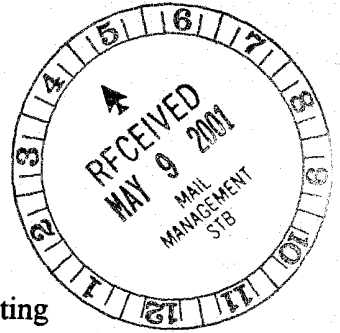


2-2181

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388



CSX Corporation et al., Norfolk Southern Corp. et al.--Control and Operating
Leases/Agreements--Conrail Inc. and Consolidated Rail Corp.

**RESPONSE OF VARIOUS UNIONS
AND THE COMMONWEALTH OF PENNSYLVANIA
TO NORFOLK SOUTHERN'S REPLY TO JOINT PETITION
FOR ENFORCEMENT OF ORDER, OR ALTERNATIVELY TO REOPEN
FOR ORDER DIRECTING COMPLIANCE WITH COMMITMENTS,
OR ALTERNATIVELY FOR RELIEF NOT OTHERWISE PROVIDED-FOR**

Having obtained the Board's approval for its acquisition and operation of 58% of Conrail, Norfolk Southern Corp. ("NS") expects this agency to simply ignore certain express, clear and repeated representations and commitments that were made by NS specifically for the purpose of gaining key support for the acquisition and obtaining the Board's approval. NS apparently expects this Board to do nothing about NS' planned repudiation of the representations and commitments it made regarding the Hollidaysburg Car Shop ("HCS") notwithstanding the Board's Order binding the applicants "to all of the representations they made during the course of this proceeding, whether or not such representations are specifically referenced in" Decision No. 89, simply because NS now views the representations it made about the HCS as inconvenient.

At the time the Unions¹ and Pennsylvania filed their Joint Petition on March 28, NS and its rail subsidiary Norfolk Southern Ry. ("NSR") had expressly refused to provide the Unions

¹ Transport Workers Union of America ("TWU") and the National Council of Firemen and Oilers/SEIU ("NCFO"), International Association of Machinists and Aerospace Workers ("IAM"), International Brotherhood of Boilermakers and Blacksmiths ("IBB") International Brotherhood of Electrical Workers ("IBEW") Sheet Metal Workers International Association ("SMWIA") and Transportation Communications International Union ("TCU") (collectively referred to herein as "Unions")

with an explanation of the intended closure, beyond the vague and conclusory information issued by NS in its press release on the subject. (NS and NSR are sometimes referred to jointly herein as NS). Now, however, NS and has attempted to explain its position in its April 17, 2001 reply and the thirteen exhibits to the reply. NS' opposition to the joint petition is predicated on misrepresentations of the facts, and specious arguments that its representations and commitments were really just expressions of its intentions that it was free to walk away from at its own convenience. Alternatively, NS argues that the representations and commitments were not binding because 1) they were mere details of what NS describes as just its then-envisioned "operating plan", 2) because the representations and commitments had no defined "end date" and 3) because the economy has slowed. The entire tone of NS' reply appears to be that the Unions and the Commonwealth must have been naïve to believe that NS meant anything it said, no matter how high up the chain of NS command the speaker was, no matter where, or to whom, the statements were made (including under oath) and no matter how often the same statements were made.

Petitioners submit that the evidence provided to the Board in the Joint Petition and this Response clearly demonstrates that NS committed to retaining and continuing to operate the HCS, and to invest in the HCS. Additionally, Petitioners will show that even if "changed economic circumstances" might in some cases justify an attempt by NSR to close the HCS after Board approval, there is no evidence sufficient to support such an action here. NS has, at most, cited a general slowing of economic growth, not an extraordinary and prolonged contraction; and its own carloadings have been only marginally affected. Similarly, even if fluctuations in work loads at the HCS could provide a basis for NS to be relieved of its commitments regarding the

HCS, the evidence about recent work loads at the HCS does not support NS's position. Insourcing work, the work that NS cited as important to growth at the HCS, has actually increased. Moreover, NSR's own records as to overall work loads at the HCS shows only a modest difference between current work loads and work loads at the time that NS made its commitments about the HCS; those records also show that current levels of production are not inconsistent HCS work loads in the past. Production on NSR's own equipment has decreased in the last year or two, but that is a result of NSR's decisions to reduce the work force at the HCS and to defer maintenance the cars it owns; and NS' own testimony about its carloadings shows a reduction of only 2%, so the reductions in work on cars were not due to reductions in the use of cars. Petitioners will also show that the decisions of the Board that are cited by NS are factually distinguishable from this case, and that the Board's reasoning in those decisions does not support denial of the relief sought in the Joint Petition.

I. ADDITIONAL EVIDENCE REGARDING NS REPRESENTATIONS ABOUT THE HCS AND UNIONS/PENNSYLVANIA RESPONSE TO NS ASSERTIONS OF FACT

In this response memorandum, the Petitioners will respond to the allegations of fact contained in NS' reply to the joint petition because of the many material misrepresentations therein, relying in part on recent correspondence from NSR to two of the Unions, and records on employment and production at the HCS.

The Petitioners will also will provide the Board with evidence they obtained in connection with hearings held by the Pennsylvania House of Representatives Transportation Committee on April 12 and 26, 2001, including 1) a videotape (and transcript thereof) prepared by that Committee of excerpts of speeches made at Altoona, PA by Congressman Bud Shuster and NS CEO David Goode on "Day One" of implementation of the division of Conrail; 2) a

transcript of remarks made by an NS Vice President Public Affairs to that Committee in 1997, and 3) the testimony of NS's current Vice President Public Affairs in the recent Committee hearings. This evidence is pertinent to NS' denial that it made commitments to retain and operate the HCS and to NS' credibility regarding the HCS.

A. Evidence From Pennsylvania House Of Representatives Transportation Committee

1. Videotape of Day One Speeches

At the April 12, and 26 hearings the Chairman of the Pennsylvania House of Representatives Transportation Committee, Representative Richard A. Geist, played a videotape that contained excerpts of television news reports on "Day One" activities at Altoona that included parts of speeches by Representative Bud Shuster and NS CEO David Goode. A copy of the videotape is being provided to the Board with this reply and a copy of a transcription ("Tr.") of the Shuster and Goode remarks is attached to this response memorandum as Petitioners' Exhibit 22.

In his remarks Congressman Shuster stated that he had made a "deal" with the CEOs of CSX and NS that Norfolk "Southern would do several things for our shops here", including "Investments of \$67 million in capital improvements would be made to the Juniata and Sam-Ray [Hollidaysburg Shop]. Employment in the shops would be increased by at least 178 jobs". Tr at 2. Congressman Shuster also noted "And how important is Altoona going to be to Norfolk Southern? Well, in talking about Norfolk Southern being in 21 states, we're talking about 21,600 miles of track, an awful lot of places to be; but the top man, the chairman of Norfolk Southern, David Goode, where is he today on this historic takeover? Of 21

different states where he could be, countless cities where he could be, he's here in Altoona." Tr. at 3-4.

NS CEO David Goode spoke after the remarks of Congressman Shuster. Mr. Goode stated that NS would not be where it was "without the support not only of all of the people here but of the people standing on this podium with me today... that would not have happened without the support of the people surrounding me on this platform, and it wouldn't have happened without the support of all of you". Tr. at 5. Mr. Goode then stated "And Chairman Shuster has read off an impressive list of the commitments that Norfolk Southern has made. This is going to be the finest, the heart of the Norfolk Southern system in many ways. The finest shops that we can create in railroading today. Tr. at 6, emphasis added. Mr. Goode further said "I want people to look back 100 years from now and say that is a tradition that has continued, and Altoona is still the heart of railroading in the world". Tr. at 7, emphasis added.

2. Oral Testimony Of Mr. McCune On May 15, 1997

On May 15, 1997, then NS Resident Vice President Public Affairs M. Patrick McCune testified before the Pennsylvania House Transportation Committee about the effects of the transaction on Conrail employees in Altoona. He stated that "We intend to operate these shops at the same level that Conrail utilizes them today. We then hope to grow the maintenance business at those shops to the maximum utilization possible." Transcript of McCune Testimony (Petitioners' Ex. 23) at 16. Chairman Geist then asked about the Juniata Locomotive Shop and the HCS and Mr. McCune stated: "Mr. Chairman, I mean, I'm prepared to tell you that we will operate those shops at the same level that Conrail presently utilizes those shops and we think that the addition of Norfolk Southern as the new owner of those shops will bring additional

opportunities for growth at both Juniata and the Hollidaysburg shops". *Id.* at 25. Chairman Geist noted that "On November 18th '96, Norfolk Southern publicly announced that it was committed to operate Conrail's Hollidaysburg Car Shop and the Juniata Locomotive Shop and that it would promote—and I underline the word promote—employment there" (*id.*) and he asked if development of the Operating Plan had indicated any "redundancies or duplication of facilities that would result in reduction of employment at Hollidaysburg or Juniata Shops. *Id.* at 36. Mr. McCune responded that there were "far less duplications, far less redundant assets, far less redundant lines with our proposed merger and our proposed plan than there was in the proposed CSX/Conrail acquisition plans that was unveiled in October of 1996". *Id.* at 37.

Chairman Geist then referred to a newspaper advertisement that NS ran in eighteen newspapers in cities with "significant numbers of Conrail employees" that urged them to support the NS acquisition over the CSX acquisition. *Id.* at 38 [an example of this ad was reproduced in the Joint Petition at Exhibit 4). Chairman Geist then asked "May we assume from the publication that Norfolk Southern does not believe that the Hollidaysburg and Juniata repair facilities duplicate or create redundancy with respect to the Roanoke and –facilities[sic]" and Mr. McCune answered: "I hope I've answered that, Mr. Chairman. We see no duplications and no redundancy and no threat." *Id.* at 39.

3. Written Comments Of Mr. Timmons On April 12 And 26, And Unions/Pennsylvania Response To Those Comments

a. Mr. Timmons' Assertions Regarding NS' Economic Circumstances

In April 12, 2001 written testimony that was also read to the Pennsylvania House Transportation Committee, NS Resident Vice President Public Affairs Richard Timmons suggested that NS' plans and commitments were predicated on expectations based on the "U.S.

economy during 1998-1999", that NSR has been taking retrenchment actions like the closing of the HCS because of the "U.S. economic downturn over the past eight months" and that "we made forecasts that turned out to be exaggerated and that cannot now be sustained in this current economic environment". Timmons Statement at 2-4, Petitioners' Ex. 24.

The Petitioners submit that these attempted justifications for NSR's actions are specious and illustrative of NS' lack of sincerity in its position regarding the HCS because the representations made by NS in its Application, its dealings with the Unions and Pennsylvania officials and its other public statements were not described as dependent on continued economic growth at the 1998-1999 levels, or at any particular level of economic growth; nor were they described as voidable in the event of a slowing of economic growth. Moreover, the Petitioners submit that the claims made in Mr. Timmons' statement are simply not true.

First, it simply can not be that NS' plans were predicated on the continued steep economic growth of 1998-1999--one of the fastest growth periods in recent memory at the end of the longest period of economic expansion since after the end of World War II. Nor can it be that NS' plans were subject to derailment due to any economic bump-in-the-road. In this regard, it must be noted that, even now, we are not in a recession; rather, the economy is simply not growing at the pace it has the last few years. Indeed, the economy experienced faster growth in the first quarter of 2001 than many experts anticipated, and NS exceeded market expectations. Petitioners' Ex. 25. Clearly, from the "Day One" remarks of NS CEO Goode (videotape and transcript), it appears that NSR contemplated that the HCS would be prominent in NSR's operations for the next "100 years". Mr. Goode's statements demonstrate that NSR's commitment was not to be affected by short term economic fluctuations. In any event,

Petitioners submit that if NS's plans, and the representations it made were actually dependent on unprecedented continued steep economic growth, then NS' application materially misrepresented the facts or omitted material information in not disclosing NS' dependence on anticipated fast economic growth and NS' vulnerability to a slowing of growth not even amounting to a recession. The nature of the STB proceedings regarding this transaction, the positions of various parties and possibly the Board's decision would have been different had NS said that the plans it described were dependent on continuation of a white hot economy.

Second, it cannot be that the "economic downturn over the past eight months" was the basis for NSR's decision since NSR first announced plans to close the HCS last November, before anyone was talking seriously about an economic downturn. NS has cited recent economic news in an attempt to try to retroactively justify actions it announced last Fall, but NS could not have relied on information about the economy that it did not then have. Moreover, as Petitioners have noted, recent economic news suggests that there may not be a continued decline in growth or continued decline in earnings for NS. Petitioners' Ex. 25.

2. Mr. Timmons's Assertions Regarding Impact Of Closing The HCS On Shop Workers

In his written and oral testimony submitted on April 26, 2001, Mr. Timmons stated that of the 330 employees at the HCS "all would be offered jobs at Norfolk Southern facilities". He also noted that that assertion had been challenged in the prior hearing but that he had checked and "[t]his statement is accurate and correct notwithstanding other testimony provided to the Committee". Timmons 4/26 Statement at 2, Petitioners' Ex. 26. However, review of the *New York Dock* notices served by NSR on the HCS craft unions and TCU shows that NSR plans to eliminate 331 jobs at HCS and to establish only 156 jobs elsewhere; thus NSR will not have

positions for almost half the affected employees. Petitioners submit that NS gave testimony on this point that it knew to be false, or should known to be misleading.

B. NSR's Letters To TWU And NCFO

In connection with negotiations between NSR and TWU and TCU, and between NSR and NCFO, pursuant to the *New York Dock* conditions and an implementing agreement, those unions propounded questions to NSR about its plans for the HCS. The questions were sent to NSR after the Joint Petition was filed and the answers were received by the Unions some time later. Copies of NSR's answers are attached hereto as Petitioners' Exhibits 27 and 28. In response to the unions' observation that NSR's notice said that work was being transferred from the HCS and that all positions would be abolished, but did not say that the HCS was being closed, NSR stated that "After the transfer of work has been accomplished, there will no longer be a need for HCS" (Answer to NCFO Ques. #1 and TWU Ques. #1), and that some workers would continue at HCS "up to thirty days beyond September 1, 2001 to facilitate the ultimate closure of the facility" (Answer to TWU Ques. # 17).

