific train speeds or other assumptions used in developing delay times for the 15 crossings studied.

Accordingly, the Four City Consortium requests that SEA furnish it with the following inputs and assumptions used by SEA's environmental contractor in calculating the crossing delay times for the 15 grade crossings studied:

1. A list of all grade crossings in the Four Cities that were evaluated.
2. For each crossing evaluated (please provide the data separately for pre-and post-acquisition):
 - a. The number of trains assumed to use the crossing daily.
 - b. The train lengths assumed.
 - c. The train speeds assumed and the manner in which those train speeds were determined (if actual speeds, the source of the information concerning such speeds; if not actual speeds the basis for the speeds (e.g., FRA data, railroad timetable) and any adjustments made to approximate more closely actual speeds.
 - d. Any assumptions as to train weight and power (drawbar horsepower).
 - e. Average Daily Vehicular Traffic.
 - f. The number of vehicle lanes in each direction.
 - g. The number of tracks at the crossing.
 - h. The warning devices at the crossing.

In order to be able to make meaningful use of this information both in the settlement discussions with the Applicants and in preparing comments on the DEIS, the Four Cities respectfully request that it be provided to their undersigned counsel at the earliest practicable date. If SEA is unable to provide all of the data requested in a timely manner, the most critical items of information needed by the Four Cities are the

Elaine K. Kaiser
January 12, 1998
Page 4

pre- and post-acquisition train lengths and train speeds used in
conducting the crossing delay studies.

Sincerely,



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

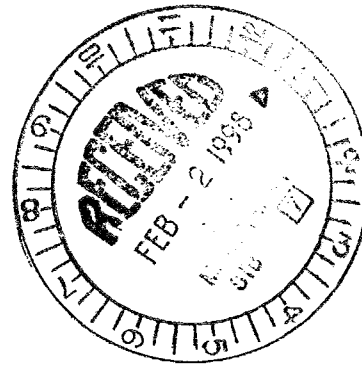
CAM:mfw

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

ENVIRONMENTAL DOCUMENT

TO: Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925K Street, N.W.
Washington, D.C. 20423-0001
January 26, 1998

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DOCUMENT # 2/2/98 3:48:18 PM



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

From: Mr. and Mrs. Frank Eads
511 W. Monroe St.
Princeton, IN 47670

Dear Secretary;

I am opposed to the Conrail Acquisition by CSX and Norfolk Southern of the Vincennes, Indiana to Evansville, Indiana (22.3/30.81) (CSX) rail segment.

A Toyota Factory is being built south of Princeton. They will manufacture the T100 pick up truck. They are to be manufactured by late 1998 and will be shipped by railroad through our town. Both CSX and Norfolk Southern move through our town on tracks that run parallel to each other. The Norfolk Southern crosses the CSX tracks at the south end of Princeton and results in our town being completely blocked for long periods. People are desperate to get to work, home, etc. and take chances by driving in front of the trains. See enclosed list of some of these accidents and deaths.

The additional problem of NUCLEAR WASTE being carried as a cargo on these trains adds to the Environmental Impact of Princeton. At the present time there are an estimated 50 trains by CSX and 19 trains by Norfolk Southern going through Princeton, When the production and shipping of the Toyota T100 truck begins we will have the required numbers to make an Impact Analysis due to Air Quality, Noise Threshold and Vehicular Traffic. See enclosed newspaper articles.

Sincerely,

Frankie Lu Eads
Frank A. Eads

DEATHS AT RAILROAD CROSSINGS

Name	Death Date	Where
Carrie Williams	April 23, 1993	W. Mulberry
James A. Mounts	Feb. 13, 1995	* Lyles Station
Joyce Knight Norrick	Feb. 18, 1995	* W. Mulberry
Unborn Baby	Feb. 18, 1995	* W. Mulberry
Larry A. Kissel	Oct. 11, 1995	* Lyles Station
Jason L. Geary	Nov. 5, 1995	* Ft. Branch, IN
Justin Cummins	Nov. 5, 1995	* Ft. Branch, IN
Yvette Eckert	Jan. 20, 1996	Spring St.
Millie Delgando	Jan. 20, 1996	Spring St.
George W. Hughes	Mar. 5, 1997	* Patoka, IN

* CSX Railroad

NO FATALITY WRECKS

Semi-Truck	Norfolk Southern
Oct 6, 1995	Haubstadt, IN
Gibson Co. Highway Truck	Norfolk Southern
Feb 16, 1966	Lyles Station, IN
Corey L. Cabell	CSX R.R.
Jan 31, 1997	Mulberry St.
Bryan Hill	CSX R.R.
Feb. 5, 1997	Mulberry St.
Robert Pinkston	CSX R.R.
Feb 27, 1996	Ft. Branch, IN

DEC-14 44

Safety's not an issue — it's the only issue

By SHIRLEY BLACKBURN
For The Daily Clarion

Safety isn't just one of the issues where rail crossing changes in Princeton are concerned. It's the only issue.

If the death of eight people, in less than a year, at county crossings without train-activated signaling is not enough motivation for further change, then one can only assume there will never be enough motivation for further change.

If the railroads, the appropriate governmental units, the city, the city's residents and all others involved in this issue do not work together to upgrade crossing safety, then the situation in this community will remain status quo--dangerous. And, if history is any guide, it will only be a matter of time before another motorist, who did not see the train and had no lights, gates or barricade to warn him of its pres-

A news analysis

ence, collides with that train at one of Princeton's crossings. Truth is, there may be close to 500 or more chances of that happening each and every single day here. There is presently no train-activated signaling at Clark, Monroe, Pinkney, Mulberry, Hart or Makenson Streets, all residential crossings just blocks apart on the south side of Princeton. Norfolk Southern confirms 19 scheduled and CSX estimates 50 scheduled trains daily through Princeton. This does not include "extras," which officials say could push the number of trains through this small community even higher than the almost 70 scheduled.

So, let's say 80 trains times six crossings without train-activated signaling. . . you do the math. Yes, we fought for and have lights and gates coming for

the Mulberry Street crossing and the Lyles Station Road crossing just north of town, but they will not be in place at least another year. Conditions have improved some at Lyles Station, with brush being removed and stop signs in place.

Yes, we have had a rail corridor review performed by the Indiana Department of Transportation (INDOT) and two subsequent hearings. The first, heavily promoted by the newspaper, was chaired by INDOT officials and poorly attended by the public. The second, also heavily promoted by the newspaper, was chaired by the city and well attended by the public. Objections to the planning commission's proposal to close some crossings in exchange for signalers ranged from 'only the railroads would benefit from any closures' to 'people killed at the crossings had their radios up and weren't paying attention' to 'what plans has the city made to handle traffic if closures are made.'

Continued on P.

Visit our on-line edition at www.pdclarion.com

Noise bothersome

To the officials of Princeton and to whom it may concern:

The problem: Train pollution, air and noise.

The south end of Princeton may be considered by some to be the slums of Princeton, but people are not garbage. We are real people with homes and families and try to take as good a care of our property as all other property owners in the city limits

We are people who vote and pay taxes just like all other property owners. We have always had our needs ignored, but now with everything going to Toyota, it's even worse.

Up until two years ago there was never a problem with trains. I repeat, never. Now, sometimes as many as five or six engines are left idling together for days at a time directly across the street from our homes. There is the constant smell of diesel exhaust (sometimes very bad). Constant vibration, our windows constantly rattle. The noise is

always there. Our walls are cracking, our foundations are setting deeper and deeper and our property values are becoming less and less.

Some of us have been to the mayor several times. We have tried to contact the trainmaster, but he's never there or doesn't want to be bothered.

When they switch the empty cars, we just ask that they be a little more gentle when they let the cars go. Sometimes in the early hours of the morning (five or six o'clock) it sounds like something has exploded. It rattles everything for several blocks.

In all this we did not say "take the yards out" or "move them away," nor were we ever hateful or mean. All we ask is that the engines be shut off when not being used, or to move them to the east of the water tower. Also, if they would bump the cars a little more gently, we would be less affected.

You can say "move," but we don't want to move any more than the rest of you would want to move from your area. Some of us have lived in the area more than 30 years and more. Do these same officials want us to be a constant hassle to them while they are at work or home, the answer is of course no! They sure do want our votes and for us to pay our taxes, but they will contact the right officials.

Nor will they insure the correct measures are being taken to keep the problem from recurring.

We are really going to have to consider the promises of our officials when we vote, as to whether or not they are working for the taxpayer-voter or for their own personal gain.

Nancy E. Bailey
Princeton

Another Gibson driver injured in train collision

Number of trains in county up

By MARK WILSON
Courier staff writer

PRINCETON, Ind. — A Princeton man injured at a train crossing Thursday became the latest of a growing number of car-train accident victims in Gibson County, despite safety efforts by police. Police said Corey Cabell, 20, Princeton, apparently attempted to

beat a train across an unmarked crossing on Mulberry Street at 6:12 p.m.

He was kept overnight at Gibson General Hospital and released Friday a hospital spokeswoman said. A passenger, Lamanda Peay, 18, of Newburgh, was taken to the hospital but not admitted, the spokeswoman said. No charges have been filed.

Gibson County Sheriff George Ballard attributes the accidents mostly to an increase in local train traffic, but also to human errors.

"We can make safer cars and safer highways, but guess what, accidents are still happening," he said. "There is a large number of crossings in Gibson County and a lot of drivers. Once in a while the two are going to meet."

Ballard said particularly bad spots in the county include the Fort Branch area and a crossing on Lyle Station Road just north of Princeton where two people died in 1996.

While the Lyle Station crossing is marked with a sign, the Mulberry Street crossing is not, Ballard said the Indiana Department of Transportation planned to install crossing gates last year at the Lyle Station crossing, but the work has not been done.

"The volume of trains in the area has increased a lot in the last three to four years," Ballard said. "Between Norfolk and Southern and CSX, I've heard there are about 50 trains going through Princeton in a 24-hour period now. Obviously, that number may increase as time goes by; what with Toyota and all."

In other business discussed at Monday's regular meeting: The board approved a six-week medical leave for Gibson County Sheriff's Department Capt. Rick Barr, after his existing sick days are exhausted. Members delayed appointment of an ad-hoc committee to study possible zoning laws for the county.

"I'm just here to get the dialogue going," he told commissioners. "I know that when you get into odd angles with Ind. 64, county roads which intersect at Delacroix also suggested altering the route of possibly three can work together."

Delacroix also suggested altering the route of possibly three can work together. "But once Toyota tells us what we need to know, then I hope we er road right now," he said. County Road 100 East or any other road right now," he said.

"I'm not here to request closing to assure traffic flow, he said. the guards and work with residents Norfolk Southern would pay for crossing to prevent long waits. He suggested commissioners consider closing the Ohio Street a crossing."

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Tuesday, September 17, 1996
Railroads looking for spur options
By ANDREA CULBRETH
Clarion Managing Editor



The City of Fort Wayne

Paul Helmke, Mayor

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

Attention: Elaine K. Kaiser
Environmental Project Director

Re: Conrail Acquisition Impacts on Fort Wayne, Indiana

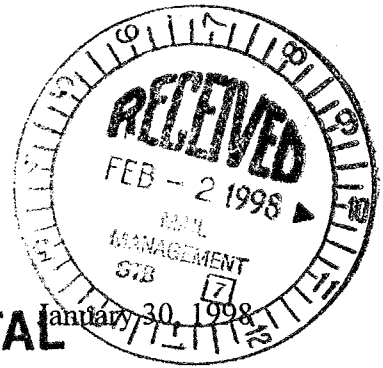
Dear Director:

Thank you for the opportunity to comment on the draft EIS prepared by your agency regarding the pending acquisition of Conrail by CSX and Norfolk Southern railroads. The City of Fort Wayne is supportive of the economic boost which the results of this merger will bring to this community.

At the same time, we are concerned that the residents of Fort Wayne and vicinity not bear undue burdens from this opportunity. After careful examination of the STB's identified impacts on the Fort Wayne area, and after consultation with my professional planning and engineering staffs, we have determined 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, even though the SEA has not found many of these issues to meet their thresholds of mitigation.

We strongly support the SEA's recommendation to improve crossing warning equipment at Anthony Blvd. and Engle Rd. We also support the Federal safety requirements which come with the creation of Major Key Routes through Fort Wayne. We support the training and simulations with our emergency preparedness teams to enhance their ability to mitigate hazardous material discharges, and the preparation of an emergency preparedness plan for such occurrences.

Our Hazardous Materials Emergency Team advises me that they will need some equipment upgrades involving computer and metering/testing equipment to handle the fivefold increase in rail cars containing hazardous materials coming through this densely populated area. This is expected to cost between \$5,000 and \$10,000. We would like this cost to be borne by the railroads.



ENVIRONMENTAL DOCUMENT

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Surface Transportation Board

January 30, 1998

Page 2

Rail noise is a concern in Fort Wayne, particularly from train horns in the near east and southwest neighborhoods bordering affected lines where there are grade crossings. The SEA impact statement notes that the Federal Rail Administration is mandated, under the Swift Rail Act of 1994, to develop "Whistle Ban" regulations. It is stated that the Notice of Proposed Rule-Making is expected to be published in the first half of 1998. We hope these rules will create opportunities to safely reduce train horn sounding at grade crossings like those found in Fort Wayne.

We further understand that supplementary safety features, including four-quadrant gates, could create the "secured" crossings needed before it would be considered safe to delete train horns at those intersections. This feature is already recommended by the SEA to improve safety at the Anthony Blvd. crossing. In order to help mitigate the 90% increase in train horns sounded in Fort Wayne from this acquisition, we request that "secured" crossings be created for the grade crossings near the residential areas bordering the affected lines in Fort Wayne. These include crossings at:

Lumbard Street
Wabash Avenue
Fletcher Avenue

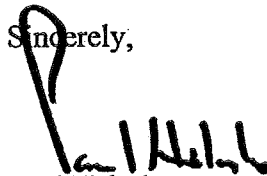
Winter Street
Brooklyn Avenue
Nuttman Avenue

We also encourage the development of loudspeaker "horn" technology at grade crossings to reduce the impact area of the train horns on nearby residences.

The residents most affected by noise are heavily minority and of low income at these locations, especially the first four, as noted in the SEA study. While we applaud the STB's efforts to inform these populations, mitigation will be more meaningful to the quality of life in these neighborhoods.

I hope that the SEA will seriously consider including these mitigations in their final draft impact statement to the Surface Transportation Board. This acquisition represents great economic opportunity for many. We hope that opportunity comes at a fair price.

Sincerely,



Paul Helmke
Mayor

PH/tc



LAFAYETTE
RAILROAD
RELOCATION

Reifers Center, Suite No. 2
839 Main Street
Lafayette, Indiana
47901-1461
765-476-8438 • 765-742-8438
Fax: 765-742-8798

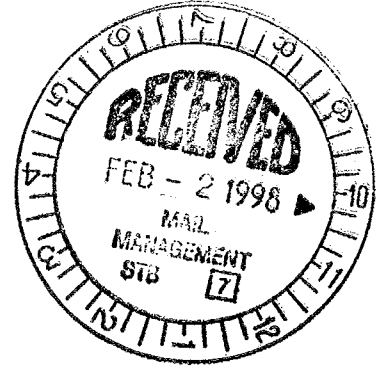
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January 30, 1998

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

Attn: Elaine K. Kaiser
Environmental Project Director
Environmental Filing



**ENVIRONMENTAL
DOCUMENT**

Dear Ms. Kaiser:

Thank you for your letter and for the copy of the "*Proposed Conrail Acquisition*"
Draft Environmental Impact Statement.

The City of Lafayette, Indiana, supports the proposed Conrail acquisition by
Norfolk Southern and CSX Transportation.

As the EIS points out, the City has been working cooperatively with these
railroads, along with federal and state government, for over twenty-five years to
implement the Lafayette Railroad Relocation Project (see attached brochure).
CSX has been relocated and 18 at-grade crossings eliminated. The City's request
for federal funds for the last contract is pending with Congress. The last contract
will relocate Norfolk Southern and eliminate the final 24 at-grade crossings
bringing the project total to 42 (see attached status summary).

The final 24 crossings are the Norfolk Southern ones mentioned in the EIS and
are the most dangerous. The community will be devastated if the acquisition
goes through and the final federal funding for Railroad Relocation does not.

The mitigation you are counting on for the City of Lafayette, Indiana, depends
on a decision that we hope will be forthcoming from Congress, but is not yet
certain. Your communication of the importance of this final Railroad Relocation
funding to the appropriate subcommittees of Congress would be appreciated.

Sincerely,

Dave Heath, Mayor
City of Lafayette, Indiana

Attachments

A-188-c

Printed on Recycled Paper



Continued

page 2

To: Surface Transportation Board

From: Mayor Dave Heath, Lafayette, Indiana, 1/30/98

cc with attachments:

The Honorable Kay Granger, Vice Chairwoman
Subcommittee on Railroads
Committee on Transportation and Infrastructure
U. S. House of Representatives
B-376 Rayburn Building
Washington, D.C. 20515

The Honorable Thomas E. Petri, Chairman
Subcommittee on Surface Transportation
Committee on Transportation and Infrastructure
U. S. House of Representatives
B-370A Rayburn Building
Washington, D.C. 20515

The Honorable John W. Warner, Chairman
Subcommittee on Transportation and Infrastructure
Committee on Environment and Public Works
U. S. Senate
410 Dirksen Building
Washington, D. C. 20510

The Honorable Edward A. Pease
U. S. House of Representatives
226 Cannon Building
Washington, D. C. 20515

The Honorable Richard G. Lugar
U. S. Senate
306 Hart Building
Washington, D.C. 20510

The Honorable Dan Coats
U. S. Senate
404 Russell Building
Washington, D.C. 20510



LAFAYETTE RAILROAD RELOCATION

LAFAYETTE RAILROAD RELOCATION

Reifers Center, Suite No. 2
839 Main Street
Lafayette, Indiana
47901-1461
765-476-8438 • 765-742-8438
Fax: 765-742-8798

....is a unique transportation infrastructure project begun in the 1970's to consolidate four rail lines of two railroads into a new conflict-free corridor eliminating 42 at-grade crossings.

CONSTRUCTION STATUS BY SEGMENT

- #1 Completed 1987: Wabash Avenue Underpass
- #2 Completed 1992: State Road 26 Bridges over Wabash River
- #3 Completed 1993: Ninth Street Underpass
- #4 Completed 1994: CSX Relocation; 1995: Fifth Street; 1996: Depot Plaza

18 grade crossings eliminated!

#5 Norfolk Southern Relocation

Completed 1996: Bridges over Wabash Avenue and Ninth Street

- 1996-'98: Embankment & Bridge over US 52
- 1997-'98: Bridge over SR25
- 1999-'00: NS Relocation – *with additional federal funds*

24 grade crossings eliminated in final contract will bring total to 42!

FUNDING

Federal

- Federal Aid Highway Act of 1973 (Sec. 163) as amended
- Surface Transportation Act of 1987 (Sec. 149), Rail Safety, Minimum Allocation
- ISTEA '91, Sec. 1037, Transportation Enhancements, Minimum Allocation

State

- 12 grants from two different administrations of differing political parties

Local

- City of Lafayette, unanimous bi-partisan approval of bonding and financial program to provide non-federal share to complete project

Funding is 84% complete, but 2/3 of the benefits come from the final contract.

NATIONAL RECOGNITION

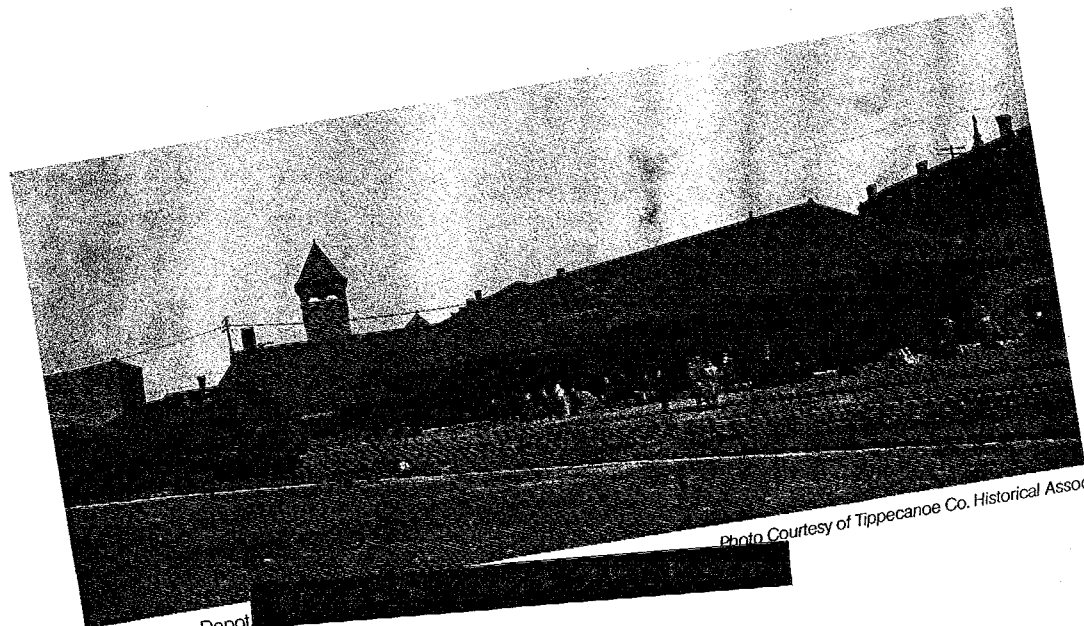
The Project has been frequently cited for its extensive public participation process, high quality of design, and near unanimous public consensus, specifically.....

- All-America City Award, 1995
- Federal Highway Administration Environmental Excellence Award, 1995
- USDOT National Transportation Award for Design Excellence, 1981
- Numerous state and local awards

1/26/1998

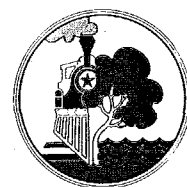
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Old Big Four Depot

Photo Courtesy of Tippecanoe Co. Historical Assoc.



*LAFAYETTE
RAILROAD
RELOCATION*

March 1993

The Lafayette Railroad Relocation Project . . .

Vitally Necessary to Growth and Development

Studies determined that 30-40 trains delay approximately 13,000 vehicles per day including ambulances, police, fire and 10 of 16 community bus routes. Tracks tri-sect the city and run for 14 blocks down the center of a major downtown street.

All 42 Crossings Eliminated

The project will consolidate 4.2 miles of NS double track, 1.26 miles of NS single track, and 2.6 miles of CSX single track into one conflict-free corridor through the city. Carefully studied alternatives were found to be ineffective or harmful to the area's transportation network. Do-nothing costs are high and perpetual.

Highway Trust Fund Provides Most of the Federal Share.

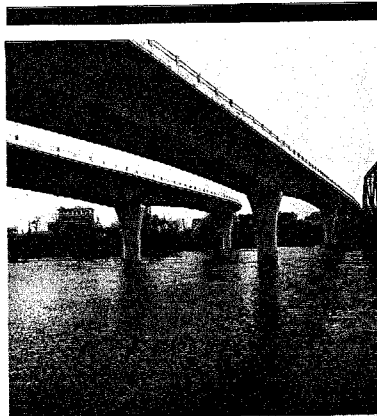
Gasoline tax money makes deficit impact minimal.



...will prevent crossing accidents.

Lafayette Railroad
Relocation Office
Reifers Center #2
839 Main Street
Lafayette, IN 47901-1461
765-476-8438
765-742-8438

Dave Heath, Mayor
Elizabeth A. Solberg
Project Manager
John P. Moisan-Thomas
Assistant Project Manager
Ramona M. Lawson
Assistant Project Manager
Glenda M. Vanaman
Contracts Coordinator
Patricia F. Payne
Accounts Supervisor
Katherine D. McMillin
Special Projects Coordinator



State Road 26 Bridges (Completed 1992)

National Design Award

Lafayette received one of only 17 awards of design excellence selected from 250 entries in the 1981 National Transportation Design Awards Program, co-sponsored by the U.S. Dept. of Transportation and the National Endowment for the Arts. Lafayette was the only railroad relocation project recognized.

Railroad Cooperation

From Norfolk Southern, CSX, and Amtrack

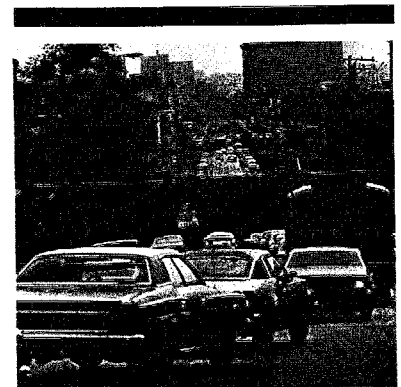


...will remove trains from 14 blocks of 5th St.

Strong Public Support

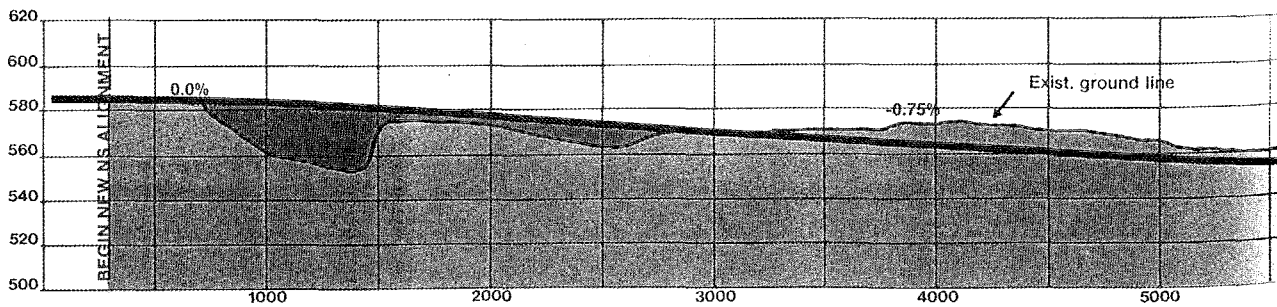
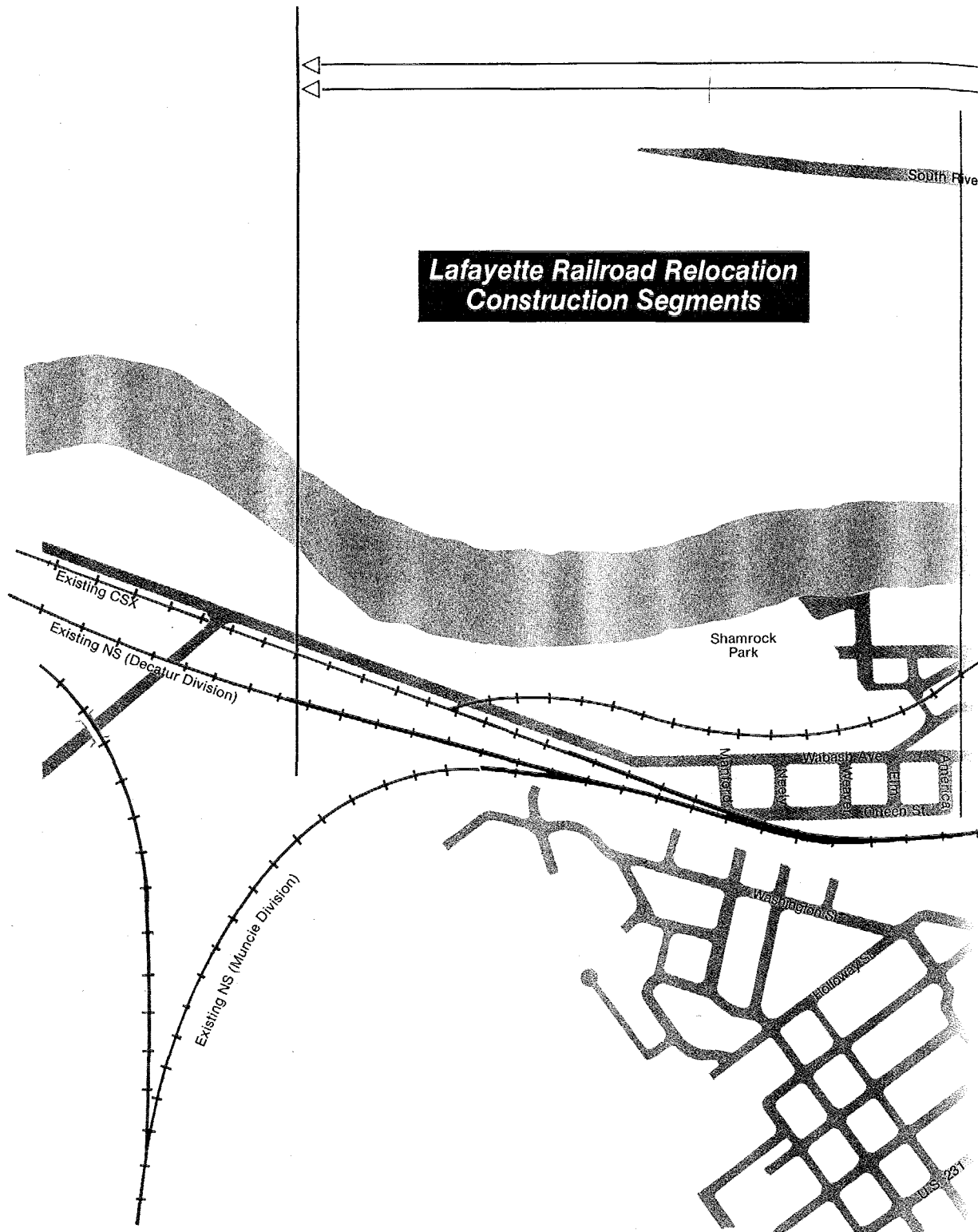
No opposition and many positive comments were expressed at the well attended Design Public Hearing. Thousands of individual and group contacts insured citizen input and responsive plan development in each of these phases:

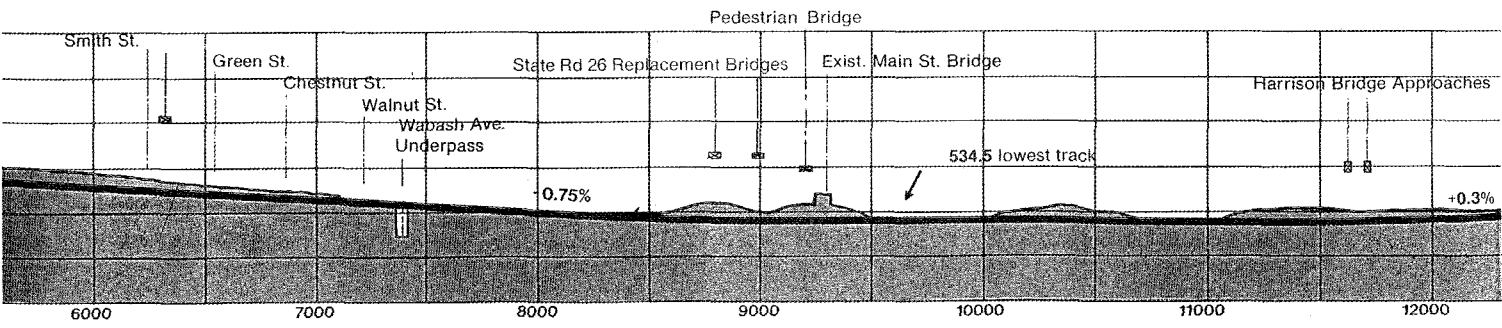
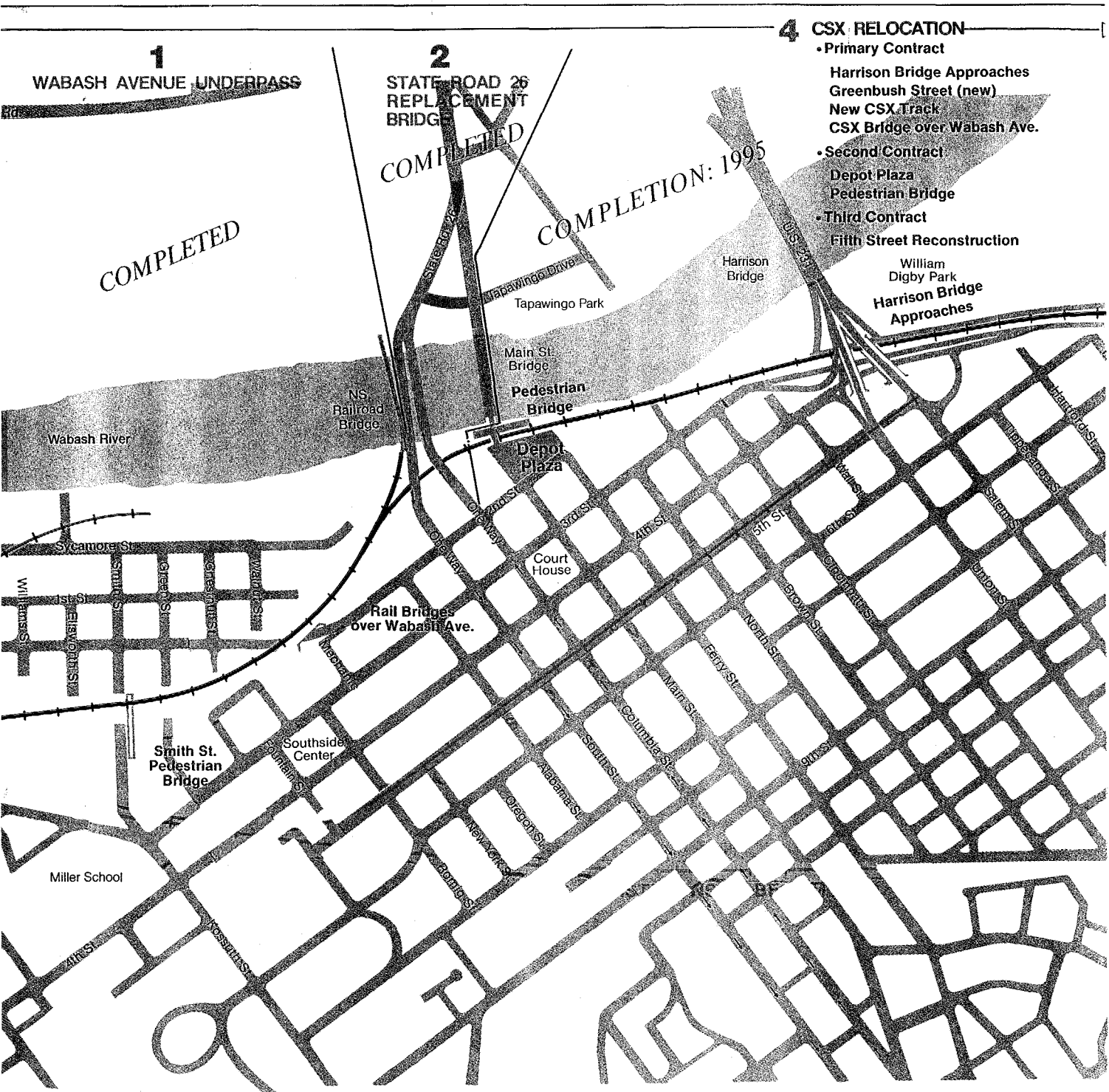
- 1969—Initial Studies
- 1979—Environmental Impact Approval
- 1981—Design Approval
- 1984—Final Design
- 1986—Construction Begins
- 1987—Segment #1 Completed (Wabash Avenue Underpass)
- 1992—Segment #2 Completed (State Road 26 Replacement Bridge)
- 1992—Segment #4 Primary Contract Construction Begins (CFX Relocation)
- 1993—Segment #3 Completed (Ninth Street Underpass)
- 1994—Segment #4 Second Contract Construction Begins (Depot Plaza)
- 1994—Segment #4 Third Contract Construction Begins (Fifth St. Reconstruction)
- 1995—Segment #5 Construction Begins (projected) (Norfolk Southern Relocation)
- 1998—Total Project Completion (projected)

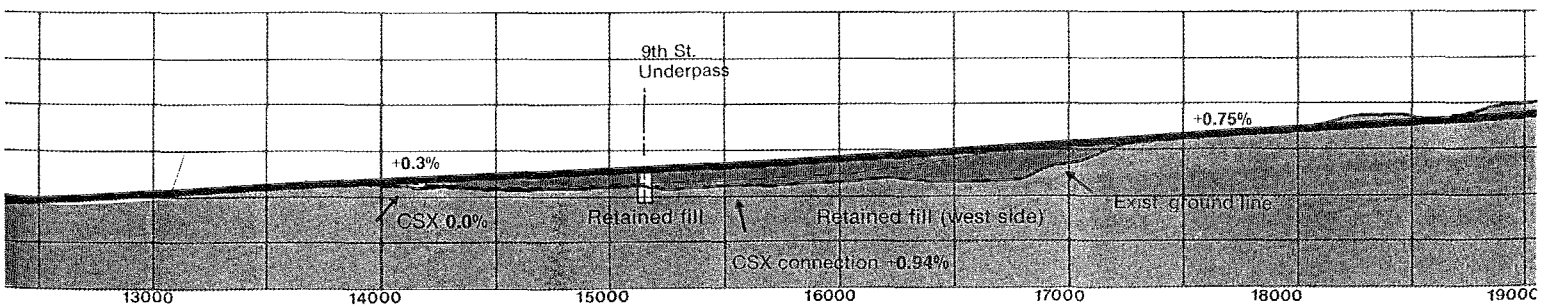
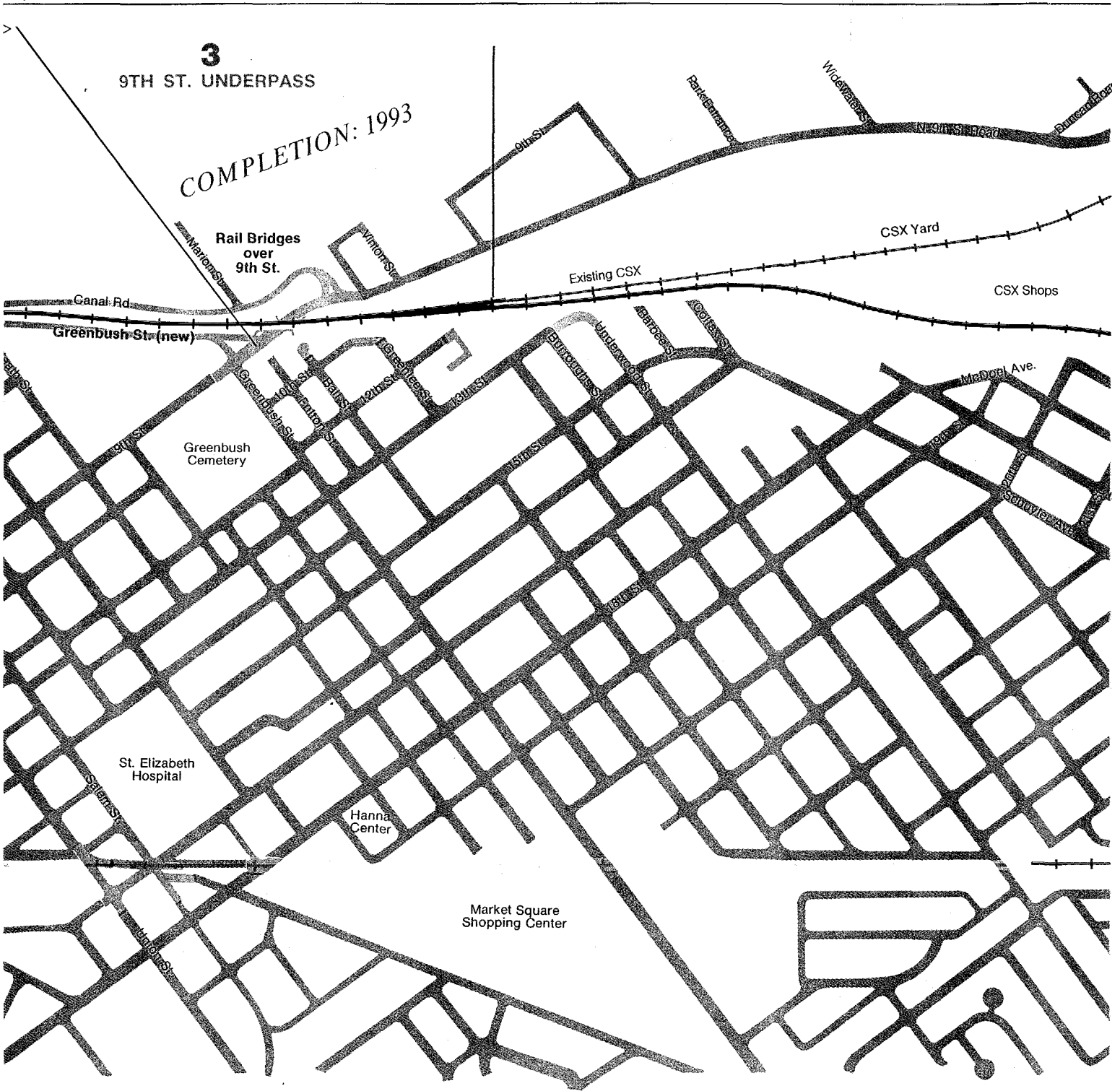


...will eliminate congestion and delays.

Lafayette Railroad Relocation Construction Segments

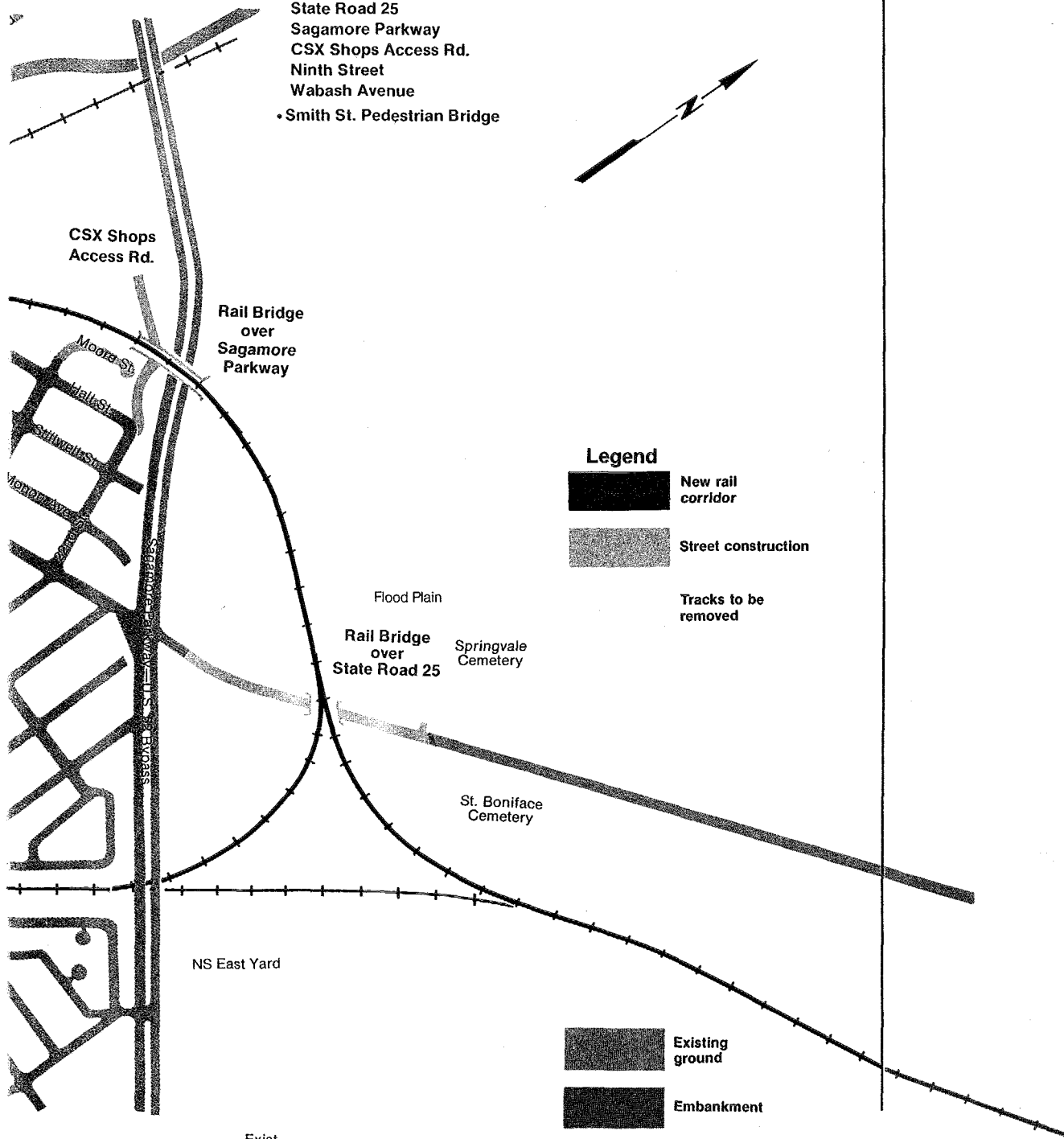
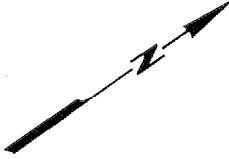






5 NORFOLK SOUTHERN RELOCATION

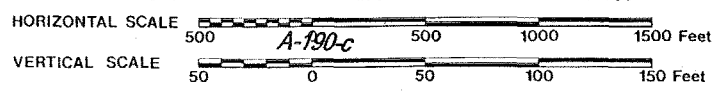
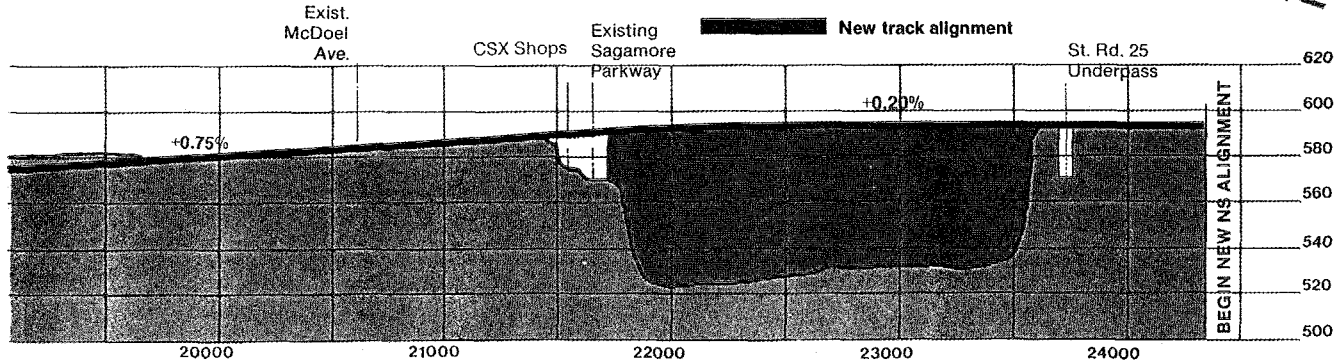
- Track Work
- Rail Bridges Over:
 - State Road 25
 - Sagamore Parkway
 - CSX Shops Access Rd.
 - Ninth Street
 - Wabash Avenue
- Smith St. Pedestrian Bridge



Legend

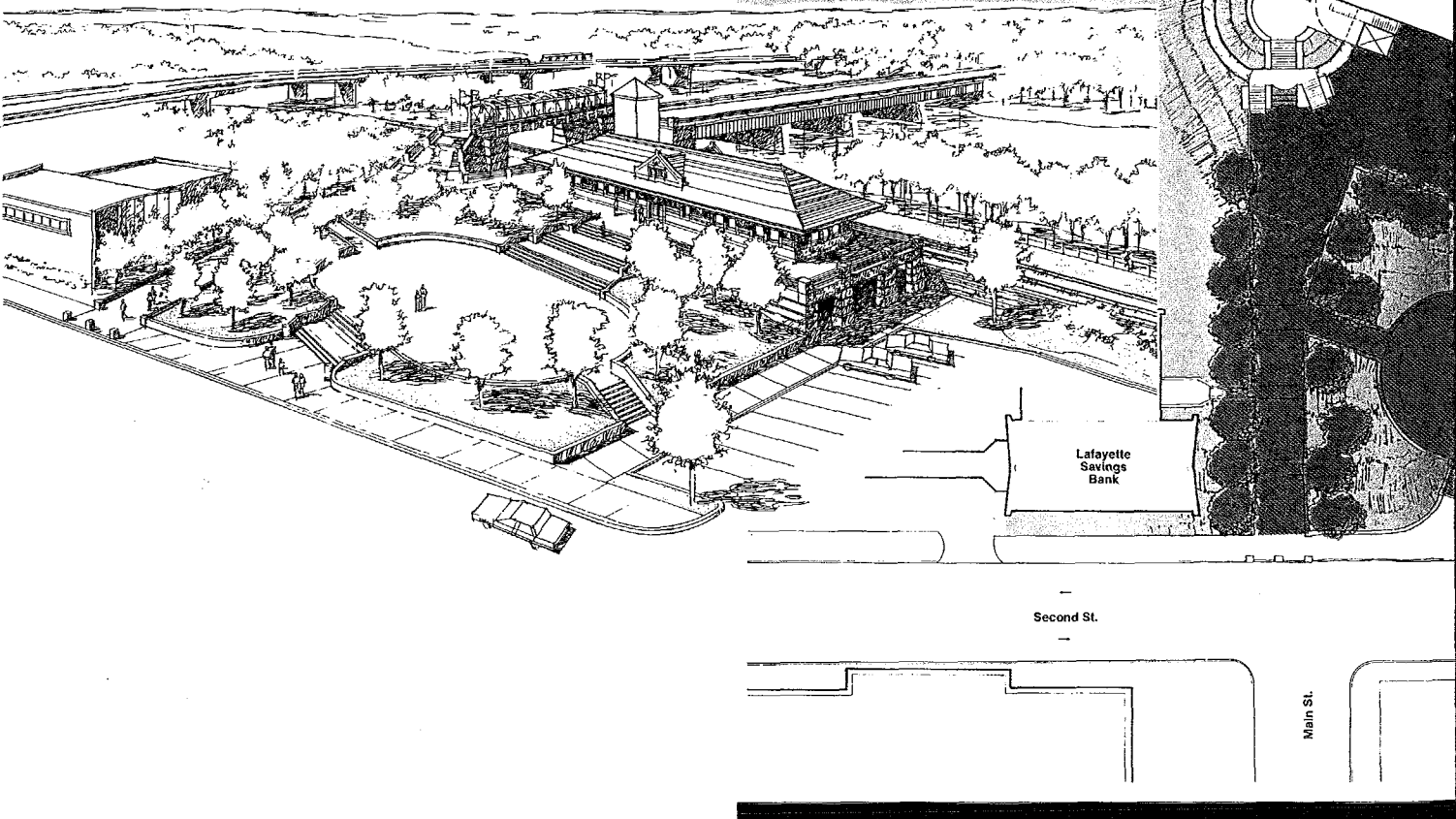
- New rail corridor
- Street construction
- Tracks to be removed

- Existing ground
- Embankment
- New track alignment



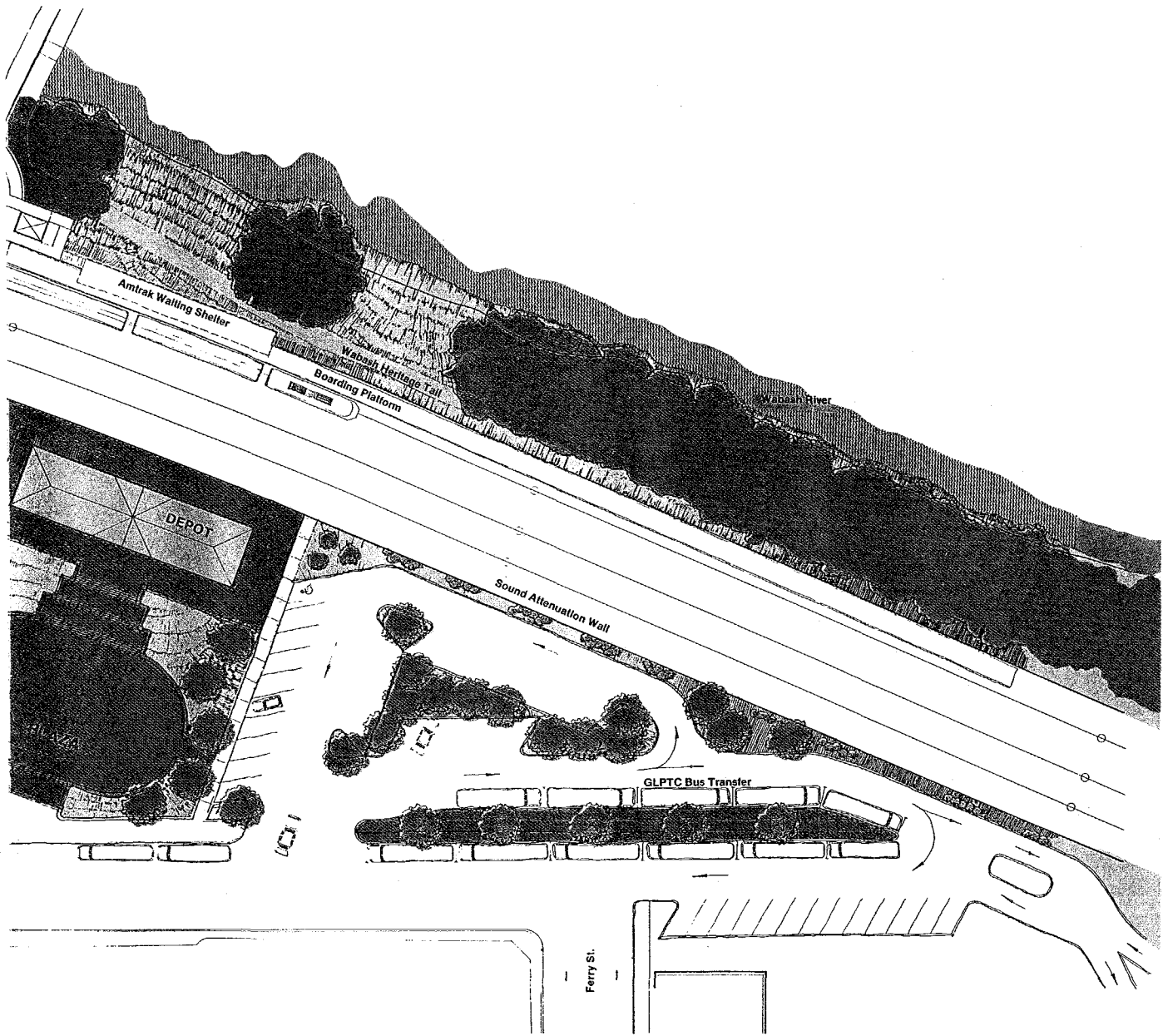
COMPLETED

Proposed Depot Plaza



The Depot Plaza is being developed as part of Segment #4 of the Lafayette Railroad Relocation Project to resolve many issues raised by relocating the tracks to the Downtown Business District.

The Big Four Depot will be moved to Second Street at Main and will provide mixed-use occupancy for Amtrak, Lafayette Public Transportation Corporation, and other possible future tenants. Amtrak trains will run on the most westerly railroad track in the new rail corridor.



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When Depot Plaza construction has been completed, Amtrak passengers will cross above the new rail corridor on an elevated pedestrian bridge which will provide access to the Amtrak waiting shelter on the west side of the rail corridor. The Main Street Bridge urban park, Heritage Trail, and Wabash River will also be accessible from the east via the pedestrian bridge. Elevators will be located on both ends of the pedestrian bridge to provide full accessibility to all levels.

Other features of the Plaza include a brick-paved gathering place and public open space, a fountain, landscaped green space, and a textured concrete wall on the east side of the corridor to provide visual and sound screening from the trains. City buses will load and unload passengers for all routes each half hour just north of the Plaza area, allowing the Plaza to function as an intermodal transportation facility.

The Depot Plaza is essential to the functional success of Lafayette's railroad relocation design, but it will also provide an attractive focal point for the project and for the central city revitalization efforts so important to the community.

CREDITS
Design/Lacy Design
Typesetting/O Graphics
Printing/Benham Press
Illustration/HNTB

CITY of NEW HAVEN

City Administration Building
1235 Lincoln Highway East
P.O. Box 570



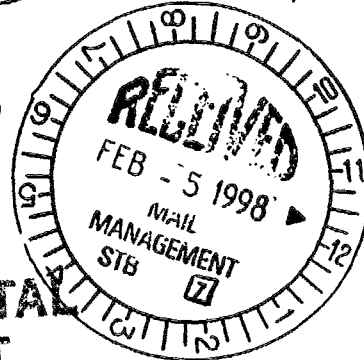
NEW HAVEN, INDIANA 46774

February 2, 1998

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/5/98

DOCUMENT # 2/5/98 4:06:26PM



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

**ENVIRONMENTAL
DOCUMENT**

RE: Conrail Acquisition Impacts on New Haven, Indiana

Dear Director:

Thank you for the opportunity to comment on the draft EIS prepared by your agency regarding the pending acquisition of Conrail by CSX and Norfolk Southern Railroads. The City of New Haven is supportive of the economic boost which the results of this merger will bring to this community.

At the same time, we are concerned that the residents of New Haven and vicinity not bear undue burdens from this opportunity. After careful examination of the STB's identified impacts on the New Haven area, and after consultation with my professional engineering staff, we have determined that the impacts on this community, particularly in the areas of safety, disruption of surface roads, noise and hazardous materials transport, deserve additional consideration by the STB, even though the SEA has not found many of these issues to meet their thresholds of mitigation.

Rail noise is a concern in New Haven, particularly from train horns in the neighborhoods bordering affected lines where there are grade crossings. The SEA impact statement notes that federal rail administration is mandated, under the Swift Rail Act of 1994, to develop "Whistle Ban Regulations". It is stated that the notice of proposed rule-making is expected to be published in the first half of 1998. We hope these rules will create opportunities to safely reduce train horn sounding at grade crossings like those found in New Haven.

"Equal Opportunity Employer"

Ms. Elaine K. Kaiser
February 2, 1998
Page Two

We further understand that supplementary safety features, including "four quadrant gates", could create this "secured" crossings needed before it would be considered safe to delete train horns at those intersections. In order to help mitigate the 90% increase in train horns sounded in New Haven from this acquisition, we request that "secured" crossing be created for the grade crossings near the residential areas bordering the affected lines in New Haven. These include crossings at:

West Street	Estella Avenue
Rose Avenue	Hartzell Road
Landin Road	Main Street
North Rufus Street	

In the past four years, the City of New Haven has experienced two serious accidents involving trains and automobiles, of which I have included a copy of the officer's standard crash reports for your review. The engineering staff feels that the installation of "secured" crossings would have eliminated the accident at North Rufus Street because at the time of the accident and presently, the only safety equipment in place are cross bucks at the crossing and advanced warning signs.

We also encourage the development of loud speaker "horn" technology at grade crossings to reduce the impact area of the train horns on nearby residents.

I hope that the SEA will seriously consider including these mitigations in their final draft impact statement to the Surface Transportation Board. This acquisition represents great economic opportunity for many. We hope that opportunity comes at a fair price.

Sincerely,



Lynn H. Shaw
Mayor
City of New Haven

LHS:das
Enclosures: As noted above
cc: Keith Schlegel
File

kaiser.wpd



INDIANA OFFICER'S STANDARD CRASH REPORT

State Form 23558(R3/7-91) Six 2
Mail to: Indiana State Police, Crash Records Section
100 North Senate Avenue, Indianapolis, IN 46204

OFFICE USE ONLY	
Crash ID No	

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- 937. V2
- 938. V1 1
- 939. V2
- 940. V1

Diagram



Indicate NORTH by an arrow

SEE ATTACHED REPORT

NARRATIVE (Refer to Vehicle by Number)

UPON ARRIVAL AT SCENE, I FOUND V1 LODGED UNDER FREIGHT TRAIN CAR. DRIVER AND FRONT SEAT PASSENGER WERE BOTH TRAPPED INSIDE DRIVER'S COMPARTMENT AND DECEASED. BOTH REAR SEAT PASSENGERS WERE LYING ON ROADWAY BEHIND V1, HAVING BEEN REMOVED FROM VEH. BY PASSERBY. BOTH WERE TRANSPORTED TO HOSPITAL IN CRITICAL CONDITION.

WITNESSES HEARD COLLISION BUT DID NOT HEAR THE SQUEALING OR BRAKING TIRES.

UPON ARRIVAL, P/R CROSSING LIGHTS WERE ACTIVATED AND APPARENTLY WORKING PROPERLY.

TRAIN CONDUCTOR ADVISED THE TRAIN WAS STATIONARY AT TIME OF COLLISION.

D1 Insured By

D2 Insured By

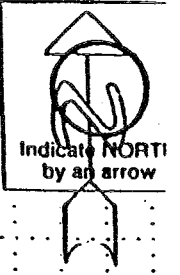
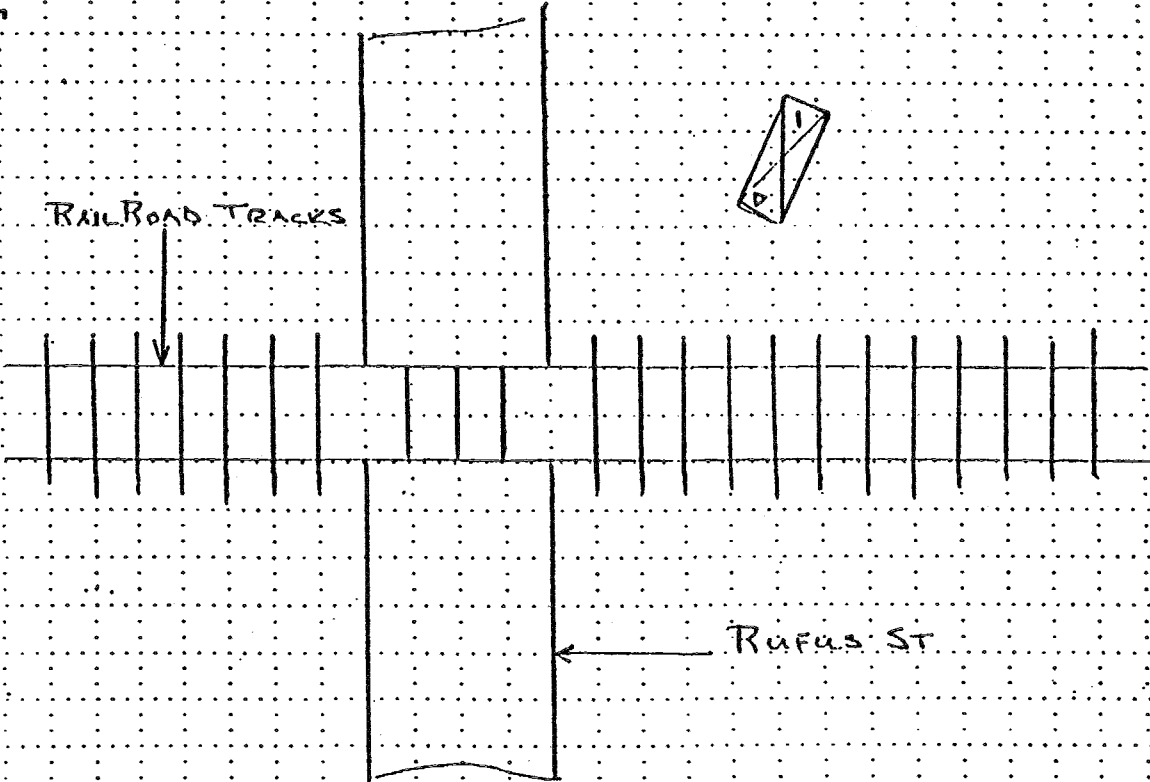
Other Participant(s) Name, Address (etc.)

Name of Witness No. 1	BECCA A. MILLER	Address	812 FLORENCE AVE., FT. WAYNE	Location at Time of Crash	3/8 NO TRACKS
Name of Witness No. 2	JOSEPH HEATON	Address	2516 WHITE OAK AVE., FT. WAYNE	Location at Time of Crash	PULLED UP ON ACCIDENT
Name of Person Arrested		IC Code(s)		Name of Person Arrested	IC Number

INVESTIGATION	Time Notified	9:57	AM/PM	PM	Time Arrived	9:59	AM/PM	PM	Other Location	NEW HAVEN P.D. ADD	Investigation Complete	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Photos Taken	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Assisting Officer	OFF. T. HOOVER		I.D. No.	92	Agency	ALLEN COUNTY POLICE DEPT.		Date of Report	9-21-97	Driver Report Form Submitted	<input type="checkbox"/> DT <input checked="" type="checkbox"/> DT		
	Assisting Officer	OFF. D. ULRICH		I.D. No.	9	Agency	NEW HAVEN POLICE DEPT.							
	Investigating Officer's Signature	<i>[Signature]</i>		I.D. No.	75	Agency	NEW HAVEN POLICE DEPT.							

S.A. KUMMER

Diagram



NARRATIVE (Refer to Vehicle by Number)

VEHICLE #1 WAS NORTHBOUND ON RUFUS ST AND FAILED TO YIELD TO A EASTBOUND TRAIN. VEHICLE #1 WAS STRUCK BY THE TRAIN, PUSHED OFF THE ROAD, FLIPPED OVER ON ITS TOP AND CAME TO REST IN THE NORTHEAST DITCH.

** THE SPACE FOR DRIVER #2 WAS USED TO LIST THE ENGINEER'S INFORMATION

D1 Insured By AMERICAN NATIONAL				D2 Insured By				
Other Participant(s) Name, Address (etc) SULOWSKI, WALTER 6016 PINE ST, TAYLOR, MI (TRAIN CONDUCTOR)								
Name of Witness No 1 SCHMITTE, DAVE				Address 5003 GREEN ROAD, NEW HAVEN		Location at Time of Crash BEHIND VEH #1		
Name of Witness No 2				Address		Location at Time of Crash		
Name of Person Arrested				IC Code(s)		Name of Person Arrested		
Name of Person Arrested				IC Code(s)		Name of Person Arrested		
INVESTIGATION	Time Notified	AM	Time Arrived	AM	Other Location of Investigation		Investigation Complete	Photos Taken
	2:14	<input checked="" type="checkbox"/> PM	2:22	<input checked="" type="checkbox"/> PM	PARKVIEW HOSPITAL		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Assisting Officer				ID No	Agency		Date of Report
	LT H. BAATZ				811-2	NEW HAVEN POLICE DEPT		3-9-94
	Assisting Officer				ID No	Agency		Driver Report Form Furnished
D KUNKEL				811-7	NEW HAVEN POLICE DEPT			
Investigating Officer's Signature				ID No	Agency			
				811-2	NEW HAVEN POLICE DEPT			

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L.L.P.

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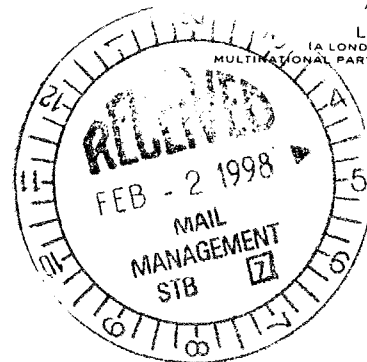
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February 2, 1998

LOS ANGELES
NEWARK
PITTSBURGH
PORTLAND, OR
SALT LAKE CITY
SAN FRANCISCO
BRUSSELS
MOSCOW
ALMATY
LONDON
(A LONDON-BASED
MULTINATIONAL PARTNERSHIP)



VIA HAND DELIVERY

Mr. Vernon A. Williams, Secretary
Office of the Secretary
Case Control Unit
Surface Transportation Board
1925 K Street, N.W., Seventh Floor
Washington, DC 20423-0001

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

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


Dear Secretary Williams:

Enclosed are the originals and 10 copies each of the highly confidential and public versions of the "Comments of Indianapolis Power & Light Company on Draft Environmental Impact Statement" (IP&L-10) for filing in the above-referenced proceeding. The highly confidential pleading is being filed under seal in accordance with the Protective Order. Also enclosed is a 3.5" diskette containing the documentation in WordPerfect format.

Mr. Vernon A. Williams
February 2, 1998
Page 2

Please date stamp and return the enclosed three additional copies of each pleading via our messenger.

Very truly yours,



Michael F. McBride
Brenda Durham

Attorneys for Indianapolis Power &
Light Company

Enclosures

PUBLIC VERSION

IP&L-10

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388

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

**COMMENTS OF INDIANAPOLIS POWER & LIGHT COMPANY
ON DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Indianapolis Power & Light Company ("IPL") is pleased to submit these comments on the draft Environmental Impact Statement ("DEIS") prepared by the Board's Environmental Section and its outside consultants and served on December 12, 1997. IPL's comments specifically concern Indianapolis, but also respond to a serious flaw in the analysis that IPL first pointed out in its August 6, 1997 comments on the scope of the DEIS (see Attachment 1). The DEIS does not specifically refer to those August 6, 1997 comments. Those comments took the position, which IPL believes to be irrefutable, that the Board cannot rely on an arbitrary threshold to avoid considering air quality (or other) environmental impacts if the impacts would or could constitute a violation of law. Here, the Board would commit reversible error if it were not to consider any adverse impact on air quality in an area such as Indianapolis that may be in violation of the Clean Air Act because of increased emissions caused by the proposed transaction as recommended in IPL's August 6, 1997 letter.

The serious flaw in the DEIS is that it sets thresholds for analysis of air quality impacts of the proposed transaction, below which it deems the impacts not worthy of consideration. On that basis, it concludes that there will not be an air quality impact of the transaction on Indianapolis. While IPL understands the temptation to set thresholds under NEPA, the use of such thresholds here would allow the Board to ignore clear violations of the Clean Air Act, as is the case in Indianapolis, as well as unnecessary inefficiencies that the transaction creates that would cause unnecessary air pollution. Indianapolis now has in place a "Nozone" program because it has been in violation of the National Ambient Air Quality Standard for ozone in the past, but it has barely achieved compliance with the ozone standards under the Clean Air Act. Despite its progress, Indianapolis is likely to again be in violation of the applicable ozone ambient air quality standard on certain days, particularly during warm periods. See Attachment 2 and 59 Fed. Reg. 54,395 (October 31, 1994). Increased emissions of diesel fumes from NS's and CSX's locomotives would therefore necessarily cause additional violations, thus requiring mitigation by the City of Indianapolis, Marion County, and the State of Indiana. If NS and CSX are proposing unnecessary inefficiencies that can be corrected, the Board has an obligation to make those corrections to avoid violations of the ozone NAAQS in Indianapolis.

Applicants are caught in a trap of their own making. CSX and NS agreed, between the two of them and without governmental direction, to divide Conrail in a manner that would result in CSX acquiring the Conrail line from Cleveland to St. Louis. As a result, Indianapolis would be by far the largest "2 to 1" region affected by the proposed transaction. Thus, while today Indianapolis is a "2-railroad town," if the transaction proposed by Applicants is approved without change, Indianapolis will become essentially captive to CSX. Even NS

Witness Mohan admitted that NS will not have much of a presence in Indianapolis. See CSX/NS-20, Application Vol. 3 p. 28 (“Although Indianapolis will be primarily served by CSX. . .”).

In order to keep NS from being more competitive with CSX in Indianapolis, what CSX apparently insisted on and NS ultimately accepted in Indianapolis was that NS would acquire only overhead trackage rights (except for rights to directly serve one shipper, a General Motors plant), which would necessitate all other NS traffic to use only the Hawthorne Yard in the southeast part of Indianapolis. That may well make sense for non-trainload traffic, which by definition makes use of such yards for blocking, switching, and rearranging cars, but it makes no sense for unit trains of coal to IPL’s two powerplants located in Indianapolis, the Stout and Perry K Plants. Clearly, the most efficient arrangement for handling of IPL’s coal unit trains would be to take them directly into and out of IPL’s powerplants in Indianapolis. (IPL has an interest in the efficient handling of the cars since it owns the cars that are used to take coal to the Perry K and Stout Plants.) CSX and NS have not proposed to do that in their Application (CSX/NS-18, et al., filed June 23, 1997), but Indiana Southern Railroad, Inc. (“Indiana Southern”) has made precisely that proposal for its trains in its Responsive Application in Finance Docket No. 33388 (Sub-No. 76). If Indiana Southern and Norfolk Southern are granted direct access through trackage rights to IPL’s Stout and Perry K Plants for coal shipments in which they participate, that would solve the problem. (A schematic illustrating Indiana Southern’s proposal trackage rights to Stout and Perry K is attached as Attachment 3.)

IPL’s Stout Plant is served today by The Indiana Rail Road directly, and by Indiana Southern/Conrail via switch over Indiana Rail Road via an interchange track at Raymond Street, not via Hawthorne Yard. Indiana Rail Road is an 89-percent owned subsidiary of CSX.

CSX/NS-18, Application Vol. 1, p. 271. Since the switch charge for IPL's trains is fixed, IPL has 2-railroad access to the Stout Plant. IPL also has demonstrated that it is feasible to build out from the Stout Plant to Conrail today. See IPL-3 (filed Oct. 21, 1997). Despite all of this, Applicants refuse to concede that Stout is a "2 to 1" destination, insisting that CSX and Indiana Rail Road are independent companies, even though under common ownership, and thus that they will compete with one another. E.g., Aug. 21, 1997 Dep'n of CSX Vice President Raymond L. Sharp at 14-16; Aug. 24, 1997 Dep'n Tr. of CSX Vice President William Hart at 30-31. Even without the "build out," which Applicants dispute the feasibility of, the Stout Plant qualifies as a "2 to 1" destination under the Board's standards in prior mergers, and under Mr. Hart's own standard (see CSX/NS-19, Application Vol. 2A, Hart V.S. at 146), because of the access to Conrail via switching.

In their Rebuttal filed on December 15, 1997, CSX and NS now appear to have abandoned the fiction that CSX will compete with Indiana Rail Road at the Stout Plant. Instead, they have adopted a new theory, that IPL's real competition for CSX/Indiana Rail Road at the Stout Plant is (a) truck and (b) its alleged ability to generate power at lower cost elsewhere on the system to "discipline" CSX/Indiana Rail Road.

In his Rebuttal Verified Statement (CSX/NS-177 at pp. P-518-21 and P-650-56) Mr. John Orrison, Vice President-Service Design for CSX, described the existing interchanges in Indianapolis, but nowhere claimed that Indiana Southern's proposed trackage rights into the Stout and Perry K Plants would be inefficient, or that it would not be more efficient to route NS-origin coal to Stout via an interchange west of the Stout Plant, rather than through the Hawthorne Yard. See id., especially p. P-656 (admitting that NS would have to use Hawthorne Yard for

deliveries to Stout, rather than having access directly or via the interchange with Indiana Rail Road at Raymond Street).

At IPL's Perry K Plant, the situation is almost the mirror image of that at the Stout Plant. Perry K is served directly by Conrail, but Indiana Rail Road can also serve the Plant via switching over the Conrail line. Thus, Applicants have conceded that the Perry K Plant is a "2 to 1" point entitling it to protective conditions if the proposed acquisition of Conrail is approved. Moreover, since the coal pile at Perry K is quite small, IPL maintains an emergency coal pile for Perry K at its Stout Plant (which is just a few miles away), and can (and has) trucked coal to Perry K from Stout. (The coal that IPL has trucked to Perry K from Stout is a relatively small percentage of the coal delivered to Stout and a relatively small percentage of the coal used at Perry K. IPL generally trucks coal only during emergencies.)

Despite Applicants' apparent concession that Perry K is a "2 to 1" destination, they insist that, if NS serves the Perry K or Stout Plant, it must take IPL's unit trains of coal to the Hawthorne Yard, rather than connect directly with Indiana Rail Road via switching, as Conrail can today, or be allowed to serve the Stout Plant directly via a build-out (since NS's trackage rights in Indianapolis would be only "overhead," and not local). Applicants would preclude efficient connections, as exist today, in favor of routing that traffic through Hawthorne Yard. Even Applicants conceded that there is absolutely no reason to route unit trains into and out of a Yard used for blocking and reconfiguring rail cars for less-than-trainload movements.

For example, NS Vice President Fox admitted in his deposition that the efficient routing of coal to IPL's Stout Plant, if such coal were to be used, would be not to route unit trains in and out of the Hawthorne Yard, but rather that NS would switch crews from NS to CSX at some point west of the Stout Plant. Tr. 149-52. But the Application provides no such assurance,

as Mr. Fox admitted, since it provides for routing such traffic into and out of the Hawthorne Yard. If Indiana Southern were to seek to have NS serve the Perry K Plant, it would not be able to do so where Indiana Southern now interchanges with Conrail (the "GM Yard" on the west side of Indianapolis), but rather the Hawthorne Yard (which, as we have said, is on the east side of Indianapolis).

If NS were to participate in a movement of western, low-sulfur coal to IPL's Stout Plant, the efficient routing, as NS Vice President Fox conceded, would be some point west of Stout, not the Hawthorne Yard east of Stout. And if NS were to participate in a movement of coal to the Perry K Plant, the efficient routing, and thus the one that would minimize air pollution, would be to allow NS to interchange the traffic where Conrail now interchanges the traffic -- in the "GM Yard," as it is referred to locally, on the west side of Indianapolis, where Indiana Southern's traffic now terminates, where it can be interchanged on the shortest available route into the Perry K Plant, which is in downtown Indianapolis.

The impact of the transaction proposed by CSX and NS on Indianapolis' air pollution should not be underestimated. CSX's public statements have indicated that it projects an increase in business to Indianapolis as well as diversion of a portion of Cincinnati traffic through Indianapolis. This information is contradicted by CSX Witness Orrison who contends, despite public statements to the contrary, that total traffic in Indianapolis will decrease or remain the same post-transaction. The uncertainty of increased traffic in Indianapolis coupled with CSX's promotion of trucking coal to IPL's Perry K and Stout Plants as IPL's competitive alternative justifies close scrutiny of the potential for any increase in ozone in Indianapolis and placement of responsibility for mitigation of any such increase on Applicants.

The Transaction Proposed by CSX and NS for Indianapolis
Would Be Inefficient and Could Cause Unnecessary Air Pollution

IPL therefore has three simple points to make. One, CSX has contended vigorously that IPL's real competition at the Stout Plant is truck, not Indiana Southern/Conrail (via switching). See, e.g., CSX/NS-177, Applicants' Rebuttal, Vol. 2A, pp. HC-194-204, Verified Statement of Thomas G. Hoback, and Vol. 2B, pp. HC- 500-22, Verified Statement of Gerald E. Vaninetti. If CSX succeeds in eliminating IPL's rail-to-rail competition at Stout from Indiana Southern/Conrail vis-a-vis CSX/Indiana Rail Road, it will expose IPL to the risk of having to resort to trucks to create competition for coal transportation at Stout, whereas in 1995 and 1996, when IPL was in negotiation with Indiana Rail Road leading up to the contract that took effect in 1997, IPL used rail, not truck, via Indiana Southern/Conrail and then switch via Indiana Rail Road, to compete with Indiana Rail Road. If CSX's analysis were correct (which it is not), IPL would have had to use trucks to compete with Indiana Rail Road during 1995-96.

Moreover, if CSX's analysis is correct that IPL's only effective competition for transportation of coal to the Stout Plant if the transaction proposed by CSX and NS is approved, IPL would need approximately 60,000 coal trucks to move the coal that the Stout Plant uses annually and that the rail mode carries almost exclusively now. This would amount to about 460 loaded and empty coal trucks going into and out of the Stout Plant, every business day of the year, or about 17-18 an hour, every hour of each business day, through numerous small towns and ultimately over an already congested, two-lane street in the City of Indianapolis, Harding Street, which is the only street providing truck access to the Stout Plant.

Two, the transaction will be unnecessarily inefficient in Indianapolis, especially for IPL's unit trains of coal, which should be handled as they are today -- directly into IPL's Plants via the most efficient connection, rather than inefficiently, into the Hawthorne Yard.

Moreover, if NS is to participate in a movement of coal to either the Stout or Perry K Plants, it should be able to do so as Conrail could today, with direct access to Stout via a build-out, or through switch on The Indiana Rail Road on the interchange track at Raymond Street, or with the ability to interchange with CSX/Indiana Rail Road west of Stout or at the interchange at Raymond Street with Indiana Rail Road. These efficient routings would necessarily reduce air pollution.

Third, due to the proposed transaction, projected increases in Indianapolis business as well as rerouting of Cincinnati traffic through Indianapolis threaten an increase in ozone in Indianapolis which should be closely scrutinized so that Applicants are required to bear the burden of any mitigation.

1. Additional Truck Traffic.

Through the testimony of Messrs. Hoback and Vaninetti cited above, CSX and NS insist that IPL's real competition for CSX/Indiana Rail Road at the Stout Plant is the truck mode, not Indiana Southern/Conrail. See CSX/NS-176, pp. HC-55-57. IPL vigorously disputes Applicants' contention, since as IPL informed CSX, all coal moved to Stout in 1995-97 via rail, not truck, but if the Board were to accept Applicants' contention, it follows that the result of the proposed transaction could be to cause IPL to move its coal to Stout via truck instead of by rail. Since IPL uses about 1.5 million tons of coal per year at Stout, using trucks with a capacity of about 25 tons, IPL would need about 60,000 coal trucks per year to move the same amount of coal. That means about 230 loaded, and 230 empty, trucks coming and going, 24 hours per day, on every business day, Monday-Friday, throughout the year, most likely through the congested I-465/Harding Street interchange. Applicants' Witness Vaninetti privately advised CP Rail and

See Attachment 4. He was right.

The Stout Plant is in the City of Indianapolis, which has the usual city traffic, and the only street access is via two-lane Harding Street. Moreover, such an immense number of coal trucks could have an even greater impact on the small towns that the coal trucks would have to drive through from one or more of the mines in southern Indiana that supply the Stout Plant to that Plant, several of which are more than 100 miles from the Stout Plant. Aside from the immense damage that such trucks could do to Harding Street, the congestion that such additional truck traffic would cause would add considerable air pollution to Indianapolis. Because Indianapolis has been in violation of the NAAQS for ozone in the recent past, and is barely in compliance at the present time, any increase in air pollution, particularly a substantial increase in nitrogen oxides (a precursor of smog and a likely cause of ozone) as would inevitably occur from adding that much truck traffic and resulting congestion to the City's roads, would very likely cause violations of the Clean Air Act which Indianapolis would then be required to mitigate. Given CSX's position, if the result of the transaction is to force IPL to use trucks at Stout, the Board cannot satisfy NEPA without considering and quantifying the impact on air quality of the trucks.

CSX's and NS's position that IPL can and should use trucks rather than rail to deliver coal to the Stout Plant to create competition flies in the face of their contrary arguments in all other forums than this one. CSX's and NS's trade association, the Association of American Railroads ("AAR"), as recently as November 1997 has been opposing legislative changes that would accommodate higher and wider trucks. In its position paper opposing use of trucks to move goods that can also move by rail, AAR stated (see Attachment 5):

“The Rail Industry’s Position on Bigger Trucks”

“Opposition to Bigger Trucks Is Widespread”

“But railroads aren’t alone in opposing bigger trucks. So do many highway safety advocates, citizen groups and environmentalists. . . .”

“Why Bigger Trucks Are a Bad Idea”

“* Bigger trucks would increase highway congestion. . . .”

“*Bigger trucks would create additional highway safety problems. . . .”

“*Bigger trucks would harm the environment. . . .”

“Bigger trucks may be more fuel efficient than smaller trucks, but they are not nearly as fuel efficient as trains. Every ton of freight diverted from rail to highway increases emissions of air pollutants by factors as high as nine.”

Rather than to allow the need for such mitigation to arise, it is the Board’s responsibility to approve this proposed transaction only if it prevents IPL’s effective loss of its current **rail-to-rail** competition from Indiana Southern/Conrail to CSX/Indiana Rail Road at Stout. Thus, it should condition the transaction, as IPL proposed in IPL-3 (filed October 21, 1997) and in testimony supporting Indiana Southern’s Responsive Application (ISRR-9, filed January 14, 1998), to permit Indiana Southern or NS or both to have direct access to the Stout Plant, or at least to allow Indiana Southern and Norfolk Southern to interchange IPL’s coal unit trains without requiring that they be moved into and out of the Hawthorne Yard.

2. The Transaction Proposed by CSX and NS for Indianapolis Will Be Inefficient.

It is quite obvious that, for three reasons, routing IPL’s and others’ unit trains of coal into and out of the Hawthorne Yard would be inefficient. One, the trains are not routed there today, demonstrating that efficient operating practices dictate another routing. Two, NS

and CSX are considering expanding the Hawthorne Yard, thus demonstrating that it is not capable of handling the traffic to be routed there. And three, such trains would cause congestion in the Yard, making the handling of all other trains in that Yard more inefficient.

The solution is simply to do what NS Witness Fox admitted would likely be done, and interchange IPL's coal unit trains somewhere other than Hawthorne Yard. (As stated previously, IPL has an interest in efficient handling of the cars because it owns the railcars used for moving its coal to Perry K and Stout Plants. Moreover, inefficiencies inevitably raise the railroads' costs, which could be passed along to the shipper.) The most efficient routing is as the trains are or would be routed today, i.e., (a) for Indiana Southern-origin traffic to Perry K, through the "GM Yard" directly to the Perry K Plant, whether Indiana Southern, NS, or CSX ends up delivering it, and for Indiana Rail Road-origin traffic into the Perry K Plant, at the existing interchange between Indiana Rail Road and Conrail, and (b) for Indiana Southern-origin coal into Stout, at the same existing interchange between Conrail and Indiana Rail Road, and the same interchange or some other efficient interchange west of Stout for NS-origin coal into Stout. Since the Applicants concede that those would be the most efficient means of serving those Plants, and they are or would be the approaches used today, they should be required, rather than what the Applicants propose.

3. Indianapolis Air Pollution.

Lastly, CSX's public statements have contended that it will increase business in Indianapolis, including rerouting traffic that now goes through Cincinnati (see, for example Attachment 6). The remaining Conrail business will presumably go to Norfolk Southern (there is no other railroad that could move it). If so, the Board's decision not to include Marion County,

Indiana among those areas whose air will be adversely affected by the proposed transaction is wrong.

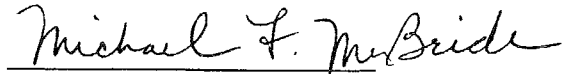
Despite these public claims that congestion elsewhere (e.g., Cincinnati) will be relieved by rerouting traffic through Indianapolis, CSX Witness Orrison appears to contend that total traffic in Indianapolis post-transaction will decrease. Frankly, we find this testimony impossible to reconcile with claims about rerouting traffic through Indianapolis. But, given the uncertainty, the Board must adopt a condition to any approval of the transaction requiring that Applicants mitigate any increase in ozone in Indianapolis associated with increased traffic due to the proposed transaction.

Conclusion

For the foregoing reasons, the Board should (1) mitigate the adverse environmental impact of the transaction proposed by CSX and NS by preserving IPL's right to be served directly at the Stout Plant by Indiana Southern or NS or both, as it could be served via Conrail today, so that IPL is not compelled to seriously consider moving some or all of the coal to the Stout Plant by using up to 60,000 loaded coal trucks each year into, and 60,000 empty coal trucks out of, the Stout Plant on a very busy, two-lane, City street, as well as through numerous small towns in Indiana between the coal mines from which IPL buys its coal and the Stout Plant, (2) mitigate the adverse environmental impact on air quality in Indianapolis by requiring CSX to permit NS to interchange and deliver IPL's coal trains in the most efficient manner, as is done today and would be done if Conrail were to have remained an independent railroad serving IPL's powerplants in Indianapolis, rather than to route IPL's coal trains into and out of the Hawthorne Yard, and (3) mitigate the adverse environmental impact on air quality in

Indianapolis by requiring that the Applicants mitigate any increase in ozone in Indianapolis associated with increased traffic due to the proposed transaction.

Respectfully submitted,



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Attorneys for Indianapolis
Power & Light Company

Due Date: February 2, 1998
Dated: February 2, 1998

LEBOEUF, LAMB, GREENE & MACRAE
L.L.P.

Attachment 1
Page 1 of 2

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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WRITER'S DIRECT DIAL:

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August 6, 1997

VIA HAND DELIVERY

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

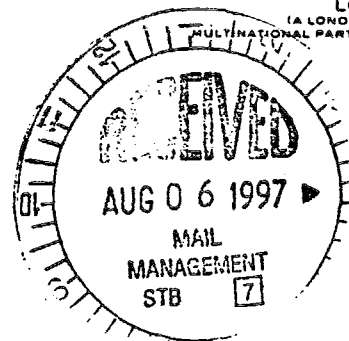
ATTN: Ms. Elaine K. Kaiser
Chief, Section of
Environmental Analysis
Environmental Filing

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

Dear Ms. Kaiser:

Indianapolis Power & Light Company ("IP&L") and The Ohio Valley Coal Company ("Ohio Valley") hereby submit their comments on the scope of the draft Environmental Impact Statement ("EIS").

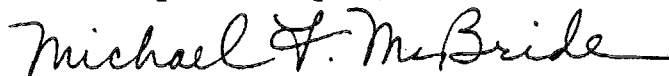
IP&L and Ohio Valley respectfully request that the Section of Environmental Analysis ("SEA") consider the potential adverse impacts on air quality in those regions in both Indiana and Ohio which will experience changes in service after the Conrail acquisition. Such areas will experience increases in switching activity, and, therefore, increases in air pollution, especially ozone and particulates. Accordingly, the EIS should



examine the post-Acquisition impacts in those counties which may become nonattainment areas for ozone as a result of the increased switching. Thus, the EIS should include an analysis of the air quality impacts in Marion County, Indiana (i.e., Indianapolis), as well as in Cuyahoga, Lake and Ashtabula Counties, Ohio (i.e., Cleveland and areas to the east). Because the Clean Air Act is administered at the state and local level, it follows that the Board's analysis must concern the same level of impacts, and not just focus on the overall impacts (as the Applicants would apparently have it).

IP&L and Ohio Valley further request that the EIS propose suitable measures to mitigate adverse environmental impacts in these counties, as well as any other protective conditions which may be necessary. These may include trackage rights for origin carriers to avoid unnecessary switching.

Respectfully submitted,



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



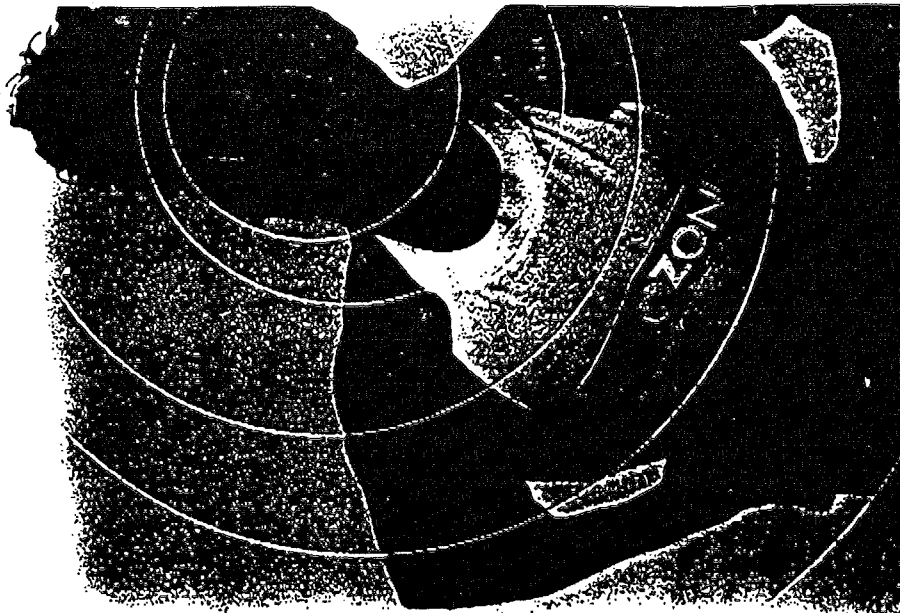
you
know about

NOZONE Action Days?

How do you know when ozone levels are high? Well, it takes an in-depth knowledge of meteorology, chemistry and physics. But in case you don't have the time or the library card for that sort of thing, we've done the hard work for you. We've created the symbols below for days when ozone levels are high. When you see it on TV or Nozone Action Day has been declared, this means your help is vital. And

it's not just you who can help. You can help your family, your town, your school, your business, your neighbors, your community.

A-197-a



you
know

OZONE

It's not over your head.

You can do your part to keep
Indy's air clean by taking the
bus or carpooling.

To find out more information
about transit routes,
call **634-3344**.

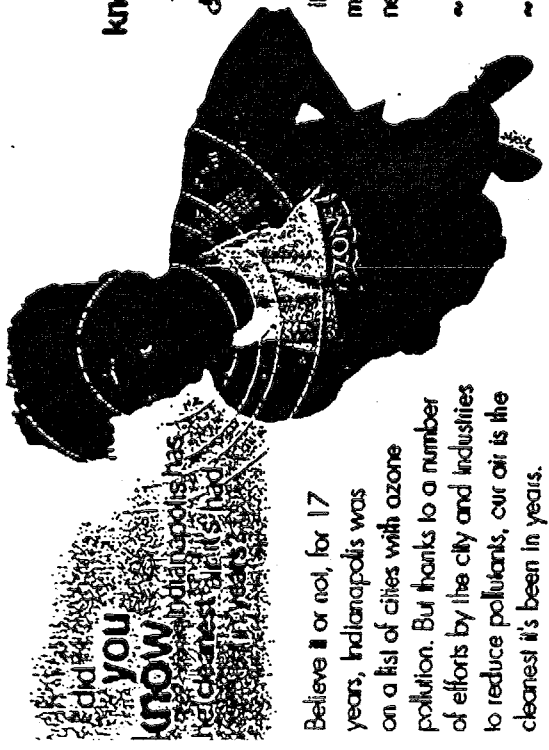
For more information
on carpooling,
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call toll
free for more information.

1-888-DJA~KNOW

OZONE

It's not over your head.



did you know

...did you know that Indianapolis has the cleanest air in the country? It's had perfect weather for 17 years.

Believe it or not, for 17 years, Indianapolis was on a list of cities with ozone pollution. But thanks to a number of efforts by the city and industries to reduce pollutants, our air is the cleanest it's been in years.

A-197-b

According to the EPA, Indianapolis has cleaner air. However, last summer, there were two days when the levels of an air pollutant called ozone were too high. This may seem insignificant, but if this becomes a trend, Indianapolis and surrounding counties will have an ozone problem.



did you know

...even though our air is clean, we're still at risk for air pollution?

...even though our air is clean, we're still at risk for air pollution?

did you know

that in order to keep ozone levels down, we need your help? So far in the battle to reduce ozone. But to further our success, we need your help. Sixty percent of ozone formation is due to the activity of individuals, not industry. So if we all do our part, Indianapolis can continue to have cleaner air.

did you know

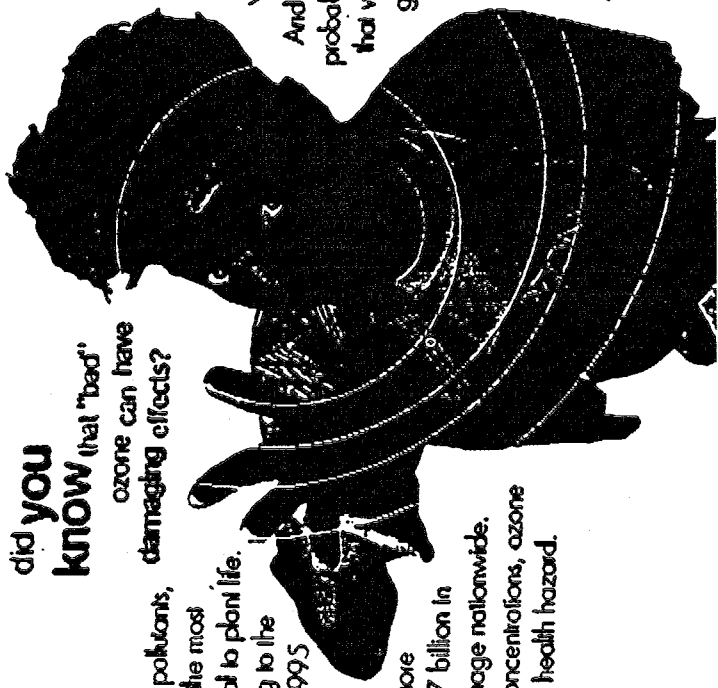
there's good ozone and bad ozone? Whether ozone is "good" or "bad" depends on where it is. Ozone in the ozone layer is desirable. We all know this. We've all switched to lotions and non-aerosol sprays in an effort to preserve it. But there is a different kind of ozone problem that most people don't know about — man-made ozone near the earth's surface.

- ~ Ozone near the earth's surface is a major constituent of smog.
- ~ Ozone is formed when emissions from vehicles, lawnmowers and industry react in the air around us.
- ~ Ozone is made in the presence of sunlight, especially during hot weather.
- ~ Sixty percent of this ozone is created by the public, not business and industry.
- ~ Ozone is colorless.

did you know

that "bad" ozone can have damaging effects?

- ~ Of all air pollutants, ozone is the most detrimental to plant life.
- ~ According to the EPA, in 1995 ozone pollution caused more than \$2.7 billion in crop damage nationwide.
- ~ In high concentrations, ozone can be a health hazard.



did you know

if Indianapolis and the surrounding counties continue to have high ozone readings, we may face additional federal regulations?

Indianapolis has managed to govern itself well without the intervention of Uncle Sam. As long as we continue to do so, we can avoid strict, costly federal regulations such as:

- ~ Restrictions on the location and expansion of industry that would slow economic growth by keeping new job opportunities from coming to the area.
- ~ Mandatory vehicle inspection and maintenance programs for cars and trucks.
- ~ Mandatory controls at gas pumps that would result in higher gas prices.

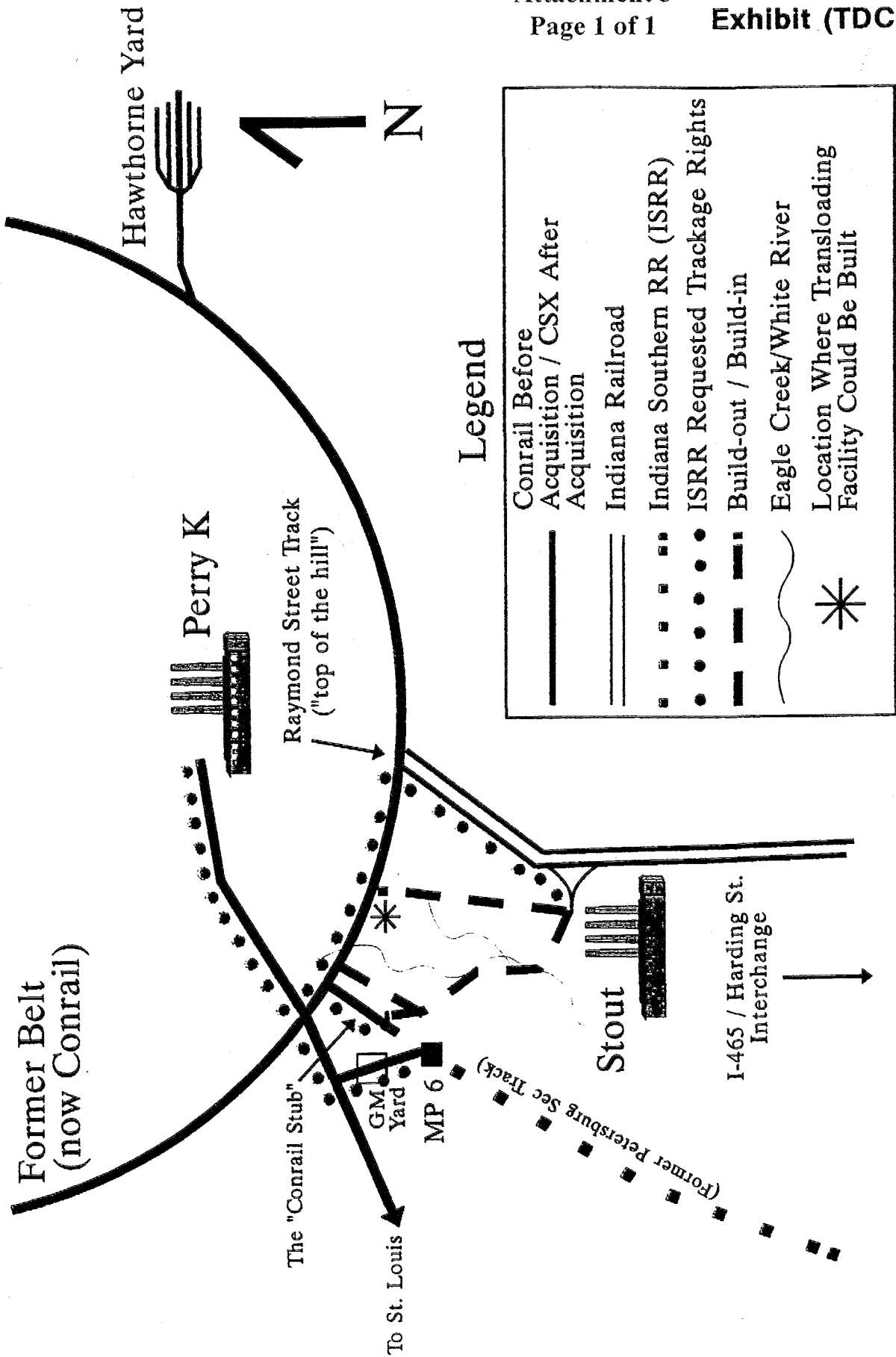
did you know

that you can make a difference?

You've heard this line a thousand times. And every time you hear or read it, you're probably a little skeptical. It's hard to imagine that waiting to mow your lawn until dusk is going to make a difference in reducing air pollution. But remember our combined efforts were powerful enough to create air pollution. So if we all do our part to act responsibly about ozone, especially on Nozone Action Days, our actions will surely be able to reduce it.



Schematic of Routes to IPL Power Plants



OMITTED

Some elements of the trucking industry want to give states the right to put even bigger trucks on the nation's highways — double and triple trailer rigs known as longer combination vehicles (LCVs) that can be up to 120 feet long. For very valid reasons of self-interest, the railroad industry opposes this proposal.

Opposition to Bigger Trucks Is Widespread

But railroads aren't alone in opposing bigger trucks. So do many highway safety advocates, citizen groups and environmentalists — the American Automobile Association, the Arkansas Trucking Association, the Mississippi Trucking Association, American Public Health Association, Clean Air Council, Environmental Defense Fund, General Federation of Women's Clubs, International Association of Chiefs of Police, League of American Bicyclists, National Association of Police Organizations, National Association of Women Highway Safety Leaders, National League of Cities, National Sheriffs' Association and the National Trauma Foundation among others. In fact, between 75 and 80 percent of all Americans oppose permitting bigger trucks on all highways, according to a poll by the Tarrance Group.

Why Bigger Trucks Are a Bad Idea

Here are some of the key reasons why so many people and groups oppose bigger trucks:

- **Bigger trucks would increase highway congestion.** A single LCV has the same impact on highway congestion and traffic delay as 10 to 12 automobiles. Bigger trucks also would divert to highways several hundred million tons of freight currently moving by rail, adding millions of truck miles to highways that are already congested.
- **LCVs underpay their highway cost responsibility.** A triple trailer operating at the most common registered weight of 115,000 pounds pays only 70 percent of its federal highway cost responsibility, according to the most recent federal highway cost allocation study.
- **Bigger trucks would create additional highway safety problems.** Diverting freight from rail to highway has negative implications for highway safety. According to 1995 statistics, more than three times as many people died in truck-related accidents as in rail-related accidents, in spite of the fact that railroads provided more total freight transportation than trucks.
- **LCVs cause severe bridge damage.** National operation of LCVs would cost government agencies \$12.7 billion in bridge replacement costs. Those repairs would mean an additional \$59 billion in indirect costs for lost time and extra fuel burnt by auto drivers stuck in traffic because of bridge work.

LCVs aren't compatible with existing highways and traffic volumes. They have trouble merging or changing lanes, they have difficulty maintaining speed on upgrades, and they have a much larger blind spot than conventional trucks.

- **Bigger trucks would harm the environment.** Bigger trucks may be more fuel efficient than smaller trucks, but they are not nearly as fuel efficient as trains. Every ton of freight diverted from rail to highway increases emission of air pollutants by factors as high as nine.
- **Bigger trucks would harm the nation's railroads.** According to one recent survey of shippers, allowing bigger trucks on highways would cause them to shift to the highways freight that currently provides railroads with almost \$4.5 billion in annual revenues. This would sharply curtail railroad operating income and capital expansion programs. It would also force railroads to attempt to raise rates on remaining customers, abandon additional lines and rethink investment and maintenance expenditures that have sharply improved the rail infrastructure.
- **Intermodalism is a better idea.** Railroads and truckers have formed successful partnerships over the past few decades to move truck trailers and ocean containers long distances by rail — a practice known as intermodalism. Since 1980, this traffic has more than doubled. A single train can carry 280 trailers or containers, decreasing wear and tear on our highways and relieving congestion and pollution.

The Trucking Industry's "State Option" — The First Step to a National Mandate

Many in the trucking industry say they are not seeking nationwide authority for bigger trucks. Instead, they say they only want individual states to have the right to decide for themselves whether or not to permit bigger trucks on the highways of each state — this is not the case.

In the past, the trucking industry has viewed states rights as nothing more than a ploy to eventually force nationwide acceptance of bigger trucks. In the 1970s, for example, the trucking industry assured Congress it wasn't seeking nationwide authority to operate 80,000-pound trucks, just a state option to permit heavier trucks. By the early 1980s, the industry was complaining about operating difficulties created by "recalcitrant" states that hadn't increased weight limits. It successfully used this argument to gain legislation mandating a nationwide weight limit increase to 80,000 pounds in 1984.

Maintain the LCV Freeze

In 1991, Congress carefully considered the arguments proffered on increasing truck sizes, and it concluded that the public interest lay in halting the spread of larger trucks. That is why the Intermodal Surface Transportation Efficiency Act of 1991 contains a freeze on LCVs, permitting them to operate in the 17 states where they are already legal but nowhere else. Nothing has changed since Congress made that decision. The public interest lies in maintaining that freeze, and the next highway funding bill ought to reflect that.

#

KEY POINTS

Americans overwhelmingly oppose LCVs. Every poll ever done has shown huge majorities against expanded use of triples and long doubles. The most recent poll shows that 90 percent oppose triples, 76 percent oppose long doubles. 68 percent support the current freeze on the expansion of LCV use.

- The main reason people don't want to see longer or heavier trucks is their fear that bigger trucks are unsafe. There's plenty of engineering evidence supporting this public concern.
- Heavy combination trucks already have about twice the fatal accident rate per mile as automobiles. Today, almost all of these trucks are conventional, single trailer "tractor semitrailers."
- Yet LCVs have even worse stability, handling and other safety problems than conventional trucks. And while today LCVs are less than 1/2 of 1 percent of all truck traffic, according to the American Trucking Associations' own study, *20 percent of the combination trucks on the road would be LCVs if they were to be legalized nationwide*—the truckers' ultimate goal.
- The worst safety problem with LCVs is the fact that they just aren't compatible with the existing highway system and traffic volumes. They're so big and so slow (especially when trying to accelerate) that they have trouble merging or changing lanes in freeway traffic. Similarly, they have problems maintaining speed on upgrades (and then have trouble reducing speed, and braking, on downgrades). These speed differentials create serious safety risks. And (again because of their size) they have a much larger blind spot than conventional trucks.
- LCVs also present a greater safety risk simply because they have more trailers. As a result, LCVs suffer from increased "rearward amplification" (the "crack the whip" effect). They also have more trailer separations. And they offer a higher surface area to wind, increasing the risk of being literally blown off the road.
- Because LCVs are heavier than conventional trucks they cause more severe accidents (their greater length also means that they have a larger crash "footprint").
- LCVs make driving harder. Accidents are rare events. But sharing the road with LCVs—even when there isn't an accident—makes driving, already very stressful, even more difficult. Surveys of older drivers, for example, show consistently that having to share the road with trucks is one of the things they like least about driving.
- LCVs cause bridge damage. National operation of LCVs would cost government agencies \$12.7 billion in bridge replacement costs. That repair would mean \$59 billion in lost time and extra fuel burnt by auto drivers stuck in traffic because of bridge work.

- **LCVs are going to make our highway congestion problems worse. A single LCV has the same impact on highway congestion and traffic delay as 10 to 12 automobiles (or more than twice the impact of two conventional trucks). Diversion of freight from railroads to highways will compound this problem. Highway congestion is already our nation's number one transportation problem, with estimated annual costs of \$39 billion or more.**
- **LCVs underpay their highway cost responsibility. A triple trailer operating at the most common registered weight of 115,000 pounds pays only 70% of its Federal highway costs.**
- **Heavier single tractor trailer trucks also raise serious infrastructure and safety issues. (See the attached one pager on 97k trucks).**

Nationwide operation of 97,000 pound trucks would cost railroads \$2.4 billion. (Same ADL study as LCVs. Figures are cumulative).



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FOR THE MEDIA

Press Release Central

Contact:
Kathleen A. Burns, ABC
(904) 366-2900

FOR IMMEDIATE RELEASE

CSX RAIL PROPOSAL GREATLY ENHANCES INDIANA'S MARKET REACH THROUGHOUT THE EASTERN UNITED STATES

JACKSONVILLE, Fla., June 23, 1997 – Indiana will be a leading rail transportation hub, and Indianapolis will become a regional operations center in a proposal by CSX Corp. for operating the routes it plans to acquire from Conrail Inc.

CSX and Norfolk Southern Corp. today filed a joint application with the federal Surface Transportation Board to acquire the routes and assets of Conrail. One component of the application is CSX's proposed operating plan, which includes details about the company's expanded role in Indiana and planned capital expenditures in the state that will total in excess of \$120 million.

"Indiana overall, and Indianapolis in particular, will play an increasingly important role for CSX under this transaction," said John W. Snow, Chairman and Chief Executive Officer of CSX Corp. The plan calls for Indianapolis to become a regional operating headquarters and for Conrail's Avon Yard, to be acquired by CSX Transportation Inc. (CSXT), to become a major freight hub in the new CSX rail system. "CSXT's rail upgrade project across northern Indiana and Ohio will provide a highly efficient, high-capacity rail link between the Midwest and Northeast," Snow added.

Some details of the operating plan related to Indiana include:

- Indianapolis will become a new "service lane" headquarters for CSXT, where operations, crew management, dispatching, engineering, maintenance and service planning will be directed at the regional level. CSXT now operates seven regional centers of this type.
- CSXT's Chicago-Greenwich, Ohio, main line, which runs across northern Indiana will be upgraded as part of a project to create a high-capacity corridor between the Midwest and the Northeast. CSXT's capital investment on this project in Indiana is projected at \$110 million, with an additional \$6 million in expenditures in the state this year through the purchases of local services.
- Avon Yard, west of Indianapolis, will serve as a major classification yard for the CSXT system, expediting freight cars to the northeastern United States and assembling blocks of rail cars and entire trains for movement beyond the Mississippi River. Local freight operations at Indianapolis will be centered at Hawthorne Yard on the city's southeast side. Capital investment in yard and facility improvements in Indianapolis is estimated at \$10 million.
- CSXT also plans to acquire from Norfolk Southern a parallel route between Chicago, Fort Wayne and central Ohio that will be used as an auxiliary service route for bulk commodity freight traffic, such as grain and coal. Roughly \$6.5 million will be invested in track improvements.

"CSXT's customers will be able to reach new markets for their products and expand their options for obtaining raw materials and components," said A.R. "Pete" Carpenter, president and CEO of CSXT. "A fundamental advantage of the new system is its ability to link major producing markets in the South with consumer markets in the Northeast and Midwest with single-line service. The result will be a faster, more flexible and cost-efficient network."

Carpenter said more efficient, reliable rail transportation will make Indiana a more attractive location for economic development. He added that CSXT will increase its already aggressive efforts, working with state and local economic development offices, to bring new industries to Indiana and the region.

Indiana will be served by eight key CSXT service routes that will improve the state's railroad links to nearly every market in the East, Midwest and South by providing single-line service. These routes are:

- NORTHEASTERN GATEWAY SERVICE ROUTE - Chicago to Cleveland, Boston and New York via Gary and Auburn.
- EASTERN GATEWAY SERVICE ROUTE - Chicago to Pittsburgh, Washington, and Philadelphia via Gary and Auburn.
- ALTERNATE CHICAGO SERVICE ROUTE - Chicago to Cleveland via Fort Wayne.
- ST. LOUIS GATEWAY SERVICE ROUTE - St. Louis to the East Coast via Terre Haute, Indianapolis and Muncie.
- MICHIGAN-CHICAGO SERVICE ROUTE - Detroit to Chicago via Gary and Auburn.
- CHICAGO GATEWAY-SOUTHEAST SERVICE ROUTE - Chicago to Miami via Terre Haute and Evansville.
- CENTRAL SERVICE ROUTE - Southeast United States to Chicago and St. Louis via Indianapolis or Terre Haute.
- HEARTLAND SERVICE ROUTE - Nashville, Tenn., to Detroit and New England via Evansville, Terre Haute, Indianapolis and Muncie.

The Northeastern and Eastern Gateway routes will provide high-capacity rail lines between the Midwest and East across northern Indiana. Corridors to the Southeast will open grain and other market opportunities to Indiana customers now served by Conrail. Improved service for Indiana's auto and steel production facilities also will result.

The expanded rail system includes benefits for key commodity groups that make up a majority of rail freight traffic: coal, steel, automotive, grain, wood, paper products, chemicals, minerals and general merchandise traffic. Routes and connections were designed with customers in mind to facilitate commodity flows to expanded market areas created by the acquisition.

"The CSXT system will create vast new opportunities for rail movement of freight with increased efficiency and greater reliability," Carpenter said. "The single-line service and operating efficiencies that this acquisition will create will allow us to reduce transit times, often by one or more days depending on the route."

CSXT's operating plan will not result in any rail line abandonments in the state, nor is it expected to have an adverse impact on commuter passenger operations in the Chicago area.

CSX Corp. employs about 4,800 workers in Indiana with an annual payroll of \$115 million. About 1,400 are employees of CSXT and the remaining work for American Commercial Barge Lines, based in Jeffersonville, Ind.

CSXT and its 29,000 employees provide rail transportation and distribution services over an 18,500 route-mile network in 20 states,

the District of Columbia and Ontario, Canada. CSXT is a business unit of CSX Corp., headquartered in Richmond, Va.

[↑ back to top](#)



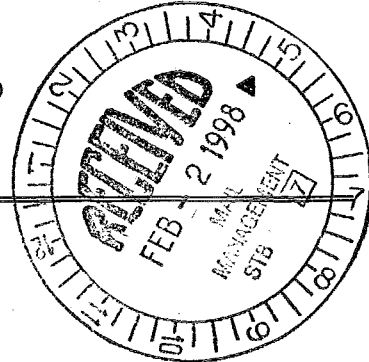
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CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 10.08.49 AM

**ENVIRONMENTAL
DOCUMENT**

FCC-13

BEFORE THE
SURFACE TRANSPORTATION BOARD



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

Finance Docket No. 33388

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

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

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Dated: February 2, 1998

Attorneys for The Four City
Consortium

ARGUMENT

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

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

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

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

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

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

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

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

SUMMARY OF POSITION

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

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

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

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

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

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

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

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

⁴ Draft EIS, Vol. 3A, Ch. 5 at IN-85.

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

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

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

ENVIRONMENTAL RELIEF REQUESTED

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

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

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

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

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

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

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

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

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

II.

ARGUMENT

SCOPE OF FOUR CITIES' COMMENTS

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

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

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

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

A. The Environmental Review Process

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

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

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

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

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

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

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

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

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

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

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

2. Requirements of the EIS Process

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

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

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

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

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

§ 1502.14 Alternatives including the proposed action.

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

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

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

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

(d) Include the alternative of no action.

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

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

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

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

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

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

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

Id. at 347-351.

3. The Inadequacy of the SEA's Draft EIS

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

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

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

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

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

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

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

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

B. Environmental Impacts on the Four Cities

1. Safety

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

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

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

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

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

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

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

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

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

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

* * *

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

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

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

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

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

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

¹³ (...continued)

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

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

2. Traffic and Transportation Systems

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

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

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

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

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

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

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

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

a. Number of Crossings Studied.

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

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

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

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

b. Train Speeds.

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

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

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

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

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

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

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

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

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

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

c. Train Length.

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

* * * *

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

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

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

3. Energy

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

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

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

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

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

4. Air Quality

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Environmental V.S. at 11-16. These plans are part of a larger effort that is being made by the region to move away from heavily industrial economic activities, and to promote cleaner forms of economic growth for the region. The restoration of the waterfront at Buffington Harbor alone already has resulted in over \$25 million in new annual tax revenues for the City of Gary alone. Id. at 12. To attract additional visitors to the region, and to continue to expand waterfront opportunities, however, significant improvements will be needed in the area of air quality in particular, as well as in other areas of environmental clean up.

* * * *

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

5. Noise

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

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

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

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

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

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

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

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

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

6. Land Use and Socioeconomics

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

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

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

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

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

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

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

7. Environmental Justice

a. Implications of the President's Environmental Justice Order

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

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

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

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

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

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

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

The DOT Environmental Justice Order provides further guidance as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Cumulative Impacts

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

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSION

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

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

Respectfully submitted,

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



OF COUNSEL:

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

Dated: February 2, 1998

By: C. Michael Loftus
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STAMP & RETURN

202-347-7170

October 21, 1997

BY HAND DELIVERY

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

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

Dear Ms. Kaiser:

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

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

Elaine K. Kaiser
October 21, 1997
Page 2

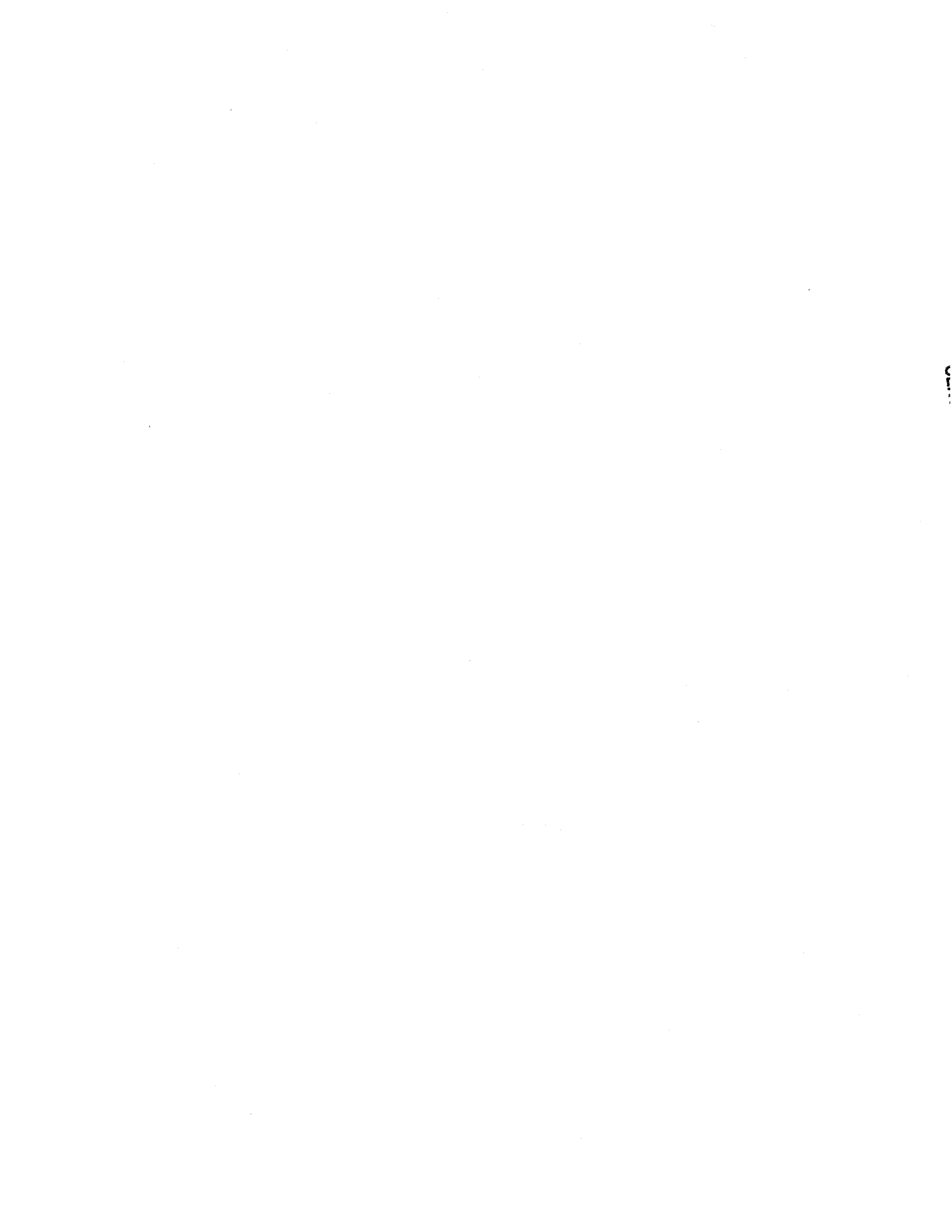
Through an October 1, 1997 letter, you invited the public to submit comments on the potential environmental impacts that might result from the above-referenced transaction, and which might assist the SEA in their preparation of a draft and final Environmental Impact Statement ("EIS"). The Four Cities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

Sincerely,



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

Enclosures



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

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

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

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

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

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

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

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

I.

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

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

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

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

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

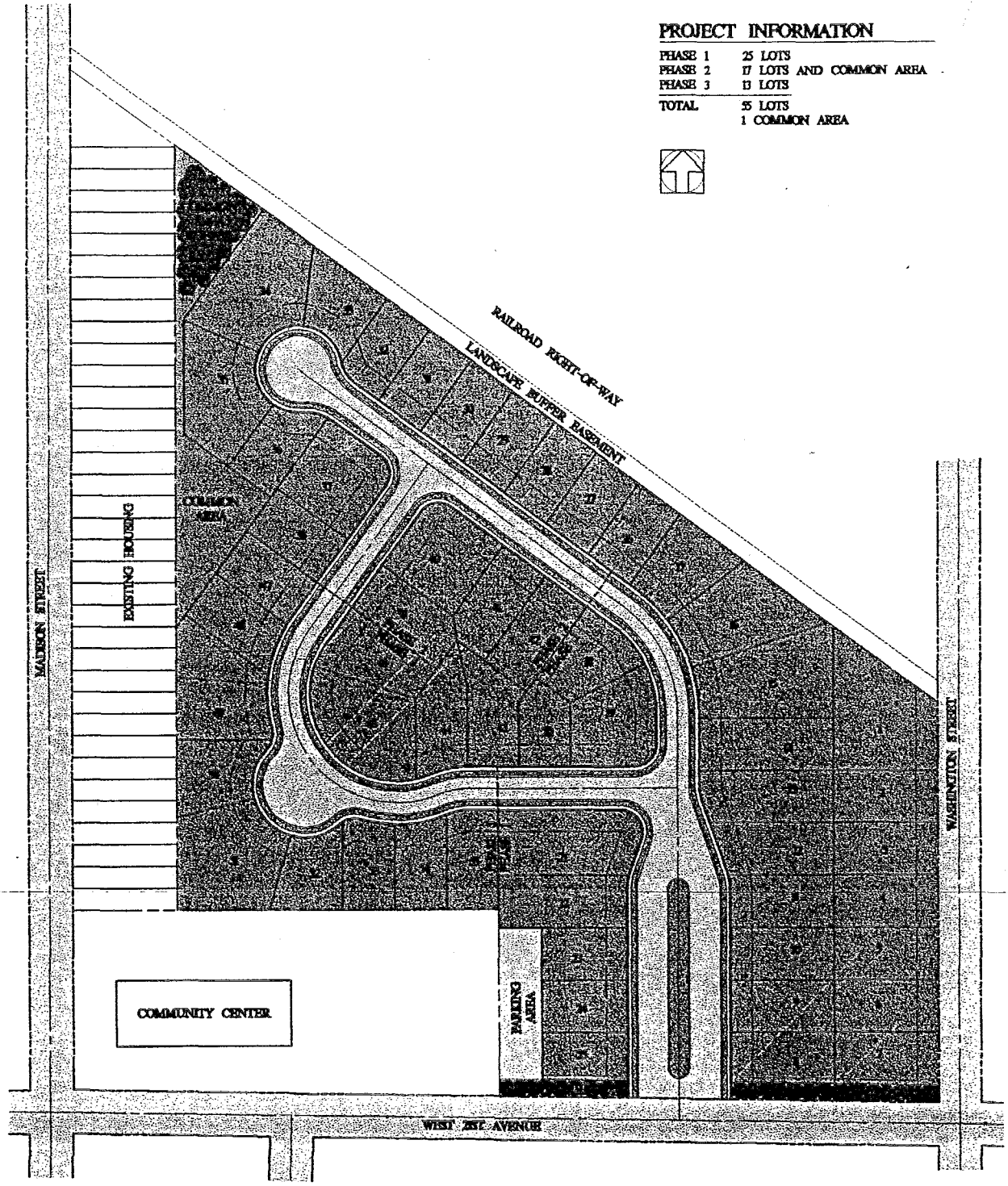
In my previous Verified Statement submitted to the Board in this proceeding, I attached a copy of a letter from the Broadway Area Community Development Corporation ("BACDC") discussing the Roosevelt Manor housing project. As referenced therein, since 1996 the BACDC has been engaged in consultations with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

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

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

PROJECT INFORMATION

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



OPTION 1

ROOSEVELT MANOR

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

DATE: AUGUST 12, 1997
 NOT TO SCALE
 PROJECT NUMBER: A8975

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

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

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

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

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

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

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

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

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

and the region a vitally important opportunity for economic development.

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

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

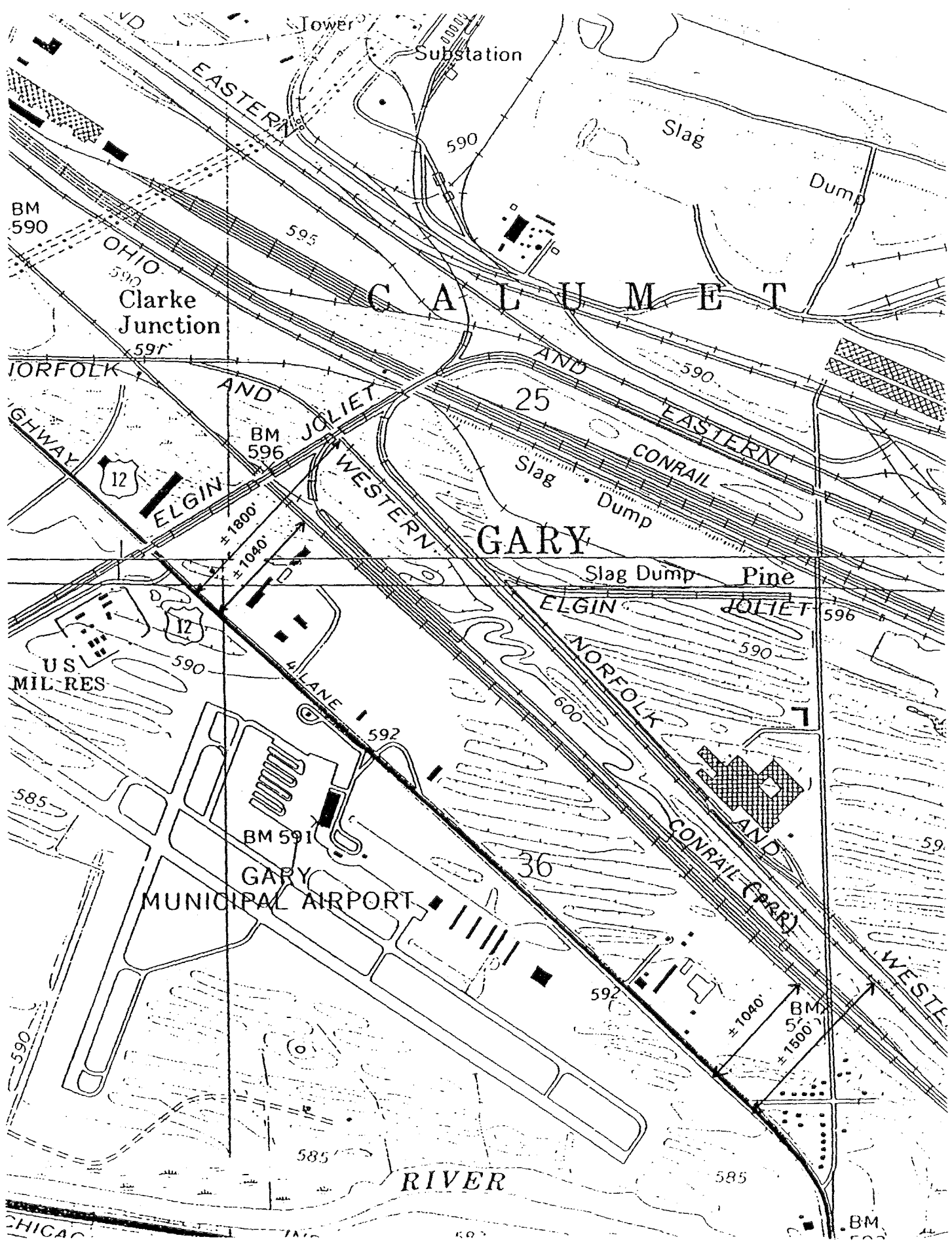
In order to expand operations at the Gary/Chicago Airport, its FAA certification must be upgraded from its present level of Reliever/General Aviation to Utility/Transport. Certification as a Utility/Transport Airport, however, will require at a minimum the lengthening of runway safety areas. Applicable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

The location of the Gary/Chicago Airport is shown on the map on the following page. The PRR line between Hobart and Clarke Junction lies in close proximity east of the Gary/Chicago Airport. If this line is reactivated, it will directly interfere with the City's airport expansion plans because it results in a 23-foot hard obstruction above the elevation of the track (which represents the height of trains operating over the line). As a result, 1,150 feet of additional clear land with no vertical obstruction at the east end of the Airport's existing or new runways (above and beyond the 1,000 foot minimum runway safety area) will be necessary for the Gary/Chicago Airport to obtain FAA certification as a Utility/Transport Airport.⁷

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II.

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

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

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

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

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

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

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

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

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

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

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

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

III.

THE FOUR CITIES' AIR QUALITY CONCERNS

A. Four Cities' Air Quality Problems

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

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

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

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

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

B. Emission Control and Mobile Source Standards

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

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

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

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

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

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

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

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

1. Indiana's 15 Percent ROP Plan

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IV.

CONCLUSION

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

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

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

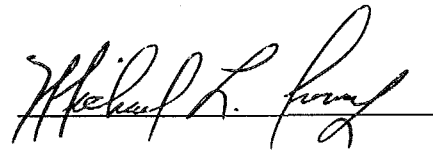
The Alternative Routing Plan set forth by the Four Cities provides a cooperative regional plan that minimizes the

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

Verification

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

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



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

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

Michaelene C. Reba
Notary Public in and for the
State of Indiana



January 29, 1998

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

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

Dear Mr. Dilts:

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

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

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

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

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

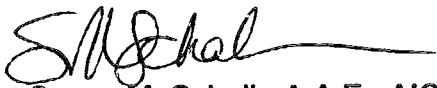
- The combination of capital and marketing investments is expected to produce new commercial activity. The local community and Airport Authority are promoting an incentive pool to attract candidate users to the facility. Several interested aviation operators are talking with the Airport about new passenger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

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

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

Sincerely,

R. W. ARMSTRONG & ASSOCIATES, INC.



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

Amtrak train, truck collide; Lake Station driver is killed



LORI CALDWELL/POST-TRADING PHOTOS

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

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

BY LORI CALDWELL
Staff Writer

GARY — An Amtrak train slammed into a tractor-trailer loaded with iron ore Monday morning, killing a Lake Station truck driver and injuring seven rail passengers.

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

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

Hibbard was hauling ore for Jack Gray Transport Inc., of Gary, Patrolman Agnes Roberts said.

"The engineer saw the truck on the track, put on the brake and just laid down," Roberts said. "That's really all you can do."

Engineer David Renz of Chicago was not injured in the crash, police said.

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

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

Another 16 passengers were

Please see Crash, Page A8



Emergency workers look at the mangled trailer, which tipped when it was struck by the Amtrak train.



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

group seeks
v for women

The society wants to change 70-year-old building codes established when Roy B. Hunter conducted a study of plumbing fixtures, water flow and usage in 1924 while working for the Bureau of Standards. The

Diet drug component banned

A-224-b

...began to faint. Now, still on medication to put her blood pressure under

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

Crash

Truck driver was killed instantly in crash

Continued from Page A1

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

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

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

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

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

The passenger train was westbound on a track maintained by Conrail.

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

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

In that accident, the truck driver was trapped in the truck, but sustained only minor injuries, she said. No one on the train was injured.

"He was extremely lucky," Roberts said of the truck driver involved in that accident.

Passenger Dave Betlejewski was in the last car of the train Monday. "We were slow through the yard, and had just speeded up to full speed," he said. Betlejewski was returning home from a weekend in Michigan.

"The train just bounced. That lasted about 30 seconds. The biggest thing was we would see debris flying past the windows. I'm just amazed the train is still on the track."

The authorized speed through the area is 79 mph, said Amtrak spokesman Rob Dellenger.

Although the train did derail, it remained upright after the collision, dragging parts of the truck westbound for almost 900 feet before it stopped.

The metal track was severed in two places during the collision. Several of the railroad ties were damaged as well.

The collision caused some delays in rail traffic, but full service was expected to resume late Monday night, Dellenger said.

For New Yorker Sikha Sarkan, the crash was more than an inconvenience.

"It was my first time on Amtrak, and probably my last," she said. Sarkan was on her way to Chicago to visit with her youngest son, Arjun, a freshman at Northwestern University.

She was scheduled to fly back to New York Monday evening.

"Everything was flying, the seats were torn out. All I could think was I didn't say goodbye to my sons," she said tearfully as she left the scene.

valve damage in 100 other patients on the drugs.

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

Fenfluramine was approved by the FDA in 1973, and phentermine was approved in 1959. But they were never approved for use together.

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

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

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

Nearly 300 patients from five medical centers who were taking the drugs with no symptoms were checked by echocardiogram — an ultrasound of the heart. Thirty percent showed abnormal heart valves.

"Clearly, with that information,

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

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

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

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

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

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

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

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

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

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

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

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

Read
Bravo!
every
Sunday

• Windows
• Basements
• Roofs
• Replacements
• Master
• Other Improvements
TO
Tradesmen
For Home
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All Work Supervised
FREE on-site inspection
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ACT NOW
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Legals

PERFORMANCE EVALUATION REPORTS

NOTICE TO TAXPAYERS

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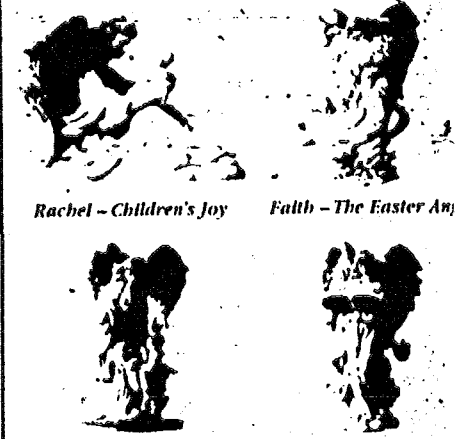
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Please see Spend, Page B6

Gary Post-Tribune 9/17/97

Trains move slowly past accident scene

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

Post-Tribune Staff Report

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

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

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

Marc Magliari, Amtrak spokesman, said Tuesday the morn-

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

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

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

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

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

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



A-224-d

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EXHIBIT MLC-3



September 25, 1997

HONORABLE JOLENE M. MULLONS
Administrator
Federal Railroad Administration
U. S. Department of Transportation
400 Seventh Street, SW
Washington, DC 20590


Dear Jolene:

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

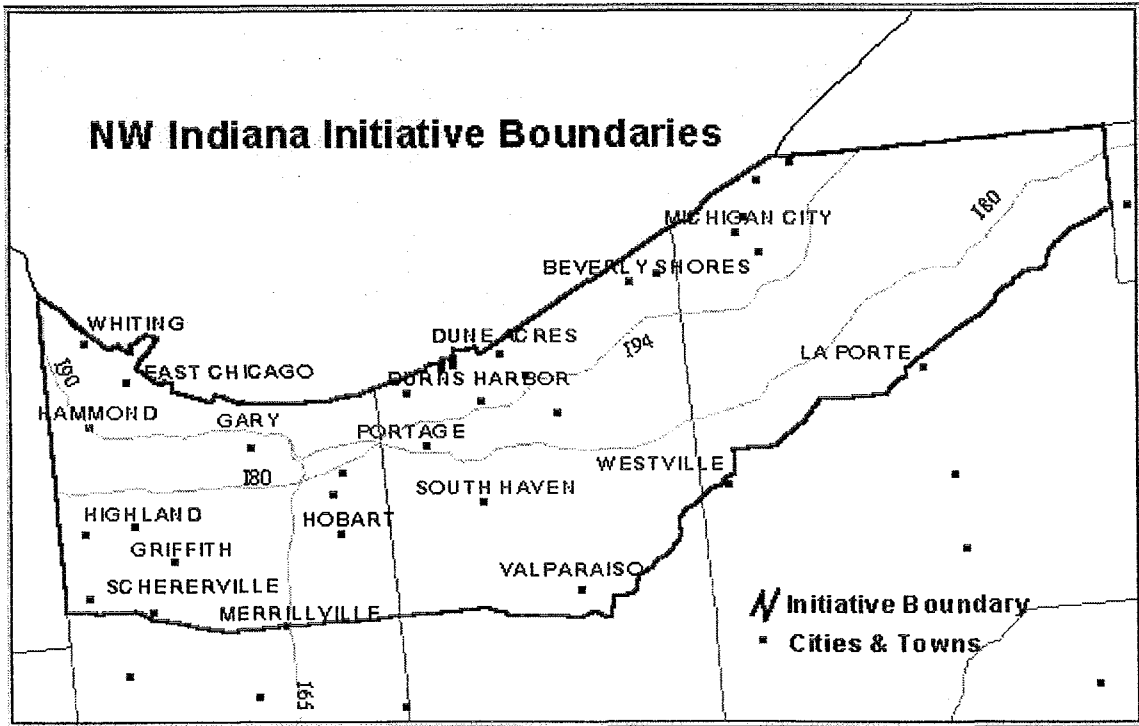
This crossing accident was the ninth similar occurrence involving Amtrak passenger trains in this area since November 1995. Several have resulted in injuries to people on the train and there have been three fatalities in the vehicles that have been struck. There have been over 50 accidents involving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

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

Sincerely,


Thomas M. Downs
Chairman, President and
Chief Executive Officer

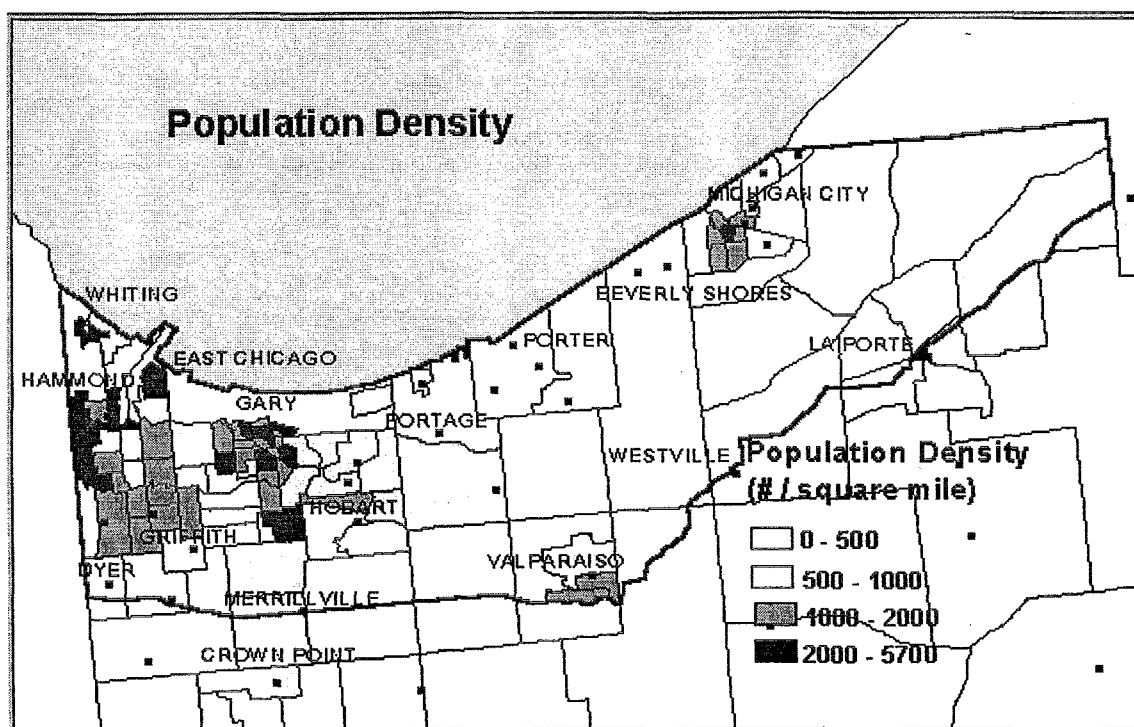
NW INDIANA INITIATIVE AREA

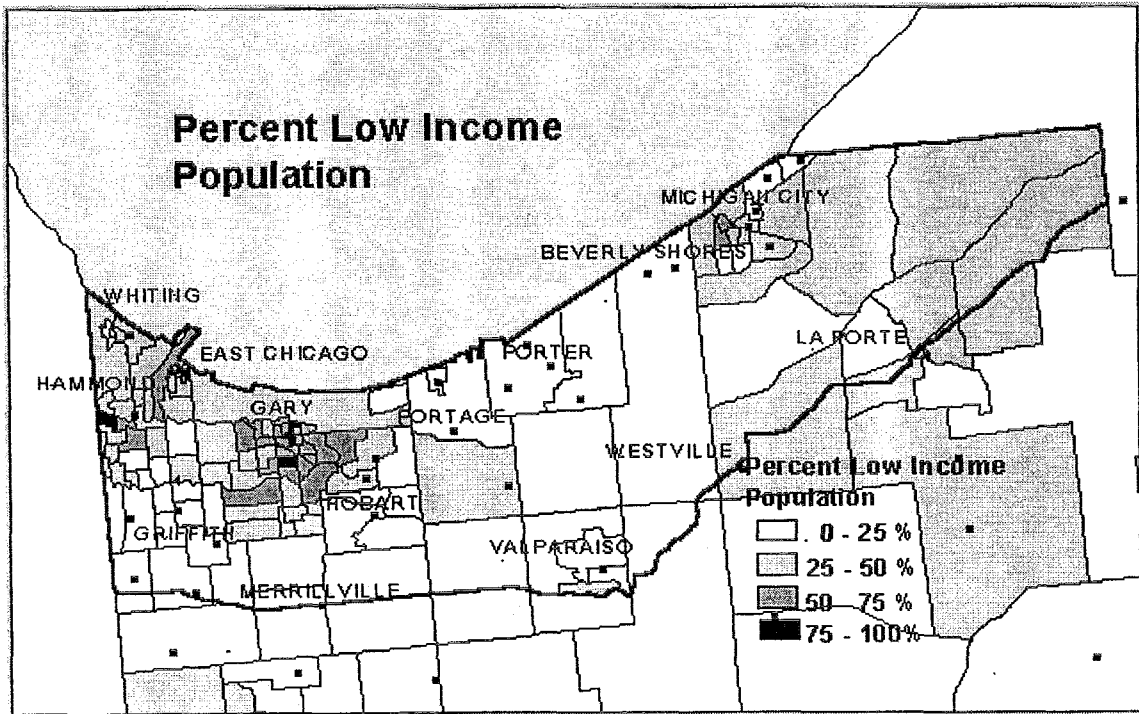
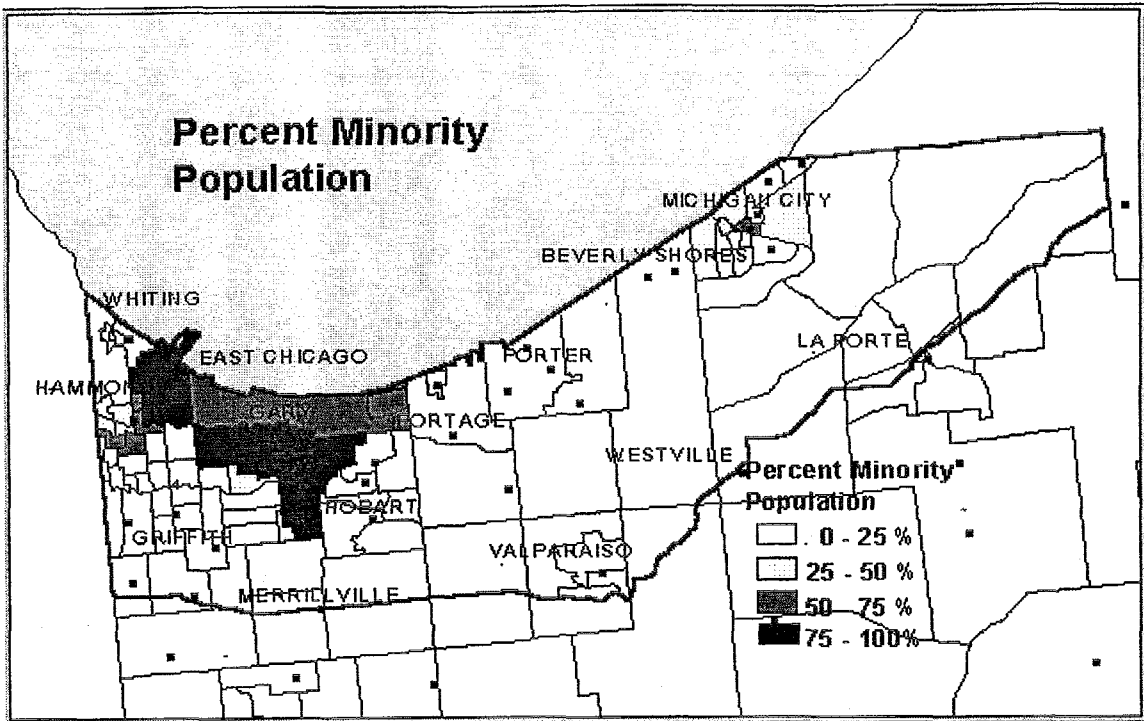


NW INDIANA INITIATIVE AREA

Demographic Maps

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





Northwest Indiana Environmental Initiative Action Plan

I. Background and Vision of the Northwest Indiana Environmental Initiative

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

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

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

III. Scope of the Northwest Indiana Environmental Initiative

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

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

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

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

V. Public Involvement in the Northwest Indiana Environmental Initiative

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

VI. Environmental Justice

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

VII. Sustainable Development.

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

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

VIII. Implementation and Future Review of the NWIAP

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

AIR QUALITY

Goal:

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

Objective:

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

Definitions:

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

Background:

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

hazardous air pollutants.

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

Major Activities:

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

Opportunities for Public Involvement

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

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

COMPLIANCE AND ENFORCEMENT

Goal:

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

Objective:

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

Definitions:

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

Background:

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

Major Activities:

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

Opportunities for Public Involvement:

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

LAND AND GROUND WATER REMEDIATION

Goal:

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

Objective:

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

Definitions:

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

Background:

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

Major Activities:

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

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

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

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

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

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

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

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

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

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

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

Opportunities for Public Involvement:

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

POLLUTION PREVENTION

Goal:

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

Objective:

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

Definitions:

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

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

Major Activities:

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

Opportunities for Public Involvement:

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

REMEDIAL ACTION PLAN AND LAKEWIDE MANAGEMENT PLAN

Goal:

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

Objective:

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

Definitions:

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

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

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

Background:

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

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

Major Activities:

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

Opportunities for Public Involvement:

- Annex 2 requires that the public be extensively involved in the development of every facet of both the RAP and LaMP. To meet this requirement the State of Indiana has established the Citizens Advisory for the Remediation of the Environment (CARE). CARE is an advisory group to the state composed of citizen members representing a broad array of backgrounds and interests. EPA and the four Great Lakes States rely on citizen input from groups such as the LaMP public forum. Additionally, both IDEM and EPA have held, and will continue to host, public workshops on specific issues brought forward by the public. The Action Plan was initiated to address several of the most difficult immediate environmental problems facing Northwest Indiana; the RAP process, however, is designed to protect and restore the environment in the Grand Calumet Area of Concern through the development of long term remedial and preventive strategies. That environment is shaped by the citizens of the area and the RAP must reflect their views of the future and what must be done to create that future.

SEDIMENTS

Goal:

To reduce the adverse impacts of contaminated sediments flowing into Lake Michigan from the Indiana Harbor Ship Canal and the Grand Calumet River and to restore these waterbodies for uses including fishing and wildlife habitat.

Objective:

EPA and IDEM will support the development of and implementation of the RAP for the Area of Concern to protect Lake Michigan from toxic sediments and restore the Grand Calumet River-Indiana Harbor Ship Canal ecosystem. These efforts will control contaminated sediments by means including dredging, in-place treatment and disposal.

Background:

More than twenty-five percent of the nation's steel making capacity is located in Northwest Indiana, along with several major petroleum facilities and other manufacturing plants. Largely as a result of past industrial pollution, substantial deposits of contaminated sediments have formed in the area's various waterbodies. The U.S. Army Corps of Engineers estimates that the Grand Calumet River and the Indiana Harbor and Ship Canal alone contain five to ten million cubic yards of contaminated sediments. This accumulation is due in large part to the suspension of maintenance dredging since 1972 because of the contaminated sediments. This in turn has led to approximately 150,000 cubic yards of these sediments carried into southern Lake Michigan annually. Therefore, IDEM and EPA have developed and will continue to develop strategies, not only to remediate existing contaminated sediment deposits, but to prevent future sediment contamination. Development of sediment disposal facilities, with public participation, is central to the resolution of this problem.

Major Activities:

- Because of the extent and variability of sediment contamination, EPA and IDEM have divided their activities into two categories. Category I consists of on-going or planned projects in the Indiana Harbor Ship Canal and Grand Calumet River aimed primarily at protecting Lake Michigan from the effects of contaminated sediments and improving quality. Category II activities involve development of further actions, using a basin or ecosystem wide approach. These activities will proceed, to the extent possible, as a joint venture between EPA and IDEM. Other long-range control and prevention strategies, such as ground water characterization, source controls, and ground water remediation, will eventually be developed as part of the RAP for the Area of Concern.
-
- Category I activities will:
 - pursue the dredging and disposal of contaminated sediments from the navigable portion of the Indiana Harbor Ship Canal -- the Federal Navigation Channel -- by cooperating with the U.S. Army Corps of Engineers. Such dredging will create a trap to reduce the flow of contaminated sediments into Lake Michigan. For other areas of the Indiana Harbor Ship Canal, IDEM and EPA will use all available tools, including the Inland Steel and LTV Steel Consent Decrees, to control as much sediment as possible;
 - focus on controlling contaminated sediments in the East Branch of the Grand Calumet River using all appropriate tools, including the implementation of the USX and Gary Consent Decrees;
 - pursue contaminated sediment control for the West Branch of the Grand Calumet River.
 - define appropriate measures for remediation and disposal of sediments addressed by the foregoing actions.
 - continue study of environmental conditions in the Indiana Harbor Ship Canal Grand Calumet River ecosystem and organize data to support site-specific actions, as well as analysis of basin-wide impacts of various sediment clean up or control alternatives.
- Category II activities will:

begin development of a comprehensive treatment/storage/disposal strategy for sediments removed from the Indiana Harbor Ship Canal and Grand Calumet River.

 - continue to identify and evaluate available mechanisms including enforcement, corrective action, and voluntary projects, to address non-remediated areas of the Indiana Harbor Ship Canal and Grand Calumet River;
 - continue the development of individual strategies targeting specific pollutants and broad strategies bringing together "responsible parties" to address key geographic areas.

Opportunities for Public Involvement:

The successful completion of this strategy requires significant public outreach by EPA and IDEM, and other involved agencies, on all aspects of this sediments strategy. The agencies will seek out opportunities for education and dialogue with the public regarding sediment control and remediation, and encourage their participation and comment on future sediments work.

Portage Times

Dec. 4, 1997

Planners warned that road funding is at risk



"How are we going to get people to accept alternatives? The last time we tried this, people rejected it."

Rep. Chester Dohis,
D-Merrillville

■ Northwest Indiana not meeting regulations on traffic congestion, air quality.

BY ROBIN BIESEN
Times Staff Writer

PORTAGE — Transportation planners are warning Northwest Indiana motorists to get serious about alternative transportation, such as car pooling and mass transit.

The region's share of federal highway money might hang in the balance.

At a meeting Wednesday of the Northwestern Indiana Regional Planning Commission Executive Board, transportation planner Darren Henderson said the days when the region was able to squeak by federal regulations on traffic congestion and air quality are numbered.

"Northwest Indiana has done nothing so far to comply with federal (highway funding) legislation. The region has been able to pass the air quality test without modifications," Henderson said. "We are

See PLANNERS p. 2

quickly reaching the wall with air quality conformity. We will not get federal funding for expansion unless we make some changes."

State Rep. Chester Dohis, D-Merrillville, a member of the NIRPC board, doesn't dispute the need to reduce the number of single-occupant cars that crowd the region's thoroughfares.

Dohis squared off with NIRPC planners, though, over the need to re-study the issue of the region's overcrowded highways.

"What is different today than it was when you studied this 10 years ago?" Dohis asked those in charge of re-studying the problem. "Isn't there a study you can dust off instead of spending money to do it again?"

It is going to take more than another study to change the

behaviors that contribute to the problem of congested highways and poor air quality, he said.

"How are we going to get people to accept alternatives?" Dohis asked. "The last time we tried this, people rejected it."

Steve Strains, director of transportation planning for NIRPC, said it would take massive behavior modification to change what has become the status quo in Northwest Indiana.

"This goes to the basic issue of land use and transportation," Strains said. "We have to teach people to think differently about how we travel and we have to think about the alternatives that we provide for people."

At the heart of the issue has been the region's propensity to sprawl away from the urban, industrial cores.

Building new highways or adding capacity to existing corri-

dors simply encourages the problem to continue and escalate, Strains said.

"We can't continue to build and expand roads the way we used to," Strains said. "That is an option we can look at only after we look at other ways to mitigate congestion."

A report detailing the environmental impact of proposed road expansion projects is due to be delivered to the executive board in February.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2. of Commandant Instruction M16475.1 (series), this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available by contacting Commander (mps), Eighth Coast Guard District, 501 Magazine Street, New Orleans, LA 70130-3396.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart F of Part 165 of Chapter 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A new § 165.T08-041 is added to read as follows:

§ 165.T08-041 Safety Zone: St. Andrew Bay, Panama City Florida, Hathaway Landing Marina

(a) Location. The following area is a safety zone: In the vicinity of Hathaway Landing Marina between W 85-44' 9", N 30-11' 5" and W 85-44' 9", N 30-11' 3", and W 85-45' 1", N30-11' 7" and W 85-45' 1", N 30-11' 4". The zone is needed to protect personnel and property associated with the Jet Ski Waverunner Exhibition.

(b) Effective date. This section becomes effective at 11:30 A.M. July 20, 1997. It terminates at 4:30 P.M. on July 20, 1997 unless terminated sooner by the Captain of the Port. (c) Regulations: In accordance with the general regulations in § 165.23 of this part, entry

into this zone is prohibited unless authorized by the Captain of the Port.

Dated: June 12, 1997.

J.J. Kichner,

Captain, U.S. Coast Guard, Captain of the Port Mobile, Alabama.

[FR Doc. 97-18992 Filed 7-17-97; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[IN53-3; FRL-5860-4]

Approval and Promulgation of State Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On June 26, 1995, and June 13, 1997, the State of Indiana submitted a Rate-Of-Progress (ROP) plan to reduce Volatile Organic Compounds (VOC) emissions in Lake and Porter Counties by 15 percent (%) from 1990 baseline levels by November 15, 1996, as a requested revision to the Indiana State Implementation Plan (SIP). On April 3, 1997, EPA issued a direct final approval of the Lake and Porter Counties 15% ROP plan, 3% contingency plan, and an Indiana Agreed Order requiring VOC emission controls on Keil Chemical Division, Ferro Corporation, located in Lake County (Keil). On the same day (April 3, 1997) EPA proposed approval and solicited public written comment on these requested SIP revisions. This proposed rule established a 30-day public comment period noting that if adverse comments were received regarding the direct final rule EPA would withdraw the direct final rule and publish an additional final rule to address the public comments. Adverse comments were received during the public comment period relating to the Keil SIP revision. EPA withdrew the direct final rule on May 23, 1997. In today's action, EPA is finalizing approval of the 15% ROP plan. Final action on the 3% contingency plan and the Keil agreed order will be addressed in a subsequent rulemaking action. The 15% ROP plan has reduced VOC emissions in Lake and Porter Counties by approximately 68,242 pounds (lbs) per day. VOC emissions combine with oxides of nitrogen in the atmosphere to form ground-level ozone, a pollutant which can cause inflammation of the lungs, decrease lung capacity, and aggravate asthma. The rationale for this rulemaking is discussed below.

DATES: This final rule is effective August 18, 1997.

ADDRESSES: Copies of the SIP revision request are available for inspection at the following address: (It is recommended that you telephone Mark J. Palermo at (312) 886-6082, before visiting the Region 5 office.)

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, Air Programs Branch (AR-18J) (312) 886-6082.

SUPPLEMENTARY INFORMATION:**I. Background on 15% ROP Requirements**

On November 15, 1990, Congress enacted amendments to the 1977 Clean Air Act (Act); Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. Section 182(b)(1) requires States with ozone nonattainment areas classified as moderate and above to submit a SIP revision known as a 15% ROP plan. This plan must reflect an actual reduction in typical ozone season weekday VOC emissions of at least 15% in the area during the first 6 years after enactment (i.e., by November 15, 1996). The emission reductions needed to achieve the 15% requirement must be calculated using a 1990 anthropogenic VOC emissions inventory as a baseline, minus emissions that have been reduced by: (1) The Federal Motor Vehicle Control Program (FMVCP) measures for the control of motor vehicle exhaust or evaporative emissions promulgated before January 1, 1990; and (2) gasoline Reid Vapor Pressure (RVP) regulations promulgated by November 15, 1990 (55 FR 23666, June 11, 1990). In addition, the plan must account for net growth in emissions within the nonattainment area between 1990 and 1996.

In Indiana, two ozone nonattainment areas are subject to the 15% ROP plan requirement: The Lake and Porter Counties portion of the Chicago severe ozone nonattainment area, and the Clark and Floyd Counties portion of the Louisville moderate ozone nonattainment area. This rulemaking action addresses only the plan for Lake and Porter Counties; the Clark and Floyd Counties 15% ROP plan was approved on May 7, 1997 (62 FR at 24815).

II. Indiana's 15% ROP Submittal

The Act requires States to observe certain procedural requirements in developing SIPs and SIP revisions for submission to EPA. Section 110(a)(2)

and section 110(l) of the Act require that each State's SIP revision submitted under the Act be adopted by the State after reasonable notice and public hearing. The State of Indiana submitted a portion of the Lake and Porter Counties 15% ROP SIP revision on January 13, 1994. The SIP revision was reviewed by EPA to determine completeness shortly after submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). However, the submittal was deemed incomplete because the plan had not yet gone through public hearing and did not include fully adopted rules for all of the plan's control measures. Indiana held a public hearing on the plan on March 29, 1994. A summary of comments from that hearing and the Indiana Department of Environmental Management's (IDEM) response was submitted on July 5, 1994. IDEM sent a supplemental submittal on June 26, 1995, which included fully adopted rules for the Lake and Porter Counties 15% ROP plan. In a July 17, 1995, letter to Indiana, the State was notified that the SIP submittal was deemed complete.

III. Criteria for 15% ROP Approvals

The requirements for 15% ROP plans are found in section 182(b)(1) of the Act, and the following EPA guidance documents:

1. *Procedures for Preparing Emissions Projections*, EPA-450/4-91-019, Environmental Protection Agency, July 1991.

2. State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Proposed rule (57 FR 13498), **Federal Register**, April 16, 1992 (General Preamble).

3. "November 15, 1992, Deliverables for Reasonable Further Progress and Modeling Emission Inventories," memorandum from J. David Mobley, Edwin L. Meyer, and G. T. Helms, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 7, 1992.

4. *Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for the 15 Percent Rate of Progress Plans*, EPA-452/R-92-005, Environmental Protection Agency, October 1992.

5. "Quantification of Rule Effectiveness Improvements," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 1992.

6. *Guidance for Growth Factors, Projections, and Control Strategies for the 15 Percent Rate-of-Progress Plans*, EPA-452/R-93-002, March 1993.

7. "Correction to 'Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for the 15 Percent Rate of Progress Plans'," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 2, 1993.

8. "15 Percent Rate-of-Progress Plans," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 16, 1993.

9. *Guidance on the Relationship Between the 15 Percent Rate-of-Progress Plans and Other Provisions of the Clean Air Act*, EPA-452/R-93-007, Environmental Protection Agency, May 1993.

10. "Credit Toward the 15 Percent Rate-of-Progress Reductions from Federal Measures," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Environmental Protection Agency, May 6, 1993.

11. *Guidance on Preparing Enforceable Regulations and Compliance Programs for the 15 Percent Rate-of-Progress Plans*, EPA-452/R-93-005, Environmental Protection Agency, June 1993.

12. "Correction Errata to the 15 Percent Rate-of-Progress Plan Guidance Series," memorandum from G. T. Helms, Chief, Ozone and Carbon Monoxide Programs Branch, Environmental Protection Agency, July 28, 1993.

13. "Early Implementation of Contingency Measures for Ozone and Carbon Monoxide (CO) Nonattainment Areas," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Environmental Protection Agency, August 13, 1993.

14. "Region III Questions on Emission Projections for the 15 Percent Rate-of-Progress Plans," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 17, 1993.

15. "Guidance on Issues Related to 15 Percent Rate-of-Progress Plans," memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, Environmental Protection Agency, August 23, 1993.

16. "Credit Toward the 15 Percent Requirements from Architectural and Industrial Maintenance Coatings,"

memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, September 10, 1993.

17. "Reclassification of Areas to Nonattainment and 15 Percent Rate-of-Progress Plans," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, September 20, 1993.

18. "Clarification of 'Guidance for Growth Factors, Projections and Control Strategies for the 15 Percent Rate of Progress Plans'," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 6, 1993.

19. "Review and Rulemaking on 15 Percent Rate-of-Progress Plans," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality Planning and Standards, Environmental Protection Agency, October 6, 1993.

20. "Questions and Answers from the 15 Percent Rate-of-Progress Plan Workshop," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Environmental Protection Agency, October 29, 1993.

21. "Rate-of-Progress Plan Guidance on the 15 Percent Calculations," memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, Environmental Protection Agency, October 29, 1993.

22. "Clarification of Issues Regarding the Contingency Measures that are Due November 15, 1993 for Moderate and Above Ozone Nonattainment Areas," memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, Environmental Protection Agency, November 8, 1993.

23. "Credit for 15 Percent Rate-of-Progress Plan Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, December 9, 1993.

24. "Guidance on Projection of Nonroad Inventories to Future Years," memorandum from Philip A. Lorang, Director, Emission Planning and Strategies Division, Office of Air and Radiation, Environmental Protection Agency, February 4, 1994.

25. "Discussion at the Division Directors Meeting on June 1 Concerning the 15 Percent and 3 Percent Calculations," memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, Office of Air Quality

Planning and Standards, Environmental Protection Agency, June 2, 1994.

26. "Future Nonroad Emission Reduction Credits for Court-Ordered Nonroad Standards," memorandum from Philip A. Lorang, Director, Emission Planning and Strategies Division, Office of Air and Radiation, Environmental Protection Agency, November 28, 1994.

27. "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule and the Autobody Refinishing Rule," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, November 29, 1994.

28. "Transmittal of Rule Effectiveness Protocol for 1996 Demonstrations," memorandum from Susan E. Bromm, Director, Chemical, Commercial Services and Municipal Division, Office of Compliance, Environmental Protection Agency, December 22, 1994.

29. "Future Nonroad Emission Reduction Credits for Locomotives," memorandum from Philip A. Lorang, Director, Emission Planning and Strategies Division, Office of Air and Radiation, Environmental Protection Agency, January 3, 1995.

30. "Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 22, 1995.

31. "Fifteen Percent Rate-of-Progress Plans—Additional Guidance," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, May 5, 1995.

32. "Update on the Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance Coatings Rule," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, March 7, 1996.

33. "Date by which States Need to Achieve all the Reductions Needed for the 15% Plan from Inspection and Maintenance (I/M) and Guidance for Recalculation," memorandum from Margo Oge, Director, Office of Mobile Sources, and John S. Seitz, Director, Office of Air Quality Planning and Standards, Environmental Protection Agency, August 13, 1996.

34. "Sample City Analysis: Comparison of Enhanced Inspection and Maintenance (I/M) Reductions Versus Other 15 Percent Rate of Progress Plan

Measures," E.H. Pechan and Associates, December 12, 1996.

35. "Modeling 15 Percent Volatile Organic Compound (VOC) Reduction(s) from I/M in 1999: Supplemental Guidance," memorandum from Gay MacGregor, Director, Regional and State Programs Division, and Sally Shaver, Director, Air Quality Strategies and Standards Division, Environmental Protection Agency, December 23, 1996.

36. "15% Volatile Organic Compound (VOC) State Implementation Plan (SIP) Approvals and the 'As Soon As Practicable' Test," memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, and Richard B. Ossias, Deputy Associate General Counsel, Division of Air and Radiation, Office of General Counsel, Environmental Protection Agency, February 12, 1997.

For a 15% ROP plan SIP to be approved, the plan must adequately justify how much emission reduction is needed to achieve 15% emission reduction by November 15, 1996, and how the plan's control strategy will secure that reduction. The procedure for calculating the needed emission reduction is as follows:

(A) Calculate the "1990 ROP inventory" by subtracting from the area's "1990 base year inventory"¹ biogenic emissions, emissions outside of the nonattainment area, and pre-attainment banked emission credits;

(B) Calculate the "1990 adjusted base year inventory" by subtracting from the 1990 ROP inventory any emission reductions from the pre-1990 FMVCP and 1990 RVP Federal regulations which occur between 1990 and 1996;²

¹ Sections 172(c)(3) and 182(a)(1) of the Act require that nonattainment plan provisions include a comprehensive, accurate inventory of actual emissions which occurred in 1990 from all sources of relevant pollutants in the nonattainment area. This inventory provides an estimate of the amount of VOC and oxides of nitrogen produced by emission sources such as automobiles, powerplants and the use of consumer solvents in the household. Because the approval of such inventories is necessary to an area's 15% ROP plan and attainment demonstration, the emission inventory must be approved prior to or with the 15% ROP plan submission.

² The 1990 adjusted base year inventory represents the "baseline emissions" from which the 15 percent reduction is to be calculated, as specified under section 182(b)(1)(B) of the Act. Section 182(b)(1)(B) defines baseline emissions to mean the total amounts of actual VOC emissions from all anthropogenic sources in the ozone nonattainment areas during the calendar year of 1990, excluding emissions that are eliminated by the pre-1990 FMVCP and 1990 RVP regulations. In the General Preamble, EPA interprets "calendar year" emissions to consist of typical ozone season weekday emissions, based on the fact that the ozone National Ambient Air Quality Standard (NAAQS) (0.12 parts per million, one-hour average) is generally exceeded or violated during ozone season

(C) Calculate "15% of adjusted base year emissions" by multiplying the 1990 adjusted base year inventory by 15%;

(D) Calculate the "total required reductions by 1996" by adding emission reductions from the pre-1990 FMVCP and 1990 RVP federal rules to 15% of adjusted base year emissions calculation;³

(E) Calculate the "1996 emissions target level" by subtracting from the 1990 ROP base year inventory the total required reductions by 1996;

(F) Calculate the "1996 projected emission estimate" by either adding growth factors to the 1990 adjusted base-year inventory, or adding growth factors and required emission reductions to the 1990 ROP inventory; and,

(G) Calculate the "reduction required by 1996 to achieve 15% net of growth" by subtracting the 1996 target emissions level from the 1996 projected emissions level.

In determining what control measures a State can use in its 15% ROP plan strategy, the Act provides under section 182(b)(1)(C) that emission reductions from control measures are creditable to the extent that they have actually occurred before November 15, 1996. In keeping with this requirement, the General Preamble states that all credited emission reductions must be real, permanent, and enforceable, and that regulations needed to implement the plan's control strategy must be adopted and implemented by the State by November 15, 1996.

IV. Prior Rulemaking Action

On April 3, 1997, EPA published a direct final rulemaking action approving the Lake and Porter Counties 15% ROP plan and a 3% contingency measure plan for Lake and Porter Counties (62 FR 15844). As part of the 15% ROP plan, Indiana also submitted an agreed order requiring VOC emission controls on Keil Chemical Division, Ferro Corporation, located in Lake County (Keil). On the same day (April 3, 1997), EPA proposed approval and solicited public comment on these requested SIP revisions (62 FR 15867). The proposed rule established a 30-day public comment period, noting that if adverse comments were received regarding the

weekdays when ozone precursor emissions and meteorological conditions are most conducive to ozone formation. Ozone seasons are typically the summer months.

³ Under section 182(b)(1)(D), emission reductions pre-1990 and 1990 RVP regulations are not creditable toward meeting 15%. The emission reductions which occurred by 1996 from these regulations are added to emissions required to meet 15% to determine the total amount of emission reduction by 1996 for the area.

direct final rule EPA would withdraw the direct final rule and publish an additional final rule to address the public comments. The only set of comments received during the public comment period was from the Ferro Corporation regarding the Keil agreed order. Because these comments raised questions about the anticipated emissions reductions of the agreed order, EPA withdrew the direct final rulemaking on May 23, 1997 (62 FR at 28349).

Indiana originally claimed emission reductions from the Keil agreed order in the Lake and Porter 15% plan. The July 29, 1994, agreed order (Cause No. A-2250) requires the facility to meet certain control requirements. The agreed order was submitted with the 15% ROP plan for incorporation into the Indiana SIP so that the State could properly take credit for Keil's emission reductions.

Ferro Corporation's comment supported the Lake and Porter Counties 15% ROP plan, but requested that EPA recognize that Keil's VOC control installed pursuant to the agreed order has achieved more emission reductions than required under federal and State control regulations, and, consequently, the excess emission reductions "should

be credited as a banked pollutant for the future." Ferro Corporation also indicated that EPA and Indiana are still reviewing Keil's compliance determination method for the 25 tons per year VOC emission limit under the agreed order. Ferro requested that EPA agree that Keil should not be held in violation of the SIP for the 25 tons per year limit if EPA and Indiana determine that Keil should use a different compliance determination method.

EPA is currently evaluating the Ferro Corporation comments. To expedite final approval of the 15% ROP plan, Indiana submitted a letter on June 13, 1997, which states that it has changed the allocation of control measure reductions between the Lake and Porter Counties 15% ROP plan and the 3% contingency plan. The agreed order emission reductions (5327 lbs VOC per day) will be shifted from the 15% ROP plan to the 3% contingency plan, and remaining reductions from Inland Steel Flat Product's coke oven shutdown (759 lbs VOC per day) and the State's automobile refinishing rule (4619 lbs VOC per day) have been shifted from the 3% contingency plan to the 15% ROP plan. The amount of emission reductions claimed for the coke oven

shutdown and automobile refinishing rule was found by EPA to be acceptable in the April 3, 1997, direct final approval.

In today's action, EPA is promulgating final approval of the 15% ROP plan as adjusted by Indiana's June 13, 1997, letter. Because shifting emission reduction credit between the two plans does not affect the implementation of the plans' control measures, nor the achievement of 15% reduction required under the Act, reproposing approval of the 15% ROP plan is unnecessary. The 3% contingency plan is a separate requirement of the Act, and approval of the 3% contingency plan is not a prerequisite for approval of the 15% ROP plan. EPA will promulgate a final rulemaking on the 3% contingency plan once EPA completes its evaluation of the Ferro Corporation comments.

V. Analysis of Lake and Porter Counties 15% ROP Plan

Indiana's 15% ROP summary for Lake and Porter Counties is provided in the following table. This table has been adjusted from the table which appeared in the direct final to reflect the State's June 13, 1997, letter. (See part IV of this rulemaking).

15% ROP SUMMARY FOR LAKE AND PORTER COUNTIES

Calculation of Reduction needs by 1996		Lbs Voc/ DayAY
1990 Lake and Porter Counties Total VOC Emissions		424,721
1990 ROP Emissions (Anthropogenic only)		381,841
1990-1996 Noncreditable Reductions (Reductions from 1990 RVP and Pre-1990 FMVCP Regulations)		58,838
1990 Adjusted Base Year Emissions (1990 ROP Emissions minus Noncreditable Reductions)		323,003
15% of Adjusted Base Year Emissions		48,450
Total Required Emission Reductions by 1996 (15% of Adjusted Base Year Emissions plus Noncreditable Reductions)		107,288
1996 Target Level (1990 ROP Emissions minus Total Required Emission Reductions by 1996)		274,553
1996 Projected Emissions (1990 Adjusted Base Year Emissions plus Growth Factors)		342,683
Reduction needs by 1996 to achieve 15 percent net of growth (1996 Projected Emission minus 1996 Target Level)		68,130
Creditable Reduction from Mandatory Controls		
Mobile Sources:		
Enhanced Vehicle Inspection and Maintenance (I/M) Program (326 IAC 13-1.1)		6,817
Federal Reformulated Gasoline Program (40 CFR Part 80, Subpart D)		14,905
Area Sources:		
Stage II Gasoline Vapor Recovery (326 IAC 8-4-6)		9,824
Federal Architectural and Industrial Maintenance (AIM) Coatings Rule		2,920
Point Sources:		
Non-Control Techniques Guideline (CTG) Reasonably Available Control Technology (RACT) Rule (326 IAC 8-7)		4,559
Subtotal—Reductions from Mandatory Controls		39,025
Creditable Reductions From Non-Mandatory Controls		
Point Sources:		
Coke Oven Battery Shutdowns at Inland Steel Flat Products (326 IAC 6-1-10.1(k)(5))		23,609
Area Sources:		
Automobile Refinishing (326 IAC 8-10)		4,679
Residential Open Burning (326 IAC 4-1)		929
Subtotal—Reduction From Non-Mandatory Controls		29,217
Total Creditable Reductions from 15% ROP plan		68,242

A. Calculation of the 1990 Adjusted Base Year Emission Inventory

To determine the 1990 adjusted base year inventory, Indiana used the 1990 base year emission inventory approved by EPA on January 4, 1995 (60 FR 375), which was found to meet the requirements of sections 172(c)(3) and 182(a)(1) of the Act for Lake and Porter Counties. Total VOC emissions estimated from this inventory are 424,721 lbs VOC/day. Indiana subtracted biogenic emissions and emissions from outside Lake and Porter Counties from the 1990 base year inventory to determine that the 1990 ROP inventory level is 381,841 lbs VOC/day. No pre-enactment banked emission credit was included in this inventory.

Indiana used EPA's Mobile Source Emissions Model (MOBILE)5a to calculate the emission reductions from the pre-1990 FMVCP and 1990 RVP regulations; these reductions were subtracted from the 1990 ROP inventory level to find the 1990 adjusted base year inventory level of 323,003 lbs VOC/day. Indiana's documentation includes the actual 1990 motor vehicle emissions using 1990 vehicle miles traveled (VMT) and MOBILE5a emission factors, and the adjusted emissions using 1990 VMT and the MOBILE5a emission factors in calendar year 1996 with the appropriate RVP for the nonattainment area as mandated by EPA. The plan includes adequate documentation showing how the MOBILE5a model was run to calculate the expected emission reductions from FMVCP and RVP.

B. 1996 ROP Target Emission Level

To calculate the 1996 target emission level for Lake and Porter Counties, Indiana first multiplied the 1990 adjusted base year inventory by 0.15 to determine that the 15% required emission reduction by 1996 is 48,450 lbs VOC/day. Then, 58,838 lbs VOC/day of reductions from non-creditable control measures (pre-1990 FMVCP and 1990 RVP) were added to the 15% required reduction to find that the total required reductions by 1996 is 107,288 lbs VOC/day. Finally, Indiana subtracted the 1996 total required emission reductions from the 1990 ROP emission inventory to determine that the 1996 emission target level for Lake and Porter Counties is 274,553 lbs VOC/day.

The 15% ROP plan submittal adequately documents the calculations used to determine the Lake and Porter Counties target level by showing each step, discussing any assumptions made, and stating the origin of the numbers used in the calculations.

C. Projected Emission Inventory

To determine the 1996 projected emission inventory, Indiana has included in the 15% ROP plan the growth factors used together with documentation for the assumptions made. The point, area, and non-road mobile source emission inventories were projected using either source supplied data, population forecasts, historical data, or, where historical data were unavailable or not suitable to project, the U.S. Department of Commerce Bureau of Economic Analysis (BEA) regional growth data were used. The on-road mobile source emission inventory was projected using MOBILE5a. The State's calculations for growth in the on-road mobile, off-road mobile, industrial, and area source sectors is 10,180 lbs VOC/day, 1,298 lbs VOC/day, 4,692 lbs VOC/day, and 3,510 lbs VOC/day, respectively, for a total of 19,680 lbs VOC/day. These growth estimates were calculated in a manner consistent with EPA's guidance documents. The projected emissions were added to the 1990 adjusted base year inventory to determine that the 1990 projected emission inventory level is 342,683 lbs VOC/day.

D. Creditable Reductions from Control Measures

From the calculation of the 1996 target emission level and 1996 projected emission level, Indiana must reduce emissions in Lake and Porter Counties by 68,130 lbs VOC/day, to secure the 15% ROP reduction. The Lake and Porter Counties 15% ROP plan does meet this requirement. The total creditable emission reductions achieved by the 15% ROP plan are 68,242 lbs VOC/day. Emission reductions not needed to meet the 15% ROP requirement will be applied toward achieving post-1996 ROP reductions, leading to attainment of the ozone air quality standard.

The SIP submittal includes documentation indicating the sources or source categories which are expected to be affected by each control measure, the sources' projected 1996 emissions without controls, and the assumptions used to estimate how much the sources' 1996 emissions would be reduced by each control measure. These assumptions were derived primarily from Midwest Research Institute's April 30, 1993, document entitled "Support Document for Indiana's Lake and Porter Nonattainment Area 1996 Rate of Progress Plan," which was contracted by EPA to assist Indiana in developing the 15% ROP and contingency plans. A

review of the emission reduction credit taken for each control measure follows:

Enhanced I/M Program

Of the 15% ROP plans originally submitted to EPA, most contain enhanced I/M programs because they achieve more VOC emission reductions than most, if not all other, control strategies. However, because most States experienced substantial difficulties implementing enhanced I/M programs, only a few States are currently actually testing cars using the original enhanced I/M protocol.

On September 18, 1995 (60 FR 48029), EPA finalized revisions to its enhanced I/M rule allowing States significant flexibility in designing I/M programs appropriate for their needs. Further, Congress enacted the National Highway Systems Designation Act of 1995 (NHSDA), which provides States with more flexibility in determining the design of enhanced I/M programs. The substantial amount of time needed by States to re-design enhanced I/M programs in accordance with the final enhanced I/M rules and/or the guidance contained within the NHSDA, to secure State legislative approval when necessary, and set up the infrastructure to perform the testing program has precluded States from obtaining emission reductions from enhanced I/M by November 15, 1996.

Given the heavy reliance by many States on enhanced I/M programs to help satisfy 15% ROP plan requirements, and the recent NHSDA and regulatory changes regarding enhanced I/M programs, EPA has recognized that it was not possible for many States to achieve the portion of the 15% ROP reductions that are attributed to enhanced I/M by November 15, 1996. Under these circumstances, disapproval of the 15% ROP plan SIPs would serve no purpose. Consequently, under certain circumstances, EPA will allow States that pursue re-design of enhanced I/M programs to receive emission reduction credit from these programs in their 15% ROP plans, even though the emission reductions from the I/M program will occur after November 15, 1996.

Specifically, the EPA will approve 15% ROP SIPs if the emission reductions from the revised, enhanced I/M programs, as well as from the other 15% ROP plan measures, will achieve the 15% level as soon after November 15, 1996, as practicable. To make this "as soon as practicable" determination, the EPA must determine that the 15% ROP plan contains all VOC control strategies that are practicable for the nonattainment area in question and that

meaningfully accelerate the date by which the 15% level is achieved. The EPA does not believe that measures meaningfully accelerate the 15% date if they provide only an insignificant amount of reductions.

Indiana's enhanced I/M program for Lake and Porter Counties was approved by EPA on March 19, 1996 (61 FR 11142), and the State began testing vehicles under the new program on January 1, 1997. A single contractor, Envirotest, Inc., operates a test-only centralized network for inspections and re-inspection. The Indiana I/M program requires coverage of all 1976 and newer gasoline powered light duty passenger cars and light duty trucks up to 9,000 pounds Gross Vehicle Weight Rating (GVWR). All applicable 1981 and newer vehicles will be subject to a transient, mass emissions tailpipe test that includes the purge and pressure test. All applicable 1976 through 1980 vehicles will be subject to a BAR90 single-speed idle test that includes the pressure test. The I/M contractor has acquired all the emission test sites required under the State I/M contract, and all the test stations required have been constructed.

EPA has analyzed Indiana's enhanced I/M program to predict when the emission reductions claimed in the Lake and Porter Counties 15% ROP plan for the program will actually be secured. This analysis was based on the methodology specified in EPA's policy memoranda, "Date by Which States Need to Achieve all the Reductions Needed for the 15% Plan from I/M and Guidance for Recalculation," August 13, 1996, and "Modeling 15% VOC Reduction(s) from I/M in 1999—Supplemental Guidance," December 23, 1996. MOBILE5b runs were used to evaluate the credit using inputs that reflect actual program startup. Some of the input parameters of the modeling included: a January 1, 1997, program start date; start-up cutpoints as recommended by EPA; and expected evaporative test procedures available at start-up. The State has taken credit in the Lake and Porter Counties 15% ROP plan for 6,817 lbs VOC/day, or 3.41 tons per day reductions from enhanced I/M. Based on EPA's analysis, the emission reduction claimed will be secured by November 1999. See EPA's August 13, 1996, policy memorandum titled "Date by Which States Need to Achieve all the Reductions Needed for the 15% Plan from I/M and Guidance for Recalculation," for further discussion on the November 1999 date.

To determine whether there are other available potential control measures which can meaningfully accelerate the date by which a 15% reduction in VOC

emissions in Lake and Porter Counties can be achieved, EPA compared the Lake and Porter Counties 15% ROP and 3% contingency plans with control measures included in 15% ROP plans nation-wide, which are listed in EPA's report, "Sample City Analysis: Comparison of Enhanced I/M Reductions Versus other 15 Percent ROP Plan Measures," December 12, 1996, referenced in EPA's policy document "15% VOC SIP Approvals and the 'As Soon As Practicable' Test," February 12, 1997. Based upon the report, EPA believes there are no other potential control measures beyond those already included in the Lake and Porter Counties 15% ROP and 3% contingency plans which can secure a significant amount of emission reduction before November 1999.

Because Indiana's enhanced I/M program will secure emission reductions claimed under the Lake and Porter Counties 15% ROP plan by November 1999, and because there are no other potential control measures which can meaningfully accelerate the achievement of a 15% reduction in the counties before November 1999, the EPA finds that the Lake and Porter Counties 15% ROP plan does secure a 15% emission reduction as soon as practicable. On this basis, the emission reduction claimed for the Lake and Porter Counties enhanced I/M program under the 15% ROP plan is approvable.

Federal Reformulated Gasoline Program

The federal reformulated gasoline program (40 CFR part 80, subpart D) requires gasoline providers in Lake and Porter Counties to sell only gasoline which meets certain blending requirements to reduce pollution. The VOC reduction from reformulated gasoline was determined using the MOBILE5a model to estimate the difference between 1996 highway mobile source emissions at RVP 9.0, the level of control upon gasoline in Lake and Porter Counties before the reformulated gasoline requirement, and 1996 highway mobile source emissions with reformulated gasoline. Indiana has credited a 14,905 lbs VOC/day emission reduction from this program, which is acceptable.

Stage II Gasoline Vapor Recovery Rule

Indiana's Stage II rule (326 IAC 8-4-6) requires facilities that sell more than 10,000 gallons of gasoline per month to operate Stage II vapor recovery systems certified to have a control effectiveness of at least 95%. Indiana has estimated that the rule has a 84% program in-use efficiency, accounting for annual inspection program effects and the

exemption of facilities with a monthly gasoline throughput of less than 10,000 gallons. Indiana has credited a 9,824 lbs VOC/day emission reduction from this rule, which is acceptable.

Federal AIM Coatings Rule

Pursuant to section 183(e) of the Act, EPA proposed on June 25, 1996 (61 FR 32729), a national rule requiring manufacturers of AIM coatings to meet VOC content limitations. The March 7, 1996, EPA memorandum "Update on the Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance Coatings Rule" allows States to take credit for a 20% reduction in AIM coating emissions, even though promulgation of the rule has been delayed. Based on this policy, Indiana has taken an emission reduction credit of 2,920 lbs VOC/day, which is acceptable.

Non CTG RACT Rule

Indiana's Non-CTG RACT rule (326 IAC 8-7) requires VOC controls on sources which have the potential to emit 25 tons of VOC emissions per year, and are not already covered under an existing CTG or part of a post-1990 CTG category.⁴ Sources subject to this rule are allowed to demonstrate compliance by choosing among any one of the following three available options: (1) Achieve an overall VOC reduction in baseline actual emissions of 98% by the addition of add-on controls or documented reduction in VOC-containing materials used; (2) achieve a level of reduction equal to 81% of baseline actual emission by the same means as stated above, where it is demonstrated that a 98% reduction in source emissions is not achievable; or (3) achieve an alternative overall emission reduction by the application of RACT as determined by the State and EPA. Indiana estimates that the rule's overall control efficiency is 81%, and has a rule effectiveness of 80%. Indiana has credited 4,559 lbs VOC/day in emission reductions from this rule, which is acceptable.

Coke Oven Battery Shutdowns at Inland Steel Flat Products

Inland Steel is required under Indiana's Particulate Matter rule 326 IAC 6-1-10.1(k)(5) to shut down

⁴ RACT is the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility. CTGs are EPA documents which provide recommendations on what EPA considers the presumptive norm for RACT for particular industries. Indiana was required to adopt the Non-CTG RACT rule by section 182(b)(2) of the Act.

numbers 6 through 11 coke batteries before 1996. The 1990 base year inventory emissions from these coke batteries, 23,609 lbs VOC/day, are being credited as emission reductions. These reductions are acceptable.

Residential Open Burning Rule

Under Indiana's rule 326 IAC 4-1, residential open burning is banned in Lake and Porter Counties. Indiana estimates 80% emission reduction and 80% rule effectiveness from this rule. An emissions reduction credit of 929 lbs VOC/day from the rule is acceptable.

Automobile Refinishing Rule

The State rule 326 IAC 8-10 requires automobile and mobile equipment refinishing shops to use lower VOC coatings, less-emitting spray-gun and spray-gun cleaning equipment, and improved work practices to reduce

VOC. To improve rule effectiveness, this rule also requires refinishing coating suppliers in the area to sell only coatings which meet the VOC limits required in the rule. In addition to documentation contained in the submittal, Indiana submitted supplemental documentation which indicates that an overall 77.8% emission reduction can be expected from all the control measures required by this rule, with 100% rule effectiveness. This documentation has been included in the docket for this rulemaking. Indiana has taken an emission reduction credit of 4,679 lbs VOC/day from this rule, which is acceptable.

E. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (See sections 172(c)(6), 110(a)(2)(A) of the Act, and 57 FR

13556). The EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from the Assistant Administrator for Air and Radiation (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see section 110(a)(2)(C) of the Act).

The control measures included in the Lake and Porter 15% ROP plan have been fully adopted by Indiana and have been submitted to EPA as revisions to the State's ozone SIP. The EPA has independently reviewed each control measure to determine conformance with SIP requirements under section 110 and part D of the Act, and the overall enforceability of the measure's requirements. Rulemaking action on each control measure is as follows:

Control measure	Date of EPA approval
Enhanced I/M Program (326 IAC 13-1.1)	March 19, 1996 (61 FR 11142).
Reformulated Gasoline (40 CFR Part 80, Subpart D)	Federal regulation promulgated February 16, 1994 (59 FR 7716).
Stage II Gasoline Vapor Recovery (326 IAC 8-4-6)	April 28, 1994 (59 FR 21942).
Federal AIM Coatings Rule	Proposed federal regulation for which Indiana can take credit. (See memorandum dated March 7, 1996, from John Seitz, Director, Office of Air Quality Planning and Standards to Regional Air Division Directors).
Non-CTG RACT (326 IAC 8-7)	July 5, 1995 (60 FR 34857).
Residential Open Burning Ban (326 IAC 4-1)	February 1, 1996 (61 FR 3581).
Auto Refinishing (326 IAC 8-10)	June 13, 1996 (61 FR 29965).
Coke Oven Battery Shutdown (326 IAC 6-1-10.1(k)(5))	June 15, 1995 (60 FR 31412).

F. Transportation Conformity 1996 Mobile Source Emissions Budget

Section 176(c) requires States to submit SIP revisions establishing the State's criteria and procedures for assessing the conformity of federal actions (transportation and general) to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards, and that such activities will not: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. To assure conformity with the SIP, conformity analyses for transportation projects must take into account the amount of on-road mobile source emissions that can be emitted in accordance with SIP emission reduction milestones. For the purposes of EPA transportation conformity determinations, the 1996 emission level for on-road mobile sources that is achieved from the 15% ROP plan,

constitutes the 1996 VOC mobile source emission budget for Lake and Porter Counties. This level, which is derived from MOBILE5a using 1996 projected on-road mobile source emissions with reformulated gasoline and enhanced I/M, is 50,015 lbs VOC/day. Therefore, final approval of the 15% ROP plan also approves the 1996 mobile source VOC emission budget of 50,015 lbs VOC/day.

For years after 1996, conformity determinations addressing VOCs must demonstrate consistency with this plan revision's motor vehicle emissions budget, and satisfaction of the build/no-build test, as defined under 40 CFR part 93.

G. Concluding Statement on 15% ROP Plan

The EPA has reviewed the Lake and Porter Counties 15% ROP plan SIP revision submitted to EPA as described above, and finds that the plans satisfy the requirements of section 182(b)(1) of the Act, as well as EPA guidance for such plans. Therefore, the EPA, in this action, is approving this plan as a revision to the Indiana ozone SIP.

VI. Final Rulemaking Action

The EPA approves Indiana's 15% ROP plan for Lake and Porter Counties, as a revision to the SIP. For transportation conformity purposes, final approval of the 15% ROP plan also approves the 1996 mobile source emission budget of 50,015 lbs VOC/day. This action will be effective on August 18, 1997.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

VII. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. section 600 *et seq.*, EPA must prepare a regulatory flexibility analysis

assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. EPA.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a major rule as defined by section 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

circuit by September 16, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone.

Dated: July 8, 1997.

Michelle D. Jordan,
Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

2. Section 52.777 is amended by adding paragraph (k) to read as follows:

§ 52.777 Control Strategy: Photochemical Oxidants (hydrocarbon).

* * * * *

(k) On June 26, 1995, and June 13, 1997, Indiana submitted a 15 percent rate-of-progress plan for the Lake and Porter Counties portion of the Chicago-Gary-Lake County ozone nonattainment area. This plan satisfies the counties' requirements under section 182(b)(1) of the Clean Air Act, as amended in 1990.

[FR Doc. 97-18972 Filed 7-17-97; 8:45 am]

BILLING CODE 6580-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185 and 186

[OPP-300507; FRL-5727-9]

RIN 2070-AB78

Vinclozolin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of the pesticide vinclozolin, [3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione] and its metabolites containing the 3,5-dichloroaniline (3,5-

DCA) moiety at 2.0 parts per million (ppm) in or on the food commodity succulent beans. The tolerance will expire and is revoked on October 1, 1999. A petition was submitted by BASF Corporation to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act of 1996 (Pub. L. 104-170) requesting the tolerance. BASF has requested that EPA revoke the tolerances for prunes, plums, tomatoes, grapes (excluding grapes grown for wine production), raisins, dried prunes and grape pomace. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations. BASF has deleted all residential uses, as well as, turf in parks, school grounds and recreational areas which would be expected to result in significant exposure to children from its vinclozolin registrations under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

DATES: This regulation becomes effective on May 30, 1997. Written objections and hearing requests must be received on or before September 16, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP-30507], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number and submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 33388

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

**COMMENTS ON DRAFT
ENVIRONMENTAL IMPACT STATEMENT**

Verified Statement
of
Philip H. Burris
Vice President
L. E. Peabody & Associates, Inc.

On Behalf of
Four Cities Consortium

Due Date: February 2, 1998

I. INTRODUCTION

My name is Philip H. Burris. I am a vice president of the economic consulting firm of L. E. Peabody & Associates, Inc. The firm's offices are located at 1501 Duke Street, Alexandria, Virginia 22315. I am the same Philip H. Burris who submitted a verified statement in these proceedings as part of the Four City Consortium's Comments and Request for Conditions (FCC-9) filed on October 21, 1997. My qualifications are attached to my earlier verified statement.

I have been requested by the Cities of East Chicago, Indiana, Hammond, Indiana, Gary, Indiana and Whiting, Indiana (hereinafter referred to as the "Four Cities", "Four City Consortium" or "FCC") to comment on the Draft Environmental Impact Statement ("DEIS") served by the Surface Transportation Board's ("STB") Section of Environmental Analysis ("SEA") on December 12, 1997.

As part of my analysis of the DEIS, I have re-evaluated the impact on the Four Cities of the proposed acquisition and operation of Consolidated Rail Corporation ("Conrail")^{1/} by Norfolk Southern Corporation and its rail affiliates ("NS") and CSX Corporation and its rail affiliates ("CSX"), collectively referred to as "Applicants." My evaluation uses the SEA's formulae for calculating delay time at rail crossings, the SEA's factors for determining vehicular emissions resulting from the Applicants' operating plan, and certain revisions to the data relied on in my October 21, 1997 verified statement.

My statement is organized as follows:

^{1/} Including Conrail's 51 percent ownership interest in the Indiana Harbor Belt Railroad ("IHB")

- II. Background
- III. Summary
- IV. Comments Related to SEA's Conclusions in the DEIS
- V. Economic Impact of Applicants' Projected Increase in Rail Traffic
- VI. Comparative Analysis of Applicants' Proposal and FCC's Alternative Routing Plan
- VII. Conclusions

II. BACKGROUND

Each of the Four Cities named above is located in Northwest Indiana, at the southern tip of Lake Michigan. This region, which is part of the greater Chicagoland area, is densely populated with industrial development and residential communities. The industries (including steel mills, oil refineries, an electric generating station and a cement plant) are served by several railroads via hundreds of miles of mainline, switch, yard and industrial tracks.

The region is a major crossroads for transcontinental rail and motor carrier freight traffic. Three Class I railroads, four terminal and switching railroads, and a regional railroad operate in the area.^{2/} In addition, Amtrak provides inter-city passenger service and the Northern Indiana Commuter Transportation District ("NICTD") operates commuter passenger rail service in the region.

As stated in my October 21, 1997 verified statement, railroad operations over this extensive network currently cause significant safety problems and disruption of motor vehicle movements throughout the entire Four City region because of the dense industrial and residential population in the area. The present disruption of vehicular traffic at rail/highway grade crossings is barely manageable especially with regard to the provision of emergency services by the local governments. In the Four Cities alone, 243 at-grade rail/highway crossings exist.

^{2/} These carriers include, Conrail, NS, CSX, IHB, The Belt Railway Company of Chicago ("BRC"), the Elgin Joliet and Eastern Railway Company ("EJE"), the Baltimore, Ohio and Chicago Terminal Railroad ("BOCT"), and the Chicago South Shore & South Bend Railroad ("CSS&SB").

According to the Association of American Railroads ("AAR"), the state of Indiana has the fourth highest incidence of vehicle-train collisions and fatalities of any of the fifty states and the District of Columbia^{3/}. This statistic underscores the Four Cities' extreme concern regarding rail/highway safety.

As a result of the existing, barely manageable railroad congestion situation, the Four Cities are deeply concerned by the potential impact of the Applicants' plans to increase rail traffic on several rail lines in the Four Cities region. These concerns are exacerbated by the impact of the projected increase in rail traffic on the Cities' respective infrastructure improvement and economic development plans, which are vital to the economic recovery of the region. The public safety, emergency services, and economic development concerns of the Four Cities were described at length in the October 21, 1997 verified statements of the City Planners from each community.^{4/} The negative impacts of the proposed transaction on the construction of affordable housing, expansion of the Gary/Chicago Airport, and Lake Michigan waterfront development are addressed in the accompanying Verified Statement of Michael L. Cervay. Mr. Cervay's testimony also addresses the severe air pollution problems facing the Four Cities region and the adverse impact of the Applicants' plan on area-wide efforts to improve the environment.

In the EIS process, the SEA is charged with evaluating the impact of the Applicants' entire proposed transaction which covers dozens of states, hundreds of cities and line segments and

^{3/} Association of American Railroads, Overall Rail Casualty Data, preliminary 1996 FRA Data, obtained from the AAR internet web site; <http://www.aar.org/comm>; 9/17/97.

^{4/} These include the verified statements of Daniel A. Botich, Michael L. Cervay, Kimberly L. Gordon and Donald F. Thomas included in the Four Cities' Comments of October 21, 1997 (FCC-9).

thousands of mile of track. This analysis must be completed in an extremely short time frame. Because of time constraints, it is apparent that the SEA has examined the environmental impacts of the transaction in much less detail than is warranted in some circumstances, and the SEA has used formulas for evaluating certain impacts that rely on extremely generalized information and criteria. In short, the DEIS appears to identify only the most egregious and negative impacts, and its analysis glosses over many other serious impacts.

Unfortunately, this approach does not produce the most accurate result, nor does it lead to mitigation actions which address all serious environmental impacts. I believe that the Four Cities region is far more negatively impacted than SEA's conclusions in the DEIS would indicate. My testimony will identify why I believe this to be true and will review the Four Cities' alternative to the Applicants' proposed operating plan. This alternative will mitigate the majority of the negative environmental impacts in the Four Cities Region.

III. SUMMARY

Based on my review of the DEIS and my analysis of the impact of the Applicants' proposed operating plan, I believe the SEA has significantly understated the negative impact of the proposed operating plan on the Four Cities Region. In contrast to the SEA's findings, I have determined that the Applicants' proposed operating plan would have substantial adverse incremental impacts on safety and the provision of emergency services by the Four Cities, traffic congestion and delay, air quality, land use, and socioeconomic factors within the Four Cities.

Further, I have determined that the FCC's Alternative Routing Plan, as fully described in my October 21 verified statement, will mitigate the majority of the incremental adverse impacts of the Applicants' proposed operating plan. As a result, I believe it is incumbent on the SEA to consider and recommend the FCC's Alternative Routing Plan as an environmental mitigating condition to approval of the Applicants' acquisition and control of Conrail.

1. Economic Impact of Applicant's Projected Increase in Traffic

In my October 21, 1997 verified statement, I discussed the current levels of rail traffic over the key rail lines in the Four Cities, the adverse incremental impacts on safety, emergency services, traffic delays and other aspects of life in the Four Cities that would be caused by the proposed transaction, as well as the economic impact on the Four Cities. In this statement, I have revised my analysis of the economic impact related to the projected increase in Applicants' traffic above the current traffic levels and found that the annual cost to the public living and working in the Four Cities region equals a minimum of \$3.4 million. The net present value of

the cost to the cities for a twenty year period equals \$48.2 million. The discount factor used in this calculation is the Office of Management and Budget, Real Interest Rates on 30 year Treasury Notes and Bonds of 3.6 percent. The real interest rate is used because it recognizes the tax effects of investment by municipalities. The source for time discount factor is OMB Circular No. A-94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs. This is the source for discount rates used by the Federal Railroad Administration in evaluating rail/highway grade crossing improvements.

The increased costs are a result of four factors: 1) lost productivity resulting from incremental vehicle delays at rail/highway crossings; 2) additional fuel and oil consumption associated with the incremental delays; 3) the incremental emissions exhausted into the atmosphere resulting from the increased delays at rail crossings; and, 4) the increase in the number of rail/vehicle accidents, injuries and fatalities at rail crossings resulting from increased rail traffic.

I have not attempted to quantify the significant negative impact on the Region's economic growth, which will occur if service on the former Pennsylvania Railroad ("PRR") line between Hobart and Clarke Junction is reinstated. As Mr. Cervay indicates in his verified statement, renewed service on this line will prevent expansion of the Gary/Chicago Airport, which in turn will prevent the economic development of this airport as a utility/transport facility and significantly impair the economic redevelopment of the Lake Michigan waterfront. It would also interfere with the planned construction of 40-50 affordable homes for low-income Gary residents.

2. FCC Alternative Routing Plan

As described in my October 21, 1997 verified statement, the FCC has developed an Alternative Routing Plan which permits the flow of Applicants' projected traffic through the Four Cities in a manner that maximizes use of grade separated rail lines and minimizes millions of dollars of capital investment in rail line rehabilitation and upgrades proposed by the Applicants.

The FCC alternative addresses two proposed routes included in Applicants' operating plans. First, FCC proposes that CSX reduce the traffic it projects to move on the Willow Creek to Pine Junction and Pine Junction to Calumet Park lines^{5/} by using these lines primarily for westbound traffic, and using the IHB line for eastbound movements from Calumet Park, IL to a new connection with the Conrail Porter Branch near Tolleston (Gary), IN, and thence via the Porter Branch back to Willow Creek. This will effectively result in paired mainline tracks, each with traffic moving primarily in a single and opposite direction.^{6/} Exhibit PHB-3 attached to my October 21, 1997 verified statement is a map of the CSX Willow Creek to Calumet Park line via Pine Junction and the IHB/Conrail Porter Branch from Calumet Park to Willow Creek.

The CSX lines between Willow Creek and Calumet Park via Pine Junction have 27 at grade crossings, with 20 of these crossings located on the CSX/BOCT line between Pine Junction and

^{5/} The Pine Junction to Calumet Park line is owned by the BOCT, which is a wholly owned subsidiary of CSX. I will hereinafter refer to this line as the "CSX/BOCT line".

^{6/} Based on responses to the FCC's discovery requests, CSX has provided traffic diagrams (Bates numbers CSX 44 CO 00010-CSX 44 CO 000126) and data on computer diskettes, describing the existing CSX traffic flows within the Chicago-Northern Indiana region. This information identifies the individual trains traversing these routes and whether their direction is inbound or outbound thereby allowing for a determination as to the proportional flow of traffic in each direction.

Calumet Park which runs through the downtown areas of East Chicago and Hammond. By contrast, the IHB/Conrail Porter Branch line from Calumet Park to Willow Creek runs through a less developed area and has only three at grade crossings. The IHB/Conrail line also has thirteen grade separated crossings. As stated in the October 21, 1997 verified statement of Mr. Donald F. Thomas, City Planner for Hammond, the Federal, State and City governments have invested \$25 million in the grade separations on the IHB corridor.

The FCC's proposed shift of traffic from the CSX Willow Creek to Pine Junction and Pine Junction to Calumet Park lines to the IHB/Conrail Porter Branch lines will substantially reduce the number of at-grade highway crossings by the affected trains, thereby mitigating the most significant negative impacts on the Four Cities as a result of the Applicants' proposed operating plans.

The second route addressed by the FCC's Alternative Routing Plan is the portion of the former PRR Fort Wayne to Chicago line between Hobart and Clarke Junction via Tolleston, which is presently out of service but which CSX proposes to rehabilitate and place back into service. According to the information provided by CSX, both in its operating plan and in responses to discovery, CSX plans to connect this line to the Conrail Porter Branch at Tolleston, the NS Wabash spur north of Tolleston and the CSX/Conrail lakefront line north of Clarke Junction. The out-of-service PRR line is 11.75 miles in length and has 23 at-grade rail/highway crossings, which will be reactivated under the Applicants' proposal. Based on CSX's informal responses to FCC's Third Set of Interrogatories and Document Production Requests ("Third Discovery Requests"), it appears that CSX desires to reactivate the PRR line northwest of

Hobart to move coal and coke to the steel mills located on the Lake Michigan waterfront and other bulk commodities into and out of the Chicago region, thus keeping this slower-moving traffic off of CSX's main line through Garrett, IN.

The FCC opposes the reactivation of the out-of-service PRR line between Hobart and Clarke Junction. Such reactivation would entail reopening of 23 inactive rail/highway grade crossings, interfere with the City of Gary's effort to develop part of the area traversed by this line for a new low-income housing development, and prevent expansion of the Gary/Chicago Airport. To accommodate the five trains per day CSX expects to move over this line, the FCC proposes that the CSX trains destined to steel mills served by the EJE be routed from Hobart west to Van Loon over the NS's former Nickel Plate ("NKP") line via a new trackage rights agreement between CSX and NS. From Van Loon, FCC proposes that the CSX trains move north over the EJE via trackage rights to EJE's Kirk Yard to reach the same lakefront steel mills and to CSX's Curtis Yard for continued movement on CSX's lakefront line.^{2/}

CSX coal and coke trains destined to steel mills served by IHB can be moved from Hobart to Osborn over the NS former NKP line, where it connects to the IHB. From Osborn the traffic can move to either of the IHB-served steel mills.

^{2/} According to CSX's responses to the FCC's questions in lieu of deposition, it is apparent that CSX has an agreement with the EJE which allows "coal and coke deliveries to U.S. steel using CSX crews." If such an agreement were not in place and if CSX and EJE were unable to achieve such an agreement, establishment of an agreement could be required as a condition of the acquisition. Such a condition would allow CSX to obtain trackage rights to operate over the EJE line from Van Loon to Pine Junction, enabling it to deliver this traffic to the Gary area.

Exhibit PHB-4 attached to my October 21, 1997 verified statement is a map of the Hobart to Clarke Junction PRR line and the FCC's proposed alternative routing via NS and EJE.

3. Vehicular Delay At Grade Crossings

The FCC's Alternative Routing Plan would avoid the Applicants' planned increase in rail traffic moving over the CSX/BOCT line. Additionally, it will actually produce a decrease in vehicle delay hours from current levels, while allowing Applicants to move all of their projected traffic through the Four Cities region in an efficient manner. The table below summarizes current annual vehicle delay hours and those resulting from both the Applicants' projected traffic and operating plan and FCC's proposed Alternative Routing Plan, using the SEA's corrected formulas for calculating delay times with adjustments to various input data as described later in my testimony.

<u>Line Segment</u> (1)	<u>Current Delay Hours</u> (2)	<u>Applicants' Proposal Delay Hours</u> (3)	<u>FCC's Alternative Delay Hours</u> (4)
Willow Creek to Calumet Park	204,385	333,453	187,241
Hobart to Clarke Junction (via PRR)	0	21,812	0
Hobart to Clarke Junction (via Van Loon)	0	0	27,404
Total Hours	204,385	355,265	214,645

**4. Comparative Analysis of Applicants' Proposal
and the FCC's Alternative Operating Plan**

I have performed a comparative analysis of the Applicants' proposed operating plans for these two routes and the FCC's Alternative Routing Plan and determined that the FCC's Alternative results in an annual cost savings to the public and the Applicants of \$4.2 million. The net present value of these savings for a twenty-year period using the OMB discount factor discussed above equals \$59.3 million.

My comparative analysis is based on the same four factors listed in the previous section plus the change in rail operating costs and a return on investment on the capital required to implement each of the alternatives. Based on our calculations, the Applicants' operating costs will decrease slightly using the FCC's Alternative Routing Plan to operate between Willow Creek and Calumet Park, and increase slightly from Hobart to Clarke Junction. The Applicants' required capital costs will decrease significantly using the FCC Alternative as the Applicants will avoid the substantial expenditure of funds required to reactivate the PRR rail line.

IV. COMMENTS REGARDING SEA'S CONCLUSIONS IN THE DEIS

The SEA's DEIS identified 119 rail line segments as meeting or exceeding the STB's thresholds for environmental analysis. For these 119 segments the SEA examined 11 separate categories of environmental issues. Each of these issues will be discussed below to the extent they pertain to the Applicants' proposed operating plan and the FCC's Alternative Routing Plan.

1. Safety

The DEIS found four rail/highway grade crossings in the Four Cities region to be significantly impacted by the Applicants' proposed operating plan. These include County Line Road, Hobart Road, Lake Street and Clark Road, all located on CSX's Willow Creek to Pine Junction line segment. According to DEIS, a crossing will not be found significantly impacted unless it has a history of at least one accident every seven years (or 0.15 accidents per year) and an increase of at least 0.01 accidents per year.

a. Hobart to Clarke Junction Line

In the instance of Lake County, Indiana, the DEIS analysis is deficient because it fails to include the PRR line between Hobart and Clarke Junction which CSX intends to restore to service. This line segment has been out of service for approximately ten years. As a result, it cannot meet the DEIS criteria for having significant safety impact, as by definition, it has not had an accident in the past seven years.

In fact, vehicular accidents are more likely to occur on this line precisely because it has been out of service for more than seven years. Unfortunately as discussed below, throughout

the Four Cities' region, motorists regularly ignore crossing safety devices. Motorists will not be expecting trains to be using this line. There is no reason to believe motorists behavior will be any different with respect to the PRR line, particularly since drivers will not be used to having to deal with active grade crossings on this line.

The FCC Alternative Routing Plan avoids the likely high occurrence of accidents on the Hobart to Clarke Junction line segment by routing traffic over the currently used Hobart to Van Loon and Van Loon to Pine Junction line segments where the public is accustomed to the movement of rail traffic. Further, the Applicants' propose to reduce rail traffic on the Hobart to Van Loon line segment from the present 26 trains per day to 11 trains per day, thereby assuring ample capacity for handling Applicants' projected five trains per day scheduled for the restored PRR Hobart to Clarke Junction line segment.

b. Vehicles Around Gates

Another safety issue that is not addressed in the DEIS is the "around the gate" phenomenon identified and described by Dr. Gary M. Andrew in his October 21, 1997 verified statement included in FCC-9. In the September 1997 train delay study designed by Dr. Andrew, an average of 484 vehicles per day were observed going around activated gates at the 12 rail crossings included in the train delay study.

Rail traffic and the associated delays are so prevalent in the Four Cities region that the public frequently ignores crossing protection to avoid the ever-present delays at rail crossings. The SEA's formulaic approach to determining mitigation of safety problems at rail crossings

ignores the realities of behavior in these communities. This behavior cannot be overlooked, and it has been brought to the attention of the agency through both the Four Cities' October 21, 1997 testimony and these comments.

Two possible approaches to mitigate the around-the-gates phenomenon are to: 1) require the Applicants to install motion detectors at the control points which activate and deactivate crossing protection devices, thus permitting the devices to deactivate in those instances when trains have stopped moving^{8/} and have not cleared the control points; and/or 2) require the Applicants to install Jersey Barriers at heavily-used crossings to force motorists to observe closed gates at rail crossings. The best mitigation, of course, would be adoption of the Alternative Routing Plan for the reasons discussed in these, and the Four Cities earlier comments.

c. Disruption of Emergency Services

Another safety issue in the Four Cities is the disruption to the provision of emergency services by slow moving trains and stopped trains that are blocking highway crossings. As discussed in the verified statements of the city planners from each community included in FCC-9, current vehicle delays at rail crossings significantly impair the delivery of emergency services, such as fire, ambulance and police services. In many instances, the cities have, at significant expense, constructed duplicate facilities, and acquired extra equipment and emergency services personnel to minimize this disruption.

^{8/} As discussed in a later section, train stoppage in the Four Cities region often blocks numerous highway crossings at one time. This creates significant safety problems and causes substantial vehicle delays. This problem is especially significant on the CSX/BOCT line between Pine Junction and Calumet Park.

For example, the City of East Chicago incurred 9,688 delays in 1996 by police vehicles responding to emergency calls. This represents twenty percent of the total police emergency calls responded to by East Chicago in 1996. Further, of 1,594 medical emergencies responded to by EMS vehicles in East Chicago in 1996, 966, or 61 percent, were delayed at railroad crossings and in 241 of these instances, an additional emergency vehicle had to be dispatched to provide the needed service.

As noted previously, the extremely heavy rail traffic volumes that currently exist in the Four Cities region create a barely manageable situation for the residents, employees and emergency service providers in the region. Any increase in rail traffic in the Four Cities region, especially on the CSX/BOCT line from Pine Junction to Calumet Park which bisects the Cities of East Chicago and Hammond, will significantly add to this already difficult situation. The formulaic approach taken by the DEIS does not consider the significant safety problems which would be caused by even a small increment of additional rail traffic in this region.

The FCC Alternative Routing Plan, however, is a workable alternative which permits the carriers to move the projected volumes of traffic and minimizes the negative impact of these safety issues in the region. For example, the table below displays the number of daily occurrences of trains crossing highways for both the Applicants' operating plan and the FCC's Alternative Routing Plan.

	<u>Applicants' Operating Plan</u>	<u>FCC Alternative Plan</u>
Train-highway crossings	1313	1074

As discussed, requiring adoption of the FCC's Alternative Routing Plan as a condition to the approval of Applicants' acquisition and control of Conrail would offer important mitigation of the negative safety impacts resulting from Applicants' proposed operating plans.

2. Roadway Crossing Delays

The DEIS examined the impact of the Applicants' proposed operating plan on vehicular delays at rail/highway crossings and concluded that no significant increase in vehicle delays would occur in the Four Cities Region. I believe this conclusion is incorrect for several reasons, including: 1) the SEA limited its analysis to selected crossings with daily vehicle counts ("ADT") of greater than 5,000 vehicles, 2) the length of train data utilized by SEA is inconsistent with that found in the Applicant's documents and supporting workpapers, and 3) the SEA's train speed data overstates the actual operating speeds that can be achieved on the rail lines in the Four Cities region.

The accompanying verified statement of Dr. Andrew addresses each of the above factors leading to the DEIS' understatement of vehicular delay at rail crossings. Dr. Andrew's testimony demonstrates that when corrected for these errors, use of the SEA train delay formula results in a significant increase in the vehicular delay that would be experienced under the Applicants' operating plan as compared to that currently experienced in the Four Cities.

Further, Dr. Andrew's testimony shows that the FCC's Alternative Routing Plan results in significantly lower delay than does the Applicants' operating plan, while still accommodating Applicants' projected traffic volumes and desire for routing flexibility.

a. Crossings with Less Than 5,000 ADT

As noted by Dr. Andrew, the SEA's analysis of crossing delays ignores crossings with an ADT of less than 5,000. The 5,000 ADT criterion appears to be arbitrary as applied to the Four Cities situation because it ignores the cumulative impact of crossing delays in an area having numerous crossings in close proximity to each other.

For example, the CSX/BOCT line between Pine Junction and Calumet Park traverses the heart of both downtown East Chicago and downtown Hammond. Almost every north-south street in each community crosses this line at grade. These crossings are shown on Exhibit PHB-9 which is a series of maps showing the CSX/BOCT line produced by CSX in discovery. Nine of these crossings involve arterial highways having an ADT of more than 5,000; they are listed in revised Table 5-IN-45 on Page IN-85 of Chapter 5 of the DEIS. However, other road crossings lie between each of these heavily-used crossings, and motorists often attempt to use one of them if, as often happens, one (or more) of the arterial roads is blocked by a train.^{2/} While the ADT's for these other crossings are less than 5,000, all of them are impacted by delays at the arterial highway crossings. They must be considered as a group in assessing the cumulative impact of crossing delays on the CSX/BOCT line.

^{2/} Chicago Avenue parallels the CSX/BOCT line just to the south, and motorists wishing to cross this line customarily use Chicago Avenue to try to find a vacant crossing.

b. Train Operating Speeds

The SEA used track chart speeds and timetable speeds in its calculation of vehicular delay. According to conversations with the SEA contractor, these speeds were adjusted in some instances to better reflect actual operating circumstances in specific areas. When adjusted, the speeds were reduced by either five or ten miles per hour.

It is obviously better to use actual operating circumstances rather than unrealistic maximum track speeds. Maximum timetable speeds can rarely be achieved on average because of track restrictions and train stops and starts which require deceleration and acceleration. Obviously, on relatively short line segments where stops and starts are frequently experienced, lower average speeds will be achieved regardless of the maximum timetable speed.

In his original calculation of crossing delay times as reflected in his verified statement in FCC-9, Dr. Andrew relied on one-half the maximum timetable speed to estimate the operating speed for each line segment in calculating the vehicle delay time at rail/highway crossings. In his second verified statement, accompanying these environmental comments, Dr. Andrew has re-calculated vehicular delay times at rail crossings using the SEA formula, corrected to reflect actual train speeds. In this calculation, Dr. Andrew uses actual speeds where they are known and surrogates for actual speeds based on other available information where actual speeds are not known. Two specific line segments are addressed below.

i. CSX/BOCT Pine Junction to Calumet Park -- The CSX/BOCT Pine Junction to Calumet Park line segment has a timetable speed of 35 mph. According to CSX's January

23, 1998 Informal Response to the FCC's Third Discovery Requests, however, this line segment is crossed at-grade by another railroad ten times in the 7.2 miles between Pine Junction and Calumet Park. Because of these frequent rail crossings, which for the most part are controlled by carriers other than CSX, CSX trains on this segment must start and stop frequently which causes a significant reduction in average operating speeds. It is not surprising then, that based on information contained in CSX's own document (see CSX 12 CO 000102), the average train speed on this line segment is only 12.0 MPH.^{10/}

This information is further confirmed by the observations during the September 1997 train delay study, where the observed train speed for trains on this line was 12.5 MPH, and by radar speed checks performed by the Hammond Police Department in December 1997 that showed the average observed speed of trains actually moving on this line was 14.5 MPH.^{11/} In all three instances the average train speed on this line is less than 40 percent of the maximum time table speed and also significantly less than the 25.0 MPH speed used in the SEA calculations of train delay time.

The high incidence of trains stopping on this line is also confirmed by the September 1997 train delay study. During this study there were 18 observations of trains at stopped crossings between Clark and Calumet Streets, which all cross in the Pine Junction to Calumet Park segment at grade. Expansion of these 18 observations to represent total stopped trains during a one week period yields 112 stopped trains at the observed crossing locations per week. This

^{10/} The document is included in my workpapers.

^{11/} This average speed for trains observed by radar speed checks obviously would be reduced if stopped trains were also taken into account.

equates to 16 stopped trains per day or 58 percent of the 27.6 trains per day currently moving on this segment.

While it can be argued that the planned improvements on this line by CSX will enable the average speed to increase, significantly, this hypothesis is not supported by CSX's experience on other line segments in the Chicago area. Examination of the CSX document cited above shows that the CSX Willow Creek to Pine Junction line segment, which for all but two miles has a 60 MPH maximum timetable speed limit, has an actual average train speed of only 24.5 MPH. Further, the CSX Blue Island Junction to 75th Street line segment which has a 40 MPH maximum timetable speed, has an actual average train speed of only 12.0 MPH. Stated differently, regardless of the maximum allowable timetable speed based on the class of track standard, actual operating speeds are dictated by numerous other factors, especially in areas with numerous railroad crossings. As a result, an increase in maximum timetable speed will not necessarily result in any change in actual operating speed.

Further, CSX does not control dispatching at any of the ten at-grade railroad crossings on this line segment, and in many instances, either the other railroad's trains have priority or trains are dispatched on a first come, first served basis.^{12/} Even after CSX makes improvements to increase maximum train speed on this line, the dispatching train priority situation at the railroad grade crossings of this line will not change.

^{12/} A list of those crossings and the dispatchings priorities, obtained from CSX during discovery, is included in my workpapers.

Moreover, the additional investment in the line from Pine Junction to Calumet Park is unlikely to result in an increase in average operating speed for two additional reasons. First, CSX's investment to change from class 2 to class 3 track standard between Pine Junction and Calumet Park is most likely for capacity reasons, i.e., to allow CSX to handle the longer and heavier trains proposed in its operating plan, rather than to increase existing timetable speed on the line from 35 to 40 miles per hour. CSX proposes to increase the average train weight for trains on this segment from 4,070 gross tons per train to 5,324 gross tons per train, an increase of 31 percent.

Second, the proposed longer, heavier trains require more time to accelerate and decelerate to and from each stop. The increased acceleration and deceleration time combined with the frequent stops required by the ten rail crossings in this 7.2 mile segment, will prevent CSX from increasing its average operating speed on this line, even with the minimal increase in timetable speed from 35 to 40 miles per hour.

For all of the above reasons, I do not believe that CSX's average operating speed between Pine Junction and Calumet Park will increase above the current 12.0 mph. However, in order to be conservative, we are using vehicle delay hours for this segment based on an increase of current train speed of 10 percent or 13.2 mph. This increased train speed is used for both the Applicants' proposed operating plan and the FCC Alternative Routing Plan.

ii. PRR line between Hobart and Clarke Junction - The PRR line segment between Hobart and Clarke Junction has been out-of-service for approximately 10 years, and the

timetable speed limit on this line is 10 MPH. In the calculations of vehicle delay at rail crossings used in my October 21, 1997 verified statement, I assumed the continuation of the existing timetable speed for this line, which using Dr. Andrew's formula, assumes that operating speed equals one-half of this timetable speed.

When restating the vehicle delay times using the SEA formula, Dr. Andrew assumed an average operating speed on this line segment equal to 14.6 MPH. The reason for using this average train speed as follows:

On Rebuttal, for the first time, the Applicants claim an intent to restore this line to FRC Class 3 standards with a maximum timetable speed of 40 miles per hour. However, based on the percentages of maximum timetable speed developed for other CSX lines in the Chicago area as described above, CSX is likely to achieve only 36.6 percent of the maximum timetable speed or 14.6 MPH.

This percentage reduction is appropriate given CSX's intended use of the Hobart-Clarke Junction line and the existence of several railroad grade crossings of this line. CSX intends to restore service to this line to transport slow moving bulk trains, thereby removing them from its other line segments in the Four Cities region. According to CSX these other lines will be dedicated to moving high priority, service sensitive freight.

The PRR line crosses two of these high priority lines (the Porter Branch and the CSX/BOCT line) at-grade and connects with the CSX/Conrail lakefront lines at-grade. As a result, it is likely that at each of these crossings and at the connection, bulk trains will have to stop and wait

for any high priority or service sensitive train to pass prior to crossing or entering the high priority line. On a combined basis, the projected number of trains per day on these high priority lines equals 109 trains, or 4.5 trains every hour. This high frequency of high priority trains will certainly cause the heavy slow-moving bulk trains to stop and wait for priority trains to pass, thereby causing the bulk trains (with slow deceleration and acceleration speeds) to operate at much lower average speeds than the maximum timetable speed.

This situation will be exacerbated because, as noted in the previous section, the numerous railroad crossing interlockers on the CSX/BOCT Pine Junction to Calumet Park line will frequently cause trains on that line to stop. These stopped trains will most certainly have priority over the bulk trains using the Hobart-Clarke Junction line, which will be required to remain stopped until the priority trains have cleared through the area.

For all of the above reasons, we calculated vehicle delay times associated with these five trains assuming an average actual operating speed of 14.6 MPH.

c. Train Length

As stated previously, the train length information used by SEA in the DEIS is inconsistent with that found in Applicants' documents and supporting workpapers. Train length is a significant determinant in the calculation of vehicle delay hours. The difference in train lengths for current and post-acquisition for CSX line segments in the Four Cities region trains included in the DEIS is only 200 feet. Based on information found in the Applicants' documents we find

that the difference in current and post-acquisition train lengths range from a reduction of 356 feet to an increase of 1,298 feet depending on the line segment.

In response to the FCC's Second Set of Interrogatories and Document Requests, CSX provided the FCC the current and post acquisition train sizes (number of cars and tons) by line segment in the Four Cities region. Utilizing this information and information contained in CSX's 1995 R-1 Annual Report to the STB, I calculated the average train length for current and post-acquisition trains using each CSX line segments in the Four Cities region.

This train length information was used by Dr. Andrew in his calculation of vehicle delay hours for his October 21, 1997 verified statement. The information supporting my calculation of train length was included in the workpapers to my October 21, 1997 verified statement, at Bates Numbers 001191-001194 and 001159.

The table below displays the train lengths for CSX line segments relied on by the SEA in the DEIS and by Dr. Andrew in both his October 21, 1997 verified statement and his verified statement filed today.

CSX Train Lengths Four Cities Region (Length in feet)				
<u>Segment</u> (1)	<u>DEIS</u>		<u>FCC</u>	
	<u>Current</u> (2)	<u>Post Acquisition</u> (3)	<u>Current</u> (4)	<u>Post Acquisition</u> (5)
1. Willow Creek to Pine Jct	6,000	6,200	4,335	5,141
2. Pine Jct to Calumet Park	6,000	6,200	4,192	5,490
3. Calumet Park to Willow Creek	not used	not used	4,900	4,554
4. Hobart to Clarke Jct	6,000	6,200	---	5,306
5. Hobart to Van Loon	not used	not used	---	5,306

3. Air Quality Issues

The SEA's air quality calculations in the DEIS understate the expected Nitrogen Oxide ("NO_x") emissions from vehicles idling at at-grade crossings due to SEA's omission of lower traffic-density grade crossings from its analysis. SEA calculated an increase in NO_x emissions of 1.01 tons per year from vehicles delayed at at-grade rail crossings with a traffic density greater than 5,000 ADT^{13/}. Within the Four Cities area, only 14 of the 109 at-grade crossings affected by the Conrail transaction reach the threshold ADT level. As I stated previously, the cumulative impact of delays at all affected Four Cities crossings must be included in the emissions calculations. The cumulative impact of delays at all affected crossings increase the expected NO_x emissions from vehicle delays to 4.05 tons per year, an increase of 304%.^{14/}

^{13/} DEIS, Appendix E, Page E-16.

^{14/} See PHB work papers for calculation

The Alternative Routing Plan as proposed by the FCC ameliorates the effects of these additional NO_x emissions. As I discussed above, at-grade crossing delay times decrease by 41 percent if rail traffic is rerouted according to the FCC's Alternative Routing Plan. This decrease in delay time reduces the NO_x emissions by 1.6 tons per year.

Additionally, according to the DEIS, the decrease in emissions due to truck-to-rail diversions is overstated by the Applicants. As SEA states: "As noted in previous sections, SEA acknowledges that some overestimation of the truck-to-rail diversions has probably occurred; however, the air quality analysis is based on the figures provided."^{15/} While the SEA does not provide an estimated amount of the overstatement, any decrease in truck-to-rail diversions will obviously adversely impact air quality in the Four Cities area.

The increased NO_x emissions from both the inclusion of all FCC at-grade crossings and the overstatement of truck-to-rail diversions will exacerbate the negative impacts already recognized by SEA in the DEIS, but which it has elected to ignore. (For Lake County, Indiana, SEA determined that post-transaction operations in Lake County would result in an increase of 83.76 tons/year in NO_x emissions, which is well above the 25.0 tons/year in NO_x threshold level. Nevertheless, SEA proposed no mitigation.)

There are other reasons why the STB must pay close attention to the pollution impacts resulting from the Conrail transaction. First, the FCC lies in one of the most heavily polluted regions of the United States. This is confirmed by the EPA's declaration of Lake County as a

^{15/} DEIS, Chapter 4, Page 4-55.

severe non-attainment area for NO_x emissions as well as a non-attainment area for SO₂, CO and particulate matter. Any incremental increase in emissions is sure to exacerbate these area pollutant problems.

Second, as indicated in Mr. Cervay's accompanying testimony, the Four Cities and Lake County may lose federal highway funds if they fail to comply with mandated air quality standards. According to the Northwest Indiana Regional Planning Commission ("NIRPC"), Lake County stands to lose federal funding for highway expansion if it does not come into line with highway congestion and air quality standards. This factor, along with the already severe air pollution in the area, dictates that all efforts should be made to mitigate anticipated increases in emissions. For this reason also, the FCC Alternative Routing Plan must be given serious consideration by the STB in the Final EIS.

4. Socioeconomic Impacts

The Applicants' proposed train routings impose two deleterious socioeconomic impacts on the Four Cities Consortium which are not addressed by SEA in the DEIS. Both of these negative impacts are caused by restoration of service on the PRR Hobart to Clarke Junction line.

First, the Applicants' proposed reactivation of the PRR line would impede the expansion of the Gary/Chicago Airport ("GCA"). The Four Cities have initiated several industrial and tourism development projects to expand their industrial base and to revitalize their lake front properties. These projects are contingent upon the GCA expanding its capacity to become an effective supplement to Chicago's O'Hare International Airport for both cargo and passenger

traffic. This planned expansion requires that the GCA upgrade its current FAA certification as a Reliever/General Aviation Airport to certification as a Utility/Transport airport capable of handling expanded commercial traffic. This change in certification requires expansion of the overall airport complex. Most importantly for present purposes, it requires the expansion of the airport's two existing runways and the addition of a third runway as explained in Mr. Cervay's verified statement. Currently, the GCA has the available land to accommodate the North-South runway expansion and is negotiating with the EJ&E to allow a partial expansion and addition of the East-West runways on the west side of the airport line on the east side of the airport. Reactivation of the PRR however, would negate all expansion and addition efforts.

To safely meet expansion plans and to continue existing levels of operations, the runway construction must be performed in a sequential manner with the North-South runway completed before expansion and addition to the East-West runway. This will allow for continued airport use during the construction effort. The GCA's current land holdings when combined with the currently unobstructed area at the terminus of the North-South runway may be sufficient to meet FAA vertical obstruction regulations. Reactivation of the PRR line will be viewed as a hard obstruction for this runway and will require 1,150 feet of additional unobstructed space to provide an acceptable Runway Safety Area. Since the inactive PRR line lies within the boundaries of this obstruction-free zone, reactivation of this line will halt expansion of this runway.

The second socioeconomic impact is on a proposed affordable housing project in the City of Gary. The housing development, known as Roosevelt Manor, is bounded on the north by the

inactive PRR rail line. The Broadway Area Community Development Corporation (“BACDC”), a neighborhood based 503-C3 corporation formed to promote urban redevelopment and revitalization, has incurred considerable time and expense bringing this project to fruition. Much of this time has been spent obtaining a \$250,000 grant from the Department of Housing and Urban Development for down payment assistance for low-income and minority families. The BACDC’s initial plans and costs estimates were made under the assumption that the line would remain inactive. Reactivation of the line, at a minimum, will require additional costs to barrier the development from the adverse impacts of the proposed rail traffic and jeopardize the considerable time and expense previously incurred.

5. Environmental Justice

Chapter 5 of the DEIS describes the potential environmental justice effects of restoring the Hobart-Clarke Junction segment of the PRR line to service^{16/}. The DEIS specifically addresses the noise impacts along this segment; however, other deleterious effects, most noticeably in regard to safety, will also occur.

As discussed above, the Hobart to Clarke Junction line segment is presently inactive and would, after rehabilitation, see an expected rail traffic of five trains per day. While below the SEA’s eight train-per-day increase threshold for mitigation, logic dictates that an increase from zero trains per day to five trains per day substantially raises the risk of accident. This risk is magnified even further given the propensity of Four Cities’ residents to disregard crossing safety devices and to drive around lowered crossing gates.

^{16/} Draft Environmental Impact Statement, Chapter 5, Page IN-76.

The SEA also did not address the issue of the population's alternative uses of the inactive line. History shows that abandoned and inactive rail lines become surrogate rights of way for foot traffic and play areas for neighborhood children. Even with community outreach programs such as Operation LifeSaver, the risk to people neighboring the track substantially increases when a rail line that has been inactive for a period of several years is reactivated.

Given the demographics of the Four Cities area, reactivation of the Hobart to Clarke Junction line segment will have a disproportionate impact on a low income and minority population. As indicated by SEA, the population impacted by this line segment is 98.7% minority and the low-income population is more than 10% higher than the low-income population for Lake County as a whole.^{17/} Further, as stated above, the segment is the northeastern boundary of a housing development currently planned by the City of Gary targeted at the area's minority and low-income population.

Reinstatement of train service on this line will directly impact the quality of life of those living along it by exposing the populace to higher levels of noise and placing it at greater risk of accident. This is in direct contrast to the Department of Transportation's Order to Address Environmental Justice in Minority Populations and Low-Income Populations, OST Docket No. OST - 95 - 141 (50125).^{18/} The order provides the following mandate related to Department of Transportation related projects:

^{17/} Draft Environmental Impact Statement, Chapter 5, Page IN-76.

^{18/} This order outlines the DOT's response to Executive Order 12989 of February 11, 1994 outlining mandates for environmental justice.

The Operating Administration and other responsible DOT officials will ensure that any of their respective programs, policies, or activities that will have a disproportionately high and adverse effect on minority populations or low-income populations will only be carried out if further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effects are not practicable.^{19/}

In this particular situation, the STB clearly has a practical alternative. The FCC's Proposed Alternative Routing Plan would negate and avoid the safety and noise issues endemic to reactivation of this line segment by rerouting rail traffic to an existing line. This will help ameliorate the affects of the Conrail transaction and meet the requirements of the DOT's environmental justice policies, which the STB has adopted.

^{19/} Federal Register/Vol. 62, No. 72, Page 18380/April 15, 1997.

**V. ECONOMIC IMPACT OF APPLICANTS'
PROJECTED INCREASE IN RAIL TRAFFIC**

As stated previously, I have quantified the economic impact related to the projected increase in Applicants' traffic above the current traffic levels as set forth in the CSX and NS Operating Plans based on SEA's vehicle delay formula and certain revisions to the data. Based on my calculations, I have concluded that the annual cost to the public living and working in the Four Cities equals \$3.4 million. The net present value of the cost to the cities for a twenty year period equals \$48.2 million.

The cost to the public shown above does not include, however, any quantification of numerous additional factors which should be considered by SEA. These include, for example, the lost economic value to the Four Cities if the GCA fails to become a Utility/transport airport. This would include the loss of income from expanded air passenger traffic and the development of the proposed air freight hub. In addition, the quantification does not include the lost economic value resulting from reduced development the Lake Michigan waterfront, because the public can not easily access the waterfront by air travel.

Further, my calculations do not include the reduction in the quality of life that results from increased noise from incremental rail activity. Finally, my calculations do not include any account for the value of human life that will be lost as a result of increased accidents at rail/highway crossings because of increased rail traffic.

As with the calculations in my October 21, 1997 testimony, these costs are a result of four factors: 1) lost productivity resulting from incremental vehicle delays at rail/highway crossings; 2) additional fuel and oil consumption associated with the incremental delay; 3) the incremental emissions exhausted into the atmosphere resulting from increased delays at rail crossings, and; 4) the increase in the number of rail/vehicle accidents, injuries and fatalities at rail crossings resulting from increased rail traffic.

**1. Revisions to the Calculation
of the Impact of Applicants'
Projected Increase in Traffic**

As stated above, several revisions have been made in calculating the vehicle delay hours in the Four Cities. The revisions to my October 21, 1997 calculations of the impact of Applicants' projected traffic increase on certain Four Cities rail lines are based on the following factors: 1) use of the SEA vehicle delay formula, 2) adjustments to reflect actual average operating train speeds, and 3) corrections of the crossing data for the Conrail Porter Branch between Ivanhoe and Willow Creek.

a. SEA Vehicle Delay Formula

The use of the SEA vehicle delay formula is fully discussed above and in the accompanying testimony of Dr. Andrew and will not be repeated here.

b. Train Operating Speeds

Use of the most appropriate train operating speeds has been fully discussed previously and in the accompanying testimony of Dr. Andrew. That discussion will not be repeated here;

however, a summary of the timetable and operating speeds used to calculate vehicle delay hours in both our October 21, 1997 testimony and in our current testimony is provided below.

<u>Line Segment</u> (1)	<u>October 21 Testimony</u>		<u>February 2 Testimony</u>	
	<u>Maximum Train Speed</u> (2)	<u>Operating Train Speed</u> (3)	<u>Maximum Train Speed</u> (4)	<u>Operating Train Speed</u> (5)
1. Willow Creek to Pine Junction	79	39.5	60	24.5
2. Pine Junction to Calumet Park	25	12.5	35	13.2
3. Calumet Park to Ivanhoe	40	20	40	20
4. Ivanhoe to Willow Creek	10	5	40	20
5. Hobart to Clarke Junction	10	5	40	14.6

c. Highway Crossings on the Conrail Porter Branch

As correctly pointed out by Applicants' Rebuttal witnesses Rooney/O'Connor (see SCX/NS-177, Vol. 2B), in my October 21 testimony I incorrectly routed both the current traffic using the Conrail Porter Branch and Applicants' projected traffic over the IHB line segment between Ivanhoe and Virginia Street, rather than on the Porter Branch between Ivanhoe and Virginia Street. As a result of this error, I included only three rail/highway crossings on this line segment rather than the actual 11 crossings that exist on the Porter Branch. In my current calculations of the impact of the Applicants' projected traffic on the Four Cities using the Applicants' operating plans, I have used the ADT, train operating speed and incidence of accidents associated with these 11 crossings.

Based on the vehicle delay hours provided by Dr. Andrew, I have calculated the costs related to each of the above factors using precisely the same methodology that I used to calculate

the associated costs in my October 21, 1997 testimony with the exception of the costs related to incremental emissions. As fully described in my earlier testimony, I relied primarily on the factors contained in the FRA's model titled, *GradeDec Model - Highway-Rail Grade Crossing Investment Decision Support Tool*, Version 1.0. A copy of that model is contained in the workpapers supporting my October 21, 1997 testimony.

d. Vehicle Emissions Costs

Vehicle delay hours at rail crossings produce costs to the public related to emissions of Hydrocarbons, Carbon Monoxide and Nitrogen Oxides. These emissions are measured in grams per hour of idling time. The table below provides the emission rates for each pollutant as contained in the DEIS for highway/rail grade crossings emissions only.

<u>Vehicle Emission Rates Grams Per Hour of Idling</u>		
<u>Hydrocarbons (HC)</u>	<u>Carbon Monoxide (CO)</u>	<u>Nitrogen Oxides (NO_x)</u>
(1)	(2)	(3)
55.05	456.85	10.35

Based on the FRA *GradeDec* Model, the cost of emissions equals \$3,000 per ton for Hydrocarbons (Volatile Organic Chemicals), \$4,000 per ton for Carbon Monoxide and \$6,000 per ton for Nitrogen Oxides. Applying the SEA rates of emissions to the vehicle hours of delay fully developed by Dr. Andrew in his accompanying verified statement produces the grams of emissions by type of pollutant. I then converted the cost per ton to a cost per gram and applied it to the grams of pollutants emitted to yield vehicle emission costs for both the current traffic

levels and the Applicants' projected traffic. The table below shows the calculated vehicle emissions costs.

<u>Line Segment</u> (1)	<u>Emissions Cost</u>	
	<u>Current</u> (2)	<u>Applicants' Proposal</u> (3)
Willow Creek to Calumet Park	\$462,985	\$755,355
Hobart to Clarke Junction	---	49,411
Total	\$462,985	\$804,766

Source: Exhibit PHB-10.

2. Summary of Impact of Applicants' Post-Acquisition Increase in Rail Traffic on the Four Cities

The table below summarizes the lost productivity, fuel and oil consumption, emission and accident costs for both the current and Applicants' post-acquisition traffic levels. As shown in the table, Applicants' projected post-acquisition traffic levels will result in an annual additional cost to the public of \$3.4 million. The net present value of this cost for a twenty-year period equals \$48.2 million.

**Summary of Public Costs for
Current and Projected Traffic**

<u>Item</u> (1)	<u>Current Traffic</u> (2)	<u>Projected Traffic</u> (3)	<u>Difference</u> (4)
1. Vehicle Delay Hours	204,385	355,265	150,880
2. Lost Productivity Cost	\$3,270,166	\$5,684,247	\$2,414,081
3. Fuel and Oil Consumption	\$180,268	\$313,344	\$133,076
4. Emission and Pollutants	\$462,985	\$804,766	\$341,781
5. Accident Costs	\$1,222,790	\$1,755,731	\$532,941
6. Total Cost to the Public	\$5,136,209	\$8,558,088	\$3,421,879

VI. COMPARATIVE ANALYSIS OF ENVIRONMENTAL IMPACTS OF APPLICANTS' PROPOSAL AND FCC'S ALTERNATIVE ROUTING PLAN

As discussed previously, the FCC proffers alternative routings for two distinct segments of the Applicants' proposed operating plans for the region. These include 1) rerouting a portion of the traffic CSX proposes to move over the lines from Willow Creek to Pine Junction and from Pine Junction to Calumet Park to the IHB and Conrail Porter Branch lines from Calumet Park to Willow Creek via Virginia Street (Gary), and 2) rather than restoring service on the former PRR line from Hobart to Clarke Junction, routing the projected traffic for this line over a combination of the NS/NKP line from Hobart to Van Loon and the EJE line from Van Loon to Pine Junction, thus allowing movement of coal and coke by CSX to the lakefront steel mills and other bulk commodities to the CSX lakefront line.

As stated in the Summary and Conclusion Section, I have performed a comparative analysis of the Applicants' proposed operating plans for these two routes and the FCC's Alternative Routing Plan and determined that the FCC Alternative results in an annual cost savings to the public and the Applicants' of \$4.2 million. The net present value of these savings for a twenty year period equals \$59.3 million.

As with my October 21, 1997 testimony, my comparative analysis is based on the same four factors listed in the previous section plus the change in railroad variable operating costs and return on investment of the capital required to implement each of the alternatives. Based on my calculations the Applicants' operating costs will increase slightly under the FCC's Alternative

Routing Plan but Applicants' required return on investment of capital costs will be significantly reduced.

Applicants' required return on investment will be reduced because Applicants will be able to avoid the expenditure of funds required to reactivate the out-of-service PRR line from Hobart to Clarke Junction.

1. Revisions to the Comparative Analysis

Revisions to my comparative analysis of the Applicants' proposed operating plan for these two routes and the FCC Alternative Routing Plan are based on the following factors which have been discussed above: 1) use of the SEA vehicle delay formula as corrected in SEA's Supplemental Errata, 2) use of the SEA rate of emissions factors, 3) adjustment to more accurately reflect train operating speeds, 4) adjustments to the train length use by the SEA; and, 5) corrections to the rail/highway crossing data for the Conrail Porter Branch between Ivanhoe and Virginia Street.

In addition to these factors, four additional revisions have been made, each related to capital investment costs. First, the Applicants' capital investment required to upgrade the CSX/BOCT line from Pine Junction to Calumet Park has been reduced from the \$6.6 million included in my October 21, 1997 testimony to \$2.0 million. This revision is based on information provided by CSXT in its January 23, 1998 Informal Response to FCC's Third Discovery Requests.

Second, the capital investment associated with the FCC Alternative Routing Plan for Hobart to Pine Junction via Van Loon has been reduced by the \$277,933 associated with the

construction of a connection at Van Loon. This is based on conversations with the EJE, which has informed the FCC that this connections already exists.

Third, the capital investment associated with the use of the IHB line between Ivanhoe and Virginia Street has been increased by \$2.7 million. This increase is based on the testimony of Applicants' Rebuttal Witnesses Rooney/O'Connor, who point out that the portion of the IHB line between Ivanhoe and Chase Street must also be rehabilitated to accommodate traffic increases. Messrs. Rooney and O'Connor estimate the required rehabilitation equals \$2.7 million. When added to the investment amount included in my October 21 testimony, the total rehabilitation of the IHB line Between Ivanhoe and Virginia Street equals \$4.3 Million.

Finally, as stated in the October 21, 1997 verified statement of FCC witnesses Heinzmann/Dunn, the estimate of the capital expenditures to rehabilitate the PRR line to Class 2 condition equals \$7,017,167.^{20/} In rebuttal CSX asserts for the first time that the line will be restored to Class 3 serviceable condition. To estimate the cost of this rehabilitation, I have used the restoration cost information made available by Applicants' witnesses Rooney/O'Connor regarding rehabilitation of the IHB line from Ivanhoe to Virginia Street to Class 3 conditions.

Messrs. Rooney/O'Connor use a factor of \$200 per feet for this rehabilitation. I have accepted this factor and added the cost of constructing the required connections to the Porter Branch at Tolleston, the NS Wabash line, and the EJE line at Dunes. The resulting

^{20/} October 21, 1997 verified statement of Heinzman/Dunn, page 11.

rehabilitation cost for the PRR line to Class 3 condition is \$13,124,856. My calculation of the rehabilitation cost of the PRR line is shown in my workpapers.

A comparative analysis of the Applicants' proposed operations and each element of the FCC's Alternative Routing Plan is presented below.

a. Willow Creek to Calumet Park

The FCC's Alternative Routing Plan shifts traffic off CSX's Willow Creek to Calumet Park line via Pine Junction (this includes the heavily-impacted CSX/BOCT line) and makes use of the IHB and Conrail Porter Branch. The FCC proposal contemplates but does not necessarily require directional traffic flow, i.e., parallel mainline tracks with the majority of traffic on these lines operating in opposite directions.^{21/} Operation of parallel mainlines with directional flow is a common and desirable practice in the railroad industry.

Operating in this manner will significantly reduce the volume of traffic moving on the CSX/BOCT Willow Creek to Calumet Park line via Pine Junction. Reducing the traffic on this line, which has twenty at-grade crossings over a distance of approximately seven miles alone, and placing a portion of the traffic on the grade separated IHB line, will significantly reduce the disruption of vehicular traffic in the Four Cities region. This alternative will significantly mitigate the incremental adverse economic, safety and quality-of-life impacts that would otherwise affect the public in the Four Cities region.

^{21/} The plan would also work without directional traffic flow as a means to avoid the adverse incremental impacts of the increased traffic over the CSX/BOCT line. However, the directional flow arrangement would be significantly more efficient and would also be consistent with CSX's general plan to move traffic to and from Chicago in a counterclockwise direction.

The table below shows the annual delay costs, accident costs, mileage-related railroad operating costs and return on investment for the Applicants' projected traffic using both the Applicants' proposed operating plans and the FCC's Alternative Routing Plan.

Comparison of Annual Costs for Applicant's Proposal and FCC's Alternative Routing Plan			
<u>Willow Creek to Calumet Park</u>			
(000)			
<u>Cost Category</u> (1)	<u>Applicants' Proposal</u> (2)	<u>FCC's Alternative</u> (3)	<u>Difference</u> (4)
Train Delay Cost	\$5,335.2	\$2,995.9	\$2,339.4
Vehicle Fuel Consumption Cost	\$270.1	\$151.7	\$118.4
Vehicle Oil Consumption Cost	\$24.0	\$13.5	\$10.5
Vehicle Emissions Cost	\$755.3	\$424.1	\$331.2
Accident Cost	\$1,728.0	\$1,392.5	\$335.5
Rail Operating Cost	\$16,104.1	\$15,981.5	\$122.6
Rail Capital Investment	\$340.0 ^{1/}	\$1,071.6 ^{2/}	(\$731.6)
Net Savings			\$2,716.5

^{1/} The required investment is estimated to equal \$2,000,000 with a pre tax return on investment equal to 17 percent.

^{2/} Assumes capital investment to rehabilitate IHB abandoned line and construct connection to CSX (CR) equals \$4,303,762 and 2,000,000 to upgrade Pine Jct to Calumet Park with a pre tax return on investment equal to 17 percent. If upon closer examination, it is determined that the bridges on the out of service portion of the IHB alternative line require rehabilitation that proves to be uneconomic, then traffic should be routed on the IHB line to the current connection with Conrail at Ivanhoe rather than to a new connection east of Tolleston. This alternative would also result in less disruption to the Four Cities than Applicants' operating plan; however, it is not as favorable as FCC's preferred route.

The productivity cost, fuel and oil costs, emissions costs, accident costs, mileage related operating costs, and the return on investment shown in the above table for both the Applicants' proposal and the FCC's Alternative Routing Plan were calculated in the same manner used in

my October 21, 1997 testimony and as described in the previous section. The calculation of these costs is shown in Exhibit PHB-11.

As demonstrated above, the FCC's Alternative Routing Plan for the movement of Applicants' projected traffic between Willow Creek and Calumet Park results in a net annual reduction in public and railroad costs equal to \$2.5 million.

2. Hobart to Clarke Junction

Applicants' propose to reactivate the former PRR out-of-service rail line from Hobart to Tolleston and Tolleston to Clarke Junction. This out-of-service line has 23 at-grade crossings and two grade-separated crossings. CSX's operating plan and supporting documents indicate two distinct uses for this line. First, CSX intends to move five bulk trains per day, representing 12 million gross tons per year, over this line. CSX's January 23, 1998 Informal Responses to FCC's Third Discovery Requests indicate that these CSX trains include coal and coke moving to the lakefront steel mills and other bulk commodities moving to the Chicago area.

The second use Applicants intend for this line involves NS' service to the Gary Sugar Works, located on the former Wabash spur north of Tolleston. According to NS' January 28, 1998 Informal Responses to the FCC's Third Discovery Requests, NS plans to construct a connection between the Wabash spur and the Tolleston to Clarke Junction portion of the PRR line in order to permit NS to move traffic originating or terminating at Gary Sugar Works from the Wabash spur to the PRR line, then to the Conrail Porter Branch. This traffic can then move

in an easterly direction to Burns Harbor, IN (or vice versa in the case of traffic terminating at the Gary Sugar Works).

The FCC's Alternative Routing Plan for reactivating the Hobart to Clarke Junction line permits movement of these shipments described above, without the reactivation of the out-of-service PRR line and its 23 at-grade crossings.

a. Bulk Commodity Shipments

The FCC's Alternative Routing Plan contemplates the movement of the CSX coal and coke traffic destined to EJE-served facilities from Hobart over the NS/NKP line to Van Loon, where a connection exists with the EJE. The CSX trains would be operated by CSX crews over the EJE to the U.S. Steel Mill in Gary and other lakefront steel mills in the area. As stated previously, use of CSX crews to operate over the EJE is consistent with CSX's current plan for the movement of traffic from Pine Junction to the Gary lakefront.^{22/}

Coal and Coke destined to IHB served lakefront steel mills would move, using CSX crews, from Hobart to Osborn over the NS NKP line then over the IHB from Osborn to IHB's Michigan Avenue Yard, where CSX would interchange the traffic to IHB.

^{22/} Applicants' Rebuttal Witnesses Rooney/O'Connor claim that the movement of coal and coke trains over the EJE elevated line will require use of locomotive helper service to pull these heavy trains over the grade caused by elevating the line. They estimate the annual operating cost associated with the helper locomotive to equal \$825,000. Based on conversations with EJE personnel regarding current operations over this line, it has been learned that NS coal and coke trains currently move over the elevated portion of the EJE using three six-axle 3,000 horsepower units, without any assistance from locomotive helpers. This is the same locomotive consist that CSX uses to move its coal and coke trains into the Chicago area. As a result, I do not believe any locomotive helper service is required.

Using the FCC Alternative Routing Plan, other bulk commodity traffic CSX plans to move over the PRR line into the Chicago area, would move from Hobart to Van Loon, then to the EJE's Kirk Yard and then into CSX's Curtis yard. From Curtis yard the traffic can move into Chicago over the CSX lakefront line.

Applicants' Rebuttal witnesses Rooney/O'Connor claim that the FCC's Alternative Routing Plan will leave this traffic "up in the air" on EJE's elevated north/south line, greatly complicating the connection to CSX's mainline and requiring a disruptive at-grade crossing of Conrail's lakefront line (to be acquired by NS). This is not the case. A connection in fact exists between EJE's elevated line and CSX's Curtis Yard. This connection, which uses the EJE overhead bridge to cross the CSX and Conrail lakefront lines, is clearly shown on EJE's track engineering map included in my workpapers. CSX trains using the EJE elevated line would cross over the CSX and Conrail lines towards EJE's Kirk Yard until they clear the switch for the connection to Curtis Yard, then shove to CSX's Curtis Yard. This is the same move that is made currently to interchange traffic from EJE to CSX.

b. NS Sugar Spur Traffic

The FCC's Alternative Routing Plan accommodates the NS Gary Sugar Works traffic through the construction of a connection between the CSX lakefront line and the existing Conrail lakefront line just east of Pine Junction. This connection would permit NS to move traffic originated at the Gary Sugar Works along the Wabash spur, in a reverse move, to its current connection with the CSX Pine Junction to Calumet Park line. Once on the CSX Pine Junction

to Calumet Park line, the traffic can move forward through Pine Junction onto the CSX lakefront line then through the new connection with the existing Conrail lakefront line and east to Burns Harbor, IN (which is the staging point for this traffic).

Applicants' Rebuttal witnesses Rooney/O'Connor object to this routing and the connection at Pine Junction because they claim it would again require a disruptive at-grade crossing of Conrail's busy Chicago-Toledo mainline. This objection is misplaced, because this connection would be used by only one train in each direction each day, and not by all trains CSX intends to route over the PRR line. Thus any disruption that may occur as a result of NS service to the Gary Sugar Works would be minimal. Further, one must question the wisdom of restoring service to the PRR line and its 23 rail/highway crossings through a low income, minority area just to accommodate one train a day to the Gary Sugar Works in light of the fact that all of CSX's planned trains for this line can be accommodated using the FCC's Alternative Routing Plan.

The table below shows the delay costs, accident costs, mileage related railroad operating costs and return on investment for the Applicants' projected traffic using both the Applicants' proposed operating plan and the FCC's Alternative Routing Plan for the planned movements on the out-of-service PRR line.

Comparison of Costs for Applicants' Proposal and FCC's Alternative Hobart to Pine Jct (000)			
<u>Item</u> (1)	<u>Applicants' Proposal</u> (2)	<u>FCC's Alternative</u> (3)	<u>Net</u> (4)
Delay Cost	\$349.0	\$438.5	\$(89.5)
Vehicle Fuel Consumption Cost	\$17.7	\$22.2	\$(4.5)
Vehicle Oil Consumption Cost	\$1.6	\$2.0	\$(0.4)
Vehicle Emissions Cost	\$49.4	\$62.1	\$(12.7)
Accident Cost	\$27.8	\$241.6	\$(213.8)
Rail Operating Cost ^{1/}	\$1,202.8	\$1,378.5	\$(175.7)
Rail Capital Investment ^{2/}	\$2,231.2	\$47.2	\$2,184.0
Net Savings (Cost)			\$1,687.4

^{1/} Includes trackage rights payment of 3 mills per gross ton-mile.

^{2/} Assumes capital investment to rehabilitate PRR abandoned line and construct connections at Tolleston, Wabash and Dunes equals \$13,124,856 with a pretax return on investment equal to 17 percent, and assumes capital investment to construct connections at Pine Jct equal \$277,933 with a pre-tax return on investment equal to 17 percent.

As with the comparative analysis of the Willow Creek to Calumet Park lines, the productivity cost, fuel and oil costs, emissions cost, accident cost, the railroads' variable operating costs and the capital investment requirements shown in the above table for both the Applicants' proposal and the FCC's Alternative Routing Plan were calculated in the same

manner as in my October 21, 1997 testimony and as described in the previous section. The calculation of these costs is shown in Exhibit PHB-12.

Two additional issues must be addressed with respect to the calculation of the Applicants' variable cost as it relates to the FCC's Alternative Routing Plan. First, Witnesses Rooney/O'Connor argue that I have understated the trackage rights payment from CSX to NS and EJE for use of their facilities. My trackage rights payment has been calculated based on the fee of 3.0 mills per gross ton-mile on unit train traffic paid by Burlington Northern & Santa Fe ("BNSF") to Union Pacific Railroad Company ("UP") as approved by the STB in the recent proceedings involving UP's acquisition of Southern Pacific Railroad Company ("SP"). This payment is certainly an appropriate measure of the trackage rights fee payable by CSX to EJE.

Second, Witnesses Rooney/O'Connor claim that the FCC plan understates CSX's variable cost for the Hobart to Van Loon to Pine Junction route because it fails to account for the increased costs associated with mileage payments to shippers using their own railcars. To the extent that this is true, any understatement is insignificant for three reasons. First the FCC Alternative route is only four miles longer than that proposed by Applicants. Second, by CSX's own admission in its Informal Response to FCC's Third Discovery Requests, the coal and coke trains intended to move on the PRR rail line move in railroad-provided cars for which no mileage payment is required. Third, to the extent that other bulk commodity traffic moves over this alternative route it will move at least in part in railroad-provided cars, in which event no mileage payment is warranted.

As demonstrated above, the FCC's Alternative Routing Plan for the movement of Applicants' projected traffic between Hobart and Clarke Junction results in a net annual reduction in public and railroad costs equal to \$2.5 million annually. When combined with the net annual reduction of \$1.7 million for movement of the traffic between Willow Creek and Calumet Park, this produces a total net savings for the FCC's proposal of \$4.2 million a year as compared to the Applicants' plans.

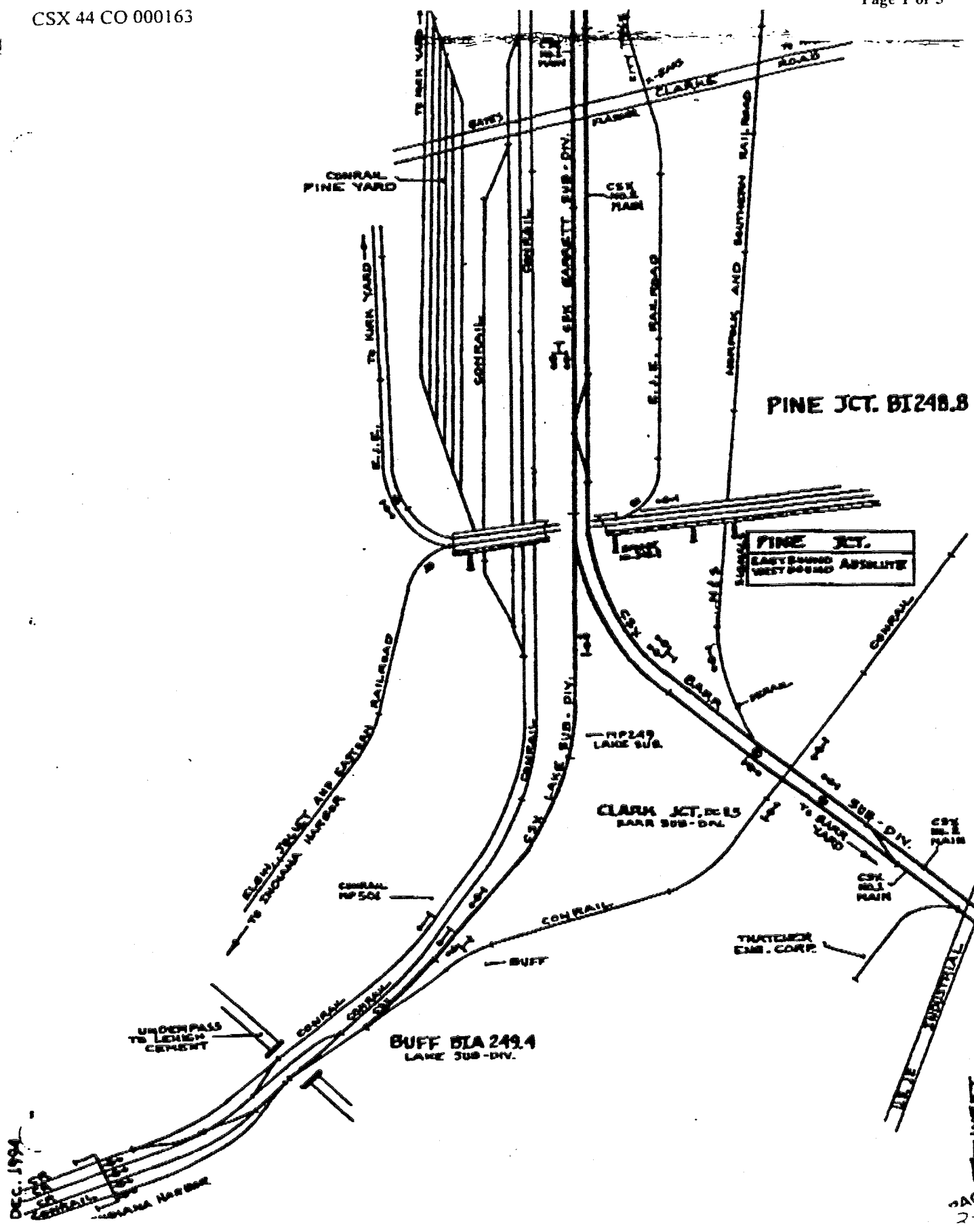
VII. CONCLUSION

The present levels of rail traffic in the Four Cities region cause significant safety problems and disruption of motor vehicle movements throughout the entire Four Cities region. The present situation is barely manageable, especially with regard to the provision of emergency services by the local municipalities. Applicants' projected increase in rail traffic on certain rail lines in the Four Cities region will exacerbate this situation and cause significant additional negative impacts to the Four Cities related to safety, increased vehicle delays, increased emissions in an area classified as a non-attainment area, land use, economic development and socioeconomic factors.

The SEA's approach in the DEIS does not lead to mitigation actions which address all serious environmental impacts and I believe that the Four Cities region is far more negatively impacted than SEA's conclusions in the DEIS indicate. Further, I believe these negative impacts must be thoroughly evaluated by the STB and mitigation actions imposed as a condition of this proceeding.

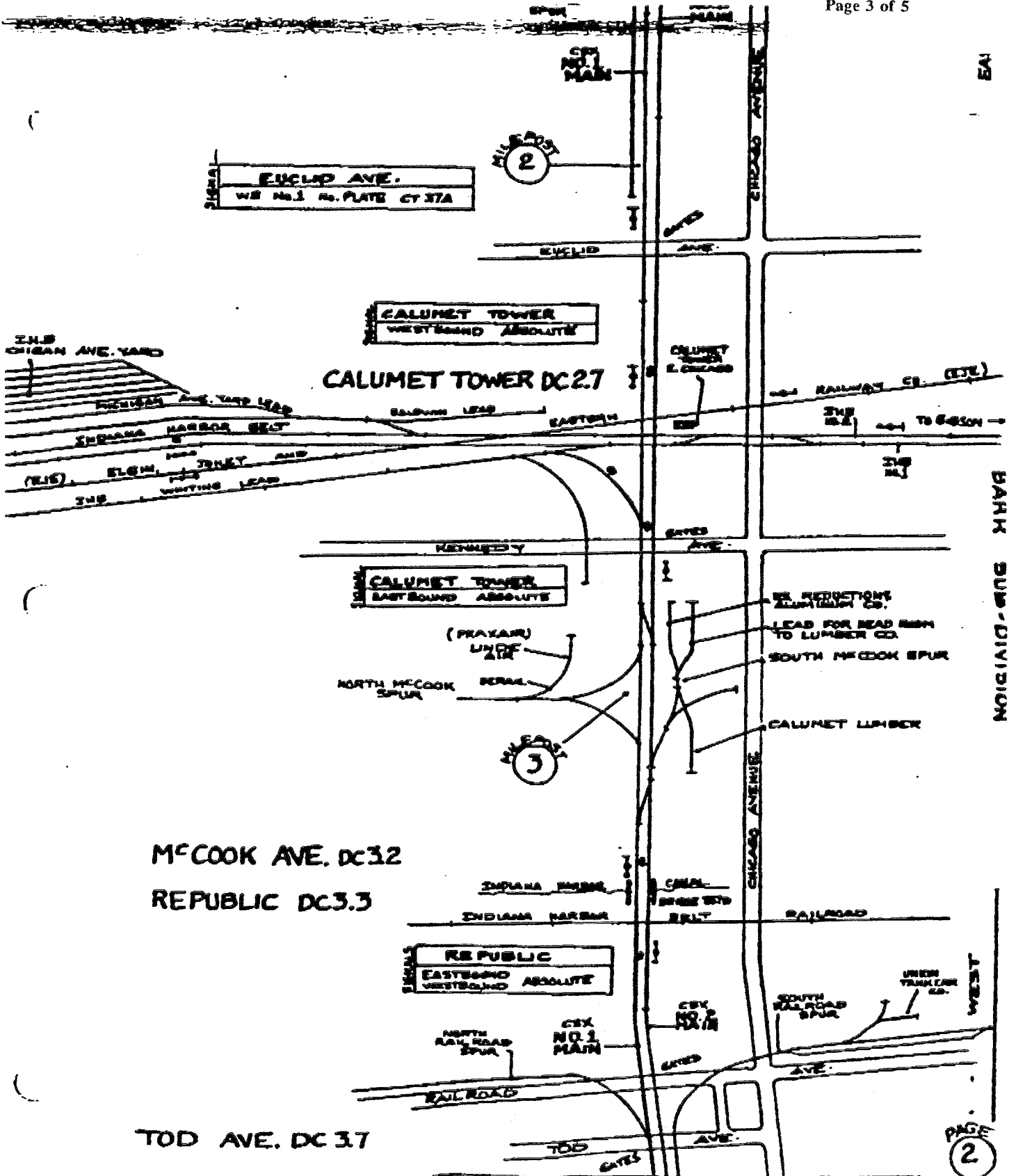
Finally, I believe the Alternative Routing Plan proposed by the FCC represents a reasonable and operationally feasible alternative to the operating plan proposed by the Applicants, and one which will mitigate many of the negative impacts related to the increased rail traffic proposed by Applicants, without inhibiting the movement of Applicants' traffic through the region.

CSX 44 CO 000163



DEC. 1994
INDIANA HARBOR

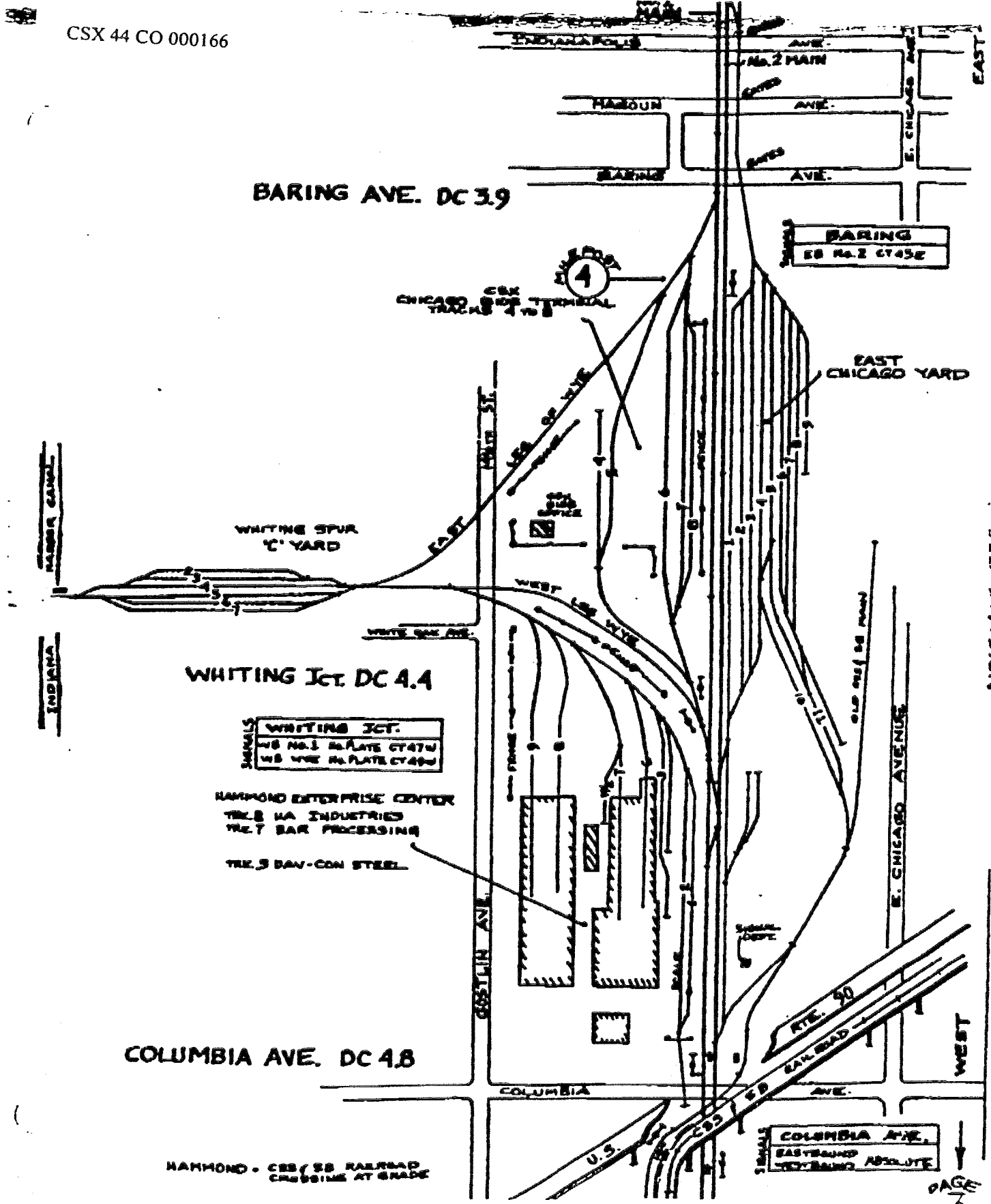
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EA

BARK SUB-DIVISION

CSX 44 CO 000166



BARING AVE. DC 3.9

BARING
EB No. 2 CT43E

CHICAGO SIDE TERMINAL
TRACKS 4 TO 8

EAST CHICAGO YARD

WHITING SPUR
C YARD

WHITING Jct. DC 4.4

WHITING JCT.
WS NO. 1 PLATE CT47M
WS NO. 4 PLATE CT49M

HAMMOND ENTERPRISE CENTER
T.M. & M.A. INDUSTRIES
T.M.T. BAR PROCESSING
T.M.S. DAV-COIN STEEL

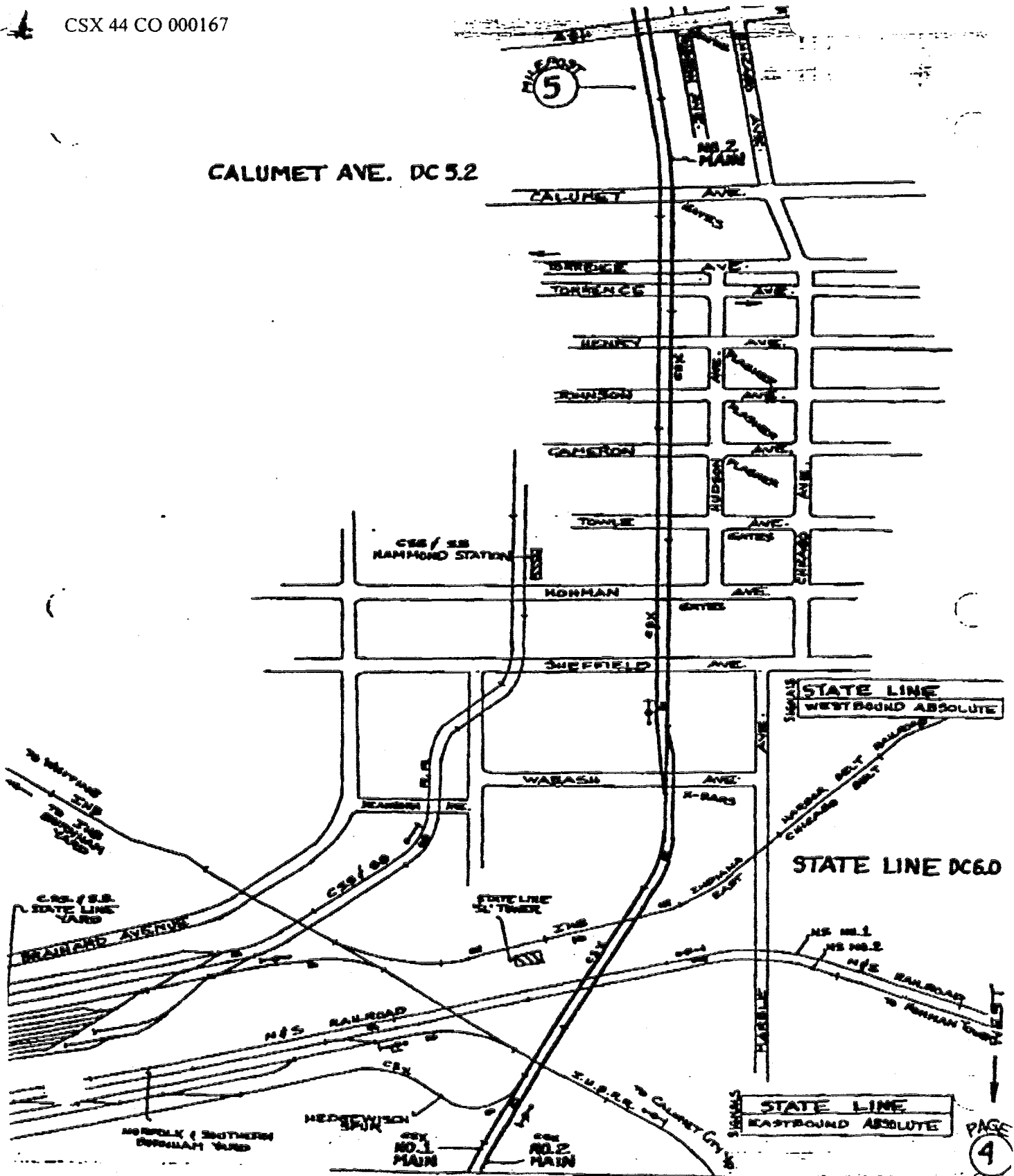
COLUMBIA AVE. DC 4.8

HAMMOND - CSX / EB RAILROAD
CROSSING AT GRADE

COLUMBIA AVE.
EASTBOUND
WESTBOUND ABSOLUTE

CSX 44 CO 000167

CALUMET AVE. DC 5.2



Summary of Cost to the Public
Current Traffic and Applicants' Post-Acquisition Projected Traffic
(Dollars in 000's)

<u>Item</u>	<u>Current Traffic</u>	<u>Projected Traffic</u>	<u>Difference</u>
Train Delay Cost 1/	\$3,270.2	\$5,684.2	\$2,414.1
Vehicle Fuel Consumption Cost 1/	\$165.6	\$287.8	\$122.2
Vehicle Oil Consumption Cost 1/	\$14.7	\$25.6	\$10.9
Emmission Costs 2/	\$463.0	\$804.8	\$341.8
Accident Cost 3/	\$1,222.8	\$1,755.7	\$532.9
Total Difference			\$3,421.9

1/ page 2

2/ page 5

3/ Page 7

**Comparison of Vehicle Delay Costs between
Current Traffic and Applicants Post-Acquisition Projected Traffic**

<u>Item</u>	<u>Current Traffic</u>	<u>Projected Traffic</u>
1. Daily Delay Hours	559.96	973.33
2. Total per Year	204,385	355,265
Delay Cost		
3. Occupancy Factor	1.6	1.6
4. Hourly Delay Cost per Person	10	10
5. Annual Delay Cost	\$3,270,166	\$5,684,247
Fuel Cost		
6. Fuel Idle Consumption Rate (gallons per minute)	0.009	0.009
7. Fuel Cost per Gallon	\$1.50	\$1.50
8. Fuel Cost per Day	\$453.57	\$788.40
9. Annual Fuel Cost	\$165,552	\$287,765
Oil Cost		
10. Oil Idle Consumption Rate (gallons per minute)	0.0003	0.0003
11. Oil Cost per Gallon	4	4
11. Oil Cost per Day	\$40.32	\$70.08
12. Annual Oil Cost	\$14,716	\$25,579
13. Total	\$3,450,434	\$5,997,591

**Comparison of Emissions Costs between
Current Traffic and Applicants Projected Traffic**

	Current			Projected Traffic		
	VOC Emissions	NOX Emissions	CO Emissions	VOC Emissions	NOX Emissions	CO Emissions
<u>Willow Creek to Pine Junction</u>						
a. Emission Rates (grams per hr of idling) 1/	55.05	10.35	456.85	55.05	10.35	456.85
b. Daily Delay Hours 2/	23.24	23.24	23.24	53.59	53.59	53.59
c. Emissions Cost per gram 3/	\$0.0033	\$0.0066	\$0.0044	\$0.0033	\$0.0066	\$0.0044
d. Daily Emissions Cost	\$4.23	\$1.59	\$46.82	\$9.76	\$3.67	\$107.97
e. Total Annual Emissions Cost	\$1,544	\$581	\$17,090	\$3,562	\$1,339	\$39,408
<u>Pine Junction to Calumet Park</u>						
a. Emission Rates (grams per hr of idling) 1/	55.05	10.35	456.85	55.05	10.35	456.85
b. Daily Delay Hours 2/	495.23	495.23	495.23	816.58	816.58	816.58
c. Emissions Cost per gram 3/	\$0.0033	\$0.0066	\$0.0044	\$0.0033	\$0.0066	\$0.0044
d. Daily Emissions Cost	\$90.17	\$33.91	\$997.74	\$148.68	\$55.91	\$1,645.17
e. Total Annual Emissions Cost	\$32,912	\$12,376	\$364,177	\$54,269	\$20,406	\$600,488

**Comparison of Emissions Costs between
Current Traffic and Applicants Projected Traffic**

	Current			Projected Traffic		
	VOC Emissions	NOX Emissions	CO Emissions	VOC Emissions	NOX Emissions	CO Emissions
<u>Calumet Park to Willow Creek (via IHB)</u>						
a. Emission Rates (grams per hr of idling) 1/	55.05	10.35	456.85	55.05	10.35	456.85
b. Daily Delay Hours 2/	41.49	41.49	41.49	43.40	43.40	43.40
c. Emissions Cost per gram 3/	\$0.0033	\$0.0066	\$0.0044	\$0.0033	\$0.0066	\$0.0044
d. Daily Emissions Cost	\$7.55	\$2.84	\$83.59	\$7.90	\$2.97	\$87.44
e. Total Annual Emissions Cost	\$2,757	\$1,037	\$30,510	\$2,884	\$1,085	\$31,915
Total Willow Creek to Calumet Park to Willow Creek (via IHB)	\$37,214	\$13,993	\$411,777	\$60,714	\$22,830	\$671,811
Sum of all emissions			\$462,985			\$755,355

**Comparison of Emissions Costs between
Current Traffic and Applicants Projected Traffic**

	Current			Projected Traffic		
	VOC Emissions	NOX Emissions	CO Emissions	VOC Emissions	NOX Emissions	CO Emissions
<u>Hobart to Tolleston</u>						
a. Emission Rates (grams per hr of idling) 1/				55.05	10.35	456.85
b. Daily Delay Hours 2/				40.52	40.52	40.52
c. Emissions Cost per gram 3/				\$0.0033	\$0.0066	\$0.0044
d. Daily Emissions Cost				\$7.38	\$2.77	\$81.64
e. Total Annual Emissions Cost				\$2,693	\$1,013	\$29,797
<u>Tolleston to Clarke Jct./Michigan Yard</u>						
a. Emission Rates (grams per hr of idling) 1/				55.05	10.35	456.85
b. Daily Delay Hours 2/				19.24	19.24	19.24
c. Emissions Cost per gram 3/				\$0.0033	\$0.0066	\$0.0044
d. Daily Emissions Cost				\$3.50	\$1.32	\$38.76
e. Total Annual Emissions Cost				\$1,279	\$481	\$14,148
Hobart to Clarke Jct.	\$0	\$0	\$0	\$3,972	\$1,493	\$43,946
			\$0			\$49,411
Grand Total	\$37,214	\$13,993	\$411,777	\$64,686	\$24,323	\$715,757
Sum of all emissions			\$462,985			\$804,766

1/ DEIS
2/ PHB Workpapers
3/ GradeDec Model - Converted to cost per gram from cost per ton

**Comparison of Accident Costs between
Current Traffic and Applicants Projected Traffic**

Accidents	Incidents		Cost Per Incident	Cost	
	Current Traffic	Projected Traffic 1/		Current Traffic	Projected Traffic
<u>Willow Creek to Pine Junction</u>					
Property Damage	0.8222	1.4361	\$50,000	\$41,110	\$71,803
Injury	0.2088	0.3647	\$500,000	\$104,400	\$182,346
Fatality	0.1116	0.1949	\$3,000,000	\$334,800	\$584,764
Subtotal				\$480,310	\$838,912
<u>Pine Junction to Calumet Park</u>					
Property Damage	1.2851	1.5505	\$50,000	\$64,255	\$77,525
Injury	0.2893	0.3490	\$500,000	\$144,650	\$174,523
Fatality	0.0594	0.0717	\$3,000,000	\$178,200	\$215,002
Subtotal				\$387,105	\$467,051
<u>Calumet Park to Willow Creek (via IHB)</u>					
Property Damage	0.9215	1.0943	\$50,000	\$46,075	\$54,714
Injury	0.2202	0.2615	\$500,000	\$110,100	\$130,744
Fatality	0.0664	0.0789	\$3,000,000	\$199,200	\$236,550
Subtotal				\$355,375	\$422,008
Total Willow Creek to Calumet Park to Willow Creek (via IHB)				\$1,222,790	\$1,727,971

**Comparison of Accident Costs between
Current Traffic and Applicants Projected Traffic**

<u>Accidents</u>	<u>Incidents</u>		<u>Cost Per Incident</u>	<u>Cost</u>	
	<u>Current Traffic</u>	<u>Projected Traffic 1/</u>		<u>Current Traffic</u>	<u>Projected Traffic</u>
<u>Hobart to Tolleston</u>					
Property Damage	----	0.0412	\$50,000	\$0	\$2,060
Injury	----	0.0108	\$500,000	\$0	\$5,400
Fatality	----	0.0019	\$3,000,000	\$0	\$5,700
Subtotal				\$0	\$13,160
<u>Tolleston to Clarke Junction</u>					
Property Damage	----	0.0670	\$50,000	\$0	\$3,350
Injury	----	0.0153	\$500,000	\$0	\$7,650
Fatality	----	0.0012	\$3,000,000	\$0	\$3,600
Subtotal				\$0	\$14,600
Total Hobart - Clarke Jct.				\$0	\$27,760
Grand Total				\$1,222,790	\$1,755,731

1/ Incidents for projected traffic equals current traffic increased by the change in the number of trains for each line segment

**Comparison of Costs for Applicants' Proposal and FCC's Alternative
Willow Creek to Calumet Park
(Dollars in 000's)**

<u>Item</u>	<u>Applicants' Proposal</u>	<u>FCC's Alternative</u>	<u>Difference</u>
Train Delay Cost	\$5,335.2	\$2,995.9	\$2,339.4
Vehicle Fuel Consumption Cost	\$270.1	\$151.7	\$118.4
Vehicle Oil Consumption Cost	\$24.0	\$13.5	\$10.5
Emmission Costs	\$755.3	\$424.1	\$331.2
Accident Cost	\$1,728.0	\$1,392.5	\$335.5
Rail Operating Cost	\$16,104.1	\$15,981.5	\$122.6
Rail Capital Investment	\$340.0 1/	\$1,071.6 2/	(\$731.6)
Net Savings (Cost)			\$2,526.0

1/ Assumes upgrade of line from 25mph to 40mph, plus installation of a Centralized Traffic Control System. The required investment is estimated to equal \$2,000,000 with a pre tax return on investment equal to 17 percent..

2/ Assumes capital investment to rehabilitate IHB abandoned line and construct connection to CSX (CR) and upgrade Pine Jct to Calumet equals \$6,303,762 with a pre tax return on investment equal to 17 percent..

**Comparison of Vehicle Delay Costs Between
Applicants' Projected Traffic and FCC's Alternative
Willow Creek to Calumet Park to Willow Creek (via IHB/Conrail)**

<u>Item</u>	<u>Applicants' Proposal</u>	<u>FCC's Alternative</u>
1. Daily Delay Hours	913.57	512.99
2. Total per Year	333,453	187,241
Delay Cost		
3. Occupancy Factor	1.6	1.6
4. Hourly Delay Cost per Person	10	10
5. Annual Delay Cost	\$5,335,249	\$2,995,862
Fuel Cost		
6. Fuel Idle Consumption Rate (gallons per minute)	0.009	0.009
7. Fuel Cost per Gallon	\$1.50	\$1.50
8. Fuel Cost per Day	\$739.99	\$415.52
9. Annual Fuel Cost	\$270,097	\$151,665
Oil Cost		
10. Oil Idle Consumption Rate (gallons per minute)	0.0003	0.0003
11. Oil Cost per Gallon	4	4
11. Oil Cost per Day	\$65.78	\$36.94
12. Annual Oil Cost	\$24,009	\$13,481
13. Total	\$5,629,354	\$3,161,008

**Comparison of Emissions Costs between
Applicants' Projected Traffic and FCC's Alternative**

	Applicants' Projected			FCC's Alternative		
	VOC Emissions	NOX Emissions	CO Emissions	VOC Emissions	NOX Emissions	CO Emissions
<u>Willow Creek to Pine Junction</u>						
a. Emission Rates (grams per hr of idling) 1/	55.05	10.35	456.85	55.05	10.35	456.85
b. Daily Delay Hours 2/	53.59	53.59	53.59	30.40	30.40	30.40
c. Emissions Cost per gram 3/	\$0.0033	\$0.0066	\$0.0044	\$0.0033	\$0.0066	\$0.0044
d. Daily Emissions Cost	\$9.76	\$3.67	\$107.97	\$5.54	\$2.08	\$61.25
e. Total Annual Emissions Cost	\$3,562	\$1,339	\$39,408	\$2,020	\$760	\$22,355
<u>Pine Junction to Calumet Park</u>						
a. Emission Rates (grams per hr of idling) 1/	55.05	10.35	456.85	55.05	10.35	456.85
b. Daily Delay Hours 2/	816.58	816.58	816.58	409.52	409.52	409.52
c. Emissions Cost per gram 3/	\$0.0033	\$0.0066	\$0.0044	\$0.0033	\$0.0066	\$0.0044
d. Daily Emissions Cost	\$148.68	\$55.91	\$1,645.17	\$74.56	\$28.04	\$825.06
e. Total Annual Emissions Cost	\$54,269	\$20,406	\$600,488	\$27,216	\$10,234	\$301,148

**Comparison of Emissions Costs between
Applicants' Projected Traffic and FCC's Alternative**

	Applicants' Projected			FCC's Alternative		
	VOC Emissions	NOX Emissions	CO Emissions	VOC Emissions	NOX Emissions	CO Emissions
Calumet Park to Willow Creek (via IHB)						
a. Emission Rates (grams per hr of idling) 1/	55.05	10.35	456.85	55.05	10.35	456.85
b. Daily Delay Hours 2/	43.40	43.40	43.40	73.07	73.07	73.07
c. Emissions Cost per gram 3/	\$0.0033	\$0.0066	\$0.0044	\$0.0033	\$0.0066	\$0.0044
d. Daily Emissions Cost	\$7.90	\$2.97	\$87.44	\$13.30	\$5.00	\$147.21
e. Total Annual Emissions Cost	\$2,884	\$1,085	\$31,915	\$4,856	\$1,826	\$53,733
Total Willow Creek to Calumet Park to Willow Creek (via IHB)	\$60,714	\$22,830	\$671,811	\$34,093	\$12,820	\$377,237
Sum of all emissions			\$755,355			\$424,149

1/ DEIS

2/ PHB Workpapers

3/ GradeDec Model - Converted to cost per gram from cost per ton

**Comparison of Accident Costs between
Applicants Projected Traffic and FCC's Traffic**

Accidents	Incidents		Cost Per Incident	Cost	
	Projected Traffic 1/	FCC's Traffic		Projected Traffic	FCC's Traffic
<u>Willow Creek to Pine Junction</u>					
Property Damage	1.4361	0.8185	\$50,000	\$71,803	\$40,924
Injury	0.3647	0.2079	\$500,000	\$182,346	\$103,928
Fatality	0.1949	0.1111	\$3,000,000	\$584,764	\$333,285
Subtotal				\$838,912	\$478,137
<u>Pine Junction to Calumet Park</u>					
Property Damage	1.5505	0.7776	\$50,000	\$77,525	\$38,879
Injury	0.3490	0.1750	\$500,000	\$174,523	\$87,524
Fatality	0.0717	0.0359	\$3,000,000	\$215,002	\$107,824
Subtotal				\$467,051	\$234,227
<u>Calumet Park to Willow Creek (via IHB)</u>					
Property Damage	1.0943	1.8040	\$50,000	\$54,714	\$90,198
Injury	0.2615	0.4265	\$500,000	\$130,744	\$213,238
Fatality	0.0789	0.1256	\$3,000,000	\$236,550	\$376,716
Subtotal				\$422,008	\$680,152
Total Willow Creek to Calumet Park to Willow Creek (via IHB)				\$1,727,971	\$1,392,515

1/ Incidents for projected traffic equals current traffic increased by the change in the number of trains for each line segment

**Comparison of Costs for Applicants' Proposal and FCC's Alternative
Hobart to Pine Jct.
(Dollars in 000's)**

<u>Item</u>	<u>Applicants' Proposal</u>	<u>FCC's Alternative</u>	<u>Difference</u>
Train Delay Cost	\$349.0	\$438.5	(\$89.5)
Vehicle Fuel Consumption Cost	\$17.7	\$22.2	(\$4.5)
Vehicle Oil Consumption Cost	\$1.6	\$2.0	(\$0.4)
Emmission Costs	\$49.4	\$62.1	(\$12.7)
Accident Cost	\$27.8	\$241.6	(\$213.8)
Rail Operating Cost	\$1,202.8	\$1,378.5	(\$175.7)
Rail Capital Investment	\$2,231.2 ^{1/}	\$47.2 ^{2/}	\$2,184.0
Net Savings (Cost)			\$1,687.4

2/ Assumes capital investment to rehabilitate PRR abandoned line and construct connections at Tolleston, Dunes and Wabash equals \$13,124,856 with a pre tax return on investment equal to 17 percent.

3/ Assumes capital investment to construct connection at Pine Jct equal \$277,933 with a pre tax return on investment equal to 17 percent.

**Comparison of Vehicle Delay Costs Between
Applicants' Projected Traffic and FCC's Alternative
Hobart to Pine Jct.**

<u>Item</u>	<u>Applicants' Proposal</u>	<u>FCC's Alternative</u>
1. Daily Delay Hours	59.76	75.08
2. Total per Year	21,812	27,404
Delay Cost		
3. Occupancy Factor	1.6	1.6
4. Hourly Delay Cost per Person	10	10
5. Annual Delay Cost	\$348,998	\$438,467
Fuel Cost		
6. Fuel Idle Consumption Rate (gallons per minute)	0.009	0.009
7. Fuel Cost per Gallon	\$1.50	\$1.50
8. Fuel Cost per Day	\$48.41	\$60.81
9. Annual Fuel Cost	\$17,668	\$22,197
Oil Cost		
10. Oil Idle Consumption Rate (gallons per minute)	0.0003	0.0003
11. Oil Cost per Gallon	4	4
11. Oil Cost per Day	\$4.30	\$5.41
12. Annual Oil Cost	\$1,570	\$1,973
13. Total	\$368,237	\$462,638

**Comparison of Emissions Costs between
Hobart to Pine Jct.**

	Applicants' Projected			FCC's Alternative		
	VOC Emissions	NOX Emissions	CO Emissions	VOC Emissions	NOX Emissions	CO Emissions
<u>Hobart to Tolleston</u>						
a. Emission Rates (grams per hr of idling) 1/	55.05	10.35	456.85			
b. Daily Delay Hours 2/	40.52	40.52	40.52			
c. Emissions Cost per gram 3/	\$0.0033	\$0.0066	\$0.0044			
d. Daily Emissions Cost	\$7.38	\$2.77	\$81.64			
e. Total Annual Emissions Cost	\$2,693	\$1,013	\$29,797			
<u>Tolleston to Clarke Jct/ Michigan Yard</u>						
a. Emission Rates (grams per hr of idling) 1/	55.05	10.35	456.85			
b. Daily Delay Hours 2/	19.24	19.24	19.24			
c. Emissions Cost per gram 3/	\$0.0033	\$0.0066	\$0.0044			
d. Daily Emissions Cost	\$3.50	\$1.32	\$38.76			
e. Total Annual Emissions Cost	\$1,279	\$481	\$14,148	\$0	\$0	\$0

**Comparison of Emissions Costs between
Applicants' Projected Traffic and FCC's Alternative**

	Applicants' Projected			FCC's Alternative		
	VOC Emissions	NOX Emissions	CO Emissions	VOC Emissions	NOX Emissions	CO Emissions
<u>Hobart - Pine Jct (NS/EJE) or Michigan Yard (NS/IHB)</u>						
a. Emission Rates (grams per hr of idling) 1/				55.05	10.35	456.85
b. Daily Delay Hours 2/				75.08	75.08	75.08
c. Emissions Cost per gram 3/				\$0.0033	\$0.0066	\$0.0044
d. Daily Emissions Cost				\$13.67	\$5.14	\$151.26
e. Total Annual Emissions Cost				\$4,990	\$1,876	\$55,212
Total Hobart to Pine Jct/Michigan Yard	\$3,972	\$1,493	\$43,946	\$4,990	\$1,876	\$55,212
Sum of all emissions			\$49,411			\$62,077

1/ DEIS

2/ PHB Workpapers

3/ GradeDec Model - Converted to cost per gram from cost per ton

**Comparison of Accident Costs between
Applicants Projected Traffic and FCC's Traffic**

Accidents	Incidents		Cost Per Incident	Cost	
	Projected Traffic 1/	FCC's Traffic		Projected Traffic	FCC's Traffic
<u>Hobart to Tolleston</u>					
Property Damage	0.0412	-----	\$50,000	\$2,060	\$0
Injury	0.0108	-----	\$500,000	\$5,400	\$0
Fatality	0.0019	-----	\$3,000,000	\$5,700	\$0
Subtotal				\$13,160	\$0
<u>Tolleston to Clarke Junction/Michigan Yard</u>					
Property Damage	0.0670	-----	\$50,000	\$3,350	\$0
Injury	0.0153	-----	\$500,000	\$7,650	\$0
Fatality	0.0012	-----	\$3,000,000	\$3,600	\$0
Subtotal				\$14,600	\$0
Total Hobart to Pine Jct/Michigan Yard				\$27,760	\$0
<u>Hobart - Pine Jct (NS/EJE) or Michigan Yard (NS/IHB)</u>					
Property Damage	0.0000	0.5966	\$50,000	\$0	\$29,828
Injury	0.0000	0.1506	\$500,000	\$0	\$75,292
Fatality	0.0000	0.0455	\$3,000,000	\$0	\$136,472
Total				\$0	\$241,592

1/ Incidents for projected traffic equals current traffic increased by the change in the number of trains for each line segment

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 33388

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

**COMMENTS ON DRAFT
ENVIRONMENTAL IMPACT STATEMENT**

Verified Statement
of
Gary M. Andrew, Ph.D.
Senior Consultant
L. E. Peabody & Associates, Inc.

On Behalf of the
Four-City Consortium

Due Date: February 2, 1998

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LIST OF EXHIBITS

EXHIBIT NO.	TITLE
(1)	(2)
GMA-1	Interlockers Between Pine Junction and Barr Yard
GMA-2	Revised Table 5-IN-9 (FCC)
GMA-3	Revised Table 5-IN-45 (FCC)
GMA-4	Supplemental Table 5-IN-Supplemental

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(1)	(2)	(3)
1	Vehicle Delays	3
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I. INTRODUCTION

1 A. QUALIFICATIONS

2
3 My name is Gary Martin Andrew. I am a Senior Consultant with the economic consulting
4 firm of L.E. Peabody and Associates, Inc. located at 1501 Duke Street, Suite 200, Alexandria,
5 Virginia 22314. My resume and qualifications are set forth in my earlier Verified Statement
6 in this proceeding which was included in the Four City Consortium's Comments and Request
7 for Conditions filed October 21, 1997 (FCC-9).

8 9 B. ENGAGEMENT

10
11 I was requested by the Four City Consortium^{1/} ("FCC") to review and prepare written
12 comments on the Draft Environmental Impact Statement ("DEIS") issued by the Surface
13 Transportation Board in Finance Docket No. 33388. In particular, I was asked to concentrate
14 on the part of Chapter 5 of Volume 3A that deals with the impact on vehicular traffic at
15 rail/highway grade crossings and the corollary impacts on the environment that will result from
16 the proposed CSX/NS acquisition of Conrail ("Applicants' Proposal").

17

^{1/} The Four City Consortium consists of the cities of East Chicago, Indiana; Hammond, Indiana; Gary Indiana;
and, Whiting, Indiana.

Table 1
Vehicle Delays

Segment (1)	Vehicle Hours of Delay Per Day			Difference Applicants'-FCC (5)
	Current (2)	Post Acquisition Proposal Applicants (3)	FCC (4)	
1. Willow Creek, IN to Ivanhoe, IN	41.49	43.4	54.31	-10.91
2. Willow Creek, IN to Pine Jct, IN	23.24	53.59	30.4	23.19
3. Pine Jct, IN- Barr Yard, IL (Calumet)	495.23	816.58	409.52	407.07
4. Gary to Illinois State Line	0	0	18.76	-18.76
5. Hobart to Tolleston, IN	not used	40.52	not used	40.52
6. Tolleston, IN to Clarke Jct, IN	not used	9.71	not used	9.71
7. Hobart, IN to Clarke Jct, IN (via Van Loon/EJE)	not used	not used	57.95	-57.95
8. Van Loon to Osborne	not used	not used	5.7	-5.7
9. Osborne to Michigan Ave. Yard, IN	not used	7.79	11.43	-3.64
10. Tolleston to IHB (via Porter Branch)	not used	1.74	not used	1.74
11. Total Vehicle Delay Hours per Day	559.966	973.332	588.069	385.262
Vehicle Hours of Delay Per Year				
12. Total Vehicle Delay Hours per Year	204,387	355,266	214,645	140,621
13. Yearly Difference between Applicants and Current Totals		150,879		
14. Yearly Difference between FCC and Current Totals			10,258	
15. Year Difference between Applicants and FCC Totals				140,621

Source: EXCEL Files Weekday_ADT.xls and Nite_WkEnd_ADT.xls.

1 Based upon my review of the DEIS and associated workpapers, I have concluded the
2 following:

- 3
- 4 ● The DEIS fails to calculate properly the aggregate effects of the Applicants' Proposal
5 on vehicular traffic in the Four Cities areas where serious problems involving vehicular
6 delay, public safety and air quality already exist. In particular the DEIS did not
7 consider the cumulative impact on vehicle delay hours the Applicants' Proposal would
8 cause at at-grade crossings with average daily traffic ("ADT") less than 5,000 vehicles
9 per day.
 - 10
 - 11 ● The data used in the DEIS differs significantly from the data presented by the
12 Applicants' Proposal and Applicants' responses to discovery as well as other available
13 sources. These differences occur in characteristics such as train lengths, train speeds,
14 vehicle departure rates, and ADT by time of day that have major impacts on the
15 estimates of vehicle delays in the area. In turn these changes in delays and exposures
16 have corresponding impacts on other environmental factors such as air quality, lost
17 productive time and safety.
 - 18
 - 19 ● The DEIS did not evaluate the reduced environmental impact of the FCC Alternative
20 Routing Plan that was developed and submitted to mitigate some of the impact of
21 Applicants' Proposal.
 - 22
 - 23 ● Using the corrections and additions that are required to provide full measurement of the
24 impacts of the Applicants' Proposal on vehicular traffic in the Four Cities area,
25 revisions to the DEIS are clearly necessary. These revisions are provided as
26 Exhibit GMA-2, Exhibit GMA-3 and Exhibit GMA-4.
 - 27

28

29 I have provided these results and the corrected model used in the DEIS to Mr. Phillip Burriss
30 for evaluating the various measures of environmental quality that are impacted by changes in
31 vehicular traffic.

32

1 The analyses supporting these conclusions are presented below under the following headings:

2
3 III. The Environmental Impact Statement Must Consider the Cumulative Effects of the
4 Applicants' Proposal

5
6 IV. Corrections to the Data and Model Used by the DEIS

7
8 V. The FCC Alternative Routing Plan Mitigates Adverse Environmental Impacts

9
10 VI. Proposed Revisions to the Environmental Impact Statement Analysis as it Pertains
11 to the Four Cities
12

1 **III. THE ENVIRONMENTAL IMPACT STATEMENT MUST CONSIDER**
2 **THE CUMULATIVE EFFECTS OF THE APPLICANTS' PROPOSAL**
3
4

5 The DEIS does not consider any changes in vehicle delays for at-grade crossings with traffic
6 density less than 5,000 vehicles per day [DEIS, Appendix C page 10]. Table 2 shows that 79
7 at-grade crossings in the Four Cities with ADT less than 5,000 vehicles per day will be affected
8 by the Applicants' Proposal. The DEIS analysis omits all of these crossings. Furthermore,
9 Table 2 shows that 29 at-grade crossings in the Four Cities with ADT of 5,000 or more vehicles
10 per day will be affected by the Applicants' Proposal. The DEIS provided data on only 15 of
11 these 29 at-grade crossings and failed to consider 14 of the 29 crossings or 48% fewer than
12 required by its own ADT volume threshold. The total number of neglected at-grade crossings
13 was 93, while the number of at-grade crossings analyzed was only 15.

14
15 Although use of the 5,000 vehicle per day threshold may be appropriate in some
16 circumstances, in an area like the Four Cities it clearly is not. Due to the large number of
17 crossings that fall below this threshold in this relatively concentrated area, ignoring the vehicle
18 delays at these crossings produces a highly inaccurate and misleading portrayal of the cumulative
19 impacts on the area.

Table 2
Crossings Involved in the Alternatives by ADT

<u>Crossing Type</u>	<u>At-Grade Crossings</u>				
	<u>Included in DEIS</u>	<u>Current Situation</u>	<u>Applicants' Proposal</u>	<u>FCC Alternative Routing</u>	<u>Total Required^{1/}</u>
(1)	(2)	(3)	(4)	(5)	(6)
1. Crossings with ADT < 5,000	0	31	54	47	79
2. Crossings with ADT > 15,000	15	15	19	23	29
3. Total At-Grade Crossings	15	46	73	70	108

Sources: Column (2)-DEIS Table 5-IN-9 (Revised).
Column (3) through (6)--EXCEL file Weekday_AD.T.xls in Workpapers.

^{1/} This column represents the unique number of crossings required to evaluate all of the alternatives of Columns (3), (4) and (5). The figure is less than the sum of Columns (3), (4) and (5) because of crossings that are included in more than one of columns (3), (4) and (5).

The cumulative effect of omitting these numerous at-grade crossings was a significant understatement of the number of vehicle hours of delay per year. In turn, these omissions resulted in an implicit^{2/} understatement of the changes in vehicle hours of delay per year.

Table 3 compares the vehicle delay hours for the current operations in the Four Cities area and for the Applicants' Proposal as computed considering only the 15 at-grade crossings in the DEIS versus considering all applicable at-grade crossings. The last line of Table 3 shows that failure to include the cumulative effect of all at-grade crossings understates the change in vehicle delays by 49,920 hours per year or 42 percent. Inclusion of the less-travelled crossings is

^{3/} Implicit in that the DEIS never explicitly stated the vehicle delay hours for the current and proposed operations.

1 particularly important in light of the high levels of traffic delay hours that currently exist in the
2 area. Therefore, I have included all at-grade crossings in my analysis.

3

Table 3
Vehicle Delay Hours Understated by the DEIS

<u>Road Segment</u> (1)	<u>Current Vehicle Hrs. of Delay/day For DEIS Crossings</u> (2)	<u>Current Vehicle Hrs. of Delay/day For All Crossings</u> (3)	<u>Post Acq. Vehicle Hrs. of Delay/day For DEIS Crossings</u> (4)	<u>Post Acq. Vehicle Hrs. of Delay/day For All Crossings</u> (5)
1. Willow Creek, IN to Ivanhoe, IN	0.00	41.49	0.00	43.40
2. Willow Creek, IN to Pine Jct, IN	7.77	23.24	17.91	53.59
3. Pine JCT, IN-Barr Yard, IL (Calumet)	459.90	495.23	758.32	816.58
4. Gary to Illinois State Line	0.00	0.00	0.00	0.00
5. Hobart to Tolleston, IN	0.00	0.00	5.50	40.52
6. Tolleston, IN to Clarke Jct. IN	0.00	0.00	8.55	9.71
7. Osborne, IN to Michigan Ave Yard, IN	0.00	0.00	0.00	7.79
8. Tolleston, IN to IHB Turnout	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>1.74</u>
9. Total Delay Hours per Day	467.66	559.97	790.29	973.33
10. Total Delay Hours Per YEAR	170,698	204,387	288,455	355,266
11. Yearly difference between Current and Post Acquisition Using DEIS at-grade crossings			117,757	
12. Yearly difference between Current and Post Acquisition Using All at-grade crossings				167,677
13. DEIS Understatement of Impact of Applicants' Proposal (hours per year)				49,920

Source: EXCEL files Weekday_ADT.xls and Nite_WkEnd_ADT.xls

1 **IV. CORRECTIONS TO THE DATA AND MODEL USED BY THE DEIS**
2
3

4 The data used in the DEIS deviate from data from other sources. In the case of train
5 lengths and train speeds, the DEIS data differs from the data provided by the Applicants as well
6 as from data collected in a recent traffic study in the Four Cities. The vehicle departure rate
7 used in the DEIS is significantly different from the actual observations in the affected area
8 because the DEIS apparently ignored truck traffic. Another problem is that the model used in
9 the DEIS assumes that the vehicular traffic and train traffic will be uniformly distributed in time.
10 Local data contradicts this assumption, requiring treating the weekday hours different than the
11 non-weekday hours where the data is available.^{4/}

12
13 The corrections necessary for the proper estimation of vehicular traffic delay statistics are
14 discussed below under the following topics:
15

- 16 A. Train Lengths;
17 B. Train Speeds;
18 C. Vehicle Departure Rate; and
19 D. Weekday Versus Night and Weekend Average Daily Traffic (ADT)
20

^{4/} There was an error in the DEIS formula for calculating average delay per stopped vehicle, but this error was corrected in the Supplemental Errata to the DEIS.

1 A. TRAIN LENGTHS

2
3 The data used in the DEIS for average length of train differs significantly from the data
4 presented by the Applicants. The average train length is a primary determinant in the calculation
5 of vehicle delay times [DEIS Appendix C page 11ff]. Table 4 compares the train lengths for
6 each rail line segment in the Four Cities area as presented in the DEIS with the train lengths
7 provided by the Applicants to the Four Cities in discovery. The train lengths used in the DEIS
8 are significantly different from the train lengths in the Applicants' discovery response. As
9 shown in Table 4, the train lengths provided in the DEIS in Columns (2) and (4) are always
10 larger than the corresponding train lengths provided by the Applicants' in Columns (3) and (5),
11 respectively. In this analysis, the differential between current and proposed train lengths is the
12 critical element - not the train lengths themselves. In the DEIS, the differences between current
13 and proposed train lengths are 200 feet in all but part of one segment, while in the Applicants'
14 data the differences between current and proposed train lengths are as large as 1,297 feet. It
15 should be noted that the values on train lengths for current operations obtained from the traffic
16 sample conducted by the FCC^{5/} agree with the data in Applicants' response to FCC Interrogatory
17 No. 7.

^{5/} See my previous Verified Statement in FCC-9.

Table 4 Train Lengths (feet)							
Road Segment (1)	Current		Proposed		Difference Proposed - Current		
	DEIS ^{1/} (2)	Applicant ^{2/} (3)	DEIS ^{1/} (4)	Applicant ^{2/} (5)	DEIS (6)	Applicant (7)	
1. Willow Creek, IN to Ivanhoe, IN	None	4,910	None	4,554	N.A.	-356	
2. Willow Creek, IN to Pine Jct, IN	6,000	4,335	6,200	5,141	200	806	
3. Pine Jct, IN-Barr Yard, IL (Calumet)	6,000	4,192	6,200	5,490	200	1,298	
4. Gary, IN to Illinois State Line	None	4,910	None	4,554	N.A.	-356	
5. Hobart to Tolleston, IN	6,000	Not used	6,200	5,306	200	N.A.	
6. Tolleston, IN to Clarke Jct, IN	5,600-6,000	Not used	6,200	5,306	200-600	N.A.	

^{1/} From DEIS Volume 3A, Chapter 5, Table 5-IN-9, Page 1.
^{2/} Calculated from figures supplied in CSXT's Supplemental Response to FCC Interrogatory 7.

For the above reasons, I have used the train lengths derived from the data supplied by the Applicants for evaluating both pre- and post-acquisition conditions.

1 **B. TRAIN SPEEDS**

2
3 The DEIS uses values for train speeds that are not attainable in actual operations. For
4 example, Table 5-IN-9 of the DEIS uses 25 miles per hour as the current train speed for the
5 Barr Yard to Pine Junction Segment. The current maximum timetable speed in this segment is
6 35 miles per hour but the current average train speed in this area is approximately 12.0 miles
7 per hour. This value is developed from three sources of data: 1) data obtained in discovery
8 from the Applicants'^{6/}; 2) the traffic study conducted for the FCC under my supervision; and,
9 3) police radar observations.^{7/} The most reliable of these three sources is the CSX record that
10 shows the average speed on this segment is 12.0 miles per hour. The police radar observations
11 averaged 14.3 mph but these only involve trains that are in motion. Any amount of time that
12 a train is stopped results in a lower average speed on the segment. The CSX record contains
13 average duration to traverse the segment which accounts for any stops. If data were available
14 to adjust the radar observations for stopped trains, the estimate of 14.3 mph would be
15 considerably less.

16
17 The projected post-acquisition values for train speeds are similarly overstated. Even with
18 the improvements the Applicants' plan to make that will permit the speed limits to be raised in
19 certain areas, the average actual speeds in the Four Cities are not likely to approach even 50
20 percent of the speed limit. There are several conditions that will prevent the average speeds
21 from significantly increasing. First, there are several interlockers (rail-to-rail at-grade crossings)

^{6/} Bates No. CSX 12C0 000102 (Confidential).

^{7/} Provided in my workpapers.

1 in the area, especially in the Pine Junction to Barr Yard segment.^{8/} These have slower speed
2 restrictions and may require a full stop. As a result, the high level of rail traffic in the area
3 occasions the need for slow movement of trains to allow trains to cross other rail lines. Second,
4 the acceleration/deceleration times and distances are such that, given the various restrictions, the
5 speed limit cannot even be approximated in most segments. Third, the high density of
6 population and the large volume of vehicular traffic in the FCC area prevent higher speeds for
7 safety reasons.

8
9 Data provided by CSX confirms that train operations in congested areas like the Four Cities
10 are far lower than posted speeds. These data show numerous lines where average train speeds
11 are less than one half of the posted speed limit. Table 5 shows the speed limits and actual
12 speeds in mainline segments in or near various metropolitan areas with high population densities.
13 The average actual speed on these metropolitan segments is only 36.6 percent of the speed limit.

14
15 On the Pine Junction to Barr yard segment I have used the CSX average actual train speed
16 of 12.0 mph for the correct current train speed because of the three sources of evidence
17 discussed above. Applicants claim that the capital improvements in this segment to handle more
18 trains, longer trains and heavier trains and increase the speed limit to 40 mph will enable the
19 average speed to increase. I do not believe the average speed will increase at all because of the
20 increased number, length and weight of trains in a segment with many interlockers. However,
21 to be conservative, I have assumed a 10% increase in average train speed from 12.0 to 13.2 mph

^{8/} See Exhibit__GMA-1.

1 for the post acquisition analysis of both the Applicants Proposal and the FCC Alternative
2 Routing Plan.^{2/}

3
4 The other segment where we have obtained actual average train speeds is Willow Creek to
5 Pine Junction. The data from CSX noted above show the average train speed on this segment
6 to be 24.5 mph. I have used 24.5 mph for both current and post-acquisition train speeds on the
7 Willow Creek to Pine Junction segment.

8
9 The Hobart-Tolleston-Clarke Junction segment is currently out of service and the current
10 actual speed data are not available. Because I have no other data, I have used 36.6% of the 40
11 mph that Applicants state as the maximum speed on this segment. This is consistent with the
12 experience of CSX in other, similarly dense metropolitan areas. It is also consistent with the
13 planned use of this line to handle bulk trains so that higher priority traffic can be expressed on
14 CSX's lakefront line. These lower priority bulk trains will yield the right-of-way to other traffic
15 at several rail-to-rail at-grade crossings on this segment.

16
17 In all other areas, I have used 50% of the maximum speed limit for average train speed in
18 all calculations for current and proposed operating segments. Mr. Phillip Burris also discusses
19 the rationale for the train speed used in his evaluation.

^{2/} Because the Applicant relies on certain improvements to the Pine Junction to Barr Yard segment as the justification for an increased train speed, the Four Cities included this investment as a cost of the FCC Alternative Routing Plan as explained by Mr. Burris.

Table 5
**Segments for Which the Actual Average Train Speed is Less Than Half the
 Maximum Authorized Speed for the Segment Shown in the CSX Timetable**

	<u>Origin City</u>	<u>Segment</u>		<u>St</u>	<u>Miles</u>	<u>Run Time</u>	<u>Speed (MPH)</u>		<u>% Diff</u>
		<u>St</u>	<u>Dest City</u>				<u>Actual</u>	<u>Limit</u>	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Cincinnati	OH	Anchorage	KY	93	6.90	13.48	50	27.0%
2.	Cincinnati	OH	Columbus	OH	112	9.87	11.35	40	28.4%
3.	Blue Island Jct	IL	75th St	IL	8	0.67	11.94	40	29.9%
4.	Salem	IL	E St Louis	IL	68	3.70	18.38	60	30.6%
5.	Detroit	MI	Plymouth	MI	25	1.75	14.29	45	31.8%
6.	Athens	GA	Atlanta	GA	69	3.47	19.88	60	33.1%
7.	Holly	MI	Wixom	MI	20	1.20	16.67	50	33.3%
8.	Pine Jct	IN	Barr Yard	IL	11	0.92	11.96	35	34.2%
9.	Barr Yard	IL	Blue Island Jct	IL	3	0.25	12.00	35	34.3%
10.	Romulus	MI	Toledo	MI	49	2.93	16.72	45	37.2%
11.	Plymouth	MI	Wayne	MI	8	0.47	17.02	45	37.8%
12.	Wayne	MI	Romulus	MI	4	0.23	17.39	45	38.6%
13.	Cincinnati	OH	Covington	KY	6	0.50	12.00	30	40.0%
14.	Newark	OH	Columbus	OH	35	2.12	16.51	40	41.3%
15.	Cincinnati	OH	Mitchell	IN	128	6.05	21.16	50	42.3%
16.	Plymouth	MI	Grand Rapids	MI	124	5.53	22.42	50	44.8%
17.	Deschler	OH	Toledo	OH	36	1.55	23.23	50	46.5%
18.	Hamilton	OH	Indianapolis	IN	99	6.85	14.45	30	48.2%
19.								Average	36.6%

<u>COLUMN</u>	<u>SOURCE</u>
(1)-(6)	Confidential CSX Train Statistics Summary Spreadsheet, Bates No. CSX 12 CO 000102.
(7)	Col. (5)/Col. (6).
(8)	CSX Timetable "Maximum Authorized Speed" (lowest "max" applicable on any part of segment.)
(9)	[Col. (7)/(Col. (8))*100.

C. VEHICLE DEPARTURE RATE

The Supplemental Errata to the DEIS (at 2) gave the vehicle departure rate^{10/} for vehicles leaving the queue after the train has passed as 1400 vehicles per hour per lane (or 23.3 vehicles per minute per lane). The source for this was given as "field measurements". This value

^{10/} The vehicle departure rate is represented as Sc in the Appendix C of the DEIS.

1 appears to be the unimpeded flow for cars (only) leaving a queue at a stop light. The actual
2 departure rates from a queue across railroad tracks on the Pine Junction to Barr Yard segment
3 were much slower because of trucks and traffic congestion. Measurements of queue clearing
4 times and cars in queue reported in my Verified Statement in FCC-9 showed an average vehicle
5 departure rate of 10.18 vehicles per minute per lane for 7 at-grade crossings^{11/} on the Pine
6 Junction to Barr Yard segment.

7
8 This estimate of vehicle departure rate reflects the mix of cars and trucks and the congestion
9 that actually exists in this area. Therefore, I have used 10.18 vehicles per minute per lane
10 (610.8 vehicles per hour per lane) for the value of the vehicle departure rates at all at-grade
11 crossings on the Pine Junction to Barr Yard rail segment. Because I did not have sufficient
12 information to make an independent estimate for the other rail segments, I relied on the 1400
13 vehicles per hour per lane in the DEIS for all other segments.

14
15 **D. WEEKDAY VERSUS NIGHT-WEEKEND AVERAGE DAILY TRAFFIC (ADT)**

16 The model used in the DEIS assumes uniform traffic arrivals to the at-grade crossings
17 throughout the period under study. In the study of Pine Junction to Barr Yard at-grade crossings
18 we found that 60% of the vehicles were observed during the weekdays which account for 36%^{12/}
19 of the hours in a week. Meanwhile 32% of the trains passed during the weekday hours. The

^{11/} The observations for Columbia Ave. were omitted in the above calculation because of construction in the area.

^{12/} The weekdays are 6 am to 6 pm, Monday through Friday and account for 60 hours out of the 168 hours in a week (60/168 = 36%).

1 net result of the concentration of 60% of the vehicular traffic in 36% of the time is a significant
2 increase in delay times for vehicles that travel during the weekday hours.

3
4 I used this information and increased the effective ADT for 60 hours per week to reflect the
5 concentration of vehicles and ran 32% of the trains during the 60 weekday hours.^{13/} For nights
6 and weekends, I decreased the effective ADT for 108 hours per week to reflect the sparsity of
7 vehicular traffic and ran the remaining 68% of the trains during the 108 night and weekend
8 hours.^{14/} The two results were added together.

9
10 The adjustment was used only for the at-grade crossings on the Pine Junction to Barr Yard
11 segment. The data was not available to make such adjustments for the other segments;
12 therefore, I used the uniform assumption of the DEIS.

13
14 After making all of the input adjustments describe above, I used the DEIS formula (as
15 corrected by the SEA Supplemental Errata) to calculate revised vehicle delay times as presented
16 in this verified statement.

^{13/} The actual adjustment made to the ADT for weekdays was to multiply the ADT by 60% and then divide by 36% of the week. Thus, the effective rate of an ADT with 10,000 vehicles per day is 16,667 vehicles per day during the 60 weekday hours.

^{14/} The actual adjustment made to the ADT for nights and weekends was to multiply the ADT by 40% and divide by the 64% of the week. Thus, the effective rate of an ADT with 10,000 vehicles per day is 6250 vehicles per day during the 106 night and weekend hours.

1 **VI. PROPOSED REVISIONS TO THE ENVIRONMENTAL**
2 **IMPACT STATEMENT ANALYSIS RELATING TO THE FOUR CITIES**
3
4

5 Based on the discussion and data presented above and in my attached exhibits, I propose the
6 following revisions be included in the final environmental impact statement:

7
8 A. Revise Table 5-IN-9 as shown in my Exhibit __GMA-2:
9

- 10 1. To include the FCC Alternative Routing;
11
12 2. To include all at-grade crossings where the impact of the Applicants' Proposal will be
13 different than the FCC Alternative Routing;
14
15 3. To include the data corrections in train speeds and train lengths; and,
16
17 4. To include the corrected formula for average vehicle delay.
18

19 B. Revise Table 5-IN-45 as shown in my Exhibit __GMA-3:
20

- 21 1. To include the FCC Alternative Routing;
22
23 2. To include all at-grade crossings where the impact of the Applicants' Proposal will be
24 different than the FCC Alternative Routing;
25
26 3. To include the data corrections in train speeds and train lengths; and,
27
28 4. To include the corrected formula for average vehicle delay.
29

30 C. Include a Table 5-IN-Supplemental as shown in my Exhibit __GMA-4 that summarizes and
31 compares the environmental impacts on vehicular traffic resulting from the Applicants'
32 Proposal and the FCC Alternative Routing Plan.
33
34

Interlockers Between Pine Junction and Barr Yard

Crossing	(a) Priority	(b) Dispatching	(c) Signal
1. Clark Jct. (CR/NS)	Conrail	First come, First serve	Color signal device
2. Calumet Tower (EJE/IHB)	IHB	IHB	Interlocking signals controlled by IHB operator
3. Republic (IHB)	First come, First serve	First come, First serve	Automated absolute signal
4. Columbia Ave. (CSSSB)	First come, First serve	First come, First serve	Interlocking signals controlled by IHB operator
5. State Line (IHB/NS)	IHB	IHB	Interlocking signals controlled by IHB operator
6. Calumet Park (CR/IHB)	IHB	IHB	Interlocking signals controlled by IHB operator
Source: CSX Response to Interrogatory No. 10 (January 23, 1998)			

Table 5-IN-9 (FCC)
Indiana
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

Roadway Name	Number of Roadway Lanes	ADT	Pre Acquisition							
			Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/Veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service
WILLOW CREEK, IN TO IVANHOE, IN										
SWANSON	2	750	9.6	20	4909.99	16	2	3.33	8.75	B
DOMBY RD	2	3,000	9.6	20	4909.99	66	10	3.44	9.06	B
UNION ST	2	250	9.6	20	4909.99	5	1	3.30	8.69	B
RIPLEY ST	2	14,370	9.6	20	4909.99	315	47	4.18	11.01	B
PIKE ST	2	750	9.6	20	4909.99	16	2	3.33	8.75	B
GRAND BLVD	2	300	9.6	20	4909.99	7	1	3.30	8.69	B
GIBSON	2	750	9.6	20	4909.99	16	2	3.33	8.75	B
DE KALB	2	750	9.6	20	4909.99	16	2	3.33	8.75	B
MILKINDIANA AVE	4	3,000	9.6	20	4909.99	66	5	3.36	8.85	B
VIRGINIA ST	2	750	9.6	20	4909.99	16	2	3.33	8.75	B
MASSACHUSETS	3	3,000	9.6	20	4909.99	66	7	3.39	8.92	B
BROADWAY ST	4	13,690	9.6	20	4909.99	300	23	3.66	9.64	B
MADISON	2	1,276	9.6	20	4909.99	28	4	3.35	8.82	B
HARRISON ST	2	750	9.6	20	4909.99	16	2	3.33	8.75	B
GRANT ST	2	3,000	9.6	20	4909.99	66	10	3.44	9.06	B
ROOSEVELT ST	2	250	9.6	20	4909.99	5	1	3.30	8.69	B
TAFT ST	2	3,000	9.6	20	4909.99	66	10	3.44	9.06	B
CHASE ST	2	3,050	9.6	20	4909.99	67	10	3.45	9.07	B
CLARK RD	2	7,500	9.6	20	4909.99	164	25	3.70	9.74	B
BURR ST	2	750	9.6	20	4909.99	16	2	3.33	8.75	B
COLFAX AVE	2	850	9.6	20	4909.99	19	3	3.33	8.77	B

Table 5-IN-9 (FCC)
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Roadway Name	Number of Roadway Lanes	ADT	Post Acquisition							
			Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/veh)	Avg. Delay per Vehicle (All vehicles) (sec/Veh)	Level of Service
WILLOW CREEK, IN TO IVANHOE, IN										
SWANSON	2	750	11.4	20	4554	18	2	3.12	9.15	B
DOMBY RD	2	3,000	11.4	20	4554	73	9	3.23	9.48	B
UNION ST	2	250	11.4	20	4554	6	1	3.10	9.09	B
RIPLEY ST	2	14,370	11.4	20	4554	351	44	3.93	11.51	B
PIKE ST	2	750	11.4	20	4554	18	2	3.12	9.15	B
GRAND BLVD	2	300	11.4	20	4554	7	1	3.10	9.09	B
GIBSON	2	750	11.4	20	4554	18	2	3.12	9.15	B
DE KALB	2	750	11.4	20	4554	18	2	3.12	9.15	B
MLK/INDIANA AVE	4	3,000	11.4	20	4554	73	5	3.16	9.26	B
VIRGINIA ST	2	750	11.4	20	4554	18	2	3.12	9.15	B
MASSACHUSETTS	3	3,000	11.4	20	4554	73	6	3.18	9.33	B
BROADWAY ST	4	13,990	11.4	20	4554	335	21	3.44	10.08	B
MADISON	2	1,276	11.4	20	4554	31	4	3.15	9.23	B
HARRISON ST	2	750	11.4	20	4554	18	2	3.12	9.15	B
GRANT ST	2	3,000	11.4	20	4554	73	9	3.23	9.48	B
ROOSEVELT ST	2	250	11.4	20	4554	6	1	3.10	9.09	B
TAFT ST	2	3,000	11.4	20	4554	73	9	3.23	9.48	B
CHASE ST	2	3,050	11.4	20	4554	75	9	3.23	9.48	B
CLARK RD	2	7,500	11.4	20	4554	183	23	3.48	10.19	B
BURR ST	2	750	11.4	20	4554	18	2	3.12	9.15	B
COLFAX AVE	2	850	11.4	20	4554	21	3	3.13	9.17	B

Table 5-IN-9 (FCC)
Indiana
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

		FCC Alternative Solution									
Roadway Name	Number of Roadway Lanes	ADT	Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service	
WILLOW CREEK, IN TO IVANHOE, IN											
SWANSON	2	750	28.1	20	5110.27	50	3	3.44	27.42	D	
DOMBY RD	2	3,000	28.1	20	5110.27	199	10	3.56	28.38	D	
UNION ST	2	250	28.1	20	5110.27	17	1	3.42	27.22	D	
RIPLEY ST	2	14,370	28.1	20	5110.27	954	49	4.33	34.49	D	
PIKE ST	2	750	28.1	20	5110.27	50	3	3.44	27.42	D	
GRAND BLVD	2	300	28.1	20	5110.27	20	1	3.42	27.24	D	
GIBSON	2	750	28.1	20	5110.27	50	3	3.44	27.42	D	
DE KALB	2	750	28.1	20	5110.27	50	3	3.44	27.42	D	
MLK/INDIANA AVE	4	3,000	28.1	20	5110.27	199	5	3.48	27.73	D	
VIRGINIA ST	2	750	28.1	20	5110.27	50	3	3.44	27.42	D	
MASSACHUSETTS	3	3,000	0	0	5110.27	Not Used	Not Used	Not Used	Not Used	Not Used	
BROADWAY ST	4	13,690	0	0	5110.27	Not Used	Not Used	Not Used	Not Used	Not Used	
IMADISON	2	1,276	0	0	5110.27	Not Used	Not Used	Not Used	Not Used	Not Used	
HARRISON ST	2	750	0	0	5110.27	Not Used	Not Used	Not Used	Not Used	Not Used	
GRANT ST	2	3,000	0	0	5110.27	Not Used	Not Used	Not Used	Not Used	Not Used	
ROOSEVELT ST	2	250	0	0	5110.27	Not Used	Not Used	Not Used	Not Used	Not Used	
TAFT ST	2	3,000	0	0	5110.27	Not Used	Not Used	Not Used	Not Used	Not Used	
CHASE ST	2	3,050	0	0	5110.27	Not Used	Not Used	Not Used	Not Used	Not Used	
CLARK RD	2	7,500	0	20	5110.27	Not Used	Not Used	Not Used	Not Used	Not Used	
BURR ST	2	750	0	20	5110.27	Not Used	Not Used	Not Used	Not Used	Not Used	
COLFAX AVE	2	850	0	20	5110.27	Not Used	Not Used	Not Used	Not Used	Not Used	

Table 5-IN-9 (FCC)
Indiana
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

Roadway Name	Number of Roadway Lanes	ADT	Pre Acquisition							
			Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/Veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service
WILLOW CREEK, IN TO PINE JCT, IN										
WILLOW CREEK RD	2	6,477	22.1	24.5	4335.13	250	16	2.78	12.84	B
COUNTYLINE RD	2	7,500	22.1	24.5	4335.13	289	19	2.83	13.06	B
HOBART RD	2	3,000	22.1	24.5	4335.13	116	8	2.63	12.15	B
HOWARD ST	2	750	22.1	24.5	4335.13	29	2	2.54	11.74	B
LAKE STREET	4	1,184	22.1	24.5	4335.13	46	1	2.53	11.71	B
CLARK RD.	2	7,250	22.1	24.5	4335.13	279	18	2.81	13.01	B
PINE JCT, IN - BARR YARD, IL(CALUMET)										
STATE ROUTE 12	4	14,820	27.6	12	4192.88	1270	33	5.98	61.49	F
CLINE AVE	2	2,000	27.6	12	4192.88	171	9	4.80	49.31	E
CLINE AVE	2	500	27.6	12	4192.88	43	2	4.55	46.75	E
EUCLID AVE	4	7,500	27.6	12	4192.88	643	17	5.13	52.69	E
KENNEDY	4	7,325	27.6	12	4192.88	628	16	5.11	52.51	E
RAILROAD AVE	4	7,500	27.6	12	4192.88	643	17	5.13	52.69	E
TOD AVE	2	2,000	27.6	12	4192.88	171	9	4.80	49.31	E
INDPLS & SR20	4	13,650	27.6	12	4192.88	1170	31	5.83	59.89	E
BARING AVE	2	2,000	27.6	12	4192.88	171	9	4.80	49.31	E
MAGOUN AVE	2	2,000	27.6	12	4192.88	171	9	4.80	49.31	E
COLUMBIA AVE	4	15,000	27.6	12	4192.88	1285	34	6.01	61.74	F
ASH ST	2	500	27.6	12	4192.88	43	2	4.55	46.75	E
CALUMET AVE	4	17,600	27.6	12	4192.88	1508	39	6.39	65.66	F
TORRENCE AVE	2	825	27.6	12	4192.88	71	4	4.60	47.28	E
HENRY AVE	2	250	27.6	12	4192.88	21	1	4.51	46.34	E
JOHNSON AVE	2	250	27.6	12	4192.88	21	1	4.51	46.34	E
SHEFFIELD	2	8,030	27.6	12	4192.88	688	36	6.16	63.28	F
HOHMAN AVE	3	10,500	27.6	12	4192.88	900	31	5.87	60.36	F
WABASH	2	250	27.6	12	4192.88	21	1	4.51	46.34	E

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Roadway Name	Number of Roadway Lanes	ADT	Post Acquisition									
			Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service		
WILLOW CREEK, IN TO PINE JCT, IN												
WILLOW CREEK RD	2	6,477	38.6	24.5	5141.36	501	19	3.19	29.61	D		
COUNTYLINE RD	2	7,500	38.6	24.5	5141.36	580	22	3.25	30.12	D		
HOBART RD	2	3,000	38.6	24.5	5141.36	232	9	3.02	28.01	D		
HOWARD ST	2	750	38.6	24.5	5141.36	58	2	2.92	27.06	D		
LAKE STREET	4	1,184	38.6	24.5	5141.36	92	2	2.91	26.99	D		
CLARK RD.	2	7,250	38.6	24.5	5141.36	561	21	3.23	29.99	D		
PINE JCT, IN - BARR YARD, IL(CALUMET)												
STATE ROUTE 12	4	14,820	33.3	13.2	5490	1791	39	6.99	101.39	F		
CLINE AVE	2	2,000	33.3	13.2	5490	242	10	5.61	81.31	F		
CLINE AVE	2	500	33.3	13.2	5490	60	3	5.32	77.08	F		
EUCLID AVE	4	7,500	33.3	13.2	5490	906	20	5.99	86.88	F		
KENNEDY	4	7,325	33.3	13.2	5490	885	19	5.97	86.58	F		
RAILROAD AVE	4	7,500	33.3	13.2	5490	906	20	5.99	86.88	F		
TOD AVE	2	2,000	33.3	13.2	5490	242	10	5.61	81.31	F		
INDPLS & SR20	4	13,650	33.3	13.2	5490	1650	36	6.81	98.75	F		
BARING AVE	2	2,000	33.3	13.2	5490	242	10	5.61	81.31	F		
MAGOUN AVE	2	2,000	33.3	13.2	5490	242	10	5.61	81.31	F		
COLUMBIA AVE	4	15,000	33.3	13.2	5490	1813	39	7.02	101.81	F		
ASH ST	2	500	33.3	13.2	5490	60	3	5.32	77.08	F		
CALUMET AVE	4	17,600	33.3	13.2	5490	2127	46	7.47	108.26	F		
TORRENCE AVE	2	825	33.3	13.2	5490	100	4	5.38	77.96	F		
HENRY AVE	2	250	33.3	13.2	5490	30	1	5.27	76.42	F		
JOHNSON AVE	2	250	33.3	13.2	5490	30	1	5.27	76.42	F		
SHEFFIELD	2	8,030	33.3	13.2	5490	970	42	7.20	104.34	F		
HOHMAN AVE	3	10,500	33.3	13.2	5490	1269	37	6.87	99.53	F		
WABASH	2	250	33.3	13.2	5490	30	1	5.27	76.42	F		

Table 5-IN-9 (FCC)
Indiana
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

FCC Alternative Solution										
Roadway Name	Number of Roadway Lanes	ADT	Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service
WILLOW CREEK, IN TO PINE JCT, IN										
WILLOW CREEK RD	2	6,477	21.9	24.5	5141.36	284	19	3.19	16.80	C
COUNTYLINE RD	2	7,500	21.9	24.5	5141.36	329	22	3.25	17.09	C
HOBART RD	2	3,000	21.9	24.5	5141.36	132	9	3.02	15.89	C
HOWARD ST	2	750	21.9	24.5	5141.36	33	2	2.92	15.35	C
LAKE STREET	4	1,184	21.9	24.5	5141.36	52	2	2.91	15.32	C
CLARK RD.	2	7,250	21.9	24.5	5141.36	318	21	3.23	17.02	C
PINE JCT, IN - BARR YARD, IL(CALUMET)										
STATE ROUTE 12	4	14,820	16.7	13.2	5490	898	39	6.99	50.85	E
CLINE AVE	2	2,000	16.7	13.2	5490	121	10	5.61	40.78	E
CLINE AVE	2	500	16.7	13.2	5490	30	3	5.32	38.66	D
EUCLID AVE	4	7,500	16.7	13.2	5490	455	20	5.99	43.57	E
KENNEDY	4	7,325	16.7	13.2	5490	444	19	5.97	43.42	E
RAILROAD AVE	4	7,500	16.7	13.2	5490	455	20	5.99	43.57	E
TOD AVE	2	2,000	16.7	13.2	5490	121	10	5.61	40.78	E
INDPLS & SR20	4	13,650	16.7	13.2	5490	827	36	6.81	49.53	E
BARING AVE	2	2,000	16.7	13.2	5490	121	10	5.61	40.78	E
MAGOUN AVE	2	2,000	16.7	13.2	5490	121	10	5.61	40.78	E
COLUMBIA AVE	4	15,000	16.7	13.2	5490	909	39	7.02	51.06	E
ASH ST	2	500	16.7	13.2	5490	30	3	5.32	38.66	D
CALUMET AVE	4	17,600	16.7	13.2	5490	1067	46	7.47	54.29	E
TORRENCE AVE	2	825	16.7	13.2	5490	50	4	5.38	39.10	D
HENRY AVE	2	250	16.7	13.2	5490	15	1	5.27	38.32	D
JOHNSON AVE	2	250	16.7	13.2	5490	15	1	5.27	38.32	D
SHEFFIELD	2	8,030	16.7	13.2	5490	487	42	7.20	52.33	E
HOHMAN AVE	3	10,500	16.7	13.2	5490	636	37	6.87	49.91	E
WABASH	2	250	16.7	13.2	5490	15	1	5.27	38.32	D

Table 5-IN-9 (FCC)
Indiana
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

Roadway Name	Number of Roadway Lanes	ADT	Pre Acquisition										
			Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/Veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service			
WARSAW (WHEELER) TO TOLLESTON, IN													
PARK AVE	2	588	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
JONES RD/625W	2	1,304	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
600N	2	1,896	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
COUNTY LINE RD	2	100	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
ILLINOIS AVE	2	7,880	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
LINDA ST	2	250	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
CLEVELAND ST	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
LAKE PARK	2	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
WISCONSIN ST	4	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
LIVERPOOL RD	2	850	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
MARTIN LUTHER KING/J	4	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
VIRGINIA ST	2	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
21ST ST	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
BROADWAY	4	17,890	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
WASHINGTON	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
19TH ST	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
JACKSON ST	2	250	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
17TH ST	2	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
HARRISON	2	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
15TH ST	2	3,300	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
13TH ST	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
11TH AVE	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
GRANT	2	3,600	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used
10TH AVE	2	250	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used

Table 5-IN-9 (FCC)
Indiana
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

Roadway Name	Number of Roadway Lanes	ADT	Post Acquisition							
			Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/Veh)	Avg. Delay per Vehicle (All vehicles) (sec/Veh)	Level of Service
WARSAW (WHEELER) TO TOLLESTON, IN										
PARK AVE	2	588	5	14.648	5306	9	3	4.66	8.95	B
JONES RD/625W	2	1,304	5	14.648	5306	21	6	4.71	9.05	B
600N	2	1,896	5	14.648	5306	30	9	4.75	9.13	B
COUNTY LINE RD	2	100	5	14.648	5306	2	0	4.62	8.89	B
ILLINOIS AVE	2	7,880	5	14.648	5306	126	36	5.23	10.05	B
LINDA ST	2	250	5	14.648	5306	4	1	4.63	8.91	B
CLEVELAND ST	2	3,000	5	14.648	5306	48	14	4.83	9.29	B
LAKE PARK	2	750	5	14.648	5306	12	3	4.67	8.98	B
WISCONSIN ST	4	750	5	14.648	5306	12	2	4.64	8.93	B
LIVERPOOL RD	2	850	5	14.648	5306	14	4	4.68	8.99	B
MARTIN LUTHER KING	4	750	5	14.648	5306	12	2	4.64	8.93	B
VIRGINIA ST	2	750	5	14.648	5306	12	3	4.67	8.98	B
21ST ST	2	3,000	5	14.648	5306	48	14	4.83	9.29	B
BROADWAY	4	17,890	5	14.648	5306	287	41	5.33	10.24	B
WASHINGTON	2	3,000	5	14.648	5306	48	14	4.83	9.29	B
19TH ST	2	3,000	5	14.648	5306	48	14	4.83	9.29	B
JACKSON ST	2	250	5	14.648	5306	4	1	4.63	8.91	B
17TH ST	2	750	5	14.648	5306	12	3	4.67	8.98	B
HARRISON	2	750	5	14.648	5306	12	3	4.67	8.98	B
15TH ST	2	3,300	5	14.648	5306	53	15	4.85	9.33	B
13TH ST	2	3,000	5	14.648	5306	48	14	4.83	9.29	B
11TH AVE	2	3,000	5	14.648	5306	48	14	4.83	9.29	B
GRANT	2	3,600	5	14.648	5306	58	17	4.88	9.38	B
10TH AVE	2	250	5	14.648	5306	4	1	4.63	8.91	B

Table 5-IN-9 (FCC)
Indiana
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

		FCC Alternative Solution									
Roadway Name	Number of Roadway Lanes	ADT	Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service	
WARSAW (WHEELER) TO TOLLESTON, IN											
PARK AVE	2	588	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
JONES RD/625W	2	1,304	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
600N	2	1,896	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
COUNTY LINE RD	2	100	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
ILLINOIS AVE	2	7,880	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
LINDA ST	2	250	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
CLEVELAND ST	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
LAKE PARK	2	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
WISCONSIN ST	4	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
LIVERPOOL RD	2	850	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
MARTIN LUTHER KING/	4	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
VIRGINIA ST	2	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
21ST ST	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
BROADWAY	4	17,890	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
WASHINGTON	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
19TH ST	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
JACKSON ST	2	250	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
17TH ST	2	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
HARRISON	2	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
15TH ST	2	3,300	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
13TH ST	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
11TH AVE	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
GRANT	2	3,600	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	
10TH AVE	2	250	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used	

Table 5-IN-9 (FCC)
Indiana
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

		Pre Acquisition									
Roadway Name	Number of Roadway Lanes	ADT	Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/Veh)	Avg. Delay per Vehicle (All vehicles) (sec/Veh)	Level of Service	
HOBART, IN TO PINE JCT, IN											
INDIANA ST	2	500	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
CENTER ST	2	500	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
MAIN ST	2	7,880	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
LAKE PARK	1	500	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
ASH ST	2	250	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
WISCONSIN ST	2	3,000	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
THIRD ST	2	3,000	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
COLORADO AVE	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
LIVERPOOL RD	2	2,300	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
KENTUCKY RD	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
GEORGIA ST	2	3,000	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
DELAWARE ST	2	3,000	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
41ST AVE	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
BROADWAY	4	27,192	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
WASHINGTON	2	3,000	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
ADAMS	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
MADISON	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
MONROE	2	3,000	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
JACKSON	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
HARRISON	2	5,420	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
PIERCE	2	250	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
GRANT ST.	2	22,100	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
RIDGE ROAD	4	12,250	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
CHASE	4	7,500	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
CLARK RD	2	7,500	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
CALHOUN ST	2	100	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
COLFAX	2	11,372	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
BLACK OAK	2	100	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
25TH AVE	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
15TH AVE	4	3500	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
9TH AVE	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	
5TH AVE	4	16,420	0	0		Not Used	Not Used	Not Used	Not Used	Not Used	

Table 5-IN-9 (FCC)
Indiana
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

Roadway Name	Number of Roadway Lanes	ADT	Post Acquisition							Level of Service
			Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/Veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	
HOBART, IN TO PINE JCT, IN										
INDIANA ST	2	500	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
CENTER ST	2	500	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
MAIN ST	2	7,880	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
LAKE PARK	1	500	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
ASH ST	2	250	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
WISCONSIN ST	2	3,000	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
THIRD ST	2	3,000	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
COLORADO AVE	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
LIVERPOOL RD	2	2,300	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
KENTUCKY RD	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
GEORGIA ST	2	3,000	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
DELAWARE ST	2	3,000	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
41ST AVE	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
BROADWAY	4	27,192	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
WASHINGTON	2	3,000	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
ADAMS	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
MADISON	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
MONROE	2	3,000	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
JACKSON	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
HARRISON	2	5,420	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
PIERCE	2	250	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
GRANT ST.	2	22,100	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
RIDGE ROAD	4	12,250	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
CHASE	4	7,500	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
CLARK RD	2	7,500	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
CALHOUN ST	2	100	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
COLFAX	2	11,372	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
BLACK OAK	2	100	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
25TH AVE	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
15TH AVE	4	3500	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
9TH AVE	2	750	0	0		Not Used	Not Used	Not Used	Not Used	Not Used
5TH AVE	4	16,420	0	0		Not Used	Not Used	Not Used	Not Used	Not Used

Table 5-IN-9 (FCC)
Indiana
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

FCC Alternative Solution										
Roadway Name	Number of Roadway Lanes	ADT	Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service
HOBART, IN TO PINE JCT, IN										
INDIANA ST	2	500	5	25	5306	5	1	2.93	3.56	A
CENTER ST	2	500	5	25	5306	5	1	2.93	3.56	A
MAIN ST	2	7,880	5	25	5306	80	23	3.30	4.00	A
LAKE PARK	1	500	5	25	5306	5	3	2.96	3.58	A
ASH ST	2	250	5	25	5306	3	1	2.92	3.54	A
WISCONSIN ST	2	3,000	5	25	5306	30	9	3.05	3.70	A
THIRD ST	2	3,000	5	25	5306	30	9	3.05	3.70	A
COLORADO AVE	2	750	5	25	5306	8	2	2.94	3.57	A
LIVERPOOL RD	2	2,300	5	25	5306	23	7	3.02	3.66	A
KENTUCKY RD	2	750	5	15	5306	12	3	4.57	8.60	B
GEORGIA ST	2	3,000	5	15	5306	47	14	4.73	8.91	B
DELAWARE ST	2	3,000	5	15	5306	47	14	4.73	8.91	B
41ST AVE	2	750	5	15	5306	12	3	4.57	8.60	B
BROADWAY	4	27,192	5	25	5306	275	40	3.65	4.43	A
WASHINGTON	2	3,000	5	15	5306	47	14	4.73	8.91	B
ADAMS	2	750	5	15	5306	12	3	4.57	8.60	B
MADISON	2	750	5	15	5306	12	3	4.57	8.60	B
MONROE	2	3,000	5	15	5306	47	14	4.73	8.91	B
JACKSON	2	750	5	15	5306	12	3	4.57	8.60	B
HARRISON	2	5,420	5	25	5306	55	16	3.17	3.84	A
PIERCE	2	250	5	15	5306	4	1	4.54	8.54	B
GRANT ST.	2	22,100	5	25	5306	223	64	4.34	5.26	B
RIDGE ROAD	4	12,250	5	15	5306	192	28	4.97	9.36	B
CHASE	4	7,500	5	15	5306	118	17	4.79	9.01	B
CLARK RD	2	7,500	5	15	5306	118	34	5.09	9.58	B
CALHOUN ST	2	100	5	15	5306	2	0	4.53	8.52	B
COLFAX	2	11,372	5	25	5306	115	33	3.50	4.25	A
BLACK OAK	2	100	5	15	5306	2	0	4.53	8.52	B
25TH AVE	2	750	5	22.5	5306	8	2	3.22	4.26	A
15TH AVE	4	3500	5	22.5	5306	39	6	3.26	4.32	A
9TH AVE	2	750	5	22.5	5306	8	2	3.22	4.26	A
5TH AVE	4	16420	5	22.5	5306	181	26	3.62	4.80	A

Table 5-IN-9 (FCC)
Indiana

Highway/Rail At-Grade Crossing Vehicle Delay and Queues

Roadway Name	Number of Roadway Lanes	ADT	Pre Acquisition							
			Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service
TOLLESTON, IN TO CLARKE JCT, IN										
Taft St	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
5th Ave	4	13,220	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Clarke Rd	2	7,500	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
GARY TO ILLINOIS STATE LINE										
Clark Rd	2	7,500	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Burr St	2	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Colfax	2	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
VAN LON, IN to OSBORNE, IN										
Euler St	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Grande Ave	2	500	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
173rd St	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Parrish St	2	500	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Arizona Ave	2	200	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
169th St	4	12,650	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Kennedy Ave.	4	25,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
OSBORNE, IN to MICHIGAN AVE. YARD, IN										
165th St	4	10,250	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Kennedy & 151st St	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
149th St	3	1,200	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
148th St	2	800	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Chicago Ave	4	16,320	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
TOLLESTON, IN TO IHB CONNECTION										
Roosevelt St	2	250	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Taft St	2	300	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Chase St	2	3,050	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Clark St	2	7,500	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Burr St	2	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
Colfax Ave	2	850	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used

Table 5-IN-9 (FCC)
Indiana
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

Post Acquisition										
Roadway Name	Number of Roadway Lanes	ADT	Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service
TOLLESTON, IN TO CLARKE JCT, IN										
TAFT ST	2	3,000	5	14.648	5306	48	14	4.83	9.29	B
5TH AVE	4	13,220	5	14.648	5306	212	31	5.12	9.84	B
CLARKE RD	2	7,500	5	14.648	5306	120	35	5.20	9.99	B
GARY TO ILLINOIS STATE LINE										
CLARK RD	2	7,500	0	20	4554	Not Used	Not Used	Not Used	Not Used	Not Used
BURR ST	2	750	0	20	4554	Not Used	Not Used	Not Used	Not Used	Not Used
COLFAX	2	750	0	20	4554	Not Used	Not Used	Not Used	Not Used	Not Used
VAN LON, IN to OSBORNE, IN										
EULER ST	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
GRANDE AVE	2	500	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
173rd ST	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
PARRISH ST	2	500	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
ARIZONA AVE	2	200	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
169TH ST	4	12,650	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
KENNEDY AVE.	4	25,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
OSBORNE, IN to MICHIGAN AVE. YARD, IN										
165th ST	4	10,250	0	12.5	5306	Not Used	Not Used	Not Used	Not Used	Not Used
KENNEDY & 151st ST	2	3,000	2	12.5	5306	22	16	5.57	4.94	A
149th ST	3	1,200	2	12.5	5306	9	4	5.39	4.78	A
148th ST	2	800	2	12.5	5306	6	4	5.39	4.78	A
CHICAGO AVE	4	16,320	2	12.5	5306	121	43	6.06	5.37	B
TOLLESTON, IN TO IHB CONNECTION										
ROOSEVELT ST	2	250	2	20	4554	1	1	3.10	1.59	A
TAFT ST	2	300	2	20	4554	1	1	3.10	1.60	A
CHASE ST	2	3,050	2	20	4554	13	9	3.23	1.66	A
CLARK ST	2	7,500	2	20	4554	32	23	3.48	1.79	A
BURR ST	2	750	2	20	4554	3	2	3.12	1.61	A
COLFAX AVE	2	850	2	20	4554	4	3	3.13	1.61	A

Table 5-IN-9 (FCC)
Indiana
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

FCC Alternative Solution										
Roadway Name	Number of Roadway Lanes	ADT	Trains per day	Realized Train Speed (mph)	Train Length (feet)	No. of veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min/veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service
TOLLESTON, IN TO CLARKE JCT, IN										
TAFT ST	2	3,000	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
5TH AVE	4	13,220	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
CLARKE RD	2	7,500	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
GARY TO ILLINOIS STATE LINE										
CLARK RD	2	7,500	28.1	20	5110.27	498	26	3.83	30.52	D
BURR ST	2	750	28.1	20	5110.27	50	3	3.44	27.42	D
COLFAX	2	750	28.1	20	5110.27	50	3	3.44	27.42	D
VAN LON, IN TO OSBORNE, IN										
EULER ST	2	3,000	2	25	5306	12	9	3.05	1.48	A
GRANDE AVE	2	500	2	25	5306	2	1	2.93	1.42	A
173rd ST	2	3,000	2	25	5306	12	9	3.05	1.48	A
PARRISH ST	2	500	2	25	5306	2	1	2.93	1.42	A
ARIZONA AVE	2	200	2	25	5306	1	1	2.92	1.42	A
169TH ST	4	12,650	2	25	5306	51	18	3.21	1.56	A
KENNEDY AVE.	4	25,000	2	22.5	5306	110	40	3.91	2.07	A
OSBORNE, IN TO MICHIGAN AVE. YARD, IN										
165th ST	4	10,250	2	12.5	5306	76	27	5.76	5.11	B
KENNEDY & 151st ST	2	3,000	2	12.5	5306	22	16	5.57	4.94	A
149th ST	3	1,200	2	12.5	5306	9	4	5.39	4.78	A
148th ST	2	800	2	12.5	5306	6	4	5.39	4.78	A
CHICAGO AVE	4	16,320	2	12.5	5306	121	43	6.06	5.37	B
TOLLESTON, IN TO IHB CONNECTION										
ROOSEVELT ST	2	250	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
TAFT ST	2	300	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
CHASE ST	2	3,050	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
CLARK ST	2	7,500	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
BURR ST	2	750	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used
COLFAX AVE	2	850	0	0	0	Not Used	Not Used	Not Used	Not Used	Not Used

Table 5-IN-45 (FCC)
Estimated Maximum Delay (in Minutes) for Highway/Rail At-Grade Crossings in the Four City Area

Roadway Name	ADT	Crossing Delay Per Stopped Vehicle			Total Blocked Time Per Day (in minutes)			Pre-Acquisition to FCC Solution Increase (Decrease)		
		Pre-Acquisition	Post-Acquisition	FCC Solution	Pre-Acquisition to FCC Solution Increase (Decrease)	Post-Acquisition	FCC Solution			
WILLOW CREEK, IN TO IVANHOE, IN										
DOWNS RD	750	3.29	3.09	3.40	(0.20)	31.58	35.20	95.64	3.62	84.06
SWANSON RD	3,000	3.29	3.09	3.40	(0.20)	31.58	35.20	95.64	3.62	84.06
UNION ST	250	3.29	3.09	3.40	(0.20)	31.58	35.20	95.64	3.62	84.06
RIPLEY ST	14,370	3.29	3.09	3.40	(0.20)	31.58	35.20	95.64	3.62	84.06
PIKE ST	750	3.29	3.09	3.40	(0.20)	31.58	35.20	95.64	3.62	84.06
GRAND BLVD	300	3.29	3.09	3.40	(0.20)	31.58	35.20	95.64	3.62	84.06
GIBSON	750	3.29	3.09	3.40	(0.20)	31.58	35.20	95.64	3.62	84.06
DE KALB	750	3.29	3.09	3.40	(0.20)	31.58	35.20	95.64	3.62	84.06
MILKINDIANA AVE	3,000	3.29	3.09	3.40	(0.20)	31.58	35.20	95.64	3.62	84.06
VIRGINIA ST	750	3.29	3.09	3.40	(0.20)	31.58	35.20	95.64	3.62	84.06
MASSACHUSETTS	3,000	3.29	3.09	Not Used	Not Used	31.58	35.20	Not Used	3.62	Not Used
BROADWAY ST	13,690	3.29	3.09	Not Used	Not Used	31.58	35.20	Not Used	3.62	Not Used
MADISON	1,276	3.29	3.09	Not Used	Not Used	31.58	35.20	Not Used	3.62	Not Used
HARRISON ST	750	3.29	3.09	Not Used	Not Used	31.58	35.20	Not Used	3.62	Not Used
GRANT ST	3,000	3.29	3.09	Not Used	Not Used	31.58	35.20	Not Used	3.62	Not Used
ROOSEVELT ST	250	3.29	3.09	Not Used	Not Used	31.58	35.20	Not Used	3.62	Not Used
CHASE ST	3,000	3.29	3.09	Not Used	Not Used	31.58	35.20	Not Used	3.62	Not Used
CLARK RD	3,050	3.29	3.09	Not Used	Not Used	31.58	35.20	Not Used	3.62	Not Used
BURR ST	7,500	3.29	3.09	Not Used	Not Used	31.58	35.20	Not Used	3.62	Not Used
COLFAX AVE	850	3.29	3.09	Not Used	Not Used	31.58	35.20	Not Used	3.62	Not Used
WILLOW CREEK, IN TO PINE JCT, IN										
WILLOW CREEK RD	6,477	2.51	2.88	2.88	0.37	58.49	111.35	63.17	58.86	7.69
COUNTYLINE RD	7,500	2.51	2.88	2.88	0.37	58.49	111.35	63.17	58.86	7.69
HOBART RD	3,000	2.51	2.88	2.88	0.37	58.49	111.35	63.17	58.86	7.69
HOWARD ST	750	2.51	2.88	2.88	0.37	58.49	111.35	63.17	58.86	7.69
LAKE STREET	1,184	2.51	2.88	2.88	0.37	58.49	111.35	63.17	58.86	7.69
CLARK RD	7,250	2.51	2.88	2.88	0.37	58.49	111.35	63.17	58.86	7.69
PINE JCT, IN - BARR YARD, IL(CALUMET)										
STATE ROUTE 12	14,820	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
CUNE AVE	2,000	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
CLINE AVE	500	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
EUCALID AVE	7,500	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
KENNEDY	7,323	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
RAILROAD AVE	7,500	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
TOD AVE	2,000	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
INDPLS & SR20	13,650	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
BARING AVE	2,000	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
MAGOUN AVE	2,000	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
COLUMBIA AVE	15,000	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
ASH ST	500	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
CALUMET AVE	17,600	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
TORRENCE AVE	825	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
HENRY AVE	250	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
JOHNSON AVE	250	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
SHEFFIELD	8,030	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
HOHMAN AVE	10,500	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)
WABASH	250	4.47	5.23	5.23	0.76	123.39	174.03	87.28	50.65	(36.11)

Table 5-IN-45 (FOC)
Estimated Maximum Delay (in Minutes) for Highway/Rail At-Grade Crossings in the Four City Area

Roadway Name	ADT	Crossing Delay Per Stopped Vehicle				Total Blocked Time Per Day (in minutes)				
		Pre-Acquisition	Post-Acquisition	FCC Solution	Pre-Acquisition to Post-Acquisition Increase (Decrease)	Pre-Acquisition to FCC Solution Increase (Decrease)	Post-Acquisition	FCC Solution	Pre-Acquisition to Post-Acquisition Increase	Pre-Acquisition to FCC Solution Increase (Decrease)
WARSAW (WHEELER) TO TOLLESTON, IN										
PARK AVE	568	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
JONES RD/625W	1,304	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
800N	1,896	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
COUNTY LINE RD	100	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
ILLINOIS AVE	7,880	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
LINDA ST	250	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
CLEVELAND ST	3,000	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
LAKE PARK	750	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
WISCONSIN ST	750	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
LIVERPOOL RD	850	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
MARTIN LUTHER KING	750	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
VIRGINIA ST	750	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
21ST ST	3,000	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
BROADWAY	17,880	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
WASHINGTON	3,000	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
19TH ST	3,000	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
JACKSON ST	250	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
17TH ST	750	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
HARRISON	750	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
15TH ST	3,300	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
13TH ST	3,000	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
11TH AVE	3,000	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
GRANT	3,600	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
10TH AVE	250	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used
HOBART, IN TO PINE JCT, IN										
INDIANA ST	500	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
CENTER ST	500	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
MAIN ST	7,880	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
LAKE PARK	500	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
ASH ST	250	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
WISCONSIN ST	3,000	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
THIRD ST	3,000	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
COLORADO AVE	750	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
LIVERPOOL RD	2,300	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
KENTUCKY RD	750	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
GEORGIA ST	3,000	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
DELAWARE ST	3,000	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
41ST AVE	750	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
BROADWAY	27,182	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
WASHINGTON	3,000	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
ADAMS	750	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
MADISON	750	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
MONROE	3,000	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
JACKSON	750	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
HARRISON	5,420	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
PIERCE	250	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
GRANT ST	12,100	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
RIDGE ROAD	12,250	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
CHASE	7,500	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
CLARK RD	7,500	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
CALHOUN ST	100	Not Used	Not Used	2.91	Not Used	Not Used	Not Used	14.56	Not Used	Not Used
COLFAX	11,372	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
BLACK OAK	100	Not Used	Not Used	4.52	Not Used	Not Used	Not Used	22.60	Not Used	Not Used
25TH AVE	750	Not Used	Not Used	3.18	Not Used	Not Used	Not Used	15.90	Not Used	Not Used
15TH AVE	3500	Not Used	Not Used	3.18	Not Used	Not Used	Not Used	15.90	Not Used	Not Used
9TH AVE	750	Not Used	Not Used	3.18	Not Used	Not Used	Not Used	15.90	Not Used	Not Used
9TH AVE	750	Not Used	Not Used	3.18	Not Used	Not Used	Not Used	15.90	Not Used	Not Used
9TH AVE	16,420	Not Used	Not Used	3.18	Not Used	Not Used	Not Used	15.90	Not Used	Not Used

Table 5-IN-45 (FCC)
Estimated Maximum Delay (in Minutes) for Highway/Rail At-Grade Crossings in the Four City Area

Roadway Name	ADT	Crossing Delay Per Stopped Vehicle					Total Blocked Time Per Day (in minutes)				
		Pre-Acquisition	Post-Acquisition	FCC Solution	Pre-Acquisition to Post-Acquisition Increase (Decrease)	Pre-Acquisition to FCC Solution Increase (Decrease)	Pre-Acquisition	Post-Acquisition	FCC Solution	Pre-Acquisition to Post-Acquisition Increase	Pre-Acquisition to FCC Solution Increase (Decrease)
TOLLESTON, IN TO CLARKE JCT, IN											
TAFT ST	3,000	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used	
5TH AVE	13,220	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used	
CLARKE RD	7,500	Not Used	4.62	Not Used	Not Used	Not Used	23.08	Not Used	Not Used	Not Used	
GARY TO ILLINOIS STATE LINE											
CLARK RD	7,500	Not Used	3.40	Not Used	Not Used	Not Used	95.64	Not Used	Not Used	Not Used	
BURR ST	750	Not Used	3.40	Not Used	Not Used	Not Used	95.64	Not Used	Not Used	Not Used	
COLFAX	750	Not Used	3.40	Not Used	Not Used	Not Used	95.64	Not Used	Not Used	Not Used	
VAN LON, IN TO OSBORNE, IN											
EULER ST	3000	Not Used	2.91	Not Used	Not Used	Not Used	5.82	Not Used	Not Used	Not Used	
GRANDE AVE	500	Not Used	2.91	Not Used	Not Used	Not Used	5.82	Not Used	Not Used	Not Used	
172nd ST	3000	Not Used	2.91	Not Used	Not Used	Not Used	5.82	Not Used	Not Used	Not Used	
PARRISH ST	500	Not Used	2.91	Not Used	Not Used	Not Used	5.82	Not Used	Not Used	Not Used	
ARIZONA AVE	200	Not Used	2.91	Not Used	Not Used	Not Used	5.82	Not Used	Not Used	Not Used	
169TH ST	12650	Not Used	2.91	Not Used	Not Used	Not Used	5.82	Not Used	Not Used	Not Used	
KENNEDY AVE	25000	Not Used	3.18	Not Used	Not Used	Not Used	6.36	Not Used	Not Used	Not Used	
OSBORNE, IN TO MICHIGAN AVE, YARD, IN											
169th St	10250	Not Used	5.32	Not Used	Not Used	Not Used	10.65	Not Used	Not Used	Not Used	
KENNEDY & 151st ST	3000	Not Used	5.32	Not Used	Not Used	Not Used	10.65	Not Used	Not Used	Not Used	
148th ST	1200	Not Used	5.32	Not Used	Not Used	Not Used	10.65	Not Used	Not Used	Not Used	
148th ST	800	Not Used	5.32	Not Used	Not Used	Not Used	10.65	Not Used	Not Used	Not Used	
CHICAGO AVE	16320	Not Used	5.32	Not Used	Not Used	Not Used	10.65	Not Used	Not Used	Not Used	
TOLLESTON, IN TO IHB CONNECTION											
ROOSEVELT ST	250	Not Used	3.09	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	
TAFT ST	300	Not Used	3.09	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	
CHASE ST	3950	Not Used	3.09	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	
CLARK ST	7500	Not Used	3.09	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	
BURR ST	750	Not Used	3.09	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	
COLFAX AVE	850	Not Used	3.09	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	Not Used	

Table 5 - IN - Supplemental

Vehicle Delays

Segment (1)	Vehicle Hours of Delay per 24 Hours at Night/Weekend ADT			
	Current (2)	Applicants (3)	Post Acquisition Proposal FCC (4)	Difference Applicants-FCC (5)
1. WILLOW CREEK, IN TO IVANHOE, IN	41.49	43.40	54.31	-10.91
2. WILLOW CREEK, IN TO PINE JCT, IN	23.24	53.59	30.40	23.19
3. PINE JCT, IN - BARR YARD, IL(CALUMET)	495.23	816.58	409.52	407.07
4. GARY TO ILLINOIS STATE LINE	0.00	0.00	18.76	-18.76
5. WARSAW (WHEELER) TO TOLLESTON, IN	not used	40.52	not used	40.52
6. TOLLESTON, IN TO CLARKE JCT, IN	not used	9.71	not used	9.71
7. HOBART, IN TO PINE JCT, IN	not used	not used	57.95	-57.95
8. VAN Lon, IN to OSBORNE, IN	not used	not used	5.70	-5.70
9. OSBORNE, IN to MICHIGAN AVE. YARD, IN	not used	7.79	11.43	-3.64
10. TOLLESTON, IN to IHB CONNECTION	not used	1.74	not used	1.74
Totals	559.97	973.33	588.07	385.26

Vehicle Hours of Delay per Year

11. Total Hours of Vehicle Delay per Year	204,387	355,266	214,645	140,621
12. Yearly Difference between Applicants and Current		150,879		
13. Yearly Difference between FCC and Current Totals.....			10,258	
14. Yearly Difference between Applicants and FCC Totals.....				140,621



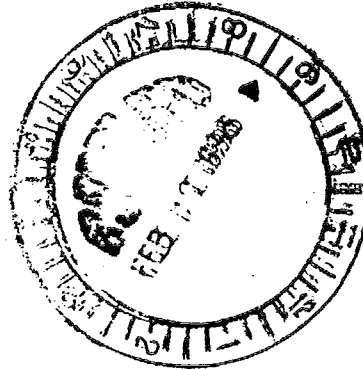
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INDIANA DEPARTMENT OF NATURAL RESOURCES

LARRY D. MACKLIN, DIRECTOR

Division of Historic Preservation and Archaeology
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Indianapolis, Indiana 46204
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(317) 232-1646
(317)232-0693 FAX



February 6, 1998

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

Dear Ms. Kaiser:

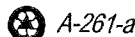
We have reviewed the proposed Finance Docket No. 33388--CSX and Norfolk Southern--Control and Acquisition--Conrail; Compliance with Section 106 of the NHPA (request for SHPO review of all acquisition activities in Indiana other than the construction at Willow Creek [CSX] and Alexandria [NS]) County, Indiana. This review has been conducted pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f) and implementing regulations found at 36 C.F.R. Part 800.

In regards to the architectural aspects of the project, the North Liberty Combination Depot is considered to be eligible for inclusion in the National Register of Historic Places because of its architectural and historical significance. It is an outstanding example of a board and batten depot. It is also an important historical resource, because it illustrates the development of the railroad in St. Joseph County. Please refer to the enclosed map for your reference.

Because the North Liberty Combination Depot is within the area of potential effect, it is our responsibility to determine the effect of the proposed rail line abandonment project on the depot. However, we need more information to enable us to evaluate the effect. How will the abandonment affect the use of the depot? Will the depot continue to be used for storage? Will the depot be sold or abandoned? Please explain in detail the proposed future plans for the depot. Once the above requested information is received by our office, the review process will continue. If you have any further questions about the above material, please call Michelle M. Daleiden or Ralph S. Wilcox at (317) 232-1646.

In regards to the archaeological aspects of the project, as long as the South Bend to Dillon Junction rail line abandonment project remains within areas disturbed by previous construction, no known

"EQUAL OPPORTUNITY EMPLOYER"



PRINTED ON RECYCLED PAPER

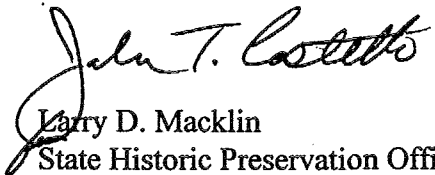
Elaine K. Kaiser
February 6, 1998
Page 2

archaeological sites listed in or eligible for inclusion in the National Register of Historic Places will be affected by this project. However, if any archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that work must stop and that the discovery must be reported to the Division of Historic Preservation and Archaeology within two (2) business days. Additionally, in the event that artifacts or features are discovered during the implementation of the federally assisted project, activity, or program and a plan has not been developed, it is the federal agency's responsibility to contact the Advisory Council on Historic Preservation in accordance with 36 C.F.R. Section 800.11(b)(2).