NSR's letters clearly stated that its plans were not based on the amount of work from CSXT, and that CSXT cars had been sent from the HCS back to CSXT because the work could not be completed by September 1, 2001((Answer to NCFO Ques. #7 and TWU Ques. #s 10-11)). Accordingly, it is clear that NS can not contend that its plans are based on a failure of CSXT to comply with its commitments regarding the HCS or that its actions are based on an anticipated decrease in work from CSXT.

Additionally, NSR stated that a current surplus of cars (presumably from the Conrail acquisition) will mean no immediate need for major car repairs, and NSR could not explain the

type and quantity of work that supposedly would be available or provide any reasonable estimate as to the duration that such work would exist. See NSR correspondence answering questions of TWU, BRC and NCFO- Petitioners Ex.27, answers to BRC questions nos. 2, 3, 4, 6, 7 and 8; and Petitioners' Ex. 28, answers to questions nos. 5, 11, 12, and 13. Furthermore, NSR said that there will be no insourced work at the transferee shops. Petitioners' Ex. 27 answer to BRC question no. 8.

C. NS Assertions In Its Reply To The Joint Petition And Unions/Pennsylvania Response

NS' Reply to the Joint Petition contains numerous material misrepresentations of fact.

1) NS claimed that it had made a good faith effort to follow-through on its commitments regarding the HCS and that was supposedly shown by operating the HCS for almost 2 years in a manner consistent with its STB filings (Reply p. 2, 10, 12). However, Petitioners note that Day One was June 1, 1999 and that NSR sought to close the HCS in November of 2000. Clearly, NSR's so-called "effort" lasted at most 1½ years. Moreover, NS has repeatedly acknowledged that most of the first year of its operations after the division of Conrail was essentially a lost year due to NS' unfortunate, self-inflicted merger implementation problems. NS has no basis for claiming that it made a good faith effort when it sought to close the HCS a mere six to eight months after service returned to normal. Petitioners submit that NS can not be heard to say that it tried in good faith to retain and continue to operate the HCS when NS clearly did not do so.

2) NS relied most heavily on its assertions that the HCS has "operated at only one-third capacity since Day One" and that when considered as a "stand-alone" operation, the HCS has supposedly lost about \$7 million (NS Reply at 11, Veron and Belvin Statements),

notwithstanding admitted profits from insourcing work which NS concedes has been about half the work at the HCS since Day One (Reply at 10).

Petitioners submit that even if NS' assertions about alleged actual losses were true, they would be irrelevant because the representations it made were not contingent on the HCS regularly running a profit in the manner calculated by NS.² Petitioners further submit that changed financial circumstances are not a sufficient basis for NS to unilaterally negate its commitments, particularly in the context of its campaign to gather support for its Application by promising retention of the HCS. NS' defense on this basis is especially insufficient to support repudiation of its commitments a mere year and one-half after Day One after self-inflicted financial injuries and a mere 6-8 months after the railroad returned to normal operations.

NS has not shown that financial circumstances at the HCS have so changed from the circumstances prevailing at the time NS made its commitments that those circumstances would even justify an order relieving it of its obligations, had NS actually requested such relief from the Board.

NS' assertion that the HCS is only operating at one-third capacity, is misleading because NS has failed to acknowledge that the Shops was not operating at anywhere near full capacity in the several years before NS made its commitment. NS has suggested that there has been a significant decline in work at the HCS by comparing recent production statistics to those of 1978. The Statement of David Veron notes that the HCS worked on 13,000 cars in 1977 and

² Petitioners believe that NS' claim of losses flows from "creative" accounting regarding attribution of overhead costs, but they do not have access to raw data to make their own assessments as to whether there were actual losses as opposed to paper losses. They also note that given the many misrepresentations in other NS statements regarding this matter (outlined herein), the Board should view NS' assertions of actual losses with skepticism. But, as is explained herein, even if the claim of paper losses is valid that does not justify NS' repudiation of its commitments.

1978 and compares that workload to 4,040 cars in 2000. NS would thereby have the Board infer a significant loss of work. But 1977 and 1978 were apparently the years with the greatest levels of production and employment at the HCS. *See* the Second Declaration of Thomas Lutton (Petitioners' Ex. 29) ¶¶ 5-7. The appropriate comparison in this case is not the workload of the HCS in the period shortly following the creation of Conrail, but the workload in the years around the time that NS made its commitment to retain the HCS. The current work load does not differ substantially from the work load at the HCS in the years preceding the transaction.

Attached to the Second Lutton Declaration is a copy of a chart titled "Record of Production" that is maintained in the HCS that reports the number of cars worked at the HCS since 1955. Second Lutton Declaration ¶¶56 and Ex. H. In 1995, the base year for the financial projections for the Application, the HCS worked on 4667 cars whereas the total number of cars worked at the HCS in 1999 was 4138 and the total for 2000 was 3583. In this regard, Petitioners note that NS Resident Vice President Timmons told the Pennsylvania House Transportation Committee that NS based its projections and calculations and "the high expectations we promoted in our comments and testimony to state and federal officials" on the 1995 traffic, revenue and operating data, and that it was changes between the 1995 data base the circumstances in 2000 that caused NS to depart from the Operating Plan. *See* Petitioners Ex.24 at 1,2. But there is little difference between production in 1995 and production in 1999 and 2000. It is certainly apparent that it was misleading of NS to argue that its actions were justified by a comparison of production in 2000 to production in 1977-1978 when the HCS averaged over 13,000 cars worked by approximately 1900 employees (as opposed to the current 330).

Comparison of current work loads to the work load in 1997-1998, when NS actually made its commitments also does not show a significant difference. The Record of Production chart shows that the HCS worked on 6398 cars in 1997, 5456 cars in 1998, 4138 cars in 1999 and 3538 cars in 2000 after the furloughs in March of 2000. Petitioners respectfully submit that while these records show a reduction in work done at the HCS, that reduction is not remotely as dramatic as NS has suggested. Moreover, the reduction must be put in the context of general cost cutting by NSR because of its transaction implementation problems and furloughs of workers who would have been available to do additional work. NS' Safety Integration Plan projected that there would be 436 employees at HCS, The current work force was reduced to 330 employees as a result of NSR's furloughs that flowed from its stated need to reduce expenses to offset the costs it incurred in digging out of the hole NS dug for itself in its bungled implementation of the transaction. Petitioner's Ex. 30. Thus NSR's own reduction in the work force at the HCS was a major cause in the reduced output in 2000. Indeed, there is strong evidence that the work done in 2000 is not reflective of the work that was actually available to be done because it appears that NSR has deferred necessary maintenance work. For example, a report on cars rejected by shippers for the first quarter to 2001 shows that the number of rejects more than doubled from the first quarter of 2000. Second Lutton Declaration ¶5 and Second Lutton Declaration Ex. I. Moreover, NS' own statement to the Pennsylvania House Transportation Committee asserted a 2% decline in "carloads in a year". Petitioners' Ex. 24 at 3. This data also suggests that the reduction in car usage cannot have caused the reduction in work on cars, and that the reduction was due to deferral of maintenance and other cost-cutting by NSR because of its implementation problems.

Petitioners also note that analysis of the Record of Production chart shows that the total number of cars worked necessarily fluctuates and is somewhat cyclical. For example the years with the lowest number of cars worked were 1983 and 1984 (2678 and 2969 respectively), and that the number then gradually increased into the 1990. The chart shows a number of years with changes in production of 1000 or more cars from the preceding years: 1988-4547, 1989-6105, 1990-5121; and 1994-6327, 1995-4667, 1996-6078. Petitioners also note that the HCS built over 4,500 new cars in the period of 1993-1998, after building no new cars in the period of 1988-1992. The recent manufacture of so many new cars may also have had an impact on the amount of heavy and periodic repair work that was required in the after 1998, separate and apart from NS' cost-cutting by layoffs and deferral of maintenance, but that does not mean that there will be no such work to be done at the HCS in the future. Surely NS' commitments that it would retain, and even expand the HCS, could not have been predicated only on the work that might have been available in the first years after the Transaction (especially when NS knew how many new car there were). Moreover, the manufacture of so many new cars may have contributed to the current excess car supply cited by NSR in its response to BRC's question no. 6 as explaining a reduced need for major car repairs. *See* Petitioners' Ex. 27. The record of fluctuation of work at the HCS further demonstrates that NS' had no good faith reason for closing the HCS based on its recent work load.

Again, Petitioners deny that NS could unilaterally repudiate its commitments based on changed workload for the HCS, but they submit that all of the foregoing refutes NS' suggestion that there were significantly changed circumstances with respect to the workload for the HCS that could justify its actions. NS simply has no basis for arguing that the work load has changed

significantly from the time when it made its commitments, or that the actual reduction of work is reflective of a long term lack of work as opposed to a cyclical trough and/or a self-imposed deferral of necessary maintenance. Petitioners further submit that, given the historic fluctuations in workload at the HCS, there is no basis to conclude that there is a real and lasting reduction in work based on 6-8 months of NSR operations in normal circumstances (as opposed to transaction implementation crisis circumstances); moreover, NS' quick repudiation of its commitments given the historical record refutes NS' claims that it has made good faith efforts to comply with those commitments.

In short, even if NS' financial claims evidence was relevant to the issue here, the facts do not support its position, given the situation with regard to the HCS in 1995, the base year for financial projections for the Application and in 1997-1998, the years when NS made its repeated public commitments regarding the HCS. Rather the percentage of capacity utilized is essentially the same, and while the number of cars worked is somewhat lower, that is in part due to NSR's actions in the form of furloughs and deferral of maintenance and it is consistent with a pattern of fluctuations in work. To the extent that NS claims financial losses and under utilization of the HCS, current conditions are not significantly different from those that existed when NS made its commitments. Accordingly, even if NS could rely on changed financial circumstances at the HCS as permitting its actions, NS can not show any meaningful change that would justify its plans.

3) NS' reply also asserted that the planned closing of the HCS was a product of "current economic decisions and serious financial challenges" to NS (Reply at 2, see also Reply at 12). However, as is noted above, NSR sought to close the HCS last November, before the current

economic conditions were envisioned by anyone. Additionally, as the Board is well aware, much of NS' financial situation is a product of NS' own failures in implementation of the Conrail transaction. NSR's implementation problems resulted in decreased NS revenues due to the reluctance of shippers to ship by rail, substantial costs to NS in order to remedy its problems and restore the faith of its customers, and then cost cutting by NS to mollify financial markets which in turn hindered NSR' ability to return to pre-transaction levels of service. See e.g. Petitioners' Ex. 30.

4) 6) NS' Reply refers to its answers to certain discovery requests propounded by various unions that NS claims show that it made no commitment to retain the HCS. NS cited interrogatories that asked whether NS had plans for shop closings in addition to the plans described for shops at Peagram, Ft. Wayne and Enola, and its answers that NS had not determined whether there would be closings other than those described in the Operating Plan. NS Reply at 7-8 and Exhibits 3-6. NS contends that its equivocal response to those interrogatories applied to the HCS. *Id.*

Given NS' repeated, specific statements about the HCS both in the Operating Plan and elsewhere, it was reasonable for the unions to rely on those statements and to inquire about the many other shops on the Conrail territory allocated to NS and existing railroads that were not discussed in the Operating Plan; and it was reasonable for them to assume that NS' answers to the interrogatories were addressed to shops other than HCS. Indeed, the parties's separate treatment of HCS is illustrated by the interrogatories and answers cited by NS that specifically addressed HCS. The Unions did not inquire about whether NS had plans to close HCS, but instead asked only about what might happen to employment at HCS if CSXT stopped sending

cars to the HCS. And NS responded that it did not know when CSXT might stop sending cars, that it could not speculate on the amount of work that would remain, or the impact of insourcing and the rate of attrition. *E.g.* NS Exhibits 3 (Interrogatory no. 143) and 4 (Interrogatory no. 132). Petitioners submit that neither the question nor the answer assumes that the HCS might be closed; they deal only with the more limited issue of employee impact if CSXT stopped sending cars; NS certainly did not suggest that the HCS might be closed if CSXT stopped sending cars or, for any other reason.

More importantly, the Petitioners also submit that the lawyer-crafted answers to specific interrogatories that were not addressed to the issue of retention of the HCS can not possibly be viewed as negating or trumping the repeated, clear, unequivocal statements by NS and its highest level officers in multiple forums that NS would retain the HCS.

5) NS' Reply (at 11) noted that NSR has "other car repair facilities" and asserted that "Hollidaysburg is thus a redundant facility". This assertion conflicts directly with the testimony of Mr. McCune that there is no redundancy between the Conrail shops and the NSR shops. The notion that the HCS shops would be closed because other shops on NSR could do the same work as the HCS is also inconsistent with Mr. Goode's characterization of the Altoona shops as the finest in the world and the heart of the new NS. Furthermore, any supposed redundancy that exists now also existed while the application was pending; NS can not pretend that it suddenly discovered that the HCS does similar work to that done by other NSR shops. Moreover, any such redundancy existed when NS offered its representations and commitments saying that NS would consolidate work in the Altoona Shops because they are such good facilities--the finest shops , the heart of railroading in the world.

6) NS suggested that it was acting in good faith in closing the HCS because its marketing efforts were not sufficiently successful (Reply p. 2, Veron Statement pp. 4-5). But NS actually increased insourcing after its takeover of the HCS. *See* second Declaration of Thomas Lutton, Petitioners' Ex. 29 ¶4 and Lutton Ex. G.