We concur with the findings of the report for both the **Butler** and **Tolleston** projects. Given the results of the archaeological overviews (Wharton and Skinner, 10/24/97), neither project area is likely to contain significant archaeological resources. As such, no known archaeological sites listed in or eligible for inclusion in the National Register of Historic Places will be affected by this project.

If any archaeological artifacts or human remains are uncovered during construction, federal law and regulations (16 USC 470, et seq.; 36 CFR 800.11, et al.) and, additionally, state law (Indiana Code 14-21-1), require that work must stop and that the discovery must be reported to the Division of Historic Preservation and Archaeology within two (2) business days. If you have any questions about the archaeological aspects of the project, please call Jim Mohow or Dr. Rick Jones at (317) 232-1646. Thank you for your cooperation.

Very truly yours,



Larry D. Macklin
State Historic Preservation Officer

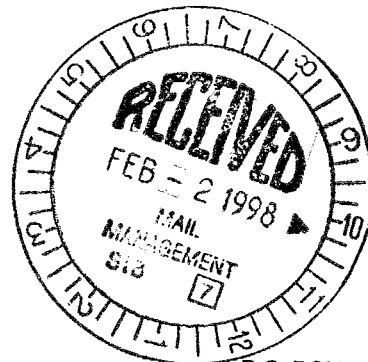
LDM:SLW:JAM:MMD:RSW:rsw

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

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/2/99
DOCUMENT # 2/2/99 3:34:55 PM



CITY OF HOPKINSVILLE
KENTUCKY
42241-0707



P.O. BOX 707

PHONE: 502/887-4000

FAX: 502/885-CITY

TDD: 502/887-4287

WILLIAM WALLACE BRYAN, JR.
MAYOR

January 20, 1998

**ENVIRONMENTAL
DOCUMENT**

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

Attention: Elaine K. Kaiser, Environmental Project Director, Environmental Filing

RE: Draft Environmental Impact Statement - Recommended Mitigation for
Kentucky

Dear Ms. Kaiser:

This letter concerns the Draft Environmental Impact Statement (DEIS) issued by the Board's Section of Environmental Analysis on December 12, 1997, that directs CSX to consult with appropriate authorities in the Commonwealth of Kentucky regarding Acquisition-related impacts. Specifically, the DEIS directs CSX to consult with the City of Hopkinsville concerning a grade separation at East 9th Street, DOT #345-267 V.

The Kentucky Transportation Cabinet is the designated, lead agency overseeing these matters. The need for grade separations is determined by the Cabinet through a comprehensive statewide planning process and through input from local officials. This mitigation recommendation is best addressed through their existing procedures. The City's position is that mitigation is not warranted at this time.

Further, please note that the recommended grade separation is not appropriate for this site. East 9th Street is located within an established commercial and historic area and construction of a grade separation would have numerous adverse consequences.

Elaine Kaiser
Surface Transportation Board
January 20, 1998
Page 2

While the City appreciates the Board's interest, we prefer not to disrupt our community by grade separating East 9th Street.

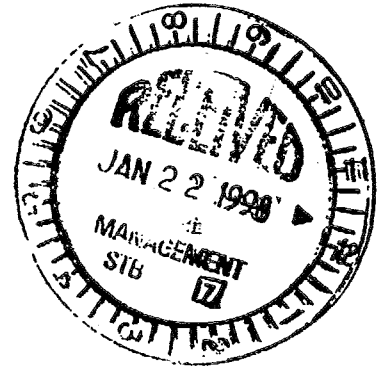
Respectfully,



W.W. Bryan, Jr.
Mayor

cc: Jay Westbrook, CSX

CENTRAL ADMINISTRATIVE UNIT
REC'D: 1/29/98
DOCUMENT # 1/26/98 11:21:44AM



CITY OF MADISONVILLE

Phillip H. Terry
Mayor

January 20, 1998

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

**ENVIRONMENTAL
DOCUMENT**

Attention: Elaine K. Kaiser, Environmental Project Director,
Environmental Filing

Dear Ms. Kaiser:

**Re: Draft Environmental Impact Statement -
Recommended Mitigation for Kentucky**

This letter concerns the Draft Environmental Impact Statement (DEIS) issued by the Board's Section of Environmental Analysis on December 12, 1997, that directs CSX to consult with appropriate authorities in the Commonwealth of Kentucky regarding Acquisition-related impacts. Specifically, the DEIS directs CSX to consult with the City of Madisonville concerning a grade separation at West Noel Avenue, DOT# 345-331 S.

The Kentucky Transportation Cabinet is the designated, lead agency overseeing these matters. The need for grade separations is determined by the Cabinet through a comprehensive statewide planning process and through input from local officials. This mitigation recommendation is best addressed through their existing procedures. The City's position is that mitigation is not warranted at this time.

Further, please note that the recommended grade separation is not appropriate for this site. West Noel Avenue is located within an established residential area next to

P.O. Box 705 • Madisonville, KY 42431 • (502) 824-2100 • Fax (502) 821-0271

City Web Page: <http://www.kymtec.com>

E-Mail: mayor@wko.com

A-262-a


Elaine Kaiser
Surface Transportation Board
January 20, 1998
Page 2

the University of Kentucky Business and Technical Assistance Center and across Main Street from the First Baptist Church. Construction of a grade separation would have numerous adverse consequences.

While the City appreciates the Board's interest, we prefer not to disrupt our community by grade separating West Noel Avenue.

Sincerely,

CITY OF MADISONVILLE

A handwritten signature in cursive script that reads "Philip H. Terry". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Philip H. Terry
Mayor

cc: Jay Westbrook, CSX

Commonwealth of Kentucky

HOUSE

JAMES BRUCE
STATE REPRESENTATIVE
9TH LEGISLATIVE DISTRICT
6750 FORT CAMPBELL BOULEVARD
HOPKINSVILLE, KENTUCKY 42240



COMMITTEES:
CHAIRMAN
BANKING & INSURANCE
MEMBER
STATE GOVERNMENT

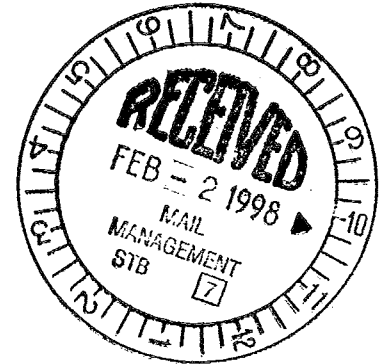
CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98

DOCUMENT # 2/2/98 3:24 03 PM

FRANKFORT, KENTUCKY 40601

January 15, 1998



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

ENVIRONMENTAL DOCUMENT

Attention: Elaine K. Kaiser
Environmental Project Director

Dear Ms. Kaiser:

This letter is being written to voice my objection to possible environmental upgrading planned by the Surface Transportation Board to the East 6th Street and Dudley Street crossings, as well as the proposed grade separation to the East 9th Street crossing, all of which are located in Hopkinsville, Kentucky.

These are historic, scenic areas and, in my opinion, this would detract from --rather than enhance-- the current surroundings.

Your willingness to leave the area as it currently exists would be greatly appreciated.

Sincerely,

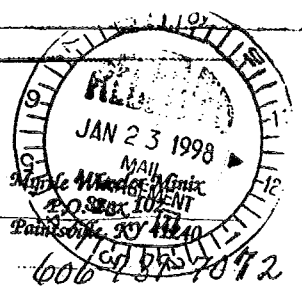
A handwritten signature in cursive script that reads "James Bruce".

James E. Bruce
State Representative

JEB:sl

ENVIRONMENTAL DOCUMENT

Dec 22 1997



CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/26/98
DOCUMENT # 1/27/98 2:30 PM

CHS149021
Surface Transportation
Board Section
Environmental Analysis
Release of Draft Environmental
Impact Statement
Proposed Conrail Acquisition

The Surface Transportation Board (Board) Section of Environmental Analysis (SEA) issued its Draft Environmental Impact Statement (EIS) for the proposed Conrail Acquisition on December 12, 1997. The Draft EIS discusses SEA's independent analysis of potential environmental impacts and includes SEA's preliminary recommendations for mitigating possible environmental effects of the proposed Acquisition of Conrail by Norfolk Southern (NS) and CSX.

The Draft EIS is currently available for public review and comment. Public comments are due by February 2, 1998. The public review and comment period for the Draft EIS and the Final EIS in making its final decision. The Board will issue its final written decision in July 1998.

SEA will consider all comments received in response to the Draft EIS in preparing the Final EIS and in making its final recommendations to the Surface Transportation Board (Board). SEA plans to serve the Final EIS in May 1998. The Board will consider the entire environmental record, including all public comment, the Draft EIS, and the Final EIS in making its final decision. The Board will issue its final written decision in July 1998.

SEA invites all interested agencies and the public to comment on the Draft EIS by providing copies of the Draft EIS to Federal, state, and regional agencies and county administrators for each potentially affected county, and to all parties who have specifically requested a copy. If you have questions regarding the Draft EIS, call SEA's toll-free Environmental Hotline at 1-888-889-1997 (TDD for the hearing impaired: 202-566-1695). Information about the proposed Acquisition and Draft EIS can also be found at the following Internet Web site: <http://www.conrailmer.com>.

All interested agencies, organizations, and individuals can comment on the Draft EIS by submitting written comments (include an original plus 10 copies) to the address listed below by February 2, 1998, the close of the public comment period.

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

Attn: Elaine K. Kaiser
Environmental Project
Director
Environmental Filing
Published December 22, 1997

Att: Elaine K Kaiser
Surface Transportation Bd
1925 K Street NW
Washington, DC 20423-0001

Ms. Kaiser; I do not understand much about this Ad. Dad incorporated Sandy Valley Tr Co. in Paintsville Ky 1921 we had many subsidiaries that had Rail-Road Access. I never saw the deeds to the businesses they owned. Appears all the valuable information earned 1964 Paintsville, Ky. Carson suspected, and our Winchester Hill earned 1970's. Quite sure the most important documents kept. And that would be by Harold Kelley 1200 Bath Ave. Ashland, Ky and Charles Donald Wheeler, Wheeler Williams Advce. Rt 60 West Ashland Ky. If the 2 above names are claiming anything concerning CSX I can give you more information on that. And it could be listed in undercover names, if they had any claims on CSX. Kelley - ^{Assumed} Holloway

CPR's uses Assumed names, and others. My dad was Charles Wesley Wheeler b. 1875 d. 1931. The 2 above with help of Banks and Courts have Embezzled - Extorted all those businesses, and taken my dad's personal real mineral rights in Eastern Kentucky. They also did the same to my brother's Dolan E. Wheeler Estates. He controlled Along Southern Hill's Ests, owning the Capital stock 508 shares. Extortion Epists Every day. Robbing me of my legal inherited rights. I'm a 1/8th Heir of my Parents. A 1/4th Dolan 1/8th Mar 12, 1987. A 1/4th Heir of brother Dolan Estates. If the Names Underlined Above have any thing to do with Ad Write Me. I have More Information. Thank You -

No
Replies

Hail Hillon
Johnson Co. Judge Executive
Paintsville, Ky 41240

Nov 5, 1997
Myrtle Wheeler Minix
P.O. Box 102
Paintsville, Ky. 41240

Kelley Colihan
County Judge Executive
Martin County Court House
Box 309 Gray, Ky. 41224

606-789-7072

Re: Estate of Dola E. Wheeler

Starland:

Fitch
a
land
man
came
to see
me,
and
wrote
me
about
2
years

Dear Mrs. Colihan, would you know who occupies
Williamson Wholesale, Williamson W. Va.
M. Darwin and Nancy Kirk 1979-1980 deeded
my brother Dola E. Wheeler deceased Mar 12, 1987,
everything they owned Rt 645, Mrs Mills
sent me 2 deeds Martin County, Kirk-Maynard
and Warfield Gas Leases whether these 2 leases
would involve the Martin County land also
but would the mineral rights Dola owns 25
acs Floyd County Abate.
The 4 above deeds Rt 645 does include the land
about 700 acs and their mineral rights.

years
ago
mentioning
Shell
and
Zeigler?
Will
Appreciate
Your
Reply.

Questions To You
I'm enquiring of you from ad in our paper
in regard to Community Development Grant
Program, that the land and mineral rts,
I have described to you above in any connection
to the (CDGP) you probably would know.
And The Prison that may be built there
I am a 1/7th legal heir of all the above
descriptions, I havnt received any royalties.
I do not know if businesses, houses, stores, or,
have been built, or timber being cut. No Money.

question

(I also would like to know whose land Martin County
Airport Built on, and what year? (whose land will
the New Prison be built on if approved?)
My legal interests in above descriptions, have
been smugled and extorted. No Replies

I sent the same question to someone in Washington DC
I cant find a copy, and I would like to have sent you.

Att Mark McDonald
250 W. Main St. Suite 1700
Lexington, Ky 40507

Embry, geling and
Ertortion of my
Inheritance 2 Valuable
Estate, Charles Wesley Wheelers
and Dola E. Wheelers

Dear Mr McDonald;

Appreciated you calling me this morning
Mar 13, 1997 about 10:10 AM, in regard to
The Trust Company of Kentucky. Incorporated 1993?

606-233

2012
Told
she
gone
to
Texas.

I was referred to Barbara B. Edleman
Wyatt, Tarrant, & Combs 250 W. Main St. Lexington, Ky.
By Thomas M. Howe, letter enclosed dated
Mar. 11, 1997, the sole purpose was to receive
the information you told me this morning, and
I ask you to mail it to me. Mar. 13, 1997.
I am entitled to that information you have.

P. O. Box 102
Paintsville, Ky. 41240
Mar. 13, 1997

You told me to have Stuart A. Adams
send it to me, he was in charge of records.
Yet he is suing Trust Company of Kentucky.

I called Stuart A. Adams this morning, thinking
I maybe able to help him, in regard to The Bank's.
I told him I had a copy of the one plat Adams
Real Estate Partnership dated 1986. of which I am an
heir. 1/8 th of my parents Charles Wesley Wheelers,
1/4 th Dola's 1/8 th, Brother Melvin \$1,000.00 Willed me
from our parents estate. (What Property and where it)
Kelly sold, Mr. Adams, said Harold Kelly in town
yesterday, sold him some property. He said,
Harold Kelly, broke (You Up). The correct:

1/8 th Heir Dad Charles Wesley Wheelers, Inc. Sandy Valley
Valuable Hwy. Co. Main St. Paintsville Ky 1921, many subsidiaries
South Ky-W-Va-Ohio 1924 Inc. Wheelers-Le Marts Oil Lease, ^{size} ^{intended}
East Coal 1/4 th Interest Jack & Hunley Lease 7105294 ^{Cumberland} ^{Feudal}
Att Heir Dola E. Wheelers Estate, Southern Hill Estate, Oakland Park ^{all Dola's Land} ^{minerals} etc +
Lawrence-Martin-Floyd Counties Valuable Properties
City and Boyd County.

Myrtle Jayne Wheeler Mimix
P.O. Box 102
Paintsville, KY
41240-0102

Jan 6, 1997

Don R Mills Executive Director
Public Service Commission
POB 615
Frankfort, Kentucky 40602

I'm Claiming 1/7th
Complaining, the
Way Dola's Estates
have been handled
In the State of Ky:

Dear Mr Mills; Re: Estates Dola E. Wheeler D. 3-12-87

I'm writing you in regard to the Public
Notice in the Paintsville Herald Nov. 20, 1996.

Mr Wagner I havnt written him. However he did
Letter Call me Nov. 21, 1996. My Conversation with him
Enclaud enclosed, he very vague, and really didnt
seem to know what was going on.

I plan to send him the page of Public
Notice of Nov. 20 and Nov. 21, 1996. Everything
is explanatory and true, with proof included.

I have been treated inhuman, and
harrassed its all deplorable, and illegal,
and my Constitutional Rights, should be
protected. A Legal Heir Losing Money Every day.

Their names are listed enclosed. UN-Ethical Acts
Third National Bank, All suppose to
be protecting the rights of The People in The Boyd
County Court House, in regard to brother Dola
E. Wheeler's Estates, Attorney Ken Williams, Jr and
Dean King III, and Charles Holbrook III, Charles Donald
Wheeler and Harold Kelly, others. Have Extorted-
Embezgled Dola's Estates, and illegally robbed,
me of my 1/7th inheritance. Records Distorted.

These are deceiving the Public and
destroying Ashland and Eastern Kentucky.

Not Listed
This is just part of his City & Boyd Co
Extortion. The City does not own his mineral rts.
nor other valuable assets, belonging to his heirs.
He also owns valuable properties, & mineral rts
Martin & Lawrence Co Ky. 25 ac in Floyd Co.
Questions Call 606-789-7072 Help Me.

Believe he replaced recently.

Monday January 5, 1998

Investigations loom over legislature

By MARK R. CHELLGREN
THE ASSOCIATED PRESS

FRANKFORT — The Kentucky General Assembly convened this week with the scent of scandal again in the air. The conduct of a few of its members and staff associates — personal and political — threatens again to taint the institution. At least three potential or actual investigations loom, and there is the big unknown about whether federal

ANALYSIS

authorities who worked just a few years ago to keep a similar thrum watch on the legislature are again under cover at the Capitol. All of this in the aftermath of Operation Bobbin, the existence of which was airily publically revealed less than a year ago, which found two dozen legislators' lobbyists and others guilty of a variety of offenses.

The most prominent of the new investigations involve Ken Dwyer, a General Assembly employee for a year who was in charge of logistics for the House of Representatives. He left his job and pleaded guilty to receiving a bribe. He was the on-site manager of prostitution and gambling private goings on in a strip club. Now that Dwyer has pleaded guilty and is cooperating with enforcement authorities, will remain to be seen

whether he will implicate legislators in the junkies he detected. By the way, House Majority Floor Leader Greg Stumbo acknowledged in October 1996 that he and other legislators remain in House with Downey. The former was taken by Mike Bowling, a legislator chairman of the House Judiciary Committee. Representative Memberly D'Arcy, former chairman of the Appropriations and

SEE STATE PAGE 10

State

FROM PAGE 1

Revenue Committee, fought harassment that took place in Downey's fourth-floor office at the Capitol. Dwyer is putting stamps on the House payroll. Sen. Elizabeth Holtzman, another Republican who has signed a formal complaint asking the legislative ethics commission to investigate a gross allegation recently, it was revealed that three legislative employees complained at the end of the 1996 session that there was drinking and sexual

microphones tables might be in use again. We don't comment on the investigation. We don't comment on what we do for the members of the House, said Michael Dwyer, attorney for the Western District of Kentucky. Obviously, that would be something that we could not firm up, Dwyer said. Beyer, a spokesman for the FBI, said But it may be something to ponder on legislators to ponder on again. JEFFREY

Extortion Embrozzled - Very angry
Premeditated Conspiracy

DATE MAY 25, 1990
END OF ESTATE

No

2 Estates. In legal Heir

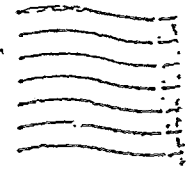
THEY MUST THINK
WE ARE DUMB. THEY SHOW
US WHAT THEY ARE POINT TO US.

WILLIAM H. WHEELER - SAID, CHARLES AND HIM ARE GOING TO
INGLE LAWRENCE CO. LAND LIKE THEY DID IN ASHLAND.
GOING TO FRANKFORT TO MAKE ARRANGEMENT. LIKE THEY
BEFORE. ASHLAND PROPERTY AND OTHER PROPERTY AND GENERAL RIGHTS

True

JAL WHEELER
20 A STREET
BRIGHTON KY 40511

was was a 1/3 of 1/4 the Heir of Dad's
July 1995
was a 1/3 of 1/4 the heir of
my dad, my brother,
Melvin A. Wheeler.



MYRTLE MINIX
PO BOX 102
PAINTSVILLE, KY. 41240

Jan 27, 1997

This is a long overdue letter. I ex-
press my appreciation to all the
city-working employees. They
are always there when needed.
I offer special praise to the very
hard-working, conscientious and re-
liable sanitation workers. Day in
day out, in all kinds of weather
conditions, they work for us,
keeping our trash, garbage and de-
bris off our streets.
I give them all my
best wishes for the future.
I give them all my
best wishes for a job well done.
Charles D. Wheeler

Wheeler - Williams Home
A-264-a
Bond Ky 41101

Rt 60

What Data owned is not in Case 87-P-099 - Distortion - Robbery

(Appears his Operator No 87-P-099) that is suppose to be Nolan Case Number's District Collins Agent

Dr. Bill Collins, stater, operator and agent No 87-P-099 June 22, 1990, related to Representative, Hubert Collins, and Kelley Collins, (probably of Florida) and he may have married Patty Agent Kirk Phillis Welles, ex-wife of John B. Welles, Jr. They had one daughter, Jane, married a Murney, lives, Winchester Ky.

Nancy Kay Arthur, Circuit District Clerk of Boyd County, showing she sent to Bill Collins Martha Layne Collins, former Governor of Ky's husband Bill Collins in "Boptrot" He has been sentenced

SENDER: Complete items 1 and 2 when additional services are desired, and complete 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this from being returned to you. The return receipt fee will provide you the name of the person delivered and the date of delivery. For additional fees, the following services are available. Consult postmaster for and check boxes for additional services requested.

1. Show to whom delivered, date, and address of addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to: Administrative Office of the 1st AH '90 Courts
100 Millcreek Park NANCY KAY ARTHUR
Frankfort, KY 40601-6230
ATTENTION: High Speed Duplicator D.O. Operator 87-P-099

4. Article Number P 296 773 767

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchant

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee X
6. Signature - Agent X
7. Date of Delivery JUN 22 1990

8. Addressee's Address (ONLY if requested and fee paid)
Gentle
Boptrot

PS Form 3811, Apr 1989 • U.S.G.P.O. 1989-238-815 DOMESTIC RETURN I

Is Dr. Bill Collins, related to Kelley Collins and Representative Hubert Collins?

Written Date?

RECEIPT FOR CERTIFIED MAIL

William H. Wheeler
14 Jesselin Drive
P.O. State and Zip Code Lexington, KY 40503

Postage 5
Certified Fee XXX
Special Delivery Fee
Restricted Delivery Fee XXX
Return Receipt showing to whom and Date Delivered XXX
Return Receipt showing to whom Date and Address of Delivery
TOTAL Postage and Fees 54

Postmark of Date 6-28-90

Charles Donald Wheeler Representative from our Area 1970's there is a mutual trust in First American Bank now Bank One along with Stolen Pres. Lexington Ky, Charles and his brother Richard and Anthony

87-P-099 suppose to be Delia E. Wheeler's Case number order the Case from Arthur It is nothing but Distortion And nothing listed he owns (Distortion).

All Criminal & Robbery



COMMONWEALTH OF KENTUCKY
OFFICE OF SECRETARY OF STATE
P.O. Box 718
FRANKFORT, 40602-0718

BOB BAUBAGE
SECRETARY OF STATE

X

Myrtle
MYRTLE J. WHEELER MILIX
P. O. BOX 102
PAINTSVILLE, KY 41240

1995

FAX (502) 564-4075
CORPORATE FILINGS (502) 564-2048
CORPORATION RECORDS (502) 564-7330

EMERGENCY

P Investigate

271-A

Amount Payable Upon Receipt: \$5.40

Check

Date: (MARCH 16, 1995)

Statement of Charges: BIG SANDY WHOLESALE, INC.

Get all Incorporate Documents

- _____ Certificate of Existence (Domestic) [\$10.00]
- _____ Certificate of Authorization (Foreign) [\$10.00]
- _____ Certified Copy [\$5.00 plus \$.50 per page]
- _____ Certification of Signature [\$5.00 ea.]
- _____ Fax Service Charge [\$5.00 ea.]
- _____ Telegrams [\$5.00 ea.]
- _____ Written Corporate Information [\$1.00 per corporate name]
- Regular Copies
- _____ Other
- _____ Kentucky Corporate Law and Rules Book [\$ 10.00]

JSC

Please return a copy of this invoice with your check made payable to the
Kentucky State Treasurer and mail both invoice and check to:

Secretary of State
P.O. Box 718
Frankfort, KY 40602-0718

Francis Jones Mills?
A-264-C

*I trying to find out
what the state is doing about this*

Received Dec 31, 1997



COMMONWEALTH OF KENTUCKY
SECRETARY OF STATE

JOHN Y. BROWN III
SECRETARY OF STATE

SUITE 152, STATE CAPITOL
700 CAPITOL AVENUE
FRANKFORT, KY 40601-3
(502) 564-3490
FAX: (502) 564-5687

CORPORATE FILINGS (502) 564-2848
CORPORATE RECORDS (502) 564-7330

RE: CLASSIC BANK SHARES, INC.

DEAR SIR/MADAM:

In response to your request for information concerning the above named corporation please be advised that:

1. () The registered agent is: _____
2. () The address of the registered agent and registered office is: _____

3. () The corporate mailing address is: _____

4. () The correct corporate name is listed above.
5. () This corporation has paid all fees due and owing to the Office of the Secretary of State of the Commonwealth of Kentucky to date; has delivered to the Secretary of State its most recent annual report, and remains active and in good standing.
6. () This existence of the corporation is: _____
7. () The corporation authorized _____ shares of stock.
8. (XX) We have no record of a corporation by this name; foreign nor domestic.
9. () This is a _____ corporation which qualified in this state on _____.
10. () Other: _____

5
WELCH LAW OFFICE
121 N. Buckman Street
P.O. Box 157
Shepherdsville, Kentucky 40165-0157

Roy Emerson Welch

C. Timothy White

(502) 543-9530

(502) 543-9017

Louisville

(502) 955-6299

FAX (502) 543-3100

November 1, 1994

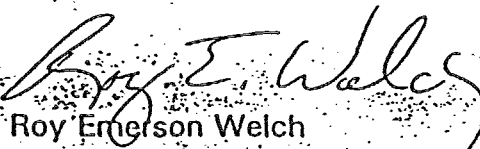
Ms. Myrtle Wheeler Minix
P. O. Box 102
Paintsville, KY 41240

RE: Estate of Dola E. Wheeler

Dear Ms. Minix:

Thank you for calling me with concerns that you have regarding your brother's estate. I contacted the National City Bank in Ashland and received the enclosed letter dated October 25, 1994. Your concerns about this estate are very substantial and from every indication it would take a tremendous amount of time to assist you. It would be to your advantage to employ an attorney not so far away in order to keep attorney's fees more reasonable. Based upon the amount of work involved and the distance I decline to take your case. I wish you the very best in pursuing this matter.

Yours truly,


Roy Emerson Welch

Thank you

REW/cy

Enclosure

Embezzling - Fraud - Criminal - Extortion

The Wheeler's listed state Mr Ringley [all Born

October 25, 1994

24 New Wheelers

Premeditated Conspiracy

Mar 12, 1987

Mr. Roy Welch, Attorney-At-Law
PO Box 157
Shepardsville, KY 40165

"Robbery"
&
Perjury

1984 Banking
Bill

X Re: Dola E. Wheeler Estate X

Att: Charles Holbrook
Notorious

Dear Mr. Welch:

Per your request, I reviewed our closed account files and found the following information regarding the above referenced estate. Dola Wheeler passed away on March 12, 1987 and Third National Bank was appointed administrator of the estate by Court Order on April 1, 1987. The appointment was made subsequent to a petition made to the court by a Lula Wheeler Kennedy and a Charles D. Wheeler requesting the bank's appointment. Our files show the required estate inventory and accountings were filed with the Boyd District Court in Catlettsburg, Kentucky under file number 87-P-099. The final settlement for the estate was approved by the court in November 1991. To my knowledge, we currently do not have any trust department accounts for any of the Wheeler family members nor did we have any accounts established for any family members during the administration of the estate or subsequent to its closure.

Distorted

Kelly
Michelle
No. 26
my

If you need additional information regarding the estate, we refer you to the estate filings located at the Boyd District Court Clerk's office.

Sincerely,

Janet Ringley

Janet Ringley
Trust Officer

Dola D. Mar 12, 1987

24 New at his death all Wheelers

I a 1/7th Heir and Sister

Harold Kelley EPA may own 52% of Bank



Dola Wheeler

508 shares Southern Hills Lots Dola Wheeler
The Don't roller. I a 17th floor

Dola Wheeler

Dola E. Wheeler, 81, of 1600 Johnson Avenue, Ashland, died at 10:45 p.m. Thursday, March 13, 1987, in Our Lady of Bellefonte Hospital in Russell, following an extended illness.

Mr. Wheeler, or D. E., as he was known to many, was born October 7, 1905, in Wheelersburg, Ky., in Magoffin County, the son of Charles Wesley and Elizabeth Jayne Wheeler.

He was a director and marketing agent for Sandy Valley Wholesale Grocery in his early years.

He was instrumental in helping to develop Hill 'N Dale Subdivision, and Southern Hills estates, and owned controlling interest. D. E. was a land developer, and he loved nature, people, and all things God saw that he needed while here on this earth.

He was gentle and kind to all who knew him. A southern gentleman and very hospitable person.

He attended many United Baptist services. This church was his faith, and heritage. He loved the old songs, and a few days before his passing, he lifted his weak arms, and sang an old song: "Amazing Grace How Sweet the Sound". I was told he sang it all the way through. Dola said he was ready to go.

To mourn his passing are three sisters: Mrs. Loula Wheeler Kennard of Ashland, Ky., Ruie Wheeler Ramsey of Whitesburg, Ky., Myrtle Wheeler Minix of Paintsville, Ky., with many living nieces and nephews. His deceased brothers are: Henry Melvin, Henry Harrison, Sherman Clay, Dona Wesley and Johnnie.

Dola E. Wheeler was at John Steen Funeral Home. Visitation was Saturday, March 14, 1987, from 5

until 9 p.m. Sunday morning, March 15, 9 a.m. until funeral.

The funeral was held at 2 p.m. Sunday.

Steen Funeral Home, Ashland Chapel, Elder Walter Pelphrey, Elder Samuel Colvin, and Brother Dewey McCarty, were in charge of the United Baptist Service, with many singers from the church singing the Old Baptist hymns and one in particular, "Amazing Grace".

Pallbearers were his nephews: James C. Kennard, William H. Wheeler, David Dolan Wheeler, Joseph Ramsey, Charles Donald Wheeler, Richard Roscoe Wheeler, Anthony Sparks Wheeler and Marcus Stephen Minix.

Interment was in the Ashland Cemetery.

CARD OF THANKS

We do wish to thank Dr. Ehrle, Dr. Rhodes, the painscaring nurses at Our Lady of Bellefonte Hospital, and the sitters that cared for him, were so very gentle, kind and devoted.

We thank the United Baptist Church for their comforting words, and the singers for their songs.

And for all the consoling words from so many who knew and loved Dola, and we thank you for the lovely floral arrangements.

And most of all we thank God for our kind, loving brother and uncle, Dola E. Wheeler.

EULOGY

Dola E. Wheeler, dear brother, uncle and friend, died Thursday, March 12, at eighty-one years of age. He was the fourth son of the late Charles Wesley and Elizabeth Jayne Wheeler. His early life was spent in Magoffin County. In the late 1920s, Mr. Wheeler acted as a sales agent for a Florida land company in the Florida "land boom". He was also a director and purchasing agent for Sandy Valley Grocery Company in the

A-265-C

1930s. In the 1950s and early 1960s he developed Hill 'N Dale Subdivision and Southern Hills Estates. He also owned and operated numerous stores and businesses in the area and was truly endowed with an entrepreneurial spirit. He loved animals and was never known to meet a stranger.

He attended the United Baptist Church and is survived by three sisters, Loula Wheeler Kennard of Ashland, Ruie Wheeler Ramsey of Whitesburg, and Myrtle Wheeler Minix of Paintsville; numerous nieces and nephews.

"To be honest, to be kind--to earn a little, to make the whole family happier for his presence" is the legacy that he leaves us. He was a man of quick wit, an eternal optimist, and a person who rejoiced in the entrepreneurial spirit. He will be sadly missed by all who loved him.

MY BROTHER DOLA E. WHEELER

Occasionally I look out and see--
A dear brother coming, and his name is D.E.

He is always humble, smiling and bright--

This is a most pleasing and delightful sight.

He loves nature's beauty that surrounds us all--

And all his people he cherishes, and is enthralled.

He likes the companionship of all children--mankind too--

I'm sure he has instructed and educated a few.

He enjoys roaming the ridges in Southern Hills

And feeds all the birds that fly onto his windowsills.

He cares for his dogs and all of the strays

He must possess much goodness to behave this way.

D. E. enjoys God's gifts of this beautiful Earth

I am awaiting his rebirth--

He reads his Bible, and is very well versed.

This is a trait that is instructed of us--

This describes a God fearing, hospitable Southern gentleman.

He is my brother and "special" is true.

I know his mother was proud of him too.

May he follow my prayers so when this life is over,

His journey he will pursue.

By Myrtle Jayne Wheeler
Minix

February 17, 1977
My prayers were answered
March, 1987

(The preceding is a paid obituary)

Dorothy Clay

Dorothy Davis Clay, 75, died Wednesday, March 18.

Mrs. Clay was born March 10, 1912, the daughter of Bill and Lenore

Dec. 1, 1991

IN OUR VIEW

Ousted at KACo

Changes will help restore credibility

Kentucky's county judge-executives have taken a step toward regaining control and restoring credibility to their organization. It should not be the final step.

In a move led by the Kentucky County Judge-Executive Association, the trustees of the Kentucky Association of Counties' financially strapped All Lines Fund have voted to replace its third-party administrator and attorney.

The judge-executives says other changes may be forthcoming.

Greenup County Judge-Executive Bobby Carpenter said KACo Executive Director John Griggs' future is in doubt. Griggs later announced that he will retire early.

"Everyone is going to be held accountable," warned Morgan County Judge-Executive Sid Stewart, president of the judge-executives group.

Holding KACo's administrators accountable for the organization's problems is something that needed to be done years ago. But county officials looked the other way

Holding KACo's administrators accountable for the organization's problems is something that needed to be done years ago.

while KACo has been involved in one controversy after another in recent years.

Their nonchalant attitude changed radically when counties had to foot the bill to cover part of a \$9.4 million deficit in KACo's All Lines Fund, a self-insurance program that offered counties low rates for property and casualty protection. In this area, Boyd County has been asked to pay \$19,447; Greenup, \$17,868; Carter, \$11,248, and Rowan, \$27,314.

It is too bad that it took county officials so long to wake up to the serious problems at KACo. New leadership and increased oversight is the best way to restore credibility to KACo.

Oct 15 - 1987

COMMONWEALTH OF KENTUCKY
OFFICE OF SECRETARY OF STATE
FRANKFURT, KY 40601

DONALD E. DAVIS
SECRETARY OF STATE

CORPORATE FILINGS (502) 562-2800

CLINTON H. ENCHMAN
ASST. SECRETARY OF STATE

10/15/87

STEVE ROGERS
8007 THURSTON LN.
LOUISVILLE, KY 40229

RE: A 177200
ASSOCIATED GROUP, INC.

DEAR AGENT:

SIX MONTHS AGO, THIS OFFICE NOTIFIED YOU THAT THE SUBJECT CORPORATION HAD NOT FILED ANNUAL REPORT(S) AS REQUIRED BY KY LAW. AT THAT TIME, WE GAVE NOTICE THAT UNLESS THESE ANNUAL REPORTS WERE RECEIVED WITHIN SIX MONTHS FROM THE DATE OF THE NOTICE, THE CORPORATE CHARTER WOULD BE REVOKED PURSUANT TO KENTUCKY LAWS 272A-6150.

FURTHER, KENTUCKY LAW REQUIRES THE SECRETARY OF STATE TO MAIL THIS NOTICE THEREOF TO THE CORPORATION AT ITS REGISTERED OFFICE.

SINCERELY,

RUTH ANN POWERS
CORPORATION DIVISION DIRECTOR

COMMONWEALTH OF KENTUCKY
OFFICE OF SECRETARY OF STATE
FRANKFORT, 40601

BREMER EHRLER
SECRETARY OF STATE

DUNTON H. NEWMAN, III
ASST. SECRETARY OF STATE

*Aug. 1,
1988*
CORPORATE FILINGS (502) 566-2848

08/01/88

CARLENE COOPER
MAIN ST., P. O. BOX 595
JUNCTION CITY, KY. 40440

RE: # 214655
DIRT MOVERS, INC.

DEAR AGENT :

SIX MONTHS AGO, THIS OFFICE NOTIFIED YOU THAT THE SUBJECT CORPORATION HAD NOT FILED ANNUAL REPORT(S) AS REQUIRED BY KY. LAW. AT THAT TIME, WE GAVE NOTICE THAT UNLESS THESE ANNUAL REPORTS WERE RECEIVED WITHIN SIX MONTHS FROM THE DATE OF THE NOTICE, THE CORPORATE CHARTER WOULD BE REVOKED PURSUANT TO KENTUCKY LAW (KRS 271A.615).

FURTHER, KENTUCKY LAW REQUIRES THE SECRETARY OF STATE TO MAIL THIS NOTICE THEREOF TO THE CORPORATION AT ITS REGISTERED OFFICE.

SINCERELY,

RUTH ANN POWERS
CORPORATION DIVISION DIRECTOR

The Associated Group
Article XI signed by
Steve Rogers, PO
Big mistake, date page.

Mar 13, 1996

(Associated Group)
dated June 15 - 1981 signed
By Francis Jones Miller
pg 1

Myrtle Joyce Wheeler, Miss
PO Box 102
Palmyra, KY - 41240-0102
606-789-7072
Mar. 13, 1996

L. Bern Lytle
The Associated Group
POB 700
Indianapolis, In. 46207-7005

My Parents and
My Brother Estel
are being Embezzled
and Exploited by
1. Charles Wesley Wheelers
2. Dola E. Wheeler

I received letter I received from you dated Mar. 13, 1995 stating The Associated Group paragraph five would provide you enhanced financial security dividends. I really couldn't understand that statement.

I have had Blue Cross Blue Shield Insurance a long time, have always thought it probably the best they have always provided me as they stipulated they would concerning my medical needs I'm paying \$9.90 96.9. due the first of each month make check to Blue Cross Blue Shield mail to Accordia, Inc. of the South East, Inc. POB 37890 Louisville, Ky 40233-7890. I do

I have Mutual of Omaha Accident Ins. And United of Omaha both of Nebraska Life Insurance I have always paid my premiums directly to them. He told I do not have health insurance with them and I am not familiar or affiliated with Community Mutual. Feb. 16, 1996 from James Murphy, President, Anthem Blue Cross Blue Shield 9901 Pioneer Station Rd Louisville, Ky 40223 states July 1993 Blue C Blue S of Ky completed its merger with Associated Group. Just about health.

Feb. 25, 1996 from Nancy L. Purcell, Corporate Secretary The Associated Group 120 Monument Circle Indianapolis, Ind. 46204-4903, state Mar 28, 1996 will ask members at a meeting change company name to Anthem Ins Co's Inc.

She also sends me a list of nominees and directors. And their associations with other subscribers and as directors in Banks - Realtors - CPAs - Etc. Holding Co - Utilities

I am not a party to any dealings that the names sent to me may approved and I would not be aware of Mar. 13, 1996 appears to be my "Recaterring" Inheritances

The Problems Names are Embezzling my Inheritance

FROM PAGE ONE

Norfolk Southern bids \$1 billion more than CSX on Conrail deal

By JEFFREY BRODEUR
THE ASSOCIATED PRESS

PHILADELPHIA — A bidding war broke out today for Conrail Inc., as Norfolk Southern Corp. said it would pay \$8.1 billion for the company, topping CSX's offer by nearly \$1 billion.

Either merger would create the nation's third-biggest railroad, a giant that would dominate the rail freight industry in the East.

Norfolk Southern's offer would mean \$100 per share in cash to Conrail stock holders, beating the CSX offer of a cash-and-stock mix that values Conrail at \$81.51 per share.

The CSX offer initially was worth \$8.4 billion, but its stock price has since fallen more than 6 percent, pulling down the bid's value to a little under \$7.2 billion.

Norfolk Southern, which had been rumored earlier this year to be interested in buying Philadelphia-based Conrail, had signaled its willingness to disrupt the CSX deal when it was announced Oct. 15.

"This proposal is better on every point than the CSX/Conrail proposal announced last week," said David R. Goode, chairman, president and chief

executive officer of Norfolk Southern.

If Virginia-based Norfolk Southern wins Conrail, the combination would create one of the country's biggest railroads, matching Norfolk Southern's strength in the Southeast with Conrail's extensive track network in the Northeast and Midwest.

"A combined Norfolk Southern-Conrail will create a more balanced eastern rail system and will do so by increasing, rather than diminishing, competition in the industry," Goode said.

A combined Norfolk Southern and Conrail would, like a CSX-Conrail deal, rank behind Union Pacific and Burlington Northern in terms of track mileage.

Unlike CSX, however, Norfolk Southern would give Conrail greater reach into the Southeast, where Norfolk Southern stretches as far as New Orleans and Jacksonville, Fla.

Conrail and CSX had no immediate comment.

In a letter to Conrail's Board of Directors, Goode said Norfolk Southern would consider locating the combined company's headquarters in Philadelphia.

In its deal, CSX said that the combined company would be renamed and based in Philadelphia, with CSX president John W. Snow as chairman.

Norfolk Southern had said it would take steps to involve itself in the CSX-Conrail deal and in today's announcement confirmed it had been trying to strike a deal with Conrail for years. Goode said he had suggested a combination as recently as 11 days before the CSX deal was announced.

"We regret that, despite knowing our long-term interest in joining Conrail with Norfolk Southern, your chairman ignored our longstanding offer to submit a business combination proposal to you," Goode said in the letter.

Norfolk Southern operates a 14,500 mile rail system in 20 states and Canada, as well as a trucking company. Conrail operates an 11,000-mile rail freight network in 12 Northeastern and Midwestern states, the District of Columbia, and Quebec.

CSX operates more than 18,000 miles of track running through 20 states in the East, Midwest, South and in Ontario. The rail business accounted for nearly half of last year's revenues.

NEWS OF RECORD

\$15,008; Sept. 12.

erty on Ellington Run, \$30,000;

*Bar Sandy Valley Grocery Buildings
Some had railroad access.*

ENVIRONMENTAL DOCUMENT

James C. Codell, III
Secretary of Transportation

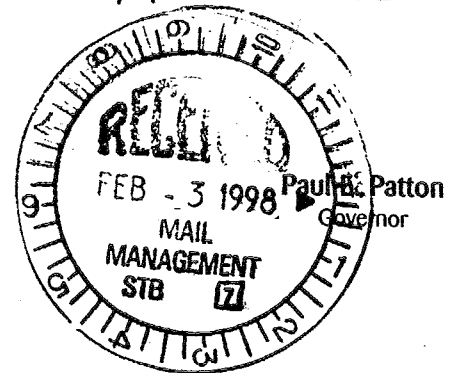
T. Kevin Flanery
Deputy Secretary



Commonwealth of Kentucky
Transportation Cabinet
Frankfort, Kentucky 40622

January 28, 1998

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 3:19:07 PM



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

ATTENTION: Elaine K. Kaiser, Environmental Project Director, Environmental Filing

Dear Ms. Kaiser:

SUBJECT: Draft Environmental Impact Statement
Recommended Mitigation for Kentucky
Conrail Acquisition Proposal

Our Cabinet is reviewing the Draft Environmental Impact Statement (DEIS) issued by the Board's Section of Environmental Analysis on December 12, 1997, concerning the acquisition of Conrail by CSX and Norfolk Southern. One concern that required special consideration was the required coordination on the part of CSX for acquisition-related impacts in Kentucky. Specifically, the DEIS directs CSX to consult with the Kentucky Transportation Cabinet concerning upgrading the following grade crossings:

<u>FRA ID</u>	<u>Crossing Name</u>	<u>City</u>	<u>Recommended Mitigation</u>
345-246 C	Duffy Street	Hopkinsville	Upgrade to Flashing Lights
345-269 J	7th Street*	Hopkinsville	Upgrade to Flashing Lights
345-318 D	Moss Avenue	Earlington**	Upgrade to Flashing Lights
345-329 R***	West Center Street	Madisonville	Upgrade to Gates
345-331 S	West Noel Avenue	Madisonville	Grade Separation
345-362 R	West Dixon Street	Sebree	Upgrade to Gates
345-267 V	East 9th Street	Hopkinsville	Grade Separation

* Incorrectly shown as East 6th Street in the DEIS

** Incorrectly shown as Madisonville in the DEIS

*** Incorrectly shown as 155-645 N in the DEIS

KENTUCKY TRANSPORTATION CABINET
"PROVIDE A SAFE, EFFICIENT, ENVIRONMENTALLY SOUND, AND FISCALLY RESPONSIBLE TRANSPORTATION SYSTEM
WHICH PROMOTES ECONOMIC GROWTH AND ENHANCES THE QUALITY OF LIFE IN KENTUCKY."
"AN EQUAL OPPORTUNITY EMPLOYER M/F/D"

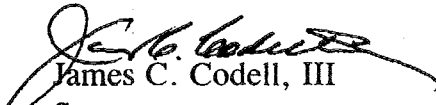
Elaine K. Kaiser
January 28, 1998
Page 2

We certainly understand the Board's interest and concern regarding the impacts of the seven at-grade locations for which safety-mitigated improvements are proposed.

Three of the locations have recently been upgraded or approved for additional work. These include the 7th Street crossing in Hopkinsville that has been upgraded to Cantilever Flashing Light Signals and Bell, the Moss Avenue crossing in Earlington that is proposed for upgrading from passive to Flashing Light Signals and Bell, and the West Center Street crossing in Madisonville that has been programmed for upgrading from Flashing Light Signals and Bell to Flashing Light Signals and Automatic Gates. The other locations on Duffy Street in Hopkinsville and West Dixon Street in Sebree will certainly be considered for upgrading in one of our future Crossing Warning Device Improvement Programs.

The proposed grade separations at East 9th Street in Hopkinsville and West Noel Avenue in Madisonville are located near the centralized business districts of those communities and near dense residential areas. The implementation of grade separation projects would have severe impacts on many businesses and residences. The economic impact to these communities, coupled with the impact on historic/cultural resources, makes the proposals unreasonable at this time. Therefore, the Cabinet cannot support or endorse the proposed mitigated separation at these locations.

Sincerely,


James C. Codell, III
Secretary

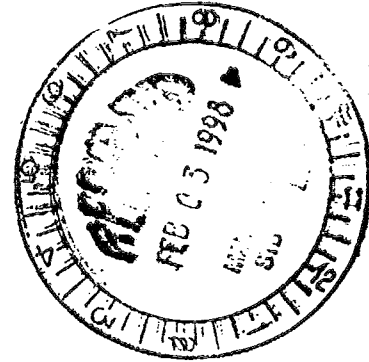
JCC:JMY:CSR:LSB

c: Jay Westbrook, CSX

CITY OF NEW ORLEANS
MARC H. MORIAL
MAYOR

**ENVIRONMENTAL
DOCUMENT**

January 21, 1998



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

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 11.38.40AM

Dear Ms. Kaiser:

After considering Conrail's proposal concerning the sale of their railway to CSX and Norfolk, the City of New Orleans strongly opposes the acquisition. There are numerous considerations that would have a negative impact on the city, the environment and community residents.

One of our greatest concerns is the estimated doubling of hazardous materials traffic traveling through Louisiana. According to the SEA, more than 20,000 cars containing hazardous materials (hazmats) will be transported from Mobile, AL to New Orleans each year. Along with a greater number of cars comes an increased risk of accidents. We have serious concerns for the safety of community residents, the wetlands, and wildlife inhabiting areas near the railway. A hazmat accident, or any train accident, could pollute our drinking water supply and damage sensitive wetlands and wildlife in the area.

Not only do residents face a risk of contaminated drinking water, they also face the risk of exposure to hazardous fumes and materials. The SEA reports that it plans to recommend that CSX and NS be required to prepare a hazmat emergency response plan and implement a response drill with the voluntary participation of local emergency response teams once every two years. However, there is no guarantee that these plans will be prepared or implemented. If the assistance of local emergency response teams is voluntary, we have no guarantee that there will be enough staff to perform the necessary response plan in the event of an emergency.

The increase in traffic around the Oliver intermodal facility in New Orleans will create abundant problems for the residents living near the station and for those who travel on Almonaster Avenue, Florida Avenue, and Louisa Road. There will be an increase of sixty-three trucks per day traveling to and from the Oliver station. There will be an estimated increase of 126 trucks per day on Florida Avenue, and 113 more truck trips per day on Almonaster Avenue and Louisa Road. The EIS does not discuss how this increase in truck traffic will affect noise conditions and air quality. We believe the additional truck traffic will have a negative environmental impact on the community.

CITY HALL • NEW ORLEANS, LA 70112
(504)565-6400 • FAX(504)565-6423

AN EQUAL OPPORTUNITY EMPLOYER



A-267-c

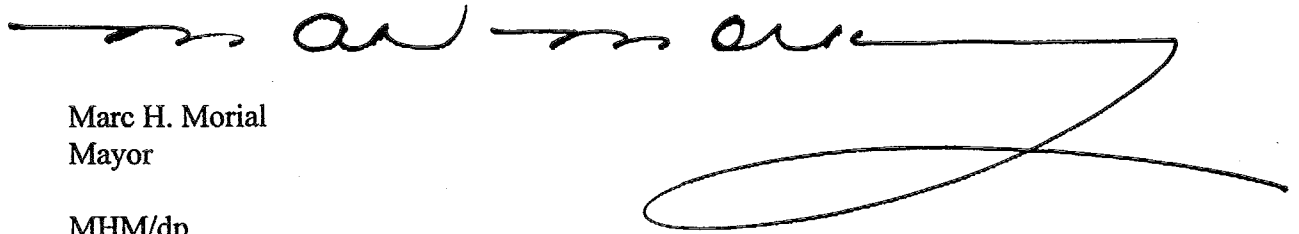
Page 2
Office of the Secretary
January 21, 1998

The area surrounding the Oliver station is composed primarily of low-income residential homes. Most of the houses are within several feet of the street and many houses on Florida and Almonaster have back yards adjacent to the facility. The increased activity and traffic will increase air pollution and cause noise disruption to the families in the area especially if truck traffic continues late at night and during the early morning hours. If the facility is in operation 24 hours, there will be no stop in the train and truck noise.

Safety is also a relevant concern for the residents near the Oliver station. There are numerous churches in the area as well as a playground. This means children are playing near the road and many pedestrians are getting in and out of cars parked on the street. Increased truck traffic can only result in a greater risk of accidents.

It is for these various reasons and a grave concern for the safety of the citizens living in this area of New Orleans that we oppose the acceptance of the Conrail proposal.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Morial', with a large, sweeping flourish at the end.

Marc H. Morial
Mayor

MHM/dp

c: Marlin N. Gusman, Chief Administrative Officer
Jerald L. White, Director, Mayor's Office of Environmental Affairs



MARYLAND Office of Planning

Parris N. Glendening
Governor

Ronald M. Kreitner
Director

ENVIRONMENTAL January 08, 1998
DOCUMENT

Ms. Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT
REC'D: ~~JAN 20 1998~~
DOCUMENT # 1121/98 10:44:40 AM

STATE CLEARINGHOUSE REVIEW PROCESS

Reply Due Date: January 28, 1998
State Application Identifier: MD971222-1116
Project Description: DRAFT EIS - Proposed Conrail Acquisition CSX Corporation and CSX Transportation, Inc. Norfolk Southern Corporation and Norfolk Southern Railway Company
State Clearinghouse Contact: La Verne Gray

Dear Ms. Kaiser:

This letter acknowledges receipt of the referenced project. We have initiated the Maryland Intergovernmental Review and Coordination Process (MIRC) as of the date of this letter. You can expect to receive review comments and recommendations on or before the reply date indicated. Please place the State Application Identifier Number on all documents and correspondence regarding this project.

This project has been sent to the following agencies or jurisdictions for comment: The Maryland Departments of Budget and Management, Business and Economic Development, Housing and Community Development including the Maryland Historical Trust, Natural Resources, and Transportation; Baltimore City; Allegany, Baltimore, Cecil, Frederick, Harford, Howard, Montgomery, Prince George's, and Washington Counties; Wilmington Area Planning Council, Baltimore Metropolitan Council, Maryland National Capital Parks and Planning Commission-Montgomery County, Maryland National Capital Parks and Planning Commission-Prince George's County, Metropolitan Washington Council of Governments, Tri-County Council for Western Maryland; and the Maryland Office of Planning.

Your participation in the MIRC process helps to ensure that this project will be consistent with the plans, programs, and objectives of State agencies and local governments. Issues resolved through this process enhance the opportunities for project funding and minimize delays during project implementation.

If you need assistance or have questions concerning this review, please contact the staff person noted above. Thank you for your cooperation.

Sincerely,

Linda C. Janey, J.D.
Manager, Clearinghouse & Plan Review Unit

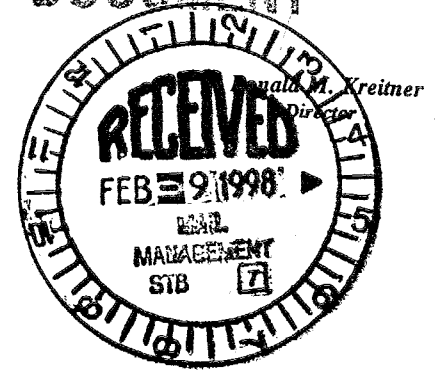
LCJ:LG:okk

REC'D: 2/10/98

DOCUMENT # 2/10/98 11:20:48 AM



MARYLAND Office of Planning

ENVIRONMENTAL
DOCUMENTParris N. Glendening
Governor

January 28, 1998

Ms. Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

SUMMARY OF REVIEW COMMENTS ON DRAFT EIS "PROPOSED CONRAIL ACQUISITION"

State Application Identifier: MD971222-1116
Description: DRAFT EIS - Proposed Conrail Acquisition CSX Corporation and CSX Transportation, Inc. Norfolk Southern Corporation and Norfolk Southern Railway Company
Applicant: Surface of Transportation Board
Location: Nationwide
Approving Authority: Surface Transportation Board

Dear Ms. Kaiser:

In accordance with Presidential Executive Order 12372 and Code of Maryland Regulation 14.24.04, the State Clearinghouse has coordinated the intergovernmental review of the referenced project. This letter constitutes the summary of review comments on the Draft EIS "Proposed Conrail Acquisition" received to date.

Review comments were requested from the Maryland Departments of Budget and Management, Business and Economic Development, Housing and Community Development including the Maryland Historical Trust, Natural Resources, and Transportation; Allegany, Baltimore, Cecil, Frederick, Harford, Howard, Montgomery, Prince George's, and Washington Counties; the City of Baltimore; the Baltimore Metropolitan Council; the Maryland-National Capital Park and Planning Commission-Montgomery and Prince George's County; and the Tri-County Council for Western Maryland and the Maryland Office of Planning. As of this date, the Departments of Budget and Management, Transportation, Housing and Community Development including the Maryland Historical Trust, and Natural Resources; Montgomery, Frederick, Baltimore, Howard and Prince George's Counties; the Tri-County Council for Western Maryland; and the Maryland-National Capital Park and Planning Commission-Prince George's County have not submitted comments. Any comments received will be forwarded.

The Maryland Department of Business and Economic Development; Allegany, Cecil and Washington Counties; and the Maryland-National Capital Park and Planning Commission-Montgomery County; and the Metropolitan Washington Council of Governments; and the Maryland Office of Planning found this project to be consistent with their plans, programs, and objectives. The Wilmington Area Planning Council, whose jurisdiction includes Cecil County, Maryland, notes that they have no comments on how this proposal will impact Cecil County, Maryland.

The Baltimore Metropolitan Council and Harford County found this project to be generally consistent with their plans, programs, and objectives, but included certain qualifying comments summarized below.

Ms. Elaine K. Kaiser
January 28, 1998
Page 2

The City of Baltimore stated that their finding(s) of consistency is/are contingent upon the applicant taking the action(s) summarized below.

Summary of Comments:

The City of Baltimore states that the proposal is generally consistent with its plans, programs, and objectives. The endorsement is contingent upon implementation of mitigation items cited by the Surface Transportation Board.

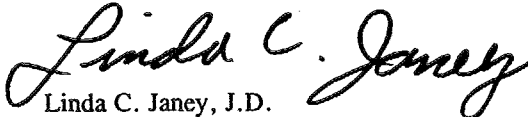
The Baltimore Metropolitan Council states that the proposal is generally consistent with its plans, programs, and objectives, however, the following qualifying comment is submitted for your consideration.

"Volume 3A of the report includes a section on the State of Maryland. Included in this section is an analysis of the proposed intermodal facility, the Triple Crown Service, that will be constructed in Baltimore City. From our review, the report does not, however, mention the improved clearances for 20' 2" double stack service that Norfolk Southern has proposed via Amtrak's Northeast Corridor to Perryville or the impacts that construction would have on the Perryville community."

Harford County states that there are no rail line segments in Harford County which meet or exceed the Board-designated environmental thresholds. The County also notes that this acquisition identifies that the MARC train service will not impact the Northeastern connection (i.e. Penn Line) going through Harford County since most freight rail traffic occur at night along this line. However, the report does not mention any further expansions of the MARC service along this lined its impact to that potential service. Currently, the Edgewood MARC station is planned to have a large parking lot expansion and the Aberdeen train station is in the development of a revitalization plan. Increased freight traffic could potentially impact the need for future MARC service.

If you have any questions about the comments contained in this letter please contact the State Clearinghouse at (410) 767-4490:

Sincerely,



Linda C. Janey, J.D.
Manager, Clearinghouse & Plan Review Unit

LCJ:LG:bet

cc:	Richardson - DBMC	Wein - CECL	Valladares - MNCPPC-MTGM
	Gatto - DBED	Shaw - FRDR	Piret - MNCPPC-PG
	Hartman - DHCD/MHT	Holdredge - HRFD	Langford - MWCOG
	Dintaman - DNR	Rutter - HOWD	Wagoner - TCCWMD
	Kay - MDOT	Reilly - MTGM	
	Sansom - ALLG	Warfield - PGEO	
	Griffin - BCIT	Shoop - WSHG	
	Svhela - BLCO	Anderson - BMC	

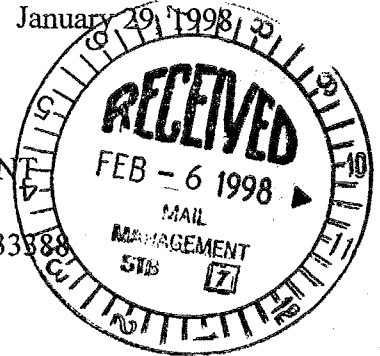


CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/10/98
DOCUMENT # 2/10/98 4:02 PM

Douglas M. Duncan
County Executive

DEPARTMENT OF PUBLIC WORKS
AND TRANSPORTATION
**ENVIRONMENTAL
DOCUMENT**
REVIEW COMMENTS

Graham J. Norton
Director



DRAFT ENVIRONMENTAL IMPACT STATEMENT
CSX/CONRAIL ACQUISITION
SURFACE TRANSPORTATION BOARD DOCKET 33888

These comments, prepared in response to the DEIS circulated by the Surface Transportation Board (STB) on the subject matter, focus on safety and transportation-related impacts that the acquisition may have on operations on CSX's Metropolitan Branch which traverses Montgomery County. The comments are based on information contained in the DEIS, supplemented by additional information developed from County and State sources. The comments are summarized below, and are described in detail in text following.

SUMMARY

We endorse the recommendation of the STB's Section of Environmental Analysis (SEA) that because of the significant amount of mixed freight and passenger train traffic on this line, a 15-minute "clear time" be mandated between freight and passenger trains.

We disagree with SEA's determination that there are no adverse impacts to safety or vehicle delay at CSX's Randolph Road at-grade crossing that require mitigation. We recommend that consideration be given to requiring CSX participation in the costs of constructing a grade separation at this location to mitigate the impact caused by additional freight operations on this line resulting from the acquisition.

We request that SEA conduct an evaluation of the extent to which increased freight traffic may have on safety aspects of CSX operation in the 11.4 miles where CSX is in "common corridor" alignment adjacent to Metrorail passenger service. The DEIS fails to acknowledge the existence of this operating environment or the safety risks as freight activity is increased. Most of this common corridor mileage is in Montgomery County, and there have been freight-related accidents in the past in this corridor. We recommend consideration of lowering the permissible 55mph freight speed in this corridor to 40 or 45mph

DETAILED REVIEW AND COMMENT

Impact on Passenger Service (MARC, Amtrak)

We endorse the DEIS preliminary recommendation of a 15-minute clear time between passenger and freight trains on lines carrying a significant number of passenger trains (SEA designates as "superior trains"), including the CSX Metropolitan Branch through our County. This practice would significantly reduce safety risks inherent in mixing freight and passenger service, and it would enhance passenger train schedule reliability, which is essential to retaining and increasing ridership on MARC commuter rail and Amtrak service on this line.

At-Grade Road Crossings: Impact on Safety and Traffic Delay

Page 7-4 of the DEIS notes that "One of SEA's major concerns in this Draft EIS is the potential delay of vehicular traffic at highway/at-grade crossing." Despite this statement of concern, we believe there are serious gaps in the analysis that result in the problem of at-grade crossings not being given sufficient consideration, at least in the case of one crossing in our County. There are four at-grade crossings in the County where motor vehicle traffic exceeds 10,000 ADT, the most significant of which is Randolph Road .

Randolph Road, a County-maintained urban arterial, carries 41,000 ADT, by far the heaviest volume among 3000 at-grade CSX/Conrail crossings in 23 states listed in the DEIS. (The DEIS lists only nine grade crossings where traffic is in the 20,000-30,000 range, only one in the 30,000-35,000 range (at 32,000), and no others higher.) Weekday train traffic at the Randolph crossing currently includes 2 Amtrak and 18 MARC commuter trains, and 23 freights, with the number of freights projected to increase by seven per day as a result of the acquisition. Despite these heavy volumes, the DEIS concludes that this crossing will not be adversely impacted to the point of warranting mitigation. In contrast, at some crossings in other states (such as Newark, Delaware), where the increase in freight train volume may be only two or three per day and crossing volume is much lower than 30,000 ADT, SEA is mandating that CSX arrive at binding agreements with localities to address implementation and funding allocations for mitigation that might include grade separations.

A shortcoming in the DEIS analysis methodology affects grade crossing safety and delays at the Randolph crossing, associated with assumed freight train speed and projected accident frequency. The DEIS assumes 50mph train speed at the Randolph crossing, an expectation that actual speed is 10mph lower than a posted limit of 60 in this segment. However, the actual limit in this segment is 55mph. Therefore the analysis should have assumed an operating speed of 45mph, which would result in longer vehicle delays. Further, as the report acknowledges, actual speeds in any segment can be lower than posted speeds due to curvature, gradient, train length, etc. For westbound trains, the Randolph Road crossing is within a 16-mile long up-grade of approximately one percent from Union Station to Rockville and Gaithersburg, which results in

actual speeds frequently below 35mph on long fully-load westbound freights. Therefore, the vehicle delays at Randolph crossing are significantly understated in the DEIS for current conditions, and will be more so under post-merger projections. It will come as news to the 41,000 motorists waiting for a train to clear this crossing that a Level of Service "B" exists at this crossing (as indicated in the DEIS), and is projected to be maintained at that level even with a 20% increase in train movements.

Also of concern is the projected increase of tonnage, and how CSX can provide sufficient motive power, given the current prohibition on pusher engines in this segment (see Metrorail-CSX common corridor discussion later). Likely results of the DEIS forecasted increases in train volume (20%) and tonnage (48%) on this line are: 1) CSX trains will be longer than the 6200 feet cited in the DEIS; 2) CSX will operate far more but shorter trains; and/or 3) There will be substantially slower freight speeds in the westbound (up-grade) direction than is assumed in the DEIS. In either case, or in combination, there would be substantial additional delay time at the Randolph Road crossing, as well as at the crossings of Forest Glen Road, South Summit Avenue, and Chestnut Street over and above the impact described in the DEIS.

With regard to the issue of motor vehicle/train accidents, the State DOT-managed "MARS" reporting system (Maryland Automobile Accident Reporting System) shows that for the four immediately preceding record years (1994 - 1997), one such accident occurred at the Randolph Road crossing. Also, data from a December 1988 "Randolph Road/Montrose Road Corridor Study Final Report" (page 55 excerpt attached) shows that two vehicle/train accidents occurred in 1986-87 and another three occurred during the period 1980-1985. Thus, in eleven out of the past 17 years for which data is readily available, there have been motor vehicle/train accidents at this crossing at the rate of one every two years. Assuming no accidents occurred in the other 6 years (1988-93), the accident rate was one every three years. For the future, the State Highway Administration predicts a vehicle/train accident rate of one every four years at this location, which is a significantly higher rate than the 19-year frequency projected in the DEIS for "Category A" crossings (DEIS Chapter 5, page MD-10).

Recent (January, 1998) contact with the Maryland State Highway Administration's railroad crossings traffic engineer elicited the information that Maryland does not maintain a formal "Top 50" list of high-risk railroad grade crossings, but if it did the Randolph Road crossing would be the top rated and the top candidate for grade separation.

In light of these data, the State of Maryland and Montgomery County have jointly conducted studies over several years to conceptually plan for a grade separated crossing of the CSX tracks. The County's adopted master plan shows such a separation, as does a Maryland State Highway Administration preliminary Final Environmental Impact Statement dated August 4, 1989 for the formerly proposed InterCounty Connector highway. A conceptual alignment and configuration (sketch attached) were produced as part of that environmental study, which shows how a grade separation could be designed to replace the at-grade crossing, with appropriate

connections to nearby arterial streets. Existing State-owned right-of-way would be used for most of the road realignment associated with grade separation.

We believe that the congestion and accident risk factors at the Randolph Road crossing are sufficient to warrant a requirement that they be mitigated by CSX participation in the cost of providing a grade separation at this location.

WMATA Metrorail/CSX Common Corridors (QN Tower site to Gaithersburg)

Another serious shortcoming of the DEIS is the lack of acknowledgment of potential safety issues on CSX's double-track Metropolitan Branch where it operates side-by-side with Metrorail along two segments totaling 11.4 miles where they are in common corridor (7.4 miles in Montgomery County and 4 miles in the District of Columbia.) The only separation between the CSX and Metrorail tracks are chain link intrusion detection fences and horizontal spacing of 20 to 30 feet (between track centers). Both the County and WMATA submitted preliminary comments on this situation in the summer of 1997, in response to STB's initial environmental report. The DEIS contains no acknowledgment or description of this operating environment and makes no reference to our concerns. As of the date of the DEIS, no site visits to the common corridor segments had been made in response to our or WMATA's comments on this issue.

There are two common corridor segments affecting CSX's Metropolitan Branch. In the Shady Grove to Twinbrook segment (5.4 miles), the corridor is used by 310 Metrorail trains per weekday on Metro's "A" route. In the Georgetown Junction-QN Tower segment (6 miles), there are 450 Metrorail trains per day on Metro's "B" route. Metrorail operates in revenue service from 5:30am-12:30am weekdays, and from 8:00am to 12:30am weekends. During the peak of weekday rush hours, Metrorail trains in the "B" route common typically carry 1000 persons/train, at 3-minute headway in each direction (1.5 minutes combined).

In 1987, there were two CSX freight train derailments which tore up several hundred feet of Metrorail "B" route trackage south of Takoma Park, and obstructed Metrorail service for several days. Fortunately, the derailments occurred during hours when Metrorail was not in revenue service. In response to these occurrences, CSX and WMATA jointly agreed in 1988 to a protocol which, although allowing continuation of CSX's 55MPH speed limit, mandated special precautions in freight operations in entire corridor. These included high/wide-load and dragging detectors, improved intrusion detection fences, track inspection, and improved communication between CSX and WMATA operations control centers. Also, in consideration of the long eastbound downgrade on the CSX Metropolitan Branch in Montgomery County and D.C., NTSB recommended that CSX discontinue use of helper locomotives in "push" mode while operating in this corridor.

STUDY



COMMON OPERATING CORRIDOR

for

**CSX Transportation and Washington Metropolitan Area Transit Authority
Joint Operating and Safety Committee**

study by

R. K. Pattison

supported by

**Parsons Brinckerhoff Quade & Douglas
Spring Park Technology Center
Herndon, Virginia**

March 1988

A-269-d

With CSX's projected increase in this common corridor of seven more CSX freight trains per day (a 20% increase), and a tonnage increase of 48%, the adequacy of the 1988 CSX protocol should be assessed anew as part of the DEIS, in order to assess the risk exposure that increased freight operations, especially longer and heavier trains, may have on the safety of adjacent transit service.

Of these two common-corridor segments in our County, the greater concern is the 6-mile CSX segment between former QN Tower and Georgetown Junction, where Metrorail's "B" route tracks are located between the eastbound and westbound CSX tracks. CSX straddles the Metrorail tracks, increasing the probability that a CSX accident or derailment could impact one or both Metrorail tracks. Because of this configuration, and because of close track spacing (20 feet c-c) and the higher volume of Metro "B" route train movements and passengers, this CSX segment was cited in a 1989 Metro study (excerpt attached) as having the very highest risk factor among six corridors where Metrorail and freight railroads exist side-by-side in the Washington D.C. region. It was in this segment that a stopped CSX westbound freight precipitated "reverse flow" operation of a westbound Amtrak passenger train on the eastbound CSX track, resulting in the February, 1996 multi-fatality Amtrak/MARC accident at Georgetown Junction (Silver Spring).

An increase of seven freight trains per day on this CSX Line warrants an up-to-date EIS evaluation of the 10-year old CSX/WMATA common corridor study, because of the recent-years occurrence of CSX train incidents (three major accidents over nine years involving freight operations) in this high-risk segment. Among other items to consider, we recommend that SEA mandate a CSX speed restriction through the common corridor segments that would limit freight operations to 40-45 MPH instead of the 55MPH speed now permitted.

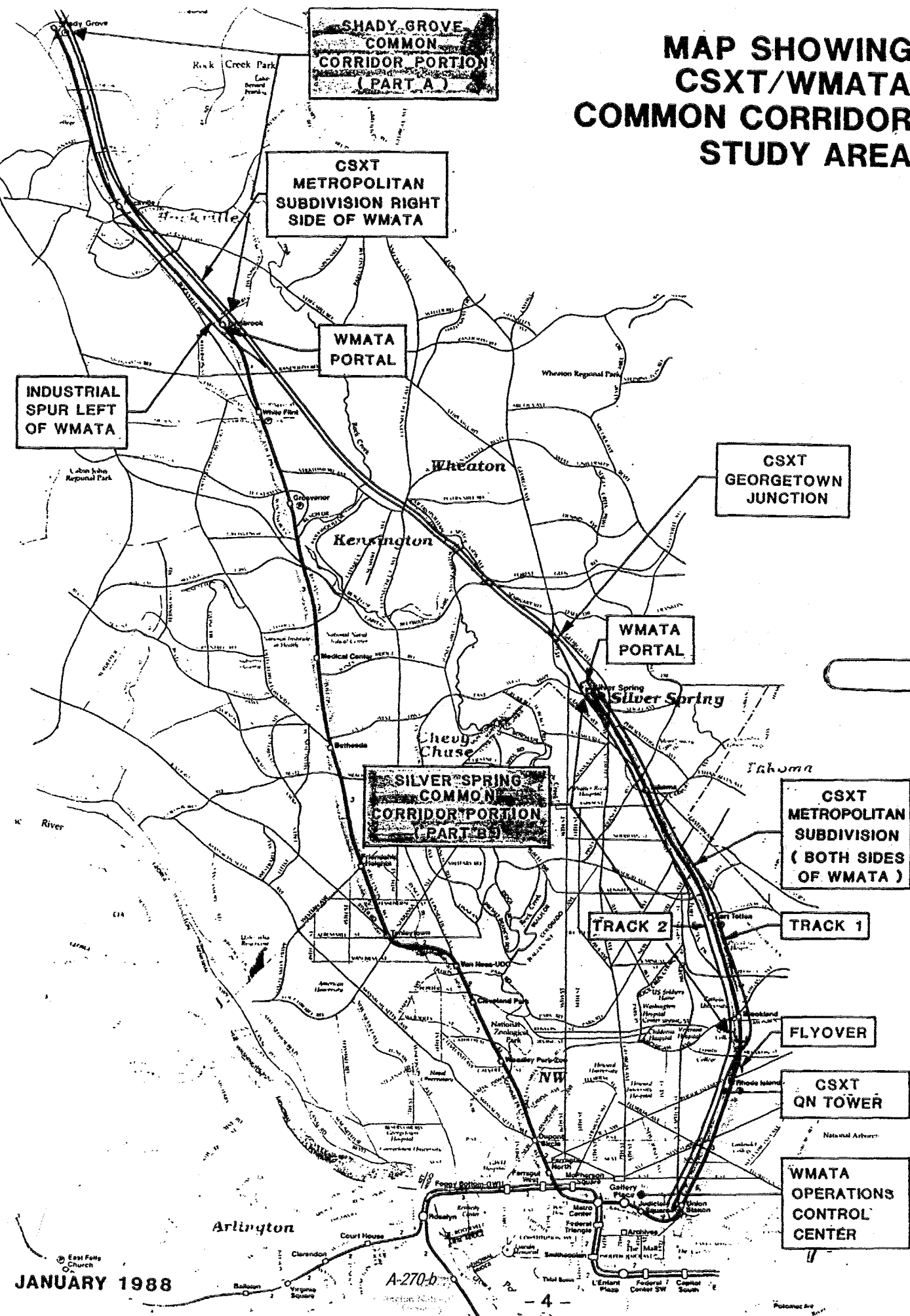
Attachments

cc: Richard White, General Manager, WMATA
Kathryn Waters, Manager, MARC Rail
Kathleen Henning, Member, Tri-State Metrorail Safety Oversight Committee

Preparer: Edward A. Daniel
Special Assistant to the Director
Montgomery County DPW&T
(301) 217-2976

CSX1.mem

MAP SHOWING CSXT/WMATA COMMON CORRIDOR STUDY AREA



JANUARY 1988

A-270-b

**WMATA
COMMON CORRIDOR STUDY**

FINAL REPORT

MAY 19, 1989

BOOZ • ALLEN & HAMILTON Inc.
in cooperation with
ABACUS TECHNOLOGY, Inc.

- Provided intrusion detection warning to CSXT's QN tower (connection between WMATA and railroad)
- Increased height of IDW fence (WMATA right of way)
- Integrated the IDW system with the automatic train protection speed control logic (WMATA system)
- Added IDW at Twinbrook (WMATA right of way)
- Added IDW at Hungerford Drive (WMATA right of way)

In addition, the opening of the Hagerstown connection between Norfolk-Southern and Conrail has rerouted a portion of eastern seaboard freight away from the Washington, D.C. metropolitan area. This has reduced the amount of exposure to potential common corridor incidents on the D, C, J and H routes. Added MARC service has also displaced freight service from the A and B routes particularly during peak hours contributing to the overall risk reduction (shown in Exhibit 6.1.1).

EXHIBIT 6.1.1
Common Corridor Risk Levels and Reductions Due To
WMATA and Railroad Initiatives

LINE/CORRIDOR	RELATIVE RISK LEVELS ¹		
	PRIOR ²	CURRENT ³	SAVINGS
RED - A	11.1	5.2	5.9
RED - B	59.4	26.5	32.9
YELLOW - C/J/H	3.7	1.6	2.1
ORANGE - D	12.5	3.6	8.9
GREEN - E	1.2	0.6	0.6
ORANGE - K	12.1	12.1	0
	100.0	49.6	50.4

¹ Relative to total common corridor risk under original design in 1986 set at 100.

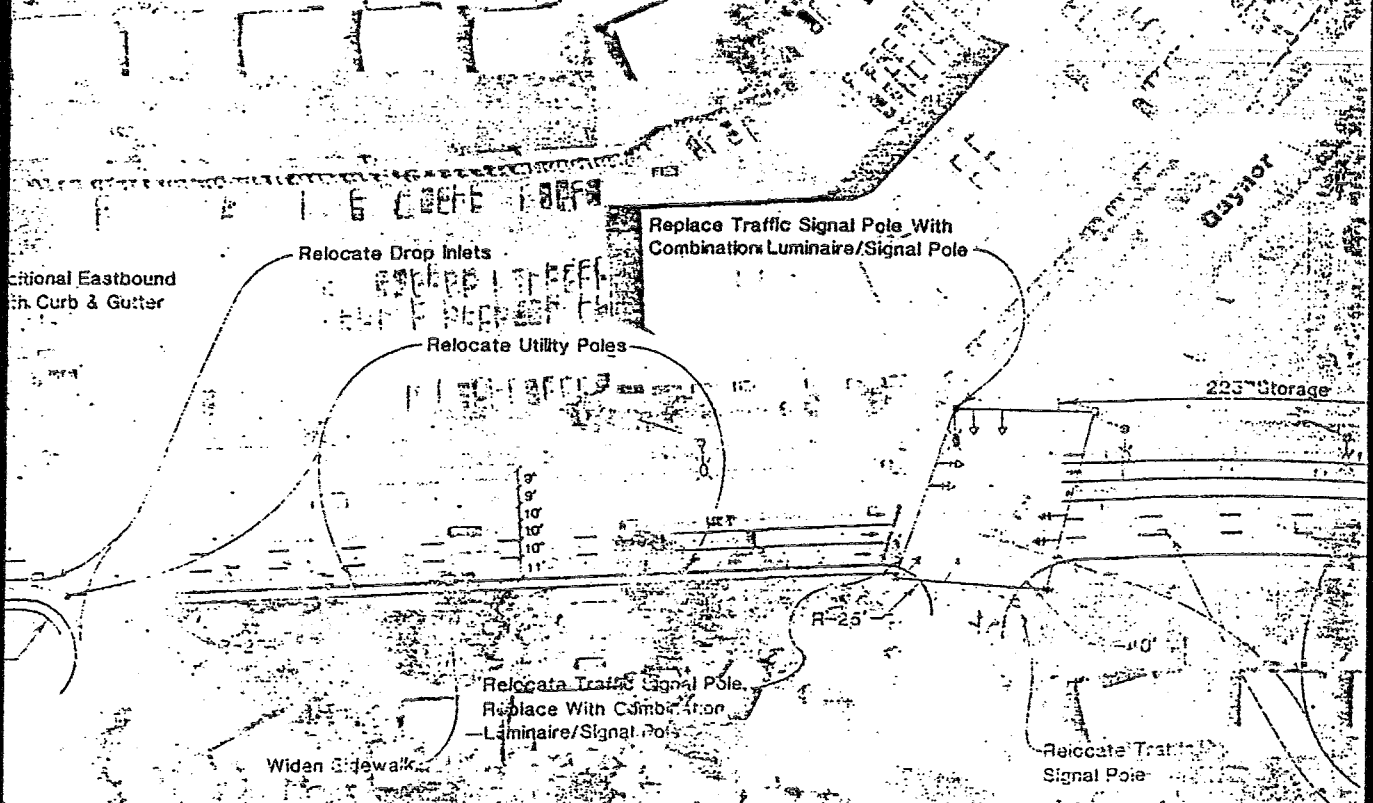
² "Prior" refers to original design in 1986 operating environment.

³ "Current" refers to ongoing actions to improve prevention and detection actions including modifications in place and planned as a result of the WMATA/CSXT Task Force recommendations.

Final Report

**RANDOLPH ROAD / MONTROSE ROAD
CORRIDOR STUDY**

YELLOW ALL HE3
1 Sec.
2 Sec.



**for the
Montgomery County
Department of Transportation**

jhk & associates

December, 1988

A-271-a

which is lighted with mercury vapor luminaires (Parklawn Drive to Georgia Avenue), there are numerous links and intersections with a night to day accident ratio equal to or greater than 2.0. Signalized intersections along Randolph Road-Montrose Road with ratios greater than 1.5 are listed below.

- Rocking Horse Road/Gaynor Road
- Veirs Mill Road
- Connecticut Avenue
- Georgia Avenue

No similar patterns were observed in the sections of the corridor illuminated with the brighter high pressure sodium luminaires.

One of the high accident locations was not discussed in the previous chapter - the intersection of Randolph Road and the B&O Railroad, just east of Nebel Street. This intersection has experienced two vehicle/train accidents during the study period, and an additional six vehicle accidents directly related to the operation of trains through the intersection. Another six vehicle accidents also may be related to the crossing. (This cannot be determined without reviewing the police accident reports.)

In addition to the two vehicle/train accidents occurring during 1986 and 1987, it was determined (from data provided from the State Highway Administration) that another three vehicle/train accidents occurred during the period from 1980 to 1985. This equates to an average accident rate of 0.71 accidents per year.

An accident rate less than one per year does not seem high compared to accidents occurring at highway intersections. The safety concern at rail-highway crossings, however, is the high potential for fatalities or serious injuries likely to occur at a crossing (e.g. on average, roughly one out of every 11 crossing accidents results in a fatality).

Fortunately, no fatalities have occurred at the rail-highway crossing on Randolph Road during the past ten years. However, the potential exists given the high roadway and train traffic volumes. Every effort should be made to make this crossing as safe as possible using the latest technologies in train detection and traffic control systems. Ideally, the crossing would be eliminated through grade separation. While expensive, this alternative would provide the greatest safety benefit as well as enhance traffic operations along the corridor. Federal highway funds (Section 130) may be available through the State Highway Administration for improvements at this crossing.

PROPOSED CONRAIL ACQUISITION
FINANCE DOCKET NO. 33388
DRAFT ENVIRONMENTAL IMPACT STATEMENT SUPPLEMENTAL ERRATA

Table 5-MD-9 (Revised)
Maryland
Highway/Rail At-Grade Crossing Vehicle Delay and Queues

County	Seg. No.	Crossing FRA ID	Roadway Name	Number of Roadway Lanes	ADT	Pre Acquisition						Post Acquisition										
						Trains per day	Train Speed (mph)	Train Length (feet)	No. of Veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min./veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service	Trains per day	Train Speed (mph)	Train Length (feet)	No. of Veh. Delayed per day	Max. No. of Veh. in Queue per lane	Crossing Delay per stopped veh (min./veh)	Avg. Delay per Vehicle (All vehicles) (sec/veh)	Level of Service	Level of Service with Mitigation
Baltimore City	C-012	140219X	HOLLINS FERRY RD	2	6,969	39.6	35	6,000	469	17	1.54	12.48	B	43.7	35	6,200	519	18	1.59	14.18	B	
Baltimore City	C-012	140867D	BUSH ST.	2	6,900	39.6	40	6,000	418	15	1.39	10.09	B	43.7	40	6,200	463	16	1.42	11.45	B	
Montgomery	C-003	140488D	FOREST GLEN RD	2	11,400	23.8	45	6,000	380	23	1.52	6.09	B	30.8	45	6,200	504	24	1.56	8.79	B	
Montgomery	C-003	140507F	S SUNNYSIDE AVE	3	11,300	23.8	50	6,000	348	14	1.20	4.44	A	30.8	50	6,200	461	14	1.23	6.03	B	
Montgomery	C-003	140509J	CHESTNUT ST.	2	10,500	23.8	55	6,000	302	18	1.27	4.37	A	30.8	55	6,200	400	19	1.30	5.92	B	
Montgomery	C-003	140494G	RANDOLPH	4	41,000	23.8	50	6,000	1263	38	2.39	8.83	B	30.8	50	6,200	1674	39	2.45	12.00	B	
Prince George's	C-010	140253T	DECATUR ST	2	8,000	18.7	25	6,000	335	26	2.12	10.65	B	24.3	25	6,200	448	27	2.18	14.63	B	
Prince George's	C-010	140257V	UPSHUR ST	2	5,900	18.7	25	6,000	247	19	1.96	9.84	B	24.3	25	6,200	330	20	2.01	13.52	B	
Prince George's	C-010	140258C	ANNAPOLIS RD	5	29,250	18.7	25	6,000	1226	38	2.48	12.45	B	24.3	25	6,200	1638	39	2.55	17.10	C	
Prince George's	C-014	140899J	SUNNYSIDE AVE	2	5,070	33.4	50	6,000	219	9	1.10	5.69	B	37.1	50	6,200	249	10	1.12	6.64	B	
Prince George's	C-014	140903K	QUEENSBURY RD	2	6,000	33.4	50	6,000	259	11	1.13	5.88	B	37.1	50	6,200	295	11	1.16	6.86	B	



OFFICES OF THE COUNTY EXECUTIVE

Douglas M. Duncan
County Executive

Bruce Romer
Chief Administrative Officer

State of Maryland
Public Highway-Rail Crossings
Ranked by Predicted Accidents per Year

NOTE: The Randolph Road crossing in Rockville, Montgomery County, Maryland ranks **first** in the State of Maryland in predicted accidents per year.

The Ridge Road crossing in Washington Grove, Montgomery County, Maryland ranks **third** in the State of Maryland in predicted accidents per year.

A-271-d

Planning Implementation Section

51 Monroe Street, Suite 1000 • Rockville, Maryland 20850 • 301/217-2430, FAX 301/217-2059

STATE OF MARYLAND
PUBLIC HIGHWAY-RAIL CROSSINGS
RANKED BY PREDICTED ACCIDENTS PER YEAR
SORTED BY HIGHWAY-RAIL CROSSING ID

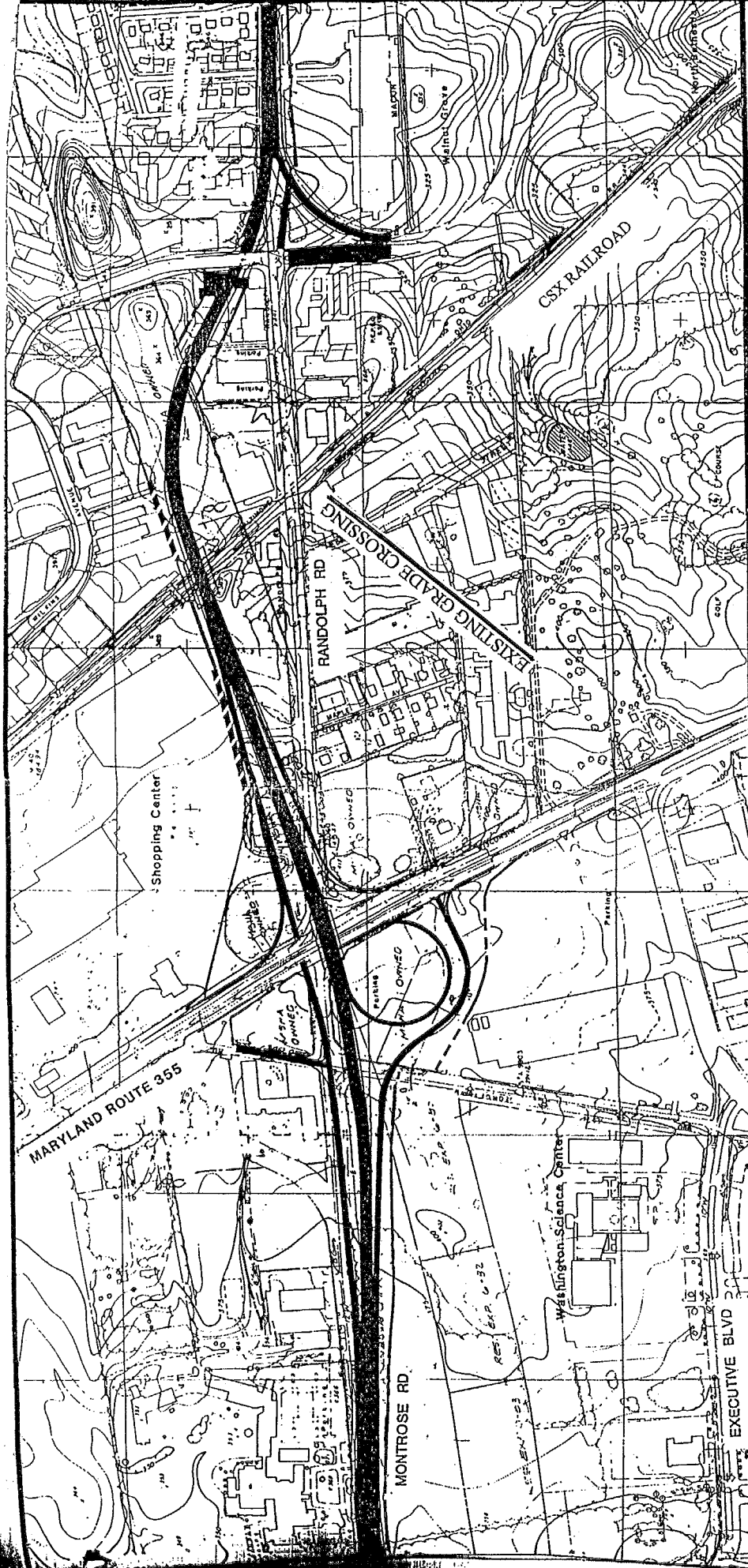
17:16 Tuesday, February 20, 1996
Page 1 of 2

OBS	XING ID #	PRED ACCDS	RANK	ST	COUNTY	CITY	RR	ROAD	RRID	MILEPOST
103	140455R	0.017808	291	MD	FREDERICK	BUCKEYSTOWN	CSX	NEW DESIGN RD	480	005901
104	140457E	0.027035	166	MD	FREDERICK	ADAMSTOWN	CSX	ADAMSTOWN ROAD	482	006044
105	140458L	0.012917	368	MD	FREDERICK	ADAMSTOWN	CSX	DOUBS RD	483	006133
106	140461U	0.027003	167	MD	FREDERICK	POINT OF ROCKS	CSX		BAX	006432
107	140462B	0.023391	207	MD	FREDERICK	FREDERICK	CSX	WISNER ST	485	000318
108	140463H	0.000267	688	MD	FREDERICK	FREDERICK	CSX	EAST SOUTH ST.	489.6	NONE00
109	140464P	0.000492	569	MD	FREDERICK	FREDERICK	CSX	EAST SOUTH ST.		NONE00
110	140465W	0.000492	214	MD	FREDERICK	FREDERICK	CSX	SOUTH ST		NONE00
111	140488D	0.047700	72	MD	MONTGOMERY	SILVER SPRING	CSX	FOREST GLEN RD	BAX	000288
112	140494G	0.047700	1	MD	MONTGOMERY	ROCKVILLE	CSX	RANDOLPH ROAD	495	000971
113	140505S	0.154322	3	MD	MONTGOMERY	WASHINGTON GROVE	CSX	RIDGE RD.	497	001377
114	140507F	0.052068	59	MD	MONTGOMERY	GAITHERSBURG	CSX	S SUMMIT AVE	507	002050
115	140509U	0.046958	176	MD	MONTGOMERY	GAITHERSBURG	CSX	CHESTNUT ST.	508	002179
116	140512C	0.025258	73	MD	MONTGOMERY	GAITHERSBURG	CSX	METROPOLITAN GROVE	509	002213
117	140519A	0.037132	101	MD	MONTGOMERY	GAITHERSBURG	CSX	HILLRISE LANE	511	002336
118	140521B	0.037132	102	MD	MONTGOMERY	BARNESVILLE	CSX	DICKERSON SCHL RD	512	003310
119	140524W	0.009983	444	MD	MONTGOMERY	DICKERSON	CSX	DICKERSON SCHL RD	513	003560
120	140575G	0.011261	415	MD	MONTGOMERY	DICKERSON	CSX	MOUTHOFMONOCACYRD	513.7	003700
121	140576N	0.013180	366	MD	WASHINGTON	FUNKSTOWN	CSX	WAGAMAN RD	554	W2000
122	140608S	0.029502	140	MD	WASHINGTON	FUNKSTOWN	CSX	POFFENBERGER RD	555	W2056
123	140613N	0.028583	151	MD	WASHINGTON	BRUNSWICK	CSX	MAPLE AVE	556	W2180
124	140615C	0.034725	108	MD	WASHINGTON	HAGERSTOWN	CSX	OAK RIDGE DR.	557	W2264
125	140616J	0.021663	223	MD	WASHINGTON	HAGERSTOWN	CSX	WILSON BLVD	558	002295
126	140617R	0.015079	338	MD	WASHINGTON	HAGERSTOWN	CSX	POTOMAC ST	559	W2313
127	140774J	0.021009	239	MD	CECIL	HAGERSTOWN	CSX	GARLINGER AVE	170	004147
128	140775R	0.026565	169	MD	CECIL	ELK MILLS	CSX	ELK MILLS RD	170.2	004248
129	140789Y	0.017676	293	MD	CECIL	ELK MILLS	CSX	JOHNSONS RD	173	005465
130	140793N	0.064836	45	MD	HARFORD	CHILD'S	CSX	JACKSON STATION	175	003719
131	140794V	0.024329	192	MD	HARFORD	HAVRE DE GRACE	CSX	ANTARIO ST	176	005931
132	140802K	0.105472	19	MD	HARFORD	HAVRE DE GRACE	CSX	LEWIS LANE	179	006249
133	140804Y	0.028874	149	MD	HARFORD	ABERDEEN	CSX	BEARDSHILL RD EXT	180	003255
134	140813X	0.033386	120	MD	HARFORD	EDGEMOOD	CSX	BELAIR AVE	184	007380
135	140815L	0.037793	97	MD	HARFORD	EDGEMOOD	CSX	CLAYTON RD	185	007380
136	140817A	0.021386	229	MD	HARFORD	JOPPA	CSX	JOPPA RD	188	007720
137	140819N	0.028925	146	MD	BALTIMORE	BRADSHAM	CSX	JONES RD	189	008048
138	140830N	0.046106	74	MD	BALTIMORE	WHITE MARSH	CSX	EBENEZER RD	191	008611
139	140831V	0.055778	54	MD	BALTIMORE	WHITE MARSH	CSX	TODDS LANE	191.1	008642
140	140863B	0.097826	222	MD	BALTIMORE	ROSFDALE	CSX	BATAVIA FARMS RD	229	000074
141	140865P	0.033668	119	MD	BALTIMORE	BALTIMORE	CSX	WARNER ST.	231	000090
142	140866W	0.042688	83	MD	BALTIMORE	BALTIMORE	CSX	RIDGELY STREET	232	000114
143	140867D	0.048195	70	MD	BALTIMORE	BALTIMORE	CSX	BAYARD STREET	233	000124
144	140883M	0.116294	16	MD	HOWARD	BALTIMORE	CSX	BUSH STREET	BAA	001158
145	140886H	0.018663	277	MD	HOWARD	HANOVER	CSX	HANOVER RD.	240	001487
146	140896N	0.030131	138	MD	PRINCE GEORGE'S	JESSUP	CSX	MONTEVID RD.	241	001487
147	140899J	0.043019	82	MD	PRINCE GEORGE'S	MUIRKIRK	CSX	CONTEE RD.	244	002362
148	140902P	0.004696	499	MD	PRINCE GEORGE'S	COLLEGE PARK	CSX	SUNNYSIDE AVE.	245	002803
149	140905K	0.033871	111	MD	PRINCE GEORGE'S	COLLEGE PARK	CSX	LAKELAND RD.	247	003059
150	140915R	0.000269	672	MD	ANNE ARUNDEL	RIVERDALE	CSX	QUEENSBURY RD	249	003249
151	140916X	0.000269	673	MD	ANNE ARUNDEL	FORT MEADE	CSX	BROCK BRIDGE RD.	250	00NONE
152	141351M	0.000492	538	MD	ANNE ARUNDEL	FORT MEADE	CSX	BROCK BRIDGE RD.	407.2	00NONE
153	141354H	0.000492	580	MD	HOWARD	FORT MEADE	CSX	ARUNDEL COVE AVE.		001310
					HOWARD	JESSUP	CSX	SAN TOMAS RD.		

STATE OF MARYLAND
 PUBLIC HIGHWAY-RAIL CROSSINGS
 RANKED BY PREDICTED ACCIDENTS PER YEAR

RANK	PRED ACCD	XING ID #	ST	RR	-->	90	91	92	93	94	DATE OF CHG	MD CL	TOTL SMT TRNS	DAY THRU TRNS	TOTL THRU TRNS	TOTL TRKS	MAIN TRKS	TTBL SPD	HMY PVD	HMY LNS	URBN RURL	AADT
1	0.233035	140494G	MD	CSX	1	0	0	1	0	0		GT	0	19	29	2	2	79	YES	4	U	41000
2	0.193353	832018H	MD	CSX	1	0	0	1	0	0		FL	2	3	8	1	1	30	YES	2	U	11550
3	0.154322	140505S	MD	CSX	0	0	0	1	1	1		GT	0	14	36	2	2	79	YES	2	U	4000
4	0.145803	140449M	MD	CSX	0	0	0	0	1	1		XD	0	2	16	1	1	45	YES	2	R	1902
5	0.142715	530619G	MD	CR	1	0	0	1	0	0		XD	0	2	3	1	1	30	YES	2	R	1500
6	0.128596	140381B	MD	CSX	0	0	0	0	1	0		FL	0	3	4	1	1	15	YES	4	U	14800
7	0.125069	140253T	MD	CSX	0	0	0	1	0	0		FL	0	6	13	1	1	25	YES	2	U	8000
8	0.124998	140388Y	MD	CSX	0	0	0	1	0	0		SS	12	0	0	3	0	15	YES	2	U	700
9	0.124176	848055H	MD	CTN	0	0	0	0	0	0		MW	0	2	2	1	0	6	YES	4	U	27400
10	0.123215	140451N	MD	CSX	0	0	0	0	0	0	93-08	XD	0	7	16	1	1	45	YES	2	U	525
11	0.122760	140439G	MD	MDT	0	0	0	0	0	0		XD	0	7	16	1	1	25	YES	2	U	468
12	0.118119	530229U	MD	MDT	0	0	0	0	0	0		MW	0	3	4	1	1	15	YES	4	U	9600
13	0.118101	140384W	MD	CR	0	0	0	0	1	0		XD	0	2	2	1	2	10	YES	4	R	1000
14	0.116729	831614E	MD	CSX	0	0	0	0	0	0		FL	2	1	3	1	1	25	YES	3	U	14800
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16	0.115746	140393V	MD	CSX	0	0	0	0	0	0		GT	0	8	18	2	2	65	YES	2	U	1369
17	0.115746	469321F	MD	CSX	0	0	0	0	0	0		SP	20	8	0	6	2	15	YES	2	U	500
18	0.111387	140802K	MD	NW	0	0	0	0	0	0		FL	0	8	16	1	1	50	YES	2	U	3375
19	0.105472	140417G	MD	CSX	0	0	0	0	0	0		FL	1	6	16	1	1	50	YES	2	U	2635
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22	0.097826	140863B	MD	CSX	0	0	0	0	0	0		GT	24	16	34	1	3	25	YES	2	U	1500
23	0.088978	534883D	MD	CR	0	0	0	0	0	0		XD	0	6	10	1	0	30	YES	2	U	325
24	0.086769	870646R	MD	CSX	0	0	0	0	0	0		XD	6	0	0	2	1	10	YES	2	U	3750
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29	0.076308	848057W	MD	CTN	0	0	0	0	0	0		XD	1	48	0	0	0	15	YES	4	U	16000
30	0.075654	140395J	MD	CSX	0	0	0	0	0	0		SP	1	0	0	0	0	2	YES	4	U	12600
31	0.075491	140395J	MD	CSX	0	0	0	0	0	0		FL	3	0	0	0	0	2	YES	4	U	5200
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33	0.073263	532287W	MD	MDT	0	0	0	0	0	0		FL	1	2	3	1	1	30	YES	2	U	463
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35	0.071998	832030P	MD	CSX	0	0	0	0	0	0		XD	0	3	3	1	1	30	YES	1	U	175
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42	0.065842	5322296V	MD	CR	0	0	0	0	0	0		FL	0	6	12	1	1	30	YES	2	U	18925
43	0.065498	532268S	MD	CR	0	0	0	0	0	0		GT	0	3	4	1	1	30	YES	2	U	200
44	0.065142	140362W	MD	CSX	0	0	0	0	0	0		XD	0	3	4	1	1	15	YES	4	R	18925
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47	0.060198	848053U	MD	CTN	0	0	0	0	0	0		FL	0	2	9	1	1	6	YES	2	R	18214
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49	0.057123	140263Y	MD	MDT	0	0	0	0	0	0		GT	0	4	9	2	1	50	YES	2	U	10000
50	0.056489	532064F	MD	CSX	0	0	0	0	0	0		FL	2	4	9	1	1	25	YES	2	U	17750
51	0.056322	831649F	MD	MDDE	0	0	0	0	0	0		FL	0	6	13	1	1	10	YES	2	U	9300
52	0.055868	5322250G	MD	CR	0	0	0	0	0	0		FL	2	3	9	3	1	25	YES	4	U	19500

RANKING
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INTERCOUNTY CONNECTOR FIGURE II-28

LEGEND

MONTGOMERY COUNTY

- AIR SENSITIVE RECEPTORS - - - - -
- NOISE SENSITIVE AREAS - - - - -
- 100 YEAR FLOODPLAIN - - - - -
- PROPOSED R/W - - - - -
- PROPOSED ROADWAY - - - - -
- PROPOSED RETAINING WALL - - - - -

SELECTED ALTERNATE
MD. 355 INTERCHANGE





MDE

MARYLAND DEPARTMENT OF THE ENVIRONMENT

2500 Broening Highway • Baltimore Maryland 21224
(410) 631-3000 • 1-800-633-6101 • http://www.mde.state.md.us

Parris N. Glendon
Governor

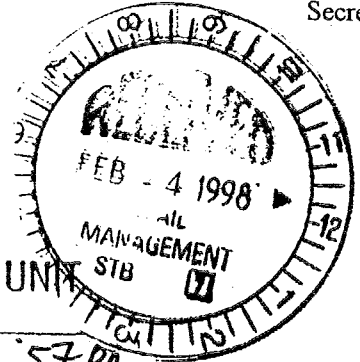
Jane T. Nishida
Secretary

COPY ENVIRONMENTAL DOCUMENT

January 29, 1998

Ms. Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/4/98
DOCUMENT # 2/4/98 5:02:57 PM



RE: Maryland Office of Planning Identification Number: MD971222-1116
Project: Draft EIS - CSX Railroad

Dear Ms. Kaiser:

Thank you for the opportunity to review the above referenced project. The document was circulated throughout the Maryland Department of the Environment (MDE) for review, and the following comments are offered for your consideration.

1. Construction, renovation and/or demolition of buildings and roadways must be performed in conformance with State regulations pertaining to "Particulate Matter from Materials Handling and Construction" (COMAR 26.11.06.03D), requiring that during any construction and/or demolition work, reasonable precaution must be taken to prevent particulate matter, such as fugitive dust, from becoming airborne.
2. If boilers or other equipment capable of producing emissions are installed as a result of this project, the applicant is requested to obtain a permit to construct from MDE's Air and Radiation Management Administration for this equipment, unless the applicant determines that a permit for this equipment is not required under State regulations pertaining to "Permits, Approvals, and Registration" (COMAR 26.11.02.). A review for toxic air pollutants should be performed. Please contact Dr. Justin Hsu, Ph.D., P.E., New Source Permits Division, Air and Radiation Management Administration at (410) 631-3230 to learn about the State's requirements and the permitting processes for such devices.
3. Fossil fuel fired power plants emit large quantities of sulfur oxide and nitrogen oxides, which cause acid rain. In addition, nitrogen oxide emissions contribute to the problem of global warming and also combine with volatile organic compounds to form smog. The MDE supports energy conservation, which reduces the demand for electricity and therefore, reduces overall emissions of harmful air pollutants. For these reasons, MDE recommends that the builders use energy efficient lighting,

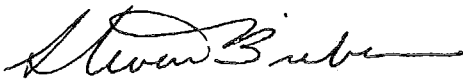
Ms. Elaine K. Kaiser
January 29, 1998
Page Two

computers, insulation and any other energy efficient equipment. Contact the U.S. EPA at (202) 233-9120 to learn more about the voluntary Green Lights Program which encourages businesses to install energy-efficient lighting systems.

4. The applicant should be advised that no cutback asphalt should be used during the months of June, July and August.
5. Lighting for security and parking needs to be shielded from nearby residences.
6. The EIS needs to include an air quality analysis for Harford County. Harford County has been designated by the U.S. EPA as a severe nonattainment area for ozone.
7. The EIS should cover impacts of the proposed merger on planning transit-oriented development-increasing night-time freight operations could make living near the rail stations less attractive from a noise standpoint.

Again, thank you for giving MDE the opportunity to review this project. If you have any questions, please feel free to call me at (410) 631-3656.

Sincerely,



Steven Bieber
Clearinghouse Coordinator

cc: Jane T. Nishida, Secretary, Maryland Department of the Environment
La Verne Gray, Maryland Office of Planning

Baltimore Metropolitan Council



601 North Howard Street
Baltimore, Maryland 21201-4585

Telephone: (410) 333-1750
Facsimile: (410) 659-1260

PAUL FARRAGUT
Executive Director

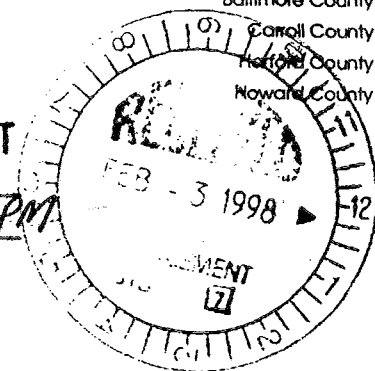
**ENVIRONMENTAL
DOCUMENT
ENVIRONMENTAL
DOCUMENT**

Anne Arundel County
Baltimore City
Baltimore County
Carroll County
Harford County
Howard County

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98
DOCUMENT # 2/3/98 40456PM

January 30, 1998



Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, D.C. 20423-0001

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

Dear Mr. Williams:

On behalf of the Transportation Steering Committee (TSC), the metropolitan planning organization (MPO) for the Baltimore region, I am responding to your request to review the Surface Transportation Board's Draft Environmental Impact Statement.

The following comment is submitted for your consideration. Volume 3A of the report includes a comprehensive section on the State of Maryland. Included in this section is an analysis of the proposed Norfolk Southern Triple Crown Service that will be constructed in Baltimore City. From our review, the report does not, however, mention the improved clearances for 20' 2" double stack service that Norfolk Southern has proposed via Amtrak's Northeast Corridor to Perryville or the impacts that construction would have on the Perryville community. The double stack clearances were mentioned in the Governor's October 2, 1997 letter to the STB, which is attached.

Thank you for the opportunity to comment on this important matter. If you have any questions, please contact me at 410/269-0064.

Sincerely,

Jon Arason, Chairman
Transportation Steering Committee

Attachment

cc: TSC members
Freight Movement Task Force



October 2, 1997

PARRIS N. GLENDENING
GOVERNOR

ANNAPOLIS OFFICE
STATE HOUSE
100 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401
(410) 974-3901

WASHINGTON OFFICE
SUITE 311
444 NORTH CAPITOL STREET, N.W.
WASHINGTON, D.C. 20001
(202) 638-2215

TDD (410) 333-3698

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Mercury Building
Suite 700
1925 K Street, NW
Washington DC 20006

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

Dear Mr. Williams:

Since last fall when the proposed merger of Conrail was first announced, the State of Maryland has been in continuous contact with both CSX and Norfolk Southern to ensure that any transaction that might result from a combination of railroads serving the State would protect the competitiveness of Maryland shippers and the interests of all Maryland citizens. At the outset, we established five major goals:

1. Preserve competition by having at least two Class I carriers serve the State.
2. Ensure the continuation of existing service and rail rates (for example, on the Eastern Shore of Maryland).
3. Maintain or increase rail employment in the State.
4. Secure commitments to specific infrastructure improvements necessary to achieve the purported benefits of the merger.
5. Preserve and enhance commuter rail service.

After months of negotiating with CSX and Norfolk Southern, we are pleased to say that the State has largely achieved these goals and has concluded letter agreements with both carriers that are attached hereto that ensure the following:



Harrisburg, Pennsylvania; 2) construct, reopen or convert an automobile distribution terminal in the Baltimore area; 3) expand or improve a conventional intermodal facility in Maryland; 4) construct a new Triple Crown RoadRailer® intermodal terminal in the Baltimore area; and 5) improve the track connection at Hagerstown, Maryland to facilitate the flow of traffic. CSX's Operating Plan includes investments benefiting the State of Maryland, including among others: 1) improvements on the former B&O line between the Port of Baltimore and Chicago, Illinois that will result in raising the track capacity west of Cumberland, Maryland to 50 trains per day and the operating speeds up to 70 miles per hour on most segments; and 2) improvements in the rail service to the auto distribution terminal in Jessup, Maryland (including, but not limited to increasing the clearance of the Virginia Avenue Tunnel) to permit service by tri-level auto rack cars.

Commitment to Commuter Rail Service. Both CSX and Norfolk Southern have assured the State that each will work with the State of Maryland to maintain (and, with respect to CSX, to enhance) commuter rail service for Maryland's citizens and honor all operating agreements that they may now, or in the future, have with the Mass Transit Administration. Norfolk Southern has also agreed to participate in a Northeast Corridor Advisory Team which will include as members, among others, the MASS TRANSIT ADMINISTRATION Freight Manager and the MARC Service Director.

While the State has accomplished most of its goals with respect to rail competition, service, employment, infrastructure and commuter service, there are still some issues of concern. The State will continue to work with CSX and Norfolk Southern to address these issues, which include assurances that: 1) the Port of Baltimore and Maryland shippers and coal producers will not be put at a competitive disadvantage as a direct result of the transaction or related conditions or agreements; and 2) NEC improvements and proposed operations will adequately address congestion, as well as speed and weight concerns.

In addition, the State may have concerns with issues that arise in the course of this proceeding; thus, it reserves the right to file additional comments on these and other matters. The State appreciates comments from the representatives of both railroads assuring the smooth integration of Conrail into the two railroads and commitments to assure the rapid delivery of the full benefits of the transaction. It is our expectation and understanding that commitments made by the railroads in their Operating Plans, as approved by the STB, will be subject to future enforcement via the STB.



ENVIRONMENTAL DOCUMENT

MASS TRANSIT ADMINISTRATION

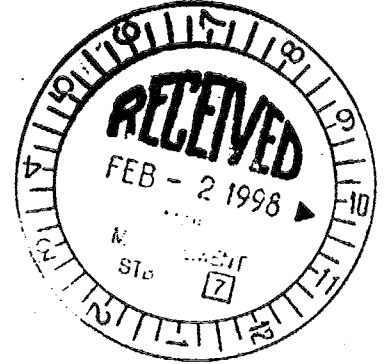
MARYLAND DEPARTMENT OF TRANSPORTATION

Parris N. Glendening, Governor • David L. Winstead, Secretary • Ronald L. Freeland, Administrator

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98
DOCUMENT # 2/2/98 10:46:35 AM

January 30, 1998



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

Attention: Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis

Dear Ms. Kaiser:

This letter is being submitted as the comments of the Mass Transit Administration of the Maryland Department of Transportation on the Surface Transportation Board Draft Environmental Impact Statement of the Proposed Conrail Acquisition (STB DEIS).

In Chapter 5 page MD-9 and Chapter 7 Section 7.2.2, the STB DEIS recommends a safety mitigation measure on several line segments including the Maryland line segment from Washington D.C. to Point of Rocks, Maryland (C-003). The safety mitigation measure is that CSX and NS establish passenger trains as "superior" trains and other trains would clear the tracks at least 15 minutes before and after the expected arrival of a passenger train at any point.

We support efforts that contribute to the safe operation of passenger and freight trains. There are a wide range of implications, however, to implementing this measure. Before a determination is made to proceed, it is proposed that several questions be addressed. Evaluating these concerns could be accomplished through an analysis, which could be carried out by the National Transportation Safety Board and the Federal Railroad Administration, with the participation of freight and commuter railroads. The analysis should answer such questions as past experience with this approach, potential safety benefits, routes where this might be beneficial, and impacts on present and future commuter and freight service operations and capacity expansion.

My phone number (410) _____ FAX number (410) _____ TTY (410) _____

William Donald Schaefer Tower • 6 Saint Paul Street • Baltimore, Maryland 21202-1614

Ms. Elaine K. Kaiser
January 30, 1998
page 2

Thank you for the opportunity to comment on the DEIS. Please contact me at 410-767-3787 or Diane H. Ratcliff at 410-767-3771, if you have any further questions.

Sincerely,

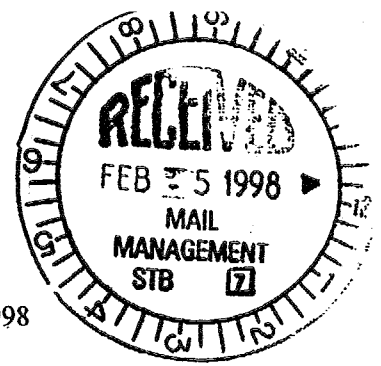


Harvey L. Flechner
Director
Office of Planning and Programming

cc: Ronald L. Freeland, MTA
David Chapin, MDOT



CENTRAL ADMINISTRATIVE UNIT
 REC'D: 2/5/98
 DOCUMENT # 2/5/98 5:08:43 PM



February 2, 1998

**Maryland
 Department of
 Housing and
 Community
 Development**

*Division of Historical and
 Cultural Programs*

100 Community Place
 Crownsville, Maryland 21032

410-514-7600
 1-800-756-0119
 Fax: 410-987-4071
 Maryland Relay for the Deaf:
 1-800-735-2258

<http://www.dhcd.state.md.us>

Parris N. Glendening
 Governor

Patricia J. Payne
 Secretary

Raymond A. Skinner
 Deputy Secretary

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

Re: Draft EIS - Proposed Conrail Acquisition
 CSX Corporation and CSX Transportation, Inc.
 Norfolk Southern Corporation and Norfolk Southern Railway Company
 State Clearinghouse No. MD971222-1116

Dear Ms. Kaiser:

Thank you for providing us with a copy of the above-referenced DEIS, for review and comment. The Maryland Historical Trust has reviewed the proposed actions for Maryland to assess their effects on historic properties, pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended.

Maryland components of the undertaking include increased train operations on 13 rail line segments, construction of one rail line connection in Hagerstown, and construction of one intermodal facility in Baltimore. Based on the documentation presented in the DEIS, we concur that implementation of the Maryland actions will have no effect on historic properties, including historic structures and archeological sites, eligible for inclusion in the National Register of Historic Places. Further consultation with the Trust for Section 106 purposes is not needed unless the project scope changes.

If you have questions or require further assistance, please call me at (410) 514-7631.

Sincerely,

Elizabeth J. Cole
 Administrator, Archeological Services

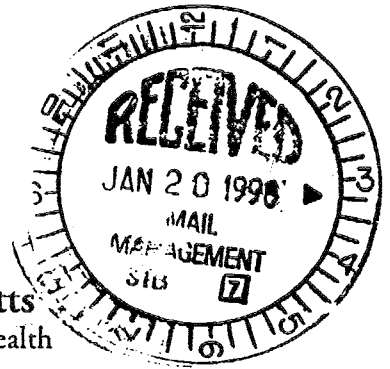
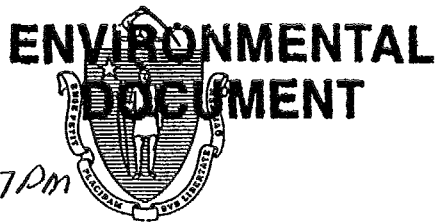
EJC/9800040
 cc: Ms. La Verne Gray (MOP)
 Mr. Paul McGinley (MHA)



CENTRAL ADMINISTRATIVE UNIT

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DOCUMENT # 1/26/98 12:06:17 PM



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Massachusetts Historical Commission

January 13, 1998

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

RE: Proposed Conrail Acquisition by CSX Corporation and Norfolk Southern (NS) Railroads,
Statewide, MA Financial Docket No. 33388 (MHC# 19523).

Dear Ms Kaiser:

Thank you for submitting the Draft Environmental Impact Statement (DEIS) (dated December 12, 1997) concerning the proposed Conrail acquisition which was received by the Massachusetts Historical Commission on December 19, 1997. It is understood that the proposed acquisition will involve the operation of various Conrail lines, properties, rail yards and other intermodal facilities. It is also understood that the acquisition will likely result in operating changes including increased freight traffic over rail lines, construction of new rail lines, and abandonments of rail lines.

MHC staff have reviewed the submitted DEIS. At this time the MHC concurs with the preliminary recommendations of the DEIS which established that to date there are no significant impacts identified in the state of Massachusetts. The MHC will expect that as the acquisition project evolves there may be additional changes which will require our continued involvement.

These comments are provided to assist in compliance with Section 106 of the National Historic Preservation Act (36 CFR 800).

If you have questions, please contact Paul Holtz at this office. Thank you for your cooperation.

Sincerely,

Judith B. McDonough
Executive Director
Massachusetts Historical Commission
State Historic Preservation Officer

A-274-d

BERKSHIRE REGIONAL PLANNING COMMISSION

33 DUNHAM MALL, PITTSFIELD, MA 01201-6207

TELEPHONE (413) 442-1521 • FAX (413) 442-1523

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98

DOCUMENT # 2/2/98 5:55:05 PM

THOMAS D. McCANN, Chairman
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FREDA BENNETT, Clerk
JOYCE B. SCHEFFEY, Treasurer
ROBERT W. BIRCH, Member-At-Large
GAIL GARRETT, Member-At-Large

**ENVIRONMENTAL
DOCUMENT**

NATHANIEL W. FARNS A.I.C.P.
Executive Director



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

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

Re: CSX ACQUISITION OF CONRAIL - DEIR

Dear Ms. Kaiser:

At their meeting on January 14, 1998 the BRPC Executive Committee voted unanimously to forward the following comments on the Draft Environmental Impact Report (DEIR) for the Proposed Conrail Acquisition. These comments are a follow-up to comments we have previously submitted (copy attached).

1. Since the chart in the Executive Summary had Hazmat (332) checked as meeting the threshold on the NY to Westfield line, as well as other lines in Massachusetts, some explanation should have been made on page MA-2 of Volume 3A as to the nature of this threshold and why it was determined that a site-specific analysis did not apply.
2. We would like to see some assurance that this change in ownership will not absolve CSX, or Conrail, from any future liability from hazardous substances that may later come to light.
3. The response to our previously expressed concerns that CSX be cooperative with regard to shared uses of rail rights-of-way was limited and rather disappointing as it appears on page MA-4 of Volume 3A entitled "Future Services Under Study."

"...(BRPC) advocates that the Berkshire Scenic Railway Museum (BSRM) excursion train in Lenox, MA be granted trackage rights to the proposed intermodal transportation center in Pittsfield, Massachusetts. The BSRM presently does not have sufficient operating rights on the Housatonic Railroad Company to reach the connection to Conrail in Pittsfield. The Boston Line of Conrail is assigned to CSX."

We know this. However, progress is being made toward achieving that goal, at which time we hope the necessary cooperation from CSX will be forthcoming.

4. In addition, cooperation is also needed from CSX with regard to the efficiency of Amtrak passenger rail service, the viability of the proposed Intermodal Transportation Center in the Pittsfield CBD, and the potential abandonment and/or shared uses of other Conrail ROW.
5. We note that on Page MA-1, paper and plastics are missing in the list of important rail freight commodities in Massachusetts. Also, on that page, unless the Guilford Railroad which operates through the Hoosic Tunnel has ceased to operate, or has been downgraded, Conrail is not the only Class I railroad in Massachusetts.

We hope that our concerns will be given careful and serious consideration. If you have any questions or require any additional information, we will be pleased to oblige.

Yours truly,



Nathaniel W. Karns, AICP
Executive Director

Encl.

BERKSHIRE COUNTY REGIONAL PLANNING COMMISSION

33 DUNHAM MALL, PITTSFIELD, MASSACHUSETTS 01201-6207

TELEPHONE (413) 442-1521 • FAX (413) 442-1523

ROBERT W. BIRCH, Chairman
THOMAS D. McCANN, Vice-Chairman
DAVID A. BABCOCK, Clerk
LOIS A. LENEHAN, Treasurer
JOYCE B. SCHEFFEY, Member-At-Large

NATHANIEL W. KARNS, A.I.C.P.
Executive Director

January 30, 1997

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

Re: ACQUISITION OF CONRAIL (Docket # 33286)

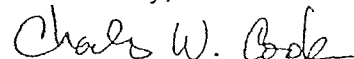
Dear Mr. Hernandez:

The Berkshire County Commissioners have referred your letter of January 14, 1997 to us for response. In that letter you asked for comments and concerns regarding increased traffic on our primary rail freight line resulting from your proposed merger with Conrail. Given the relatively short time frame, we cannot provide a definitive response to your request at this time. However, we do understand that there will be additional opportunities to provide input and comment upon the proposal at a later time.

One issue that has come to our attention is the concern that the merger of rail freight companies will reduce the opportunities for competition among rail service providers. In addition, there are issues related to the utilization of abandoned rail lines, and trackage rights for tourist passenger services. Specifically, the secondary branch line from the North Adams Junction in Pittsfield north to the Lanesborough town line has not been used in some time, and has been identified as having potential utility as a public right-of-way for a bike path or possible highway use. Another concern has to do with trackage rights for the local scenic tourist train, the Berkshire Scenic Railway Museum, which would like to provide service into Pittsfield from the south.

Enclosed for your use is a copy of our 1993 Regional Transportation Plan which will provide further background information. Please note that this plan is currently being updated in accordance with ISTEA regulations, and a revision will be in place after March 31 of this year.

Yours truly,



Charles W. Cook
Transportation Planner

cc: Berkshire County Commissioners

BERKSHIRE REGIONAL PLANNING COMMISSION

33 DUNHAM MALL, PITTSFIELD, MA 01201-6207

TELEPHONE (413) 442-1521 • FAX (413) 442-1523

THOMAS D. McCANN, Chairman
LOIS A. LENEHAN, Vice-Chairman
FREDA BENNETT, Clerk
JOYCE B. SCHEFFEY, Treasurer
ROBERT W. BIRCH, Member-At-Large

NATHANIEL W. KARNS, A.I.C.P.
Executive Director

August 5, 1997

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

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

Re: CSX Acquisition of Conrail - Draft Scope for EIS

Dear STB:

Thank you for your invitation to comment on the proposed scope for the EIS for the Acquisition of Conrail by CSX in Berkshire County, Massachusetts. We have previously submitted comments to the railroad's consultants (copy attached). At this time we would also like to expand upon those comments.

While the proposed EIS will focus on construction of facilities and potential abandonments, our concerns are primarily focused on issues related to ownership and control of the railroads in Berkshire County. These concerns should perhaps be addressed in the EIS as issues of social equity. For example, we hope that CSX will be amenable to the continuation of Amtrak's rail passenger service in Pittsfield, and will cooperate in efforts to preserve that service and give it reasonable priority in scheduling. Also in regard to passenger service, we hope that CSX will be cooperative in allowing trackage rights for the Berkshire Scenic Railway Museum to provide tourist service into Pittsfield from the south.

There is also a feasibility study underway concerning the development of an Intermodal Transportation Center (ITC) in the Pittsfield CBD. Currently Conrail has a representative serving on the ITC study committee. We would hope for the cooperation of CSX in that study, and specifically with regard to the location of the Amtrak station and any air rights that may be necessary.

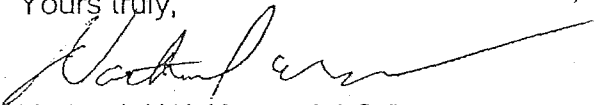
Another issue of concern is the future use of the secondary branch line in Pittsfield which extends to the town line in Lanesboro. This ROW has potential for use as a bike path and/or as

an alternative highway location pending the results of ongoing studies. We would also hope for the cooperation of CSX in this regard.

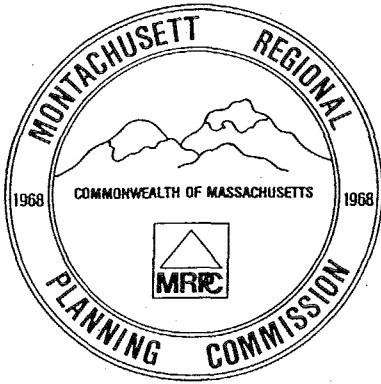
Finally, the preliminary EIS we received indicated that in Massachusetts there would be no increase in traffic "above STB thresholds" and therefore no impact. However, we would like the estimates to be shown demonstrating that they are below the threshold. Similarly, we would like to see the estimates of truck rail diversions in order to gauge the magnitude of the benefits alluded to in the preliminary EIS.

We appreciate the opportunity to provide these comments and understand that we will be given additional opportunities to comment on the Draft and Final EIS's as they become available. If you have any questions on these issues please feel free to contact the Charles Cook, Senior Transportation Planner, at 413-442-1521.

Yours truly,



Nathaniel W. Karns, A.I.C.P.
Executive Director

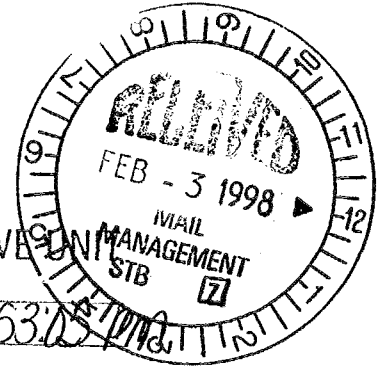


MONTACHUSETT

REGIONAL PLANNING COMMISSION

Offices: R1427 Water St., Fitchburg, Massachusetts 01420
(508) 345-7376 or 345-2216 Fax: (508) 345-9867

January 29, 1998



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

CENTRAL ADMINISTRATIVE UNIT
REC'D 2/3/98
DOCUMENT # 2/3/98 2:53:05

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

**ENVIRONMENTAL
DOCUMENT**

Dear Ms. Kaiser:

At the Montachusett Regional Planning Commission (MRPC) meeting held on Tuesday, January 27, 1998 members found that the Draft Environmental Impact Statement (DEIS) concerning the proposed Conrail acquisition does not conflict with regional goals, policies and objectives. According to the DEIS, the consolidation will not adversely affect environmental quality or transportation in Massachusetts. The Draft EIS indicates that there are no proposed new constructions or abandonments and that there would be no increased traffic or activity that meets the Board's thresholds for environmental analysis. CSX will operate all Conrail lines and facilities post-acquisition. SEA has also made a preliminary conclusion that there would be no significant cumulative effects associated with the proposed acquisition in the State of Massachusetts.

If you have any questions or desire further information please contact John Hume at (978) 343-9667 or Laila Michaud at (508) 345-7376 ext. 2245.

Very truly yours,

David Jarvenpaa
Chairman, MRPC

DJ/jh



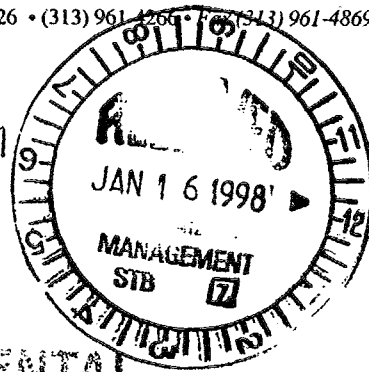
Celebrating 30 Years
Of Communities In
Partnership - Working
Together For A Better
Southeast Michigan

CENTRAL ADMINISTRATIVE UNIT

REC'D:

January 13, 1998

DOCUMENT # 1/21/98 9:31 AM



Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
U.S. Department of Transportation
1925 K Street, NW
Washington, D.C. 20423-0001

**ENVIRONMENTAL
DOCUMENT**

Re: Surface Transportation Board Finance Docket No. 33388 – CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company – Control and Acquisition – Conrail Inc. And Consolidated Rail Corporation: Draft Environmental Impact Statement

Dear Ms. Kaiser:

This is in regard to the Draft Environmental Impact Statement (EIS) on the proposed acquisition of Conrail by Norfolk Southern and CSX Railroad. In order to allow for adequate review of this Draft EIS, we are requesting a 15 day extension of the review and comment period.

SEMCOG, the Southeast Michigan Council of Governments, is the designated Metropolitan Planning Organization (MPO) for Southeast Michigan. Its primary missions are 1) planning on issues that extend beyond individual government boundaries, and 2) intergovernmental relations in cooperation with local government, as well as state and federal agencies. The SEMCOG partnership strengthens efficient and effective local government supporting local planning through its technical, data and intergovernmental resources.

SEMCOG is working with both CSX Railroad and Norfolk Southern to conduct two informational meetings on the proposed acquisition and its effect on Southeast Michigan. We have waited to conduct these meetings so that they would correspond with the Draft EIS review period. As a result, the meetings are scheduled for January 21 and 28, 1998.

Our concern lies with the timing of the specified review and comment period. First, 45 days for reviewing a 3,000 page document is short. Second, the release of the document just before the two week holiday season on December 19, 1997 has effectively shortened the 45 day public comment period.

A-276-c

ANITA ASHFORD
Chairperson
Councilmember
City of Port Huron

DOUGLAS WOOLLEY
First Vice Chairperson
Supervisor
Pittsfield Township

GERALDINE HOOD
Vice Chairperson
Supervisor
West Bloomfield Township

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Commissioner
Macomb County
Board of Commissioners

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St. Clair County
Board of Education

JOHN FUNK
Immediate
Past Chairperson
Commissioner
Monroe County

JOHN M. AMBERGER
Executive Director

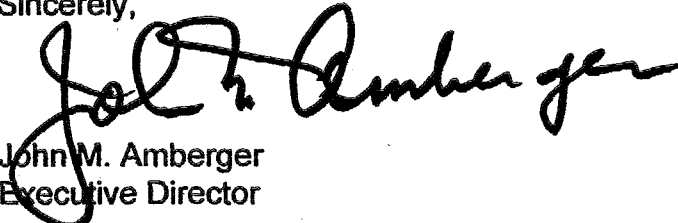
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Elaine K. Kaiser
January 13, 1998
Page 2

This is not only an important project for Southeast Michigan, it is also a large and complex project as reflected by the Draft EIS. A 15 day extension to the review period will allow Southeast Michigan communities, businesses and other attendees of our informational meetings necessary time for developing comments on the draft document.

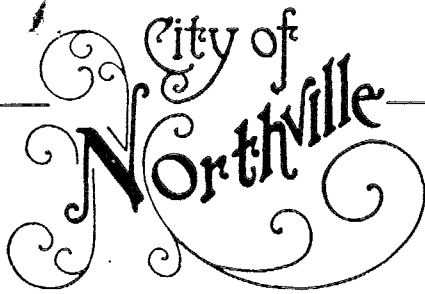
I look forward to your response on this request.

Sincerely,



John M. Amberger
Executive Director

cc: John Dingell, U.S. Representative
Marcus Higginbotham, Norfolk Southern Corporation
Tom Drake, CSX Corporation
Richard Sanderson, U.S. EPA



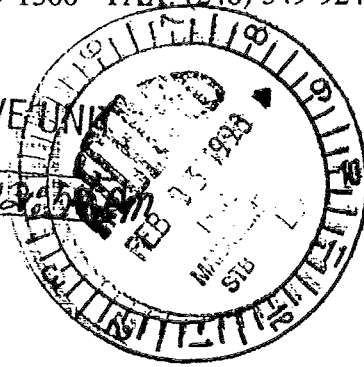
**ENVIRONMENTAL
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215 W. Main Street • Northville, Michigan 48167-1540
Phone: (248) 349-1300 • FAX: (248) 349-9244

January 27, 1998

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

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 12:18 PM



**Attention: Elaine K. Kaiser, Environmental Project Director
Section of Environmental Analysis**

**Re: Finance Docket No. 33388 – CSX and Norfolk Southern –
Control and Acquisition – Conrail: Environmental Impact –
City of Northville**

Dear Ms. Kaiser:

The City of Northville is aware of plans for joint acquisition of Conrail Incorporated by CSX Corporation and Norfolk Southern Railway. We are also aware that the Section of Environmental Analysis for the Surface Transportation Board has prepared a Draft Environmental Impact Statement (EIS) and is accepting comments on all aspects of this transaction. The City of Northville appreciates this opportunity to comment, and offers the following.

The City of Northville is concerned that the subject acquisition will result in a significant increase in the amount of hazardous material moving through our community. From Appendix A-1 (Master Table of All Rail Line Segments) which we reviewed from your Draft Environmental Impact Statement, we have learned that there will be a 75% increase in the amount of hazardous material rail cars going through our community each year. This equates to 24 more rail cars of hazardous material per day.

As a residential community with only a volunteer fire department, the City objects to any plans to increase the amount of hazardous material transported through Northville. The City is not equipped to handle a catastrophic disaster which could result from a hazardous material accident or spill. Therefore, the City of Northville opposes this transaction and respectfully requests that the Surface Transportation Board deny this acquisition request unless it will result in the transportation of less, and not more hazardous material through our community.

Thank you for this opportunity to comment on the proposed Conrail acquisition.

Sincerely,

A handwritten signature in cursive script that reads "Gary Word". The signature is written in black ink and is positioned above the printed name and title.

Gary Word
City Manager

cc: City Council
John Engler, Governor
Bob Geake, State Senator
Gerald H. Law, State Representative
Kay Schmid, Oakland County Commissioner
Thaddeus G. McCotter, Wayne County Commissioner
James R. DeSana, State Transportation Director
SEMCOG

ENVIRONMENTAL
DOCUMENT

HOLLY

Proud of our past, Confident in our future

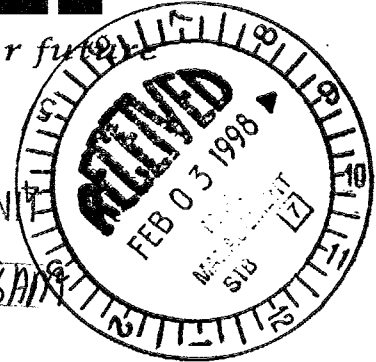
January 27, 1998

Elaine Kaiser
Environmental Project Director
Surface Transportation Board
Washington D.C. 20423

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98

DOCUMENT # 2/3/98 11:32:18AM



RE: CONRAIL ACQUISITION INVOLVING CSX

Dear Ms. Kaiser:

The Village of Holly in the State of Michigan, would like to add comments to the Environmental Assessment to be performed on the above-mentioned acquisition.

The Village of Holly believes an increase in traffic will result if this acquisition goes through. Extra traffic will have an impact on our community.

As a means to mitigate these impacts we would like to recommend that an **annual meeting** be held between CSX and the municipalities in Western Oakland County to address these issues. The level of existing communication is too low. Additional traffic will exacerbate this. I volunteer the Village of Holly as the location of the first of these meetings.

Sincerely,

Mark Abeles-Allison
Village Manager

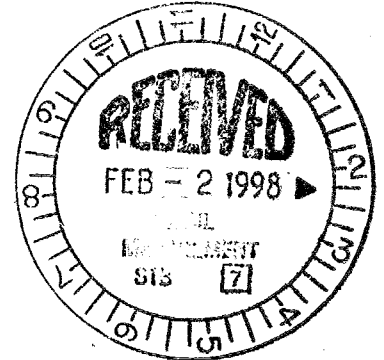


ENVIRONMENTAL DOCUMENT

CHARTER TOWNSHIP OF HIGHLAND

205 North John Street • P.O. Box 249 • Highland, Michigan 48357-0249 • (248) 887-3791

CENTRAL ADMINISTRATIVE UNIT
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DOCUMENT # 2/2/98 5:14.59PM



January 28, 1998

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

Dear Ms. Kaiser:

I have been informed that Highland Township will be affected by a recent joint acquisition of Conrail Incorporated by CSX Corporation and Norfolk Southern Railway. It is my understanding the merger will result in a 20% increase in tonnage shipped per day requiring longer trains and an average of 1.2 additional trains daily.

These increases are a source of concern and I 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. I look forward to hearing from you.

Sincerely,

John P. Stakoe
Highland Township Supervisor

A-278-a



CITY OF MONROE

ENVIRONMENTAL DOCUMENT

Office of City Manager

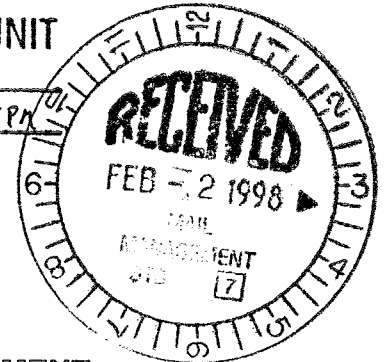
January 30, 1998

Ms. Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
1925 K Street NW
Washington, DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98

DOCUMENT # 2/2/98 5:43:55 PM



**RE: DRAFT ENVIRONMENTAL IMPACT STATEMENT
ON THE PROPOSED ACQUISITION OF CONRAIL
BY NORFOLK SOUTHERN RAILROAD AND
CSX RAILROAD**

Dear Ms. Kaiser:

The City of Monroe wishes to express two concerns requiring the environmental impact of the acquisition of Conrail by Norfolk Southern Railroad and the CSX Railroad.

Due to the City of Monroe's proximity to Detroit much of the freight traffic generated by the greater Detroit Area travels through the City of Monroe bound for the rest of the county. The rail portion of this freight utilizes five main line tracks, two Conrail tracks, two CSX tracks and a Canadian National (Grand Trunk Western) track. 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. Besides the potential safety concerns, noise and vibration generated by daily rail operations (thru and yard movements) negatively impact local residents and a nearby school and playground. Residential property values in this area are adversely affected and all manner of daily living activities are worsened by the close proximity of this rail line.

The Norfolk Southern Railroad has expressed strong support for the Monroe Area Rail Consolidation project which would lead to the elimination of the southbound Conrail line. We believe that their strong commitment to safety will lead to the eventual abandonment of this track either by the full implementation of the Monroe Area Rail Consolidation or by their use of northbound Conrail as a bi-directional line through the Monroe area.

A-278-b

Ms. Elaine K. Kaiser
Environmental Project Director
Page Two
January 30, 1998

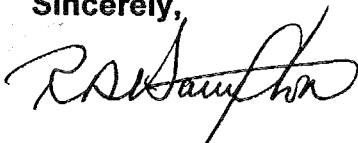
The City of Monroe requests that the Surface Transportation Board support the need to eliminate the southbound Conrail track thru the Monroe Area and encourage the Federal Highway Administration to fully fund the Monroe Area Rail Consolidation plan as approved June 2, 1997 by the FHWA.

The second concern involves the reports indication of increased train movements, including hazardous materials, on the existing CSX tracks in the western part of the City of Monroe. Table 5-MI-5 of the Draft Environmental Impact Statement indicates an increase in trains per day of 11.2 on this line and Table 5-MI-9 indicates an increase in annual hazardous material car loads from 14,000/year to 31,000/year as a result of the acquisition of certain Conrail lines by CSX.

The existing high level of train movements on the CSX track already causes the residents and motoring public much aggravation. The residential properties abutting these tracks will be negatively impacted by the increased traffic and the property owners have a right to be concerned by the significant increase in hazardous cargo being transported. The City Council was concerned enough by the blockages caused by the existing train movements along CSX tracks to commission a feasibility study for a grade separation on a selected street (see attached report). With an anticipated increase of train movements of approximately fifty percent (50%), the problem will be even more acute.

The City of Monroe requests that every effort to divert unnecessary "hazardous material" freight around the Monroe Urban Area be made and adequate measures to safeguard the public be taken. We also ask the CSX Railroad be directed to grade separate Elm Avenue in the City of Monroe.

Sincerely,



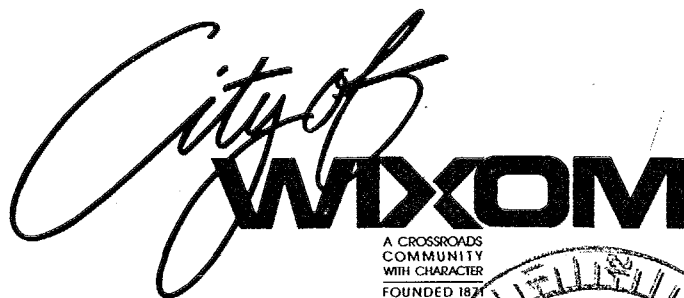
Robert A. Hamilton
City Manager

CC: C.D. Cappuccilli, Mayor
D. Link, City Engineer

CENTRAL ADMINISTRATIVE UNIT

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January 30, 1998

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

**ENVIRONMENTAL
DOCUMENT**



Re: Finance Docket #3338-CSX and Norfolk Southern-Control and Acquisition-
Conrail: Draft Environmental Impact Statement.

The comments to the Draft EIS are submitted from the City of Wixom, Michigan. We are commenting on safety issues concerning site-specific highway/road-at-grade-crossings and hazardous materials along key routes C-220 (Holly to Wixom, MI) and C-221 (Wixom to Plymouth, MI).

Wixom is located in the western part of Oakland County. The county has had about a 10% increase in population over the last ten years. Wixom had a 34% population increase between 1990 and 1995. Population estimates from the Southeast Michigan Council of Governments projects that Wixom's population growth from 1990 - 2000 will be 57%.

In addition to the population, businesses in Wixom increased by 62 (13.25%). We expect a growth of 18.5% this year for a total of 628 businesses in the community.

In an analysis of federal railroad safety records, the Detroit News reported in their issue of December 29, 1996 that Wixom, MI had the 92nd and 213th riskiest crossings among the 163,000 public railroad crossings in the nation. We believe that most accidents are the fault of motorists and have attempted to lower the possibility of accidents through law enforcement, education and working with the local CSX representatives. We still have concerns that the consolidation of rail lines will increase rail traffic and these are not addressed in the Draft EIS.

1. The first comment concerns highway/rail at-grade crossings in Wixom, MI
 - a. A Detroit News article, dated December 16, 1997, shows that the last traffic analysis of this intersection was done on January 7, 1985. The source is the Federal Railroad Administration whose database shows a daily total of 17 trains and a traffic volume of 14,700 automobiles. Traffic surveys used in a 1994 Environmental Assessment of possible changes to this intersection show a traffic count of 24,700 from data collected in 1992. The P.M. peak hour results show a total delay of 37,175 minutes with probable costs of \$2,738,225. The Level of Service (LOS) was rated as F.

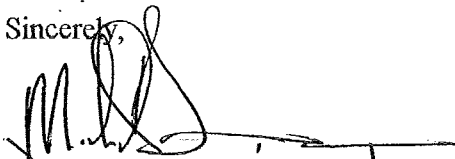
A-278-d

- b. The Draft EIS indicates there are 12 trains per day and that there would be a negligible increase in that number but an increase in tonnage of about 20%. (Draft EIS, Attachment ES-B, page 1 of 13). There may be several reasons for the different count. One could be that the crossings are positioned close to a Bulk Intermodal Distribution Services (BIDS) yard. During switching operations, the trains either activate the road crossing signals or enter the intersection and then reverse and reenter the yard. While this may not trigger a count as a "through train," the effect of these movements is to increase the delay time and the risk of accidents.
 - c. An analysis of the crossings and a consideration of site-specific mitigation should be part of the final EIS.
 2. The second area of comment is the increase of hazardous material along the two routes.
 - a. Our concern is to ensure that the municipalities along the route in Oakland County are prepared to assist in and properly react to any emergency involving the hazardous materials.
 - b. In response to an accident several years ago, there was a decrease in the amount of hazardous waste shipped along the routes. We have been informally notified by local CSX officials to expect an increase in the number of trains. The estimates were for a 50% increase. This is a strong indicator that traffic is being diverted to a more northerly route to relieve congestion.

The City of Wixom acknowledges that a measurable factor of the City's growth and prosperity is due to the proximity of the railroad for our businesses, such as Ford Motor Company. We wish to continue to work with CSX to ensure that effects of the consolidation do not damage the other contributing factors to the City's prosperity.

The point of contact for the City of Wixom is Frank Sheridan, Assistant City Manager; phone is (248) 624-0894, fax is (248) 624-0863.

Sincerely,



J. Michael Dornan
City Manager

JMD/jp

Cc: Oakland County
SEMCOG



MONROE COUNTY
PLANNING DEPARTMENT & COMMISSION

125 EAST SECOND STREET • MONROE, MICHIGAN 48161-2197
TELEPHONE: (734) 243-7093 • FAX: (734) 243-7572

ROYCE R. MANIKO, AICP
DIRECTOR

**ENVIRONMENTAL
DOCUMENT**



January 30, 1998

Office of the Secretary
Case Control Unit
Finance Docket No.33388
Surface Transportation Board
1925 K Street NW, Room 500
Washington DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/2/98
DOCUMENT # 2/2/98 5:41:50 PM

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

We would like to list issues of concern pertaining to the Environmental Impacts of the proposed acquisition of Conrail by CSX Transportation and Norfolk Southern Railroad. These concerns were expressed at a public information meeting held at Monroe County Community College on January 21, 1998.

1. **Hazardous Materials:**
 - a) An increase is expected in traffic from 14,000 carloads annually to 31,000 carloads annually on CSX line between Carleton, MI and Toledo, OH. This will result in increased loads of hazardous materials traveling through the County, along with the potential for accidents resulting from these materials, thus endangering public safety.
 - b) With increased potential for an accident, the Monroe County Emergency Management Division will have to provide planning, training, and exercises to respond to these types of occurrences. In addressing this emergency response plan, the following is necessary:
 - i) Training for emergency responders (police, fire, Emergency Management, etc.)
 - ii) Specialized equipment for this type of response
 - iii) Exercise evaluators

- iv) Specialized emergency planning support, with expertise/guidance, if needed
 - v) Assistance and support with public information and education
 - vi) Additional public warning capabilities (sirens, alert monitors, etc.
 - vii) Support for exercises and drills that must take place. Monroe County is presently mandated by the federal government to participate in a very costly series of full-scale exercises for the Enrico Fermi II Nuclear Power Plant, on a biannual basis (large expense in personnel, resources and supplies). At this time, our estimated start-up costs would be between \$12,000 and \$15,000, and ongoing expenses would be \$8,000 annually.
- c) According to the Section on Environmental Analysis (SEA), railroads are encouraged to develop a hazardous materials response plan and carry out biannual exercises according to this plan, in cooperation with local governments. What level of commitment will be made by CSX to communities affected by the increased hazard? Monroe County would request reimbursement for initial and ongoing costs for emergency preparations. We would be willing to work with CSX to negotiate a plan for this.

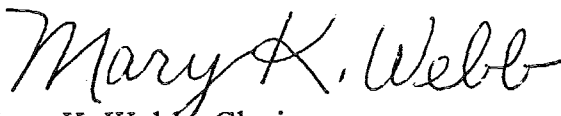
2. **Impact on Nuclear Plant Emergency Evacuation:** Increased rail traffic on NS and CSX, and faulty crossing warning systems could cause delays in evacuating the area around the Enrico Fermi II Nuclear Power plant in the event of an emergency. We do not find statements in the EIS regarding impacts on evacuation routes.
3. **Nuclear Waste:** The federal government will be assuming responsibility for all high-level radioactive wastes in the United States. They will be providing a central storage/disposal repository for these materials. As many of these materials will be transported by both truck and rail, what is the increased likelihood of an accident involving these items?
4. **Monroe Rail Consolidation Project:** Railroad support of Monroe's ongoing project to consolidate east side rail lines (Conrail/NS and CNNA) is essential to its success. This project has been in the planning stages for more than fourteen years, and preliminary engineering studies are being completed. Partial funding from the federal government has been secured, and phase one of the project, an underpass at the Conrail/North Dixie Highway grade

crossing is scheduled to get underway this spring. As additional funding is secured, ongoing phases will include the relocation of Conrail Warner Yard in Monroe, the needed crossovers to consolidate the Conrail lines with Grand Trunk CNNA lines through the City of Monroe, and Frenchtown and Monroe Townships, and construct the needed crossovers in order to abandon the redundant Conrail lines. Many years of planning for the project are just now beginning to result in implementation. Continued support from Conrail's successor is necessary for this project to be successful.

5. **Traffic Safety:** Significant increase in traffic on CSX line between Carleton, MI and Toledo, OH, and minor increase in traffic on Conrail (NS) line between Detroit and Toledo would mean more blocked grade crossings, causing delay of emergency vehicles, more potential train/car accidents, and general inconvenience to motorists. The Monroe County Road Commission needs railroad contact numbers to report problems on grade crossings. Problems observed at crossings along Telegraph Road and elsewhere need to be addressed.
6. **Economic Development Opportunities:** Cooperation of the railroads is essential to our local economic development efforts.
7. **Noise Mitigation:** With 11.2 more trains per day projected on the CSX line, railroads must continue efforts to mitigate noise impacts on local communities, especially residential areas. While this issue was addressed with regard to the line from Ecorse to Carleton, we feel it needs to be evaluated along the line running from Carleton to Toledo as well, including the City of Monroe.

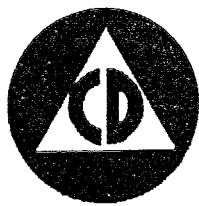
We would like to thank SEMCOG for their assistance during the Environmental Review period.

Sincerely,



Mary K. Webb, Chairman
Monroe County Planning Commission

cc: Honorable Carl Levin, United States Senator
Honorable Senator Spencer Abraham, United States Senator
Honorable John D. Dingell, 16th District U. S. Congressman



MONROE COUNTY
EMERGENCY MANAGEMENT
DIVISION

MITCHELL V. YUDASZ, JR., DIRECTOR
MICHAEL M. KATALINICH, ASSISTANT DIRECTOR
GLENDA S. WHITE, EMERGENCY RESPONSE PLANNER

JAN 30 1998

January 30, 1998

Mr. Royce Maniko, Director
Monroe County Planning Department
125 E. Second St.
Monroe, MI 48161

Dear Mr. Maniko:

I would like to offer some feedback from the members of this department in reference to the proposed acquisition of Conrail by CSX Transportation and Norfolk Southern Railroad. Pursuant to recent public information, we have some concerns reference the environmental impact and emergency preparedness issues:

1. Current transportation loads are approximately 14,000 cars annually. With the proposed acquisition, the load will increase to approximately 31,000 annually. As many of these rail cars transport hazardous materials, this will increase the potential for an accident involving these materials and ultimately, the safety of the public.
2. With the increased potential for accident, emergency management will have to provide planning, training and exercising to respond to these types of occurrences. In addressing this emergency response plan, the following is necessary:
 - a. Training for emergency responders (police, fire, emergency management, etc.)
 - b. Specialized equipment for this type of response.
 - c. Exercise evaluators
 - d. Specialized emergency planning support, with expertise/guidance, if needed.
 - e. Assistance and support with public information and education.
 - f. Additional public warning capabilities (sirens, alert monitors, etc.)
 - g. Support for exercises and drills that must take place. Because Monroe County is mandated by the federal government to participate in a very costly series of full-scale exercises on a biannual basis (large expense in personnel, resources and supplies). Additional full-scale exercises would be extremely difficult to accomplish without support.

In reading the section of Environmental Analysis (SEA), we notice that railroads are encouraged to develop a hazardous materials response plan and exercise this plan biannually with local governments in respect to the statement *volunteer*, what level of commitment will be made by CSX to communities affected by the increased hazard.

Thank you for considering our concerns

Very truly yours,

Mitchell Yudasz, Jr., P.E.M.
Emergency Management Director

MVY/pal

965 SOUTH RAISINVILLE ROAD • MONROE, MICHIGAN 48161-9700

TELEPHONE: (313) 241-6400 • FAX: (313) 241-7136 • CENTREX: (313) 243-7058



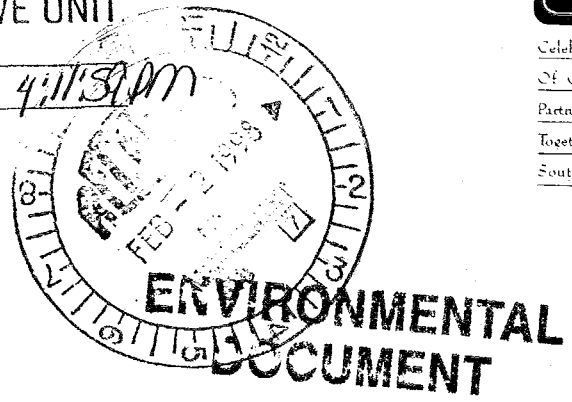
Celebrating 30 Years
Of Communities In
Partnership - Working
Together For A Better
Southeast Michigan

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98

DOCUMENT # 2/2/98 4:11:30 PM

January 30, 1998



Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
U.S. Department of Transportation
1925 K Street, NW
Washington, D.C. 20423-0001

**RE: Draft Environmental Impact Statement (Finance Docket No. 33388) -
Proposed CONRAIL Acquisition/U.S. Department of Transportation/Surface
Transportation Board Regional Clearinghouse Code: TR 970391**

Dear Ms Kaiser:

SEMCOG, the Southeast Michigan Council of Governments, has processed a review for the above Draft Environmental Impact Statement according to intergovernmental review procedures established in Presidential Executive Order 12372 and as the federal and state designated Metropolitan Planning Organization for U.S. Department of Transportation programs for Southeast Michigan.

We notified the following local government agencies of your project during our review and requested their comments:

Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw & Wayne County Planning Offices

Detroit Planning & Development Department
Cities of Melvindale & River Rouge
Areawide Water Quality Board
Suburban Mobility Authority for Regional Transportation
Ann Arbor Transportation Authority

As of this date, the Livingston County Planning Department, Macomb County Planning & Economic Development Department, St. Clair County Metropolitan Planning Commission, Monroe County Planning Department and Commission, Monroe County Emergency Management Division and the Areawide Water Quality Board have submitted written comments, which are attached. We will forward additional comments, if any, for your information and attention.

ANITA ASHFORD
Chairperson
Councilmember
City of Port Huron

DOUGLAS WOOLLEY
First Vice Chairperson
Supervisor
Pittsfield Township

GERALDINE HOOD
Vice Chairperson
Supervisor
West Bloomfield Township

DIANA KOLAKOWSKI
Vice Chairperson
Commissioner
Macomb County
Board of Commissioners

DANTE J. LANZETTA, JR.
Vice Chairperson
Commissioner
City of Birmingham

MARJORIE THOMAS
Vice Chairperson
President, ISD of
St. Clair County
Board of Education

JOHN FUNK
Immediate
Past Chairperson
Commissioner
Monroe County

JOHN M. AMBERGER
Executive Director

♻️ Recycled paper

SEMCOG's staff has reviewed the Draft Environmental Impact Statement (DEIS) which you distributed. Our comments are included in total in the attached staff memo. These comments include input from two public information meetings held in Southeast Michigan.

An overriding comment is that the proposed acquisition will provide a more efficient and competitive rail system. Along with these overall comments in support of the project were some specific concerns that need to be addressed. Some of the comments we feel should be emphasized as they have potential significant impact on communities in Southeast Michigan include:

- The DEIS does not always clarify as to why or how SEA's process eliminates certain activities from impact consideration. The final EIS should clearly describe SEA's progressive elimination of potential concerns in the various analyses.
- There appears to be a discrepancy between the data used in the DEIS for Environmental Justice analysis. This discrepancy either needs to be explained or corrected and the potential for impacts reassessed.
- Concerns over the transport of hazardous materials were expressed from several counties and communities. Major issues related to the overall increase in volume on certain lines (particularly in Monroe County), consideration of impacts from the future transport of radioactive material from Detroit Edison's Enrico Fermi Nuclear Plant and costs associated with development and maintenance of emergency response plans.
- The need for continued support by the acquiring rail companies for the Monroe County Rail Consolidation Project. This project is the result of 14 years of planning and has just begun implementation processes. The support of Conrail's successor for this project is vital for its success.
- We understand that the DEIS cannot address existing concerns about the rail system. However, the final EIS should describe how the analysis considered the potential of exacerbating these problems via the acquisition. Specific concerns relate primarily to at-grade crossing safety and potential delay of emergency vehicles.

A final comment relates to our January 13, 1998 letter to Elaine K. Kaiser requesting a 15 day extension on the review and comment period. As of this date we have not received a response. The additional 15 days would have provided time for a more thorough analysis and would have allowed staff the time to answer at least some of the concerns in this memorandum.

Sincerely,



John M. Amberger
Executive Director

JMA/bar

cc: Livingston County Planning Department
Macomb County Planning & Economic Development Department
St. Clair County Metropolitan Planning Commission
Monroe County Planning Department and Commission
Monroe County Emergency Management Division
Areawide Water Quality Board

MEMO

Southeast Michigan Council of Governments
660 Plaza Drive, Suite 1900
Detroit, MI 48226
(313) 961-4266
Fax (313) 961-4869
<http://www.semco.org/>

January 30, 1998

TO: Richard Pfaff

FROM: Alex Bourgeau, Kevin Johnson, Tom Bruff and Matt Tepper

SUBJECT: Draft Environmental Impact Statement (Finance Docket No. 33388) -
Proposed CONRAIL Acquisition/U.S. Department of Transportation/
Surface Transportation Board

We have reviewed the Draft Environmental Impact Statement for the Proposed CONRAIL Acquisition (DEIS) submitted by the Surface Transportation Board's Section of Environmental Analysis (SEA). The DEIS was analyzed for its consistency with the adopted 2020 Southeast Michigan Regional Transportation Plan Goals and Objectives. In our review process we worked with representatives from the Michigan Department of Transportation, individual counties and communities, interest groups, CSX Corporation and Norfolk Southern.

In addition to staff review, input was garnered from Southeast Michigan community representatives, shippers and other stakeholders in the region's rail system via two public information meetings held January 21 and 28, 1998. SEMCOG worked with both CSX Corporation and Norfolk Southern in conducting these meetings on the proposed acquisition and its effect on Southeast Michigan. Written questions and comments from meeting participants are attached.

We agree that the proposed acquisition would result in greater rail system efficiencies and increase competition. Although this project will have positive impact on economic development in Southeast Michigan, a number of concerns and questions have been identified which require additional clarification from the SEA. These clarifications primarily pertain to three DEIS subject areas: Michigan Safety, Michigan Traffic and Transportation and Michigan Environmental Justice. Our comments follow under the appropriate subject heading.

Michigan Safety

Freight Rail Operations

Table 5-MI-1 on page 5-MI-3 of the DEIS identifies six rail line segments which meet or exceed board environmental thresholds. Subsequently, Table 5-MI-5 identifies three segments having met or exceeded these thresholds. This discrepancy needs to be clarified or corrected in the final EIS.

DEIS analysis of these three rail line segments determined that since the duration in predicted accident rates did not shorten to one every 100 years or less per mile, none of these segments were considered significant. Therefore SEA did not recommend mitigation.

Our concern lies in the fact that these three segment's 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.

Passenger Rail Operations

SEA analyzed four shared passenger/freight segments in Michigan that will experience an increase of one or more freight trains per day from the proposed acquisition. Because of the limited number of passenger rail accidents and the inability to accurately predict the accidents, SEA used increased freight activity on rail line segments to estimate the changes in passenger train accident risk.

Of the four segments in Michigan, three exceeded SEA's criteria of significance. One of these is owned and dispatched by Amtrak and SEA encourages Amtrak to address this issue. As for the remaining two segments, SEA's preliminary recommendation is that all freight trains, both opposing and moving in the same direction as passenger trains, be clear of the track at least 15 minutes prior to the estimated arrival of the passenger train.

First, SEA needs to clarify whether the recommended 15 minute freight train track clearing is an improvement on the current practice or just reinforcement of it.

Second, just as with the freight rail operations section above, the inability to accurately predict actual accidents along with the reduction in the duration of accident intervals (by factors ranging from 1.1 to 10) indicates this analysis may require further investigation. Further clarification or analysis by SEA is necessary in the final EIS.

Highway/Rail At-grade Crossing

We understand that the SEA does not have authority to require mitigation of pre-existing environmental impacts. However, the relationship between existing at-grade crossing problems and the proposed acquisition should be considered in this analysis. It has been brought to our attention (Detroit News Metro Section, Tuesday December 16, 1997) that there are numerous crossings in the Metro Detroit area that have experienced many accidents (five to nine) over a 10 year period. As many as one in five of these locations have not been inspected in the past 11 years. While the DEIS only addresses segments and crossings that are affected by the acquisition, the combined effect of these existing problems with the proposed acquisition needs to be addressed. In addition, for those crossings with serious concerns, efforts to correct the situation should not be delayed by approval of the acquisition.

The final EIS should provide additional analysis and clarification of this issue.

Rail Transport of Hazardous Materials

The major concern related to transport of hazardous materials (Haz Mat) by rail is a spill or accidental release resulting from a train accident. With an increase in hazardous freight materials, there are also concerns specifically related to training of emergency personnel and other related costs. Southeast Michigan communities are concerned with the matters that follow.

First of all, an increase in the amount of hazardous materials traveling through Monroe County is anticipated with the expected increase in traffic from 14,000 carloads annually to 31,000 carloads annually on the CSX line between Carleton, MI and Toledo, OH. With this increase in traffic, the potential for accidents with hazardous freight will also escalate, potentially endangering public safety.

With increased potential for an accident, the Monroe County Emergency Management Division will have to provide planning, training, and exercises to respond to these types of occurrences. The following necessary elements will need to be satisfactorily addressed as part of the emergency response plan:

- Training for emergency responders (police, fire, Emergency Management, etc.)
- Specialized equipment for this type of response
- Exercise evaluators
- Specialized emergency planning support, with expertise/guidance, if needed
- Assistance and support with public information and education
- Additional public warning capabilities (sirens, alert monitors, etc.)

- Support for exercises and drills that must take place. Monroe County is presently mandated by the federal government to participate in a very costly series of full-scale exercises for the Enrico Fermi II Nuclear Power Plant, on a biannual basis. At this time, the County estimates start-up costs at between \$12,000 and \$15,000, with ongoing expenses at \$8,000 annually.

Increased rail traffic on NS and CSX, and faulty crossing warning systems could cause delays in evacuating the area around the Enrico Fermi II Nuclear Power plant in the event of an emergency. There does not appear to be any statements in the DEIS regarding impacts on evacuation routes.

Secondly, Southeast Michigan communities would like to know the level of commitment that will be made by CSX to communities affected by the increased hazard. Would CSX be in a position to provide reimbursement for both initial and ongoing costs for emergency preparations? Are they willing to take responsibility in providing funds for public education programs? And are they willing to provide additional training for specialized equipment necessary to protect those who respond to a hazardous material accident at railroad?

Southeast Michigan communities would also like to further ascertain the impact on listed communities regarding Haz Mat Rail Service, as well as the number of shipments, schedules, training opportunities for their Haz Mat Team. This merger could provide the impetus for communication related to emergency Haz Mat Response.

In the estimated increase in annual hazardous material car load rate on page MI-13, does the post acquisition estimate include future disposal of high grade radioactive waste from Fermi and other nuclear plants within the system once the super dump in Nevada is functioning? How much of this projected increase is low level and how much is high level radioactivity? If this statistic does not include the high radioactive waste will anyone have any information on this in the future? Finally, how much biological waste is currently there?

Michigan Traffic and Transportation

Highway/rail crossing delay

Southeast Michigan communities have expressed concern with existing delays at highway/rail crossings. They are specifically concerned that an increase in freight traffic will further exacerbate already problematic situations. Furthermore, highway/rail crossing delays can also prove to be a hindrance in public safety matters. Finally, communities have asked for further explanation concerning the large percentage increases of freight traffic traversing their communities with no corresponding mitigation proposed. Some specific matters follow.

Plymouth Township and the City of Plymouth have multiple highway/rail crossings. The township provides fire service for both communities. There is only one route from the Township into the City that is completely free of rail crossings. Their concern is that the larger blocks of cars to be used in shipping will exacerbate an already serious safety problem. The community reports that emergency vehicles are unable to reach an emergency in a timely manner because of having to stop at a rail crossing for up to 20 minutes. They are also greatly concerned about extended blockage of the streets.

Another concern that SEMCOG staff addressed in a issue last year pertained to Canadian National Railway Company and Grand Trunk Western Railroad Incorporated's construction and operation of connecting tracks at Trenton, MI. The community indicated that they have an existing problem of vehicular congestion on Lathrop Street as a result of rail traffic. We could not identify from the information provided in the DEIS whether this existing situation would be further exacerbated.

Monroe County expressed their concern that significant increase in traffic on the CSX line between Carleton, MI and Toledo, OH, and minor increase in traffic on Conrail (NS) line between Detroit and Toledo would mean more blocked grade crossings, causing delay of emergency vehicles, more potential train/car accidents, and general inconvenience to motorists. The Monroe County Road Commission needs railroad contact numbers to report problems on grade crossings. Problems observed at crossings along Telegraph Road and elsewhere need to be addressed.

The final EIS should address these locations, identify the criteria used and indicate why these additional locations were not identified as problem issues.

Michigan Environmental Justice

Comparison of DEIS data on the low-income population with data supplied by the U.S. Department of Housing and Urban Development (HUD) revealed significant discrepancies. Of the three areas presented as meeting the threshold requirements significant for environmental justice impacts, all given values appear to underestimate the low-income populations.

For example, in Table 5-MI-20 the low-income population is reported as 38.79% of the total population. HUD data indicates that this new construction project is located in a block group that is 63.8 percent low-income. Even when all block groups within 1400 feet of the proposed construction site are included in a best-case scenario, the HUD data indicates that there is a low-income population of 53.7 percent.

Since the DEIS did not provide a detailed explanation of the method used to determine both the boundary definition and the percent of low-income people in the affected areas, it is not possible to identify the potential cause of this variation.

We have two primary concerns related to this section. First, if the data is not correct there may be additional rail segments that do meet or exceed thresholds and should be subjected to further analysis. Second, it is not clear how the Ecorse Junction construction (NX-08), Rougemere rail yard (CY-03) activity, and W. Detroit-Delray rail segment were determined not to have any environmental justice impact. Absent any explanation, we question their elimination to the extent the HUD and DEIS data discrepancies were used in the determination.

The final EIS needs to either clarify these discrepancies by providing a better description of process and data used. Or the final EIS needs to re-evaluate this issue using corrected data.

Finally, regarding the need for noise mitigation in the Detroit-N. Yard segment, the final EIS should include a complete list of all communities and groups involved in the process and a full description of the process used and basis for its conclusions.

A final comment relates to our January 13, 1998 letter to Elaine K. Kaiser requesting a 15 day extension on the review and comment period. As of this date we have not received a response. The additional 15 days would have provided time for a more thorough analysis and would have allowed staff the time to answer at least some of the concerns in this memorandum.

**Proposed Conrail Acquisition by CSX and Norfolk Southern
January 21, 1998 Questions**

Name: Tom Deku **Phone:** 734-782-2692
Representing: Monroe County Planning Commission
Address: 4880 Dauncy, Flat Rock, MI 48134

Question/Comment:

In the estimated increase in annual hazardous material car load rate on page MI-13; does the post acquisition estimate include disposal in future of high grade radioactive waste from Fermi and other nuclear plans within the system once the super dump in Nevada is functioning? How much of this projected increase is low level and how much high level radioactivity. If this statistic does not include the high radioactive waste has anyone any information on this in the future. I didn't ask the table to comment - but how much biological waste is there?

Name: Hedwig Kaufman (Mrs.) **Phone:** 734-289-3541
Representing:
Address: 1515 E. Hurd Rd., Monroe, MI 48162

Question/Comment:

1. Does the EIS consider the issues concerning increased traffic, crossing blockages, etc. as they affect the Enrico Fermi Emergency Response Plan?
 2. Is NS aware of the need for improving crossing signals/gates: much of the existing equipment malfunctions frequently, depending on local citizens notifying authorities who in turn notify Conrail.
-

**Proposed Conrail Acquisition by CSX and Norfolk Southern
January 21, 1998 Questions**

Name: Arthur Shufflebarger **Phone:** 248-684-1515
Representing: Village of Milford
Address: 1100 Atlantic St., Milford, MI 483811

Question/Comment:

Will the CSX policy of maintenance within communities be reviewed and a greater commitment made? Currently, replaced railroad ties are disposed of along embankment of rail line, brush and junk trees are allowed to grow, overpasses are unpainted, pedestrian only crossing is required to be served by full automatic signal, track grades are raised making crossing an ever increasing "hump". These exist in a fully developed community not open rural area.

Name: Phil Wagner **Phone:** 734-483-1092
after February 1st
Representing: Western Wayne County Haz Mat Team
Address: 222 S. Ford Blvd., Ypsilanti, MI 48198-6067

Question/Comment:

1. I would like to further discuss the impact on listed communities regarding Haz Mat Rail Service, number of shipments, schedules, training opportunities for their Haz Mat Team. This merger appears to give us a better potential for communication relating to emergency Haz Mat Response.
 2. Specific information on Conrail line thru Ypsilanti/Willow Run. The Western Wayne County Fire Department Mutual Aid Association provides emergency Haz Mat response with it Hazardous Incident Response team (HIRT) to the following communities: Ypsilanti Township, Van Buren Township, Redford Township, Plymouth Township, Superior Township, Canton Township, Northville Township and the Cities of Wayne, Romulus, Inkster, Livonia, Plymouth, Garden City, Dearborn Heights, Taylor, Westland, Northville, Dearborn, Metro Airport, Novi and Farmington Hills.
-

**Proposed Conrail Acquisition by CSX and Norfolk Southern
January 21, 1998 Questions**

Name: Peter M. Locke **Phone:** 313-943-2016
Representing: City of Dearborn Office of Emergency Management
Address: 3750 Greenfield, Dearborn, MI 48128

Question/Comment:

Will there be a change in the 24-hour emergency number for derailments/leak notification. What is the present number?

Name: Dave Dysard **Phone:** 419-241-9155 x118
Representing: Monroe County Planning Commission
Address: 4880 Dauncy, Flat Rock, MI 48134

Question/Comment:

What specific mitigation measures will be completed in the noise abatement area? Please list some examples of measures (preferably nearby Toledo vicinity) implemented previously. What is being done to address Ann Arbor Railroad's loss of traffic with Norfolk Southern? And keeping it a viable railroad for communities it serves?

Are railroad's prepared to subsidize local communities for additional safety training and equipment (especially HAZMAT) that will be required because of the transaction?

**Proposed Conrail Acquisition by CSX and Norfolk Southern
January 21, 1998 Questions**

Name: Glenda White **Phone:** 313-241-6400
Representing: Monroe County Emergency Management Division
Address: 965 S. Raisinville Rd., Monroe, MI 48161

Question/Comment:

Hazardous Material Plan Development and exercising every other year. With local government that volunteers to do so (Pg MI-13) What commitment is CSX going to make to communities being affected by the increase of hazardous material shipments? Are they willing to take responsibility in providing funds for public education programs, additional training plan writing specialized equipment necessary to protect our first responders and all those that would respond to a Hazmat accident at railroad.

Are railroad's prepared to subsidize local communities for additional safety training and equipment (especially HAZMAT) that will be required because of the transaction?

Name: Ed Clemente **Phone:** 313-284-6000
Representing: Southern Wayne County Chamber of Commerce
Address: 220600 Eureka Rd., Suite 315, Taylor, MI 48180

Question/Comment:

A list of endorsers of both Norfolk Southern and CSX.

Example of endorsement letter

Rationale for needing the endorsement if it is still of use.

**Informational Meeting
Proposed Conrail Acquisition by CSX and Norfolk Southern
January 28, 1998 Questions**

Name: Kathleen Keen McCarthy **Phone:** 734-453-3840
Representing: Supervisor, Plymouth Township
Address: 42350 Ann Arbor Rd.

Question/Comment:

Plymouth Township and the City of Plymouth have multiple sites of rail crossings. The township provides fire service for both communities. There is only one route from the Township into the city that is completely free of rail crossings. Our concern is that the larger blocks of cars to be used in shipping will exacerbate an already serious safety problem. I have personally witnessed emergency vehicles being stopped for 20 minutes at a rail crossing, flashers going, unable to reach the emergency in a timely manner. Fortunately, we were able to call for other assistance in the life threatening situation, but as providers of emergency services, we are concerned about extended blockage of the streets.

Name: M. J. Newbourne **Phone:** 313-849-2910
Representing: Intermodal Associates/All Points Transport/MTA
Address: P.O. Box 1938, Dearborn, MI 48126

Question/Comment:

1. What will the service level be from New York area Intermodal Terminals (Dockside, Kearney) to Detroit?
2. What will the service level be from Baltimore area Intermodal Terminals to Detroit?

For NS - Mr. Higgenbotham

Would you provide any details possible on Intermodal to/from Detroit.

**Informational Meeting
Proposed Conrail Acquisition by CSX and Norfolk Southern
January 28, 1998 Questions**

Name: Monica Schmit **Phone:** 313-838-3190

Representing: M.O.S.E.S.

Address: 8520 Metttetal, Detroit, MI 48227

Question/Comment:

1. Concern about increased freight traffic especially in poor and minority communities. We want statistics regarding the percentage increase throughout Michigan.
 2. Concern about increased toxic material transport through communities. We want statistics regarding the percentage increase throughout Michigan.
 3. Concern about impact on wildlife in Michigan. We want information about this.
 4. We are concerned about the negative impacts on the Cleveland Ohio community as a result of this acquisition. (Increased toxic material and freight traffic)
-



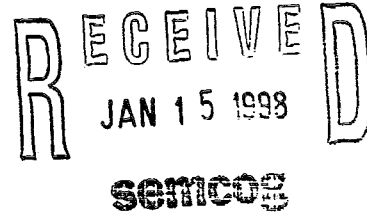
Livingston County Department of Planning

Divisions of

PLANNING & MANAGEMENT • GIS MANAGEMENT • EMERGENCY MANAGEMENT

January 12, 1998

Richard W. Pfaff, Jr.
SEMCOG
660 Plaza Drive, Suite 1900
Detroit MI 48226



Re: TR 970391 Review of Draft Environmental Impact Statement -
Proposed Conrail Acquisition

Dear Mr. Pfaff:

The Draft Environmental Impact Statement (EIS) pertains to the proposed acquisition of Conrail by Norfolk Southern Railroad (NS) and CSX Railroad and contains preliminary analyses and recommendations for mitigating the possible environmental effects of the proposed Conrail Acquisition. The Surface Transportation Board (Board) of the U. S. Department of Transportation is responsible for acting upon this acquisition request.

According to CSX and NS, the purpose of the proposed Conrail Acquisition is to provide a more efficient rail transportation system in the eastern United States and to increase rail competition in the Northeast. They maintain that a well-managed rail network, configured in response to market forces, would increase competitive options for shipper, and yield substantial efficiencies and corresponding benefits to the shipping public. Further, the Applicants claim that there is a benefit to the public when railroads spread their fixed costs over a broader traffic base because the per-unit costs of shipping freight decline. The proposed Conrail Acquisition would also have environmental benefits, such as system-wide reductions in fuel consumption and air pollutant emissions.

The proposed Conrail Acquisition would result in some rerouting of rail traffic, increasing traffic for some rail line segments and rail yards, while decreasing traffic for others. It would also result in a decrease in long-haul truck traffic, although there could be increased local truck traffic and around new and existing intermodal facilities.

Only 514 miles of track would remain in the Conrail system, if the proposed Conrail Acquisition is approved and implemented, and would be operated as Shared Assets Areas located in northern New Jersey, southern New Jersey/Philadelphia, and Detroit, Michigan.

Administration Building • 304 East Grand River Avenue • Howell, Michigan 48843-2323 • (517) 546-7555 • FAX (517) 546-7266

William D. Wagoner, AICP, PEM
Director

Coy P. Vaughn
Assistant Director

Kathleen J. Kline-Hudson
Principal Planner

Aaron E. Burk
Planner

Deborah A. Millhouse, AICP
Planner

Richard L. Winsett, PEM
Emergency Program Manager

Beti J. Dudley
Planning Secretary



A-284-a



Richard W. Pfaff, Jr.
January 12, 1998
Page 2

The Section of Environmental Analysis (SEA) has determined that three projects (two rail yard expansions and a bridge renovation) could potentially result in environmental impacts beyond the existing railroad right-of-way. The remaining projects - minor actions with the potential for only small and temporary impacts - do not require further analysis.

Both CSX and NS plan to undertake extensive activities in Michigan as part of the proposed Conrail Acquisition. The related activities that would meet or exceed the Board's thresholds for environmental analysis include increased train operations on a total of six rail line segments, construction of one rail line connection, increased activity at one intermodal facility in Detroit, and increased number of rail cars handled at one rail yard in Detroit. There are no proposed abandonments. No Michigan rail line segments which meet or exceed Board environmental thresholds are located in Livingston County.

SEA conducted an analysis to evaluate the potential change in safety on all rail line segments where the proposed acquisition would result in eight or more additional freight trains per day. SEA did not consider an increase significant unless the predicted accident rate shortened the duration between accidents to one every 100 years or less per mile. In Michigan, SEA found that no rail line segments met its criteria of significance and does not recommend mitigation.

SEA determined a potential impact to be significant if the projected annual increase in accidents between freight trains and passenger trains was greater than 25 percent and the frequency was less than one accident in 150 years. SEA determined that the increased risk for passenger train accidents for three rail line segments exceed its criteria for significance. However, none pass through Livingston County.

For all Category A highway/rail at-grade crossings, SEA considered the accident frequency rate increase of one accident every 100 years to be significant. For all Category B highway/rail at-grade crossings, SEA considered the accident frequency rate increase of one accident every 20 years to be significant. SEA determined that the proposed acquisition would significantly increase the predicted accident risk at one highway/rail at-grade crossing in Wayne County.

SEA analyzed all rail line segments where the number of car loads containing hazardous materials would increase as a result of the proposed acquisition. SEA determined that two rail line segments in Michigan carrying increased amounts of hazardous material are of potential concern. These are the rail line segment between Carleton and Toledo and that between Detroit and Plymouth, neither of which traverse Livingston County.

Because there is no existing commuter rail service in Michigan, SEA has determined there will be no adverse effects and no mitigation is required.



Six counties (excluding Livingston County) have highway/rail at-grade crossings for which SEA performed vehicle delay calculations. The proposed acquisition would have no significant effect on vehicle delay at highway/rail at-grade crossings in Michigan, and SEA does not propose mitigation.

Because there are no highway/rail at-grade crossings within the limits of construction, it is SEA's preliminary conclusion that there would be no effect on highway traffic from the proposed Ecorse Junction Connection in Wayne County.

The analysis of the intermodal operations in Detroit-Melvindale shows that the total daily increase in truck traffic will be less than two percent of the average daily traffic for all the study area roadways. Therefore, it is SEA's preliminary conclusion that these increases in truck traffic would have insignificant effects on the area roadways.

Two NS, one CSX, and three Shared Area rail line segments, one NS intermodal facility, and one CSX rail yard in Michigan exceeded the Board's threshold for air quality analysis. While there are localized increases in emission in some of the six counties in Michigan (excluding Livingston County) which include these rail facilities, SEA has determined that air quality will not be significantly affected and no mitigation is necessary.

To analyze the potential noise impacts of the proposed acquisition, SEA evaluated five rail line segments and one intermodal facility that would meet or exceed the Board's thresholds for environmental analysis of noise. None are located within Livingston County.

Since SEA determined there would be no adverse impacts to cultural resources, SEA did not recommend mitigation.

In analyzing the effects on hazardous waste sites for the proposed acquisition, the primary issue addressed was whether proposed construction and abandonment activities would disturb contaminated areas. The only Michigan site investigated for potential hazardous materials or waste impacts is the Ecorse Junction Connection in Wayne County. SEA identified three hazardous waste sites or other related concerns within 500 feet of the proposed connection. In addition, the locations of four sites are unknown and could not be mapped. Because existing regulatory requirements of other agencies and standard construction practices of the railroad adequately address potential disturbance of contaminated areas, it is SEA's preliminary determination that no additional mitigation is necessary.

SEA determined that the potential for impacts to natural resources would most likely be associated with site-specific projects related to the proposed abandonment of rail lines and construction of new connector lines, rail yards, and intermodal facilities. SEA determined that potential impacts to natural



Richard W. Pfaff, Jr.
January 12, 1998
Page 4

resources could occur at Ecorse Junction in Wayne County. Due to Best Management Practices used in the railroad's construction specifications and regulatory programs governing effects on wetlands, water resources, and protected species, it is SEA's preliminary determination that no mitigation is necessary. However, as a condition of approval, SEA would require NS to conform to its standard natural resources specifications during construction.

It is SEA's preliminary determination that there would be no significant impacts to land use associated with the proposed acquisition at the Ecorse Junction site. Because there are no significant impacts, SEA does not recommend mitigation.

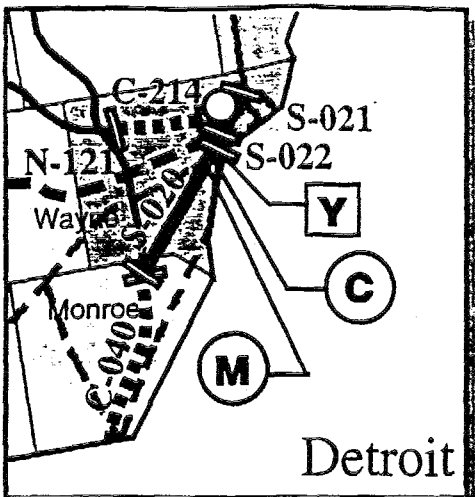
In Michigan, intermodal facilities and associated truck routes with proposed changes in activity levels did not meet either the minority or low-income population thresholds for further environmental justice analysis. The only rail line segment meeting either the minority or low-income population thresholds is located within the City of Detroit. If an environmental justice effect exists, SEA will determine if mitigation would be practicable.

Summary: The only rail line segment passing through Livingston County does not require environmental analysis (see attached map).

Sincerely,

William D. Wagoner, AICP
Director

WDW/bd
RR-1-98



Detail of Detroit Area

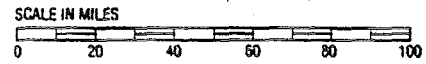
LEGEND

CSX	NS	SHARED	
			RAIL LINE SEGMENTS
NONE		NONE	NEW CONNECTIONS
NONE		NONE	INTERMODAL OR TCS FACILITY
	NONE	NONE	RAIL YARD
NONE	NONE	NONE	ABANDONMENTS
.....	- - -	—	RAIL LINE SEGMENTS NOT REQUIRING ENVIRONMENTAL ANALYSIS

AIR QUALITY	
	NON-ATTAINMENT
	MAINTENANCE
	ATTAINMENT



See Detail of Detroit Area * See Appendix A for master listing



Proposed Conrail Acquisition **Draft Environmental Impact Statement**

FIGURE 5-MI-1
RAIL LINE SEGMENTS, NEW CONNECTIONS, INTERMODAL FACILITIES, RAIL YARDS AND ABANDONMENTS
REQUIRING ENVIRONMENTAL ANALYSIS
 MICHIGAN - CSX, NORFOLK SOUTHERN, SHARED

**DEPARTMENT OF
PLANNING AND ECONOMIC DEVELOPMENT
MACOMB COUNTY**

115 S. Groesbeck Highway, Mount Clemens, Michigan 48043
(810) 469-5285 FAX (810) 469-6787

**PLANNING
COMMISSION**

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Bernard B. Calka
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Elmer J. Kass
Robert Mijac
Joseph J. Strizic

January 15, 1998

Mr. John M. Amberger, Executive Director
Southeast Michigan Council of Governments
660 Plaza Drive, Suite 1900
Detroit, MI 48226

Re: Draft Environmental Impact Statement - TR 970391
Surface Transportation Board, U.S. Department of
Transportation, SEA
Draft Environment Impact Statement (Docket No. 33388)
Proposed Conrail Acquisition
Section of Environmental Analysis/U.S. Department of Transportation

Dear Mr. Amberger:

In accordance with Presidential Order 12372 procedures, we have reviewed the Section of Environmental Analysis/U.S. Department of Transportation Draft Environmental Impact Statement to the Surface Transportation Board, U.S. Department of Transportation.

The Macomb County Department of Planning and Economic Development staff has reviewed the EIS and is not aware of any conflicts with any plans currently in our office. On this basis, we would recommend favorable consideration by the U.S. Department of Transportation.

If there are any questions regarding these comments, please contact our office.

Sincerely,



Bernard E. Giampetroni
Executive Director

BEG:cb

DIRECTORS

Bernard E. Giampetroni, AICP, PCP
Executive Director

Richard C. Roose, Director
Planning & Operations Division

James W. Baumgartner, Director
Community Development Division

Donald L. Morandini, Director
Economic Development Division

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A STATE OF MICHIGAN "COMMUNITY OF ECONOMIC EXCELLENCE"

Richard Pfaff
313-961-5867



METROPOLITAN PLANNING COMMISSION

County of St. Clair, Michigan

108 McMORRAN BLVD., PORT HURON, MICHIGAN 48060-4062
(810) 987-4884
GORDON RUTTAN, DIRECTOR

January 23, 1998

Mr. Richard W. Pfaff, Jr.
Regional Review Office Coordinator
SEMCOG
660 Plaza Drive, Suite 1900
Detroit, Michigan 48226

RE: TR970391 - Draft Environmental Impact Statement (Finance Docket No 33388) Proposed Conrail Acquisition

Dear Mr. Pfaff:

At their meeting of January 21, 1998, the St. Clair County Metropolitan Planning Commission considered the above referenced grant request. Following review and consideration of the enclosed staff report and discussion of the facts and issues, the Commission acted to support the staff recommendation "that SEMCOG be notified that the proposed acquisition appears to have no impact on St. Clair County and therefore does not conflict with any adopted plans of the County."

Should you have any questions, please do not hesitate to give us a call.

Sincerely,

Gordon Ruttan
Planning Director

GR:dw
Enclosure

A Government of Service





METROPOLITAN PLANNING COMMISSION

County of St. Clair, Michigan

STAFF REPORT

FOR: County Planning Commission

MEETING DATE:

January 21, 1998

BY: Bill Kauffman, Senior Planner

ITEM NUMBER:

12 A

SUBJECT: Clearinghouse Review SEMCOG #: TR 970391 **PROJECT TITLE:** Draft Environmental Impact Statement (Finance Docket No. 33388) - Proposed Conrail Acquisition. The Federal Surface Transportation Board in Washington, D.C., has prepared a draft Environmental Impact Statement (EIS) on the proposed joint acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad. The preliminary analyses and recommendations for mitigating possible environmental effects of the proposed acquisition are contained in this document. It has been released to the public for review and comment during the review period which ends on February 2, 1998. The County has received a copy of the full EIS. We have been asked, through the clearinghouse review process, to comment on the proposal and draft document in relationship to any County plans or programs.

In preparing this report, staff has limited their review to the executive summary and the chapter which deals with potential impacts in the State of Michigan.

BACKGROUND: In June 1997, the three railroads involved applied to the Surface Transportation Board (STBD) for authority for CSX and Norfolk and Southern (NS) to acquire Conrail. Conrail assets would be divided between CSX and NS. However, some portions of Conrail would be operated jointly. The acquisition of Conrail is intended to provide a more efficient rail transportation system to the eastern United States and to increase rail competition in the northeast. Such a move is believed to increase competitive options for shippers.

The STBD reviews proposed railroad mergers and acquisitions, taking into account economic, competitive, and environmental considerations. The STBD can approve the request with no conditions, approve with conditions to reduce potential impacts, or disapprove the merger.

Conrail operates 520 miles of track in Michigan (14% of the State's total rail miles), CSX operates 809 miles (21%), and NS operates 126 miles or 3% of the State's total rail miles. St. Clair County is served by these three railroads and CSX operates a rail-related service in Port Huron.

DRAFT EIS FINDINGS: Based on the operating plans submitted by the applicants, the STBD evaluated the impacts of individual aspects of the proposed acquisition which exceeded thresholds for environmental analysis. Proposed impacts which exceed those thresholds include six rail line segments, construction of one rail line connection, increased activity at one intermodal facility in Detroit, and an increase number of rail cars handled at one rail yard in Detroit. There are no proposed abandonments. None of the proposed changes are located in St. Clair County, and there appears to be no impact on rail service or traffic in St. Clair County.

COMMENTS BY OTHER AGENCIES: Staff has not solicited comments from any other agency as there is no proposed impact on St. Clair County.

STAFF RECOMMENDATION: Staff recommends that SEMCOG be notified that the proposed acquisition appears to have no impact on St. Clair County and therefore does not conflict with any adopted plans of the County.

REVIEW CHECKLIST:

Submittal received SEMCOG: Dec. 26, 1997

Comments due to SEMCOG: Jan. 23, 1998

January 13, 1998 TR970391.RR

Staff report sent to SEMCOG: Jan. , 1998

Planning Commission meeting: Jan. 21, 1998



MONROE COUNTY
PLANNING DEPARTMENT & COMMISSION

125 EAST SECOND STREET • MONROE, MICHIGAN 48161-2197
TELEPHONE: (734) 243-7093 • FAX: (734) 243-7572

ROYCE R. MANIKO, AICP
DIRECTOR

January 30, 1998

Mr. Richard W. Pfaff, Jr.
Regional Review Office Coordinator
Southeast Michigan Council of Governments
660 Plaza Drive, Suite 1900
Detroit, MI 48226

Dear Mr. Pfaff:

We would like to list issues of concern pertaining to the Environmental Impacts of the proposed acquisition of Conrail by CSX Transportation and Norfolk Southern Railroad. These concerns were expressed at a public information meeting held at Monroe County Community College on January 21, 1998.

1. **Hazardous Materials:**

- a) An increase is expected in traffic from 14,000 carloads annually to 31,000 carloads annually on CSX line between Carleton, MI and Toledo, OH. This will result in increased loads of hazardous materials traveling through the County, along with the potential for accidents resulting from these materials, thus endangering public safety.
- b) With increased potential for an accident, the Monroe County Emergency Management Division will have to provide planning, training, and exercises to respond to these types of occurrences. In addressing this emergency response plan, the following is necessary:
 - i) Training for emergency responders (police, fire, Emergency Management, etc.)
 - ii) Specialized equipment for this type of response
 - iii) Exercise evaluators
 - iv) Specialized emergency planning support, with expertise/guidance, if needed
 - v) Assistance and support with public information and education

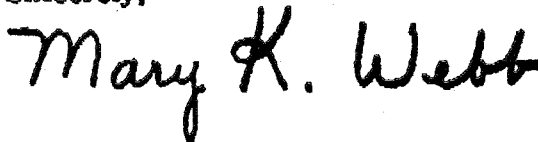
- vi) Additional public warning capabilities (sirens, alert monitors, etc.
 - vii) Support for exercises and drills that must take place. Monroe County is presently mandated by the federal government to participate in a very costly series of full-scale exercises for the Enrico Fermi II Nuclear Power Plant, on a biannual basis (large expense in personnel, resources and supplies). At this time, our estimated start-up costs would be between \$12,000 and \$15,000, and ongoing expenses would be \$8,000 annually.
- c) According to the Section on Environmental Analysis (SEA), railroads are encouraged to develop a hazardous materials response plan and carry out biannual exercises according to this plan, in cooperation with local governments. What level of commitment will be made by CSX to communities affected by the increased hazard? Monroe County would request reimbursement for initial and ongoing costs for emergency preparations. We would be willing to work with CSX to negotiate a plan for this.
2. **Impact on Nuclear Plant Emergency Evacuation:** Increased rail traffic on NS and CSX, and faulty crossing warning systems could cause delays in evacuating the area around the Enrico Fermi II Nuclear Power plant in the event of an emergency. We do not find statements in the EIS regarding impacts on evacuation routes.
3. **Nuclear Waste:** The federal government will be assuming responsibility for all high-level radioactive wastes in the United States. They will be providing a central storage/disposal repository for these materials. As many of these materials will be transported by both truck and rail, what is the increased likelihood of an accident involving these items?
4. **Monroe Rail Consolidation Project:** Railroad support of Monroe's ongoing project to consolidate east side rail lines (Conrail/NS and CNNA) is essential to its success. This project has been in the planning stages for more than fourteen years, and preliminary engineering studies are being completed. Partial funding from the federal government has been secured, and phase one of the project, an underpass at the Conrail/North Dixie Highway grade crossing is scheduled to get underway this spring. As additional funding is secured, ongoing phases will include the relocation of Conrail Warner Yard in Monroe, the needed crossovers to consolidate the Conrail lines with Grand Trunk CNNA lines

through the City of Monroe, and Frenchtown and Monroe Townships, and construct the needed crossovers in order to abandon the redundant Conrail lines. Many years of planning for the project are just now beginning to result in implementation. Continued support from Conrail's successor is necessary for this project to be successful.

5. **Traffic Safety:** Significant increase in traffic on CSX line between Carleton, MI and Toledo, OH, and minor increase in traffic on Conrail (NS) line between Detroit and Toledo would mean more blocked grade crossings, causing delay of emergency vehicles, more potential train/car accidents, and general inconvenience to motorists. The Monroe County Road Commission needs railroad contact numbers to report problems on grade crossings. Problems observed at crossings along Telegraph Road and elsewhere need to be addressed.
6. **Economic Development Opportunities:** Cooperation of the railroads is essential to our local economic development efforts.
7. **Noise Mitigation:** With 11.2 more trains per day projected on the CSX line, railroads must continue efforts to mitigate noise impacts on local communities, especially residential areas. While this issue was addressed with regard to the line from Ecorse to Carleton, we feel it needs to be evaluated along the line running from Carleton to Toledo as well, including the City of Monroe.

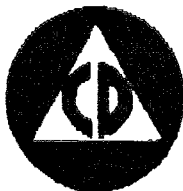
We would like to thank SEMCOG for their assistance during the Environmental Review period.

Sincerely,



Mary K. Webb, Chairman
Monroe County Planning Commission

cc: Honorable Carl Levin, United States Senator
Honorable Senator Spencer Abraham, United States Senator
Honorable John D. Dingell, 16th District U. S. Congressman



MONROE COUNTY
EMERGENCY MANAGEMENT
DIVISION

MITCHELL V. YUDASZ, JR., DIRECTOR
MICHAEL M. KALANICH, ASSISTANT DIRECTOR
GLENDA S. WHITE, EMERGENCY RESPONSE PLANNER

JAN 30 1998

January 30, 1998

Mr. Royce Maniko, Director
Monroe County Planning Department
125 E. Second St.
Monroe, MI 48161

Dear Mr. Maniko:

I would like to offer some feedback from the members of this department in reference to the proposed acquisition of Conrail by CSX Transportation and Norfolk Southern Railroad. Pursuant to recent public information, we have some concerns reference the environmental impact and emergency preparedness issues:

1. Current transportation loads are approximately 14,000 cars annually. With the proposed acquisition, the load will increase to approximately 31,000 annually. As many of these rail cars transport hazardous materials, this will increase the potential for an accident involving these materials and ultimately, the safety of the public.
2. With the increased potential for accident, emergency management will have to provide planning, training and exercising to respond to these types of occurrences. In addressing this emergency response plan, the following is necessary:
 - a. Training for emergency responders (police, fire, emergency management, etc.)
 - b. Specialized equipment for this type of response.
 - c. Exercise evaluators
 - d. Specialized emergency planning support, with expertise/guidance, if needed.
 - e. Assistance and support with public information and education.
 - f. Additional public warning capabilities (sirens, alert monitors, etc.)
 - g. Support for exercises and drills that must take place. Because Monroe County is mandated by the federal government to participate in a very costly series of full-scale exercises on a biannual basis (large expense in personnel, resources and supplies). Additional full-scale exercises would be extremely difficult to accomplish without support.

In reading the section of Environmental Analysis (SEA), we notice that railroads are encouraged to develop a hazardous materials response plan and exercise this plan biannually with local governments. In respect to the statement *volunteer*, what level of commitment will be made by CSX to communities affected by the increased hazard.

Thank you for considering our concerns

Very truly yours,

Mitchell Yudasz, Jr., P.E.M.
Emergency Management Director

MVY/pal

965 SOUTH RAISINVILLE ROAD • MONROE, MICHIGAN 48161-9700

TELEPHONE: (313) 241-6400 • FAX: (313) 241-7136 • CENTREX: (313) 243-7058



Areawide Water Quality Board
1900 Edison Plaza
660 Plaza Drive
Detroit, Michigan 48226
(313) 961-4266

January 28, 1998

TO: Rich Pfaff, Jr.

FROM: Bill Parkus

SUBJECT: Draft EIS (Finance Docket #33388) Proposed Conrail Acquisition
Regional Clearinghouse Code: TR 970391
Surface Transportation Board

Rail Transport of Hazardous Materials

The draft Environmental Impact Statement (EIS) has identified two railroad segments in Southeast Michigan which have exceeded threshold requirements for transport of hazardous waste and are a concern. One extends from Detroit to Plymouth and is designated as a Key Route: greater than 10,000 car loads per year. CSX is therefore required to bring the segment into compliance with the American Association of Railroad Key Route standards and practices — 50 miles an hour maximum on class 2 rails. AWQB staff recommends coordinating all spill response planning activities with Wayne County's Local Emergency Planning Committee (LEPC), the State Police and the Michigan Department of Environmental Quality (MDEQ).

The other route extends from Carleton to Toledo and has been designated a Major Key Route: traffic volume doubles to 20,000 car loads per year. In this case CSX is required to prepare a Hazardous Material Emergency Response Plan and conduct simulation exercises every two years with involvement of local and county emergency response personnel. We concur, the need for coordination with the Monroe County Local Emergency Planning Committee is very important.

AWQB staff recommends the identification of all significant waterways and wetlands along both of the railroad segments with scenarios for protecting the sites in case of a spill.

Hazardous Waste Sites

The Section of Environmental Analysis (SEA) of the Surface Transportation Board has identified three hazardous waste sites within 500 feet of the proposed rail connection at the proposed Ecorse Junction rail connection. In addition, the SEA has reports of four additional hazardous waste sites in the area, the locations of which are unknown.

The Rouge River is located about 1,000 feet from the Ecorse Junction. The Rouge River is a Great Lakes Area of Concern. Planning and implementation is underway to clean up and maintain the river. The river and the City's sewer system should be protected to the fullest extent possible from any construction activities that will disturb these hazardous waste sites and contribute contaminants from runoff. The draft Environmental Impact Statement notes that Norfolk Southern will conduct appropriate surveys to more precisely locate these sites in order to avoid them during construction or remediate them. AWQB staff recommends coordinating site survey's with the MDEQ and Wayne County Departments of Environment and Health.

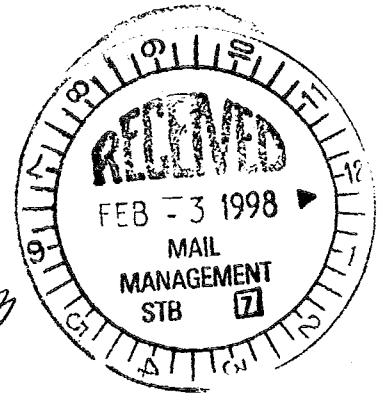
PRESIDENT:
CHRISTOPHER SMITH

PRESIDENT PRO TEM:
CLAY JANSSON

VILLAGE OF MILFORD

COUNCILMEMBERS:
JERRY AUBRY
LESLIE KETTREN
JAMES KOVACH
THOMAS NADER
NANCY WEEKS

ENVIRONMENTAL DOCUMENT



January 30, 1998

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98

DOCUMENT # 2/3/98 3:09:07 PM

Attn: Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington D.C. 20423-0001

RE: Finance Docket No. 33388 –CSX and Norfolk Southern – Control and Acquisition –
Conrail: Draft Environmental Impact Statement

I am writing in response to the request for comments regarding the EIS of CSX acquisition of Conrail lines within Michigan.

As a community currently served by CSX we have concerns regarding the policy of maintenance and service CSX will afford those communities now on the Conrail system that will shortly be served by CSX. Issues we feel should be addressed include:

1. Replaced wooden ties are disposed of by simply throwing them down on the embankment forming the right-of-way for the track. We believe that a developed urban area should be given more consideration especially given the prominent and visible location of the rail lines as it passes in a community.
2. Cutting and trimming of brush and junk trees is not regularly done. We believe that a developed urban area should be given more consideration, especially given the prominent and visible location of the rail lines as it passes through town.
3. The deterioration of overpasses, both for safety concerns which are probably more the accepted topic of the railroad, and the general upkeep of rusty unpainted overpasses as they clearly occupy a prominent role to the community.
4. The location of pedestrian crossings (for pedestrians only) in a downtown setting, currently requires the installation of a fully automatic roadway-style signalization totally installed at the municipality expense.

A-287-c

January 30, 1998

Page 2

5. The continued maintenance of the track base is accomplished by raising the tracks by 4 – 5 inches every 2 to 3 years. At street crossings the roadways are gradually starting to “peak”, making the approach increasingly dangerous. The approaches to the crossings must be corrected.

Thank you for the opportunity to air our concerns. Please call if I maybe of any assistance.

Sincerely,

VILLAGE OF MILFORD



Arthur Shufflebarger, Manager

cc : L. Brooks Patterson, Oakland County Executive
Dennis Powers, County Commissioner
Nancy Cassis, State Representative
Bill Bullard, State Senator

GREGORY E. PITONIAK
Mayor

DOROTHY R. WEST
City Clerk

JACK HAYDON
Treasurer

City of Taylor

23555 GODDARD ROAD
TAYLOR, MICHIGAN 48180

PHONE: (734) 287-6550 (Menu) • FAX: (734) 374-1343

CITY COUNCIL

GREGORY BZURA
Chairman

MARY ANN RILEY
Chairwoman Pro-Tem

DELORES CHORKALUK

PAULINE ETTORE

DAVID W. GEISS

DENNIS McDERMOTT

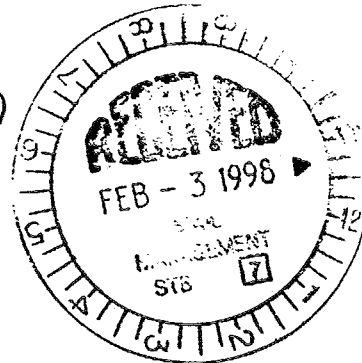
JACKLYN MOLNER

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98

DOCUMENT # 2/3/98 4:29:00 PM

February 1, 1998



**ENVIRONMENTAL
DOCUMENT**

Ms. Elaine K. Kaiser
Environmental Project Director
Environmental Filing
Office of the Secretary
Case Control Unit
Finance Docket #33388
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Re: Proposed acquisition of Conrail by Norfolk Southern Railroad
& CSX Railroad

Dear Ms. Kaiser:

The City of Taylor upon review of Chapter 5 of the Environmental Impact Statement (EIS) for the acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad would like to address the following concerns.

The average daily traffic (ADT) counts utilized in the December, 1997 EIS, do not match the information the City of Taylor has attained from Wayne County Department of Public Service (WCDPS). The (WCDPS) "24 Hour Traffic Volume Counts", dated December 1, 1996, shows significantly higher traffic counts than those shown in the EIS. A change in traffic counts will affect the analysis of highway/rail at grade crossings and the analysis of highway/rail crossing delays. We request that the correct traffic counts be considered.

We are also concerned that the additional train traffic through the City of Taylor proposed in the EIS may affect the emergency response activities of police, fire and rescue. Obviously anything that could reduce response time will impede and threaten the health, safety and welfare of our citizens.

Ms. Elaine K. Kaiser
February 1, 1998
Page 2

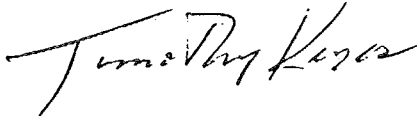
The summary of potential affects of rail transport of hazardous materials was vague. The estimated carloads of hazardous materials between Carleton, MI and Toledo, OH doubles according to the EIS, but there is no reference to any increase between Carleton, MI and Ecorse, MI. Are all hazardous materials off-loaded in Carleton?

The increase in train traffic, according to the EIS, will increase noise. The EIS suggests various methods to mitigate the impact of noise. The EIS also recommends the railroads meet with the communities to decide how best to accomplish mitigation. To date, we have not had any contact with the railroads.

We have many concerns relating to the proposed acquisition. Foremost, is the lack of information the City of Taylor has received from the Section of Environmental Analysis of the Surface Transportation Board. Secondly, the City has serious concerns relating to traffic delay problems and the associated level of service of our roads due to the increased train traffic.

Please feel free to call me at (734) 374-2733 to further discuss these issues.

Very truly yours,



Timothy Keyes,
Special Projects Manager

xc: Mayor Gregory E. Pitoniak
Frank Bacha, Executive Director, DPW
Tom Bonner, Police Chief
Ted Swope, Fire Chief
Gerald Couch, Executive Director, O.D.S.

MS APPLICANT NO.: MS971219-004
IMPACT AREA(S):

APPLICANT:
SURFACE TRANSPORTATION BOARD
SECTION/ENVIRONMENTAL ANALYSIS
1925 K STREET, NW
WASHINGTON DC 20423-0

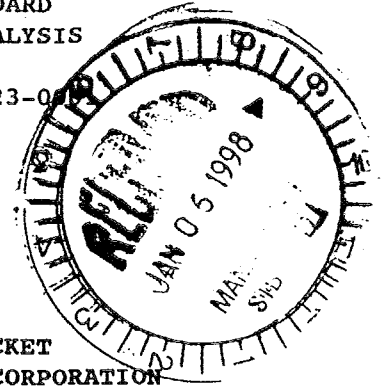
CONTACT: MICHAEL J. DALTON
PHONE: (888) 869-1997

FEDERAL AGENCY: DEPT. OF TRANSPORTATION

FUNDING: FEDERAL
LOCAL
TOTAL

APPLICANT
OTHER

STATE
PROGRAM



DESCRIPTION: DRAFT ENVIRONMENTAL IMPACT STATEMENT - FINANCE DOCKET
NO. 33388. "PROPOSED CONRAIL ACQUISITION" CSX CORPORATION
AND CSX TRANSPORTATION, INC. NORFOLK SOUTHERN CORPORATION
AND NORFOLK SOUTHERN RAILWAY COMPANY. CONTROL & OPERATING
LEASES/AGREEMENTS CONRAIL INC. & CONSOLIDATED RAIL CORP.
CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER

303 WALTER SILLERS BLDG. - JACKSON, MS 39201 (601) 359-6762

- THIS IS AN ACKNOWLEDGEMENT ONLY -

ENVIRONMENTAL DOCUMENT

CENTRAL ADMINISTRATIVE UNIT
REC'D: 1/6/98
DOCUMENT # 1/7/98 12:04.40 PM

STATE AGENCIES MUST REVIEW CERTAIN PROPOSALS PRIOR TO RECEIVING MISSISSIPPI INTERGOVERNMENTAL REVIEW PROCESS CLEARANCE. THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY REVIEWS ANY PROPOSALS INVOLVING CONSTRUCTION, SUCH AS A HIGHWAY OR AN APARTMENT COMPLEX FOR COMPLIANCE WITH CULTURAL RESOURCES AND HISTORIC PRESERVATION. MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, OFFICE OF POLLUTION CONTROL, REVIEWS APPLICATIONS IN ACCORDANCE WITH THE FEDERAL WATER POLLUTION CONTROL ACT. THE MISSISSIPPI DEPARTMENT OF MARINE RESOURCES REVIEWS APPLICATIONS FOR CONSISTENCY WITH THE COASTAL PROGRAM.

IF APPLICATIONS ARE FOR PROJECTS OF LOCAL IMPACT, THEY SHOULD BE SENT TO THE APPROPRIATE PLANNING AND DEVELOPMENT DISTRICT AT THE SAME TIME. PLEASE NOTE THAT ONE OF OUR REQUIREMENTS IS THE USE OF STANDARD FORM 424. THE DEPARTMENT OF FINANCE AND ADMINISTRATION PREPARES AND DISTRIBUTES A WEEKLY LOG LISTING PERTINENT INFORMATION CONTAINED ON THIS FORM. OUR ADDRESS IS 303 WALTER SILLERS BLDG. 39201 AND OUR PHONE NUMBER IS (601) 359-6762.

Mel Carnahan
Governor

**ENVIRONMENTAL
DOCUMENT**

Richard A. Hanson
Commissioner



State of Missouri
OFFICE OF ADMINISTRATION

Post Office Box 809
Jefferson City
65102

CENTRAL ADMINISTRATIVE UNIT

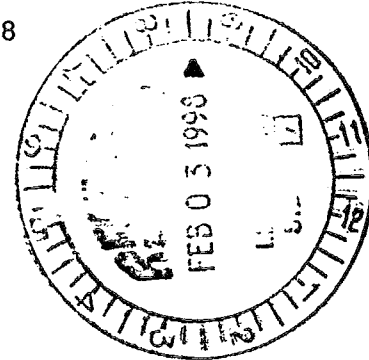
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DOCUMENT # 2/3/98 11:41:50 AM

Stan Perovich
Director
Division of General Services

January 20, 1998

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



Attention: Elaine K. Kaiser

Dear Ms. Kaiser:

Subject: 97120047 - Draft Environmental Impact Statement
Proposed Conrail Acquisition
[Finance Docket No. 33388]

The Missouri Federal Assistance Clearinghouse, in cooperation with state and local agencies interested or possibly affected, has completed the review on the above project application.

None of the agencies involved in the review had comments or recommendations to offer at this time. This concludes the Clearinghouse's review.

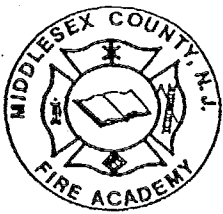
A copy of this letter is to be attached to the application as evidence of compliance with the State Clearinghouse requirements.

Sincerely,

Handwritten signature of Lois Pohl in cursive.

Lois Pohl, Coordinator
Missouri Clearinghouse

LP:cm



MIDDLESEX COUNTY FIRE ACADEMY

1001 Fire Academy Drive ■ Sayreville, NJ 08872
Phone: (908) 727-0008 FAX: (908) 721-0158



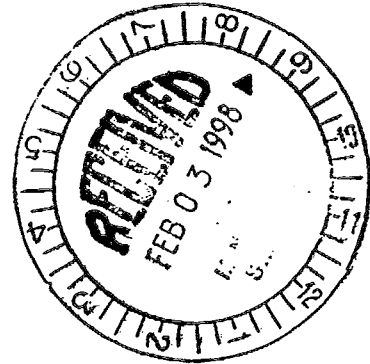
ENVIRONMENTAL DOCUMENT

CENTRAL ADMINISTRATIVE UNIT

January 27, 1998

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Office of the Secretary, Case Control Unit
Finance Docket #33388
Surface Transportation Board, Room 500
1925 K St. NW
Washington, DC 20423-0001



Attn: Chief, Section of Environmental Analysis

Dear Sir or Madam,

I would like to take this opportunity to express my gratification and support for the assistance we have received from Conrail Hazardous Materials Systems during our training programs at the Middlesex County Fire Academy.

I would like to thank both Skip Elliot and Alan Richter for their dedication and commitment to the emergency service groups in New Jersey. Without their support, we would not have been able to successfully complete the hazardous materials training programs we have conducted for hundreds of students at our fire academy.

I hope and urge that with the impending merger of Conrail, provisions can be made to continue a hazardous materials support system that will be available to assist the various agencies as it has done in the past. A serious void will occur without a training and response group being available to the emergency services in New Jersey concentrating on rail emergencies.

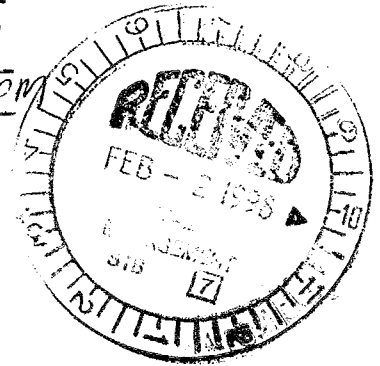
Sincerely,

Rory R. Zach
Acting Director

RRZ/kr

PROVIDING FIRE SAFETY THROUGH EDUCATION AND TRAINING





**ENVIRONMENTAL
DOCUMENT**

January 28, 1998

Board of Directors

Rich Reitman, Chairman
The Reitman Group
Greg Adams
Fleet Bank
Michael Alicea
Summit Bank
Virginia Alling
PNC Bank
Charles Bartolotta
TCI Atlantic Group
Christine Bonney
MetLife
Raymond Brown
Somerset County Park Commission
Robert Bzik, AICP/PP
Somerset County Planning Board
Mark Chazin, Esq.
Gebhardt & Kiefer, P.C.
Geoffrey Conrad
Somerset Hills Hotel
John Corsaro, CPA
Gikow, Bierman & Talesnick
David D'Alonzo
Somerset County Vo-Tech Schools
Joanne Dennison
On A Shoestring, Inc.
Rose Evans, CPM
Edmar Corp.
Al Frattura
The Courier-News
Jeanne Giordano
Raritan Valley Community College
Eliot Goldstein, Esq.
Eliot Goldstein Law Offices
Walter Hansen
ATON Management Concepts, Inc.
Richard Harknett
North Jersey Newspapers
Charles Harrison, Esq.
Lion Enterprise Organization, Inc.
Fred Howlett, Esq.
Tectonic
Michael Kalafar
Flemington Car & Truck Country
Michael Kerwin
Shive/Spinelli/Perantoni & Assoc.
Evelyn Kruck, CLU, ChFC
Kruck Financial Services
James Laskey, Esq.
Norris, McLaughlin & Marcus
Joseph Lee
Somerset Savings Bank, SLA
Anthony Melone
Bell Atlantic Mobile
Rebecca Perkins
Rebecca Perkins Public Relations
Daniel Puntillo
Middle Earth
Scott Rappoport, CLU, ChFC, RPU
Benefit Sources & Solutions
Gail Rosen, CPA
Arlyn Rus
Raritan Savings Bank
Suzanne Schmidt
Monday Morning, Inc.
Douglas Sonier, CPA
Withum, Smith & Brown
Ronald Spraez
National Starch & Chemical Co.
Donald Tretola
Public Service Electric & Gas
Michael Turner
Somerset Medical Center
James Ventantonio, Esq.
Ventantonio & Wildenhain
Allan Weisberg
ETHCON, Inc.
Gail Whiting
Design Consultants
Gary Woodring
Chubb & Son, Inc.

Barbara C. Roos, President

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

SUBJECT: NORFOLK SOUTHERN AND CSX FREIGHT MERGER

Gentlemen

The Somerset County Chamber of Commerce has been a strong proponent for reactivating the West Trenton Passenger Rail service. I personally testified before the Congressional Transportation Committee, along with Mayor Kenneth Scherer of Hillsborough and Congressman Bob Franks. Currently we are working with NJ Transit on the West Trenton study funded by the Surface Transportation appropriations. We have been proponents of national rail infrastructure improvements.

The Norfolk Southern and CSX freight merger plan has been of great interest to the Somerset County Chamber of Commerce. Our local economy relies on an excellent rail infrastructure system, both passenger and freight.

We are requesting that the Surface Transportation Board make as a condition of approval on the merger that the West Trenton Line accommodate dual use of both freight and future rail passenger service and that existing passenger rail service serving Somerset County not be adversely impacted at the expense of expanded freight service.

The Chamber organized a successful West Trenton Coalition of supporters reaching from Bucks County, Pennsylvania to Union County, NJ. More recently we are active supporters of the Raritan Valley Line Coalition.

THE STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION
NJ TRANSIT

JANUARY 10 2013

Congressman Franks has been a strong advocate of rail infrastructure enhancements and an effective community leader.

Cordially

Barbara C. Roos

Barbara C. Roos
President

Cc: Congressman Bob Franks
Somerset County Planning Board
Commissioner Haley, Transportation NJ
North Jersey Transportation Planning Authority

ENVIRONMENTAL DOCUMENT



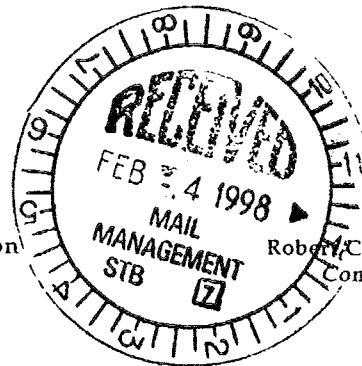
State of New Jersey

Department of Environmental Protection

Christine Todd Whitman
Governor

Division of Parks and Forestry
Historic Preservation Office
PO Box 404

Trenton, N.J. 08625-0404
TEL: (609)292-2023
FAX: (609)984-0578



Robert C. Shinn, Jr.
Commissioner

CENTRAL ADMINISTRATIVE UNIT

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DOCUMENT # 2/4/98 5:00.39 PM

COPY

January 29, 1998
HPO-A98-137

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

**RE: Finance Docket No. 33388
Draft Environmental Impact Statement
CSX and Norfolk Southern
Control and Acquisition of Conrail
National Historic Preservation Act Consultation**

Dear Ms. Kaiser:

As Deputy State Historic Preservation Officer for New Jersey, in accordance with 36 CFR Part 800: Protection of Historic properties, as published in the Federal Register on September 2, 1986 (51 FR 31115-31125), I am providing consultation comments for the above referenced Draft Environmental Impact Statement.

SUMMARY: The initial activities proposed by Norfolk Southern Railroad and CSX Railroad as part of the proposed acquisition of Conrail will not have an effect on historic properties. Proposed projects at Elizabeth (Union County) and Flemington Junction (Hunterdon County) may have an effect upon historic resources listed in or eligible for listing in the National Register of Historic Places (NRHP). Additional information regarding the scope of these two proposed projects is needed before an assessment of effect can be completed. Abandonment of right of way and modification or replacement of railroad structures, such as bridges, tunnels, stations, signal and interlocking towers, are the types of activities that have, in the past, effected historic railroad properties in New Jersey and have been the subject of Section 106 consultation.

These comments are in response to your initial letter of October 23, 1997 to Mr. Robert Shinn, Commissioner, Department of Environmental Protection, and the Draft Environmental

Ms. Elaine K. Kaiser
HPO-A98-137
January 29, 1998
Page 2 of 3

Impact Statement (DEIS), Finance Docket No. 33388, Proposed Conrail Acquisition, dated December 12, 1997.

Based upon the information in your letter and the DEIS, I concur that, with the possible exception of projects at Elizabeth (Union County) and Flemington Junction (Hunterdon County), the proposed Conrail acquisition will not have an effect on historic properties. My concurrence with this assessment of no effect is based upon the DEIS conclusion that no abandonment of railroad right of way is proposed for within New Jersey and that construction activities associated with changes to existing Conrail New Jersey operations are currently limited to construction of track connections in Ridgefield and Little Ferry (Bergen County).

The Historic Preservation Office is pleased to know that the Environmental Analysis Section has requested additional information regarding the proposed projects at Elizabeth and Flemington Junction and looks forward to participating in further consultation in accordance with Section 106 requirements. Although the shops of the former Central Railroad of New Jersey (CRRNJ) in Elizabeth (Union County) have been demolished, the right of way, yard trackage, and shop site are part of the NRHP eligible CRRNJ Main Line Historic District.

Although the proposed Conrail acquisition, with the two potential exceptions noted above, will not effect historic resources, the historic significance and NRHP eligibility of numerous resources being acquired from Conrail should be acknowledged. Over the past few years the Historic Preservation Office has participated in Section 106 consultation that has identified railroad rights of way eligible for listing in the National Register of Historic Places as linear historic districts. Although not all NRHP eligible or potentially eligible railroad rights of way have been identified, a number of the rights of way evaluated by the SHPO as eligible for the NRHP are among the assets to be transferred from Conrail to Norfolk Southern and CSX. The former Central Railroad of New Jersey right of way from Elizabeth (Union County) to Phillipsburg (Warren County) cited above received a Determination of Eligibility (DOE) from the Keeper of the NRHP on November 30, 1995. Consequently, future activities resulting in substantial alteration or abandonment, either partial or complete, of these rights of way would have an effect on historic properties.

Additionally, as part of survey and planning activity, Section 106 consultation, and the processing of National Register of Historic Places nominations, numerous railroad and related related resources have received SHPO opinions of NRHP eligibility or have been listed in the National Register of Historic Places. These historic resources include bridges (overhead and undergrade), stations (passenger and freight), and other structures associated with railroad operations (signal and interlocking towers, tunnels, and civil engineering features such as cuts and fills). Although many of these historic resources are owned by New Jersey Transit or other public agencies, NRHP eligible bridges and other structures are among the assets being acquired

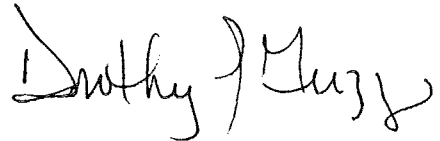
Ms. Elaine K. Kaiser
HPO-A98-137
January 29, 1998
Page 3 of 3

from Conrail. Here also, future activities, such as the substantial alteration or demolition of these bridges, structures or buildings, would have an effect on historic properties.

The Historic Preservation Office hopes that, after recognizing the historic significance and NRHP eligibility of particular railroad resources, continued use and operation will ensure appropriate preservation.

The Historic Preservation Office appreciates having an opportunity to offer these comments on the Draft Environmental Impact Statement as part of the Section 106 consultation process. If you have any questions regarding these comments or the identification and evaluation of railroad related historic resources, please contact HPO staff Charles Scott at (609) 633-2396.

Sincerely,



Dorothy P. Guzzo
Deputy State Historic
Preservation Officer

DG/CS
Log #98-394 - A98-137
C: NJDEP, Office of Program Coordination



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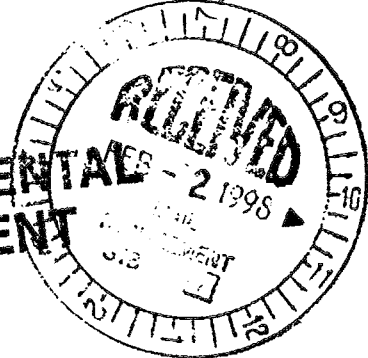
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COUNTY OF BERGEN

Administration Building • Court Plaza South • 21 Main St. • Room 300E • Hackensack, N.J. 07601-7000
(201) 646-3630

William P. Schuber
County Executive

ENVIRONMENTAL
DOCUMENT



January 30, 1998

Office of the Secretary
Case Control Unit
Surface Transportation Board
1925 K Street NW
Washington, DC 20423-0001

Attn.: Ms. Elaine K. Kaiser, Environmental Project Director

Re: Finance Docket No. 33388

Dear Ms. Kaiser:

According to the National Ambient Air Quality Standards(NAAQS) set by the Clean Air Act Amendments(CAAA), Bergen County, NJ is designated as severe non-attainment for both Ozone and CO. A major objective of the County is to achieve healthful levels of air quality to both improve the quality of life for Bergen County residents and advance the important goals of the CAAA. The County has recently reviewed the Draft Environmental Impact Statement (DEIS) for the "Proposed Conrail Acquisition." We are taking this opportunity to comment on two issues.

After reviewing the New Jersey section of *Volume 3b: State Settings, Impacts and Proposed Mitigation* we concluded that section 5-NJ9 New Jersey Air Quality could be violating the General Conformity Rule. The General Conformity Rule was established in response to Section 176 of the CAAA. The General Conformity rule includes emissions thresholds. If they are exceeded by any Federal action, the General Conformity Rule is triggered. For Bergen County, a severe non-attainment area, any action that emits more than 25 tons of NO_x annually, triggers the General Conformity rule. For Bergen County an increase in 208 tons of NO_x annually will occur as a result of the Conrail acquisition.

Ms. Elaine K. Kaiser
January 30, 1998
Page 2

For Bergen County with a population of 848,000 and a private sector workforce of 420,000, any increase in harmful pollutants - such as NO_x will be felt by our residents and workers.

After reviewing the New Jersey section of *Volume 3b: State Settings, Impacts and Proposed Mitigation* we concluded that section 5-NJ9 New Jersey Air Quality could be violating the General Conformity Rule. The General Conformity Rule was established in response to Section 176 of the CAAA. The General Conformity rule includes emissions thresholds. If these thresholds are exceeded by any Federal action, the General Conformity Rule is triggered. For Bergen County, a severe non-attainment area, any action that emits more than 25 tons of NO_x annually triggers the General Conformity rule. For Bergen County an increase in 208 tons of NO_x annually will occur as a result of the Conrail acquisition.

Additionally, the rule indicates that an emissions off-set must occur within the same non-attainment area that the increase occurred. The way the analysis is presented in the DEIS, it looks like they used the entire 26 state acquisition area to calculate the emissions off-set. This seems to be in direct violation of the General Conformity Rule.

Issue 2: the Economy

Our second major area of concern relates to Bergen County's transportation capacity to move people and goods, by road and rail, both within our highly congested landscape and between it and the region surrounding us at all compass points.

As described in detail in the enclosed Planning Essay, our six-year analysis of our economy and its transportation assets has produced the following conclusions. All are discussed in detail in our Planning Essay, enclosed.

Bergen County is New Jersey's economic engine. Inside our boundaries on but 3% of the state's land mass are found the state's highest and densest concentrations of population, people in the work force, number of businesses, number of jobs -- all generating the states highest total value of real estate, its highest total of state income tax dollars, and total of retail sales tax dollars.

Further, the great preponderance of this economic power is squeezed into 40% of our county's land mass. Shown on Figure 28 of the Planning Essay, that core is also the place where the county's highest levels of congestion are

concentrated. This congestion relates not only to the concentration of economic assets just described, but to the fact that the preponderant volumes of regional

Ms. Elaine K. Kaiser

January 30, 1998

Page 3

traffic we experience also travel the regional roads that cross that core. Figure 26 shows that the number of trips taken within the county's economic core each day is three times larger than the number in the balance of the county.

Our research also reveals the near impossibility of expanding existing road and bus capacity to sustain the core's present economic strength into the future. Therefore new rail transit capacity has become absolutely essential. Three critical rail lines cross that core -- the Susquehanna and Western, the West Shore and the Northern Branch. All three were examined in detail in the Planning Essay, and all three offer important rail transit opportunities. *We are concerned that the large increases in freight traffic contemplated in the Impact Assessment will also generate the capacity to undercut our direly needed rail transit relief.*

Of these three corridors, however, one -- *the Susquehanna and Western carrying Light Rail eastward from the I-80's junction with the Garden State Parkway* -- best addresses the following critical economic conditions. Of the three rail corridors, the Susquehanna and Western contains:

- o 48% of the population found in all three;
- o 61% of the employment found in all three;
- o 51% of all the households found in all three;
- o 45% of the real estate value found in all three;
- o 64% of the office space found in all three;
- o 51% of all work trips taken each day in all three.

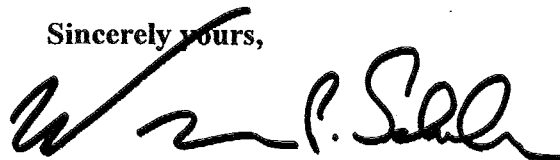
As well, the work trips taken inside the Susquehanna corridor are 51% higher in number than those taken in the other two corridors combined.

In sum, then, both areas of our concern -- air quality and economic -- are important to our county's capacity to continue to serve the key roles it plays in our metropolitan region and state.

We stand ready to discuss any of these issues with you.

Ms. Elaine K. Kaiser
January 30, 1998
Page 4

Sincerely yours,

A handwritten signature in black ink, appearing to read "W. P. Schuber". The signature is fluid and cursive, with a large initial "W" and a distinct "P." followed by "Schuber".

William "Pat" Schuber
Bergen County Executive

/cm
enclosure: Planning Essay

**Bergen County Department of Planning and Economic Development
1997 State Development and Redevelopment Plan
Cross Acceptance Planning Essay**

Back in 1988, Bergen County and its 70 municipalities conducted a "Cross Acceptance" process as our substantial input to the new State Development and Redevelopment Plan as drafted for our response. Over a 14 month period, we held 210 meetings with you, and several other joint sessions among municipal and business leaders. To help guide our deliberations, we also shared a "straw poll" with each other that took the temperature of our planning sentiments, preferences and needs.

In the heat of what would turn out to be an unprecedented burst of growth in our county's and state's history, we invented, together, a *capacity based approach to planning* – the first attempted in our state. It was designed to anticipate future growth in Bergen County by measuring, together, how much open land remained to be developed according to the zoning in place in each municipality.

With each municipal delegation, we also took a crack at a "20 year capital plan" – another first – in which we estimated together, using cost criteria culled from conversations with municipal engineers and public works managers, such municipal items as fire engines, back hoes, ambulances, street maintenance, replacing roofs on public buildings and the like.

We also made lists, together, of what we called "environmental treasures" that our sentiments told us to try to protect, if only ways to do this could be mustered as our landscapes were crowding while filling in and closing in. We could see redevelopment already taking hold, popping up lot by lot, often in the form of large houses rebuilt in place next to small ones. We knew it would take new zoning and planning tools to keep the best pockets remaining in our natural landscapes, to find ways to capture the redevelopment phases instead of being captured and that it would be expensive to buy land in the path of development driving up acquisition costs.

These data became a supplement to the already prodigious body of information describing each of our county's six, planning "subregions" over time in our traditional and detailed, yearly Bergen County Data Books.

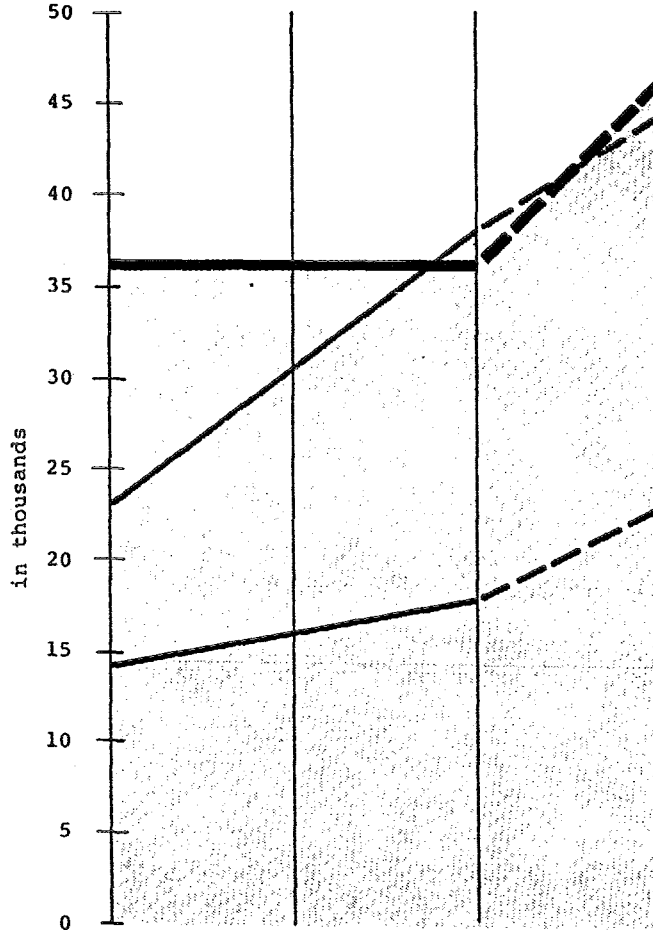
From that effort, Figures 1 and 2, on the following pages and sampled from Volume II of our 1989 Cross Acceptance Report, show Hackensack's land capacity for population and employment growth as estimated then, along with the total of such samplings for all 14 municipalities in its Central Bergen subregion. These would become known as the "pink charts."

This is a Planning Essay, similar in form to the one we wrote back in 1988 at the beginning of that Cross Acceptance effort. From our discussions, it became part of the Introduction to the Report we wrote back then. *Its purpose here is to show how and where we have sustained and expanded this capacity based approach to planning since then.* So this chance to revisit and update the New Jersey State Development and Redevelopment Plan provides an excellent

Figure 1.

Hackensack

GROWTH CAPACITY	1970	1980	1987	2010	GROWTH
					1987-2010
POPULATION	36,008	36,039	35,954	46,125	10,171
HOUSING UNITS	13,915	16,304	17,578	22,500	4,922
EMPLOYMENT	23,008	30,311	36,198	45,000	8,802



Development Applications in Bergen County	Approved	Pending
	1975-1989	May 1989
MULTI-FAMILY & TOWNHOUSE: Individual Dwellings	2,821	334
COMMERCIAL, RETAIL, HOTELS: Sq. ft.	975,356	94,348
OFFICE: : Sq. ft.	1,517,021	145,749
INDUSTRIAL & WAREHOUSING: Sq. ft.	541,017	33,224
TOTAL NEW SQUARE FOOTAGE FOR ALL USES, Including residential & public facilities	6,984,556	731,020




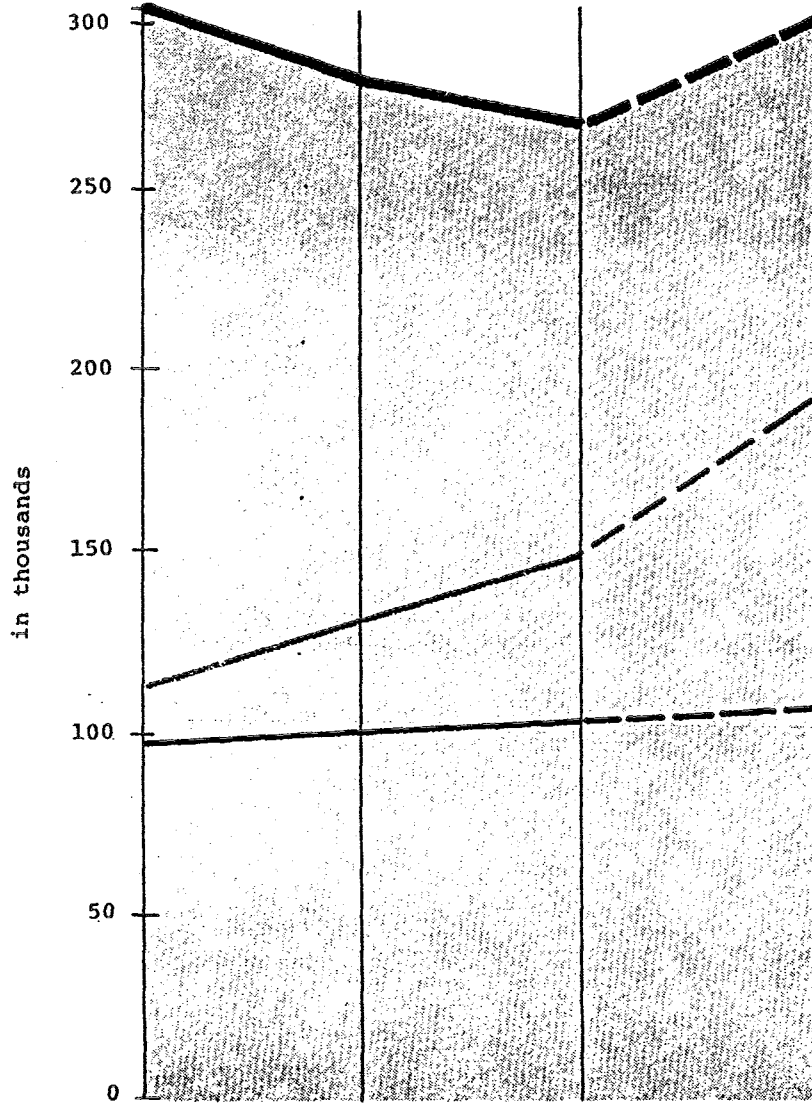
 POPULATION
 HOUSING UNITS
 EMPLOYMENT

Figure 2.

GROWTH CAPACITY 1970 1980 1987 2010 1987-2010

Central Bergen

POPULATION	304,494	277,456	268,046	297,645	29,599
HOUSING UNITS	97,890	103,012	106,012	118,675	12,663
EMPLOYMENT	112,177	130,362	150,698	187,275	36,577

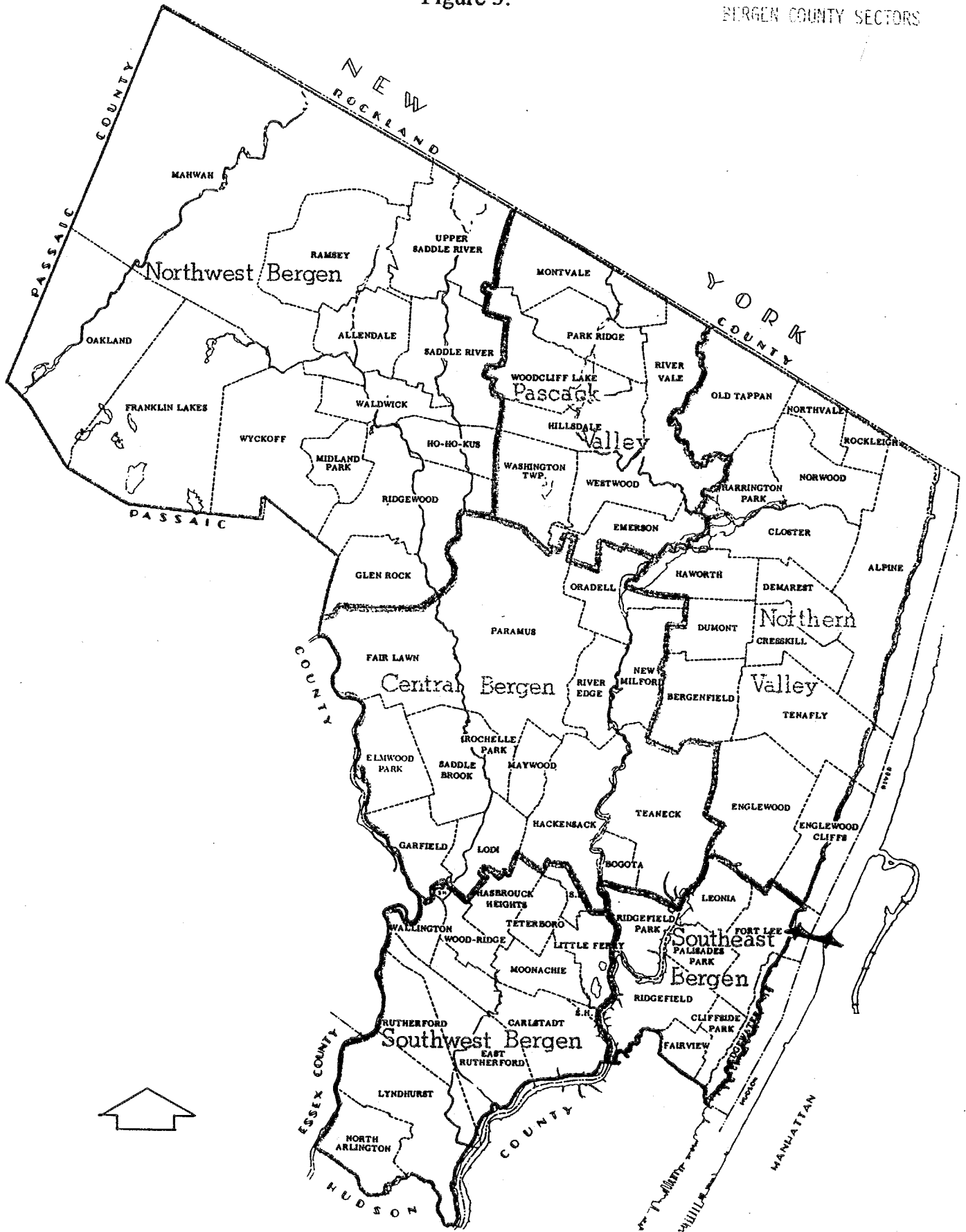


	Approved 1975-1989	Pending May 1989
Multi-Family and Townhouse: Individual Units	4,610	598
Commercial Retail, Hotel : Sq. ft.	4,164,939	375,970
Office : Sq. ft.	9,243,338	1,039,605
Industrial and Warehouse : Sq. ft.	3,565,162	241,379
Total New Square Footage for All Uses Including Residential and Public Facilities	23,413,125	2,629,262

 POPULATION
 HOUSING UNITS
 EMPLOYMENT

Figure 3.

BERGEN COUNTY SECTORS



opportunity for us to revisit these topics over the next few months.

This 1997 essay opens with many of the insights from our County's first Cross Acceptance Report to the State in 1989. It outlined the emergence of suburban counties in major metropolitan areas as the major locus of the US economy. Coming at the end of the "go-go-1980s" Bergen County's response was dominated by a concern with the "consequences" of this growth on our scarce infrastructural and environmental capacity. So, in a straw poll conducted with our mayors and planning board member in each one of our 70 municipalities we identified major concerns with:

- Environmental Planning and loss of open space (71%);
- Traffic congestion (90%), especially the potential impact of opening I-287 on northwest Bergen; and
- Fiscal capacity to pay for growth (82%) as the supply of vacant developable land began to dry up.

Yet, almost while we were working, New Jersey entered a period that turned out to be the most profound economic recession since the Great Depression of the 1930s. Many of the service sector jobs created during the 1980s were lost, compounding the effects of a shrinking manufacturing base. Although New Jersey is still in a long economic expansion and has regained the same number of jobs back, they are different in nature. So, today, we face the challenges of sustaining economic performance in New Jersey's single largest economy while erecting the land use and infrastructure foundation for the 21st Century economy.

This draft essay also expands the framework established in Cross Acceptance-1988 to take into account the new economic, land use and transportation investment context that has emerged more clearly since then, and particularly how this new context is reflected in several new transportation initiatives we have taken since then in response.

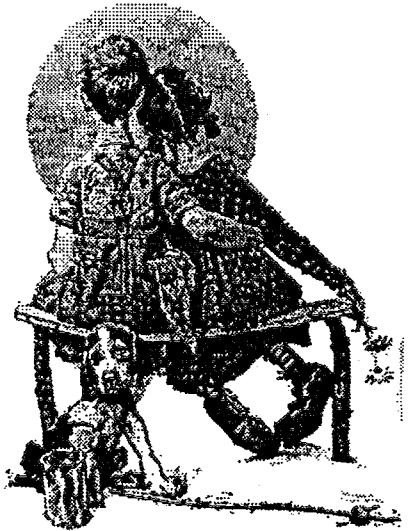
Planning Context 1997. Some of it is the same. And some has changed. The Future Isn't What It Used To Be.

Forty years ago, little more than a generation, Bergen County and our geographic counterparts in metropolitan areas across the nation were predominantly low-density suburban, cradled in pleasant natural settings, and growing energetically. The nation's economy was expanding on a strong industrial base, its big cities were places of manufacture and trade, freight moved predominantly by rail, open land was referred to as "undeveloped," and an airplane trip was a big adventure.

Most all commuting occurred *between suburbs and cities* and *within cities*, families were "headed" by a father who worked and nurtured by a mother who stayed home, and big stores, called "department stores," were a relatively quick trip to the city away (the mall had not yet been invented). The big Interstate Highways were under construction but not yet in use. "Someday," people said, "when all this construction is over with, we'll be able to drive all the way from Boston to San Francisco without hitting one traffic light." Imagine.

And oh yes, back then "country" air was "fresh," drinking water was clean and plentiful, abundant land was over the next ridge, poison ivy, treated with calamine lotion, was what you got while playing in vacant lots and nearby woods, and Norman Rockwell was memorializing all these vignettes in the Saturday Evening Post.

Can this snapshot of an economic past be only a generation removed from the plans we now set out to make? *Yes it can.* For momentous changes over the intervening 40 years *have made the future for today's parents something it didn't used to be for theirs.* Put most simply, and still surprising to many in the enormity of its dimensions, the nation's economic geography — where we place our buildings and the roads, rails, pipes and wires to support them — has changed steadily into something remarkably different from what it used to be. So have our lives.



Looking back, and assisted mightily by a broad body of new information, we can now see post-World War II New Jersey in new retrospect. We were, indeed, growing rapidly into a collection of "bedroom" suburbs and small cities just a short drive to the two large cities just beyond our borders. (People still repeated Ben Franklin's quip that New Jersey was a "keg tapped at both ends.") The same land pattern characterized many other such places across the nation. Spurred by returning soldiers starting families, and by federally supported home mortgages, then by sewers, and then by revenue sharing dollars to local governments, our state's economy bounded ever more exuberantly into the countryside. Bergen County grew more and it grew faster than any county in New Jersey, and among the fastest in the nation.

A powerful new idea started to take hold — that this kind of growth opportunity would have tremendous staying power, and even that its capacity to create new wealth to divide up was becoming a "tide to lift all boats". It might even bless generations yet to come with higher standards of living than their parents had had. The words "A New American Century" crept into the language. "If we can go to the moon," people said more frequently, "why can't we" (you fill in the blank).

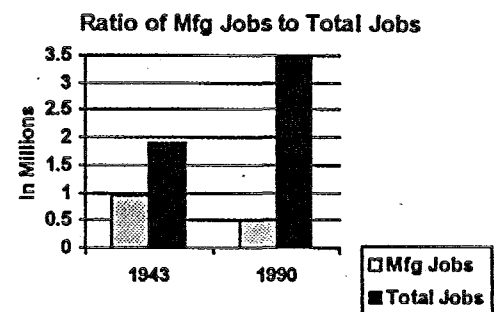
Across the country in places like ours, population and employment forecasts were nearly impossible to make. Schools were built and filled in waves. As all these new families grew, the many segments of the economy grew to meet, absorb and incorporate them into it. Somewhere along the line, the kids would come to be called Baby Boomers. Hula Hoops. Woodstock. Employment. Life Insurance. With the first of the Boomers having reached age 50 on January 1, 1996, pensions and social security are next.

The State Plan and the Emergence of a Suburban Economy, 1950-1990: Three Trends.

The first round of "Cross Acceptance" in 1988 occurred against the backdrop of major structural shifts in the US economy. These were the outcome of *three national trends, each with its own momentum but with their collective effects awesome in combination, that came to dominate a rapidly changing economic landscape.* Over these last 40 years:

- The nation's job base has been shifting inexorably from manufacturing to services. In 1943, New Jersey's manufacturing jobs numbered 961,200, our high water mark, and constituted 55.4% of the state's employment base. By 1990, two huge shifts had occurred. Total manufacturing jobs statewide *had decreased by almost half* (to 500,000), and service jobs had grown so rapidly that manufacturing's share of total employment inside our state's borders

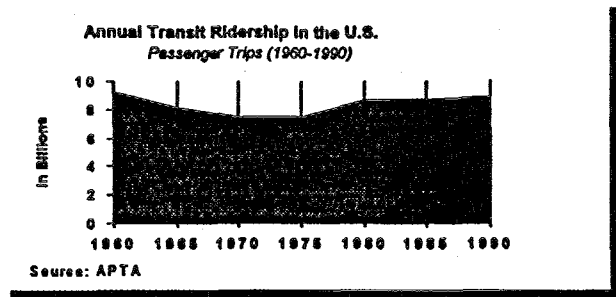
had dropped steadily *from one out of every two jobs to one in seven.*



- As the national economy grew to absorb the Baby Boom's unprecedented numbers, *both jobs and population were moving to and growing side by side within suburbs* in such increasing numbers that a land use and nationwide economic revolution has become the cumulative effect. The Interstate Highway system did get to San Francisco from Boston, but its second phase of "rings," built outside the cities within the nation's metropolitan areas (Rte. 495 outside Boston, Rtes. 287 and 295 around Trenton, etc.), ended up feeding the suburban land use revolution.

Our New Jersey Turnpike and Garden State Parkway run pretty much north – south, but, today, the majority of their daily users are not traveling from New York to Philadelphia. They carry north-south and east-west regional and local travelers who jump on and off to get to hundreds and hundreds of disparate destinations. To illustrate these changed patterns, Bergen County gathers 200,000 of its daily work force of 550,000 from 330 municipalities outside Bergen and in four states. The Ben Franklin anecdote died along the way to this momentous change.

- And American as apple pie, the car would become how 85% of our much larger work force now commutes – *now mostly between suburban homes and suburban jobs* rather than between suburbs and cities or within cities. *While the total number of Americans who take transit to work has grown hardly at all over this entire, 37 year period, the number who now work has more than quintupled.*



The consequences of three trends merged to create a massive new land form called the “metropolitan area” – offering yet another new word for planners to use. They also became the basis for new formulas for the Federal Government to use in distributing and redistributing the nation’s wealth. In great surges and migrations of population and employment, the largest of these metropolitan areas formed and grew outward from the country’s rims – on our East and West coasts, and along the shores of the Great Lakes and the Gulf of Mexico.

Back in the 1960s, the Interstate Highways were popping up all over the country. But their consequences for land development had not yet taken hold. The economy and its transportation support systems, and the land settlement patterns that are the consequences of both in combination, were focused predominantly at the region’s center. All three were centralized. The further one traveled from the center, the lower the population densities and the more rural the landscapes became. Transportation, with common and central destinations, could pursue economies of scale with considerable efficiency and ease of choice.

But note these statistics: While New Jersey was losing 850,000 acres of farmland between 1950 and 1990, the entire state was gaining 2.7 million in population, and 1.7 million in jobs. And Newark, our largest city, was experiencing a population loss of 163,555 (from 438,776 to 275,221); and a job loss of 83,915 (from 201,067 to 117,152). Newark’s 1950 total was 14.8% of all jobs in New Jersey; by 1990, it represented 3.9%. Our state’s remaining five largest cities (Jersey City, Camden, Paterson, Trenton and Elizabeth) saw their combined employment drop by 170,120, from 274,559 in 1950 to 188,354 in 1990.

The biggest surprise has been that, of the two reciprocally pulsing expansions of population and of jobs, the relocation of *where business is conducted* has had much the more telling effects on the new suburban futures we were inventing back then in the 1950s and 1960s with such gusto. Companies to which employees had traveled to center cities were deciding *not to stay put*. In a growing swarm, they were choosing, instead, to *pick up and move to where the expanding numbers of their customers were choosing to live*. (See Figure 4 on the next page.)

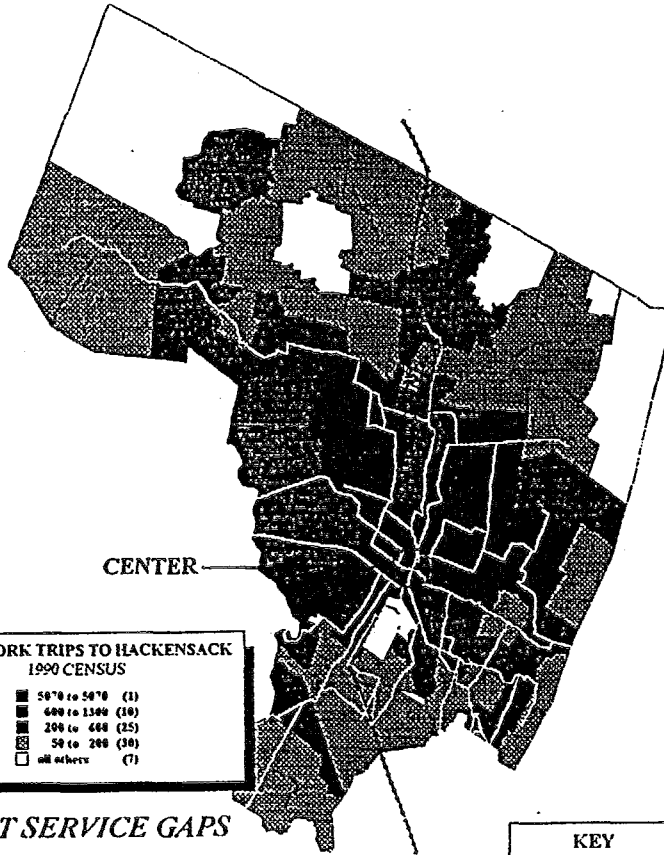
Entrepreneurs from the retail sector became the first of many to respond to this rising suburban market. Alexander’s was the first free-standing mall built in the United States, landing in 1957 as if dropped by helicopter onto Paramus’ smooth flowing, largely local Routes 4/17 interchange. The new store had a big parking lot easy to get to. *Who would have pictured here the nation’s mightiest retail concentration 20 years later?* And its multi-purpose,

Figure 4.

HACKENSACK COMMUTERSHED'S TRANSIT OPTIONS

Bergen County residents who work in Hackensack live in these towns.

COMMUTERSHED



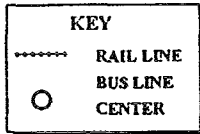
RESIDENCE	HACKENSACK
TOTAL BERGEN	23611
Hackensack	6070
Teaneck	1254
Lodi	677
Bergenfield	762
Englewood	690
New Millford	665
Parsons	678
Maywood	629
Bogota	612
Garfield	606
Dumont	604
Fair Lawn	542
Lille Fary	529
Ridgefield Park	519
River Edge	498
Hasbrouck Height	464
Palisades Park	420
Fort Lee	397
Cliffside Park	382
Saddle Brook	377
Elmwood Park	369
Ridgewood	339
Oradell	319
Rutherford	316
Wallington	250
Fairview	243
Tenafly	242
Westwood	240
Wyckoff	240
River Vale	233
Glen Rock	226
Rochelle Park	228
Hillsdale	226
Ramsey	216
Wood-Ridge	198
Washington Township	194
Upper Saddle River	167
Closter	161
Waldwick	159
Ridgefield	151
Oakland	149
Carlstadt	147
Franklin Lakes	146
Emerson	136
Leonia	129
Lyndhurst	122
Edgewater	114
Montvale	97
Moonachie	95
Norwood	93
East Rutherford	90
Haworth	88
Woodcliff Lake	82
Cresskill	81
Northvale	79
Allendale	78
Englewood Cliffs	77
Midland Park	75
Demarest	72
Park Ridge	69
North Arlington	68
Ho-Ho-Kus	65
Harrington Park	64
Saddle River	48
Old Tappan	43

DAILY WORK TRIPS TO HACKENSACK 1990 CENSUS

- 5070 to 5670 (1)
- 600 to 1300 (10)
- 200 to 600 (25)
- 50 to 200 (30)
- all others (?)

TRANSIT SERVICE GAPS

RESIDENCE	HACKENSACK
Allendale	78
Closter	161
Demarest	72
Englewood Cliffs	77
Franklin Lakes	146
Glen Rock	226
Harrington Park	64
Haworth	88
Hillsdale	226
Ho-Ho-Kus	65
Montvale	97
Northvale	79
Norwood	93
Oakland	149
Old Tappan	43
Park Ridge	69
Ramsey	216
River Vale	233
Saddle River	48
Tenafly	242
Upper Saddle River	167
Waldwick	159
Washington Township	194
Woodcliff Lake	82



BUS SERVICE: HACKENSACK EMPLOYMENT CENTER

Name	AMPeakHwy	OPPeakHwy	PMPeakHwy	LOSPeak	LOSOPeak	LOSOneWay
185A16	15	20	15	I	I	I
165B1	6	0	6	I	II	II
166D1	12	0	20	I	II	II
178A16	30	30	30	II	I	I
182A16	15	60	20	I	I	I
712A16	30	60	30	II	I	I
78LA16	15	30	20	I	I	I
76AA1	40	0	30	II	II	II
76XA1	25	0	30	I	II	II
770A16	20	30	20	I	I	I
83A16	15	40	20	I	I	I
B12A16	60	90	60	II	I	I

KEY: TRANSIT LEVELS OF SERVICE

Service	LOS_I	LOS_II	LOS_III
AM Peak	0-25 minutes	30-45 minutes	60+ minutes
PM Peak	0-25 minutes	30-45 minutes	60+ minutes
OP Peak	0-60 minutes	60+ minutes	No Service
One Way	Both Ways	Not Applicable	One Way(to NYC)

multi-directional, all day, *regional* traffic jam.

Just outside Boston, a rube back then in 1957's Massachusetts was someone who still thought Jordan Marsh was a swamp. Becoming famous in suburb talk the nation over were the new subdivisions named for the ecosystems they were displacing. Hickory Acres.

As the full dimensions of this population and real estate explosion became visible -- 76 million children were born between 1946 and 1964, comprising the largest such event in our history -- other businesses picked up and followed the retail pioneers in ever more expansive waves. Still other start-up companies chose this expanding suburban market. They all saw this rising tide of new residents as not only constituting a new and rapidly expanding *customer base*. It would become their new *work force*, as well. *And as the baby boomers have grown up and entered the work force, most have chosen to live, work, and then to start families in the suburbs as their parents had done. Their children are now doing the same.*

Meanwhile, the suburban schools built to accommodate all these new families became magnets for more homeowners, helping to drive upward the new spirals of real estate development. The people who were building the new stores and homes in farm and wood lots would become known as "real estate developers." Those that inhabited them would become the economy.

To accommodate these surges, zoning was re-invented by municipal leaders, in ever more ingenious ways, to "attract" the "best" mix of burgeoning opportunities that each town decided it wanted to assemble. Jeffersonian democracy in action. Some got their way -- particularly in places where the booming markets were strongest. Others didn't. Rural towns engaged in the very same exercise, but fewer things came their way -- to start with.

The Federal Government, urging each municipality to fashion its own menu of residential and commercial "sectors," sweetened the advice by sending money to each town to do its own "Master Plan" to shape its own destiny. To read those master plans today is to discover that they all looked and sounded pretty much alike. They are probably part of the origin of the term "cookie cutter suburbs." As the economy grew and new markets developed, each town could always *adjust the zoning of remaining land* to capture the best of the expanding markets. An apt comparison is this: corporations expend their financial assets in pursuit of their economic goals; municipalities "spend" their land.

And as the need for new and expanding municipal services grew -- police, road repair, libraries, schools, parks, hospitals -- local Master Plans were adjusted to attract businesses with high tax potential. As this became more common, it became known as "fiscal zoning." As well, State governments grew, supported by national taxes *sent back* to the states from Washington, to provide "regional" services -- sewage treatment, reservoirs, colleges, high capacity regional roads, regional parks and nature preserves. In time, these and other regional facilities *would compete with one another for scarcer (and more expensive) sites in more crowded landscapes. The same competition arose inside the changing master plans of more crowded municipalities.*

As these powerful changes developed momentum, single municipalities evolved into clusters of municipalities who came to share similar fates and fortunes. An example of the former is Edison, whose employment growth symbolizes this enormous economic/spatial shift across New Jersey and many metropolitan areas like our own. By 1990, the township of Edison's employment (62,935) had eclipsed the job bases of four of the state's six largest cities, approached that of Jersey City's (63,412), was more than half again that of Elizabeth (39,117), was nearly double that of Paterson (34,568), was more than double that of Camden (28,028), and nearly triple that of Trenton (23,225). In higher density suburban and metropolitan landscapes like these, transportation planners and investors have new clusters of customers to serve, and more difficult decisions to make.

As jobs and population dispersed into some 25 large, metropolitan areas, travel patterns shifted away from the traditional suburb to city flow, towards the more familiar -- and more perplexing -- overlapping rivulets and streams of traffic, many of which do *not* lead to major cities. So a great many more trips are now being taken across our metropolitan transportation networks and in hundreds of different directions in each one of them than was the case in 1960.

Yet, our investments have not kept up with the great surges of growth between 1950 and 1990. In 1960, investment in public infrastructure was 2.5% of Gross National Product. By 1990, after a period of national growth unprecedented in our history, that number had dropped to 1%. So, we are challenged to find transportation solutions to the unprecedented growth in demand on a network designed for a different economic geography and with rising costs for maintenance and rehabilitation in a difficult investment climate. As the current debates about reauthorization of ISTEA clearly show, the stakes are high and the competition deadly.

In sum, over the past forty years we have seen a number of dramatic shifts in:

- what our economy now produces;
- who now produces it and where;
- who purchases the goods and services we produce;
- where and at what densities we now live and work;
- how we travel about the landscape of our work residence and recreation; and
- what we import and what we used to export.

We discover ourselves inhabiting a transformed economy on a transformed landscape and in need of a transformed transportation system. Bergen County has been an active participant in the creation of this new economy and as the next sections show is developing an investment agenda to protect the economic power we have in place while preparing for the new rounds of growth and re-use that lie ahead. (See Figures 5, 6, 7 and 8 following.)

Figure 5.

Bergen County is New Jersey's Economic Engine:

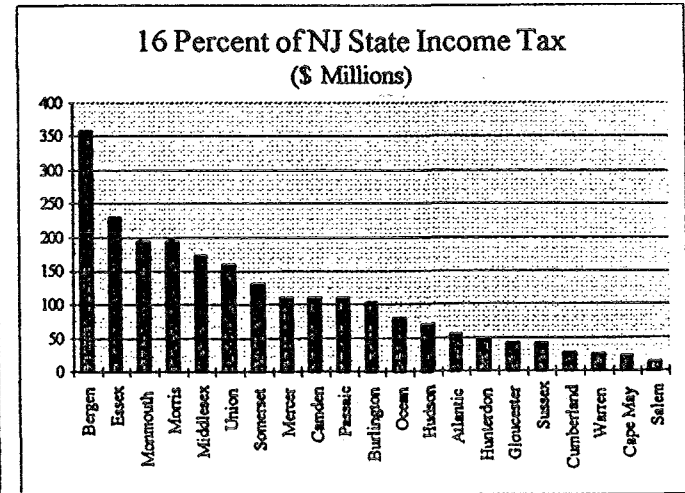
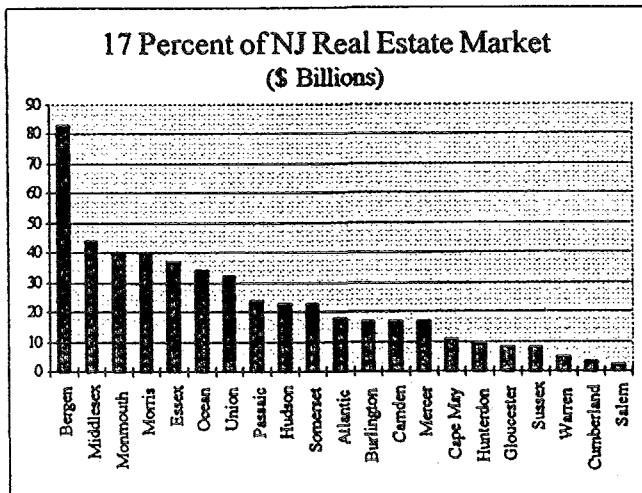
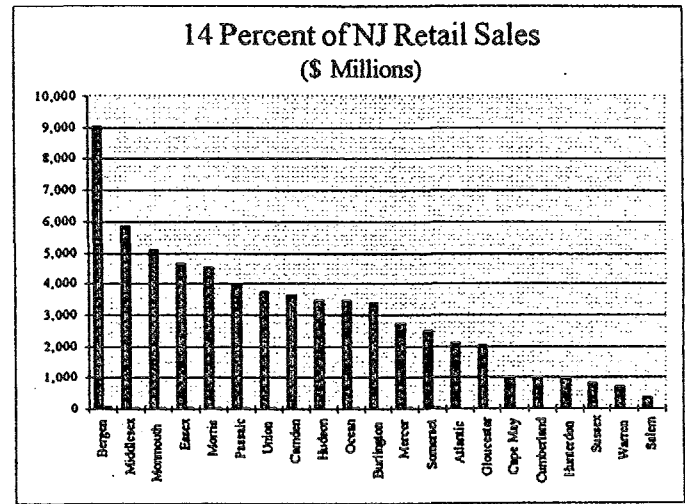
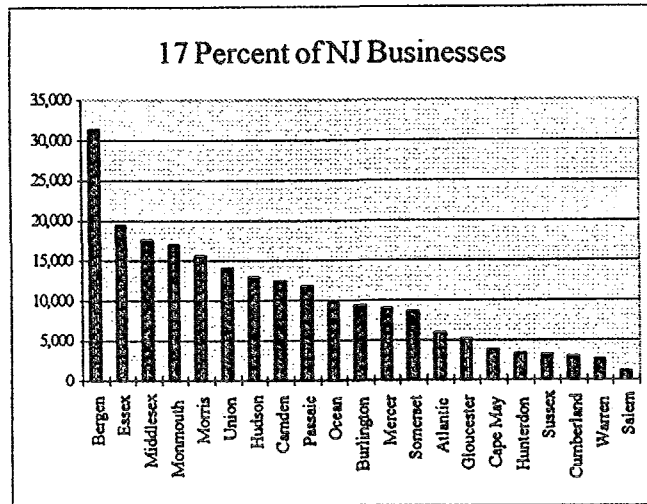
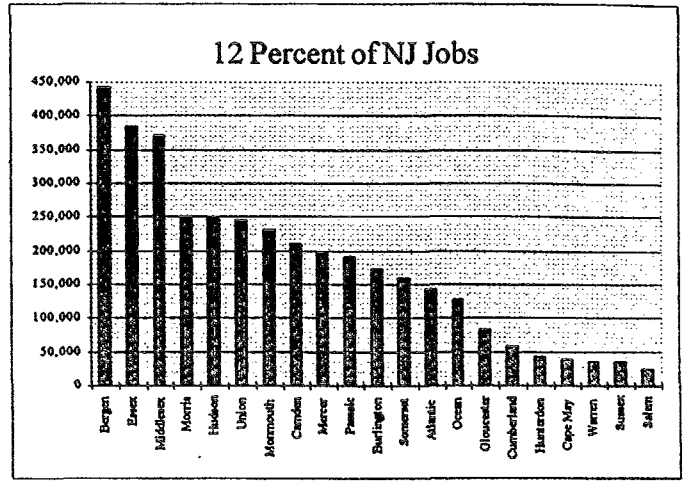
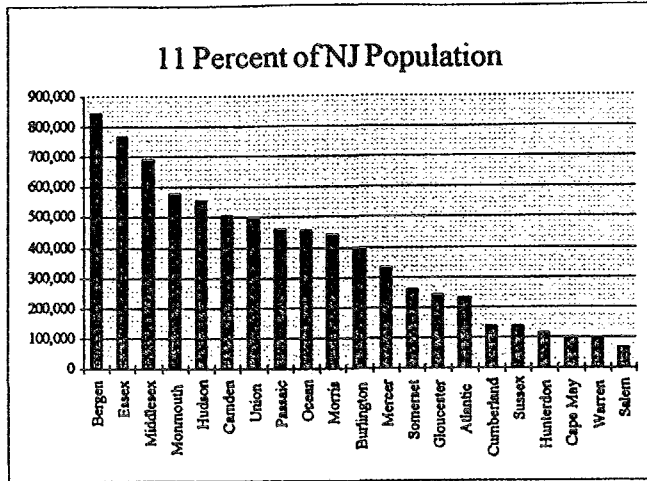


Figure 6.

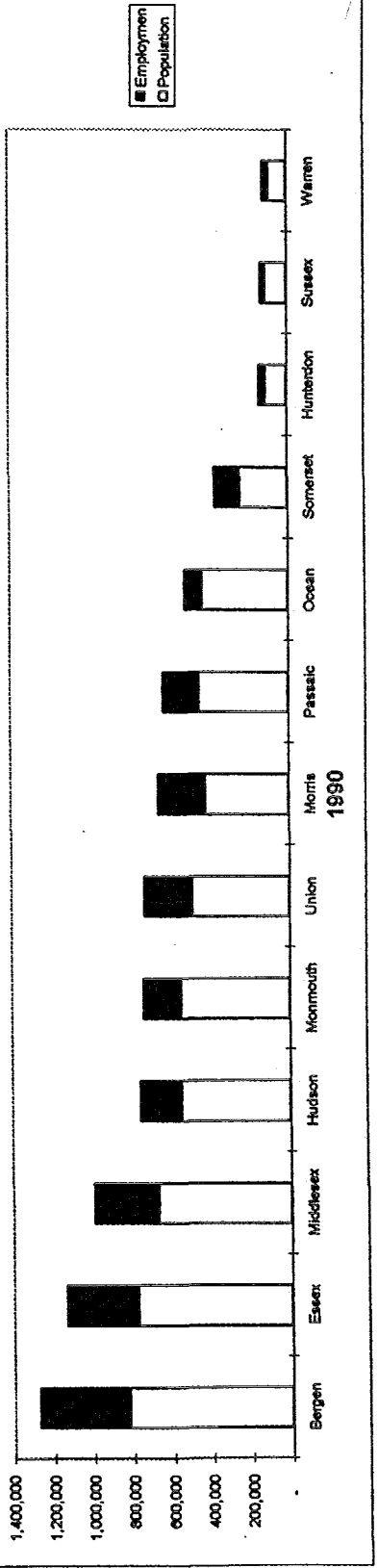
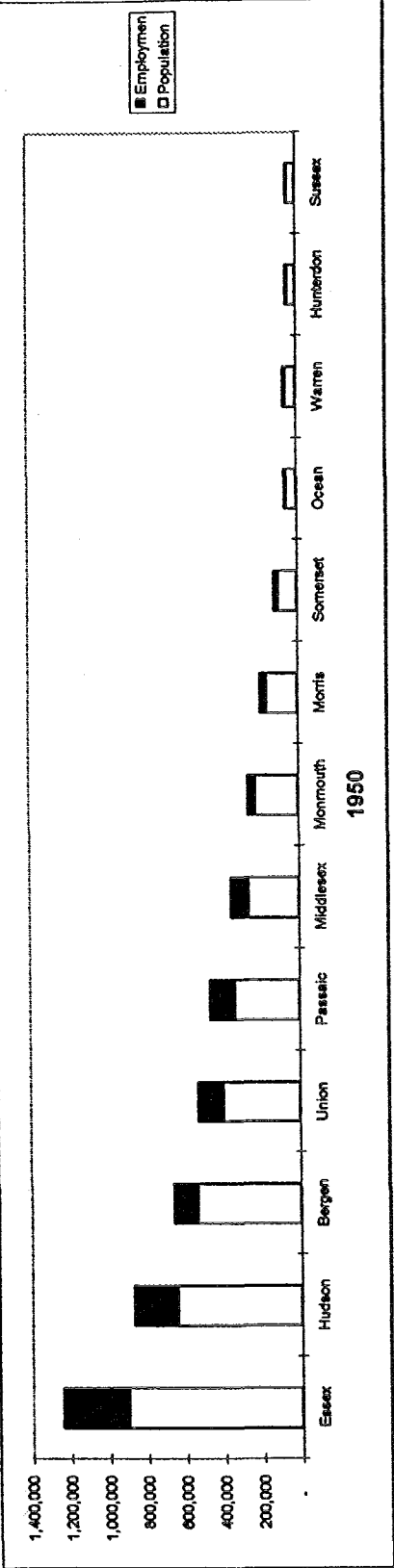
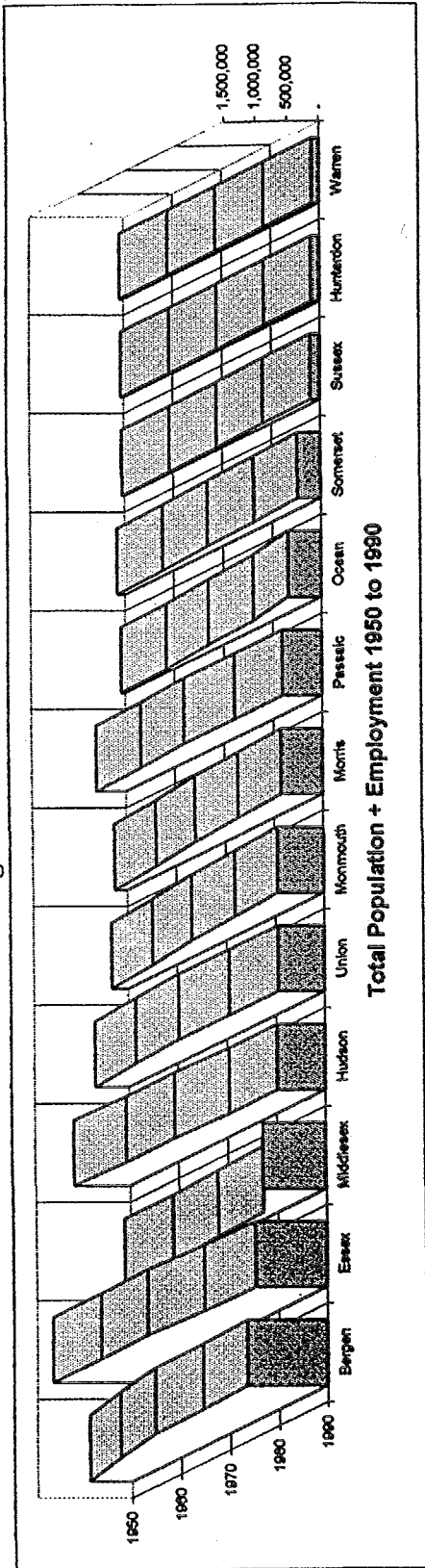
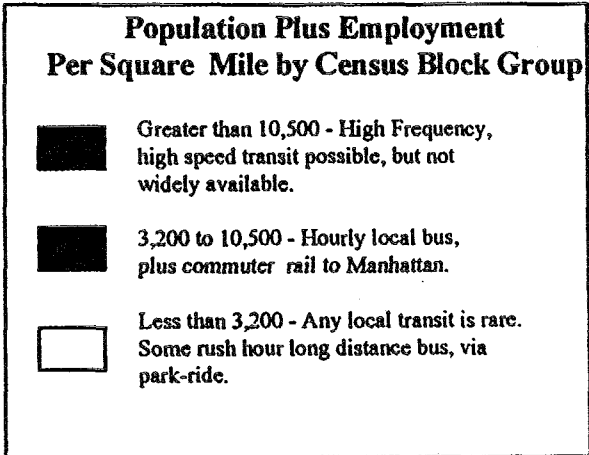
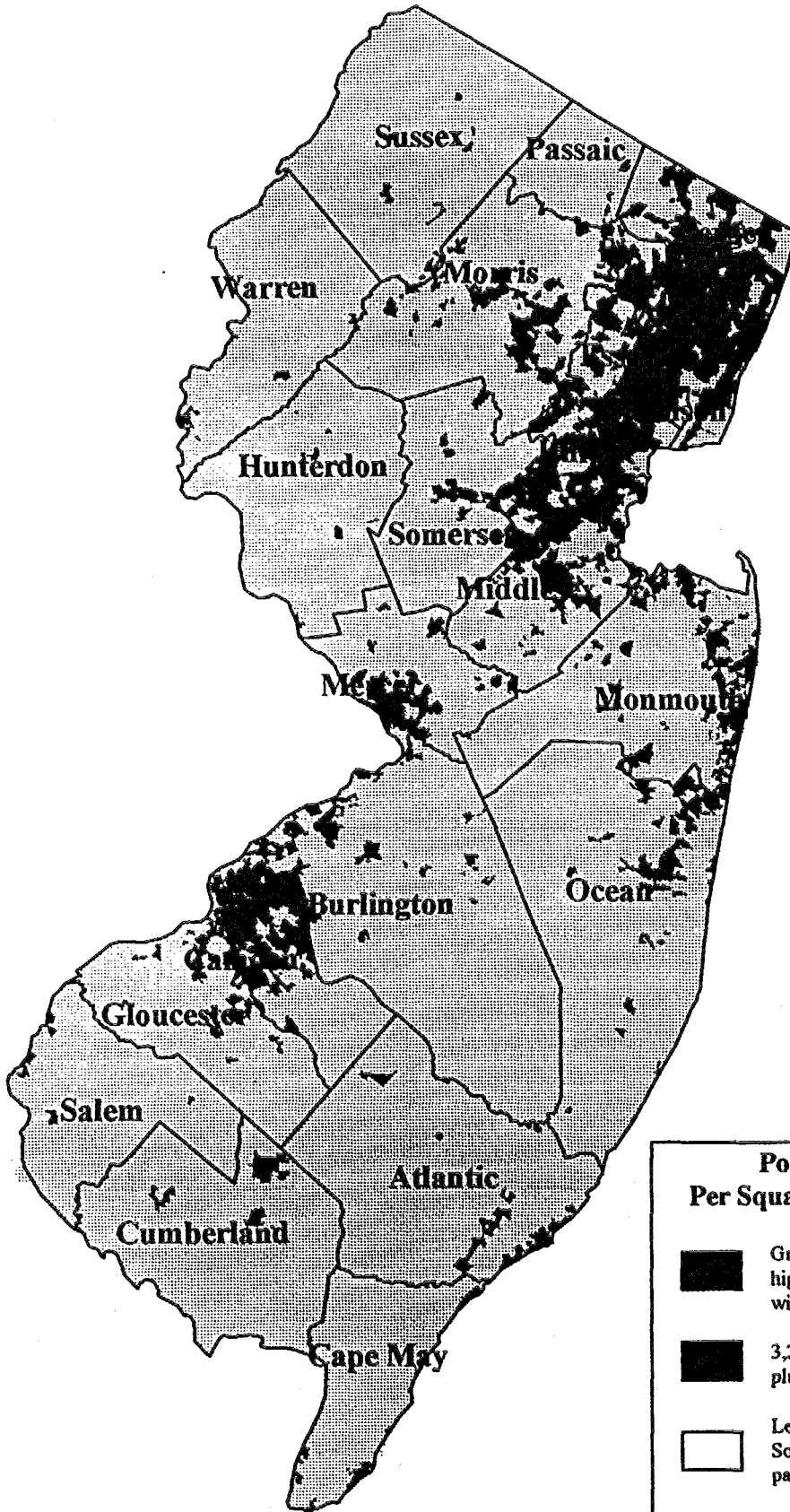


Figure 7.

STATE OF NEW JERSEY

**POPULATION AND
EMPLOYMENT
DENSITY PER SQUARE
MILE BY CENSUS
BLOCK GROUP**

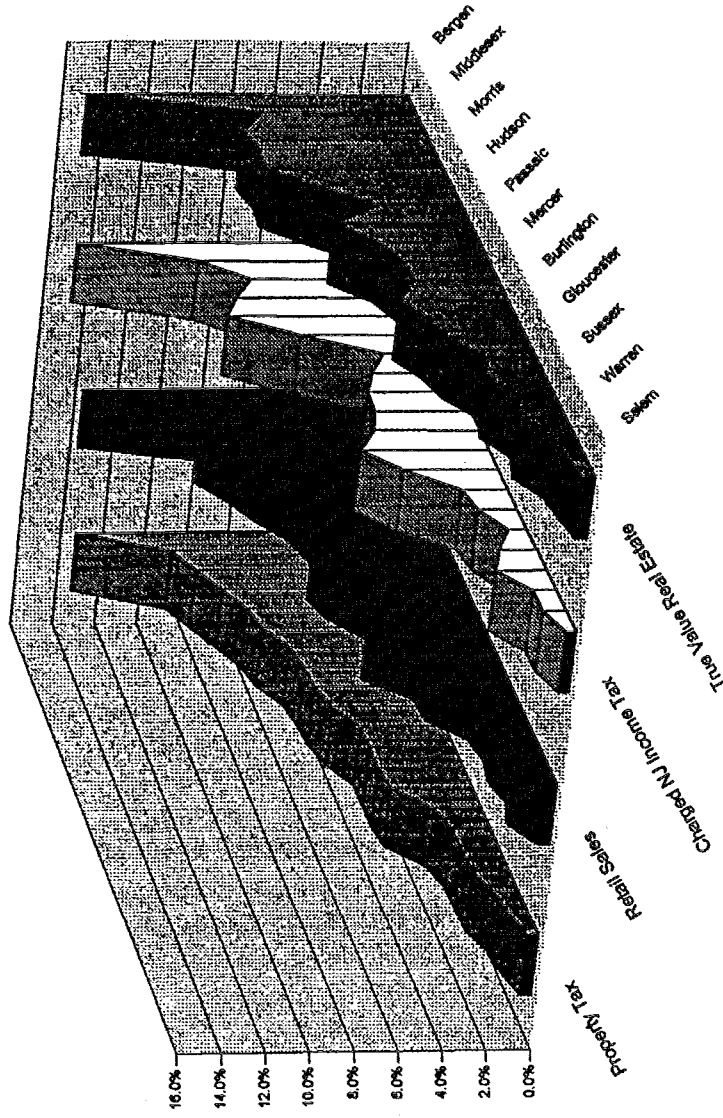


Comparative Tax Analysis for NJ Counties

BERGEN TOPS EVERY CATEGORY ...

County	Property Tax	Retail Sales	Charged NJ Income Tax	TRUE Value Real Estate
Bergen	13.5%	13.9%	14.9%	15.1%
Essex	9.4%	7.1%	8.5%	7.3%
Middlesex	8.8%	9.0%	7.4%	8.6%
Montmouth	7.8%	7.9%	8.5%	8.2%
Morris	6.9%	7.0%	9.3%	8.3%
Union	6.6%	5.8%	6.3%	6.3%
Hudson	5.7%	5.3%	2.8%	3.9%
Ocean	5.4%	5.3%	3.8%	6.3%
Passaic	5.3%	6.1%	4.4%	4.6%
Camden	4.9%	5.6%	4.5%	3.9%
Mercer	4.0%	4.2%	4.8%	3.8%
Somerset	4.0%	3.9%	5.9%	4.9%
Burlington	4.0%	5.2%	4.4%	4.0%
Atlantic	3.8%	3.2%	2.1%	3.5%
Gloucester	2.2%	3.1%	1.8%	2.3%
Cape May	1.8%	1.5%	0.8%	2.6%
Sussex	1.8%	1.2%	1.7%	1.7%
Hunterdon	1.7%	1.5%	2.3%	2.0%
Warren	1.1%	1.1%	1.0%	1.1%
Cumberland	0.9%	1.5%	1.1%	0.8%
Salem	0.5%	0.6%	0.5%	0.6%

Figure 8.



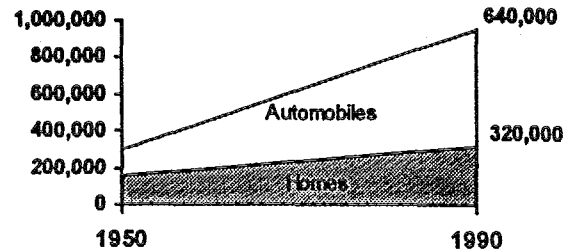
Bergen County Department of Planning & Economic Development
October 1997

Source (Chart utilizes latest data available):
1996 Property Tax and True Value Real Estate (State of NJ, Department of the Treasury, Division of Taxation)
1993 Charged NJ Income Tax (Reported April 15, 1994 - Statistics of Income, State of NJ, Department of the Treasury, Office of Tax Analysis)
1992 Retail Sales (Census of Retail Trade, Bureau of the Census)

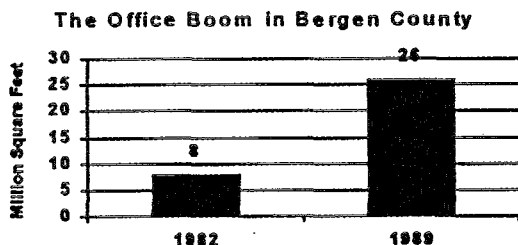
The New Service/Information Economy: Bergen County's All Day Economic Landscape.

As our nation's life was unfolding like this, so was our state's. By 1990, New Jersey, the nation's fifth smallest state, had become the eighth largest economy among the 50 states. Were we a nation, our economy would constitute the world's 18th largest. But among these eight, New Jersey possesses *the most compact economy of them all*. And within New Jersey, among the 21 counties, Bergen County *continues to constitute the state's largest single economic concentration, and on but 3% of the state's land mass*.

Bergen County's economic geography was transformed in much the same way as was the nation's, *but with greater intensity and speed*. Between 1950 and 1996 our population increased by *more than half* to 848,000 while our housing stock doubled to 324,000, and while *total employment and vehicle miles driven* within our borders more than *quadrupled* to 550,000, and 5.0 billion, respectively.



No other county in the State of New Jersey contains economic concentrations this large, or endures more miles driven in and through it. (See Figure 9 on the next page.) *And we are still growing*. The 1996 Census estimates put Bergen's population up by 41,000 since the 825,000 recorded in the 1990 Census.



30-year economic revolution and concentrated its dynamics. Over that short, unprecedented spurt Bergen County's stock of rental office space increased by 308% from 8 million square feet to 26 million square feet, also the highest in the state. This yields a strong economic base, but it is the land use that generates the most traffic all day long.

The office boom in Bergen County that occurred between 1982 and 1989 came at the tail end of this

This burst, representing the embedding of the service/information economy into our already crowded landscape, would upset and came close to overturning the present transportation network's now-limited capacities to handle the new traffic flows. During the most rapid interval of this transformation, between 1970 and 1995, the number of trips per day inside our county shot upward from 2.8 million to 3.2 million. In highway terms, this increase would have required us to build 248 new lane miles of road to keep up with the

Figure 9.

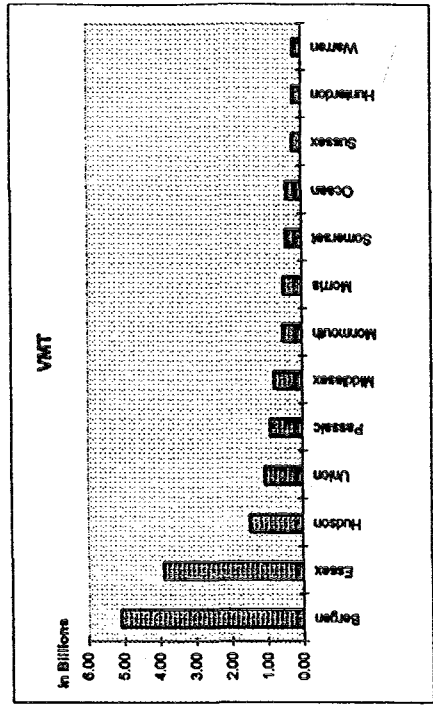
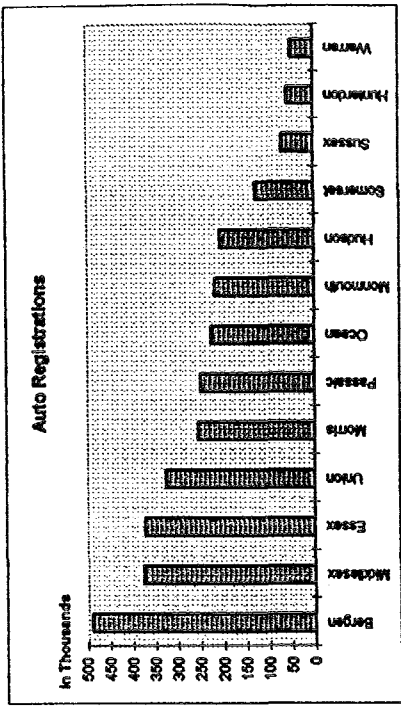
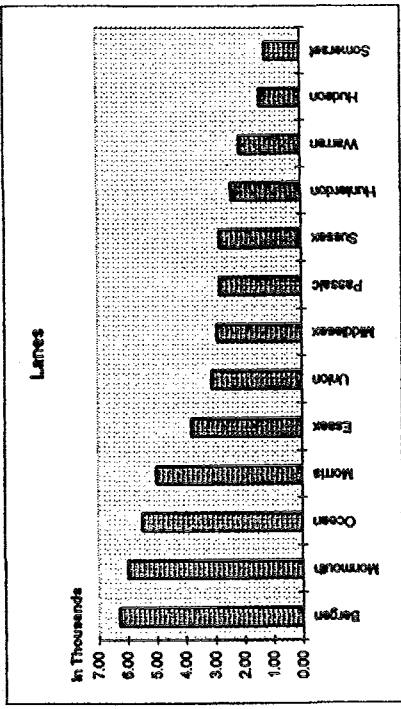
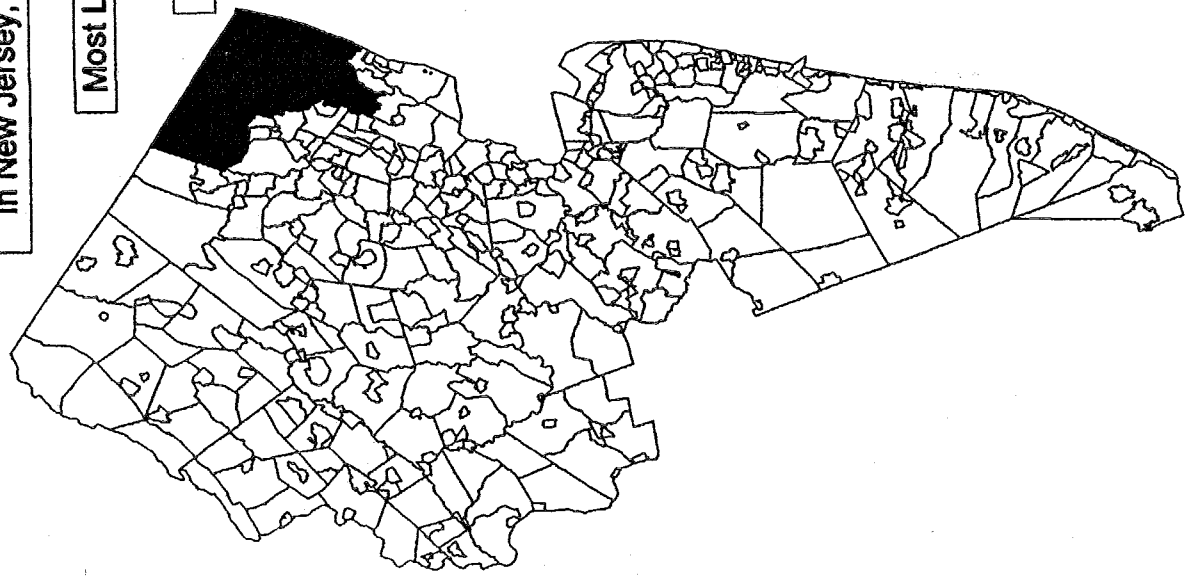
NEW JERSEY IN THE TRAFFIC ZONE

In New Jersey, Bergen County has the:

Most Lanes

Most Auto Registrations

Most Vehicle Miles Traveled



onslaught — enough to add a lane stretching from Hackensack to Atlantic City and back. We did not.

This is the radically changed metropolitan landscape, designed specifically for the automobile *but now being overpowered by it, for which newly conceived forms of transit are needed*. In metropolitan regions like ours the nation over, this has become a matter of substantial economic urgency. As we come to grips with these changes, and with the service economy now generating heavy, mixed traffic *all day long*, we discover that different balances of different mixes of transit service are necessary in different landscapes — urban, suburban, and rural.

From Growth Management to Sustained Economic Performance: Cross Acceptance 1997.

Back in 1988, during our first Cross Acceptance marathon, we knew we were in an unusual economic expansion. But we didn't know how it would turn out. Now we do. The results would be eye-popping. This section describes these changes and shows the way in which key themes of congestion, economic performance and stretched transportation capacity come together in Bergen County's economic core. The critical role of transportation in sustaining the economic heart of New Jersey's largest county economy is identified as a prelude to the new array of intermodal transportation investments identified below.

New Jersey's 1989-1992 recession, our worst and most painful in the 60 years since the Great Depression, would stop dead in its tracks the astonishing, six year employment boom that had just preceded it and that had crystallized our planning during Cross Acceptance One. The largest and longest since World II, our extraordinary 1980's boom had contributed 621,500 new jobs to the state's economy at an unprecedented rate of 90,000 new jobs per year. This contrasts with the *annual average rate of job growth, across eight business cycles since 1950, of 50,000 new jobs per year*.

Then, and at a comparably dizzying pace, the recession saw the state abruptly lose 242,000 jobs over the next 3 years — *more than 4 of every 10 added during the boom*. Having added jobs at 90,000 per year over 7 years, we then lost jobs at 80,000 per year over 3 years. The ones we *lost* would not all come from the huge increment we had *added*, however. The other, more tenacious economic forces described here were still at work.

Finally, in September of 1997, the state would finally have gained back the *number of jobs* - - 242,000 — *lost between 1989 and 1992* — making this five-plus year recovery cycle our longest on record, as well, since the Great Depression. Again, *these would not all be the same jobs we lost* — powerful forces still at work and expected to remain at work. This is to say that, beyond these wild swings in the business cycle, the clear imprint of the major *economic trends* since 1950 remains in place. The '80s speeded them up, and the '90s slowed them down.

Now we're back on the job creation track. And the congestion of the late '80s is back and growing. It contributes to the thinking we must do about expanded roles for transit. The future isn't what it used to be.

Bergen County's Targeted Response to Cross Acceptance in 1988.

Open Space Initiatives

In 1990, after a period of intense analysis of land development and growth capacity launched with our 70 municipalities during State Plan Cross Acceptance in 1988, and in response to straw polls we took of this entire delegation, Bergen County launched a 5,000-acre open space crusade. Over these nine years, we are closing in on doubling all the acreage we had assembled in county parks and natural areas in all the years prior to 1988.

Capital Planning Capacity

As an extension of the land and zoning capacity calculations we performed with all 70 municipalities during Cross Acceptance in 1988, we then developed a series of computer-based models to help us anticipate traffic growth lurking in land available as zoned, and traffic to anticipate with the upcoming (1992) completion of Interstate 287's "missing link" and its interchanges in Bergen County in Oakland (at Route 208) and in Mahwah (at Route 17 and Interstate 84 in New York State).

We also launched an associated analysis of our transportation network's present and future conditions and needs. We began by determining the central relationships between our economic assets and the capacities of the regional and local roadway and transit systems to sustain them into the future. Our investigation incorporated a careful look at the economy of the county *and its economic distribution* -- the *density* of its key land uses for defining transit opportunities. We discovered that we had, and have, new and growing transportation needs to address for our transformed landscape.

Bergen County's Five Major Transportation Investment Initiatives Since Cross Acceptance in 1988.

All of the changes discussed here -- economic, geographic, spatial and demographic - have contributed mightily to the massive changes in the make-up of our transportation needs -- for moving people and goods -- by road and rail, by car, truck and bus, and by train, plane and ship. Most of these facilities, local and regional, do not match up very well today, with the major elements now in place having been built in a different era for a different economy in a different competitive atmosphere.

In Bergen County, cars, buses and trucks compete for limited space on roads. One of our recent studies showed us that Bergen County draws 40% of its our daily work force from 330 municipalities outside of Bergen County in 4 states. In 1990, trucks now handle some part of their trip to market *for 90% of what we manufacture, import, grow and sell*. They are everywhere. Just as competitively, rail freight, commuter rail and Light Rail compete for limited track and terminal capacity. Close by in our region, air freight competes for ground and runway space with air passenger space, shipping competes for landside space with new urban waterfront-oriented homes and jobs, and *all of these compete with each*

other and with natural ecosystems for precious waterfront space. Intermodal planning as compared with Intramodal planning is urgent stuff.

Every one of these competitors is supported by major interest groups pursuing economic strength, and each has a competing vision for what the "balance" should be. Those who plan in order to forge a compatible mix of all of these have their hands more than full. That includes us. We have thought hard about all of these in the preparation of the five major transportation initiatives described here.

Improving the Efficiency of the Existing Highway Network

On the *highway side*, depicted in Figure 10, we saw the vital importance of expanding the Routes 4/17 Interchange -- both in its future capacity to absorb larger traffic flows from the surrounding region, *and of greater importance, to help attack East-West congestion by expanding the ease and speed with which of all of its users can change direction to gain access to more destinations.* We began our work to design its future for the mix of local and regional travelers whose thousands of separate paths converge here daily. At county scale, nearly all of Bergen County's 37,000 private sector businesses -- the largest concentration in the state -- *find some members of their work force dependent on this congealing interchange in their journeys to and from work.* To expand and re-align it, then, is also a decision to strengthen the business climate in our county.

Pretty much the same number of people pass through this interchange daily -- the number hovers around 250,000 -- as cross the Hudson River from all of New Jersey every morning by bridge, train, tunnel and PATH. Its present loop system was built with pride in 1934, but for Model A's putt-putt putting through a landscape of homes amidst celery farms. We formed a partnership of mall owners, municipal officials, county engineers and NJ Department of Transportation engineers, rolled up our sleeves and turned on the Computer Aided Design software. The preliminary design was complete and acceptable to all parties in 14 months and is funded in the Transportation Improvement Program. See Figure 11.

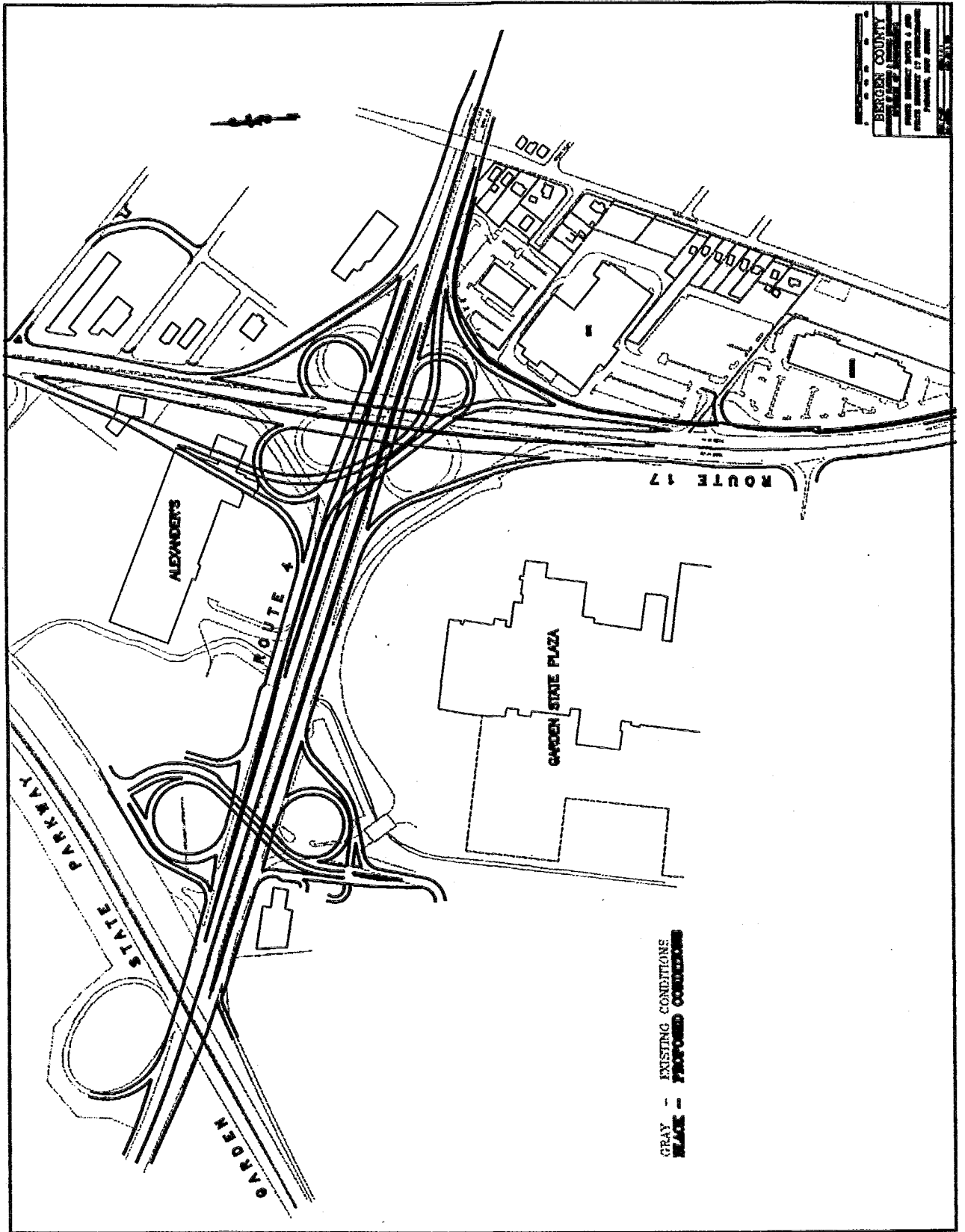
Enhancing the Capacity of the Existing Commuter Rail Transit System

On the *transit side*, we discovered first that while buses now carry the majority of our transit users today, *their ability to sustain our economic and transportation future is seriously limited by the Lincoln Tunnel, its crowded Exclusive Bus Lane on Routes 3 and 495, and by the congested roadways leading to both.* In short, buses traveling our 124 routes are trapped in the traffic they seek to displace, including the large, long distance complement of them that passes through Bergen County with "closed doors."

This led to our concentration on advocating for the Secaucus Transfer *and its ability to induce more rail riders as parking can be assembled* at upwards of 100 New Jersey stations along all of its connecting lines. Three -- the Main, Bergen and Pascack Valley lines -- currently carry commuter rail traffic southward across Bergen County to Hoboken. Rail freight grows steadily on two of them.

To best prepare ourselves for the benefits this magnificent new rail facility will deliver to

Figure 11.



Bergen County and our entire region, we joined NJ Transit's ambitious effort to double the parking spaces along the Bergen, Main and Pascack Valley lines – from 4,000 to 8,000 – in time for its opening. The Secaucus Transfer/Allied Junction project, a public/private partnership with enormous potential for helping induce transit friendly land use, will also increase substantially the number of destinations our rail riders can reach along these three lines. Put simply, the greater the number of riders, the better and more frequent, and thus the more attractive the service can be.

The Bergen, Main and Pascack lines could potentially be joined at the Secaucus Transfer by a fourth and or fifth – the West Shore and/or the Northern Branch – as future products, not yet tested, from another, ongoing Bergen County/NJ Transit partnership. In this partnership formed in September of 1996, Bergen County and New Jersey Transit are conducting, together, a Major Investment Study of the comparative mobility strengths offered by various combinations of three potentially new rail transit services in Eastern and central Bergen County – along all or portions of the West Shore, the Northern Branch, and of what we call the “Cross County Line” from central Bergen to Weehawken on half of the existing Right of Way of the Susquehanna and Western line. (See Figure 12, following.)

Both the Routes 4/17 interchange and the Secaucus Transfer have been funded, with the Secaucus Transfer under construction and scheduled to open in 2002. The Routes 4/17 interchange, along with other nearby components adjusted to fit its design, is scheduled for construction in 1998, 1999 and 2000.

The Hudson Bergen Light Rail Transit line: It can tie Bergen County's residents, work force and economy to Hudson County, its Waterfront, Weehawken's New York Waterway Ferry, Hoboken (to downtown Manhattan via Ferry and Path); Jersey City's Journal Square and Newark by PATH from Hoboken, Newport and Exchange Place; Liberty State Park, and Bayonne.

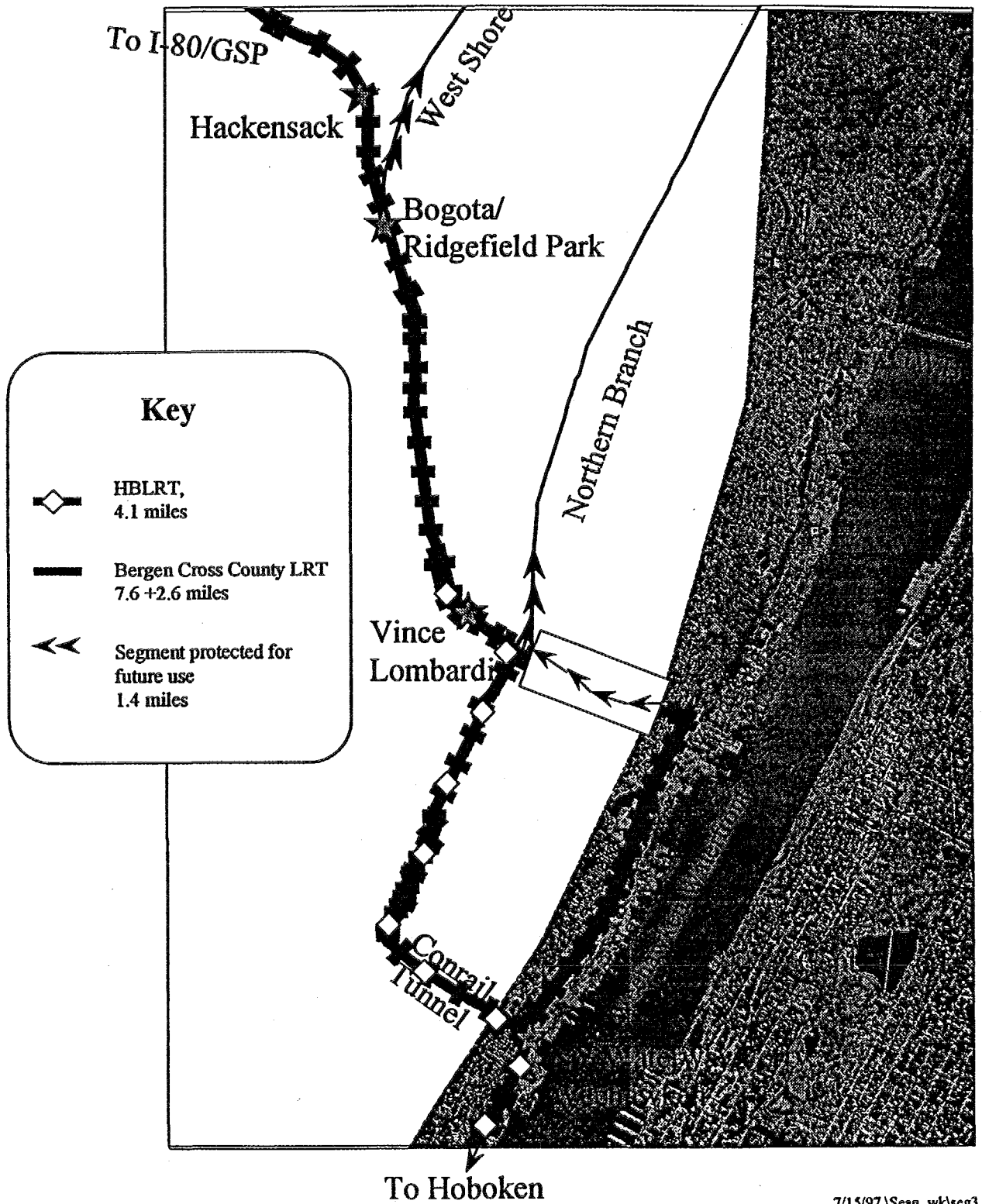
Since Cross Acceptance in 1988, a *third major, regional transportation initiative* has also entered our planning landscape – the Hudson Bergen Light Rail Transit line. As was the case with the Routes 4 and 17 projects which we initiated, and the Secaucus Transfer which we advocated strongly for, the Hudson Bergen Light Rail immediately became another major investment opportunity for us to study, to influence in its configuration, and join in its funding advocacy. Figure 13 shows the route that was chosen, in 1993, from eight alternatives studied and evaluated over its seven year gestation period.

This major new Light Rail project, whose first funded segment was chosen for construction between Bayonne and Hoboken, named the Vince Lombardi Park-Ride in Ridgefield as its final and northernmost destination, and Bergen County's only stop on the 32-stop line. Its arrival date was estimated, by NJ Transit, for the year 2010. As was the case with the 4/17 interchange, we have worked strenuously in many forums over the last four years to bring its final design, funding and construction much closer to the present.

This choice for its northern terminus was not a good place for us. People coming in on its trolleys from Hoboken and Weehawken to the south will step off into a Park-Ride nestled between two spurs of the NJ Turnpike. So they will have no easy way to get to our offices, homes, hospitals, colleges and all the other auto-attractive destinations listed in Bergen's

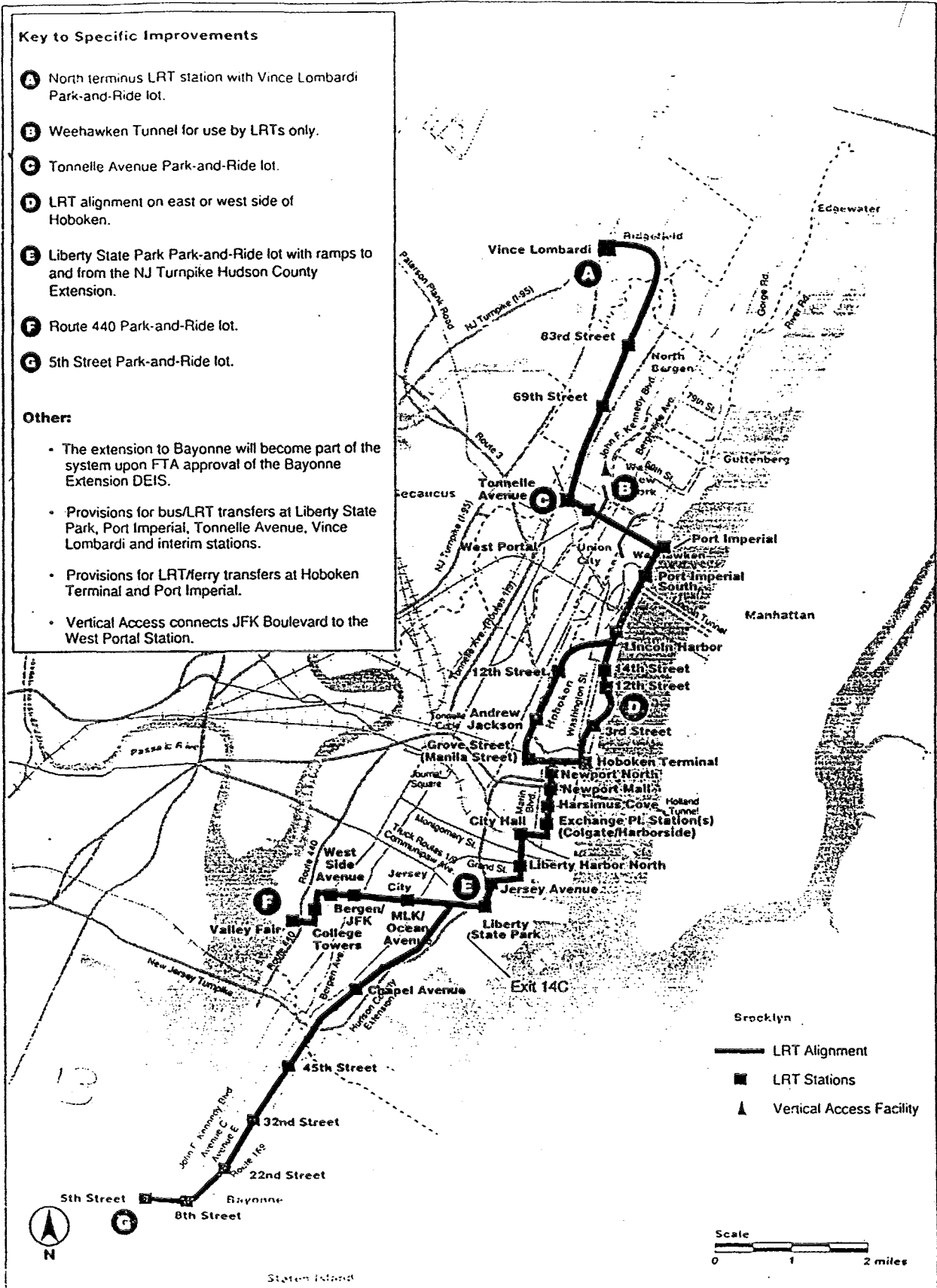
Figure 12.

The Bergen Cross County Light Rail Adds Two Extensions to The Hudson Bergen Light Rail



7/15/97\Sean_wk\seg3

Figure 13.



Waterfront Corridor Preferred Alternative

Yellow Pages. As configured, then, it effectively carries passengers in only one direction – southbound – and from a point hard to reach for our 848,000 residents.

So while this station helps the rest of the line with ridership derived via Park-Ride from Interstate 95 drivers – a positive feature – the whole system’s ridership is *not* increased in its strength by rail riders from the south, including cross commuters from New York City. So an additional consequence is financial. Without much “reverse commuting” capacity, it loses customers whose fares could help support its operating costs if only northbound users could be accommodated, and southbound passengers could be substantially increased in their numbers. *Further, the loss of Light Rail access to Edgewater and to the Hudson River Waterfront southward to Weehawken, now booming along a two lane (Level of Service F) road was a substantial one.*

To correct these deficiencies without disturbing its standing in the Urban Core as a completed FEIS project with a full funding agreement for its first, Bayonne to Hoboken stage, we have devised and tested the engineering and environmental feasibility of the project we call the Cross County Line. More on that below.

Missing Mobility Options: New Transit Investments and Economic Performance.

There has always been a close connection between transportation capacity and land use and economic development in Bergen County. The transit connections along our commuter rail roads and bus network have linked Bergen County’s residential values to Manhattan’s high-wage jobs sustaining local tax bases and schools. The highway connections to the nation have been the pathways along which the explosive growth in jobs outlined earlier have grown. Yet, as growth has matured, and regional investment lagged the explosive growth in regional commuters headed to – and through – Bergen County four new investment principles have emerged.

1. Our transportation investments must be targeted to areas where the outcomes for economic performance are highest. Here we must always balance the need to protect the results of past growth and the need to liberate the possibilities for the new high value service economy emerging in our midst. We must consider:
 - where our needs and our opportunities most strongly merge in the rail choices available to us;
 - who our most productive economic partners in the region are; and
 - which rail transit linkages offer us the best opportunities to link together our most important, shared assets. For example, our strongest linkages are to Hudson County and Manhattan, and not to Rockland County (See Figures 14 and 15 on the next pages).
2. We need to think in terms of a single integrated multi-modal transportation network that can accommodate the competing needs of its many customers that have different needs at different times of the day. Although investment has lagged behind demand in Bergen Count, the in-place investment in roads and rail has a replacement value in excess of \$25 billion – more than the entire projected federal funding for north Jersey over the next 20 years. So looking for places where we can increase the productivity of the existing system by connecting its disparate pieces, filling service gaps, or providing for easy changes

Figure 14.

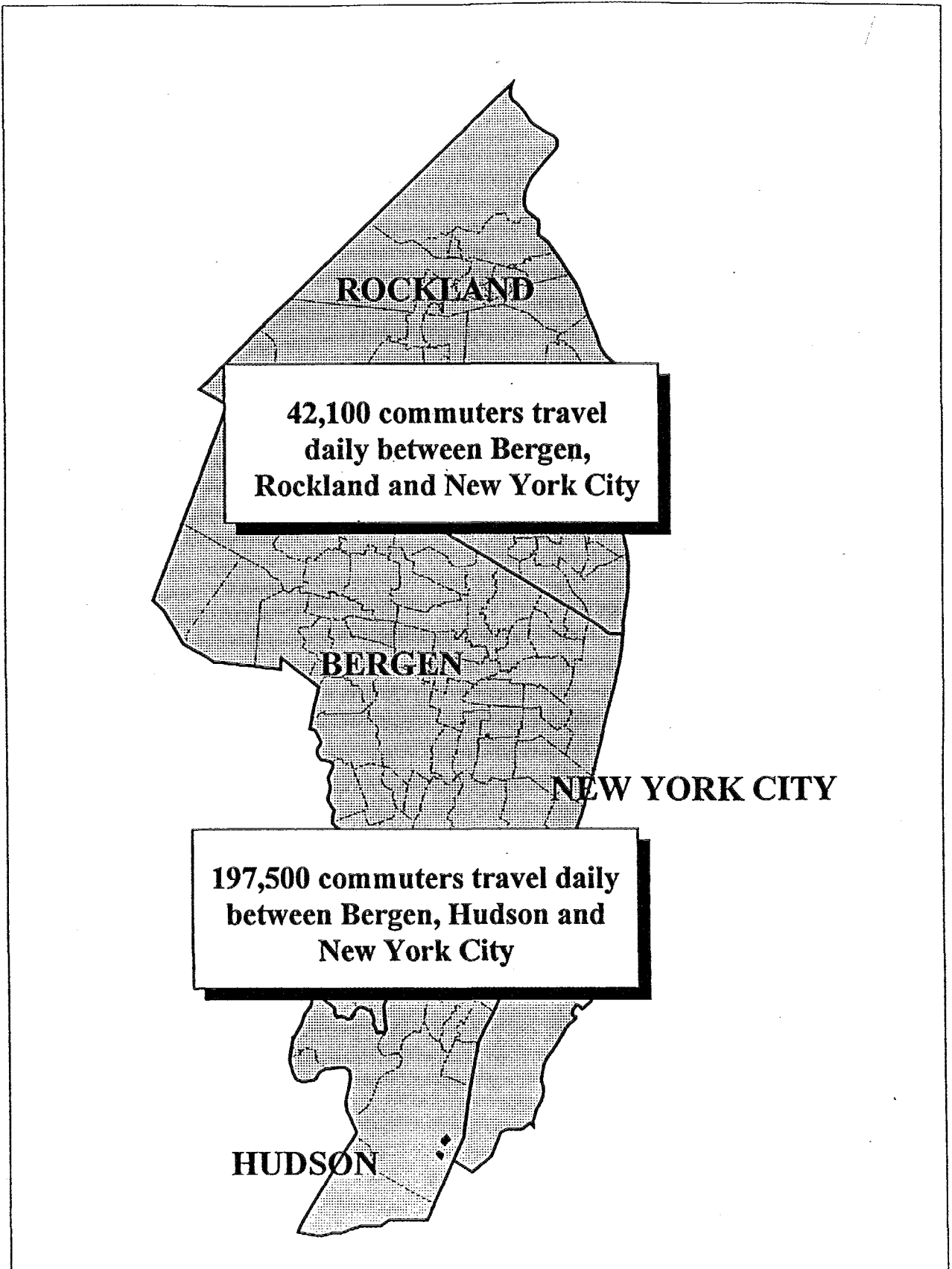
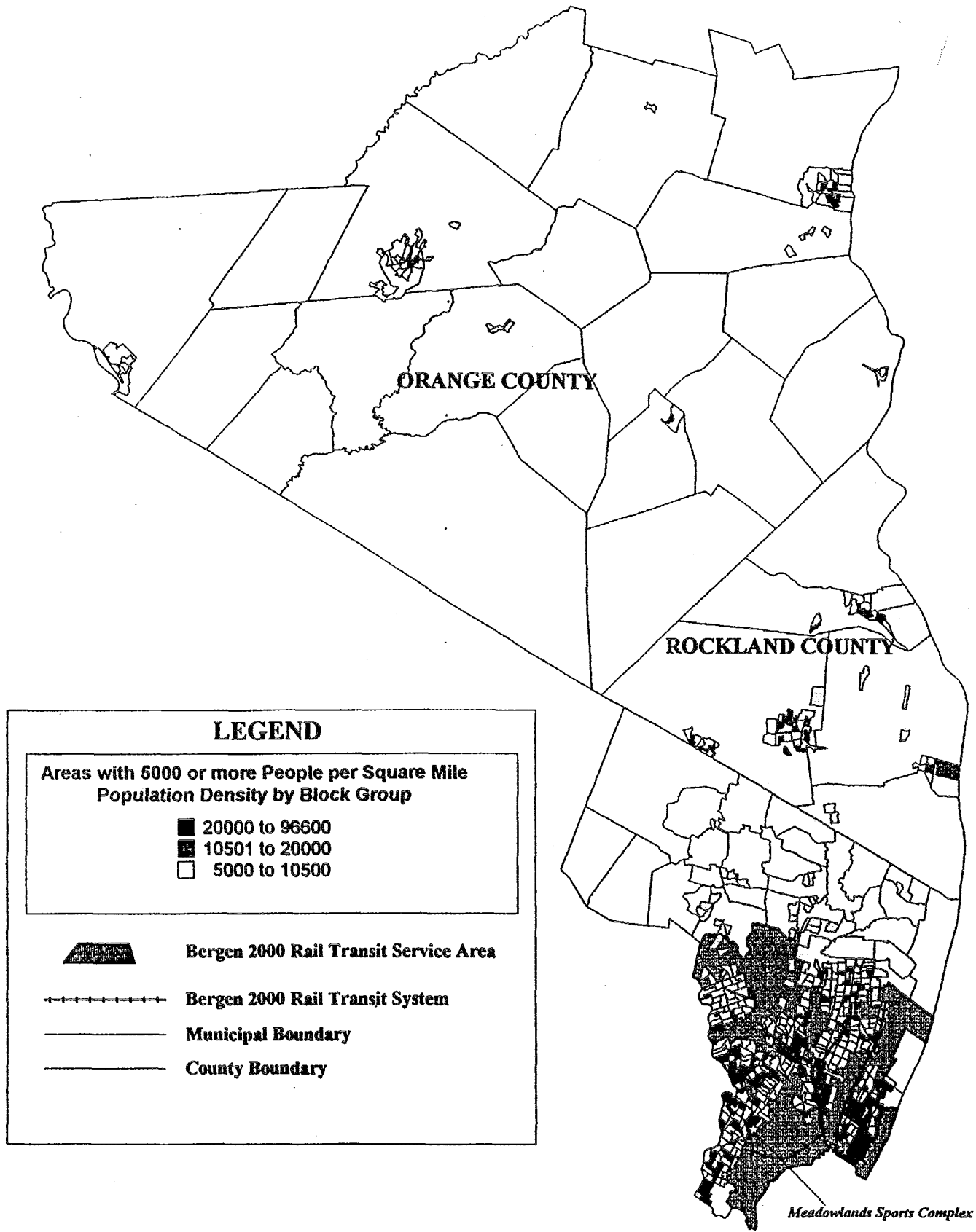


Figure 15.
Transit Investments Should be Targeted to High density areas first



between modes (rail to bus, bus to Light rail, auto to light rail) will not only provide new capacity but increase the return on investments already made. We can no longer afford to make investments without regard to their implications for the efficiency of the overall network both in terms of existing facilities and services and other investments they may induce.

3. We need to tailor solutions, both in terms of their scale and timing, to the available funding sources. Despite the heroic efforts of ISTEA to reverse the decline in spending identified above, it is likely that that the flow of federal and state funds to transit and other transportation projects in northern New Jersey will lag behind the rising needs for system maintenance and capacity expansion. So in developing transportation investments we must think not only in terms of the "ultimate" or "perfect" solution, but also in terms of a "phased approach". In some cases it might be possible to advance the goals of a specific transportation investment by beginning with a "critical component" or by a more limited service configuration, or lower cost technology that can be expanded as the market grows and/or funding becomes available. Even when this might increase the overall cost of the project these costs must be weighted against the benefits that are delivered earlier. There is nothing more futile than developing the perfect solution for which funding is not available.

In doing this we must consider new sources and partnerships. *What private sector assistance can be enlisted?* Bergen County has already established a record of success in integrating our own planning and investment with the planning and investment of others – very much at the heart of the State Development and Redevelopment Plan's major goals. Examples are Routes 4/17, the Edgewater Waterfront, the Hackensack Medical Center, our Essex Street initiative, which includes the redesign of the Essex Street interchange with Route 17, and others.

4. Investment choices must be supported by our municipal partners who are keen to take advantage of the economic benefits of transit investments through matched land use and transportation investments. For a transit system to be truly successful, the design process must encourage active participation from those who will help determine its outcome.

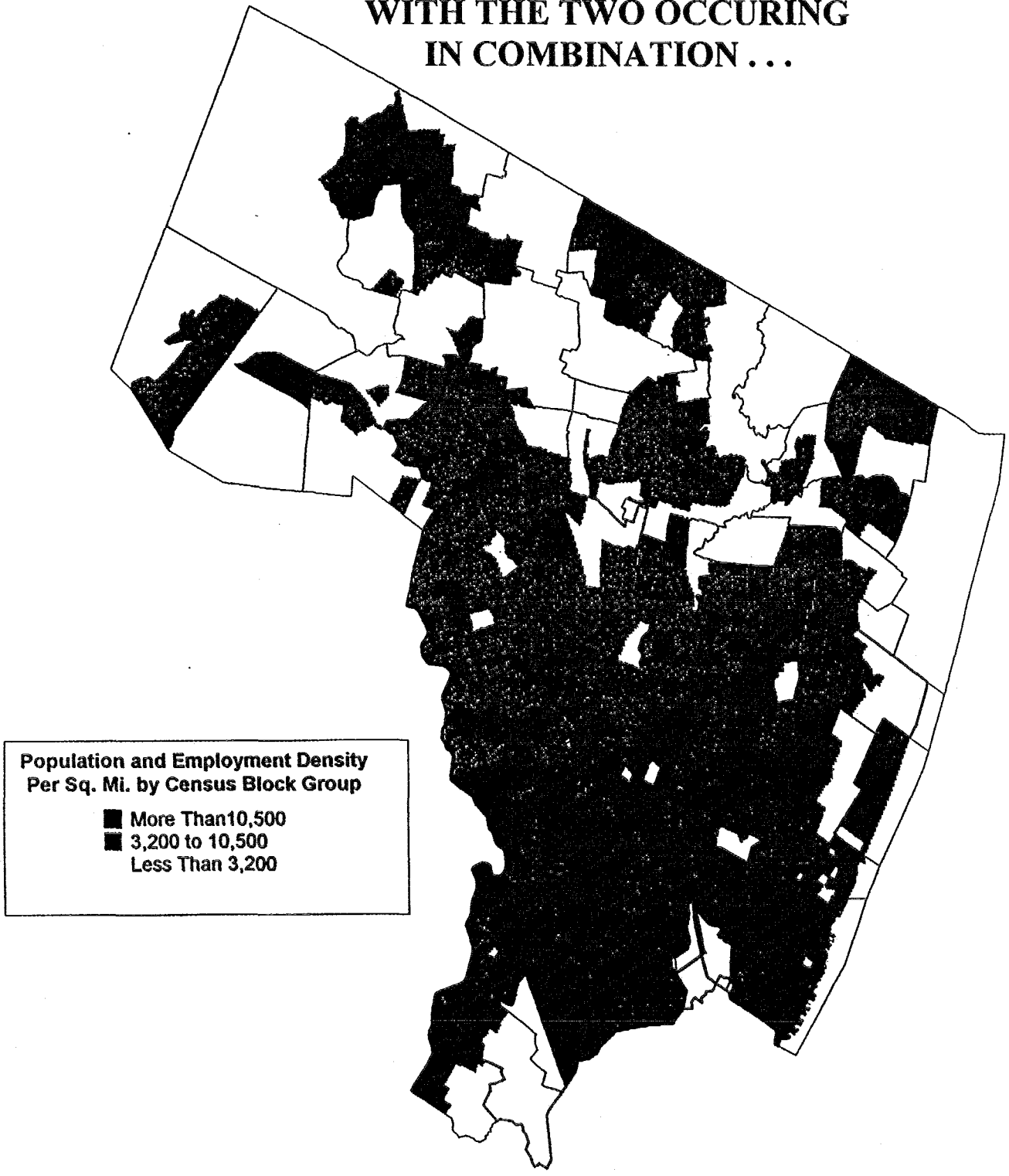
These themes come together in *Bergen County's economic and transportation core*, described in the next section.

Investing in Economic Performance in Bergen County's Economic & Transportation Core.

Our investigations of the key relationships between the patterns of economic development, land use and transportation countywide led us unerringly to the identification and detailed description of Bergen County's economic and transportation core. In a 98 square mile, centrally located core – several illustrations follow – are concentrated, first, our county's highest concentration of population per square mile and employment per square occurring in combination with each other (Figure 16).

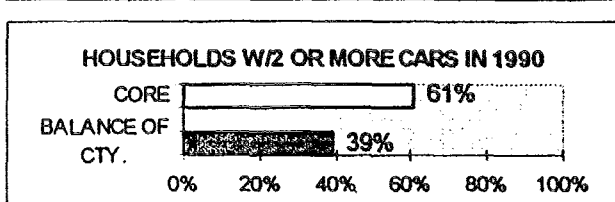
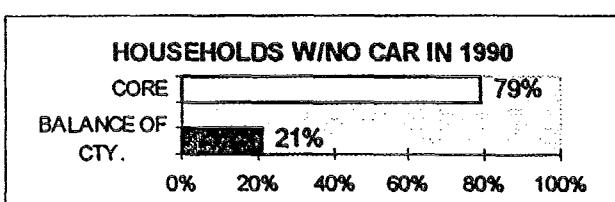
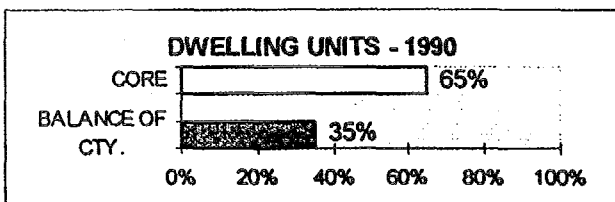
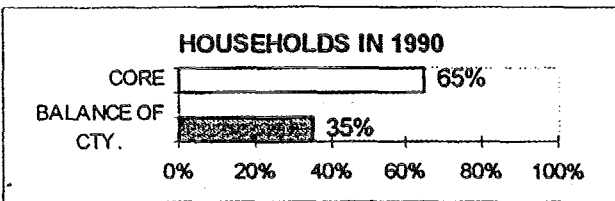
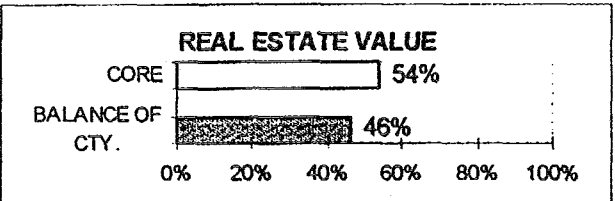
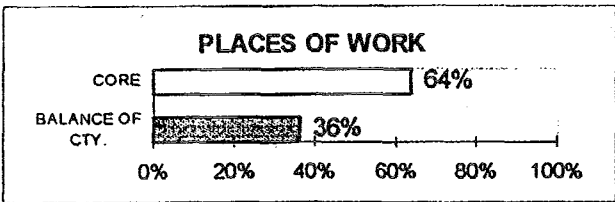
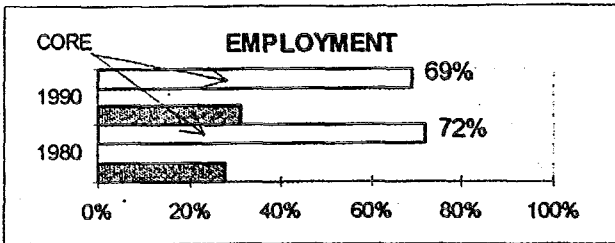
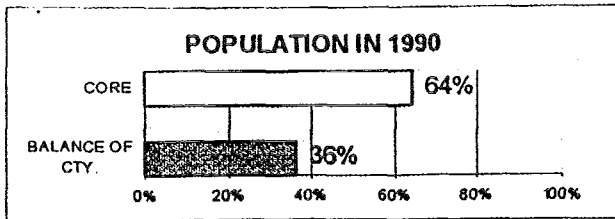
Figures 17 and 18, following, show how a much broader and related series also occur coterminously here. For example, this economic core is also the county's financial core, including its capacity to generate our highest concentrations of assessed value, offices, income earned and taxes – sales, property, and income – generated. As Bergen County is the State's economic engine, this is the county's.

**THE CORE HAS DENSE POPULATION
AND EMPLOYMENT CONCENTRATIONS
WITH THE TWO OCCURRING
IN COMBINATION ...**



FIG_2.WOR

Figure 17.



FEATURES OF BERGEN COUNTY'S ECONOMIC CORE

Category	1990
Population in Core	526,368
Population in Balance of County	299,011
Employment in Core	300,216
Employment in Balance of County	136,484
Places of Work in Core	24,126
Places of Work in Balance of County	13,728
Real Estate Value in Core	\$44,105,877,091
Real Estate Value in Balance of County	\$37,164,578,766
Households in Core	202,023
Households in Balance of County	106,857
Dwelling Units in Core	212,344
Dwelling Units in Balance of County	112,473
Households w/no Car in Core	21,573
Households w/no Car in Balance of County	5,786
Households w/2 or more Cars in Core	72,123
Households w/2 or more Cars in Balance of County	46,700

Figure 18 - Features of Bergen County's Economic Core:

<i>CATEGORY</i>	<i>Core</i>	<i>Core as a % of the County Total</i>	<i>Balance of County</i>
POPULATION IN 1990	526,368	64%	299,011
COVERED EMPLOYMENT IN 1980	245,312	72%	94,984
COVERED EMPLOYMENT IN 1990	300,216	69%	136,484
RESIDENT COMMUTERS IN 1990	219,944	64%	122,893
DAYTIME POPULATION IN 1990	606,640	66%	312,602
CHANGE IN DAYTIME POPULATION	80,272	99%	1,185
NIGHT TIME POPULATION	526,369	64%	299,011
SQUARE MILES	98	40%	148
POPULATION DENSITY IN SQ. MILES	5,371	73%	2,020
HOUSEHOLDS 1970	189,218	68%	90,407
HOUSEHOLDS 1990	202,023	65%	106,857
DWELLING UNITS 1970	191,531	68%	91,780
DWELLING UNITS 1990	212,344	65%	112,473
RESIDENTS COMMUTING 25 TO 29 MIN.	13,326	62%	8,300
RESIDENTS COMMUTING 30 TO 34 MIN.	32,844	65%	17,399
RESIDENTS COMMUTING 45 TO 59 MIN.	18,792	60%	12,523
HOUSEHOLDS WITH NO CARS IN 1990	21,573	79%	5,786
HOUSEHOLDS WITH ONE CAR IN 1990	78,516	72%	29,971
HOUSEHOLDS WITH 2 CARS IN 1990	72,123	61%	46,700
HOUSEHOLDS WITH 3 CARS IN 1990	29,811	55%	24,400
TOTAL FLOOR AREA IN 1991	970	66%	489
WHITE	168,819	64%	96,532
BLACK	11,832	92%	1,000
ASIAN	8,775	57%	6,583
HISPANIC	12,164	82%	2,670
UNEMPLOYED	14,508	72%	5,746
COMMUTERS	267,719	64%	150,121
PLACES OF WORK	24,126	64%	37,854

Other of the Core's features -- showing its sustained role in these categories -- are also displayed (Figures 19 - 24). Also depicted are such relationships as:

- Population Distribution by Municipality, past, present and future ;
- Population Density by Municipality, past, present and future;
- Employment Distribution by Municipality, past, present and future; and
- Transit Density (Population Plus Employment per Square Mile) by Municipality, past, present and future.

Displayed, as well, here, is the mismatch between rail commuter ridership within this core as contrasted in contrast with the remainder of the county (Figure 25).

Figure 19.

Population has and will concentrate in our Core

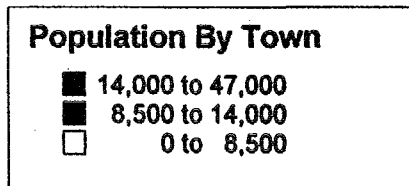
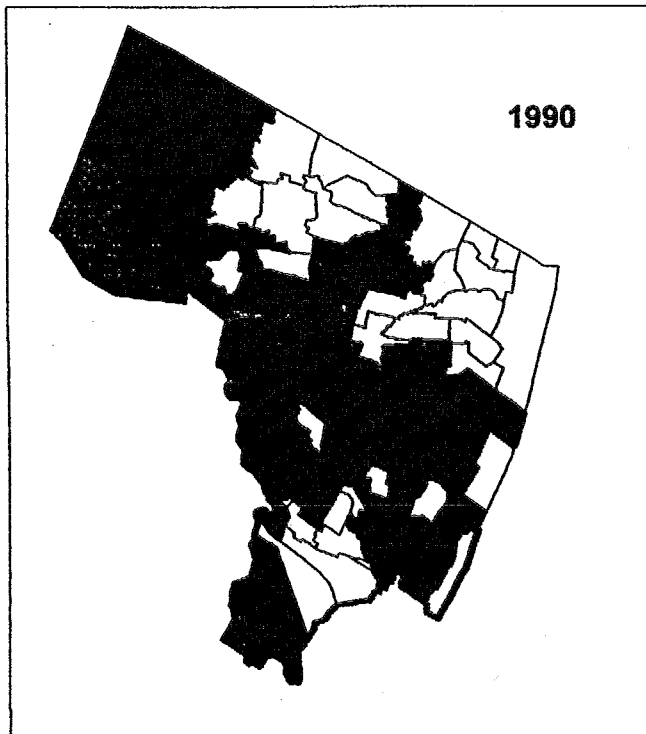
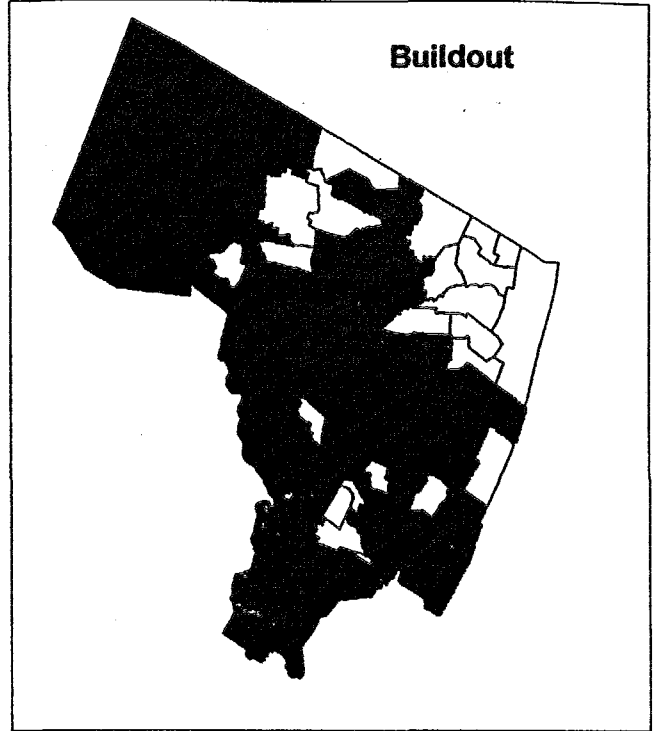
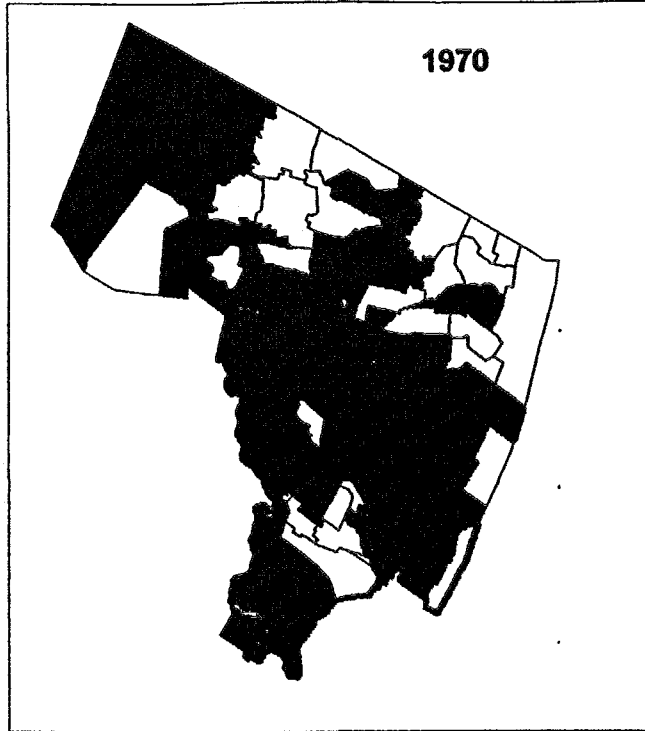


Figure 20.

Population Density has and will concentrate in our Core

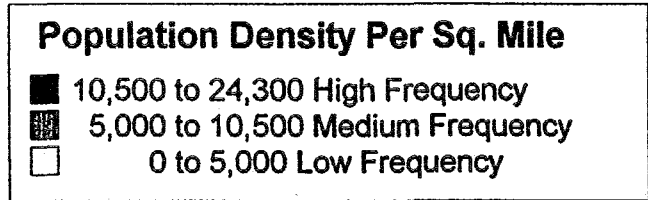
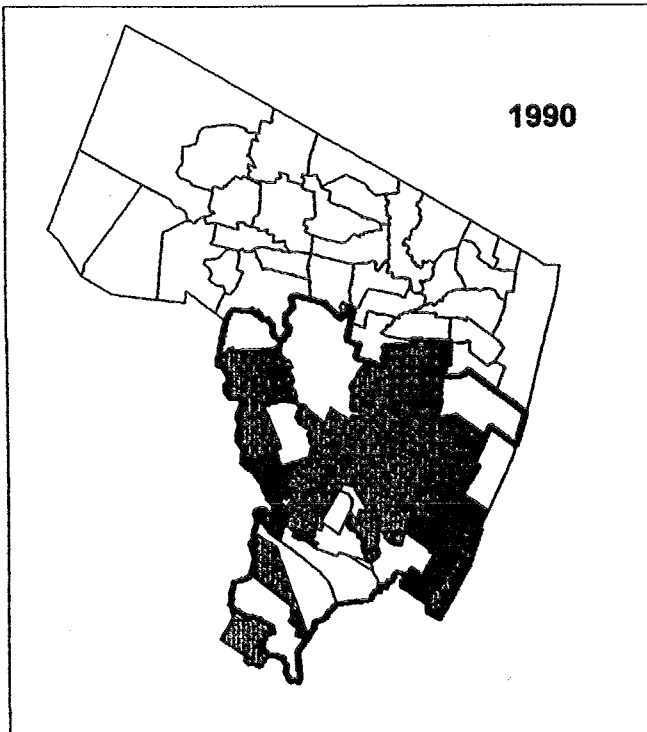
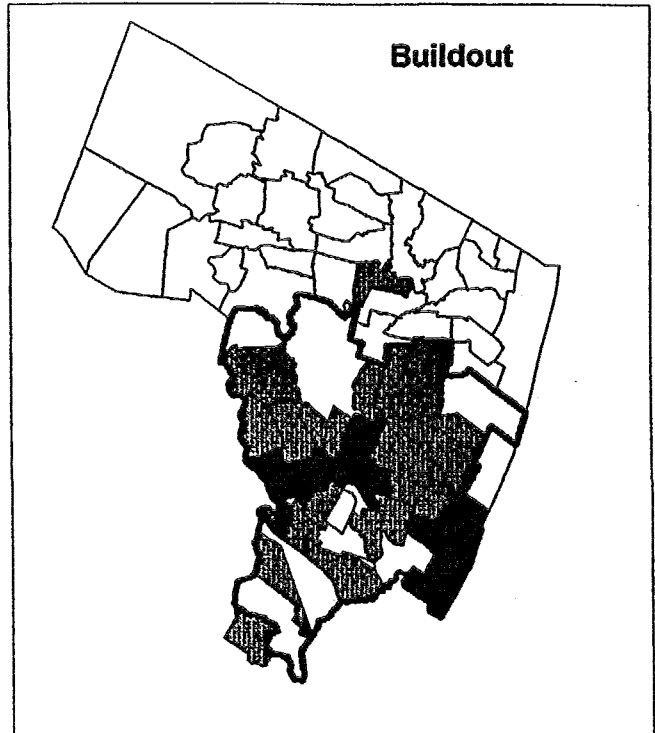
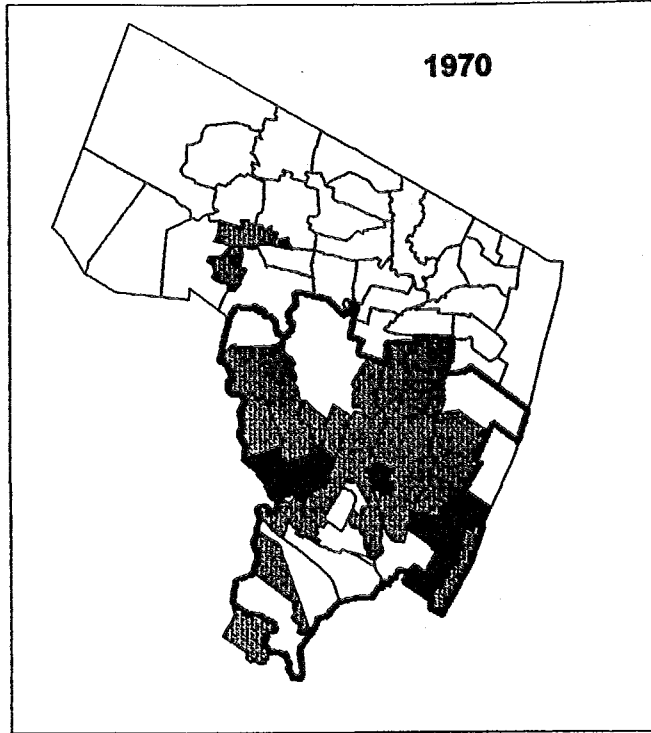


Figure 21.

Employment has and will concentrate in our Core

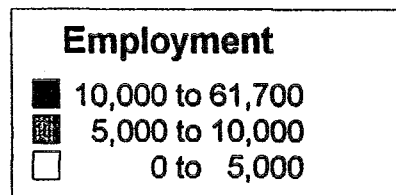
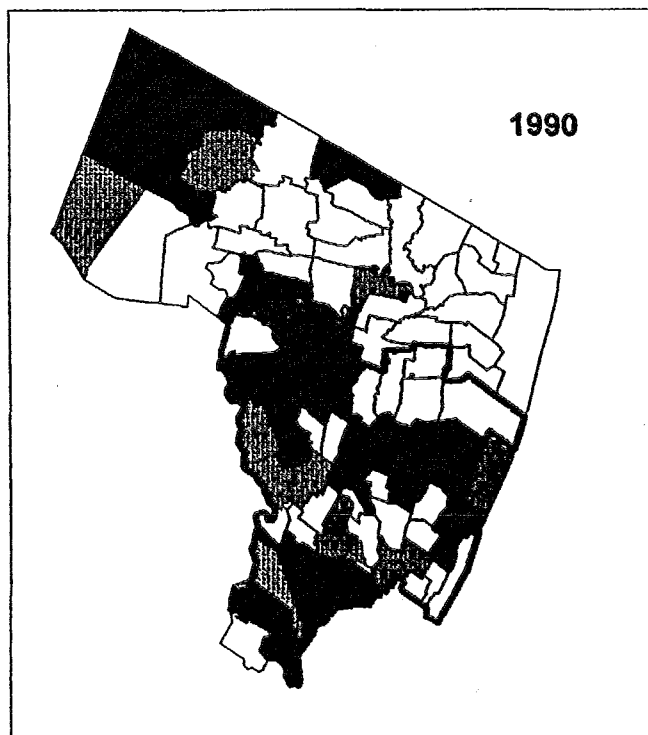
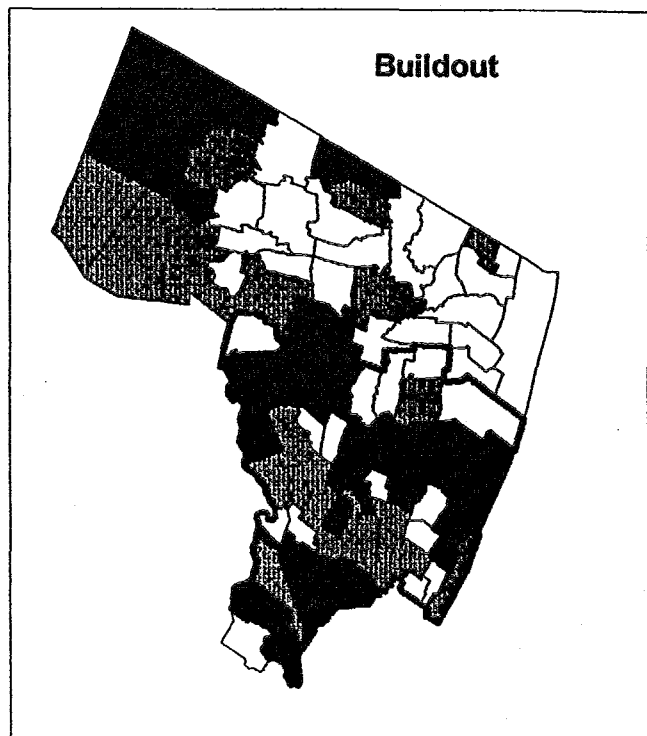
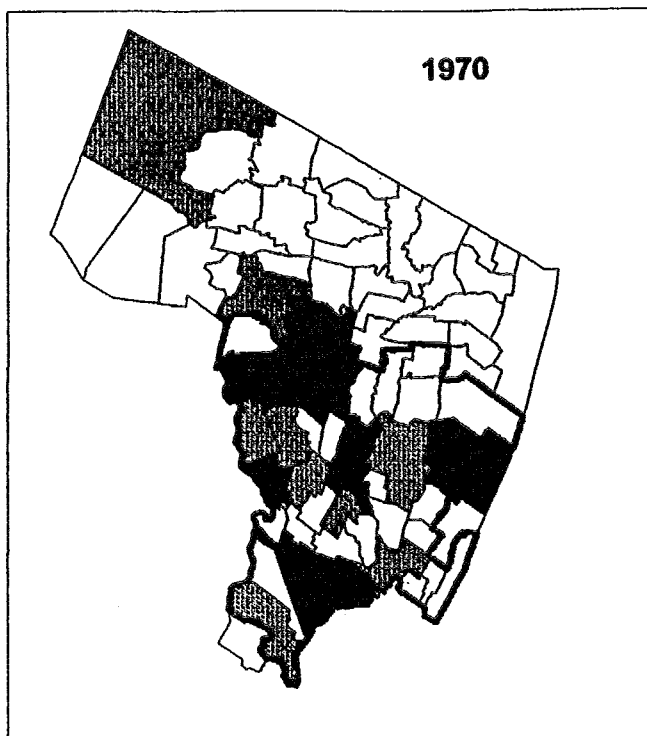
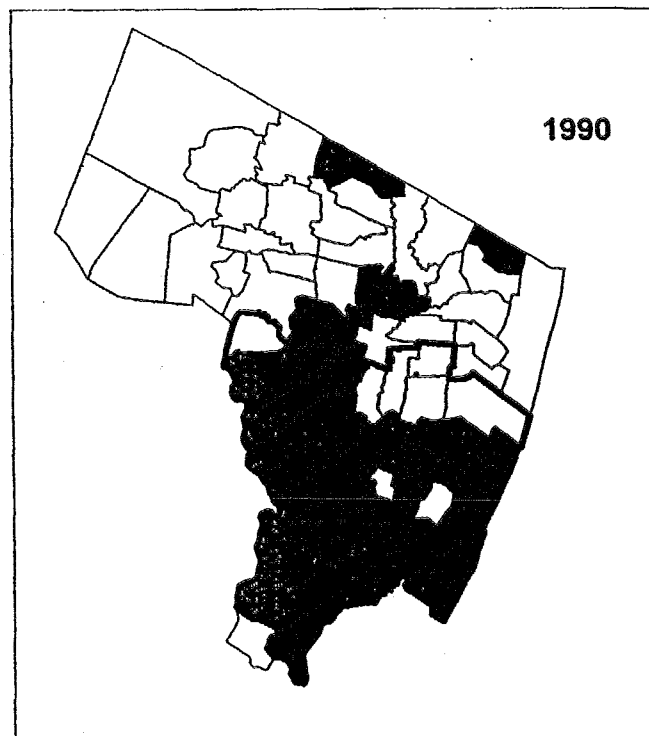
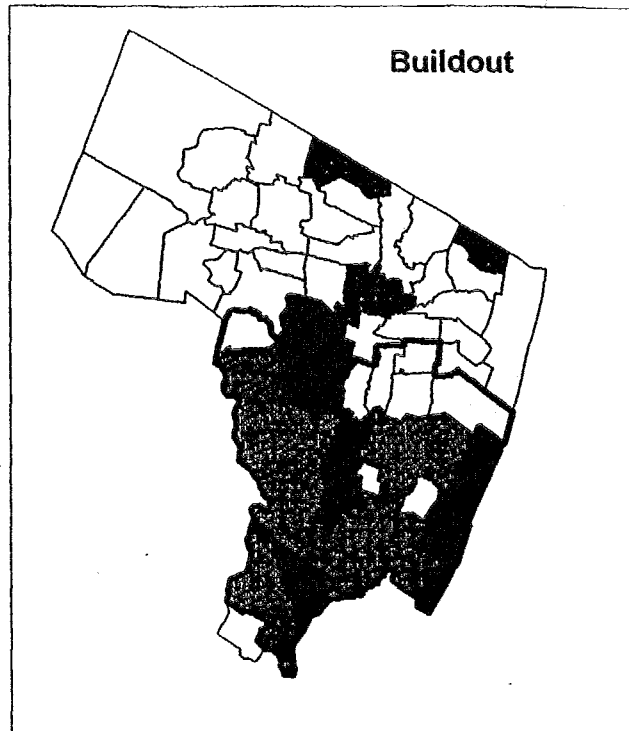
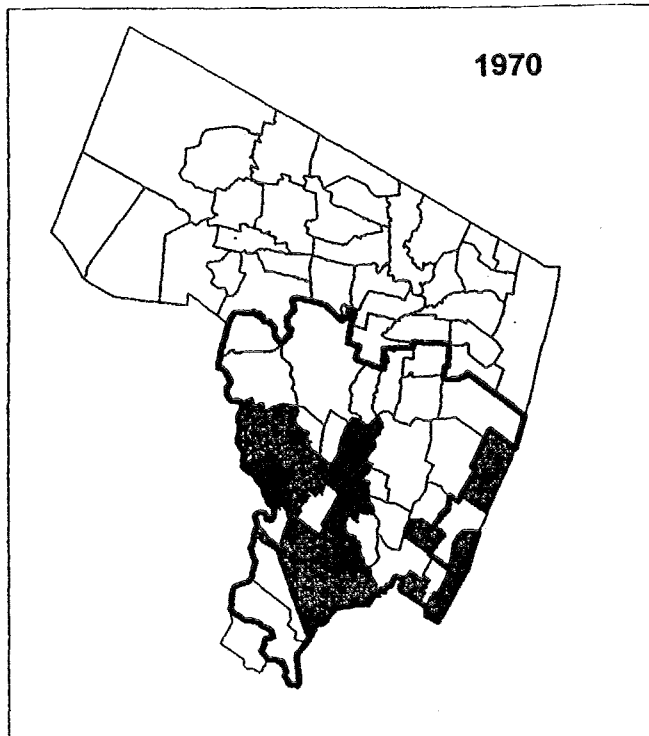
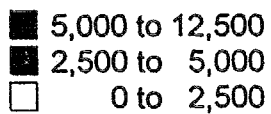


Figure 22.

Employment Density has and will concentrate in our Core



Jobs Per Square Mile



Year	1970	1990	Buildout
Land Area in Sq. Miles			
Core	94	94	94
Rest Of County	141	141	141
County	234	234	234
Percent in Core	40%	40%	40%
Employment Density Per Sq			
Core	2,327	3,206	4,131
Rest Of County	531	971	1,239
County	1,249	1,865	2,396

Figure 23.

Transit Density has and will concentrate in our Core

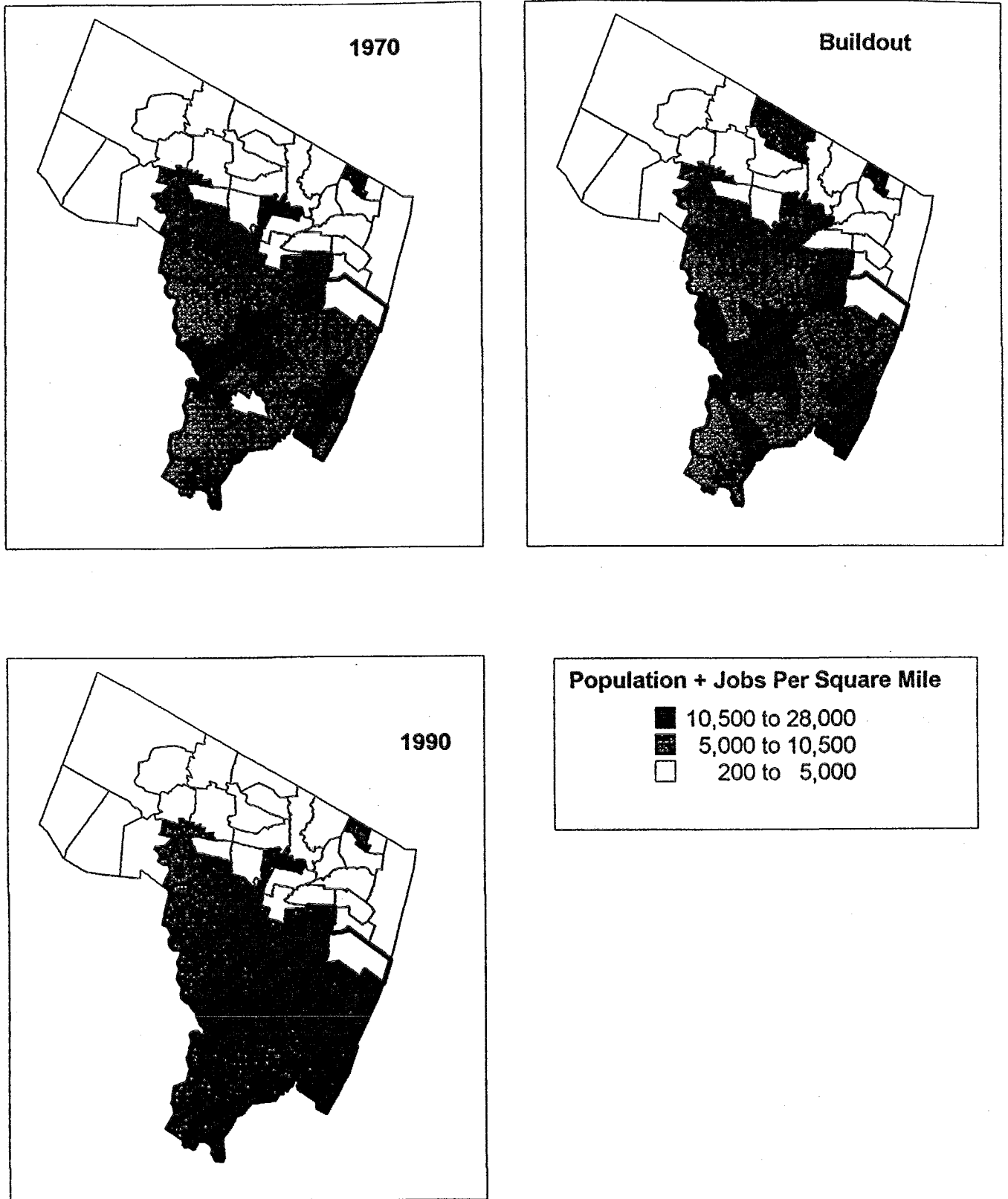


Figure 24.

Daytime & Nighttime Population in Bergen County In 1990

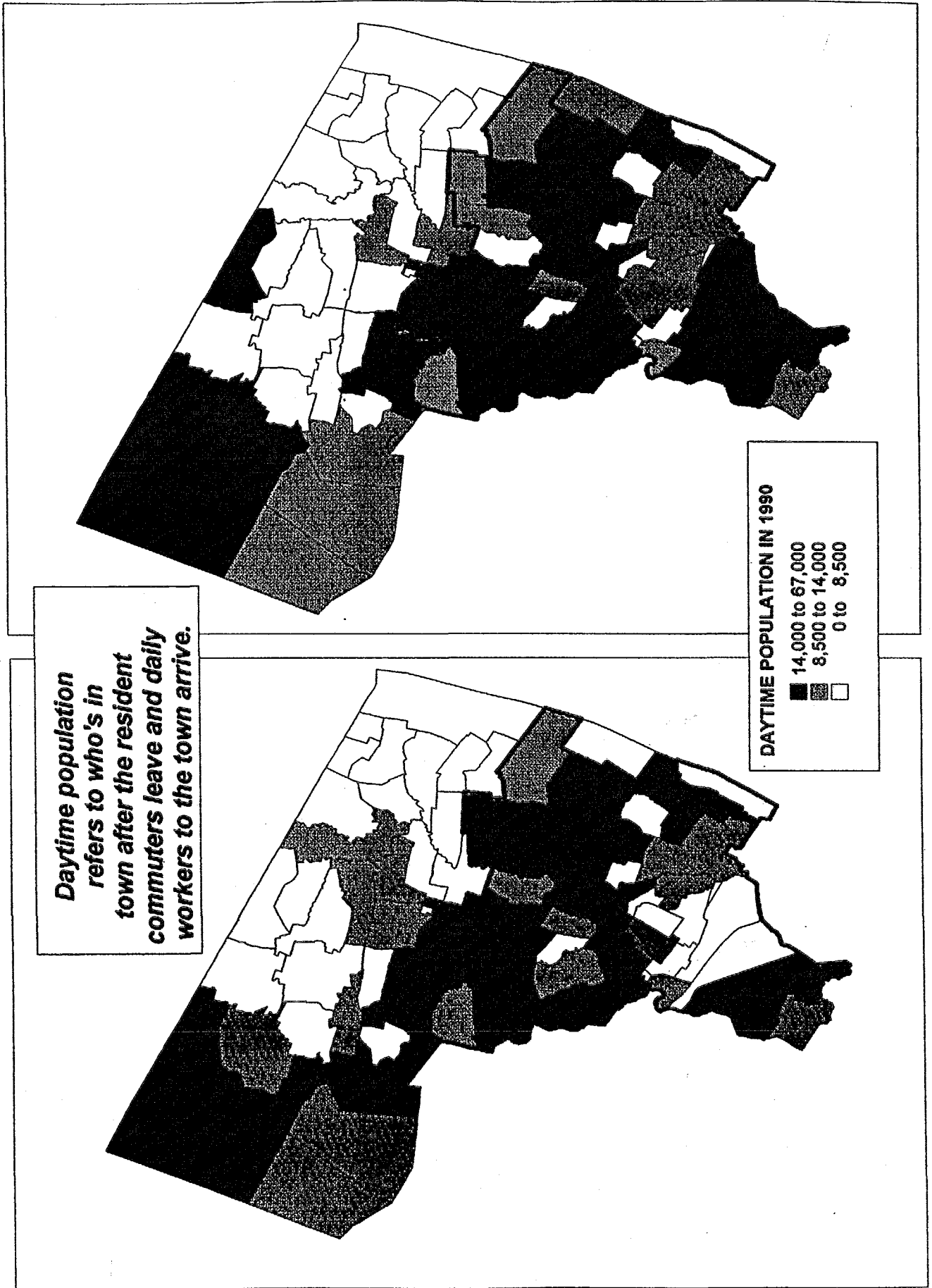
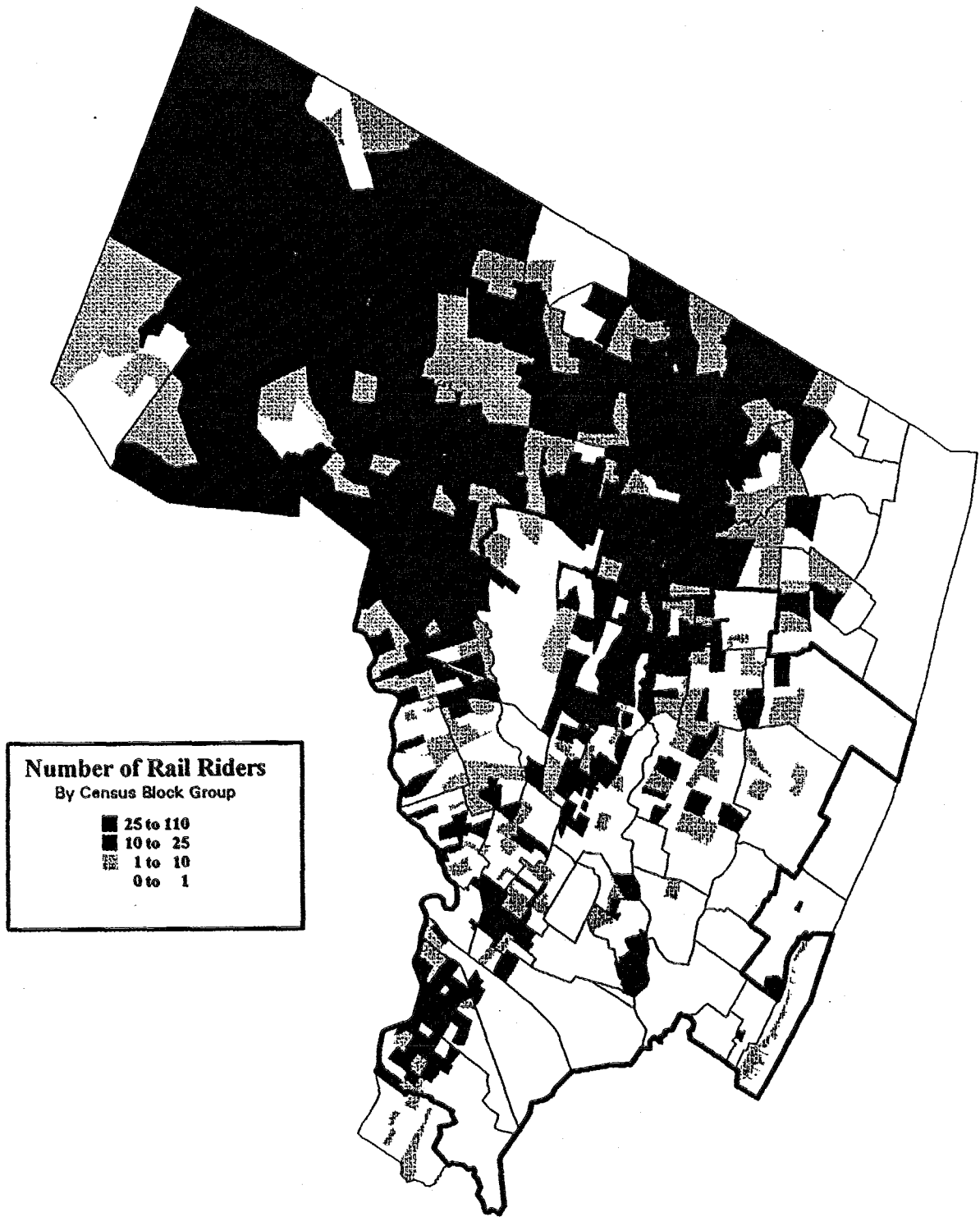


Figure 25.

Number of Rail Commuters in Bergen County, 1990



Unrelieved Congestion as Consequence.

In our search to find where and how these land uses in the Core best reinforce one another in the transit opportunities they are capable of spawning, we have also discovered and catalogued the following:

- three times the car trips per square mile in the core than we find within the remaining 60% of the county (Figure 26);

the core contains the most highly congested portions of the county, because here is where the worst traffic entanglements in the county occur all day long between *regional travelers streaming into the county from without to work, shop or pass through to more distant destinations, and the local voyages of our residents to places of work and other destinations inside the county and beyond* (Figure 27). As noted, this traffic, an earlier signal of economic success, has now become a suffocating force. A series of graphics illustrates these points;

- the preponderant *growth capacity* of the core, measured in land available as zoned, and in terms of transportation capacity *unavailable to support that growth*;
- the relatively small share of in-core commuting that commuter rail transit carries today *from the core to the region beyond and the negligible share from the region into the core*. Only 2% of Bergen's 420,000 residents who leave for work each morning take the commuter rail service offered at today's 28 stations on the Main, Bergen and Pascack Valley lines;
- the near impossibility of expanding existing road and bus capacity *to sustain the core's present economic strength into the future*; the long standing absence of east-west roadway AND transit capacity *in the core, within the county at large, and within the region whose transportation facilities extend us the possibilities that are ours to use, influence, and to adapt to in the transit-friendly development and redevelopment planning we are capable of putting into place*; and of great significance; and,
- *realizable rail capacity within the core that can fill key transportation voids to highly positive results using existing rail rights-of-way. Our findings about this last characteristic are described below.*

Three Rail Transit Options Under Study for Eastern Bergen County.

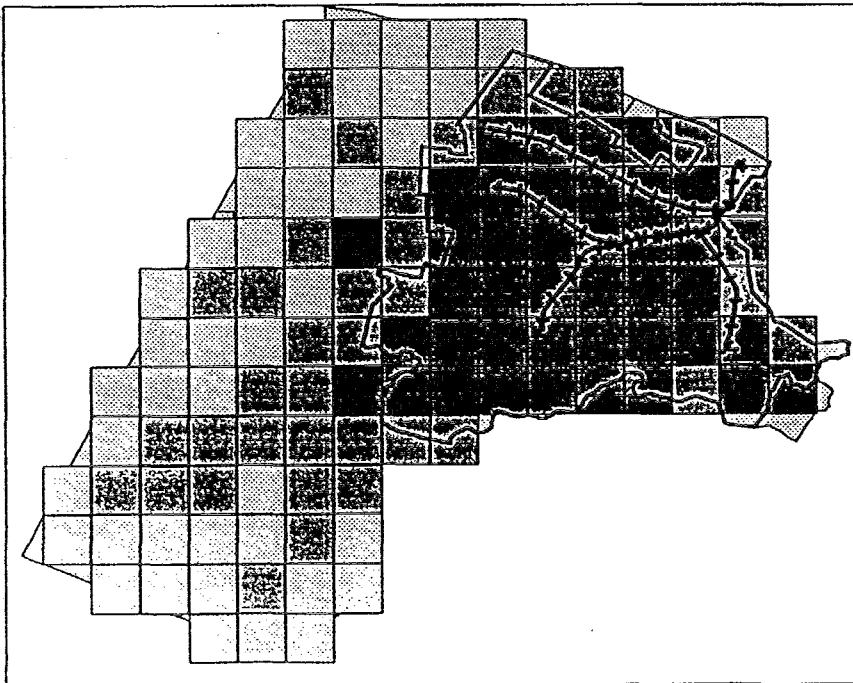
As summarized above, the County's Core was identified and evaluated in the contrast of its key features with the remaining 60% of the County's land mass.

At this point, the inquiry becomes finer grained. The following maps, charts and graphics (Figures 28-33) summarize this evaluative process as applied to each of the three rail lines under the joint Major Investment Study being conducted by New Jersey Transit and Bergen County:

- **all or part of the West Shore Line;**
- **all or part of the Northern Branch Line; and**
- **a portion of the New York Susquehanna line from I-80/Garden State Parkway to the Vince Lombardi Park Ride in Ridgefield, with an additional leg northward from the Weehawken Light Rail Terminal/NY Waterways Ferry on the Hudson Bergen Light Rail Transit line. Its name is the Cross County Line.**

Figure 26.

The Core, Congestion, and Rail Service



The core is where the county's highest concentrations of congestion are found - right where the highest employment and population concentrations are also located. This graphic shows that the number of trips per square mile *inside the core area* is three times larger than the number *in the balance of the county*.

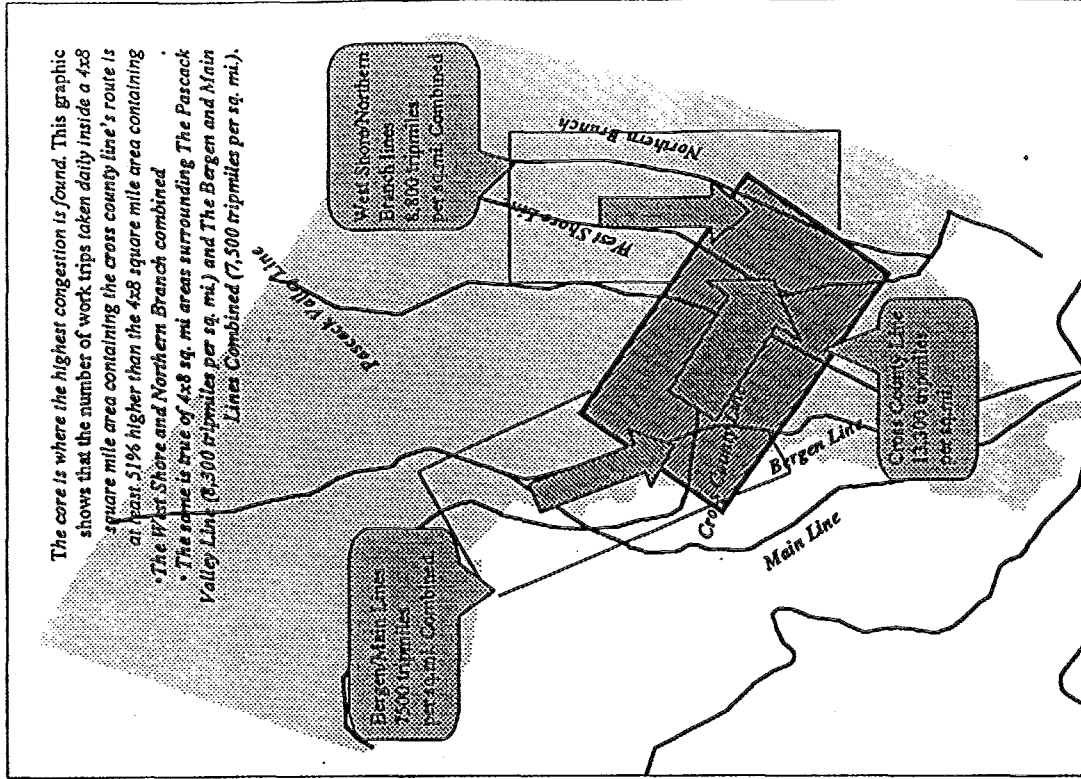


Figure 27.

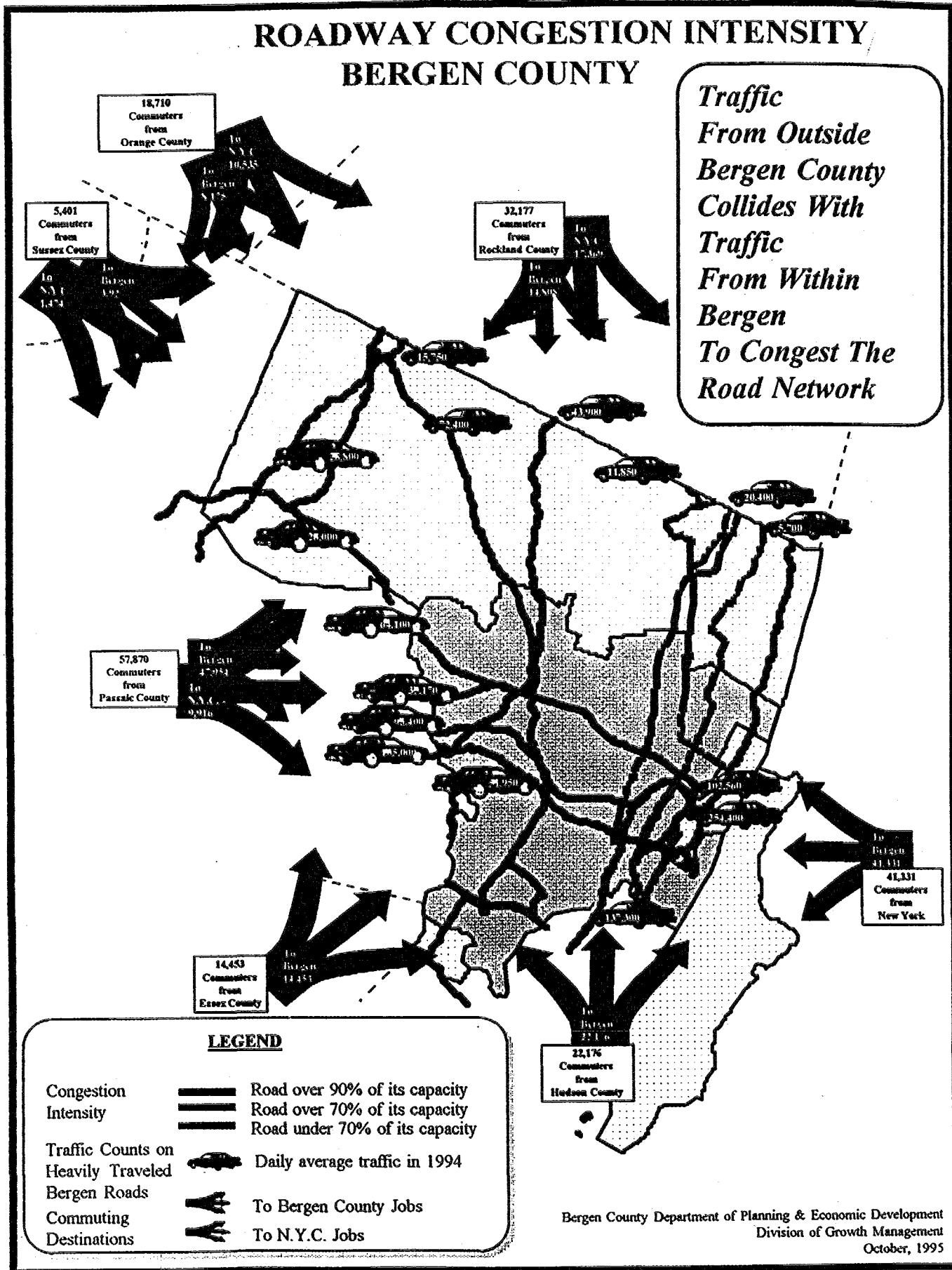


Figure 28.

Rail Transit Network Serving The Core

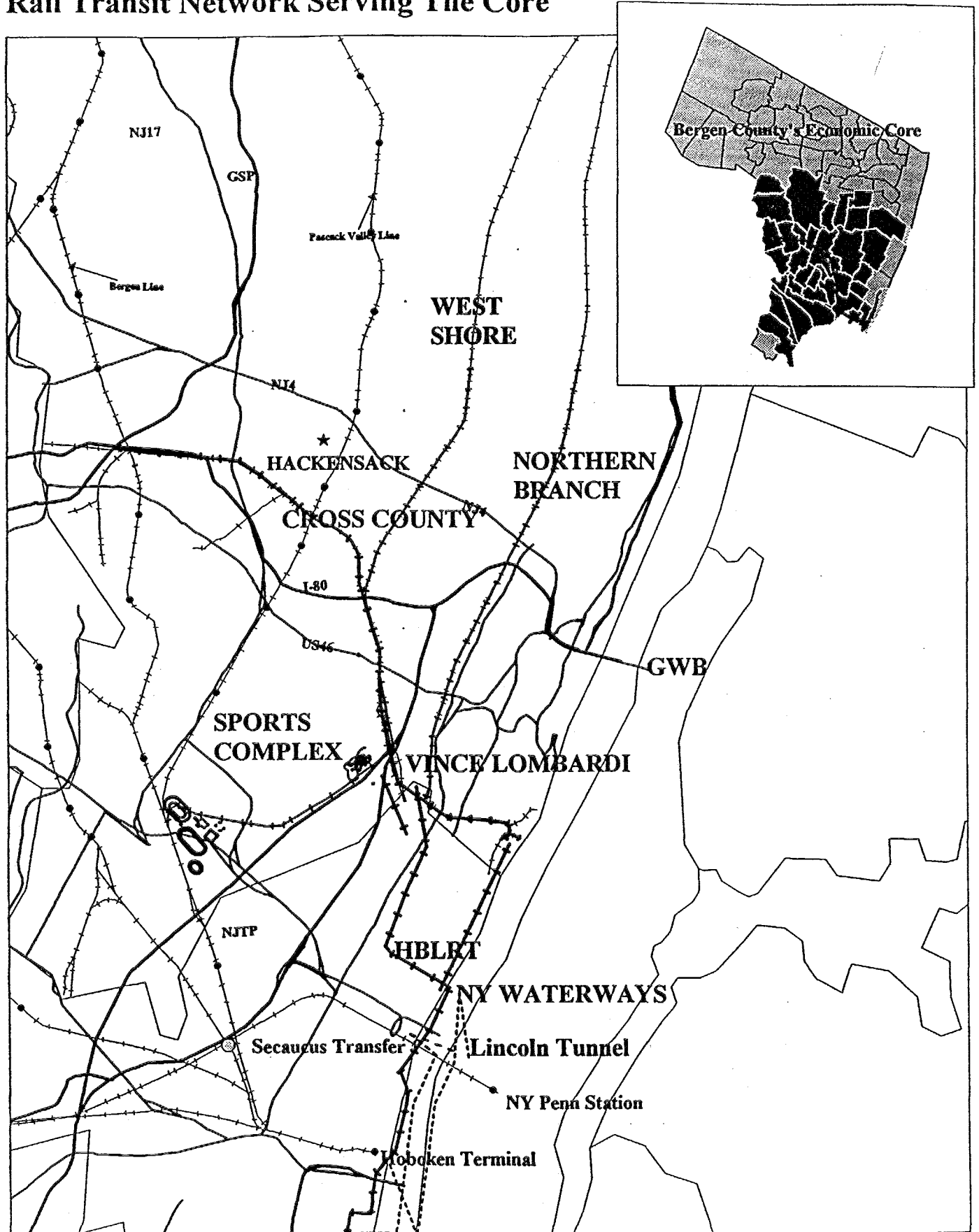
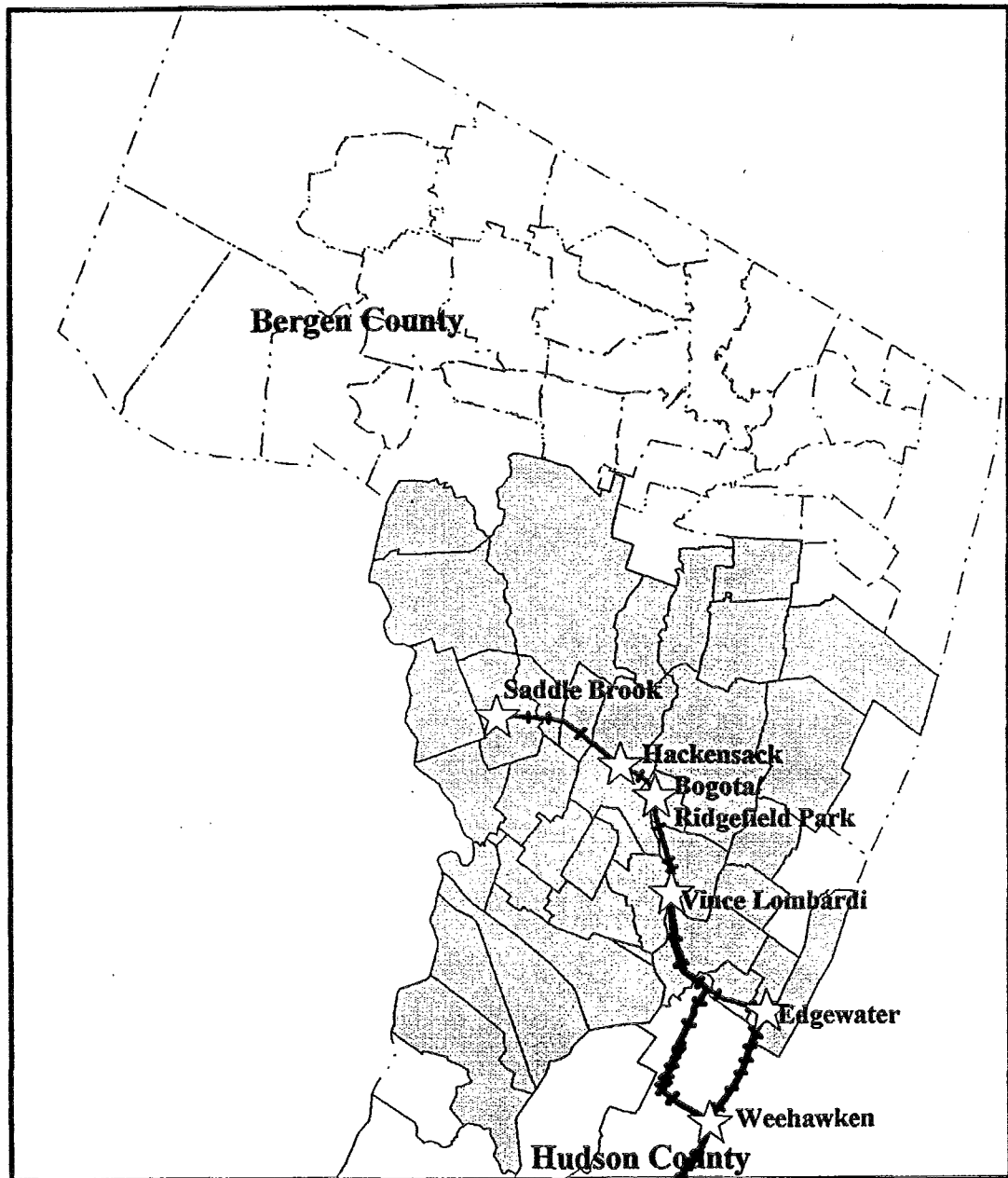


Figure 29.



Bergen County's Economic Core occupies 40% of the county's land base. Traversed by the Cross County Line's 3 segments, this core contains:

- 70% of the County's 420,000 residents in the work force
- 72% of the County's 550,000 jobs
- 64% of the County's population of 845,000
- 65% of the County's 310,000 households
- 64% of the County's 417,840 commuters

Figure 30.

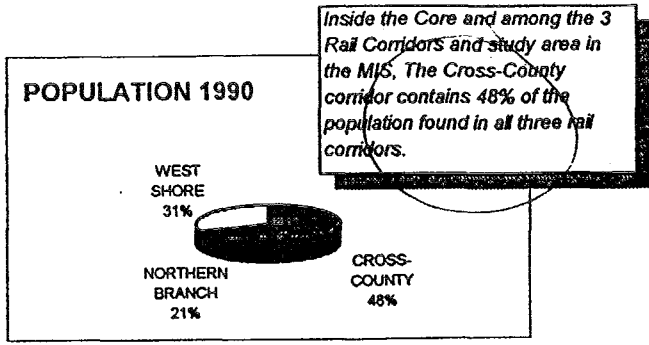
FEATURES OF BERGEN COUNTY'S RAIL CORRIDORS:
CROSS-COUNTY, NORTHERN BRANCH & WEST SHORE

CATEGORY	GROSS-COUNTY CORRIDOR	AS % OF COUNTY TOTAL	NORTHERN BRANCH CORRIDOR	AS % OF COUNTY TOTAL	WEST SHORE CORRIDOR	AS % OF COUNTY TOTAL
Population in 1990	183,942	22.29	81,806	9.91	119,733	14.51
Covered Employment in 1990	86,599	24.38	32,586	8.22	29,895	7.57
Covered Employment in 1980	87,995	25.86	28,858	8.48	25,850	7.60
Resident Commuters in 1990	79,163	23.09	30,727	8.96	52,459	15.30
Daytime Population in 1990	212,173	25.71	86,551	10.49	101,451	12.29
Square Miles	25	10.33	16	6.61	174	7.30
Population Density in Sq. Miles	7,456	215.66	5,181	149.85	6,873	198.80
Households in 1970	64,901	23.21	28,141	10.06	42,640	15.25
Households in 1990	74,738	24.20	30,491	9.87	45,697	14.15
Dwelling Units in 1970	67,336	23.77	28,575	10.09	42,680	15.06
Dwelling Units in 1990	78,657	24.53	32,487	10.00	45,200	13.92
Residents Commuting 25 to 29 min.	24,932	22.81	2,264	10.47	2,989	13.82
Residents Commuting 30 to 34 min.	11,441	22.77	5,538	11.02	7,733	15.39
Residents Commuting 45 to 59 min.	16,053	19.33	3,757	12.00	4,930	15.74
Residents Commuting 60 to 89 min.	6,991	17.71	4,326	10.96	15,963	15.10
Households w/no Cars 1990	19,268	33.88	3,931	14.37	4,774	15.26
Households w/1 Car in 1990	32,098	29.59	12,307	11.34	15,661	14.44
Households w/2 Cars in 1990	24,206	20.37	10,722	9.02	16,975	14.29
Households w/3 Cars in 1990	9,160	16.90	3,890	7.18	6,887	12.70
No. of Places of Work - 1996 *	6,939	18.33	3,629	9.59	3,378	8.92
No. of Employees - 1996 *	52,150	17.37	33,501	7.08	32,590	6.89
Tax Contribution	\$13,599,486,961	16.73	\$3,904,822,202	10.96	\$3,033,000,956	9.92

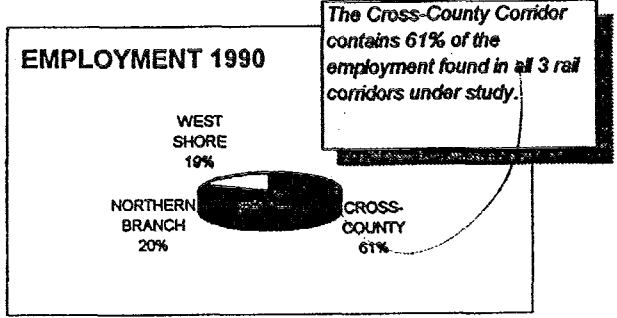
* Based on 1996 Equifax
Source: Planner's Data Book for Bergen County: Vol. 1, 1987, 1995
3/17/97

Figure 31.

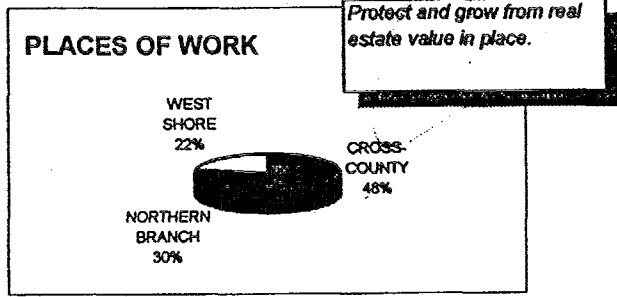
THE THREE RAIL CORRIDORS



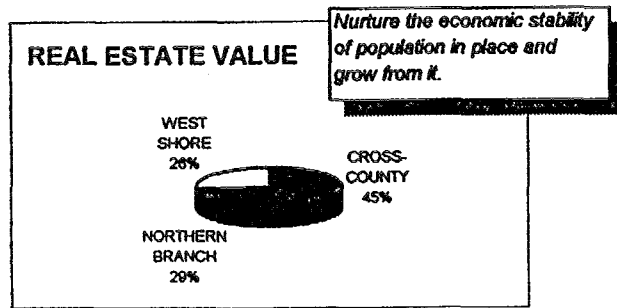
CROSS-COUNTY	183,942
WEST SHORE	119,733
NORTHERN BRANCH	81,806



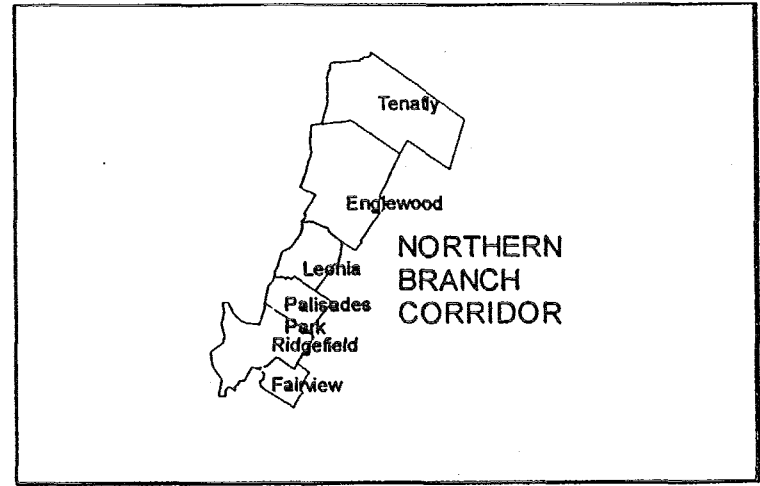
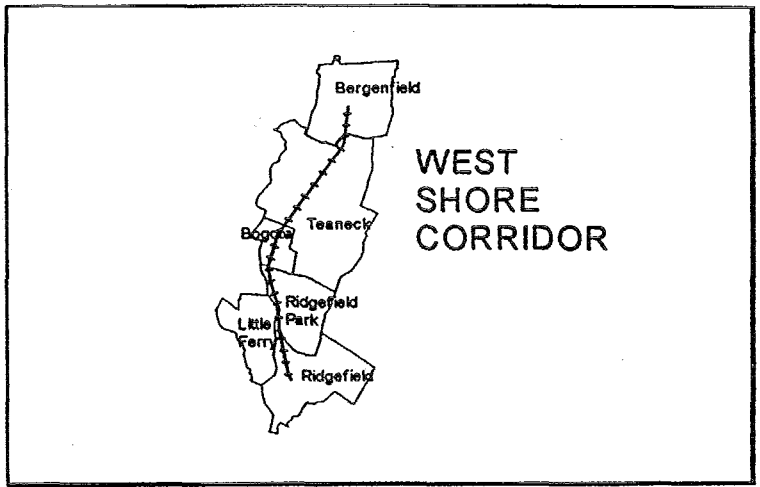
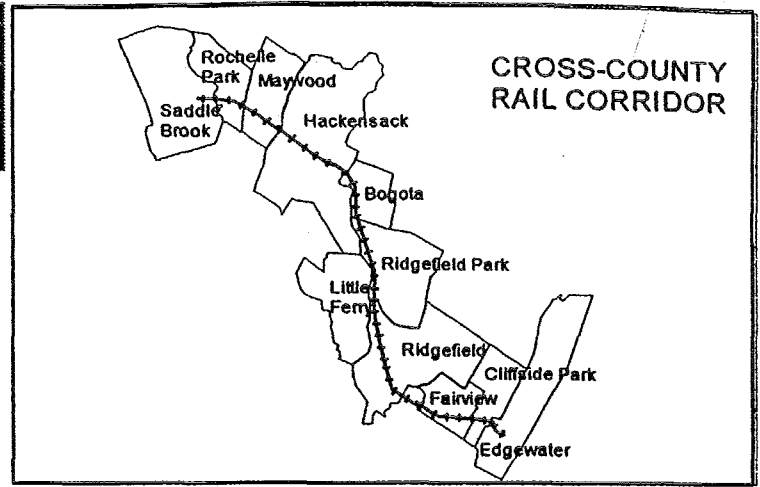
CROSS-COUNTY	96,599
WEST SHORE	29,995
NORTHERN BRANCH	32,586



CROSS-COUNTY	7,233
WEST SHORE	3,378
NORTHERN BRANCH	4,594



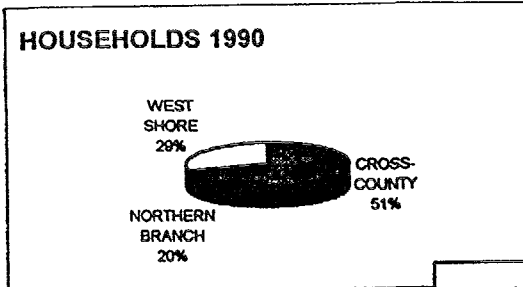
CROSS-COUNTY	\$13,599,486,961
WEST SHORE	\$8,065,108,956
NORTHERN BRANCH	\$8,904,822,202



* NOTE: Five municipalities lie in more than one of the 3 corridors. They are Bogota, Fairview, Little Ferry, Ridgefield and Ridgefield Park.

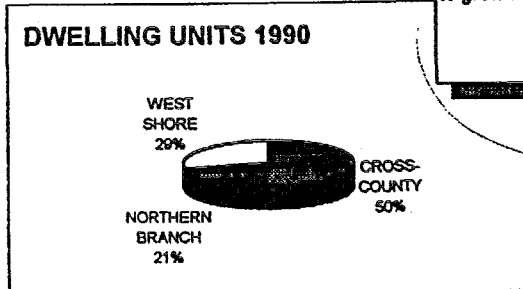
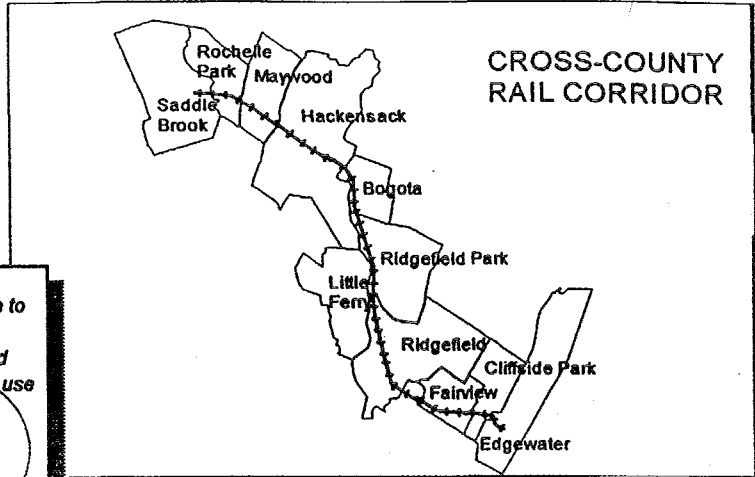
Figure 32.

THE THREE RAIL CORRIDORS

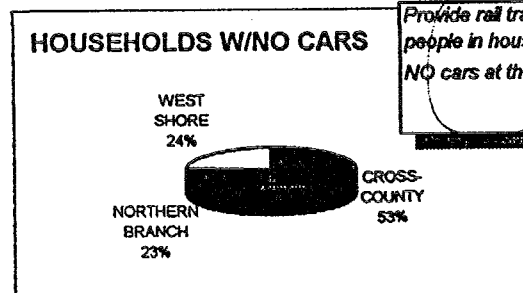
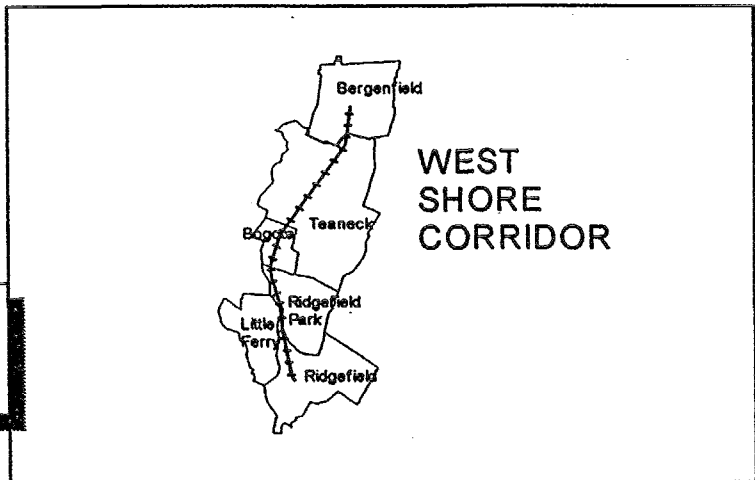


CROSS-COUNTY	74,738
WEST SHORE	43,697
NORTHERN BRANCH	30,491

Provide rail transit service to households and housing stock already in place and utilize transit friendly land use to grow from that base.

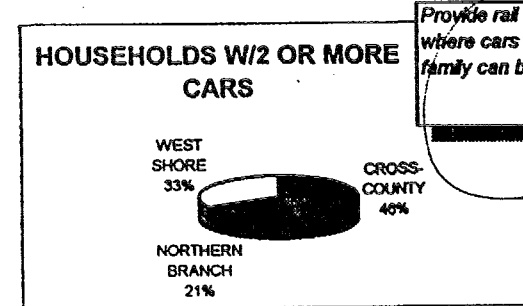
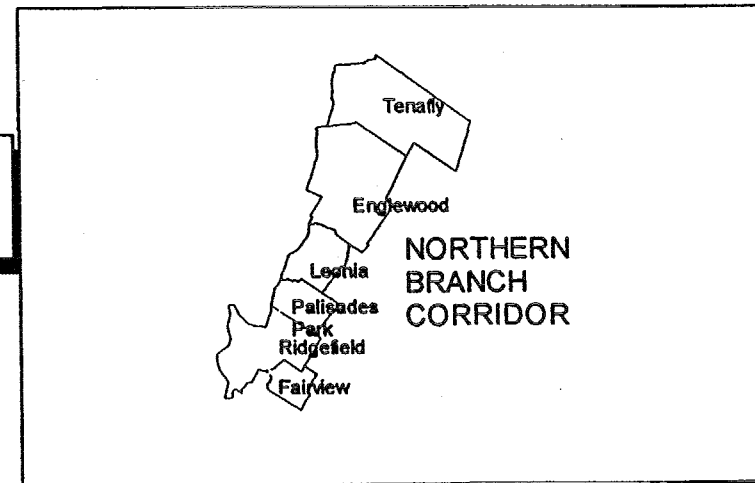


CROSS-COUNTY	79,667
WEST SHORE	45,200
NORTHERN BRANCH	32,487



CROSS-COUNTY	9,268
WEST SHORE	4,174
NORTHERN BRANCH	3,931

Provide rail transit service to people in households with NO cars at their disposal.



CROSS-COUNTY	24,206
WEST SHORE	16,975
NORTHERN BRANCH	10,722

Provide rail transit service where cars owned per family can be reduced.

* NOTE: Five municipalities lie in more than one of the 3 corridors. They are Bogota, Fairview, Little Ferry, Ridgefield and Ridgefield Park.

Intelligent Transit Systems Link Roads to Rails.

A **fifth** initiative, one which some of you have seen (Lodi, Hackensack, Rochelle Park, Maywood, Teterboro, South Hackensack, Bogota, Teaneck, Paramus, River Edge and Saddle Brook in some exploratory public outreach), is something we call the Community Commuter.

Designed as an integral part of this multi-faceted transit solution, Bergen County's concept for a demand-responsive, 16 hour per day, customer generated van service has now been fleshed out as part of a simultaneous research effort funded by the North Jersey Transportation Planning Authority, the Metropolitan Planning Organization for our 13-county region. Because expanded transit carries with it an appropriately scaled set of parking opportunities for its new customers, and because we present this idea as a way to provide access to the Light Rail all day long as a way to minimize the need for new parking, we see the benefit of advancing the two companion projects together in integrated fashion for simultaneous implementation. The on-demand van system uses state-of-the-art Global Positioning technology, on-board computer access, and adapts existing software already developed for rail freight dispatching and for package delivery systems like those utilized by UPS. We are currently seeking funding for the first phase.

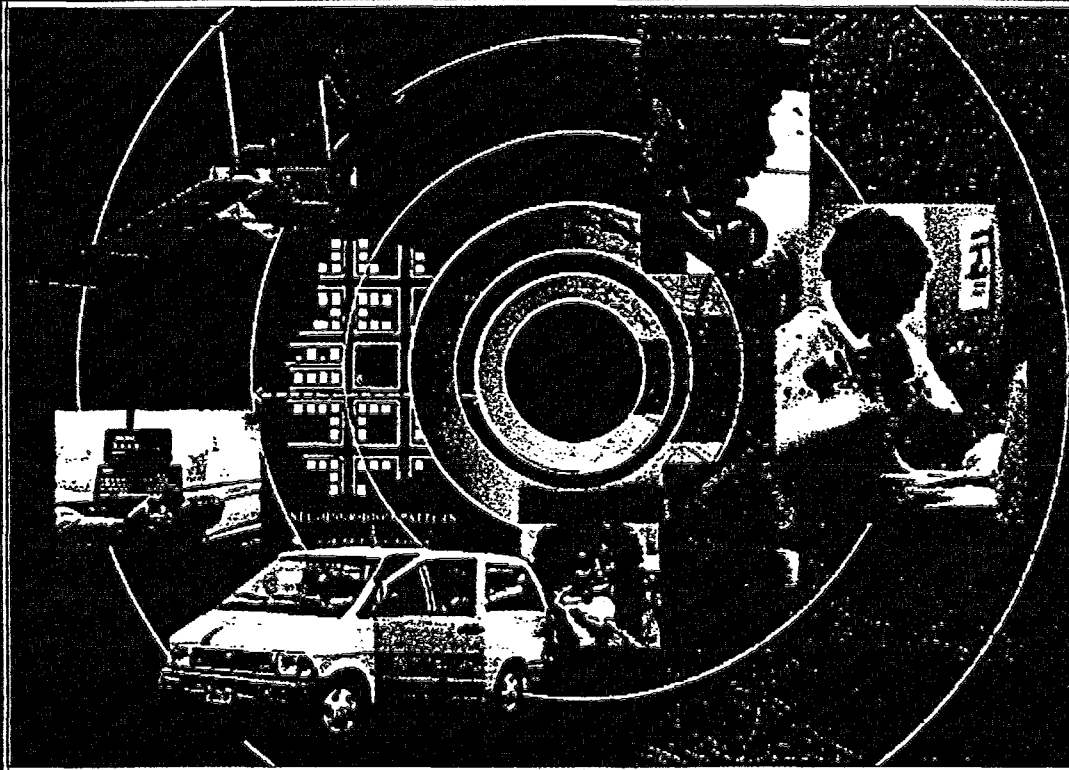
We see this kind of service as a superb complement to the Light Rail transit opportunities advanced here, and for greater commuter rail access without having to rely completely on expanded parking lots at or near the center of town. *As narrated in our study (see Figures 34 to 36 beginning on the next page), this on-demand van system, utilizing small loops or a large network we picture as overlaying much of the County's core, has dozens of other applications as well.*

Figure 34.



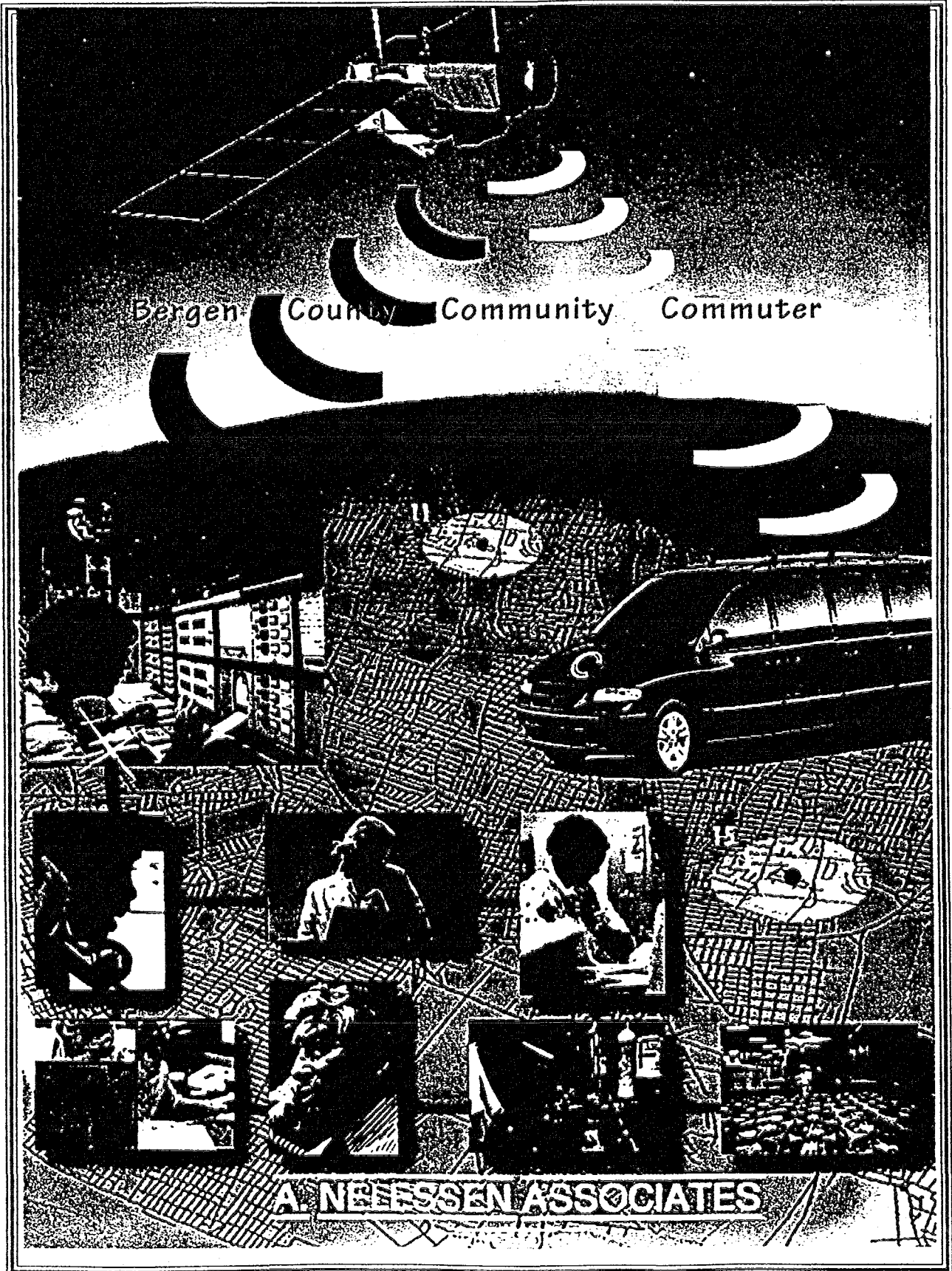
THE COMMUNITY COMMUTER TRANSIT FOR SUBURBAN AMERICA

BERGEN COUNTY TRANSIT ENHANCEMENT STUDY
F-2215
EXECUTIVE SUMMARY



Prepared for
Bergen County Department of Planning and Economic Development
by
A. Nelessen Associates, Inc.
in association with
SG Associates, Inc.,
HNTB, Inc.
October, 1996

Figure 35.



Executive Summary

Figure 36.



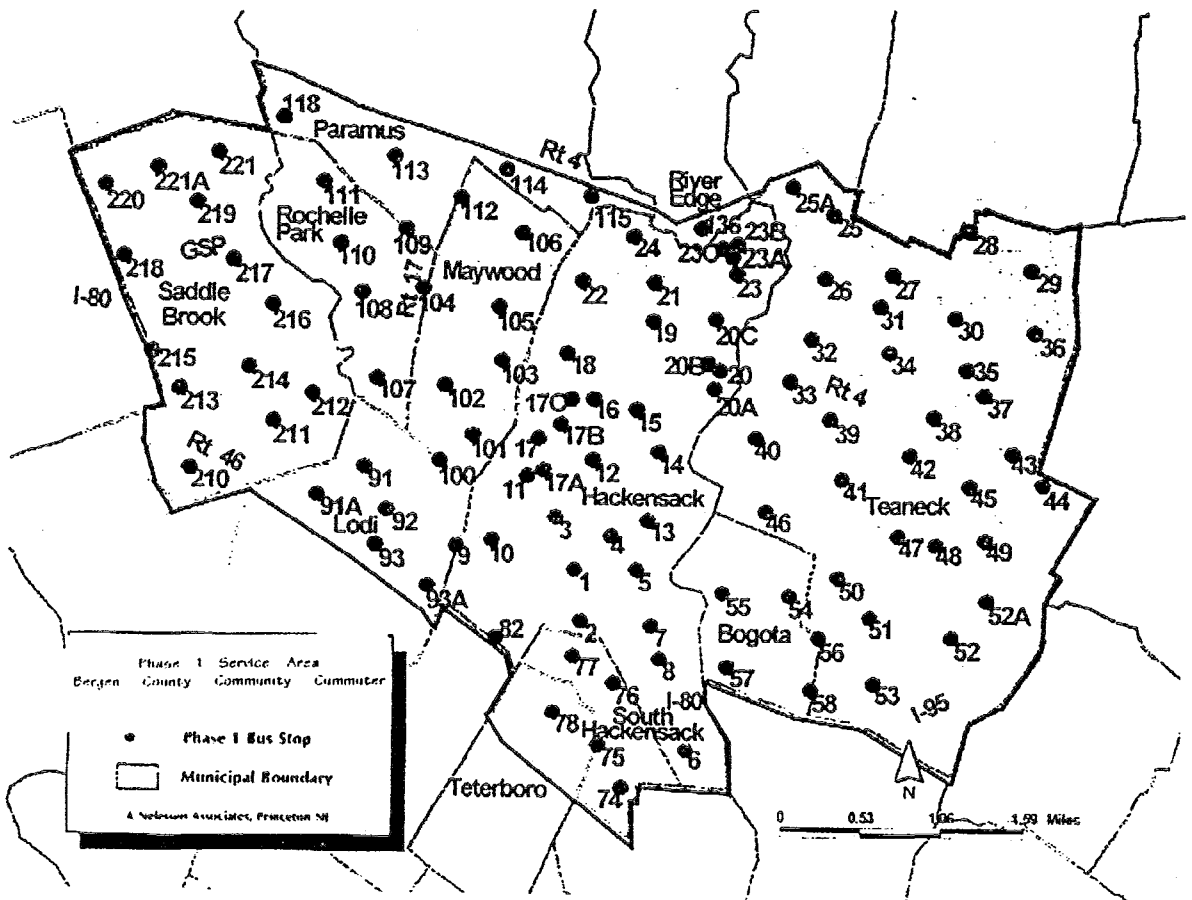
Service Area

Hackensack was selected as the "center" of the study area because of its high ratio of jobs to housing. From there, an initial market area for the service was selected by driving fifteen minutes from the county courthouse in all directions during weekday and weekend peak hours, as well as the mid-morning, midday and evening hours. The map below indicates the extent of the area.

In order to further contain the scope of this experiment and the costs for start-up service, this initial market area was further reduced to a first phase service area shown below.

Eleven (11) towns are included in the first phase service area. Of these eleven towns, eight are totally within the service area and three are partially within in the service area. The first phase service area contains:

- an 18 square mile area
- 123, 945 residents;
- over 62,787 jobs;
- 28,904 AM work trips made by people who live and work in first phase service area;
- 57,808 total work trips;
- 371,835 total trips (assuming that work trips are approximately 16% of total trips).



Executive Summary

Economic Performances Influences the Choice of Technology.

In selecting a rail transit technology which provides the best match to the new all-day economy?

Which investment choices, considered in combination, offer us the best opportunities to connect productively together, for the first time, the now separate and distinct elements of our present transportation network -- our highways and Interstates?

Which rail transit alternative is the best choice in this arena as the first buildable stage of a larger network of choices not foreclosed but advanced in their possibilities by such a choice?

Summary and Conclusions

There are two "Since" themes in this planning essay:

I. *Since 1950*, when they used the parts of the today's transportation system that were available then, but for different purposes and to travel to different destinations than we travel to today. So it *was a network* back then. The linebackers, safeties, and interior linemen functioned as a unit.

Back then, the Interstate Highways were popping up all over the country. But their consequences for land development had not yet taken hold. *The economy and its transportation support systems, and the land settlement patterns that are the consequences of both in combination, were focused predominantly at the region's center.* All three were centralized. The further one traveled from the center, the lower the population densities and the more rural the landscapes became.

Transportation, with common and central destinations, could pursue economies of scale with considerable efficiency and ease of choice.

No longer.

Between 1950 and 1990, our economy and its geography have changed enormously, converting yesterday's network into a series of pieces that do not work well today for most of the trips most of us now take across most of the day. These prodigious changes were taking place over a 40 year period during which, save for the Interstates, investment in public infrastructure, including in transportation, was dropping from 2.5% of GNP in 1950 to 1.0% in 1990 during a period of unprecedented population and employment growth in the nation and in our state.

The automobile, with which we are said to have fallen irrationally in love, solved these economic and transportation mismatches for awhile. And it has also helped create the other mismatches we face today. But along with the buses and trucks that have helped

Bergen County (and places like us across the nation) adapt our needs to the highway portions of our transportation system, our cars are overpowering the road network and threatening to suffocate the economy they started out serving. The Routes 4/17 interchange and the Model A were perfect technology companions in 1935.

II. *Since 1988* is the second "Since" theme, when Cross Acceptance One arrived on our doorsteps with some remarkable opportunities we saw and seized together, but with others more visible to us today because we can now see the outcomes of that incredible 1980's boom.

Here is a third. *Since* Cross Acceptance began in 1988, yet another transportation initiative landed in our laps -- the 1991 *Intermodal Surface Transportation Efficiency Act* of 1991, many of whose purposes for the nation's Metropolitan Areas matched those that New Jersey's State Development and Redevelopment Plan held for our own Metropolitan landscapes -- part urban, part suburban, and part rural. I S T E A.

ISTEA and Cross Acceptance II.

Because the traffic we were experiencing tied so directly to the new landscape of our economy, ISTEA said, we had to rethink transportation, as well. The new transportation system we could build *inside the one we already have (it's much too expensive to dismantle)* would have to be *Intermodal*. Then it could turn the *separate pieces* of our system back into a *network* again, each of whose parts could help and serve the others.

So while the State Plan was focusing on our *landscapes* that were being overrun, ISTEA focused on the transportation system's inadequacies *for serving these same landscapes*. ISTEA went a giant step further than had other transportation bills before it, however. It instructed us to find ways to focus on *land use while we focused on transportation*. Cross Acceptance Two gives us excellent chances to revisit and strengthen the capacity based planning perspective we invented and applied eight years ago, starting with the capacity of the land to contain the buildings that our collective zoning assigns to it.

In ISTEA, the word *Intermodal* means *among the modes*, and the "modes" include roads -- state, local, county and Interstate, and the cars, buses and trucks that converge on them; rails -- for rail transit and rail freight of the various types; airports -- for air passenger and air freight of many new types; harbors -- and their transcontinental and global freight shipping opportunities (and impediments), along with their places where freight is exchanged to other freight modes; and the whole new infrastructure of information transmission. We work in this last vineyard, as well.

ISTEA also focused on the word *Efficiency* -- among the modes, across the economy, and within the new land use settings described at the beginning of this Planning Essay. The two in combination, intermodal and efficiency, liberate terrific possibilities for setting up an *intermodal network approach* to integrated transportation investment in Bergen County.

Among other things, this Intermodal Surface Transportation Efficiency Act also seized upon extensive Circle of Mobility planning already in place in our state, and embodied its

major elements into an Urban Core that brought the Secaucus Transfer and the Hudson Bergen Light Rail Transit line to the forefront of Northern New Jersey's and Bergen County's intermodal opportunities.

Planning is first *about* something -- in this case about our economy, our environment, our landscape patterns, and about the much too disparate transportation elements that cross our county from our region without connecting very well to any of our determinants of economic success. With transportation the most prominent public investment we ever make in our economy, the opportunities and obligations are large here.

Second, planning becomes *for* something. Springing from the research recounted in this Planning Essay, what recommendations for action surface? Here are ours:

FIRST: From the extensive research discussed above, we come first to the conclusion that, among the few modes remaining at our disposal for moving people across our economy's landscape, *Light Rail is the logical technology of intermodal choice.* It rises and bends, jump starts and quick-stops, glides and slides more silently and less interruptedly through our settled landscape than any of the other modes. Moreover, it can knit together our present array of passenger carrying roads and rails such that the *people who use both* can travel much more productively on *each* of them and on *both of them in various combinations.* Better than any other *mode* at our disposal, it can make a *network* (again) out of a disconnected entanglement.

Who knows better than those who live here that Bergen County is the place where scores of transportation investments have been made at different times and which, for today's needs, do not connect together well. Picture how Routes 4, 46, 17, 80, the Turnpike, the Parkway and our commuter rail lines appear *on a map* like they actually meet here to serve one another's purposes. But try making the connections *on the ground* to actually accomplish such miracles. In spite of this, the state's greatest economic concentration has been assembled here in Bergen County on but 3% of the state's land mass.

So hit or miss will no longer suffice. The great preponderance of our transportation analysis and investment energy since 1988 has focused on the mismatches recited throughout this Planning Essay. As pointed out above, another such mismatch is between the sheer size of the 1950's commuter rail network that passes through Bergen County and the small number of people who find productive ways to utilize the service available on it in 1997. Two percent of Bergen's residents who get up on Monday morning to go to work take the train from one of our 28 commuter rail stations. Saddle Brook is a prime example of a centrally located place, in the heart of Bergen County's economic core and at the junction of several transportation lifelines -- none of them Intermodal -- and that has not been able to benefit precisely because of the many disconnects. Rather, Saddle Brook and the towns adjacent endure the traffic that is led to and through this place. We have formed a multi-party partnership to tackle these issues. The goal is to add economic strength while reducing congestion.

As the technology of choice:

- Light Rail, more nimbly and with much greater flexibility than commuter rail, can respond to economic change and opportunity. That is, the economy is not

forced to adapt to IT;

- Light Rail's station sites have strong economic development and redevelopment capacity, offering excellent opportunities to the private sector and to municipalities which need to strengthen and sustain their changing economic base;
- With its service/information economic base already in place, Light Rail offers more powerful connective support than any other mode for businesses and residents alike;
- Light Rail permits small stations to be added without large parking lots;
- The Light Rail system is easily expandable. It can start with one-car trains and expand to two and three car trains as the market grows;
- Light Rail's quick starts and stops do not create congestion at the center of the towns it passes through;
- Through feeder bus or feeder van loops, known to be effective with Light Rail, ridership can be increased and service areas expanded;
- An eventual interconnection with the West Shore at the Vince Lombardi Park-Ride would offer excellent potential access from the north to the Hackensack Meadowlands, the Sports Complex, and the Secaucus Transfer/Allied Junction site; and,
- Light Rail, with its 12 minute service frequencies all day long, is capable of competing with the automobile in convenience and speed. It will also provide greater reliability of travel times, for our businesses and residents, than do our cars so often trapped in traffic with no escape.

SECOND: Our greatest transportation needs, for both roads and rails, are for much improved EAST-WEST capabilities that tap into, protect and sustain the prodigious economic asset base in the County's Core.

The Bergen Cross County Light Rail line, running parallel to Routes 80, 4 and 46, can both rescue the core of Bergen County's economy -- the county's largest concentration in the state's largest economic stronghold -- and stimulate greater economic strength, staying power and redevelopment opportunities keyed to transit friendly land use choices. The days when we can reach onto the shelf for congestion-generating, auto dependent uses in such crowded landscapes are numbered and counterproductive.

Neither of the two lines under consideration for selection as the first operable segment in the Major Investment study being jointly conducted by New Jersey Transit and Bergen County can accomplish this. They both run north-south; neither contains the sheer volume

of economic assets so vital to the entire county's economic future; and neither makes connectable contact with so many of the county's and the region's transportation lifelines. *Both, however, are and will be needed in the intermodal transportation network of transportation network of our economic future, and both can connect into the intermodal spine that the Cross County Light Rail line would provide.* This is to day that Bergen County has largely lived off of the transportation investments in place in the 1950s, as has our region with its huge increases in regional travelers who use and depend on these same lifelines.

THIRD: This Planning Essay also shows how the Core of Bergen's economy -- the state's most concentrated such place -- is also where the worst of our congestion can be found. It is also the place, however, where our best transportation opportunities reside, because *here is where our transportation links to our region also converge with the best opportunities for interlinkage.* The Hudson Bergen Light Rail streams northward to us from Hudson County, with a key intermodal link in Weehawken from and to New York City. It will carry regional and local travelers to and from economic destinations very attractive to us, and that make us very attractive to them. Bergen and Hudson hold 700,000 jobs between them; *this represents one fifth of all the jobs in New Jersey.*

FOURTH: The Bergen Cross County Rail line, better and sooner than can either of the two other lines under study, "pulls together" the major strands of the transportation network strategy we have been pursuing for eight years since Cross Acceptance One. As described above, these include the Routes 4/17 interchange, designed to permit much easier capacities for drivers to change directions, the Secaucus Transfer with its potential to connect to 100 commuter rail stations in our region as parking and reverse commuting capabilities are established, and the Hudson Bergen Light Rail Transit line with its enormous inter-regional and intermodal opportunities. Without the Cross County, however, the Vince Lombardi is only a place from which to take a cab, after being dropped off by the Hudson Bergen, to one of Bergen's 550,000 job opportunities.

FIFTH: Better than can either of the other two lines under examination in the Major Investment Study, the Bergen Cross County Light Rail line makes possible the delivery of thousands of new passengers/customers *from* Bergen County's 848,000 population base, the state's largest, *to* the New York Waterway Ferry at Port Imperial in Weehawken. Used "in reverse" -- we used to call this "cross commuting" before travel in the service/information economy became so multi-directional -- the Cross County also enables the delivery, via the Hudson Bergen Light Rail line, of thousands of additional Hudson Bergen riders *to* Bergen's 550,000 job base *from* work force strongholds in Hudson County, Manhattan, and Newark. Today's congestion on major and "minor" highways, including the narrow, two mile, two lane strand called River Road on north Hudson's waterfront, make this impossible to accomplish.

Through well chosen interconnections, we can *strengthen our roads by strengthening our transit services.* *Intermodal Surface Transportation Efficiency Act.* As well, this Planning Essay shows how the Core of our economy is also *where our best transportation opportunities reside, because here is where the strongest transportation links to our region also converge with the best opportunities for interlinkage.*

The results from our nine years of research since 1988, including the most recent of our rail analyses conducted by investing \$1.5 million in county dollars into Fatal Flaw engineering and environmental analysis, show us the Cross County Line's unmatched integrative capacity to bring the three major investments described above together such that a network is re-established here.

SIXTH: Once we saw this potential for the Cross County line, we invested \$1.5 million in county dollars to put its possibilities to a series of feasibility tests. What bridges could block our way? Did existing freight travel close out our Light Rail possibilities on the portion of the Susquehanna and Western from which this service could be extracted? Did we have to go into the Vince Lombardi Park Ride -- with its daunting wetland problems and high structure costs -- in order to get started? Were there other environmental puzzles that could turn this into a typical, multi-year marathon? Would Light Rail have to travel on local streets? Could it occupy a right of way that would not tie up traffic in the center of towns along its path? Could it curve and bend over and around other major obstacles in its path (existing rail yards, for example)? Would it require new bridges with their typical delays and perplexing permit tangles? Could it merge seamlessly with the Hudson Bergen without disrupting in any way the impressive results of its Final Environmental Impact Statement already in hand?

Wherever any potential impediments were encountered in our engineering analyses, each and every one was solved.

SEVENTH: Using completely integrated, high speed, 12 minute frequency service all day long, the Bergen Cross County Light Rail line, in combination with the Hudson Bergen Light Rail, will also link all of these economic assets to Hoboken with its intermodal exchanges to PATH east to downtown Manhattan and west to Journal Square and Newark, and to the southern Jersey City waterfront with the same intermodal choices east and west bound, and as well, to Bayonne. All of these destinations are multi-directional and reverse linked as well. The West Shore and the Northern Branch lines can contribute in these ways, but not to the extent that the Cross County can.

So in its county-wide anti-congestion, economic strengthening, and inter-regional and intermodal connecting capacities, the Bergen Cross County Light Rail line's east-west linkage to the Hudson Bergen Light Rail Line offers the greatest mobility and benefit mix among the three lines under study in the NJ Transit/Bergen County Major Investment Study partnership. Its role as an integrative spine, however, offers strong opportunities, as well, for the West Shore and the Northern Branch as north-south connectors to the entire regional transit network now coming our way. As the work already completed to date shows, a solid variety of connecting possibilities is coming into focus. For some examples:

- As Light Rail, the Northern Branch could slip easily and seamlessly into the Hudson Bergen Light Rail line;
- The same is possible for the West Shore via an achievable link to the Cross County line in Ridgefield Park where, literally, one station could serve both lines and, for whoever needed them, offer transfers between them;

- **The Vince Lombardi hub could also offer the West Shore line a commuter rail link southward to the Hackensack Meadowlands, the Sports Complex, the Secaucus Transfer/Allied Junction station, and Hoboken;**
- **There may also be opportunities, not yet examined in detail, that could offer both the West Shore and the Northern Branch, through the utilization of Multiple Unit Light Rail Vehicles, compatible access to both the Weehawken Tunnel and the Secaucus Transfer using trackage along the west side of the Palisades;**
- **It would be possible as well, for both the West Shore and the Northern Branch to start up Light Rail service at their southern ends where job opportunities, residential concentrations and congestion levels are highest, with stations added northward as passenger market conditions and transit friendly land use beckoned; and,**
- **Were commuter rail to emerge as the rail technology of choice for either the West Shore or the Northern Branch, the information available in the Major Investment Study to date suggests that this service would likely have to originate in Rockland County.**

Several regional maps are incorporated into this document which show where and how all of these interconnections are located and can function in integrated fashion. And all of these travel opportunities *will grow more valuable and will gain higher and higher use as our highway network, formerly the key to this portion of our region's economic success but now largely maxed out in its possibilities, grows more congested as the outer region around this inner region grows and expands.* So these strategies are focused jointly on protecting and sustaining the region's center.

As the many costs of operating densely settled landscapes rise, attacking congestion involves more than modeling, inventorying and counting the traffic. We have certainly done that here as prelude. It also involves understanding the new congestion's new economic, demographic and land settlement determinants. They, too, have been investigated on the way to making the recommendations you see here.

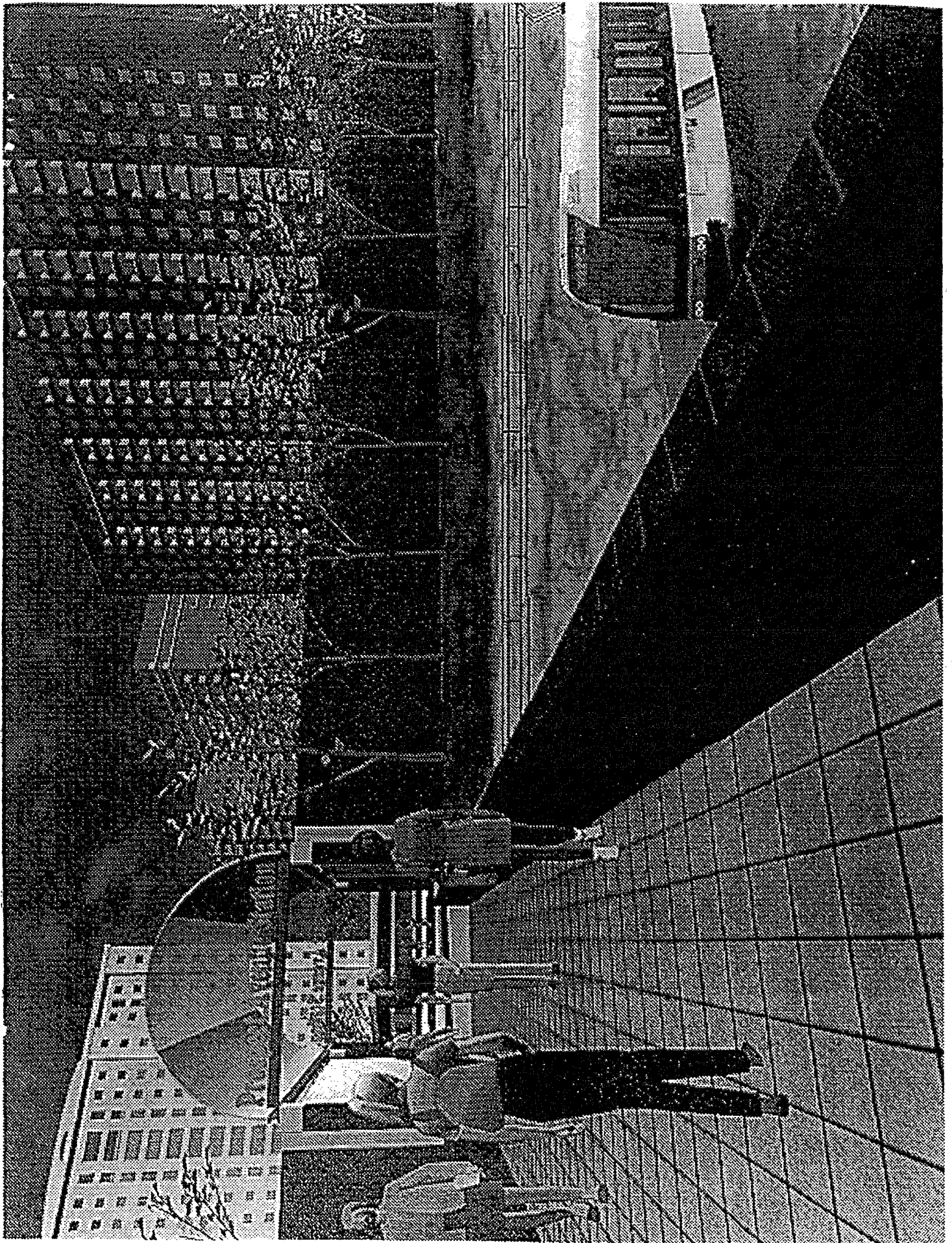
The twin ideas that new roads generate more traffic and that new ratable pay the costs of dealing with it are too dismissive on their face for the hard thinking we have ahead of us. Women didn't enter the work force in droves in the 1980s because roads were built. Transit, too, provides new opportunities for its new users. So do new restaurants, new jobs and day care centers. Are we to avoid all of these in the name of avoiding the symptoms of the transportation pickle we are in? The pickle we're in covers 40 years of growing in new ways and at unprecedented speed without giving enough thought to the transportation consequences.

In Bergen County, where location, location, and location have earned us a traffic jam, it's clear that Light Rail transit carefully chosen and carefully captured in its opportunities is now the prime remedy of choice. It doesn't end there, however. ISTEA and the State Development and REDEVELOPMENT Plan are a couple of pretty good dance partners for

the Cross Acceptance work ahead of us. *Transit friendly land use can be pursued very profitably in this setting.* Matching the two to other infrastructure scales, like sewers and water supply, is a pretty good idea, too. At the base of these questions is one we asked each other in 1988: What does the zoning of available land and redevelopable land portend for the infrastructure systems that help deliver us or deny us a quality of life?

The "re-words" will also come into play in the planning that we are all called upon to consider doing next — words like redevelopment, re-use, rethinking, recreating, and remembering. Redevelopment, for example, need not only be about bigger or better buildings on land cleared of their former structures. It can also be about recouping open spaces, at those wonderful smaller scales at we also know how to work, and that also got overlooked in the eight business cycles we experienced since World War II. Redevelopment *this time around* can and ought to be about how we can link together the land use friendly transit on our near horizon with transit friendly land use ideas. The way land is developed next will be central to how well these new transportation network improvements, should we be fortunate and passionate enough to get them funded, can last and can serve us.

We will be suggesting some approaches to redevelopment in these contexts at the Cross Acceptance regional meetings coming up.



A-307-a

SOMERSET COUNTY PLANNING BOARD

CENTRAL ADMINISTRATIVE UNIT

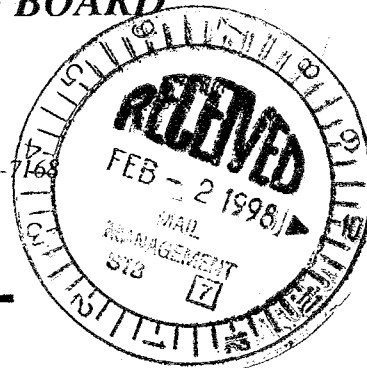
REC'D: 2/2/98

DOCUMENT # 2/2/98: 2:35:30 PM (908) 231-7021 Fax (908) 707-1749 TDD (908) 231-7168

20 Grove Street

P.O. Box 3000

Somerville, NJ 08876-1262



January 30, 1998

ENVIRONMENTAL DOCUMENT

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Michael A. Haggerty
1st Alternate

Robert P. Bzik, AICP/PP
Director of Planning

John M. Lore, Esq.
Deputy County Counsel
for Planning

Attn: Elaine K. Kaiser
Environmental Project Director
Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Gentlemen:

Somerset County would like to offer testimony regarding the above merger as it relates to the West Trenton Line and Raritan Valley Line. The West Trenton Line is currently owned by Conrail and provides service through southern Somerset County and northern Mercer County connecting with the existing West Trenton station in Ewing Township and the Raritan Valley Line in Bound Brook. It also connects at West Trenton with existing passenger service provided by SEPTA into Pennsylvania. The West Trenton Line passes through the following municipalities: Bound Brook, Bridgewater, Manville, Hillsborough and Montgomery Township in Somerset County and Hopewell, Hopewell Borough, Pennington and Ewing in Mercer County.

This line is currently used by Conrail for freight service and consists of updated rail infrastructure. These same communities traversing this line are also some of the fastest growing suburban municipalities in the region, and have supported together with the County and the regional Chambers of Commerce, a reactivation of the line for both dual freight and passenger service. Congressman Bob Franks has been a strong supporter of this effort and helped secure needed federal funds to develop an environmental impact report and operating plan for reactivating passenger service along the West Trenton Line.

Somerset County is asking that the Surface Transportation Board in considering the Conrail/Norfolk Southern/CSX Merger to condition its approval on the West Trenton Line accommodating both freight and rail passenger service and allowing New Jersey Transit to negotiate future passenger rights with CSX and other freight lines operating on the West Trenton Line.


Elaine K. Kaiser

Page 2

In addition, the County is requesting that the Surface Transportation Board not approve of any merger and freight operating plan that adversely affects existing rail passenger service on the Raritan Valley Line which ties into Penn Station in Newark, New Jersey. Passenger service on this line has shown marked increases and is vital from a regional mobility and economic standpoint.

We appreciate the Surface Transportation Board taking these comments into consideration as well as those of the State of New Jersey when rendering its final decision. Thank you.

Sincerely,



Robert Bzik, AICP/P.P.
Director of Planning

cc: Congressman Bob Franks
Commissioner John Haley, New Jersey DOT
Somerset County Board of Chosen Freeholder
Somerset County Planning Board
Somerset County Chamber of Commerce
North Jersey Transportation Planning Authority



Township of Woodbridge

JAMES E. McGREEVEY, MAYOR

Department of Administration and Finance
Office of the Business Administrator

COPY

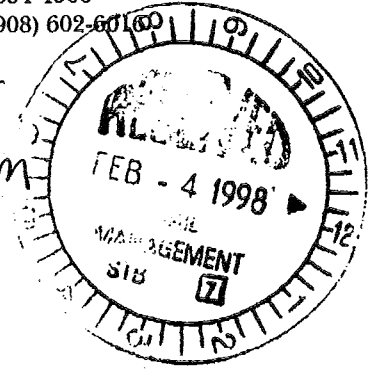
One Main Street
Woodbridge, New Jersey 07095
(908) 634-4500
Fax: (908) 602-6010

ENVIRONMENTAL DOCUMENT

January 30, 1998

CENTRAL ADMINISTRATIVE UNIT

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

Attn: Elaine K. Kaiser, Environmental Project Director
Environmental Filing

Re: Surface Transportation Board Finance Docket NO. 33388
CSX Corporation and CSX Transportation, Inc., Norfolk
Southern Corporation and Norfolk Southern Railway
Company, Conrail, Inc. and Consolidated Rail Corporation:
Comments on Draft Environmental Impact Statement
Our File No: 14142

Dear Ms. Kaiser:

Kindly accept the following responses to the Draft Environmental Impact Statement (DEIS) from the Township of Woodbridge, New Jersey (hereinafter referred to as "Woodbridge"), with respect to the above-referenced matter. Woodbridge desires to respond to the DEIS regarding this merger as it impacts upon the citizens of Woodbridge with respect to safety, noises and air quality. Woodbridge's concerns with respect to these categories are as follows:

- 1) Safety. Since 1981 there have been nine (9) documented hazardous material leaks from train cars requiring responses from the County of Middlesex, New Jersey, as well as Woodbridge emergency response personnel. Additionally, Woodbridge receives complaints from local residents on a regular basis regarding the storage of hazardous material train tank cars on the stretches of track which run along residential neighborhoods, particularly in the Port Reading and Sewaren sections of Woodbridge. In many areas, these hazardous material storage train cars are less than fifty (50) feet from residential property lines.

Volume 3B, Pages 5-29, NJ-10 indicates that the route between Trenton, New Jersey and the Port Reading section of Woodbridge will become a "Major Key Route" as well as a "New

Key Route". This will increase the number of hazardous material carloads between Trenton and Port Reading from 7,000 to 20,000 annually. Needless to say, this is a significant increase in hazardous carload traffic which will further exacerbate the problems that Woodbridge has been experiencing with respect to this very serious safety issue.

- 2] Noise. This is the leading type of complaint that Woodbridge has received from area residents who live near or along the tracks, particularly in the Port Reading and Sewaren sections. Woodbridge has found noise readings as high as eighty-nine (89) decibels at residential property lines. Woodbridge's local noise code prohibits noise levels above fifty-five (55) decibels at night and sixty-five (65) decibels during the day. We do recognize that due to federal preemption in this area, however, surface carriers need not comply with State and local noise codes and are only regulated by the more liberal decibel allowances and related conditions of the Federal Railroad Administration (F.R.A.). Unfortunately, with train noise allowances of over ninety (90) decibels and a minimum noise measurement distance of one hundred (100) feet, the F.R.A. regulations clearly do not address the legitimate public health concerns and special circumstances of Woodbridge residents who live as close as fifty (50) feet to the train tracks.

Additionally, the Port Reading section of Woodbridge has not been mentioned at all in the DEIS analysis regarding noise impacts of the planned merger (NJ-26). Woodbridge hereby requests that the Port Reading section be analyzed prior to the final environmental impact statement being prepared. We are confident that if this section of Woodbridge is properly analyzed, the Surface Transportation Board's Section of Environmental Analysis will discover that the noise levels are significant and need to be addressed.

- 3] Air Quality. A significant complaint that Woodbridge receives from residents is the excessive idling of train engines directly behind their residences. The train engine emissions while idling are an added cause of complaint and concern, particularly during the spring and summer seasons. It has been necessary for the Middlesex County Air Pollution division to respond to three (3) incidents during 1997 with respect to air quality associated with idling train engines.

Ms. Elaine K. Kaiser
January 30, 1998
Page Three

Woodbridge recognizes that many of the issues raised above may technically not have to be addressed during your review of this merger due to extensive federal preemption in this area of regulation. I assure you, however, that Woodbridge's concerns with respect to these issues are very legitimate and a source of significant public outcry from our citizens. Most importantly, Woodbridge has, in the past, had very strained relations with existing Conrail management with respect to these issues. It is our hope that your department's review of the merger will take into account some of Woodbridge's concerns and adequately address them. At the very least, we hope that with your department's input, Woodbridge may be able to open lines of communication with the new Conrail management in order to explore resolution of these issues.

Sincerely,



James M. Davy
Business Administrator

JMD/gmm

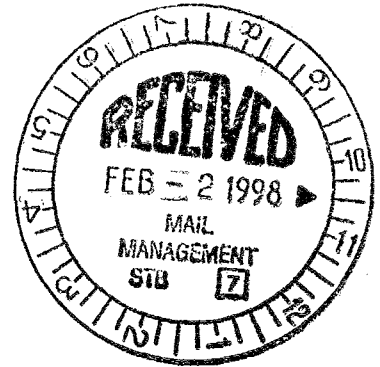
cc: Mayor James E. McGreevey
Philip Bujalski - Chief Health Inspector
Brian M. Hak, Esq.

ENVIRONMENTAL DOCUMENT

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

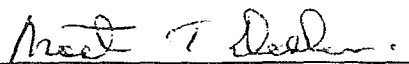


CSX Corporation and CSX Transportation, Inc., Norfolk
Southern Corporation and Norfolk Southern Railway Company
-- Control and Operating Leases/Agreements --
Conrail Inc. and Consolidated Rail Corporation

COMMENT OF THE VILLAGE OF RIDGEFIELD PARK, NEW JERSEY TO THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

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

Please be advised that the Village of Ridgefield Park, New Jersey (the "Village") provides the following comments to the Draft Environmental Impact Statement ("DEIS") prepared and issued by the Surface Transportation Board Section of Environmental Analysis in the referenced matter.


Martin T. Durkin, Esq.
Durkin & Boggia, Esq.
Centennial House
71 Mt. Vernon Street
P.O. Box 378
Ridgefield Park, New Jersey 07660

January 30, 1998

COMMENT

The Village is troubled that its previously-voiced concerns regarding the construction of cross-tracks within its corporate boundaries remain largely unaddressed.¹ Specifically, DEIS notes as follows regarding the construction of the two rail connections within the Village:

Because there are no highway/rail at-grade crossings within the limits of construction, SEA concluded that there would be no effect on highway traffic from this proposed rail line connection. There would be no short term vehicular delays and detours during construction of this rail connection. The construction would be performed in accordance with applicable Federal, state and local regulations for construction projects.^[2] Construction traffic would use the Bergen Turnpike to travel to and from the construction.

(DEIS, Vol. 3B at p. NJ-12-13.) The Glossary contained within the same volume defines "highway/rail at-grade crossing" as "[t]he location where a local street or highway crosses railroad tracks at the same level or elevation."

In fact, there are two such highway/rail at-grade crossings within the Village which should be evaluated. These are Mt. Vernon Street and the Bergen Turnpike. As noted in the Village's Comment to the application in the referenced matter, these major thoroughfares are already subject to prolonged blockage (as much as one hour at a time) caused by the so-called refueling and light maintenance facility operated by the New York Susquehanna & Western Railway ("NYS&W") in the Village and the operation of NYS&W in making up its freight trains.

Commencing in the evening or during the day on week-ends, NYS&W proceeds to make up its freight trains by moving cars from its freight siding just north of Mt. Vernon Street to its main track both north and south of Mt. Vernon Street. This operation, which takes forty five

¹ Actually, there appears to be some discrepancy contained within DEIS as to the actual location of the proposed cross-tracks. At Vol. 3B, p. NJ-6, it states that the two connections are to be constructed in the Village. Alternatives to the proposed location outside of the Village are addressed and rejected. However, reference is made to a map, designated as Figure 5-NJ-5, which shows the construction sites as outside of the Village. Obviously, this uncertainty needs to be resolved.

² As to the performance of construction in accordance with local regulations, the Village notes that, to date, it has not been contacted by anyone from the interested railroads with respect to the proposed construction.

minutes to one hour, coupled with the proposed switching operations in the Village and the expansion of the CSX yard (see *infra*) will further exacerbate the severe traffic congestion and blockage at the Mt. Vernon Street and Bergen Turnpike crossings. Also, lengthy freight trains consisting of as many as 150 cars, operated by Conrail and NYS&W, enter the Little Ferry Yard in Ridgefield³ at speeds of approximately 5-10 miles per hour, causing even more delay.

The prolonged blocking of Mt. Vernon Street and the Bergen Turnpike by various railroad activities effectively splits the Village into two sectors, eastern and western, for extended periods of time. Numerous businesses located on the western side and area residents are negatively affected. Of even greater concern is the possibility that emergency vehicles located in the Department of Public Works yard located on the western side of the railroad tracks will be unable to timely respond to fires or other emergencies which may occur when the tracks are blocked. The Village does not believe that the DEIS has given this very serious issue adequate consideration, and requests that a comprehensive analysis be conducted, including vehicle delay and queues.

In addition to the foregoing, the Village is very concerned regarding plans by CSX to expand its Little Ferry facility.⁴ Under the circumstances, *i.e.*, the evident aggressiveness with which CSX and Norfolk Southern intend to compete for business, the Village believes it is reasonable to conclude that an expansion of the Little Ferry facility will create a significant volume of additional rail traffic. The immediate proximity of the facility to the Village can only worsen its existing traffic problems. Moreover, the Village is additionally concerned because, as a result of the recent management buyout of NYS&W's parent company, the Delaware Otsego

³ It should be noted that the Borough of Ridgefield is a separate corporate entity from the Village of Ridgefield Park; moreover, the "Little Ferry Yard" is located in the Borough of Ridgefield and not in the Borough of Little Ferry.

⁴ According to an article in the March 1998 issue of Trains Magazine (a copy of which is annexed hereto as Exhibit A), CSX and Norfolk Southern will be spending a total of \$303,000,000 over the next several years to build and expand intermodal terminals. Of this amount, CSX will be spending some \$83,000,000 several of its facilities, including Little Ferry.

Corporation, by Norfolk Southern, CSX and Walter Rich, Delaware Otsego's CEO, both CSX and Norfolk Southern have a presence within the Village -- that is, the NYS&W's refueling and light maintenance facility -- that is separate and apart from any proposed cross-tracks. The Village is concerned that this light maintenance facility, too, will be subject of the railroads' plans for expansion. As it is, there are at times as many as twelve or thirteen engines idling for extended periods of time at the facility which contribute large amounts of air pollutants within the Village. The Village is fearful that this pollution will dramatically increase with the addition of increasing numbers of slow-moving engines to the tracks.

The Village strongly urges the Surface Transportation to consider both the immediate and long-term impacts of the railroads' activities both in and around the Village. Immediate acts taken by the railroads will facilitate more expansive and intrusive acts in the future.

A-309-c

Exhibit A

Will Eastern intermodal match the hype?

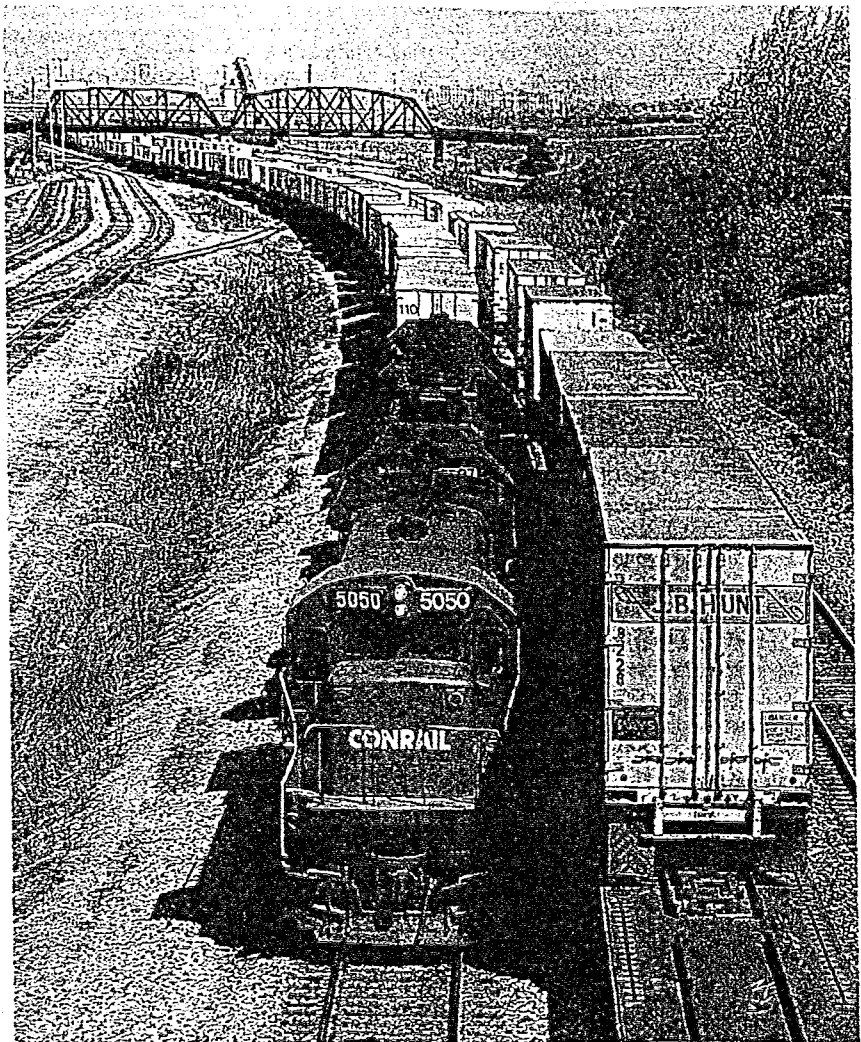
By BILL STEPHENS

WHEN FEDERAL REGULATORS fire the starting gun on the split of Conrail and its coveted intermodal franchise, the name of the game for CSX and Norfolk Southern will be competition. Competition in one of the nation's largest intermodal lanes, New York-Chicago. Competition over new routes between the Northeast and Southeast. And, the railroads hope, more effective competition with the real nemesis—trucks.

CSX and NS plan to spend nearly \$303 million between them to build and expand intermodal terminals. They're banking on getting big results—the diversion of 797,300 truckloads from road to rail annually, with 475,700 going to NS and 321,600 to CSX. "We may be a little bullish on Year 1, but by the third year we should be at that number or above it," says Cindy Lee, a general manager for CSX Intermodal. In 1997, NS carried almost 1.07 million containers and trailers, CSX more than 700,000, and Conrail 1.22 million.

What will be the largest post-merger intermodal change? "That's like asking what's the difference between Earth and Jupiter," says Thomas Finkbinder, NS vice president-intermodal. "Different worlds, different program ... People are missing that fact. The intermodal world is going to be 100 percent different."

Difference No. 1: For the first time in three decades, intermodal shippers will have a choice of how to get their trailers or containers between Chicago and New York. Thus it's unclear



BILL STEPHENS

TV7 meets TV12 near Buffalo on what will become CSX's portion of Conrail's Water Level Route.

exactly how Conrail's vast New York-Chicago intermodal pie will be split. It is clear, however, that service will be more frequent, as CSX and NS propose a combined 29 trains to eventually link the Windy City and North Jersey, up from CR's daily average of 17. And service will be faster.

Ask any railroader why today's hot trains can't match—or sometimes even touch—the schedules of trains of 30 years ago, and you'll get an earful. Trains are longer, hence slower. Yesterday's three- and four-track main lines are now two-track, while the old double-track routes are now single. A greater emphasis on safety, from adhering to the speed limit to more thorough train inspection procedures, slows things down. And speed, they'll say, isn't as important as consistency.

Nonetheless, CSX and NS plan to turn back the clock by slashing New York-Chicago times—nearly to those offered by the New York Central and Pennsylvania three decades ago—in order to be truck-competitive. On tap: a handful of 26-hour schedules, echoing the days of 24-hour Central Flexi-Vans and Pennsy TrucTrains.

Conrail's New Jersey-Chicago intermodal schedules average 30 to 32 hours. "Twenty-six hours is the magic number in terms of being truck-competitive," Finkbinder says. It means the railroads can offer late-night departures with early-morning arrivals.

How will CSX and NS slash some intermodal schedules when CR could not? By balancing route density, raising speeds, and improving terminals.

• Density changes—Conrail fun-

nels traffic from its busy former NYC and PRR mains onto the ex-NYC Water Level Route west of Cleveland, making it the most-densely trafficked section of CR's system. While this maximizes use of the line, it can create congestion. After breakup, there will be two fast, high-density Cleveland-Chicago routes: CSX's Northeast Gateway (NYC-B&O via Greenwich, Ohio) and NS's Penn (Water Level). While the hotshots use those double-track speedways, slower unit and merchandise trains generally will run via two single-track routes, CSX and NS over what will be CSX's Alternative Chicago Gateway (an upgraded and re-signaled PRR, Crestline-Fort Wayne-Chicago); NS also will have its former Nickel Plate. East of Cleveland, NS plans to make the NKP and Conrail's Southern Tier (ex-Erie, Buffalo-Binghamton-North Jersey) into a major intermodal corridor free of most other traffic. West of Cleveland, these trains will use the Penn Route.

- Raising track speeds—CSX's Northeast Gateway will be a 70-mph racetrack between Chicago and Selkirk (Albany), N.Y., up from the current 60. CSX also will extend three sidings on Conrail's single-track River Line (Selkirk-North Jersey, former West Shore). On the Southern Tier, NS will boost track speed from 50 mph to 60, and eliminate slow orders.

- Improved terminals—CSX and NS have ambitious plans for new and expanded terminals [chart, page 26] that will be more efficient, have more capacity, and have new mainline connections for increased flexibility.

CSXT Executive Vice President John Anderson touted the new service during a November Railway Supply Group meeting in Chicago. The Northeast Gateway Route, he said, will be a "world-class intermodal link between Chicago and New York that will be reliable, and offer transit times that are 2½ hours faster than the fastest Conrail train." Four of CSX's 12 planned Chicago-North Jersey trains will run on 26½- to 28-hour schedules. Lower priority and stack train schedules show across-the-board improvements over Conrail. But Anderson may have been a bit overenthusiastic. At least two CR trains—TVLA and the once-a-week TV80—currently run on 26½-hour schedules, albeit at off-peak times.

Initially, NS plans to maintain Conrail's 30- to 32-hour New Jersey-

Chicago van schedules over the Penn Route (former Lehigh Valley-Reading-PRR-NYC). Four of its proposed 17 Chicago trains, however, will compete with CSX on 26- to 28-hour schedules via the Southern Tier.

This move has surprised some observers since Conrail has long ignored the Tier, a line it never wanted but didn't want anyone else to have, either. The result has been benign neglect. Conrail has intermittently run intermodals on the Tier, on schedules 3 hours slower than the Water Level Route between North Jersey and Buffalo. NS and CSX, meanwhile, have teamed up with regional carrier Susquehanna to run North Jersey-Chicago in 35 hours. But NS will make the Tier a real main line again—something it was in the 1960's when Erie Lackawanna used much of it for premium United Parcel Service piggybackers. "I can run schedules over the Tier within 30 minutes of the New York Central way," Finkbiner says. That's because the stacks will have the line virtually to themselves, and will be able to highball in and out of North Jersey's Croxton Yard.

Ultimately, NS would like to use the Penn Route—at 921 miles the shortest post-merger New Jersey-Chicago lane—for expedited New Jersey-Chicago intermodals. But Finkbiner says improving Penn schedules will depend largely on how much of the line's carload freight is diverted to CSX's Northeast Gateway Route, freeing up capacity for more intermodals. NS plans to run about 50 daily trains over the former Pennsy across the Keystone State.

Difference No. 2: Not only do CSX and NS plan to run faster New York-Chicago schedules, but they plan to increase business by serving short- and medium-haul markets in which Conrail showed little interest. NS expects to gain 220,500 loads a year simply by offering service in "local markets" such as New Jersey-Toledo, while CSX will card Philadelphia-Detroit service. New intermodal hubs and higher traffic densities should enable CSX and NS to offer the shorter hauls by allowing consolidation of blocks for common destinations.

Cleveland will become a major intermodal hub for CSX. Trains from Memphis, St. Louis, Chicago, and the Northeast will converge on an expanded Collinwood Yard. NS, which has a big Atlanta hub, will build simi-

The Fab Four

New faster intermodal schedules

Conrail intermodal trains average 30 to 32 hours between Chicago and New Jersey, although two trains—TVLA and the Thursday-only TV80—run on 26½-hour schedules. CSX and NS each plan to offer four trains on truck-competitive schedules reminiscent of those offered by the New York Central and the Pennsylvania in the 1960's.

CSX

Northeast Gateway Route (former B&O and NYC via Greenwich, Ohio, and Syracuse, N.Y.)

Symbol	Origin/Destination	Transit Time
Q164	Chicago, 59th St./Little Ferry	28 hours
Q167	North Bergen/Bedford Park	26.5 hours
Q168	Bedford Park/North Bergen	27.5 hours
Q169	North Bergen/Bedford Park	26.5 hours

Norfolk Southern

Southern Tier Route (ex-NYC, NKP, Erie via Buffalo) or Penn Route (ex-NYC, PRR, RDG, LV via Harrisburg)

Symbol	Origin/Destination	Transit Time
DSCGCX-1	Chicago, 47th St./Croxton	26 hours
DSCGCX-2	Chicago, Global 1/Croxton	26 hours
DSCXCG-1	Kearny-APL/Chicago, Global 1	28 hours
DSCXCG-2	Croxton/Chicago, 47th St.	27 hours

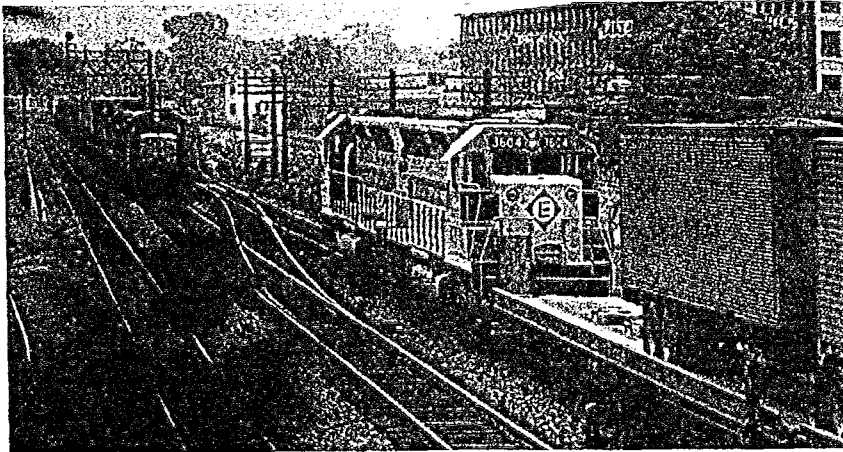
*NS has not yet determined a post-merger symbol system. In this case, DS=double stack, CG=Chicago, CX=Croxton, N.J.

Source: CSX and Norfolk Southern.

lar centers at Harrisburg and Toledo. Harrisburg will serve terminals in New Jersey, Philadelphia, Baltimore, and New England, plus Kansas City and Chicago. Toledo will handle Chicago, K.C., and St. Louis trains, plus Buffalo, Philly, and Jacksonville.

Difference No. 3: Although the merger's new north-south intermodal lanes are small when compared to New York-Chicago, they represent new opportunities to battle truckers. Railroad's version of the Mason-Dixon line—the dividing points between CR and the Southern lines at Philadelphia and Hagerstown—has long stymied effective intermodal service between Northeast and Southeast. With its short hauls, CR has had little incentive to build north-south intermodal business. Interchange, meanwhile, often equals delay.

As a result, Eastern rail intermodal has 22 percent of potential traffic that moves at least 500 miles, but only 9 percent of the market in north-south lanes, leaving 91 percent on the roads. This poor showing comes in the nation's most densely populated



J.J. YOUNG JR.

Trains NE-98 and PB-1 of intermodal-rich Erie Lackawanna met at Binghamton, N.Y., central point of today's Southern Tier route of Conrail, which NS plans to restore to virtually all-intermodal.

How to spend \$303 million

CSX—\$83 million

321,600 trucks diverted annually	
Cleveland, Collinwood Yard	Expand
South Philadelphia	New, at CR Greenwich Yard site
Chicago, 59th Street	New, at former PRR yard
Chicago, Bedford Park	Expand
Chicago, Forest Hill	Expand
Little Ferry, N.J.	Expand

Possible new or expanded facilities: Memphis, Detroit, New England, Elizabethport, N.J.

**Norfolk Southern—\$220 million (incl. Triple Crown)
475,700 trucks diverted annually**

Allentown, Pa.	Expand
Baltimore	Expand
Harrisburg, Rutherford	New, at old Reading yard
Croxtton, N.J.	Expand, improve
Elizabeth, N.J., Erail	Expand, improve
Morrisville, Pa.	Expand
Pittsburgh, Pitcairn	Expand
Charlotte, N.C.	Expand
Knoxville, Tenn.	Expand
Memphis, Tenn.	Expand
Chicago, 47th Street	Expand, improve
Cincinnati, Gest Street	Expand
Columbus, Watkins/Discovery Park	Expand
St. Louis, Luther	Expand
Toledo, Airline Jct.	New, intermodal hub

Triple Crown

Baltimore	New
Charlotte, N.C.	New
Bellevue, Ohio	Relocate from Crestline, Ohio
Philadelphia	New, at Morrisville
St. Louis	Expand
Newark, N.J.	Expand Portside Terminal

Source: CSX and NS operating plans.

area. "If we just introduce good competition and get back to the average share nationwide, we double the business," Finkbinder says.

NS doesn't propose faster schedules over Hagerstown. "We're proposing more consistency. We're not as consistent as we'd like to be in those lanes," Finkbinder says, noting that it's only 75 miles from Hagerstown to Conrail's intermodal hub at Harrisburg. "What's the incentive to do wonderful stuff with that train? I'm not sure I'd do much different."

Unlike NS's experience with Conrail, Lee gives high marks to the four premium-service trains CSX and Conrail jointly run between New Jersey and Florida. The consistent service, Lee says, "is driven by a large mutual customer that rides the train." That customer is UPS.

Nonetheless, erasing the Mason-Dixon Line will bring down an intermodal barrier. "We see a lot of opportunity from Memphis to the Northeast, where you don't have intermodal service today," Lee says.

New direct services will include:

- New Jersey-Memphis—CSX, Little Ferry-Memphis, 33 hours westbound, 58 hours eastbound, both via Cleveland; NS to serve Memphis off Harrisburg-New Orleans trains.
- New Jersey-Jacksonville—CSX, 28 hours, improving current 31 1/2-hour joint service with Conrail; NS to provide connections via Atlanta.
- Boston-Atlanta—CSX, 51-hour service; connections to Florida from New Jersey, to Mobile and New Or-

leans from Atlanta. NS will reach New England by Harrisburg-Albany haulage rights on Delaware & Hudson and a connection with Guilford.

- New Jersey-Atlanta—NS, two pairs of 32-hour trains.
- Harrisburg-Kansas City—NS, 45 hours via Toledo. CSX, 36 hours, New Jersey-St. Louis (its end-of-line).
- Northeast-New Orleans—NS, 46 hours from Harrisburg, with connections to Dallas via KCS at Meridian, Miss. Also, Baltimore-N.O., 51 hours; CSX, connecting service via Atlanta.

Difference No. 4: CSX and NS will fight for the same business, but with different weapons. This is partly because of different route structures, partly current traffic bases, and partly different perspectives.

NS will continue to emphasize double-stack and RoadRailer. "Stack is a lot more profitable business than trailers," says Finkbinder. Most principal NS-Conrail intermodal routes are already cleared for domestic stacks, and the few gaps will be cleared: Harrisburg-Baltimore; Front Royal-Roanoke, Va.; and Columbus-Cincinnati. Triple Crown will dramatically increase its RoadRailer network, adding new terminals in Baltimore, Morrisville, Pa., and Charlotte, N.C.

CSX won't be stack-capable in the I-95 and I-85 corridors, thanks largely to Howard Street Tunnel in Baltimore, and the B&O west also lacks stack clearances. But CSX is high on TOFC, its largest and fastest-growing market segment. "There are still a lot of trucks out there," Lee says.

Not everyone shares the two systems' rosy outlook. The Chemical Manufacturers Association and The Society for the Plastics Industry told the STB that already thin intermodal profit margins would become even slimmer with rail-to-rail competition plus truckers fighting back to keep their business. And to haul more intermodal traffic—necessary to help pay for Conrail—the groups say CSX and NS will have to devote more people and locomotives, which will bog down service.

These concerns and others mean that, pending STB approval of the merger, CSX and NS will not only have to compete with each other and truckers, but with their own intermodal hype. **I**

Your coast, your future



NYS Waterfronts

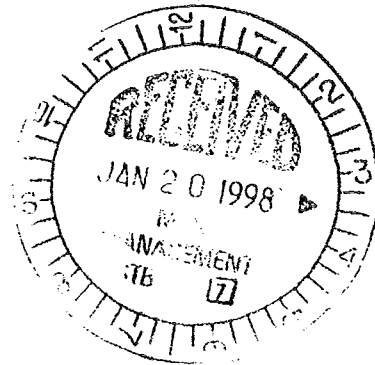
George E. Pataki
Governor

Alexander F. Treadwell
Secretary of State

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/26/98

DOCUMENT # 127/98 1:11:08 PM



January 9, 1998

Juanita Feigenbaum
Dames & Moore
One Continental Towers
1701 Golf Road, Suite 1000
Rolling Meadows, Illinois 60008

Julie Sanford
Burns & McDonnell
9400 Ward Parkway
Kansas City, Missouri 64114

Re: F-97-481
Surface Transportation Board
Finance Docket No. 33388
CSX Corporation and Norfolk Southern Corporation
Conrail Acquisition

Dear Ms. Feigenbaum and Sanford:

The Department of State has received a copy of the Draft Environmental Impact Statement for the proposed acquisition of Conrail by the CSX and Norfolk Southern Companies. However, we also need a completed Federal Consistency Assessment Form (blank enclosed) for consistency review purposes. Once we have received the FCAF, we will contact you if additional information may be necessary for our review.

You and the Surface Transportation Board will be notified of our decision when we have completed our review of this proposed activity for its consistency with the New York State Coastal Management Program.

Please call Mr. Vance A. Barr at (518) 474-6000 if you have any questions.

Sincerely,

William F. Barton
Chief, Consistency Review and Analysis

Enclosures
WFB:VAB

cc: STB - Elaine K. Kaiser
OCRM - Helen Grady

- 1998 - New York City 100 Celebration - "America begins in New York".
- Home of Port Morris Patriots and Democracy in the United States
- 1997 - "All - America City" awarded to The Bronx
- 1997 - "Fordham University" placed in the "Nation's Best Values".
- 1997 - Bronx "Little League" win Baseball Crown for New York State
- 1996 - The Bronx .. "New York Yankees". World Champions.
- World Famous - Bronx Zoo and Wild Life Habitat
- World Famous - Bronx Botanical Gardens.
- "Six Most Remarkable Contiguous Bridges in the World".
- Span the Federal Harlem River. to join the Island of Manhattan to the Bronx mainland
- World Famous. New York City Marathon. cross these bridges.
- at the Major Highways of "NYC Tourist Corridor" and "Antique Center"
- 1994 - Federal Empowerment Zone awarded Port Morris.
- 1888 - Railroad Builds gracious "Landmark" Office Building. atop Scenic Riverscape. Historic 1776 Revolutionary Site.
- and Home of Patriots. "Lewis (*) and Gouverneur (***) Morris"
- 1815 (***) An Early Voice on Conservation to Protect Habitat of Birds. Fish. Wildlife
- 1790 (*) Debate in Congress to have the "Capitol of the United States" rise on hill. atop historic and scenic river
- 1788 (*) - Ratified the "Constitution for United States" for New York State
- 1787 (***) - PENNED, PHRASED AND DRAFTED THE FINAL "CONSTITUTION OF THE UNITED STATES"
- 1776 (*) - SIGNED THE "DECLARATION OF INDEPENDENCE"
- 1670 - Jonas Brounck's Brouncksland becomes "Morrisania Village" of the Patriots. (then in Westchester).
- 1642 - "Indian Peace Treaty" is signed in Jonas Brounck's Farm House
- 1639 - "Brouncksland settled by Jonas Brounck. (then in Westchester)
- 1492 - 1639 Home of Reckgawawane Tribe's Chieftains Ramachqua and Tackamuck in "Nuacin Village".
- (1996 - New York City Bronx Park Department. named "Ramachqua")

Landmark Studios, Inc.
 2 Willis Avenue, Port Morris
 The Bronx, New York 10454-4417

zeefrank@aol.com

Zee Frank
 V. 718-292-5697
 F. 718-292-3698

January 13 1998

Ms. Landa J. Morgan, Chair of
 Surface Transportation Board
 Washington, DC. 20423-0001

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/14/98

DOCUMENT # 1/16/98 2:36:39 PM

Fax to: Ms Dana White 202-565-9000 Subsequent to 3/97, 12/97, 1/98 letters

Dear Chairman Morgan,

To keep Rodney Slater of U.SDOT advised, we have just faxed to him (1/13/98) information on the the New York City Rail Freight issue, both economically and environmentally

Since we added information which was not included with our 1/10/98 letter to you (sent Priority Mail) we believe you should have this information in your file as well.

I hate to burden the record, but believe you may be interested in all the available information

Sending, therefore the copy of letter to Hon. Rodney Slater and the attachments.

Should you require any clarification whatsoever, we shall be promptly responsive

Sincerely yours,

Zee Frank
 cc Frank
sent via fax to Rodney Slater

Encs. 10 pages - 1 - cover (total 11)

- 1998 - New York City 100 Celebration - "America begins in New York"
 Home of Port Morris Patriots and Democracy in the United States.
 1997 - "All - America City" awarded to The Bronx.
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 F. 718-292-9698

January 13, 1998

Hon. Rodney Slater, Secretary
 United States Department of Transportation
 400 Seventh Street, S. W.
 Washington, D. C. 20590

Honorable Sir

We would like to add to the letter sent certified to you, December 12, 1997, and trust this will be also addressed when you have an opportunity to respond.

On January 7, 1998, the matter of the CSX/NS merger in New York City was addressed by Mr. Daniel King of the Surface Transportation Board. It was held by the MPO (NYMTC) of New York City. The questions were posed by those who were concerned that New York City is being locked out of Rail Freight, despite the fact that the Oak Point Rail Link to access direct rail to New York City is completed

The blockade is caused by one man who wants to replace most of the Harlem River Intermodal Terminal with noxious, polluting uses. We enclose the Forbes Magazine which describes one of the hazardous/pollutant uses, by quoting New York Times Mr. John Tierney. One man wishes to destroy 2/3rds of the Harlem River Intermodal Terminal with such uses.

As the Secretary/CFO of the United States Department of Transportation, destruction of a new \$35,000,000 Intermodal Terminal should be obviously a major blow for the Global participation of New York City, the richest rail freight market in the United States.

Although the attendees at the January 7, 1998 included Federal, State and City officials, ...not one had a rebuttal to the stated devastation of the economy for New York City, should this man be allowed to proceed. ...Hence the economic health of the United States is thus threatened.

Page 2

It appears that everyone is awaiting the power of your office to rectify what is obvious to all, a power play by one man to doom the economy of New York City. We mention this as an economic disaster as apparently "money" speaks as the almighty God.

But, there is in fact a human destruction to be considered, which cynics override

Following the speakers, in clergy garb, clearly misplaced amongst civilian suits, stood up a tall, handsome man, who you would think would not be involved in New York City's hidden burden for those who fall prey to the creators of profitable, polluting and deadly particulates, they generate

It took six years for this community to have a foul, uninhibited polluting medical incinerator, to be shut down. Now, deadly deinking is planned per Michael Walsh report and John Tierney NYTimes, of "deadly pollutants. Added now, is a massive putrid garbage facility. Instead of Rail converting Trucks to Rail it is being decimated by one man's lust. The Rail project planned and signed since 1982 by both New York State DOT and the United States Coast Guard, will instead be used to kill people.

To quote the handsome clergyman... He described his knowledge of this community having performed the marriages for these people and now he states he is burying their children... 5 years old etc caused by this pollution. Yes, there are handsome, intelligent, vibrant and caring people in New York City (The clergyman, we have learned, is from St. John's Church, NYC, J. Parrish)

I find I have to defend the people in New York City as worth saving. And, since "peoples" finally have become an issue, we are adding some articles for your further consideration

Respectfully submitted,

Zee Frank

Via Fax 202-366-7202, 10 pages (Please acknowledge with document control No.)

Attachments, Forbes Magazine, (2 pages - November 17, 1997, Pages 104 and 108), re. Deinking pollution, etc.

Also, for your interest I enclose an article in the Ecologist (2 pages "Environmental Sell Out" Jan-Feb '96) which shows how a City is made prey to a conspiracy to replace rail with pollutants ie: deinking. A plan designed per the article in Upstate New York to infiltrate the community of New York City. This was written by a former Policy Analyst for New York City Department of Environmental Protection.

It is significant that the NRDC representative in the above article, blasted the South Bronx Air Coalition who finally managed to get the Medical Incinerator closed down. The NRDC representative did his blasting in the newspapers questioning the integrity of the South Bronx principal. Subsequently NRDC of Washington, had the NRDC representative place an article in that media apologizing for NRDC's disparaging remarks. NRDC at a recent City Council meeting at City Hall was "booted". Consequently the apology appeared, but the plans to build the deinking in place of rail land continues. This community is #1 in Asthma in the United States.

As you can see, we have good cause to defend the peoples of New York City from such conspiracies. The big question is Why should we have to?

The report on the deadly particulates was written by Michael Walsh, (4 pages, 4/24/96) (said to be the former chief of Motor Vehicles of the United States Environmental Protection Agency) It referred to the "deinking" facility alone and added: will be massive additional particulates that will replace rail land.

Using 2/3rds of the Harlem River Intermodal Terminal for these pollutant uses to replace Rail Land is deadly to the people in the community and a direct hit to the economy of New York City and to the United States.

Oddly, if a foreign country came in and destroyed New York City's Rail, we would be sending in our boys (and girls) to retaliate. I wonder if this one man who lusts to destroy the rail, ever served his country. My family during World War II contributed to US victory, when it meant survival. Frankly I believe our fortune, created the world respect that the United States now enjoys, by other generations. It is your generation that needs to protect that respect. And, New York City deserves that protection.

A-311-b



You are in big, big trouble if you promote the Ten Commandments in school, but preaching the recycling religion is increasingly de rigueur.

Why recycling is garbage

By Dan Seligman

Ten good reasons not to participate in America Recycles Day (Nov. 15).

1. We begin with the obvious. The core purpose of recycling is to conserve raw materials. But there is no present or prospective shortage of raw materials, so there is no need to conserve them. Airtight logic, eh? As economist Julian Simon keeps reminding us, impending shortages are invariably signaled in higher prices, but raw material prices keep falling (in real, inflation adjusted terms).

2. There is also no shortage of landfill space. As guys from the Cato Institute keep mentioning, a hole in the ground 100 yards deep and 30 miles square could hold all the waste produced in this country during the next thousand years. To be sure, that assumes present rates of waste production. If we doubled the rate, we might have to dig another hole in a few hundred years.

3. There is a genuine shortage of leisure time in the land. This has obviously not occurred to the promoters of America Recycles Day, but bundling up newspapers and

sending used LaserJet toner cartridges back to Hewlett-Packard can cut into the cocktail hour.

3(a). Washing cloth diapers at home is also a net subtraction from leisure time and is known to occasion feelings of revulsion among home makers. It remains, however, the preferred solution of Earth Day celebrants, since cloth diapers are presumed to be biodegradable, and sending them out for washing results in a lot of pickups and deliveries by vehicles using evil fossil fuels. So what are homemakers to do? The record shows that seven to eight years ago they were being arm-twisted by environmentalists and regulators into buying reusable cloth diapers. More recently, common sense and Procter & Gamble public relations—they are not completely antithetical—have clearly prevailed. Disposable diapers today have an estimated 80% of the market.

4. The honorary chairman of America Recycles Day is a politician who goes around taking plainly illegal campaign contributions from a Buddhist temple.

5. Depending on whom you believe, the self-same Vice President had something or nothing to do with the federal grants received by a recycling company called Molten Metal Technology, whose head contributed money to endow an academic chair in memory of Al Gore's sister.

6. The recycling laws are criminalizing people like John Mocombe, the increasingly famous amateur filmmaker. For folks who missed the Oct. 16 Associated Press story about John, he got arrested for trucking thousands of bottles

The late news from the diaper front is that two powerful forces—Procter & Gamble public relations and plain old common sense—have combined to win the war.

Did Princess Diana inspire the dreamer who trucked 20,000 cans and bottles to Michigan, where you get a dime for each one? We may never know.

and cans from New York, where they pay only 5 cents, to Michigan, where you get a dime. At last report, Mocombe was pleading guilty to fraud. And we still can't figure out what the crime was.

6(a). Additional essential details on the case: When asked whether his caper had been inspired by a somewhat similar story line in an old *Seinfeld* episode—the one where Kramer and Newman use a postal truck for hauling bottles and cans to Michigan—Mocombe denied it. He said he sought the dimes because he needed money to make a movie about the plight of the homeless. He also said he had been inspired by the idealism of Princess Diana.

6(b). Sudden after thought on the Mocombe case: Maybe the crime was perjury.

7. Based on knowledge and belief, and supported by Jerry Taylor, director of natural resource studies at the Cato Institute, we would say recycling usually makes economic sense when it happens "naturally"—when it's not mandated by government—and usually doesn't make sense when it happens only because it has been thusly mandated. Taylor says economic waste associated with mandated recycling probably runs into the tens of billions of dollars.

7(a). Recycling is a farce when municipalities spend heavily on it and then have to pay people to take away the stuff—a standard scenario across the land. And recycling is a logical, totally inescapable development when the end product has some genuine market value. Several years ago, when newspaper prices were skyrocketing, cities all over America found them-

selves having to deal with freelance recyclers who got to be called "paper rustlers"—characters who were snatching and reselling the bound-up papers at curbside before the municipal sanitation department came along. One of our favorite 1995 editorials was the one in the *Houston Chronicle* calling for jail and other stern measures to deal with the thieves while simultaneously worrying that this exercise shouldn't turn into "harassment of the homeless." Luckily or otherwise, the problem went away in 1996, when newsprint prices collapsed. Unfortunately for the homeless, the prices are still weak.

8. Amazing detail: Arguably the best, most devastating critique of recycling to appear in recent years was a long, fact freighted June 30, 1996 article in, of all places, the Sunday magazine section of the liberal *New York Times*. The article, by staff writer John Tierney, says that "recycling may be the most wasteful activity in modern America" and along the way shoots down just about every environmentalist claim for recycling you have ever heard.

8(a). Why, Tierney asks in the course of one shoot-down, do we have so many government mandates for recycling paper? There is certainly no shortage of trees. The data show three times as much virgin timber in the U.S. today as in 1920. And the newspaper recycling process is itself a source of pollution: "fumes and noise from collection trucks, solid waste and sludge from the mills that remove ink and turn the paper into pulp. Recycling newspaper actually creates more water pollution than making new paper."

9. Proponents of recycling are tony writers, as evidenced by every other sentence in Al Gore's *Earth in the Balance*, also by the following mangled verbiage recently noted on the Hewlett Packard toner cartridge recycling Web site: "We proactively avoid 154 hazardous materials from being used in our products...."

10. We now live in a country where, to plagiarize a thought of Yale Professor David Gelernter, you are in big, big trouble if you promote the Ten Commandments in school, but preaching the recycling religion is increasingly de rigueur. Even though most of the kids getting indoctrinated were wearing disposable diapers just a few years earlier

Database: General Science Abstracts , Postings: 1 | Record #1

Environmental sell out.

AUTHOR: Salzman, Lorna.

SOURCE: The Ecologist, v. 26 (Jan./Feb. '96) p. 39.

ABSTRACT: Mainstream environmental groups are inhibiting the efforts of grassroots and less conciliatory environmental groups. Mainstream groups soak up the majority of funds from large donor organizations and they cooperate with these large donors, thereby giving projects the support of "the environmental community." An example of a conciliatory environmental group, the Natural Resources Defense Council (NRDC), supporting a project and putting itself forward as representing the environmental community is outlined. The NRDC backed an industrial park development in the South Bronx, New York, which was chosen at the expense of a proposed freight center that would have contributed to clean air.

SUBJECT(S): Public relations.

Environmental movement.

Industry and the environment.

ISSN: 0261-3131

ACCESSION: BGS196010808

SEE ATTACHED
FORMER NYC DEP PROJECT ANALYST



Letters

Environmental Sell Out

The article "Democracy for Hire". (*The Ecologist*, Sept/Oct 1995) may have shocked many, but not those of us who have watched mainstream environmental groups compromise and sell out because they have thrown their lot in with those whose largesse supports them — congressional committee leaders, mass media, corporate givers and wealthy foundations anxious to give funds to only the most reputable (i.e. non-controversial and appealing) organizations.

As a result, the Natural Resources Defense Council (NRDC) and the Environmental Defense Fund (EDF) between them probably monopolize half of all foundation grants in the US. Staff and board members of those groups either sit on foundation boards or have cultivated close relationships with them in order to influence how and where these foundations spend their money.

What this means to underfunded, grassroots and less conciliatory environmental groups is obvious in financial terms. In political terms, it means that when government, the press or corporations need credibility on an environmental issue, they quickly turn to these same groups, whose name, status, influence and opinions are interpreted as representing the "environmental community" — when, in most cases, the exact opposite is true.

An example of this took place in New York. Years ago, the Department of Transportation targeted a parcel of vacant, publicly-owned land on the South Bronx waterfront as a freight centre, where freight trains could unload cargo for local distribution by truck and barge, and vice versa. The Department spent over \$300 million on upgrading the incoming rail line. Such a freight centre would contribute to cleaner air (the area nearby has the highest asthma rate in New York City), decreased truck traffic, decreased energy

local job creation, and a sound use of waterfront for water-dependent uses rather than luxury high-rise housing or "yuppy" commercial development.

But a politically well-connected developer prevailed on the Department of Transportation to renege on its commitment to the freight centre and to publicly-owned and public interest uses of the site. Instead, the Department signed a 99-year lease with the developer to construct an industrial park on the site.

The developer knew that it stood a better chance of getting public and media support for the project if it had "the environmental community" on its side. Thus, a representative of the Empire State Economic Development Authority, which was responsible for privatizing the site, contacted Alan Hershkowitz of the Natural Resources Defense Council and proposed that the industrial park could include a de-inking and pulp plant which utilized recycled newsprint. Hershkowitz jumped at the opportunity and sought some Swedish sponsors for the plant. Well-placed news articles demonstrated how the giveaway of this land to a private developer, with gigantic subsidies that would effectively balance out the developer's entire investment (subsidies which were never mentioned), would be beneficial and environmentally sound.

Community groups and nearby residents disagreed. Together with the Urban Environmental Alliance, they went to court to challenge the deal. They won the first round but lost the appeal. The dispute will now go to the state appellate court. NRDC was used, in effect, as a battleship to split the community. NRDC was supported by a well-funded local development group, Banana Kelly, but opposed by the South Bronx Clean Air Coalition, the Business/Labor/Community Coalition, and other smaller groups and individuals.

To counter NRDC's bad "knag" from the opposition, the *New York Times* and *The New Yorker* ran extensive favourable coverage of the plan. All the cogent facts were omitted, and stress placed on NRDC's credibility, while the leading lawyer and opponent was dismissed as a "rail buff".

One omitted fact was that the freight centre had been the idea of the Department of Transportation, not the opposing "rail buff".

Another was that there are several alternate sites for a pulp plant in the South Bronx (but only one for the freight centre). NRDC rejected them all, claiming that they were "contaminated". In fact, they rejected

locating on publicly-owned land, they could avoid any in-depth environmental review and the plan for the industrial park and plant could be expedited.

NRDC's Hershkowitz has blasted opponents for misusing the environmental process. But the fact that this site is NRDC's preferred site because it will escape environmental review undermines his accusation.

In addition, the state's own environmental consultants produced studies clearly indicating that in terms of environmental impact, the industrial park would have far graver impact than the freight centre. This report and several others were deliberately withheld from the public (and from the courts too, apparently).

Community, grassroots and regional environmental groups who do not want to appease corporations, media or congress are thus at a dual disadvantage: they are deprived of funds because NRDC and EDF get most of the foundation funding — and NRDC and EDF get most of the funding because funders know they will be non-confrontational and work within the system (for example, EDF's campaign to get McDonald's to switch to paper trays instead of styrofoam). When NRDC and EDF get favourable press treatment for their willingness to "work with corporations", the funders can feel justified in having supported these groups.

A NRDC representative recently stated baldly: "we don't need to do anything different". That statement indicates that the speaker is either out of touch with reality or actively working to subvert any movement for real social change.

Lorna Saltzman
29 Middagh Street
Brooklyn NY 11201, USA

CASTing Light

It was with disappointment that I read the article "Democracy for Hire: Public Relations and Environmental Movements" (*The Ecologist*, Sept/Oct 1995) by John C. Stauber and Sheldon Rampton. The characterization of CAST was inaccurate and raises questions about your integrity.

The Council for Agricultural Science and Technology (CAST) was created in 1972 by scientific societies, not by Shandwick. Last year, CAST contracted with Dorf and Stanton (now Shandwick) to review CAST's communications efforts and to assist in media assistance for a Sustainable Agriculture conference in Washington, DC.

Post #	Fax Note	7871	Call	# of pages	OS
To	ZEE FRANK				
On Dept					
Phone #					
Fax #	719-292-1678	Fax #			

MEMO

To: David G. Hawkins
 From: Michael P. Walsh
 Subject: Comments On BCPC EIA
 Date: April 24, 1996

Thank you for sharing the material with me. I have several comments which are summarized below.

1. Adverse Health Effects Will Result From Any Increase in Particulate Air Quality Levels

"The primary standards protect the public health, and represent levels at which there are no known significant effects on human health." Based on this statement and the conclusion that the NAAQS will be met, the EIA concludes that the increased volumes of heavy duty diesel powered vehicles, even though they are estimated to increase localized PM10 levels "presumably will have no adverse health impact".

In fact recent data indicates that any level of PM10 causes potentially serious adverse health effects.

For example, by correlating daily weather, air pollutants and mortality in six US cities, scientists have discovered that non accidental death rates tend to rise and fall in near lockstep with daily levels of particulate - but not with other pollutants.¹ Because the correlation held up even for very low levels - in one city to just 23 percent of the US federal limit on particulate - these analyses suggested to the researchers that as many as 60,000 US residents per year may die from breathing particulate at or below legally allowed levels.²

More recently, another study has emerged showing a strong linkage between particulate air pollution and mortality.³ The study is distinctive in that it used a prospective cohort design that allowed for direct control of other individual risk factors such as cigarette smoking, diet, etc. In addition, the study was larger and represented a larger geographic area than any other study to date.

Air pollution data from 151 US metropolitan areas were linked with individual risk factors in

¹ "An Association Between Air Pollution And Mortality In Six U.S. Cities", Dockery, et al., The New England Journal of Medicine, December 9, 1993

² "Air Pollution and Daily Mortality in Philadelphia", Dr. Ioulia Schwartz, presented at the 1991 meeting of the American Lung Association, Anaheim, CA, May 1991.

³ Pope et al. 1993

David G Hawkins

Page 2

April 24, 1996

662,130 adults who resided in these areas when they were enrolled in this study in 1962. Deaths were ascertained through 1989. Sulfates and fine particulate air pollution were associated with a difference of approximately 15 to 17% between mortality risks in the most polluted cities and in the least polluted cities. Even in cities that meet the US Federal clean air standards, the risk of death is 2 to 6 percent higher than in the cleanest cities.

Based on the available data, the World Health Organization recently estimated that every 50 ug/m³ increase in PM10 would lead to a 6% increase in mortality; a 25 ug/m³ increase would cause a 3% increase in hospital admissions for respiratory conditions; a 7 ug/m³ increase would cause a 5% increase in bronchodilator use among asthmatics, etc.⁴ In conclusion, the WHO decided that "No specific guidelines are recommended for PM because there was no obvious exposure concentration and duration that could be judged a threshold and decreased by uncertainty factors to avoid risk. Rather, the data base on PM suggests a continuum of effects with increasing exposure".

2. Diesel particles are more hazardous than most other particles.

Diesel particles, because of their chemical composition and extremely small size, have raised a host of health and environmental concerns.

a. Cancer Risk

Diesel particulate matter consists mostly of three components: soot formed during combustion, heavy hydrocarbons condensed or adsorbed on the soot, and sulfates. In older diesels, soot was typically 40 to 60 percent of the total particulate mass. Developments in in-cylinder emissions control have reduced the soot contribution to particulate emissions from modern emission controlled engines considerably, however. Much of the remaining particulate mass consists of heavy hydrocarbons adsorbed or condensed on the soot. This is referred to as the soluble organic fraction of the particulate matter, or SOF. The SOF is derived partly from the lubricating oil, partly from unburned fuel, and partly from compounds formed during combustion. The relative importance of each of these sources varies from engine to engine.

A comprehensive assessment of the available health information on diesel particulate was carried out by the International Agency For Research on Cancer (IARC) in June 1988 and concluded that diesel particulate is probably carcinogenic to humans. The term "carcinogen" is used by the IARC to denote an agent that is capable of increasing the incidence of malignant tumors.⁵

Studies conducted at the Fraunhofer Institute have suggested that the diesel particle itself,

⁴"Update and Revision of the Air Quality Guidelines For Europe", World Health Organization, 1995.

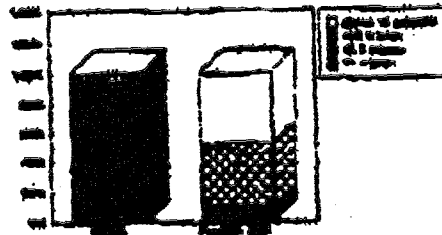
⁵WHO

David G. Hawkins
 Page 3
 April 24, 1996

stripped of the organic and other materials on the surface, may also be carcinogenic. Confirmatory studies under the auspices of the Health Effects Institute, a jointly funded industry - Government program, recently verified this conclusion. These results, and recent findings from other laboratories, suggest that (1) the small respirable soot particles in diesel exhaust are primarily responsible for lung cancer developing in rats exposed to high concentrations of diesel emissions, and (2) at high particle concentrations, the mutagenic compounds adsorbed onto the soot play a lesser role, if any, in tumor development in this species.* This is quite significant as it indicates that it is important to control the particles themselves and not just the organic material sitting on the surface of the carbon.

b. Small Particles Are More Hazardous Than Other Particles

Size Distribution of Typical Particles



Particle diameters span more than four orders of magnitude, from a few nanometers to one hundred micrometers. Combustion-generated particles, such as those from power generation, from automobiles, and in tobacco smoke, can be as small as 0.01 µm and as large as 1 µm. Particles produced in the atmosphere by photochemical processes range in diameter from 0.05 to 2 µm. Fly ash produced by coal combustion ranges from 0.1 to 50 µm or more. Wind-blown

dust, pollens, plant fragments, and cement dusts are generally above 2 µm in diameter.

Recent measurements of the size distributions of primary particles confirm U.S. Environmental Protection Agency conclusions that most fugitive dust emissions are in particles larger than 2.5 µm and that the majority of emissions from combustion sources are in sizes smaller than 2.5 µm. As illustrated above diesel emissions are almost all less than 1.0 µm in size; particles in this size range are especially hazardous because when breathed in, they are able to penetrate to the deepest part of the lung where the critical gas exchange takes place.

This was reinforced when, in November 1992, EPA staff released a report on the PM National Ambient Air Quality Standard (NAAQS) which argues that smaller particles are more hazardous than large particles. This is the latest manifestation of a pattern which indicates that diesel particulate represents a very serious health concern.

As noted in the report, because of their physical properties, fine particles (less than 2.5 microns

* "Pulmonary Toxicity of Inhaled Diesel Soots and Carbon Black in Chronically Exposed Rats", Masuyama, et al. Health Effects Institute Research Report Number 68, October 1994

David G. Harkum
Page 4
April 24, 1996

in size) are more likely than coarse particles (those between 2.5 and 10 microns) to contribute to exposures measured in the epidemiology studies. Examinations of air quality aspects of the time series PM_{10} mortality studies¹ also support this suggestion:

Air quality properties of PM_{10} in the areas studied imply that daily measures of PM_{10} are driven by underlying changes in $PM_{2.5}$ levels. First, $PM_{2.5}$ is highly correlated with PM_{10} in study locations. Furthermore, the day-to-day variation of $PM_{2.5}$ concentration is predominantly greater than the day-to-day variation in coarse fraction concentration in these areas; thus, day-to-day variations in PM_{10} levels are driven by variations in fine particle levels, and the coarse fraction is much less variable. Finally, in the Eastern U.S., where most studies were conducted, $PM_{2.5}$ represents a large fraction of the PM_{10} mass (63 percent of mass on average in the Eastern U.S.). In specific Western U.S. cities studies, fine particles were used as measurements (e.g., Los Angeles, CA; Santa Clara County, CA; Denver, CO) or fine particles tend to dominate the PM_{10} measurements (e.g., woodsmoke communities in winter and stagnation conditions of low wind speed in conjunction with combustion sources).

Epidemiological studies associate outdoor levels of PM to health endpoints. In general, stationary monitor fine particles levels are better related to personal exposure measures than are coarse fraction levels. The spatially homogeneous nature of fine particles means community-oriented monitors on which most studies are based may better represent fine than coarse particles. Coarse particles are higher near sources and their levels drop off with distance from the source. Thus, the community-based monitor may not represent exposure to coarse particles as well as exposure to fine particles.²

Moreover, outdoor-origin fine particles are better able to infiltrate indoors in air conditioned or heated areas than are coarse particles; once inside, fine particles will remain suspended for longer periods of time. Thus, outdoor fine particles contribute more to exposure because people spend a significant amount of time indoors. It follows that time series associations between variations in particle concentrations at outdoor monitors and both personal exposures and related health effects in populations that spend most of their time indoors are more likely due to fine particles. The recent time series studies providing a direct comparison between outdoor PM_{10} and $PM_{2.5}$ and personal exposure show that both indicators are significantly related to variations in personal exposure, but that fine particles show substantially stronger associations. By inference, the coarse fraction association must be smaller even than for PM_{10} .

¹These time series attempts to use standard techniques to relate short-term variations in air quality measurements to short-term variations in health endpoints are (a) typically using a 24-hour period as a unit of measure (e.g., daily PM_{10} concentrations and daily deaths or hospital admissions) while accounting for confounding factors.

²This does not imply that the coarse fraction does not contribute to the observed health effects, only that the time series studies would not be the most effective tool to establish coarse fraction associations.

David G. Harkness
Page 4
April 24, 1996

in size) are more likely than coarse particles (those between 2.5 and 10 microns) to contribute to exposures measured in the epidemiology studies. Examinations of air quality aspects of the time series PM_{10} mortality studies¹ also support this suggestion:

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• Epidemiological studies associate outdoor levels of PM to health endpoints. In general, stationary monitor fine particles levels are better related to personal exposure measures than are coarse fraction levels. The spatially homogeneous nature of fine particles means community-oriented monitors on which most studies are based may better represent fine than coarse particles. Coarse particles are higher near sources and their levels drop off with distance from the source. Thus, the community-based monitor may not represent exposure to coarse particles as well as exposure to fine particles.²

Moreover, outdoor-origin fine particles are better able to infiltrate indoors in air conditioned or heated areas than are coarse particles: once inside, fine particles will remain suspended for longer periods of time. Thus, outdoor fine particles contribute more to exposure because people spend a significant amount of time indoors. It follows that some spurious associations between variations in particle concentrations at outdoor monitors and both personal exposures and related health effects in populations that spend most of their time indoors are more likely due to fine particles. The recent time series studies providing a direct comparison between outdoor PM_{10} and $PM_{2.5}$ and personal exposure show that both indicators are significantly related to variations in personal exposure, but that fine particles show substantially stronger associations. By inference, the coarse fraction association must be smaller even than for PM_{10} .

¹Time series analyses attempt to use statistical techniques to relate short-term variations in air quality measurements to short-term variations in health endpoints over time, typically using a 24-hour period as a unit of exposure (e.g., daily PM_{10} concentrations and daily deaths or hospital admissions) with confounding factors.

²This does not imply that the coarse fraction does not contribute to the observed health effects, only that the time series studies would not be the most effective tool to elucidate coarse fraction associations.

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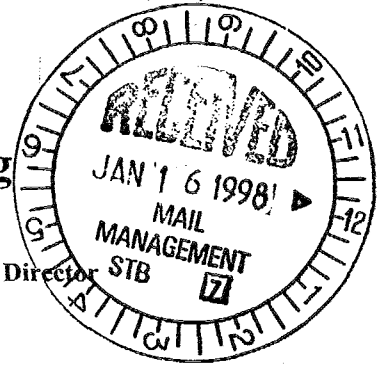
Rensselaer County
Economic Development and Planning

1600 SEVENTH AVENUE, TROY, NEW YORK 12180

PHONE (518) 270-2914; FAX (518) 270-2981

Henry F. Zwack, County Executive

Robert L. Pasinella, Jr., Director



January 13, 1998

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

Re: Proposed Conrail Acquisition

Dear Ms. Kaiser:

After review of the Draft EIS of the proposed acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad, it appears that a small piece of track running between the city of Rensselaer and the city of Troy in New York State is not listed in the Master Table of All Rail Line Segments. This track, presently owned by Conrail, is approximately 4 miles long and serves several businesses in South Troy.

As owner of the South Troy Industrial Park, the Rensselaer County Industrial Development Agency is interested in seeing this track maintained and continued. The South Troy Industrial Park is located along the track and openly seeks firms which require rail to fill the park. A loss of this rail line would mean the loss of possible businesses as well as a loss of necessary service to many of the businesses surrounding the South Troy Industrial Park.

We assume that, since CSX Railroad will acquire the tracks leading to this portion of track, that this portion of track would also be taken over by CSX Railroad. If not, please inform me of the intentions for this portion of track.

Sincerely,

Robert L. Pasinella, Jr.
Director

St. Lawrence County
BOARD OF LEGISLATORS
48 Court Street, Court House
Canton, New York 13617-1194
(315)379-2276
FAX (315)379-2463

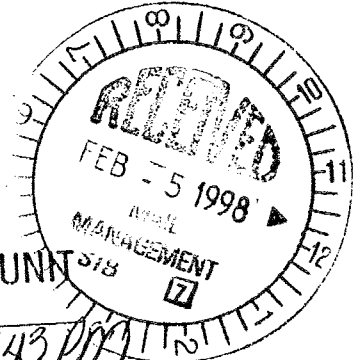
**ENVIRONMENTAL
DOCUMENT**

DONALD R. BRINING
County Administrator

R. SHAWN GRAY
Board Chair

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

January 27th, 1998



CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/5/98
DOCUMENT # 2/5/98 3.28.43 PM

Attention: Elaine Kaiser
Environmental Project Director
Environmental Filing

Dear Ms. Kaiser:

Thank you for the opportunity to review the DEIS on the "Proposed Conrail Acquisition".

St. Lawrence County has no comments on the document inasmuch as the proposal would not alter existing rail infrastructure in our County. We are hopeful; however that an increased emphasis on rail traffic to Montreal - which we believe is a goal of CSX - will have a positive effect on the economics of the system.

Sincerely,

R. Shawn Gray, Chairman

4/BOL/CONRAIL.LET

CENTRAL ADMINISTRATIVE UNIT
REC'D: 1/24/98
DOCUMENT # 130/98 8:38:27
01

- 1998 - New York City 100 Celebration - "America begins in New York"
Home of Port Morris Patriots and Democracy in the United States
- 1997 - "All - America City" awarded to The Bronx.
- 1997 - "Fordham University" placed in the "Nation's Best Values"
- 1997 - Bronx Little League - win Baseball Crown for New York State
- 1996 - The Bronx "New York Yankees" - World Champions.
- World Famous - Bronx Zoo and Wild Life Habitat
- World Famous - Bronx Botanical Gardens.
- "Six Most Remarkable Contiguous Bridges in the World"
Span the Federal Harlem River, to join the Island of Manhattan to the Bronx mainland
- World Famous. New York City Marathon - cross these bridges.
at the Major Highways of "NYC Tourist Corridor" and "Antique Center"
- 1994 - Federal Empowerment Zone awarded Port Morris.
- 1888 - Railroad Builds gracious "Landmark" Office Building, atop Scenic Riverscape, Historic 1776 Revolutionary Site,
and Home of Patriots "Lewis (*) and Gouverneur (***) Morris"
- 1815 (***) An Early Voice on Conservation to Protect Habitat of Birds, Fish, Wildlife.
- 1790 (*) Debate in Congress to have the "Capitol of the United States" rise on hill, atop historic and scenic river
- 1788 (*) - Ratified the "Constitution for United States" for New York State.
- 1787 (***) - PLANNED, PHRASED AND DRAFTED THE FINAL "CONSTITUTION OF THE UNITED STATES"
- 1776 (*) - SIGNED THE "DECLARATION OF INDEPENDENCE"
- 1670 - Jonas Brounck's Brouncksland becomes "Morrisania Village" of the Patriots. (then in Westchester)
- 1642 - "Indian Peace Treaty" is signed in Jonas Brounck's Farm House
- 1639 - "Brouncksland settled by Jonas Brounck. (then in Westchester)
- 1492 - 1639 Home of Reckgawawanc Tribe's Chieftains Ramachqua and Taekamuck in "Nuackin Village"
(1996 - New York City Bronx Park Department, named "Ramachqua")

Landmark Studios, Inc.
2 Willis Avenue, Port Morris
The Bronx, New York 10454-4417

zeefrank@aol.com
January 28, 1998

Zee Frank
V. 718-292-9697
F. 718-292-9698

Ms. Linda J Morgan, Chair - man (Bravo!)
Surface Transportation Board
Washington, DC 20423-0001

Dear Chairman Morgan Re: ISTEA PROJECT Oak Point Link and Harlem River Intermodal Terminal, 96 acres
The critical infrastructure to bring rail freight directly to New York City
Economic and Environmental issues presented 3/97, 12/97, EO, 13, 1998

The time period to address the Environmental issues is due February 2, 1998. May I take this opportunity to add to the above communications and again thank you for your two responses.

It is important to note that recently FHWA, Washington, D.C. has acknowledged that the directive of July 30, 1997, by FHWA, Albany regarding the crucial need for the Harlem River Intermodal Terminal is supported

July 30, 1997 "The present and potential use of the major rail freight facilities in the Bronx, especially
FHWA the Harlem River Yards and Oak Point Link, is crucial" (Comments by NYS Division
ALBANY NY Administrator) See 1/20/98 below

Jan. 30, 1998 "We agree that the proposed intermodal yard which would provide a needed transportation
FHWA facility, offers potential for some air quality benefits. This opinion was reflected in our
WASH.DC New York Division Office's comments on July 30, 1997, to the New York State
Department of Transportation (NYSIDOT) regarding the Bronx Arterial Needs Major
Investment Study. (Comments by the Chief, Metropolitan Planning Division.)

April 11, 1997 "The proposed CSX Transportation System" "The New CSX will Help New York Go
NY Times Farther Than Ever Before" "The proposed division of Conrail is subject to review and
approval by the Surface Transportation Board. And, we'll compete head-to-head
with trucks on price, speed and the quality of our logistical expertise"
But CSX, full page in the New York Times.....clearly showed no service to New York City.

Page 2

Fiscal Report ISTFA/1997 New York Metropolitan Transportation Council cited that " 50 percent of the NHS funds, or more with congressional approval, could be transferred to the Surface Transportation Program (STP) which includes funding for all other road categories outside NHS, transit modes as well as pedestrian and bicycle facilities " * (See comment re bicycle facilities, etc below)

1-28-98 Daily News In view of the severe importance to the economy and environment, and the present oversight by the Surface Transportation Board, today's media release that the Bronx has the very lowest income in the ^{N.Y.} entire United States, should take priority! .. The economic, environmental concerns are particularly urgent and justifies that the Surface Transportation Board ... put on the agenda, the environmental review of this crucial area and move aggressively to protect "environmental justice" for this community

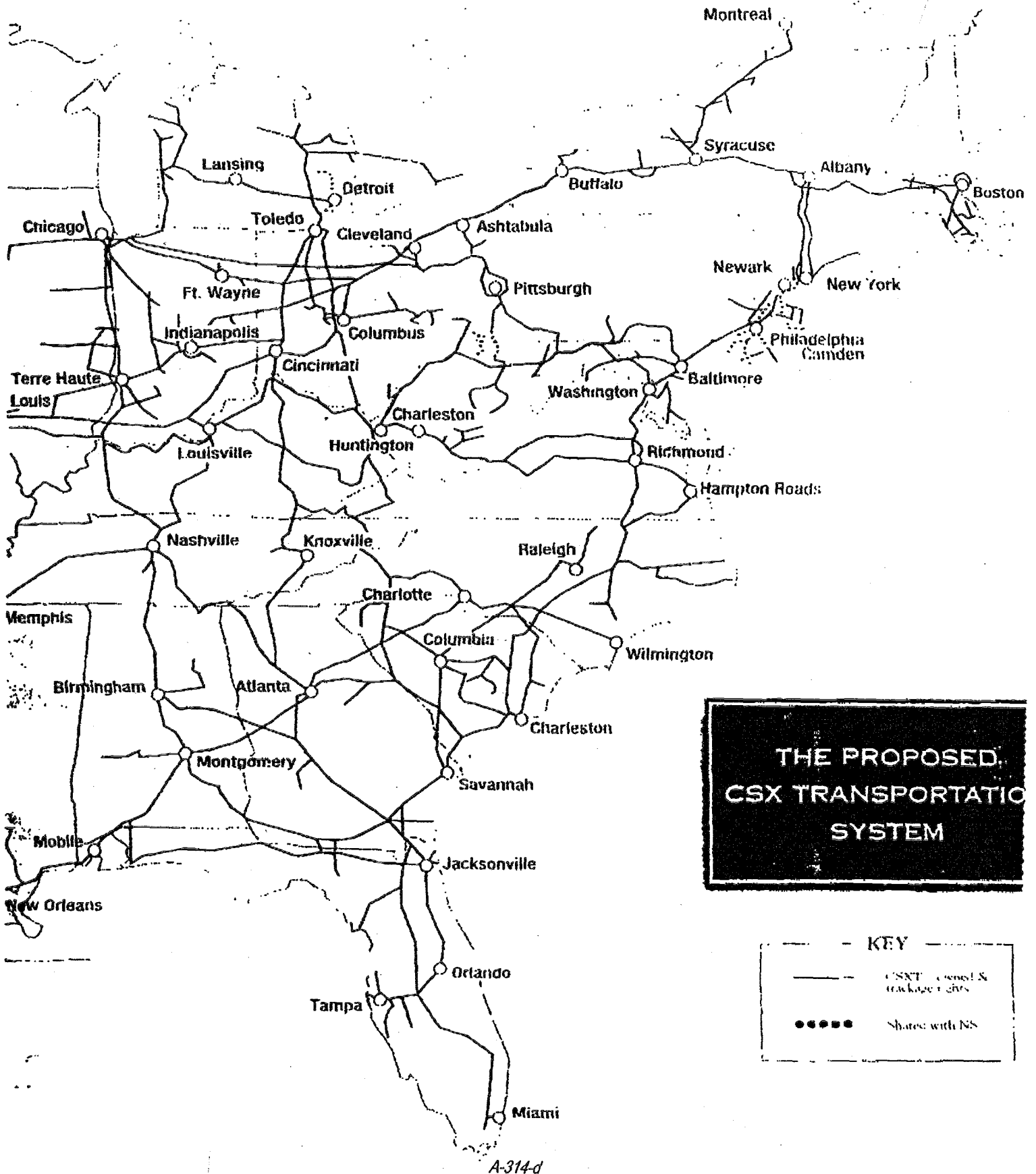
We attach the New York Times CSX Ad (as 2 pages in letter size) and Today's 1/28/98 media release on the Bronx (also as 2 pages in letter size)

*(Back in 1982, The Federal Government provided for recreational, "bicycle path, etc " along the waterfront etc to replace the mileage of waterfront lost to the Bronx by the Oak Point project. This was consistent with the plans for the Harlem River Intermodal Terminal. But present greed instead, will instead close the waterfront for another mile and exploit this community with added pollution and destruction of Rail Land for the private profit of largely one man. The Surface Transportation Board has the authority to protect the rail infrastructure for the City's economy and to finally thwart those who would doom the health and economy of this hostage community). Whether it is the Bronx or Bosnia, a helping hand is needed

Respectfully submitted for your consideration,

Zee Frank
Zee Frank

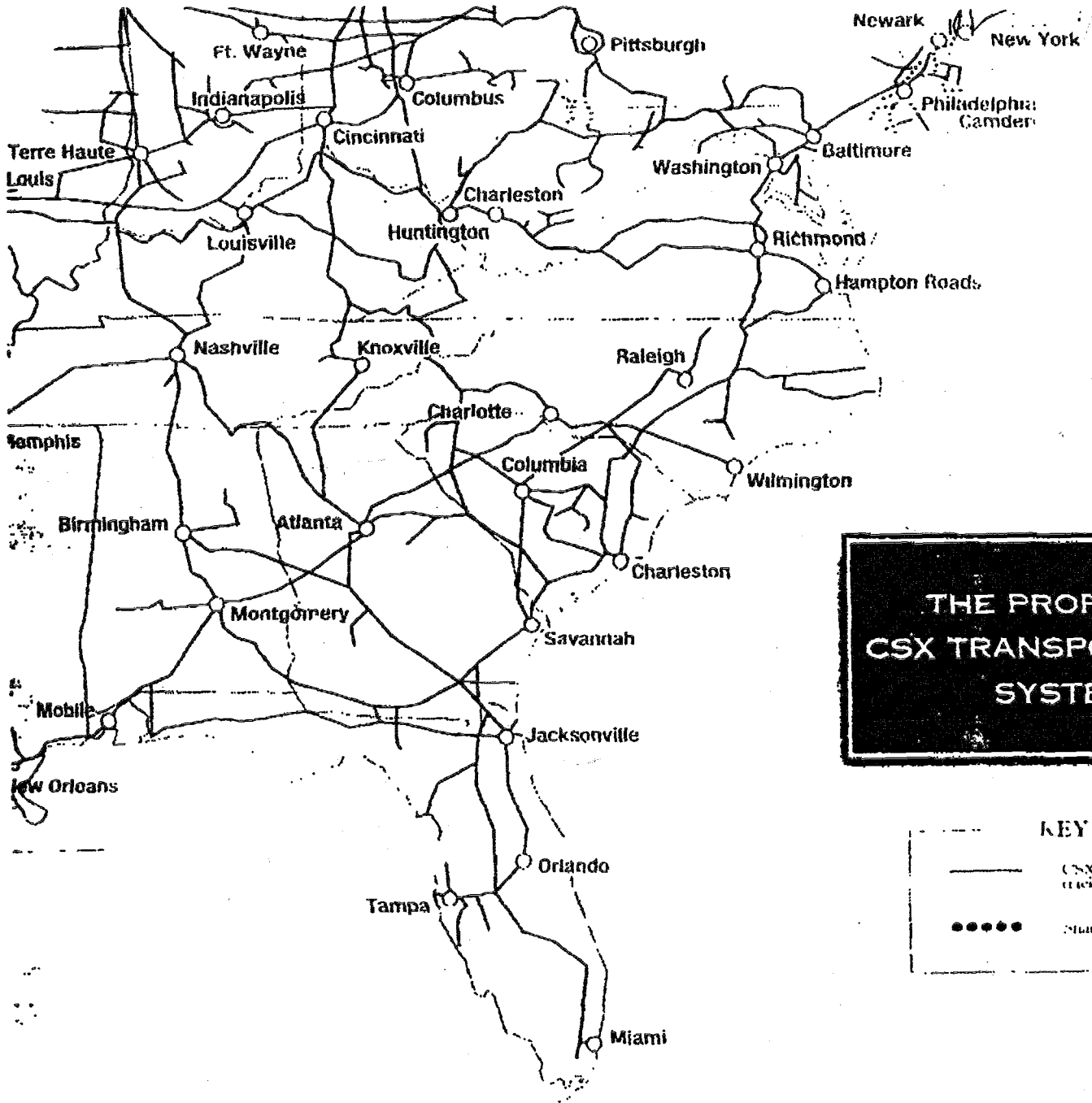
Total Faxed 6 pages - 202-565-9000 Attention Ms Dana White, and thank you



**THE PROPOSED
CSX TRANSPORTATION
SYSTEM**

KEY	
—	CSX routes & trackage rights
- - -	Share with NS

THE NEW CSX WILL HELP



**THE PROPOSED
CSX TRANSPORTATION
SYSTEM**

KEY
 — CSX owned & truckage plus
 shared with NS

THE NEW CSX WILL HELP NEW YORK GO FARTHER THAN EVER BEFORE.

The prospect of a new CSX gives all of us a heightened sense of optimism. It means we can serve new markets, new businesses, new people. And create great opportunities for New York.

The proposed division of Control is subject to review and approval by the Surface Transportation Board. The

A-315-a

in some cases, entire industries. And we'll compete head-to-head with trucks on price, speed and the quality of our logistical expertise.

But expansion is just the beginning. Only CSX can take you farther still. Our international network of trains,

DAILY NEWS METRO

News Bureau (718) 822-1174
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Home Delivery 1-800-692-NEWS

A Bronx bumper

County is poorest in state, sez U.S.

By BOB KAPPS/STATEN
Daily News Bureau, City

Despite major revitalization efforts locally and a healthy citywide and national economy, Bronx residents have slipped to the bottom of the state's economic ladder, newly released U.S. census data say.

The data also project the borough's 1992 slightly in population to below 1.2 million, though a firm figure was unavailable.

Sandwiched between the soaring Wall Street fortunes of Manhattan and the residential wealth of Westchester, the Bronx has replaced rural Franklin County as having the lowest median household income of the state's 62 counties.

Putnam County replaced Nassau County as having the highest median household income in the state, officials said, with Rockland, Westchester, Dutchess, and Orange also moving into the state's top 10 counties in that category.

The figures, based on income data through 1993, show Bronx households having a median (the exact middle) annual income of \$19,881. That compares to \$41,331 for Staten Island, the highest in the city.

A-315-b

It'll be zoo when Dem takes oath

MORRIS PARK — New City Councilwoman Madeline Provenzano (D) apparently scribbled for political symbolism.

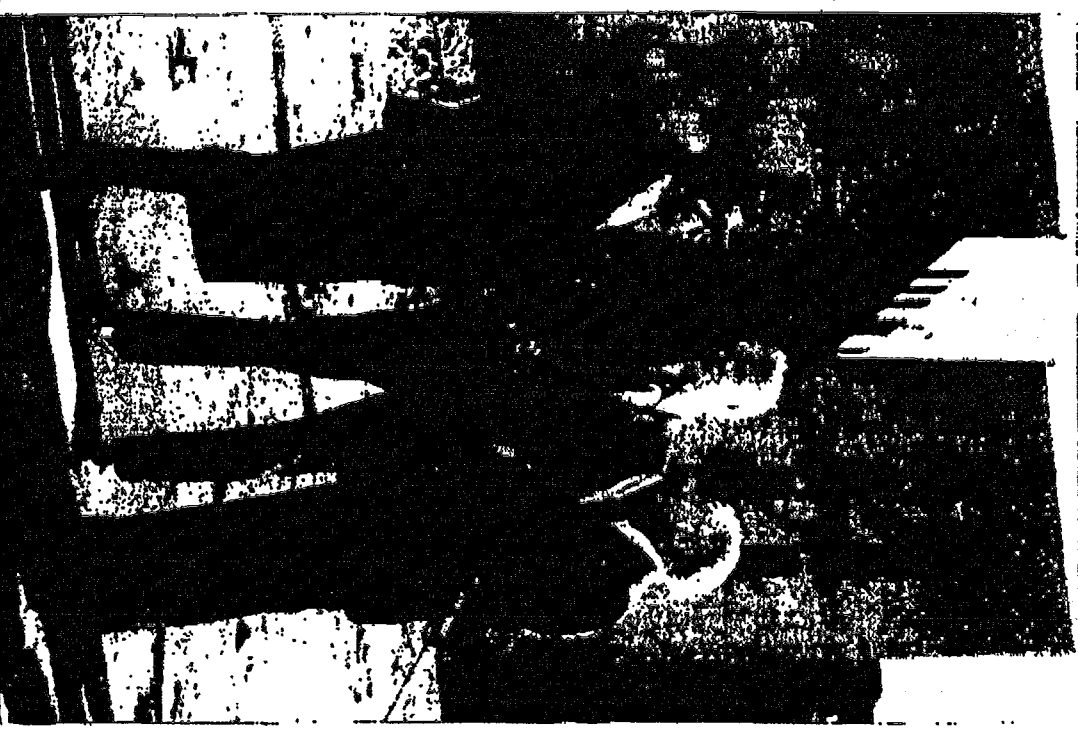
The Bronx Democrat will be sworn into office this evening in the elephant mascot at the Bronx Zoo.

Provenzano, whose district the 13th, runs from Avenue Y through Ave. A, gave the oath of office administered to her by newly appointed state Supreme Court Justice V. Chase Decker.

DeMarco stepped down from his longtime Council seat last year after winning the Democratic primary and prevailing in a long, intense race of street war for the seat in the general election.

Valhalla
A 2-year-old Westchester coy was a bed of head injuries he suffered Sunday after he wriggled out of his seatbelt, opened the car door and fell onto the strainer of a trough.

Any
Anthony Sera, was — the deceased with his 5-year-old brother and an uncle when the accident occurred a long



APRIL 11 1998

... father, Wiler Getaj, who was driving, saw the door open and was trying to stop.

Anthony, who died early Monday at the Westchester County Medical Center in Valhalla, had not been in a child-restraint seat. The law requires all children under age 4 to ride in federally approved child seats.

The Westchester County district attorney's office would not comment on whether any charges would be filed in the child's death.

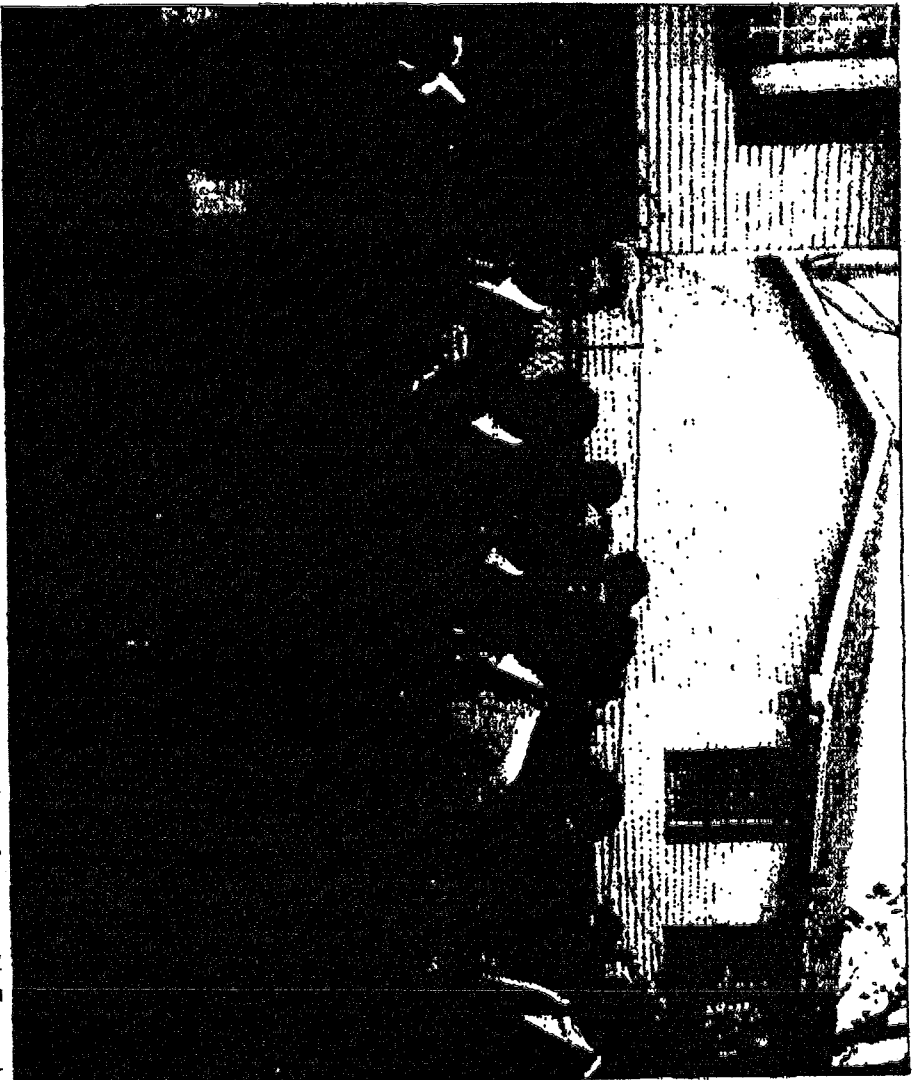
Harlem

Gov. Pataki yesterday named Diane Philippotts president of the Harlem Community Development Corp.

Philippotts was director of commercial development for the Empire State Development Corp.'s division of economic revitalization.

"With Harlem developing as a viable and sustainable real estate market, a person of Diane Philippotts' experience and expertise in the industry is crucial to getting the job done," Pataki said.

The HCCDC replaced the scandal-stricken Harlem Urban Development Corp.



PRESIDENT CLINTON saw up side of today's Bronx when he toured Charlotte Gardens with Fernando Ferrer last month. It was vastly improved from what President Jimmy Carter saw 20 years earlier (top).

PRES. CLINTON

CONT.

Are we living in one country, are we living in one state? Does it mean that everybody has equal economic opportunities? If you have this kind of poverty concentrated the way it is, can you have equal opportunities without some kind of sharing?"

In one sense, the Bronx is lucky, he noted. As opposed to other counties around the state, the borough does not have to rely on its own resources.

"It's not the taxpayers of the Bronx who pay for the Bronx. It's the taxpayers of New York City — and the city is much richer than the Bronx."

The main problem for the economic stability of the borough, Bosworth said, has been its shifting population patterns.

"The Bronx, historically, has always been a place of immigration. People come in, they work themselves up and move on," said Bosworth.

But in a new global economy that has shifted to high technology and overseas labor markets, that may have changed the face of the Bronx.

"The people who benefit mainly from the city's economic boom are ... computer and finance-based people," he said, "and those are not the people who move to the Bronx."



CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98

DOCUMENT # 2/2/98 5:19:54 PM

ENVIRONMENTAL
DOCUMENT

New York State Office of Parks, Recreation and Historic Preservation
Western District - Genesee Region
One Letchworth State Park, Castile, New York 14427-1124

716-493-3600
FAX: 716-493-5272
TDD: 716-493-3070

Bernadette Castro
Commissioner

Edward Rutkowski
District Director

January 28, 1998

Commission Chairman
Peter G. Humphrey

**Re: Letter of Invitation
Letchworth State Park
High Bridge Replacement Proposal Meeting Feb. 9, 1998
Norfolk-Southern Railway Corporation**

Dear Interested Party:

Recently, our office was contacted by representatives of Norfolk-Southern Railroad concerning a proposal potentially impacting the High Bridge at Letchworth State Park, in Livingston County. This is an historic bridge within one of the most scenic settings in the New York State System of Parks.

The High Bridge carries railroad traffic and is currently part of the interests held by Conrail. It is our understanding that Norfolk-Southern and CSX Railroads are considering the purchase of those interests from Conrail. As part of that process they are evaluating engineering design alternatives and procedural requirements relating to replacement of the bridge elsewhere on park property.

Since the initial contact, we have identified the potential applicability of State and Federal regulations and review processes, as well as the interests of agencies at both levels of government. We have also outlined a list of issues and concerns regarding the proposal.

My purpose in writing, is to invite you to attend a meeting to discuss the High Bridge proposal and the requirements surrounding its review. The meeting has been scheduled for Monday, February 9, 1998 at 1 P.M. It will be held in the Letchworth State Park Visitor Center Conference Room. A site visit will follow the meeting.

A preliminary agenda, as well as a site map and directions to the park are included for your reference. Comments on the proposed agenda are welcome.

Counties of Genesee, Livingston, Monroe, Orleans, Wyoming
An Equal Opportunity / Affirmative Action Agency

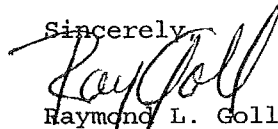
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GENESEE STATE PARK AND RECREATION REGION

I have also attached a listing of invitees. This list consists of the names of individuals with whom our staff have discussed the proposal and who we feel may be interested in participating in the meeting. Please let me know whether you are interested and, if so, whether you will be able to attend. You can contact me at (716) 493-3601.

Thank you.

Sincerely,



Raymond L. Goll
Assistant Regional Director

DLH\RLG:vs

Enclosures

cc: Albert Caccesse, Deputy Commissioner for Land Mgmt.
Edward Rutkowski, Western District Director
Henry Brodowski, Deputy District Director
Paul Battaglino, Dir. Design and Review
Ruth Pierpont, Peebles Island, Dir., Fld. Svcs. Bur.
Thomas Lyons, Environmental Management Bureau
David Herring, Associate Park Engineer

INVITEE LIST

- Mr. C. T. Goewey
Chief Engineer -- Bridges and Structures
Norfolk-Southern Corporation
99 Spring Street SW
Atlanta, Georgia 30303-0142

Phone (404) 529-1408 Fax
- Mr. Leon Huang
Modjeski and Masters Inc.
P.O. Box 2345
Harrisburg, Pennsylvania 17105

Phone (717) 790-9565 Fax (717) 790-9564
- Mr. Barry Wharton
Cultural Resources Task Manager
HDR Engineering
5100 West Kennedy Blvd.
Suite 300
Tampa, Florida 33609

Phone (813) 282-2360 Fax (813) 282-2430
- Mr. Paul McGinley
Historic Preservation Planner
McGinley-Hart and Associates
77 North Washington Street
Boston, Mass. 02114

Phone (617) 227-8316 Fax (617) 227-2932
- Ms. Vicky Rutson
Surface Transportation Board
Section of Environmental Analysis
1925 K Street NW
Suite 500
Washington, DC 20423

Phone (202) 565-1545 Fax (202) 565-9000

HDRR Engineering

- Mr. John Morton
Project Manager
1104 King St., Suite 400
Alexandria, Virginia 22306

Phone (703) 518-8500 Fax (703) 518-8686
- Mr. John Wiser
Surface Transportation Board
Central Administrative Unit
1925 K Street NW
Suite 500
Washington, DC 20423

Phone (202) 955-1430 x 203 Fax (202) 955-1436
- Mr. William Harris
Director of Environmental Protection
Norfolk Southern Corporation
110 Franklin Road SE – Box 13
Roanoke, Virginia 24024

Phone (540) 981-4154 Fax (540) 981-4651
- Mr. Dan Shinn
Burns and McDonald
9400 Ward Parkway
Kansas City, Missouri 6414

Phone (816) 333-9400 Fax (816) 333-3690
- Mr. Robert I. Sherarer
Division of Regulatory Affairs
New York State Department of Environmental Conservation
6274 Avon-East Lima Road
Avon, New York 14414

Phone (716) 226-2466 Fax (716)
- Mr. Paul Leuchner
Department of the Army
Buffalo District, Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207-3199

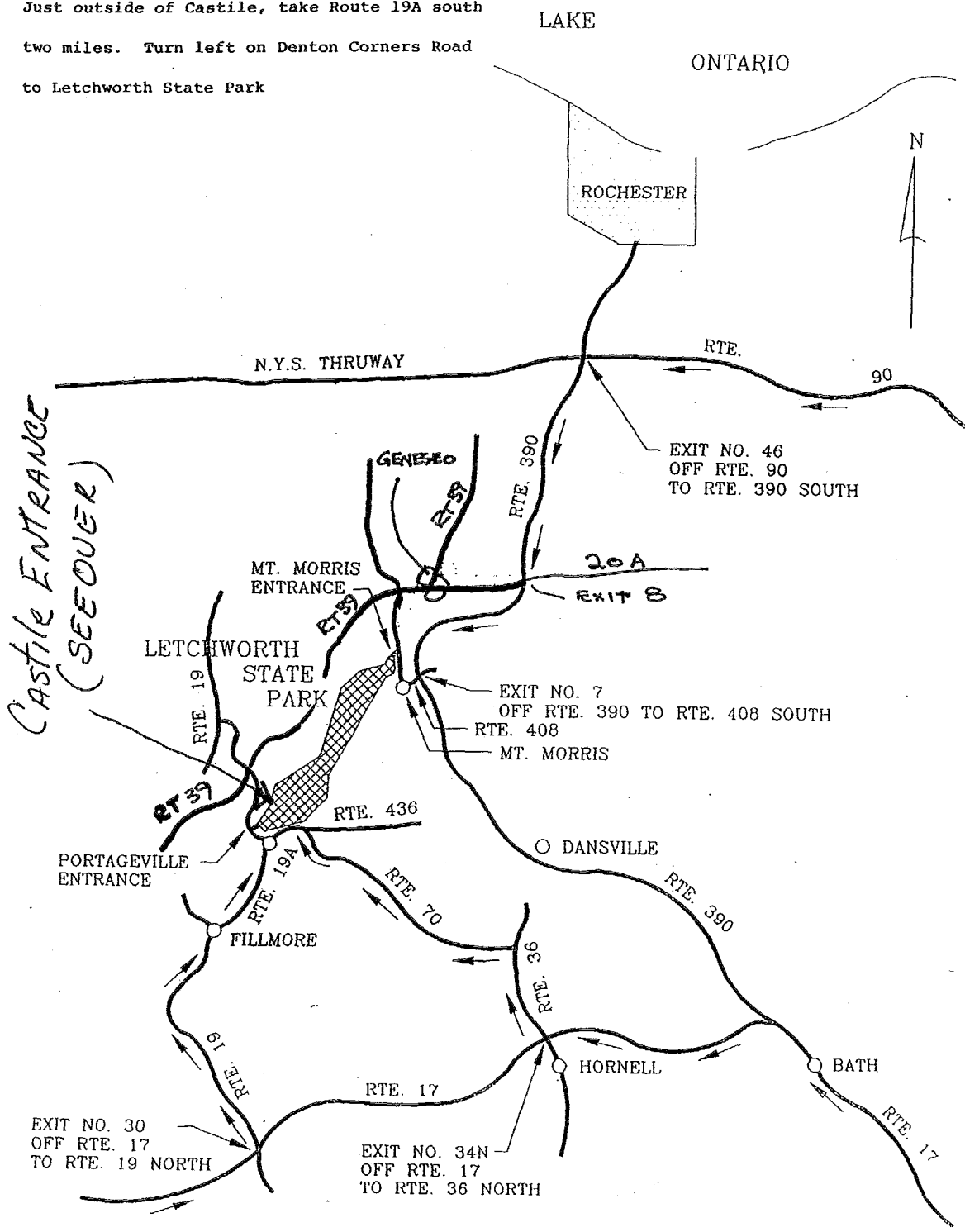
Phone (716) 879-4313 Fax (716) 879-

Draft Agenda
High Bridge Meeting
Letchworth State Park
2/9/98

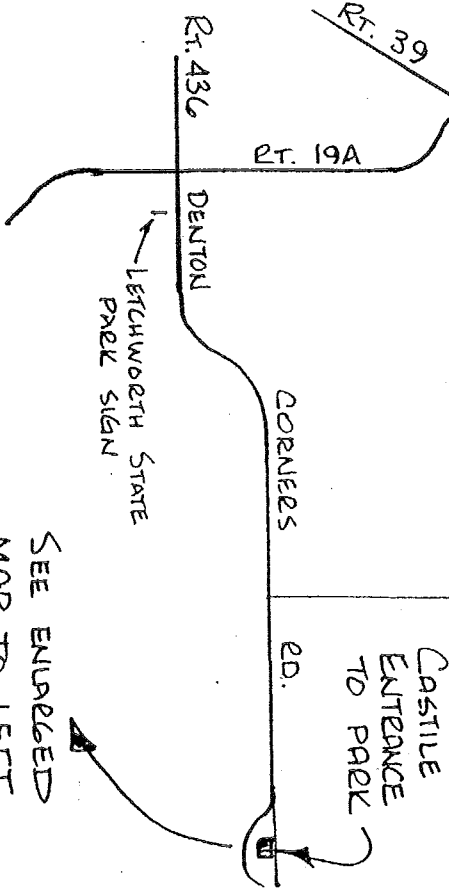
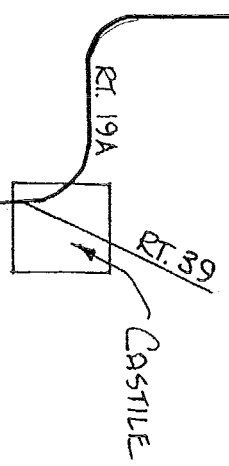
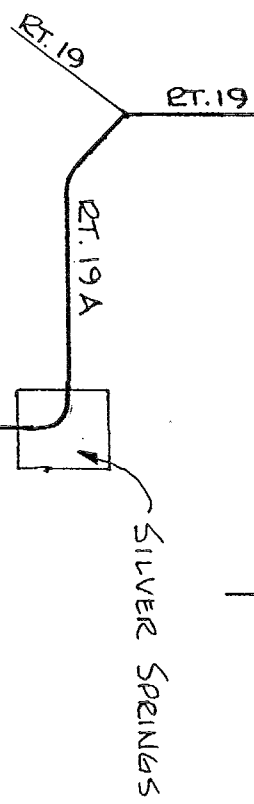
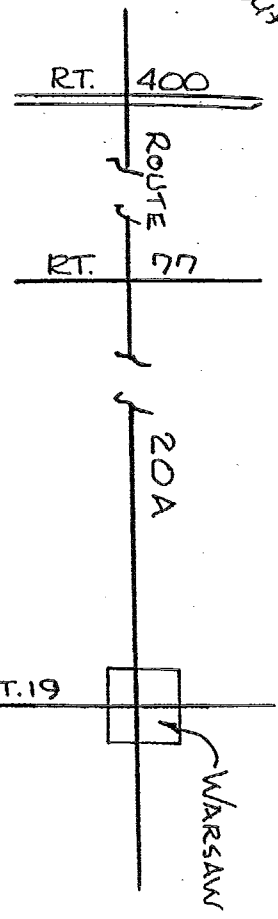
- 1:00 Welcome and Introductions Ray Goll, Regional Director
Genesee Region
- 1:10 Overview of Letchworth SP and High Bridge Jayne McLaughlin
Facility Manager
- 1:25 Overview of Proposal including Need Norfolk Southern Representative
- 1:40 Alternatives Considered Norfolk Southern Representative
- 1:50 Federal Environmental Review NSTB Representative
- 2:00 State Environmental Review Tom Lyons, Director
Environmental Management Bureau
- 2:10 Historic Preservation Review Elisabeth Johnson
Field Services Bureau
- 2:20 Other Considerations: All
- Applicability of Alienation/Conversion
 - Wild Scenic River designation
 - Type of permits, approvals, agreements
 - Biological/cultural surveys
 - Existing and future engineering reports/studies
- *****
2:50 Site Visit

- 3:30 Next Steps (back at meeting room)
- 4:00 Meeting Ends

Coming from Rochester, take 390 S to Exit 8
 Take Rt 20A west to Geneseo; Follow 20A to
 Rt 39 west through Perry, through Castile.
 Just outside of Castile, take Route 19A south
 two miles. Turn left on Denton Corners Road
 to Letchworth State Park

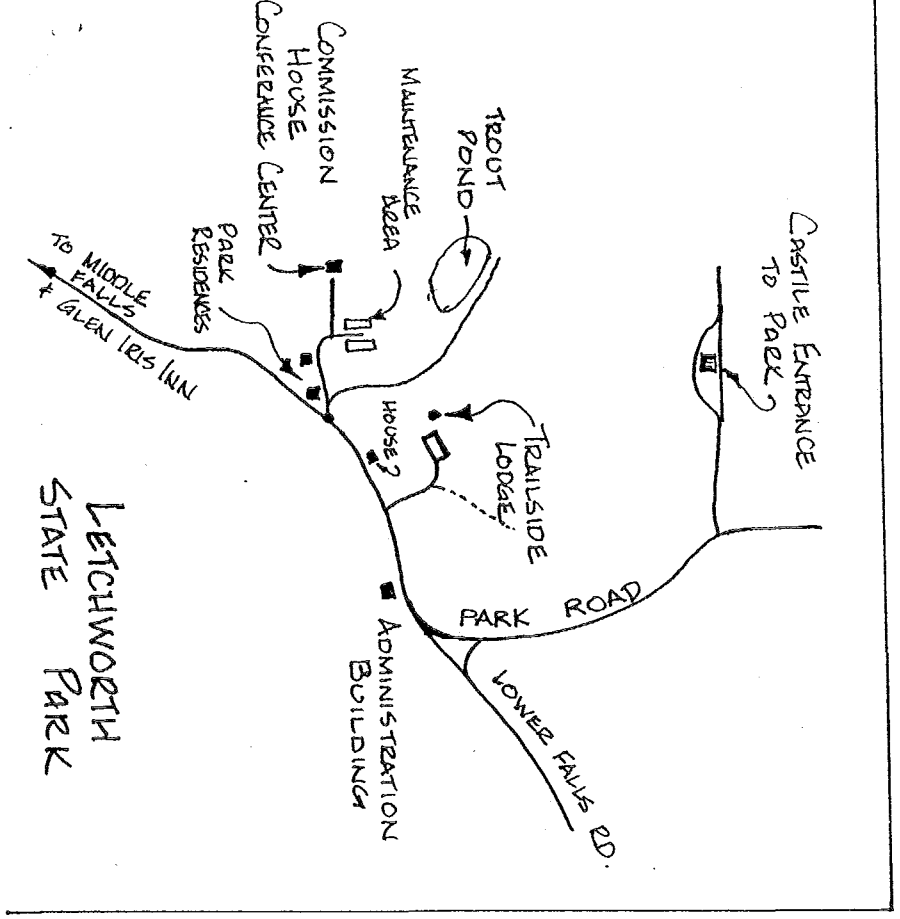


SUGGESTED ROUTES
 TO
 LETCHWORTH STATE PARK



SEE ENLARGED MAP TO LEFT.

A-317-b



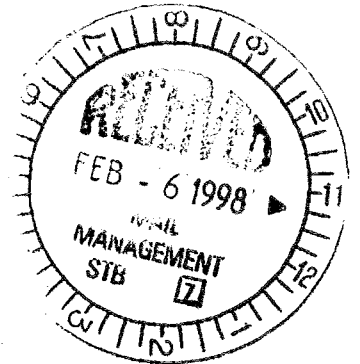
ROUTE TO
LETCHEWORTH STATE PARK
CASTLE ENTRANCE
FROM
RT. 400 - EAST AUBURN
(Buttale area)



JOSEPH G. RAMPE

COUNTY EXECUTIVE

ENVIRONMENTAL
CENTRAL ADMINISTRATIVE UNIT
RE DOCUMENT
DOCUMENT # _____



January 29, 1998

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

ATTENTION: Ms. Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis

Dear Ms. Kaiser:

Re: Comments on the Draft STB DEIS Finance Docket No. 33388
Proposed Conrail Acquisition CSX Corp. and CSX Transportation, Inc.
Norfolk Southern Corporation and Norfolk Southern Railway Company
Control and Operating Leases/Agreements Conrail Inc. and
Consolidated Rail Corporation

My major concern remains the issue of ownership of the Suffern to Port Jervis segment. Under Norfolk-Southern control, Metro-North Railroad Corporation will be prohibited from investing in the \$88.5 million needed for right-of-way improvements and the resulting loss of \$104 million worth of additional capital improvements to support MNRC long-term service expansion plans for the line through 2020.

It is important that a way be found to secure the use of these funds for these purposes.

Set forth below, are the other issues that we wish to have addressed:

- . The estimated annual number of hazardous materials cars ranges from 0 to 18,000 for Norfolk Southern segments N-062 and N-063 and from 21,000 to 31,000 for CSX. These represent significant increases. There is no documentation as to types of material to be transported through Orange County, nor is there a calculation for any truck diversion to account for these increases and that would be offsetting.
- . Air quality exceedances and their likely impact on our ozone air quality compliance levels.
- . There is no calculation of highway/rail at-grade crossing accident frequencies for:

ORANGE COUNTY, N.Y.

Highway/Rail At-Grade Crossings

<u>Municipality</u>	<u>Crossing</u>	<u>Railroad</u>	<u>Activity Accessed</u>
T. of Newburgh	Danskammer Rd.	CSX	Elec. Power Generator
T. of Newburgh	River Rd.	CSX	Elec. Power Generator
C. of Newburgh	Park Place	CSX	Yacht Club/Marina
C. of Newburgh	Washington St.	CSX	Yacht Club/Marina
C. of Newburgh	S. William St.	CSX	Public Works
C. of Newburgh	Renwick St.	CSX	Public Works
T. of New Windsor	Verplank Ave.	CSX	Ship Yard, Gas + Fuel Oil Tank Farm
V. of Cornwall-on-Hudson	Shore Rd.	CSX	Village Park & Yacht Club/Marina
V. of Cornwall-on-Hudson	Clark St.	CSX	" " "
V. of Cornwall-on-Hudson	Hudson St.	CSX	" " "
V. of Highland Falls	Station Rd.	CSX	
T. of Highlands	USMA South Dock	CSX	Oil Tank Farm Service Treatment Plat
T. of Highlands	Mine Rd.	CSX	Yacht Club
T. of Tuxedo	E. Village Rd.	NS	Residential

- . Economic benefits to Orange County are not documented per my letter of August 13, 1997.
- . Safety mitigation measures do not take into account, the number and spacing of railroad passenger station with the expected MHRC increase in the number of passenger trains per week on NS Segments N-062 and N-063. Their figures were submitted to you on October 20, 1997. The figures show an increase in ridership over the next 23 years of 173%, with an increase in the number of trains from 99 to 203 per week; also, the inadequacy of the Moodna Viaduck on the Suffern to Campbell Segment (N-062) both in terms of structural soundness and carrying capacity. Both pose a major safety concern.

Orange County, N.Y.

Base Year and Post Acquisition Railroad Activity

	<u>Segment</u>			
	<u>N-062</u>	<u>NS</u> <u>N-063</u>	<u>C-758</u>	<u>CSX</u> <u>C-759</u>
<u>PSGR & FRT TRAIN DATA</u>				
Segment Length (mi.)	35	30	45	80
1996 Base:				
PSGR TRN	18.0	18.0	0.0	0.0
FRT TRN	<u>4.7</u>	<u>7.9</u>	<u>23.6</u>	<u>22.2</u>
Total	22.7	25.9	23.6	22.2
Post Acquisition				
PSGR TRN	18.0	18.0	0.0	0.0
FRT TRN	<u>7.7</u>	<u>12.0</u>	<u>24.8</u>	<u>23.4</u>
Total	25.7	30.0	24.8	23.4
Change due to Acquisition	3.0	4.1	1.2	1.2
<u>FREIGHT RAIL DATA</u>				
<u>MILLION GROSS TONS</u>				
1996 Base	8.2	14.4	40.5	42.4
Post Acquisition	<u>16.1</u>	<u>22.4</u>	<u>48.4</u>	<u>48.0</u>
Change due to acquisition	7.9	8.0	7.9	5.6
<u>HAZ MATERIAL CARS/DAY</u>				
1996 Base	1	1	60	60
Post Acquisition	<u>50</u>	<u>50</u>	<u>87</u>	<u>87</u>
Change due to acquisition	49	49	27	27
<u>EST ANNUAL HAZ MATERIAL CARS</u>				
1996 Base	0	0	21,000	21,000
Post Acquisition	<u>18,000</u>	<u>18,000</u>	<u>31,000</u>	<u>31,000</u>
Change Due to Acquisition	18,000	18,000	10,000	10,000

I trust that we have made clear our concerns, and that they will be addressed as part of your ongoing evaluation of the merits of the CSX and Norfolk Southern Conrail Acquisition proposal.

Sincerely,



Joseph G. Rampe
County Executive

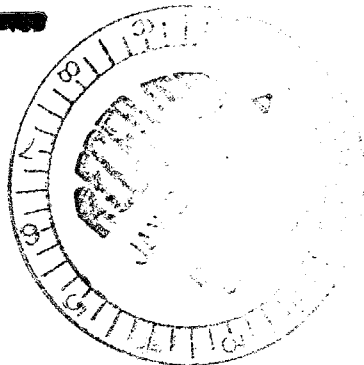
ROBERT W. McKNIGHT

Railway Signaling Historian
1600 East Avenue, Apt. 1112
Rochester, New York 14610-1633
Tel: (716) 256-1342
[REDACTED]

CENTRAL ADMINISTRATIVE UNIT
REC'D: 1/29/98
DOCUMENT # 1/30/98 8.41.59 AM

January 29, 1998

Office of Secretary
Case Control Unit
Finance Docket 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001



Attention: Ms. Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis

Dear Ms. Kaiser:

Thank you very much for promptly sending me a copy of the Draft Environmental Impact Statement, Finance Docket 33388 of the Surface Transportation Board concerning the Proposed Conrail Acquisition.

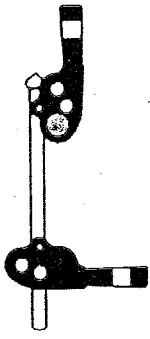
My comments on the Draft EIS are concerned with safety at highway/rail at-grade crossings. The main point I wish to convey is that improvements to safety at highway/rail at-grade crossings are Federally funded using Highway Trust Funds. This is only stated in the Draft EIS by CSX Transportation and Norfolk Southern.

This funding issue is a major omission in the Draft EIS which states in several instances "SEA intends to recommend that the Board impose a condition requiring the Applicants to upgrade the crossing warning devices." (Page ES-18 in the Executive Summary.

There are two errors in this statement: (1) States have the authority to order a railroad to upgrade warning devices at a crossing or to install warning devices at a crossing without them; and (2) STB implies that the railroads will pay for these safety improvements, but does NOT mention Federal funding.

The Draft EIS can easily lead a reader to believe that funding is not important because the railroads will provide the funds. This is NOT SO.

The attachment presents comments on specific segments of the Draft EIS.



ROBERT W. McKNIGHT

Railway Signaling Historian
1600 East Avenue, Apt. 1112
Rochester, New York 14610-1633
Tel: (716) 256-1342

My education and work experience includes the following:

Bachelor of Electrical Engineering degree from Clarkson College of Technology in 1950.

Communications & signal editor of RAILWAY AGE for 22 years, and editor of Railway Signaling & Communications for 16 years.

Editor of The Signalman's Journal, official publication of the Brotherhood of Railroad Signalmen for 8 years.

From 1981 through 1988 was Director of Engineering for the Communication & Signal Division, Association of American Railroads.

I represented the AAR on the National Committee on Uniform Traffic Control Devices for 8 years, and have been a member of its Highway Railroads Grade Crossing Technical Committee for 15 years. The NCUTCD advises Federal Highway Administration on the Manual on Uniform Traffic Control Devices.

Cordially yours,

Robert W. McKnight

Comments by Robert W. McKnight 1/29/98
Surface Transportation Board Docket 33388
Draft Environmental Impact Statement

EXECUTIVE SUMMARY

Page ES-18, last sentence, 1st paragraph
"SEA intends to recommend that the Board impose a condition requiring the Applicants to upgrade the crossing warning devices at these 118 crossings as follows:"

CSX, NS and Conrail are referred to collectively as the "Applicants." according to Footnote 4 on page 1-1 of Volume 1 Chapter 1 Purpose of an Need for the Conrail Acquisition.

Who is going to pay for these upgrades? SEA does not say, but the implication seems clear- Applicants will.

However, Federal funding is available for improving safety at highway/rail at-grade crossings. This Federal funding for improving safety at such crossings is authorized by Section 130 USC 23 by the Intermodal Surface Transportation Efficiency Act of 1991. Extension of the provisions of this Act was extended for Fiscal Year 1998 by the US Congress last fall in 1997.

This Federal funding for improving safety at highway/rail at-grade crossings should have been stated in the Draft EIS in the Executive Summary and throughout the DEIS. Unfortunately, many people will read the Executive Summary and probably Volume 1 of the Draft EIS and skip over the rest of the volumes. From the reading of these first two volumes, readers can reasonably infer that CSX, NS and Conrail will pay for all these crossing improvements. It is not so.

I believe it is important to set the record straight at this point. What takes place and some history are important to a true understanding of the situation.

Federal funds are allocated to states on general guidelines set by the Federal Highway Administration. Generally such factors as population of the state, miles of Federal aid and non-Federal-aid highways, and number of

motor vehicles are considered in apportioning funds from the Highway Trust Fund to states.

States use an accident prediction formula and accident history to develop annual lists of highway/rail at-grade crossings deemed candidates for safety improvements. States annually request Federal funds from FHWA for this safety improvement program.

For individual crossings, usual practice is to have a diagnostic team with representatives of the state department of transportation or highway department, a railroad engineer, often from the signal department, and a representative from the local road authority or community. The team visits each crossing considered for safety improvements, takes photographs, measurements, etc. and determines what improvements should be made. Following this, the state regulatory agency orders the railroad to submit an engineering design and cost estimate to the state for making the improvements as regards crossing warning devices. Changes to highway signs, pavement markings and other highway changes would be submitted by the local road authority or the state highway department. After the safety improvements are completed and the crossing inspected by state engineers, the railroad submits its bill and the state pays using Federal funds.

Funds under the Section 130 program usually provide for 90% funding with the state, railroad or local community paying the 10%.

Public funding for improving safety at highway/rail at-grade crossings originated with the Interstate Commerce Commission in February 1964 in Docket 33440, titled "Prevention of Rail Highway Grade Crossing Accidents Involving Railway Trains and Motor Vehicles." On page 87 of the ICC Docket 33440 it reads:

"(13) That highway users are the principal recipients of the benefits flowing from rail-highway grade separations or from

special protection at rail highway grade crossings. For this reason, 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."

Later the US Supreme Court upheld the ICC position on using public funds to improve safety at highway/rail at-grade crossings.

In 1973, the US Congress enacted the Federal Aid Highway Act of 1973 and the Federal Highway Safety Act of 1973. Together, they provided \$87.5 million for the installation of warning devices at highway/rail at-grade crossings on the Federal aid system for 3 years, 1974-1976. For the same period \$250 million was set aside for crossings not on the Federal aid system. This program for improving safety at highway/rail at-grade crossings continues today.

Federal Highway Administration (FHWA) reported in 1994 that for the period 1978-1993 that \$2.937 billion of Federal funds was spent on this safety program, but that it had prevented 8,000 fatalities and 36,000 injuries. Savings in lives and injuries, according to FHWA, saved \$8.3 billion. Thus the cost/benefit ratio is 35% or benefits are 2.85 times the costs.

Page ES-18, 6th paragraph

"SEA believes that safety at highway/rail at-grade crossings could be improved if a mechanism were in place to notify the railroad of stopped vehicles and other obstructions that could create safety risks for motorists and train operations."

Does SEA realize that to prevent a collision of a train with a stalled vehicle, it might well require the active warning devices to operate or barriers to close the crossing up to 2 minutes before the train would arrive at the crossing. The timing depends upon the weight and speed of the train, to determine its braking distance to

stop before hitting the stalled vehicle. This could be a very costly project to equip each crossing with a vehicle detector and a radio or communications link to notify approaching trains of stalled vehicles on the crossing.

SEA recommendations in this paragraph concerning toll free telephone numbers and a "unique crossing identification number" would indicate that SEA staff has not been out in the "real world."

Association of American Railroads/Federal Railroad Administration (AAR/FRA) inventory numbers have been installed at highway/rail at-grade crossings for several years. As for the toll free numbers, Texas has had this system in service for several years. Most railroads, certainly Class 1's have these 800 number systems either in service totally, or in part and are working toward complete installations.

Also, several railroads give local police officials a direct line to call the railroad because experience indicates the general public often call the police first with a problem.

Page ES-21

Item 1- Increased train speeds may be a problem as some communities have laws regulating train speeds through them. If raising the train speed requires changes in the signal system to provide proper braking distance, who pays for these costs? This probably would not be federally funded unless the railroad had to change the controls for the warning devices at highway/rail at-grade crossings.

Item 2- Separated grade crossings would come under federal funding, but the state makes the decision, not the railroad or the Surface Transportation Board.

Item 3- A good idea. The railroads and STB working with states and local communities can make this an effective approach to improving safety at highway/rail at-grade crossings.

Item 4. A good idea.

Paragraph following Item 4: This is a bad idea to have binding arbitration. This idea suggests using "political clout and power" to solve problems. Again, talking about crossing safety. There is Federal funding available and all it takes is a positive cooperative approach of railroads, states and local communities.

VOLUME 1

Chapter 3, Page 3-11

First paragraph under 3.4.3, last sentence beginning "In addition, the Board . .

. . requiring the railroad to complete the following:"

The portion underlined just above is NOT correct concerning these bulleted items below:

*"Adding or upgrading highway/rail warning devices.

*"Installing or upgrading automatic gates and warning devices."

These two items require cooperation with the state and the local road authority, and are performed under an order of the state regulatory authority.

*"Adding or improving 'Stop' lines and other traffic control pavement markings.

*"Installing new or additional warning signs, such as those stating 'Do Not Stop on Tracks'

*"Constructing a roadway median to reduce the opportunity for vehicles to maneuver around an activated crossing gate."

These are functions authorized and performed only by the state and local road authority. The railroad has no jurisdiction in this area of activity.

*"Establishing a toll-free telephone number . . . "

CSX, NS and Conrail have such call-in systems in service in whole or in part, and they are progressing the systems. (See Volume 2-CSXT statement pages 1980199; NS statement pages 187-188, 193)

*"Improving visibility at highway/rail at-grade crossings by clearing vegetation or installing lighting to illuminate passing or stopped trains.

This is a joint responsibility of the railroad and the local road authority and often the local community. Also, for clearing vegetation it may require cooperation of owners of property adjacent to the crossing. Illumination is often the responsibility of the local road authority or the local community.

Chapter 3, page 3-34 Grade Crossing Noise Effects

I agree with SEA's position to wait for Federal Railroad Administration's proposed regulation. However, it is worth noting that FRA issued a report in July 1990 titled "Florida Train Whistle Ban" and on page 1 it states:

"Train whistles make a difference in highway-rail crossing safety. This report reviews and analyzes the Florida East Coast Railway Company's (FEC) experience in the 65 months since the first nighttime whistle ban ordinance went into effect along its operating corridor in 1984. The whistle bans, imposed by individual counties and cities, impact only those crossings equipped with gates, flashing lights, bells and special advance warning signs and are effective only between the hours of 10 pm and 6 am. The advance warning signs read: "NO TRAIN HORN, 10PM 6AM."

Since the whistle bans have been imposed, the FEC's nighttime accident experience at 511 impacted crossings has tripled. At 89 similar crossings where the bans have not been imposed, nighttime accident experience in the last 5 years has increased 23%. The combined daytime and nighttime accident experience at FEC's impacted crossings has increased 75%, while going down 17% at the non-impacted crossings."

McKnight comments STB 33388 page 7 1/29/98

Table 1 on page 6 of this 1990 report covers Impacted Crossings, Nighttime Experience. The Crossing-Months Experience is 23,474 and it covers the time frame from 10PM until 6AM.

Pre-Ordinance: 39 accidents

Post-Ordinance (Whistle Ban in effect: there were 115 accidents.

On July 26, 1991, FRA issued an emergency order that required FEC to resume sounding train whistles after 10 PM at highway/rail at-grade crossings in Florida.

VOLUME 2 Safety Integration Plans

CSXT pages 192-201. Very commendable statement on policy and procedures to improve safety at highway/rail at-grade crossings. This is a good positive statement concerning present and future actions in this area of safety activity.

NS pages 185-196. A very positive statement concerning NS policy regarding safety at highway/rail at-grade crossings. It has a good description of present practices and what NS will do following the acquisition.

NS should be commended for its ability to shorten the time from the state request for crossing improvements until completion. On page 187 NS states: "Presently, NS Communication & Signal forces average 10 months total for railroad handling from the time a state DOT first request engineering and cost estimates through completion of construction and activation."

CSAO pages 43-46. Here again, a good statement of policy, objectives and action following acquisition by CSXT and NS.

Federal Railroad Administration comments on page 49.

FRA comments appear to have been written without regard to CSXT statements pages 192-201 and NS statements on pages 185-196 in this Volume 2.

McKnight comments STB 33388 page 8 1/29/98

FRA states in the first paragraph following the four bulleted items:

"Neither carrier, NS or CSX, focuses on highway-rail crossing and trespass safety prevention issues and other such issues involving public safety and emergency response." THIS IS NOT TRUE.

I am concerned that FRA statements in the Draft EIS in Volume 2 pages 1-51 are generally negative and show a biased view against the railroad industry and its safety practices. The general safety record in the rail industry has been declining for several years. Only 1996 was a temporary increase. And the accidents only happened on a few carriers.

Unfortunately, in recent years FRA's solution to problems is to promulgate more regulations. If there is a problem, FRA will come up with regulations as solutions.

VOLUME 4

Chapter 7, pages 7-7 and 7-8.

Although SEA admits that STB does not determine where a grade separated crossing is to be located and funded, SEA pushes for mediation and binding arbitration for 5 such proposed grade separations. This attitude of SEA is biased and unwarranted.

Here again SEA does not know the facts, or ignores them concerning these improvement projects for grade crossing safety. SEA should talk to FHWA and states concerning this matter. As I have mentioned earlier, this is an area of jurisdiction of states and local road authorities working with railroads.

Page 7-8, 2nd paragraph, last sentence.

"For communities on the final list where parties have not reached a negotiated agreement, SEA intends to recommend that the Board require the Applicants (CSX, NS and Conrail) to participate in a binding arbitration process to determine the funding allocation for those communities on the final list." This statement is reprehensible. Is SEA threatening both states, local communities and railroads?

McKnight comments STB 33388 page 9 1/ 29/98

Chapter 7 Table 7-4, pages 7-26 through 7-33.

"Preliminary Recommended Highway/Rail At-Grade Crossings That May Warrant Safety Improvements."

Here again it should be noted that Federal funding is available authorized by Section 130 USC. Railroads working with states and local road authorities can make safety improvements to highway/rail at-grade crossings.

Table 7-7 pages 7-43 through 7-46. Delays can be reduced through cooperation of the railroads, states, local communities and proper regulatory agencies.

VOLUME 5B

Appendix N, page 8

It should be noted that with reference to FHWA, concerns with the Manual on Uniform Traffic Control Devices (MUTCD) are handled by the Office of Highway Safety under the Associate Administrator for Safety & System Development.

Also to be handled with FHWA is the matter of Federal funding for safety improvements at highway/rail at-grade crossings. This area is handled by FHWA's Office of Engineering under the Associate Administrator for Program Development.

VOLUME 5C

Appendix S

Three Norfolk Southern letters deserve commendation for positive attitude and a pro-active plan to improve safety at highway/rail at-grade crossings. My strong support is for these projects as proposed by NS and congratulate them on their positive approach.

The letters are dated Nov. 25, 1997, as follows:

* Norfolk Southern Mitigation Proposal for Erie, Pennsylvania.

* Norfolk Southern Mitigation Proposal for Muncie, Indiana Line Segment Muncie to Alexandria.

McKnight comments STB 33388 page 10 1/29/98

* Norfolk Southern Mitigation Proposal
for Lakewood, Rocky river, West Lake and Bay
Village, Ohio and on to Vermilion, Ohio.

VOLUME 6 ABANDONMENTS

Pages 1, 2, 22, 36

Page 22, Section 2.1.3.8 Transportation
this is a positive approach to improving
safety at highway/rail at-grade crossings by
CSXT proposing to abandon 29 miles of line
between Danville and Paris, IL. This
abandonment will eliminate the need for 29
public and 16 private highway/rail at-grade
crossings.

A second major approach to improving
safety at highway/rail at-grade crossings is
the proposed abandonment of 21.5 miles of line
between South Bend and Dillon Junction, IN by
the Norfolk Southern. This abandonment will
eliminate 20 public and 19 private
highway/rail at-grade crossings.

CONCLUDING COMMENTS

My main concern with the Draft EIS is
with safety at highway/rail at-grade
crossings, which I have addressed.

I do wish to commend SEA with a generally
good report. But there are some areas with
which I have concern and/or disagreement, but
will not comment on as I have less expertise
than others who will no doubt comment.

This concludes my comments.



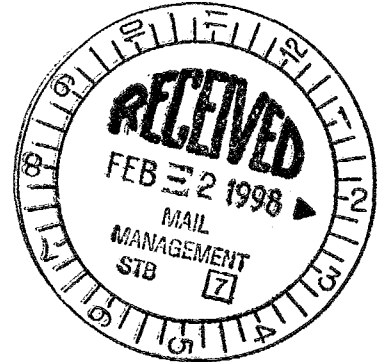
Robert W. McKnight
Railway Signaling Historian
January 29, 1998

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/2/98
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Schuyler County Environmental
Management Council
c/o Schuyler County Dept. of Planning
208 Broadway
Montour Falls, NY 14865
January 29, 1998

ENVIRONMENTAL DOCUMENT

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



Dear Ms. Kaiser,

The Schuyler County Environmental Management Council is an advisory body appointed by the County Legislature to address matters of local environmental concern. In such capacity we have received and reviewed the Draft Environmental Impact Statement, "Proposed Conrail Acquisition", Finance Docket No. 33388.

Data within this document indicates that the rail line within Schuyler County, a 15-mile piece of Segment ID# N-060 (Corning, NY - Geneva, NY), can expect a 500% increase in gross freight tonnage, should the Conrail Acquisition proceed. Although the absolute increase in the number of trains per day is small (from 0.2 to 1.6/day), this nonetheless constitutes a significant change in the status quo for our community and we wish to make known concerns that we hope can be addressed in the final draft of the impact statement. Our concerns are as follows:

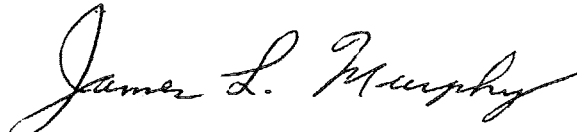
- A rural route of such limited use may not receive the necessary line upgrades expected for line segments having a comparable percent increase in tonnage but more heavily trafficked in numbers of trains per day.
- There is a large number of rural at-grade crossings whose traffic levels are below the threshold for mitigation measures as described in the impact statement. Many of these crossings occur on secondary roads leading to farms, wineries and private homes. Will our 500% increase be sufficient to result in upgraded traffic warning signals?

- Training and equipment are needed for local volunteer emergency response teams who may be required to respond to accidents involving hazardous materials. Our concern here is heightened because the rail line through our county will traverse farmland and vineyards. Responding emergency volunteers must be prepared to protect themselves and effectively contain spills of hazardous materials should they occur. To what extent would the Conrail Acquisition result in such training and equipment for our local volunteers?

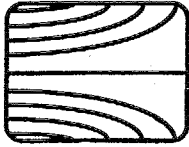
There is no doubt that the increase in rail traffic as outlined in the draft statement will result in significant positive environmental impacts such as more efficient use of fossil fuels, reduced truck traffic on highways and lessened air pollution. The Schuyler County Environmental Management Council supports this change as it strives to protect our local environment from any adverse consequences resulting from this change.

We look forward to your timely response to our concerns.

Sincerely,



James L. Murphy, Chair
Project Review Committee,
Schuyler County EMC



CAPITAL DISTRICT TRANSPORTATION COMMITTEE

5 Computer Drive West, Albany NY 12205-1606
(518) 458-2161

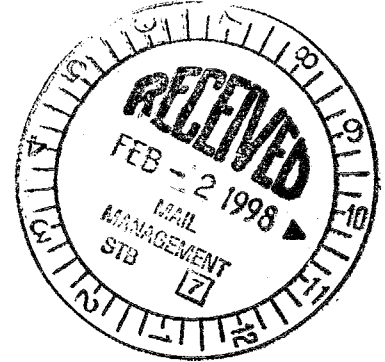
Fax: (518) 459-2155

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January 30, 1998



ENVIRONMENTAL DOCUMENT

Attn.: Elaine K. Kaiser
Environmental Project Director
Office of the Secretary
Surface Transportation Board - Case Control Unit
1925 K Street, NW
Washington, DC 20423-0001

SUBJECT: STB Finance Docket No. 33388

The Capital District Transportation Committee (CDTC), the metropolitan planning organization for the Albany, NY area, has reviewed the Draft Environmental Impact Statement (DEIS) for the Conrail acquisition.

CDTC has ongoing concerns with the effective implementation of the safety integration plan, the accommodation of passenger trains over the long term (on-time performance, high-speed initiatives in NYS), negotiated competitive access to New England via Albany, and competitive freight access on the east side of the Hudson River to NYC. We will continue to monitor the private negotiations on these matters and STB proposed actions. However, the DEIS does not provide an environmental basis for the imposition of conditions in these matters. Based on the findings in the DEIS, the CDTC does not see the need to impose conditions on the acquisition specific to our region at this time.

CDTC will be an ongoing participant in this proceeding. Policy matters, such as an extended STB oversight period, will be addressed in subsequent submittals.

Thank you for this opportunity to comment.

Sincerely,

John P. Poorman
Staff Director

cc. CDTC Freight Task Force

Chairman
Frederick G. Field, Jr.

Staff Director
John P. Poorman

Albany County
Michael G. Breslin
Charles E. Houghtaling

Rensselaer County
Henry F. Zwack
Neil J. Kelleher

Saratoga County
Jean Raymond
Robert L. Phillips

Schenectady County
Francis H. Potter
John DeGeorgio

City of Albany
Mayor Gerald D. Jennings

City of Cohoes
Mayor Robert D. Signoracci

City of Mechanicville
Mayor Thomas J. Higgins

City of Rensselaer
Mayor Lynn M. Ganance

City of Saratoga Springs
Mayor J. Michael O'Connell

City of Schenectady
Mayor Albert P. Jurczynski

City of Troy
Mayor Mark P. Pattison

City of Watervliet
Mayor Robert D. Carlson

Towns and Villages
Lawrence DeVoe, Halfmoon

Alternates
Mary E. Brizzell
Fred J. Wurtemberger

Albany County
Airport Authority
John C. Egan

Albany Port
District Commission
Terrence P. Hurley

Capital District Regional
Planning Commission
Frederick G. Field, Jr.

Capital District
Transportation Authority
Dennis J. Fitzgerald

New York State Dept. of
Transportation
Joseph H. Boardman

New York State
Thruway Authority
John R. Platt

Non-Voting Members
Bonny J. Cawley
NYS DOT Reg. 1

Thomas J. Ryan, FTA
Harold J. Brown, FHWA

**ENVIRONMENTAL
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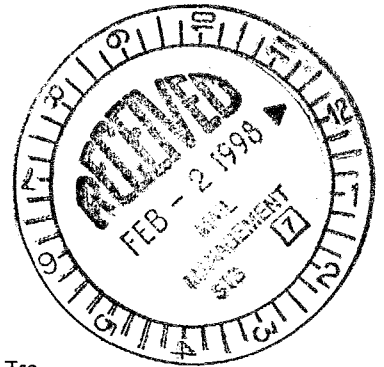
UNIT

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

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

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



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Dated: January 30, 1998

Due Date: February 2, 1998

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

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

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

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

Section I -- East of Hudson Operations

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

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

Section II -- Suffern-Port Jervis Line

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

trains, is attached as Exhibit A.

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

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

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

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

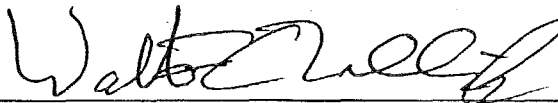
Metro-North concurs in the recommendation that NS bring this rail line segment into compliance with AAR Key Route standards and practices. Because the route now would host a very substantial level of hazardous material carloads, as compared with virtually none at present, we further recommend NS develop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

Section III -- Matter of General Applicability

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

Respectfully submitted,

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Dated: January 30, 1998

Due Date: February 2, 1998

{63227/WEZ}

EXHIBIT A

BERGEN COUNTY LINE MAIN LINE SOUTHERN TIER LINE		MONDAYS - FRIDAYS INCLUSIVE, EXCEPT MAJOR HOLIDAYS - EASTWARD													
		X150	1144	1200	1148	1800	48	1148	50	1802	1202	1150	1152	52	1204
MILE	POST	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.
0.1	ROBOKEN	A 123	A 810	A 815	A 841	A 844	A 848	A 712	A 718	A 723	A 728	A 733	A 743	A 749	A 751
0.1	TERMINAL TOWER	122	809	814	840	843	847	711	717	722	723	734	744	748	750
2.2	WEST END	118	803	810	834	837	841	705	711	718	718	728	738	742	743
5.0	HARMON COVE	...	S 557	...	S 628	...	S 659	...	S 722	...	S 718	...	S 729	...	S 734
7.6	PASCACK JCT.	...	S 553	...	S 624	...	S 633	...	S 653	...	S 703	...	S 709	...	S 718
8.4	RUTHERFORD	...	S 551	...	S 622	...	S 653	...	S 647	...	S 710	...	S 710	...	S 710
11.8	GARFIELD	...	S 545	...	S 618	...	S 644	...	S 644	...	S 707	...	S 707	...	S 707
12.9	PLAUDERVILLE	...	S 542	...	S 615	...	S 642	...	S 656	...	S 705	...	S 722	...	S 727
14.2	BT	...	S 540	...	S 611	...	S 640	...	S 640	...	S 703	...	S 703	...	S 703
15.5	BROADWAY	...	S 538	...	S 609	...	S 637	...	S 637	...	S 700	...	S 718	...	S 718
18.7	RADBURN	...	S 535	...	S 609	...	S 634	...	S 634	...	S 657	...	S 714	...	S 714
18.2	OLEN ROCK	...	S 532	...	S 603	...	S 634	...	S 634	...	S 657	...	S 714	...	S 714
5.0	WEST BECAUCUS	...	...	...	S 609	...	...	...	...	...	S 713	...	...	...	S 734
7.6	KINGSLAND	...	...	...	S 601	...	...	...	...	...	S 709	...	...	...	S 734
8.2	LYNHURST	...	...	...	S 559	...	...	...	...	...	S 707	...	...	...	S 732
9.3	DELAWANNA	...	...	...	...	...	...	...	...	...	S 704	...	...	...	S 729
10.6	PASSAIC	...	...	...	S 554	...	...	...	...	...	S 701	...	...	...	S 726
12.2	CLEFTON	...	...	...	S 551	...	...	...	...	...	S 658	...	...	...	S 723
13.3	PATERSON JCT.	...	...	...	S 549	...	...	...	...	...	S 655	...	...	...	S 720
15.0	XIV	...	...	...	S 546	...	...	...	...	...	S 652	...	...	...	S 717
15.6	PATERSON	...	...	...	S 544	...	...	...	...	...	S 650	...	...	...	S 715
17.7	NAWTHORNE	...	...	...	S 540	...	...	...	...	...	S 646	...	...	...	S 711
19.4	OLEN ROCK	...	...	...	S 537	...	...	...	...	...	S 643	...	...	...	S 708
20.3	RIDGEWOOD JCT.	1252	530	535	601	...	619	632	649	...	641	655	713	720	708
20.9	RIDGEWOOD	...	S 629	S 634	S 600	...	S 631	...	...	...	S 640	S 654	S 712	...	S 705
22.1	HONOKUS	...	S 528	S 531	S 557	...	...	...	...	...	S 637	S 651	S 709	...	S 702
23.4	WALDWICK	...	S 523	S 528	S 554	...	...	...	...	...	S 634	S 646	S 708	...	S 659
23.6	NYC	1248	521	528	552	...	615	627	645	...	632	646	704	718	657
24.7	ALLENDALE	...	S 520	...	S 551	...	S 625	...	...	...	S 645	S 703	...	...	S 703
26.8	RAMSEY	...	S 517	...	S 548	...	S 621	...	...	...	S 641	S 659	...	...	S 705
29.3	MAHWAH	...	S 512	...	S 543	...	S 616	...	...	...	S 635	S 653	...	...	S 708
30.5	SUFFERN	1240	S 510	...	S 541	...	S 607	S 613	S 637	...	S 632	S 650	S 708	...	S 708
30.9	SUFFERN YARD	1236	508	...	S 539	...	...	...	...	...	S 630	S 648	...	...	S 708
34.5	SLCATSBURG	...	...	...	...	...	S 601	...	S 631	...	...	...	...	...	S 701
37.2	TUXEDO	...	...	...	...	...	S 558	...	S 628	...	...	...	...	...	S 656
44.9	HARRIMAN	...	...	...	...	...	S 545	...	S 615	...	...	...	...	...	S 645
47.8	CP CENTRAL VALLEY	...	...	...	...	...	540	...	610	...	...	...	...	...	640
55.5	SALISBURY MILLS-CORNWALL	...	...	...	...	...	S 531	...	S 601	...	...	...	...	...	S 631
63.4	CP HUDSON JUNCTION	...	...	...	...	...	523	...	553	...	...	...	...	...	623
64.7	CP HALL	...	...	...	...	...	522	...	552	...	...	...	...	...	622
65.6	CAMPBELL HALL	...	...	...	...	...	S 520	...	S 550	...	...	...	...	...	S 620
71.9 D	MIDDLETOWN	...	...	...	...	...	S 513	...	S 543	...	...	...	...	...	S 613
69.1	CP HOWELLS	...	...	...	...	...	507	...	537	...	...	...	...	...	607
73.8	OTISVILLE	...	...	...	...	...	S 501	...	S 531	...	...	...	...	...	S 601
68.7	CP BC	...	...	...	...	...	S 443	...	S 513	...	...	...	...	...	S 543
87.5	PORT JERVIS	...	...	...	...	...	S 440	...	S 510	...	...	...	...	...	S 540
	Equipment Dep. - From Train	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.	A.M.
	From Westbound Arr. Time	1121	1101	X119	Start	Start	Start	Start	Start	Start	X121	Start	Start	Start	X123
		1226	138	508							521				618
		NOTE													

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

M&E POST	BENCH COUNTY LINE SOUTHERN TRAIL LINE	MONDAY - FRIDAY INCLUSIVE EXCEPT MAJOR HOLIDAYS - WESTWARD																																																																																																																																																																																																																																															
		12/01	05	12/09	11/27	12/05	12/07	07	12/11	12/09	12/07	12/05	09																																																																																																																																																																																																																																				
01	THORNBURGH TOWER	8 337	8 400	8 415	8 420	8 425	8 430	8 435	8 440	8 445	8 450	8 455	8 460	8 465	8 470	8 475	8 480	8 485	8 490	8 495	8 500	8 505	8 510	8 515	8 520	8 525	8 530	8 535	8 540	8 545	8 550	8 555	8 560	8 565	8 570	8 575	8 580	8 585	8 590	8 595	9 000	9 005	9 010	9 015	9 020	9 025	9 030	9 035	9 040	9 045	9 050	9 055	9 060	9 065	9 070	9 075	9 080	9 085	9 090	9 095	9 100	9 105	9 110	9 115	9 120	9 125	9 130	9 135	9 140	9 145	9 150	9 155	9 160	9 165	9 170	9 175	9 180	9 185	9 190	9 195	9 200	9 205	9 210	9 215	9 220	9 225	9 230	9 235	9 240	9 245	9 250	9 255	9 260	9 265	9 270	9 275	9 280	9 285	9 290	9 295	9 300	9 305	9 310	9 315	9 320	9 325	9 330	9 335	9 340	9 345	9 350	9 355	9 360	9 365	9 370	9 375	9 380	9 385	9 390	9 395	9 400	9 405	9 410	9 415	9 420	9 425	9 430	9 435	9 440	9 445	9 450	9 455	9 460	9 465	9 470	9 475	9 480	9 485	9 490	9 495	9 500	9 505	9 510	9 515	9 520	9 525	9 530	9 535	9 540	9 545	9 550	9 555	9 560	9 565	9 570	9 575	9 580	9 585	9 590	9 595	9 600	9 605	9 610	9 615	9 620	9 625	9 630	9 635	9 640	9 645	9 650	9 655	9 660	9 665	9 670	9 675	9 680	9 685	9 690	9 695	9 700	9 705	9 710	9 715	9 720	9 725	9 730	9 735	9 740	9 745	9 750	9 755	9 760	9 765	9 770	9 775	9 780	9 785	9 790	9 795	9 800	9 805	9 810	9 815	9 820	9 825	9 830	9 835	9 840	9 845	9 850	9 855	9 860	9 865	9 870	9 875	9 880	9 885	9 890	9 895	9 900	9 905	9 910	9 915	9 920	9 925	9 930	9 935	9 940	9 945	9 950	9 955	9 960	9 965	9 970	9 975	9 980	9 985	9 990	9 995	10 000

NOTES:
 1156 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97.
 1159 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97.
 9199 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97. REPLACES 1159 AND 1257
 1809 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97.
 25 - WILL NOT RUN WED 12/31/97.

M&E POST	BENCH COUNTY LINE SOUTHERN TRAIL LINE	MONDAY - FRIDAY INCLUSIVE EXCEPT MAJOR HOLIDAYS - WESTWARD																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																	
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01	THORNBURGH TOWER	8 327	8 328	8 329	8 330	8 331	8 332	8 333	8 334	8 335	8 336	8 337	8 338	8 339	8 340	8 341	8 342	8 343	8 344	8 345	8 346	8 347	8 348	8 349	8 350	8 351	8 352	8 353	8 354	8 355	8 356	8 357	8 358	8 359	8 360	8 361	8 362	8 363	8 364	8 365	8 366	8 367	8 368	8 369	8 370	8 371	8 372	8 373	8 374	8 375	8 376	8 377	8 378	8 379	8 380	8 381	8 382	8 383	8 384	8 385	8 386	8 387	8 388	8 389	8 390	8 391	8 392	8 393	8 394	8 395	8 396	8 397	8 398	8 399	8 400	8 401	8 402	8 403	8 404	8 405	8 406	8 407	8 408	8 409	8 410	8 411	8 412	8 413	8 414	8 415	8 416	8 417	8 418	8 419	8 420	8 421	8 422	8 423	8 424	8 425	8 426	8 427	8 428	8 429	8 430	8 431	8 432	8 433	8 434	8 435	8 436	8 437	8 438	8 439	8 440	8 441	8 442	8 443	8 444	8 445	8 446	8 447	8 448	8 449	8 450	8 451	8 452	8 453	8 454	8 455	8 456	8 457	8 458	8 459	8 460	8 461	8 462	8 463	8 464	8 465	8 466	8 467	8 468	8 469	8 470	8 471	8 472	8 473	8 474	8 475	8 476	8 477	8 478	8 479	8 480	8 481	8 482	8 483	8 484	8 485	8 486	8 487	8 488	8 489	8 490	8 491	8 492	8 493	8 494	8 495	8 496	8 497	8 498	8 499	8 500	8 501	8 502	8 503	8 504	8 505	8 506	8 507	8 508	8 509	8 510	8 511	8 512	8 513	8 514	8 515	8 516	8 517	8 518	8 519	8 520	8 521	8 522	8 523	8 524	8 525	8 526	8 527	8 528	8 529	8 530	8 531	8 532	8 533	8 534	8 535	8 536	8 537	8 538	8 539	8 540	8 541	8 542	8 543	8 544	8 545	8 546	8 547	8 548	8 549	8 550	8 551	8 552	8 553	8 554	8 555	8 556	8 557	8 558	8 559	8 560	8 561	8 562	8 563	8 564	8 565	8 566	8 567	8 568	8 569	8 570	8 571	8 572	8 573	8 574	8 575	8 576	8 577	8 578	8 579	8 580	8 581	8 582	8 583	8 584	8 585	8 586	8 587	8 588	8 589	8 590	8 591	8 592	8 593	8 594	8 595	8 596	8 597	8 598	8 599	8 600	8 601	8 602	8 603	8 604	8 605	8 606	8 607	8 608	8 609	8 610	8 611	8 612	8 613	8 614	8 615	8 616	8 617	8 618	8 619	8 620	8 621	8 622	8 623	8 624	8 625	8 626	8 627	8 628	8 629	8 630	8 631	8 632	8 633	8 634	8 635	8 636	8 637	8 638	8 639	8 640	8 641	8 642	8 643	8 644	8 645	8 646	8 647	8 648	8 649	8 650	8 651	8 652	8 653	8 654	8 655	8 656	8 657	8 658	8 659	8 660	8 661	8 662	8 663	8 664	8 665	8 666	8 667	8 668	8 669	8 670	8 671	8 672	8 673	8 674	8 675	8 676	8 677	8 678	8 679	8 680	8 681	8 682	8 683	8 684	8 685	8 686	8 687	8 688	8 689	8 690	8 691	8 692	8 693	8 694	8 695	8 696	8 697	8 698	8 699	8 700	8 701	8 702	8 703	8 704	8 705	8 706	8 707	8 708	8 709	8 710	8 711	8 712	8 713	8 714	8 715	8 716	8 717	8 718	8 719	8 720	8 721	8 722	8 723	8 724	8 725	8 726	8 727	8 728	8 729	8 730	8 731	8 732	8 733	8 734	8 735	8 736	8 737	8 738	8 739	8 740	8 741	8 742	8 743	8 744	8 745	8 746	8 747	8 748	8 749	8 750	8 751	8 752	8 753	8 754	8 755	8 756	8 757	8 758	8 759	8 760	8 761	8 762	8 763	8 764	8 765	8 766	8 767	8 768	8 769	8 770	8 771	8 772	8 773	8 774	8 775	8 776	8 777	8 778	8 779	8 780	8 781	8 782	8 783	8 784	8 785	8 786	8 787	8 788	8 789	8 790	8 791	8 792	8 793	8 794	8 795	8 796	8 797	8 798	8 799	8 800	8 801	8 802	8 803	8 804	8 805	8 806	8 807	8 808	8 809	8 810	8 811	8 812	8 813	8 814	8 815	8 816	8 817	8 818	8 819	8 820	8 821	8 822	8 823	8 824	8 825	8 826	8 827	8 828	8 829	8 830	8 831	8 832	8 833	8 834	8 835	8 836	8 837	8 838	8 839	8 840	8 841	8 842	8 843	8 844	8 845	8 846	8 847	8 848	8 849	8 850	8 851	8 852	8 853	8 854	8 855	8 856	8 857	8 858	8 859	8 860	8 861	8 862	8 863	8 864	8 865	8 866	8 867	8 868	8 869	8 870	8 871	8 872	8 873	8 874	8 875	8 876	8 877	8 878	8 879	8 880	8 881	8 882	8 883	8 884	8 885	8 886	8 887	8 888	8 889	8 890	8 891	8 892	8 893	8 894	8 895	8 896	8 897	8 898	8 899	8 900	8 901	8 902	8 903	8 904	8 905	8 906	8 907	8 908	8 909	8 910	8 911	8 912	8 913	8 914	8 915	8 916	8 917	8 918	8 919	8 920	8 921	8 922	8 923	8 924	8 925	8 926	8 927	8 928	8 929	8 930	8 931	8 932	8 933	8 934	8 935	8 936	8 937	8 938	8 939	8 940	8 941	8 942	8 943	8 944	8 945	8 946	8 947	8 948	8 949	8 950	8 951	8 952	8 953	8 954	8 955	8 956	8 957	8 958	8 959	8 960	8 961	8 962	8 963	8 964	8 965	8 966	8 967	8 968	8 969	8 970	8 971	8 972	8 973	8 974	8 975	8 976	8 977	8 978	8 979	8 980	8 981	8 982	8 983	8 984	8 985	8 986	8 987	8 988	8 989	8 990	8 991	8 992	8 993	8 994	8 995	8 996	8 997	8 998	8 999	9 000

NOTES:
 1811 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97.
 1815 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97.
 83 - WILL NOT RUN WED 12/24/97 AND WED 12/31/97.

LINE	POST	NAME	MONTHLY - FRIEDMAN'S INCURVE EXCEPT MAJOR HOUDANS - WESTWARD																																																																																																																																																																																																																																																																	
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0.1	HORNBLENDE	8 710	8 715	8 720	8 725	8 730	8 735	8 740	8 745	8 750	8 755	8 760	8 765	8 770	8 775	8 780	8 785	8 790	8 795	8 800	8 805	8 810	8 815	8 820	8 825	8 830	8 835	8 840	8 845	8 850	8 855	8 860	8 865	8 870	8 875	8 880	8 885	8 890	8 895	8 900	8 905	8 910	8 915	8 920	8 925	8 930	8 935	8 940	8 945	8 950	8 955	8 960	8 965	8 970	8 975	8 980	8 985	8 990	8 995	9 000	9 005	9 010	9 015	9 020	9 025	9 030	9 035	9 040	9 045	9 050	9 055	9 060	9 065	9 070	9 075	9 080	9 085	9 090	9 095	9 100	9 105	9 110	9 115	9 120	9 125	9 130	9 135	9 140	9 145	9 150	9 155	9 160	9 165	9 170	9 175	9 180	9 185	9 190	9 195	9 200	9 205	9 210	9 215	9 220	9 225	9 230	9 235	9 240	9 245	9 250	9 255	9 260	9 265	9 270	9 275	9 280	9 285	9 290	9 295	9 300	9 305	9 310	9 315	9 320	9 325	9 330	9 335	9 340	9 345	9 350	9 355	9 360	9 365	9 370	9 375	9 380	9 385	9 390	9 395	9 400	9 405	9 410	9 415	9 420	9 425	9 430	9 435	9 440	9 445	9 450	9 455	9 460	9 465	9 470	9 475	9 480	9 485	9 490	9 495	9 500	9 505	9 510	9 515	9 520	9 525	9 530	9 535	9 540	9 545	9 550	9 555	9 560	9 565	9 570	9 575	9 580	9 585	9 590	9 595	9 600	9 605	9 610	9 615	9 620	9 625	9 630	9 635	9 640	9 645	9 650	9 655	9 660	9 665	9 670	9 675	9 680	9 685	9 690	9 695	9 700	9 705	9 710	9 715	9 720	9 725	9 730	9 735	9 740	9 745	9 750	9 755	9 760	9 765	9 770	9 775	9 780	9 785	9 790	9 795	9 800	9 805	9 810	9 815	9 820	9 825	9 830	9 835	9 840	9 845	9 850	9 855	9 860	9 865	9 870	9 875	9 880	9 885	9 890	9 895	9 900	9 905	9 910	9 915	9 920	9 925	9 930	9 935	9 940	9 945	9 950	9 955	9 960	9 965	9 970	9 975	9 980	9 985	9 990	9 995	10 000

NOTES: 1171 - RUNS HODAN TO PURSING CANY. WILL NOT RUN ON WEDS 11/26/97 AND WEDS 12/24/97.
 99 - RUNS FROM IN CANY. WILL RUN WEDS 11/26/97 AND WEDS 12/24/97.

Notes

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

***** ***** ***** ***** ***** *****

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

WITNESSETH:

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

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

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

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

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

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

3.03 NJTRO Control

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

3.04 NJTRO Operations

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

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

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

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

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

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

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

3.05 Service Changes--Port Jervis Line

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.06 Service Changes--Pascack Valley Line

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

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

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

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

VERIFIED STATEMENT

OF

HOWARD PERMUT

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

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

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

Growth In Port Jervis Line Service and Ridership Since 1983

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

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

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

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

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

Port Jervis Line Capital Expenditures

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

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

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

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

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

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

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

* Includes Friday only train

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

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

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

* Includes Friday only trains

TABLE 3

PORT JERVIS LINE

Capital Expenditures

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

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

File: PJPURCH



CITY OF DUNKIRK
A Chadwick Bay Community

Office of the Mayor
City Hall, Dunkirk, New York 14048

ROBERT D. KESICKI
MAYOR
(716) 366-9681
FAX (716) 366-2049

January 30, 1998

VIA FAX - (202) 347-3619

Jean Cunningham
Slover & Loftus

Dear Jean:

I have just received notification of the action to be taken by Norfolk-Southern in the City of Dunkirk. This action would permit Norfolk-Southern to close certain railroad crossings in the city and make those crossings cul-de-sacs.

As Mayor of this fair city, I wish to express my strong opposition to such an action. I am prepared to file an injunction on the easement Norfolk-Southern has contracted with the City. It is the position of this city that Norfolk-Southern relocate the Norfolk-Southern line to the Conrail line. We urge the Norfolk-Southern organization to comply with our request in the interest of safety, health and welfare for our fine residents.

As Mayor of the City of Dunkirk, I go on public record today to protest the action of Norfolk-Southern. I am also ready to invoke legal proceedings to prevent Norfolk-Southern access through the city.

Thank you for your consideration and reply.

Very truly yours,

ROBERT D. KESICKI
Mayor

RDK:cao

cc: Linda J.Morgan, Surface Transportation Board - (via fax) ✓
Steve Slavich, DOT Freight & Economic Development
Division - (via fax)

RECEIVED
SURFACE TRANSPORTATION BOARD
JAN 30 2 17 PM '98
LINDA J. MORGAN
CHAIRMAN

Correspondence Control Assignment Sheet

Control No: 980145 Subject: EXPRESSING CONCERNS REGARDING
ACTIONS BY NS TO CLOSE RAIL
CROSSING IN DUNKIRK
Receipt Date: 01/30/1998

Source: ROBERT D. KESICKI

Correspondence Notes:
Author Date Note

O ESEA
and/or OFFICE OF PROCEEDINGS
Completed Date:

Assigned to:
Assign Date: 02/05/1998 Due Date: 02/19/1998

Task: DRAFT LETTER

Assigned by: TUREK

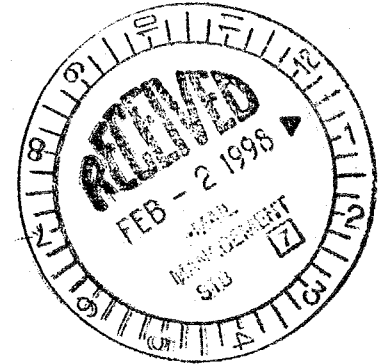
Assignment Notes:
Author Date Note

RUTGERS ENVIRONMENTAL LAW CLINIC

15 Washington Street, Room 304
Newark, New Jersey 07102-3192
(973) 353-5695
(973) 353-1249 (FAX)

Rutgers, The State University of New Jersey
School of Law-Newark

February 1, 1998



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

Dear Madam or Sir:

The following comments on the Draft Environmental Impact Statement (DEIS) for the acquisition of Conrail by CSX and Norfolk Southern are submitted on behalf of the Tri-State Transportation Campaign (Tri-State), a consortium of thirteen environmental, transportation and planning groups working together to promote an economically and environmentally sound transportation system in a thirty-three county area in metropolitan New York. Tri-State seeks to reduce reliance on cars and trucks throughout the region in order to reduce congestion and pollution and support rational land use planning. One hundred citizens' groups and local officials have joined as affiliate members.

In these comments, Tri-State is submitting its concerns regarding the DEIS that has been prepared for the proposed Conrail acquisition. We believe that additional action on the part of the Surface Transportation Board (Board) in developing a complete picture of the economic and environmental impact of the applicants' plan is required pursuant to NEPA and the Board's guidelines related to rail consolidations and mergers.

As has been noted in our previous submissions, Congress has sought to encourage competitive rail service and infrastructure improvement through its regulation of the railroad industry. Congress has indicated its concern that the management of these transportation assets take into consideration all factors that are related to the "public health and safety." See 49 U.S.C. §§ 10101(8) and (14).

In order to better protect that health and safety, the Board has the authority to impose conditions upon proposed railroad consolidation transactions. See 49 U.S.C. § 11324 (c). Such conditions must be imposed when the merger may result in effects that are harmful to the public. See 49 U.S.C. § 11324(d); Union Pacific - Control - Missouri Pacific, Western Pacific, 366 I.C.C. 462, 562-65 (1982). The applicants' plan details changes in traffic and business patterns as a result of the consolidation that will increase both rail and truck usage in an already congested region, bringing profound environmental impacts.

These environmental impacts are not adequately addressed in the DEIS. The Railroad Consolidation Procedures require that the applicants detail any impact that changes in service may

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Director

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Staff Attorney

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Staff Scientist

A-332-c

have on the public welfare. See 49 C.F.R. § 1180.8 (a)(2). This requirement has been interpreted as ensuring that the Board will have all facts that may be required in order for the Board to be able to make an informed decision on the merits of the consolidation proposal and to comply with its statutorily required duties. See Union Pacific, Missouri Pacific - Control - Chicago and North Western, 9 I.C.C. 2d 939, 950 (1993). The DEIS fails to address both the negative environmental impact of some of the results of the merger as outlined in the applicants' proposal and the impacts, positive or negative, of some alternatives to the applicants' proposal. We believe in particular that a Supplemental EIS is required in this case to evaluate the beneficial impacts that the proposed conditions submitted by Tri-State and others would have, especially in terms of the thresholds for air quality and how they are affected by changes in rail and intermodal activity. See 49 C.F.R. 1105.7(e)(5).

I. The Board failed to analyze certain significant and reasonable alternatives to the proposed action in the DEIS.

As part of the DEIS for the proposed action, the Board is required to consider any reasonable alternative to the proposed action and to provide an adequate discussion of the alternatives it considers. In particular, CEQ requires federal agencies to compare the environmental impacts of the proposed action to the impacts of the alternatives. According to CEQ, this alternatives analysis is the "heart" of the EIS.

In preparing the DEIS for the Conrail acquisition, the Board failed to consider many reasonable and highly significant alternatives to the proposed action. The Board evaluated three alternatives: the No-Action alternative, the proposed acquisition and the proposed acquisition with conditions. The conditions "could include ... modifications that other parties have requested in Inconsistent and Responsive Applications to the Board." DEIS at ES-3. The potential impacts of the proposals included in the fifteen "inconsistent and responsive applications" received by the Board are reviewed in the DEIS. Unfortunately, the eighty-eight remaining commentors did not receive such consideration in the DEIS and are very nearly ignored. Yet while the classification of comments as "inconsistent and responsive applications," on the one hand, or as "comments and requests for conditions," on the other, may be relevant to the Conrail acquisition proceedings, it is of no significance for the NEPA process, which is distinct. Moreover, this classification of comments does not reflect on the importance or the magnitude of the potential environmental impacts of the conditions contained in the comments, so should not be regarded as a sound basis for determining which conditions should be evaluated as part of the alternative "proposed acquisition with conditions." Indeed, the table in Appendix U of the DEIS states that many of the conditions that were included among "comments and requests for conditions" had potential impacts that are either "unknown" or "could increase rail operation above thresholds on affected segments." No further analysis was provided, however. Such further analysis must be included in the EIS.

By not conducting an adequate assessment of alternatives, the Board denies itself the opportunity to make a fair and informed independent decision on the environmental impacts of this transaction, which by law must precede its decision on the acquisition.

II. The conditions requested by Tri-State would have significant impacts.

Tri-State submitted comments on the scope of the EIS on August 6, 1997 requesting that the scope be modified to include a detailed assessment of alternatives of the type "proposed action with conditions." On October 20, 1997, Tri-State submitted comments to the Board requesting five conditions be included in the Board's decision to permit NS and CSX to acquire Conrail. On November 22, 1997, in response to the applicants' circulation of a supplemental operating plan for the North Jersey Shared Assets Area, Tri-State submitted comments to the Board reaffirming its original conditions and requesting that the Board require four additional conditions for the acquisition. These conditions would have assured two carrier competition for the 12.5 million persons residing in the East of Hudson portion of the Tri-State Region, the nation's largest metropolitan area and would have established important environmental protection mechanisms for the two carriers serving the West of Hudson portion of the region. Tri-State, on January 12, 1998, submitted a rebuttal to arguments raised by the applicants in their response to Tri-State's two requests for conditions. The nine conditions in these two requests would have significant effects in the four Impact Categories that we cited in our scoping submission, namely: 2. Transportation Systems, 3 Land Use, 5 Air Quality and 10. Environmental Justice.

Tri-State's conditions would have comparable effects to those requested in the comments filed on October 20, 1997 by Congressman Jerry Nadler and twenty-three members of the Congressional delegations of New York and Connecticut. Their position has since been endorsed by the City of New York and the State of New York. To regard the conditions requested by Tri-State and by the Congresspeople, on which the Board has made no decision to date, as insufficiently significant to warrant a thorough evaluation in the EIS is unreasonable.

A. Considerable potential for rail freight traffic exists East of the Hudson

In its various submissions to the Board, Tri-State identified studies conducted by Mercer Management Consulting, Inc. of the commercial opportunities for enhanced carload and intermodal freight to the East of Hudson sector of the Tri-State region. The applicants themselves used this firm to advance their arguments for the acquisition. The first of these studies, the New York Downstate Rail Freight Study, was completed in May 1995. That study found that as much as 22.9 million tons of freight destined for the downstate region was potentially divertable to rail, based on its survey of shippers in that region. The downstate region includes New York City, Long Island and Putnam and Westchester Counties, a very large portion of the East of Hudson sector of the Tri-State region. Rail freight could increase from 3% to about 25% of total freight market demand. At an average load of 17 tons per truck used by the applicants, this would amount to over 1.35 million truckloads per year diverted to rail for the downstate NY area. This is more than the 1.03 million truckloads the applicants expect to divert to rail for the entire eastern portion of the U.S.,¹ trumpeted as the major environmental benefit of their proposed action. These

¹ It should be noted that the Board's DEIS raises concerns about the validity of the applicants' estimate, suggesting that this environmental benefit is exaggerated through double counting. The Board did not estimate the amount of this exaggeration, nor explain the basis for its concern.

estimates are imprecise, but clearly if the potential truck-to-rail diversion resulting from the applicants' proposal is significant, then the diversion resulting from the conditions proposed by Tri-State is significant as well.

The Mercer study also suggests that 10.1 million tons would use an improved cross-harbor car float route. Car float improvements are one of Tri-State's key conditions for the acquisition. The Mercer study identified three critical factors for gaining this increased rail freight activity in the Downstate NY Region: (1) lower costs and improved service, (2) credibility in the marketplace, and (3) ability to raise capital. One of Tri-State's proposed acquisition conditions, extending NS service across the harbor to provide competitive rail service to points East of the Hudson, would allow great improvement with respect to all three of these factors.

In a second study, "Intermodal Goods Movement Study: NYC Rail Freight Access," completed in January 1997, Mercer Management found, using a somewhat different set of assumptions, that an improved cross-harbor car float link would attract 6 million tons of freight, mostly in rail carloads. This study detailed the economic and environmental consequences of a shift of this magnitude from truck to rail, so that information is readily available to the Board. This study also found that a roadtrailer-type operation through Penn Station was physically practical, could be initiated with very little investment and could be in operation in a very short time frame. Tri-State requested that NS be allocated rights to operate this service as a condition for the acquisition.

A third study prepared by Transmode Consultants, Inc., "The Oak Point Link Market Development Initiative" was completed in May 1994. This study estimated the market potential for three intermodal terminals located East of the Hudson at 245,000 to 430,000 trailers, or 4.2 to 7.3 million tons, per year. Transmode claimed that these market levels would bring cost per train to competitive levels. Tri-State proposed conditions that would result in competitive intermodal rail access East of Hudson, for CSX using conventional piggyback service at the Harlem River Yard and for NS using double-stack service at 65th St. yard. Beneficial use of these facilities, developed at considerable public expense, would reduce truck movements across seriously congested Trans-Hudson highway crossings. They would also 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.

B. Retaining West of Hudson carload freight is important

The applicants estimate that 797,376 truckloads of freight will be diverted to intermodal rail service as a result of the acquisition. Another 186,947 truckloads will be diverted to carload rail freight. Although the applicants claim that carload freight is the "lifeblood" of their industry, 81% of the truck traffic expected to shift to rail as a result of the action before the Board would be to intermodal. As important as intermodal traffic is, this

emphasis on intermodal was the basis for Tri-State's expressed concern and proposed condition that the applicants make a special effort to retain carload freight in North Jersey, and not shift existing carload traffic to intermodal. While restored competitive rail service in the West of the Hudson sector would produce substantial environmental benefits, these effects are not evaluated in the DEIS. The Board cannot make an adequate determination of the environmental consequences of Tri-State's proposed condition based on the information contained in the DEIS.

Tri-State also raised concerns about the relocation of freight away from the North Jersey Shared Assets Area to more remote locations. This would increase truck miles in the region. The DEIS does not provide information to evaluate Tri-State's proposed condition to avoid this environmental negative, namely that NS and CSX must monitor the cost of operating the shared asset lines and provide assurance to the Board that costs are below levels that would encourage shippers from relocating to more remote points in western NJ and eastern PA.

C. Protracted disagreement over proposed rail passenger service improvements could deny the region the benefits of these improvements.

In the past, expansion of commuter rail service or intercity rail passenger service has led to protracted arguments among service providers about how track can be shared and about the extent of new rail investment that must be made to accommodate the expansion. Tri-State suggested in its comments of November 22, 1997 that, as a condition for approval of the acquisition, the Board establish, in cooperation with USDOT, arbitration procedures that will assure prompt resolution of disputes. The DEIS offers no specific evidence that disputes will be resolved and makes no attempt to assess the environmental consequences of the long delays that have characterized service expansion proposals in recent years.

Amtrak at present has operating agreements with Conrail, NS and CSX that expire in 2006, 2000 and 2002 respectively. The DEIS makes no mention of the consequences of not extending these agreements in a timely fashion. Furthermore, the DEIS deals only with maintenance of existing levels of service over existing routes. Accommodating increased levels of service, higher speed or new routes will almost certainly lead to disputes that, if not quickly resolved, could deny the public the benefits of these new rail services and lead to air quality consequences that are negative with respect to the "no action" alternative. While higher levels of public support will be needed to continue and expand Amtrak service in the future, the arbitration mechanism that Tri-State proposed for commuter rail service proposals could be extended to Amtrak intercity service improvements.

D. The conditions requested by Tri-State would have significant effects in several Impact Categories.

The Board's failure to quantify the impacts of Tri-State' proposed conditions leaves the agency unable to suitably assess key environmental impacts in four key areas:

1. Transportation Systems

The Tri-State region's arterial highway system is among the most congested in the nation. Car, bus and truck traffic experiences extraordinary delays, especially at the Hudson River crossings. Heavy truck traffic also contributes a great deal to the deterioration of pavements and structures. Trucks routinely use local and collector streets to avoid delays on major highways, resulting in vibration that damages buildings and producing noise in residential neighborhoods. Truck crashes are more severe than car crashes and take a heavy toll in deaths and injuries. Crashes and breakdowns add greatly to congestion, especially where off-loading of goods is required.

By failing to describe the potential changes in truck use that would occur if Tri-State's proposed conditions were added to the transaction, the DEIS fails to provide the Board with important information that might affect its decision on whether to include these conditions in its decision.

2. Land Use

In NYC, the Department of City Planning has specified zoning to preserve manufacturing locations that are adjacent to rail lines. Tri-State's conditions would result in better rail service to these locations, reinforcing the city's land use and zoning plan. The applicants' plan will result in continuing single-carrier non-competitive freight rail service, perpetuating the existing deteriorating rail service East of the Hudson and diminishing the value of these unique rail-accessible sites. NYC's land use plan has reserved space for intermodal facilities at Harlem River Yard and 65th St. Yard. The applicants' plan is silent on the provision of NS or CSX service to these terminals.

Land use plans in Westchester County and in Connecticut also reserve space zoned for manufacturing and distribution along Conrail-operated lines. Tri-State's proposed conditions for two carrier service from Oak Point Yard in the Bronx to New Haven, CT would make this land use activity more valuable.

The Board should assess the consistency of the applicants' plan and the plan with the conditions recommended by Tri-State with municipal land use plans for communities East of the Hudson. This assessment should be part of a Supplemental EIS.

The New Jersey State Plan for Development and Redevelopment calls for concentrating development in older, denser cities and along transportation corridors. NJ Governor Christie Whitman reaffirmed her support for these state policies in her address at the beginning of her second term as Governor in January 1998, in which she proposed to preserve 300,000 acres over the next four years. Existing carload freight shippers in the North Jersey Shared Assets Area are generally located in

areas in which development or redevelopment is consistent with the State Plan. Union County, for example, is seeking to bolster business on the Staten Island Railroad and Rahway Valley Lines by reinstating rail freight service. The Tri-State condition calling for Board intervention to monitor and preserve carload freight in this area will add an extra measure to preserve the consistency between the applicants' plan and land use plans in New Jersey. Were CSX and NS to encourage shippers to relocate outside the shared assets area, new development would occur in areas that the State Plan seeks to preserve as open land.

3. Air Quality

Most of the Tri-State Region is a severe non-attainment area for ozone, and one county is in non-attainment for particulates. Due to New Jersey's failure to produce an adequate attainment plan for ozone, the State will be under a "conformity freeze" beginning on April 10, 1998 during which no new transportation programs and plans can be adopted. EPA's recent revision of the health-based air quality standards confirm that the region's problem is even more serious than previously acknowledged. Most of the air quality benefits that are expected to result from the Conrail acquisition, due to shifting freight from truck to rail, will lie outside of the Tri-State Region, or the Ozone Transport Region in the northeast. The Tri-State conditions would increase the air quality benefits within the region as well. The Board cannot make an informed decision on this benefit without a detailed assessment of air quality impacts of the Tri-State conditions.

4. Environmental Justice

In the Tri-State region, persons of color and other minorities are more likely to live in New York City and in other older cities in the region. Shifting freight from truck to rail has the potential to benefit residents of these communities, many of whom suffer from respiratory ailments exacerbated by air pollution. Shifting freight activity from truck to carload freight and reducing the drayage mileage for intermodal freight would yield substantial benefits to these communities. Tri-State's proposed conditions will achieve these results to greater effect than the applicants' plan without conditions. The Board will not have this information available if it does not perform a comprehensive assessment of the impacts of the Tri-State conditions. Dismissing these conditions without this assessment is not consistent with NEPA, the Civil Rights Act or Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994, 59 F.R. 7629(1994)). Additional investigation of the alternatives suggested by Tri-State and others is supported by the DOT's own order for compliance with Executive Order 12898, which governs Federal actions to address Environmental Justice in minority and low-income populations. 60 FR 33899 (1995). Compliance with the Executive Order is a stated key element in DOT's Environmental Justice strategy. Id. at 33900. The Board is required to take

into account any mitigation measures that may be developed during the comment period. Id at 33902.

The Board is left to make its decision on the railroads' application with regard to the conditions proposed by Tri-State on the basis of only the information submitted by the applicants. The applicants, meeting behind closed doors, decided to deny two-carrier competition for the East of Hudson sector. They chose not to take similar action elsewhere; they did not assign all of Conrail's properties and operating rights to a single carrier for service in the states of Ohio or Pennsylvania.

III. The Board should prepare a supplemental EIS containing an analysis of additional alternatives.

The DEIS' omissions can only be corrected by the Board's preparation and circulation of a Supplemental EIS. Much of the information needed for such a Supplemental EIS is readily available in the studies identified above. Tri-State requests that the Board conduct a thorough investigation of the environmental impacts of the conditions proposed by Tri-State and submit a Supplemental Environmental Impact Statement for consideration by all parties. Tri-State's request for a Supplemental Environmental Impact Statement is reasonable and customary in situations such as the proposed merger. The DOT procedures for the application of environmental laws clearly provide for supplemental reports when additional relevant environmental information is discovered during the public comment process. These supplemental reports are needed in order "to address substantial changes in the proposed action or significant new and relevant circumstances or information". 49 C.F.R. § 1105.10 (a)(5). Clearly the conditions proposed by Tri-State and other interested parties during the comment period have provided significant information that needs to be considered. The DOT procedures for the implementation of environmental laws also call for the Section of Energy and Environment to independently analyze related materials during the comment period in order to provide information to the Board that can be considered in its final decision. A Supplemental EIS may be required to further assist the Board in its deliberations. 49 C.F.R. § 1105.10 (a)(5)(b).

The conditions requested by Tri-State and others offer a substantial opportunity for a positive environmental impact on the New York metropolitan area without detriment to the economic interests of the parties involved in the merger. To fail to consider these alternatives completely would benefit none of the parties involved and would clearly not serve the public interest.

Respectfully submitted,

Handwritten signature of Edward Lloyd in cursive script, followed by the initials "TL".

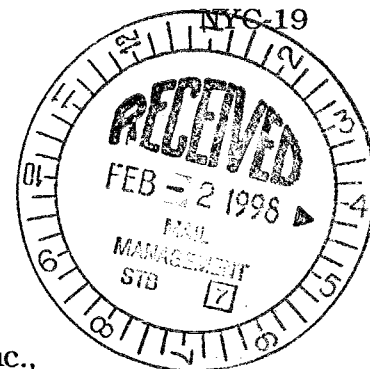
Edward Lloyd

**ENVIRONMENTAL
DOCUMENT**

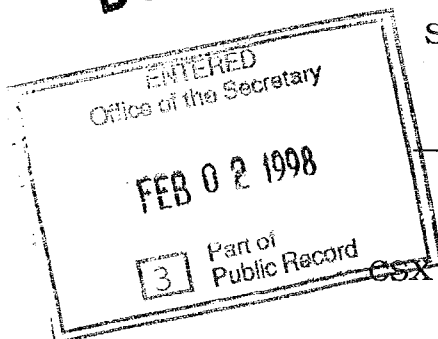
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Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423



Finance Docket No. 33388

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Id. at 5.

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

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

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

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

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

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

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

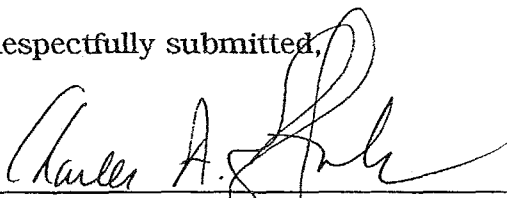
CONCLUSION

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

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

Dated: February 2, 1998

Respectfully submitted,



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

Attorneys for the New York City
Economic Development Corporation

CERTIFICATE OF SERVICE

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

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

John M. Nannes
Skadden, Arps, Slate, Meagher
& Flom L.L.P.
1440 New York Avenue, N.W.
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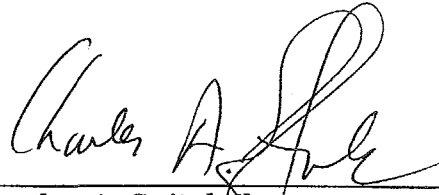
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and by first class mail, postage pre-paid upon all other Parties of Record in this proceeding.



Charles A. Spitulnik

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

Finance Docket No. 33388

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Finally, New York County (Manhattan) has been designated by EPA as a moderate non-attainment area for PM₁₀. Diesel engines (such as those used in trucks that would likely be used to transport goods to rail lines across the Hudson River) are a major source of particulate pollutants.

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

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

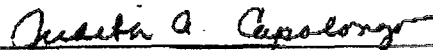
In sum, reliance on motor carrier freight transportation between New York City and Northern New Jersey will have a negative impact upon the City from both an economic perspective, as well as an air quality perspective. For that reason, NYCEDC's Responsive Application, which is designed to relieve motor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

VERIFICATION

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


Seth O. Kaye

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


~~Notary Public~~ Commissioner of Deeds

~~My commission expires:-~~

JUDITH A. CAPOLONGO
Commissioner of Deeds, City of New York
No. 5-1425
Cert. Filed in New York County
Commission Expires October 23, 1999



CENTRAL ADMINISTRATIVE UNIT

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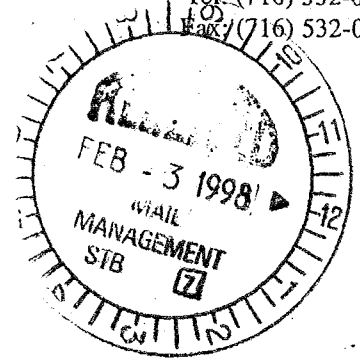
THE SENECA NATION OF INDIANS

Environmental Protection Department

1508 Rt. 438
Irving, New York 14081

Tel: (716) 532-0024

Fax: (716) 532-0035



February 2, 1998

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

**ENVIRONMENTAL
DOCUMENT**

Re: Comments on Draft EIS

Dear Ms. Elaine K. Kaiser,

The Seneca Nation is please to submit comments on the Draft EIS of the Proposed Conrail Acquisiton. The comments are interim until the formal Nation approval process is met. The Seneca Nation Environmental Protection Department must submit comments to the Tribal Council for approval. However, our Tribal Council will not meet prior to the February 2, 1998 comment deadline. Therefore, a resolution is pending.

Thank you for the opporunity to comment.

Simperely,

Lisa Maybee, Director
Environmental Protection Department

Seneca Nation of Indians Interim Comment
on the Draft EIS "Proposed Conrail Acquisition"

page 6-3 Volume 4

SEA expanded the Land Use/Socioeconomic Issues section to specifically state that the EIS will address the potential environmental impacts of proposed rail line construction and abandonment activities on Native American reservations and sacred sites.

The Seneca Nation of Indians holds title to the Allegany, Cattaraugus, and Oil Springs reservations. Conrail has a small rail yard located on the Allegany Reservation. The Seneca Nation will not consider reclaiming the Salamanca railyard since there are major concerns of diesel and PCB contamination on site. There is documentation of spills through the US EPA and possibly New York State Department of Environmental Conservation. However, Conrail has failed to inform officials of the Seneca Nation. The Seneca Nation has serious concerns regarding the environmental integrity of the Conrail yard.

Another portion of the rail road extends through the Cattaraugus Reservation located in Irving, New York. This portion is identified as a "key route" through Western New York with an increase in volume of hazardous cargo from 7,000 to 26,000 carloads per year. (Chapter 5, NY 38, Native American Issues) The Seneca Nation lacks the capability to respond to emergent situations. Although there is an 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.

Environmental Justice addresses impacts to low income and minority populations. It appears the Seneca Nation would fall under this definition in some respect, although, there is no mention of any activities which may impact the Seneca Nation community in the proposed EIS. (Environmental Justice, Chapter 5) The Seneca Nation is a sovereign entity therefore must be addressed as such. Contact must be directly through the officials of the Seneca Nation. The Seneca Nation does not recognize New York State jurisdiction specifically relating to permit requirements. The Seneca Nation has several written laws like the Solid Waste Ordinance, Natural Resource Law, Pesticide/Herbicide Ordinance, etc., which are enforceable through the tribal Peacemaker Court system. 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.

There is major concern regarding the right-of-way of Conrail. The acquisition of the rail line needs an accurate title search. The status of the easement is

questionable. Adequate documentation must be provided to the Seneca Nation by Conrail prior to any new negotiation with CSX.

Cultural Resources - Methods Page 3-38 of Volume 1

Significant cultural resources (that is, historic properties)

SEA conducted archival searches and site visits to determine the presence of historic properties. SEA presented a preliminary eligibility and determination of effects to the SHPA in every state potentially affected by the proposed abandonment's and construction. Under the NHPA, any historic or archaeological resource listed on or eligible for listing on the National Register of Historic Places requires review under NHPA Section 106. The definition of cultural resource appears to be different from the Seneca Nation perspective.

Appendix G, describes the screening process, data sources, evaluation criteria and analysis, etc., and determination of significance based on age, type use, uniqueness, contest in local and national history and other factors as outlined in the National Register. Abandonment would cause impacts to cultural resources in instances of salvage, change of ownership, and maintenance activities. Construction of new connections would cause impacts due to physical destruction, damage, or alteration of historic property.

BEFORE THE
SURFACE TRANSPORTATION BOARD

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

COMMENTS OF
THE STATE OF NEW YORK
ON DRAFT ENVIRONMENTAL IMPACT STATEMENT

The State of New York, acting by and through its Department of Transportation ("New York"), hereby submits these Comments on the Draft Environmental Impact Statement ("DEIS") served December 12, 1997 by the Board's Section of Environmental Analysis ("SEA").

IDENTITY AND INTEREST

New York is a sovereign state, and a full party of record in this proceeding. The New York State Department of Transportation is the executive department responsible for supervising and administering State policies and interests relating to rail transportation through, within, or affecting New York.

New York and its citizens have an obvious and substantial interest in the preservation and enhancement of their environment. As both federal and state law and policy mandate,

and the long-term health, comfort, and well-being of New Yorkers require, the State must continue taking affirmative steps toward a cleaner, safer environment. At the same time, New York must guard vigilantly against proposals or projects that threaten to detract from the progress being made in the environmental arena.

The Applicants'¹ proposed division and subsequent operation of Conrail's assets threatens to impede New York's on-going efforts to protect the quality of air in certain areas of the state from any further deterioration, and to restore the same as quickly as possible to acceptable levels. The Applicants have not taken appropriate and necessary steps -- nor does the DEIS recommend that they do so -- to ensure that their transaction, at the very least, does nothing to exacerbate New York's already serious air quality problems. As discussed below, the Board must closely examine the DEIS' conclusions regarding system-wide, regional, and New York air quality impacts, and recognize the substantial -- but not unavoidable -- adverse effect that Applicants' transaction will have on New York's air quality and air quality improvement plans.

New York further urges the Board to examine the DEIS' analysis of passenger rail safety issues. Though New York places the highest priority on safe railroad operations, New York does

¹ For purposes of these Comments, all references to "Applicant(s)" indicate either or both CSX and NS. All references to "CSX" include CSXC, CSXT, and their wholly owned subsidiaries; all references to "NS" include NSC, NSR, and their wholly owned subsidiaries; all references to "Conrail" include CRR, CRC, and their wholly owned subsidiaries.

not agree with the mitigation recommended to alleviate perceived safety impacts on one line segment located in New York. As detailed below, New York supports the Comments filed by Metro-North Commuter Railroad Company ("Metro-North") in this regard, and, consistent with those Comments, asks that the Board reject SEA's proposed mitigation measure.

THE DRAFT EIS

A. Air Quality Impacts And Mitigation Affecting New York

As the Board's NEPA-implementing² regulations require, the Applicants' Environmental Report ("ER")³ and the DEIS examine potentially significant effects of the proposed transaction upon several environmental impact categories. In particular, the ER sets forth Applicants' views as to the transaction's projected effect on air quality, which conclusions the DEIS reviews. This air quality analysis addresses system-wide, regional, and local impacts of changed "Acquisition-related" railroad activities, and assesses the need for measures mitigating increases in air pollutant emissions.⁴ Specifically, SEA considered the effect of increased operations on rail line segments, and at rail yards and intermodal facilities, as well as emissions resulting from abandonments and construction projects within the Applicants'

² See 49 C.F.R. pt. 1105.

³ CSX/NS-23 Application, vol. 6A-B, filed June 23, 1997; CSX/NS-54 Application, vol. 6. Supplemental Environmental Report, filed Aug. 28, 1997.

⁴ See DEIS, vol. 3B at NY-18.

proposed new systems. SEA estimated the likely contribution of these operations and activities to NOx, CO, VOC, SO2, PM-10, and Pb pollution.⁵

According to the DEIS, SEA concluded that transaction-related increases in emissions of these pollutants -- system-wide, regionally, and in New York State -- require no mitigation.⁶ System-wide, SEA first determined, emissions of all six pollutants will increase. SEA further found, however, that predicted truck-to-rail freight transportation diversions should produce decreases in NOx, CO, VOCs, PM-10, and Pb emissions, "offsetting" the acknowledged transaction-related increases in these same pollutants. Relying on this conclusion -- and thus the Applicants' truck diversion estimates supporting it -- SEA declined to recommend any mitigation for system-wide increases in emissions of these five pollutants. Though SEA found that system-wide SO2 emissions will likely increase even after adjusting for estimated truck diversions, SEA considered the "small relative increase" in such emissions "insignificant," and thus not subject to mitigation.⁷

⁵ "NOx" refers to nitrogen oxides, pollutants which contribute to the formation of ozone ("O3"). "CO" refers to carbon monoxide; "VOCs" refers to volatile organic compounds, another ozone precursor. "SO2" refers to sulfur dioxide; "PM-10" refers to particulate matter of less than ten microns in diameter; "Pb" refers to lead. See DEIS, App. E at E-2.

⁶ See DEIS, vol. 1 at 4-56, 4-63; vol. 3B at NY-24.

⁷ DEIS, vol. 1 at 4-56.

SEA's regional air quality analysis, similarly, reveals that the proposed transaction will exacerbate regional air pollution, unless Applicants' ambitious truck-to-rail diversion estimates accurately predict "offsetting" emissions savings. SEA's regional analysis evaluated NOx emissions only, focusing exclusively on the transaction's potential harm to the Northeast Ozone Transport Region ("OTR").⁸ SEA concluded that 6 of the states within the OTR -- including New York -- as well as the District of Columbia, would experience an increase in transaction-related NOx emissions.⁹ SEA then turned to the Applicants' truck diversion predictions, and subtracted from the OTR's acknowledged NOx emissions increases all projected NOx "savings" attributable to diverted trucks. This adjustment resulted in a "small" net reduction of NOx emissions for the OTR as a whole, and the SEA's recommendation against any mitigation.¹⁰ As in the "system-wide" analysis, this regional determination depends almost entirely on the existence of "NOx emissions decreases from truck diversions more than offset[ting] . . . increases in NOx emissions."¹¹

⁸ The Northeast OTR, designated and defined by section 184(a) of the Clean Air Act, as amended ("CAA"), consists of a group of northeastern states subject to special regulation focused on reducing the ozone transport problem of that region. See 42 U.S.C. §§ 7401 et seq.

⁹ DEIS, vol. 1 at 4-59.

¹⁰ Id.

¹¹ Id. (emphasis added).

SEA's evaluation of New York's "local" air impacts again identifies acquisition-related activities predicted to increase air pollution. Through application of its various thresholds and screening levels, SEA selected certain New York counties facing increased NOx emissions for closer examination; SEA determined at the outset that no other pollutant emissions warranted review.¹² For each New York county evaluated, SEA estimated NOx emissions increases; for some counties, SEA discounted these increases as insignificant, either by comparison to the county's overall pollution problem, or in light of the area's attainment status. For the remaining counties considered, SEA acknowledged that NOx emissions "could contribute to O3 formation on a regional level," and generally directed "refer[ence] to [DEIS] Chapter 4 for further discussion of the potential effects on regional air quality."¹³ As discussed supra, SEA recommended no regional air quality mitigation. As a result, therefore, SEA's only determinations regarding local New York air quality either: (1) disregard increased NOx pollution, citing an allegedly small degree of increase or relatively clean air impacted; or (2) simply shift focus to regional impacts, without providing for their mitigation.

¹² SEA's analysis "thresholds" eliminated from DEIS consideration the impacts of the transaction on CO, VOCs, SO2, PM-10, and Pb emissions in New York. New York submits that this was in error, and urges the Board on re-examination to carefully evaluate the thresholds SEA used, and determine the adequacy of their protection for air quality.

¹³ DEIS, vol. 3B at NY-22 (emphasis added).

B. Passenger Rail Safety Impacts Affecting New York

The DEIS also examines the proposed transaction's potential effects on a variety of safety-related issues. In particular, SEA evaluated the possibility of "increased accidents between freight and passenger trains" operating over the same track.¹⁴ After identifying line segments meeting its analysis "threshold,"¹⁵ SEA estimated the change in accident frequency likely to result from added freight trains on those lines. If the accident risk increased "significantly," SEA recommended mitigation. Specifically, SEA proposed that "all freight trains . . . be clear of the main track" at issue, "at least 15 minutes prior to the estimated arrival of the passenger train."¹⁶ This, SEA determined, would "reinforc[e] passenger trains' priority over freight trains," and ensure that "the passenger train can pass safely and without delay."¹⁷ SEA proposed no other measures to reduce increased risks of passenger/freight train collisions.

SEA's New York passenger train safety analysis focused on twelve line segments; only one of the twelve, SEA found,

¹⁴ DEIS, vol. 3B at NY-8.

¹⁵ SEA only analyzed segments carrying both freight and passenger trains that would experience a post-transaction increase of one or more freight trains per day. DEIS, vol. 3B at NY-8.

¹⁶ DEIS, vol. 3B at NY-10.

¹⁷ DEIS, vol. 3B at NY-10.

warranted safety mitigation.¹⁸ For the 30-mile segment from Campbell Hall to Port Jervis in southeastern New York, SEA directed the Applicants to "establish passenger trains as 'superior' trains," and, accordingly, "clear . . . the track" during the 15-minute period before and after "the expected arrival of a passenger train at any point."¹⁹ As Metro-North's Comments point out, and New York agrees, this "priority" designation is both unnecessary and potentially disruptive of future passenger operations over any lines affected by such a mitigation measure.

COMMENTS OF THE STATE OF NEW YORK

I.

Air Quality Concerns

New York has a significant investment in and responsibility for preserving and improving air quality, particularly in non-attainment areas surrounding and including New York City. New York respectfully submits that SEA's review and proposed mitigation of air quality impacts -- system-wide, regionally, and in New York -- are inadequate. In the first place, SEA relies heavily on uncertain truck diversion figures to conclude that the transaction threatens no significant system-wide and regional air quality impacts. SEA then compounds that error by failing to consider local impacts of all but one of the six pollutants

¹⁸ The other eleven segments met SEA's threshold for passenger train safety analysis, but were not projected to experience an increase in accident frequency sufficient to trigger mitigation. Id.

¹⁹ DEIS, vol. 4 at 7-12.

studied, and its conclusion that the sixth -- NOx -- will cause no cognizable harm in New York ignores the realities of air quality in New York City's metropolitan area, and proceeds on the misguided notion that "small" increases in air pollution, or increases affecting attainment areas only, are acceptable.

As discussed below, the Board must take a far more skeptical view of the crucial truck-to-rail diversion estimates central to SEA's air quality findings. In addition, the Board must adhere to the statutory and policy mandates governing air quality control, and act affirmatively to further the nation's and New York State's goals of reducing air pollution as quickly and comprehensively as possible.

A. New York Must And Will Continue Taking Steps To Improve and Protect Its Air Quality

As discussed at length in New York's prior filings in this proceeding, the State has long worked to implement programs improving its air quality.²⁰ New York's downstate counties, in particular, face serious air pollution challenges as a result of excessive and increasing vehicle emissions of CO, and ozone precursors NOx and VOCs.²¹ Of the ten counties comprising the

²⁰ See NYS-24/NYC-17, Joint Rebuttal Statement of the State of New York and the New York City Economic Development Corporation, filed Jan. 14, 1998 at 24-27; R.V.S. John F. Guinan at 11-13; R.V.S. Seth O. Kaye.

²¹ The United States Environmental Protection Agency ("EPA") has estimated that mobile sources are responsible for close to 50% of the annual emissions of NOx nation-wide, over one-third of the annual emissions of VOCs nation-wide, and over 75% of the annual emissions of CO nation-wide. See Emission Standards for Locomotives and Locomotive Engines, 62 Fed. Reg.

New York Metropolitan Area ("Area"), all are within ozone non-attainment regions.²² Seven -- including New York City's five counties -- are non-attainment for CO; New York County is a non-attainment area for PM-10 as well.²³ These non-attainment designations indicate that each affected county is not in compliance with federal air quality standards applicable to those pollutants.²⁴

New York, in addition, must grapple with the regional ozone problem plaguing a "contiguous corridor of [ozone] nonattainment counties" in the OTR.²⁵ OTR states, like New York, suffer the effects of ozone pollution transported up-wind or down-wind across state lines. This transport phenomenon affects OTR states' ability to achieve and maintain compliance with ozone standards. New York's highway vehicle emissions are a key factor in its impact on regional ozone formation: projected NOx emissions from New York's highway vehicles for the year 2007 exceed

6,366 (Feb. 11, 1997).

²² See DEIS, vol. 5A App. E at Attach. E-1. Nine of the ten are further classified as "severe" ozone non-attainment areas -- the most serious of five possible classification levels. Id.

²³ Id.

²⁴ The CAA and implementing regulations establish National Ambient Air Quality Standards ("NAAQS") for certain "criteria" air pollutants. To date, EPA has set NAAQS for CO, Pb, NOx, O3, PM-10, and SO2. See CAA, 42 U.S.C. §§ 7408-7409; DEIS, vol. 5A App. E at E-2.

²⁵ DEIS, vol. 1 at 4-58. See Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone, 62 Fed. Reg. 60,318, 60,337-40 (Nov. 7, 1997).

those of all other OTR states.²⁶

In light of its non-attainment problems and inclusion in the OTR region, New York has initiated a number of programs and projects aimed at reducing air pollution. As detailed in its prior Rebuttal filing, New York has implemented the Congestion Mitigation and Air Quality Improvement Program ("CMAQ"), a long-term, multi-agency effort focused on, among other things, diverting truck traffic to other transportation modes.²⁷ CMAQ has resulted in the State's coordinated investment with the Port Authority of New York and New Jersey of over \$10 million to subsidize car float operations across New York Harbor. The State and the Port intended this alternative cross-harbor route to reduce reliance on trucks, and, at the same time, decrease truck-related air pollutant emissions.²⁸ New York has expended another \$200 million over the last dozen years to subsidize construction of Oak Point Link, an intermodal facility designed to improve and expand railroad service into and out of the metropolitan New York City area.²⁹ Again, a major benefit of this project is reduced dependence on trucking, and corresponding air quality improvements.

In addition to these particular programs, as a general matter New York also conducts a thorough review of all proposed,

²⁶ Id. at 60,358.

²⁷ See NYS-24/NYC-17 at 25; V.S. Guinan at 11.

²⁸ Id.

²⁹ NYS-24/NYC-17 at 24-25; V.S. Guinan at 5.

federally-funded transportation projects affecting nonattainment and maintenance areas, to ensure their consistency with state and federal air quality improvement plans and mandates. More specifically, New York's Metropolitan Planning Organizations ("MPOs") engage in "conformity" analyses evaluating such projects' expected impact upon emissions of non-attainment pollutants regulated by the State's official air quality plan ("SIP").³⁰ The New York City Metropolitan Area's MPO, for example, "NYMTC,"³¹ recently completed its conformity determination for the Area's Transportation Improvement Plan ("TIP") governing future transportation-related projects in the region.³² Through extensive, detailed, and coordinated review,³³ NYMTC verified that every activity contemplated by the TIP will contribute to the reduction of vehicle-produced, non-attainment pollutants -- NOx, VOCs, and CO -- in the Metropolitan Area. The TIP will yield emissions levels lower than 1990 "base year" levels, and lower than pre-TIP implementation levels. Consistent with both state and federal

³⁰ "SIP" refers to "State Implementation Plan," a lengthy, complex, and continuously updated document prepared pursuant to the CAA by all states. See CAA, 42 U.S.C. § 7410. Federally-funded transportation programs states implement must "conform" to the strategies and provisions contained in an approved SIP. See CAA, 42 U.S.C. § 7506 (c); 40 C.F.R. pts. 51, 93.

³¹ "NYMTC" is an acronym for the New York Metropolitan Transportation Council.

³² A copy of NYMTC's "1998 TIP and Plan/SIP Conformity Determination and Supporting Analysis," dated September, 1997, is in New York's document depository.

³³ A number of state agencies and municipal bodies participate in the review process.

policy, NYMTC's planned transportation improvements neither "cause[] or worsen[] air quality violations," nor "delay[] attainment" of ozone, CO or PM-10 NAAQS.³⁴ To the contrary, NYMTC's TIP makes additional strides in restoring to a healthy, acceptable level air quality in downstate New York.

The importance of continued air quality improvement through programs like CMAQ and TIP transportation projects will only intensify in coming years. The EPA recently promulgated new, more stringent ozone NAAQS, increasing the number of designated non-attainment areas, and rendering ozone attainment more difficult to achieve.³⁵ This change forces states, like New York, facing ozone attainment challenges, to implement the most effective and efficient NOx control measures possible. The EPA, in addition, has issued a Notice of Proposed Rulemaking outlining suggested SIP revision requirements for states contributing to ozone transport in the eastern United States.³⁶ The EPA's proposed rules will force New York and other states to adopt SIP measures ensuring that they meet state-specific NOx emissions "budgets" set by the EPA.³⁷ These NOx budgets include a "highway vehicle component," prescribing the maximum highway-source

³⁴ See 62 Fed Reg. at 60,358 (describing the purpose and significance of determining conformity).

³⁵ See 62 Fed. Reg. 38,856 (July 18, 1997).

³⁶ See 62 Fed. Reg. 60,318 (November 7, 1997).

³⁷ Id.

NOx emissions permitted in each state.³⁸ The adoption of these proposed regulations, along with the more stringent NOx standards, will render all the more crucial effective air quality control in New York, and careful avoidance of activities and projects undermining NOx emissions reduction.

B. Absent Sufficient Truck-To-Rail Diversion, The Applicants' Transaction Will Significantly Harm Air Quality

Despite New York's firm commitment to improving and preventing further deterioration of its air quality, the transaction Applicants propose threatens to compromise New York's efforts in this regard. Absent Board-directed action by the Applicants to ensure that sufficient high-pollutant truck traffic diverts to rail, the transaction will have an unacceptably severe, adverse impact upon New York's air quality interests.

1. The Board Must Act To Protect System-Wide And Regional Air Quality

As discussed above, the DEIS proposes no mitigation for system-wide, regional, or New York air quality impacts resulting from transaction-related activities. SEA's failure to recommend system-wide or regional mitigation derives directly from its conclusion that predicted truck-to-rail diversions will "offset" acknowledged increases in various air pollutants. Generally speaking, truck diversions certainly do produce positive air quality impacts. The Applicants themselves champion as a major benefit of their transaction "air emissions savings . . . real-

³⁸ Id. at 60,355-58.

ized as a result of substantial truck-to-rail diversions."³⁹ "Rail transport," Applicants emphasize, "is much more fuel efficient than truck transport;" truck-to-rail diversions "[t]herefore . . . reduce fuel consumption, [and] result in reduced emission of most pollutants."⁴⁰ Indeed, Applicants claim, "[t]he most significant change in air emissions resulting from the Acquisition is the emissions decrease that would result from . . . diverted truckloads."⁴¹ As the EPA adopts additional and more stringent air emission standards, Applicants further acknowledge, "the beneficial effect of diverting freight from trucks to rail [will] . . . become even greater."⁴²

Though both Applicants and the SEA endorse and rely on air quality benefits produced by truck diversions, the magnitude of the diversions predicted to result from the subject transaction is by no means certain. To the contrary, diversion estimates provided by the Applicants, and figuring so prominently into the SEA's analysis, may seriously overstate truck traffic reductions, and correspondingly underestimate detrimental air quality impacts. Several factors point to this conclusion. To begin with, as SEA admits, CSX and NS calculated the diversion estimates used in the DEIS; SEA adopted their figures without

³⁹ CSX/NS-23 Application, vol. 6B at 17; see also CSX/NS-177 Rebuttal, vol. 2B, R.V.S. Peter A. Rutski at 3.

⁴⁰ CSX/NS-23 Application, vol. 6B at 71.

⁴¹ Id. at 81.

⁴² Id. at 102.

detailed review or additional analysis.⁴³ The Applicants, of course, have every incentive to make optimistic assumptions and judgments supporting high truck diversion figures: reduced trucking constitutes one of the transaction's major alleged benefits.⁴⁴

In addition, SEA acknowledges, "some overestimation of the truck-to-rail diversions has probably occurred."⁴⁵ "Anti-trust law principles," SEA explains, "preclude the railroads from cooperatively dividing freight transport between them."⁴⁶ "[S]ince CSX and NS [thus] independently developed their estimates of truck-to-rail diversions, there may be some double counting."⁴⁷ It is likely, in other words, that CSX and NS to some extent each predicted capturing certain same portions of current freight truck traffic; both, therefore, submitted emissions savings figures to the SEA for those diverted movements. Because only one of the two carriers could actually attract the subject truck traffic, however, their overlapping predictions distort emissions savings results.

⁴³ See DEIS, vol. 5A, App. E at E-3-4, E-15; vol. 1 at 4-54-55.

⁴⁴ See CSX/NS-23 Application, vol. 6B at 117; CSX/NS-19 Application, vol. 2A, V.S. Darius W. Gaskins, Jr.; V.S. John Q. Anderson; CSX/NS-23 Application, vol. 2B, V.S. Thomas L. Finkbiner; CSX/NS-176 Rebuttal, vol. 1 at HC-15-17; HC-463.

⁴⁵ DEIS, vol. 1 at 4-55.

⁴⁶ DEIS, vol. 1 at 4-41.

⁴⁷ DEIS, vol. 5A, App. C at C-3.

Finally, the railroads' -- and thus SEA's -- diversion projections fail to account for increased trucking that very well may result from the transaction and its aftermath. Though Applicants discount increased truck use as "minimal" and "negligible,"⁴⁸ the Applicants' plans for accommodating certain shipping and receiving markets belie this conclusion. Specifically, and in response to concerns raised by New York and the New York City Economic Development Corporation,⁴⁹ Applicants posit that the New York City metropolitan area east of the Hudson River will enjoy competitive post-transaction transportation options based on the availability of trucking. More particularly, Applicants claim that competition between CSX and NS in northern New Jersey will benefit east-of-Hudson shippers. This, they say, results from those shippers' access to the competitive New Jersey area by way of a truck connection across the Hudson River.⁵⁰ "Substantial traffic in the East-of-Hudson region," Applicants argue, "can be and/or [is] already trucked by trailer or container" to northern New Jersey.⁵¹ In the absence of competitive rail ser-

⁴⁸ CSX/NS-23 Application, vol. 6B at 17; see DEIS, vol. 1 at 4-54 (citing Applicants' conclusion that "only a negligible amount of freight would be diverted from rail to trucks or other delivery modes").

⁴⁹ See NYS-10 Comments of the State of New York, filed October 21, 1997; NYS-12/NYC-11 Joint Responsive Application of the State of New York and the New York City Economic Development Corporation, filed October 21, 1997; NYS-27/NYC-17.

⁵⁰ See CSX/NS-176 Rebuttal at HC-125-127; CSX/NS-177 Rebuttal, V.S. Joseph P. Kalt; V.S. Peter A. Rutski.

⁵¹ CSX/NS-177 Rebuttal, R.V.S. Kalt at 15 (emphasis added).

vice east of the Hudson, Applicants contemplate shippers' increased and long-term use of truck transportation to access competition on the west side. Indeed, Applicants cite "ample trucking alternatives" as justification for failing to provide those shippers with the alternative of competitive east-side rail service.⁵² This truck-oriented approach to east-of-Hudson shipping calls into question, once again, the accuracy of SEA's assumptions regarding decreased truck use, and the air quality determinations dependent on those assumptions.

In light of the very probable overestimation of truck diversion figures, SEA's conclusions regarding system-wide and regional air quality impacts are dubious at best. As a result, the Board must take independent action to ensure that transaction-related activities do not compromise system-wide and regional air quality. To this end, New York urges that the Board endorse conditions on the proposed transaction that will ameliorate air quality. In particular, New York submits that approval of the trackage rights its Responsive Application requests⁵³ would encourage the substitution of rail transportation for highway trucking, and thus contribute to the reduction of motor vehicle-related air pollution. By providing an attractive rail option to east-of-Hudson shippers, New York's proposed trackage rights operations would facilitate precisely the type of truck-

⁵² Id. at 17.

⁵³ NYS-12/NYC-11 Joint Responsive Application of the State of New York and the New York City Economic Development Corporation, filed October 21, 1997.

to-rail diversions Applicants and the SEA so strongly support. Such diversions, all concur, would bring about a corresponding reduction in truck emissions of NOx, VOCs, CO and other pollutants.

2. The Board Must Act To Protect Local Air Quality

The positive air quality impact that implementation of New York's trackage rights would entail extends beyond system-wide and regional pollution offsets resulting from truck diversions. Authorization of competitive rail service on the Hudson River's east side would also assist the New York City metropolitan area in meeting its local air pollution challenges. As discussed above, the ten counties comprising this region of the State are non-attainment areas for ozone, and in some combination, for CO and PM-10 as well. Though most of these counties received no detailed air impact review in the DEIS, several will in fact face increased post-transaction rail operations within their borders, and suffer corresponding air pollution effects.⁵⁴ The diversion of downstate truck traffic to east-of-Hudson rail transportation would assist in off-setting emissions produced by these added transaction-related activities, and advance the area's progress toward attainment status.

In addition to authorizing New York's requested trackage rights, the Board must conduct a careful review of SEA's conclusions regarding local air impacts outside of the New York metropolitan area. SEA accepts and dismisses far too readily air

⁵⁴ DEIS, Executive Summary, Attach. ES-B.

pollution increases predicted to affect attainment areas only, or result in allegedly small relative increases in emissions. This approach is inconsistent with New York's comprehensive and on-going efforts to reduce air pollution as quickly as possible state-wide, and is at odds with federal policy encouraging and mandating air pollution control measures. Incremental reductions in air pollution, and the preservation of attainment-level air quality, clearly advance the ultimate goal of achieving clean, healthy air, and should not be dismissed as insignificant or undeserving of protection.

II. Safety Concerns

A. SEA's Proposed Passenger Train Safety Mitigation Is Unnecessary and Inadvisable

As Metro-North's Comments discuss, SEA's proposed passenger train "priority" designation would do little to improve safety on lines shared by freight and passenger traffic. More sophisticated and reliable control systems and signals exist that guard against train collisions, and ensure compatible operation of multiple trains on the same track. New York's Port Jervis line is equipped with such modern control devices, and would not benefit from the SEA's well-intended but cumbersome and minimally effective mitigation measure.

Metro-North also points out, and New York agrees, that imposition of a 30-minute clearance "window" will reduce the capacity of the subject line. New York supports Metro-North's position that this effect threatens to impede planned future

expansion of passenger service on the Port Jervis Line, and endorses Metro-North's opposition to the mitigation on this ground. New York, like Metro-North, intends to increase passenger train service on other lines through the State in coming years,⁵⁵ and views priority designations as incompatible with maximum efficient use of those rail lines. New York respectfully submits that the Board should reject the priority mitigation SEA suggests.

CONCLUSION

As outlined above, the DEIS does not adequately investigate the proposed transaction's likely harmful effects on system-wide, regional, and New York air quality. New York urges the Board to re-examine the SEA's findings, focusing on the issues identified by these Comments, and adopt conditions facilitating the preservation and improvement of air quality. In addition, New York asks that the Board reject SEA's recommended

⁵⁵ See NYS-10 Comments, V.S. James A. Utermark at 17-19.

passenger safety mitigation, as its problematic effects outweigh any benefits to rail safety it may have.

Respectfully submitted,

THE STATE OF NEW YORK BY AND
THROUGH ITS DEPARTMENT OF
TRANSPORTATION

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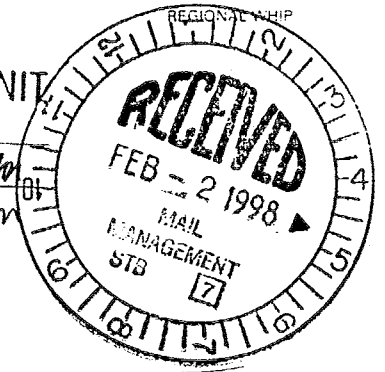
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Congress of the United States
House of Representatives
Washington, DC 20515

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February 2, 1998

By Hand Delivery

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

Dear Secretary Williams:

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

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

Thank you.

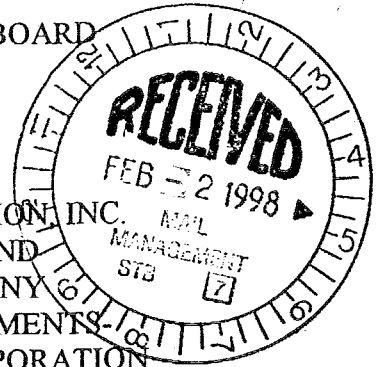
Sincerely,

Jerrold Nadler
Jerrold Nadler
Member of Congress

BEFORE THE SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

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



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

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

INTRODUCTION

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

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

APPLICABLE STANDARDS

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

...
(2) assure for all Americans, safe, healthful, productive and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

...
(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities;

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

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

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

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

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

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

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

PRELIMINARY STATEMENT

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

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

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

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

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

AIR QUALITY AND ENVIRONMENTAL JUSTICE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSION

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

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

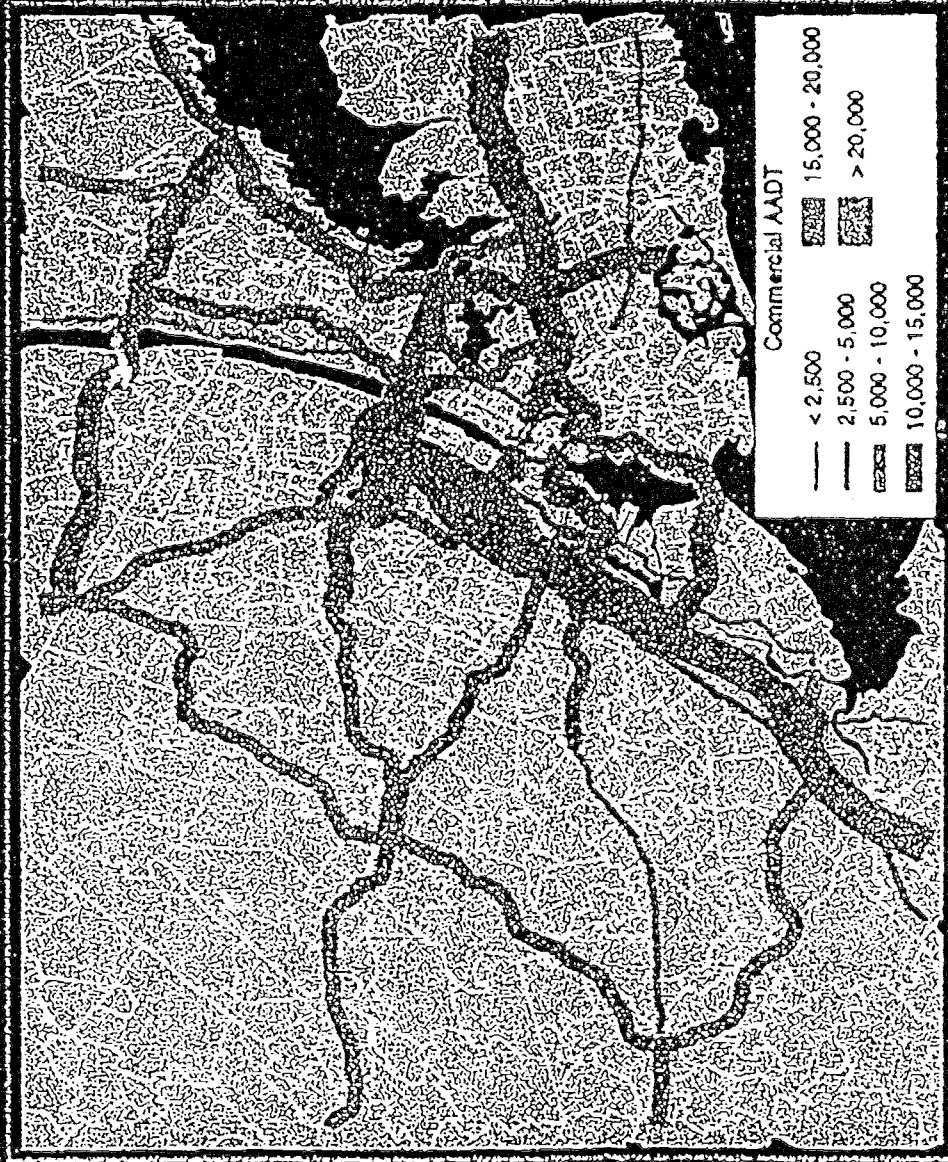
Dated, New York, N.Y.
January 30, 1998

Respectfully submitted
McHugh & Sherman
Attorneys for the Congressional Delegation

John F. McHugh, Esq.
20 Exchange Place
New York, N.Y. 10005
212-483-0875

Exhibit A

Regional Truck Volumes Annual Average Daily Truck Traffic (1993/94)





CENTRAL ADMINISTRATIVE UNIT
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DOCUMENT # 12/30/97 9:04:06 AM

North Carolina
Department of Administration

James B. Hunt, Jr., Governor

Katie G. Dorsett, Secretary

December 18, 1997

Ms. Elaine Kaiser
Surface Transportation Board
Office of the Secretary
Case Control Unit, Fin. Doc. 33388
1925 K Street, N.W.
Washington DC 20423-0001

Dear Ms. Kaiser:

Subject: Draft Environmental Impact Statement - Proposed Acquisition of Conrail by Norfolk
Southern Railroad and CSX Railroad

The N. C. State Clearinghouse has received the above project for intergovernmental review. This project has been assigned State Application Number 98-E-0000-0404. Please use this number with all inquiries or correspondence with this office.

Review of this project should be completed on or before 01/29/1998. Should you have any questions, please call (919)733-7232.

Sincerely,

A handwritten signature in cursive script that reads "Jeanette Furney".

Ms. Jeanette Furney
Administrative Assistant

1/29/98 2:16:24

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CITY OF ROCKY MOUNT



January 22, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW, Room 500
Washington, DC 20423-0001

Attention: Elaine K. Kaiser
Chief, Section of Environmental Analysis
Environmental Filing

Dear Ms. Kaiser:

We have received the draft Environmental Impact Statement for the proposed acquisition of Conrail by Norfolk-Southern Railroad and CSX Railroad. We have the following concerns that we would like to have addressed in considering this acquisition:

1. Long Delays at Downtown Crossings

For many years now, we have been concerned about the length of time required for freight trains to clear the crossings in the central business district of the City of Rocky Mount. These crossings are known locally as East Grand, Goldleaf, Thomas, Sunset-Tarboro, Hill-Western, Nash-Marigold, and Bassett. The north bound freights clear these crossings in a reasonable time period, but the southbound freights slow to a crawl as the trains enter the yard on the south end of town. We have tried without success to encourage CSX to make whatever improvements are required on the south end so that southbound trains could clear the downtown crossings more timely. According to the Environmental Impact Statement, the merger will increase the number of freight trains significantly and we believe this increase will exacerbate this long-standing concern over long delays at these rail crossings.

The long delays at these rail crossings are of concern for these reasons:

- a) The City of Rocky Mount's population of 58,000 is split by the railroad tracks in the ratio of one-third to two-thirds. Long delays at crossings result in delayed public safety (police, fire and rescue) response to calls for help as public safety vehicles must take "the long way around" to get to the scene of the call.
- b) The City operates a fixed route bus transportation service. Long delays at crossings disrupt the service schedule which adversely affects the reliability of the public transit service.
- c) Like many cities in North Carolina and in the US, Rocky Mount's central business district has sustained the loss of retail business to the suburban malls and shopping centers. Our efforts to revitalize the central business district are made difficult by the phenomenon of long delays at crossings. Increased delays will increase this difficulty as existing and prospective business operators realize that the railroad is a barrier to customers. It is important to realize that the CSX main line bisects Main Street.

Rocky Mount has a very limited number of separated crossings available as alternative routes for public safety, public transit, and general motorists. The Raleigh Road (Highway 97) overpass is considered adequate. However, the Sutton Road underpass and the Riverside Drive underpass are completely inadequate as they are remotely situated and will handle only automobiles and pickup trucks. The Sutton Road tunnel floods out very frequently and will accommodate only one lane in one direction at a time. We have engaged a traffic engineering consulting firm to study alternative locations for separated crossings and 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.

2. Hazardous Materials

Appendix A-1 of the environmental impact study indicates a significant increase in the number of cars and number of tons of hazardous materials through Rocky Mount (Segments C-334 and C-335). We have been fortunate not to have had an accident in the central business district, but the increase that will result from the acquisition is of great concern to us.

3. Passenger Rail Safety

Table 5-2 (pages 5-31) indicates an expected increase in the number or frequency of passenger train accidents in our area (Segment C-334). We are greatly concerned about this as we have been working to upgrade our AMTRAK passenger station so that travel by train will become more attractive as a mode of transportation. The passenger station at Rocky Mount boards and debords approximately 50,000 passengers per year from our area.

Related to this concern is the effect of increased freight traffic on AMTRAK schedules. Passengers frequently complain about late trains. Reliability of service is important to the attractiveness of AMTRAK as a mode of transportation and we believe that increased freight traffic will exacerbate the problem of unreliability of scheduled service.

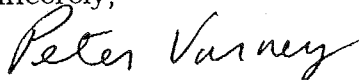
4. Crossing Safety

For several years, we have experienced problems with the gates at the downtown crossings going down randomly with no train in sight. We have kept data on this situation and a summary is enclosed.

This mysterious and random activation of the crossing gates results in anger and frustration by motorists and we believe the reduced respect for the protection equipment increases the frequency of "gate-running." We are greatly concerned about crossing safety and reliability of equipment is important to maintain respect for safety measures. We have expressed our concern to CSX about this, but the random gate activation continues year after year. We would like to have this situation addressed before you allow the acquisition to proceed.

We appreciate the opportunity to comment on the Environmental Impact Statement and we hope you will give our concerns serious consideration.

Sincerely,


Peter F. Varney
Assistant City Manager

wea

Enclosure

c Lyman Cooper, CSX Transportation
Paul Worley, NCDOT

**CITY OF ROCKY MOUNT, NORTH CAROLINA
SUMMARY OF DATES, TIMES, AND LOCATIONS
WHEN THE GATES DROP AND NO TRAIN IS COMING**

DATE	TIME (HRS)	STREET CROSSING
1-23-95	0319	MAIN & HILL
1-27-95	0700	MAIN & NASH
8-14-95	1600	PENDER & SOUTH
4-10-95	0720	MAIN & HILL
1-7-96	1011	MAIN & GOLDLEAF
2-9-96	0315	MAIN & SUNSET
3-10-96	1640	MAIN & TARBORO
6-4-96	2123	BASSETT
7-12-96	1318	FAIRVIEW & DENTON
7-12-96	2022	MAIN & WESTERN
9-10-96	1625	MAIN & TARBORO
9-11-96	0644	MAIN & SUNSET
9-11-96	0805	MAIN & SUNSET
9-11-96	0834	MAIN & SUNSET
11-1-96	1624	E. GRAND
1-7-97	1906	E. GRAND
1-11-97	0715	E. GRAND
1-28-97	0810	MAIN & SUNSET
1-29-97	1546	MAIN & SUNSET
2-13-97	1025	MAIN & SUNSET
2-13-97	1041	BASSETT STREET
3-9-97	1624	E. GRAND
3-9-97	1726	E. GRAND
3-22-97	1654	E. GRAND
3-24-97	1106	ALL CROSSINGS DOWNTOWN
5-21-97	1028	MAIN & WESTERN
6-2-97	1207	MAIN & GOLDLEAF
6-10-97	1428	E. GRAND
6-10-97	1440	E. GRAND
6-19-97	1812	BASSETT
7-15-97	1303	BASSETT
7-22-97	1330	BASSETT
8-13-97	1228	BASSETT
9-5-97	1221	MAIN & HILL
9-12-97	1727	BRANCH
9-23-97	1155	MAIN ST. (BATTLEBORO)
9-23-97	1239	MAIN ST. (BATTLEBORO)
9-23-97	1620	MAIN & NASH
12-29-97	0525	PENDER STREET

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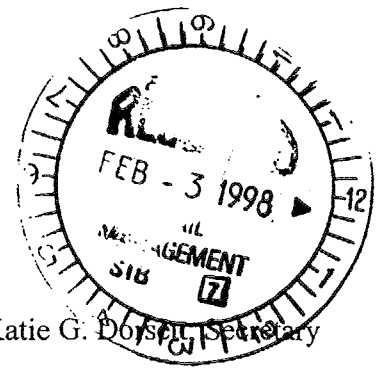
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North Carolina

Department of Administration



James B. Hunt, Jr., Governor

January 29, 1998

Katie G. Dorsey, Secretary

Ms. Elaine Kaiser
Surface Transportation Board
Office of the Secretary
Case Control Unit, Fin. Doc. 33388
1925 K Street, N.W.
Washington, DC 20423-0001

**ENVIRONMENTAL
DOCUMENT**

Dear Ms. Kaiser:

Re: SCH File # 98-E-0000-0404; Draft Environmental Impact Statement Proposed Acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad

The above referenced project has been reviewed through the State Clearinghouse Intergovernmental Review Process. No comments were made by any state or local agency in the course of this review.

Should you have any questions, please do not hesitate to call me at (919) 733-7232.

Sincerely,

A handwritten signature in cursive script that reads "Chrys Baggett".

Mrs. Chrys Baggett, Director
N. C. State Clearinghouse

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ENVIRONMENTAL
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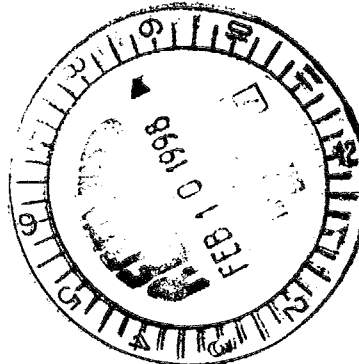
North Carolina Department of Administration

James B. Hunt Jr., Governor

Katie G. Dorsett, Secretary

February 3, 1998

Ms. Elaine K. Kaiser, Chief
Office of the Secretary
Case Control Unit
STB Finance docket No. 33388
1925 K Street, N.W.
Washington, D.C. 20423-0001



Dear Ms. Kaiser:

Re: Finance Docket No. 33388-CSX and Northern Southern -Control and Acquisition
of Conrail **DEIS**: Distribution List of Environmental Documents

The N.C. State Clearinghouse sent you a letter December 2, 1997 requesting that environmental documents relating to the above referenced acquisition be forwarded to this office for distribution to the affected counties. At that time we did not realize the number of counties that were potentially affected by this proposed action. The volume of this mailing resulted in a less effective method of handling both in terms of time and cost.

Therefore, I am requesting that future documents issued on this matter be sent directly to the County Managers on your list. The State Clearinghouse would like to continue to receive twenty (20) copies for distribution to state agencies.

Thank you for your cooperation in this matter. Please call if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Chrys Baggett".

Ms. Chrys Baggett, Director
N.C. State Clearinghouse

A-348-d

116 West Jones Street • Raleigh, North Carolina 27603-8003 • Telephone 919-733-7232
State Courier 51-01-00

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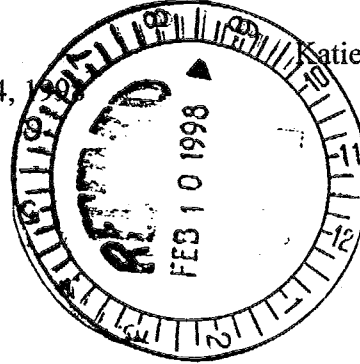
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ENVIRONMENTAL DOCUMENT

Department of Administration

James B. Hunt, Jr., Governor

February 4, 1998 Katie G. Dorsett, Secretary



Ms. Elaine Kaiser
Surface Transportation Board
Office of the Secretary
Case Control Unit, Fin. Doc. 33388
1925 K Street, N.W.
Washington, DC 20423-0001

Dear Ms. Kaiser:

RE: SCH File # 98-E-0000-0404; Draft Environmental Impact Statement Proposed Acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad

The above referenced project has been reviewed through the State Clearinghouse Intergovernmental Review Process. Attached to this letter are comments received after the original response due date. Please take these comments into consideration in future project development.

Should you have any questions, please do not hesitate to call me at (919) 733-7232.

Sincerely,

Mrs. Chrys Baggett, Director
N. C. State Clearinghouse

Attachments

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES



JAMES B. HUNT JR.
GOVERNOR

WAYNE McDEVITT
SECRETARY

MEMORANDUM

TO: Chrys Baggett
State Clearinghouse

FROM: Melba McGee ✓
Project Review Coordinator

RE: 98-0404 CSX and Conrail Merger - Railroad Traffic
Increase, Northampton and Union County

DATE: January 30, 1998

The Department of Environment, Health, and Natural Resources has reviewed the proposed project.

We ask that careful consideration be given to the concerns provided by our staff. Of particular interest, is departmental scoping comments not being addressed and eliminated from the Draft Environmental Impact Statement.

Your continued efforts for interagency cooperation are greatly appreciated.

Thank you for the opportunity to respond.

attachments

RECEIVED


JAN 30 1998

N.C. STATE CLEARINGHOUSE

Division of Air Quality
January 13, 1998

MEMORANDUM

TO: Melba McGee
Office of Legislative and Intergovernmental Affairs

FROM: Alan Klimek, Director 

SUBJECT: Project No. 98-E-0404
Environmental Assessment
Draft Environmental Impact Statement
Proposed Conrail Acquisition

The Division of Air Quality has reviewed the above document. The Impact Statement evaluates the potential environmental effects of the proposed acquisition of Conrail, Inc. and Consolidated Rail Corporation by CSX Corporation and CSX Transportation, Inc. and Norfolk Southern Corporation and Norfolk Southern Railway Company. This proposed action would include railways in North Carolina. An air quality permit is not required for this permit.

In addition, the contractors should take care to comply with open burning provisions during any land clearing. Adequate wetting, reseeding and covering of disturbed areas should be utilized during earth moving operations to mitigate any adverse impact from fugitive dust emissions.

Should you require further information in this regard, please advise.

c: Holly Groce

conrail.spp

State of North Carolina
Department of Environment,
Health and Natural Resources
Division of Water Quality

James B. Hunt, Jr., Governor
Jonathan B. Howes, Secretary
A. Preston Howard, Jr., P.E., Director



February 14, 1997

MEMORANDUM

TO: Melba McGee

FROM: Michelle Suverkrubbe *MS*

THROUGH: Alan Clark *AC*

RE: Comments on DEHNR # 97-0456; DWQ#11495
CSX and Conrail Merger - Railroad Traffic Increase; Scoping Request;
Northampton and Union Counties

The Division of Water Quality (DWQ) has reviewed the proposed projects described in the scoping package described above. As described in the document, an Environmental Report (ER) will be prepared in support of a merger request between CSX Corp. and Conrail Inc. Railroads. It is assumed the ER will address the anticipated rail traffic changes expected on two spurs located in Northampton and Union Counties in North Carolina. The WQ Division has the following comments on the proposal:

- a. The portion of the project within Northampton County will occur along the Seaboard Coast Line, which parallels Hwy. 301 between Weldon, NC and Emporia, VA, downstream of Roanoke Rapids Lake, a water supply for Roanoke Rapids and Weldon. The project will not cross any surface waters designated for use as water supplies.

The portion of the railroad within North Carolina spans both the Roanoke and the Chowan River Basins. The portion of the project area within the Roanoke River Basin lies within the Roanoke River Watershed, Sub basin #03-02-08, and is below the intakes for any surface water supplies. The portion of the project within the Chowan River Basin (Meherrin River Watershed, Subbasin # 03-01-02) Basin has been identified as having Nutrient Sensitive Waters (NSW). The Meherrin River was identified in 1995 as supporting its uses and with good biological water quality. No surface water supplies exist in the Chowan River Basin. Major streams crossed by this rail line include:

<u>Stream Name</u>	<u>River Basin</u>	<u>Surface Water Classification</u>	<u>Use Support Rating</u>
Jacks Swamp	Chowan	Class C - NSW	Support Threatened
Roanoke River	Roanoke	Class C	Supporting

- b. The portion of the project within Union County will occur approximately parallel to Hwy. 75 between Hancock, SC and Monroe, NC, through Haxhaw, NC.

The portion of the railroad within North Carolina spans both the Catawba and the Yadkin Pee Dee River Basins. The portion of the project area within the Catawba River Basin lies within the Waxhaw Creek Watershed, Subbasin #03-08-38 and crosses tributaries of the East and West Forks of Twelvemile Creek, which is rated as partially supporting its uses. The portion of the project within the Yadkin Pee Dee River Basin is located within the Richardson Creek Watershed, Subbasin # 03-07-14. It appears that the rail line crosses a tributary to Bearskin Creek, classified as Class C. The project is partially within the protected area for the Richardson Creek Water Supply Watershed, which has a classification of WS-IV and supplies public water supply to the City of Monroe. Major streams crossed by this rail line include:

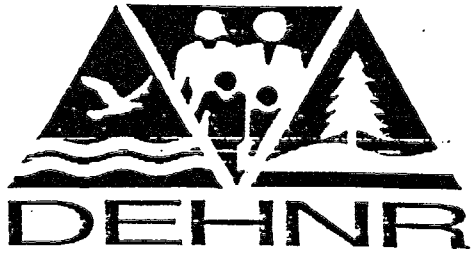
<u>Stream Name</u>	<u>River Basin</u>	<u>Surface Water Classification</u>	<u>Use Support Rating</u>
West Fork of Twelvemile Creek	Catawba	Class C	Undetermined
East Fork of Twelvemile Creek	Catawba	Class C	Undetermined
Bearskin Creek	Yadkin	Class C	Not Available

- c. Increases in railroad traffic may produce additional quantities of chemicals from normal train operations that may be spread, through stormwater events, from the train tracks into surrounding surface waters. The Environmental Report should identify and quantify the amounts (if possible) of all potential chemicals that may leak out of operating trains (from both cargo being hauled and the trains themselves) or be used on the tracks by the train companies during normal operations, such as oils, greases, toxics and salts. The report should also evaluate the potential to surface water quality possible from these chemical inputs, including effects on aquatic life and surface drinking water sources.
- d. As train traffic increases, so does the likelihood of derailments and collisions. The ER should evaluate the potential risk of these incidents on surface water quality in the project areas. The report should identify and implement appropriate mitigation measures into the project to assure protection of surface water quality.

Please give me a call at 919-733-5083, ext. 567 if you have any questions.

mls:970456

State of North Carolina
Department of Environment,
Health and Natural Resources
Division of Water Quality



James B. Hunt, Jr., Governor
Jonathan B. Howes, Secretary
A. Preston Howard, Jr., P.E., Director

March 26, 1997

MEMORANDUM

FILE COPY

TO: Melba McGee
FROM: Michelle Suverkubbe *MS*
THROUGH: Alan Clark *AC*
RE: Comments on DEHNR # 97-0552; DWQ #11534
CSX and Conrail Merger - Railroad Traffic Increase;
Scoping Request from Frisco, VA to Bostic, NC;
Multiple Counties

The Division of Water Quality (DWQ) has reviewed the proposed project described in the scoping package described above. As described in the document, an Environmental Report (ER) will be prepared in support of a merger request between CSX Corp. and Conrail Inc. Railroads. It is assumed the ER will address the anticipated rail traffic changes expected on the CSX rail segment located between the towns of Frisco, Virginia and Bostic, North Carolina. The WQ Division has the following comments on the proposal:

- a. The project will transverse Mitchell, McDowell and Rutherford Counties in North Carolina. The project extends the entire N-S width of the state at this location and transverses the Broad, Catawba and French Broad River Basins. The southern portion of the project area lies within the Broad River Watershed, Subbasin #03-08-02. Within this river basin (mostly located within Rutherford County), the project may potentially cross surface waters designated for use as water supplies. The middle portion of the project lies within the Catawba River Basin (Subbasin # 03-08-30), while the northern portion of the project within North Carolina lies within the French Broad River Basin (Subbasin # 04-03-06).

Major rivers crossed or paralleled by this spur include the Second Broad River, the Broad River, the Catawba River, and the North Toe River. The project also appears to cross several other small tributaries of these river systems.

For important information on the existing classifications, use support ratings and quality of the surface waters potentially impacted by the proposed project, please see the enclosed Basinwide Water Quality Management Plans for the French Broad and the Catawba River Basins. The Broad River Basinwide management plan is not yet completed.

- b. Increases in railroad traffic may produce additional quantities of chemicals from normal train operations that may be spread, through stormwater events, from the train tracks into surrounding surface waters. The Environmental Report should identify and quantify the amounts (if possible) of all potential chemicals that may leak or spill out of operating trains (from both cargo being hauled and the trains themselves) or be used on the tracks by the train companies during normal operations, such as oils, greases, toxics and salts. As train traffic increases, so does the likelihood of derailments, spills, collisions and accidents. The report should evaluate the potential to surface water quality possible from these chemical inputs, including effects on aquatic life and surface drinking water sources. The ER should also evaluate the potential risk of these incidents on surface water quality, including drinking waters, in the project areas. The report should discuss and include appropriate mitigation measures into the project to assure protection of surface water quality from these incidents.

Please have the project applicant give me a call at 919-733-5083, ext. 567 if they have any questions.

mls:\970552
enclosed plans -
French Broad
Catawba



North Carolina Wildlife Resources Commission

512 N. Salisbury Street, Raleigh, North Carolina 27604-1188, 919-733-3391
Charles R. Fullwood, Executive Director

MEMORANDUM

TO: Melba McGee, Environmental Coordinator
Office of Legislative and Intergovernmental Affairs

From: Owen F. Anderson, Piedmont Region Coordinator
Habitat Conservation Program

Date: January 29, 1998

SUBJECT: Draft Environmental Impact Statement for Proposed Acquisition of Conrail by
CSX and Norfolk Southern, Statewide Project, NC 98-E-0404

Staff biologists with the North Carolina Wildlife Resources Commission have reviewed Chapter 5, Volume 3B of the Environmental Impact Statement (EIS) for potential impacts to fish and wildlife resources and sensitive habitats in North Carolina. Our comments are provided in accordance with provisions of the National Environmental Policy Act (42 U.S.C 4332(2)(c)) and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C 661-667d), and the North Carolina Environmental Policy Act (G.S. 113A-1 through 113A-10; 1 NCAC 25).

We had previously provided scoping comments on this project on three occasions and expressed concerns about particular segments of certain rail lines involved in this acquisition and about impacts from intermodal facilities. However, we could not find any reference to scoping comments provided by our agency.

We are pleased that the acquisition will not have any adverse impact on the State of North Carolina's plans for use of some rail corridor for intercity and commuter rail service in the Raleigh, Durham and Greensboro corridor.

There is no analysis of impacts for natural resources in North Carolina. The applicants have indicated that no CSX or Norfolk Southern (NS) rail yards or intermodal facilities in North Carolina will experience increased traffic or activity that would meet or exceed the Surface Transportation's Board thresholds for environmental analysis and that there are no new connections or proposed abandonment. CSX and NS anticipate, due to predicted truck-to-rail diversions, North Carolina would experience a benefit in the areas of emissions, noise, and safety. The document states that no analysis would be performed for natural resources since no new construction or abandonment would occur in North Carolina. However, the Board determined that six rail line segments in North Carolina would experience significant increases in annual car loads of hazardous materials and two lines would become major key routes. Major key routes are those that would show a doubling of annual cars of hazardous materials and exceed 20,000 cars annually.

Conrail-CSX,-NS Merger
98-E-0404

2

January 29, 1998

We do not follow the reasoning of the Board to evaluate the impacts of the hazardous materials transport on a line segment but not consider the impacts of this increase traffic on natural resources of an area. Also, it seems logical that just based on the increased traffic of hazardous material in certain segments, Hamlet to Monroe (increase from 26,000 to 60,000 cars annually) and (Monroe to Clinton, SC increase of 14,000 to 49,000 cars annually) that there would be a corresponding increase in traffic at area rail yards or intermodal facilities. However, the document states that no threshold is exceeded for evaluation of environmental impacts for these facilities.

We request that our scoping comments be acknowledged and entered into the record. We have included them as an attachment.

We appreciate the opportunity to comment on this Draft EIS. If we can provide further assistance, please contact our office at (919) 528-9886.

OFA/ofa

Attachments: (Memo O. Anderson to Melba McGee, Feb. 14, 1997)
(Letter O. Anderson to Julie Sanford, Jan. 31, 1997)



⊠ North Carolina Wildlife Resources Commission ⊠

512 N. Salisbury Street, Raleigh, North Carolina 27604-1188, 919-733-3391
Charles R. Fullwood, Executive Director

MEMORANDUM

TO: Melba McGee,
Office of Legislative and Intergovernmental Affairs

FROM: Owen F. Anderson, *Owen F. Anderson*
Piedmont Region Coordinator
Habitat Conservation Program

DATE: February 14, 1997

SUBJECT: Scoping comments for CSX-Conrail Consolidation, Project No. 97-0456

Staff biologists with the North Carolina Wildlife Resources Commission have reviewed the subject document. Our comments are provided in accordance with certain provisions of the National Environmental Policy Act (42 U.S.C. 4332 (2) (c)), the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661-667d) and the North Carolina Environmental Policy Act (G.S. 113A-1 through 113A-10; 1 NCAC 25).

We do not expect significant adverse impacts to fish and wildlife resources or their respective habitats; since the facilities are already in place and are currently in use. However, the route does cross several streams including the Roanoke River. Therefore, accidents or spills along the route or at any intermodal facilities and stormwater runoff from intermodal facilities have the potential to cause significant adverse impacts to aquatic and terrestrial habitats of North Carolina.

The Roanoke River lies directly beneath the railroad line that is being considered for consolidation. This river provides important habitat for numerous species of fish and other aquatic organisms and associated terrestrial wildlife. The Roanoke River downstream of the rail corridor provides important spawning habitat for anadromous fish, including striped bass and hickory shad.

Waxhaw Creek in Union County, North Carolina and Lancaster County, South Carolina provides habitat for the Carolina heelsplitter, a federally and state listed endangered freshwater mussel. Although it does not appear that the rail line crosses Waxhaw Creek in North Carolina, toxic spills to tributaries or within the watershed within North Carolina or in the immediate downstream stretches in South Carolina could have significant impacts to this endangered species.

We request that the following items be addressed in the environmental report:

1. Discuss any secondary development expected with increase movement of freight. This would primarily be associated with intermodal facilities.

CSX-Conrail Consolidation

2

February 14, 1997

2. Discuss the practices and facilities that will be installed to address typical stormwater runoff from any intermodal facilities.
3. Discuss procedures and facilities that will be installed at intermodal facilities to contain toxic material in the event of a spill or an accident.
4. Provide information on what procedures and equipment that will be in place to contain hazardous materials from spills into terrestrial and aquatic habitats, including lakes and rivers. This discussion should place special emphasis on the impacts to anadromous fish in the Roanoke River and the Carolina heelsplitter in Waxhaw Creek.

We appreciate the opportunity to provide input during the early stages of this proposed acquisition. If we can be of further assistance, please contact Wayne Jones at (919) 443-3536 or me at (919) 528-9886.

TWJ/OFA/ofa

cc: John Hefner, Supervising Biologist, USFWS



☒ North Carolina Wildlife Resources Commission ☒

512 N. Salisbury Street, Raleigh, North Carolina 27604-1188, 919-733-3391
Charles R. Fullwood, Executive Director

January 31, 1997

Ms. Julie Sanford
Burns & McDonnell
9400 Ward Parkway
Kansas City MO 64114

Subject: Increased Train Traffic Associated with Proposed Merger
of Norfolk Southern Corporation with Conrail

Dear Ms. Sanford:

Biologists on our staff have reviewed the Danville VA to Blacksburg SC route. It is our understanding that an increase of three trains per day is anticipated and that no new facilities are planned at this time.

We would not expect significant adverse impacts to fish and wildlife resources or their respective habitats; since the facilities are already in place and are currently in use. However, the route does cross a number of streams and lakes; therefore, accidents or spills along the route or at intermodal facilities and stormwater runoff from intermodal facilities have the potential to cause significant adverse impacts to aquatic and terrestrial habitats of North Carolina.

We would request that the following items be addressed in the environmental report:

1. Discuss any secondary development expected with increase movement of freight. This would primarily be associated with intermodal facilities.

January 31, 1997

2. Discuss the practices and facilities that will be installed to address typical stormwater runoff from intermodal facilities.
3. Discuss procedures and facilities that will be installed at intermodal facilities to contain toxic material in the event of a spill or accident.
4. Provide information on what procedures and equipment that will be in place to contain hazardous materials from spills into terrestrial and aquatic habitats, including lakes and rivers.

We appreciate the opportunity to provide input during the early stages of this proposed acquisition. If our office can be of further assistance, please contact me at (919) 528-9886.

Sincerely,



Owen F. Anderson
Piedmont Region Coordinator
Habitat Conservation Program

Ohio Historical Center

1982 Velma Avenue
Columbus, Ohio 43211-2497
614/297-2300
Fax: 297-2411



December 17, 1997

OHIO
HISTORICAL
SOCIETY
SINCE 1885

ENVIRONMENTAL DOCUMENT

Chief, Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423

Re: Finance Docket No. 33388 -- CSX and Norfolk Southern -- Control and Acquisition --
CSX Crestline Connector Project, Crawford County, Ohio

Dear Ms. Kaiser,

This is in response to correspondence from your office dated November 26, 1997, providing the additional requested information concerning the Crest Tower. The comments of the Ohio Historic Preservation Office (OHPO) are submitted in accordance with provisions of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 [36 CFR 800]); the Surface Transportation Board (STB) serves as the lead federal agency.

The November 26, 1997, correspondence provides a detailed discussion of vibration factors caused by changes from the proposed project. Based on the information presented in the documentation, we concur with your assessment that the proposed Crestline connector project will have no effect on the Crest Tower, a property determined eligible for inclusion in the National Register of Historic Places. We feel that the correspondence makes an important distinction between cosmetic damage and the more serious issues of architectural and structural damage. If there is any cosmetic damage, the data presented in the correspondence supports the conclusion that it will be a long term development that is much more manageable than the effects of any architectural or structural damage. Therefore, this office doesn't object to the proposed construction of the Crestline connector as described in your October 15, 1997, correspondence.

Any questions concerning this matter should be addressed to David Snyder at (614) 297-2470, between the hours of 8 am. to 5 pm. Thank you for your cooperation.

Sincerely,

Mark J. Epstein, Department Head
Resource Protection and Review

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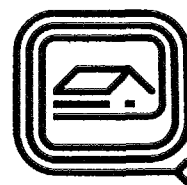
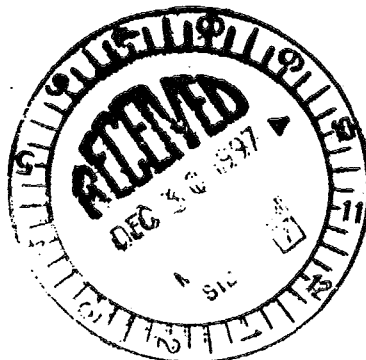
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MJE:DMS/ds

xc: Carole W. Peter, Dames and Moore
Barbara J. Harris, CSX
Barry Wharton, HDR Engineering, Inc.
Richard Starzak, Myra L. Frank & Associates, Inc.
Laura Henley Dean, ACHP

Ohio Historical Center

1982 Velma Avenue
Columbus, Ohio 43211-2497
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Fax: 297-2411



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CENTRAL ADMINISTRATIVE UNIT

REC'D: 12/30/97

DOCUMENT # 12/31/97 9:06 AM

December 19, 1997

Elaine K. Kaiser
Chief, Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423

**ENVIRONMENTAL
DOCUMENT**

Re: Finance Docket No. 33388 -- CSX and Norfolk Southern -- Control and Acquisition --
Conrail, Ohio

Dear Ms. Kaiser,

This purpose of this letter is to transmit to your office letters from four interested parties submitted to the OHPO in response to the request for public input regarding the above referenced Conrail acquisition project. The correspondence from the interested parties provides information, comments and concerns for historic preservation issues and is submitted under provisions of the National Historic Preservation Act. The comments of the Ohio Historic Preservation Office (OHPO) are submitted in accordance with provisions of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 [36 CFR 800]); the Surface Transportation Board (STB) serves as the lead federal agency.

We feel that the comments are helpful and useful, and in several cases provide the important function of extending the range of options for preservation for your consideration. Letters were received for the Norfolk Southern connector, Bucyrus, Crawford County, construction and changes in the Cleveland area, and construction and changes in the Columbus area. We have also received telephone calls regarding this project as a result of requests for public input. I believe that we were able to resolve the questions raised thus far from telephone inquiries.

The letter from the Bucyrus Historical Society has been instrumental in developing the basis for a Memorandum of Agreement for the demolition of the TOC Freight House. It is our expectation that this agreement will be drafted in the near future and submitted to this office for review.

The letter from the Cleveland Landmarks Commission raises preservation concerns for several areas including the Collinwood Yard. It is our opinion that the information and concerns help in establishing a broader context to interpret historic properties and evaluate effects in the Cleveland area. We recommend that additional consideration should be given to this part of the project. The extent of changes in the Collinwood Yard pose problems for resolving preservation concerns, and we feel that working with the Cleveland Landmarks Commission could help in framing the approaches along a broader background.

Ms. Elaine K. Kaiser
December 19, 1997
Page 2

The letter regarding the Buckeye Intermodal Terminal Yard makes a request for clarification of the Area of Potential Effects for the project. We recommend revisiting this part of the project to ensure that the area considered encompasses the full range of work and modifications.

Finally, the letter from the Glen Echo resident expresses concern for the preservation of a contributing element to the Glen Echo Historic District. We recommend that specific conditions be imposed to control construction in this area to avoid any impacts to this feature. We also recommend that the construction people contact this office when construction reaches this area so that personnel from this office can have an opportunity to monitor the construction.

Any questions concerning this matter should be addressed to David Snyder at (614) 297-2470, between the hours of 8 am. to 5 pm. Thank you for your cooperation.

Sincerely,



David Snyder, Archaeology Reviews Manager
Resource Protection and Review

DMS/ds

Attachment

xc (without attachment):

Dan Shinn, Burns and McDonnell
Bruno Maestri, NS
Carole Peter, Dames and Moore
Barbara J. Harris, CSXT
Barry Wharton, HDR Engineering, Inc.
Richard Starzak, Myra L. Frank & Associates, Inc.
Laura Henley Dean, ACHP

**ENVIRONMENTAL
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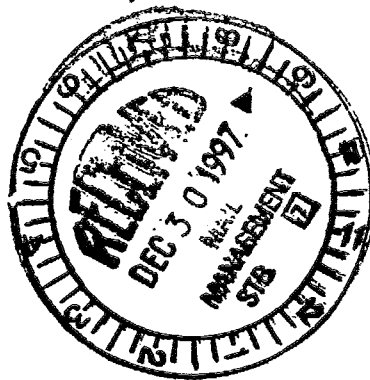
12-30-97

To whom it concerns:

We support the resolution
opposing the increase in
train traffic proposed by
Norfolk and Southern Railway
adopted by The Lakewood, OH
PTA Council.

Sincerely,

Ray & Lori Neitel, 17519 Archdale,
Lakewood, OH 44107



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ENVIRONMENTAL DOCUMENT

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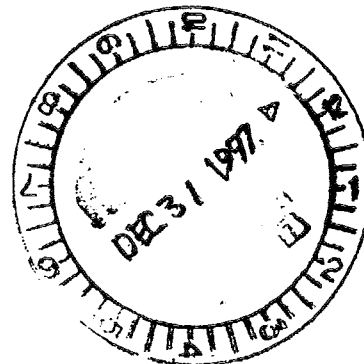
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December 22, 1997

29016 Millard Drive
Bay Village, Ohio 44140
Phone: (440) 835-3095

Ms. Elaine K. Kaiser,
Chief,
Section of Environmental Analysis,
Surface Transportation Board,
1925 K Street NW,
Washington, D. C. 20423



Dear Ms. Kaiser:

Re: FD-33388, planned increased
heavy freight traffic through
northwestern Cleveland, Ohio
suburbs

I have written before requesting termination of freight traffic along the line through Bay Village-Westlake, Ohio and other western suburbs, but I would like to reiterate that the chief safety concern is that a derailment or collision causing a derailment will result in a disaster in loss of life, injuries, and severe destruction of people's homes.

In this regard, please refer again to my letter of September 26th and the accompanying police report about a very low speed derailment in 1982 that only good fortune and a few feet averted a catastrophe.

This is an excellent example of the kind of surprise situation that can arise with so much traffic along one track as the railroads wish to have approved. It also should be noted that this apparently was not a high speed situation, and the train merely stopped to avoid a collision. If there had been a collision between train and car, most of the cars of the train could have derailed, sending them careening into backyards and even houses for a mile of residential homes. The kind of breakdown of a car that caused the derailment in 1982 could happen again at any time, especially with such a heavy increase in freight traffic and the increase in population over the past 15 years who need to use the crossings much more often than anyone did in 1982.

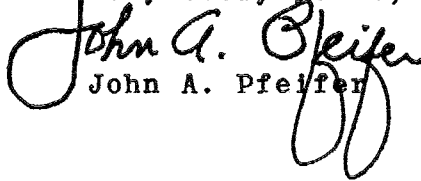
So the increased threat of crossing incidents, compounded by the increased population having to use the crossings and the increase in toxic and even atomic waste carried on the freight cars headed west, would greatly jeopardize the population living 100 feet or so from the tracks all the way from Cleveland well into adjacent Lorain County.

In the opinion of my neighbors and I, the extreme danger is not an environmental problem with clean air or vibration but of a drastically increased likelihood of a serious derailment or collision that would result in death and massive destruction of property.

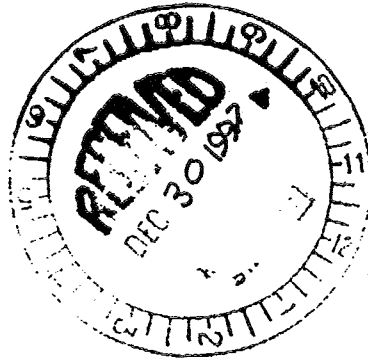
I wanted to point this out because most of the articles and letters I have read on this subject seem to be more concerned about serious but much more modest environmental and safety concerns--dirtier air, increased vibration, and an increase in individuals being struck at crossings by trains. I think the real major concern is to avoid a catastrophic case of multiple deaths, serious injuries, and extensive property damage.

As always, the judicious consideration of these dangers by you and your staff is appreciated.

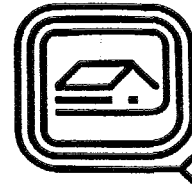
Very truly yours,


John A. Pfeiffer

1982 Velma Avenue
Columbus, Ohio 43211-2497
(614) 297-2300
Fax : 297-2411



ENVIRONMENTAL DOCUMENT



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December 24, 1997

OHIO
HISTORICAL
SOCIETY
SINCE 1885

Elaine K. Kaiser
Chief, Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423

Re: Finance Docket No. 33388 -- CSX and Norfolk Southern -- Control and Acquisition --
Conrail, Ohio

Dear Ms. Kaiser,

The purpose of this letter is to provide additional comments in response to correspondence from your office dated October 15, 1997 (received October 20) regarding the above referenced Conrail acquisition project, with additional information provided during a meeting on October 17, 1997. The correspondence provides a compilation of information and reports of identification level survey, evaluation, and assessment of effects for the Conrail acquisition project. The comments of the Ohio Historic Preservation Office (OHPO) are submitted in accordance with provisions of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 [36 CFR 800]); the Surface Transportation Board (STB) serves as the lead federal agency.

This letter provides comments on project components not specifically addressed in our comments of October 28, October 30, October 31, December 17, and December 19, 1997. Correspondence from your office includes preliminary reporting of identification survey efforts including the four documents titled: (1) "Results of the Ongoing Phase I Archaeological Survey of Proposed Railroad Construction of Connections between Conrail and Norfolk Southern Lines in Erie, Franklin, and Ottawa Counties, Ohio, and two Proposed Railroad Yard Expansions in Cuyahoga, Huron, and Seneca Counties, Ohio" by Dawn Herr, John F. Schweikart, and Jeffrey Darbee, October 10, 1997; (2) "Historic Property Report for Proposed Construction for CSX/Conrail Railroad Consolidation in Sidney, Shelby County, Ohio" by Janet L. Friedman and Geoffrey Henry, October 4, 1997; (3) "Historic Property Report for Proposed Construction for CSX/Conrail Railroad Consolidation in Greenwich, Huron County, Ohio" by Janet L. Friedman and Geoffrey Henry, October 9, 1997; and (4) "Historic Property Report for Proposed Construction for CSX/Conrail Railroad Consolidation in Crestline, Jackson Township, Crawford County, Ohio" by Janet L. Friedman and Geoffrey Henry, October 8, 1997. The correspondence also includes extensive documentation on the Toledo Pivot Bridge, and the Bucyrus T&OC Depot and Freight House properties. The comprehensive coverage and the detailed information presented, including completed inventory forms with supporting documentation and photographs, have been very helpful in completing our review of this information.

A-353-d

Ms. Elaine K. Kaiser
December 24, 1997
Page 2

The discussion of the Area of Potential Effects (APE) for the different classes of construction in this project was helpful. We feel that the usage was thorough and helped to organize identification efforts. We note that many of the concerns presented to this office reflect public views of more extensive impacts than considered under the APE. We recommend that at least in the Cleveland area you should consider expanding the area encompassed under the APE. Expansions might also be considered in the Toledo and Columbus areas. In these metropolitan areas the project extends past several historic districts, and the increases in rail traffic and other changes resulting from this project could have impacts on the setting and other defining characteristics of these historic districts.

Based on the information presented in the report, we concur with the recommendations to complete the work at the Willard Yard. It is our understanding that the work includes wetland mitigation that might include construction of a wetland in another area. Coordination with this office is recommended to determine if survey is needed in the wetland mitigation area.

Based on the information presented in the report on the Collinwood Yard, we concur that the yard is eligible for inclusion in the National Register of Historic Places. We note that there have been several significant changes in this yard that are not directly under jurisdiction of this project. We are concerned about the demolition of structures that offer unusual opportunities for adaptive reuse. It is our understanding that at least two contributing elements to the Collinwood Yard property are still intact, the Quaker Tower and the Fueling Tower. We concur with your recommendations for recordation of significant structures in the Collinwood Yard. We strongly recommend that the Cleveland Landmarks Society be involved in reviewing the recordation plans and results for the Collinwood Yard. We also recommend that you consider concerns expressed by the Cleveland Landmarks Society and discuss possible treatment alternatives with this organization.

Based on the information presented, we concur with your recommendations that the four properties (three bridges and 1 culvert) along the Toledo-Maumee Rail Line abandonment are not eligible for inclusion in the National Register of Historic Places.

We concur that the Toledo Pivot bridge is eligible for inclusion in the National Register of Historic Places. Documentation should include detailed recordation of the engineering components, and we recommend further consultation with this office concerning documentation requirements for this adverse effect.

We concur that the section proposed for work between Weber and Hudson streets in Columbus has been extensively disturbed and no additional archaeological investigations are needed. However, as noted in our December 19, 1997, letter, this project area appears to

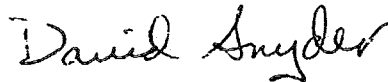
Ms. Elaine K. Kaiser
December 24, 1997
Page 3

include a contributing element to the Glen Echo Historic District and care is needed to avoid impacts. We strongly recommend further review of the proposed work in Columbus to ensure that eligible or listed properties are not impacted.

Based on the information presented in the report, we concur with the recommendations to complete the work at Oak Harbor. Also, we concur with your findings that no property eligible for inclusion or included in the National Register of Historic Places will be affected by the proposed construction at Vermilion.

Additional coordination for some components of this project is recommended, however coordination with this office has been completed for several components and we don't object to construction being initiated in these areas. Please don't hesitate to contact this office if you have any questions about coordination needs for any of the components or if you feel that clarification or specific comments on a particular component would be helpful. Any questions concerning this matter should be addressed to David Snyder at (614) 297-2470, between the hours of 8 am. to 5 pm. Thank you for your cooperation.

Sincerely,



David Snyder, Archaeology Reviews Manager
Resource Protection and Review

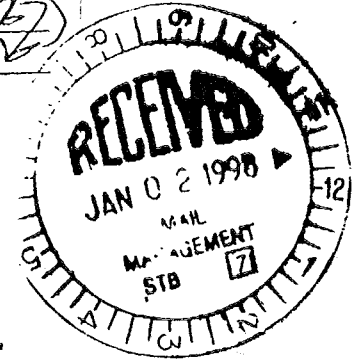
DMS/ds

xc: Dan Shinn, Burns and McDonnell
Bruno Maestri, NS
Carole Peter, Dames and Moore
Barbara J. Harris, CSXT
Barry Wharton, HDR Engineering, Inc.
Richard Starzak, Myra L. Frank & Associates, Inc.
Laura Henley Dean, ACHP

Ms. Katherine A. Ingersoll
1328 Sloane Ave
Lakewood OH 44107-3127

Surface Transportation Board
Section of Environmental Analysis
1925 K. Street N.W.
Washington, DC 20423

CENTRAL ADMINISTRATIVE UNIT
REC'D: 1/5/98 3:44:28 PM
DOCUMENT # 1/5/98



December 26, 1997

Re: Docket Number FD33388

To Whom It May Concern:

ENVIRONMENTAL DOCUMENT

I am writing in regard to the proposed acquisition of Conrail by Norfolk Southern and CSX. This merger will triple train traffic through my community of Lakewood, Ohio, one of the most densely populated cities between New York City and Chicago. The impact of this increased train traffic on our community will be devastating. I live quite close the tracks, and the noise from train whistles and rumbling train cars, the increased dust and debris will make living where I do unbearable if the number of trains is tripled.

In addition, I am appalled at the audacity of Norfolk Southern's suggestion that taxpayers assume part of the cost of rerouting this increased train traffic. In my mind, **this is tantamount to blackmail**. NS is threatening the westshore communities with a choice: either endure the increased train traffic, or pay to have the trains diverted. It reminds me of the crime bosses who demanded small business owners pay "protection costs" during the 1920s. This cannot be allowed. NS and CSX are not non profit enterprises. They should not be subsidised by taxpayers.

I beg you to use common sense. Please insure that the decent, hardworking people of the westshore communities of Cleveland, Ohio are protected from big business and its ability to negatively change our lives. The lack of regard NS and CSX has for the quality of life we have established here in our cities is just another example of how big business lacks a conscience. **We rely on you to make sure there is ethical and fair treatment of the citizens of our communities.**

PLEASE DO NOT ALLOW INCREASED TRAIN TRAFFIC THROUGH THE WESTSHORE COMMUNITIES OF CLEVELAND, OHIO.

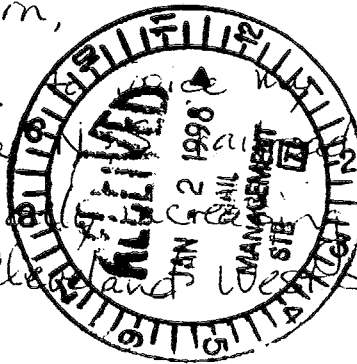
Thank you for your consideration of my request. I trust in the fairness and the clearthinking of your committee.

Sincerely,

Kathy Ingersoll
Resident, Lakewood, Ohio

To whom it may concern, December 28, 1997

I am writing in opposition of the Plan for dramatic increase in rail traffic in the Cleveland and West Shore area.



The most alarming ramifications of this proposal are the various safety issues associated with the disruption of ambulance, police, and fire department services. The obvious health and economic impact also make this proposal most unwelcome.

Please carefully consider these issues prior to your decision in June. Please choose to re-route increased ~~for~~ traffic through less densely populated areas.

Best Regards,

Lena Macfarlane

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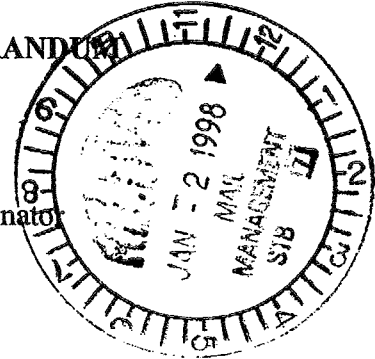
NORTHEAST OHIO FOUR COUNTY REGIONAL PLANNING & DEVELOPMENT ORGANIZATION
969 Copley Road, Akron, Ohio 44320-2992 (330) 836-5731 • Fax (330) 836-7703

Christopher Smeiles, Chairman

Joseph Hadley, Jr., Executive Director

INTERGOVERNMENTAL REVIEW MEMORANDUM

TO: Elaine K. Kaiser, Environmental Project Director
FROM: Sylvia Chinn-Levy, Intergovernmental Review Coordinator
DATE: December 29, 1997
SUBJECT: Intergovernmental Review Initiation



PROJECT TITLE: Proposed Conrail Acquisition - Draft EIS
PROJECT RAI NO: OH971217-0198-DEIS

CENTRAL ADMINISTRATIVE UNIT
REC'D: 1/5/98
DOCUMENT # 1/5/98 348.231

INTERGOVERNMENTAL REVIEW COMMITTEE MEETING: January 15, 1998

NEFCO has received the above mentioned project for initiation into the Intergovernmental Review (IGR) Process. According to the adopted IGR procedures, the NEFCO staff will initially review the project, gather comments from interested parties in the affected areas and present this information to the IGR Committee for consideration at **9:30 a.m., in the NEFCO Conference Room, on the date listed above.**

The IGR Committee recommendation will then be made to the NEFCO General Policy Board for official action, with the results of this meeting forwarded to your organization for IGR termination.

If you have any further questions concerning the Intergovernmental Review of your project, please feel free to call me.

Serving as the Area Clearinghouse for Summit County

ENVIRONMENTAL DOCUMENT



January 2, 1997

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW, Room 500
Washington, DC 20423-0001

CENTRAL ADMINISTRATIVE U
REC'D: 1/15/98
DOCUMENT # 1/19/98 11:59:12

Attn.: Elaine K. Kaiser
Chief, Section of Environmental Analysis
Environmental Filing

Dear Ms. Kaiser:

I am writing on behalf of the Village of Wellington, Ohio, Mayor Barbara O'Keefe and Wellington Council Members regarding the proposed merger of CSX and Norfolk and Southern Railroads in an attempt to acquire certain Conrail properties. Obviously, any municipality that will be affected by this merger will have concerns as to how this proposed project will impact their community. This is why I am writing.

I feel that due to Wellington's proximity to the railroad, we will incur much greater environmental impacts than others. I am attaching a map so that you can better visualize the potential problems. As you can see, our Village is dissected by two state routes; Route 58 runs north and south, while Route 18 runs east and west. The point at which these two routes intersect is our central business district and the location of our only traffic light. There is already heavy traffic and by having the two state routes we experience a lot of truck traffic as well. Route 58 is classified as Lorain County's north-south corridor to Route 71.

Please note that the railroad in question intersects both Route 58 and Route 18 less than 1/4 mile away from our one traffic light, so needless to say, we currently experience significant disruption in traffic flow. With the proposed increase in trains traveling through Wellington of 14.5 -54.16 (Berea to Greenwich), traffic could be at a complete standstill for lengthy periods of time!!

Such disruption of traffic is more than just an aggravation or an inconvenience; this would contribute to loss of sales for downtown businesses and cause untimely delivery of services. While it is certainly frustrating for school bus drivers transporting children, employees trying to get to work and drivers trying to make deliveries, 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.** Our town is split in half by these railroads with the police and ambulance on one side and the Fire Department on the other. Our Fire Department does have two small trucks housed on the other side of the tracks, but they would not provide adequate coverage for a house or business fire.

Wellington Fire Department is responsible for approximately 125 square miles of rural area in this southernmost part of Lorain County. The tracks running through town which include 7 crossings, do not present the only stumbling block for our department; there are 22 other crossings in our district that may need to be negotiated when traveling to the scene of a fire. Fire calls in 1997 totaled 362 as of December 29. These same circumstances prevail for our ambulance squad. Last year alone they made in excess of 700 runs. Both fire and ambulance are run by volunteers, so when the siren sounds it is imperative that those in town respond to the call. Depending on the seriousness of the call, police are often requested for traffic control at the scene. These services are **severely compromised by untimely arrivals due to train delays.**

Another area of major concern is that of unguarded crossings. As previously mentioned, there are 29 crossings that need to be negotiated in our area. One death is too many; Wellington has had 4 in the past 8 years! There were two fatalities in 1989 at the Barker Street Crossing. Most recently in 1992, 4 teenagers were involved in a car/train accident that resulted in two deaths. With the proposed **increase** in the number of trains from 14.5 -54.16, we feel such risk is elevated. It took the deaths of two young men to get lighted crossings gates at the Webster Road crossing; we do not want to experience such tragedy again. We want to feel safer knowing that our residents and those simply passing through and not familiar with the area, are better protected.

We would be remiss if we failed to mention our concern over the transporting of hazardous materials through our area. Again, **proximity** to the railroad places us at **greater risk** should there be **derailment**. We have approximately 4100 residents living within a 2 mile radius. Based on the product, wind direction and the weather, our Safety Services Director has determined that if a spill occurred at any of the crossings within the Village, 2/3 of the residents would need to be evacuated.

Finally, we are concerned with the quality of the crossings. We currently undergo approximately 4-5 crossing repairs per year; with the additional track being laid, the amount of repairs are likely to increase. The increased traffic will cause a rapid deterioration of the road which has a substantial impact on the community when crossings are closed for repairs. The **condition of the recently installed track at the North Main Street crossing is deplorable** and no trains have even traveled over it yet!! These railways should be required to install state of the art crossings if their proposed project is accepted.

In summary, I would like to reiterate that the very location of our small community to the proposed railway **burdens us with the potential for increased safety concerns and environmental degradation.** We urge the Board to carefully analyze our concerns and would certainly welcome you to visit Wellington and witness first hand the magnitude at which our everyday lives are currently impacted by the railway. In viewing our community, you no doubt would realize our concern and the scope of potential environmental problems confronting us in the event of a hazardous cargo spill. We **implore you to help us preserve the safety and well being of our community and its residents.**

Sincerely,

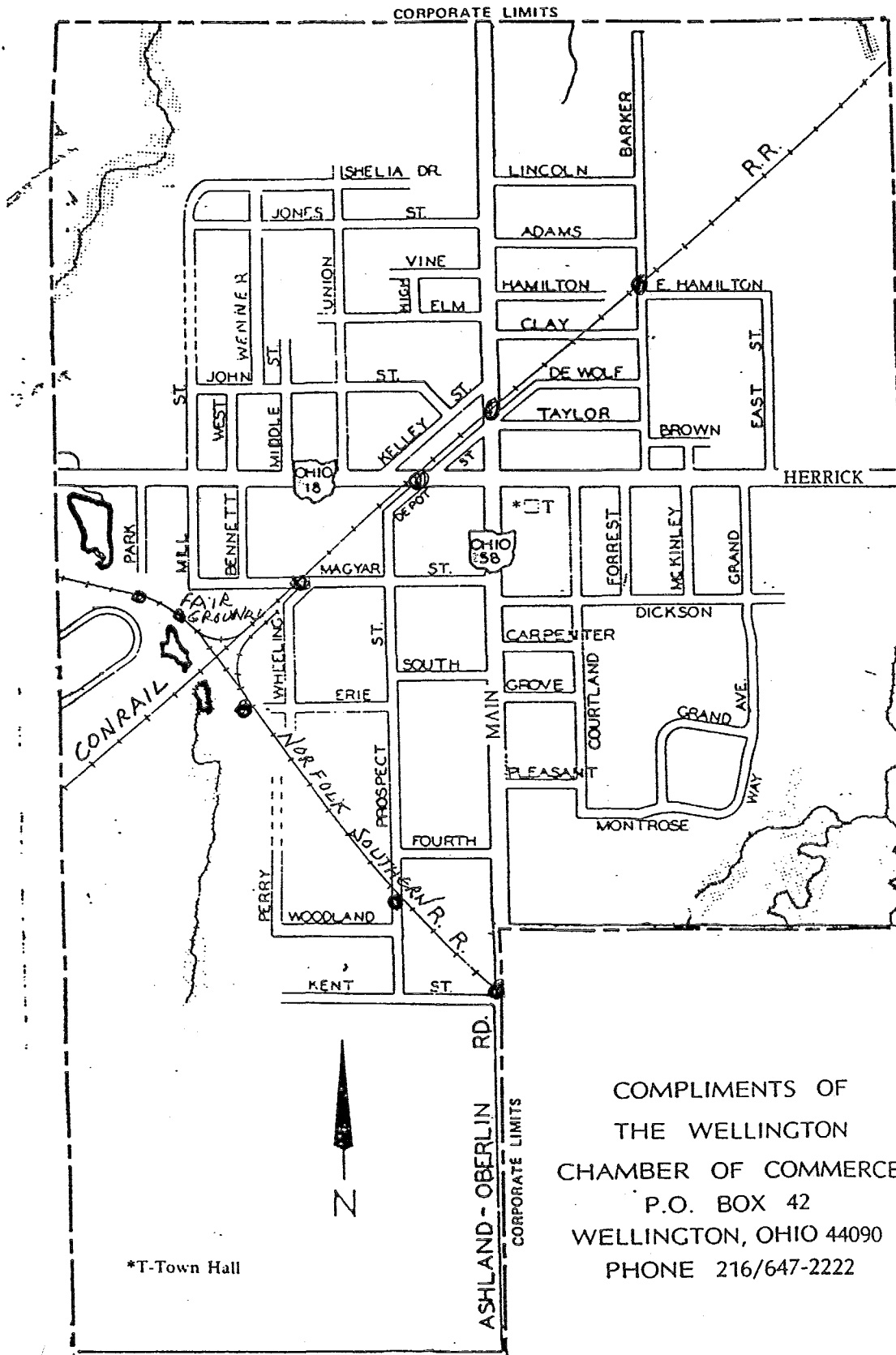


Karen Webb, Clerk Treasurer
Village of Wellington

KW/ml

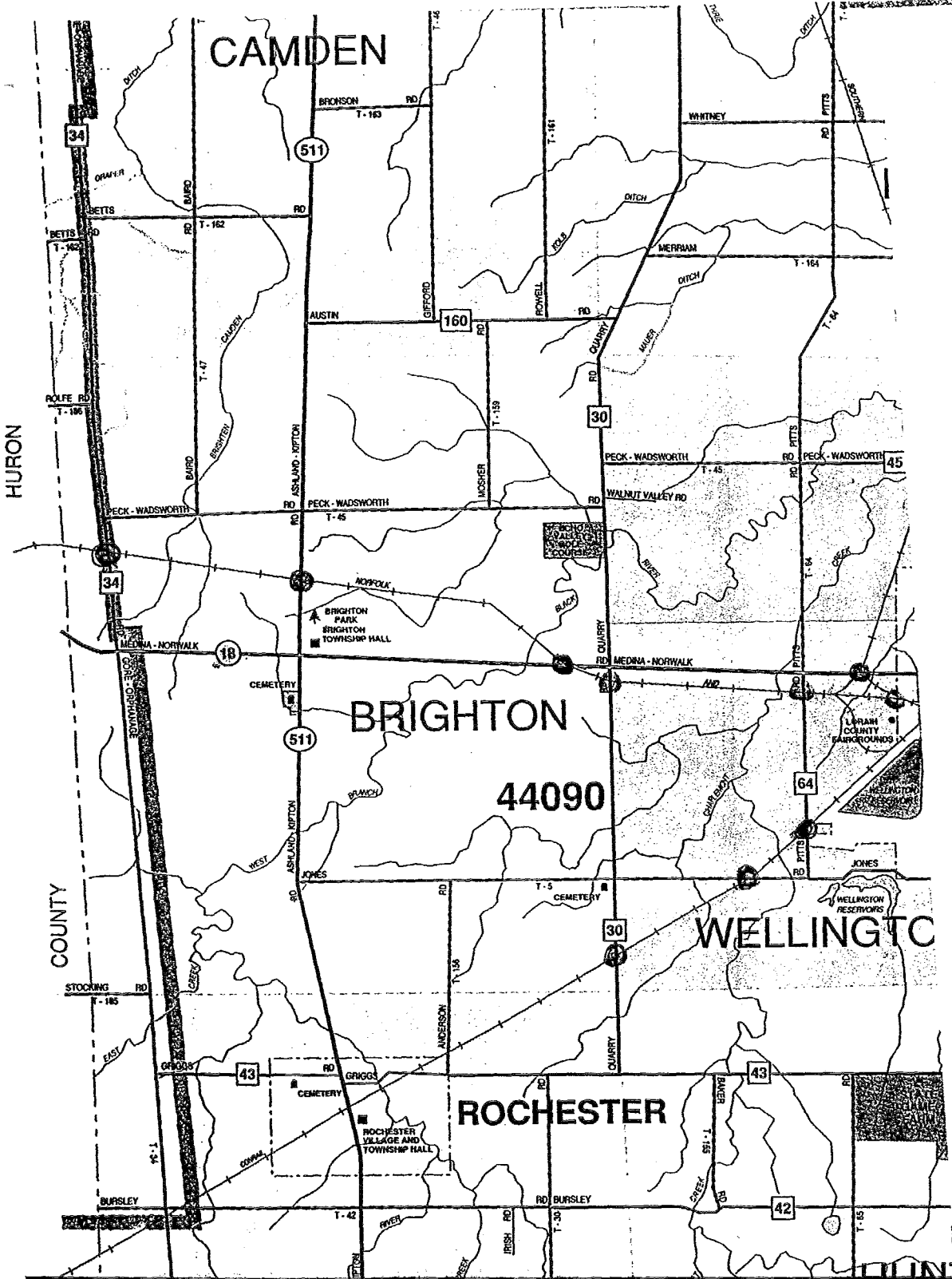
Encl.

THIS IS JUST THE IMMEDIATE DOWNTOWN AREA
OF THE VILLAGE OF WELLINGTON. . . .



*T-Town Hall

COMPLIMENTS OF
THE WELLINGTON
CHAMBER OF COMMERCE
P.O. BOX 42
WELLINGTON, OHIO 44090
PHONE 216/647-2222



HURON

COUNTY

CAMDEN

BRIGHTON

ROCHESTER

WELLINGTON

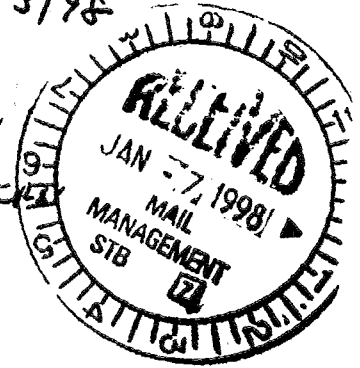
44090

A-356-b

ENVIRONMENTAL
DOCUMENT

1/3/98

R.E: PROPOSED ACQUISITION
OF CONRAIL BY NORFOLK SOUTHERN
RAILROAD. DRAFT EIS.



MS. ELAINE K. KAISER
DIRECTOR. :

WE ARE OPPOSED TO INCREASED
RAIL TRAFFIC THROUGH LAKEWOOD, ROCKY RIVER,
AND BAY VILLAGE, OH (O BY NORFOLK AND SOUTHERN
LINE.

CONGRESSMAN KUCINICH SHARES THIS
OPINION AND IS FIGHTING TO RESTRICT ANY
ADDITIONAL RAIL TRAFFIC.

Yours Truly

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/8/98

DOCUMENT # 1/9/98 2:59:31 PM

Jones
600 Debbington Dr.
Bay Village, OH
44140-1919

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/26/98

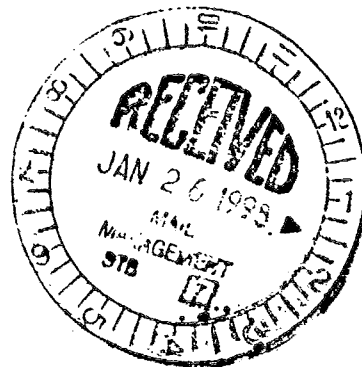
DOCUMENT # 1/27/98 1:44.47PM

ELTON J. NICHOLS
Meridian Condominium
12550 Lake Ave., Suite 1504
Lakewood, Ohio - 44107

ENVIRONMENTAL DOCUMENT

January 5, 1997

U.S Transportation Board
Attn: SEA - Finance Docket 33388
1995 "K" Street, NW
Washington, D.C. 20433



Subject: Proposed merger of NS and CSX

Gentlemen:

Within a four block area, adjacent to the Meridian Condominium, in which my wife and I live, there is a concentration of approximately 3,500 to 4,000 residents in buildings varying from six to thirty stories high.

Today, I visited the post office on West 117th Street, south of the railroad track, which divides our city. As I entered the post office a train started to cross 117th Street, blocking all vehicular traffic. At that moment an ambulance, with lights flashing, and siren sounding, came to a halt at the crossing. Four minutes later, as I left the post office, that ambulance was still waiting. That delay compounded by time to reach the thirtieth floor of Winton Place could truly be a matter of life or death. Delaying response to a fire alarm of like duration could be catastrophic.

I attended the meeting in September, 1997, along with approximately 600 concerned citizens, including officials of all the various communities through which the railroad track passes, Congressman Dennis Kucinich, and Steve LaTourette.

At no time did I hear a claim that the total amount of goods, including hazardous waste, shipped between New York and Chicago was going to increase. Nor was there any effort to convince us that there was any benefit to be realized by the communities affected. As a matter of fact, it was declared by the railroad representatives, that the threefold increase in rail traffic through our area, was solely to give NS/CSX a competitive advantage.

It is my serious concern that the decision whether to, or not, approve the proposal will be based not on what is morally right and in the best interest of those most directly affected, but on the amount of money contributed by some lobbyist to the political fund of either party.

Sincerely

A handwritten signature in cursive script, appearing to read "Elton J. Nichols".

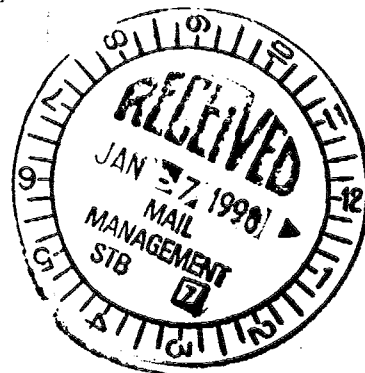
C/C Dennis J. Kucinich, Member of Congress
Madeline A. Cain, Mayor, Lakewood, Ohio

ENVIRONMENTAL DOCUMENT

CENTRAL ADMINISTRATIVE UNIT
REC'D: 1/8/98
DOCUMENT # 1/9/98 3:05:02 PM

January 5, 1998

Ms. Elaine F. Kaiser
Surface Transportation Board
Section of Environmental Analysis
1925 K. Street, NW
Washington, DC 20423-0001



Re: Conrail/NSRR Merger

This letter is to reiterate a vigorous protest against proposed plans to as much as treble freight train travel through the suburbs north and west of Cleveland, Ohio.

The safety, environment and real estate values of such cities as Westlake, Rocky River, Lakewood and Cleveland are already severely and adversely impacted by trains currently traversing them; to greatly increase the flow of trains for the financial benefit of the railroads, but to the detriment of the residents of these suburbs would be unconscionable.

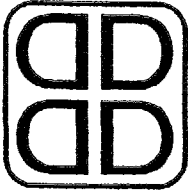
The proposal should be rejected!

Sincerely,

A handwritten signature in cursive script that reads "Frank Westerman".

F. G. Westerman
20800 Beaconsfield Blvd.,
Rocky River, OH-44116

ENVIRONMENTAL
DOCUMENT



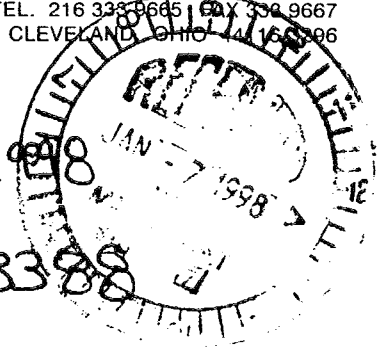
davis group

CENTRAL ADMINISTRATIVE UNIT

21360 CENTER RIDGE ROAD, SUITE 101
TEL. 216 333-9665 FAX 333-9667
CLEVELAND, OHIO 44116-3706

REC'D: 1/8/98
DOCUMENT # 191981159.54AM

JAN. 5, 1998



RE: FD 33388

STB -

Surface Transportation Board
Section of Environmental Analysis

Re: The Above PROPOSAL. We discourage
the passing of this proposal.

this is outrageous to increase this
in residential areas!

We oppose this from passing as
residents of Bay Village, Ohio + Homeowners

Mr Christopher S. Hund
456 Clague Rd

Mrs. Christopher S. Hu
Bay Village Ohio 441

A-357-b

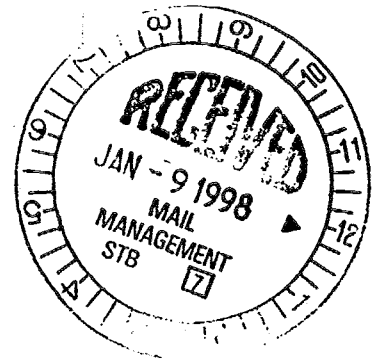


MANUFACTURERS' REPRESENTATIVES EXTERIOR + INTERIOR SITE FURNISHINGS

A Division of InnerSpace Systems Incorporated

City of Olmsted Falls

FOUNDED IN 1814
9722 COLUMBIA ROAD
OLMSTED FALLS, OHIO 44138



ADMINISTRATION BUILDING
(216) 235-5550

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/13/98

DOCUMENT # 1/16/98 9:23.24AM

ENVIRONMENTAL DOCUMENT

January 6, 1998

Federal Surface Transportation Board
Section of Environmental Analysis (SEA)
1925 K Street N.W.
Washington, D.C. 20423

Dear Sir or Madame:

Enclosed is a copy of a resolution urging Congress and the Federal Surface Transportation Board to deny Norfolk Southern (NS) and CSX Transportation's proposal for joint acquisition of Conrail, Inc. which was unanimously passed by the Olmsted Falls City Council at their special Council meeting held on December 22, 1997.

Thank you for your attention to this matter.

Very truly yours,

Barbara A. Walker

Barbara A. Walker
Clerk of Council

Enclosure

RESOLUTION NO. 100-97 (AMENDED)

INTRODUCED BY: Mayor Tom Jones and Council As A Whole

A RESOLUTION URGING CONGRESS AND THE FEDERAL SURFACE TRANSPORTATION BOARD TO DENY NORFOLK SOUTHERN (NS) AND CSX TRANSPORTATION'S PROPOSAL FOR JOINT ACQUISITION OF CONRAIL, INC., AND DECLARING AN EMERGENCY.

WHEREAS, Norfolk Southern (NS) and CSX Transportation are proposing joint acquisition of Conrail, Inc. and plan to increase the number of freight trains through the City of Olmsted Falls; and

WHEREAS, the rail traffic through the City of Olmsted Falls is now between 80 and 100 crossings per day and the current track system supplies no overpass or underpass to relieve automobile or truck traffic; and

WHEREAS, the proposal will be brought before the Federal Surface Transportation Board before June, 1998 for approval; and

WHEREAS, any increase in daily freight train use would create additional Health and Safety concerns for the City of Olmsted Falls due to the fact that response time for emergency paramedic and fire runs are increased due to stopped or slow moving trains blocking all crossings in the City which does not have an overpass or underpass available for use by emergency vehicles, whereby minutes in response time can often mean the difference between life and death. Further, should our emergency vehicles be forced to turn around due to a blocked crossing and be diverted to another hospital further away than Southwest General Health Center, additional precious minutes would be lost; and

WHEREAS, an increase in daily freight train use would adversely impact 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; and

WHEREAS, there are numerous safety concerns at all rail crossings due to increased rail traffic which would increase the risk of collisions between trains and cars, trucks and pedestrians; and

WHEREAS, there are concerns over health and safety due to potential increase in the transporting of hazardous materials which in case of derailment would necessitate the evacuation of many residents of Olmsted Falls as well as an elementary school with a student body of our 700 pupils near the tracks; and

Resolution 100-97 (AMENDED)

Page Two

WHEREAS, an increase in daily freight train use would add to environmental concerns with regard to noise and air pollution that are already bad due to the nearness of the City to Cleveland Hopkins Airport; and

WHEREAS, total isolation of our community from the north and south during heavily traveled time on the tracks would impact both the City's and adjacent communities residential and business districts; and

WHEREAS, the stopping of traffic on State Route 252 for long periods of time adds to the air pollution in Cuyahoga County that is forced to have "Ozone Alert Days"; and

WHEREAS, an increase in rail traffic would have a negative impact on property values which directly impacts both the City and School budgets; and

WHEREAS, the City of Olmsted Falls has filed a Notice of Intent to Participate with the Federal Surface Transportation Board so that they may become "Parties of Record".

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OLMSTED FALLS, COUNTY OF CUYAHOGA AND STATE OHIO:

SECTION 1. That the Council of the City of Olmsted Falls, Ohio opposes the acquisition of Conrail, Inc. by Norfolk Southern and CSX Transportation, which as a result of this acquisition would increase rail traffic on the route connecting Vermilion, Ohio to Cleveland, Ohio, thereby creating health and safety concerns to the residents of this City.

SECTION 2. That Council urges all citizens of the City of Olmsted Falls to support their efforts in this opposition by forwarding letters of concern to the Federal Surface Transportation Board, Section of Environmental Analysis (SEA), 1925 K Street N.W., Washington, D.C. 20423, in an effort to have these concerns incorporated into the final version of the Environmental Impact Statement which will be considered by the Federal Surface Transportation Board prior to its final decision.

SECTION 3. That the Clerk of Council is hereby directed to submit a copy of this Resolution to the Federal Surface Transportation Board, Senator Michael DeWine, Senator John Glenn, Congressman Dennis J. Kucinich, Governor George V. Voinovich, State Senator Gary C. Suhadolnik, State Representative Edward F. Kasputis, State Representative Rocco Colonna, the Olmsted Township Trustees, Cuyahoga County Commissioners, NOACA, RTA, the Regional

Resolution No. 100-97 (AMENDED)
Page Three

Planning Commission, the Mayors of the Cities of Berea, Rocky River, Lakewood, Bay Village and Westlake and to Conrail Inc., Attn. Ms. Marcia F. Ward, Community Relations Liaison, 17301 Michigan Ave., Suite 230, Dearborn, Michigan 48126, and all newspapers.

SECTION 4. That it is found and determined that all formal actions of this Council concerning and relating to this legislation was adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

SECTION 5. That this legislation is hereby declared to be an emergency measure necessary for the preservation of the public health, safety and welfare, and for the further reason stated in the preamble hereof, and further provided it receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor.

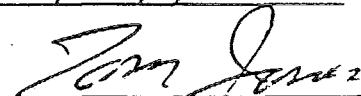

Beverly B. Smith, Council President


First Reading: 12-9-97

~~Second Reading:~~ Tabled-12-9-97

Third Reading: _____

PASSED: 12-22-97

APPROVED:  12-24-97
Tom Jones, Mayor Date

APPROVED AS TO FORM: 
Rick J. Carbone, Director of Law

ATTEST: 
Barbara A. Walker, Clerk of Council

cc: MB
cost
A.R. sec 3

POSTING CERTIFICATE CITY OF OLMSTED FALLS
BARBARA WALKER Clerk of Council of the City of
Olmsted Falls hereby certifies that RPS 100-97
was duly posted on the 24th day of Dec, 1997
and will remain so posted for a period of 15 days
after its effective date as required by the charter of
the City Barbara A. Walker Clerk of Council

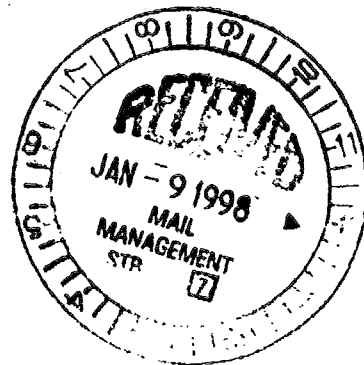
ENVIRONMENTAL
DOCUMENT

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/13/98

DOCUMENT # 1/16/98 9:45:18 AM

140 Violet Drive
Pickerington, OH 43147-1244
January 7, 1998



Chairperson, Surface Transportation Board
Case Control Unit, STB Finance Docket No. 33388
1925 K Street, NW
Washington, DC 20423-0001

Dear STB Chairperson:

I am among some 55 Conrail signal department employees who will be trying to fit in somewhere if the buyout of Conrail is approved on July 23, 1998. I cannot in my own mind understand why the CSX Corporation (CSX) and Norfolk Southern Corporation (NS) would choose to close our excellent System Signal Shop/School/Service Desk complex in Columbus, Ohio. I know personally that Conrail's Signal Engineering Department feels strongly that our shop in Columbus can provide a great benefit to the new rail systems as we have been for over 20 years to our own system.

From bidding for signal work outside of Conrail in recent years, we know that we are competitive with other shops throughout the country. Why then would NS/CSX choose to close one of Conrail's most valuable assets? From the viewpoint of NS/CSX, it is simply a financial decision. It's cheaper! NS traditionally contracts out its signal wiring work (except for a small shop in Roanoke, VA), and CSX has a shop in Savannah, GA.

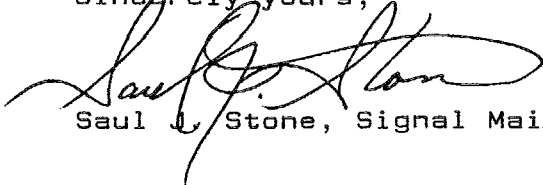
My argument is that both the Chessie System and Norfolk Southern are making a bad decision. We were told that this was a "bean counter" decision. How foolish and tragic that a company would think short-term in an area that requires long term planning for a railroad to operate smoothly year in and year out.

Conrail's success story was partly the result of our system shop and school's cooperative effort to work with both engineering and field forces to create a signal control system capable of handling high speed high volume freight traffic. In 1976 the biggest problem was rebuilding into one railroad what had been six bankrupt railroads. The American taxpayer pumped billions into the Consolidated Rail Corporation. Much of the rail and signal system was in disrepair, freight was delivered late, and business was poor. Our government envisioned a future rail system for the northeast that could again provide economically for our countries transportation needs. Our system shop and training center was vital in that transition.

The Conrail signal system today includes tens of thousands of electrified highway/rail crossing systems, interlockings (signal and switching control systems), and many other control systems that have been engineered, built, and wired at our shop. Today these control systems allow us to compete successfully with other carriers and with the trucking industry. The dream that Congress envisioned in 1976 has been more than fulfilled--it has been surpassed!

With Conrail's state-of-the-art train/truck intermodal systems, we help eliminate some of the highway nightmares that seem to worsen every year and thus threaten our economic wellbeing. If these systems fail to provide reliable service for future generations, can we then look back to a time when two railroads decided to make the most money with the least investment? It is my dream that the two railroads purchasing Conrail will not try to fix something that already works very well. Help keep our system shop/school/service desk complex in Columbus, Ohio open for business. Protect one of Conrail's most valuable assets from being written off as a liability. RSVP.

Sincerely yours,



Saul J. Stone, Signal Maintainer

P.S. We have recently celebrated at our shop over 900 days injury free!

Encl: Copy of our shop brochure.

cc:

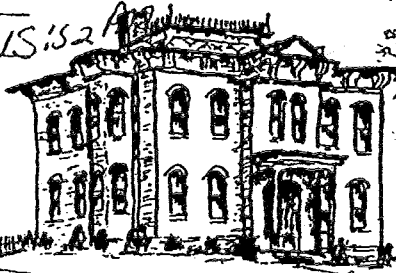
The Honorable George V. Voinovich, Governor, State of Ohio
The Honorable John H. Glenn, U.S. Senator, State of Ohio
The Honorable Michael DeWine, U.S. Senator, State of Ohio
The Honorable Deborah Pryce, Congresswoman, State of Ohio
The Honorable David Hobson, Congressman, State of Ohio
The Honorable Gregory S. Lashutka, Mayor, City of Columbus, Ohio
Mr. John Snow, CEO, CSX Corporation
Mr. David Goode, CEO, Norfolk Southern Corporation
Mr. W.D. Pickett, President, Brotherhood of Railroad Signalmen
Mr. F.E. Mason, Vice President, Brotherhood of Railroad Signalmen
Mr. Roland E. McKenzie, General Chairman, BofRS
Mr. Eldon Luttrell, Vice General Chairman, BofRS

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/23/98

DOCUMENT # 1126/88-12:15:52

**ENVIRONMENTAL
DOCUMENT**



BUCYRUS HISTORICAL SOCIETY

202 S. WALNUT ST. - BUCYRUS, OHIO 44820

Jan. 12, 1998

Elaine K. Kaiser

Environmental Project Dir.
Section of Environmental Analysis
SURFACE TRANSPORTATION BOARD
1925 K Street NW, 5th Floor/Suite 500
Washington, DC 20423-0001

In response to your recent correspondence of Dec. 19, 1997 re Finance Docket No. 33388 - CSX and Norfolk Southern - Control and Acquisition - Conrail, we submit the following for the record and for your further action if necessary.

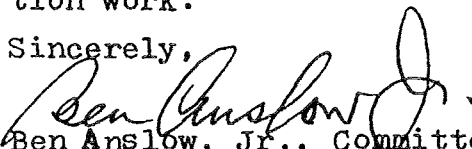
The Bucyrus Historical Society now owns the building known as the Toled and Ohio Central Railroad Passenger Station, located on E. Rensselaer Street in Bucyrus, Ohio. Norfolk Southern has also pledged to deed us a 110 ft. by 230 ft. parcel, appr. .58 acre, on which the building stands. This parcel will not interfere with the N/S plan for a spur line in the area.

Also, part of our agreement with N/S is first refusal on any or all elements of the old T & OC Freight Station, located across the street from the passenger station. It is our understanding the freight station is scheduled for demolition, for construction of the spur line.

Current owner of the freight building is Quinn Brothers, a local contractor. We are assuming they will be adequately compensated for the loss of this property.

It is also our understanding Quinn Brothers is interested in gaining the contract for demolition of that building. We would be in favor of this if our first refusal rights are made clear to them before anything is removed and demolition is begun. If they are not in agreement with this we would recommend another local contractor be selected for the demolition work.

Sincerely,


Ben Anslow, Jr., Committee Chairman
BUCYRUS HISTORICAL SOCIETY, Station Project
1090 Mary Ann Lane, Bucyrus, Ohio 44820

(Please direct correspondence to this address.)

CENTRAL ADMINISTRATIVE UNIT

REC'D: JAN 20 1998

DOCUMENT # 1/21/98 9:19:12 AM

ENVIRONMENTAL
DOCUMENT

January 12, 1998



Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
FD33388

Dear Ms Kaiser:

This letter is in regards to the Proposed Acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad. We are against any acquisition that will increase the amount of rail traffic through our suburb of Rocky River. We are presently down to just one track and less rail traffic than in previous years. This is better because there is less noise pollution and all pedestrian and vehicle crossings are safer. In the future, we would not want to see any road crossings closed in Rocky River, Lakewood or any other cities through which these tracks run. We think this acquisition is a bad idea for all the suburbs affected.

Thank you,

Jill Duffin
Brian Duffin

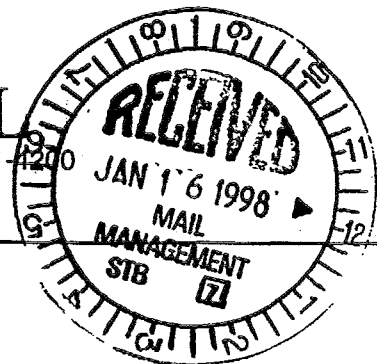
Jill and Brian Duffin
325 Northcliff Dr.
Rocky River, OH 44116



LAKEWOOD HOSPITAL

14519 Detroit Avenue, Lakewood, Ohio 44107-4383

(216) 521-4200



ENVIRONMENTAL DOCUMENT

January 12, 1998

U.S. Surface Transportation Board
Section of Environmental Analysis
Attn: SEA-Finance Docket 33388
1925 K Street, N.W.
Washington, D.C. 20423

CENTRAL ADMINISTRATIVE UNIT
REC'D: ~~JAN 20 1998~~

DOCUMENT # 1/21/98 9:40:50 AM

Re: Norfolk Southern and CSX Corporation

Dear Board Members:

This letter is to notify the U.S. Surface Transportation Board that the Board of Trustees Lakewood Hospital Association unanimously passed a resolution opposing the current proposal by Norfolk of Southern and CSX Corporation for the acquisition and allocation of Conrail, Inc.'s assets, primarily because of its impact on the health and safety of our community. In the unfortunate event that this proposal is approved, the disposition of the assets proposal must include a mechanism to ensure that necessary, continuous emergency access to Lakewood Hospital will not be interrupted.

The City of Lakewood is divided in half along the north-south direction by the rail tracks. Although the tracks have twenty-seven (27) grade crossings spanning the City limits, there is only one underpass whereby vehicles may cross the City in a north-south direction without rail interruption. Lakewood Hospital is located south of the rail tracks, while thirty percent (30%) of the ambulance and paramedic runs to Lakewood Hospital originate north of the rail tracks.

Although there are many quality of life and public safety issues which would be adversely affected by an increase in rail traffic, and which we deplore as a member of the Lakewood community, we are outwardly concerned with only one issue: our mission to provide health care to our community.

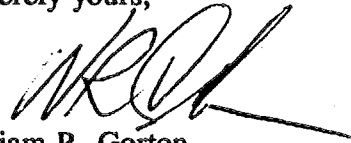
In cases of a medical emergency, emergency teams have four minutes to perform emergency cardio-pulmonary resuscitation and ten minutes to provide advanced life support. A delay in emergency response decrease survival and recovery rates. Currently, Lakewood Hospital and the paramedics have collaborated to establish excellent response times in spite of the existing point of access limitations. A detour to the current underpass, which is located at the city's west end or to the city of Cleveland on the east, would add from five to fifteen minutes to a run. Alternative health care facilities are even further away. The increase of rail traffic, without consideration of additional rail bypasses, seriously jeopardizes the Hospital and paramedics' ability to respond in a timely fashion.

U.S. Surface Transportation Board
January 12, 1998
Page Two

If the current proposal is approved, Lakewood Hospital Board of Trustees is concerned that any increase in daily freight train traffic would greatly interfere with Lakewood Hospital and the City ambulance and paramedic squads' ability to respond timely to medical emergencies. With only one underpass allowing continuous vehicle traffic, the City has no alternative to accommodate this increased rail traffic.

In its review of any proposal of Norfolk Southern and CSX Corporation for the acquisition and allocation of Conrail, Inc.'s assets, the Surface Transportation Board must recognize the impact of any proposal on the delivery of emergency medical services within the City of Lakewood.

Sincerely yours,



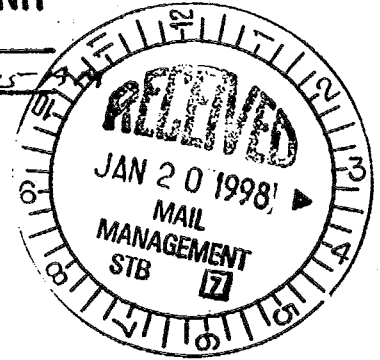
William R. Gorton
Chairman, Board of Trustees

WG/jk

METRO REGIONAL TRANSIT AUTHORITY
416 Kenmore Boulevard
Akron, Ohio 44301
330/762-7267
330/762-0854 FAX

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/21/98
DOCUMENT # 1/26/98 11:57:15



ENVIRONMENTAL DOCUMENT

January 13, 1998

Office of the Secretary
Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Attention: Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis

Dear Ms. Kaiser:

On behalf of METRO Regional Transit Authority, I would like to thank the Surface Transportation Board for expanding the final Scope of the Environmental Impact Statement of the Proposed Acquisition of Conrail by CSX and Norfolk Southern last fall.