7) NS' Reply sought to minimize the impact of its repudiation of its commitments on the HCS workers by claiming that the 300+ employees currently working at the HCS were being given the opportunity to follow their work. (Reply p. 2). But Petitioners again note that NSR's notice to the Unions identified only 156 jobs that would be available at locations where NSR would transfer work. Again, NS has made a statement that it either knew to be false or that it should have known was misleading. Moreover, Petitioners note the 300+ number of employees actually understates the harm to HCS workers and the Altoona communities because the size of the current work force already reflects a reduction in employment at the HCS since NSR took over in 1999. As is shown in the Second Lutton Declaration, there were 481 employees at the HCS in 1998 and 451 in early 2000

NS' claim that the transfers will ameliorate the harm of the closing of the HCS through supposed creation of 156 jobs is also disingenuous because NSR has not been able to identify the work that supposedly will be transferred, the quantity of the work that may be available at those locations, or the potential time period that additional work will be available at those locations. Indeed, NSR has indicated that a current surplus of cars (presumably from the Conrail acquisition) will mean no immediate need for major car repairs, and NSR has been vague, at best, about the type and quantity of work that will be available and as to reasonable expectations as to the duration that such work will exist. *See* NSR correspondence answering questions of

TWU, BRC and NCFO- (Petitioners Ex 27, answers to BRC questions nos. 2, 3, 4, 6, 7 and 8; and Petitioners' Ex. 28, answers to questions nos. 5, 11, 12, and 13). Since a large amount of the work at the HCS since Day One has been insourced work, and NSR says that there will be no insourced work at the transferee shops (Petitioners' Ex. 27, answer to BRC question no. 8), the workers at the HCS have reason to be concerned that there really is no work for them at the new locations, or that such work will not last long. These circumstances also give the Unions reason to believe that the offers of work are not legitimate or realistic in the long term, and that the offers are really just a device to reduce NSR's employee protection obligations in the hope that furloughed employees decline transfer out of fear that they will move and the work will not last. Additionally, even if NSR was making bona fide job offers, the relocation of 156 workers does nothing to ameliorate the harm to Pennsylvania and the Altoona communities by the loss of over 300 jobs (actually more than 400 jobs) through furloughs.³

³ Under the *New York Dock* conditions, and various agreements implementing the conditions with respect to the CSX/NS-Conrail transaction, NSR's service of a notice began a process that will lead to mandatory arbitration of issues relating to NSR's proposal for an appropriate arrangement for selection of forces and any assignment of employees. The Unions will arbitrate with NSR because they are obligated to do so. That arbitration will only deal with the limited issues of application of the conditions, including fair arrangements for affected employees, any staffing or work assignment changes, any appropriate selection of forces and assignments of employees and any integration of forces, if a transfer of work occurs. An arbitrator would not have authority to require NS to retain and continue operations at the HCS and to invest in the HCS as NS represented it would. An arbitrator would not have authority to enforce this agency's order. In responding to the questions posed by TWU, BRC and NCFO, NSR took the position that issues relating to why NS plans to close the HCS, its purported explanations for doing so, and its plans for the HCS facilities are "not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination". Petitioners Ex. 27, answers to TWU questions 2- 8; and Petitioners' Ex. 28, answers to NCFO questions 2-3. Furthermore, a *New York Dock* arbitration will not address the separate interests of the Commonwealth of Pennsylvania; indeed Pennsylvania will not be able to participate in the proceedings.

II. ARGUMENT

A. NS COMMITTED TO RETAIN, OPERATE AND INVEST IN THE HCS

NS' main argument in opposition to the petition is the claim that its statements about the HCS were not really on the order of commitments, but were more like aspirations, or illustrative examples of what might do, rather than representations on which parties and Board could rely. (Reply pp. 5-7, 12-13).

It is simply outrageous for NS to answer the Unions and the Commonwealth, and to appear before this agency and contend that it did not make commitments to retain, operate and invest in the HCS. Given the number of such statements made by NS and its officers, the content of those statements and the circumstance of the statements being made as part of a political and public campaign to obtain support for the Conrail transaction and to gain approval of that transaction, it is pure sophistry for NS to argue that its statements were not representations on which parties to the CSX/NS-Conrail proceedings and the Board could rely, and commitments to Unions and to the Commonwealth of Pennsylvania and its officials.

The Unions and the Commonwealth have cited numerous statements by NS and its officers that demonstrate that it committed that it would retain and operate and invest in the HCS, they will only summarize some of those statements.

An advertisement placed by NS in the New York Times and other newspapers in November of 1996 titled "A Norfolk Southern/Conrail Combination Will Be Better for All of Conrail's Constituencies" stated "Norfolk Southern is committed to continuing to operate Conrail's Hollidaysburg Car Shop and its Juniata Locomotive Shop at Altoona, and will promote employment there...." Joint Petition Ex.4, emphasis added.

NS CEO David Goode testified before the United States Senate in March of 1997 and told Senator Arlen Specter that the Altoona shops were “excellent facilities” that “NS does not have nearby shop facilities” to the lines it would acquire in Pennsylvania “so we are in a position of not only being able to give assurances that we will keep those shops and keep them operating, we are going to need them”. Joint Petition Ex.6, emphasis added

In May of 1997, NS Resident Vice President Public Affairs M. Patrick McCune responded to questions of State Representative Geist about the fate of the Altoona shops stating “...I’m prepared to tell you that we will operate those shops at the same level that Conrail presently utilizes those shops and we think that the addition of Norfolk Southern as the new owner of those shops will bring additional opportunities for growth at both Juniata and the Hollidaysburg shops”. In response to questions about the Norfolk Southern advertisement that stated that NS was “committed to operate Conrail’s Hollidaysburg Car Shop and the Juniata Locomotive Shop”, and NS’ appeal for support from Conrail employees about potential redundancy with respect to the Altoona shops and NSR shops Mr. McCune answered: “I hope I’ve answered that, Mr. Chairman. We see no duplications and no redundancy and no threat.” Petitioners’ Ex.23, emphasis added

In a Press Release entitled “The New Norfolk Southern The Best Choice For Pennsylvania”, NS stated: “Norfolk Southern is committed to operate Conrail’s Hollidaysburg car shop and Juniata locomotive shop and will promote employment there”. Joint Petition Ex. 10 , emphasis added. And an NS “Fact Sheet” for Pennsylvania, under the heading “Economic Development”, NS cited “Estimated \$4 million in capital improvements at Hollidaysburg shop”. Joint Petition Ex. 11, emphasis added.

Then on Day One of the division of Conrail, Mr. Goode came to Altoona with Congressman Shuster to speak to the Juniata and HCS employees. Congressman Shuster spoke of the “deal” with NS pursuant to which NS would invest \$67 million in the two shops (\$4 million for the HCS), increase employment at the shops by 178 jobs and increase insourcing work. Mr. Goode then spoke, stating that NS was in Altoona for the “long run”, referred to the “impressive list of commitments that Norfolk Southern has made” that had been recited by Congressman Shuster, stated that the Shops were the finest in railroading and would be the heart of the new NS and stated that he wanted people “to look back 100 years from now and say that [the Altoona tradition of railroading has continued] and Altoona is still the heart of railroading.” Petitioners’ Ex. 22, emphasis added.

Petitioners submit that this quick review of the evidence they have adduced shows that by purpose and context, and even by express language, NS’ statements regarding the HCS were representations and commitments, not mere expressions of goals or aspirations. It is certainly clear that NS CEO Goode understood his statements, and those of his company, to be commitments. Indeed, in view of his own remarks, it is surprising that Mr. Goode would allow his subordinates and NS’ representatives to file papers with this agency denying that NS’ statements about the HCS were commitments.⁴

⁴ NS has relied heavily on its responses to discovery requests served by various unions in the Conrail proceedings. However, as is shown above, the attempts by NS’s lawyers to avoid answers that, by their own terms, might generally foreclose certain options did not, and could not negate the many clear and unconditional commitments NS made in the Application and elsewhere. Moreover, the responses themselves do not even suggest that NS had attempted to reserve a right to close the HCS. NS’ answers about possible plans for other shop closings could have been, and indeed were, addressed to inquiries about other shops on NSR and the portion of Conrail allocated to NS, especially given NS’ specific statements about the HCS both in the Operating Plan and elsewhere, and given the Unions’ separate inquiries about what might happen to employment at the HCS if CSXT stopped sending cars to the HCS (NS responded that it did not know when CSXT might stop

In this regard, Petitioners also note that the Comments filed by the Commonwealth and Governor Ridge in the CSX/NS-Conrail proceedings (at 4 and Attachment 1) referred to numerous meetings between the Applicants and identified NS' statements regarding "expansions of Conrail's Juniata locomotive repair shop and Hollidaysburg car repair shop near Altoona...." and its investment of \$4 million in the HCS as "commitments regarding investments and other benefits to the Commonwealth", and then said that "[w]e expect the Applicants to adhere to all commitments made in the Control Application." After NS and the Commonwealth entered the agreement described in the Comments, and after the Comments were filed, NS issued a press release trumpeting Pennsylvania's support for the Application, and noting that Pennsylvania's support was based on a number of factors, including "construction, expansion or upgrading of repair shops, intermodal facilities and other facilities. Petitioners' Exhibit 31. When NS' rebuttal to opponents of the transaction characterized Governor Ridge as supporting approval of the transaction without conditions, the Chairmen of the Pennsylvania Transportation Committees responded (Brief at 8-9) by noting that although the Governor did not specifically ask that conditions be imposed, he referred to NS' representations about the Altoona shops and other Pennsylvania facilities as "commitments" that he expected NS to "adhere to". NS never objected to the Commonwealth's description of NS' statements as commitments or to the Transportation Committees' Chairmen's assertions that the statements were binding commitments.

sending cars, that it could not speculate on the amount of work that would remain, or the impact of insourcing and the rate of attrition, NS addressed only the more limited issue of employee impact if CSXT stopped sending cars, NS did not suggest that the HCS might be closed). As petitioners stated earlier, the lawyers' answers to specific interrogatories that were not addressed to the issue of retention of the HCS can not possibly be viewed as negating or trumping the repeated, clear, unequivocal statements by NS and its highest level officers in multiple forums that NS would retain the HCS.

Additionally, the Comments of the Transportation Committees' Chairmen in the Conrail Transaction Oversight proceedings, noted that, NS "committed to undertake" certain capital investments including the \$4 million in capital improvements at the HCS, but that NS had not reported on the status of those investments in its report for the Oversight proceedings. NS' Reply in those proceedings (at 55), NS did not deny that it had committed to the investment, but merely asserted that its needs were such that it had "developed certain projects in the Commonwealth ahead of those cited by the Committee [sic]". Moreover, the Board's Oversight Decision No. 5 described NS' position as that certain projects be developed ahead of others; and the Board responded to the Comments of the Committee Chairmen by noting that "[w]e will continue to monitor the commitments that the railroads made and the conditions that we imposed."

Petitioners submit that in consideration of all of the foregoing, it must also be recognized that NS' statements regarding the HCS were made as part of a political campaign. NS sought to gain the support of Pennsylvania, its elected officials and communities, first in the battle with CSX, and then in the battle for approval of the transaction. Moreover, the need to obtain political support and minimize opposition was why NS CEO Goode gave assurances on the record to Senator Specter and why NS made its deal with Congressman Shuster. NS was particularly concerned about Congressman Shuster because of his Chairmanship of the House Committee with general jurisdiction over railroads and the STB, and because of his history of protecting the Altoona shops through legislation.

In its campaign, NS succeeded in obtaining support from Pennsylvania and its officials-- it did so by representations made not only to them directly but also publicly and formally in the STB proceedings, in a general media effort, and on Capitol Hill. Petitioners submit that if NS

had in 1997-1998 said that its statements to Pennsylvania and its officials were merely expressions of goals that could change at NS' discretion, the position of Commonwealth and its officials may well have been different. But Pennsylvania supported the Transaction, and that was clearly in reliance on NS' commitments, including those regarding the HCS, in expressing support for the transaction. Similarly, a number of Unions, including two of the Shopcraft Unions (NCFO and IBB&B) entered agreements with NS and CSX and withdrew their opposition to the Transaction before the Board issued its decision (see NS Reply Exhibits 8 and 9:IBB&B-3/25/98, NCFO-6/3/98); in doing so, they had every reason to rely on NS commitments regarding the HCS. For NS to now say that its statements were mere expressions of good faith intent is to negate all that NS said in order to gain the support of Pennsylvania and its officials now that NS has obtained what it wanted, and is no longer concerned about Congressman Shuster.

If NS' statements were made only to Congressman Shuster NS might have a point in arguing that its promises expired on Mr. Shuster's resignation. But NS made its commitments to the Governor and other officials, NS published them in eighteen newspapers, and they were made part of the formal record before this agency and thus became part of the agency's order that representations made during course of the proceedings were binding on the Applicants. Given the foregoing history, and NS' purpose in making the statements it made, NS simply can not unilaterally void its commitments.

With respect to the statement that NS would invest \$4 million in the HCS, NS does not even deny that its statements were a clear commitment; instead, NS argues that it should not have to comply with that commitment because it plans to close the HCS. Reply at 13 n. 8.

According to NS, it should not be held responsible for compliance with its commitment because the investment would be wasted since NSR does not plan to retain the HCS notwithstanding its commitment to do so. *Id.* This circular argument should not be accepted by the Board. NS can not unilaterally relieve itself of its obligations by unilaterally creating conditions that supposedly justify a breach of its commitment. If NS' reasoning was accepted, NS could entirely negate the Board's order binding it to its representations merely by its own actions contrary to its representations. Moreover, it is not known whether the \$4 million investment would have stimulated additional insourcing work.⁵ Simply put, NS admits it committed to investing \$4 million in the HCS, it was bound to that commitment and it should not be allowed to avoid compliance with that commitment as required by the Board's order.

Petitioners respectfully submit that, from the foregoing summary, as well as the detailed discussions of NS' statements about the HCS in the Joint Petition and the first portion of this response, it is absolutely clear that NS' statements were binding representations and commitments, that everyone involved including NS recognized them to be such, and that NS' current denials are simply false.

⁵ NS declarant Veron stated (Declaration at 7) that "in [his] judgment", making the investment would not have helped attract any more business, but he made no effort to substantiate that conclusory claim and failed to explain the basis for his opinion. He also added that the investment "would not, in my judgment, have had any material effect on the ultimate decision to close the Shops". However, it appears that there were no changed circumstances regarding business at the Shops that were the basis for NS' action; rather NS determined to close the Shops when it ceased to be concerned about possible reactions of Congressman Shuster.

B. THE ABSENCE OF AN EXPRESS TIME LIMITATION ON NS' COMMITMENTS DOES NOT NEGATE ITS COMMITMENTS

NS seems to believe that it can escape its obligations by the supposedly crafty argument that because the commitments contained no end date, and the Petitioners did not identify an end date, the Petitioners are asserting that NS must retain the HCS forever, and that NS could not be bound forever, so it therefore must not be bound to them at this time. Just to restate the argument is to reveal its speciousness. Under NS' view, since there was no end date to its commitments it could have closed the HCS on Day 2 at its whim. But that certainly would be a repudiation of what it said in the Application and to obtain support for the Application. NS' argument in this regard is just more sophistry. Moreover, the Unions and the Commonwealth do not contend that NS must maintain the HCS in perpetuity. The commitments may not be forever, but they certainly are not just for a day or two or a mere year and one-half or two years. In the absence of an express end date, the commitment must be construed as for a reasonable time in the context of the Application and NS' campaign for its approval, with NS having the burden of seeking and obtaining STB relief from its commitment based on a showing of sufficiently changed circumstances. What may be a reasonable time would necessarily depend on both NS' statements and other circumstances. Perhaps the end date might be one hundred years as suggested by Mr. Goode. Petitioners submit that the end date should be commensurate with a reasonable expectation as to the retirement date of the least senior employee on the HCS rosters at the time that NS made its commitment. Certainly, the end date could not be less than five years-- the oversight period set by the Board as a basic review period for the Conrail transaction— provided NS filed a petition at that time seeking affirmative relief from its commitments. The end date could not possibly be two years after Day One, particularly when

about half that period was wasted by NS' incompetent implementation of the transaction and a quarter of the period was wasted by NSR's unilateral, premature closing and refusal of business.⁶

C. NS' FINANCIAL ARGUMENTS ARE BOTH IRRELEVANT AND UNDERCUT BY THE ACTUAL FACTS

Because NS' other arguments are predicated on utter fallacies, it ultimately depends on its assertions that the HCS has "operated at only one-third capacity since Day One" and has supposedly lost \$7 million. Reply at 10-11. However, as Petitioners have shown, even if one accepts NS' "creative" accounting despite NS' many misrepresentations regarding this matter, NS' argument would be irrelevant because the representations it made were not contingent on the HCS regularly running a profit in the manner calculated by NS, and because changed financial circumstances are not a sufficient basis for NS to unilaterally repudiate its commitments mere year and one-half or two after Day One--especially given NS' own damage to its operations and self-inflicted financial injuries.

Moreover, as Petitioners have shown, the actual facts are that the financial circumstances at the HCS have not so changed from 1997-1998 when NS made its commitments that they would even justify an order relieving it of its obligations had NS actually requested such relief instead of acting unilaterally. The percentage of capacity of the HCS currently utilized by NS is essentially similar to the utilization of the Shop in 1995, the base year for the financial projections for the transaction, and in 1997-1998 when NS made its commitments, and the reduction number of cars worked is due in large part to NSR's furloughs, deferral of maintenance, and refusals of work. Moreover, the decrease in work is not inconsistent with a

⁶ Indeed, because of these improper unilateral actions by NS, the minimum five year period should begin one-and one-half years after Day One.

pattern of fluctuations in work at the HCS. Accordingly, even if NS' claim of financial losses was relevant and true, it follows that similar financial conditions applied when NS made its commitments, so NS has no basis for even asserting that changed financial circumstances at the HCS permitted its repudiation of its commitments.⁷

D. THE STB DECISIONS CITED BY NS DO NOT SUPPORT ITS POSITION THAT THE COMMITMENTS IT MADE ARE NOT ENFORCEABLE, THE BOARD HAS AUTHORITY TO REQUIRE NS TO RETAIN, OPERATE AND INVEST IN THE HCS

NS' final argument is that several STB decisions NS has cited held that applicants were not bound by certain statements in Operating Plans or otherwise would not be enforced by Board Order Reply at 13-16. However, those cases are readily distinguishable from this case.

The Board's oversight decision relating to the Union Pacific-Southern Pacific transaction is inapposite because the Board's decision regarding that transaction did not contain a specific order expressly binding the applicants to representations they made in connection with the STB proceedings, as was done in the CSX/NS--Conrail transaction.

The prior orders concerning the Conrail transaction that were cited by are distinguishable on their facts, and the Board's reasoning does not support NS' position.

⁷As to NS' assertion that NS must be free to change to react to new circumstances like any business (Reply at 4 and n 4), Petitioners submit that NS has ignored the basic nature of the Board's proceedings and the extraordinary authority NS received in Decision No. 89. NS could not have acquired Conrail's lines without the STB's approval, and that approval came with the conditions that were attached to it. Moreover, the approval provided NS with a self-executing immunity from other law in the carrying-out of the Transaction--immunity that NS has already invoked. The Transaction here was clearly not a free market business transaction, a fact that NS fully appreciates and enjoys. It is therefore disingenuous, at best, for NS to complain that an order enforcing the requirement that it comply with the representations it made in obtaining approval of the Transaction would be inconsistent with common notions about the ability of businesses generally to react to changed circumstances.

NS has referred to the Board's response in the Oversight Decision No. 5 to the State of Maryland's Comments that NSR had not yet made certain infrastructure improvements or instituted certain new forms of service that were described in the Operating Plan. Petitioners note that Maryland did not claim that NS had repudiated commitments, only that NS had not yet acted on certain things that were set forth in the Operating Plan. Moreover, NS' Oversight Report (at 72) said only that the capital improvements were not "immediately necessary" or economically viable, and that they were still being discussed with the State; and NS' Oversight reply (at 33) noted that some of the infrastructure improvements and new service had "not yet been implemented" because of service disruptions and absence of anticipated market developments, but that NS hoped that they would be implemented "over the coming years".

In Oversight Decision No. 5, the Board noted that Maryland expected the items referenced in Maryland's agreement with CSX and NS would be implemented as agreed, and that the Board would monitor the implementation of the Transaction for five years and would "order remedial action as appropriate". With respect to the Maryland's reliance on the Applicants' Operating Plans, the Board said that the Operating Plans were not commitments to achieve the new service and infrastructure improvements within 3 years that must be enforced without variation, and that the Operating Plans did not provide a basis "in and of themselves for relief at this time". Oversight Decision at 24

Review of Maryland's Comments, NS' reply and the Board's decision thus shows that: 1) Maryland did not assert that NS had repudiated its commitments, only that they had not come to fruition yet; 2) NS did not say that it had decided not to follow through on the issues cited by Maryland, only that it had not implemented as yet, and it was still in discussions with Maryland; 3) that the Board did not hold that items in settlements between CSX and NS and parties are

unenforceable, in fact, in that regard, the Board noted that it would monitor implementation for five years; and 4) that the Board did not hold that the operating plans were not enforceable, only that they did not provide a basis “in and of themselves for relief at this time”. In essence, the Bard exercised discretion not to take enforcement action in that case.

It is clear that the instant case is distinguishable from the situation raised by Maryland because: 1) Pennsylvania and the Unions are asserting that NS is planning to repudiate commitments made in settlements and in numerous other forums; 2) NS admits that it is refusing to comply with the statements it made in connection with settlements and in connection with obtaining support for the Transaction; 3) the Unions and Pennsylvania do not rely on the Operating Plan “in and of itself” for the commitments, but instead rely on agreements reached by the Commonwealth and NS and agreements between NS and the Unions, and the many clear and unequivocal statements made by NS in its campaign for approval of the Transaction; and 4) the Board does not have the ability to defer a decision and engage in further review of this problem in this case because NS plans to close the HCS in August—future monitoring will be pointless as the repudiation is imminent, so the time for relief in this case is now.

NS has also relied on the Board’s Decision No. 5 in Finance Docket No. 33388 (Sub No. 91 (served February 2, 2001) which denied a request from the Erie-Niagra Rail Steering Committee (“ENRSC”) for an order directing NS to invest \$6 million in the Buffalo area to mitigate congestion there because NSR did not build two track connections for which it was granted construction exemptions. Reply at 14-15. According to NS, the Board’s statement that there was no precedent for issuing the order sought by ENRSC is applicable here. NS is wrong in this assertion for several reasons. First, the situation in that case is distinguishable from this case because NS did not simply refuse to make the investment in Buffalo, but rather stated that

it did not build the connections because technical studies of the lines involved (including grades, curvature and transit times) demonstrated that the proposed routing was not feasible. *See* CSX/NS report on Buffalo Area Infrastructure (September 7, 2000) at 19 n. 13. Second, the Board did not refuse a request that NS be ordered to build the connections for which construction exemptions were granted, but rather it refused a request that NS be ordered to invest a similar amount of money elsewhere in Buffalo; it was that request that the Board viewed as unprecedented. The Board also noted that NS had already spent more in the Buffalo area than was originally planned and twice the \$6 million sought by ENRSC,-- NS had effectively made alternative investments akin to those requested by ENRSC. By contrast, here the Unions and the Commonwealth ask only that NS be ordered to do only what it committed to do. Third, it must be recognized that ENRSC did not settle with the Applicants, or agree to support the Transaction in return for commitments or even the Operating Plan item on which ENRSC relied. Petitioners have shown here that the elements of the Operating Plan relied upon were part of NS' efforts to obtain support for the Transaction from Pennsylvania and its elected officials and were consistent with numerous other statements by NS that described its plans for the HCS as commitments and assurances to Pennsylvania, its officials, its communities and its rail workers. The request to compel investments at issue in the Buffalo area is simply not in any way comparable to the instant petition for enforcement.⁸

⁸ NS' citation to the ruling on the Four Cities Consortium's request for reconsideration or additional conditions (Reply at 15 n. 9, citing Decision No. 96 at 22) also does not advance its argument. The Board there rejected a Four Cities request for a cap on traffic through those cites that the Board had already rejected, and the Board refused to act on a complaint that NS had not reduced traffic as predicted in the Operating Plan. Decision No. 96 at 20-25. The Board's decision merely held that it would again reject the cap on traffic that it had previously rejected, and it noted that applicant assertions about post-transaction traffic levels were necessarily predictions that were dependent on the actions of shippers as well as the carrier's common carriage obligation; the Board

Petitioners respectfully submit that review of the decisions and orders relied upon by NSR demonstrates that they do not support NS' argument against an enforcement order in this case. None of the cases states or suggests that a carrier can not be required to comply with representations that it makes in an Operating Plan; indeed it appears that the Board is prepared to enforce such commitments in appropriate circumstances. Additionally, Petitioners do not rely on the Operating Plan alone, but also numerous statements by NS at the highest levels and in multiple forums. Moreover, none of the cases NS has cited remotely resembles this case with respect to the depth, clarity and repetition of commitments that are going to be repudiated, or with respect to the reaffirmation of the commitments by the applicant's CEO. Furthermore, the other cases did not involve situations comparable to this one where the commitments were made as part of a political campaign to obtain the support of a key State and key elected officials which resulted in support for the Transaction by the State and its officials that was predicated on the commitments that the applicant is now planning to breach. In short, the cases cited are factually distinguishable from this case, and the Board's actual holdings do not support NS' arguments.

also held that there had been no showing that NS' projections were "misleading or unfounded". *Id.* at 22. Additionally, the Board did not hold that it could not or would never grant the sort of relief requested by Four Cities. Indeed the Board said that Four Cities could return to the Board if there was a "material change from the post-transaction projections upon which [the Board] relied" with respect to the Four Cities traffic issue, and that the Board could revisit the issue "if warranted under those circumstances". *Id.* In contrast to the Four Cities situation, Petitioners here are not seeking relief that the Board had already rejected; in fact they seek enforcement of commitments that were relied upon by the parties and the Board in its decision No. 89. Additionally, NS' failure to comply with its commitments is not a result of actions of other parties or other statutory requirements like the common carriage obligation. And unlike the situation with respect to the Four Cities, here the Board can not continue to monitor the situation and re-evaluate if circumstances warrant—NSR will soon close the Shops.

It is therefore clear that there is no reason based on the facts, or under ICC/STB precedent, why the STB can not, or should not, order NS to retain, continue to operate and invest in the HCS as it represented it would. Since the Board has exclusive and plenary authority in major consolidations and it explicitly bound the Applicants in this case to their representations, the Board clearly has authority to compel NS to comply with its commitments regarding the HCS or to take other action against NS if it fails to comply with those commitments. Indeed, the Board's Order in Decision No. 89 stated that it retained jurisdiction to oversee implementation and/or impose additional conditions or to take other action deemed necessary.

However, if, despite all that the Petitioners have shown, the Board nonetheless decides not to enforce its own order binding NS to its representations, Petitioners respectfully submit that the Board should not allow NS to walk away from its commitments without consequence and without recompense for the members of the Unions and the Altoona communities. If NS were to entirely escape its obligations, the Altoona communities would suffer an immediate loss of a significant source of employment, tax revenues and income to be spent in those communities. Additionally, at least one-half of the furloughed shop workers would lose their jobs and their income (and would probably have to fight with NS over their entitlement to *New York Dock* benefits despite the obvious linkage of the furloughs to the Transaction, (Petitioners' Ex. 27 answer to question BRC no. 14)). And perhaps one-half of the work force would have to choose between possible jobs at locations hundreds of miles away and potential loss of benefits if they do not transfer. Moreover, they would be relocating when NS claims that it is in financial extremis and has not described the additional work that would be available at the transferee shops. Indeed, as is explained above, many employees may choose not to relocate their families, and face possible denial of benefits (*see* Petitioners' Ex. 27, answer to TWU question no. 22),

because they have no reason to have confidence in the continued availability of employment at the shop locations identified in NSR's *New York Dock* notice. This would be understandable since NSR has failed to identify the supposed work being transferred--a high proportion of the HCS work has been insourced work that NS says will not be done at the transferee shops-- and since NSR has failed to otherwise explain what new work will be available at the transferee shops. The employees would have entirely reasonable fears that they would uproot their families and move them hundreds of miles, only to be furloughed again in the near future when NS again claims financial need for layoffs; the employees would then have relocated but would have to fight with NSR over their entitlement to protective benefits after furlough from the transferee locations. And they would have no reason to accept any assurances or protestations of good faith from NS due to NS' blatant disregard for its prior solemn commitments and the personal promises made directly to them by NS' CEO, and due to the many other misleading statements made by NS about the HCS.