From our understanding of the Draft Environmental Impact Statement (DEIS), the effects of the transaction on proposed passenger rail operations were determined to be not significant enough to evaluate. We understand that the primary role of the STB (and its predecessor, the ICC) is to regulate business concerns. However, we are concerned that this proposed merger will leave permanent, unchangeable constraints on both existing and potential passengers rail services in the country.

Under the Draft EIS, the STB chose not to examine many possible problems:

"If the analysis indicated that the rail line segments could accommodate the higher volumes, SEA's preliminary conclusion was that the proposed Acquisition would have no adverse impact on passenger train operations." (DEIS, Volume 1: page 3-14)

The SEA has established a tight time line to review the most significant rail merger in the history of the United States. By deciding not to look at future interactions of the applicants with commuter rail providers, even those with existing agreements, the STB has remained silent concerning the responsibility the railroads have as a public utility. This is the same responsibility the phone industry, electric providers, and gas companies have to individuals citizens.

“SEA determined that impacts of freight operations on passenger rail service would be significant if the anticipated post-Acquisition increases in freight operations resulted in the need to reduce passenger service. . . However, the current operating agreements preclude any reduction in service. Any significant impact that would result from increased post-Acquisition freight operation could occur only after expiration of a current agreement.” (DEIS, Volume 1: page 3-16)

The STB has decided not to be involved in the relationship between the railroad and passenger services after the expiration of existing contracts. Potentially, the uncooperative freight railroads could leave existing or potential passenger operators unable operate, thereby stranding thousands of rail passengers. Displaced commuters will create a greater demand on the over-burdened highway system. In total, higher energy consumption and greater public investment in road construction will be created.

Many agencies in the State of Ohio expressed concerns about passenger service. The STB did review these requests and commented:

“SEA has determined that evidence exists of a potential cumulative effect associated with commuter rail planning and funded activities in Northern Ohio including, but not limited to Toledo, Akron, Lorain, and Cleveland.” (DEIS, Volume 3B: page OH-129).

According to the SEA’s review, METRO’s trackage rights request (MRTA-1) could produce traffic above the level considered significant. (DEIS, Volume 5C: page U-15)

However, the SEA states that it has not found any activities that will be impacted:

“At this point in its investigation, SEA is unaware of any other activities that would require a cumulative analysis.” (DEIS, Volume 3B: page OH-129).

The SEA concludes its investigation in Ohio by making the following comment:

“Therefore based on its independent analysis and all information available to date, SEA has made a preliminary conclusion that there would be no other significant cumulative effects associated with the proposed Acquisition in the State of Ohio.” (DEIS, Volume 3B: page OH-129).

This merger presents an opportunity for passenger rail services to be expanded in the United States. The SEA has performed a detailed analysis of the diversion of freight between highway and rail transportation modes. A similar analysis should be conducted as it involves passenger movement.

We feel the following recommendation of the SEA should be strengthened:

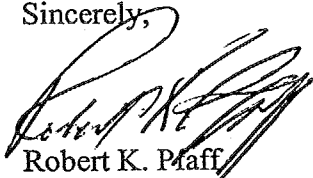
"The SEA encourages the Applicants to meet with the agencies responsible for the commuter rail studies to ensure that the proposed Acquisition can be accomplished without negative effect to commuter rail plans." (DEIS, Volume 3B: page OH-129).

This position assumes that the railroads will negotiate in good faith with passenger agencies. The scope of the review needs to be expanded to include having the Applicants address the potential negative impact on passenger rail operations caused by the merger. SEA needs to actively retain jurisdiction in this matter to assure that the Acquisition can be accomplished without negative consequences on passenger rail operations.

We understand the STB is under a very tight schedule; however, we must ask one point to be changed in the Draft Environmental Statement. Table 5-OH-51 indicates METRO Regional Transit Authority commented on the abandonment in Toledo, Ohio. It appears the SEA misunderstood our comment. Our comments do not concern Toledo. The scope of our letter concerned only Akron, Cleveland, and Canton, Ohio.

In closing, we ask the SEA to view passenger access on an equal basis as freight access to this large multi-modal transportation utility. If you have any questions regarding this statement, please do not hesitate to contact Kirt Conrad, Planner, or myself at (330) 762-7267.

Sincerely,



Robert K. Pfaff
General Manager, Secretary-Treasurer

Office (614) 466-1374
 Fax (614) 644-9494
 Home (419) 355-1022
 e-mail
 rep89@mail.house.state.oh.us

Ohio House of Representatives



COMMITTEES:
 *Finance and Appropriations
 *Agriculture and Development
 Subcommittee, Vice Chairman
 *Agriculture and Natural
 Resources, Vice Chairman
 *Transportation and Public Safety

ENVIRONMENTAL DOCUMENT

REX DAMSCHRODER
 STATE REPRESENTATIVE
 89TH DISTRICT

Office of the Secretary
 Case Control Unit
 Finance Docket No. 33388
 Surface Transportation Board
 1925 K Street, NW
 Washington, D.C. 20423-0001



Dear Surface Transportation Board:

After reviewing the Draft Environmental Impact Statement issued in December, we have several concerns that persist regarding the possible negative impact the CSXT/NS/Conrail acquisition could have on the city of Fostoria, Ohio, particularly in the realm of public safety.

Fostoria is adamant about needing over/underpasses built by the railroads involved to ensure that emergency vehicles can reach their citizens without being stranded on the opposite side of the tracks by a train. What good is an ambulance to a dying person if it can't get to them? If there was a fire on one side of town and a train was passing through, the house and anyone inside of it could be burnt to ashes before the fire truck stuck on the opposite of the tracks could reach them.

The major concern that Fostoria has expressed throughout this process is that without over/under passes, the emergency vehicles of the community will not have access to significant portions of the community for a substantially increased period of time. All three major rail lines that serve Fostoria will have increased traffic.

This problem can be easily solved with the building of under/over passes in the city; however, Fostoria hasn't been given that simple insurance yet. The city of Fostoria isn't against the acquisition, but it shouldn't be asked to sacrifice the safety and security of its' residents because of it.

Their request is not unreasonable and Fostoria officials have indicated that they are discouraged by the lack of comments in regards to their city's unique situation. Fostoria doesn't have the funds to build these over/underpasses nor should they be expected to in this situation. City officials realize that the under/overpasses are expensive, but both CSXT and NS are spending huge sums of money in other areas of this acquisition and the situation they are planning to create in Fostoria is life-threatening. If the two railroads are responsible businesses, it would be expected that they'd look for ways to preserve the safety and well being of the communities they serve and attempt to accomodate their reasonable requests.


The City of Fostoria officials also disagreed with the indicator maps (Figures 5-OH-1a & 1b) enclosed, depicting CSX and NS facilities separately do not clearly indicate the systems intersecting in Fostoria, therefore, diminishing or misleading the community concerns.

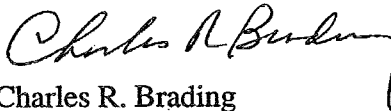
Submitted in the Preliminary Safety and Environmental Comment period were other concerns of the city about the acquisition's effects on Fostoria. Safety Force Ingress/Egress issues were highlighted particularly in the "Iron Triangles", which were expected to see increased train traffic. Increased blockage at grade crossings would significantly increase vehicle traffic loads on existing highway/underpass systems. Grade separations were again mentioned as the most effective resolution to the increased risk of injury and delay for emergency forces.


We ask that the Board consider Fostoria's critical situation and refuse to grant CSXT and NS the acquisition of Conrail unless they provide the city with over/underpasses sufficient to allow emergency vehicles to adequately serve the people of Fostoria when a train is passing through the area.

Thank you for your attention.

Sincerely,


Rex Damschroder
State Representative
89th District

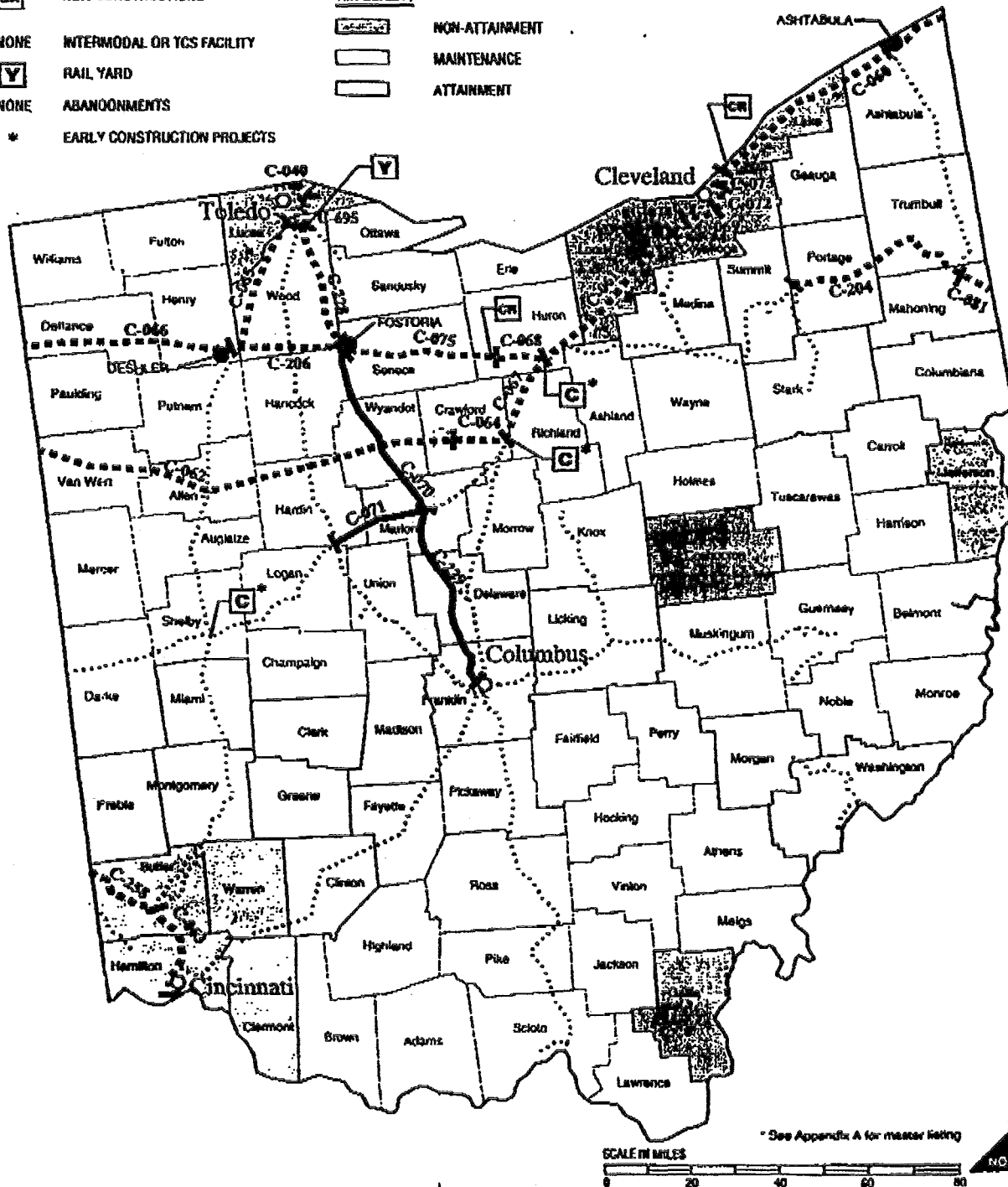

Charles R. Brading
State Representative
86th District


Randall Gardner
State Representative
4th District

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

LEGEND

- RAIL LINE SEGMENTS
- NEW CONNECTIONS
- NEW CONSTRUCTIONS
- NONE INTERMODAL OR YCS FACILITY
- RAIL YARD
- NONE ABANDONMENTS
- * EARLY CONSTRUCTION PROJECTS
- RAIL LINE SEGMENTS NOT REQUIRING ENVIRONMENTAL ANALYSIS
- AIR QUALITY**
- NON-ATTAINMENT
- MAINTENANCE
- ATTAINMENT



SCALE IN MILES
 0 20 40 60 80

* See Appendix A for master listing

NORTH







Proposed Conrail Acquisition





Draft Environmental Impact Statement

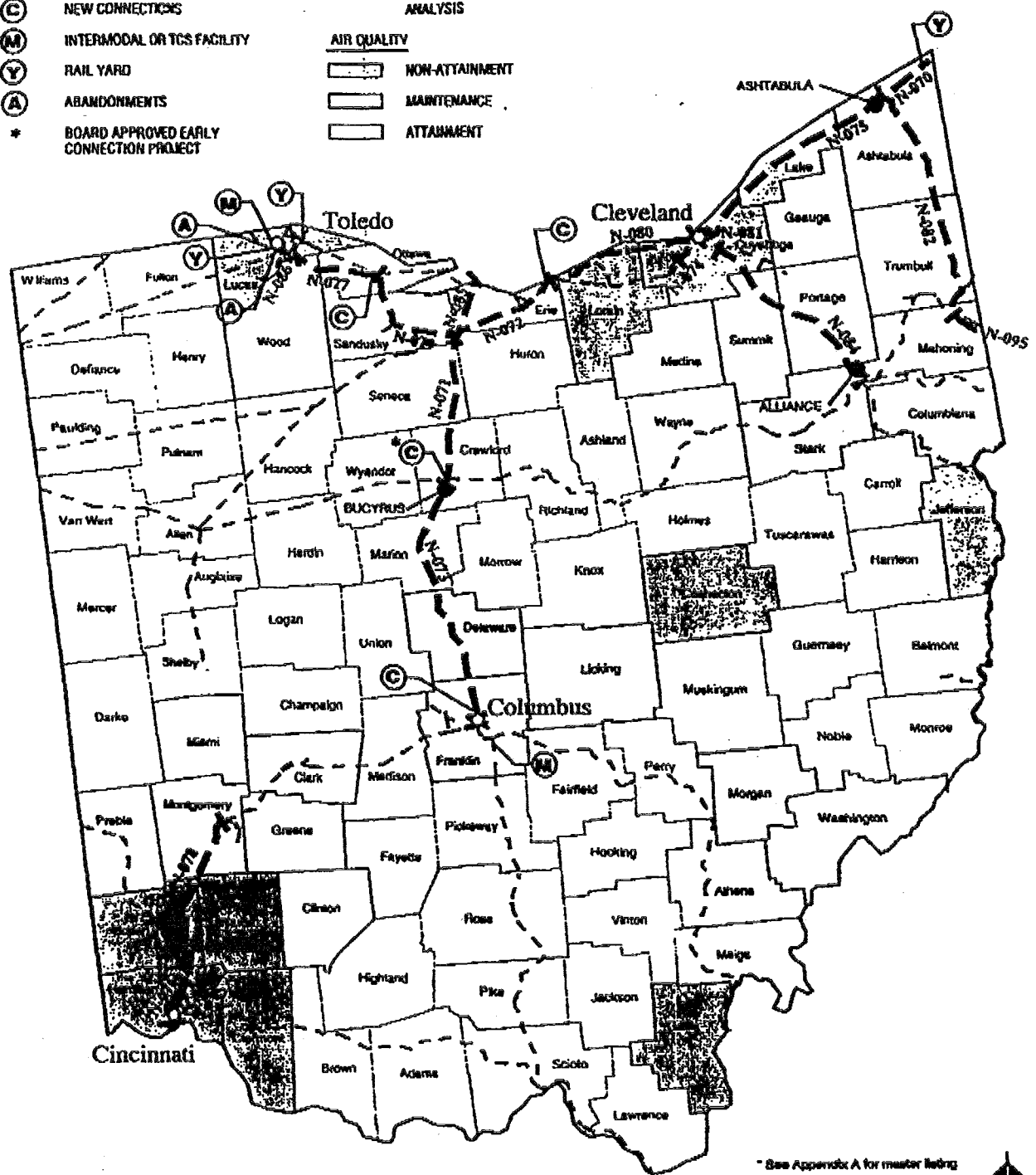
FIGURE 5-OH-1a

**RAIL LINE SEGMENTS, NEW CONNECTIONS, INTERMODAL FACILITIES, RAIL YARDS AND ABANDONMENTS
 REQUIRING ENVIRONMENTAL ANALYSIS**
 OHIO - CSX

LEGEND

-  RAIL LINE SEGMENTS
-  NEW CONNECTIONS
-  INTERMODAL OR TGS FACILITY
-  RAIL YARD
-  ABANDONMENTS
-  BOARD APPROVED EARLY CONNECTION PROJECT

-  RAIL LINE SEGMENTS NOT REQUIRING ENVIRONMENTAL ANALYSIS
- AIR QUALITY**
-  NON-ATTAINMENT
-  MAINTENANCE
-  ATTAINMENT



* See Appendix A for master listing



Proposed Conrail Acquisition

Draft Environmental Impact Statement

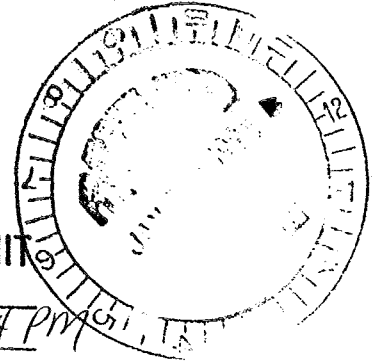
FIGURE 5-OH-1b

**RAIL LINE SEGMENTS, NEW CONNECTIONS, INTERMODAL FACILITIES, RAIL YARDS AND ABANDONMENTS REQUIRING ENVIRONMENTAL ANALYSIS
OHIO - NORFOLK SOUTHERN**

VILLAGE OF NEW LONDON

"Tree City"

115 East Main Street
New London, Ohio 44851-1292
(419) 929-4091
Fax (419) 929-0738



CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/30/98

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January 15, 1998

Ms. Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Dear Ms. Kaiser:

I am taking this opportunity to make our concerns known concerning the proposed merger of the rail lines that go through our village.

The main concern is for the safety and welfare of the residents of the village. Our safety services, except the police department, are all volunteers. Thus, the fire department and EMS are going to be greatly impaired with an additional 50 trains passing through the village on a daily basis. We cannot have these services on both sides of the tracks for obvious reasons of lack of funding and personnel.

Our Village Council, Village Administrator and I have discussed this situation and have come to a conclusion that an underpass must be considered to allow these emergency vehicles access to the residents and territories they serve.

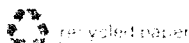
We know the solution will not be easy, but at the same time mandatory. We have no funds at the present time or in the future to make our needs a reality. Your help with this project is needed. I am looking forward to working with your department in this urgent matter.

Respectfully,

Dorothy Sholes, Mayor
Village of New London
115 East Main St.
New London, Ohio 44851



A-362-a

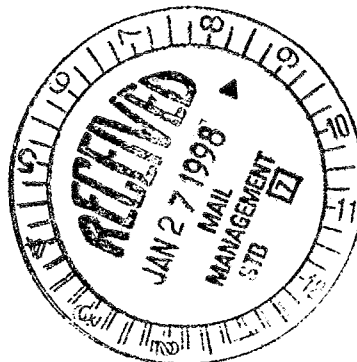


Seneca County Courthouse
103 S. Washington Street
Tiffin, Ohio 44883

<http://www.bpsom.com/regional>
e-mail srpc@bpsom.com
Phone\Fax (419)443-7936

January 16, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001



Although the acquisition of Conrail by CSX and NS can do much to improve rail related economic development in Ohio and the North Central\Eastern United States, the impact; as it seems, to the life and general welfare of residents in Seneca County, Ohio will be at risk. Through the review of the Draft EIS it is understandably clear that minimum standards were used to establish rail segments of high environmental impact not geographical areas and political sub-divisions that will be negatively impacted. Impacts of development, air quality, transportation and rail cargo (ie. Hazardous waste) seem to be the focus on a rail line segment basis. There is however; short of federaly protected species, and wetlands, no local impacts identified for remediation before the acquisition can take place. It should be noted that at a meeting held on November 25, 1997 at the request of Congressman Paul Gillmor, the STB stated that the rail lines will be required to work with local agencies to remediate local concerns. On page 7-18 of Vol. 4, Chapter 7, regarding Environmental Justice, the STB states, "CSX and NS shall consult with elected officials, appropriate local agencies, and communities representatives to address Acquisition-related environmetal impacts in affected communities that SEA has identified..." There are two such places in Seneca County that as a planning agency, we feel may warrent environmental justice mitigation.

1. Rail Segment, C-075. Tiffin, Ohio, Seneca County

- The State of Ohio designated Sceinic Sandusky River, has many attributes specific to environmental justice mitigation.

1. The Sceinic Sandusky River, with a watershed area of 428.21 square miles of watershed in Seneca County alone, is very vulnerable to flash flooding.
2. The Sandusky River is a direct conduit to Lake Erie, protected by the Federal Clean Water Act.
3. The City of Tiffin is protected from flooding by a concrete river wall. This wall, built shortly after a devistating flood that crippled Tiffin in 1913, has aged beyond its design life.
4. The double track of CSX that is estimated to carry a total of 54,000 rail cars of Haz Mat material per year crosses this river in the center of Tiffin.

It is our opinion that the river wall should be brought up current design standards through the Army Corp of Engineers to a point that ensures protection of the rail line durring a 500-1000 year flood event.

A-362-b

2. The City of Fostoria has attributes of all listed "potential impacts" on Table 7-9, Vol. 4.
 1. The City of Fostoria will be impacted by a total of 141,000 rail cars of Haz Material per year.
 2. The City of Fostoria will have an average additional 31.1 trains per day (from Volume 3-B, Table 5-OH-6, Page OH-15)
 3. Fostoria is impacted by acquisition, from four rail line segments. (C-075, C-070, C-206, C-228) This impact will cause traffic delays due to stopped trains waiting for interlock availability.
 4. Fostoria relies on an underpass corridor through the city for maintaining traffic. The corridor currently to capacity will experience an increase as motorists shift from feeder streets to the main corridor so they do not have to wait for a stopped train.
 5. Fostoria has two "iron triangles". These are areas of the city that CAN NOT receive emergency services during parts of each day. As rail traffic increases the time at which these "iron triangles" are cut off from safety forces will increase. It is our concern that this will present a life or death situation to the residents in Fostoria.

It is our opinion that Fostoria needs an improved highway\corridor system with underpasses or overpasses to allow for the fluid flow of traffic and preservation of life.

Seneca County has adopted, through resolution of the Regional Planning Commission and most other local political jurisdictions impacted by rail, design standards and requirements for grade crossing safety. Page 200 of Volume 2, under Grade Crossing Safety, gives CSX the ability to choose between Conrail and CSX best management practices for grade crossings. Seneca County is plagued by humped crossings, 4 to 8 feet in height and with 0 visibility across the tracks. Will the railroad be required to bring these crossings up to local standards? If not, Why?

In Volume 2, Page 7 of the Preliminary Comments of the United States Department of Transportation, it is stated that safety is of paramount importance in the acquisition and that detailed planning and implementation will reduce the risk of accidents. It is stated in Additional Major Issues #9 and # 10 that consideration by the board should be given to *'whether the transaction will have adverse environmental impacts on the communities,' and 'If the transaction would have adverse environmental impacts on communities, whether these effects can be eliminated or mitigated through conditions on the transaction.'* The scenarios posed at the beginning of this letter with the impact of the river wall in Tiffin and life threatening situations in Fostoria, are the epitome of these comments. The Regional Planning Commission urges the STB to review these situations and the merit of US DOT in remediating these concerns.

In the verified statement of Ed English, Vol 2, Page 48, Traffic Flow Changes, it is stated that route rehab will increase capacity and traffic in the line between Chicago, Ill and Cleveland, Ohio, and increase speeds to 80mph (FRA Class 5). Section 3(B), Chapter 7.2.2, Page 7-12, Volume 4, identifies maximum operating speeds of 50mph for "Key Trains". In light of incidents occurring in 1997 regarding the UP/SP that involved several train\train collisions, the Seneca Regional Planning Commission believes that operating speeds of Key Trains @ 50mph, and standard freight at 80mph is inherently dangerous. Because dispatch for CSX is in Jacksonville, Fl. the potential for an accident related to dispatch error in relating speeds and the further potential that that error is in response to a "full train inspection.." of a Key Train, warrants consistency in train speeds.

In Volume 4, Page 7-13 to 7-14, Sections 4(A), CSX and NS shall prepare Haz Mat Emergency Response

Plans for each local emergency response organization along Major Key Routes. How do we ensure proper training is given to our local organizations, and how will they be involved in developing the plan. (Seneca County has several voluntary departments on a Major Key Route.) Further, the Regional Planning Commission believes that a separate emergency response plan must be developed for the Sandusky River in Tiffin, Ohio. Only hours of impact to several other communities and Lake Erie. Section 4(B), CSX and NS shall implement ... drill ... on each Major Key Route. Will there only be one drill for all the emergency response organizations in the full (C-075) Section?

In Vol 3B, Page OH-14, The increase 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 that multiplicity must be realized in evaluating impact to Fostoria.

1. The interlock
2. The iron triangles
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

It is our opinion that these and other impacts not listed will be life threatening to residents in Fostoria and warrant further attention before issuing approval.

Thank you for your kind consideration of our concerns.

In a common interest,



Mark R. Zimmerman
Director Seneca Regional Planning Commission

c: Congressman Paul Gillmor
Senator Larry Mumper
ORDC
PUCO

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/21/98

Jean Johnson

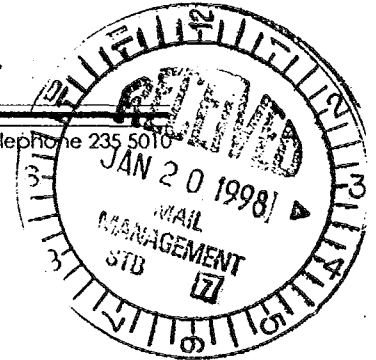
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Councilwoman Ward II

7322 River Rd.
Olmsted Falls, Ohio 44138

ENVIRONMENTAL DOCUMENT

Telephone 235 5010



To whom it may concern:

I have reviewed the SEA report on the Environmental Impact Statement regarding the proposed acquisition of Conrail by NS and CSX railroad. I appreciate the magnitude of your study. Your extensive research included safety, transportation systems, energy, air quality, noise, cultural and historic resources, hazardous materials and waste sites, natural resources, land use and socioeconomic environmental justice, across 24 states, the district of Columbia, and the Canadian Provinces of Ontario and Quebec. Your decision will affect 90 million people. I learned from your study that your preliminary conclusion is that there were no significant cumulative effects on any of the issue areas.

I disagree.

In fact, the EPS report identifies concerns in each of the areas reviewed, but possible remedies were stated to correct these problems. I believe your review and decisions were made from the top down rather than from the bottom up. A good decision starts from the bottom and works up. At this time the bottom is represented by local residents and small communities that would feel great impact, and in fact could destroy them. We in Olmsted Falls, Ohio are one of these small communities. We already have between 80 and 100 train crossings per day, and our current track system supplies no overpass or underpass to relieve automobile or truck traffic. Our little City's population is increasing. Adding 1000 homes to our town means additional automobile traffic across our already inadequate rail crossings. To add more rail traffic, which the acquisition of Conrail to NS and CSX would do means that our town is in trouble. There will be greater risk of train, auto accidents, greater nuisance from noise, greater air pollution, greater potential for hazardous waste spills, greater time loss for police and emergency vehicles to service residents in all parts of our town, and greater mental anguish from long and stopped trains.

I hope you will seriously consider the plight of the 90 million people who will be affected, and the impact of this acquisition on the lives of the people in our City, Olmsted Falls.

Thank you,

Jean Johnson
Ward II Councilman



Mid-Ohio Regional Planning Commission

An association of local governments providing planning, programs and services for the region.

ENVIRONMENTAL DOCUMENT

January 20, 1998

CENTRAL ADMINISTRATIVE UNIT

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Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Judith W. Stillwell
Chair

Gary Panek
Vice Chair

Richard A. Browning
Secretary

Blitt Habig
Executive Director

Attention: Elaine K. Kaiser, Chief
Section of Environmental Analysis
Environmental Filing

Dear Ms. Kaiser:

Our organization has had an opportunity to review the "Proposed Conrail Acquisition" Draft Environmental Impact Statement (DEIS) and would like to provide some comments for consideration.

First, we would like to commend the Surface Transportation Board's Section of Environmental Analysis on this effort. This draft report presents an impressive amount of information in a well-organized and concise manner. This effort has benefited from the hard work of your staff and has allowed organizations throughout the country, such as ourselves, the opportunity to make well-informed decisions based on your information and analysis.

While reviewing these documents, we noticed that there were a few areas that needed clarification and some key elements that seem to have been omitted and need addressing. Specifically, we would like to take the opportunity to bring to your attention the following:

1. The DEIS finds one intermodal facility in Ohio, Discovery Park, with proposed increases in truck traffic which would exceed the board's threshold for Environmental Analysis (Volume 3A page OH-21). However, the report fails to provide a summary of the analysis and any mitigation strategies developed from that analysis. Environmental Justice is a key part of this analysis and we believe any risk areas need to be included in this statement to ensure all the mitigation strategies that should be taken are clearly laid out for the companies to follow.

A-363-b

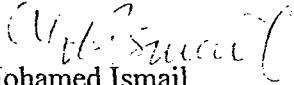
Elaine K. Kaiser
Page 2

January 20, 1998

2. Table 5-OH-8, which presents a county-by-county summary of the Rail At-Grade Crossing safety analysis, does not exist. Our organization is concerned that the grade crossing between Norfolk Southern's main line feeding the Discovery Yard and Williams Road in southern Franklin County (Columbus, Ohio metropolitan area) has been omitted from the analysis. The estimated ADT on Williams Road is over 6,000 based upon a 1994 traffic count by the city of Columbus. This grade crossing needs operational and geometric design upgrades, a fact that has been well known in our region for a long time. This grade crossing meets the fundamental criteria to be included in the above referenced table for safety purposes and we are concerned that it was not considered.

We are looking forward to having the above issues incorporated in the final version of the SEA Environmental Impact Statement. Thank you for the opportunity to provide our comments and participate in the Merger Review proceedings.

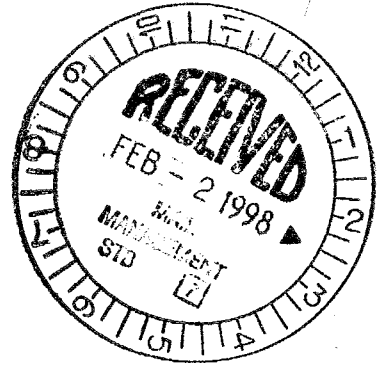
Sincerely,


Mohamed Ismail
Director of Transportation

MI:CH:mkb

**ENVIRONMENTAL
DOCUMENT**

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POSITION ON NORFOLK SOUTHERN/CSX ACQUISITION

FINANCE DOCKET 33388

CITY OF OLMSTED FALLS, OHIO

January 21, 1998

Office of the Secretary
Case Control Unit
STB Finance Docket 33388
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423-0001
Attn. Elaine K Kaiser
Environmental Project Director

ENVIRONMENTAL FILING

City of Olmsted Falls

INDEX

Position Statement on Norfolk Southern/CSX Acquisition
Finance Docket 33388
City of Olmsted Falls, Ohio

- Exhibit 1: Map of Existing Conditions (Freight Only)
City of Olmsted Falls inset
- Exhibit 2: Map of Proposed Alternate Route (Freight only)
City of Olmsted Falls inset
- Exhibit 3: Tracks Segments with grade crossings in Olmsted
Falls
- Exhibit 4: STB Figure 3-1: Common Sound levels
- Exhibit 5: STB Page F-12: Impact Area of Horn Systems
- Exhibit 6: Olmsted Falls Grade Crossings in Neighborhoods
- Exhibit 6B: Ohio Revised Code on Warning Signs and Signals
- Exhibit 7: Letter from Fire Chief re: proposed train increase
- Exhibit 8: School bus crossing data
- Exhibit 9: Olmsted Falls Historic District Legislation and Map
- Exhibit 10: Olmsted Falls Legislation: Obstruction of Streets
by Railroad Companies
- Exhibit 11: Cases handled by Mayor's Court for railway
obstructions in Olmsted Falls

Position on Norfolk Southern/CSX Acquisition
Finance Docket 33388
City of Olmsted Falls, Ohio

The City of Olmsted Falls, Ohio is firmly opposed to the proposed acquisition of ConRail trackage by Norfolk Southern and CSX because of the impact that increased rail traffic will have on our town unless certain mitigations are introduced.

We protest 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 Vermillion Run or to Segment C-061 known as the Berea to Greenwich Run..

We also challenge the accuracy of traffic figures projected on line segments N293 and C-061 (Exhibit 1 and 2) because they do not indicate total traffic, lacking information regarding special trains, passenger trains, short engine hauls and work trains, all of which impact the total time crossings are blocked. Maria Ward of the PR staff on the ConRail Dearborn Division indicates that actual traffic on Segment N293 averages 93 trains per day. This is confirmed by the Berea Tower (see map Exhibit 1 and 2) which handles between 90 and 105 trains per day. The Berea Tower notes 16 actual trains per day on Segment C-061. We would request that STB-SEA confirm the accurate daily count from ConRail Dearborn Division for the Erie to Chicago run and the ConRail Indianapolis Division for the Berea to St. Louis run. Our experience shows actual trains on segments noted above to be much higher as indicated.

The reason we challenge the figures is the direct effect those numbers have on blocked crossings per day for emergency runs, school bus transportation and general traffic. As noted on the enclosed map, Exhibit 3, the City of Olmsted Falls is situated in an area where both line segments bisect the town and corresponding traffic on heavily traveled St. Rt. 252, Columbia Road.. The average daily traffic count for the portion of Columbia Road crossing line Segment C-061 at crossing FRA ID 524367U is based on Cuyahoga County (Ohio) Engineer Traffic Study of July 20, 1993 and is determined to be in excess

of 9500 ADT. The average daily traffic count for the portion of Columbia crossing Segment N293 is determined by the same source to be in excess of 11,500 ADT. The need for an up-to-date traffic count is necessary as traffic has increased due to more homes in the area and traffic from southern Lorain and Medina Counties using SR 252 to gain access to Interstate Rts. 480 and 90 to our north.

Using the statistics for blocked crossing time in Table C-5 it is calculated that Columbia Road on Segment C-061 will be blocked 2.8 hours per day when trains are traveling at 30 miles an hour. This creates an untenable situation for our safety forces in emergency response whether to fires, medical squad runs, or general police emergencies. The only potential solution to this problem (created also for the City of Berea to the East) is that both Cities would respond to any fire or medical call in a proscribed area, at the same time, thus creating a heavy economic burden on the City's treasury in both communities. It seems this situation requires the mitigation measure outlined in Section 3.7.3 on page 3-19 of the Draft EIS. Specific communications between the railroads and emergency dispatch center would almost certainly be required. That situation could be resolved also by a separated grade crossing to eliminate Acquisition-related impacts on the crossing. The City of Olmsted Falls cannot fund a second fire facility nor the staff to maintain it in the area of town which would be blocked by traffic on Segment C061. (Exhibit 7.)

On Line Segment C-061 the Ldn would need to be calculated for the housing developments immediately before the FRA ID 524367U and 524368B because there is less than 80 rods or 1320 feet separating these segments and the Ohio Revised Code requires trains whistles to be sounded three times when approaching grade crossings. Compounded with the ambient wayside noise outlined on page OH-74 unless some measure mitigates the noise at said crossings the noise would exceed 70 Ldn, which is unacceptable for residential areas. (See Figure 3.1 in Exhibit 4.)

We would request consideration for Grade Mounted Horn systems outlined on Page F-12 of the EIS on crossings FRA ID 524364Y, FRA ID 524367U and FRA ID 524368B on Segment C-061. The State of Ohio Revised Code (Sections 4955.32 and 4999.04 Exhibit 6B) contains directions for warning at grade crossings. It gives individual communities the right to introduce regulations of such warnings with the municipal corporation limits. (See Figure F-13 in Exhibit 5 and 6.)

Similarly we would request Grade Mounted Horn systems outlined on page F-12 on four at-grade crossings on Segment N293 which already are in a 65-70 Ldn because of location under the approach to Cleveland Hopkins International Airport which has announced plans to extend the major SW runway from 8999 feet to 12,500 ft. putting nearly half the town under the 70-75Ldn in that area. (See Figure F-13, Exhibit 5 and 6.)

Both segments, N293 and C061, bearing increased traffic would increase delay in general traffic but more specifically in Public School busses trying to deliver children to two elementary schools, one parochial school, one middle school and one high school on time. The delay in educational attendance must be addressed. These buildings are outlined on the enclosed map. Also included are logs from the Olmsted Falls School Transportation Bus Garage noting problems with trains. State law requires busses not to cross tracks when signals are engaged. Our school busses run nine shifts per day beginning at 6:40 a.m. and concluding at 5:05 p.m., not including special routes such as athletic events and field trips. Furthermore, the Cities of Lakewood and Fairview Park (to our north) house their school transportation stock at the Olmsted Falls School Bus Garage and blocked crossing lead to delays in these two systems also. (Exhibit 8)

Segment N293 traverses the Olmsted Falls Historic District which has two buildings on the National Register of Historic Places within 500 feet of that line segment. We are sure you must do a Section 106 Review as outlined in the National Historic Preservation Act of 1966 referred to on page G-2 of your EIS. Mitigation measures might also include the Grade Mounted Horn System outlined on Page F-12. (Exhibit 9 Historic District)

One of our recurring problems with Segment N293 is trains that stop and block railway crossings or trains that slow below 30mph because of approaching crossover of segments C061 and N293 in the City of Berea, Ohio to our east. As trains approach the next signalization to the East of Lewis Road which curves to the northeast because of limited sight distance. Trains have slowed to below 30 mph as they head East causing four blocked crossings. We understand there

will be, but find no reference to, the elimination of this crossover at the Berea. Because trains heading East cannot have clear sight distance of the next signal for the next signal which advises either slowing to below 30 or preparing to stop for access to the yard, prudent engineers slow to be ready. We have had to repeatedly levy fines against ConRail in local court for blockages of crossing exceeding five minutes in length. The legislation has held up in higher court and will remain on our local books. (Exhibit 10.)

Enough is enough. Our town cannot be permitted to be a scapegoat for benefit of all the surrounding communities and the Airline industry and the Railroad industry. We are a middle class community of nearly 3,000 homes and very little industry and a growing population because of affordable housing.

We request that you thoroughly review and respond to our position before approval is given to this proposed acquisition and proper mitigations be implemented.

Sincerely yours,

Thomas C. Jones, Mayor

Beverly B. Smith, Pres. Of Council

Rosann Jones, Pres. Pro Tem

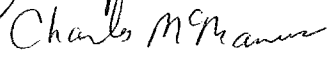
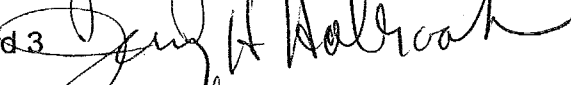
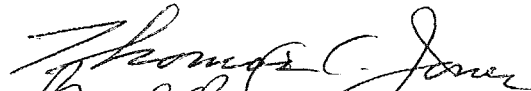
Edward Dean, At Large

Robert Blomquist, Ward 1

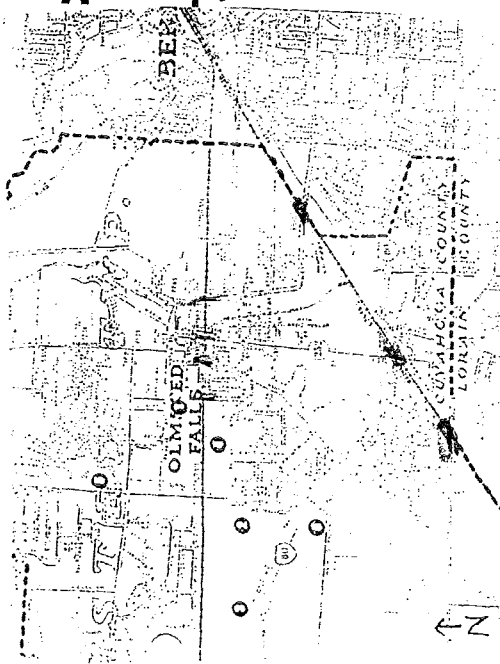
Jean Johnson, Ward 2

Jerry Holbrook, Ward 3

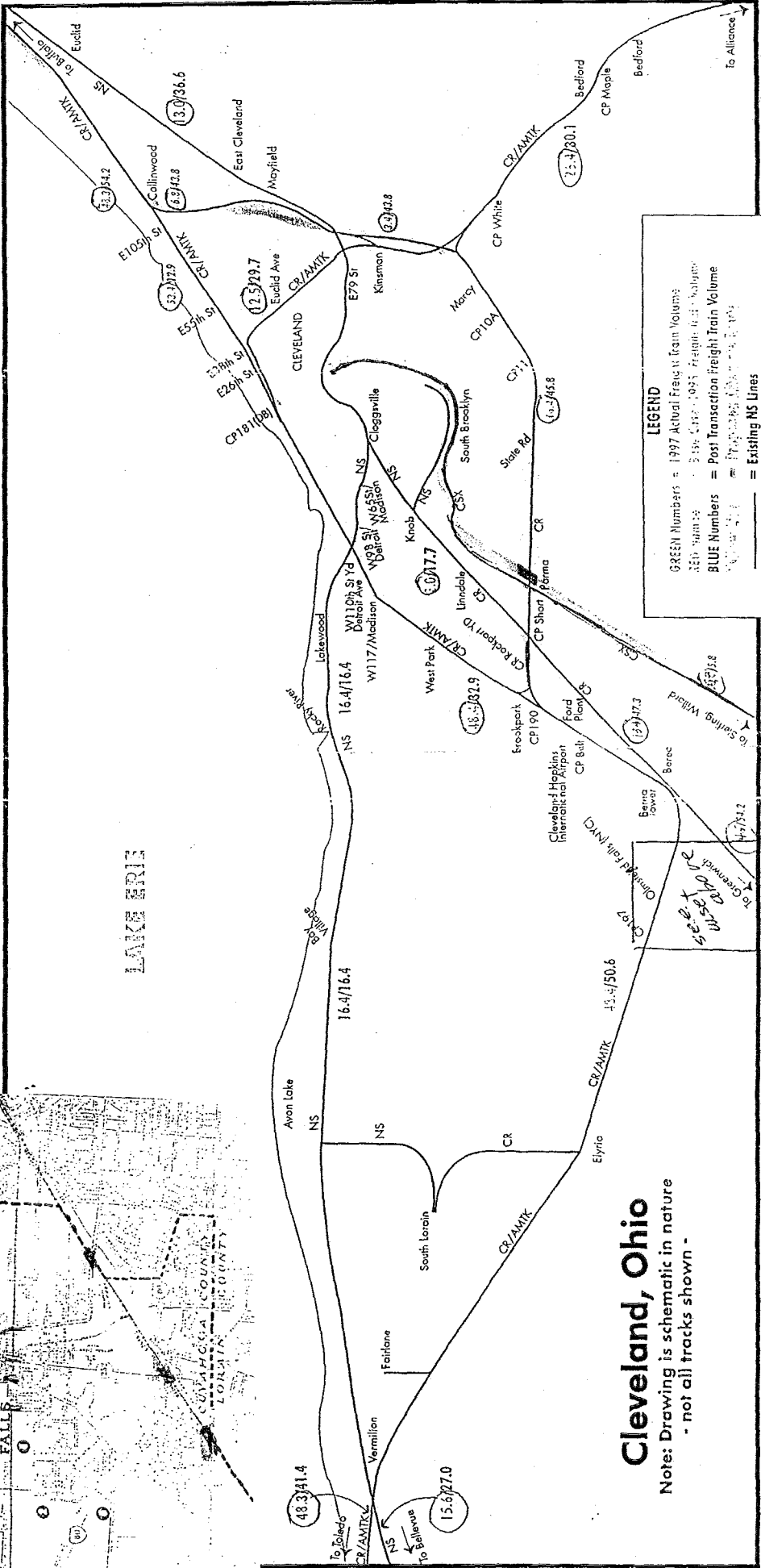
Charles McManus, Ward 4



Proposed "Alternate" Route (Freight Only)



LAKE ERIE



Cleveland, Ohio

Note: Drawing is schematic in nature
- not all tracks shown -

LEGEND

GREEN Numbers = 1997 Actual Freight Train Volumes
 1997 Actual Freight Train Volumes
 BLUE Numbers = Post Transaction Freight Train Volume
 Post Transaction Freight Train Volume
 Existing NS Lines
 NS from CR
 Existing CSX
 CSX from CR

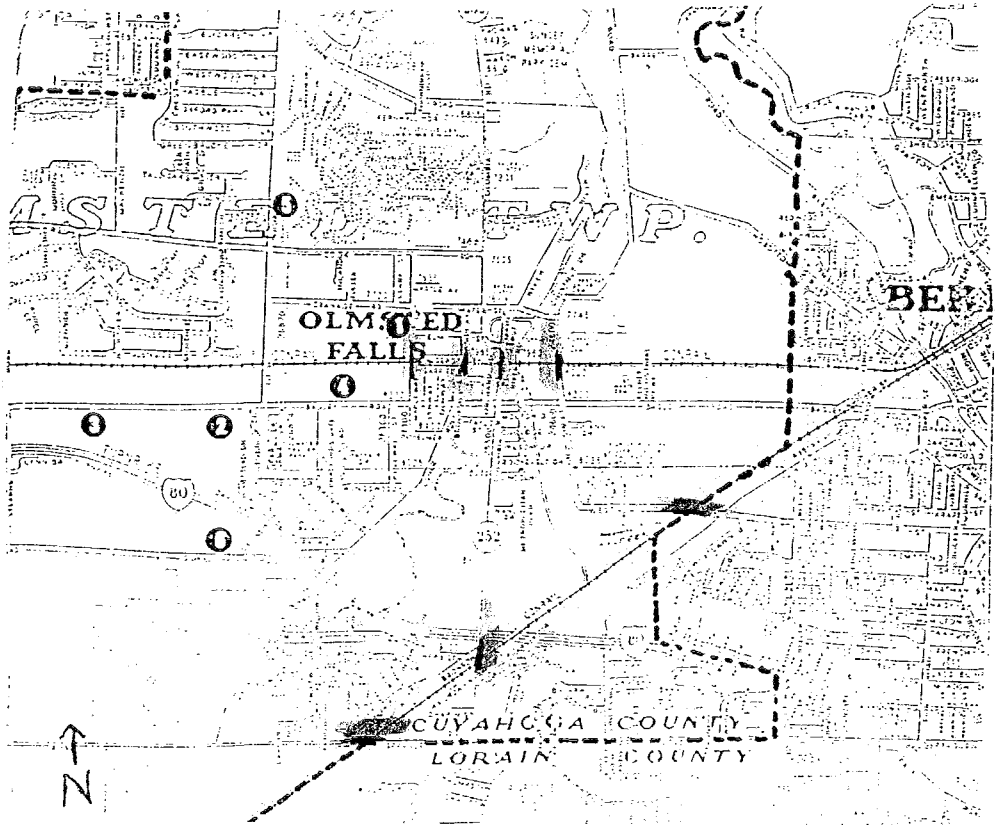
Figures, marks, distances, job messages and job indicators in the drawing are for information only. They do not constitute a contract. All dimensions are in feet unless otherwise noted. All dimensions are in feet unless otherwise noted. All dimensions are in feet unless otherwise noted.

City of Olmsted Falls

FOUNDED IN 1814
9722 COLUMBIA ROAD
OLMSTED FALLS, OHIO 44138

ADMINISTRATION BUILDING
(216) 235-5550

EXHIBIT 3



LEGEND

YELLOW LINE IS PROPOSED ALTERNATE ROUTE LISTING FREIGHT TRAFFIC ONLY. SFB LISTS CURRENT TRAFFIC AT 48.4 WITH PROJECTED INCREASE TO 50.6. THE BEREA TOWERS SAYS AVERAGE IS 93 as of 1/21/98.

GREEN LINE (SEGMENT C-061) NOW LISTS TRAFFIC AT 14.5 WHEN ACTUAL IS 16 AND PROJECTED IS 54.2, INCREASE OF 250%.

SEGMENT N293 (North tracks) HAS FOUR GRADE CROSSINGS, 3 ARE GATED, ALL HAVE LIGHTS.

SEGMENT C-061) HAS THREE GRADE CROSSINGS. ALL ARE GATED, ALL HAVE LIGHTS.

**Common Outdoor
Sound Levels**

**Common Indoor
Sound Levels**

dB(A)

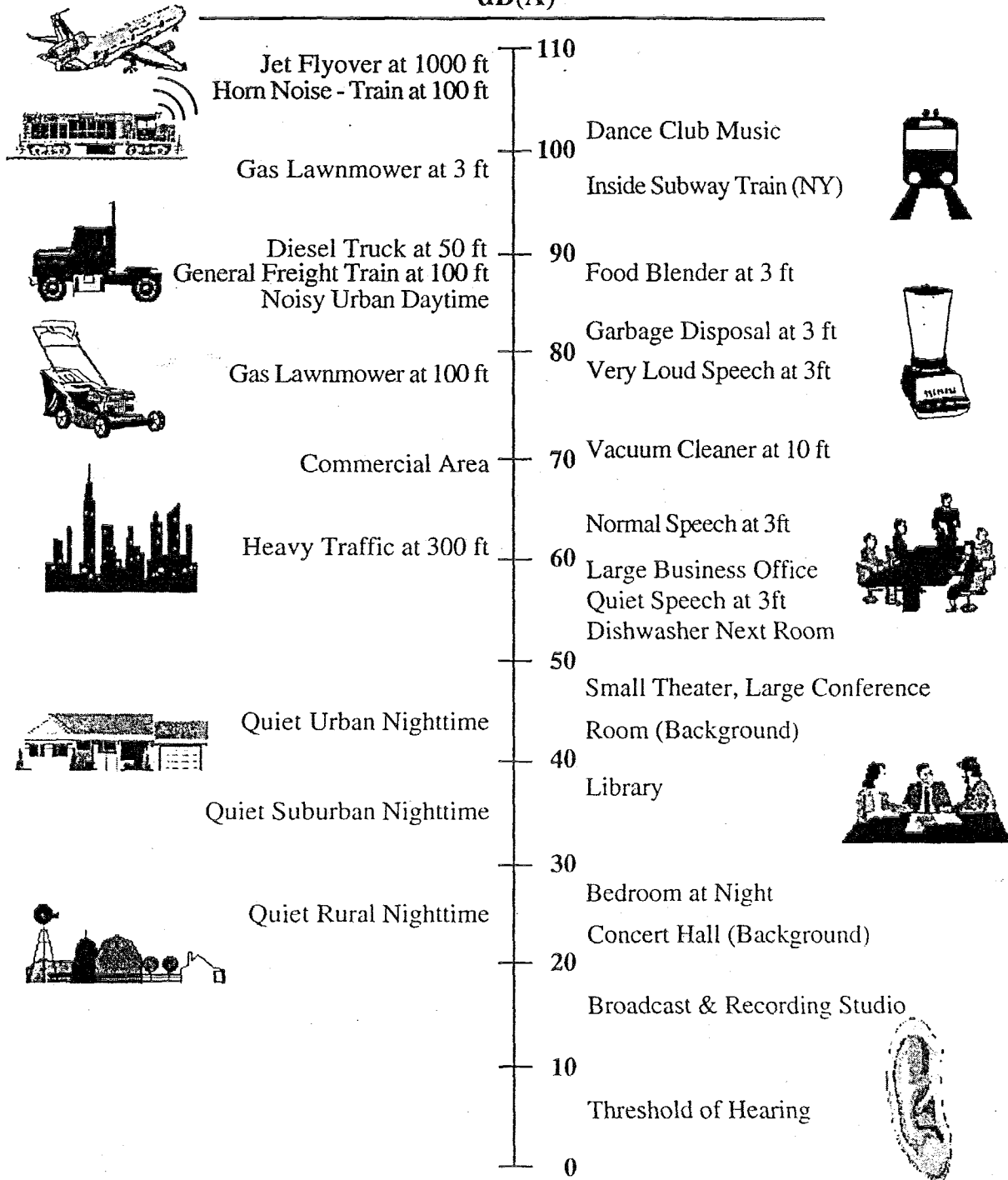
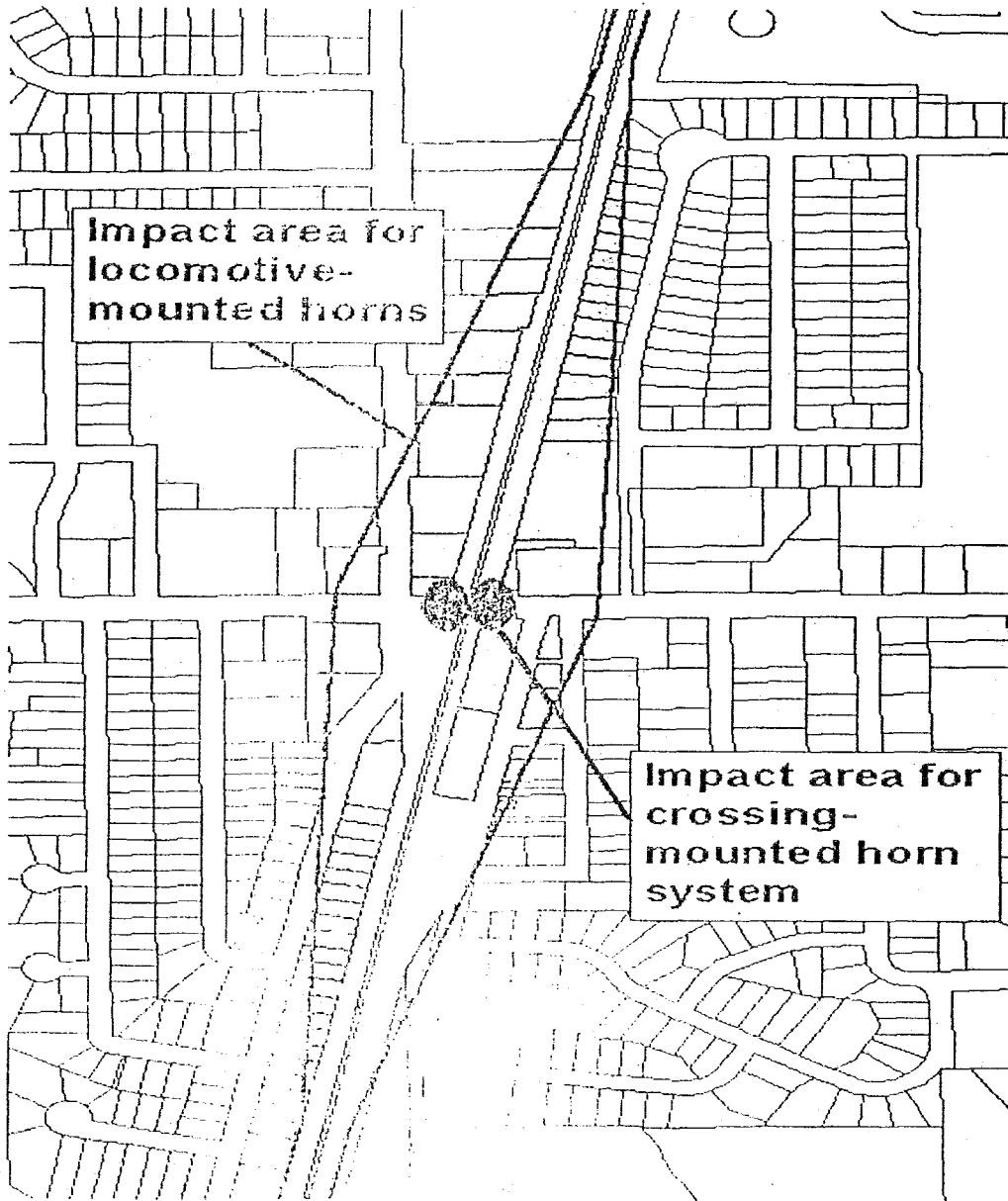


FIGURE 3-1
COMMON SOUND LEVELS

EXHIBIT 4

Figure F-3
 Comparison of Impact Areas for Train Mounted Horn and
 Highway/Rail At-Grade Crossing-Mounted Horn Systems

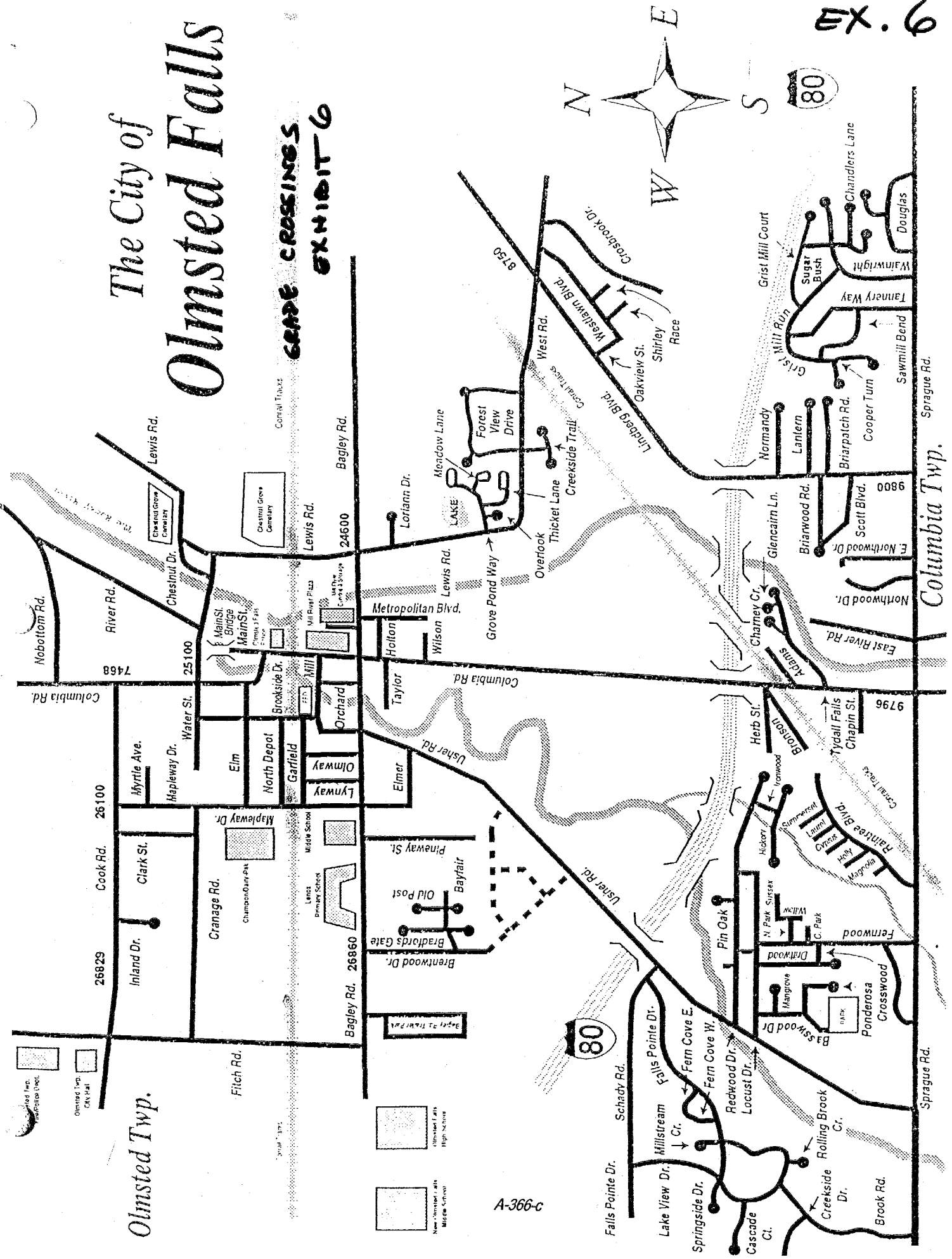


An AHS installation at a highway/rail at-grade crossing typically costs \$12,000-\$15,000, depending on whether or not the crossing is a two-lane or a divided highway. The type of road affects the complexity of the installation. This cost assumes that existing circuitry is appropriate

The City of Olmsted Falls

GRADE CROSSINGS EXHIBIT 6

EX. 6



Olmsted Twp.

Columbia Twp.

A-366-c

TRACKS: CROSSINGS

4955.32

Library References

Railroads § 8, 1, 92.1.
WESTLAW Topic No. 320.

OJur 3d: 79, Railroads § 8, 207, 211

Notes of Decisions and Opinions

Scope 1

I. Scope

This section does not apply to a road constructed by a railroad company having the powers of eminent domain and the duties of a

common carrier. Hence although a coal mining company owns all the stock in such railroad company, freight tendered by any other shippers must be received. *Barlotti & Son v. Public Utilities Commission* (Ohio 1921) 103 Ohio St. 647, 134 N.E. 468.

4955.31 Plan must be approved

Before a person constructs a railway across a railroad as provided in section 4955.30 of the Revised Code, he shall submit the plan of construction to the public utilities commission for its approval, which at the cost of such person for traveling expenses or otherwise, must see that the structure in all respects conforms to the requirements of such section.

(1953 H 1, eff. 10-1-53; GC 8862)

Historical and Statutory Notes

Pre-1953 H 1 Amendments: RS 3356

Library References

Railroads § 91(5).
WESTLAW Topic No. 320.

OJur 3d: 79, Railroads § 207

WARNING SIGNS AND SIGNALS

4955.32 Use of locomotive signal at crossing

Older Revised Code

Every company shall attach to each locomotive engine passing upon its railroad a bell of the ordinary size in use on such engines and a steam or compressed air whistle. When an engine in motion and approaching a turnpike, highway, or street crossing or private crossing where the view of such crossing is obstructed by embankment, trees, curve, or other obstruction to view, upon the same line with the crossing, and in like manner where the railroad crosses any other traveled place, by bridge or otherwise, the engineer or person in charge of such engine shall sound such whistle at a distance of at least eighty and not further than one hundred rods from such crossing and ring such bell continuously until the engine passes the crossing.

This section shall not interfere with the proper observance of an ordinance passed by the legislative authority of a municipal corporation regulating the management of railroads, locomotives, and steam whistles on locomotives, within the limits of such municipal corporation.

(1953 H 1, eff. 10-1-53; GC 8853, 8854)

Historical and Statutory Notes

Pre-1953 H 1 Amendments: 119 v 27; RS
3336

Comparative Laws

Ariz.—A.R.S. § 40-854.	Iowa—I.C.A. § 327G.13.
Ark.—A.C.A. § 23-12-410.	Ky.—Baldwin's KRS 277.190.
Cal.—West's Ann.Cal.Pub.Util.Code § 7604.	Mich.—M.C.L.A. § 466.13.
Idaho—I.C. § 62-412.	N.M.—NMSA 1978, § 63-3-34.
Ind.—West's A.I.C. 8-6-4-1.	N.Y.—McKinney's Railroad Law § 53 b.

Library References

Railroads ⇔ 244.	Customary or statutory signal from train as measure of railroad's duty as to warning at highway crossing. 5 ALR2d 112
WESTLAW Topic No. 320.	
C.J.S. Railroads §§ 428, 429.	
OJur 3d: 79, Railroads § 286, 292, 293, 413	
Am Jur 2d: 65, Railroads § 373 to 378, 501 to 505	

Law Review and Journal Commentaries

Ohio Railroad Crossing Law: The Scope of
Liability, Donald P. Traci. 27 Clev St L Rev 505
(1978).

Notes of Decisions and Opinions

In general 1
Conflict of laws 6
Defenses 8
Evidence 5
Extrastatutory warning 3
Scope 7
Sounding bell and whistle 2
Unobstructed view 4

1. In general

If a spur track of a railroad does not extend eighty rods from a highway, rendering compliance with RC 4955.32 impossible, negligence cannot be bottomed upon a claimed violation thereof. *Gigliotti v. New York, C. & St. L. R. Co.* (Ohio App. 1958) 107 Ohio App. 174, 157 N.E.2d 447, 8 O.O.2d 76.

RC 4955.32 and 4955.34 do not deprive a railroad of the defense of contributory negligence. *Glinsey v. Baltimore & O. R. Co.* (C.A.6 (Ohio) 1974) 495 F.2d 565, certiorari denied 95 S.Ct. 232, 419 U.S. 968, 42 L.Ed.2d 184.

GC 8856 (RC 4955.34), read with this section does not change rule of Ohio respecting separability of actions against master and servant under certain conditions. *Ammond v. Pennsylvania Railroad Co.* (C.A.6 (Ohio) 1942) 125 F.2d 747, 23 O.O. 172, certiorari denied 62 S.Ct. 1283, 316 U.S. 691, 86 L.Ed. 1762.

Violation of this section constitutes negligence per se. *Baltimore & O. R. Co. v. Joseph* (C.A.6 (Ohio) 1940) 112 F.2d 518, 18 O.O. 151, certiorari denied 61 S.Ct. 551, 312 U.S. 682, 85 L.Ed. 1121, certiorari denied 61 S.Ct. 710, 312 U.S. 714, 85 L.Ed. 1144.

2. Sounding bell and whistle

The defendant company was required to sound a whistle at a distance of at least eighty, and not further than one hundred, rods from the crossing, and to ring the bell continuously until the engine passed the crossing. *Cleveland, C. C. & St. L. R. Co. v. Kuhl* (Ohio) 1931) 123 Ohio St. 552, 176 N.E. 222.

Section 3336, Rev. St., requires the engineer having in charge an engine in motion to ring the bell and sound the whistle on approaching a place where the road crosses any highway or traveled place, by a bridge or other structure. *Toledo & O. C. Ry. Co. v. Jump* (Ohio 1893) 50 Ohio St. 651, 35 N.E. 1054.

The failure of a locomotive engineer to sound a whistle as the locomotive approached a grade crossing, is not the proximate cause of the death of a passenger in an automobile which collided with the side of the locomotive which had come to rest on that crossing where the driver and occupants of the automobile were so far away that they would not have heard such sound had it been given.

Historical and Statutory Notes

Pre-1953 H I Amendments: RS 6981

Library References

Railroads ¶ 12.
WESTLAW Topic No. 320.
C.J.S. Railroads §§ 194 to 196.

OJur 3d: 29, Criminal Law § 218c, 70, Railroads § 9.

ENGINEERS, FLAGMEN AND CREWS

4999.04 Duties of engineer

(A) No person in charge of a locomotive shall do the following:

(1) Fail to bring the locomotive to a full stop at least two hundred feet before arriving at a crossing with another track, or proceed through the crossing before signaled to do so or before the way is clear;

(2) When approaching a grade crossing, fail to sound the locomotive whistle at frequent intervals, beginning not less than thirteen hundred twenty feet from such crossing and continuing until the locomotive has passed the crossing.

(E) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If violation of this section causes physical harm to any person, whoever violates this section is guilty of a misdemeanor of the third degree.

(1977 S 167, eff. 8-26-77; 1972 H 511)

Historical and Statutory Notes

Ed. Note: Former 4999.04 repealed by 1972 H 511, eff. 1-1-74; 1953 H I: GC 12549, 12550

Pre-1953 H I Amendments: RS 6980

Library References

Railroads ¶ 12.
WESTLAW Topic No. 320.
C.J.S. Railroads §§ 194 to 196.
OJur 3d: 79, Railroads § 292, 295.
Am Jur 2d: 65, Railroads § 494 et seq.

Customary or statutory signal from train as measure of railroad's duty as to warning at highway crossing. 5 ALR2d 112.
Duty to maintain flagman at crossing. 24 ALR2d 1161.

Schroeder-Katz, Ohio Criminal Law, Statutory Charges

4999.05 Flagmen on railroads

No person or company owning, operating, or controlling a railroad shall employ as a flagman, hostler, or assistant hostler, a person who cannot read, write, and speak the English language. Whoever violates this section shall be fined not less than five hundred nor more than one thousand dollars. This section does not apply to flagmen at street or highway crossings.

(1953 H I, eff. 10-1-53; GC 12551)

City of Olmsted Falls

FOUNDED IN 1814
DIVISION OF FIRE
8051 BROOKSIDE DRIVE
OLMSTED FALLS, OHIO 44138-1950
WILLIAM FISHER, FIRE CHIEF

OFFICE OF THE CHIEF
(216) 235-3238
FAX: (216) 235-3267

EMERGENCY 235-1212

January 22, 1998

To: Mayor Jones
Council President Smith

Re: Proposed Increase in Train Traffic

The Fire Department has a great interest in railroad activities as the trains often impact us in our community. With the fire station located next to the tracks at the north end of town we see first hand the numbers of trains, their speeds, their stops, the blocked crossings, the malfunctioning gates, and on occasion a delay in our emergency responses.

In Olmsted Falls we have the unfortunate situation of having two different rail lines serving two different service areas. This in effect divides the city into 3 different areas or zones, with the fire station located in the center zone, which is the largest of the 3 and consequently has the most emergencies. Approximately 50% of our calls are in this center zone; with about 25% each for the northern and southern zones. Fortunately being located near the north tracks, segment N293, we can determine almost immediately if we are blocked from crossing the north tracks. If we should encounter a delay crossing to the north we can immediately call Olmsted Twp. Fire Department to respond to our emergency call so as to reduce any delay caused by the train and potentially save a life or in the case of fire reduce property damage.

The southern tracks, segment C061, have not created as many problems for us because their volume is low when compared to the north tracks. (Approximately 14 on C061 as compared to 80+ on N293). However we are not aware that a train is potentially blocking our response until we are several minutes into the response and approach the crossing. Mutual aid is then called from Berea, Strongsville, or Columbia Twp. This extended delay could have fatal or costly consequences for our residents.

A-367-c

EXHIBIT 7

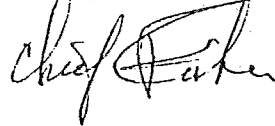
It has been projected we could see a 250% increase in the train traffic for the southern tracks. Because of our situation as explained above I would suggest an automatic response from Berea Fire Department for any call to the southern zone. Our fire department would also respond and once we are clear the tracks we would call Berea off or take over the emergency once we arrive on the scene. To provide a degree of fairness for Berea we would offer the same automatic response to their community for the section of Bagley Road that is west of the tracks and potentially blocked from their fire department. Potential cost increases for call back manpower for Olmsted Falls could be around \$8,000.00 per year.

I have been told there are communications systems available that can send a signal from the railroad to an emergency dispatch center to advise of an approaching train. This may be valuable for our purposes and definitely worth looking into.

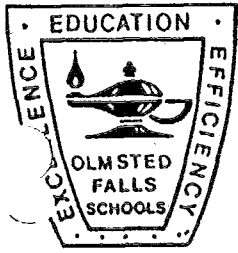
If I can be of any service regarding these matters please contact me.

Sincerely,

Chief William Fisher

A handwritten signature in black ink, appearing to read "Chief Fisher", written in a cursive style.

Safety Director Burland
file



Olmsted Falls City Schools

INTER-SCHOOL MEMORANDUM

TO: School Bus Drivers
 FROM: Timothy Atkinson *[Signature]*
 DATE: October 10, 1996
 RE: Train Survey Update

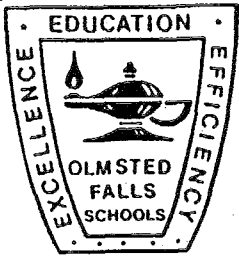
Please record for each bus you operate (if applicable) the number of times you cross the following RAILROAD TRACKS per DAY on your regular routes (include AM and PM or MIDDAY). Thank you very kindly. Please complete this by Friday, October 18, 1996, and return to me.

TOTALS

	EAST - WEST TRACKS (N293)					NORTH-SOUTH TRACKS (C061)						
	B R O N S O N	S T E A R N S	M A P L E W A Y	F I T C H	B R O O K S I D E <small>NEW OPEN 12/17/93</small>	L E W I S	C O L U M B I A	S P R A G U E	B A G L E Y <small>Benev</small>	W E S T R O A D	C O L U M B I A	
DAILY TOTALS	10	18	31	73	(CLOSED) <small>FOR SEWER WORK ON ROAD</small>	13	17	28	17	8	24	= 239 <small>(DAILY GRAND TOTAL)</small>
SCHOOL YEAR TOTAL	1810	3258	5611	13,213		2353	3077	5068	3077	1448	4344	
PER CENT USAGE	4%	8%	13%	31%		5%	7%	12%	7%	3%	10%	

I am drafting a letter to Conrail and the P.U.C.O. (Public Utilities Commission of Ohio) and will be using this information to help support some facts that I need to convey to those officials at Conrail and the P.U.C.O.

* to take students to shared area Vocational School 43,259 / school year



Olmsted Falls City Schools

INTER-SCHOOL MEMORANDUM

TO: School Bus Drivers
 FROM: Timothy Atkinson *T. Atkinson*
 DATE: May 18, 1993
 RE: Train Survey

Please record for each bus you operate (if applicable) the number of times you cross the following RAILROAD TRACKS per DAY (include AM and PM or MIDDAY). Thank you very kindly. Please complete this by Friday, May 21, 1993, and return to me.

Bus #	East/West Tracks	North/South Tracks
4	9	7
_____	_____	_____
_____	_____	_____

16

(includes Bronson, Stearns, Mapleway, Fitch, Brookside, Lewis, Columbia)

7

(includes Sprague, Bagley, West, Columbia)

4

I am drafting a letter to Conrail and will be using this information to help support some facts that I need to convey to those officials at Conrail.

134 East/West
59 North/South

193/day

34,933/school year (181 days)

ORDINANCE NO. 5-95 (as amended)

INTRODUCED BY: Mayor Tom Jones

AN ORDINANCE REAFFIRMING THE BOUNDARIES
OF THE OLMSTED FALLS HISTORIC AREA CONSERVATION
DISTRICT, REPEALING ALL LEGISLATION INCONSISTENT
HEREWITH AND DECLARING AN EMERGENCY.

WHEREAS, the City of Olmsted Falls, Ohio has previously established the boundaries of its Historic Area Conservation District; and

WHEREAS, based upon information from Joseph N. Schaller, P.E. from the office of Michael Benza and Associates, Inc., City Engineer for the Municipality, the previous boundaries were modified in February 1990; and

WHEREAS, the said Joseph N. Schaller, P.E., has recommended that the boundaries of the Historic Area Conservation District, as revised, should be presented to Council for approval; and

WHEREAS, the said Joseph N. Schaller, P.E., has prepared a map indicating the current boundaries of the Olmsted Falls Historic Area Conservation District, a copy of which is attached hereto, marked Exhibit A and incorporated herein by reference; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OLMSTED FALLS, OHIO,
THAT:

SECTION 1. The boundaries of the Olmsted Falls Historic Area Conservation District are hereby reaffirmed to conform with the modifications approved in February 1990 as evidenced in the map outlining the boundaries of the said Historic Area Conservation District attached hereto, marked Exhibit A and incorporated herein as if fully rewritten.

SECTION 2. All prior legislation inconsistent with this legislation in whole or in part are repealed to the extent necessary to avoid conflict with this Ordinance.

SECTION 3. That the Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

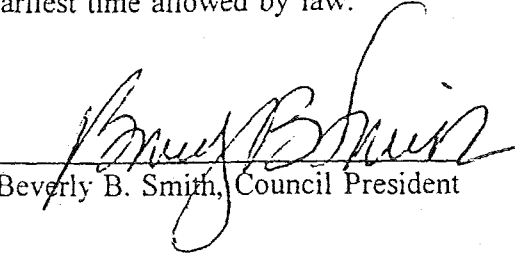
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ORDINANCE NO. 5-95 (as amended)

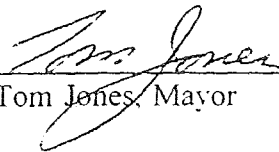
Page -2-

SECTION 4. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the residents of Olmsted Falls for the reason that the revised boundaries were approved in February 1990 and should be established by law as soon as practicable. It shall therefore take effect immediately upon passage by the affirmative vote of not less than five (5) members elected to Council and approval by the Mayor or otherwise at the earliest time allowed by law.

cc: M.B.
POST Lib St. E.D.
Bldg dept
ARB
BZA


Beverly B. Smith, Council President

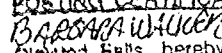
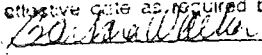
PASSED: 2-28-95

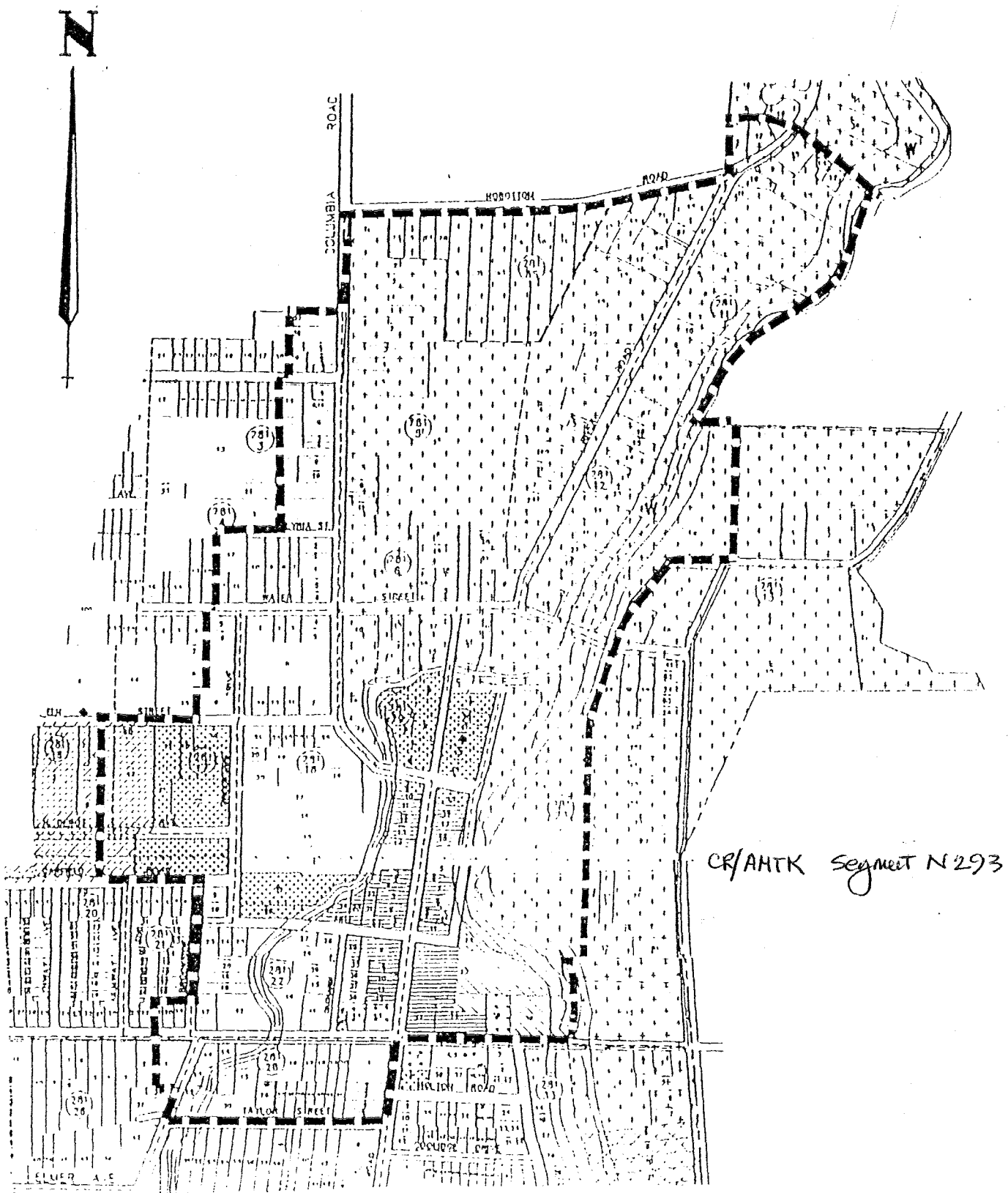
APPROVED: 
Tom Jones, Mayor

2-28-95
Date

APPROVED AS TO FORM: 
Rick J. Carbone, Director of Law

ATTEST: 
Barbara A. Walker
Clerk of Council

POSTING CERTIFICATE CITY OF OLMSTED FALLS
 Clerk-of-Council of the City of
Olmsted Falls, hereby certify that ORD 5-95
was duly posted on the 1st day of March 1995
and will remain so posted for a period of 15 days
after its effective date as required by the charter of
the City.  Clerk of Council



CR/AHTK Segment N 293

HISTORIC AREA CONSERVATION DISTRICT CITY OF OLMSTED FALLS

CLMSTED FALLS

CHAPTER 654
Railroads

- | | |
|---|---|
| 654.01 Obstructing streets by railroad companies. | 654.03 Speed of trains. |
| 654.02 Climbing upon railroad cars. | 654.04 Duties of locomotive engineer. |
| | 654.05 Signal devices and crossing gates. |

CROSS REFERENCES

See section histories for similar State law

Lighting railroads - see Ohio R.C. 723.33 et seq.

Duties of engineers - see Ohio R.C. 4999.04

Stopping at grade crossings - see TRAF. 432.31 et seq.

Definitions generally - see GEN. OFF. 606.01

Organizational criminal liability - see GEN. OFF. 606.08

Personal accountability for organizational conduct - see GEN. OFF. 606.09

Livestock in railroad cars or compartments - see GEN. OFF. 618.05

654.01 OBSTRUCTING STREETS BY RAILROAD COMPANIES.

(a) No railroad company shall obstruct or permit or cause to be obstructed a public street, road or highway by permitting a railroad car, locomotive or other obstruction to remain upon or across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon such street, road or highway. No railroad company shall fail, at the end of each five minute period of obstruction of a public street, road or highway, to cause such railroad car, locomotive or other obstruction to be removed for sufficient time, not less than three minutes, to allow the passage of persons and vehicles waiting to cross.

This section does not apply to obstruction of a public street, road or highway by a continuously moving through train or caused by circumstances wholly beyond the control of the railroad company, but does apply to other obstructions, including without limitation those caused by stopped trains and trains engaged in switching, loading or unloading operations.

Upon the filing of an affidavit or complaint for violation of this section, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred. (ORC 5589.21)

(b) Should any railroad crossing be closed by a railroad company for purposes of construction at or around such crossing, such railroad company shall provide written notification to the City at least thirty days prior to the commencement of such construction or, in the case of emergency construction where at least thirty days notice cannot be given, such written notice shall be given as soon as the railroad company has knowledge that the construction will occur. Further, such railroad company shall provide flagmen and the proper

personnel to direct detoured traffic at any such crossing, which flagmen and personnel shall be provided under the supervision of, and with the approval of, the Chief of Police.

(c) Whenever a police officer or law enforcement officer determines that a railroad train, locomotive or railroad car is in violation of this section, he or she shall proceed as follows:

- (1) The officer shall order the train crew to open such train.
- (2) After such train is opened, the officer shall make a physical arrest of the conductor, or such other person in charge of such train, locomotive or railroad car and cause such person to post bond in accordance with the degree of misdemeanor of which he or she is charged.

(d) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. Organizations violating any of the provisions of this section, as provided in Section 606.08, shall be punished as provided in Section 698.04. (Ord. 74-84. Passed 5-29-84.)

654.02 CLIMBING UPON RAILROAD CARS.

(a) No person shall climb, jump, step or stand upon or cling or attach himself to a locomotive, engine or car upon the track of a railroad, unless in compliance with law or by permission under the rules and regulations of the corporation managing such railroad. (Ord. 81-73. Passed 12-11-73.)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02.

654.03 SPEED OF TRAINS.

(a) No person shall operate or cause to be operated a locomotive, railroad train or railroad car at a rate of speed greater than thirty miles per hour while within the corporate limits of the City.

(b) No person shall operate or cause to be operated a locomotive, railroad train or railroad car at such a slow rate of speed, without good and sufficient reason or cause, so as to detour or delay traffic unnecessarily.

(c) For the purpose of this section the engineer and conductor, if physically present on the railroad train, locomotive or railroad car, shall each be deemed to be operating or causing to be operated the locomotive, railroad train or railroad car.

(d) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. Organizations violating any of the provisions of this section, as provided in Section 606.08, shall be punished as provided in Section 698.04. (Ord. 74-84. Passed 5-29-84.)

SEPTEMBER 18, 1997

CONRAIL CASES HANDLED
BY OLMSTED FALLS MAYOR'S COURT

1994 55 CASES

1995 38 CASES

1996 32 CASES

1997 26 CASES

(01/01/97-08/29/97)

TOTAL CASES 151 CASES

LONGEST B.C. 18 HOURS/ 4 MINUTES

SHORTEST B.C. 8 MINUTES

BLOCKED CROSSINGS 1 HOUR OR LONGER 27



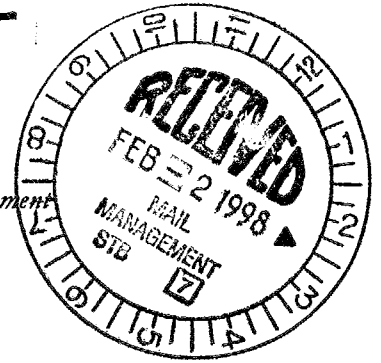
City of Cleveland **ENVIRONMENTAL
Office of the Council DOCUMENT**

Roosevelt Coats

Councilman, 10th Ward • Majority Leader

Committees: Public Service, Chairman • Community & Economic Development

Finance • Public Utilities • Rules



January 22, 1998

Office of the Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98
DOCUMENT # 2/2/98 551.13PM

Dear Secretary and Members of the Surface Transportation Board:

I am writing in opposition to the CSX/Conrail merger that will negatively affect the residents of Ward 10 located in the northeast portion of the City of Cleveland. In light of the research prepared by the City presented in the environmental impact statement by the surface transportation board, and the concerns I hear from neighborhood residents, it is clear to me the proposed merger between CSX and Conrail is at the cost of residents in neighborhoods I represent.

The proposed increase of trains comes on tracks that cut right through my ward. These tracks are rarely used at present, and in some places run through densely populated neighborhoods. An increase in train traffic would affect many people in profound ways.

Delays in traffic at crossing, especially delays in emergency vehicle traffic could create a life-threatening problem for Ward 10 residents. As the shipping of train cargo is virtually unregulated, in the event of an accident, the proposed train traffic is more likely to create a significant health hazard and emergency situation in Ward 10, for which the City must be constantly prepared. The value of real property for residents adjacent to the tracks could plummet, as the location would be increasingly less desirable. Finally the quality of life would be diminished from such dramatic increases in train traffic, and the resulting loss of air quality and increase in noise.

The City prepared and filed a great deal of information in this regard, and indicated that the neighborhoods most affected are black and low-income neighborhoods. Ward 10 includes the Euclid Green, Collinwood and Forest Hills neighborhoods. My community is among those proposed to receive the most damage from this proposal, therefore, I oppose the CSX/Conrail merger.

Sincerely,

Roosevelt Coats
Councilman, 10th Ward
Majority Leader

Residence • 1775 Cliffview Road • Cleveland, Ohio 44110 • (216)486-2323

Ward Office • 14036 St. Clair Avenue • Cleveland, Ohio 44110 • (216)851-8880

City Hall • Room 220 • 601 Lakeside Avenue • Cleveland, Ohio 44114 • (216) 664-4743 • Fax (216) 664-3837

January 22, 1998

Gail M. Schaffer
612 Main Street
Vermilion, Ohio 44089



Elaine K Kaiser, Chief
Finance Docket No 33388
surface Transportation Board
1925 K Street, NW, Room 500
Washington, DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT
REC'D: 1/28/98
DOCUMENT # 1/29/98 2.00.34 PM

Dear Ms. Kaiser;

As a resident and business owner located in Vermilion, Ohio, I am requesting that you provide the necessary protection of the North shore communities of Lake Erie from the harms created by the proposed rail mergers. Vermilion, like its sister lake shore communities, is densely populated, with housing, churches, businesses and schools within 500 feet of the CSX and NS tracks. The proposed merger would increase rail traffic four times the current volume as well as increase the hazardous transports from nine thousand (9,000) cars to thirty two (32,000) cars per year.

You state in your environmental analysis that you intend to recommend to CSX and NS certain emergency response plans be prepared for communities in case of a spill. This is laudable, but considering the increased probability of a spill because of such high volume of hazardous materials in such close proximity to Lake Erie, insufficient. Surely we have learned something from the Valdez spill in Alaska — keep hazards away from water sources. This is not the wilderness, northern Ohio is dependent on Lake Erie for potable water.

The proposed merger will send over fifty (50) trains each day through the heart of Vermilion. The tracks cross each north to south street, effectively cutting Vermilion in half. This is a very unsafe system for the timely response for fire, police and emergency medical vehicles. With over two trains per hour, this means too frequent delays for north/south traffic seeking access to major interstate highways.

Today the Cleveland Plain Dealer reports that the merger proponents promise ninety (90) jobs in the Collinwood yards; as a "creation of jobs and service to the community." Ninety 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 this proposal.

Very truly yours,

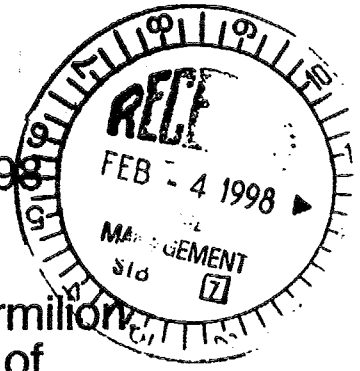
Gail M. Schaffer

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DOCUMENT # 2/4/98 4:45:13 PM

ENVIRONMENTAL
DOCUMENT

COPY

January 23, 1998



Ms. Elaine K. Kaiser,

My name is Mary Olyne Myracle, I live in Vermilion. This letter is about my concern with the possibility of increased train traffic through our community. Our city is split by the tracks, the downtown and emergency services on the north and a large section of private homes on the south. It scares me to think of the ambulance on one side of the tracks, a person in desperate need on the other side and a train between them. There is not an alternate route that does not take at least 20 minutes, which could prove to be deadly to a person in need.

I know you are a very busy person and concerned with many issues that affect many people. Please take a moment to consider the people of Vermilion and look at an alternative to the increase in the train traffic.

Sincerely yours,

Mary Myracle

Mary Myracle
1288 Hollyview Dr.
Vermilion, OH
44089

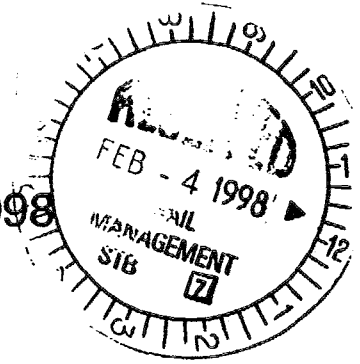
CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/4/98
DOCUMENT # 2/4/98 4:43:47PM

ENVIRONMENTAL
DOCUMENT

COPY

January 23, 1998



Ms. Elaine K. Kaiser,

My name is Sheila Myracle, I live in Vermilion. This letter is about my concern with the possibility of increased train traffic through our community. Our city is split by the tracks, the downtown and emergency services on the north and a large section of private homes on the south. It scares me to think of the ambulance on one side of the tracks, a person in desperate need on the other side and a train between them. There is not an alternate route that does not take at least 20 minutes, which could prove to be deadly to a person in need.

I know you are a very busy person and concerned with many issues that affect many people. Please take a moment to consider the people of Vermilion and look at an alternative to the increase in the train traffic.

Sincerely yours,

A handwritten signature in cursive that reads "Sheila Myracle".

Sheila Myracle
1288 Hollyview Dr.
Vermilion, OH
44089

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98

DOCUMENT # 23/98 12:14:10 PM

ENVIRONMENTAL
DOCUMENT



January 25, 1998

Elaine K. Kaiser
Surface Transportation Board
1925 K Street, NW
Washington, DC. 20423-0001

Dear Ms. Kaiser

I am writing in reference to the proposed acquisition of the Conrail lines that run through our community (Vermilion, OH) by CSX and Norfolk and Southern Railroads.

It is my understanding that this acquisition would increase the traffic on these tracks that run adjacent to Lake Erie. It is my opinion that allowing this merger would be very devastating not just Vermilion, but to the entire state of Ohio. **Lake Erie is the greatest natural asset that this state has.** The current rail traffic already limits the ability to develop along Lake Erie. The transportation of hazardous waste risks contamination of the lake (as demonstrated with the major derailment of a train just last summer just feet away from Sandusky Bay).

You have heard the concerns about the safety issues for the communities like Vermilion, but the issue is much larger. Lake Erie is an asset that belongs to the entire state (and to some degree the entire country). 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 it's value.

Take steps to save Lake Erie for future generations, don't put it at risk.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Bob Higley'.

Bob Higley

COMMISSIONERS

Ashtabula County Commissioners

Duane S. Feher
L. George Distel
Robert J. Boggs

**ENVIRONMENTAL
DOCUMENT**

25 West Jefferson Street
Jefferson, Ohio 44047

216/576-3750

FAX 216/576-2344

Brian Condron
Administrator

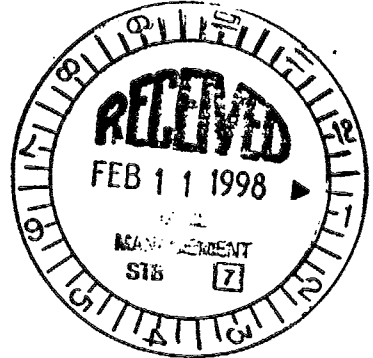
Julie Chelciu
Clerk of the Board

CENTRAL ADMINISTRATIVE UNIT

January 26, 1998

REC'D: 2/11/98
DOCUMENT # 2/11/98 2:32:21 PM

Ms. Elaine Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001



Dear Ms. Kaiser:

This letter is pursuant to the attached correspondence concerning Ashta Chemicals. Ashta Chemicals has indicated that if reciprocal switching is granted, they could reduce their annual freight costs by \$500,000 to \$100,000.

Ashta has met with both CSX and Norfolk Southern regarding our concerns over increased transportation costs and delays in transit times.

I would appreciate it if small business concerns like Ashta could be afforded a fair opportunity to not be adversely impacted by the proposed Conrail acquisition.

Sincerely,

ASHTABULA COUNTY COMMISSIONER

Duane S. Feher



Send letter to ASHTA. (27)

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Section of Environmental Analysis

December 19, 1997

Re: Finance Docket No. 33388 -- CSX and Norfolk Southern -- Control and Acquisition --
Conrail: Draft Environmental Impact Statement

Dear Interested Parties:

Recently, the Surface Transportation Board's Section of Environmental Analysis (SEA) sent you the Draft Environmental Impact Statement (EIS) for the Proposed Acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad. SEA wants to (1) correct two dates in the procedural schedule included in the Draft EIS and (2) clarify that the Draft EIS is comprised of a separate Executive Summary and six volumes of text. These six volumes are divided into nine separate books.

Specifically, the procedural schedule included in the Executive Summary (Table ES-1, pp. ES-7 to ES-8) and in Chapter 1 (Table 1-1, p. 1-9) of the Draft EIS incorrectly states the due dates for filing rebuttals in support of Inconsistent and Responsive Applications and for submitting briefs to the Board. The correct due dates are: (1) **January 14, 1998** for the filing of rebuttals in support of Inconsistent and Responsive Applications and (2) **February 23, 1998** for all parties to submit briefs. A corrected copy of the Board's entire Procedural Schedule is enclosed with this letter.

SEA welcomes written comments on all aspects of the Draft EIS as well as suggestions on mitigation measures to address potential environmental impacts that could result from the Proposed Conrail Acquisition. As noted in the Draft EIS, all comments must be submitted by **February 2, 1998**.

If you have any questions about the Board's Procedural Schedule or would like additional information about the environmental review process, please call SEA's toll-free Environmental Hotline at 1-888-869-1997, or visit our website at <http://www.conrailmerger.com>.

Sincerely yours,

Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis

Enclosure

ASHTA Chemicals Inc.
3509 Middle Rd.
P.O. Box 858
Ashtabula, Ohio 44004
216-997-5221
Fax: 216-992-0151

Office ph # 997-6858

440 - 352 - 3539

352 - 3622



November 24, 1997

Mr. Duane S. Feher
County Commissioner
25 West Jefferson Street
Jefferson, OH 44047

Dear Mr. Feher:

Enclosed, please find ASHTA's brief regarding the proposed acquisition of Conrail by the Norfolk Southern RR and the CSX RR. This brief was submitted to the Surface Transportation Board on October 21, 1997.

~~Since the 1970's Ashtabula, OH has been closed to Reciprocal Switching and captive to Conrail. ASHTA has requested~~
as a condition of the merger, Reciprocal Switching in Ashtabula. This would allow for rail competition to exist again in Ashtabula. The basis of our research is as follows:

- * Reciprocal Switching existed previously in the early 1970's with the Penn Central and the Norfolk and Western RR. The Penn Central ran the East West line to Buffalo, NY and the Norfolk & Western ran an additional East-West lane to Buffalo, NY. When the respective railroad merged to form Conrail, the Reciprocal Switching agreement was eliminated.
- * Having access to a second major Class I railroad in Ashtabula would benefit all of the Ashtabula shippers through competitive freight rates. ASHTA alone spends more than \$4.3 million annually in rail freight costs. If Reciprocal Switching is granted, we could realize estimated freight savings of \$500,000 to \$1 million annually. This is significant to ASHTA and would allow for improvements to our plant located in Ashtabula, OH and possible expansion of our facility.
- * Reciprocal Switching would also allow for improved transit times by eliminating switches to a second carrier. Improved transit times allows our customers to receive product faster. It is still unknown how much of ASHTA's business that is currently Conrail direct shipments that will become a two-railroad movement, CSX handing off to the Norfolk Southern. It is our experience that anytime two railroads are involved, freight rates are higher. In addition, transit times are usually increased by one to three days. This also increases our cost of doing business because these cars are not available for shipment to other customers or terminals.
- * With the proposed acquisition of Conrail, CSX will have the East-West line to Buffalo, NY and Norfolk Southern will have the North-South line to Youngstown, OH. All Ashtabula rail traffic is pulled from the industry and taken to the West Yard. In the West Yard, trains are built and shipped to Buffalo. Norfolk Southern trains will cross the East-West CSX line just east of the West Yard. ~~A~~
~~switching agreement could be used to switch cars to the Norfolk Southern. It is believed that this~~
~~space is in good condition and would not require additional capital for improvements. With the close~~
~~proximity of the spur to the West Yard, it makes sense to allow the shippers access to the Norfolk~~
~~Southern RR.~~

ASHTA has met with both the CSX and Norfolk Southern regarding our concerns over increased transportation costs and delays in transit times. ~~CSX has not committed our request for Reciprocal Switching (see Exhibit D) and Norfolk Southern was also noncommittal (see Exhibit C). Further, with this expensive acquisition, ASHTA asked both~~

~~agreements have them would be paying for the merger.~~ Norfolk Southern responded that in addition to the revenue from the merger, they had stopped buying back their own stock which they had been doing in previous years at approximately \$500 million per year. CSX responded that they have a "Truck Busters" initiative to take business away from the trucking industry. ASHTA does not have enough business to benefit from the Truck Buster program. Other than economies of scale arguments we read in the press, they have not offered any other plan for paying down the huge debt they will incur upon the culmination of the acquisition. We can only assume the debt will be repaid via freight rate increases. This is counter to both the NS and CSX public commentary on how their respective acquisitions of Conrail will increase competition and service.

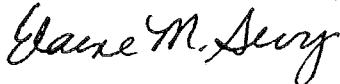
We believe we have voiced valid concerns as current experience with the UP/SP merger has proven an increase in ~~freight rates of 30% and significant delays in transit to our customers.~~ The UP/SP problems were not foreseen or expected as a result of the merger and we know that this has caught many shippers and the STB unaware.

This summarizes ASHTA's position with the proposed acquisition and break up of Conrail. I would appreciate an opportunity to discuss this with you further at your convenience prior to your meeting with the ~~Ohio Attorney General's Office.~~ Please call me at 440-997-6858 when you receive this letter to arrange a mutually agreeable time to meet with you and Mr. Boggs either at your office in Jefferson or our office in Ashtabula.

If for some reason we are unable to meet, I would like to call and discuss this with you and Mr. Boggs prior to your meeting. If you feel it would be appropriate, I will arrange to travel to Columbus with one of my associates in order to attend the meeting and clarify our position with the Attorney General's Office.

Thank you for the opportunity to review our position. I look forward to hearing from you in the near future.

Sincerely,



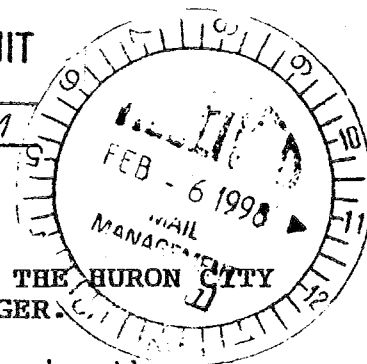
Elaine M. Sivy
Manager, Distribution &
Order Fulfillment

Enclosure: 1

cc: FAC
ARG
MRB
File

**ENVIRONMENTAL
DOCUMENT**

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/6/98
DOCUMENT # 2/6/98 4:15:49PM



RESOLUTION NO. 1998-7

A RESOLUTION EXPRESSING CONCERNS OF THE MEMBERS OF THE HURON CITY COUNCIL REGARDING THE CSX/NS PROPOSED RAILROAD MERGER.

WHEREAS, members of the Huron City Council recognize there are many environmental issues in Erie County, Ohio that have not been resolved regarding the CSX/NS proposed railroad merger, and;

WHEREAS, members of the Huron City Council are concerned about the maintenance of the railroad crossings within the corporation limits, and;

WHEREAS, members of the Huron City Council are extremely concerned about the increased transportation of hazardous waste material through the City of Huron, Ohio.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

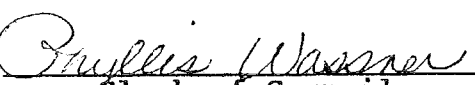
Section 1. That this Council will not support the merger of CSX/NS unless all environmental issues and concerns in Erie County, Ohio have been addressed and resolved.

Section 2. That this Council will not support the merger unless they are provided with written assurance that regular maintenance of the railroad crossings within the corporate limits will be done with specific attention being given to the Rye Beach Road, Main Street, River Road and Berlin Road grade crossings.

Section 3. That this Council will not support the merger until they are satisfied that safety measures have been implemented to assure the safe transport of shipments of all hazardous waste materials throughout Erie County, Ohio.

Section 4. That the Clerk of Council be, and she hereby is, directed to forward a copy of this Resolution to the Erie County Commissioners, the Surface Transportation Board and the U. S. Representative and Senator from this district.


Edward Asher, Mayor

ATTEST: 
Clerk of Council

ADOPTED: JAN 26 1998, 1998

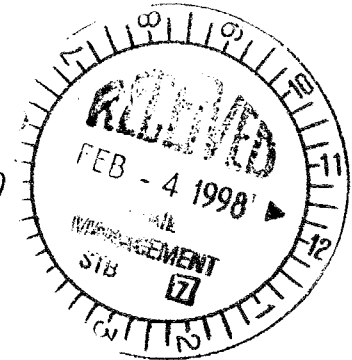


Eastgate Development and Transportation Agency

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/4/98

DOCUMENT # 2/4/98 2:08:03 PM



ENVIRONMENTAL DOCUMENT

COPY

January 26, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N. W.
Washington, D. C. 20423-0001

Dear Ms. Kaiser:

The Citizens Advisory Board of the Eastgate Development and Transportation Agency (EDATA), serving Mahoning and Trumbull Counties, Ohio as an advisory board to the General Policy Board of EDATA, the regional metropolitan planning organization, is concerned with the proposed acquisition of Conrail and the impact it will have on the Youngstown-Ashtabula (Youngstown Branch of Conrail) Railroad Line.

The increase in trains per day along this line will exceed 100 percent and could create the following environmental impacts: noise (engine, wheels and horn) from increased traffic on the line; safety from at-grade crossings that have inadequate monitoring controls; environmental justice which will impact minority and low-income communities that are located in close proximity to the line; and hazardous materials transportation where the Youngstown-Ashtabula Line has been identified as a Major Key Route.

The transportation of hazardous materials is probably the most important environmental issue due to the residential development in close proximity to the railroad line. This issue must be thoroughly addressed by the Board's Section of Environmental Analysis to insure that appropriate response procedures are in place in the event of a train accident (derailment) or hazardous materials release, and that these procedures are acceptable to local emergency response organizations located in the vicinity of this railroad line.

Your consideration of these environmental issues would be appreciated.

Sincerely,

Nancy D. Brundage

Nancy D. Brundage
Chairman, Citizens Advisory Board

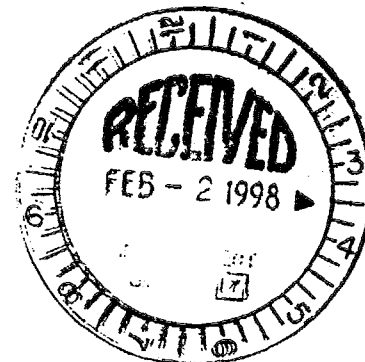
EUCLID PARK **F**OREST HILLS PARK **C**OLLINWOOD **COALITION**

Chairman
Roosevelt Coats
1st Vice Chairman
Abby Shroka
2nd Vice chairman
Alfred Freeman
Secretary
Mary Fayne
Recording Secretary
Paul Hewitt
Treasurer
Eugene Ross
Assistant Treasurer
Juanita Gerald
Parliamentarian
Ronald Franklin, Sr.
Chaplin
Henrietta McCoy

Executive Members:

Edna Beltcher
Shirley M. Coats
Fred Johnson
Maud Davis
Jean Nelson
Barbara Jean Barclay
Helen Steele
Lizzie Moore
Robert Lewis
Sara Maxwell
Annie Travis
Judy Tyes
Mary Stewart
Celia Stauall
Morris Glenn
Rosetta Buffington
Tony Davis
Sherman Powell
Gustina P. Nicholas
Willie Smith
Mary McElrath
Glenn Davis
Lola Perkins
Marva Watkins
Alvie Evans
Walter Covington
Cheryl Ellis
Madeline Taylor
Jimmy McCoy
Willie Calhoun
Magetta Holland
Jackie Freeman
Bonnie Burton
Charile Moore
Wallace Floyd
Christine Franklin
Annie Pritchett
Helen Bryant
Irena Norwood
Carmilla Kennerty

CENTRAL ADMINISTRATIVE UNIT
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 DOCUMENT # 2/2/98 S'S4:17PM



January 26, 1998

ENVIRONMENTAL DOCUMENT

Office of the Secretary
 Surface Transportation Board
 Washington, D.C. 20423-0001

Dear Secretary and Members of the Surface
 Transportation Board:

We are writing in opposition to the CSX/Conrail merger that will negatively affect the residents of Ward 10 located in the northeast portion of the City of Cleveland. In light of the research prepared by the City presented in the environmental impact statement by the Surface Transportation Board, and the concerns we hear from neighborhood residents, it is clear to us that the proposed merger between CSX and Conrail is at the cost of residents in our neighborhoods.

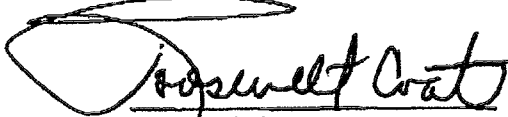



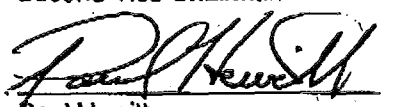
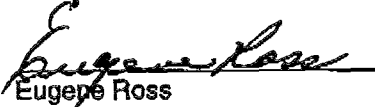


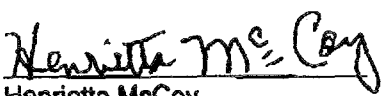
The proposed increase of trains comes on tracks that cut right through our communities. These tracks are rarely used at present, and in some places run through densely populated neighborhoods. An increase in train traffic would affect many people in profound ways.

Delays in traffic at crossing, especially delays in emergency vehicle traffic could create a life-threatening problem for our communities. As the shipping of train cargo is virtually unregulated, in the event of an accident, the proposed train traffic is more likely to create a significant health hazard and emergency situation in our neighborhood, for which the City must be constantly prepared. The value of real property for residents adjacent to the tracks could plummet, as the location would be increasingly less desirable. Finally the quality of life would be diminished from such dramatic increase in train traffic, and the resulting loss of air quality and increase in noise.

Gayle Thomas
 Burtha Reddix
 Rev. Oliver Morris
 Rev. Aurelius Sims
 Doreen Parry
 Ruben Little
 LuElla Harvey
 Willa Armor
 Imon Duad
 W. C. Coats
 Carl Fulton
 Calvin Williams
 Isabell Hendrick
 Fannie M. Allen
 Raymond Cheese
 Al Kirk
 Barbara Miller
 Eloise Brown
 Willie McCladdie

The City prepared and filed a great deal of information in this regard, and indicated that the neighborhoods most affected are black and low-income neighborhoods. The communities are: Euclid Green, Collinwood and Forest Hills neighborhoods. Our community is among those proposed to receive the most damage from this proposal; therefore, we oppose the CSX/Conrail merger.

Sincerely,

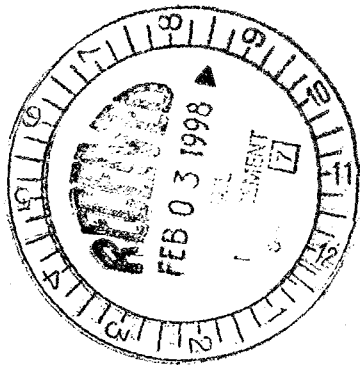
	
Roosevelt Coats Chairman	Abby Shroka Vice Chairman
	
Alfred Freeman Second Vice Chairman	Mary Fayne Secretary
	
Paul Hewitt Recording Secretary	Eugene Ross Treasurer
	
Juanita Gerald Assistant Treasurer	Ron Franklin Parliamentarian
	
Henrietta McCoy Chaplin	

cc: William E. MacDonald, President

The Honorable Michael R. White
Mayor, City of Cleveland

The Honorable Louis Stokes
Congressman, U. S. House of Representatives

CSX Transportation



Mrs. Jeanne Pauly
3120 Brownhelm Sta. N.
Vermilion Ohio 44089
January 26, 1998

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 12:18:33PM

Surface Transportation Board
Elaine Kaiser, Environmental Proj. Director

Dear Ms. Kaiser:

ENVIRONMENTAL
DOCUMENT

As a long time resident of Vermilion, Ohio, I am very concerned about the proposed increased traffic the trains will present

This town is cut in two by railroad. This is a well established local concern because there is lack of access to any emergency equipment.

Hazardous waste transported by rail only adds to the serious concerns the community has. Please reconsider the serious ramifications this merger between Norfolk and Southern, CSX and Conrail will present for this entire area.

The safety and health of this community are at stake.

Sincerely,
Mrs. Jeanne Pauly
(Lorain Co.)



Ohio Senate
 State House
 Columbus, Ohio 43215
 614/466-8086

**ENVIRONMENTAL
 DOCUMENT**

Committees:
 State and Local Government
 and Veterans' Affairs, Chairman
 Education
 Agriculture
 Human Services and Aging

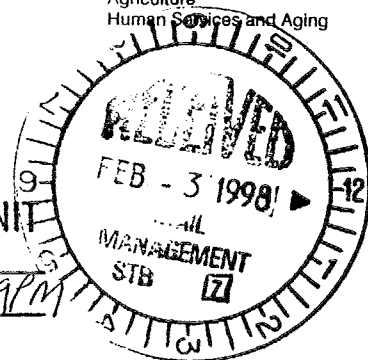
January 26, 1998

Dick Schafrath
 19th District

Office of the Secretary
 Case Control Unit
 Finance Docket No. 33388
 Surface Transportation Board
 1925 K Street, NW
 Washington, D.C. 20423-0001

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98
 DOCUMENT # 2/3/98 3:26.39 PM



Attention: Elaine K. Kaiser; Environmental Project Director, Environmental Filing

Dear Ms. Kaiser:

I understand at this time the Surface Transportation Board and its members are conducting a comment period for interested parties to offer their concerns regarding the proposed changes resulting from the acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad. I would like to take this opportunity to share with you some of my concerns and those concerns brought to my attention by the local officials within my district.

This proposed acquisition will affect Huron County, specifically Greenwich and Willard, Ohio, which are both among my district. Among these two areas there have been several concerns including, but not limited to, the following: underpasses, proper signalization, access road, safety of children going to and from school, emergency vehicle access for public safety, and the possibility of long delays causing increased anxiety to the motoring public.

Due to the volume of concerned citizens from all parts of Ohio, Senator Oelslager and Representative Bateman held a special Joint Legislative Transportation Committee for the purpose of reviewing the CSX merger with Conrail and the merger's impact upon Ohio and its citizens. During those committee meetings many individuals and local officials from all over Ohio came to testify, including my constituents from Greenwich and Willard, Ohio and Huron County officials. At the conclusion of the subject in committee, Senate Concurrent Resolution (SCR) 14 was introduced.

SCR 14 opposes the sale of Conrail to CSX and Norfolk Southern unless certain conditions are imposed on the sale by the Federal Surface Transportation Board which mitigate the commercial and community harm caused by the proposal. Recognizing that the final decision regarding this matter will be made by the Surface Transportation Board, I would respectfully request the board and its members to take under serious consideration my concerns as well as those concerns submitted by the citizens and local officials who will be directly affected by the outcome of the board's decision.

A-373-c

Elaine K. Kaiser
January 26, 1998
Page 2

To the credit of the railroad company, CSX has been attempting to work with and address those concerns raised by Huron County officials. However, there are still areas that have not yet been resolved between the railroad company and Huron County. It is critical that these remaining concerns be resolved prior to the approval of this acquisition.

If during your consideration of this matter you or any of the board members would like to speak to me regarding my thoughts and concerns, please feel free to contact my office. Thank you for your consideration and attention in this matter, and I trust my comments will be of service to both you and the board.

Sincerely,



Dick Schafrath
State Senator

DS/baj

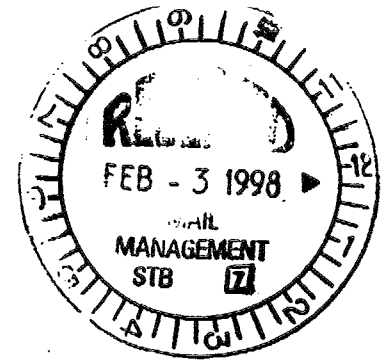
cc: Congressman Paul Gillmor
Huron County Commissioners

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98

DOCUMENT # 2/3/98 2:20.06PM

Pamela J. Holt-Higley
637 Sunnyside Road
Vermilion, Ohio 44089
440-967-1711



ENVIRONMENTAL DOCUMENT

January 26, 1998

Ms. Elaine K. Kaiser
Environmental Project Director
Surface Transportation Board - Finance Docket No. 33388
1925 K Street, NW
Washington, DC 20423-0001

Dear Ms. Kaiser:

I am asking you to strongly consider the impact of the requested merger of Conrail and Norfolk & Southern Railroads on the communities to be affected by the resulting increased train traffic. Vermilion, Ohio is one such community.

As a resident and small business owner I am greatly concerned about the results of this merger and what it would do to our community and our quality of life. My primary concerns:

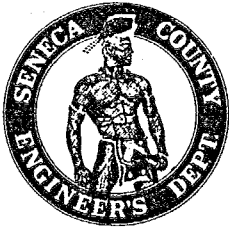
- Tremendously increased traffic on the existing tracks;
 - Increased noise and air pollution;
 - Rerouting of school buses;
 - * Increased student ride-time, as well as increased fuel consumption. Both would be very detrimental to a school system with existing financial strains.
 - Increased difficulty to travel throughout the community.
 - * The merger could possibly cut off much needed traffic and revenue for "downtown" and Liberty Avenue businesses.
 - Higher probability of automobile and/or pedestrian accidents at railroad crossings.
- Increased traffic of hazardous waste;
 - Greatly endangers the environmental safety of Lake Erie.
 - * Why risk Ohio's one Great Lake and a beautiful natural resource, not to mention the safety of lake-front residents?
 - * One toxic spill would contaminate the water source for many communities and devastate a growing tourist industry.
- Diminished response time of local safety forces to emergencies;
 - Geographically speaking, increased train traffic would cutoff many residents from receiving adequate responses from police and fire protection as well as emergency medical assistance.
- Long-term damage to an already depressed local economy;
 - Reduced accessibility due to heavier train traffic could hamper Vermilion's ability to support existing businesses, as well as, its ability to attract new businesses.
 - The tourist trade is one of Vermilion's sources of revenue. Increased train traffic would decrease the community's appeal to vacationers, boaters, fishermen, etc.

Vermilion and surrounding communities have nothing to gain and everything to lose with this merger. Put yourself in the position of those who will be directly affected by this merger. Vote in favor of the quality of life for your constituents and against this proposed merger. Thank you for your time and consideration.

Sincerely,


Pamela J. Holt-Higley

C: Mr. James Davis, Mayor, City of Vermilion Mr. Nick Luby, Councilman, City of Vermilion



JAMES R. NIMZ, P.E./P.S.
SENECA COUNTY ENGINEER
111 MADISON ST
TIFFIN OH 44883-2824

OFFICE
TEL:(419)447-1011
FAX:(419)447-1304
GARAGE
(419)447-3863

January 26, 1998

Office of the Secretary
Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001



RE: Comments on Draft E.I.S.
for Conrail Merger

1. *SENECA COUNTY OHIO SETTING*

Located in North Central Ohio. One hour southeast of Toledo, 2 hours west of Cleveland and 1 1/2 hours north of Columbus.

Rural with sporadic development.

The City of Fostoria is situated principally within Seneca County.

2. *RAILROAD FACILITIES IN/AFFECTING SENECA COUNTY*

Rail lines

5 separate lines

*4 lines are Class I railroads
(2 lines CSX and 2 lines NS)

*1 line Short Line - Port Authority

Major Rail Yards

1. Bellevue (NS) existing facility sits on northeast County line Seneca/Sandusky/Huron
2. Willard (CSX) an existing yard that will become a key terminal (including fueling facility) is only 5 miles east of Seneca County in Huron County

Rail Mixing Plant

NS has just begun operation at this plant on the east side of Fostoria.

3. SAFETY CONCERNS

A. General Comments

The City of Fostoria is in Seneca County. Fostoria possesses many unique problems. These problem areas spill over to the surrounding townships in our County. The key item that appears to have been totally ignored in the draft EIS is that train traffic does not "pass through" Fostoria; switching and turning movements are performed here. This currently results in trains stopped, blocking city streets, county roads and township roads while waiting to get through Fostoria. It is not uncommon now for Fostoria, county and township roads to be blocked by stopped trains for over one (1) hour. What will happen when 22 trains per day are added to C-075, 10 trains per day added to C-070 and 8 trains per day to N-071? While all these trains are stopped, waiting for turning movements, the county and township roads east, north and south of Fostoria will be blocked. This will interfere with emergency, fire, police, EMS and totally disrupt normal vehicle movement. This entire situation, Fostoria and the surrounding townships, must be analyzed and satisfactorily addressed before this office can support this merger.

B. Freight Rail Operation

SEA has listed CSX line C-075 as having a "significant increase" for accident rates between cars and freight trains. However, 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. We strongly believe that quality of life in Seneca County will be very adversely effected by this increase.

The "extensive" capital improvements proposed for Fostoria, need to be extended to the surrounding townships.

C. Highway/Rail at Grade Crossings

SEA has identified four crossings in our County as Class A significance.

This office believes that this number is low. Seneca County has the dubious designation of consistently ranking in the top five (5) Ohio counties for grade crossing fatalities. An increase in train traffic can only serve to increase this statistic.

Seneca County currently has a "hump" crossing problem. Over two years ago, a county-wide standard was developed and adopted. With our limited funds, we have only been able to get a handful of the 160 plus crossings up to standard. We strongly believe that as

part of this merger approval, all the effected highway/rail at grade crossings must be upgraded to our County Standards. (copy attached)

At a minimum, the CSX line C-075 (increase of 22 trains per day) should have lights and gates installed at all crossings.

D. Hazardous Material Transport by Rail

SEA has identified C-070 and C-075 as being "major key routes" and C-070 is also "new key route" for transporting hazardous materials.

The suggested mitigation does not begin to go far enough to protect the citizens living along these routes. CSX should provide training for the local EMS, fire, police on at least a six month basis since many of the personnel are volunteer. There needs to be advance communication with the EMA Director at least monthly on what material will be moving through that month.

E. Roadway Crossing Delay

SEA has chosen to only look at crossings with 5000 ADT. As we stated earlier in the Safety Concerns - General Comments, the existing train traffic already causes unacceptable road blockages in and around Fostoria. There needs to be a detailed review of Fostoria and the surrounding townships to see how the proposed increase in train traffic is going to back-up into the townships. Just because most of our local ADTs are less than 5000 does not mean we have significantly less safety concerns. Currently Seneca County consistently ranks in the top five (5) counties in the State of Ohio regarding accidents at rail crossings.

This report has generally ignored the Fostoria problem and totally ignored the extended problems created in the townships. When our County is currently experiencing one (1) hour blockages of roads, we strongly believe that the following summary statement is totally inappropriate "the proposed Conrail acquisition would have no significant effect on vehicle delay for most at-grade crossings in Ohio. However seven crossings in Butler, Cuyahoga, Hamilton and Lorain Counties...".

We will strongly oppose this merger until the problems in Fostoria and the surrounding townships are properly addressed.

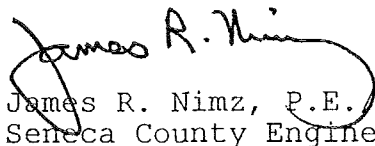
F. Seneca County Air Quality

SEA has already identified a 29% in NO_x emissions. Again this is assuming trains are passing through. What are the real air quality problems that need to be addressed by stopped trains and blocked roads? Just because we are in an attainment area, we should not be

subjected to such large increases without mitigation.

- G. 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. Also the future growth of rail commerce along these lines and their impact in all of the above items was not discussed.
- H. Future law will allow communities to apply for noise reviews which disallow the train engineer from blowing the hour in areas with four quadrant gates or similar warning devices. What will happen if and when the warning devices fail? Based upon past history with CSX, it is not uncommon for them to close a crossing for repair work without seeking the needed permits or advising the proper emergency response agencies. The crossing may remain closed for 3-8 weeks with no workers in the area for weeks on end. Only after calling the PUCO do we get action. With this track record, is there any way to mitigate better response to the local agencies as well as minimizing the closure time of the crossing.

Very truly yours,

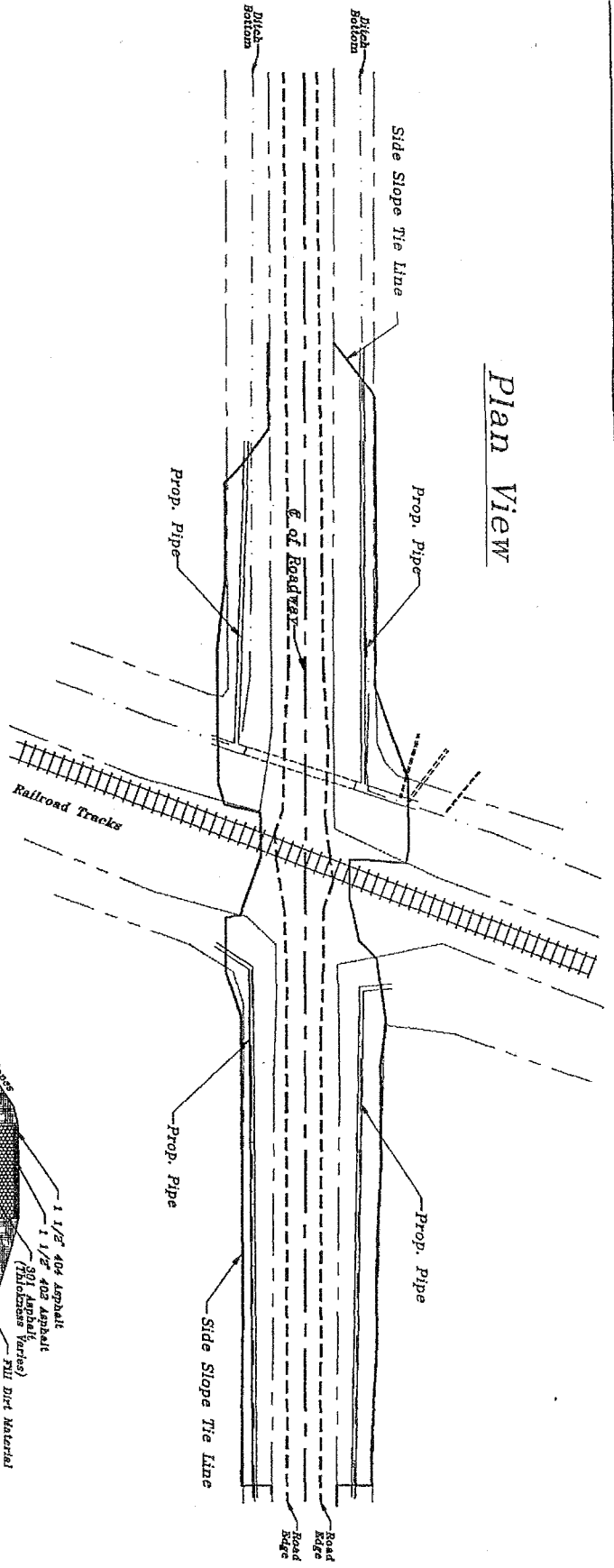

James R. Nimz, P.E./P.S.
Seneca County Engineer

JRN/cam/mad

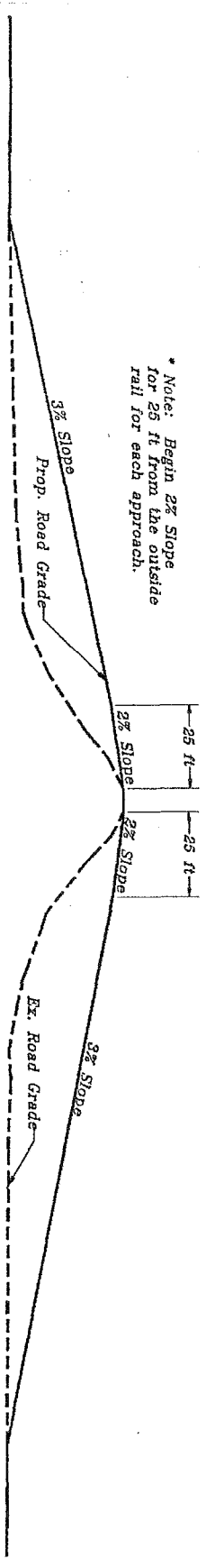
cc: US Representative Paul Gillmor Liberty Township
US Senator John Glenn Loudon Township
US Senator Mike DeWine Pleasant Township
Senator Larry Mumper Reed Township
Representative Rex Damschroder Scipio Township
Representative Randy Weston Thompson Township
PUCO Venice Township
ORDC - Tom O'Leary
Board of County Commissioners
Regional Planning
City of Fostoria
City of Tiffin
Village of Republic
Adams Township
Big Spring Township
Clinton Township
Hopewell Township
Jackson Township

Attachments

Plan View

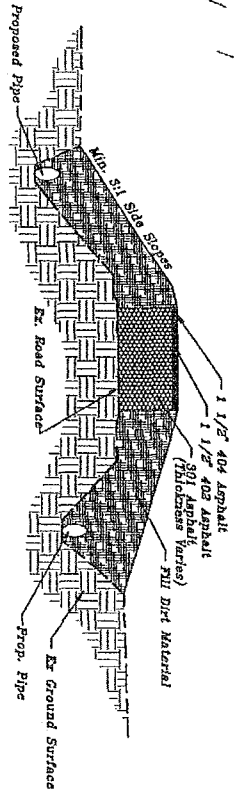


Profile View



* Note: Begin 2% Slope for 25 ft from the outside rail for each approach.

Cross Section View



<p>Seneca County Engineer's Dept. James R. Nix - County Engineer</p>	<p>Drawn By: P.M.S. Date: 6/20/05 Approved By: GEO. (Signature)</p>	<p>Project: Typical Railroad Crossing Proposed Upgrade</p>	<p>Revisions:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> </table>			

THE CITY OF VERMILION
CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/16/98
DOCUMENT # 2/16/98-1:26 SLP M



JIMMY L. DAVIS, MAYOR



January 27, 1998

Surface and Transportation Board
Washington, D.C. 20423

Re: Proposed Railroad merger of Conrail and Norfolk & Southern

Dear Sirs:

Upon review of the Surface and Transportation Board impact study of the merger of Conrail and Norfolk & Southern, I am submitting the following comments. Please note that as Mayor of the City of Vermilion, Ohio, I am responding on behalf of all citizens of our community.

The plans that are being proposed indicate that Vermilion will be the only city that will experience the full impact of a merger. Increased train traffic will be routed through Vermilion and a connector rail is expected to be constructed just west of our city limit. This connector will allow rail traffic to switch from one line to the other. This addition, along with greatly increased train traffic raises concern for many reasons. I will address only a few of the more important.

The City of Vermilion is divided into four unequal areas by the two rail lines that cross at a location in the north-central area of the most densely populated section of the city. There are twelve (12) road crossing locations, six (6) on each track. The city currently has five (5) grade separations. While on paper this may seem like an adequate percentage of grade separations, it is not. The city is also divided east from west by the Vermilion River. This river has only one bridge crossing north of the two sets of tracks. That bridge is on Liberty Avenue. The next closest is the bridge on the State Route 2 interstate highway. There are no grade separations on the south west section of the rail system. Likewise, the entire south east portion of the City of Vermilion and all of Brownhelm Township will be adversely effected due to the limited grade separation conditions and by increased rail traffic. This situation allows for the entire south west section of the City of Vermilion, and both Vermilion Townships to become isolated from the area of the community that houses all of the safety forces.

The City of Vermilion provides safety services that include fire protection, police protection, and ambulance services, to approximately 28,100 citizens in the City of Vermilion, Brownhelm Township, and Vermilion Township. As with all emergency service delivery programs, response time is most critical to the survival rates of our citizens. The ambulance response time is currently averaging 5.5 minutes per run. This response time will be increased by as much as 7 to 10 minutes if the railroad crossings are congested with additional train traffic as proposed. This would result in an average response time that would greatly put our residents at a much greater safety risk. It is indeed unfair, and most unacceptable to have the residents of the greater Vermilion area be adversely affected by outside actions that will provide absolutely no benefit or return for our sacrifice.

A-375c

Surface and Transportation Board

January 27, 1998

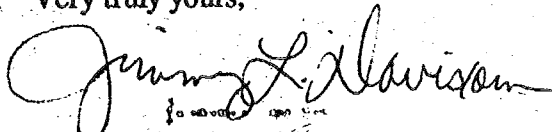
Page 2

The City of Vermilion is experiencing some of its most difficult economic times in the history of the community. The Lorain Ford Motor company recently ceased production on the passenger care line, and as a result many of our residents are now being forced to either find other work, or relocate. The status of the remaining commercial van production activity is rumored to be subject to change in the near future. This economic uncertainty has been amplified by the defeat of seven Vermilion School levies. As a result of the serious nature of the shrinking tax base in our area, it is critical that a more diverse and stable tax base be established through the controlled growth of light industry and office development. It must be recognized that increased rail traffic that would limit or restrict the efficient and effective delivery of services will adversely affect the city's ability to be successful in its efforts to rebound and rebuild from the current financial hardships.

In addition to the safety concerns and the financial stability concerns, the entire area is struggling to correct and manage storm water runoff in an effective manner. A recent storm water management study conducted by a consulting engineering firm has noted that several of the areas most critical drainage obstructions are the railroad culverts on Edson Creek on the west side of the city. No work should be considered in this area without an extensive review, and an upgrade of the existing drainage systems.

I ask that no action be taken on the merger of these railroads until all of these issues can be addressed in a manner that will not depreciate the quality of life nor adversely affect the future growth and economic opportunities of the City of Vermilion and the neighboring townships. The integrity of our community must not be compromised in any manner.

Very truly yours,



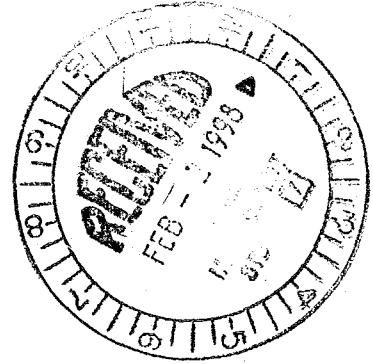
Jimmy L. Davis
Mayor

JLD/am

pc: Paul E. Gillmor, Congressman
Thomas M. O'Leary, Ohio Rail Commission
Elaine Kaiser, Surface and Transportation Board
William Taylor, State Representative
Maria F. Ward, Conrail
Alan J. Zaleski, Senator

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/2/98
DOCUMENT # 2/2/98 4:28:31 PM

OXFORD TOWNSHIP
BOARD OF TRUSTEES
ERIE COUNTY, OHIO
5617 W. Taylor Road
Sandusky, Ohio 44870-9729
(419) 359-1735



**ENVIRONMENTAL
DOCUMENT**

Thomas Stewart
Trustee

James Stewart
Trustee

Thomas Weilnau
Trustee

George Parker
Clerk

January 27, 1998

Re. Comments on proposed Conrail Acquisition

Dear Mrs. Kaiser,

The Oxford Township Trustees would like to take the opportunity to express its concerns on the acquisition of Conrail. Norfolk and Southern's east and west main line from Vermilion to Bellevue cuts through the middle of Oxford Township. Five roads are crossed by this rail line. Four of the five crossings have blinking lights, three of the five have safety gates, and one crossing on Thomas road has neither lights nor gates.

We have concerns that we feel must be addressed before we can come to a conclusion on the acquisition. They are the following: 1. **Crossing Safety** 2. **Crossing Delays** and 3. **Hazardous Materials**

Crossing Safety- With the eleven (11) additional trains per day from Vermilion to Bellevue and the speed that the trains will be traveling, we strongly feel that all crossings should be equipped with **safety gates and lights**. Numerous deaths have occurred at three of the four crossings in Oxford Township. We can only perceive that with eleven additional trains per day, we can expect additional casualties unless crossings are properly equipped with safety gates and lights.

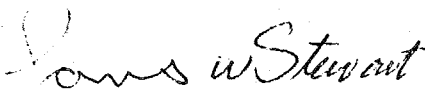
Crossing Delays- As a Township with no fire department of its own, we must rely on fire protection from two adjoining Townships- Milan and Groton. They have volunteer fire departments that assist our needs. With the crossing delays already at an alarming rate and with the increase of eleven more trains per day, we believe our fire protection and Emergency Medical Service will greatly be affected. We have access to a pond that has a dry hydrant installed and provides the southern half of the Township with water for fire protection. This water source is located in the town of Kimball and when crossing delays occur, fire protection becomes nullified.

Hazardous Materials- Oxford Township understands that the rail line from Vermilion to Bellevue would increase its number of hazardous loads, from 9,000 to 15,000 cars annually. We find this increase very **alarming!** Since 1990, Erie County has experienced four derailments and five accidents at the Bellevue rail yard. We are concerned that this increase will definitely add to additional spills and we would request the mitigation be established for key route designations and this be expanded to include more than material accident simulations.

The Oxford Township Trustees appreciate the opportunity to express our concerns. We hope they are taken seriously. If any questions arise please don't hesitate to call or write. Any correspondence would be greatly appreciated.

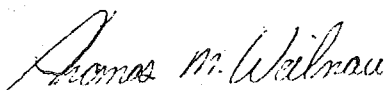
Sincerely,

Oxford Township Trustees

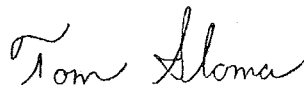


Jim Stewart-President

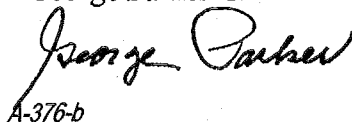
Tom Sloma-Vice President



Tom Weilnau



George Parker-Clerk



RESOLUTION NO. 1998-7

A RESOLUTION EXPRESSING CONCERNS OF THE MEMBERS OF THE HURON CITY COUNCIL REGARDING THE CSX/NS PROPOSED RAILROAD MERGER.

WHEREAS, members of the Huron City Council recognize there are many environmental issues in Erie County, Ohio that have not been resolved regarding the CSX/NS proposed railroad merger, and;

WHEREAS, members of the Huron City Council are concerned about the maintenance of the railroad crossings within the corporation limits, and;

WHEREAS, members of the Huron City Council are extremely concerned about the increased transportation of hazardous waste material through the City of Huron, Ohio.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

Section 1. That this Council will not support the merger of CSX/NS unless all environmental issues and concerns in Erie County, Ohio have been addressed and resolved.

Section 2. That this Council will not support the merger unless they are provided with written assurance that regular maintenance of the railroad crossings within the corporate limits will be done with specific attention being given to the Rye Beach Road, Main Street, River Road and Berlin Road grade crossings.

Section 3. That this Council will not support the merger until they are satisfied that safety measures have been implemented to assure the safe transport of shipments of all hazardous waste materials throughout Erie County, Ohio.

Section 4. That the Clerk of Council be, and she hereby is, directed to forward a copy of this Resolution to the Erie County Commissioners, the Surface Transportation Board and the U. S. Representative and Senator from this district.

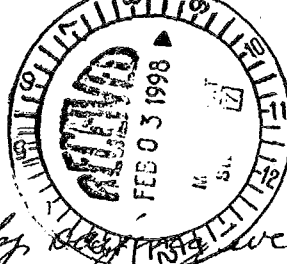

Edward Asher, Mayor

ATTEST: 
Clerk of Council

ADOPTED: JAN 26 1998, 1998

REC'D: 2/6/98

DOCUMENT # 2/6/98 10:54:49 AM



Jan. 27, 1998

ENVIRONMENTAL
DOCUMENT

Dear Madam,

Let me start by saying we have been property owners in Vermilion, Ohio for approx. 28 years. We are voicing our concerns about the plans for CSX and Norfolk Southern to acquire Conrail. We have safety concerns if train traffic increases. Not only do the trains block safety forces north and south of the tracks, but hazardous waste transported by rail will increase and become even a more serious concern. The increased train traffic would cause major blockage throughout the city and having safety forces detain for very valuable time during emergencies. Several times in the last 4 years we have seen emergency vehicle held up due to train traffic. Thank God it did not cause a death due to the delay.

These plans could create environmental issues and great concerns throughout the entire state of Ohio.

Please give these issues considerations.

Thank you,
ROBERT & NORMA PINKIE
1063 NAUTICAL DR.
VERMILION, OH. 44089

Robert Pinkie



**FAITH- BASED ORGANIZING FOR NORTHEAST OHIO
UNITED WE-CANI/BOLD/SCOPE**

2700 East 79th Street • Cleveland, Ohio 44104
phone: 216-881-2344 • fax: 216-881-2355

e-mail: wecan@mciond.com

**ENVIRONMENTAL
DOCUMENT**

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/29/98

MEMORANDUM

DOCUMENT # 2/12/98 10:21:20 AM

TO: Elaine Kaiser
U.S. Surface Transportation Board

FROM: Reverend Charles J. Matthews; Reverend David Wheeler
United WE-CANI, BOLD and United Pastors in Mission

RE: Conrail Acquisition

DATE: January 28, 1998

On behalf of United WE-CANI, BOLD and United Pastors in Mission we want to inform you of recent developments in the Conrail acquisition, and to submit a request. Although there had been intensive dialogue and negotiations between several communities within the region, solutions have not been forthcoming. In addition, we see our region being divided, with one community pitted against the other.

Given the Board's request that all effected parties work towards mutually agreeable settlements on this issue, we propose that a Regional Rail Summit, co-convened by our organizations with the City of Cleveland, City of Lorain and other key stakeholders, be held within the next 30 days. The purpose of this Summit would be to have all of the most adversely impacted communities meet together and forge a unified response to the acquisition. Following the Summit, meetings with rail companies executives would be arranged.

We are requesting that the results, agreements and consensus put forth by this Rail Summit be included as part of the EIS. We request that the STB revise it's procedural schedule and extend its comment period to accommodate for the Regional Rail Summit. We ask that the results from this Summit, and the subsequent agreements reached with the Rail companies, be included as official conditions of the acquisition proposal. We would hope that your representatives attending our January 31st meeting could make an official announcement regarding this request.

We want to thank you for your commitment and dedication to public outreach in these proceedings. We acknowledge the enormity of the task before you. We encourage you to view our work in regards to the Regional Summit as a means towards the most effective and broad-ranging mitigation for this area.

We look forward to your response.

**FAITH-BASED ORGANIZING FOR NORTHEAST OHIO
UNITED WE-CANI/BOLD**

2700 East 79th Street • Cleveland, Ohio 44104
phone: 216-881-2344 • fax: 216-881-2355

e-mail: wecan@mcione.com

TO: Congressional Representatives; Key Mayoral and State Representatives from Cuyahoga and Lorain Counties; and the Chief Executive Officers of Norfolk Southern and CSX

FROM: United WE-CANI; BOLD; and United Pastors in Mission

RE: January 31st, 1998 Public Meeting on the Conrail Acquisition; Signing onto a Regional Position Paper

DATE: January 26, 1998

CONTACT: Faith Based Organizing for Northeast Ohio
(216) 881-2344

Members of three faith-based community organizations in Northeast Ohio are requesting your participation in opposing the proposed Conrail acquisition currently before the U.S. Surface Transportation Board. As you already know, we are sponsoring a Regional Public Meeting on this issue to be held Saturday, January 31st from 2:00 pm – 4:00 pm at Mt. Sinai Baptist Church in Cleveland. At this event, we will present the enclosed position paper. This position paper serves as the foundation for our opposition to this acquisition.

We are asking that you consider and reflect upon this position paper and publicly declare your support of the document at the January 31st meeting. We expect quite a few public officials to attend and speak, therefore, we ask that you prepare a 5 minute presentation that focuses on the following: 1) specific response to points of the position paper; 2) your commitment to participate in a Rail Summit convened by Faith Based Organizing in Northeast Ohio and; 3) additional ideas and reflections you have on this issue. We will provide you the opportunity to officially sign on to the position paper on January 31st.

We look forward to your immediate response.

REGIONAL POSITION PAPER

CSX and N/S Acquisition of Conrail

As congregations who are members of United WE-CAN!, United Pastors in Mission, and BOLD, we join in the following declarations of faith and purpose:

- **The call to justice in the public arena comes from God who leads us to "do justice, love kindness and walk humbly with our God." (Micah 6:8)**
We stand together called by God to move people of faith powerfully into the public arena to create economic and social justice for all.
- **We commit ourselves to overcome barriers that divide us. We know that racial and economic segregation throughout our region drives powerful wedges between Black and White, wealthy, middle class and poor people. The result is an unstable region where Black and Latino people are trapped in concentrated poverty, mature suburbs struggle with declining tax bases and services, and a select few communities receive public and private investments for massive development at the expense of valuable open space.**

We pledge to organize and take public action to seek the greater good of the metropolitan region. Therefore, we are called to address the following issue:

CSX and Norfolk Southern (NS) railroads want to spend \$10.3 billion to acquire and operate the most profitable Conrail rail lines. The proposed acquisition involves 44,000 miles of rail track spanning from New York to Illinois and from Philadelphia to Florida. Of all affected states, Ohio will be the most adversely impacted by this proposal, with the Northeast Ohio Region experiencing the most severe negative consequences.

We cannot afford, as a region, to proceed with a "business as usual" approach to resolving issues related to the proposed acquisition of Conrail by CSX and Norfolk Southern Railroads.

In this case, communities are pitted against one another, fear is appealed to rather than justice, and a "divide and conquer" strategy is taken. This strategy further fragments cities, suburbs and counties from one another.

The result is a dangerous threat to a unified regional vision and strategy that strengthens the viability of the entire metropolitan region.

As people of faith, United WE-CAN!, United Pastors in Mission and BOLD oppose the acquisition and call for the resolution of the following points:

1. SAFETY AND QUALITY OF LIFE

Because the re-routing of train traffic by CSX and NS will dramatically increase traffic through our communities, increasing volume of up to 785% through densely populated areas; and because this train traffic will adversely effect the health, safety and quality of life of people who live in these communities; and because the federal, state and local

governments have no standards which seek to protect the quality of life within these communities as it relates to railroad commerce;

Therefore, be it resolved that the U.S. 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 rail road commerce. These standards should include specific limits on the number of trains allowed to travel through densely populated urban and suburban communities.

2. PUBLIC SUBSIDIES

Because CSX and NS are expecting to make more than \$1.8 billion in yearly profits as a result of this acquisition (as reported by Standard and Poor's Stock Reports); and because this dramatic increase in yearly profits will more than cover the anticipated infrastructure costs and improvements associated with this acquisition; and because federal laws exempts rail companies from any and all real estate tax obligations;

Therefore, be it resolved that the State of Ohio does not use any of its public transportation dollars to subsidize the NS and CSX rail improvements.

3. COMMUTER RAIL ACCESS

Because access to CSX and NS rail lines for proposed future commuter rail projects is jeopardized; and because the future health and vitality of this region depends upon accessible, affordable and equitable transportation for all people who live and work within this region;

Therefore, be it resolved 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 for the proposed commuter project; and be it further resolved that the U.S. Surface Transportation Board includes these guarantees as a condition of the acquisition approval.

4. HAZARDOUS MATERIAL TRANSPORT AND JOBS

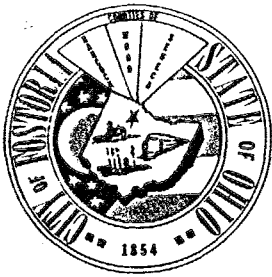
Because CSX and NS reported an increase of hazardous materials through Cuyahoga and Lorain Counties totaling 611% and 261% respectively; and because these increases will occur in conjunction with the elimination of 490 safety and maintenance jobs by CSX and NS; and because the Federal Rail Administration have only 380 rail inspectors for 1 million rail cars and 300,000 miles of track;

Therefore be it resolved that the U.S. Surface Transportation Board imposes a moratorium on the elimination of any and all safety and maintenance jobs by CSX and NS as a result of this acquisition.

5. CALL FOR REGIONAL SOLUTION

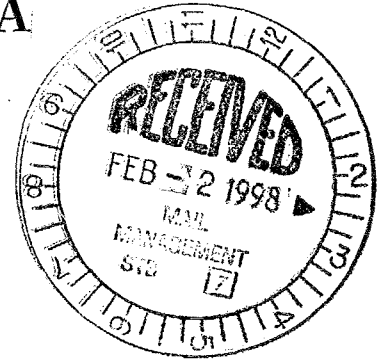
Finally, because rail companies are actively taking advantage of the diverse and fragmented interests of local mayors and public officials representing our communities;

Be it resolved that all elected officials, pertinent planning agencies and community stakeholders participate in a Rail Summit within the next 30 days to create a specific regional response to this acquisition. The Rail Summit will be convened by Faith Based Organizing in Northeast Ohio.



ENVIRONMENTAL DOCUMENT CITY of FOSTORIA

P. O. Drawer H
FOSTORIA, OHIO 44830



CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/2/98
DOCUMENT # 2/2/98 5.37.09 PM

January 28, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K. Street, NW
Washington, DC 20423-0001

Board Members:

The City of Fostoria is concerned that its safety concerns are almost completely ignored and inadequately addressed in the Draft Environmental Impact Statement, in fact, the lack of comments would leave one to wonder if the City's comments, submitted with the State of Ohio during the Preliminary Safety and Environmental Comment Period, were considered.

Although segments C-070 (Marion-Fostoria) and C-075 (Willard-Fostoria) are identified as meeting the threshold for analysis by the SEA 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.

The foremost item of concern remains the ingress/egress issues raised in the Preliminary Safety and Environmental Comment Period. The measurable delay for emergency responders will be dramatically increased as a result of the acquisition. Our estimates indicate that with nearly a 30% increase in rail traffic throughout the community, utilizing the SEA's formula, a at-grade crossing will be blocked over 12 of the 24 hours, which is over 50% of the day. Under the existing current volume levels, a train is blocking one or more at-grade crossing in Fostoria nine and one quarter (9.25) hours out of each twenty-four hour day.

We agree that not all of the crossing will be blocked at the same time, however an emergency vehicle has no schedule as to what time of day the crossing it needs will be blocked. With any given rail crossing blocked over half of the day, it becomes apparent that some alternative provision needs to be made for the safety of the residents within the Iron Triangles in particular.

It is strongly recommended that the potential for these two areas to become isolated by rail movements, and the unreliability and unpredictability of direct emergency service routes, be

considered in addition to the established SEA criteria. The construction of grade separations in both areas is highly recommended.

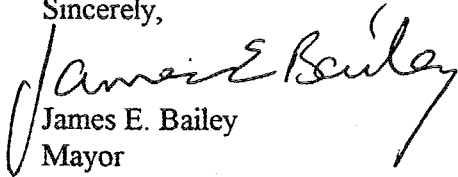
As a result of the acquisition, the City of Fostoria stands to be significantly impacted in the amount of Hazardous Material rail car loads on an annual basis. The Draft EIS indicates an increase of forty (40%) percent, from 85,530 car loads per year to 119,710 when evaluating the cumulative impacts of all three rail lines within the community. Mitigation recommendations are included within the State of Ohio filing.

Additional evaluation by SEA is necessary to totally realize the impact within Fostoria, the Draft EIS fails to recognize that the rail systems not only intersect in the center of the community, but also have a interchange capability, both having a negative impact when considering Emergency Responders.

The City has participated in the preparation of the recommendations being submitted by the State of Ohio and fully concur with them.

Your consideration is greatly appreciated.

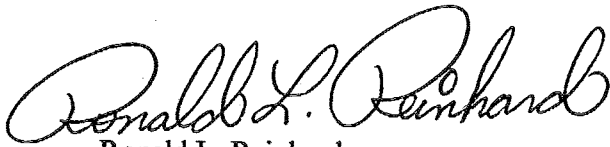
Sincerely,



James E. Bailey
Mayor
City of Fostoria, Ohio



Joseph E. Droll
President
Fostoria City Council



Ronald L. Reinhard
Safety-Service Director
City of Fostoria, Ohio



Charles L. Dodge
Administrative Assistant to the Mayor
City of Fostoria, Ohio

CENTRAL ADMINISTRATIVE UNIT
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ENVIRONMENTAL
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Dear Ms. Kaiser,



1-28-9

This letter is in response to the Draft Environmental Impact Statement. We live in Rocky River, a west side suburb of Cleveland. Our home is located 2 blocks from the train tracks. We have lived in this neighborhood for 11 yrs. This is a solely residential neighborhood.

We would like to respond to the applicants - NS statement that 16.4 trains per day travel on this section of track. When they announced their intention of buying the track and increasing the amount of trains by 20, this is when they increased their train load to 16.4 trains, before that we would say 10 trains a day on average came through, not even 13.5 trains as is stated. This increase of 16.4 trains has already started problems. Now in one hour, 3 trains can come through running 5 minutes in duration. This considerably stops traffic. The traffic gets blocked down to our home 2 blocks away. The traffic includes cars, RTA buses, school buses and trucks, all idling for 5 minutes. This results in more noise, pollution and

safety concerns of children trying to cross streets and getting on and off school buses. Also after the train has gone by, the cars speed away trying to make up time, putting pedestrians at a greater risk. Not to mention, our emergency response vehicles not being able to get through.

Being a resident of Rocky River and being familiar with the residential areas of Lakewood, Bay Village, Westlake and Cleveland, we have to state our concerns over Highway / Rail at Grade crossings safety of both cars and children needing to cross the tracks to get to schools, parks, neighbors houses Emergency Response Delay, Hazardous Materials transported, noise, vibration, lowered property values and air quality remain the same! We feel that letting the applicants - NS increase their train load would be a detriment to all West Shore communities. We feel if trains would increase people would move out of our area and move further west causing problems to our city of Rocky River as well as to the City of Cleveland.

We feel the following mitigation activities should take place.

The best scenario would be for the applicant - NS to build a new train track south of Cleveland in areas that are not developed yet. The next scenario would call for the board to limit the trains to 13.5 per day and have the applicant - NS figure out where to reroute the other trains. The applicant - NS should be required to improve it's tracks, gates and lights at Highway / Rail crossings, to increase train speed after improving rail line segments and taking care of noise problems. All of this should be done at the expense of the applicant - NS. They are a business which operates ~~at~~^{for} a profit and if they want to increase their productivity they should pay for it like other business does. Also, the board should retain jurisdiction to impose additional environmental mitigation for a least 20 yrs or longer.

We thank you for your time and consideration on this matter. We hope you take the feelings and concerns of the residents of this area into account, when making your final statement.

Sincerely,
Clay and Debra Klee

Clay and Diana Kilgore
21011 Maplewood Ave.
Rocky River, Oh. 44116
440-331-0707

ENVIRONMENTAL DOCUMENT

PAUL E. GILLMOR
5TH DISTRICT, OHIO

1203 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3505
202-225-6405



COMMITTEE ON COMMERCE
VICE CHAIRMAN
SUBCOMMITTEES:
TELECOMMUNICATIONS, TRADE AND
CONSUMER PROTECTION
FINANCE AND HAZARDOUS MATERIALS

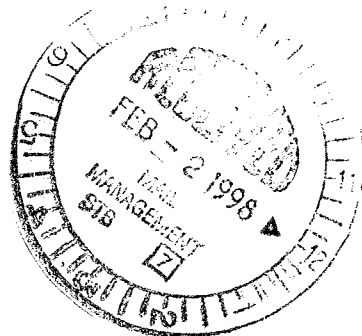
Congress of the United States

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REC'D: 2/3/98

DOCUMENT # 2/3/98 10:26:11AM Washington, DC 20515-3505

January 28, 1998



Office of The Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423-0001

Dear Sir/Madam:

I am writing on behalf of my constituents who reside in the Fifth District of Ohio. As part of my continued commitment to safe rail operations in my District, please include my correspondence in your analysis of the potential environmental impacts of the proposed Conrail acquisition.

As you may know, I recently had the opportunity to bring concerned elected officials together with representatives from both rail companies and the government entities involved with the acquisition. I was pleased that the Surface Transportation Board accepted my invitation to be present at the meetings.

The major areas of concern relate to the public safety of drivers, pedestrians and school children which must be adequately addressed. The most critical concern which I share with my constituents is that areas in several communities will not have an emergency response access when certain crossings are blocked by trains. This is true particularly in the communities of Fostoria, Greenwich and Willard. The redeployment of trains caused by the acquisition may decrease air quality, increase noise, force farm machinery onto major highways and cause traffic delays.

It appears from your draft Environmental Impact Statement (EIS) that Conrail acquisition will greatly impact all of Ohio. While some areas of Ohio will benefit economically from the acquisition, I urge the Board to approve the acquisition only if they redress the negative impacts, including the safety issues.

DEFIANCE

613 WEST THIRD STREET
DEFIANCE, OH 43512
419-782-1996

NORWALK

130 SHADY LANE DRIVE
NORWALK, OH 44857
419-668-0206

PERRYSBURG

148 EAST SOUTH BOUNDARY STREET
PERRYSBURG, OH 43551
419-872-2500

PORT CLINTON

120 JEFFERSON STREET, 2D FLOOR
PORT CLINTON, OH 43452
419-734-1999

TOLL FREE IN OHIO 1-800-541-6446
TOLL FREE FAX IN OHIO 1-800-278-8203

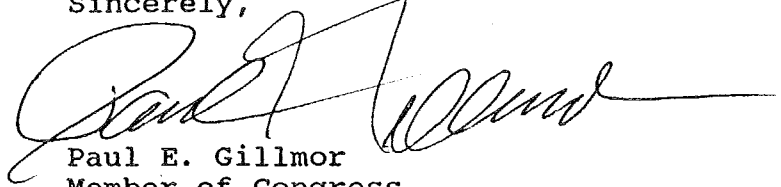
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THRU 100

Office Of The Secretary
January 28, 1998

Thank you in advance for your review of my written comments during the preparation of your final EIS. Should you have any questions, you may reach my staff by calling 419/734-1999.

Sincerely,



Paul E. Gillmor
Member of Congress

PEG:csb

ENVIRONMENTAL DOCUMENT

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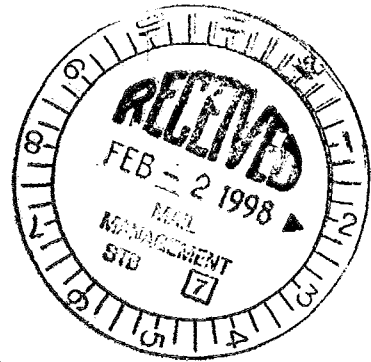
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Board of Trustees of
Vermilion Township

P.O. Box 83

Vermilion, Ohio 44089



Clerk's Office
216-967-3251

January 28, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

Dear Sir or Madam:

We are writing to express our concerns regarding the proposed acquisition of Conrail by Norfolk and Southern Railroad and CSX Railroad.

Vermilion Township is targeted to receive a proposed connection that will join Conrail and Norfolk and Southern rail lines on Coen Road. This connection will cause added congestion to traffic in the Vermilion City and Vermilion Township areas. This increased activity will have an enormous impact on crossings being blocked to emergency vehicles, pedestrians and other modes of transportation. Hazardous material is also a concern to all affected by the increased use of the rail system in this area. Crossing gates and lights are a priority in this area for any new intersection that will be added because Coen Road is a heavily traveled roadway to by pass Vermilion.

Vermilion Township has experienced severe seasonal drainage problems in the area targeted for the new connection. A large area to the south is drained by the culverts under the railroad and the size of these culverts would need to be increased to provide adequate drainage.

Vermilion Township also has two railroad crossings not protected by crossing gates and lights just west of the new merge area, which are on the Norfolk and Southern line. They are the Stanley Road crossing and the Barnes Road crossing. These two crossings will need gates and lights because of the proposed increase of train traffic.

Office of the Secretary
January 28, 1998
Page 2

To sum up our concerns, safety and drainage are a priority and unless these concerns are resolved to our satisfaction, we must oppose the merger.

Preservation of public peace, health and safety have always been a priority in Vermilion Township, and one in which we wish not to compromise.

Sincerely,

Board of Trustees
Vermilion Township

Charles W. Kishman, Chairman Charles W. Kishman

Janet E. Knittle, Trustee Janet E. Knittle

Donald J. Kishman, Trustee Donald J. Kishman

cc Erie County Commissioner's Office

OFFICE OF CLERK
BERLIN TOWNSHIP TRUSTEES
BERLIN HEIGHTS, OHIO 44814

ENVIRONMENTAL
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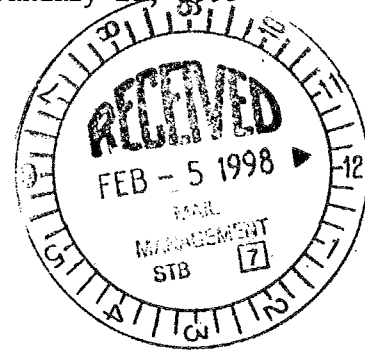
ERIE COUNTY

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FD 33388

January 28, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001



Dear Ms. Elaine Kaiser:

As the elected officials of Berlin Township, Erie County, Ohio we have an obligation to protect the safety and welfare of our citizens. We feel the "Proposed Conrail Acquisition" will have many negative effects on our citizens.

The proposed closing of Smokey Road and Jeffries Road in Berlin Township will impact Fire and Ambulance response times. Berlin-Milan Local Schools will experience increased transportation cost and also increase students ride time.

The increase in hazardous material transports are a major concern for our Township residents. The Berlin Township Volunteer Fire Department does not have the equipment or personnel to handle a hazardous material accident.

The increase in train traffic will cause additional risk to motorists at all railroad crossings.

Attached are letters from Berlin Township Fire Department, North Central Emergency Medical Services, and Berlin-Milan Local School District.

Thank You for your consideration.

Sincerely,

BERLIN TOWNSHIP TRUSTEES

Berlin Twp. Trustees

Berlin Twp. Fire Dept.

BOX 21

BERLIN HEIGHTS, OHIO 44814

January 27, 1998

Berlin Township Trustees
Box 52
Berlin Heights, Ohio
44814

Gentleman:

It has been brought to my attention that the Norfolk and Western Railroad is thinking about closing two crossings in Berlin Township; these being Smokey and Jeffries roads.

As fire chief I am opposed to both of these crossings being closed because of life safety concerns with both decisions.

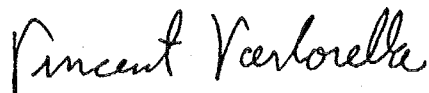
A response North of the tracks on Jeffries from the Berlin station would require going to Knight road and backtracking to the incident adding minutes of valuable time to the response. A fire south of the tracks on Smokey would add time to a response from the Ceylon Station.

As you are aware, we are volunteers, and can't always guarantee a full compliment of firefighters from either station at any time.

Anything you can do to stop this from happening would be greatly appreciated. I don't understand why you would close crossings when thousands have been spent on crossings gates!

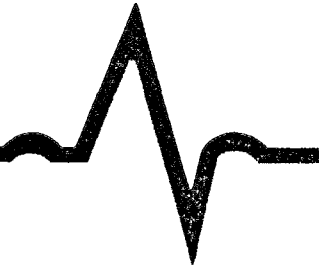
Thank You for Your Consideration.

Respectfully



Vincent Vartorella Chief

NORTH CENTRAL EMS



DONALD B. BALLAH
Executive Director

North Central EMS
Four County EMS
Sandusky Transit System

1-800-589-2515
Fax 419-499-2664

Berlin Heights Township Trustees
9 E Main St.
Berlin Heights, OH 44814

January 22, 1998

Dear Trustees:

It has been brought to my attention that there is some consideration of closing some roads at the railroad crossings in Berlin Township. In the rural setting, EMS response is difficult because of geographic restrictions. Sometimes, it increases response time.

By taking access away for emergency vehicles to travel through the township without restriction, it is my belief that this may increase response times to some constituents in our Berlin Township area.

Speaking as an advocate of the Township residents who may need the services that North Central EMS provides, I would like to express our concern. I hope that there would be some reconsideration on the closing of any township roads within Berlin Heights Township, specifically Jefferies Rd. and Smokey Rd.

Sincerely,

Donald B. Ballah
Executive Director

A-381-a

BERLIN-MILAN LOCAL SCHOOLS
WILLIAM LALLY, SUPERINTENDENT
STEVEN C. GARRIS TREASURER

JANUARY 24, 1998

To whom it may concern:

It is the understanding of the Berlin-Milan Board of Education that the Railroad wants to make the following changes to the rail system running through Berlin Township:

1. Increase train traffic by 245% from eleven to twenty seven trains per day.
2. Increase the speed and size of trains being used on these tracks.
3. Close the roads at the crossings of Smokey Road and Jeffries Roads.

The Berlin-Milan Board of Education protests these changes and urges that the Railroad reconsider and modify its plans.

Closing those roads will be a detriment to our bus transportation system causing children to increase their ride time as well as cost the school a significant increase in transportation costs. We may be forced to hire additional drivers so that both sides of the closed roads can be serviced in a timely manner.

Increasing the size, speed and frequency of trains in our district will also create a significant safety concern. Our buses must cross those tracks many times each day, and although we have excellent, professional drivers, we acknowledge that we live in an area where snow, ice, fog, and rain can set upon us quickly and create adverse driving conditions.

There are several questions which we would like to pose.

1. Are all crossings in our district equipped with flashing lights?
2. Are all crossings in our district equipped with crossing gates?
3. Are the crossing gates in our district the kind which stop cars from trying to "go around" the gate?
4. Have all other options of a safer nature been explored?

I realize that you are in the transportation business and ultimately your business is to optimize the return of investment for your owners. However we are in the "children" business. We have no profit motive and our only agenda is to educate children in a effective and safe manner. In order to keep the children safe, we request and strongly urge you to keep all of our roads open and to install the best lights and crossing gates at every intersection.

If you would like to meet with our Superintendent, Treasurer and/or Transportation Director please advise them by calling 419-499-4625. They will be happy to meet with you and further clarify our position on this important topic. Thank you for your consideration.

Respectfully



Steven C. Garris, Treasurer
Berlin-Milan Board of Education

Department of Water
(937) 443-3725
(937) 228-2833 (FAX)

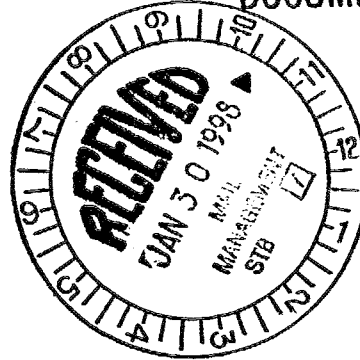
City of Dayton
320 W. Monument Avenue
Dayton, Ohio 45402



CENTRAL ADMINISTRATIVE UNIT
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DOCUMENT # 1/30/98 11:25:01 AM

January 28, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001



Attention: Elaine K. Kaiser
Chief, Section of Environmental Analysis
Environmental Filing

Re: Finance Docket No. 33388 - Draft Environmental Impact Statement (EIS) for the Proposed Acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad.

Dear Ms. Kaiser:

Pursuant to your request, this office has reviewed the EIS document for the proposed acquisition of Conrail by NS and CSX Railroads. After a careful review of all documentation, we offer the following comments relative to the potential environmental impact that could result from the proposed Conrail acquisition.

Currently, both CSX and Conrail Railroads have rail line segments that run through the City of Dayton's delineated Well Field Protection Areas. The Well Field Protection Area is a geographically sensitive setting which overlies the sole source aquifer system that supplies the City's drinking water. A map is attached for your reference.

According to Volume 5A, Appendices B: Safety, Attachments B 3-5, Pg. 6 of 8 (in ea. section), certain post-acquisition conditions exist with regard to hazardous material transport and anticipated accident intervals which have the potential to increase the threat to the City's drinking water supply. The aforementioned attachments detailed many proposed increases in car loads and reportable mainline hazardous material releases, ranging from 16 to 58.7%. In addition, the proposed interval between train accidents per mile could increase by as much as 10 to 57%.

The post-acquisition changes noted in Volume 5A are of concern to the City of Dayton, because an increase in carloads of hazardous materials through the City's sensitive areas would create a heightened threat for potential releases in the Well Field Protection Areas. Furthermore, it should be noted that both CSX and Conrail have a history of accidental releases of hazardous materials within the City's Well Field Protection Areas. Although the sites where the releases occurred were properly cleaned up, railroad personnel responding to the releases had no prior knowledge about the Well Field Protection Areas or the importance of properly remediating the site.

A review of Volume 2, Safety and Integration Plans reveal that a comprehensive program exists for mitigating potential releases. However, specific training on mitigating contamination in groundwater sensitive areas, such as Dayton's Well Field Protection Areas was not noted. The ability to properly mitigate spills requires emergency response personnel to have a heightened level of preparedness. Proper training allows quick and responsive cleanup of sites before groundwater contamination occurs. Our office recommends that specific training be required and added to the Safety and Integration Plans which would cover how to handle chemical releases in groundwater sensitive areas for CSX and Norfolk employees that are responsible for responding to accidental releases in the Dayton area.

Based on the extensive outreach for public comments, our office is confident that the Surface Transportation Board's Section of Environmental Analysis will address the concerns noted above and evaluate the level of preparedness that would exist once the acquisition has taken place.

Thank you for your cooperation and consideration. If you have question concerning the above comments, please contact Donna Gorby-Lee, Environmental Manager at (937) 443-3725.

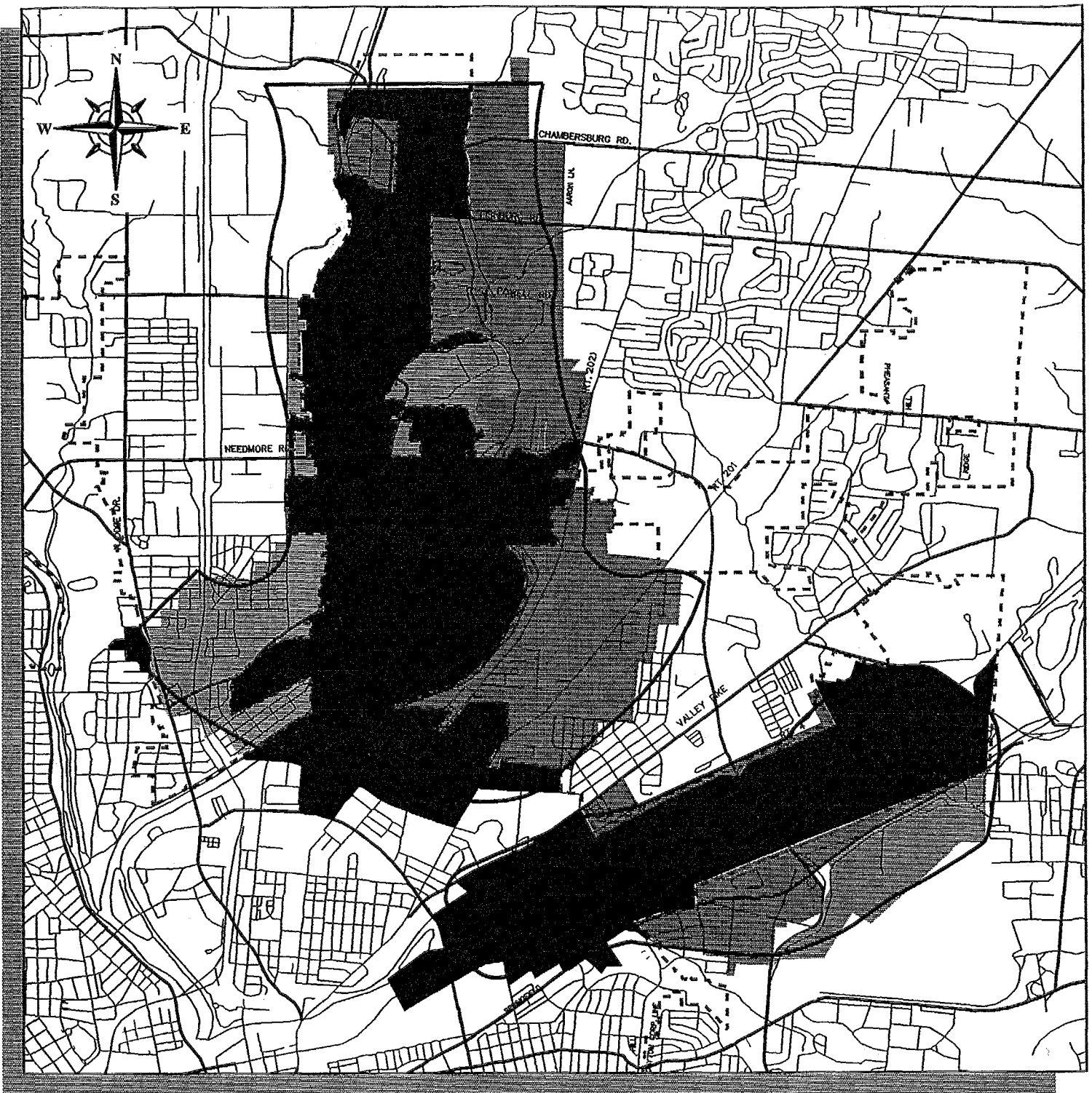
Sincerely,



Donna Gorby-Lee, Env. Manager
City of Dayton, Department of Water

Attachment

cc: D. Hall



DESIGNATED WELL FIELD PROTECTION AREA

- | | | | |
|---|----------------------|---|---------------|
| ■ | DAYTON | □ | VANDALIA |
| ■ | WRIGHT PATTERSON AFB | ■ | HARRISON TWP. |
| ■ | HUBER HEIGHTS | ■ | RIVERSIDE |

A-382-a

▬ CAPTURE AREA BOUNDARY

NEFCO

NORTHEAST OHIO FOUR COUNTY REGIONAL PLANNING & DEVELOPMENT ORGANIZATION

969 Copley Road, Akron, Ohio 44320-2992

(330) 836-5731 • Fax (330) 836-7703

Gayle Jackson, Chair

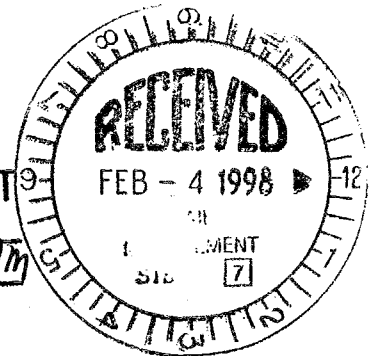
Joseph Hadley, Jr., Executive Director

COPY

January 28, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/4/98
DOCUMENT # 1/28/98 4:27:53 PM



Attn: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

ENVIRONMENTAL DOCUMENT

Dear Ms. Kaiser:

The Northeast Ohio Four County Regional Planning and Development Organization (NEFCO) has completed its intergovernmental review of the Draft Environmental Impact Statement. As a result of comments received in this review, the NEFCO General Policy Board passed a resolution recommending that clearance of this project be delayed until the reviewers' comments have been satisfactorily addressed.

A statement by the Akron Metropolitan Area Transportation Study (AMATS), the Metropolitan Planning Organization for Summit and Portage Counties, notes that the STB disregarded AMATS' recommendations stated in August 1997 to evaluate the impacts of the acquisition on **proposed** passenger rail service. An additional comment was received by METRO Regional Transit Authority, an active participant in developing commuter rail operations in northeast Ohio. METRO also stated concerns about the lack of an analysis in the Draft EIS of the effects of the takeover on proposed passenger rail operations and the possibility of freight railroads rejecting the idea of commuter service on their lines. Copies of these comments are enclosed.

Should you have any questions regarding the intergovernmental review process or this letter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Sylvia R. Chinn-Levy".

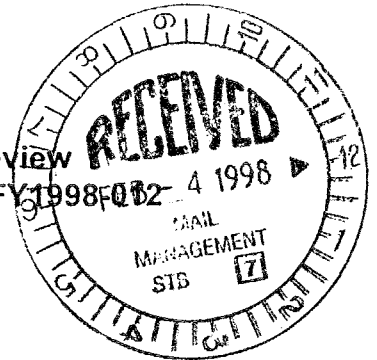
Sylvia R. Chinn-Levy,
Intergovernmental Review Coordinator

Enclosures

pc: Kenneth Hanson
Robert Pfaff
Kirt Conrad

A-382-b

Intergovernmental Review
Resolution Number: FY1998-082-4 1998



**RESOLUTION OF THE
NEFCO BOARD**

WHEREAS, NEFCO has been designated by the Governor of the State of Ohio as the Area Clearinghouse for Summit County, effective March 28, 1984, and has accepted the responsibility for the review of all applications for federal or state funding that originate in the NEFCO Region which require Intergovernmental Review in accordance with Executive Order 12372; and

WHEREAS, it is the responsibility of the NEFCO Board to solicit review and comments from units of local government and interested parties through the Project Review Notification and Review System procedures which were formally adopted March 28, 1984; and

WHEREAS, the NEFCO Intergovernmental Review Committee has reviewed the following Statewide project:


STATEWIDE PROJECT

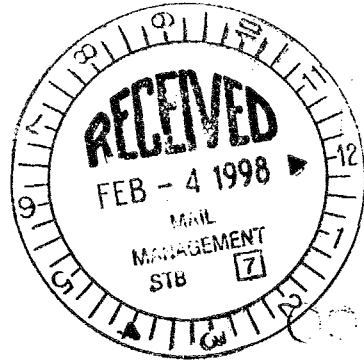
1. Proposed Conrail Acquisition - Draft EIS (OH971217-0198-DEIS)

NOW, THEREFORE, BE IT RESOLVED, by the NEFCO Board:

- I. NEFCO recommends that clearance of this project should be delayed until the applicant has satisfactorily addressed the concerns stated in the enclosed comments.
- II. Be it further resolved that the Executive Director is hereby authorized to transmit a certified copy of this resolution, and any comments, to the applicants and the funding agency, as is appropriate.

Certified as action taken by the NEFCO
General Policy Board at its meeting of
January 21, 1998


Fred Cannon, Secretary
NEFCO General Policy Board



86 9 1 NVP

PROJECT TITLE: Proposed Conrail Acquisition - Draft EIS

APPLICANT: Office of the Secretary

FEDERAL FUNDING SOURCE: N/A

RAI NUMBER: OH971217-0198-DEIS

PROPOSED FUNDING

PROGRAM: N/A

FEDERAL: \$N/A
APPLICANT: \$N/A
STATE: \$N/A
LOCAL: \$N/A
OTHER: \$N/A
TOTAL: \$N/A

PROJECT DESCRIPTION: The Surface Transportation Board has issued its Draft Environmental Impact Statement. To review the entire document, please call NEFCO. Economic/cultural comments may be made in addition to environmental ones.

Please check the appropriate comment and provide supporting information. Comments may be attached or printed at the bottom of this page.

No Comment

Clearance of this project should be granted

Clearance of this project should not be delayed, but applicant should answer the reviewer's questions or concerns

Clearance of this project should only be granted on the condition that the applicant use the recommendations in the enclosed comments

Clearance of this project should be delayed, until the applicant has satisfactorily addressed the concerns stated in the enclosed comments

Signature *J. J. [unclear]*

Agency AMATS

Date 1-3-98

Please Return To:
Sylvia Chinn-Levy, IGR Coordinator
NEFCO
969 Copley Road
Akron, OH 44320-2992

Thank you for your participation in this valuable review and comment process.

OPEN
JAN 15 98

AMATS
January 13, 1998

**Comments on OH971212-0198-DEIS
Proposed Conrail Acquisition - Draft EIS**

The Surface Transportation Board (STB), in preparing its Draft Environmental Impact Statement (DEIS), decided to limit the scope of its assessment of the Conrail takeover by CSX and NS to actual and potential impacts on existing services and activities. This STB decision effectively rejected the concerns raised by AMATS in its August 5, 1997 submission and the similar concerns submitted by METRO RTA regarding the Conrail takeover impacts on proposed rail passenger services in northeast Ohio. Approval of the CSX/NS takeover of Conrail without addressing the takeover's potential long range impacts may further complicate implementation of such proposals as Canton-Akron-Cleveland, and Aurora-Solon-Cleveland commuter rail service. Similar impacts may be felt on proposed Youngstown-Akron-Columbus intercity rail passenger service. AMATS therefore requests that clearance on this project be delayed until the applicant has satisfactorily addressed these concerns.

F:\WPDOC\RAIL\CSX\EIS\NEFCO.LTR

RECEIVED
JAN 15 98
NEFCO

METRO

METRO REGIONAL TRANSIT AUTHORITY
415 Kenmore Boulevard
Akron, Ohio 44301
330/762-7267
330/762-0854 FAX

January 13, 1998

Office of the Secretary
Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

JAN 14 98

Attention: Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis

Dear Ms. Kaiser:

On behalf of METRO Regional Transit Authority, I would like to thank the Surface Transportation Board for expanding the final Scope of the Environmental Impact Statement of the Proposed Acquisition of Conrail by CSX and Norfolk Southern last fall.

From our understanding of the Draft Environmental Impact Statement (DEIS), the effects of the transaction on proposed passenger rail operations were determined to be not significant enough to evaluate. We understand that the primary role of the STB (and its predecessor, the ICC) is to regulate business concerns. However, we are concerned that this proposed merger will leave permanent, unchangeable constraints on both existing and potential passengers rail services in the country.

Under the Draft EIS, the STB chose not to examine many possible problems:

"If the analysis indicated that the rail line segments could accommodate the higher volumes, SEA's preliminary conclusion was that the proposed Acquisition would have no adverse impact on passenger train operations." (DEIS, Volume 1: page 3-14)

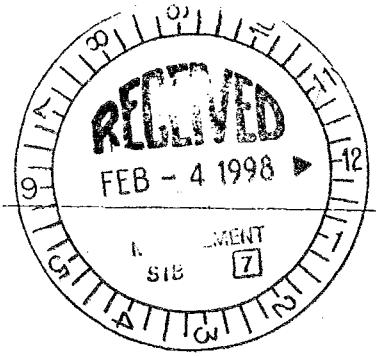
The SEA has established a tight time line to review the most significant rail merger in the history of the United States. By deciding not to look at future interactions of the applicants with commuter rail providers, even those with existing agreements, the STB has remained silent concerning the responsibility the railroads have as a public utility. This is the same responsibility the phone industry, electric providers, and gas companies have to individuals citizens.

PROJECT TITLE: Proposed Conrail Acquisition - Draft EIS

APPLICANT: Office of the Secretary

FEDERAL FUNDING SOURCE: N/A

RAI NUMBER: OH971217-0198-DEIS



PROPOSED FUNDING
FEDERAL: \$N/A
APPLICANT: \$N/A
STATE: \$N/A
LOCAL: \$N/A
OTHER: \$N/A
TOTAL: \$N/A

PROGRAM: N/A

PROJECT DESCRIPTION: The Surface Transportation Board has issued its Draft Environmental Impact Statement. To review the entire document, please call NEFCO. Economic/cultural comments may be made in addition to environmental ones.

Please check the appropriate comment and provide supporting information. Comments may be attached or printed at the bottom of this page.

No Comment

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Clearance of this project should only be granted on the condition that the applicant use the recommendations in the enclosed comments

Clearance of this project should be delayed, until the applicant has satisfactorily addressed the concerns stated in the enclosed comments

Signature [Handwritten Signature]

Agency MRIN

Date Jan 13, 1998

Please Return To:
Sylvia Chinn-Levy, IGR Coordinator
NEFCO
969 Copley Road
Akron, OH 44320-2992

Thank you for your participation in this valuable review and comment process.

RECEIVED
JAN 13 98
NEFCO

“SEA determined that impacts of freight operations on passenger rail service would be significant if the anticipated post-Acquisition increases in freight operations resulted in the need to reduce passenger service. . . However, the current operating agreements preclude any reduction in service. Any significant impact that would result from increased post-Acquisition freight operation could occur only after expiration of a current agreement.” (DEIS, Volume 1: page 3-16)

The STB has decided not to be involved in the relationship between the railroad and passenger services after the expiration of existing contracts. Potentially, the uncooperative freight railroads could leave existing or potential passenger operators unable operate, thereby stranding thousands of rail passengers. Displaced commuters will create a greater demand on the over-burdened highway system. In total, higher energy consumption and greater public investment in road construction will be created.

Many agencies in the State of Ohio expressed concerns about passenger service. The STB did review these requests and commented:

“SEA has determined that evidence exists of a potential cumulative effect associated with commuter rail planning and funded activities in Northern Ohio including, but not limited to Toledo, Akron, Lorain, and Cleveland.” (DEIS, Volume 3B: page OH-129).

According to the SEA’s review, METRO’s trackage rights request (MRTA-1) could produce traffic above the level considered significant. (DEIS, Volume 5C: page U-15)

However, the SEA states that it has not found any activities that will be impacted:

“At this point in its investigation, SEA is unaware of any other activities that would require a cumulative analysis.” (DEIS, Volume 3B: page OH-129).

The SEA concludes its investigation in Ohio by making the following comment:

“Therefore based on its independent analysis and all information available to date, SEA has made a preliminary conclusion that there would be no other significant cumulative effects associated with the proposed Acquisition in the State of Ohio.” (DEIS, Volume 3B: page OH-129).

This merger presents an opportunity for passenger rail services to be expanded in the United States. The SEA has performed a detailed analysis of the diversion of freight between highway and rail transportation modes. A similar analysis should be conducted as it involves passenger movement.

We feel the following recommendation of the SEA should be strengthened:

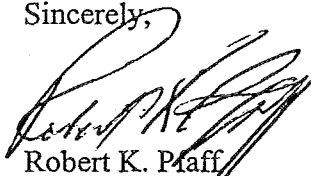
"The SEA encourages the Applicants to meet with the agencies responsible for the commuter rail studies to ensure that the proposed Acquisition can be accomplished without negative effect to commuter rail plans." (DEIS, Volume 3B: page OH-129).

This position assumes that the railroads will negotiate in good faith with passenger agencies. The scope of the review needs to be expanded to include having the Applicants address the potential negative impact on passenger rail operations caused by the merger. SEA needs to actively retain jurisdiction in this matter to assure that the Acquisition can be accomplished without negative consequences on passenger rail operations.

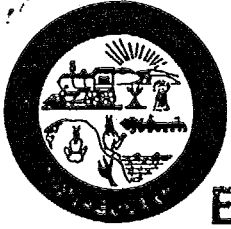
We understand the STB is under a very tight schedule; however, we must ask one point to be changed in the Draft Environmental Statement. Table 5-OH-51 indicates METRO Regional Transit Authority commented on the abandonment in Toledo, Ohio. It appears the SEA misunderstood our comment. Our comments do not concern Toledo. The scope of our letter concerned only Akron, Cleveland, and Canton, Ohio.

In closing, we ask the SEA to view passenger access on an equal basis as freight access to this large multi-modal transportation utility. If you have any questions regarding this statement, please do not hesitate to contact Kirt Conrad, Planner, or myself at (330) 762-7267.

Sincerely,



Robert K. Pfaff
General Manager, Secretary-Treasurer



CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/10/98
DOCUMENT # 2/11/98 11:19.25 AM

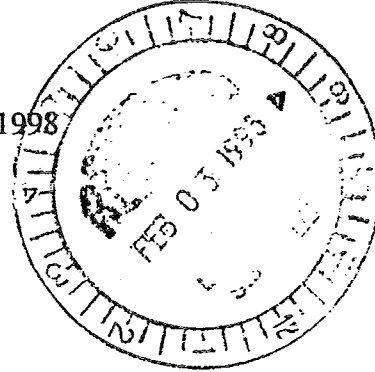
City of Ashtabula
CITY COUNCIL
4400 Main Avenue
Ashtabula, Ohio 44004

(440) 992-7119
Fax: (440) 992-9306

ENVIRONMENTAL DOCUMENT

- CAROL L. LOVAS
President
- MARLEAH V. EATON
Vice-President
- JOSEPH L. ROSE
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- JAMES P. PAULCHEL
Ward II
- STEVEN E. SARGENT
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- CLIFFORD D. McCLURE
Ward IV
- JAMES M. TRISKET
Ward V
- MICHAEL A. ZULLO, CPA
Auditor/Clerk
- LAVETTE E. HENNIGAN, CMC
Deputy Clerk

January 28, 1998



Surface Transportation Board
Office of the Secretary
1925 "K" Street, N.W.
Washington, D.C. 20423-0001

**RE: Case Control Unit
Finance Docket #33388**

TO: Members of the Surface Transportation Board

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.

Regarding the acquisition of Consolidated Rail Corporation (hereinafter Conrail) by CSX Corporation (hereinafter CSXC) and Norfolk Southern Corporation (hereinafter NSC), we find that there will be an extreme increase in the economic stability of CSXC and NS. However, there will be an extreme increase in rail traffic within our City, causing natural and economic environmental disaster.

As you are well aware, there are numerous railroad grade crossings within our City. If this acquisition is granted, **ALL** vehicular traffic at railroad crossings will be halted up to three (3) times as much as was experienced prior to the acquisition.

The City of Ashtabula's railroad traffic is already heavy.

Due to the calculated increase in crossing delays, noise pollution, ground tremors and other environmental problems caused by the increased rail traffic, property values are going to decrease, or at best plateau at their present values.

Several merchants will be forced to go out of business because customers will become frustrated with vehicular traffic flow gridlock every time a train comes through our community. With an increase in rail traffic, comes a higher risk of tragedy to human life, due to the inability of our police, fire and rescue services to move expeditiously through the City.

Ashtabula City Councilor James Trisket is a Firefighter/Paramedic and knows what it is like when a train is blocking access to a burning structure, or when a person is suffering a major "threat to life" emergency. When a person is suffering a cardiac arrest, only 4 to 6 minutes is allowed to be provided effective cardio-pulmonary resuscitation before permanent brain damage occurs. In other medical emergencies, such as diabetic keto-acidosis, seizures, asthma, anaphylaxis, etc., one only has minutes to provide emergency medical care before there is damage to the patient.

There are many evenings trains 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.

The City of Ashtabula has had more than its share of economic hardships over the past 35 to 40 years. While the nation was in various recessions, the City of Ashtabula experienced a deep depression, and continues working to this day to climb out. As a community, we pull together to support any business interested in locating in our town. However, every business requires outside customers to survive, which outside customers this proposed acquisition would deter.

We believe in competition. We also believe that changes should benefit business; and we welcome those changes. At the same time, if change causes an adverse negative impact on a city, village or township, we believe that the creator of that negative impact should compensate the community for their hardship.

We propose that the controlling railroad body consider making the following changes and/or concessions for the City of Ashtabula:

STB - Conrail/CSXC/NSC

January 28, 1998

page 3

The ability of citizens and emergency services to maneuver throughout the City of Ashtabula shall not be hampered more than at present. To do so requires that the controlling railroad body install three (3) over or underpasses on their east/west rail lines and two (2) over or underpasses on their north/south rail line, all at a height clearance that will allow easy passage of full-sized tractor trailers and fire/ladder trucks. All expenses, including property acquisitions, would be absorbed by the controlling railroad body. This would relieve the anticipated traffic flow problems for merchants, delivery service vehicles, citizens and emergency services. Further, the controlling railroad body should be responsible for regulating the transport of hazardous materials through our community and partially fund any training of local rescue crews necessary. The replacement and/or upgrade of several "at-grade crossings" will be essential to ensure greater safety.

In the event that our above changes and/or concessions are not approved by the Surface Transportation Board, we still propose the construction of an over or underpass at each of their two lines of concern and on State Route 84, all of which are within the Corporate city limits of the City of Ashtabula. We also propose the construction of a second Fire Station on the south side of the tracks, to be furnished and equipped with apparatus, as required by NFPA standards. This and all other expenses related shall be absorbed by the controlling railroad body. Please note that the above changes and/or concessions are negotiable

There shall be no expenses assessed to the City of Ashtabula or its citizenry, outside of partial financial responsible we may incur for hazardous material training of City employed rescue personnel.

It goes without saying that CSXC and NSC will make a substantial profit from the proposed acquisition, which could alleviate any financial woes, for decades to come, these corporations may have forecast.

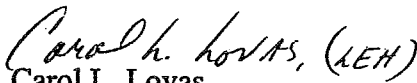
Attached is a copy of Table 5-OH-8 "Ohio Highway/Rail At-Grade Crossing Accident Frequency report. I would like to call to your attention that the report states that at Railroad Segment N-070; FRA ID #471983Y; Street Name Main Street there is a Flasher, when actually there is a Gate.

The City of Ashtabula **WILL** experience devastation if the proposed acquisition is granted and our changes/concessions noted above are ignored.

STB - Conrail/CSXC/NSC
January 28, 1998
page 4

The City of Ashtabula needs the assistance of the Surface Transportation Board in order to realize a **Positive** effect on our community if, in deed, this acquisition comes to fruition.

Respectfully submitted,


Carol L. Lovas
President of Council
City of Ashtabula, Ohio
on behalf of the full City Council

Attachment

pc: Don Damron, Ohio Rail Development Commission
50 Broad Street - 15th Floor
Leveque Tower
Columbus, Ohio 43215

Hugh L. Thomas, Ashtabula City Manager
Thomas J. Simon, Ashtabula City Solicitor

Table S-OH-8
Ohio
Highway/Rail At-Grade Crossing Accident Frequency

County	Railroad Segment	FRA ID	Street Name	Present Safety Device	ADT	Number of Roadway Lanes	Maximum Speed	Total Accidents 1991-1995	Freight Trains		Accidents Per Year			Post Acquisition With Mitigation
									Pre-Acquisition	Post Acquisition	Pre-Acquisition	Post Acquisition	Change	
Allen	C-062	532738X	DEFIANCE TRAIL	Passive	330	2	50	0	5.9	13.9	0.0466	0.0634	0.0169	
Allen	C-062	532739E	BAUGH RD	Passive	20	2	50	0	5.9	13.9	0.0204	0.0302	0.0098	
Allen	C-062	532740Y	PELTIER RD	Passive	80	2	50	0	5.9	13.9	0.0314	0.0449	0.0135	
Allen	C-062	532741F	LEHMAN RD	Gate	1,400	2	50	0	5.9	13.9	0.0138	0.0196	0.0058	
Allen	C-062	532743U	PIERCE ST.	Flasher	2,900	2	50	0	5.9	13.9	0.0305	0.0424	0.0119	
Allen	C-062	532744B	FRANKLIN ST	Flasher	3,520	2	40	0	5.9	13.9	0.0325	0.0448	0.0123	
Allen	C-062	532745H	S MAIN ST	Gate	3,240	4	40	0	5.9	13.9	0.0219	0.0302	0.0083	
Allen	N-070	471951A	THOMPSON ROAD	Passive	30	2	60	0	13.0	25.1	0.0207	0.0281	0.0074	
Allen	N-070	471952G	WOODWORTH ROAD	Passive	330	2	60	0	13.0	25.1	0.0635	0.0779	0.0144	
Allen	N-070	471953N	HARBOR STREET	Gate	2,970	2	60	0	13.0	25.1	0.0223	0.0286	0.0063	
Allen	N-070	471954I	SANDUSKY STREET	Gate	820	2	60	0	13.0	25.1	0.0167	0.0217	0.0050	
Allen	N-070	471957R	MILL STREET	Gate	4,270	2	20	0	13.0	25.1	0.0243	0.0311	0.0067	
Allen	N-070	471958X	CHESTNUT STREET	Gate	2,290	2	20	0	13.0	25.1	0.0209	0.0269	0.0060	
Allen	N-070	471960Y	PARRISH BOULEVARD	Gate	2,590	2	60	0	13.0	25.1	0.0207	0.0267	0.0060	
Allen	N-070	471961F	GORE ROAD	Gate	810	2	60	0	13.0	25.1	0.0160	0.0209	0.0049	
Allen	N-070	471964B	NO AMBOY RD	Gate	740	2	60	2	13.0	25.1	0.0924	0.1043	0.0119	
Allen	N-070	471966D	REED ROAD	Gate	390	2	60	0	13.0	25.1	0.0132	0.0174	0.0042	
Allen	N-070	471971T	LAKE STREET	Gate	5,500	2	60	0	13.0	25.1	0.0259	0.0329	0.0070	
Allen	N-070	471972A	INFIRMARY ROAD	Gate	390	2	60	0	13.0	25.1	0.0132	0.0174	0.0042	
Allen	N-070	471973N	BLAKE ROAD	Gate	1,480	2	60	0	13.0	25.1	0.0187	0.0243	0.0055	
Allen	N-070	471979R	STATE AVENUE	Gate	380	2	35	0	13.0	25.1	0.0132	0.0173	0.0041	
Allen	N-070	471980K	DWIGHT AVENUE	Flasher	180	2	35	0	13.0	25.1	0.0162	0.0218	0.0056	
Allen	N-070	471983Y	MAIN ST.	Flasher	5,350	4	35	0	13.0	25.1	0.0162	0.0218	0.0056	
Allen	N-070	471984F	PARK ST.	Gate	4,290	2	35	0	13.0	25.1	0.0244	0.0311	0.0067	
Allen	N-070	471985B	GARY AVENUE	Gate	810	2	35	1	13.0	25.1	0.0557	0.0705	0.0148	
Allen	N-070	471988P	JEFFERSON AVENUE	Flasher	1,180	2	35	0	13.0	25.1	0.0309	0.0457	0.0148	
Allen	N-070	471988P	WEST 52ND STREET	Flasher	2,590	2	35	1	13.0	25.1	0.0985	0.1287	0.0301	
Allen	N-070	471990R	NATHAN AVENUE	Flasher	1,310	2	35	0	13.0	25.1	0.0195	0.0304	0.0109	
Allen	N-070	471991X	SAMUEL AVENUE	Flasher	300	2	60	0	13.0	25.1	0.0708	0.0909	0.0201	
Allen	N-070	471992E	WOODMAN AVENUE	Flasher	960	2	60	1	13.0	25.1	0.0798	0.1054	0.0256	
Allen	N-070	471993L	SANBORNE ROAD	Gate	4,930	2	60	0	13.0	25.1	0.0252	0.0366	0.0114	
Allen	N-070	471997N	STATE ROUTE 45	Gate	340	2	60	0	13.0	25.1	0.0644	0.0846	0.0202	
Allen	N-070	471998V	DEBOT ROAD	Flasher	170	2	60	1	13.0	25.1	0.0547	0.0767	0.0221	
Allen	N-070	472001J	BROWN ROAD	Passive	740	2	60	0	13.0	25.1	0.0157	0.0237	0.0080	
Allen	N-070	472004E	MYERS ROAD	Gate	2,020	2	60	0	13.0	25.1	0.0202	0.0301	0.0099	
Allen	N-070	472005L	CENTENNIAL ROAD	Gate	2,020	2	60	0	13.0	25.1	0.0202	0.0301	0.0099	

Table S-011-8
Ohio

Highway/Rail At-Grade Crossing Accident Frequency

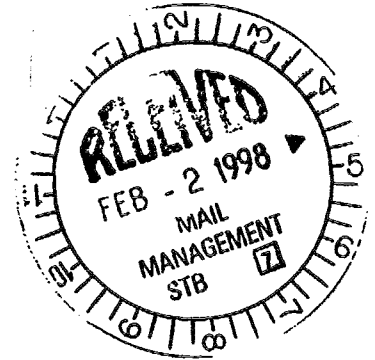
County	Railroad Segment	FRA ID	Street Name	Present Safety Device	ADT	Number of Roadway Lanes	Maximum Speed	Total Accidents 1991-1995	Freight Trains		Accidents Per Year			Post Acquisition With Mitigation
									Pre-Acquisition	Post Acquisition	Pre-Acquisition	Post Acquisition	Change	
ASHTABULA	N-075	472009N	EAGLE AVENUE	Flasher	1,400	2	60	0	13.0	36.6	0.0326	0.0479	0.0153	
ASHTABULA	N-075	472010H	CHESTNUT STREET	Gate	120	2	60	1	13.0	36.6	0.0442	0.0538	0.0096	
ASHTABULA	N-075	472011P	WEST STREET	Gate	260	2	60	0	13.0	36.6	0.0119	0.0183	0.0064	
ASHTABULA	N-075	472012W	WALTER MAIN RD	Passive	230	2	60	1	13.0	36.6	0.1388	0.1794	0.0405	0.0155
ASHTABULA	N-082	502651A	STATE	Gate	1,380	2	30	0	11.7	23.8	0.0203	0.0267	0.0064	
ASHTABULA	N-082	503107T	PLYMOUTH	Flasher	290	2	30	0	11.7	23.8	0.0218	0.0294	0.0077	
ASHTABULA	N-082	503108A	CARSON RD	Gate	250	2	40	0	11.7	23.8	0.0130	0.0175	0.0045	
ASHTABULA	N-082	503110B	MEANEY RDMORGAN	Passive	240	2	40	0	11.7	23.8	0.0530	0.0677	0.0147	
ASHTABULA	N-082	503113W	SR167	Flasher	1,050	2	40	0	11.7	23.8	0.0287	0.0380	0.0093	
ASHTABULA	N-082	503114D	MARCH RD	Passive	70	2	40	0	11.7	23.8	0.0174	0.0243	0.0070	
ASHTABULA	N-082	503115K	NETCHER	Passive	70	2	40	0	11.7	23.8	0.0229	0.0316	0.0087	
ASHTABULA	N-082	503116S	CLAY RD	Passive	50	2	40	0	11.7	23.8	0.0205	0.0285	0.0080	
ASHTABULA	N-082	503117Y	S. DENMARK RD	Passive	400	2	40	0	11.7	23.8	0.0590	0.0743	0.0153	
ASHTABULA	N-082	503118F	TOWER RD	Passive	250	2	40	0	11.7	23.8	0.0526	0.0673	0.0147	
ASHTABULA	N-082	503119M	FOOTVILLE RI	Flasher	820	2	40	0	11.7	23.8	0.0264	0.0353	0.0088	
ASHTABULA	N-082	503120G	SR 193	Flasher	930	2	40	0	11.7	23.8	0.0276	0.0366	0.0091	
ASHTABULA	N-082	503121N	MARRIAN RD	Passive	60	2	40	0	11.7	23.8	0.0357	0.0472	0.0119	
ASHTABULA	N-082	503122V	AYERS RD	Passive	30	2	40	0	11.7	23.8	0.0174	0.0243	0.0070	
ASHTABULA	N-082	503124J	US 6	Flasher	810	2	40	0	11.7	23.8	0.0265	0.0351	0.0088	
ASHTABULA	N-082	503125R	RD/MANN RD	Passive	20	2	40	0	11.7	23.8	0.0152	0.0214	0.0062	
ASHTABULA	N-082	503126X	WOODWORTH RD	Passive	10	2	40	0	11.7	23.8	0.0120	0.0171	0.0051	
ASHTABULA	N-082	503127E	MEADVILLE RD (US 322)	Gate	1,260	2	40	0	11.7	23.8	0.0174	0.0231	0.0057	
ASHTABULA	N-082	503128L	UNDERWOOD RD	Passive	60	2	40	0	11.7	23.8	0.0357	0.0477	0.0119	
ASHTABULA	N-082	544582K	W 54TH ST.	Gate	1,460	2	20	0	11.7	23.8	0.0206	0.0270	0.0065	
ASHTABULA	N-082	544593L	W 52ND ST.	Gate	1,810	2	25	0	11.7	23.8	0.0217	0.0284	0.0067	
ASHTABULA	N-082	544908Y	WEST 32ND ST	Flasher	2,397	2	25	0	11.7	23.8	0.0376	0.0485	0.0109	
CRAWFORD	C-062	532580M	LANE ST	Gate	1,250	2	40	0	5.9	13.9	0.0217	0.0300	0.0083	
CRAWFORD	C-062	532581U	WALNUT ST.	Flasher	3,960	2	40	0	5.9	13.9	0.0328	0.0523	0.0135	
CRAWFORD	C-062	532582B	ALLEY	Flasher	160	1	40	0	5.9	13.9	0.0111	0.0165	0.0055	
CRAWFORD	C-062	532583H	N SANDUSKY AVE	Flasher	9,710	2	40	0	5.9	13.9	0.0499	0.0647	0.0149	
CRAWFORD	C-062	532584P	ALLEY	Flasher	120	1	40	0	5.9	13.9	0.0099	0.0149	0.0050	
CRAWFORD	C-062	532585W	POPLAR ST	Flasher	1,770	2	40	1	5.9	13.9	0.0966	0.1207	0.0242	
CRAWFORD	C-062	532586D	SPRING ST	Flasher	2,990	2	40	0	5.9	13.9	0.0357	0.0486	0.0130	
CRAWFORD	C-062	532587K	SEARS ST	Flasher	570	1	60	1	5.9	13.9	0.0595	0.0740	0.0145	
CRAWFORD	C-062	532588S	MANSFIELD ST	Flasher	8,480	2	40	0	5.9	13.9	0.0481	0.0628	0.0147	
CRAWFORD	C-062	532590T	MCCRACKEN	Gate	350	1	60	0	5.9	13.9	0.0083	0.0121	0.0037	
CRAWFORD	C-062	532591A	SIMMS CR.	Passive	70	1	60	0	5.9	13.9	0.0178	0.0266	0.0088	

A-385-c



ENVIRONMENTAL DOCUMENT

11501 Mayfield Road • Cleveland, Ohio 44106
(216) 791-5025 • Fax: (216) 791-0370



Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K. Street, N.W.
Washington D.C. 20423-0001

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 11:51:24AM

January 29, 1998

Attn: Elaine K. Kaiser, Environmental Project Director

Located in University Circle, Abington Arms is an HUD assisted high rise apartment building for low-income elderly and mobility disabled residents. Abington was built in this cultural area to offer its residents a quality living environment. We have a total of 152 units with 157 tenants with approximately 60 in the disabled category.

Abington Arms is located approximately 475 feet from the bridge, with elevated railroad tracks, in Little Italy, an Historic District. Of great concern to us is the new CSX merger. Their proposed route will increase freight rail traffic through our area from 20 trains/day to approximately 81 trains/day and as the economy improves, volume would also increase. The negative impact on our residents, in terms of health and well-being is enormous; ie, a triple increase of noise levels which cannot be ameliorated because the tracks are elevated; dangerously increased levels of pollutants and carcinogenic materials in the immediate environment; and the increased probability of accidents involving railroad transported hazardous materials.

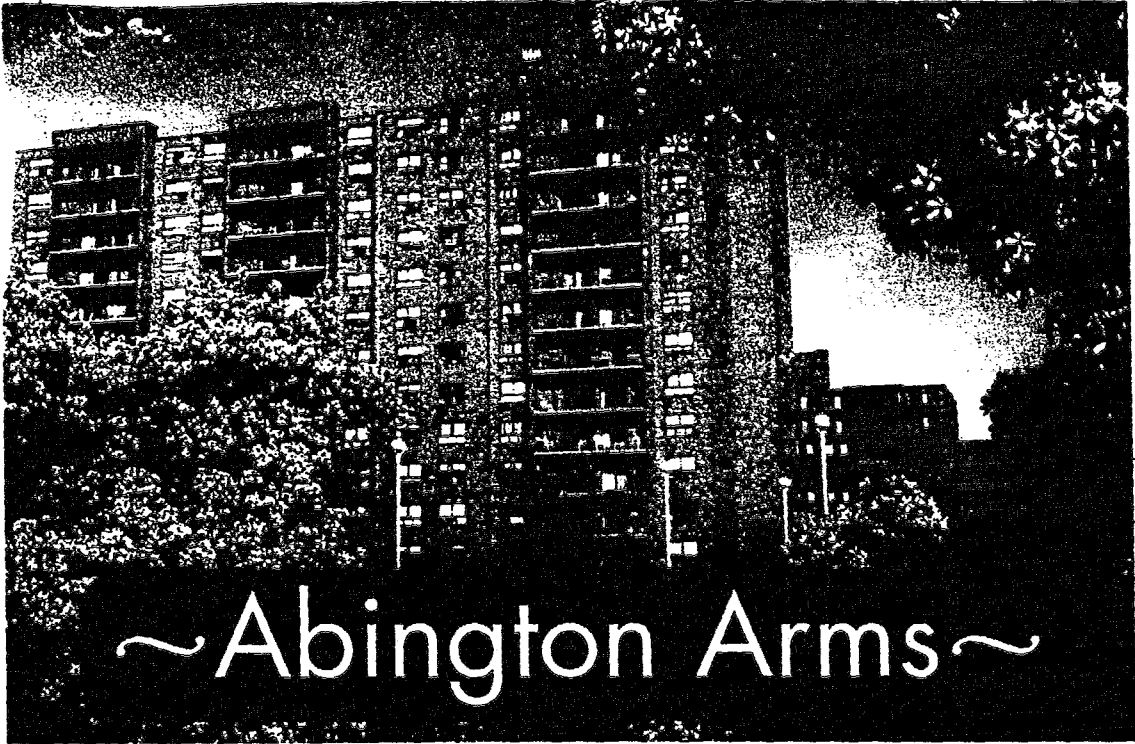
Abington Arms is only one of many HUD assisted senior apartment buildings located in the University Circle area comprised of approximately 1200 units, with approximately 1210 elderly, of which 225 could be identified as disabled. A daytime railroad accident, involving an hazardous spill, necessitating evacuation of these numbers of people plus all of the other approximately 30,000 people who work in the University Circle area daily would be a disaster of immeasurable proportions.

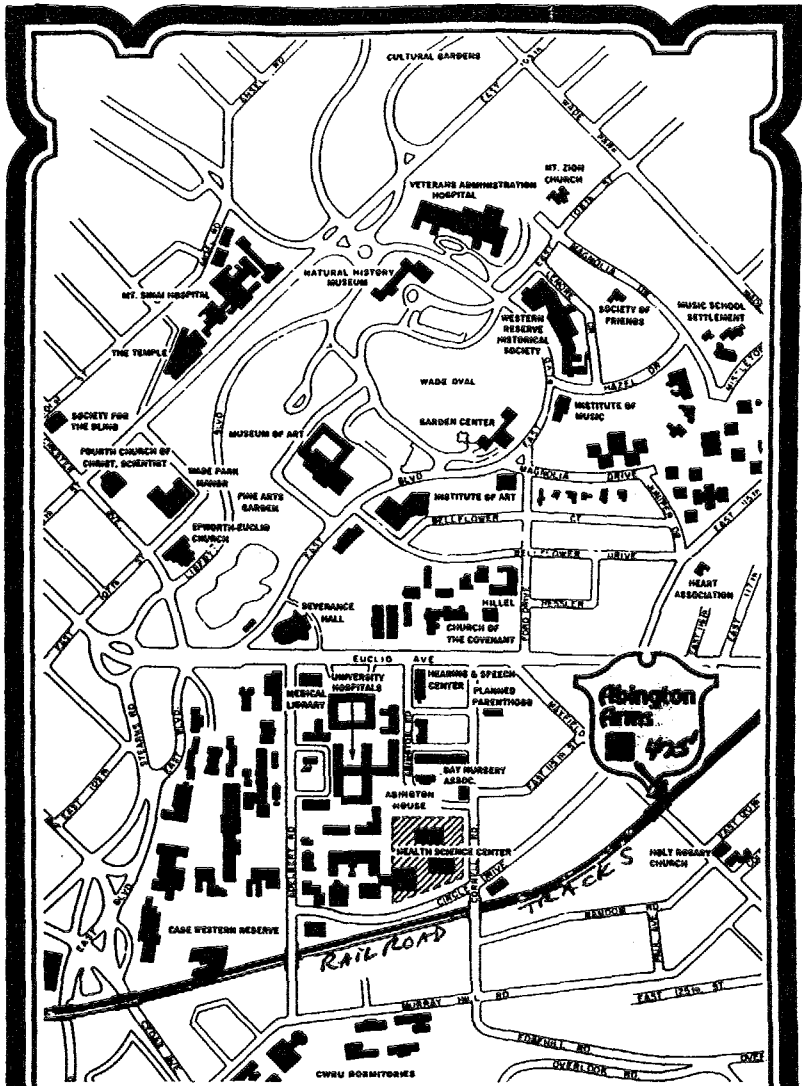
Please consider the alternate routes proposed by our City of Cleveland Mayor White.

Most sincerely yours,

ABINGTON ARMS

Elizabeth B. Heil,
Administrator

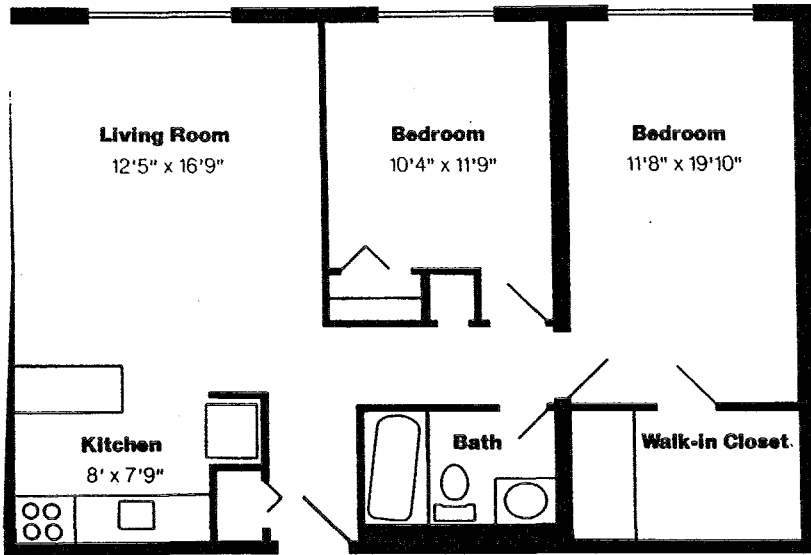




UNIVERSITY CIRCLE

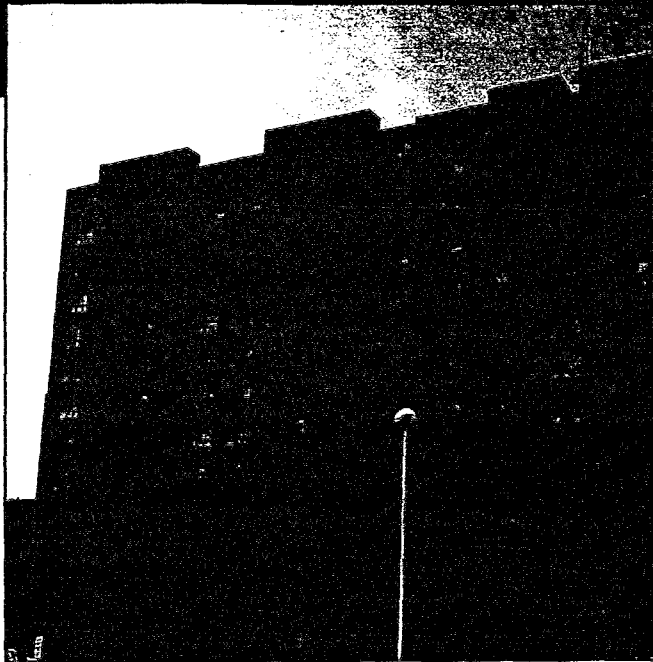


FOR FURTHER INFORMATION CALL:
ABINGTON ARMS RENTAL OFFICE 791-5025
Elizabeth Heru, ADM. 791-5026



TYPICAL 2-BEDROOM SUITE

Independent, Active Living For Seniors



ABINGTON ARMS

1 & 2 BEDROOMS

**11501 Mayfield Road
Cleveland, Ohio 44106**

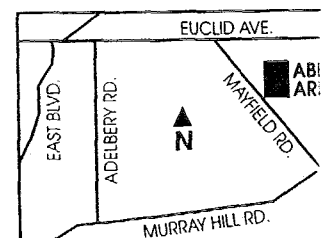
Abington Arms features the perfect mix of comfort, care and convenience in the historic Murray Hill area. We understand the special needs of seniors, and we provide for them in a friendly environment that offers the service, quality and value those who have reached retirement age deserve and expect. Designed with a variety of features and amenities, Abington Arms offers attractive, comfortable and gracious community areas and personalized services that cater to active seniors seeking an independent retirement lifestyle. Make it your new home today.



ASSOCIATED
ESTATES REALTY
CORPORATION

(216) 791-5025

A-386-d

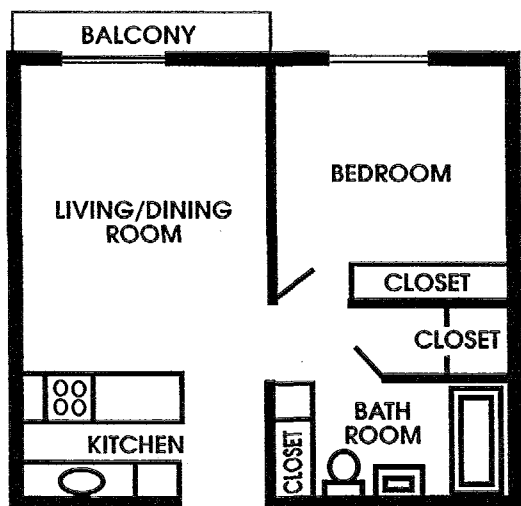


ABINGTON ARMS

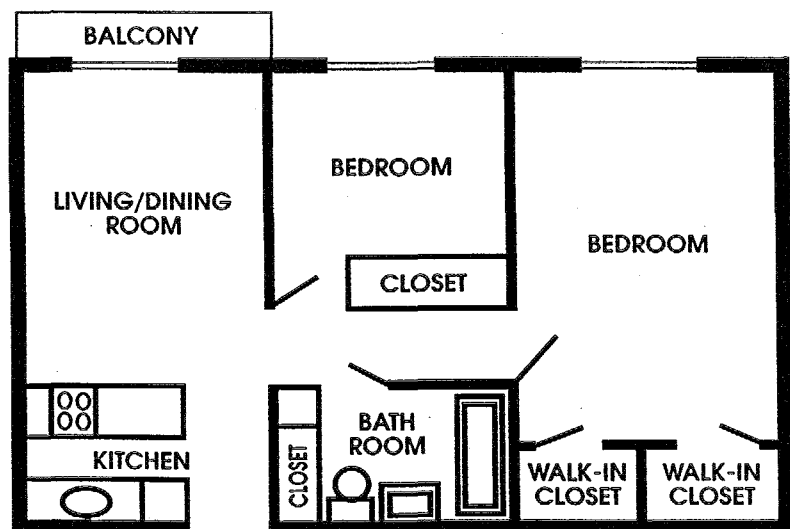
11501 Mayfield Rd.
Cleveland, Ohio 44106

(216) 791-5025

A Quality Associated Estates Community for Independent Seniors Offering:



1-BEDROOM SUITE



2-BEDROOM SUITE

APARTMENT FEATURES

- 1 and 2 Bedrooms
- Special Wheelchair Adapted Suites
- Heat, Water & Electric Included
- Kitchen with Breakfast Bar
- Refrigerator & Electric Range
- Fully Carpeted Suites
- Abundant Closet Space
- Handicap Accessible Entry-Ways
- Individually Controlled Heat
- Mini-Blinds In Bedrooms
- Smoke Detectors & Automatic Sprinklers
- Four Laundry Centers in Building
- Intercom Entry System
- Cable TV Available

RECREATION

- Picnic Area with Grill
- Library, Chapel, Music Room and Art Room
- Big Screen TV In Community Room
- Social Activity Programs
- Art Therapy Program

DINING

- Community Room with Kitchen
(Home Cooked Breakfast 5 Days-a-Week)

CONVENIENCE

- RTA at Your Door
- Door-to-Door CRT Senior Transportation Service
- Walk to Shopping & Dining
- Visiting Podiatrists Twice Monthly
- Services Coordinator
- Easy Access to Major Highways, Medical Facilities, Senior & Community Center

Professionally Managed By Associated Estates Management Company
**Artist renderings only; actual dimensions & features may vary slightly.*



1/30/98 1:41:22 PM

BOARD OF COUNTY COMMISSIONERS

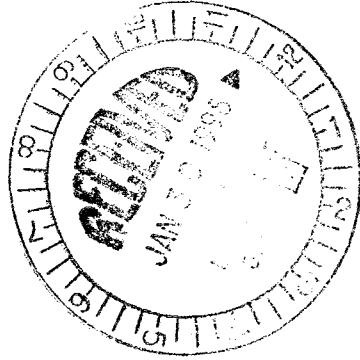
Terry Boose
Larry Silcox
Karen Wilhelm



180 Milan Avenue
Norwalk, Ohio 44857-1195
Telephone (419) 668-3092
FAX (419) 663-3370

January 29, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Safety Board
1925 K Street, NW
Washington, DC 20423-0001



COPY

After the review of the draft environmental impact study, we would like to submit the following:

We are asking you to consider safety concerns in your decision making process. Please note items I and II are life threatening to the residents of southern Huron County, Ohio.

I) Public Safety Concerns -- 9-1-1 calls, a house fire with residents trapped inside; a student at South Central High School involved in a multi car accident leaving the school; an armed robbery in progress; or even a cardiac arrest -- How do we explain we can't respond because the railroad crossings are blocked? Please do not ask us to put children's lives, along with many others, in jeopardy.

We are meeting with CSX officials regarding three major access routes for public safety responders in Greenwich, Willard, and New London. We have reached an agreement for the Greenwich area with a grade separation replacing two grade crossings. The special signals on U.S. Route 224 and Townsend Avenue crossing may not assure access by public safety forces as stated above. This can only be resolved by grade separations.

However, Willard and New London public safety access has not been addressed to meet our concerns for saving lives and property. As a result of the Willard yard expansion Section Line 30 will change from two tracks to five sets of tracks and becomes part of the CSX yard expansion plan, this will create the very real potential for an accident causing release of hazards materials. The need for an overpass in Willard at Section Line 30 is a major safety issue for the entire area. CSX has agreed to participate financially in an overpass, but no dollar amount has been agreed upon. CSX's engineer stated that this major overpass will cost between 4 and 5 million dollars, we do not have the funding to even participate in the building of the overpass to correct CSX's crossing blockages, and feel they should pay 100%.

Environmental Review Comments

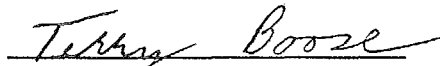
New London will be split in half with all safety forces on the south side of CSX/Conrail tracks. We must have one unobstructed access to provide public safety. We have asked CSX to provide an underpass at Euclid Road, New London, Ohio, with no answer as of yet. With the increase in projected trains per day this is a life threatening situation.

- II) Huron County will see an increase of hazardous materials car loads from 16,000 per year to a projection of 69,000 car loads per year due to CSX and Conrail's east, west, north, and south lines coming through Huron County. This is an extremely high exposure to possible hazardous materials and a real threat to our lives and environment. We need help from CSX for response planning, training, and exercise/drills. We also need additional hazmat response equipment to be prepared.
- III) Water runoff, culverts, bridges and farm tiles must be addressed for additional capacity to avoid flooding.
- IV) Private grade crossing to avoid loss of access to farm fields must be offered to those farmers affected.
- V) Dust, noise, and vibrations will lead to decreased property values along railroad routes:
How do we compensate property owners?

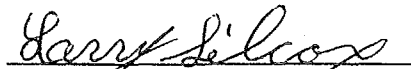
We still have unresolved safety issues, which have not been addressed. These must be resolved for the protection of our residents! We ask you to make our safety concerns a condition of the proposed merger.

Sincerely,

BOARD OF HURON COUNTY COMMISSIONERS



Terry Boose, President



Larry Silcox, Vice President

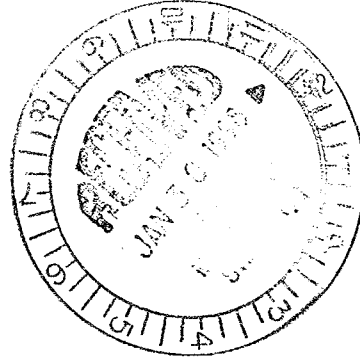
Karen Wilhelm

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

VILLAGE OF NEW LONDON

"Tree City"

115 East Main Street
New London, Ohio 44851-1292
(419) 929-4091
Fax (419) 929-0738



January 15, 1998

Ms. Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Dear Ms. Kaiser:

I am taking this opportunity to make our concerns known concerning the proposed merger of the rail lines that go through our village.

The main concern is for the safety and welfare of the residents of the village. Our safety services, except the police department, are all volunteers. Thus, the fire department and EMS are going to be greatly impaired with an additional 50 trains passing through the village on a daily basis. We cannot have these services on both sides of the tracks for obvious reasons of lack of funding and personnel.

Our Village Council, Village Administrator and I have discussed this situation and have come to a conclusion that an underpass must be considered to allow these emergency vehicles access to the residents and territories they serve.

We know the solution will not be easy, but at the same time mandatory. We have no funds at the present time or in the future to make our needs a reality. Your help with this project is needed. I am looking forward to working with your department in this urgent matter.

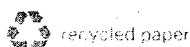
Respectfully,

A handwritten signature in cursive script that reads "Dorothy Sholes".

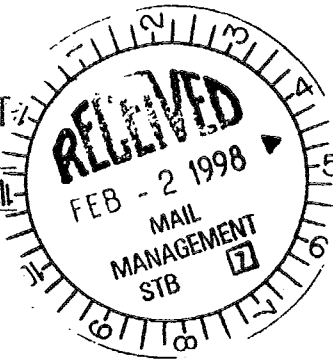
Dorothy Sholes, Mayor
Village of New London
115 East Main St.
New London, Ohio 44851



A-387-d



CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 11:55 .8/AM



Arnold Dahm
Church of the Covenant
11205 Euclid Ave.
Cleveland, OH 44106

January 29, 1998

Office of the Secretary
Case Control Unit
Finance docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington D.C. 20423-0001

**ENVIRONMENTAL
DOCUMENT**

Dear Sirs,

The Church of the Covenant is located in University Circle, Cleveland, Ohio. The CSX and NS railroads have proposed a change in rail traffic through the City of Cleveland which would dramatically increase rail traffic through the heavily congested University Circle area. We oppose this plan and urge the Surface Transportation Board to adopt an alternate plan proposed by Cleveland mayor, Michael White.

Our church has a large number of elderly members who live in the Judson retirement and nursing communities in close proximity to the rail line. We also serve students at Case Western Reserve University located next to the rail lines. We feel that these populations of our members, particularly the elderly and infirm, are endangered by the proposed heavy traffic, 81,000 cars/year, of Hazardous Materials. It would be difficult to rapidly evacuate these members in the event of an accident accompanied by a spill of hazardous materials.

Our church is a leading advocate for the poor, and powerless and for minorities in Cleveland. We have by intention a racially diverse congregation. We object to the proposed plan of the CSX and NS railroads which will place the burden of an increase in noise, pollution, and danger of hazardous spills on the minority and low income population through which this increased rail traffic will pass.

Sincerely yours,

Arnold J. Dahm, President
Church of the Covenant

Attn: Elaine K. Kaiser
Environmental Project Director
Environmental Filing



CASE WESTERN RESERVE UNIVERSITY

January 30, 1998

The Honorable Michael R. White
Mayor, City of Cleveland
601 Lakeside Avenue
Cleveland, Ohio 44114

Dear Mayor White:

Thank you for bringing to our attention the proposal by CSX and Norfolk Southern to increase significantly the number of trains being routed through University Circle. These tracks run directly through our campus, where we accommodate 10,000 students and nearly 5,000 faculty and staff members. In discussion with University Circle, Inc., and our institutional neighbors here in the Circle, it is apparent that the proposed increase in train traffic raises important issues that need to be examined before the project can proceed.

At best, the increased noise generated by additional traffic would be a nuisance. Perhaps more troublesome is the effect of the increased vibration that would be produced. These are matters we will need to examine carefully.

Most disturbing, however, is the prospect that emissions from train engines would be quadrupled in an area which previous studies (not conducted by CWRU) have shown to be one in which air currents do not rapidly disperse. Thus, particulates and other emissions from increased train traffic might be expected to concentrate in the University Circle area, a situation that has implications for public health. We have not had an opportunity to study this matter adequately yet, but I suspect it is an issue that will be of interest to the larger community as well.

My heartfelt request is that the Surface Transportation Board expect that the railroads engage the community in a thorough discussion of these and other concerns that have been raised about their proposal, including a review of the environmental consequences of the change. We support your effort to secure such a commitment, and we will cooperate with your office in doing so.

Sincerely,

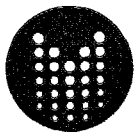
Agnar Pytte
President

Office of the President

MAILING ADDRESS
Case Western Reserve University
10900 Euclid Avenue
Cleveland, Ohio 44106-7001

VISITORS AND DELIVERIES
216 Adelbert Hall
2040 Adelbert Road

Phone 216-368-4344
Fax 216-368-6861



ASSOCIATED
ESTATES
MANAGEMENT
COMPANY

January 30, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington D.C. 20423-0001

Dear Ms. Kaiser,

I am writing to you regarding grave concerns I have related to the proposed radically increased routing of train traffic through University Circle by CSX and Norfolk Southern.

I manage over 625 suites and 70,000 square feet of office and retail establishments some directly adjacent to and others in close proximity to the Mayfield Road elevated tracks.

Over 400 of my residents live in low income HUD subsidized properties for the elderly and handicapped and low income families. Abington Arms, a HUD Building for low income elderly and handicapped, is located less than 500 feet from the elevated tracks.

I do not believe that the data provided by CSX and NS sufficiently relates the negative impact of increased traffic of approximately 20 some trains a day to 80 plus trains a day. While the added noise alone for elevated tracks is of concern, my greater concern is the heavy increase of pollutants that not only significantly impact air quality, but may in fact be introducing carcinogenic and other pollutants with wide reaching medical repercussions.

With the increased transportation of toxic waste, comes the increased potential for the devastating effect of a major spill which would occur in this densely populated area.

5025 Swetland Court
Richmond Hts., Ohio 44143
Phone 216-261-5000
Fax 216-289-9600

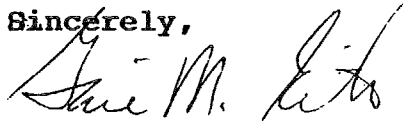
A-388-c

You may not be aware of the unique nature of University Circle. Directly adjacent to the rail line is the historic community of Little Italy and nationally renowned hospitals and university. The Circle is home to many cultural institutions including, the world renowned Cleveland Museum of Art and the Cleveland Orchestra. The Circle is also the home of an additional 1200 HUD subsidized suites for the elderly, as well as many conventional apartments and businesses. Studies show that upwards of 30,000 people populate the Circle on any given day.

On behalf of myself, my residents and neighbors, I urge you to demand from the train companies more inclusive information on the adverse affects. I further urge you to support the alternate plans proposed by Mayor Michael R. White, which takes the additional traffic through the industrial corridors with minimal impact upon the residential neighborhoods.

I believe an open meeting with yourself and the residents and institutions of University Circle will enable you to make a more informed decision that would best benefit the community as a whole.

Sincerely,



Gail M. Eovito
Senior Property Manager

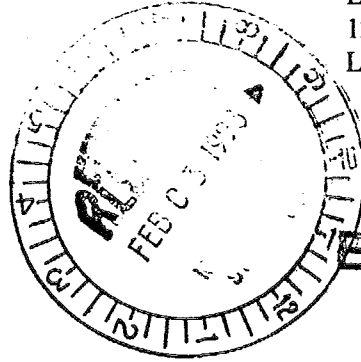
ATTN: Elain K. Kaiser,
Enviromental Project Director
Enviromental Filing

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 11:14:37 AM

Liz Pim
1292 French Avenue
Lakewood, OH 44107

January 29, 1998

U.S. Surface Transportation Board
Attn: SEA - Finance Docket 33388
1925 'K' Street, NW
Washington, DC 20423



**ENVIRONMENTAL
DOCUMENT**

To whom it may concern:

I am writing to express my concerns regarding the NS-CSX Proposal, now before the Federal Surface Transportation Board in Washington, on Lakewood, Ohio.

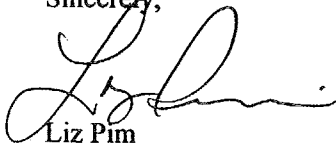
As I have written before, I strongly disagree with this proposal for all of the reasons you have already heard.

I have some questions I would like answered which are listed below:

- 1.) Why is it that between 2:00am and 3:15am of January 28th (I guess that would make that the 29th), five trains came through Lakewood? Three pounded through between 2:00 and 2:30am and the other two between 2:30 and 3:15am. That's too many trains!!! We didn't sleep the rest of the night!
- 2.) How many trains are permitted to go through Lakewood at night?
- 3.) How many trains are permitted to go through Lakewood during a 24 hour period?
- 4.) Why isn't there a limit as to how much train traffic is permitted after midnight?
- 5.) Why aren't resident's of all communities involved allowed to vote on these issues?
- 6.) Would anyone from the board like to spend an evening at my home so that you would have an opportunity to truly understand our dilemma?

Please do not send me a general letter; I would like my questions answered. If I sound angry - I am. I am considering seeking legal counsel.

Sincerely,



Liz Pim

c: Mayor Madeline A. Cain, Stephen W. FitzGerald

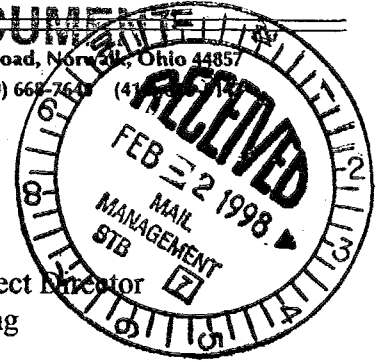
CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98

DOCUMENT # 2/2/98 5:11:56 PM January 29, 1998

Office of the Secretary
Case Control Unit
Finance Docket #33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

ATTN: Elaine K. Kaiser
Environmental Project Director
Environmental Filing



RE: Drainage Concerns relating to the C.S.X.
Expansion in Willard & Greenwich, Ohio
Finance Docket No. 33388

Dear Surface Transportation Board,

Several landowners in the area of this proposed project have contacted our office with concerns about the effects that the proposed expansion will have on the drainage of their farms. Some have been told that the existing culverts under the railroad will be extended rather than replaced with new larger and deeper culverts. We have identified at least 10 culverts in Huron County along the proposed route of the expansion.

Agriculture is the number one industry in Huron County and statistics indicate that good drainage is one of the most essential parts of a successful farming operation. We feel it vitally important to be sure that this project will not have a negative impact on the drainage of this area.

It has been our experience that most railroad culvert pipes are more than 100 years old and are usually not deep enough and sometimes not large enough to provide good agricultural drainage. Please review the attached "Inventory and Evaluation" that was completed upon the request of a local landowner / farmer that is effected by this expansion. The conclusion of the attached evaluation clearly indicates the inadequacy of both the size and depth of the existing 16" culvert pipe. We feel that now would be the time to upgrade the entire length of this and other inadequate structures to meet today's standards.

It is our opinion that planning for the future now will benefit both the railroad, by not having to worry about replacing these old structures when they eventually fail, and the agricultural community in the area by providing a drainage outlet that meets today's standards.

Please contact me if you have any questions.

Sincerely,

Cary Brickner
District Manager
Drainage Coordinator

cc Huron County Commissioners
Huron County Engineer
Huron County Emergency Management Director

Don Detterman
5931 Egypt Rd.
Willard, Ohio 44890

July 22, 1997

RE: Culvert Pipe Evaluation
C.S.X. Expansion

Dear Don,

The following is an evaluation with recommendations that you have requested regarding the 16 inch culvert pipe that crosses the railroad on your property.

Existing Conditions:

There is a 16" smooth wall culvert pipe that passes under the C.S.X. Railroad. This culvert is located approximately 900 ft. west of Daniels Rd. (T.R.#70) in Great Lot 7, Section 4, Norwich Township, Huron County, Ohio.

Elevation shots revealed a difference of 2.0 feet from the natural ground to the bottom of the 16 inch culvert.

The pipe is about 70 feet in length and drains to the north.

There is a shallow clay subsurface tile that outlets just south of the culvert which serves as the subsurface drainage outlet for an area of 60 acres of land.

Evaluation: The existing 16 inch, 70 ft. long culvert pipe will carry an estimated flow rate of 12.1 c.f.s. (Cubic Feet per Second) "Attachment B"

Extending the 16 inch pipe to a distance of 300 feet will reduce the estimated flow rate to 9.3 c.f.s. "Attachment C"

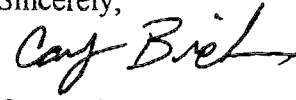
The runoff computation sheet indicates that 9.3 c.f.s. does not provide the minimum capacity of 10 c.f.s. for good agricultural drainage (Q_b). A 1yr. frequency storm would require a flow rate of 31 c.f.s. and the standard of a 10 yr. storm is 78 c.f.s. "Attachment A"

According to U.S.D.A. standards, the minimum depth of the railroad culvert for subsurface drains for this situation is 3.5 ft. This allows for the minimum cover of 2 feet, 0.5 feet for the tile itself and 1.0 of freeboard. (which is the difference between the bottom of the tile and the bottom of the culvert.)

Conclusion: A deeper and larger culvert pipe should be installed. The new culvert should be installed at least 1.5 feet deeper than the existing 16 inch culvert and would require a 48" diameter culvert to carry the peak flow of a 10 yr. storm. "Attachment E"

If you, or anybody from the Railroad have any questions or concerns, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Cary Brickner". The signature is written in a cursive style with a large, sweeping initial "C".

Cary Brickner

District Manager / Drainage Coordinator

RUNOFF COMPUTATION SHEET

prepared for

DON DETTERMAN

Attachment A

in

Huron County, Ohio

Designer : C.B.
Date : 07/21/97

Checker _____
Date _____

RAILROAD CULVERT

Soil Types:
BENNINGTON C

Land Use and Condition	Acres by hydrologic soil group			
	ac. A	ac. B	ac. C	ac. D
Small Grain				
Straight row - good residue Poor	62	73	57x81	85
Roads, Including rights-of-way				
Hard Surface ----	74	84	3x90	92

Watershed Slope = 1.0 % Drainage Area = 60.0 acres Curve Number = 81
Watershed Length = 1100 ft. Tc = 0.55 hr. Rainfall Type = II

Frequency	24-hr rainfall	Runoff	Peak discharge	Ia/P
1 - yr.	2.2 in.	0.73 in.	31 cfs.	0.21
2 - yr.	2.4 in.	3.87 in.	38 cfs.	0.20
5 - yr.	3.1 in.	1.39 in.	62 cfs.	0.15
10 - yr.	3.5 in.	1.71 in.	78 cfs.	0.13
25 - yr.	4.0 in.	2.12 in.	98 cfs.	0.12
50 - yr.	4.5 in.	2.55 in.	119 cfs.	0.10
100 - yr.	4.7 in.	2.72 in.	128 cfs.	0.10

Drainage curves : Qa = 18.1 cfs. Qc = 6.4 cfs.
 Qb = 10.0 cfs. Qd = 4.2 cfs.

Culvert Evaluation

prepared for

Attachment B

DON DETTERMAN
in

Huron County, Ohio

Designer : C.B.
Date : 07/21/97

Checker _____
Date _____

EXISTING R.R.CULVERT

n' value	=	0.012	Capacity =	12.1 cfs.
Length	=	70 ft.		
Diameter	=	16 in.	Inlet Controls	
Projecting ... groove edge				
Ke =		0.25		

Elevation of headwater =	103.3
Elevation of inlet =	100.0
Elevation of tailwater =	100.0
Elevation of outlet =	99.5

Culvert Evaluation

prepared for

DON DETTERMAN
in

Huron County, Ohio

Attachment C

Designer : C.B.
Date : 07/21/97

Checker _____
Date _____

EXTENDED R.R.CULVERT

n' value	=	0.012	Capacity =	9.3 cfs.
Length	=	300 ft.		
Diameter	=	16 in.	Outlet Controls	
Projecting ... groove edge				
Ke =		0.25		

Elevation of headwater = 103.3
 Elevation of inlet = 100.0
 Elevation of tailwater = 100.0
 Elevation of outlet = 99.5

Culvert Evaluation

prepared for

DON DETTERMAN
in

Huron County, Ohio

Attachment D

Designer : C.B.
Date : 07/21/97

Checker _____
Date _____

PROPOSED 5YR CULVERT

'n' value	= 0.012	Capacity = 67.4 cfs.
Length	= 300 ft.	
Diameter	= 42 in.	Inlet Controls
Projecting ... groove edge		
Ke = 0.25		

Elevation of headwater = 104.0
 Elevation of inlet = 100.0
 Elevation of tailwater = 100.0
 Elevation of outlet = 99.0

Culvert Evaluation

prepared for

DON DETTERMAN
in

Huron County, Ohio

Attachment E

Designer : C.B.
Date : 07/21/97

Checker _____
Date _____

PROPOSE 10YR CULVERT

n' value	= 0.012	Capacity = 104.8 cfs.
Length	= 300 ft.	
Diameter	= 48 in.	Inlet Controls
Projecting ... groove edge		
Ke = 0.25		

Elevation of headwater	= 105.0
Elevation of inlet	= 100.0
Elevation of tailwater	= 100.0
Elevation of outlet	= 99.0

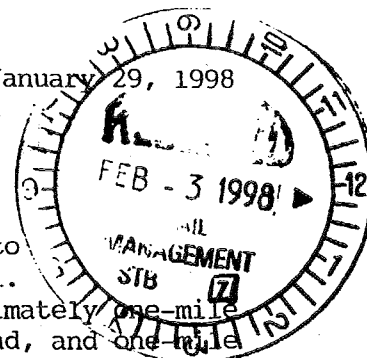
**ENVIRONMENTAL
DOCUMENT**

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98

DOCUMENT # 2/3/98 2:22:55 PM

January 29, 1998



To whom this my concern,

I am writing to tell you that I am absolutely opposed to Norfolk, Southern and CSX transportation to purchase Conrail.

I live in Vermilion, Ohio, off West River Road, approximately one mile from two different railroad tracks that cross West River Road, and one mile from RT. 2 Vermilion rest area, where each and every night twenty to thirty trucks stop over night on each side of RT.2, Vermilion Rest Area.

Last year ther was some type of chemical spill from one of the trucks. Lucky for us it wasn't serious, but it could have been.

This is a very serious situation, two train track carrying dangerous chemicals, and both sides of Rt. 2 allowing trucks to spend an over night one mile from my home, carrying who knows what?

I don't know how the other residents feel about this threat, but I feel this is not the kind of problem any of us need. I have family that lives two blocks away from the train tracks, I fear for them.

I pay \$1,600.00 a year for property taxes (on a very small home). The taxes are for fire and police protection plus. I also pay \$49.00 per year for E.M.S, ambulance service.

I need to have my home and life protected which means that I need firemen and police here to put out the fire BEFORE it gets out of control, and the immediate response of the police when I need them. Where would I be if the fire company or the police sit helplessly by waiting for a train to pass, or a toxic spill to be cleaned up?

We are excellant residents and tax payers of Vermilion, and we are absolutly against this purchase .

We are also sick of the train whistles that startle us out of a sound sleep at 2:00a.m., why does that conductor blow that whistle so frenzied? What is his train carrying? If more trains go threw Vermilion at all hours of the day and night blowing, blowing, blowing, what do you think the residents will do than?

I hope you will reconsider this purchase, and keep Vermilion off the news waiting for a catastrophe to happen.

Or better, live on this side of the tracks, see how you like it.

Sincerely hoping you reconsider the purchase.

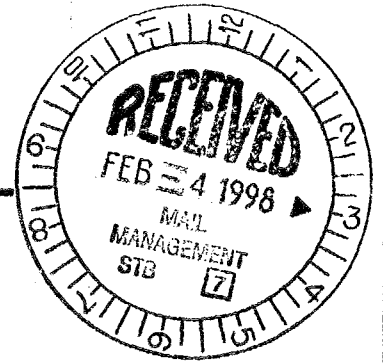
Lucia Barbato
Johanna Barbato
1391 Rolling Hills Dr
Vermilion Ohio 44089

January 29, 1998

Resolution No. 98-82

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

**ENVIRONMENTAL
DOCUMENT**



Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/5/98
DOCUMENT # 2/5/98 10:22:02 AM

Dear Ms. Kaiser:

At the invitation of the Section of Environmental Analysis of the Surface Transportation Board, the Lorain County Board of Commissioners is taking this opportunity to register its concerns with regard to the proposed CONRAIL ACQUISITION as those concerns relate to cities, townships and villages located within its County borders. The comments are based on the review of the Draft Environmental Impact Statement (DEIS). The Commissioners acknowledge the thoroughness of the six volume, 3000 page document, particularly as regards the listing and identification of Lorain County Rail Line Segments which will be impacted with approval of the proposed acquisition.

Additionally, the Board of Lorain County Commissioners recognizes that the Surface Transportation Board is presented with a very challenging and complex decision, made difficult by the many issues involved, all of which must be given careful consideration prior to the final decision being made.

With regard to the DEIS generally, the attempts to be objective and to utilize the various formulas to calculate such things as "average delay time"; "number of vehicles in queue per crossing"; anticipated increase in accidents at grade crossings", etc. have resulted in a favorable conclusion for the acquisition's approval. However, we believe the conclusions are less than realistic when looked at logically.

The Board has been made aware that due to the construction projects undertaken and completed by CSX, many Lorain County Officials thought the opportunity to register concerns and request mitigation strategies did not exist. Furthermore, the County has not received sufficient information on the revised routing plan proposed by NS, which would eliminate additional trains on the Cleveland-Vermilion Rail Line Segment. Therefore we believe the comment period, which is set to expire on February 2, 1998, needs to be extended.

We will reserve comment on the Cleveland-Vermilion Rail Line Segment labeled *N-080* which we understand is under additional review based on the submission by Norfolk Southern, of an alternate route which would eliminate the originally projected increase in number of trains from 13 to 34. The focus of our comments relate to the Berea to Greenwich Rail Line Segment labeled *C-061*.

Within Lorain County, Rail Segment *C-061* is 27 miles with a projected increase in the number of trains per day from 14 to 54 and a projected increase in the number of annual hazardous Material carloads from 16,000 to 51,000. In our County 35 grade crossings were analyzed for safety/accident frequency. Four (4) of those crossings meet or exceed your criteria of 5,000 plus ADT and were analyzed for vehicle delay and queues. The four are listed below from North to South:

1. Elyria Twinsburg Rd. (RT 82) in Eaton Township - ADT= 6,020
2. Main Street in Grafton Village (Rt 57) - ADT= 5,750
3. North Main Street in Wellington Village (Rt. 58) - ADT= 8,120
4. Herrick Avenue in Wellington Village (Rt. 18) - ADT= 7,870

COMMENTS ON RESULTS OF ANALYSIS

A. Hazardous Material: the DEIS determined that the rail segment is currently a "Key Route" and that the increase warranted an up grade to "Major Key Route" and is in need of mitigation. The recommended strategies are not sufficient.

B. Safety/Accident Frequency: of the 35 crossings, one, Pitts Road was found to have a significant likelihood for increased accidents. The recommended mitigation is to install flashing lights. We believe that with increased opportunity (increase in number of trains per day) operating at speeds of 60 mph, more accidents will occur. The DEIS uses a one accident every 100 years as a norm, and sets a "significance" threshold for increase at 1 accident every 13 years. The Village of Wellington has experienced four (4) accidents resulting in death in the last 8 years.

C. Vehicle Delay and Queues: A Supplemental Errata dated 1/21/98 has eliminated as significant and therefore not in need of mitigation, the crossings in Wellington Village. This document specifies that a formula was inaccurately formulated which determined that the "Level of Service (LOS)" at these crossings was "B" currently and would be reduced to LOS "D" after acquisition. That determination warranted a mitigation strategy increasing the speed of the trains from 50 mph to 55 mph. The new formula results in a current LOS of "A" and a post acquisition LOS of "B" and therefore is not significant.. 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. We understand that LOS A means "...free flow..." and that LOS B means "...Reasonably free, stable flow.... slight decline from LOS A".

The definitions of Level of Service (LOS) are found in the *Transportation Research Board Highway Capacity Manual, Special Report 209, 1985*

Our final comment on the DEIS is that it does not account for the geographic isolation from necessary emergency services, such as fire and ambulance protection, that is likely to occur, particularly at the crossings above highlighted. In addition, the Village of Wellington has a separate fire district and ambulance district that serves rural areas surrounding their borders.

The Lorain County Board of Commissioners generally opposes the approval of the merger because of the tremendous adverse impacts to our County. However, in lieu of abject opposition the Board urges, in the strongest terms possible, that conditions mitigating some of the adverse impacts be placed on approval. The recommendations specified below represent those conditions we believe to be minimal to any approval of this proposed acquisition of Conrail by CSX and NS.

RECOMMENDATIONS:

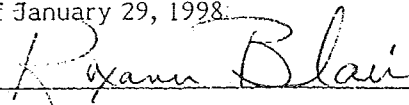
- A. REDUCE THE NUMBER OF ADDITIONAL TRAINS PERMITTED
- B. PROVIDE FOR RAIL SEPARATION AT THE NORTH MAIN (WELLINGTON) AT GRADE CROSSING
- C. LIMIT/RESTRICT RAIL CAR SWITCHING ACTIVITIES TO NIGHT HOURS TO REDUCE CONGESTION
- D. CREATE A WRITTEN EMERGENCY RESPONSE PLAN FOR RAIL PERSONNEL AND LOCAL SERVICE PROVIDERS
- E. INSTITUTE AND FUND AN ANNUAL JOINT TRAINING PROGRAM FOR RAIL PERSONNEL AND LOCAL PROVIDERS
- F. PROVIDE PRIOR NOTIFICATION OF NUCLEAR SHIPMENTS

Please contact us with any questions regarding these comments or recommendations.

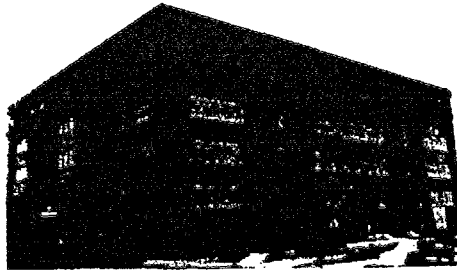
The foregoing resolution was introduced upon a motion by Commissioner Michael A. Ross, seconded by Commissioner E. C. Blair, and upon roll call: Ayes: All.

Motion carried

I, Roxann Blair, Clerk of the Board of Commissioners of Lorain County, Ohio, do hereby certify that the above Resolution No. 98-82 is a true copy as it appears in Journal No. 98 on date of January 29, 1998.



LORAIN COUNTY ENVIRONMENTAL DOCUMENT



Board of
Commissioners

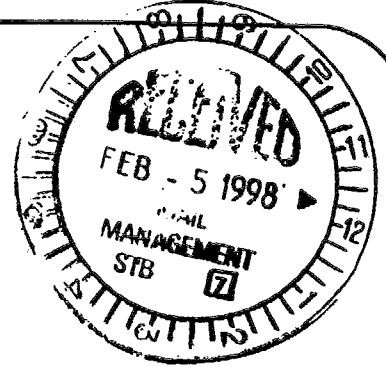
Mary Jo Vasi
E. C. (Betty) Blair
Michael A. Ross

January 29, 1998

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/5/98

DOCUMENT # 2/5/98 4:29:36 PM



Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street NW
Washington, DC 20423-0001

Att: Elaine K. Kaiser:

I am concerned with the impacts that the proposed acquisition of Conrail by CSX and Norfolk Southern Corp. will have on Lorain County. The issue is a very challenging and complex decision, made difficult by the many issues involved.

As a representative of the residents of Lorain County I have attempted to be objective in reviewing the various formulas, calculating such things as "average delay time", number of vehicles, crossings, anticipated increase in accidents at grade crossings, etc. However, I believe the conclusions are less than realistic when looked at logically and are not in societies best interest, therefore I oppose the proposed acquisition.

Sincerely,

Mary Jo Vasi
Lorain County Commissioner

MJV/sjs

cc: Congressman Paul E. Gillmor

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

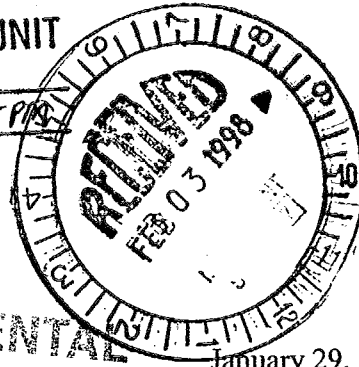
A-392-a

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/6/98

DOCUMENT # 2/6/98 1:23:05 PM

Office of the Secretary
Case control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street N.W.
Washington D.C. 20423-0001



ENVIRONMENTAL
DOCUMENT

January 29, 1998

Dear Secretary

I am writing this letter to express my strong opposition to the great increase of rail traffic thru Vermilion that will result from the proposed merger of CSX, Norfolk and Southern, and Conrail.

My greatest concern is the present Norfolk and Southern tracks which do not have a grade separation in Vermilion. Even with the present low volume of traffic on this track, all crossings are frequently block by a switching, slow, or stopped train. This necessitates a 15 Min trip to Vermilion road via Rt. 2. Vermilion Rd. is not a good alternative as it could be blocked at the Conrail track. The only sure route is Baumhart Rd. which is even further. This situation is extremely critical relative to the response time for safety vehicles which are all located north of the N & S tracks. This situation can only worsen to the point of being dangerous if rail traffic is increased.

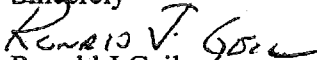
Another major concern is the greatly increased noise as all of these trains blow their loud horns several times for each crossing. The Conrail track is presently one of the busiest in the country and all of the horn blowing is a real nuisance, especially at night in the summer when the residents windows are open. The one comment from all guests is "How do you stand all of the railroad noise." Although this is not a clear direct danger as the above concern, it is an indirect danger. All of the horn blowing resulting from heavy rail traffic greatly diminishes its warning effect. If horns are heard all of the time, one gets use to the noise and does not take notice. This argument was successfully used several years ago by a plaintiff in lawsuit involving a train fatality in Vermilion.

This noise certainly is a quality of life issue. It seems ludicrous that we spend millions to quiet aircraft and highway noise and do nothing to attenuate railroad noise which in some cases originates less than 30' away from private homes. That we would willingly double the noise without any mitigating acts is truly unconscionable. With the proposed increase in traffic, this noise level will be continuous and unbearable!

Last there is the inconvenience caused by blocked rail crossings of which there are nine in little Vermilion.

Whatever you can do to prevent this increase in traffic from happening will be most appreciated by all of the Vermilion citizens. If I can do anything further please contact me.

Sincerely


Ronald J Geil
5411 Park Dr.
Vermilion Ohio 44089

216-967-3059

Seneca County Commissioners

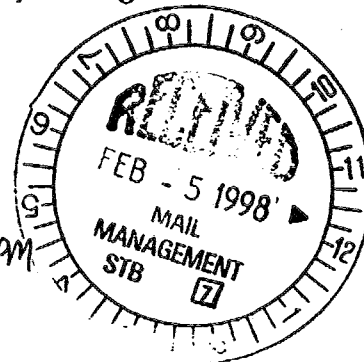
Janet A. Dell • Kenneth J. Estep • Jeffrey D. Wagner

January 29, 1998

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/5/98

DOCUMENT # 2/5/98 5:16:15 PM



Office of the Secretary
Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

RE: Comments on Draft E.I.S.
for Conrail Merger

1. **SENECA COUNTY OHIO SETTING**

Located in North Central Ohio. One hour southeast of Toledo, 2 hours west of Cleveland and 1 1/2 hours north of Columbus.
Rural with sporadic development.
The City of Fostoria is situated principally within Seneca County.

2. **RAILROAD FACILITIES IN/AFFECTING SENECA COUNTY**

Rail lines

- 5 separate lines
 - *4 lines are Class I railroads
(2 lines CSX and 2 lines NS)
 - *1 line Short Line - Port Authority

Major Rail Yards

1. Bellevue (NS) existing facility sits on northeast County line Seneca/Sandusky/Huron

81 Jefferson Street • Tiffin, Ohio 44883
Phone: 419-447-4550 Fax: 419-447-0556

2. Willard (CSX) an existing yard that will become a key terminal (including fueling facility) is only 5 miles east of Seneca County in Huron County

Rail Mixing Plant

NS has just begun operation at this plant on the east side of Fostoria.

3 SAFETY CONCERNS

A. General Comments

The City of Fostoria is in Seneca County.

Fostoria possesses many unique problems. These problem areas spill over to the surrounding townships in our County. The key item that appears to have been totally ignored in the draft EIS is that train traffic does not "pass through" Fostoria; switching and turning movements are performed here. This currently results in trains stopped, blocking city streets, county roads and township roads while waiting to get through Fostoria. It is not uncommon now for Fostoria, county and township roads to be blocked by stopped trains for over one (1) hour. What will happen when 22 trains per day are added to C-075, 10 trains per day added to C-070 and 8 trains per day to N-071? While all these trains are stopped, waiting for turning movements, the county and township roads east, north and south of Fostoria will be blocked. This will interfere with emergency, fire, police, EMS and totally disrupt normal vehicle movement. This entire situation, Fostoria and the surrounding townships, must be analyzed and satisfactorily addressed before this office can support this merger.

B. Freight Rail Operation

SEA has listed CSX line C-075 as having a "significant increase" for accident rates between cars and freight trains. However, 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. We strongly believe that quality of life in Seneca County will be very adversely effected by this increase.

The "extensive" capital improvements proposed for Fostoria, need to be extended to the surrounding townships.

C. Highway/Rail at Grade Crossings

SEA has identified four crossings in our County as Class A significance. This office believes that this number is low. Seneca County has the dubious designation of consistently ranking in the top five (5) Ohio counties for grade crossing fatalities. An increase in train traffic can only serve to increase this statistic.

Seneca County currently has a "hump" crossing problem, Over two years ago, a county-wide standard was developed and adopted. With our limited funds, we have only been able to get a handful of the 160 plus crossings up to standard. We strongly believe that as part of this merger approval, all the effected highway/rail at grade crossings must be upgraded to our County Standards.

At a minimum, the CSX line C-075 (increase of 22 trains per day) should have lights and gates installed at all crossings.

D. Hazardous Material Transport by Rail

SEA has identified C-070 and C-075 as being "major key routes" and C-070 is also "new key route" for transporting hazardous materials,

The suggested mitigation does not begin to go far enough to protect the citizens living along these routes. CSX should provide training for the local EMS, fire, police on at least a six month basis since many of the personnel are volunteer. There needs to be advance communication with the EMA Director at least monthly on what material will be moving through that month.

E. Roadway Crossing Delay

SEA has chosen to only look at crossings with 5000 ADT. As we stated earlier in the Safety Concerns General Comments, the existing train traffic already causes unacceptable road blockages in and around Fostoria. There needs to be a detailed review of Fostoria and the surrounding townships to see how the proposed increase in train traffic is going to back-up into the townships. Just because most of our local ADTs are less than 5000 does not mean we have significantly less safety concerns. Currently Seneca County consistently ranks in the top five (5) counties in the State of Ohio regarding accidents at rail crossings.

This report has generally ignored the Fostoria problem and totally ignored the extended problems created in the townships. When our County is currently experiencing one (1) hour blockages of roads, we strongly believe that the following summary statement is totally inappropriate "the proposed Conrail acquisition would have no significant effect on vehicle delay for most at-grade crossings in Ohio. However seven crossings in Butler, Cuyahoga, Hamilton and Lorain Counties ...".

We will strongly oppose this merger until the problems in Fostoria and the surrounding townships are properly addressed.

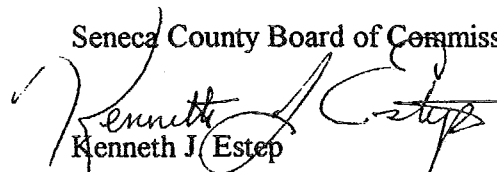
F. Seneca County Air Quality

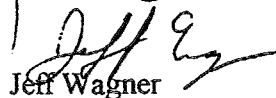
SEA has already identified a 29% in NO_x emissions. Again this is assuming trains are passing through. What are the real air quality problems that need to be addressed by stopped trains and blocked roads? Just because we are in an attainment area, we should not be subjected to such large increases without mitigation.

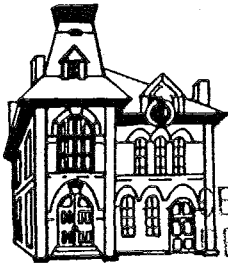
- G. The general concern of the study was to evaluate the results of the merger against "preacquisition" numbers instead of using this as an arena to fix some of the existing problems associated with rail commerce in a proactive manner. Also the future growth of rail commerce along these lines and their impact in all of the above items was not discussed.
- H. Future law will allow communities to apply for noise reviews which disallow the train engineer from blowing the horn in areas with four quadrant gates or similar warning devices. What will happen if and when the warning devices fail? Based upon past history with CSX, it is not uncommon for them to close a crossing for repair work without seeking the needed permits or advising the proper emergency response agencies. The crossing may remain closed for 3-8 weeks with no workers in the area for weeks on end. Only after calling the PUCC do we get action. With this track record, is there any way to mitigate better response to the local agencies as well as minimizing the closure time of the crossing.

Very truly yours,

Seneca County Board of Commissioner


Kenneth J. Estep


Jeff Wagner



Founded 1875

Village of LaGrange ENVIRONMENTAL DOCUMENT

355 South Center Street
LaGrange, Ohio 44050

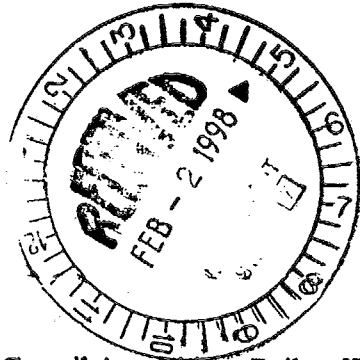
CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98

DOCUMENT # 21398 11:58:57 AM

January 29, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001



Dear Ms. Kaiser,

I would like to voice several concerns on the proposed Conrail Acquisition. Rail traffic will increase in our small municipality from 14 to 54 trains per day. We object to that great an increase.

Our Fire Department and Rescue Squad is manned by volunteers. Our Village has a full-time Police Force. The increased rail traffic and increased length of trains will isolate one side of our Village/Township from their emergency vehicles and/or emergency personnel. This can become a life threatening situation if needed personnel or equipment cannot get to a disturbance, an accident or fire scene in a timely manner. I would like to remind you that minutes, if not seconds, can mean life or death in many situations. For safety reasons we must state that we disapprove of the increased traffic.

On the same note, we believe there is a need for flashing lights at our Township Railroad Crossings. These crossings are dangerous now. If the increased rail traffic is allowed, they will become deadly.

We also must insist that if this plan is permitted to go forward, that a written Emergency Response Plan for Rail Personnel and Local Service Providers be implemented with joint training provided and funded by the railroad on an annual basis.

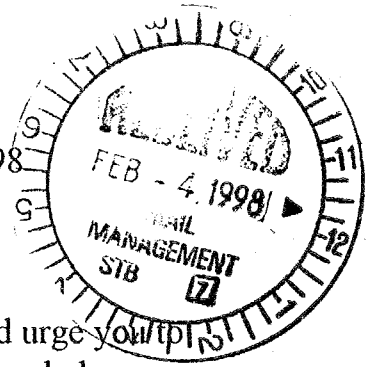
We need to have our concerns addressed. We do not feel that the time period for voicing our concerns is long enough for us to review all the issues which would affect our community; therefore, with due respect we request an extended hearing time period so that we and our citizens may respond to the railroad's request for this expansion.

It is hoped that you will take our concerns under advisement.

Respectfully,

Donna R. Stewart
Donna R. Stewart
Mayor, Village of LaGrange

January 1998



Dear Ladies and Gentlemen,

I oppose the acquisition of Conrail by NS and CSX railroad, and urge you to do so also. I am a resident of Olmsted Falls, Ohio where we already have between 80 and 100 train crossings per day, and our current track system supplies no overpass or underpass to relieve automobile or train traffic. The acquisition would increase the number of train crossings in our City.

The increase in daily train use would create additional health and safety concerns for the City of Olmsted Falls residents due to the fact that emergency paramedics trips to the hospital could be prevented or delayed due to stopped or slowing trains blocking all crossings in the City.

There are other safety concerns at all rail crossings due to increased rail traffic which would increase the risk of collisions between trains and cars, trucks and pedestrians. I also have concerns over health and safety matters due to potential increase in the transporting of hazardous materials, which in the case of a derailment would necessitate the evacuation of many residents of Olmsted Falls as well as an elementary school with a student body of our 700 pupils near the tracks.

I believe an increase in daily train use would add to environmental concerns with regard to noise and air pollution that are already bad due to the proximity of Cleveland Hopkins Airport. I also feel an increase in rail traffic would have a negative impact on property values which directly affects both the City and School budgets.

Please use your influence to discourage the acquisition of Conrail by CSX and NS.

Thank you,

Residents opposing the acquisition of Conrail by NS and CSX.

	Name	Address
1.	<i>[Signature]</i>	24646 MAPLETON RD. (R1)
2.	Killian Lombardi	24646 Nobottom Rd.
3.	<i>[Signature]</i>	25074 Mill River Rd.
4.	James J. Johnson	7322 RIVER RD
5.	Julie Jackson	7112 River Rd
6.	EMILY JACKSON	" "
7.	Henri S. Rippe	8458 Columbia Rd.
8.	Judy McDonald	8456 Brentwood Dr.
9.	Emma B. Hall	7555 Inland Drive
10.	Suzanne Owens	7473 River Road
11.	Dolores Tate	7461 River Road
12.	<i>[Signature]</i>	23817 Cooper Lane
13.	Judy Piatak	26745 Lake of the Falls
14.	Carol D. Korman	25353 Junedale Falls Dr.
15.	Marilyn Vance	8167 Brookside
16.	Marilyn Clark	9707 Columbia
17.	David M. Marsik	9541 Ponderosa Ln.
18.	Joanne Bargain	1765 Tin Hollow Trail
19.	Mary Lou Sawicki	9581 Brentwood Dr.
20.	Cheryl A. Duncan	26105 Hickory Ln
21.	Emily A. Holmes	8278 Bradford's Gate
22.	Janet Smith	8454 Bradford's Gate
23.	May Dobson	22488 Westwood Dr. 44136
24.	<i>[Signature]</i>	4679 W 157 44135
25.	Diana Makitaki	4679 W 157 44135
26.	Alie Burt	7336 ARBOR OT.
27.	<i>[Signature]</i>	1465 West 170th St Cleveland

A-394a

Residents opposing the acquisition of Conrail by NS and CSX.

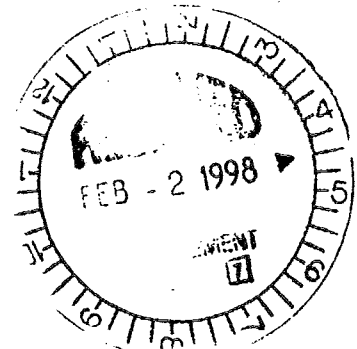
Name	Address
1. Robert E. Choate	710 S Columbia Rd.
2. Ronald G. Kovach	25748 Mill St.
3. Earl Bedinger	7400 River Rd.
4. Wilson R. Kling	7400 River Rd.
5. Stanley Weres	24610 Sprague Rd
6. Thomas Davis	25588 Water St
7. Doug Hogan	10299 Meriam Turnpike, A.
8. Jack Freeman	8477 Waker Rd, Olmsted Falls, OH
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29.	

Residents opposing the acquisition of Conrail by NS and CSX.

Name	Address
1. Steve Mitchell	7571 Columbia Rd. Ormskirk PA 15306
2. Debra D. & Amber Stringer	7370 Lewis Rd. Olm. Twp. PA
3. XXXXXXXXXXXX	
4. William Koley	
5. D. Cant	29242 Lanier Rd
6.	
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DOCUMENT # 86/3/2
REC'D: 2/3/98
CENTRAL ADMINISTRATIVE UNIT



January 30, 1998

**ENVIRONMENTAL
DOCUMENT**

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Attn: Elaine K. Kaiser,
Environmental Project Director

Dear Ms. Kaiser:

Last Wednesday a group of University Circle executives met to review the proposed routing of CSX and Norfolk Southern freight traffic through University Circle in Cleveland, Ohio. As was clear from our numerous questions, many of us have significant concerns, particularly from a safety perspective.

As detailed, the possibility that up to 81,000 freight cars containing hazardous cargo would be transiting through University Circle annually. While the accident statistics that were presented are somewhat reassuring, it was expressed quite clearly that the possibility of serious accident cannot be eliminated. I would like to most strongly encourage you to convey to the Surface Transportation Board the unique nature of the University Circle area. It certainly has the largest concentration of hospitals, nursing and elderly care facilities and other institutions, such as our own Cleveland Hearing & Speech Center, which work with very special populations. How could a hazardous cargo accident be contained should it occur within the confines of densely populated University Circle?

This organization, Cleveland Hearing & Speech Center, must express its particular concerns regarding the significant increases in noise which such volumes of rail traffic would create. On a daily basis our agency serves persons with significant hearing loss resulting from long term exposure to noise. We also see the psychological consequences to persons who suffer from noise exposure. Why are the noise abatement considerations which always are applied to airports not relevant to this instance? Should there not be similar noise abatement regulations which apply to the railroad industry.

11206 Euclid Avenue
Cleveland, Ohio

4 4 1 0 6

Of an even more significant nature is our concern that the proposed rail traffic is being routed through low income neighborhoods. Are there not alternative routes that could be used?

While I understand the need for railroad transportation, particularly in a booming economy, I am hoping that the questions raised in this letter can be constructively addressed and reviewed.

Sincerely,

A handwritten signature in cursive script that reads "Bernard P. Henri, Ph.D." The signature is written in black ink and is positioned below the word "Sincerely,".

**Bernard P. Henri, Ph.D.
Executive Director**



Erie County Commissioners

HAROLD C. BUTCHER

THOMAS M. FERRELL, JR.

NANCY C. McKEEN

Michael J. Bixler, Administrator

Carolyn Spayd, Clerk of Board

2900 Columbus Avenue, Sandusky, Ohio 44870-5554

(419) 627-7672

P.O. Box 1180, Sandusky, Ohio 44871-1180

FAX: (419) 627-7692

January 30, 1998

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98

DOCUMENT # 2/2/98 11.06.38AM

Elaine K. Kaiser, Environmental Project Director

Surface Transportation Board

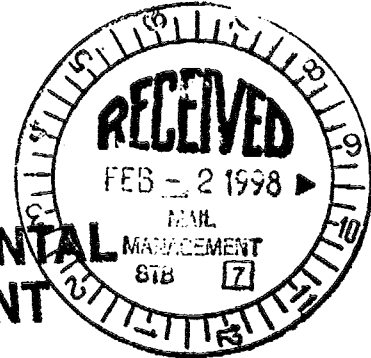
Office of the Secretary, Case Control Unit

Finance Docket No. 33388

1925 K. Street, N. W.

Washington, DC 20423-0001

**ENVIRONMENTAL
DOCUMENT**



Re: Erie County, Ohio's Response to Proposed NS/CSX Acquisition of Conrail

Dear Ms. Kaiser:

Pursuant to the Surface Transportation Board's request, please find Erie County, Ohio's comments regarding the Draft Environmental Impact Study (EIS) for the proposed NS/CSX acquisition of Conrail. Enclosed for your review are:

- 1) Resolution 98-39, which is the Erie County Commissioners' objection to the NS/CSX application to acquire Conrail;
- 2) Erie County's response to the Draft EIS "Proposed Conrail Acquisition"; and
- 3) Legislation and letters from various other political subdivisions within our County.

If you have any questions in regards to the County's position, please feel free to contact us at (419) 627-7672.

Sincerely,

Michael J. Bixler
County Administrator

MJB/lf

b4:con-acq

c: Erie County Commissioners
Alex J. MacNicol, Regional Planning

A-395-b

Erie County - Lake Erie's Port of Opportunity

Surface Transportation Board

RESOLUTION NO. 98-39

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ERIE COUNTY, OHIO, FOR THE PURPOSE OF OBJECTING TO THE PROPOSED ACQUISITION OF CONRAIL, INC., AND CONSOLIDATED RAIL CORPORATION (CONRAIL) BY CSX CORPORATION AND NORFOLK AND SOUTHERN RAILWAY COMPANY (NS), AND REQUESTING THAT THE SURFACE TRANSPORTATION BOARD NOT APPROVE THE ACQUISITION.

The Board of County Commissioners of Erie County, Ohio, met this 29th day of January, 1998, in Regularly Scheduled Special Session with the following members present: Harold C. Butcher, Thomas M. Ferrell, Jr. and Nancy C. McKeen.

Mr. Ferrell introduced the following resolution and moved its adoption.

WHEREAS, an application has been submitted by CSX Corporation and the Norfolk and Southern Railway Co. (NS) requesting approval of the acquisition of Conrail, Inc. and the Consolidated Rail Corporation (Conrail); and

WHEREAS, the proposed acquisition of Conrail, Inc. and the Consolidated Rail Corporation (Conrail) by CSX Corporation and Norfolk and Southern Railway Co. will adversely effect the health and safety of residents and visitors to Erie County, Ohio; and

WHEREAS, the proposed acquisition will result in increased rail traffic and that increase will disrupt the motor vehicle traffic movements in many areas of the County; and

WHEREAS, the increase in rail traffic will result in the isolation of sections of our three cities (Sandusky, Huron, and Vermilion), thereby affecting their ability to provide emergency service delivery (police, fire and emergency medical services) which in turn will create unacceptable delays and could have the potential to threaten life as well as property; and

WHEREAS, the proposed increase in rail traffic will have detrimental social consequences for County residents including a percentage of the population which is classified as low-to-moderate income persons as well as minority persons; and

WHEREAS, Erie County, Ohio, questions some of the assumptions and methodology employed in developing the Surface Transportation Board's "Draft Environmental Impact Statement" and the resulting conclusion from the same (in particular the use of Average Daily Traffic levels that do not address the concern of smaller urban and rural communities); and

WHEREAS, comments and objections to the proposed acquisition must be filed with the Surface Transportation Board by February 2, 1998; and

WHEREAS, it is deemed necessary in order to provide for the preservation of the public peace, property, health, safety and convenience of Erie County, Ohio, its citizens and businesses; and

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ERIE COUNTY, OHIO:

THAT, the County Administrator of Erie County, Ohio, be and hereby authorized to forward to the Surface Transportation Board notice of the County's objection to the proposed acquisition of Conrail, Inc. and the Consolidated Rail Corporation (Conrail) by CSX and the Norfolk and Southern Railway Co.; and

THAT, the copies of the County's objection to the proposed acquisition of Conrail, Inc. and Consolidated Rail Corporation (Conrail) be forwarded to Congressman Paul E. Gillmor, U. S. Senators Glenn and DeWine, State Senator Robert Latta, State Representative Daryl Opfer, and the Ohio Rail Development Commission; and

THAT, this Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this resolution were taken in an open meeting of this Board; and that all deliberations of this Board and of its committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Revised Code.

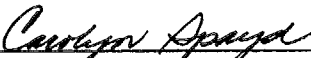
Mrs. McKeen seconded the motion for the adoption of said resolution; and the roll being called upon its adoption, the vote resulted as follows:

Roll Call: Mr. Ferrell, Aye; Mrs. McKeen, Aye; Mr. Butcher, Aye.


Adopted: January 29, 1998.

CERTIFICATE

I, Carolyn Spayd, Clerk of the Board of County Commissioners of Erie County, Ohio, hereby do certify that the above is a true and correct copy of resolution adopted by said Board under said date, and as same appears in Commissioners' Journal, Volume #106.



Clerk
Board of County Commissioners
of Erie County, Ohio

Approved by County Administrator 

Michael J. Bixler

r3:conacq

ERIE COUNTY'S
RESPONSE TO THE DRAFT
ENVIRONMENTAL IMPACT STATEMENT
"PROPOSED CONRAIL ACQUISITION"



JANUARY 1998

AS PREPARED BY
THE BOARD OF ERIE COUNTY COMMISSIONERS
2900 COLUMBUS AVENUE
SANDUSKY, OHIO 44870



Erie County Commissioners

HAROLD C. BUTCHER

THOMAS M. FERRELL, JR.

NANCY C. McKEEN

Michael J. Bixler, Administrator

Carolyn Spayd, Clerk of Board

2900 Columbus Avenue, Sandusky, Ohio 44870-5554

P.O. Box 1180, Sandusky, Ohio 44871-1180

(419) 627-7672

FAX: (419) 627-7692

January 23, 1998

Elaine K. Kaiser, Environmental Project Director
Surface Transportation Board
Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Re: Draft EIS for the "Proposed Conrail Acquisition"

Dear Ms. Kaiser:

Enclosed please find Erie County's Comments regarding the proposed Conrail acquisition. If you have any questions regarding this matter I can be reached at 419-627-7682.

Sincerely,

Michael J. Bixler
County Administrator

Erie County's response to the
Draft Environmental Impact Statement
" Proposed Conrail Acquisition "

We appreciate the opportunity to comment on the Draft Environmental Impact Statement " Proposed Conrail Acquisition ". We have arranged a number of meetings in our area to review the above noted document. These meetings included a meeting with Congressman, Paul E. Gillmor. Based on our review and input from the area meetings we offer the following comments:

I. HIGHWAY/RAIL AT GRADE CROSSINGS 5-OH.6.

The following is an excerpt from the Environmental Impact Statement (EIS):

" SEA'S safety analysis showed that for the 36 highway/rail at-grade crossings studied in Erie County, the predicted increases in accident frequency would range from 0.0035 to 0.0677. This translates into a range of increases from one (1) accident every 286 years to one (1) accident every 15 years. SEA determined that the predicted increases was significant at Skadden Rd. (CR 42). This highway/rail at-grade crossing is classified as Category A. SEA found the predicted increases at the other locations to be below the criteria for significance."

We are concerned that this great increase in accident rates is not considered as significant. It is notes that the proposed mitigation to this significant increase in accident rates is the addition of a flashing light at Skadden Rd. It is further notes that the Skadden Rd. Crossing presently has flashing lights. As a County, we are also concerned that roadways with less than 5,000 ADT were not reviewed for at crossing safety or for at crossing delays. We would request that with the increase in accident rates from one (1) accident every 286 years to one (1) accident every 15 years, that the SEA again review the safety at our rail crossings to ensure the safety to individuals traveling through Erie County will not be compromised.

II. ROADWAY CROSSING DELAY 5-OH.9

The following is an excerpt from the Environmental Impact Statement (EIS)

" The three crossings analyzed in Erie County would have a minimal increase in crossing delay per stopped vehicle. The levels of service under post-Acquisition conditions would be B and C. The largest increase in maximum queue would be one vehicle."

We are concerned that only 3 crossings were reviewed in Erie County and that no review was undertaken on roadways with less than 5,000 ADT. Erie County has numerous crossings with significant delays which encourage motorists who are held up at a crossing to find alternate routes. In addition, perceived additional delays could encourage motorists to risk crossing trackage when signals are first activated. Such a situation increases the potential for car/train accidents. Slow moving trains are a significant problem in many areas of Erie County. The conclusion that the largest increase in maximum queue would be one vehicle is unrealistic.

III. INTERMODAL FACILITIES

As indicated in the EIS, NS had planned to move its TCS facilities from Crestline, Ohio, to Bellevue, Ohio. In October 1997 NS notified SEA that this intermodal facility would be moved to Sandusky, Ohio, rather than Bellevue. Since this facility is projected to be located in Erie County, we would request that additional information be provided prior to the final EIS. 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.

It is further noted that roadway officials have not approached the City or County to discuss any preliminary plans for such a relocation.

IV. CONSTRUCTION: VERMILION CONNECTION

The following is an excerpt from the EIS:

“NS proposes to build a rail connection between the existing northeast-southwest Conrail and NS lines west of the City of Vermilion. The proposed action would connect two parallel tracks that are approximately 2,100 feet apart. The connection would be approximately 5,300 feet long. It would accommodate 12 trains per day. Figure 5-OH-5, presented at the end of this state discussion, shows the area of the proposed rail line connection.”

“The new rail connection would involve the construction of a new at-grade crossing at Coen Road. This roadway has an ADT Volume of 420 vehicles, as indicated in the Federal Railroad Administration database. Based on this low ADT volume, SEA concluded that the new highway/rail at-grade crossing would result in insignificant vehicle delay and queues. SEA performed a highway/rail at-grade crossing accident risk analysis at this new crossing based on installation of a gate warning device consistent with the existing warning devices along Coen Road at the Conrail and NS tracks. The results of this study, summarized in Table 5-OH-12, indicate an accident frequency of 0.0007 accidents per year, or one accident every 1,429 years. Based on these results, SEA has preliminarily concluded that the accident risk at this new highway/rail at-grade crossing would be negligible.”

“The proposed Acquisition would create typical short-term vehicular delays and the need for detours during construction of this rail connection. NS would perform the construction in accordance with applicable Federal, state, and local regulations for construction projects. Construction traffic would use Risdén or Coen Roads to travel to and from the Construction site.”

“The vertical difference in elevation between the track beds and the adjacent roadway surface is approximately ten feet. Steep roadway grades are used to transition between the track and roadway elevations. The new highway/rail at-grade crossing would be approximately 525 feet north of the existing NS crossing and approximately 2,000 feet south of the existing Conrail crossing. This new crossing, located 525 feet from the existing crossing, would result in a “roller coaster” effect for vehicular traffic along Coen Road.”

“SEA 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. “

This section indicates that NS consider elevating Coen Road to eliminate the “roller coaster”. It is noted Tables 5-2 Summary of Impact Warranting Mitigation indicates that NS shall raise the elevation of Coen Road. We would request that the word “consider” used on page OH-41 be changed to “shall” as in Table 5-2.

V. RAIL TRANSPORT OF HAZARDOUS MATERIALS

Three of the rail line segments that run into or from Erie County will experience significant increases in car loads containing hazardous materials. The Vermilion to Bellevue rail line would increase from 9,000 car loads to 15,000 car loads annually, the Oak Harbor to Bellevue line would increase from 3,000 car loads to 18,000 car loads annually and the Cleveland to Vermilion line would increase from 9,000 to 32,000 car loads annually, of hazardous waste. Since 1990 Erie County has experienced four(4) derailments and five(5) accidents at the Bellevue yard. We are concerned that with this train traffic increase additional spills will occur. We would request the mitigation be established for key route designations and this be expanded to include more than material accident simulations.

VI. COMMENTS ERIE COUNTY EMERGENCY MANAGEMENT AGENCY

I do have several concerns as noted below.

1. We have a limited number of over/under passes in the county. With additional train traffic, response to public safety calls must be addressed.

2. Our two hospitals, along with schools and retirement/care centers are located extremely close to these tracks. The additional train traffic would increase the likelihood of hazardous materials spills (derailments). This must be addressed.

VII. COMMENTS ERIE COUNTY SHERIFF'S DEPARTMENT

TO: Michael Bixler, Erie County Administrator

FROM: Capt. G. D. Hovey, Operations Officer

RE: Obstruction to Traffic on Public Roadways

In regards to our conversation of this date I am forwarding to you a copy of an incident reported to this agency. This is the result of numerous calls to this office by citizens reporting the obstruction of public right-of-ways by trains. These occurrences have increased in the past several weeks and primarily effect the following roadways:

State Route 99
Patten Tract Road
Ransom Road

The concern is not only the fact that the public is denied the use of the obstructed roadways, and the act itself violates state law, but these conditions increase the risk of delaying emergency services and the delivery of necessary care to those in need of such services.

It has been ascertained that the present conditions may only become worse in this area as the proposed merger will increase rail activity in this region. It is strongly recommended that some arrangements be made, in the early stages, to rectify this existing problem and prepare to address any future troubles before they arise.

Thank you for your cooperation in this matter, and please call if you need anything further.

VIII. GENERAL COMMENTS

The City of Sandusky and the City of Vermilion would be experiencing significant increases in rail traffic. The City of Sandusky is particularly concerned with impact of isolating the western sector of the city with existing and additional rail traffic. The city has previously identified the need for a grade separation crossing at US Route 6 (Venice Rd.) And a preliminary engineering report has been prepared identifying grade separation options. The funds need to be provided to allow for the construction of a structure as noted above.

The City of Vermilion is concerned the additional train traffic will increase emergency response time in many areas of the City. It is further noted the city is also concerned with additional delays at existing crossings.

The County questions some of the assumptions and methodology used in the development of the EIS in particular eliminating the review of roadway with ADT of less than 5,000 vehicles.

It is our opinion that projected delays and safety considerations at highway/rail grade crossings need to be reconsidered to minimize the negative impacts of the proposed Conrail acquisition on the residents of Erie County, Ohio.

RESOLUTION NO. 002-98R

A RESOLUTION OBJECTING TO THE PROPOSED ACQUISITION OF CONRAIL, INC. AND CONSOLIDATED RAIL CORPORATION (CONRAIL) BY CSX CORPORATION AND NORFOLK AND SOUTHERN RAILWAY COMPANY (NS), AND REQUESTING THAT THE SURFACE TRANSPORTATION BOARD NOT APPROVE THE SAME AND DECLARING AN EMERGENCY.

WHEREAS, an application has been submitted requesting approval of the acquisition of Conrail, Inc. and the Consolidated Rail Corporation (Conrail) by CSX Corporation and the Norfolk and Southern Railway Co. (NS); and

WHEREAS, the proposed acquisition of Conrail, Inc. and the Consolidated Rail Corporation (Conrail) by CSX Corporation and Norfolk and Southern Railway Co. would result in physical and operational changes in the City of Sandusky, Ohio, and Erie County, Ohio; and

WHEREAS, the proposed acquisition will result in increased rail traffic within the City of Sandusky, Ohio, and that increase will result in the disruption of motor vehicle and pedestrian traffic movements in many areas of the City; and

WHEREAS, the increase in rail traffic will result in the isolation of sections of the City of Sandusky, Ohio, thereby affecting the City's ability to provide emergency service delivery (police, fire and emergency medical services) which in turn will create unacceptable delays and could have the potential to threaten life as well as property; and

WHEREAS, the proposed increase in rail traffic will have detrimental social consequences for City residents including a large percentage of the population which is classified as low-to-moderate income persons as well as minority persons; and

WHEREAS, the City of Sandusky, Ohio, has been designated as an "Impacted City" reflecting distress factors related to socio-economic conditions, and 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; and

WHEREAS, the City of Sandusky, Ohio, has recently completed a strategic planning process (1997) which process identified the need for continued economic development efforts, particularly in the western section of the City which would be isolated by increased rail traffic; and

WHEREAS, the City of Sandusky, Ohio, is in the process of finalizing a Comprehensive Plan to guide the future growth and development of the City and that the plan emphasizes the need for protecting and enhancing the potential of the western section of the City for both residential and industrial development, and that area of the City would be isolated by increased rail traffic; and

WHEREAS, the City of Sandusky, Ohio, has previously identified the need for a grade separation crossing on U.S. Route 6 (Venice Road) at the NS tracks and any increase in rail traffic as proposed

the need for a grade separation crossing on U.S. Route 6 (Venice Road) at the NS tracks and any increase in rail traffic as proposed through this acquisition would further exacerbate transportation problems in the City; and

WHEREAS, the City of Sandusky, Ohio, questions some of the assumptions and methodology employed in developing the Surface Transportation Board's "Draft Environmental Impact Statement" and the resulting conclusion from the same (in particular the use of ADT levels that do not address the concern of smaller urban and rural communities); and

WHEREAS, comments and objections to the proposed acquisition must be filed with the Surface Transportation Board by February 2, 1998; and

PAGE 2 - RESOLUTION NO. 002-98R


WHEREAS, it is deemed necessary in order to provide for the preservation of the public peace, property, health, safety and convenience of the City of Sandusky, Ohio, its citizens and businesses, the City Commission finds it advisable to declare this Resolution to be an emergency measure and to take effect immediately upon its adoption; and NOW THEREFORE,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO:

Section 1. That the President of the City Commission and the City Manager of the City of Sandusky, Ohio, be and hereby are authorized to forward to the Surface Transportation Board notice of the City's objection to the proposed acquisition of Conrail, Inc. and the Consolidated Rail Corporation (Conrail) by CSX and the Norfolk and Southern Railway Co.; and

Section 2. That copies of the City's objection to the proposed acquisition of Conrail, Inc. and Consolidated Rail Corporation (Conrail) be forwarded to Congressman Paul E. Gillmor, U.S. Senators Glenn and DeWine, State Senator R. Latta, State Representative Opfer, the Ohio Rail Development Commission, and Erie County; and

Section 3. That for the reasons set forth in the preamble hereto, this Resolution is hereby declared to be an emergency measure which shall take effect and be in full force immediately upon its passage, and due authentication by the President and the Clerk of this Commission of the City of Sandusky, Ohio.



LEROY J. SILVANI
PRESIDENT OF THE CITY COMMISSION

ATTEST: 

B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

CERTIFICATION

I, B. Joyce Brown, the duly appointed, qualified Clerk of the City Commission of the City of Sandusky, Ohio, do hereby certify that I have compared the foregoing copy of Resolution No. 002-98R with the original of said Resolution on file in my office and that the same is a true and correct copy of said Resolution which was regularly passed by the City Commission of said City at their meeting duly held on the 26th day of January, 1998.

Dated this 27th day of January, 1998.



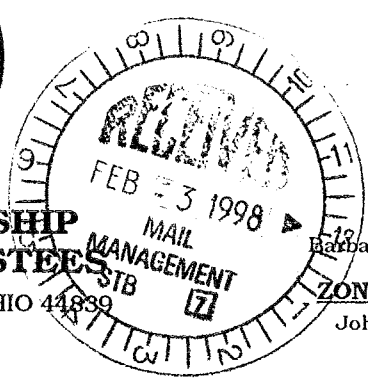
B. Joyce Brown
B. Joyce Brown
Clerk of the City Commission
City of Sandusky, Ohio

98 JAN 28 AM 11:26
ERIE COUNTY COMMISSIONERS

Post-it* Fax Note	7671	Date	1/28	# of pages	3
To	<i>Mike Biple</i>	From	<i>Rick Fein</i>		
Co./Dept.		Co.			
Phone #		Phone #	<i>627-5844</i>		
Fax #	<i>627-1692</i>	Fax #			

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98
DOCUMENT # 2/3/98 3:30:12 PM



TRUSTEES
Lewis E. Enderle
Robert C. Boos
Donald G. Ritzenthaler

**HURON TOWNSHIP
BOARD OF TRUSTEES**
P.O. BOX 441 - HURON, OHIO 44839

CLERK
Barbara J. McClung-Lutes
ZONING INSPECTOR
John A. Zimmerman

January 30, 1998

Elaine K. Kaiser, Environmental Project Director
Surface Transportation Board
Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

ENVIRONMENTAL
DOCUMENT

RE PROPOSED CONRAIL ACQUISITION

Dear Ms. Kaiser:

It is with great concern that we address the situation of the proposed acquisition and the effects that it will have on the area of Erie County, Ohio. We are concerned that these changes are being considered without efficient and correct data findings.

Safety being the first and foremost issue for those of us elected to office, to serve the residents of this area, we truly question whether this has been addressed accordingly.

While an increase in rail traffic may or may not be present with the proposed acquisition, it would certainly affect every resident of the public whom used the area roadways. Of which, we can probably agree, are the majority. If an increase in accidents, or an increase in emergency response times are not major factors and given the appropriate consideration with your review and studies, then the acquisition truly becomes one of selfishness and control and not a true Environmental Impact factor at all.

In one specific area, Oxford Township, when crossing delays occur, fire protection becomes nullified. **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 assumptions and methodology used in the development of the EIS, are certainly questionable, and require review prior to any proposals being considered.

In addition to reviewing these issues, there are no reasons for any person to favor this proposed acquisition, no benefits to the persons living within the area, no benefits to the persons responsible for maintaining and servicing these roadways, **and no benefits of safety in any measure for the public.**

COPY

Page 2
January 30, 1998

The maintenance of the rail crossings in our area alone, are of great concern. Please take time to view and travel at several specific crossings. The first being, Camp Road, the second being, Rye Beach Road, and the third, being in the City of Huron. All crossings are in poor and inexcusable condition and we receive complaints on these "rough" crossings on a regular basis. 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.

Since we, the Board of Township Trustees, of Huron Township, elected to office by the Township residents, feel that there are many environmental issues that have not been resolved or discussed regarding the CSX/NS proposed railroad merger, and, since we are extremely concerned about these issues. **It is here, with written notice, that we, The Board of Trustees of Huron Township, state that we are not in support, of said acquisition.**

With this written notice of non-support being sent to all area Representatives of the State of Ohio, we truly hope you will re-consider and examine the potential impacts on the communities affected by this merger, and bring them to the attention of the persons proposing said acquisition. We will continue to seek other public entities and public officials to help us block said acquisition until a time when some resolve is made for the concerns presented and expressed.

Any correspondence would be greatly appreciated.

Sincerely,

HURON TOWNSHIP TRUSTEES

Donald G. Ritzenthaler, President
Robert C. Boos
Edward J. Enderle

/bjl

xc: HTT
Erie Co. Commissioners
Sen. Robert Latta
Rep. William Taylor
Rep. Darrel Opfer
Thomas O'Leary, Dir. of Ohio Rail Dev. Comm.
Rep. Gilmore

A-399-a

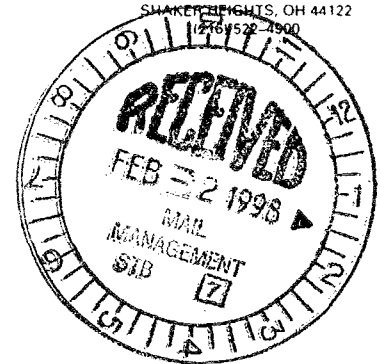
LOUIS STOKES
11TH DISTRICT, OHIO

MEMBER,
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEES:
RANKING MEMBER,
VA/HUD/INDEPENDENT AGENCIES
MEMBER,
LABOR/HHS/EDUCATION

CENTRAL ADMINISTRATIVE UNIT
REC'D: _____
DOCUMENT # _____
Congress of the United States
House of Representatives
Washington, DC 20515-3511

2365 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3511
(202) 225-7032

DISTRICT OFFICE:
3645 WARRENSVILLE CENTER RD.
SUITE 204
SHAKER HEIGHTS, OH 44122
(216) 522-2900



January 30, 1998

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

Finance Docket 33388

Dear Mr. Williams:

In response to the Surface Transportation Board's (STB) draft Environmental Impact Statement (EIS), I continue to harbor serious concerns with proposed freight rail changes of the CSX and Norfolk Southern (NS) Corporations. My apprehension is based on the vast negative impact these proposed routes could have on my Congressional District and the greater Cleveland, Ohio area.

Recently, CSX and Norfolk Southern have indicated an interest in alleviating effects of their proposal that could prove harmful to Cleveland communities. However, to date, no agreeable solution has been found. Therefore, I strongly urge the Surface Transportation Board to not approve this acquisition without sufficient mitigation to the affected communities.

The proposed increase in rail traffic through Cleveland is almost exclusively in low-income minority neighborhoods. In one area, rail traffic is projected to increase nearly 1200 percent. This means that families living near these railroad tracks will see almost 15 times more trains, from three trains daily to 44. Other areas will see increases ranging from more than 100% to more than 500%.

The STB found cause to address the issue of environmental justice in its draft EIS. Executive Order 12898 states, in part, 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..." I encourage the STB to adhere to EO 12898 when issuing a final ruling on the CSX/NS acquisition of Conrail.

CSX and Norfolk Southern's proposal will not only have a large impact on my constituents' quality of life, but I believe it may also have a negative economic impact on local residents. More than 60,000 citizens live within 1,000 feet of railroad tracks in

Mr. Vernon A. Williams
January 30, 1998
Page 2

Cleveland. The dramatic increase of rail traffic will expose these residents to train noise at virtually any hour, further reduce property values for those who can least afford to move, and ship greater amounts of hazardous materials through these neighborhoods by rail. Increased rail traffic also poses a large risk to children who cross these tracks on their way to and from school. Children who live near the tracks may not be aware of the greater frequency with which freight trains will be operating.

Another major safety concern is the strain on public safety services in areas with at-grade rail crossings. The increase in rail traffic will delay the response times for emergency medical, law enforcement, and fire fighting services at the numerous rail crossings throughout Cleveland. Worse yet, these are areas that already have emergency service response times slower than more affluent parts of the city. I remain concerned about the increased potential for loss of life.

It is possible that the CSX/NS proposal may result in some increase in economic development in Cleveland. At least one of the rail companies involved has proposed making Cleveland a hub for their service networks, which is commendable. Nevertheless, approval of this plan should not harm the everyday interest of the general public.

For the aforementioned reasons, I am requesting that the Surface Transportation Board pose effective steps to mitigate the CSX/Norfolk Southern rail proposal for the citizens of Cleveland or deny approval of their plan. Please do not hesitate to contact me if I may provide further comments or assistance in this very important matter.

Sincerely



LOUIS STOKES
Member of Congress

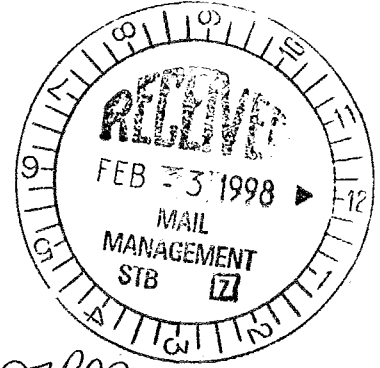
LS/pc

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing



THE VILLAGE OF OAK HARBOR

146 CHURCH STREET
P.O. BOX 232
OAK HARBOR, OHIO 43449
(419) 898-5561



CENTRAL ADMINISTRATIVE UNIT

REC'D 2/3/98

DOCUMENT # 2/3/98 2:49:27PM

January 30, 1998

Office of the Secretary
Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

**ENVIRONMENTAL
DOCUMENT**

Attention: Elaine K. Kaiser, Chief
Section of Environmental Analysis
Environmental Filing

Dear Ms. Kaiser:

I am writing to you in response to the draft Environmental Impact Study of the Conrail sale/merger that was release on December 12, 1997.

I offer on behalf on the Village of Oak Harbor the following comments:

- Nothing is mentioned in the report about the problems of backed up traffic on State Route 163 in downtown Oak Harbor. Yes, there is an existing problem now, but with an increase of 200% in train traffic, there will also be a 200% increase in traffic backups. We fear because of this, the motoring public will find other routes to travel. This will be detrimental to our downtown businesses. We are also concerned about the traffic stopped by trains interfering with the fire department. They are located just ½ block east of the crossing. Our department is a volunteer force, this means they would have problems getting to the station for a call and will have problems getting out of the station with the trucks when they get there.
- Hazardous Material Mitigation: It is suggested that the railroad coordinate training with the local emergency hazardous material response units. We are proud to say that our department is very well trained. The problem is you can be well trained, but if

A-399-d

you don't have the equipment, the training is of no use. Equipment is very expensive. We estimate costs for hazardous material suits to be as high as \$24,000.00.

- Noise Mitigation: We feel this needs to be addressed also. This will take someone other than the railroad or the Village to study. We would like to see a professional engineer hired to study this situation before a definite answer is given.

We have begun discussion with Norfolk Southern Railroad concerning these matters. It is too premature for the Village to agree to anything. This matter needs to be studied in depth prior to any decisions being made.

We will make ourselves available to meet and discuss with your board on any of the above mentioned matters.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim Wilkins".

Tim Wilkins
Village Administrator

TLW:dmd

Broadway Area COPY Housing Coalition

5620 Broadway Avenue
Cleveland, Ohio 44127
429-1182
FAX: 429-2632

ENVIRONMENTAL DOCUMENT

Surface Transportation Board
1925 K Street, NW
Washington, DC. 20423-0001

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/4/98
DOCUMENT # 2/4/98 4:48:31 PM



January 30, 1998

Dear Surface Transportation Board Members,

I am writing in opposition to the proposed acquisition of the Conrail Railroad by Norfolk and Southern and CSX. The Broadway community of Cleveland has Conrail lines going through it, and if the sale goes forward with the current routes and proposed increase in train traffic, our community would be severely impacted in a negative way.

In addition to the issues that have been outlined by the City of Cleveland, there is an additional problem that would be created and an environmental impact to a scenic resource in our community. One of the current Conrail lines (which is proposed to become Norfolk Southern property) that runs north-south through the east side of Cleveland, lies only 20 feet north of the tallest waterfall in Cuyahoga County. The historic Mill Creek Falls, 45 feet high, is currently being negatively impacted by the train traffic. The land next to the tracks has been eroding and falling into the waterfall. I have enclosed photos of the situation and a map of the trail and falls plans.

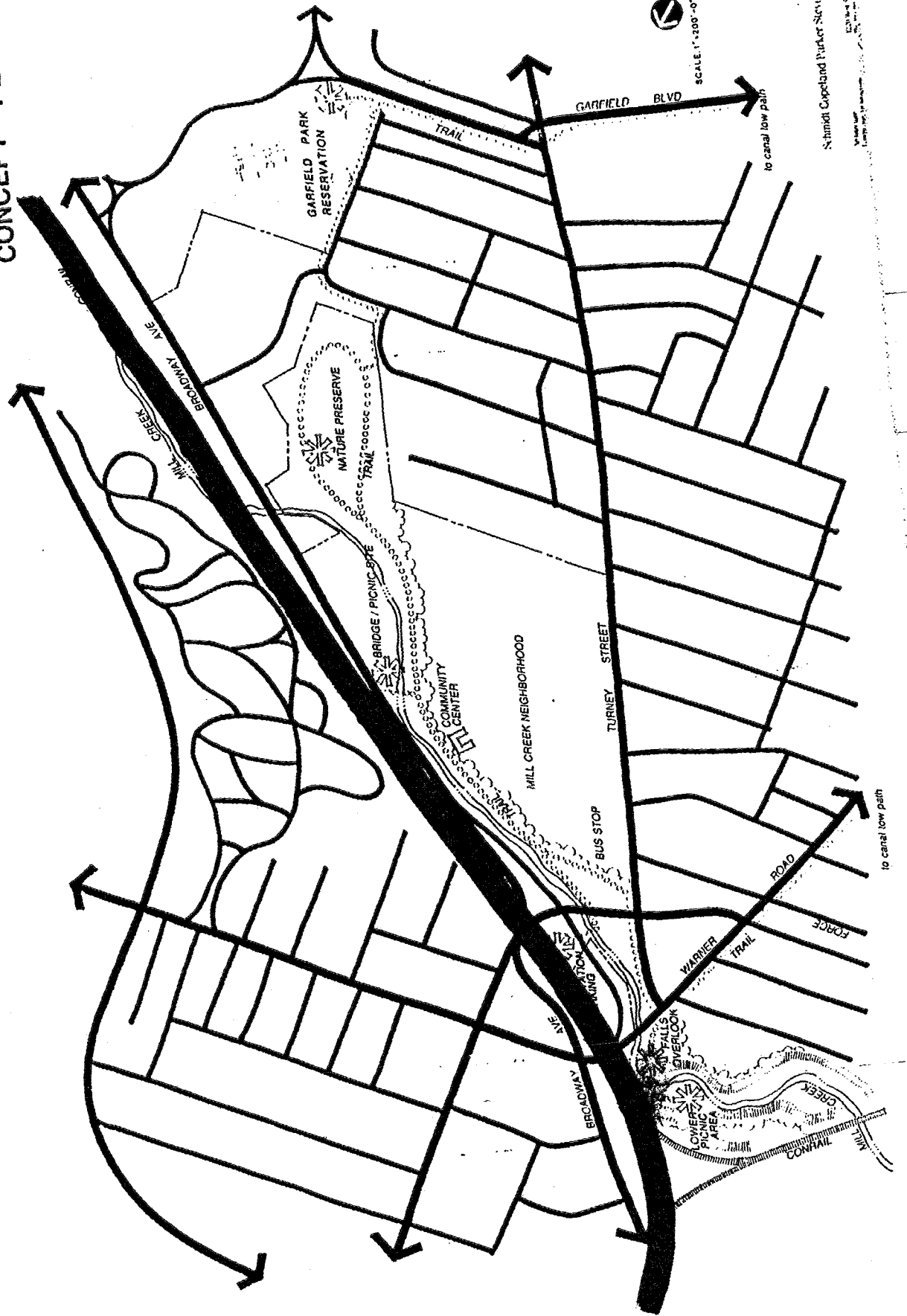
We have been working with the Cleveland Metroparks on a plan to preserve the falls and develop them with a scenic overlook. If the sale goes forward and the train traffic increases, the erosion will worsen and the danger of the trains would make the falls development impossible. This would be a terrible blow to our community. We ask you to either oppose the sale or make Norfolk and Southern move the tracks away from the falls. If you would like additional information, please contact me at (216) 429-1182. Thank you very much,

Sincerely,

A handwritten signature in cursive script that reads "Bobbi Reichtell".

Bobbi Reichtell
Project Manager

MILL CREEK TRAIL CONCEPT PLAN



A-400-C

St. Simons Capeland Parker Stevens
Landscape Architects





Department of Engineering Services
ENVIRONMENTAL DOCUMENT

Division of Design & Construction (419) 627-5829
Division of Streets (419) 627-5881

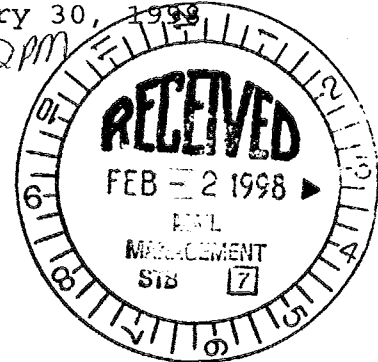
222 MEIGS STREET
SANDUSKY, OHIO 44870
FAX (419) 627-5933
FAX (419) 627-5911

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98 January 30, 1998

DOCUMENT # 2/2/98 3:43:12 PM

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001



RE: Draft Environmental Impact Statement
"Proposed Conrail Acquisition"

Dear Reader:

Upon review of the Draft Environmental Impact Statement, Finance Docket No. 33388, "Proposed Conrail Acquisition" the City of Sandusky, Ohio, hereby submits the following written comments regarding this document. Enclosed also please find Resolution 002-98R passed by the City Commission of the City of Sandusky in open session on January 26, 1998. This document states the resolve of the City of Sandusky to oppose the proposed acquisition of Conrail by CSX and Norfolk and Southern Railway Co. This course of action is required and based on concerns raised by review of the Draft EIS. This opportunity to voice the City's concern prior to a decision being made by the Surface Transportation Board relative to this acquisition is appreciated.

On a macro-scale the Draft EIS (DEIS) states that increased use of rail for shipping will result in a decrease in truck traffic and a decrease in highway accidents because of the decrease in truck traffic. An analysis of this statement as it relates to local communities develops some very disturbing realities.

Decreased truck traffic means:

- A) Fewer trucks using interstate highways and major state routes however 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.
- B) Fewer trucks making cross county hauls decreases the amount of fuel purchased and therefore fewer dollars in the gas tax fund. This means less dollars available for highway/roadway maintenance, repairs and improvements.

- C) When, realizing the above two comments in concert it can be seen that at-grade crossings in most urban settings will experience the same amount or more vehicular traffic as experienced pre-acquisition while the density of rail traffic will increase. This combination leads toward an increased need for safety measures as well as inconvenience issues which will force grade separations. With fewer dollars in highway funds, traditional sources of funding for grade separations will not be able to contribute toward new projects in any meaningful way.

It truly is in our overall best interest to encourage as much transportation of goods by rail as possible. Until such time as trains make delivery of goods in each municipality the increased rail density will continue to conflict with vehicle traffic causing safety and delay problems. The solution is to separate the conflicting movements through individual grade separations or by relocating the rail lines to the less populated areas very similar to what was done with our interstate system. Either option is expensive and must be paid for from the revenues charged to move goods. It is therefore 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. Since the owners of the rail companies will benefit from the increased rail traffic the fund must be provided for by the rail companies.

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. The greatest traffic safety concern is not with the vehicle that approaches the mid point of the queue but is with the first or second vehicle in the queue. 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? 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.

Another concern of the City is the threshold limit of 5000 ADT for analysis of grade crossings. Where did the ADT originate and what year were the traffic counts taken? Who took the counts and what method was used? The assumption that roadway segments carrying less than 5000 ADT will not experience problems at crossings is not a valid assumption. Many problems can be caused by seasonal or hourly peaks of traffic volume which are not consistent with an average traffic volume. Was there any consideration for seasonal peaks of traffic volume in highly congested tourist areas? Was there any consideration of rush

hour traffic on certain roadways due to plant adjacency or industrial locations? There is also the speed of the train to consider which should change the threshold value of ADT used. If line segments of rail will experience very slow train movement (5-10 mph) the affect at any crossing will be greater than if the train is moving 45 mph. Was this considered in the analysis or is there a possibility of removing the threshold ADT value?

Specific to Sandusky, Ohio, there are many concerns. The footnote to Table 5-OH-2 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. Does anybody know what this entails? Is the City to be included in these discussions? Will this mean an increase truck traffic of 65 vehicles per day and if so on which routes? The City feels it needs answers to these questions before any evaluation of impact can be made.

The Bellevue, Ohio, to Sandusky Docks, Ohio, rail segment is predicted to see an increase of freight traffic estimated at 10.3 trains per day. It is our understanding that this increase will be for east-west connection onto the current Conrail east-west main line. Is this true? The document does not indicate if the rail traffic is to dead-end at the dock or to make east-west connection. For either scenario the speed of the trains will be between 5 and 10 mph due to either the stopping at the dock or the tight turning radius onto the Conrail mainline. Within one half mile of the Conrail mainline the NS Bellevue to Sandusky Dock line crosses two (2) major roadways. These roadways are Tiffin Avenue (SR 101) and Venice Road (USR 6). With total train traffic, post acquisition, of 11.7 trains per day each crossing will be closed for 6.5 minutes eleven times a day or an hour and eleven minutes each day. This directly impacts emergency response time to the entire west end of Sandusky. It also hinders the ability to provide for economic development in the west end thereby limiting the City's ability to expand its economic base.

The City of Sandusky has "Impacted City Status" with 53% of its population in the low to moderate income level and a significant minority population (23%). Any funds that the City expends to resolve problems caused by rail traffic will not be available for other projects or services which may directly benefit the L-M income and minority populations. There will be significant problems caused by the increased rail traffic which will cause economic hardships and social injustice.

There is also a significant residential population along the existing Conrail line and at the NS/Conrail diamond. With increased rail traffic will come increased hazardous material shipments. Sandusky Bay, a major recreational water and water supply, is also adjacent to this rail line. Any hazardous material incident will have grave impacts to human health and safety as well as significant environmental impacts. Within the last 5 years there have been three derailments in or adjacent to Sandusky. The increased possibility that hazardous materials will be involved in future derailments is a great concern. The suggested solution is to increase training and awareness of the haz-met teams in the area. This will not be sufficient. A concerted effort must be made to evaluate and assess each community for the types of incidents which may occur and the associated appropriate response. If the communities do not have the necessary equipment to appropriately respond then the rail company must be responsible for working with the cities to equip them for any accident and bear the financial responsibility of doing so.

It is hoped that further dialogue will take place concerning this acquisition. There are many issues which need to be discussed and the solutions must be incorporated into whatever plan of mitigation is decided upon. The City of Sandusky would like to be a part of the process as a decision is being formulated. Again, the City is appreciative of this opportunity and looks forward to more dialog on this subject.

Sincerely,


Brent R. Smith, Director of
Engineering Services

BRS/imn

cc: Richard M. Finn, City Manager
Don Iscman, Law Director
Richard Stroemple, Director of Community Development
conrail

RESOLUTION NO. 002-98R

A RESOLUTION OBJECTING TO THE PROPOSED ACQUISITION OF CONRAIL, INC. AND CONSOLIDATED RAIL CORPORATION (CONRAIL) BY CSX CORPORATION AND NORFOLK AND SOUTHERN RAILWAY COMPANY (NS), AND REQUESTING THAT THE SURFACE TRANSPORTATION BOARD NOT APPROVE THE SAME AND DECLARING AN EMERGENCY.

WHEREAS, an application has been submitted requesting approval of the acquisition of Conrail, Inc. and the Consolidated Rail Corporation (Conrail) by CSX Corporation and the Norfolk and Southern Railway Co. (NS); and

WHEREAS, the proposed acquisition of Conrail, Inc. and the Consolidated Rail Corporation (Conrail) by CSX Corporation and Norfolk and Southern Railway Co. would result in physical and operational changes in the City of Sandusky, Ohio, and Erie County, Ohio; and

WHEREAS, the proposed acquisition will result in increased rail traffic within the City of Sandusky, Ohio, and that increase will result in the disruption of motor vehicle and pedestrian traffic movements in many areas of the City; and

WHEREAS, the increase in rail traffic will result in the isolation of sections of the City of Sandusky, Ohio, thereby affecting the City's ability to provide emergency service delivery (police, fire and emergency medical services) which in turn will create unacceptable delays and could have the potential to threaten life as well as property; and

WHEREAS, the proposed increase in rail traffic will have detrimental social consequences for City residents including a large percentage of the population which is classified as low-to-moderate income persons as well as minority persons; and

WHEREAS, the City of Sandusky, Ohio, has been designated as an "Impacted City" reflecting distress factors related to socio-economic conditions, and 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; and

WHEREAS, the City of Sandusky, Ohio, has recently completed a strategic planning process (1997) which process identified the need for continued economic development efforts, particularly in the western section of the City which would be isolated by increased rail traffic; and

WHEREAS, the City of Sandusky, Ohio, is in the process of finalizing a Comprehensive Plan to guide the future growth and development of the City and that the plan emphasizes the need for protecting and enhancing the potential of the western section of the City for both residential and industrial development, and that area of the City would be isolated by increased rail traffic; and

WHEREAS, the City of Sandusky, Ohio, has previously identified the need for a grade separation crossing on U.S. Route 6 (Venice Road) at the NS tracks and any increase in rail traffic as proposed through this acquisition would further exacerbate transportation problems in the City; and

WHEREAS, the City of Sandusky, Ohio, questions some of the assumptions and methodology employed in developing the Surface Transportation Board's "Draft Environmental Impact Statement" and the resulting conclusion from the same (in particular the use of ADT levels that do not address the concern of smaller urban and rural communities); and

WHEREAS, comments and objections to the proposed acquisition must be filed with the Surface Transportation Board by February 2, 1998; and

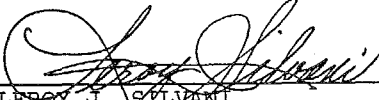
WHEREAS, it is deemed necessary in order to provide for the preservation of the public peace, property, health, safety and convenience of the City of Sandusky, Ohio, its citizens and businesses, the City Commission finds it advisable to declare this Resolution to be an emergency measure and to take effect immediately upon its adoption; and NOW THEREFORE,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO:


Section 1. That the President of the City Commission and the City Manager of the City of Sandusky, Ohio, be and hereby are authorized to forward to the Surface Transportation Board notice of the City's objection to the proposed acquisition of Conrail, Inc. and the Consolidated Rail Corporation (Conrail) by CSX and the Norfolk and Southern Railway Co.; and

Section 2. That copies of the City's objection to the proposed acquisition of Conrail, Inc. and Consolidated Rail Corporation (Conrail) be forwarded to Congressman Paul E. Gillmor, U.S. Senators Glenn and DeWine, State Senator R. Latta, State Representative Opfer, the Ohio Rail Development Commission, and Erie County; and

Section 3. That for the reasons set forth in the preamble hereto, this Resolution is hereby declared to be an emergency measure which shall take effect and be in full force immediately upon its passage, and due authentication by the President and the Clerk of this Commission of the City of Sandusky, Ohio.



LEROY J. SILVENTI
PRESIDENT OF THE CITY COMMISSION

ATTEST: 

B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed: January 26, 1998



1987 BOARD MEMBERS

President
Neil C. Hofstetter, Commissioner
Geauga County Board of Commissioners

Vice President
David E. Anderson, Mayor
City of Wilkoughby

Assistant Vice President
Charles L. Patton, Councilman
City of Cleveland

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Sara L. Pavlovicz, Commissioner
Medina County Board of Commissioners

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Joseph F. Koziura, Mayor
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Hunter Morrison, Director
City of Cleveland Planning Commission

Thomas J. Neff, P.E., P.S.
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Janet A. Novak, President
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William M. Repke, Commissioner
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Lake County Board of Commissioners

Edward L. Thellmann, Mayor
Village of Walton Hills

Vincent M. Urbin, Mayor
City of Avon Lake

Mary Jo Vasi, President
Lorain County Board of Commissioners

Michael R. White, Mayor
City of Cleveland

Ex officio Members:

David J. Coyle, Deputy Director
Ohio Department of Transportation
District-12

William T. Skowronski
Chief, Northeast District Office
Ohio Environmental Protection Agency

Howard R. Maier, Executive Director
Northeast Ohio Area-wide
Coordinating Agency

Executive Committee Members

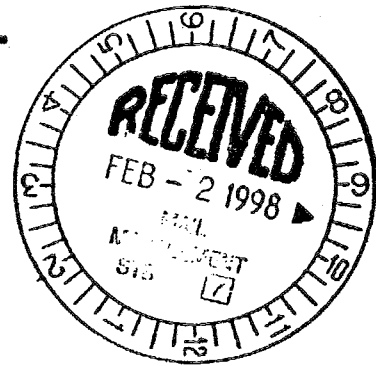
NORTHEAST OHIO AREAWIDE COORDINATING AGENCY

Serving all county, municipal and township governments in Cuyahoga, Geauga, Lake, Lorain and Medina Counties

ENVIRONMENTAL DOCUMENT

January 30, 1998

Ms. Elaine K. Kaiser, Chief
Surface Transportation Board
Section of Environmental Analysis
1925 K Street, NW
Washington, DC 20423-0001



RE: COMMENTS ON DRAFT EIS FOR PROPOSED
CONRAIL ACQUISITION - FINANCE DOCKET NO. 33388

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98

DOCUMENT # 2/2/98 11:31:21 AM

Dear Ms. Kaiser:

NOACA, as the Metropolitan Planning Organization (MPO) representing 2.1 million residents, five counties and 172 municipalities in Northeast Ohio, has reviewed the Draft Environmental Impact Statement (DEIS) produced as part of the Conrail acquisition. There are three broad categories of concern that the NOACA Governing Board requests that the Surface Transportation Board makes conditions for approval of the takeover.

1. The operating plan submitted by the railroads is not acceptable to the communities of Northeast Ohio. As a condition, before approval, NOACA requests that the Surface Transportation Board demand that both Norfolk Southern and CSXT negotiate with and find an operating plan that is acceptable to the City of Cleveland, the Ohio Rail Development Commission, Congressman Dennis Kucinich, Congressman Louis Stokes, Congressman Steve LaTourette, and the NOACA Governing Board.
2. After agreement on an acceptable operating plan, NOACA requests as a condition that the railroads negotiate with the affected communities, the State of Ohio and the NOACA Governing Board that appropriate protection, including some grade separations, be ensured for all grade crossings. 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.
3. Should the Surface Transportation Board approve the Conrail takeover, then the approval should be conditional on a plan of deliberate implementation with clearly identified steps, so that logistics and safety problems that have occurred in the western United States do not happen in Ohio.



Ms. Elaine K. Kaiser, STB
January 30, 1998
Page -2-

A Resolution of the NOACA Governing Board will be placed on the Agenda for the Board's next meeting on March 13. That resolution will be forwarded to the Surface Transportation Board upon adoption.

In addition, NOACA has an interest in commuter rail. We are in the midst of an ISTEA-funded study on its feasibility of commuter rail on existing tracks throughout northeast Ohio. Further, we are aware of issues and concerns raised by communities throughout northeast Ohio on matters of safety, pollution, noise, quality of life impacts, environmental justice, etc. We believe those issues, as well as the ones we raise, merit the consideration of the Surface Transportation Board too.

We appreciate the opportunity to express our concerns and trust this information will assist in your process. If we can be of assistance as your review continues, please call or write us.

Sincerely,



Howard R. Maier
Executive Director

HRM/RE/3665s

c: Honorable Dennis Kucinich, U.S. Representative 10th District
Honorable Louis Stokes, U.S. Representative 11th District
Honorable Steven LaTourette, U.S. Representative 19th District
Honorable Sherrod Brown, U.S. Representative 13th District
Honorable Michael DeWine, U.S. Senator
Honorable John Glenn, U. S. Senator
Honorable Michael White, Mayor, City of Cleveland
Thomas O'Leary, Executive Director, Ohio Rail Development Commission

Enclosures

Condition #1 -Revising the Operating Plan

Since August of 1997 there has been a great amount of concern about the severe impacts of the proposed operating plan on the communities of Northeast Ohio. Addressing these concerns about safety, access and noise, a proposed alternative plan was submitted by Congressman Kucinich. The Congressman's plan involved changes to the Norfolk Southern operations.

In January of 1998 the Mayor of Cleveland proposed two alternatives to the operating plan. Both of these alternatives involved significant changes by both railroads. The Cleveland proposal was reported to cost an additional \$171 million.

Many communities are concerned about the impacts of changes in railroad operations. It would be unjust to approve a plan that places the adverse impacts on densely populated urban neighborhoods. It is likewise understood that the two railroads are in business to make profits. They are not public bodies or charities. Further, it is understood that the two railroads intend to be in competition with each other as well as with trucks, ships and any other freight carriers.

The condition that has been requested by NOACA is compatible with the request of Cleveland Mayor Michael White. The NOACA condition also acknowledges the role of the US Congress and the action already taken by Congressman Kucinich. An acceptable operating plan will be a plan that is accepted by the railroads, by the communities, by the state and by the NOACA Governing Board. Anything not acceptable to one or more of these parties should not be approved by the Surface Transportation Board.

Condition #2 - Protection or Separation of High Traffic Grade Crossings

NOACA staff have assembled an extensive GIS-based analysis of all railroad crossings on the proposed mainlines in Northeast Ohio. Tables and maps are attached.

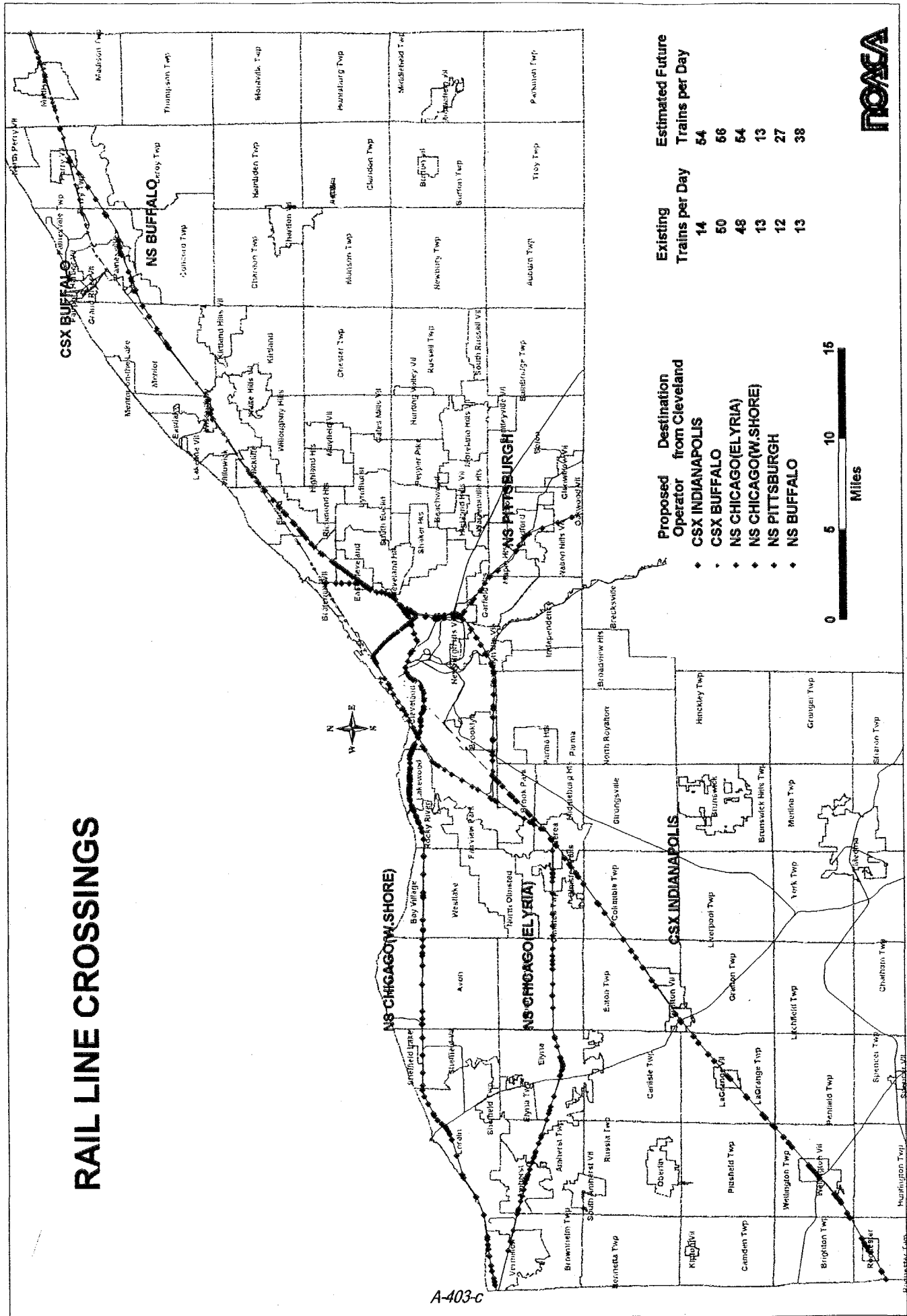
Norfolk Southern has proposed a response to earlier objections to its operating plan. The railroad proposed to move most of its through trains, from its line along the lakeshore communities, to the Conrail line through Berea, Olmsted Falls and Elyria which it will acquire. Examination of the revised proposal indicates that there will be 19 at-grade crossings with a highway traffic volume of at least 8000 vehicles per day and a train volume of at least 24 trains per day. (Estimates are over 38 trains per day.

There are seven at-grade crossings which have two mainline railroads. One of them is in Cuyahoga County at Front Street in Berea. The other six are in Lake County. They are at Lloyd Road in Wickliffe, at East 305th Street in Willowick, at Erie Street in Willoughby, at Hopkins Road and Heisley Road in Mentor, and at Lake Road in Madison. Because of the added hazard of two sets of mainline tracks, all of these crossings should have protection with gates. Some of them have been proposed as grade separations.

Condition #3 - Deliberate Implementation of Conrail Takeover

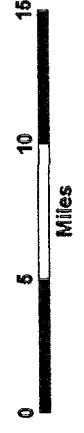
Many concerns have been raised about public safety when the Conrail takeover is complete. With train crews operating on unfamiliar tracks, with the large increase in hazardous materials that will be carried, with high train volumes on tracks that have not recently had high volumes, there are many possibilities for confusion which could lead to disaster. In the western United States, safety problems were so extensive that the Federal Railroad Administration sent safety teams more than once to investigate. The Governing Board of NOACA, speaking for over two million citizens, requests that if approval of the Conrail acquisition is granted, the Surface Transportation Board ensures that this transition is safe.

RAIL LINE CROSSINGS



Existing	Estimated Future
Trains per Day	Trains per Day
14	54
50	56
48	64
13	13
12	27
13	38

- Proposed Destination from Cleveland**
- ◆ CSX INDIANAPOLIS
 - ◆ CSX BUFFALO
 - ◆ NS CHICAGO (ELYRIA)
 - ◆ NS CHICAGO (W. SHORE)
 - ◆ NS PITTSBURGH
 - ◆ NS BUFFALO



HIGH TRAFFIC RAILROAD CROSSINGS IN NORTHEAST OHIO

JURISDICTION	ROADWAY	DAILY TRAFFIC	FUTURE RAILROAD	FUTURE TRAIN TRAFFIC
Wellington	Ashland-Oberlin	9900	CSXT	54
Eaton Twp	Elyria-Twinsburg	8850	CSXT	54
Olmsted Falls	Columbia	9300	CSXT	54
Berea	Bagley	12450	CSXT	54
Berea	Front	11850	CSXT	54
			& NS	54
Brook Park	Engle		CSXT	54
Wickliffe	Lloyd	12450	CSXT	56
			& NS	38
Willowick	E 305th	16000	CSXT	56
			& NS	38
Willoughby	Erie	9950	CSXT	56
			& NS	38
Mentor	Hopkins	13000	CSXT	56
			& NS	38
Mentor	Heisley	12550	CSXT	56
			& NS	38
Madison	Lake	10350	CSXT	56
			& NS	38
Elyria	Abbe	14000	NS	54
North Ridgeville	SR 83	9800	NS	54
Olmsted Falls	Columbia	9600	NS	54
Euclid	Dille	14750	NS	38
Euclid	Chardon	8650	NS	38
Painesville Twp	Jackson	8700	NS	38
Painesville	Mentor	17700	NS	38

NOTE: Daily train traffic is estimated from NS revised proposal to reduce trains on NS route along lakeshore communities west of Cleveland.

CSX INDIANAPOLIS

Existing Trains per Day 14

Estimated Future Trains per Day 54

Jurisdiction	Feature Intersected	Type of Intersection	If at-grade 1993 Count
Rochester Twp	STREAM	over river	water
Rochester Twp	GORE-ORPHANAGE ST	at-grade	250
Rochester Twp	BURSLEY RD	at-grade	local
Rochester	WEST ST	at-grade	local
Rochester	STATE ST	at-grade	1110
Rochester	WB BLACK RIVER	over river	water
Rochester	GRIGGS RD	at-grade	200
Rochester Twp	ANDERSON RD	at-grade	local
Wellington Twp	QUARRY RD	at-grade	150
Wellington Twp	STREAM	over river	water
Wellington Twp	CROSSING(PRIVATE)	at-grade	local
Wellington Twp	JONES RD	at-grade	300
Wellington Twp	CHRLMNT CREEK	over river	water
Wellington Twp	PITTS RD	at-grade	local
Wellington Vil	RAIL -RAIL CR	rail-to-rail	-----
Wellington Vil	MAGYAR ST	at-grade	local
Wellington Vil	HERRICK AVE	at-grade	7500
Wellington Vil	ASHLAND OBERLIN RD	at-grade	9900
Wellington Vil	CLAY ST	at-grade	local
Wellington Vil	BARKER ST	at-grade	local
Wellington Twp	HAWLEY RD	at-grade	local
Wellington Twp	PECK-WADSWORTH RD	at-grade	local
Wellington Twp	WELLINGTON CREEK	over river	water
Pittsfield Twp	WEBSTER RD	at-grade	700
Pittsfield Twp	STREAM	over river	water
LaGrange Twp	STREAM	over river	water
LaGrange Twp	NICKLE PLATE RD	at-grade	1350
LaGrange Twp	WHITEHEAD ST	at-grade	local
LaGrange Twp	STREAM	over river	water
LaGrange Twp	WHITNEY RD	at-grade	1600
LaGrange Vil	LAGRANGE RD	at-grade	4050
LaGrange Vil	SR303 MAIN ST	at-grade	3000
LaGrange Twp	WHEELER RD	at-grade	local
LaGrange Twp	BIGGS RD	at-grade	local
LaGrange Twp	INDIAN-HOLLOW RD	at-grade	2500
LaGrange Twp	CROOK RD	at-grade	local
Grafton Vil	BLACK RIVER	over river	water
Grafton Vil	CSX RAIL CR	rail-to-rail	-----
Grafton Vil	MAIN ST	at-grade	3650
Grafton Vil	ELM ST	at-grade	1250
Eaton Twp	AVON-BELDEN RD	at-grade	5700
Eaton Twp	STREAM	over river	water
Eaton Twp	ISLAND RD	at-grade	2250
Eaton Twp	REED RD	at-grade	local

Eaton Twp	SR82 ELYRIA TWNSB	at-grade	8850
Columbia Twp	HAWKE RD	at-grade	2050
Columbia Twp	ROOT RD	at-grade	1200
Columbia Twp	STATION RD	at-grade	1950
Columbia Twp	OSBORNE RD	at-grade	400
Columbia Twp	JAUQUAY RD	at-grade	local
Columbia Twp	PLUM CREEK	over river	water
Columbia Twp	SPRAGUE RD	at-grade	6800
Olmsted Falls	COLUMBIA RD	at-grade	9300
Olmsted Falls	I 80 TURNPIKE	over road	-----
Olmsted Falls	ROCKY RIVER	over river	water
Olmsted Falls	CATTLE PASS	over road	-----
Olmsted Falls	WEST RD	at-grade	2400
Berea	BAGLEY RD	at-grade	12450
Berea	ROCKY RIVER	over river	water
Berea	ROCKY RIVER DR	over road	-----
Berea	FRONT ST	at-grade	11850
Berea	EASTLAND RD	over road	-----
Brook Park	LAKE CREEK	over river	water
Brook Park	HOLLAND RD	at-grade	2950
Brook Park	SNOW RD	under road	-----
Brook Park	ENGLE RD	at-grade	10200
Brook Park	I 71	under road	-----
Brook Park	HUMMEL RD	at-grade	4700
Brook Park	HARNTON DITCH	over road	-----
Brook Park	SMITH RD	over road	-----
Cleveland	BROOKPARK RD	over road	-----
Cleveland	I 480	under road	-----
Cleveland	RR CROSSING	rail-to-rail	-----
Cleveland	HARINGTON DITCH	rail-to-rail	-----
Cleveland	W130TH ST	over road	-----
Cleveland	RR CROSSING	rail over rail	-----
Cleveland	I480	under road	-----
Brooklyn	TIEDEMAN RD	over road	-----
Brooklyn	BIG CREEK	over river	water
Brooklyn	RIDGE RD	over road	-----
Cleveland	PEARL RD	under road	-----
Cleveland	WATERWAY	over river	water
Cleveland	SR 94/STATE RD	under road	-----
Cleveland	BROADVIEW RD	under road	-----
Cleveland	CREEK	over river	water
Cleveland	I480	over road	-----
Brooklyn Hts Vil	SCHAAF RD	under road	-----
Brooklyn Hts Vil	SCHAAF LN	over road	-----
Brooklyn Hts Vil	CSX RR	rail-to-rail	-----
Cuyahoga Hts Vil	CUYAHOGA RV	over river	water
Cuyahoga Hts Vil	E49TH ST	over road	-----
Cuyahoga Hts Vil	I77	over road	-----
Cuyahoga Hts Vil	E71ST ST	under road	-----
Cleveland	MILL CREEK	over river	water
Cleveland	BROADWAY AVE	under road	-----

Cleveland	HARVARD AVE	under road	-----
Cleveland	CANNON AVE	under road	-----
Cleveland	BOOTH AVE	under road	-----
Cleveland	RR CROSSING	rail over rail	-----
Cleveland	RICHMOND AVE	under road	-----
Cleveland	RR CROSSING	rail over rail	-----
Cleveland	AETNA RD	under road	-----
Cleveland	UNION AVE	under road	-----
Cleveland	BESSEMER RD	under road	-----
Cleveland	KINSMAN RD	under road	-----
Cleveland	HOLTON AVE	over road	-----
Cleveland	RAPID TR RR	rail-to-rail	-----
Cleveland	RR CROSSING	rail over rail	-----
Cleveland	BUCKEYE RD	over road	-----
Cleveland	STEINWAY AVE	over road	-----
Cleveland	YEAHEL AVE	over road	-----
Cleveland	CUMBERLAND AVE	over road	-----
Cleveland	WOODLAND AVE	over road	-----
Cleveland	QUINCY AVE	over road	-----
Cleveland	STOKES BLVD	under road	-----
Cleveland	MLK BLVD	over road	-----
Cleveland	CEDAR RD	over road	-----
Cleveland	ADELBERT RD	under road	-----
Cleveland	CORNELL RD	under road	-----
Cleveland	MAYFIELD RD	over road	-----
Cleveland	EUCLID AVE	over road	-----
East Cleveland	LAKEVIEW RD	over road	-----
East Cleveland	AUBURNDALE AVE	over road	-----
East Cleveland	HOWER AVE	over road	-----
East Cleveland	DELMONT AVE	over road	-----
East Cleveland	ELBERON AVE	over road	-----
East Cleveland	CARLYON AVE	over road	-----
East Cleveland	LOCKWOOD AVE	over road	-----
East Cleveland	SUPERIOR AVE	over road	-----
East Cleveland	EDDY RD	over road	-----
East Cleveland	LAKEFRONT AVE	over road	-----
East Cleveland	ARLINGTON AVE	over road	-----
East Cleveland	SHAW AVE	over road	-----
East Cleveland	ST CLAIR AVE	over road	-----
Cleveland	COIT RD	over road	-----

CSX BUFFALO

Existing Trains per Day 50

Estimated Future Trains per Day 56

Jurisdiction	Feature Intersected	Type of Intersection	If at-grade 1993 Count
Cleveland	I 90	over road	-----
Cleveland	E38TH ST	at-grade	local
Cleveland	E40TH ST	at-grade	1550
Cleveland	E49TH ST	at-grade	local
Cleveland	MARQUETTE ST	at-grade	local
Cleveland	E55TH ST	over road	-----
Cleveland	E72ND ST	over road	-----
Cleveland	MLK BLVD	over road	-----
Cleveland	E105TH ST	over road	-----
Cleveland	DUGWAY CREEK	over river	water
Cleveland	EDDY RD	under road	-----
Cleveland	COIT RD	at-grade	local
Cleveland	CR C.S.L.	rail-to-rail	-----
Cleveland	RR CROSSING	rail-to-rail	-----
Cleveland	E140TH ST	over road	-----
Cleveland	E152ND ST	under road	-----
Cleveland	CROSSING(PRIVATE)	at-grade	local
Cleveland	NOTTINGHAM RD	over road	-----
Cleveland	EUCLID CREEK	over river	water
Cleveland	NEFF RD	over road	-----
Euclid	E200TH ST	over road	-----
Euclid	E222 ST	over road	-----
Euclid	BABBIT RD	over road	-----
Euclid	E260TH ST	over road	-----
Euclid	I90	under road	-----
Wickliffe	LLOYD RD	at-grade	12450
Wickliffe	WARDEN RD	over road	-----
Willowick	E305TH ST	at-grade	16000
Eastlake	SR91 SOM CENTER RD	under road	-----
Eastlake	BEIDLER RD E361TH ST	at-grade	local
Willoughby	VINE ST	over road	-----
Willoughby	ERIE ST	at-grade	9950
Willoughby	CHAGRIN RIVER	over river	water
Willoughby	PELTON RD	at-grade	5100
Mentor	SR306 REYNOLDS RD	over road	-----
Mentor	SR615 CENTER ST	under road	-----
Mentor	HOPKINS RD	at-grade	13000
Mentor	HEISLEY RD	at-grade	12550
Painesville Twp	SR44	under road	-----
Painesville	NEWELL ST	at-grade	1250
Painesville	RICHMOND ST	over road	-----
Painesville	STATE ST	over road	-----
Painesville	ELM ST	at-grade	2450
Painesville	FOBES ST	at-grade	local

Painesville	GRAND RIVER	over river	water
Painesville Twp	US20	over road	-----
Painesville Twp	NS RR	rail-to-rail	-----
Painesville Twp	BOWHALL RD	at-grade	3400
Painesville Twp	PARK RD	at-grade	local
Perry Twp	LANE RD	at-grade	3450
Perry Twp	CROSSING(PRIVATE)	at-grade	local
Perry Vil	MAPLE ST	at-grade	650
Perry Vil	MAIN ST	at-grade	1550
Perry Twp	DAVIS RD	at-grade	local
Perry Twp	MCMACKIN CREEK	over river	water
Perry Twp	TOWN LINE RD	at-grade	local
Madison Twp	WOOD RD	at-grade	700
Madison Twp	CROSSING(PRIVATE)	at-grade	local
Madison Twp	CROSSING(PRIVATE)	at-grade	local
Madison Twp	CROSSING(PRIVATE)	at-grade	local
Madison Vil	DAYTON RD	at-grade	local
Madison Vil	ARCOLA CREEK	over river	water
Madison Vil	LAKE ST	at-grade	10350
Madison Twp	BATES RD	at-grade	local
Madison Twp	ARCOLA CREEK	over river	water
Madison Twp	COUNTY LINE RD	at-grade	1600

NS CHICAGO (ELYRIA)

Existing Trains per Day 48

Estimated Future Trains per Day 54

Jurisdiction	Feature Intersected	Type of Intersection	If at-grade 993 Count
Vermilion	SUNNYSIDE RD	at-grade	1700
Vermilion	SHEPARD CREEK	over river	water
Vermilion	CLAUSS RD	over road	-----
Vermilion	BAUMHART RD	over road	-----
Brownhelm Twp	COOPER FOSTER PK RD	at-grade	450
Amherst	CROSSE RD	at-grade	local
Amherst	SR2	under road	-----
Amherst	QUARRY RD	under road	-----
Amherst	MILLERS RD	at-grade	local
Amherst	LAKE ST	over road	-----
Amherst	MILAN ST	over road	-----
Amherst	BEAVER CREEK	over river	water
Amherst	MAIN ST	over road	-----
Amherst	CHURCH ST	over road	-----
Amherst	WEST AVE	over road	-----
Amherst	JACKSON ST	under road	-----
Amherst Twp	SR58 (LEAVITT RD)	under road	-----
Amherst Twp	STREAM	over river	water
Amherst Twp	DEWEY RD	at-grade	local
Amherst Twp	MIDDLE RIDGE RD	under road	-----
Amherst Twp	NS RAIL	rail-to-rail	-----
Amherst Twp	OBERLIN RD	at-grade	2500
Amherst Twp	WILLOW CREEK	over river	water
Amherst Twp	I 80	under road	-----
Elyria	W RIDGE RD	at-grade	4200
Elyria	CROSSING(PRIVATE)	at-grade	local
Elyria	SR113 (MILAN-ELYRIA	under road	-----
Elyria	MURRAY RIDGE RD	at-grade	4100
Elyria	OLD SR113 (LOWELL)	under road	-----
Elyria	W RIVER ST	over road	-----
Elyria	BLACK RIVER	over river	water
Elyria	CHESTNUT ST	over road	-----
Elyria	WEST AVE	over road	-----
Elyria	LAKE AVE (LODI)	over road	-----
Elyria	WASHINGTON AVE	over road	-----
Elyria	EAST AVE	over road	-----
Elyria	CEDAR ST	over road	-----
Elyria	E BR BLACK RIVER	over river	water
Elyria	E BRIDGE ST	over road	-----
Elyria	OLIVE ST	at-grade	5250
Elyria	ABBE RD	at-grade	14000
Elyria	SR57 / S EAST BYPASS	under road	-----
North Ridgeville	RACE RD	at-grade	3100
North Ridgeville	MADDOCK RD	at-grade	3650

North Ridgeville	ROADWAY DITCH	over road	-----
North Ridgeville	SR83	at-grade	9800
North Ridgeville	ROOT RD	at-grade	4700
North Ridgeville	SREAM (WATERWAY)	over river	water
North Ridgeville	CHESTNUT RIDGE RD	at-grade	1500
North Ridgeville	SR10	under road	-----
North Ridgeville	LORAIN RD	under road	-----
North Ridgeville	I 80	under road	-----
Olmsted Twp	BRONSON RD	at-grade	local
Olmsted Twp	CROSSING(PRIVATE)	at-grade	local
Olmsted Twp	STEARNS RD	at-grade	5650
Olmsted Twp	FITCH RD	at-grade	5000
Olmsted Falls	MAPLEWAY DR	at-grade	2200
Olmsted Falls	BROOKSIDE DR	at-grade	local
Olmsted Falls	COLUMBIA RD	at-grade	9600
Olmsted Falls	ROCKY RIVER	over river	water
Olmsted Twp	LEWIS RD	at-grade	3100
Berea	CROSSING(PRIVATE)	at-grade	local
Berea	ROCKY RIVER	over river	water
Berea	ROCKY RIVER DR	over road	-----
Berea	FRONT ST	at-grade	11850
Berea	SHELDON RD	at-grade	6050
Brook Park	ABRAHAM CREEK	over river	water
Brook Park	EASTLAND RD	at-grade	7750
Brook Park	SNOW RD	over road	-----
Brook Park	BROOKPARK RD	over road	-----
Cleveland	I 480	under road	-----
Cleveland	I 71 WB	under road	-----
Cleveland	I 71 EB	under road	-----
Cleveland	PURITAS AVE	over road	-----
Cleveland	I 71	under road	-----
Cleveland	W150TH ST	under road	-----
Cleveland	LORAIN RD	over road	-----
Cleveland	W140TH ST	under road	-----
Cleveland	TRISKETT RD	under road	-----
Cleveland	I 90	under road	-----
Lakewood	LAKWOOD HIGHTS BLVD	under road	-----
Cleveland	W117TH ST	over road	-----
Cleveland	MADISON AVE	over road	-----
Cleveland	DETROIT AVE	over road	-----
Cleveland	WEST BLVD	over road	-----
Cleveland	W95TH ST	over road	-----
Cleveland	LAKE AVE	over road	-----
Cleveland	FOOT SUBWAY	over road	-----
Cleveland	FOOT SUBWAY	over road	-----
Cleveland	WEST SHOREWAY	over road	-----
Cleveland	DRY DOCK RD	over road	-----
Cleveland	CR ORE DOCK	rail-to-rail	-----
Cleveland	CUYAHOGA RIVER	over river	water
Cleveland	W9TH ST	under road	-----
Cleveland	W3RD ST	under road	-----

Cleveland
Cleveland

MAIN AVE BRIDGE
E9TH ST

under road
under road



NS CHICAGO (WESTSHORE)

Existing Trains per Day 13

Estimated Future Trains per Day 13

Jurisdiction	Feature Intersected	Type of Intersection	If at-grade 993 Count
Vermilion	CROSSING(PRIVATE)	at-grade	local
Vermilion	CROSSING(PRIVATE)	at-grade	local
Vermilion	CROSSING(PRIVATE)	at-grade	local
Vermilion	LAKE RD	under road	-----
Vermilion	OVERLOOK RD	at-grade	local
Vermilion	WOODSIDE AVE	at-grade	local
Vermilion	PRIVATE RD	at-grade	local
Vermilion	HELEN DR	at-grade	local
Vermilion	WATERWAY	over river	water
Vermilion	SHEPHERDS RUN	over road	-----
Lorain	SUGAR RUN	over road	-----
Lorain	BEAVER CREEK	over river	water
Lorain	PRIVATE ST	at-grade	local
Lorain	MARTIN RUN	over road	-----
Lorain	SR6 & SR2 (ERIE AVE	over road	-----
Lorain	LEAVITT RD	at-grade	8950
Lorain	OBERLIN AVE	at-grade	11350
Lorain	WASHINGTON ST	at-grade	4600
Lorain	LONG ST	at-grade	local
Lorain	BROADWAY AVE	under road	-----
Lorain	REID AVE	at-grade	3650
Lorain	BLACK RIVER	over river	water
Lorain	COLORADO AVE	at-grade	8150
Lorain	ROAD & PEDESTRIAN	over road	-----
Lorain	KANSAS AVE	at-grade	4850
Lorain	MISSOURI AVE	at-grade	3800
Lorain	EUCLID AVE	at-grade	2300
Lorain	ROOT RD	at-grade	3150
Sheffield Vil	GYPSUM CO SPUR	at-grade	local
Sheffield Vil	LAKE BREEZE RD	at-grade	4650
Sheffield Vil	HARRIS RD	at-grade	5100
Sheffield Vil	ABBE RD	over road	9050
Avon Lake	FORD TRACK	rail-to-rail	-----
Avon	MILLER RD	at-grade	6400
Avon	CEI COMPANY	rail-to-rail	-----
Avon Lake	MOORE RD	at-grade	7250
Avon	AVON BELDEN RD	at-grade	10750
Avon	JAYCOX RD	at-grade	2850
Avon	NAGLE RD	at-grade	2400
Avon	CROSSING(PRIVATE)	at-grade	local
Avon	CROSSING(PRIVATE)	at-grade	local
Avon	CROSSING(PRIVATE)	at-grade	local
Bay Village	WATERWAY	over river	water
Bay Village	BRADLEY RD	at-grade	8100

Bay Village	BASSETT RD	at-grade	5300
Bay Village	CAHOON RD	at-grade	3350
Bay Village	CAHOON CREEK	over river	water
Bay Village	DOVER CENTER RD	at-grade	9500
Bay Village	COLUMBIA RD	at-grade	12700
Westlake	CLAGUE RD	under road	-----
Westlake	DOVER CREEK	over river	water
Rocky River	WATERWAY	over river	water
Rocky River	ELMWOOD RD	at-grade	local
Rocky River	WAGAR RD	at-grade	3950
Rocky River	MOREWOOD PKY	at-grade	local
Rocky River	SMITH COURT	over road	-----
Rocky River	LINDA ST	at-grade	2750
Rocky River	"RAMP "B""	under road	-----
Rocky River	BLOUNT STREET	over road	-----
Lakewood	ROCKY RIVER	over river	water
Lakewood	SLOANE SUBWAY	over road	-----
Lakewood	VISTA STREET FOOT BR	under road	-----
Lakewood	W CLIFTON BLVD	over road	-----
Lakewood	WEBB RD	at-grade	local
Lakewood	GRANGER AVE	at-grade	local
Lakewood	BONNIEVIEW AVE	at-grade	local
Lakewood	EDWARDS AVE	at-grade	local
Lakewood	ETHEL AVE	at-grade	local
Lakewood	HALL AVE	at-grade	local
Lakewood	WESTLAKE AVE	at-grade	local
Lakewood	CRANFORD AVE	at-grade	local
Lakewood	BROCKLEY AVE	at-grade	local
Lakewood	SUMMIT AVE	at-grade	1250
Lakewood	LAKELAND AVE	at-grade	local
Lakewood	ANDREWS AVE	at-grade	local
Lakewood	GLADYS AVE	at-grade	local
Lakewood	COOK AVE	at-grade	local
Lakewood	WARREN RD	at-grade	5850
Lakewood	ST CHARLES AVE	at-grade	local
Lakewood	BELLE AVE	at-grade	3400
Lakewood	MARLOWE AVE	at-grade	local
Lakewood	MANOR PARK AVE	at-grade	local
Lakewood	BUNTS RD	at-grade	5450
Lakewood	GIEL AVE	at-grade	local
Lakewood	NICHOLSON AVE	at-grade	local
Lakewood	THOREAU RD	at-grade	local
Lakewood	COVE AVE	at-grade	local
Lakewood	BEACH AVE	at-grade	local
Lakewood	FRY AVE	at-grade	local
Lakewood	HIRD AVE	at-grade	local
Cleveland	W117TH ST	at-grade	12750
Cleveland	W116TH ST	at-grade	local
Cleveland	W114TH ST	at-grade	local
Cleveland	W112TH ST	at-grade	local
Cleveland	W111TH ST	at-grade	local

Cleveland	W110TH ST	at-grade	3550
Cleveland	CONRAIL	rail-to-rail	-----
Cleveland	DETROIT AVE	under road	-----
Cleveland	W96TH ST	under road	-----
Cleveland	W85TH ST	under road	-----
Cleveland	W79TH ST FOOT BRIDGE	under road	-----
Cleveland	W77TH ST	under road	-----
Cleveland	W74TH ST	under road	-----
Cleveland	W65TH ST	under road	-----
Cleveland	MADISON AVE	under road	-----
Cleveland	W61ST FOOT BRIDGE	under road	-----
Cleveland	LORAIN RD	under road	-----
Cleveland	W58TH ST	under road	-----
Cleveland	W53RD ST	under road	-----
Cleveland	W44TH ST	under road	-----
Cleveland	W41TH ST	under road	-----
Cleveland	PEDESTRIAN ACCESS	under road	-----
Cleveland	FULTON RD	under road	-----
Cleveland	RTA RAPID TRANS	rail to rail	-----
Cleveland	WALWORTH AVE	over road	-----
Cleveland	W25TH ST	under road	-----
Cleveland	WILLEY AVE	over road	-----
Cleveland	SCRANTON RD	over road	-----
Cleveland	ABBEY AVE	under road	-----
Cleveland	CUYAHOGA RIVER	over river	water
Cleveland	I90	under road	-----
Cleveland	W3RD ST	over road	-----
Cleveland	CANAL RD	over road	-----
Cleveland	WATERWAY	over river	water

NS PITTSBURGH

Existing Trains per Day 12

Estimated Future Trains per Day 27

Jurisdiction	Feature Intersected	Type of Intersection	If at-grade 93 Count
Cleveland	E26TH ST	at-grade	4000
Cleveland	I90	over road	-----
Cleveland	E33RD ST	over road	-----
Cleveland	HAMILTON AVE	over road	-----
Cleveland	ST CLAIR AVE	over road	-----
Cleveland	SUPERIOR AVE	over road	-----
Cleveland	PAYNE AVE	over road	-----
Cleveland	E40TH ST	over road	-----
Cleveland	HOUGH AVE	over road	-----
Cleveland	PERKINS AVE	over road	-----
Cleveland	CHESTER AVE	over road	-----
Cleveland	EUCLID AVE	over road	-----
Cleveland	SUBWAYFRT ST	over road	-----
Cleveland	CARNEGIE AVE	over road	-----
Cleveland	CEDAR AVE	over road	-----
Cleveland	PED TUNNEL	over road	-----
Cleveland	CENTRAL AVE	over road	-----
Cleveland	E71ST ST	over road	-----
Cleveland	PLATT AVE	over road	-----
Cleveland	WOODLAND AVE	over road	-----
Cleveland	E79TH ST	over road	-----
Cleveland	NS RR	rail-to-rail	-----
Cleveland	GRAND AVE	over road	-----
Cleveland	HOLTON AVE	over road	-----
Cleveland	RTA CROSSING	at-grade	local
Cleveland	KINSMAN RD	under road	-----
Cleveland	BESSEMER RD	at-grade	1400
Cleveland	CROSSING	rail-to-rail	-----
Cleveland	UNION AVE	under road	-----
Cleveland	AETNA RD	at-grade	4300
Cleveland	NS CROSSING	rail to rail	-----
Cleveland	BOOTH AVE	over road	-----
Cleveland	HARVARD AVE	over road	-----
Cleveland	BROADWAY AVE	over road	-----
Cleveland	WARNER RD	under road	-----
Cleveland	E93RD ST/BROADWAY	under road	-----
Garfield Hts	MILL CREEK	over river	water
Garfield Hts	MILL CREEK	over river	water
Garfield Hts	BROADWAY AVE	under road	-----
Garfield Hts	MILL CREEK	over river	water
Garfield Hts	MCCRACKEN RD	at-grade	3750
Maple Hts	I480	under road	-----
Maple Hts	SR 17/LIBBY RD	under road	-----
Maple Hts	ROCKSIDE RD	under road	-----

Bedford	WOOD CREEK	over river	water
Bedford	W. GLENDALE	at-grade	local
Bedford	W. GRACE ST	at-grade	6300
Bedford	POWERS RD	over road	-----
Bedford	EGBERT RD	under road	-----
Walton Hills Vil	NORTHFIELD RD	under road	-----
Walton Hills Vil	ALEXANDER RD	over road	-----

East Cleveland	COLLAMER ST	over road	-----
East Cleveland	NOBLE RD	over road	-----
East Cleveland	CROSSING(PRIVATE)	at-grade	local
Cleveland	WATERWAY	over river	water
East Cleveland	IVANHOE RD	over road	-----
Cleveland	LONDON RD	at-grade	3050
Cleveland	WAYSIDE RD	at-grade	1300
Euclid	WATERWAY	over river	water
Cleveland	CROSSING(PRIVATE)	at-grade	local
Euclid	CROSSING(PRIVATE)	at-grade	local
Euclid	CROSSING(PRIVATE)	at-grade	local
Euclid	DILLE RD	at-grade	14750
Euclid	EUCLID CREEK	over river	water
Euclid	CROSSING(PRIVATE)	at-grade	local
Euclid	CHARDON RD	at-grade	8650
Euclid	CROSSING(PRIVATE)	at-grade	local
Euclid	CROSSING(PRIVATE)	at-grade	local
Euclid	CROSSING(PRIVATE)	at-grade	local
Euclid	E222ND ST	over road	-----
Euclid	CROSSING(PRIVATE)	at-grade	local
Euclid	CROSSING(PRIVATE)	at-grade	local
Euclid	CROSSING(PRIVATE)	at-grade	local
Euclid	CROSSING(PRIVATE)	at-grade	local
Euclid	BABBITT RD	over road	-----
Euclid	E260TH ST	over road	-----
Euclid	CROSSING(PRIVATE)	at-grade	local
Euclid	I90	under road	-----
Wickliffe	DEPOT RD	at-grade	local
Wickliffe	LLOYD RD	at-grade	8750
Wickliffe	CROSSING(PRIVATE)	at-grade	local
Wickliffe	CROSSING(PRIVATE)	at-grade	local
Wickliffe	WARDEN RD	over road	-----
Willowick	E305TH ST	at-grade	16000
Willoughby	SR91 SOM CENTER RD	under road	-----
Willoughby	BEIDLER RD	at-grade	local
Willoughby	VINE ST	over road	-----
Willoughby	CHURCH ST	at-grade	local
Willoughby	ERIE ST	at-grade	9950
Willoughby	CHAGRIN RV	over river	water
Willoughby	PELTON RD	at-grade	5100
Mentor	SR306 REYNOLDS RD	over road	-----
Mentor	CENTER ST	under road	-----
Mentor	HART ST	at-grade	local
Mentor	MAPLE ST	at-grade	local
Mentor	STATION ST	at-grade	3450
Mentor	PATTERSON DR	at-grade	local
Mentor	HOPKINS RD	at-grade	13000
Mentor	HEISLEY RD	at-grade	12550
Mentor	HEISLEY CREEK	over river	water
Painesville Twp	JACKSON ST	at-grade	8700
Painesville	MENTOR AVE	at-grade	17700

Painesville	SR 44	over road	
Painesville	CHESTNUT ST	at-grade	5450
Painesville	LIBERTY ST	at-grade	5950
Painesville	CROSSING(PRIVATE)	at-grade	local
Painesville	HOYT ST	at-grade	local
Painesville	STATE ST	at-grade	4050
Painesville	BANK ST	at-grade	4150
Painesville	SR84 WALNUT ST	over road	
Painesville	RIVERSIDE DR	at-grade	local
Painesville Twp	MADISON AVE	at-grade	3700
Painesville Twp	PARK RD	at-grade	local
Perry Twp	LANE RD	at-grade	1550
Perry Twp	KEENER RD	at-grade	local
Perry Twp	SHEPPARD RD	at-grade	2450
Perry Vil	MAPLE ST	at-grade	650
Perry Vil	MAIN ST	at-grade	1550
Perry Twp	DAVIS RD	at-grade	local
Perry Twp	MCMACKIN CREEK	over river	water
Madison Twp	TOWN LINE RD	at-grade	local
Madison Twp	WOOD RD	at-grade	700
Madison Twp	CROSSING(PRIVATE)	at-grade	local
Madison Twp	CROSSING(PRIVATE)	at-grade	local
Madison Twp	CROSSING(PRIVATE)	at-grade	local
Madison Vil	DAYTON RD	at-grade	local
Madison Vil	LAKE ST	at-grade	10350
Madison Vil	SAFFORD ST	at-grade	local
Madison Vil	BATES RD	at-grade	local
Madison Twp	ARCOLA CREEK	over river	water
Madison Twp	CROSSING(PRIVATE)	at-grade	local
Madison Twp	COUNTY LINE RD	at-grade	1600

CURRENT STATUS OF NOACA'S COMMUTER RAIL STUDY

Attached drawing shows all of the rail corridors considered in the initial screening of commuter rail. At the January 22, 1998 NOACA Transportation Advisory Committee meeting, it was recommended to the Governing Board that the corridors screened by the NOACA Commuter Rail Advisory Committee be selected for full feasibility analysis. See attached map and table. The feasibility of commuter rail is closely related to the operating plan ultimately chosen for northeast Ohio.

NOACA Commuter Rail Advisory Committee

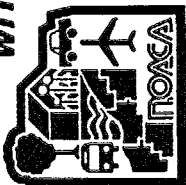
Results of Phase I Screening Analysis

Corridors/Alignments recommended for Full Feasibility Analysis:

1a/b. Lake West	Cleveland - Lorain (Sandusky)	NS
2a. West	Cleveland - Elyria (Oberlin)	CR (NS)
3b. Southwest	Cleveland - Medina	CSX
3c. Southwest	Cleveland - Medina	I-71
4d. South	Cleveland - Akron	CR/Sum
4e. South	Cleveland - Akron	WLE/Sum
4f. South	Cleveland - Akron	Randall/WLE
4k. South	Akron - Canton	Sum
6a. East	Cleveland - Aurora	Randall
7. Lake East	Cleveland - Ashtabula (Conneaut)	CR (CSX)/NS
9b/c. Outer Crescent	Wadsworth - Akron - Kent	CR/Sum
Cleveland CBD	North Coast Transportation Center	
Cleveland CBD	Location close to Tower City	

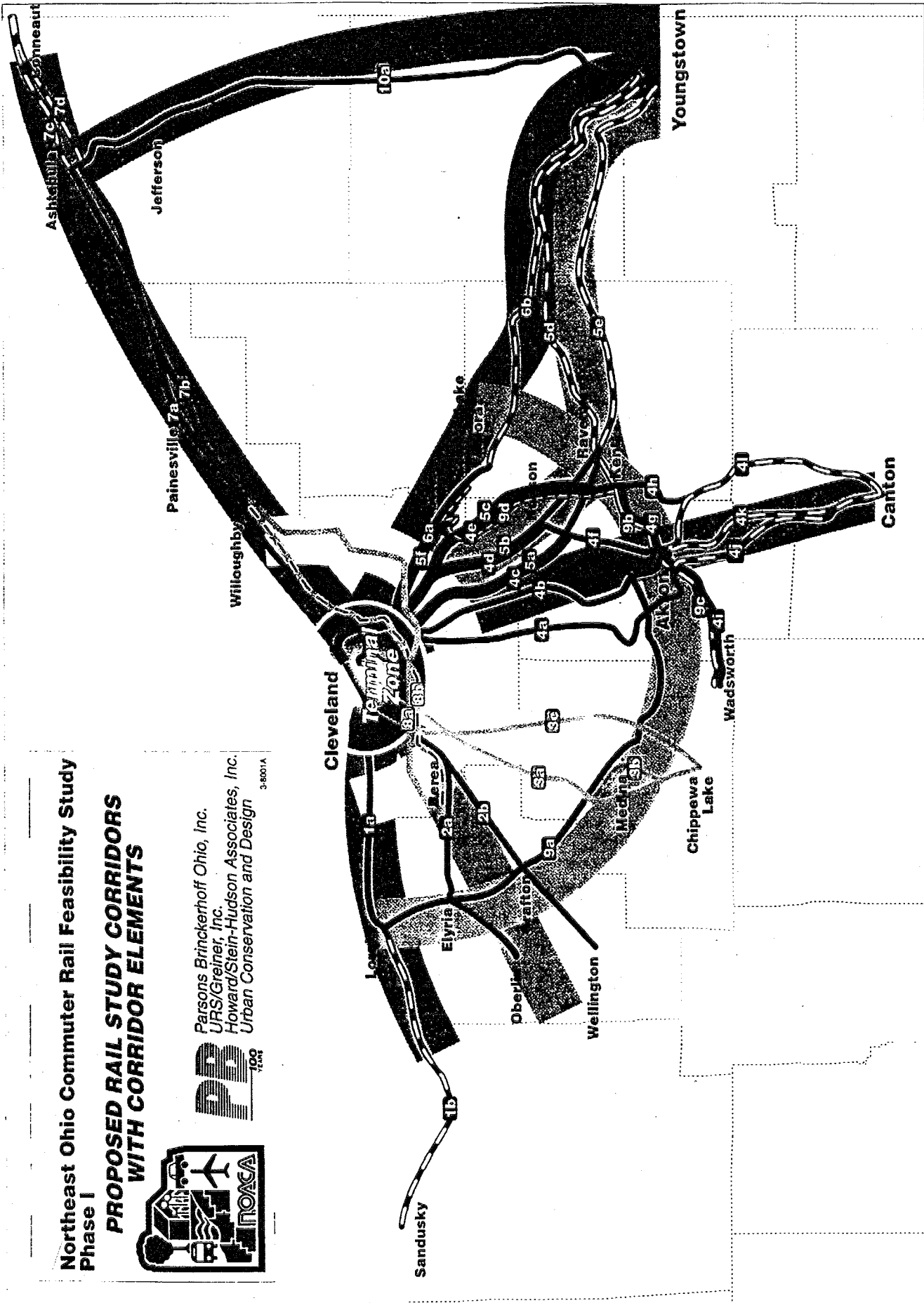
**Northeast Ohio Commuter Rail Feasibility Study
Phase I**

**PROPOSED RAIL STUDY CORRIDORS
WITH CORRIDOR ELEMENTS**



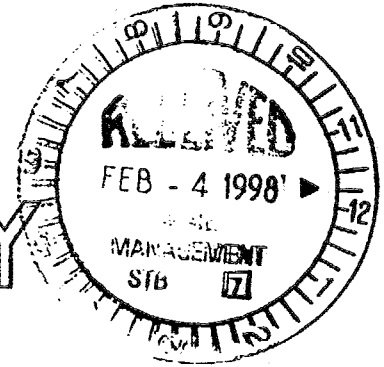
Parsons Brinckerhoff Ohio, Inc.
URS/Greiner, Inc.
Howard/Stein-Hudson Associates, Inc.
Urban Conservation and Design

3-8001A



ENVIRONMENTAL
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DOCUMENT #21498 4:39:45 PM



COPY

Ms. Elaine K. Kaiser
Chief
Section of Environmental Analysis
Surface Transportation Board
Washington, DC 20423

January 30, 1998

Dear Ms. Kaiser,

I am writing on behalf of Ohio Canal Corridor, a grassroots non-profit organization whose mission is to develop the Ohio & Erie Canal National Heritage Corridor from Cleveland to Zoar, Ohio. The prime area of our concern lies in Cuyahoga County; as such, I will limit my comments to this area.

As it concerns the proposed merger, Ohio Canal Corridor is worried that increased train traffic would eliminate a beneficial community project in the Broadway/Warner/Turney area. There, the rail track is aligned alongside the 45 foot Mill Creek Waterfall. A community plan illustrates an opportunity to rediscover the waterfall by providing access with a trail to a nearby metropolitan park, Garfield Park. The community plan depicts direct access along the train corridor to a series of decks and platforms from which the public could view the falls.

This same plan shows a commuter train stop near the Broadway/Turney intersection. Since the falls is expected to be a prime destination attraction in our evolving national heritage corridor, the rail link would allow easy and practical access to it and the park system.

The Mill Creek Waterfall represents the center of early settlement in Cleveland. Before the construction of the canal, more people lived here than in the city of Cleveland.

A second concern involves opportunities gained through a merger and centers on the extension of the Cuyahoga Valley Scenic Railroad from its current northern end point at Rockside Rd. to Tower City in Cleveland's Flats. A merger deal that results in surplus trackage from Rockside Rd. through LTV to Tower City would enable the Scenic Railroad to complete a downtown Cleveland connection. This connection is vital to the growth of the Scenic Railroad and to the fulfillment of its mission as the only scenic railroad in America to link to the urban center of a major city.

Any merger of this proportion is laced with pains of change. It is my hope that any agreements reached will look to further community projects that add to the quality of life, while mitigating to highest degree possible the issues of noise and air quality.