It must also be recognized that the uncertain possibility of employment for 156 employees in other States does nothing to address the harm to Pennsylvania and the Altoona communities by the loss of hundreds of jobs.

Given these circumstances, as an alternative argument, Petitioners respectfully submit that if the Board does not direct NS to retain, continue to operate and invest in the HCS as NS committed it would, then the Board should hold that NS may be relieved of its commitments only on the condition that all employees at the HCS are deemed dismissed employees, with no obligation to accept transfer to NSR's other shops in order to retain the right to dismissal benefits. Petitioners believe that such an order would not be adequate to enforce the Board's Order, and it would still raise concerns about the Board's willingness and ability to enforce its

orders, but such an order would provide limited compensation to the Altoona community and the workers who are the victims of NS' breach of its commitments, and it would mitigate the unjust benefit to NS from its bad faith repudiation of its commitments. Petitioners do not view this to be a satisfactory alternative to simple enforcement of the clear commitments made by NS. In particular, the Commonwealth notes that this alternative would not remedy harms to the businesses that are associated with the HCS and the employees of such businesses--those who provide supplies and services to the Shops; hence this alternative would not remedy the problem of NS' repudiation of commitments that it made to elected officials who acted in the interests of all of the citizens of the Commonwealth. Accordingly, the Petitioners stress that they have mentioned this alternative for consideration only if the Board decides not to enforce its own order binding NS to its representations.

CONCLUSION

In their introduction to the Joint Petition, the Unions and the Commonwealth of Pennsylvania asserted that it is time for the Board to hold applicants in major rail consolidations accountable for the solemnly undertaken commitments that they make in seeking and obtaining STB approval of their transactions. Reading NS' Reply to the Joint Petition only makes it more clear that the Board must order NS to comply with its commitments to the HCS because NS apparently views its statements about the HCS committing to its retention and continued operation after investment as merely an expedient mouthing of words in order to obtain support for its application and approval from the Board. If NS is allowed to close the HCS, the Board's Order binding NS to the representations it made in the CSX/NS-Conrail proceedings will become a meaningless order, as ephemeral as the commitments made by NS. Petitioners respectfully submit that proper functioning of the Statute, and the nature of the duty of this agency under the Statute mandate that the Board enforce its Order in Decision No. 89.

Petitioners also note that two keystones of recent Board decisionmaking in major consolidations are the inducement of voluntary resolution of issues between applicants and interested parties and the expectation that the Board will engage in post-approval oversight of transaction implementation, and enforcement of the Board's Orders. If NS is allowed to unilaterally negate the sort of commitments that it made in this case with respect to the HCS, then parties in future cases will have no incentive to enter settlements, agreements and other understandings with applicants because the arrangements entered will rightly be viewed as meaningless and unenforceable.

For these broad reasons, and for the specific reasons set forth in the Joint Petition and this Response, the Unions and the Commonwealth of Pennsylvania respectfully submit that the

Board should direct NS to adhere to the representations it made regarding the Hollidaysburg shops; specifically that NS must make the \$4 million in capital improvements that it promised, and that NS must retain and continue to operate the shops as it repeatedly represented it would.

Respectfully submitted,



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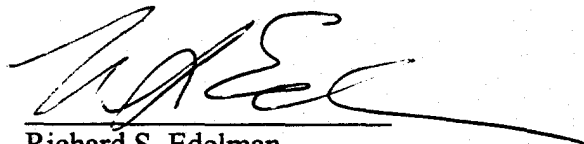
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CERTIFICATE OF SERVICE

I hereby certify that I have caused to be mailed copies of the foregoing Response of Various Unions and the Commonwealth of Pennsylvania To Norfolk Southern's Reply to Joint Petition for Enforcement of Order, or Alternatively to Reopen for Order Directing Compliance with Commitments, Or Alternatively for Relief Not Otherwise Provided-for by First Class Mail upon the persons listed on the current official service list in Finance Docket No. 33388. Because of the length of the service list in this proceeding representatives of the Applicants and as many other parties as possible were served by mail on May 9, 2001, other parties will be served on May 10, 2001. Washington D.C. counsel for Norfolk Southern are being served by hand on May 9, 2001.

5/9/01
Date


Richard S. Edelman

PETITIONERS'

EXHIBIT 22

News Clips

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3 June 1, 1999

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9 Pennsylvania Transportation Committee
10 Hearing, April 4, 2001

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1 NEWS CLIPS

2 [Rep. Bud Shuster:] ...back in my office on June 23rd,
3 1997, just about two years ago, this fine gentleman
4 here to my right and others, and John Sloe, CSX, we
5 struck a deal and put in writing that when this
6 occurred, Norfolk Southern would do several things for
7 our shops here.

8 The Norfolk Southern truck overhaul and wheel
9 facility would be moved to Juniata. Investments of
10 \$67 million in capital improvements would be made to
11 the Juniata and Sam-Ray Shop. Employment in the shops
12 would be increased by at least 178 jobs. Consolidation
13 of Norfolk Southern air brake and valve facility would
14 be moved to Juniata. Consolidation of Norfolk Southern
15 painting facilities would be moved to Juniata.
16 Consolidation of the Conrail and Norfolk Southern
17 business and office car fleet work in Juniata; and in-
18 sourcing of CSX locomotive and car repairs to Juniata
19 and Sam-Ray over a three year period; a minimum of 200
20 locomotives and 1000 cars, with the commitment that
21 good faith negotiations would continue to increase that
22 in-sourcing of both locomotives and cars.

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1 So when you look at where we stand today
2 compared to where we were back during the bankruptcy --
3 in fact, compared to where we've been struggling over
4 the years, this is an exciting day for us, and a bright
5 new future.

6 And when you consider the strength of Norfolk
7 Southern, generally agreed to be best-run railroad in
8 America. I was at a ceremony a couple weeks ago in
9 Washington where Norfolk Southern received the award
10 for having the best safety record of any railroad in
11 America. But that's not the whole story. The real
12 story is, it was the tenth year in a row that Norfolk
13 Southern got the award for being the safest railroad in
14 America, and Conrail was No. 2. Conrail was No. 2.

15 So we are so excited --

16 [Applause]

17 And how important is Altoona going to be to
18 Norfolk Southern? Well, in talking about Norfolk
19 Southern being in 21 states, we're talking about 21,600
20 miles of track, an awful lot of places to be; but the
21 top man, the chairman of Norfolk Southern, David Goode,
22 where is he today on this historic takeover? Of 21

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1 different states where he could be, countless cities
2 where he could be, he's here in Altoona.

3 And David Goode, I want to thank you from the
4 bottom of my heart for the tremendous effort and
5 support you are providing, not only to the whole system
6 but particularly to those of us here in Altoona. We
7 are blessed to have one of the most distinguished if
8 not the most distinguished CEO of a railroad in America
9 running our railroad now, and we salute you, David
10 Goode, and I'm pleased to introduce you.

11 [Applause]

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1 [CEO David Goode:] ...we're going to see that we
2 continue to have the very best railroad in the world.

3 [Applause]

4 And that would never have happened without
5 the support not only of all of the people here but of
6 the people standing on this podium with me today.

7 As early as -- I don't remember the date, but
8 it was pretty early; I remember well flying in to the
9 airport here in Altoona and being greeted by the high
10 school marching band, being greeted by the students
11 from Logan Elementary School who presented me with a
12 box full of letters. And I kept those letters, and
13 they were good letters, and they spoke volumes about
14 the commitment that this community and the commitment
15 of the people here to being in this for the long run.

16 That's what we are at Norfolk Southern, we're
17 all on the same track now, as you see everywhere around
18 you when you look at this, and that would not have
19 happened without the support of the people surrounding
20 me on this platform, and it wouldn't have happened
21 without the support of all of you.

22 I thank you for that, I thank you for

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1 bringing us to where we are today. We are well begun,
2 but we are only begun.

3 And Chairman Shuster has read off an
4 impressive list of the commitments that Norfolk
5 Southern has made. This is going to be the finest, the
6 heart of the Norfolk Southern system in many ways. The
7 finest shops that we can create in railroading today.

8 I hope that the list that you have read off
9 is just the beginning of what we can make a much longer
10 list of accomplishments and investments that we can
11 create together.

12 Thank all of you for being my teammates in
13 this endeavor; we're on the same track; we're in this
14 together. Together we're going to create a bright
15 future not only for ourselves and the communities we
16 serve and the shippers that we serve, but for our
17 children and grandchildren as well. Because I want to
18 continue the tradition that you see around you in this
19 valley around Altoona, Hollidaysburg and Blair County.
20 This is the kind of tradition that means something in
21 our business.

22 This is a special business; there is no

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1 stronger tradition in railroading than the tradition
2 right here today, and I want people to look back 100
3 years from now and say that is a tradition that has
4 continued, and Altoona is still the heart of
5 railroading in the world.

6 With your help, we'll make that happen.

7 Thank you.

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News Clips

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1 [Administrator Jolene Molitaris:] ...in this region we
2 have 43 people full-time working with Norfolk Southern
3 and CSX for the next five years to ensure that all our
4 commitments are kept. Our commitments to Norfolk
5 Southern, their commitments to you and to us.

6 It's a proud day, it's a day for opportunity,
7 213 days from now it's going to be the year 2000.
8 Let's get back here then to say "Look at the success we
9 are." Congratulations to you.

10 NEWS CLIPS

11 [Transport Workers Union Railroad Division Director
12 John Czuczman:] ...as Norfolk Southern officially
13 takes over, employees want to be assured their jobs are
14 safe and that their new owners will treat them right.

15 VOICE: Their concern is the culture change.
16 They get used to safety and issues and the movement of
17 forces, abolishment of jobs; that is where our concern
18 is.

19 ANNOUNCER: How open Norfolk Southern's door
20 will be remains to be seen, but company officials say
21 they're confident the transition will be smooth.

22 CEO GOODE: The changes that will occur I

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1 believe will be good ones and will be changes that come
2 from opportunities to bring more business in here. So
3 I'm not anticipating anything except the best kind of
4 relationships.

5 ANNOUNCER: What are your biggest concerns
6 right now?

7 VOICE: Jobs, obviously; they said they were
8 going to bring some jobs into town, and I think they're
9 going to do it, we'll wait and see.

10 ANNOUNCER: As a federal railroad official
11 talked to workers before the ceremony, that's what she
12 heard as well: Make sure to keep our jobs intact.

13 ADMINISTRATOR MOLITARIS: They're still
14 feeling a little bit on the edges of things. They've
15 been through other mergers; they've had experiences.

16 ANNOUNCER: Throughout it all, the railroad
17 has remained important in Altoona. With the latest
18 change now in place, workers here seem optimistic about
19 the future, at least for now.

20 VOICE: We'll survive; we survived before.

21 CEO GOODE: Welcome to the new Norfolk
22 Southern.

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1 ANNOUNCER: The workers who gathered for this
2 midday ceremony were given an optimistic view of their
3 future. Their new boss says the \$10 billion
4 acquisition of Conrail by Norfolk Southern and CSX
5 makes sense only because of what those rail lines gain.
6 In Norfolk Southern's case, that includes all of the
7 rail facilities in Blair County, a place the chairman
8 calls "the heart of the new Norfolk Southern System."

9 CEO GOODE: We expect to use all of the
10 assets of the new Norfolk Southern. One of the most
11 important assets we got is right here, and we're going
12 to give it full utilization.

13 ANNOUNCER: That full utilization means a
14 significant amount of railroad repair work that will be
15 moving here now that the takeover has been finalized.
16 One big supporter of these shops says that there are
17 ironclad promises in place to protect local jobs.

18 REP. SHUSTER: We have in writing the
19 commitment from Norfolk Southern that they're going to
20 do 200 locomotives in the Juniata shop and 1000 cars in
21 the Sam-Ray shop over the next three years.

22 ANNOUNCER: And that is seen as just the

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1 beginning. There's also the promise of \$67 million to
2 improve the repair facilities in Flage.

3 VOICE: \$67 million is not peanuts, and I'm
4 looking forward to getting that; we couldn't get that
5 kind of money when we were with Conrail because it
6 wasn't available.

7 ANNOUNCER: Railroad officials tell me it'll
8 be a couple of years before all the blue and white of
9 Conrail is replaced by the black and white logo of
10 Norfolk Southern. That's because the one shop that's
11 going to be doing that repainting is located right here
12 in Juniata. That's good news for the folks who work
13 here.

14 ANNOUNCER: At least going into this move to
15 Norfolk Southern control, the promise is in place that
16 Altoona and Blair County will long have a railroading
17 future.

18 CEO GOODE: And I want people to look back
19 100 years from now and say "That is a tradition that
20 has continued, and Altoona is still the heart of
21 railroading in the world."

22 ANNOUNCER: Most of the more than 1700

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1 Conrail workers in Blair County gathered at the Juniata
2 shops to get the latest on a big change that could
3 significantly impact their future: They got a promise
4 of a stable workplace.

5 CEO GOODE: Some of the finest resources on
6 the new Norfolk Southern System are right here. And
7 I'm not just talking about bricks and mortar, I'm
8 talking about all of you.

9 ANNOUNCER: The breakup of Conrail is seen
10 has having national implications when it comes to the
11 future of rail transportation. That's why backers of
12 this region were happy to host this ceremony.

13 VOICE: Change is coming. The question is,
14 is change good?

15 Well, let me tell you, change can be good and
16 the Norfolk Southern banner here will be good.

17 ANNOUNCER: The change to Norfolk Southern is
18 seen as good because of an expansion in operations
19 that's been promised. And it is expected to bring with
20 it a significant investment that should protect the
21 jobs already in place and open up new opportunities for
22 railroad based employment.

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1 REP. SHUSTER: Investments of \$67 million in
2 capital improvements would be made to Juniata and Sam-
3 Ray shops. Employment in the shops would be increased
4 by at least 178 jobs.

5 ANNOUNCER: Norfolk Southern Chief Executive
6 David Goode, speaking at the Juniata repair shops, said
7 the \$10 billion acquisition of Conrail makes sense
8 because of what those rail lines gain.

9 In Norfolk Southern's case, that includes all
10 the rail facilities in Blair County, a place the
11 chairman calls the Heart of the new Norfolk Southern.

12 CEO GOODE: We expect to use all of the
13 assets of the new Norfolk Southern. One of the most
14 important assets we've got is right here, and we're
15 going to give it full utilization.

16 ANNOUNCER: That full utilization means that
17 a significant amount of railroad repair work will be
18 moving here now that the takeover has been finalized.

19 REP. SHUSTER: We have in writing the
20 commitment from Norfolk Southern that they're going to
21 do 200 locomotives in the Juniata shop and 1000 cars in
22 the Sam-Ray shop over the next three years.

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1 ANNOUNCER: And that is seen as just the
2 beginning. There is also the promise of \$67 million to
3 improve the repair facilities. But there's still
4 plenty of apprehension among workers.

5 VOICE: I'll wait and see what happens, hope
6 for the best.

7 VOICE: They said they were going to bring
8 some jobs into town and I think they're going to do it;
9 we'll wait and see.

10 VOICE: Their concerns is how Norfolk &
11 Southern is going to treat them. They're so used to
12 the agreements that they had with the Conrail. Anytime
13 we had a problem with Conrail, the door was always
14 open.

15 ANNOUNCER: Company officials say they're
16 confident the transition will be smooth.

17 CEO GOODE: The changes that will occur I
18 believe will be good ones and will be changes that come
19 from opportunities to bring more business in here.

20 ANNOUNCER: It was a chance to enjoy a day
21 off with friends and family away from the Conrail shop.

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1 In light of the recent takeover, many
2 employees are concerned about the changes that lay
3 ahead. David Goode, the CEO of Norfolk Southern, was
4 at the picnic. He says there will be some changes, but
5 that they will be positive ones.

6 CEO GOODE: These are important facilities.
7 We have a lot of plans which we've talked about which
8 are part of the, really of the operating plans on which
9 we premised our acquisition of a portion of Contrail,
10 and Altoona and Hollidaysburg facilities are key to
11 that.

12 ANNOUNCER: Right now the locomotive shops in
13 Hollidaysburg and Juniata are busy. Work is underway
14 on a number of projects including the assembly of 39
15 EMD locomotives for General Motors. Company leaders
16 say the shop will remain busy as Norfolk Southern takes
17 over.

18 VOICE: Norfolk Southern expects to transfer
19 approximately 170 jobs here to the Altoona area. Those
20 jobs will be across the board, management and labor
21 positions.

22 ANNOUNCER: They also plan to invest over

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1 \$60 million into improving the facilities at both
2 Hollidaysburg and Juniata. So far the breakup of
3 Conrail does seem to be good for the Blair County
4 workforce.

5 CEO GOODE: This is where everything that
6 makes railroading possible has to happen by the kind of
7 good professional railroaders that we see here.

8 ANNOUNCER: Exactly what changes will take
9 place remain to be seen. Many things still need to be
10 worked out. Right now, Norfolk Southern is working on
11 getting the labor agreements in place.

12 CEO GOODE: Only time will make people really
13 understand what this combination can bring, and I'm
14 very optimistic that we'll all look back several years
15 from now, and be very pleased with the benefits,
16 benefits we see.

17 - - -

18 [End of footage]

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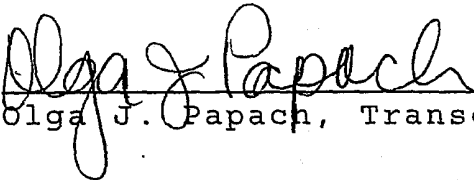
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C E R T I F I C A T I O N

I, Olga J. Papach, do hereby certify
that the attached pages represent a transcript
of the recording of the above.

BY:


Olga J. Papach, Transcriber

PETITIONERS'

EXHIBIT 23

**Testimony of M. Patrick McCune
Resident Vice President of Public Affairs
Norfolk Southern Corporation**

Before the

**House Transportation Committee
Richard A. Geist, Majority Chairman**

**Thursday, May 15, 1997
Altoona, Pennsylvania**

Also Before:

Rep. David Argall
Rep. Dick Hess
Rep. Dennis Leh
Rep. Todd Platts
Rep. Jerry Stern

1 CHAIRMAN GEIST: Good morning, and welcome to
2 the Republican House Transportation Committee. It's
3 actually the Stand (phonetic) Committee. It's not the
4 Republican. I just said that to nail Paul.

5 We're pleased that everybody could come out
6 this morning. This should be the first of, we believe,
7 four hearings that will be held statewide. It's probable
8 that hearings will be held also in Philadelphia, Conway,
9 and Harrisburg.

10 The agreement that we have been working with
11 in Pennsylvania -- we already had one hearing along with
12 Senator Corman. The Senate Committee had it in
13 Harrisburg, which was very well attended; and we talked
14 about then having a series of committee hearings with the
15 House Transportation Committee.

16 I'd like to introduce the folks who are up
17 front now with us, and I'll start to my far left. The
18 fellow over there with the beard is Bob Mustin. He is the
19 Senior staff person for Senator Doyle Corman Senate
20 Transportation Committee.

21 The guy beside him to the left who still owes
22 me lunch, Paul Parsells, he is the Executive Director for
23 the Democratic Staff in the House and the Transportation
24 Committee. Both of these two fellows are super
25 knowledgeable about transportation issues in Pennsylvania.

1 The next fellow is Dennis Leh, Representative
2 Dennis Leh from Berks County; and he can speak
3 Pennsylvania Dutch for you. He's a long-time member of
4 the House and also a long-term member of this committee.
5 Beside him is Dave Argall, and he'll probably want to talk
6 about Route 61.

7 REPRESENTATIVE ARGALL: Not today.

8 CHAIRMAN GEIST: He's been bugging me for a
9 highway project, had me up to his district to see all his
10 trucks going through his town; and we're glad that Dave
11 came today. And, of course, beside me, who needs no
12 introduction in this part of the state, is Jerry Stern.
13 And Jerry represents Hollidaysburg Car Shops in his
14 district in Southern Blair County.

15 And on my right is our counsel for the
16 Committee, Dick Wilson; and Dick has been retained to do
17 the work concerning the Norfolk Southern CSX marriage and
18 the acquisition of Conrail.

19 My opening remarks are going to be very brief.
20 We in this part of the country have gone through a myriad
21 of changes in the history of railroading in Altoona. From
22 the time that the Pennsylvania Railroad decided that they
23 were going to conquer the Alleghenies in the establishment
24 of the city of Altoona, we've watched much change take
25 place in railroading.

1 As a little boy, I can remember when my
2 grandfathers, who were both laborers in the shop -- a
3 blacksmith and a tinsmith -- were laid off. My father
4 worked at the station and also played baseball for the
5 Altoona Works Team and watching my uncles and everybody
6 else through the ups and downs of railroading.

7 We went through -- when I first was elected
8 twenty years ago, we were just forming Conrail. We were
9 going through the terrible bankruptcies of the Northeast,
10 and the emerging railroad was Conrail.

11 And a long relationship of working very
12 closely with Conrail employees and management to build the
13 railroad to where it is today: A railroad that's worth
14 \$115 a share to CSX and Norfolk.

15 And we are very interested to make sure that
16 the change that's going to take place is a partnership
17 where we in Blair County and with both Sam Ray, Juniata
18 Shop, and the other people, suppliers in this community
19 who are deeply tied to that railroad infrastructure have a
20 better idea of what's going to happen so that we all can
21 work together.

22 I'd also like to introduce two folks in the
23 crowd today. And because the lights are so bright, you'll
24 have to forgive me. Mayor Ray Voltz (phonetic) is here,
25 Mayor Voltz; and Councilman Denny Halerman (phonetic) are

1 here. And both of them are very, very interested in
2 what's going on here today.

3 So if we could, I'd like to start the program
4 this morning. And I know that Norfolk Southern has other
5 people that are on the way, at least they said they were.
6 When they saw the rope outside, I think maybe they turned
7 around and left. We'd like to call Pat McCune.

8 Pat McCune and I go way back together into the
9 very -- to the '80s when he was Consolidation Coal. I
10 know that he is going to be testifying and Senator Craig
11 Louis is supposed to be testifying.

12 Now, this is a House hearing; and we have two
13 ex-senators. Pat was an ex-senator in the state of West
14 Virginia. So it's nice to have the senators come and talk
15 to the House members. So, Pat, if you'd like to come up,
16 have a statement, and then we're going to open it up for
17 questions from the members that are present.

18 MR. McCUNE: Thank you, Mr. Chairman, members
19 of the House Transportation Committee, staff members. I'm
20 honored and please to be here with all of you today here
21 in Altoona to talk to you a little bit about the NS
22 prospective acquisition of Conrail and what it means to
23 NS, what it means to the people of Altoona and to the
24 future of Norfolk Southern System.

25 As happy as I am to be here to talk to you

1 about Norfolk Southern, I'm also here to listen to all
2 of you -- members of the Committee, members of the
3 community, to the business and labor communities -- that
4 have a legitimate stake in what happens to the Conrail
5 system after the proposed takeover of Conrail by Norfolk
6 Southern and CXS.

7 And I'm here to listen and take your
8 suggestions, your recommendations, your advice, and your
9 council back to the pertinent individuals at Norfolk
10 Southern; and I'll be here the rest of the day and take
11 your questions and be here to answer anything that I can
12 and, more importantly, to listen to your concerns.

13 I'd like to do a couple of things. I'd like
14 to tell you a little bit about Norfolk Southern, a profile
15 or bio, if you will, about the company; talk to you about
16 what it means for Pennsylvania in a microsense for the
17 people of Altoona and the surrounding area; in a
18 macrosense for what we believe the proposed purchase of
19 Conrail by Norfolk Southern and to some extent CXST means
20 for the State of Pennsylvania.

21 Norfolk Southern is a Norfolk-based holding
22 company that owns Norfolk Southern Railroad; North
23 American Van Lines, the moving company that I'm sure
24 you've all seen throughout the highways; and Pocahontas
25 Land Company, which is based in Bluefield, West Virginia,

1 and is a land and natural resources management company
2 which controls some 900,000 acres primarily in West
3 Virginia, Kentucky, Virginia, and Alabama.

4 The railroad system currently owns
5 approximately 14,000 miles of track that dissect twenty
6 states throughout the midwest and southeast primarily;
7 Washington, D.C.; and Canada. We haul anything that moves
8 by rail. But the staple and the major products that
9 Norfolk Southern moves to markets include coal, chemicals,
10 automobile, auto parts, grain, paper, steel and metal
11 products, and construction materials.

12 We are also a major transporter of intermodal
13 freight. This type of freight consists of truck trailers
14 and containers that move from origin to destination
15 by using more than one mode of transportation, usually
16 trucks and trains.

17 Norfolk Southern employs approximately 24,000
18 people in a lot of diverse capacities stretched out over a
19 current twenty-state system. Besides our corporate
20 offices located in Norfolk, we have two very large centers
21 of employment levels in Atlanta and in Roanoke and soon to
22 be Altoona.

23 A little look at our financials: 1996 will
24 probably go down as a record year for Norfolk Southern.
25 We set new safety, service, and performance levels based on

1 year-to-year basis. We had record earnings in 1996 of \$6
2 and 9 cents a share, up 12 percent. We had net income of
3 \$770 million, up 8 percent. Our income from rail
4 operations was \$1.2 billion, up 10 percent.

5 We experienced our sixteenth straight quarter
6 of year-over-year increases in earnings per share. We had
7 a dividend increase of 8 percent, which I believe is
8 labeled the best return in the railroad industry. In our
9 operating ratio, a barometer of our efficiency and
10 productivity, was 71.6 percent for 1996, down 1 percent;
11 and we're working to get it lowered.

12 We also improved our on-time performance
13 and our equipment utilization 8 and 4 percent, and we
14 reduced or grade crossing accidents happily by 18 percent
15 in 1996.

16 We take pride in being the safest railroad in
17 the country. Norfolk Southern is the winner for the last
18 seven years of the Harriman Award. The Harriman Award is
19 sponsored by the Federal Railroad Administration and is
20 bestowed upon each class railroad that has the fewest
21 reportable injuries per 200,000 man-hours worked.

22 This years' Harriman Award should be
23 announced, I've been told, sometime in the next week or
24 two; and we fully expect and are very confident that we'll
25 be named the winner for 1996 -- 97. Excuse me.

1 We're very proud of our financials and the
2 profitability of Norfolk Southern, but we're doubly
3 proud of our safety achievements. And we're now honored
4 that most of the major Class 1 railroads have now
5 benchmarked the Norfolk Southern safety record. It's good
6 for all of us.

7 Additionally, Fortune Magazine has named
8 Norfolk Southern as America's most admired railroad for
9 the second consecutive year and has also placed in the top
10 10 percent of more than 400 companies in all industries
11 included in Fortune's annual corporate reputation survey.

12 We are successful for many, many reasons; but
13 one critical component of our success is due to the
14 wonderful efforts of our industrial development
15 department. With approximately fifty employees, it is
16 presumed to be the largest industrial development property
17 of all the railroads. We eagerly pursue all types of
18 business.

19 That aggressiveness has helped Norfolk Southern
20 to either locate or expand over 100 businesses to our
21 lines in 1996. Those 100 projects equate to approximately
22 4,000 new jobs directly related to our industrial
23 development efforts.

24 It is no coincidence that nine of the last
25 twelve auto assembly plants built in the United States

1 have been sited on Norfolk Southern's lines. An extension
2 of our success in the auto area is the recently
3 announced contract that Norfolk Southern has entered into
4 with Ford Motor Corporation.

5 The Ford contract calls for Norfolk Southern
6 to build and operate four mixing centers, which are
7 essentially a hub-and-spoke system similar to the airline
8 industries, that will operate in various locations in the
9 Midwest, the Mid-Atlantic region, and the South.

10 They will handle all the destination
11 distribution of approximately 80 percent of Ford Motor's
12 finish product vehicles. This project will be completed
13 by the end of 1997 and operational in early 1998. The
14 contract length is for twelve years and is expected to
15 generate tens of million dollars in net revenues for
16 Norfolk Southern during the length of the contract.