Sincerely,
Tim Donovan
Tim Donovan
Director

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Dollar Bank

Cheryl Stephens
National Development Council

EMERITUS

- Michael Giangrande
- Jeffrey Lennartz
- Walter Robertson
- Thomas N. Tyrrell

STAFF

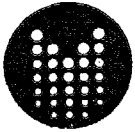
Tim Donovan
Director

NS BUFFALO

Existing Trains per Day 13

Estimated Future Trains per Day 38

Jurisdiction	Feature Intersected	Type of Intersection	If at-grade 1993 Count
Cleveland	BROADWAY AVE	under road	-----
Cleveland	E34TH ST	under road	-----
Cleveland	E37TH ST	over road	-----
Cleveland	I77	under road	-----
Cleveland	CROSSING(PRIVATE)	at-grade	local
Cleveland	E55TH ST	under road	-----
Cleveland	KINSMAN RD	under road	-----
Cleveland	E75TH ST	under road	-----
Cleveland	CROSSING(PRIVATE)	at-grade	local
Cleveland	E79TH ST	under road	-----
Cleveland	BUCKEYE RD	under road	-----
Cleveland	WOODLAND AVE	under road	-----
Cleveland	89TH ST	under road	-----
Cleveland	E93RD ST	under road	-----
Cleveland	CROSSING(PRIVATE)	at-grade	local
Cleveland	QUINCY AVE	under road	-----
Cleveland	E105TH ST	under road	-----
Cleveland	CONRAIL RR	rail-to-rail	-----
Cleveland	STOKES BLVD	under road	-----
Cleveland	MLK BLVD	under road	-----
Cleveland	CEDAR RD	over road	-----
Cleveland	ADELBERT RD	under road	-----
Cleveland	CORNELL RD	under road	-----
Cleveland	MAYFIELD RD	over road	-----
Cleveland	EUCLID AVE	over road	-----
East Cleveland	LAKEVIEW AVE	over road	-----
East Cleveland	AUBURNDALE AVE	over road	-----
East Cleveland	HOWER AVE	over road	-----
East Cleveland	DELMONT AVE	over road	-----
East Cleveland	ELBERON AVE	over road	-----
East Cleveland	CARLYON RD	over road	-----
East Cleveland	LOCKWOOD AVE	over road	-----
East Cleveland	SUPERIOR AVE	over road	-----
East Cleveland	WATERWAY	over river	water
East Cleveland	EDDY RD	over road	-----
East Cleveland	LAKEFRONT AVE	over road	-----
East Cleveland	HOLYOKE AVE	over road	-----
East Cleveland	ELSINORE AVE	over road	-----
East Cleveland	RTA ROADWAY	rail-to-rail	-----
East Cleveland	DOAN AVE	over road	-----
East Cleveland	NORTHFIELD RD	over road	-----
East Cleveland	STRATHMORE AVE	over road	-----
East Cleveland	SHAW AVE	over road	-----
East Cleveland	COIT AVE	over road	-----



ASSOCIATED
ESTATES
MANAGEMENT
COMPANY

ENVIRONMENTAL DOCUMENT

CENTRAL ADMINISTRATIVE UNIT

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DOCUMENT # 2/19/98 11:11:53 AM

January 30, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington D.C. 20423-0001

Dear Ms. Kaiser,

I am writing to you regarding grave concerns I have related to the proposed radically increased routing of train traffic through University Circle by CSX and Norfolk Southern.

I manage over 625 suites and 70,000 square feet of office and retail establishments some directly adjacent to and others in close proximity to the Mayfield Road elevated tracks.

Over 400 of my residents live in low income HUD subsidized properties for the elderly and handicapped and low income families. Abington Arms, a HUD Building for low income elderly and handicapped, is located less than 500 feet from the elevated tracks.

I do not believe that the data provided by CSX and NS sufficiently relates the negative impact of increased traffic of approximately 20 some trains a day to 80 plus trains a day. While the added noise alone for elevated tracks is of concern, my greater concern is the heavy increase of pollutants that not only significantly impact air quality, but may in fact be introducing carcinogenic and other pollutants with wide reaching medical repercussions.

With the increased transportation of toxic waste, comes the increased potential for the devastating effect of a major spill which would occur in this densely populated area.

5025 Sweetland Court

Richmond Hts., Ohio 44143

Phone 216-261-5000

Fax 216-289-9600

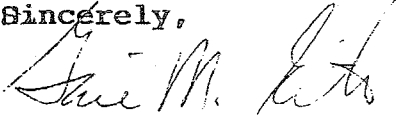
A-409-a

You may not be aware of the unique nature of University Circle. Directly adjacent to the rail line is the historic community of Little Italy and nationally renowned hospitals and university. The Circle is home to many cultural institutions including, the world renowned Cleveland Museum of Art and the Cleveland Orchestra. The Circle is also the home of an additional 1200 HUD subsidized suites for the elderly, as well as many conventional apartments and businesses. Studies show that upwards of 30,000 people populate the Circle on any given day.

On behalf of myself, my residents and neighbors, I urge you to demand from the train companies more inclusive information on the adverse affects. I further urge you to support the alternate plans proposed by Mayor Michael R. White, which takes the additional traffic through the industrial corridors with minimal impact upon the residential neighborhoods.

I believe an open meeting with yourself and the residents and institutions of University Circle will enable you to make a more informed decision that would best benefit the community as a whole.

Sincerely,



Gail M. Eovito
Senior Property Manager

ATTN: Elain K. Kaiser,
Enviromental Project Director
Enviromental Filing

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/10/98

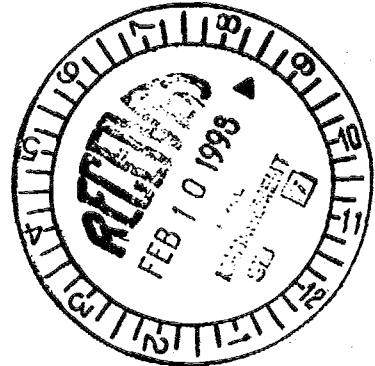
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January 30, 1998

To: Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, D.c. 20423-0001

From: Ben Gleason
4808 Timberview Drive
Vermilion, Ohio 44089



Subject: Railroad train traffic expansion.

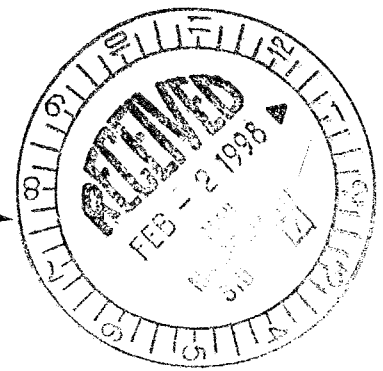
Dear Sir:

Often people, companies, towns, cities, townships, get all excited about changes that they perceive will benefit the community or their companies. These ideas become all encompassing and become almost tunnel vision. They allow big development for tax revenue but they forget what happens with no regard for the excessive traffic. The results is accidents almost weekly.

This problem will occur if you allow railroad traffic expansion. The railroads want profits. Those profits should not be at the expenses or inconvenience of the community people.

A handwritten signature in black ink, appearing to be "Ben Gleason", written in a cursive style. The signature is enclosed within a circular scribble.

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300 Central Union Plaza
Toledo, OH 43602

ENVIRONMENTAL DOCUMENT

January 30, 1998

P.O. Box 9508
Toledo, OH
43697-9508
419-241-9155
Fax 419-241-9116

Office of the Secretary
Case Control Unit
Finance Docket # 33388
Surface Transportation Board
1925 K Street NW
Washington, D.C. 204243

ATTN: Elaine K. Kaiser, Chief - Section of Environmental Analysis (SEA),
Environmental Filing

Chair:
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City of Maumee

Vice-Chair:
James F. Carter
Commissioner
Wood County

2nd Vice-Chair:
Kathleen M. Steingraber
Trustee
Lake Township

Executive Director:
William L. Knight

Dear Board Members:

The Toledo Metropolitan Area Council of Governments (TMACOG) hereby submits the enclosed comments on the Draft Environmental Impact Statement (DEIS) on the Conrail acquisition by Norfolk Southern (NS) and CSX. TMACOG appreciates the efforts of SEA to address the difficult task involved in documenting the impacts of such a large transaction on the myriad of local communities affected. We have reviewed the DEIS with representatives of our communities and support those conclusions. We recommend the implementation of the mitigation measures recommended particularly the noise mitigation measures for several listed corridors, the improvements related to the new connections in our area, and better inspections and emergency response plans. We feel, however, there were several significant omissions in the analysis and recommendations.

Specifically, our representatives felt strongly that the recommendations of the DEIS were not adequate in three specific areas. The first of these is NS and CSX must be required to share the substantial financial burden that the proposed changes will place on local communities regarding purchasing equipment to deal with potential hazardous materials emergencies. The second omission was that NS and CSX must be required to share the financial burden to grade separate three (3) roadways required for emergency routes to areas of Fostoria, Ohio. These are effectively "landlocked" for substantial portions of every day use due to increased train traffic and conflicts of train movements because of the changes proposed. Finally, CSX and NS must be required to augment the inadequate amount of funding currently available to implement the crossing protection upgrades called for by the DEIS in northwest Ohio.

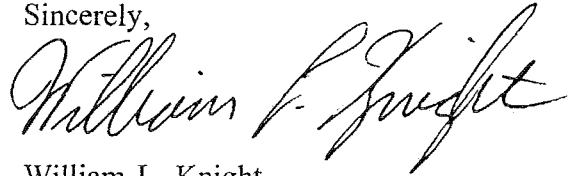


In addition, there are two issues that our representatives feel, very strongly, needs to be addressed but realize they are not directly related to the changes brought about by this transaction. We have submitted those issues to request any assistance that STB might be able to suggest and to see that they are addressed. These are:

- 1) the continued raising of rail lines over level terrain (during maintenance/rehabilitation) that has resulted in very unsafe steep at-grade crossings; and,
- 2) the increased propensity of trains to barely "hang over" crossings and block them unnecessarily because engine crews do not know the exact position of the last car on the train since the elimination of cabooses.

Enclosed are the original and 10 copies of our statement. Also enclosed is a 3.5" diskette containing the document in WordPerfect format.

Sincerely,



William L. Knight
Executive Director

DRD:WLK:dfs

Enclosure: Comments of the Toledo Metropolitan Area Council of Governments on the
Draft Environmental Impact Statement
- Proposed Conrail Acquisition (Finance Docket No. 33388)

COMMENTS OF THE TOLEDO METROPOLITAN AREA COUNCIL OF
GOVERNMENTS
ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
- PROPOSED CONRAIL ACQUISITION (FINANCE DOCKET NO. 33388)

Page 1 of 4

Summary of Comments - Our comments are summarized in the six points below. More detailed comments follow.

1. There will be a substantial increase of hazardous materials transported through several communities in our area as outlined by SEA in the DEIS. These communities will have to upgrade their capabilities to respond to potential emergencies involving these cargos including training, purchase of suits, and other very expensive equipment. We strongly support the requirement for training sessions. Further, we urge the Board to require the railroads to share the financial burden with our local communities of the purchase of additional training and safety equipment that the rail changes will necessitate. A statewide or regional fund, underwritten by the railroads, should be put in place to hold and distribute these funds. Specific communities identified in Table 5-OH-10 include the following in our area: Oak Harbor (600% increase), Fostoria (216 to 800% increase on lines), Fremont (600%), Clyde (600%), and Wood County (216 to 414% increase on lines). Table 5-MI-9 in Michigan lists Monroe County (221% increase).
2. The DEIS does not adequately evaluate the negative impact on community safety of delays at blocked crossings for emergency vehicles trying to reach areas "landlocked" by increased train traffic in Fostoria, Ohio. STB must require NS and CSX to share the financial burden to build grade separations at Town Street, Tiffin Street, and Jones Road to serve these areas. The City of Fostoria and State of Ohio are also submitting comments on this issue.
3. We concur with the SEA on the need for crossing protection upgrades in our area that they list in the DEIS in Table 5-OH-9. We believe, however, that STB must require CSX and NS to contribute funding to augment the limited amount of funding already available to complete these improvements. We applaud the agreement already reached with CSX and PUCO for improvements on the current CSX main line but many other crossings also need improvement.
4. We urge the Board, as a condition of approval of the application, to direct CSX and NS to implement noise control measures on the three rail line segments analyzed for noise in our area. These are: C-065 Toledo to Deshler; N-079 Oak Harbor to Bellevue; and, S-020 Carleton to Ecorse. In addition the noise measures should be extended from Carleton to Toledo.
5. We support the recommendations of the SEA relative to connections at Oak Harbor, and Vermillion to eliminate the grade differentials and improve crossing protection and ask that this be required as a condition of Board approval and not simply directing NS to "consider" this.
6. We concur and strongly support implementation of the other mitigation measures that affect our area including increased track inspections, better mechanical inspections, "key route" improvements, and development of emergency response plans and simulations.

COMMENTS OF THE TOLEDO METROPOLITAN AREA COUNCIL OF
GOVERNMENTS
ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
- PROPOSED CONRAIL ACQUISITION (FINANCE DOCKET NO. 33388)

Page 2 of 4

Background

The Toledo Metropolitan Area Council of Governments (TMACOG) is a voluntary association of local governments composed of counties; municipalities; townships; the Toledo-Lucas County Port Authority; the Toledo Area Regional Transit Authority; and other special districts and authorities; and school districts in Erie, Lucas, Ottawa, Sandusky and Wood Counties in Ohio, and Monroe County in Michigan. TMACOG is established under the provisions of Chapter 167 of the Ohio Revised Code and Michigan Public Act No. 7. TMACOG is responsible for planning and intergovernmental relations in several areas including transportation, water quality, air quality, energy, housing, regional development, federal grant review and comment, rural development, and urban revitalization. TMACOG has been designated by federal and state agencies in each of these categories.

TMACOG represents the interest of local units of government with regard to transportation, community development, and redevelopment issues of regional significance and provides planning expertise on these issues. Specifically, because of the significant implications of the proposed acquisition of Conrail and related rail transportation issues on the region, the Board of Trustees directed staff to develop an appropriate response to this issue working with and through a Board subcommittee known as the Railroad Task Force. Representatives of the cities, villages, counties and others affected by the sale of Conrail were participants in developing these comments.

After much deliberation and several public forums on this issue the TMACOG Railroad Task Force on January 15, 1998 directed staff to present this position to Surface Transportation Board.

Comments

1. Hazardous Materials: Members of TMACOG are very concerned with the shifting of these cargos to different routes than at present and increasing the amount of hazardous materials on rail lines. The DEIS listed nine line segments in our area with significantly increased car loads of Hazardous Materials. Increases on these lines range from 116% to 700%. These segments will impact several communities in our area. Specific communities identified in Table 5-OH-10 in our area in Ohio include: Oak Harbor (500% increase), Fostoria (116 to 700% increase on lines), Fremont (500%), Clyde (500%), and Wood County (116 to 314% increase on lines). In 5-MI-9 in Michigan Monroe County (121% increase) is listed. Because of this greatly increased exposure local emergency response personnel will need to upgrade their capability to respond to potential emergencies involving these cargos including training, purchase of suits, and other very expensive equipment.

1. Mitigation: CSX and NS must be required to provide funding for equipment and training for emergency service providers at various locations in our region. These providers will furnish HazMat response in multi-jurisdictional areas (through mutual aid agreements) to provide coverage of the entire area. The funding provided by the railroads could underwrite a statewide or regional fund put in place to hold and distribute these funds in the most efficient manner. We also strongly support the requirement for training provided by the railroads as listed in the DEIS.

COMMENTS OF THE TOLEDO METROPOLITAN AREA COUNCIL OF
GOVERNMENTS
ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
- PROPOSED CONRAIL ACQUISITION (FINANCE DOCKET NO. 33388)

Page 3 of 4

2. Fostoria Emergency Response Issue: Train traffic will increase on all six rail segments entering Fostoria and conflicts/interactions between the lines will also increase significantly. The DEIS does not evaluate the deleterious impact on community safety of delays at blocked crossings relative to access by emergency vehicles to areas "landlocked" by increased train traffic. There are several neighborhood areas that will be in the triangular areas between very busy lines. The attached map highlights these areas. Access to these neighborhoods is across these very busy lines with crossings at locations that will be blocked by trains waiting for a green signal through the Fostoria control points or proceeding very slowly through complex track work. These areas could be potentially completely blocked from access by City emergency response teams with access only from unincorporated adjacent areas without these services nearby.

2. Mitigation: STB must require NS and CSX to share the financial burden to build grade separations at Town Street, Tiffin Street, and Jones Road to serve these areas. The attached map shows the location of these proposed grade separations. In addition to primary access to the landlocked areas the grade separations will also allow the railroads to improve their train traffic congestion problems and, once grade separations are in place, would allow the closure of nearby local streets further improving safety. The City of Fostoria and State of Ohio comments also address this issue.

3. Grade Crossing Protection Upgrades Issue: We concur with the DEIS in the need for upgraded crossing protection on lines experiencing large growth in the number of trains. There are 20 locations identified in the TMACOG area. Many of these currently only have crossbucks and will need upgraded to lights and gates. The funding for crossing protection upgrades in the State of Ohio is already inadequate to deal with the many crossings that need to be upgraded. The addition of these locations only exacerbates this situation.

3. Mitigation: STB must require CSX and NS to contribute funding to augment federal and state resources to complete the required crossing protection upgrades. They could contribute the funding annually over a certain period of years to underwrite a state or regional fund to complete these improvements. We do wish to acknowledge and applaud CSX for its agreement with the Public Utilities Commission of Ohio to upgrade crossings along the CSX main line in northwest Ohio.

4. Noise Issues: Three line segments in our area meet the DEIS threshold for noise mitigation and will indeed be severely impacted especially Oak Harbor. In the limited time of review of the DEIS local communities along the line have not reached agreement with the railroads involved as to appropriate mitigation measures. In addition, Monroe County has identified significant impacts on the next line segment south of Carleton (Carleton to Toledo).

4. Mitigation: We urge the Board, as a condition of approval of the application, to direct CSX and NS to implement noise mitigation measures on the three rail line segments analyzed for noise in our area and extend the Michigan corridor south to Toledo.

COMMENTS OF THE TOLEDO METROPOLITAN AREA COUNCIL OF
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Page 4 of 4

5. New Connections Issues: The DEIS evaluates impacts from two new rail connections to be built in our area - Oak Harbor and Vermillion. The SEA concluded on both that a road crossing the new connections at grade would have a “roller coaster” effect from the grades that would result from standard practices of construction. The way to address this is to raise the road between two crossings. SEA recommended that NS “consider” this when designing the new connections.

5. Mitigation: We support the recommendations of the DEIS and ask that the recommendation be required as a condition of Board approval and not simply direct NS to “consider” this.

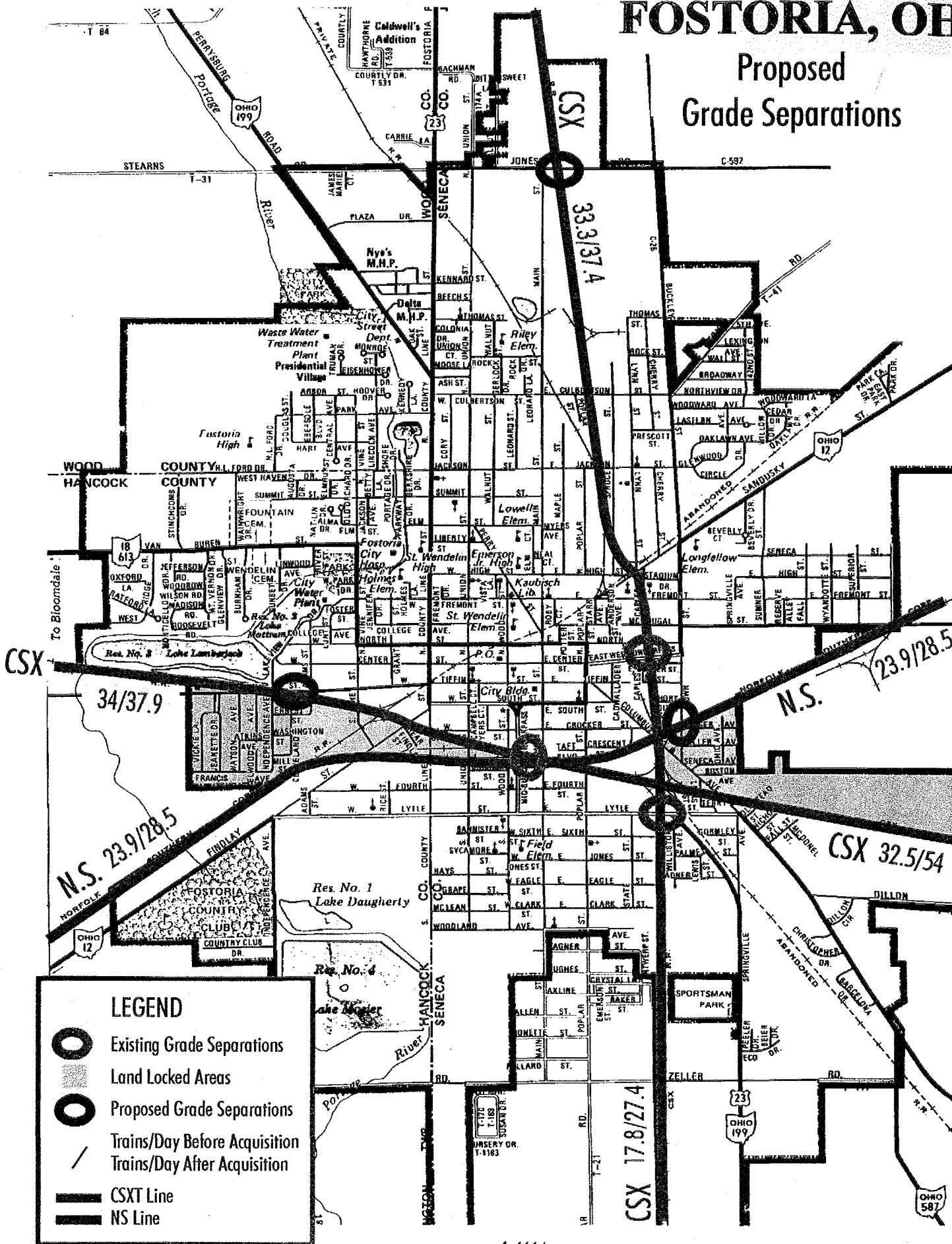
6. Other Mitigation Recommendations: We concur and strongly support implementation of the other mitigation measures outlined in the DEIS that affect our area including increased track inspections, better mechanical inspections, improvements/upgrades to hazardous materials “key routes,” and development of emergency response plans and simulations.

Two Other Issues for Guidance - TMACOG members identified two other issues to request the Board for some guidance. We realize that these are not a direct impact of the transaction evaluated in the DEIS but they are an environmental impact of ongoing rail operations in the area. The first is the issue of raising the level of the railroad track on each round of track maintenance. This is resulting in very steep unsafe grade crossings. Vehicle sight distances are greatly limited. Long wheel base vehicles are at risk to “hang up” on the tracks. This must be an issue throughout many portions of the United States and it must be resolved. Raising the grade of the roadway is an additional financial burden to area road agencies that many cannot meet. Are there measures that can be used to limit the practice of raising the rail level? Is the Board able to help in granting some relief to local road agencies?

The second issue is the lack of information for the train crew on where the end of the train is relative to blocked street crossings. Longer trains are ever more frequently blocking crossings by one or two car lengths as they wait for control signals. Train crews no longer have information on the location of the end of the train. In other locations railroad signals and control block locations that may have been laid out with some sympathy to local communities in the past no longer provide good “parking spaces” for today’s longer trains. Is there some way that these issues can be addressed? We would greatly appreciate any Board action, information or other help that you can provide on these issues.

FOSTORIA, OH

Proposed Grade Separations

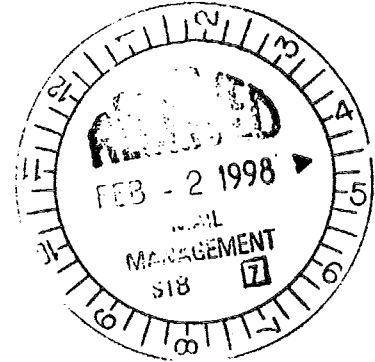




ENVIRONMENTAL DOCUMENT

Forty Years of Ensuring Excellence in University Circle

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 11:42:52 AM



January 30, 1998

Office of the Secretary
Case Control Unit
Finance docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-001

**Re: CSX and Norfolk Southern (NS)
Proposed Acquisition of Conrail**

Dear Office of the Secretary:

University Circle Incorporated (UCI) is the nonprofit planning and service organization for University Circle. **University Circle** is the cultural, medical, and educational center of Cleveland and northeast Ohio – it is one-square mile in size and home to 44 institutions (with an additional 35 institutions in the area immediately adjacent to its boundaries). University Circle is a very unique area, not only to the city of Cleveland but nationally – no other city in the world has such a prominent concentration of institutions. I have enclosed a copy of our current annual report that lists all of these institutions.

I am writing on behalf of many UCI member institutions to document our concern that we have not been afforded the opportunity to meet, raise questions, and obtain specific information about the many potential impacts of the proposed merger of CSX and Norfolk Southern in our community. It is UCI's role to insure that the quality of its environment is not only preserved, but continually improved. The density of the Circle's daily population makes infrastructure matters critical. Note that:

- Our health care institutions serve 1.7 million patients who come to the Circle each year;
- University Circle is an employment center with approximately 26,800 employees (for a point of reference, downtown Toledo draws 25,000 employees daily);

University Circle Incorporated
January 30, 1998
Pg. 2

- 16,400 students are enrolled in Circle educational institutions, the largest of which is Case Western Reserve University;
- More than 5,000 people reside in University Circle; and
- As a major tourist destination, the Circle attracts 2 million visitors annually.

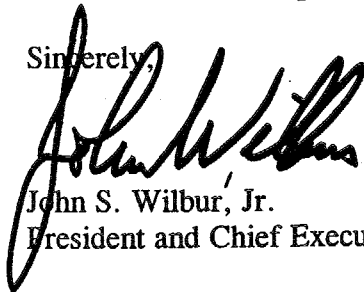
University Circle institutions play a significant economic role in Cleveland. Since 1990, University Circle institutions have invested approximately \$500 million in capital expenditures to build state-of-the-art facilities, and expect to invest more than \$200 million in additional capital expenditures during the next five years.

It is our collective concern that the increased train traffic that will result from the proposed CSX merger will adversely affect our economic progress and plans. We base this on the convictions that the increased traffic will adversely affect air quality; increase noise pollution (which may prove problematic to The Cleveland Orchestra); and bring hazardous materials into the Circle creating the potential need for emergency evacuation in an area with three major hospitals.

Based on the issues identified, UCI and many of its institutions support the city's proposal that alternate routes should be considered that would lessen the impact on residential, business, and other non-industrial neighborhoods of Cleveland. In addition, we believe that representatives of the railroads should meet with members of our community to discuss such impacts.

I strongly encourage you to read the enclosed statements from specific individual institutions addressing their specific concerns.

Sincerely,

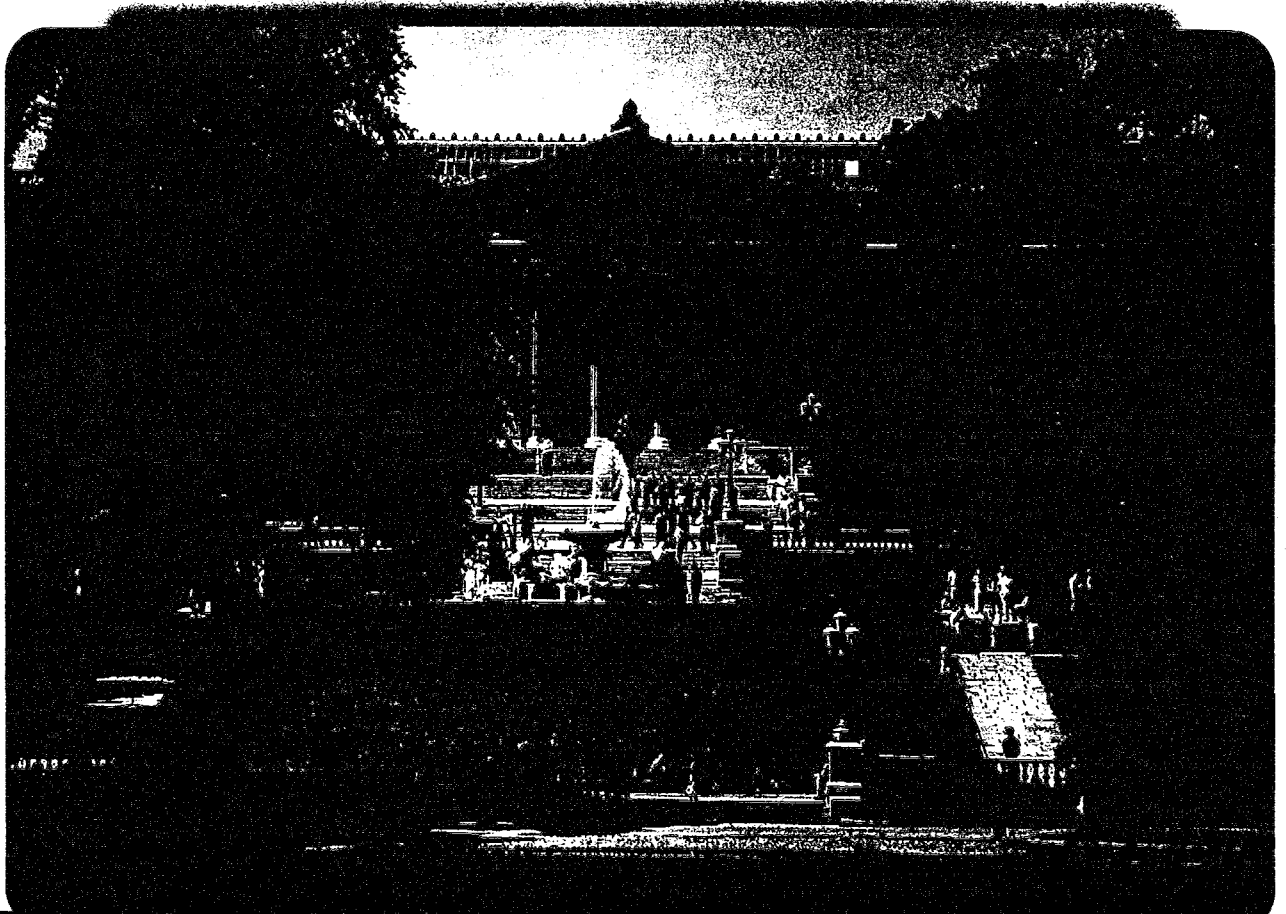


John S. Wilbur, Jr.
President and Chief Executive Officer

Attn: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

University Circle Incorporated

1 9 9 7



community

A-412-a

About University Circle and University Circle Incorporated

The story of University Circle begins with blacksmith Nathaniel Doan, a member of Moses Cleaveland's surveying party that founded our city in 1796. He soon found city living not to his liking and moved his family to a woodland area just five miles to the east along an old Indian trail that would become Euclid Avenue. As Doan's Corners (as it came to be called) flourished, the leading citizens of the day recognized the area's potential and began to create something extraordinary—something that would distinguish our city from all others.

Three significant events shaped the destiny of this location. In 1882, Jephtha H. Wade, founder of the Western Union Telegraph Company, thought the area well enough developed to donate 75 acres of land to the city of Cleveland for a public park and an art gallery. When Western Reserve University moved from Hudson (Ohio) in 1882, railroad tycoon Amasa Stone donated \$500,000 to establish Adelbert College in memory of his son. And, in 1885, real estate magnate Leonard Case, Jr. relocated his Case School of Applied Sciences to the site from downtown.

The streetcar line that served Euclid Avenue made a turnaround at East 107th Street—the stop was called University Circle—and so the area was given its name. By 1900, the colleges and beautiful setting attracted other organizations and an educational and cultural district of note was becoming a reality. As was Jephtha Wade's dream, The Cleveland Museum of Art was built in 1916 overlooking the Wade Park Lagoon. The Cleveland Orchestra was given a permanent home when Severance Hall opened in 1931; that same year, University Hospitals was dedicated.

By 1950, 34 institutions had chosen University Circle as their home—but the Circle was facing some serious challenges. In the words of Mr. Stanley A. Ferguson, then president of University Hospitals: "...after nearly 20 years of depression and war, the institutions in University Circle faced a mammoth need for expansion and improvement... the city's population had grown... people were enjoying more leisure time and were looking for worthwhile ways of spending it... museums, libraries, and concerts were filled as never before... however, expansion was more than a matter of money or determination because there just wasn't enough room, and because the area was becoming built up like a patchwork quilt."

Enter one of Cleveland's most spirited civic leaders, Mrs. William G. Mather, who recognized that University Circle was at a pivotal point. Her vision and generosity made possible the hire of the renowned Boston planning firm of Adams, Howard & Greeley, and after a rigorous 18-month study, the *1957 University Circle Master Plan* was issued. The Plan not only gave direction for the Circle's orderly growth, it did something inspiring: it reaffirmed that Cleveland had succeeded in creating the most impressive concentration of educational, cultural, and medical institutions in the country.

Perhaps the most important recommendation made was to "establish a central organization to administer the Plan and give it some real authority." And so, with full institutional support, the University Circle Development Foundation (the predecessor of University Circle Incorporated) was formed. Initial efforts were focused on creating a land bank to purchase and hold available land until needed by an institution for expansion. Soon, services that could be provided more efficiently if done collectively—parking, shuttle bus service, public safety, architectural review, and landscaping of common areas—were added. The stability provided by these services gave new confidence to the institutions and the Circle's growth skyrocketed.

In 1970, the University Circle Development Foundation was reorganized as University Circle Incorporated (UCI) with an added emphasis on strengthening the relationship between University Circle and its adjacent neighborhoods. In its outreach to the broader community, UCI began working closely with neighborhood organizations to build housing and provide access to broader community resources. UCI's Community Education Program was created in 1973 to bring the Circle together with Cleveland schoolchildren—a wonderful collaboration that thrives today. The *1990 University Circle Master Plan*, which updated the 1957 Plan, strongly reinforced the importance of neighborhood partnerships.

UCI's reorganization moved it from simply being the "caretaker" of the Circle's physical environment (although that role remains very important) to being a catalyst for economic development and an advocate for the whole of University Circle as a major force in the progress of our city and Northeast Ohio. Uniquely positioned to look to the future with a collective eye on behalf of the institutions it serves, UCI has been dedicated to ensuring the excellence of University Circle for 40 years.

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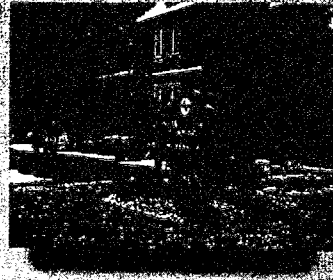
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From the Chairman and President

This is a milestone year for University Circle Incorporated (UCI)—our 40th anniversary—and in the spirit of celebration we are presenting this report to the larger community by its inclusion in *Cleveland Magazine*. University Circle is a very special place and Clevelanders are rightly proud of it—as a source of civic pride it has long ranked high on the list of city assets.

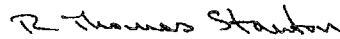
What many do not know about University Circle, however, is that since 1957 there has been an organization dedicated exclusively to ensuring the Circle's collective well being. As described in the preceding introduction, the 1950's brought the Circle to a turning point that was met boldly and determinedly by the formation of UCI. It is our privilege to work on behalf of this organization that is integral to the success of a remarkable concentration of institutions—one only needs to consider the level of achievement that is reached every day in this one square mile to understand the Circle's significance.

The core of what UCI does for the Circle is tangibly depicted on the following pages. Our services make it possible for each of our member institutions to thrive in a place that is safe, convenient, orderly, and beautiful—and to carry on with their important work for their visitors, clients, and patrons. But it is the combination of providing day-to-day services, framing longer-term strategies, and taking the collective long view that captures UCI's role. Simply put, UCI is working to make University Circle—today and tomorrow—a vibrant, active community that is known as one of the truly extraordinary urban districts in the country.

We are glad to report that the financial status of UCI is sound. UCI's unrestricted operating revenue for the year totaled \$15.3 million, which included annual fund contributions of \$472,000. In addition, UCI received \$1.4 million in endowment fund gifts. We acknowledge the foundations, business organizations, public agencies, and individuals who so generously contributed to this organization.

Our gratitude is also extended to UCI's Board of Trustees and our dedicated volunteers. With sad regret we note the deaths of four of our trustees, three of them noteworthy women who served us so well: Dr. Ruth R. Miller, Mrs. A. Dean Perry, and Mrs. Herman L. Vail. Frank R. Borchert, Jr., Vice President for Budget & Planning at Case Western Reserve University, will be much missed as a colleague and friend.

We are grateful for the contributions of our valued employees and acknowledge each of our member and associate member institutions for all that they bring to the quality of life in Cleveland and Northeast Ohio.



R. Thomas Stanton
Chairman of the Board of Trustees



John S. Wilbur, Jr.
President and Chief Executive Officer

September, 1997

Tom Stanton (standing) and John Wilbur are pictured with the handsome park bench in front of UCI's Administrative Office on Magnolia Drive. It is one of many being placed throughout University Circle by The Circle Bench Project — an endowed beautification program started by UCI in 1996.



Public Safety

When the University Circle Police Department was formed in 1959, it was the only private police department in the country. The bold thinking that led to its creation was that of civic leader Mrs. William G. Mather and T. Keith Glennan, the president of Case Institute of Technology, both of whom were instrumental in creating University Circle Incorporated two

years earlier. In 1959, public safety was a primary concern among the Circle institutions and there was full agreement that a police department exclusively dedicated to University Circle would complement the efforts of the Cleveland Police Department and enhance the security efforts of each institution.

Thirty-eight years later, the UCPD's success speaks for itself—by any measure, University Circle has long been one of Cleveland's safest areas. The presence of the UCPD, along with its reputation for quick response, is a strong deterrent to criminal activity in the Circle. Minimized opportunity coupled with timely and decisive intervention in actual criminal incidents has characterized the UCPD's safety strategy since its inception.

This year, in its continued dedication to community policing, the 28-member department increased the presence of officers in the Circle's busiest area—the intersection of Mayfield Road and Euclid Avenue—by opening a mini-station in an attractive storefront on Euclid. With an ever-growing number of special events in University Circle, the UCPD has hired 4 part-time officers who are available when extra police power is needed—this federally-funded part-time program has worked very well during the past year. Congratulations are extended to two longtime members of the force, James Radca and Kenji Kurokawa, who were recently promoted to the rank of sergeant.

Now in its third year, the University Circle Mounted Courtesy Patrol has proved to be a popular addition to the Circle's security efforts. Comprised of 12 seasoned equestrians, the Patrol rides in pairs on weekends from June through October to provide friendly assistance and information to Circle visitors. Recently, two Patrol members graduated from the Cleveland Heights Police Academy and now serve as part-time UCPD officers.



“University Circle is safe today because for nearly 40 years the institutions that comprise University Circle have been committed to making it safe.”

—Chief Timothy J. Peppard, University Circle Police Department

We keep this one-square mile *safe.*



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Parking and Transportation



University Circle is a dynamic urban neighborhood—5,000 people live within its one-square mile and every day more than 15,000 employees and 16,000 students come here to work and learn. To take in a concert, exhibit, or lecture—or to keep a medical appointment, thousands more visit daily. The 70-plus institutions located within the Circle and its adjacent rim have diverse missions and, accordingly, have different needs. But common to all of the institutions is the need for well-run functional elements, such as parking and transportation, so that they can successfully carry on with their business. University Circle Incorporated has not only been instrumental in providing these services for decades, but in constantly bringing together the Circle institutions to discuss how best to meet their ever-changing needs.

UCI maintains a fleet of 20 buses that transports more than one million passengers annually. Known fondly

“We want our visitors to have a positive experience in University Circle even before they enter our museum. The Circlelink shuttle is a fine example of how the Circle institutions have come together to provide a visitor amenity that makes the total University Circle experience a friendly one.”

—Dr. James E. King, Director, The Cleveland Museum of Natural History

as the “greenies” for many years because of their color, the updated look of our vehicles reflects the attention we pay to their maintenance and appearance. This free shuttle service efficiently delivers employees from parking lots to workplaces, takes students to all points of the CWRU campus, and is available to casual visitors. To better serve the latter, Circlelink service was created—its friendly, easy-to-spot buses and signs make it particularly appealing to those visiting the Circle for the first time.

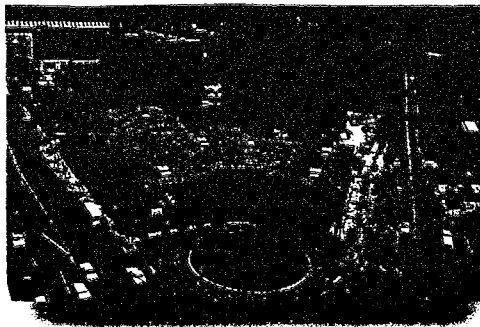
Most urban centers face the challenge of providing adequate parking space where it is most needed, and with its high concentration of institutions and people, University Circle is no exception. To that end, UCI and eight Circle institutions work collaboratively to provide accessible, safe, and cost-effective parking. Included in the system are 11 parking garages and 51 parking lots containing more than 10,000 parking spaces. In keeping with the level of service that the University Circle institutions warrant, our parking lot attendants are ready at a moment’s notice to provide assistance to our customers—from fixing flat tires to supplying emergency gasoline.

We make museum **hopping** easy.



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A-414-a



Community Planning

“University Circle is the most outstanding institutional complex in the country—it truly sets Cleveland apart from all other cities. Without a doubt, the decades of guidance and planning provided by University Circle Incorporated have made the Circle what it is today.”

—Michael R. White, Mayor, City of Cleveland

University Circle did not happen by chance—well-planned community development has always been critical to the success of University Circle and its institutions. While Circle institutions have individual development plans, University Circle Incorporated works for the collective whole to allow the Circle to reach its maximum potential. To this end, there have been two major planning tools for the Circle—the 1957 and the 1990 University Circle Master Plans—both were created by the Circle institutions and implemented under UCI’s guidance.

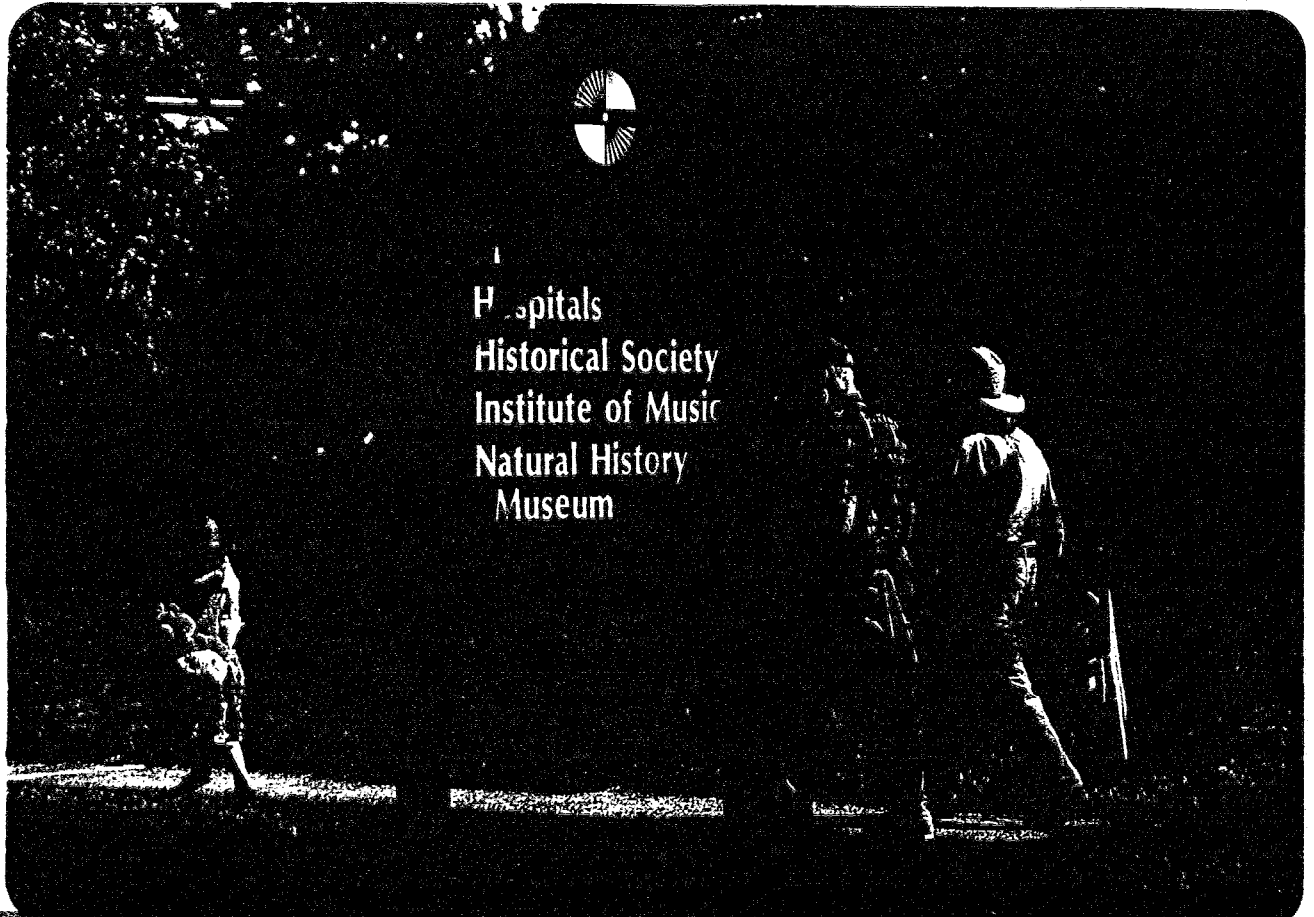
The 1957 Master Plan accomplished many things, including the formation of UCI to oversee the Circle’s progress. The need for a coordinated approach to physical development led to the creation of a “land bank” to allow UCI to buy available land and hold it until needed by Circle institutions for expansion or for projects that benefit the Circle community. To ensure that the Circle’s high architectural standards were maintained, the Architectural Review Board was established—its nationally noted architects continue to review all proposed building plans.

The 1990 Plan, which re-examined and updated the 1957 Plan, set forth new development guidelines to make the Circle more accessible, coherent, and beautiful. A few examples of completed and proposed projects include the comprehensive wayfind-

ing system comprised of 100 handsome signs and the multi-headed lanterns lighting the Fine Arts Garden. With the goal of redesigning Euclid Avenue as the Circle’s “main street,” a task force made up of institutional representatives is reviewing proposed plans. Although still in the planning stages, the building of an apartment complex at the corner of Euclid Avenue and Ford Drive remains a priority. Add to these the extraordinary level of investment our institutions have made in keeping with the Master Plan’s goals—since 1990 new building projects have exceeded \$350 million.

One of the most important components of our planning efforts is maintaining strong partnerships with the neighborhoods adjacent to University Circle and working together to improve their respective residential and commercial areas. Currently, UCI is focusing on the refurbishment of East 105th Street at the Circle’s northern edge. The well-being of University Circle and that of its surrounding neighborhoods are inextricably linked; we are dedicated to planning that is mutually beneficial.

We take care of this special **place.**



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A-414-C

Community Outreach

In 1970, University Circle Incorporated was reorganized so that it could take a more active role in serving the neighborhoods around the Circle both in terms of physical development and in the programs it offered. One goal was to bring the area children more closely together with the Circle's cultural institutions; to that end, UCI's Community Education Department was established in 1973.

Each year, this effort reaches 35,000 Cleveland students through many worthwhile programs. The

most comprehensive is the Field Trip Program that serves students from 26 Cleveland schools and arranges field trips with 16 of the Circle's cultural institutions. The field trips are designed to be relevant to current lesson plans to maximize each student's experience. In addition to providing the admission fees, UCI provides transportation on our "Enrichment Express" buses. (When UCI buses are not in use for school programs, they shuttle senior adults who live in the

University Circle area to many Circle museums and events.)

Other offerings include the Artist in Education Program that arranges in-school residencies for artists who lend their expertise in dance, drama, visual arts, and creative writing—this year museum visits will add a valuable dimension. For a select group of outstanding high school students, the Summer Scholar Program provides a five-week internship at one of 15 University Circle institutions.

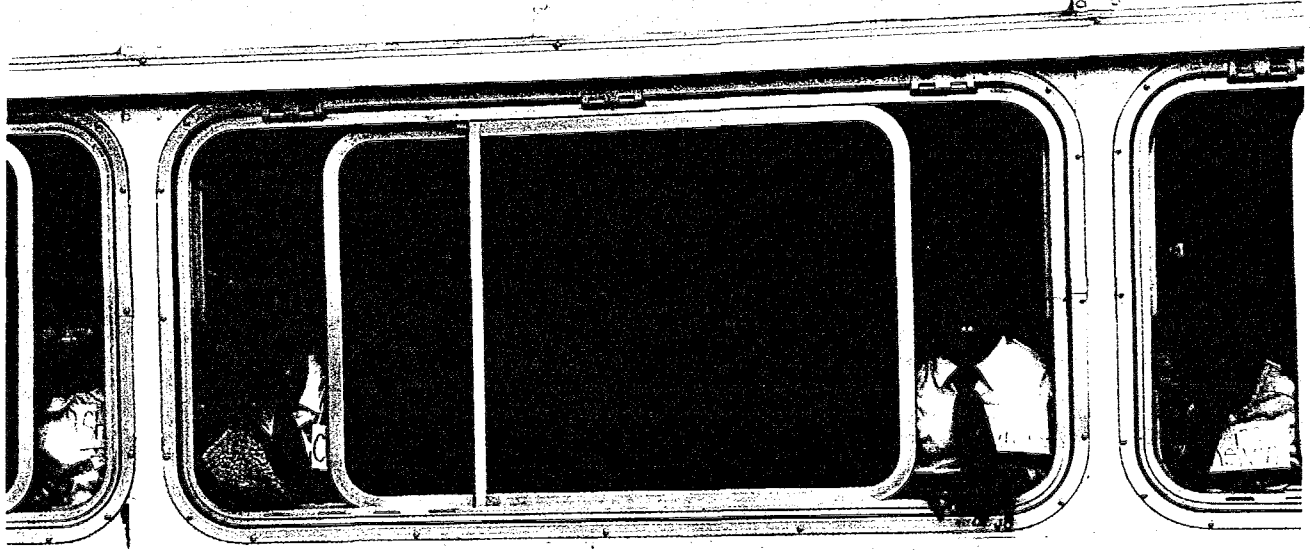
For the first time, a program is being offered that addresses the learning needs of preschool children. Modeled after a Smithsonian Institution program, the Early Learning Initiative is an exciting effort that brings together seven Circle institutions and five area preschools under the direction of UCI's Museum Education Specialist, Diane V. Hansson. This important collaboration features a curriculum that takes full advantage of the wonderful museum collections and performances offered by the participating institutions.



"The lives of more than two million Cleveland schoolchildren have been enriched by visits to University Circle's museums, theaters, concert halls, and gardens—and University Circle Incorporated has made this possible. We look forward to working together to serve many more."

—Ms. Elizabeth O. Ward, Principal, Harvey Rice Elementary School

We open doors that never close.



UNIVERSITY CIRCLE INCORPORATED

COMMUNITY EDUCATION PROGRAM

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A-415-a

Tourism and Promotion



"Cleveland is enjoying remarkable tourism growth which has contributed significantly to the state's economy and has helped propel Ohio to its rank of sixth in the nation in the number of leisure visitors. An outstanding attraction, University Circle is vital to our national standing as a destination."

—George Zimmerman, State Tourism Director, Ohio Division of Travel & Tourism

University Circle has been a prime visitor destination for more than 75 years. Both local visitors and out-of-towners alike are drawn to what is perhaps the most impressive cultural center that has ever been built—today, it attracts more than 2 million visitors annually. With nine museums, outstanding performing arts organizations, and beautiful gardens, there is constant activity—the rich architectural heritage and beauty of the setting are a bonus. Add to that great local restaurants and the ease of getting around on the free Circlelink shuttle; the result is a perfect destination that satisfies a wide range of interests from symphony-goers to families seeking a full day of fun.

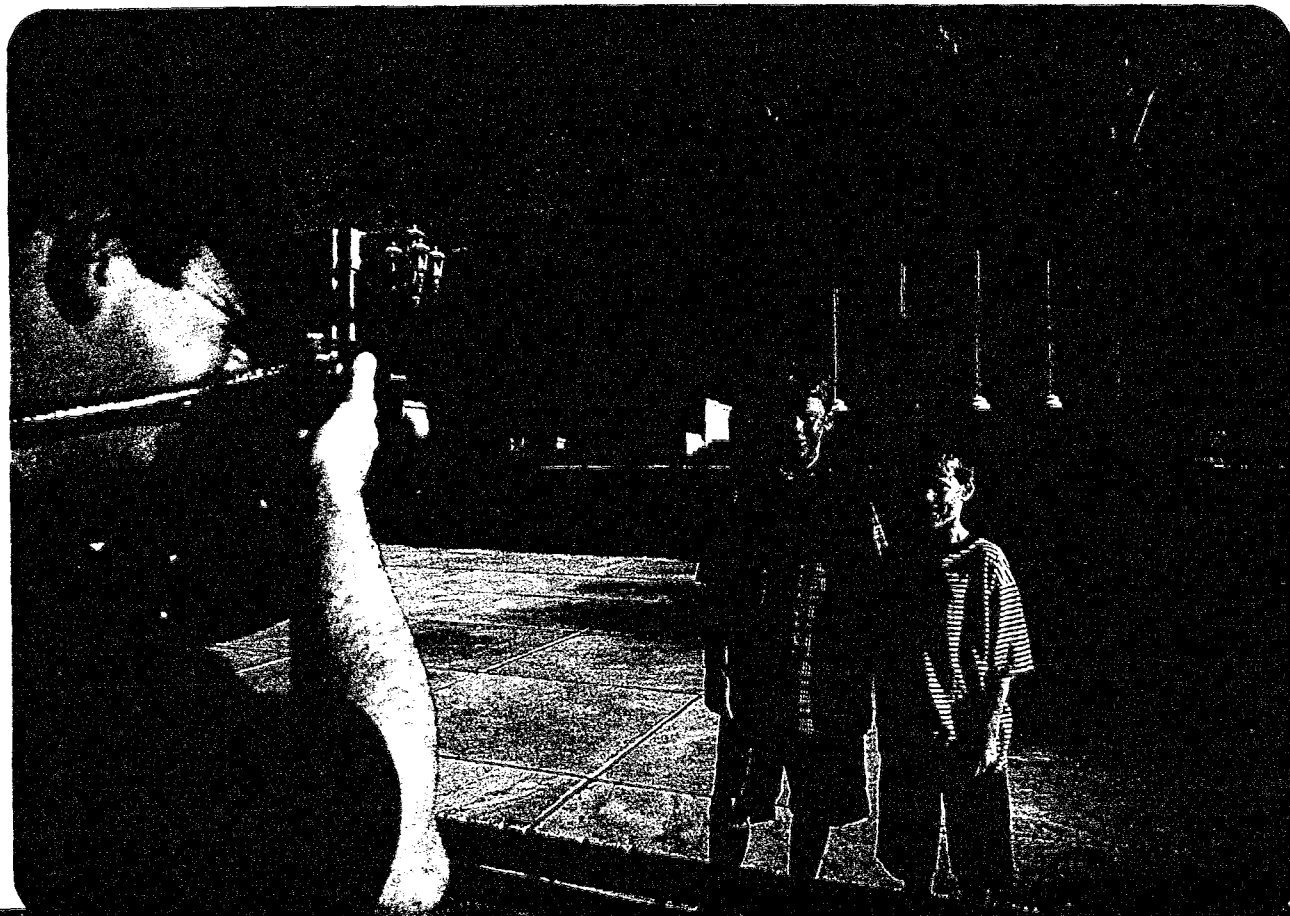
Tourism is one of the fastest growing industries in the world—U.S. tourism generates \$422 billion annually. Cleveland is happily seeing an increase in its tourism market and University Circle is a full partner in the efforts of both the Convention & Visitors Bureau of Greater Cleveland and the Ohio Division of Travel & Tourism.

To garner a greater share of the group tour segment of the market and to better position the Circle as a fascinating destination, five of the Circle's largest attractions—The Cleveland Museum of Natural History, The Cleveland Play House, The Cleveland Museum of Art, The Cleveland Orchestra, and The Western Reserve Historical Society—have come together under the direction of University Circle Incorporated to hire Nancy Feighan, the Circle's first Tourism Manager. With a focus on group tours, she is packaging and selling the Circle to groups from many states, as well as Canada.

In addition to tourism, UCI works in other ways to promote University Circle. Now in its second year, the *University Circle Calendar of Events* remains in high demand and more than 500,000 *Visitor Guides* are distributed annually. We handle inquiries from all over the world—not only about the Circle as a cultural mecca, but as a medical and educational center as well.

To showcase this extraordinary place and to encourage people to visit, two annual community events are hosted in the Circle. Coordinated by UCI, the summer's "Parade The Circle Celebration" and December's "Holiday CircleFest" have become beloved traditions and are enjoyed by thousands.

We make our **tourists** smile.



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A-415-c

University Circle Incorporated (UCI)

is the nonprofit planning, service, and development organization established in 1957 to provide a quality environment for University Circle's cultural, educational, medical, religious, and health and human services institutions.



University Circle Incorporated 10831 Magnolia Drive Cleveland, Ohio 44106-1887

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Cover and Advertisement Photography: Don Snyder. **Other photography:** Roger Mastroianni/The Cleveland Museum of Natural History; Roger Mastroianni/The Cleveland Orchestra; Robert E. Woude

A multifaceted organization, UCI's many areas of responsibility are:

- Planning and facilitating physical development in the Circle;
- Buying and assembling properties to make them available for projects that benefit the Circle community;
- Maintaining public safety through the University Circle Police Department;
 - Managing many of the Circle's parking areas;
- Working with adjacent neighborhoods toward mutual goals and benefits;
 - Providing a Circle-wide transportation system;
- Introducing Cleveland's schoolchildren to the resources of Circle institutions through educational programs;
 - Enhancing the area's natural beauty; and
- Promoting University Circle as one of Cleveland's and Northeast Ohio's prime tourist destinations and most important assets.

A-415-d

University Circle Incorporated

1997 Donor Honor Roll



appreciation

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University Circle Incorporated's Annual Fund is the lifeline that sustains our Community Development, Community Education, and Communications programs. We are grateful to all who contributed to UCI's 1997 Annual Fund:

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In appreciation to the following contributors who have purchased park benches in the initial phase of The Circle Bench Project:

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In Memory of Kenneth J. Pinkerton, 3 benches

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*In appreciation for contributions to
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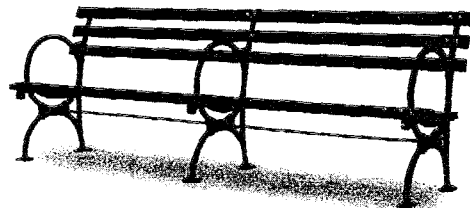
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Statements of Financial Position
University Circle Incorporated

June 30

1997

1996

Assets

Cash	\$ 59,692	\$ 6,073
Accounts receivable	986,927	837,232
Interest receivable	37,907	46,586
Prepaid expenses	56,010	59,290
Contributions receivable	758,860	610,693
Other assets	76,202	76,202
Office equipment, net	53,725	68,583
Notes receivable	223,891	231,719
Unrestricted investments	7,108,773	5,637,688
Restricted investments	8,475,037	6,644,375
Prepaid lease	555,558	578,626
Land	5,127,067	5,127,067
Buildings, net	3,805,100	4,067,328
Total Assets	<u>\$27,324,749</u>	<u>\$23,991,462</u>

Liabilities and Net Assets

Liabilities

Accounts payable	\$ 1,048,226	\$ 895,033
Prepaid revenue	10,043	21,710
Other liabilities	276,810	262,967
Long-term debt	376,006	466,054
Total liabilities	<u>1,711,085</u>	<u>1,645,764</u>

Net Assets

Unrestricted	15,674,580	14,356,286
Temporarily restricted	752,941	714,781
Permanently restricted	<u>9,186,143</u>	<u>7,274,631</u>
Total net assets	<u>25,613,664</u>	<u>22,345,698</u>
Total liabilities and net asset	<u>\$27,324,749</u>	<u>\$23,991,462</u>

Audited Financial Statements are available upon request.

Statements of Activities

University Circle Incorporated

For the Years Ended June 30

1997

1996

Changes in Unrestricted Net Assets

Revenue

Program and operating income	\$11,926,561	\$11,646,305
Unrestricted contributions	471,573	615,659
Parking return	396,415	359,710
Investment income	853,292	608,650
Unrealized gain from investments	609,401	277,832
Mayfield triangle rent	31,230	31,230
Other income	242,599	273,625
Total unrestricted revenue	<u>14,531,071</u>	<u>13,813,011</u>

Net Assets Released from Restrictions

Satisfaction of program restrictions	702,737	793,323
Expiration of time restrictions	<u>50,000</u>	<u>65,000</u>
Total net assets released from restrictions	<u>752,737</u>	<u>858,323</u>
Total unrestricted revenue and net assets released from restrictions	15,283,808	14,671,334

Expenses

Program and operating expenses	12,982,656	12,813,407
General and administrative	750,318	790,089
Fund raising	157,424	153,301
Transfer to permanently restricted programs	75,000	166,000
Other expenses	<u>116</u>	<u>34</u>
Total expenses	<u>13,965,514</u>	<u>13,922,831</u>
	1,318,294	748,503

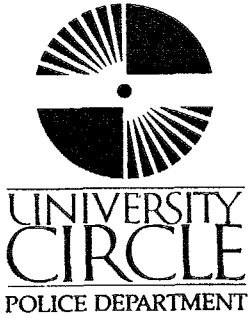
Changes in Temporarily Restricted Net Assets

Temporarily restricted contributions	753,446	976,579
Investment income	10,021	13,670
Other income	27,430	39,163
Net assets released from restrictions	<u>(752,737)</u>	<u>(858,323)</u>
Increase in temporarily restricted net assets	38,160	171,089

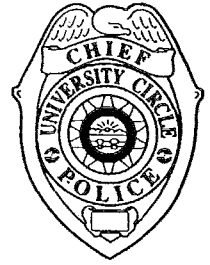
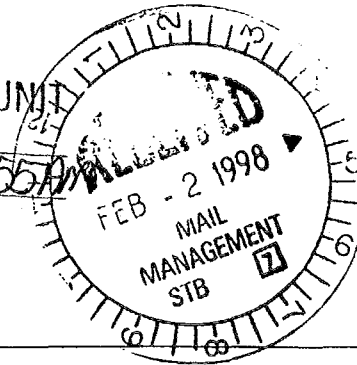
Changes in Permanently Restricted Net Assets

Permanently restricted contributions	1,452,090	392,071
Net investment income	467,448	86,747
Unrealized (loss) gain from investments	(83,026)	269,178
Transfer from unrestricted programs	<u>75,000</u>	<u>166,000</u>
	<u>1,911,512</u>	<u>913,996</u>

Total increase in net assets	3,267,966	1,833,588
Net assets at the beginning of the year	<u>22,345,698</u>	<u>20,512,110</u>
Net assets at the end of the year	<u>\$25,613,664</u>	<u>\$22,345,698</u>



CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 11:19:55 AM



Timothy J. Peppard
Chief of Police

January 30, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K. Street, N.W.
Washington, D.C. 20423-0001

ENVIRONMENTAL DOCUMENT

Ladies or Gentlemen:

CSX and Norfolk Southern Railroads have filed a joint application with the Surface Transportation Board to acquire the Conrail Railroad, and subsequently divide Conrail's assets. I have been advised that this joint venture will result in a threefold increase in freight train traffic thru University Circle to include 44,000 carloads of hazardous waste.

University Circle is the cultural, medical, and educational center of Cleveland and Northeast Ohio. It is the home of internationally renowned museums, illustrious performing arts organizations, an eminent university and college, noted music and art schools, prominent hospitals and clinics, important health and human service agencies and many religious institutions.

Maintaining public safety in University Circle is the responsibility of the University Circle Police Department (UCPD). A key ingredient of the UCPD mission is to provide a safe environment that allows the valuable institutions located in the Circle to thrive. I would be remiss in my responsibility to this mission if I failed to express my concern for the affect the proposed rail plan may have on the safety and quality of life in University Circle. This community has yet to be engaged in dialogue by the parties to the proposed acquisition. This lack of inclusion is both inappropriate and unacceptable. University Circle is far too important to the life and vitality of greater Cleveland to be excluded from a decision that will have affect thru the next millennium. I request you consider University Circle as this process proceeds.

Sincerely,

Timothy J. Peppard
Chief of Police

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/11/98

DOCUMENT # 2/11/98 9:51:44 AM

**ENVIRONMENTAL
DOCUMENT**

5613 Huron St.

Vermilion, OH 44089

January 31, 1998

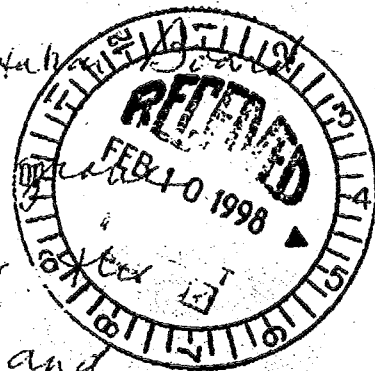
To Members of the Surface Transportation

I am writing to express our concerns about the proposal for acquisition of Conrail by Norfolk and Southern and CSX Transportation, which would result in the doubling of train traffic through Vermilion, Ohio.

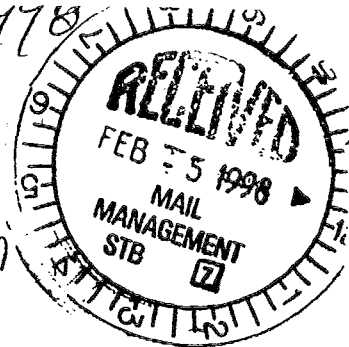
Vermilion is a beautiful town which attracts many visitors due to the unending efforts of its devoted citizens. The town's quality of life should be recognized as an important factor in addition to concerns relating to the railroad business.

Thank you for your consideration

Hayd Cramer



Jan 31, 1998



CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/5/98

DOCUMENT # 2/5/98 5:30:58 PM

Dear Sirs:

I appreciate the opportunity to voice my opinion
As a community worker & resident of Cleveland Ohio.
I was present for "Regional Public Meeting" held
January 31, 1998. In Cleveland at Mt. Sinai Baptist
Church.

ENVIRONMENTAL
DOCUMENT

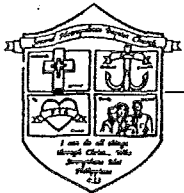
Topic: Conrail Acquisition

I am very much opposed to this project!!

I am concerned, over the fact, that, transportation
of "Bad Materials and other foreign matter will
be traveling in my neighborhood. Families, men,
women and children will be affected. Our Health &
Environment will decline. My vote is NO! NO!

Please find another way to solve your problems.
I will pray, that, Answers will come soon.

Thank you,
Diane Lawler



Second Metropolitan Missionary Baptist Church

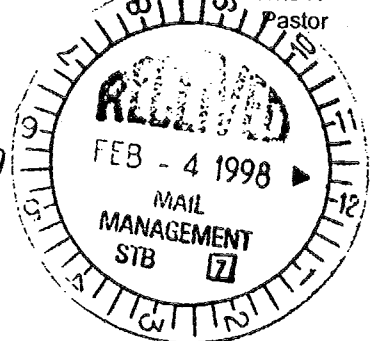
2424 East 79th Street • Cleveland, Ohio 44104
Phone (216) 431-1939 • Fax (216) 431-1966

COPY

Minister Napoleon A. Harris IV
Pastor

ENVIRONMENTAL DOCUMENT

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/4/98
DOCUMENT # 2/4/98 4:52:25 PM



January 31, 1998

Dear Member,

Please join with Major Michael White, Congressman, Louis Stokes, 20 clergy from WE-CAN (Westside/Eastside Congregations Acting Together Now), United Pastors in Mission and Broad-faith Organizing for Lorain's Development, Antioch Baptist Church, and Mt. Siani Baptist Church to stop the merger between Conrail by CSX and Norfolk Southern railroads to increase the transport of hazardous cargo through poor communities.

The communities most effected would be poor and Black, like Kinsman and Fairfax in Cleveland. Collinwood and the Detroit Shoreway would also be affected. This merger has also drawn opposition from Congressmen Dennis J. Kucinich, Sherrod Brown, Steven C. LaTourette, Sen. Mike DeWine and Gov, George Voinovich.

If you oppose this merger as well, please sign your name below today, in that, this letter must be post-marked no later than February 2, 1998.

PRINT NAME	SIGNATURE	DATE
MARIE H BATTLE	<i>[Signature]</i>	1/31/98
JAMES D DANSON SR	<i>[Signature]</i>	1/31/98
ROMEO COLEMAN	<i>[Signature]</i>	1/31/98
FRANKIE NOWDEN Frankie Nowden	<i>[Signature]</i>	1/31/98
KIM GREENWOOD	<i>[Signature]</i>	1/31/98
RUTHIE CLAYTON	<i>[Signature]</i>	1/31/98
JESSIE DIX	<i>[Signature]</i>	1-31-98
GANSY R. COLEMAN	<i>[Signature]</i>	1-31-98
MERLESS H. ROBERSON	<i>[Signature]</i>	1-31-98
KAYE D. TRIMBLE	<i>[Signature]</i>	1-31-98
TEMPLE GREENWOOD JR.	<i>[Signature]</i>	1-31-98
Phyllis Jackson	<i>[Signature]</i>	
PHYLLIS JACKSON	<i>[Signature]</i>	1-31-98

"I Can Do All Things Through Christ Who Strengthens Me." Philippians 4:13

A-418-c

SECOND METROPOLITAN BAPTIST CHURCH
 Petition to stop merger between Conrail by CSX and Norfolk Southern Railroads

Page 1

PRINT NAME

SIGNATURE

DATE

JOHANNAH LINDSEY	<i>Johanna Lindsey</i>	2-1-98
VIRGINIA GRAY	<i>Virginia Gray</i>	2-1-98
G. Fields	<i>Evelyn Landrum</i>	2/1/98
EVELYN LANDRUM	<i>Yvette S. Croom</i>	2/1/98
YVETTE S. CROOM	<i>Donna Travaglio-Jenkins</i>	2/1/98
Donna Travaglio-Jenkins	<i>Gloria J. Croom</i>	2/1/98
Gloria J. Croom	<i>Shirley A. Ward</i>	2/1/98
SHIRLEY A. WARD	<i>Willie Williams</i>	
Willie Williams	<i>Yolanda Kelley</i>	2/1/98
Yolanda Kelley	<i>Letha Watley</i>	2/1/98
Letha LETHA WATLEY	<i>Gina C. Miller</i>	2/1/98
GINA C. MILLER	<i>Terri Howard</i>	2/1/98
Terri Howard	<i>Rubin Cockrell</i>	2/1/98
Rubin Cockrell	<i>Semone Wallace</i>	2-1-98
Semone Wallace	<i>Lula C. Gray</i>	1300 Superior St, 1D
Lula C. Gray	<i>Catherine Philpot</i>	12600 Arlington Ave 44108
Catherine Philpot	<i>Martha Coleman</i>	4128-E-149
Martha Coleman	<i>Kenneth Martin</i>	5578 E 141ST
Kenneth Martin	<i>Janice Greene</i>	MARK HT
Janice Greene		2-1-98

SECOND METROPOLITAN BAPTIST CHURCH
 Petition to stop merger between Conrail by CSX and Norfolk Southern Railroads

PRINT NAME	SIGNATURE	DATE
Alleen Williams	Alleen Williams	2-1-98
DESSIE STEVENS	Dessie Stevens	2-1-98
HERMAN CROOM	Herman Croom	2-1-98
Kim Bonaparte	Kim Bonaparte	2-1-98
JOHN W. MORRIS	John W. Morris	2/1/98
Edith Jenkins		2/1/98
Edna Bates		2/1/98
Mierlene Arnold	Mierlene Arnold	2/1/98
Pinkie Hooks	Robert Hooks	2/1/98
Robert Hooks	Pinkie Hooks	2/1/98
Nunta Hay	Nunta Hay	2-1-98
SHARON DUNSON	Sharon Dunson	2/1/98
TILITHIA ROBINSON	Tilithia Robinson	2/1/98
LONIA E. MOON	Lonia E. Moon	2/1/98
Sheila Woodard	Sheila Woodard	2/1/98
Edward Philpott	Genette Hatcher	
Tanara J. Hunt	Tanara J. Hunt	2/1/98
Danna Spotts	Danna Spotts	2/1/98
Deborah Probst		
Marilyn Probst		

Danna Spotts

SECOND METROPOLITAN BAPTIST CHURCH
 Petition to stop merger between Conrail by CSX and Norfolk Southern Railroads

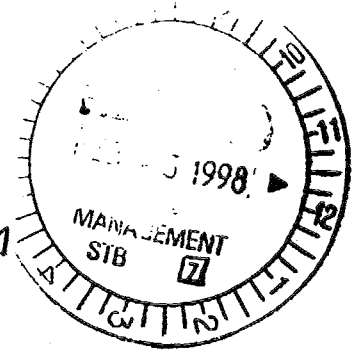
PRINT NAME	SIGNATURE	DATE
RUBY Hollins	Ruby Hollins	2/1/98
HOLLIE Hollins	Hollie Hollins	2/1/98
LILLIE Hollins	Lillie Hollins	2/1/98
Shirlene Oliver		
Thomas Terrell		
Simone Jones	Simone Jones	2/1/98
Doris M. Moon	Doris M. Moon	2/1/98
OLA A. FLAEG	Ola A. Flagg	2-1-98
Russell Hammond		1-1998
Mae Wilson		
STEPHANIE L. CHAMBERLAIN	Stephanie Chamberlain	2-1-98
WENDELL JONES JR	Wendell Jones	2-1-98
Donald Wilson	Donald Wilson	2-1-98
Lola A. Whately	Lola A. Whately	2-1-98
Shannita Ward	Shannita Ward	2-1-98
SHARON L. SPELOWE	Sharon L. Spelowe	2-1-98
REANN BRUCE	Reann Bruce	2/1/98
Harold Bestor	Harold Bestor	2-1-98
FRANK L. BIBBI JR.	Frank L. Bibbi Jr.	2-1-98

Kosuke Howard	Kosuke Howard	2-1-98
FELIX THOMAS	Felix Thomas	2-1-98
MARCUS COLLINS	Marcus Collins	2-1-98
KATHLEEN A. BATTER	Kathleen A. Batten	2-1-98
Rafael Bibb	Rafael Bibb	2-1-98
Andre Brooks	Andre Brooks	
Rashana Bates	Rashana Bates	2/1/97
		2/1/97

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/5/98

DOCUMENT # 2/5/98 4:57.31 PM



February 1, 1998

ENVIRONMENTAL DOCUMENT

To Whom It May Concern:

I am writing this letter to voice my opposition to the proposed merger of CSX and Southern Railroads. I take this position after obtaining all the information made available through Media, News Articles and my attendance at the recently held Summit held on January 31, 1998 in Cleveland Ohio.

I believe that it is incumbent upon each person in the position to make a decision in this regard to do so after thoroughly searching and considering every aspect of the issue and its impact thereof.

I further contend that there are far-reaching effects of this proposed merger that warrant the ut-most consideration, i.e.

1. The potential for Health Hazards that are compounded by the proposed elimination of Railroad Maintenance Employees.
2. The proposed expansion disproportionately targets Minority and Low Income Communities.
3. Real Estate value depreciation.
4. Taxpayers being burdened with additional sacrifices through being taxed for the infructing of proposed expansion.

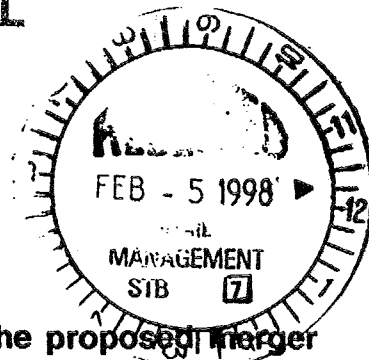
These are very real issues that will not go away unless they are resolved through resolving not to allow this proposal to become a reality.

Sincerely,

Idelle White
1580 Prospect St.
Elyria, Ohio 44035

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/5/98
DOCUMENT # 2/5/98 4:51:33PM

ENVIRONMENTAL DOCUMENT



February 1, 1998

To Whom It May Concern:

I am writing this letter to voice my opposition to the proposed merger of CSX and Southern Railroads. I take this position after obtaining all the information made available through Media, News Articles and my attendance at the recently held Summit held on January 31, 1998 in Cleveland Ohio.

I believe that it is incumbent upon each person in the position to make a decision in this regard to do so after thoroughly searching and considering every aspect of the issue and its impact thereof.

I further contend that there are far-reaching effects of this proposed merger that warrant the utmost consideration, i.e.

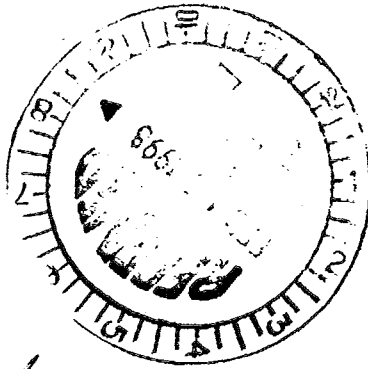
1. The potential for Health Hazards that are compounded by the proposed elimination of Railroad Maintenance Employees.
2. The proposed expansion disproportionately targets Minority and Low Income Communities.
3. Real Estate value depreciation.
4. Taxpayers being burdened with additional sacrifices through being taxed for the infructing of proposed expansion.

These are very real issues that will not go away unless they are resolved through resolving not to allow this proposal to become a reality.

Sincerely,

A handwritten signature in cursive script that reads 'Frederick Hood'.

Frederick Hood
3375 E. 113th St.
Cleveland, Ohio 44011



1744 Livingston
Lorain, Ohio 44052
February 1, 1998

ENVIRONMENTAL
DOCUMENT

Office of the Secretary
Case Control Unit
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Transportation Board:

There are eighteen (18) rail crossings in the City of Lorain. This will endanger the whole community. Health hazardous, decrease in property value, toxic waste. We need to think how this is going to affect our children.

Commuter rail is essential to our communities, economic development, commute to and from work in other cities.

Thank you for taking these concerns into consideration

Respectfully,
Martha Fye

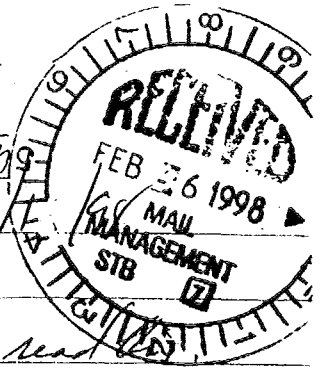
ENVIRONMENTAL DOCUMENT

Elaine Kaiser

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/6/98

DOCUMENT # 2/6/98 338.039199



Thank you for taking the time to read

I am writing in regards to the sale of
Council to CSX and Norfolk Southern.

Justice and Fairness will not be
served if this "deal" goes through as set
presently. The railroads will be gaining

over a billion dollars yearly, yet they
are asking for our tax dollars to pay to

upgrade the rails they will be using. They
would make that much as profit in their

first quarter! Why should we subsidize their profit?

Second the routes that they also have

chosen to use would cripple & destroy

A-420-c

the railroads that will go to the...

The areas will be cut off from the other side of the tracks an average of 10 hrs. per day. That's around 42% of the day that emergency services such as Fire, Paramedics, & Police would not have access to these areas.

Third Nuclear Waste will be transported through this corridor, just feet away from homes. Not to mention the transporting of Hazardous Materials, which cannot by government mandated go through the same areas by truck.

So far the only solutions to the problems brought to them has been to plant trees, build berms w/ railroad ties, to

suppress the sounds. All which would
be extremely ineffective, & too short term
of a fix.

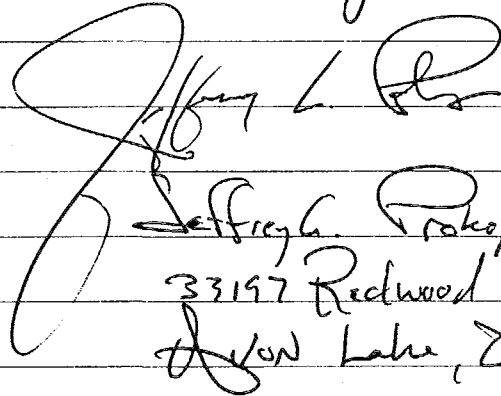
Basically the question comes down
to one thing...

... "Would you or the corporate
planners of CSX & Norfolk Southern want
to live in these areas? I know I
would not. Where is the Justice? Where
is the fairness? Who is this country going
to support, the large corporations or the
people (who put them in office?) Please reconsider
this buyout. Do not allow it to go through
as it stands. Force them to negotiate

in good faith with all the commitments
to be effected. Please don't let
the people of this country down.

Thank You Again for Your Time

Sincerely



Jeffrey Prokop
33197 Redwood Blvd.
Lyon Lake, Ohio

44012

(440) 933-7343

Email prokop-j@kellwrt.com

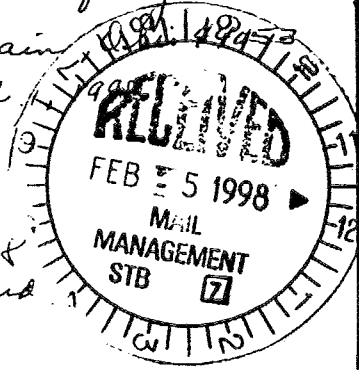
ENVIRONMENTAL
DOCUMENT

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/5/98
DOCUMENT # 2/5/98 4:10:11 PM

4510 Infinity Lane

Korain

Feb



Office of the Secretary
Case Control Unit
Finance Docket No. 33384
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Dear Sirs:

I am a member of the BOLD Team here in Korain, and I attended the meeting in Cleveland yesterday. I feel that the rail merger is very bad for all of us for many reasons. These reasons will all be stated at the meeting.

I hope you will take note of how the people in Ohio feel about this. It's bad for all of us.

Please consider our health and welfare when you arrive at a decision.

Sincerely yours,
William P. LaFrance

LAW OFFICES
McCARTHY, SWEENEY & HARKAWAY, P.C.
1750 PENNSYLVANIA AVE., N. W.

WASHINGTON, D. C. 20006

TELEPHONE (202) 393-5710

TELECOPIER (202) 393-5721

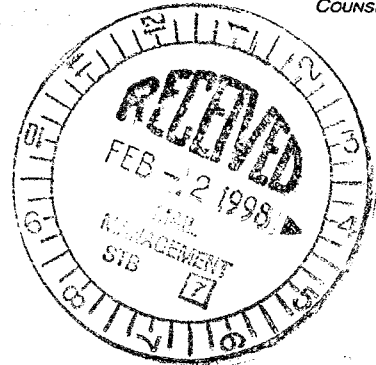
email: msh@mshpc.com

http://www.mshpc.com

**ENVIRONMENTAL
DOCUMENT**

WILLIAM I. HARKAWAY
COUNSEL

LAWRENCE W. BIERLEIN
DOUGLAS M. CANTER
JOHN M. CUTLER, JR.
ANDREW P. GOLDSTEIN
STEVEN J. KALISH
KATHLEEN L. MAZURE
HARVEY L. REITER
DANIEL J. SWEENEY



February 2, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
Room 715
1925 K Street, N.W.
Washington, D.C. 20423-0001

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

Dear Ms. Kaiser:

On behalf of the Cities of Bay Village, Rocky River, and Lakewood, Ohio, I am submitting comments on the December 12, 1997 Draft Environmental Impact Statement. These comments include the following items:

- 1) BRL-6: Comments of City of Bay Village, City of Rocky River, and City of Lakewood, Ohio on the Draft Environmental Impact Statement;
- 2) Supplemental Verified Statement of Kevin F. Beirne;
- 3) Verified Statement of Brian F. Moran;
- 4) Verified Statement of James M. Sears;
- 5) Verified Statement of Edward J. Walter, Jr.;
- 6) Verified Statement of David H. Minott;
- 7) Supplemental Verified Statement of James R. Linden;
- 8) Supplemental Verified Statement of Christopher M. Flynn;

- 9) Supplemental Verified Statement of Donald L. Wagner; and
- 10) Discovery and Research Documents Cited In BRL-6, to wit:
 - a) NS-67-P-00484;
 - b) NS-32;
 - c) NS-67-P-02406;
 - d) NS-67-P-00739;
 - e) NS-67-P-01705;
 - f) NS letter of December 8, 1997;
 - g) BRL speed research;
 - h) NS letter of October 30, 1997;
 - i) NS letter of December 12, 1997;
 - j) Ohio Realtor, December 1997.

Respectfully submitted,



Steven J. Kalish
Attorney for:
Bay Village, Ohio
Rocky River, Ohio
Lakewood, Ohio

Enclosure

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC.
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
--CONTROL AND OPERATING LEASE/AGREEMENTS--
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

COMMENTS OF
CITY OF BAY VILLAGE,
CITY OF ROCKY RIVER,
AND CITY OF LAKEWOOD, OHIO
ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

Pursuant to the schedule adopted for this proceeding, the cities of Bay Village, Rocky River, and Lakewood, Ohio (collectively referred to as "BRL") submit their comments on the Draft Environmental Impact Statement ("DEIS") issued December 12, 1997. Following a brief discussion of the background data, BRL's comments will be presented in three principal areas.

First, we will discuss the mitigation proposed by the DEIS. We will demonstrate that the proposed mitigation is inconsistent with the Surface Transportation Board's ("Board" or "STB") responsibilities under (1) the ICC Termination Act of 1995 ("ICCTA"); (2) the National Freight Transportation Policy of the U.S. Department of Transportation; and (3) the National Environmental Policy Act ("NEPA").

Second, we will discuss the analysis contained within the DEIS. We will demonstrate that major elements of the DEIS quantitative analysis are premised upon (1) unsupported assertions by Norfolk Southern Railway Company ("NS") and (2) erroneous input data. We will further demonstrate that major elements of the standards utilized by the DEIS to determine the need for mitigation are fatally flawed.

Finally, BRL will discuss the available data and will present our proposals for mitigation.

BACKGROUND

As summarized in BRL-2, Preliminary Environmental Comments of City of Bay Village, City of Rocky River, and City of Lakewood, BRL's concerns with the proposed division and control of Consolidated Rail Corporation by NS and CSX Transportation, Inc. arise out of the NS proposal to increase the daily level of traffic on its Cleveland, Ohio to Vermilion, Ohio line segment from a Base Case 13.5 trains per day^{1/} to a Post-Acquisition Case 34.1 trains per day. Even assuming, arguendo, that the NS estimate of 34.1 trains per day has any basis in fact, a subject discussed infra, the NS proposal would mean that, on average,

^{1/} BRL note that NS asserts that its current number of trains on the Cleveland to Vermilion line segment is 16.4. DEIS Volume 3B, OH-135. BRL urge the Board to ignore the NS assertion as unsupported in the record. BRL counted each NS train each day during the period October 3 through November 3, 1997 and again during the period January 2 through 16, 1998. The average number trains per day was 14.78 in the first period studied and was 13.1 trains per day in the second period studied.

there would be one NS train operating every 42 minutes on this line segment.

The impacts of operation of one train every 42 minutes are discussed in BRL-2 and infra. Air quality would be degraded; railroad-generated noise would increase to levels unacceptable for residential areas; pedestrians and street traffic would be placed in increased danger; street traffic would be delayed; the ability of public safety providers, i.e. police, fire, and ambulance services, to reach victims in a timely manner would be seriously degraded; and property values would be reduced.

As also discussed in BRL-2, and as later confirmed by NS, none of these impacts is unavoidable. To the contrary, as explained in the November 25, 1997 letter from Bruno Maestri, System Director, Environmental Protection of NS^{2/}, an alternative route is available for all, or virtually all^{3/}, the additional trains proposed for operation by NS over the line segment. And, NS is willing to use this alternative route. The one thing that

^{2/} This letter is reproduced in Volume 5C, Appendix S of the DEIS. See also, DEIS, Volume 2 at 196. BRL note that at Volume 3B, OH-138, the DEIS states that it received the NS plan on October 29, 1997. Since that document is not included in the DEIS, and since NS has not provided that document in response to discovery requests, BRL request that it be provided in the FEIS.

^{3/} Mr. Maestri does not explain the operational reason why the proposed alternative route cannot be used for all of the additional traffic or, for that matter, why it cannot be used for all traffic proposed for this line segment.

NS is unwilling to do is to pay for the construction asserted to be necessary to make this alternative route viable.^{4/}

Reduced to its essentials then, the NS approach to this transaction is a simple one. On the one hand, NS proposes a consolidation with Conrail that it says will provide it "net operating benefits [read "profits"] in a normal year of \$553 million"^{5/} On the other hand, NS proposes that the public either suffer the environmental degradation that would result from the consolidation or pay the cost of the steps necessary to eliminate that degradation.^{6/}

BRL do not accept the "heads I win, tails you lose" bargain offered by NS. For the reasons stated herein, we request that the final environmental impact statement ("FEIS") recommend (and that the Board order) NS to undertake and fully fund the construction of the alternate route outlined by Mr. Maestri. We further request that the FEIS recommend (and the Board order) no increase in traffic over the Cleveland to Vermilion line segment.

I. THE DEIS PROPOSED MITIGATION

The recommended mitigation for BRL is as follows:

^{4/} Mr. Maestri has estimated a cost of approximately \$47 million for the construction package outlined in his letter. NS-67-P-00484.

^{5/} CSX/NS-18 at 19.

^{6/} Among the costs contemplated by NS is the suggestion that Lakewood close several grade crossings. DEIS, Volume 3B at OH-139. This is not an action the Board can require Lakewood to take and Lakewood has advised NS on more than one occasion that it will not close its streets for the convenience of the railroad.^{6/}

20. NS shall continue to consult with local and county government agencies, the Ohio Department of Transportation, elected representatives from the west Cleveland suburbs and the City of Cleveland, and other appropriate parties to address concerns about train traffic increases on the Cleveland to Vermilion rail line segment (Nickel Plate Line). Specifically, NS shall meet with these parties to negotiate a mutually-acceptable binding agreement on the construction and funding allocation of NS's preliminary alternative routing plan to balance train traffic on the Cleveland to Vermilion rail line segment and the Lakeshore Line through Berea, and associated improvements that include new rail line connections, possible grade separations, upgrading warning devices at some highway/rail at-grade crossings, and highway/rail at-grade crossing closures. The preliminary mitigation plan developed by NS was recently submitted to SEA. SEA invites public comments on appropriate alternative mitigation that the Board could require in the event that the parties cannot reach a mutually-acceptable binding agreement prior to issuing the Final EIS.⁷¹

BRL respectfully submit that the quoted language does not constitute "recommended mitigation." Rather, as recognized in the final sentence, the DEIS contains no recommended mitigation in the hope that interested parties can reach agreement with NS. Failing that, the DEIS effectively proposes to "start from scratch" in the FEIS.

Given Board precedent, the approach taken by the DEIS is perilously close to a finding that information gathered to date does not require the imposition of any mandatory mitigation

⁷¹ DEIS, Volume 4 at 7-19, Section 7.2.4, paragraph 20. The wording of the preliminary SEA recommendation in Volume 3B at OH-140 is slightly different, but the substance appears to be the same.

burden on NS. That is, in Finance Docket No. 32760^{8/}, Decision No. 71 clarified that when the Board stated, in Decision No. 44, that it believed that the cost of environmental mitigation "should be shared", it meant to say that the final mitigation plan would include both "mandated" mitigation, "which the Board will require UP/SP to implement and entirely fund" and "alternative" mitigation which would "not be binding absent a voluntary agreement by the parties to share costs..."

Here, the DEIS discusses nothing other than "alternative" mitigation, thus leading to a concern, we trust unfounded, that no mandated mitigation is contemplated to address the "unique circumstances" created by the NS proposal for the Cleveland to Vermilion line segment. Such an approach, if taken in the FEIS, would be inconsistent with the law, with USDOT policy, and with STB policy as stated in the DEIS.

The ICCTA states that it is the policy of the United States Government, in regulating the railroad industry, "to operate transportation facilities and equipment without detriment to the public health and safety."^{2/} This policy cannot be implemented in this proceeding without mandating environmental mitigation measures.

^{8/} Union Pacific Corporation, Union Pacific Railroad Company, And Missouri Pacific Railroad Company--Control And Merger--Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., And The Denver And Rio Grande Western Railroad Company.

^{2/} 49 U.S.C. § 10101(8).

USDOT policy is to reduce "social costs of environmental degradation" and to ensure that these social costs "are more accurately reflected in the price of transportation services."^{10/} This is particularly important where, as here, a regulated entity seeks Board authorization for a transaction that is designed to dramatically enhance its "bottom line." As noted supra, NS projects annual net operating benefits of \$553 million as a result of this transaction. It would be inconsistent with USDOT policy to allow NS to do so while, at the same time, passing off the "social costs" of its transaction to the public.

Finally, there are only two circumstances in which the Board requires that the cost of environmental mitigation be shared. The first is when that mitigation is designed to remedy pre-existing environmental impacts.^{11/} The second is when the involved mitigation contemplates solutions that are more "far reaching" than needed to resolve the concerns rising directly from the railroad's proposal.^{12/} Neither of these circumstances is present here. The mitigation outlined by Mr. Maestri would not address pre-existing environmental impacts of NS operations through BRL in that it would not reduce the number of trains operating through BRL. Further, that mitigation is not, as discussed herein, more far reaching than necessary to mitigate

^{10/} United States Department of Transportation, National Freight Transportation Policy, 62 F.R. 785 (January 6, 1997).

^{11/} DEIS as ES-15.

^{12/} See F.D. 32760, Decision No. 71, supra.

the environmental damage resulting directly from the NS proposal to increase the number of trains operating through BRL by 153%.

The differences between the STB's analysis and the NS approach are telling. NS asserts that it has conducted a "preliminary financial analysis of the proposed alternative route [which] indicates that its cost far outweighs any economic benefits to NS, making implementation of this mitigation proposal unjustified without public funding."^{13/} Even assuming, arguendo, that NS actually has performed such an analysis,^{14/} the fact remains that a cost/benefit analysis which looks only at the benefits to the railroad cannot be dispositive. As explained supra, the rationale for environmental mitigation is not that the railroad will profit thereby. Rather, the rationale for environmental mitigation is that it is required to fulfill the STB's obligations under the ICCTA and NEPA.

II. THE DEIS ANALYSIS

A. Cumulative Impacts Have Been Ignored

While the "West Cleveland Suburbs, Ohio" have been identified as an "area of special concern" at the outset of the

^{13/} DEIS, Volume 2 at 196.

^{14/} BRL requested such analyses in their Interrogatory and Document Request No. 25 and NS provided no such document in its response. BRL again requested the documents referenced by Mr. Maestri on December 23, 1997. To date, NS has not responded. BRL note that the mitigation proposal offered by Mr. Maestri would give NS two routes into Cleveland from the west. Thus, this proposal may permit NS to institute directional operations, i.e. using one route for east bound trains and another route for west bound trains. If this is the case, NS would not be required to place trains on sidings, thus enhancing its operations.

DEIS^{15/}, the remainder of the DEIS fails to address the cumulative environmental impacts on BRL. That is, 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. In taking this approach, the DEIS implicitly rejects the logic of USDOT's October 21, 1997 Preliminary Comments.^{16/} In addressing highway-rail crossings, USDOT noted that a large increase^{17/} is projected for the "NS line through Lakewood, Ohio" and stated that "all of the crossings on [this segment] 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."^{18/}

BRL join USDOT in advocating a cumulative impacts approach in the FEIS. While substantial time and effort must, of necessity, be expended in an examination of the "trees", the Board should not lose sight of the "forest", i.e. the total environmental and socio-economic impact of a dramatic increase in trains on BRL. By way of example of these cumulative impacts, BRL would reference Volume 5A of the DEIS. Attachment E-3, County Total Emissions Increases for Threshold Activities, in

^{15/} DEIS, Executive Summary, ES-12.

^{16/} DOT-3.

^{17/} USDOT incorrectly stated that the increase would be 13 trains per day. As noted supra, the actual claimed increase over the base period is 20.6 trains per day.

^{18/} USDOT-3 at 24.

Decreasing Order of Total NOx (Prior to Netting Analysis), reveals that the seven counties that will experience the highest emissions increases are all located in Ohio. Cuyahoga County, in which BRL are located, has the unenviable distinction of being ranked #1. In fact, the DEIS finds that NOx, CO, VOC, SO2, and PM emission increases in Cuyahoga County would be 39% greater than in Lorain, Ohio, which has the #2 spot in the list.^{19/}

At the same time, Attachment F-1, Rail Line Segments that Meet STB Requirements for the Noise Analysis, establishes that the proposed traffic increases for the Cleveland-Vermilion line segment would result in greater noise impacts than would be experienced on any other line segment. According to the DEIS, in the post acquisition environment, there would be 4,439 receptors on this line segment^{20/}, 83% higher than on any other line segment. And, the data in Attachment F-1 reveals that the increase in receptors on this line segment, i.e. 2,245 is greater

^{19/} BRL request clarification of the DEIS air quality analysis in the FEIS. We note for example that Attachment E-3 states that the NOx increase for Cuyahoga County would be 1,272 tons/year, a figure derived from Attachment E-2 at 9. However, the Attachment E-2 NOx totals are substantially smaller than the totals in Attachment E-4. By way of example, Attachment E-2 at 8 finds the NOx increase for the Vermilion to Cleveland line segment to be 39.66 tons per year. In contrast, Attachment E-4 at 9 finds the NOx increase for the same line segment to be 111.76 tons per year. The FEIS must resolve this apparent discrepancy.

^{20/} As noted infra, the DEIS has significantly undercounted the number of sensitive receptors on the Cleveland to Vermilion line segment.

than the total number of post-acquisition receptors on all but one line segment studied for the DEIS.^{21/}

The point here is a basic one. The three standards that the Board considers in designing environmental mitigation are whether the proposed condition is "reasonable", whether it is "directly related to the action proposed for approval", and whether it is "supported by the information developed during the environmental analysis."^{22/} Just as USDOT recognizes that these standards cannot be met simply by analyzing individual grade crossings, these standards cannot be met simply by viewing individual impacts, e.g. air quality or noise. Rather, it is the total impact of the NS proposal on BRL that must determine whether a mitigation proposal meets the Board's three criteria.

Prior to turning to an analysis of whether the DEIS accurately reflects the nature of the "trees", let us consider what the "forest" looks like using the DEIS data for the areas of particular concern to BRL.

1) Safety, Highway/rail at-grade crossings: The data in Attachment B-7 establishes a clear rationale for USDOT's call to examine cumulative impacts. That is, in unexplained contrast to its approach of considering "freight rail accidents" on a line

^{21/} The DEIS fails to note the reasons for this fact, i.e. (1) the BRL communities are densely populated and (2) there are 36 unseparated grade crossings in BRL over a distance of only 9.68 miles, approximately one crossing per quarter mile. NS response to BRL-1, requests 4 and 5. In Lakewood, there are 27 grade crossings in 2.48 miles. NS-67-P-02406. This is one grade crossing every 485 feet.

^{22/} DEIS, ES-14.

segment basis,^{23/} the DEIS examined "highway/rail at-grade crossing safety" on a crossing by crossing basis and considered mitigation for certain crossings "if the accident frequency increased by one additional accident every 100 years."^{24/} This was error.

Volume 3B, Table 5-OH-8 establishes that between West 117th Street, the border between Cleveland and Lakewood^{25/}, and Bradley Road, the western-most crossing considered in Bay Village, the Post Acquisition annual accident frequency would be 0.5824 greater than the Pre-Acquisition annual accident figure. In other words, the DEIS predicts that BRL will experience one additional accident at a grade crossing every two years as a result of the NS proposal. The fact that these accidents may occur at any one of the 36 contemplated crossings in BRL, rather than at a single pre-identified crossing, is of little comfort to the citizens of BRL.^{26/} This additional accident every two years on trackage through BRL that has been described by a Norfolk Southern manager of grade crossing safety as "one of the most

^{23/} DEIS, Volume 1 at 3-6 and Volume 3B at OH-14.

^{24/} DEIS at ES-18 and Volume 1 at 3-10.

^{25/} The border actually is in the middle of West 117th Street.

^{26/} The conclusion to the contrary in DEIS, Volume 3B at OH-20, has relevance only to the question as to whether the NS proposal gives rise to a need for grade separations at individual crossings. It does not address the point of concern to BRL, whether the combined impact of environmental degradation justifies requiring NS to pay for the rerouting plan it has devised.

dangerous in our 15,000 miles of track"^{27/} is part of the cost of the NS proposal to obtain "net operating benefits in a normal year of \$553 million."

2) Hazmat accidents: While the DEIS predicts that post-acquisition interval between mainline hazardous materials accidents will remain substantial, Attachment B-1, it also predicts a 252.4% increase in hazmat releases on the Cleveland to Vermilion line segment, id.^{28/} This also is part of the cost of the NS proposal to obtain "net operating benefits in a normal year of \$553 million."

3) Highway/rail at-grade crossing traffic delay: The data in the Supplemental Errata, Table 5-OH-11 (Revised), establish that, as a result of the proposed increases in NS traffic volumes, the average delay per vehicle at the five crossings considered would increase by 163%. Even assuming, arguendo, that the resulting average delay does not leave BRL with a "level of

^{27/} NS-67-P-00739. BRL comment later in this document on the DEIS use of level of service data in order to determine the need for grade separations. As we discuss, the approach taken by the DEIS is to place a heavy weight on pre-existing conditions. If that approach is to be taken, then the FEIS must give heavy weight to the existing level of danger resulting from NS operations within BRL. As explained in a December 19, 1991 NS memorandum, "Train traffic thru [sic] Lakewood can be at various speeds and the majority of the present warning systems are not of the constant warning time type. Train/auto accidents are not uncommon." NS-67-P-01705.

^{28/} Attachment B-5 identifies the Cleveland-Vermilion line segment as a "new major key route" for hazardous materials. Volume 3B, Table 5-OH-10, finds that NS will increase its annual car loads of hazmats from 9,000 to 32,000 on this line segment.

service" poor enough to warrant mitigation when considered alone,^{29/} the fact remains that this increase in average delay per vehicle also is part of the cost of the NS proposal to obtain "net operating benefits in a normal year of \$553 million."

4) Air Quality: As explained above, Cuyahoga County, Ohio, in which BRL are located, would experience substantially higher emissions increases than any other county considered in the DEIS. Volume 3B, Table 5-OH-16, finds that these increases exceed the emissions screening level "after netting" and further finds that these emissions would exceed 1% of total county emissions for NOx. Even assuming, arguendo, that this "significant"^{30/} increase is not sufficient, standing alone, to warrant environmental mitigation^{31/}, this increase also is part of the cost of the NS proposal to obtain "net operating benefits in a normal year of \$553 million."

5) Noise: As also explained above, the woefully inadequate DEIS noise analysis (see infra) finds that the number of receptors on the Cleveland-Vermilion line segment would be 4,439. Even assuming, arguendo, that this number is not understated, it is still 83% higher than on any other line segment. Each of these "receptors", a rather bland term including homes, schools, and hospitals, would experience railroad noise 34.1 times per

^{29/} The description of the DEIS standard is found in Volume 1 at 3-19. A discussion of the major errors in the DEIS LOS computations is found infra.

^{30/} DEIS, Volume 3B at OH-50.

^{31/} DEIS, ES-22-23.

day. This is once every 42 minutes, 24 hours per day, seven days per week, 365 days per year.

The DEIS suggests that, as a result of a pending rulemaking before the Federal Railroad Administration, the Board should not propose specific mitigation for the railroad horn noise impacts of the NS proposal.^{32/} This is a non-sequitur in light of the Board's ability to prevent these impacts through methods that are not contrary to anything that FRA could oppose, e.g. rerouting of traffic. This noise increase, which can be mitigated through the additional construction suggested by Mr. Maestri, is part of the cost of the NS proposal to obtain "net operating benefits in a normal year of \$553 million" and must be considered in determining whether proposed mitigation is reasonable.

6) Pedestrian Safety: "SEA did not separately consider potential pedestrian impacts."^{33/} BRL cannot ignore pedestrian safety and see no reason why the FEIS should do so. As reported in BRL-2 and BRL-3, children attending 22 elementary and middle schools in BRL cross the tracks each day. The additional risk to these children is part of the cost of the NS proposal to obtain "net operating benefits in a normal year of \$553 million."

7) Emergency Response: The DEIS found two ways to evaluate the potential effect of the Conrail acquisition on emergency vehicle response times, i.e. crossing delay per stopped vehicle

^{32/} DEIS, ES-23; Volume 3A at 5-9; and Volume 3B at OH-71.

^{33/} DEIS, Volume 1 at 4-13.

and total daily crossing blockage time.^{34/} However, the DEIS concludes that "it is impossible to predict actual delays that would occur as a result of Acquisition-related changes in train traffic"^{35/} and further states that train traffic "potentially [affects] emergency response time."^{36/}

BRL disagree. There is nothing "potential" about the impact of trains on emergency response time. It is fact. BRL-2 establishes that emergency service providers are blocked by NS trains approximately 253 times per year under current conditions. Applying the percentage increase in trains projected by NS, this would rise to 640 emergency service delays each year following the Conrail acquisition. This is almost two emergency vehicles per day that would be blocked by trains. The inability of emergency services vehicles to reach victims, including those needing immediate attention for cardiac or other life threatening accidents or illnesses, in a timely manner also is part of the cost of the NS proposal to obtain "net operating benefits in a normal year of \$553 million."

What then can be said about the cumulative impacts (as determined by the DEIS) of the NS proposal on BRL and its citizens? The DEIS provides no such analysis and BRL are unaware of any method that would demonstrate that mitigation would not be "reasonable" under the circumstances identified by the DEIS as

^{34/} DEIS, Volume 1 at 3-18.

^{35/} DEIS, Volume 1 at 4-44.

^{36/} DEIS, Volume 3B at OH-134.

augmented by the information provided in BRL-2 and BRL-3. One additional railroad accident every two years, a 163% increase in average delay per vehicle, higher emissions increases than any other county, 4,439 adversely impacted sensitive noise receptors, and two emergency vehicle delays per day must, by any standard, be considered a "reasonable" justification for environmental mitigation.^{37/}

BRL do not gainsay that \$47 million, the NS cost estimate of its mitigation proposal to eliminate the environmental damage to BRL, is a substantial sum. But, even in the unlikely event that the entire cost of this mitigation were to be expensed in one year, it would be only 8% of that year's "net operating benefits in a normal year of \$553 million." If this cost is amortized over only ten years, the minimum one would expect, it would be only 0.8% of those years' "net operating benefits." Again, this would be a reasonable expenditure even if the data presented in the DEIS fully reflected the environmental harms to BRL resulting from the NS proposal. However, as will be demonstrated in the next section of these comments, that is not the case.

B. The DEIS Understates Environmental Impacts

While the DEIS asserts that SEA has "reviewed and verified" the data submitted by NS,^{38/} a review of the DEIS establishes that the data used to perform analyses of each of the matters

^{37/} As discussed *infra*, the marketplace already is responding to the environmental harms NS proposed for the BRL communities. Houses near the tracks are not selling.

^{38/} DEIS, Volume 3A at 5-2.

considered are incorrect. BRL request that the FEIS correct these errors in the manners discussed below.

1) Train Speeds: In Volume 5A at A-1, the first data element listed for verification is train speeds. According to Section A.4.2, the DEIS utilized two different speeds in its analysis. For purposes of its safety analysis, the DEIS used the maximum operating speed. This maximum speed also was used in the DEIS calculations of Average Delay Per Vehicle.^{39/} For purposes of air quality analysis, the DEIS used what it described as "typical freight train speed." However, this speed was deemed equal to the maximum operating speed when the maximum operating speed is 35 mph and below.^{40/}

The approach taken by the DEIS is in serious error when applied to BRL. We note at the outset that NS has no data as to its average speeds in BRL. According to a December 8, 1997 letter from counsel for NS to BRL, "NS has not calculated average speeds for these trains. However, NS notes that average speeds are never higher than allowed by the FRA for the class of track over which NS operates."

At least part of the reason that NS does not operate at its maximum allowable mainline track speed through BRL is that, also according to the December 8th letter, 20% of its trains utilize a

^{39/} See, e.g. Table 5-OH-11.

^{40/} The maximum speed at the easternmost 31 grade separations in BRL (36 including 117th Street) is 35 mph.

siding within BRL.^{41/} The maximum speed entering, operating through, and leaving the siding is 25 mph.^{42/}

A more important reason that NS does not operate at anywhere near its maximum speed in BRL is the inherent danger of operating through communities with so many grade crossings over such a short distance. As noted supra, in Lakewood there is one grade crossing every 485 feet. Moreover, because of track curves and the number of buildings located close to the tracks, NS engineers are unable to see many of the crossings until they are close to them and thus they run the trains far below the maximum speed. As recounted in BRL-2 at 9, a review of police accident reports in Lakewood for railroad/street vehicle accidents since 1992 revealed an average speed for the NS trains of 31 mph. The Lakewood police confirmed this figure by using a radar gun to determine the average speed of NS trains during the period January 22 through January 27, 1998. The average speed at Bunts Road in Lakewood during that period was 30.6 mph, substantially lower than the 35 mph speed used by the DEIS.

Similarly, the Bay Village police used radar guns to determine the speed of NS trains during the period January 22 through January 27, 1998. The average speed at Dover Road was 38.9 mph, substantially lower than the 50 mph speed used in the DEIS.

^{41/} This siding has been identified as Clague Siding, located between MP B 193.9 and MP B 197.0. NS-32 at 6.

^{42/} NS-32, response to interrogatory 1(d).

Rocky River police also used radar guns to determine the speed of NS trains during the period January 22 and January 26, 1998. The average speed at the Elmwood crossing was only 23 mph.

Even these figures overstate the "average" speed of NS trains during the course of a year in that they do not include "speed" data for trains that stop prior to or in the middle of a crossing. Just such an event happened on January 22nd. An eastbound NS train entered the view of the police at 4:30 p.m. and was initially clocked at 34 mph. However, it started to slow at 4:32 p.m. and then stopped. When it finally cleared the Elmwood crossing, it was traveling at only 8 mph.

In light of these facts, several changes are required in the FEIS. First, the FEIS should premise its speed calculations on the results of the BRL police analysis, i.e. average speeds of 30.6 mph in Lakewood, 23.0 mph in Rocky River, and 38.8 mph in Bay Village.

Second, the FEIS should discount these speeds to reflect situations in which NS trains stop as they move through BRL.

Third, the FEIS should determine whether NS post-acquisition operations would increase the percentage of trains utilizing Clague Siding in Rocky River as a result of increased density on the line segment. If this is the case, then the average speeds shown above for Rocky River should be adjusted downward.

Fourth, the fact that approximately 20% of NS trains over this line segment utilize Clague Siding must be reflected in the FEIS in two regards. First, Clague Siding crosses Columbia Road

at grade, thus requiring the recalculation of impacts on Columbia Road traffic to reflect the use of the siding. Second, locomotives stopped at the siding are not normally shut down.^{43/} In virtually all cases, they remain in operation as the train sits on the siding for one hour, two hours, and sometimes longer periods, thus giving rise to air and noise pollution not contemplated by the DEIS.

2) Trains Per Day: The second data element listed in Volume 5A at A-1 is trains per day. BRL take it as a given that any train count projection in a consolidation proceeding will be, at best, an estimate. Post-consolidation business levels and experience will determine the precise number of trains operating over the Cleveland-Vermilion line segment. Notwithstanding this fact, the FEIS must utilize a number of trains in order to calculate estimated environmental impacts of various types. However, NS has not provided any data to support the train count upon which the DEIS relies.

At the outset, BRL note that NS already has revised its train counts once in this proceeding. See, CSX/NS-54, the August 28, 1997 document which reduced the proposed train count over the Cleveland to Vermilion line segment from 37.8 trains per day to 34.1 trains per day.

Of greater importance, NS cannot "verify" its train count for this line segment. The October 30, 1997, letter from counsel

^{43/} This information was provided in a December 12, 1997 letter from counsel for NS.

for NS to BRL admitted that "Norfolk Southern does not have a list identifying each train that is projected to travel over this line segment, and would have to perform a special study to make such an identification." If NS does not have such a list, the DEIS could not have verified the NS projection.

BRL request that the FEIS 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. If NS continues in its inability to identify these trains, the FEIS should conclude that it is unable to calculate the environmental impacts of the Conrail acquisition on BRL.

3) Noise: Following its erroneous conclusion that locomotive noise should not be considered in designing mitigation, the DEIS considered "wayside noise effect."^{44/} Rail line segments were deemed eligible for noise mitigation "for noise sensitive receptors exposed to at least 70 dBA Ldn and an increase of at least 5 dBA Ldn." Id.

The DEIS wayside noise effect analysis is entirely incorrect. First, as noted above, the DEIS ignores all of the noise generated by the 20% of NS trains that idle on Clague Siding. That is, NS admits that, in the post acquisition environment approximately seven of its trains will sit on Clague Siding each day for an unknown amount of time with the locomotives running. The FEIS must perform an analysis of the noise impact on the sensitive receptors of this siding noise.

^{44/} DEIS, Volume 3B at OH-74 and Volume 5A, Appendix F.

Second, the DEIS analysis errs in that it omits any consideration of the number of "sensitive receptors" in the determination of whether mitigation is required. The significance of this is established, by way of example, at page 2 of Attachment F-1. There, the Oak Harbor to Bellevue line segment is deemed eligible for noise mitigation because its change in dBA is 5.5 (resulting from a 253% increase in the number of trains). However, there are only 513 sensitive receptors on that segment. In contrast, while the change in dBA is "only" 4.0 for the Cleveland to Vermilion segment (resulting from an increase of "only" 153% in the number of trains), the number of sensitive receptors found by the DEIS on this line segment is 4,439.^{45/}

Stated another way, even using the understated DEIS numbers, approximately nine times as many sensitive receptors (read "people" living in predominantly residential areas) would be affected by increased noise on the Cleveland to Vermilion line segment. The fact that the percentage increase in noise level is less than would be experienced on another line segment (solely because of a smaller percentage increase in the number of trains) should not be dispositive when a vastly greater number of people

^{45/} BRL maintain that the DEIS count of sensitive receptors is substantially understated. The enclosed verified statements of Kevin F. Beirne, Brian F. Moran, and James M. Sears identify 1,338 sensitive receptors in Rocky River, 3,944 sensitive receptors in Lakewood, and 1,920 sensitive receptors in Bay Village in the post-acquisition case. Thus, these three communities alone have 7,202 sensitive receptors, 62% more than the DEIS found for the entire Cleveland to Vermilion line segment.

would be adversely impacted by unacceptable noise levels. Mitigation is required.

Consider also the finding of the DEIS "that wheel/rail noise from train operations may last three to four minutes per location..."^{46/} This means that if NS increases its trains by 20.6 to a total of 34.1 trains per day, the 4,439 sensitive receptors on the Cleveland to Vermilion line segment would be subject to this noise between 1.7 and 2.3 hours per day, seven days per week, 365 days per year.

This is a greater noise frequency than would be experienced on the Oak Harbor to Bellevue line segment (resulting from the fact that the total number of trains on the Oak Harbor to Bellevue line segment would be less than on the Cleveland to Vermilion line segment). And, the Cleveland to Vermilion line segment would experience a greater increase in number of trains than would be experienced on the Oak Harbor to Bellevue line segment (20.6 trains per day as compared to 19.5 trains per day). Accordingly, the DEIS mitigation proposals are not based on total noise, total railroad noise impacts, or the total increase in the number of trains. Rather, those proposals are premised on nothing more than the percentage increase in trains, an unreasonable basis on which to determine the need for mitigation. This error should be corrected in the FEIS in the manner suggested herein.

^{46/} DEIS, Volume 3B at OH-137.

Third, the above-noted "70 dBA Ldn and 5 dBA Ldn increase" standard also is arbitrary and capricious in that it ignores the standards adopted by other federal agencies. As explained in the verified statement of Edward J. Walter, Jr., the Environmental Protection Agency and the Department of Housing and Urban Development (HUD) use 55 decibels as their goal for outdoor noise in residential areas. Outdoor noise above 65 dB but not exceeding 75 dB is "normally unacceptable" for HUD assisted development. Outdoor noise above 75 dB is "unacceptable" to HUD.

In light of the clear HUD standard for acceptable noise levels, the DEIS standard for considering the significance of noise increases cannot be justified. If noise levels will increase to a level deemed unacceptable by HUD as a result of increased train movements, it makes no sense to say that this level of noise does not require mitigation simply because the increase in noise is less than approximately 320%, i.e. a 5 dB increase. Accordingly, BRL request that the FEIS abandon the 70 dBA Ldn/5 dBA Ldn increase standard in favor of one that is consistent with HUD's approach. That is, if residential neighborhood noise would increase to a level above the 75 dBA HUD standard as a result of the Conrail acquisition, mitigation should be mandated to permit the neighborhood to remain below the 75 dBA level.

Without such a standard, the quality of life of the residents of "sensitive receptors" would be severely impacted and their economic losses also would be great. That is, as Mr.

Walter explains, not only would unacceptable noise levels prohibit HUD funding for new development, but such noise levels also are recognized by HUD to be "a marketability factor" for existing facilities. That is, HUD considers this factor in determining the amount of insurance or other assistance that may be given.

HUD is not alone in viewing the noise NS proposes to visit on the BRL communities as a "marketability factor." Prospective purchasers also consider noise in determining the value of housing. As recently reported in the Ohio Realtor, a Lakewood Realtor has stated that "Houses next to the tracks are virtually unsellable. I have seen four listings in Lakewood that are directly on the tracks that have sold for substantially less dollars."

In brief, increased noise translates to lower property values, another cost proposed to be borne by the BRL communities to allow NS to obtain "net operating benefits in a normal year of \$553 million."

These are not unfounded concerns of the thousands of citizens of Lakewood, Rocky River and Bay Village who reside in the vicinity of the NS tracks. As reflected in Mr. Walter's exhibits EJW-2 and EJW-3, with 34.1 trains per day, the noise levels at the 100 feet distance will be above 75 dB, i.e. "unacceptable" at eight of the nine tested locations. In fact, noise will, on average, be at the 75 dB level 164 feet from the tracks. The 65 dB level, i.e. the bottom end of the "normally

unacceptable" level, would not be reached for hundreds of feet from the NS tracks.

To say that these levels do not give rise to the need for mitigation because the noise level has not increased by 320%, i.e. an increase of 5 dB, is flatly absurd. If an increase in pre-existing levels from 65 dB to 70 dB is worthy of mitigation, a locale with a pre-existing dB level of between 70 and 75 should not have to experience a 320% increase in noise in order to justify mitigation. This is precisely the case in the BRL communities. The average 100' Ldn at 13.5 trains per day is 72.6. At 34.1 trains per day, the average 100' Ldn would be 76.6, well above the HUD level of "unacceptable."

There are two fundamental points here. First, the 70 dba/5 dBA Ldn increase standard is meritless. If a quantitative approach is to be used, the HUD standards should be adopted. Assuming, arguendo, that any reason exists not to adopt the HUD standards, then the Ldn increase required for mitigation should decline as the pre-existing 100' Ldn figure increases in order to reflect the severity of the actual noise increase.

Second, under any reasonable standard, the 100' Ldn levels and the number of sensitive receptors within the 65 db contour line in the BRL communities which would result from an increase in the number of trains per day to 34.1 demand mitigation. As computed by Mr. Walter, the 100' Ldn levels range from a "low" of 70.6 to a high of 81.1 and average 76.6. Given the thousands of

people that would be faced with unacceptable noise levels, NS should be ordered to take its additional trains elsewhere.

4) Air Quality: As explained by the verified statement of David H. Minott, the DEIS air quality analysis ignores the fact that projected CO impacts resulting from motor vehicles queued at grade crossings exceed the "significant impact level" by substantial amounts at Hird Avenue in Lakewood. In light of Mr. Minott's findings, NS should be required to perform a refined air-quality modeling assessment for motor vehicle queuing at all BRL grade crossings. The results of this analysis, verified by the Board, should be included in the FEIS.

5) Maximum Delay For At-Grade Crossings And Its Impact On Emergency Services: As noted supra, the train speed issue cuts across a number of the DEIS analyses. One affected calculation is the purported "estimated maximum delay (in minutes) for at-grade roadway crossings" found in DEIS, Volume 3B, Table 5-OH-53. It should be clear that the figures shown in this table cannot possibly be the "maximum" delay at the BRL grade crossings with the highest ADTs. Rather, since this table assumes that NS will operate each one of its trains at the maximum authorized speed, Table 5-OH-53 must be relabeled as the estimated "minimum" delay at at-grade crossings.

The maximum delay at at-grade crossings should be computed to reflect the likely average speeds as discussed above and the correct "time in minutes for gate closing and opening prior to and after the passage of the train", discussed infra. By way of

example, if a value of 30.1 mph is used for speed through Lakewood and a value of 0.66 is used for gate up and down time, the daily blockage caused by 34.1 trains would be 86.87 minutes, 20% greater than shown in Table 5-OH-53 for Lakewood locations.

We note in this regard that the DEIS 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 BRL if NS is allowed to operate 34.1 trains per day. That is, in Volume 3B at OH-137, the DEIS states: "SEA has not predicted frequencies of delay for emergency response vehicles, due to the inherent uncertainties and obvious localized issues such as locations of responding emergency vehicles." BRL submit that this statement is incorrect and that our contention that the proposed increase in NS traffic would result in over 600 delays to emergency services vehicles annually can be verified easily.

Based on the data in BRL-2, we know that the Lakewood, Bay Village, and Rocky River police, fire, and EMS services are blocked by trains at least 253 times per year under current conditions. If total blocked crossing time per day with 34.1 trains per day is 258% of total blocked crossing time per day with 13.5 trains per day, as computed by Table 5-OH-53, then it must be assumed that delays to emergency vehicles will increase by roughly the same percentage. Stated another way, the FEIS must assume that there would be approximately 653 emergency vehicle delays per year if NS operates 34.1 trains per day. BRL

submit that this is an unacceptable result and requires mitigation.

6) Roadway Crossing Delay: As described in DEIS Volume 1 at 3-19, the DEIS uses a "level of service" ("LOS") analysis to measure the significance of delays to highway traffic resulting from increased rail traffic. Simply stated, the DEIS does not consider the impact of additional rail traffic on highway traffic to be significant unless it results "in (1) a post-Acquisition level of service E and F regardless of the pre-Acquisition condition, or (2) a reduction from pre-Acquisition level-of-service C or better to a post-Acquisition level of service D."^{47/}

BRL note at the outset that the DEIS LOS analysis reasonably may be characterized as "a straw that broke the camel's back" approach. That is, in all but the most extreme situations, even if the impact of increased rail traffic on street traffic would be severe, it would not give rise to a mitigation recommendation unless the pre-existing condition was poor at best. In fact, the only grade crossing for which a grade separation is recommended by the Supplemental Errata has a pre-acquisition LOS of D.

This approach to traffic mitigation differs markedly from the above-described approach to noise mitigation. In the noise context, a finding that mitigation is necessary is actually less likely if pre-acquisition noise levels are high. That is, a 5 db

^{47/} Note that this second option for relief does not appear in Volume 5A at C-15. Thus, it is not clear which of these two sets of criteria were used by the DEIS. This issue should be clarified in the FEIS.

increase is less likely if the pre-acquisition noise level is 70 db than if it is 65 db. In contrast, in the context of viewing traffic impacts, unless the pre-acquisition LOS is high, the post-acquisition LOS could not rise to a level at which a grade separation is considered necessary.

BRL urge reconsideration of these inconsistent approaches in the FEIS. The key issues in designing environmental mitigation are that the mitigation "must be reasonable" and "must be directly related to the impact caused by the Acquisition."^{48/} Accordingly, if grade separations are to be ordered because a currently bad LOS would be made worse by the Conrail acquisition, noise mitigation must be ordered if currently bad noise levels would be made worse by the Conrail acquisition.

A review of the Supplemental Errata, Table 5-OH-11 (Revised), establishes part of the basis for BRL's concern with vehicle delays. According to the DEIS analysis, the "average delay per vehicle", i.e. the numerical equivalent of the LOS grade, would increase by 163% at the five BRL crossings considered, West 117 St, Bunts Rd, Columbia Rd, Dover Center Rd, and Bradley Rd, as a result of the Conrail acquisition. Even assuming, arguendo, that the average delay per vehicle has been calculated accurately, but see infra, this is a substantial increase in average vehicle delay. And yet, because of its failure to consider cumulative impacts, the DEIS does not consider whether this increase in average vehicle delay should

^{48/} DEIS, Volume 1 at 3-3.

serve as part of the justification for environmental mitigation. This is error. The purpose of environmental mitigation should be to identify not just substantial individual environmental degradations, but to identify all environmental degradations and to return communities, as closely as possible, to the pre-existing condition.

In any event, the "pre" and "post" "crossing delay per stopped vehicle" and "average delay per vehicle" must still be calculated accurately. And, it is clear that the figures presented in Table 5-OH-11 (Revised) are not accurate for the following reasons.

First, as discussed previously, the DEIS has erred in utilizing the maximum allowed speed rather than a reasonable estimate of an average speed. Reducing the speed used in the calculations to the average speed of the trains is necessary to arrive at accurate crossing delay and average delay data.

Second, as also discussed previously, the DEIS has erred in accepting a post-acquisition trains per day figure that NS has not been able to verify.

Third, in computing the "blocked crossing time per train, another of the components of both the crossing delay and the average delay, the DEIS utilized an understated, i.e. 0.50 minutes, constant to reflect the "time in minutes for gate closing and opening prior to and after the passage of the train."^{49/} According to the October 30, 1997 letter from counsel

^{49/} DEIS, Volume 5A at C-11.

for NS to BRL, NS gates "begin their downward motion after a train has been detected and the gate delay time (no less than three (3) seconds after activation of the warning devices) has expired. The time in question may vary from 22 seconds to 27 seconds prior to the arrival of a train at the crossing." The December 8, 1997 letter from counsel for NS to BRL clarified that the above-noted "three seconds is in addition to the 22 to 27 second variance." In other words, the "gate down time" will range from 25 to 30 seconds for an approximate average of 27.5 seconds.

Also according to NS, its "gates are electrically programmed to raise in not more than twelve (12) seconds after a train has cleared the crossing circuit."^{50/}

In brief, the actual NS "time in minutes for gate closing and opening prior to and after the passage of the train" averages 39.5 seconds (27.5 + 12). Accordingly, 0.66 should be substituted for 0.50 in the FEIS formula.

III. CONCLUSION AND REQUEST FOR MITIGATION

As detailed hereinabove, the DEIS, notwithstanding errors that substantially understate environmental impacts, has confirmed BRL's initial view that the Norfolk Southern proposal to dramatically increase traffic on the Cleveland to Vermilion line segment would result in environmental degradation that must be mitigated. When the environmental impacts of this transaction are considered individually, they are severe. When they are

^{50/} NS-32, response 6(b).

considered in the aggregate, they amount to nothing less than an assault on quality of life.

BRL have been advised that other parties representing Ohio interests will be presenting a mitigation proposal to the Board that would address the concerns, not only of BRL, but of other Ohio locales, including Cleveland. If such a mitigation proposal were to be adopted by the Board, BRL would, of course, be entirely supportive.

However, if, for any reason, a "global" solution cannot be found that would resolve the concerns of the Greater Cleveland area, BRL believe that 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 on November 25, 1997.^{51/} Following a recalculation of the

^{51/} For purposes of clarity, BRL also wish to review other mitigation suggestions, including those contained in BRL-2. We adhere to our view that (1) the best mitigation that SEA can recommend is a condition limiting NS traffic over the Cleveland to Vermilion line segment to the Base Case level; and (2) SEA should recommend that the Board retain jurisdiction over this proceeding for purposes of expanding environmental mitigation should the acquiring railroads' operations be significantly different than those contemplated in the FEIS. At the least, NS should be required to (1) install gates and lights at all grade crossings in BRL; (2) pay for the construction of a new Fire/EMS station in Rocky River north of the tracks (see the Supplemental Verified Statement of James R. Linden); (3) replace the Clague Siding with a new siding west of BRL; (4) repair the bridge located to the west of the Westlake Hotel; and (5) follow the best practices permitted by the Federal Railroad Administration for noise abatement following completion of FRA's ongoing study. Given that NS is not operating at its maximum speed limit today, we see no benefit to expenditures to increase that speed limit. Neither do we see a benefit to improved communications between NS and emergency services providers unless those improvements can be fully integrated into existing computer dispatching programs. We
(continued...)

environmental data as requested herein, the FEIS should recommend, and the Board should order, NS to implement that plan at its sole cost at the earliest practicable date.

In no event should the FEIS adopt the "consultation" approach found in the DEIS. That approach, which places all bargaining power in the hands of NS, constitutes an abdication of the STB's responsibilities under the ICCTA and NEPA and will do nothing to mitigate the environmental damage NS proposes.

This is not to say that BRL are unwilling to enter into discussions with NS and others in order to find a mutually acceptable global solution or to use our good offices to assist NS in its effort to secure funding for elements of its mitigation proposal that would be of benefit to our neighbors, e.g. the proposed grade separations in Berea and Olmsted Falls. However, the fact remains that it is NS that is proposing this transaction and it is NS that will enjoy "net operating benefits in a normal year of \$553 million." If, for any reason, public funding is not available to assist NS in these efforts, it is NS that should

^{51/}(...continued)

have serious questions as to whether new grade separations are feasible within BRL. However, if a "global" solution is not found, and if the Maestri solution is not mandated, BRL recommend that NS be required to fund studies to determine whether grade separations are feasible and be required to fully fund grade separations where feasible in BRL.

bear the cost. The citizens of Lakewood, Bay Village, and Rocky River should not be held hostage by NS.

Respectfully submitted,



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Dated: February 2, 1998

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VERIFIED
STATEMENTS



**SUPPLEMENTAL VERIFIED STATEMENT
OF
KEVIN F. BEIRNE**

My name is Kevin F. Beirne, Building Commissioner, City of Rocky River, Rocky River, Ohio. I previously submitted a verified statement consisting of two written pages and Exhibits KFB-1 and KFB-2. That statement was verified by me to be true on October 6, 1997. I wish to supplement my previous statement at this time.

Since then, revised data has been collected regarding the number of sensitive receptors within the Pre- and Post-Acquisition 65 dBA L_{dn} noise contour based on the information collected by Dr. Edward J. Walter & Associates regarding acquisition noise impact (i.e. the areas exposed to an average noise level of 65 dB, L_{dn}) on the City of Rocky River. The methodology utilized by Edward Walter, Jr. to obtain noise contour distances in feet is set forth in his Verified Statement and summarized in Exhibit EJW-2.

Three locations were monitored within the City of Rocky River, Normandy Manor, Elmwood Park, and the Westlake Hotel. Based upon a Pre-Acquisition average of 13.5 trains per day, distances of 145, 450, and 410 feet respectively were obtained. These figures increased to 335, 920, and 850 feet respectively assuming an Applicant estimated Post-Acquisition increase to 34.1 trains per day.

Pre-Acquisition points were plotted in both directions (North and South) of the tracks and connected by a straight line as demonstrated within Figure F-3, Page F-12 in the DEIS. The number of sensitive receptors within that area were counted. Nine hundred and thirty (930) sensitive receptors were located within the Base Case area,

including one nursing home. No churches or schools are located within the Base Case noise contour.

The Post-Acquisition numbers obtained by Edward Walter & Associates were also plotted and connected via a straight line in both directions (North and South) of the tracks. One thousand three hundred and thirty eight (1338) sensitive receptors were counted within the Post-Acquisition area including three schools, one church, and one nursing home. A comparison of the Base Case and Post-Acquisition sensitive receptor figures reveals that an additional four hundred and eight (408) sensitive receptors will be affected if the Acquisition at issue is approved as proposed. This represents a net increase in the number of sensitive receptors who will be affected of 43.9%. This 43.9% increase is unacceptable to the City of Rocky River and its residents.

VERIFIED STATEMENT

OF

BRIAN F. MORAN

My name is Brian F. Moran, and I am the Building Commissioner for the City of Lakewood, Ohio, and have been since July 1, 1990. I have been employed by the City of Lakewood since June 5, 1978, and possess the following credentials and licenses to perform the duties required by the position: State of Ohio - Class I Building Official; State of Ohio - Class III Field Inspector; State of Ohio - Electrical Safety Inspector; State of Ohio - Plumbing Inspector; Council of American Building Officials - Certified Building Official. A copy of my resume outlining my professional qualifications is attached hereto as Exhibit "A."

I was asked to chart on a map of the City of Lakewood chart the following distances on the map attached hereto as Exhibit "B:"

- A. Cohasset Place – 480 feet (Perimeter 1) and 970 feet (Perimeter 2) both north and south of the Norfolk-Southern railroad tracks;
- B. Bunts Road – 1040 feet (Perimeter 1) and 1825 feet (Perimeter 2) both north and south of the Norfolk-Southern railroad tracks; and
- C. Virginia Avenue – 510 feet (Perimeter 1) and 1020 feet (Perimeter 2) both north and south of the Norfolk-Southern railroad track.

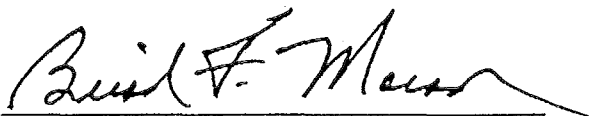
I then determined how many "sensitive receptors," residences (dwelling units), churches, schools and hospitals were located within both Perimeter 1 and Perimeter 2 as follows:

1. There are 1020 structures located in Perimeter 1 containing 2335 dwelling units.
2. There are 1018 structures located in Perimeter 2 containing 1584 dwelling units.
3. There are 2038 structures located in both areas with a total of 3919 dwelling units.
4. Included within both areas are also:
 - 6 schools
 - 1 hospital
 - 7 churches
 - 3 nursing homes
 - 2 assisted living facilities
 - 5 parks
 - 1 library

VERIFICATION

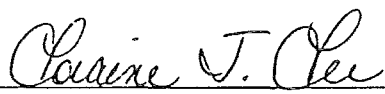
STATE OF OHIO)
)
COUNTY OF CUYAHOGA) SS:

I, Brian F. Moran, first being duly sworn, deposes and says that I have read the forgoing statement, know the contents thereof, and the same is true and correct to the best of my knowledge.



Brian F. Moran

Subscribed and sworn to before me this 29th day of January, 1998.



Notary Public

My Commission Expires 6/16/98

LORAIN J. LEE
NOTARY PUBLIC, STATE OF OHIO
Recorded in Cuyahoga County
My Comm. Expires June 16, 1998

EXHIBIT A

Brian F. Moran

Residence Address

21391 Robinhood
Fairview Park, Ohio 44126
(440) 734-6772

Business Address

12650 Detroit Avenue
Lakewood, Ohio 44107
(216) 529-6297

Education

Graduated 1962 from St. Edward High School

Graduated 1967 from Cuyahoga Community College -- Associate Arts Degree
Business Management

Continuing education -- Seminars and schooling required for building, electrical,
H.V.A.C. and plumbing State licenses yearly from 1978 to
present.

Experience

July 1, 1990 to Present -- Chief Building Official for the City of Lakewood, Ohio.

Chief Building Official for the City of Lakewood, Ohio, population 60,000. Responsible for the supervision and management of the largest suburban Building Department in the State of Ohio, consisting of a staff of twenty (20) full-time and two (2) part-time employees with an annual budget of \$923,000.00 for Fiscal Year 1997. The City of Lakewood is an inner ring suburb of metropolitan Cleveland, consisting of five and a half square miles, with 12,594 one and two family structures and 988 multi-family structures with a total of 28,683 dwelling units. While the City is totally developed with an aging housing stock and commercial district, it has undergone revitalization with its new City Center Project and aggressive housing inspection and rehabilitation programs.

Job duties include, but are not limited to, overall supervision of the Building Department in relation to Building and Zoning Codes. Administration's representative to the Planning Commission, Board of Zoning Code of Appeals, Board of Building Standards/Architectural Review Board and Lakewood Reinvestment Housing Council. Issuance and inspection of all building, plumbing, electrical and H.V.A.C. permits. Licensing of all contractors, rental dwelling units, solicitors, vendors, coin operated amusement devices, bowling alley and billiard rooms and other licenses as required by the Codified Ordinances.

Resume for Brian F. Moran continued...

Experience Continued...

January 1988 to June 1990 -- Assistant Building Commissioner for the City of Lakewood.

Assistant Building Commissioner in charge of all residential properties (12,781 dwelling units). Supervision of four Building Inspectors and two Complaint Investigators regarding new construction, remodeling work, building, electrical, plumbing, heating, ventilation, air conditioning, and all building and maintenance complaints concerning absentee and owner occupied properties. Record keeping, training of new inspectors, representation of the Administration at Architectural Review Board, Board of Zoning Code of Appeals, and Planning Commission meetings. Housing Officer for the Lakewood Community Reinvestment Area Housing Council Tax Abatement Program.

June 1978 to January 1988 -- Employed by the City of Lakewood Building Department as a Building Inspector in the Commercial Division.

Building Inspector of new and existing buildings relating to building, electrical, plumbing and heating, ventilation and air conditioning. Associated record keeping; trained new inspectors; represented the Administration at various appeal board meetings; issued building, electrical, plumbing, heating and ventilation and air conditioning permits; inspected for retail Certificates of Occupancy; made annual inspections; made complaint inspections; etc. Acted as backup supervisor for Assistant Commissioners during their absence.

October 1968 to June 1978 -- Employed as a Junior Civil Engineer by the Cuyahoga County Engineer.

Junior Civil Engineer in supervisory position of four to seven men involving field construction layout. Inspected various jobs such as highway and bridge construction, sewer, water, and gas line installation, new building layout, etc.

October 1965 to June 1978 -- Part-time remodeling subcontractor with various general contractors.

1964 to 1967 -- College student.

Resume for Brian F. Moran continued...

Special Qualifications

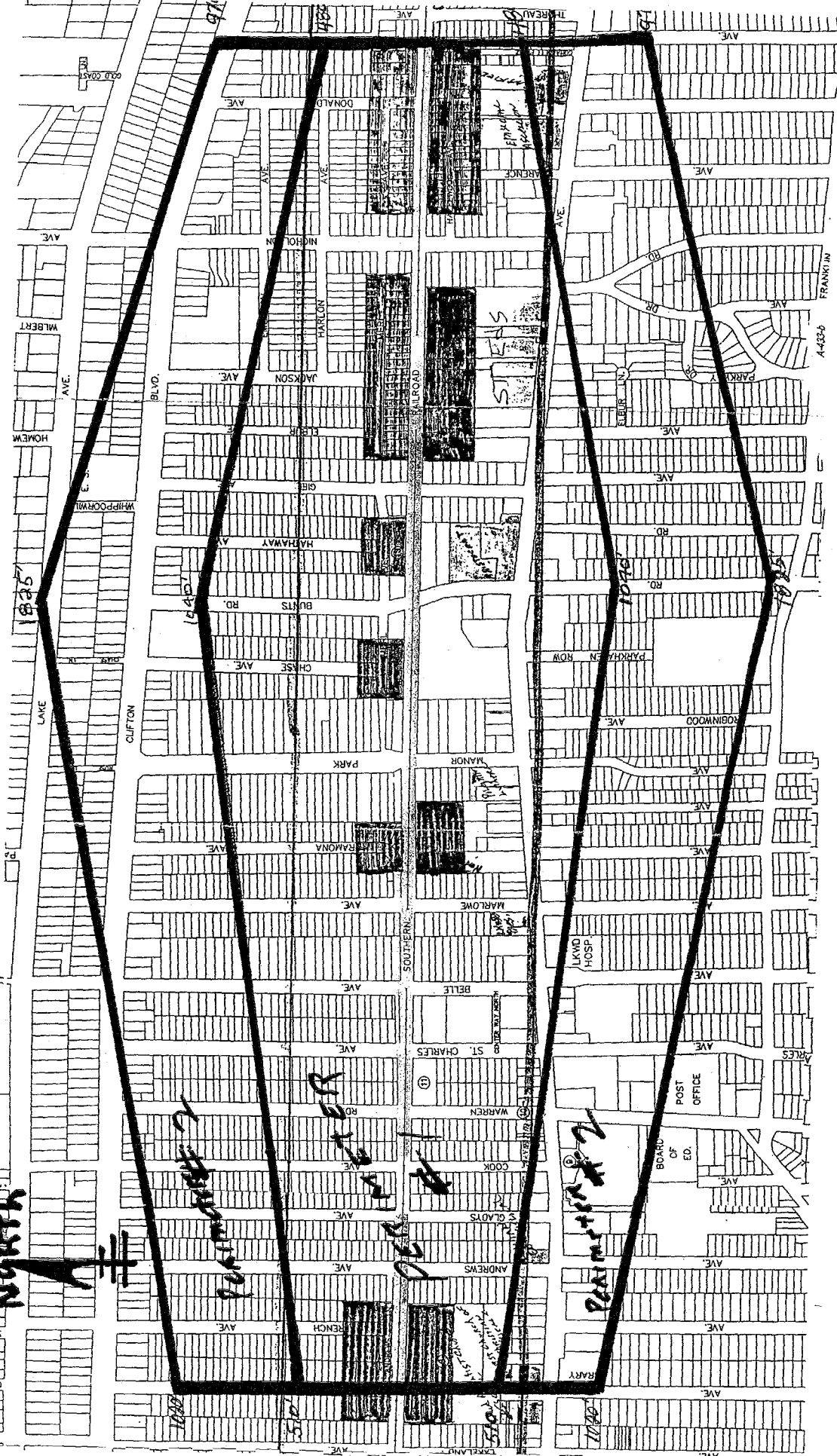
Presently hold the following State of Ohio Certificates of Competency:

Class I – Chief Building Official
Class III – Field Inspector
Electrical Safety Inspector #728
Certified Plumbing Inspector #370
Council of American Building Officials Certified Building Official
Certificate #900

Personal History

Fifty-three years of age and resident of the City of Fairview Park for the past nine years with wife of 30 years, Norma Jean Moran. Three children: Matthew, 28; Kelly, 26, and Erin, 21. Member of St. Angela's Parish, the West Park Knights of Columbus, the Building Officials Conference of Northeast Ohio, the Ohio Association of Plumbing Inspectors, the International Association of Electrical Inspectors, the Western Reserve Division of the International Association of Electrical Inspectors, the Council of American Building Officials, the Building Officials and Code Administrators, the National Fire Protection Association, and the Lakewood Reinvestment Area Housing Council.

EXHIBIT B



US OFFICE PHOENIX

**VERIFIED STATEMENT
OF
JAMES M. SEARS**

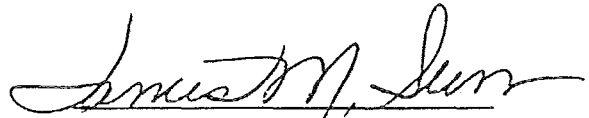
My name is James M. Sears and I am the Director of Public Service and Property for the City of Bay Village. I have reviewed the verified statement of Edward J. Walter, Jr. and its attachments. I have also reviewed a current map of the City of Bay Village for purposes of determining the number of receptors within the City of Bay Village within the distances from the Norfolk Southern track shown in the LDN(65) actual train column, the LDN(65) 13.5 trains per day column and the LDN(65) 34.1 trains per day column of attachment EJW-2 to the Verified Statement of Edward J. Walter, Jr., ("EJW-2"). Upon my review of a current map of the City of Bay Village, I have determined that (1) within the City of Bay Village within the distances from the Norfolk Southern track shown in the LDN (65) actual train column of EJW-2 there are 1106 receptors that (2) within the City of Bay Village within the distances from the Norfolk Southern track shown in the LDN (65) 13.5 train column of EJW-2 there are 1129 receptors and that (3) within the City of Bay Village within the distances from the Norfolk Southern track shown in the LDN (65) 34.1 train column of EJW-2 there are 1920 receptors.

HAHOMEKATHYSEARS

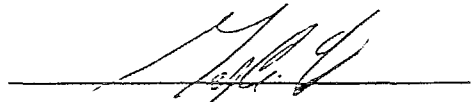
VERIFICATION

STATE OF OHIO)
) SS
COUNTY OF CUYAHOGA)

I, James M. Sears, being duly sworn, depose and say that I have read the foregoing, know the contents thereof, and the same is true and correct.


James M. Sears

Subscribed and sworn to before me the 30 day of January, 1998.


GARY A. EBERT, Attorney
NOTARY PUBLIC-STATE OF OHIO
My Comm. Has No Expiration Date
Section 147.03 R.C.

H:\HOME\KATHY\SEARS2

VERIFIED STATEMENT OF
EDWARD J. WALTER, JR.

My name is Edward J. Walter, Jr. I am Vice President and Chief Executive Officer of Dr. Edward J. Walter & Associates, Inc., 9241 Ravenna Road, C-6, Twinsburg, Ohio 44087. A statement of my qualifications is attached as EJW-1.

I have been engaged by the cities of Rocky River, Lakewood, and Bay Village, Ohio to examine the impact of the proposed increase in the number of Norfolk Southern trains from an average of 13.5 per day to an average of 34.1 trains per day. My findings are attached in tabular form in EJW-2 and EJW-3.

Prior to discussing my findings, I want to outline the methodology my firm utilized in compiling data. As an initial matter, my firm did not seek to determine noise impacts along the entire Cleveland to Vermilion line segment. Rather, we examined noise impacts on three locations in each of the BRL communities, i.e. Normandy Manor, Elmwood Park, and Westlake Hotel in Rocky River; Dover Center, Naigle Road, and Parkside Road in Bay Village; and Cohasset Place, Bunts Road, and Virginia in Lakewood. As shown in EJW-2, these locations included two wayside locations and one crossing location for each of the three communities.

Once approximate locations were selected for our tests, our noise measurement equipment (Quest Technologies Model 2900 Integrating/Logging Sound Level Meter Type 1) was installed at distances of either 140 feet or 150 feet from the Norfolk Southern track. At each location, measurements were taken over approximately 24 hours. Our tests began on November 19, 1997 at

the Normandy Manor location in Rocky River and ended on December 19, 1997 at the Virginia location in Lakewood. The equipment was monitored at all times by a technician.

For obvious reasons, the number of Norfolk Southern trains passing by each location on the day of our tests did not equal the 13.5 train average used as the Base Case in the Conrail acquisition proceeding. Thus, while I have presented the LDN(65) values actually recorded in the EJW-2 column headed "actual train values", I have converted those values in the next column, headed "13.5 trains/day", in order to give the Surface Transportation Board LDN(65) values for the Base Case.

It is important to note two facts with regard to the data I have compiled. First, while the noise measurement was done by my firm, we have consistently applied the Norfolk Southern methodologies as presented in Appendix B, Noise Methodology.

Second, while the LDN(65) distances shown for the locations vary widely, this is not an unusual result. Any number of location-specific factors, including topography and ambient noise levels, affect LDN(65) distances.

The next column of EJW-2 again reflects a conversion of the actual train values to demonstrate the results if the number of trains is increased to 34.1 per day, i.e. the number of trains Norfolk Southern says it will average in the Post-Acquisition environment.

It is my understanding that representatives of Rocky River, Bay Village, and Lakewood will be reviewing maps to determine the

number of "sensitive receptors" located within the distances from the Norfolk Southern tracks shown in my 13.5 trains per day and 34.1 trains/day columns to develop totals for the three communities in the Base Case and Post Acquisition environments. I consider this to be a reasonable use of my data.

The next three columns on EJW-2 present the 100 feet LDN levels as measured ("actual train values"), for the Base Case ("13.5 trains/day"), and for the Post Acquisition Case ("34.1 trains/day"). As shown in the final column, the change from the Base Case number of trains to the Post Acquisition number of trains is 4.0 dB.

It is my understanding that the Draft Environmental Impact Statement proposes no mitigation measures when the change in dB is less than 5.0. Given the number of sensitive receptors affected in these three communities and the high noise levels already present in these locations, I believe the DEIS approach to be in error.

In order to explain the basis for my position, I first want to explain the significance of changes in dB levels. As reflected in the Handbook of Noise Measurement (pages attached at EJW-4), a change of 3 dB indicates an approximate doubling of noise. A change of 4 dB (the predicted change for Rocky River, Bay Village, and Lakewood) indicates a noise level approximately 2.5 times the original, and a dB level 5 higher than the status quo indicates a resulting noise level approximately 3.2 times the prior level.

Since phrases such as "doubling" and "tripling" do not give a clear picture of the significance of the resulting noise level, I have attached EJW-5, regulations of the Office of the Secretary, U.S. Department of Housing and Urban Development. As may be seen in Section 51.101(a)(3), page 287, "HUD assistance for the construction of new noise sensitive uses is prohibited generally for projects with unacceptable noise exposures and is discouraged for projects with normally unacceptable noise exposure." "Noise sensitive uses" are defined in the same section to include housing, nursing homes, and hospitals, what the DEIS calls "sensitive receptors."

Section 51.101(a)(4) also points out the obvious fact that "environmental noise is a marketability factor" for existing facilities and HUD considers this factor "in determining the amount of insurance or other assistance that may be given."

HUD's "exterior noise goals", found in Section 51.101(a)(8), are that these levels "not exceed a day-night average sound level of 55 decibels." HUD notes that this level is recommended by the Environmental Protection Agency as a goal for outdoors in residential areas. HUD further states that "for the purposes of this regulation and to meet other program objectives, sites with a day-night average sound level of 65 and below are acceptable and are allowable." In order to place this in context, the Board thus should note that moving the 65 Ldn line further away from the tracks, the result of increasing the number of trains, means that additional homes and other receptors will be in a noise zone

that is neither acceptable nor allowable. Thus, when we say that additional sensitive receptors would be placed within the 65 Ldn contour line, what we are really saying is that the amount of noise experienced by these receptors has become unacceptable.

The above-noted standards of acceptability for HUD assistance for the construction of new noise sensitive uses are contained in Section 51.103(c) of HUD's regulations, page 289. As may be seen, "normally unacceptable" is defined as "above 65 dB but not exceeding 75 dB." "Unacceptable" is defined as "above 75 dB." Using these definitions, the data in EJW-2 thus mean that at a distance of 100' from the Norfolk Southern tracks, 13.5 trains a day result in a dB that is "normally unacceptable" for all but one location and that one location, Bunts Road, is in the "unacceptable" category.

With 34.1 trains per day, the results are reversed. That is, one location, Normandy Manor, remains in the "normally unacceptable" category and every other location would be placed in the "unacceptable" category.

EJW-3 quantifies the extent of the "unacceptable" noise levels under the Norfolk Southern proposal, i.e. the locations experiencing Ldn (75) with 34.1 trains per day. As may be seen, the contour line for noise levels deemed unacceptable by HUD would range from a low of 38 feet from the tracks at the Normandy Manor location to 360 feet at the Bunts Road location. On average, all receptors within 164 feet of the track would experience unacceptable noise levels. Given that receptors on

both sides of the track are affected, a strip of land approximately 328 feet wide along the right of way would experience noise levels HUD states are unacceptable.

When faced with these results, it is clear to me that the STB's 5 dB change criterion of significance ignores reality. An increase in the number of trains from 13.5 to 34.1 on the line passing through Rocky River, Bay Village, and Lakewood would create a large area that would be unacceptable under HUD criteria and would create an even larger area in which HUD would recognize that the marketability of the property would be adversely affected.


VERIFICATION

STATE OF OHIO

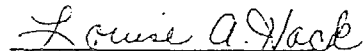
SS.

COUNTY OF CUYAHOGA

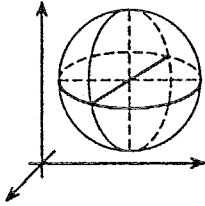
I, Edward J. Walter, Jr., being duly sworn, depose and say that I have read the foregoing, know the content thereof, and the same is true and correct.


Edward J. Walter, Jr.

Subscribed and sworn to before me this 28TH day of January, 1998.


Notary Public
My appt. expires _____

LOUISE A. HACK, Notary Public.
State of Ohio
My Commission Expires July 31, 2002



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Vibration and Sound Consultants

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EDWARD J. WALTER, JR.

Education

A.B., John Carroll University, Cleveland, Ohio 1968

Penn State University - Continuing Education

Professional Experience

- 1974- Dr. Edward J. Walter & Associates, Inc., Twinsburg, Ohio,
Vice President, General Manager
- 1973-1974 Vibra-Tech Engineers, Inc., Indianapolis, Indiana,
Seismologist-Midwestern Area Manager
- 1971-1973 Philip R. Berger & Associates, (Geosonics, Inc.) Pittsburgh, PA,
Seismologist
- 1968-1971 Dr. Edward J. Walter & Associates, Chesterland, Ohio,
Supervisor of Field Operations
- 1964-1968 Seismological Observatory, John Carroll University,
Technician
- 1964-1968 Dr. Edward J. Walter & Associates, Chesterland, Ohio,
Field Seismologist

Society and Association Memberships

The Seismological Society of America

The Eastern Section, Seismological Society of America

The American Geological Institute

The American Institute of Mining Engineers

Society of Explosives Engineers

The Ohio Contractors Association

The Associated General Contractors of America

Ohio Mining and Reclamation Association

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Licenses

Pennsylvania Blaster's License - 3130-A
Ohio State Fire Marshal's Permit
Federal permits to purchase & use explosives
Multiple municipal contractors licenses
Michigan State Permit - A21581

Technical Papers

"The Responsibility of the Consultant in the Promulgation of Adequate Explosives Noise Legislation", Proceedings of the First Conference on Explosives and Blasting Techniques, Society of Explosives Engineers, 1975.

"Some Aspects of Small Scale Slant Hole Drilling", Proceedings of the Second Conference on Explosives and Blasting Techniques, Society of Explosives Engineers, 1976.

"Low Level Continuous Vibration and Potential Damage", Walter, Dr. Edward J. and Edward J. Walter, Jr.; Proceedings of the Fifth Conference on Explosives and Blasting Techniques, Society of Explosives Engineers, 1979.

"Pre-Blast Surveys, A Public Relations And Claim Reduction Tool", Harrison, D., Walter, Jr., E., Ferek, M., and Harrison, B. A.; Proceedings of the Twenty-First Annual Conference on Explosives and Blasting Technique, International Society of Explosives Engineers, 1995.

Duties and Responsibilities

Blasting program design and implementation.
Contract drilling and blasting.
Consulting to reduce noise and vibration produced by industrial, mining, traffic, and construction sources
Evaluation of damage resulting from noise and vibration.
Design of laws and ordinances to limit noise and vibration.
Design of laws and ordinances to regulate the use of explosives.
Instrumentation design to measure noise and vibration.
Evaluation of existing environmental regulations to determine their effect upon industry and residences.

Duties and Responsibilities (continued)

Measurement of noise and vibration to determine its effects upon communities.

Measurement of noise and vibration to determine employee exposures and reduction procedures.

Training seminars on the use of explosives--blast design and safety.

Statistical studies to determine best technology methods in the use of explosives.

Expert legal testimony regarding the aforementioned.

Design evaluation of construction specifications.

Evaluation of damage claims associated with mining, construction, and other heavy industry.

Site development consultation.

Safety Program development, evaluation, and implementation for construction demolition, mining, and explosives applications.

Representative Clients and Agencies Served Personally

The Austin Company

Aetna Life and Casualty

The American Bridge Company

The B. F. Goodrich Company

Buffalo Testing Laboratories, Inc.

The City of Cleveland

Cleveland Electric Illuminating Co. (Perry Nuclear)

Crucible Steel Company

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The East Ohio Gas Company

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The Hartford Insurance Company

Representative Clients (continued)

Herron Testing Laboratories

K M & M, A Joint Venture

Kajima-Marra/Majestic-Jay Dee, Joint Venture

The Kassouf Company

Lake County, Ohio

The Murray Hill Construction Co., Inc.

The Ohio National Guard

Solar Testing Laboratories

The State of Ohio

The Peabody Coal Company

Picker X-Ray Corporation

Steel Improvement and Forge

The Travelers Insurance Company

The City of Twinsburg

TRW, Inc.

U. S. Army, Corps of Engineers

The United States Bureau of Mines

Dr. Edward J. Waller & Associates
 Acoustical Survey Results
 Norfolk & Southern Railroad
 LDN(75) expanded usage

Location	type	LDN(75)
		34.1
		trains/day
		feet
Normandy Manor	wayside	38
Elmwood Park	crossing	130
Westlake Hotel	wayside	120
Dover Center	crossing	240
Naigle Rd	wayside	193
Parkside Rd	wayside	103
Cohasset Place	wayside	140
Burns Road	crossing	360
Virginia	wayside	150

Handbook of **NOISE MEASUREMENT**

by Arnold P. G. Peterson
and Ervin E. Gross, Jr.

Price: \$7.50

(SEVENTH EDITION)

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A-437-b

weighting networks (L_C-L_A) is frequently noted. (This difference in decibels is called the "harmonic index" in that application only.) It serves, as indicated above, to give some idea of the frequency distribution of the noise. This difference is also used in other noise-rating techniques in conjunction with the A-weighted sound level.

2.6 COMBINING DECIBELS.

A number of possible situations require the combining of several noise levels stated in decibels. For example, we may want to predict the effect of adding a noisy machine in an office where there is already a significant noise level, to correct a noise measurement for some existing background noise, to predict the combined noise level of several different noise sources, or to obtain a combined total of several levels in different frequency bands.

In none of these situations should the numbers of decibels be added directly. The method that is usually correct is to combine them on an energy basis. The procedure for doing this is to convert the numbers of decibels to relative powers, to add or subtract them, as the situation may require, and then convert back to the corresponding decibels. By this procedure it is easy to see that a noise level of 80 decibels combined with a noise level of 80 decibels yields 83 decibels and not 160 dB. A table showing the relation between power ratio and decibels appears in Appendix I. A chart for combining or subtracting different decibel levels is shown in Appendix II.

The single line chart of Figure 2-4 is particularly convenient for adding noise levels. For example, a noisy factory space has a present A-weighted level at a given location of 82 dB. Another machine is to be added 5 feet away. Assume it's known from measurements on the machine, that at that location in that space, it alone will produce an A-weighted level of about 78 dB. What will the over-all level be when it is added? The difference in levels is 4 dB. If this value is entered on the line chart, one finds that 1.5 dB should be added to the higher level to yield 83.5 dB as the resultant level.

2.7 VIBRATION.

Vibration is the term used to describe continuing or steady-state periodic motion. The motion may be simple harmonic motion like that of a pendulum, or it may be complex like a ride in the "whip" at an amusement park.

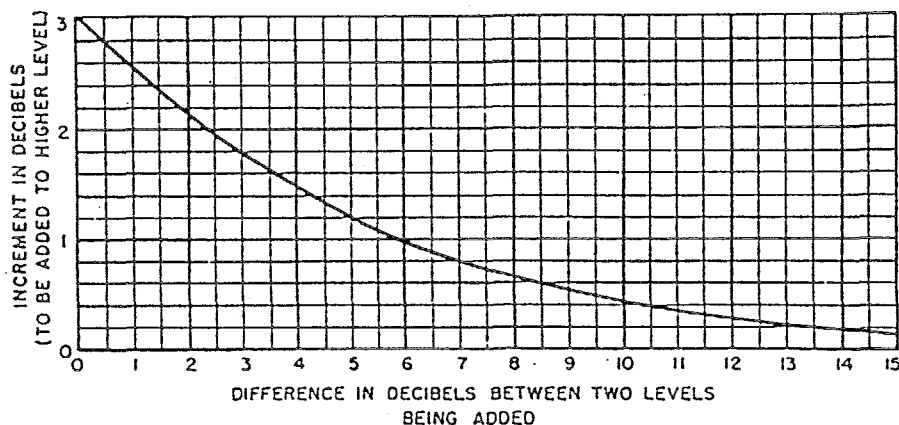


Figure 2-4. Chart for combining noise levels.

Appendix II

Chart for Combining Levels of Uncorrelated Noise Signals*

TO ADD LEVELS

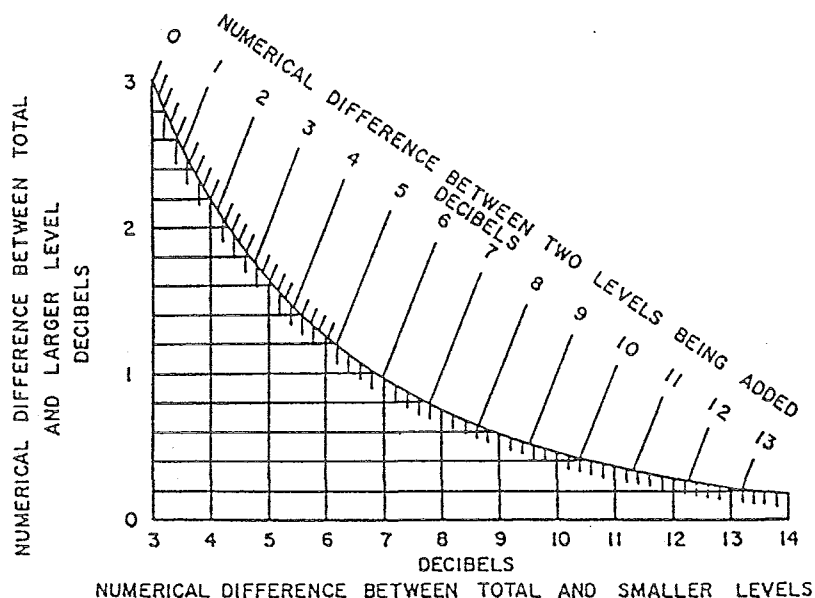
Enter the chart with the NUMERICAL DIFFERENCE BETWEEN TWO LEVELS BEING ADDED. Follow the line corresponding to this value to its intersection with the curved line, then left to read the NUMERICAL DIFFERENCE BETWEEN TOTAL AND LARGER LEVEL. Add this value to the larger level to determine the total.

Example: Combine 75 dB and 80 dB. The difference is 5 dB. The 5-dB line intersects the curved line at 1.2 dB on the vertical scale. Thus the total value is $80 + 1.2$ or 81.2 dB.

TO SUBTRACT LEVELS

Enter the chart with the NUMERICAL DIFFERENCE BETWEEN TOTAL AND LARGER LEVELS if this value is less than 3 dB. Enter the chart with the NUMERICAL DIFFERENCE BETWEEN TOTAL AND SMALLER LEVELS if this value is between 3 and 14 dB. Follow the line corresponding to this value to its intersection with the curved line, then either left or down to read the NUMERICAL DIFFERENCE BETWEEN TOTAL AND LARGER (SMALLER) LEVELS. Subtract this value from the total level to determine the unknown level.

Example: Subtract 81 dB from 90 dB. The difference is 9 dB. The 9-dB vertical line intersects the curved line at 0.6 dB on the vertical scale. Thus the unknown level is $90 - 0.6$ or 89.4 dB.



*This chart is based on one developed by R.Musa.

Office of the Secretary, HUD

§ 50.43

accordance with paragraphs (a) through (d) of § 50.23.

§ 50.35 Use of prior environmental assessments.

When other Federal, State, or local agencies have prepared an EA or other environmental analysis for a proposed HUD project, these documents should be requested and used to the extent possible. HUD must, however, conduct the environmental analysis and prepare the EA and be responsible for the required environmental finding.

§ 50.36 Updating of environmental reviews.

The environmental review must be re-evaluated and updated when the basis for the original environmental or compliance findings is affected by a major change requiring HUD approval in the nature, magnitude or extent of a project and the project is not yet complete. A change only in the amount of financing or mortgage insurance involved does not normally require the environmental review to be re-evaluated or updated.

Subpart F—Environmental Impact Statements

§ 50.41 EIS policy.

EIS's will be prepared and considered in program determinations pursuant to the general environmental policy stated in § 50.3 and 40 CFR 1505.2 (b) and (c).

§ 50.42 Cases when an EIS is required.

(a) An EIS is required if the proposal is determined to have a significant impact on the human environment pursuant to subpart E.

(b) An EIS will normally be required if the proposal:

(1) Would provide a site or sites for hospitals or nursing homes containing a total of 2,500 or more beds; or

(2) Would remove, demolish, convert, or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under § 50.20), or which would result in the construction or installation of 2,500 or more housing units, or which would provide sites for 2,500 or more housing units.

(c) When the environmental concerns of one or more Federal authorities cited in § 50.4 will be affected by the proposal, the cumulative impact of all such effects should be assessed to determine whether an EIS is required. Where all of the affected authorities provide alternative procedures for resolution, those procedures should be used in lieu of an EIS.

§ 50.43 Emergencies.

In cases of national emergency and disasters or cases of imminent threat to health and safety or other emergency which require the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 and of any applicable § 50.4 authorities which provide for emergencies shall apply.

PART 51—ENVIRONMENTAL CRITERIA AND STANDARDS

Subpart A—General Provisions

Sec.

- 51.1 Purpose.
- 51.2 Authority.
- 51.3 Responsibilities.
- 51.4 Program coverage.

Subpart B—Noise Abatement and Control

- 51.100 Purpose and authority.
- 51.101 General policy.
- 51.102 Responsibilities.
- 51.103 Criteria and standards.
- 51.104 Special requirements.
- 51.105 Exceptions.
- 51.106 Implementation.

APPENDIX I TO SUBPART B—DEFINITION OF ACOUSTICAL QUANTITIES

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- 51.200 Purpose.
- 51.201 Definitions.
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- 51.203 Safety standards.
- 51.204 HUD-assisted hazardous facilities.
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- 51.208 Reservation of administrative and legal rights.

APPENDIX I TO SUBPART C—SPECIFIC HAZARDOUS SUBSTANCES

§ 51.1

APPENDIX II TO SUBPART C—DEVELOPMENT OF STANDARDS; CALCULATION METHODS

Subpart D—Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields

- 51.300 Purpose.
- 51.301 Definitions.
- 51.302 Coverage.
- 51.303 General policy.
- 51.304 Responsibilities.
- 51.305 Implementation.

AUTHORITY: 42 U.S.C. 3535(d), unless otherwise noted.

SOURCE: 44 FR 40861, July 12, 1979, unless otherwise noted.

Subpart A—General Provisions

§ 51.1 Purpose.

The Department of Housing and Urban Development is providing program Assistant Secretaries and administrators and field offices with environmental standards, criteria and guidelines for determining project acceptability and necessary mitigating measures to insure that activities assisted by the Department achieve the goal of a suitable living environment.

§ 51.2 Authority.

This part implements the Department's responsibilities under: The National Housing Act (12 U.S.C. 1701 *et seq.*); sec. 2 of the Housing Act of 1949 (42 U.S.C. 1441); secs. 2 and 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3531 and 3535(d)); the National Environmental Policy Act of 1969 (42 U.S.C. 4321); and the other statutes that are referred to in this part.

[61 FR 13333, Mar. 26, 1996]

§ 51.3 Responsibilities.

The Assistant Secretary for Community Planning and Development is responsible for administering HUD's environmental criteria and standards as set forth in this part. The Assistant Secretary for Community Planning and Development may be assisted by HUD officials in implementing the responsibilities established by this part. HUD will identify these HUD officials and

24 CFR Subtitle A (4-1-97 Edition)

their specific responsibilities through FEDERAL REGISTER notice.

[61 FR 13333, Mar. 26, 1996]

§ 51.4 Program coverage.

Environmental standards shall apply to all HUD actions except where special provisions and exemptions are contained in each subpart.

Subpart B—Noise Abatement and Control

§ 51.100 Purpose and authority.

(a) It is the purpose of this subpart B to:

(1) Call attention to the threat of noise pollution;

(2) Encourage the control of noise at its source in cooperation with other Federal departments and agencies;

(3) Encourage land use patterns for housing and other noise sensitive urban needs that will provide a suitable separation between them and major noise sources;

(4) Generally prohibit HUD support for new construction of noise sensitive uses on sites having unacceptable noise exposure;

(5) Provide policy on the use of structural and other noise attenuation measures where needed; and

(6) Provide policy to guide implementation of various HUD programs.

(b) *Authority.* Specific authorities for noise abatement and control are contained in the Noise Control Act of 1972, as amended (42 U.S.C. 4901 *et seq.*); and the General Services Administration, Federal Management Circular 75-2; *Compatible Land Uses at Federal Airfields.*

[44 FR 40861, July 12, 1979, as amended at 61 FR 13333, Mar. 26, 1996]

§ 51.101 General policy.

(a) It is HUD's general policy to provide minimum national standards applicable to HUD programs to protect citizens against excessive noise in their communities and places of residence.

(1) *Planning assistance.* HUD requires that grantees give adequate consideration to noise exposures and sources of noise as an integral part of the urban environment when HUD assistance is

provided for planning purposes, as follows:

(i) Particular emphasis shall be placed on the importance of compatible land use planning in relation to airports, highways and other sources of high noise.

(ii) Applicants shall take into consideration HUD environmental standards impacting the use of land.

(2) *Activities subject to 24 CFR part 58.*

(i) Responsible entities under 24 CFR part 58 must take into consideration the noise criteria and standards in the environmental review process and consider ameliorative actions when noise sensitive land development is proposed in noise exposed areas. Responsible entities shall address deviations from the standards in their environmental reviews as required in 24 CFR part 58.

(ii) Where activities are planned in a noisy area, and HUD assistance is contemplated later for housing and/or other noise sensitive activities, the responsible entity risks denial of the HUD assistance unless the HUD standards are met.

(3) *HUD support for new construction.* HUD assistance for the construction of new noise sensitive uses is prohibited generally for projects with unacceptable noise exposures and is discouraged for projects with normally unacceptable noise exposure. (Standards of acceptability are contained in § 51.103(c).) This policy applies to all HUD programs providing assistance, subsidy or insurance for housing, manufactured home parks, nursing homes, hospitals, and all programs providing assistance or insurance for land development, redevelopment or any other provision of facilities and services which are directed to making land available for housing or noise sensitive development. The policy does not apply to research demonstration projects which do not result in new construction or reconstruction, flood insurance, interstate land sales registration, or any action or emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster.

(4) *HUD support for existing construction.* Noise exposure by itself will not result in the denial of HUD support for the resale and purchase of otherwise acceptable existing buildings. However, environmental noise is a marketability factor which HUD will consider in determining the amount of insurance or other assistance that may be given.

(5) *HUD support of modernization and rehabilitation.* For modernization projects located in all noise exposed areas, HUD shall encourage noise attenuation features in alterations. For major or substantial rehabilitation projects in the Normally Unacceptable and Unacceptable noise zones, HUD actively shall seek to have project sponsors incorporate noise attenuation features, given the extent and nature of the rehabilitation being undertaken and the level or exterior noise exposure. In Unacceptable noise zones, HUD shall strongly encourage conversion of noise-exposed sites to land uses compatible with the high noise levels.

(6) *Research, guidance and publications.* HUD shall maintain a continuing program designed to provide new knowledge of noise abatement and control to public and private bodies, to develop improved methods for anticipating noise encroachment, to develop noise abatement measures through land use and building construction practices, and to foster better understanding of the consequences of noise. It shall be HUD's policy to issue guidance documents periodically to assist HUD personnel in assigning an acceptability category to projects in accordance with noise exposure standards, in evaluating noise attenuation measures, and in advising local agencies about noise abatement strategies. The guidance documents shall be updated periodically in accordance with advances in the state-of-the-art.

(7) *Construction equipment, building equipment and appliances.* HUD shall encourage the use of quieter construction equipment and methods in population centers, the use of quieter equipment and appliances in buildings, and the use of appropriate noise abatement techniques in the design of residential structures with potential noise problems.

(8) *Exterior noise goals.* It is a HUD goal that exterior noise levels do not exceed a day-night average sound level of 55 decibels. This level is recommended by the Environmental Protection Agency as a goal for outdoors in residential areas. The levels recommended by EPA are not standards and do not take into account cost or feasibility. For the purposes of this regulation and to meet other program objectives, sites with a day-night average sound level of 65 and below are acceptable and are allowable (see Standards in §51.103(c)).

(9) *Interior noise goals.* It is a HUD goal that the interior auditory environment shall not exceed a day-night average sound level of 45 decibels. Attenuation measures to meet these interior goals shall be employed where feasible. Emphasis shall be given to noise sensitive interior spaces such as bedrooms. Minimum attenuation requirements are prescribed in §51.104(a).

(10) *Acoustical privacy in multifamily buildings.* HUD shall require the use of building design and acoustical treatment to afford acoustical privacy in multifamily buildings pursuant to requirements of the Minimum Property Standards.

[44 FR 40861, July 12, 1979, as amended at 50 FR 9268, Mar. 7, 1985; 61 FR 13333, Mar. 26, 1996]

§51.102 Responsibilities.

(a) *Surveillance of noise problem areas.* Appropriate field staff shall maintain surveillance of potential noise problem areas and advise local officials, developers, and planning groups of the unacceptability of sites because of noise exposure at the earliest possible time in the decision process. Every attempt shall be made to insure that applicants' site choices are consistent with the policy and standards contained herein.

(b) *Notice to applicants.* At the earliest possible stage, HUD program staff shall:

(1) Determine the suitability of the acoustical environment of proposed projects;

(2) Notify applicants of any adverse or questionable situations; and

(3) Assure that prospective applicants are apprised of the standards contained

herein so that future site choices will be consistent with these standards.

(c) *Interdepartmental coordination.* HUD shall foster appropriate coordination between field offices and other departments and agencies, particularly the Environmental Protection Agency, the Department of Transportation, Department of Defense representatives, and the Department of Veterans Affairs. HUD staff shall utilize the acceptability standards in commenting on the prospective impacts of transportation facilities and other noise generators in the Environmental Impact Statement review process.

[44 FR 40861, July 12, 1979, as amended at 54 FR 39525, Sept. 27, 1989; 61 FR 13333, Mar. 26, 1996]

§51.103 Criteria and standards.

These standards apply to all programs as indicated in §51.101.

(a) *Measure of external noise environments.* The magnitude of the external noise environment at a site is determined by the value of the day-night average sound level produced as the result of the accumulation of noise from all sources contributing to the external noise environment at the site. Day-night average sound level, abbreviated as DNL and symbolized as L_{dn} , is the 24-hour average sound level, in decibels, obtained after addition of 10 decibels to sound levels in the night from 10 p.m. to 7 a.m. Mathematical expressions for average sound level and day-night average sound level are stated in the Appendix I to this subpart.

(b) *Loud impulsive sounds.* On an interim basis, when loud impulsive sounds, such as explosions or sonic booms, are experienced at a site, the day-night average sound level produced by the loud impulsive sounds alone shall have 8 decibels added to it in assessing the acceptability of the site (see Appendix I to this subpart). Alternatively, the C-weighted day-night average sound level (L_{Cdn}) may be used without the 8 decibel addition, as indicated in §51.106(a)(3). Methods for assessing the contribution of loud impulsive sounds to day-night average sound level at a site and mathematical expressions for determining whether a sound is classed as "loud impulsive"

are provided in the Appendix I to this subpart.

(c) *Exterior standards.* (1) The degree of acceptability of the noise environment at a site is determined by the sound levels external to buildings or other facilities containing noise sensitive uses. The standards shall usually apply at a location 2 meters (6.5 feet) from the building housing noise sensitive activities in the direction of the predominant noise source. Where the building location is undetermined, the standards shall apply 2 meters (6.5 feet) from the building setback line nearest

to the predominant noise source. The standards shall also apply at other locations where it is determined that quiet outdoor space is required in an area ancillary to the principal use on the site.

(2) The noise environment inside a building is considered acceptable if: (i) The noise environment external to the building complies with these standards, and (ii) the building is constructed in a manner common to the area or, if of uncommon construction, has at least the equivalent noise attenuation characteristics.

SITE ACCEPTABILITY STANDARDS

	Day-night average sound level (in decibels)	Special approvals and requirements
Acceptable	Not exceeding 65 dB(1)	None.
Normally Unacceptable	Above 65 dB but not exceeding 75 dB	Special Approvals (2) Environmental Review (3). Attenuation (4).
Unacceptable	Above 75 dB	Special Approvals (2). Environmental Review (3). Attenuation (5).

Notes: (1) Acceptable threshold may be shifted to 70 dB in special circumstances pursuant to § 51.105(a).
 (2) See § 51.104(b) for requirements.
 (3) See § 51.104(b) for requirements.
 (4) 5 dB additional attenuation required for sites above 65 dB but not exceeding 70 dB and 10 dB additional attenuation required for sites above 70 dB but not exceeding 75 dB. (See § 51.104(a).)
 (5) Attenuation measures to be submitted to the Assistant Secretary for CPD for approval on a case-by-case basis.

[44 FR 40861, July 12, 1979, as amended at 49 FR 12214, Mar. 29, 1984]

§ 51.104 Special requirements.

(a)(1) *Noise attenuation.* Noise attenuation measures are those required in addition to attenuation provided by buildings as commonly constructed in the area, and requiring open windows for ventilation. Measures that reduce external noise at a site shall be used wherever practicable in preference to the incorporation of additional noise attenuation in buildings. Building designs and construction techniques that provide more noise attenuation than typical construction may be employed also to meet the noise attenuation requirements.

(2) *Normally unacceptable noise zones and unacceptable noise zones.* Approvals in Normally Unacceptable Noise Zones require a minimum of 5 decibels additional sound attenuation for buildings having noise-sensitive uses if the day-night average sound level is greater than 65 decibels but does not exceed 70 decibels, or a minimum of 10 decibels of

additional sound attenuation if the day-night average sound level is greater than 70 decibels but does not exceed 75 decibels. Noise attenuation measures in Unacceptable Noise Zones require the approval of the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58. (See § 51.104(b)(2).)

(b) *Environmental review requirements.* Environmental reviews shall be conducted pursuant to the requirements of 24 CFR parts 50 and 58, as applicable, or other environmental regulations issued by the Department. These requirements are hereby modified for all projects proposed in the Normally Unacceptable and Unacceptable noise exposure zones as follows:

(1) *Normally unacceptable noise zone.*
 (i) All projects located in the Normally Unacceptable Noise Zone require a Special Environmental Clearance except an EIS is required for a proposed project located in a largely undeveloped area, or where the HUD action is

likely to encourage the establishment of incompatible land use in this noise zone.

(ii) When an EIS is required, the concurrence of the Program Assistant Secretary is also required before a project can be approved. For the purposes of this paragraph, an area will be considered as largely undeveloped unless the area within a 2-mile radius of the project boundary is more than 50 percent developed for urban uses and infrastructure (particularly water and sewers) is available and has capacity to serve the project.

(iii) All other projects in the Normally Unacceptable zone require a Special Environmental Clearance, except where an EIS is required for other reasons pursuant to HUD environmental policies.

(2) *Unacceptable noise zone.* An EIS is required prior to the approval of projects with unacceptable noise exposure. Projects in or partially in an Unacceptable Noise Zone shall be submitted to the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58, for approval. The Assistant Secretary or the Certifying Officer may waive the EIS requirement in cases where noise is the only environmental issue and no outdoor noise sensitive activity will take place on the site. In such cases, an environmental review shall be made pursuant to the requirements of 24 CFR parts 50 or 58, as appropriate.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13333, Mar. 26, 1996]

§ 51.105 Exceptions.

(a) *Flexibility for non-acoustic benefits.* Where it is determined that program objectives cannot be achieved on sites meeting the acceptability standard of 65 decibels, the Acceptable Zone may be shifted to L_{dn} 70 on a case-by-case basis if all the following conditions are satisfied:

(1) The project does not require an Environmental Impact Statement under provisions of § 51.104(b)(1) and noise is the only environmental issue.

(2) The project has received a Special Environmental Clearance and has received the concurrence of the Environmental Clearance Officer.

(3) The project meets other program goals to provide housing in proximity to employment, public facilities and transportation.

(4) The project is in conformance with local goals and maintains the character of the neighborhood.

(5) The project sponsor has set forth reasons, acceptable to HUD, as to why the noise attenuation measures that would normally be required for new construction in the L_{dn} 65 to L_{dn} 70 zone cannot be met.

(6) Other sites which are not exposed to noise above L_{dn} 65 and which meet program objectives are generally not available.

The above factors shall be documented and made part of the project file.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13334, Mar. 26, 1996]

§ 51.106 Implementation.

(a) *Use of available data.* HUD field staff shall make maximum use of noise data prepared by others when such data are determined to be current and adequately projected into the future and are in terms of the following:

(1) *Sites in the vicinity of airports.* The noise environment around airports is described sometimes in terms of Noise Exposure Forecasts, abbreviated as NEF or, in the State of California, as Community Noise Equivalent Level, abbreviated as CNEL. The noise environment for sites in the vicinity of airports for which day-night average sound level data are not available may be evaluated from NEF or CNEL analyses using the following conversions to DNL:

$DNL = NEF + 35$

$DNL = CNEL$

(2) *Sites in the vicinity of highways.* Highway projects receiving Federal aid are subject to noise analyses under the procedures of the Federal Highway Administration. Where such analyses are available they may be used to assess sites subject to the requirements of this standard. The Federal Highway Administration employs two alternate sound level descriptors: (i) The A-weighted sound level not exceeded more than 10 percent of the time for the highway design hour traffic flow, symbolized as L_{10} ; or (ii) the equivalent

sound level for the design hour, symbolized as L_{eq} . The day-night average sound level may be estimated from the design hour L_{10} or L_{eq} values by the following relationships, provided heavy trucks do not exceed 10 percent of the total traffic flow in vehicles per 24 hours and the traffic flow between 10 p.m. and 7 a.m. does not exceed 15 percent of the average daily traffic flow in vehicles per 24 hours:

$DNL-L_{10}$ (design hour)—3 decibels
 $DNL-L_{eq}$ (design hour) decibels

Where the auto/truck mix and time of day relationships as stated in this section do not exist, the HUD Noise Assessment Guidelines or other noise analysis shall be used.

(3) *Sites in the vicinity of installations producing loud impulsive sounds.* Certain Department of Defense installations produce loud impulsive sounds from artillery firing and bombing practice ranges. Noise analyses for these facilities sometimes encompass sites that may be subject to the requirements of this standard. Where such analyses are available they may be used on an interim basis to establish the acceptability of sites under this standard. The Department of Defense uses day-night average sound level based on C-weighted sound level, symbolized L_{Cdn} , for the analysis of loud impulsive sounds. Where such analyses are provided, the 8 decibel addition specified in § 51.103(b), is not required, and the same numerical values of day-night average sound level used on an interim basis to determine site suitability for non-impulsive sounds apply to the L_{Cdn} .

(4) *Use of areawide acoustical data.* HUD encourages the preparation and use of areawide acoustical information, such as noise contours for airports. Where such new or revised contours become available for airports (civil or military) and military installations they shall first be referred to the HUD State Office (Environmental Officer) for review, evaluation and decision on appropriateness for use by HUD. The HUD State Office shall submit revised contours to the Assistant Secretary for Community Planning and Development for review, evaluation and decision whenever the area affected is changed

by 20 percent or more, or whenever it is determined that the new contours will have a significant effect on HUD programs, or whenever the contours are not provided in a methodology acceptable under § 51.106(a)(1) or in other cases where the HUD State Office determines that Headquarters review is warranted. For other areawide acoustical data, review is required only where existing areawide data are being utilized and where such data have been changed to reflect changes in the measurement methodology or underlying noise source assumptions. Requests for determination on usage of new or revised areawide data shall include the following:

(i) Maps showing old, if applicable, and new noise contours, along with brief description of data source and methodology.

(ii) Impact on existing and prospective urbanized areas and on development activity.

(iii) Impact on HUD-assisted projects currently in processing.

(iv) Impact on future HUD program activity. Where a field office has determined that immediate approval of new areawide data is necessary and warranted in limited geographic areas, the request for approval should state the circumstances warranting such approval. Actions on proposed projects shall not be undertaken while new areawide noise data are being considered for HUD use except where the proposed location is affected in the same manner under both the old and new noise data.

(b) *Site assessments.* Compliance with the standards contained in § 51.103(c) shall, where necessary, be determined using noise assessment guidelines, handbooks, technical documents and procedures issued by the Department.

(c) *Variations in site noise levels.* In many instances the noise environment will vary across a site, with portions of the site being in an Acceptable noise environment and other portions in a Normally Unacceptable noise environment. The standards in § 51.103(c) shall apply to the portions of a building or buildings used for residential purposes and for ancillary noise sensitive open spaces.

(d) *Noise measurements.* Where noise assessments result in a finding that the site is borderline or questionable, or is controversial, noise measurements may be performed. Where it is determined that noise measurements are required, such measurements will be conducted in accordance with methods and measurement criteria established by the Department. Locations for noise measurements will depend on the location of noise sensitive uses that are nearest to the predominant noise source (see § 51.103(c)).

(e) *Projections of noise exposure.* In addition to assessing existing exposure, future conditions should be projected. To the extent possible, noise exposure shall be projected to be representative of conditions that are expected to exist at a time at least 10 years beyond the date of the project or action under review.

(f) *Reduction of site noise by use of berms and/or barriers.* If it is determined by adequate analysis that a berm and/or barrier will reduce noise at a housing site, and if the barrier is existing or there are assurances that it will be in place prior to occupancy, the environmental noise analysis for the site may reflect the benefits afforded by the berm and/or barrier. In the environ-

mental review process under § 51.104(b), the location height and design of the berm and/or barrier shall be evaluated to determine its effectiveness, and impact on design and aesthetic quality, circulation and other environmental factors.

[44 FR 40861, July 12, 1979, as amended at 61 FR 13334, Mar. 26, 1996]

APPENDIX I TO SUBPART B—DEFINITION OF ACOUSTICAL QUANTITIES

1. *Sound Level.* The quantity in decibels measured with an instrument satisfying requirements of American National Standard Specification for Type 1 Sound Level Meters S1.4-1971. Fast time-averaging and A-frequency weighting are to be used, unless others are specified. The sound level meter with the A-weighting is progressively less sensitive to sounds of frequency below 1,000 hertz (cycles per second), somewhat as is the ear. With fast time averaging the sound level meter responds particularly to recent sounds almost as quickly as does the ear in judging the loudness of a sound.

2. *Average Sound Level.* Average sound level, in decibels, is the level of the mean-square A-weighted sound pressure during the stated time period, with reference to the square of the standard reference sound pressure of 20 micropascals.

Day-night average sound level, abbreviated as DNL, and symbolized mathematically as L_{dn} is defined as:

$$L_{dn} = 10 \log_{10} \left[\frac{1}{86400} \left(\int_{0000}^{2400} 10^{[L_A(t)+10]/10} dt + \int_{2200}^{2400} 10^{L_A(t)/10} dt + \int_{2200}^{2400} 10^{[L_A(t)+10]/10} dt \right) \right]$$

Time t is in seconds, so the limits shown in hours and minutes are actually interpreted in seconds. $L_A(t)$ is the time varying value of A-weighted sound level, the quantity in decibels measured by an instrument satisfying requirements of American National Standard Specification for Type 1 Sound Level Meters S1.4-1971.

3. *Loud Impulsive Sounds.* When loud impulsive sounds such as sonic booms or explosions are anticipated contributors to the noise environment at a site, the contribution to day-night average sound level produced by the loud impulsive sounds shall have 8 deci-

bels added to it in assessing the acceptability of a site.

A loud impulsive sound is defined for the purpose of this regulation as one for which:

(i) The sound is definable as a discrete event wherein the sound level increases to a maximum and then decreases in a total time interval of approximately one second or less to the ambient background level that exists without the sound; and

(ii) The maximum sound level (obtained with slow averaging time and A-weighting of a Type 1 sound level meter whose characteristics comply with ANSI S1.4-1971) exceeds

the sound level prior to the onset of the event by at least 6 decibels; and

(iii) The maximum sound level obtained with fast averaging time of a sound level meter exceeds the maximum value obtained with slow averaging time by at least 4 decibels.

[44 FR 40861, July 12, 1979; 49 FR 10253, Mar. 20, 1984; 49 FR 12214, Mar. 29, 1984]

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

AUTHORITY: 42 U.S.C. 3535(d).

SOURCE: 49 FR 5103, Feb. 10, 1984, unless otherwise noted.

§ 51.200 Purpose.

The purpose of this subpart C is to:

(a) Establish safety standards which can be used as a basis for calculating acceptable separation distances (ASD) for HUD-assisted projects from specific, stationary, hazardous operations which store, handle, or process hazardous substances;

(b) Alert those responsible for the siting of HUD-assisted projects to the inherent potential dangers when such projects are located in the vicinity of such hazardous operations;

(c) Provide guidance for identifying those hazardous operations which are most prevalent;

(d) Provide the technical guidance required to evaluate the degree of danger anticipated from explosion and thermal radiation (fire); and

(e) Provide technical guidance required to determine acceptable separation distances from such hazards.

[49 FR 5103, Feb. 10, 1984, as amended at 61 FR 13334, Mar. 26, 1996]

§ 51.201 Definitions.

The terms *Department* and *Secretary* are defined in 24 CFR part 5.

Acceptable separation distance (ASD)—means the distance beyond which the explosion or combustion of a hazard is not likely to cause structures or individuals to be subjected to blast overpressure or thermal radiation flux levels in excess of the safety standards in § 51.203. The ASD is determined by ap-

plying the safety standards established by this subpart C to the guidance set forth in HUD Guidebook, "Siting of HUD-Assisted Projects Near Hazardous Facilities."

Blast overpressure—means the pressure, in pounds per square inch, in excess of normal atmospheric pressure on the surrounding medium caused by an explosion.

Danger zone—means the land area circumscribed by the radius which delineates the ASD of a given hazard.

Hazard—means any stationary container which stores, handles or processes hazardous substances of an explosive or fire prone nature. The term "hazard" does not include pipelines for the transmission of hazardous substances, if such pipelines are located underground or comply with applicable Federal, State and local safety standards. Also excepted are: (1) Containers with a capacity of 100 gallons or less when they contain common liquid industrial fuels, such as gasoline, fuel oil, kerosene and crude oil since they generally would pose no danger in terms of thermal radiation of blast overpressure to a project; and (2) facilities which are shielded from a proposed HUD-assisted project by the topography, because these topographic features effectively provide a mitigating measure already in place.

Hazardous substances—means petroleum products (petrochemicals) and chemicals that can produce blast overpressure or thermal radiation levels in excess of the standards set forth in § 51.203. A specific list of hazardous substance is found in appendix I to this subpart.

HUD-assisted project—the development, construction, rehabilitation, modernization or conversion with HUD subsidy, grant assistance, loan, loan guarantee, or mortgage insurance, of any project which is intended for residential, institutional, recreational, commercial or industrial use. For purposes of this subpart the terms "rehabilitation" and "modernization" refer only to such repairs and renovation of a building or buildings as will result in an increased number of people being



VERIFIED STATEMENT
OF
DAVID H. MINOTT

My name is David H. Minott. I am Vice President of Alternative Resources, Inc. Alternative Resources, Inc., (ARI) has reviewed information we were furnished concerning the projected air quality impacts of the proposed Conrail Acquisition. Supplied to ARI for review were air-quality-related excerpts from the Draft Environmental Impact Statement (EIS), December 1997, prepared for the proposed Conrail Acquisition by the Section of Environmental Analysis (SEA) of the Surface Transportation Board (STB). Portions of the EIS that ARI has reviewed are as follows:

- Volume 1, Chapter 3, pages 3-25 through 3-30;
- Volume 1, Chapter 4, pages 4-49 through 4-63, plus 4-70 and 4-71;
- Volume 3B, Chapter 5, pages OH-44 through OH-70; and
- Appendix E, plus Attachments E-1 through E-10.

For background, ARI also reviewed portions of the Environmental Report (ER) that had been prepared earlier (June, 1997) by CSX and Norfolk Southern for the proposed Acquisition.

ARI has reviewed the approach STB used in the EIS to project changes in train traffic, motor vehicle queuing and associated air-pollutant emissions. There was insufficient information available to ARI, however, to permit more than a general review of the projected emissions changes. Accordingly, ARI has directed most of its efforts towards independent evaluation of the air quality impacts to expect from the proposed Acquisition. While STB considered impacts on the system-wide and county levels, ARI has focused on impacts to expect at the local level, specifically in Cuyahoga County, along the Vermillion-to-Cleveland rail segment (number N-080), in Lakewood, Rocky River and Bay Village.

Based on ARI's review of the information supplied to us, and on our independent assessment of air quality impacts, ARI has prepared comments regarding air-quality aspects of the EIS. Summary comments are offered below, followed by more detailed comments that provide documentation and further discussion.

SUMMARY COMMENTS

1. ARI found STB's non-assessment of impacts on the local scale to be lacking. While projected emissions increases within the County may be offset by emissions decreases within the County, this is not the case with regard to air quality *impacts*. Lakewood, Rocky River, and Bay Village would experience increased air quality impacts from trains and queued motor vehicles. Berea and other locales to the south will receive the benefit of reduced air quality impacts due to emissions reductions there. Accordingly, ARI has assessed the potential for localized air quality impacts in Lakewood, Rocky River, and Bay Village.
2. Modeling of air quality impacts due to queued motor vehicles at the most heavily-impacted crossing in the County (Hird Avenue, Lakewood) indicates a potential for significant, localized air quality impacts due to increased emissions of carbon monoxide. In addition, marginally-significant impacts were projected adjacent to the most heavily impacted crossings in Rocky River (Wager Road) and Bay Village (Columbia Road).
3. The simplified modeling performed here is likely conservative; that is, projected impacts may be overstated. Nonetheless, because potentially significant impacts are indicated for carbon monoxide, ARI recommends that the project proponent perform a refined air-quality modeling assessment for motor-vehicle queuing at the Hird Avenue crossing to demonstrate compliance with the ambient standards for carbon monoxide.

DETAILED COMMENTS

1. Local Air Quality Impacts – General

Considering emissions increases and emissions decreases projected for a given study area, and comparing the net emissions change with the entire emissions inventory for that study area, can be an appropriate approach for assessing air quality impacts on a large scale. ARI concurs that the assessments in the EIS of impacts system-wide and county-wide (e.g., Cuyahoga County) adequately demonstrate that significant air quality impacts should not be expected on the system-wide and County-level scales.

ARI, however, does not consider that same approach to be technically appropriate for evaluation of impacts on a local scale, for example, in the vicinity of the tracks and grade crossings of the Vermillion-to-Cleveland rail segment, in Lakewood, Rocky River, and Bay Village. While projected emissions increases in one portion of a given study area may be offset by projected emissions decreases at other locations in the same study area, this does not mean that air quality *impacts* from the emissions increases are offset by decreased *impacts* from the emissions reductions. This is because for most air pollutants of concern for this proposed acquisition – CO, SO₂, PM₁₀, Pb and in cases, NO_x – the maximum air quality impacts from trains and motor vehicles will occur in the immediate vicinity of the

tracks and grade crossings. If the projected emissions increases and decreases occur in different locations of the study area, then the locations of increased air quality impacts and the locations of decreased impacts will not coincide.

To illustrate, the STB projects sizeable emissions increases for the Vermillion-to-Cleveland rail segment (Norfolk Southern) that traverses the north portion of Cuyahoga County, through Lakewood, Rocky River, and Bay Village; STB projects substantial emissions decreases, however, for the Vermillion-to-Cleveland rail segment (formerly Conrail) that runs through Berea in the southern portion of the County (EIS, Tables 5-OH-20 and 21). At points, these two rail segments are about 10 miles apart. This means that communities such as Lakewood, Rocky River, and Bay Village will receive the air quality impacts from increased train and motor vehicle emissions projected for the northern leg of the Vermillion-to-Cleveland segment, while Berea will accrue the air quality benefit from decreased emissions projected for the southern leg of that segment. Again, the locations of increased air quality impacts and the locations of decreased air quality impacts do not coincide; the increased and decreased impacts do not offset each other.

Because the EIS did not address the possibility of significant, localized air quality impacts, ARI has assessed the potential for such impacts via simplified, air quality modeling. Projected air quality impacts are presented for increased motor-vehicle emissions in Comment No. 2.

2. **Local Air Quality Impacts for Motor-Vehicles Queued at Grade Crossings.**
ARI has performed simplified air quality modeling to develop rough estimates of air quality impacts to be expected from motor vehicles queuing at the Hird Avenue grade crossing in Lakewood. STB has projected that crossing to experience the greatest motor-vehicle delays due to new train traffic of all crossings in Lakewood, Rocky River, or Bay Village (EIS, Attachment E-10, P. 1 of 3).

Air pollutant emission rates were estimated due to the increases in motor-vehicle queuing anticipated at the Hird Avenue grade crossing. Those emissions estimates, documented in Attachment 1, were developed for average-hourly queuing and for peak-hourly queuing conditions. The emissions estimates, expressed in units of grams of pollutant emitted per second per square meter of area, are given below:

	Average Hourly Emission Rate (g/s/m ²)	Peak-Hour Emission Rate (g/s/m ²)
NO _x	2.3x10 ⁻⁵	3.3x10 ⁻⁵
CO	1.3x10 ⁻⁴	1.8x10 ⁻³
SO ₂	6.2x10 ⁻⁸	8.3x10 ⁻⁷
PM ₁₀	4.0x10 ⁻⁸	5.3x10 ⁻⁷

US EPA recommends a specific model for assessing air quality impacts from queued motor vehicles. ARI, however, does not have the detailed information

needed as input to that model. Therefore, ARI has applied another air quality model, US EPA's ISCST3 model, which ARI considers technically appropriate for making simplified air-quality-impact predictions in this case. To assess maximum impacts, ARI modeled impacts at a location immediately adjacent to the queued motor vehicles and railroad tracks. Detailed description and documentation of ARI's application of the ISCST3 model are presented in Attachment 2.

Following application of the model, the significance of the modeled air quality impacts was assessed, by comparing the impacts with threshold concentrations set by US EPA that define a significant impact; i.e., Significant Impact Levels ("SILs"). For reference, impacts have also been compared with the National Ambient Air Quality Standards that US EPA has set for each pollutant. These comparisons are made below:

<u>Pollutant</u>	<u>Averaging Period</u>	<u>Motor Vehicle Impact($\mu\text{g}/\text{m}^3$)</u>	<u>Significant Impact Level ($\mu\text{g}/\text{m}^3$)</u>	<u>National Ambient Standard ($\mu\text{g}/\text{m}^3$)</u>
NO _x	Annual	0.6	1	100
CO	8-hour	3,260	500	10,000
	1-hour	4,657	2,000	40,000
SO ₂	Annual	0.02	1	80
	24-hour	0.03	5	365
	3-hour	2.0	25	1,300
PM ₁₀	Annual	0.01	1	50
	24-hour	0.04	5	150

From the comparison, it is apparent that the projected CO impacts exceed significant-impact thresholds. This suggests that motor vehicle queuing at the Hird Avenue crossing as a result of new train passages could have a significant air quality impact for CO. This is potentially important, given that there may not be much margin between current ambient levels of CO and the ambient standard for CO. To explain further, STB notes that Cuyahoga County is designated as a "maintenance area" by US EPA for CO (EIS, Attachment E-1, P.7), meaning the County has been brought into compliance with the ambient standards for CO, after formerly being in violation of those standards. Should ambient levels of CO increase significantly, this could put the County back into violation of the ambient standards for that pollutant.

In Rocky River and Bay Village, STB had projected, respectively, the Wager Road and Columbia Road crossings to be most heavily impacted by increased motor-vehicle queuing. Based on the modeling, CO impacts projected to be significant at Hird Avenue, would, by comparison, be projected to be marginally significant at the Wager Road and Columbia Road crossings.

The simplified modeling performed here is likely conservative; that is, projected impacts may be overstated. Nonetheless, because potentially significant impacts are indicated for CO, ARI recommends that the project proponent perform a refined air-quality modeling assessment for motor-vehicle queuing at the Hird Avenue crossing to demonstrate compliance with the ambient standards for CO.

ARI STAFF WHO CONDUCTED THIS REVIEW

Serving as ARI's lead for this independent review was David H. Minott, C.C.M. Mr. Minott is a co-founding Principal of ARI, where he directs all environmental services. He has a Bachelor's Degree in Meteorology and a Master's Degree resulting from dual curricula in business administration and environmental technology. Mr. Minott is a Board-Certified Consulting Meteorologist (C.C.M.) and is also certified as a Qualified Environmental Professional (QEP). Mr. Minott has 24 years' professional experience as an air quality consultant.

Mr. Minott was assisted by Cynthia L. Burkhardt, C.C.M. Ms. Burkhardt is a Senior Air Quality Scientist at ARI. She has both Bachelor's and Master's Degrees in meteorology, and has over ten years' experience as an air quality professional. Ms. Burkhardt is also a Certified Consulting Meteorologist (C.C.M.) and a Qualified Environmental Professional (QEP).



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VERIFICATION

STATE OF MASSACHUSETTS

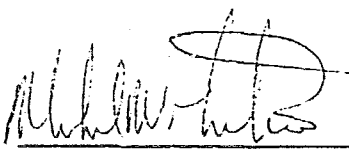
SS.

COUNTY OF MIDDLESEX

I, David H. Minott, being duly sworn, depose and say that I have read the foregoing, know the content thereof, and the same is true and correct.


David H. Minott

Subscribed and sworn to before me this 29th day of January 1998.



Notary Public
My appt. expires 1/20/00

ATTACHMENT 1

ESTIMATION OF MOTOR-VEHICLE EMISSION RATES
FOR MODELING OF AIR QUALITY IMPACTS AT GRADE CROSSINGS
ON THE VERMILLION-TO-CLEVELAND RAIL SEGMENT

1. Of all grade crossings in Lakewood, Rocky River and Bay Village, the grade crossing projected by STB to experience the greatest increase in motor-vehicle queuing delays is the Hird Avenue crossing in Lakewood (EIS, Attachment E-10, P. 1 of 3). Accordingly, pollutant emission rates and air quality impacts have been assessed for that intersection as a worst case.
2. Calculate average hourly emission rates for queued motor vehicles at the Hird Avenue grade crossing.
 - From the EIS (Attachment E-10, P. 1 of 3), STB estimates an average of 20.6 new trains per day traversing the rail segment, with about 22 vehicle-hours of delay occurring per day as a result at the Hird Avenue crossing. This is an average of 0.86 trains passing per hour, and an average of 1.07 vehicle-hours of delay per train at Hird Avenue.
 - Average emission rates were calculated using the "emission factors" appearing in the EIS, Table E-9, which STB developed based on US EPA guidance. The emission factors are given in units of grams of pollutant emitted for each hour that a motor vehicle idles. The per-vehicle emission factors are:

	<u>g/hr</u>	<u>g/sec</u>
NO _x	11.4	3.2x10 ⁻³
CO	567	0.16
SO ₂	0.285	7.9x10 ⁻⁵
PM ₁₀	0.188	5.2x10 ⁻⁵

- As noted above, there is an average of 1.07 vehicle hours of delay (idling) per train passage at Hird Avenue. Thus, using the above emission factors, the average, per-train emission rates for queued motor vehicles are:

Average Emissions from Queued
Motor Vehicles per Train Passage:

	<u>g/hr</u>	<u>g/sec</u>
NO _x	12.2	0.0033
CO	607	0.17
SO ₂	0.31	8.6x10 ⁻⁵
PM ₁₀	0.20	5.6x10 ⁻⁵

Emissions for lead (Pb) are not included because few motor vehicles use leaded gasoline.

- But at Hird Avenue crossing, there are 0.86 trains passing per hour on average, not one per hour. So, the emission rates above need to be adjusted; i.e., multiplied by the ratio of 0.86/1. The resulting average hourly emissions from queued motor vehicles at the Hird Avenue crossing are as follows:

	<u>Average Hourly Emissions (g/s)</u>
NO _x	.0028
CO	.15
SO ₂	7.4x10 ⁻⁵
PM ₁₀	4.8x10 ⁻⁵

3. Calculate the peak-hour emission rates for queued vehicles at the Hird Avenue intersection.

- The peak hour emissions would occur during an hour that has maximum motor-vehicle queuing (commuter rush hour) and would have the peak number of train passages in an hour.
- As noted above, there are 1.07 vehicle-hours of delay for queued motor vehicles, on average, per train passage at Hird Avenue. If one assumes four minutes are required for a train to traverse the grade crossing, this implies that 16 motor vehicles queue at the Hird Avenue crossing, on average, for each train passage.
- If 16 vehicles queue per train passage on average, then ARI assumes that four times this number, 64 vehicles, queue when a train passes during commuter rush periods.
- As noted above, 0.86 trains traverse the Hird Avenue crossing per hour on average, or just under one per hour. Given this, ARI estimates that three trains would pass during a peak hour.

- Peak-hour queuing would occur when a peak train hour (3 trains per hour) coincides with a commuter rush period (64 motor vehicles queuing for 4 minutes per train). Thus, peak-hour queuing would be 64 vehicles queuing for a total of 12 minutes during the peak hour, as three trains pass during that hour.
- Motor vehicle emission rates have been calculated for peak-hour queuing, using the emission factors given above. These emission factors, as noted previously, give grams of pollutant emitted per hour of motor-vehicle idling. The 64 vehicles that queue during the peak hour do so for only 12 minutes total, or one-fifth of that hour. Accordingly, the emission factors above, which presume a full hour of idling, have been divided by five to yield "effective" emission factors for use in calculating peak-hour emissions. The effective emission factors are:

Effective Per-Vehicle Emission Factors
for Peak Hour Queuing:

	<u>g/hr</u>	<u>g/sec</u>
NO _x	2.3	6.4×10^{-4}
CO	113	0.32
SO ₂	.057	1.6×10^{-5}
PM ₁₀	.038	1.0×10^{-5}

- The peak-hour emission rates for Hird Avenue (64 motor vehicles queued for 4 minutes for each of 3 train passages during the peak hour) are as follows, based on multiplying 64 vehicles times the effective emission factors above:

	<u>Peak-Hour Emissions (g/s)</u>
NO _x	0.040
CO	2.1
SO ₂	0.0010
PM ₁₀	0.00064

ATTACHMENT 2

MODELING OF AIR QUALITY IMPACTS DUE TO MOTOR VEHICLE DELAYS AT GRADE CROSSINGS FROM TRAIN INCREASES ON THE VERMILLION-TO-CLEVELAND RAIL SEGMENT

1. ARI has performed simplified air quality modeling to develop rough estimates of air quality impacts to be expected from motor vehicles queuing at the Hird Avenue grade crossing in Lakewood. STB has projected that crossing to experience the greatest motor-vehicle delays due to new train traffic of all crossings in Lakewood, Rocky River, or Bay Village (EIS, Attachment E-10, P. 1 of 3).
2. The air quality model which US EPA would recommend for this application would be a model such as US EPA's CAL3QHC model, which is intended specifically for assessing air quality impacts from queued motor vehicles. ARI, however, does not have the detailed information needed as input to this type of model; e.g., information about the vehicle "fleet", and about queuing numbers, frequency and geometries. Accordingly, ARI has applied another air quality model, the ISCST3 model, which it considers technically appropriate for making simplified air-quality-impact predictions in this case. ISCST3 is a US EPA model which employs the standard, Gaussian dispersion algorithm.
3. The ISCST3 model has been applied in its screening mode. That is, meteorological data input to the model were comprised of a pre-established set consisting of all feasible combinations of wind speed and atmospheric stability conditions. A computer printout documenting all input and output information for this application of the ISCST3 model is included in this Attachment.
4. In applying the ISCST3 model, the queued motor vehicles were simulated as an emissions "area source". That is, the emissions are assumed to emanate from a rectangular area that encompasses the queued vehicles. As noted in Attachment 1, peak-hour emissions would occur due to 64 motor-vehicles queued at the crossing for each train passage. It has been assumed that 32 vehicles queue in two lanes (16 vehicles per lane), on each side of the tracks. The queues are presumed to orient normal to the tracks. Emissions from all 64 queued vehicles have been assumed to emanate from a rectangular area source, 200 meters long by 6 meters wide, bisected width-wise by the tracks.

5. Average hourly and peak hourly emission rates for queued motor-vehicles at the Hird Avenue crossing were given in Attachment 1, in grams per second. Dividing these by the area of the area source (1,200 square meters) yields area-source emissions rates in grams per second per square meter, as is needed for input to the ISCST3 model:

	Average Hourly Emission Rate (g/s/m ²)	Peak-Hour Emission Rate (g/s/m ²)
NO _x	2.3x10 ⁻⁶	3.3x10 ⁻⁵
CO	1.3x10 ⁻⁴	1.8x10 ⁻³
SO ₂	6.2x10 ⁻⁸	8.3x10 ⁻⁷
PM ₁₀	4.0x10 ⁻⁸	5.3x10 ⁻⁷

6. The ISCST3 model was run with a nominal emission rate for the 200m x 6m area source of 1 gram per second per square meter (this was specifically accomplished by dividing the 200m x 6m area source into four, equal, sub-area sources, each emitting at a nominal 0.25 g/s/m²). With this "unit" emission rate, the model predicted a maximum 1-hour impact adjacent to the tracks of 2,587,087 micrograms per cubic meters (μg/m³). To obtain pollutant-specific impacts, one multiplies the pollutant-specific emission rates given above by the 2,587,087 μg/m³ concentration resulting from the unit emission rate. Resulting, maximum 1 hour concentrations for average hourly emissions and for peak-hour emission rates are given below:

	Average Hourly Impact (μg/m ³)	Peak-Hour Impact (μg/m ³)
NO _x	6.0	85
CO	336	4657
SO ₂	0.16	2.2
PM ₁₀	0.10	1.4

7. The ISCST3 model, applied in its screening mode, yields predicted 1-hour impacts. Impacts for other averaging periods of interest – 3 hours, 8 hours, 24 hours, and annual – have been scaled from the 1-hour values, using the following standard scaling factors respectively: 0.9, 0.7, 0.4, and 0.1.
8. Following application of the model, the significance of the modeled air quality impacts has been assessed by comparing the modeled impacts with threshold concentrations set by US EPA that define a significant impact; i.e., Significant Impact Levels ("SILs")¹. The SILs have regulatory status with regard to assessing impacts from "point" emissions sources such as stacks. While the SIL thresholds do not have regulatory status in assessing impacts from "mobile" sources (trains, motor vehicles), they are appropriate benchmarks in a technical sense for

¹ US EPA, New Source Review Manual, Table C-4, Office of Air Quality Planning and Standards, October, 1990, (Draft).

assessing the significance of impacts from mobile sources. For reference, impacts have also been compared with the National Ambient Air Quality Standards that US EPA has set for each pollutant.

9. The SIL thresholds and ambient standards have been established by US EPA for specific averaging times that vary with the pollutant. In modeling impacts from queued motor vehicles, the peak hourly emission rates given above were used to assess impacts for short-term averaging periods (1, 3, and 8 hours), and average hourly emission rates were used to assess impacts for longer-term averaging periods (24-hour, annual).
10. Modeled impacts are compared below with SIL thresholds and ambient standards:

<u>Pollutant</u>	<u>Averaging Period</u>	<u>Motor Vehicle Impact ($\mu\text{g}/\text{m}^3$)</u>	<u>Significant Impact Level ($\mu\text{g}/\text{m}^3$)</u>	<u>National Ambient Standard ($\mu\text{g}/\text{m}^3$)</u>
NO _x	Annual	0.6	1	100
CO	8-hour	3,260	500	10,000
	1-hour	4,657	2,000	40,000
SO ₂	Annual	0.02	1	80
	24-hour	0.03	5	365
	3-hour	2.0	25	1,300
PM ₁₀	Annual	0.01	1	50
	24-hour	0.04	5	150

From this comparison, it is apparent that impacts from SO₂ and PM₁₀ are well below the SIL thresholds, and represent only minor fractions of the ambient standards. That air quality impacts from motor vehicles queuing at grade crossings are projected to be minimal for SO₂ and PM₁₀ is important, as ambient levels for those pollutants in Cuyahoga County currently violate the ambient standards.

The projected impact of NO_x is essentially at the SIL threshold concentration, indicating a marginally-significant impact. The projected CO impacts exceed SIL thresholds. This suggests that motor vehicle queuing at the Hird Avenue crossing as a result of new train passages could have a significant air quality impact for CO. This is potentially important, given that there may not be much margin between current ambient levels of CO and the ambient standard for CO. To explain further, STB notes that Cuyahoga County is designated as a "maintenance area" by US EPA for CO (EIS, Attachment E-1, P. 7), meaning the County has been brought into compliance with the ambient standards for CO, after formerly being in violation of those standards. Should ambient levels of CO increase significantly, this could put the County back into violation of the ambient standards for that pollutant.

The simplified modeling performed here is likely conservative; that is, projected impacts may be overstated. Nonetheless, because potentially significant impacts are indicated for CO, ARI recommends that the project proponent perform a refined air-quality modeling assessment for motor-vehicle queuing at the Hird Avenue crossing to demonstrate compliance with the ambient standards for CO.

11. As noted in Attachment 1, the Hird Avenue crossing in Lakewood was projected by STB to have the greatest new motor-vehicle delays in the county; i.e., an increase of 22 vehicles-hours of delay per day, on average. By comparison, the most heavily impacted crossings in Rocky River and Bay Village, respectively, were projected by STB to be the Wager Road crossing at 5 vehicle-hours of delay per day, and the Columbia Road crossing at 7.1 vehicle-hours of delay per day (EIS, Attachment E-10, P. 1 of 3). Impact levels from motor vehicles queued at the Wager Road and Columbia Road crossings would be proportionately reduced from impact levels presented above for Hird Avenue. Based on the modeling, CO impacts projected to be significant at Hird Avenue, would be projected to be marginally significant at the Wager Road and Columbia Road crossings. NO_x impacts projected to be marginally significant at the Hird Avenue crossing would be projected not to be significant at the Wager Road and Columbia Road crossings.

Alternative Resources, Inc.
January 1998

APPLICATION OF THE US EPA
ISCST3 AIR QUALITY MODEL
TO MOTOR VEHICLE EMISSIONS
AT THE HIRD AVENUE (LAKEWOOD, OHIO) GRADE CROSSING

(COMPUTER PRINTOUT DOCUMENTATION OF
MODEL INPUTS AND OUTPUTS)

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

RURAL FLAT GRDRIS

*** MODEL SETUP OPTIONS SUMMARY ***

*** MODELOPTs: CONC

*** Simple Terrain Model is Selected

*** Model Is Setup For Calculation of Average Concentration Values.

-- SCAVENGING/DEPOSITION LOGIC --
**Model Uses NO DRY DEPLETION. DDPLETE = F
**Model Uses NO WET DEPLETION. WDPLETE = F
**NO WET SCAVENGING Data Provided.
**Model Does NOT Use GRIDDED TERRAIN Data for Depletion Calculations

**Model Uses RURAL Dispersion.

- **Model Uses User-Specified Options:
1. Gradual Plume Rise.
 2. Stack-tip Downwash.
 3. Buoyancy-induced Dispersion.
 4. Calms Processing Routine.
 5. Not Use Missing Data Processing Routine.
 6. Default Wind Profile Exponents.
 7. Default Vertical Potential Temperature Gradients.

A-443-d

Model Assumes Receptors on FLAT Terrain.

Model Assumes No FLAGPOLE Receptor Heights.

Model Calculates 1 Short Term Average(s) of: 1-HR

This Run Includes: 4 Source(s); 1 Source Group(s); and 1 Receptor(s)

The Model Assumes A Pollutant Type of: OTHER

Model Set To Continue RUNNING After the Setup Testing.

**Output Options Selected:
Model Outputs Tables of Highest Short Term Values by Receptor (RECTABLE Keyword)
Model Outputs Tables of Overall Maximum Short Term Values (MAXTABLE Keyword)
Model Outputs Tables of Concurrent Short Term Values by Receptor for Each Day Processed (DAYTABLE Keyword)

**NOTE: The Following Flags May Appear Following CONC Values:
c for Calm Hours
m for Missing Hours
b for Both Calm and Missing Hours

**Misc. Inputs: Anem. Hgt. (m) = 10.00 ; Decay Coef. = 0.0000 ; Rot. Angle = 0.0
Emission Units = (GRAMS/SEC) ; Emission Rate Unit Factor = 0.10000E+07
Output Units = (MICROGRAMS/CUBIC-METER)

**Input Runstream File: RAILCR.DAT ; **Output Print File: RAILCR.OUT
**Detailed Error/Message File: ERRORS.OUT

CO STARTING 1142 OHIO RAIL LINES
 CO TITLEONE RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES ←
 CO TITLETWO RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES
 CO MODELOPT GRDRIS CONC RURAL NOCHPL
 CO AVERTIME 1
 CO POLLUTID OTHER
 CO DCAYCOEF .000000
 CO RUNORHOT RUN
 CO ERRORFEIL ERRORS.OUT
 CO FINISHED

SO STARTING

** Source Location Cards:
 ** SRCID SRCITYP XS YS ZS

SRCID	SRCITYP	XS	YS	ZS
1	AREA	-3.0000	50.00	0.0000
2	AREA	-3.0000	0.00	0.0000
3	AREA	-3.0000	-50.00	0.0000
4	AREA	-3.0000	-100.00	0.0000

** Source Parameter Cards:
 ** POINT: SRCID QS HS TS VS DS
 ** VOLUME: SRCID QS HS SYINIT SZINIT
 ** AREA: SRCID QS HS XINIT

SRCID	PARAM	VALUE	HS	TS	VS	DS
1	SRCPARAM	0.2500000	0.00000	6.0	50.0	0.3
2	SRCPARAM	0.2500000	0.00000	6.0	50.0	0.3
3	SRCPARAM	0.2500000	0.00000	6.0	50.0	0.3
4	SRCPARAM	0.2500000	0.00000	6.0	50.0	0.3

EMISUNIT .100000E+07 (GRAMS/SEC) (MICROGRAMS/CUBIC-METER)

SRCGROUP ALL
 FINISHED

ME STARTING
 RE ELEVUNIT FEET
 RE GRIDPOLR POL STA
 RE GRIDPOLR POL ORIG 0.
 RE GRIDPOLR POL DIST 10.
 RE GRIDPOLR POL DDIR 90.
 RE GRIDPOLR POL END
 RE FINISHED

ME STARTING
 ME INPUTFIL SCR.NET
 ME ANEMHGT 10.000 METERS
 ME SURFDATA 99999 1990 SURNAME
 ME UAIRDATA 99999 1990 UAIRNAME
 ME WINDCATS 1.54 3.09 5.14 8.23 10.80
 ME FINISHED

OU STARTING
 OU RECTABLE 1 FIRST
 OU MAXTABLE 1 50
 OU DAYTABLE 1
 OU FINISHED

CO STARTING 1142 OHIO RAIL LINES
 CO TITLEONE RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES
 CO MODELOPT GRORIS CONC RURAL NOCMPL
 CO AVERTIME 1
 CO POLLUTID OTHER
 CO DCAYCOEF .000000
 CO RUNORNOT RUN
 CO ERRORFIL ERRORS.OUT
 CO FINISHED

SO STARTING

** Source Location Cards:
 ** SRCID SRC TYP XS YS ZS
 SO LOCATION 1 AREA -3.0000 50.00 0.0000
 SO LOCATION 2 AREA -3.0000 0.00 0.0000
 SO LOCATION 3 AREA -3.0000 -50.00 0.0000
 SO LOCATION 4 AREA -3.0000 -100.00 0.0000

** Source Parameter Cards:
 ** POINT: SRCID QS HS TS VS DS
 ** VOLUME: SRCID QS HS SYINIT SZINIT
 ** AREA: SRCID HS XINIT
 SRCPARAM 1 0.2500000 0.00000 6.0 0. 50. 0. 0.3
 SRCPARAM 2 0.2500000 0.00000 6.0 0. 50. 0. 0.3
 SRCPARAM 3 0.2500000 0.00000 6.0 0. 50. 0. 0.3
 SRCPARAM 4 0.2500000 0.00000 6.0 0. 50. 0. 0.3

EMISUNIT .10000E+07 (GRAMS/SEC) (MICROGRAMS/CUBIC-METER)
 SRCGROUP ALL
 FINISHED

STARTING
 ELEVUNIT FEET
 RE GRIDPOLR POL STA 0.
 RE GRIDPOLR POL ORIG 0.
 RE GRIDPOLR POL DIST 10.
 RE GRIDPOLR POL DIR 90.
 RE GRIDPOLR POL END
 RE FINISHED

ME STARTING
 ME INPUTFIL SCR.MET
 ME AREMIGHT 10.000 METERS
 ME SURFDATA 99999 1990 SURFRAME
 ME UAIRDATA 99999 1990 UAIRNAME
 ME WINDCATS 1.54 3.09 5.14 8.23 10.80
 ME FINISHED (412,2F9.4,F6.1,I2,2F7.1)

OU STARTING
 OU RECTABLE 1 FIRST
 OU DAYTABLE 1 50
 OU DAYTABLE 1
 OU FINISHED

 *** SETUP Finishes Successfully ***

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 NOCMPL

*** 1142 OHIO RAIL LINES
 *** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

RURAL FLAT GRDRIS

*** ISCST3 - VERSION 96113 ***

**MODELOPTs: CONC

*** AREA SOURCE DATA ***

SOURCE ID	NUMBER PART. CATS.	EMISSION RATE (USER UNITS /METER**2)	COORD X (METERS)	COORD Y (METERS)	COORD (SW CORNER) X (METERS)	COORD (SW CORNER) Y (METERS)	BASE ELEV. (METERS)	RELEASE HEIGHT (METERS)	X-DIM OF AREA (METERS)	Y-DIM OF AREA (METERS)	ORIENT. OF AREA (DEG.)	INIT. SZ (METERS)	EMISSION RATE SCALAR VARY BY
1	0	0.25000E+00	-3.0	50.0	50.0	50.0	0.0	0.00	6.00	50.00	0.00	0.30	0.30
2	0	0.25000E+00	-3.0	0.0	0.0	0.0	0.00	0.00	6.00	50.00	0.00	0.30	0.30
3	0	0.25000E+00	-3.0	-50.0	0.0	0.0	0.00	0.00	6.00	50.00	0.00	0.30	0.30
4	0	0.25000E+00	-3.0	-100.0	0.0	0.0	0.00	0.00	6.00	50.00	0.00	0.30	0.30

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NOCMPL

*** ISCST3 - VERSION 96113 ***
*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

RURAL FLAT GRDRIS

**MODELOPTs: CONC

*** SOURCE IDs DEFINING SOURCE GROUPS ***

SOURCE IDs

GROUP ID

ALL 1 , 2 , 3 , 4 ,

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NOCMPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

RURAL FLAT GRDRIS

*** ISCST3 - VERSION 96113 ***

**MODELOPTs: CONC

*** GRIDDED RECEPTOR NETWORK SUMMARY ***

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOLR ***

*** ORIGIN FOR POLAR NETWORK ***
X-ORIG = 0.00 ; Y-ORIG = 0.00 (METERS)

*** DISTANCE RANGES OF NETWORK ***
(METERS)

10.0,

*** DIRECTION RADIALS OF NETWORK ***
(DEGREES)

90.0,

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*** ISCST3 - VERSION 96113 ***
*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

RURAL FLAT

RURAL FLAT

**MODELOPTS: CONC

*** THE FIRST 20 HOURS OF METEOROLOGICAL DATA ***

FILE: SCR.MET
SURFACE STATION NO.: 99999
NAME: SURNAME
YEAR: 1990
FORMAT: (412,2F9.4,F6.1,12,2F7.1)
UPPER AIR STATION NO.: 99999
NAME: UAIRNAME
YEAR: 1990

YEAR	MONTH	DAY	HOUR	FLOW VECTOR	SPEED (M/S)	TEMP (K)	STAB CLASS	MIXING HEIGHT (M)	URBAN	RURAL	USTAR (M/S)	M-O LENGTH (M)	Z-O (M)	IPCODE	PRATE (mm/HR)
90	1	1	1	90.0	1.00	293.1	1	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	2	90.0	3.00	293.1	1	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	3	90.0	1.00	293.1	2	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	4	90.0	3.00	293.1	2	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	5	90.0	5.00	293.1	2	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	6	90.0	1.00	293.1	3	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	7	90.0	3.00	293.1	3	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	8	90.0	5.00	293.1	3	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	9	90.0	10.00	293.1	3	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	10	90.0	1.00	293.1	4	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	11	90.0	3.00	293.1	4	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	12	90.0	5.00	293.1	4	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	13	90.0	10.00	293.1	4	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	14	90.0	20.00	293.1	4	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	15	90.0	1.00	293.1	5	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	16	90.0	3.00	293.1	5	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	17	90.0	5.00	293.1	5	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	18	90.0	1.00	293.1	6	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	19	90.0	3.00	293.1	6	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00
90	1	1	20	90.0	5.00	293.1	6	5000.0	5000.0	5000.0	0.0000	0.0	0.0000	0	0.00

A-445-c

*** NOTES: STABILITY CLASS 1=A, 2=B, 3=C, 4=D, 5=E AND 6=F.
FLOW VECTOR IS DIRECTION TOWARD WHICH WIND IS BLOWING.

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NOCMPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

RURAL FLAT GRDRIS

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 2 FOR DAY 1 ***
FOR SOURCE GROUP: ALL
INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOL ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DISTANCE (METERS)

DIRECTION |
(DEGREES) | 10.00

90.00 | 253979.75000

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NOCHPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

*** ISCST3 - VERSION 96113 ***

**MODELOPTS: CONC RURAL FLAT GRDR1S

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 3 FOR DAY 1 ***
FOR SOURCE GROUP: ALL
INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOL ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION (DEGREES) | 10.00 |-----|
DISTANCE (METERS)

90.00 | 960865.68800

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NOCMPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

RURAL FLAT GRDR1S

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 4 FOR DAY 1 ***
FOR SOURCE GROUP: ALL
INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOLR ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION | DISTANCE (METERS)

(DEGREES) | 90.00

90.00 | 320288.56300

*** ISCST3 - VERSION 96113 ***

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

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**MODELOPTS: CONC

RURAL FLAT

GRDRIS

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 5 FOR DAY 1 ***
FOR SOURCE GROUP: ALL
INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOLR ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION
(DEGREES) |

10.00

90.00 | 192173.14100

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10:26:18
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NOCHPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

*** ISCST3 - VERSION 96113 ***

**MODELOPTS: CONC

RURAL FLAT

GRORIS

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 6 FOR DAY 1 ***
FOR SOURCE GROUP: ALL
INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOLR ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION | 10.00
(DEGREES)

90.00 | 1280605.75000

01/23/98
10:26:18
PAGE 13
NOCMPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

RURAL FLAT GRDRIS

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 7 FOR DAY 1 ***
FOR SOURCE GROUP: ALL
INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOL ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION (DEGREES) | 10.00 |

90.00 | 426868.56300

90.00 | 426868.56300

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10:26:18
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NOCMPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

RURAL FLAT GRORIS

1 ***

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 8 FOR DAY
FOR SOURCE GROUP: ALL INCLUDING SOURCE(S): 1 , 2 , 3 , 4

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOLR ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DISTANCE (METERS)

DIRECTION | 10.00
(DEGREES) |

90.00 | 256121.15600

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10:26:18
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NOCMPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

MODELPTS: CONC RURAL FLAT GRORIS VALUES ENDING WITH HOUR 10 FOR DAY 1 *
*** CONCURRENT 1-HR AVERAGE CONCENTRATION FOR SOURCE GROUP: ALL
INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOLR ***
** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION | 10.00
(DEGREES) |

90.00 | 1745821.00000

01/23/98
10:26:18
PAGE 18
NOCMPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

RURAL FLAT GRDRIS

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 12 FOR DAY 1 ***
FOR SOURCE GROUP: ALL
INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOLR ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION | 10.00
(DEGREES) |-----|
DISTANCE (METERS) |-----|

90.00 | 349164.18800

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10:26:18
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NOCMPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

RURAL FLAT

GRDRIS

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 15 FOR DAY 1 ***
FOR SOURCE GROUP: ALL
INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOLR ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION (DEGREES) | 10.00 |
DISTANCE (METERS) |
90.00 | 2031266.38000

*** ISCST3 - VERSION 96113 ***

*** 11/2 OHIO RAIL LINES

*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

**MODELOPTS: CONC

RURAL FLAT

GRDRIS

01/23/98
10:26:18
PAGE 22
NOCMPL

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 16 FOR DAY 1 ***
FOR SOURCE GROUP: ALL
INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOLR ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION | 10.00
(DEGREES) |

DISTANCE (METERS)

90.00 | 677088.75000

01/23/98
10:26:18
PAGE 23
NOCHPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

*** ISCT3 - VERSION 96113 ***

**MODELOPTs: CONC RURAL FLAT GRDRIS

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 17 FOR DAY 1 ***
FOR SOURCE GROUP: ALL INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOLR ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION | 10.00
(DEGREES) |-----

90.00 | 406253.25000

*** ISCST3 - VERSION 96113 ***

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

01/23/98
10:26:18
PAGE 24
NOCMPL

**MODELOPTS: CONC

RURAL FLAT

GRDRIS

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 18 FOR DAY 1 ***
FOR SOURCE GROUP: ALL
INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOLR ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION |
(DEGREES) |

10.00

90.00 | 2587087.25000

01/23/98
10:26:18
PAGE 25
NOCMPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

RURAL FLAT GRDRIS

*** CONCURRENT 1-HR AVERAGE CONCENTRATION VALUES ENDING WITH HOUR 19 FOR DAY 1 ***
FOR SOURCE GROUP: ALL
INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOL ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION | 10.00
(DEGREES)
90.00 | 862362.37500

01/23/98
10:26:18
PAGE 26
NOCMPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

*** ISCST3 - VERSION 96113 ***

RURAL FLAT GRDRIS

VALUES ENDING WITH HOUR 20 FOR DAY 1 ***

CONCURRENT 1-HR AVERAGE CONCENTRATION

FOR SOURCE GROUP: ALL INCLUDING SOURCE(S): 1 , 2 , 3 , 4 ,

*** NETWORK ID: POL ; NETWORK TYPE: GRIDPOLR ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

DIRECTION (DEGREES) | 10.00

90.00 | 517417.43800

DISTANCE (METERS)

01/23/98
10:26:18
PAGE 28
NOCMPL

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

*** ISCS13 - VERSION 96113 ***

*** MODELPTS: CONC
RURAL FLAT GRDRIS
*** THE MAXIMUM 50 1-HR AVERAGE CONCENTRATION VALUES FOR SOURCE GROUP: ALL ***
INCLUDING SOURCE(S): 1, 2, 3, 4

RANK	CONC	(YMHDDHH) AT	RECEPTOR (XR, YR) OF TYPE	RANK	CONC	(YMHDDHH) AT	RECEPTOR (XR, YR) OF TYPE
1.	2587087.25000	(90010118) AT	(0.00) GP	26.	0.00000	() AT	(0.00) (0.00)
2.	2031266.38000	(90010115) AT	(0.00) GP	27.	0.00000	() AT	(0.00) (0.00)
3.	1745821.00000	(90010110) AT	(0.00) GP	28.	0.00000	() AT	(0.00) (0.00)
4.	1280605.75000	(90010106) AT	(0.00) GP	29.	0.00000	() AT	(0.00) (0.00)
5.	960865.68800	(90010103) AT	(0.00) GP	30.	0.00000	() AT	(0.00) (0.00)
6.	862362.37500	(90010119) AT	(0.00) GP	31.	0.00000	() AT	(0.00) (0.00)
7.	761939.25000	(90010101) AT	(0.00) GP	32.	0.00000	() AT	(0.00) (0.00)
8.	677088.75000	(90010116) AT	(0.00) GP	33.	0.00000	() AT	(0.00) (0.00)
9.	581940.37500	(90010111) AT	(0.00) GP	34.	0.00000	() AT	(0.00) (0.00)
10.	517417.43800	(90010120) AT	(0.00) GP	35.	0.00000	() AT	(0.00) (0.00)
11.	426868.56300	(90010107) AT	(0.00) GP	36.	0.00000	() AT	(0.00) (0.00)
12.	406253.25000	(90010117) AT	(0.00) GP	37.	0.00000	() AT	(0.00) (0.00)
13.	349164.18800	(90010112) AT	(0.00) GP	38.	0.00000	() AT	(0.00) (0.00)
14.	320288.56300	(90010104) AT	(0.00) GP	39.	0.00000	() AT	(0.00) (0.00)
15.	256121.15600	(90010108) AT	(0.00) GP	40.	0.00000	() AT	(0.00) (0.00)
16.	253979.75000	(90010102) AT	(0.00) GP	41.	0.00000	() AT	(0.00) (0.00)
17.	192173.14100	(90010105) AT	(0.00) GP	42.	0.00000	() AT	(0.00) (0.00)
18.	174582.09400	(90010113) AT	(0.00) GP	43.	0.00000	() AT	(0.00) (0.00)
19.	128060.57800	(90010109) AT	(0.00) GP	44.	0.00000	() AT	(0.00) (0.00)
20.	87291.04690	(90010114) AT	(0.00) GP	45.	0.00000	() AT	(0.00) (0.00)
21.	0.00000	() AT	(0.00) GP	46.	0.00000	() AT	(0.00) (0.00)
22.	0.00000	() AT	(0.00) GP	47.	0.00000	() AT	(0.00) (0.00)
23.	0.00000	() AT	(0.00) GP	48.	0.00000	() AT	(0.00) (0.00)
24.	0.00000	() AT	(0.00) GP	49.	0.00000	() AT	(0.00) (0.00)
25.	0.00000	() AT	(0.00) GP	50.	0.00000	() AT	(0.00) (0.00)

*** RECEPTOR TYPES: GC = GRIDCART
GP = GRIDPOLR
DC = DISCCART
DP = DISCPOLR
BD = BOUNDARY

*** ISCST3 - VERSION 96113 ***

*** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES

**MODELOPTs: CONC

RURAL FLAT
GRORIS

01/23/98
10:26:18
PAGE 29

NOCHPL

*** THE SUMMARY OF HIGHEST 1-HR RESULTS ***

** CONC OF OTHER IN (MICROGRAMS/CUBIC-METER) **

GROUP ID	AVERAGE CONC	DATE (YYMMDDHH)	RECEPTOR (XR, YR, ZELEV, ZFLAG)	OF TYPE	GP	POL	NETWORK GRID-ID
ALL	HIGH 1ST HIGH VALUE IS 2587087.25000	ON 90010118: AT <	10.00,	0.00,	0.00,	0.00,	

*** RECEPTOR TYPES:

- GC = GRIDCART
- GP = GRIDPOLR
- DC = DISCCART
- DP = DISCPOLR
- BD = BOUNDARY

01/23/98
10:26:18
PAGE 30
NOCMPL

*** ISCST3 - VERSION 96113 *** *** 1142 OHIO RAIL LINES
*** RAIL/ROAD CROSSINGS MODELED AS AREA SOURCES
**MODELOPTS: CONC RURAL FLAT GRDR1S

*** Message Summary : ISCST3 Model Execution ***

----- Summary of Total Messages -----

A Total of 0 Fatal Error Message(s)
A Total of 0 Warning Message(s)
A Total of 0 Informational Message(s)

***** FATAL ERROR MESSAGES *****
*** NONE ***

***** WARNING MESSAGES *****
*** NONE ***

*** ISCST3 Finishes Successfully ***

SUPPLEMENTAL VERIFIED STATEMENT
OF
JAMES R. LINDEN

My name is James R. Linden, Director of Public Safety-Service, City of Rocky River, Rocky River, Ohio. I previously submitted a Verified Statement consisting of two pages and Exhibits JRL-1 and JRL-2. That statement was verified by me to be true on October 6, 1997.

I wish to expound upon my previous opinion concerning the need for construction of a new fire station North of the railroad tracks should the train increase estimated by Norfolk Southern in conjunction with the proposed acquisition be approved by the Surface Transportation Board. It is my belief that the construction of a new fire station North of the tracks at an estimated construction cost of \$1.1 million, an estimated equipment cost of \$98,649.85 and an annual expense for personnel costs of \$800,000 would all be a necessary, life saving measure.

This belief is based in part upon the Verified Statements of Rocky River Fire Chief Christopher M. Flynn and Robert J. Alban, P.E., Rocky River's City Engineer. Such statements detail the expected increase in Emergency Vehicle response times and vehicle crossing delays as a result of the proposed tripling of train traffic. These increases are unacceptable. The resultant delays are more than mere inconvenience, but the difference between life and death. Without the construction of a new fire station, residents on the North side of the City face a risk three times as great after the acquisition that an

ambulance or fire truck on the way to their house will be forced to reroute or to sit through a deadly delay.

As Safety Service Director, it is my job to eliminate this risk. That job can only be completed by adding a second station and employing 40% more personnel to man it, both at a considerable, non-budgeted expense to the City of Rocky River, Ohio.

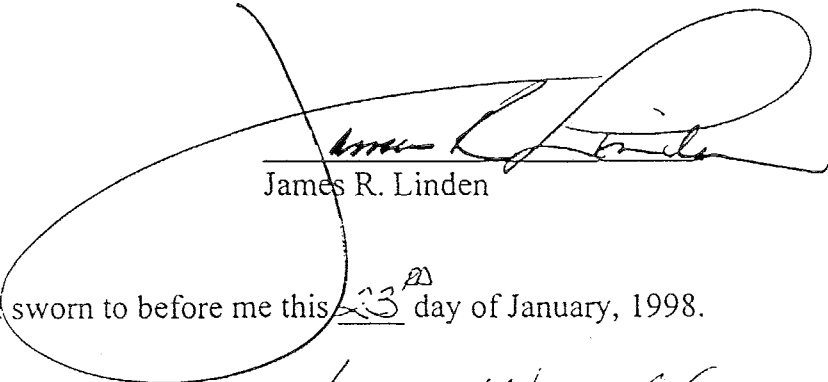
VERIFICATION

STATE OF OHIO


SS.

COUNTY OF CUYAHOGA

I, James R. Linden being duly sworn, depose and say that I have read the foregoing, know the contents thereof, and the same is true and correct.


James R. Linden

Subscribed and sworn to before me this 23rd day of January, 1998.


Notary Public

My appt. Expires 9-30-02

**SUPPLEMENTAL VERIFIED STATEMENT
OF
CHRISTOPHER M. FLYNN**

My name is Christopher M. Flynn, Fire Chief, City of Rocky River, Ohio. I previously submitted a Verified Statement on behalf of the City of Rocky River consisting of six written pages and attached Exhibits labeled CMF-1 through CMF-6. That statement was verified to be true by me on October 6, 1997.

I wish to supplement my statement at this time by including the parenthetical phrase "(See Exhibits CMF-3 - CMF-5 for response time information)." at the end of the second paragraph of page two of my original Verified Statement.

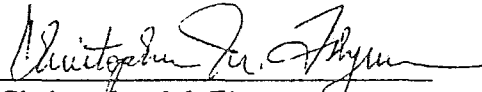
VERIFICATION

STATE OF OHIO

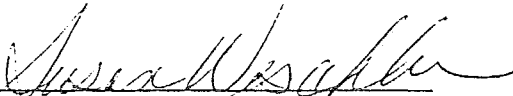
SS.

COUNTY OF CUYAHOGA

I, Christopher M. Flynn, being duly sworn, depose and say that I have read the foregoing, know the contents thereof, and the same is true and correct.


Christopher M. Flynn

Subscribed and sworn to before me this 23rd day of January, 1998.


Notary Public
My appt. Expires 9-30-02

US OFFICE PRODUCTS

SUPPLEMENTAL VERIFIED STATEMENT
OF
DONALD L. WAGNER

My name is Donald L. Wagner, Chief of Police, City of Rocky River, Rocky River, Ohio. I previously submitted a verified statement consisting of four written pages and Exhibits DLW-1 through DLW-6. That statement was verified by me to be true on October 6, 1997.

I wish to supplement my previous statement at this time by correcting the second sentence in the second paragraph of page three of said Verified Statement to read: "[T]his proposal, if put into effect will affect the quality of life as it directly relates to Police Services provided to Rocky River citizens North of the Railroad."

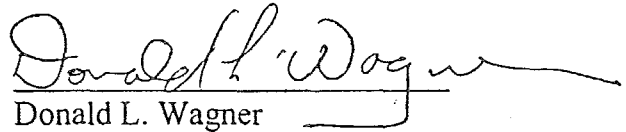
VERIFICATION

STATE OF OHIO


SS.

COUNTY OF CUYAHOGA

I, Donald L. Wagner being duly sworn, depose and say that I have read the foregoing, know the contents thereof, and the same is true and correct.


Donald L. Wagner

Subscribed and sworn to before me this 23rd day of January, 1998.


Notary Public
My appt. Expires 9-30-02

DISCOVERY
/RESEARCH

US OFFICE PRODUCTS

Elaine K. Kaiser
November 25, 1997
Page 3

Burns & McDonnell is conducting an environmental analysis of this NS proposal to reroute the additional post-Acquisition freight rail traffic away from the West Shore to Vermilion corridor. Upon completion of this work, NS will provide SEA and the third-party consultants with a copy of the written analysis.

FUNDING OF NS TRAFFIC REROUTING AND GRADE CROSSING PROPOSAL

NS expects that both the rerouting project and the grade crossing closure and upgrade project will qualify for federal and state funding.

An "order of magnitude" estimate of the cost of the proposal to reroute the increased NS rail traffic resulting from the proposed Acquisition is \$46,950,000. This includes approximately \$24,350,000 to upgrade the existing Conrail track from CP 190 to Cloggsville, \$14,000,000 to construct the grade separation at Front Street in Berea, \$5,600,000 to construct the grade separation at Fitch Street in Olmsted Falls and \$3,000,000 to construct the second connection at Vermilion. NS estimates the cost of upgrading the West Shore to Vermilion at-grade public crossings to be approximately \$2,300,000. The cost of closing redundant at-grade crossings in Lakewood has not been calculated as it is dependent upon the location and number of such crossings to be eliminated. NS proposes that discussions with local and state officials be renewed to determine which of the grade crossings in the City are appropriate for closure and which should be upgraded to include both flashing lights and gates.

Both projects will require not only political and regulatory support from the federal government, the State of Ohio, and local officials but the commitment of public funding for these important safety-enhancing projects. To that end, NS will seek all available assistance from local, state and federal authorities to obtain the necessary funding to permit these projects to go forward to construction. Rerouting of the increased post-Acquisition rail traffic from the Lakewood corridor would take place upon completion of the proposed rerouting construction project.

NS-32

BEFORE THE
SURFACE TRANSPORTATION BOARD

CSX CORPORATION AND CSX TRANSPORTATION, INC.
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
—CONTROL AND OPERATING LEASES/AGREEMENTS—
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

STB FINANCE DOCKET NO. 33388

NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY'S RESPONSES TO
THE FIRST SET OF INTERROGATORIES AND
FIRST SET OF DOCUMENT PRODUCTION REQUESTS FROM
THE CITY OF BAY VILLAGE, CITY OF ROCKY RIVER, AND CITY OF LAKEWOOD
TO NORFOLK SOUTHERN (BRL-1)

Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "NS") hereby respond to BRL-1, the first set of interrogatories and first set of document production requests to NS from the cities of Bay Village, Rocky River, and Lakewood, Ohio ("BRL" or "Requester").

GENERAL RESPONSES

The following general responses are made with respect to all of the requests and interrogatories.

1. NS will conduct a reasonable search for documents responsive to the requester's documents requests. Except as objections are noted herein,^{1/} all responsive documents will be made available for inspection and copying in Applicants' document depository, which is located at the offices of Arnold & Porter in Washington, D.C. Copies of documents will be supplied upon payment of duplicating costs (including, in the case of computer tapes, costs for programming, tapes and processing time).

2. Production of information or documents does not necessarily imply that they are relevant to this proceeding, and is not to be construed as waiving any objection stated herein.

3. In line with past practice in cases of this nature, NS has not secured verifications for the answers to interrogatories herein. NS is prepared to discuss the matter with requester if this is of concern with respect to any particular answer.

4. Where objections have been raised as to the scope of the interrogatory, NS is willing to discuss searching for and producing information covered by a more limited request or interrogatory taking account of the stated objection.

GENERAL OBJECTIONS

The following general objections are made with respect to all of the interrogatories and documents requests. Any additional specific objections are stated at the beginning of the response to each interrogatory or document request.

^{1/} Thus, any responses that state that responsive documents are being produced is subject to the General Objections, so that, for example, any documents subject to attorney-client privilege or the work product doctrine are not being produced.

1. NS objects to production of, and is not producing, documents or information subject to the attorney-client privilege, the work product doctrine and/or the joint or common interest privilege, or administratively confidential documents or information.

2. NS objects to production of, and is not producing, documents prepared in connection with, or information relating to, possible settlement of this or any other matter.

3. NS objects to production of, and is not producing, public documents or information that is readily available, including but not limited to documents on public file at the Surface Transportation Board ("STB"), the Securities and Exchange Commission, or any other government agency or court, or that have appeared in newspapers or other public media.

4. NS objects to the production of, and is not producing, draft verified statements and documents related thereto. In prior railroad consolidation proceedings, such documents have been treated by all parties as protected from production.

5. NS objects to the production of, and is not producing, information or documents that are as readily obtainable by the requester from its own files or members.

6. NS objects to the production of, and is not producing, information or documents containing confidential or sensitive commercial information, including information subject to disclosure restrictions imposed by law in other proceedings or by contractual obligation to third parties, and that is of insufficient materiality to warrant production here even under a protective order.

7. NS objects to the requests to the extent that they seek documents or information in a form not maintained by NS in the regular course of business and not readily

available in the form requested, on the ground that such documents or information could only be developed, if at all, through unduly burdensome and oppressive special studies, which are not ordinarily required and which NS objects to performing.

8. NS objects to the interrogatories and requests as overbroad and unduly burdensome to the extent that they seek information or documents for periods prior to January 1, 1995.

9. NS objects to any requests that seek information regarding current or future operations on, or any other plans or activities relating to, or employment on, rail lines or properties other than those that NS currently owns or operates, or with respect to future operations, Conrail line segments that NS will operate at the relevant future time. The best source of information with respect to such matters is the Applicant that owns or operates the line or property in question, or will do so at the relevant future time.

10. NS incorporates, as if fully set forth herein, its General Objections 10, 11, 12, 13 and 14 set forth in NS-9, pertaining to the definitions and instructions set forth in ACE-4 incorporated by reference by BRL into BRL-1. See BRL-1, Definitions and Instructions.

11. NS objects to BRL's definition of the applicable "Line Segment" ("the Cleveland, OH to Vermilion, OH line segment") as overbroad and irrelevant in that the Line Segment as defined by requester includes underlying links located outside of requesters' geographical limits. For purposes of its response to these interrogatories, NS construes that term to refer to the NS link from milepost B 185.6 (Cloggsville) to milepost B 205.5 (Avon Lake).

INTERROGATORIES AND DOCUMENT REQUESTSInterrogatory and Document Request No. 1:

Identify, for each of the Base Case 13.5 trains per day and for each of the Post-Acquisition Case 34.1 trains per day:

- a) the origin;
- b) the destination;
- c) the average length;
- d) the average speed of the train over each grade crossing in Bay Village, Rocky River, and Lakewood;
- e) the amount of hazardous materials freight;
- f) the time of day the train does and/or will operate over the Line Segment;
- g) train/horn equipment;
- h) train/horn sounding sequences within Bay Village, Rocky River, and Lakewood;
- i) train speeds during sounding sequences within Bay Village, Rocky River, and Lakewood;
- j) ground-borne vibration levels within Bay Village, Rocky River, and Lakewood; and
- k) the maximum, minimum, and average time that the train has and/or will block each grade crossing within Bay Village, Rocky River, and Lakewood.

For purposes of your responses to items (a) and (b), you may respond "Bridge Traffic" if none of the freight either originates or terminates on this Line Segment.

1. NS objects to this request as unduly burdensome and overly broad. Without waiving any objection, and subject to the General Objections stated above, NS responds as follows:

a) The NS Operating Plan shows 13.5 trains/day (Base Case) and 34.1 trains/day (Post Acquisition Case) operating or projected to operate over the segment from Cleveland to Vermilion, OH. Corresponding numbers for the Line Segment (Cloggsville-Avon Lake) are 12.3 trains per day (Base Case) and 31.9 trains per day (Post Acquisition Case). These trains currently carry bridge traffic and are projected to carry bridge traffic destined for points other than Bay Village, Rocky River and Lakewood. No regular local service is

operated over the Line Segment. If any local traffic were to move over the Line Segment, NS anticipates that this traffic would be handled by road switchers working out of Sheffield Yard at Avon Lake on an as-needed basis.

b) See response to subpart (a) above.

c) The average lengths of trains operating over the Line Segment for the Base Case and Post Acquisition Case are approximately 4100 feet and approximately 3900 feet respectively.

d) Average train speed over each grade crossing is as follows: MP B 189.2 (Cleveland/Lakewood City Line) to MP B 194.5 (Elmwood) - 35 miles per hour; MP 194.5 (Elmwood) to MP B 199.6 (Cuyahoga/Lorain Co. Line) - 60 miles per hour - intermodal; MP B194.5 (Elmwood) to MP B 199.6 (Cuyahoga/Lorain Co. Line) - 50 miles per hour - other freight trains. Clague Siding, located between MP B 193.9 and MP B 197.0, is a controlled siding used for meeting trains on the single track link. Trains entering and running through this siding are limited to 25 miles per hour.

e) Base Case: 26 carloads/day; Post Acquisition Case - 89 carloads/day.

f) Projected train schedules may be found in Applicants' depository. See NS-21-CO-07358-09247.

g) Airhorns are of various configurations depending upon locomotive manufacturer, horn manufacturer, locomotive age, etc. All subject horn equipment meets or exceeds FRA specification for this type of appliance.

h) Whistle signal 14(L) -- consisting of two long, one short and one long sounds -- is used in advance of each crossing at grade, unless otherwise provided by ordinance or special instruction.

i) See response to subpart (d) above.

j) NS is not in possession of information regarding any such ground-borne vibration levels.

k) A responsive document will be placed in Applicants' depository.

Interrogatory and Document Request No. 2:

Provide a disk containing the computer model and input data used to develop your response to 1(k).

2. Without waiving any objection, and subject to the General Objections stated above, NS responds as follows:

Assuming normal operations, calculations of maximum, minimum, and average time that each train will block a grade crossing were made utilizing average train lengths and expected train speeds, taking into account the type of train and acceleration and deceleration factors. See response to Interrogatory 1(k). No computer model was used to make these simple calculations.

Interrogatory and Document Request No. 3:

For the base case and the post acquisition case provide:

a) the total train miles on the Line Segment; and

b) the total rail car miles.

3. Without waiving any objection, and subject to the General Objections stated above, NS responds as follows:

a) Total train miles per year for the Cleveland-Vermilion line segment are as follows: Base Case: 182,810; Post Acquisition Case: 461,765. Total train miles per year for the Cloggsville-Avon Lake line segment are as follows: Base Case: 89,790; Post Acquisition Case: 232,870.

b) Total rail car miles per year for the Cleveland-Vermilion line segment are as follows: Base Case: 12,282,140; Post Acquisition Case: 28,145,685. Total rail car miles per year for the Cloggsville-Avon Lake line segment are as follows: Base Case: 5,883,800; Post Acquisition: 14,279,588.

Interrogatory and Document Request No. 4:

Identify, by mile-post numbers, each grade crossing in Bay Village, Rocky River, and Lakewood.

4. Without waiving any objection, and subject to the General Objections stated above, NS responds as follows:

Responsive documents will be placed in Applicants' depository.

Interrogatory and Document Request No. 5:

For each identified grade crossing:

- a) describe the form of grade crossing protection currently in place, e.g. cross-bucks, flashers, gates and lights, grade separations;
- b) provide the maximum timetable speed; and
- c) identify the track class.

5. Without waiving any objection, and subject to the General Objections stated above, NS responds as follows:

A responsive document will be placed in Applicants' depository.

Interrogatory and Document Request No. 6:

For each identified grade crossing that is protected by gates and lights, provide the amount of time:

- a) prior to the arrival of the train that the gates start coming down; and
- b) after the passing of the train that the gates are fully up.

To the extent that the information provided in response to (a) and (b) would not be applicable to each base case and/or post-acquisition train passing through the identified grade crossing, explain the reason for the difference and provide the applicable maximum and minimum times for each grade crossing.

6. Without waiving any objection, and subject to the General Objections stated above, NS responds as follows:

- a) Protective devices in place meet both NS and FRA requirements. Gates are electronically programmed to begin to lower less than four (4) seconds after lights begin to flash.
- b) Gates are electrically programmed to raise in not more than twelve (12) seconds after a train has cleared the crossing circuit.

Interrogatory and Document Request No. 7:

For each of the proposed additional 20.6 trains per day:

- a) identify the portion of the current routing to be replaced by use of the Line Segment;
- b) explain why the current routing, e.g. the Conrail routing, may not, can not, or should not be used in the post-acquisition environment;
- c) identify all routings not involving the Line Segment considered by Norfolk Southern as a replacement for the current routing;
- d) describe the rationale for rejecting the routings identified in your response to (c).

7. Without waiving any objection, and subject to the General Objections stated above, NS responds as follows:

a) NS objects to this subpart on the basis that the term "current routing to be replaced" is vague and ambiguous. NS anticipates diverting traffic from other carriers and other routes. To the extent that the increase represents traffic diverted from other carriers or other routes, identification of its current routing would require a burdensome special study which NS is not required to perform. To the extent the increased traffic represents new traffic, there is no "current routing." Train schedules for the post-acquisition case were developed by preparing an origin-destination data base of traffic that would be expected to move over the expanded NS system, and then building a network of trains to move this traffic in an efficient and timely manner. The new train networks were developed on a "zero-based" model -- current routing was not an input into the model.

b) NS objects to this subpart as vague and ambiguous. Upon approval and consummation of the proposed Transaction, CSX will control and operate trackage on Conrail's line between Cleveland (CP 181), Buffalo and points East. NS will compete for traffic between points West of Vermilion and East of Cleveland using its own ownership route (former Nickel Plate).

c) NS objects to this subpart on the basis that the term "replacement for the current routing" is vague and ambiguous. NS assumes that in this subpart the term "current routing" is intended to mean post-acquisition routing. In regard to post-acquisition routing, NS considered two alternative routes: the Cleveland Shortline to Berea and the Cloggsville Connection.

d) The Cleveland Shortline was dismissed as an alternative route because train dispatching would not be under the control of NS and also because of concerns about scheduling and congestion.

The Cloggsville Connection was dismissed as an alternative route because of the substantial expense that would be necessary to upgrade the route and build new connections.

Interrogatory and Document Request No. 8:

Describe the manner in which the projected increase of 20.6 trains per day was calculated. This description should include any assumptions as to freight gained or lost in the post-acquisition environment, but such assumptions may be stated in a way that eliminates any confidential data.

8. Without waiving any objection, and subject to the General Objections stated above, NS responds as follows:

See the NS Operating Plan, Volume 3B, Section 2.0, pages 90 - 94.

Interrogatory and Document Request No. 9:

Provide all documents used to calculate the proposed increase of 20.6 trains per day. Again, you may eliminate any confidential data.

9. Without waiving any objection, and subject to the General Objections stated above, NS responds as follows:

Responsive documents have been placed in Applicants' depository. See, e.g., work papers supporting the NS Operating Plan and the Verified Statements of D. Michael Mohan and John H. Williams.

Interrogatory and Document Request No. 10:

Provide all projections of numbers and lengths of trains per day over this Line Segment for:

- a) the first 12 months post-acquisition; and
- b) each of years two through ten post-acquisition.

In the event Norfolk Southern's projections applicable to (a) and (b) include ranges of numbers and/or lengths, those ranges should be provided in your responses to (a) and (b).

10. NS objects to this request on the basis that it would require NS to undertake a burdensome special study which NS is not required to undertake. The studies performed to develop the NS Operating Plan included detailed traffic analysis and operations simulation for the base year 1995 and the post-acquisition period, assumed to be three years after approval and consummation of the Transaction. Without waiving any objection, and subject to the General Objections stated above, NS responds as follows.

- a) and b) Figure D.6-2 of Volume 3B presents data for normal year operations.

Train lengths can be found in the work papers supporting the NS Operating Plan.

Interrogatory and Document Request No. 11:

For the period commencing January 1, 1992:

- a) list all derailments, collisions, accidents, and/or incidents experienced by Norfolk Southern on this Line Segment;
- b) for each event listed in (a), provide a copy of any report made to FRA;
- c) identify the nearest grade crossing to each accident/incident;
- d) identify all accidents involving personal injury and/or death;
- e) identify all accidents involving property damage and provide a dollar quantification of such damage if known;
- f) identify and describe all events involving any release or spill of hazardous materials (as defined by FRA); and
- g) for each event identified in (d) and (e), provide a copy of any report made to either FRA or the U.S.D.O.T. Research and Special Programs Administration.

NS objects to this interrogatory to the extent that it seeks information pertaining to events occurring prior to January 1, 1995, and NS is not producing information or documents pertaining to any such events. NS also objects to producing, and is not producing, information or documents available publicly through the Federal Railroad Administration or any other government agency. Without waiving any objection, and subject to the foregoing objections and the general Objections stated above, NS responds as follows:

- a) Responsive documents, if any, to the extent not publicly available, will be placed in the Applicants' depository.
- b) These documents are available to requester from public sources.
- c) For events occurring at grade crossings, see the documents produced in response to subpart (a). As to events occurring not at grade crossings, NS objects to this subpart as it would require a special study, which NS is not required to perform.
- d) Responsive documents, if any, to the extent not publicly available, will be placed in Applicants' depository.
- e) Responsive documents, if any, to the extent not publicly available, will be placed in Applicants' depository.
- f) None.
- g) These documents are available to requester from public sources.

Interrogatory and Document Request No. 12:

Identify all communication methods presently available to Norfolk Southern to provide advance warning of an approaching train to emergency service providers, i.e. police, fire, and ambulance, in Bay Village, Rocky River, and Lakewood.

NS objects to this Interrogatory as vague and ambiguous, particularly with respect to the phrase "all communication methods presently available." Without waiving any objection, and subject to the foregoing objection and the General Objections stated above, NS responds as follows:

NS does not routinely provide advance notification of approaching trains. All NS crossings are posted with a sign showing NS' Police "Hot Line" number (1-800-946-4744). In the event of an emergency, local emergency service providers may use this number for 24-hour access to NS' Police Service Center, which, in turn, is in contact with all dispatching offices.

Interrogatory and Document Request No. 13:

Identify all grade crossings in Bay Village, Rocky River, and Lakewood previously considered for grade separations.

NS objects to this interrogatory as vague and ambiguous with respect to the phrase "previously considered." Without waiving any objection, and subject to the foregoing objection and the General Objections stated above, NS responds as follows:

NS has no records indicating that grade separations have been considered for any crossing in Bay Village, Rocky River, or Lakewood. Such decisions are made by appropriate state officials and NS is not privy to their records.

Interrogatory and Document Request No. 14:

For each identified grade crossing, provide all documents in Norfolk Southern's possession addressing:

- a) the advantages and/or disadvantages of such grade separations; and
- b) the cost of such grade separations.

NS objects to this interrogatory as vague and ambiguous with respect to the phrase "each identified grade crossing." NS construes that phrase to refer to grade crossings, if any, identified in response to Interrogatory No. 13 immediately above. Without waiving any objection, and subject to the foregoing objection and the General Objections stated above, NS responds as follows:

See response to Interrogatory No. 13.

Interrogatory and Document Request No. 15:

Provide copies of:

- a) all written complaints, concerns, or the like relating to Norfolk Southern operations over the Line Segment on or after January 1, 1992; and
- b) all responses to the items provided in response to (a).

NS objects to this interrogatory as vague and ambiguous with respect to the phrase "or the like". NS also objects to this interrogatory to the extent that it seeks information pertaining to events occurring prior to January 1, 1995. Without waiving any objection, and subject to the foregoing objections and the General Objections stated above, NS responds as follows:

NS will place responsive documents, if any, in the Applicants' depository.

Interrogatory and Document Request No. 16:

Provide all documents supporting the description of Cuyahoga County in the Supplemental Environmental Report (Volume 6), page 85.

Without waiving any objection, and subject to the General Objections stated above, NS responds as follows:

Responsive documents will be placed in Applicants' depository.

Interrogatory and Document Request No. 17:

Is Norfolk Southern aware of any inconsistent application or other proposal in this proceeding that would result in a use of the Line Segment different from that proposed by Norfolk Southern? If so, identify that proposal.

NS objects to this interrogatory as vague and ambiguous, with respect to the phrases "other proposal" and "use of the Line Segment different from that proposed by Norfolk Southern." Without waiving any objection, and subject to the foregoing objection and the General Objections stated above, NS responds as follows:

A number of parties have served descriptions of anticipated inconsistent or responsive applications and public comments in Finance Docket No. 33388, and those documents speak for themselves.

Interrogatory and Document Request No. 18:

Describe the proposed use of what appears to be a water route between Buffalo and Detroit that Norfolk Southern will acquire from Conrail.

NS objects to this interrogatory as vague and ambiguous, with respect to the phrase "what appears to be a water level route between Buffalo and Detroit." Without waiving any objection, and subject to the foregoing objection and the General Objections stated above, NS responds as follows:

In order to clarify this request, counsel for requester provided NS with a copy of a Rand-McNally map. The "water level route" referred to in this interrogatory and shown on that map appears to be the shore of Lake Erie and not a rail route.

Interrogatory and Document Request No. 19:

Describe all benefits to Norfolk Southern relating to the increased usage of the Line Segment. To the extent possible, provide dollar qualifications [sic] for such benefits.

NS objects to this interrogatory as vague and ambiguous in its use of the term "benefits." NS also objects to this interrogatory as requiring an unduly burdensome and oppressive special study, which NS is not required to perform. Without waiving any objection, and subject to the General Objections stated above, NS responds as follows:

The requested information is not available, as NS has not undertaken to calculate benefits to itself on a line segment-by-line segment basis.

Interrogatory and Document Request No. 20:

Provide all documents dated January 1, 1992 and after discussing compliance with federal, state, and/or local environmental requirements which specifically relate to the Line Segment or any portion thereof.

NS objects to this interrogatory as overly broad. NS also objects to this interrogatory to the extent that it seeks documents for periods prior to January 1, 1995, and NS is not producing any such documents. Without waiving any objection, and subject to the foregoing objection and the General Objections stated above, NS responds as follows:

Responsive documents, if any, will be placed in the Applicants' depository.

Interrogatory and Document Request No. 21:

Provide all documents dated January 1, 1992 and after discussing post-acquisition locomotive and motor vehicle exhaust emissions on or near any portion of the Line Segment.

NS objects to this interrogatory to the extent that it seeks documents for periods prior to January 1, 1995, and NS is not producing any such documents. Without waiving any objection, and subject to the foregoing objection and the General Objections stated above, NS responds as follows:

Air quality impacts in Cuyahoga County are discussed in Environmental Report Volume 6B, Section 8.1.1.1.2 (as corrected by the Supplemental Environmental Report).

Interrogatory and Document Request No. 22:

Provide all documents discussing train operational considerations on the Line Segment that may affect post-acquisition street vehicle safety, pedestrian safety, hazardous materials transport, potential for derailment, impact on biological resources, traffic delay, noise, emergency vehicle response time, or local economic factors.

NS objects to this interrogatory to the extent that it seeks documents for periods prior to January 1, 1995, and NS is not producing any such documents. NS also objects to this interrogatory as vague and ambiguous. Without waiving any objection, and subject to the foregoing objection and the General Objections stated above, NS responds as follows:

The Environmental Report submitted by the Applicants discusses the anticipated impacts, if any, of projected train operations on the Line Segment on, among other things, noise, transportation and safety (including grade crossing safety and hazardous materials transport).

Interrogatory and Document Request No. 23:

Describe all known environmental consequences of increasing traffic over the Line Segment to the extent proposed and provide all documents in Norfolk Southern's possession relating to such consequences.

NS objects to this request as vague and ambiguous, unduly burdensome and overly broad. Without waiving any objection, and subject to the General Objections stated above, NS responds as follows:

The Applicants have complied with the Board's environmental regulations by submitting an Environmental Report as Volume 6 of the Application. The Environmental Report constitutes NS' description of the consequences of increasing traffic over the Line

Segment on the various environmental factors to be considered by the Board. The Board's Section of Environmental Analysis ("SEA") and its independent environmental consultants are in the process of analyzing and evaluating the environmental consequences of the operational changes proposed in the Application. To the extent that SEA has required any further data from NS for purposes of such analysis, such data will be described and discussed in the Draft Environmental Impact Statement ("DEIS") that will be issued by the Board. The DEIS will also address mitigation measures, if any, being considered and/or recommended by the Board.

Interrogatory and Document Request No. 24:

Describe all known methods of eliminating and/or mitigating all known environmental consequences of increasing traffic over the Line Segment to the extent proposed and provide all documents relating to such methods. Your response to this question should include all documents containing standards and other methods of evaluating whether grade crossing protection of various types, including grade separations, pedestrian grade separations, and pedestrian gates, should be in place.

NS objects to this request as vague and ambiguous, unduly burdensome and overly broad. Without waiving any objection, and subject to the General Objections stated above,

NS responds as follows:

See response to Request No. 23.

Interrogatory and Document Request No. 25:

For each described method provide:

- a) the known cost;
- b) whether and when Norfolk Southern will implement the method; and
- c) as applicable, why Norfolk Southern will not implement the method.

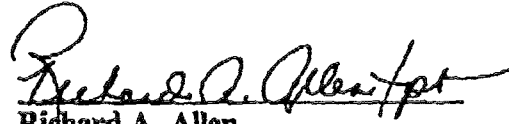
FROM ZSR LAW

NS objects to this request as vague and ambiguous, unduly burdensome and overly broad. Without waiving any objection, and subject to the General Objections stated above,

NS responds as follows:

See response to Request No. 23.

Respectfully submitted,



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Andrew R. Plump
Scott M. Zimmerman
Patricia E. Bruce
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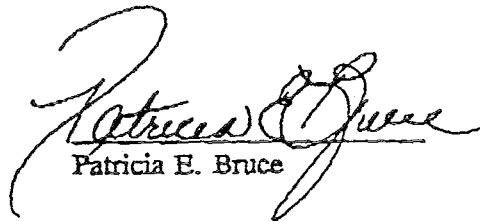
John M. Nannes
Scot B. Hutchins
Skadden, Arps, Slate, Meagher
& Flom LLP
440 New York Ave., N.W.
Washington, D.C. 20005-2111
(202) 371-7400

Counsel for Norfolk Southern Corporation
and Norfolk Southern Railway Company

October 14, 1997

CERTIFICATE OF SERVICE

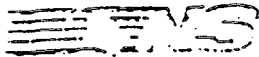
I, Patricia E. Bruce, certify that on October 14, 1997 I caused to be served by facsimile service a true and correct copy of the foregoing NS-32, Norfolk Southern's Responses to First Set of Interrogatories and First Set of Requests for Production of Documents from City of Bay Village, City of Rocky River, and City of Lakewood to Norfolk Southern (BRL-1) on all parties that have submitted to the Applicants a Request to be Placed on the Restricted Service List in STB Finance Docket No. 33388.



Patricia E. Bruce

Dated: October 14, 1997

c



**NORFOLK
SOUTHERN**

Norfolk Southern Corporation
8 North Jefferson Street
Roanoke, Virginia 24042-0073
703 981-4055

F. H. McIntyre
Assistant Vice President
Signal & Electrical Department

June 12, 1989
061-10.110; 061-10.11
061-10.111 061-10.11
061-10.112

Mr. C. R. Tripp, P. E., Admin.
Bureau of External Contracts
Ohio D O T
P. O. Box 899
Columbus, OH 43216-0899

Dear Mr. Tripp:

We are currently holding in abeyance eight (8) grade crossing warning device projects in the City of Lakewood, Cuyahoga County. These eight are Cove Avenue, Brockley Avenue, Bunts Road, Bonnieview Avenue, Belle Avenue, Hurd Avenue, Webb Avenue and Manor Park Avenue.

By letters of July 17, 1986; December 18, 1986; and March 6, 1987, you were requested to approve the upgrading of all crossings in the City of Lakewood due to the close proximity of the crossings; i.e., 27 grade crossings in 2.48 miles. As noted in Mr. Janosko's letter of July 17, 1986, all crossings can be done for a 35% increase over the cost to upgrade the first five crossings listed above.

Would you please review the Lakewood situation and advise your approval to proceed as previously recommended.

Very truly yours,


F. H. McIntyre

cc: Ms. T. B. Mahan - Your letter of May 30, 1989, referred to AFE 85-4239. AFE's 85-4237, 85-4238, 85-4240 and 85-4241 should have similar charges. It is recommended that ODOT be billed for all charges incurred to date on these projects. If ODOT does not respond, we will cancel the projects and the AFE's.

3747b/sd(dwd)

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CLEVELAND FREE TIMES

...can use that as up. ever wonder how the guy pushing that mile-long behemoth feels about your little stunt?

We took a ride on the train to get a firsthand perspective of the engineers who have to deal with the serious injuries and death that occur when their trains flatten an anxious motorist or a kid playing chicken. We almost got a story we didn't want to report.

It's Wednesday November 25, the day before Thanksgiving, and the Norfolk Southern 146 is passing through Lakewood. It's 8:30 am, a tense time for the engineer and conductor of this eastbound train because they have to pass 33 crossings in a three-mile stretch. Cars are darting across the tracks and dozens of kids walking to school are also crossing. A group of sixth through eighth graders from Horace Mann Middle School decide to break across the tracks at Webb Road, about 75 feet in front of the train. The tracks are wet from last night's rain. Suddenly, one of the kids slips between the east and westbound tracks. My god, we're going to hit him! Our hearts leap from our chests. There is a gasp. There is no way to stop.

Just as suddenly, the kid picks himself up and scrambles off the track. Norfolk Southern 146 misses him by three feet, and as we pass, the kid is still squirming his way off the other side of the tracks, while his buddies remain frozen just out of harm's way.

Chances are the people in that train cab have hit and killed people like you. It happens more often than any of us would like to think. But when a car or a person makes a move across or alongside those tracks with a train in sight, the railroaders are helpless. It takes a fully loaded train going 35 miles per hour about half a mile to stop.

Thirteen-year-old Brian Kochan didn't have to die. He's the Middleburg Heights boy who was killed last month on the Conrail tracks near the Stadium. You heard the story. He

and his father Michael were leaving a Sunday afternoon Browns game and, like hundreds of other fans, were walking along the railroad tracks. Brian was hit by a Conrail train and died that evening. Conrail says he had been using the Mall C footbridge. His family and friends are in agony.

Conrail reports that its trains were involved in 413 accidents that caused 41 fatalities across the country in 1991. The total for all railroads in Ohio for 1991 were 324 accidents and 55 deaths. In Cuyahoga County during the last five years there have been 35 accidents between cars, people and trains on Norfolk Southern tracks alone. Twenty-two of those accidents have happened in Lakewood. One person was killed on Lakewood's tracks in 1989. Danny Giber, Norfolk Southern's manager of grade crossing safety, says that the three-mile stretch through Lakewood is "one of the most dangerous in our 15,000 miles of track."

Crossing safety is not the only problem in Lakewood. Norfolk Southern says trespassing is increasing. Trespass-

...who was pushing the train that almost hit the little child during our trip. "You always have that sickening feeling in your stomach that you're going to hit them," he says. "The only thing I can do is use the extra whistle and bell ringing, and hopefully they'll get out of the way."

Zap has been riding the rails for 29 years and has had his share of accidents. Two months ago he hit a semi in Coonocast because the trucker wasn't looking. The truck's fuel tank exploded. The driver was seriously injured.

Zap admits he has been involved in a few fatalities. How does he deal with it? "There's nothing you can do about it," he says, his voice tightening. "I don't really talk about it, you know." The fact that he's helpless to stop or swerve when a car or kid darts in front of his train doesn't make it any easier.

Bob Kahle was the conductor during our morning ride. The conductor is in charge of the train, making sure the tracks are clear, the right switches are thrown, and the cars reach their proper destination. Bob has likewise seen too

much injury and death in 20 years working for the railroad.

He thinks about the guy who apparently wasn't looking and simply walked in front of his train in Ashtabula. The words come just as slowly when talking about the deaths of two Geneva women. "We had two young women in Geneva who took the one's sister to work," he recalls. "All three came up over the tracks, and the one being dropped off at work told her sister, who was driving, that she should slow down and look for trains when she goes back across the tracks. They dropped the sister off and came right back up over the crossing and we hit 'em. Killed both of 'em."

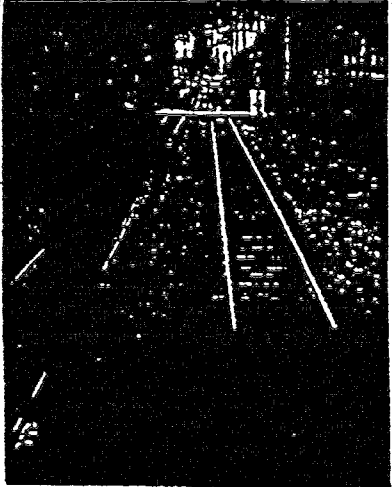
Kahle says accidents like that happen quickly, but the image of it never leaves your mind. "It's like a slap in the face. It happens so fast," he says. "There's glass and ballast flying and the train kicks the car up

and you keep dragging it with you and you can see the people inside, which is even worse."

What can be done to prevent accidents? One thing the railroads are trying to do is increase their safety margin by shutting down tracks. Next week, for example, Norfolk Southern plans to close one of its two east-west tracks running through Lakewood and the rest of northeast Ohio. With all traffic on one track, there's less of a chance a motorist, thinking the tracks are clear after seeing one train pass, will proceed across and get hit by a train coming from the other direction.

Another move is the closing of crossings. Norfolk Southern has proposed eliminating a dozen or so of the 33 crossings in Lakewood. Turnarounds would have to be built for the dead-end streets. Some city officials are supportive of the move. Public hearings are underway.

However, railroaders say accidents are part of the job. They say it's a question of time. Motorists and pedestrians are constantly trying to save time and the trains can't stop in time.



It takes a fully loaded train going 35 miles per hour about half a mile to stop.

NS-67-P-00739

E

061-10.115
061-10.229
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061-10.356
12-19-91

WCJ

Please find attached five letters written to the state of Ohio regarding projects that have been approved in Lakewood, Ohio. As information, state approval for five of the projects (Bonnieview, Cove, Belle, Brockley, Bunts) was received in 1985 and approval for Nicholson was received 10/21/91. We have been trying to convince the state that a corridor approach to these projects would be more sensible from an engineering and monetary standpoint. The difficulties that must be addressed when upgrading only a select few among the twenty-eight includes existing AFTAC frequency conflicts, limitations caused by having to couple around insulated joints, and additional line work.

Presently we are waiting for the state to approve two additional estimates for Hird Ave. and Manor Park. Assuming state's approval the total monies approved for the eight Lakewood projects would be \$1,064,453. DLH and I feel that for this amount of money all 28 crossings (W. 117th to Webb St.) could have a minimum of a 3000GCP box installed thus eliminating approximately 40 insulated joints and also allowing us to expand our frequency selection. Most of the active circuits on the pole line could also be eliminated and I understand that the pole line thru Lakewood has been an on going problem, even to the extent of getting the FRA involved.

Train traffic thru Lakewood can be at various speeds and the majority of the present warning systems are not of the constant warning time type. Train/auto accidents are not uncommon. The implementation of the GCPs would make for a safer and more manageable crossing warning system as a whole.

If the state chooses at a later time to upgrade other crossings in Lakewood, it would be less expensive because some of the complications will have already been addressed.

I was unable to locate the state's response to FHM's most recent letter of 6/27/90 although I vaguely recall the possibility of running across same which directed us to continue with the projects on an individual basis. Regardless, having discussed this with ATH, we both agreed that since the approved monies have the potential of increasing with the Hird Ave. and Manor Park projects we should approach the state one last time for their consideration of the 28 crossings.

ATH mentioned getting Danny Gilbert involved since "corridor " projects have recently become a catch word for many states.

PUBLIC
NS-67-P-01705

LAW OFFICES

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(202) 342-1316

December 8, 1997

VIA FACSIMILE

Steven Kalish, Esquire
McCarthy, Sweeney & Harkaway, P.C.
1750 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Re: Motion of City of Bay Village, City of Rocky River, and
City of Lakewood to Compel Discovery Responses from
Norfolk Southern and Request for a Discovery Conference
(BRL-4)

Dear Mr. Kalish:

As a follow-up to our telephone conversations concerning
supplementation and clarification of Norfolk Southern's (NS)
responses to the BRL's First Set of Discovery Requests (BRL-1),
Norfolk Southern is supplying the following information:

Interrogatory and Document Request No.1: Identify for each
of the Base Case 13.5 trains per day and each of the Post-
Acquisition Case 34.1 trains per day: c) the average length;
d) the average speed of the train over each grade crossing
in Bay Village, Rocky River and Lakewood; (f) the time of
day the train does and/or will operate over the Line
Segment; (k) the maximum, minimum, and average time that the
train has and/or will block each grade crossing within Bay
Village, Rocky River and Lakewood.

NS responded to subsection 1(c) as follows: "The average
length of trains operating over the Line Segment for the Base
Case and Post Acquisition Case are approximately 4100 feet and
approximately 3900 feet respectively. To clarify, this reference
is to the Avon Lake to Cloggsville link.

As to subsection 1(d), NS responded that the speeds given
were average train speeds. In order to clarify NS' response, NS
explained that these speeds were actually maximum speeds. BRL
now seeks verification as to whether NS knows the average speeds
for these trains. NS has not calculated average speeds for these
trains. However, NS notes that average speeds are never higher
than allowed by the FRA for the class of track over which NS
operates.

CORRESPONDENT OFFICES: LONDON, PARIS AND BRUSSELS

ZUCKERT, SCOUTT & RASENBERGER, L.L.P.

Steven Kalish, Esq.

December 8, 1997

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As to subsection 1(f), NS responded that reference to train schedules placed in its document depository. BRL explained that the reason for this request was to determine variation in noise levels throughout the day, as well as possible delays to street traffic, and that a response giving an overall average, i.e., the percentage of trains that would be travelling over the Line Segment during certain times throughout the day, would be acceptable to BRL. In order to determine noise levels at specific hours of the day, NS would be required to conduct a special study which it has not undertaken as of this date.

In regard to subsection 1(k), NS responded by depositing responsive documents in its depository. BRL questions how NS could know the average time a train will block a grade crossing, if it has not computed average speeds. The information set forth in these documents was computed as follows:

a) For each crossing, the "average" speed over the crossing (which actually was maximum speed) either 35 MPH, 50 MPH or 60 MPH was used to compute the minimum blockage time in seconds for each case.

Example for Hird Avenue - 35 MPH = 51.33 feet per second (FPS) - 3900 foot train (merged case) ÷ 51.33 FPS = 76 seconds minimum blockage time.

b) For each crossing, the slowest speed over the crossing (25 MPH for crossings in or within a train length of the siding, otherwise same as maximum speed) was used to compute the maximum blockage time in seconds for each case.

Example for Columbia Road - 25 MPH = 36.66 feet per second (FPS) - 3900 foot train length (merged case) ÷ 36.66 FPS = 106 seconds maximum blockage time.

c) The maximum blockage times were adjusted for those crossings within the zones of deceleration or acceleration. (Linda St., Morwood St., Bassett Rd., and Bradley Road) to take into account typical deceleration and acceleration rates, which were estimated based on typical train weights and motive power.

d) Average blockage times were computed using the maximum and minimum blockage times, and assuming that

- 20% of trains take the siding and run at 25 MPH
- 80% of trains remain on the main track, and run at 50 or 60 MPH west of MP B194.5

ZUCKERT, SCOUTT & RASENBERGER, L.L.P.

Steven Kalish, Esq.

December 8, 1997

Page - 3 -

- 26% of the trains are piggyback in the Base Case (22% in Post Acquisition Case) and can run at 60 MPH
- 54% of the trains are merchandise in the Base Case (58% in Post Acquisition Case) and can run at 50 MPH

Interrogatory and Document Request No. 6(a):

For each identified grade crossing that is protected by gates and lights, provide the amount of time (a) after the passing of the train that the gates are fully up.

NS responded that protective devices in place meet both NS' and FRA requirements and that gates are electronically programmed to begin to lower less than four (4) seconds after lights begin to flash. Although Norfolk Southern maintains that it provided a full and complete response to this request, NS further clarified its response to Interrogatory No. 6(a) as follows:

In general, gates will begin their downward motion after a train has been detected and the gate delay time (no less than three (3) seconds after activation of the warning devices) has expired. The time in question may vary from 22 seconds to 27 seconds prior to the arrival of a train at the crossing. These times meet both NS and FRA requirements to allow for a minimum of 20 seconds warning time prior to the arrival of a train at a crossing.

In response to BRL's subsequent question about the above clarification, the three seconds is in addition to the 22 to 27 second variance.

Interrogatory and Document Request No. 9: Provide all documents used to calculate the proposed increase of 20.6 trains per day.

NS responded by reference to work papers supporting the NS Operating Plan, and the Verified Statements of D. Michael Mohan and John H. Williams. BRL subsequently requested a more specific reference, and NS agreed to determine that portion of NS' work papers supporting the Errata to Primary Application (CSX/NS-35). Those NS work papers may be found in the NS document depository at NS-32-HC-00001-000092; NS-32-CO-00001-00104; and NS-31-P-00001-00006.

Interrogatory and Document Request No. 10: Provide all projections of numbers and lengths of trains per day over

ZUCKERT, SCOUTT & RASENBERGER, L.L.P.

Steven Kalish, Esq.

December 8, 1997

Page - 4 -

this Line Segment for a) the first 12 months post-acquisition; and b) each of years two through ten post-acquisition.

NS responded to subsections (a) and (b) by reference to Volume 3B, Figure D.6-2. In addition, NS explained that train lengths could be found in the work papers supporting the NS Operating Plan. BRL has requested a more specific reference, and NS agreed to review the matter.

In order to segregate information on the Line Segment, NS would be required to review all of the referenced work papers. NS continues to believe that it has provided a full response to this request and once again notes that this identical response has been given to numerous discovery requests without objection.

Interrogatory and Document Request No. 16: Provide all documents supporting the description of Cuyahoga County in the Supplemental Environmental Report (Volume 6), page 85.

Documents NS-67-P-00063 and 00064 are responsive to this request. Copies of these documents are attached.

I trust that this satisfies all follow-up questions to NS responses to BRL-1. NS will respond to Interrogatory Nos. 21 through 25 of BRL-1 on a rolling basis commencing the week of December 15, 1997 and has agreed to provide the entirety of its response as quickly as reasonably practical.

Sincerely,



Patricia E. Bruce

Enclosure

Pici, GU (Primary)
Pici (P)

Tanquissou, GU (Primary)
Tanquissou (P)

PUBLIC**INDIANA (Region V)**

La Porte Co, IN (Primary)
La Porte Co (P)

Lake County, IN (Primary)
Lake Co (P)

Marion County: Lawrence, Washington, and Warrant Townships (Primary)
Marion Co (P)

Vigo Co, IN (Primary)
Vigo Co

Wayne Co, IN (Primary)
Wayne Co (P)

Boston, Center, Franklin, Wayne, and Webster Twp

IOWA (Region VII)

Muscatine Co, IA (Primary)
Muscatine Co (P)

KENTUCKY (Region IV)

Boyd County (part) (Primary)
Boyd Co (P)

Muhlenberg Co, KY (Secondary)
Muhlenberg Co

MAINE (Region I)

Millinocket AQCR 109, ME (Primary)
Penobscot Co (P)

MINNESOTA (Region V)

Rochester (Olmsted County), MN (Primary)
Olmsted Co (P)

City of Rochester

St. Paul Park Area, MN (Primary)

Dakota Co (P)

Washington Co (P)

MONTANA (Region VIII)

East Helena Area (Lewis and Clark Co.), MT (Primary, Secondary)

Lewis and Clark Co (P)

Laurel Area (Yellowstone County), MT (Primary)

Yellowstone Co (P)

NEVADA (Region IX)

Central Steptoe Valley (White Pine Co.), NV (Primary)

White Pine Co (P)

NEW JERSEY (Region II)

Warren Co, NJ (Primary, Secondary)

Warren Co (P)

Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR

NEW MEXICO (Region VI)

Grant Co, NM (Primary)

Grant Co (P)

OHIO (Region V)

Addison Township (Gallia County), OH (Secondary)

Gallia Co (P)

Addison Township

Cuyahoga Co, OH (Primary)

Cuyahoga Co (P)

Franklin Township (Coshocton County), OH (Primary)

Coshocton Co (P)

Franklin Township

NS-67-P-00063

PUBLIC

Silver Bow Co (P)
 Columbia Falls, MT (Moderate)
 Flat Head Co (P)
 Flathead County; Whitefish and vicinity (Moderate)
 Flat Head Co (P)
 Kalispell, MT (Moderate)
 Flat Head Co (P)
 Lane Deer, MT (Moderate)
 Rosebud Co (P)
 Libby, MT (Moderate)
 Lincoln Co (P)
 Missoula, MT (Moderate)
 Missoula Co (P)
 Polson, MT (Moderate)
 Lake Co (P)
 Ronan, MT (Moderate)
 Lake Co (P)
 Sanders County (part); Thompson Falls and vicinity (Moderate)
 Sanders Co (P)

NEVADA (Region II)

Clark Co, NV (Serious)
 Clark Co (P)
 Las Vegas
 Washoe Co, NV (Moderate)
 Washoe Co (P)
 Reno

NEW MEXICO (Region VI)

Anthony, NM (Moderate)
 Dona Ana Co (P)

NEW YORK (Region II)

New York Co, NY (Moderate)
 New York Co

OHIO (Region V)

Cuyahoga Co, OH (Moderate)
 Cuyahoga Co
 Jefferson Co, OH (Moderate)
 Jefferson Co (P)
 Mingo Junction

OREGON (Region X)

Eugene-Springfield, OR (Moderate)
 Lane Co (P)
 Grants Pass, OR (Moderate)
 Josephine Co (P)
 Klamath Falls, OR (Moderate)
 Klamath Co (P)
 LaGrande, OR (Moderate)
 Union Co (P)
 Lake Co, OR (Moderate)
 Lake Co (P)
 Lakeview
 Lane Co, OR (Moderate)
 Lane Co (P)
 Oakridge
 Medford-Ashland, OR (Moderate)
 Jackson Co (P)

PENNSYLVANIA (Region III)

Clairton & 4 Boroughs, PA (Moderate)
 Allegheny Co (P)

PUERTO RICO (Region II)

Mun. of Guaynabo, PR (Moderate)
 Guaynabo Co (P)

NS-67-P-00064

F

LAKEWOOD DEPARTMENTAL CORRESPONDENCE

DATE January 22, 1998

SUBJECT OPERATIONS

TO Capt. D. Clark

DEPT. _____

FROM Chief Biscotti

DEPT. _____

As we discussed earlier, our attorney has asked us to gather certain data on train traffic through the Westshore area. We must time train traffic and clock each train's speed during the dates and times listed below. Rocky River and Bay Village will obtain similar data on each train. Please have someone assigned to sit at Bunts and the tracks during the time periods indicated and obtain the required data. Bay Village will notify us on E/B trains via LEERN. We will notify River and Bay regarding W/B trains via LEERN. I placed a stop watch in the DIC's office to time the trains. The Laser Unit is to be used to measure the speed. Forward data to me on January 26, 1998.

KOELZER

Thursday, January 22nd - 1400 hrs. - 1800 hrs.

	<u>SPEED</u>	<u>ELAPSED TIME</u>
1647 HRS.	24	2:28

Friday, January 23rd - 1000 hrs. - 1400 hrs.

	<u>SPEED</u>	<u>ELAPSED TIME</u>
1000 (EB)	32	1:37
1215 (EB)	34	0:50
1339 (EB)	34	1:06

Sunday, January 25th - 1800 hrs. - 2200 hrs. *PIETCH*

	<u>SPEED</u>	<u>ELAPSED TIME</u>
2031	30	2:21

cc: ~~Lt. Bronish~~
~~Lt. Malley~~
 Sara Fagnilli

LAKWOOD

DEPARTMENTAL CORRESPONDENCE

Date January 26, 1998

Subject: OPERATIONS - Railroad

To Lt. Malley, Lt. Sabala Dep't _____

From Capt. D. Clark Dep't _____

The railroad survey conducted did not produce sufficient data, and will have to be continued. Please assign someone to sit at Bunts and the tracks during the below time period and obtain the required data. We will be notified of EB trains, and will have to notify Rocky River and Bay Village of WB trains, via LEERN. The stopwatch is still in the OIC office, and the laser should be used to measure speed. Forward the data to me on 1-27-98.

Monday, January 26th - 1800 hrs. - until five (5) trains have been measured

TIME	SPEED	ELAPSED TIME
1819	29	01:44
2008	31	00:34
2255	28	02:03
2318	30	01:44
1-27-98 0228	34	0:41

30.6
Average

ROCKY RIVER

POLICE DEPARTMENT COMMUNICATION

TO: Chief Wagner

FROM: Lt Sharp

SUBJECT: TRAIN DETAIL

DATE: 1/22/98

Sir,

A train detail was conducted on 1/22/98 at the Elmwood crossing from 1530hrs until 1800hrs. One train passed eastbound at 1630hrs. The train entered view at 34mph and started to slow at 1632hrs. Two minutes and thirty seconds into timing it's passing the train stopped. At 1633hrs the train started to move eastbound. At 1634hrs the train cleared the Elmwood crossing traveling at 8mph. The crossing was blocked for four minutes and fifty seconds.

Note: While sitting near the tracks the ground could be felt shaking as the train passed. I looked at the brick house to the northwest of the crossing as it appeared to have had mortar repairs. I wonder if the train shaking the ground contributed to this condition and if additional trains would result in increased property damage?

Respectfully,


Lt Robert Sharp

REPLY

SIGNED:

Rocky River POLICE DEPARTMENT COMMUNICATION

TO: Lt. T. Hudec

FROM: Sgt. R. Juergens

SUBJECT: N&S Detail

DATE: 1/22/98

The undersigned worked the above mentioned detail on 1/22/98 from 1320 Hrs. to 1535 Hrs. at Elmwood/Tracks.

TRAIN INFO

DIRECTION	SPEED	CROSSING BLOCKED	TOTAL TIME BLOCKED
E/B	31mph ✓	13:30:54 to 13:32:19	1min 25sec

The undersigned relieved at 1535 Hrs. by Lt. Sharp.

Sgt. R. Juergens *RJ*

REPLY

FROM BAY VILLAGE Jan 22, 1998

E/B 4:25pm

Eng # 4901

32 mph

Crossing blocked for 2 min/15 sec

SIGNED:

Rocky River POLICE DEPARTMENT COMMUNICATION

TO: Lt. T. Hudo FROM: Sgt. R. Juergens
SUBJECT: N&S Detail DATE: 1/23/98

The undersigned worked the above mentioned detail on 1/23/98 from 0940 Hrs. to 1400 Hrs. at Elmwood/Tracks.

TRAIN INFO

DIRECTION	SPEED	CROSSING BLOCKED	TOTAL TIME BLOCKED
E/B	32mph ✓	09:44:48 to 09:46:58	2min 10sec
E/B	32mph ✓	12:02:06 to 12:03:11	1min 5sec
E/B	28mph ✓	13:24:57 to 13:26:43	1min 46sec

Sgt. R. Juergens *[Signature]*

Reply: FROM BAY VILLAGE Jan 23, 1998

E/B	SPEED	CROSSING BLOCKED	
Eng # 3531	48 mph	45 sec	11:58am
Eng # 9012	56 mph	55 sec	1:21 pm

Signed:

Rocky River POLICE DEPARTMENT COMMUNICATION

TO: Lt. Hudec FROM: Lt. Sharp
 SUBJECT: TRAIN DETAIL DATE: 01/27/98

On 01/26/98, a train detail was conducted at the Linda Street crossing starting at 1800hrs.

TRAIN #	DIRECTION	TIME	TIME STOPPED	TIME CLEAR	SPEED-START/END	NOTES
1	W	1828	6:13	1834	9/16	TWO VEHICLES DROVE AROUND LOWERED GATES
2	E	1957	2:40	1959	23/13	
3	E	2241	6:53	2247	25/8	
4	E	2304	6:24	2311	17/8	
5	W	0233- 1/27	3:09	0236	10/10	

copy:

23 Average
 for all
 Rocky River
 entries

Signed:

A-463-a

Rocky River

POLICE DEPARTMENT COMMUNICATION

TO: Lt. Hudec

FROM: Ptl. C. Dennison #16

SUBJECT: Train Traffic Survey

DATE: 1/25/98

Lt. Hudec,

The detail conducted with Lakewood PD #215 and Bay Village PD #1126 ended at 2200 Hrs with the following results:

RRPD: 1 W/B train @ 2045 hours covered the intersection of Wagar and the tracks for 5:22 and cleared @ varied from speeds at less than 10 mph up to 28 mph.

LPD: @ 2039 hours covered the intersection of Burns and the tracks for 2:21 and had a speed of 30 mph

BVPD: @ 2052 hours covered the intersection of Dover and the tracks for 1:35 and had a speed of 42 mph.

Ptl. C. Dennison

CD

Reply:

Signed:

A-463-b



G

ZUCKERT, SCOUTT & RASENBERGER, L.L.P.

888 SEVENTEENTH STREET, N.W.
WASHINGTON, D.C. 20006-3938
TELEPHONE : (202) 298-8660
FACSIMILES: (202) 342-0683
(202) 342-1316

October 30, 1997

VIA FACSIMILE

Steven J. Kalish, Esq.
McCarthy, Sweeney & Harkaway, P.C.
1750 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Re: Norfolk Southern's Response to the First Set of
Interrogatories and First Set of Document Production
Requests from the City of Bay Village, City of Rocky
River and City of Lakewood (BRL-1)

Dear Mr. Kalish:

We are writing as a follow-up to our telephone conversation the week before last regarding questions that you had about Norfolk Southern's Responses to the First Set of Interrogatories and First Set of Document Production Requests from the City of Bay Village, City of Rocky River and City of Lakewood (BRL-1).

As an initial clarification, Norfolk Southern responded to BRL-1 with reference to the links lying within the Cleveland OH to Vermillion OH line segment from milepost B 185.6 (Cloggsville) to milepost B 205.5 (Avon Lake) because these links are located within the Cities of Bay Village, Rocky River and Lakewood (the "Three Cities"). Norfolk Southern provided detailed responses to several of these requests with reference to both the links lying within the Three Cities, as well as to the Cleveland to Vermillion line segment as a whole.

You questioned why Norfolk Southern's response to Interrogatory and Document Request No. 1(d) did not match the mileposts for Cloggsville to Avon Lake. The response to Interrogatory and Document Request No. 1(d) referred to certain grade crossings lying within the Three Cities, and therefore there was not a one to one correlation with the beginning (Cloggsville) and ending (Avon Lake) mileposts referenced in General Objection No. 11. As further clarification, the train speeds referenced in response to Interrogatory No. 1(d) are maximum train speeds.

In response to your inquiries regarding identification of trains that are projected to travel over the Cleveland to

ZUCKERT, SCOTT & RASENBERGER, L.L.P.

Steven J. Kalish

October 30, 1997

Page - 2 -

Vermillion line segment, we again refer you to the projected train schedules that were placed in Applicants depository on August 29, 1997. See Norfolk Southern's Response to Interrogatory and Document Request No. 1(f). Norfolk Southern does not have a list identifying each train that is projected to travel over this line segment, and would have to perform a special study to make such an identification. Norfolk Southern objects to performing and is not required to perform such a study. We understand that all information necessary to identify these trains is contained in the projected train schedules.

You claimed that Norfolk Southern's response to Interrogatory and Document Request No. 6(a) was incomplete. Norfolk Southern maintains that it provided a full and complete response to this request. However, to address your concerns, we are providing the following information. In general, gates will begin their downward motion after a train has been detected and the gate delay time (no less than three (3) seconds after activation of the warning devices) has expired. The time in question may vary from 22 seconds to 27 seconds prior to the arrival of a train at the crossing. These times meet both NS and FRA requirements to allow for a minimum of 20 seconds warning time prior to the arrival of a train at a crossing.

In regard to the issue of documents to be produced by Norfolk Southern, we note that on October 17th we faxed you documents Bates stamped NS-67-P-00034-00035 in response to Interrogatory and Document Request No. 1. These documents show the maximum, minimum and average time that a train has and/or will block each grade crossing within the Three Cities. On October 21st, we faxed you documents Bates stamped NS-67-P-00036-00062 and NS-67-CO-00011-00027 in response to Interrogatory and Document Request No. 11. As per your request, we provided documents from Norfolk Southern's files, as well as documents that would be available to your clients from the FRA. Also, in response to your request, documents were provided for the period 1992 to the present. We would like to confirm at this time that Norfolk Southern is not in possession of any documents dated after January 1, 1992 that would be responsive to Interrogatory and Document Request No. 20 specifically relating to the Three Cities. However, in response to an identical request from the City of Cleveland, Norfolk Southern placed responsive documents associated with lines through the City of Cleveland in Applicants' depository last week. See NS-73-CO-00095-00126. We will place documents responsive to Interrogatory and Document Request No. 16 in the depository shortly, and we are in the process of trying to locate a more legible copy of the document produced in response to Interrogatory and Document Request Nos. 4

Chp

ZUCKERT, SCOUTT & RASENBERGER, L.L.P.

Steven J. Kalish

October 30, 1997

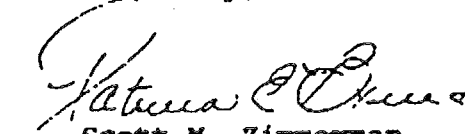
Page - 3 -

and 5. We will let you know if we are successful in locating same.

Finally, you questioned the fact that NS had objected to producing documents based on the assertion that certain requested information was provided to the Board's Section of Environmental Analysis ("SEA") and its independent environmental consultants on an administratively confidential basis. With regard to this matter, we will be back in touch with you shortly.

We trust that this addresses the issues discussed during our telephone call. If you have any questions, please do not hesitate to contact us.

Sincerely,



Scott M. Zimmerman

Patricia E. Bruce



H

LAW OFFICES

ZUCKERT, SCOTT & RASENBERGER, L.L.P.888 SEVENTEENTH STREET, N.W.
WASHINGTON, D.C. 20006-3939

TELEPHONE: (202) 396-8660

FACSIMILES: (202) 342-0683

(202) 342-1316

December 12, 1997

VIA FACSIMILE

Steven Kalish, Esquire
McCarthy, Sweeney & Harkaway, P.C.
1750 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Re: Second Set of Interrogatories and Second Set of
Requests for Production of Documents from City of Bay
Village, City of Rocky River, and City of Lakewood to
Norfolk Southern

Dear Mr. Kalish:

In response to BRL's follow-up questions to its first set of
interrogatories and document requests, Norfolk Southern (NS)
provides the information below. NS hereby incorporates its
general objections set forth in NS-32 (Norfolk Southern's
Responses to the First Set of Document Requests from the City of
Bay Village, City of Rocky River, and City of Lakewood to Norfolk
Southern).

In NS-32, response 1(a), NS explained that while the NS
Operating Plan shows 13.5 trains per day for the base case and
34.1 trains per day for the post acquisition case, the comparable
train counts for the Cloggsville-Avon Lake segment are 12.3 and
31.9 respectively. BRL has requested NS to supplement this
information. NS responds as follows:

(a) The beginning milepost number for the Cleveland to
Vermillion line segment is B 185.6; the ending milepost number is
222.7.

(b) Train counts previously provided include through trains
and, where operated, local freight trains. Switching movements
are not included, although there are no regularly scheduled
switching movements on the link in Bay Village, Rocky River, and
Lakewood.

(c) The number of trains operating over the Cloggsville-
Avon Lake segment is less than the number of trains operating
over the Cleveland-Vermillion line segment because more trains
run west of Avon Lake to handle traffic between Bellevue and

ZUCKERT, SCOUTT & RASENBERGER, L.L.P.

Steven Kalish, Esq.
December 12, 1997

industries in the Avon Lake area. Because train statistics for the Cleveland-Vermillion line segment were calculated by taking the mileage-weighted average of the statistics for the underlying links (one of which is the Cloggsville-Avon Lake link), the higher number of trains on the westerly links resulted in a higher number for the Cleveland-Vermillion line segment.

(d) The average number of trains operated by Norfolk Southern in the Base Case over crossings at Linda Street and Morewood Street was the same.

(e) As mentioned in the response to 26(b) above, there are no regularly scheduled switching movements in Bay Village, Rocky River, or Lakewood. Trains originating in, or destined to these points are very light and sporadic. (In fact there were none in 1996, the most recent year for which full data is available). If there were any local traffic for these points, it would be picked up or delivered by a road switcher operating out of Sheffield Yard at Avon Lake.

In NS-32, response 1(c), NS provided the average lengths of trains operating over the Line Segment. NS provides the following additional information with regard to that response:

(a) The average train lengths provided are not applicable to both the Cleveland to Vermillion line segment and the Cloggsville to Avon Lake line segment.

(b) Average train lengths are as follows:

	Base Case	Post Acquisition Case
Cleveland-Vermillion line segment	4200 ft	3900 ft.
Cloggsville-Avon Lake link	4100 ft	3900 ft.

(c) The response to number 1(c) was calculated by using the following formula:

Daily cars over link ÷ daily trains over link x average freight car length (60 ft) + length of typical motive power (3 units x 70 ft). Resulting estimates were rounded to the nearest 100 feet.

In NS-32, response 1(d), NS noted that trains entering and running through Clague Siding are limited to 25 miles per hour. With regard to this response, NS provides the following information:

ZUCKERT, SCOUTT & RASENBERGER, L.L.P.

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December 12, 1997

(a) Trains would stop on the mainline east or west of Clague Siding only in unusual or emergency situations. An example of such a situation would be if the remotely controlled switches and signals controlling entry to the siding were not working properly, a train might stop to allow crew members to ascertain that it was safe to proceed.

(b) No trains are scheduled to stop on the mainline track. The number of emergency or unusual stops was not calculated by NS. To make such a calculation, NS would be required to undertake a burdensome special study which it is not required to perform.

(c) The number of trains entering Clague Siding was not calculated by NS. For purposes of responding to BRL's prior interrogatories, it was assumed that 20% of trains passing the Clague Siding would enter it.

(d) Trains entering Clague Siding from the east begin to reduce speed at about MP B192.5, depending on train handling characteristics of an individual train and the operating practices of the individual engineer.

(e) Trains leaving Clague Siding toward the east would reach maximum allowable mainline track speed at about MP B192.5, depending upon whether or not the train is accelerating from a stop, and depending on tonnage of the particular train and motive power assigned to the train.

It should be noted that maximum allowable track speed is not governed by law, but is set by the railroad taking into account track condition and operating conditions, subject to FRA requirements regarding track class.

(f) Columbia Road is crossed at grade by the Clague Siding. Trains would not stop on the crossing except in unusual or emergency situations, because the siding extends 2.3 miles east of the crossing, and this distance is adequate to contain most trains operated by NS.

(g) Locomotives of trains stopped in the siding are not normally shut down. The average amount of time that each train remains in the siding was not calculated by NS, and would be difficult to calculate since train operating times vary somewhat from day to day. Dispatchers do attempt to minimize delay in sidings for a number of reasons.

A train waiting for a meet with another train is somewhat like an automobile waiting at a red light. The engine is

ZUCKERT, SCOUTT & RASENBERGER, L.L.P.

Steven Kalish, Esq.
December 12, 1997

- Heavy gradients
- Lack of appropriate track connections at several points
- Lack of signal system
- Deteriorated bridges
- Lack of a main track around Rockport Yard.

Estimates of the cost of constructing necessary facilities are nearly \$25 million.

In response to interrogatory 1(k), NS showed the same minimum, average and maximum street blockage times for each crossing between Hird Avenue on the east and Webb Road on the west, but showed different figures for Linda Street and Bradley Road. Figures for Linda Street through Bradley Road are different because, west of Linda Street, some trains are slowing for or accelerating from Clague Siding, which has a lower speed limit. In addition, allowable speeds for intermodal trains are higher than for merchandise trains west of MP B194-5.

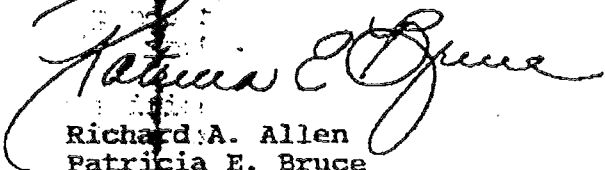
NS-67-CO-00011 may be reclassified as "public." With regard to that document, a code key will be provided to BRL shortly.

NS objects to BRL's request for information and documents regarding the manner in which it has worked with state and local officials to seek improvements in grade crossing safety along the West Shore corridor including Bay Village, Rocky River and Lakewood as overly burdensome. NS notes that recent work has been undertaken to improve crossing safety including installation of gates at a number of crossings in the area. We are in the process of gathering responsive information, and responsive documents, if any, will be made available to BRL shortly.

The attached map shows the Cleveland Vermillion line segment and the NS Chicago-Pittsburgh line.

We trust that this fully responds to BRL's most recent requests.

Sincerely,



Richard A. Allen
Patricia E. Bruce

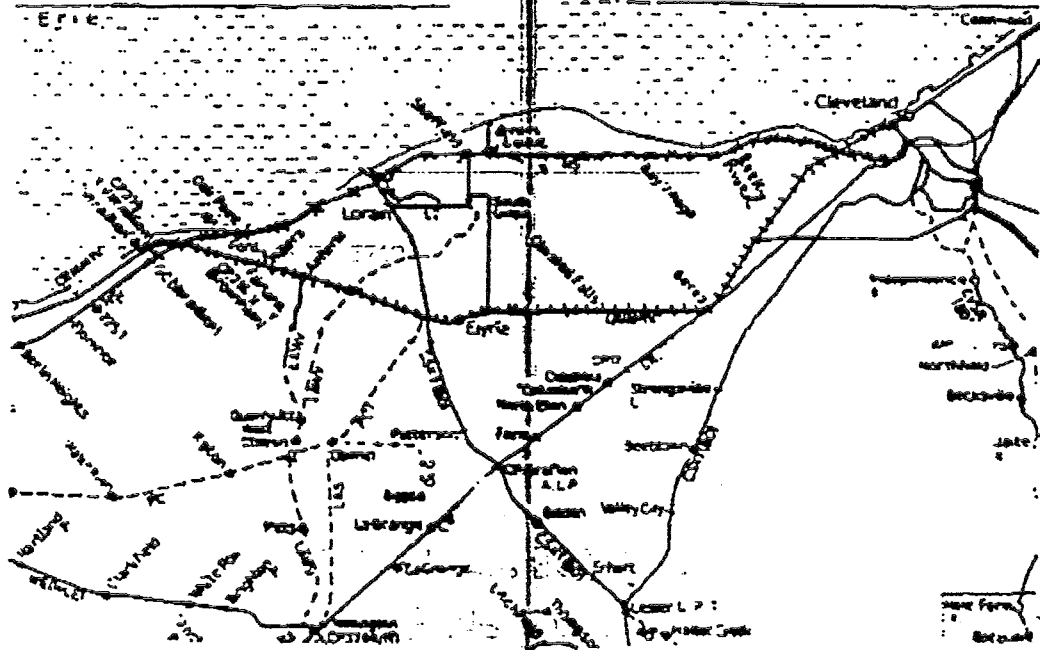
Enclosure

FIGURE 1: RAILROADS IN THE CLEVELAND AREA

1C-0

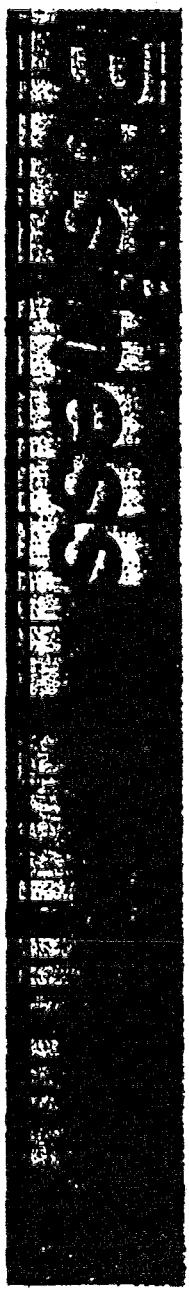
Cleveland-Vermilion (Part of NS Chicago-Buffalo Line) ****

Cleveland-Vermilion (Part of NS Chicago-Pittsburg Line) +++++



US OFFICE PRODUCTS

US OFFICE PRODUCTS



Some Cleveland residents find living on the wrong side of the tracks costly

by Catherine Giffether

Ellie Luchini is waiting for the colonial on a very desirable street in Lakewood to "pop."

It's been three long weeks without one showing, Luchini needs to look no further than the railroad tracks that pass by the house.

"It's a darling house that should have sold by now," said Luchini, a REALTOR with Realty One in Bay Village. "It is priced perfectly—\$119,000—and completely redone. But people are concerned about the safety issue, sound and noise."

That's a common theme that is being replayed among REALTORS and community residents in the past months since Norfolk Southern Corporation has announced plans to merge with another rail line, CSX Corporation, in an effort to triple rail traffic through Northern Ohio cities including Lorain, Avon Lake, Bay Village, Lakewood and others.

"Some people love trains, the sound of them eight times a day is fine," said Luchini. "But the idea of them passing by 24 times a day just doesn't work."

Residents have spearheaded groups to oppose the plan, held meetings that have drawn more than 600 people with poignant stories about children killed by passing trains, and gotten the support of local and state politicians. Letter writing campaigns have sent out an estimated 7,000 letters to politicians and rail officials with the Surface Transportation Board—the official

federal body that will make a determination on the proposed merger and increased rail traffic.

For Stephen FitzGerald, the battle with Norfolk Southern has proven to be "the boom of a lifetime." Just six days after he began his job as community relations director for Lakewood, the city's mayor came to him asking him to help organize a task force exploring the rail issue.

FitzGerald had just left a longtime job doing publicity for the International Brotherhood of Locomotive Engineers. "I thought I had left that industry behind," he said. In fact, his 11 years with the rail industry helped him route information to the appropriate people in a timely fashion.

Another irony: the proposal by Norfolk Southern has seemed to strengthen the neighborhood quality of Lakewood, said FitzGerald. "The tone is one of activism and mobilization," he said. "People who live within a half mile of the tracks have lived comfortably with the status quo." It is the possible change and tripling of rail traffic that has them up in arms and, in fact, prior to the issue being raised, few people even paid attention to the railroad tracks, or living near them.

Greater Cleveland RTA has proposed commuter lines into Cleveland and should that possibility happen, living near the tracks could actually be a boon, said FitzGerald. That possibility is a separate issue from the tripled freight traffic and details would need to be worked out with Norfolk Southern and RTA.

"Houses next to the tracks are virtually unsellable... I have seen four listings in Lakewood that are directly on the tracks that have sold for substantially less dollars. That can be advantageous to the buyer if they are willing to put up with the noise, dirt and safety issues."

REALTOR Paula Reed, with Lucion & Associates, Century 21, in Lakewood, says the possibility of tripling of rail traffic has affected at least three potential sales. "Houses next to the tracks are virtually unsellable," she said. "I have seen four listings in Lakewood that are directly on the tracks that have sold for substantially less dollars. That can be advantageous to the buyer if they are willing to put up with the noise, dirt and safety issues."

Many complaining the increased rail traffic would cut off residents from needed safety services in the event of medical emergencies. Then too, they are worried about greater threat to life and limb since children and adults both continue to walk the tracks, despite increased educational efforts to inform them of safety hazards.

Bay Village resident Barbara O'Pray built her dream home near the tracks, knowing full well they ran by her home. "It's my dream house, but after a while it becomes your nightmare," she said. "Sure I knew the tracks were already here, but had I known what the plans were to increase

traffic, I would have never built here. We are left with white elephants and I will not put another cent into my house. This destroys the appreciation in our house, destroys the neighborhood and increases turnover—if someone can sell their home."

The Norfolk Southern proposal is still before the Surface Transportation Board, which can rule on the matter with or without conditions imposed on the rail companies. Norfolk Southern spokesman Pat McCune said the projected train increase would be incremental over a two to five-year period.

He added, "Any time there is an increase in the number of trains planned... that could possibly have an impact on real estate. I don't have firsthand knowledge of home values depreciating. I could say to those concerned that this is the safest railroad in the nation and we have been for eight years... I know that doesn't ease concerns. But it is real, it is legitimate and safety is our company mantra that we strive for each and every year."

1/29/98
1/10/98
For info
C. Giffether

ENVIRONMENTAL DOCUMENT

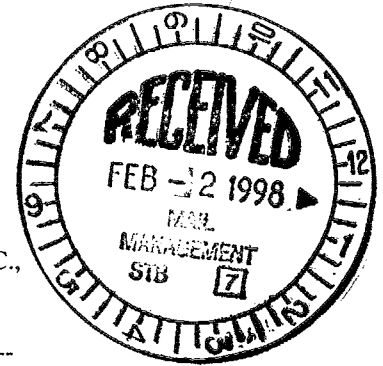
BEFORE THE
SURFACE TRANSPORTATION BOARD

CENTRAL ADMINISTRATIVE UNIT

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FINANCE DOCKET NO. 33388



CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
--CONTROL AND OPERATING LEASES/AGREEMENTS--
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

COMMENTS OF THE CITY OF BEREA (REQUESTING CONDITIONS) TO DRAFT ENVIRONMENTAL IMPACT STATEMENT

The City of Berea Respectfully Submits the following comments to the Draft EIS in the above-referenced matter:

I. Executive Summary

The City of Berea is uniquely situated and, therefore, uniquely impacted among the Westshore communities due to the convergence of the two rail lines within the City limits of Berea.

Berea is primarily a densely populated residential area with limited highway access that is frequently blocked by railroad traffic under the current 80.3 train per day baseline. Additionally, Berea's population under the 1990 US census is 19,051 and has remained in the 18,000 to 20,000 range for years. In that same period, the percentage of minority residents is approximately 6.9% black and Hispanic residents. It is significant to the abatement and remediation requests as set forth herein that approximately 86% of the black residents of the City of Berea reside in the census tracts adjacent to the rail lines. See, Attachment J, Community Reinvestment Area Report, City of Berea, 1994 Planning Resources Incorporated. Over one-third (37%) of the black population of Berea resides in the census tracts lying in the northeast area of Berea which, although geographically small, is densely populated and would be impacted by the proposals set forth in the CSX/NS applications in virtually every manner.

In June, 1997, CSX, and NS filed a railroad control application with the Surface Transportation Board to acquire control of Conrail Inc. and Consolidated Rail Corporation (Finance Docket No. 33388). As part of the Railroad Control Application, NS and CSX have proposed increasing freight traffic on the Berea-Greenwich and Short-

Berea routes from 27.9 trains per day to 101.5 trains per day (Vol. 6B of 8, EIS Draft, page 356, Chart 18-3) . NS and CSX have also proposed decreasing the freight traffic along the Cleveland-Vermillion route through Berea from 52.4 trains per day to 28.4 trains per day (Vol. 3B of 8, page 462). The net post acquisition increase in trains per day through Berea, if the merger were to be approved as originally proposed, would be from 80.3 trains per day, to 129.9 trains per day, an increase of 49.6 trains per day, or a 61.8 percent increase.

Under the original plan, NS proposed increasing freight traffic along NS's Cleveland-Lakewood-Vermillion route from 16.4 trains per day to 34.1 trains per day, an increase of 17.7 trains per day (Vol. 5C, Nov. 25, 1997 letter of . On November 25, 1997, NS amended its application to reroute the additional 17.7 trains originally proposed for Cleveland-Lakewood-Vermillion, to the Cleveland-Berea-Vermillion route. The additional 17.7 trains per day under the amended proposal would increase Berea's train traffic from 129.9 trains per day to 147.6 trains per day. This represents an 83.8 percent increase in train traffic through Berea above the pre-acquisition baseline of 80.3 trains per day.

The Berea-Greenwich route is an northeast-southwest line southwest of Cleveland, Ohio, originates in the southwest corner of Cuyahoga County, traverses the southern half of Lorain County, and approaches Greenwich from the southeast corner of Huron County. The Short-Berea route traverses the southwestern quarter of Cuyahoga County from downtown Cleveland to Berea, Ohio. The Conrail mainline along the Cleveland-Berea-Vermillion route traverses the southwest quarter of Cuyahoga County from downtown Cleveland through Berea, Ohio, and across the northern half of Lorain County to Vermillion. All these routes, with respect to Berea, traverse heavily populated urban/suburban residential neighborhoods.

The Berea-Greenwich route is an northeast-southwest line southwest of Cleveland, Ohio, originates in the southwest corner of Cuyahoga County, traverses the southern half of Lorain County, and approaches Greenwich from the southeast corner of Huron County. The Short-Berea route traverses the southwestern quarter of Cuyahoga County from downtown Cleveland to Berea, Ohio. The Conrail mainline along the Cleveland-Berea-Vermillion route traverses the southwest quarter of Cuyahoga County from downtown Cleveland through Berea, Ohio, and across the northern half of Lorain County to Vermillion. All these routes, with respect to Berea, traverse heavily populated urban/suburban residential neighborhoods.

It is the intent of this response to the Draft Environmental Impact Statement (DEIS) to present information about the impact of the proposed Conrail merger Berea, Ohio. Berea is a densely populated residential area with limited highway access that is frequently blocked by railroad traffic under the 80.3 train per day baseline. This report will present information on the possible effects an 83.8 percent increase in train traffic will have on Berea: emergency response time, hazardous and nuclear material transport, reductions in railroad labor and railroad safety, air pollution emissions and noise pollution.

In the area of emergency response time, this report will focus on medical emergency response times. The increasing transport of hazardous and nuclear material via railroad will be examined. Information about the decades-long trend to reduce railroad safety and maintenance personnel, and the overall safety of railroad transportation will be presented. There will also be a section detailing information about the significant increase in air pollution emissions as well as noise pollution as a result of the proposal by CSX and NS to significantly increase the number of trains to be routed through Berea, Ohio.

II. Purpose and Need for Agency Action

It is the contention of the City of Berea, I in its Petition for intervention and Party of Record status, that due to the residential nature of the City, a comprehensive city-specific Environmental Impact Statement (EIS) should be conducted forthwith. It should include all relevant information in this report. It is also the contention of Berea that an objective analysis will reveal that the existing freight train traffic *already* presents considerable hazards to this residential community. It will further reveal that any increase in traffic, especially an increase of the magnitude proposed by the applicants, will have such an adverse effect that mitigating measures, other than grade separations at key highway-rail crossings, will have a negligible impact. It will further reveal that mitigation will be necessary for noise and air quality. It is the position of the City of Berea that unless grade separations are built at the current grade-crossings at Front Street and Bagley Road, the Conrail merger application should be denied.

III. Description of the Affected Environment

Mitigation will be necessary for environmental justice, noise, safety, air quality and traffic flow. It is the position of the City of Berea that unless such environmental justice, noise and air quality and traffic flow concerns of Berea are addressed and grade separations are built at key current grade-crossings, including the heavily traveled crossings at Front Street, and at Bagley and Sheldon Roads, that the Conrail merger application should be denied.

Berea, Ohio, is a city in the southwestern corner of Cuyahoga County, less than 14 miles from downtown Cleveland, and adjacent to Cleveland Hopkins International Airport. Berea is mostly residential, with a growing base of light industry to the south of Bagley Road and west of the Berea-Greenwich route. The residential base is also growing with new homes to the north of the Conrail mainline west of the Rocky River. The community is served by police and fire stations to the east of the tracks. Berea is primarily served by Southwest General Hospital in Middleburg Heights, Ohio, immediately adjacent to the City of Berea to the east.

Although overpasses at Rocky River Drive and at Sheldon Road relieve some congestion at the Front Street and Bagley Road grade crossings, they are of limited use. The industrial area described above is blocked from police, fire, and hospital access at Bagley

Road and access through Rocky River Drive is difficult at best and treacherous at the extreme. The residential area north of Bagley Road are primarily south of Sheldon Road and east of Rocky River Drive. Police and fire department access to these areas is difficult because of congestion at the grade separations at Rocky River Drive and Sheldon Roads, and often access is out of the way. This is especially problematic for emergency access to Southwest General Hospital. A particularly difficult situation occurs when commercial semi trucks attempt access through the overpass at Rocky River Drive. Approximately twelve times per year, a truck becomes stuck under the overpass, completely blocking access across Berea except through Sheldon Road at the far northeast corner of the city. See Attachment I, Traffic Flow analysis, incorporated herein.

IV. Description of Alternatives

Berea already experiences an average of 80.3 trains per day. On Mondays and Tuesdays, that number is closer to 70 trains per day. But on Thursdays, Fridays, Saturdays, and Sundays, the number rises closer to 100 trains per day. The train traffic is a virtual wall to anyone trying to cross from one side of the tracks to the other. The existing number of trains is the saturation point.

Any increase in train traffic through Berea will have to be accompanied by the construction of grade separations at Sheldon Road, Bagley Road and at Front Street (for both tracks) to meet the health, safety and welfare needs of the residents of the City of Berea. This is especially necessary at Front Street, just east of the switch between the Conrail mainline and the Short-Berea route. The two rail lines, between Front Street and the switch, form a triangle with Front Street, in which traffic will often be trapped between two sets of trains. The rail lines crossing Front Street must be separated from the road to facilitate reasonable highway traffic if there is to be an increase in rail traffic through Berea. There are many emergency response situations where minutes can make the difference between life and death. Police and firefighters face such situations every day.

A. Emergency Response Time

There are many emergency response situations where minutes can make all of the difference between life and death.

There are 17 identifiable factors that contribute to the outcome of cardiac arrest. Of these, the most important factor is the time between the onset of cardiac arrest and cardiopulmonary resuscitation (CPR). The second most important factor affecting the outcome of cardiac arrest is the time to defibrillation in cases of ventricular fibrillation (when the heart is still quivering as opposed to being completely stopped). And the third most important factor affecting the outcome of cardiac arrest is the time between the onset of cardiac arrest and the initiation of basic life support and advanced life support. The American Heart Association has recommended that patients receive basic life support within four minutes, and advanced life support within eight minutes, both of which can be administered by EMS personnel.

Given an increase of freight traffic from 80.3 to 147.6 trains per day, there will be an average of more than 6 trains per hour traversing the city every day. It currently takes on average four minutes for a train to pass through a grade crossing. On average, therefore, 24 minutes out of every hour of *every day, on average, will see Berea experience blocked access to emergency services. More than one third of the time, on average, an EMS team will encounter a passing train* at a grade crossing and will be forced to double its response time to eight minutes, beyond the time recommended for basic life support, and just within the recommended time for advanced life support. See, Traffic Count Attachment I, incorporated herein by reference.

Thousands of motor vehicles travel the affected City streets. (See Attachment H).

B. Hazardous Material and Nuclear Waste Transport

According to the Federal Railroad Administration (FRA), approximately 11.353 million tons of hazardous material were shipped through Cuyahoga County in 1995 (Attachment A). Cleveland is a major corridor city for railroad traffic; therefore, it is highly probable that an 83.8 percent increase in train traffic along the Cleveland-Berea axis will result in a comparable increase in the shipments of hazardous material along the Cleveland-Berea axis. According to the FRA, 4.243 million tons of hazardous material were shipped by along the Cleveland-Berea axis in 1995. An 83.8 percent increase will result in the transport of 7.799 million tons of hazardous material traversing Berea.

According to the Federal Code of Regulations (49 CFR 172.101), there are more than 3,000 materials classified as hazardous, including arsenic, chloroform, cyanides, formaldehyde, lead, mercury, and propane — a highly flammable liquefied petroleum gas which comprises the bulk of transported hazardous material. Chemical product shipments via rail increased by 27 percent between 1991 and 1995, totaling 1.8 million carloads. In 1995 alone, there were 1,330 incidents involving hazardous materials released from rail cars (Attachment B, pg. 16). Yet chemical rail transport is exempt from federal and community “right-to-know” laws. It should be noted, however, that FRA data on hazardous material transport and accidents are derived from the industry’s own reports, and the General Accounting Office finds these reports “inaccurate and incomplete” (Attachment C, pg. 1).

Because radioactive material is considerably more dangerous than hazardous material, it is classified and regulated differently. The Department of Energy has confirmed that radioactive waste passes through Cuyahoga County, although the frequency and exact quantities were not obtainable. Furthermore, it has been recently reported that radioactive waste passes along the Conrail tracks through Berea on a regular basis (Attachment D). The frequency and magnitude of radioactive material being transported along the Cleveland-Berea axis should be determined by the Surface Transportation Board as part of the environmental analysis required under federal law. The findings should be used to

calculate the level of risk to Berea and other densely populated areas in the event of an accident or derailment.

The United States Congress is currently considering H.R. 1270, a bill that legislates the siting of a temporary high-level nuclear waste storage facility near Yucca Mountain in Nevada. High-level waste consists mostly of the spent nuclear fuel rods from commercial nuclear utility reactors. Should this bill become law, Cuyahoga County will become a major transportation route for high-level radioactive waste traveling from the East Coast to Nevada.

Approximately 2,733 rail shipments of high-level radioactive waste will traverse Cuyahoga County en route to Nevada, much of which will be transported via the Conrail mainline. Large rail casks weighing about 125 tons would contain high-level radioactive waste, defined as spent nuclear fuel rods contaminated with plutonium and other highly radioactive elements. The average rail cask will carry about 175 pounds of plutonium. To date, no transport cask has had full-scale physical testing (Attachment E, pg. 2).

Three years inside the reactor core makes the fuel over a million times more radioactive than unused fuel. Unshielded, irradiated reactor fuel that has been stored for ten years will deliver a lethal dose to anyone within a meter in less than three minutes. A single pound of plutonium could cause cancer in every person alive today if it were divided and deposited in the lung tissue. It is estimated that a fully prepared state emergency response system capable of responding to an accident involving high-level radioactive waste would cost \$5.6 million annually in 1981 dollars, an expense Ohio has not anticipated. (Attachment E, pg. 1).

C. Reductions in Labor and Railroad Safety

According to R.W. Godwin, general chair of the Brotherhood of Locomotive Engineers, NS and CSX will lay off hundreds of railroad workers whose jobs are to maintain safe railroad cars and track conditions. These layoffs are system wide. The consequences for the general public could be lethal considering the movement of hazardous material and nuclear waste by rail through the densely populated communities of Cuyahoga County, including Berea. The table below is a summary of anticipated layoffs by NS and CSX resulting from the proposed acquisition of Conrail:

Carmen	Inspect and maintain rail freight cars: 330 positions abolished
Trackmen	Inspect and maintain tracks, switches and crossings: 473 positions abolished
Signalmen	Inspect and maintain wayside signals and crossing protection: 54 positions transferred and 25 abolished
Railroad Police Officers	Protect railroad equipment and signals from vandalism: 46 positions abolished
Locomotive Maintenance	Inspect and maintain locomotives: 5 boilermakers abolished, 53 electricians abolished, 46 laborers abolished, 85 machinists abolished

Supervisors	Oversee maintenance workers: 78 jobs abolished
Train Dispatchers	Insure safe passage of trains: 25 jobs abolished

These anticipated layoffs come after almost two decades of declining maintenance and safety personnel on railroads. For example, between 1985 and 1995, Union Pacific doubled the ratio of its car shipments to workers from 85:1 to 170:1. Freight trains at one time were served by five or six people, but are now frequently staffed by one engineer and one conductor. (Attachment B, pg. 17)

Railroad employees are expected to work 12-hour shifts, take eight hours off, then return to work. But despite the 12-hour limit, the FRA recently found that Union Pacific routinely violates this limit, keeping workers on the job as long as 17 hours. Furthermore, rail workers can be called back to the job with little more than two hours notice. One NS engineer was quoted in *The Washington Monthly* as saying: "I've been forced to go out when I was so exhausted I hallucinated. . . . I've seen things that weren't there, almost gone past signals I thought were one color when they were another." (Attachment B, pg. 17). At the same time that railroads have significantly reduced staff, the Federal Railroad Administration (FRA) has reduced the number of safety inspectors. Currently, there are 380 inspectors for over one million cars and 300,000 miles of track. (Attachment B, pg. 19).

The decrease in safety inspections results from FRA instituting a new cooperative safety program in 1993. Rather than use violations and civil penalties against railroads for noncompliance with safety regulations, "FRA has emphasized cooperative partnerships with other federal agencies, railroad management, labor unions, and the states." (Attachment F, pg. 4).

Because railroad safety has improved greatly over the last three decades — due in large part to technological advances — GAO could not determine the effectiveness of FRA's program. However, it should be noted that "FRA has implemented its Safety Assurance and Compliance Program with 33 railroads. This method has improved the safety on many large railroads, *but Norfolk Southern Corporation has refused to participate until FRA substantiates safety problems at the railroad.*" (Attachment F, pg. 5, emphasis added). That a major railroad company would refuse to participate in a safety program instituted by the federal government does not bode well for the residents of Berea who rely upon the federal government as well as the railroad for their very safety.

Accidents at railroad crossings are the leading cause of deaths associated with the railroad industry; almost half of all rail-related deaths are caused by collisions of trains and vehicles at public crossings (Attachment C, pg. 1). More than 1,000 people die each year as a result of grade-crossing accidents (Attachment F, pg. 4). Any increase of rail traffic through Berea, particularly an increase of 83.8 percent for a total number of trains approaching 150 per day, require grade separations at the major rail-highway crossings of Front Street and Bagley Road.

D. Emissions

Since most locomotives in the US are powered by diesel engines, air pollution emitted by trains will consist mostly of Particulate Matter (PM) and precursors to ozone (Nitrogen Oxides or NO_x, and Hydrocarbons or HC). Locomotives account for nearly five percent (5 percent) of all air pollution emission in the country.

According to the applicants' application, air pollution emission will *increase* in Cuyahoga County by 1,800 tons per year, or 3.6 million pounds, as a result of the increase in freight traffic (Railroad Control Application, Vol. 6B, pg. 364-365). These air pollution emissions include Nitrogen Oxides (NO_x), Carbon Monoxide (CO), Volatile Organic Compounds (VOC), Sulfur Dioxide (SO₂), Particulate Matter (PM) and Lead (Pb). CSX rail traffic will increase the above air pollution emissions in Cuyahoga County by almost 1,000 tons per year. NS rail traffic will increase the above air pollution emissions by more than 800 tons per year. Combined, this is an increase of 1,800 tons per year.

Of the 1,800 tons of air pollution emissions, the applicants estimate that 1,505.19 tons will consist of NO_x. According to figures from the Environmental Protection Agency (EPA), 1,505.19 tons per year of NO_x is equivalent to increasing automobile traffic by 86,505 passenger cars (Attachment G, pg. 3). Additionally, NO_x combine with Hydrocarbons (HC) in the atmosphere to form secondary PM (which was not estimated in the Railroad Control Application). For every 100 tons of NO_x emitted, approximately 4 tons of secondary PM is formed. Thus, there will be an additional increase of secondary PM by 60 tons per year.

NO_x emissions have significant health and environmental effects. NO_x is a major component of smog and acid rain. NO_x emissions combine with HC in the atmosphere and, in the presence of sunlight, form ground-level ozone. NO_x also contributes to the secondary formation of breathable PM. NO_x can react with ammonia, other constituents, and moisture to form certain types of PM, including nitrate fine particles and acidic aerosols.

Ozone is a highly reactive pollutant that damages lung tissue, causes congestion, and reduces vital lung capacity, in addition to damaging vegetation. Acid rain damages buildings and crops, and degrades lakes and streams (and it should be noted that Berea, Ohio, is bisected by the Rocky River, a major tributary to Lake Erie and part of the Cleveland MetroPark System). PM causes headaches, eye and nasal irritation, chest pain, and lung inflammation. Environmental impacts of PM include reduced visibility and deterioration of buildings.

Healthy adults who exercise moderately can experience a 15 to 20 percent reduction in lung function from exposure to low levels of ozone over several hours. Damage to lung tissue may be caused by repeated exposures to ozone, which can lead to a shortened life span. Ozone aggravates asthma, and 14 Americans die every day from asthma, a rate three times greater than just 20 years ago.

Because children breathe more air per pound of body weight than adults, increases in ground-level ozone is even more harmful to them. Children make up 25 percent of the population but comprise 40 percent of the asthma cases. Children also comprise a disproportionate number of asthma attacks, increased use of medication, and more emergency room visits as a result of ozone exposure.

PM easily reaches the deepest recesses of the lungs. Scientific studies have linked PM, especially fine particles (alone or in combination with other air pollutants), with premature death, aggravated asthma, and chronic bronchitis. As is the case with ozone, the elderly, children and individuals with preexisting heart or lung disease are especially vulnerable.

Cuyahoga County is currently not attaining the National Ambient Air Quality Standards for Sulfur Dioxide (SO₂) or PM₁₀, particles smaller than 10 micrometers in diameter. Therefore, any increase in emissions as a result of increased freight traffic will cause a further delay in attaining the EPA's new Ambient Air Quality Standards for PM_{2.5} (which will not take effect for several years).

Cuyahoga County does meet EPA's current 1-hour 0.12 parts per million (ppm) ozone standard. However, based on the most recently available quality assured data (1993-1995), the county does not meet EPA's recently issued 8-hour 0.08 ppm ozone standard. An increase in NO_x emissions, a precursor to ozone formation, would exacerbate this problem.

According to estimates reported to EPA for Cuyahoga County in 1990, 15,263 tons per year of NO_x are emitted from stationary sources, and 26,804 tons per year of NO_x are emitted from mobile sources, resulting in a total NO_x emission estimate of 42,067 tons per year for Cuyahoga County in 1990. Thus, 1,500 tons per year of NO_x would be an increase of approximately 3.5 percent.

Under the Clean Air Act, areas that do not meet the ozone standards are required to achieve a 3 percent reduction per year (after growth) in VOC and/or NO_x emissions. While the implementation plan for EPA's new 8-hour 0.08 ppm ozone standard will not be final until late 1998, it seems very likely that it will include a continuation of the 3 percent per year rate-of-progress measure. A 3.5 percent increase in NO_x in the air means that significant additional reductions of NO_x from local businesses or vehicles would be needed to offset this increase to meet the ozone standard expeditiously.

The applicants state that they have only estimated the increase in air pollution emissions, and not the decrease in emissions resulting from less truck traffic. However, it should be noted that the increase in air pollution emissions from freight traffic is a guaranteed, quantifiable amount; whereas, the decrease in emissions from truck traffic is not known or measurable. In fact, due to increased rail traffic, PM₁₀ emissions from railroads have doubled between 1970 and 1995. Yet this increase in PM₁₀ emissions has not resulted in

a concomitant reduction in truck traffic emissions during the same period. Moreover, according to area shippers along the Cleveland-Berea axis, reduced competitive opportunities caused by the Conrail acquisition could actually increase the truck traffic among the Cleveland-area shippers (Attachment H).

E. Noise

Noise pollution is considerably more difficult to quantify; however, qualitatively it is no less harmful to a community's well-being than air pollution emissions. According to the Railroad Control Application, noise pollution will increase significantly as a result of the proposal by NS and CSX to increase train traffic through Berea by 83.8 percent. With trains passing through Berea at a rate of six times per hour, or at a duration of 24 minutes out of every hour, residents can expect constant disruptions from horns and engine noise. Constructing grade separations at Bagley Road and Front Street will eliminate horn-blowing at two key locations in Berea and will remove noise from the ground level.

V. Conclusion

Given the reductions in railroad workers, increasing rail shipments, including those of hazardous materials and nuclear waste, severely limited options for improved grade-crossing safety, increasing emissions and noise pollution, and the potentially divisive and isolating nature of the increased rail traffic through the City of Berea—a community unique among the Westshore communities with respect to the CSX/NS application, the City of Berea submits that increasing the number of freight trains to the order of magnitude sought by CSX/NS is totally unacceptable. The health and safety of the people of Berea and the surrounding area are at stake.

However, if the application is to be approved, the City of Berea seeks conditions in the form of remediation and abatement, as follows: The City hereby seeks conditions and mitigation for Berea through noise abatement, city-specific emergency programs and training, and grade separations, as follows, and consistent with the issues raised herein further requests: i) that a noise barrier be constructed along North Rocky River Drive behind the homes on the north side of the tracks on North Rocky River Drive and the nursing home located in close proximity thereto; ii) that a noise barrier be constructed adjacent to the rails at Abbeyshire Drive; iii) that adequate grade separations be constructed for a) Sheldon Road (over or underpasses), b) Front Street (for both tracks, consistent with the EIS, but not necessarily as an overpass), and c) Bagley Road (where traffic flow is very high); iv) that the rail siding along and parallel to Butternut Lane be eliminated; v) that a grade separation be constructed at West Street in Olmsted Falls, (but sought by The City as noise abatement for the residents of Berea living very near to the area); vi) that the applicants prepare a city-specific hazardous material emergency response program and assist in the training of Berea police, fire and emergency personnel; and vii) that the present overpass at North Rocky River Drive be refurbished, and The City further seeks that the environmental study address the impact upon and the

concomitant needs of the City of Berea and its residents, including aesthetic remediation and other just relief as this Board deems proper, or alternatively, The City seeks a denial of the railroad control application filed with the STB to acquire control of Conrail Inc. and Consolidated Rail Corporation in Finance Docket No. 33388.

VI. Attachments

The following attachments are submitted in support of these comments:

- Attachment A: Hazardous Material Flows charts from Federal Railroad Administration.
- Attachment B: *The Washington Monthly*, "The Case For More Regulation", October 1997
- Attachment C: General Accounting Office, *Railroad Safety: DOT Faces Challenges in Improving Grade Crossing Safety, Track Inspection Standards, and Passenger Car Safety*, March 5, 1996.
- Attachment D: Letter from FRA Administrator Jolene M. Molitoris to Congressman Dennis J. Kucinich, January 21, 1998.
- Attachment E: Nuclear Information and Resource Service, *Questions and Answers: High-Level Nuclear Waste Shipments*, April 2, 1997.
- Attachment F: General Accounting Office, *Rail Transportation: Federal Railroad Administration's New Approach to Railroad Safety*, July 1997.
- Attachment G: Environmental Protection Agency, *Environmental Benefits of Proposed Emission Standards for Locomotives*. February 1997.
- Attachment H: Anita R. Brindza, *Statement to the Federal Railroad Administration*, September 21, 1997.
- Attachment I Traffic Studies. City of Berea.
- Attachment J *Community Reinvestment Area Report*, City of Berea, 1994 Planning Resources Incorporated.
- Attachment K Drawings of Berea City Engineer depicting distance between railroad tracks and housing along right of way.

A signed original of these comments together with 10 copies thereof are being sent via US mail to :

Office of the Secretary
Case Control Unit
STB Finance Docket 33388
Surface Transportation Board

1925 K Street, NW
Washington D.C.

ATTN: Elaine K. Kaiser
Chief, Environmental Analysis Section
Environmental Filing

Respectfully submitted,

City of Berea

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Attachment A

Hazardous Material Flows at the Cuyahoga County Line

Current Railroad	Location of County Line Crossing looking from Cleveland ^{1/}	Former RR	Post CR Acquisition RR	Amtrak Line	Revenue Tons of Hazmat ^{2/} (000)
CR	Northeast	NYC	CSXT	Yes	3667
NS	Northeast	NW	No change	No	477
WE	Southeast	NW	No change	No	36
CR	Southeast	PRR	NS	Yes	2200
NS	West	NW	No change	No	676
CR	West (to Chicago)	NYC	NS	Yes	2778
CR	Southwest (to Col.)	NYC	CSXT	No	1406
CSXT	Southwest	BO	No Change	No	59

^{1/} If a line/location is not shown, there was no hazmat flow in 1995.

^{2/} Source: FRA analysis of the 1995 Carload Waybill Sample

Attachment B

The Case for More Regulation

If you thought ValuJet's deadly cargo was poorly regulated, wait till you hear what the trucks and trains are getting away with

BY NURITH C. AIZENMAN

IN MARCH OF 1996, ALL 1,700 RESIDENTS OF Weyauwega, Wisconsin skipped town for three weeks—involuntarily. The reason for their impromptu spring break: an 81-car train carrying propane and sodium hydroxide derailed and exploded just outside the city center, creating a toxic fire so dangerous the entire community had to be evacuated while authorities struggled to contain it. But the Weyauwegans should consider themselves lucky. In Chicago this past August, 19 people were treated for chemical exposure at area hospitals after the hose on a truck pumping sulfur trioxide into a holding tank broke and released a 50 foot high lethal cloud. And in California several years earlier, 700 people fell ill after a tanker-car full of metam sodium plunged into the Sacramento River, killing all water life within 40 miles and contaminating California's largest reservoir.

These events point to a disturbing trend: serious accidents involving the transport of hazardous materials, or "hazmats," on trucks and trains have become an almost daily occurrence. In 1995 alone, there were 12,712 incidents involving hazardous materials released from trucks and 1,330 from rail cars. But what's really remarkable about these cases is that they were not more disastrous. Considering the recent massive increase in the volume of hazardous materials streaming across our nation's highways and railroads, combined with the industry's cavalier attitude towards safety and the government's cross-your-fingers-and-hope-for-the-best approach to regulation, it's a wonder we haven't witnessed a truly devastating catastrophe. Environmentalists warn it's only a matter of time before we're treated to a tragedy on the scale of the 1984 accident in Bhopal,

India—where 3,500 people were suffocated in their sleep by a 20-ton cloud of methyl isocyanate seeping from a Union Carbide plant.

That's not to say there haven't been lots of close calls. Last December, the Department of Transportation's Federal Railroad Administration (FRA) discovered that despite the fact that military bombs being carried aboard a Union Pacific train had broken through their containers and were protruding onto the floor of a flat car, the company had allowed the train to travel from Oklahoma to California through several major terminals without taking any corrective action. As one FRA official noted in an internal memo: "[Union Pacific] needs a big time wake up call. ... The way we see it, if they can't take care of class A explosives, makes you wonder what they are doing with other HM [hazardous materials]."

And there are plenty of other hazardous materials to wonder about. Between 1990 and 1995, hazmat transport by rail increased 27 percent to almost 18 million cars a year, each one carrying a payload that makes the lethal cargo aboard ValuJet flight 592 look like a shipment of fire-retardant blankets. Pick your poison: there are toxic-by-inhalation chemicals like chlorine and hydrogen fluoride, which can roll across miles of countryside in ground-hugging clouds that burn your body tissue, fill your lungs with fluid and cause you to literally drown in your own juices. There are explosives like ammonium nitrate—mix that with a little fuel and it's Oklahoma City time. Then, of course, there are your run-of-the-mill flammables, like liquefied petroleum gas, or propane, which comprises the bulk of the roughly four billion tons of hazardous materials hauled across our highways every year, and which, when released, vaporizes into a volatile

gas that can ignite into a jet flame if so much as a spark comes near. And finally, there's the mother of all hazmats, nuclear waste, which could become a lot more familiar if the government goes ahead with plans to open a temporary nuclear materials repository in Nevada. By as early as 1999, up to 100,000 shipments of highly radioactive spent fuel from reactors across the country could begin the long journey to the storage site by rail and truck—in containers whose crash worthiness has been tested almost exclusively through computer simulations. With all these goodies making their way from sea to shining sea, perhaps it's not surprising that even some chemical company executives are reaching for their gas masks. "It scares the living daylights out of me," confides one former DuPont official.

Dying for a Job

The ugly reality of our industrial advances and booming economy is that we need—or at least want—more and more products made from dangerous substances. Unless we drastically change our consumption habits, one way or another these hazardous materials are going to have to be lugged around the country. But surely our government and industries have taken steps to ensure that the vehicles hauling these toxins are piloted by specially trained experts—crack professionals, alert and ready for the worst, right? Try zombified novices, bleary-eyed and poorly prepared.

To start with, hazardous material transporters are dangerously overworked. At the railroads, the rise in hazardous shipments has been accompanied by large scale downsizing. According to a study by an environmental group called The Good Neighbor Project, between 1985 and 1995, Union Pacific, by far the nation's largest hazmat rail carrier, doubled the ratio of its car shipments to workers from 85:1 to 170:1. Freight trains once served by teams of 5 or 6 people are now left in the hands of one engineer and a conductor. This duo is expected to work for up to 12 hours, take 8 hours off (for eating, sleeping, bill paying, etc.), then come back for more. The length of their shifts is bad enough: It's hard to imagine staying focused on your favorite TV show for 12 hours straight, let alone an endless stretch of railroad track—especially as viewed from an overheated, deafeningly loud engine cabin. But to make matters worse, rail workers are generally scheduled without regard to the basic requirements of a normal sleep cycle. Thus an engineer who is happily tucked in bed at 3 a.m. on one morning, is just as likely to find himself at the head of a 70-car train at 3 a.m. on the next—having received no more than two hours advance notice. "I've been forced to go out when I was so exhausted I hallucinated," recalls one

Norfolk Southern engineer, "I've seen things that weren't there, almost gone past signals I thought were one color when they were another."

Maybe that's what happened to the engineer of a Union Pacific train who was killed in July after he sped past a rail stop sign near Rossville, Kansas, and collided with an oncoming train. Hazardous materials aboard his train were burned in the crash, and Rossville's residents had to be evacuated. The collision was one of three fatal Union Pacific accidents since June that finally prompted the Federal Railroad Administration to launch an 80-man inspection of the rail company—the most extensive investigation in the agency's history. After a week of probing, the FRA declared itself shocked, shocked, to discover that everyone from dispatchers, to engineers, to yard workers, were being "worked to the bone." Yet for years rail workers' unions have complained about such problems; last spring the Brotherhood of Locomotive Engineers even tried to shut Union Pacific down with a strike over safety, but they were halted by a court order. Still, according to the FRA's spokesman Jim Gower, the FRA "wasn't really aware of the vastness of the problem."

But this was only the tip of the iceberg. The FRA also found that Union Pacific routinely violates the already onerous 12-hour work limit—often keeping workers on duty for up to 17 hours at a stretch. Topping it all off, the agency determined that the training many workers receive is grossly inadequate and in some cases nonexistent—with some employees ordered to operate sophisticated equipment they've never been taught to use.

Among the things a good training program might emphasize would be the importance of watching for smaller problems that could be the harbinger of bigger ones. But even if they were taught to do so, rail workers might be disinclined to report any trouble they find. Many rail companies reward managers with a cash bonus tied the safety record of the track under the manager's jurisdiction. CSX Transportation, for instance, has awarded a total of \$45 million in company stock since 1995 under its "Take Stock in Safety" program. Sounds like a great incentive system, but the result, according to United Transportation Union's legislative director, J.M. Brunkenhoefer, is that many middle managers strongly discourage the rail workers they supervise from reporting accidents—threatening potential whistle blowers with either layoffs or "investigations" into the whistle blower's responsibility.

Of course, the railroads sometimes run into pesky FRA rules requiring that certain types of accidents be reported, for instance those in which a rail worker is injured seriously. No problem—the companies simply send workers to the doctor with a special note, like one

from CSA that asks that whenever possible, use of equally prudent NON-REPORTABLE treatment is encouraged in order to minimize reporting of less significant minor injuries to the Federal Railroad Administration." Among the "reportable" treatments doctors are urged to avoid: "issuing a prescription, injections, closing a wound with sutures, butterfly, staple or steri-strip, application of immobilizing cast, sling or splint, ... [and] restriction of employee's work activity." To be sure, the letter assures doctors that "appropriate treatment should be based upon your professional medical judgment," but the message from CSX management to the doctor and, more importantly, to its employees couldn't be more blunt: Don't Rock the Boat.

That message was apparently heard loud and clear by the team aboard a CSX train that sideswiped an Amtrak passenger car and caused a derailment near Arlington, Va., this past July. Twice during the train's two-hour journey, crews on passing trains radioed the CSX crew with the warning that one of its flatcars was leaning precariously. Nonetheless, the crew ignored the warning and continued forward because a CSX supervisor had already inspected the car and insisted there was no danger.

Highway to Hell

But intimidated, badly trained and dog-tired as they may be, rail workers are still the envy of truckers. That's because while truckers can only be legally required to drive a mere 10 hours a day, trucking companies routinely—and knowingly—put them on schedules that make a mockery of the law. Consider the timetable of 23-year-old Peter Conway, the driver of a semitrailer loaded with 9,200 gallons of propane headed east on I-287 through New York state in July of 1994. Some time earlier, Conway's truck had been side-lined by a breakdown for 10 hours. Like most truckers, he was being paid by the mile as opposed to the hour, so after his rig was fixed, Conway faced a Hobson's choice: make up the lost time or take a financial hit. He opted to press on. On July 27, Conway's truck drifted off the left shoulder of the highway near White Plains and struck the column of an overpass. The propane leaking from his truck's damaged tank ignited—propelling the container 300 feet through the air onto a nearby house, which was quickly engulfed in flames. Conway was killed, and 23 others were injured. Although Conway had falsified the log book in which he was legally required to enter his work time, federal investigators were able to determine that he had been driving almost continuously for over 35 hours. Their unsurprising conclusion: Conway had dozed off at the wheel.

He's certainly not the first, nor the last, to have done

so. A recent governmental study shows that up to 70 percent of truck crashes were probably caused by fatigue. Another study determined that at least 58 percent of truckers had violated hours-of-service rules. In fact, log books are so routinely doctored that truckers have taken to calling them "comic books."

But even if he's awake, there's no guarantee the driver of that monster hazmat truck roaring up behind you on the highway is even marginally competent—or that his rig is remotely safe. Take the case of Willis Curry, a Washington D.C. trucker who, since 1988, has managed to amass 31 citations for such traffic violations as speeding, carrying overweight loads, disobeying red lights and ignoring railroad cross warnings. Back in January, the Department of Transportation's Federal Highway Administration (FHWA) informed Curry's employer of his record and he was promptly fired. But the FHWA waited until April to alert D.C. authorities that his license should be revoked. Two months later Curry, still the proud bearer of a D.C. license and now a driver for a local dump truck company, collided with the car of a young mother and her one-year-old son.

Police determined that the brakes on Curry's dump had failed. This should not have come as a surprise. Curry's vehicle gave a whole new meaning to the term "dump" truck. It had been cited for 28 mechanical safety violations in two random inspections last year. And during the first inspection the truck's wiring was so defective that when the brake pedal was pushed the windshield wipers started going. On both occasions the truck had been ordered off the road for repairs.

But the story doesn't end there. After Curry's accident, no action was taken to investigate the dump's owner, or to revoke Curry's license. It wasn't until ten days later, when Curry made a routine request for a duplicate license, that a city clerk happened to notice his record and confiscated his license. And Curry quickly managed to win it back, with the proviso that he only drive between 4 a.m. and noon on weekdays. At 2 p.m. the very next week, Curry was once again behind the wheel when the brakes on his dump failed a second time, causing the 30-ton truck to veer out of control and roll over onto a car driven by a teenage honor student. The boy was killed instantly. It is small consolation that Curry's truck wasn't carrying anything more dangerous than sand. Next time we may not be so lucky.

It's hard to say which was the greater menace to society, Curry or his truck. And that's not unusual. On the rare occasions when the Department of Transportation does random roadside inspections, nearly one out of every three rigs they pull over is found to be either unsafe, driven by an unsafe trucker, or both.

Danger Zone

Defective equipment is a problem with which rail workers are also all too familiar. A 1995 surprise inspection of a Union Pacific rail yard in Fort Worth, Texas, found that 37 percent of the rail cars there were faulty—over a third of them with brake problems. And according to Union Pacific itself, 12 percent of the 8,000 plus chemical tank cars it inspected last year turned up “exceptions” like poor positioning of the tops on the cars, or mislabeling of their contents. That wasn’t news to rail employees; they say it’s not uncommon to work on a train with up to eight “sleeper cars” whose contents, hazardous or otherwise, are unknown to them.

This is no minor inconvenience. Different hazardous materials pose different risks and, in the event of an accident, it’s essential for emergency responders to know what they’re dealing with. For instance, if an unsuspecting fireman unleashed a fire hose on an accident involving metam sodium, rather than dousing any flames, there’s a good chance the water would react with the chemical to form a nasty mustard gas-like compound. Similarly, if an emergency crew allowed a small amount of water to drip over a spill of hydrogen peroxide, the heat generated by the subsequent chemical reaction could cause nearby fuel to erupt into a major inferno.

Just as frightening as the trains themselves are the tracks on which they travel. About 85 percent of rail transport occurs over “dark” areas where there is no automated signaling. Instead, engineers must rely on dispatchers to talk them through their journey. Yet, as the FRA recently “discovered,” dispatchers are often unfamiliar with the tracks through which they are expected to guide a train—in many cases they haven’t even traveled the route once. So perhaps it’s not surprising that a June FRA inspection of Union Pacific found that 80 percent of dispatcher orders contained at least one error.

And even when there are signals along the track, they are not necessarily configured to maximize safety. In a 1993 overhaul of a stretch of railroad whose users include a Maryland commuter service line, the railroad’s owner, CSX, did away with a large number of warning signals along the track. Under the new system, yellow “slow down” signals indicating that a red “stop” signal is soon to follow are now placed *before* some train stations even if the “stop” sign they are referring to lies way beyond the station. So engineers driving trains that make station stops must somehow remember to pull out of the station at a slow speed; the intermediate signals that would have reminded them about the abrupt stop signal coming up after the station are no longer there. It’s hard to conceive of a more accident-prone system. Yet neither CSX nor the FRA so much as paused to consider

the safety implications before installing it.

Three years after CSX put in the new system, the inevitable occurred. On a snowy night in February of 1996, the engineer of a Maryland commuter train forgot (or didn’t notice) the yellow signal before the Kensington, Md., station and pulled out of the station at 60 miles an hour. By the time he saw the stop sign and slammed on the brakes it was too late. Moments later he smashed into the fuel tank of an oncoming Amtrak. Eleven people were killed in the crash and subsequent conflagration. Still, despite instituting some other safety changes, CSX has kept the risky signal system in place.

A Free Ride

But how does the industry get away with it? Where are all those government regulators conservatives are so fond of disparaging? Turns out they’re not nearly as meddlesome as the GOP would have you think. A July study by the General Accounting Office (GAO)—which monitors federal agencies for Congress—found that in just one year, the number of safety inspections conducted by the FRA decreased by 23 percent. And between 1992 and 1995 the percentage of railroads inspected for hazardous materials safety by the FRA fell from 34 percent to 21 percent.

That’s hardly surprising considering how depleted the FRA’s forces are. “You’ve got 380 inspectors for over 1 million cars and 300,000 miles of track,” notes the United Transportation Union’s Brunkenhoefer. Compare that with the Federal Aviation Administration’s 3,028 inspectors—132 for hazardous materials alone—and it’s tough not to agree with Brunkenhoefer that “the FRA is stretched too thin.” Last year, Representative James Oberstar, the ranking minority member of the House Transportation Committee, introduced a bill that would have doubled the number of inspectors. But the Republican leadership didn’t even allow a hearing on it.

Oberstar plans to reintroduce his bill this fall. But he’s unlikely to get much thanks from the FRA. The agency has long been criticized for failing to stand up to the railroads, but the current climate in Washington has the FRA positively cowed. Discussing the FRA’s role with agency officials is an almost eerie experience—the party line they spout couldn’t be more anti-regulatory if it had been drafted by Newt Gingrich: The lack of inspectors? “Not an issue,” FRA spokesman Jim Gower hastens to assure; “We’ve streamlined and are able to do more with less.” How? “By making use of the inspectors the railroads employ.” The GAO is underwhelmed by the FRA’s new approach. In its July report, the GAO expressed concern that the FRA leaves almost all oversight of bridge safety in the hands of railroad companies.

But the FRA maintains there's no cause for alarm; it's all part of a new "cooperative" way of doing business that began under the Clinton administration. The idea is to move away from using violations and civil penalties as the primary means of obtaining compliance with the regulations. Instead, the agency relies on "partnerships" with the railroad companies. If you're wondering what that means, take a look at the way the FRA has responded to the results of its—admittedly laudable—massive investigation of Union Pacific. You might expect that the agency's discovery that rail employees are being dangerously overworked would prompt it to change the rules governing their schedule. How retro! "New regulations are not the answer," the FRA's Gower patiently explains. Instead, the FRA will simply ask Union Pacific to mend its ways: "After all, it's in their own interest." Union Pacific officials agree—pointing out that they're hiring an additional 2,600 employees this year. But just how much relief will those new hires be able to provide for the company's exhausted 54,000-strong work force? Officials like Barry Sweedler at the National Transportation Safety Board (NTSB)—the independent agency responsible for investigating accidents and making recommendations to transportation regulators—think the FRA is being naive. "What you have today is an industry that's willing to accept a certain number of collisions every year," observes Sweedler.

To be sure, over the years the FRA has introduced some important technical requirements that have made rail transport safer. For instance, it recently decreed that all train cars must be linked with special couplers to help prevent them from separating during derailments. For added protection, tanks carrying hazmats are required to be fitted with steel head shields, coated in thermal insulation, and equipped with special devices to keep their bottom outlets from being sheared off in the event of an accident. Unfortunately, the railroads don't have to fully comply with all these new regs until 2006.

Even many of the FRA-mandated innovations that are actually in use were required by the FRA only after fatal foot-dragging. That was the case with a backup braking system called a "two-way end-of-train device" that allows an engineer to use a radio signal to apply brakes from the back of his train if his locomotive brakes fail. The FRA did not mandate use of the devices on all trains traveling through mountainous terrain until February of 1996—seven years after the NTSB first recommended them, and only after a runaway train had derailed at the bottom of the steep Cajon Pass in California not once, but *twice*. Similarly, while the FRA has (after over a decade of urging by the NTSB) finally conceded the considerable potential of using satellite-based

proximity warning systems to alert engineers, and even apply the brakes, when one train is speeding or about to collide with another, the agency is now merely helping the rail companies run pilot projects—rather than insisting that they install it on a timetable.

And there are still plenty of cheap and life-saving innovations out there that the FRA continues to ignore. Take the laser systems that could be used to alert trains when the track over vulnerable areas like bridges has been misaligned. Such misalignments have been the cause of some of the most horrific accidents in recent memory—like the 1993 Alabama derailment in which 47 people perished. Yet though cheap models of this system have been put forward, the FRA has no plans to require them. Heck, they still don't even mandate that engine cabins be equipped with radios!

The Department of Transportation's record on hazmat trucking is just as deplorable. As you may have gathered from the case of dump truck driver Willis Curry, enforcement of the law by the Department's Federal Highway Administration is laughable. A March study by the Department's Inspector General—a sort of in-house independent watchdog—found that in 1995, only 25 percent of trucking companies were reviewed by the Federal Highway Administration (FHWA) to see if they complied with safety rules. What's more, about two-thirds of the nation's interstate carriers have *never* been rated for safety. Most alarming, the Inspector General determined that 22 percent of trucking companies with high rates of on-the-road violations and accidents had never been rated for safety, and 42 percent had not been rated in the past two years.

What's going on? Part of the problem is that the 529 federal and state inspectors available to the FHWA are simply incapable of covering all 345,000 interstate trucking companies. But the Inspector General also found that FHWA inspectors were spending far too much time on less urgent activities like educational outreach. Furthermore, while the Department of Transportation does maintain a national database of driver and vehicle violations that it uses to identify high-risk targets for inspection, the criteria for determining who is high-risk puts too much weight on factors like how many passengers a vehicle carries, instead of how many times it has been pulled off the road for being unsafe. To make matters worse, violations of state and local traffic laws are often never entered into the database. Why? Because states are not actually required by the FHWA to transmit the information. Of course, states *are* required to pass on the results of federally-funded safety compliance reviews and random roadside inspections, but they usually fail to do so quickly. Even when they do, the FHWA

Attachment C

Hearing held on
March 5, 1996
Statement Submitted on
April 1, 1996

RAILROAD SAFETY**DOT Faces Challenges in
Improving Grade Crossing
Safety, Track Inspection
Standards, and Passenger
Car Safety**

Statement for the Record by
Phyllis F. Scheinberg, Associate Director,
Transportation and Telecommunications Issues,
Resources, Community, and Economic
Development Division



Madam Chairman and Members of the Subcommittee:

We appreciate the opportunity to provide this statement for the record on several issues affecting safety on the nation's rail lines. Recent rail accidents at Cajon Pass, California; Silver Spring, Maryland; and Weyauwega, Wisconsin, have heightened concern about the safety of passenger and freight lines in the United States. Since 1987, GAO has issued many reports describing safety problems on the nation's rail lines. This statement is based on recent GAO reviews of safety at highway railroad crossings, the adequacy of track safety inspections and enforcement, and the safety of passenger cars operated by commuter railroads and Amtrak. In summary, we found the following:

- Accidents at railroad crossings are the leading cause of deaths associated with the railroad industry; almost half of all rail-related deaths in the United States are caused by collisions of trains and vehicles at public railroad crossings. In 1994, these collisions killed 501 people and injured 1,764 others. Strategies to improve safety at railroad crossings include targeting funds to high-risk areas through revisions in the Department of Transportation's (DOT) formula for distributing railroad improvement funds to the states; closing more railroad crossings; installing new technologies, such as four-quadrant gates, at the most dangerous crossings; and developing education and enforcement programs that increase the public's awareness of the dangers of railroad crossings. Although DOT has an action plan incorporating these strategies, the plan will be costly to implement and will require DOT to seek congressional approval to implement key proposals.
- The Federal Railroad Administration (FRA) has developed an overall strategy for inspecting and enforcing track safety standards. As we recommended in our 1994 report,¹ to further strengthen the rail safety program, FRA needs to include site-specific data on volumes of passenger and hazardous materials traffic in its inspection plan and improve the reliability of its accident and injury data. Information on the numbers of passengers and amounts of hazardous materials transported is important since train routes carrying these types of traffic must be adequately maintained to prevent accidents that will injure passengers or expose populated areas to chemical risks. Accurate and complete information on the numbers of accidents and injuries is equally important in identifying high-risk routes. However, FRA's database, derived from the industry's reports to FRA, is inaccurate and incomplete. Without reliable informa-

Railroad Safety: Continued Emphasis Needed for an Effective Track Safety Inspection Program. GAO/RCED-94-56, Apr. 22, 1994.

on passenger and hazardous materials traffic, accidents, and injuries, FRA and its inspectors do not have the means to direct inspectors to the routes that have the highest potential for accidents.

- Although Amtrak and commuter railroads transport over 20 and 330 million passengers, respectively, each year, FRA has established few regulations concerning passenger car safety. FRA does not have minimum safety standards for mechanical components on passenger cars, as it does for freight cars and locomotives. In 1984, FRA informed the Congress that it planned to study the need for standards governing the condition of safety-critical passenger car components. The Congress subsequently directed FRA, in the Swift Rail Development Act of 1994, to complete rulemaking governing passenger car safety by 1999.

Improving Railroad Crossing Safety

On October 25, 1995, Americans were reminded of the dangers that drivers/passengers often face when they travel over railroad crossings in the United States. On that day, in Fox River Grove, Illinois, seven high school students were killed when a commuter train hit a school bus.

The potential for tragedies like the one at Fox River Grove is significant—the United States has over 168,000 public highway-railroad intersections. The types of warning for motorists at these crossings range from no visible devices to active devices, such as lights and gates. About 60 percent of all public crossings in the United States have only passive warning devices—typically, highway signs known as crossbucks. In 1994 this exposure resulted in motor vehicle accidents at crossings that killed 501 people and injured 1,764 others. Many of these deaths should have been avoided, since nearly one-half occurred at crossings where flashing lights and descended gates had warned motorists of the approaching danger.

In August 1995, we issued a comprehensive report on safety at railroad crossings.² We reported that the federal investment in improving railroad crossing safety had noticeably reduced the number of deaths and injuries. Since the Rail-Highway Crossing Program—also known as the section 115 program—was established in 1974, the federal government has distributed about \$5.5 billion (in 1996 constant dollars) to the states for railroad crossing improvements. This two-decade investment, combined with a reduction in the total number of crossings since 1974, has significantly lowered the accident and fatality rates—by 61 percent and 34 percent.

²Railroad Safety: Status of Efforts to Improve Railroad Crossing Safety. (GAO/RCED-95-191, Aug. 1995).

respectively. However, most of this progress occurred during the first decade, and since 1985, the number of deaths has fluctuated between 466 and 682 each year (see app. 1). Since 1977, the federal funding for railroad crossing improvements has also declined in real terms. Consequently, the question for future railroad crossing safety initiatives will be how best to target available resources to the most cost-effective approaches.

Our report discussed several strategies for targeting limited resources to address railroad crossing safety problems. The first strategy is to review DOT's current method of apportioning section 130 funds to the states. Our analysis of the 1995 section 130 apportionments found anomalies among the states in terms of how much funding they received in proportion to three key risk factors: accidents, fatalities, and total crossings. For example, California received 6.9 percent of the section 130 funds in 1995, but it had only 4.8 percent of the nation's railroad crossings, 5.3 percent of the fatalities, and 3.9 percent of the accidents. Senators Lugar and Coats have proposed legislation to change the formula for allocating section 130 funds by linking the amounts of funding directly to the numbers of railroad crossings, fatalities, and accidents. Currently, section 130 funds are apportioned to each state as a 10-percent set-aside of its Surface Transportation Program funds.

The second means of targeting railroad crossing safety resources is to focus the available dollars on the strategies that have proved most effective in preventing accidents. These strategies include closing more crossings, using innovative technologies at dangerous crossings, and emphasizing education and enforcement. Clearly, the most effective way to improve railroad crossing safety is to close more crossings. The Secretary of Transportation has restated FRA's goal of closing 25 percent of the nation's railroad crossings, since many are unnecessary or redundant. For example, in 1994, the American Association of State Highway and Transportation Officials found that the nation had two railroad crossings for every mile of track and that in heavily congested areas, the average approached 10 crossings for every mile. However, local opposition and localities' unwillingness to provide a required 10-percent match in funds have made it difficult for the states to close as many crossings as they would like. When closing is not possible, the next alternative is to install traditional lights and gates. However, lights and gates provide only a warning, not positive protection at a crossing. Hence new technologies such as four-quadrant gates with vehicle detectors, although costing about \$1 million per crossing, may be justified when

accidents persist at signalled crossings. The Congress has funded research to develop innovative technologies for improving railroad crossing safety.

Although installing lights and gates can help to prevent accidents and fatalities, it will not preclude motorists from disregarding warning signals and driving around descended gates. Many states, particularly those with many railroad crossings, face a dilemma. While 35 percent of the railroad crossings in the United States have active warning devices, 50 percent of all crossing fatalities occurred at these locations. To modify drivers' behavior, DOT and the states are developing education and enforcement strategies. For example, Ohio—a state with an active education and enforcement program—cut the number of accidents at crossings with active warning devices from 377 in 1978 to 93 in 1993—a 75-percent reduction. Ohio has used mock train crashes as educational tools and has aggressively issued tickets to motorists going around descended crossing gates. In addition, DOT has inaugurated a safety campaign entitled “Always Expect a Train,” while Operation Lifesaver, Inc., provides support and referral services for state safety programs.³

DOT's educational initiatives are part of a larger plan to improve railroad crossing safety. In June 1994, DOT issued a Grade Crossing Action Plan, and in October 1995, it established a Grade Crossing Safety Task Force. The action plan set a national goal of reducing the number of accidents and fatalities by 50 percent from 1994 to 2004. As we noted in our report, whether DOT attains the plan's goal will depend, in large part, on how well it coordinates the efforts of the states and railroads, whose contributions to implementing many of the proposals are critical. DOT does not have the authority to direct the states to implement many of the plan's proposals, regardless of how important they are to achieving DOT's goal. Therefore DOT must rely on either persuading the states that implementation is in their best interests or providing them with incentives for implementation. In addition, the success of five of the plan's proposals depends on whether DOT can obtain the required congressional approval to use existing funds in ways that are not allowable under current law. The five proposals would (1) change the method used to apportion section 130 funds to the states (2) use Surface Transportation Program funds to pay local governments a bonus to close crossings, (3) eliminate the requirement for localities to match a portion of the costs associated with closing crossings, (4) establish a \$15 million program to encourage the states to improve r

³Operation Lifesaver is a private, not-for-profit organization supported by federal and railroad funds and dedicated to improving safety through education and improved law enforcement. Operation Lifesaver programs are currently operated in 49 states.

corridors, and (5) use Surface Transportation Program funds to increase federal funding for Operation Lifesaver.