17 Where are we in the process? It's no secret.
18 You all know that Norfolk Southern and CSX have announced
19 plans to jointly acquire the outstanding shares of Conrail
20 for \$115 a share. NS will contribute \$5.9 billion towards
21 that purchase for a 58 percent share of the Conrail
22 assets, and CSX will contribute \$4.3 billion for its 42
23 percent share.

24 Right now, representatives of both CSX and
25 Norfolk Southern are working feverishly to put together an

1 operating plan that will be submitted in the form of a
2 joint application to the Surface Transportation Board. We
3 expect to submit this plan to the Surface Transportation
4 Board sometime in mid-June.

5 We have petitioned the Surface Transportation
6 Board for an accelerated or an expedited hearing. If
7 approved, the Surface Transportation Board should rule on
8 a joint application in approximately 255 days as opposed
9 to the more frequently used one-year standard. If that's
10 approved, sometime in March a ruling is expected.

11 NS will acquire most of the Conrail assets in
12 Pennsylvania. Craig Louis -- Craig is here. Craig, do
13 you have any maps?

14 MR. LOUIS: Got them.

15 MR. McCUNE: Thank you. This is Craig Louis.
16 Craig is a partner in the law firm of Dechert, Rhoads, and
17 Price and, as Chairman Geist indicated, a former state
18 senator, I believe, for thirteen years from the
19 Philadelphia area; and he's been retained by Norfolk
20 Southern. I've got some maps I'd like to distribute so
21 you can follow along and a quick explanation of where we
22 will go.

23 MR. LOUIS: They were here a few minutes ago.

24 MR. McCUNE: Bear with me for one moment.

25 If you look at the map, I think it's possible

1 to follow along. Norfolk Southern will acquire, as most
2 of you know, most of the Conrail assets in the state of
3 Pennsylvania. We will operate the Conrail line between
4 Cleveland and Northern and Southern New Jersey via
5 Pittsburgh, Altoona, Harrisburg, Lancaster, and
6 Philadelphia, to the port of Philadelphia and to
7 Southeastern New Jersey.

8 And Norfolk Southern will own and operate the
9 Conrail lines from Harrisburg to Buffalo, New York, as
10 well as owning and operating the former Erie and
11 Lackawanna or otherwise known as the southern tier line
12 from Buffalo -- I don't know if you can see-- you can just
13 see it on the top left-hand side of the map to the New
14 York area via Binghamton, New York, and parts of
15 Northeastern Pennsylvania.

16 The port of Philly will be served by a
17 terminal railroad that will be jointly owned by Norfolk
18 Southern and CSX. There will be a lot of shared assets
19 and shared lines by both CSX and Norfolk Southern into the
20 customer base in the Philadelphia area.

21 Norfolk Southern will own the Monongahela
22 Railroad and the coal fields of Southwestern Pennsylvania.
23 CSX will have shared access to those coal mines, offering
24 a dose of real competition into the thriving coal reserves
25 and coal markets that are indigenous to that area.

1 Included in Norfolk Southern's Pennsylvania
2 assets will be the Altoona area shops complex. This
3 includes, as you all know, the Juniata Locomotive Repair
4 Shops in Altoona which overhaul and repair locomotives and
5 locomotive components and Holliday's Car Shops which
6 overhauls freight cars and car components. These two
7 shops have an excellent reputation within the railroad
8 industry and especially in Norfolk Southern. Its workers
9 are among the best in the nation, and we look forward to
10 having the Conrail Repair Shop employees join the Norfolk
11 Southern team soon after the merger is approved.

12 Our chairman, Mr. Goode, visited the shops in
13 this area, I believe, in March, if I'm correct, and came
14 away very impressed by the level of the work and the
15 quality of the work that is being conducted at those
16 shops. These shops will continue to be a critical and
17 integral component to the Norfolk Southern system after
18 the merger.

19 We intend to operate these shops at the same
20 level that Conrail utilizes them today. We then hope to
21 grow the maintenance business at those shops to the maximum
22 utilization possible. How are we going to grow the
23 business? There's a couple of ways that I think we can
24 grow the business and Norfolk Southern thinks we can grow
25 the business:

1 Number 1, CSX has given certain incentives to
2 use the maintenance capabilities at those shops via the
3 purchasing agreement; and we're fully confident that they
4 intend to use those incentives.

5 Norfolk Southern has historically owned most
6 of its car fleet. It's my understanding that
7 Conrail -- within the Conrail fleet, there's a lot of
8 private cars and leased cars. Norfolk Southern has a
9 tendency to own more of their cars, and this obviously
10 proves that there will be periodic overhauling provided
11 here at Altoona.

12 The jointly-owned lines that I talked about in
13 the Philadelphia terminal area and the New Jersey areas
14 will need the services provided by the shops here in the
15 Altoona area. And lastly, the general growth in the
16 business that we fully expect in the years to come in
17 growing our rail freight businesses will undoubtedly
18 create new opportunities for the shops here.

19 This merger is based on growth, ladies and
20 gentlemen. It's not based on paring or selling off
21 assets. We fully expect to develop new markets to
22 increase our market share and to increase every segment of
23 business that Norfolk Southern is now engaged in, and that
24 undoubtedly will have benefits to the car complex shops
25 here in Altoona.

1 In a macrosense, what does it mean for
2 Pennsylvania? Pennsylvania will benefit greatly from the
3 acquisition of Conrail and the divisions of its operations
4 between CSX and Norfolk Southern. The transaction keeps
5 true competition in Pennsylvania.

6 Its too biggest cities, Philly and Pittsburgh,
7 will retain rail freight service by two major competitors.
8 Pennsylvania freight shippers will have the price and
9 service operations that come when rail service is provided
10 by two large, comparably-sized, Class 1 railroads both
11 serving carload and fast growing intermodal markets.

12 Norfolk Southern does considerably more for
13 Pennsylvania than maintaining existing competition.
14 Pennsylvania's shippers will gain new and more efficient
15 routes and services as well as reduced transportation
16 costs to existing markets.

17 They will also have access to new markets to
18 the extended networks and market reach of both Norfolk
19 Southern and CSXT. The new Norfolk Southern System, for
20 example, will allow the first single-line service between
21 Pennsylvania shippers and Kansas City, bypassing costly
22 congestion delays at Chicago and East St. Louis.

23 Norfolk Southern will create new, attractive
24 transportation lanes to Tennessee, the Carolinas, and
25 other points in the southeast. Single line rates usually

1 are lower than two-carrier pricing. They provide
2 Pennsylvania customers the additional opportunities to
3 expand their market reach.

4 The elimination of intermediate switching will
5 reduce transit times and provide improved equipment
6 availability and utilization as well as more consistent
7 customer deliveries further enhancing market opportunities
8 for Pennsylvania's shippers and Pennsylvania receivers.

9 Pennsylvania will see new and expanded
10 intermodal service, the fastest growing segment of
11 railroad traffic in Norfolk Southern. We are very
12 competitive for immediate intermodal hauls as short as
13 500 miles, and that is one-third less than the rail
14 industry average or norm of approximately 750 miles.

15 We know how to run intermodal operations, and
16 we do it well. Since 1988, Norfolk Southern's
17 intermodal volume has grown 94 percent. That's about
18 twice the industry rate. We fully expect to site a new
19 intermodal facility in the Harrisburg area to facilitate
20 the expected growth in north/south intermodal traffic.

21 Competitive intermodal service, carrying truck
22 trailers and containers on rail cars that I alluded to
23 earlier, benefits more than just shippers of freight.
24 Competitive rail service will attract more traffic to rail
25 intermodal and will divert traffic from trucks.

1 Taking trucks off the highway produces
2 significant benefits for the region by alleviating
3 congestion and help lessening air pollution.
4 Representative Argall, I think maybe we'll take some of
5 those trucks off of that congested highway in your area
6 possibly saving Chairman Geist a commitment.

7 REPRESENTATIVE ARGALL: Don't let him off that
8 easy.

9 MR. McCUNE: After we acquire the portions of
10 Conrail, Norfolk Southern will provide improved intermodal
11 services and will expand double-stack opportunities for
12 Pennsylvania customers on all ready cleared routes to the
13 Midwest, the Southwest, Atlanta, and Florida destinations.

14 The day that the merger is consummated by the
15 Surface Transportation Board, we fully expect to operate
16 double-stack service out of the port of Philadelphia to
17 the Midwest to New England and to Canada through a
18 partnership with CP.

19 Triple Crown Services, the Norfolk Southern
20 bimodal subsidiary, successfully competes with
21 over-the-road trucks in the market for moving consumer
22 goods and industrial material for just-in-time inventory
23 management.

24 Triple Crown will serve Philadelphia, with
25 Norfolk Southern operated roadrail trains both to southern

1 and midwestern destinations and will build a road rail
2 terminal in the Philadelphia area.

3 The expanded roadrail network will take truck
4 traffic off Interstate 95 and will permit expanded Norfolk
5 Southern to provide services that might not be cost
6 effective or possible with conventional rail service.
7 We're presently talking to officials at Amtrak about
8 possibly using the northeast corridor for Triple Crown
9 Services.

10 Pennsylvania utilities and the integrated
11 steel companies will be able to draw a larger number of
12 coal sources with the Norfolk Southern/Conrail merger of
13 Conrail. Similarly, Pennsylvania coal producers will gain
14 the ability to ship their coal to a wider number of
15 markets.

16 Monongahela Coal Mine, Pennsylvania's largest
17 generator of rail traffic, will gain the benefits of
18 two-carrier competition and additional single line routes
19 for the first time since Conrail obtained sole access to
20 that coal field in 1990.

21 Norfolk Southern has also negotiated a rate
22 for PP&L that attempts to keep the coals produced in the
23 Clearfield cluster at a competitive market rate and
24 hopefully keep them viable into both the near and
25 long-term future.

1 I've already described for you in some
2 detail the success of our industrial development
3 department. A word about the short lines and the regional
4 railroads. Some of them will be testifying after me
5 today.

6 We recognize and support the concept of an
7 extremely strong and healthy partnership with our
8 connecting short lines and regional railroads. Norfolk
9 Southern takes pride in our short line relationships; and
10 we will work to achieve short line loyalty with aggressive
11 marketing and business incentives, not penalties.

12 All the short lines and regionals will not be
13 happy with the proposed merger, and I'm sure you'll hear
14 more about that later. But Norfolk Southern has met and
15 is committed to meet -- to continue to meet with these
16 railroads with the intention of reaching a fair agreement
17 that will hopefully mitigate any negative effects that the
18 merger may play with the investments of the short line and
19 the regional railroads.

20 We continue to work with the Wheeling Lake
21 Erie. I think Mr. Fisk will tell you about an agreement
22 that we've reached with the CP. Mr. Robey will talk to
23 you about his railroads; and we will continue to meet with
24 them on a one-on-one basis to hopefully resolve any
25 marketing problems, any traffic flow problems that may

1 develop from our merger.

2 Just as the City of Philadelphia will retain
3 two-railroad competitive service, so will the port of
4 Philadelphia with two competitive east/west and almost
5 three with CP north/south routes. Vigorous rail
6 competition, which has been the principle feature of the
7 CSX/Norfolk Southern relationship for many years, will
8 help developers of the Philadelphia Navy Yard to attract
9 new industries and new jobs.

10 The site has a potential for a significant
11 intermodal facility and could be developed as a major
12 distribution center for paper, plastic, and other bulk
13 goods. We're excited about the opportunities that this
14 merger presents to Norfolk Southern. There's been a
15 tremendous rejuvenation of the railroad industry since the
16 Staggers (phonetic) Act deregulated our industry in the
17 early 80s.

18 And Norfolk Southern -- all of us at Norfolk
19 Southern are extremely confident that the service and the
20 efficiency benefits that will be produced by the
21 consolidation of the Conrail rail network into two
22 comparably-sized, financially-strong systems will benefit
23 Pennsylvania customers, Pennsylvania rail employees,
24 Pennsylvania communities, and the general Pennsylvania
25 public.

1 With that, I thank you for your attention. We
2 will be here the rest of the day. Mr. Louis and I will
3 try to answer any of your questions to the extent that we
4 can, and we look forward to a long-lasting relationship
5 with this Committee and to the citizens and the business
6 community of the Altoona area. Thank you.

7 CHAIRMAN GEIST: Thank you very much, Pat.
8 Let me introduce Representative Dick Hess from Bedford,
9 who just came in. Dick has an awful lot of his
10 constituents who work for Conrail and has a very deep
11 interest in what we're doing here today.

12 We're going to open up the panel for some
13 questions for you. I'd like to ask a couple first that
14 we've prepared. In Norfolk and Western Southern Railroad
15 merger proceeding, Norfolk Southern cited a number of
16 benefits related to the coordination of shop and repair
17 facilities and maintenance away functions.

18 Norfolk Southern claimed that a result of the
19 merger, is able to avoid planned shop expansions at its
20 Roanoke car shop and at Schaffers Crossing, Virginia,
21 facility for air brake cleaning.

22 What benefits related to the coordination of
23 shop and repair facilities have you been able to identify
24 as a result of your planned acquisitions of Conrail's
25 Hollidaysburg Car Shop and its Juniata Locomotive Car

1 Shop?

2 MR. McCUNE: Mr. Chairman, I mean, I'm
3 prepared to tell you that we will operate those shops at
4 the same level that Conrail presently utilizes those
5 shops and we think that the addition of Norfolk Southern
6 as the new owner of those shops will bring additional
7 opportunities for growth at both Juniata and the
8 Hollidaysburg shops.

9 How that relates to what Norfolk Southern did
10 in the '80's, I mean, I'm not aware of. I wasn't around
11 then. I don't have any historic perspective that would
12 lead anybody to a conclusion other than what I've laid out
13 to you today.

14 CHAIRMAN GEIST: If you don't have answers to
15 the questions, after this meeting's over, would you have
16 Craig present written answers to the Committee, please?

17 MR. McCUNE: Yes, sir.

18 CHAIRMAN GEIST: On November 18th, '96, Norfolk
19 Southern publicly announced that it was committed to
20 operate Conrail's Hollidaysburg Car Shop and the Juniata
21 Locomotive Shop and that it would promote -- and I
22 underline the word promote -- employment there. Norfolk
23 Southern also stated it would aggressively pursue work
24 from other equipment owners to increase the work handled
25 by these two shops.