Finally, the action plan's proposals will cost more money. Secretary Pena has announced a long-term goal of eliminating 2,250 crossings where the National Highway System intersects Principal Rail Lines. Both systems are vital to the nation's interstate commerce, and closing these crossings is generally not feasible. The alternative is to construct a grade separation—an overpass or underpass. This initiative alone could cost between \$4.5 billion and \$11.3 billion—a major infrastructure investment

DOT established the Grade Crossing Safety Task Force in the aftermath of the Fox River Grove accident, intending to conduct a comprehensive national review of highway-railroad crossing design and construction measures. On March 1, 1996, the task force reported to the Secretary that “improved highway-rail grade crossing safety depends upon better cooperation, communication, and education among responsible parties if accidents and fatalities are to be reduced significantly.” The report provided 24 proposals for five problem areas it reviewed: (1) highway traffic signals that are supposed to be triggered by oncoming trains; (2) roadways where insufficient space is allotted for vehicles to stop between a road intersection and nearby railroad tracks; (3) junctions where railroad tracks are elevated above the surface of the roadway, exposing vehicles to the risk of getting hung on the tracks; (4) light rail transit crossings without standards for their design, warning devices, or traffic control measures; and (5) intersections where slowly moving vehicles, such as farm equipment, frequently cross the tracks.

Improving Track Safety

Under the Federal Railroad Safety Act of 1970, as amended, FRA is responsible for regulating all aspects of railroad safety. FRA's safety mission includes 1) establishing federal rail safety rules and standards; 2) inspecting railroads' track, signals, equipment, and operating practices; and 3) enforcing federal safety rules and standards. The railroads are primarily responsible for inspecting their own equipment and facilities to ensure compliance with federal safety regulations, while FRA monitors railroads' actions.

We have issued many reports identifying weaknesses in FRA's railroad safety inspection and enforcement programs. For example, in July 1996 we reported on FRA's progress in meeting the requirements, set forth in the Federal Railroad Safety Authorization Act of 1980, that FRA submit

the Congress a system safety plan to carry out railroad safety laws.⁴ The act directed FRA to (1) develop an inspection methodology that considered carriers' safety records, the location of population centers, and the volume and type of traffic using the track and (2) give priority to inspections of track and equipment used to transport passengers and hazardous materials. The House report accompanying the 1980 act stated that FRA should target safety inspections to high-risk track—track with a high incidence of accidents and injuries, located in populous urban areas, carrying passengers, or transporting hazardous materials. In our 1990 report, we found that the inspection plan that FRA had developed did not include data on passenger and hazardous materials routes—two important risk factors. In an earlier report, issued in April 1989, we noted problems with another risk factor—accidents and injuries.⁵ We found that the railroads had substantially underreported and inaccurately reported the number of accidents and injuries and their associated costs. As a result, FRA could not integrate inspection, accident, and injury data in its inspection plan to target high-risk locations.

In our 1994 report on FRA's track safety inspection program, we found that FRA had improved its track inspection program and that its strategy for correcting the weaknesses we had previously identified was sound. However, we pointed out that FRA still faced challenges stemming from these weaknesses. First, it had not obtained and incorporated into its inspection plan site-specific data on two critical risk factors—the volume of passenger and hazardous materials traffic. Second, it had not improved the reliability of another critical risk factor—the rail carriers' reporting of accidents and injuries nationwide. FRA published a notice of proposed rulemaking in August 1994 on methods to improve rail carriers' reporting. In February 1996, FRA reported that it intended to issue a final rule in June 1996.

To overcome these problems, we recommended that FRA focus on improving and gathering reliable data to establish rail safety goals. We specifically recommended that FRA establish a pilot program in one FRA region to gather data on the volume of passenger and hazardous materials traffic and correct the deficiencies in its accident/injury database. We recommended a pilot program in one FRA region, rather than a nationwide program, because FRA had expressed concern that a nationwide program would be too expensive. The House and Senate Appropriations

⁴Railroad Safety: New Approach Needed for Effective FRA Safety Inspection Program (GAO/RCED-90-194, July 31, 1990).

⁵Railroad Safety: FRA Needs to Correct Deficiencies in Reporting Injuries and Accidents (GAO/RCED-89-109, Apr. 5, 1989).

Conference Committee echoed our concerns in its fiscal year 1995 report and directed the agency to report to the Committees by March 1995 on how it intended to implement our recommendations. In its August 1995 response to the Committees, FRA indicated that the pilot program was not necessary, but it was taking actions to correct the deficiencies in the railroad accident/injury database. For example, FRA had allowed the railroads to update the database using magnetic media and audited the reporting procedures of all the large railroads.

We also identified in our 1994 report an emerging traffic safety problem—the industry's excessive labeling of track as exempt from federal safety standards. Since 1982, federal track safety standards have not applied to about 12,000 miles of track designated by the industry as "excepted;" travel on such track is limited to 10 miles per hour, no passenger service is allowed, and no train may carry more than five cars containing hazardous materials. We found in our 1994 report that the number of accidents on excepted track had increased from 22 in 1988 to 65 in 1992—a 195-percent increase. Similarly, the number of track defects cited in FRA inspections increased from 3,229 in 1988 to 6,057 in 1992. However, with few exceptions, FRA cannot compel railroads to correct these defects. According to FRA, the railroads have applied the excepted track provision far more extensively than envisioned. For example, railroads have transported hazardous materials through residential areas on excepted track or intentionally designated track as excepted to avoid having to comply with minimum safety regulations. In November 1992, FRA announced a review of the excepted track provision with the intent of making changes. FRA viewed the regulations as inadequate because its inspectors could not write violations for excepted track and railroads were not required to correct defects on excepted track.

FRA stated that changes to the excepted track provision would occur as part of its rulemaking revising all track safety standards. In February 1993, FRA reported that the task of revising track safety regulations would be taken up by FRA's Railroad Safety Advisory Committee. FRA noted that this committee would begin its work in April 1996 but did not specify a date for completing the final rulemaking. The Congress had originally directed FRA to complete its rulemaking revising track safety standards by September 1994.

Improving Passenger Car Safety

In September 1993, we issued a report examining whether Amtrak had effective procedures for inspecting, repairing, and maintaining its

passenger cars to ensure their safe operation and whether FRA had provided adequate oversight to ensure the safety of passenger cars.⁶ We found that Amtrak had not consistently implemented its inspection and preventive maintenance programs and did not have clear criteria for determining when a passenger car should be removed from service for safety reasons. In addition, we found that Amtrak had disregarded some standards when parts were not available or there was insufficient time for repairs. For example, we observed that cars were routinely released for service without emergency equipment, such as fire extinguishers. As we recommended, Amtrak established a safety standard that identified a minimum threshold below which a passenger car may not be operated, and it implemented procedures to ensure that a car will not be operated unless it meets this safety standard.

In reviewing FRA's oversight of passenger car safety (for both Amtrak and commuter rail), we found that FRA had established few applicable regulations. As a result, its inspectors provided little oversight in this important safety area. For more than 20 years, the National Transportation Safety Board has recommended on numerous occasions that FRA expand its regulations for passenger cars, but FRA has not done so. As far back as 1984, FRA told the Congress that it planned to study the need for standards governing the condition of safety-critical passenger car components.

Between 1990 and 1994, train accidents on passenger rail lines ranged between 127 and 179 accidents each year (see app. 2). In our 1993 report, we maintained that FRA's approach to overseeing passenger car safety was not adequate to ensure the safety of the over 330 million passengers who ride commuter railroads annually. We recommended that the Secretary of Transportation direct the FRA Administrator to study the need for establishing minimum criteria for the condition of safety-critical components on passenger cars. We noted that the Secretary should direct the FRA Administrator to establish any regulations for passenger car components that the study shows to be advisable, taking into account any internal safety standards developed by Amtrak or others that pertain to passenger car components. However, FRA officials told us at the time that the agency could not initiate the study because of limited resources.

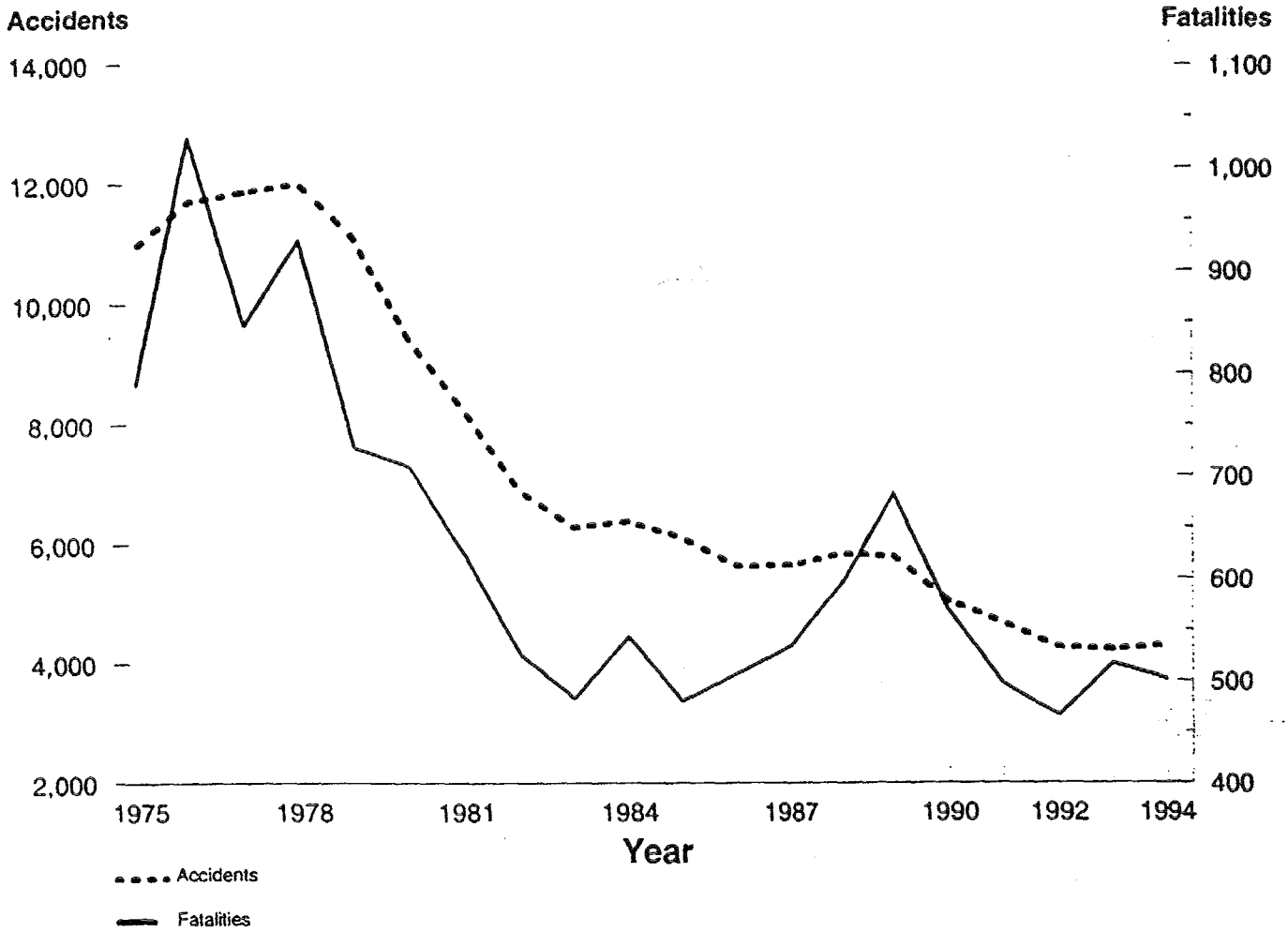
Subsequently, the Swift Rail Development Act of 1994 required FRA to issue initial passenger safety standards within 3 years of the act's

⁶Amtrak Safety: Amtrak Should Implement Minimum Safety Standards for Passenger Cars (GAO/RCED-93-136, Sept. 22, 1993).

enactment and complete standards within 5 years. In 1995, FRA referred the issue to its Passenger Equipment Safety Working Group consisting of representatives from passenger railroads, operating employee organizations, mechanical employee organizations, and rail passengers. The working group held its first meeting in June 1995. An advance notice of proposed rulemaking is expected in early 1996, and final regulations are to be issued in November 1999. Given the recent rail accidents, FRA could consider developing standards for such safety-critical components as emergency windows and doors and safety belts as well as the overall crashworthiness of passenger cars.

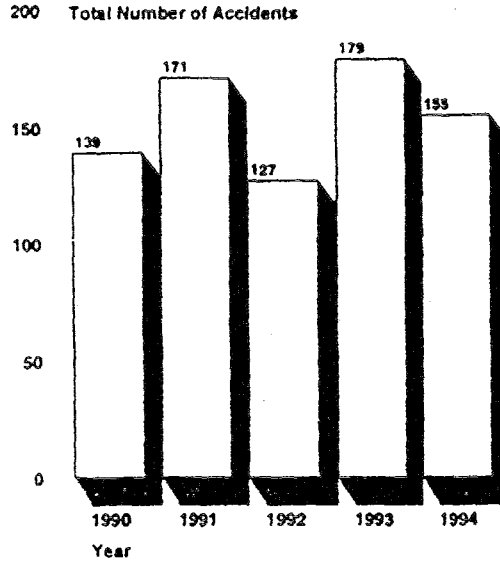
In conclusion, safety at highway-railroad crossings, the adequacy of track safety inspections and enforcement, and the safety of passenger cars operated by commuter railroads and Amtrak will remain important issues for Congress, FRA, the states, and the industry to address as the nation continues its efforts to prevent rail-related accidents and fatalities.

Accidents and Fatalities at Public Railroad Crossings 1975-94



Source: GAO's analysis of data from FRA.

Passenger Rail Accidents 1990-94



Note 1: Analysis includes data from Amtrak, Long Island Rail Road, Metra (Chicago), Metro-North (New York), Metrolink (Los Angeles), New Jersey Transit, Northern Indiana, Port Authority Trans-Hudson (New York), Southeastern Pennsylvania Transportation Authority and Tri-Rail (Florida).

Note 2: Data for Amtrak include statistics from several commuter railroads, including Caltrain (California), Conn DOT, Maryland Area Rail Commuter (excluding those operated by CSX), Massachusetts Bay Transportation Authority, and Virginia Railway Express.

Source: GAO's analysis of data from FRA.

Related GAO Products

Railroad Safety: FRA Needs to Correct Deficiencies in Reporting Injuries and Accidents (GAO/RCED-89-109, Apr.5,1989).

Railroad Safety: DOT Should Better Manage Its Hazardous Materials Inspection Program (GAO/RCED-90-43, Nov.17, 1989).

Railroad Safety: More FRA Oversight Needed to Ensure Rail Safety in Region 2 (GAO/RCED-90-140, Apr. 27, 1990).

Railroad Safety: New Approach Needed for Effective FRA Safety Inspection Program (GAO/RCED-90-194, July 31, 1990).

Financial Management: Internal Control Weaknesses in FRA's Civil Penalty Program (GAO/RCED-91-47, Dec.26, 1990).

Railroad Safety: Weaknesses Exist in FRA's Enforcement Program (GAO/RCED-91-72, Mar.22, 1991).

Railroad Safety: Weaknesses in FRA's Safety Program (GAO/T-RCED-91-32, Apr. 11, 1991).

Hazardous Materials: Chemical Spill in the Sacramento River (GAO/T-RCED-91-87, July 31, 1991).

Railroad Competitiveness: Federal Laws and Policies Affect Railroad Competitiveness (GAO/RCED-92-16, Nov. 5, 1991)

Railroad Safety: Accident Trends and FRA Safety Programs (GAO/T-RCED-92-23, Jan.13, 1992).

Railroad Safety: Engineer Work Shift Length and Schedule Variability (GAO/RCED-92-133, Apr. 20, 1992).

Amtrak Training: Improvements Needed for Employees Who Inspect and Maintain Rail Equipment (GAO/RCED-93-68, Dec.8, 1992).

Amtrak Safety: Amtrak Should Implement Minimum Safety Standards for Passenger Cars (GAO/RCED-93-196, Sep.22, 1993).

Railroad Safety: Continued Emphasis Needed for an Effective Track Safety Inspection Program (GAO/RCED-94-56, Apr.22, 1994).

Amtrak's Northeast Corridor: Information on the Status and Cost of
Needed Improvements (GAO/RCED-95-151BR, Apr. 13, 1995).

Railroad Safety: Status of Efforts to Improve Railroad Crossing Safety
(GAO/RCED-95-191, Aug. 3, 1995).

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Attachment D



U.S. Department
of Transportation
Federal Railroad
Administration

Administrator

400 Seventh St., S.W.
Washington, D.C. 20590

JAN 21 1998

The Honorable Dennis J. Kucinich
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Kucinich:

Thank you for your letters on behalf of one of your constituents concerning radioactive materials being shipped on Consolidated Rail Corporation (Conrail) trains near his home on Preston Avenue in Cleveland, Ohio. Your office asked us to identify the radioactive material (including radioactivity), the origin and destination of the shipments, the number of times this material was shipped over the Conrail line through Ohio's 10th District, the amount of radioactive materials transported, and the number of railcars utilized during these shipments.

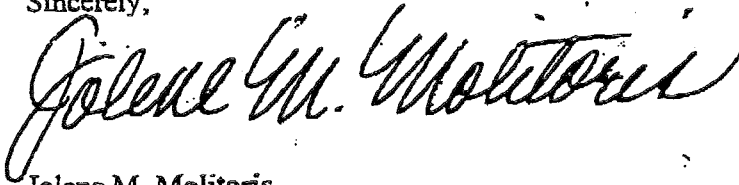
Our investigation disclosed that the material is under the name "radioactive material, low specific activity, n.o.s." Low specific activity means that the material has very low levels of radioactivity. The actual level of radioactivity for these shipments is 1.85 times 10 to the ninth power Becquerels. This level of radioactivity is generally emitted from natural ore materials which are mined from the earth. According to the shipper's material fact sheet, these shipments pose no risk to persons handling or transporting the packagings, or the general public.

These shipments originate in Boyertown, Pennsylvania and are transported by highway to Scranton, Pennsylvania. From Scranton, the shipments are transported by rail to Cisco, Utah and then by highway to the final destination in Blanding, Utah.

About 40,000 pounds of radioactive material is placed in each intermodal box. Anywhere from two to ten intermodal boxes are loaded on individual railcars. From October 1997 until January 16, 1998, 824 shipments (i.e., intermodal boxes) were transported on approximately 200 railcars that passed through Cleveland, Ohio. The shipper informs us that the final shipments are expected to leave Boyertown on January 30.

I appreciate your interest in railroad safety and look forward to working with you on other transportation issues of importance to you and your constituents.

Sincerely,

A handwritten signature in cursive script that reads "Jolene M. Molitoris". The signature is written in black ink and is positioned above the typed name.

Jolene M. Molitoris
Administrator

Attachment E

Questions and Answers: High-Level Nuclear Waste Shipments

What is in a high-level nuclear waste cask?

Irradiated fuel from commercial nuclear utility operation of nuclear power reactors. Three years inside the reactor core makes the fuel over a million times more radioactive than unused fuel. The total—the Department of Energy projects 85,000 metric tonnes by the time the existing reactors close—contains 95% of all of the radioactivity of the Nuclear Age. The shipping program and the Bills in Congress that would authorize it, will transfer the liability for this waste from the nuclear utilities to the US taxpayer. It will take thirty years, or more, of continuous shipping to move the fuel from reactor sites to Nevada. The first year and each year after, more irradiated fuel will move than all the shipments of this material to date. Today, only about 35% of the projected 85,000 metric tonnes has been generated.

How dangerous is this stuff?

Unshielded, irradiated reactor fuel that has been stored for 10 years will deliver a lethal dose to anyone within a meter in less than three minutes. Radiation, even lethal levels, cannot be detected by human senses. Splitting uranium atoms releases heat that is used to make electricity, it also increases radioactivity. The broken pieces of uranium atoms are lighter elements called fission products. These include strontium-90, cobalt-60 and cesium-137, all sources of intensely penetrating radiation. Cesium is chemically similar to potassium. If released to the environment, it concentrates in the muscle and gonads in the body, as well as in cow's and mother's milk. Cesium can be concentrated by the food chain. Humans, being at the top of the food chain, may receive an ingested dose of cesium thousands of times higher than the concentration in the immediate environment. The intense gamma radiation of fission products is an immediate danger to those exposed in an accident. A large rail cask holds as much cesium as would be released by 200 Hiroshima bombs. The total shipping program will move almost 2 million times more cesium than was released at Hiroshima. Cesium is just a fraction of the radioactivity in the shipping casks and in the bomb that destroyed Hiroshima August 6, 1945.

What about long term impacts?

Each cask contains radioactive elements like plutonium that will persist if released to the environment for hundreds of thousands of years. An average rail cask will carry about 174 pounds of plutonium. A total of almost 2 million pounds of plutonium will be mobilized on the roads and rails nationally. Plutonium is well-known as a carcinogen. For reference, a single pound of plutonium could cause cancer in every person alive today, if it were divided and deposited in the lung tissue. If instead, all 2 million pounds of plutonium were released to the environment, (lowering the dose), there would be at least 1,500,000 fatal cancers from plutonium 239 alone. There would also be many non-fatal cancers as well as a host of non-cancer effects, genetic effects, sterility and other human suffering. Other species would also be affected. The total plutonium 239 in the shipping campaign is 128 times more than the total released to the environment by below-ground weapons tests, worldwide.

Is there radiation risk, even if there is no accident in my community?

Yes. Federal regulation allows radiation to penetrate the shielding of the transport cask at a rate up to 10 millirems an hour measured 2 meters from the cask. This would be comparable to a chest x-ray for each hour that a worker or a member of the public was close to the cask. Traffic jams or stops for fueling are situations that could lead to repeated or ongoing radiation exposures for individuals living and working along transport routes. Cumulative low-dose radiation exposure impose a measurable impact in a population. Health studies have shown that this type of exposure causes *more* cancer per unit of dose than acute exposures in the higher dose range. If a person is exposed to 10 millirems, once a year, the Nuclear Regulatory Commission assigns a 1 in 2850 chance of fatal cancer from that lifetime exposure.

What is "Multi-Purpose Canister Base Case?"

A scenario defined by the Department of Energy for projections about the shipping campaign. It assumes the use of the largest containers that are possible at each site (rail preferred over truck). The Multi-Purpose Canister (MPC) would seal huge amounts of waste—the large one holds 21,000 pounds—in a container at the reactor site. This canister is then to be put in a transport overpack for shipping. The large rail MPC holds over 20 times the radioactive waste as the old truck casks. The MPC has not yet been built, tested or licensed. To date, no transport cask has had full-scale physical testing. The Department of Energy has instead relied on computer simulations. The scenario also assumes no new reactors. Current reactor operations are projected to end in 2030.

What about the Bottom Line—the Economic Factors?

Part of routine transport for this dangerous material is local preparedness. Local emergency responders will in nearly all cases be the first to assess an accident scene. The Nuclear Regulatory Commission (NRC) estimated in 1981 (NUREG/CR-2225) that the price tag for a fully prepared state emergency response system would cost \$5.6 million annually (1981 dollars). This does not include infrastructure improvements and maintenance that are likely associated with state efforts to designate alternate routes. Congress is making no direct effort to ensure any level of funding will be available. Other economic impacts include cost of unrecovered health impacts, negative effects on business, tourism, property value and property marketability, and unclear liability for these effects.

NRC also made a 1980 estimate of the costs associated with an accident. Even a small fraction of the radioactivity in a single shipping cask were released in an urban area, the clean up costs would be on the order of \$2 billion dollars. "Clean up" means transferring the radioactivity somewhere else. Though it started as high-level waste, clean-up from contamination would currently be designated "low-level" waste. It is not clear who would pay for the clean-up or disposal from a high-level civilian waste transport accident. In most cases "clean-up" would scar the site or alternately, quite a bit of radioactivity may be left behind as a 'sacrifice zone.'

Factoids:

Total "Base Case" projected rail casks: 9,421; total truck casks: 6,217. 15,638 casks total.

If Congress lifts the cap on how much waste could go to an "interim storage site" and if instead of the "MPC Base-Case" scenario, only trucks are used, there would be over 60,000 shipments nationwide.

An average rail car carries 174 pounds of plutonium. A truck cask carries 38 pounds of plutonium.

The shipment of 85,000 MTU of high-level waste will also move 1,800,000 pounds of plutonium.

The plutonium 239 alone in these shipments could generate over 1,500,000 cancers if released. This amount of plutonium 239 is more than 120 times greater than the total released to date by below-ground nuclear weapons testing, worldwide.

The total of 85,000 metric tonnes that is to be shipped contains nearly 2 million times more cesium than the Hiroshima bomb.

10/17/95

[return to Don't Waste America page](#)

Attachment F

July 1997

RAIL TRANSPORTATION

Federal Railroad Administration's New Approach to Railroad Safety



GAO/RCED-97-142



Resources, Community, and
Economic Development Division

B-275984

July 23, 1997

The Honorable James L. Oberstar
Ranking Democratic Member
Committee on Transportation and
Infrastructure

The Honorable Robert E. Wise, Jr.
Ranking Democratic Member
Subcommittee on Railroads
Committee on Transportation and
Infrastructure

The Honorable Bruce F. Vento
House of Representatives

In response to your request, this report provides information on operational and safety trends in the railroad industry, and describes how the Federal Railroad Administration (FRA) has responded to these trends by developing a new partnering approach for improving safety on the nation's rail lines.

As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies of this report to interested congressional committees, the Secretary of Transportation, and the Administrator of FRA. We will also make copies available to others upon request.

If you or your staffs have any questions, I can be reached at (202) 512-2834. Major contributors to this report are listed in appendix V.

John H. Anderson, Jr.
Director, Transportation Issues

Executive Summary

Purpose

In 1980, the Congress passed the Staggers Rail Act, which fostered substantial changes in the railroad industry. By 1995, fewer large freight railroads accounted for most of the industry's revenue and train miles. At the same time, these freight railroads substantially reduced their workforce and track networks. In response, the Congress and railroad labor have raised concerns that these changes in the industry could compromise safety.

The Ranking Democratic Member of the House Committee on Transportation and Infrastructure, the Ranking Democratic Member of that Committee's Subcommittee on Railroads, and Representative Bruce L. Vento asked GAO to describe (1) relationships that existed between operational and safety trends in the railroad industry from 1976 to 1995 and (2) the Federal Railroad Administration's (FRA) approach to improving safety on the nation's rail system. GAO was not able to identify any direct relationships between operational and safety trends because of limitations in the data that were available for the 1976 to 1995 period. Therefore, this report provides information on safety trends for the entire railroad industry and describes how FRA has responded to both operational and safety trends to develop a new partnering approach to improving safety on the nation's rail lines. In addition, chapter 1 provides information on operational trends in the freight industry.

Background

In 1995, the railroad industry consisted of Amtrak (the nation's largest passenger railroad), 14 large freight railroads—collectively known as class I railroads—as well as over 600 regional and smaller railroads. The industry had changed significantly since the Staggers Rail Act made it federal policy that railroads would rely, where possible, on competition and the demand for services, rather than on regulation to establish reasonable rates. Prior to the act, several of the largest freight railroads were earning a negative rate of return on investment and at least three were bankrupt. The deregulation contributed to changes in the composition and operation of the rail industry. From 1976 through 1995 the nation's largest freight railroads cut costs; increased the tonnage a train carried and the distance this tonnage was carried; downsized their workforce; and eliminated, sold, or abandoned thousands of miles of unprofitable or little-used track.

Since 1970, FRA has been responsible for regulating all aspects of passenger and freight railroad safety under the Federal Railroad Safety

of 1970, as amended.¹ In that capacity, FRA prescribes regulations and issues orders that relate to railroad equipment, track, signal systems, operating practices, and those aspects of railroad workplace safety that pertain primarily to the movement of trains. The Occupational Health and Safety Administration (OSHA) regulates those aspects of railroad workplace safety that are typical of any industrial workplace. FRA also enforces the Hazardous Materials Transportation Act as it pertains to the transportation of hazardous materials by rail.

Results in Brief

Railroad safety has improved significantly over the past 20 years. Reported accident and injury rates are down 70 and 74 percent, respectively, from 1976 levels. Railroad industry representatives attribute the reductions to improvements made to the railroads' plant and equipment. However, labor representatives expressed concern that, despite this progress, heavier loads and increased traffic may adversely affect rail safety in the future. Rail safety data indicate that the progress in reducing accidents has slowed in recent years. While preliminary data for 1996 show improvements in key safety statistics, about 1,000 people die each year as a result of grade-crossing accidents and trespassing, 11,000 railroad employees are injured, and thousands of people are evacuated from their homes as a result of the hazardous materials that are released during train accidents.

FRA instituted an important shift in its safety program in 1993 to address safety problems in the rail industry. Rather than using violations and civil penalties as the primary means to obtain compliance with railroad safety regulations, FRA has emphasized cooperative partnerships with other federal agencies, railroad management, labor unions, and the states. The partnering efforts generally focus on the nation's larger railroads and have resulted in FRA inspectors' conducting fewer site-specific inspections of the railroad industry overall. While the preliminary data for 1996 show improvements, it is too early to determine if FRA's new approach will sustain a long-term decline in accidents and fatalities. In addition, FRA has allocated fewer resources to responding to concerns about the level of workplace injuries for railroad employees and railroad bridge safety.

¹In 1994, the Federal Railroad Safety Act of 1970, and other federal railroad safety statutes, were repealed, codified, and reenacted as chapters 201-213 of title 49, United States Code.

Principal Findings

Safety on the Nation's Railroads Has Generally Improved

Safety on the nation's railroads has improved since 1976, although the most rapid decrease in accidents occurred before 1987. FRA and industry officials attribute these improvements to advancements in technology, increased investment focused on a downsized infrastructure, and a more scientific approach toward reducing injuries. However, class I freight railroads, which account for most of the industry's revenue and train-miles, are now using fewer people, locomotives, and cars to haul more tonnage over fewer miles of track. Labor officials believe that these changes in operations could lead to more rail collisions and accidents as a result of greater congestion and fewer qualified employees to perform essential maintenance. While current safety trends are positive, it is uncertain how further advancements in technology or reductions in employment will affect safety in the future.

Nonetheless, further improvements in safety are needed, since more than 1,000 people die each year as a result of fatal collisions between cars and trains or as a result of trespassers on railroad property being struck by trains. Hazardous materials releases resulting from train accidents show no clear trends between 1978 and 1995. About 261,000 people were evacuated across the United States because of rail-related hazardous materials releases occurring over these years. Concerns remain about evacuations because the volume of chemical traffic increased by over one-third from 1976 to 1995.

FRA's New Safety Strategy Involves Partnerships

Beginning in 1993, FRA reassessed its safety program to leverage the agency's resources and established a cooperative approach that focused on results to improve railroad safety. With rail traffic expected to grow through the remainder of the 1990s and beyond, FRA anticipated the need for new approaches to enhance site-specific inspections. As a result, FRA formalized this shift with the establishment of three new initiatives. First, in 1994, FRA took the lead responsibility for coordinating the Department of Transportation's multiagency plans to reduce fatalities at rail-highway crossings. Second, in 1995, FRA formally established the Safety Assurance and Compliance Program through which the agency works cooperatively with railroad labor and management to identify and solve the root cause of systemic problems facing the railroads. Third, in 1996, FRA established the Railroad Safety Advisory Committee to develop recommendations for

the agency's more complex or contentious rulemakings by seeking consensus among the parties affected by the rulemakings.

It is too early to determine if FRA's collaborative efforts will produce a sustained decline in rail accidents and fatalities. FRA credits its grade-crossing plan with contributing to a 19-percent drop in fatalities in 1996. Whether the plan contributed to the decline is uncertain: Past trends indicate that the total number of railroad fatalities declined by 34 percent from 1976 to 1983 (from 1,630 to 1,073) but then fluctuated within a range of 1,036 and 1,324 deaths between 1983 and 1995. FRA has implemented its Safety Assurance and Compliance Program with 33 railroads. This method has improved the safety on many large railroads, but Norfolk Southern Corporation has refused to participate until FRA substantiates safety problems at the railroad. With regards to the Advisory Committee, the FRA Administrator has referred seven major rulemaking tasks to it. While the committee has developed proposed regulations on track safety and radio communications standards, efforts to develop freight power brake regulations have encountered problems in the negotiations among FRA, railroad labor, and railroad management.

To accommodate the new initiatives, FRA has shifted some of its resources away from site-specific inspections, which have historically served as FRA's primary means of ensuring compliance with safety regulations. The 53,111 inspections conducted in 1995 were 23 percent below the 68,715 inspections conducted in 1994. As a result, a greater number of railroads are not receiving inspections, and inspectors are conducting fewer reviews of the railroads' own inspection efforts.

In addition, there are two important areas of railroad safety that FRA's collaborative approach does not systematically address: workplace safety for railroad employees and the structural integrity of railroad bridges. While a 1978 policy statement by FRA provides guidance on which workplace safety issues FRA and OSHA should cover, the two agencies' inspection presence on railroad property varies greatly. FRA routinely inspects the railroads' track, equipment, and operating practices. In contrast, OSHA inspectors visit railroad property only in response to an employee or union complaint about working conditions or when investigating a workplace accident. In January 1997, FRA revised its injury reporting requirements to capture additional information on workplace injuries, including where an injury occurred, what activity was being performed at the time, and what was the probable cause of the injury. According to FRA, the new information will provide better data for future

rulemakings. Because these requirements only recently became effective, FRA has yet to accumulate sufficient data for analysis. Once sufficient data are collected, the agency will be able to determine the causes of the most frequent and serious injuries and focus efforts on corrective actions.

FRA does not have regulations governing the structural integrity of the 100,700 railroad bridges in the nation. Instead, a 1995 Statement of Agency Policy provides guidelines for railroads to use for the formulation of their own bridge management programs. FRA inspectors do not cite specific defects for bridge conditions, nor do they recommend violations, as they do for track, signal, or equipment problems. Instead, FRA inspectors call conditions to the attention of railroad bridge maintenance and engineering officials. According to FRA, inspectors normally use informal procedures to advise railroad personnel of bridge problems. If a bridge condition presents a hazard of death or personal injury, and the bridge owner does not correct the condition, FRA exercises its emergency authority to restrict or prohibit train operation over the bridge. The railroad industry agrees with FRA's policy that regulations are not needed to address issues related to structural conditions of bridges. Railroad labor officials disagree and note that bridge safety is equally as important as track safety, for which FRA has regulations.

Recommendations

GAO recommends that the Secretary of Transportation direct the FRA Administrator to, in cooperation with the industry, where appropriate, (1) analyze injury data collected under the revised reporting requirement to determine the workplace safety issues that lead to the most numerous or the most serious injuries; (2) in areas where efforts to obtain voluntary corrective action do not address the causes of these injuries, consider developing regulations; and (3) use appropriate mechanisms, including the Safety Assurance and Compliance Program, to ensure that a finding of potential structural problems on a bridge is properly addressed by the bridge owner.

Agency Comments and GAO's Response

GAO provided a draft of this report to the Department of Transportation (DOT) for its review and comment. GAO met with departmental officials, including the FRA Administrator, Deputy Administrator and Associate Administrator for Safety. The officials indicated that they agreed with many portions of the draft report's historical perspective but said that the report did not adequately reflect the more recent accomplishments and potential of the Safety Assurance and Compliance Program. The official

said that this program represents a fundamentally new approach to working with railroads to ensure regulatory compliance and accelerate safety improvements. The officials explained that although old methods of encouraging regulatory compliance contributed to a substantial reduction in railroad accidents between 1978 and 1986, the agency had determined that further progress would require new approaches.

FRA officials maintained that the Safety Assurance and Compliance Program provides the tools to leverage its limited resources while achieving continued safety improvements. The approach was based on President Clinton's directive to federal regulatory agencies that inspection and enforcement programs be designed to achieve results, not punishment. The officials indicated that the program establishes a framework for FRA to work cooperatively with railroad management and labor to identify and solve key safety issues. The officials indicated that while the program provides new tools to further enhance railroad safety, FRA will continue to make full use of all the enforcement options at its disposal as necessary and has begun to focus on enforcement where it is most likely to reduce accidents, injuries, and hazardous materials release. FRA officials produced statistics that they maintain demonstrate the program's substantial accomplishments during the 3 years since its initial implementation. Finally, while agreeing with two of GAO's three recommendations, FRA commented on GAO's recommendation that the agency consider developing regulations to address the issues that continue to cause the most numerous or serious workplace injuries. FRA officials said that the agency would limit its consideration of regulations to those areas that are related to train operations.

In response to FRA's comments, GAO included additional information on the accomplishments the agency's new rail safety program has achieved by highlighting safety statistics for 1993 through 1996 and providing detailed information on the successes with the Safety Assurance and Compliance Program. GAO also included FRA's performance goals for improving rail safety that illustrate how rail safety has improved since 1993. However, reaching conclusions on FRA's new safety program by isolating safety improvements over the most recent 3-year period ignores past trends in railroad safety. Over the past 20 years, noteworthy reductions in railroad accidents, fatalities, and injuries were often followed by periods in which railroad safety subsequently worsened. As GAO concluded, it is too early to tell if FRA's efforts will sustain improvements in railroad safety over an extended period of time. Finally, GAO disagrees with FRA's contention that the agency should limit its consideration of regulations to those areas th

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are related to train operations. FRA would have matters related to non-train operations under the purview of OSHA. But should FRA's analysis of workplace safety data show a preponderance of non-train-related injuries, the agency should not foreclose the need to consider regulations covering such injuries. Additional agency comments are included in chapter 3. FRA officials had additional technical and clarifying comments that GAO incorporated throughout the report, where appropriate.

Attachment G



Environmental Fact Sheet

Environmental Benefits of Proposed Emission Standards for Locomotives

The Environmental Protection Agency (EPA) is proposing emission standards for oxides of nitrogen (NOx), hydrocarbons (HC), carbon monoxide (CO), particulate matter (PM) and smoke for newly manufactured and remanufactured locomotives and locomotive engines. The proposed standards will achieve approximately a two-third reduction in NOx emissions and will reduce HC and PM emissions by half.

Overview of Rulemaking

EPA is proposing emission standards for locomotives that will provide significant emission reductions to help states comply with National Ambient Air Quality Standards (NAAQS) for ozone and PM. The proposed rule is expected to be finalized by the end of 1997 and take effect in 2000. Since locomotive emissions have not been regulated before, it was necessary for EPA to create a comprehensive program, including not only emission standards, but also test procedures and a full compliance program. Three separate sets of emission standards are proposed, with applicability of the standards dependent on the date a locomotive is first manufactured. The first set of standards (Tier 0) are proposed to apply to locomotives and locomotive engines originally manufactured from 1973 through 1999, any time they are remanufactured in calendar year 2000 or later. The second and third sets of standards (Tier I and Tier II) will apply to locomotives and locomotive engines originally manufactured on or after January 1, 2000 (Tier II stan-

ards will take effect on January 1, 2005). These locomotives and locomotive engines will also be required to meet the same standards at each subsequent remanufacture. The Agency is also proposing a rigorous emission testing program to make sure that locomotives comply with these standards for the life of the locomotive.

Health and Environmental Concerns

Most locomotives in the U.S. are powered by diesel engines. Thus locomotives have significant NOx emissions, as well as HC and PM emissions, all of which have significant health and environmental effects. NOx is a major component of smog and acid rain. NOx emissions combine with HC in the atmosphere to form ground-level ozone, the primary constituent of smog. Ozone is a highly reactive pollutant that damages lung tissue, causes congestion, and reduces vital lung capacity, in addition to damaging vegetation. Acid rain damages buildings and crops, and degrades lakes and streams. NOx also contributes to the formation of secondary PM. PM causes headaches, eye and nasal irritation, chest pain, and lung inflammation. Environmental impacts of PM include reduced visibility and deterioration of buildings.

Locomotive Emission Inventories

Locomotive NOx emissions are estimated to represent about 4.7 percent of NOx emissions from all mobile and stationary sources in the U.S. Locomotive PM and HC emissions are both estimated to represent less than one-quarter of one percent of total national emissions. Thus, the focus of the proposed regulation is on NOx emission reductions. It should be noted that in some urban areas that have very high rail traffic, such as Chicago or El Paso, NOx emissions can represent nearly one-tenth of the total NOx inventory.

Current National Locomotive Emission Inventories

	Millions Per Year	Percent of Total Inventory (All Sources)
NOx	980,000	4.7
PM-10	24,000	0.1
HC	38,000	0.2

What Are the Environmental Benefits?

When fully phased-in, the proposed emission standards will reduce NO_x emissions from locomotives by nearly two-thirds, and HC and PM emissions by half. However, they will also achieve very significant emission reductions in the near term. These reductions, which are shown below, are being heavily relied upon by those areas that have very high rail traffic, as well as Southern California, which has moderately high rail traffic and very significant air quality needs. To put these national NO_x emission reductions into context, the 348,000 ton per year reduction expected in 2005 would be equivalent to removing about 20 million passenger cars from the road. In addition, NO_x emission reductions will also lead to reductions in ambient concentrations of secondary PM. It has been estimated that about 4 tons of nitrate particulate is formed from every 100 tons of NO_x emitted. Thus, the secondary PM reduction expected in 2005 is about 14,000 tons per year.

Projected National Emission Reductions (Metric Tons Per Year)

Year	2005	2010	2015	2020
NO _x	348,000	382,000	417,000	451,000
PM	300	1,700	3,200	4,700
HC	400	2,500	4,500	6,600
Secondary PM*	14,000	15,000	17,000	18,000

* Assumes 4 tons of nitrate particulate formed for each 100 tons of NO_x emitted.

Reductions from Existing Locomotive Fleet

The fact that so much of the NO_x emission reduction will come early in the program is due to the Tier 0 standards that apply to existing locomotives when they are remanufactured. These standards are a unique feature of this proposed regulation, and would represent the first time that EPA has regulated the remanufacturing of an existing fleet on such a large scale. Such regulation of the remanufacturing process is critical because locomotives are generally remanufactured five to ten times during their total service lives (typically 40 years or more). Standards that would only apply to locomotives originally manufactured after the effective date of the rule would not achieve significant emissions reductions until those future locomotives replaced a significant number locomotives in the existing fleet. For the first 13 years of the program, the majority of projected NO_x emission reductions will be the result of the Tier 0 emission standards that apply to existing locomotives.

Projected NOx Emission Reductions From Locomotives Manufactured Before and After January 1, 2000 (Metric Tons Per Year)

Year	2005	2010	2015	2020
Tier 0 (Pre-2000 Locomotives)	275,000	234,000	194,000	153,000
Tier I & II (Later Locomotives)	73,000	148,000	223,000	298,000

For More Information

Information on the proposed rule is available electronically via the EPA Internet server via the dial-up modem on the Technology Transfer Network (TTN), an electronic bulletin board system (BBS).

World Wide Web:<http://www.epa.gov/OMSWWW>

TTN BBS: 919-541-5384 (1200-1440 bps, no parity, 8 data bits, 1 stop bit); voice helpline 919-541-5384.

For further information on the proposed rule, please write to:

U.S. Environmental Protection Agency
Engine Programs and Compliance Division
2565 Plymouth Road
Ann Arbor, MI 48105

or call: (313) 668-4333.

Attachment H

**STATEMENT TO THE FEDERAL RAILROAD ADMINISTRATION
SEPTEMBER 21, 1997**

**BY:
WESTERN-ELMWOOD-BEREA CORPORATION (WEBCO)
Anita R. Brindza, Executive Director**

The Western-Elmwood-Berea Corporation (WEBCO) is a twenty-three year old industrial-based not-for-profit economic development corporation primarily serving the manufacturing and service base on the west side of Cleveland in the Berea Road/West 117th Street area. The forty member group focuses on industrial retention and growth through strategies based in investment, vision, planning, cohesion and collaboration.

The WEBCO membership is opposed to any decision by the Surface Transportation Board that will divert freight traffic now being served by CONRAIL on the line that runs through the heart of the west side manufacturing district to the area of the airport and city of Berea. WEBCO does not support putting additional freight on the Westshore line that runs through the heart of residential neighborhoods in Cleveland and the west suburbs.

Receipt of raw materials and shipping of finished products by WEBCO members and other industrial plants is now virtually "*invisible*" to the residential population of Cleveland and its suburbs due to the availability of below grade or above grade track service that CONRAIL provides. Most residents remain unaware of the large machinery, paper products, chemicals, steel, automotive components and other raw materials and finished products that are shipped weekly in and out of the west side via rail.

If companies were forced into making a decision to only ship via truck, surface traffic would quadruple. For every rail car that now is utilized, it would take three to four tractor trailers to service the company's needs. Quadrupling truck traffic exponentially increases the likelihood of accidents throughout our area.

In addition to safety issues, it is critical to note that many of the WEBCO member companies have been in business more than 50 years and employ hundreds of Cleveland and Lakewood residents in good paying positions with full benefits. At a time when companies are attempting to compete in a global economy, forcing manufacturers to increase costs through higher shipping expenses and perhaps longer shipping times only defeats our ability to remain competitive in the marketplace. When operating costs soar, businesses close, residents are laid-off and tax dollars are lost.

This stable, viable and growing industrial pocket of industry WEBCO represents has been serviced by CONRAIL and its predecessor for decades. Most of the companies own railroad sidings connecting their businesses to CONRAIL service. Whether the sidings are currently in use or not, the access to rail is imperative relative to decisions and choices about current and future competitiveness. Industrial real estate is greatly devalued when rail service is diminished or abandoned.

In closing, I stress the key works are SAFETY and COMPETITIVENESS. The WEBCO companies strongly advocate to maintain the status quo on the rail line that now services their current and future needs. While the trackage is in need of investment, the status quo is far more desirable than shipping through residential neighborhoods or losing access to the tracks through any merger agreements. Ensuring the public's safety and the ability to make sound business decisions are paramount to the WEBCO membership.

Thank you.

**Western-Elmwood-Berea Corporation
The One Fifteen Hundred Building
11500 Franklin Blvd. Suite 104
Cleveland, Ohio 44102
(216) 228-4383
Fax: 228-3328**

***Rick Wiedemer, Hinkley Lighting, President
Anita R. Brindza, Executive Director***

ATTACHMENT I

MEMORANDUM

To: Gregory M. Sponseller, Director of Law & Prosecutor
From: Paul I. McCumbers, Jr., Dir. of Public Safety/Service
Date: January 28, 1998
Subject: Front Street/Bagley Road Traffic Counts

As part of a November 19, 1996 Traffic Signal Warrant Study that was done by Traff-Pro Consultants, Inc., all intersections in the City of Berea were reviewed and traffic counts performed. The following information is from that report, and a copy of the particular pages are attached for your review:

The average traffic flow at the Front Street crossings was 10,613 vehicles per day.

The average traffic flow at the Bagley Road crossings was 17,135 vehicles per day.

PIM

/kao

attachment (2)



A-479-c

TURNING MOVEMENT SUMMARY

Municipality: BEREA File: LINDBERG.WK1
 Intersection of: LINDBERGH BOULEVARD and BAGLEY ROAD Project: 96-025 MWS rev: Mar. 1995
 Date: APR. 26, 96 Day: FRI. Comments: _____
 Weather: MOSTLY CLOUDY Recorder(s): G. LEPISTO Date entered: JUL-30-96

TIME	LINDBERGH BOULEVARD						BAGLEY						TOTAL		PEAK HOUR FACTOR											
	FROM NORTH			FROM SOUTH			FROM EAST			FROM WEST			TOTAL ALL	TOTAL DIREC.	north	south	east	west								
	R	S	L	R	S	L	R	S	L	R	S	L							EAST	WEST						
06:00																										
07:00				115	0	527	642	2	3	0	395	111	508	9	2	0	355	19	374	7	6	880	1522	0.967	0.843	0.766
08:00				91	0	433	524	1	4	0	371	127	498	17	10	0	487	84	571	12	5	1069	1593	0.949	0.943	0.860
09:00				58	0	247	305	3	4	0	338	134	472	19	2	0	386	37	423	15	5	895	1200	0.868	0.781	0.928
10:00																										
11:00				71	0	201	272	0	4	0	445	194	639	16	7	0	425	43	468	13	1	1107	1379	0.800	0.923	0.888
12:00				80	0	192	272	2	3	0	570	242	812	19	6	0	575	60	635	10	2	1447	1719	0.840	0.967	0.767
1:00				73	0	203	276	1	2	0	451	224	675	15	1	0	387	51	418	20	2	1093	1369	0.945	0.884	0.871
2:00																										
3:00				45	0	209	254	2	2	0	543	340	883	9	8	0	562	96	858	12	5	1541	1795	0.920	0.721	0.818
4:00				78	0	204	280	0	2	0	601	489	1070	11	2	0	729	113	842	14	6	1912	2192	0.921	0.863	0.788
5:00				78	0	253	331	1	0	0	579	523	1102	5	2	0	675	139	814	8	1	1918	2247	0.936	0.889	0.514
6:00																										
7:00																										
8:00																										
9:00																										
TOTALS				687	0	2489	3156	12	24	0	4293	2384	6657	120	40	0	4561	642	5203	111	33	11860	15018			
ADT	0	0	0	993	0	3567	4560	1%		0	8203	3416	9618	2%		0	6590	928	7517	3%		17135	21695			

HOURLY FACTOR: MONTHLY FACTOR: COMBINED FACTOR:

TRAFF - PRO CONSULTANTS, INC.
 28917 EUCLID AVENUE
 WICKLIFFE, OHIO 44092
 (216) 944-6444 FAX: (216) 944-9926

TURNING MOVEMENT SUMMARY

Municipality: BEREA File: DEPOT.WK1
 Intersection of: FRONT and FIRST/DEPOT
 Date: JUNE 5, 96 Day: WE/TH Comments: rev. Mar. 1995
 Project: 95-025
 Weather: MOSTLY SUNNY Recorder(s): TO Data entry by: DAK Date entered: JUL-30-96
 Data entered: JUL-30-96 rev. Mar. 1995

TIME	FRONT						FRONT						DEPOT						TOTAL		TOTAL		PEAK HOUR FACTC																						
	FROM NORTH			FROM SOUTH			FROM NORTH			FROM SOUTH			FROM EAST			FROM WEST			EAST		ALL		north	south	east	west																			
	R	S	L	R	S	L	R	S	L	R	S	L	R	S	L	R	S	L	TRK	BUS	TRK	BUS					DIREC.																		
06:00																																													
07:00	20	171	19	1	30	480	97	607	1	6	817	14	5	37	56	1	18	14	13	45	0	3	101	918	0.719	0.882	0.778	0.																	
08:00	23	224	40	287	0	3	21	327	74	422	3	4	709	42	10	73	125	0	1	12	18	30	60	894	0.932	0.647	0.822	0.																	
09:00	20	188	31	239	1	0	23	271	21	315	2	2	554	27	10	45	82	1	0	12	5	26	43	679	0.919	0.365	0.932	0.																	
10:00																																													
11:00	36	236	29	301	4	1	38	248	54	340	5	2	641	35	11	54	100	0	0	17	7	21	45	786	0.838	0.904	0.758	0.																	
12:00	54	295	52	401	4	2	29	266	57	352	3	4	753	45	27	81	153	0	0	36	16	19	71	977	0.955	0.917	0.807	0.																	
1:00	26	291	30	347	4	0	27	329	80	436	3	3	783	24	14	60	98	0	0	30	21	32	83	964	0.933	0.908	0.845	0.																	
2:00																																													
3:00	35	315	30	380	5	2	18	278	87	383	5	4	763	43	11	122	176	4	3	32	16	25	73	1012	0.828	0.903	0.888	0.																	
4:00	30	526	33	589	0	1	26	313	51	390	5	6	979	23	17	144	184	2	1	23	11	30	64	1227	0.582	0.947	0.852	0.																	
5:00	42	567	30	639	2	1	15	307	59	381	5	3	1020	38	25	153	216	0	0	22	9	28	59	1295	0.913	0.866	0.667	0.																	
6:00																																													
7:00																																													
8:00																																													
8:50																																													
TOTALS	286	2813	294	3393	21	11	227	2819	580	3826	32	34	7019	291	130	789	1190	8	6	202	117	224	543	2	24	1733	8752																		
ADT	432	4253	445	5130	1%		343	4262	877	5483	2%		10613	440	197	1183	1799	1%		305	177	339	821	5%		2620	13233																		

HOURLY FACTOR: 1.88 MONTHLY FACTOR: 0.9 COMBINED FACTOR: 1.512

TRAFF - PRO CONSULTANTS, INC.
 28917 EUCLID AVENUE
 WICKLIFFE, OHIO 44092
 (216) 944-6444 FAX: (216) 944-9926

INTERSECTION: FRONT STREET AND FIRST STREET/DEPOI STREET
 LOCATED IN CITY/VILLAGE/RURAL CITY OF BEREA
 NO. OF LANES PER APPROACH: N: 1 S: 1 E: 1 W: 1
 PRESENTLY SIGNALIZED ? YES-NO YES DOES 70% WARRANT APPLY ? NO
 MAINTAINING AGENCY _____

CO. CUY RTE. _____ SECT. _____
 CONSULTANT: TRAFF-PRO
 PROJ NO: 96-025 CALC BY: _____
 FILE NO: FROFD01

WARRANT #3 (MINIMUM PEDESTRIAN VOLUME)
 Gap analysis made during period from _____ to _____
 Number of vehicles during analysis period: _____
 Pedestrian crossing time (1): _____
 Number of gaps greater than (1) during period: _____
 Approximate vehicular speed: _____
 Number of pedestrians crossing during period: _____
 Warrant Satisfied ? _____ YES-NO
WARRANT #4 (SCHOOL CROSSING)
 On approved school route ? _____ YES-NO
 Gap analysis made during period from _____ to _____
 Number of vehicles during analysis period: _____
 Pedestrian crossing time (1): _____
 Number of gaps greater than (1) during period: _____
 Approximate vehicular speed: _____
 Number of children crossing during period: _____
 Warrant Satisfied ? _____ YES-NO
WARRANT #5 (PROGRESSIVE MOVEMENT)
 Major street is: _____ ONE WAY-TWO WAY
 Distance to nearest signal in each direction on major street: _____ and _____
 Time space diagram (attached) shows that this location can be implemented into a system: _____ YES-NO
 Warrant Satisfied ? _____ YES-NO
WARRANT #6 (ACCIDENT HAZARD)
 Adequate trial of less restrictive measures: _____ YES-NO
 Number of accidents per year of a type which could be prevented by signalization: _____ YES-NO
 80% of warrant #1 or #2 satisfied: _____ YES-NO
 Will signalization disrupt progressive movement ? _____ YES-NO
 Warrant Satisfied ? _____ YES-NO
WARRANT #7 (SYSTEMS)
 Both streets are considered major routes: _____ YES-NO
 At least 800 VPH during weekday peak hour: _____ YES-NO
 At least 800 VPH for any 5 hrs. on a Saturday or Sunday: _____ YES-NO
 Warrant Satisfied ? _____ YES-NO
WARRANT #8 (COMBINATION)
 Warrants numbered 1 and 2 are each met at the 80% level: YES-NO

COND. ION LANE	ADJUSTED HOURLY VOLUMES		WARRANT #1		WARRANT #2		WARRANT #3					
	MAJ 2-WAY	STIMINOR 1-WAY	100% MAJ MIN	80% MAJ MIN	100% MAJ MIN	80% MAJ MIN	1 HR PED	4 HR PED				
NORM	1	X	500	150	400	120	750	75	600	60	190	100
70%	1	X	350	105	280	84	525	53	420	42	95	50
WD-TAM	2+	X	420	140	336	112	630	70	504	56		
1AM-2AM												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
NOON-1PM												
1PM-2PM												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
HOURS MET			4	4	5	5	5	5	5	7	7	
WARRANT SATISFIED ?			NO	NO	NO	NO	NO	NO	NO	NO	NO	

* CONDITION IS DETERMINED BY ENVIRONMENT: USE 70% VALUES IF 85 PERCENTILE SPEED EXCEEDS 40 MPH ON THE MAJOR APPROACH OR IF LOCATION IS IN THE BUILT-UP AREA OF AN ISOLATED COMMUNITY WITH A POPULATION OF LESS THAN 10,000.
 ** THE PEDESTRIAN VOLUME CAN BE REDUCED BY 50% IF THE PREDOMINANT WALKING SPEED IS BELOW 3.5 FEET PER SECOND.

TRAFF-PRO CONSULTANTS, INC.
 28917 Euclid Avenue
 Wickliffe, Ohio 44092
 (216) 944-6444

SIGNAL WARRANTS

INT. NO.: 24
 FIG. NO.: 2

INTERSECTION FRONT STREET & FIRST STREET/DEPOT STREET

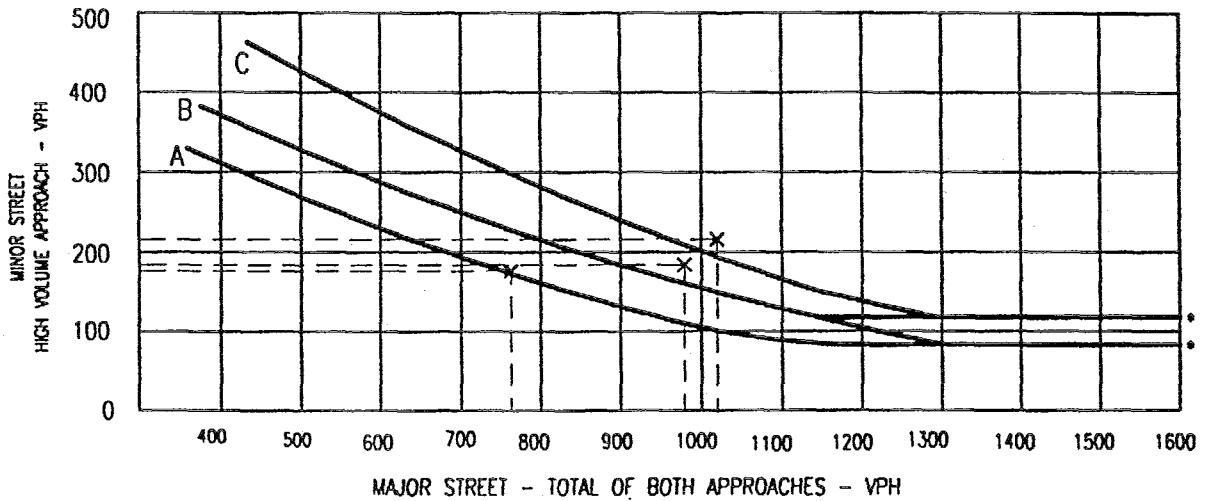
LOCATED IN CITY / VILLAGE / RURAL CITY OF BEREA

NO. OF LANES PER APPROACH: N 1 S 1 E 1 W 1

PRESENTLY SIGNALIZED? YES-NO YES 70% WARRANT APPLY? NO

FOUR HOUR VOLUME WARRANT

- A= 1 LANE & 1 LANE
- B= 2 OR MORE LANES & 1 LANE
- C= 2 OR MORE LANES & 2 OR MORE LANES



*NOTE: 115 VPH APPLIES AS THE LOWER THRESHOLD VOLUME FOR A MINOR STREET APPROACH WITH TWO OR MORE LANES.
80 VPH APPLIES AS THE LOWER THRESHOLD VOLUME FOR A MINOR STREET APPROACH WITH ONE LANE.

	BEGINNING HOUR															
	6AM	7	8	9	10	11	NOON	1PM	2	3	4	5	6	7	8	9
MAJOR 2 WAY		817	709	554		641	753	783		763	979	1020				
MINOR 1WAY		56	125	82		100	153	98		176	184	216				
MINOR 1WAY		45	60	43		45	71	83		73	64	59				
HRS. MET		NO	NO	NO		NO	NO	NO		YES	YES	YES				

WARRANT SATISFIED? NO

TRAFF-PRO

CONSULTANTS, INC.
28917 Euclid Avenue
Wickliffe, Ohio 44092
(216) 944-6444

**SIGNAL WARRANT #9
FOUR HOUR VOLUMES**

INT. N.
FIG N

INTERSECTION FRONT STREET & FIRST STREET/DEPOT STREET

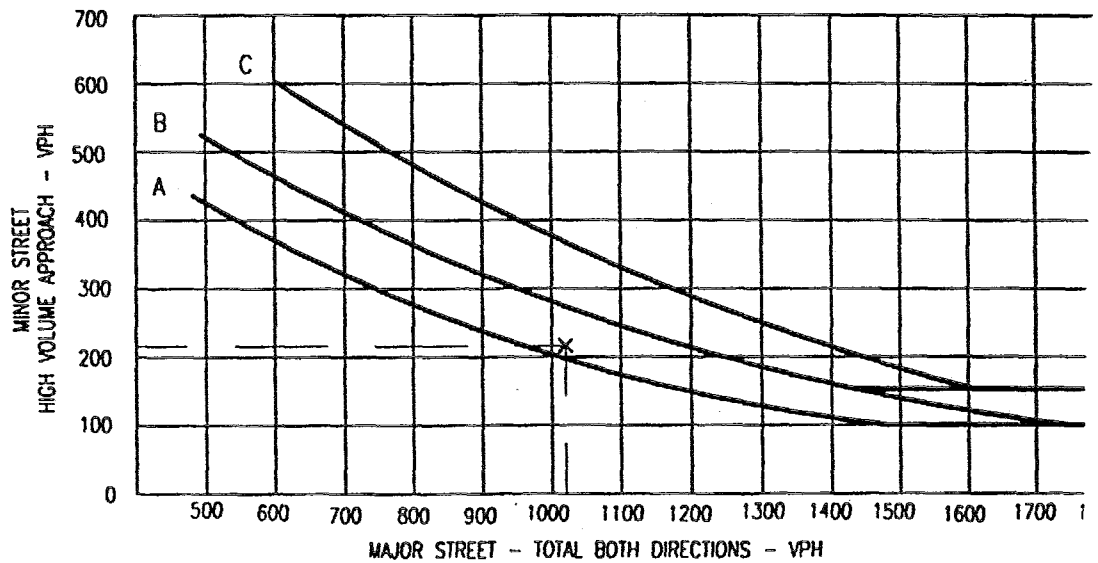
LOCATED IN CITY / VILLAGE / RURAL CITY OF BEREA

NO. OF LANES PER APPROACH: N 1 S 1 E 1 W 1

PRESENTLY SIGNALIZED? YES-NO YES 70% WARRANT APPLY? NO

PEAK HOUR VOLUME WARRANT

- A= 1 LANE & 1 LANE
- B= 2 OR MORE LANES & 1 LANE
- C= 2 OR MORE LANES & 2 OR MORE LANES



*NOTE: 150 VPH APPLIES AS THE LOWER THRESHOLD VOLUME FOR A MINOR STREET APPROACH WITH TWO OR MORE LANES.
100 VPH APPLIES AS THE LOWER THRESHOLD VOLUME FOR A MINOR STREET APPROACH WITH ONE LANE.

	BEGINNING HOUR																
	6AM	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	
MAJOR 2 WAY		817	709	554		641	753	783		763	979	1020					
MINOR 1WAY		56	125	82		100	153	98		176	184	216					
MINOR 1WAY		45	60	43		45	71	83		73	64	59					
HRS. MET		NO	NO	NO		NO	NO	NO		NO	NO	YES					

WARRANT SATISFIED? YES



CONSULTANTS, INC.
28917 Euclid Avenue
Wickliffe, Ohio 44092
(216) 944-6444

A-481-a

SIGNAL WARRANT #11
PEAK HOUR VOLUME

ATTACHMENT J

**COMMUNITY REINVESTMENT AREA
REPORT**

CITY OF BEREA, OHIO



**COMMUNITY REINVESTMENT AREA
REPORT**

for the
CITY OF BEREA, OHIO

June, 1994

Prepared By:

Planning Resources, Inc.
140 Public Square
Cleveland, Ohio 44114

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I. DESCRIPTION OF CRA BOUNDARIES

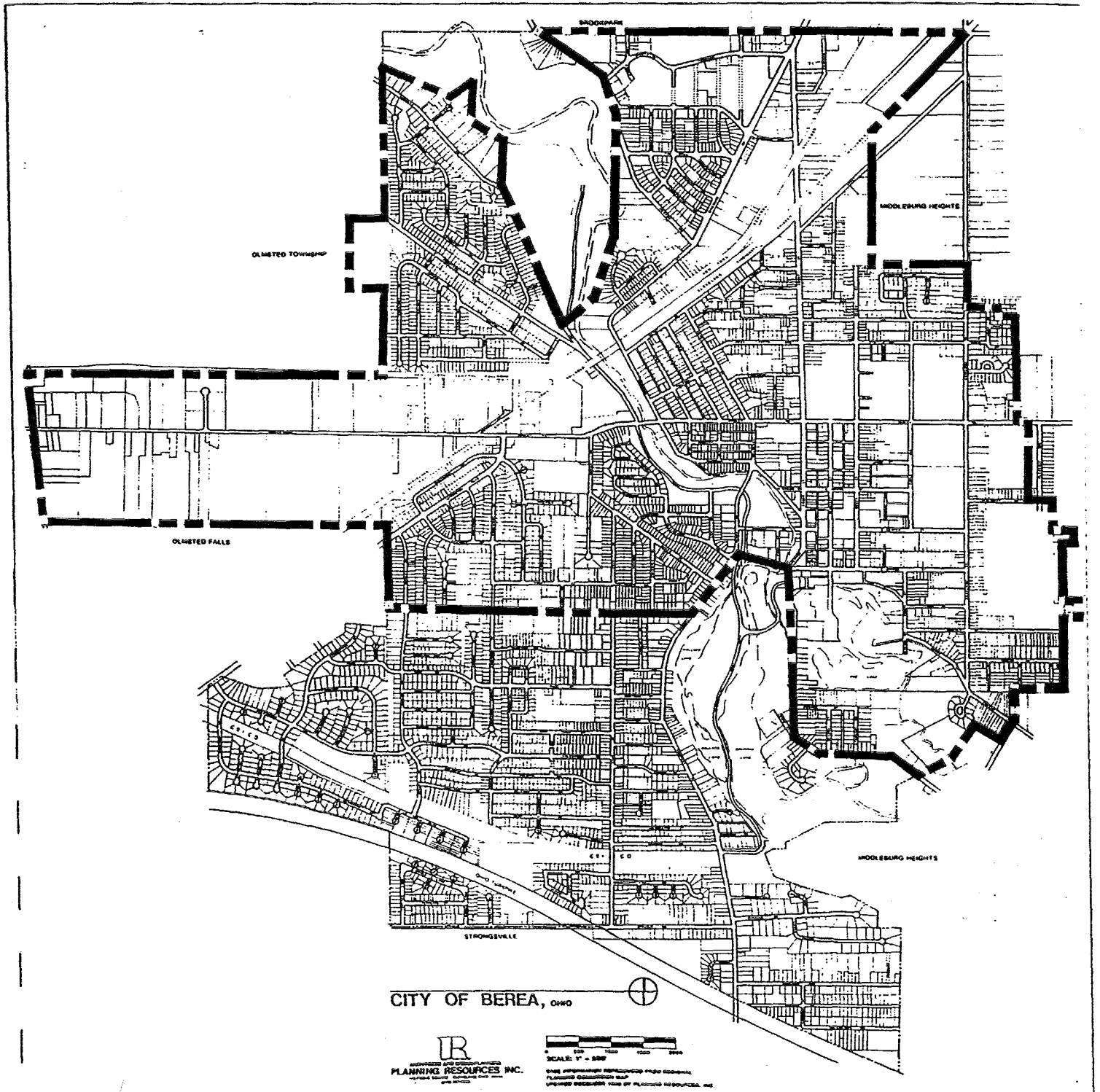
The City of Berea has undertaken a review of housing conditions and structures within the following described area to determine if the construction and repair of housing, commercial, and industrial facilities or structures are discouraged, in order to assess the establishment of a Community Reinvestment Area (CRA) in accordance with Section 3735.65 of the Ohio Revised Code.

The boundaries of the proposed CRA are described generally below using recognizable physical features. Please note that the CRA boundaries described below are intended to include all properties which directly abut or face the boundary of the CRA, but are outside of the described area. The CRA Boundary Map (Map 1) illustrates the proposed area.

In general, the Community Investment Area includes the following Census Tracts: 1341, 1342.03, 1342.04 and 1343. The CRA includes all areas of the city, except the Metroparks - Rocky River Reservation and the Berea Wastewater Treatment Plant, that are north of West Avenue, Prospect Avenue, and West Bridge St, and east and north of Riverside Drive. The CRA Boundary is generally described as follows:

Beginning at a point on the municipal boundary which is the intersection of the centerline of Brookpark Road and Grayton Road; thence following municipal boundary and said centerline of Brookpark Road east to its intersection with the Conrail railroad tracks; thence southwest along municipal boundary and said railroad tracks; thence continuing south along the municipal boundary; thence continuing east along the municipal boundary to the intersection of the centerline of Eastland Road; thence south along the municipal boundary and the Eastland Road centerline to its intersection with the centerline Wendy Drive; then east along the municipal boundary; thence south following said municipal boundary (until parallel with the southern end of Andrew Street), thence continuing east along municipal boundary (until just east of the southern end of Fuller Street); then continuing south along the municipal boundary across Fowles Road and continuing along Eastland Road; thence following municipal boundary in a northwesterly direction; thence continuing along said municipal boundary in a southwesterly direction until its intersection with the centerline of Riverside Drive; thence following said Riverside Drive centerline in a northeasterly direction to its intersection with the centerline of Main Street; thence continuing north along the centerline of Riverside Drive to its intersection with the centerline of W. Bridge Street; thence west along the W. Bridge Street centerline to its intersection with the centerline of Prospect Street; thence southwest along the Prospect St. centerline to its intersection with the centerline of West Ave; thence west along the West Avenue centerline to its intersection with the municipal boundary; thence north along the municipal boundary; thence west along the municipal boundary; thence north along the municipal boundary and the

PROPOSED CRA BOUNDARIES



CITY OF BEREA, Ohio

PLANNING RESOURCES INC.
PLANNING RESOURCES INC.
10000 WILSON AVENUE
COLUMBIANA, OHIO 43085

SCALE: 1" = 500'

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centerline of Lewis Road; thence east following the municipal boundary along the south side of the Conrail tracks; thence north along the municipal boundary, crossing Barrett Road to the Metroparks-Rocky River Reservation; thence southeast along the property line of the Metroparks to the intersection with the western property line of the Berea Wastewater Treatment Plant, thence south along said property line to its intersection with Barrett Road, thence southeast along the Barrett Road centerline to its intersection with the centerline of Metropolitan Park Boulevard; thence east from that intersection crossing the Rocky River; thence north following the property line of the Metroparks to its intersection with Grayton Road; thence following the Grayton Road centerline in a northwesterly direction to the place of the beginning; and including all properties outside of the above described area that are directly abutting and/or facing the above described boundaries.

II. DESCRIPTION OF THE COMMUNITY REINVESTMENT AREA

A. Existing Land Use

The proposed Community Reinvestment Area (CRA) contains a mixture of land uses, including single family and multiple family residential, commercial, office, industrial, recreation/open space and vacant land. The CRA contains the City's Central Business District, as well the campus of Baldwin-Wallace College and the older residential neighborhoods that developed around the sandstone quarries in the late nineteenth and early twentieth centuries. Two rail lines cross the CRA from the southwest to the northeast creating a physical barrier that funnels traffic through underpasses on both sides of North Rocky River. The abrupt change in elevation on both sides of the Rocky River forms another physical barrier between neighborhoods. The physical barriers isolate individual neighborhoods.

The total CRA comprises approximately 2,167 acres. Residential uses occupy 39% of the total land area of the CRA. The early central neighborhoods developed on the urban street grid pattern, while the neighborhoods which developed between 1950-1974 follow a more suburban pattern of curved streets and cul-de-sacs. Approximately 127 acres (6%) are commercial. Retail services occupy the bulk of the commercial land which is largely concentrated in the central business district. Industrial operations occupy nearly 8% of the CRA land area. The large manufacturing operations are clustered between the two rail lines which converge at the switching yard. Light industrial and some heavy industrial uses are located along the West Bagley Road Industrial Corridor. Recreation and open space uses occupy 7% of the total land area. Public/institutional uses comprise approximately 10% of the CRA land area, largely due to the Baldwin-Wallace College campus. Vacant land comprises nearly 19% of the CRA land area. The majority of the vacant land is located on both sides of Bagley Road west of the Conrail tracks. Street and railroad right of ways occupy about 8% of the CRA land area.

Generalized Existing Land Use (1990)
CRA

Land Use	Acres	Percent
Single Family Residential	822	38%
Multiple Family Residential	30	1%
Commercial	127	6%
Office	59	3%
Recreation/Metroparks	150	7%
Public/Institutional	217	10%
Light Industrial	57	3%
Heavy Industrial	108	5%
Vacant Open Land	422	19%
R.O.W.	175	8%
TOTAL LAND AREA	2,167	100%

Overall, approximately 80% of the land area of the CRA has been developed. Most of the vacant land is along Bagley Road and is zoned for industrial uses. Little opportunity exists for development of new residential housing without consideration of annexation, or for the accommodation of new commercial uses without consideration of redeveloping older commercial or mixed-use areas.

An Existing Land Use Map for the entire City, completed as part of the *Berea Comprehensive Plan*, is available at City Hall.

All traditional municipal services including water, sanitary and storm sewers, gas, and electric service are available to all areas within the proposed CRA.

B. Zoning

The City does not anticipate any changes to the existing zoning classifications as a result of the establishment of the CRA area. The CRA area includes the following zoning districts: R-SF-A, R-SF-B, R-T, MF-MD, MF-HD, R-O, N, CC, G, LI, and GI. Existing zoning

classifications permit single family and multiple family residential uses, townhomes, residence-office uses, neighborhood commercial uses, commercial centers, general commercial uses, and light industrial and general industrial uses. The uses to be designated as eligible for tax exemption will be consistent with the zoning regulations applicable to the CRA.

C. Inventory of Historic Structures

The historic buildings of Baldwin-Wallace College and the adjacent residential neighborhoods enrich the physical character of the CRA area and the City as a whole. Berea's early commerce and its civic institutions have shaped the City's Central Business District and surrounding neighborhoods. The City's history is expressed in the scale and the character of the central business district, Baldwin-Wallace College, and its surrounding neighborhoods.

Berea's central neighborhoods developed in the late nineteenth and early twentieth centuries around the sandstone quarry and markets in the center of town. There are 4 buildings in the CRA, in addition to the Lyceum Village Square and German Wallace College area, which are eligible for listing on the National Register for Historic Places. There are approximately 27 buildings and 1 structure of architectural significance in the CRA which are listed on the Ohio Historic Inventory as eligible for National Register designation. These buildings are located east of Rocky River Drive. Many are in close proximity to Baldwin Wallace College. The inventory sheets are attached in Appendix A.

D. Socio-Economic Characteristics

The following statistics were obtained from the 1990 Census of Housing Characteristics and General Characteristics of the Population for the City of Berea and the census tracts that make up the proposed CRA.

The 1990 Census showed that there were 12,541 people residing within the proposed CRA, or about 66% of the City's entire population. However, 76% of the total number of persons with incomes below poverty resided within the proposed CRA. In addition, approximately 86% of the City's black population, and 69% of all persons over 65 years of age resided within the CRA.

Per capita income and average household income for the CRA were both below the overall per capita income and household income levels for the City. The CRA also had a higher percentage of households classified as having low and moderate incomes (LMI). There were 4,735 households in the City with low and moderate incomes. Approximately 3,386 low and moderate income households, or 72% of the total resided within the CRA.

Summary of Socio-Economic Characteristics

	CT 1341	CT 1342.03	CT 1342.04	CT 1343	CRA Total	City of Berea	CRA % of City
Population	1,066	2,921	4,144	4,410	12,541	19,051	66%
Per Capita Income	\$13,555	\$14,988	\$14,854	\$11,858	\$13,721	\$14,867	92%
Household Income	\$35,151	\$38,712	\$35,176	\$35,767	\$36,234	\$39,061	93%
Persons Below Poverty	52	117	214	176	559	739	76%
LMI Households	22%	26%	28%	24%	27%	25%	
Black Persons	391	88	105	284	868	1,014	86%
Persons 65+	182	317	852	426	1,777	2,578	69%

E. Housing Characteristics and Conditions

Housing characteristics are an indicator of an area's physical condition. As the table below indicates, the proposed CRA has a higher percentage of renter occupied units and a lower percentage of owner occupied units than the City as a whole. Approximately 70% of the total number of vacant units in the City are located within the CRA.

Housing Units - 1990

	City of Berea		CRA Area	
Owner Occupied	4,898	67.7%	2,809	60.0%
Renter Occupied	2,138	29.5%	1,727	36.9%
Vacant	206	2.8%	146	3.1%
Total Units	7,242	100.0%	4,682	100.0%

The value of owner occupied housing is also a measure of a neighborhood's marketability and reinvestment in housing. The median value for single family homes ranged from \$64,300 (CT 1341) to \$77,300 (CT 1343) for the census tracts within the CRA compared to \$74,600 for the City as a whole. The median value of homes was lower in 3 of the 4 census tracts than for

B-W
H.S.
ROBINSONS
5

the City as whole. (See Appendix B for maps of census data by census tract.)

The age of the City's housing stock is another indicator of housing conditions. The costs of maintenance and rehabilitation generally increase sharply as housing ages beyond 40 years. Approximately, 19% of the City's housing stock was built in 1939 or earlier. Approximately 24% of the housing units within the CRA were built prior to 1940. Over 81% of the pre-1939 housing units in the City are located within the proposed CRA. Approximately 30% of all occupied housing units in Berea are over 40 years old, while over 37% of the occupied housing units in the CRA are over forty years old.

A wind-shield survey of residential exterior conditions was completed by Planning Resources, Inc. in August of 1992 as part of the *Berea Comprehensive Plan*. The survey evaluated exterior rehabilitation needs which are generally indicative of interior needs as well. This survey classified buildings based on four categories: (1) Sound, (2) Minor Deficiencies, (3) Major Deficiencies, and (4) Substandard. In general, residential buildings classified as having minor deficiencies show signs of neglect or postponed maintenance, but this has little or no effect on a building's structural condition. Buildings classified as having major deficiencies generally exhibit extensive exterior defects and conditions that are not correctable through normal maintenance, and involve a structural element such as a sagging roof ridge/rafters, cracked foundation, etc. A building classified as substandard exhibits an extensive accumulation of defects to a point where major structural elements are adversely impacted and the cost of repairs usually exceeds the market value of the property.

The table below illustrates, by census tract, the condition ratings for residential buildings within the CRA. The table shows that overall housing conditions within the CRA as good, but that they are not as good as the City as a whole. The CRA contains 57.7% of all of the residential structures surveyed, but contains over 75% of the buildings with minor deficiencies and over 78% of the buildings with major deficiencies. All 13 substandard residential buildings are located within the CRA.

Major rehabilitation needs and deficiencies and substandard conditions were visible in the CRA Area in residential areas adjacent to commercial and industrial activities bounded by Depot Street and the Conrail tracks, North Front Street, and Riverside Drive. Major deficiencies and substandard conditions were visible in 40% of the housing units in this area. Traffic noise, and competition with commercial uses have discouraged reinvestment in the existing housing in that area. Building with frontage on Front Street, North Rocky River Drive and Depot Street are now being converted to office and commercial uses.

Building Conditions Survey (August 1992)

Census Tract	Condition				Total
	Sound	Minor	Major	Substandard	
1341	204	43	3	0	250
1342.03	736	71	16	7	830
1342.04	885	161	41	5	1092
1343	631	173	27	1	832
CRA Total	2,456	448	87	13	3,004
Percent	81.7%	14.9%	2.9%	0.4%	100.0%
City Total	4,482	592	111	13	5,203
CRA % of City Tot.	54.8%	75.7%	78.4%	100.0%	57.7%

As is typical of small cities, there are several pockets of residential homes scattered throughout the CRA area that need rehabilitation and maintenance assistance. Other neighborhoods that exhibit maintenance needs include the Riverside Drive area between Coe and Baldwin Lakes, and the neighborhoods east of Coe Lake along East Center, East Bridge, Eastland and Waverly Street. Another neighborhood found to have several homes with maintenance needs is bounded by Riverside, Grayton and Emerson. All of these neighborhoods have also been designated by Cuyahoga County as Improvement Target Areas (ITAs).

The survey indicated that 86% of Berea's housing stock is well maintained. Visible rehabilitation needs are concentrated in the central neighborhoods, which are within the proposed CRA, where structures are generally older and require more maintenance. Census Tract 1342.04 has the highest number and percentage of housing units that have major deficiencies or are substandard. Census Tract 1343 has the highest percentage of residential structures with minor deficiencies (20.8%).

Because of the limited land available for new residential construction, Berea needs to consider programs, including the establishment of a CRA, to address housing conditions and maintenance needs in the older residential neighborhoods to achieve stability and ensure that long range viability of its housing units for future generations.

Cuyahoga Urban County Improvement Target Area Study

The Cuyahoga County Planning Commission and the Cuyahoga County Department of

Development performed a condition survey¹ of all residential and commercial structures, and streets in Berea in 1991-1992 for the purpose of designation of Improvement Target Areas (ITAs) Five property elements for residential structures and eight property elements for commercial structures received a numerical score based on whether minor, moderate or major deficiencies were noted. The property received a total score. Properties with scores over the threshold score were determined to be substandard. Properties with scored below the threshold were determined to be sound or in need of only minor repair. The table below presents the total number of substandard properties in the City and CRA as identified by Cuyahoga County.

ITA Survey 1991-1992
Total Number of Substandard Properties²

Structure Type	1-3 Family	Multiple Family	Comm/Office	Total
Berea	418	1	42	461
CRA ³	323	1	40	364
Percent in CRA	77%	100%	95%	79%

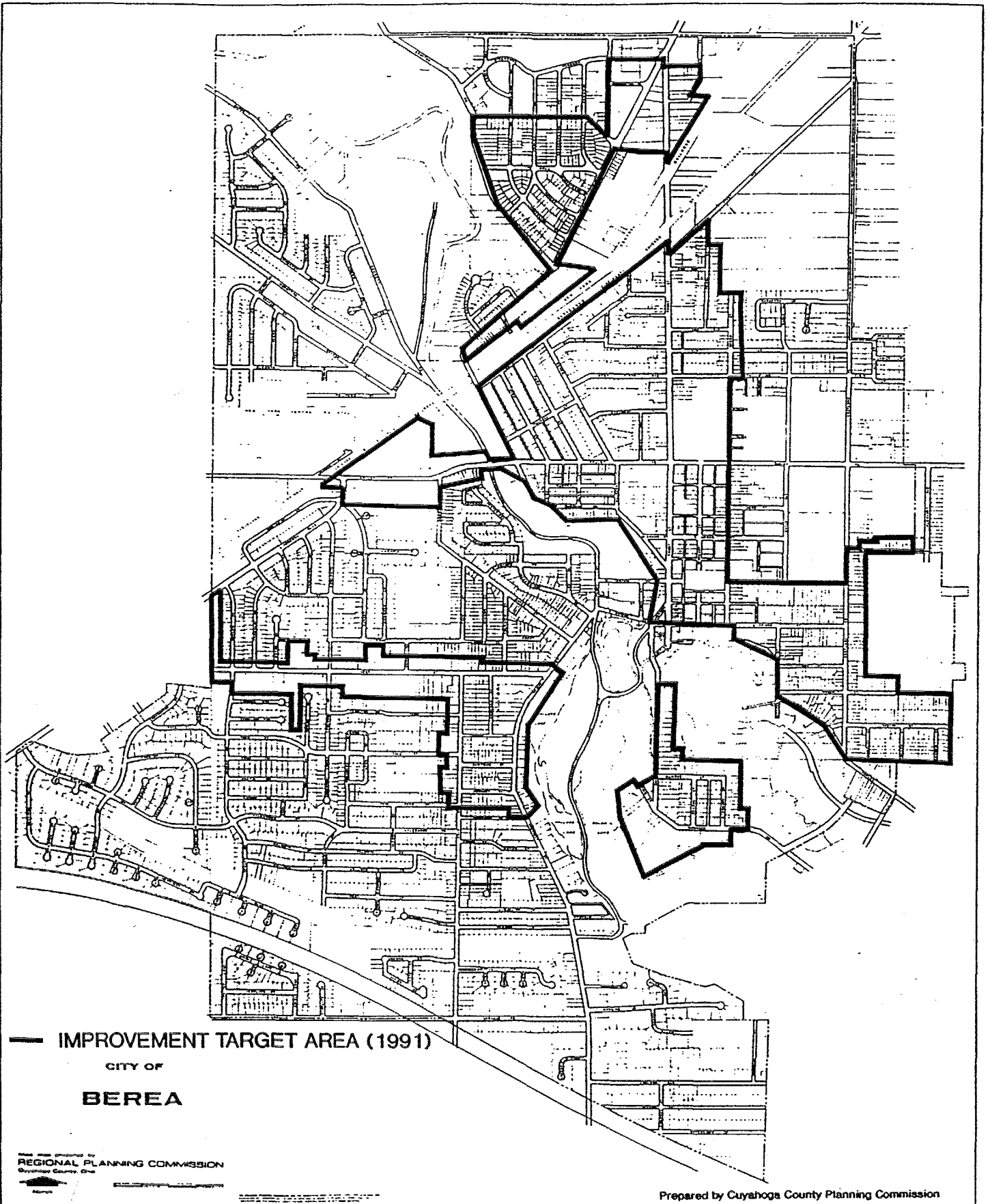
As the table above indicates, there are 364 substandard properties within the proposed CRA. Almost 89% of the substandard properties identified within the CRA are 1-3 family residences. Approximately 79% of all identified substandard properties in the City are located in the CRA and 95% of all identified substandard commercial properties are located within the CRA.

Areas with significant concentrations of substandard properties (20 or more substandard properties within a 50 acre area) were designated as ITAs. Map 2 illustrates the designated ITAs within the City of Berea. Note that the locations of the ITAs closely correspond to the neighborhoods identified by the Planning Resources, Inc. survey as having concentrations of properties with maintenance and rehabilitation needs. The proposed CRA includes the majority of the designated ITA areas.

¹The County utilized a methodology of comprehensive and standardized field surveys and mathematical standards to identify blighted areas. This methodology was developed by the Cuyahoga County RPC in 1984. The methodology was approved by the U.S. Department of Housing and Urban Development (HUD) in 1984.

² Cuyahoga County Planning Commission, *Cuyahoga Urban County Improvement Target Area Study*, 1992.

³ This number does not include those substandard structures which directly abut or face the proposed CRA boundary.



— IMPROVEMENT TARGET AREA (1991)
CITY OF
BEREA

REGIONAL PLANNING COMMISSION
Cuyahoga County, Ohio

Prepared by Cuyahoga County Planning Commission

Maps which illustrate the results of the Cuyahoga County ITA building and right-of-way surveys are available at City Hall.

F. Private Reinvestment in the CRA Area

A review of building permits issued for the last 5 years indicates the need for the City to continue to take aggressive steps to encourage private reinvestment and revitalization in the residential neighborhoods within the CRA. Private reinvestment is needed to preserve the City's existing housing stock rather than allowing the abandonment and deterioration of housing. The lack of attention toward housing maintenance and public improvements accelerates the possibility of neighborhood deterioration.

- * New housing construction permits in the CRA declined by 46% between 1992 and 1993.
- * Over 90% of all demolitions between 1989-1993 were within the CRA.
- * The total value of all single-family residential construction and renovation/rehabilitation permits issued in the City between 1989-1993 equals \$17,431,935. However, only 20% of this value, or \$3,504,587, was invested in the renovation and rehabilitation of existing homes within the CRA area.
- * At least \$5 million dollars of additional private investment is needed for renovation and rehabilitation within the CRA to correct just the exterior housing deficiencies identified the Planning Resources, Inc. housing condition survey in August of 1992.

III. SUMMARY

The establishment of a CRA was proposed in the *Berea Comprehensive Plan* after an extensive analysis of housing, land use and economic conditions to strengthen private incentives for maintenance and reinvestment in the City's older neighborhoods. New construction in the outlying suburbs during the 1990's will continue to pull middle income households from older communities, such as Berea, leaving behind a growing surplus of existing housing which is in need of continual maintenance to prevent future blight and deterioration. In addition, noise, traffic, land use conflicts, and other environmental risks associated with adjacent industrial and commercial activities has accelerated the decline of the older, central residential neighborhoods in the CRA area, and has created a blighting influence.

The limited number of vacant land tracts and improved highway access to more rural communities has limited new housing construction in the City to only 200 units during the past decade. The City must pro-actively preserve its existing housing stock by encouraging private reinvestment. It is reasonable to assume that the older housing stock will require more maintenance than newer structures. More maintenance translates into additional costs for

property owners. Maintenance attention must be focused on the older housing units before the costs get too high. Existing housing must be regenerated through new investment to maintain a steady appreciation of value. Older housing must be rehabilitated and worn-out structures must be replaced in order to revitalize neighborhoods.

Existing retail buildings need to be upgraded, but demand for downtown retail space has not been strong enough to support revitalizing older commercial space. The visible deterioration of older buildings fosters public perceptions of a dying downtown. Most small businesses lack the resources to finance the purchase or renovation of older commercial space in the downtown. Marginal industrial uses exist between Depot Street and the rail line. Adjacent residential properties are blighted by the encroachment of industrial and warehouse uses because there is no defined buffer that separates the two districts.

The proposed CRA area exhibits social, economic, and physical characteristics that are by comparison more severe than for the City as a whole. A higher percentage of older housing coupled with a higher percentage of households with lower incomes has led to greater concentrations of housing deficiencies in the CRA. The area does qualify for designation as a Community Reinvestment Area.

Appendix A

National Register of Historic Places in Ohio

PIR Format
As of 4/9/92

Berea CRA

Berea District 7 School
323 E. Bagley Road
4/3/75

Berea Union Depot
30 Depot Street
11/21/80

Buehl House
118 E. Bridge Street
4/30/76

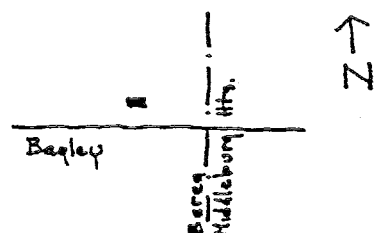

Lycem Village Square and German Wallace College
Seminary Street
10/29/75

Wheeler, John, House
445 S. Rocky River Drive
12/01/78

Label
Appendix
BA

OHIO HISTORIC INVENTORY

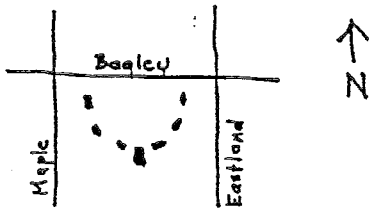

Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

1. No. CUY-1704-15		4. Present Name(s) Berea Fine Arts Club		1704-15	2. County Cuyahoga
2. County Cuyahoga		5. Other Name(s) Berea District School #7			
3. Location of Negatives WRHS					
6. Specific Location 323 Bagley Road		16. Thematic Category D, G		28. No. of Stories 1	
7. City or Town Berea If Rural, Township & Vicinity		17. Date(s) or Period 1914		29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
8. Site Plan with North Arrow 		18. Style or Design		30. Foundation Material Coursed ashlar	
9. Coordinates Berea Lat. _____ Long. _____ U.T.M. Reference 17 429630 4580260		19. Architect or Engineer		31. Wall Construction Brick	
Zone Easting Northing		20. Contractor or Builder		32. Roof Type & Material Hip/Slate	
10. Site Building <input checked="" type="checkbox"/> Structure Object <input type="checkbox"/>		21. Original Use, if apparent School		33. No. of Bays Front 3 Side 1	
11. On National Register? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		22. Present Use Fine Arts Club		34. Wall Treatment Brick/Stone trim	
12. Is It Eligible? Yes <input type="checkbox"/> No <input type="checkbox"/>		23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>		35. Plan Shape Rectangular	
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		24. Owner's Name & Address, if known Berea Fine Arts Club		36. Changes (Explain in #42) Addition <input checked="" type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/>	
14. District Potent'ly? Yes <input type="checkbox"/> No <input type="checkbox"/>		25. Open to Public? Restricted Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		37. Condition Interior Very Good Exterior Very Good	
15. Name of Established District		26. Local Contact Person or Organization		38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
16. Further Description of Important Features <p>Small brick structure with a slate hip roof and a gabled central bay that features a gabled cupola with an open balustraded belfry. The roof is of imbricated slate with corbeled chimneys. Wide eaves project over groups of tall 1x1 double-hung windows. There is a central entrance with double paneled doors flanked by brick piers. A recent addition has been constructed at the rear.</p>		27. Other 		39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
17. History and Significance <p>This brick building was built in 1914 to replace a wooden structure on the site. In 1935, the Berea Fine Arts Club, founded in 1933, bought the school for \$596. They use it as their headquarters and for exhibits and live productions. The building is a combination of Queen Anne elements and a Prairie Style form.</p>		18. Description of Environment and Outbuildings <p>The building faces a heavily trafficked road leading into Berea. There are some older houses and a new school nearby. There is a parking lot at the rear.</p>		40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
19. Sources of Information Holzworth, Grit & Greatness, 1970, pg. 90. Cuyahoga County Atlases.		20. Prepared by Fisher		41. Distance from and Frontage on Road 40'	
		21. Organization WRHS		42. Date 11-77	
		22. Date		43. Revision Date(s)	

1. No. 1704-15
2. County Cuyahoga
4. Present Name(s) Berea Fine Arts Club
5. Other Name(s) Berea District School #7

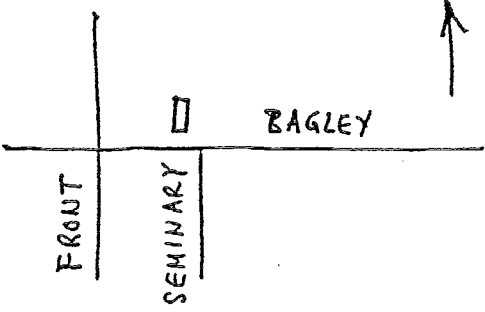
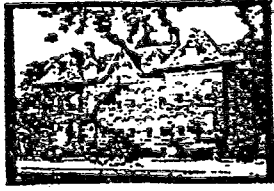
OHIO HISTORIC INVENTORY

Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

1. No. CUY-1703-15		4. Present Name(s) United Methodist Childrens Home		1. No. 1703-15	
2. County Cuyahoga		5. Other Name(s)			2. County Cuyahoga
3. Location of Negatives WRHS						4. Present Name(s) United Methodist Childrens Home
6. Specific Location Bagley between Maple & Eastland.		16. Thematic Category D, N, P		26. No. of Stories 2	
7. City or Town If Rural, Township & Vicinity Berea		17. Date(s) or Period 1928, 1932, 1935, 1938		29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
8. Site Plan with North Arrow 		18. Style or Design Colonial eclectic		30. Foundation Material Concrete	
9. Coordinates Berea Lat. _____ Long. _____ U.T.M. Reference 17 429 280 458 10 140		19. Architect or Engineer		31. Wall Construction Wood frame	
10. Site <input type="checkbox"/> Building <input checked="" type="checkbox"/> Structure <input type="checkbox"/> Object <input type="checkbox"/>		20. Contractor or Builder		32. Roof Type & Material Gable/Asph. shingl	
11. C. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		21. Original Use, if apparent Childrens Home		33. No. of Bays Front _____ Side _____	
12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		22. Present Use Childrens Home		34. Wall Treatment Brick veneer	
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>		35. Plan Shape Rectangular	
14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		24. Owner's Name & Address, if known		36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/>	
15. Name of Established District		25. Open to Public? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		37. Condition Interior _____ Exterior <u>Good</u>	
42. Further Description of Important Features The complex is composed of a series of large brick residential structures arranged in a semicircle. The buildings are vaguely Colonial in detail, with gable roofs, narrow cornices, shuttered windows, balustraded porches, pedimented entrances, and large corbeled chimneys. Their proportions, however, are too large for a correct rendition of the style.		27. Other 		38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
43. History and Significance This was the site of the German Methodist Orphan Asylum, which dated from the mid 19th Century and which reflected the strong German Methodist community in Berea. The present complex of buildings was begun in 1928 and not completed until the 1950's. The monumental grouping of structures is unusual, yet lends a sense of community.		44. Description of Environment and Outbuildings The Children's Home is located along Bagley Road, a heavily traveled road leading into Berea. There is a modern church, a high school, and various college buildings nearby.		39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
45. Sources of Information Holzworth, <u>Grit & Greatness</u> , 1970, pg. 102. Cuyahoga County Atlases.		46. Prepared by Fisher		40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
		47. Organization WRHS		41. Distance from and Frontage on Road	
		48. Date 11-77		5. Other Name(s)	
		49. Revision Date(s)			

OHIO HISTORIC INVENTORY

Historic Preservation Office
Ohio Historical Society
Columbus, Ohio 43211

1. No. CUY-4-15		4. Present Name(s) Carnegie Science Hall	
2. County Cuyahoga		5. Other Name(s) Ladies' Hall, Baldwin University	
3. Location of Negatives WRHS			
6. Specific Location Baldwin-Wallace Campus E. Bagley Road at Seminary Street		16. Thematic Category Architecture 19th/Education	28. No. of Stories 2-1/2
7. City or Town If Rural, Township & Vicinity Berea		17. Date(s) or Period 1882 and 1905	29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
8. Site Plan with North Arrow 		18. Style or Design Stick Style-Chateausque	30. Foundation Material stone
9. Coordinates UTM 287803 Lat. 41° 22' 23" Long. 81° 51' 06" Berea		19. Architect or Engineer	31. Wall Construction sandstone
10. Site Building <input checked="" type="checkbox"/> Structure Object <input type="checkbox"/>		20. Contractor or Builder	32. Roof Type & Material hip & gable/shingle
11. On National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		21. Original Use, if apparent Dormitory	33. No. of Bays Front 11 Side 3
12. Is It Eligible? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		22. Present Use Classroom Building	34. Wall Treatment coursed ashlar
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>	35. Plan Shape rectangular
14. District Potent'l? Yes <input type="checkbox"/> No <input type="checkbox"/>		24. Owner's Name & Address, if known Baldwin-Wallace College Berea	36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input checked="" type="checkbox"/>
15. Name of Established District		25. Open to Public? restricted Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	37. Condition Interior _____ Exterior excellent
42. Further Description of Important Features Unusual combination of masonry structure and Stick style gables. Building dismantled and moved approx. 3/4 mile from old Baldwin University campus in 1905. Old campus taken by quarries.		26. Local Contact Person or Organization College historian	38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
43. History and Significance Baldwin Institute founded 1844; Baldwin Univ. 1855. Ladies' Hall built 1878-1882. Moved and named Carnegie Science Hall in 1905. Good example of late 19th century college architecture. Re-erected by donation of Andrew Carnegie.		27. Other Surveys in Which Included	39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
44. Description of Environment and Outbuildings Stands in park-like campus among several other sandstone college buildings of late 19th century style. Possible college architectural district.		40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	41. Distance from and Frontage on Road 50' x 100'
45. Sources of Information Johnson, Cuyahoga County (1879), 202. Baldwin-Wallace College catalogs.		46. Prepared by Johannesen	
		47. Organization WRHS	
		48. Date 8/74	49. Revision Date(s)

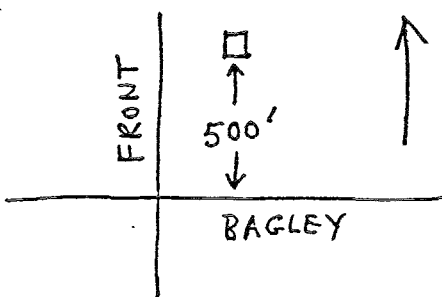
CUY-4-15 Cuyahoga

Carnegie Science Hall

Ladies' Hall, Baldwin University

OHIO HISTORIC INVENTORY

Historic Preservation Office
Ohio Historical Society
Columbus, Ohio 43211

1. No. <u>CUY-5-15</u>		4. Present Name(s) Wheeler Hall	
2. County Cuyahoga		5. Other Name(s) Recitation Hall, Baldwin University	
3. Location of Negatives WRHS			
6. Specific Location Baldwin-Wallace Campus Front Street		16. Thematic Category Architecture 19th/Education	28. No. of Stories 3
7. City or Town If Rural, Township & Vicinity Berea		17. Date(s) or Period 1892	29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
8. Site Plan with North Arrow 		18. Style or Design Richardsonian Romanesque	30. Foundation Material stone
9. Coordinates UTM 287805 Lat. 41° 22' 26" Long. 81° 51' 07" Berea		19. Architect or Engineer	31. Wall Construction sandstone
10. Site <input type="checkbox"/> Building <input checked="" type="checkbox"/> Structure <input type="checkbox"/> Object <input type="checkbox"/>		20. Contractor or Builder	32. Roof Type & Material hip/shingle
11. On National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		21. Original Use, if apparent classrooms	33. No. of Bays Front irregular Side Side
12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		22. Present Use classrooms	34. Wall Treatment rusticated
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>	35. Plan Shape square
14. District Potent'l? Yes <input type="checkbox"/> No <input type="checkbox"/>		24. Owner's Name & Address, if known Baldwin-Wallace College Berea	36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input checked="" type="checkbox"/> Moved <input type="checkbox"/>
15. Name of Established District		25. Open to Public? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> restricted	37. Condition Interior _____ Exterior excellent
42. Further Description of Important Features Main entrance Romanesque arch. Two round towers, conical roof. East and west gables with stepped parapets. Originally contained nine classrooms and assembly hall. Interior remodeled in 1967.		26. Local Contact Person or Organization College historian	
43. History and Significance Built in 1892 as Recitation Hall, main classroom building for Baldwin University. Baldwin-Wallace founded 1913. Named Wheeler Hall after John Wheeler, first Baldwin Univ. president, 1855-1870.		27. Other Surveys in Which Included	
44. Description of Environment and Outbuildings Stands in park-like campus among several other sandstone college buildings of late 19th century style. Possible college architectural district.		38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
45. Sources of Information Baldwin-Wallace College catalogs.		39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
		40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
		41. Distance from and Frontage on Road 250'	
		46. Prepared by Johannesen	
		47. Organization WRHS	
		48. Date 8/74	
		49. Revision Date(s)	

CUY-5-15 Cuyahoga

Wheeler Hall

Recitation Hall, Baldwin University



OHIO HISTORIC INVENTORY

Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

<p>1. No. <u>CUY-1710-15</u></p> <p>2. County <u>Cuyahoga</u></p> <p>3. Location of Negatives <u>WRHS</u></p>	<p>4. Present Name(s)</p> <p>5. Other Name(s) <u>Brown, S.H., Residence</u></p>	1. No. 1710-15																													
<p>6. Specific Location <u>400 Beech</u></p> <p>7. City or Town If Rural, Township & Vicinity <u>Berea</u></p> <p>8. Site Plan with North Arrow</p> <div style="text-align: center;"> </div> <p>9. Coordinates Lat. <u>Lakewood</u> Long. _____ U.T.M. Reference</p> <table border="1" style="width:100%; text-align: center;"> <tr> <td>17</td><td>4</td><td>2</td><td>8</td><td>9</td><td>3</td><td>0</td> <td>4</td><td>5</td><td>8</td><td>0</td><td>8</td><td>3</td><td>0</td> </tr> <tr> <td>Zone</td><td colspan="2">Easting</td><td colspan="10">Northing</td> </tr> </table> <p>10. Site <input type="checkbox"/> Building <input checked="" type="checkbox"/> Structure <input type="checkbox"/> Object <input type="checkbox"/></p> <p>11. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 12. Is it Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>15. Name of Established District</p>	17	4	2	8	9	3	0	4	5	8	0	8	3	0	Zone	Easting		Northing										<p>16. Thematic Category <u>C</u></p> <p>17. Date(s) or Period <u>1870</u></p> <p>18. Style or Design <u>Stick Style vernacular</u></p> <p>19. Architect or Engineer</p> <p>20. Contractor or Builder</p> <p>21. Original Use, if apparent <u>Residence</u></p> <p>22. Present Use <u>Residence</u></p> <p>23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/></p> <p>24. Owner's Name & Address, if known</p> <p>25. Open to Public? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>26. Local Contact Person or Organization</p> <p>27. Other Surveys in Which Included</p>	<p>28. No. of Stories <u>2</u></p> <p>29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>30. Foundation Material <u>Coursed Ashlar</u></p> <p>31. Wall Construction <u>Wood Frame</u></p> <p>32. Roof Type & Material <u>Gable/Asph. shing.</u></p> <p>33. No. of Bays Front <u>3</u> Side _____</p> <p>34. Wall Treatment <u>Clapboard</u></p> <p>35. Plan Shape <u>L Shaped</u></p> <p>36. Changes in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/></p> <p>37. Condition Interior _____ Exterior <u>Good</u></p> <p>38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>41. Distance from and Frontage on Road <u>40'</u></p>	2. County Cuyahoga	4. Present Name(s)
17	4	2	8	9	3	0	4	5	8	0	8	3	0																		
Zone	Easting		Northing																												
<p>42. Further Description of Important Features</p> <p>Tall wood frame house with the wide eaves and narrow moldings, the L shaped plan with a corner entrance, and the vertical proportions and 2x2 windows characteristic of the Victorian vernacular. The horizontal belt courses at the first and second floor lintels, however, recall the Stick Style of the latter part of the 19th Century.</p>		5. Other Name(s) Brown, S., Residence																													
<p>43. History and Significance</p> <p>The 1874 Atlas does not show a house on this site, although the local historical society has dated it 1870. The 1903 Atlas shows it belonging to S.H. Brown, and the 1927 Atlas to August Hegele.</p>																															
<p>44. Description of Environment and Outbuildings</p> <p>The structure faces a quiet side street, with several large trees on the property and newer houses on all sides.</p>																															
<p>45. Sources of Information</p> <p>Cuyahoga County Atlases.</p>	<p>46. Prepared by <u>Fisher</u></p> <p>47. Organization <u>WRHS</u></p> <p>48. Date <u>11-77</u></p>	<p>49. Revision Date(s)</p>																													

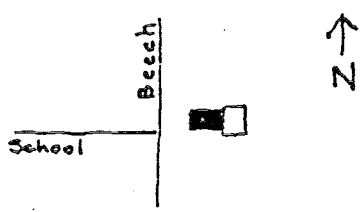
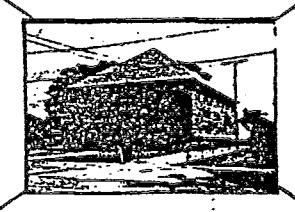
OHIO HISTORIC INVENTORY

Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

<p>1. No. CUY-1702-15</p> <p>2. County Cuyahoga</p> <p>3. Location of Negatives WRHS</p>	<p>4. Present Name(s) 109 Beech, 301 Front</p> <p>5. Other Name(s)</p>	<p>1. No. 1702-15</p> <p>2. County Cuyahoga</p> <p>4. Present Name(s) 109 Beech, 301 Front St.</p> <p>5. Other Name(s)</p>												
<p>5. Specific Location (1)109 Beech & East Grand (2)301 Front Street</p> <p>7. City or Town If Rural, Township & Vicinity Berea</p> <p>8. Site Plan with North Arrow</p> <div style="border: 1px solid black; padding: 5px; margin: 5px;"> <p style="text-align: center;">(1) (2)</p> </div> <p>9. Coordinates Lat. Berea Quad. Long. _____ U.T.M. Reference 17 428860 4579910</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">Zone</td> <td style="width:33%;">Easting</td> <td style="width:33%;">Northing</td> </tr> <tr> <td>10. Site <input type="checkbox"/></td> <td>Structure <input type="checkbox"/></td> <td>Object <input type="checkbox"/></td> </tr> <tr> <td>11. On National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></td> <td>12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></td> <td></td> </tr> <tr> <td>13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></td> <td>14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></td> <td></td> </tr> </table> <p>15. Name of Established District</p>	Zone	Easting	Northing	10. Site <input type="checkbox"/>	Structure <input type="checkbox"/>	Object <input type="checkbox"/>	11. On National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		<p>16. Thematic Category C</p> <p>17. Date(s) or Period ca. 1880</p> <p>18. Style or Design Stick Style</p> <p>19. Architect or Engineer</p> <p>20. Contractor or Builder</p> <p>21. Original Use, if apparent Residence</p> <p>22. Present Use Residence</p> <p>23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/></p> <p>24. Owner's Name & Address, if known</p> <p>25. Open to Public? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>26. Local Contact Person or Organization</p> <p>27. Other (2)</p> <div style="border: 1px solid black; padding: 5px; margin: 5px;"> </div>	<p>28. No. of Stories 2-1/2</p> <p>29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>30. Foundation Material Stone</p> <p>31. Wall Construction Wood Frame</p> <p>32. Roof Type & Material Hip/Gable/Slate</p> <p>33. No. of Bays Front 3 Side 3</p> <p>34. Wall Treatment Siding/Shingles</p> <p>35. Plan Shape Irregular</p> <p>36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/></p> <p>37. Condition Interior _____ Exterior Good</p> <p>38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>41. Distance from and Frontage on Road 50'</p>
Zone	Easting	Northing												
10. Site <input type="checkbox"/>	Structure <input type="checkbox"/>	Object <input type="checkbox"/>												
11. On National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>													
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>													
<p>42. Further Description of Important Features</p> <p>Stick Style houses with hip roofs, slate shingles, corbeled chimneys, and iron cresting. Walls have wooden belt courses with imbricated shingles in the wainscot. Elaborate Eastlake porches with brackets, spindled cornices, turned columns, and carved gables. Tall double-hung windows and some small stained glass panels.</p>	<p>(1)</p> <div style="border: 1px solid black; padding: 5px; margin: 5px;"> </div>	<p>5. Other Name(s)</p>												
<p>43. History and Significance</p> <p>These two houses typify several structures in Berea that represent the transition between the earlier Eastlake mode and the later Stick Style and Queen Anne styles. Both remain virtually intact.</p>														
<p>44. Description of Environment and Outbuildings</p> <p>(1) stands on a quiet side street near the campus of the old German Wallace College. (2) stands on the main street of Berea's downtown, across from the northern campus of Baldwin-Wallace College.</p>														
<p>45. Sources of Information Cuyahoga Co. Atlases Personal Observation</p>	<p>46. Prepared by Fisher</p> <p>47. Organization WRHS</p> <p>48. Date 10-77 49. Revision Date(s)</p>													

OHIO HISTORIC INVENTORY

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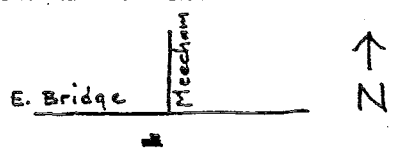
1. No. CUY-1696-15	4. Present Name(s) Baldwin-Wallace Women's Gymnasium	1. No. 1696-15
2. County Cuyahoga	5. Other Name(s) Baldwin-Wallace Gymnasium	
3. Location of Negatives WRHS		
6. Specific Location Beech across from School Street	16. Thematic Category D.G	28. No. of Stories 2
7. City or Town If Rural, Township & Vicinity Berea	17. Date(s) or Period 1913-14	29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
8. Site Plan with North Arrow 	18. Style or Design Progressive Mode	30. Foundation Material Stone
9. Coordinates Berea Quadrangle Lat. _____ Long. _____ U.T.M. Reference 17 428920 4579840	19. Architect or Engineer	31. Wall Construction Sandstone
10. Zone Easting Northing Site <input type="checkbox"/> Building <input checked="" type="checkbox"/> Structure <input type="checkbox"/> Object <input type="checkbox"/>	20. Contractor or Builder	32. Roof Type & Material Hip/Shingle
11. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	21. Original Use, if apparent Gym	33. No. of Bays Front 4 Side 7
12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	22. Present Use Gym	34. Wall Treatment Random Ashlar
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>	35. Plan Shape Rectangle
14. District Potent'l? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	24. Owner's Name & Address, if known Baldwin-Wallace College	36. Changes (Explain in #42) Addition <input checked="" type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/>
15. Name of Established District	25. Open to Public? Restricted Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	37. Condition Interior Good Exterior Good
42. Further Description of Important Features Large stone structure with a broad hip roof and shed-roof dormers on the side elevations. Under wide eaves are paired 6x6 double-hung windows with a common lintel. Central hip roof vestibule with double-doors under a dressed stone lintel. Side elevation with tripartite windows. New rear addition with a domical roof.	26. Local Contact Person or Organization	38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
43. History and Significance In 1913, the German Wallace College and Baldwin University merged to form Baldwin-Wallace College. This structure was built as the school's gym the next year. It is an interesting example of the Progressive mode's horizontality applied to a large structure.	27. Other Surveys in Which Included	39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
44. Description of Environment and Outbuildings The building faces a quiet residential street with the campus of B-W to one side. A brick school was demolished next to it in 1977.		40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
45. Sources of Information Holzworth, Grit & Greatness, 1970, pg. 97. Cuyahoga County Atlases.	46. Prepared by Fisher	41. Distance from and Frontage on Road 50'
	47. Organization WRHS	48. Date 10-77
	49. Revision Date(s)	5. Other Name(s) Baldwin-Wallace Gymnasium

OHIO HISTORIC INVENTORY

1. No. CUY-1714-15	4. Present Name(s)		1714-15								
2. County Cuyahoga	5. Other Name(s) Meacham, N.D., Residence										
3. Location of Negatives WHS											
6. Specific Location 131 East Bridge	16. Thematic Category C,I	28. No. of Stories 2	Cuyahoga								
7. City or Town If Rural, Township & Vicinity Berea	17. Date(s) or Period ca. 1820	29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>									
8. Site Plan with North Arrow <div style="text-align: center;"> </div>	18. Style or Design Federal	30. Foundation Material Random Ashlar									
9. Coordinates Berea Lat. _____ Long. _____ U.T.M. Reference <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;">17</td> <td style="width:10%;">42</td> <td style="width:10%;">39</td> <td style="width:10%;">40</td> <td style="width:10%;">45</td> <td style="width:10%;">79</td> <td style="width:10%;">58</td> <td style="width:10%;">0</td> </tr> </table>	17	42		39	40	45	79	58	0	19. Architect or Engineer	31. Wall Construction Post & Beam
17	42	39		40	45	79	58	0			
10. Site <input type="checkbox"/> Building <input checked="" type="checkbox"/>	20. Contractor or Builder	32. Roof Type & Material Gable/Asph. shing.									
11. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	21. Original Use, if apparent Residence	33. No. of Bays Front 5 Side 2									
12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	22. Present Use Residence	34. Wall Treatment Shingle									
13. Part of Estab. Yes <input type="checkbox"/> Hist. Dist.? No <input checked="" type="checkbox"/>	23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>	35. Plan Shape Rectangular									
14. District Potent'l? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	24. Owner's Name & Address, if known	36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input checked="" type="checkbox"/> Moved <input type="checkbox"/>									
15. Name of Established District	25. Open to Public? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	37. Condition Interior _____ Exterior Fair									
42. Further Description of Important Features <p>Five bay Federal house with the typical shallow roof, narrow frieze, and partial gable returns. 6x6 double-hung windows with simple fluted surrounds. Sidelighted entrance with a broken pediment that is a recent alteration. The original clapboard has been covered with shingles. The side wing is probably a later addition.</p>		38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Meacham, N.D., Residence								
43. History and Significance <p>The 1874 Atlas lists this house belonging to N.D. Meacham. He was the treasurer of the Berea Agricultural Society in 1872 and probably related to E. Meacham, an early settler in Berea. The house is one of the few Federal style houses in the area. The house has an 1853 plaque by the door.</p>		39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>									
44. Description of Environment and Outbuildings <p>The structure stands on a quiet residential street with newer houses on all sides. The house is set relatively far back from the road with several trees on the land.</p>		40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>									
45. Sources of Information <p>Holzworth, <u>Grit & Greatness</u>, 1970, pg. 105, 139. Cuyahoga County Atlases.</p>		41. Distance from and Frontage on Road 60'									
46. Prepared by Fisher		47. Organization WHS									
48. Date 11-77		49. Revision Date(s)									

OHIO HISTORIC INVENTORY

Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

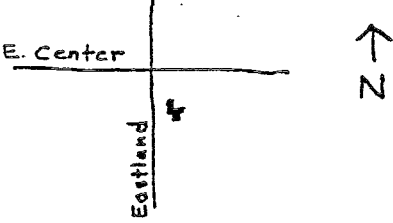

<p>1. No. CUY-1715-15</p> <p>2. County Cuyahoga</p> <p>3. Location of Negatives WRHS</p> <p>4. Present Name(s)</p> <p>5. Other Name(s) Watson, D.R., Residence</p>	<p>6. Specific Location 136 East Bridge</p> <p>7. City or Town If Rural, Township & Vicinity Berea</p> <p>8. Site Plan with North Arrow  </p> <p>9. Coordinates Berea Lat. _____ Long. _____ U.T.M. Reference 17 429 000 4579 530 Zone Easting Northing 10. Site Building <input checked="" type="checkbox"/> Structure Object <input type="checkbox"/></p> <p>11. On National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>14. District Potent'l? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>15. Name of Established District</p>	<p>16. Thematic Category C</p> <p>17. Date(s) or Period ca. 1840</p> <p>18. Style or Design Greek Revival</p> <p>19. Architect or Engineer</p> <p>20. Contractor or Builder</p> <p>21. Original Use, if apparent Residence</p> <p>22. Present Use Residence</p> <p>23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/></p> <p>24. Owner's Name & Address, if known</p> <p>25. Open to Public? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>26. Local Contact Person or Organization</p> <p>27. Other Surveys in Which Included</p>	<p>28. No. of Stories 1-1/2</p> <p>29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>30. Foundation Material Random Ashlar</p> <p>31. Wall Construction Brick</p> <p>32. Roof Type & Material Gable/Asph. shing.</p> <p>33. No. of Bays Front 5 Side</p> <p>34. Wall Treatment Brick/Wood Trim</p> <p>35. Plan Shape T. shaped</p> <p>36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/></p> <p>37. Condition Interior _____ Exterior Good</p> <p>38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>41. Distance from and Frontage on Road 40'</p>
<p>42. Further Description of Important Features Brick Greek Revival house with a shallow gable roof, wide frieze, and partial returns on the facade. Central entrance with flanking windows. Stone lintels and lug sills on first floor openings. Side gabled wing with separate entrance and window. Ashlar basement with stone stoop and porch. Asphalt roofing a later alteration.</p>		<p>4. Present Name(s) Watson, D.R., Residence</p> <p>5. Other Name(s)</p>	
<p>43. History and Significance The 1874 Atlas lists D.R. Watson living in this house. He sold dry goods, groceries, and clothing in Berea and was the mayor from 1872 to 1873. The house is one of the best examples of the Greek Revival style in Berea.</p>		<p>46. Prepared by Fisher</p> <p>47. Organization WRHS</p> <p>48. Date 11-77</p> <p>49. Revision Date(s)</p>	
<p>44. Description of Environment and Outbuildings The house faces a quiet residential street near the downtown of Berea. The houses adjacent to it date from a variety of later periods.</p>		<p>1. No. 1715-15</p> <p>2. County Cuyahoga</p>	
<p>45. Sources of Information Holzworth, Grit & Greatness, 1970, pg. 200. Cuyahoga County Atlases</p>		<p>3. Location of Negatives WRHS</p>	

OHIO HISTORIC INVENTORY

<p>1. No. CUY-1713-15</p> <p>2. County Cuyahoga</p> <p>3. Location of Negatives WRHS</p>	<p>4. Present Name(s) Berea Historical Society</p> <p>5. Other Name(s) Brown, John, Residence</p>	1. 1713-15			
<p>6. Specific Location Last Bridge & Coe</p>	<p>16. Thematic Category C</p> <p>17. Date(s) or Period 1860</p>	<p>28. No. of Stories 2</p> <p>29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>30. Foundation Material Plain coursed ashl</p> <p>31. Wall Construction Sandstone</p> <p>32. Roof Type & Material Hip/Asph. shingle</p> <p>33. No. of Bays Front 3 Side 2</p> <p>34. Wall Treatment Dressed Stone</p> <p>35. Plan Shape Square</p>	2. Cuyahoga		
<p>7. City or Town If Rural, Township & Vicinity Berea</p> <p>8. Site Plan with North Arrow</p> <div style="text-align: center;"> </div>	<p>18. Style or Design Greek Revival</p> <p>19. Architect or Engineer</p> <p>20. Contractor or Builder</p> <p>21. Original Use, if apparent Residence</p> <p>22. Present Use Offices</p> <p>23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/></p> <p>24. Owner's Name & Address, if known Berea Historical Society</p>	3. Berea Historical Society			
<p>9. Coordinates Berea</p> <p>Lat. _____ Long. _____</p> <p>U.T.M. Reference</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50px;">17</td> <td style="width:50px;">428930</td> <td style="width:50px;">45719530</td> </tr> </table> <p>Zone Easting Northing</p>	17	428930	45719530	<p>25. Open to Public? Public <input type="checkbox"/> Restricted <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>26. Local Contact Person or Organization</p> <p>27. Other</p> <div style="text-align: center;"> </div>	4. Berea Historical Society
17	428930	45719530			
<p>10. Site Building <input checked="" type="checkbox"/> Structure <input type="checkbox"/> Object <input type="checkbox"/></p> <p>11. On National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>14. District Potent'l? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>15. Name of Established District</p>	<p>37. Condition Interior _____ Exterior Very Good</p> <p>38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>41. Distance from and Frontage on Road 30'</p>	5. Brown, John, Residence			
<p>42. Further Description of Important Features</p> <p>Large square stone house with a shallow hip roof, a central brick chimney, and three dressed stone elevations. The windows have stone lintels and projecting lug sills with minimal surrounds. The paneled, sidelighted door has Tuscan pilasters and a transom light. The rear elevation is treated with random ashlar, as is the rear service wing.</p>		6. Brown, John, Residence			
<p>43. History and Significance</p> <p>This house is said to have been built in 1860 by John Brown. Architecturally, it is an interesting combination of Greek Revival detail and Italianate forms such as the square plan and hip roof. It is perhaps the most elegant house in Berea.</p>		7. Brown, John, Residence			
<p>44. Description of Environment and Outbuildings</p> <p>The structure stands at the corner of a residential street and a side alley. There is a commercial front across the alley and several smaller uses nearby.</p>		8. Brown, John, Residence			
<p>45. Sources of Information</p> <p>Berea Historical Society files, Mrs Ghering, 10-77. Cuyahoga County Atlases.</p>	<p>46. Prepared by Fisher</p> <p>47. Organization WRHS</p> <p>48. Date 11-77</p> <p>49. Revision Date(s)</p>	9. Brown, John, Residence			

OHIO HISTORIC INVENTORY

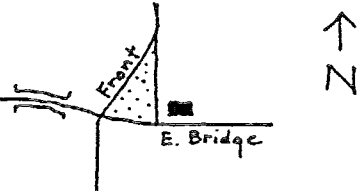
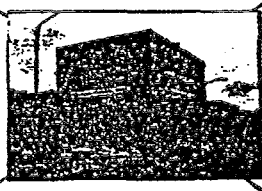
Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

1. No. CUY-1690-15 2. County Cuyahoga 3. Location of Negatives WRHS	4. Present Name(s) Ghering Residence 5. Other Name(s) Hasenflug, A., Residence	1. No. 1690-15 2. County Cuyahoga 4. Present Name(s) Ghering Residence												
6. Specific Location 244 Eastland 7. City or Town Berea If Rural, Township & Vicinity 8. Site Plan with North Arrow  9. Coordinates Berea Quad. Lat. _____ Long. _____ U.T.M. Reference <table border="1" style="font-size: small;"> <tr> <td>17</td><td>4</td><td>29</td><td>4</td><td>10</td><td>4</td><td>5</td><td>7</td><td>19</td><td>4</td><td>4</td><td>0</td> </tr> </table>	17	4	29	4	10	4	5	7	19	4	4	0	16. Thematic Category C 17. Date(s) or Period 1875 18. Style or Design Italianate 19. Architect or Engineer 20. Contractor or Builder 21. Original Use, if apparent Residence 22. Present Use Residence 23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/> 24. Owner's Name & Address, if known The Gherings - (same) 25. Open to Public? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 26. Local Contact Person or Organization 27. Other Surveys in Which Included	28. No. of Stories 2 29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 30. Foundation Material Stone 31. Wall Construction Wood Frame 32. Roof Type & Material Gable/Slate/Shingle 33. No. of Bays Front 5 Side 34. Wall Treatment Clapboard 35. Plan Shape irregular 36. Changes Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/> 37. Condition Interior _____ Exterior Very Good 38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 41. Distance from and Frontage on Road 40'
17	4	29	4	10	4	5	7	19	4	4	0			
10. Site Building <input checked="" type="checkbox"/> Structure Object <input type="checkbox"/> 11. On National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 12. Is it Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 15. Name of Established District	42. Further Description of Important Features <p>Tall wood frame house with steep gabled roof and wide eaves. Tall 2x2 windows with gabled architraves and shutters. Two entrances on facade with gabled architraves that face a front porch with brackets. Imbricated slate shingles on some roof surfaces. Porch posts and solid railing probably a later addition.</p>	5. Other Name(s) Hasenflug, A., Residence 												
43. History and Significance <p>Although this house does not appear on the 1874 Atlas, the owners claim that it was built the following year by Anton Hasenflug. He owned 64 acres of land and a house to the south of this one in 1874.</p>	44. Description of Environment and Outbuildings <p>The structure faces a newly paved road with some more recent residential and institutional buildings nearby.</p>													
45. Sources of Information Cuyahoga County Atlases Interview with owner - 10-77.	46. Prepared by Fisher 47. Organization WRHS 48. Date 10-77 49. Revision Date(s)													

OHIO HISTORIC INVENTORY

<p>1. No. <u>CUY--1691-15</u></p> <p>2. County <u>Cuyahoga</u></p> <p>3. Location of Negatives <u>WRHS</u></p>	<p>4. Present Name(s) <u>Cuyahoga County Fairgrounds Gate</u></p> <p>5. Other Name(s)</p>	1691-15							
<p>6. Specific Location <u>Eastland south of East Bridge Street</u></p> <p>7. City or Town <u>Berea</u> If Rural, Township & Vicinity</p> <p>8. Site Plan with North Arrow</p> <div style="border: 1px solid black; padding: 5px; width: fit-content;"> </div> <p>9. Coordinates <u>Berea Quad.</u></p> <p>Lat. _____ Long. _____</p> <p>U.T.M. Reference</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="border: 1px solid black; width: 10%;">17</td> <td style="border: 1px solid black; width: 10%;">429</td> <td style="border: 1px solid black; width: 10%;">410</td> <td style="border: 1px solid black; width: 10%;">457</td> <td style="border: 1px solid black; width: 10%;">19</td> <td style="border: 1px solid black; width: 10%;">440</td> </tr> </table> <p>Zone _____ Easting _____ Northing _____</p> <p>10. Site <input type="checkbox"/> Building <input type="checkbox"/> Structure <input checked="" type="checkbox"/> Object <input type="checkbox"/></p> <p>11. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 12. Is it Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>15. Name of Established District</p>	17	429	410	457	19	440	<p>16. Thematic Category <u>D</u></p> <p>17. Date(s) or Period <u>1929</u></p> <p>18. Style or Design</p> <p>19. Architect or Engineer</p> <p>20. Contractor or Builder</p> <p>21. Original Use, if apparent <u>Gate</u></p> <p>22. Present Use <u>Gate</u></p> <p>23. Ownership Public <input checked="" type="checkbox"/> Private <input type="checkbox"/></p> <p>24. Owner's Name & Address, if known <u>Cuyahoga County</u></p> <p>25. Open to Public? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>26. Local Contact Person or Organization</p> <p>27. Other Surveys in Which Included</p>	<p>28. No. of Stories</p> <p>29. Basement? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>30. Foundation Material <u>Concrete</u></p> <p>31. Wall Construction <u>Iron</u></p> <p>32. Roof Type & Material</p> <p>33. No. of Bays Front _____ Side _____</p> <p>34. Wall Treatment</p> <p>35. Plan Shape</p> <p>36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/></p> <p>37. Condition Interior _____ Exterior <u>Good</u></p> <p>38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>41. Distance from and Frontage on Road <u>25'</u></p>	Cuyahoga Cuyahoga County Fairgrounds Gate
17	429	410	457	19	440				
<p>42. Further Description of Important Features</p> <p><u>Metal gate with a segmentally-arched extrados and a round-arched intrados. Central iron finial above solid name plaque and flanking roundels ensconced in iron filigree. Paired corner posts with urns resting upon flared capitals. Bases of flared concrete.</u></p>									
<p>43. History and Significance</p> <p><u>This gate was erected in 1929 on the Cuyahoga County Fairgrounds. The first fair was held in 1896. The gate is an interesting cross between the more elaborate Victorian styles and the Classical revivalism popular in 1929.</u></p>									
<p>44. Description of Environment and Outbuildings</p> <p><u>Gate stands on a wide country road that has recently become developed. There are several trees and fair buildings behind.</u></p>									
<p>45. Sources of Information</p> <p><u>Rose, Cleveland, 1950, pg. 506.</u></p> <p><u>Holzworth, Grit & Greatness, 1970, pg. 106.</u></p>	<p>46. Prepared by <u>Fisher</u></p> <p>47. Organization <u>WRHS</u></p> <p>48. Date <u>10-77</u> 49. Revision Date(s)</p>								

OHIO HISTORIC INVENTORY

1. No. <u>CUY-1694-15</u>		4. Present Name(s) <u>Union Commerce Bank</u>		1694-15 County Cuyahoga Union Commerce Bank
2. County <u>Cuyahoga</u>		5. Other Name(s)		
3. Location of Negatives <u>WRHS</u>				
6. Specific Location <u>40 Front Street</u>		16. Thematic Category <u>D.C</u>	28. No. of Stories <u>3</u>	
7. City or Town If Rural, Township & Vicinity <u>Berea</u>		17. Date(s) or Period <u>ca. 1925</u>	29. Basement? Yes <input type="checkbox"/> No <input type="checkbox"/>	
8. Site Plan with North Arrow 		18. Style or Design <u>Renaissance Revival</u>	30. Foundation Material <u>Concrete</u>	
9. Coordinates <u>Berea Quad.</u> Lat. _____ Long. _____ U.T.M. Reference <u>17 428650 4579570</u>		19. Architect or Engineer	31. Wall Construction <u>Skeletal Frame</u>	
Zone Easting Northing		20. Contractor or Builder	32. Roof Type & Material <u>Flat/Gravel</u>	
10. Site <input type="checkbox"/> Structure <input type="checkbox"/> Building <input checked="" type="checkbox"/> Object <input type="checkbox"/>		21. Original Use, if apparent <u>Bank</u>	33. No. of Bays Front <u>4</u> Side <u>6</u>	
11. U.S. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		22. Present Use <u>Bank</u>	34. Wall Treatment <u>Dressed Plain Ashl</u>	
12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>	35. Plan Shape <u>Rectangle</u>	
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		24. Owner's Name & Address, if known <u>Union Commerce Bank</u>	36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/>	
14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		25. Open to Public? <u>Restricted</u> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	37. Condition Interior <u>Fair</u> Exterior <u>Very Good</u>	
15. Name of Established District		26. Local Contact Person or Organization	38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
42. Further Description of Important Features <p>Large rectangular stone-faced structure with a solid parapet, a dentiled cornice, and a series of large round-arched windows on the first floor with elongated voussoirs. An uncoursed stone watertable acts as the first floor sill. There is a corner metal clock and an entrance to the upper floors at the side. The interior has been remodeled.</p>		27. Other Surveys in Which Included	39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
43. History and Significance <p>This structure is perhaps the most prominent of the commercial structures in the downtown area of Berea. It is also a good example of the restraint of the Renaissance Revival style. The bank was built on the site of Berea's early hotel, the Nukes Hotel.</p>				
44. Description of Environment and Outbuildings <p>The building stands on a corner lot with several older commercial structures on one side and a new complex of shops across the street. It faces small park.</p>				
45. Sources of Information <u>Holzworth, Grit & Greatness, 1970, pg. 38.</u>		46. Prepared by <u>Fisher</u>		
		47. Organization <u>WRHS</u>		
		48. Date <u>10-77</u>	49. Revision Date(s)	

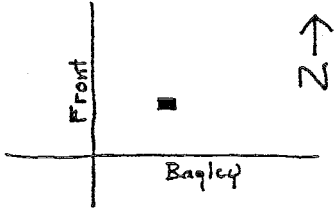
OHIO HISTORIC INVENTORY

Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

<p>1. No. CUY-1693-15</p> <p>2. County Cuyahoga</p> <p>3. Location of Negatives WRHS</p>	<p>4. Present Name(s) Bishop Realtors</p> <p>5. Other Name(s)</p>	1. No. 1693-15
<p>6. Specific Location 279 Front.</p>	<p>16. Thematic Category C</p> <p>17. Date(s) or Period ca. 1895</p> <p>18. Style or Design Classical Revival</p> <p>19. Architect or Engineer</p> <p>20. Contractor or Builder</p> <p>21. Original Use, if apparent Residence</p> <p>22. Present Use Offices</p> <p>23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/></p> <p>24. Owner's Name & Address, if known Bishop Realty</p> <p>25. Open to Public? Restricted Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>26. Local Contact Person or Organization</p> <p>27. Other Surveys in Which Included</p>	2. County Cuyahoga
<p>7. City or Town If Rural, Township & Vicinity Berea</p> <p>8. Site Plan with North Arrow</p> <div style="text-align: center;"> </div> <p>9. Coordinates Berea Quad. Lat. _____ Long. _____ U.T.M. Reference 17 428620 45810290 Zone Easting Northing 10. Site <input type="checkbox"/> Building <input checked="" type="checkbox"/> Structure <input type="checkbox"/> Object <input type="checkbox"/></p> <p>11. U.S. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 12. Is It Eligible? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>15. Name of Established District</p>	<p>28. No. of Stories 2-1/2</p> <p>29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>30. Foundation Material Stone</p> <p>31. Wall Construction Brick</p> <p>32. Roof Type & Material Hip/Shingle</p> <p>33. No. of Bays Front 5 Side</p> <p>34. Wall Treatment Brick/Wood Trim</p> <p>35. Plan Shape rectangle</p> <p>36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/></p> <p>37. Condition Interior _____ Exterior Very Good</p> <p>38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>41. Distance from and Frontage on Road 60'</p>	4. Present Name(s) Bishop Realty
<p>42. Further Description of Important Features</p> <p>Large symmetrical brick structure with a broad hip roof, tall chimneys, hipped dormers, a bracketed eave, and wide 1x1 double-hung windows. Central bay has sidelighted entrance and a projecting window above. Full front porch with balustraded railing, Tuscan columns, and bracketed cornice. Foundation of rusticated coursed ashlar.</p>	5. Other Name(s)	
<p>43. History and Significance</p> <p>This house, said to be the work of New York architect Stanford White, is a good example of the transition from the horizontality of the Prairie Style to the symmetrical restraint of the Classical Revival. Both styles were common to the late 19th and early 20th Century.</p>	<p>46. Prepared by Fisher</p> <p>47. Organization WRHS</p> <p>48. Date 10-77</p> <p>49. Revision Date(s)</p>	
<p>44. Description of Environment and Outbuildings</p> <p>The building stands on a corner lot at the intersection of two heavily trafficked roads. There are several trees and shrubs on the land.</p>	<p>45. Sources of Information Cuyahoga Co. Atlases Interview with owner.</p>	

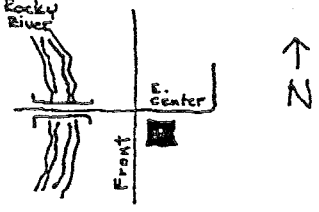
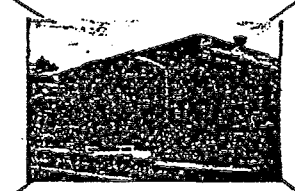
OHIO HISTORIC INVENTORY

Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

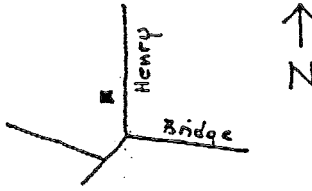
1. No. CUY-1695-15		4. Present Name(s) The Philura Gould Baldwin Memorial Library		1. No. 1695-15	
2. County Cuyahoga		5. Other Name(s)			2. County Cuyahoga
3. Location of Negatives WRHS					
6. Specific Location corner Front & Bagley Rd.		16. Thematic Category C, G		28. No. of Stories 2	
7. City or Town If Rural, Township & Vicinity Berea		17. Date(s) or Period 1893		29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
8. Site Plan with North Arrow 		18. Style or Design Richardson Romanesque		30. Foundation Material Stone	
9. Coordinates Berea Quad. Lat. _____ Long. _____ U.T.M. Reference 17 428710 4580310		19. Architect or Engineer		31. Wall Construction Stone	
Zone Easting Northing		20. Contractor or Builder		32. Roof Type & Material Hip/Shingle	
10. Site <input type="checkbox"/> Building <input checked="" type="checkbox"/> Structure <input type="checkbox"/> Object <input type="checkbox"/>		21. Original Use, if apparent Library		33. No. of Bays Front 4 Side 2	
11. On National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		22. Present Use Library		34. Wall Treatment Random Ashlar	
12. Is it Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>		35. Plan Shape Rectangle	
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		24. Owner's Name & Address, if known Baldwin-Wallace College		36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/>	
14. District Potent'l? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		25. Open to Public? Restricted Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		37. Condition Interior Good Exterior Very Good	
15. Name of Established District		26. Local Contact Person or Organization		38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
42. Further Description of Important Features Small stone structure with a broad hip roof and a large wall dormer on the facade. This has a central round-arched window with several smaller rectangular hoodmolded windows below. Corner round-arched entrance with squat Romanesque column and stone steps. Stone cornice with stone dentils continues along the back. Side semi-circular bay window.		27. Other Surveys in Which Included		39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
43. History and Significance This structure was dedicated on June 14, 1894. It served as the library for Baldwin University after the campus was moved from the south side of Berea. The building was named after the grand-daughter of the college's founder, John Baldwin. It is a good example of its style.		46. Prepared by Fisher		40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
44. Description of Environment and Outbuildings The structure stands on a corner lot, in front of the other college buildings. There are several large trees nearby.				41. Distance from and Frontage on Road 100'	
45. Sources of Information Holzworth, Grit & Greatness, 1970, pg. 185.		47. Organization WRHS		48. Date 10-77	
		49. Revision Date(s)			

OHIO HISTORIC INVENTORY

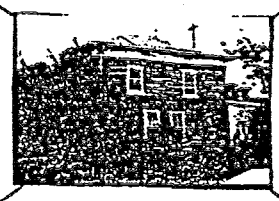
Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

1. No. CUY-1700-15 2. County Cuyahoga 3. Location of Negatives WRHS	4. Present Name(s) Baldwin Wallace Conservatory of Music 5. Other Name(s) Kulas Musical Arts Building	1. No. 1700-15 2. County Cuyahoga 4. Name (Number) Baldwin Wallace Conservatory of Music 5. Other Name(s) Kulas Hall
6. Specific Location corner of Front & East Center Street 7. City or Town Berea 8. Site Plan with North Arrow 	16. Thematic Category D,G 17. Date(s) or Period 1912 18. Style or Design Jacobethan 19. Architect or Engineer 20. Contractor or Builder 21. Original Use, if apparent Music Conservatory 22. Present Use Music Classroom Bldg. 23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/> 24. Owner's Name & Address, if known 25. Open to Public? Restricted Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 26. Local Contact Person or Organization 27. Other Surveys in Which Included 	28. No. of Stories 3 29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 30. Foundation Material Stone 31. Wall Construction Stone/Brick 32. Roof Type & Material Flat/Gravel 33. No. of Bays Front 11 Side 34. Wall Treatment Random Ashlar 35. Plan Shape Rectangle 36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/> 37. Condition Interior Good Exterior Good 38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 41. Distance from and Frontage on Road 20'
9. Coordinates Lat. Berea Quad. U.T.M. Reference 17 428650 4579730 Zone 17 Easting 428650 Northing 4579730 10. Site Building <input checked="" type="checkbox"/> Structure Object <input type="checkbox"/> 11. U.S. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 12. Is it Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 14. District Potent? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 15. Name of Established District 	42. Further Description of Important Features <p>Large masonry structure with a dressed stone parapet that contains a carved name plaque and a central gabled section. Below is a random ashlar facade with 1x1 double-hung windows with minimal surrounds. Entrance has a basket-handle or four-centered arch set within a dressed stone surround. Rear section faced with light brick.</p> 	
43. History and Significance <p>The building was built as the Nast Conservatory of Music, named after Wm. Nast. He was the first president of Baldwin-Wallace College and a leader in the German Methodist Movement. Its present dedication is to E.J.Kulas for his support to the musical arts. The school is considered to be one of the best in the country, with a large collection of Bach material.</p>		
44. Description of Environment and Outbuildings <p>The structure stands on a corner lot along the main street in Berea. There are commercial structures on both sides and the B&W campus behind.</p>		
45. Sources of Information Rose, Cleveland, 1950, pg. 715,816. Holzworth, Grit & Greatness, 1970.	46. Prepared by Fisher 47. Organization WRHS 48. Date 49. Revision Date(s) 	

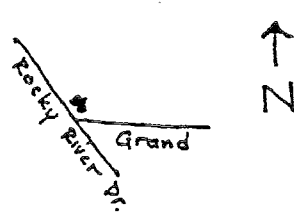
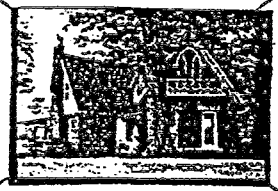
OHIO HISTORIC INVENTORY

1. No. CUY-1706-15		4. Present Name(s)	
2. County Cuyahoga		5. Other Name(s) French, P.; Asling, J.E., Residence	
3. Location of Negatives WRHS			
6. Specific Location 21 Henry		16. Thematic Category C	28. No. of Stories 2
7. City or Town Berea		17. Date(s) or Period 1868	29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
8. Site Plan with North Arrow 		18. Style or Design Italianate	30. Foundation Material Random Ashlar
9. Coordinates Berea Lat. _____ Long. _____ U.T.M. Reference 17 428310 4579640		19. Architect or Engineer	31. Wall Construction Stone
Zone Easting Northing		20. Contractor or Builder	32. Roof Type & Material Hip/Asph. shingle
10. Site Building <input checked="" type="checkbox"/> Structure Object <input type="checkbox"/>		21. Original Use, if apparent Residence	33. No. of Bays Front 3 Side 3
11. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		22. Present Use Residence	34. Wall Treatment Rock-faced ashlar
12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>	35. Plan Shape Square
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		24. Owner's Name & Address, if known	36. Changes (Explain in #42) Addition <input checked="" type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/>
14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		25. Open to Public? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	37. Condition Interior _____ Exterior Good
15. Name of Established District		26. Local Contact Person or Organization	38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
16. Further Description of Important Features Square sandstone structure with a shallow hip roof, a wide frieze, and paired brackets. Double-hung windows with dressed stone lintels and lug sills. Hip-roofed front porch with screening infill. Central entrance flanked by elongated 2x2 windows. Rear shed-roof lean-to probably a later addition.		27. Other Surveys in Which Included	39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
43. History and Significance P. French was a real estate agent and justice of the peace in Berea. H.E. French was the first vice-president of the Library Association, founded in 1883. John Asling, born in Canada, came to Berea in 1870. He established and presided over the West Cuyahoga County Fair Association, was a county sheriff from 1897 to 1900 and a county commissioner from 1900 to 1902		46. Prepared by Fisher	
44. Description of Environment and Outbuildings The house is shielded from a heavily trafficked road by a dense growth of shrubs and evergreens. There is a new firestation and houses from a variety of periods nearby.		47. Organization WRHS	
45. Sources of Information Holzworth, <u>Grit & Greatness</u> , 1970, pg. 75, 105, 122, 189. Cuyahoga County Atlases.		48. Date 11-77	49. Revision Date(s)

1706-15 Cuyahoga French-Asling Residence

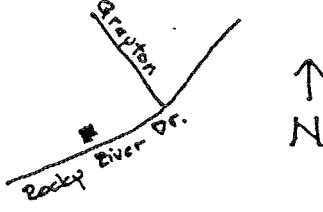


OHIO HISTORIC INVENTORY

1. No. CUY-1708-15	4. Present Name(s)	
2. County Cuyahoga	5. Other Name(s) McBride, Alexander, Residence	
3. Location of Negatives WRHS		
6. Specific Location 50 N. Rocky River Drive	16. Thematic Category C	28. No. of Stories 1-1/2
7. City or Town If Rural, Township & Vicinity Berea	17. Date(s) or Period 1868	29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
8. Site Plan with North Arrow 	18. Style or Design Gothic Revival	30. Foundation Material Brick
9. Coordinates Lat. Berea Long. U.T.M. Reference 17 42 18 54 0 45 7 9 9 6 0 Zone Easting Northing	19. Architect or Engineer	31. Wall Construction Brick
10. Site <input type="checkbox"/> Building <input checked="" type="checkbox"/> Structure <input type="checkbox"/> Object <input type="checkbox"/>	20. Contractor or Builder	32. Roof Type & Material Gable/Asph. shing.
11. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	21. Original Use, if apparent Residence	33. No. of Bays Front 2 Side 4
12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	22. Present Use Residence	34. Wall Treatment Brick/Stone trim
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>	35. Plan Shape Irregular
14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	24. Owner's Name & Address, if known	36. Changes (Explain in #42) Addition <input checked="" type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/>
15. Name of Established District	25. Open to Public? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	37. Condition Interior _____ Exterior Good
42. Further Description of Important Features Small brick Gothic Revival structure with a steep gable roof, a wide frieze and eaves, and a gabled dormer with a pointed arch window. This detail is repeated on the facade, which has two lancet windows under a pointed-arch brick hoodmold, an iron balcony with a railing in a lyre pattern, and two full length glass doors with stone sills. A large modern addition is at the rear.	26. Local Contact Person or Organization	38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
43. History and Significance Alexander McBride was Berea's first resident physician and mayor of the town in 1867. The house is one of the few Gothic Revival houses in Berea.	27. Other Surveys in Which Included	39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
44. Description of Environment and Outbuildings The house is perched on a knoll with several large trees immediately adjacent to the building itself. There is a river valley across the street and houses from a variety of periods nearby.	<div style="border: 1px solid black; padding: 5px; text-align: center;">  </div>	
45. Sources of Information Holzworth, Grit & Greatness, 1970, pg. 173. Cuyahoga County Atlases.	46. Prepared by Fisher	
	47. Organization WRHS	
	48. Date 11-77	49. Revision Date(s)

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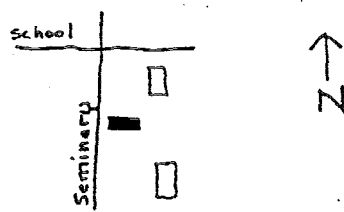

1. No. CUY-1712-15		4. Present Name(s)		1. No. 1712-15	
2. County Cuyahoga		5. Other Name(s) Diner, F., Residence			2. County Cuyahoga
3. Location of Negatives WRMS						4. Present Name(s) Diner, F., Residence
6. Specific Location 515 Rocky River Drive		16. Thematic Category C		28. No. of Stories 2	
7. City or Town If Rural, Township & Vicinity Berea		17. Date(s) or Period ca. 1870		29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
8. Site Plan with North Arrow 		18. Style or Design Italianate vernacular		30. Foundation Material Coursed ashlar	
9. Coordinates Lakewood Quad. Lat. _____ Long. _____ U.T.M. Reference 17 428100 4581060 Zone Easting Northing		19. Architect or Engineer		31. Wall Construction Brick	
10. Site <input type="checkbox"/> Building <input checked="" type="checkbox"/> Structure <input type="checkbox"/> Object <input type="checkbox"/>		20. Contractor or Builder		32. Roof Type & Material Gable/Slate	
11. C. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		21. Original Use, if apparent Residence		33. No. of Bays Front 6 Side	
12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		22. Present Use Residence		34. Wall Treatment Brick/Stone Trim	
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>		35. Plan Shape L Shaped	
14. District Potent'l? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		24. Owner's Name & Address, if known		36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/>	
15. Name of Established District		25. Open to Public? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		37. Condition Interior _____ Exterior Very Good	
26. Local Contact Person or Organization		27. Other Surveys in Which Included		38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
42. Further Description of Important Features Brick gabled house with steep slate roofs, wide eaves, and brick chimneys. 2x2 segmentally-arched windows with working shutters and arched stone lintels. Narrow, segmentally-arched entrance with a transom light. Side wing with a recessed porch and separate entrance. Foundation and front stoop of coursed ashlar.		43. History and Significance The house has a plaque dating it at 1871. The 1874 Atlas shows the house and 8 acres belonging to F. Diner. In 1903, it belonged to H. Diner, and in 1927 it belonged to H. Diener (sic.). It is an interesting combination of a Greek Revival plan and Italianate forms and details.		5. Other Name(s) Diner, F., Residence	
44. Description of Environment and Outbuildings The structure stands at the top of a rise along a heavily trafficked road leading into Berea. There are several new subdivisions nearby. The structure itself is well shaded and maintained.					
45. Sources of Information Cuyahoga County Atlases.		46. Prepared by Fisher		48. Date 11-77	
		47. Organization WRMS			
		49. Revision Date(s)			

OHIO HISTORIC INVENTORY

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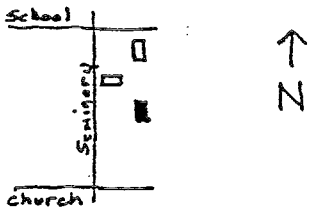

<p>1. No. CUY-1692-15</p> <p>2. County Cuyahoga</p> <p>3. Location of Negatives WRHS</p>	<p>4. Present Name(s) St. Thomas Episcopal Church</p> <p>5. Other Name(s)</p>	1. No. 1692-15	
<p>6. Specific Location 224 Seminary & Bagley</p>	<p>16. Thematic Category C, N</p> <p>17. Date(s) or Period 1893</p> <p>18. Style or Design Richardson Romanesque</p> <p>19. Architect or Engineer</p> <p>20. Contractor or Builder</p> <p>21. Original Use, if apparent Church</p> <p>22. Present Use Church</p> <p>23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/></p> <p>24. Owner's Name & Address, if known</p>	<p>28. No. of Stories 1</p> <p>29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>30. Foundation Material Stone</p> <p>31. Wall Construction Stone</p> <p>32. Roof Type & Material Gable/Shingle</p> <p>33. No. of Bays Front 1 Side 4</p> <p>34. Wall Treatment Rusticated Ashlar</p> <p>35. Plan Shape Rectangle</p> <p>36. Changes (Explain in #42) Addition <input checked="" type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/></p> <p>37. Condition Interior Exterior Good</p> <p>38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>41. Distance from and Frontage on Road 30'</p>	2. County Cuyahoga
<p>7. City or Town If Rural, Township & Vicinity Berea</p> <p>8. Site Plan with North Arrow</p> <div style="text-align: center;"> </div>	<p>9. Coordinates Berea Quad. Lat. _____ Long. _____ U.T.M. Reference 17 | 428800 | 4580250</p> <p>Zone Easting Northing</p> <p>10. Site <input type="checkbox"/> Structure <input type="checkbox"/> Building <input checked="" type="checkbox"/> Object <input type="checkbox"/></p> <p>11. On National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>14. District Potent? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>15. Name of Established District</p>	4. Present Name(s) St. Thomas Episcopal Church	
<p>42. Further Description of Important Features</p> <p>Small stone church with a steep gable roof and a parapet gable with a gabled wall steeple. This has a round-arched opening above a large circular window and a lower Palladian motif containing a central pointed-arch window. Corner gabled entrance vestibule of wood. Side windows paired under dressed stone lintels. Rusticated ashlar walls in alternating wide and narrow courses. Modern addition on two sides.</p>	<p>43. History and Significance</p> <p>This church is constructed with the locally quarried sandstone. Its architecture is reminiscent of the massive weightiness of the Richardsonian tradition, although its central pointed-arch window contradicts that impression. The rear additions were added in the 1960's and 1970's.</p>	<p>44. Description of Environment and Outbuildings</p> <p>The building stands on a corner lot, across from the Baldwin-Wallace campus. It faces a side residential street.</p>	3. Other Name(s)
<p>45. Sources of Information Cuyahoga Co. Atlases.</p>	<p>46. Prepared by Fisher</p> <p>47. Organization WRHS</p> <p>48. Date 10-77</p>	<p>49. Revision Date(s)</p>	5. Other Name(s)

OHIO HISTORIC INVENTORY

<p>1. No. CUY-1697-15</p> <p>2. County Cuyahoga</p> <p>3. Location of Negatives WRHS</p>	<p>4. Present Name(s) Lindsey Crossman Chapel</p> <p>5. Other Name(s) German Methodist Church , B-W College chapel</p>	<p>1. No. 1697-15</p>
<p>6. Specific Location Seminary near School St.</p>	<p>16. Thematic Category C, N</p> <p>17. Date(s) or Period 1872</p>	<p>28. No. of Stories 1</p> <p>29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>
<p>7. City or Town If Rural, Township & Vicinity Berea</p>	<p>18. Style or Design Romanesque Revival</p>	<p>30. Foundation Material Stone</p>
<p>8. Site Plan with North Arrow</p> 	<p>19. Architect or Engineer</p> <p>20. Contractor or Builder</p>	<p>31. Wall Construction Sandstone</p> <p>32. Roof Type & Material Gable/Slate</p>
<p>9. Coordinates Berea Quad. Lat. _____ Long. _____ U.T.M. Reference 17 14 28 78 0 45 79 79 0</p>	<p>21. Original Use, if apparent Church</p> <p>22. Present Use Church</p>	<p>33. No. of Bays Front 3 Side 3</p> <p>34. Wall Treatment Dressed stone</p>
<p>10. Zone Easting Northing 17 14 28 78 0 45 79 79 0</p>	<p>23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/></p> <p>24. Owner's Name & Address, if known Baldwin-Wallace College</p>	<p>35. Plan Shape rectangle</p> <p>36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input checked="" type="checkbox"/> Moved <input type="checkbox"/></p>
<p>11. On National Register? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>12. Is It Eligible? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>25. Open to Public? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Restricted</p> <p>26. Local Contact Person or Organization</p>	<p>37. Condition Interior _____ Exterior Good</p> <p>38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>
<p>13. Part of Estab. Hist. Dist.? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>14. District Potent'1? Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>27. Other Surveys in Which Included National Register</p>	<p>39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>
<p>15. Name of Established District Lyceum Village Square</p>	<p>42. Further Description of Important Features Rectangular stone church with a central tower. This has a broach spire, angle buttresses, circular and round-arched louvers, and a recessed round-arched entrance portal. The windows are round-arched with circular or quatrefoil transoms. Side bays expressed by vertical bands of stone. Corner pinnacles on facade. Interior recently remodeled.</p>	<p>41. Distance from and Frontage on Road 25'</p> 
<p>43. History and Significance The Emmanuel Methodist-Episcopal Church was organized in 1856. Later known as the German Methodist Church, they jointly constructed the church in 1872 with the German Wallace College. The college came into complete ownership in 1949, and it was renamed the Lindsey Crossman Chapel in 1953.</p>		
<p>44. Description of Environment and Outbuildings The chapel stands on a wooded quadrangle, surrounded by other college buildings.</p>		
<p>45. Sources of Information National Register form. Holzworth, <u>Grit & Greatness</u>, 1970.</p>	<p>46. Prepared by Fisher</p> <p>47. Organization WRHS</p> <p>48. Date _____ 49. Revision Date(s) _____</p>	

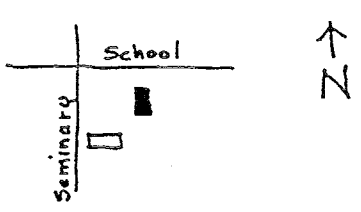

OHIO HISTORIC INVENTORY

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<p>1. No. <u>CUY-1698-15</u></p> <p>2. County <u>Cuyahoga</u></p> <p>3. Location of Negatives <u>WRHS</u></p>	<p>4. Present Name(s) <u>Marting Hall</u></p> <p>5. Other Name(s) <u>Baldwin-Wallace College Memorial Building</u></p>	1. No. 1698-15	
<p>6. Specific Location <u>Seminary near School St.</u></p>	<p>16. Thematic Category <u>C, G</u></p> <p>17. Date(s) or Period <u>1895</u></p> <p>18. Style or Design <u>Richardson Romanesque</u></p> <p>19. Architect or Engineer <u>Godfrey Fugman</u></p> <p>20. Contractor or Builder</p> <p>21. Original Use, if apparent <u>Main classroom bldg.</u></p> <p>22. Present Use <u>Administrative bldg.</u></p> <p>23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/></p> <p>24. Owner's Name & Address, if known <u>Baldwin-Wallace College</u></p>	<p>26. No. of Stories <u>3</u></p> <p>29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>30. Foundation Material <u>Masonry</u></p> <p>31. Wall Construction <u>Stone</u></p> <p>32. Roof Type & Material <u>Gable/Shingle</u></p> <p>33. No. of Bays Front <u>5</u> Side</p> <p>34. Wall Treatment <u>Random Ashlar</u></p> <p>35. Plan Shape <u>Rectangle</u></p> <p>36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/></p> <p>37. Condition Interior <u>Very Good</u> Exterior <u>Very Good</u></p> <p>38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>41. Distance from and Frontage on Road <u>100'</u></p>	2. County Cuyahoga
<p>7. City or Town If Rural, Township & Vicinity <u>Berea</u></p> <p>8. Site Plan with North Arrow</p>  <p>9. Coordinates <u>Berea</u> Lat. _____ Long. _____ U.T.M. Reference <u>17 4 2 8 8 0 0 4 5 7 9 7 6 0</u></p> <p>Zone Easting Northing</p> <p>10. Site Building <input checked="" type="checkbox"/> Structure <input type="checkbox"/> Object <input type="checkbox"/></p> <p>11. National Register? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 12. Is it Eligible? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>13. Part of Estab. Hist. Dist.? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 14. District Potent'l? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>15. Name of Established District <u>Lyceum Village Square</u></p>	<p>25. Open to Public? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <u>Restricted</u></p> <p>26. Local Contact Person or Organization</p> <p>27. Other Surveys in Which Included <u>National Register</u></p>	4. Present Name(s) Marting Hall	
<p>42. Further Description of Important Features <u>Large stone structure with octagonal lantern, corner pinnacles, and several parapet gable roofs and wall dormers. Second floor round-arched windows with stone voussoirs. Central round-arched entrance flanked by series of engaged Romanesque columns. Above is a name plaque and a semi-circular projection with a conical roof. Partial cornice has stone dentils.</u></p> <p>43. History and Significance <u>Built as the main classroom building of German-Wallace College, the structure employs locally quarried stone and is a good example of the late phase of the Richardson Romanesque style. The college was founded in 1864 to promote the German culture. The building was renamed Marting Hall in 1938.</u></p> <p>44. Description of Environment and Outbuildings <u>The structure stands on a wooded quadrangle surrounded by other college buildings dating from various periods.</u></p> <p>45. Sources of Information <u>National Register form. Holzworth, Grit & Greatness, 1970.</u></p>		3. Other Name(s)	
<p>46. Prepared by <u>Fisher</u></p> <p>47. Organization <u>WRHS</u></p> <p>48. Date <u>10-77</u></p> <p>49. Revision Date(s)</p>			

OHIO HISTORIC INVENTORY

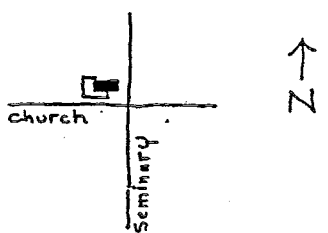

Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

1. No. <u>CUY-1699-15</u> 2. County <u>Cuyahoga</u> 3. Location of Negatives <u>WRHS</u> 6. Specific Location <p style="text-align: center;"><u>corner of Seminary & School Street</u></p> 7. City or Town <u>Berea</u> 8. Site Plan with North Arrow  9. Coordinates Lat. <u>Berea Quadrangle</u> U.T.M. Reference <table border="1" style="width:100%; text-align: center;"> <tr> <td>17</td><td>4</td><td>2</td><td>8</td><td>8</td><td>1</td><td>0</td> <td>4</td><td>5</td><td>7</td><td>9</td><td>8</td><td>2</td><td>0</td> </tr> <tr> <td colspan="6">Zone Easting</td> <td colspan="6">Northing</td> </tr> </table> 10. Site <input type="checkbox"/> Structure <input type="checkbox"/> Building <input checked="" type="checkbox"/> Object <input type="checkbox"/> 11. National Register? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 12. Is it Eligible? Yes <input type="checkbox"/> No <input type="checkbox"/> 13. Part of Estab. Hist. Dist.? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 14. District Potent? Yes <input type="checkbox"/> No <input type="checkbox"/> 15. Name of Established District <u>Lyceum Village Square</u>	17	4	2	8	8	1	0	4	5	7	9	8	2	0	Zone Easting						Northing						4. Present Name(s) <u>Dietsch Hall</u> 5. Other Name(s) 16. Thematic Category <u>C, G</u> 17. Date(s) or Period <u>1899</u> 18. Style or Design <u>High Victorian Gothic</u> 19. Architect or Engineer 20. Contractor or Builder 21. Original Use, if apparent <u>Dormitory</u> 22. Present Use <u>Classrooms</u> 23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/> 24. Owner's Name & Address, if known <u>Baldwin-Wallace College</u> 25. Open to Public? Restricted Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 26. Local Contact Person or Organization 27. Other Surveys in Which Included <u>National Register</u>	28. No. of Stories <u>2-1/2</u> 29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 30. Foundation Material <u>Stone</u> 31. Wall Construction <u>Sandstone</u> 32. Roof Type & Material <u>Hip/gable/slate</u> 33. No. of Bays Front <u>5</u> Side <u>3</u> 34. Wall Treatment <u>Random Ashlar</u> 35. Plan Shape <u>Rectangle</u> 36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input checked="" type="checkbox"/> Moved <input type="checkbox"/> 37. Condition Interior _____ Exterior <u>Good</u> 38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 41. Distance from and Frontage on Road <u>100'</u>
17	4	2	8	8	1	0	4	5	7	9	8	2	0															
Zone Easting						Northing																						
42. Further Description of Important Features <p>Large stone structure with a hip roof and flared eaves. The dormers have high hip roofs or steep gables with pointed-arch windows. Brackets under main eaves. Three lancet windows arranged in stepped fashion on upper floor. Central entrance with pointed-arch transom and quatrefoil window. Other windows are double-hung and grouped in pairs.</p>																												
43. History and Significance <p>Part of the original German Wallace College, the dormitory was built in 1899. It was named after its principle doner. In the 1905 atlas, it is listed as a "ladies school". The building was altered into an administration building in 1935 and a classroom building in 1970.</p>																												
44. Description of Environment and Outbuildings <p>The building stands on a corner lot with college buildings to one side and residences dating from about the same time on the other. The land is wooded and well maintained.</p>																												
45. Sources of Information <u>National Register form.</u> <u>Holzworth, Grit & Greatness, 1970.</u> <u>Cuyahoga Co. Atlases</u>	46. Prepared by <u>Fisher</u> 47. Organization <u>WRHS</u> 48. Date <u>10-77</u>	49. Revision Date(s)																										

1. No. 1699-15
 2. County Cuyahoga
 4. Present Name(s)
 5. Other Name(s) Dietsch Hall

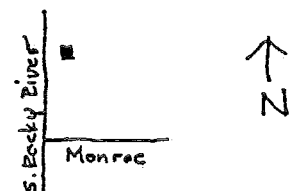
OHIO HISTORIC INVENTORY

Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

<p>1. No. CUY-1701-15</p> <p>2. County Cuyahoga</p> <p>3. Location of Negatives NRHS</p>	<p>4. Present Name(s) Berea United Church of Christ</p> <p>5. Other Name(s) First Congregational Church</p>	<p>1. No. 1701-15</p> <p>2. County Cuyahoga</p> <p>4. Present Name(s) Berea United Church of Christ</p>													
<p>6. Specific Location corner of Seminary & Church Street</p> <p>7. City or Town If Rural, Township & Vicinity Berea</p> <p>8. Site Plan with North Arrow</p>  <p>9. Coordinates Berea Quad.</p> <p>Lat. _____ Long. _____</p> <p>U.T.M. Reference</p> <table border="1" style="font-size: small;"> <tr> <td>17</td><td>4</td><td>28</td><td>7</td><td>3</td><td>0</td> <td>4</td><td>5</td><td>7</td><td>9</td><td>6</td><td>7</td><td>0</td> </tr> </table> <p>Zone Easting Northing</p> <p>10. Site <input type="checkbox"/> Building <input checked="" type="checkbox"/> Structure <input type="checkbox"/> Object <input type="checkbox"/></p> <p>11. On National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>15. Name of Established District</p>	17	4	28	7	3	0	4	5	7	9	6	7	0	<p>16. Thematic Category C</p> <p>17. Date(s) or Period 1856</p> <p>18. Style or Design Gothic Revival</p> <p>19. Architect or Engineer</p> <p>20. Contractor or Builder</p> <p>21. Original Use, if apparent Church</p> <p>22. Present Use Church</p> <p>23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/></p> <p>24. Owner's Name & Address, if known</p> <p>25. Open to Public? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Restricted</p> <p>26. Local Contact Person or Organization</p> <p>27. Other Surveys in Which Included</p>	<p>28. No. of Stories 1</p> <p>29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>30. Foundation Material Masonry</p> <p>31. Wall Construction Brick</p> <p>32. Roof Type & Material Gable/Shingle</p> <p>33. No. of Bays Front 2 Side 5</p> <p>34. Wall Treatment Brick/Stone Trim</p> <p>35. Plan Shape Rectangle</p> <p>36. Changes (Explain in #42) Addition <input checked="" type="checkbox"/> Altered <input checked="" type="checkbox"/> Moved <input type="checkbox"/></p> <p>37. Condition Interior _____ Exterior Good</p> <p>38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>41. Distance from and Frontage on Road 20'</p>
17	4	28	7	3	0	4	5	7	9	6	7	0			
<p>42. Further Description of Important Features</p> <p>Rectangular brick church with a corner entrance tower. Broach spire stands on brick buttressed tower with stone caps and inset louvers. Pointed-arch recessed portal and pointed-arch windows with brick hoodmolds. Large central pointed-arch window overgrown with ivy. Modern brick addition on side and rear.</p>															
<p>43. History and Significance</p> <p>The First Congregational Church of Berea was organized on June 9, 1855. With Rev. Stephen Cook as the first minister, the building was dedicated on March 6, 1856.</p>															
<p>44. Description of Environment and Outbuildings</p> <p>The church stands on a corner lot, facing the wooded campus of Baldwin-Wallace College. The downtown area is one block away.</p>															
<p>45. Sources of Information</p> <p>Holzworth, <u>Men of Grit & Greatness</u>, 1970, pg.144.</p>	<p>46. Prepared by Fisher</p> <p>47. Organization NRHS</p> <p>48. Date 10-77 49. Revision Date(s)</p>														

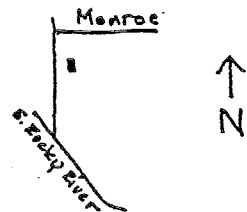

OHIO HISTORIC INVENTORY

Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

1. No. CUY-1716-15		4. Present Name(s)		1. No. 1716-15
2. County Cuyahoga		5. Other Name(s) Stone, F.. Residence		
3. Location of Negatives WRHS				
6. Specific Location 193 S. Rocky River Drive		16. Thematic Category C	28. No. of Stories 2	2. County Cuyahoga
7. City or Town If Rural, Township & Vicinity Berea		17. Date(s) or Period ca. 1860	29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
8. Site Plan with North Arrow 		18. Style or Design Italianate vernacular	30. Foundation Material Brick	
9. Coordinates Lat. Berea Long. Long. U.T.M. Reference 17 428630 4578950		19. Architect or Engineer	31. Wall Construction Brick	
Zone Easting Northing		20. Contractor or Builder	32. Roof Type & Material Hip/Asph.shingle	
10. Site <input type="checkbox"/> Building <input checked="" type="checkbox"/> Structure <input type="checkbox"/> Object <input type="checkbox"/>		21. Original Use, if apparent Residence	33. No. of Bays Front 3 Side 3	
11. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		22. Present Use Residence	34. Wall Treatment Brick/Wood Trim	
12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>	35. Plan Shape Square	
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		24. Owner's Name & Address, if known	36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/>	
14. District Potent'l? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		25. Open to Public? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	37. Condition Interior _____ Exterior Good	
15. Name of Established District		26. Local Contact Person or Organization	38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
16. Further Description of Important Features Square brick structure with a shallow hip roof, narrow eaves, and wide unadorned frieze. Double-hung windows with stone lintels and sills. Central sidelighted entrance. Side entrance. Front gable porch with wide bargeboards and tapered columns is a later addition.		27. Other Surveys in Which Included	39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
42. Further Description of Important Features		40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	41. Distance from and Frontage on Road 40'	
43. History and Significance F. Stone was on the Board of Directors of the Cleveland Stone Company. The firm was one of several that merged to form one of the largest sandstone companies in the world. The house is an interesting mixture of the Italianate form and window and door details from the Greek Revival period.		44. Description of Environment and Outbuildings The structure faces a wooded park that was formerly a quarry site. It is surrounded by houses that date from a variety of periods.	3. Present Name(s) Stone, F.. Residence	
45. Sources of Information Holzworth, Grit & Greatness, 1970, pg. 75. Cuyahoga County Atlases.		46. Prepared by Fisher		
		47. Organization WRHS		
		48. Date 11-77	49. Revision Date(s)	

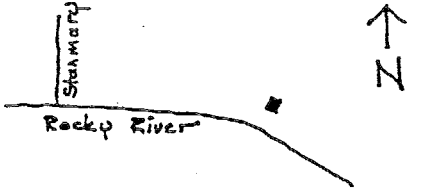
OHIO HISTORIC INVENTORY

Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

1. No. CUY-1717-15	4. Present Name(s)		1. 1717-15
2. County Cuyahoga	5. Other Name(s)		
3. Location of Negatives RHS	Parker, Dr. H., Residence		
6. Specific Location 257 S. Rocky River Drive	16. Thematic Category C.	28. No. of Stories 2	2. Cuyahoga 4. Present (Number)
7. City or Town Berea If Rural, Township & Vicinity	17. Date(s) or Period ca. 1870	29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
8. Site Plan with North Arrow 	18. Style or Design Italianate vernacular	30. Foundation Material Random ashlar	
9. Coordinates Lat. Berea Long. Long. U.T.M. Reference 17 428650 4578830	19. Architect or Engineer	31. Wall Construction Wood Frame	
Zone Easting Northing 17 428650 4578830	20. Contractor or Builder	32. Roof Type & Material Gable/Slate	
10. Site Building <input checked="" type="checkbox"/> Structure Object <input type="checkbox"/>	21. Original Use, if apparent Residence	33. No. of Bays Front 5 Side 2	
11. U.S. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	22. Present Use Residence	34. Wall Treatment Clapboard	
12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/>	35. Plan Shape Rectangular	
13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	24. Owner's Name & Address, if known	36. Changes (Explain in #42) Addition <input type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/>	
14. District Potent? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	25. Open to Public? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	37. Condition Interior _____ Exterior Good	
15. Name of Established District	26. Local Contact Person or Organization	38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
15. Name of Established District	27. Other Surveys in Which Included	39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
42. Further Description of Important Features <p>Tall gabled house with an imbricated slate roof and wide eaves above simple sided surfaces. Tall 2x2 windows have rectangular and gabled hoodmolds. Side hip-roofed wing has entrance recessed under a roof projection supported on a chamfered column. The house is painted red with white trim.</p>			5. Parker, Dr. H. Residence
43. History and Significance <p>This structure is listed as belonging to Mrs. Parker in 1874. She was the wife of Dr. H. Parker. He was the treasurer of the Berea Library Association and probably a professor at Baldwin University, once located across from this house.</p>			
44. Description of Environment and Outbuildings <p>The house faces a wooded valley with several newer houses on three sides.</p>			
45. Sources of Information Holzworth, Grit & Greatness, 1970, pg. 27. Cuyahoga County Atlases.	46. Prepared by Fisher		
	47. Organization WRHS		
	48. Date 11-77	49. Revision Date(s)	

OHIO HISTORIC INVENTORY

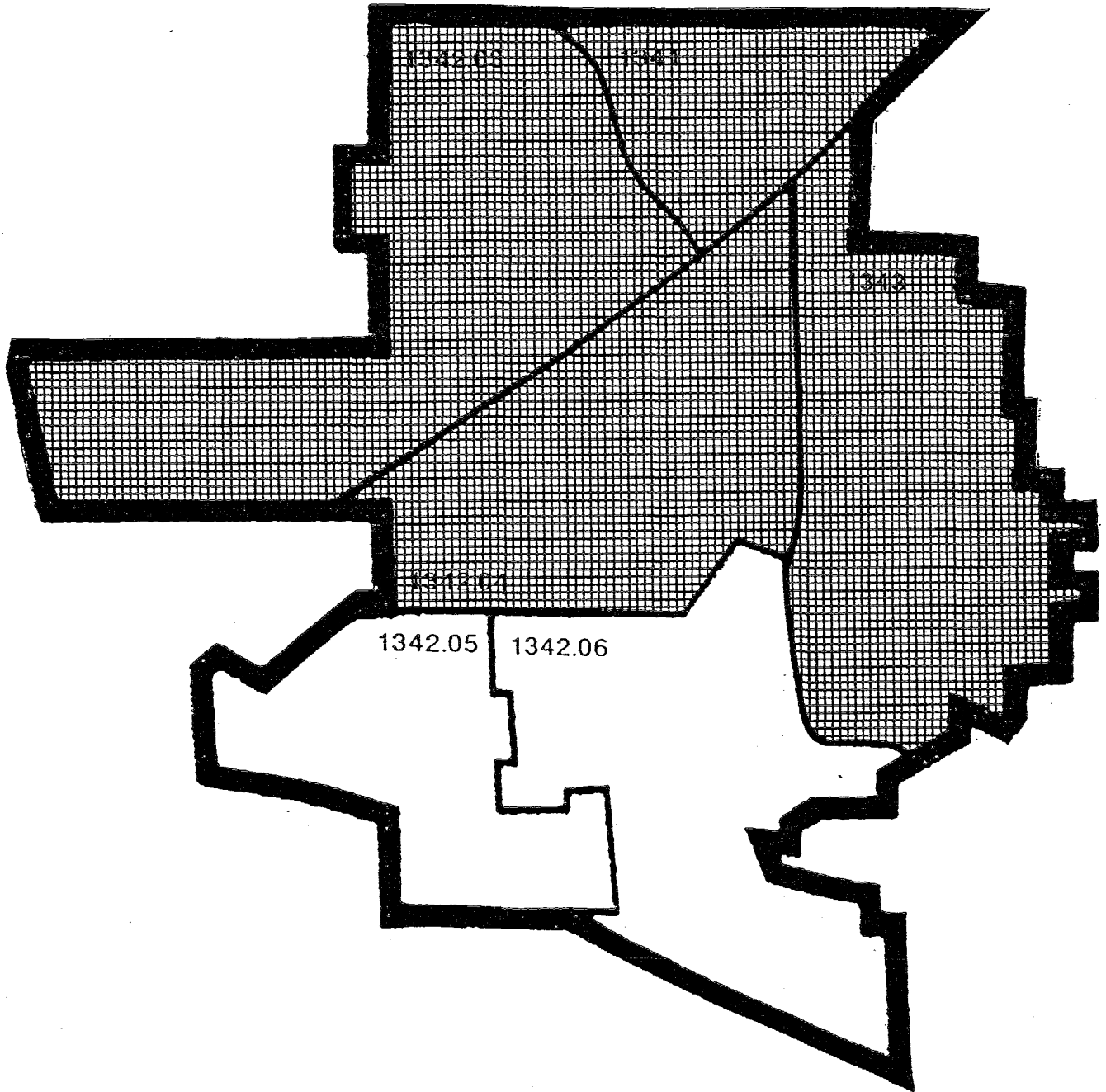
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Ohio Historical Center
Columbus, Ohio 43211

<p>1. No. CUY-1721-15</p> <p>2. County Cuyahoga</p> <p>3. Location of Negatives WRHS</p>	<p>4. Present Name(s) Whitney, John, Residence</p> <p>5. Other Name(s) Wheeler, John, Residence</p>	1721-15
<p>6. Specific Location 445 South Rocky River Dr.</p>	<p>16. Thematic Category C</p> <p>17. Date(s) or Period 1834</p> <p>18. Style or Design Federal/Italianate</p> <p>19. Architect or Engineer</p> <p>20. Contractor or Builder Jonathan Vaughn</p> <p>21. Original Use, if apparent Residence</p> <p>22. Present Use Residence</p> <p>23. Ownership Public <input type="checkbox"/> Private <input checked="" type="checkbox"/></p> <p>24. Owner's Name & Address, if known John Whitney 445 S. Rocky River Drive</p> <p>25. Open to Public? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>26. Local Contact Person or Organization</p> <p>27. Other Surveys in Which Included</p>	<p>28. No. of Stories 2</p> <p>29. Basement? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>30. Foundation Material Coursed ashlar</p> <p>31. Wall Construction Brick</p> <p>32. Roof Type & Material Hip/Asph. shingle</p> <p>33. No. of Bays Front 5 Side 5</p> <p>34. Wall Treatment Common bond</p> <p>35. Plan Shape Rectangular</p> <p>36. Changes (Explain in #42) Addition <input checked="" type="checkbox"/> Altered <input type="checkbox"/> Moved <input type="checkbox"/></p> <p>37. Condition Interior Good Exterior Good</p> <p>38. Preservation Underway? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>39. Endangered? By What? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>40. Visible from Public Road? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>41. Distance from and Frontage on Road 70'</p>
<p>7. City or Town If Rural, Township & Vicinity Berea</p> <p>8. Site Plan with North Arrow</p> 	<p>9. Coordinates Berea Lat. _____ Long. _____ U.T.M. Reference 17 429 0 45786 10</p> <p>10. Zone Easting Northing Site <input type="checkbox"/> Structure <input type="checkbox"/> Building <input checked="" type="checkbox"/> Object <input type="checkbox"/></p> <p>11. U.S. National Register? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>12. Is It Eligible? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>13. Part of Estab. Hist. Dist.? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>14. District Potent'l? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>15. Name of Established District</p>	CUYahoga
<p>42. Further Description of Important Features Rectangular brick house with a hip roof, cupola, and wide wooden cornice with pendant brackets. 6x6 windows with vermiculated stone lintels and sills. Central bay with entrances on both floors. Rear gabled wings of brick and wood frame construction. Front hip-roof porch with Tuscan columns and screening a later addition. Central interior stairhall.</p>	<p>43. History and Significance This house is said to have been built by early Berea builder, Jonathan Vaughn in 1834. In 1855, Rev. John Wheeler bought it. He was the first president (1855-1872) of Baldwin University and taught mental and moral science there. In 1870, it was purchased by George Wallace, brother of quarry owner and benefactor of German Wallace College, James Wallace.</p>	Whitney Residence
<p>44. Description of Environment and Outbuildings The structure stands on a shaded lot across from a former quarry site, now a park. There are some more recent houses nearby.</p>	<p>45. Sources of Information Holzworth, Grit & Greatness, 1970, pg.27,175,176,181. Cuyahoga County Atlases.</p>	Wheeler - Wallace Residence
<p>46. Prepared by Fisher</p> <p>47. Organization WRHS</p> <p>48. Date 11-77</p> <p>49. Revision Date(s)</p>		

Appendix B

1990 CENSUS TRACT

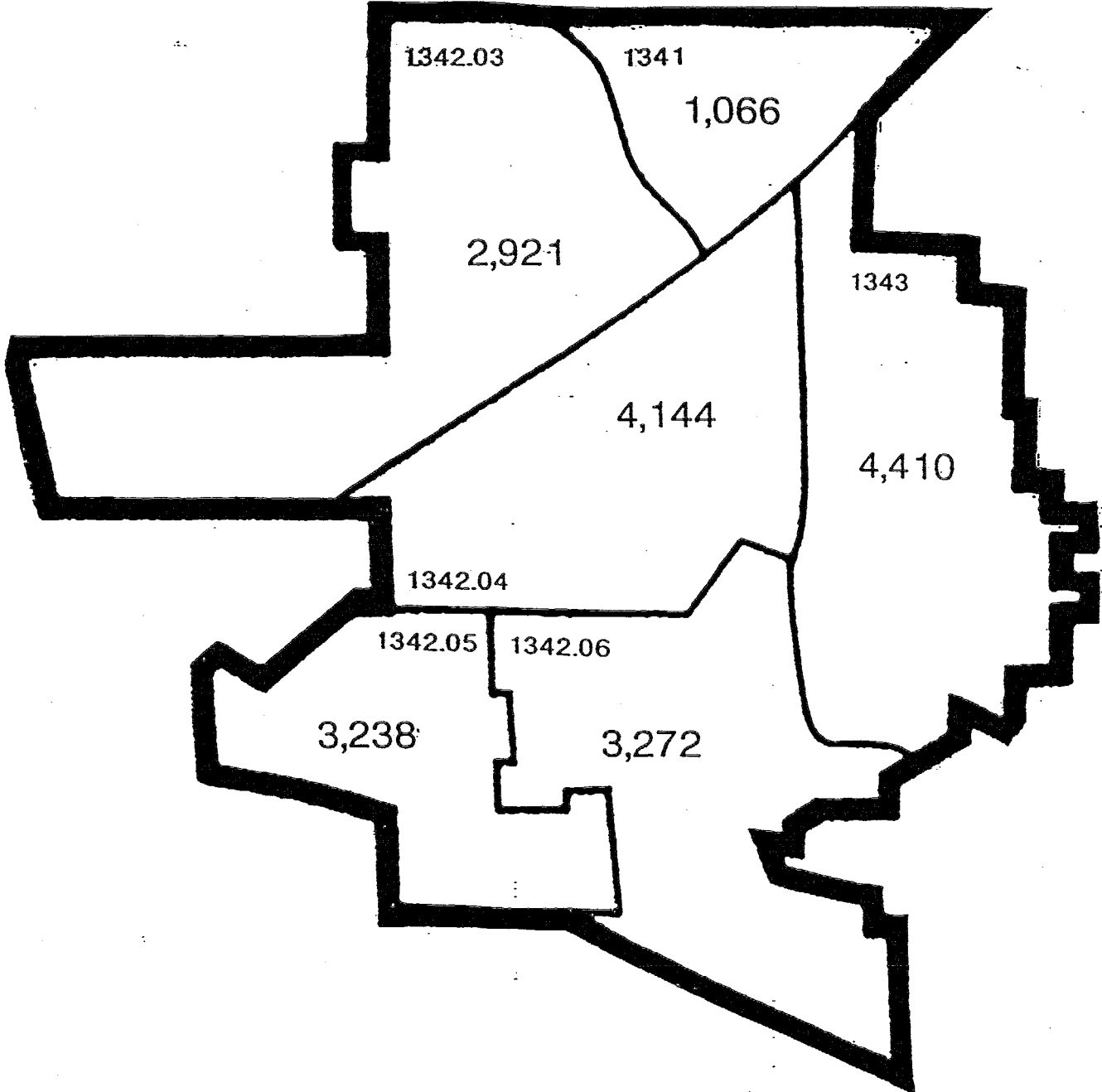
BEREA



CENSUS TRACTS INCLUDED IN THE PROPOSED CRA

1990 CENSUS TRACT

BEREA

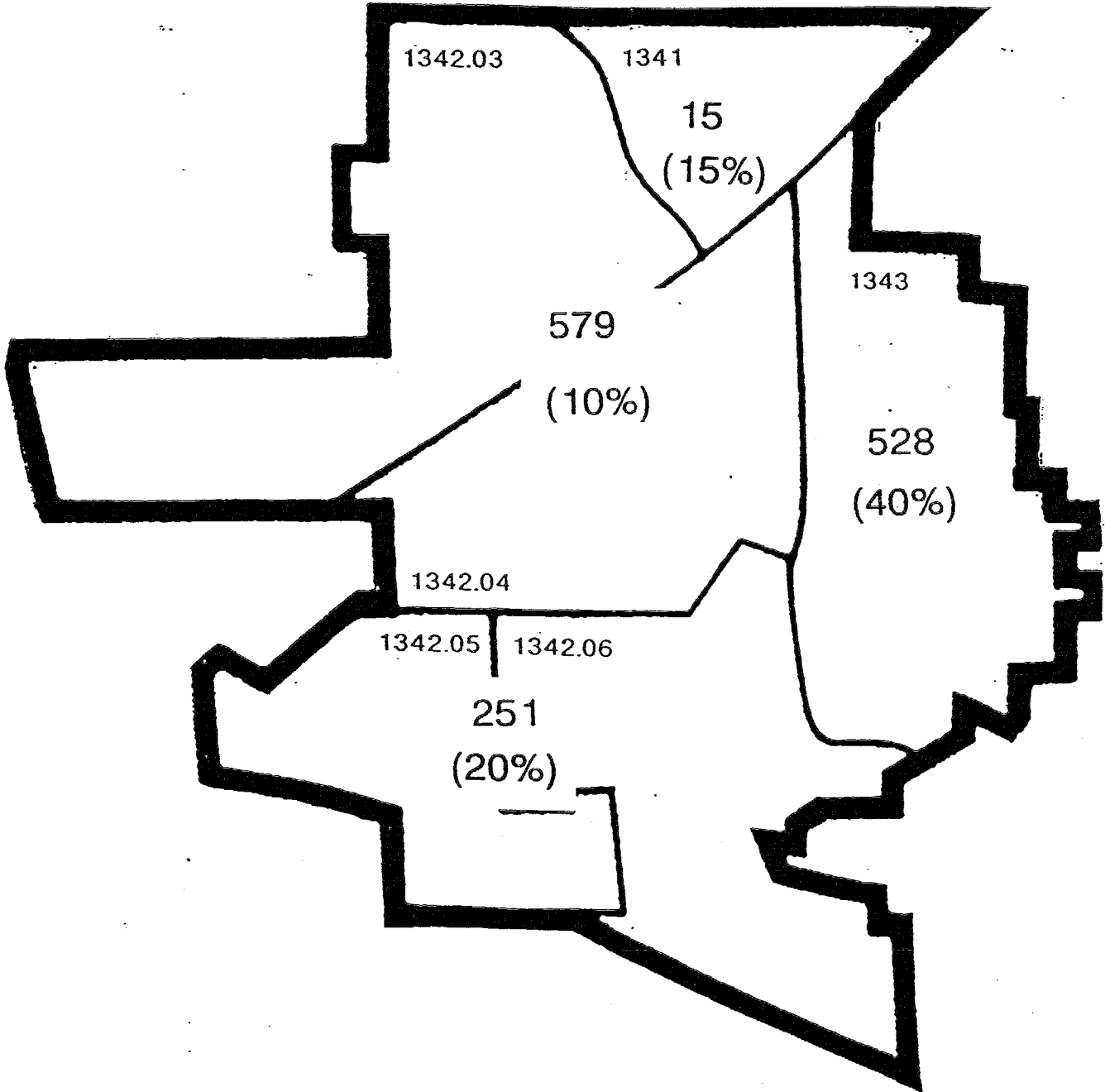


1990 POPULATION

BEREA	19,051
COUNTY	1,412,140

1990 CENSUS TRACT

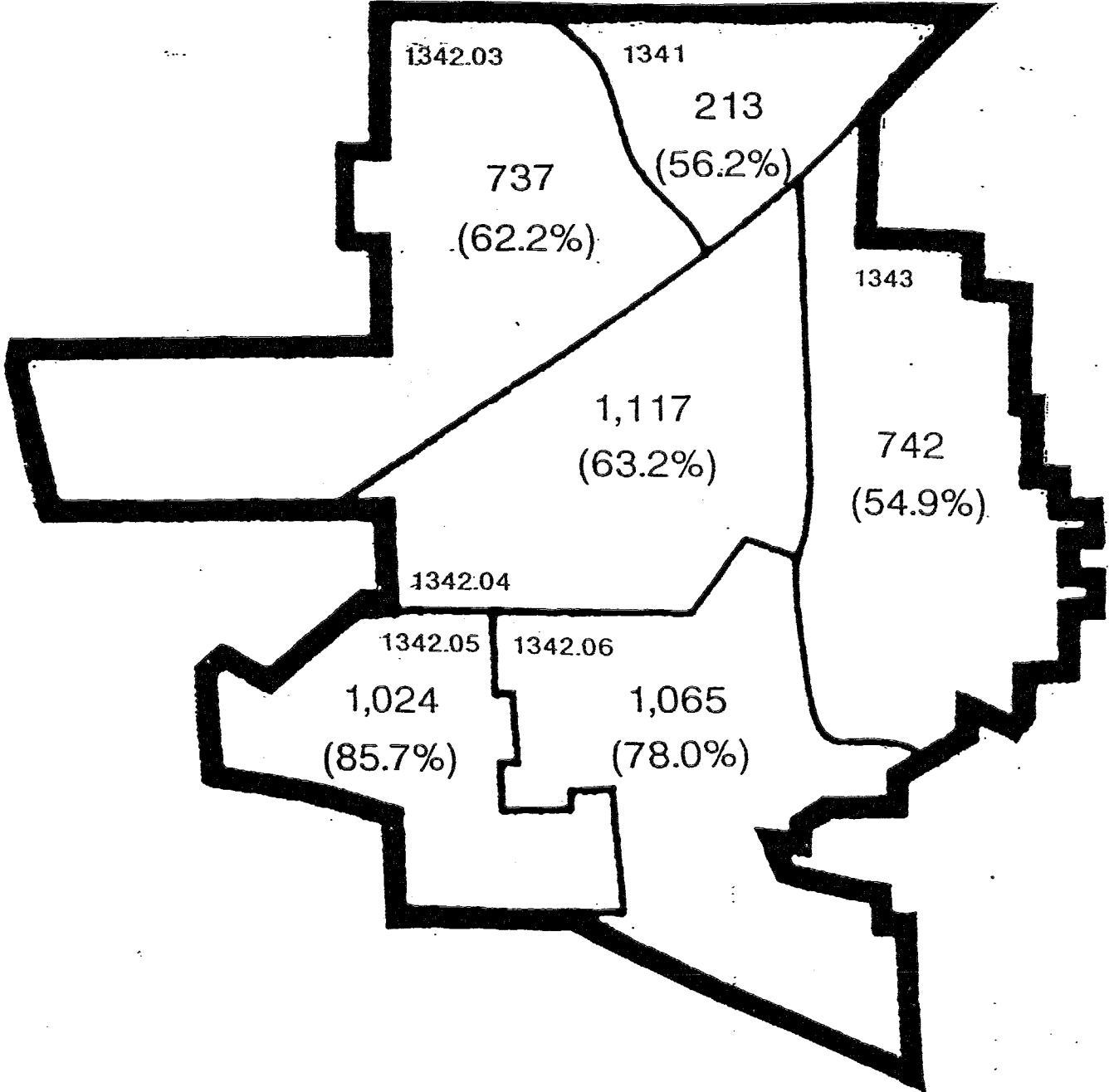
BEREA



HOUSING BUILT BEFORE 1940

1990 CENSUS TRACT

BEREA

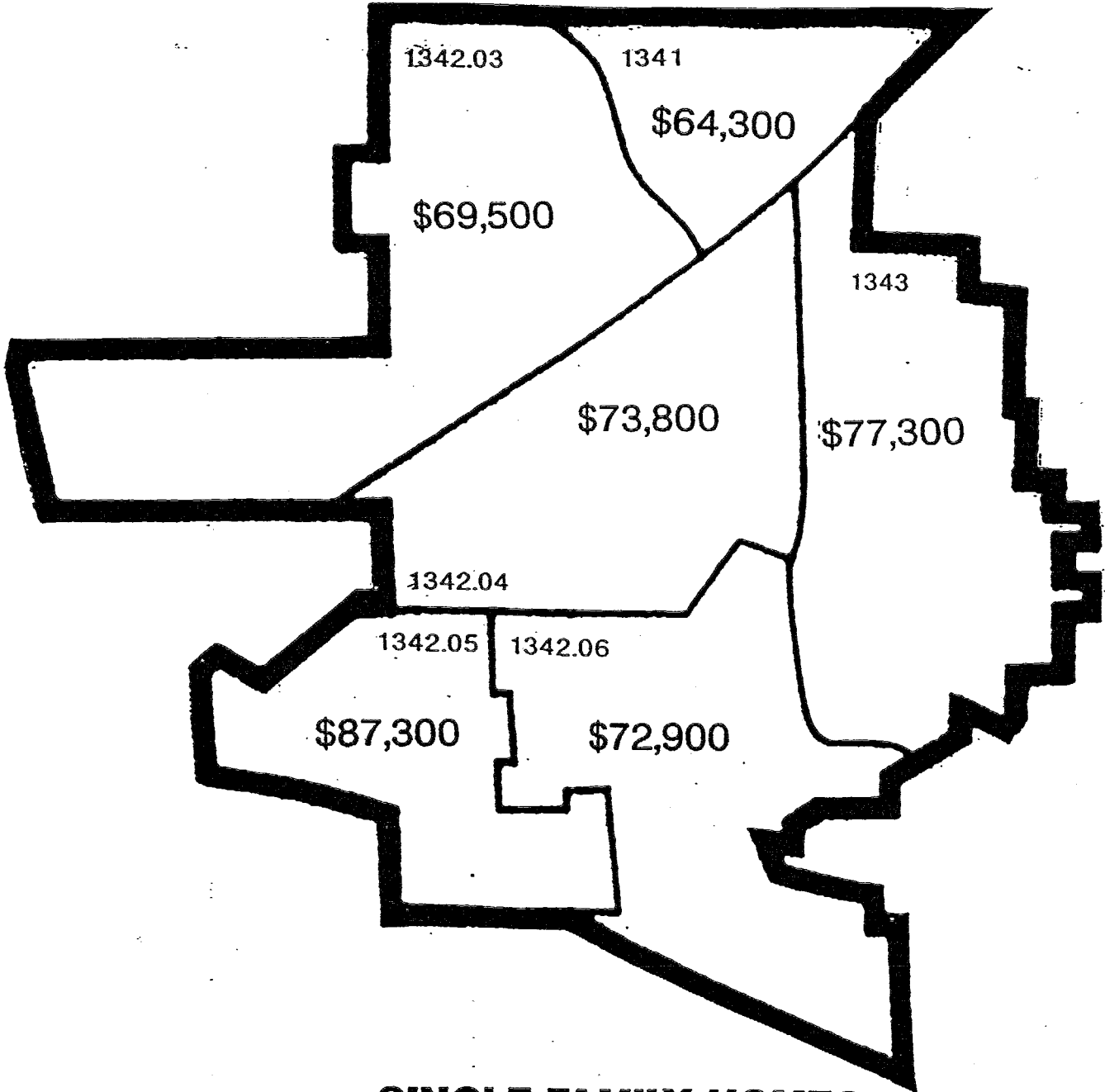


OWNER OCCUPIED HOUSING UNITS

BEREA	4,898 (67.6%)
COUNTY	349,057 (57.7%)

1990 CENSUS TRACT

BEREA

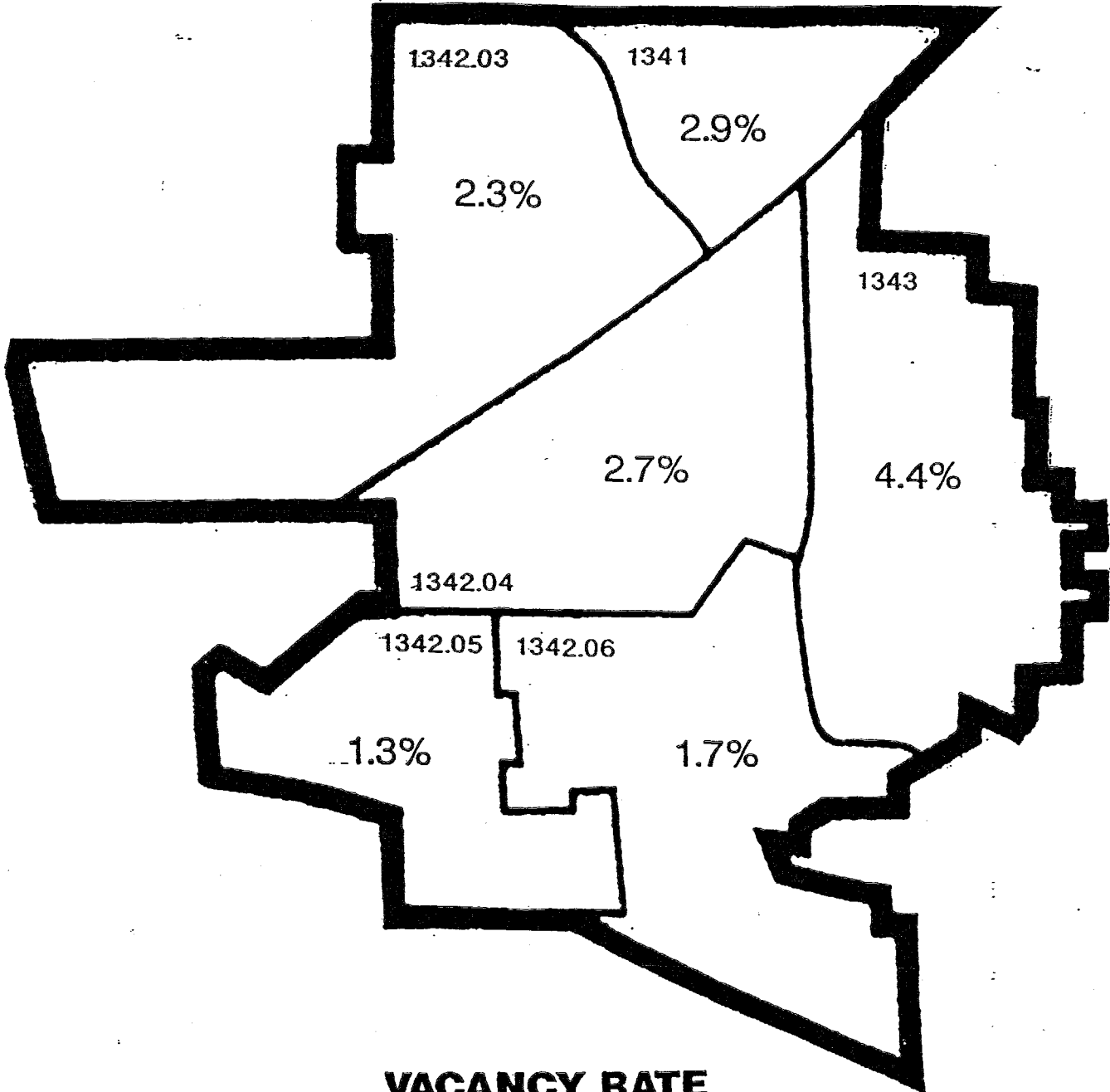


**SINGLE FAMILY HOMES
MEDIAN VALUE**

BEREA	\$74,600
COUNTY	\$72,100

1990 CENSUS TRACT

BEREA

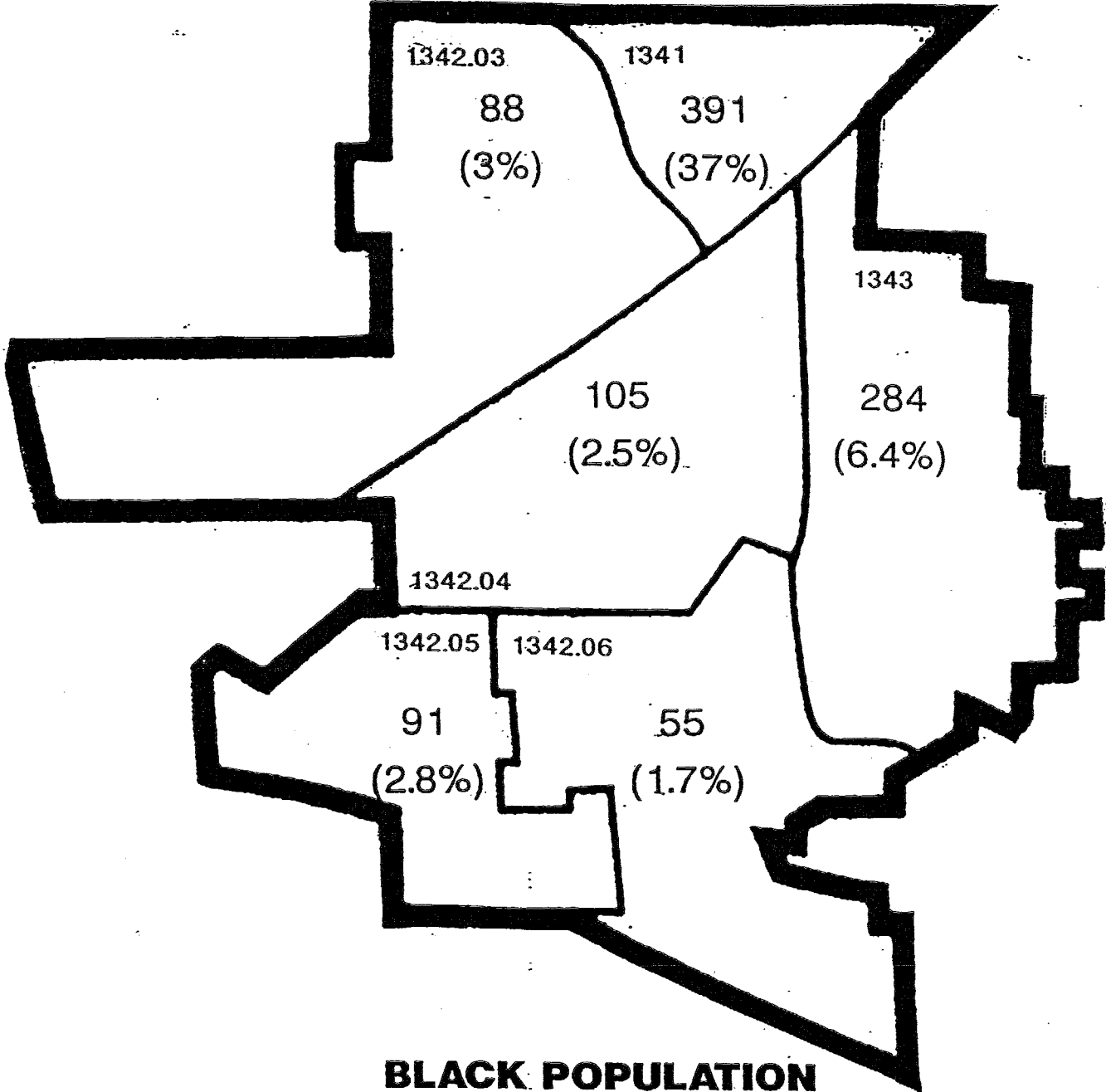


VACANCY RATE

BEREA OVERALL VACANCY RATE 2.8%
COUNTY OVERALL VACANCY RATE 6.8%

1990 CENSUS TRACT

BEREA

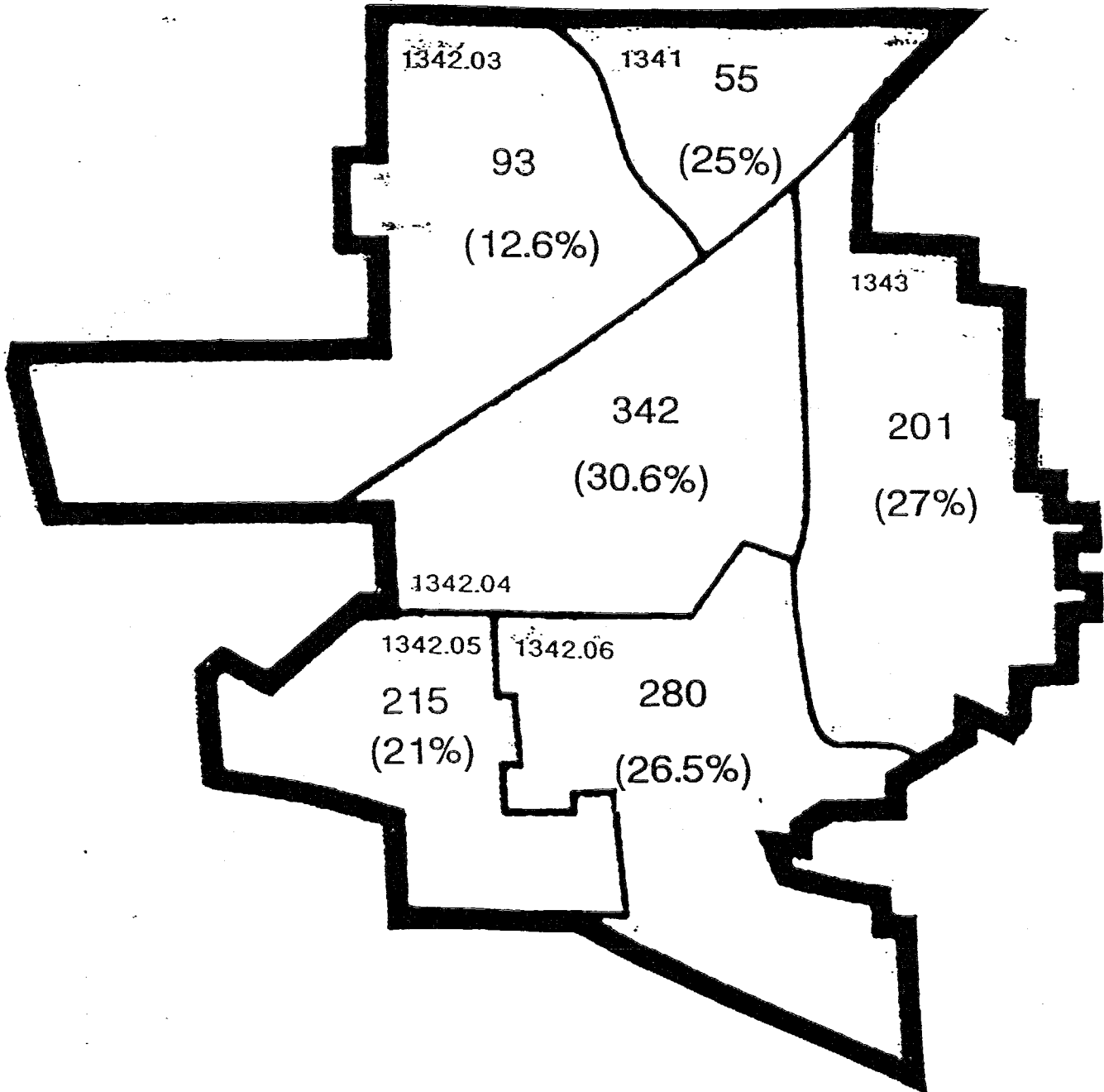


BLACK POPULATION

BEREA	1,014 (5.3%)
COUNTY	350,185 (24.8%)

1990 CENSUS TRACT

BEREA

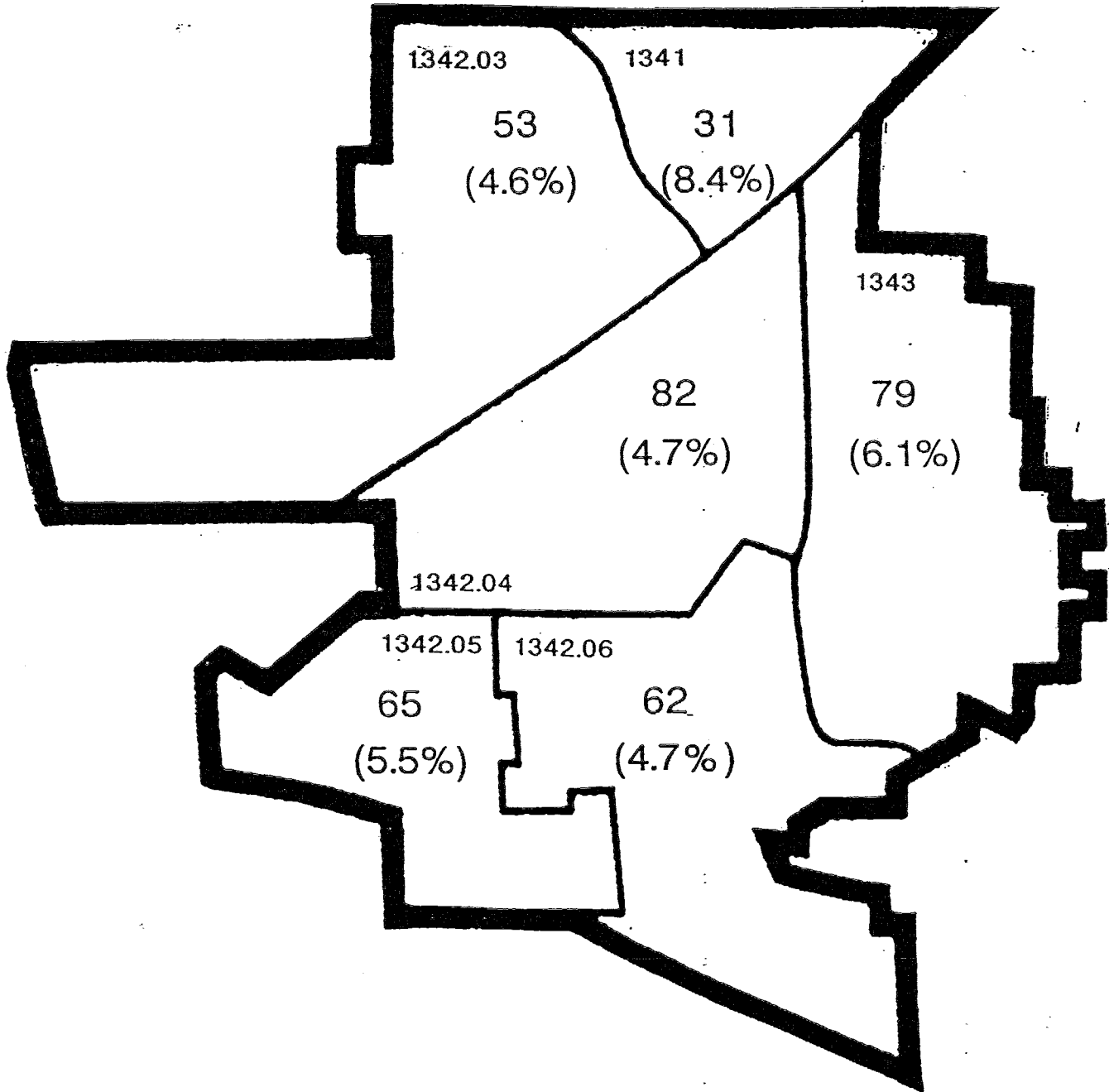


HOMEOWNERS OVER 65

BEREA 1186 (24.2 %)

1990 CENSUS TRACT

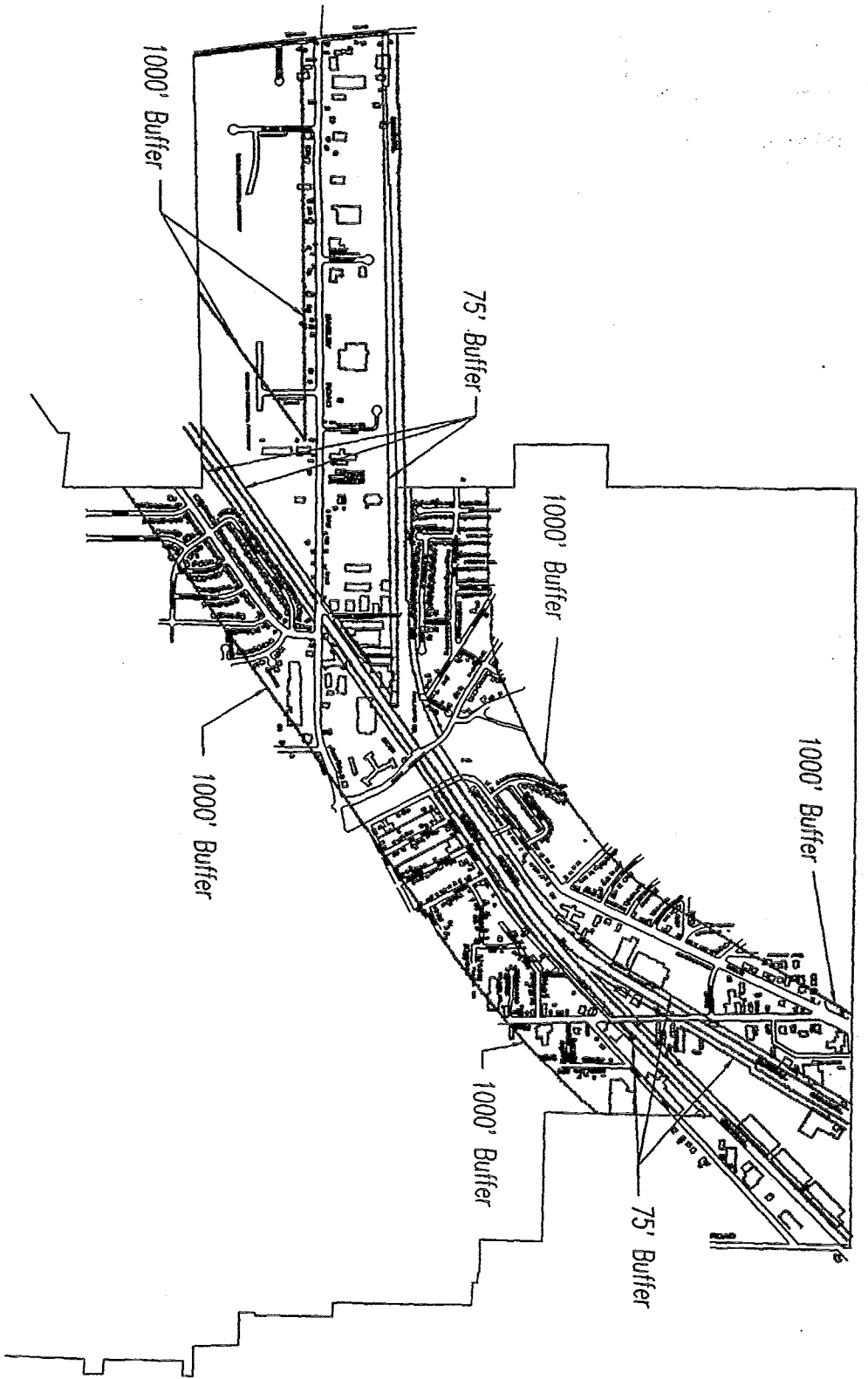
BEREA



**FEMALE HEAD OF HOUSEHOLD
WITH CHILDREN**

BEREA	372 (5.2%)	
COUNTY	51,987 (9.2%)	A-494-a

ATTACHMENT K



Number of Homes within 1000' Buffer - 1208 Homes
 Number of Homes within 75' Buffer - 254 Homes

City of Berea Ohio

FRONT ST.

Medina Supply

717.1'

Distance between Railroad Tracks

Dino Nut & Bolt

Dearborn

Bill's Truck Rental

527.63'

161.21'

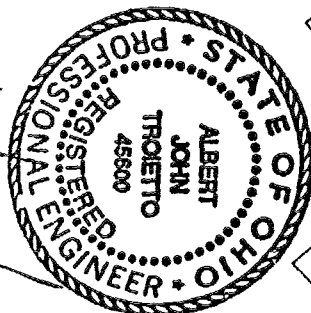
731.29'

FIRST AVE.

Cleveland Browns

Chemix

Blaze Construction



A-494-c

Albert Troietto
 Albert J. Troietto, P.E.
 City Engineer

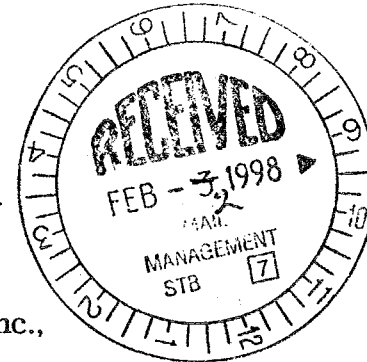
I hereby state that this plan is
 a true and accurate representation
 of the area shown.

**ENVIRONMENTAL
DOCUMENT**

C
R
DOCUMENT # 2/3/98 4:27:43 PM
UNIT

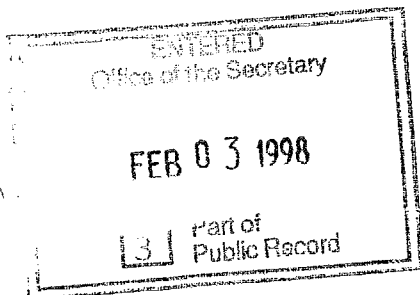
CLEV-10

Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423



Finance Docket No. 33388

CSX Corporation and CSX Transportation Inc.,
Norfolk Southern Corporation and
Norfolk Southern Railway Company
-- Control and Operating Leases/Agreements --
Conrail Inc. and Consolidated Rail Corporation



**COMMENTS OF THE CITY OF CLEVELAND, OHIO
ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT**

The City of Cleveland, Ohio, by its undersigned counsel, hereby submits its comments with respect to the Draft Environmental Impact Statement (the "DEIS") served by the Board's Section of Environmental Analysis ("SEA") on December 12, 1997. The DEIS was prepared to analyze the impact on the environment of the proposed acquisition of Conrail Inc. and Consolidated Rail Corporation ("Conrail") by CSX Corporation and CSX Transportation, Inc. (collectively, "CSX") and Norfolk Southern Corporation and Norfolk Southern Railway Company ("NS").¹

The DEIS falls far short of achieving its purpose. While recognizing the multi-faceted problem this transaction will create for Cleveland, it minimizes the scope by focussing on regional impacts rather than on the direct impacts to the many

¹CSX and NS are occasionally referred to jointly in these Comments as "Applicants."

communities located along the railroads' lines in the Cleveland area. By looking broadly at the issues, rather than on the serious adverse impacts the transaction will have across Cleveland and throughout its neighboring communities, the study minimizes the impacts on the minority and low income populations who would bear the worst brunt of the proposed transaction. Worse, it falls far short of recommending satisfactory or effective mitigation measures for the many and extensive impacts the transaction will cause.

I. INTRODUCTION

The City of Cleveland will experience a devastating increase in noise, vibration, potential exposure to hazardous materials, delays to emergency response vehicles at crossings -- all from a significant increase in train frequencies. The railroads' response to the City's concerns have been inadequate or nonexistent. CSX's proposal to plant trees and install low noise walls made of railroad ties along the Short Line will not mitigate the three-fold increase in noise impact on the adjacent residential neighborhoods. NS has made no proposals to mitigate the impacts of their intended actions.

The DEIS almost recognizes the scope of Cleveland's problem, but has proposed that CSX and NS talk to the communities. This is not enough. The purpose of an EIS is to assess comprehensively the adverse impacts on the natural and human environment, and to propose comprehensive and effective solutions. The DEIS in this case, despite its bulk and the appearance of thoroughness its size implies, does not begin to address the serious harm that Cleveland and its suburban neighbors will experience. The shortcomings in the DEIS begin with problems in the methodology

used to address certain of the impacts, and end with the failure to identify and recommend appropriate mitigation.

Cleveland has summarized the substantial impacts of this transaction on its neighborhoods in its Comments and Request for Conditions, filed on October 21, 1997 (CLEV-9).² SEA acknowledges many of those impacts. In some neighborhoods, such as the Kinsman/South Broadway neighborhood, train frequencies will increase by more than 1000%. City-wide, more than 64,000 residents live within 1,000 feet of the two railroads' routes. As Cleveland explained in CLEV-9 and as has been documented in studies conducted by the Mayor and his staff, the negative impacts of the increased train traffic include safety hazards, noise, vibration, odor, dust, congestion and decreases in access, property values and overall quality of life for residents along these rail corridors. Among the harmful impacts, emergency response times will be jeopardized as trains block crossings for periods of time ranging from 2 to 10 minutes. Volumes of hazardous materials transported through Cleveland's residential neighborhoods will increase from zero (0) to forty-four thousand (44,000) carloads in east side neighborhoods and from seven thousand (7,000) to eighty-one thousand (81,000) carloads in University Circle, the region's second largest employment center and home of nationally prominent cultural, educational and medical institutions -- the Cleveland Symphony, the Cleveland Museum of Art, Case Western Reserve University,

²Cleveland provided SEA with a copy of its comments on November 6, 1997. To avoid burdening the record with duplicative recitation of the facts presented there, Cleveland incorporates CLEV-9 by reference as though fully set forth.

and University Hospitals, as well as 40 other institutions of regional and national significance.

The impacts on University Circle, masked by the way the DEIS and Applicants have drawn the line segments used in the study, have drawn criticism not just from the Mayor of Cleveland but from civic, religious, institutional and business leaders in that community. Copies of letters to the STB that explain of the unique nature of the University Circle area and statements of extreme concern about the extraordinary impact of the NS/CSX proposal on this region are attached to these comments at Tab 1. These letters are from: John S. Wilbur, Jr., President and Chief Executive Officer of University Circle, Inc., a non-profit planning and service organization for University Circle ("It is our collective concern that the increased train traffic that will result from the proposed CSX merger will adversely affect our economic progress and plans. We base this on the convictions that the increased traffic will adversely affect air quality; increase noise pollution (which may prove problematic to the Cleveland Orchestra); and bring hazardous materials into the Circle creating the potential need for emergency evacuation in an area with *three major hospitals.*") (emphasis supplied); Bernard P. Henri, Ph.D., Executive Director, Cleveland Hearing & Speech Center (" ... Cleveland Hearing & Speech Center must express its particular concerns regarding the significant increases in noise which such volumes of rail traffic would create."); Timothy J. Peppard, Chief of Police, University Circle Police Department; Elizabeth B. Heil, Administrator, Abington Arms, an HUD assisted high rise apartment building for low-income elderly and mobility-disabled residents ("The negative impact on our residents, in terms of health and well being is enormous; i.e. a triple increase of the noise levels

which cannot be ameliorated because the tracks are elevated; dangerously increased levels of pollutants and carcinogenic materials in the immediate environment; and the increased probability of accidents involving railroad transported hazardous materials."); Arnold Dahm, President of the Church of the Covenant ("We feel that these populations of our members, particularly the elderly and infirm are endangered by the proposed heavy traffic, 81,000 carloads/year of Hazardous Materials. It would be difficult to rapidly evacuate these members in the event of an accident accompanied by a spill of hazardous materials."); Agnar Pytte, President, Case Western Reserve University; Gail M. Eovito, Senior Property Manager, Associated Estates Management Company ("While the added noise alone for elevated tracks is of concern, my greater concern is the heavy increase of pollutants that not only significantly affect air quality, but may in fact be introducing carcinogenic and other pollutants with wide reaching medial repercussions. With the increased transportation of toxic waste, comes the increased potential for the devastating effect of a major spill which could occur in this densely populated area.")

The focus in the DEIS on impacts by line segments has created an analysis that masks the impacts on the disadvantaged populations that live and work along the routes the companies plan to use to route their trains after the transaction. In the Cleveland area, as the railroads' lines head towards the east or west from the center of the City, the population densities decrease and the demographics of the population shift to more affluent, less racially and culturally diverse communities. By basing impact measurements on line segments that are longer than the stretches that extend through the low income and minority populations Cleveland has identified in CLEV-9, the DEIS and the Applicants dilute the analysis of the problems this transaction will create. The

President's Environmental Justice Order requires more rigorous attention to the impacts on the disadvantaged populations that will see, hear and feel the effects of the proposed transaction.

There is only one way to most effectively mitigate these harms: rerouting trains away from the residential communities and into the industrial corridors that have rail lines already serving them. Because the Applicants have not been able, despite their expertise and substantial resources available, to find any rerouting alternatives, the Mayor of Cleveland has spent his and his staff's time and resources to study the problem carefully and find a proposed solution. The solutions proposed by Cleveland are discussed in Section IV of these Comments. Cleveland recognizes that these are not the only possible alternatives that CSX and NS should consider. However, an analysis of these possible solutions can form the baseline for beginning to create a solution that meets all of the parties' objectives. Relying on the expertise of staff and of rail industry professionals and consultants the City has retained, the City has proposed two alternative routing arrangements that are designed to prevent the potentially devastating impact of the enormous increase in freight traffic that will result from the CSX/NS proposal. Either of the Cleveland solutions would limit the harm to Cleveland's neighborhoods while at the same time providing an arrangement that will allow CSX and NS to move cross-country traffic efficiently through the City, which is a key junction point on both of their systems. As explained more fully in section IV, below, the Cleveland solution will improve upon the CSX/NS proposal by:

- Redirection freight traffic from residential areas to industrial corridors;
- Substantially reducing the adverse impacts on minority and low-income populations;

- Providing grade separations to minimize emergency response times and improve traffic flow;
- Minimizing increases in noise levels;
- Decreasing the need to spend money on mitigation measures that will have limited positive effects, which, in turn will allow the railroads to spend money on providing efficient and competitive freight service, thus enhancing regional development.

Cleveland recognizes that neither of its solutions to the problems CSX and NS will create will come free. According to the City's studies, the cost will be in the range of \$148 to \$171 million, which includes the cost of investment in improvements to the infrastructure in the adjacent City of Berea. NS and CSX have projected a cost of \$72 million to construct improvements in Cleveland, but this does not include the cost of mitigating the substantial noise, hazardous materials, safety and crossing delay concerns raised by this proposal.

The City believes that the cost to mitigate the existing CSX/NS proposal will continue to escalate as the railroads confront the true costs of mitigation in the City and in the adjacent suburbs. In fact, as Cleveland and its suburban neighbors have focussed attention on the serious problems this transaction will create, CSX and NS have both begun to demonstrate their willingness to spend money to appease the concerns of the various communities. However, more will be required. According to the City's analysis, the actual cost to the railroads of implementing their own proposals, with their proposed mitigation measures that provide, at best, only a partial solution, would be \$107 million. In the context of a proposed transaction that is projected to

yield to the two rail giants a total of nearly \$1 billion in benefits annually³, the differential between the cost of implementing the current NS/CSX proposal and the cost of the Cleveland solution diminishes in scope.

In preparing both its estimate of the full cost of mitigating the railroads' proposal and the two alternative routing proposals, the City has been true to its tradition of being a city that designs and builds things that work. Cleveland is a city with a 200 year tradition of engineering and precision manufacturing. From its early years as the center of the country's oil and steel industries to its preeminence as a center of automotive and machine tool manufacturing, to its more recent pioneering role in biomedical and polymer research, the Greater Cleveland community takes pride in being a community that designs products to micrometer tolerances and manufacturing them more effectively than others. The City's approach to solving the multiple problems created by the proposed Conrail acquisition reflects this disciplined approach. The City has retained recognized professional experts and has tasked them to analyze the existing proposal and to develop workable alternatives that will best meet the needs of the railroads, the City and its suburban neighbors. The City takes the position that it needs an efficient through railroad system but not at the expense of existing residential communities and unique institutional districts. City staff and the City's consultants identified and evaluated numerous rail routing alternatives -- at the City's expense -- two of which it believes will best balance the interests of the railroads, the

³Railroad Control Application, filed June 23, 1997, at Vol. 1, p.19.

City and the suburbs and which will provide a 100-year "global fix" that will best serve these parties.

The alternatives proposed by the City are just the beginning of the analysis that is required at this stage. While the City has done some analysis of the comparative impacts of its proposals (see Section IV, *infra*), SEA should undertake a careful analysis of these alternatives as part of its obligations under the applicable regulations before issuing the final EIS with respect to the proposed transaction.

These Comments are divided into three sections: a generalized discussion of defects in the DEIS; a description of specific areas that Cleveland has identified as requiring additional study because the DEIS does not fully assess the impacts on the City; and a description of the Cleveland solutions, along with a description of the ways these alternative routing arrangements will diminish, where they do not remove entirely, the otherwise enormous impacts of the proposed transaction.

II. GENERAL COMMENTS

A. Methodology

1. The study does not focus adequately on impacted neighborhoods or communities.

Because the scope of the SEA's analysis is so broad, encompassing nearly one half of the country, it does not deal in detail on the impacts to specific communities within the regions studied. The study does, to be sure, begin on a state-wide level, then break down into county or city-specific analyses. For the most part, however, the analysis is by line segment. If the line segment studied is too long or encompasses more than one town, or more than one distinct community within the larger region

traversed by the line segment, the impacts on a particular location that may in fact be substantial, are masked.

For example, segment N-075, Ashtabula to Cleveland, is 50 miles long. DEIS, vol. 3B, Table 5-OH-1 at OH-6. It traverses three counties -- Ashtabula, Cuyahoga and Lake -- and crosses several communities within those counties. The aggregate impacts over this line, when analyzed in terms of the entire segment and the population along it, minimizes the impacts on the large population concentrations closer to the heart of Cleveland. If, for example, the particulate emissions were studied along this line segment, the impact to residents in more densely populated segments would appear smaller than it actually is as a result of spreading the measurement along a lengthier corridor. Similarly, Table 5-OH-49 DEIS, vol. 3B at OH-120, states that only 22.4% of the population along this segment falls within the low income category. However, for the 13 mile stretch in Cuyahoga County, the population demographics is different, and higher. The percentage of people living in poverty is higher, and the impact is far more serious and more accurately stated, if this line segment was studied in smaller segments that correspond to the Cleveland neighborhoods identified in CLEV-9. The comparison is even more dramatic when one looks at the demographics within the City and compares them with the demographics on the Cleveland-Ashtabula NS segment (N-075) as a whole. This 50-mile segment is estimated by the SEA to have a total population of 71,286, with 47.6% minority and 22.4 low income. Cleveland's analysis of this segment within the City (1000 feet from the centerline) is 19,853, with 67% minority and 38% low income. See CLEV-9, VS Morrison at Attachments 1 and 2. These dense urban neighborhoods clearly deserve more detailed and focused

examination than is possible when environmental impacts are analyzed using rail segments that are up to 50 miles long.

Before completing the Final EIS, SEA should require the studies that have been done to focus more on the individual neighborhoods and communities such as University Circle which are along these line segments. While it is tempting, due to the sheer magnitude of the transaction being studied, to assess impacts on a regional basis, SEA can not permit the use of such a broad approach to trivialize the impacts on the individuals and the communities that will feel the adverse effects of the increases in train frequency that will plague Cleveland's residential, commercial and cultural centers.

2. The analysis of air quality impacts is incomplete.

Similarly, the assessment of the impacts of the transaction on air quality in Cleveland misses two important points about increased emissions because of the regional, rather than a more localized, approach that the study takes. While giving some attention to air quality, the DEIS does not address localized air quality impacts and fails entirely to analyze particulate emissions (PM₁₀) which may have serious health consequences to the young, elderly and infirm. While the impacts of air pollution on these populations are alluded to in the DEIS's section on Environmental Justice, SEA has made no attempt to quantify, analyze or propose mitigation for the effects of the dramatic increase in rail traffic on these sensitive populations.

For example, the DEIS does not take into account the unique dispersion patterns and populations concentrated in University Circle, an institutional district through which over 80 trains will pass each day. As indicated in the attached letter from Agnar

Pytte, the President of Case Western Reserve University (included in Tab 1), the dispersion characteristics found within the University Circle district demand specific detailed analysis and clearly defined mitigation.

3. The DEIS assessment of risk from hazardous materials incidents employs an arbitrary measure, fails to account for variability in the data and side steps the need for mitigation in Cleveland.

One aspect of the study of increases in Hazardous Material incident potential raises questions about the validity of the study overall, since it seems designed to trivialize the increased risk and to avoid finding impacts that are sufficient to warrant further study or mitigation, or both. Table 5-OH-6, DEIS Vol. 3B at OH-15, shows changes in years between accidents. For two segments in Cleveland (C-072 and C-073) the interval changes from one accident every 1344 years and 666 years, per mile on the segments, respectively, to one accident every 101 years per mile on both segments. These same rail segment will experience an enormous increase in the volume of hazardous materials transport. **In fact, this is the largest (by far) increase across in hazardous material transportation across the entire system, yet SEA requires no further analysis of potential mitigation.** On segment C-072, the number of trains will increase by 40.4 per day (Table 5-OH-6), and the amount of hazardous materials shipped on the segment will increase from 0 to 44,000 carloads annually (Table 5-OH-10, DEIS Vol. 3B at OH-30). On segment C-073, train frequencies will increase by 37.0 per day (Table 5-OH-6) and the amount of hazardous materials shipped also will increase from 0 carloads to 44,000 carloads annually (Table 5-OH-10).

Moreover, the differing demographics along the various line segments demonstrates another fundamental flaw in the one accident per 100 years per mile

standard. In Cleveland, the population densities along these lines are high and thousands of people live within 1,000 feet of the tracks. The situation in rural counties is different. To be sure, people live near the two carriers' tracks throughout their systems. But in rural, less densely populated areas, the number of people per mile who are placed at increased risk of exposure to hazardous materials declines dramatically. Any increase in exposure to this risk requires careful study to determine whether other alternatives might provide a safer, or at least less risky, solution. In this case, where CSX and NS propose some of the highest increases in hazardous materials carloads across their newly configured systems, the population density along the routes in the City of Cleveland suggests that a different standard should be used.

In view of these enormous increases (enormous whether measured in terms of raw numbers or of percentage increases), SEA should have pursued studies of whether mitigation is warranted. SEA's description of its methodology for study of mitigation of hazardous materials impacts includes the following statements:

"To be conservative, SEA applied a level of one accident per 100 years as the significance criteria for determining when mitigation is warranted.

....

SEA determined that, nationally over the last 20 years, the number of accidents varies plus or minus 10 percent each year from the previous year."

DEIS Vol. 1 at 3-7. This appears to say that the statistical variation is plus or minus 10% between years. For line segments C-072 and C-073, the projected incident rate was every 101 years, apparently plus or minus 10 years. This could mean an accident every 91 years, or one every 111 years. To be conservative and careful about protecting

the lives of the citizens who live and work along these lines, an enormous increase in hazardous material traffic and a dramatic increase in the rate of likelihood of an incident should have led SEA to determine that these line segments required the next level of analysis of mitigation. No such analysis was conducted.

With respect to this issue, the DEIS side steps the mitigation issue through arbitrary manipulation of statistics to the potentially serious detriment of the people of Cleveland. The discussion below of the relative costs of the NS/CSX proposal and the Cleveland solution includes in the cost of implementing the current proposal, estimates for containment and other mitigation of hazardous materials spills. The DEIS should study mitigation that will be required for the types of materials that NS and CSX expect will be moved across the lines in the City of Cleveland, and assess whether, as the City believes, the best mitigation is to reroute the traffic as proposed by the Cleveland solution.

B. Environmental Justice

The NS/CSX proposal falls squarely within the requirements of Executive Order 12898, which focuses on whether federally approved or mandated actions have a disproportionately high and adverse impact on minority and low income populations.

See Executive Order No. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations, §1-101, 3 C.F.R. 859 (1995), 30 Weekly Comp. Pres. Doc. 276 (Feb. 11, 1994). In CLEV-9, Cleveland explained in detail the scope of the impacts on the City's poor and minority populations. *E.g.*, CLEV-9 at 10 - 11 and Verified Statements of Hunter Morrison at Attachments 1 and 2, and Terri

D. Hamilton at 3 - 11. The DEIS recognizes the importance of this issue and, in fairness, does not minimize the impacts, stating:

Proposed rail increases would affect these populations because of the following:

- The lack of financial resources and options to move away from the affected area.
- The lack of financial resources to install necessary home improvements such as sound insulation, air conditioning and air filters.
- A higher number of senior citizens, disabled persons and children represented in lower-income households who are prone to the hazards associated with freight rail lines such as limited mobility and sensitivity to noise or other impacts.

DEIS, vol. 3B at OH-149. Incredibly, and notwithstanding this recognition of the magnitude of problem, there is no careful analysis of the communities and the respective effects on each.

Worse, the only specific mitigation recommended to date is outreach. This is far from enough. Informing the public about the transaction will not mitigate its impacts. This approach ignores the economic reality of the residents along the lines whose lives will be most severely impacted by the transaction. They will not necessarily have a choice, upon learning of the enormous increases in trains, in noise, in volumes of hazardous materials, in delays in response time by police and ambulances, to go elsewhere. NS and CSX must be required to take actions that will address the substantial and "disproportionately adverse" impacts of this transaction on the minority and poor populations of Cleveland, and the DEIS should enumerate those actions with specificity.

C. Lack of Specific Recommendations for Mitigation of Projected Harms

For each of the areas where specific harms were identified, the DEIS goes no further than to recommend further consultation. This is not sufficient. In the methodology section of the DEIS, SEA lists general approaches to mitigation for the various types of harm. See DEIS at vol. 1, chapter 3. Now is the time to be more specific. The role of the EIS process is to identify and recommend solutions for the adverse impacts that will result from the transaction being scrutinized. In preparing the Final EIS, SEA needs to list each of the areas studied and identify the specific harm that will be addressed. Adoption of either of Cleveland's alternative solutions will fix much of those harms. However, even after that, at-grade crossings in some locations will still see increased train frequencies and, thus increased delays. Increased train traffic on some lines will continue to produce increased noise and other air pollutant emissions. Any solutions should be identified now, as part of this process, since it is this transaction that is causing the harm to the area in the first instance.

D. Absence of Analysis of Alternatives

Neither applicants nor the SEA staff identified alternatives to the proposed transaction, except for the no action alternative, that is, "no transaction." This is simply not credible. With the robust rail network that exists in and around Cleveland, there are other ways to route this traffic than the system proposed in the NS/CSX Operating Plans. Indeed, because of the railroads' unwillingness to come forward with solutions, other than their initial carve-up of Conrail assets that was negotiated without concern for the neighborhood impacts or consultation with the City, and because SEA likewise has failed to identify practical alternatives to the railroad's existing plan,

Cleveland has been forced to develop and present practical alternatives. In Part IV of these comments, Cleveland will describe these alternatives to the proposed transaction and, to the extent that the resources and information are available, will analyze and compare the impacts on the residents of Cleveland from the proposal as presented by the railroads, to the environmental impacts from the alternatives. SEA should complete the study of the Cleveland solution. Upon confirming the City's initial determination that these alternatives provide a realistic and effective solution to the environmental problems created by the proposed transaction, SEA should recommend that the STB not approve the transaction without imposition of the Cleveland solution as a mitigating condition to that approval.

III. SPECIFIC ISSUES

In the previous section, Cleveland identified some broad categories of deficiencies in the DEIS. This section focusses on specific issues raised by the increases in train frequencies, carload volumes and hazardous materials transported through the City, and proposes approaches to further assessment of the issues that will bring the analysis in the DEIS to a level that is consistent with SEA's obligation under the STB's regulations, under NEPA 49 U.S.C. § 4332(C), and under the CEQ guidelines, 40 C.F.R. Part 1502.

A. Noise

1. The DEIS.

The grossly oversimplified evaluation of noise impacts, which provides an indication of the number of additional residences in corridors that are included in the estimated 65dB contour, does not provide enough information for a thorough evaluation

of impacts. The DEIS does not even comply with the STB regulations implementing its obligations under NEPA, 49 C.F.R. §1105.7 (e)(6), which require the evaluation to go much further than this DEIS goes and *quantify the noise increase for these receptors*.

At its own expense, the City of Cleveland has undertaken continuous noise monitoring along the sensitive sections of the Short Line (identified by the Applicants as line segment C-073) and has conducted an independent study of the noise impacts of the dramatic increases in traffic on this currently little-used line.⁴ Looking at this line segment, which runs through the neighborhoods of Forest Hills, Glenville and the University Circle institutional district and abuts the Little Italy historic district, it is evident that the DEIS does not consider the following:

- The actual number and nature of sensitive receptors for which an impact is predicted;
- The noise level at the receptors;
- The effectiveness of any proposed mitigation;
- The effects of the proposed additional track that will be located closer to some homes, which will also create a scenario in which two trains could be passing over a line segment simultaneously; or
- Whether alternative routes in Cleveland would have less of an impact.

Moreover, the SEA is not clear about when noise mitigation would be considered appropriate. Although the EIS indicates that it would be negotiated at receptors where noise levels are 70dBA and have a 5dBA increase in noise. This threshold is too high.

⁴The City hired the firm of Parsons Brinckerhoff to advise on the engineering and operating aspects of this transaction and to conduct various preliminary studies such as the noise monitoring study referred to here.

Federal Transit Administration ("FTA") noise criteria are specified in terms of increments in L_{dn} (daytime noise level) above the existing ambient L_{an} , and not in terms of a specific absolute level of 70 dBA. Also, the DEIS does not take into consideration situations where ambient noise is low yet incremental increases in noise are significant.

2. The CSX Noise Study

CSX has provided the City with a technical report entitled "CSX Noise Analysis, Cleveland, Ohio" that was prepared by TranSystems Corporation and presented to the City's staff and experts on January 22, 1998. The report purports to address the localized issue of noise in the City. The report purports to address the localized issue of noise in the City. It fails to do so. Upon review, the CSX Noise Analysis Document was found to include several inaccuracies and omissions. It identified one parochial and four public schools (including three in East Cleveland), one university, and one hospital (Kaiser) within one fourth of a mile from the centerline of the Short Line track between Quaker and Rockport. Review of this analysis showed that one of the schools (Murray Hill) that was identified as being a receptor in the corridor no longer functions in that capacity, but has been converted to an art gallery. In addition, Kaiser Hospital was mislocated on the map and is not within the corridor. Conversely, at least three parochial schools were not identified in the analysis nor was University Hospital or numerous churches, parks and playgrounds, and cultural institutions. Importantly, no historic resources were identified as being noise receptors. While the City's experts have not yet had the opportunity to conduct a complete analysis, the following observations follow the first review of this purported study:

a. The Assessment Methodology. The methodology used in the CSX report does not adequately address the sensitivity of the receptors in the corridor. The noise metric used to describe the existing conditions in the project area was an L_{eq} value, which is based on short-term noise monitoring for a single train event. This descriptor does not adequately address noise impacts in sensitive areas and is not normally used in train noise impact assessments. The evaluation of train noise impacts in the sensitive areas should be based on measurements taken over a longer period of time, typically 1-hour or 24-hours, depending on the type of land use.

Land uses not involving nighttime sensitivity would typically require a determination of 1-hour L_{eq} . For residential land uses, on the other hand, nighttime sensitivity is an important consideration. The appropriate measurement duration is a 24-hour period, with noise levels measured on an hourly basis through a 24-hour period. The appropriate metric that is normally applied for residential land uses is the L_{dn} (day/night) noise levels calculated from 24-hour data, which accounts for the additional sensitivity during sleeping hours.

The CSX methodology projects a 65 L_{dn} noise contour based on a train noise model, which was modified to account for topography. It also projected a 70 L_{dn} contour using the erroneous assumption that there would be a 5dBA increase halfway between the 65dBA contour and the railroad tracks. The uncertainties associated with this procedure makes the CSX noise impact assessment suspect, if not invalid.

The following impact assessment procedure, which is the widely accepted standard, should have been used:

- Identify areas of sensitive land uses and classify them based on their day and nighttime sensitivity.
- Monitor L_{eq} (1-hour) and L_{dn} (24-hours) noise levels at sites likely to experience the greatest project impacts. The locations selected by the CSX consultant are inappropriate for a rail traffic project impact assessment. None of the sampling locations in Collinwood included the homes closest to the tracks. The only sampling location reported in the Collinwood section, for example, was located 250 feet from the track, and is shielded by industrial buildings. There was no sampling reported in the area where the homes are immediately adjacent to the tracks in sections 2 and 3 (as defined in the CSX report) in the City of East Cleveland and the Cleveland neighborhoods of Forest Hills and Glenville. The reliance on 24-hour monitored data and the use of the L_{dn} metric is critical in segments of the corridor where residential land uses predominate and the increase in frequency of nighttime train movements is proposed.
- Calibrations of the train noise model using the monitored data.
- As required by the STB procedures, plot future 65 & 70 L_{dn} noise contours using the calibrated model. Although this portion of the procedure, the plotting of the future noise level contours to identify impacts based on the number of properties within the two contours, has been followed by the CSX consultants, these contours are not valid because they did not use an appropriate methodology. A more appropriate approach in sensitive areas where levels of impact need to be disclosed and the effectiveness of mitigation needs to be tested, is to apply FTA methodology. The impact assessment procedure contained in the FTA methodology is based on an allowable increase in future project noise levels compared to the existing ambient L_{dn} noise levels. Under this methodology, projected future noise contours more indicative of the actual resulting conditions would be established.

b. Results of Continuous Noise Monitoring by City of Cleveland.

Because of the inadequacies of the studies reported in the DEIS, and of CSX's and NS's unwillingness to work with the City to assess impacts and required mitigation, Cleveland's consultant Parsons Brinckerhoff conducted its own study of the noise impacts of the Applicants' proposals. The results of that limited noise monitoring

program conducted in sensitive residential areas adjacent to the tracks, are included here. This program included 24-hour continuous noise monitoring in the rear yard of a residential property adjacent to the rail corridor in the East 131st Street vicinity of Cleveland, in the area designated by CSX as Zone 3 (the Forest Hills neighborhood of the City). The data were collected on January 21 and 22, 1998.

Based on this data, L_{dn} noise levels were determined to be 66 at a typical residential receptor adjacent to the tracks. Based on CSX projections of future train movements (44 per 24-hour period), with 65 percent of the train operations occurring during the night (10PM-7AM), and a speed increase of 15 mph over the existing speed, a level of 81 L_{dn} is projected—an increase in L_{dn} of 15. This projected level is significantly greater than the level projected in the CSX report for this corridor segment. ***By subjective measures, residents will experience a tripling of existing noise levels.*** Furthermore, according to FTA criteria, allowable increases in L_{dn} in a zone with an ambient L_{dn} of 66 is limited to a value of 1, which is far less than the project increase of 15.

The City's consultants also monitored day and nighttime noise levels at a residential location near Bellaire and West 130th Street in the Puritas - Longmead neighborhood. This is adjacent to the Conrail Flats Industrial Branch, a rail corridor on the west side of the City on which NS plans to increase rail traffic following the acquisition. Daytime noise levels of about 65 dBA at the site appear to primarily result from aircraft activity in the area. However, at night in the absence of aircraft noise, the nighttime noise levels were found to be low, in the range of 40 to 45 dBA. Future noise levels resulting from rail traffic would increase both at night and in the

day. Daytime noise levels would not likely increase significantly, but nighttime levels would likely require mitigation measures such as noise barriers.

c. The Effectiveness of Mitigation. The measures proposed by 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 has proposed the installation of landscaped noise berms to mitigate noise impacts that will result from the increased rail traffic. In reality, this proposal will address only wheel/rail noise, and even reduction will be very limited. It erroneously assumes that by reducing the wheel/rail noise, the L_{dn} level, which more accurately represents the impacts that would be noticed by residents, would be significantly reduced. The report itself indicates that at the location where monitoring was performed, the wheel/rail noise is near background noise levels. The peak noise levels, though of shorter duration, are reported to be 15-20 dBA higher than the background noise levels. Consequently, the short duration high peak levels will determine the L_{dn} noise levels. These peak levels are associated with the elevated noise sources (such as the engine exhaust and train horns). The impact from these sources would remain untouched by the recommended mitigation.

The report provides no quantification of the impact level or effectiveness of mitigation (in terms of its ability to affect noise levels). The low landscaped berm and railroad tie walls that are recommended in the CSX report simply do not provide a credible method for mitigation of the substantial increases in noise along the affected line segments. The cosmetic approach to a serious noise problem

fails to mitigate the noise that will be generated by the dramatic increase in freight traffic on the Short Line. The berms, trees and low railroad tie walls will, at best, achieve a noise reduction of 5 L_{dn}, nowhere near the 15 required to eliminate the project impact on the adjacent communities. The landscape-only "solution" proposed by CSX as the sole noise mitigation measure on the segment between Fairhill Road and Norman in the Fairfax neighborhood, is completely without noise mitigation value. Simply put, the "solution" proposed by CSX to mitigate the **three-fold increase** in noise through predominantly minority residential communities, University Circle and the Little Italy historic district, is inadequate, impermanent, and unacceptable.

B. Vibration

The DEIS contains virtually no reference to the increases in vibration from the increased train frequency, and includes no analysis or description whatsoever of sensitive receptors. This is particularly important in the portions of the alignment where homes encroach on the railroad right-of-way. Interior vibration levels may be of particular importance as the effect of increased vibration levels may be magnified by the structure, depending on type. These impacts could be significant since train vibration levels can be magnified 10VdB by the house structure. Before issuing a Final EIS, SEA should complete a study of the increases in vibration along the segments that will experience the largest increase in train frequencies, and determine the location of the sensitive receptors that are least likely to tolerate substantial increases in vibration, as well as the impact of the increases on the numerous residences that are adjacent to these lines.

C. Air Quality

The DEIS only addresses air quality at a regional level. As is the case with noise, it is not sufficient to say that increases in train operations in one location will be offset by decreases in another. This is a localized issue and must be addressed on that level. Dispersion modeling should have been utilized along the critical corridors with increasing rail traffic to evaluate the potential for a localized impact -- particularly with respect to particulate matter (PM₁₀). Where significant increases in the number of trains are proposed in sensitive land use corridors, a more refined analysis should have been completed to assess whether localized and problematic increases would occur and whether a viable alternative would eliminate or reduce these impacts.

Of particular concern to the City is the University Circle district. The City has examined the additional burden that will be placed on this employment center and unique institutional district by the dramatic increase in rail traffic on the right of way that lies between the core of Case Western Reserve University and University Hospitals campus and the Little Italy historic district. The City's analysis is summarized in the table attached to these Comments at Tab 2. Data prepared by the City predicts that the CSX/NS proposal will result in the emission in the University Circle area of an additional 35,092 pounds of carbon monoxide, 160,838 pounds of nitrogen dioxide, 14,622 pounds of particulate matter (PM₁₀), and 4,679 pounds of organic compounds. City studies indicated an increase in 10 carcinogenic pollutants as a result of the implementation of this proposal. Worse, prior studies of wind patterns in the vicinity of the Case Western Reserve campus indicate that the dispersion of pollutants is limited and that unique wind patterns may exist which allow concentration of pollutants in this

area. See Letter from Agnar Pytte, President of Case Western Reserve University, included in Tab 1.

Clearly, given the dramatic increase in freight traffic due to the combined actions of CSX and NS, the intensity of development and the concentration of sensitive receptors, and the uniqueness of the University Circle and Little Italy districts, special attention to air pollution impacts on these districts is necessary for the final EIS. Further analysis that specifically addresses the concentration and dispersion of pollutants and the impact of air pollution on the sensitive receptors and populations must be undertaken.

As reflected in the summary table attached at Tab 2, the project is estimated to result in increases in criteria pollutants (those for which National Ambient Air Quality Standards have been set), as well as hazardous air pollutants. While an increase in criteria pollutant emissions may not represent a significant increase in pollutant burden on a regional basis, it may result in impacts at sensitive receptors in the immediate project vicinity. Even where it is determined through a detailed dispersion modeling analysis at this and other sensitive portions of the corridor (including the University Circle segment, in which the two combined rail lines would create an even greater increase in a segment adjacent to the Rainbow Babies and Childrens Hospital and the Abington Arms subsidized elderly apartment building) that primary or secondary standards may not be exceeded, increases in emissions may represent a degradation of existing environmental conditions. The increase in carcinogenic pollutants is especially troublesome here given the proximity of nearby residences, and the cumulative effect that may result from exposure to numerous

carcinogens. For example, the Abington Arms apartment complex, which is home to senior citizens and handicapped persons living in unassisted arrangements less than 500 feet from the elevated tracks in this area. See Letter dated January 29, 1998, from Elizabeth B. Heil, Administrator, Abington Arms, to Elaine Kaiser, a copy of which is included in the letters attached to these Comments at Tab 1. The 1210 elderly residents, of whom 225 can be identified as disabled, are more susceptible to disease and the numerous ailments that come from poor air quality and living in close proximity to sources of air and noise pollution.

In addition, it should be noted that a portion of the respirable particulate matter (PM₁₀) is less than 2.5 microns in diameter, a size for which a new standard has been promulgated due to health risk concerns – and for which no local exposure background data exists.

D. Hazardous Materials

CSX and NS propose to increase the volume of hazardous materials transported across some lines in the City of Cleveland from zero to 44,000 carloads per year. Through University Circle, the combined plans of the two railroads indicate that hazardous materials volumes will grow from the current volume of 7,000 carloads per year to 81,000, one of the largest hazardous materials concentrations on the former Conrail system, according to the information supplied with the DEIS. **In fact, this is the largest (by far) increase across in hazardous material transportation across the entire system, yet SEA requires no further analysis of potential mitigation.** Worse, because of the proximity of some of these line segments to each other, the numbers of carloads predicted are in some cases substantially understated. In response

to this enormous increase, the mitigation proposed by the DEIS is -- safety drills! Surely, more study and a substantially heightened level of mitigation -- that reduces the risk rather than merely responding to the disaster once it occurs -- is required for this line.

The magnitude of the railroads' disregard for the impact of their proposals on the lives of the people of Cleveland is perhaps most glaring when viewed in the context of the potential disasters that could occur with this volume of this traffic moving so close to the bedroom windows of these communities. Projected accident rates along the Short Line through the City of East Cleveland, the Cleveland neighborhoods of Forest Hills, Glenville, and Fairfax and the University Circle and Little Italy districts (line segments C-072 and C-073) are projected to grow from 1:666 years per mile and 1:1344 years/mile, respectively, to 1:101 years per mile on both -- a rate curiously just above the 1:100 years/mile threshold for "significance" that SEA defines in the DEIS. The proximity of the Short Line to people's homes, the fact that the line runs through these neighborhoods on elevated section and is therefore difficult to access, and the fact that, elsewhere in the DEIS, the SEA acknowledges that accident rates may fluctuate on a year-to-year basis by as much as 10%, should indicate that the Short Line deserves special and careful scrutiny before the SEA can properly determine that this line is suitable for conversion from a little-used bypass to main line freight service with one of the highest HazMat throughput to found in the entire CSX/NS proposal.

The situation in University Circle is even more urgent. The combined accident rates of the two independent rail lines which will operate through the Circle -- CSX at

1:101 years/mile and NS at 1:118 years/mile -- suggest that a true accident rate along the two mile section of parallel operations will be 1:54 years/mile, a rate significantly worse than the SEA's criteria for significance. Given this fact alone, let alone the concentration of employees, students, patients, elderly and poor households, along with other sensitive receptors in this important commercial, residential, cultural and institutional area of the City, require that special attention and study be given to this section before the Final EIS is prepared and accepted, and not at some yet-to-be specified time in the future.

Furthermore, these lines pass not only residences but scores of health care facilities, senior citizen residences, schools, and businesses. The Abington Arms complex, referred to above, is but one example. Despite the presence of all of these potential victims of a hazardous materials incident, Applicants have provided no plans for evacuation routes to insure that affected citizens can escape. There is no discussion of an obligation on the part of the railroads to develop these plans in consultation with the affected communities' leaders. Safety drills are a necessary but nowhere close to a sufficient measure to mitigate the potential impact of the transportation of this volume of hazardous materials through these communities.

A few points bear particular emphasis. First, the DEIS Table 5-OH-55, which identifies five Cleveland area segments that will become key routes, underestimates the impacts and risks by the increased load of hazardous materials on the key routes. The five key routes include:

- C-072 Mayfield-Marcy
- C-073 Quaker-Mayfield

C-069 Marcy-Short
C-074 Short-Berea
N-081 White-Cleveland

The study fails to mention that segments of C-072 (Mayfield-Marcy) and C-073 (Quaker-Mayfield) are parallel and quite close to segment N-075 (Cleveland&Ashtabula), thereby increasing the overall load of hazardous materials in this rail corridor. The three lines occupy the same depressed/elevated rail corridor for a distance of about 2.5 miles with a separation distance of approximately 100 feet or less. The actual increase in hazardous materials transport frequency in this corridor is from 7,000-cars/year base case to a total of 81,000-cars/year-post acquisition.

Second, the proposed mitigation measures are inadequate. These proposed measures include no requirement for physical spill containment/collection and/or remediation in the event of the statistically projected eventual accident. These new key routes are located in primarily residential neighborhoods where topography and/or physical structures limit access to the rail corridor. For these segments, unless the Cleveland alternative is approved, mitigation must be required that will equip these line segments with spill containment/collection facilities. Segments that meet these criteria are:

- C-073/N-075 and C-073 - Elevated trackage with current access at each end of a 2-mile segment. Noise mitigation measures could limit access, but would be required to adequately mitigate the projected three-fold increase in noise levels on this segment will further limit access.
- C-072/N-075 - Depressed and elevated trackage.

Additionally, segment C-072 (Elevated trackage) meets this criteria, but is located in an area with less residential density.

No matter what route is used for movement of these commodities through Cleveland, even the Cleveland alternative, mitigation measures to address the presence of this volume of hazardous materials must be part of the solution mandated by the STB. These facilities should be designed with the objective of collecting spilled liquid materials before the material can enter a natural waterway or impact a residential area, thereby minimizing the spread of contaminated materials onto adjoining properties endangering the health and safety of the local residents. The system would consist of a series of drainage channels, piping, and valves as well as detention basins and/or vaults, as required.

A typical hazardous materials spill containment system would consist of three parts: conveyance, containment, and discharge. Attached at Tab 3 are schematic concept drawings prepared by Parsons Brinckerhoff for a typical system.⁵ Normally, the system will convey storm drainage through the system without containment in the pond or vault. This would be accomplished through the construction of drainage ditches adjacent to the railroad track. Such ditches would be designed to convey the peak runoff volume to the containment structure without flooding. Preliminary calculations were made that indicated ditch 1-foot deep and 7 feet across at the channel top would provide adequate capacity to convey the storm runoff in the Cleveland area.

⁵Cleveland recognizes and emphasizes that these are preliminary concept drawings only. Working together, the City, SEA and the railroads can develop a containment system that will address the potential spills along the affected lines.

Unlike a normal drainage ditch, a ditch that must also serve to convey hazardous materials would include an impervious membrane. This membrane, either a clay layer or an impervious geotextile, would be installed in the ditch to prevent hazardous materials from seeping into the surrounding soils.

Since much of the track is elevated, it is most likely built on fill material that would quickly absorb the hazardous substance, making cleanup more challenging. The discharge would be conveyed from the ditch via inlets to underground pipes to the containment structure. These pipes will be concrete pipes ranging from 12" to 18" in diameter. Other materials may be used if proper protection from potentially damaging hazardous materials is provided. Properly coated steel or ductile iron pipe may be substituted. The runoff (storm drainage or hazardous materials) will discharge from the underground pipe into a containment structure. This structure would either be a below ground vault or a surface pond. In either case the overall volume of the structure would be the same. It is assumed that in the event of an accident, a maximum spill of 20,000 gallons would be expected. This volume equates to the capacity of one fully loaded liquid tank car or the fuel capacity of six locomotives. A catastrophic accident is unlikely and would likely over-exert any containment measures. The hazardous materials containment system is designed to contain materials from fuel spills, low speed collisions, and/or tank failures.

NS or CSX could choose to use surface ponds, vaults, or both depending on site constraints and/or financial issues. Surface ponds are generally less expensive than large, cast-in-place concrete vaults. However, ponds require more space, flat terrain, and may require property purchases. A vault can be "squeezed" into the

confined space of a railroad corridor. A more thorough analysis of the type of structure to use would have to be made during the preliminary design phase of the project. A sketch of both structures is included in Tab 3.

The outlet would typically be a pipe connected to the storm sewer system or with an outfall to a nearby water body. The outlet pipe would be equipped with a manual control valve. This valve would remain in the open position to allow rainwater to discharge freely from the pond. In the event of a hazardous materials spill, the valve would be closed by the response team, thereby containing the spill within the corridor and the containment structure. As part of the cleanup process, materials would be removed from the containment structure and the right-of-way before the outlet valve would be opened.

E. Impact on Existing Highway Infrastructure, Including Bridges

The substantial increase in rail traffic through the City of Cleveland will create adverse effects that will ripple through a host of aspects of the City's life and the infrastructure that supports it. Increased truck traffic to and from the new Collinwood Yard intermodal facility is conservatively estimated by the applicants to show growth of only 49 trucks per day, see DEIS vol. 3B at OH-42, in order to avoid the 50 truck per day threshold that would require further study.

The extent of the impact on the City goes far beyond those 49 (or more) truck trips per day to and from Collinwood, creating impacts on the environment that require further careful study. What, for example, will be the impact on the infrastructure from increased delays to vehicle traffic at crossings? When cars and trucks are blocked at grade crossings, traffic will seek alternative routes through

residential neighborhoods. Besides the deterioration of streets not designed for this level of traffic loading, the quality of life in the residential areas will suffer from increased traffic, more air pollution that accompanies vehicle traffic, and the increased safety risks that follow as well.

Increased train traffic will also have an impact on the crossings themselves, having further effect on the citizens that use them. Grade crossings are subject to faster deterioration due to increased train frequency. As a result, the adjacent roadways are subject to increased raveling, and potholes appear. Safety is diminished as vehicles cross the uneven tracks. Crossings in Cleveland at East 40th, East 39th, East 53rd, Bessemer, London, Nottingham and West 110th that will see substantial increases in freight traffic will require attention to be able to withstand the impacts of the volumes projected by Applicants.

F. Delays in Emergency Response

The DEIS correctly identifies increased delays at grade crossings as an area of significant impact from the Conrail acquisition. Specifically, Table 5-OH-54, DEIS, vol. 3B at OH-146, identifies "Estimated Maximum Delay for At-Grade Roadway Crossings on NS Cleveland-Ashtabula Line" for two crossings that meet SEA's threshold. The City of Cleveland shares this concern, and agrees with this designation. However, the table underestimates the actual impacts of the transaction. The way the criteria are applied to the two intersections in Cleveland suggests that, when applied properly based on the realities of train movements and vehicle usage of Cleveland's busy streets, the impacts will be as bad as was projected in CLEV-9 (see VS Denihan) and will require more mitigation than NS and CSX have planned.

One of the table's criteria, the change in crossing delay per stopped vehicle, is a function solely of the slightly increased train lengths. While the incremental change is not significant, this criterion is not relevant. The other criterion, total blocked time, is significant and is understated for Dille Road because the train speed used in the calculation ($V = 50$ mph) is too high. Train speeds are limited to 35 miles per hour less than 1.5 miles from this crossing. With a train length of 5,000 feet, and the need for the train to be within authorized speed before entering the limit for the decreased speed, it is highly unlikely that speeds significantly over 35 mph will occur at this location. The total blocked time for Dille Road is more likely to be as much as 70.3 minutes, which results in a ***more than three-fold increase over pre-acquisition levels.***

The actual impacts are also understated, as the DEIS correctly notes, because the potential for delay in emergency response times is so significant and so difficult to quantify. In fact, the situation is even worse than the picture the DEIS paints because the areas that are potentially isolated by rail traffic delays at crossings are at the far reaches of the City limits. No Cleveland emergency services are located on the south side of the tracks in this vicinity.

The increased delays at crossings across the City will create a problem that NS and CSX must mitigate. 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. Reality, not the optimal situation, should govern the analysis. When that is done, 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.

G. Historic Resources

The DEIS recognizes that "[c]ultural resources include historic and archaeological features", DEIS, vol. 3B at OH-75. However, without further study of the impacts of the transaction on structures or use patterns in places like Cleveland that will experience dramatic increases in train frequencies, the DEIS then concludes that "potential effects to cultural resources would most likely occur during new construction and rail line proposed abandonment activities that meet or exceed the Board's threshold for environmental analysis." *Id.* Contrary to this conclusion, many local landmarks and historic districts face the potential for experiencing the types of adverse effects outlined by the Advisory Council on Historic Preservation that are listed in the DEIS itself, including "physical destruction, damage or alteration; isolation; introduction of elements that are out of character; neglect; and transfer, lease or sale." DEIS, vol. 1, section 3.13 at 3-38. Because of the impacts on the surroundings and the quality of life that the substantial increase in train frequencies will bring, the City's historic structures and districts face some or all of these risks, and SEA should conduct further study of the impacts.

One tool available to communities seeking to protect areas of historic significance is the designation of "historic districts". In Cleveland, such districts can be designated on a national basis, as part of the National Register of Historic Places, or on a local basis, as Cleveland Landmark Districts. National Register Districts are

protected by virtue of the fact that federally funded development and exterior renovation in these districts is evaluated for compatibility by a hierarchy of local, state and national review bodies. The Cleveland Landmarks Commission, designated by the State Historic Preservation Officer as a "Certified Local Government", undertakes the local review of National Register designations and actions which may affected listed properties and districts. Local Cleveland Landmark Districts are created by legislative action of the City government and provide protection to listed properties and districts by virtue of the fact that all development and exterior renovations in these districts must be evaluated for appropriateness by the Landmarks Commission.

Currently in the City, 26 historic districts are listed on the National Register and 19 districts are designated as local Landmark Districts. Many of the districts listed nationally are also included within larger locally-designated districts. Of the 19, 14 are located on the City's east side, including four in the Downtown area. The National Register Districts are concentrated in four areas of the City: Downtown, Ohio City, Shaker Square and University Circle. Among the largest locally-designated districts is Little Italy, adjacent to University Circle. This Landmark District has approximately 375 buildings in it and, since its designation in the 1980's has become a vibrant arts and restaurant district immediately adjacent to the cultural resources of University Circle.

The Cleveland Landmarks Commission maintains a listing of existing and potential landmark properties and districts and undertakes surveys and studies necessary to determine the eligibility of potential properties and districts for local and national designation. In 1985, the Landmarks Commission, in cooperation with the

City's Department of Community Development, undertook a complete city-wide survey of residential and commercial areas to identify additional locations warranting consideration for historic designation based on architectural significance. the City Planning Commission subsequently adopted the Landmarks Commission's recommendations as part of the Citywide Plan, the official General Plan of the City of Cleveland. Among the largest of such eligible districts was the Magnolia Drive/Wade Park Avenue District in University Circle.

Two historic districts lie within half a mile of the proposed CSX/NS routes through University Circle: Little Italy and the Hessler Road and Court District. Two National Register Districts -- the Mather College Historic District and the Wade Park Historic District -- lie in the immediate vicinity as do 17 individually-listed properties:

- Parkside Dwellings
- Allen Memorial Medical Library
- Mary Chisholm Painter Gate
- Cozad-Bates House
- Holy Rosary Church
- Cleveland Museum of Art grounds
- Garfield Memorial
- Ford Motor Co. (Cleve. Inst. of Art)
- Mayfield Theatre
- Severance Hall
- Church of the Covenant
- Backus School of Law
- Amasa Stone Chapel
- Flora Stone Mather Hall
- Lakeview Cemetery
- Wade Memorial Chapel
- Cedar Glen Apartments

The routing proposed by CSX and NS, which is immediately adjacent to Little Italy, will have a serious detrimental impact on this district. The cumulative impacts of increased noise and pollution resulting from the dramatic increase in freight train traffic, will degrade the quality of this district. The same is true for the Hessler Road and Court District, a unique multi-family residential community, and for the Mather College District. The cumulative effects on the environment in these two Historic Districts, and upon individually listed buildings, have not been analyzed.

Severance Hall, the home of the Cleveland Orchestra, is a good example of the buildings in this area that are of particular concern. Built in 1931 of porous sandstone, it is highly sensitive to pollution. The increased burden of pollutants -- specifically particulate matter from the projected 80 or more multi-engine trains that will operate daily one block south of Severance Hall -- is of grave concern.

The DEIS makes no mention of any of these culturally significant buildings and districts. Presence or absence of construction is an inadequate criterion for determining the likelihood of impact on cultural resources like the many in Cleveland, the use and the longevity of which will be dramatically affected by the increased train frequencies proposed by CSX and NS. For the final EIS to be complete, SEA should require a careful analysis of the impacts of the proposed transaction on the City of Cleveland's many historic resources.

IV. DESCRIPTION OF THE CLEVELAND SOLUTION, AND COMPARISON OF IMPACTS

The evaluation of alternatives has been called the heart of the EIS by the CEQ. 40 C.F.R. § 1502.14. There should be a comparison of reasonable alternatives on relevant environmental and other grounds, particularly when a locally identified, environmentally preferable alternative exists. In making its decision, the STB should be informed of the full range of alternatives, and given a complete assessment of their commercial and operating viability along with the required comparison of the relative environmental impacts of each. In this case, the DEIS includes no analysis that could provide the Board with a basis to make that decision. The City of Cleveland is proposing alternatives here, and these Comments include some preliminary comments

on the cost and the comparative impacts on the environment. However, just as NS and CSX should have developed alternative routing arrangements in the first instance, they, working together with SEA, should be responsible for preparation of careful, objective review of the solutions proposed by Cleveland.

A. The Cleveland Solution

The City of Cleveland has identified operationally feasible alternatives for the routing of freight through the City. These alternatives reduce the net level of environmental impact. They route most rail traffic through industrial corridors, minimizing impacts on residential neighborhoods, reducing safety hazards and preserving quality of life. These plans provide a "global fix" because they not only benefit Cleveland's neighborhoods, but they provide a solution to the traffic increases or congestion problems that would otherwise be created for the west shore suburbs, East Cleveland, Euclid, Berea and others. The new traffic patterns will allow CSX and NS to provide efficient, competitive freight service, preserve the ability to provide commuter rail service in the future, and enhance regional development.

Each of the alternatives was assessed in terms of its ability to reduce the potential for noise, air quality, hazardous materials, and environmental justice impacts to the City of Cleveland while providing for efficient rail movement through the City. The two alternatives identified by the City and the original and modified alternatives identified by NS and CSX were evaluated in a screening procedure. This was based on the number of sensitive receptors located at critical distances to the tracks and socio-economic profile of neighborhoods most affected. Based on that analysis, both City alternatives were estimated to meet the goals and objectives of achieving a lower

potential for environmental impact. It is therefore recommended that a second tier EIS that will include the alternatives identified by the City, be prepared to address the localized affect.

CSX and NS have submitted an operating plan that calls for one primary CSX route and two primary NS routes through greater Cleveland. CSX would use a route from Greenwich in Huron County through Berea to Short, a rail junction near Brookpark Road/West 150th Street⁶. CSX would use the Short Line route, which parallels I-480 to White (located in the Broadway area south of Harvard), then via University Circle and East Cleveland to the Collinwood Rail Yard.

NS traffic destined for Pittsburgh and beyond would also enter the area at Berea, then use the Lake Shore route via the Cleveland Lakefront. It would then use the former Pennsylvania Railroad route via the east side of Cleveland and Bedford. The second NS route, for traffic destined to Buffalo and beyond in the northeast, would use the existing NS route from Bellevue, which passes through the western suburbs, skirts the south edge of downtown Cleveland, then passes through University Circle to Euclid.

While all of these routes use existing lines, some will see tremendous increases in rail traffic. As a result of concerns expressed by the western suburbs, NS submitted an alternative plan to reroute a portion of its Buffalo traffic to the Flats Industrial Track (the former Clark Branch) corridor, which diverges near Cloggsville (near west 25th Street) and runs to Short and Berea. This alternative plan would require substantial public funding. This alternative plan would require substantial public funding and

⁶Maps showing the original CSX/NS proposal, the CSX/NS proposal as revised in November 1997, and the two Cleveland alternatives are attached at Tab 4.

would substantially increase NS traffic through the City of Berea as a result of reducing traffic through the West Shore suburbs to the north.

Cleveland has a better idea. It has studied the configuration of lines in the region and developed two alternative arrangements that reverse the ownership of the lines in the area from the arrangement proposed by CSX and NS. In the first Cleveland alternative solution, CSX traffic from Greenwich would continue to enter the region in Berea, but would use the Lake Shore route via the Cleveland Lakefront to Collinwood. This line is currently used heavily by rail traffic. NS traffic bound for Pittsburgh and beyond would continue to enter the area at Olmsted Falls/Berea, but would use the Short Line to White, then diverge southeast through Bedford. In Alternative Number 2, NS Pittsburgh traffic would not use the Flats Industrial Track north and east of Short, using instead the Short Line east to Marcy. The southern portion of the Short Line would become NS's main line for both Pittsburgh and Buffalo traffic flows. At Marcy, NS traffic bound to and from Buffalo would continue on the existing Short Line through University Circle to Mayfield. Near the existing Mayfield connecting track, a new higher-speed connection would be built between the Short Line and the NS line to Buffalo for trains to join the existing route.

Under both alternatives, each railroad would also have the use of a secondary line for overflow traffic, transfer movements, maintenance needs and emergency use. CSX's secondary route would be via the Short Line from Collinwood to Berea as CSX has currently proposed in its operating plan. Ownership of the Collinwood to Marcy segment could be in the hands of CSX. Trackage rights over NS would be required from Marcy to Berea. NS's secondary route for Pittsburgh traffic would also be the via

the route it now designates as its primary route, that is from White to the Cleveland Lakefront to Berea. Under the City's alternatives, the route from the Cleveland Lakefront to Berea would be via trackage rights over CSX.

Both of Cleveland's alternative solutions accept the fundamental premise of the railroads' revised proposal (see the second map included in Tab 4): to mitigate the impacts of increased freight traffic through the West Shore suburbs and Cleveland's Edgewater and Detroit Shoreway neighborhoods⁷, it will be necessary to divert the traffic southward through Berea. Cleveland's two alternative solutions differ from the revised CSX/NS proposal by addressing the increased road - rail conflicts that will result in Berea and, in so doing, enabling the rerouting of traffic on the east side of Cleveland away from predominantly residential neighborhoods to predominantly industrial corridors. Both of Cleveland's alternatives also maintain joint access by both railroads to key shippers and yards. This includes the Ford Motor plants in Brookpark, the Chevrolet plant in Parma, and NS's Rockport Yard. Traffic that must use the secondary routes to achieve maximum efficiency could also be accommodated -- at this time the City's proposals would not preclude use of the line between the Lakefront and White (the Conrail Cleveland line) for limited traffic such as the NS (post-acquisition) ore traffic from the Port of Cleveland. The only requirement here would be NS's use of trackage rights to cross lines assigned to CSX (under the City's proposed arrangements) over the Cuyahoga River drawbridge.

⁷These neighborhoods' populations and the impacts of the Applicants' proposed routing are reviewed in detail in CLEV-9.

Both Cleveland alternatives require the two carriers' traffic flows to cross each other at Berea, and both propose to meet the problem of converging rail traffic in Berea on a permanent basis. In recognition of the railroads' need for efficient and competitive options, Cleveland proposes grade separation of the two lines through use of a rail/rail overpass structure. Other components of the project would include elimination of both Front Street at-grade crossings as well as elimination of the grade crossing at Bagley Road. In addition, the Cleveland solutions include grade separation on the NS Nickel Plate Line in Cleveland and Euclid at London and Nottingham/Dille Roads.

B. Infrastructure Requirements

Cleveland developed these alternatives with a "global fix" in mind. To this end, infrastructure components of the alternatives include those required to mitigate the impacts on the City of Cleveland and to meet the railroads' needs. These proposals recognize and account for the improvements Cleveland has assumed would be required to mitigate the impacts on Cleveland's suburban neighbors in conjunction with these alternatives. The following listing of infrastructure improvements, like the cost estimates that follow, are based on the City's work with its consultants and provide the beginning, not the end, of the analysis of the operating feasibility, the cost and the environmental impacts of these solutions.

The key infrastructure elements of the two alternative solutions include the following⁸:

- (1) Alternative One:

⁸Locations of the various projects and improvements are in the vicinity of the locations identified on the maps included in Tab 4.

- Berea rail/rail grade separation project, referred to above and described more fully in the text attached at Tab 5
- Flats Industrial (West Side) Connection, as proposed (and cost estimated) by NS
- Short Line capacity improvements between Short and Marcy
- Harvard Connection (Marcy to Short) Secondary Track -- provides subgrade improvements, additional capacity and lessened gradient
- Nottingham/Dille Road Underpass -- mitigates transportation and emergency response time impacts caused by increased traffic on the NS Cleveland - Ashtabula line
- London Road Overpass -- mitigates transportation and emergency response time impacts caused by increased traffic on the NS Cleveland - Ashtabula line
- Noise/Vibration Mitigation Allowance -- preliminary investigation suggests that certain line segments, even under the Cleveland solution alternatives, may require mitigation measures to reduce noise and vibration impacts. Additional evaluation by SEA prior to completion of the Final EIS is necessary.
- Track/Signal Allowance at West End Rockport/Ford Yard -- allowance to improve track conditions and signalization on the easterly lead track between the west end of Rockport Yard and Ford Yard. This is intended to increase flexibility and the capacity for switching movements at Rockport and at Ford Yard. Additional operating and engineering investigation is required.

(2) Alternative Two:

- Berea rail/rail grade separation project, referred to above and described more fully in the text attached at Tab 5
- University Circle connection -- allowance for connecting the NS Buffalo line to the Short Line
- Short Line capacity improvements between Short and Marcy, as proposed and cost-estimated by CSX. Additional improvements may be required from Marcy to Mayfield, including the provision of

additional capacity in the tunnels, depending on NS's operational needs.

- Harvard Connection (Marcy to Short) Secondary Track -- provides subgrade improvements, additional capacity and lessened gradient
- Nottingham/Dille Road Underpass -- mitigates transportation and emergency response time impacts caused by increased traffic on the NS Cleveland - Ashtabula line
- London Road Overpass -- mitigates transportation and emergency response time impacts caused by increased traffic on the NS Cleveland - Ashtabula line
- Hazardous Materials Mitigation -- preliminary investigation suggests that certain line segments within the City may require mitigation measures, even under the proposed alternatives. Further analysis is required.
- Noise/Vibration Mitigation Allowance -- preliminary investigation suggests that certain line segments, even under the Cleveland solution alternatives, may require mitigation measures to reduce noise and vibration impacts. Additional evaluation by SEA prior to completion of the Final EIS is necessary.
- Track/Signal Allowance at West End Rockport/Ford Yard -- allowance to improve track conditions and signalization on the easterly lead track between the west end of Rockport Yard and Ford Yard. This is intended to increase flexibility and the capacity for switching movements at Rockport and at Ford Yard. Additional operating and engineering investigation is required. A portion of the cost of constructing these improvements may already be included in the NS estimates for the cost of the West Side Connection.

C. Comparison of Benefits of the Cleveland Alternatives

Cleveland's Alternative One provides a host of benefits to both the carriers and to the City. These include the following:

- The highest concentrations of rail traffic are concentrated in the existing industrial corridors in and around the City, *away from the City's residential, commercial and institutional neighborhoods.*

- Train traffic in Cleveland's Collinwood and Forest Hills neighborhoods will decrease, minimizing impacts on residents.
- Train frequencies in the City's west shore neighborhoods and the adjacent communities will decrease, minimizing the impacts on residents, businesses and infrastructure.
- Both of the at-grade crossings on Front Street in Berea will be grade-separated. Benefits include elimination of traffic and emergency response delays, and dramatic decreases in noise from train horns.
- Grade separation of the Bagley Road CSX crossing in Berea will similarly reduce delays and noise.
- Grade separation of two of the four at-grade crossings heavily affected by increased NS traffic in the Euclid/Green neighborhood.
- Decreases the length of the CSX route through Cleveland by 2.7 miles.
- Decreases the length of the NS Pittsburgh route by 7.3 miles, including elimination of the drawbridge crossing.
- Minimizes freight traffic on certain key line segments potentially of interest to the public sector for the development of commuter rail services, such as the Cleveland Lakefront to Erie Crossing, Harvard or White and Lorain to Cleveland Lakefront.

Alternative Two provides many of the same benefits, but with even greater reductions in the impact on the City's neighborhoods, as described more fully below. The major difference between the two alternatives is in the impact on NS operations. As compared to Alternative One, the NS Buffalo route distance would be .3 miles longer as opposed to the route that uses the West Side (Cloggsville) connection. It also increases traffic on the Short Line. However, it has the advantage of providing NS with a route that does not include use of the drawbridge. It may also permit a reduction in the need for continued investment in operations at the East 55th Street Yard.

Recognizing the complex operating issues and trade-offs that would be involved in adoption of either of these scenarios for either of CSX or NS, the City does not aspire to submit with these comments a detailed comparison of the operating impacts of the two alternatives for the two carriers. However, Cleveland does submit that both of these alternatives are feasible and should be carefully evaluated by SEA and by CSX and NS in order to comply fully with the requirements of the CEQ guidelines.

D. Comparison of Alternatives

The City has had three focal points in mind while considering solutions to the problems created for its and its suburban neighbors' populace by the NS/CSX proposal - reduction of impacts on the communities through routing trains away from sensitive residential and institutional sections and into the industrial corridors where they belong; reduction of the astonishingly disproportionate impact on low income and minority communities; and recommendation of a solution that is at the same time operationally and economically feasible for the two carriers. The City's two recommended re-routing arrangements accomplish all three.

To begin with the train frequencies on the line segments through the residential communities, such as Cleveland - Vermilion on NS, Quaker - Mayfield, and Mayfield - Marcy diminish dramatically. Cleveland estimates the following numbers of daily train movements under the City's alternative routing arrangements, determined based on information available from the Application and other documents in this proceeding:

Train Frequencies

Line Segment	CSX/NS Revised Plan	Cleveland Solution -- Alternative One	Cleveland Solution -- Alternative Two
C-069 Marcy-Short	45.8	28.1	48.3
C-072 Mayfield-Marcy	43.8	Minimal*	20.2
C-073 Quaker-Mayfield	43.8	Minimal	Minimal
C-074 Short-Berea	50.6**	50.6**	50.6**
C-691 Quaker-Drawbridge	12.9	54.2	54.2
N-074 Cleveland-Short	17.7	17.7	2.0
N-075 Ashtabula-Cleveland	36.6	36.6	36.6 (Minimal west of Mayfield)
N-080 Cleveland-Vermilion (NS)	16.4	16.4	16.4
N-081 White-Cleveland	29.7	2.0	2.0
N-293 Cleveland-Vermilion (CR)	32.9	50.6	50.6

** Will be reduced by the number of trains using Rockport and the connection to Berea, improving conditions at grade crossings on this segment.

* Minimal, in this table means traffic ranging from zero to an average of several daily trains.

In terms of noise impacts, the number of sensitive receptors at critical distances (properties estimated to be within about 75 feet) from the nearest tracks were evaluated for each segment. This evaluation identifies the number of receptors expected to be affected, and the distance along the right-of-way that may require some form of mitigation. As shown in the following table, the number of affected residents and the amount of additional mitigation required both decline dramatically:

Preliminary Noise Analysis

<u>Alternative Route</u>	<u>Number of Receptors</u>	<u>Potential Length of Noise Mitigation Required</u>
Original CSX/NS Operating Plan	154	17,000 feet
Revised CSX/NS Plan	173	20,250 feet
Cleveland Solution -- Alternative One	84	12,300 feet
Cleveland Solution -- Alternative Two	25	6,500 feet

A preliminary study of comparative vibration impacts, using similar methodology, estimated houses located within a critical distance from the nearest track:

Preliminary Vibration Analysis

<u>Alternative Route</u>	<u>Number of Receptors</u>	<u>Potential Length of Mitigation Required</u>
Original CSX/NS Operating Plan	62	15,850 feet
Revised CSX/NS Plan	54	13,300 feet
Cleveland Solution -- Alternative One	33	6,550 feet
Cleveland Solution -- Alternative Two	16	4,900 feet

The reduction in impacts on the City's neighborhoods in every respect is obvious. While many of the at-grade crossings remain, the frequency of train operations will not increase to a point where delays from train movements pose a nearly constant threat to the health and safety of the communities' residents. Hazardous materials will continue to be moved through and near the City, but mitigation is available that could

be effective on corridors where the lines are accessible and do not pass so close to the bedroom windows of such a substantial number of households, schools, hospitals and cultural institutions. The minority and disadvantaged populations of the City will not bear the overwhelming share of the burdens of a transaction from which they will derive virtually no benefit. As shown on the table attached at Tab 6, the relative impacts of the two Cleveland solutions on the poor and minority communities are substantially less than the impacts described in CLEV-9. In order to accurately and objectively compare the Original and Revised proposals with the two Alternatives advanced by the City, the City undertook an Impact Analysis which examined the impact of additional freight traffic on people living within 1000 feet of each rail segment in the City. Base demographic data for this analysis was prepared for the City by Cleveland State University, using their Census mapping capabilities. The number of persons, minority persons, Hispanic persons, and persons of low income were calculated for each 1000-foot wide line segment in each of the four alternatives. Implementation of Alternative One will affect 49,547 people within 1000 feet of the combined rail corridors. Of these 18,359 (37.1%) are non-white, 2,955 (6%) are Hispanic and 14,458 (29.2%) are low income. The impacts from implementation of Alternative Two have a similar effect of reducing the environmental injustice of the CSX/NS proposal. It affects 32,625 people living within 1,000 feet of the rail lines, of whom 17,794 (54.5%) are non-white, 319 (1%) are Hispanic and 10,361 (28.7%) are low income. From the table that resulted, it is possible to compare each of the alternatives in terms of number of persons affected by increased freight traffic in each alternative. To adjust and account for the variations in impact that occur with varying levels of increased freight traffic on each

line segment, the City developed an "Impact Index" both rail proposals and both City proposals. That index considered two factors: 1) the number of additional trains proposed for a particular segment and 2) the number of residents living within 1,000 feet of the tracks. For each scenario or alternative, consideration was given to only those rail lines where an increase in freight traffic was proposed. Mathematically, the formula can be expressed as follows:

$$\frac{\text{additional trains per day on each affected rail segment} \times \text{population within 1,000 feet of tracks on each segment}}{\text{divided by 100,000}}$$

For each of the alternative scenarios, the Impact Index numbers for each affected segment were added to compute the overall Impact Index for the alternative.

The City's proposals make sense in relation to all three of the principal objectives the City has stated throughout its attempts to address the substantial impacts of this proposed transaction on Cleveland and its neighboring communities: it reduces of impacts on the communities through routing trains away from sensitive residential and institutional sections and into the industrial corridors where they more belong; it reduces the astonishingly disproportionate impact on low income and minority communities; and provides a solution that is at the same time operationally and economically feasible for the two carriers. As described more fully in the next section, the City's solution is more expensive than either of the NS/CSX proposals, but these costs pale by comparison to the nearly \$1 billion in annual economic benefits that the two railroads have stated they will achieve on the backs of the people of this City and its neighbors and without regard for the burdens on their lives that their proposals will create.

E. Cost of the Alternatives

Neither the Applicants' original proposed routing and operating arrangements through the City of Cleveland, nor the City's solutions to the problems the Applicants will create by those arrangements, is without cost. The City's solutions require more investment in infrastructure improvements but present a fair solution to the problems the City did not seek and from which it will derive relatively little benefit. As shown in the table attached at Tab 7, the cost of completing the improvements and mitigation required to implement the various operating scenarios is:

Operating Scenario	Estimated Cost of Improvements
CSX/NS Original Operating Plan	\$28,100,000
CSX/NS Plan, revised on November 25, 1997, to include Cloggsville/West Side Connection	\$72,100,000
CSX/NS Plan, as revised on November 25, 1997, and including additional mitigation estimated to be required to begin to address impacts of the proposed transaction	\$107,225,000
Cleveland Solution -- Alternative One	\$171,500,000
Cleveland Solution -- Alternative Two	\$147,780,000

The meaningful comparison here is among the last three rows on the above table. While the Applicants' revised operating plan included some cost of capital improvements in and around the City of Cleveland, it did not reflect the cost of the noise mitigation, crossing improvements, hazardous material spill containment, vibration mitigation and other measures that would be required to begin to offset the impacts of the transaction. The City has estimated the cost of some of that mitigation,

and those estimates are reflected in the adjustment to Applicants' proposal in the cost on the third scenario in the above table. It bears emphasis here that the cost of noise mitigation in this scenario is for measures that likely will not fully address the substantial increases in noise from wheels, from locomotive engines and from train horns that will result from implementation of the revised CSX/NS proposal while also being acceptable in terms of visual impacts and access for emergency response. In reality, the cost on this line is understated by the amount that would be required to construct further mitigation.

The estimates to complete the City's proposed solutions are based on preliminary assessments by the City's staff and consultants. Cleveland recognizes that as engineering work and additional expertise is brought to the analysis of all of these alternatives, the costs will change. The data available to the City suggests that its solutions are realistic and prudent, but they remain conceptual in nature. As the railroads' needs develop based on a further understanding of the implications of the revised operating scenarios, the costs could change. Additional savings through changes elsewhere in the area might be realized, and additional costs might be incurred as the precise requirements become known.

V. **CONCLUSION**

There is no substitute for careful analysis of the potential impacts of a transaction of the scope of this one on the communities along the railroads' lines, and there is no excuse for those railroads' failure to consider from the outset the impacts this transaction will have on the City of Cleveland and its neighboring suburbs. These

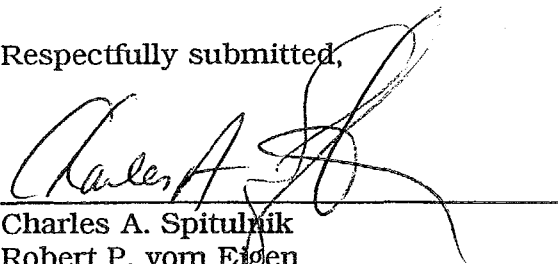
Comments begin the meaningful assessment of those impacts, and note the additional work that is required before a Final EIS can be prepared.

The City of Cleveland has striven to devise rerouting plans that will reduce the impacts on its residents, the fabric of its communities' lives and on the institutions it has fostered and housed over the course of its 200 year history. No matter which alternative rerouting plan is finally selected, there are some elements that must be included in any solution to the serious adverse impacts this transaction will create for Cleveland and the surrounding communities. The mandates of the President's Environmental Justice Order must be at the forefront of SEA's consideration of these impacts and of the solutions that Cleveland has presented. Unless the Applicants are willing to adopt rerouting arrangements that accomplish the City's objectives, SEA should recommend and the STB should impose train limits or curfews that hold the neighborhoods harmless from the impacts they will experience from the implementation of Applicants' proposal. Fairness to Cleveland, its residents and its neighbors should prevent the STB from approving the proposed transaction without requiring mitigation of the substantial impacts it will otherwise create -- not trifling attempts to appease the citizens by planting trees and erecting low, nearly useless noise walls, but real efforts to reduce noise and intrusion into the peoples' lives by adoption

of a rerouting alternative that truly and effectively addresses the problems that the proposed transaction will create.

Dated: February 2, 1998

Respectfully submitted,



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Attorneys for The City of Cleveland,
Ohio



Forty Years of Ensuring Excellence in University Circle

January 30, 1998

Office of the Secretary
Case Control Unit
Finance docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-001

**Re: CSX and Norfolk Southern (NS)
Proposed Acquisition of Conrail**

Dear Office of the Secretary:

University Circle Incorporated (UCI) is the nonprofit planning and service organization for University Circle. **University Circle** is the cultural, medical, and educational center of Cleveland and northeast Ohio – it is one-square mile in size and home to 44 institutions (with an additional 35 institutions in the area immediately adjacent to its boundaries). University Circle is a very unique area, not only to the city of Cleveland but nationally – no other city in the world has such a prominent concentration of institutions. I have enclosed a copy of our current annual report that lists all of these institutions.

I am writing on behalf of many UCI member institutions to document our concern that we have not been afforded the opportunity to meet, raise questions, and obtain specific information about the many potential impacts of the proposed merger of CSX and Norfolk Southern in our community. It is UCI's role to insure that the quality of its environment is not only preserved, but continually improved. The density of the Circle's daily population makes infrastructure matters critical. Note that:

- Our health care institutions serve 1.7 million patients who come to the Circle each year;
- University Circle is an employment center with approximately 26,800 employees (for a point of reference, downtown Toledo draws 25,000 employees daily);

University Circle Incorporated
January 30, 1998
Pg. 2

- 16,400 students are enrolled in Circle educational institutions, the largest of which is Case Western Reserve University;
- More than 5,000 people reside in University Circle; and
- As a major tourist destination, the Circle attracts 2 million visitors annually.

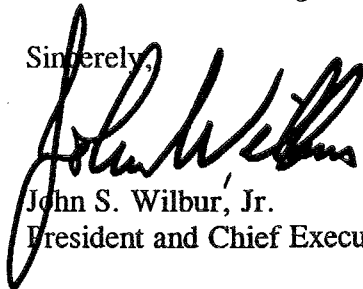
University Circle institutions play a significant economic role in Cleveland. Since 1990, University Circle institutions have invested approximately \$500 million in capital expenditures to build state-of-the-art facilities, and expect to invest more than \$200 million in additional capital expenditures during the next five years.

It is our collective concern that the increased train traffic that will result from the proposed CSX merger will adversely affect our economic progress and plans. We base this on the convictions that the increased traffic will adversely affect air quality; increase noise pollution (which may prove problematic to The Cleveland Orchestra); and bring hazardous materials into the Circle creating the potential need for emergency evacuation in an area with three major hospitals.

Based on the issues identified, UCI and many of its institutions support the city's proposal that alternate routes should be considered that would lessen the impact on residential, business, and other non-industrial neighborhoods of Cleveland. In addition, we believe that representatives of the railroads should meet with members of our community to discuss such impacts.

I strongly encourage you to read the enclosed statements from specific individual institutions addressing their specific concerns.

Sincerely,

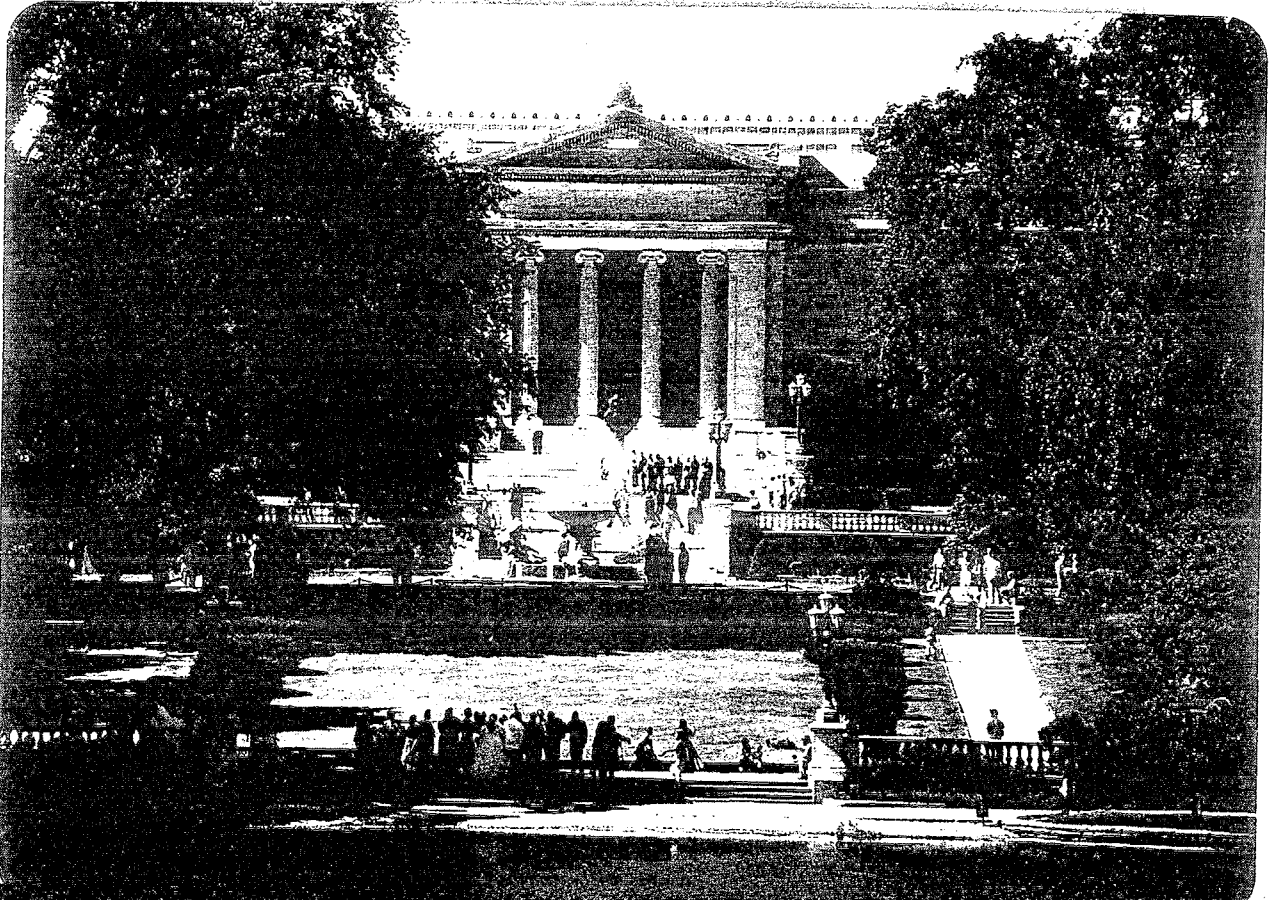


John S. Wilbur, Jr.
President and Chief Executive Officer

Attn: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

University Circle Incorporated

1 9 9 7



Report to the **Community**

A-509-b

University Circle's one-square mile is home to a concentration of 44 institutions that is unmatched in the world.

An additional 35 institutions (our associate members), are located in the area immediately adjacent to our boundaries.

Member Institutions

Ambleside Towers
 American Heart Association, Northeast Ohio Affiliate, Inc.
 Case Western Reserve University
 The Center for Dialysis Care, Inc.
 The Church of the Covenant
 Cleveland Botanical Garden
 Cleveland Friends Meeting
 Cleveland Hearing & Speech Center
 Cleveland Hillel Foundation, Inc.
 The Cleveland Institute of Art
 The Cleveland Institute of Music
 Cleveland Medical Library Association
 The Cleveland Museum of Art
 The Cleveland Museum of Natural History
 The Cleveland Music School Settlement
 The Cleveland Psychoanalytic Institute
 Cleveland Sight Center
 Cleveland Student Housing Association
 Early Music America
 Epworth-Euclid United Methodist Church
 Fine Arts Garden Commission
 First Church of Christ, Scientist
 Gestalt Institute of Cleveland
 Hallinan Center
 Hanna Perkins School
 The Hill House
 Hope Lodge
 Judson Manor/Judson Park
 The Junior League of Cleveland, Inc.
 Maximum Independent Living
 The Mt. Sinai Health Care Foundation
 Mt. Zion Congregational Church
 Musical Arts Association
 Ohio College of Podiatric Medicine
 Ohio Montessori Training Institute
 Pentecostal Church of Christ
 Rainbow Children's Museum & TRW Early Learning Center
 Ronald McDonald House of Cleveland, Inc.
 The Sculpture Center
 The Temple-Tifereth Israel
 University Circle Housing, Inc.
 University Hospitals of Cleveland
 The Western Reserve Historical Society
 Young Audiences of Greater Cleveland, Inc.

Associate Member Institutions

African American Museum
 Alta Social Settlement
 Amasa Stone House
 American Sickle Cell Anemia Association
 Antioch Baptist Church
 Calvary Presbyterian Church
 Catherine Horstmann Home
 Church of the Transfiguration
 Cleveland Center for Contemporary Art
 Cleveland Center for Research in Child Development
 The Cleveland Chamber Music Society
 The Cleveland Clinic Foundation
 Cleveland Cultural Gardens Federation
 The Cleveland Play House
 Cleveland Signstage Theatre
 Dunham Tavern Museum
 Eliza Bryant Center
 Ernest J. Bohm Golden Age Center of Cleveland
 Euclid Avenue Congregational Church of the United Church of Christ
 Fairhill Center for Aging
 First English Lutheran Church
 Grace Lutheran Church
 The Health Museum of Cleveland
 Hitchcock Center for Women, Inc.
 Holy Rosary Church
 Hough-Norwood Family Health Care Center
 The Institute for Creative Living
 Karasim House
 The Lake View Cemetery Association
 Lexington Bell Community Center
 MetroHealth Clement Center for Family Care
 Nature Center at Shaker Lakes
 St. Adalbert Church
 Shaker Historical Society
 Unitarian Society of Cleveland
 United Cerebral Palsy of Greater Cleveland, Inc.

Featured throughout this report are the public service advertisements that appear in Cleveland Magazine in conjunction with the quarterly University Circle Calendar of Events. They depict the major services provided by University Circle Incorporated—what we do day-to-day for this very special place called University Circle and for all of those who come here.

About University Circle and University Circle Incorporated

The story of University Circle begins with blacksmith Nathaniel Doan, a member of Moses Cleaveland's surveying party that founded our city in 1796. He soon found city living not to his liking and moved his family to a woodland area just five miles to the east along an old Indian trail that would become Euclid Avenue. As Doan's Corners (as it came to be called) flourished, the leading citizens of the day recognized the area's potential and began to create something extraordinary—something that would distinguish our city from all others.

Three significant events shaped the destiny of this location. In 1882, Jephtha H. Wade, founder of the Western Union Telegraph Company, thought the area well enough developed to donate 75 acres of land to the city of Cleveland for a public park and an art gallery. When Western Reserve University moved from Hudson (Ohio) in 1882, railroad tycoon Amasa Stone donated \$500,000 to establish Adelbert College in memory of his son. And, in 1885, real estate magnate Leonard Case, Jr. relocated his Case School of Applied Sciences to the site from downtown.

The streetcar line that served Euclid Avenue made a turnaround at East 107th Street—the stop was called University Circle—and so the area was given its name. By 1900, the colleges and beautiful setting attracted other organizations and an educational and cultural district of note was becoming a reality. As was Jephtha Wade's dream, The Cleveland Museum of Art was built in 1916 overlooking the Wade Park Lagoon. The Cleveland Orchestra was given a permanent home when Severance Hall opened in 1931; that same year, University Hospitals was dedicated.

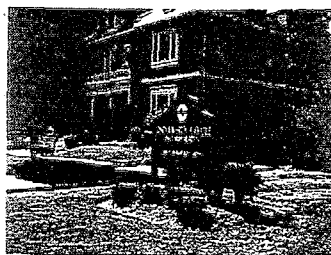
By 1950, 34 institutions had chosen University Circle as their home—but the Circle was facing some serious challenges. In the words of Mr. Stanley A. Ferguson, then president of University Hospitals: "...after nearly 20 years of depression and war, the institutions in University Circle faced a mammoth need for expansion and improvement... the city's population had grown... people were enjoying more leisure time and were looking for worthwhile ways of spending it... museums, libraries, and concerts were filled as never before... however, expansion was more than a matter of money or determination because there just wasn't enough room, and because the area was becoming built up like a patchwork quilt."

Enter one of Cleveland's most spirited civic leaders, Mrs. William G. Mather, who recognized that University Circle was at a pivotal point. Her vision and generosity made possible the hire of the renowned Boston planning firm of Adams, Howard & Greeley, and after a rigorous 18-month study, the *1957 University Circle Master Plan* was issued. The Plan not only gave direction for the Circle's orderly growth, it did something inspiring: it reaffirmed that Cleveland had succeeded in creating the most impressive concentration of educational, cultural, and medical institutions in the country.

Perhaps the most important recommendation made was to "establish a central organization to administer the Plan and give it some real authority." And so, with full institutional support, the University Circle Development Foundation (the predecessor of University Circle Incorporated) was formed. Initial efforts were focused on creating a land bank to purchase and hold available land until needed by an institution for expansion. Soon, services that could be provided more efficiently if done collectively—parking, shuttle bus service, public safety, architectural review, and landscaping of common areas—were added. The stability provided by these services gave new confidence to the institutions and the Circle's growth skyrocketed.

In 1970, the University Circle Development Foundation was reorganized as University Circle Incorporated (UCI) with an added emphasis on strengthening the relationship between University Circle and its adjacent neighborhoods. In its outreach to the broader community, UCI began working closely with neighborhood organizations to build housing and provide access to broader community resources. UCI's Community Education Program was created in 1973 to bring the Circle together with Cleveland schoolchildren—a wonderful collaboration that thrives today. The *1990 University Circle Master Plan*, which updated the 1957 Plan, strongly reinforced the importance of neighborhood partnerships.

UCI's reorganization moved it from simply being the "caretaker" of the Circle's physical environment (although that role remains very important) to being a catalyst for economic development and an advocate for the whole of University Circle as a major force in the progress of our city and Northeast Ohio. Uniquely positioned to look to the future with a collective eye on behalf of the institutions it serves, UCI has been dedicated to ensuring the excellence of University Circle for 40 years.



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From the Chairman and President

This is a milestone year for University Circle Incorporated (UCI)—our 40th anniversary—and in the spirit of celebration we are presenting this report to the larger community by its inclusion in *Cleveland Magazine*. University Circle is a very special place and Clevelanders are rightly proud of it—as a source of civic pride it has long ranked high on the list of city assets.

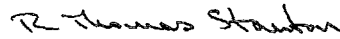
What many do not know about University Circle, however, is that since 1957 there has been an organization dedicated exclusively to ensuring the Circle's collective well being. As described in the preceding introduction, the 1950's brought the Circle to a turning point that was met boldly and determinedly by the formation of UCI. It is our privilege to work on behalf of this organization that is integral to the success of a remarkable concentration of institutions—one only needs to consider the level of achievement that is reached every day in this one square mile to understand the Circle's significance.

The core of what UCI does for the Circle is tangibly depicted on the following pages. Our services make it possible for each of our member institutions to thrive in a place that is safe, convenient, orderly, and beautiful—and to carry on with their important work for their visitors, clients, and patrons. But it is the combination of providing day-to-day services, framing longer-term strategies, and taking the collective long view that captures UCI's role. Simply put, UCI is working to make University Circle—today and tomorrow—a vibrant, active community that is known as one of the truly extraordinary urban districts in the country.

We are glad to report that the financial status of UCI is sound. UCI's unrestricted operating revenue for the year totaled \$15.3 million, which included annual fund contributions of \$472,000. In addition, UCI received \$1.4 million in endowment fund gifts. We acknowledge the foundations, business organizations, public agencies, and individuals who so generously contributed to this organization.

Our gratitude is also extended to UCI's Board of Trustees and our dedicated volunteers. With sad regret we note the deaths of four of our trustees, three of them noteworthy women who served us so well: Dr. Ruth R. Miller, Mrs. A. Dean Perry, and Mrs. Herman L. Vail. Frank R. Borchert, Jr., Vice President for Budget & Planning at Case Western Reserve University, will be much missed as a colleague and friend.

We are grateful for the contributions of our valued employees and acknowledge each of our member and associate member institutions for all that they bring to the quality of life in Cleveland and Northeast Ohio.



R. Thomas Stanton

Chairman of the Board of Trustees

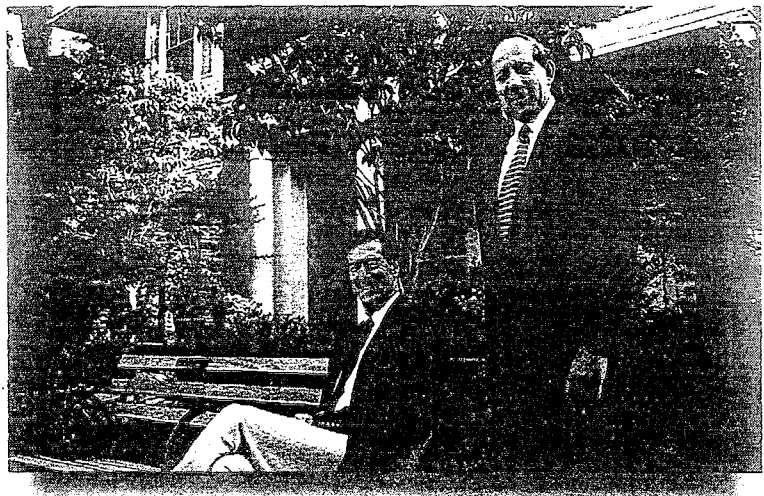


John S. Wilbur, Jr.

President and Chief Executive Officer

September, 1997

Tom Stanton (standing) and John Wilbur are pictured with the handsome park bench in front of UCI's Administrative Office on Magnolia Drive. It is one of many being placed throughout University Circle by The Circle Bench Project — an endowed beautification program started by UCI in 1996.



Public Safety

When the University Circle Police Department was formed in 1959, it was the only private police department in the country. The bold thinking that led to its creation was that of civic leader Mrs. William G. Mather and T. Keith Glennan, the president of Case Institute of Technology, both of whom were instrumental in creating University Circle Incorporated two

years earlier. In 1959, public safety was a primary concern among the Circle institutions and there was full agreement that a police department exclusively dedicated to University Circle would complement the efforts of the Cleveland Police Department and enhance the security efforts of each institution.

Thirty-eight years later, the UCPD's success speaks for itself—by any measure, University Circle has long been one of Cleveland's safest areas. The presence of the UCPD, along with its reputation for quick response, is a strong deterrent to criminal activity in the Circle. Minimized opportunity coupled with timely and decisive intervention in actual criminal incidents has characterized the UCPD's safety strategy since its inception.

This year, in its continued dedication to community policing, the 28-member department increased the presence of officers in the Circle's busiest area—the intersection of Mayfield Road and Euclid Avenue—by opening a mini-station in an attractive storefront on Euclid. With an ever-growing number of special events in University Circle, the UCPD has hired 4 part-time officers who are available when extra police power is needed—this federally-funded part-time program has worked very well during the past year. Congratulations are extended to two longtime members of the force, James Radca and Kenji Kurokawa, who were recently promoted to the rank of sergeant.

Now in its third year, the University Circle Mounted Courtesy Patrol has proved to be a popular addition to the Circle's security efforts. Comprised of 12 seasoned equestrians, the Patrol rides in pairs on weekends from June through October to provide friendly assistance and information to Circle visitors. Recently, two Patrol members graduated from the Cleveland Heights Police Academy and now serve as part-time UCPD officers.



“University Circle is safe today because for nearly 40 years the institutions that comprise University Circle have been committed to making it safe. ”

—Chief Timothy J. Peppard, University Circle Police Department

We keep this one-square mile



© DON SNYDER PHOTOGRAPHY

University Circle is not only one of Cleveland's most beautiful areas—it is one of the safest.

Created in 1959 by University Circle Incorporated, the 28-member University Circle Police Department is unique in that it serves the 44 important institutions that make their home in University Circle's one-square mile.

A full-service police department, the UCPD's success is noteworthy given University Circle's concentration of institutions and activity—during an average day, 35,000 people come here to work, study, or visit.

FOR MORE INFORMATION ABOUT UNIVERSITY CIRCLE INCORPORATED, CALL 216/791-3900.



Established in 1957, University Circle Incorporated is the non-profit service organization dedicated to ensuring the excellence of University Circle—the cultural, medical, and educational center of Northeast Ohio.

A-510-d

Parking and Transportation



University Circle is a dynamic urban neighborhood—5,000 people live within its one-square mile and every day more than 15,000 employees and 16,000 students come here to work and learn. To take in a concert, exhibit, or lecture—or to keep a medical appointment, thousands more visit daily. The 70-plus institutions located within the Circle and its adjacent rim have diverse missions and, accordingly, have different needs. But common to all of the institutions is the need for well-run functional elements, such as parking and transportation, so that they can successfully carry on with their business. University Circle Incorporated has not only been instrumental in providing these services for decades, but in constantly bringing together the Circle institutions to discuss how best to meet their ever-changing needs.

UCI maintains a fleet of 20 buses that transports more than one million passengers annually. Known fondly

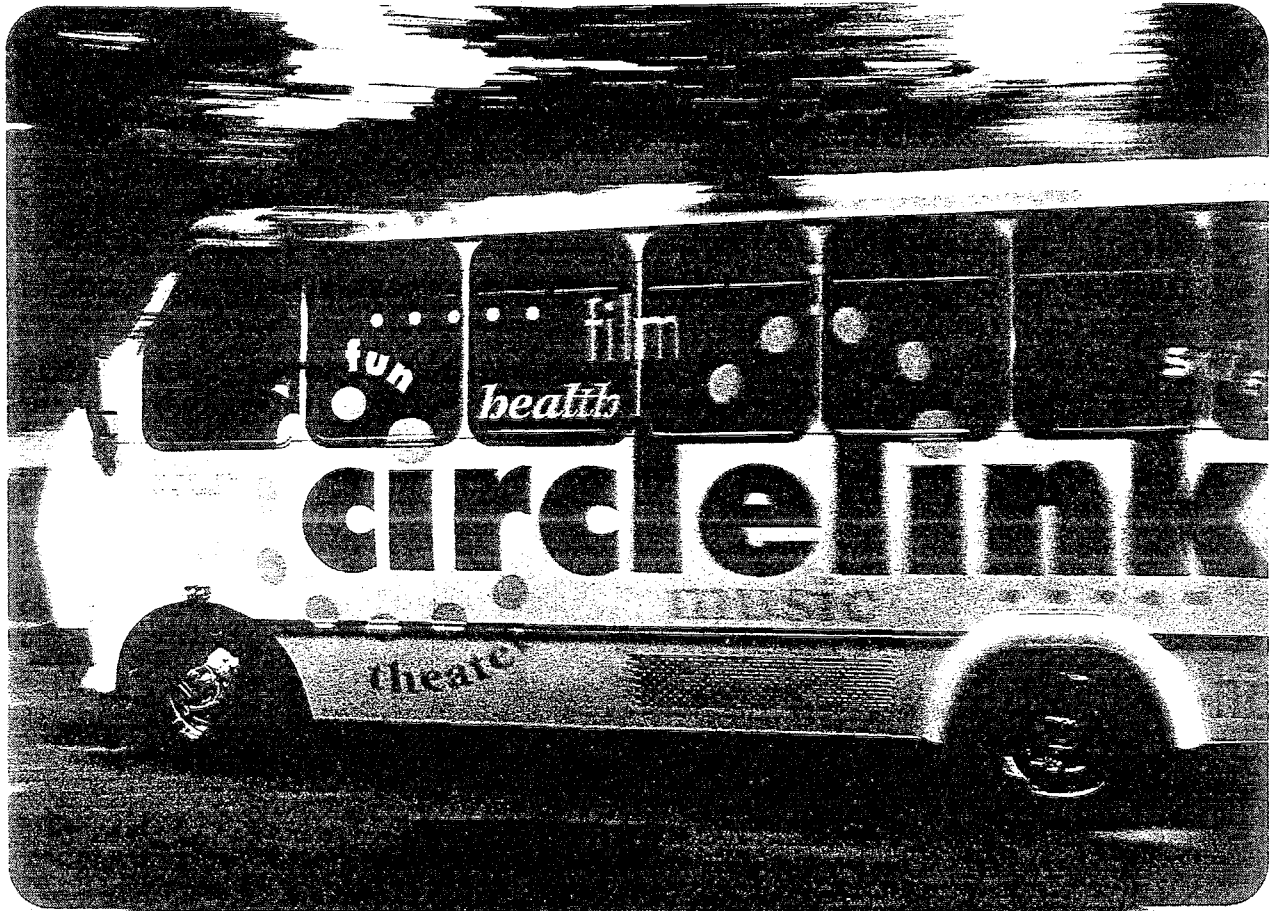
“We want our visitors to have a positive experience in University Circle even before they enter our museum. The Circlelink shuttle is a fine example of how the Circle institutions have come together to provide a visitor amenity that makes the total University Circle experience a friendly one.”

—Dr. James E. King, Director, The Cleveland Museum of Natural History

as the “greenies” for many years because of their color, the updated look of our vehicles reflects the attention we pay to their maintenance and appearance. This free shuttle service efficiently delivers employees from parking lots to workplaces, takes students to all points of the CWRU campus, and is available to casual visitors. To better serve the latter, Circlelink service was created—its friendly, easy-to-spot buses and signs make it particularly appealing to those visiting the Circle for the first time.

Most urban centers face the challenge of providing adequate parking space where it is most needed, and with its high concentration of institutions and people, University Circle is no exception. To that end, UCI and eight Circle institutions work collaboratively to provide accessible, safe, and cost-effective parking. Included in the system are 11 parking garages and 51 parking lots containing more than 10,000 parking spaces. In keeping with the level of service that the University Circle institutions warrant, our parking lot attendants are ready at a moment’s notice to provide assistance to our customers—from fixing flat tires to supplying emergency gasoline.

We make museum hopping easy.



DON SNYDER PHOTOGRAPHY

University Circle's one-square mile is an extraordinary cultural, medical, and educational center—complete with free **Circlelink** shuttle service provided seven days a week by University Circle Incorporated.

Whether you are here to visit the Circle's wonderful museums, take a class at one of its prominent schools, enjoy a superb performance, or keep an important appointment in this renowned medical hub, we are here to serve you.

FOR A CIRCLELINK MAP AND SCHEDULE CALL UNIVERSITY CIRCLE INCORPORATED, 216/791-3906.



Established in 1957, University Circle Incorporated is the non-profit service organization dedicated to ensuring the excellence of University Circle—the cultural, medical, and educational center of Northeast Ohio.

A-511-b



Community Planning

"University Circle is the most outstanding institutional complex in the country—it truly sets Cleveland apart from all other cities. Without a doubt, the decades of guidance and planning provided by University Circle Incorporated have made the Circle what it is today."

—Michael R. White, Mayor, City of Cleveland

University Circle did not happen by chance—well-planned community development has always been critical to the success of University Circle and its institutions. While Circle institutions have individual development plans, University Circle Incorporated works for the collective whole to allow the Circle to reach its maximum potential. To this end, there have been two major planning tools for the Circle—the 1957 and the 1990 University Circle Master Plans—both were created by the Circle institutions and implemented under UCI's guidance.

The 1957 Master Plan accomplished many things, including the formation of UCI to oversee the Circle's progress. The need for a coordinated approach to physical development led to the creation of a "land bank" to allow UCI to buy available land and hold it until needed by Circle institutions for expansion or for projects that benefit the Circle community. To ensure that the Circle's high architectural standards were maintained, the Architectural Review Board was established—its nationally noted architects continue to review all proposed building plans.

The 1990 Plan, which re-examined and updated the 1957 Plan, set forth new development guidelines to make the Circle more accessible, coherent, and beautiful. A few examples of completed and proposed projects include the comprehensive wayfind-

ing system comprised of 100 handsome signs and the multi-headed lanterns lighting the Fine Arts Garden. With the goal of redesigning Euclid Avenue as the Circle's "main street," a task force made up of institutional representatives is reviewing proposed plans. Although still in the planning stages, the building of an apartment complex at the corner of Euclid Avenue and Ford Drive remains a priority. Add to these the extraordinary level of investment our institutions have made in keeping with the Master Plan's goals—since 1990 new building projects have exceeded \$350 million.

One of the most important components of our planning efforts is maintaining strong partnerships with the neighborhoods adjacent to University Circle and working together to improve their respective residential and commercial areas. Currently, UCI is focusing on the refurbishment of East 105th Street at the Circle's northern edge. The well-being of University Circle and that of its surrounding neighborhoods are inextricably linked; we are dedicated to planning that is mutually beneficial.

We take care of this special place.

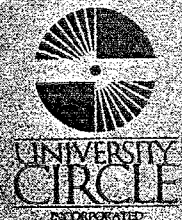


• DON SAYER II PHOTOGRAPHY

University Circle did not happen by chance. Well-planned **community development** has always been essential to the Circle—and University Circle Incorporated provides the vision and services necessary to maintain the quality environment so important to this very special place.

Our wayfinding system is comprised of 100 handsome signs that efficiently guide you to your Circle destination. It is but one example of the coordinated approach taken by University Circle Incorporated and its 44 member institutions to make University Circle a better place for our visitors.

FOR A BROCHURE ABOUT OUR COMMUNITY DEVELOPMENT PROGRAM, CALL UNIVERSITY CIRCLE INCORPORATED, 216/751-3908.



Established in 1957, University Circle Incorporated is the non-profit service organization dedicated to ensuring the excellence of University Circle—the cultural, medical, and educational center of Northeast Ohio.

A-511-d

Community Outreach

In 1970, University Circle Incorporated was reorganized so that it could take a more active role in serving the neighborhoods around the Circle both in terms of physical development and in the programs it offered. One goal was to bring the area children more closely together with the Circle's cultural institutions; to that end, UCI's Community Education Department was established in 1973.

Each year, this effort reaches 35,000 Cleveland students through many worthwhile programs. The

most comprehensive is the Field Trip Program that serves students from 26 Cleveland schools and arranges field trips with 16 of the Circle's cultural institutions. The field trips are designed to be relevant to current lesson plans to maximize each student's experience. In addition to providing the admission fees, UCI provides transportation on our "Enrichment Express" buses. (When UCI buses are not in use for school programs, they shuttle senior adults who live in the

University Circle area to many Circle museums and events.)

Other offerings include the Artist in Education Program that arranges in-school residencies for artists who lend their expertise in dance, drama, visual arts, and creative writing—this year museum visits will add a valuable dimension. For a select group of outstanding high school students, the Summer Scholar Program provides a five-week internship at one of 15 University Circle institutions.

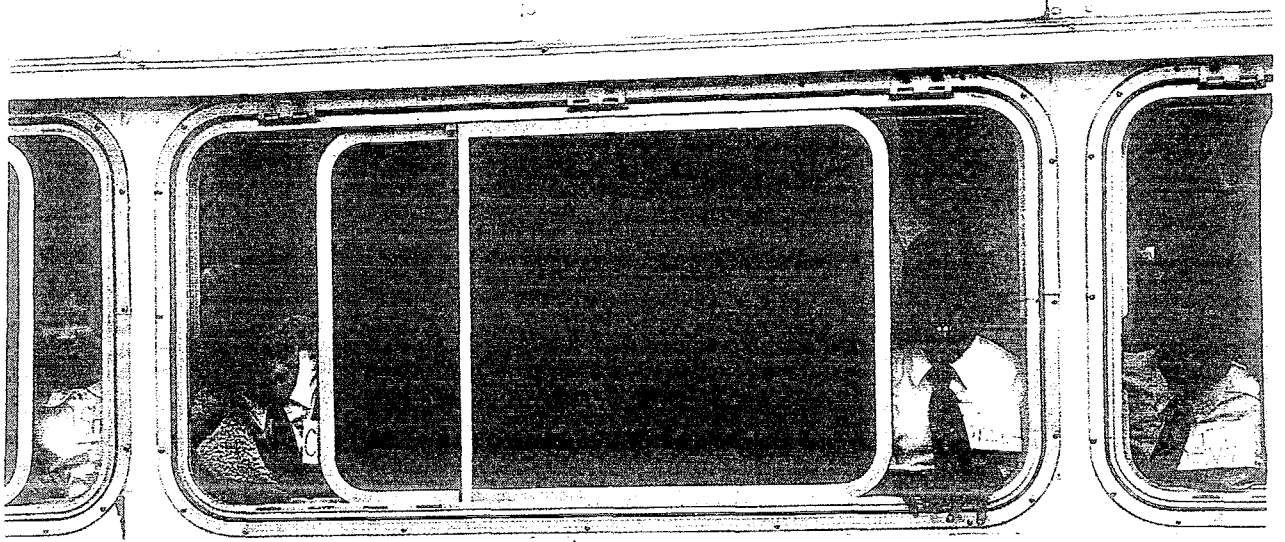
For the first time, a program is being offered that addresses the learning needs of preschool children. Modeled after a Smithsonian Institution program, the Early Learning Initiative is an exciting effort that brings together seven Circle institutions and five area preschools under the direction of UCI's Museum Education Specialist, Diane V. Hansson. This important collaboration features a curriculum that takes full advantage of the wonderful museum collections and performances offered by the participating institutions.

"The lives of more than two million Cleveland schoolchildren have been enriched by visits to University Circle's museums, theaters, concert halls, and gardens—and University Circle Incorporated has made this possible. We look forward to working together to serve many more."



—Ms. Elizabeth O. Ward, Principal, Harvey Rice Elementary School

We *open* doors that never close.



PHOTOGRAPH BY RICHARD SHYDER

UNIVERSITY CIRCLE INCORPORATED

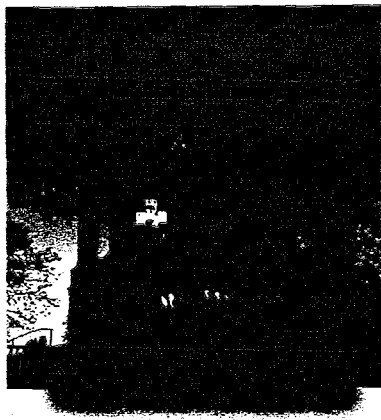
COMMUNITY EDUCATION PROGRAM

University Circle is a non-profit organization that provides living education and the program together with the educational resources available in the community is one of the most important factors provided by University Circle.

Since its creation in 1971, our Community Education Program has helped over two million students together with the important individuals. Under its care, the program provides education to entry level students in the field of...



Tourism and Promotion



"Cleveland is enjoying remarkable tourism growth which has contributed significantly to the state's economy and has helped propel Ohio to its rank of sixth in the nation in the number of leisure visitors. An outstanding attraction, University Circle is vital to our national standing as a destination."

—George Zimmerman, State Tourism Director, Ohio Division of Travel & Tourism

University Circle has been a prime visitor destination for more than 75 years. Both local visitors and out-of-towners alike are drawn to what is perhaps the most impressive cultural center that has ever been built—today, it attracts more than 2 million visitors annually. With nine museums, outstanding performing arts organizations, and beautiful gardens, there is constant activity—the rich architectural heritage and beauty of the setting are a bonus. Add to that great local restaurants and the ease of getting around on the free CircleLink shuttle; the result is a perfect destination that satisfies a wide range of interests from symphony-goers to families seeking a full day of fun.

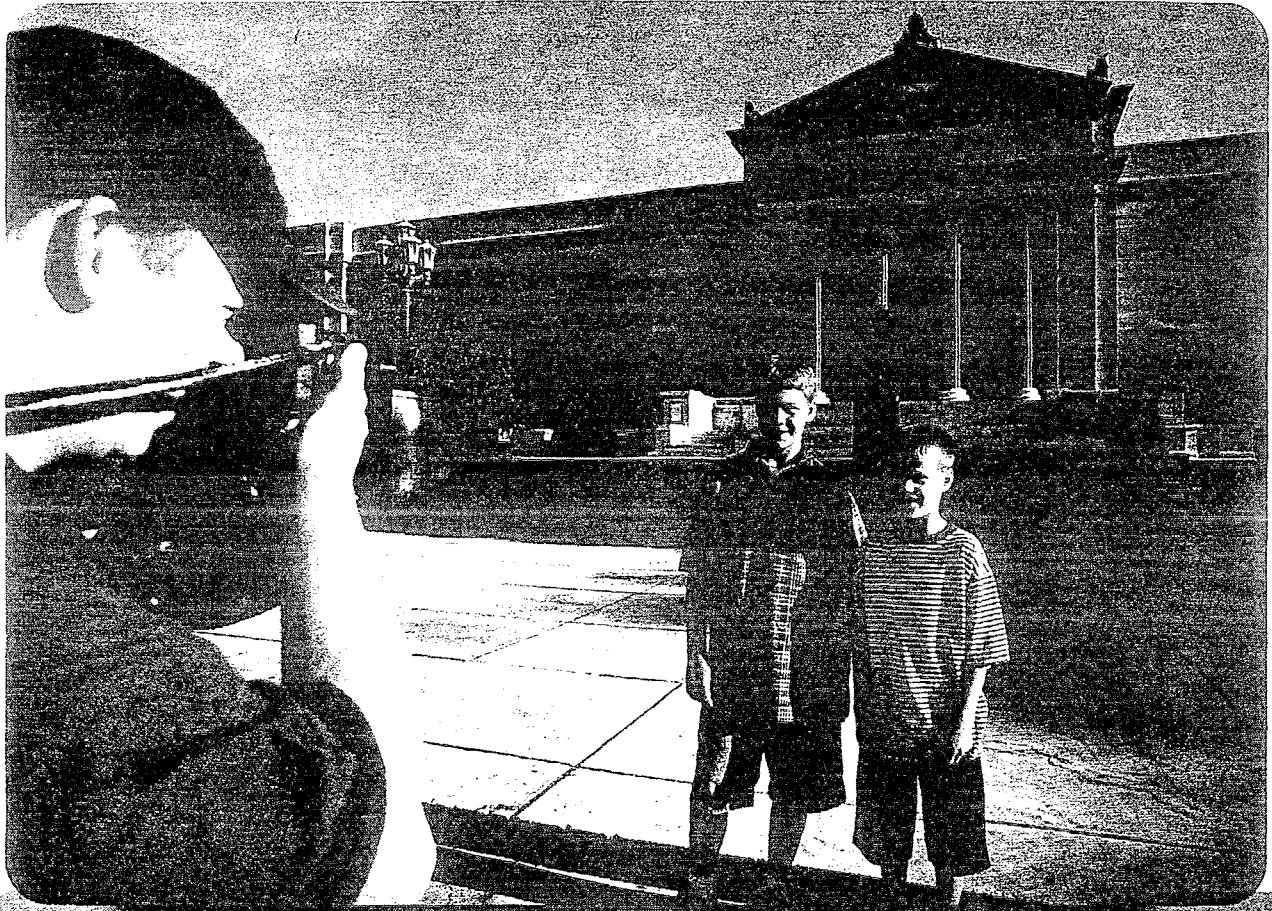
Tourism is one of the fastest growing industries in the world—U.S. tourism generates \$422 billion annually. Cleveland is happily seeing an increase in its tourism market and University Circle is a full partner in the efforts of both the Convention & Visitors Bureau of Greater Cleveland and the Ohio Division of Travel & Tourism.

To garner a greater share of the group tour segment of the market and to better position the Circle as a fascinating destination, five of the Circle's largest attractions—The Cleveland Museum of Natural History, The Cleveland Play House, The Cleveland Museum of Art, The Cleveland Orchestra, and The Western Reserve Historical Society—have come together under the direction of University Circle Incorporated to hire Nancy Feighan, the Circle's first Tourism Manager. With a focus on group tours, she is packaging and selling the Circle to groups from many states, as well as Canada.

In addition to tourism, UCI works in other ways to promote University Circle. Now in its second year, the *University Circle Calendar of Events* remains in high demand and more than 500,000 *Visitor Guides* are distributed annually. We handle inquiries from all over the world—not only about the Circle as a cultural mecca, but as a medical and educational center as well.

To showcase this extraordinary place and to encourage people to visit, two annual community events are hosted in the Circle. Coordinated by UCI, the summer's "Parade The Circle Celebration" and December's "Holiday Circlefest" have become beloved traditions and are enjoyed by thousands.

We make our TOURISTS



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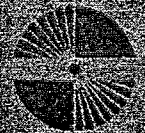
University Circle Incorporated welcomes tourists from near and far to the most remarkable cultural center in the world. **University Circle** is not only a beautiful destination, it is one of the most beautiful. With nine museums, outstanding performing arts, and wonderful gardens, all in 400 square miles, it offers the perfect combination of culture and fun.

University Circle Incorporated strives to make the Circle visitor-friendly for all of our guests.

Our Tourist Manager works exclusively with mainstream travel.

The Circle is here to help you bring even more visitors to this not-to-be-missed place.

FOR A FREE VISITORS MAP & GUIDE, CALL UNIVERSITY CIRCLE INCORPORATED 216/741-1000



UNIVERSITY
CIRCLE

Established in 1910, University Circle is the largest and most prominent neighborhood in Cleveland, Ohio. It is home to the world's largest concentration of cultural institutions, including the Cleveland Museum of Art, the Cleveland Orchestra, and the Cleveland Public Library. University Circle is a vibrant and diverse community that offers a rich and rewarding experience for all who visit.

University Circle Incorporated (UCI)

is the nonprofit planning, service, and development organization established in 1957 to provide a quality environment for University Circle's cultural, educational, medical, religious, and health and human services institutions.



University Circle Incorporated 10831 Magnolia Drive Cleveland, Ohio 44106-1887

Design: Nancy Warkentin, Warkentin Design Editor: Winney E. Bohan, UCI Director of Public Relations Cover and Advertisement Photography: Don Snyder Other photography: Jeff Lutz, The Cleveland Museum of Natural History, Roger Abramson, The Cleveland Orchestra, Robert F. Wood

A multifaceted organization, UCI's many areas of responsibility are:

- Planning and facilitating physical development in the Circle;
- Buying and assembling properties to make them available for projects that benefit the Circle community;
- Maintaining public safety through the University Circle Police Department;
 - Managing many of the Circle's parking areas;
- Working with adjacent neighborhoods toward mutual goals and benefits;
 - Providing a Circle-wide transportation system;
- Introducing Cleveland's schoolchildren to the resources of Circle institutions through educational programs;
 - Enhancing the area's natural beauty; and
- Promoting University Circle as one of Cleveland's and Northeast Ohio's prime tourist destinations and most important assets.

University Circle Incorporated

1997 Donor Honor Roll



appreciation

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University Circle Incorporated's Annual Fund is the lifeline that sustains our Community Development, Community Education, and Communications programs. We are grateful to all who contributed to UCI's 1997 Annual Fund:

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Mr. and Mrs. Richard A. Manuel
Mr. and Mrs. Richard L. Marrapese
Iris Marshall
Charles and Susan Marston
Mrs. Walter A. Marting
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Mrs. Norman F. McDonough
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Stanley and Barbara Meisel
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Mrs. Miriam Smead
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Mrs. Kelvin Smith
Mrs. Marcus L. Smythe
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Dr. William E. Zornow
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Corporations/Foundation

American Greetings Corporation
American Industrial Buildings, Inc.
Associated Estates Realty Corp.
The Bares Foundation
Bicknell Fund
Brennan Industries, Inc.
Calfee, Halter & Griswold
The Alvah Stone & Adele Corning
Chisholm Memorial Fund
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The Cleveland Foundation
The Cleveland Psychoanalytic Institute
The George W. Codrington
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Deloitte & Touche LLP
Eaton Corporation
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First Union Real Estate Investments
The Foster Family Foundation
The GAR Foundation
Greater Cleveland Growth Association
The BFGoodrich Company
The Albert M. Higley Company
Hummer Associates
The Gilbert W. and
Louise Ireland Humphrey Foundation
The Huntington National Bank
The Martha Holden Jennings Foundation
Jones, Day, Reavis & Pogue
The Junior League of Cleveland, Inc.
The Keyes-Treuhaff Company
The Lubrizol Foundation
Elizabeth Ring Mather
and William Gwinn Mather Fund
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The Murch Foundation
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Ohio Montessori Training Institute
Ostendorf-Morris Colliers
Plain Dealer Charities, Inc.
Helen D. Schubert Charitable Term Trust
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Surety Title Agency, Inc.
TRW Inc.
Thompson Hine & Flory P.L.L.
Tremco
The George Garretson Wade
Charitable Trust #2
The Raymond John Wean Foundation
The S.K. Wellman Foundation

* Deceased

The 1525 Endowment Challenge

Anonymous
 Anonymous
 Anonymous
 Anonymous
 Anonymous
 The 1525 Foundation
 Albrecht Systems Co., L.P.
 Mr. and Mrs. Quentin Alexander
 American Heart Association,
 Northeast Ohio Affiliate, Inc.
 Mr. and Mrs. Robert Anderson
 June Sallee Antoine
 Ali D. Askari, M.D.
 Mr. and Mrs. J.H. Baird
 Mr. and Mrs. D. Robert Barber
 Mr. and Mrs. Francis H. Bearn, Jr.
 Leigh and Jim Bennett
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 Paul S. Brentlinger
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 The M.E. and F.J. Callahan Foundation
 Capitol American Financial Corporation
 Leigh and Mary Carter
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 Chisholm Memorial Fund
 of The Cleveland Foundation
 The Cleveland-Cliffs Foundation
 John D. Clough, M.D.
 Cole National Corporation
 Thomas Colpetzer
 Coopers & Lybrand L.L.P.
 Mr.* and Mrs. Frederick C. Crawford
 Mr. and Mrs. Jonathan Crudele
 Mr. and Mrs. David A. Daberko
 Murray M. Davidson
 Bernice and David E. Davis
 The Estate of Edward H. deConingh, Sr.
 Rev. James F. Dowd
 Rosemary Linich Downing
 John D. Drinko Endowment
 The Hostetler Foundation
 The Mellen Foundation
 Raymond J. Durn
 John J. Dwyer
 Early Childhood Options
 of University Circle
 Robert Edgerton

Mrs. Ruth Eppig
 Natalie and Morton G. Epstein
 Euclid Fish Company
 Hubert L. Fairchild
 José C. Feliciano
 Stanley A. Ferguson
 Ferro Foundation
 Firman Fund
 Dr. and Mrs. John A. Flower
 Allen H. Ford
 The GAR Foundation
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 Benjamin S. Gerson Family Foundation
 John H. Gherlein
 Robert E. Glaser
 Mr. and Mrs. Brian S. Gleisser
 Rev. Bruce T. Goode
 The BFGoodrich Foundation, Inc.
 Goodyear Tire and Rubber Company
 Greater Cleveland Growth Association
 The Gries Family Foundation
 Fred J. Griffith
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 The Gordon and Llura Gund Foundation
 The Honorable Timothy F. Hagan
 Gerald J. Haggerty, Jr.*
 Stephen P. Hansler
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 Mrs. Scott B. Hayes
 Hickory Investment Advisors, Inc.
 Hill House
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 Brian E. Holley
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 George M. and Pamela S. Humphrey Fund
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 The Huntington National Bank
 Mrs. David S. Ingalls*
 The Louise H. and
 David S. Ingalls Foundation
 Dr. and Mrs. Scott R. Inkley
 Mrs. Cornelia Ireland*
 Mr. and Mrs. James D. Ireland III
 The Ireland Foundation
 In Memory of R. Livingston
 and Margaret Allen Ireland
 Jones, Day, Reavis, & Pogue
 Philip B. Kalin
 Mr. and Mrs. G. Robert Klein
 S. Lee Kohrman, Esq.
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 The LTV Foundation
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 NACCO Industries, Inc.
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 Ohio Montessori Training Institute
 F.J. O'Neill Endowment
 The William J. and
 Dorothy K. O'Neill Foundation
 Mr. and Mrs. C.W. Eliot Paine
 PaineWebber, Inc.
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 Mrs. A. Dean Perry*
 Mr. Charles E. Pierson
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 Mr.* and Mrs. Kenneth J. Pinkerton
 Mr. and Mrs. Edward J. Podojil
 Richard W. Pogue
 Preterm Cleveland
 RPM, Inc.
 Mrs. Alfred M. Rankin
 Mr. and Mrs. Alfred M. Rankin, Jr.
 Mr.* and Mrs. Lincoln Reavis
 Sarah P. Robertson
 Thomas H. Roulston
 Dr. Theodore A. Sande
 Michelle L. Sanson
 John and Sally Schulze
 Mr. and Mrs. Samuel K. Scovil
 Robert and Jean Seaton
 The Second Foundation
 Mrs. Ellery Sedgwick, Jr.
 The Sedgwick Fund
 of The Cleveland Foundation
 Marla and Joseph Shafran
 Robert J. Shakno
 John F. Shelley
 Michael Sherwin
 Craig R. Smith
 Nancy King Smith
 Stein Roe & Farnham
 Mr. and Mrs. David S. Steiner
 Mr. and Mrs. Robert D. Storey
 Sullivan Family Foundation
 Franny and Seth Taft
 Nelson Talbott Foundation
 Dr. J. Mary Taylor
 Mr. and Mrs. Joseph H. Thomas
 Tremco
 The Elizabeth M. and William C. Treuhart
 Fund of The Cleveland Foundation
 Mr. and Mrs. Richard B. Tullis
 Dr. Evan H. Turner
 University Hospitals of Cleveland
 The George Garretson Wade
 Charitable Trust #2
 William M. Weber
 Thomas E. Wheeler
 Alton W. Whitehouse
 Henry L. Williams
 Diane and Jay Wish
 Mr. and Mrs. Robert E. Woide
 Henry L. Zucker

The Circle Bench Project

In appreciation to the following contributors who have purchased park benches in the initial phase of The Circle Bench Project:

Alfred F. Arthur
The Brick Family
Mrs. Carol H. Butler
Mrs. John B. Dempsey
Donley's, Inc.
Mr. and Mrs. George M. Humphrey, II
George M. & Pamela S. Humphrey Fund
Robert and Ruth Kanner
Mary Elizabeth Klein
G. Robert Klein
Kulas Foundation
Mr. and Mrs. John C. Morley
NACCO Industries, Inc.
Mr. and Mrs. James D. Reid, Jr.
Mr. and Mrs. Samuel K. Scovil
Mr. and Mrs. Joseph D. Sullivan
Mr. and Mrs. Joseph H. Thomas
V & V Foundation
Mr. and Mrs. Charles D. Weller
Mr. and Mrs. John S. Wilbur, Jr.

In Memory of Kenneth J. Pinkerton, 3 benches

Mrs. Cornelia Ireland*
Mr. and Mrs. James D. Ireland III
Elizabeth Ring Mather and
William Gwinn Mather Fund

Named Endowed Funds

The 1525 Foundation
The Cleveland-Cliffs Foundation
John D. Drinko Endowment
The Hosteder Foundation
The Mellen Foundation
Mrs. David S. Ingalls Fund
The Louise H. and
David S. Ingalls Foundation
The Ireland Foundation
In Memory of R. Livingston
and Margaret Allen Ireland
Mr. and Mrs. G. Robert Klein
Anne and Elmer Lindseth Endowment[†]
Elizabeth Ring Mather and
William Gwinn Mather Fund
EJ. O'Neill Endowment
The Second Foundation
The Elizabeth M. and
William C. Treuhart Fund

* Deceased

† Established by others

Restricted

In appreciation to the following contributors for:

Supporting UCI's land banking efforts

Anonymous
American Greetings Corporation
Centerior Energy Foundation
The George W. Codrington Foundation
Mrs. Elizabeth W. Evans
Harry K. and Emma R. Fox Charitable Fund
The Albert M. Higley Company
National City Bank
Elizabeth Severance Prentiss Foundation
The Sherwick Fund
of The Cleveland Foundation
University Hospitals of Cleveland
Village Capital Corporation

Investing \$100,000 and above in vital initiatives

The 1525 Foundation
The Abington Foundation
The Cleveland Foundation
The George Gund Foundation
KeyCorp
Mr. and Mrs. G. Robert Klein
Kulas Foundation
Elizabeth Ring Mather and
William Gwinn Mather Fund
John P. Murphy Foundation
The Reinberger Foundation

Funding UCI's 10th Annual Summer Scholar Program

The Martha Holden Jennings Foundation
David & Inez Myers Foundation
The Nordson Corporation Foundation

Upgrading the University Circle Police Department's Communications System

The Lubrizol Foundation

Designating contributions to other restricted funds

Claude M. Blair
The Cleveland Foundation
John P. Murphy Foundation
Elizabeth Ring Mather
and William Gwinn Mather Fund
Mrs. Kent H. Smith

Supporting a planning study for improvements to East 105th Street

Bank One, Cleveland NA
The Huntington National Bank

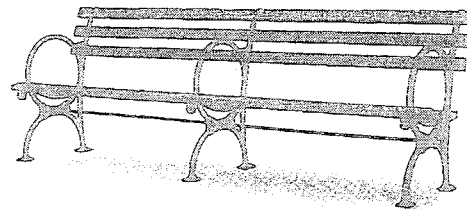
*In appreciation for contributions to
University Circle's two community
events, Parade the Circle Celebration
and Holiday CircleFest:*

Major sponsorship support

Aetna Health Plans
Cleveland Coca-Cola Bottling Company, Inc.
The George Gund Foundation
Metropolitan Savings Bank

Generous assistance

American Greetings Corporation
B & M Distributors
Best Sand Corporation
City Blue
Cleveland Parent
Fabri-Centers of America, Inc.
Free Times
Hillside Dairy Co., Inc.
Ohio Arts Council
WDOK-FM
WKSU-FM
WUAB-TV43



Statements of Financial Position
University Circle Incorporated

June 30

1997

1996

Assets

Cash	\$ 59,692	\$ 6,073
Accounts receivable	986,927	837,232
Interest receivable	37,907	46,586
Prepaid expenses	56,010	59,290
Contributions receivable	758,860	610,693
Other assets	76,202	76,202
Office equipment, net	53,725	68,583
Notes receivable	223,891	231,719
Unrestricted investments	7,108,773	5,637,688
Restricted investments	8,475,037	6,644,375
Prepaid lease	555,558	578,626
Land	5,127,067	5,127,067
Buildings, net	3,805,100	4,067,328
Total Assets	<u>\$27,324,749</u>	<u>\$23,991,462</u>

Liabilities and Net Assets

Liabilities

Accounts payable	\$ 1,048,226	\$ 895,033
Prepaid revenue	10,043	21,710
Other liabilities	276,810	262,967
Long-term debt	376,006	466,054
Total liabilities	<u>1,711,085</u>	<u>1,645,764</u>

Net Assets

Unrestricted	15,674,580	14,356,286
Temporarily restricted	752,941	714,781
Permanently restricted	9,186,143	7,274,631
Total net assets	<u>25,613,664</u>	<u>22,345,698</u>
Total liabilities and net asset	<u>\$27,324,749</u>	<u>\$23,991,462</u>

Audited Financial Statements are available upon request.

Statements of Activities

University Circle Incorporated

For the Years Ended June 30

1997

1996

Changes in Unrestricted Net Assets

Revenue

Program and operating income	\$11,926,561	\$11,646,305
Unrestricted contributions	471,573	615,659
Parking return	396,415	359,710
Investment income	853,292	608,650
Unrealized gain from investments	609,401	277,832
Mayfield triangle rent	31,230	31,230
Other income	<u>242,599</u>	<u>273,625</u>
Total unrestricted revenue	14,531,071	13,813,011

Net Assets Released from Restrictions

Satisfaction of program restrictions	702,737	793,323
Expiration of time restrictions	<u>50,000</u>	<u>65,000</u>
Total net assets released from restrictions	752,737	858,323
Total unrestricted revenue and net assets released from restrictions	15,283,808	14,671,334

Expenses

Program and operating expenses	12,982,656	12,813,407
General and administrative	750,318	790,089
Fund raising	157,424	153,301
Transfer to permanently restricted programs	75,000	166,000
Other expenses	<u>116</u>	<u>34</u>
Total expenses	13,965,514	13,922,831
	1,318,294	748,503

Changes in Temporarily Restricted Net Assets

Temporarily restricted contributions	753,446	976,579
Investment income	10,021	13,670
Other income	27,430	39,163
Net assets released from restrictions	<u>(752,737)</u>	<u>(858,323)</u>
Increase in temporarily restricted net assets	38,160	171,089

Changes in Permanently Restricted Net Assets

Permanently restricted contributions	1,452,090	392,071
Net investment income	467,448	86,747
Unrealized (loss) gain from investments	(83,026)	269,178
Transfer from unrestricted programs	<u>75,000</u>	<u>166,000</u>
	1,911,512	913,996

Total increase in net assets	3,267,966	1,833,588
Net assets at the beginning of the year	<u>22,345,698</u>	<u>20,512,110</u>
Net assets at the end of the year	<u>\$25,613,664</u>	<u>\$22,345,698</u>

Cleveland Hearing & Speech Center



January 30, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Attn: Elaine K. Kaiser,
Environmental Project Director

Dear Ms. Kaiser:

Last Wednesday a group of University Circle executives met to review the proposed routing of CSX and Norfolk Southern freight traffic through University Circle in Cleveland, Ohio. As was clear from our numerous questions, many of us have significant concerns, particularly from a safety perspective.

As detailed, the possibility that up to 81,000 freight cars containing hazardous cargo would be transiting through University Circle annually. While the accident statistics that were presented are somewhat reassuring, it was expressed quite clearly that the possibility of serious accident cannot be eliminated. I would like to most strongly encourage you to convey to the Surface Transportation Board the unique nature of the University Circle area. It certainly has the largest concentration of hospitals, nursing and elderly care facilities and other institutions, such as our own Cleveland Hearing & Speech Center, which work with very special populations. How could a hazardous cargo accident be contained should it occur within the confines of densely populated University Circle?

This organization, Cleveland Hearing & Speech Center, must express its particular concerns regarding the significant increases in noise which such volumes of rail traffic would create. On a daily basis our agency serves persons with significant hearing loss resulting from long term exposure to noise. We also see the psychological consequences to persons who suffer from noise exposure. Why are the noise abatement considerations which always are applied to airports not relevant to this instance? Should there not be similar noise abatement regulations which apply to the railroad industry.

11206 Euclid Avenue

Cleveland, Ohio

4 4 1 / 0 6


216.231.8787.Voice & TTY.Fax.216.231.7141

A-515-a

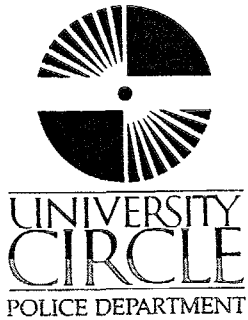
Of an even more significant nature is our concern that the proposed rail traffic is being routed through low income neighborhoods. Are there not alternative routes that could be used?

While I understand the need for railroad transportation, particularly in a booming economy, I am hoping that the questions raised in this letter can be constructively addressed and reviewed.

Sincerely,

A handwritten signature in cursive script that reads "Bernard P. Henri, Ph.D." The signature is written in dark ink and is positioned below the word "Sincerely,".

Bernard P. Henri, Ph.D.
Executive Director



Timothy J. Peppard
Chief of Police

January 30, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K. Street, N.W.
Washington, D.C. 20423-0001

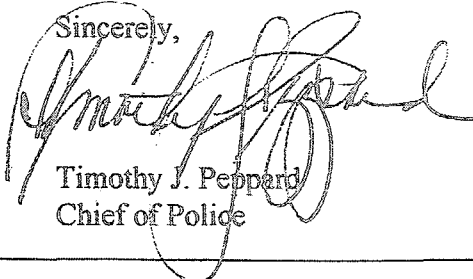
Ladies or Gentlemen:

CSX and Norfolk Southern Railroads have filed a joint application with the Surface Transportation Board to acquire the Conrail Railroad, and subsequently divide Conrail's assets. I have been advised that this joint venture will result in a threefold increase in freight train traffic thru University Circle to include 44,000 carloads of hazardous waste.

University Circle is the cultural, medical, and educational center of Cleveland and Northeast Ohio. It is the home of internationally renowned museums, illustrious performing arts organizations, an eminent university and college, noted music and art schools, prominent hospitals and clinics, important health and human service agencies and many religious institutions.

Maintaining public safety in University Circle is the responsibility of the University Circle Police Department (UCPD). A key ingredient of the UCPD mission is to provide a safe environment that allows the valuable institutions located in the Circle to thrive. I would be remiss in my responsibility to this mission if I failed to express my concern for the affect the proposed rail plan may have on the safety and quality of life in University Circle. This community has yet to be engaged in dialogue by the parties to the proposed acquisition. This lack of inclusion is both inappropriate and unacceptable. University Circle is far too important to the life and vitality of greater Cleveland to be excluded from a decision that will have affect thru the next millennium. I request you consider University Circle as this process proceeds.

Sincerely,



Timothy J. Peppard
Chief of Police

A-515-c



11501 Mayfield Road • Cleveland, Ohio 44106
(216) 791-5025 • Fax: (216) 791-0370

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K. Street, N.W.
Washington D.C. 20423-0001

January 29, 1998

Attn: Elaine K. Kaiser, Environmental Project Director

Located in University Circle, Abington Arms is an HUD assisted high rise apartment building for low-income elderly and mobility disabled residents. Abington was built in this cultural area to offer its residents a quality living environment. We have a total of 152 units with 157 tenants with approximately 60 in the disabled category.

Abington Arms is located approximately 475 feet from the bridge, with elevated railroad tracks, in Little Italy, an Historic District. Of great concern to us is the new CSX merger. Their proposed route will increase freight rail traffic through our area from 20 trains/day to approximately 81 trains/day and as the economy improves, volume would also increase. The negative impact on our residents, in terms of health and well-being is enormous; ie, a triple increase of noise levels which cannot be ameliorated because the tracks are elevated; dangerously increased levels of pollutants and carcinogenic materials in the immediate environment; and the increased probability of accidents involving railroad transported hazardous materials.

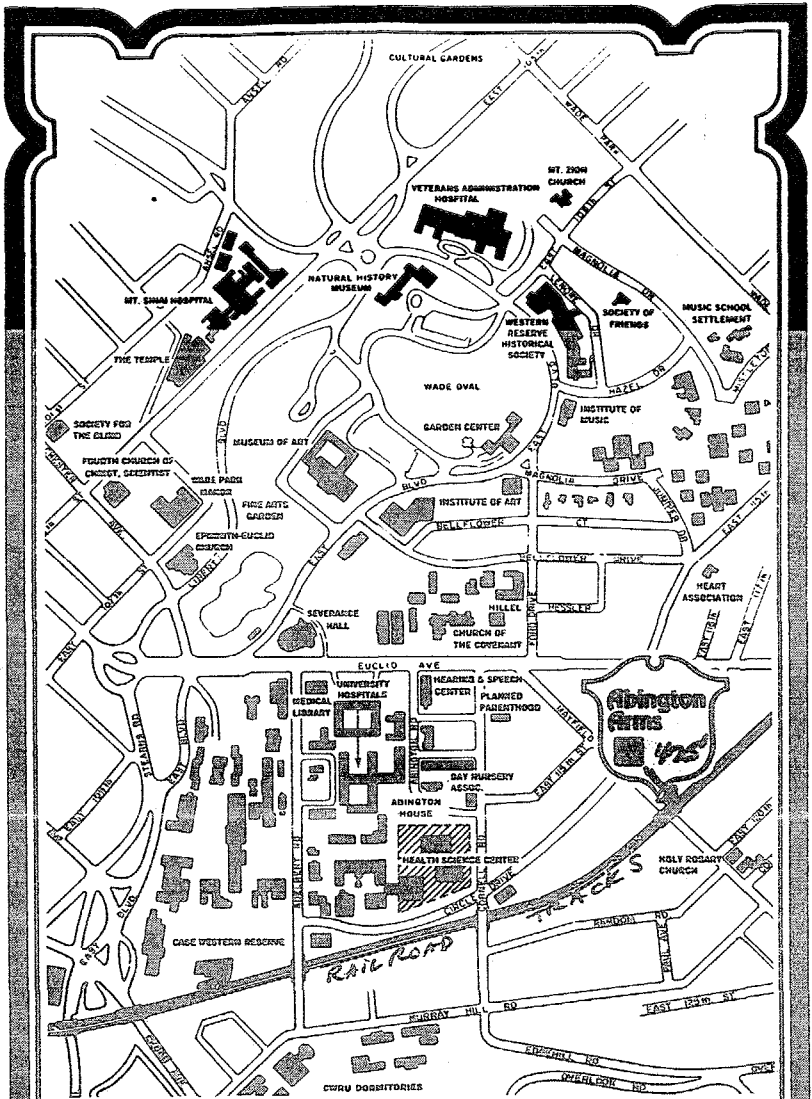
Abington Arms is only one of many HUD assisted senior apartment buildings located in the University Circle area comprised of approximately 1200 units, with approximately 1210 elderly, of which 225 could be identified as disabled. A daytime railroad accident, involving an hazardous spill, necessitating evacuation of these numbers of people plus all of the other approximately 30,000 people who work in the University Circle area daily would be a disaster of immeasurable proportions.

Please consider the alternate routes proposed by our City of Cleveland Mayor White.

Most sincerely yours,

ABINGTON ARMS

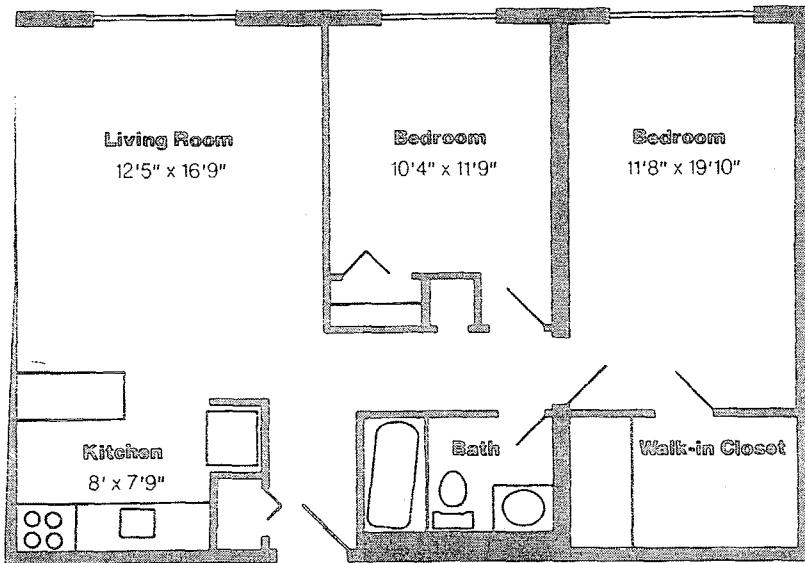
Elizabeth B. Heil,
Administrator



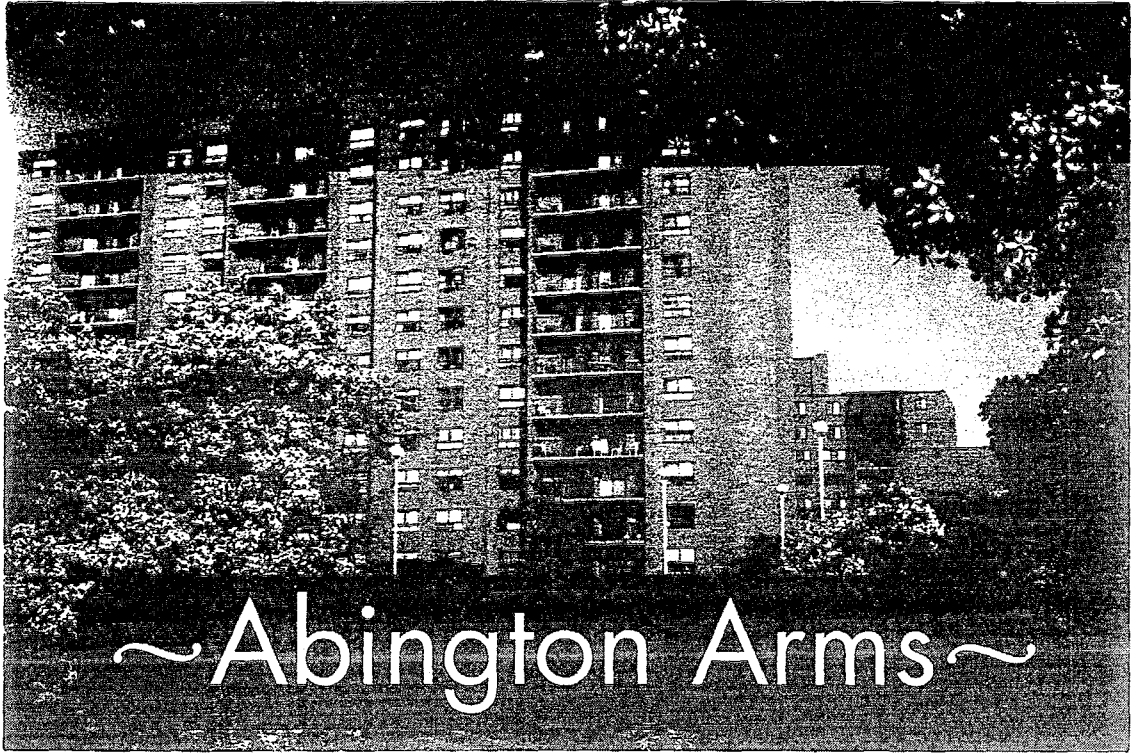
UNIVERSITY CIRCLE



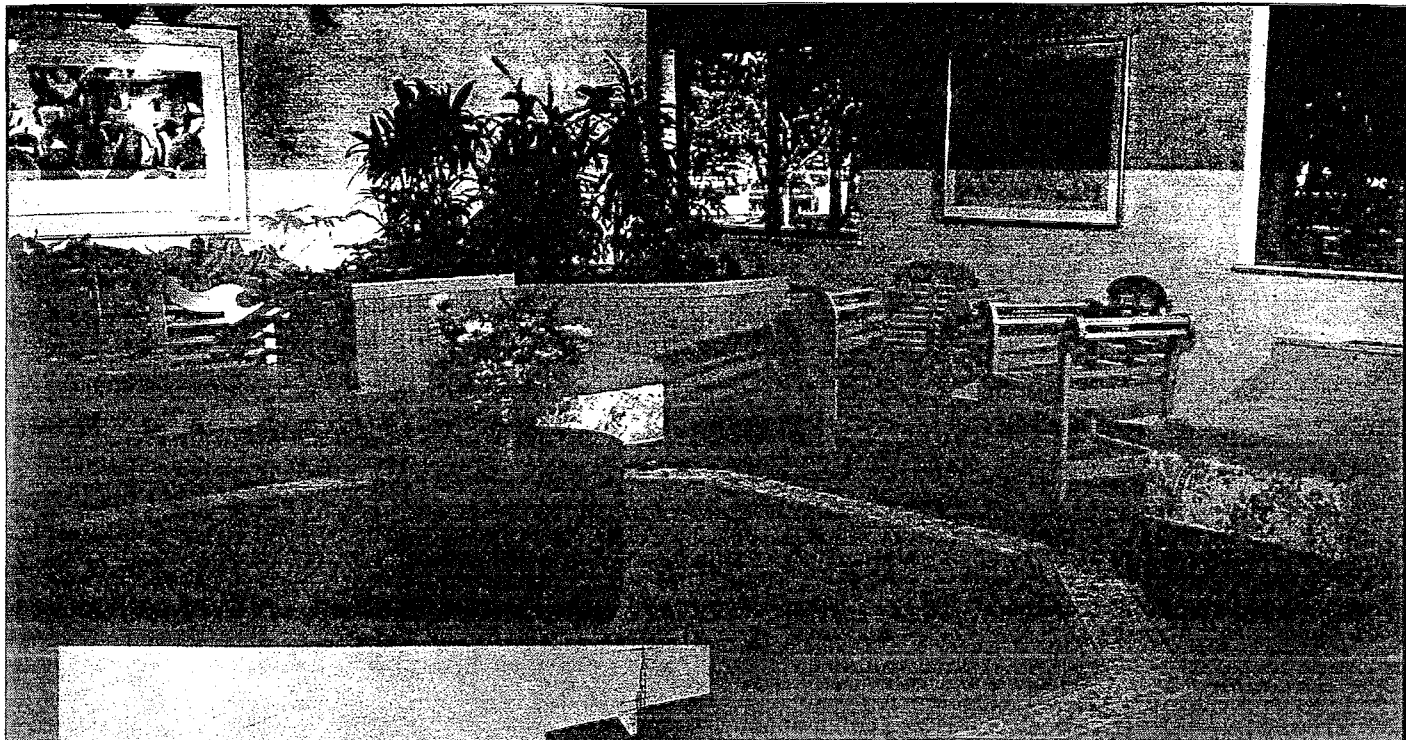
FOR FURTHER INFORMATION CALL:
ABINGTON ARMS RENTAL OFFICE 791-5025
Elizabeth Hill, N.J. 791-5026



TYPICAL 2-BEDROOM SUITE



Independent, Active Living For Seniors

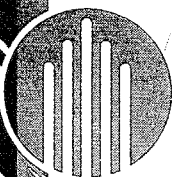


ABINGTON ARMS

1 & 2 BEDROOMS

11501 Mayfield Road
Cleveland, Ohio 44106

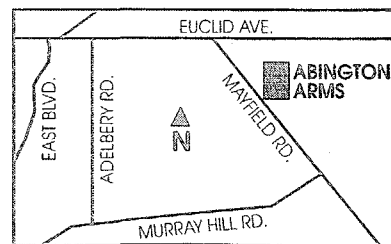
Abington Arms features the perfect mix of comfort, care and convenience in the historic Murray Hill area. We understand the special needs of seniors, and we provide for them in a friendly environment that offers the service, quality and value those who have reached retirement age deserve and expect. Designed with a variety of features and amenities, Abington Arms offers attractive, comfortable suites, gracious community areas and personalized services that cater to active seniors seeking an independent retirement lifestyle. Make it your new home today.



ASSOCIATED
ESTATES REALTY
CORPORATION

(216) 791-5025

A-516-d

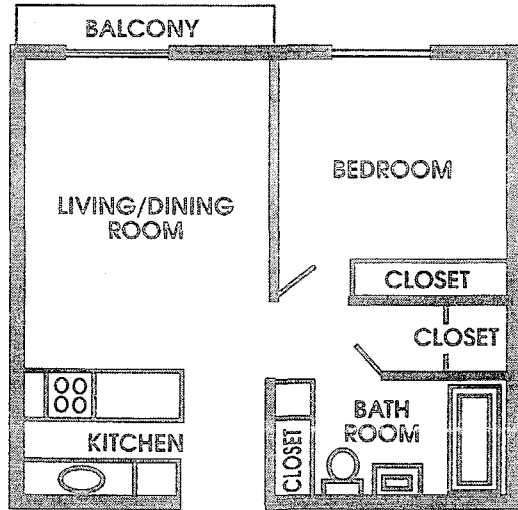


ABINGTON ARMS

11501 Mayfield Rd.
Cleveland, Ohio 44106

(216) 791-5025

A Quality Associated Estates Community for Independent Seniors Offering:



1-BEDROOM SUITE

APARTMENT FEATURES

- 1 and 2 Bedrooms
- Special Wheelchair Adapted Suites
- Heat, Water & Electric Included
- Kitchen with Breakfast Bar
- Refrigerator & Electric Range
- Fully Carpeted Suites
- Abundant Closet Space
- Handicap Accessible Entry-Ways
- Individually Controlled Heat
- Mini-Blinds In Bedrooms
- Smoke Detectors & Automatic Sprinklers
- Four Laundry Centers in Building
- Intercom Entry System
- Cable TV Available

RECREATION

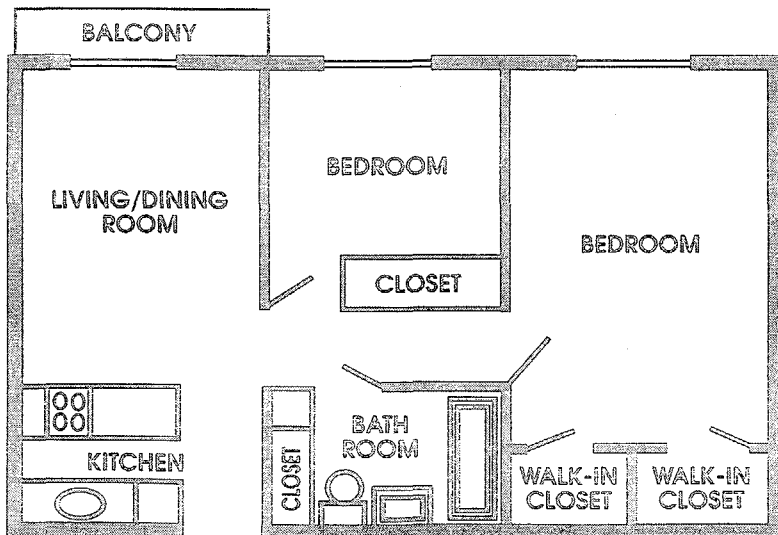
- Picnic Area with Grill
- Library, Chapel, Music Room and Art Room
- Big Screen TV In Community Room
- Social Activity Programs
- Art Therapy Program

DINING

- Community Room with Kitchen
(Home Cooked Breakfast 5 Days-a-Week)

CONVENIENCE

- RTA at Your Door
- Door-to-Door CRT Senior Transportation Service
- Walk to Shopping & Dining
- Visiting Podiatrists Twice Monthly
- Services Coordinator
- Easy Access to Major Highways, Medical Facilities, Senior & Community Center



2-BEDROOM SUITE

Professionally Managed By Associated Estates Management Company

**Artist renderings only; actual dimensions & features may vary slightly.*

A-517-a



Arnold Dahm
Church of the Covenant
11205 Euclid Ave.
Cleveland, OH 44106

January 29, 1998

Office of the Secretary
Case Control Unit
Finance docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington D.C. 20423-0001

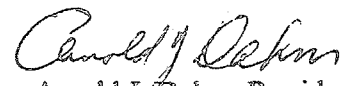
Dear Sirs,

The Church of the Covenant is located in University Circle, Cleveland, Ohio. The CSX and NS railroads have proposed a change in rail traffic through the City of Cleveland which would dramatically increase rail traffic through the heavily congested University Circle area. We oppose this plan and urge the Surface Transportation Board to adopt an alternate plan proposed by Cleveland mayor, Michael White.

Our church has a large number of elderly members who live in the Judson retirement and nursing communities in close proximity to the rail line. We also serve students at Case Western Reserve University located next to the rail lines. We feel that these populations of our members, particularly the elderly and infirm, are endangered by the proposed heavy traffic, 81,000 cars/year, of Hazardous Materials. It would be difficult to rapidly evacuate these members in the event of an accident accompanied by a spill of hazardous materials.

Our church is a leading advocate for the poor, and powerless and for minorities in Cleveland. We have by intention a racially diverse congregation. We object to the proposed plan of the CSX and NS railroads which will place the burden of an increase in noise, pollution, and danger of hazardous spills on the minority and low income population through which this increased rail traffic will pass.

Sincerely yours,


Arnold J. Dahm, President
Church of the Covenant

Attn: Elaine K. Kaiser
Environmental Project Director
Environmental Filing



CASE WESTERN RESERVE UNIVERSITY

January 30, 1998

The Honorable Michael R. White
Mayor, City of Cleveland
601 Lakeside Avenue
Cleveland, Ohio 44114

Dear Mayor White:

Thank you for bringing to our attention the proposal by CSX and Norfolk Southern to increase significantly the number of trains being routed through University Circle. These tracks run directly through our campus, where we accommodate 10,000 students and nearly 5,000 faculty and staff members. In discussion with University Circle, Inc., and our institutional neighbors here in the Circle, it is apparent that the proposed increase in train traffic raises important issues that need to be examined before the project can proceed.

At best, the increased noise generated by additional traffic would be a nuisance. Perhaps more troublesome is the effect of the increased vibration that would be produced. These are matters we will need to examine carefully.

Most disturbing, however, is the prospect that emissions from train engines would be quadrupled in an area which previous studies (not conducted by CWRU) have shown to be one in which air currents do not rapidly disperse. Thus, particulates and other emissions from increased train traffic might be expected to concentrate in the University Circle area, a situation that has implications for public health. We have not had an opportunity to study this matter adequately yet, but I suspect it is an issue that will be of interest to the larger community as well.

My heartfelt request is that the Surface Transportation Board expect that the railroads engage the community in a thorough discussion of these and other concerns that have been raised about their proposal, including a review of the environmental consequences of the change. We support your effort to secure such a commitment, and we will cooperate with your office in doing so.

Sincerely,

Agnar Pytte
President

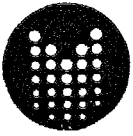
Office of the President

MAILING ADDRESS
Case Western Reserve University
10900 Euclid Avenue
Cleveland, Ohio 44106-7001

VISITORS AND DELIVERIES
216 Adelbert Hall
2040 Adelbert Road

Phone 216-368-4344
Fax 216-368-6881

A-517-c



ASSOCIATED
ESTATES
MANAGEMENT
COMPANY

January 30, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington D.C. 20423-0001

Dear Ms. Kaiser,

I am writing to you regarding grave concerns I have related to the proposed radically increased routing of train traffic through University Circle by CSX and Norfolk Southern.

I manage over 625 suites and 70,000 square feet of office and retail establishments some directly adjacent to and others in close proximity to the Mayfield Road elevated tracks.

Over 400 of my residents live in low income HUD subsidized properties for the elderly and handicapped and low income families. Abington Arms, a HUD Building for low income elderly and handicapped, is located less than 500 feet from the elevated tracks.

I do not believe that the data provided by CSX and NS sufficiently relates the negative impact of increased traffic of approximately 20 some trains a day to 80 plus trains a day. While the added noise alone for elevated tracks is of concern, my greater concern is the heavy increase of pollutants that not only significantly impact air quality, but may in fact be introducing carcinogenic and other pollutants with wide reaching medical repercussions.

With the increased transportation of toxic waste, comes the increased potential for the devastating effect of a major spill which would occur in this densely populated area.

5025 Swetland Court

Richmond Hts., Ohio 44143

Phone 216-261-5000

Fax 216-289-9600

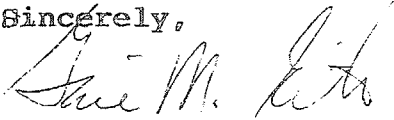
A-517-d

You may not be aware of the unique nature of University Circle. Directly adjacent to the rail line is the historic community of Little Italy and nationally renowned hospitals and university. The Circle is home to many cultural institutions including, the world renowned Cleveland Museum of Art and the Cleveland Orchestra. The Circle is also the home of an additional 1200 HUD subsidized suites for the elderly, as well as many conventional apartments and businesses. Studies show that upwards of 30,000 people populate the Circle on any given day.

On behalf of myself, my residents and neighbors, I urge you to demand from the train companies more inclusive information on the adverse affects. I further urge you to support the alternate plans proposed by Mayor Michael R. White, which takes the additional traffic through the industrial corridors with minimal impact upon the residential neighborhoods.

I believe an open meeting with yourself and the residents and institutions of University Circle will enable you to make a more informed decision that would best benefit the community as a whole.

Sincerely,



Gail M. Eovito
Senior Property Manager

ATTN: Elain K. Kaiser,
Enviromental Project Director
Enviromental Filing

TAB 2

**Potential Incremental Increase of Criteria and Toxic (Non-Carcinogenic and Carcinogenic) Air Pollutants
in the Collinwood Corridor**

No.	Pollutants ¹	Increase in Emissions (Due to Increase in Train Operations)
		lb/year
Criteria Polutants and VOCs		
1	Carbon Monoxide	42,874
2	Nitrogen Dioxide	196,506
3	Particulate Matter (PM-10)	17,864
4	Total Organic Compounds (as CH ₄)	5,717
Carcinogenic Pollutants		
1	Benzene	1.60E+01
2	Formaldehyde	1.63E+00
3	Acetaldehyde	5.20E-01
4	Acrolein	1.62E-01
5	Propylene	5.75E+01
6	Benzo(a)pyrene	5.30E-03
7	Benzo(a)anthracene	1.28E-02
8	Anthracene	2.54E-02
9	Pyrene	7.65E-02
10	Chrysene	3.15E-02

Note:

1. Pollutants and their emission factors were selected based on information provided in the EPA Document AP-42 "Compilation of Air Pollutant Emission Factors," Emission Factors for Large Stationary Diesel Engines, Section 3.4.1 through 3.4.4.

Assumptions used in the analysis:

1. The maximum rated power of 6,000 hp was assumed for each diesel engine.
2. Increase in exposure to potential emissions due to train traveling through corridor was estimated using the following assumptions:
 - Link length = 3 miles
 - Train average speed = 30 mph
 - Number of trains increased = 37 train a day.
 - Number of days per year = 365 days

TAB 3



PARSONS BRINCKERHOFF COMPUTATION SHEET

Page 1 of 3

Made by CJH

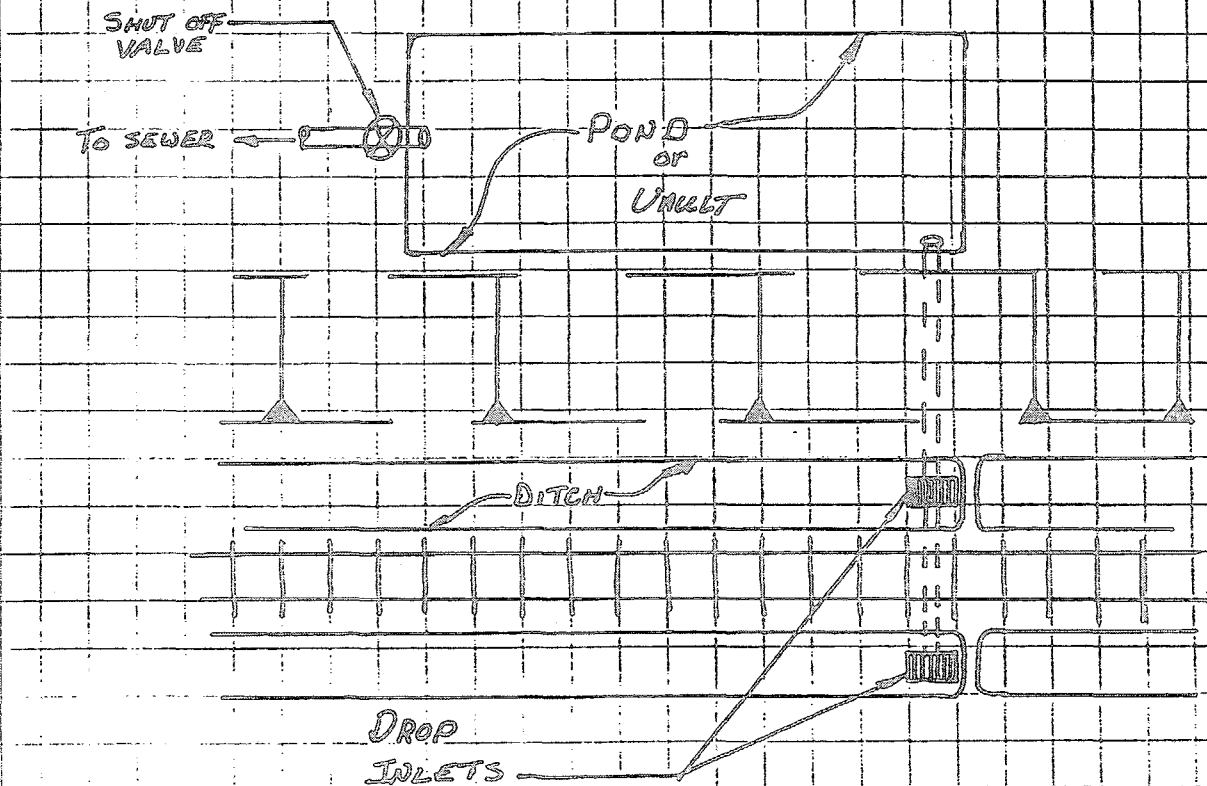
Date 1/16/98

Checked by _____

Date _____

Subject TYPICAL SYSTEM

HAZ MAT CONTAINMENT



CONCEPT

SKETCH



PARSONS BRINCKERHOFF COMPUTATION SHEET

Page 3 of 3

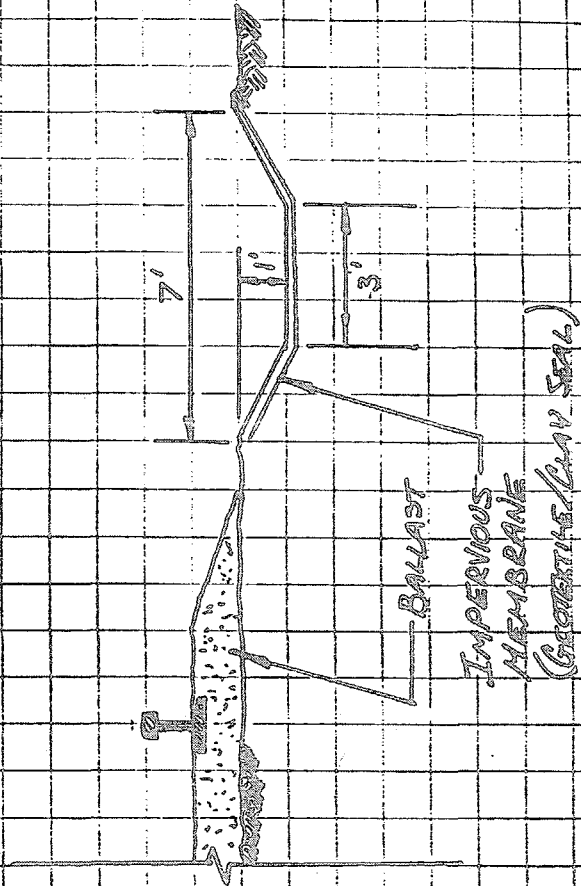
Made by CJH

Date 1/16/98

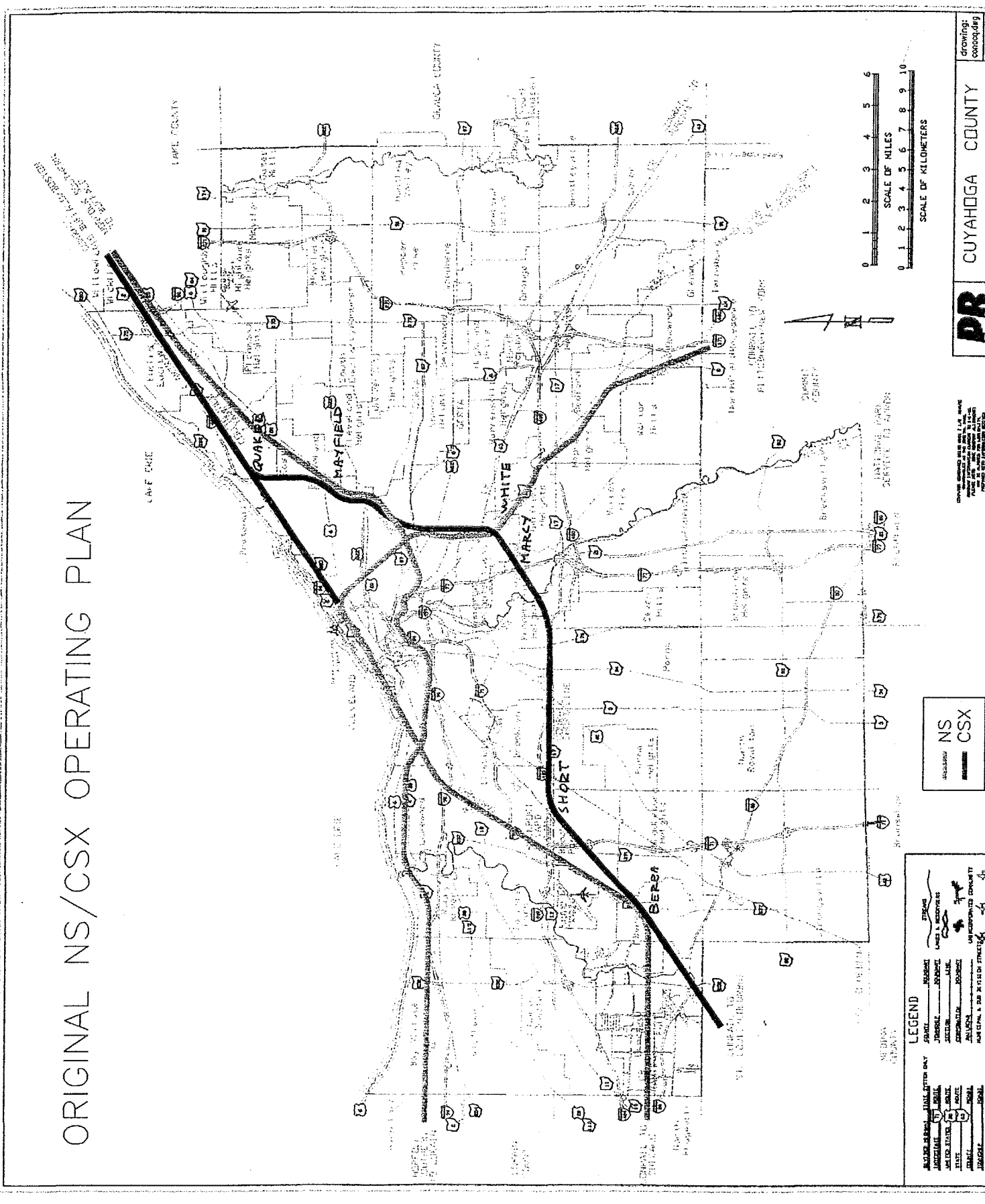
Checked by _____

Date _____

Subject TYPICAL DRAINAGE DITCH



ORIGINAL NS/CSX OPERATING PLAN



LEGEND

STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION
STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION
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STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION	STATION

ACQUISITION

NS

CSX

SCALE OF MILES

SCALE OF KILOMETERS

PB

CUYAHOGA COUNTY
CONRAIL ACQUISITION

drawing:
conrail.dwg

date:
12/5/97

NOT TO SCALE

THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY

IT IS NOT TO BE USED AS A BASIS FOR ANY LEGAL ACTION

THE STATE OF OHIO DOES NOT WARRANT THE ACCURACY OF THIS MAP

NO LIABILITY IS ASSUMED FOR ANY ERRORS OR OMISSIONS

STATE OF OHIO

Berea Grade Separation

The construction of a rail/rail grade separation in Berea requires an engineering and construction effort on the scope of a major freeway interchange. Two primary existing Conrail lines converge from each direction in BE Tower interlocking, located in the northern portion of the City of Berea. These lines extend from Chicago; St. Louis via Greenwich; Buffalo via the Cleveland Lakefront and CP 190; and Pittsburgh via the Short Line. Additionally, Front Street, a major arterial roadway, crosses both main lines at grade about 1200 feet to 1600 feet east of the Tower itself.

Based on conceptual analysis, it appears that the best design solution would locate an NS double track line from Chicago to the Short Line over a CSX double track line from Greenwich to the Lakefront. Two potential schemes were developed. One would keep CSX approximately at grade, with the NS line changing in elevation. The total distance involved would be about 10,000 feet and would result in a gradient of 0.6 percent or less. At the south crossing of Front Street, an underpass would carry Front Street under NS, with the new roadway about 6 feet below current elevation. Front Street would continue downgrade to pass under CSX at the north crossing, about 23 feet below current elevation. All dimensions are approximate only. The approaches to the rail/rail overpass would be earth embankment wherever no encroachment on adjacent property owners would result. Significant lengths of retaining walls were included, and would be required to accomplish this objective.

At the rail/rail separation, a second scheme would raise NS about 15 feet above its current elevation, and drop CSX 15 feet. This would allow the approach distances to be reduced to 7500 feet, with gradients of 0.6% or less on both CSX and NS. This would also have the benefit of minimizing structural quantities and visual impacts, and minimizing the impact on Front Street. In this scheme, the north Front Street crossing

would be an overpass over the railroad. In either scheme, Front Street gradients would be in the 5 percent range after accounting for vertical curvature and sight distances. However, as a trade-off, this scheme appears to have greater constructibility challenges because of the need for traffic to be maintained on both railroads and on Front Street. Temporary relocations and structures are likely required.

Obviously, additional schemes that involve other final railroad and roadway elevations, with corresponding cost and benefit trade-offs, are also possible, and should be considered.

A connection track, oriented eastbound from NS to the CSX corridor leading to the Lakefront, is included to accommodate Amtrak trains and NS trains that must pick up and set off at Rockport. The connection, designed for 40 mph, could diverge from the NS main line near the crest of the overpass, then curve north to parallel CSX. It would tie into the existing Conrail south control siding located parallel and immediately southeast of the two CSX main line tracks. Ownership of the control siding would be with NS. This arrangement would allow NS trains destined for Rockport to reach the yard without conflicting with any CSX traffic.

Alternatively, the connection track could be located east of the properties just east of Front Street. The county owns vacant parcels, proposed to be the location of a waste transfer station, that appear to be sufficient to accommodate the connection and the transfer station if desired. A portion of the connecting track would be located parallel to Front Street, about 800 feet to the east. In either case, the connecting track would reach grade west of the next at-grade crossing, Sheldon Road.

The control siding is currently used by Conrail trains working at Rockport, so little change in operating practices would be necessary. If additional capacity is required at the west end of Rockport, since some yard switching would likely occur

there, the parallel second lead track (which leads also to Ford Yard) would be upgraded and could be signaled. Ford plant switching is performed from the west end of the Ford Yard, so it appears reasonable that any conflict with switching movements would be minimal, and would be mitigated by the upgrade of the second lead track, which is now only lightly used.

This conceptual investigation did not include detailed consideration of utility impacts. It is known, however, that in Berea the Northeast Ohio Regional Sewer District interceptor sewer does parallel the line from the Lakefront, then crosses under the tracks to parallel the line to Greenwich. According to our information, this sewer is located about 60 feet below grade. Additional investigation is necessary, but no insurmountable conflict appears to exist.

To accommodate the needs of the public and of the railroads, the project would include the following components:

- Rail/rail grade separation and approaches
- Grade separation of Front Street from both railroads. The south crossing with NS likely involves NS over the road, while at the north crossing with CSX Front Street could go either over or under the railroad, depending on the configuration selected for the rail/rail overpass
- Reconstruction of Front Street for its entire length through the two railroad crossings, beginning near the First Street intersection to the south and continuing to or beyond the Emerson Street intersection to the north
- Connection track from NS to CSX for Rockport trains and Amtrak
- Modification of the NS (north) stone arch bridge over the Rocky River. No modification appears necessary to the CSX (south) bridge, now under reconstruction
- Replacement of the NS (north) bridge over Rocky River Drive. No modification appears necessary to the CSX (south) bridge
- Sheldon Road crossing of the line to the Lakefront may require grade separation for the scheme with CSX at-grade, depending on the rail/rail bridge elevation. This crossing is not affected with a partial NS up/CSX down scheme

Most construction can occur on railroad-owned property except:

- A Front Street grade separation will require property impacts, even under the railroads' plans
- ⊙ A temporary connection track may be required west of the Rocky River over NEORS D property
- ⊙ The connection east of Front through county property

The consideration of this grade separation project in Berea was not taken lightly; the proposed project involves numerous trade-offs and significant engineering and construction phasing considerations. However, it appears very feasible, and should be considered.

NEIGHBORHOOD IMPACTS OF FREIGHT RAIL TRAFFIC INCREASES
Comparison of Alternatives

ALTERNATIVE	TRAINS per DAY current → proposed (or lines with proposed increases)	RESIDENTS LIVING WITHIN 1,000 FEET OF RAIL LINES PROPOSED FOR INCREASED FREIGHT RAIL TRAFFIC					IMPACT INDEX*	
		POP.	% NON- WHITE	% HISPANIC	% BELOW POVERTY	MEDIAN INCOME		GRADE CROSSINGS
NS/CSX Original Proposal	42 → 115 174% increase	67,847	52.3% (35,489 persons)	5.3% (3,598 persons)	37.0% (25,132 persons)	\$14,868	13	22.4
NS/CSX Revised Proposal (12/5/97)	42 → 115 174% increase	68,317	51.6% (35,260 persons)	4.7% (3,207 persons)	33.9% (23,50 persons)	\$16,282	7	21.4
Alternative 1: La keshore/ West Side	46 → 67 46% increase	49,547	37.1% (18,359 persons)	6.0% (2,955 persons)	29.2% (14,58 persons)	\$17,456	4	8.1
Alternative 2: La keshore/ Short Line	46 → 67 46% increase	32,625	54.5% (17,794 persons)	1.0% (319 persons)	28.7% (10,561 persons)	\$16,175	4	5.2

* The "Impact Index" numbers were determined on the basis of the following calculation:

$$\text{additional trains per day on each rail line segment} \times \text{population within 1,000 feet of tracks on each rail line segment} + 100,000 = \text{Impact Index}$$

The rail line segments and the associated neighborhoods are identified on the maps and tables which show the neighborhood impacts of increased freight rail traffic.

Higher impact numbers indicate greater impacts on neighborhoods. Lower impact numbers indicate lesser impacts on neighborhoods.

Revised 1/9/98

CITY OF CLEVELAND
CONRAIL ACQUISITION CLEVELAND ROUTING ALTERNATIVES
CONCEPTUAL ESTIMATE OF POTENTIAL CAPITAL COSTS
 JANUARY 30, 1998 REVISION

Item	CSX/NS Plan Original	CSX/NS Plan Rev. 12/5/97*	CSX/NS Rev. Plan with Mitigation	Alternative 1 Lakeshore/West Side	Alternative 2 Lakeshore/Short Line	Origin of Estimate
Berea Separation Rail Components	\$0	\$0	\$0	\$60,000,000	\$60,000,000	PB estimate for NS over CSX
Berea Separation Roadway Components	\$0	\$19,600,000	\$19,600,000	\$30,000,000	\$30,000,000	PB estimate
Flats Industrial (West Side) Connection	\$0	\$24,400,000	\$24,400,000	\$24,400,000	\$0	NS estimate
Vermilion Connection (Wbd NS to CR)	\$3,000,000	\$3,000,000	\$3,000,000	\$0	\$0	NS estimate
University Circle Connection (NS to CSL)	\$0	\$0	\$0	\$0	\$2,000,000	PB estimate
Short Line Upgrade Short to Marcy	\$18,600,000	\$18,600,000	\$18,600,000	\$18,600,000	\$18,600,000	CSX discussion; orig. est. \$11.6M **
Short Line Upgrade Marcy to Collinwood	\$6,500,000	\$6,500,000	\$6,500,000	\$0	\$0***	CSX estimate, may be req. for Alts.
Short Line Enlarge Tunnels (Optional)	\$0	\$0	\$0	\$0	\$0***	CSX estimate is \$25M
Harvard Connection Second Track	\$0	\$0	\$0	\$5,500,000	\$5,500,000	PB estimate
NS Nottingham/Dille Underpass	\$0	\$0	\$5,000,000	\$5,000,000	\$5,000,000	PB estimate
NS London Underpass	\$0	\$0	\$6,800,000	\$6,800,000	\$6,800,000	PB estimate
Hazardous Materials Mitigation Measures	\$0	\$0	\$925,000	\$0	\$480,000	PB estimate
Noise/Vibration Mitigation Measures	\$0	\$0	\$7,100,000	\$4,200,000	\$2,400,000	PB estimate
Improve Track/Signals near Rockport/Ford	\$0	\$0	\$0	\$2,000,000	\$2,000,000	PB estimate
CSX Bagley Road Underpass	\$0	\$0	\$15,000,000	\$15,000,000	\$15,000,000	PB estimate
Bessemer Ave. Crossing Realignment	\$0	\$0	\$300,000	\$0	\$0	City of Cleveland estimate
TOTAL	\$28,100,000	\$72,100,000	\$107,225,000	\$171,500,000	\$147,780,000	***

Notes:

These estimates should be considered conceptual in nature, and are subject to change following further investigation.

These estimates generally do not include improvements common to all alternatives, such as Collinwood intermodal improvements.

* Norfolk Southern's revised submittal regarding the Flats Industrial (West Side) Connection is actually dated 11/25/97.

** It is our understanding that CSX's estimate for this Short Line segment and Cuyahoga River bridge upgrade, originally documented at \$11.6M, may increase to over \$18M. Note that this uncertainty does not affect the comparison of the costs of the alternatives.

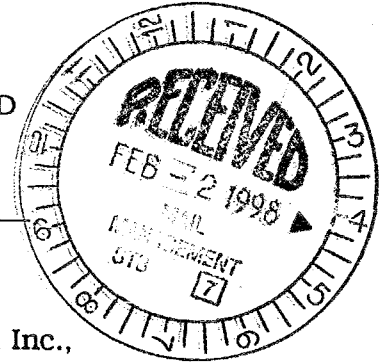
*** Several estimates are based on railroad-provided figures. Following the re-designation of ownership of certain segments, evaluation by the other railroad may result in the need for different improvements with different costs. This is especially true regarding the possible need for the Harvard tunnels and improvements on the Short Line from Marcy to Mayfield in Alt. 2.

PARSONS
BRINCKERHOFF

Alt-cos5.xls
 1/31/98

COPY

Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423



Finance Docket No. 33388

CSX Corporation and CSX Transportation Inc.,
Norfolk Southern Corporation and
Norfolk Southern Railway Company
-- Control and Operating Leases/Agreements --
Conrail Inc. and Consolidated Rail Corporation

VERIFIED STATEMENT OF EMMANUEL ONUNWOR

1. I am Emmanuel Onunwor, Mayor of the City of East Cleveland. I submit this verified statement on behalf of the City of East Cleveland regarding the environmental and safety effects of the above-captioned transaction.

2. We have reviewed the issues facing the City of East Cleveland as addressed in the Draft Environmental Impact Statement ("DEIS") prepared by the Section of Environmental Analysis ("SEA"). We are deeply concerned about the adverse impacts the people of the City of East Cleveland will face as a result of this transaction if proper mitigation measures are not imposed.

3. Specifically, we oppose the current DEIS and Application because they do 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.

4. The people of the City of East Cleveland will experience the significant effects the City of Cleveland has described in detail in their Comments filed October 21, 1997 and in the Comments on the DEIS which they are filing today. We are working closely with the City of Cleveland to develop alternative

routing scenarios in order to diminish the environmental impacts on our residents. We, like the City of Cleveland, strongly believe that aggressive alternatives, such as re-routing trains, are necessary to avoid serious adverse impacts upon our residents. The mitigation proposed by the SEA in the DEIS is insufficient to address the environmental impacts on our residents.

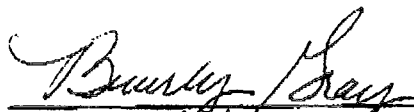
5. The City of East Cleveland, therefore, urges the SEA to reexamine the environmental impacts of the transaction upon the City of East Cleveland and the City of Cleveland. Particularly, we suggest the SEA examine alternatives, such as re-routing of trains, in order to avoid serious adverse impacts upon our residents. We are anxious to consider suggestions and recommendations, including those proposed by the City of Cleveland, that adequately address these significant issues.

VERIFICATION

I, Emmanuel Onunwor, verify under penalty of perjury that I have reviewed the foregoing Verified Statement, and that all of the facts stated therein are true and correct. Further, I certify that I am qualified and authorized to verify and file this Verified Statement. Executed on this 2nd day of February, 1998.


Emmanuel Onunwor

Subscribed and sworn to
before me this 2nd
day of February, 98.


Notary Public
BEVERLY GRAY
Notary Public, State of Ohio, Cuy. Cty.
My Commission Expires July 20, 2000
My commission expires:

July 20, 2000

**ENVIRONMENTAL
DOCUMENT**

ERIE COUNTY
DEPARTMENT OF ENGINEERING
2700 COLUMBUS AVENUE
SANDUSKY, OHIO 44870

COPY

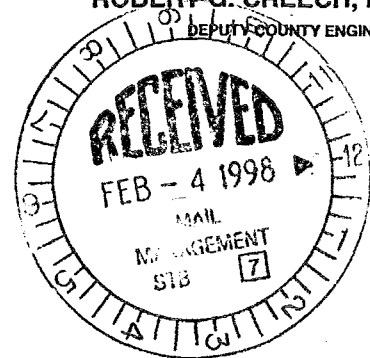
PHONE: (419) 627-7710
FAX: (419) 625-9622

JOHN D. FARSCHMAN, P.E., P.S.
COUNTY ENGINEER

ROBERT G. CREECH, P.E., P.S.
DEPUTY COUNTY ENGINEER

February 2, 1998

Elaine K. Kaiser,
Environmental Project Director
Section of Environmental Analysis
Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 E. Street, NW
Washington, D. C. 20423-0001



CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/4/98
DOCUMENT # 2/4/98 5:08:36 PM

Re: Proposed acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad

Dear Ms. Kaiser:

Attached is a survey the Erie County Engineer of Ohio has completed relative to the proposed Conrail acquisition.

It is considered imperative those conditions are met as delineated in the tabular form attached and as further addressed following, in order such an acquisition be recommended, due to the substantial increase in railway traffic of between 2 and 8 times current daily volume.

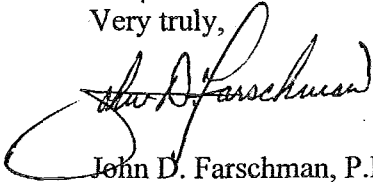
Please note that there is an existing underpass on Miller Road which was not addressed. It lies about midway between the Cities of Sandusky and Bellevue, Ohio and will provide the only means of emergency access between the east and west side of the N & W Railroad. Without it emergency equipment will not be able to access either side during any time the crossing may be closed due to this increased rail traffic. It is necessary that this underpass be reconstructed to accomodate physically large fire equipment and provide for other situations including but not limited to medical, or those of a national emergency nature.

Additionally there is need to consider possible major reconstruction at the Perkins Avenue - Cleveland Road intersection at the Conrail tracks just east of the City of Sandusky which has not been addressed in any form of which I am aware.

Similarly it is believed due to the high volume of truck and other vehicle traffic on S. R. 99, an overpass should be constructed over the existing N & W Railroad. 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.

Please consider these requests in any action which is to be taken relative to this subject matter..

Very truly,



John D. Farschman, P.E., P.S.
Erie County Engineer

JDF/crc

xc Project File
 Corres. File

Railroad Crossing By
Erie County Engineer
For Proposed Conrail
Acquisition

County	Rail Segment	Existing Conditions		Minimum Required Upgrade					
		Street Name	Present	Culverts/Ditch work	Roadway Vertical Alignment	Visibility Impeded	Brush/Obstacles	Add Flashers	Add Gates
Erie	N080	Coen Rd. - NS	Gate & Flash	X	X				
Erie	N080	Risden Rd. - NS	Gate & Flash						
Erie	N080	Barnes Rd. - NS	Passive		X			X	X
Erie	N080	Stanley Rd. - NS	Passive		X			X	X
Erie	N080	Joppa Rd. - NS	Gate & Flash						
Erie	N080	Fralley Rd. - NS	Gate & Flash				X		
Erie	N080	Fralley Rd. - Conrail	Gate & Flash				X		
Erie	N080	Darrow Rd. - NS	Gate & Flash						
Erie	N080	Hahn Rd. - Conrail	Passive					X	X
Erie	N080	Smokey Rd. - NS	Gate & Flash		X				
Erie	N080	S.R. 61 - NS	Flasher						X
Erie	N080	Barrows Rd. - NS	Flasher				X		X
Erie	N080	Jeffries Rd. - NS	Gate & Flash						
Erie	N080	Wikel Rd. - NS	Passive						X
Erie	N080	Hoover Rd. - NS	Passive						X
Erie	N072	Strecker Rd. - NS	Flasher						X
Erie	N072	Thomas Rd. - NS	Passive						X
Erie	N072	Ransom Rd. - NS	Gate & Flash				X		X
Erie	N072	Patten Tract Rd. - NS	Gate & Flash				X		X
Erie	N072	S.R. 99 - NS	Gate & Flash						
Erie	N065	Potter Rd. - NS	Passive						X
Erie	N085	Knauss Rd. - NS	Passive						X
Erie	N085	Bragg Rd. - NS	Passive						X
Erie	N085	Strecker Rd. - NS	Gate & Flash				X		X
Erie	N085	Billings Rd. - NS	Passive						X
Erie	N085	Portland Rd. - NS	Gate & Flash				X		X
Erie	N085	Maple Ave. - NS	Passive						X
Erie	N085	Mason Rd. - NS	Passive						X
Erie	N085	Bardshar Rd. - NS	Passive				X		X
Erie	N085	Stadden Rd. - NS	Passive				X		X
Erie	N085	Bogart Rd. - NS	Gate & Flash				X		X

CENTRAL ADMINISTRATIVE UNIT

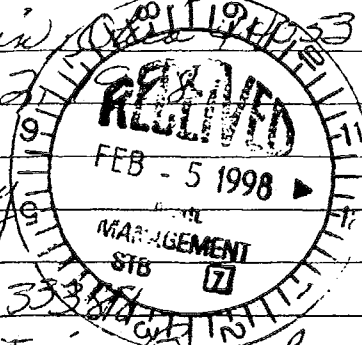
REC'D: 2/5/98

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2721 W. 37th Street
Lorain, Ohio 44133

Feb 3 1998

**ENVIRONMENTAL
DOCUMENT**



Office of the Secretary
Case Control Unit
Finance Pocket No 333
Surface Transportation Board
1925 K Street NW
Washington DC 20423-0001

Dear Sir or Madam,
I am writing you in behalf
of the CSX Railroad System
I am James and Evelyn Patton
We are very much opposed
to any more rail system
coming through Lorain. There
is children here also there
would be no time for the
ambulance to carry sick
people to the hospital.

Thank you for your
Cooperation in this matter.

Signed
James & Evelyn Patton

Marie Louise Kittredge



6927 Indiana Ave.
Cleveland, OH 44105

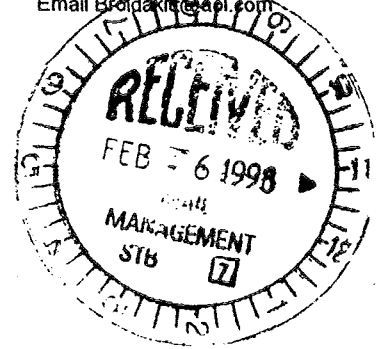
Home Phone 441-4407
Email Broadkitt@aol.com

**ENVIRONMENTAL
DOCUMENT**

February 02, 1998

Elaine K. Fisher
Environmental Project Director
Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/6/98
DOCUMENT # 2/6/98 4.02.33 PM



Re: Proposed Conrail CSX Norfolk Southern Merger


Dear Ms. Fisher:

I am writing to oppose the abovementioned merger for three reasons:

- 1) I live in the Broadway neighborhood in Cleveland. All of the proposals I have seen, including the Mayor's compromise proposal have a huge increase in train traffic at the vicinity of Broadway and Harvard, a few blocks from my house. I am worried about the increased hazardous waste, the noise, and the dirt that the extra train traffic will create.
- 2) I am committed to mass transit, particularly trains, there has been a proposal to put a commuter rail stop at the Broadway Harvard intersection. I believe the merger will be the end of that proposal.
- 3) My life's work has been the revitalization of cities. For ten years I have lived and worked in the Broadway neighborhood, and we have made significant progress in increasing the attractiveness of this neighborhood as a place for people to choose to live. I believe the merger, with the increased train traffic will have a significant negative impact and wipe out much of the progress we have made. Cities have taken the brunt of the "negative" features of our modern culture. To survive and prosper, they can no longer be a dumping ground, or a pass through for things which are detrimental, without being compensated in such a way to allow cities to lessen the negative effects.

Thank you for considering my comments.

Respectfully,



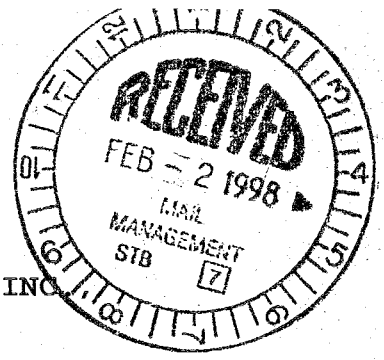
Marie Kittredge

REC'D 2/3/98

DOCUMENT # 2/3/98 1:45:54 PM

BEFORE THE SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388



ENVIRONMENTAL DOCUMENT

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

RESPONSIVE COMMENTS TO DRAFT ENVIRONMENTAL IMPACT STATEMENT AND REQUEST FOR PROTECTIVE CONDITIONS SUBMITTED ON BEHALF OF THE OHIO ATTORNEY GENERAL, OHIO RAIL DEVELOPMENT COMMISSION AND THE PUBLIC UTILITIES COMMISSION OF OHIO

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Dated: February 2, 1998

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BEFORE THE
SURFACE TRANSPORTATION BOARD

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FINANCE DOCKET NO. 33388
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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
.

RESPONSIVE COMMENTS TO
DRAFT ENVIRONMENTAL IMPACT STATEMENT
AND
REQUEST FOR PROTECTIVE CONDITIONS
SUBMITTED ON BEHALF OF
THE OHIO ATTORNEY GENERAL,
OHIO RAIL DEVELOPMENT COMMISSION
AND
THE PUBLIC UTILITIES COMMISSION OF OHIO
.

I. INTRODUCTION

A draft Environmental Impact Statement (draft EIS) was issued by the Surface Transportation Board's Section on Environmental Analysis (SEA), on December 12, 1997. That draft EIS incorporated safety integration plans which were filed by CSX Transportation and Norfolk Southern Corporation (collectively "Joint Applicants") as required in the Board's Decision No. 52. Interested parties were invited to file responsive comments concerning the draft EIS by February 2, 1998. Such comments are to be considered by SEA in preparation of the final EIS expected to be issued in May of 1998. Specifically, the SEA seeks comment on the feasibility of mitigation matters proposed in the draft EIS and invites parties to submit additional and/or alternative

mitigation proposals. These comments are timely submitted on behalf of the Ohio Attorney General, the Ohio Rail Development Commission (ORDC), and the Public Utilities Commission of Ohio (PUCO) (collectively "Ohio").

II. STATEMENT OF INTEREST

Ohio experiences prolific rail traffic. Three Class I railroads and over 30 short-line and regional rail carriers operate throughout the state. Ohio has a significant stake in issues involving safety, traffic flows, noise abatement, environmental-related matters, and other issues raised by this Joint Application. With nearly 6,500 public highway-railroad grade crossings located throughout Ohio, issues of crossing safety and traffic congestion are of paramount concern to the state.

Ohio applauds the efforts of the SEA staff in identifying and discussing the myriad of issues addressed in the draft EIS. Ohio recognizes, as does the SEA, that a cooperative railroad-public partnership is critical to the effective resolution of many of these issues. The PUCO, in coordination with ORDC, has regularly involved railroad and local governmental officials in the process by which public highway-railroad grade crossings are identified and selected for publicly-funded construction of

active warning devices. Ohio certainly endorses continuation of this process.¹

If granted, the proposed Joint Application will have profound impacts upon Ohio communities and residents in both urban and rural areas throughout the state. Although Ohio is actively participating in recognizing problems and developing solutions to minimize or mitigate these impacts, state financial resources are extremely limited. This fact, coupled with the significant benefits that the Joint Applicants seek to realize under the proposed transaction mandates that the railroads be required to participate throughout the process of identifying serious environmental and safety problems and contribute heavily from their considerable expertise and resources to redress the adverse impacts that post-Conrail Acquisition increased levels of rail traffic will have upon the State of Ohio.

Ohio here makes some general observations that will be discussed in greater detail below. Ohio believes 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.² Obviously, construction of

¹ Ohio concurs in SEA's recognition that significant public outreach activities by the Joint Applicants are critical to a thorough understanding and assessment of local safety, congestion and environmental justice concerns discussed in the draft EIS.

² See attached map depicting post-merger traffic increases/decreases. Exhibit 1.

grade separations promotes public safety and reduces railroad liability exposure by eliminating the opportunity for train-vehicle collisions. Grade separations also relieve vehicle traffic congestion and attendant problems, including emergency vehicle response. Ohio has identified below several locations for which grade separation projects will be particularly effective in mitigating serious problems which will result from the proposed Conrail acquisition. The locations specifically mentioned do not represent a complete list of communities with grade separation needs.

In the area of grade crossing safety, Ohio believes that implementing a "corridor" approach more efficiently and economically promotes crossing safety. A corridor study focuses upon rail segments for safety upgrades rather than simply identifying single crossings over a scattered area. By focusing upon the rail segments that the Joint Applicants have targeted for significant train traffic increases Ohio can most effectively assess and address Acquisition-related safety impacts. In addition to identification of grade crossings for safety upgrades, PUCO/ORDC also evaluates the feasibility of closing public grade crossings permanently to public vehicular traffic as part of any corridor analysis. Development of comprehensive corridor safety plans by State officials working together with motivated railroad representatives provides for a more focused and efficient employment of limited state resources while maximizing the positive deployment of railroad resources.

Ohio has successfully negotiated several smaller corridor-type agreements with the Class I railroads. The so-called "B&O corridor" project represents a recent example of how effectively the joint efforts of railroads and Ohio officials can be in addressing significant safety concerns that arise from the Conrail Acquisition application. This agreement is discussed in greater detail below and is provided as Exhibit 2 to these comments. Other relevant heavy rail traffic corridors are also under study by PUCO/ORDC as of this writing and are referenced later in these comments. Insufficient time has simply not permitted PUCO/ORDC and the Joint Applicants to complete assessment of the impacts on these other corridor areas and to fully evaluate required mitigation measures, allocation of cost responsibility for such measures and other related issues. Ohio requests that the Board impose a condition directing the Joint Applicants to reach and finalize agreements with Ohio that address such issues on all environmentally significant corridors identified by Ohio and direct CSX and NS to commit to full compliance with such agreements prior to increasing train traffic over existing levels on any of these corridor segments, including the B&O corridor.

In sum, Ohio maintains that it is in the best position to identify areas within its borders that will be most heavily impacted by the proposed Conrail acquisition and, in coordination with the Joint Applicants, to evaluate and tailor solutions to most effectively address those impacts. Although the SEA is to

be commended for the time and effort spent in designing study parameters and proposing specific mitigation measures, Ohio is confident that the sheer magnitude of the project and the corresponding time constraints imposed upon limited SEA staff resources have precluded the more "localized" approach that must be taken to ensure that the uniqueness of Ohio problems are captured in Ohio solutions. Ohio believes that it can more effectively assess and address post-Acquisition impacts through negotiated agreements with the Joint Applicants that will themselves target specific areas and identify specific projects to mitigate such impacts.³ Ohio concurs with the observation of the SEA staff that many of the environmental impacts addressed in the draft EIS can be "most effectively resolved" through mutually-acceptable agreements involving the Joint Applicants, affected local communities and appropriate government agencies. Executive Summary at ES-15. Ohio has successfully negotiated the B&O corridor safety agreement and is progressing negotiations with Applicants on other corridors. In committing considerable effort and resources to progressing specific talks with the major railroad stakeholders Ohio clear objective is to present the Board with Ohio-specific safety agreements and mitigative

³ Perhaps the most glaring example of this fact is the omission from the draft EIS text of any mention of Fostoria, OH, an area that all parties, including the Joint Applicants, have recognized for some time would be significantly impacted under the Conrail Acquisition Plan. In assessing specific solutions to Ohio-specific impacts, the Board should give due regard to Ohio-specific facts and circumstances rather than simply relying upon the more generalized "rule of thumb" thresholds for environmental analysis devised by the SEA staff to trigger remedial measures.

measures. The Board should order the Joint Applicants to diligently and in good faith negotiate with Ohio to reach agreements that comprehensively address Ohio's concerns and which will effectively mitigate impacts upon Ohio that will be occasioned if the proposed Transaction is approved.

III. CONDITIONS

The State of Ohio asserts that the Joint Application, as proposed, is not in the public interest and should be denied unless the Board directs that the following conditions attach in addition to other essential relief as previously identified:

(a) The Board should expressly recognize the important and primary role that Ohio occupies in addressing issues relative to grade crossing safety and rail/public traffic congestion and safety-related issues within the State. The Joint Applicants should be required to assume a significant role in identifying and funding safety improvements needed to address impacts upon Ohio that will result from post-Acquisition increased rail operations within the state. The Board should order and impose as a condition that the Joint Applicants continue good faith negotiations with Ohio officials for the safety improvements along rail corridors with significant adverse environmental impacts resulting from the Conrail Acquisition. As a condition to approval of the application, the railroads should be required to enter into firm agreements with Ohio that assess Ohio impacts

and provide for appropriate mitigation measures, including construction of active warning devices at public crossings and construction of grade separations where essential as remedial measures, to alleviate public traffic congestion and facilitate emergency vehicle response. Ohio has committed its efforts and its resources in order to submit such agreements for the Board's consideration in the next 90-120 days. The Joint Applicants should be required to cooperate with Ohio in completing such agreements, which must include significant railroad funding commitments, and to commit to fulfilling their obligations thereunder before implementing any significant increases in rail traffic over certain Ohio rail corridors as contemplated in the Application.

(b) The Board should order and impose upon the Joint Applicants more stringent requirements regarding rail transportation of hazardous materials. The Board should also require more frequent track and equipment inspections than those discussed in the OT-55B. Ohio urges the Board to impose reporting requirements to ensure that the Joint Applicants allocate resources sufficient to demonstrate a firm commitment to safe hazardous materials transportation. In this regard, the Board should require the Joint Applicants to expand current employer and public response training programs and to report annually for the next five years regarding the nature and effectiveness of such expanded programs. Where significant increases in hazardous materials traffic will occur in specific

corridors, the Joint Applicants should be ordered to fund equipment purchases, travel and tuition expenses for advanced training and the costs associated with development of community emergency response plans for public agencies. The Joint Applicants should also be required to earmark funds to be specifically used for community emergency response training and equipment grants. The Board should also order the Joint Applicants to annually report on hazardous materials incidents and violations on "key" and "major key" routes, and the Board should urge development of specific monetary sanctions for patterns of violations along such routes.

IV. OEPA CONCERNS

The Ohio Environmental Protection Agency has also reviewed the draft EIS in the context of potential impacts of the proposed Acquisition on Ohio communities. OEPA is very much concerned that key air quality and emissions were not adequately addressed in the draft EIS. These include the fact that there is no suggested mitigation for 7,000 tons per year for increased nitrogen oxide emissions. There is also insufficient information in the draft EIS from which to determine the impact of the merger on the 1-hour and 8-hour national air quality standards for ozone. Also the draft EIS does not address the impact of increased emissions of particulate on national air quality

standards for PM. See attached copies of internal OEPA memoranda addressing the specific concerns.⁴

V. DISCUSSION

Ohio Highway/Rail At-Grade Crossing Safety

A. B&O Corridor Agreement

On November 25, 1997, the Public Utilities Commission of Ohio (PUCO) adopted an agreement to enhance safety at public grade crossings located along 75 miles of the "B&O" corridor extending from Greenwich, Ohio to the Ohio/Indiana border. See Exhibit 2. Ohio selected this corridor, which contains a large number of passively protected crossings, in response to significant increases in train traffic levels that CSX expects to occur under the proposed Acquisition. CSX has announced plans to make significant capital investments to double track this corridor to accommodate greater volumes of higher-speed train traffic as part of double-track service CSX expects to offer linking Cleveland and Chicago. Post-Acquisition train traffic is expected to more than double on certain portions of this corridor. This milestone public safety agreement allocates costs of safety upgrades⁵ to reflect the increased accident prediction

⁴ See Exhibit 3.

⁵ The PUCO's policy is to promote maximum protection at public grade crossings through installation of both traffic gates and flashing warning lights at public grade crossings. The PUCO evaluates and ranks crossings for publicly-funded safety upgrades by applying the federal Accident Prediction Formula.

formula ranking for corridor crossings due to physical and operational changes at those locations. Additionally, the agreement requires PUCO and the ORDC to work closely with local communities to identify grade crossing locations that could be closed permanently as an alternative to construction of warning devices. In the event a grade crossing originally targeted for construction of warning devices is closed, the B&O corridor agreement is flexible enough to permit transfer of dollars earmarked for crossing improvements to be applied for safety projects at other locations within the defined corridor.

The B&O Corridor Safety Agreement is the reasoned end product of extensive negotiations between CSX and Ohio officials to achieve a common goal - to proactively address heightened grade crossing safety concerns occasioned by CSX-proposed, Acquisition-related operating changes along this corridor. This public-private partnership recognizes the various stakeholders and invites them to participate in resolution of important safety concerns. As the PUCO noted on page four of its Order,⁶ the B&O corridor agreement represents only an initial step to address Acquisition-related safety concerns, and the PUCO fully expects CSX cooperation in assessing other impacted areas and developing responsive mitigative measures. Ohio expects to reach similar types of safety agreements with the NS and Conrail as well, negotiations for which are currently underway. Given the highly localized nature of grade crossing safety and the many factors

⁶ Exhibit 2, p. 4.

that must be considered, Ohio requests that the Board direct the Joint Applicants to continue cooperative negotiations with State of Ohio officials and local communities on corridor-type crossing safety agreements that will most efficiently deploy limited resources.

B. Corridor Evaluation Approach

Since 1989, the PUCO, in conjunction with ORDC, has administered a program to identify public grade crossings for construction of federally-funded automatic warning devices. Under Ohio law, the PUCO is charged with developing and maintaining an index which ranks or prioritizes Ohio public crossings for funded safety improvements. Ohio utilizes the federally-adopted Accident Prediction Formula to perform this ranking. Since 1990, the PUCO has ordered installation of traffic gates and warning lights at nearly 800 public grade crossings throughout Ohio at a cost of over \$88 million. The PUCO administers a limited state-funded program which typically results in construction of safety upgrades at an additional 10-12 public crossings per year. The PUCO also makes limited state funds available to qualifying local communities for interim types of safety improvements such as installation of overhead lighting and rumble strips to heighten public awareness of crossing dangers. PUCO/ORDC has been very active in recent years in working closely with local governmental authorities to permanently close grade crossings to vehicular traffic under

arrangements which often involve railroad-provided incentives which assist local authorities in addressing other important community needs.

PUCO/ORDC has been both active and aggressive in addressing crossing safety issues and PUCO/ORDC believes that all stakeholders, public and private, must provide input and actively participate in solutions. Ohio officials have increasingly recognized the wisdom of targeting rail corridors or segments, rather than isolated crossings at scattered locations, for safety improvements. These corridor studies involve a focused review of rail segments by Ohio officials, local interests and the railroad and appropriately evaluate the feasibility of crossing closures. Based upon considerable experience Ohio has found that this approach represents a superior methodology for evaluating and targeting crossings for safety upgrades in response to significant increases in rail traffic in comparison with the "all the eggs in one basket" approach employed by the SEA in the draft EIS.

WEAKNESS OF SEA CROSSING SAFETY ANALYSIS

The SEA's efforts to address crossing safety issues, although commendable, nonetheless suffer from two key flaws; (1) use of 1995 base year information, and (2) a tendency to analyze individual crossing locations in isolation. The SEA's use of 1995 data to evaluate crossing safety is inadequate since the risk level of any crossing can rise or fall dramatically based

upon changing circumstances. By not using the latest information from the states, the SEA also appears to have duplicated analysis which has already been performed. For example, 20 of 35 crossings that the SEA has recommended for safety upgrades have already been selected by PUCO for construction of gates and lights as part of Ohio's ongoing grade crossing safety program.

The need for current accident information data is particularly important. In evaluating crossings for safety upgrades, Ohio considers the most recent five years of crash information. Of the Ohio crossings evaluated in the draft EIS, over 10 percent (125 of 900) had different accident histories when 1993-1997 data was considered rather than when 1991-1995 data was used. This, in turn, can artificially inflate or reduce perceived risks at particular crossing locations. Extrapolating 1991-1995 data also led to an evaluation of gated crossings using crash data for periods prior to installation of safety devices. At only two (Crossing Nos. 155821J and 473668W) of seven crossings for which the SEA recommended installation of quad gates or barriers did accidents occur following installation of the safety devices.

Use of 1995 baseline data for analysis does not reflect current train volumes. The Deshler-Toledo corridor represents a prime example. Under the SEA analysis, this corridor increases from 0.6 trains per day to 14.2 trains daily. In fact, CSX added

over 13 trains per day⁷ on this corridor beginning in May, 1997 (independent of the Acquisition Application), resulting in a much smaller increase in train traffic which might call into question the SEA-proposed mitigation measure.

Likewise, use of current vehicle traffic data is of obvious importance to any safety analysis, and reliance upon only the national data base may not capture changing vehicle traffic volumes through a crossing. A sampling by PUCO illustrated the following wide discrepancies in ADT:

<u>Crossing No.</u>	<u>SEA/ADT</u>	<u>PUCO/ADT</u>
155799Y	510	1612
155814Y	1270	2239
142313G	540	1133
142314N	540	1828

The SEA's use of "stale" national data base information calls into question the reliability of the Ohio crossings selected and proposed by SEA for mitigation.

While the FRA accident prediction formula is a good tool for use in prioritizing crossings and allocating available funding,

⁷ The present pre-Acquisition train count on this segment indicated in the draft EIS may be incorrect. By letter dated June 4, 1997, CSX informed the PUCO Railroad Division that existing traffic on this segment was at a rate of approximately 10 trains per day.

it was never intended to provide the type of surgical precision that the SEA has applied in the draft EIS. Ohio has long recognized this fact and, therefore, uses this formula only as a beginning point in its crossing safety analysis. The failure to use the latest data can produce results that are not adequate in identifying locations where accidents are likely to occur in the future.

STRENGTHS OF OHIO CORRIDOR APPROACH

Ohio has demonstrated that the more effective approach to grade crossing safety is to develop a comprehensive plan for improved protection along entire corridors using updated information and broader analysis of the local situation. Ohio has undertaken such an approach in its efforts to prepare for the changing traffic patterns resulting from the proposed acquisition of Conrail.

As a beginning point in its analysis, Ohio considers the risk factor of the crossing considering the new level of train traffic with revised traffic counts and the most recent five years of accident data. If passenger trains are running on the segment of tracks, the maximum timetable speed is adjusted accordingly. The potential for consolidation projects along the corridor is then considered. The age of current circuitry is evaluated on gated crossings. Finally, *actual site visits* are scheduled to evaluate the lay of the land or nearby obstructions that make a crossing more risky than it appears from the data

analysis. All of these issues cannot be considered by simply projecting a risk factor from national data base information. This complete analysis can only be done at the state level.

Using the Board's environmental threshold levels, Ohio expects train traffic to significantly increase on 21 affected line segments, (see map included as Exhibit 1) including the aforementioned B&O Corridor which will serve as a CSX main line for east-west traffic and is currently undergoing major track and signal improvements in anticipation of significantly increased train traffic in the post-Acquisition time period.⁸ Given the significant magnitude of projected train traffic increases, PUCO/ORDC is committed to the corridor approach on other segments including the existing Conrail segment from Greenwich to Collinwood, and NS lines from Cleveland to Ashtabula, Ashtabula to Youngstown, Bellevue to Oak Harbor, and Cleveland to Vermilion and all corridors where there are significant impacts. (See Exhibit 1). In this regard, Ohio identified crossings with an accident frequency as low as 0.043 (as opposed to SEA's 0.15 threshold) as sufficiently impacted to warrant construction of safety improvements. In the case of the B&O Corridor Agreement, which provides for upgrades to flashing lights and gates at 39 crossing locations, PUCO/ORDC used the latest vehicular and train counts available to produce a revised FRA Prediction Formula ranking for all crossings on the corridor. This ranking was then compared with the existing ranking to develop average post

⁸ See Exhibit 1.

acquisition increases in risk along the corridor. Using this figure as a benchmark, Ohio negotiated a cost sharing agreement with CSX to upgrade these locations.

The negotiated "B&O corridor" agreement is mutually beneficial and illustrates the effectiveness of a public-private partnership to promote public grade crossing safety by reducing the probability of accidents. In preparation for this agreement, PUCO/ORDC representatives inspected and updated data on almost 150 public crossings on this corridor, nearly two-thirds of which are only passively (crossbuck signage) protected. PUCO/ORDC conducted an extensive public outreach program which included meetings with various county, township, and local officials in six counties to discuss possible closures in exchange for upgrades at those crossings not initially selected as part of the agreement. This process is continuing and Ohio expects to receive local agreement on closing and/or upgrading potentially another 20 crossings on the B&O corridor. Once completed, Ohio will be very close to achieving maximum protection (lights and gates or closures) at each of the public crossings on the CSX B&O corridor between Greenwich, Ohio, and the Ohio/Indiana state line in advance of significantly increased post-Acquisition train traffic. Ohio believes that public outreach efforts are essential to obtain a thorough understanding of impacts and assessment and evaluation of appropriate solutions.

Ohio urges that the SEA employ a two-pronged approach to mitigation in this area. First, the SEA should recognize the

important role states have traditionally played in identifying and selecting grade crossing locations for upgraded warning devices. As administrators of grade crossing improvement programs, the states are the best and most complete source of information on pending and planned projects, as well as other local conditions which may impact crossings selected for upgrade. Any effective mitigation plan must, therefore, include Ohio as a significant partner in the selection of grade crossings for safety improvement.

Secondly, the railroads must be required to assume a significant role in funding safety improvements on these corridors since their proposed actions will directly contribute to the increased public risk. The railroad's financial commitment should be commensurate with the increased risks created by their proposed operations within each corridor.

Considering these factors, Ohio recommends that the Board include a condition directing the Joint Applicants to timely reach agreements with Ohio for the improvement of grade crossings on rail corridors deemed environmentally significant. The Board should direct that the Joint Applicants not be permitted to operate at increased post-Acquisition train levels until completed agreements are in place with Ohio and the railroads have committed to complete their assigned responsibilities as expeditiously as possible.

Should the Board choose not to direct the Joint Applicants to work closely with Ohio on implementing a corridor approach to

grade crossing safety and, instead, chose to evaluate all crossings and select particular locations for mitigation, the Board must, to most effectively address impacts, do so based upon the most current information. In that event, Ohio recommends that the Board's staff coordinate with Ohio officials to ensure that the Board has the best information possible with which to identify and select crossings for safety upgrades. That process should be concluded before SEA completes its final Environmental Impact Statement and makes specific recommendations to the STB regarding conditions that should be adopted should the Application be granted.

Ohio also urges the SEA to reconsider its approach to the type of warning devices that it has recommended in the draft EIS. Ohio maintains that any upgrades should include both gates and lights, rather than just flashing lights. Lights alone are not a cost effective solution. The major cost of upgrading a crossing involves the initial design and installation work and the addition of traffic gates results in only a minor increase in costs, while eliminating the need for an expensive enhancement in the event of continuing accidents at the locations.

Additionally, the SEA should reconsider its recommended use of four quadrant gates and barriers as a safety mitigation measure. While Ohio is not philosophically opposed to their use, such devices currently are experimental in nature and require additional time and expense for state agencies in securing necessary approvals. Site-specific considerations should be

taken into account. For example, use of median barriers on rural area crossings may prove impractical in light of the need to move large farm machinery through a crossing. Additionally, the need for circuitry upgrades should be evaluated prior to any decision to install four-quadrant gates at a crossing location. Ohio strongly recommends that the use of these types of proposed mitigative measures not be routinely ordered by the Board unless the Board is prepared to coordinate changes in existing federal program requirements with the FHWA.

C. Rail Transportation of Hazardous Materials

As a cross roads state and a major industrial and manufacturing center, Ohio experiences a large volume of hazardous materials movements through its borders. As indicated in table B8-3, Ohio had more hazardous materials incidents than any other state on the Applicants' systems between 1992 and 1996. Ohio enjoys the dubious distinction of being the site of the largest hazardous materials-related evacuation, resulting from a 1986 derailment and fire on the CSX system near Miamisburg, Ohio.

Ohio clearly has a vested interest in safe rail transportation of hazardous materials and, consequently, has been a leader in efforts to address this area. Those efforts have included development of a comprehensive system of carrier registration, civil penalties, and funding of emergency response training. Ohio's program was designed as a multi-modal program to improve the safety of our citizens regardless of the mode

chosen by chemical manufacturers and marketers to ship their products.⁹

Ohio finds it particularly noteworthy to note that table B8-4 of the draft EIS shows that the two most frequent causes of hazardous materials incidents on Applicants' rail lines, between 1992 and 1996, are human error and package failure. Ohio believes this demonstrates short comings in existing railroad employee training and operating practices relative to the inspection, loading and transportation of hazardous materials shipments. Such shortcomings need to be addressed.

The Joint Applicants and the SEA have devoted significant text to discussion of hazardous materials "key routes" and the special care taken in the areas of employee training and emergency response training. Ohio has two concerns in this regard. First, "key routes" represent a voluntary concept nowhere incorporated in existing Federal Railroad Administration regulations and it is not clear that legal sanctions exist for railroad failures to follow these guidelines, even when they have been incorporated into railroad operating policies. Secondly, the guidelines are minimal in nature and represent more of a baseline for acceptable operations rather than a goal of excellence. The number of incidents listed in Table B8-4 speaks

⁹ Ohio is particularly concerned about rail transportation of hazardous materials throughout the State. As a result of railroad lawsuits, Ohio has been unable to implement its safety regulations for this mode of hazardous materials transport, although Ohio actively regulates hazardous materials carriage over its highways.

volumes in demonstrating that promulgation of these guidelines has not solved the problem of the accidental release of deadly chemicals along rail corridors and within rail yards. Given the anticipated level of increased hazardous material movements resulting from this acquisition, particularly in and around Cleveland, Ohio believes the railroads and federal regulators can and should do more to ensure safe transportation of these materials.

While Ohio believes that greater overall efforts are required by the railroads to train employees and inspect cars and packages transporting hazardous materials, the SEA's draft EIS approach of focusing upon particularly high density routes is reasonable to address increases in hazardous material traffic expected to result in certain lines as a result of the Conrail Acquisition. It is essential, however, that the Board take steps to ensure that the guidelines are actually implemented and consistently followed. The guidelines should also be strengthened and more broadly applied than as proposed in the draft EIS. Ohio urges the Board in the first instance to require that all key routes, not just newly identified key routes, be brought into compliance with the key route standards of OT-55B. The Board should also specifically condition any approval of the Acquisition upon demonstration of compliance with these guidelines through reporting procedures over the next five years designed to reveal any patterns of FRA citations or incidents along each key route.

On major key routes, as defined in the draft EIS, the Board should order additional requirements over existing OT-55B in the area of frequency of track and equipment inspections. Similarly, there should be reporting requirements detailing the number of employees devoted to these activities to ensure a continuing level of commitment to safe hazardous materials transportation. Joint Applicants should be required to expand current employee and public emergency response training and to report annually for the next five years regarding the frequency and nature of classes conducted and persons trained. In addition, the Joint Applicants should be required to specifically fund equipment purchases, travel and tuition expenses for advanced training, and the costs associated with development and implementation of community emergency response plans for public agency emergency responders which will be necessitated by substantial increases in hazardous materials traffic over specific routes. Given the heavy volumes of hazardous material train traffic that certain areas of Ohio will experience and the fact that many areas must rely upon volunteer emergency services, ordering of such funding by the Board will provide an absolutely essential supplement to minimal local resources that are available and is critical to ensure the availability of effective emergency response services.

Finally, adequate sanctions should be established for patterns of violations on both key and major key routes. As a condition to approval of the Acquisition, the Applicants should be subject to continuing Board oversight for a period of not less

than five years and 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. Money raised by these payments should be used to fund community emergency response training and equipment grants.

D. Roadway Crossing Delays

The impacts associated with vehicle traffic delays and resulting congestion are of great concern to local communities in Ohio. In Section 5-OH.9, the SEA analyzed the effects of the proposed Conrail acquisition on roadway systems at existing highway/rail at-grade public crossings. In developing its approach to crossing delays the SEA has erred in two respects. First, the SEA has relied too heavily upon a statistical review based upon numbers of vehicles, train cars and speeds, while failing to take into account real world conditions that result in blocked crossings. Secondly, even if one argues that a mere statistical approach is appropriate, SEA's use of a 5,000 ADT threshold for consideration is far too high and has resulted in elimination of severely impacted locations.

Effective evaluation of this issue can only be achieved through on-site field reviews in affected communities along routes of environmental significance to examine the factors which contribute to crossing blockage. Factors contributing to these conditions can include operational problems which cause trains to slow beyond normal speeds or delay progress altogether. Examples

include location of control points, proximity to rail yards or sidings, lack of appropriate signals, delays at diamonds or other aspects of rail operations that cause trains to occupy crossings for an extended period. Additional factors that must be considered are the nature and location of businesses along the lines serviced by the railroad.

Use of the arbitrary 5000 ADT figure results in severely-impacted locations in smaller communities being overlooked under the SEA analysis even though these locations are currently experiencing serious blockage problems. The most remarkable failure of the SEA approach is highlighted by the absence of any discussion whatsoever of the serious problems faced by Fostoria. Ohio is presenting the Fostoria issue not only as an issue to be remediated but also as an example of what detailed local analyses is likely to reveal in other Ohio communities.

The City of Fostoria is a major railroad junction where existing railroad traffic and switching operations negatively impact vehicular traffic flow and emergency vehicle response. In its October 21 response to the STB, the State of Ohio highlighted its concerns regarding the acquisition of Conrail and its ramifications which will exacerbate Fostoria's environmental and safety problems. Included in that filing was the Verified Statement of Charles I. Dodge, Administrative Assistant to the Mayor of Fostoria and the statement of Philip G. Pasterak of Parsons Brinckerhoff Ohio, Inc. concerning the serious impacts of the proposed Acquisition on Fostoria. The SEA's environmental

analysis of the Conrail Acquisition, however, completely ignored these issues and failed to discuss the serious safety and environmental impacts on Fostoria. Therefore, the State of Ohio, working with the City of Fostoria, commissioned Parsons Brinckerhoff to prepare a comprehensive environmental analysis to focus on the magnitude of these issues. The Fostoria Remediation Study is attached as Exhibit 4.

All three of the intersecting railroad lines in Fostoria are projected to receive significant increases in rail traffic. Currently, an average of 84 trains pass through the city every day. As a result of the Conrail Acquisition by NS and CSX, the number of trains in Fostoria will increase by nearly 30 percent to 108 trains per day. The most critical impact from increasing rail traffic is on safety and emergency response time.

Two areas of the community, one to the east and one to the west, have been dubbed "Iron Triangles" by emergency response forces. This is because of the difficulties in identifying reliable and direct ingress/egress to the areas as a result of heavy train traffic blocking the at-grade crossings. Vehicular crossing delays are compounded by slow moving rail traffic switching from one mainline onto another.

The SEA's draft EIS inadequately addresses these impacts on Fostoria as a result of the Acquisition, and is grossly inadequate. Although rail segments C-070 (Marion-Fostoria) and C-075 (Willard-Fostoria) are identified as meeting the threshold for analysis by the SEA neither individual nor cumulative impacts

of increased traffic are considered on safety and grade crossing delays. In fact, the nature of the rail configuration in Fostoria, with three major rail/rail crossings, will cause impacts far in excess of the sum of the traffic increases on the three individual rail lines. Crossing delays will be compounded by stopped trains and trains moving at low speeds and a significant number of trains using slow speed connection tracks. These tracks and turnouts are not, and in most cases cannot be, configured for speed in excess of 15 mph. Typical speeds are likely closer to 10 mph. For the proposed 6200 foot typical CSX post-Acquisition train, this will result in a blocked crossing time per diverging train of 7.5 minutes. The SEA has failed to take into account these real world conditions that result in blocking critical crossings and emergency ingress routes.

Moreover, the arbitrary SEA threshold of 5000 ADT resulted in the elimination of two critical highway/railroad crossings from the evaluation process. Both crossings provide emergency vehicular ingress into Fostoria's isolated "Iron Triangle" neighborhoods. The more detailed Ohio analysis, which considered the interrelationships of the street network with actual train operating speeds, indicates that both Columbus Avenue and Tiffin Street must be considered significantly impacted.

Currently, the procedure for responding to a police or fire emergency situation in the two triangle areas in Fostoria is to dispatch two vehicles along separate routes, increasing the chances of successfully entering the triangles. In the event

that both routes are unimpeded and both vehicles are able to cross the tracks, the first crew determines whether to enter the scene immediately, possibly compromising their own safety, or wait until the second vehicle arrives with backup. This additional time is critical. For example, experts claim that, each additional; minute a fire burns, the fire typically doubles in its size and intensity. As the Ohio analysis illustrates, with the large volume of trains passing through Fostoria each day, the likelihood of encountering a train blocking an at-grade crossing is very high. The choice of the route to the site of an emergency can be very confusing to emergency personnel who have no reliable way of predicting which crossings will be blocked at a particular time of day.

According to the SEA's formula, under current volumes, a train is blocking one or more at-grade crossings in Fostoria 4.6 hours of each 24 hour day. That equates to 19 percent of the day that a crossing is inaccessible to emergency vehicles. With the increased train volumes resulting from the Acquisition, a crossing will be blocked over 6 of the 24 hours, which is over 25 percent of the day. Not all of the crossings will be blocked at the same time; however, an emergency vehicle has no schedule as to when crossing it needs will be blocked. With any given rail crossing blocked over fourth of the day, it becomes apparent that some alternative provision needs to be made for the safety of residents within the Iron Triangles.

Based on Ohio's analysis of the ingress/egress routes into Fostoria's Iron Triangle areas, the Columbus Avenue/east triangle area meets the criteria for a location requiring a grade separation. The post Acquisition LOS decreases one grade to LOS "E" or "F" following the Acquisition and rail traffic increases by eight trains. Additionally, the west triangle area also meets this criteria when considering a 33.9 increase on the CSX line along with the 4.6 increase on NS traffic. An increase of train speeds will provide only a partial, and relatively insignificant, mitigation of impacts on vehicular delay.

The potential for these two Iron Triangle areas to become isolated by rail movements and served by unreliable and unpredictable emergency service routes is very real and, therefore, the need for the construction of grade separations for both areas is strongly indicated. A grade separation for Town Street under the NS is recommended to mitigate east triangle impacts. Town Street provides a less expensive alternative to grade separating Columbus Avenue. And a grade separation for Tiffin Street over CSX is recommended to mitigate west triangle impacts. Conceptual engineering of these crossings shows that construction of these structures is feasible.

The crossing at Jones Road also has safety implications as there is the potential for the east half of the City to be temporarily cut off from ambulance services. With the next parallel road to Jones being so far to the south, a blocked crossing could add an extra 3.6 minutes to an ambulance's

response time to an incident just east of the tracks on Jones Road. As a result, a grade separation for Jones Road over CSX (C&O) should also be considered. In addition to the safety concerns associated with increased rail traffic blocking at-grade crossings, Fostoria also has concerns about the economic development viability near the CSX crossings at Jones Road. Jones Road is a highly traveled trucking route serving one of Fostoria's major commercial and industrial zones. Stopped trains often block the road and trigger the crossing gates for extended periods. Severe delays in vehicle transport will discourage other new business and industry ventures from wanting to locate in the City, thereby hindering economic growth

At minimum, additional measures that should be implemented include the upgrading of grade crossing circuitry to state-of-the-art motion detection systems. Such a relatively inexpensive improvement would minimize the time that Jones Road Traffic is blocked without the presence of a train across the crossing. The improved circuitry would reduce over activation of the current warning devices. Conceptual engineering of this crossing indicates that it is feasible to construct.

Ohio, once again, urges that the STB must carefully consider the Fostoria safety issues in the proper perspective. All of those concerns are buttressed by the underlying Fostoria Remediation Study which provides a comprehensive technical analysis of Fostoria's problems. Ohio believes that the recommendations for the construction of three grade separations is

completely warranted. In this light, Ohio recommends that the STB order the Joint Applicants to enter negotiations with the state and local officials and to develop agreements for resolving the environmental and safety impacts in Fostoria. This includes defining the cost sharing for construction of the three grade separations.

Attached is a letter from the Mayor of the City of Fostoria (Exhibit 5) and a copy of a letter addressed to the STB by a city official (Exhibit 6), both of which emphasize the very serious concerns of responsible city officials as to the impact of the proposed Transaction on public safety and access to essential emergency services absent adequate remedial action.

Again Fostoria is only one example of the serious problems Ohio is finding. Other locations including Ashtabula, Olmstead Falls, Berea, Bellevue, Defiance County, Oak Harbor, Clyde, Greenwich, Wellington, Grafton, and New London are being reviewed in terms of their need for mitigation measures. Cleveland has raised serious concerns in this regard as well. Such locations may well require construction of grade separations to effectively solve crossing delay and emergency response concerns if the proposed Transaction is approved. It is therefore critical that the Board ensure that these remedial requirements are recognized and place sole or significant financial responsibility upon the Joint Applicants for needed construction and improvements which will be required to safely accommodate expanded rail operations under the Acquisition Application.

Applying its methodology, the SEA has identified Ohio crossings which will incur significant delays. SEA's proposed fix to these problems calls for the railroads to increase train speeds in three locations and to consult with local and state highway officials on mitigation measures for the other crossings. Ohio disagrees that increasing train speeds through urban areas constitutes a safe and workable solution for crossing congestion, unless it is done only after it is determined to be safe and feasible after comprehensive review of existing signaling, operating practices and grade crossing protection systems in the affected areas. Ohio agrees with SEA's conclusion that crossing delay issues are most effectively resolved where the Joint Applicants and local and state highway officials work together on a cooperative basis. The input of all concerned stakeholders is critical to an effective identification of other significantly impacted locations and assessment of mitigation measures and appropriate in this proceeding. Commitment of resources and funding to accomplishment of remedial steps as found to be necessary.

Ohio recommends that, as a condition of approval of the Application, the railroads be required to reach agreements with Ohio that address all areas of concern. These agreements must include significant railroad funding commitments to ensure that mitigation measures are completed. The Board should direct that the Joint Applicants not operate at post-Acquisition increased traffic levels until firm agreements have been executed.

E. Toledo Deshler Rail Line Segment

In light of the prior dormancy of train traffic on the Toledo-Deshler rail segment, Ohio concurs with and recommends that the Board adopt the SEA's proposed mitigation measures for the nine remaining (*i.e.* those not currently the subject of PUCO projects) passively-protected grade crossings that are listed on Table 5 OH-56 (page OH-154). Consistent with PUCO policy, Ohio recommends that mitigative measures at each of these remaining crossings include both flashing warning lights and traffic control gates.

As background information, the SEA has included for specific comment this 36-mile section of track that traverses through portions of Lucas, Wood, and Henry Counties in northwestern Ohio. Ohio is somewhat unclear as to why the SEA chose to specifically comment since this increased traffic is not solely an Acquisition related issue. The line in question was essentially dormant until May 1997 when CSX increased the traffic from .6 to 13.6 trains per day. Post acquisition traffic raises this level to 14.2 trains per day. While this is a significant percentage increase over the prior dormancy level, it still pales in comparison with the increases on other lines in Ohio.

Ohio had previously identified grade crossing warning device projects along this line but deferred further action on these projects when the traffic decreased to minimal levels. Had there been better coordination between CSX and Ohio regulators

regarding reactivation and level of train activity on this line, Ohio would have been in a better position to respond to the increased risk. The PUCO has directed installation of five projects (gates and lights) since the reactivation of this line segment. These current projects include the following crossing locations: Main Street - FRA No. 155760V - Henry County; Kellogg Road - FRA No. 155794T - Wood County; Middletown Pike - FRA No. 155804T - Wood County; Eckel Junction Road - FRA No. 155818B - Wood County; Ford Road - FRA No. 155838M - Wood County.

F. Cleveland Specific Issues

Ohio supports the concept of a comprehensive approach to resolving environmental issues raised by the City of Cleveland and other area jurisdictions including Lake, Bay Village, Rocky River, Berea, and North Olmstead. Cleveland lies at the heart of Conrail's system, the crossing point of the so-called "Big X" through which more than 100 trains per day pass.

Ohio believes that the division of Conrail through Cleveland as envisioned in the proposed transaction may be workable but only from the railroad perspective. Ohio does not, however, believe it is the optimal plan when the adverse safety and environmental impacts are taken into account.

The City of Cleveland has outlined two alternative route configurations that would route most of the increased rail traffic that would result from the proposed acquisition through

Cleveland and neighboring industrial corridors. Capable engineers retained by the City of Cleveland have proposed concrete and workable solutions that would not only effectively move trains through Cleveland, and would ameliorate most of the worst adverse environmental impacts.¹⁰

In this light, Ohio recommends that the Joint Applicants in good faith negotiate the proposals as outlined in the attached press release (Exhibit 6) and resolve the substantial adverse environmental and safety impacts that will result from the proposed transaction.

Ohio realizes that it is asking the STB to take extraordinary action for Cleveland area issues. We trust that the STB recognizes that the tremendous adverse impacts to the Cleveland area from the proposed transaction make such extraordinary measures to ensure that the serious problem faced by Cleveland area communities will be resolved. Ohio strongly urges that the STB 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.

G. Arbitration

Ohio maintains that it is in the best position to assess and evaluate the nature and magnitude of Acquisition-related impacts

¹⁰ See Exhibit 7.

within its borders and to develop solutions that best recognize and address Ohio's unique circumstances. The SEA has indicated that it is considering making a recommendation to the Board that would require the Joint Applicants to participate in mediation and binding arbitration with local and state officials where grade separations are necessary to address Acquisition-related traffic delays. Executive Summary at ES-21. Ohio is opposed to SEA's suggestion for a number of reasons. Ohio is primarily responsible for the safety and health of its communities. Safety-related traffic routing and congestion issues are inherently local in nature and resolution of these issues, including who should bear the costs of mitigation measures, should be assessed and determined by Ohio officials. Ohio is actively pursuing remedial measures to address such situations through negotiations with the Joint Applicants. Ohio recognizes that costs of mitigation of safety and environmental problems arising from the proposed acquisition of Conrail are important issues and Ohio intends to continue working closely with the Joint Applicants to ensure that legitimate mitigation measures are implemented. As demonstrated by the B&O Agreement, Ohio is fully prepared to identify significantly impacted areas and develop responsive solutions through negotiated arrangements with the Joint Applicants. Any substantial increase of traffic over specific corridors should be conditioned on completion and commitment to negotiated agreements. Should fundamental differences arise in such negotiations, Ohio maintains that the

necessarily involved public safety and health issues do not lend themselves to resolution through arbitration or mediation. Rather, resort should be directly to the STB for its prompt resolution.

VI. CONCLUSION

There exist a number of unique circumstances facing Ohio as a result of the proposed Conrail acquisition application. Solutions to Ohio impacts must be tailored by responsible Ohio officials to specific facts and circumstances. Ohio maintains that impacts substantially affecting the safety, health and welfare of its citizens and communities are most effectively addressed through joint negotiations which allow all stakeholders to meaningfully participate in development of solutions. Ohio is ready, willing and able to accomplish fair and appropriate solutions through negotiations which must be concluded before traffic is increased over adversely affected corridors and communities which will otherwise suffer serious adverse effects to the detriment of all concerned.

Respectfully submitted,

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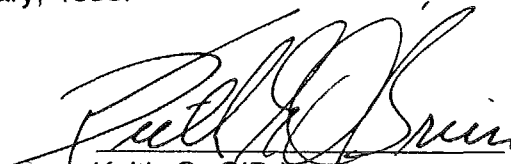
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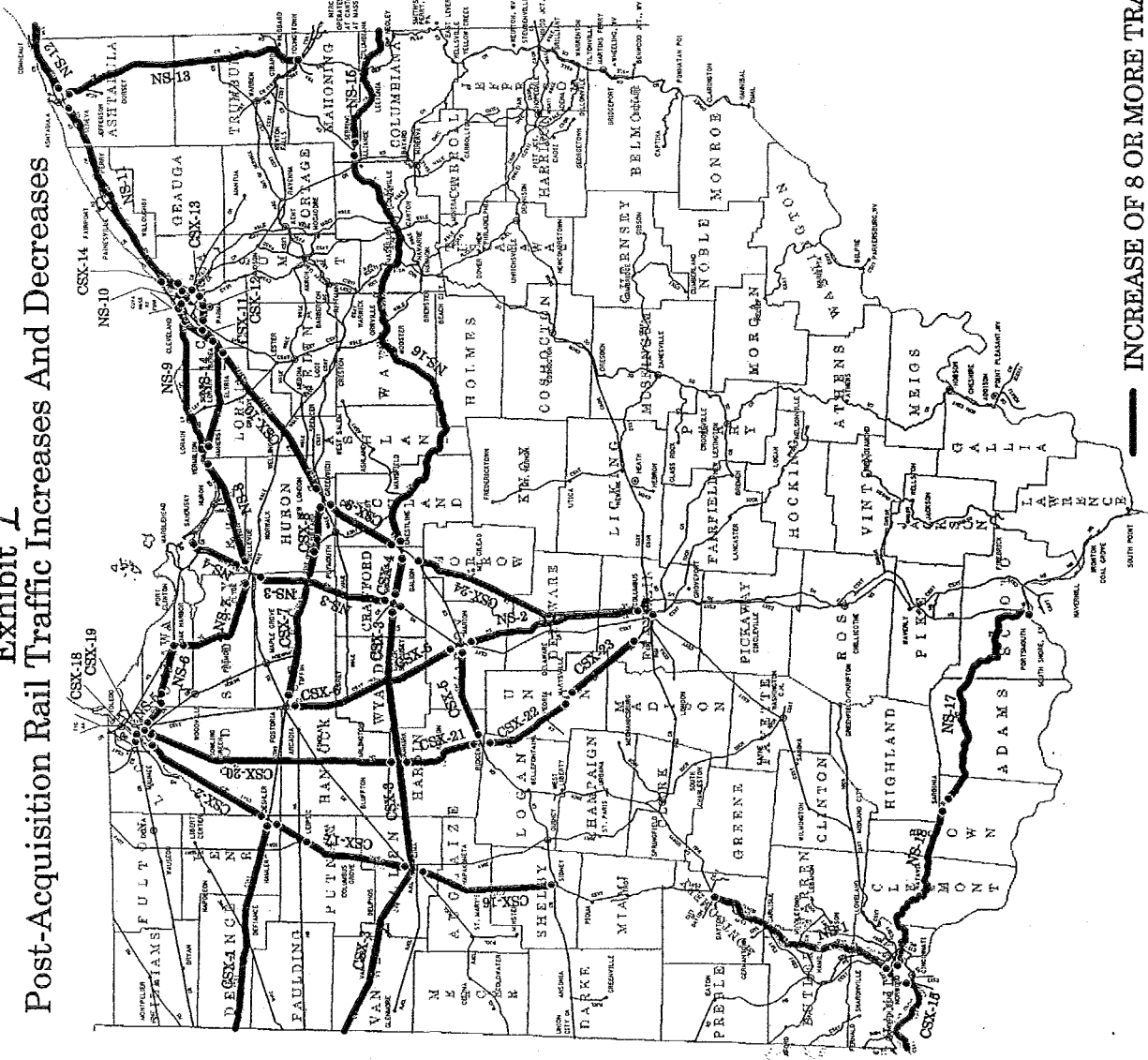
CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Responsive Comments to Draft Environmental Impact Statement and Request for Protective Conditions, submitted on behalf of the Ohio Attorney General, Ohio Rail Development Commission, and the Public Utilities Commission of Ohio, was served by regular U.S. mail, postage prepaid, upon all parties of record, this 2nd day of February, 1998.



Keith G. O'Brien

Exhibit 1 Post-Acquisition Rail Traffic Increases And Decreases



INCREASE OF 8 OR MORE TRAINS PER DAY
 DECREASE OF 30% OR MORE PER DAY

Segment Number	Segment: From - To	Current Owner	Trains Per Day		Percent Change
			Pre-Acq.	Post-Acq.	
CSX-1	Willow Creek, IN - Deshler	CSX	21.40	47.70	+26.30
CSX-2	Deshler - Toledo	CSX	0.60	14.20	+13.60
CSX-3	Adams, IN - Bucyrus	CR	5.90	13.90	+8.00
CSX-4	Bucyrus - Crestline	CR	6.50	14.50	+8.00
CSX-5	Ridgeway - Marion	CR	16.10	31.80	+15.70
CSX-6	Marion - Fostoria	CR	17.80	27.40	+9.60
CSX-7	Fostoria - Willard	CSX	32.50	54.00	+21.50
CSX-8	Willard - Greenwch	CSX	32.50	55.20	+22.70
CSX-9	Crestline - Greenwch	CR	14.50	31.30	+16.80
CSX-10	Greenwch - Berea	CR	14.50	54.20	+39.70
CSX-11	Berea - Short	CR	13.40	47.20	+33.80
CSX-12	Short - Marcy	CR	16.40	45.80	+29.40
CSX-13	Marcy - Mayfield	CR	3.40	43.80	+40.40
CSX-14	Mayfield - Quaker	CR	6.80	43.80	+37.00
CSX-15	Mitchell, IN - Cincinnati	CSX	7.80	1.70	-6.10
CSX-16	Sidney - Lima	CSX	22.60	15.30	-7.30
CSX-17	Lima - Deshler	CR	26.50	14.90	-11.60
CSX-18	CP Maumee - Oak	CR	15.20	4.00	-11.20
CSX-19	Oak - Walbridge	CR	15.20	4.00	-11.20
CSX-20	Stanley - Dunkirk	CR	11.60	1.40	-10.20
CSX-21	Dunkirk - Ridgeway	CR	13.20	1.40	-11.80
CSX-22	Ridgeway - Marysville	CR	22.20	9.43	-12.77
CSX-23	Marysville - Darby	CR	22.20	5.00	-17.20
CSX-24	Columbus - Gallion	CR	13.40	7.50	-5.90
NS-1	Ivorydale - Dayton	CR	6.90	14.90	+8.00
NS-2	Bucyrus - Fairgrounds Col.	NS	26.00	34.30	+8.30
NS-3	Bucyrus - Bellevue	NS	26.00	34.50	+8.50
NS-4	Bucyrus - Sandusky Dock	NS	1.40	11.70	+10.30
NS-5	Airline - Miami	CR	55.40	64.00	+8.60
NS-6	Oak Harbor - Miami	CR	48.00	61.50	+12.50
NS-7	Oak Harbor - Bellevue	NS	7.70	27.20	+19.50
NS-8	Bellevue - Vermilion	NS	15.60	27.00	+11.40
NS-9	Vermilion - Cleveland	NS	13.50	34.10	+20.60
NS-10	Cleveland - White	CR	12.50	29.70	+17.20
NS-11	Cleveland - Ashtabula	NS	13.00	36.60	+23.60
NS-12	Ashtabula - Buffalo	NS	13.00	25.20	+12.20
NS-13	Youngstown - Ashtabula	CR	11.70	23.80	+12.10
NS-14	Cleveland - Vermilion	CR	48.40	32.90	-15.50
NS-15	Rochester - Alliance	CR	37.90	26.30	-11.60
NS-16	Alliance - Crestline	CR	19.10	4.10	-15.00
NS-17	Vera - Sardinia	NS	3.40	0.00	-3.40
NS-18	Sardinia - Norwood	NS	3.40	1.70	-1.70

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Adoption and Imple-)
mentation of the Joint Railroad Corridor) Case No. 97-1540-RR-UNC
Safety Agreement for the CSX Transporta-)
tion, Inc. B & O Rail Corridor.)

ENTRY

The Commission finds:

- (1) Section 4907.471, Revised Code, requires the Commission to survey all public crossings of railroads at grade and to devise a formula, consistent with applicable federal requirements, for determining the probability of accident at each such crossing, taking into account for each such crossing a variety of factors including volume of vehicular and train traffic, train type and speed, limitations of view, and intersection angle.
- (2) Under this statute, the Commission also is required to classify all such public crossings according to such formula and to prepare a priority list for the protection of such crossings, giving highest priority to the crossings at which the Commission finds the highest probability of accident, and lowest priority to the ones at which it finds the least probability of accident.
- (3) Pursuant to the priority ratings established as provided above, the Commission may direct the installation of warning devices at any such railroad highway grade crossing it determines to be in need of additional protective devices. The assignment of any part or all of the cost of the installation and subsequent maintenance of such devices shall be by the Commission in any proportion it determines proper that is consistent with any applicable federal requirements.
- (4) On June 23, 1997, the Surface Transportation Board (STB) accepted for consideration the railroad control application and related filings submitted to the Board by the CSX Corporation and CSX Transportation, Inc. (collectively referred to as "CSX"); the Norfolk Southern Corporation and the Norfolk Southern Railway Company (collectively referred to as "NS"); and Conrail, Inc. and the Consolidated Rail Corporation (collectively referred to as "Conrail"). The railroad control application seeks STB approval for the acquisition by CSX and NS of control of Conrail and the division of Conrail's assets by



and between CSX and NS. The proposed transaction involves over 44,000 miles of rail lines and related facilities covering a large portion of the eastern United States. The proposed acquisition will have a dramatic and substantive impact on rail operations in the state of Ohio.

Currently, the state of Ohio has approximately 5,800 miles of rail line within its borders. Conrail is Ohio's largest railroad operating over approximately 1,700 miles of rail line. Within Ohio, CSX and NS currently operate over approximately 1,460 and 900 rail miles, respectively.

- (5) On May 19, 1997, CSX announced plans to spend more than \$220 million to upgrade rail service in Ohio and Indiana as part of an overall plan to maximize its pending acquisition of Conrail operations and assets. Included in this project was a proposal by CSX to lay approximately 113 miles of new parallel track along the 270-mile former B&O rail route between Chicago and Greenwich, Ohio. The announced improvements would eventually allow CSX to provide full double-track service on part of a CSX-Conrail route between Cleveland and Chicago.

The construction will include improvements to bridges, railroad connections, sidings and train control signals. CSX plans to upgrade about 75 miles of existing track in Ohio to accommodate faster trains. As part of its proposed updated and upgraded operations, CSX plans to increase the number of trains operating daily over the B&O corridor by approximately 70 percent and to increase the speed of those trains to 70 miles per hour. As a result, a greater number of trains traveling at greater speeds will traverse approximately 140 passively protected grade crossings along the B&O corridor.

- (6) Prior to the STB filing and its announcements relative to Ohio operations, CSX approached Commission staff about safety concerns it had as a result of the anticipated increase in train traffic and speed along an expanded and upgraded B&O corridor. The Commission, in cooperation with the Ohio Rail Development Commission (ORDC), conducted a study of the CSX rail segments between Greenwich and the Indiana state line along the corridor to determine the impact the proposed CSX operations would have on safety at the grade crossings located along the corridor.

- (7) Following the study, the PUCO and ORDC staff entered into negotiations with CSX for a joint project to enhance grade crossing safety in advance of the significant increase in train traffic and train speed along the B&O corridor. The goal of the project is to enhance safety at as many grade crossings along the corridor as possible before the anticipated increase commences. The result of the negotiations is the Railroad Corridor Safety Agreement attached to this entry and incorporated by reference herein.
- (8) By using the factors set forth in Section 4907.471, Revised Code, and incorporating data related to the proposed post-Conrail operations of CSX on the B&O corridor, the Commission has identified the 39 grade crossings set forth in the agreement attached to this entry at which CSX has agreed to upgrade existing automatic warning devices to flashing lights and roadway gates. Further, the railroad and the staff have negotiated a cost sharing on these projects which provides that 44 percent of the cost of the project will be paid by CSX. The agreement also incorporates the recently negotiated "lump sum" payment concept which provides for further cost savings at the 26 crossings in this group which do not pose special engineering considerations. As is standard in agreements with railroads relative to the installation of warning devices, the cost of perpetual maintenance at each of these crossings will be borne by CSX.
- (9) The agreement reached between the Commission, CSX and ORDC is unprecedented and is designed to proactively address heightened grade crossing safety concerns along the B&O corridor that will see a greater volume of CSX trains traveling at greater speeds. The parties have agreed to jointly share in the costs of the safety projects. The proposed agreement provides for project cost allocation that reflects the increased accident prediction formula ranking of the crossings caused by physical and operational changes at these locations and incorporates the cost savings achieved as a result of 39 simultaneous projects.

Additionally, the Commission and ORDC agree to work with CSX and local communities to identify whether any of the grade crossings identified herein may be closed to vehicular traffic as an alternative to the installation of warning devices. The agreement is flexible enough to account for that possibility by providing that in the event of a closure of a

crossing identified herein, any money otherwise to have been spent for the installation of active warning devices at such crossing shall be applied to safety upgrades at any location within the B&O corridor.

Finally, the agreement provides that CSX shall complete the projects within one year from the date the Commission adopts the agreement or the effective control date as authorized by the STB, whichever comes earlier.

- (10) The parties do not view this agreement as answering all safety concerns or as concluding their joint efforts directed to enhance safety along the B&O corridor. Further, this agreement does not and cannot address other important concerns such as traffic congestion and emergency response in those areas affected by increased train traffic resulting from the Conrail acquisition. The parties contemplate further efforts on this corridor as well as on all other CSX rail lines that will experience an increase in train traffic generated by the acquisition of Conrail. Further, the Commission and the ORDC have begun preliminary discussions with NS to reach an agreement on similarly impacted NS rail corridors. Finally, this agreement does not preclude the Commission from taking whatever action it deems appropriate relative to rail safety on this corridor.
- (11) Grade crossing safety is one of the Commission's highest priorities. In light of the increased operations by CSX as a result of its acquisition of operations and assets of Conrail, the Commission believes that this historic agreement goes a long way to address safety concerns along the B&O corridor. We appreciate the efforts of our staff, the ORDC and CSX in addressing safety issues related to the Conrail acquisition and commend them for their proactive response in this matter. The agreement is reasonable and should be adopted by this Commission.
- (12) In order to provide for increased public safety during the pendency of these improvements, the Commission urges each local government agency with jurisdiction over the location of these crossings to make an immediate assessment of interim physical improvements which would enhance driver awareness of the crossing. The Commission will assist local governments with the cost of improvements such as rumble

strips, illumination, improved signage or other safety enhancements at these locations. Applications for this funding should be made to the Commission's Transportation Department, Rail Division, which shall review all proposals. In the event the Department finds the improvements appropriate, the Department director is hereby authorized to execute a contract with the government agency and obligate money from the state grade crossing safety fund for these improvements, not to exceed \$3,000 per crossing. Similar assistance shall be extended to communities where previously authorized warning improvements are pending.

- (13) Section 4905.54, Revised Code, requires every public utility or railroad and every officer of a public utility or railroad to comply with every order, direction and requirement of the Commission. That section further provides that any public utility or railroad which fails to comply with any order, direction or requirement of the Commission, shall forfeit to the state not more than \$1,000 for each such failure, with each day's continuance of the violation being considered a separate offense. The Commission expects CSX to comply with this entry in a timely manner. However, the railroad's failure to so comply will subject it to the forfeiture provisions set forth in Section 4905.54, Revised Code.

It is, therefore,

ORDERED, That Railroad Corridor Safety Agreement entered into by and between Commission staff, ORDC and CSX Transportation, Inc. be adopted by the Commission. It is, further,

ORDERED, That as set forth in the agreement, projects for the installation of additional protective devices be authorized for the public grade crossings identified in the agreement. It is, further,

ORDERED, That the preliminary engineering and construction costs associated with these installation projects be funded as set forth in the Agreement. It is, further,

ORDERED, That in accordance with staff's recommendations, CSX submit with the Commission's Railroad Division, as soon as possible, site plans and proposed time schedules for the installation of automatic flashing lights and highway gates at the crossings set forth in the attached agreement and, additionally, CSX is directed to submit cost estimates for the crossings set forth in Schedule C of the agreement. It is, further,

ORDERED, That because this Entry only approves and adopts the attached agreement, CSX not commence with the acquisition of materials and construction without first having been so authorized by the Commission following the submission of all required plans and estimates. It is, further,

ORDERED, That the installation projects be completed at these crossings no later than November 25, 1998, or the effective date of control as authorized by the Surface Transportation Board in Finance Docket No. 33888, whichever comes first. It is, further,

ORDERED, That the railroad notify Commission staff and the ORDC at the time the installations are completed and the signals and lights are activated, at which time the devices may be inspected. It is, further,

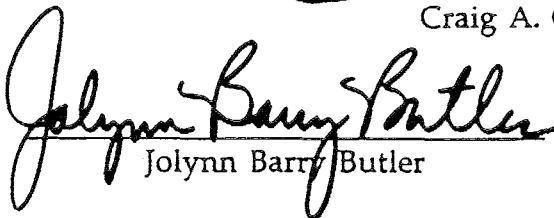
ORDERED, That all interested local governmental entities having jurisdiction of the roadway at the crossings identified herein may apply for Commission funding of up to \$3,000 for supplemental improvements at these crossings during the pendency of the construction projects by filing an application with the Commission's Transportation Department, Rail Division, as set forth in Finding 12. It is, further,

ORDERED, That a copy of this entry be served upon CSX Transportation, Inc.; the Ohio Rail Development Commission; the Board of Commissioners for Defiance, Hancock, Henry, Huron, Seneca and Wood counties; the mayors of Greenwich, Tiffin, Fostoria, Bairdstown, North Baltimore, Hamler, Holgate, and Defiance, Ohio; the Board of Trustees for Ripley Township (Huron County), Venice, Reed, Hopewell and Loudon Townships (Seneca County), Washington Township (Hancock County), Bloom and Jackson Townships (Wood County), Marion Township (Henry County), and Richland, Delaware and Mark Townships (Defiance County); and all other parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Craig A. Glazer, Chairman



Jolynn Barry Butler



Ronda Hartman Fergus

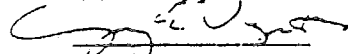
David W. Johnson

Judith A. Jones

REM/vrh

Entered in the Journal
NOV 25 1997

A True Copy



Gary E. Vigorito
Secretary

RAILROAD CORRIDOR
SAFETY AGREEMENT

This Railroad Corridor Safety Agreement is entered into by and among CSX Transportation, Inc. (CSXT or Railroad), the Ohio Rail Development Commission (ORDC) and the Public Utilities Commission of Ohio (PUCO) and is intended to facilitate the grade crossing safety improvements outlined herein.

RECITALS

WHEREAS, many of Ohio's public grade crossings are currently passively protected by crossbuck signage or equipped only with flashing warning lights;

WHEREAS, the PUCO has statutory authority to regulate to promote the welfare and safety of railroad employees and the traveling public pursuant to Ohio Revised Code 4905.04;

WHEREAS, the PUCO is responsible for evaluating public highway-railroad grade crossings to determine the need for upgrading active warning devices and apportioning the costs thereof pursuant to Ohio Revised Code 4907.471;

WHEREAS, the Federal Aid Highway Safety Act of 1973 and the Intermodal Surface Transportation Efficiency Act of 1991, and subsequent amendments thereto provide funding for the cost of safety upgrades to eliminate hazards at public grade crossings, which funding is administered jointly by the PUCO and ORDC pursuant to Ohio Revised Code Section 4907.476;

WHEREAS, the parties hereto propose to facilitate the improvements identified in this Agreement in accordance with the Federal Aid Policy Guide (FAPG) and applicable provisions of Title 23 of the United States Code pursuant to the terms hereof;

WHEREAS, CSXT is a principal party in a Finance Docket No. 33388, presently pending before the federal Surface Transportation Board (STB), jointly filed by CSXT and Norfolk Southern Corporation to gain control and operation of the rail transportation system of Consolidated Rail Corporation (the STB case);

WHEREAS, CSXT has identified a transportation corridor extending from Greenwich, Ohio in Huron County to the Ohio/Indiana border at a point in Defiance County (the B&O corridor) that will require expansion of the existing transportation system to accommodate a greater volume of its trains traveling at higher rates of speed that are expected to result from the STB case;

WHEREAS, CSXT, ORDC, and the PUCO jointly desire to address heightened grade crossing safety concerns along the B&O corridor route that are presented as a result of increased CSXT train volumes and speeds expected along this route;

WHEREAS, CSXT, ORDC, and the PUCO wish to jointly share in the costs of enhancing public safety at B&O corridor grade crossings;

WHEREAS, this agreement is the product of extensive negotiations by and among CSXT, ORDC, and the PUCO to promote grade crossing safety within Ohio;

NOW THEREFORE, CSXT, ORDC, and PUCO agree as follows:

I. B&O CORRIDOR CROSSINGS

The B&O corridor railroad/highway grade crossing locations subject to this agreement are those identified on Schedule A attached hereto. This list may be modified by agreement of the parties. CSXT, ORDC, and the PUCO have reviewed all of the crossings on the B&O corridor and contemplate that the grade crossings listed on Schedule A will be targeted for installation of safety enhancements in the form of traffic gates and flashing lights to provide maximum warning for the traveling public of approaching train traffic.

PUCO/ORDC agree to compensate CSXT for the cost of grade crossing safety improvements pursuant to the terms of this Agreement. Additionally, PUCO/ORDC agree to work with CSXT and local communities to identify whether any of the grade crossing locations identified on Schedule A may be permanently closed to public vehicular traffic as an alternative to installation of automatic warning devices. Public grade crossing closures, if any, shall be separately identified and negotiated on a case-by-case basis. In the event of closure of a Schedule A grade crossing, money otherwise to have been applied for installation of active warning devices at that crossing shall be applied to safety upgrades at any location within the B&O corridor mutually agreed upon by the parties.

II. COSTS OF GRADE CROSSING SAFETY UPGRADES

A. Costs

PUCO/ORDC and CSXT agree that the Federal Accident Prediction Formula (FAPF) utilized by the PUCO to prioritize public grade crossings for federally-funded safety upgrades, constitutes an appropriate mechanism upon which to allocate the costs, as between CSXT and PUCO/ORDC of all safety upgrades contemplated under this Agreement. In this regard, the parties agree to an allocation that reflects the increased FAPF ranking of the crossings on Schedule B caused by physical and operational changes at these locations. On this basis, PUCO/ORDC and CSXT agree to pay 56% and 44% respectively of the costs associated with installation of safety upgrades at Schedule B crossing locations.

PUCO/ORDC and CSXT agree that the total price for all safety upgrades at crossings shown on Schedule B shall be determined with reference to the concepts

set forth in the "Lump Sum" agreement recently negotiated between PUCO/ORDC and CSXT. In accordance with that agreement, PUCO/ORDC and CSXT agree that the total price for each Schedule B crossing safety improvement shall be \$81,600, an amount calculated with reference to the PUCO/ORDC-CSXT agreed upon lump sum amount for double track signal territory crossings with motion sensor circuitry, which is \$96,000, and further discounted by 15 percent. The parties acknowledge and agree that the costs of preliminary engineering are included in this amount.

B. Special Circumstances

The parties have identified certain characteristics at particular grade crossings located within the B&O corridor for which installation of active safety warning devices will require more engineering design work thereby increasing the cost required for performing the installation. This includes "railroad control points," which are those locations where there may exist a public crossing in close proximity to another grade crossing such that warning device signal circuits overlap, a track cross-over, a controlled track switch, or an interlocker. These grade crossings are listed on the attached Schedule C.

The actual cost of safety upgrades at each grade crossing identified on Schedule C shall be allocated as between CSXT and PUCO/ORDC in the same manner as specified in Section II (A), without discount. All billings shall be subject to the same provisions outlined in Section II (C), except that one hundred percent of preliminary engineering costs incurred for safety improvements to Schedule C crossings shall be reimbursed with state funds provided by the PUCO.

C. Billing

The railroad may bill ORDC monthly or periodically for materials and work completed. Progressive invoices may be submitted for work performed during the previous month or period showing the portion of the Lump Sum amount that is due the Railroad. The Railroad shall be paid the agreed upon price for each improvement upon final acceptance by the ORDC of work performed on that improvement. A final bill shall be submitted to ORDC within ninety (90) days after completion of improvement. Upon completion of installation of warning device improvements and inspection of same by the Railroad, the Railroad shall promptly activate the warning devices for public use. The Railroad shall provide written notification to PUCO of the date(s) on which the Railroad inspected the devices and placed them into public service. A project shall be deemed completed when the grade crossing safety improvement is activated for use by the public. ORDC shall pay all invoices within thirty (30) days after receipt of a proper invoice.

D. Completion

The Railroad shall complete the safety upgrades on the B&O corridor crossings listed on Schedule A and as may be amended by the parties from time to time,

by the earlier of the effective control date as authorized by the Surface Transportation Board in Finance Docket No. 33888 or 12 months from the date of issuance by the PUCO of its order adopting this agreement, except as provided below. In the event of closure of any B&O corridor crossing as referenced in Section I of this Agreement, the completion date for installation of active warning devices at a crossing substituted therefor shall be negotiated by the parties but shall, in no event, exceed 12 months from the date on which the closure is finalized unless otherwise agreed by the Parties.

III. RECORD KEEPING REQUIREMENTS

The Railroad shall make all records, plans, correspondence and other materials associated with any safety improvement performed under this Agreement available for examination and reproduction by authorized representatives of the U.S. Government, the State of Ohio and/or their agents. All project records shall be maintained by the Railroad for three years after final acceptance of the project or three years after the resolution of any disputes that may arise as part of any project.

The Railroad will make available to the U.S. Government, State of Ohio, or their authorized agents, their books, records, papers and materials pertaining to the Railroad costs of performing improvements.

IV. TERMINATION

In the event the STB fails to approve the pending application in Finance Docket No. 33388, CSXT reserves the right to terminate further performance under this agreement upon terms mutually agreeable to the parties hereto. This Agreement shall otherwise terminate at the end of the next biennium, June 30, 1999. If the safety upgrades covered under this Agreement are not completed by that date, it is the expressed intention of the parties to renew this Agreement for a successive biennium period until such time as all work contemplated herein has been satisfactorily completed.

Any renewal thereof is subject to the determination by PUCO/ORDC that sufficient funds and the authority to spend funds have been provided by the Ohio General Assembly to ORDC for the purposes of this Agreement and to the certification of funds by the Office of Budget and Management as required by the Ohio Revised Code, Section 126.07. If PUCO/ORDC determines that sufficient funds have not been appropriated for the purposes of this Stipulation, or if the Office of Budget and Management fails to certify the availability of funds, this Agreement will be terminated.

V. OHIO ETHICS LAW REQUIREMENTS

The Railroad agrees to adhere to the requirements of Ohio Ethics Law as provided by Section 102.04 of the Ohio Revised Code. O.R.C. Section 102.04 (A) prohib-

its a state official or employee from receiving compensation, other than from his own agency, for personal services rendered in a case proceeding, application, or other matters before any state agency. O.R.C. Section 102.04 (B) prohibits state officials and employees from selling goods or services to state agencies, except by competitive bidding.

It is understood by the parties that non-elected state officials and employees may qualify for an exemption under O.R.C. Section 102.04 (D), if (1) the agency with which the officials or employee seeks to do business is an agency other than the one with which he services; and, (2) prior to rendering personal services or selling or agreeing to sell goods or services, the official or employee files and O.R.C. Section 102.04 (D) settlement with the Ohio Ethics Commission, the agency with which he serves, and must include a declaration that the person disqualifies himself for a period of two (2) years from any participation in his official capacity as a board or commission member in any matter involving any official or employee of the agency with which he seeks to do business.

It is expressly understood and agreed to by the parties that a failure by the Railroad to file a declaration statement is required under O.R.C. Section 102.04 (D), may be considered by PUCO/ORDC to constitute a breach of material condition of this contract and the State may, if it so elects, void this contract.

VI. EQUAL EMPLOYMENT OPPORTUNITY

In carrying out this Agreement, the Railroad shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, national origin, handicap, age, or Vietnam-era veteran status. The Railroad will ensure that applicants are hired and that employees are treated during employment without regard to the aforementioned factors.

Such action shall include, but not be limited, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Lay-off to Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.

The Railroad agrees to conspicuously post for employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Railroad will, in all solicitations or advertisements for employees placed by or on behalf of the Railroads, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, sexual orientation, national origin, handicap, age, or Vietnam-era veteran statues. The Railroads shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials) and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

VII. DRUG FREE WORKPLACE

The Railroad agrees to comply with all applicable statutes and federal laws regarding a drug-free workplace. The Railroad shall make a good faith effort to ensure that all Railroad employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

VIII. HOLD HARMLESS PROVISION

The Railroad covenants and agrees to indemnify and hold, the PUCO/ORDC and their agents and employees harmless from and against any loss, claim, cause of action, damages, liability (including, within limitation, strict or absolute liability in tort or by statute imposed), charge, cost or expense (including, without limitation, counsel fees to the extent permitted by law), predicated on personal injury or death; or loss of or damage to property, and arising from work negligently performed pursuant to this Agreement. In case any action involving any work covered by this Agreement is brought by or against any party or parties, said party or parties shall promptly notify the other party or parties of such action.

This Agreement does not represent any admission of liability on the part of any party hereto. If the PUCO rejects all or any part of this Agreement, any party may, in writing submitted within ten days of the PUCO's order, elect to withdraw its consent to this Agreement, in which event this Railroad Corridor Safety Subsidy Agreement shall be deemed a nullity, and shall not constitute any part of the record in this proceeding.

The undersigned respectfully join in recommending that the PUCO issue an Order approving and adopting this Agreement in accordance with the terms set forth herein.

Schedule C-At Cost Crossings

XING #	COUNTY	CITY_CD	HIGHWAY	STREET
142119N	HURON	GREENWICH		KNIFFIN ST
142129U	HURON	GREENWICH	CR 150	NEW STATE RD.
142238X	SENECA	FOSTORIA	CITY	COUNTY LINE ST
142241F	HANCOCK	FOSTORIA	CITY	ADAMS ST
142242M	HANCOCK	FOSTORIA	CITY	CLEVELAND ST
142246P	HANCOCK	FOSTORIA	TWP 261	
142265U	WOOD	N BALTIMORE	TWP 138	GALATEA ROAD
142309S	HENRY	HAMLER	CR 7	
142312A	HENRY	HAMLER	CR 88	
142313G	HENRY	HAMLER		MAIN ST.
142314N	HENRY	HAMLER		MARION ST.
142328W	HENRY	HOLGATE		WILHELM
142345M	DEFIANCE	DEFIANCE	TWP 188	HARRIS

Schedule B-Lump Sum Crossings

XING #	COUNTY	CITY	HIGHWAY	STREET
142125S	HURON	GREENWICH	TWP 74	EDWARDS
142128Y	HURON	GREENWICH	TWP 52	OLD STATE RD.
142149F	SENECA	WILLARD	TWP 104	
142155J	SENECA	WILLARD	TWP 81	
142180F	SENECA	WILLARD	CR 108	
142161M	SENECA	WILLARD	TWP 79	
142164H	SENECA	REPUBLIC	CR23	
142172A	SENECA	REPUBLIC	CR 43	
142185B	SENECA	TIFFIN		CLINTON AVENUE
142210G	SENECA	BASCOM	TWP 101	
142213C	SENECA	BASCOM	CR 5	
142217E	SENECA	FOSTORIA	TWP 47	YOCHUM ROAD
142251L	HANCOCK	BLOOMDALE	CR257	PURSELL ROAD
142258V	WOOD	BLOOMDALE	TWP 73	CLOVERDALE ROAD
142258J	WOOD	BLOOMDALE	TWP 72	LONG ROAD
142261S	WOOD	BAIRDSTOWN		SIMON STREET
142272E	WOOD	N BALTIMORE		SECOND STREET
142288B	WOOD	HOYTVILLE	TWP 42	WESTON ROAD
142297A	HENRY	DEHLER	CR 1	
142321Y	HENRY	HOLGATE	CR F	
142328W	HENRY	HOLGATE		WILHELM
142338C	HENRY	HOLGATE	CR 18	
142352X	DEFIANCE	DEFIANCE		SQUIER ST
142374X	DEFIANCE	DEFIANCE	TWP 144	ASHWOOD RD
142381H	DEFIANCE	SHERWOOD	CR 134	THE BEND ROAD
142390G	DEFIANCE	SHERWOOD	TWP 122	FARMER MARK RD
142394J	DEFIANCE	SHERWOOD	TWP 119	BREININER

Schedule A - All Project Xings

XING #	COUNTY	CITY	HIGHWAY	STREET
142119N	HURON	GREENWICH		KNIFFIN ST
142125S	HURON	GREENWICH	TWP 74	EDWARDS
142126Y	HURON	GREENWICH	TWP 52	OLD STATE RD.
142129U	HURON	GREENWICH	CR 150	NEW STATE RD.
142149F	SENECA	WILLARD	TWP 1048	
142155J	SENECA	WILLARD	TWP 81	
142160F	SENECA	WILLARD	CR36	
142161M	SENECA	WILLARD	TWP 79	
142164H	SENECA	REPUBLIC	CR23	
142172A	SENECA	REPUBLIC	CR 43	
142185B	SENECA	TIFFIN		CLINTON AVENUE
142210G	SENECA	BASCOM	TWP 101	
142213C	SENECA	BASCOM	CR 5	
142217E	SENECA	FOSTORIA	TWP 47	YOCHUM ROAD
142238X	SENECA	FOSTORIA		COUNTY LINE ST
142241F	HANCOCK	FOSTORIA		ADAMS ST
142242M	HANCOCK	FOSTORIA		CLEVELAND ST
142248P	HANCOCK	FOSTORIA	TWP 261	
142251L	HANCOCK	BLOOMDALE	CR 257	PURSELL ROAD
142256V	WOOD	BLOOMDALE	TWP 73	CLOVERDALE ROAD
142258J	WOOD	BLOOMDALE	TWP 72	LONG ROAD
142261S	WOOD	BAIRDSTOWN		SIMON STREET
142265U	WOOD	N BALTIMORE	TWP 138	GALATEA STREET
142272E	WOOD	N BALTIMORE		SECOND STREET
142288B	WOOD	HOYTVILLE	TWP 42	WESTON ROAD
142297A	HENRY	DEHLER	CR 1	
142309S	HENRY	HAMLER	CR 7	
142312A	HENRY	HAMLER	CR 8B	
142313G	HENRY	HAMLER		MAIN ST.
142314N	HENRY	HAMLER		MARION ST.
142321Y	HENRY	HOLGATE	CR F	
142328W	HENRY	HOLGATE		WILHELM
142338C	HENRY	HOLGATE	CR 18	
142345M	DEFIANCE	DEFIANCE	TWP 188	HARRIS
142352X	DEFIANCE	DEFIANCE		SQUIER ST
142374X	DEFIANCE	DEFIANCE	TWP 144	ASHWOOD RD
142381H	DEFIANCE	SHERWOOD	CR134	THE BEND RD
142390G	DEFIANCE	SHERWOOD	TWP 122	FARMER MARK RD
142394J	DEFIANCE	SHERWOOD	TWP 119	BREININER

This Railroad Corridor Safety Agreement may be executed in one or more counterparts, each of which shall be deemed to be a duplicate original, but all of which taken together shall be deemed to constitute a single Agreement. This Agreement shall become effective upon its adoption by the PUCO.

CSX TRANSPORTATION, INC.

By 

Title Senior VP - Technology

Date November 19, 1997

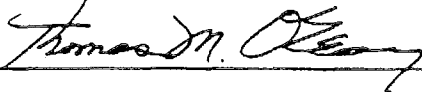
PUBLIC UTILITIES COMMISSION
OF OHIO

By 

Title DIR., TRANS. DEPT.

Date 11/21/97

OHIO RAIL DEVELOPMENT COMMISSION

By 

Title EX. DIRECTOR

Date 11/21/97



State of Ohio Environmental Protection Agency

STREET ADDRESS:

1800 WOODMARK DRIVE
Columbus, OH 43215-1099

TELE: (614) 644-3020 FAX: (614) 644-2329

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

To: Susan Ashbrook, AGO
From: ^{BH} Bob Hodanbosi, Chief, DAPC
Subject: Conrail Merger EIS
Date: February 2, 1998

Attached is a summary of the EIS performed by a member of the DAPC staff. The more important points that should be considered are:

1. There will be a statewide increase of emissions of nitrogen oxides (NO_x) of over 7000 tons per year. This is a significant amount, although it is distributed throughout a number of counties in the state. However, U.S. EPA has proposed a statewide budget for NO_x to reduce the impacts of transport on downwind states. These emission increases from the merger will need to be offset by decreases from other source categories (e.g. utilities).
2. The EIS examined emissions in relative percentages to existing emissions from a county. For carbon monoxide and NO_x, if there was a significant increase in emissions, additional air quality impacts were performed. The report indicates that there will be no adverse impacts due to these pollutants. However, carbon monoxide increases in Cuyahoga County remain a particular concern due to the county's former nonattainment status.
3. There is no analysis of the air quality impact on the former one-hour ozone standard. Due to the increases in NO_x, there will be local and regional effects on ozone air quality. The draft EIS did not examine the effect of the merger on the one-hour ozone standard.
4. There is no analysis with respect to the new air quality standard for ozone. During the summer of 1997, U.S. EPA promulgated a new eight-hour standard for ozone. Much of Ohio does not conform to this new standard and it can not be determined what impact of the merger will be on the new standard.
5. In the summer of 1997, U.S. EPA promulgated a new ambient air quality standard for PM_{2.5}. There is no quantification of PM_{2.5} emissions from the increased train traffic. It is expected that many areas of the state will not comply with the new standard, and the increased diesel particulates will exacerbate the problem, but it is impossible to quantify by how much, since this pollutant was not addressed.

Please contact me at 644-2270 if you have any question.





Ohio Environmental Protection Agency
Division of Air Pollution Control

INTER-OFFICE COMMUNICATION

TO: Bob Hodanbosi, DAPC
FROM: Harry Judson, DAPC
DATE: February 2, 1998
RE: Proposed Conrail Acquisition EIS

The proposed Conrail acquisition will result in expanded rail lines in Ohio, upgraded routes and new connectors, and new construction of rail yards and intermodal facilities.

The acquisition will increase rail emissions as a result of expanded railway systems and increased traffic. Some of these increased emissions will be offset by truck to rail diversions resulting in less highway truck traffic and congestion.

Additional rail routes and improvements in signal systems will result in more efficient rail movement, faster trains, and less auto idling at grade crossings.

A new intermodal facility in Columbus will increase ADT by 4%. This is considered insignificant and will have no impact on air quality in Franklin County.

In evaluating specific air pollutants, only NOx and CO show exceedances of the "screening threshold." Diesel emissions, unlike auto emissions, are low in hydrocarbon emissions.

Increased county emissions as a result of increased rail activity were evaluated for each county in Ohio. Three of Ohio's "moderate" counties exceed a 1% increase in total county emissions for NOx. Again this increase will not affect ambient air quality levels. In modeling analyses, a threshold level of 100 additional tons/year was looked at since this is the size of a major stationary source. In corridors where CO levels are projected to exceed 100 tons/year, the dispersion effects of CO from a moving source will significantly reduce the impact of CO from rail traffic. Based on the draft EIS, the increases in emissions will "not affect compliance with air quality standards."

The total Statewide increase in NOx emissions from this project (obtained by adding the increases for the individual counties) amounts to 20.17 tons/day. In 1990, statewide point source emissions of NOx were estimated to be 1777 tons/day. Assuming point source emissions amount to approximately 30% of the total point, area and mobile source inventory, the proposed project will increase statewide NOx emissions by 0.378%. When comparing the impact to existing point source NOx emissions, a 1.13% increase would occur.

Although mention is made of new NOx reduction requirements for train engines, no analysis or estimate of impact is presented.

No mention is made of the impact of NOx increases on the stricter new ozone standard to be implemented in 2003 (NOx being a precursor), nor the impact on the OTAG SIP call requiring Ohio to reduce utility NOx emissions by 85%.

**CONRAIL ACQUISITION
FOSTORIA REMEDIATION STUDY**

Prepared for: Ohio Rail Development Commission
City of Fostoria, Ohio

Prepared by: **PARSONS BRINCKERHOFF**
Cleveland, Ohio
January 31, 1998

A-538-d



BACKGROUND INFORMATION

The City of Fostoria is located in Northwest Ohio, and has a population of approximately 15,000. It is predominately a manufacturing community with major ties to auto manufacturing and agricultural industries. A major rail junction, the community currently has twenty-two (22) at-grade crossings because of the 45,000 feet (8.6 route miles) of main line rail corridors within the city. These crossings have a major impact on both vehicular and pedestrian traffic.

Three grade separations exist in the community, and are located on the designated state highway system. The location of these grade-separated crossings, in conjunction with motorists' tendency to avoid potential delays at grade crossings, has a channeling effect on vehicular traffic causing congestion in the downtown area.

Fostoria is located at the junction of three distinct rail lines:

- Norfolk Southern Lake Division Fostoria District (oriented generally east-west, connecting Bellevue to Chicago). Traffic includes a wide range of commodities, including coal, general merchandise, and some intermodal traffic.
- CSX former B&O (oriented generally east-west, connecting Pittsburgh to Chicago). Traffic includes all types, with significant intermodal traffic.
- CSX former C&O Columbus subdivision (oriented generally north-south, connecting Columbus and Toledo). Traffic is primarily coal south of Fostoria, with significant other traffic north of Fostoria.

The lines and the current/projected traffic levels are shown on the attached Figure 1. Each line is double track within the City, and the lines cross each other at grade in the southern portion of the City. Because of this arrangement, rail traffic can generally pass through the City on only one line at any given time, although it is possible for two trains (one on each of the two tracks) on the same line to operate simultaneously. A limited number of other simultaneous movements are also possible. According to the CSX/NS Operating Plan as filed with the Surface Transportation Board (STB), about 84 daily trains pass through the city, including both through movements and movements using connecting tracks.

The rail configuration is complicated by active connection tracks joining the lines, especially those joining the two CSX lines. Currently, a significant amount of rail traffic changes direction in Fostoria via the four CSX connection tracks, which are designated by physical location (northeast, southeast, etc.) relative to the B&O/C&O crossing. This crossing is also the location of the building housing the operating control point for the area, called "F" Tower. Although dispatching on all lines is handled remotely from central offices, the crossings and connections themselves remain under the control of an operator at "F" Tower, who takes

direction and input from the individual dispatchers.

These connections and their common uses are described as follows:

- **Northeast Connection:** Heavily used by Willard-Toledo/Michigan trains, including significant automobile industry traffic.
- **Southeast Connection:** Used by Willard-Columbus merchandise and coal trains.
- **Southwest Connection:** Used by local freight movements and unknown, but likely limited, number of through trains.
- **Northwest Connection:** Previously heavily used by Cincinnati-Deshler-Fostoria-Toledo trains. Traffic on this connection has assumed to decrease as a result of CSX's increasing use of the direct Deshler-Toledo line.
- **NS Connections:** Join both former B&O and former C&O to NS in the northeast quadrant of the crossing. Traffic is relatively light, consisting of transfer movements between the two railroads.

Movements on these connection tracks require significantly longer time to pass through the city, since speeds are generally limited to 10 to 15 mph over the connections themselves because of high curvature (order-of-magnitude 15 degrees) and short-length turnouts. Trains must slow to this speed while approaching the area, and cannot begin to accelerate until the entire train has traversed the connection.

It is important to note that neither the proposed Operating Plan nor other data available to date includes information regarding the number of movements on the respective connecting tracks. This data is critical to the accurate estimation of merger-related impacts on the city. For this analysis, assumptions regarding the distribution of traffic were made based on observation and a general understanding of northern Ohio traffic patterns.

CONRAIL ACQUISITION

As noted previously, the number of daily trains passing through Fostoria will increase from about 84 to 108 as a result of the acquisition. The STB has the obligation to review environmental and other impacts of traffic changes resulting from the acquisition. The city of Fostoria experiences numerous problems because of the existing rail traffic levels, but these impacts will increase following the merger. The State of Ohio and city take the position that these merger-related impacts be acknowledged and addressed as a condition to any approval of the acquisition.

PROBLEM DEFINITION

With all three major rail lines receiving increased traffic, there will be significant negative impacts on the safety, movement of vehicular traffic, economic development, and overall quality of life issues for the citizens of Fostoria. Perhaps the most critical impact is safety and emergency response time.

Two areas of the community, one to the east and one to the west, have been dubbed "Iron Triangles" by emergency response forces. This is because of the difficulties in reaching the areas quickly and reliably as a result of the at-grade crossings being blocked by trains. The location of the police, fire, and ambulance services and the hospital are shown on Figure 2.

The West Triangle area is defined as the area south and west of the CSX (formerly Baltimore & Ohio) line crossing West Tiffin Street, and north of the NS line crossing Findlay Road. It currently includes 198 homes, 3 businesses (one of which maintains chlorine on the premises), and 1 power substation. This area is detailed in Figure 3.

The East Triangle area is south and east of the NS line and north and east of the CSX (B&O) line. CSX also has a switching yard immediately east of the Columbus Avenue grade crossing, which generates additional train movements. This is compounded by slow moving rail traffic diverging onto the former C&O lines. The East triangle has 98 households, 8 businesses, and 1 church. The area is shown in Figure 4.

Based on observation and past practice, east-west trains awaiting clearance to proceed through Fostoria typically are held west of Findlay Street and east of Columbus Avenue, which helps keep these two roadways open to provide access to the two sectors. However, moving trains (some at slow speeds) and trains stopped clear of the crossings but within the limits of the electronic crossing circuit detection systems (thereby activating crossing warning systems including gates) can still block access for emergency vehicles. The proposed increase in rail traffic volume will be expected to heighten this risk following the merger.

Train delays at Fostoria as a result of the acquisition will also have effects on the northern Ohio rail network and on other cities in the Fostoria area. Following the Conrail acquisition, according to the proposed Operating Plan, both CSX and NS will each have a primary and a secondary Chicago-East Coast route traversing northern Ohio. This is a total of four main lines, two of which cross at Fostoria. Similarly, northwest Ohio will have four main north-south (Cincinnati/Columbus-Toledo) routes, one of which crosses at Fostoria, while a second (CSX via Deshler) is operationally related to Fostoria. A third, the Conrail (to become CSX) Toledo Line via Findlay, will be significantly downgraded. The fourth is NS via Bellevue.

This means that operating conflicts and congestion at Fostoria are likely to have significant spill-over effects on the rail network in northern Ohio. This will affect numerous stakeholders in terms of environment impacts, safety hazards, and competitive issues.

DRAFT EIS

The SEA's Draft Environmental Impact Statement almost completely ignores impacts on Fostoria as a result of the acquisition, and is grossly inadequate. Although segment C-070 (Marion-Fostoria) and C-075 (Willard-Fostoria) are identified as meeting the threshold for analysis by the SEA, neither the individual nor the cumulative impacts of the increased traffic are considered on safety and grade crossing delays.

In fact, the rail system configuration in Fostoria, with three major rail/rail crossings, will cause impacts far in excess of the sum of the traffic increases on the three individual rail lines because:

- crossing delays will be compounded by stopped trains and trains moving at speeds far below maximum or reasonably-expected speeds while awaiting other trains to clear at-grade rail crossings
- a significant number of trains will diverge from former B&O to former C&O trackage, requiring the use of slow speed connection tracks. These tracks and associated turnouts are not, and in most cases cannot be, configured for speeds in excess of 15 mph. Typical speeds are likely closer to 10 mph. For the proposed 6200 foot typical CSX post-acquisition train, this will result in a blocked crossing time per diverging train of 7.5 minutes.

It can only be assumed that the Columbus Avenue and Tiffin Street crossings are not evaluated for impact because of low traffic volumes. While documented traffic volumes are not currently available (and could in fact be below the SEA threshold of 5000 ADT), the arterial nature of the roadways and the potential for the two areas to be completely isolated by rail traffic, warrant that the roadways be considered for mitigation.

CRITERIA OF SIGNIFICANCE FOR TRANSPORTATION EFFECTS

The SEA identifies crossing delay per vehicle and average delay for all vehicles as key criteria for transportation (convenience) effects at crossings. Fostoria presents a challenge in evaluating these effects because of multiple at-grade crossings that may be encountered in a typical auto journey, and because of inter-relationships involved in rail operating patterns. However, to illustrate the approximate effects of the acquisition, sample analyses were performed for major roadway access routes in the east and west triangles.

For the sample analysis of the east triangle, assumptions were made for the southerly Columbus Avenue crossing (east triangle) of the former B&O. This is a key emergency response route because of the ability to reach the south side of this crossing via the underpass roadways. An ADT of 5000 (no traffic data is available) was assumed. Train movements assumed include the passage of 18 diverging-movement trains at 10 mph (estimated, not provided by available Applicant data) and the passage of 36 through trains at 40 mph (assumes an increase in allowable speed resulting from CSX's improvements to the line). This totals 54 trains as shown in the Operating Plan. This would result in a Level of Service for the crossing far below the threshold for level "F", with an average delay per vehicle of about 100 seconds. Even if diverging rail movements and vehicular traffic levels are less than assumed, conditions at the crossing are likely to fall below the acceptable threshold level of service.

Alternative routes into the east triangle are Columbus Avenue from the north, which crosses both CSX (C&O) and NS, which makes delays a significant risk. Town Street is only affected by NS, and may experience a lower increase in delay as a result of the acquisition, but it is located at the west end of a yard and of the distribution center lead track, increasing potential delays from switching movements.

A similar analysis for the Tiffin Street B&O crossing results in an average delay per vehicle of about 35 seconds. Although this may not meet the SEA threshold criteria for "significant impact", which is a value over 40 seconds, especially considering potential inaccuracies in traffic volume assumptions, the isolated nature of the area must be considered on the basis of unacceptable emergency response time. The only alternative for access to this area is CR 262 west of town, a detour of over three miles. Vine Street and Findlay Street include NS crossings, and do not provide access to the major portion of the triangle.

Even if the assumptions used in the analyses are somewhat inaccurate, based on the Columbus Avenue analysis, it appears likely that the east triangle area will violate the threshold levels. The justification for the west triangle area may be less strong on a transportation basis, but will be further supported by emergency response issues. By any measurable standards, it is difficult to suggest that conditions in these two areas are acceptable, and will remain acceptable under post-acquisition traffic levels.

CRITERIA FOR EMERGENCY VEHICLE RESPONSE

To determine the delays encountered by emergency vehicles at at-grade crossings, the Surface Transportation Board's Section of Environmental Analysis (SEA) used a formula to calculate the Total Daily Blocked Crossing Time. The Total Daily Blocked Crossing Time is an indicator of the risk of delay since it indirectly

measures the probability that an at-grade crossing will be blocked at the time that an emergency vehicle would need to cross the tracks.

It is found by multiplying the blocked crossing time per train by the number of daily trains. This formula assumes the train is moving at a constant speed, slightly less than the maximum allowable speed. It does not include the additional startup or slow down time required for trains stopping near crossings, nor does it include time for trains to stop and allow other trains to pass or switch tracks.

Detailed analyses will be provided in a following section. A simple review of Table C-6 in the DEIS Appendix, however, shows that the increase in total daily blocked crossing time is over 50% for increases in train frequency of 32.5 to 54, as will be experienced on the south crossing of Columbus Avenue regardless of assumed operating speed. The additional diverging-movement trains will increase this further.

The increase in total blocked crossing time in the west triangle at Tiffin Street is less substantial, because rail traffic will increase only from 34 to 37.9 daily trains. Again, however, because of the potential isolation of the area, mitigation is warranted as described in the following section. Additionally, even the SEA does not establish criteria as to the threshold levels for acceptable emergency response time effects.

CURRENT EMERGENCY RESPONSE PRACTICES

The procedure for responding to police or fire emergency situations in the two triangle areas is to dispatch two vehicles along separate paths, increasing chances of successfully entering the triangles. In the event that both vehicles are able to cross the tracks, the first crew determines whether to enter the scene immediately, possibly compromising their own safety, or wait until a second vehicle arrives with backup. This additional time is critical, because experts claim that each additional minute a fire burns, a fire can double in its size and intensity.

Table 1 below compares approximate response times for police, fire, and ambulance services along various reasonable existing routes into the Iron Triangles. Each of the routes includes only one at-grade crossing, and it is assumed that no train or vehicular traffic delays are encountered. With the large volume of trains passing through Fostoria, the likelihood of encountering this "perfect condition" is dangerously low.

RAIL CROSSING	POLICE	FIRE	AMBULANCE
TO WEST TRIANGLE			
Tiffin Street	2.11	1.96	4.95

Twp. Road 262	8.80	8.48	12.89
Independence	2.56	2.44	5.15
Adams Street	2.34	2.22	4.93
TO EAST TRIANGLE			
Town Street	1.96	2.41	6.07
Columbus Ave.S	3.38	3.13	7.47

**Table 1 – Existing Emergency Response Times (minutes)
Assumes No Delays at Rail Crossings**

Table 2 below shows the response times of each emergency service into the Iron Triangles assuming that only one moving train impedes the emergency vehicle's progress and that each vehicle arrives just as the gates are being lowered. It was assumed that CSX trains were 6200' long and traveled at 15 miles per hour (mph) when using a connection to another track. While this appears to represent the worst case scenario, train speed could well be lower. NS trains were assumed to be 5000' long and travel at speeds of 35 mph.

RAIL CROSSING	POLICE	FIRE	AMBULANCE
TO WEST TRIANGLE			
Tiffin Street	7.31	7.16	10.15
Twp. Road 262	10.92	10.6	15.01
IndependenceSt	4.68	4.56	7.27
Adams Street	7.54	7.42	10.13
TO EAST TRIANGLE			
Town Street	4.08	4.53	8.19
Columbus Ave.S	8.58	8.33	12.67

**Table 2 – Emergency Response Times (minutes)
With Delay Resulting from Encountering One Moving Train**

Although few firm standards exist, it is understood that fire professionals recognize 3 minutes or less as good, acceptable response times, depending on local conditions. Seven minutes is often considered to be beyond the acceptable threshold. Some of the response times in Table 2 are within the acceptable limits, however as mentioned earlier, they do not take into account stopped trains blocking a crossing or those starting up from or slowing down to a stopped position. If any of those situations occur, the response time will be far longer.

Comparing Tables 1 and 2, in the event that no train is blocking the tracks the shortest response time into the west triangle is via Tiffin Street. If a train is blocking Tiffin, Independence Street becomes a more favorable route whether or not a moving train also blocks it. This makes the route choice even more confusing to emergency personnel who have no reliable way of predicting which crossings will be blocked at a particular time of day.

According to the SEA's formula, under current volume levels a train is blocking one or more at-grade crossings in Fostoria more than four and one half hours (4.6) hours out of each twenty-four hour day. That equates to 19% of the day that rail traffic will affect emergency vehicles directly. The knowledge of this risk also has an indirect affect as emergency response forces attempt to predict crossing conditions. With the increased train volumes resulting from the acquisition, a crossing will be blocked over six hours, which is over 25% of the day. It is apparent that some alternate provision must be made for the safety of residents within the Iron Triangles.

JONES ROAD CROSSING IMPACTS

A third area of Fostoria was analyzed to identify impacts of the acquisition. Jones Road, near the north city line, is the most highly traveled roadway in the county. It handles high volumes of industrial transport for which there is no nearby parallel route. Train delays at the CSX (C&O) crossing are common as trains await clearance to proceed through Fostoria and to switch cars for local industries. A part of the problem is the location of absolute signals at the east end of the Fostoria Center Siding, just south of the crossing. Trains often proceed up to this signal, when traffic delays would be minimized if trains waited north of the crossing. Stopped trains often trigger the crossing gates for extended periods of time, physically blocking vehicles from crossing the tracks.

In addition to the safety concerns associated with increased rail traffic further blocking the at-grade rail crossings, Fostoria has concerns about its future economic viability and overall livability. Fostoria recently supported the opening of a new intermodal auto mixing plant on the NS route south of Jones Road and east of town. Severe delays in vehicular transport will discourage other new business and industry ventures from wanting to locate their facilities in the City thereby hindering economic growth. With the additional trains generated from both the Conrail acquisition and the new mixing plant, the delays could become so lengthy, that other existing businesses would be forced to relocate.

Crossing delays at Jones Road also have safety implications. There is the potential for the east half of the city to be cut off from ambulance services, or at minimum, experience long delays because of circuitous detour routings. With the next parallel road to Jones being relatively far to the south, a blocked crossing

could add an extra 3.6 minutes to an ambulance's response time to an incident just east of the tracks on Jones Road.

MITIGATION ALTERNATIVES

Three general approaches to minimize or mitigate the effects of rail congestion in Fostoria appear worthy of further consideration. These are:

- the re-routing of rail traffic onto other rail lines in the region,
- the minimization of travel time for rail traffic through Fostoria, and
- local roadway access and safety-related improvements in Fostoria.

Regional Re-routing

The Operating Plan dramatically reduces traffic levels (from about 12 to fewer than 2) on the Conrail (to become CSX) Columbus-Toledo Toledo Line, even though this is a relatively direct through route. It is suggested that impacts on Fostoria could be minimized by diverting some traffic from the CSX Columbus Subdivision to the Toledo Line.

Other re-routing possibilities is noted in the following section.

Minimize Travel Time through Fostoria

The number of trains operating through Fostoria is proposed to increase from about 84 to about 108, depending on the distribution of trains using the various connection tracks. While this increase is of concern, the relative distribution of traffic on the connection tracks will have a particularly significant effect on the amount of rail congestion and thereby roadway congestion and delays at crossings.

This is because at maximum speeds of 15 mph through the connection tracks, the amount of time required for a CSX train to pass a crossing in Fostoria is a maximum of 5.2 minutes, is more likely 7.5 minutes, and could easily exceed 10 minutes. However, a through train traveling at 40 mph could pass within about three minutes. This example is intended to be illustrative, and may not accurately reflect current average travel times. Regardless, it is apparent that the total travel time for all trains through Fostoria is likely to decrease as the number of CSX trains using the connection tracks is minimized.

This could be accomplished by:

- routing Chicago-Toledo or Cincinnati-Deshler-Toledo traffic via the line north from Deshler, minimizing traffic on the northwest connection.
- routing some Willard-Toledo traffic via Deshler, decreasing traffic on the

northeast connection.

- routing some Columbus-Willard traffic via Greenwich, decreasing traffic on the southeast connection (depending on the need re-classify trains at Willard).

Local Access Improvements including Grade Separated Crossings

SEA established criteria for the identification of locations requiring grade separation. These are:

- Post acquisition traffic levels must decrease one LOS grade and be "E" or "F" following the acquisition. Based on the previous analysis, the Columbus Avenue/east triangle meets this criteria. The Tiffin Street/west triangle likely does not meet this criteria.
- Acquisition-related rail traffic must increase by at least eight daily trains. The east triangle meets this criteria based on the former B&O alone. The west triangle meets this criteria when considering cumulative impacts of a 3.9 increase in B&O traffic in addition to a 4.6 increase in NS traffic.
- Increased train speeds are infeasible or insufficient. Because of the uncertainties and inter-relationships involved in rail operating patterns in Fostoria, increased train speeds will provide only a partial, and relatively insignificant, mitigation of impacts.

The east triangle very likely meets these criteria. The west triangle may meet this criteria, but certainly approaches these criteria. Additionally, however, the potential for these two areas to become isolated by rail movements is very high, and the unreliability and unpredictability of direct emergency service routes is very dangerous. These conditions must be considered in addition to the above criteria. It is strongly recommended that measures for mitigation be required, including the construction of grade separations in both areas.

SPECIFIC ALTERNATIVE IMPROVEMENTS

Alternatives were developed based on the previous analysis, a brief analysis of alternatives, field visits to the sites, review of City/CSX correspondence, and personal interviews, and conceptual engineering design of three potential grade separations.

East Triangle

Alternative solutions for this area include:

- Grade separation of Columbus Avenue at B&O. Limited available distance for

approaches and significant impacts on adjacent properties.

- Grade separation of Columbus Avenue at NS, C&O, and connection tracks. Existence of multiple tracks complicates this approach.
- Grade separation of Town Street. Railroad already higher than roadway.
- Grade separation of Lewis Street at B&O. Narrow road with poor alignment.
- Grade separation of B&O at new location east of city. Costly because of significant new connector roadways required, and requires detour of at least one mile.
- Grade separation of TR 43 at B&O east of city. Same as new location above, with detour of as much as three miles.
- Grade separation of CR 60 at NS east of city. Same as above, with detour of almost three miles even if NS access road is used.

A preliminary review suggests that a separation at Town Street under the NS main line and connection track is the most beneficial alternative, with a relatively low cost. Although this involves construction on the NS line, while it may be that CSX operations directly cause a disproportionate delay and blockage of roadways to the east triangle, it is important to consider that the acquisition of Conrail is a joint undertaking by both NS and CSX. Both companies must be held responsible to mitigate impacts, and solutions should be global in nature.

Conceptual design was performed, with sketches following this report. A 25 mph design speed was used. The project will require relocation of 24" sanitary sewer and 6" water lines. A pump station for storm water will be needed with a suitable outlet point, which has not been researched at this time. Impacts on adjacent properties include minor takings on the north side, with a commercial business and four residences on the south side taken. The construction of retaining walls would decrease this impact, but increase costs.

The project is estimated to cost about \$6.2 million.

West Triangle

Alternative solutions for this area include:

- Grade separation of Tiffin Street. Crossing is at a skew angle, requiring roadway alignment changes.
- Grade separation of Adams Street. Extremely limited distance for approach roadways.

- Grade separation of Findlay Street over either NS or B&O. Would require construction of a connector road through industrial properties parallel to NS siding trackage in the Mennel Mill.
- Grade separation of TR 262 west of town. Would involve detour of over three miles.

The overpass of Tiffin Street over CSX (B&O) appears to be the best solution to serve the west triangle. To guarantee access to industries on Vine and Findlay Street, the improvement of access through industrial facilities, at least for emergency use, is required. Unless new information becomes available, we do not agree with CSX's October 10, 1997 assessment that this site is not feasible for a separation.

As shown in sketches following this report, conceptual design used a 25 mph design speed, but a 35 mph version could likely be considered. An overpass was selected to minimize impact on the 36" raw water line that crosses the site on a north-south line, but the overpass must also be designed to avoid impacts. The design would require the closing intersections of Tiffin with Watson, Elwood, and south Independence. Rail at-grade crossings would be eliminated at Tiffin, and could be considered at Cleveland and Adams. A major issue to further research involves environmental impacts on the property require north of the existing right-of-way. Property impacts include taking one residence (total) and other land takes.

The project is estimated to cost about \$2.1 million, if no significant environmental remediation is necessary.

Jones Road

Alternatives for mitigation of impacts at Jones Road were:

- Grade separation of Jones Road over CSX
- Rail operational changes that could minimize the amount of time the crossing is blocked or signals are activated

A grade separation was evaluated, as shown in the sketches following this report. Design parameters included a 45 mph design speed (w/ min. K factor for vertical curves), relocation of existing sanitary and waterlines because of excessive fill heights, and the use of retaining walls along the north side of Jones Street to lessen the impact to the existing commercial properties. Access to those sites located in the northwest quadrant would require agreements with adjoining owners. The business located in the southwest quadrant would lose access to the north end of the building.

The project is estimated to cost about \$4.5 million. The overall amount of work, length of project and total cost could be reduced by lowering the design and posted speed to 35 mph.

Alternatively, crossing delays can be minimized by:

- Ensuring that the crossing protection systems are operating correctly.
- Upgrade of crossing protection systems to motion-detection systems. This would minimize the time that signals are activated when trains are not blocking the crossing.
- Implementation and enforcement by CSX of prohibitions on trains entering the crossing until clearance is available through town.

Design Note

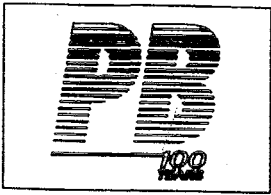
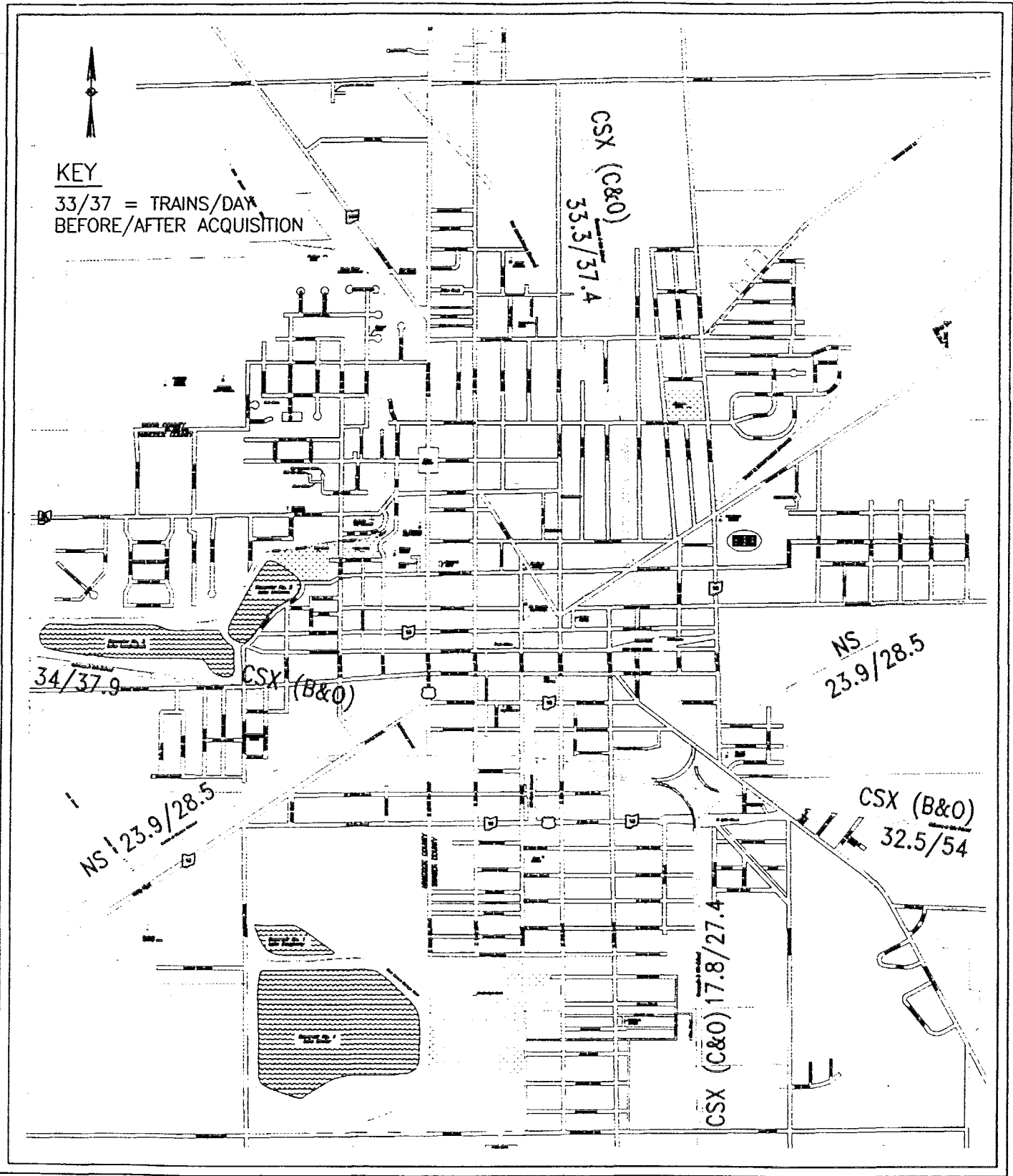
All grade separation designs described here are conceptual, and do not address all aspects of the proposed solution in detail. However, in our opinion all are determined to be feasible, and are recommended for consideration.

RECOMMENDATIONS

In order to mitigate the impacts resulting from increased rail traffic resulting from the Conrail acquisition, a number of remediation measures were considered including rerouting rail traffic outside Fostoria, providing grade separations, and improving various aspects of the rail operations. The following improvements appear feasible and justified:

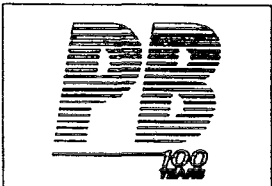
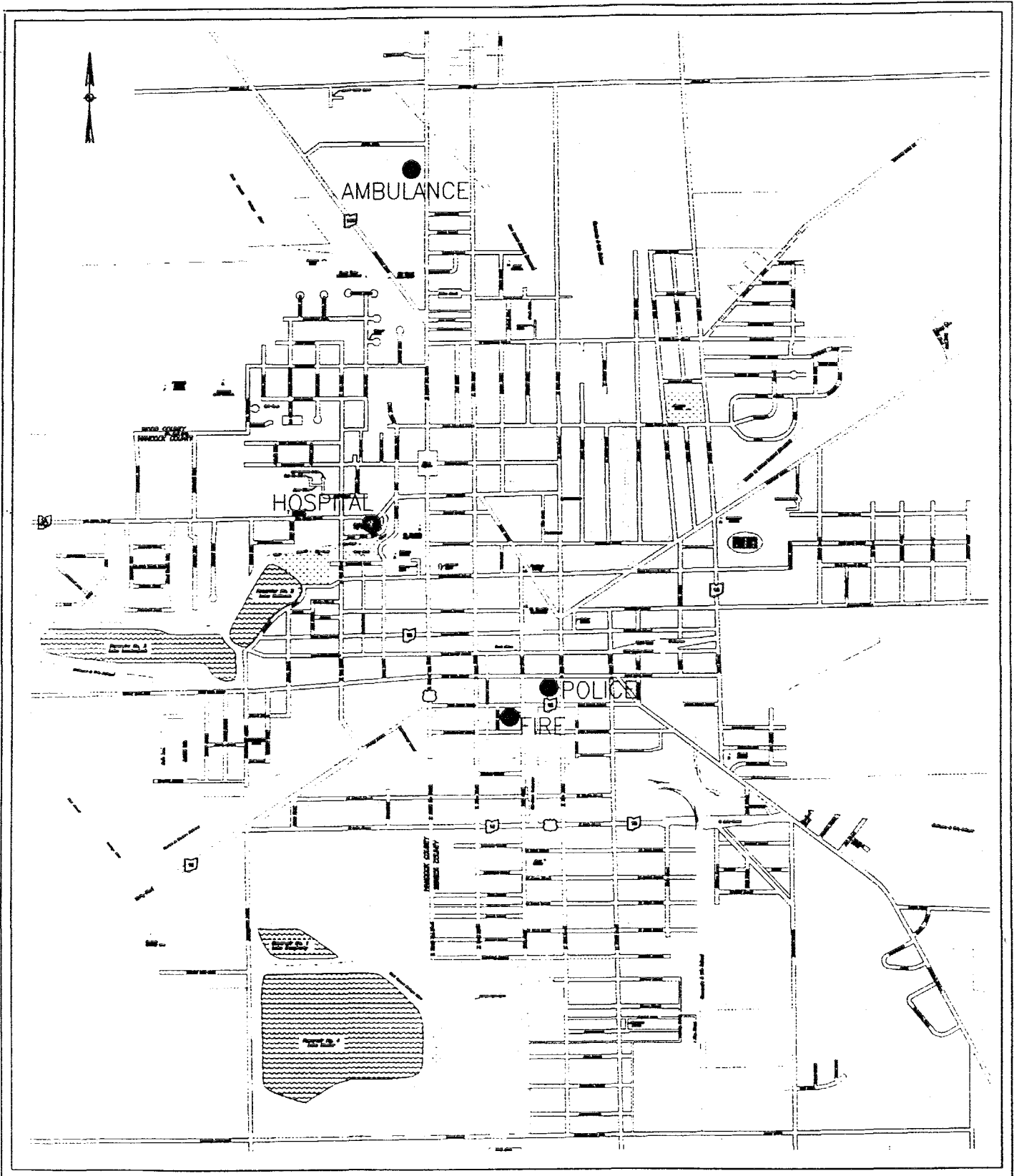
- A grade separation for Town Street under the NS is recommended to mitigate east triangle impacts.
- A grade separation for Tiffin Street over CSX (B&O) is recommended to mitigate west triangle impacts.
- A grade separation for Jones Road over CSX (C&O) should be considered, but may not be warranted solely by the acquisition's relatively minor increase in rail traffic from 33.3 to 37.4. At minimum, additional measures that should be implemented include the upgrading of grade crossing circuitry to state-of-the-art motion detection systems to minimize the time the crossing is blocked without the presence of trains on the crossing itself.

Additional information follows this document.



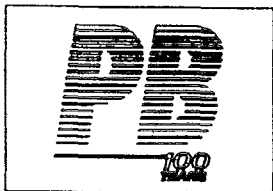
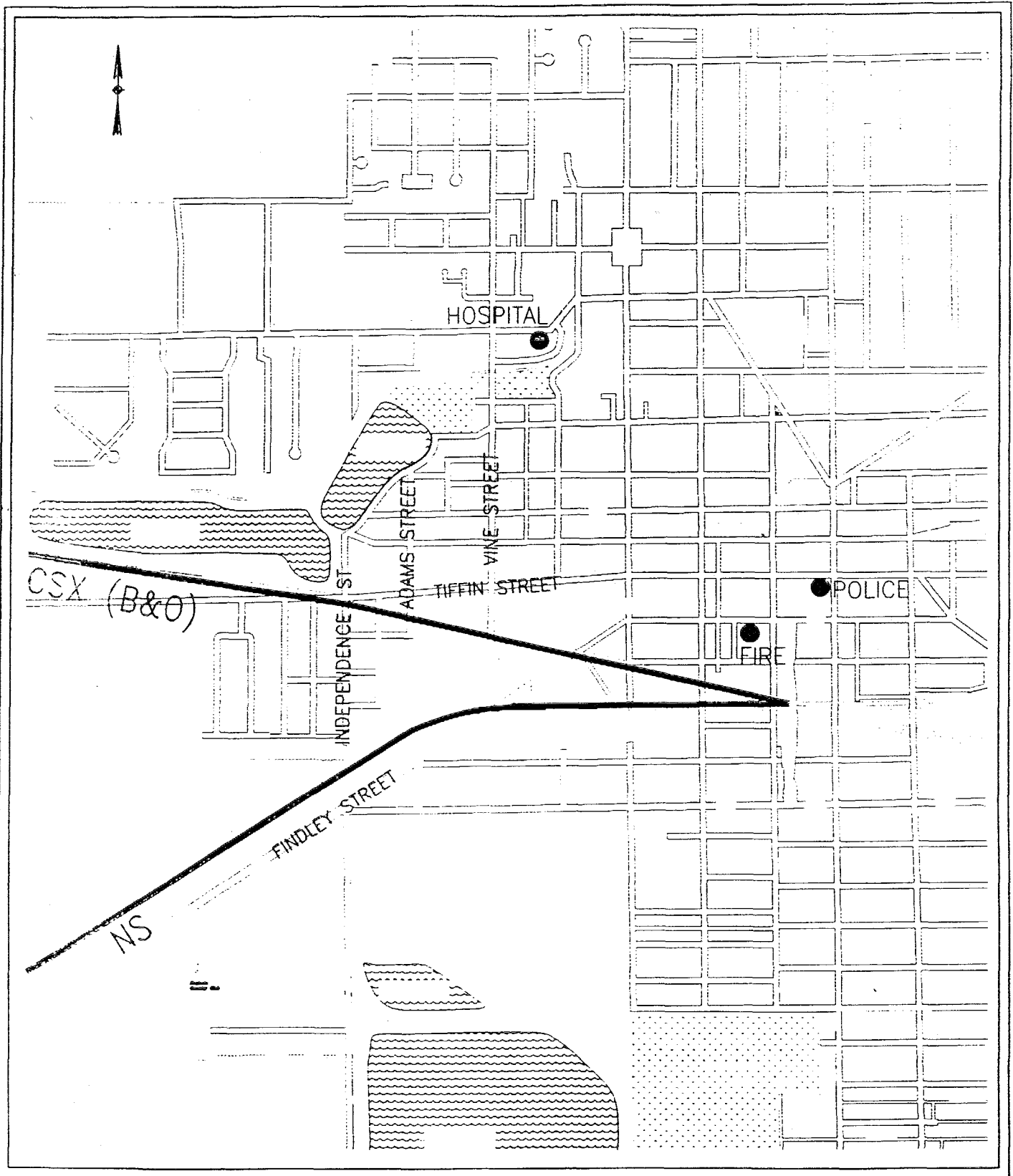
FOSTORIA RAIL
 TRAFFIC INCREASES

FIG. 1
 PAGE X



EMERGENCY SERVICES
LOCATIONS

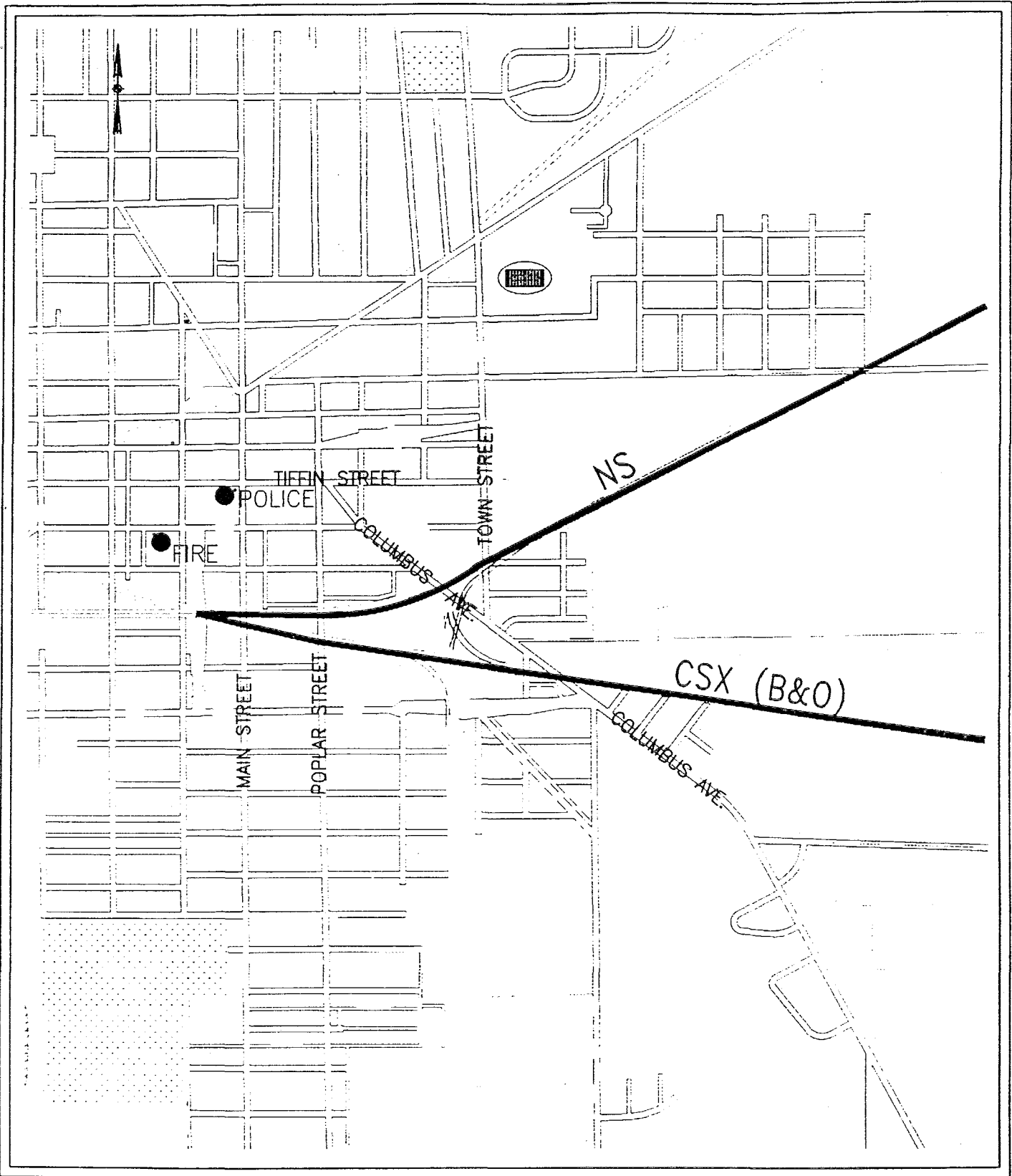
FIG. 2
PAGE X



"IRON TRIANGLE"
WEST



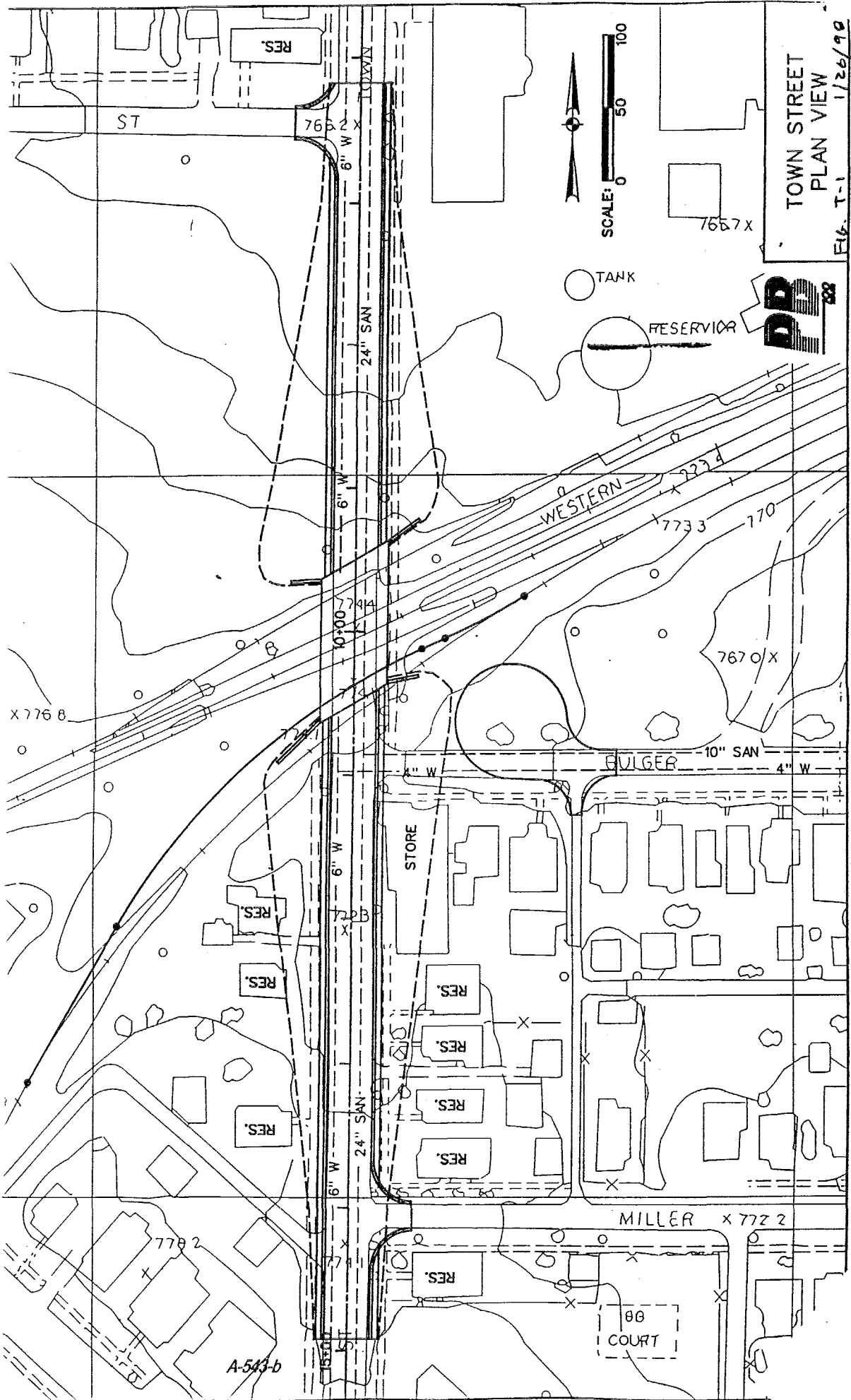
FIG. 3
PAGE X



"IRON TRIANGLE"
EAST



FIG.	4
PAGE	X



TOWN STREET
PLAN VIEW

Fig. T-1 1/25/99

SCALE: 0 50 100



TANK

RESERVOIR



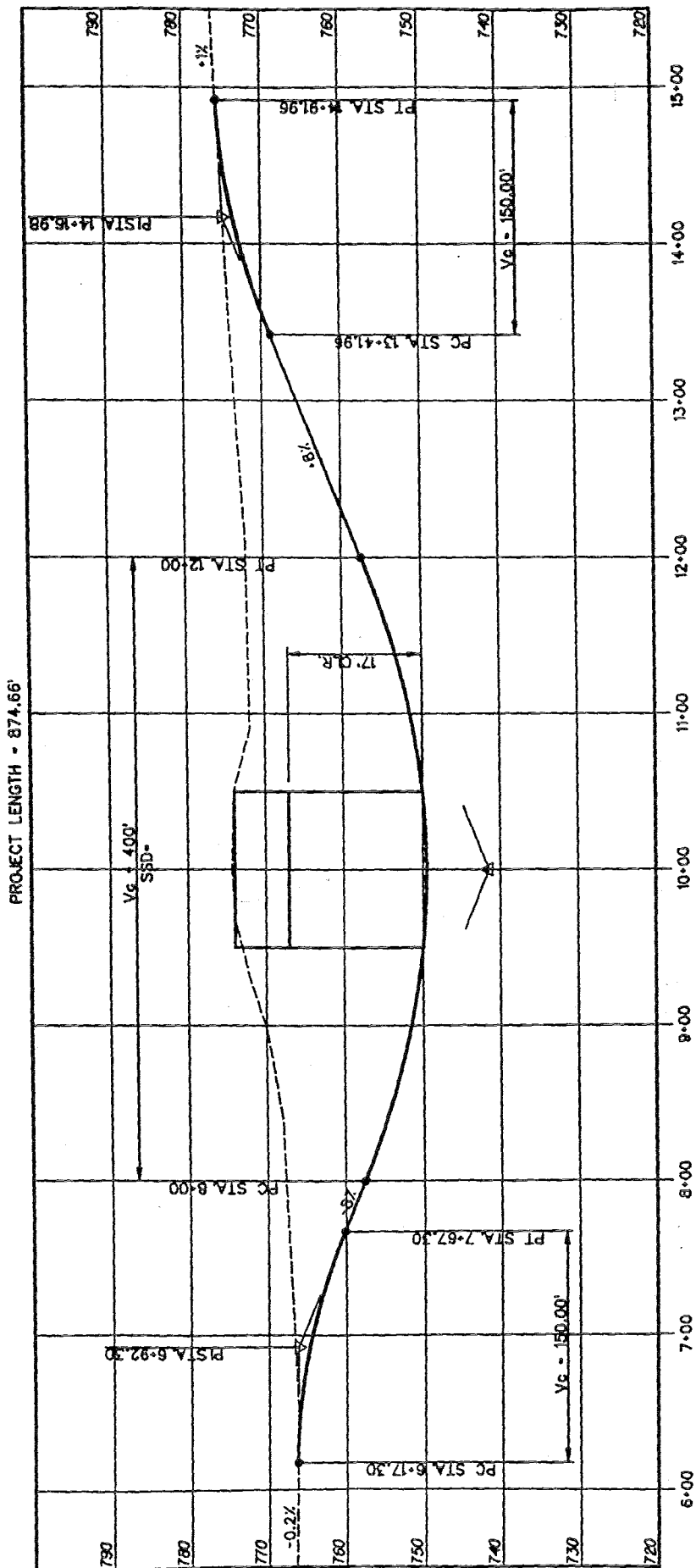
WESTERN

BULGER

MILLER

COURT

A-543-b



TOWN ST. PROFILE

FIG. T-2



PARSONS BRINCKERHOFF COMPUTATION SHEET

Page _____ of _____

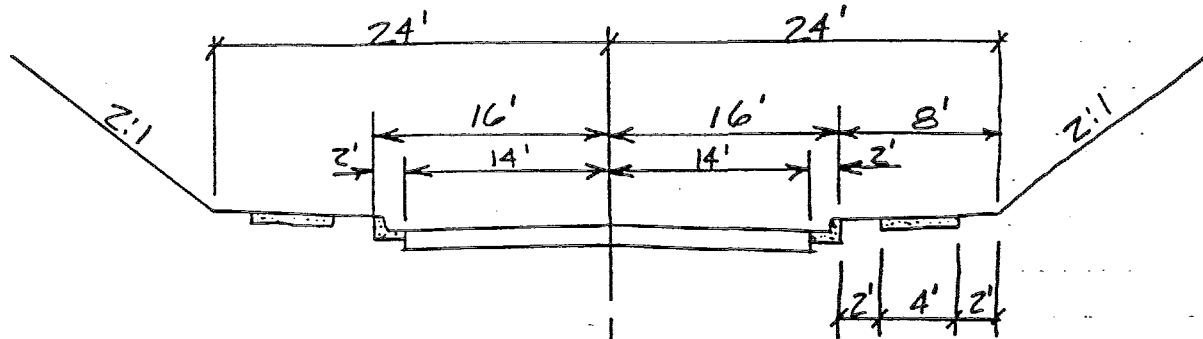
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Date 1-22-98

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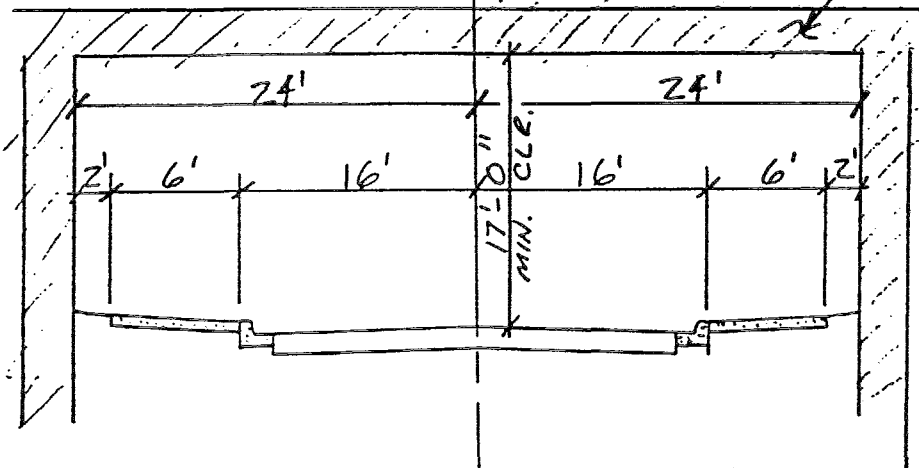
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Subject CITY OF FOSTORIA - TOWN ST.
TYPICAL SECTIONS



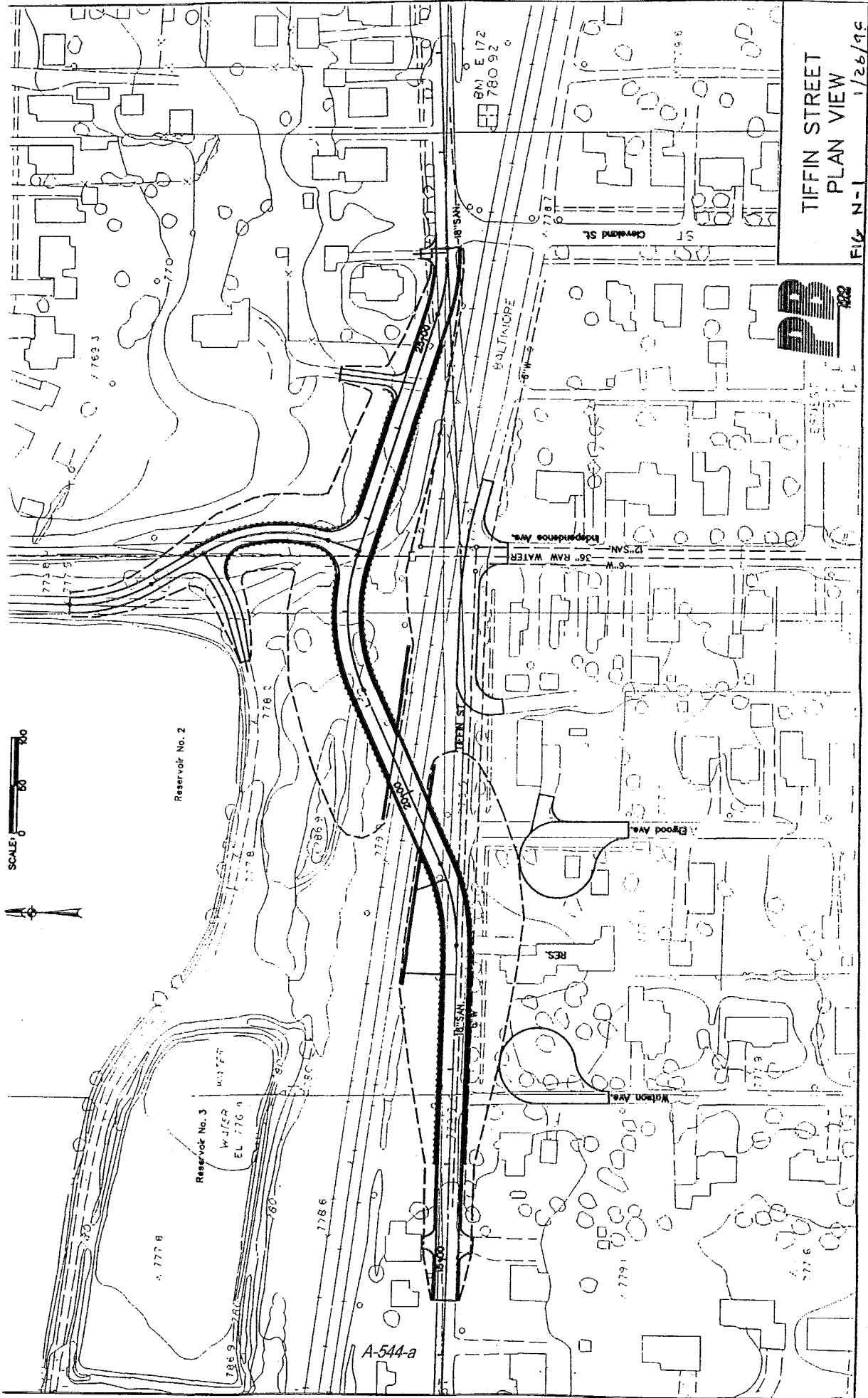
NORMAL SECTION

R.R. BRIDGE



NORMAL SECTION
(UNDER R.R. BRIDGE)

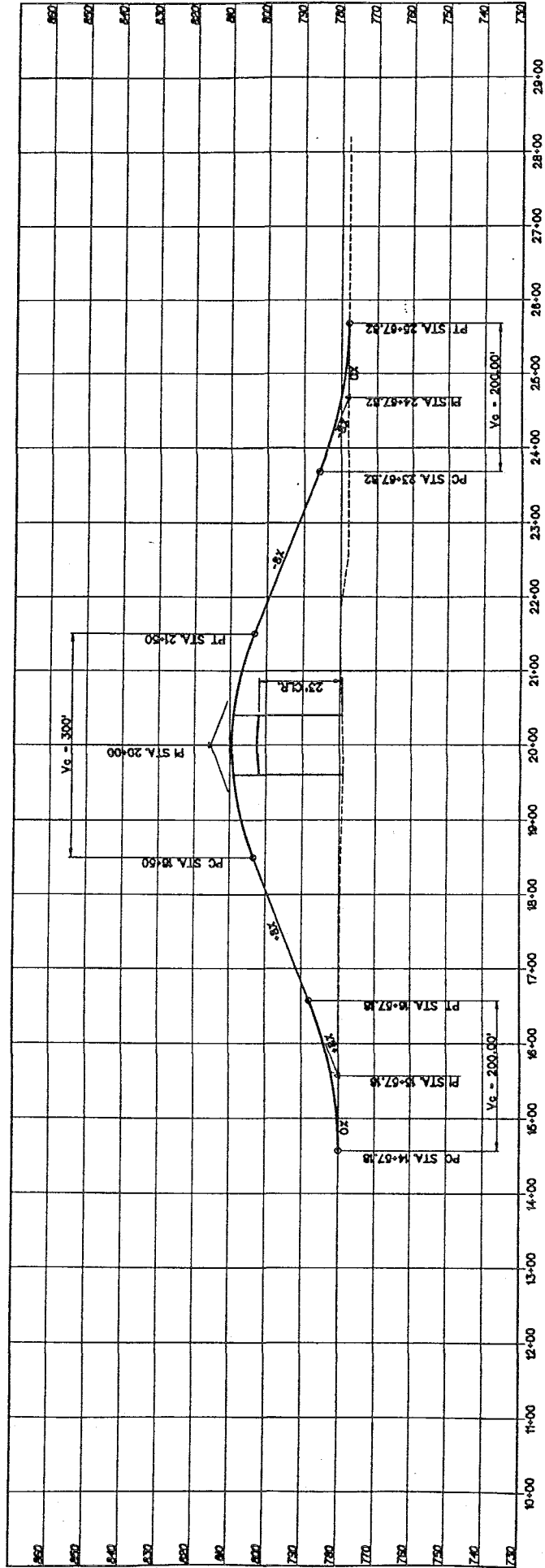
FIGURE T-3



TIFFIN STREET
 PLAN VIEW
 FIG. N-1 1/26/95



A-544-b



TIFFIN ST. PROFILE

FIG. N-2
PE
1/26/95



PARSONS BRINCKERHOFF COMPUTATION SHEET

Page 1 of 1

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Subject TIFFIN ST. TYPICAL SECTIONS
CITY OF FOSTORIA

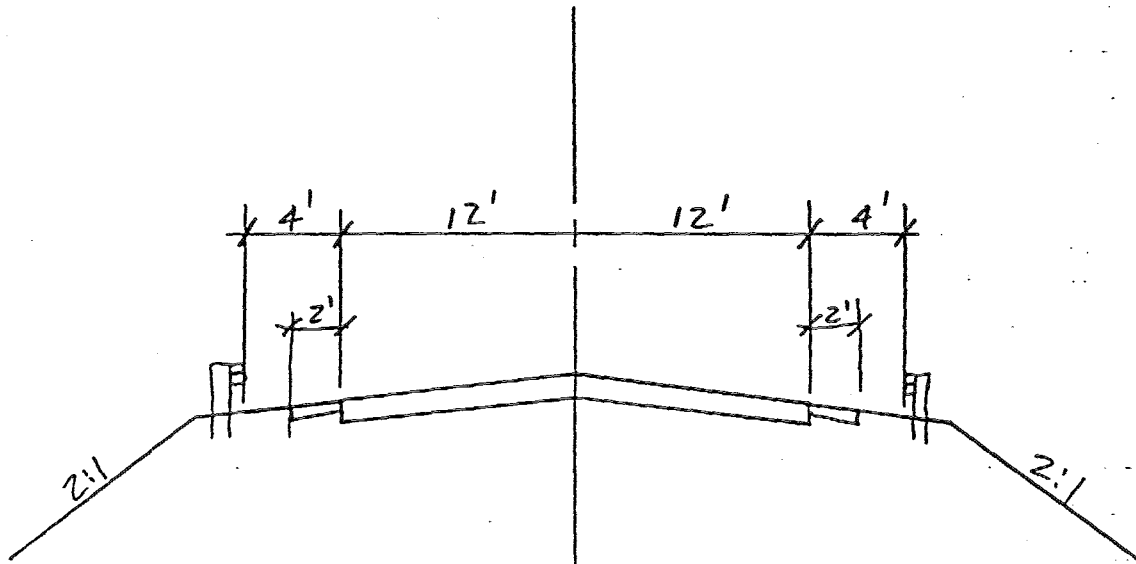
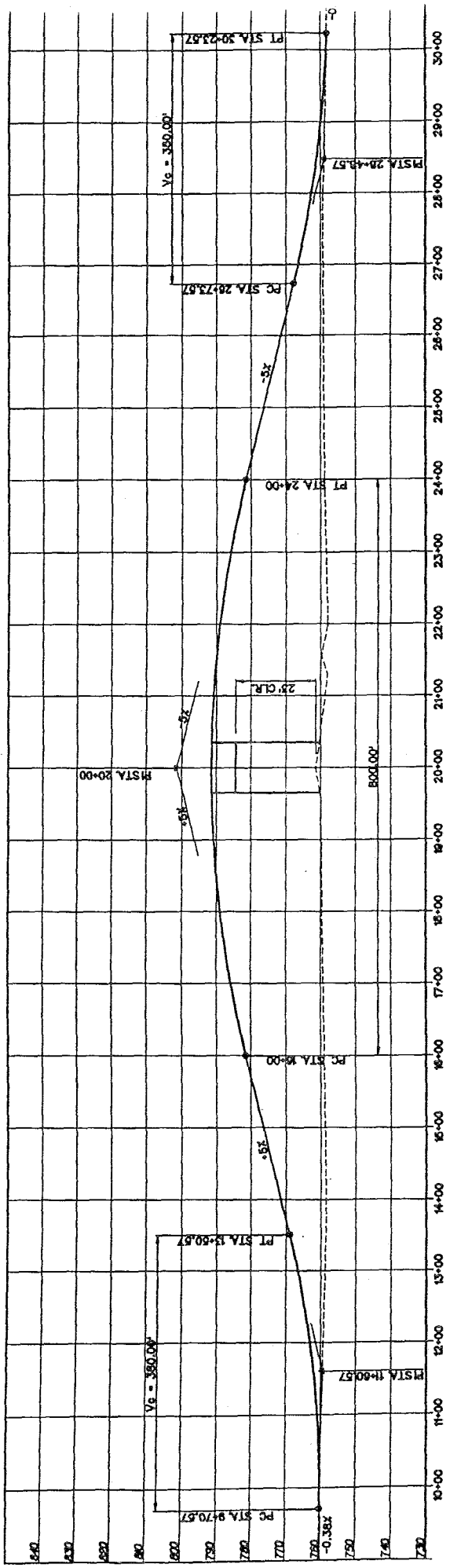


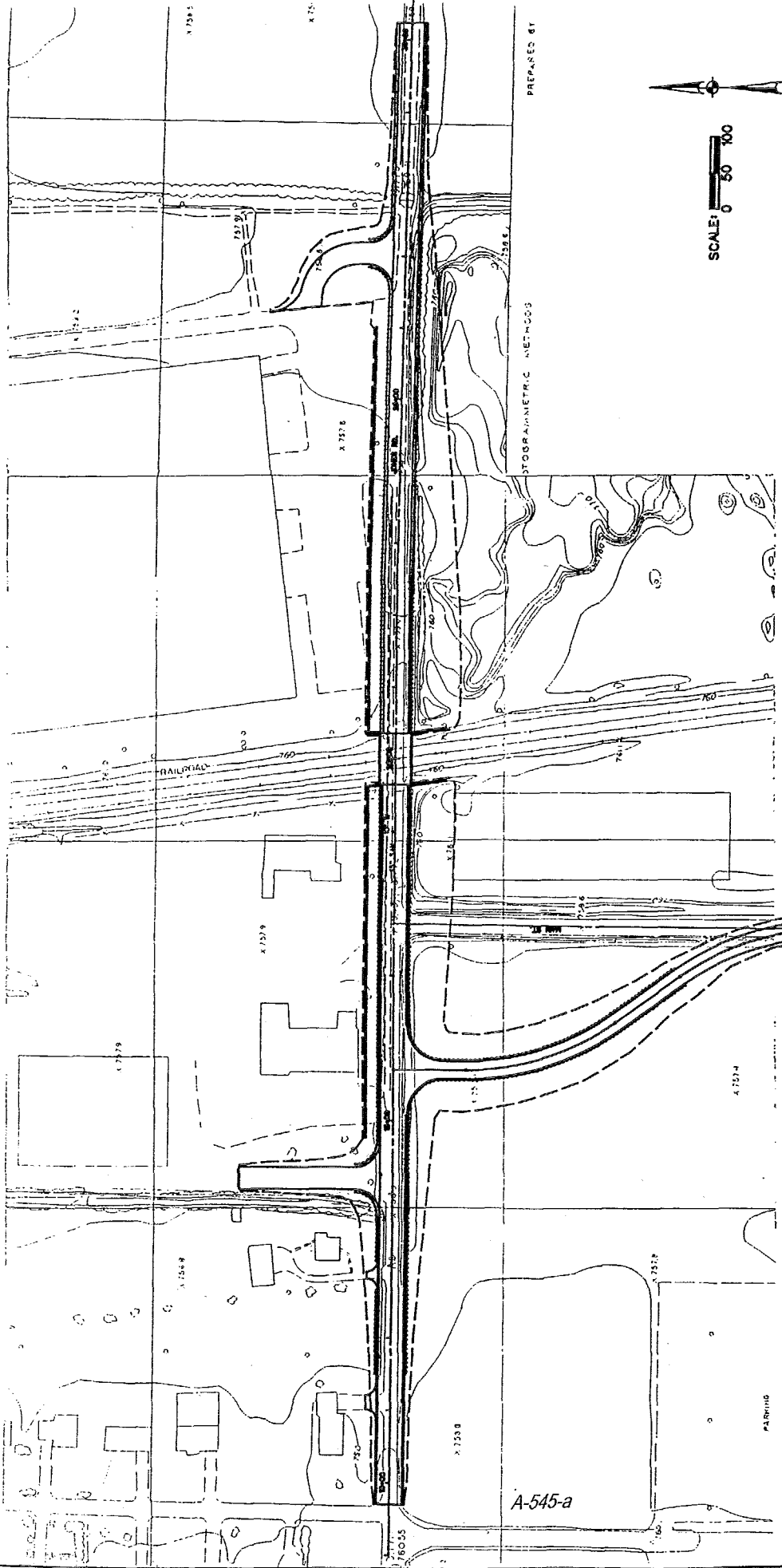
FIGURE N-3

FIG J-2
1/26/98
RM



JONES RD. PROFILE

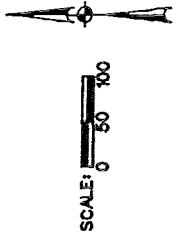
A-544-d



A-545-a

PREPARED BY

STOGRAMMETRIC METHODS



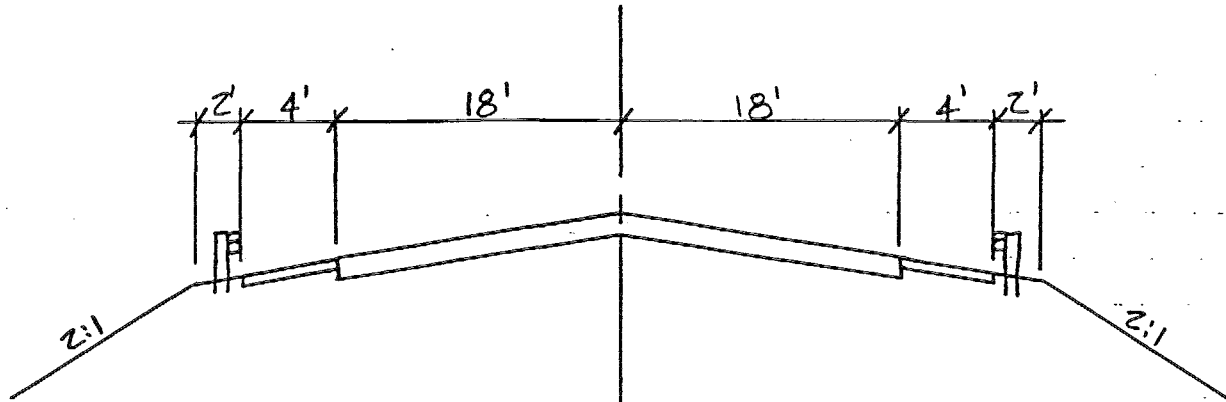
JONES ROAD
 PLAN VIEW
 FIG. J-1 1/26/18



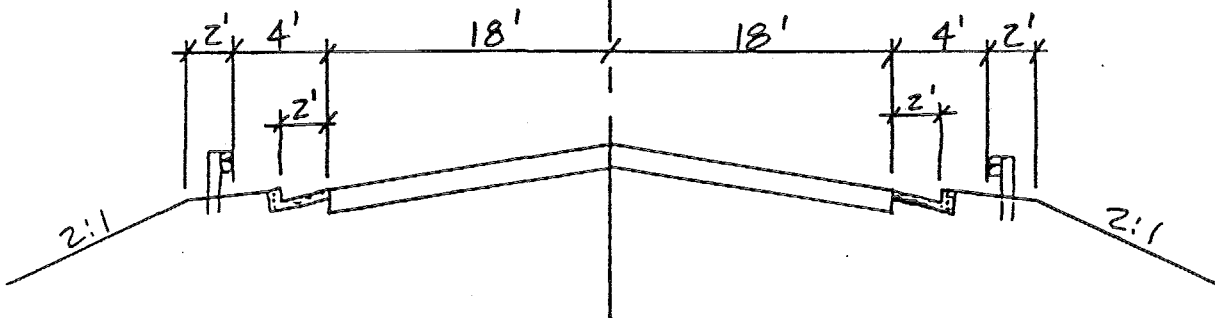
PARSONS BRINCKERHOFF COMPUTATION SHEET

Page 1 of 1
Made by EJC
Date 1-22-98
Checked by _____
Date _____

Subject JONES RD. TYPICAL SECTIONS
CITY OF FOSTORIA

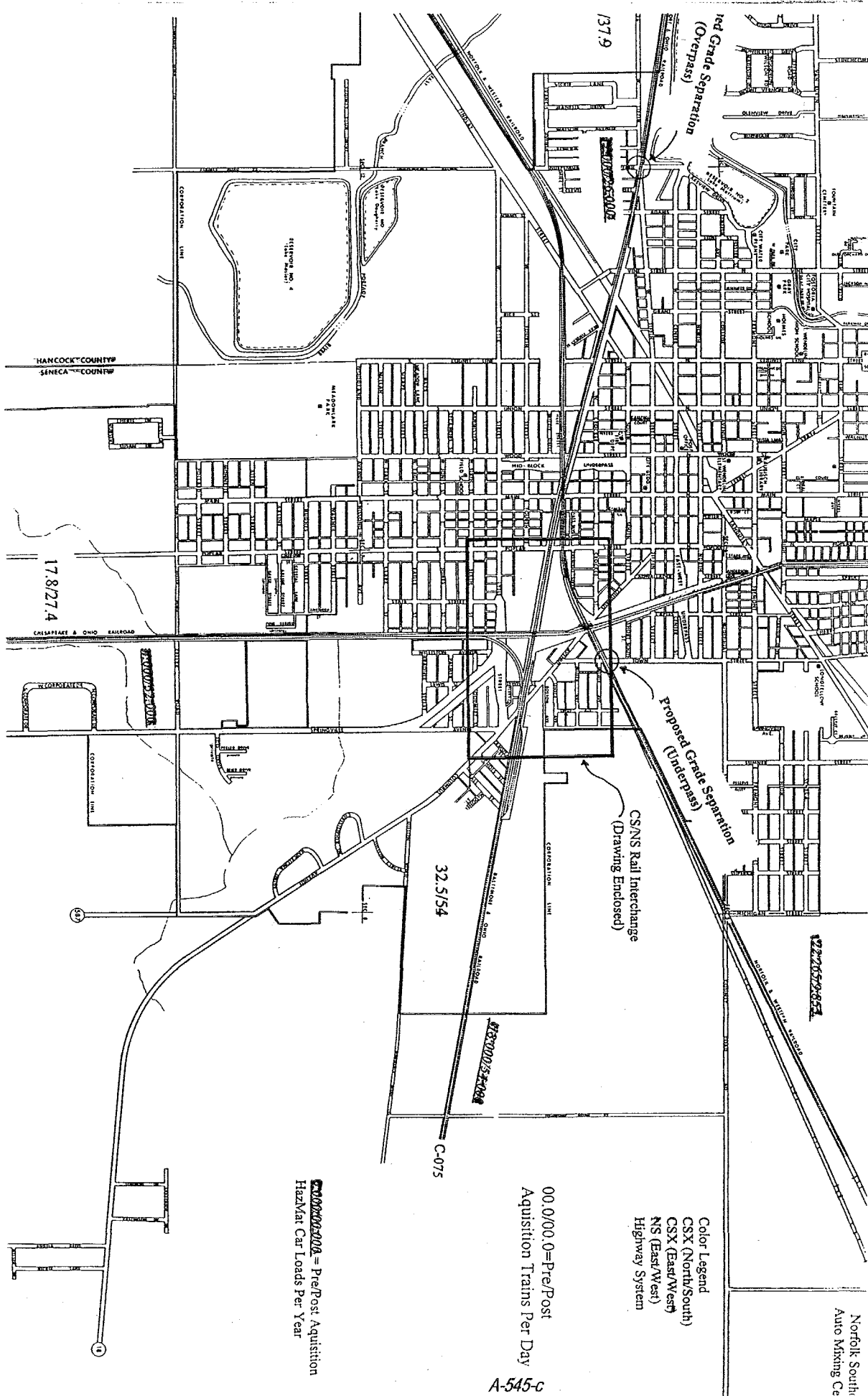


NORMAL SECTION
(EAST OF R.R. TRACKS)



NORMAL SECTION
(WEST OF R.R. TRACKS)

FIGURE J-3



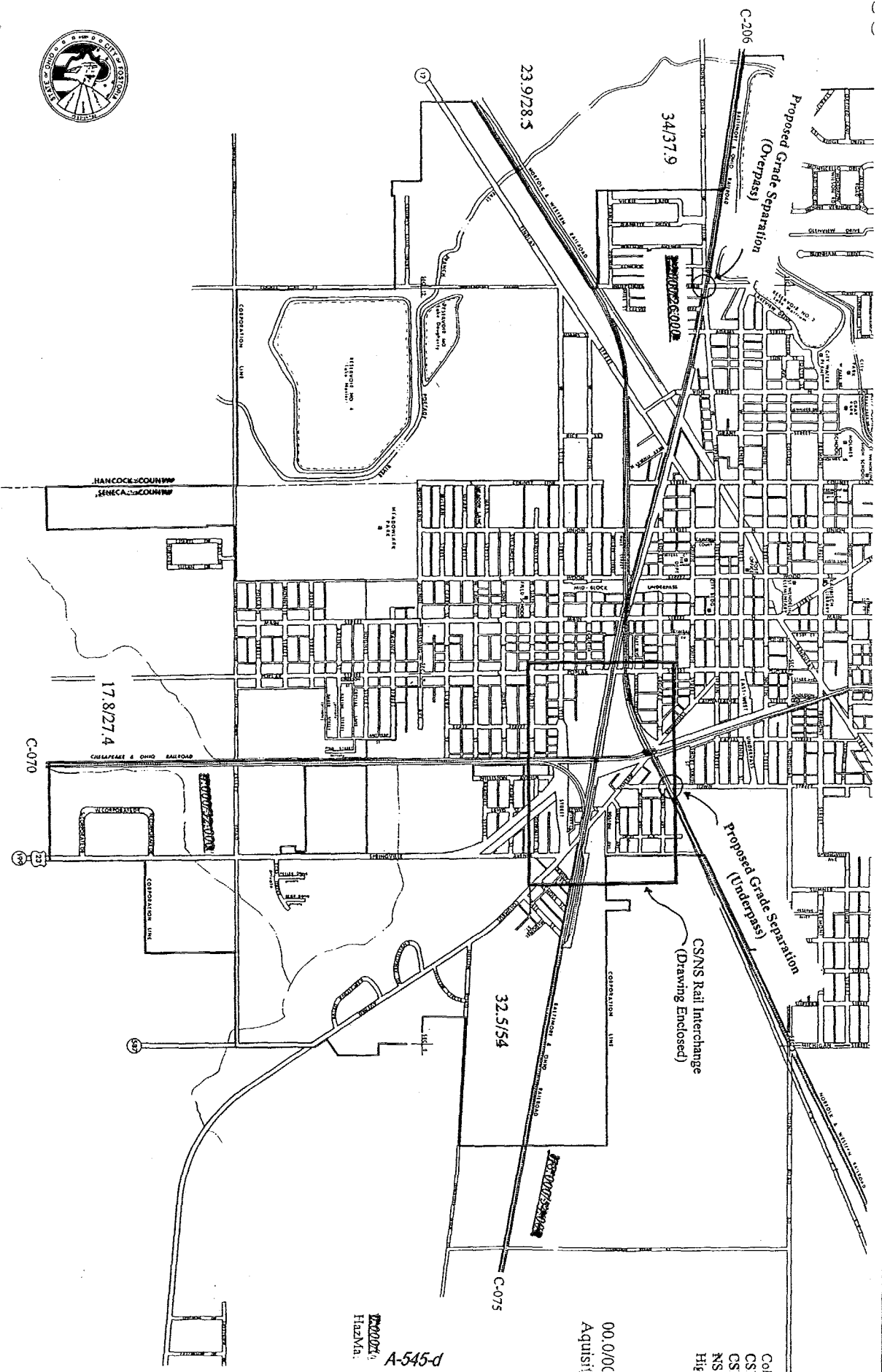
Norfolk South
Auto Mixing Ce

- Color Legend
- CSX (North/South)
 - CSX (East/West)
 - NS (East/West)
 - Highway System

00.0/00.0=Pre/Post
Acquisition Trains Per Day

00.0/00.0/00.0 = Pre/Post Acquisition
HazMat Car Loads Per Year

A-545-c



Col
CS
CS
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00.0/0C
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1200070
HazMat
A-545-d

C-075

C-206

C-070

23,928.5

34,377.9

17,827.4

32,515.4

Proposed Grade Separation
(Overpass)

Proposed Grade Separation
(Underpass)

CS/NS Rail Interchange
(Drawing Enclosed)

HANCOCK COUNTY
GENECA COUNTY

CHILAPEAKE & OHIO RAILROAD

HILLTOP & OHIO RAILROAD

HILLTOP & OHIO RAILROAD

MANSION NO. 4
1115 S. MAIN ST.
MANSION

CORPORATION LINE

CORPORATION LINE

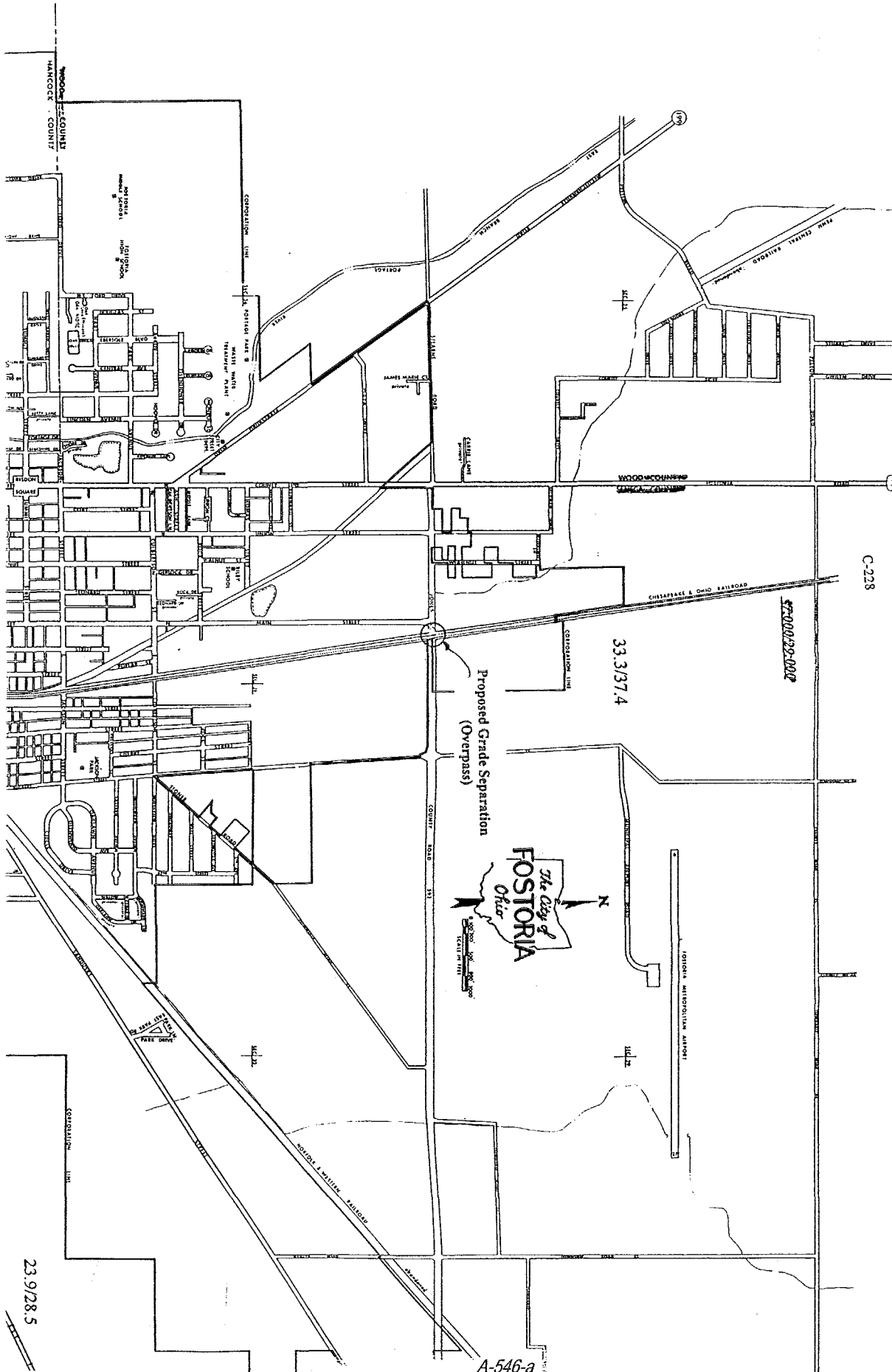
CORPORATION LINE

CORPORATION LINE

CORPORATION LINE

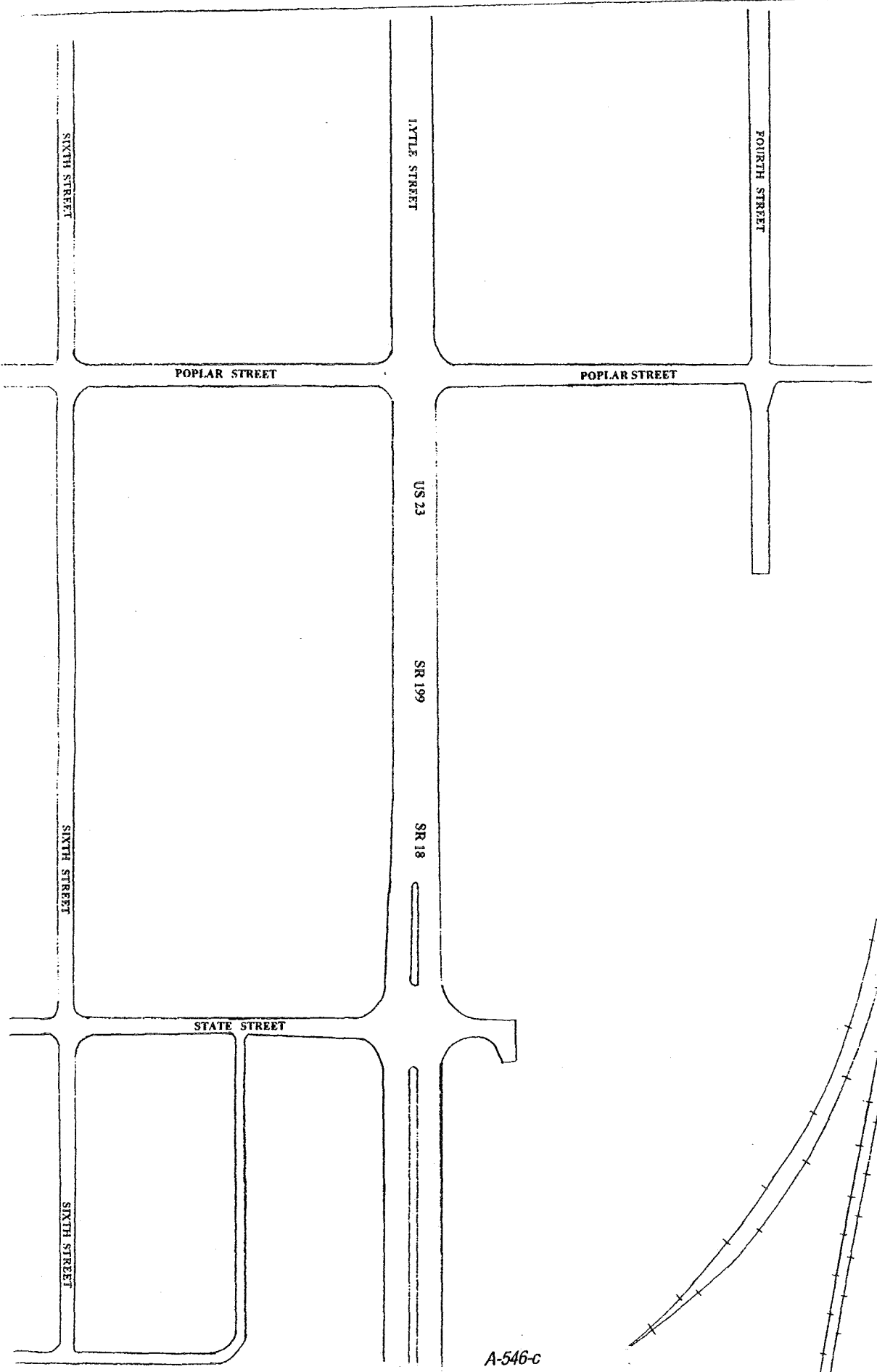
CORPORATION LINE

A
B
C
D
E
F

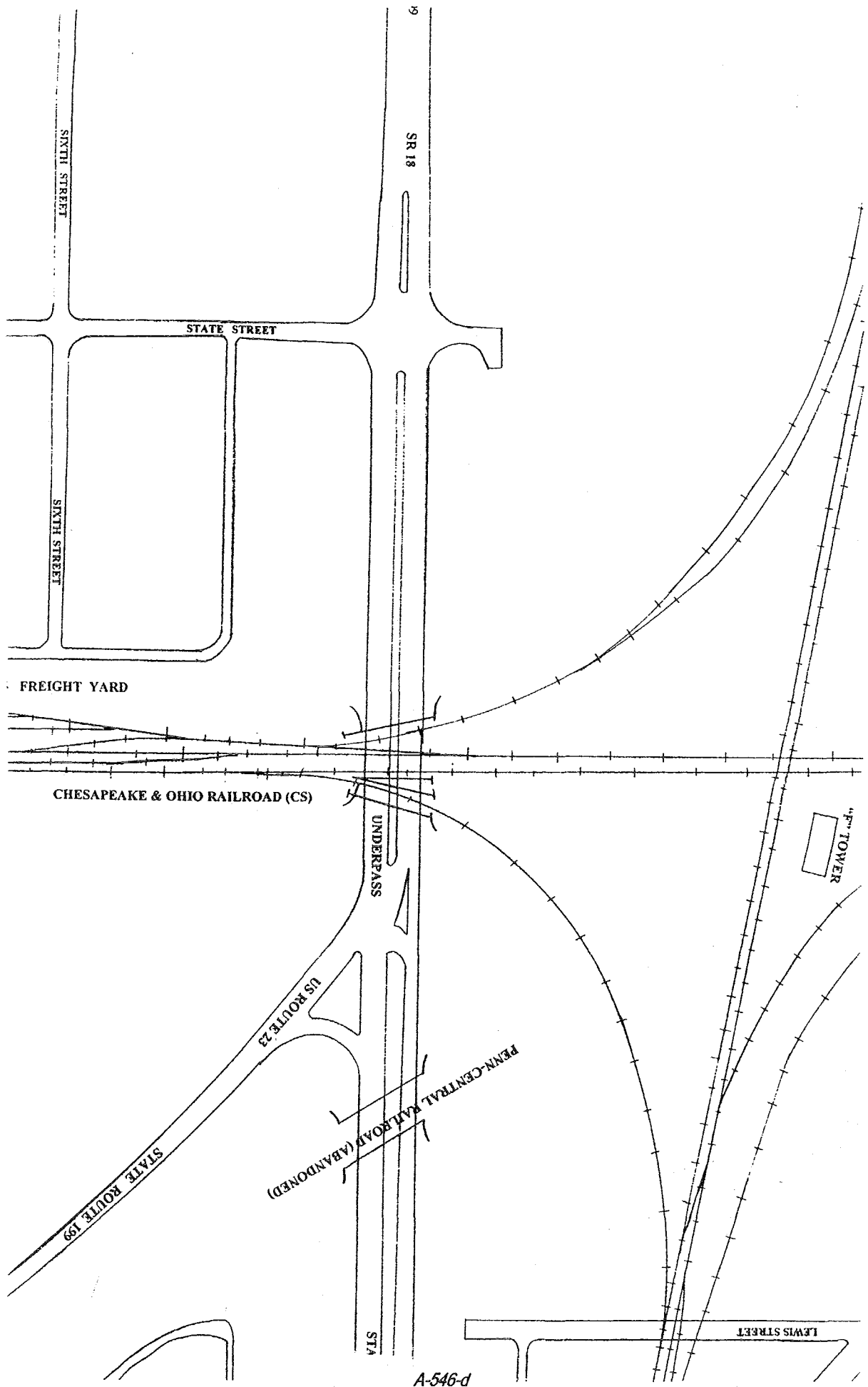


A-546-a

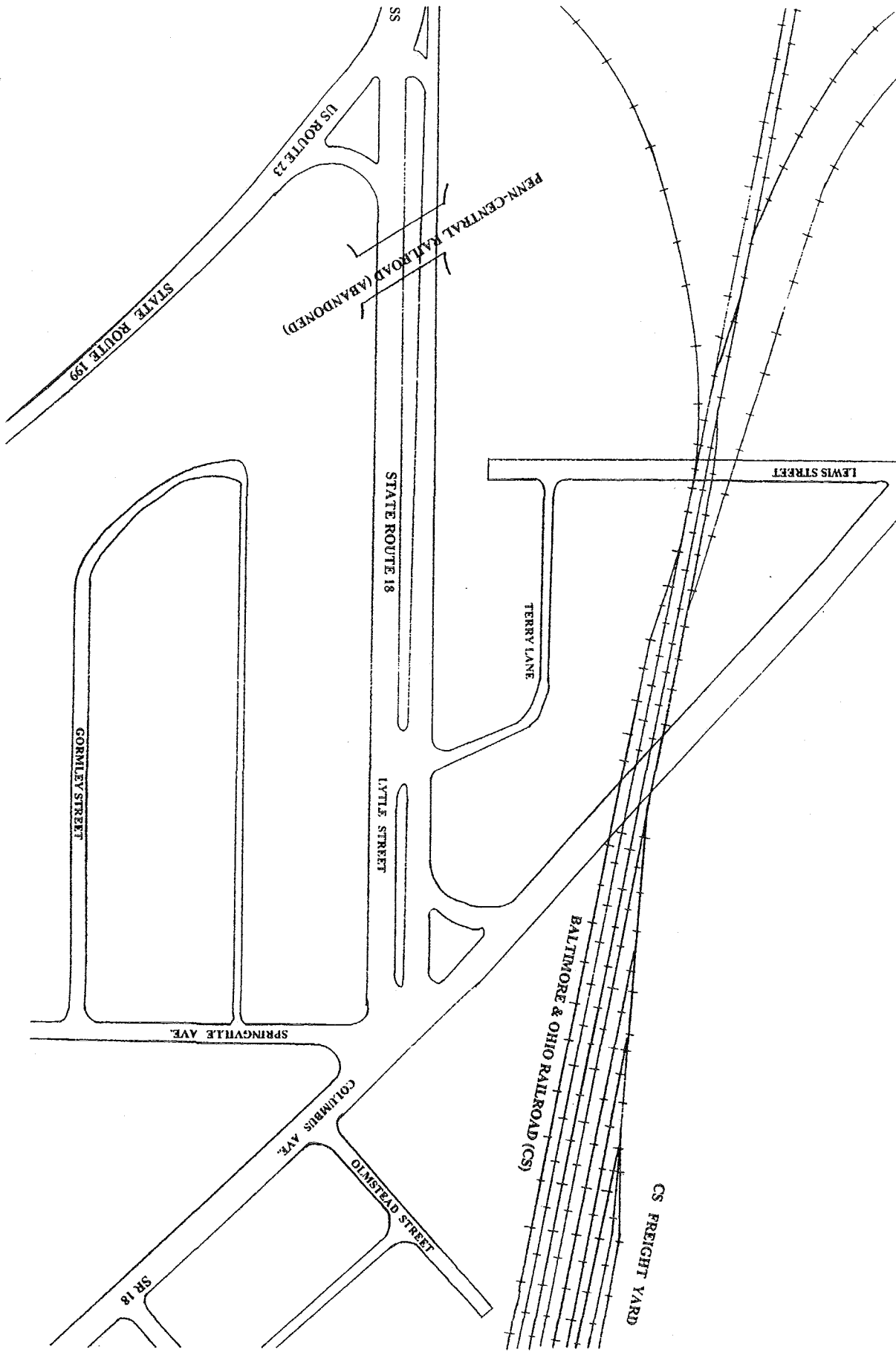
23.9/28.5

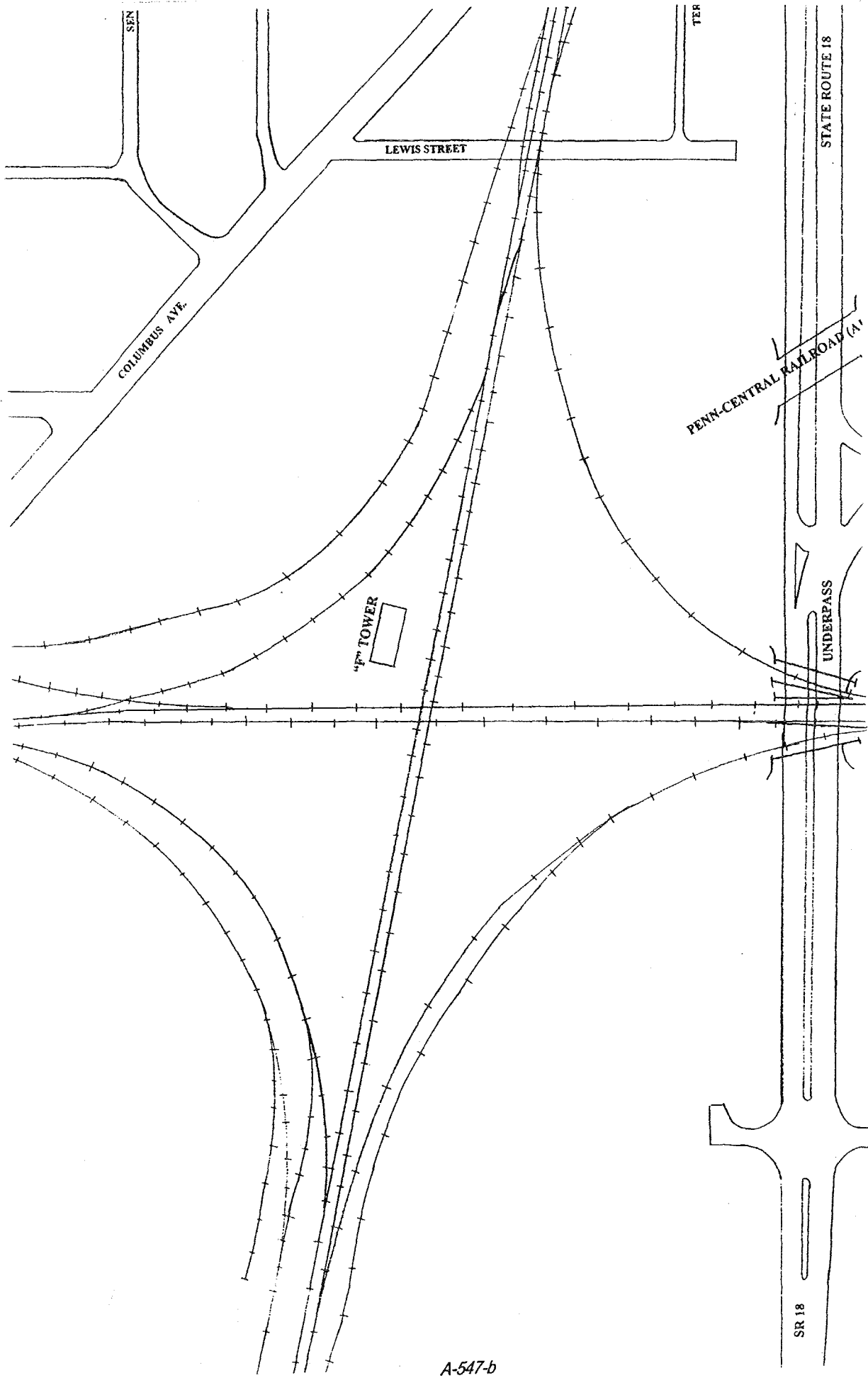


A-546-c

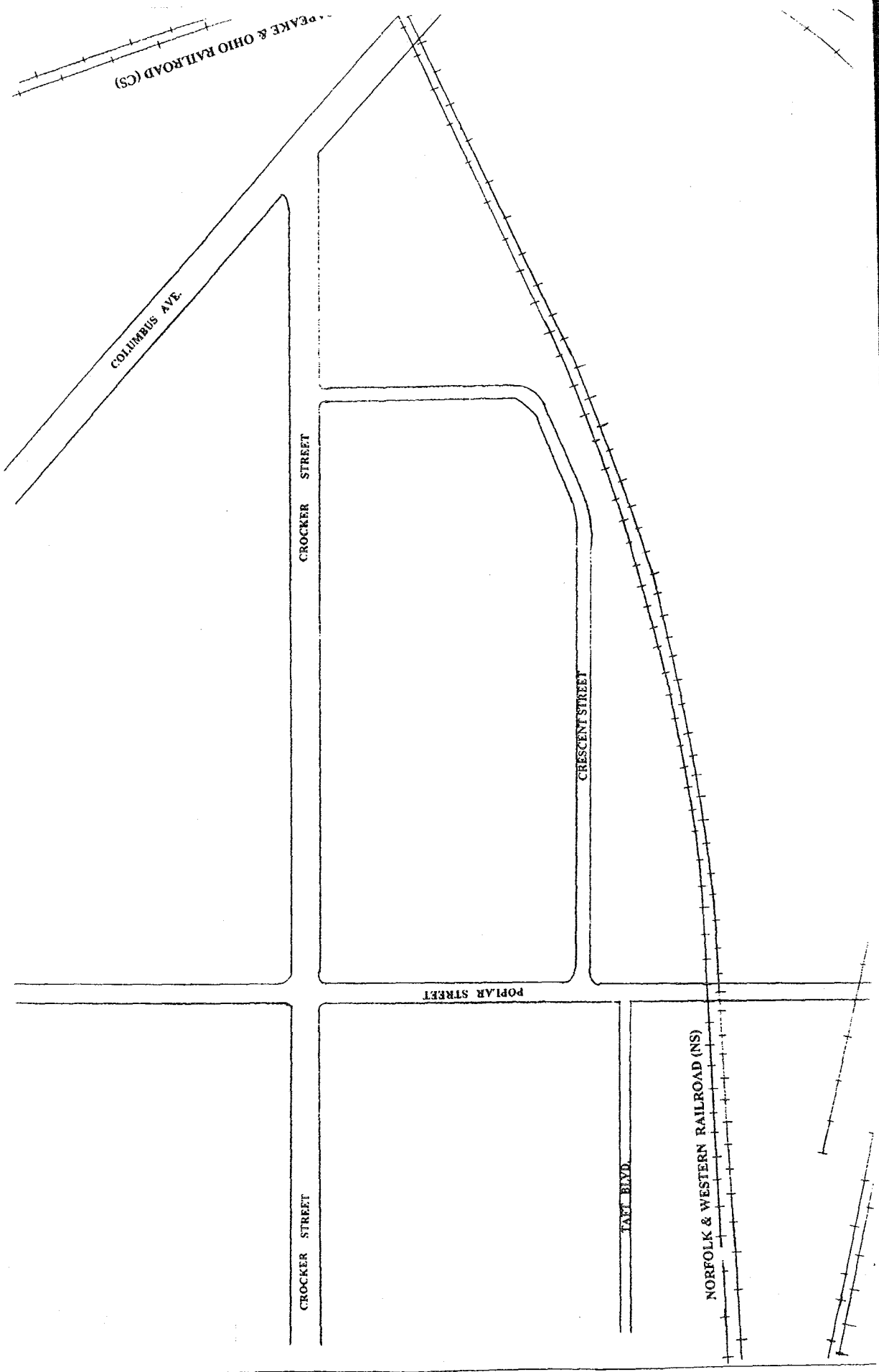


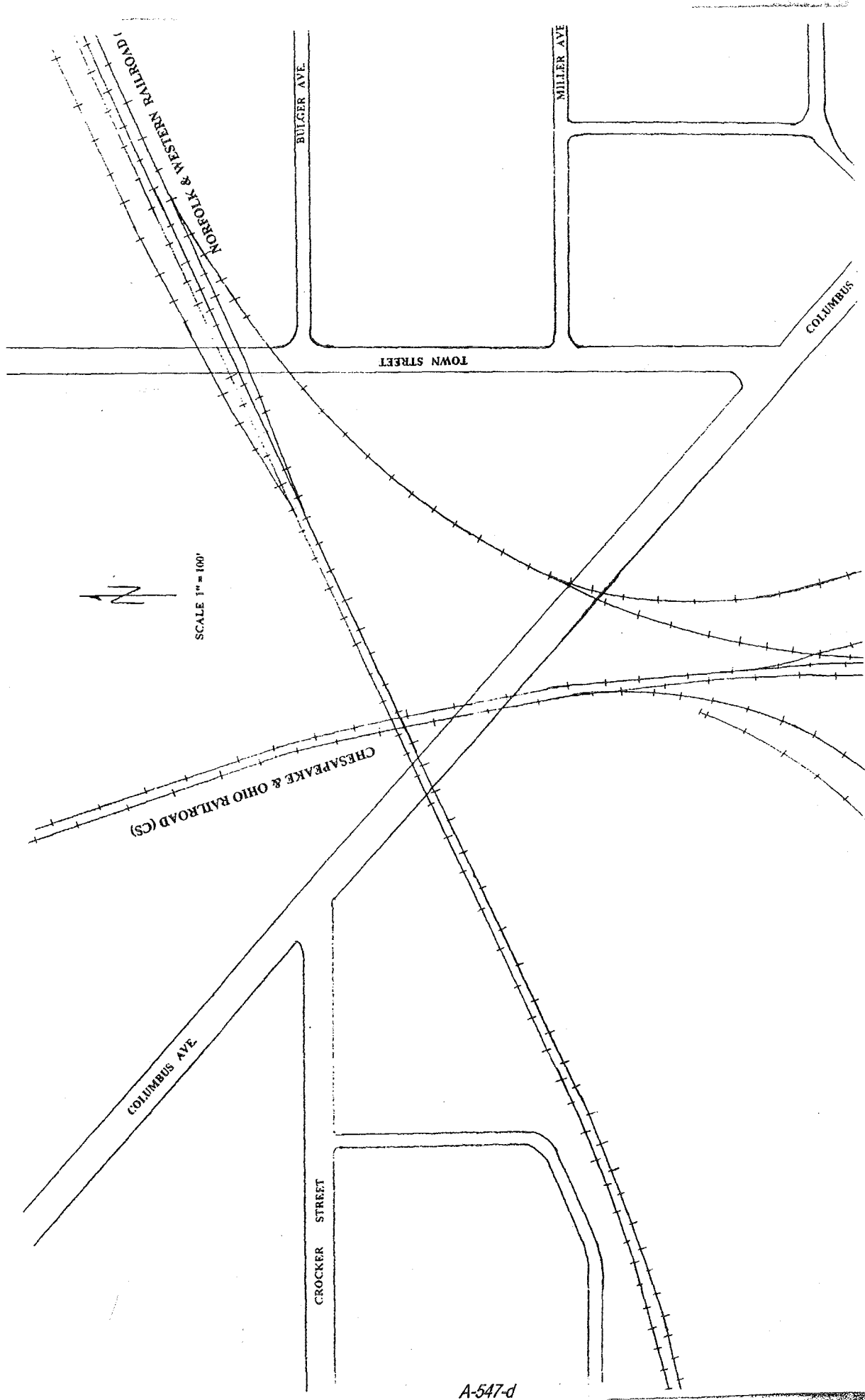
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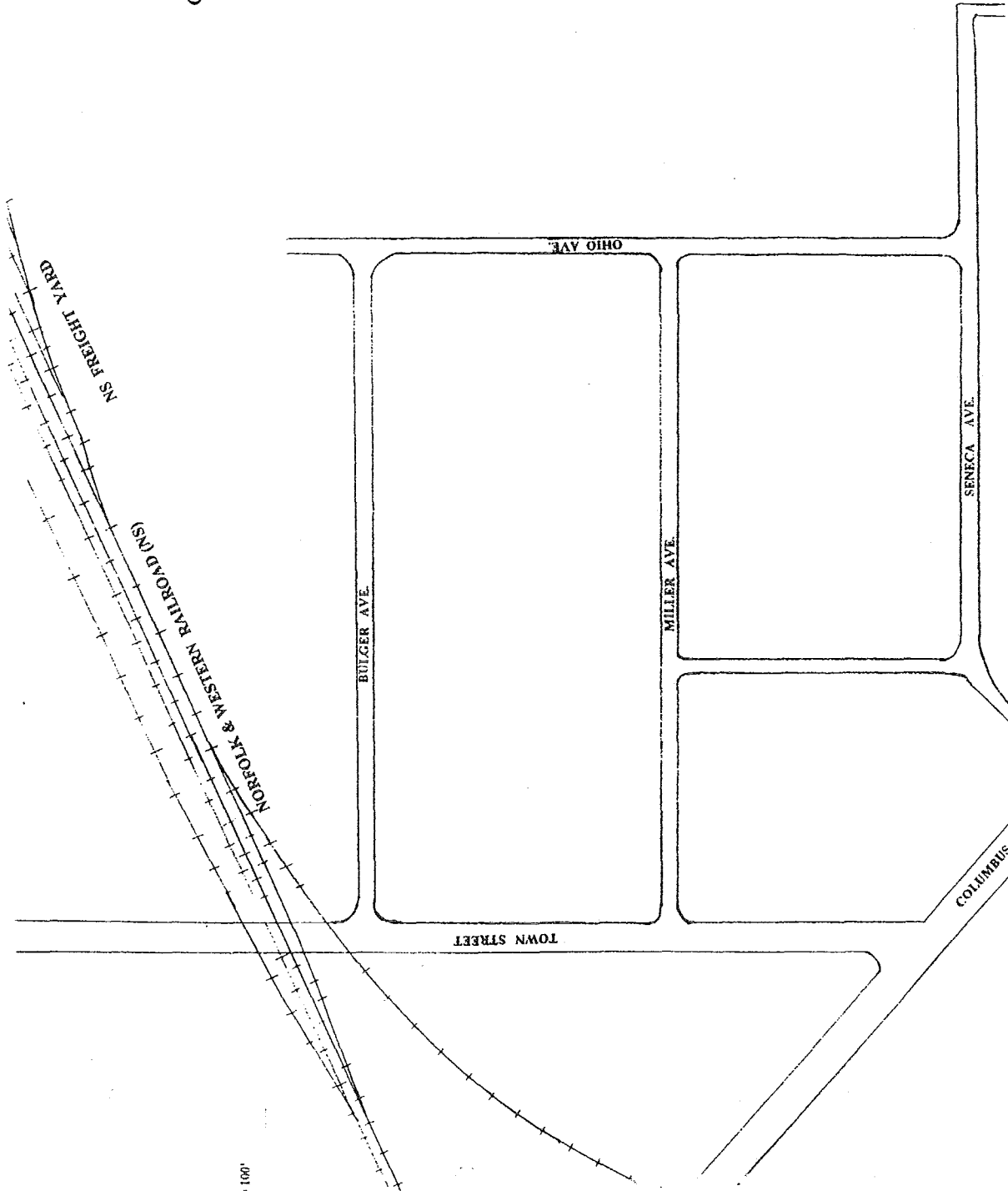
A-547-b





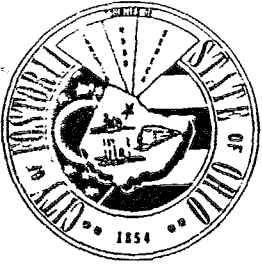
A-547-d

FOSTORIA, OHIO
CS/NS RAIL INTERCHANGE



• 100'

A-548-a



CITY of FOSTORIA

P. O. Drawer 1007
FOSTORIA, OHIO 44830

DIANE L. LIND
Secretary
Mayor and Director Offices

JAMES E. BAILEY
Mayor
(419) 435-8282

RONALD L. REINHARD
Safety-Service Director
(419) 435-2561

January 28, 1998

Mr. Thomas M. O'Leary, Director
Ohio Rail Development Commission
50 West Broad Street, 15th Floor
Columbus, Ohio 43215

Dear Mr. O'Leary:

Subject: Environmental and Safety Issues: Conrail Acquisition by CSX and Norfolk Southern

The acquisition of Conrail by CSX and Norfolk Southern will have significant impacts on the City of Fostoria. The City of Fostoria is alarmed that its safety concerns about the effect of the increased traffic are almost completely ignored and inadequately addressed in the Draft Environmental Impact Statement. In fact, the lack of comments would leave one to wonder if the City's comments, submitted with the State of Ohio during the Preliminary Safety and Environmental Comment Period, were considered.

Three rail lines cross in Fostoria; each will see an increase in traffic following the acquisition. Although segments C-070 (Marion-Fostoria) and C-075 (Willard-Fostoria) are identified as meeting the threshold for analysis by the SEA, 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.

The City has participated in the preparation of the recommendations being submitted herewith by the State of Ohio and fully concur with them.

Emergency Response: The Draft EIS does not address the ingress/egress issues raised during the preliminary safety and environmental comment period. In addressing the delay issue in other communities, the EIS states "no national standards exist for measuring levels of significance of delay specifically for emergency vehicles. Obviously, time is critical for these vehicles to reach the scene of an accident, fire, or other emergency." We would submit that a delay for emergency responders is measurable to the degree that experts claim that each additional minute a fire burns, the fire typically doubles in its size and intensity, therefore potentially increasing the severity of injury to persons or pets who may be in the structure, the dollar amount of damage to the structure(s) and the risk of increased injury to the responders. All of these are factors

affecting the Fire Rating of a community which in turn effects its economic development capabilities. Measurable effects of delay in medical treatment can be assessed simply by evaluating the chain of survival, for instance, of all patients who collapse with sudden cardiac arrest, those in ventricular fibrillation, 70%-90%, have the greatest chance of survival. A patient's chance of survival is dependent on a strong "chain of survival" in their community. Missing links in this chain result in less than optimal programs and unnecessary deaths. The chain of survival is defined as **Early Access:** The Emergency Medical System must be activated immediately to reduce total response time. **Early CPR:** CPR initiated immediately (within 1-4 minutes) maintains oxygenation of vital organs, such as the brain and heart. This is essential if later defibrillation and medications are to be effective. **Early Defibrillation:** If the victim receives CPR within 4 minutes and defibrillation within 8-12 minutes, there is a significantly improved chance of survival. **Early Advanced Cardiac Life Support:** Definitive treatment such as administration of medications and airway stabilization, increases the chances of survival from 0% for no treatment to 30-40% with Early ACLS employed.

Due to our unique conflicts between our rail and road system, the City of Fostoria has required its contract EMS to provided the community with a certified Advanced Life Support Unit at all times.

Our problems with projecting emergency police, fire and medical services to where they are needed will be severely aggravated with the significant increase of rail traffic that will occur under the proposed merger, our community is entitled to essential mitigation.

Mitigation recommendation: That CSX and NS provide for grade separations at Town Street, W. Tiffin Street and Jones Road. Once the grade separations are completed, the City and Railroads could than consider closing a number of existing at grade crossing within the community. In addition to providing essential access for emergency services the necessary grade separations should also enable the railroads to improve their train traffic congestion problems associated with the three rail intersections and interchange capabilities within the community.

Hazardous Materials: As a result of the acquisition Fostoria stands to be significantly impacted in the amount of Hazardous Material quantities on a yearly basis. The Draft EIS indicates an increase of forty (40%) percent, 85,530 car loads per year to 119,710. The cumulative increase in hazardous materials volume exceeds the 20,000 car loads volume that results from the three lines the EIS deems very significant.

Mitigation recommendation: That CSX and NS provide funding for training and equipment for the Fostoria emergency service providers, who will, as a result, provide HazMat response not only in the City limits but also outside its corporation (as Mutual Aid) within a definable geographic area. CSX and NS should conduct hazardous material accident simulations (training) with the participation of emergency service providers at least once every two years. Participants in these exercises will include county and municipal government, fire, police and emergency response teams.

Rail capabilities: The Draft EIS does not clearly indicate the local rail conditions. Figures 5-OH-1a & 1b depicting rail segments in Ohio clearly misleads one when looking at the NS system. Figure 5-OH-1b fails to indicate the Fostoria interchange with CSX. Submitted herewith are the appropriate drawings depicting the actual conditions. As is evident, Fostoria includes the intersection of three rail lines, but also provides an interchange capability. As is evident, the interchange capability requires a significant reduction in train speed to negotiate, therefore increasing the delay at grade crossing times considerably. This in turn creates delays at the remaining crossings throughout the community as other train traffic waits.

Unemployment: December 1997 unemployment figures indicate that the area unemployment numbers are above State and National percentages as follows: National 4.4%, State of Ohio 4.6% and Fostoria Area (Seneca County) at 6.1%.

Low to Moderate Income Status: The City of Fostoria currently utilizes the Community Development Block Grant (CDBG) programs whenever it can. The community as a whole has been classified as "Low to Moderate Income" in regards to utilizing these funds. The community is also designated as a full-authority, distress-based Enterprise Zone based in part on the distress criterion requiring that a prevalence of the commercial or industrial structures in the designated zone are either vacant or demolished or vacant and tax delinquent. The program, through the State of Ohio Department of Development, allows the community to offer Tax Abatements for Real and Personal Property Taxes to industries as an Economic Development tool.

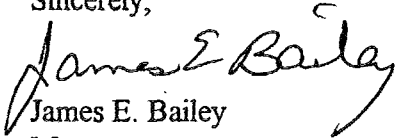
The City entertains prospective new industries on a regular basis, however, even with a utility infrastructure in place and capable of meeting their needs, the community has been plagued by inadequacies with its road transportation capabilities, therefore resulting in removal from consideration by the prospective industry.

New NS Auto Mixing Center: The new auto mixing center, located on the East side of the community, owned by Norfolk Southern is an example of the communities commitment to growth

and cooperate atmosphere with the railroads. The addition on the sanitary sewer system to accommodate the facility is a \$512,000.00 (all local monies) investment by Fostoria for the growth potential of the area as a whole. In conjunction with the increased rail traffic for the facility, a trucking facility is currently under construction to serve the mixing center with over the road capabilities. We understand that the trucking requirements will be in the range of 100 truck loads per day leaving the facility thereby increasing the congestion on an already overloaded road system.

Your assistance and cooperation is appreciated.

Sincerely,



James E. Bailey
Mayor
City of Fostoria, Ohio

JEB/cld



CITY of FOSTORIA

P. O. Drawer H
FOSTORIA, OHIO 44830

January 28, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K. Street, NW
Washington, DC 20423-0001

Board Members:

The City of Fostoria is concerned that its safety concerns are almost completely ignored and inadequately addressed in the Draft Environmental Impact Statement, in fact, the lack of comments would leave one to wonder if the City's comments, submitted with the State of Ohio during the Preliminary Safety and Environmental Comment Period, were considered.

Although segments C-070 (Marion-Fostoria) and C-075 (Willard-Fostoria) are identified as meeting the threshold for analysis by the SEA 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.

The foremost item of concern remains the ingress/egress issues raised in the Preliminary Safety and Environmental Comment Period. The measurable delay for emergency responders will be dramatically increased as a result of the acquisition. Our estimates indicate that with nearly a 30% increase in rail traffic throughout the community, utilizing the SEA's formula, a at-grade crossing will be blocked over 12 of the 24 hours, which is over 50% of the day. Under the existing current volume levels, a train is blocking one or more at-grade crossing in Fostoria nine and one quarter (9.25) hours out of each twenty-four hour day.

We agree that not all of the crossing will be blocked at the same time, however an emergency vehicle has no schedule as to what time of day the crossing it needs will be blocked. With any given rail crossing blocked over half of the day, it becomes apparent that some alternative provision needs to be made for the safety of the residents within the Iron Triangles in particular.

It is strongly recommended that the potential for these two areas to become isolated by rail movements, and the unreliability and unpredictability of direct emergency service routes, be

considered in addition to the established SEA criteria. The construction of grade separations in both areas is highly recommended.

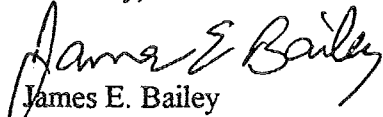
As a result of the acquisition, the City of Fostoria stands to be significantly impacted in the amount of Hazardous Material rail car loads on an annual basis. The Draft EIS indicates an increase of forty (40%) percent, from 85,530 car loads per year to 119,710 when evaluating the cumulative impacts of all three rail lines within the community. Mitigation recommendations are included within the State of Ohio filing.

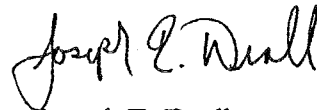
Additional evaluation by SEA is necessary to totally realize the impact within Fostoria, the Draft EIS fails to recognize that the rail systems not only intersect in the center of the community, but also have a interchange capability, both having a negative impact when considering Emergency Responders.


The City has participated in the preparation of the recommendations being submitted by the State of Ohio and fully concur with them.

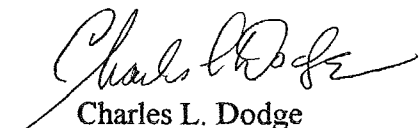
Your consideration is greatly appreciated.

Sincerely,


James E. Bailey
Mayor
City of Fostoria, Ohio


Joseph E. Droll
President
Fostoria City Council


Ronald L. Reinhard
Safety-Service Director
City of Fostoria, Ohio


Charles L. Dodge
Administrative Assistant to the Mayor
City of Fostoria, Ohio



News Release

Office of Mayor Michael R. White

Cleveland City Hall
Room 227
Cleveland, Ohio 44114
216/664-2239 • Fax 216/664-3570

ATTENTION ASSIGNMENT EDITORS AND REPORTERS

For more information, please contact:

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January 27, 1998

MAYOR WHITE INTRODUCES "GLOBAL FIX" TO MINIMIZE TRAIN TRAFFIC IMPACT ON CLEVELAND AND REGION

CSX plans for railroad ties and earthen berms will not resolve significant damage to neighborhoods from increased traffic; Mayor says Cleveland will not act at the expense of its neighbors

Cleveland Mayor Michael R. White and City Planning Director Hunter Morrison today outlined two alternative route configurations that route most of the rail traffic resulting for the CSX and Norfolk Southern (NS) corporations' acquisition of Conrail through Cleveland's (and its neighbors') industrial corridors – thereby minimizing the impact on residential neighbors, reducing safety hazards and preserving the quality of life.

The City's plans were developed to prevent the potentially devastating impact of the dramatic increase in freight train traffic that will result from the CSX/NS route proposal. Collectively, the two railroads propose a three-fold increase in train traffic through affected Cleveland neighborhoods. The unveiled plans, Mayor White said, while substantially reducing the adverse impacts of the increased traffic on thousands of Clevelanders who live near the railroads, will also provide a long-term solution to the railroads' need to move cross country train traffic through Cleveland, a key junction in their national systems.

Last week, CSX publicly announced their "noise abatement" and "beautification" program that they claimed would address many of the problems created by the new train traffic. The CSX plan proposes a low railroad tie wall, earthen berms and trees to mitigate the impact of the increased traffic and noise. Mayor White today said that CSX plans were "inadequate and a band aid approach. We expect the railroads to find realistic and permanent solutions to the problems they are creating. Serious health, safety and quality of life concerns cannot be addressed by some railroad ties, trees and mounds of dirt. The noise abatement program would have little impact on the tripling of the noise level which residents will experience."

-more-



A-549-d

CSX/NS Alternative -- p. 2

Philip Pasterak of the national transportation, planning and engineering consulting firm Parsons Brinckerhoff said the CSX plans will have little impact on reducing the increased noise level. He equated the tripling of the noise level with the difference between the noise of an average car with a heavy truck. He also indicated that a significant portion of CSX's increase in operations will occur at night while people are trying to sleep.

Mayor White appointed a task force of City representatives, along with Pasterak, to review the CSX/NS proposal, hear residents' concerns and work with the CSX and NS to reach a settlement. The mayor and the task force believe the City's alternative routes represent a realistic approach and a real solution to both community concerns and the railroads' economic interests.

"These alternative plans are viewed as a 'global fix' because they not only benefit City of Cleveland neighborhoods, but also other cities including west shore communities, East Cleveland, Euclid, Berea and others," Mayor White said. "The new traffic patterns would maintain the railroads' ability to provide efficient and competitive freight service, preserve the future ability to operate commuter rail passenger service and enhance regional economic development."

The City's alternative route plans, Mayor White said, greatly improve upon the current joint proposal of the railroads by:

- Redirecting freight traffic from residential areas to industrial corridors;
- Substantially reducing the adverse impacts on minority and low income populations;
- Providing grade separations to minimize emergency response times and improve traffic flow.
- Minimizing changes in noise levels
- Decreasing the need to spend money on mitigation measures with limited effectiveness; Providing railroads' the ability to offer efficient and competitive freight service, and enhancing regional economic development.

Mayor White said that although the City's alternative routes would cost more, that increase is dwarfed by the enormous increases in revenues and savings the railroads will experience three years after they acquire the Conrail assets. Together, CSX and Norfolk Southern will realize an addition of nearly one billion annually (CSX - \$435.8 million and Norfolk Southern -- \$553 million). Preliminary estimates, according to Parsons Brinckerhoff, indicate the cost of the two alternatives to be in the range of \$148 to \$171 million. A significant cost item under both City proposals is the need to invest in improvements in Berea. This includes over pass structures for both rail lines and roadways.

The current CSX/NS proposal is estimated to cost \$72 million but fails to mitigate numerous noise, hazardous materials, safety and roadway crossing delay concerns. The actual cost of the railroad proposal with additional mitigation is estimated to be \$107 million, with significant impacts remaining unresolved, according to Parsons Brinckerhoff.

-more-

CSX/NS Alternative - p. 3

Thomas O'Leary, Executive Director of the Ohio Rail Development Commission, said the alternative proposals would avoid potential mitigation, such as train limits, grade separations, appropriate hazardous materials and safety precautions and noise and vibration abatement. "This mitigation will directly affect the revenues expected by the railroads after the acquisition of Conrail. For this reason the estimated cost of the alternatives advanced today by the City of Cleveland are appropriate and reasonable for a real fix," he said.

The current CSX/NS route plan would collectively increase freight train traffic three fold in the City of Cleveland, according to City studies. The impact on individual neighborhoods is even greater. For instance, in the Kinsman/South Broadway neighborhood, CSX proposes increasing trains from 3 to 44 per day, an increase of over 1000%.

More than 64,000 residents in eight neighborhoods live within 1,000 feet of the routes. The negative impact of the increased train traffic includes safety hazards, noise, vibration, odor, dust, congestion and decreases in access, property values and overall quality of life for residents along the railroad corridor. Among the harmful impacts, emergency response times are jeopardized as trains block crossings anywhere from two to 10 minutes and hazardous waste transport would increase from zero to 44,000 carloads in east side neighborhoods and from 7,000 to 81,000 car loads in University Circle.

The City today also said that CSX claims of economic benefits resulting from the Conrail acquisition are vague, ambiguous and misleading. For instance, CSX claims their proposal will support 25,036 jobs in the region. "When you look at the fine print," the Mayor remarked, "you discover that they count one job ten times by using the confusing term 'worker/years'." For instance, their employment projections for industrial development are for 12,000 worker/years, which really translates into 1,200 jobs over 10 years. In addition, their economic impact summary did not distinguish between existing jobs and new jobs. CSX does not pinpoint overall economic benefits for the City of Cleveland, but instead cites region-wide projections. "The current CSX/NS routing proposal disproportionately harms Cleveland neighborhoods. The negative impacts in Cleveland caused by the proposed routing system were not considered by CSX," Mayor White added.

FACTS ON CITY OF CLEVELAND ALTERNATIVE ROUTES FOR CXS/NS RAIL TRAFFIC

The City of Cleveland has developed two alternative route configurations that route most rail traffic through industrial corridors, minimize impact on residential neighborhoods, reduce safety hazards and preserve the quality of life.

CSX traffic from Greenwich would continue to enter the region in Berea, but would use the Lakeshore route via the Cleveland lakefront to Collinwood. This line is currently heavily used by rail traffic. NS traffic bound for Pittsburgh and beyond would continue to enter the area at Olmsted Falls/Berea but would use the Short Line to the Broadway-Harvard area, then diverge southeast through Bedford.

The two alternative routes differ in the routing of NS traffic to Buffalo. Both, however, minimize rail traffic in the west shore communities by routing this traffic via Berea. One alternative would route this traffic via the Plata Industrial Track corridor as proposed by NS, while the other would have this traffic continue east on the Short Line, diverging north at Broadway/Harvard to Euclid. In Berea, the two lines would be grade separated by construction of a rail/rail overpass. Both existing Front Street at-grade crossings would be eliminated by construction of an overpass and underpass. In Collinwood, grade crossings at Dille and London roads would be replaced by underpasses.

The plans are viewed as a "global fix" because they not only benefit City of Cleveland neighborhoods, but also other cities, including the west shore communities, East Cleveland, Berea and others. The positive impact of these two alternative routes include:

- Routing traffic through industrial corridors and minimizes rail traffic through residential neighborhoods, therefore enhancing the quality of life.
- Minimizing changes in noise levels.
- Not disproportionately affecting minorities and low-income residents.
- Providing grade separations to minimize emergency response times and improve traffic flow.
- Minimizing rail traffic on several key future commuter rail routes.
- Providing grade separation of highway/rail crossings in Berea.
- Providing railroads' with the ability to offer efficient and competitive freight service and enhances regional economic development.

FACTS ON CSX/NS PROPOSED ROUTES

The plan for the acquisition of Conrail submitted by CSX and Norfolk Southern significantly affects rail traffic densities in Cleveland and Northeast Ohio. Numerous parties, including the City of Cleveland and many other public agencies and municipalities, have identified harmful impacts which include:

- **Significantly increased rail traffic through residential neighborhoods would have a devastating impact on the quality of life in communities.**
- **More than 64,000 Cleveland residents live within 1,000 feet of the routes affected. Collectively, rail traffic through residential neighborhoods would increase by three-fold. The impacts on individual neighborhoods are even greater. In Kinsman-South Broadway, CSX proposes increasing trains from 3 to 44 per day, an increase of over a 1,000%.**
- **Noise levels would triple -- the difference between a car and heavy truck. Neighborhoods would also experience increased dust, odor and vibration.**
- **Emergency response times by police, fire and Emergency Medical Service would increase; Trains block crossings anywhere from two to 10 minutes. The chance of survival of a person in cardiac arrest decreases 50% with a 2 minute delay, 75% with a 3 minute delay and beyond 3 minutes survivability is 0%.**
- **Hazardous waste transport would dramatically increase -- from zero to 44,000 carloads a year on the Short Line and from 7,000 to 81,000 car loads in University Circle.**
- **Property values would decrease, as would overall quality of life.**
- **Minorities and low-income residents are disproportionately affected.**
- **Costs to railroads are minimized with little consideration for public impacts.**
- **Rail traffic on the west shore is minimized only in NS's proposal, also requiring public funding.**
- **Grade separation of road crossing in Berea is provided only in NS's proposal, also requiring public funding.**

NEIGHBORHOOD IMPACTS OF FREIGHT RAIL TRAFFIC INCREASES
Comparison of Alternatives

ALTERNATIVE	TRANS PER DAY current → proposed (on lines with proposed increases)	RESIDENTS LIVING WITHIN 1000 FEET OF RAIL LINES PROPOSED FOR INCREASED FREIGHT RAIL TRAFFIC				MEDIAN INCOME	GRADES CROSSINGS	IMPACT INDEX*
		POP.	% NON- WHITE (persons)	% HISPANIC (persons)	% BELOW POVERTY (persons)			
NS/CSX Original Proposal	42 → 115 174% increase	67,847	52.3% (35,489 persons)	5.3% (3,598 persons)	37.0% (25,132 persons)	\$14,868	13	22.4
NS/CSX Revised Proposal (12/5/97)	42 → 115 174% increase	58,317	51.6% (30,260 persons)	4.7% (3,217 persons)	33.9% (23,150 persons)	\$16,282	7	21.4
Alternative 1: Lakeshore West Side	46 → 67 46% increase	49,547	37.1% (18,357 persons)	6.0% (2,955 persons)	29.2% (14,458 persons)	\$17,456	4	8.1
Alternative 2: Lakeshore Short Line	46 → 67 46% increase	32,625	54.5% (17,794 persons)	1.0% (317 persons)	28.7% (10,361 persons)	\$16,175	4	5.2

* The "Impact Index" numbers were determined on the basis of the following calculation:

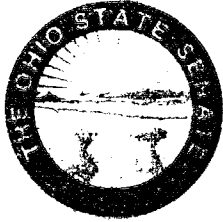
additional trains per day on each rail line segment × population within 1,000 feet of tracks on each rail line segment

÷ 100,000 = Impact Index

The rail line segments and the associated neighborhoods are identified on the maps and tables which show the neighborhood impacts of increased freight rail traffic.

Higher impact numbers indicate greater impacts on neighborhoods. Lower impact numbers indicate lesser impacts on neighborhoods.

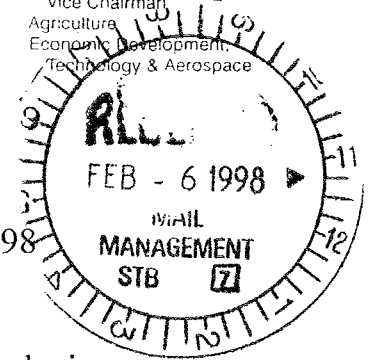
Revised 1/9/98



James E. Carnes
20th Senate District

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Fax 614-466-7662
1-800-282-0253
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St. Clairsville, Ohio 43950
614-695-0856
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Committees:
Human Services & Aging
Chairman
Highways & Transportation
Vice Chairman
Agriculture
Economic Development,
Technology & Aerospace



February 2, 1998

Elaine Kaiser, Environmental Project Director
Surface Transportation Board Section of Environmental Analysis
1925 K Street, NW
Washington, DC 20423-0001

**ENVIRONMENTAL
DOCUMENT**

Dear Director Kaiser:

I would like to take this opportunity to urge the Surface Transportation Board Section of Environmental Analysis to oppose the sale and consolidation of Conrail with CSX and Norfolk Southern Railroad.

The State of Ohio's House and Senate Joint Transportation Committee had numerous public hearings on the proposed acquisition of Conrail by CSX and Norfolk Southern Railroad. During our hearings, we heard testimony stating that if the merger occurs, Agriculture, Ohio's largest industry, would be regulated to a third world economic development policy because of tentative plans to focus on transporting unprocessed Ohio grains to certain areas of the country.

We heard testimony that the Plastics Industry transports 75-80% of plastic raw materials by rail. The profit margins on some products are thin enough that even a slight price increase could produce substantial losses of market share. The plastics industry supports more than 100,000 jobs in Ohio and adds an estimated \$16.3 billion annually to the state's economy.

The Ohio Mining and Reclamation Association is concerned about heavy cost increases to pay for feeder lines and abandoned lines. And I have great concern that this merger will create jobs in the Eastern United States at the expense of the Ohio Coal Industry.

The Ohio Steel Industry Advisory Council, representing numerous steel companies and approximately 30,000 employees is also very concerned about the merger and is against any expedited approval process.

CSX and Norfolk Southern have agreed to pay \$10.2 billion for Conrail, this is \$4 billion more than Conrail's stock prior to the transaction, and ten times what the Federal Government paid for Conrail ten years ago. Certainly shippers, Ohio's Businesses, will be responsible for this transaction since there is no other railroad companies with whom they may ship their goods. The only winner is big business, the railroad company, not the people of Ohio or the Shippers' of Ohio.

I gave several examples during the hearings showing the greed, arrogance, and lack of caring for our communities by CSX railroad. CSX and Norfolk Southern are worried about their bottom line and not the people of Ohio. They will Monopolize the railroad industry in Ohio if this transaction occurs, which will cause many Ohio businesses to fail and many Ohioans their jobs.

The Brotherhood of Locomotive Engineers provided valuable testimony, stating that the merger would add longer trains and more traffic, without adequate staffing, resulting in more frequent accidents. The individual stated that he has been through two mergers in 30 years with the industry and believes that neither has been good.

How true these words are. In a Wall Street Journal Article on October 2, 1997 entitled *A Big Railroad Merger Goes Terribly Awry In a Very Short Time-- Union Pacific is Hammered Over Service and Safety* stated:

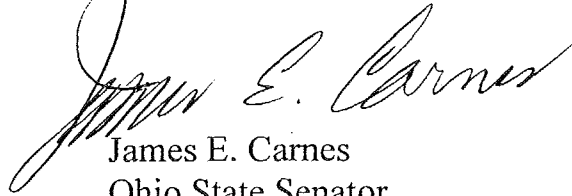
Its railroad safety record, marred by three fatal crashes in three months, is being characterized as a fundamental breakdown by federal regulators. Its route system has slipped into near gridlock west of the Mississippi River, with thousands of freight cars backed up for miles in the Houston area alone. Its chairman had to publicly apologize in August to its big customers.

Service has become so bad that customers say Union Pacific Corp., the nations largest railroad can't account for millions of dollars of shipments for weeks at a time.

We do not want this to exist in Ohio. Less competition will hurt Ohio's citizens.

I urge you to oppose the proposed acquisition of Conrail by Norfolk Southern and CSX Railroad.

Sincerely,

A handwritten signature in cursive script that reads "James E. Carnes". The signature is written in black ink and is positioned above the printed name and title.

James E. Carnes
Ohio State Senator

DENNIS J. KUCINICH
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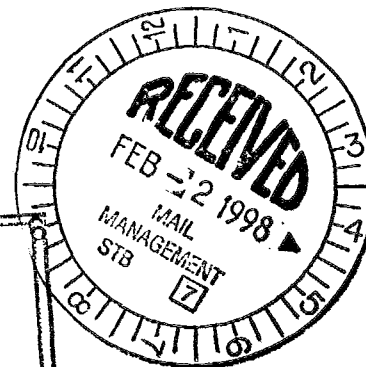
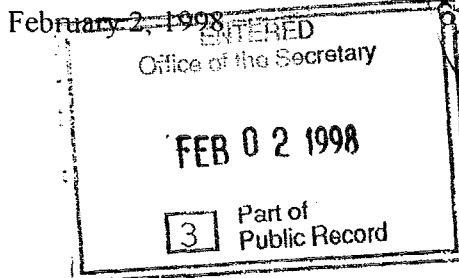


Congress of the United States
House of Representatives

Committees:
Government Oversight
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and the
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Ms. Elaine Kaiser
Chief, Environmental Analysis
Surface Transportation Board
1925 K Street NW
Suite 500
Washington, D.C. 20423-0001

RE: Finance Docket No. 33388

**ENVIRONMENTAL
DOCUMENT**

Dear Ms. Kaiser:

As Member of Congress representing Ohio's 10th district, and as a Party of Record to this proceeding, I hereby submit an original and twenty-five copies of Comments on the Draft Environmental Impact Statement as issued by the Surface Transportation Board's Section on Environmental Analysis for Finance Docket No. 33388.

Thank you for your consideration.

Sincerely,

Dennis J. Kucinich
Member of Congress

DJK:ec

[PUBLIC]

BEFORE THE
SURFACE TRANSPORTATION BOARD



FINANCE DOCKET NO. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK SOUTHERN
CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY
-- CONTROL AND OPERATING LEASES/AGREEMENTS --
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

**COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
AS ISSUED BY THE SURFACE TRANSPORTATION BOARD'S
SECTION ON ENVIRONMENTAL ANALYSIS
FILED BY CONGRESSMAN DENNIS J. KUCINICH**

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Dated February 2, 1998

[PUBLIC]

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK SOUTHERN
CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY
-- CONTROL AND OPERATING LEASES/AGREEMENTS --
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**COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
AS ISSUED BY THE SURFACE TRANSPORTATION BOARD'S
SECTION ON ENVIRONMENTAL ANALYSIS
FILED BY CONGRESSMAN DENNIS J. KUCINICH**

Congressman Dennis J. Kucinich, representing the 10th Congressional District of Ohio, hereby submits these comments in response to the Draft Environmental Impact Statement (DEIS) as issued by the Surface Transportation Board's Section on Environmental Analysis.

The finding by SEA that Norfolk Southern's Cleveland-Vermilion rail line segment — traversing the west side of Cleveland, Lakewood, Rocky River, Bay Village and Westlake — meets or exceeds the Board's thresholds for further analysis is encouraging. It is also encouraging that a considerable amount of attention (Section 5-OH-20) was devoted to the effects of nearly tripling freight train traffic through these densely populated, residential areas.

However, upon closely reading SEA's findings, there are contradictions. SEA

recommends that Norfolk Southern and the affected communities “shall meet” to “negotiate a mutually-accepted binding agreement” in Section 5-OH.20 (Ohio Areas of Concern). However, several of SEA’s findings prior to this section apply statistical analyses to conclude that mitigation for most specific safety and environmental measures are not needed — conclusions that disregard the unique character of the West Shore communities. The DEIS 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.

Should a “mutually-accepted binding agreement” be unobtainable, recommended mitigation on the part of SEA becomes all the more crucial. Specifically, if an agreement is not reached before the STB considers the final merger agreement, it is not clear which conclusions will be given more weight — that mitigation in most safety and environmental areas is not needed, or that Cleveland and the West Shore communities are of particular concern. Contradictions in SEA’s Final Environmental Impact Statement (FEIS) could become grounds for the applicants to argue that no mitigation is needed, and should not be imposed as a condition of the merger. Clearly, these contradictions need to be reconciled — or at the very least addressed — in the Final Environmental Impact Statement.

Finally, no increase in rail traffic in the Cleveland area will be acceptable as a result of the Conrail acquisition unless it is mitigated by adequate and appropriate grade separations in the Cities of Berea and Olmsted Falls. Those two communities in the southwest corner of Cuyahoga County, and the 10th Congressional District, will bear a disproportionate burden as a result of the Conrail acquisition. The needs of those communities’ residential and commercial transportation require adequate and appropriate grade separation.

I. SECTION 5-OH.2 PROPOSED CONRAIL ACQUISITION ACTIVITIES IN OHIO

SEA finds that the NS Cleveland-Vermilion line is one rail line segment that meets or exceeds the Board's environmental thresholds (Table 5-OH-1, pg. OH-6).

The DEIS states, "Both CSX and NS plan to undertake extensive activities in Ohio as part of the proposed Conrail Acquisition. The proposed Conrail Acquisition-related activities that meet or exceed the Board's thresholds for environmental analysis in Ohio include increased train operations on a total of 36 rail line segments" (pg. OH-3).

As stated above, it is encouraging that SEA finds the Cleveland-Vermilion line to be one of the 36 rail line segments that meets or exceeds the Board's thresholds for analysis. Specifically, SEA found that the proposed increase in freight train traffic met the Board's requirements for further analysis in the following six areas: rail operation safety, at-grade crossing safety, hazardous material transport, roadway crossing delays, air pollution emissions, and noise pollution.

However, of these areas that exceed the Board's thresholds for further analysis, only one — hazardous material transport — warranted SEA to recommend mitigation (Table 5-OH-10, pg. OH-30). As stated above, these conclusions are ambiguous when coupled with SEA's later conclusion that the area affected by NS's proposal to nearly triple freight train traffic on its Cleveland-Vermilion line is concerning enough to merit special consideration.

II. 5-OH.4 OHIO SAFETY: FREIGHT RAIL OPERATIONS

SEA finds that the increase in freight train traffic on the Cleveland-Vermilion line will not cause a significant enough number of freight train accidents to warrant mitigation (Table 5-OH-6, pg. OH-15).

SEA evaluated the potential change in safety on all rail line segments where the proposed Conrail Acquisition would result in eight or more additional freight trains per day. Clearly, with

an increase (using the numbers that Norfolk Southern submitted in its application) from 13.5 to 37.8 trains per day, that criterion is met.

The DEIS states, "While increased freight train activity would increase the probability of a freight train accident, SEA did not consider an increase significant unless the predicted accident rate shortened the duration between accidents to one every 100 years or less per mile" (pg. OH-14). SEA's predicted accident rate for the Cleveland-Vermilion line drops from one accident per mile every 336 years to one accident per mile every 127 years (Table 5-OH-6, pg. OH-15).

The Federal Railroad Administration (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.

Using a strict "predicted accident rate" to determine if mitigation is warranted without looking at the unique character of the West Shore communities could endanger citizens. As stated in the Responsive Environmental Report, filed with the Board on October 1, 1997, Lakewood is the most densely populated area between New York and Chicago. It has 27 at-grade railroad crossings within 2.7 miles, more than any other city in the country. Much of the population resides on one side of the tracks while major emergency services are on the other side of the tracks. An accident in Lakewood could not only cause harm within the immediate vicinity, but would have a multiplying factor if emergency vehicles are not able to cross the tracks because a derailed train is blocking the way.

While SEA predicts an accident every 127 years per mile, the damage done to citizens because of the geography of this densely populated, residential area could be catastrophic when

compared to most other areas. Mitigation that reduces the likelihood of accidents is most assuredly needed in this densely populated, residential area that is literally bisected into north and south segments by Norfolk Southern's railroad tracks. However, mitigation that closes off grade crossings along the West Shore line would not be acceptable because it would have the effect of closing those roads off to emergency vehicles permanently. Street closings, therefore, would not be an appropriate form of mitigation.

III. 5-OH.6 OHIO SAFETY: HIGHWAY/RAIL AT-GRADE CROSSINGS

SEA finds that additional freight train traffic on the Cleveland-Vermilion line that would cause an increase in highway/rail at-grade crossing accidents to be "below the criteria for significance" (pg. OH-20).

SEA used two different calculations to predict if increased freight traffic would cause significantly more at-grade crossing accidents. The Cleveland-Vermilion line was not specifically mentioned in this section. In fact, despite two different calculations, SEA determined that every single at-grade crossing in Cuyahoga County did not meet the "criteria for significance". Thus SEA does not recommend mitigation for at-grade crossing safety in the entire region.

Again, predicted accident rates may be appropriate for areas where at-grade crossings are few and far between. However, as stated above and in the Responsive Environmental Report filed on October 1, 1997, 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.

Actual experience reveals that accidents in this area exceed STB's criteria. According to Table 5-OH-8 in the DEIS (pg. 5, 6), there were fourteen at-grade crossing accidents in Cuyahoga County along the Cleveland-Vermilion line between 1991-1995. Two at-grade

crossings (Cook Avenue and Andrews Avenue) experienced two accidents between 1991 and 1995. Two accidents in four years not only exceeds the predicted accident rate, but also meets the Board's "criteria for significance". Furthermore, both of these crossings have only gates and no flashers.

At a minimum, these two crossings should warrant mitigation. The fact that the DEIS does not find mitigation warranted indicates a shortcoming in the SEA's universal application of "predicted accident rates" for all areas despite wide variations in population density, community composition, geography, traffic patterns, etc. Nevertheless, closing of grade crossings along the West Shore line would be inappropriate because to do so would block off needed emergency services. Therefore, the only appropriate mitigation is to not allow an increase in freight train traffic along the West Shore line.

IV. 5-OH.7 RAIL TRANSPORT OF HAZARDOUS MATERIAL

SEA finds that an increase in hazardous material transport on the Cleveland-Vermilion line as a result of additional freight train traffic is potentially significant, and mitigation is recommended (Table 5-OH-10, pg. OH-30).

The DEIS states, "SEA applied two different criteria to determine if the effects of rerouting hazardous material car loads are potentially significant: 1) The volume of hazardous materials transported on a rail line would be 10,000 or more car loads per year. The Acquisition-related change in volume of hazardous material car loads would upgrade a rail line segment to a key route designation. 2) The volume of hazardous material car loads doubles, and exceeds 20,000 or more carloads per year. SEA has termed rail line segments which meet these criteria a 'major key route'" (pg. OH-29).

The Cleveland-Vermilion line, post-Acquisition, is one of ten rail line segments in all of Ohio that will become a New Key Route as well as a Major Key Route in the transportation of hazardous materials (hazmats). SEA recommendations include requiring CSX and NS to bring

the rail line segments into compliance with the Association of American Railroad's key route standards and practices ("base level"), and that CSX and NS develop a Hazardous Materials Emergency Response Plan to contain and minimize the potential effects of any accidents or incidents ("expanded mitigation").

Because hazmat transportation through the west side of Cleveland and the West Shore communities will increase by 255 percent (from 9,000 to 32,000 car loads per year), the recommended mitigation is wholly inadequate. STB should simply not allow 32,000 car loads of hazmats per year to traverse any densely populated, residential areas, much less a densely populated, residential area which has more at-grade crossings than anywhere else in the nation.

Furthermore — 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 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.

V. 5-OH.9 ROADWAY CROSSING DELAY

SEA finds that the additional freight train traffic will not cause significant roadway crossing delays, and does not recommend mitigation (pg. OH-33).

The DEIS states 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 crossings that SEA determines will have more than a minimal increase in crossing delays were not along NS's Cleveland-Vermilion rail line segment.

SEA analyzed six at-grade railroad crossings along NS's Cleveland-Vermilion line in Cuyahoga County: West 110th St., West 117th St., Bunts Rd., Columbia Rd., Dover Center Rd., and Bradley Rd. All six of these at-grade crossings meet the Board's criteria for having 5,000 or more Average Daily Traffic (ADT). Three of these crossings have 10,000 or more ADT.

Despite ten pages of calculation formulas and explanations, 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. For example, West 117th has more than 15,000 ADT. At the current level of 13.5 trains per day, vehicular delays as trains pass results in a maximum number of vehicles in a queue per lane of 16. Yet SEA calculates that all things remaining equal except an increase of freight train traffic to 37.8 trains per day will result in only one additional vehicle in a queue per lane (17).

Furthermore, in Table 5-OH-11, SEA determines that there will be significant increases in the numbers of vehicles that will experience delays, but does not consider it to be enough to warrant mitigation. For example, at West 110th Street, currently 116 vehicles are delayed per day. Post-Acquisition, 300 vehicles will experience delays at West 110th Street (158 percent increase). At West 117th Street, 305 vehicles experience delays, but post-Acquisition, 785 vehicles will experience delays. Clearly, the increased number of vehicles experiencing delays is more than "minimal".

Despite SEA's finding in this section that traffic delays do not warrant mitigation, SEA states in Section 5-OH.20.1 that

Between the west side of Cleveland and Vermilion, there are 88 crossings (public and private) along the NS line, including 67 highway/rail at-grade crossings. These numerous crossings influence highway traffic patterns on the west side of Cleveland and in the West Shore communities, causing traffic delays while trains pass. Safety concerns raised by all the affected communities include delays in emergency response, vehicular crossings, and pedestrian access....

SEA observed during site visits that train traffic causes delays at the 27 Lakewood crossings, potentially affecting emergency response time. A substantial

portion of the Lakewood population, including many elderly citizens, resides north of the rail line, while the major emergency medical facilities and fire rescue services are located south of the tracks. Emergency response delays could also affect the Cudell-Edgewater neighborhood in west Cleveland, Rocky River, Bay Village, Westlake, and communities extending into Lorain County” (pg. OH-134).

The issue of traffic delay is perhaps the most contradictory of the findings by SEA. As SEA noted in Section 5-OH.20.1, emergency response time is the most critical issue facing the west side of Cleveland and the West Shore communities. SEA calculated that significantly more vehicles will experience traffic delays, and saw for itself that delays occur at the current level of freight train traffic. Despite these overarching factors, SEA still did not recommend mitigation. These contradictory findings need to be resolved in the Final Environmental Impact Statement. And again, because of the need for emergency vehicle access, road closings are not appropriation mitigation. The only appropriate mitigation for the West Shore is to keep freight traffic at or below current levels.

VII. 5-OH.12 OHIO AIR QUALITY

SEA finds that the net NOx emissions is above the emissions screening threshold of 100 tons/year, and thus found the net emissions increase to be potentially significant; however, SEA finds that mitigation is not needed.

The DEIS states, “While there are localized increases in emissions in some counties, the increases are not likely to affect compliance with air quality standards. Therefore, SEA has determined that air quality will not be significantly affected and no mitigation is necessary” (pg. OH-70).

According to the applicants’ own filing with STB, NOx pollution emissions will increase in Cuyahoga County by 1,500 tons/year. This is 1,400 tons/year above the Board’s screening threshold for NOx. As stated in the Responsive Environmental Report filed with STB on October 1, 1997, using the Environmental Protection Agency’s own calculations, an additional 1,500

tons/per of NOx air pollution emissions will be an increase of approximately 3.5 percent.

Under the Clean Air Act, areas that do not meet the ozone standards are required to achieve a 3 percent reduction per year in NOx emissions. A 3.5 percent increase in NOx means that significant additional reductions of NOx from local businesses or vehicles would be needed to offset this increase to meet the ozone standard. Specifically, since 3 percent reductions are already required, and the additional freight train traffic is going to add another 3.5 percent, the additional freight train traffic more than doubles the amount of NOx reductions needed in order for Cuyahoga County to be in compliance.

These facts — that the applicants admit NOx emissions will be 1,400 tons/year above the Board’s own screening threshold, and this increase will require Cuyahoga County to more than double its reductions in order to be in compliance — stand in clear opposition to SEA’s conclusion that “While there are localized increases in emissions in some counties, the increases are not likely to affect compliance with air quality standards” (pg. OH-70).

Furthermore, to justify a determination that no mitigation is necessary based on the fact that the increases are not likely to affect “compliance” with air quality standards is highly dubious. In fact, more emissions won’t affect Cuyahoga County’s compliance with air quality standards because Cuyahoga County already is not in compliance with air quality standards. Is SEA arguing that because Cuyahoga County already has too much air pollution that a little more won’t hurt? Clearly, a little more will hurt. Mitigation is absolutely required for air pollution emissions, which are a direct result of increased (as well as present) train traffic.

VIII. 5-OH.13 OHIO NOISE

SEA finds that the Cleveland-Vermilion line would experience increased noise levels that meet the Board’s analysis threshold, but does not find it eligible for mitigation.

The DEIS states, “Train noise sources include diesel locomotive engine and wheel-rail interaction noise (or wayside noise) and horn noise. ... SEA performed an analysis to identify ...

where the proposed changes in operations meet or exceed the Board's environmental analysis thresholds. ... SEA counted sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) within the noise contours for both pre-Acquisition and post-Acquisition operating conditions" (pg. OH-71).

For NS's Cleveland-Vermilion, SEA found that the additional freight train traffic would increase noise levels by 81 percent. SEA then counted sensitive receptors along the Cleveland-Vermilion line (e.g. schools, libraries, etc.), and found the number of sensitive receptors would jump from 2,194 to 4,439. According to Table 5-OH-42, NS's Cleveland-Vermilion line will have more than twice the number of sensitive receptors than any other rail line in Ohio.

However, NS's Cleveland-Vermilion line is not on the list of rail segments that SEA finds eligible for noise mitigation. Even if mitigation had been recommended, the methods proposed by SEA to reduce noise are wholly inadequate. Noise barriers are not feasible along the track through Cleveland, Lakewood, Rocky River, Bay Village and Westlake; traffic would be seriously disrupted. Sound insulation for these densely populated communities would be economically infeasible, and rail lubrication is not adequate. Further, SEA says that for horn sounding, "mitigation is not currently feasible."

That SEA could determine mitigation is not needed for a densely populated, residential area — which will experience an 81 percent increase in noise and will have more than twice the number of sensitive receptors than anywhere else in the state — illustrates the profound shortcomings of these analyses. As SEA itself noted in Section 5-OH-20.1, "A post-Acquisition increase of rail traffic on the NS Cleveland-Vermilion corridor would increase noise levels from both mechanical wheel/rail noise and horn soundings. ... For instance, locomotives must sound their horns through much of Lakewood because its 27 highway/rail at-grade crossings are spaced only hundreds of feet apart" (pg. OH-137). A steady stream of horn blasts 37 times a day would severely disrupt the peace of these residential communities.

Furthermore, according to *Environmental Health Perspectives*, studies have shown that

noise can hinder the ability of children to learn, harm a population's health, and cause major annoyance. In a study of children who attended a school situated beside some railroad tracks, it was found that students who spent the entire six years of elementary school on the side of the school closest to the tracks were a full year behind students who had spent the entire six years on the quieter side facing away from the tracks. The author was later able to get a noise abatement system on the tracks, and after retesting the children, found that the reading level had become identical on both sides of the building. A recent study by the same author shows that those who say they are bothered by local noise levels rate their general health more poorly than those who say they are not bothered by local noise. And a study of the effects of noise on people found that people's expectations of noise level are most predictive of annoyance. "In fact, mere loudness accounts for less than 50 percent of annoyance from noise."¹

Similar to the misapplication of "predicted accident rates" to densely populated, residential areas, SEA has misapplied noise measurements to west side of Cleveland and the West Shore communities. Densely populated, residential areas are simply not appropriate places for a steady stream of horn blasts 37 times a day. SEA noted this in a later section of the DEIS, but it is contradicted by SEA's earlier finding that this segment of railroad is not even eligible for mitigation. This contradiction needs to be resolved in the Final Environmental Impact Statement.

¹Environmental Health Perspectives, Plane Pollution; Vol. 105, No. 12, Dec. 1997.

IX. 5-OH.20 OHIO AREAS OF CONCERN

SEA's recommendation that Cleveland area communities negotiate a settlement with the railroads is ambiguous, does not address the environmental and commercial impact of Berea, Olmsted Falls, and southwestern Cuyahoga County.

A. SEA recognizes the west side of Cleveland and the West Shore communities as an area of particular concern, and recommends that local officials meet with NS to reach an agreement, but SEA ambiguities diminish the value of this recommendation.

A considerable amount of discussion about the effects of tripling freight train traffic in these communities is afforded in the DEIS. Some statements by SEA are encouraging. For example, "SEA observed during site visits that an increase in rail traffic on the NS rail line may affect traffic patterns at the numerous highway/rail at-grade crossings The proposed increase in rail traffic may cause significant impacts to vehicular movement and travel times, including emergency response services. In addition, SEA has determined that vehicular delays on cross-street traffic would occur more often under post-Acquisition conditions, particularly if such rail operations coincided with peak highway traffic hours" (pg. OH-136). However, when these statements are compared with SEA's previous finding that mitigation for traffic delays along the Cleveland-Vermilion line is not needed, SEA's conclusions are ambiguous, and should be clarified in the Final EIS.

After covering nearly all the issues raised in the Responsive Environmental Report — including grade crossing safety, emergency response, hazardous material transport, noise, air quality, and commuter rail — SEA recommends the following: the Board should retain jurisdiction to impose additional environmental mitigation for a period of no less than ten years; NS should be required to improve its highway/rail at-grade crossings on this rail line segment; if train speeds can be increased without increasing safety problem, NS should be required, at its sole expense, to improve the rail line segment to permit its trains to operate at faster speeds; to

mitigate noise problems, NS should be required to follow the best practices permitted by FRA” (5-OH-140). SEA further recommends that NS and local officials meet to reach a “mutually-accepted binding agreement”. Those are seemingly clear recommendations, but their clarity is lessened by other contradictory statements in the DEIS.

SEA also references NS’s mitigation proposal that was submitted to the Board on October 29, 1997. The mitigation proposal would re-route all additional freight train traffic through Berea on the Flats Industrial Track. SEA notes that the alternate routing is not currently available, and would require the completion of substantial improvements and construction of track and ancillary facilities. This mitigation includes grade separations at Front Street in Berea, and Fitch Street in Olmsted Township. The approximate cost of the mitigation is \$50,000,000. Furthermore, the cities of Berea and Olmsted Falls have indicated that they require additional grade separations at Bagley Road and Columbia Road, respectively, on the Cleveland-Indianapolis route.

This alternative plan has potential, but it also has several problems. First and foremost, it is unclear where funding in excess of \$50,000,000 is going to come from. Secondly, NS has stated that it cannot possibly finish all necessary construction before the STB rules on the final merger agreement. NS admits that the day the merger is approved, the west side of Cleveland and the West Shore communities will see an immediate increase in traffic by ten additional trains per day. This is unacceptable, and in itself is deserving of separate comment in the final EIS for purposes of protecting communities from the adverse consequences of a possible “phase-in” mitigation plan which reroutes increased traffic out of the West Shore area but only after mitigation-related construction is completed. No community should suffer the consequences of the railroads’ lack of immediate alternatives. Thirdly, rather than merely diverting the additional freight train traffic, all of the freight traffic should be taken off this single-track rail line segment that cuts through densely populated, residential areas. Some of the freight train traffic should be shifted out of the area completely, and the rest should be shifted onto tracks that serve shippers

who need rail service for their businesses. The rail line segment could then be made available for commuter rail.

B. The DEIS does not adequately address Berea's and Olmsted Falls's environmental concerns and the needs of those communities for mitigation against the effects of the proposed Conrail acquisition.

The Ohio Cities of Berea and Olmsted Falls would be disproportionately affected by the proposed Conrail acquisition. As part of the Railroad Control Application, NS and CSX have proposed increasing freight traffic on the Berea-Greenwich and Short-Berea routes from 27.9 trains per day to 101.5 trains per day. NS and CSX have also proposed decreasing the freight traffic along the Cleveland-Vermillion route through Berea from 52.4 trains per day to 28.4 trains per day. The net post acquisition increase in trains per day through Berea, if the merger were to be approved as originally proposed, would be from 80.3 trains per day, to 129.9 trains per day, an increase of 49.6 trains per day, or a 61.8 percent increase.

Under the aforementioned plan, NS proposed increasing freight traffic along NS's Cleveland-Lakewood-Vermillion route from 16.4 trains per day to 34.1 trains per day, an increase of 17.7 trains per day. On November 25, 1997, NS amended its application to reroute the additional 17.7 trains originally proposed for Cleveland-Lakewood-Vermillion, to the Cleveland-Berea-Vermillion route. The additional 17.7 trains per day under the amended proposal would increase Berea's train traffic from 129.9 trains per day to 147.6 trains per day. This represents an 83.8 percent increase in train traffic through Berea above the pre-acquisition baseline of 80.3 trains per day.

The Berea-Greenwich route is an northeast-southwest line southwest of Cleveland, Ohio, originates in the southwest corner of Cuyahoga County, traverses the southern half of Lorain County, and approaches Greenwich from the southeast corner of Huron County. The Short-Berea route traverses the southwestern quarter of Cuyahoga County from downtown Cleveland to Berea, Ohio. These two routes constitute the local segment of the Cleveland-Indianapolis route.

The Conrail mainline along the Cleveland-Berea-Vermillion route traverses the southwest quarter of Cuyahoga County from downtown Cleveland through Berea, Ohio, and across the northern half of Lorain County to Vermillion.

All these routes, with respect to Berea and Olmsted Falls, traverse heavily populated urban/suburban residential neighborhoods. They are also situated within an important commercial district of Cuyahoga County which makes heavy use of intermodal transportation, including rail and truck transportation, and air traffic at the adjacent Cleveland Hopkins International Airport.

An 83.8 percent increase in train traffic will cause local and commercial transportation along Ohio Route 237 (Front Street), Sheldon Road, West Street, and Bagley Road in Berea, Ohio Route 252 (Columbia Road) and Maple Way in Olmsted Falls, and Fitch Street in Olmsted Township, causing the surrounding communities to bear a disproportionate burden of inconvenience due to heavy train traffic along the Conrail mainline and the Cleveland-Indianapolis route. This burden includes interference with police and fire crews reaching emergency situations; ambulances and other emergency medical services reaching injured and sick individuals and transporting them to the hospital; school buses attempting transportation of schoolchildren to and from schools; access of residents of these communities to their homes and other destinations; and access of trucks and other commercial vehicles to their pickup and delivery destinations. Grade separations on each of the aforementioned routes would be an appropriate mitigation against the effects of an 83.8 percent increase in rail traffic the proposed merger will cause.

X. CONCLUSION

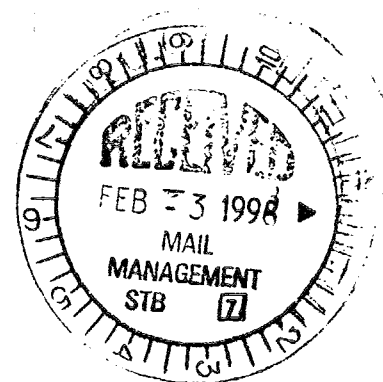
SEA should reconcile the contradictory conclusions reached in the DEIS, clarify its recommendations about a “mutually-accepted binding agreement,” and recommend adequate and appropriate mitigation in the form of grade separations for Berea and Olmsted Falls.

As outlined above, there are contradictory conclusions reached by SEA. These contradictions should be reconciled, or at the very least addressed, in the Final EIS. SEA should also detail what actions it recommends to the Board if an agreement between NS and representatives of the west side of Cleveland and the West Shore communities is not obtained. In particular, the Final EIS should indicate which of SEA's conclusions should be given more weight in the final decision of STB; namely, the conclusion that in most instances, the SEA has determined that the effects of tripling freight train traffic on the NS Cleveland-Vermilion line do not need mitigation, or SEA's conclusion that the west side of Cleveland and the West Shore communities are areas of special concern, and STB should impose conditions on the merger with respect to the Cleveland-Vermilion line.

SEA's recommendations in Section 5-OH.20 are encouraging because they reflect a recognition on the part of SEA that this is an area of concern. However, the recommended mitigation in this section presumes that STB could approve NS's proposal to triple freight train traffic on the Cleveland-Vermilion line under certain circumstances. Mitigation that includes closing grade crossings along the West Shore would present a danger to the affected communities because it would permanently block emergency vehicle access. It is the position of Congressman Kucinich, local officials and residents that tripling freight train traffic through the west side of Cleveland and the West Shore communities is not acceptable under any circumstances. Furthermore, any viable alternative must include grade adequate and appropriate grade separations in Berea and Olmsted Falls that would enable those communities' local and commercial traffic to bear the burden of an increase in train traffic along the Conrail mainline and the Cleveland-Indianapolis route.

ENVIRONMENTAL DOCUMENT

Office of the Secretary
Case Unit Control - Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001



Attention: Elaine K. Kaiser
Environmental Project Director

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/13/98

DOCUMENT # 2/13/98 4:13:24 PM

I am a resident of Vermilion, Ohio. A small town of about 13000 people with about a 6 mile lake frontage along Lake Erie. I am writing to you today to express my concern about the recently announced railroad merger and the predicted increase of rail traffic through my town. I am sure you will hear from our local government, as well as some of those concerned citizens that are not too jaded to think that writing a letter has a chance of influencing big business decisions. Our little town is having some serious problems at the moment - Ford Motor Co. partially closing the local assembly plant plus the local school system has had to borrow money from the State to continue in operation for 98. These two factors alone have managed to negatively impact local businesses as well as the local real estate market. NOW comes the train issue. . .We already deal with a fairly high number of trains and so far, it has not been a safety or economic concern. Even though, I am sure that we do lose some tourist overnight trips at the local marinas, due to the train whistles at night. This we can handle - BUT increase rail traffic, even a little, and I think it certainly becomes a safety concern. We need to be able to get fire and ambulance service to both sides of the tracks without any delay. Given the small number of residents, it would be extremely burdensome to provide equal services on all sides of all our current tracks.

We would most certainly need overpasses.

It is also being reported in the local papers that part of what is being proposed as cargo for this increased rail traffic is hazardous waste. I understand the logical need to remove this type of risk from the highway- BUT what about the risk to many cities water supplies if an accidental spill should contaminate our river, or Lake Erie. Would ~~be~~ ^{we} not be talking about an international incident?

Some articles have also proposed a commuter rail from Cleveland to those western suburbs close to us. . . This is a terrific idea. We could get more people off the roads too!!

Thank you for your time in reading my ideas and your helpful input to whatever governing body will be making decisions that will certainly hopefully improve the quality of life for myself and my neighbors, rather than add further burdens to an already burdened community.

Sincerely,



Isabelle H. Chamberlain
Real Estate Broker
4697 Liberty Avenue
Vermilion, Ohio 44089

RESOLUTION

WHEREAS, An objective of PTA is to promote the welfare of children and youth in the community;

WHEREAS, An objective of PTA is to secure adequate laws for the care and protection of youth; and

WHEREAS, The proposed acquisition of Conrail Inc. by Norfolk Southern Corp. and CSX Transportation threatens to drastically increase rail traffic through residential areas throughout the state; and

WHEREAS, Our children's safety while walking to and from school, and while at play would be threatened by the trains themselves; and

WHEREAS, Train traffic blocking the crossings in our communities will cause critical delays for emergency vehicles in reaching their destinations; and

WHEREAS, The increase of freight trains increases the risk of derailments and the risk of hazardous material spills, be it

RESOLVED, That Lakewood PTA Council make known to the Surface Transportation Board PTA's opposition to increased rail traffic through residential areas; and be it further

RESOLVED, That PTA work in conjunction with government efforts to curtail additional train traffic which would affect the safety of the communities.

Submitting group

Lakewood PTA Council

Date of adoption

November 6, 1997

President's signature

Debra B. Sweeney

Secretary's signature

Diane Deeter

Contact person:

Paula Reed

1208 Manor Park Avenue

Lakewood, Ohio 44107

(216)228-8645

2/3/98

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/4/98
DOCUMENT # 2/4/98 9:42:11 AM

Wicki Putson

Reference document # FD 33388

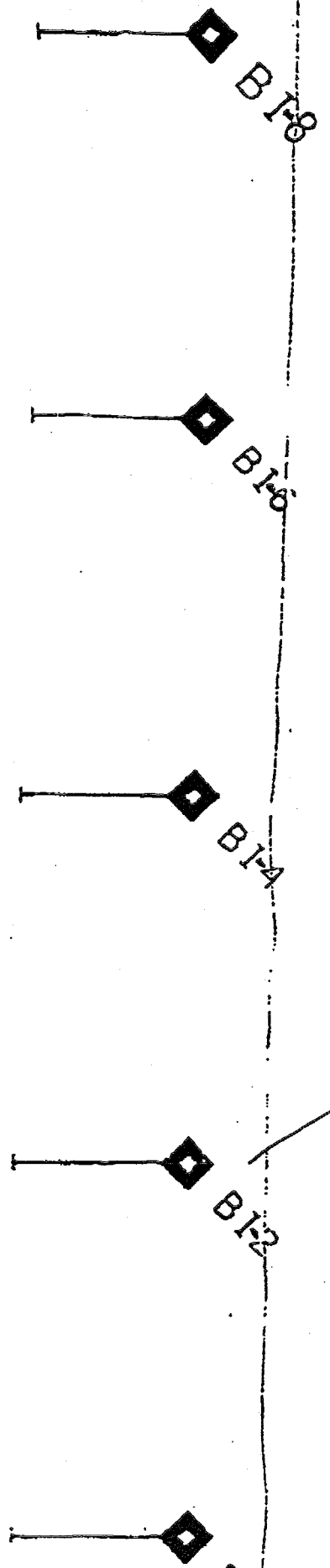
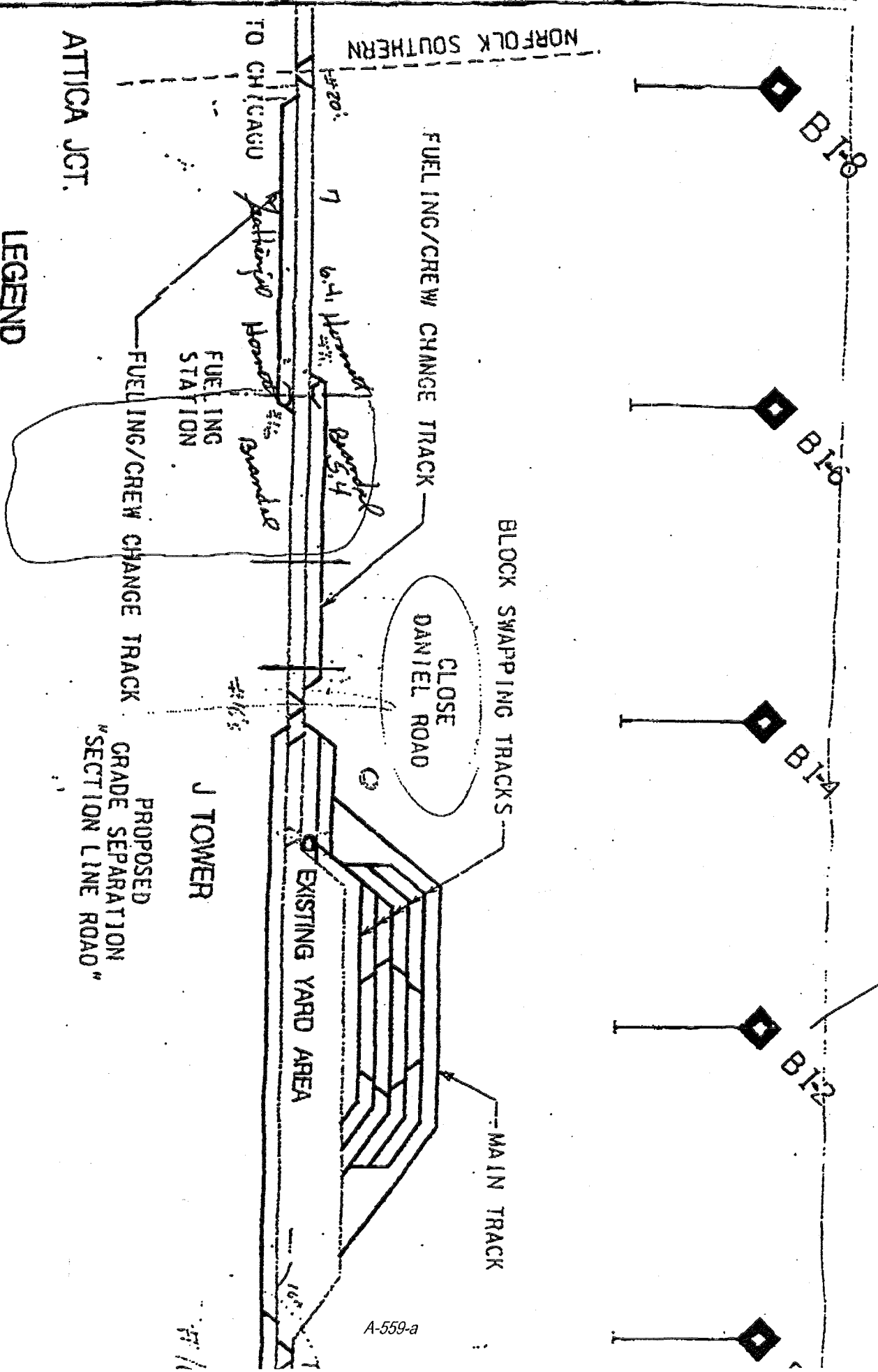
COPY
ENVIRONMENTAL
DOCUMENT

my concern is if CSX Railroad constructs the additional fueling track west of Daniels Rd, that I will not have access to part of my farm. Currently there is a farm crossing that gives me access. Will the RR continue to provide a crossing for me to gain access to the rear portion of my farm (BRANDAL FARM)?

Please advise if any additional details are needed.

Larry J Brandal
1875 LOISVIEW LN.
CINCINNATI, OH 45255

phone #
H - 513-474-0804
W - 513-684-3897



LEGEND

- EXISTING FACILITIES
- NEW FACILITIES
- FACILITIES TO BE RETIRED

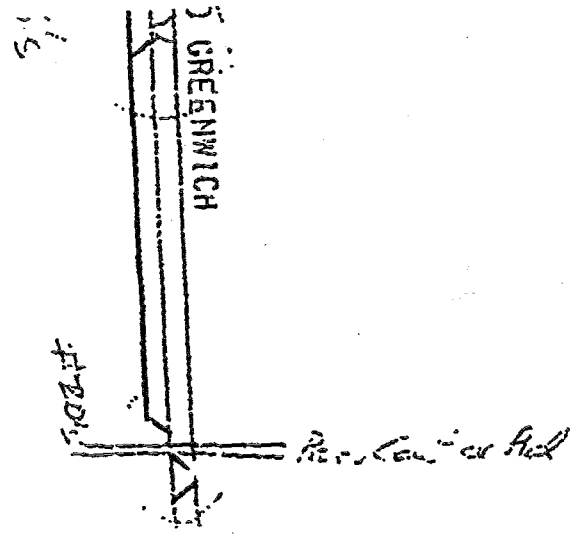
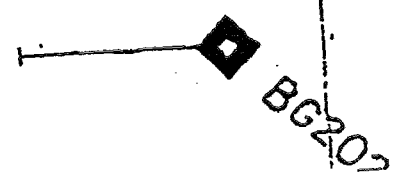
ADDT

W

SCALE

A-559-a

10



CONATIONAL TRACK FACILITIES

WILLARD YARD

1" = 1mi

5-8-97

BKH

Rev. 5-12-97

Huntington Township Trustees

Joan E. Eaton, Clerk

Trustees

Mary Beth Derikito 647-2590
Walt Rollin 647-3486
Ernest H. Hartman 647-3723

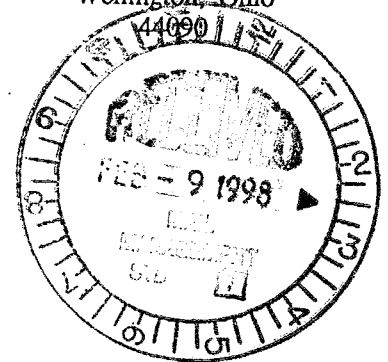
February 3, 1998

48401 Bursley Road
Wellington, Ohio

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/10/98

DOCUMENT # 2/10/98 12:20:52 PM



ENVIRONMENTAL
DOCUMENT

Elaine K. Kaiser
Environmental Project Director
Environmental Filing
Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Re: Proposed Acquisition of Conrail by
Norfolk Southern Railroad and CSX Railroad

Dear Ms. Kaiser:

We have just received a copy of your letter of December 12, 1997, which asks for comments regarding the above proposed acquisition.

We wish to ask if this comment time could be extended, as it does not give adequate time for people to be notified to respond.

We do not have a Conrail crossing in our township but feel that we would still be affected because of our fire and ambulance service coming from the neighboring town of Wellington, which does have a Conrail crossing.

Thank you for considering our comments.

Very truly yours

HUNTINGTON TOWNSHIP TRUSTEES

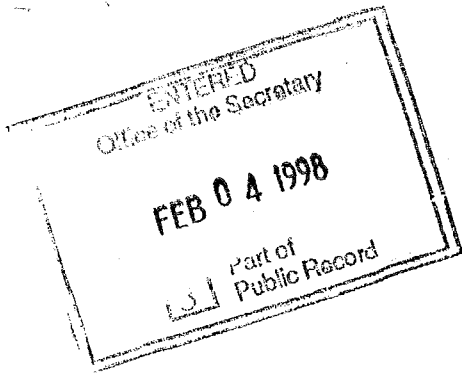
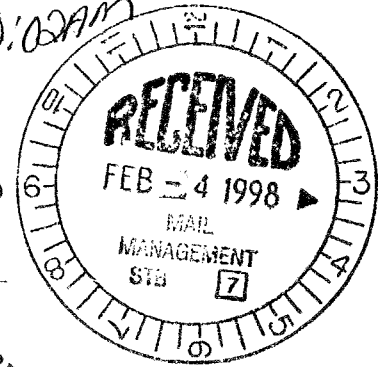
Joan E. Eaton, Clerk

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/5/98

DOCUMENT # 2/5/98 10:30:02AM

[PUBLIC]



BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY
-- CONTROL AND OPERATING LEASES/AGREEMENTS --
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

ENVIRONMENTAL
DOCUMENT

**ADDENDUM TO
COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
AS ISSUED BY THE SURFACE TRANSPORTATION BOARD'S
SECTION ON ENVIRONMENTAL ANALYSIS
FILED BY CONGRESSMAN DENNIS J. KUCINICH**

Dated February 4, 1998

**ENVIRONMENTAL
DOCUMENT**

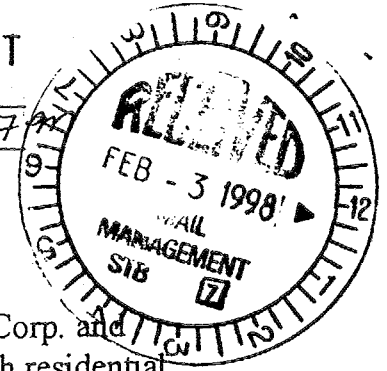
CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98

DOCUMENT # 2/3/98 2:55:27

SUMMARY

RAILROAD TRAFFIC CONCERNS



The proposed acquisition of Conrail Inc. by Norfolk Southern Corp. and CSX Transportation threatens to drastically increase rail traffic through residential areas throughout the state.

Our local concerns center around the tracks that bisect West Cleveland and particularly our suburb, Lakewood, and the other suburbs of Rocky River, Bay Village and Avon Lake.

All of these communities share concerns about delayed response for emergency vehicles, and about the possibilities escape routes being blocked in the case of a hazardous waste spill.

Lakewood alone, however, must deal with safety concerns brought by children of all ages crossing the tracks on their walk to and from school. Students in all the other communities are bussed. Lakewood's boundaries encompass just five square miles, and this area is served by ten elementary schools, three middle schools and one high school. The probability of death or serious injury with these many children moving through the city daily on foot would skyrocket were train traffic to triple.

A related concern is that of the effects of increased traffic on real estate values. Houses near the tracks will decrease in value, having a definite effect on tax revenues generated, and therefore on the funding for schools.

Attached is the West Shore Report--a summary of the problem issued by the office of Representative Dennis Kucinich.

Paula Reed
Railroad Safety Concerns Committee Chairman
Lakewood PTA Council

[PUBLIC]

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK SOUTHERN
CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY
-- CONTROL AND OPERATING LEASES/AGREEMENTS --
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

**ADDENDUM TO
COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
AS ISSUED BY THE SURFACE TRANSPORTATION BOARD'S
SECTION ON ENVIRONMENTAL ANALYSIS
FILED BY CONGRESSMAN DENNIS J. KUCINICH**

Congressman Dennis J. Kucinich, representing the 10th Congressional District of Ohio, hereby submits this addendum to his comments in response to the Draft Environmental Impact Statement (DEIS) as issued by the Surface Transportation Board's Section on Environmental Analysis (SEA) for the purpose of relaying newly acquired information about the City of Brooklyn, Ohio.

Brooklyn, Ohio, is a west-side residential and industrial suburb bordering Cleveland at Brooklyn's west, northwest, and east sides, and bordering Parma, Ohio, at its south side. Three sets of railroad tracks currently traverse Brooklyn. A Conrail line, formerly Cleveland's Short Line, crosses Brooklyn parallel to Brookpark Road near Brooklyn's southern border. Another Conrail line abuts Brooklyn's northwest border with a spur crossing Ridge Road just south of the

northernmost tip of Brooklyn. And a CSX line from Cleveland to Medina crosses Brooklyn from the northeast edge to the southwest edge.

The Draft Environmental Impact Statement did not address the environmental effects that the proposed Conrail merger will have on the City of Brooklyn. This office requests that the SEA investigate the effects that the proposed rail merger will have on the City of Brooklyn and include the results of that investigation in its Final Environmental Impact Statement.

An analysis of the effects on the City of Brooklyn should include the following:

- 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? Residents on Idlewood Drive, Summer Lane, Kennedy Drive, Southwood Drive, Autumn Lane, Springwood Drive, and Melody Lane live in homes abutted by the Conrail tracks to the south and Interstate 480 to the north. The only evacuation routes in the event of a hazardous material spill at that segment of the rail line are Idlewood Drive at the eastern edge of the neighborhood, and Southwood Drive at the western edge of the neighborhood. A derailment along this section of track would pose a clear and immediate threat to public safety. An increase in trains will increase the risk of a hazardous waste spill in the event of a derailment. Furthermore, an increase in trains will increase the noise levels experienced residents living adjacent to the tracks on Idlewood Drive. Noise mitigation may be necessary.
- The Cleveland-Medina CSX route crosses American Road in Brooklyn. American Road is the access road for employees of American Greetings, Brooklyn's largest employer, employing approximately 3,000 workers. An increase in train traffic along this line will result in an increase in delays for American Greetings's workers and could result in traffic queues as far as Tiedeman Road. The SEA should investigate whether mitigation against the effects of traffic delays on American Road would be warranted.
- The Cleveland-Medina CSX route also abuts the Spring Crest-Pepper Ridge Drive neighborhood, which is already subject to significant noise from train traffic. Sixty-three homes are located there. The SEA should investigate whether noise mitigation is warranted if there is an increase in train traffic as a result of the merger.
- The Conrail line abutting the northwest edge of Brooklyn crosses Ridge Road at an at-grade crossing. Ridge Road is a major north-south commuter route between Cleveland and the southwestern suburbs. The SEA should investigate the effect that an increase in train traffic along this Conrail route would have on commuter traffic on Ridge Road, and recommend mitigation as appropriate.

The aforementioned investigations should be conducted by the SEA in preparation for its Final Environmental Impact Statement. This office, in conjunction with the Office of the Mayor of Brooklyn, Ohio, will provide additional assistance as necessary in order to help the SEA investigate these important environmental issues.

f:\public\common\deis3.wpd

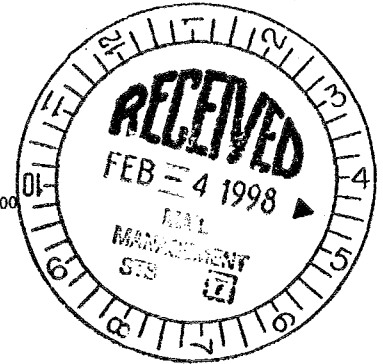
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HOPKINS & SUTTER

(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

888 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20006-4103 (202) 835-8000
FACSIMILE (202) 835-8136
INTERNET <http://www.hopsut.com>

CHICAGO OFFICE THREE FIRST NATIONAL PLAZA 60602-4205
DETROIT OFFICE 2800 LIVERNOIS SUITE 220 TROY, MI 48063-1220

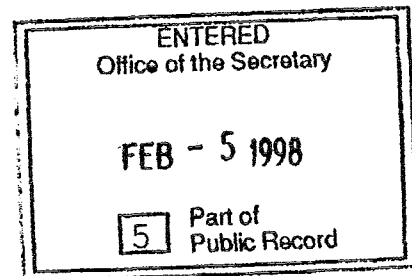


185533

CHARLES A. SPITULNIK
(202) 835-8169

February 4, 1998

Office of the Secretary
Case Control Branch
ATTN: STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001



Attention: Elaine K. Kaiser
Chief, Section of Environmental Analysis
Environmental Filing

Re: CSX Corporation and CSX Transportation Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc. and Consolidated Rail Corporation, Finance Docket No. 33388

Dear Ms. Kaiser:

Enclosed are the original and twenty five (25) copies of the Errata to Comments of The City of Cleveland, Ohio on the Draft Environmental Impact Statement (CLEV-11) for filing in the above-referenced proceeding. An additional copy of this filing is enclosed for file stamp and return with our messenger. Please note that a copy of this filing is also enclosed on a 3.5-inch diskette in WordPerfect 5.1 format.

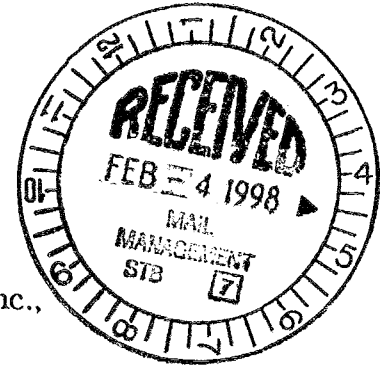
Sincerely,

Charles A. Spitulnik

Enclosure

cc: The Honorable Jacob Leventhal
All Parties of Record

Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423



Finance Docket No. 33388

CSX Corporation and CSX Transportation Inc.,
Norfolk Southern Corporation and
Norfolk Southern Railway Company
-- Control and Operating Leases/Agreements --
Conrail Inc. and Consolidated Rail Corporation

**ERRATA TO
COMMENTS OF THE CITY OF CLEVELAND, OHIO
ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT**

On February 2, 1998, the City of Cleveland, Ohio, filed its Comments on the Draft Environmental Impact Statement ("DEIS") issued by the Section of Environmental Analysis ("SEA") on December 12, 1997. By these Errata, the City makes the following corrections to those Comments:

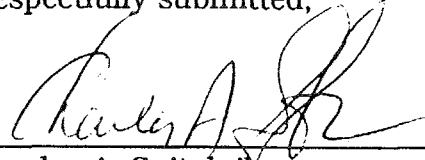
PAGE	LINE	CORRECTION
2	2	Delete the word "on" and replace it with the word "at"
2	12	Delete the word "have" and replace it with the word "has"
2	15	Delete the word "their" and replace it with the word "its"
4	6	Delete the word "of" between the words "explain" and "the"
5	12	Delete the word "medial" and replace it with the word "medical"
6	7	Delete "available," between the word "resources" and "to"

PAGE	LINE	CORRECTION
6	22	Delete the word "Redirection" and replace it with the word "Redirecting"
7	10	Add the word "million" after the number "\$148"
9	19	Delete the word "on" and replace it with the word "with"
10	20	Insert "%" after "22.4"
12	14	The word "segment" should be "segments"
12	15	Delete the word "across" after the word "increase"
19	8	The sentence "The report purports to address the localized issue of noise in the City" appears twice. Delete the second one.
19	13	The word "form" should be "from"
19	18	Delete the word "was" and replace it with the word "were"
23	9	Insert the word "that" between the words "even" and "reduction"
27	2	Insert a comma after the word "arrangements" and insert the word "is" before the word "less"
27	20	Delete the word "across" between the words "increase" and "in"
28	20	Insert the word "be" between the words "to" and "found"
29	3	Delete the word "Given" and change the "t" at the beginning of the word "this" from lower to upper case
29	6	Change the word "require" to "requires"
30	22 & 23	Delete the words "will further limit access"
31	1	Change the word "criteria" to "criterion"
31	19	insert the words "that a" between the words "indicated" and "ditch"
37	5	Change the word "affected" to "affect"
37	17	Insert a comma (",") between "1980's" and "has"
38	3	Change the "t" at the beginning of the word "the" from lower case to upper case

PAGE	LINE	CORRECTION
41	20	The phrase "This alternative plan would require substantial public funding" appears twice. Delete the second one
42	23	Delete the word "the" between the words "be" and "via"
44	16	Delete the word "are" and replace it with the word "is". Add an "s" to the word "provide"
48	21	The title " <u>Train Frequencies</u> " refers to the table that follows at the top of the next page and should be moved to the next page
52	16	Delete the word "more"
52	23	Delete the word "their" and replace it with the words "the railroads"
52	5	Change the word "rial" to "rail"
52	9	Substitute the symbol "÷" for the words "divided by"
52	14	Delete the word "of" after the word "reduces"
52	16	Delete the word "more" after the word "they"
52	23	Delete the word "their" and replace it with the words "the railroads", then add an apostrophe after the word "railroads"

Dated: February 4, 1998

Respectfully submitted,



Sylvester Summers, Jr.
Director of Law
Richard Horvath
Assistant Director of Law
City of Cleveland
Department of Law - Room 106
601 Lakeside Avenue
Cleveland, Ohio 44114
(216) 664-2808

Charles A. Spitulnik
Robert P. vom Eigen
Rachel Danish Campbell
Hopkins & Sutter
888 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 835-8000

Anthony J. Garofoli
Climaco, Climaco, Lefkowitz &
Garofoli, L.P.A.
Ninth Floor
The Halls Building
1228 Euclid Avenue
Cleveland, Ohio 44115
(216) 621-8484

Attorneys for The City of Cleveland,
Ohio

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 1998, a copy of the foregoing Errata to Comments of The City of Cleveland, Ohio on the Draft Environmental Impact Statement (CLEV-11) was served by hand delivery upon the following:

The Honorable Jacob Leventhal
Administrative Law Judge
Federal Energy Regulatory Commission
888 First Street, N.E.
Suite 11F
Washington, D.C. 20426

John M. Nannes
Skadden, Arps, Slate, Meagher
& Flom L.L.P.
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

David Coburn
Samuel M. Sipe, Jr.
Steptoe & Johnson L.L.P.
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795

Richard A. Allen
John V. Edwards
Zuckert, Scoutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Suite 600
Washington, D.C. 20006-3939

Dennis G. Lyons
Drew A. Harker
Arnold & Porter
555 12th Street, N.W.
Washington, D.C. 20004-1202

Paul A. Cunningham
Harkins Cunningham
1300 Nineteenth Street, N.W.
Suite 600
Washington, D.C. 20036

and by first class mail, postage pre-paid upon all other Parties of Record in this proceeding.



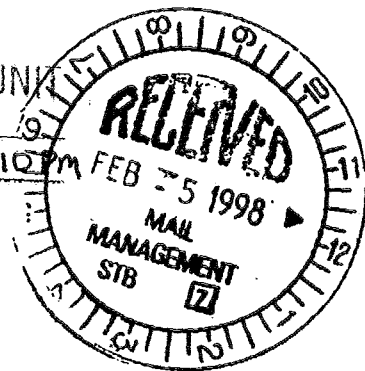
Charles A. Spitulnik

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street N.W.
Washington, D.C. 20423

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/5/98

DOCUMENT # 2/5/98 5:27:10 PM



Ref. Finance Docket 33380

Dear Mr. Williams

I live in the 13th Congressional District under the jurisdiction of Congressman Sherrod Brown in the City of Lorain Ohio, presiding Mayor the Honorable Joseph Kozman.

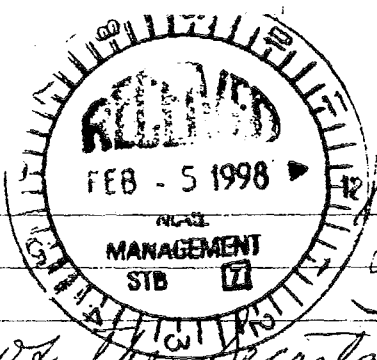
This letter is in reference to the Surface Transportation Board's (STB) draft STB Environmental Impact Statement (EIS) and the impending merger of CSX and Norfolk Southern rail lines.

The safety of the residents should be of major concern to you as well as the citizens of Lorain County therefore we must be assured that the highest steps possible be created in your consideration of the approval or denial of this merger. In Lorain we have approximately 17 crossings and the safety of our traffic and citizens must be affected at all times in a secure atmosphere. Please be advised as a concerned citizen I request your assistance to be just in your decisions when this is presented to your board.

Mrs. Bessie Eva Nelson
1137 West 18th Street
Lorain, Ohio 44052
1-311-245-6766

A-562-b

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/5/98
DOCUMENT # 2/5/98 5:25:40 AM



318 W. 23rd St.
Lorain, Ohio 44052
Feb, 2, 1998

ENVIRONMENTAL
DOCUMENT

Office of the Secretary
Case Control Unit

Finance Pocket No 3338
Surface Transportation Board
1925 K. Street NW
Washington DC 20423-0001

To Whom it may Concern,
I am Charles Lurry
I am apposed to having
any more trains traveling
through Lorain, it would
mean disaster for the ill
and also for the children
in the Neighbor hoods. So
I do not welcome that
here at all too much noise
also.

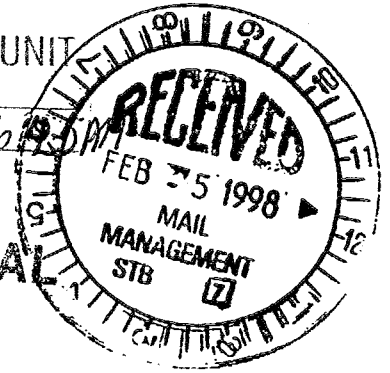
Thank you
Signed Charles Lurry

Pete Spinale
4021 Canterbury Ct.
Lorain, OH 44053

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/5/98

DOCUMENT # 2/5/98 5:06 PM



ENVIRONMENTAL
DOCUMENT

Attn: Elaine K. Kaiser
Environmental Project Director

Let it be noted that I ^{STRONGLY} OPPOSE the
pending merger of CSX, Northern Pacific + Conrail
Railroad for the following reasons:

- A. Environmental Pollution - for all
- B. Noise Pollution - especially for those near the track
- C. Safety Hazards - Possible Chemical spills -
- D. The use of Taxpayer's money to help fund this merger
- E. Railroad Crossings tying up traffic all the
time because of increased train runs.
(Also Fire Trucks + Rescue Squads ^{+ police} may be hampered
in aiding victims if tied up at these crossings)

And on & on -

~~Again - I strongly oppose the merger.~~
~~The effects on people would be devastating.~~

Signed

Pete A. Spinale

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/6/98
DOCUMENT # 2/6/98 3:12:24 PM



ENVIRONMENTAL DOCUMENT

POSITION ON NORFOLK SOUTHERN/CSX ACQUISITION

FINANCE DOCKET 33388

ROYALTON ACRES DEVELOPMENT CORP./FLAIR CORPORATION

February 5, 1998

Office of the Secretary
Case Control Unit, Room 715
STB Finance Docket 33388
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423-0001
Attn. Elaine K. Kaiser
Environmental Project Director

ENVIRONMENTAL FILING

Thursday, February 05, 1998

Position on Norfolk Southern/CSX Acquisition
Finance Docket 33388
Royalton Acres Development Corp. and Flair Corporation

Royalton Acres Development Corporation and its sister company Flair Corporation (collectively "Flair") oppose the proposed acquisition of ConRail trackage by Norfolk Southern and CSX because of the negative impact that increased rail traffic will have on the residents of homes we have built and continue to build in the City of Olmsted Falls, Ohio.

Flair endorses the comments of the City of Olmsted Falls in regard to this matter and makes additional comments as follows.

Flair protests any attempt to vacate usage of the current Norfolk Southern (former Nickel Plate) tracks known as segment N-80 on the Cleveland-Vermillion Run and divert traffic to segment N293 also known as the Cleveland to Vermillion Run or to segment C-061 also known as the Berea to Greenwich Run. The current traffic on segment C-061 is 16 trains per day. If the acquisition of the ConRail trackage is allowed, traffic is expected to increase to 54.2 trains per day; i.e., 239%.

Flair vehemently opposes any increased rail traffic on segment C-061 because of the deleterious effect it will have on the residents living on Raintree Boulevard, Summerset Lane, Laurel Drive, Cyprus Drive, Holly Lane, and Magnolia Drive (the "Raintree Community") in Olmsted Falls, Ohio (See Exhibit "A"). As the past and current developer of the Raintree Community, Flair is keenly aware of the tremendous noise and disturbance caused by the current level of rail traffic. Any additional traffic would unfairly plague the Raintree Community.

The Raintree Community consists of approximately 230 homes. The distance from the Raintree Community to segment C-061 is approximately 1,320 feet. This minimal separation of homes from rail, already results an excessive and unacceptable noise level. The noise level generated at the Raintree Community from train whistles and ambient wayside noise exceeds 70 Ldn. Any increase of traffic would exacerbate the noise situation to an intolerable level. It is unreasonable to expect the residents of Raintree to be burdened with any additional rail traffic.

Additional rail traffic along segment C-061 will worsen an already unacceptable traffic situation at crossings FRA ID 524367U and 524368B. Any increase in the number of blockage at these crossings will result in unacceptable delays of emergency vehicles, school buses, and general traffic. As described in the City of Olmsted Falls comments, a blockage on Columbia Road on segment C-061 of 2.8 hours per day is untenable. The potential delay to emergency response time cannot be tolerated. Further, with the only egress from the Raintree Community being to Sprague Road (*next to crossing FRA ID 524368B*), it is unreasonable to expect the Raintree Community residents to endure any further delay in coming and going from their homes. If one wishes to bypass the rail crossing at Sprague Road, an additional 4.3 miles must be traveled, and even then

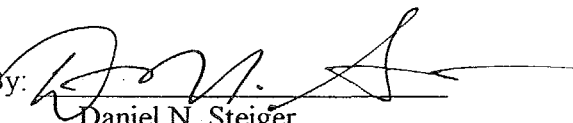
Thursday, February 05, 1998

Page 2: Flair Corp.'s Position on Proposed Acquisition: Finance Docket 33388

it is still possible to get stopped by the same train as it passes through crossing FRA ID 524367U. Any attempt by a Raintree resident to travel east along Sprague Road from his home, or to get home when arriving from the east, is already subject to delay by trains passing through the crossings and will only get worse if traffic along segment C-601 is allowed to increase.

For the foregoing reasons, Flair opposes the proposed acquisition of ConRail trackage by Norfolk Southern and CSX.

Sincerely,
Roylton Acres Development Corp.
and Flair Corporation

By: 
Daniel N. Steiger
Assistant Vice President

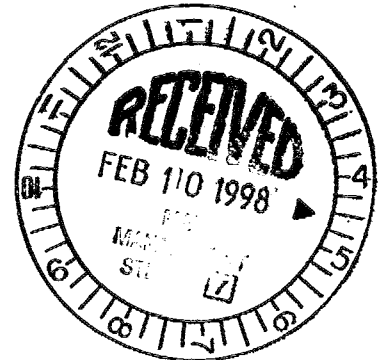
CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/11/98

DOCUMENT # 2/11/98 9:44:43 AM



"New Partnerships for the Future"



February 6, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW, 5th Floor/Suite 500
Washington, D.C. 20423-0001

ENVIRONMENTAL DOCUMENT

Attn. Ms. Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis

Dear Ms. Kaiser:

RE: FINANCE DOCKET NO. 33388-CSX & NORFOLK SOUTHERN-CONTROL & ACQUISITION-CONRAIL: DRAFT ENVIRONMENTAL IMPACT STATEMENT

The Lorain County Community Alliance is a Council of Governments formed under Ohio Revised Code representing the 275,000 residents of Lorain County, Ohio. On October 3, 1997, (copy enclosed) the Alliance notified the Surface Transportation Board of its concern regarding this proposal, noting a possible detrimental impact on our proposed operation of commuter rail service over freight rail corridors in this region.

At today's meeting of the Alliance, members voted to affirm the actions of the Lorain County Board of Commissioners taken on January 29, 1998 in the form of Resolution No. 98-82 (copy enclosed.) This Resolution specifically recommends the following:

- a. Reduce the number of additional trains permitted.
- b. Provide for rail separation at the North Main (Wellington/S.R. 58) at grade crossing.
- c. Limit/restrict rail car switching activities to night hours in order to reduce congestion.
- d. Create a written emergency response plan for rail personnel & local providers.
- e. Institute and fund an annual joint training program for rail personnel & local providers.
- f. Provide prior notification of nuclear shipments.

Please contact the undersigned with any questions regarding the resolution, comments or recommendations.

Thank you,

LORAIN COUNTY COMMUNITY ALLIANCE

Betty Blair, Chair

Encs.

A-564-a

Lorain County Administration Building - 226 Middle Avenue, Elyria, Ohio 44035

Phone (216) 329-5112 - Fax (216) 323-3357

**Lorain County Board
of Commissioners
226 Middle Avenue
Elyria, Ohio 44035
(440) 329-5111**

Memo

To: Congressman Sherrod Brown, #13
Congressman Paul Gillmor, #5
Tom O'Leary, Ohio Railway Commission
Howard Maier, Executive Director, NOACA
Lorain County Community Alliance
Ann Pratt, Executive Director, BOLD
Linda Spitzer, Clerk, Eaton Township
Linda S. Bales, Clerk, Grafton Village
Rita K. Ruot, Clerk, LaGrange Village
Karen Webb, Clerk, Wellington Village
Patricia Knight, Acting Community Development Director
Tom Kelley, EMA Coordinator
File

From: Roxann Blair, Clerk

Date: 02/03/98

Re: Proposed Conrail Acquisition

Enclosed is a copy of Resolution No. 98-82, adopted by the Lorain County Board of Commissioners on January 29, 1998.

This Resolution is registering concerns with regard to the proposed CONRAIL ACQUISITION relates to cities, townships and villages located within its County borders. These comments are based on review of the Draft Environmental Impact Statement (DEIS).

Also within the resolution is an outline of recommendations that serve as a minimal to any approval of this proposed acquisition of Conrail by CSX and NS.

This is being forwarded for your information and files.

RB/tu

January 29, 1998

Resolution No. 98-82

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

Dear Ms. Kaiser:

At the invitation of the Section of Environmental Analysis of the Surface Transportation Board, the Lorain County Board of Commissioners is taking this opportunity to register its concerns with regard to the proposed CONRAIL ACQUISITION as those concerns relate to cities, townships and villages located within its County borders. The comments are based on the review of the Draft Environmental Impact Statement (DEIS). The Commissioners acknowledge the thoroughness of the six volume, 3000 page document, particularly as regards the listing and identification of Lorain County Rail Line Segments which will be impacted with approval of the proposed acquisition.

Additionally, the Board of Lorain County Commissioners recognizes that the Surface Transportation Board is presented with a very challenging and complex decision, made difficult by the many issues involved, all of which must be given careful consideration prior to the final decision being made.

With regard to the DEIS generally, the attempts to be objective and to utilize the various formulas to calculate such things as "average delay time"; "number of vehicles in queue per crossing"; anticipated increase in accidents at grade crossings", etc. have resulted in a favorable conclusion for the acquisition's approval. However, we believe the conclusions are less than realistic when looked at logically.

The Board has been made aware that due to the construction projects undertaken and completed by CSX, many Lorain County Officials thought the opportunity to register concerns and request mitigation strategies did not exist. Furthermore, the County has not received sufficient information on the revised routing plan proposed by NS, which would eliminate additional trains on the Cleveland-Vermilion Rail Line Segment. Therefore we believe the comment period, which is set to expire on February 2, 1998, needs to be extended.

The definitions of Level of Service (LOS) are found in the *Transportation Research Board Highway Capacity Manual, Special Report 209, 1985*

Our final comment on the DEIS is that it does not account for the geographic isolation from necessary emergency services, such as fire and ambulance protection, that is likely to occur, particularly at the crossings above highlighted. In addition, the Village of Wellington has a separate fire district and ambulance district that serves rural areas surrounding their borders.

The Lorain County Board of Commissioners generally opposes the approval of the merger because of the tremendous adverse impacts to our County. However, in lieu of abject opposition the Board urges, in the strongest terms possible, that conditions mitigating some of the adverse impacts be placed on approval. The recommendations specified below represent those conditions we believe to be minimal to any approval of this proposed acquisition of Conrail by CSX and NS.

RECOMMENDATIONS:

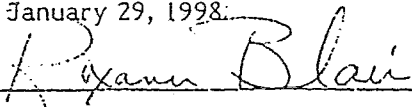
- A. REDUCE THE NUMBER OF ADDITIONAL TRAINS PERMITTED
- B. PROVIDE FOR RAIL SEPARATION AT THE NORTH MAIN (WELLINGTON) AT GRADE CROSSING
- C. LIMIT/RESTRICT RAIL CAR SWITCHING ACTIVITIES TO NIGHT HOURS TO REDUCE CONGESTION
- D. CREATE A WRITTEN EMERGENCY RESPONSE PLAN FOR RAIL PERSONNEL AND LOCAL SERVICE PROVIDERS
- E. INSTITUTE AND FUND AN ANNUAL JOINT TRAINING PROGRAM FOR RAIL PERSONNEL AND LOCAL PROVIDERS
- F. PROVIDE PRIOR NOTIFICATION OF NUCLEAR SHIPMENTS

Please contact us with any questions regarding these comments or recommendations.

The foregoing resolution was introduced upon a motion by Commissioner Michael A. Ross, seconded by Commissioner E. C. Blair, and upon roll call: Ayes: All.

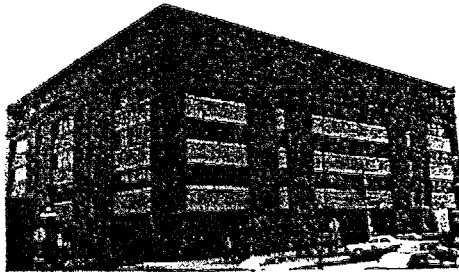
Motion carried

I, Roxann Blair, Clerk of the Board of Commissioners of Lorain County, Ohio, do hereby certify that the above Resolution No. 98-82 is a true copy as it appears in Journal No. 98 on date of January 29, 1998.



Roxann Blair

LORAIN COUNTY



Board of Commissioners

Mary Jo Vasi
E. C. (Betty) Blair
Michael A. Ross

October 10, 1997

MEMO TO: SURFACE TRANSPORTATION BOARD
CONGRESSMEN SHERROD BROWN, PAUL GILLMOR
NORTHEAST OHIO AREA WIDE COORDINATING AGENCY, HOWARD MAIER
OHIO RAIL COMMISSION, TOM O'LEARY
GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY, RON TOBER
LORAIN COUNTY TRANSIT AUTHORITY, BILL ELTRICH
LORAIN PORT AUTHORITY, RICH NOVAK
LAKESHORE RAILWAY ASSOCIATION, MARC CHAPPO
AMHERST MAYOR, JOHN HIGGINS
AVON LAKE MAYOR, VINCE URBIN
AVON MAYOR, JAMES SMITH
ELYRIA MAYOR, MICHAEL KEYS
LORAIN MAYOR, JOE KOZIURA
NORTH RIDGEVILLE MAYOR, DEANNA HILL
OBERLIN CITY MANAGER, ROB DISPIRITO
SHEFFIELD LAKE MAYOR, GARY MINGEE
VERMILION MAYOR, ELIZABETH SHEEHE
VILLAGE MAYORS - SOUTH AMHERST; GRAFTON; KIPTON; LAGRANGE;
ROCHESTER; SHEFFIELD; WELLINGTON
LORAIN COUNTY ASSOCIATION OF TOWNSHIP TRUSTEES & CLERKS

FROM: LORAIN COUNTY COMMUNITY ALLIANCE

RE: RESOLUTION TO SURFACE TRANSPORTATION BOARD

Attached is copy of the Resolution adopted October 3, 1997, by the Lorain County Community Alliance, a Council of Governments formed under Ohio Revised Code, notifying the Surface Transportation Board of its concern that as proposed, the acquisition of Conrail by NS and CXST may have a significant adverse impact on the 275,000 residents of Lorain County. The Resolution urges that special note be given to the fact that both the Northern and Southern routes of NS traverse Lorain County, while the South to North route of CSXT also traverses our County. (Map is attached.)

The Lorain County Community Alliance members urge the Surface Transportation Board to view all viable and applicable solutions to this proposed merger. The County does have an Intermodal Plan which calls for east-west commuter rail service using Norfolk Southern lines together with north-south access, part of the Lorain Port Authority's Groveport Project.

Thank you,

Encs.
cc: Commissioners Vasi, Ross
Ohio Department of Development

LORAIN COUNTY COMMUNITY ALLIANCE

Betty Blair
Betty Blair, Chair

A-565-a



"New Partnerships for the Future"

(Regarding the matter of the acquisition of)
(Conrail by NS and CXST.)

October 3, 1997

NOW THEREFORE, BE IT RESOLVED by the Lorain County Community Alliance that:

The Lorain County Community Alliance represents 275,000 residents of Lorain County which is the 9th largest county in the State of Ohio. The Lorain County Community Alliance, (LCCA), a Council of Governments formed under Ohio Revised Code, section 167.08, provides a means of obtaining a more adequate and effective level of public service for all residents. This Alliance wishes to notify the Surface Transportation Board of its concern that as proposed, the acquisition of Conrail by NS and CXST may have a significant adverse impact on the residents of Lorain County.

The Lorain County Community Alliance will continue to monitor current and future documents related to the proposed acquisition, to coordinate with other interested parties, specifically the Ohio Rail Commission, Greater Cleveland Regional Transit Authority, Lorain County Transit Authority, Lorain Port Authority, Lakeshore Railway Association and others that may be identified, and to participate with these interested parties, as well as State and Federal legislators, in working toward a regional position on the proposal including specific concerns as well as possible alternatives.

The Lorain County Community Alliance recognizes that while this acquisition may offer the potential for economic redevelopment, Alliance members are also concerned with the possible negative impacts, both locally and regionally. This acquisition may have a detrimental impact on the possibility of operating commuter rail service over the freight rail corridors in the region. Safety related issues are an increased possibility, auto/train pedestrian accidents, possible air pollution, noise pollution and hazardous cargo shipments as well as possible delays in emergency equipment response. Special note should be given to the fact that both the Northern and Southern routes of NS traverse Lorain County, while the South to North route of CSXT also traverses our county. (see attached map)

LORAIN COUNTY COMMUNITY ALLIANCE

Betty Blair, Chair

City of Erie

Joyce A. Savocchio, Mayor

Jeffrey E. Spaulding
Director of Economic & Community Development

CENTRAL ADMINISTRATIVE UNIT

REC'D:
DOCUMENT # 1/21/98 10:18:34AM

January 9, 1998

COPY

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
Washington, DC 20423

RE: Finance Docket No. 33388 - CSX and Norfolk Southern - Control and Acquisition
Conrail: Draft Environmental Impact Statement

Dear Ms. Kaiser:

Thank you very much for your recent communication concerning input regarding the draft Environmental Impact Statement on the referenced project. The draft EIS refers to the fact that the City of Erie's 19th Street tracks will be removed as part of the consolidation effort. At this point, our primary concern is to ensure that industrial rail customers along this route continue to receive necessary service for their current and future industrial needs. If the appropriate sidings are still available to access customers and suppliers, the removals in other sections would be of great benefit to north/south automobile traffic flow in the City of Erie.

We are also concerned that after the tracks are removed, that the appropriate highway intersection geometries are put back in place. The railroad tracks currently create much longer and wider crossing points than would be typical, and these should be adjusted as part of the reconstruction process.

We would very much appreciate your assistance in helping us to ensure that local expectations are met as part of this very complicated process.

Sincerely,



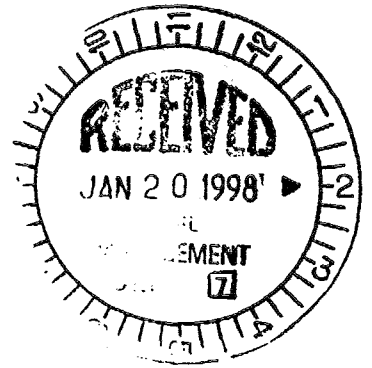
Joyce A. Savocchio
Mayor

JAS:smw

**ENVIRONMENTAL
DOCUMENT**

CENTRAL ADMINISTRATIVE UNIT 1100 Pike Street, AP-5758
REC'D: 1/23/98
DOCUMENT # 1/24/98 11:53:54am Huntingdon, Pa 16654-1112

January 13th 1998



Att: Elaine K. Kaiser
Environmental Project Director
Environmental Fling
Office of the Secretary, Case Control Unit
Finance Docket Number #33388
Surface Transportation Board
1925 K. Street, N.W.
Washington, D.C. 20423-0001

Re: 19th Street Railroad Tracks, Erie, PA

Dear Elaine K. Kaiser:

This is my thought, and opinion, among comment, concerning the railroad tracks running through Erie, Pa on 19th Street.

I was born in the family home in 1938 on 19th street, where the trains ran every 15 minutes just so many feet from our home. From 1938 until this very time, my family and all other families throughout the Nickle Plate route of those trains have been complaing about those tracks for many good reasons.

As I see it today, and for many years previously (25 to be exact), I see absolutely no reason why those tracks should be there anymore. Very few trains run through that district anymore, and, there is no justifiable reason why any trains could not be reverted and transferred over to the New York Central tracks lower in town, known as the 15th street tracks.

I cannot count the accidents and lives lost because of those tracks over the past years they have been there. I saw numerous ones uncountable. And it must have cost the Railroad companies millions for reparations and in insurance claims over those many years too.

I for one oppose those tracks being in front of my home in Erie. The state could gain from a state straight highway going through 19th street in its place. Thank you kindly.

A-566-a

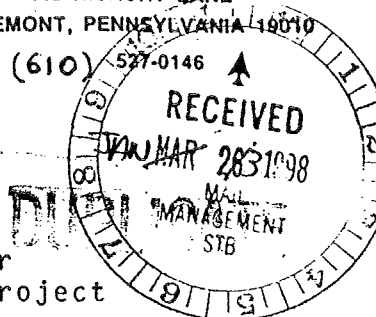
Don. L. Gaertner

Belknap Freeman, PE

19 January 1998

119 HICKORY LANE
ROSEMONT, PENNSYLVANIA 19010

(610) 527-0146



Office of the Secretary
Case Control Unit
STB Finance Docket No 33388
Surface Transportation Board
1925 K. Street, N.W.
Washington, DC 20423-0001

Attention:

Elaine K. Kaiser
Environmental Project
Director
Section of Environmental
Analysis

Re: Comments - Draft EIS Proposed Conrail Acquisition

Dear Ms. Kaiser:

In conjunction with Section 6.3.3 Draft EIS "Comment Period", Column 4, chapter 6, Page 6-14, December 1997, of the Draft Environmental Impact Statement relative to "Proposed Conrail Acquisition"; that which follows are comments arranged as individual exhibits. In review of the six volumes of the Draft EIS, it is felt a response to a multitude of isolated specific cases would be self defeating, as in the limited time frame involved to develop a "Final EIS", would cause a large number of such comments would become lost. Also, the major points on which I have focused in this submission would lose their significance.

The attached seven exhibits; which cover the gist of my comments, and part of my response, are as follows:

- Exhibit I Rail Highway Crossings
- Exhibit II Electric Traction Issues and Clearances
- Exhibit III Federal Railroad Administration Report
- Exhibit IV Taking of Property Rights
- Exhibit V Mitigation Rules
- Exhibit VI Environmental Justice Analysis
- Exhibit VII Abandonments -Military Infrastructure

Overall, consider the Draft EIS an overkill in respect to its contribution in any respect towards assisting to making an improved self sustaining transportation system. (Yes there are a few constructive comments). One must recognize that both NS and CSX are competitive enterprises; both by design with each other; and more significantly, being unable to raise rates against their competition by trucks and other means of transportation. One must exercise prudent judgement as to the luxury of being able to accomplish every thing one might want to accomplish and in addition, every thing others think one should do as well; keeping in mind the shipper has the option of taking his business else where or even site his business at another location.

Receipt of a "final" copy of the EIS will be appreciated when it is published.

If someone is offended by my style, sorry; for it at times is harsh to force ones attention to what I am saying.

Thanking you in advance, I remain,

Very truly yours,


Belknap Freeman, PE

Enclosures:

Seven Exhibits.

Sent Certified
Return Receipt

Ten copies included to insure appropriate distribution.

Exhibit I Rail Highway Crossings

Draft EIS Proposed Conrail Acquisition Docket 33388

Comments - Letter 19 January '98 to SEA of STB

In the "Section of Environmental Analysis" (SEA) text, all the way through the report, suggested mitigation strategies to address significant highway/rail at grade crossings problems, to the casual reader, place the onus on the railroads. There are few who would read, say foot note 4, at the bottom of page 7-7 of Volume 4, which reads in part:

"...Therefore, it is not SEA's intent at this time to recommend that the Board require a separated grade crossing where the local community finds this approach undesirable or is unwilling to fund an appropriate share."

As the Surface Transportation Board is an outgrowth of the former Interstate Commerce Commission, in the realm of "Safety", as related to Rail Highway Crossings at Grade, under the heading of References" as laid out starting on Page R-1 of Volume 4 of the Draft EIS, it is of concern to note the failure to include the Interstate Commerce Commission's Docket # 33440 of February 1964, titled "Prevention of Rail Highway Grade Crossing Accidents Involving railway Trains and Motor Vehicles".. In order to refresh ones memory, and motivate one to go back to "square one" prior to attempting to "reinvent the wheel", of the Docket's Findings, the 13th of 14 is cited from its page 87 of the docket, as follows:

"(13) That highway users are the principal recipients of the benefits flowing from rail-highway grade seperations or from special protection at rail highway grade crossings. For this reason, 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."



Belknap Freeman, PE
Rosemont, PA 19010
19 January '98

Exhibit II Electric Traction Issues and Clearances
Draft EIS Proposed Conrail Acquisition Docket 33388
Comments Letter 19 January '98 to SEA of STB

Scattered throughout the various Volumes of the Draft Environmental Statement are references to "actions" to be taken to improve overhead clearances. As an example, attention is invited to Table 5-DC-11 (Page DC-21, Volume 3B) where it states "CSX has proposed to increase the clearance of the Virginia Avenue Tunnel as part of a long standing project". In Volume 3B, Page VA -3, "NS plans significant capacity improvements on its Shenodoah Corridor, including raising clearances between Riverton and Roanoke". How prior to any concept of acquisition of Conrail, jointly by NS & CSX, Conrail had accomplished considerable work, partly paid for by the State of Pennsylvania, to raise overhead clearances on the former Main Line of the original Pennsylvania Railroad. In addition to these efforts, Conrail also paid Amtrak to raise the height of the electric traction catenary where possible at various tight sites (e.g. Across the Perryville Bridge over the Susquehanna River - MP 60).

Now comes Business Development of Amtrak, who have commissioned LTK Engineering Services, to accomplish various studies to determine how Amtrak might maximize the opportunity of obtaining an additional revenue stream from the assets of its right of way. The principal scenario has the "vision" of eliminating the need for Amtrak's existing 138,000 Volt 25 Hertz transmission lines (Which net the New York - Washington together as one continuous system - without interruptions to trains and as seen by the utilities, a benign load), and to reuse the existing space to build new transmission lines that may be employed to "wheel electric power". To implement such a proposal would involve expenditure of redistributed tax dollars to convert Amtrak's existing 25 Hertz 12,500 Volt catenary to a concept of 60 Hertz catenary at 25,000 Volts.

Further, as height of the electric traction catenary is already a limiting factor on use of doubler stack container loads, Business Development would in one step decrease the existing overhead clearance almost a foot all over the New York - Washington and Harrisburg Routes (As added spacing would be required between the catenary and its supports from overhead structures such as overhead bridges and tunnels, and additional clearance would be required between the catenary contact wire and the dynamic height of the vehicle below). One might cite specific overhead clearance figures at assorted spots here and there on a before and after basis; but that would be "hog wash", for the overall clearance would be reduced every where.

Besides the risk of Amtrak's Business Development ever attempting to implement its "vision", there are two other electric traction issues that might be mentioned as involving the Draft EIS.

The Table 2-4 "Shared Assets Rail Line Segments that might exceed the Broad Thresholds For Environmental Analysis" Page 2-21 of Volume 1 of the Draft EIS more than substantiate that there is an anticipated increase use of the existing NE Corridor of Amtrak (As well as numerous other references such as Table 4-7 on Page 4-25 of Volume !).

On page 197 and 204 of Volume 2 (NS Safety Integration Plan, reference is made to NS crews operating over the NE Corridor should be qualified on the operating rules of Amtrak. In such a situation, it should be highlighted that besides qualification in NORAC Operating Rules, that qualification in the "Electrical Operating Instructions" (AMT-2) be specifically mentioned, as not to be overlooked.

On page 221 of Volume 2, as well as page 44 of the DOT Preliminary Comments, mention is made of the necessity to resolve the software and compatibility of various computer systems on the various properties. When operating under the catenary system, it is imperative that such computer systems identify in an accurate manner, car height, car height and specific features of a load such as use of a tarpaulin cover. (When the NE Corridor, pre Amtrak days, rally carried a major volume of freight, "Height Detectors" were employed in the area of MP 83, in advance of the last freight yard before the tunnels in Baltimore, such as to have the opportunity to drill "excess height cars" that might have inadvertently got by the system. It was essential to maintain excellent track surface at the site of the "height detector" to prevent vertical bounce [dynamic clearance] and tarpaulin covered loads were always a problem as they fluttered in the wind or air stream as a result of the trains travel).

As CSX has its own right of way somewhat parallel to the Corridor, and NS is at risk to being subject to loss of available overhead clearance in their use of the Amtrak NE Corridor, by possible mischief on the part of Business Development, so much for competition !!!! (This is particularly significant when one considers "container and trailer loads " are a major area for rail traffic growth when competitive service times are possible).



Belknap Freeman, PE
Rosemont, PA 19010
19 January 1998

Exhibit III Federal Railroad Administration

Draft EIS Proposed Conrail Acquisition Docket 33388

Comments - Letter 19 January, '98 to SEA of STB

The Federal Railroad Administration (FRA), under the umbrella or caption of the United States Department of Transportation, submitted Preliminary Comments, in their submission of October 21, '97, as presented in Volume 2 "Safety Integration Plans", in particular, the verified statement of Edward R. English.

Not to nit pick; but to improve the text of the FRA preliminary comments, that which follows are intended to be constructive.

On page numbered 19 of English's paper, in the caption relating to "NORAC Rule Book", as many of the Northeast facilities such as Metro North, NJ Transit, Amtrak and SEPTA are arranged with electric traction facilities, for emphasis as to its importance, both for operating safety and the safety for the individual; that qualification in Electric Traction Operating Rules (e.g Amtrak's AMT-2) be included just as well as reference to NORAC Operating Rules.

This same comment applies in other sections of the FRA preliminary report such as its paragraph "c) Railroad Operating Rules" as found on its page numbered 30.

On page 36 there is reference to increased levels of double stack intermodal traffic anticipated by NS, yet expanding this to the entire acquisition effort, it can be recognized the concept of "increased clearance height" is an extensive issue else where. (Prior comments in Exhibit II of this critique). Attention is invited to the issue, that the FRA, in their oversight of the Northeast Corridor Improvement Program have been supportive of the same mischief credited to Business Development of Amtrak, in Exhibit II, with the "vision" of converting the electric traction facilities of the NE Corridor New York to Washington from their present versatile 25 Hertz benign configuration to a "cheap and dirty" 60 Hertz configuration. The ultimate outcome of such a proposal would be to decrease all overhead clearances by approximately a "foot"; thus to restrict further any opportunity for expansion of high loads than even as presently existing..

The FRA Preliminary report on its page 39, raises many questions as to the application of continuous cab signals and train and/or speed control concepts on the various systems (or lack thereof). The report ought to support an evaluation of the use of a sixty hertz track code as contrasted with use of 100 Hertz (particularly in today's realm of 100 Hertz inverters) (e.g. Immunity from induced

energy from commercial sources, the improved selectivity of higher carrier frequency making it possible to add aspects, rather than be limited to a simple "stop" or "go". The ability to improve coupling with the track rails, thus carry across track discontinuities in the track structure, etc.

.The FRA have not faced the issue of use of 60 Hertz in association with rule books which state the "cab signal" does not apply when negotiating track crossovers, not has the FRA addressed the issue of Amtrak locomotives operating in the Northwest in their cab signal territory, being forced to disable or cut out their "speed control" feature; yet over a period of years, spending both the taxpayers money and that of the railroads involved as well [in the millions] in the quest for a more exotic system, which at best has yet been recognized only as a non vital system, dependent upon existing wayside signal systems for ultimate safety].

In paragraph e) S & T C Concerns- Other, the reports page 41, there are three issues which might well be expanded.

The concept of any Positive Train Control concept must be examined not only from the standpoint of where it is going, maintenance and obsolescence to be considered as well as cost; but whether it could be successful in being able to handle existing rail traffic levels as experienced else where (e.g. the six track configuration west of Elizabeth ,NJ, of Amtrak) to say nothing of increased growth. Also how it might stack up with and compare with such developments as the nine aspect continuous cab signal system presently in service, say in Amtrak's New England territory. After all the FRA touts "interoperability").

The concept of signalman's territory is interesting and for "horror stories" Miami, Fla, comes to mind, with a maintained from Atlanta,GA (No body local wanting territory, low seniority , to hold job must travel) Who is to cover on week-ends in reasonable time? What on the impact of , or intent of the hours of service rules, involved with the time required to commute from Atlanta,GA to Miami ? (Part 218 of Title 49 CFR).

The reference to "CSAO Areas" raise numerous concerns as the FRA report mentions; but to add emphasis, certain issues ought to also be considered. One is the issue of control of "hours of service" under the hours of service rules for signal forces. The second is concern for the organizational characteristics and responsibility for signal plans and implementation of the FRA's rules and regulations, record keeping, et all, especially in light of such statements --(In the report, the comment was made that signal and communications work tasks at CSAO's would be accomplished by contractors, with no mention as to whom or where would the coordination, supply of and review of plans and specifications would be handled in such an environment).

In its section , page 48, in the FRA report, leans heavy on the subject of Rail Highway Crossings. It conveys the impression of a heavy burden of cost on the railroads, and fails to recognize such historic background as exemplified by the earlier ICC Order in their Docket 33440 (Which is not known to have been declaimed null and void). [Previously mentioned in Exhibit 1 of this set of comments in response to the Draft EIS.].



Belknap Freeman, PE
Rosemont, PA 19010
19 January '98

Exhibit IV Taking of Property

Draft EIS Proposed Conrail Acquisition Docket 33388

Comments Letter 19 January '98 to SEA of STB

The Draft Environmental Impact Statement in several individual instances, brings up the subject of Cultural and Historic Resources; for example, on page 7-17 of Volume 4, when it reads:

"13. NS shall undertake no construction or modification of the Shellpot Bridge near Wilmington, Delaware, until completion of the Section 106 process of the Historic Preservation Act (16 USC 470f as amended)."

[see also page DE-12 of Volume 3A, where it states the Delaware State Historical Society has determined that the Shellpot Bridge is eligible for inclusion in the National Register of Historic Bridges, and the proposed rehabilitation may effect the bridge.] (See also Page 204 of NS Safety Intergration Plan, Volume 2, where it indicates NS would intend to rehab the bridge and associated branch to by-pass the Amtrak Main Line through the Wilmington Station Area).

I find such a restriction, "taking of property". Not a building with only local utilization; but rather a facility that serves a wider purpose in Interstate Commerce, particularly as it serves to by pass freight trains around another establishment that was blessed with the anointment of being a Historic Facility. (Remember back a few years, before Amtrak chased the freight off the Corridor, that was a function the bridge previously served).

It is repugnant to impose a delay to a logical problem only on the basis that "just now" it is considered a possible eligible structure for inclusion in the National Register of Historic Bridges and may be impacted by any rehabilitation needs.

If this seems a harsh attitude towards "Federal Supremacy" and the bureaucrats who tend to such matters; maybe it is because of my continued dislike of a situation some twenty years ago concerning the redistribution of tax dollars I was involved with to relocate an entire telephone exchange and its associated cable plant out of the Wilmington Train Station within a critical time frame, allegedly only because we had previously raised the floor some 4 inches than the original station floor that was to be restored, as part of preservation of a historic site.

Now that the effort to restore the station to its original appearance, are we risking its status as we delay

the use of the Shellpot as a means to keep freights away from the terminal?As a result, are we going to experience a displaced load on a freight train that passing through the station, will serve to damage the overhanging platform shelter structures??

The rationale' of these comments also apply to other sites, such as Illinois, where suddenly we have a problem associated with a historic place, evidently not of sufficient importance to have been addressed previously; but now all of a sudden a big problem. Is it a case of one seeing an opportunity only now to make an issue of an object only when one might hold a project hostage as a means to accomplish ones own agenda????



Belknap Freeman, PE
Rosemont, PA 19010
19 January 1998

Exhibit V Mitigation Rules

Draft EIS Proposed Conrail Acquisition Docket 33388

Comments Letter 19 January 1998 to SAE of STB

In Volume 4, "SEA's Preliminary Recommended Environmental Mitigation" as outlined in Chapter 7, page 7-12, under caption "7.2.2 Recommended Regional Mitigation", sub title "Safety: Passenger Operations", reads in part:

"By establishing those passenger trains as "superior", trains moving in the same or opposite direction on the same track^{freight trains} would be clear of the track at least 15 minutes before and 15 minutes after the expected arrival of a passenger train at any point. This requirement would not apply when any is moving in the opposite direction, away from a passenger train."

This is a proposed rule that is capable of creating massive delays; also it is poorly written. It is obvious, its author has never been in the situation on a locomotive of a passenger train, say # 574, operating in "manual block territory", receiving a train order which read: "Train 574 you are running 2½ hours late" - which interpreted, says, as you are 2½ hours late, stay that way - do not try to make up scheduled time Why?? Because in "Manual Block Territory", where there are "Yard Limits", a yard crew, who by the rules must clear up 15 minutes prior to the scheduled time of arrival of a "passenger train", is given the same train order "Train 574 you are running 2½ hours late"; thus allowing the yard crew the additional time to complete or continue his work.

Now the "SEA" paragraph as written employs the word "expected" -- what if the passenger train is running late?? And how does he stay that way?? And how does the freight train know??

To implement the SEA proposed rule could cause a considerably longer delay than a half hour (15 minutes before and 15 minutes after) as the track layout and specific train were matched to get him in the right place in order to execute the minimum of 15 minutes.

In a manual block operation, the only unit delayed is the local "switcher" within a well defined limit for the "yard limits". In a manual block territory, it is only that way because there is insufficient traffic to justify an installation of an appropriate signal system.

When one starts to place serious arbitrary cumulative delays on through freight trains, one overlooks the impact

that many such moves have schedules; scheduled times to pass blocks of cars for "meets" for other through freight trains with coordination of schedule critical times, et all. (I have lived through the situation where our BNY 16 had a higher priority than our passenger train - account of the guaranteed delivery of Ford Motor's cars of "roof panels" in the train every night and the General Supt of Transportation knew how to find me if I managed to screw it up).

The proposed SEA rule as it is presented in the Draft EIS lacks the opportunity to determine just what impact it has as a mischief maker as the listing of track segments that precede the rule as presented on page 7-12, fail to indicate type of operation (CTC, Automatic Block, Manual Block, APB, Train Order, etc.) or number of tracks, sidings, siding length, et all. (The listings in Volume 3A, Chapter 5 "State Settings, Impacts and Proposed Mitigation" Pages 5-14 to 5-47 inclusive, provide no clue as to the extenuating circumstances surrounding such a requirement).

In Volume 3B, Pages MI-8 and MI-9, the infinite wisdom and significance of "Federal Supremacy" unfolds when the SEA, in the middle of page MI-8 state in part:

"Given the limited number of passenger train accidents, SEA was unable to accurately predict either the severity, location or timing of actual accidents. SEA therefore focused on estimating the potential risks of accidents..."

Out of this admission of "bankruptcy" as to ones qualification to be an "oracle"; as stated in the next to last sentence of the first paragraph of page MI-9, the SEA go on to state:

"....It is SEA's preliminary recommendation that all freight trains, both opposing, and moving in the same direction as passenger trains, be clear of the main tracks at least 15 minutes prior to the estimated arrival of the passenger train..."

This further demonstrates that in the pious dignity of all the SEA's outpourings, we say one thing in one part of a Volume and something else in the same Volume. For example, on page MI-9 as cited above, we employ the words "estimate arrival", while on page 5-28 of the same Volume, we state "expected arrival", which represents two different situations if taken literally.

Has anyone made a study of siding lengths, spacing of sidings, type of control, number of following trains, impact on hours of service of crews, et all???

Richard A. Freeman
Belknap Free, man, PE

19 January 1998

Exhibit VI Environmental Justice Analysis

Draft EIS Proposed Conrail Acquisition Docket 33388

Comments Letter 19 January '98 to SEA of STB

Appendix K is an interesting document in several respects. Firstly 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".

It does provide as a useful tool, as an indication where a higher level of security may be required; but it does not define the extent of exposure to "mother's little darlings" who are turned out on their own, to wander, and at times are injured or cause injury or damage to a railroad property. (At times, to even bring a lawsuit against the railroad for its failure to provide what the plaintiff defines as an appropriate "baby sitting function" in having failed to prevent their being injured and/or to protect them from their own folly. (There is no cap on the limits of liability for a railroad in some of these situations).



Belknap Freeman, PE
Rosemont, PA 19010
19 January 1998

Exhibit VII Abandonments - The Military Infrastructure

Draft EIS Proposed Conrail Acquisition Docket 33388

Comments Letter 19 January '98 to SEA of STB


In a review of Volume 6 "Abandonments", on the NS references, there are comments as to clients who will have to resort to "trucks". (But no depth of data as to just what type shipper is involved).

As a personal matter, my interests include the military, and am sufficiently naive as to still believe rail access to a military facility is still a national asset; especially with the down grade and de-activation of a major number of military facilities in recent years.

The format of the Environmental Impact Statement covers many areas, which would enter the category of "who cares" if we were to become involved in another World War II type conflict, where our very existence was at stake. Yet in the format of the EIS, there is no mention, even a negative response, as to abandonment of any form of military support infrastructure in the EIS.

Our movement of troops and supplies by air in today's activity is highly vulnerable to supply of fuel, aircraft and pilots; not an arrangement adopted to a lengthy engagement.

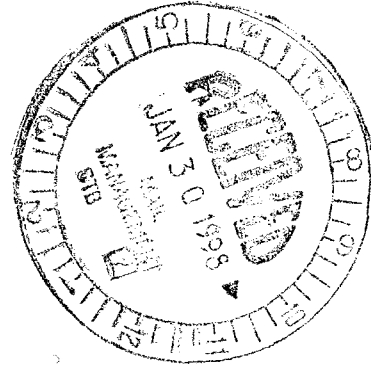
(As late as last week, in a trip to McGuire Air Force Base (and its adjacent Fort Dix facility) it is still with concern, to drive over a former rail-highway crossing area with the evidence of the former rail right of way extending through the trees). Having spent almost five years on Active duty in WW II in Panama, England Africa and Italy, originally having been originally drafted prior to the start of the War, and after 26 active years in the Reserve Program, now a retired Colonel, one must recognize my strong feelings in this area.


Belknap Freeman, PE
Rosemont, PA 19010
19 January '98



Office of the Mayor

The City of Harrisburg
City Government Center
Harrisburg, PA 17101-1678



Stephen R. Reed
Mayor

January 20, 1998

Case Control Unit, Case # 333388
Surface Transportation Board
Office of the Secretary
1975 K Street, N.W.
Washington, D.C. 20423-0001

Attention: Elaine K. Kaiser, Environmental Project Director, Environmental Filing

Subject: Environmental Correction Request: Acquisition of Conrail Corporation by Norfolk Southern Railroad Company

Dear Ms. Kaiser:

The City of Harrisburg has a grave concern with an overflow drainage problem caused by lack of storm water accommodation along the Conrail line through the City of Harrisburg. The periodic flooding caused by inadequate drainage facilities leading from the Conrail tracks at this very heavily traveled intersection in the City is a **safety related issue**. We request that Norfolk Southern Railway Company, Inc. be directed to correct the situation as a condition of approval of the acquisition of Conrail.

The rail segment identified in Draft EIS Volume 3B, Chapter 5, 5-P.A. 4.1, and depicted on the USGS and Commonwealth of Pennsylvania DER Topographic and Geologic Survey, Harrisburg East Quadrangle, PA-Dauphin Co., 7.5 Minute Series (Topographic) 1969, (attached) is identified as the Reading Railroad running between Penn Central Rail Road and the Reading Rutherford Yards to the east. The track falls in elevation from the vicinity of 26th Street, Harrisburg at BM (elevation) 403 to 13th Street, BM (elevation) 338, a difference of 65 feet in a distance of about 1 1/4 miles. The drainage from that large area is funneled down the tracks to a point in the City where there are no facilities to transport stormwater runoff to the natural drainage channels (Paxton Creek and Susquehanna River). At that point, stormwater overflows parking lots and private property and then runs into the City streets, causing property damage and accidents. One such incident occurred in 1995 during an unusually severe thunderstorm. Attached is an accident report involving a City Fire Bureau Hook and Ladder Truck that collided with cross traffic on Cameron Street (the busiest truck route in the City, carrying 35,200 vehicles per day), when its

brakes were rendered inoperable by the vast amount of storm run off flowing down the street. Although this is an unusually severe example, incidents of this nature occur several times during each spring and summer as thunderstorms pass through the area. Further, local Conrail Track Supervisors have reported that at times they have halted trains passing over that section of rail because storm runoff had accumulated to a depth sufficient to cover the tracks, rendering the rail road **unsafe** for passage.

The City of Harrisburg respectfully requests that The Surface Transportation Board direct Norfolk Southern to construct proper stormwater drainage facilities to carry runoff from the rail road bed described above to the Paxton Creek. You may contact Mr. Joseph Link, P.E., City Engineer for any further information concerning this matter. (Phone 717-255-3091)

With warmest regards, I am

Yours sincerely,



Stephen R. Reed
Mayor

attachments (accident report, photographs and maps)

c: Joseph V. Link, P.E., City Engineer
Judith Schimmel, City Solicitor

JVL/pmk/eng/envcor.ltr

CONRAIL TRACKS
STORM DRAINAGE OVERFLOW



PHOTO No. 1

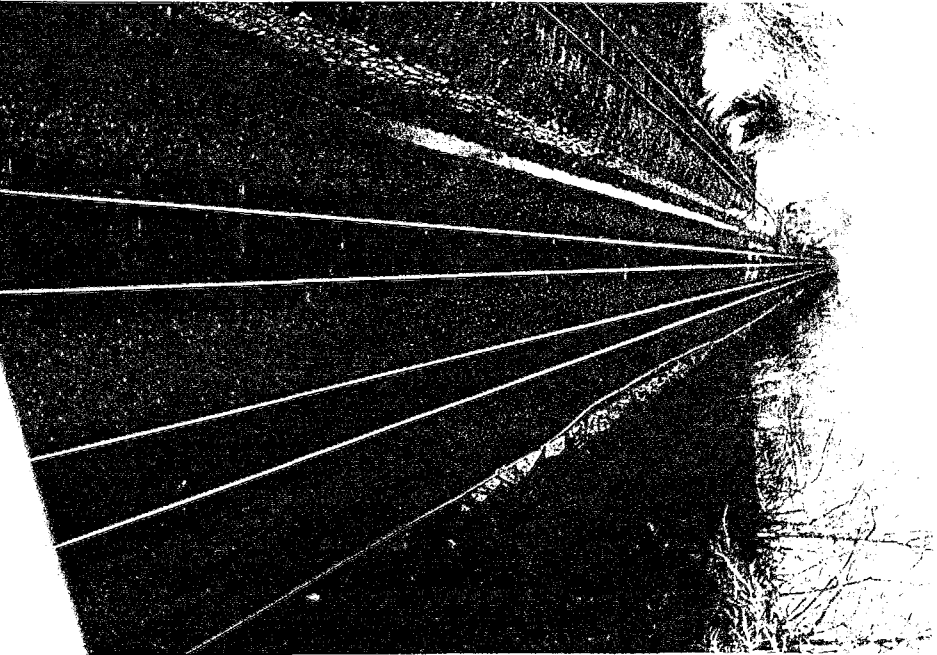


PHOTO No. 2

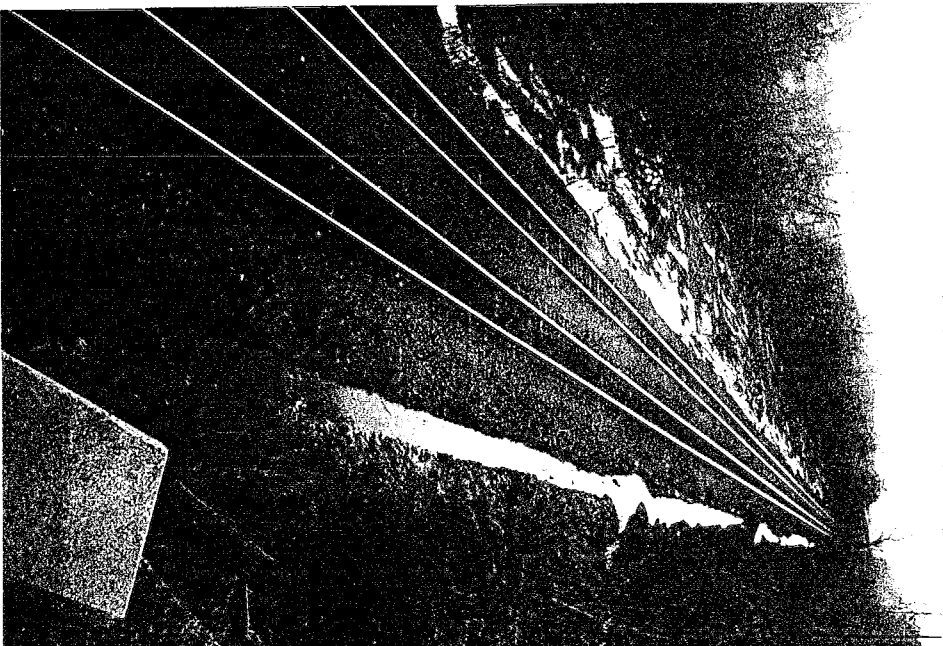


PHOTO No. 3

VIEW TO THE EAST - REPRESENTING EXTENSIVE DRAINAGE FROM 1 1/4 MILES EAST

CONRAIL TRACKS
STORM DRAINAGE OVERFLOW

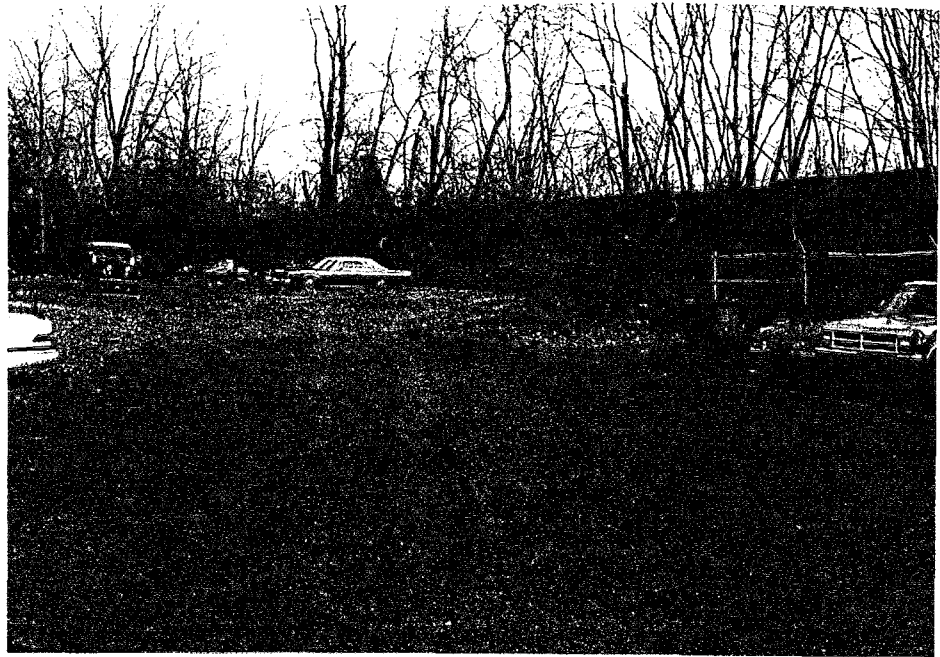


PHOTO No. 4
Area of Flooding-
Rear of AVIS Pkg. Lot

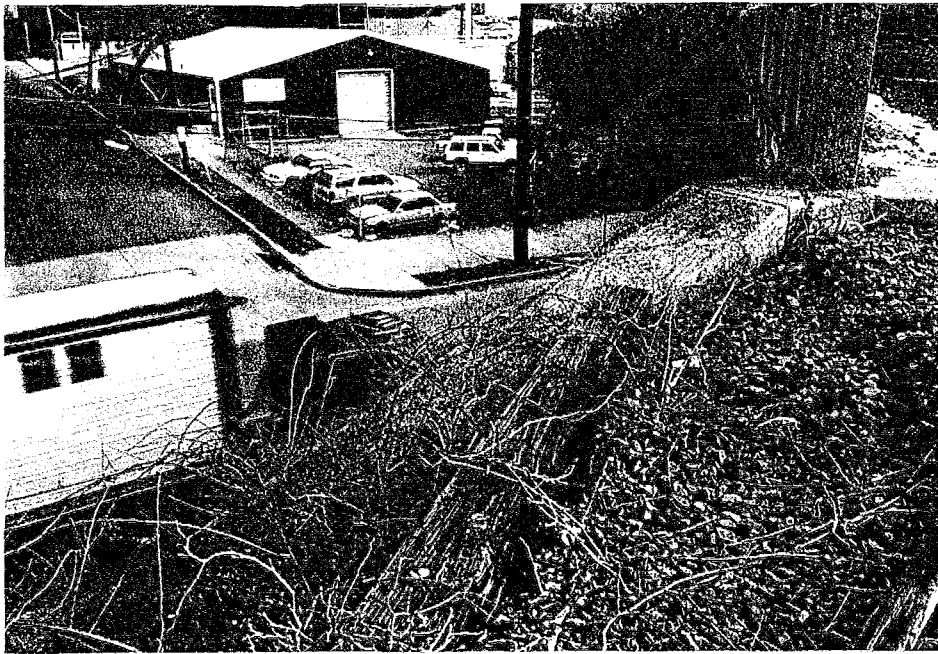


PHOTO No. 5
Site of Accident-
Intersection of
Berryhill and Cameron Sts.

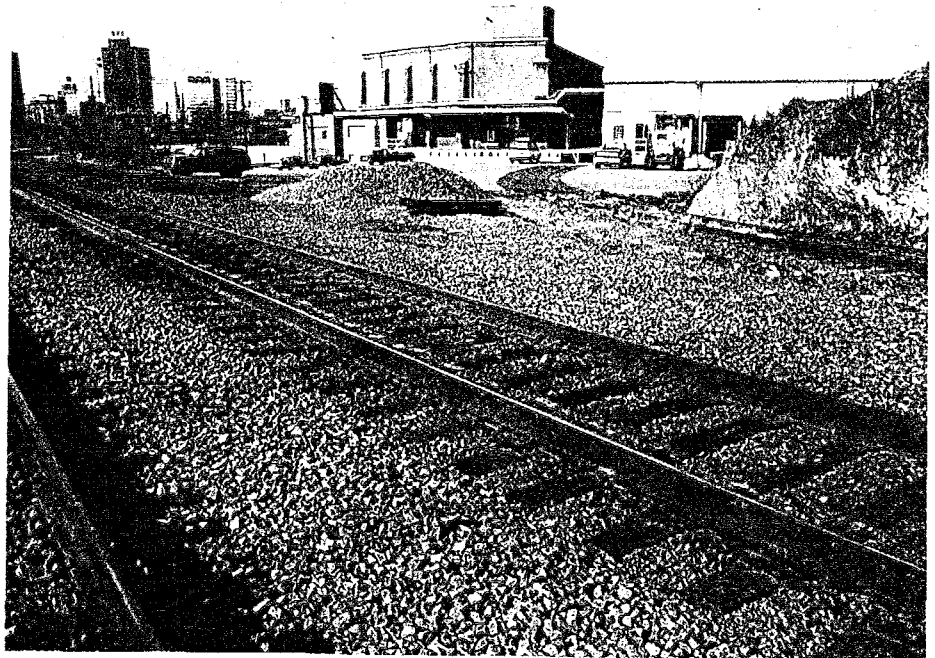


PHOTO No. 6
Drainage path through
Harrisburg Cold Storage
Pkg. Lot to Berryhill St.

A-570-b

ACORD. AUTOMOBILE LOSS NOTICE

DATE (MM/DD/YY)
07-17-95

PRODUCER

PRODUCER PHONE (A/C, no., ext.)

MISCELLANEOUS INFORMATION (Site & Location Code)

COMPANY

POLICY NUMBER

CAT. #

POLICY EFF. DATE (MM/DD/YY) POLICY EXP. DATE (MM/DD/YY) DATE (MM/DD/YY) & TIME OF LOSS PREVIOUSLY REPORTED
2:32 XX A.M. YES
07-16-95 P.M. NO

CODE SUB CODE

INSURED

NAME & ADDRESS

INSURED'S RESIDENCE PHONE (A/C, No.)

INSURED'S BUSINESS PHONE (A/C, no., ext.)

PERSON TO CONTACT

WHERE TO CONTACT

WHEN

CONTACT'S RESIDENCE PHONE (A/C, no.)

CONTACT'S BUSINESS PHONE (A/C, no., ext.)

LOSS

LOCATION OF ACCIDENT (Including city & state)

AUTHORITY CONTACTED & REPORT NO.

VIOLATIONS/CITATIONS

Berryhill and Cameron Sts., Harrisburg, PA Harrisburg Police
DESCRIPTION OF ACCIDENT (Use reverse side, if necessary) Veh. #1 while traveling west in the 1100 block of Berryhill St. during a severe thunderstorm that had water curb to curb and above the curb line at Cameron St. Traveling an estimated under 10 MPH applied brakes, but vehicle did not repond, turned on parking brake (OVER)

POLICY INFORMATION

BODILY INJURY PROPERTY DAMAGE SINGLE LIMIT MED. PAY OTC DED. OTHER COVERAGE & DEDUCTIBLES (UM, no-fault towing, etc.)

LOSS PAYEE

COLLISION DED.

INSURED VEHICLE

VEH. NO. YEAR, MAKE, MODEL

V.I.N. (Vehicle Identification)

PLATE NO.

1989 Mack Tower

CF6S8FAP

FD-1999 PA

OWNER'S NAME & ADDRESS

PHONE (A/C, no., ext.)

City of Harrisburg, 123 Walnut St., Hbg, PA 17101

255-6464

DRIVER'S NAME & ADDRESS (Check if same as owner)

RESIDENCE PHONE (A/C, no.) BUSINESS PHONE (A/C, no., ext.)

Daniel R. Soulier, 1605 Walnut St., Camp Hill, PA 17011

255-6464

RELATION TO INSURED (Employee, family, etc.)

DATE OF BIRTH

DRIVER'S LICENSE NUMBER

PURPOSE OF USE

USED WITH PERMISSION ?

Employee

4-24-54

16-542-897 PA

Business

XXYES NO

DESCRIBE DAMAGE

Left front

ESTIMATE AMOUNT

WHERE CAN VEHICLE BE SEEN?

WHEN ?

OTHER INSURANCE ON VEHICLE

step, shock & tire. \$ 900.

140 N. 16th St., Hbg.

PROPERTY DAMAGED

DESCRIBE PROPERTY (If auto, year, make, model, plate no.)

OTHER VEH/PROP. INS? COMPANY OR AGENCY NAME & POLICY NO.

1989 Dodge Shadow, PJE-277 PA

YES NO

OWNER'S NAME & ADDRESS

BUSINESS PHONE (A/C, no., ext.)

RESIDENCE PHONE (A/C, no.)

Cheryl L. sandifer, 142 Market St., Middletown, PA 17057

OTHER DRIVER'S NAME & ADDRESS (Check if same as owner)

BUSINESS PHONE (A/C, no., ext.)

RESIDENCE PHONE (A/C, no.)

Stacy Tippitt, 173 Watson St., Steelton, PA 17113

939-7160

DESCRIBE DAMAGE

ESTIMATE AMOUNT

WHERE CAN DAMAGE BE SEEN?

Front end damage

???

Don's Towing, 1128 Jonestown Rd., Harrisburg

INJURED

NAME & ADDRESS

PHONE (A/C, No.)

PED. DRG. VEH. OTHER VEH. AGE

EXTENT OF INJURY

Stacy Tippitt, 173 Watson St., Steelton, PA 939-7160

x 31 Head, Right ankle

Jonathan S. McNeil, 165 Watson St., Steelton, PA

x 26 Head, Neck

WITNESSES OR PASSENGERS

NAME & ADDRESS

PHONE (A/C, No.)

DRG. VEH. OTHER VEH.

OTHER (Specify)

Michael Yandhaiz, 403 Summit Rd New Cumb. PA 774-5933

REMARKS (Include adjuster assigned)

REPORTED BY

REPORTED TO

A-570-c

SIGNATURE OF PRODUCER OR INSURED

ACORD 2 (1/91)

NOTE: IMPORTANT STATE INFORMATION ON REVERSE SIDE

© ACORD CORPORATION 1991

TO: ASST CHIEF BERRY
FROM: DAN SOULIER - DRIVER TOWER 1 A PLATOON
DATE: 07-17-95
SUBS: ACCIDENT WITH INJURIES 07-16-95 CAMERON ST
AND BERRYHILL ST

AT 0232 TOWER 1 WAS DISPATCHED TO REPORTED TREES DOWN ON WIRES WITH FIRE @ 13 ROW HALL MANOR. TOWER 1 RESPONDED FROM 16TH & WALNUT ST VIA 13TH STREET. WHILE PASSING TOWER 3 WHO WAS ON A CALL IN THE 300 BLOCK OF S. 13TH ST, DRIVER DAVE HOUSEAL NOTIFIED US BY RADIO THAT S. 13TH ST @ THE RAILROAD ~~OFF~~ BRIDGE WAS BLOCKED BY TREES AND WIRES. AT THIS TIME I PROCEEDED TO MAKE A RIGHT TURN ONTO BERRY HILL ST BECAUSE I WAS ALREADY AWARE OF STREET BLOCKAGE AT BERRYHILL & 17TH ST.

UPON TURNING ONTO BERRY HILL ST (WEST BOUND) FF YATES AND MYSELF NOTICED A LARGE AMOUNT OF VARIOUS STORM DEBRIS SCATTERED ACROSS THE STREET UPON PASSING CRESCENT ST, WE ENCOUNTERED A TREMENDOUS AMOUNT OF WATER FLOW COMMING FROM MY ~~RIGHT~~ LEFT SIDE FROM THE PARKING LOT OF A WAREHOUSE FACILITY. MY SPEED WAS ESTIMATED TO BE UNDER 10 MPH WITH WARNING LIGHTS AND SIRENS ACTIVATED.

I PROCEEDED TO APPLY THE TOWERS BRAKES BUT THE VEHICLE DID NOT RESPOND, I THEN DOWN SHIFTED TO FIRST GEAR, HOWEVER MY REDUCED SPEED PREVENTED THE TRANSMISSION FROM ENGAGING THE GEAR. I HOLLERED TO FF YATES TO FLOOR THE SIREN THAT I WAS UNABLE TO STOP - I REACHED DOWN TO THE PARKING BRAKE SWITCH ON THE CENTER CONSOLE AND TURNED IT ON, AGAIN TO NO REACTION BY THE VEHICLE. A-570d

TOWER 1

COLLISION ESTIMATE
 CITY OF HARRISBURG
 BUREAU, VEHICLE MANAGEMENT
 VEHICLE MAINTENANCE CENTER
 1690 SOUTH 19TH ST.
 HARRISBURG, PA 17104
 236-4728

VEHICLE NUMBER					INSPECTION DATE F-17-95	
BUREAU - FIRE	VEH. MAKE MILK	YEAR 89	MODEL AUX 400	VIN.		
OPERATOR'S NAME		LICENSE NO.	MILEAGE 88393	LOCATION OF ACCIDENT		ACC IDENT REPORT NO.
ACCIDENT DATE	DATE PROCESSED	TELEPHONE NO.	COLOR AND CODE Red	APPRaiser SMB		

REPL	REP	DESCRIPTION OF REPAIR	LABOR HOURS	REFIN HOURS	PARTS	SUBLETS AND NEW ITEMS
		Repair & Clean Step	4.0			
		" " Anne Panels	4.0			
		Re-assembly	1.0			
TOTALS			9.0			270.00

COMMENTS: ... 1.0... 3.1... x 5/HR ... 270.00

AC-AIR CONDITIONING	LKQ-LIKE, KIND & QUALITY	R-RIGHT	PARTS.....	SUPPLIES
ALIGN-ALIGNMENT		R&R-REMOVE & REPLACE	SUBLETS.....	
ASSY-ASSEMBLY	MLD-MOULDING	SUPT-SUPPORT	SUB-TOTAL.....	
BKT-BRACKET(S)	PS-POWER STEERING	TL-TAILLAMP	TOWING.....	
DR-DOOR	QTR-QUARTER	WH-WHEELHOUSE	GRAND TOTAL...	270.00
EXT-EXTENSION	RAD-RADIATOR	W'STRIP-WEATHER STRIP		
F-FRONT	RC-RECHROME			
HL-HEADLAMP	REG-REGULATOR			
L-LEFT	R&I-REMOVE & REINSTALL			



MACK SALES AND SERVICE, INC.
4230 Industrial Road, P. O. Box 1643
Harrisburg, Pennsylvania 17105

Parts Department 717-238-8476

July 18, 1995

Bureau of Fire
City of Harrisburg

ATTN: Lester McClure

On July 17, 1995, I test drove Tower # 1, 1989 MACK, CF688FAP1317.
Under normal driving and safe operating conditions vehicle would stop.

Mike Longenecker
Shop Foreman
Certified Inspection Mechanic
#15127344

The City of Harrisburg, Pennsylvania, Incorporated March 19, 1860

City Government Center • Harrisburg, Pennsylvania 17101

CITY OF HBG STEAM GENERATING FACILITY
THANK YOU. PROMPT PAYMENT WITHIN 30 DAYS WILL
AVOID LOSS OF DUMPING PRIVILEGE
OFFICE HOURS - MON-FRI 8:00-4:00 (717) 236-5187

39181
42823

DATE: 07/18/95
TIME: 16:32

PERMIT #: 099999
ONE TIME DUMPS

COUNTY: 22 DAUPHIN

CLASS: 0

OPERATOR: KBB1

GROSS WEIGHT: 45600 LBS

TARE WEIGHT: 45600 LBS

NET WEIGHT: 0 LBS A-571-b



COMMONWEALTH OF PENNSYLVANIA

POLICE ACCIDENT REPORT

REFER TO OVERLAY SHEETS

REPORTABLE NON-REPORTABLE

PENNDOT USE ONLY

Form with sections: POLICE INFORMATION, ACCIDENT LOCATION, ACCIDENT INFORMATION, UNIT # 1, UNIT # 2. Includes fields for incident number, date, location, vehicle details, driver information, and insurance.



COMMONWEALTH OF PENNSYLVANIA
PAR CONTINUATION SHEET

REFER TO OVERLAY SHEETS

REPORTABLE NON-REPORTABLE

PENNDOT USE ONLY

INCIDENT NUMBER 95-07-6187	ACCIDENT DATE 16 July 1995	COUNTY CODE 22	MUNICIPAL CODE 301
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PERSON INFORMATION - USE OVERLAY # 2 SHEET FOR CODES

A	B	C	D	E	F	G	NAME	ADDRESS	H	I	J	K	L	M

87. NARRATIVE

The operator of Unit #2 and the front seat passenger of Unit #2 could not be interviewed at the scene as they had been transported via Capital Region EMS to the Harrisburg Hospital prior to my arrival on the scene. Officer Kenneth Bittner also of the Traffic Safety Unit arrived on scene and I directed him to the Harrisburg Hospital to check on the injured individuals. REFER TO ATTACHED SUPPLEMENTAL REPORT OF OFFICER KENNETH BITTNER.

I then instructed Officer LeRoy Lucas of the Forensics Unit to photograph the accident scene which he did and he also assisted me in taking measurements of the final rest of Unit #2.

I further examined Unit #2 and observed severe front end damage to the vehicle. Upon examining the inside of the vehicle I observed two (2) head strikes to the inside of the windshield, one in the center with a large clump of hair attached, and one on the passenger side which indicates that neither the operator or front seat passenger were seatbelted. This vehicle was towed from the scene by Don's Towing to 1128 Jonestown Road City.

I also examined Unit #1 and observed scuff marks on the drivers side front tire along with a cut in the tire and also damage to the ladder steps which the driver uses to enter the cab.

Officer Kenneth Bittner returned to the accident scene from the Harrisburg Hospital and at that time we checked the road surface and located the point of initial contact which was a scrape on the road surface. We did take measurements of this scrape and its location on the roadway.

THIS INVESTIGATION IS CONTINUING.

89. DESCRIBE VIOLATIONS	90. SECTION NUMBERS (ONLY IF CHARGED)	TC	NTC
UNIT 1		<input type="checkbox"/>	<input type="checkbox"/>
UNIT 2		<input type="checkbox"/>	<input type="checkbox"/>

91. PROBABLE USE	92. TYPE TEST	93. RESULTS	<input type="checkbox"/> NO TEST <input type="checkbox"/> REFUSE <input type="checkbox"/> UNK	91. PROBABLE USE	92. TYPE TEST	93. RESULTS	<input type="checkbox"/> NO TEST <input type="checkbox"/> REFUSE <input type="checkbox"/> UNK	94. INVESTIGATION COMPLETE ?
UNIT 1		0. ___ %		UNIT 2		0. ___ %		YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>



COMMONWEALTH OF PENNSYLVANIA
POLICE ACCIDENT SUPPLEMENTAL

XX REFER TO OVERLAY SHEETS

REPORTABLE NON-REPORTABLE

PENNDOT USE ONLY

POLICE INFORMATION				ACCIDENT TIME & LOCATION			
1. INCIDENT NUMBER 95-07-6187		4. PATROL ZONE 5-3		9. ACCIDENT DATE 16 Jul 95		10. DAY OF WEEK Sat	
2. AGENCY NAME Harrisburg Police Bureau				11. TIME OF DAY 0251 hrs		12. NUMBER OF UNITS 2	
3. STATION PRECINCT Harrisburg		5. INVESTIGATOR Ptl. Kenneth A. Bittner		13. # KILLED 0		14. # INJURED 2	
6. APPROVED BY Sgt. M. Butler		BADGE NUMBER 165		20. COUNTY Dauphin		15. PRIV. PROP. ACCIDENT Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	
		BADGE NUMBER 512		21. MUNICIPALITY Harrisburg		CODE 22	
UNIT #: - COMPLETE ONLY THE INFORMATION THAT HAS CHANGED SINCE ORIGINAL REPORT							
36. LEGALLY PARKED Y <input type="checkbox"/> N <input type="checkbox"/>		37. REG. PLATE		38. STATE		58. DRIVER NAME	
39. PA TITLE OR OUT-OF-STATE VIN				59. DRIVER ADDRESS			
40. OWNER				60. CITY, STATE & ZIPCODE			
41. OWNER ADDRESS		42. CITY, STATE & ZIPCODE		61. SEX		62. DATE OF BIRTH	63. PHONE
43. YEAR		44. MAKE		64. COMM VEH Y <input type="checkbox"/> N <input type="checkbox"/>		65. DRIVER CLASS	66. DRIVER S.S. #
45. MODEL (NOT BODY TYPE)		46. INSURANCE Y <input type="checkbox"/> N <input type="checkbox"/> UNK <input type="checkbox"/>		67. CARRIER			
47. BODY TYPE		48. SPECIAL USAGE		68. CARRIER ADDRESS		69. CITY, STATE & ZIPCODE	
49. VEHICLE OWNERSHIP		50. INITIAL IMPACT POINT		51. VEHICLE STATUS		52. TRAVEL SPEED	70. USDOT #
53. VEHICLE GRADIENT		54. DRIVER PRESENCE <input type="checkbox"/>		55. DRIVER CONDITION		71. VEHICLE CONFIG.	72. CARGO BODY TYPE
56. DRIVER NUMBER		57. STATE		73. NO. OF AXLES		74. GVWR	75. HAZ ARDOUS MATERIALS
76. HAZ ARDOUS MATERIALS		77. RELEASE OF HAZ MAT Y <input type="checkbox"/> N <input type="checkbox"/> UNK <input type="checkbox"/>		87. NARRATIVE - IDENTIFY PRECIPITATING EVENTS, CAUSATION FACTORS, SEQUENCE OF EVENTS, WITNESS STATEMENTS, AND PROVIDE ADDITIONAL DETAILS			
<p>0300 hrs. on 16 July 95 I received a phone call at home in regards to a traffic accident that had just occurred at Cameron and Berryhill Sts. The accident involved a City of Harrisburg Fire truck and another single vehicle. I arrived on the scene at approx. 0325 hrs. Upon arriving I was advised by Sgt. Butler that both occupants of the car were injured and were at Harrisburg Hospital.</p> <p>Upon arriving at the hospital I first interviewed the passenger, Jonathan S. McNeil. McNeil stated that he was at home when he received a phone call from Stacey Tippit asking if he would ride with her to Up-town Harrisburg to pick-up a friend. Stacey told him that she was afraid to drive alone in the rain and wanted him to go along. He thought that they were traveling on Cameron St. The last thing he could remember was that Stacey was attempting to get the windshield wipers to come on because they were not working. McNeil did not remember anything about the accident itself. He had no idea what speed they were traveling and he had no idea how the accident occurred. Because of hitting his head he was having trouble remembering what had occurred. He stated that he had one beer at a bar before he got home. He did remember that he was in the right front passenger seat</p>							
INSURANCE INFORMATION		COMPANY		94. INVESTIGATION COMPLETE?			
UNIT NO		POLICY NO		YES <input type="checkbox"/> NO <input type="checkbox"/>			



COMMONWEALTH OF PENNSYLVANIA
POLICE ACCIDENT SUPPLEMENTAL

(XX) REFER TO OVERLAY SHEETS

REPORTABLE NON-REPORTABLE

PENNDOT USE ONLY

POLICE INFORMATION				ACCIDENT TIME & LOCATION			
1. INCIDENT NUMBER 95-07-6187		2. AGENCY NAME Harrisburg Police Bureau		9. ACCIDENT DATE 16 July 1995		10. DAY OF WEEK Sunday	
3. STATION/ PRECINCT Traffic Safety Unit		4. PATROL ZONE 5-3		11. TIME OF DAY 0251		12. NUMBER OF UNITS Two	
5. INVESTIGATOR Sergeant Michael Butler (MAB)		6. APPROVED BY Sergeant Michael Butler (MAB)		13. # KILLED None		14. # INJURED Two	
15. PRIV. PROP. ACCIDENT Y <input type="checkbox"/> N <input checked="" type="checkbox"/>		16. BADGE NUMBER 512		17. COUNTY Dauphin		18. CODE 22	
16. BADGE NUMBER 512		17. COUNTY Dauphin		19. MUNICIPALITY Harrisburg		20. CODE 301	
UNIT #: _____ - COMPLETE ONLY THE INFORMATION THAT HAS CHANGED SINCE ORIGINAL REPORT							
36. LEGALLY PARKED Y <input type="checkbox"/> N <input type="checkbox"/>		37. REG. PLATE _____		38. STATE _____		39. DRIVER NAME _____	
39. PA TITLE OR OUT-OF-STATE VIN _____				39. DRIVER ADDRESS _____			
40. OWNER _____				40. CITY, STATE & ZIP CODE _____			
41. OWNER ADDRESS _____		42. CITY, STATE & ZIP CODE _____		43. YEAR _____		44. MAKE _____	
45. MODEL (NOT BODY TYPE) _____		46. INSURANCE Y <input type="checkbox"/> N <input type="checkbox"/> UNK <input type="checkbox"/>		47. SEX _____		48. DATE OF BIRTH _____	
47. BODY TYPE _____		48. SPECIAL USAGE _____		49. COMM VEH Y <input type="checkbox"/> N <input type="checkbox"/>		50. DRIVER CLASS _____	
49. VEHICLE OWNERSHIP _____		50. INITIAL IMPACT POINT _____		51. DRIVER S.S. # _____		52. DRIVER S.S. # _____	
51. VEHICLE STATUS _____		52. TRAVEL SPEED _____		53. CARRIER _____		54. CARRIER ADDRESS _____	
53. VEHICLE GRADIENT _____		54. DRIVER PRESENCE <input type="checkbox"/>		55. VEHICLE CONFIG. _____		56. CARGO BODY TYPE _____	
55. DRIVER CONDITION _____		56. DRIVER NUMBER _____		57. NO. OF AXLES _____		57. HAZ ARDOUS MATERIALS _____	
57. STATE _____		57. STATE _____		58. VEHICLE CONFIG. _____		59. HAZ ARDOUS MATERIALS _____	
57. NARRATIVE - IDENTIFY PRECIPITATING EVENTS, CAUSATION FACTORS, SEQUENCE OF EVENTS, WITNESS STATEMENTS, AND PROVIDE ADDITIONAL DETAILS							
Tuesday, 18 July 1995							
On this date at approximately 1000 hours, I went to VMC and located Unit #1 the fire apparatus aka Tower #1. At that time I used black spray paint and sprayed around the left front tire and then had the truck moved so that I could measure the contact patch left by that portion of the tire that is in contact with the road surface. The patch measured 12" wide and 10" in length and the tires PSI is 110 to 120 according to Les McClure the Fire Bureau mechanic. The fire truck was also weighed at the Sewage Plant scales and showed that the truck weighs 45,420 lbs unoccupied.							
The above information relative to the tire contact patch and PSI, I was able to determine that in order for the fire truck (Unit #1) to have hydroplaned, it would have to of been travelling at a minimum speed of 79.5 mph, which is not consistent with the statment of the operator of Unit #1 and the witness, Michael Yanishak (REFER TO SUPPLEMENTAL REPORT OF OFFICER KENNETH BITTNER). Furthermore at that type of speed, the operator of Unit #1 could never of made the short radius of the turn in which he negotiated.							
In conclusion to the lack of braking power of Unit #1, it is believed that due to the large volume of water over the road surface over the curbs on both sides of the street, that the brake pads and brake shoes got wet therefore no friction was made resulting in the loss							
INSURANCE INFORMATION		COMPANY		78. INVESTIGATION COMPLETE?		YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
UNIT NO		POLICY NO					



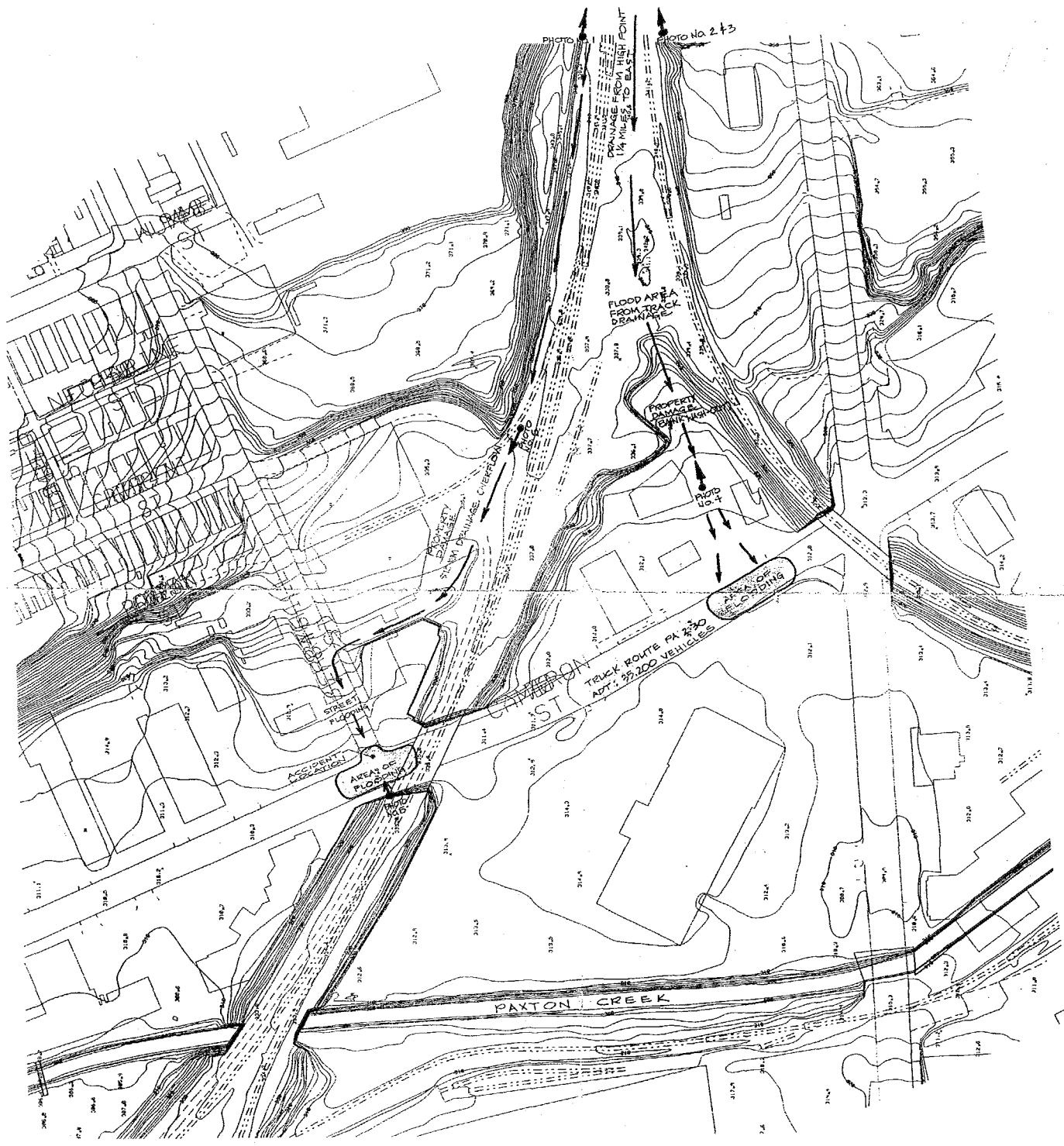
COMMONWEALTH OF PENNSYLVANIA
POLICE ACCIDENT SUPPLEMENTAL


XX REFER TO OVERLAY SHEETS

REPORTABLE NON-REPORTABLE

PENNDOT USE ONLY

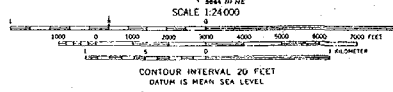
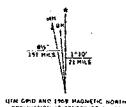
POLICE INFORMATION			ACCIDENT TIME & LOCATION		
1. INCIDENT NUMBER 95-07-6187		9. ACCIDENT DATE 16 Jul 95		10. DAY OF WEEK Sun	
2. AGENCY NAME Harrisburg Police Bureau			11. TIME OF DAY 0251 hrs		12. NUMBER OF UNITS 2
3. STATION/ PRECINCT Harrisburg	4. PATROL ZONE		13. # KILLED 0	14. # INJURED 2	15. PRIV. PROP. ACCIDENT Y <input type="checkbox"/> N <input checked="" type="checkbox"/>
5. INVESTIGATOR Ptl. Kenneth A. Bittner		BADGE NUMBER 165	20. COUNTY Dauphin		CODE 22
6. APPROVED BY Sgt. M. Bittner		BADGE NUMBER 512	21. MUNICIPALITY Harrisburg		CODE 301
UNIT #: _____ - COMPLETE ONLY THE INFORMATION THAT HAS CHANGED SINCE ORIGINAL REPORT					
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39. PA TITLE OR OUT-OF-STATE VIN			59. DRIVER ADDRESS		
40. OWNER			60. CITY, STATE & ZIPCODE		
41. OWNER ADDRESS			61. SEX	62. DATE OF BIRTH	63. PHONE
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43. YEAR	44. MAKE		67. CARRIER		
45. MODEL (NOT BODY TYPE)			46. INSURANCE Y <input type="checkbox"/> N <input type="checkbox"/> UNK <input type="checkbox"/>		68. CARRIER ADDRESS
47. BODY TYPE	48. SPECIAL USAGE	49. VEHICLE OWNERSHIP		69. CITY, STATE & ZIPCODE	
50. INITIAL IMPACT POINT	51. VEHICLE STATUS	52. TRAVEL SPEED		70. USDOT #	ICC #
53. VEHICLE GRADIENT	54. DRIVER PRESENCE <input type="checkbox"/>	55. DRIVER CONDITION		72. VEHICLE CONFIG.	73. CARGO BODY TYPE
56. DRIVER NUMBER	57. STATE		75. NO. OF AXLES	76. HAZ ARDOUS MATERIALS	77. RELEASE OF HAZ MAT Y <input type="checkbox"/> N <input type="checkbox"/> UNK <input type="checkbox"/>
87. NARRATIVE - IDENTIFY PRECIPITATING EVENTS, CAUSATION FACTORS, SEQUENCE OF EVENTS, WITNESS STATEMENTS, AND PROVIDE ADDITIONAL DETAILS					
18 July 95 at 2115 hrs I interviewed Mr. Michael Yanishak of 403 Summit Rd. New Cumberland Pa 17070, ph#774-5933, by phone. He stated that on 16 July 95 at approx 0250 hrs he was standing under the railroad bridge at Cameron and Berryhill st on the west sidewalk. His car was parked in the car wash parking lot. He was waiting for the storm to subside before going to his car. He heard sirens and when he looked up he saw a Hbq Fire Bureau truck comming west on Berryhill St. The truck had both its sirens and lights on. He stated that the truck was traveling at a slow rate of speed. As the truck got closer to Cameron St. it appeared to speed up. It did not stop but contined into the street. He never did see the other car until it was struck . He also stated that it was raining out very h ard and the water running down Berryhill St was very heavy. He was watching the fire truck the whole time and did not see anyother traffic.					
INSURANCE INFORMATION			COMPANY		
UNIT NO			POLICY NO		
					94. INVESTIGATION COMPLETE? YES <input type="checkbox"/> NO <input type="checkbox"/>



 <small>THIS NORTH</small>	THE CITY OF HARRISBURG THE OFFICE OF THE CITY ENGINEER		SHEET
	CONRAIL TRACKS - STORM DRAINAGE OVERFLOW		SD-1
	DRAWN BY: K. HEBERLIG DATE: JAN. 22, 1938		
	CHECKED BY: J. LINK, R.E. SCALE: 1" = 100' 0"		



Mapped, edited, and published by the Geological Survey
Control by USGS and USC&GS
Topography by photogrammetric methods from aerial
photographs taken 1968. Field checked 1969
Supersedes Army Map Service map dated 1947
Polyconic projection, 1927 North American datum
10,000-foot grid based on Pennsylvania coordinate system,
south zone
1000-meter Universal Transverse Mercator grid ticks,
zone 18, shown in blue
Four red dashed lines indicate selected fence and field lines where
generally visible on aerial photographs. This information is unchecked
Red tint indicates areas in which only landmark buildings are shown



ROAD CLASSIFICATION

Primary highway, hard surface	Light duty road, hard or improved surface
Secondary highway, hard surface	Unimproved road
Interstate Route	U.S. Route
	State Route

HARRISBURG EAST, PA.
SEE HARRISBURG 10 QUADRANGLE
144015-144645/15
1969
CAMP HILL DISTRIBUTOR
144725 LE
331 Market St., Lem. Jct., Pa.
717-642-7677

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U.S. GEOLOGICAL SURVEY, WASHINGTON, D. C. 20242
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

A-573-a

AMS 564 IV SE-SERIES V81

Beaver County Planning Commission
810 Third Street Beaver, Pa 15009

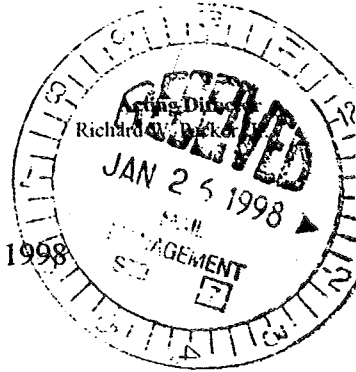
Board of Commissioners
Bea Schulte, Chairman
Dan Donatella
Nancy Loxley

**ENVIRONMENTAL
DOCUMENT**

CENTRAL ADMINISTRATIVE UNIT

REC'D: 1/24/98
DOCUMENT # 1/27/98 2:06.26 PM

January 21, 1998



Office of the Secretary, Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Attn.: Elaine K. Kaiser, Environmental Project Director
Section of Environmental Analysis

RE: Draft EIS, Conrail Acquisition

Dear Ms. Kaiser:

The Beaver County Planning Commission, at its meeting of January 20, 1998 had the following comments:

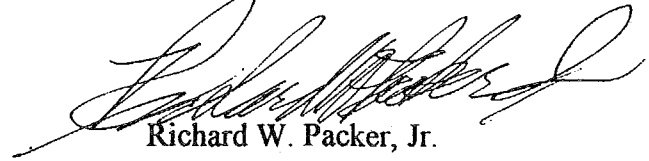
1. The Commission endorses SEA's proposal that the AAR's voluntary hazardous material "Key Route" guidelines be required as the minimum mitigation measures to be adopted.
2. The Commission also recommends that SEA mandate its preliminary recommended mitigation that the railroads provide 24 hour telephone access to their dispatching centers to all emergency response forces in the communities along the key routes.
3. The Commission requests that SEA require the now voluntary AAR standards for Major Key Routes (over 20,000 car loads annually) for Key Routes, i.e. "provide enhanced emergency preparedness by developing a Hazardous Materials Emergency Response Plan and participate with local governments in hazardous materials response training and simulations" (page 4-20). In this area, the most practical approach would be to involve local municipalities through the County's Emergency Management Agency.

A-573-b

Elaine K. Kaiser
Page 2
January 21, 1998

If there are any questions please contact this office.

Very truly yours,



Richard W. Packer, Jr.
Acting Director

RWP/WL/my
Copies to: Beaver County Emergency Management
File

EMERGENCY MANAGEMENT



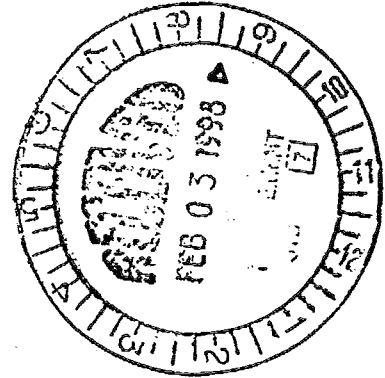
County of Allegheny

400 NORTH LEXINGTON STREET
PITTSBURGH, PA 15208-2521
473-2550 * FAX: (412) 473-2623

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/10/98
DOCUMENT # 2/11/98 11:25:04 AM

January 23, 1998
**ENVIRONMENTAL
DOCUMENT**



Vernon Williams, Secretary
Surface Transportation Board
1925 K Street S.W.
Finance Docket 33388
Washington, D.C. 20423

Dear Mr. Williams:

It has come to the attention of the Local Emergency Planning Committee (LEPC) in Allegheny County that recent purchase of Conrail by Norfolk Southern and CSX Transportation approved by the Surface Transportation Board will have a profound affect on the operation of the LEPC and the citizens of Allegheny County.

It is our understanding that Norfolk Southern who will be operating the Pittsburgh division does not employ Hazardous Material Field Personnel as was the case with Conrail. Considering the volume of traffic and the terrain in Allegheny County, the omission of this local hazardous material personnel creates a potentially dangerous situation in Allegheny County.

Mr. Tim Mannas who has been Conrail's Local Hazardous Material Field staff in this area has been an integral part of the LEPC's planning, training, and a vital source of information on this all important aspect of Emergency Management in Allegheny County.

The Allegheny County LEPC hereby requests that the approval by the Surface Transportation Board to this consolidation of railroad transportation include a condition that the position of Hazardous Material Field Personnel be retained specifically in the Pittsburgh area.

Please let us know what you are willing and able to do to maintain the current high level of rail transportation safety in Allegheny County.

Sincerely,

Carl W. Banks
Carl W. Banks
LEPC Co-Chairman

Glenn M. Cannon
Glenn M. Cannon, Esq.
LEPC Co-Chairman



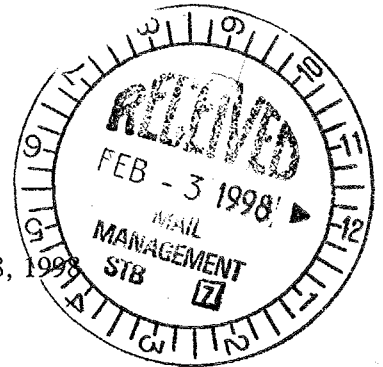


PORT AUTHORITY OF ALLEGHENY COUNTY

2235 Beaver Avenue
Pittsburgh, Pennsylvania 15233-1080
(412) 237-7000
FAX (412) 237-7101
Paul P. Skoutelas, P.E.
Executive Director

Direct Dial (412) 237-7311
Direct FAX (412) 237-7237

ENVIRONMENTAL DOCUMENT



January 28, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/3/98
DOCUMENT # 2/3/98 3:10:58 PM

Attn: Elaine K. Kaiser

Dear Ms. Kaiser:

The Port Authority of Allegheny County is the major public transportation provider in the Pittsburgh region. Its service area includes all of Allegheny County and small portions of Beaver, Westmoreland, and Armstrong Counties.

Port Authority staff has reviewed the Draft Environmental Impact Statement (DEIS) for the Proposed Conrail Acquisition. The major change within Port Authority's service area would be Norfolk Southern's acquisition of all local Conrail lines. Although the DEIS discusses commuter rail, there is no consideration of other transit modes.

Port Authority presently owns and operates a 25-mile Light Rail Transit (LRT) system, the 4.3-mile South Busway, and the 6.8-mile Martin Luther King, Jr. East Busway. A third busway, the 6.1-mile Airport Busway/Wabash HOV facility is under construction. Engineering and design is currently underway for a 2.3-mile extension to the East Busway. The locations of these facilities are shown on the enclosed map.

A short portion of the LRT system utilizes a former railroad tunnel and bridge. The East Busway was constructed on a portion of the Conrail right-of-way made available when the railroad consolidated its operations from three and four tracks to two tracks. The right-of-way is along Conrail's Pittsburgh Line (ID N-263). Similarly, Port Authority intends to construct the East Busway Extension property parallel to the Conrail Pittsburgh Line. Port Authority is also negotiating with Conrail to purchase right-of-way for the Airport Busway/Wabash HOV facility.

Accordingly, Conrail has extensive experience working with Port Authority while the busways and Stage I LRT were being developed. Existing Conrail agreements with Port Authority will be honored by purchasers. Further project development for the new busways will require Norfolk Southern's cooperation when negotiating agreements involving insurance, access, and property acquisition for the new busway projects.

Additionally, Port Authority will be considering new transit facilities in other corridors as part of its long-range planning activities. Usage of other railroad lines (either through purchase or shared rights of way) will be investigated. Port Authority anticipates that both CSX and Norfolk Southern lines will be considered. Information from both railroads on operating or abandonment status, train volumes, right-of-way widths, and other aspects of the rights-of-way will be requested.

Other transit systems in the geographic area of the merger are also considering usage of railroad rights of way for major transit projects. Accordingly, the scope for transportation chapter of the DEIS should be broadened to include consideration of modes of transit other than commuter rail.

Port Authority requests that the Surface Transportation Board require the following as a condition for approving the merger:

- Norfolk Southern cooperate with Port Authority when negotiating agreements involving insurance, access, and property acquisition for the new busway projects.
- Norfolk Southern and CSX will cooperate with Port Authority in planning, engineering, and construction of any other transit projects.

Port Authority staff reviewed the train volume information in the Master Table of all Rail Line Segments (Appendix A-1) for all lines in Southwestern Pennsylvania. Some of the 1996 volumes on the Conrail lines appear to be low.

In particular, the table lists 1996 daily train volumes on the Thomson to Jacks Run segment (ID N-269) at 15.5 trains per day. Conrail provided a schedule to Port Authority indicating that 25 trains use this line on a daily basis .

The table also shows that Norfolk Southern intends to decrease daily volumes to 9.9 daily trains. Did Norfolk Southern make its projections on a base of 15.5 trains per day or use other factors to estimate future volumes?

Port Authority originally intended to use a portion of this segment [ID N-269] for the Airport Busway/Wabash HOV facility. However, due to the installation of a 2nd track and increase in Conrail operations on this line, cost of construction increased significantly and this portion of the busway plan was eliminated as no longer being economically feasible. If Norfolk Southern does intend to reduce the number of trains using this segment, Port Authority may resume its interest in sharing this right-of-way.

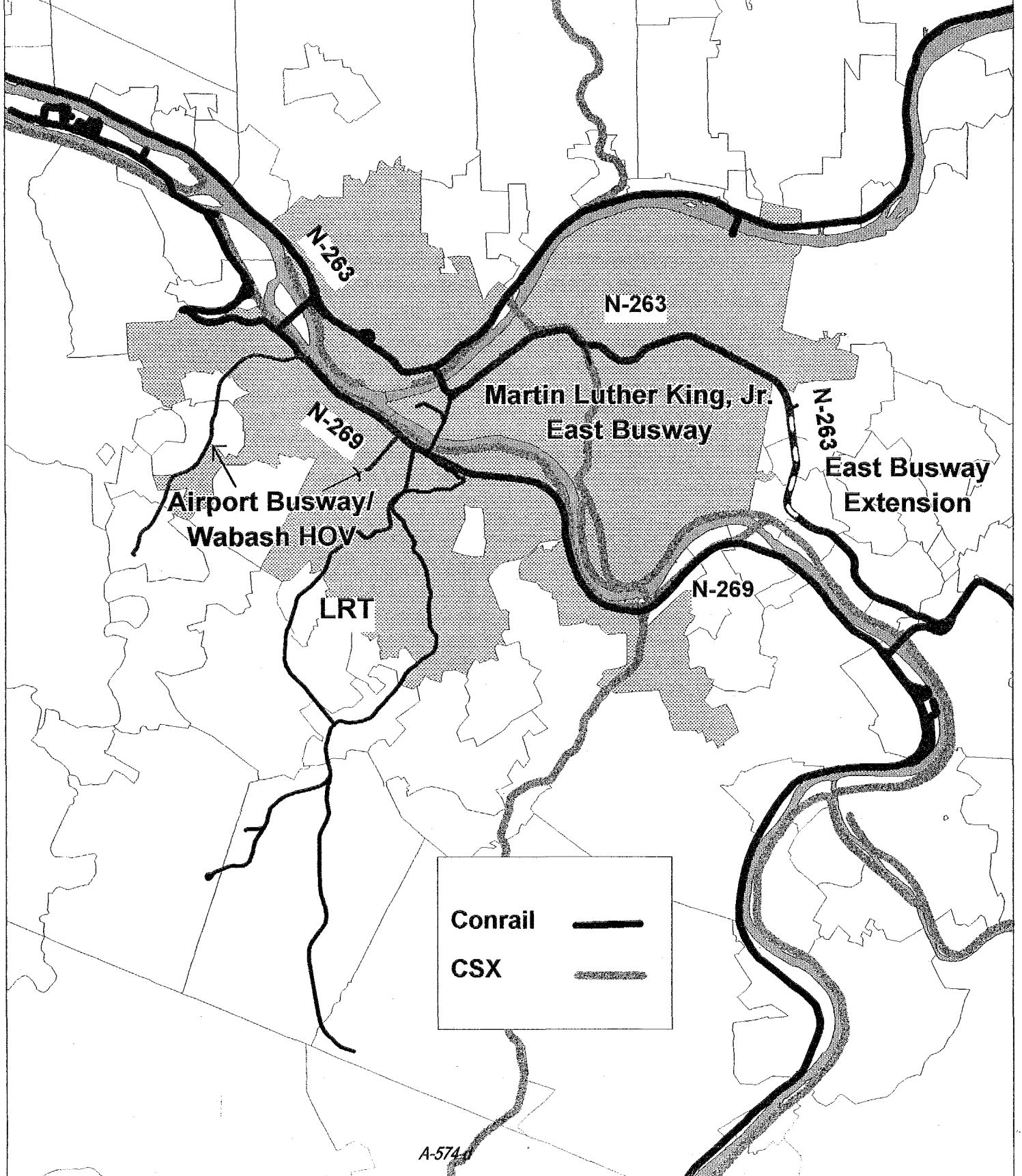
Sincerely,



Paul Skoutelas
Executive Director

Enclosure

PORT AUTHORITY'S FIXED GUIDEWAYS WITH CONRAIL AND CSX RAIL LINES



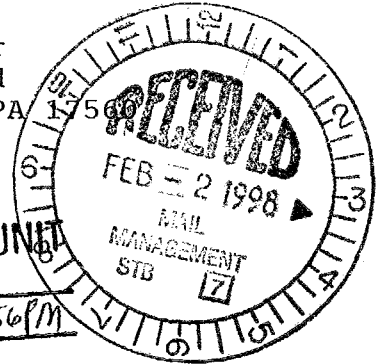
ENVIRONMENTAL DOCUMENT

Barry Longenecker
315 Fairview Road
New Providence, PA 17550

January 29, 1998

Surface Transportation Board
Office of the Secretary
Case control Unit
Finance Docket No. 33388
1925 K Street N W
Washington, DC 20423-0001

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/2/98
DOCUMENT # 2/2/98 5:05:56 PM



To the Board:

I am writing as an interested party to submit comments on the Draft EIS in hopes that you will incorporate my concerns into any final decision or order pertaining to the proposed Conrail/CSX acquisition. I am an adjacent landowner to the Conrail owned Enola Low-Grade line in Southern Lancaster County, PA. [Dkt. No. AB-167 (Sub-No. 1095X)] This line is no longer active and it is my understanding that Conrail as part of an order from the former ICC was to retain it's interest in and take no steps to alter the historic bridges of the line until completion of the 106 historic preservation act process. It is also my understanding that this process is not complete. I am concerned that this rail line and condition may be overlooked when conveyed to CSX. My understanding of the Historic Preservation Act is that conveyance is an adverse impact and the 106 - mitigation process would be triggered.

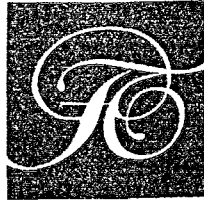
This historic rail line (recognized by the Curator of Transportation History at the Smithsonian Museum as one of the most historically significant rail lines in the country) and it's beautiful stone arch bridges has been determined eligible for listing on the National Register and therefore should be included in any Environmental Impact Assessment. All decisions concerning conveyance should come under review of the National Advisory Council, with opportunity to comment from the public and interested parties to help mitigate any adverse effect the conveyance of the line to CSX may have. Please include this line in the list of assets Conrail is conveying and consider the impact on this historic line and it's bridges insuring that the condition imposed by ICC and STB remains in effect. Please order all additional protection measures possible so that this important historic national resource remains intact.

Sincerely,


Barry Longenecker

ATTENTION: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

COPY Historic Preservation Trust
of Lancaster County



Sehner-Ellicott-von Hess House
123 North Prince Street
Lancaster, Pennsylvania 17603
717-291-5861

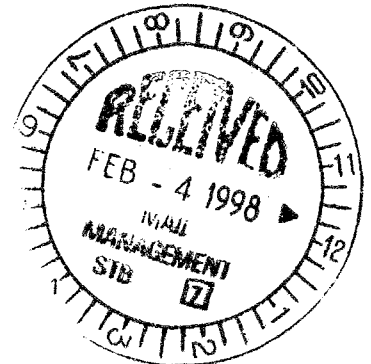
January 30, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K. Street, NW
Washington, D.C. 20423-0001

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/4/98
DOCUMENT # 2/4/98 4:09:39PM

**ENVIRONMENTAL
DOCUMENT**



ATTN: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

SUBJECT: EIS for Proposed Acquisition of CONRAIL by
Norfolk Southern Railroad and CSX Railroad
Section 106 Compliance re: CONRAIL's Enola Branch of the Low Grade Line,
Lancaster County, PA

Dear Ms. Kaiser:

Please be advised that the Historic Preservation Trust of Lancaster County is an intervenor in the suit, FAST v. PA Public Utility Commission, in the Commonwealth Court of Pennsylvania, No. 3003 C.D. 1997, which deals with CONRAIL's abandonment of its property in Lancaster County, PA, the former Enola Branch of the Low Grade Line of the Pennsylvania Railroad.

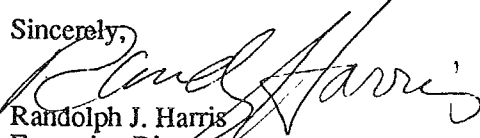
The Trust is also an "interested person," for purposes of the Section 106 process, in an administrative action relative to this property, which has been determined eligible, in total, for listing in the National Register of Historic Places by the PA SHPO in April, 1994.

Please consider the Trust an interested person, pursuant to Section 106 and 36 CFR Part 800, in the subject case before STB. This correspondence is to notify you of our interest in seeking compliance with the Section 106 process, and the protection of the historic and cultural resource, relative to the pending historic preservation condition placed by STB on its abandonment action regarding the subject property.

On January 12, 1998, I wrote to the Advisory Council on Historic Preservation, seeking a determination by the Keeper of the National Register of the eligibility for NR listing of the subject resource. There is an apparent conflict among the parties involved in this administration action as to the scope and content of the historic resource. Enclosed is my letter to the Advisory Council. Please also see the enclosed letter from the Curator of Transportation of the National Museum of American History, who attests to the significance of the subject railroad property.

Thank you for the opportunity to comment on this action, which will affect a resource of major historic and cultural significance. Please call if I can answer any questions on this matter.

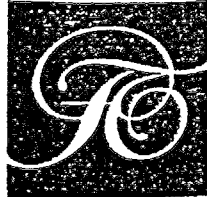
Sincerely,


Randolph J. Harris
Executive Director

cc: Joyce Nettke
Alan Musselman
Brenda Barrett

Enclosures: (including required 10 copies)

Historic
Preservation
Trust
of Lancaster County



Sehner-Ellicott-von Hess House
123 North Prince Street
Lancaster, Pennsylvania 17603
717-291-5861

January 12, 1998

Ms. Charlene Dwin Vaughn
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue
Suite 809
Washington, D.C. 20004

Dear Ms. Vaughn:

SUBJECT: Request for Determination of Eligibility
Adverse Effect on Historic and Cultural Resources
Atglen-Susquehanna Branch A.K.A. Enola Low Grade Line
Formerly of the Pennsylvania Railroad, ca 1903
Lancaster and Chester County, PA
PA SHPO ER No. 89-1632-042-B
Conrail File No. MPAC-486
Pennsylvania Public Utility Commission PUC Docket No. A-00111016
Surface Transportation Board (Formerly ICC) Docket No. AB-167
(Sub-No. 1095X)

I am requesting that your office review the enclosed correspondence pursuant to CFR 800(6) (e), regarding public requests to the Council. The Historic Preservation Trust of Lancaster County is an interested person in this case, as I interpret the referenced regulations. The Trust objects to the methods being employed by Consolidated Rail Corporation, an applicant before the U.S. Surface Transportation Board, relative to the Section 106 process.

The enclosed correspondence clearly shows that the SHPO (Pennsylvania Historical and Museum Commission) revised its evaluation of the subject resource in 1994, making it more inclusive and comprehensive than an earlier 1989 analysis and evaluation. The revised evaluation was based on more extensive information made available to SHPO through site work, research, and planning analysis, performed by a qualified professional.

The applicant before the federal agency official, however, has refused to acknowledge the revised SHPO opinion that the entire railroad line, inclusive of all of the property that had been purchased, developed and, in essence, organized at about the turn of the 20th Century for use by the Pennsylvania Railroad, is eligible in total for listing in the National Register of Historic Places. Rather, Conrail has proceeded in this case, based on the 1989 determination by SHPO that only certain railroad bridges or crossings are eligible for the National Register.

Conrail's involvement with the Section 106 process has been limited only to those structures identified as eligible in the early evaluations and correspondence with SHPO, and for which SHPO has made a finding of adverse effect. Please also note the enclosed October 17, 1994 letter from SHPO to Conrail, which states, in part, that Conrail should notify your office of the finding of adverse effect of "contributing structures" to the resource and to begin the consultation process. We understand that the your office to date has not been officially notified in this case.

Given these issues, I believe there is an apparent conflict or discrepancy about the scope and definition of the resource in this case. Therefore, I am requesting that your office to contact the agency official and to seek a determination of eligibility regarding the resource from the Keeper of the National Register of Historic Places.

Thank you for your attention to this matter. Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Randolph J. Harris".

Randolph J. Harris
Executive Director

Enclosures



NATIONAL MUSEUM of AMERICAN HISTORY

*...inspiring a broader understanding of our nation
and its many peoples.*

April 2, 1997

Mr. Randolph J. Harris
Executive Director
Historic Preservation Trust of Lancaster County
123 North Prince Street
Lancaster, PA 17603

Dear Mr. Harris:

Re: Former Pennsylvania Railroad 'Low-Grade' Line
Lancaster and Chester Counties, Pennsylvania

My understanding is that, as a result of a proposed agreement discussed with the Pennsylvania Public Utilities Commission, the successor to the Pennsylvania Railroad -- the Consolidated Rail Corporation -- would convey sections of the historic 'Low-grade' right of way in parcels to several local governments. I also understand that many historic bridges and crossings along this 23-mile, former rail line would be threatened.

Of course, I can take no formal position in such a legal proceeding. But, frankly, I fully support the development of the line, intact, as a recreational and educational trail, as the Friends of the Atglen-Susquehanna Trail have proposed. As a resource for both citizens and tourists to Lancaster and Chester Counties, such a trail would be unique.

With the line's great stone arch bridges, its level grade over such an expanse of land, and the stunning views of Lancaster County farms along the way, the 'Low-grade line' would become one of the premier hiking and biking trails in all of North America. Segmented and destroyed, the line would become nothing more than a monumental earthworks.

The 'Low-grade line' was part of an enormous civil engineering project of the late 19th and early 20th centuries, initiated by Alexander Cassatt (brother of the painter, Mary Cassatt), then president of the Pennsylvania Railroad. Penn Station in New York, the Hudson River Tunnels, and the 'Low-grade line' were all part of this vast program. The historic significance of the line is unquestioned.

I urge you and your colleagues in Lancaster County to continue to work to save this corridor in its entirety, including its bridges and crossings. We should be conserving and developing this great legacy as a unique national resource for future generations. And in the wonderful setting of Lancaster County, future generations will thank you for preserving this trail -- in contrast to the commercial shopping developments threatening to blanket other parts of the county. Balance is critical.

If I can be of any further help in this effort, please call. The phone is 202/357-2025, and the fax is 357-4256.

Cordially,

William L. Withuhn
Curator of Transportation

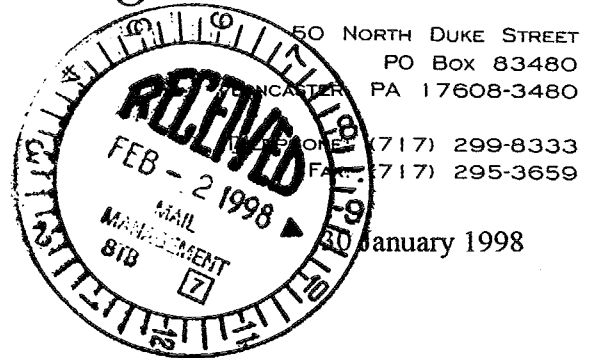
A-576-a

LANCASTER COUNTY

Transportation Coordinating Committee

MEMBERS

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
LANCASTER COUNTY BOARD OF COMMISSIONERS
LANCASTER COUNTY PLANNING COMMISSION
CITY OF LANCASTER
RED ROSE TRANSIT AUTHORITY



CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98
DOCUMENT # 2/2/98 11:03:28 AM

Office of the Secretary
Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N. W.
Washington, DC 20423-0001

ENVIRONMENTAL DOCUMENT

Attention: Elaine K. Kaiser, Environmental Project Manager
Section of Environmental Analysis

Dear Ms. Kaiser:

The Lancaster County Transportation Coordinating Committee, the Metropolitan Planning Organization for Lancaster County, Pennsylvania, appreciates the opportunity to review the Draft Environmental Impact Study (DEIS) of the proposed Conrail acquisition prepared by the Section of Environmental Analysis of the Surface Transportation Board. We previously commented on Volumes 6, 6a, 6b, and 6c of the Environmental Report prepared for the applicants, CSX Corporation and Norfolk Southern Corporation.

The following are our comments on the DEIS, based on our review of Chapters 2 and 5-PA.

1. No mention is made of either Conrails' New Holland Branch or its Lititz Branch, both of which are reached via Amtrak's Keystone Corridor. Nor, is there any mention of the branch line between Columbia, PA and the Dillerville Junction with Amtrak. We noted this deficiency in our previous comments as these three branch lines serve important industries in our county.
2. Lancaster County is not analyzed for increased emissions, apparently because it did not reach the emissions screening threshold of 50 tons per year. In reaching this threshold conclusion, it does not appear that the DEIS accounted for emission increases from 330 additional truck trips per day traveling on PA283 in Lancaster County to reach the proposed conventional intermodal facility near the town of Rutherford Heights via Interstate 283 and US322. We believe these truck emissions

should be estimated and included in our total.

3. Many of these additional truck trips will also use deficient and unsafe portions of US30 in eastern Lancaster County to reach PA283 and the proposed conventional intermodal facility. This is a concern of Lancaster County particularly in light of recent fatal accidents on this stretch of US30 which already has heavy truck volumes.
4. We note the preliminary conclusion of the DEIS that no rail line segments, rail yards, or intermodal facilities in Pennsylvania warrant noise mitigation. The DEIS also notes that the Federal Railroad Administration (FRA) has indicated that it will propose new rules on train horn blowing procedures in 1998. It would be helpful for the final EIS to note the names of all communities located on rail lines that might qualify for "quiet zones" under FRA's proposed new rules in 1998.

We trust you will consider our comments and incorporate them in the final EIS document about the proposed acquisition. If you have any questions about our comments, please call Chris Neumann, Chief Transportation Planner, at (717) 299-8333. Thank you.

Sincerely,



Terry L. Kauffman, Chairman
Lancaster Co. Transportation Coordinating Committee

TLK/CRN/mlb

copy: Members of the Coordinating Committee
Board of Lancaster County Commissioners

MEMO-A-ELAINE.122

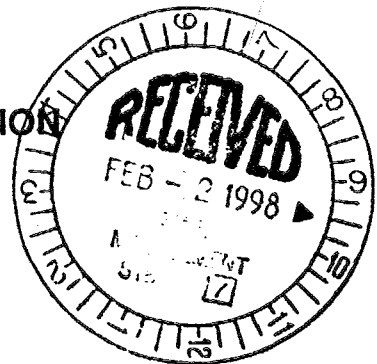
CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/28/98
DOCUMENT # 2298-11.10.24AM



PENNSYLVANIA TURNPIKE COMMISSION

ENVIRONMENTAL DOCUMENT

COMMONWEALTH OF PENNSYLVANIA
Post Office Box 67676
Harrisburg, PA 17106-7676
January 30, 1998



Office of Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street NW
Washington, DC 20423-0001

Attn: Ms. Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis (SEA)

**RE: Environmental Filing
Proposed Conrail Acquisition**

Dear Ms. Kaiser:

The Pennsylvania Turnpike Commission is grateful for the opportunity to comment on the December 12, 1997, Draft Environmental Impact Statement (DEIS) for the Proposed Conrail Acquisition. For the past eight years, the Pennsylvania Turnpike Commission has been planning improvements for the regional transportation system for Southwestern Pennsylvania. The result is a multi-billion dollar expansion program that consists of more than 90 miles of new roadway which includes a program of seven independent projects that comprise the Mon/Fayette Expressway and Southern Beltway Projects (see attached regional map). Attached to this letter as part of our comments, we have included testimony presented by the Pennsylvania Turnpike Commission to the Pennsylvania State House Transportation Committee on Conrail Acquisition.

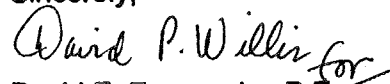
The Mon/Fayette Expressway and Southern Beltway Projects have been authorized and funded through three acts of the Pennsylvania General Assembly (Act 61 in 1985, Act 26 in 1991, and Act 3 in 1997). All of the seven projects comprising more than 90 miles of toll road expansion in Southwestern Pennsylvania have been approved in accordance with the Federal Joint Planning Regulations which were promulgated subsequent to passage of the Intermodal Surface Transportation Efficiency Act (ISTEA). In particular, the Mon/Fayette Expressway project from PA 51 to Pittsburgh, which has the most involvement with existing Conrail and CSX rail lines, is included on the Long Range Plan for the Southwestern Pennsylvania Regional Planning Commission (SPRPC) as well as the Regional Transportation Improvement Plan (TIP). In addition, a combined Congestion Management Study (CMS)/Major Investment Study (MIS) for this project has been completed in accordance with 23 CFR 450.318 (and related regulations). Both the CMS and MIS have been approved by SPRPC with input from the Pennsylvania Department of Transportation and the Federal Highway Administration in accordance with applicable Federal Regulations. In summary, this project is well along in the planning process and has received all required Federal, State and Local planning approvals at this stage of project development. We have invested considerable time and money in this process and would hope that our plans could be coordinated with your plans for the benefit of Southwestern Pennsylvania.

The Mon/Fayette Expressway and Southern Beltway projects have continued support from the Federal Highway Administration (FHWA). The following are our comments on the Proposed Conrail Acquisition, and the anticipated changes, as they relate to the Mon/Fayette Expressway and Southern Beltway Projects.

1. **Pitcairn Intermodal Facility** - The increased activity at the Pitcairn Intermodal Facility and its effect on the existing highway network and our proposed Mon/Fayette Expressway has not been addressed. As written, **Chapter 5-PA.10 Pennsylvania Transportation: Roadway Effects from Rail Facility Modifications** of the DEIS does not address impacts to the proposed roadway network.
2. **Increased Traffic on CSX Line - Attachment ES-B, Master Table of All Rail Line Segments** provides information on rail lines that appear to be involved under the Proposed Conrail Acquisition. Six of these rail segments (C-082, C-086, N-263, N-268, N-269, and N-270) are directly affected by the PA 51 to Pittsburgh Mon/Fayette Expressway Project. Rail line segments C-082 and C-086 are projected to increase by 74 and 77 percent (million gross tons), respectively. The preliminary design for the Mon/Fayette Expressway, specifically the PA 51 to Pittsburgh project, proposes the relocation of up to eight miles of this CSX track. The potential inability to relocate this track because of the increase in use of the line caused by the Proposed Conrail Acquisition may require us to reevaluate this highway alternative. We are concerned that this impact to our planned project was not considered in this DEIS and therefore mitigation for this impact may not be included in your potential approval of the Conrail Acquisition.
3. **Early Coordination** - As discussed above, there are six rail segments that appear to be directly affected by our PA 51 to Pittsburgh Mon/Fayette Expressway Project. Work will include bridging over, and the relocation of numerous railroad tracks, signals, communication, and other railroad facilities. **Attachment ES-B** indicates that all six rail segments are expected to remain in use after the Proposed Conrail Acquisition. Early coordination with Conrail, Norfolk Southern and CSX during the Preliminary Design phase of our project is necessary for its successful completion. In some cases, the railroad involvements are so substantial that the proposed highway alternatives may not be feasible without total commitment for cooperation by the owners of the railroad facilities. We request that this issue be described along with SEA's recommendation for mitigation in **Chapter 5-PA.16 Pennsylvania Area of Concerns**.

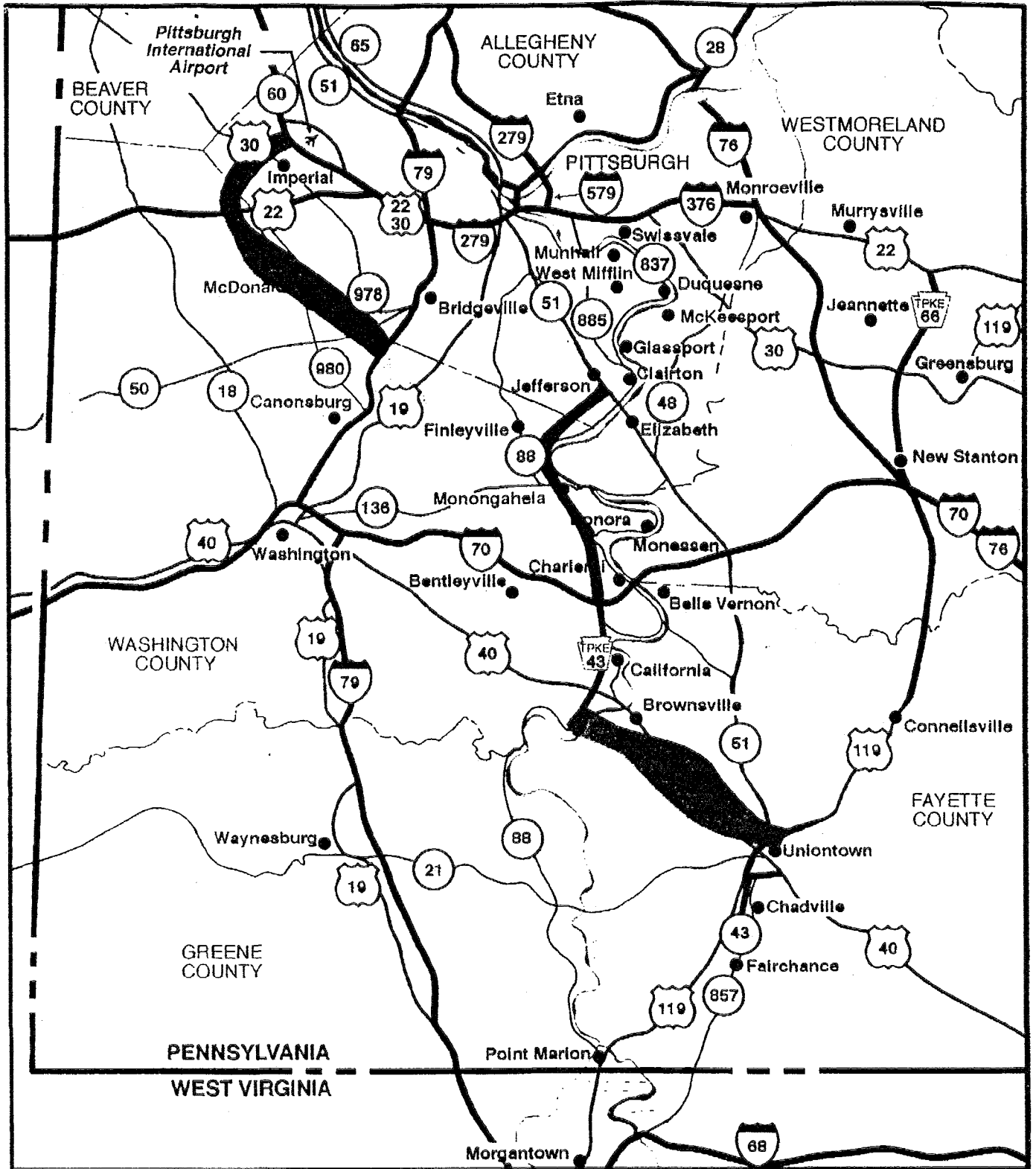
The Turnpike Commission would like to acknowledge that initial coordination with Conrail and Norfolk Southern took place during a meeting on January 20, 1998. In addition, there has been contact between the Turnpike Commission and CSX. While the Turnpike Commission has raised a few of these comments of concern to Conrail, CSX and Norfolk Southern, these issues have not been totally resolved. We request that the SEA consider these issues during their review of State and Agency Comments on the DEIS and their discussion of mitigation measures. The success of the Mon/Fayette Expressway and the improvements to the regional transportation system in Southwestern Pennsylvania which would also support efficient railroad operations, depend on the successful coordination of all parties. If you have any questions regarding the issues we have raised, or require additional information, please call me at (717) 986-9688.

Sincerely,



David E. Zazworsky, P.E.
Special Assistant to the
Turnpike Commissioners

DEZ/lrs
Attachments



MON/FAYETTE EXPRESSWAY AND SOUTHERN BELTWAY PROJECTS



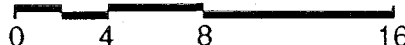
Pennsylvania Turnpike Commission

Commonwealth of Pennsylvania
 PO Box 67676
 Harrisburg PA 17106-7676

Prepared By: McCormick, Taylor & Associates, Inc.
 REVISED : 11-3-97



Scale: 1" = approx 8 miles



MON/FAYETTE

- I-68 to Route 43 (ROD 9/94)
- Uniontown to Brownsville
- I-70 to PA-51 (ROD 5/94)
- PA-51 to Pittsburgh

SOUTHERN BELTWAY

- PA-60 to US 22
- US 22 to I-79
- I-79 to Mon/Fayette

**Testimony of John T. Martino
Legislative Liaison
Pennsylvania Turnpike Commission**

**Submitted to:
Pennsylvania House Transportation Committee
Honorable Richard A. Geist, Chairman**

**Presented:
October 16, 1997**

**Testimony to the
Pennsylvania House Transportation Committee
Concerning the Acquisition of Conrail
by CSX and Norfolk Southern**

Chairman Geist, and other members of the Pennsylvania House Transportation Committee, I want to thank you for the opportunity to come before your Committee today with testimony concerning the proposed acquisition of Conrail by CSX and Norfolk Southern railroads.

The five-member Pennsylvania Turnpike Commission was created in 1937 with powers to construct, finance, operate and maintain the Pennsylvania Turnpike System. Since opening in 1940 with 160 miles of road, the Turnpike System has been continually growing, building and expanding. Currently, the Turnpike System consists of 506 miles of limited access highways.

In the mid-80's, the Turnpike Commission began an ambitious, multi-billion dollar expansion program. Authorization for these improvements came through three acts of the Pennsylvania General Assembly. In 1985, the General Assembly passed Act 61. This Act, the Turnpike Organization, Expansion and Toll Road Conversion Act, directed the Pennsylvania Turnpike Commission to construct and enhance the existing Turnpike and to expand the toll highway system. In 1991, Act 26 allocated 14 percent of a 55 mill increase of the Oil Company Franchise Tax to the Turnpike Commission which provides approximately \$40 million annually for the construction of Act 61 and Act 26 projects. In 1997, Act 3 provided the Commission with an additional \$28 million per year for Act 61 and Act 26 projects.

Among the projects authorized by these Acts are the Mon/Fayette Expressway and the Southern Beltway projects. Consisting of seven independent projects, the planned improvements stretch from the West Virginia border in the South to I-376 in Pittsburgh to the North, and from Jefferson Borough in the East, to the Pittsburgh International Airport in the West. These seven projects are shown on the attached color-coded map.

These transportation projects will bring much needed highway capacity, congestion relief, and highway access improvements; will stimulate economic development efforts; and will provide employment opportunities for Southwestern Pennsylvania. When all these projects are completed, the Commonwealth will have made a multi-billion dollar investment in the economic prosperity of Southwestern Pennsylvania.

A project critical to making the Mon/Fayette Expressway a reality, and the subject of our concern here today, is the proposed expressway from Route 51 in Jefferson Borough to I-376 in Pittsburgh and Monroeville. This highway will carry the most traffic of all the proposed projects, will provide an expressway alternative around the Squirrel Hill Tunnel, and will be a key component of a potential beltway south of the City of Pittsburgh. Currently, a Draft Environmental Impact Statement is being developed and is scheduled to be circulated in the Spring of 1998.

However, another equally important component of redevelopment and economic vitality for the region is efficient and effective rail service. Both highway and rail facilities are needed to provide the flexibility in transportation options needed for the movement of freight and people in the region. We wish to start working together now with the current or future owners of the railroads so that we can complete this needed improvement to the region's transportation network. This is our prime motivation for appearing before your Committee at this hearing today.

Construction of the Mon/Fayette Expressway from PA 51 to I-376 in Pittsburgh and Monroeville will require the bridging over and relocation of numerous railroad tracks, signals, communications and other railroad facilities. In order for the Pennsylvania Turnpike Commission to proceed toward construction, we need the involvement of the owners of these railroad facilities now during the Environmental Impact Statement and Preliminary Design phase of our project. Usually, final approvals by railroad companies come at the final design stage of a highway project, when very specific engineering details are available. In this particular situation, the railroad relocations are so substantial that some of the highway alternatives may not be feasible without a total commitment of cooperation by the owners of the railroad facilities.

Cooperation, as well as timely coordination, to accommodate rail and highway needs in this severely restricted, narrow corridor is paramount to the achievement of our goals. Without appropriate review and approvals from the railroads during this Environmental Impact Statement phase, the alternative selected may be invalidated, which would cause a significant delay in project development and substantially increase the cost of the proposed transportation improvements.

Our project will have direct effects on Conrail, CSX and Union Railroad tracks and related facilities. Our initial estimate indicates that approximately 10 miles of railroad tracks belonging to Conrail, CSX and Union railroads would have to be relocated. In addition, numerous grade-separated crossings over existing tracks and yards will need to be constructed. This construction can be potentially disruptive to railroad operations if not thoroughly coordinated. These railroad relocations may also affect other facilities located in the railroad right-of-way. I have provided copies of maps that show the general locations where these relocations would be required.

Because of the number of parties involved and the complexity of the issues to be resolved, it is imperative that the Pennsylvania Turnpike Commission get early and full cooperation from the affected railroad companies - especially Conrail, Norfolk Southern and CSX - so that a mutually satisfactory resolution - on a timely basis - can be achieved for both the highway and railroad facilities.

Immediate cooperation is needed so that the Commission can proceed in a timely manner to complete the Environmental Impact Statement and obtain a Record of Decision for this major project. By working through these issues at this time, we can develop an alignment that will mutually accommodate and benefit both transportation modes - highway and rail - and serve the residents and businesses of the Commonwealth of Pennsylvania and our interstate clients.

We have begun the necessary coordination with Conrail, CSX and Union Railroad. We have provided preliminary plans of our project to the Engineering Department of each Railroad. We are concerned that the pending acquisition will limit Conrail's ability and willingness to work with us.

Summary

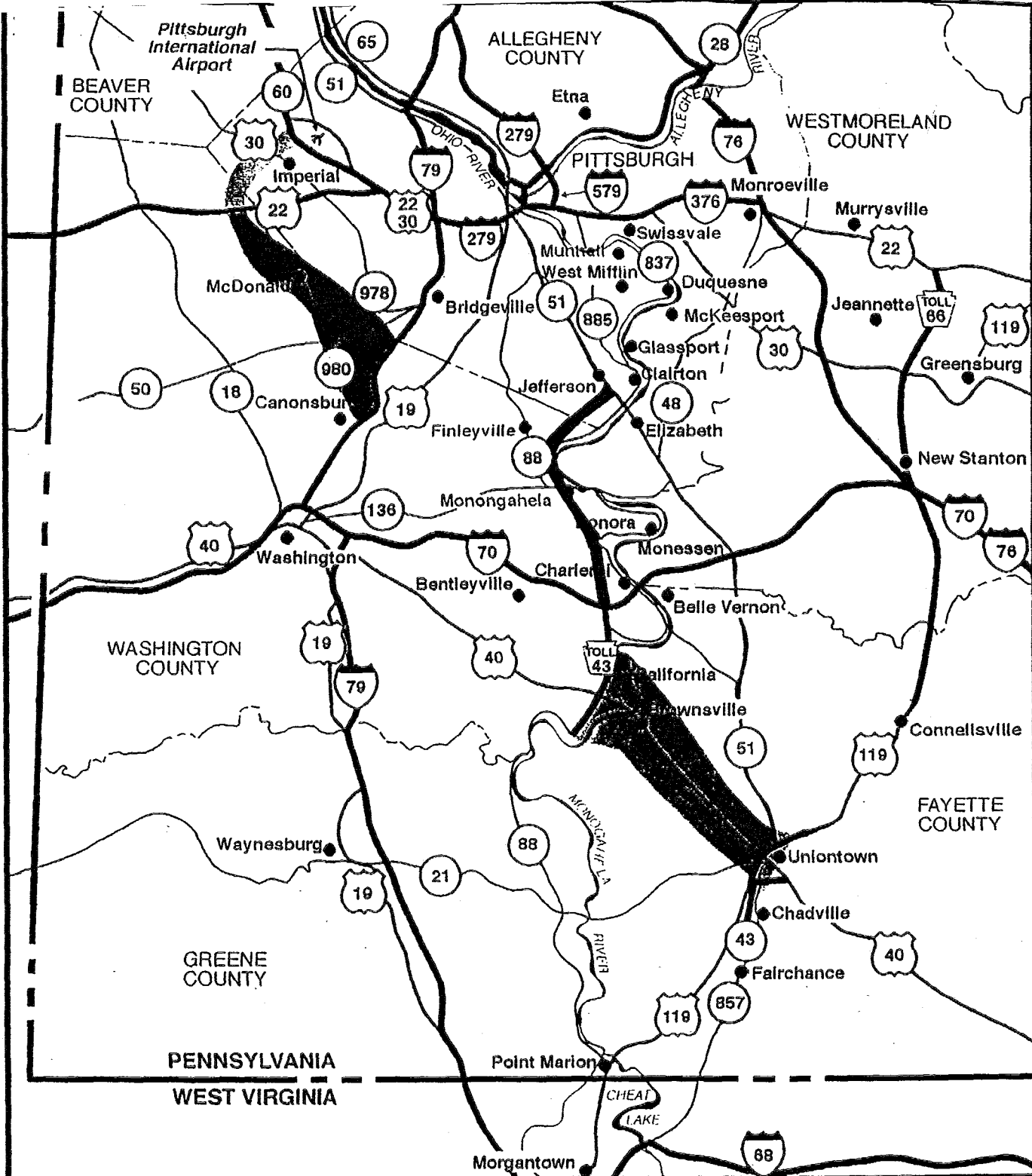
Allow me then to summarize the needs of the Pennsylvania Turnpike Commission related to the effect of the acquisition of Conrail on our plans for the Mon/Fayette Expressway Project from PA 51 in Jefferson Borough to I-376 in Pittsburgh and Monroeville.

1. We need a commitment from Conrail, CSX and Norfolk Southern to coordinate, cooperate and accommodate our highway. Unless we have such a commitment, our plans for a multi-billion dollar investment in the Mon Valley will be significantly delayed.
2. We need to expedite coordination with the current and future owners of the railroad facilities. This coordination must take place prior to completion of our Draft Environmental Impact Statement so that we can be assured of the feasibility of our alternatives.
3. We must be assured that any agreements we make now with Conrail regarding relocation or reconstruction of their facilities will be honored by the eventual owners of these facilities (CSX and Norfolk Southern).
4. We need the timely review and approval of our proposed plans by all appropriate railroad officials, before the sale of Conrail is complete, to avoid delays and attendant increased costs.

5. We would appreciate the support of this Committee before the Surface Transportation Board (formerly the Interstate Commerce Commission) to achieve the four needs I have just enumerated, and to incorporate appropriate conditions in any Surface Transportation Board Order approving the acquisition of Conrail.

Thank you Chairman Geist, for providing the opportunity to testify on behalf of the Pennsylvania Turnpike Commission for this very important project that is extremely important to the future of the City of Pittsburgh and Southwestern Pennsylvania.

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MON/FAYETTE EXPRESSWAY AND SOUTHERN BELTWAY PROJECTS



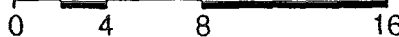
Pennsylvania Turnpike Commission

Commonwealth of Pennsylvania
 PO Box 67676
 Harrisburg PA 17106-7676

Prepared By: McCormick, Taylor & Associates, Inc.
 REVISED : 2-24-97



Scale: 1" = approx 8 miles



MON/FAYETTE

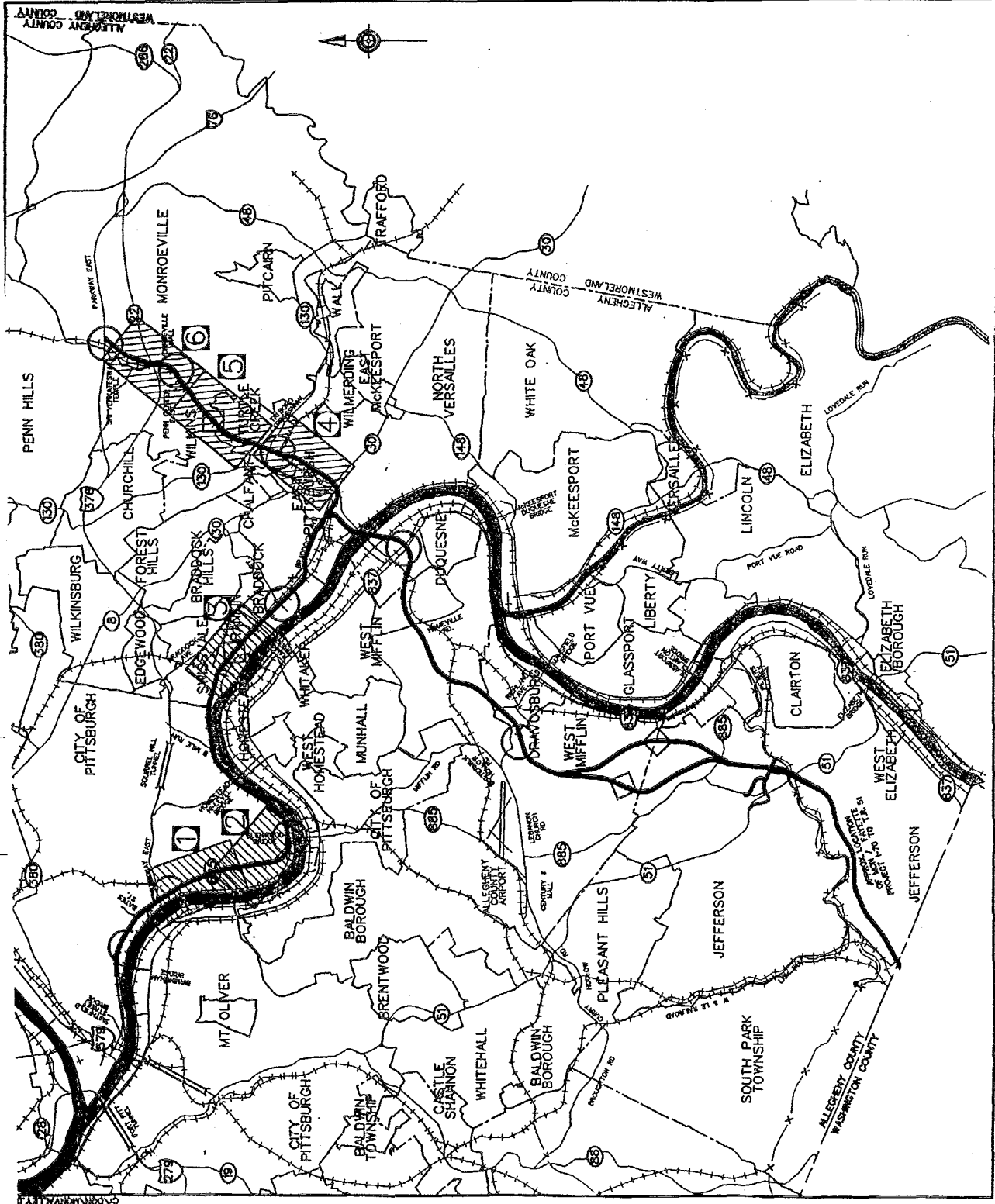
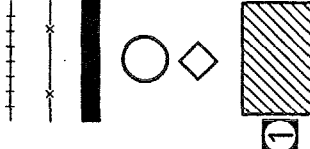
- I-68 to Route 43 (ROD 9/94)
- Uniontown to Brownsville
- I-70 to PA-51 (ROD 5/94)
- PA-51 to Pittsburgh

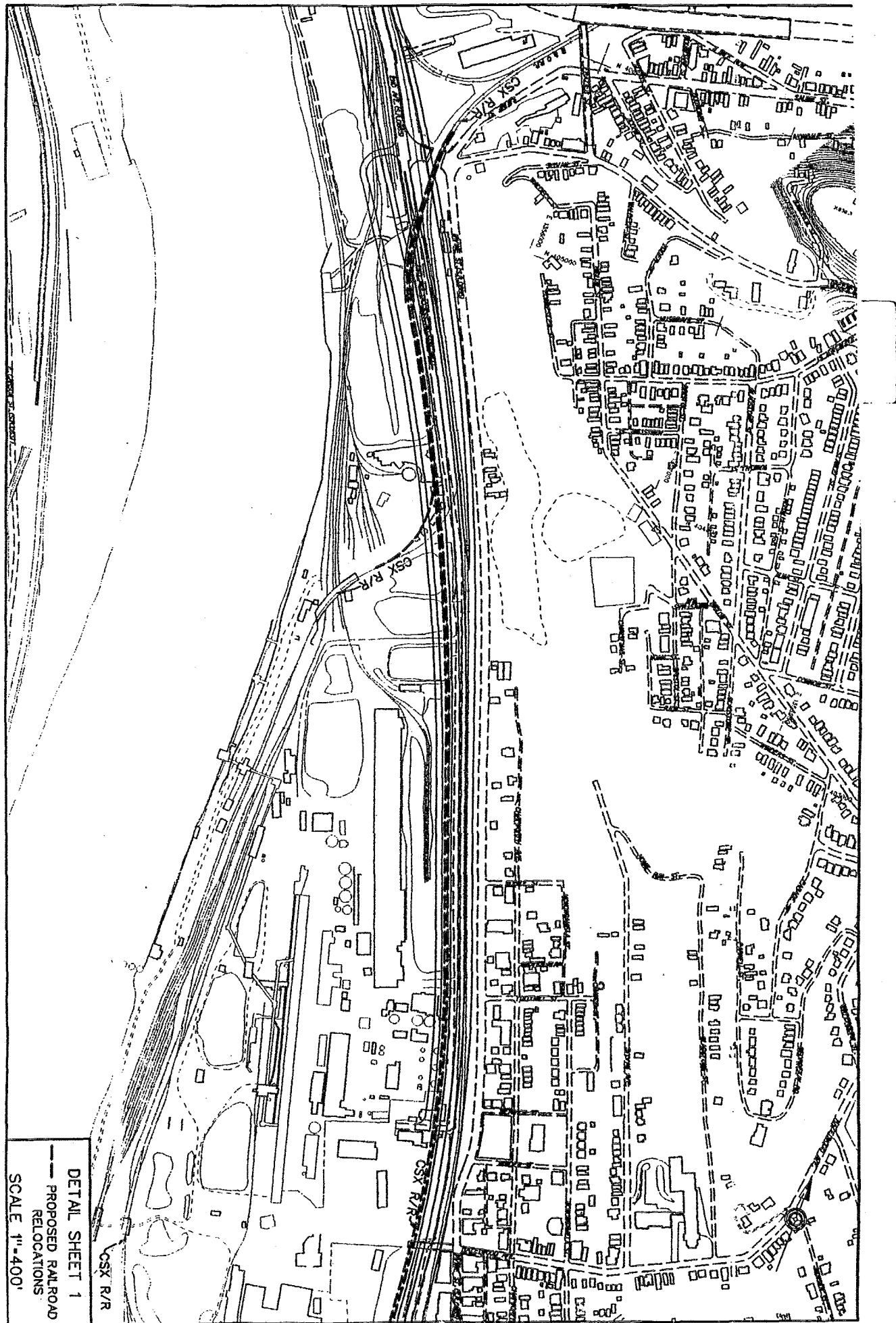
SOUTHERN BELTWAY

- PA-60 to US 22
- US 22 to I-79
- I-79 to Mon/Fayette

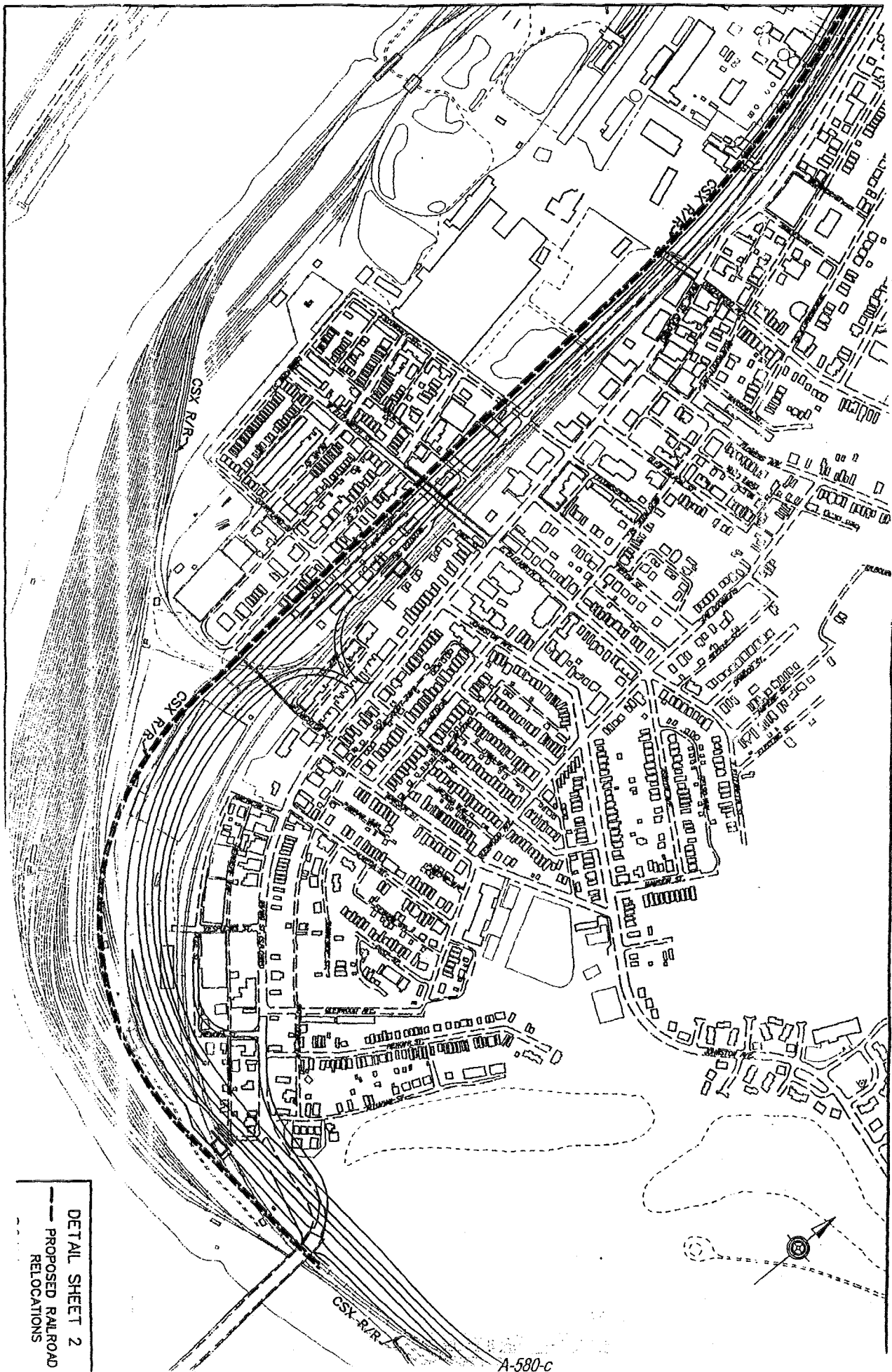
LEGEND

- ACTIVE RAILROADS
- INACTIVE RAILROADS
- NORTH ALTERNATIVE
- PROPOSED INTERCHANGE
- PROPOSED MAINLINE
- TOLL PLAZA
- DETAIL SHEET



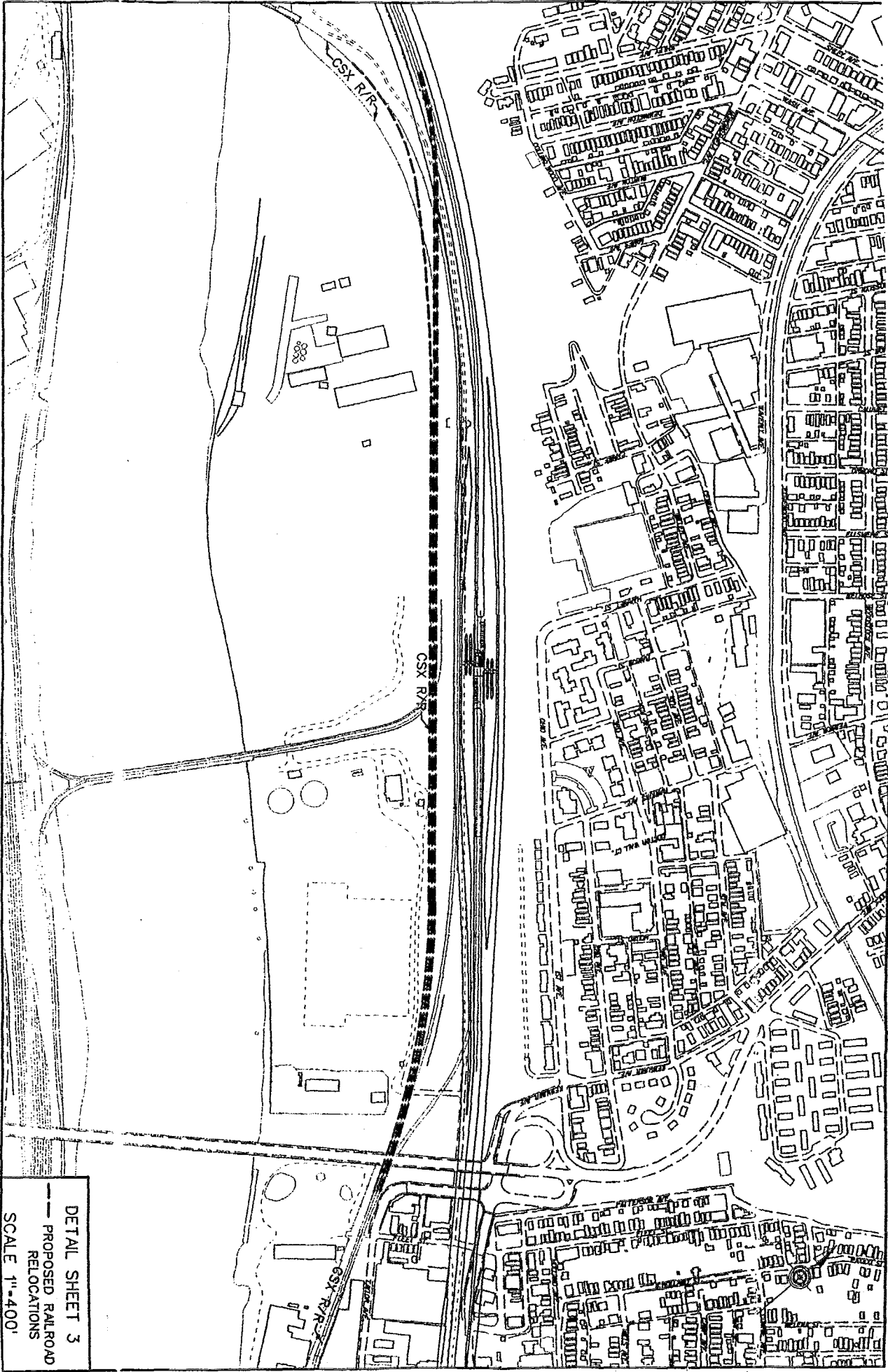


DETAIL SHEET 1
- - - PROPOSED RAILROAD
RELOCATIONS
SCALE 1"=400'

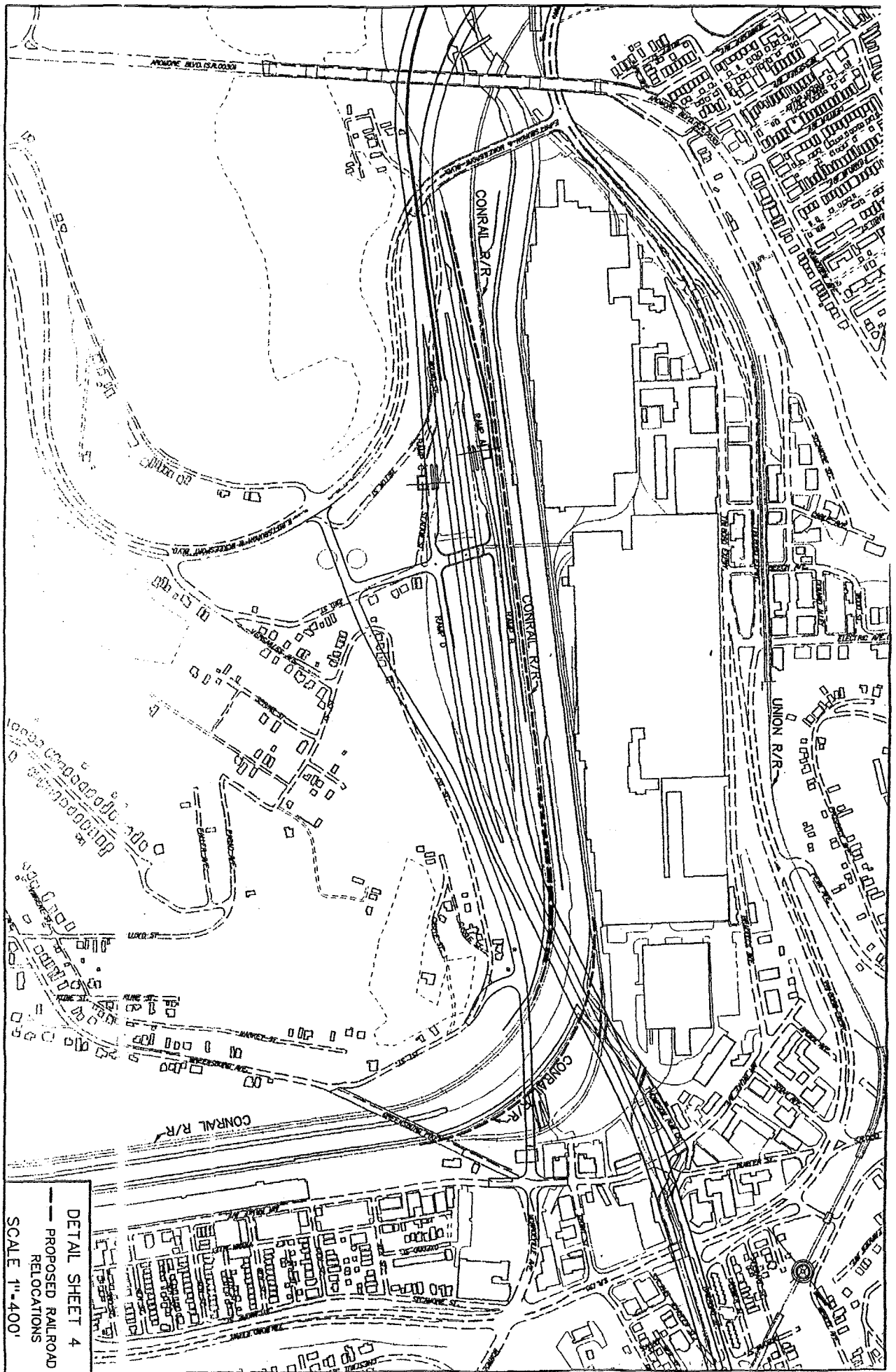


DETAIL SHEET 2
--- PROPOSED RAILROAD
RELOCATIONS

A-580-c



DETAIL SHEET 3
- - - PROPOSED RAILROAD
RELOCATIONS
SCALE 1"=400'

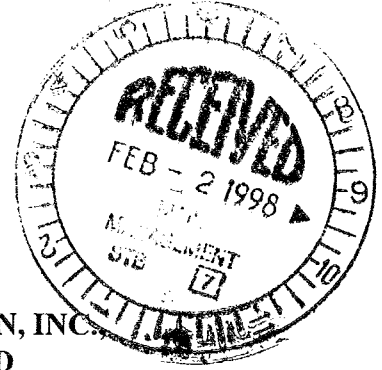


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SPTA-6

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 33388



**CSX CORPORATION AND CSX TRANSPORTATION, INC.
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
--CONTROL AND OPERATING LEASES/AGREEMENTS--
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION**

**COMMENTS OF THE SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY TO THE DRAFT ENVIRONMENTAL
IMPACT STATEMENT AND SAFETY INTEGRATION PLANS**

G. ROGER BOWERS
General Counsel
EUGENE N. CIPRIANI
Assistant Deputy Counsel
Southeastern Pennsylvania Transportation
Authority
1234 Market Street, Fifth Floor
Philadelphia, PA 19107-3780

JOHN J. EHLINGER, JR.
THOMAS E. HANSON, JR.
Obermayer Rebmann Maxwell & Hippel
LLP
One Penn Center, 19th Floor
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103

*Counsel for Southeastern Pennsylvania
Transportation Authority*

Dated: January 30, 1998

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 33388

**CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
--CONTROL AND OPERATING LEASES/AGREEMENTS--
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION**

**COMMENTS OF THE SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY TO THE DRAFT ENVIRONMENTAL
IMPACT STATEMENT AND SAFETY INTEGRATION PLANS**

The Southeastern Pennsylvania Transportation Authority ("SEPTA") hereby submits the following comments to the Draft Environmental Impact Statement ("DEIS") prepared by the Surface Transportation Board Section of Environmental Analysis ("SEA") and the Safety Integration Plans ("SIPs") prepared by the Applicants, CSX Corporation ("CSX") and Norfolk Southern ("NS").

I. INTRODUCTION

SEPTA operates an extensive integrated mass transportation system, consisting of trolley, motorbus, subway, elevated and regional commuter rail routes throughout the Philadelphia metropolitan area. SEPTA is a body corporate and politic which exercises the public powers of the Commonwealth of Pennsylvania as an agency and instrumentality thereof. SEPTA's commuter system is conducted pursuant to the Pennsylvania Public Transportation Law, Act 26 of 1991, as amended by Act 4 of 1994, 74 Pa. C.S.A. §§ 1701 et seq. SEPTA operates one of the

oldest and most extensive commuter rail and transit systems in the country. It carries an average of 90,000 passenger trips per day on its Regional Rail Division alone, and provides a significant and essential component of the daily movement of the population of Southeastern Pennsylvania.

SEPTA operates, on a daily basis, over 500 commuter trains in the Philadelphia area and is charged with providing safe, efficient and reliable commuter service to its public transit passengers. SEPTA's regional rail system currently operates in close coordination with significant freight lines which are currently operated by Conrail in the densely populated Philadelphia area. A portion of SEPTA's regional rail system, involving two commuter lines, operates on track segments owned by Conrail, while Conrail's freight operations utilize all or portions of eleven SEPTA commuter lines. SEPTA's operations on lines shared with Conrail are a key component of SEPTA's passenger services.

Pursuant to their Primary Application and Joint Operating Plan, the Applicants propose to each acquire certain of Conrail's trackage rights to operate freight service on lines Conrail currently shares with SEPTA. The Applicants also propose to increase the volume and type of freight traffic on certain lines to be acquired from Conrail to the potential detriment of SEPTA's public transit service. SEPTA is particularly concerned with the impact the proposed Merger and Acquisition ("Acquisition") will have on its ability to provide safe and reliable commuter services and to expand those operations to meet the growing needs of the region. It is of utmost importance that the Applicants provide sufficient information with regard to its proposed post-Acquisition routing of freight traffic in and through Southeastern Pennsylvania to permit assessment of the environmental and safety risks and to allow for appropriate mitigation of any

detrimental safety, environmental or operational impacts. The following comments address factors identified in the DEIS and SIPs which concern SEPTA and pose a threat to SEPTA's current operations and ability to meet the public transit needs of Southeastern Pennsylvania.

II. ROUTING OF LOCAL FREIGHT TRAFFIC TO THE LANSDALE CLUSTER

Of great concern to SEPTA, from both a safety and operational standpoint, is the route by which the Applicants plan to move local freight traffic to the Lansdale Cluster¹ following Acquisition. According to the Joint Operating Plan, freight operations on SEPTA lines centered around Lansdale will be allocated to CSX. Today, Conrail serves that territory from Abrams Yard via the Stoney Creek Branch, yet the Applicants propose to split the allocation of the Stoney Creek Branch between NS and CSX, while Abrams yard, the local yard by which CSX could access the Lansdale Cluster, is to be allocated exclusively to NS. Therefore, the only logical route by which CSX's Lansdale Cluster could be connected to other lines assigned to CSX is through SEPTA's Main Line route via Wayne Junction, where all but two of SEPTA's rail routes and several hundred commuter trains operate on a daily basis. The use of SEPTA's Main Line to route local freight traffic to the Lansdale Cluster is absolutely unacceptable to SEPTA and would undoubtedly cause significant adverse operational, safety and environmental impacts to SEPTA's passenger transit service in the Southeastern Pennsylvania region.

Precisely for the purpose of removing local freight traffic from SEPTA's Main Line and avoiding the associated hazards, Conrail and PADOT extensively renovated the Stoney Creek

¹ Consists of the SEPTA owned lines of the former Reading Railroad in the northern suburbs of Philadelphia.

Branch so that Conrail's local freight traffic could access the Lansdale Cluster via Abrams Yard in Norristown. By proposing to divide the Stoney Creek Branch between the Applicants, while allocating the Lansdale Cluster to CSX and Abrams Yard to NS, the Applicants would appear to revert to using a route which was long ago discontinued by Conrail and would disrupt the present freight and commuter operations in the Southeastern Pennsylvania region.

Despite the significant ramifications of routing freight traffic through SEPTA's heavily utilized Main Line, and altering the present freight operations in the region, the Applicants have completely failed to address this issue in either their operating plans or SIPs. Page 223 of CSX's SIP reads as follows:

Conrail operates over a one-mile SEPTA-owned segment on Norristown, PA. The trackage rights on that segment will be allocated to NS with CSXT also retaining limited overhead trackage rights for dimensional traffic. Conrail also operates local service over several other routes in the Philadelphia area owned by SEPTA, NJT or AMTRAK. These routes would become part of the South Jersey/Philadelphia Shared Assets Area, and thus the safety aspects of operations on those routes will be addressed in the Shared Assets SIP. (emphasis supplied).

This statement by CSX is simply incorrect. Most of the SEPTA-owned lines in the Lansdale Cluster are to be allocated to CSX, not to the Conrail Shared Assets Operations ("CSAO"). In fact, the CSAO SIP neither lists these lines nor addresses the safety or environmental effects of routing traffic to the Lansdale Cluster via SEPTA's Main Line. In addition, NS' SIP exhibits confusion as to SEPTA's concerns with regard to this issue. At page 200, NS states: "The Norristown concern involved SEPTA's perception that CSXT trains, in order to serve the Stoney Creek Branch, would have to execute a reverse movement over tracks shared with SEPTA trains in downtown Norristown." As discussed at Part III. infra, SEPTA is concerned that CSX will

route dimensional, doublestack freight traffic through Norristown using a “wye” movement, but this in no way concerns the issue of CSX’s routing of local freight traffic to the Lansdale Cluster via SEPTA’s Main Line.

Although it is not stated, it may in fact be the Applicants’ intention to in fact route local freight traffic to the Lansdale Cluster from either West Falls or Woodbourne via Abrams Yard. This would require NS to grant CSX overhead trackage rights for local freight destined for the Lansdale Cluster, assuming that NS has any right to assign to CSX, on a non-exclusive basis, without SEPTA’s consent, the rights to operate over SEPTA lines between Norris Interlocking and a portion of SEPTA’s Stoney Creek Branch.² 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. A thorough analysis of this issue would yield the conclusion that routing freight traffic through SEPTA’s Main Line is unworkable.

III. ROUTING OF DIMENSIONAL FREIGHT TRAFFIC THROUGH NORRISTOWN, PENNSYLVANIA

According to NS’ Operating Plan, NS proposes to grant CSX permanent overhead trackage rights to operate excess dimensional traffic (which it is assumed could mean doublestack freight trains, as well as multi-level and high-and-wide), including doublestack freight trains, over (1) the Norristown Connector (owned by SEPTA), (2) the track between CP

² In fact, it is unclear whether the Applicants have the ability to assign Conrail’s trackage rights over SEPTA owned lines to both parties simultaneously without SEPTA’s consent. Conrail has maintained that its trackage rights under the 1979 sales agreement are exclusive. For NS and CSX each to retain those rights (or in one instance, potentially NS, CSX and CSAO) belies Conrail’s long-standing argument that the trackage rights over SEPTA-owned lines are exclusive.

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 DEIS, 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' proposed increase of only 2.6 freight trains per day in that area. The DEIS nowhere addresses NS' proposed grant of permanent trackage rights to CSX, the environmental impact of increased doublestack freight traffic in the Norristown area or the 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.

Based on the description of the proposed grant, SEPTA anticipates that CSX dimensional freight traffic will execute a run-around or "wye" movement as it proceeds from West Falls to Abrams (Norris Interlocking) and through to Conrail's Morrisville Line. See SEPTA diagrams A and B. CSX's run-around move will interfere with SEPTA's Route R6 trains for lengthy periods of time, block heavily traveled grade crossings and require the raising of catenary not cleared for dimensional traffic. Moreover, the grant of "permanent" trackage rights to CSX could adversely affect SEPTA's ability to convert its own track and right of way on the Norristown Line to any mode not compatible with CSX's operations. Despite the significance of

this proposed grant to CSX, the Applicants have failed to address the adverse effects likely to flow from increased doublestack freight traffic through the Norristown area.

Operationally, it is anticipated that in order for a CSX doublestack freight train to execute the run-around movement from Abrams (Norris Interlocking), it would likely move slowly backwards through both the trailing point switch at Norris Interlocking and the facing point switch at Island Interlocking, until it reaches the trailing point switch at Bridge Interlocking. At Bridge Interlocking, the CSX train would intercept SEPTA's Route R6 Norristown Line on an electrified single track. On weekdays, SEPTA's Route R6 operates over 50 trains in this area from 5 A.M. to 12:20 P.M., and runs continuously during the peak periods (6:30 A.M. to 9:30 P.M.) and approximately every 30 to 60 minutes during off peak hours. The CSX doublestack train would continue backing from Bridge Interlocking onto the Stoney Creek Branch through Elm Interlocking. Between Bridge Interlocking and Elm Interlocking, there are two heavily used grade crossings at Main Street and Marshall Street and the Route R6 Main Street passenger station. Beyond Elm Interlocking on the Stoney Creek Branch, there are two more grade crossings at Elm Street and Sterigere Street.

Once the CSX doublestack train reaches the Stoney Creek Branch and receives a signal to reverse, it would retrace its path to Bridge Interlocking, once again intercepting SEPTA's Route R6, this time at Elm Interlocking. From Bridge Interlocking, the CSX doublestack train would proceed to Kalb Interlocking using a sharply curved electrified single track used by SEPTA's Route R6 trains. Presently, the catenary lines at Bridge Interlocking are not cleared for movement of doublestack freight traffic, making the track segment from Bridge Interlocking to

Kalb Interlocking inaccessible by doublestack trains. Next, proceeding against the flow of SEPTA's outbound Route R6 trains, the CSX doublestack train would continue through Kalb interlocking for approximately 0.5 miles until it reached Ford Interlocking. At Ford Interlocking, the CSX train would access the Conrail Morrisville Line on a single track connection to the main route to Morrisville. The overhead trackage rights granted to CSX by NS extend to Wood Interlocking on Conrail's Trenton Line, where such dimensional trains would interface with SEPTA's Route R3 West Trenton Line operations.

The movement of CSX doublestack trains from West Falls, through the highly congested Norristown area, to the Morrisville and Trenton Lines, adversely impacts SEPTA's operation of both its Route R6 Norristown and Route R3 West Trenton Lines. Freight traffic in Norristown is limited to a speed of 10 miles per hour. While the CSX doublestack trains make the cumbersome wye and reverse movement from Abrams (Norris Interlocking) to the Stoney Creek Branch, presumably at speeds below 10 miles per hour, they would block SEPTA's Route R6 commuter service. After completing the reverse movement, the CSX doublestack trains, as they make their way to Conrail's Morrisville Line, would again intercept SEPTA's Route R6 at speeds of 10 miles per hour or less, further hindering the safe and reliable service SEPTA currently provides on the Norristown Line.

In addition to the delays likely to result from the wye and reverse movement of long doublestack freight trains on the Norristown Line, SEPTA is fearful 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 DEIS. The DEIS considers NS' proposed 2.6 train per day increase in freight traffic to be

minimal. However, the proposed increase by NS in combination with CSX's utilization of the trackage rights to be granted by NS, threatens to worsen SEPTA's passenger service and the coordination of freight and transit operations in the already constrained and congested Norristown area. Even if and when NS completes its planned Pattenburg Tunnel Clearance Project, the uncertain impact of CSX's infusion of dimensional freight traffic could serve to diminish or even negate any benefit to be derived on the Norristown Line. Additionally, due to the present growth in passenger demand, SEPTA has plans to increase passenger service on the Norristown Line, and is studying the feasibility of conversion from commuter rail to a more cost effective rail mode. The grant of "permanent" trackage rights to CSX to operate doublestack freight traffic could preclude SEPTA from converting its track to meet the transit needs of the region.

NS' proposed grant of permanent doublestack freight trackage rights to CSX would likely have detrimental effects on SEPTA's Route R3 West Trenton Line as well. CSX's freight traffic which would be routed through Norristown, as discussed above, will meet SEPTA's Route R3 West Trenton Line between Wood Interlocking and Trent Interlocking, presenting a real possibility for delays and unreliable service. In addition, the Pennsylvania Department of Transportation ("PADOT") will renovate I-95 beginning in 2000, in areas currently served by SEPTA's Routes R3 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 renovations. Depending on the volume of freight traffic CSX plans to operate through Norristown and through the Wood and Trent Interlockings, SEPTA's Route R3 West Trenton Line will be faced with

increased freight traffic and possible delays and unreliable passenger service at a time when its ridership is likely to increase dramatically.

NS should be precluded from granting permanent trackage rights which would hinder SEPTA's ability to operate over its own lines in accordance with the needs of the Norristown area. In order to assess properly the environmental, safety and operational consequences of NS' grant of permanent trackage rights to CSX, the Applicants, and in particular CSX, must provide a detailed explanation of their planned freight operations in this region. It is clear that CSX must commit to operating its doublestack freight traffic via the Conrail line it has been assigned, from West Falls to Woodburne. Applicants have failed to determine the adverse impacts to SEPTA should CSX operate their dimensional traffic via Norristown. However, if it is concluded that the impacts to SEPTA are acceptable in the short term (and thus far that has not occurred), then as applicants have demonstrated elsewhere in their plans, a 3 year time period should be ample for CSX to clear its own route between Philadelphia and North Jersey.

IV. DISPATCHING ON LINES TO BE ALLOCATED TO CSX

At page 48 of the CSAO SIP, the Applicants state that under the proposed Acquisition communication in the Shared Assets Area ("SAA") will be enhanced by the consolidation of the dispatching function into a single facility located in Mt. Laurel, New Jersey. Conrail currently dispatches its Philadelphia region rail lines from Mt. Laurel using a number of different dispatching assignments. While the Applicants' proposed change to the dispatching function appears beneficial on its face, it fails to account for the right CSX would have as a successor to

the 1990 Trackage Rights Agreement between Conrail and SEPTA to revoke, upon sixty days notice, the dispatching rights currently held by SEPTA for its Route R8 Fox Chase Line over a 3.5 mile section of the Conrail Trenton Line between Newtown Junction (NX) and Cheltenham Junction Interlockings. Should CSX exercise the right to revoke, the dispatching function would likely move to CSX's central dispatch location in Jacksonville, Florida. Instead of the relatively close dispatching point in Mt. Laurel, where Conrail currently controls the trackage adjacent to SEPTA dispatched territory owned by both SEPTA and Conrail, SEPTA's Route R8 commuter service could be conceivably placed at the mercy of a dispatcher located nearly 900 hundred miles away in the state of Florida.

SEPTA is faced with the same situation between Wood and Trent Interlockings where its Route R3 West Trenton Line, as discussed at Part II. above, interconnects with CSX doublestack traffic emanating from the Norristown area, as well as CSX manifest trains using the Trenton Line. SEPTA currently dispatches this territory, but CSX would have the right to revoke SEPTA's dispatching function and move it to Jacksonville, Florida to the detriment of SEPTA's ability to continue its provision of reliable commuter service. The problems associated with CSX's right to revoke and move the dispatching function are exacerbated by the PADOT's planned renovation of I-95 in areas where SEPTA's Routes R3 West Trenton and R7 Trenton Lines presently operate. As discussed above, SEPTA's Route R3 will become an alternate means of travel for drivers displaced by the PADOT renovations. Therefore, the ridership on SEPTA's Route R3 is expected to greatly increase over the next four years at the same time CSX would have the right to move the dispatching function out of the region. PADOT has committed

over \$57 million to improve facilities on these two lines to handle increased ridership. Specific to SEPTA's Route R3, signal improvements, overnight commuter car storage, station parking expansion and station improvements are funded.

It should be noted that SEPTA and Conrail separated passenger and freight operations along the Trenton Line between Neshaminy Falls and Woodburne. SEPTA believes that similar arrangements can be made between Woodburne and West Trenton, thereby alleviating the potential negative impacts associated with this dispatching function issue.

**V. CUMULATIVE EFFECT ANALYSIS OF THE PROPOSED
ACQUISITION'S IMPACT ON SEPTA'S EXPANSION
OVER THE MORRISVILLE AND HARRISBURG LINES**

As asserted in SEPTA's Comments and Request for Conditions, in order to properly meet the expanding transit service needs of its ridership in the Southeastern Pennsylvania region and beyond, SEPTA is currently studying the feasibility of utilizing a portion of Conrail's Harrisburg Main Line from Norristown to Reading and Conrail's Morrisville Line from Glen Loch to Morrisville. It is identified in the DEIS that a cumulative effects analysis is appropriate to determine whether SEPTA's planned expansion can be carried out in conjunction with the Applicants' increase in freight traffic in Montgomery County. At Table 5-PA-35, it is stated that "Freight traffic may limit potential for passenger service to expand." To mitigate this harm to expanded commuter rail service, it is stated in the DEIS that the SEA has encouraged the Applicants to meet with SEPTA "to ensure that the proposed Acquisition can be accomplished without adversely affecting commuter rail plans." It is respectfully submitted that SEPTA has

met with the Applicants regarding expanded passenger service on the Harrisburg and Morrisville Lines to no avail.

Prior to the proposed Acquisition, SEPTA was in a position to complete its studies of the Harrisburg and Morrisville Lines, obtain funding for the expansion of its commuter rail service and undertake the necessary steps to meet the public need for expanded passenger service to Reading and from Glen Loch to Morrisville. If there is a likelihood, as stated in the DEIS, that the proposed Acquisition will block SEPTA's efforts to expand over the Harrisburg and Morrisville Lines, SEPTA and the commuting public will be detrimentally effected by the proposed Acquisition and SEPTA will be unable to meet the expanding needs of the region. It is clear by the language of the DEIS that the SEA recognizes the need for expansion in the region and seeks to avoid activity by the Applicants that would thwart such expansion. Accordingly, SEPTA requests that the SEA further consider this issue and propose a mitigation measure that will protect SEPTA's ability to expand its commuter rail service over the Harrisburg and Morrisville Lines.

VI. CONRAIL TRAIN DENSITIES

Figure D.6-1 of the DEIS indicates that train densities from Eastwick, Pennsylvania to Marcus Hook, Pennsylvania will undergo a daily increase from 3.0 freight trains to 7.8 freight trains. SEPTA was told verbally by the Applicants that this significant increase is incorrect, but no errata sheet correcting these figures has been provided. If the Applicants do not intend to correct these figures, they would be proposing an increase of over 260% on lines between these

two points. Such an increase is of great significance and has the potential of adversely impacting SEPTA's existing plans to increase the frequency of its Route R1 Airport Line service from 30 minute headways to 20 minute headways.

VII. SIGNIFICANT INCREASES IN ANNUAL HAZARDOUS MATERIAL CAR LOADS ON SEPTA'S ROUTE R8 FOX CHASE LINE

Table 5-PA-8 of the DEIS notes an estimated increase of 15,000 cars per year of hazardous material at Newtown Junction on SEPTA's Route R8 Fox Chase Line. This constitutes a 300% increase in hazardous material cars on SEPTA's Route R8. However, no mitigation measures regarding this potentially adverse impact have been proposed.

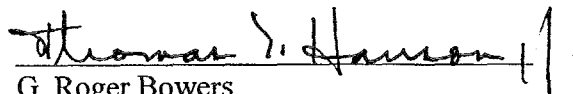
VIII. SEPTA'S 1982 OPERATING AGREEMENT WITH AMTRAK

The last sentence of the fourth paragraph on page PA-20 of the DEIS states: "SEPTA's 1987 operating agreement with AMTRAK expires in 2016." The operating agreement to which this sentence refers is actually SEPTA's 1982 agreement with AMTRAK which remains in effect unless either party provides 120 days notice of termination. The referenced 1987 agreement is the 47 station lease agreement between SEPTA and AMTRAK which expires December 31, 2016.

IX. CONCLUSION

In summary, the conclusion reached at page 4-31 of the DEIS that commuter operations in the Philadelphia metropolitan area would be "unaffected by the proposed Acquisition" is false, due to the incomplete, unclear and unintentionally perhaps incorrect statements of the Applicants. The routing of local freight traffic to the Lansdale Cluster via SEPTA's Main Line, the proposed grant of permanent trackage rights for dimensional freight traffic through Norristown, the negative impacts of moving the dispatching on CSX lines to Jacksonville, Florida and the blocking of SEPTA's planned expansion along the Harrisburg and Morrisville Lines are all issues with significant implications for the future of the Philadelphia metropolitan area. Furthermore, the substantial increases in train densities from Eastwick to Marcus Hook and hazardous waste cars along SEPTA's Route R8 Fox Chase Line pose significant, unexplained threats to SEPTA's operations. Substantial adverse impacts to the Southeastern Pennsylvania region are likely to result from the proposed Acquisition should the Applicants fail to address the issues herein raised and thoroughly analyze and ameliorate their potential adverse effects.

Respectfully submitted,



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Eugene N. Cipriani
Assistant Deputy Counsel
Southeastern Pennsylvania Transportation
Authority
1234 Market Street, Fifth Floor
Philadelphia, PA 19107-3780

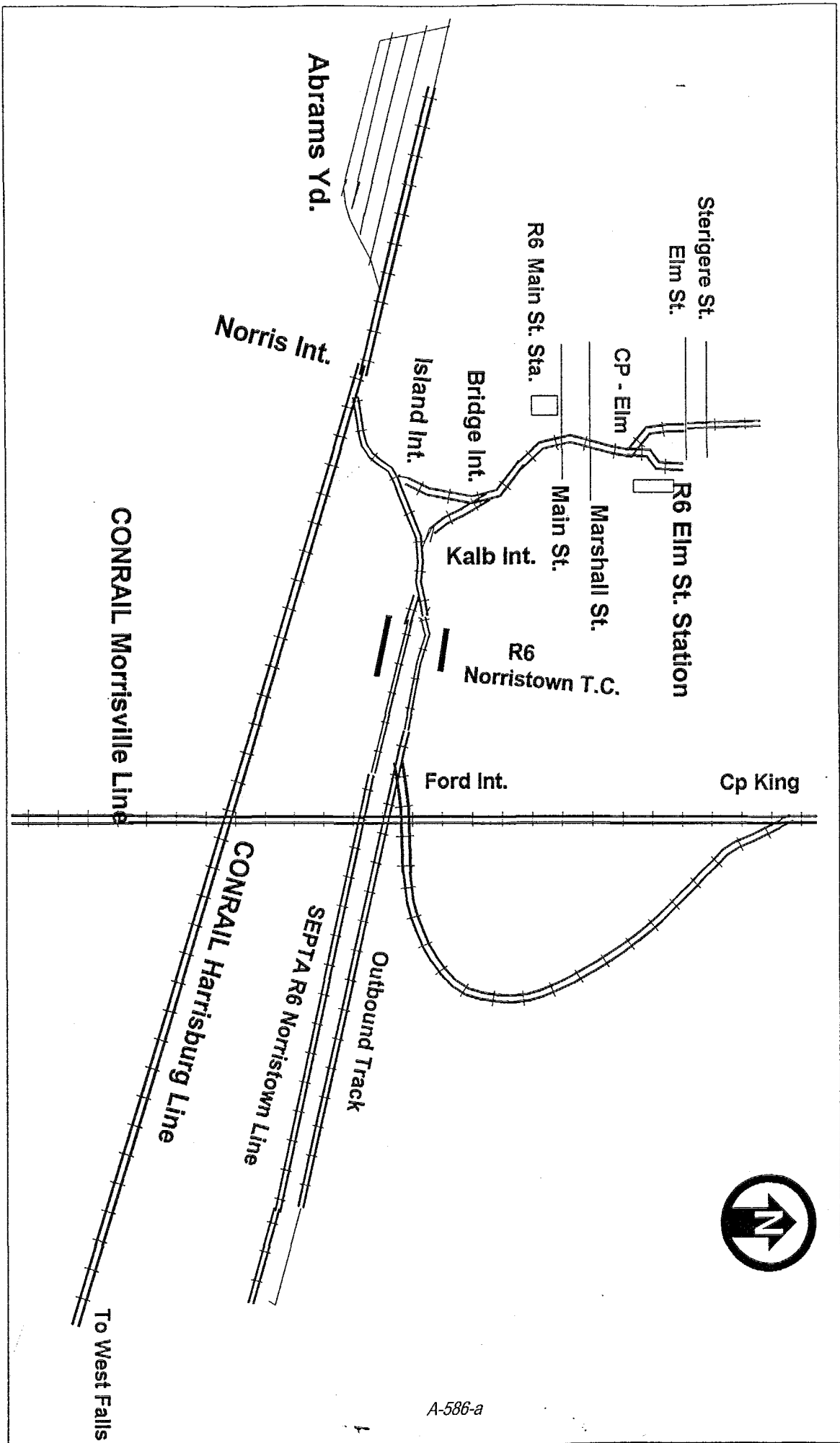
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Transportation Authority*

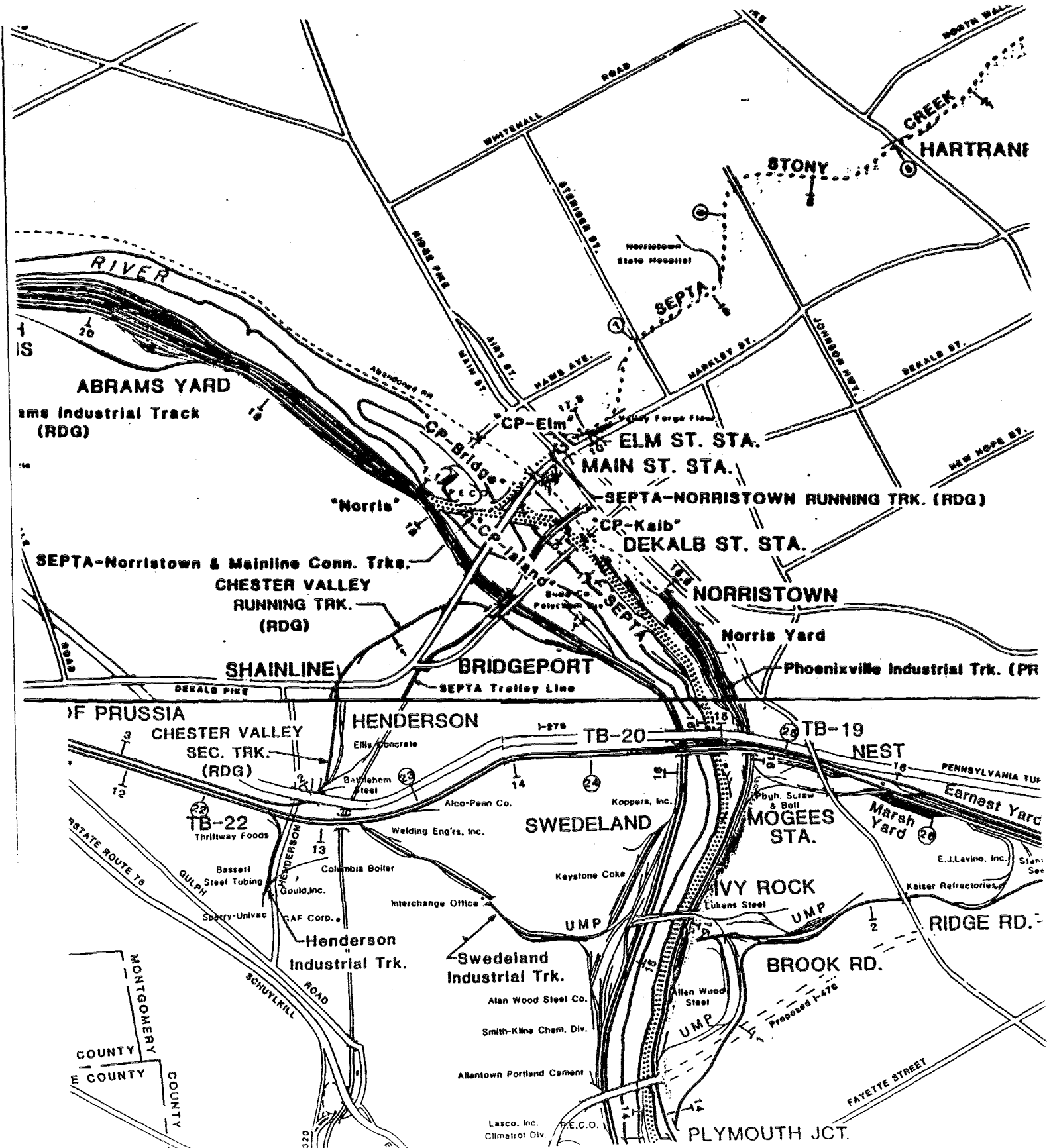
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DIAGRAM "A"



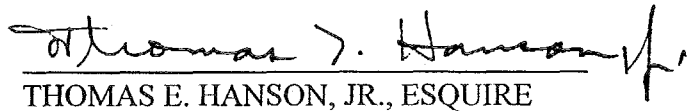
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DIAGRAM "B"



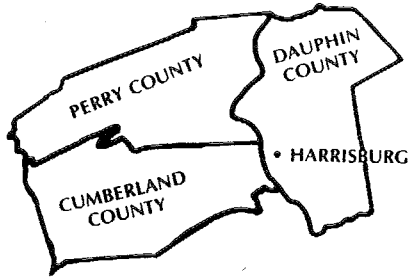
CERTIFICATE OF SERVICE

I hereby certify that the foregoing Comments Of The Southeastern Pennsylvania Transportation Authority To The Draft Environmental Impact Statement And Safety Integration Plans was served upon those listed on the service list, via first-class mail, postage prepaid on the 30th day of January, 1998.


THOMAS E. HANSON, JR., ESQUIRE

TRI-COUNTY REGIONAL PLANNING COMMISSION

Dauphin County Veterans Memorial Office Building
7th Floor, Harrisburg, Pennsylvania
Telephone 717-234-2639



ENVIRONMENTAL DOCUMENT

January 30, 1998



Office of the Secretary
Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

CENTRAL ADMINISTRATIVE UNIT

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Attention: Elaine K. Kaiser, Chief
Section of Environmental Analysis

RE: Draft Environmental Impact Statement for Proposed Conrail Acquisition

Dear Ms. Kaiser:

On January 22, 1998 the Tri-County Regional Planning Commission had the opportunity to review the Draft Environmental Impact Statement in STB Finance Docket No.33388 and the Errata sheet. We offer the following comments.

We wish to formally register our exception to the Draft EIS due to the regional method used to treat air quality and intermodal terminal access. These issues should be addressed on a local level to assure compliance with existing air quality and congestion mitigation goals that have been established to meet federal CAAA (1990) and ISTE (1991) requirements. The potential impacts have not been adequately delineated in the DEIS because the regional assessment used is not appropriate for assessing the local and corridor impacts. Additional details of our review and concerns of the DEIS document follow.

With regard to the recommended mitigation to improve safety at Highway/Rail at-grade crossings, we are pleased that those intersections in our area identified under Category A will be improved to a safer status. We continue to point out, as in our earlier correspondence (9/25/97), the Duke St. intersection in Hummelstown Borough, currently under the 5,000 vehicle threshold, is growing due to recent subdivision approvals. The crossing currently has no gate and is controlled by flashing lights only. We encourage additional safety measures be considered at this location. Also, the report does not mention speed limits. Several of our municipalities desired reduction in speed through their jurisdictions.

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

A-586-d

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. As mentioned previously, we would like the opportunity to have meaningful discussion with the freight operator should the issue present itself in the future.

Based upon our review of the Draft EIS, the issue of the proposed intermodal facility at Rutherford Yard has the largest impact on the area of any acquisition effect. We do not concur with the described traffic flow into the facility. Currently, truck traffic into the Triple Crown Facility has two options as the report indicated. The Rupp Hill Road route while incorrectly delineated was correct as an option. We agree it is a difficult route to negotiate in a tractor trailer. The second route accessing Grayson Road we feel was incorrectly portrayed. Our experience with traffic in that area is that trucks traveling Route 322 in an eastbound direction would bypass the facility, turn left onto Mushroom Hill Road proceed northerly to a left turn on Grayson Road, then backtrack to the facility. Mushroom Hill Road, is in fact the critical path of this travel route. Currently, the Mushroom Hill Road intersection is severely congested due to Big Box retail and strip mall development. An additional 660 truck trips would only further aggravate the existing congestion. We do, however, request the site developer consider the plan previously submitted to Swatara Township by Conrail for a similar facility at the location. By exiting Route 322 eastbound at PenHar Drive and turning right onto PenHar Drive, the proposed entrance would form the fourth leg of a current "T" intersection and allow very easy access to the site, while avoiding altogether the Mushroom Hill intersection and the "serpentine" Rupp Hill Road.

It appears a thorough review of air quality emissions was completed, although as a marginal non-conformity area we would like to see efforts put into mitigating facility emissions instead of reliance upon "Systemwide, the diversion would outweigh the increased emissions from increased rail activity." as a disclaimer. While we agree this is a probable statement, we are obligated to support the health, safety and welfare of all our local constituents and would request local impacts be measured.

The issue of noise has been discussed frequently by our local municipalities. We understand the safety issue involved with horn-blowing and will direct our municipalities to apply for "quiet zone" status once FRA regulations have been put in place.

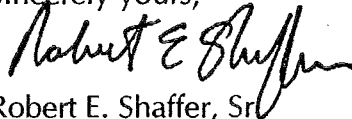
In addition to the factors addressed in this draft EIS, we have other concerns. Cumberland and Perry Counties have active railways that may be impacted by additional rail traffic, yet received very little notation in this document. Most of the municipalities have developed with the rail line in mind and have zoned appropriately. Some have historically benefitted from the railroad's existence, however, the railroad must act in a responsible and even neighborly fashion when traveling through these municipalities. We are concerned also with the maintenance, repair and upgrade of facilities in response to the proposed increased traffic. This especially comes to light with last year's freight derailment on the Rockville bridge and fatal accident in Hummelstown Borough. Please keep these issues in mind when preparing the acquisition agreement.

We further appreciate the effort in mitigating the potential environmental justice impacts in our Harrisburg-Rutherford area. We offer our assistance in alleviating this situation.

While much effort has been put into the preparation of the Draft EIS and review, and the analysis of the situation is ongoing, the materials in the Draft EIS concerning air quality and highway traffic impacts do not accurately reflect the conditions and should be revised before local concurrence can be given. Further, comments provided locally relating to the Rutherford Intermodal facility appear to contradict materials contained in the DEIS. 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. Additional facts and analyses need to be acquired and completed so that proposed future changes to the highway infrastructure and traffic flow/mode split can be properly evaluated. Currently, this is not possible using the information within the Draft EIS.

Given our analysis of the Draft EIS for the proposed Conrail Acquisition, we formally withhold our agreement with the program as presented pending receipt of additional details and clarifying analyses of the issues as stated above. We thank you for the opportunity to review this document and express our local concerns. Should there be any questions concerning this review please contact, Tim Reardon, Associate Executive Director, at the staff office. We look forward to working with the eventual operators in our area on common issues.

Sincerely yours,



Robert E. Shaffer, Sr.
Chairman

cc: US Senator Arlen Specter
US Senator Rick Santorum
US Representative George W. Gekas
US Representative William F. Goodling
Honorable Stephen R. Reed, Mayor, City of Harrisburg
Mr. Daniel Leppo, Planning Director, City of Harrisburg
Mr. Nicholas Dininni, Commissioner, Swatara Township

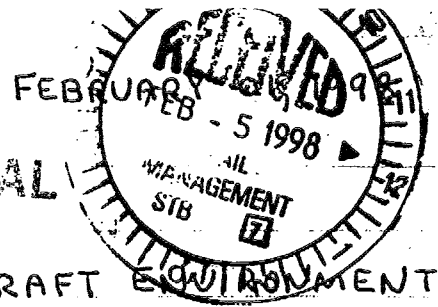
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ELAINE K. KAISER
ENVIRONMENTAL PROJECT DIRECTOR
SECTION OF ENVIRONMENTAL ANALYSIS

ENVIRONMENTAL
DOCUMENT



DEAR MS. KAISER:

AFTER REVIEWING THE ENTIRE DRAFT ENVIRONMENTAL IMPACT STATEMENT (EIS) ON THE PROPOSED ACQUISITION OF CONRAIL BY NORFOLK SOUTHERN RAILROAD AND CSX RAILROAD, PERSONALLY I CAN SEE NO REASON WHY THE SURFACE TRANSPORTATION BOARD SHOULD NOT APPROVE THE PROPOSED CONRAIL ACQUISITION.

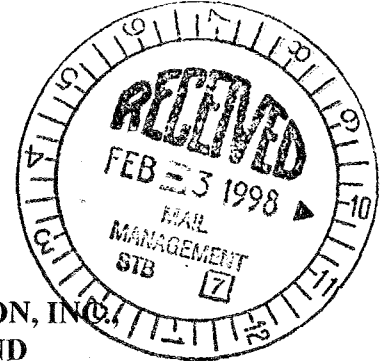
THE PENDING APPROVAL OF THE CONRAIL ACQUISITION BY THE SECTION OF ENVIRONMENTAL ANALYSIS (SEA) WOULD PROVIDE A MORE EFFICIENT RAIL TRANSPORTATION SYSTEM IN THE EASTERN UNITED STATES AND WOULD INCREASE RAIL COMPETITION IN THE NORTHEAST, IT WOULD ALSO HAVE ENVIRONMENTAL AND SAFETY BENEFITS BY REDUCTIONS IN FUEL CONSUMPTION, AIR POLLUTANT EMISSIONS, AND THE NUMBER OF TRACTOR TRAILER TRUCKS THAT TRAVEL OUR INTERSTATE HIGHWAY SYSTEM.

AGAIN, IN RESPONSE TO REVIEWING THE DRAFT (EIS), I'M 100 PER-CENT IN FAVOR OF (SEA) APPROVING THE ACQUISITION OF CONRAIL BY NORFOLK SOUTHERN RAILROAD AND CSX RAILROAD

SINCERELY YOURS,
Richard H. Moffitt
RICHARD H. MOFFITT
730 HOWARD ST.
BROWNSVILLE, PA. 15417
(724) 785-8949

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 33388



**CSX CORPORATION AND CSX TRANSPORTATION, INC.
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
--CONTROL AND OPERATING LEASES/AGREEMENTS--
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION**

**COMMENTS OF THE SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY TO THE DRAFT ENVIRONMENTAL
IMPACT STATEMENT AND SAFETY INTEGRATION PLANS**

G. ROGER BOWERS
General Counsel
EUGENE N. CIPRIANI
Assistant Deputy Counsel
Southeastern Pennsylvania Transportation
Authority
1234 Market Street, Fifth Floor
Philadelphia, PA 19107-3780

JOHN J. EHLINGER, JR.
THOMAS E. HANSON, JR.
Obermayer Rebmann Maxwell & Hippel
LLP
One Penn Center, 19th Floor
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103

*Counsel for Southeastern Pennsylvania
Transportation Authority*

Dated: February 2, 1998

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 33388

**CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
--CONTROL AND OPERATING LEASES/AGREEMENTS--
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION**

**COMMENTS OF THE SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY TO THE DRAFT ENVIRONMENTAL
IMPACT STATEMENT AND SAFETY INTEGRATION PLANS**

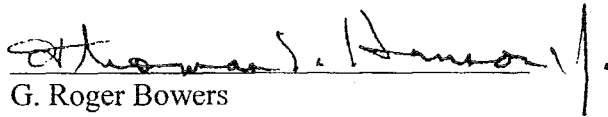
The Southeastern Pennsylvania Transportation Authority ("SEPTA") hereby submits Part
X of its comments on the Draft Environmental Impact Statement ("DEIS") prepared by the
Surface Transportation Board Section of Environmental Analysis ("SEA") and the Safety
Integration Plans ("SIPs") prepared by the Applicants, CSX Corporation ("CSX") and Norfolk
Southern ("NS").

X. TIME SPACING BETWEEN FREIGHT AND PASSENGER TRAINS

According to pages 4-12 and 4-13 of Volume 1 of the DEIS, the SEA has proposed
greater time spacing between freight and passenger trains as a safety measure on nine rail line
segments situated in the states of Georgia, Maryland, Michigan, New York, North Carolina,
Indiana, Virginia and the District of Columbia. A more detailed description of the time spacing
is provided at page 7-12 of Volume 4, where it is stated that "... trains moving in the same or
opposite direction on the same track would be clear of the track at least 15 minutes before and 15

minutes after the expected arrival of a passenger train at any point.” To propose time spacing on train segments or territories already protected by signals is totally contrary to accepted safety practices. The signals regulate the flow of rail traffic on signalized lines and properly maintain safety for passenger trains. SEPTA asserts that there is no need for the proposed time spacing, and objects to this mitigation measure to avoid the imposition of time spacing on SEPTA’s current or future signalized lines or any lines over which SEPTA operates.

Respectfully submitted,



G. Roger Bowers
General Counsel
Eugene N. Cipriani
Assistant Deputy Counsel
Southeastern Pennsylvania Transportation
Authority
1234 Market Street, Fifth Floor
Philadelphia, PA 19107-3780

John J. Ehlinger, Jr.
Thomas E. Hanson, Jr.
Obermayer Rebmann Maxwell & Hippel LLP
One Penn Center, 19th Floor
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103

*Counsel for Southeastern Pennsylvania
Transportation Authority*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Part X of Comments Of The Southeastern Pennsylvania Transportation Authority To The Draft Environmental Impact Statement And Safety Integration Plans was served upon those listed on the service list, via first-class mail, postage prepaid on the 2nd day of February, 1998.



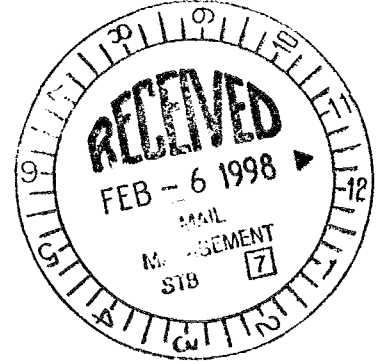
THOMAS E. HANSON, JR., ESQUIRE



CENTRAL ADMINISTRATIVE UNIT
 REC'D: 2/10/98
 DOCUMENT # _____

2/10/98 4:41:04 PM

COMMONWEALTH OF PENNSYLVANIA
 LIEUTENANT GOVERNOR'S OFFICE
 200 MAIN CAPITOL
 HARRISBURG, PA 17120-0002
 717-787-3300
 FAX 717-783-0150
 E-MAIL: lieutenant-governor@state.pa.us



February 2, 1998

Office of the Secretary
 Linda J. Morgan, Chair
 Case Control Unit
 Finance Docket No. 33388
 Surface Transportation Board
 1925 K Street, NW
 Washington, DC 20423-0001

**ENVIRONMENTAL
 DOCUMENT**

Dear Ms. Morgan:

As Chairman of the Pennsylvania Emergency Management Council and the State Emergency Response Commission, I write to comment on the proposed merger between Norfolk Southern and Conrail. It is important that the concerns of the emergency services community and the Commonwealth be provided to your Board for inclusion in the final environmental impact report.

For many years the Local Emergency Planning Committee's (LEPC) in Pennsylvania have enjoyed a productive relationship with Conrail's Local Hazardous Materials Field Staff. These dedicated local Conrail employees have provided valuable assistance and expertise to our hazardous materials responders and emergency management officials.

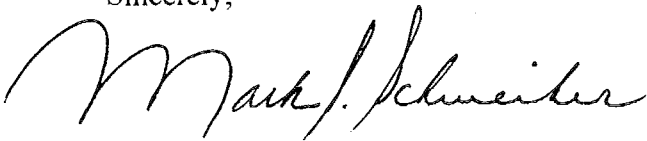
I have been informed that, as Norfolk Southern is currently organized, such locally-based hazmat staff people do not exist. ***It is important that a continuity of service be provided in this specialized area. Hazardous materials teams must continue to be an important part of effective emergency response after the merger is finalized.*** Environmental issues surrounding a potential accident on the rail lines have immediate and long-term impact on the environment and the citizens of the affected areas. Concerns regarding the potential loss of this resource exist in many counties in Pennsylvania and specifically in Pittsburgh where main rail lines run through the heart of the business and residential districts. These individuals also provide planning that addresses mitigation efforts already in place with Conrail.

Page Two, Linda J. Morgan

On behalf of the Council and the Commission I would respectfully request that you include in your final report a requirement for this valuable, system-wide safety resource to be continued following the merger. In this way we, in partnership with Norfolk Southern, can continue to provide the outstanding level of hazmat service and expertise to the citizens of the Commonwealth.

If you have further questions regarding this request, you can contact my office at (717) 787-3300. I appreciate your efforts in this matter and look forward to a successful resolution to this issue.

Sincerely,

A handwritten signature in cursive script that reads "Mark S. Schweiker". The signature is written in black ink and is positioned to the left of the typed name.

Mark S. Schweiker
Lieutenant Governor
Chair, Pennsylvania Emergency Management Council

ATTN: Elaine K. Kaiser
Environmental Project Director
Environmental Filing F.D. 33388



CENTRAL ADMINISTRATIVE UNIT

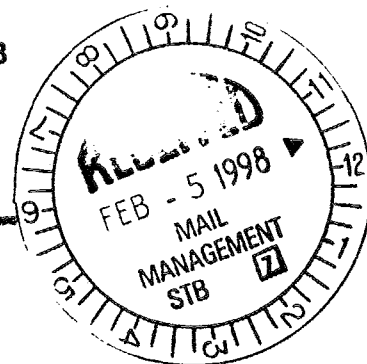
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DOCUMENT # 2/5/98 2:56:54 PM

Rachel Carson State Office Building

P.O. Box 2063

Harrisburg, PA 17105-2063

February 2, 1998



**ENVIRONMENTAL
DOCUMENT**

Ms. Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Dear Ms. Kaiser,

Thank you for the opportunity to review the Draft Environmental Impact Statement (DEIS) for the proposed Conrail Acquisition. Please see our comments below:

General Comments

As stated in the DEIS document, the major adverse environmental impacts occurring from the operational changes pursuant to the acquisition, such as the resulting increases or decreases in train traffic on line segments, appear to be minimal. The Department views more significant impacts may result from site specific abandonments, modifications and new construction. The amount of specific detail concerning such developments as related to Pennsylvania operations is not included in the DEIS. An adequate level of detail for new modifications and construction is necessary in order to understand the full impacts of the acquisition.

Conrail's facilities have been in operation for many years, during which waste material handling practices likely would not be deemed acceptable by today's standards. Indeed, past Department investigations have found contamination, and we expect more investigations will be carried out in the future. Hence, any future construction projects at existing Conrail facilities where fueling, maintenance or related operations have occurred should incorporate investigations for contamination.

Specific Comment

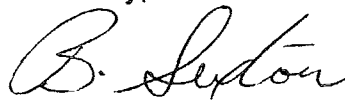
Section 3-15.3 outlines mitigation strategies which are consistent with DEP's regulatory process. We encourage the continued focus on implementing mitigation strategies which incorporate the use of best available technologies in order to remain consistent with the Department's strategies. We will look forward to reviewing the analysis methods and mitigation strategies in the Final Environmental Impact Statement (FEIS) upon completion.

A-589-b



If you have any questions regarding these comments, please contact Joe Sieber of the Policy Office at (717) 783-8727.

Sincerely,

A handwritten signature in cursive script, appearing to read "B. Sexton".

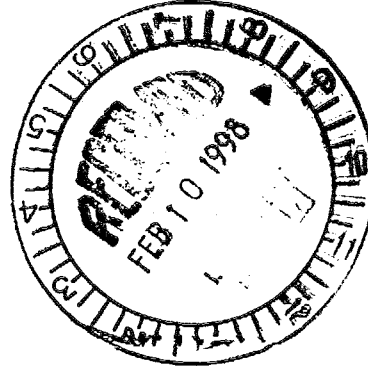
Barbara A. Sexton
Director, Policy Office

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/10/98
DOCUMENT # 211048 11391/15/98



ENVIRONMENTAL DOCUMENT

Department of Public Works / City Government Center, Suite 212 / Harrisburg, PA 17101 / Telephone (717) 255-6455
Stephen R. Reed, Mayor / Daniel R. Lispi, Project Manager



February 6, 1998

Ms. Elaine Kaiser, Chief
Case Control Unit
Surface Transportation Board
Section of Environmental Analysis
1925 K Street, NW
Washington, DC
20423-0001

Subject: Draft EIS for Proposed Conrail Acquisition, Docket # 33388

Dear Ms. Kaiser:

The City of Harrisburg hereby submits supplemental comments to those previously provided on January 20, 1998 by the City Engineer, Joseph Link. The draft EIS (Chapter 5-PA) identifies two proposed actions that the developer would take in the Harrisburg area. The EIS states that NS would close the existing conventional intermodal facility in the City of Harrisburg and relocate this facility adjacent to the Conrail Triple Crown Service facility in Rutherford Heights. This relocation would result in an additional 660 truck trips per day on local roads such as Mushroom Hill and Grayson Rd. that are either poor truck routes or are already severely congested due to existing development. The EIS also states that half of the additional truck traffic will use Interstate 283 and the other half Interstate 83. All additional truck traffic is expected to use Rt 322.

Interstates 83 and 283 and US Rt. 322 are the most heavily traveled routes leading into, through, and out of the City of Harrisburg. The additional 660 trucks per day will only aggravate the situation. As the largest municipality in the region, City residents, commuters, and businesses are likely to bear a significant portion of the adverse impacts resulting from the proposed changes. When mitigation measures are considered, including the locations for investment activities, jobs, and other potential benefits, the City of Harrisburg should be a focal point for such activity.

Thank you for the opportunity to comment.

Sincerely yours,


Daniel R. Lispi,
Project Director

cc: Mayor Stephen R. Reed
Joseph P. Link, City Engineer



COUNTY OF ANDERSON

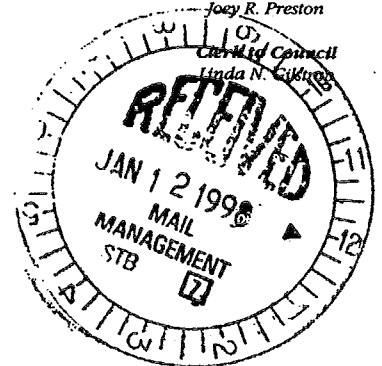
Anderson County Development Standards Department
Historical Courthouse

Phone: (864) 260-4719 - Fax: (864) 260-4044

Council Members
William A. Floyd
Chairman
G. Fred Tolly
Harvie E. Banister
Clint Wright
J. Mike Holden

County Administrator
Joey R. Preston
Clerk of Council
Linda N. Giddens

CENTRAL ADMINISTRATIVE UNIT
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DOCUMENT # 1116/98 11:34.05 AM



January 7, 1998

Office of the Secretary
Case Control Unit - Finance Docker No. 33388
Surface Transportation Board
1925 K Street N. W.
Washington, DC 20423-0001

ENVIRONMENTAL DOCUMENT

Dear Secretary:

Thank you for the opportunity to comment on the Proposed Conrail Acquisition (Finance Docket No 33388). After reviewing the Draft Environmental Impact Statement, Anderson County offers no comment on the issue.

Sincerely,

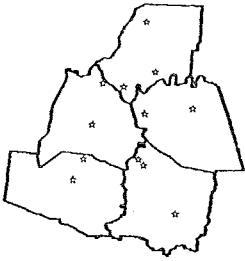
Jeff Ricketson, AICP
Planning Division Director

cc: Mr. Joey Preston, Anderson County Administrator
William B. West, Senior Planner

Attention:

Ms. Elaine K. Kaiser
Environmental Project Director
Environmental Filing

A-590-b



**NASHVILLE AREA
METROPOLITAN PLANNING ORGANIZATION
ENVIRONMENTAL
DOCUMENT**

Lindsley Hall
730 Second Avenue South
Nashville, TN 37201-5156

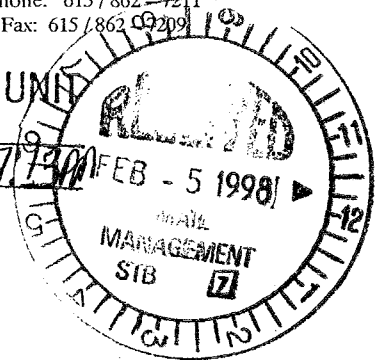
Phone: 615/862-7211
Fax: 615/862-0929

CENTRAL ADMINISTRATIVE UNIT

February 2, 1998

REC'D: 2/5/98

DOCUMENT # 21598.3.17



Office of the Secretary
Case Control Unit
Finance Docket No. 33388
1925 K Street, N.W.
Washington, DC 20423-0001

**DAVIDSON
COUNTY**

Goodlettsville
Metropolitan
Nashville -
Davidson County

Re: Request for Comments on Draft EIS in STB Finance Docket No. 33388

**RUTHERFORD
COUNTY**

La Vergne
Murfreesboro
Smyrna

To Whom it May Concern:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement (EIS) in the Surface Transportation Board (STB) Finance Docket No. 33388.

**SUMNER
COUNTY**

Gallatin
Goodlettsville
Hendersonville
Portland

In a letter dated August 4, 1997, the Nashville Area Metropolitan Planning Organization (MPO) responded to a Request for Comments on the Proposed EIS regarding the Proposed Acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad.

In summary, our office expressed concern with the following EIS topics: air quality, the potential for passenger rail service, and safety.

In January 1998, the Nashville Area MPO received copies of the Draft EIS. In review of the Draft EIS, the following points of clarification and comments are provided:

**WILLIAMSON
COUNTY**

Brentwood
Franklin

- Page TN-14 of "Proposed Conrail Acquisition", Draft Environmental Impact Statement, Volume 3B, the following statement is made: "EPA has designated Davidson County as a nonattainment area for particulate matter, and a maintenance area for O3."

Davidson County is in fact *attainment* for particulate matter, and should be so noted in your analysis.

**WILSON
COUNTY**

Lebanon
Mt. Juliet

- Table 5-TN-7 (revised) *Tennessee Highway/Rail At-Grade Crossing Vehicle Delay and Queues* of the Draft Environmental Impact

Statement Supplemental Errata identifies train speeds at five at-grade crossings in Davidson County as follows:

Craighead Rd.	40 mph
Berry Rd.	40 mph
Davidson Rd.	40 mph
Thompson Ln.	50 mph
Una-Antioch Pike	50 mph

According to the Charter of the Metropolitan Government of Nashville and Davidson County, Title 12, Chapter 12.76, Section 12.76.20 *Speeds for Railroad Trains* and information provided by the Chief Traffic Engineer for Nashville-Davidson County, the maximum allowable train speeds at these locations are as follows:

Craighead Rd.	35 mph
Berry Rd.	35 mph
Davidson Rd.	35 mph
Thompson Ln.	40 mph
Una-Antioch Pike	45 mph

Due to the fact that these speeds are slower than those indicated in the aforementioned table, we request they be used to recalculate the vehicle delay and queues at highway/rail at-grade crossings as well as the respective Levels of Service for each roadway.

Again, thank you for the opportunity to comment on the Draft EIS. Should you have any questions or comments, please do not hesitate to contact me at 615/862-7215.

Sincerely,



Paige L. Watson
Planner I

MPO 98/ 27
PLW/plw



**West Piedmont
Planning District Commission**

One Starling Avenue
P.O. Box 1191
Martinsville, VA 24114
Phone: (540) 638-3987
Fax: (540) 638-8137
E-Mail: WPPDC@Kimbnet.COM

Serving Franklin, Henry, Patrick, and Pittsylvania Counties - Cities of Danville and Martinsville - Town of Rocky Mount - Since 1970

**ENVIRONMENTAL
DOCUMENT**

January 7, 1997

CENTRAL ADMINISTRATIVE UNIT
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DOCUMENT # 1/16/98 2:59:09 PM

Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
Washington, DC 24023

Re: Finance Docket No 33388
CSX & Norfolk Southern -- Control & Acquisition
Conraid

Dear Ms. Kaiser:

We have received a delivery of the volumes of the Draft EIS relative to the reference docket, correct in accord with the subsequent notice letter of December 19, 1997, clarifying: 1) dates of the procedural schedule; and 2) arrangement of the volumes compiling the Draft EIS.

Our interest in the Draft EIS and the overall action that our region should at least be maintained with the level of services and access to rail line that we now have. We would not want the control and acquisition action to result in any additional filings for abandonment's' by the rail company serving our region.

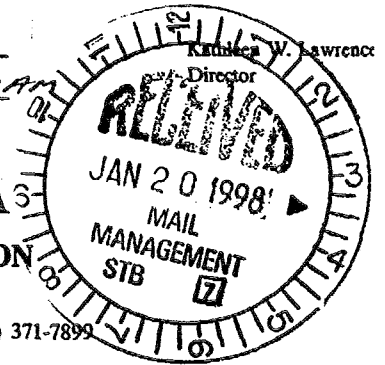
We appreciate this opportunity to comment on the Draft EIS. If we have additional comments we are aware that they must be delivered on or before February 2, 1998.

Sincerely,

Robert W. Dowd
Executive Director

George Allen
Governor

Becky Norton Dunlop
Secretary of Natural
Resources



COMMONWEALTH of VIRGINIA

DEPARTMENT OF CONSERVATION AND RECREATION

203 Governor Street, Suite 326

TDD (804) 786-2121 Richmond, Virginia 23219-2010 (804) 786-2556 FAX: (804) 371-7899

January 15, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001
Attention: Elaine K. Kaiser

Re: Proposed Conrail Acquisition

Dear Ms. Kaiser:

The Department of Conservation and Recreation (DCR) has searched its Biological and Conservation Data System (BCD) for occurrences of natural heritage resources from the project area. Natural heritage resources are defined as the habitat of rare, threatened, or endangered plant and animal species, unique or exemplary natural communities, and significant geologic formations.

DCR has reviewed the Draft Environmental Impact Statement (DEIS) for the acquisition of Conrail by Norfolk and Southern and CSX. Based on the information contained in the DEIS it appears that the Virginia portion of this project involves increased traffic on several existing lines. We do not anticipate that the increase in traffic along existing lines will adversely affect natural heritage resources.

We understand that no new connections or intermodal facilities are currently proposed in Virginia. However, DCR would appreciate the opportunity to review any site-specific expansions or new rail lines that are proposed in the future.

Thank you for the opportunity to comment on this project.

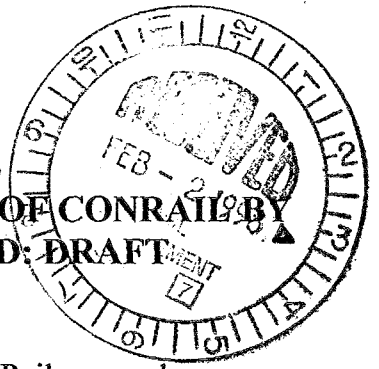
Sincerely yours,

A handwritten signature in cursive that reads "John R. Davy, Jr." followed by a date "1/20/98".

John R. Davy, Jr.
Planning Bureau Manager

/jeg

**A RESOLUTION OF THE
WARREN COUNTY BOARD OF SUPERVISORS
RE: FINANCE DOCKET NO. 33388 – PROPOSED ACQUISITION OF CONRAIL BY
NORFOLK SOUTHERN RAILROAD AND CSX RAILROAD: DRAFT
ENVIRONMENTAL IMPACT STATEMENT**



Whereas, Warren County, Virginia is currently served by the Norfolk-Southern Railway; and

Whereas, in the last decade, this community has experienced a significant increase in rail traffic as a result of express freight traffic on the line from Riverton Junction to Manassas; and

Whereas, the citizens of Warren County have experienced impacts due to noise, air quality and significant traffic conflicts at grade crossings during this period; and

Whereas, industrial development in the county, including the Virginia Inland Port, has occurred because of the availability of local rail service, but has not been the main cause of traffic increases; and

Whereas, the Environmental Report received July, 1997 projected changes in the three major rail segments centered on Riverton Junction in Front Royal – north toward Harrisburg a 77% increase from 11.1 to 19 trains per day; south to Roanoke, a 210% increase from 3.9 to 12.3 trains per day; and east to Manassas, a 22% reduction from 11.3 to 8.8 trains per day, and

Whereas, the Draft Environmental Impact Statement dated December 12, 1997 concludes there is only minimal impact for air quality, noise, grade crossing conflicts and accidents for Warren County, despite the fact that air quality and noise impacts exceeded the Surface Transportation Board's thresholds; and


Whereas, the train traffic projections are highly speculative given the strategic location of Riverton Junction for east coast and Midwestern rail traffic and high probability of increased freight through traffic, and

Whereas, the citizens of Warren County are already coping with the current increases in through traffic as previously noted,

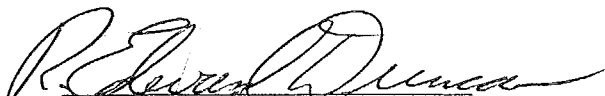
NOW, THEREFORE, BE IT RESOLVED the Warren County Board of Supervisors petitions the Surface Transportation Board to consider the high probability of more significant environmental impacts on this, community due to the proposed acquisition; and

BE IT FINALLY RESOLVED that the Final Environmental Impact Statement include a requirement for a five year review period from the effective date of the final decision for the assessment of environmental impacts and remediation options.

Adopted: January 20, 1998


Chairman, Board of Supervisors
County of Warren, Virginia

CENTRAL ADMINISTRATIVE UNIT
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DOCUMENT # 2/2/98 5:38:19 PM


Clerk, Board of Supervisors
County of Warren, Virginia

A-591-c

**ENVIRONMENTAL
DOCUMENT**

TOWN OF ASHLAND

101 THOMPSON STREET
P.O. BOX 1600, ASHLAND, VIRGINIA 23005-4600
TELEPHONE: (804) 798-9219
FAX: (804) 798-4892

STEWART F. REID
MAYOR

ROSANNE SHALF
VICE MAYOR

T. S. HERBERT VII
COUNCILMEMBER

FRANKLIN D. JACKSON
COUNCILMEMBER

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/3/98
DOCUMENT # 2-3/98 11 16 14 AM
January 27, 1998

JOHN W. NEWELL
COUNCILMEMBER

DAVID W. REYNAL
TOWN MANAGER

ELIZABETH C. KENNON
CLERK OF COUNCIL

LARRY E. GILMAN
TOWN ATTORNEY

ENVIRONMENTAL DOCUMENT

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001



RE: Draft Environmental Impact Statement
"Proposed Conrail Acquisition"

Dear Sir or Madam:

I am writing on behalf of the Council of the Town of Ashland, Virginia. We have reviewed the Draft Environmental Impact Statement ("EIS") for the Proposed Conrail Acquisition and have the following comments:

1. The analysis of passenger rail service does not show Ashland among those localities with AMTRAK service (Volume 3-B, Page VA-14), although we currently have eight passenger trains with regular stops in Ashland. The Town of Ashland has long been a strong supporter of AMTRAK services and ridership at this stop has increased significantly over the past several years. We believe that the acquisition of Conrail should not, in any way, impede the continued potential for growth of AMTRAK services in this area. This is a concern in view of the projected increase in length of freight trains.
2. England Street in Ashland (identified as England Street in Hanover County, on Segment No. C-102 on Table 5-VA-7 (Revised)) is the major east-west roadway in this area. This major highway carries a significant amount of traffic within the community and provides a critical transportation link to western Hanover. It appears that the EIS uses erroneous information with regard to the present condition at England Street and therefore does not provide an accurate picture of the effect of the Conrail

acquisition. It is understood that the Supplemental Errata dated January 21, 1998 shows a reduction in the Average Delay per Vehicle (and thereby improved Levels of Service) in both Pre-Acquisition and Post-Acquisition conditions. However, the Table still shows a vehicle count (ADT) of 7,775 at the England Street crossing. Two traffic counts from the Virginia Department of Transportation taken within three blocks in either direction from the tracks in 1995 show daily volumes of 9,654 and 16,549 vehicles. Given the road network in the area, the higher number is probably the more accurate reflection of crossings at the tracks. We believe that the actual vehicle count at the England Street crossing is therefore at least twenty-four percent and as much as two hundred thirteen percent higher than indicated in the EIS. The EIS also shows train speeds at this point of 50 mile per hour when they are, in fact, either 35 or 45 mph depending on the time of day. Additionally, in a letter to the Town in 1997, CSX made a commitment to maintain these speeds through Ashland "...for the foreseeable future". Based on the erroneous information, the Average Delay ("ADV") is calculated to be 3.35 minutes Pre-Acquisition (4.9 minutes Post-Acquisition) and a Level of Service for crossing vehicles of A for both Pre- and Post-Acquisition conditions. We believe that using more accurate data for this location may reduce the Level of Service to unacceptable levels.

The narrative indicates "...a minimal increase in crossing delay per stopped vehicle... The maximum queue would increase by one vehicle." (Volume 3-B, Page VA-17) However, given the erroneous information previously cited, this determination may also be incorrect. Further, the "Post Acquisition" condition shows an ADV of 4.9 minutes, an increase of 1.55 minutes, or 46.3% if the formula were based on correct information.

3. The EIS does not make any provision for emergency vehicle response or the unique circumstances resulting from extended crossing delays. (Volume 1, Page 4-44) A fire station and rescue squad are located one block away from the railroad crossing. There are no other responders within many miles of the crossing. High occupancy college dormitories are located across the tracks from the two stations. "Average delays" for emergency vehicles in excess of five minutes (and more for those actually stopped for trains) may endanger lives and property in the Ashland area.

4. The land use adjacent to the railroad tracks in Ashland includes the historic downtown business district. The railroad tracks are immediately adjacent to Railroad

Avenue at grade level, meaning vehicles drive parallel to and within five feet of the train tracks. The Ashland downtown is part of the national historic register. The sidewalks and stores along Railroad Avenue in the downtown shopping district are within thirty feet of the railroad tracks. The increase in the length and number of trains as the result of the Acquisition and the high levels of human occupancy within very close proximity of the tracks pose an increasing potential danger to the Ashland community.

5. Finally, it appears that the table showing Highway-Rail At Grade Crossing Accident frequency for the CSX rail segments has been omitted from the report. Table 5-VA-4 does show data for Norfolk Southern rail segments in Virginia.

The Town of Ashland was founded by the Richmond, Fredericksburg and Potomac Railroad in the mid-1800s. The community has long associated itself with the railroad which runs through its very center. However, the Town is concerned about the potential adverse effects of the proposed acquisition of Conrail on the Ashland community, particularly in terms of potential increased AMTRAK service, increased traffic delays, emergency response time and increased potential danger to the historic downtown. We would request that you revise the EIS to reflect the erroneous data described above. Further evaluation of the other effects of the merger on Ashland appears warranted. Specifically, the Town requests that the Surface Transportation Board:

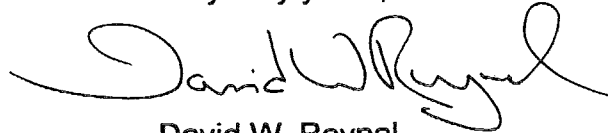
a. Correct the EIS to show Ashland as an AMTRAK stop, correct the train speed to 35/45 mph and recalculate the formula with the higher traffic volumes for Route 54. If the level of service of traffic on England Street deteriorates to an unsatisfactory level, provide some form of mitigation to the thousands of motorists who use this road, including possibly the construction of grade-separated crossings on alternative crossing routes. Grade separation on Route 54 in the middle of the historic downtown would be highly inappropriate.

b. Provide a special review of the unique circumstances in Ashland, in light of the erroneous data, the increase in delays, the impact on emergency vehicle crossings, and the high level of human occupancy immediately adjacent to railroad tracks in downtown and determine whether other means of mitigation are appropriate.

Surface Transportation Board
Finance Docket No. 33388
January 27, 1998
Page four of four

Thank you for your consideration. We would appreciate your response to the information provided herein.

Very truly yours,

A handwritten signature in black ink, appearing to read "David W. Reynal". The signature is fluid and cursive, with a large initial "D" and "R".

David W. Reynal
Town Manager

cc: Mr. Leo J. Bevon, Director, Department of Rail and Public Transportation
Mr. Robert Shinn, Vice President, CSX

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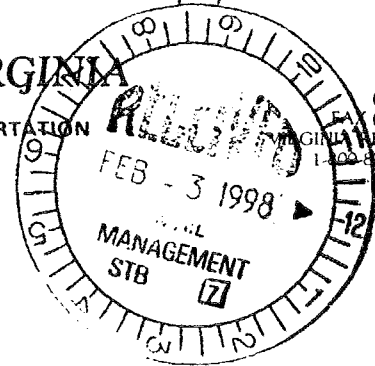
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DOCUMENT # 2/3/98 4:21'01 PM

COMMONWEALTH of VIRGINIA

LEO J. BEVON
DIRECTOR

DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION
1401 EAST BROAD STREET
RICHMOND, 23219-1939

January 28, 1998



(804) 786-8410
(804) 786-7286
RELAY CENTER
1-800-828-1120 (TDD)

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 "K" Street, N.W.
Washington, D.C. 20423-0001

To Whom It May Concern:

The Commonwealth of Virginia has reviewed the Draft Environmental Impact Statement developed by the Section of Environmental Analysis which concerns the proposed acquisition of Conrail by Norfolk Southern and CSX.

In accordance with the Section of Environmental Analysis' letter dated December 12, 1997, we are attaching the original and ten copies of our specific comments. These comments include an update of the information concerning one crossing.

Thank you for the opportunity to comment on the draft.

Sincerely,

Leo Bevon

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

Commonwealth of Virginia
Comments
Draft Environmental Impact Statement
STB Finance Docket No. 33388

1. Clarke County, 5-VA.6.1, Pg. VA-10 – The report indicates that there is a significant affect at the crossing of Route 7. It recommends (Table 5-VA-5, Pg. VA-12) that four – quad gates or median barriers be installed. The present crossing has lights and gates and a new rubber surface. When other crossings which have more highway traffic and higher train speeds are compared, it does not appear that four quad gates are required. The Department is planning to review all the crossings to identify the needs or changes in priorities.
2. Warren County, 5-VA.6.1, Pg. VA-11 – Flashing lights and gates are scheduled to be installed. This is Route 658, DOT 468-6345.
3. Page County, Table 5-VA-13, Pg. VA-23 – This table does not include a line for truck diversions. Mr. Mark Wollschlager explained that the diversions would be from Interstate 81 and that route is not located in Page County. While this is true, I-81 does lie in the valley between the two mountain ranges and it would appear that there would be some positive affect caused by the diversions.
4. Track clearance, Pg. ES-17, Chapter 7; Pg. 7-12 – It is stated that SEA intends to recommend that all trains moving in the same or opposite directions on the same track would be clear of the track at least 15 minutes before and 15 minutes after the expected arrival of a passenger train at any point. The Commonwealth has been advised that this is not present day practice. It is anticipated that this would reduce the capacity of the line. Future improvements will allow the trains to switch to parallel tracks; however, this work will not be completed in the near future. More information is needed on what the writers desire to achieve, and if other options can be used. It is suggested that this recommendation be given more study, before final actions are taken.

cc: Shirley J. Ybarra
Paul Reistrup
Robert Shinn
Richard Walton
Bill Schafer
Steve Roberts
George Conner
Thomas J. Christoffel

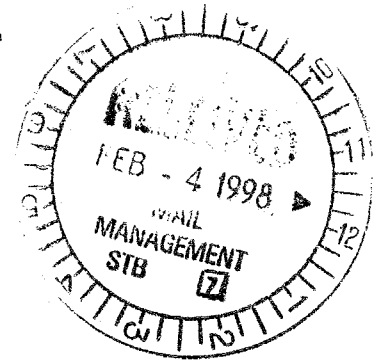
ENVIRONMENTAL
DOCUMENT

Town of Stanley

P.O. BOX 220

STANLEY, VIRGINIA 22851

TELEPHONE 540-778-3454



CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/4/98

DOCUMENT # 2/4/98 2:18-19 PM

COPY

January 28, 1998

Tom Christoffel, Executive Director
Lord Fairfax Planning District Commission
103 East Sixth Street
Front Royal, Virginia 22630

Dear Tom:

Please find enclosed the Resolution regarding the CSX & Norfolk Southern Control/Environmental Impact which the Town Council adopted in their January meeting.

Should you have any questions or if we can be of any further assistance in this matter, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads 'Martha M. Graves'.

Martha M. Graves
Town Manager

Enclosure

RESOLUTION

WHEREAS, in the Lord Fairfax Planning District, Virginia's Northern Shenandoah Valley, Clarke County and the Towns of Berryville and Boyce; Warren County and the Town of Front Royal; Page County and the Towns of Luray, Shenandoah and Stanley; and Shenandoah County and the Towns of Toms Brook, Woodstock, Edinburg and Mt. Jackson have Norfolk-Southern Railway access; and Frederick County and the Towns of Middletown and Stephens City, and City of Winchester are served by CSX; and

WHEREAS, in the last fifteen years, the Northern Shenandoah Valley has emerged as a multimodal transportation hub with telecommunications infrastructure, these being key factors in local economic development promotion; and

WHEREAS, Warren County and the Town of Front Royal have experience a significant increase in rail traffic as a result of express freight traffic on the line from Riverton Junction to Manassas with citizens experiencing impacts due to noise, air quality and significant traffic conflicts at grade crossings during this period; and

WHEREAS, industrial development in the region, including the Virginia Inland Port, has occurred because of the availability of local rail service, but has not been the main cause of traffic increases; and

WHEREAS, the DRAFT ENVIRONMENTAL IMPACT STATEMENT concludes there is only minimal impact for air quality, noise, grade crossing conflicts and accidents for areas of the region, despite the fact that air quality and noise impacts exceeded the Surface Transportation Board's thresholds; and

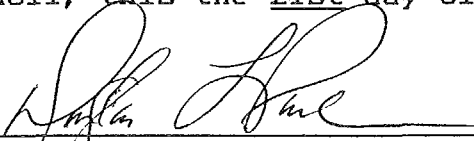
WHEREAS, the train traffic projections are highly speculative given the strategic location of Riverton Junction for east coast and Midwestern rail traffic and high probability of increased freight through traffic, and

WHEREAS, significant through traffic may interfere with local service to industry and efforts to expand local service for existing and new users, including passenger rail for Civil War Battlefield tourism, and therefore the economic base of the region:

NOW THEREFORE BE IT RESOLVED THAT the Lord Fairfax Planning District Commission petition the Surface Transportation Board to consider the high probability of more significant environmental impacts on this region and its communities due to increases in rail traffic volume as a result of the proposed acquisition; and

BE IT FURTHER RESOLVED that the Final Environmental Impact Statement include a requirement for a five year review period from the effective date of the final decision for the assessment of environmental impacts and remediation options.

Adopted by the Stanley Town Council, this the 21st day of January, 1998.



Douglas L. Purdham, Mayor

ATTEST:



Martha M. Graves, Temp. Clerk



The City of Lynchburg, Virginia

CITY HALL, LYNCHBURG, VIRGINIA 24505 • (804) 847-1443
FAX • (804) 847-1536

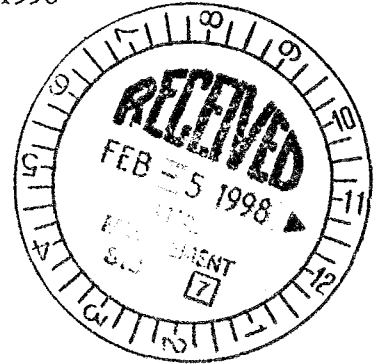
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REC'D: _____
DOCUMENT # _____

OFFICE OF THE
CITY MANAGER

January 29, 1998

BY FEDERAL EXPRESS

ENVIRONMENTAL DOCUMENT



Office of the Secretary
Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Attention: Ms. Elaine K. Kaiser
Environmental Projector Director
Section of Environmental Analysis

Re: Draft Environmental Impact Statement
for the Proposed Conrail Acquisition

Dear Ms. Kaiser:

The City of Lynchburg appreciates the opportunity to comment on the Draft Environmental Impact Statement ("EIS") relating to the proposed Conrail acquisition.

The City is particularly interested in the potential impact of the proposed Conrail acquisition because rail transportation is vital to our region. Unlike most regions of its size, the Lynchburg area is not served by an interstate highway. Therefore, the region is heavily dependent on both the Norfolk Southern and CSX rail lines for its transportation needs. **We would strongly oppose any aspect of the proposed merger that would lead to reduced rail traffic through Lynchburg.**

Although we have carefully reviewed the draft EIS, we have not been able to conclude with certainty that the proposed merger will not adversely affect rail service to Lynchburg. The draft EIS's narrative discussion of the proposed acquisition suggests that the Lynchburg area will not be affected. However, the "Emissions Changes for Rail Yards" chart at Attachment E-5 of Appendix E indicates that



International
City
Management
Association

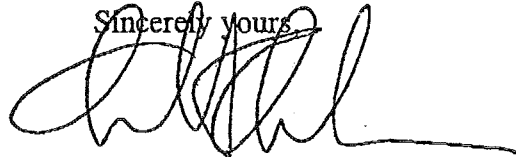
Ms. Elaine K. Kaiser
January 29, 1998
Page 2

the acquisition would lead to a substantial reduction in rail cars traveling through Lynchburg. (See, the sixth column, "Activity Change" and reference to a 3,402 rail car reduction).

We request a clarification regarding the impact of the proposed acquisition on rail service to Lynchburg before the EIS is finalized. Again, we would be opposed to the acquisition if it would lead to reduced rail traffic through Lynchburg.

If you have any questions about the above, please feel free to contact me or Terry Reid at (804) 847-1360. Thank you again for the opportunity to comment. I look forward to your response.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'C. Church', written over the typed name 'Charles F. Church'.

Charles F. Church
City Manager



Lord Fairfax Planning District Commission

"Serving local governments of the Northern Shenandoah Valley"

103 East Sixth Street - Front Royal, Virginia 22630-3499

Phone: (540) 636-8800 • Fax: (540) 635-4147 • E-Mail: lfpdc@shentel.net

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Secretary

Thomas J. Christoffel, AICP
Executive Director

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William P. Menefee

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*Joy A. Walker

STRASBURG
*Mayor Harry R. Applegate
James C. Massey

STEPHENS CITY
*Joy B. Shull

WINCHESTER
*Edwin C. Daley
John B. Schroth
Harry S. Smith
Timothy A. Youmans

*Executive Committee



PLEASE RECYCLE

January 29, 1998

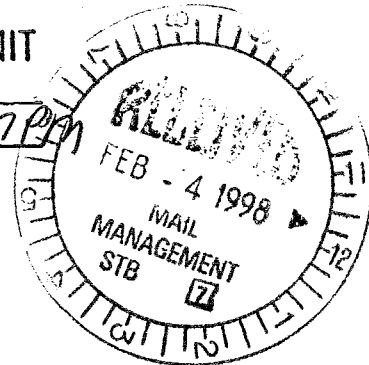
Office of the Secretary
Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

CENTRAL ADMINISTRATIVE UNIT

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**ENVIRONMENTAL
DOCUMENT**

Attn: Elaine K. Kaiser, Chief
Section of Environmental Analysis
Environmental Filing

Re: Your letter dated December 12, 1997 - Draft Environmental Impact Statement (EIS) on the proposed acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad - Submission of Comments by Resolution

Dear Ms. Kaiser:

The Lord Fairfax Planning District Commission's Transportation Planning Technical Committee met to review the Draft Environmental Impact Statement. The concerns of the region, relative to the environmental impacts, are that they can not all be accurately predicted at this time and therefore it is requested that the Final Environmental Impact Statement include a requirement for a five year review period from the effective date of the final decision for the assessment of environmental impacts and remediation options. This is set out in the enclosed resolution.

Sincerely

Thomas J. Christoffel
Executive Director

Enclosure

cc: Mr. Harold E. Neale, Commonwealth Transportation Board
Mr. Dennis Morrison, Staunton District Engineer
The Honorable John Warner
The Honorable Frank Wolf
Mr. George Conner, Department of Rail and Public Transportation

1/2/2 LN

A-594-d



Lord Fairfax Planning District Commission

"Serving local governments of the Northern Shenandoah Valley"

103 East Sixth Street - Front Royal, Virginia 22630-3499

Phone: (540) 636-8800 • Fax: (540) 635-4147 • E-Mail: lfpdc@shentel.net

RESOLUTION

NUMBER 98-03

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Secretary

Thomas J. Christoffel, AICP
Executive Director

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January, 1997

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W. Harrington Smith, Jr.
Kris C. Tierney

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*Edwin C. Daley
John B. Schroth
Harry S. Smith
Timothy A. Youmans

*Executive Committee

SURFACE TRANSPORTATION BOARD FINANCE DOCKET NO. 33388 – CSX AND NORFOLK SOUTHERN – CONTROL AND ACQUISITION OF CONRAIL: DRAFT ENVIRONMENTAL IMPACT STATEMENT COMMENTS SUBMISSION

WHEREAS, in the Lord Fairfax Planning District, Virginia's Northern Shenandoah Valley, Clarke County and the Towns of Berryville and Boyce; Warren County and the Town of Front Royal; Page County and the Towns of Luray, Shenandoah and Stanley; and Shenandoah County and the Town of Strasburg, are currently served by the Norfolk-Southern Railway; and the Shenandoah County Towns of Toms Brook, Woodstock, Edinburg and Mt. Jackson have Norfolk-Southern Railway access; and Frederick County and the Towns of Middletown and Stephens City, and City of Winchester are served by CSX; and

WHEREAS, in the last fifteen years, the Northern Shenandoah Valley has emerged as a multi-modal transportation hub with telecommunications infrastructure, these being key factors in local economic development promotion; and

WHEREAS, Warren County and the Town of Front Royal have experienced a significant increase in rail traffic as a result of express freight traffic on the line from Riverton Junction to Manassas with citizens experiencing impacts due to noise, air quality and significant traffic conflicts at grade crossings during this period; and

WHEREAS, industrial development in the region, including the Virginia Inland Port, has occurred because of the availability of local rail service, but has not been the main cause of traffic increases; and

WHEREAS, the DRAFT ENVIRONMENTAL IMPACT STATEMENT dated December 12, 1997 notes significant capacity improvements on its Shenandoah Corridor, including raising clearances between Riverton and Roanoke and new expedited coal service rerouting via Hagerstown and the Shenandoah Valley; and



PLEASE RECYCLE

WHEREAS, the DRAFT ENVIRONMENTAL IMPACT STATEMENT concludes there is only minimal impact for air quality, noise, grade crossing conflicts and accidents for areas of the region, despite the fact that air quality and noise impacts exceeded the Surface Transportation Board's thresholds; and

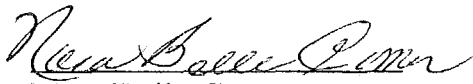
WHEREAS, the train traffic projections are highly speculative given the strategic location of Riverton Junction for east coast and Midwestern rail traffic and high probability of increased freight through traffic, and


WHEREAS, significant through traffic may interfere with local service to industry and efforts to expand local service for existing and new users, including passenger rail for Civil War Battlefield tourism, and therefore the economic base of the region;

NOW THEREFORE BE IT RESOLVED THAT the Lord Fairfax Planning District Commission petitions the Surface Transportation Board to consider the high probability of more significant environmental impacts on this region and its communities due to increases in rail traffic volume as a result of the proposed acquisition; and

BE IT FURTHER RESOLVED that the Final Environmental Impact Statement include a requirement for a five year review period from the effective date of the final decision for the assessment of environmental impacts and remediation options.

Adopted this 22nd day of January, 1998.


Nora Belle Comer
Chairman

Attest: 
Thomas J. Christoffel
Executive Director

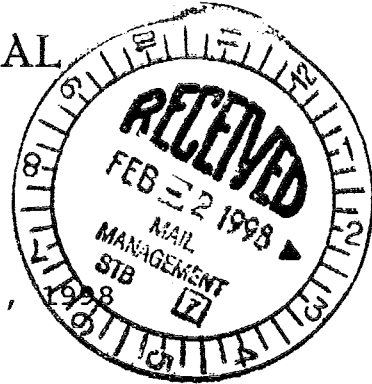
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TOWN OF FRONT ROYAL

P.O. BOX 1560
FRONT ROYAL, VIRGINIA 22630
(540) 635-8007
FAX: (540) 636-7475



January 29,

CENTRAL ADMINISTRATIVE UNIT

REC'D: 2/2/98

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Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

ATTN: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

Dear Ms. Kaiser,

The Front Royal Town Council, during its regular meeting held January 26, 1998, voted to adopt a resolution pertaining to Finance Docket #33388 regarding the CSX and Norfolk Southern Control and Acquisition of Conrail Draft Environmental Impact Statement. I have enclosed the original, plus ten copies, of the resolution for your consideration.

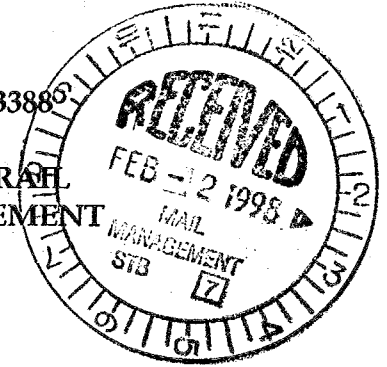
Very truly yours,

Rhonda S. North, CMC/AEE
Clerk of Council

RSN\

cc: Director of Planning

R E S O L U T I O N
REGARDING FINANCE DOCKET NO. 333889
CSX AND NORFOLK SOUTHERN
CONTROL AND ACQUISITION OF CONTRACTS
DRAFT ENVIRONMENTAL IMPACT STATEMENT



WHEREAS, the Town of Front Royal, Virginia and Warren County are currently served by the Norfolk-Southern Railway; and,

WHEREAS, in the last decade, this community has experienced a significant increase in rail traffic as a result of express freight traffic on the line from Riverton Junction to Manassas; and,

WHEREAS, the citizens of the Town of Front Royal and Warren County have experienced impacts due to noise, air quality and significant traffic conflicts at grade crossings during this period; and,

WHEREAS, industrial development in the County, including the Virginia Inland Port, has occurred because of the availability of local rail service, but has not been the main cause of traffic increases; and,

WHEREAS, the Environmental Report received July 1997 projected changes in the three major rail segments centered on Riverton Junction in Front Royal – north toward Harrisburg, a 77% increase from 11.1 to 19.6 trains per day; south to Roanoke, a 210% increase from 3.9 to 12.3 trains per day; and east to Manassas, a 22% reduction from 11.3 to 8.8 trains per day; and,

WHEREAS, the Draft Environmental Impact Statement dated December 12, 1997 concludes there is only minimal impact for air quality, noise, grade crossing conflicts and accidents for the Town of front Royal and Warren County, despite the fact that air quality and noise impacts exceed the Surface Transportation Board's thresholds; and,


WHEREAS, 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; and,

WHEREAS, the citizens of the Town of Front Royal are already coping with the current increases in through traffic as previously noted.

NOW, THEREFORE BE IT RESOLVED, that the Front Royal Town Council petitions the Surface Transportation Board to consider the high probability of more significant environmental impacts on this community due to the proposed acquisition; and,

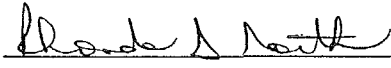
AND BE IT FURTHER RESOLVED, that the Final Environmental Impact Statement include a requirement for a five year review period from the effective date of the final decision for the assessment of environmental impacts and remediation options.

APPROVE:



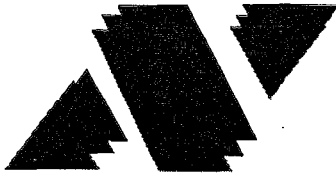
GEORGE E. BANKS, MAYOR

ATTEST:



RHONDA S. NORTH, Clerk of Council

This resolution was adopted by the Town Council of the Town of Front Royal, Virginia, on the 26th day of January, 1998.



Northern Virginia Planning District Commission

7535 Little River Turnpike Suite 100 Annandale, Virginia 22003-2937 (703) 642-0700 FAX: (703) 642-5077 TDD (703) 642-8061

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Vice-Chairman
Hon. Mimi Fitzgerald
Treasurer
Hon. Katherine K. Hanley
Executive Director
G. Mark Gibb

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Edward L. Robinson

City of Manassas Park

Town of Dumfries
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Town of Herndon
Hon. Thomas Davis Rust

Town of Leesburg
Hon. Kristen C. Umstadt

Town of Vienna
Hon. Albert J. Boudreau

(as of August 25, 1997)

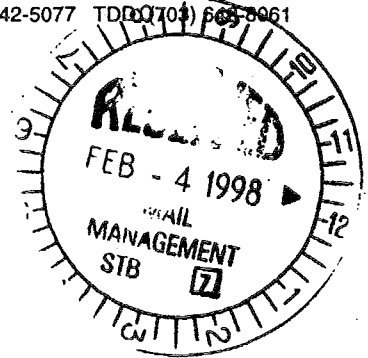
EMAIL ADDRESS
info@nvpdc.state.va.us

HOME PAGE
http://www.nvpdc.state.va.us



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TO: Elaine K. Kaiser
Environmental Project Director
Surface Transportation Board
Section of Environmental Analysis
1925 K Street, N.W. Fifth Floor
Washington, D.C. 20423-0001

FROM: James Van Zee
Senior Planner

CENTRAL ADMINISTRATIVE UNIT
REC'D: 2/4/98
DOCUMENT # 214984.36.42 PM

DATE: February 2, 1998

SUBJECT: INTERGOVERNMENTAL REVIEW AND COMMENT

Project Title: CSX and Norfolk Southern
Finance Docket No. 33388

Description: Control and Acquisition

- The NVPDC staff has no major concerns with this project. We find it generally in accord with regional programs, plans, and policies.
- The NVPDC staff has no major concerns with this project; however, see comment(s) below.

ENVIRONMENTAL DOCUMENT

Signature _____

James Van Zee
Senior Planner

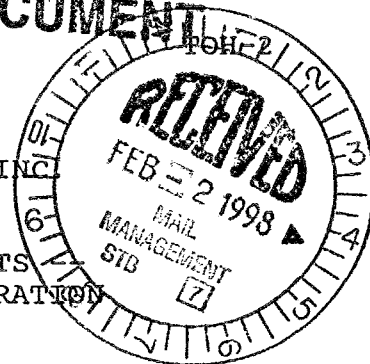
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REC'D 2/3/98
DOCUMENT 2/3/98

FIVE UNIT

ENVIRONMENTAL
DOCUMENT

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388
CSX CORPORATION AND CSX TRANSPORTATION INC.
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
-- CONTROL AND OPERATING LEASES/AGREEMENTS
CONTRAIL INC. AND CONSOLIDATED RAIL CORPORATION



**COMMENTS OF THE TOWN OF HAYMARKET
ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Pursuant to the Final Procedural Schedule adopted in Decision No. 6, served May 30, 1997, The Town of Haymarket, a body corporate and politic of the Commonwealth of Virginia, ("Haymarket"), submits its comments on the December 12, 1997 Draft Environmental Impact Statement ("DEIS") in the above-entitled proceeding. For the reasons stated herein, the Section of Environmental Analysis ("SEA") is requested to ensure that the final Environmental Impact Statement ("EIS") includes a provision contemplating Surface Transportation Board ("Board" or "STB") oversight over the environmental impacts of the proposed transaction (referred to herein as the "Conrail consolidation") for at least the same length of time that the Board maintains oversight with regard to the economic aspects of the consolidation.

BACKGROUND

On June 6, 1997, Haymarket submitted its Notice Of Intent To Participate in this proceeding (TOH-1). At that time, as now, Haymarket's sole concern with the Conrail consolidation was with regard to potential environmental impacts of increased Norfolk Southern Railway Company ("NS") traffic over what is commonly

known as its "B Line" which runs through Haymarket.^{1/}

Haymarket's concerns with NS operations over the B Line are neither new nor unsubstantiated. As reported in the November 21, 1997 letter from Mayor Kapp to SEA's Elaine Kaiser (attached hereto), there have been three railroad accidents in the last fourteen months in the Haymarket area, i.e. a November 21, 1996 fatality caused by a train/passenger vehicle collision, a May 2, 1997 train derailment, and a July 11, 1997 train/tractor trailer collision.

Haymarket is aware of the fact that the NS operating plan contemplates a reduction in the average number of through trains operating over the B Line.^{2/} We also are aware of the fact that the Board's environmental review in cases such as this is limited to areas of increased activity.^{3/} Accordingly, Haymarket does not seek imposition of specific environmental conditions at this time other than the reporting condition described herein. However, given that the NS operating plan is not binding on the railroad, given the clear potential for increased operations over the B Line in the relatively near future, and given Board precedent in maintaining oversight over major consolidations,

^{1/} In the Applicants' June, 1997 Railroad Control Application, the B Line is identified as the NS Riverton Jct VA to Manassas VA line segment. See e.g. CSX/NS-20 at 465, Figure D.6-2. The B Line is part of what NS describes as the "Piedmont Route." CSX/NS-19 at 243, Figure TLF-8.

^{2/} This reduction is from 11.3 trains/day to 8.8 trains/day. Id.

^{3/} See e.g. DEIS, ES-15.

Haymarket requests the imposition of an environmental oversight condition on the Conrail consolidation.^{4/}

THE RATIONALE FOR ENVIRONMENTAL OVERSIGHT

Unlike construction activity, which is well-defined and usually of short duration, the process of consolidating major railroads can vary substantially from original plans and can take years. By way of example, while the Union Pacific/Southern Pacific merger was consummated in 1996^{5/}, the process of actually coordinating those two railroads still is not complete and the shifting of traffic between various line segments also is not complete.^{6/} Of perhaps greater importance, experience gained in the early years of railroad consolidations can and does result in railroad operations that differ markedly from those contemplated in the consolidation applications.

This is not to say or even to suggest that the NS operations data presented to the Board in this case was prepared in bad faith in an attempt to minimize the cost of environmental

^{4/} Environmental oversight would not be required if either NS were to agree to a cap on its average daily movements on the B Line equal to the 8.8 trains per day projected in its operating plan or if the Board were to condition its approval of the merger on such a cap.

^{5/} See Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, And Missouri Pacific Railroad Company - Control And Merger -- Southern Pacific Railroad Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., And The Denver And Rio Grande Western Railroad Company, Decision No. 44. (cited hereafter as "UP/SP, Decision No. 44").

^{6/} See e.g. the 1996 Union Pacific Annual Report which gave a mid-1998 target date for the completion of the integration of Union Pacific and Southern Pacific.

mitigation. Rather, Haymarket notes only that experience gained after the consolidation has been consummated can have a significant effect on the traffic actually operating over any given line segment.

By way of example, Haymarket would point again to the UP/SP merger. The applicants in that proceeding proposed a major corridor upgrade for their trackage between Topeka and Fort Worth.^{2/} However, UP now proposes to upgrade a different route for its coal movements to Oklahoma and Texas.^{3/} Thus, the original line segment density studies prepared by UP/SP, upon which the STB's environmental analysis was premised, will not accurately portray the facts two to three years after consummation of the merger.

In this case, there is ample reason for concern that the NS portrayal of its future use of the B Line, i.e. a reduction of 2.5 trains per day,^{4/} understates what will happen two to three years after consummation of the Conrail consolidation. On the one hand, NS projects reduced traffic on the B Line (part of the Piedmont Route) as a result of a rerouting of traffic from the Piedmont Route to the Shenandoah Route. CSX/NS-18 at 538. On the other hand:

^{2/} Id.

^{3/} See eg. the July 1, 1997 Applicants' Report On Merger And Condition Implementation at 24-25 and the August 4, 1997 Comments Of The Lower Colorado River Authority And The City Of Austin, Texas at 6-7.

^{4/} CSX/NS-20 at 464.

- 1) NS states that the B Line is part of one of the "Primary Expanded NS Corridors." CSX/NS-20 at 112, Figure 13.3-5;
- 2) NS also states that the B Line is part of its "New Intermodal Service Network." CSX/NS-20 at 161, Figure 13.3-22;
- 3) NS also states that the B Line is part of its "Improved Norfolk/Hampton Roads--Detroit Route." CSX/NS-19 at 248, Figure TLF-12;
- 4) NS also identifies the B Line as part of its "Piedmont Route." CSX/NS-19 at 243, Figure TLF-8;
- 5) NS also states that the portion of the Piedmont Route that includes the B Line "will be used for traffic destined to Philadelphia and northern New Jersey as well as for all doublestack and multi-level automobile traffic. At Harrisburg, connections with other CR routes to be operated by NS will be made for traffic to/from Pittsburgh, Buffalo and New England." CSX/NS-18 at 536; and
- 6) NS also explains that the Piedmont Route, of which the B Line is a part, will also connect with its "Bridge Route" for "access to the Southeast and with the Penn Route to the West." CSX/NS-18 at 534.

In light of the fact that the claimed reduction in traffic on the B Line is contingent upon the proposed upgrade of the Shenandoah Route and in light of all of the above-summarized expected uses of the B Line, as described by NS, the NS's projected reduction in its use of the B Line cannot reasonably be deemed certain. Stated another way, the Board can no more reach a final conclusion at this time as to the environmental impacts of the Conrail consolidation than it can reach a final conclusion at this time as to the competitive impacts of that consolidation.

THE REQUESTED OVERSIGHT CONDITION

The concept of continued Board oversight in major consolidation procedures is by no means novel. By way of example, in its August 6, 1996 decision in the UP/SP merger proceeding, the Board stated:

We also will impose as a condition the 5-year oversight period to examine whether the conditions we have imposed have effectively addressed the competitive issues they were intended to remedy.^{10/}

The Board further stated:

We retain jurisdiction to impose additional remedial conditions if, and to the extent, we determine that the conditions already imposed have not effectively addressed the competitive harms caused by the merger.^{11/}

Here, continued Board oversight is known to be acceptable to NS. See, e.g. the Agreement Between The National Industrial Transportation League, Norfolk Southern, and CSX. CSX/NS-176 at

^{10/} UP/SP Decision No. 44 at 107.

^{11/} Id. at 146. See also Ordering Paragraph No. 6 at 231.

771.^{12/} Notably, the NITL/NS/CSX agreement is not limited to "competitive issues." Rather, that agreement states:

The Board should require specific oversight of the implementation and effect of the transaction for a three-year period. This condition is not intended to limit the authority of the Board to continue oversight beyond the three-year period, or limit the right of any party, including the Organization, to request continued oversight if conditions at the end of the three year period warrant such a request.

In light of this agreement, the Haymarket request for Board oversight over environmental impacts should not be controversial. However, since Haymarket notes that the quarterly reports mandated by the NITL/NS/CSX agreement do not specifically contemplate a reporting of the data of concern to Haymarket^{13/}, we request that the reports mandated by the NITL/NS/CSX agreement be augmented by the adoption of the following language.

For the purposes of monitoring the environmental impacts of the Conrail consolidation on the Town of Haymarket, NS shall file on a monthly basis with the Board, and provide a copy to counsel for Haymarket, verified copies of station passing reports of train movements through Haymarket, VA for each day of each preceding month. Such reports shall be filed and served for each month of the first five years following consummation of the Conrail consolidation.

^{12/} See also, CSX/NS-176 at 708, 726-728.

^{13/} However, the reporting requested by Haymarket is fully consistent with item (e) of the reports contemplated by the NITL/CSX/NS agreement, i.e. "any other matters about which the Board or Council reasonably requests information."

CONCLUSION

Unlike the construction elements of the instant proceeding, which can be described with particularity, the operational elements, including the number of trains operating over each line segment are, at best, estimates. Here, Haymarket has presented more than ample justification for its concern that NS has understated the potential for increased traffic through a community that has experienced severe problems, including one fatality, as a result of the current level of NS operations. The requested reporting condition would not create an undue burden for NS and would permit the Board to take necessary action in the event that NS operations through Haymarket later prove to require environmental mitigation. The requested reporting condition should be recommended by SEA and should be adopted by the Board.

Respectfully submitted,

The Town Of Haymarket

By: 

Steven J. Kalish
McCarthy, Sweeney
& Harkaway, P.C.
1750 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Its Attorney

Dated: February 2, 1998

The Town of
HAYMARKET
-Established in 1799-
County of Prince William

November 21, 1997

Ms. Elaine K. Kaiser
Surface Transportation Board
1925 K Street, NW, Room 504
Washington, DC 20423-0001

Re: Finance Docket No. 33388
CSX/Norfolk Southern/Conrail

Dear Ms. Kaiser:

I write as the Mayor of the Incorporated Town of Haymarket, Virginia, approximately 40 miles west of Washington, DC. Our small historic town is transected by the "B Line" of the Norfolk Southern railroad that transports freight to and from the Hampton Roads port and points west.

We are extremely concerned about the safety of our area residents and the future impact of Norfolk Southern's use of the B Line. This freight rail line travels through a densely populated residential neighborhood in Haymarket, along a feeder stream for a major public water source, past a pre-Civil War church and across U.S. Route 29, one of the most heavily traveled highways along the East Coast and already the most dangerous rail/public highway crossing in Virginia.

In the last year alone there have been two major rail accidents and one death in our immediate area. On May 2, 1997, a freight train derailed at Route 29, narrowly missing an occupied day care center, a propane storage yard and a gas station. On July 11, 1997, a train struck a tractor trailer near the same crossing. Sadly, on November 21, 1996, a local resident was killed when her car was struck by a train at an unguarded crossing.

The potentials for environmental and public safety disasters are great along the B Line. Nearly two years ago Norfolk Southern announced it intended to greatly increase freight traffic along this line, which provoked substantial public outcry and expressions of concern by local fire and rescue agencies. However Norfolk Southern's organization plan filed before your agency in connection with the Conrail acquisition shows freight traffic not increasing, but in fact, slightly decreasing.

On behalf of the Town, I strongly appeal for your assistance in ensuring Norfolk Southern is held to its plan for not increasing freight traffic on the B Line after its acquisition of Conrail lines. We believe this commitment must be reflected as part of its safety integration plan -- ordered by your agency on November 3 -- exactly because this is a significant safety issue for our community.


A-598-c

Ms. Elaine K. Kaiser
November 21, 1997
Page 2

Further, we request that the Surface Transportation Board retain jurisdiction over Norfolk Southern's future use of the B Line after its decision on the acquisition to assure the health and well-being of our local residents.

Thank you for your kind consideration.

Sincerely,



John Kapp
Mayor

cc: Ms. Jolene M. Molitoris
Administrator, Federal Railroad Administration
400 7th Street, SW ROA-1
Washington, DC 20590

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McCarthy Sweeney Harkaway
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VIA HAND DELIVERY

February 5, 1998

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, D.C. 20423-0001

Attention: Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis

**Re: Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc.,
Norfolk Southern Corporation and Norfolk Southern Railway Company --
Control and Operating Leases/Agreements -- Conrail Inc. and Consolidated
Rail Corporation**

Dear Secretary Williams:

Enclosed are an original and ten copies of the Public Version of the comments of the Northern Virginia Transportation Commission and Potomac and Rappahannock Transportation Commission on the Draft Environmental Impact Statement ("DEIS") and the DEIS Verified Statement of Charles H. Banks. Only the DEIS Verified Statement of Charles H. Banks contains redactions, but we are furnishing versions of both documents. Also enclosed is a 3.5 inch diskette containing the filing in WordPerfect 5.1.

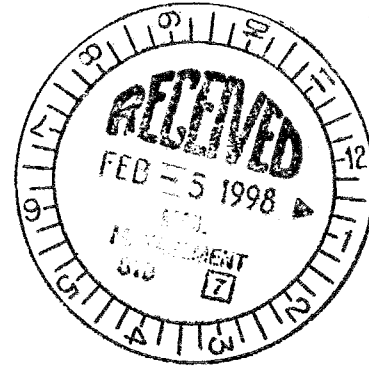
Please stamp the extra copy of the foregoing and return it with our messenger.

Respectfully submitted,



Kevin M. Sheys
Oppenheimer Wolff & Donnelly LLP

Enclosures



- Brussels
- Chicago
- Detroit
- Geneva
- Irvine
- Los Angeles
- Minneapolis
- New York
- Paris
- Saint Paul
- San Jose
- Washington, D.C.

**ENVIRONMENTAL
DOCUMENT**

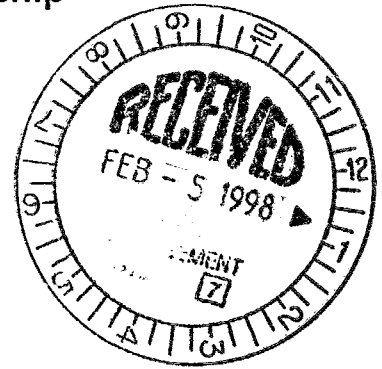


Virginia Railway Express

A Transportation Partnership

February 2, 1998

Public Version



VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, D.C. 20423-0001

Attention: Elaine K. Kaiser
Environmental Project Director
Section of Environmental Analysis

**Re: Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc.,
Norfolk Southern Corporation and Norfolk Southern Railway Company --
Control and Operating Leases/Agreements -- Conrail Inc. and Consolidated
Rail Corporation**

Dear Secretary Williams:

This letter constitutes the comments of Northern Virginia Transportation Commission and Potomac and Rappahannock Transportation Commission ("NVTC" and "PRTC", respectively, and the "Commissions" collectively) on the Draft Environmental Impact Statement ("DEIS") served by the Surface Transportation Board's Section of Environmental Analysis ("SEA") on December 12, 1997.

I. Summary

As is more fully explained below, the Commissions believe that the preliminary conclusion of the DEIS that the proposed Conrail acquisition will have no adverse impact on the Virginia Railway Express ("VRE")¹ commuter rail transportation system is wrong. The Commissions believe that SEA needs to comprehensively re-examine this very important issue and develop conditions for inclusion in the Final Environmental Impact Statement ("FEIS") to mitigate the adverse impact of the

¹ NVTC and PRTC are political subdivisions of the Commonwealth of Virginia organized pursuant to the Transportation District Act of 1964, § 15.1-1340 *et seq.* VA Code Ann. NVTC and PRTC jointly own the VRE commuter rail service. Amtrak conducts and manages VRE's commuter rail operations pursuant to a contract with the Commissions. VRE's right to utilize the rail lines of the Applicants is established by contracts between the Commissions and CSX, NS and Conrail, respectively.

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A-599-b

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proposed Conrail acquisition on VRE. In addition, the Commissions believe that the SEA's preliminary proposed mitigation condition that would require greater time spacing between freight and passenger trains is not necessary to ensure continued safe passenger operations on the line between Potomac Yard and Fredericksburg and therefore should not be included in the FEIS.

The Commissions' specific comments on these topics (and other related topics) are summarized below. A full discussion of the impact of the proposed Conrail acquisition on VRE is set forth in the Comments and Requests for Conditions of the Commissions, which was filed with the Board on October 21, 1997. The Commissions' Comments and Requests for Conditions in the "economic" part of the proceeding are directly related to the environmental considerations raised in this letter and, therefore, we incorporate them by reference and request that SEA carefully review them in the course of preparation of the FEIS. We are submitting ten copies of our Comments and Request for Conditions herewith and would be pleased to provide SEA with additional copies upon request.

II. SEA's Conclusion Of No Adverse Impact On VRE Is Wrong

VRE provides a valuable service to Northern Virginia commuters. VRE data compiled for submission to the U.S. Department of Transportation's ("U.S. DOT") National Transit Database reveal that in FY 1997 VRE provided 57,116,170 passenger miles of service at an average cost of only 32 cents per passenger mile. This compares very favorably with costs of operating single-occupant automobiles. VRE has operated without a passenger fatality or even serious injury since 1992. At VRE's FY 1997 level of ridership (1,758,471 passenger trips), the reduction of automobile usage by VRE passengers reduced consumption of gasoline by approximately 2.9 million gallons.²

VRE presently operates 24 trains on two routes. Twelve trains operate on the CSX Fredericksburg Line and 12 trains operate on the NS Manassas Line. With respect to the Fredericksburg Line, the DEIS concludes that "the proposed increase in CSX freight trains is not expected to adversely affect commuter service. SEA has analyzed the segment and believes, based upon the information available, that mitigation is not necessary at this time." DEIS at 4-39. With respect to the Manassas Line, the DEIS concludes that "[b]ased upon the information available at this time, there does not appear to be an adverse impact on commuter service to Manassas. SEA does not believe mitigation is necessary at this time." DEIS at 4-40. The Commissions believe that both of these conclusions are wrong.

As explained below, the segments of the NS Manassas Line and the CSX Fredericksburg Line used by VRE will experience very heavy increases in freight traffic. These lines do not have the capacity to absorb these increases while accommodating current levels of passenger service. This is especially true because freight operating times are erratic. CSX and NS have proposed no capital improvements of their own to expand capacity on these overburdened lines. The result will be

² Comments and Request for Conditions of Northern Virginia Transportation Commission and Potomac and Rappahannock Transportation Commission ("VRE Request for Conditions"), VRE-8, at 13; Verified Statement of Stephen A. MacIsaac and Richard K. Taube, which accompanied the VRE Requests for Conditions, at 9-13.

increased failure to dispatch VRE trains on time, with falling VRE ridership and a return to single-occupant automobiles by dissatisfied VRE customers. Air quality will certainly deteriorate as a result. The final EIS should document and evaluate these adverse impacts and propose appropriate mitigation measures.

Both CSX and NS have indicated that their proposed Operating Plans for the post-acquisition era will result in substantial increases in freight train operations on the rail lines over which VRE provides service. Increased freight operations will further clog these already busy rail transportation arteries. The NS Operating Plan projects an increase of two freight trains per day on the line between Manassas and Alexandria. Although VRE is very concerned about the impact of this acknowledged increase, VRE has developed information indicating that NS may in fact increase daily freight trains over the Manassas Line by four or more trains per day.³ In addition, NS has acknowledged that the Manassas Line is a much more direct and desirable route for NS coal and other traffic to the Baltimore and Wilmington markets than the NS Hagerstown - Harrisburg route, creating the distinct likelihood that greater volumes of coal traffic ultimately will be re-routed over the Manassas Line to the detriment of VRE commuter rail operations.⁴

The CSX Operating Plan poses even greater concerns because of the very substantial increases in freight service CSX plans for the already highly congested Fredericksburg Line. According to the CSX Operating Plan, the CSX line between Fredericksburg and Alexandria currently carries 28 passenger trains per day (12 VRE trains and 16 Amtrak trains) and is projected to experience an increase of seven freight trains per day. This represents a 43 percent increase in freight train operations on this 49-mile segment. The post-acquisition increase in freight operations on the other part of the Fredericksburg Line, between Potomac Yard and CP - Virginia Avenue, is even more dramatic. This line presently carries a minimum of 42 passenger trains per day (24 VRE trains and a minimum of 18 Amtrak trains) and will have an increase of 11 freight trains per day, which represents a 61 percent increase over the pre-acquisition level. Furthermore, most of the added freight trains on the Manassas and Fredericksburg Lines will operate during the VRE operating periods (i.e., Washington, D.C. rush hour periods).⁵ Even so, CSX has not identified a single capacity-enhancing investment on the Fredericksburg Line other than publicly funded improvements that will only be made if they enhance or improve VRE service.

The CSX Operating Plan itself reveals that among the rail lines with passenger trains that will experience moderate to substantial increases in freight activity, the Fredericksburg Line (and particularly the segment between Potomac Yard and CP - Virginia Avenue) is among the most affected by freight train increases in the entire Country. Table 13.8-2 of the CSX Operating Plan (Application ("App."), Vol. 3A at 409-12) lists projected increases in both CSX and NS freight trains on CSX and Conrail-acquired line segments with passenger service. Although there are more than 100 lines listed, only six line segments are projected to have an increase of ten or more freight

³ Verified Statement of Charles H. Banks ("Banks VS"), which accompanied the VRE Request for Conditions, at 9.

⁴ VRE Requests for Conditions at 16-17; Banks VS at 9, 18-20.

⁵ VRE Request for Conditions at 18.

trains per day. With the exception of the Potomac Yard to CP - Virginia Avenue segment, none of these segments carries significant passenger traffic. App., Vol. 3A at 409. In contrast, the Potomac Yard to CP - Virginia Avenue line segment carries more than 42 passenger trains per day. App., Vol. 3A at 412. Accordingly, of all the CSX/Conrail lines that are scheduled to undergo substantial post-transaction increases in freight traffic, the line that has by far the greatest volume of passenger operations is the Potomac Yard to CP - Virginia Avenue segment. The potential impact, therefore, of substantial projected increases in freight traffic on lines already carrying substantial passenger traffic -- and the corresponding need to protect such passenger operations -- is nowhere more clearly evident than on the CSX/Conrail Fredericksburg Line.⁶ Although the Application asserts that the Fredericksburg Line has "sufficient capacity" to accommodate freight increases without adverse impact on commuter service, App., Vol. 3A at 276, even before the merger CSX Chairman John Snow characterized the Fredericksburg Line as "one of the most capacity constrained segments of the entire CSX system." Letter from John Snow to Terrence Spellane, Potomac and Rappahannock Transportation Commission, June 28, 1995.⁷

The methodology that CSX and NS used to arrive at projected freight train densities as a result of the acquisition was made without any consideration of passenger operations. The Applicants assert that any possible conflicts or adverse impacts on VRE commuter rail service could be resolved through more careful scheduling of freight trains. Scheduling adjustments and refinements will not resolve the issue.⁸

Nothing filed by Applicants since the submission of their Environmental Report (CSX/NS-23) alleviates the Commissions' concerns. On December 15, 1997, Applicants filed their rebuttal to, inter alia, the VRE Request for Conditions. As is explained in the DEIS Verified Statement of Charles H. Banks, attached hereto as Exhibit A, Applicants have continued to ignore the adverse impact of the proposed Conrail acquisition on VRE operations.

In consideration of these key factors, as well as all of the other factors described in the VRE Request for Conditions and accompanying verified statements, the Commissions are perplexed by the DEIS conclusion that the train increases of CSX are "well within the capacity" of the Fredericksburg Line and that the NS Manassas Line has "more than sufficient capacity to accommodate expansion of VRE service."

The DEIS indicates that "CSX has begun certain signal and crossover track improvements which will add some operating flexibility and reliability to the route." DEIS, Vol. 1 at 4-39. Although the Commissions cannot be sure which signal and crossover track improvements are referred to in the DEIS, it seems likely that SEA is referring to certain capital improvements that are being made at the behest of VRE and the expense of the public and for the benefit of VRE service. As noted above, CSX has not identified a single capacity-enhancing investment on the Fredericksburg Line that it

⁶ VRE Request for Conditions at 18-19.

⁷ VRE Request for Conditions at 19-20.

⁸ VRE Request for Conditions at 28-31; Banks VS at 5-10.

intends to pay for. CSX only identifies publicly funded improvements, but these will only be made if they enhance or improve VRE's service.

Approximately one-third of VRE's annual capital budget is devoted to improvements to the Fredericksburg Line. The improvements are funded by the Virginia Department of Rail and Public Transportation ("VDR&PT"), using federal funds. VRE has paid for the Woodbridge crossover (approximately \$1.25 million) north of Quantico Bridge and is predisposed but not committed to pay for the Aquia crossover south of Quantico Bridge. The addition of these crossovers would double the number of crossovers in the area and help both freight and passenger trains avoid delays. Again, VRE is predisposed but not committed to pay for track and signal improvements between a point near Potomac River (RO) and a point near Telegraph Road (AF), at an expense of approximately \$2,650,000. These track and signal improvements are designed to increase train speeds, decrease travel time and consequently increase VRE ridership.⁹ The first thing that should be noted is that the Woodbridge/Aquia crossover and the track and signal improvements between the Potomac River and Telegraph Road would be installed only if VRE's service would benefit from them. The Commissions are pleased that there is also a benefit to the freight service from these publicly funded improvements, but it should be recognized that the improvements will not be made if they do not enhance VRE service. Thus, 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.¹⁰

Other statements in the DEIS indicate that SEA needs to undertake a more careful study of VRE operations. For example in Volume 1, on page 4-39, the DEIS erroneously states:

CSX has also proposed in its Operation Plan certain improvements to the Virginia Avenue tunnel in Southeast Washington, D.C. The improvements would improve the movement of both passenger and freight trains through this tunnel, which currently is a constraint to passenger train operations in the District of Columbia. [Emphasis Added]

Neither VRE nor Amtrak trains run through the Virginia Avenue tunnel. Although the planned improvements to the Virginia Avenue tunnel will permit faster movement of freight trains through that tunnel and that, in turn, might result in somewhat higher capacity on the CSX line between

⁹ VRE's capital improvement program also contains a plan to add a new bridge over Quantico Creek, at an expense of approximately \$20 million, which would add an additional track to replace the track that CSX demolished shortly before VRE began operations. The additional span of bridge at Quantico Creek would enhance the benefit of the Woodbridge/Aquia crossovers.

¹⁰ The same point should be made about the planned siding at Lorton. In Applicants' rebuttal submission, Mr. Reistrup promotes the Lorton siding. Applicants' Rebuttal, CSX/NS-176, Vol. 2B, Rebuttal Verified Statement of Paul H. Reistrup at P-259. Public funding will not be used for that siding unless it provides a benefit to VRE service.

Potomac Yard and CP - Virginia Avenue, the fact that the SEA is under the impression that Amtrak and VRE trains run through the Virginia Avenue tunnel is indicative of a need to re-examine more thoroughly (and accurately) the operations of VRE and reach more careful conclusions regarding the impact of the proposed Conrail acquisition on VRE operations.

Moreover, 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 capacity on the line during the period when the improvements are being made. If the Virginia Avenue tunnel improvements are proffered as mitigation of the adverse impact of the proposed Conrail acquisition on VRE, then the extent of the benefit must be quantified. Moreover, as the Virginia Avenue tunnel improvements are prompted by the proposed Conrail acquisition, SEA needs to establish conditions to mitigate the adverse impact on VRE operations during the construction.

III. SEA's Proposed 15-Minute Headway Condition Is Not Necessary For Safety

With respect to the CSX Line between Fredericksburg and Potomac Yard (among other segments), the SEA has preliminarily proposed a condition under which freight trains "moving in the same or opposite direction on the same track would be clear of the track at least 15 minutes before and 15 minutes after the expected arrival of a passenger train at any point." DEIS at 7-12.

Review of the DEIS provides no insight into how the proposed mitigation is supposed to improve safety or, indeed, what incidents the proposed measure is designed to prevent. It would appear rooted in a desire to have freight trains in the clear at meeting or passing points on a single track railroad, but does not seem appropriate for a double-track railroad such as the Fredericksburg Line, with cab signals installed for bi-directional operations.

Time spacing is an old railroad practice used when poor communications technology could not be relied upon for safety. The requirement to be in the clear at least five minutes in advance of any potential conflict was appropriate given the state of signal system technology at the time and certainly reduced rail accidents. The Commissions fail to see how establishing a 15-minute separation period is necessary for safety today.

Further, the Commissions believe that the SEA has not examined and evaluated the tremendous burden the proposed mitigation would place upon the VRE operations on the Fredericksburg - Potomac Yard segment. With block signal systems, trains can follow safely as short as five minutes apart. To mandate a spacing of not less than 15 minutes would mean stretching by three times the length of the current interval. Where CSX and NS can now safely insert a freight train between commuter trains operating on 30 to 60 minute headways, they would be completely forestalled under the proposed mitigation condition from using their own tracks for hours during peak passenger periods. As that impact would prove to be an intolerable burden on CSX, the most likely outcome would be for CSX to cease its willingness to host VRE trains upon contract expiration or to achieve the same thing by failing to dispatch VRE trains reliably enough to encourage commuter rail ridership.

IV. An Adverse Impact On VRE Would Have An Adverse Impact On Air Quality

Northern Virginia is designated as a "serious" ozone area by the U.S. Environmental Protection Agency. Accordingly, the region must prepare air quality plans and spend millions of dollars to devise methods to reduce the ozone to acceptable levels. An emissions analysis performed by NVTC in 1994 showed that for each work day, reduced automobile traffic from VRE service results in 0.06 fewer tons of hydrocarbons, 0.42 fewer tons of carbon monoxide, 0.19 fewer tons of nitrogen oxide and 0.07 fewer tons of volatile organic compounds (the controlling pollutant in smog formation in the Washington, D.C. area). These amounts are net of the extra auto trips by VRE customers to and from VRE stations.¹¹ Thus, any adverse impact of the proposed Conrail acquisition on VRE would have an adverse impact on air quality in Northern Virginia.

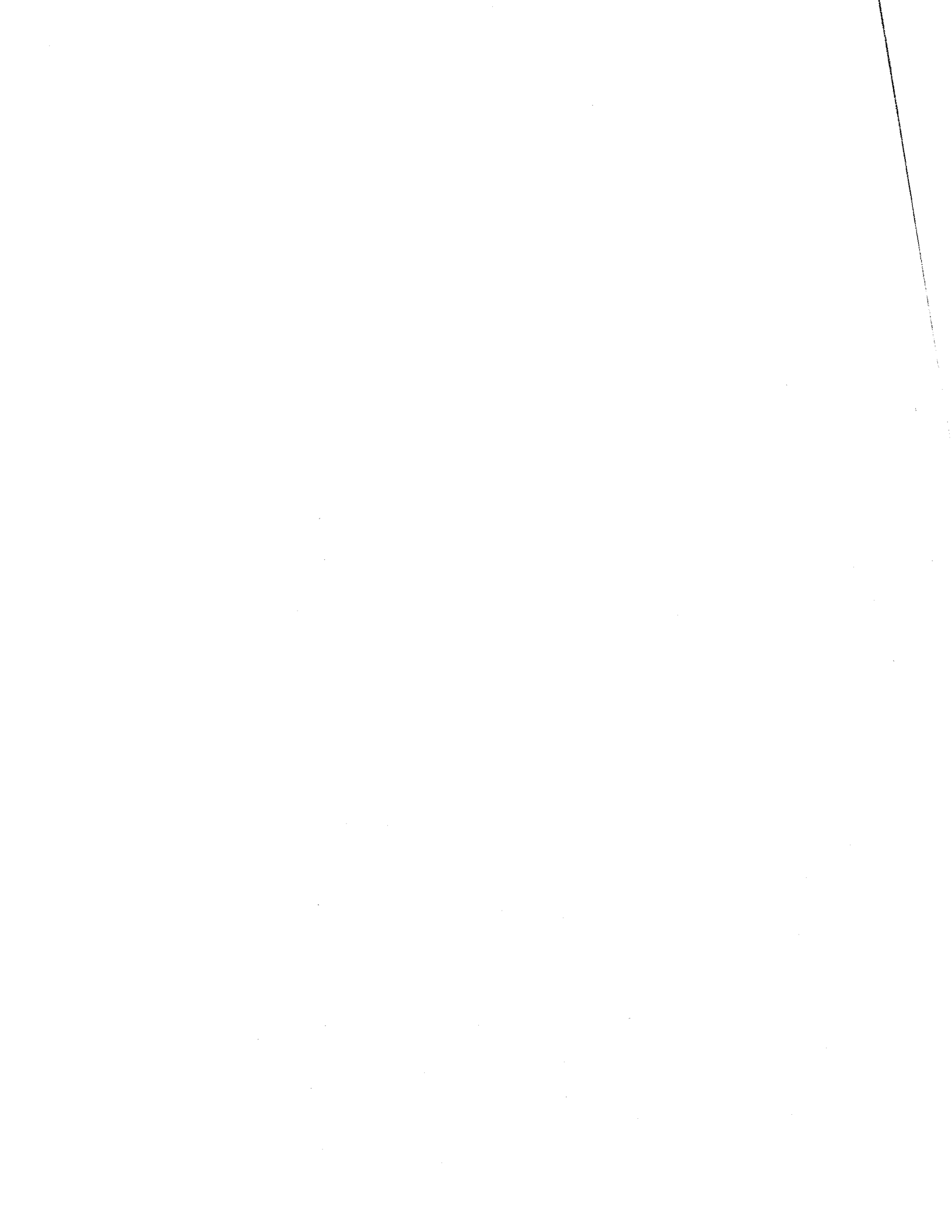
The Commissions appreciate this opportunity to submit comments on the DEIS. The Commissions are committed to working with SEA to provide further information regarding the foregoing comments and to consult with SEA regarding the impact of the proposed Conrail acquisition on VRE.

Respectfully submitted,

/s/
Richard K. Taube
Executive Director
Northern Virginia Transportation Commission

/s/
Stephen A. MacIsaac
Acting Executive Director
Potomac and Rappahannock Transportation
Commission

¹¹ Kathleen Benton. "Investment Analysis - Revised - Virginia Railway Express Versus Equivalent Highway Capacity", April 24, 1995, Northern Virginia Transportation Commission. See Exhibit B attached hereto.



**DEIS Verified Statement
of
Charles H. Banks**

I. Qualifications and Introduction

My name is Charles H. Banks. I am President of R.L. Banks & Associates, Inc. ("RLBA"), a firm of transportation economists and engineers, with offices at 1717 K Street, NW, Washington, DC 20006 and at 4 Britton Avenue, Belvedere, CA 94920. I have been RLBA's principal in charge of providing Commuter Rail Economic and Operations Consulting Services for the Virginia Railway Express ("VRE") since RLBA was awarded that competitively bid five-year service contract on June 26, 1995.

The co-owners of VRE, Northern Virginia Transportation Commission ("NVTC") and Potomac and Rappahannock Transportation Commission ("PRTC") (collectively, the "Commissions"), are today filing comments on the Draft Environmental Impact Statement ("DEIS") served by the Surface Transportation Board's Section of Environmental Analysis ("SEA"). The Commissions believe that the preliminary conclusion of the DEIS that the proposed Conrail acquisition will have no adverse impact on VRE operations is wrong. The Commissions believe that SEA needs to comprehensively re-examine this very important issue and develop conditions for inclusion in the Final Environmental Impact Statement ("FEIS") to mitigate the adverse impact of the proposed Conrail acquisition on VRE.

Applicants' Environmental Report (CSX/NS-23) contained very little information with which VRE could evaluate the impact of the proposed Conrail acquisition on VRE. Nothing filed by Applicants since the submission of their Environmental Report alleviates the Commissions' concerns. VRE filed Comments and Requests for Conditions in the so-called "economic" part of the proceeding that are directly related to the environmental considerations raised in its comments. On December 15, 1997, Applicants filed their rebuttal to, inter alia, the VRE Request for Conditions. In the rebuttal filing, Applicants side-stepped VRE's evidence (set forth in its Request for Conditions) of the harms from the proposed Conrail acquisition. The purpose of this verified statement is to point out the major flaws in Applicants' rebuttal.

A. The STB Needs to Look at the Entire Fredericksburg Line Over Which VRE Operates

To get an accurate picture of freight and passenger train operations on the Fredericksburg Line after consummation of the proposed Conrail acquisition, one must look at the entire line between Fredericksburg and Washington, D.C., not just one segment of it. The Commissions have done so, but the Applicants have not. The Applicants' approach is arbitrary and somewhat misleading.

In Applicants' Rebuttal, CSX/NS-176, Vol. 2A, Rebuttal Verified Statement of John W. Orrison ("Orrison RVS"), at P-606, Mr. Orrison claims:

Correct presentations of the string line charts show that there is no conflict between the proposed CSX train operations with respect to known VRE train operations.

However, in this, CSX's only attempt to quantify the impact of additional trains on the Fredericksburg Line, Mr. Orrison failed to prepare a string line chart of the entire

CSX/Conrail line between Fredericksburg and CP Virginia. He played it safe but coy by depicting only seven miles of largely triple-track territory, completely ignoring any string line depiction of the approximately 45.7 miles of largely double-track railroad over which VRE operates, not to mention a short single-track segment in the vicinity of the Quantico Bridge. In contrast, the analysis in my verified statement accompanying the Commissions' Request for Conditions (the "Banks VS") covered the entire rail line segment.

Had Mr. Orrison prepared a complete string line chart, it would have shown the exact opposite of what his analysis shows. At least six VRE and Amtrak trains will be delayed every weekday by proposed CSX freight trains. VRE clearly presented the data in my earlier verified statement at 7 and 8 and Attachment B thereto. I now have prepared two string line charts to analyze Mr. Orrison's contentions. One depicts scheduled trains from Fredericksburg to Washington on the eastward track while the second charts all scheduled Washington to Fredericksburg trains on the westward track. When Mr. Orrison's string line approach is extended to cover the entire CSX/Conrail line, not just triple-track territory, significant conflicts occur:

CSX [] will delay VRE#310 and Amtrak #86 every day (see Banks VS at 7);

CSX#[] will delay VRE#301 every day (see Banks VS at 8);

CSX#[] will delay VRE #306 every day (see Banks VS Attachment B);

CSX#[] will delay VRE#307 every day (see Banks VS at 8); and

CSX#[] will delay Amtrak#66 every day (see Banks VS at 8).

Even my analysis paints an optimistic picture because the string line charts were premised upon the simplifying assumption that all Fredericksburg to Washington trains could operate on a continuous eastward track while all trains in the opposite direction could operate on the westward track. It, therefore, did not even take into account the considerable impacts arising from the single-track segment at Quantico Creek through which all trains must be funneled in both directions, one at a time, causing additional delays to opposing trains.

Moreover, string line charts cannot possibly depict accurately the location of train meeting points given the variance at which CSX freight trains deviate from schedule each and every day. Banks VS at 10-11. String charts are merely a “best case” laboratory exercise. Even as deficient as the string line approach is in reflecting realistic and less than perfect operating conditions of real railroading, it predicts that the CSX operating plan will result in major conflicts to VRE trains.

In sum, even were CSX to achieve the kind of laboratory perfect conditions it has proffered, in which each freight train runs exactly on time, a string line chart of proposed existing passenger and proposed freight operations depicts daily delays to four of the twelve VRE passenger trains operating between Washington and Fredericksburg each weekday. VRE on-time performance on the Fredericksburg Line would plunge to 67 percent, absent any impacts which might arise from track, signal and other CSX delays.

B. CSX and the STB Cannot Assume That Planned Capacity/Flexibility-Enhancing Capital Improvements Will Be Made on the Fredericksburg Line

Both Mr. Orrison and Paul H. Reistrup, another witness for the Applicants, make much of CSX's efforts to increase capacity on the Fredericksburg Line. All of the cited improvements are at least partially funded by passenger train/public sector interests, primarily VRE and the Commonwealth of Virginia. (See Exhibit One hereto.) Public funding for capacity improvements will not happen if VRE service will not benefit from the improvements. As proposed, the Conrail acquisition will have serious adverse effects on VRE operations and it is therefore unlikely that the capital improvements touted by Applicants would benefit VRE sufficiently to justify public expenditures. Thus, SEA should not assume, as Applicants have, that public money will be available. Absent a commitment by CSX to fund the capital improvements itself, SEA should not assume the capital improvements will be made.

Mr. Reistrup states:

One should also take into account the effect of the recent improvements to the line, some funded by CSX and some funded by VRE, and the additional improvements planned for the line.

CSX has completed several capital improvement projects on portions of the Fredericksburg line and is continuing to improve the remaining portions. These projects, funded entirely by CSX, include: 1) replacing rail and ties, 2) improving the ballast shoulder, 3) upgrading signal relays to modern microprocessors; and 4) installing CTC modern dispatch bi-directional signaling.

* * *

One important improvement CSX has planned and will fund is the clearance and track upgrade of the Virginia Avenue Tunnel in the District of Columbia. The tunnel project will permit track speed to increase from the present 10 mph to 25 mph or more, allowing freight trains to travel much more quickly over the line segments used by VRE.

Applicants' Rebuttal, CSX/NS-176, Vol. 2B, Rebuttal Verified Statement of Paul H. Reistrup ("Reistrup RVS"), at P-248-49.

Mr. Orrison adds:

Nonetheless, CSX continues to advance its efforts to improve VRE's on-time performance. One means by which CSX seeks to increase service levels is by improving capacity and service over the Atlantic Coast Service Route, over segments of which VRE operates. Improving the track will move traffic over this line more quickly and create greater capacity for freight and passenger trains. An example of CSX's commitment to improve track and train operational capacity is the plan to modify the Virginia Avenue Tunnel and more than double the track speed in the tunnel area (from 10 mph to 25 mph or more) to improve train meets in Washington, D.C.

Orrison RVS at P-611.

The Commissions have made significant improvements to the Fredericksburg Line, using public monies to improve VRE service. The Commissions plan to make additional significant improvements, again using public funds, provided that the improvements enhance VRE service. If the planned improvements would not help VRE service, or if, in the alternative, no VRE service survives to be supported, no public expenditures will be made to improve the utility of CSX freight trackage. Thus, 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.

It is certainly questionable whether the so-called CSX improvements to the Fredericksburg Line relied upon so heavily by Mr. Reistrup can properly be categorized as "capital improvements". I would characterize them instead as maintenance of way expenditures, an operating expense. They merely restore the line to repair normal or

accidental wear and tear on the property. They do not add capacity or functionality to the corridor. Ties wear out; even welded rail eventually must be replaced; ballast shoulders must be restored to prevent track buckling. The signal relays at Rosslyn which Mr. Reistrup cites are nothing more than replacements of in-place infrastructure which was destroyed in last summer's major freight train derailment which also damaged VRE service and decimated VRE ridership. The modern signaling system to which Mr. Reistrup avers can hardly be accepted on its face as an "improvement," since a CTC installation with cab signals has been installed on this line segment for many years. In short, none of the improvements cited by Mr. Reistrup added capacity to the line in preparation for the coming onslaught of new rail freight traffic.

Conrail's depository timetable shows a maximum authorized speed through the tunnel of [] mph. VRE marvels that the only example CSX can muster of how it will improve the Fredericksburg Line to accommodate significantly increased freight traffic is to raise a temporary speed restriction to less than the authorized speed in Conrail's depository timetable. The freight train speed through the tunnel has been 30 mph or faster for decades. It seems strange to temporarily lower a speed, then be given credit by SEA for increasing it to less than historical levels.

Likewise, the benefit to VRE seems speculative. While the Virginia Avenue Tunnel project may represent a significant clearance improvement for CSX, the only benefit VRE may realize is the extent to which partially restoring freight train operating speeds can help CSX hide its dispatching errors when freight trains are advanced ahead of passenger trains with inadequate time to clear the main track. If an eastbound CSX freight

cannot clear CP Virginia ahead of a passenger train, it should be held at the Potomac River. Similarly, if a slow westbound freight train would delay a passenger train, it should be held at CP Virginia to follow the passenger train. Even at the proposed increased, but less than timetable, speed of [] mph within the tunnel, it is less than the allowable passenger train speed of [] mph across the Potomac River and [] mph between the Potomac River and CP Virginia (except [] mph on two curves).¹ If CSX operates an eastbound freight train immediately ahead of a passenger train it will likely delay that [] mph train.

Applicants do not offer one capital improvement paid for absent government funding which will improve line segment throughput capacity. Since, for the reasons stated previously, SEA cannot properly assume that capacity improvements will be made with public funds, SEA cannot point to any planned capital improvement that will enhance capacity and offset the impact of the proposed Conrail acquisition on VRE passenger service.

C. Freight Trains Consume More Capacity Than Passenger Trains

The Applicants would like any STB analysis of freight and passenger train activity to be based on the premise that VRE trains consume more capacity than freight trains and therefore disproportionately constrain the Fredericksburg Line. In fact, the opposite is true. At P-245, Mr. Reistrup states:

First, VRE erroneously assumes that capacity on the line is constrained by freight traffic, when in fact it is constrained by passenger traffic. An additional freight train does not "consume" the same amount of capacity as an additional passenger train. The RF&P line from Fredericksburg to Alexandria is double-track (except for the bridge at Quantico) with CTC bi-directional signaling. There would be no

¹ NS-21-CO-01257

question that this line would have more than adequate capacity if all the trains expected to operate over the line post-Transaction were freight trains.

“Capacity” is the problem, but contrary to Mr. Reistrup’s contention, a single freight train consumes more capacity than does a single passenger train. Freight trains change speeds more gradually than passenger trains and cannot be operated as frequently as passenger trains on a line with the characteristics of the Fredericksburg Line. Passenger trains can accelerate and decelerate more quickly, which means they can more quickly reach high speeds on segments permitting such speeds and maintain those high speeds for longer periods before there is a need for a brake application to operate over a lower speed segment or stop at a station. Thus, on the Fredericksburg Line, as shown in Table 1, the average speeds achieved by CSX trains operating in both directions between Alexandria and Richmond were [] miles per hour for intermodal trains and [] miles per hour for other freight trains, each considerably slower than the 54 and 44 mile per hour averages achieved by Amtrak and VRE trains, respectively between Alexandria and either Richmond or Fredericksburg.

Table 1: Average Train Speeds of Different Train Types Between Alexandria and Points South

Train Type	Endpoints	Miles	Average Elapsed Time (Hours)	Average Speed (Miles Per Hour)
Amtrak	Alexandria and Richmond	100	1.9	54
VRE	Alexandria and Fredericksburg	46	1.1	44
CSX Intermodal	Alexandria (Potomac Yard) and Richmond (Greendale)	101	[]	[]
CSX Other Freight	Alexandria (Potomac Yard) and Richmond (Greendale)	101	[]	[]
CSX Other Freight	Alexandria (Potomac Yard) and Richmond (Acca Yard)	102.6	[]	[]

Sources: CSX Train Operations Train Inquiry 9/18/97 – 10/17/97; RLBA calculations.

Another way of determining whether and to what extent there is congestion on the Fredericksburg Line is to examine the elapsed time between Alexandria and Richmond recorded by CSX Intermodal and other (general) freight trains. If there is no capacity problem on the Fredericksburg Line other than that posed by VRE operations, as CSX claims, then one would expect CSX trains to operate more quickly when VRE trains do not operate. The fact that VRE trains do not operate on the weekends provides an ideal control case for evaluation. The results of analyses drawn from CSX actual data are summarized in Table 2. It shows that CSX freight trains operate no faster on the weekend when VRE does not operate any trains than they do during the week. Congestion is such a constant that CSX trains are no better off in the absence of VRE operations than with them.

**Table 2: CSX Freight Trains
Average Elapsed Travel Times
Weekday Vs. Weekend Average Travel**

Train Type	Endpoints	Weekday	Weekend
CSX Intermodal	Between Alexandria (Potomac Yd.) and Richmond (Greendale)	[] hrs	[] hrs
CSX Freight	Between Alexandria (Potomac Yd.) and Richmond (Greendale)	[] hrs	[] hrs
CSX Freight	Between Alexandria (Potomac Yd.) and Richmond (Acca Yd.)	[] hrs	[] hrs

Sources: CSX Train Operations Train Inquiry 9/18/97 – 10/17/97; RLBA calculations.

Likewise, one would expect that CSX trains would be subject to fewer delays when VRE was not active on the Fredericksburg Line than when it was. However, this is not the case. As shown in Tables 3 and 4, respectively, whether one includes both early

and late freight trains or just the late CSX freight trains, the average variance from schedule and hours of delay are no worse during the days when VRE operates than when it does not.

**Table 3: Average Variance from Schedule
All CSX Trains**

Period	Sample Number of Trains	Trains per day	Average Variance
Daily (7 days)	[]	[]	[] hours
Weekends Only	[]	[]	[] hrs

Sources: CSX Train Operations Train Inquiry 9/18/97–10/17/97; RLBA calculations.

It can be seen in Table 3 that the same number of CSX trains operate on weekends as operate during the week, and yet on weekends, when freed from VRE train interference, the CSX trains still do not run on schedule. In fact, variance from schedule is slightly worse on weekends when VRE trains do not operate.

Table 4: Average Hours of Delay - All CSX Trains

Period	Sample Number of Trains	Trains per day	Average Variance
Daily (7 days)	[]	[]	[] hrs
Weekends Only	[]	[]	[] hrs

Sources: CSX Train Operations Train Inquiry 9/18/97 – 10/17/97; RLBA calculations.

Further, the values in both preceding tables demonstrate that CSX freight trains are not able adhere to a schedule on weekends, which suggests that there are significant capacity problems even in the absence of VRE trains and track occupancy.

No matter how one looks at the data, there is no factual basis that supports a finding that VRE passenger trains in general take longer than freight trains to traverse the

Fredericksburg Line and that VRE trains are contributing significantly to the congestion problem.

Verification

I, Charles H. Banks, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Further, I certify that I am qualified and authorized to file this Verified Statement.

/s/

Charles H. Banks
President - R.L. Banks &
Associates, Inc.

Dated: February 2, 1998

Exhibit One

**VRE FUNDED
PLANNED CAPITAL IMPROVEMENT PROJECTS**
CSXT - RF&P Subdivision

Date	Project	Description	VRE Cost	Status
1998	Quantico Bridge	Design and construct 2 nd bridge over Quantico Creek to accommodate two additional main tracks. \$1,000,000 design contract in progress (VRE)	\$13,000,000 cost sharing TBD	design in progress
1998	Consolidation and upgrade of SY and AF interlockings	Elimination of SY and reconstruction of AF interlocking from current 20 mph diverging moves to 45 mph. Critical to Conrail sale as CSXT and NS converge here with 20% freight train increase	VRE share TBD \$3,500,000	in design
1998	dual control electric switch machines	Convert all air switch machines to dual control electric - NAX, NPP, FB, HA	N/A	contract pending
1999	Lorton Auto Train	Construct lead and interlocking to allow Amtrak's Auto Train to be assembled clear of the main track, thus increasing main capacity.	\$2,000,000	In design
1999	Aquia Crossovers	Construction of new high-speed universal crossovers at mp 71 to enhance train movement flexibility. 18 mile block reduced to a 10 and 8 mile block.	VRE share TBD \$1,500,000	in design
1999	SRO to RO - NAX to AF	Construct 3 rd main track SRO to RO (1 mi) with #20 connections Rehabilitate 3 rd main track NAX to AF (1 mi) Completes AF to RO project	\$3,000,000	concept

B



Northern Virginia Transportation Commission

EXHIBIT B

4350 N. Fairfax Drive • Suite 720 • Arlington, Virginia 22203
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— INVESTMENT ANALYSIS —
— REVISED —

VIRGINIA RAILWAY EXPRESS
VERSUS EQUIVALENT
HIGHWAY CAPACITY

Kathleen Benton

Northern Virginia Transportation Commission

April 24, 1995

A-604-c

This analysis compares the cost of constructing and operating the Virginia Railway Express, a commuter railroad in Northern Virginia, to the cost of constructing an equivalent lane of Interstate highway in the I-66 and I-95 corridors in which VRE operates, and operating enough automobiles in those lanes to serve the same number of peak period commuters as are projected to use VRE during Fiscal Year 1996. The analysis demonstrates that at present levels of operation, between 1992 (VRE's start-up year) and 2012, VRE will cost \$264 million less to build, maintain, and operate than would the lanes of Interstate. While VRE is not a substitute for all highway construction and cannot solve all of the region's commuting problems, the railway was and continues to be a very sound investment decision by the citizens of Northern Virginia.

The Virginia Railway Express (VRE) began commuter rail operations in June, 1992. Ridership has grown steadily, reaching an average daily level of about 8,000 passenger trips. The two commissions sponsoring VRE (Northern Virginia Transportation Commission and Potomac & Rappahannock Transportation Commission) have purchased locomotives, railcars, fuel and insurance; contracted with Amtrak for maintenance and crews; built facilities; and leased access to tracks from three freight railroads and Amtrak. In addition, the Virginia Department of Transportation has built parking lots and participating local governments have constructed several stations. Operating and capital costs of the project are currently financed jointly by customer fares, six participating and two contributing jurisdictions, and state aid. As of Fiscal Year 1995, federal funding is also available for capital projects.

Estimated total construction, capital, and operating costs for the VRE project were approximately \$150 million through FY 1994. The approved operating and capital budget for FY 1996 is about \$27.3 million. To what extent are expenditures of such magnitude justified in an era of scarce public resources?

The VRE project has delivered significant benefits, including removing the equivalent of a rush-hour lane of low-occupant vehicles from the crowded I-66 and I-95 corridors of Northern Virginia (see page 3). Customers rate the quality of service as excellent, and ridership is growing despite two four-percent fare increases and an overall fare level that exceeds the average cost of parking automobiles in core employment locations.

Compared to other commuter rail systems in the United States and Canada, VRE provides exceptional service at an operating cost below the national average on a per passenger mile basis, while recovering a greater percentage of those costs from customers, as demonstrated below, using the most recent federal and VRE data available:

Federal Transit Administration Section 15 Data	Operating Cost Per Pass. Mile	Fare Per Pass. Mile	Recovery Ratio (Fares/Op. Cost)	Average Trip Length	Pass. Miles Per Vehicle Mile
National Avg., FY 93	\$.30	\$.14	.48	22 miles	32
VRE, FY 1994	\$.24	\$.13	.55	32 miles	60

Also, a significant part of VRE's initial \$150 million cost has been invested in assets that, with appropriate maintenance, will continue to yield benefits for 20 years or longer. These assets include railcars, locomotives, and a self insurance trust. The fact that many of these assets can be readily liquidated has served to minimize the initial risk to Virginia taxpayers. For example, as of June 30, 1994, the insurance fund contained \$20.8 million in liquid assets.

Despite the current success of VRE and its potential to expand rapidly to serve future needs, the project should be evaluated in comparison to competing alternatives. In an environment in which severe traffic congestion restricts peak period commuting, buses, carpools, vanpools, and low occupancy vehicles all rely on the existence of sufficient highway capacity. Consequently, VRE's costs should be compared to the equivalent costs of building and maintaining new highways to serve peak hour commuters as well as the costs of operating competing transportation modes on those highways during peak periods.

The following analysis compares the costs of moving passengers along these corridors on VRE to the costs of its principal competitor, the private automobile. Costs are grouped into four primary categories to assure comparability: 1) initial capital investments, 2) maintenance and administration, 3) the cost of providing the transportation itself, and 4) air quality considerations. Detailed information regarding assumptions, sources, and calculations is provided in the attached worksheets.

- 1) Initial capital investments: \$86.5 million (VRE) v. \$338 million (Interstate)

The initial costs of establishing the fixed facilities of the VRE system were \$66.1 million. This includes the costs of constructing parking lots and stations, upgrading track and signals, and building yards and maintenance facilities. The costs of purchasing VRE railcars and locomotives are accounted for in category 3 below. In addition, VRE has provided \$20.7 million to the Commonwealth's Division of Risk Management to establish a self-insurance trust. This investment yields interest which is used to pay the premiums for additional private insurance.

To cover an equivalent distance with interstate highway in Northern Virginia, the respective costs are about \$4.4 million per lane-mile in the inner suburbs and Prince William County and \$2.7 million per lane-mile in the Stafford County area. These estimates are taken from comparable construction projects in the approved Virginia Fiscal Year 94-95 Six-Year Improvement Program, and include the costs of some engineering as well as construction. While some highway construction costs might be lower (e.g. paving existing shoulders to create an additional lane,) it should also be noted that the figures only reflect costs to construct lanes up to the Virginia bank of the Potomac River, and not on the bridges crossing the Potomac or in the District of Columbia. District of Columbia staff has indicated that the cost of such construction in the District would be so prohibitively expensive that they could not provide an estimated cost. Furthermore, this figure does not include right-of-way, which in some congested areas of the corridor would be very expensive.

Highway costs also do not reflect the significant level of investment in insurance reserves necessary for VRE, because the liability of the Commonwealth is capped by state statute. Thus, while motorists are provided with some protection through privately obtained insurance, the state does not have to insure itself against lawsuits. Sponsors of VRE chose to change state statutes to waive the \$25,000 cap in order to provide explicit protection to VRE customers. Insurance has been provided in order to indemnify the railroads and protect customers for an annual aggregate of up to \$200 million in damages.

Determining the theoretical maximum capacity of the VRE facilities versus the highway is problematic. VRE capacity is constrained in the short term by available parking, freight train competition for track time, and available rolling stock. Nonetheless, under current conditions VRE can move about 3,700 people per hour during rush hours (five trains of seven cars on each line with a capacity of 106 people per car). A highway lane could carry about 2,300 people per hour at equivalent speeds assuming the current regional average of 1.14 persons per car, and in fact, this number is nearly exactly that found by inbound traffic counts on I-395 just before the 14th Street Bridge during the peak morning hour. Of course, if auto occupancies were assumed to be greater (for instance, if more lanes were reserved for high occupancy vehicles) the assumed capacity of the highway lane would be correspondingly increased. Similarly, assuming more railcars, more frequent trains, or other VRE improvements not presently available would boost the capacity of the VRE alternative in this analysis.

Both highway and the rail corridors also perform functions other than carrying commuter traffic. For instance, both the tracks used by VRE and the highways used by passenger vehicles carry freight and can provide defense capabilities in a national emergency. These non-commuting benefits, however, are not within the scope of this analysis, since the underlying assumption of the analysis is that the region is contemplating an investment to relieve rush hour congestion in two mainline corridors in order to move commuters more effectively. Existing highway and rail capacity is

already available for freight and national defense needs and for off-peak transportation.

VRE total initial investment costs are \$86.5 million, compared to highway costs of \$338 million. Of course, while these two investments accomplish the same purpose – laying down the facilities upon which vehicles can move – it should be remembered that they do have dissimilar characteristics. VRE capacity is available for trips in both directions, but permission of the railroads is required to expand the frequency of service. Once an agreement is reached, capacity could be increased significantly at relatively little marginal cost. A single lane of highway would have to be reversible to provide the same two-way capacity enjoyed by VRE. Furthermore, while an interstate lane can also accommodate vehicles during off-peak hours, once it is filled to capacity during rush hours, the only way to accommodate more vehicles is to construct yet another lane, requiring at least another \$338 million capital investment. During peak hours, the tracks used by VRE are not at maximum capacity, and can accommodate an increase in of VRE patronage.

VRE	System	\$66,134,806
	Insurance Trust Fund	<u>20,368,000</u>
		\$86,502,806
Interstate	68 miles @ \$4.4 million/mile (Inner Jurisdictions)	\$300,000,000
	14 miles @ \$2.7 million/mile (Stafford County)	37,800,000
		<u>\$337,800,000</u>

2) Maintenance and Administration: \$14.1 million annually (VRE) v. \$2.9 million annually (Interstate - partial costing)

Based on the level of service provided in the Fiscal Year 1996 budget, the annual cost of maintaining and administering VRE will be just over \$14 million. This figure covers payments to the freight railroads for use of the tracks, improvements to those tracks, operation of the fare vending systems, marketing costs, maintenance and refurbishment of the stations and parking lots, and other general overhead. Corresponding interstate highway maintenance costs are budgeted at \$41,000 per lane mile, or \$3.4 million for the equivalent distance. Overhead costs of administration by VDOT and local authorities as well as costs of police protection are omitted, as are the costs of maintaining the bridges across the Potomac River and highways in the District of Columbia. Conversely, the costs of customer security and system maintenance are fully included within VRE's budget.

VRE	System Costs (Tracks extending from outlying stations to Union Station)	\$13,990,473 Per Year
	Costs to jurisdictions of maintaining stations & lots	<u>139,628</u> Per Year
		\$14,130,101
Interstate	82 miles @ \$41,000/mile	\$3,362,000 Per Year
	VDOT expenditures:	
	Overhead	N/D
	Legal expenses & settlements	N/D
	Cost of Maintaining Bridges over Potomac	N/D
	Police expenditures: Highway Patrol	N/D

N/D = Not Determined

3) Costs of Providing Transportation: \$.22 (VRE) v. \$.30 (Interstate) Per Passenger Mile

A portion of VRE's mission is to operate safe and reliable transportation on the facilities it built, leases, and maintains. To acquire rolling stock, pay crews and buy fuel to accomplish this costs about 22 cents per passenger mile at projected ridership levels. As passenger loads grow, this per-passenger-mile cost will decrease.

The Federal Highway Administration has calculated that the average cost to the public to acquire private compact automobiles and operate them along the same corridor is 26 cents per mile. This analysis also takes into account the cost of parking those cars once they arrive at their destination – whether that is a rural parking lot or one in the urban core. Neither the VRE nor the vehicular numbers reflect "user fees," or charges to the passenger which are directed back into the system being utilized. For instance, VRE fares, which are used to cover costs already accounted for in this analysis, are not included here. Similarly, fuel taxes and registration fees, which are traditionally dedicated to highway systems, have been deducted from the federal estimates of operating costs for an automobile.

Independently performed ridership estimations project an FY 96 ridership of 8,672 daily trips. Assuming that these trips average 35 miles one-way (reflecting VRE's current use versus the 32 miles shown in the table for Fiscal Year 1994 on page two), VRE costs in this category total about \$15.95 million for FY 1996. (The \$15.95 million is greater than VRE's Fiscal Year 1996 operating budget would indicate, because it includes the annual debt service for rolling stock, a figure generally considered to be

a capital budget item, but included in this section for comparability to auto costs.) The same number and length of trips by low-occupant automobiles would cost approximately \$22.4 million annually. This is based on the cost of those vehicles driving an average of 35 miles each way along the Interstate; neither analysis calculates the cost of accessing either the VRE station or the highway.

The cost of parking has been added to each mode based on an estimate of the value of the space used by those automobiles. Thus, due to higher land values, the estimated "cost" of parking in the urban core is significantly higher than that of leaving one's automobile at an outlying station. Most VRE commuters, and many of those who drive into the urban core, do not actually pay for parking, but the opportunity cost of the space their car uses is paid by someone, be it the local jurisdictions (in the case of the VRE parking lots), employers, or the public in general, as cars parked on the street take up room that could be used for other purposes, such as buildings, sidewalks, or parks. For the purposes of this calculation, the number of spaces used in each case was assumed to be 3,803: the number of passengers divided by the regional average auto occupancy rate.

VRE	Acquiring and operating rolling stock	\$15,951,617 Annually
	$\$15,951,617 / (8,672 \text{ passenger trips} \times 35 \text{ miles} \times 250 \text{ working days}) = .17$	
	Per Passenger Mile	
	Parking (\$.61/space)	<u>580,110</u> Annually
		\$16,531,727 Annually
Interstate	Acquiring and operating private automobiles	
	\$.26/Passenger Mile x 8,672 passenger trips	
	x 35 miles x 250 working days =	\$17,303,650 Annually
	Parking (\$5.40/space)	<u>5,134,737</u> Annually
		\$22,438,387 Annually

4) Air Quality Considerations: \$276,000 (VRE) v. \$4.4 million (Interstate) Annually

Based on current levels of service, VRE trains annually emit 1.8 tons of hydrocarbons, 1.3 tons of carbon monoxide, and 1.9 tons of oxides of nitrogen. However, if current VRE riders were to use the interstate instead, they would add about 22.3 tons of HC, 147.6 tons of CO and 40.6 tons of Nox to the region's air each year. These figures demonstrate the *difference* between commuters starting their cars and driving to work and those same commuters starting their cars, driving to the train station, and finishing their commute on the train.

Because Northern Virginia is in a "serious" non-attainment area with regards to federal air quality standards, transportation-related measures must be employed to reduce air pollution levels. In upcoming years, the region will be required to meet ever stricter standards, and the marginal cost of actions to reduce emissions can be expected to rise. In the event that the region does not meet its required targets, federal transportation monies may be withheld.

Currently, the average cost of eliminating a ton of hydrocarbon emissions through Transportation Control Measures either adopted or considered by the Metropolitan Washington Transportation Planning Board is estimated to be \$98,000. The average cost of eliminating a ton of oxides of nitrogen, the other pollutant for which the region must meet a federal emissions budget, is estimated at \$56,000. Consequently, the cost of mitigating VRE's air emissions would be approximately \$276,000, as opposed to a cost of \$4.4 million to mitigate those emissions generated if VRE riders drove on the interstate instead. Thus, VRE can be seen to be saving the region approximately \$4.1 million annually in air quality investments.

5) The Bottom Line: Net Present Valuation of Cost over Twenty Years at \$417 million (VRE) v. \$681 million (Interstate)

Considering the above cost comparisons, Northern Virginia's choice of VRE over the equivalent peak period capacity of a new highway lane in the congested I-95 and I-66 corridors makes sound economic sense. VRE is nearly four times less expensive for initial start-up expenses, if insurance costs are assumed to be comparable. While on an annual basis, VRE may cost more to maintain and administer than the hypothetical new highway lane, the actual provision of peak-period transportation using VRE is less costly than using the private automobile, and VRE is a big winner in air pollution savings.

Commuter rail also presents the public, both those using and those in the vicinity of the various modes of transportation, with fewer risks of injury. While fatality rates for commuter rail are only slightly lower than those on highway systems (.08 fatalities

per ten million passenger miles traveled v. .11 on the highways) non-fatal injury rates on highway systems are more than three times as high as those on commuter rail systems - 9.76 injuries per 10 million passenger miles traveled versus 2.9 injuries to passengers for the same amount of travel on commuter rail.

Looking to the future, peak capacity can be added to VRE at a considerably lower marginal cost than that at which it can be added to the Interstate system. Adding two lanes of peak period capacity to the Interstate highway would cost at least \$676 million (twice the \$338 million required for one lane). Of course, the acquisition of right-of-way would become more expensive and difficult with each additional lane. This escalation in costs due to acquisition of right-of-way is easily demonstrated by the I-395 corridor in Arlington, where there is very little room for the highway to expand without causing great disruption to the surrounding communities.

This disparity in the marginal costs of increased capacity would remain even if the existing railroad tracks were to become so congested as to require construction of an additional track. While clearly this would drive up the cost of the initial capital investment in VRE, the cost of building track in this region is currently estimated at \$2 million per mile, still less than the estimated cost of most of the highway construction in this analysis. The marginal costs of extending service on VRE or extending the extra lane on the Interstate would also vary greatly; while both the capital and the maintenance figures for the Interstate are based on a per mile number, and thus increase as the length of the road increases, the administrative costs to VRE would only increase slightly, resulting in an overall decrease in the cost per mile of service.

Of course, VRE cannot completely replace the private automobile. Many people cannot conveniently access a station, work somewhere other than along the mainline corridor, or must travel at times other than peak periods. Having a highway system that is safe and reasonably free of congestion is essential to accommodate those persons' travel needs. But many commuters can be effectively served by VRE. If the removal of those commuters from the highways eliminates the need to expand highway capacity, then the cost of that rail alternative versus the cost of expanded roadways provides an economic measure of the public investment value of the alternatives.

In this analysis, considering the stream of relative costs over an assumed 20 year investment horizon, with no assumed salvage value and a discount rate of seven percent (a conservative estimate of the federal cost of borrowing funds for twenty years,) the net present value of VRE savings relative to the new peak period highway capacity and associated automobile costs is an astonishing \$263.6 million. Assumptions, sources, and calculations underlying this analysis are contained in the following worksheets.

1st Comparison -- VRE vs. Additional Lane of Interstate April 24, 1995

This analysis compares the start-up and operating costs of VRE to the costs of adding one lane of interstate from Manassas (Rte. 234) and Fredericksburg, Va. to the Potomac River to serve peak period commuters. The analysis assumes FY 96 projected levels of VRE ridership and congested Interstate highways in the two corridors.

Sources and Calculations

1) Initial Capital Investment: \$86.5 million (VRE) v. \$337 million (I/S)

Cost of putting the stationary system in place (planning, engineering, laying pavement, building stations, etc.)

1) A	VRE	System	\$66,134,806
		Insurance Trust Fund	<u>20,368,000</u>
			\$86,502,806
	Stations & Parking	18,617,000	
	Yards	8,169,000	
	Inventory	1,338,000	
	Cash Available	1,905,000	
	Debt Service Reserves	13,962,806	
	Jur'l. Stations & Parking	<u>22,143,000</u>	
		66,134,806	

State liability is legally limited: thus highway systems are not required to be insured as are rail systems.

1) B	Interstate	68 miles @ \$4.4 million/mile =	\$299,200,000
		14 miles @ \$2.7 million/mile =	<u>\$37,800,000</u>
			\$337,000,000

Cost in Stafford County (14 miles) based on average figure for outer jurisdictions. VDOT Office of Transportation Planning

Cost in other jurisdictions (68 miles) based on average of cost per lane mile of Northern Virginia Interstate construction projects listed in the Virginia Commonwealth Transportation Board FY 94-95 Six Year Improvement Program. Costs do not include rights-of way, and would most likely be higher due to extreme difficulties in acquiring Rights of Way in certain portions of the corridors.

3) Cost of Providing Transportation (Per Passenger Mile): \$0.22 (VRE) v. \$0.30 (I/S)

Cost of moving people along the corridor, either in rail cars or automobiles, and maintaining vehicles.

A VRE Cost of acquiring and operating rolling stock

		FY 96
Operating Budget		11,073,315
CIP		250,000
Locomotive Lease		320,000
Debt Service		4,308,302
		15,951,617
Annual cost	Rolling Stock:	15,951,617
Parking Costs	(\$0.61/day/car)	\$580,110 Per Year
Annual Total		\$16,531,727

Average Daily Ridership (Projected):	4,336
Average Trip Length	35
Working Days in Year:	250
Average Rolling Stock Cost per Passenger Mile:	0.22

3)B Interstate Cost of acquiring, operating, and parking automobile 0.30 Per Passenger Mile

Travelling	17,303,650
Parking	5,134,737
Total	\$22,438,387

Cost of acquiring and operating automobile	0.26 Per Mile
Average Number of Cars:	3,803
Average Trip Length	35
Working Days in Year:	250
Average Annual Total Costs:	\$17,303,650

Cost to owner of operating vehicle based on calculations by FHWA, 1991 (Pub. #FHWA-PL-92-019)
 Figure includes depreciation, insurance, maintenance, and fuel.
 Does not include taxes or registration fees (regarded as transfer, as are VRE fares).

Parking Costs	(\$0.40/day/car)	\$5,134,737 Per Year
---------------	------------------	----------------------

$$\frac{4336 \text{ Passengers}}{1.14 \text{ (avg. vehicle occupancy)}} = 3,804 \text{ vehicles not travelling to core daily}$$

Average parking cost based on April, 1995 survey of parking garages; \$0.40/day is proportional average of monthly parking fees in the analysis zones of the four inner VRE stations, prorated to determine daily rate. Rates in the area of particular stations are listed below:

King Street: \$4.00	L'Enfant Plaza: \$7.00
Crystal City: \$3.60	Union Station: \$5.60

April 24, 1995

4) Emissions Factors: \$276,000 (VRE) v. \$4.4 million (US)

4)A	VRE	HC/VOC Costs:	\$172,085			
		NOx Costs:	\$104,273			
		Annual Costs:	\$276,357			
	HC/VOC:	Cost/Ton	\$98,334	NOx:	Cost/Ton	\$55,612
		Tons/year	1.75		Tons/year	1.875
			\$172,085			\$104,273

8 trains x 38 miles + 12 trains x 58 miles = 1000 miles

Pollutant	Emissions Factor (g/mi)	Mileage	Working Days	Kilograms Per Year	Tons Per Year
HC	30.8	1000	250	7700	1.75
CO	22	1000	250	5500	1.25
NOx	33	1000	250	8250	1.875

4)B	Interstate	HC/VOC Costs:	\$2,192,848			
		NOx Costs:	\$2,255,067			
		Annual Costs:	\$4,447,915			
	HC/VOC:	Cost/Ton	\$98,334	NOx:	Cost/Ton	\$55,612
		Tons/year	22.3		Tons/year	40.55
			\$2,192,848			\$2,255,067

Interstate emissions calculations detailed on attached page.

Estimate is of emissions from cars projected to be removed from highways due to VRE. Increased capacity would also increase demand, and therefore emissions, as commuters switched from buses, etc. to low-occupant vehicles.

Emissions due to trips to stations have been subtracted from Interstate emissions. (Figures take into account cold starts, VMT, and hot soaks, and account for emissions generated by trips to stations.)

The cost of emissions mitigation projects is based on Metropolitan Washington Transportation Planning Board staff estimates of the costs and benefits of Transportation Control Measures that have been included in the metropolitan Washington FY 95-00 Transportation Improvement Program (TIP) or that are being considered for inclusion in the FY 96-01 TIP.

5) The Bottom Line

- 5) A VRE Commuter rail data from FY 1992 Section 15 data, published by Federal Transit Administration, Office of Technical Assistance and Safety
- 5) B Interstate Safety data published in Table FI-1 of "Highway Statistics", 1992, published by the Federal Highway Administration, U.S. DOT.

April 24, 1995

Auto Emissions Saved - Base Ridership

FY 96 - Projected

All Factors are daily

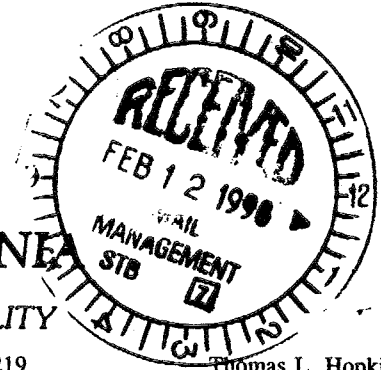
Ridership figures projected for FY 96 (total only, projections not yet done by station)

Station	(1) VMT to and From Core Eliminated	(2) Emissions Factor (15 mph)	(3) VMT to and from Station	(4) Emissions Factor (20 mph)	(5) VMT Eliminated	(6) Emissions Factor for Cold Starts	(7) Emissions Factor for Hot Starts	(8) Trips to and from Stations	(9) Emissions Factor for Hot Starts	Kilograms Eliminated Per Day	Tons Eliminated Per Day
Hydrocarbons	204,110	0.436	23,931	0.808	913	2,330	1,879	4,803	1.879	80,903	0.0892
Carbon Monoxide	204,110	3.434	23,931	7.104	913	20,891	0.000	4,803	0.000	535,678	0.5905
Nitrogen Oxide	204,110	0.842	23,931	1.011	913	1,691	0.000	4,803	0.000	147,172	0.1622
TOTALS	2,860	4.716	23,931	8.919	913	22,582	1,879	9,606	1.879	1,483,753	1.6219

Station	Estimated Riders	Miles to and From Core	Total Daily Pass. Miles	% Elim.	VMT Eliminated	Miles to and From Station	VMT to and from Station	Added Trips to and from Stations	Percent not Drifting to Stations	Trips Eliminated From Added	Actual Added Trips To and From Stations
Dround Run/Airport	150	74	11,080	1	11,080	1	998	299	0.16	48	212
Manassas	324	70	22,659	1	22,659	8	2,158	647	0.16	104	544
Manassas Park	170	64	10,898	1	10,898	8	2,135	341	0.16	54	286
Purfe Centre	216	47	12,971	1	12,971	8	1,840	552	0.16	88	464
Rolling Road	168	39	6,555	1	6,555	1	1,121	336	0.16	17	282
Blacklick Road	52	27	1,407	1	1,407	1	347	104	0.16	17	88
Fredricksburg	409	116	47,425	1	47,425	128	4,361	818	0.16	131	687
Leeland Road	221	108	23,861	1	23,861	128	2,357	442	0.16	71	371
Brnoke	175	73	17,718	1	17,718	128	1,671	351	0.16	56	295
Quantico	148	71	10,710	1	10,710	128	1,574	293	0.16	47	248
Plypen	243	55	13,362	1	13,362	128	2,592	486	0.16	78	408
Woodsbridge	480	49	23,522	1	23,522	128	5,120	960	0.16	154	806
Porton	43	42	1,881	1	1,881	128	478	90	0.16	14	75
TOTALS	2,860	42	204,110	1	204,110	1,691	23,931	5,731	0.16	915	4,805

Assumptions:
 Highway Miles average 35 mph.
 Cold Starts average 25 mph
 Occupancy rates exceeding stations = 1.2 people per vehicle
 Estimated Riders Previously Driving = 56% of total ridership

April 11, 1993 Date
 Northern Virginia Transportation Commission



COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

James S. Gilmore, III
Governor

Street Address: 629 E. Main Street, Richmond, Virginia 23219

Mailing Address: P.O. Box 10009, Richmond, Virginia 23240

Fax (804) 698-4500 TDD (804) 698-4021

<http://www.deq.state.va.us>

Thomas L. Hopkins
Director

John Paul Woodley, Jr.
Secretary of Natural Resources

(804) 698-4000
1-800-592-5482

February 6, 1998

Office of the Secretary
Case Control Unit
Finance Docket Number 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENVIRONMENTAL
DOCUMENT

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

RE: Draft Environmental Impact Statement on Proposed Conrail
Acquisition

Dear Ms. Kaiser:

The Department of Environmental Quality (DEQ) is responsible for coordinating Virginia's review of federal environmental documents and responding to the appropriate officials on behalf of the Commonwealth. In this instance; however, the DEIS was not distributed by DEQ, but was sent directly to the appropriate agencies by the proponent. The Commonwealth of Virginia Agencies may respond directly. The following are the comments of DEQ.

The proposed project is the resulting operations of the assets of the acquisition of Conrail by CSX and Norfolk Southern (NS). Under the proposal, the existing CSX and NS systems would be expanded and would substitute two competing railroads for the existing Conrail system in the Northeast (including Virginia) and upper Midwest.

The DEQ offers the following comments and recommendations:

1. **Air Quality.** DEQ's Office of Air Data Analysis offers the following comments:

Finance Docket Number 33388
February 6, 1998
Page Two

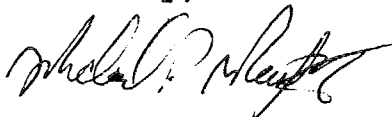
- The rerouting and realignment of freight train operations in Virginia by the CSX and NS railroads are anticipated to pose a noticeable air quality impact locally and regionally within Virginia;
- A demonstration of conformity to the State Implementation Plan (SIP) is required of a federal action occurring in an ozone nonattainment area (Clean Air Act Amendments of 1990, Section 176(c), 40 CFR, Parts 6,51 and 93) regardless of the screening criteria established for this DEIS; and
- For specific details please refer to the attached February 6, 1998, memo from Dona Huang.

Please continue to work with Dona Huang, DEQ's Office of Air Data Analysis, concerning the demonstration of conformity. She can be reached at (804) 698-4405.

2. Federal Consistency Certification. Pursuant to the Coastal Zone Management Act of 1972, as amended, the proposed activities must be operated and constructed in a manner which is consistent with the Virginia Coastal Resources Management Program (VCRMP). In this regard, the proponents must receive all applicable permits and approvals listed under the Enforceable Programs of the VCRMP (Attached).

Thank you for the opportunity to comment on the DEIS for the proposed activity. The comments of the reviewing agency are attached for your review and consideration.

Sincerely,



Michael P. Murphy
Customer Service Director


Attachments

cc: Dona Huang, DEQ-Air
Curt Linderman, DEQ-PRO
Sheri Kattan, DEQ-TRO
Al Laubscher, DEQ-NRO

DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF AIR DATA ANALYSIS

MEMORANDUM

TO: Thomas Felvey, Office of Environmental Impact Review

FROM: Dona Huang, Senior Environmental Engineer 

SUBJECT: Draft Environmental Impact Statement on the Proposed Conrail Acquisition

DATE: February 6, 1998

Thank you for the opportunity to review the referenced subject. The Office of Air Data Analysis would like to make several comments regarding the project.

1. The rerouting and realignment of freight train operations in Virginia, by the CSX and Norfolk Southern (NS) railroads as a result of the joint acquisition of Conrail services, are anticipated to pose a noticeable air quality impact locally and regionally within Virginia. Therefore the impact must be addressed on two tiers. The significant portion of the impact, as defined by the study, occurs along two state designated Class 1 areas and a federally designated serious ozone nonattainment area.
2. For the regional level analysis, the jurisdictions bordering or containing the Class 1 areas should be addressed as one region in order to capture the overall benefits and disbenefits of the project to the Class 1 areas. The issues of haze, ozone, acid rain deposition and nitrogen oxides affecting the Class 1 areas are not restricted geographically to jurisdictions proximal to the Class 1 areas. Transport processes, and the formation of ozone and acid rain occurring upwind from the impacted areas must be considered. Therefore, the evaluation of emissions saved from truck diversions should be accounted for on a regional level and not on the jurisdictional level where interstate highways such as I-81 are located for truck diversion analysis.
3. However on the local level, where rail segments come within 10 Km of a Class 1 area, consideration should be made to minimize at-grade crossing delay, noise, and fugitive emissions to avoid impacting local air quality and vista. As project sponsor is aware, the prevention of significant deterioration (PSD) standard for a stationary source located within 10 Km of a Class 1 area is equal to or greater than one microgram per cubic meter (1 ug/m^3) per 24 hour period.
4. Emission impact to jurisdictions located in the northern Virginia serious ozone

nonattainment area should be evaluated together as a region. A demonstration of conformity to the State Implementation Plan (SIP) is required of a federal action occurring in an ozone nonattainment area (Clean Air Act Amendments of 1990, Sect. 176(c); 40 CFR, Parts 6, 51, and 93) regardless of the screening criteria established for this EIS. Any netting of emission impact should include benefits and disbenefits from rail operation, truck diversion, vehicular at-grade crossing delay, intermodal/terminal operation, railyard operation, impact to passenger rail services and ridership capacity, etc.

5. Because of the nature of the impact from the proposed project to the transportation community, it is important that the emission benefits from truck VMT removal and emission disbenefits from at-grade crossing delay be related to the metropolitan planning organization (MPO) for the area. The information should be shared with the MPO to facilitate the regional transportation conformity determination. It should be noted that the transportation aspect of a federal action must be found conforming by the transportation conformity determination process (40 CFR 51.853(a)).

6. For the local level impact, a localized hot-spot analysis should be performed for areas experiencing additional at-grade crossing delay and for intermodal or railyard facilities experiencing additional operation.

7. It is also necessary to re-evaluate the emissions from rail operations occurring in the Richmond and the Hampton Roads ozone maintenance areas under the general conformity context regardless of this EIS screening criteria.

8. Please explain why the impact to the port activities in Hampton Roads was below the screening threshold when in fact Sect. 5-VA.2 indicated that the "...Monogahela 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."

9. With respect to the emission analyses on vehicular at-grade crossing delay, this office would like to suggest strengthening the analyses to reflect delay experienced during the summer ozone peak-hour period. The various delay indicators were evaluated as an annual daily average occurrence. On the local level, during favorable ozone forming summer conditions, even an acceptable increase in vehicular delay (according to the study) at an at-grade crossing may contribute to the already aggravated air quality condition. Furthermore, in our scoping comments, we indicated that certain at-grade crossings at the Prince Williams County and Manassas City have already experienced unacceptable congestion and delay during the peak commuting hours due to train crossings, and the Virginia Department of Transportation has begun looking into possible solutions to this problem. How are the existing unacceptable crossing delays incorporated into and reflected in this study?

10. Please explain the rationale and mathematical equation used in the estimation of the "Average Delay for All Vehicles" in page C-13. Based on the equation, the units do not work out correctly. Please explain the use of conversion factor "24" - number of hours per day to be divided by conversion factor "1440" - number of minutes per day. Please explain why 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".

11. Please explain why 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.

12. Please explain the derivation of factor "0.0833" in the "Average Delay for All Vehicles" equation and how peak-hour traffic was weighted.

13. The Department would like to suggest that the train speed and train length data used in the at-grade crossing studies be reflective of the peak-hour traffic scenario. This refers to the average train speed and length at the at-grade crossing encountered during peak hours. Our experience with certain local crossings suggests that the train speed and length encountered during peak-commuting hours were much slower and longer, respectively.

14. As indicated in Table 4-17, there are additional NS and CSX estimated truck diversion emissions occurring in jurisdictions not included in the netting analyses as well as jurisdictions affected by truck diversion. Therefore, the net adjusted state total for Virginia is a reduction of 647 tons per year of NO_x vs. a gain of 800 tons per year from the netting analyses. Unfortunately, the adjusted state total did not include NO_x growth from jurisdictions that were determined to be below the screening threshold. It would be beneficial to prepare a summary table of NO_x emissions from all jurisdictions affected by this project.

15. Based on the argument above, Table 4-17 is not a comprehensive summary of estimated NO_x emissions changes in the Northeast Ozone Transport Region (OTR).

16. Please provide the CSX and NS truck diversion data (if possible, by jurisdiction) for our information and emission inventory tracking purposes. As indicated in the document, there is potential double counting of truck diversion by CSX and NS, please provide some information on the magnitude of this potential.

If you or the project sponsor has any questions regarding these comments, please feel free to call me at (804) 698-4405.

cc: Kirit Chaudhari, Director, Office of Air Data Analysis
Mike Clifford, MWCOG Transportation Office
Dan Lysey, RRPDC, Director of Transportation Planning
Joe Vinsh, CRPDC, Transportation Planning
Dwight Farmer, HRRPDC, Transportation Planning
Greg Clayton, Director, DEQ Northern Regional Office
Bradley Chewning, Director, DEQ Valley Regional Office
Tom Henderson, Director, DEQ West Central Regional Office

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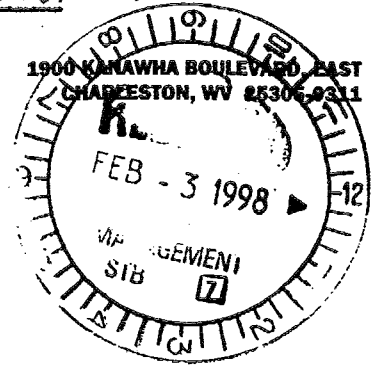
Cecil H. Underwood, Governor

WEST VIRGINIA DEVELOPMENT OFFICE

1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25306-9311

ENVIRONMENTAL DOCUMENT

January 28, 1998



Ms. Elaine Kaiser
Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423

Dear Ms. Kaiser:

The State of West Virginia has reviewed the draft environmental impact statement for finance document no. 33388-Proposed Conrail Acquisition. We find no deficiencies in this report. I appreciate the level of effort undertaken to assess the impact of the purchase of the Conrail lines in West Virginia.

Please feel free to contact me if additional questions arise regarding this matter.

Sincerely

Fred Cutlip
Director
Community Development Division

FC:dl

CENTRAL ADMINISTRATIVE UNIT

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DIVISION OF NATURAL RESOURCES

Wildlife Resources Section

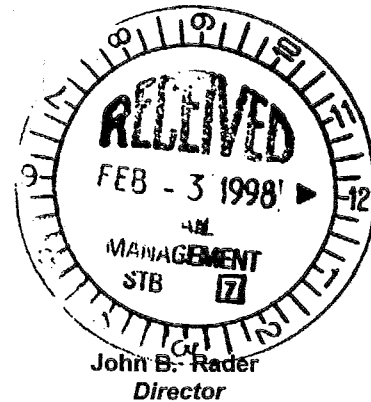
Operations Center

P.O. Box 67

Elkins, West Virginia 26241-3235

Telephone (304) 637-0245

Fax (304) 637-0250



**ENVIRONMENTAL
DOCUMENT**

Cecil H. Underwood
Governor

January 30, 1998

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street
Washington, DC 20423-0001

Attention:
Elaine K. Kaiser
Chief, Section of Environmental Analysis
Environmental Filing

Dear Ms. Kaiser:

The West Virginia Division of Natural Resources (WVDNR) has reviewed the Draft Environmental Impact Statement for the "Proposed Conrail Acquisition" prepared by the Surface Transportation Board. The WVDNR anticipates few adverse impacts to fish and wildlife to result from the acquisition of Conrail by CSX and Norfolk Southern.

Sincerely,

A handwritten signature in cursive script that reads "James W. Rawson".

James W. Rawson, Supervisor
Environmental Coordination

JWR/sk

CENTRAL ADMINISTRATIVE UNIT


REC'D: 1/8/98

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ENVIRONMENTAL
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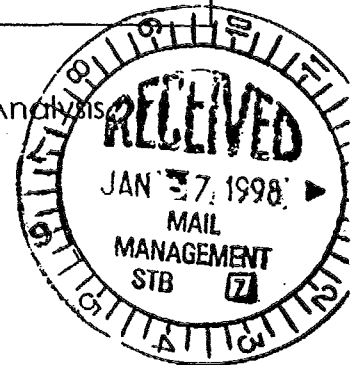
WOMEN LIKE US

TO: Elaine K. Kaiser, Chief, Section of Environmental Analysis
Surface Transportation Board

FROM: 
Brenda Lee Richardson, MSW
Consultant

DATE: January 5, 1998

RE: Comments on CSX & Norfolk Southern-Control & Acquisition



I would like to request a community meeting in Anacostia to discuss the proposed Conrail Acquisition. I have reviewed the information that you were so kind to send me through the mail. However, there are several issues that I am extremely concerned about:

- First, a community of color will be disproportionately exposed to poorer air quality with a potential increase from 23.9 trains to 30.8 trains per day if this project is approved. This becomes an environmental justice issue that needs to be addressed.
- Secondly, if the air quality in this already distressed community is impaired what kind of responsibility will the company take for the eminent impact this will have on the public health of our children, seniors, HIV/AIDS population, cancer population, etc.?
- Thirdly, I am concerned about the safety measures as it relates to the public.
- Fourthly, the potential for noise pollution will increase and ultimately adversely impact this community. What kind of measures will be taken to deal with this issue as it relates to the health of the community?
- Fifthly, we certainly do not need anymore highway congestion in Southeast than we already have. The EIS does not clearly articulate how this will be addressed.
- How many residents from Ward 8 will be employed through this effort? As a proponent of environmental stewardship, my responsibility is to look at this issue as it relates to environmental justice, economic development and public health.

3008-24th Place, S.E. Washington, D.C. 20020 (202) 678-1978

Conrail Acquisition
January 5, 1998
Page 2

Our natural resources in distressed urban communities are quite limited when we look at quality of life issues. I am concerned that the real issues that will ultimately impact the people that live and work near the railways are the ones who will ultimately suffer in the name of efficiency. Again, I would like to recommend a public hearing in Ward 8 at Young's Memorial Church where Rev. Herbert B. Chambers is the Pastor. He would be happy to open his doors to afford you an opportunity to address the community's concerns. Should you require any further information regarding this matter, please do not hesitate to contact me on (202) 678-1978.

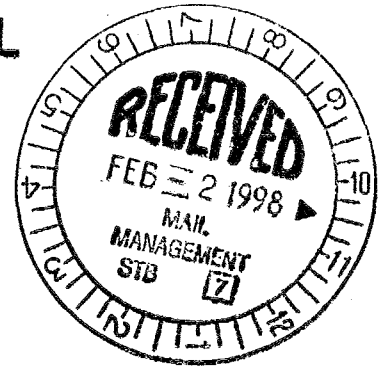
Your attention and consideration in this matter is deeply appreciated.

cc: Councilmember Sandra Allen (Ward 8)
Councilmember David Catania (At-Large)
Damon Whitehead, Earthjustice Legal Defense Fund
Eric Olson, Natural Resource Defense Council
Robert Nixon, Earth Conservation Corps
Dorothea Ferrell, Barry Farm Public Housing Development
Rev. Herbert B. Chambers, Young's Memorial CDC
Rhoda Burwell, United for Change CDC
Robert Boone, Anacostia Watershed Society
Chris Niles, Surface Transportation Planning Project Washington
Regional Network/Intersect
Frazier Walton, Jr., Kingman Park Civic Association
Bev Baker, U.S. EPA/Anacostia Liaison

3008-24th Place, S.E. Washington, D.C. 20020 (202) 678-1978

CENTRAL ADMINISTRATIVE UNIT
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DOCUMENT #2/2/98 2:58:13 PM

ENVIRONMENTAL DOCUMENT



January 30, 1998
Office of the Secretary
Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Attention: Elaine K. Kaiser
Environmental Project Director
Environmental Filing

Dear Ms. Kaiser:

We appreciate the opportunity to submit the following written comments on the Draft Environmental Impact Statement (DEIS), dated December 12, 1997, on the proposed acquisition of Conrail by Norfolk Southern Railroad and CSX Railroad (Applicants).

Scope of the Environmental Impact Statement (EIS)

By the enclosed letter of August 6, 1997, we recommended that Surface Transportation Board (STB) expand the EIS scope to include an analysis of changes in level of operations on freight rail lines that are in common corridors with rapid rail systems. We expressed the concern that increased railroad traffic increases the probability and potential severity of catastrophic rail accidents and increases our risk exposure and the associated costs of liability insurance and indemnification. However, in spite of our comments, the DEIS still does not include the analysis of the common corridors of freight rail and rapid rail operations.

We believe that the cause for this omission may be a failure to differentiate between preexisting conditions and the anticipated new conditions of the proposed transaction, namely additional trains, increased train lengths and higher train speeds. STB states in its July 1, 1997 Notice of Intent that "the Board's practice consistently has been to mitigate only those environmental impacts that result directly from the transaction." It is our conviction that a critical result of the Conrail acquisition with more frequent and longer trains will be an increased likelihood of severe rail accidents in the common corridors, a result which was unaccounted for in the planning and development of those corridors and which, therefore, is a new condition.

Our concerns are reinforced by the findings of the Federal Railroad Administration's (FRA) Safety Assurance and Compliance Program Report

A-610-b

Washington
Metropolitan Area
Transit Authority

1100 15th Street, NW
Washington, DC 20004
(202) 637-1234

600 Metro
1100 15th Street, NW
Washington, DC 20004
Attn: General Manager

Attn: General Manager
Metropolitan Area
Transit Authority

Elaine K. Kaiser
Surface Transportation Board
Page 2

for CSX Transportation, Inc., dated October 16, 1997. The fact that FRA found a general lack of consistency in maintaining a comprehensive CSX signal oversight program and defects on CSX main tracks is extremely pertinent to our stance that the EIS scope must address common corridor safety.

Conditions of Common Corridor Operations

We wish to make STB aware of the common corridor operations and history, which includes freight rail accidents that justify our position above on the EIS scope.

There are five distinct common corridor segments in our rapid rail system. These are within the STB line segments C-003, C-101, C-034, C-035, and N-315. Our system is in revenue operations from 5:30 AM to 12:00 midnight on weekdays and from 8:00 AM to 12:00 midnight on weekends. There are high numbers of both freight, passenger and rapid rail trains in the common corridors. For example, within STB line segment C-003 (Metro Wheaton Line), 24 freight trains, 20 passenger trains and 462 rapid rail trains currently share the corridor during a typical weekday. The distance between freight/passenger and rapid rail track centerlines is 20 feet.

Since start of rapid rail operations in 1976, there have been two freight rail accidents in the common corridor which caused physical damage and service disruption to the rapid rail system. For the 32 miles total of common corridor, the accident frequency per route mile is then once every 16 years, greatly more than the 100 years for freight train accidents.

Analyses of the Environmental Impacts in Common Corridors

We recognize that STB may need to develop a segment-specific method to evaluate the potential net effect of the proposed acquisition on rapid rail safety since the methods for freight and passenger rail operation safety effects do not apply to common corridor safety. We are ready to provide STB with base data and to assist in the development of the methodology, which should incorporate the additional number of freight trains, increased train lengths, greater tonnage and higher train speeds as factors.

Potential Mitigation Strategies for Rapid Rail Safety in Common Corridors

On page 3-7 of the DEIS, STB has identified mitigation strategies that can reduce significant safety risk impacts. These include enhanced rail-safety programs, increased frequency of track inspections and replacement of old rails. Other possible mitigation measures to mitigate the increased risk in the common corridors include, but are not necessarily limited to, the following:

Elaine K. Kaiser
Surface Transportation Board
Page 3


1. Publication and distribution of the integration of the best practices of Conrail and the Applicants' safety processes, per DEIS Volume 2, Safety Integration Plans.
2. Speed restrictions of freight trains as recommended in 1988 by the CSX and WMATA Joint Operating Safety Committee.
3. A Hot Box Detection System installed on each freight track.
4. A High-and-Wide Load detection system installed on each freight track.
5. A Dragging Equipment detection system installed on each freight track.

The systems identified in items 3, 4 and 5 above are to be connected to the Applicants' central control systems. Hot Line connections should be provided and maintained between the Applicants' and our control centers. The Applicants should annually conduct an inventory of the safety devices and monitors within the common corridors and should regularly ensure that all devices and monitors are in proper working order. The Applicants should be required to obtain our approval for any addition, deletion or modification of the safety devices and monitors.

The increased freight traffic will increase our liability and present an added financial burden for higher insurance and indemnification costs. We feel strongly that the Applicants should reimburse us for the additional incremental costs of liability insurance and indemnification of the common corridor due to the increased risk.

We look forward to receiving constructive responses to our concerns from the Surface Transportation Board as part of the EIS process. If you have any questions regarding our comments, please feel free to contact Mr. Richard Bochner, Acting Manager of Project Development. Mr. Bochner may be reached at (202) 962-1252.

Sincerely,



John C. Elkins
Acting, Assistant General Manager
for Transit System Development

Enclosure



August 6, 1997

Office of the Secretary
Case Control Unit
STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Attention: Elaine K. Kaiser
Chief, Section of Environmental Analysis
Environmental Filing

Dear Ms. Kaiser:

This letter is in response to your July 3, 1997 letter to our General Manager which transmitted the Surface Transportation Board's (STB) Notice of Intent to Prepare an Environmental Impact Statement (EIS) and Request for Comments on the Proposed EIS Scope in the above docket. The Washington Metropolitan Area Transit Authority's (WMATA) Metrorail rapid transit system shares approximately 32 miles of corridor with the CSXT Railroad and approximately two (2) miles of corridor with the Norfolk Southern Railroad. Thus we are interested in any actions which could potentially impact railroad operations within our common corridors. Our interest relative to the proposed control of Conrail by CSXT and Norfolk Southern focuses primarily on safety.

We are concerned that the proposed action will increase railroad traffic in the Washington, D.C. metropolitan area and thus increase our exposure to incidents on the common corridors due to railroad operations. Not only is this a concern to us from an operations and passenger safety perspective, but the increased exposure would also have long-term financial implications due to our agreements with CSXT and its predecessors. These agreements require WMATA to bear the costs of all liability insurance and to indemnify the railroad within the common corridors.

To address our concerns, it is requested that the EIS Scope address the increased railroad traffic from a safety perspective in terms of the additional trains, increased train lengths and higher train speeds which may result from this action. Our opinion is that increased railroad traffic increases the

**Washington
Metropolitan Area
Transit Authority**

600 Fifth Street, NW
Washington, D.C. 20001
202, 962 1234

*By Metrorail
Judiciary Square-Red Line
Gallery Place-Chinatown
Red, Green and
Yellow Lines*

*A District of Columbia,
Maryland and Virginia
Transit Partnership*

A-611-a

probability and potential severity of catastrophic rail accidents and increases our risk exposure and the associated costs of liability insurance and indemnification.

Our review of the railroad's Environmental Report and the proposed EIS scope has generated the following revisions and comments on the scope:

Environmental Impact Analysis (page 8)

Insert the following new proposed activity after 3.

4. Anticipated changes in level of operations on rail lines that are in common corridors with rapid rail operations.

It is recommended that STB expand its threshold for addressing environmental impacts from the current increase of eight (8) trains per day on the rail lines to consider also increased train lengths and higher train speeds as well since all three factors will affect the safety of the rapid rail operations in the common corridor.

STB should also define a distance threshold for addressing environmental impacts within common corridors. For instance, the distance between the centerlines of WMATA's Red Line and CSX in some corridors is as close as 20 feet. As part of the analysis, the STB's EIS should identify all locations of common corridors within the above distance threshold by tabular listings and by maps.

Impact Category 1 Safety (page 9)

Insert the following new impact category after C.

- D Address potential effects of increased freight traffic, such as additional trains, increased train lengths and higher train speeds, on rapid rail operations in common corridors.

The STB's EIS should evaluate the increased probability and then the potential severity of catastrophic rail accidents between rail line and rapid rail operations within common corridors due to the additional trains, increased train lengths and higher train speeds which may result from this action. This information was not included in the Environmental Report.

Mitigation

Among the possible mitigation measures to offset the possible increased

Elaine K. Kaiser
Surface Transportation Board
Page 3

probability and higher risk exposure of accidents between rail line and rapid rail operations within common corridors, WMATA requests that the EIS consider the following requirements:

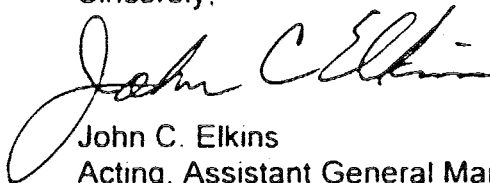
- A. The railroads will conduct an inventory of the safety devices and monitors currently in operation within the corridors shared with WMATA. The railroads will require written concurrence from WMATA for any addition, deletion or modification of these safety devices and monitors.
- B. To offset the potential financial burden that the increased freight traffic would have on WMATA, the railroads will reimburse WMATA for the additional incremental costs of liability insurance and indemnification of the common corridor due to the increased risk.

Addressing the above safety related issues in the EIS will provide a basis for determining the appropriate course of action, if any, necessary to mitigate the potential impacts.

In addition to the above comments, we request that your mailing list be revised for the name of our General Manager, Mr. Richard A. White.

We look forward to working with the Surface Transportation Board during this EIS process. If you have any questions regarding our comments and proposals, please feel free to contact Mr. Richard Bochner, Acting Manager of Project Development. Mr. Bochner may be reached at (202) 962-1252.

Sincerely,



John C. Elkins
Acting, Assistant General Manager
Department of Transit System Development

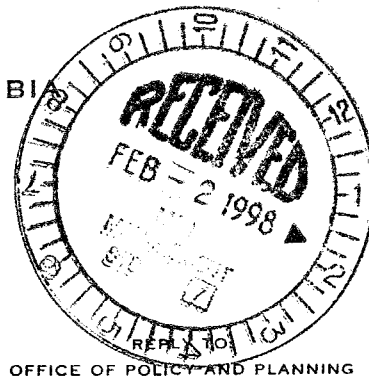
GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF PUBLIC WORKS

2000 - 14TH STREET, N.W.
6TH FLOOR
WASHINGTON, D.C. 20009

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OFFICE OF POLICY AND PLANNING

ENVIRONMENTAL DOCUMENT

Office of the Secretary
Case Control Unit
Finance Docket No. 33388
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Attn: Elaine K. Kaiser
Chief, Section of Environmental Analysis
Environmental Filing

Dear Ms. Kaiser:

The following comments are provided on the Draft Environmental Statement (DEIS) the for Proposed Conrail Acquisition:

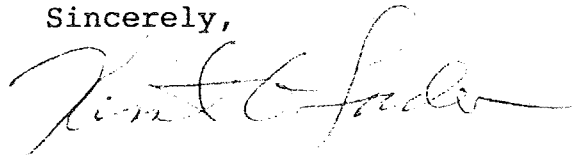
1. The DEIS does not address common corridor use with the Metrorail system of the Washington Metropolitan Area Transit Authority. No analysis is presented on potential accident risk as a result of increased freight train activity in the common corridors with Metrorail.
2. The DEIS identifies tunnel improvements to increase clearance at the Virginia Avenue Tunnel to accommodate increased freight traffic and to eliminate a current restriction that affects passenger rail operations as related to the proposed acquisition. However, the report does not state whether these proposed improvements would meet or exceed Surface Transportation Board thresholds for environmental analysis of

noise, safety, environmental justice or other potential impacts.

3. There is no analysis provided on ground-borne vibration. According to Federal Transit Administration guidance, ground-borne noise sounds louder than broadband noise. The guidance also suggests that shifting freight traffic to other routes can impact ground-borne vibration.
4. In Washington, DC, it is the region, including jurisdictions in Maryland and Virginia, that is in non-attainment. Although each state and the District of Columbia are ultimately responsible for reaching and maintaining attainment, they have adopted a coordinated strategy through the Washington Metropolitan Area Air Quality Committee (MWACQ). To our knowledge, the analysis of potential effects did not include consultation with this body which has established the emissions value for the area. We do not believe that a conclusion of no significant impact is appropriate without determining if there are impacts on the region's emissions reduction and maintenance plans.

Should you have any questions or require any additional information, please contact me.

Sincerely,



Kenneth G. Laden,
Acting Administrator



ENVIRONMENTAL DOCUMENT

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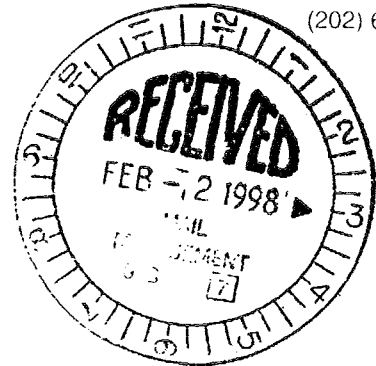
United Parcel Service

316 Pennsylvania Ave., SE, Washington, DC 20003

(202) 675-4220

February 2, 1998

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423



Re: CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company – Control and Operating Leases/Agreements – Conrail Inc., and Consolidated Rail Corporation

Dear Mr. Williams:

I am writing on behalf of United Parcel Service (“UPS”) to oppose a condition that we understand the Surface Transportation Board’s environmental section proposes to ask the Board to impose on the CSX/Norfolk Southern acquisition of Conrail.

Specifically, this proposed condition would require all trains moving in the same and opposite directions on the same track 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. It has been recommended that the Board impose this requirement, which we think is extremely onerous, on identified CSX rail segments in Georgia, Maryland, North Carolina, Virginia and Washington, D.C., and on Norfolk Southern lines in Indiana, Michigan and New York.

UPS relies heavily on the intermodal services the railroads provide over the corridors affected by the proposed limitation. Our business is consumer oriented and our shipments are time sensitive. Accordingly, any restraints on the timely movements of our freight impact our ability to serve our customers.

The proposed 30-minute window to clear the tracks would be detrimental to our business. Therefore, this proposed condition should not be imposed. It will only add unnecessary delays to the efficient movement of time-sensitive freight.

We therefore respectfully ask the Board to reject the proposed 30-minute window. Thank you for your consideration.

Sincerely,

Arnold F. Wellman
Vice President, Domestic and International
Public Affairs

cc: Elaine Kaiser

**TABLE A-2
COMMENTS RECEIVED ON SEA'S ADDITIONAL
HAZARDOUS MATERIALS TRANSPORT AND NOISE ANALYSIS**

New York		
Comment Date	Commentor, Subject of Document	Document ID
4/15/98	State of New York by and through its Department of Transportation; W. L. Slover, et al.; Supplemental Comments on the Draft EIS	4/17/98 12:11:56 PM
North Carolina		
Comment Date	Commentor, Subject of Document	Document ID
3/23/98	Lauren Meyerhoff, Marshall, NC; Environmental Concerns	4/2/98 12:26:14 PM
Ohio		
Comment Date	Commentor, Subject of Document	Document ID
4/13/98	ASHTA Chemicals Inc., I. D. Chappell; Comments on the Draft EIS	4/16/98 9:28:27 AM
4/14/98	City of Conneaut, OH, R. Herron; Comments on the Draft EIS	4/16/98 10:40:04 AM
4/15/98	Ohio Attorney General, et al., K. G. O'Brien, et al.; Responsive Comment to STB Decision No. 69	4/17/98 2:50:21 PM

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**TABLE A-3
COMMENT DOCUMENTS RECEIVED BETWEEN PUBLICATION
OF THE FINAL SCOPE AND SERVICE OF THE DRAFT EIS**

Federal Agencies		
Comment Date	Commentor, Subject of Document	Date Received
10/28/97	U.S. Army Corps of Engineers, Buffalo District, S. V. Metivier; Seven Construction Consultation	11/5/97
11/28/97	U.S. Corps Of Engineers, Detroit District, R. Tucker; Response to SEA's Letter of 10/2/97	12/4/97
12/3/97	U.S. Department of Transportation, N. E. McFadden; Comments on Safety Integration Plans of CSX/NS	12/3/97
National and Regional Groups		
Comment Date	Commentor, Subject of Document	Date Received
11/24/97	Amtrak-National Railroad Passenger Corporation, D. G. Avery, et al.; Comments on NJSAA Plan	11/24/97
no date	Port Authority of New York and New Jersey, P. M. Donovan; Comments on North Jersey Shared Assets	11/24/97
State, Regional, and Local Agencies, Elected Officials, Organizations, and Individuals (grouped by state)		
Delaware		
Comment Date	Commentor, Subject of Document	Date Received
11/7/97	City of Newark Planning Department, DE, R. H. Lopata; Request for Conditions	11/13/97
Florida		
Comment Date	Commentor, Subject of Document	Date Received
12/2/97	Florida Department of Community Affairs, R. Cantral; Clearinghouse Review of Final Scope of the EIS	12/9/97
Illinois		
Comment Date	Commentor, Subject of Document	Date Received
10/29/97	Illinois Department of Natural Resources, T. Flattery; Consultation on Construction at Sidney, IL	11/13/97
Maryland		
Comment Date	Commentor, Subject of Document	Date Received
10/28/97	Maryland Department of the Environment, S. Bieber; Final Scope of EIS Determined Consistent With MDE	11/4/97
11/17/97	City of Aberdeen, MD, Peter A. Dacey; Late Comments on Proposed EIS Scope	11/19/97
12/1/97	Maryland Office of Planning, L. C. Janey; Clearinghouse Response to Environmental Report	12/5/97

**TABLE A-3
COMMENT DOCUMENTS RECEIVED BETWEEN PUBLICATION
OF THE FINAL SCOPE AND SERVICE OF THE DRAFT EIS**

Michigan		
Comment Date	Commentor, Subject of Document	Date Received
11/11/97	Southeast Michigan Council of Governments, R. W. Pfaff, Jr.; Clearinghouse Comments	11/14/97
11/25/97	Department of Natural Resources, MI, C. F. Blackwell; No Effect on Historic Resources	12/10/97
New Jersey		
Comment Date	Commentor, Subject of Document	Date Received
11/24/97	New Jersey Department of Transportation and NJ Transit Corp., K. M. Sheys, et al.; Comments on Shared Asset Areas	11/24/97
12/9/97	New Jersey Department of Environmental Protection, L. Schmidt; Review of RER of New Jersey Transit	12/16/97
New York		
Comment Date	Commentor, Subject of Document	Date Received
10/21/97	Eight State Rail Preservation Group, NY, J. Waldock; Preservation of Existing Line	11/13/97
11/3/97	Borough of Brooklyn, NY, H. Golden; Rail Operations in NYC and at NY Dock	11/7/97
11/14/97	New York State Office of Parks, Recreation & Historic Preservation, R. L. Pierpont; Agency Consultation	11/25/97
12/8/97	Syracuse Metropolitan Transportation Council, NY, R. Bernardi; Request for Conditions	12/16/97
Ohio		
Comment Date	Commentor, Subject of Document	Date Received
9/16/97	Huron County, OH, Board of County Commissioners, K. Wilhelm; Agency Consultation	11/6/97
9/23/97	Mr. & Mrs. William Hagan, Lakewood, OH; Environmental Concern	11/4/97
9/23/97	Theresa Linahan, Lakewood, OH; Environmental Concern	11/4/97
9/23/97	Mr. & Mrs. Samuel Unsworth, Lakewood, OH; Environmental Concern	11/4/97
9/23/97	Marie Parke, Lakewood, OH; Environmental Concern	11/4/97
9/23/97	Richard F. Saxton, Jr. and Sheryl Saxton, Lakewood, OH; Environmental Concern	11/4/97
9/23/97	Joan P. Pittman, Lakewood, OH; Environmental Concern	11/4/97
9/23/97	Jill Orris, Lakewood, OH; Environmental Concern	11/4/97
9/23/97	Deidre Gahin, Lakewood, OH; Environmental Concern	11/5/97
9/23/97	Michelle Taylor-David, Lakewood, OH; Environmental Concern	11/6/97
9/23/97	James Fitzgerald, Lakewood, OH; Environmental Concern	11/6/97

**TABLE A-3
COMMENT DOCUMENTS RECEIVED BETWEEN PUBLICATION
OF THE FINAL SCOPE AND SERVICE OF THE DRAFT EIS**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
9/24/97	Adria Hughes, Lakewood, OH; Environmental Concern	11/14/97
9/24/97	Patti Bisly, Lakewood, OH; Environmental Concern	11/14/97
9/24/97	Sally Hollistr, Lakewood OH; Environmental Concern	11/16/97
10/8/97	Mike Jones, Lakewood, OH; Environmental Concern	11/4/97
10/8/97	Megan L. Krumreig, Lakewood, OH; Environmental Concern	11/4/97
10/8/97	Jeremy Wise, Lakewood, OH; Environmental Concern	11/4/97
10/8/97	Elizabeth A. Hayes, Lakewood, OH; Environmental Concern	11/4/97
10/8/97	Morgan Moseit, Lakewood, OH; Environmental Concern	11/4/97
10/8/97	Abbie Sales, Lakewood, OH; Environmental Concern	11/4/97
10/8/97	Amanda Dobrowolski, Lakewood, OH; Environmental Concern	11/4/97
10/8/97	Alexa Feckanin, Lakewood, OH; Environmental Concern	11/4/97
10/8/97	Laura Hoopengardrer, Lakewood, OH; Environmental Concern	11/4/97
10/8/97	Domielle Ringler, Lakewood, OH; Environmental Concern	11/4/97
10/8/97	Laura Warsinsky, Lakewood, OH; Environmental Concern	11/4/97
10/24/97	J. E. Elunga, Greenwich, OH; Environmental Concern	11/21/97
10/24/97	Kimberly A. Logan & David L. Stratton, Jr.; Greenwich, OH; Environmental Concern	12/1/97
10/28/97	Tracy A. Carol, Lakewood, OH; Environmental Concern	11/4/97
10/28/97	Ohio Historic Preservation Office, M. J. Epstein; Bucyrus (Sub-No. 7) Historic Sites	11/4/97
10/30/97	Ohio Environmental Protection Agency, H. Ruiz; Comments on EA for Sidney, Ohio	11/4/97
10/28/97	Chamber of Commerce, Lakewood, OH, S. Powers; Agency Consultation	11/7/97
10/31/97	Ohio Historic Preservation Office, M. J. Epstein; Seven Constructions, No Effect	11/7/97
11/1/97	Judith A. Bulloch, Bay Village, OH; Environmental Concern	11/13/97
11/4/97	Floramae Wetula, Lakewood, OH; Environmental Concern	11/4/97
11/4/97	Robert M. Welty, Lakewood, OH; Environmental Concern	11/13/97
11/6/97	Patricia Stewart, Lakewood, OH; Environmental Concern	11/6/97
11/6/97	Mary Alice Cush, Lakewood, OH; Environmental Concern	11/13/97
11/7/97	Irene Madasz, Lakewood, OH; Environmental Concern	11/13/97
11/12/97	Congress of the U.S., 5th District , OH, P. E. Gillmor; Agency Consultation	11/14/97
11/14/97	Marilyn P. Rhein, Rocky River, OH; Environmental Concern	11/14/97

**TABLE A-3
COMMENT DOCUMENTS RECEIVED BETWEEN PUBLICATION
OF THE FINAL SCOPE AND SERVICE OF THE DRAFT EIS**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
11/21/97	Keep Lakewood Beautiful Advisory Board, N. MacDonald; Environmental Concern	11/25/97
11/25/97	Helen T. Corns, Rocky River, OH; Environmental Concern	11/25/97
11/25/97	Bay Village Schools, OH, D. C. Woods, et al.; Environmental Concern	12/9/97
11/30/97	John D. Hogan, Lakewood, OH; Rail Tunnel Recommendation	12/10/97
12/2/97	Charles Roy, Camden, OH; Environmental Concern	12/16/97
12/10/97	Seneca Regional Planning Commission, OH, Mark R. Zimmerman; The Impact To Safety in Fostoria, Ohio	12/18/97
Pennsylvania		
Comment Date	Commentor, Subject of Document	Date Received
11/5/97	PA Historical and Museum Commission, Bureau for Historic Preservation, K. Carr; Agency Consultation	11/13/97
11/24/97	Sustainable Society Action Project, Inc., PA, E. B. Cohen; Environmental and Competition Comments	12/1/97
South Carolina		
Comment Date	Commentor, Subject of Document	Date Received
11/5/97	South Carolina State Budget and Control Board, R. P. Grizzle; Clearinghouse Review	11/12/97
Vermont		
Comment Date	Commentor, Subject of Document	Date Received
12/12/97	State of Vermont, J. K. Dunleavy; Comment on Responsive Application	12/15/97
Virginia		
Comment Date	Commentor, Subject of Document	Date Received
11/4/97	Virginia Department of Historic Resource, D. H. Dutton; Potential Historic Site Impacts	11/18/97
11/21/97	Town of Haymarket, VA, J. Kapp; Safety Concern	11/26/97
West Virginia		
Comment Date	Commentor, Subject of Document	Date Received
11/3/97	State Historic Preservation, The Cultural Center, WV, S. M. Pierce; No Effect	11/13/97

**TABLE A-4
COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Federal		
Comment Date	Commentor, Subject of Document	Date Received
3/27/98	Advisory Council On Historic Preservation, D. Klima; Environmental Concern	4/1/98
National/Regional/Other		
Comment Date	Commentor, Subject of Document	Date Received
2/11/98	Transportation Communication International Union, H.B. Lewin; Environmental Concern	2/13/98
2/27/98	United Transportation Union, C. L. Little; CSX/NS Operational Plan for Cleveland and Northern Ohio	3/2/98
4/9/98	CONSOL Inc., Fritz R. Kahn, P.C.; Petition, Comments, and Participation in Oral Argument	4/9/98
State, Regional, and Local Agencies, Elected Officials, Organizations, and Individuals (grouped by state)		
Delaware		
Comment Date	Commentor, Subject of Document	Date Received
3/6/98	Delaware Valley Regional Planning Commission, T. K. Dahlburg; SEA, E. K. Kaiser; Invitation 3/18/98	
Florida		
Comment Date	Commentor, Subject of Document	Date Received
2/9/98	Department of Community Affairs, Florida Coastal Management Program, R. Cantral; Agency Consultation	2/18/98
2/12/98	West Florida Regional Planning Council, T. A. Joseph; Project Consistent with Regional Policy Plan	
2/24/98	Department of Community Affairs, Florida Coastal Management Program, R. Cantral; Agency Consultation	3/2/98
Georgia		
Comment Date	Commentor, Subject of Document	Date Received
2/5/98	Cobb County Department of Transportation, GA, D. B. Dobry; Comment on Draft EIS	2/11/98
Indiana		
Comment Date	Commentor, Subject of Document	Date Received
2/17/98	Jennifer Wozniak, Hammond, IN; Environmental Concern	
2/26/98	City of Elkhart, IN, T. Pigors, W. A. T. Johnson; Environmental Concern	3/3/98
2/27/98	Northeastern Indiana Regional Coordinating Council, E. G. Samaan; Comment on Draft EIS	3/5/98
3/10/98	City of Muncie, IN, D. C. Canan; Letter Supporting the Proposed Acquisition	3/13/98
3/17/98	Cathy Navejas, Hammond, IN; Environmental Concern	3/23/98

**TABLE A-4
COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Indiana		
Comment Date	Commentor, Subject of Document	Date Received
3/17/98	Cindy Gordish, Hammond, IN; Environmental Concern	3/23/98
3/17/98	City of Hammond Fire Department, IN, L. Covelli; Environmental Concern	3/23/98
3/17/98	Denise Johnson; Hammond, IN; Environmental Concern	
3/17/98	Denise L. Sejna, Whiting, IN; Environmental Concern	3/23/98
3/17/98	Diana Beverage, Hammond, IN; Environmental Concern	3/23/98
3/17/98	Dick Moldrawski, Hammond, IN; Environmental Concern	3/23/98
3/17/98	Donald L. Beverage, Hammond, IN; Environmental Concern	3/23/98
3/17/98	Duane W. Dedelow, Jr., Hammond, IN; Environmental Concern	3/23/98
3/17/98	Ethel M. Smith, Gary, IN; Environmental Concern	
3/17/98	James Kontrik, Hammond, IN; Environmental Concern	
3/17/98	Jean Starkey, Hammond, IN; Environmental Concern	3/23/98
3/17/98	Jeffrey Starkey, Hammond, IN; Environmental Concern	3/23/98
3/17/98	John Gordish, Hammond, IN; Environmental Concern	
3/17/98	John Lloyd, Hammond, IN; Environmental Concern	3/23/98
3/17/98	Judith A. Harper, Hammond, IN; Environmental Concern	
3/17/98	Marie Harmon, Whiting, IN; Environmental Concern	
3/17/98	Mark A. Gordish, Hammond, IN; Environmental Concern	
3/17/98	Mike Vanes, Hammond, IN; Environmental Concern	3/23/98
3/17/98	Mrs. Sharon Townsend, Hammond, IN; Environmental Concern	3/23/98
3/17/98	Nancy Dostatni, Whiting, IN; Environmental Concern	4/1/98
3/17/98	Robert Allen, Hammond, IN; Environmental Concern	
3/17/98	Ronald L. Novak, Hammond, IN; Environmental Concern	3/23/98
3/17/98	Sharon Daniels, Hammond, IN; Environmental Concern	3/23/98
3/17/98	Stanley J. Dostatni, Whiting, IN; Environmental Concern	3/23/98
3/17/98	Tom Golfis, Hammond, IN; Environmental Concern	3/23/98
3/18/98	Cathy Navejas, Hammond, IN; Environmental Concern	4/8/98
3/18/98	Patricia A. Gonsiorowski; Hammond, IN; Environmental Concern	3/24/98
3/18/98	Theresa Adorjan, Hammond, IN; Environmental Concern	
3/19/98	Citizen, Gary, IN; Environmental Concern	3/26/98
3/19/98	Howard A. Harmon, Whiting, IN; Environmental Concern	
3/23/98	City of Whiting, 5th District, IN, M. Greer; Environmental Concern	4/13/98
3/23/98	City of Whiting, IN, C. Sarvanidis; Environmental Concern	4/10/98
3/23/98	City of Whiting, IN, C. Sarvanitis; Environmental Concern	4/7/98

**TABLE A-4
COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Indiana		
Comment Date	Commentor, Subject of Document	Date Received
3/23/98	City of Whiting, IN, J. Stahura; Environmental Concern	4/10/98
3/23/98	City of Whiting, IN, R. J. Bercik; Environmental Concern	3/31/98
3/23/98	Hammond Police Department, IN, F. A. Behrens; Environmental Concern	4/1/98
3/24/98	Barbara Hooper, Hammond, IN; Environmental Concern	4/1/98
3/26/98	Renaissance Development Corporation, IN, R. Brown; Environmental Concern	4/1/98
3/30/98	Community Reinvestment Project of East Chicago, Inc., IN, E. J. Glover; Environmental Concern	4/2/98
3/31/98	Charles, East Chicago, IN; Environmental Concern	4/13/98
4/6/98	Twin City Community Services, IN, T. McMullen; Environmental Concern	4/8/98
4/26/98	Revitalization Organization of New Addition, S. Booker, IN; Environmental Concern	4/1/98
Maryland		
Comment Date	Commentor, Subject of Document	Date Received
3/25/98	Prince George's County Government, MD, W. K. Curry; Comments On Draft EIS	
Michigan		
Comment Date	Commentor, Subject of Document	Date Received
2/11/98	Michigan Dept. of Environmental Quality, J. Henderson; Comment on Draft EIS	2/13/98
3/19/98	City of Taylor, MI, L. F. Shannon; Resolution No. 2.141-98	3/25/98
Missouri		
Comment Date	Commentor, Subject of Document	Date Received
2/11/98	Department of Natural Resources, MO, C. F. Blackwell; No Effect on Historic Resources	2/18/98
New Jersey		
Comment Date	Commentor, Subject of Document	Date Received
4/11/98	Barbara A. Aguilar, Cinnaminson, NJ; Environmental Concern on NJT Proposed Light Rail	4/17/98
4/15/98	Joe Burns, Beverly, NJ; Environmental Concern of the Proposed NJT Light Rail System	4/15/98
4/15/98	Tom Lippincott, Riverton, NJ; Environmental Concern of NJT Proposal	4/15/98

**TABLE A-4
COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

New York		
Comment Date	Commentor, Subject of Document	Date Received
2/10/98	Landmark Studios, Inc., NY, Z. Frank; Environmental Concern	2/10/98
3/19/98	Capital District Transportation Committee, NY, F. G. Fields, Jr.; Comment on Draft EIS	3/30/98
3/23/98	Landmark Studios, Inc., NY, Z. Frank; STB, L. Morgan; Letter Regarding Annual Meeting of the NYMTC	4/2/98
4/6/98	Landmark Studios, Inc., NY, Z. Frank; Environmental Concern	
Ohio		
Comment Date	Commentor, Subject of Document	Date Received
2/10/98	Mary Sedano, Lorain, OH; Comment on Draft EIS	2/17/98
2/17/98	Georgia H. Hopkins, Cleveland, OH; Environmental Concern	2/23/98
2/18/98	U.S. House of Representatives, W. J. Coyne; Comments Regarding The Safety Integration Plans	
3/4/98	Avon Lake PTA Council, OH, J. Conian; Environmental Concern	3/6/98
3/10/98	Village of LaGrange & LaGrange Township, OH, D. R. Stewart; Draft EIS Comment	3/12/98
3/12/98	L. R. Liberman, Lakewood, OH; Comment on Draft EIS	3/18/98
3/16/98	Village of LaGrange & LaGrange Township, OH, G. Burnett, et al.; Environmental Concern	4/7/98
3/18/98	Jessica Stok, Hammond, OH; Environmental Concern	
3/18/98	Northeast Ohio Areawide Coordinating Agency, H. Maier; NOACA Governing Board Resolution	3/23/98
3/24/98	City of Cleveland, Office of the Council, OH, J. Westbrook; City Council Hearing 3/18/98	3/30/98
3/25/98	City of Brooklyn, OH, J. M. Coyne; Environmental Concern	3/30/98
3/30/98	Philip J. Merhalski, Hammond, OH; Environmental Concern	
4/6/98	Adrina Williams, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Agnes Wislocki, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Alice N. Tules, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Anna Sejkaluk, Rocky River, OH; Environmental Concern	4/6/98
4/6/98	Beatrice Davis, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Brett Salzgeser, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	C. B., Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Canolia Franklin, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Carmino Vincenzo, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Catherine Taylor, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Catherine Williams, Cleveland, OH; Environmental Concern	4/6/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/6/98	Charles Seymour, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Cindy Harris, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Clifton Sylvester, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Dale Grundies, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Daniel J. Kane, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Daniel R. Krohmer, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Dawn C. Harris, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Debbie Heyink, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Deborah Neiger, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Debra C. Ogle, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Dolores Masinski, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Edward O'Connor, Garfield Heights, OH; Environmental Concern	4/6/98
4/6/98	Eileen Kelley, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Ernest Field, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Eugene Savage, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Frances Litto, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Francis T. Hing, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Gene & Roberta Stump, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Gwendolyn Fuller, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Harold E. Spinks, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Hura E. Cohen, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Irma Holmes, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Jane Wertheim, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Jean Perl, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Jelena Willis, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Jim Lacey, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	John Heyink, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	John Vehar, Highland Heights, OH; Environmental Concern	4/6/98
4/6/98	Josephine Seymour, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	June Krohmer, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Kathleen Rzczycki, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Kelly Whiting, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Kyra Kobilis, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Laila Voss, Cleveland, OH; Environmental Concern	4/6/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/6/98	Lil Bergson, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Linda Vincenzo, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Marilyn F. Brenkus, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Mary Samples, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Mary Szepesy, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Maury Feren, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Molly Stevens, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Mr. & Mrs. Holt, Cleveland, OH; Environmental Concern	4/10/98
4/6/98	Mr. & Mrs. Owen Gallagher, Lakewood, OH; Environmental Concern	4/6/98
4/6/98	Ms. Emma Routah, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Ms. Valda Robeznieks, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Pat Fedarko, Lakewood, OH; Environmental Concern	4/6/98
4/6/98	Peter Leon, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Richard & Nancy Stark, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Richard J. K., Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Robert A. Ogle, Sr., Cleveland, OH; Plan Environmental Concern	4/6/98
4/6/98	Robert Miller, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Saleem N. Moghal, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Stephanie Segulin, Cleveland, OH; Environmental Comment	4/6/98
4/6/98	Steve Roberts, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Susan Deane, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	U.S. Congress, 10th District, OH, D. J. Kucinich; Brooklyn, Ohio Environmental Concern	
4/6/98	Versie Lee Kirk, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Virginia Reesing, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	Walter Babuch, Cleveland, OH; Environmental Concern	4/6/98
4/6/98	William Gulas, Cleveland, OH; Environmental Concern	4/6/98
4/8/98	Beverly Tomsik, Wellington, OH; Environmental Concern	4/8/98
4/8/98	Edith Cottrell, Wellington, OH; Environmental Concern	4/8/98
4/8/98	Harry Lee, Jr., Wellington, OH; Environmental Concern	4/8/98
4/8/98	Luesa Bunift, Wellington, OH; Environmental Concern	4/8/98
4/8/98	Nancy Stovow, Wellington, OH; Environmental Concern	4/8/98
4/8/98	Ruth P. Lent, Wellington, OH; Environmental Concern	4/8/98
4/8/98	Virginia Guitar, Wellington, OH; Environmental Concern	4/8/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/8/98	Wellington Exempted Village Schools, OH, G. Bakus; Environmental Concern	4/13/98
4/9/98	A. Goggins, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	A. Roman, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	A. Snelson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Akisha Bailey, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Albert J. Peterson, Jr., Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Alberta Easley, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Alfreda Marbury, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Alice L. Bonner, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Alice Scott, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Alvie Evans; Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Amy Watson, East Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Andrea Perry, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Angela Baily, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Angela Johnson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Ann Marie Thompson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Ann Morgan, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Ann Wallace, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Annette Klomfas, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Anthony Chambers, Akron, OH; Environmental Concern	4/9/98
4/9/98	Antonia Robinson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Aren Hammond, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Ashley Johnson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	B. F., Fairview Park, OH; Environmental Concern	4/9/98
4/9/98	Barbara Sotes, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Barbarete Revise, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Belinda Finklen, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Bennie Retters, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Bernard Barabas, Brunswick, OH; Environmental Concern	4/9/98
4/9/98	Bernard T. Buelow, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Bernice Beaver, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Beth Piez, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Bettie L. Kelly, East Cleveland, OH; Environmental Concern	4/9/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/9/98	Beulah Williams, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Bill Thomas, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Billy Tanton, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Bonnie Deubel, Maple Heights, OH; Environmental Concern	4/9/98
4/9/98	Brandy Cook, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Brea Johnson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Brenda Head, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	C. Vrsitta, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Carl Covington, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Carl E. Austin, East Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Carla Crowell, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Carnelle Santz, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Carolyn Taskey, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Carolyn Taskey, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Cassandra L. Williams-Carter, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Catherine Wright, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Chad Meyers, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Chandra Howard, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Charles E. McBee, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Charles Rush, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Charlotte Bailey, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Cheryl Thomas, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Christine Kremer, Berea, OH; Environmental Concern	4/14/98
4/9/98	Christine Maucer, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Clarisa Powell, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Connie Rollins, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Cora L. Caldwell, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Corrine Wilson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Cortez Norris, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	D. B., Cleveland, OH; Environmental Concern	4/9/98
4/9/98	D. Chan Bliss, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	D. H. Wms, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	D. M., Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Dana Curry, Cleveland, OH; Environmental Concern	4/9/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/9/98	David Curry, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	David Dillard, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	David Kammerman, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	David Thompson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	David Wims, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Dawn M. Fritz, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Deatre D. Speights, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Deidra Johnson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Deleontery, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Demetrius Coleman, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Demitice Ponoelode, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Denise Reeves, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Denise Steele, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Derrick Pitts, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Dorothy Curry, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Dwayne Brandon, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	E. Benson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	E. Graham, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	E. Jones, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	E. Len, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Earl Johnson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Earle R. Murdock, Bedford Heights, OH; Environmental Concern	4/9/98
4/9/98	Ebony Strong, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Eddie Thomas, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Edna Fairbanks, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Edwin Mootoo, Warrensville, OH; Environmental Concern	4/9/98
4/9/98	Eleanor Bell, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Eleanor Drost, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Elliott Young, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Ellis Johnson, Jr., Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Emily Light, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Emir Abeid, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Erica Johnson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Erica Latoya Lewis, Cleveland, OH; Environmental Concern	4/9/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/9/98	Ernest Standford Sr., Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Essie Bland, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Eugene Baldwin, Wellington, OH; Environmental Concern	4/13/98
4/9/98	Eugenia Chidsey, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Fannie Bishop, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Frederick Johnson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Fulgencio, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	George Pace, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	George Stone, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Geraldine Toney, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Gregory East, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	H. E. Wood, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Hamid Abdussatan, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Helene Armistad, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Henry Jordan, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Howard Williams, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Hudson Grady, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Hughlean Medlea, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Ida M. Grant, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	J. El. Shuney, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	J. Hyche, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	J. L., Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Jacqueline Price, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	James B. Quayle, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	James Campbell, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Janie E. DuBose, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Janie Hayes, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Janis Renee Finney, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Jason Ferthors, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Jay A. Cole, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Jeanine Burrell, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Jeff Bewley, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Jeff Tucker, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Jermaine Mitchell, Euclid, OH; Environmental Concern	4/9/98

**TABLE A-4
COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/9/98	Johette Henry, Berea, OH; Environmental Concern	4/9/98
4/9/98	John Cornelius, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	John Johnson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	John Kinchid, North Olmsted, OH; Environmental Concern	4/9/98
4/9/98	John W., Garfield Heights, OH; Environmental Concern	4/9/98
4/9/98	Johndrea Lynch, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Johnny W. Hines, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	John's Auto, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	John's Towing, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Jose A. Torres, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Joseph E. Brown, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Joseph Nanni, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Joseph Sadie, North Royalton, OH; Environmental Concern	4/9/98
4/9/98	Joseph Small, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Joseph W. Myers, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Joyce Johnson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Juanita McFarland, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Juanita Spencer, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Judy Alban, Avon, OH; Environmental Concern	4/9/98
4/9/98	Judy Askew, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Judy Miles, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	K. Watley, Richmond Heights, OH; Environmental Concern	4/9/98
4/9/98	Kan Kwong, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Katherine McCoggle, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Kathy McComb, Independence, OH; Environmental Concern	4/9/98
4/9/98	Katrina Nash, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Kelly Kirkpatrick, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Kelly Merbin, East Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Kenneth Robinson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	L. M. Bibbs, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	L. R. Wallace, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	La Tarsha Grady, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Laddie Emerick, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Larry Brooks, Cleveland, OH; Environmental Concern	4/9/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/9/98	LaSalle Strickland, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Latrisia Boyer, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Lauren Johnson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Lawrence Grady, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Lawrence T. Lee, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Lea A. Thompson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Lea A. Thompson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Lee James Welburn, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Len J. Coblin, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Leon Heard, Cleveland Heights, OH; Environmental Concern	4/9/98
4/9/98	Leon Reed, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Leron Wells, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Lillian McDaniel, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Linda Walker, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Lisa McCrary, East Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Lonnie Murray, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Loria Martin, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Lorraine Coyne, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Lorraine Harris, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Luke D. Davis, Sr., Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Luther Shealey, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Luz Figueroa, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	M. Jones, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	M. M., Walton Hills, OH; Environmental Concern	4/9/98
4/9/98	M. M., Walton Hills, OH; Environmental Concern	4/9/98
4/9/98	M. Respass, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	M. W. , Cleveland, OH; Environmental Concern	4/9/98
4/9/98	M.M., Parma, OH; Environmental Concern	4/9/98
4/9/98	Mandi Harris, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Margaret Mathis, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Margaret Means, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Maria Curren, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Mark C. Hastings, Avon, OH; Environmental Concern	4/9/98
4/9/98	Marty Epling, Cleveland, OH; Environmental Concern	4/9/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/9/98	Mary L. Dominick, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Mary Neris, Lakewood, OH; Environmental Concern	4/9/98
4/9/98	Mary Sanders, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Maurice Dammons, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Michael Berry, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Michael Billich, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Michael Mills, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Michael O'Connell, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Michelle Hayden, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Mike Place, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Nancy Ruiz, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Natasha Mazo, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Neitika Carter, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Nichole Tyson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Nicole D. Sullivan, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Nicole Washington, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Norma Sliman, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	O. Maul, Maple Heights, OH; Environmental Concern	4/9/98
4/9/98	Odessa L. Freeman, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	P. C., Cleveland, OH; Environmental Concern	4/9/98
4/9/98	P. Riley, North Olmsted, OH; Environmental Concern	4/9/98
4/9/98	Pat Konkell, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Patrick L. Shyrt, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Patty Ogletree, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Paula C. Fields, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Pearl Bufford, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Peter Love, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Phyllis Peters, Warrensville Heights, OH; Environmental Concern	4/9/98
4/9/98	Pia Cenderelli, Parma, OH; Environmental Concern	4/9/98
4/9/98	Priciaus Jenkins, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Q. G., Cleveland, OH; Environmental Concern	4/9/98
4/9/98	R. Graham, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	R. Maloney, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	R. P., Highland Heights, OH; Environmental Concern	4/9/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/9/98	Rachel Ward, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Raechell Williams, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Reginald Bailey, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Reinaldo Sanchez Jr., Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Renee Creslak, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Rhonda Doolittle, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Richard Johnson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Richard Kray, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Robert Banns, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Robert Lewis, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Roland A. King, Parma, OH; Environmental Concern	4/9/98
4/9/98	Rosalind V. Taylor, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Rose E. Thomas, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Rose L. Curry, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Rosetta Buffington, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Roy Jones, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Rumiana Papesch, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Ruth A. Cox, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Sahir Hasan, Cleveland Heights, OH; Environmental Concern	4/9/98
4/9/98	Schvanch Harris, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Sharlene Cunningham, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Sharon Nelson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Sherrie Pashctt, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Shirrell Williams, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Shonetta Sanders, Maple Heights, OH; Environmental Concern	4/9/98
4/9/98	Spring H. Hutchins, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Stanley S. Kaminski, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Stephanie Walker, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Steve Gaston, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Steve Strother, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Susan Haders, Cleveland Heights, OH; Environmental Concern	4/9/98
4/9/98	T. Lett, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	T. W., Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Tamika Woodson, Cleveland, OH; Environmental Concern	4/9/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/9/98	Tammy L. Hanna, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Tania Eff, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Theodore E. Walker, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Tim Smith, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Todd R. Wright, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Tom Kohanski, Euclid, OH; Environmental Concern	4/9/98
4/9/98	Toni M. Jackson, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Tracy S. Davis, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Tverner Collier, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Tywan Ballard, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Ulysses Childress, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	V. L. Young, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Vance Rouse, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Vanessa Jones, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Verneata Morgan, North Olmsted, OH; Environmental Concern	4/9/98
4/9/98	Veronia Young, East Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Versa Phipps, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Vicki L. Scott, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Victor Kovacie, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Wendy Harris, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Wendy McDonald Hunter, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	William A. Speights, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	William Newsome Jr., Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Willie D. Hamilton, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Willie McCladdie, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Willie Ogletree, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Willie R. Hamilton, Cleveland, OH; Environmental Concern	4/9/98
4/9/98	Yolanda Figueroa, Cleveland, OH; Environmental Concern	4/9/98
4/10/98	U.S. House of Representatives, Thirteenth District, OH, S. Brown; Participation in Oral Argument	4/10/98
4/13/98	Alma Landrum, Cleveland, OH; Environmental Concern	4/13/98
4/13/98	Cynthia Miller, Cleveland, OH; Environmental Concern	4/13/98
4/13/98	Gerald Merton, Cleveland, OH; Environmental Concern	4/13/98
4/13/98	Jerry Marcharon, Cleveland, OH; Environmental Concern	4/13/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/13/98	John L. Andre, Wellington, OH; Representative Gilmore; Request Him to Attend Oral Argument	4/13/98
4/13/98	Marilyn V. Andel, Wellington, OH; Environmental Concern	4/13/98
4/13/98	Mary Ann Kostyack, Cleveland, OH; Environmental Concern	4/13/98
4/13/98	Nancy Konchan, Cleveland, OH; Environmental Concern	4/13/98
4/13/98	Sylvia Minor, Cleveland, OH; Environmental Concern	4/13/98
4/14/98	I. Falsone, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jonathan N., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	A. Benedict Schneider, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	A. Duman, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	A. E., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	A. J. Ryan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	A. Lieberman & K. Stern, University Heights, OH; Environmental Concern	4/14/98
4/14/98	Aaron Schneider, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Abdul Al-Muttairi, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Agnes Wong, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Al White, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Alanna Stigall, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Albert Ponder, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ale Lytle, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Alegra Martin, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Alexandra Bugar, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Alfred P. Malone, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Alice L. Lee, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Alvin Mays, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Amanda Flowers, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Amanda Schneider, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Aminah Z. Abdullah, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Amy Barth, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Andre Freeman, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Andrea Freeman, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Andy Okulovich, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Angel Jones, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Angela Yvette Brown, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Angie Frank, Brooklyn, OH; Environmental Concern	4/14/98
4/14/98	Anna Bradley, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Anne Lingenfelter, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Annie Mayer, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Anthony Robertson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Antoine Gunter, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Antonio Ogletree, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Antonio Palmer, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Ariana Henderson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Arkeydia Owens, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Arutha Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Audrey Robinson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Auretha G. Pettigrew, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Austin Georgia, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Awilda Miniz, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	B. Battle, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	B. C. Huff, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	B. Hill, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	B. Motley, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	B. Obu, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Barb Biskupich, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Barbara Ajao, Shaker Heights, OH; Environmental Concern	4/14/98
4/14/98	Barbara Ginns, Warrensville Heights, OH; Environmental Concern	4/14/98
4/14/98	Barbara Spaan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Barbara Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Barry Hughes, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Beatrice Yalya, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Belinda McKinney, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Berry O'Kelly, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Bertha Gilliam, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Bertha Hollins, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Beth Kaufman, Hunting Valley, OH; Environmental Concern	4/14/98
4/14/98	Betty Boose, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Betty Gholston-Perkins, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Betty Jackson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Betty L. Hutchinson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Betty Rodgers, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Beulah Curtis, East Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Beverly Sobochan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Bill Scears, Parma, OH; Environmental Concern	4/14/98
4/14/98	Bob Rombach, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Bobby Sullivan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Boo Scott, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Brain Naiper, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Brenda Glass, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Brent Zboyouski, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Bridgette Johnson, Euclid, OH; Environmental Concern	4/14/98
4/14/98	C. M. Woods, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	C. R. Woodard, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Calore Sucky, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Calvin Jennings, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Carl D., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Carla Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Carmella Browning, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Carmen Claudio, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Carol L. Romano, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Carolyn Brown-Cleaver, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Carolyn Conley, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Carrie Dokes, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Cassandra Green, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Cassandra Phillip, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Cassandra Roney, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Catherine S. Mayer, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Chanel Golson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Charlene Blair, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Charlene Tzlus, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Charles E. Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Charles Howell Jr., Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Charles Moore, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Charles Piotrowski, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Charneh Hinders, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Christal D. Howard, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Christine A. Dunn, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Christopher Morrell, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Chunyuan Wang, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Clarence Gaines, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Clarence Solomon Jr., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Clarissa Lynch, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Claude Gray, Jr., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Clifton Creh, Fairview Park, OH; Environmental Concern	4/14/98
4/14/98	Constance Reynolds, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Cora Gregory, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Cory Weaver, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Craig White, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Curtis Perkin, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Cynthia Densor, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	D. Green, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	D. Onunwor, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Daisy Rose, Mentor, OH; Environmental Concern	4/14/98
4/14/98	Dale Lindauer, Maple Heights, OH; Environmental Concern	4/14/98
4/14/98	Daniel Gonzalez, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Daniel Monrese, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Danielle Newis, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Danielle Nichole Bowman, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Danielle Summers, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Darla Dirk, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Darlene Brown, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Darlene Davis, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Darnell Allen, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Darren L. Martemos, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Darryl Woods, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	David A. Dallas, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	David McWilliams, Bedford, OH; Environmental Concern	4/14/98
4/14/98	David Sanalria, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Debbie Majher, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Debbie Simons, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Deborah Brockman, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Deborah Collins, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Deborah J. Knickham, Parma, OH; Environmental Concern	4/14/98
4/14/98	Deborah Richards, Bedford, OH; Environmental Concern	4/14/98
4/14/98	Debra Thorton Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Dee Lewis, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Delores Davis, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Deloris V. Carman, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Denatra Rucker, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Denise Acnot, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Denise Jones, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Denise Shawn, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Dennis Harks, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Diana Hinders, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Diane Barnett, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Diane Price, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Dianna M. Blankenship, Middleburg Heights, OH; Environmental Concern	4/14/98
4/14/98	Dolores Hules, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Dominic Hitchcock, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Donald A., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Donald Nelson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Donita Jones, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Donna Ogle, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Donna Phillips, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Donna Ware, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Donna Weston, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Donna Wildard, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Donnell Greene, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Donnie T. James III, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Donnita Y. Smith, Cleveland, OH; Environmental Concern	4/14/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Dontave Courette, Mayfield Heights, OH; Environmental Concern	4/14/98
4/14/98	Dora Dixon, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Doris Blacknon, Garfield Heights, OH; Environmental Concern	4/14/98
4/14/98	Dorothy Barr, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Dorothy Hancock, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Dorothy I. Smith, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Dorothy McKenzie, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Douglas Jackson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Dr. & Mrs. Hoogwerf, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Dr. & Mrs. Lentz, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Dr. Partin & Mr. Dowling, South Russell, OH; Environmental Concern	4/14/98
4/14/98	Dr. Showman, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Dreana Shields, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Duane Morris, Garfield Heights, OH; Environmental Concern	4/14/98
4/14/98	Dunte' Rice, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Dwain Brown, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	E. Clark, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	E. Scott, Warrensville Heights, OH; Environmental Concern	4/14/98
4/14/98	E. Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Earlene Johnson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ed Schmitt, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Edna Davis, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Edward James Goins, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Edward Long, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Edward Mathews, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Elaine T. Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Elaine Wyche, Warren Heights, OH; Environmental Concern	4/14/98
4/14/98	Elaine Z., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Eleanor Smith, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Elena P. Ford-Griffin, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Elizabeth Garese, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Elizabeth Marin, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Elizabeth Womble, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ella Williams, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Elsie L. Farmer, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Emery Stewart, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Eric Smith, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Erica Alford, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Erik Cloud, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Erika Jamez, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Essie Cloud, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ethel Jennings, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Evelyn Dear, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Evelyn Johnson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Evelyn Kennibrew, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Evelyn P. Easley, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Evelyn Porter, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Everett T., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Exodus Lett, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Eyelyn Golson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	F. Jones, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Faye McLin, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Felicia Sas, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Fliria Jernigan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Forest Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Fragger Spates, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Fran Thorton, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Frances E. Shellenbarger, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Francine Jones, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Frank Monigan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Frank S. Radwan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Freddie Ford, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Frizell P. Burt, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	G. Gaijan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	G. Gratzl, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	G. J. Harron, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	G. Jurcak Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Gabriela Stefan, Garfield Heights, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Gail Curry, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Gail Kovacic, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Gene Winfrey, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Geneva Cannon, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	George G. Morris, Lyndhurst, OH; Environmental Concern	4/14/98
4/14/98	George S., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Georgia Solomon, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Gerald Anderson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Gerald Primer, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Geraldine Appling, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Gerrisha D., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Gertie Sullivan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Gloria Sturkey, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Grace Suma, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Greg Fleming, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Gregory Scheel, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Gwendolyn Pettway, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Happy For You, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Harley Cony, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Harvey Hedous, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Heath Milsil, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Helen Chownowitz, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Helen Maron, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Helen Thomas, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Henry M. Krasoch, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Hershell Smith, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Hiep Thi Nguyen, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Horace Collier, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ian Thompson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ida B. Carrion, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Indie Goodwin, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Irene Snead, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Isaac Carney, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ishai Jones, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	J. D. Walesek, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	J. Mou, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	J. O., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jake Brown, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jamarr White, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	James Carr, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	James Cuthbertson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	James Dulop, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	James Haughton, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	James L. Shackhy, Brunswick, OH; Environmental Concern	4/14/98
4/14/98	James L. Watson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	James M. Edgerson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	James Paschall, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	James Rave, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	James Rice, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jan Farmerie, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ja'Nee Bagwell, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Janet Liddele, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jason Byrge, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jay Green, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jean Jenkins, Shaker Heights, OH; Environmental Concern	4/14/98
4/14/98	Jeanne Eging, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jeff Tretera, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jeffery Thompson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jeffrey R. Doggett, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jennie Ferich, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jennie Richards, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jennie Washington, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jerry Harris, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jesse Shaw, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jessica Ward, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jessie Ford, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jessie Moorer, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jesus Rodriguez, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Jewel Savage, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jhonathan Thomas, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jim DelVecchio, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jimmie R. Mayfield, Warrensville Heights, OH; Environmental Concern	4/14/98
4/14/98	Jimmy Baynes, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	JM Ten Hove, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Joan Redd, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Jocelyn Brumbaugh, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Joe Crum, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Joe Harrell, Birmingham, OH; Environmental Concern	4/14/98
4/14/98	Joe Jenkins, East Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Joe Pettway, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	John Askew, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	John Banta, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	John Bell, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	John C. O., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	John H. Edwards, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	John H. White, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	John M. Cabbell, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	John Myers, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	John Myers, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	John Petkac, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	John S. Eloshway, Twinsburg, OH; Environmental Concern	4/14/98
4/14/98	John Stuart, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Johnetta Powell, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Johnnie L. King, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Johnny Knox, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Joseph D. Shiner, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Joseph Hanes, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Joseph Hanna, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Joseph Stickney, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Joyce Davison, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Joyce Halasa, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Joyce T. Corrman, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Juan Roberts, Euclid, OH; Environmental Concern	4/14/98
4/14/98	Juan Scots, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Juanita Cochran, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Judy C. Tutwiley, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Julia Wilson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Julian Givens, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Julius Bremer, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Julius J. Davis Jr., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	June Feltes, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	K. A. Christopher, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kareemah Rashed, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Karen Barnett, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Karen Frarr, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Karen McDuffie, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Karen Russ, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Karen Sanders, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kathleen Mulligan, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Kathleen Reinke, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kathleen Sanniti, Chagrin Falls, OH; Environmental Concern	4/14/98
4/14/98	Katricia Massigle, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kayla Smith, East Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Keisuke Hirai, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Keith Fletcher, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kelly Barnett, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kelly Kupcak, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ken Knaack, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Kenneth Barrett, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kenneth Butler, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kenneth Clark, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kenneth M. Enos, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kevin Brown, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kevin Hotelling, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kevin Patterson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Khalil Woods, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Kim Cheeks, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Kineen Ivory, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	L. Alexander, Chagrin Falls, OH; Environmental Concern	4/14/98
4/14/98	L. C. Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	L. H., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	La Shanda A. Jackson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	LaBron Sanford, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Larry Kerber, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lashauna White, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Latanya Burt, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Latasha D. Brown, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Latasha Hall, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	LaTonija Powell, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	LaToya Ball, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Latoya Lipscomb, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Laura Bultman, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Laura Fratus, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Laura Yee, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	La'Vada Tillie, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lavallia H. Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Laverne Smith, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lawanda Cleveland, East Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lawlicz Houdek, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lawrence C. Wallace, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lecianya Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Leole Barmasse, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Leonard C. S., Jr., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Leonardo Harris, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Leviticus Wells, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Liesha Strickland, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lillie B. Cody, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lillie Penny, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Linda C. Grady, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Linda Dietrich, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Linda Freeman, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Linda Jackson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Linda Morris, Garfield Heights, OH; Environmental Concern	4/14/98
4/14/98	Linda Oneal, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Linda W. Hatton, Wellington, OH; Environmental Concern	4/20/98
4/14/98	Lisa Carter, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lisa Smither, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lorenzo D. Willis, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lori Hellert, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lottie Austin, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lottie Person, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lou Rivera, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Louise Fohayan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Louise M. William, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Lounetta Whifie, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Luis M. Rivera, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	M. D. Smith, East Cleveland, OH; Environmental Concern	4/14/98
4/14/98	M. O. Jackson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mable Foust, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mae Frances Thomas, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Maggie Flow, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Magglie Chrisburg, Shaker Heights, OH; Environmental Concern	4/14/98
4/14/98	Maisha Dial, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Manh Quach, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marc Minor, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Margaret Corley, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marge Kelbacher, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marge Kelbacher, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marie Burgar, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marie Gorley, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marie L. Gilchrist, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marigold Smith, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marius Brown, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mark A. Sakalo, Cleveland, OH; Environmental Concern	4/14/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Mark C. McGinley, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marketa Jones, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marlene Tripp, Bedford Heights, OH; Environmental Concern	4/14/98
4/14/98	Marshale Everette, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Martha Roebuck, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marva Blackwell, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marvella Donald, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Marvin D. Burns, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mary Bell D., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mary Clement, Broadview Heights, OH; Environmental Concern	4/14/98
4/14/98	Mary Dillard, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mary E. Zegarac, Avon, OH; Environmental Concern	4/14/98
4/14/98	Mary Ellen Mueller-Coleman, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mary Montgomery, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mary Presley, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mary S. Birk, Cuyahoga Falls, OH; Environmental Concern	4/14/98
4/14/98	Mary Summers, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Masekala Johnson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Matt Walik, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Matthew Smith, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mattie Armstrong, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mattie Fenderson, Shaker Heights, OH; Environmental Concern	4/14/98
4/14/98	Mattie Funderson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mattie Jennings, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Maureen Anderson, Strongsville, OH; Environmental Concern	4/14/98
4/14/98	Maybell Jackson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Melanie Craigs, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Melissa Brown, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Melvin L. Garner, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Melvin Willis, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Melvina Barnes, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Michael A. Smith, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Michael D., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Michael Dickinson, Cleveland, OH; Environmental Concern	4/14/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Michael Lawson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Michael Malone, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Michael Wade, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Michelle Butts, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mike Biskupich, Avon, OH; Environmental Concern	4/14/98
4/14/98	Mike Evans, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mike Himes, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mike Leonetti, Chagrin Falls, OH; Environmental Concern	4/14/98
4/14/98	Mike O'Hagerty, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mike Walsh, N. Royalton, OH; Environmental Concern	4/14/98
4/14/98	Mildred Cannon, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mildred Mage, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mildred Warner, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Milton F. Kostyack, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Milton Hawkins, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Minh C. Nguyen, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mohammed Jarrie, North Olmsted, OH; Environmental Concern	4/14/98
4/14/98	Mohl Thompson, Ravenna, OH; Environmental Concern	4/14/98
4/14/98	Moira McAnderson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Monika James, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Morris Montgomery, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mozella Braswell, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Benton, Chagrin Falls, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Bittel, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Boeschstein, Shaker Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Brady, University Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Century, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. David V. Clough, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Demer, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Diamond, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Donaldson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Eisen, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Fink, Cleveland, OH; Environmental Concern	4/14/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Mr. & Mrs. Goldfarb, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Grimm, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Grogan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Hanley, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Harris, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Hempstead, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Hildebrandt, Rocky River, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Hooper, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Jaffe, University Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Mann, Shaker Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Marconi, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Muller, University Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Nugent, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Patacca, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Raack, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Ritchey, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Sabik, University Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Skoff, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Smith, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Stephen Wood, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Urban, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Wachter, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Wagner, Moreland Hills, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Webb, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. & Mrs. Weiss, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Acheson & Ms. Ruff, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. and Mrs. Anton, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. and Mrs. Bowe, Chagrin Falls, OH; Environmental Concern	4/14/98
4/14/98	Mr. and Mrs. Carlson, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. and Mrs. Cribbs, University Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. and Mrs. Harry Cooke III, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. and Mrs. Mitchener, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. and Mrs. Smith, Cleveland, OH; Environmental Concern	4/14/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Mr. Bartels & Ms. Tracy, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Callahan and Ms. Bork, Chagrin Falls, OH; Environmental Concern	4/14/98
4/14/98	Mr. Chidel, University Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. Chuck Pugh, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Collin, Berea, OH; Environmental Concern	4/14/98
4/14/98	Mr. Dante Smith, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Derrick Easley, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Dunson & Ms. Wadsworth, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Friedman & Ms. Livingston, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. Hoshi, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. Howell, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Jesse Fans, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Kay, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Kleidman, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Koehler & Mrs. Hardy, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. L. J. Walker, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. L. Y., University Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. Lasher, Rocky River, OH; Environmental Concern	4/14/98
4/14/98	Mr. Luciani, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. McDonald, Euclid, OH; Environmental Concern	4/14/98
4/14/98	Mr. McKelvey, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. N. Weger, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Napolitan, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mr. Patterson, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mr. Schwarz, East Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Setzer, Bentleyville, OH; Environmental Concern	4/14/98
4/14/98	Mr. Speilman & Ms. Walton, University Heights, OH; Environmental Concern	4/14/98
4/14/98	Mr. Torres, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Toth & Ms. Niegoda, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Tower, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Walunis, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mr. Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Anton, South Russell, OH; Environmental Concern	4/14/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Mrs. Antonia, Shaker Heights, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Bodnar, Rocky River, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Borchert, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Burl, Chagrin Falls, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Conrady, University Heights, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Cruz, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Debowen, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. DeVenne, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Diemer, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Durning, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Dweik, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Fleischman, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Hallisy, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Hendricks, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Hertelendy, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Kiss, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Marshall, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Meisels, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Mumber, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mrs. O'Connell, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Peter-Wohl, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Pierce, Chagrin Falls, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Rather, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Schlang, Chagrin Falls, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Schroeder, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Sokol, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Taboada, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Trickett, Euclid, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Valls, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Waanders, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Wertheim, University Heights, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Wierzbicki, Euclid, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Withers, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Mrs. Worsey, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Ms. Alexander, Moreland Hills, OH; Environmental Concern	4/14/98
4/14/98	Ms. and Mrs. Burnell, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Ms. Anderson, South Russell, OH; Environmental Concern	4/14/98
4/14/98	Ms. Birnbaum, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Chaichi, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Ms. Christy Skaggs, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Clarke, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Ms. Cortese & Mr. Heinzl, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Cvetic, Rocky River, OH; Environmental Concern	4/14/98
4/14/98	Ms. Escott, Chagrin Falls, OH; Environmental Concern	4/14/98
4/14/98	Ms. Fehrenbach, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Fishman, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Ms. Foerstner, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Ms. Frew & Mr. Charles, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Ms. Goldstein, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Graham, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Ms. Gurbst, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Hill, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Judith VanKleef, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. K. F., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Kathryn Pin, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Kula, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Ms. Kwok, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Ms. Lewis, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Matis, Euclid, OH; Environmental Concern	4/14/98
4/14/98	Ms. Milligan, Shaker Heights, OH; Environmental Concern	4/14/98
4/14/98	Ms. Nakamura, Chagrin Falls, OH; Environmental Concern	4/14/98
4/14/98	Ms. Newman, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Ms. O. F., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. O'Grady, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Pare, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Ms. Peck, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Perry, East Cleveland, OH; Environmental Concern	4/14/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Ms. Quinn, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Ms. Schwarz, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Ms. Unger, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Vegh, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ms. Wolin, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Muhammad M. Abdullah, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	My Duc Nguyen, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Myra Jones, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	N. Ader, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	N. Syston, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	N. Vaughan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Nancy William, Parma, OH; Environmental Concern	4/14/98
4/14/98	Nathaniel Moorer, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Nathaniel Washington, Sr., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Nellie Collier, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Nena McFadden, Berea, OH; Environmental Concern	4/14/98
4/14/98	Nichol Jennings, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Nikki Morris, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Norma J. Chindler, Richmond Heights, OH; Environmental Concern	4/14/98
4/14/98	Odessa Walker, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ophelia Pownes, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Pamela Bunch, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Pamler Moton, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Patricia Hickey, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Patricia Matthews, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Patricia R. Green, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Patrick H. Thauvette, Brunswick, OH; Environmental Concern	4/14/98
4/14/98	Patty Schmitt, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Paul Buchanan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Pearline Smith, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Peggy Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Peggyellen Faulkner, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Peoter Panas, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Perry James, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Perry James, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Pete Addaute, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Pete Why, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Phillip L. Fulton, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Phylis Smith, Warrensville, OH; Environmental Concern	4/14/98
4/14/98	Quoc Nguyen, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	R. Boaker, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	R. Collins, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rabia El Danar, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rafael Samanez, Mayfield Heights, OH; Environmental Concern	4/14/98
4/14/98	Rafael Walles, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Raimon Mang, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Randy J. Sincich, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Randy Owens, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ray Hall, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ray Szuch, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Raylon Hyché, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Raymond Barksdale, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Raymond Hutchins, Garfield Heights, OH; Environmental Concern	4/14/98
4/14/98	Raymond Jones, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rayshawn Freeman, East Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rebecca Bailey, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rebekah Hodous, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Regina Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Reginald Mathews, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Reginia D. Carter, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Relly Rell, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Renita Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rev. and Mrs. E. James Cole, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Richard M. Thompson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Richard Smith, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rico Levert, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rita Grabisna, North Royalton, OH; Environmental Concern	4/14/98
4/14/98	Rita J. Williams, Cleveland, OH; Environmental Concern	4/14/98

**TABLE A-4
COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Robert Eedy, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Robert Frazier, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Robert Henie, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Robert Kyle, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Robert Moore, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Robert Pore, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Robert Valentine, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Roberta Walters, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Robin Morton Jones, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rodney Jackson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Roger Sams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Romeo Mays, Bedford Heights, OH; Environmental Concern	4/14/98
4/14/98	Romeo Mays, Bedford Heights, OH; Environmental Concern	4/14/98
4/14/98	Ron C. Perkins, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ronald C. League, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ronald Whetstone, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ronita Allen, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rosa Ocasio, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rosalyn Robinson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rose Ukovic, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Rosie Primsons, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ruby Bashoy, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ruby N. Swift, Bedford, OH; Environmental Concern	4/14/98
4/14/98	Ruth Jackson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ruth Liotta, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Ryan Ramos, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sal Disahi, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sal Pace, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sam Assad, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sam E. McDuffie, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sam Hamdan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Samuel R. Steele, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sang Tran, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Santino Williams, Cleveland, OH; Environmental Concern	4/14/98

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COMMENTS RECEIVED AFTER CLOSE OF COMMENT PERIOD**

Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Sawier Mudd, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Sebee Jackson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Selena McIntyre, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sellmina Hollins, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Semia Mayo, East Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Shameka Denise Burts, Euclid, OH; Environmental Concern	4/14/98
4/14/98	Shanna Petrovek, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sharon Hunter, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sharon S. Hogan, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Shauna Slayton, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Sheila Strukely, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Shelly Jones, Bedford, OH; Environmental Concern	4/14/98
4/14/98	Sherman Worley, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sherri A. Martin, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sherry S., Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Shirley Berry, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Shirley Davis, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Shirley Prince, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Sid Mahmoud, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sonia Nelson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Stan Walker, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Starzcheh Hinders, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Stephanie Nank, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Stephanie Nank, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Susan Edwards, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Susan Gadowski, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Sylvia Walker, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Taffy Lyles, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tahira Davis, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tamiko Toyama, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tammie Harris, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tammy Ogle, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tanya C. Watson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tatiana Robinson, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Terrance Cloud, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Terry Banilla, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Terry King, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Terry Ross, Lyndhurst, OH; Environmental Concern	4/14/98
4/14/98	The Fehn Family, University Heights, OH; Environmental Concern	4/14/98
4/14/98	The Gudbranson Family, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	The Kanner Family, Rocky River, OH; Environmental Concern	4/14/98
4/14/98	The Wirth Family, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Theresa Jackson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Theresa Jones, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Thomas Galmi, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Timothy Baul, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Timothy Norris, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tina Bronaugh, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Todd Backus, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tom Autosky, Wickliffe, OH; Environmental Concern	4/14/98
4/14/98	Tom Fadeley, Twinsburg, OH; Environmental Concern	4/14/98
4/14/98	Tom Walstron, Fairview Park, OH; Environmental Concern	4/14/98
4/14/98	Tommi Ellington, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Toni Harrison, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tony G. Rice, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tony Wood, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tonya Craigs, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Toria Williams, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tracy Bowen, East Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tracy Moore, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tracy Willis, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tracy Wilson, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Trang Nguyen, Lakewood, OH; Environmental Concern	4/14/98
4/14/98	Trevonne Lett, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Trish Green, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Troy Matthews, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Tyrone Grayer, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Van Lenten, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/14/98	Vannara Owk, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Vera Oasta, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Veronica Coleman, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Verwon Dillinay, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Vida Vest-Gegorc, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Viera Dlugos, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Virgie Hollingsworth, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Virginia Jakowski, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Virginia R. Cinnamon, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Virginia Tinsley, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Vivian Conner, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Wilburn Glass, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Willa Wilburn, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	William Harkins, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	William L. Hunt, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	William L. Oliverio, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	William Lennon, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	William Lowry, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	William McKinney, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	William Mikel, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	William Reed, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	William Tell, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	William Winter, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Willie Early, Cleveland Heights, OH; Environmental Concern	4/14/98
4/14/98	Willie Mason, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Willie Ross, North Randall, OH; Environmental Concern	4/14/98
4/14/98	Wilma Nicholson, East Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Win Fluker, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Winona Murray, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Wintio Gilesos, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Xavier Jones, Shaker Heights, OH; Environmental Concern	4/14/98
4/14/98	Ying-Hong Yu, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Zuleika West, Cleveland, OH; Environmental Concern	4/14/98
4/14/98	Zuleika West, Cleveland, OH; Environmental Concern	4/14/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/15/98	Gerald, Wellington, OH; Environmental Concern	4/15/98
4/15/98	Nancy Gove, Wellington, OH; Environmental Concern	4/15/98
4/16/98	Donna Long, Wellington, OH; Environmental Concern	4/16/98
4/16/98	Lawrence Sorg, Wellington, OH; Environmental Concern	4/16/98
4/17/98	A. Hollins, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	A. Kyonsky, Parma, OH; Environmental Concern	4/17/98
4/17/98	Andy Manson, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Bevallini Tripplitt, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Binnie Eiger & Philip Brett, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Charles and Theresa Corriggio, Wellington, OH; Environmental Concern	4/17/98
4/17/98	Darlene Johnson, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Dedric Harris, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Della R. Abrams, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Delores Thomas, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Doris K. Ewing, Wellington, OH; Environmental Concern	4/17/98
4/17/98	Dr. & Mrs. Froimson, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	E. O. Diyer, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Emma H. Shockley, Brunswick, OH; Environmental Concern	4/17/98
4/17/98	Gia Hoa Ryan, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Ida Farran, Wellington, OH; Environmental Concern	4/17/98
4/17/98	Jahdia Stoves, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	James E. Rupert, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	James Nixon, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Jasmie Blue, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	John K., Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Joseph Sidoti, Mentor, OH; Environmental Concern	4/17/98
4/17/98	Kenya B., Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Kevin Williams, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	L. R., Saslow, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Larry Snitzky, Seven Hills, OH; Environmental Concern	4/17/98
4/17/98	Latasha McCornell, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	LeKisha Robinson, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Mary Biskupich, Avon, OH; Environmental Concern	4/17/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/17/98	Mr. & Mrs. Armstrong, Rocky River, OH; Environmental Concern	4/17/98
4/17/98	Mr. & Mrs. Banchek, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Mr. & Mrs. Briner, Chagrin Falls, OH; Environmental Concern	4/17/98
4/17/98	Mr. & Mrs. Buckley, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Mr. & Mrs. Cavender, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Mr. & Mrs. Gillombardo, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Mr. & Mrs. Meil, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Mr. & Mrs. Merriam, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Mr. & Mrs. Ungar, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Mr. & Mrs. Whitehouse, Chagrin Falls, OH; Environmental Concern	4/17/98
4/17/98	Mr. & Mrs. Wolf, Chagrin Falls, OH; Environmental Concern	4/17/98
4/17/98	Mr. Coates & Ms. Crebbin, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Mr. Inoshita, University Heights, OH; Environmental Concern	4/17/98
4/17/98	Mr. Kim & Ms. Gudbranson, University Heights, OH; Environmental Concern	4/17/98
4/17/98	Mr. Lang & Ms. Wamsted, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Mr. Porter & Ms. Poutasse, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Mr. Shankar & Ms. Bryce, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Mr. Sirovica, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Mr. Weilerstein, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Mrs. Gold, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Ms. Bourisseau, Chagrin Falls, OH; Environmental Concern	4/17/98
4/17/98	Ms. Mendenhall, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Ms. Nigosian, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Ms. Thomas, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Ms. Uniqueka H., Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Ms. Warren, Moreland Hills, OH; Environmental Concern	4/17/98
4/17/98	Nguyen Tuyet, Brooklyn Heights, OH; Environmental Concern	4/17/98
4/17/98	Norma Mitchell, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Quoc Hoa, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Regina Jones, Bedford, OH; Environmental Concern	4/17/98

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Ohio		
Comment Date	Commentor, Subject of Document	Date Received
4/17/98	Rob Gersna, Lakewood, OH; Environmental Concern	4/17/98
4/17/98	Robert Ash, Lakewood, OH; Environmental Concern	4/17/98
4/17/98	Robert Gibb, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	S. M. Williams, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Sally D. Brown, Akron, OH; Environmental Concern	4/17/98
4/17/98	Sinth Tran, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Steve Smith, Western Cover, OH; Environmental Concern	4/17/98
4/17/98	The Feighan Family, Cleveland Heights, OH; Environmental Concern	4/17/98
4/17/98	Tom Biskudich, Avon, OH; Environmental Concern	4/17/98
4/17/98	Ty Shawn Ball, Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Valerie Fergus, Fairview, OH; Environmental Concern	4/17/98
4/17/98	William L. Braine, Jr., Cleveland, OH; Environmental Concern	4/17/98
4/17/98	Willie Townes, Cleveland, OH; Environmental Concern	4/17/98
4/19/98	Mary O. Flowers, Cleveland, OH; Environmental Concern	4/19/98
no date	Armentha Nesbitt, Cleveland, OH; Comment on Draft EIS	
no date	Catherine Taylor, Cleveland, OH; Environmental Concern	
no date	Christina J. Jordan, Wellington, OH; Environmental Concern	4/10/98
no date	Daniel & Joyce Scott, Wellington, OH; Environmental Concern	4/10/98
no date	Harry R. Sory, Wellington, OH; Environmental Concern	4/10/98
no date	Maxine Lee, Wellington, OH; Environmental Concern	4/9/98
no date	Pamela Nagas, Wellington, OH; Environmental Concern	4/7/98
no date	Phyllis Moshur, Wellington, OH; Environmental Concern	4/10/98
Pennsylvania		
Comment Date	Commentor, Subject of Document	Date Received
2/9/98	Southeastern Pennsylvania Transportation Authority, E. N. Cipriani; Comment on Draft EIS	2/20/98
3/19/98	PA Historical and Museum Commission, Bureau for Historic Preservation, B. Barrett; Agency Consultation	
3/24/98	Belknap Freeman, PE, Rosemont, PA; Comment on Draft EIS	3/26/98
4/9/98	Alice E. Pryzanlshi, Sharon, PA; Environmental Concern	4/9/98
4/9/98	Wayne O'Brien, Hopwood, PA; Environmental Concern	4/9/98
4/19/98	Kenneth C. Springirth, Erie, PA; Environmental Concern	4/22/98

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South Carolina		
Comment Date	Commentor, Subject of Document	Date Received
1/13/98	State Historic Preservation Office, SC, N. Brock; Response to Consultation Letter	3/12/98
Virginia		
Comment Date	Commentor, Subject of Document	Date Received
3/4/98	Northern Virginia Transportation Commission et al., K. M. Sheys; Errata to Comments on Draft EIS	35857