1 As you have proceed with your plans in
2 conjunction with the merger, what steps have you taken and
3 what actions will you undertake in order to honor the
4 commitment and the public statements made about the CSX
5 percentage of work coming there?

6 MR. McCUNE: Well, I don't know if we can
7 force CSX to take advantage of the incentives; but I think
8 the economic incentives to CSXT are legitimate and real
9 and offer them real incentives for them to use the shops.

10 We have divided the assets of Conrail, as I've
11 told you earlier, on a 58/42 basis. CSX is entitled to 42
12 percent of the supplies and material at that shop. It's
13 my understanding that CSX will pay for the labor at the
14 shop but that they are entitled to their prorated share of
15 the supplies and materials.

16 And we feel very confident that they are going
17 to honor their commitment that they said earlier in March
18 to use those shops, and we think these incentives are
19 enough to bring them there.

20 CHAIRMAN GEIST: What portion of the Conrail
21 car and locomotive fleet will Norfolk Southern be
22 acquiring as part of this merger?

23 MR. LOUIS: Mr. Chairman, under the agreement,
24 the assets of Conrail are essentially going to be divided
25 on a 58/42 basis. There's been no specific delineation as

1 to which cars or which locomotives are going to be the
2 subject of that, but the assumption is that it will
3 essentially be divided along those lines.

4 CHAIRMAN GEIST: Just as an aside, Pat, you
5 know we get all the ones with bathrooms already in it.

6 Could you please describe for the folks here
7 the current shop facilities operated by Norfolk Southern
8 at Roanoke, Atlanta, Lynnwood, and other locations on the
9 system?

10 MR. McCUNE: I don't have any intimate
11 knowledge how those are operated. I'd be more than happy
12 at the appropriate time to bring representatives of
13 Norfolk Southern who have some management responsibility
14 for those shops before this Committee or before any
15 committee at a future location and time to discuss their
16 intimate knowledge of those shops.

17 CHAIRMAN GEIST: All right. That's all the
18 questions. I'm going to come back to me, but I'd like to
19 defer to the other Committee members. Jerry.

20 REPRESENTATIVE STERN: I have a question
21 regarding Norfolk Southern and whether or not you've
22 closed any of your car or locomotive repair facilities
23 within the last five years and, if so, what circumstances
24 led to that decision to close those facilities?

25 MR. McCUNE: I don't know the answer to that,

1 sir. I'll find that out. To the best of my knowledge, I
2 don't know if we've closed any. I think we may have
3 consolidated some of our repair shops in the south, but
4 I'll have to find that out for you.

5 REPRESENTATIVE STERN: That's all the
6 questions I have for now, Mr. Chairman.

7 CHAIRMAN GEIST: Dave -- Representative
8 Argall.

9 REPRESENTATIVE ARGALL: Thank you,
10 Mr. Chairman. In your opening comments, you talked a good
11 bit about the impact on Pennsylvania coal; but I believe
12 all of your comments were strictly bituminous.

13 I represent an anthracite-producing area, and
14 I'd appreciate it sometime in the future if you could
15 prepare for me a statement on what the impact will be upon
16 the anthracite industry -- much smaller, but from my
17 perspective, a very important segment of our local
18 economy.

19 I'm hearing some quiet optimism back home, but
20 there's a lot of what ifs; and I'd appreciate it if you
21 could provide that information for me at a later time.

22 MR. McCUNE: Sure. It is a new market. We
23 understand metallurgic and steam coal very well, but the
24 anthracite is a completely new region for us. I do know
25 that Bill Fox, Vice President of Coal Marketing, and, I

1 believe, Bill Honasland (phonetic) have made a trip to the
2 anthracite fields.

3 If that hasn't been accomplished, it's been
4 planned in the near future to get a better grip on some of
5 the issues and the marketing capabilities and
6 opportunities that may develop for the anthracite regions.

7 REPRESENTATIVE ARGALL: Thank you.

8 CHAIRMAN GEIST: Representative Leh.

9 REPRESENTATIVE LEH: Yes. Thank you,
10 Mr. Chairman. First of all, let me state that I don't
11 pretend to understand vast consequences of such a buyout;
12 however, I do, as a small businessman, understand
13 competition. And I guess when I look at the map here,
14 what I'm trying to understand is you're talking about
15 increasing competition; but I only see green lines.

16 And I know -- I was on the Consumer -- I still
17 serve on the Consumer Affairs Committee. And as the
18 former Senator knows, we worked together last year on
19 deregulating electric. And when we deregulate electric in
20 Pennsylvania, we enable people or we will enable people,
21 people in Allentown or people in Pittsburgh, to purchase
22 electric power from generators anywhere else in this
23 Commonwealth.

24 Yet, if I have a business in Reading, I'm only
25 going to be able to use Norfolk Southern if the deal goes

1 through. I don't understand the competition. I do
2 understand you're saying that you will be able to take my
3 product to many new markets; however, I'm still going to
4 have to rely on you to transport it and no one else.

5 So that's -- I just don't understand when
6 you're saying this is going to increase competition and
7 therefore lower prices.

8 MR. McCUNE: In some areas, that remains the
9 same; but in most of the areas, in most of the consuming
10 markets in the Philadelphia/Pittsburgh area and in many
11 points in the eastern part of the state you will have
12 access to two or more Class 1s and in some cases three or
13 more Class 1s.

14 Not only will it benefit the receivers of
15 freight traffic in Pennsylvania but also to those shippers
16 who for the first time will have access by a choice of
17 Class 1 carriers -- Norfolk Southern or CSX -- into the
18 largest consumer market in the country; and that's New
19 England, Northern New Jersey, New York area. That has
20 never existed before.

21 REPRESENTATIVE LEH: Okay. I said -- there's
22 some things that I still don't see. And I can understand
23 that because you're talking something here that I'm going
24 to have a hard time understanding the whole concept of it,
25 but I'm going to be looking at it very closely. But thank

1 you. I appreciate it.

2 CHAIRMAN GEIST: Paul, this is a chance to
3 deal with something other than monster trucks for the next
4 couple weeks.

5 MR. PARSELLS: The Chairman realizes and many
6 of our members, I'm concerned with the increasing size and
7 number of trucks. I was glad to hear about your efforts
8 to get those trucks off the road.

9 One thing that I've heard in previous
10 testimony and in things that I've read about Norfolk
11 Southern is you're much more willing to take our short
12 hauls where Conrail clearly has not done that in this
13 state to any great extent. Do you see opportunities in
14 Pennsylvania for increasing short-haul business?

15 MR. McCUNE: We certainly do. As I indicated
16 in my presentation, we feel very confident in being able
17 to deliver intermodal freight very efficiently and
18 competitively at around the 500-mile mark.

19 I do know that we intend to develop new
20 intermodal markets from the Philadelphia area into the
21 Ohio Valley and aggressively market that intermodal
22 capacity, which hasn't been done before.

23 We run a profitable intermodal operation. I
24 think Tom Finkbeiner (phonetic), our vice president of
25 intermodal operations said -- and we run a railroad that

1 goes nowhere. We've learned how to do it because we don't
2 have a lot of long-haul routes between major metropolitan
3 markets. We will get that after the merger.

4 But we have sharpened our intermodal skills on
5 a lot of short hauls, and we know how to do it
6 competitively and productively. And I think that it opens
7 up a whole world of opportunities for short line,
8 intermodal hauls in Pennsylvania and from Pennsylvania to
9 surrounding states and surrounding markets.

10 MR. PARSELLS: Thank you, Mr. Chairman.

11 CHAIRMAN GEIST: Bob.

12 MR. MUSTIN: Yes. I note that following your
13 testimony there's Standard Steel, which is from Lewistown
14 which is from Senator Corman's district.

15 When we had a tour of the Conrail locomotive
16 shops a few months back, I noted that we were told that
17 steel was purchased from Standard Steel for the wheels for
18 the locomotives. I also know that Conrail purchases
19 somewhere in the neighborhood of about \$400 million of
20 goods and services from Pennsylvania companies. Will
21 Norfolk Southern continue that practice?

22 MR. McCUNE: Yes -- I mean. Yes, sir. I
23 mean, right now, we do \$100 million worth of business with
24 Pennsylvania suppliers to the rail industry and we operate
25 2 percent of the freight miles that Conrail operates today

1 in this state; and we fully expect that that \$100 million
2 level will do nothing but rise as we acquire -- hopefully
3 acquire the 2600 miles of track and the assets of Conrail
4 in the State of Pennsylvania. It can only go up.

5 CHAIRMAN GEIST: Jerry.

6 MR. McCUNE: Providing they're competitive.

7 REPRESENTATIVE STERN: It's been brought to my
8 attention that on October 7th, 1996, that Norfolk Southern
9 did issue a press release announcing that on January 6th,
10 '97, its locomotive shop in Chattanooga, Tennessee, where
11 repaired EMD Engines would be closed and consolidated with
12 its locomotive repair shop of Roanoke, Virginia, sixty
13 employees were to be relocated as a result of that
14 closure. Is that news to you or is that something you're
15 not familiar with?

16 MR. McCUNE: As I indicated to you, sir, I do
17 recall that. I'm a regional lobbyist in the Mid-Atlantic
18 and in Pennsylvania; and to the extent that I have any
19 intimate knowledge of what happens in some of the southern
20 states, I really don't. I'd be more than happy to find
21 out as much information as I can.

22 I think I said that I do recall there was some
23 closures or a closure in the Tennessee area, and I believe
24 it was Chattanooga. I'm not stonewalling you. I just
25 don't know.

1 REPRESENTATIVE STERN: Could you get that
2 information back to the --

3 MR. McCUNE: Surely.

4 REPRESENTATIVE STERN: -- Committee Chairman
5 and report back to him, please?

6 MR. LOUIS: Mr. Chairman, I'm not familiar
7 with the issue of Chattanooga versus Roanoke; but there was
8 considerable discussion which I was privy to
9 between -- during the Chairman's visit to the Altoona area
10 a couple of months ago in which he described the current
11 capacity at Roanoke as being overflowing and the fact
12 that, without respect to this Conrail acquisition, that it
13 was clear that Norfolk Southern was going to need expanded
14 capacity for locomotive repair.

15 And the clear expectation is that in addition
16 to the Conrail work which is already being done and as Pat
17 has described to you all will continue to be done through
18 these shops, there's the clear expectation that Norfolk's
19 current need for expanded capacity is also going to
20 provide the opportunity for increased business here in the
21 locomotive repair shops.

22 So it would seem to me that, if anything, the
23 prior closure of Chattanooga and consolidation into Roanoke
24 may inure to the benefit of Altoona because there is no
25 longer an existing capacity within the current Norfolk

1 system to meet their present demand.

2 CHAIRMAN GEIST: I'm going to jump over to
3 some labor questions, which I don't think that it's any
4 secret to you that we've had so many inquiries into our
5 office as to what the current labor situation is and what
6 the job retraining situation is and practices within
7 Norfolk Southern.

8 I have some questions that I would like to
9 follow-up on the labor side of this and employment side of
10 it. On November 12th, 1996, Mr. Goode in a presentation
11 before Solomon Brothers Transportation Conference in New
12 York indicated that a CSX/Conrail acquisition would have
13 resulted in substantial overlap of CSX/Conrail routes and
14 facilities.

15 He stated, quote, I wish Conrail employees
16 could have heard the CSX/Conrail conference call last week
17 with the analysis. If they had, they would have heard the
18 list of yards and shops being considered for
19 consolidation.

20 From a job security standpoint, if I were in
21 the safety shoes of the Conrail employee, I would welcome
22 Norfolk Southern with open arms. I welcome a merger with
23 a company whose physical plant extends and complements
24 rather than duplicates the Conrail system.

25 At the same time, I'd be concerned about my

1 retirement. I want my overfunded Conrail pension fund to
2 be combined with Norfolk Southern's overfunded pension
3 plan. I would not want it anywhere close to CSX'S, which
4 had been on the Pension Benefit Guaranteed Corporation's
5 of Most Underfunded Pension Plans.

6 Quote, Fund statement by your president and
7 CEO raises a number of very important issues to Conrail
8 employees in this community. With Norfolk Southern's
9 Roanoke Shops only 700 miles south of Altoona, this
10 community is justifiably concerned about what the Norfolk
11 Southern takeover of these repair facilities will hold for
12 the future.

13 And as a result of your continuing development
14 of an over-operating plan and assessment of the assets to
15 be acquired from Conrail, have you identified any
16 redundancies or duplication of facilities that would
17 result in reduction of employment at Hollidaysburg or
18 Juniata Shops?

19 And on that 42 percent takeover, who gets the
20 42 percent of the pension funds that would go to CSX?
21 These are -- some of these labor questions really need to
22 be addressed in public.

23 MR. McCUNE: Commenting on the first part of
24 your question, I believe you asked why is Norfolk Southern
25 a benefit for Conrail, its system, and its employees than

1 the CSX proposed merger. And I think the Chairman --

2 CHAIRMAN GEIST: That's correct.

3 MR. McCUNE: -- answered it later on in his
4 statement that if you overlay a map of the current Norfolk
5 Southern System, the current Conrail System, that it's an
6 end-to-end fit.

7 And you will find that there were far less
8 duplications, far less redundant assets, far less
9 redundant lines with our proposed merger and our proposed
10 plan than there was in the proposed CSX/Conrail
11 acquisition plan that was unveiled in October of 1996.

12 CHAIRMAN GEIST: The reason that we went back
13 a collected all these quotes was that -- I think everybody
14 in this room and everybody watching the television was
15 very aware of the ads that were running when CSX and
16 Conrail were in love.

17 And then after CSX and Norfolk Southern fell
18 in love, then Conrail was shuffled aside. My question I'd
19 asked in Harrisburg was before, What made this love affair
20 take place? We see the different ads and different quotes
21 now basing these questions. So I'm very, very concerned
22 about the pension plans and the employees and the future
23 of the employment here, and that's why these questions are
24 being asked.

25 MR. McCUNE: They are legitimate concerns. We

1 have marked those concerns down. I hope that we have gone
2 to the extent possible to help allay some of those
3 concerns. Obviously, the details will be unveiled in the
4 operating plan.

5 But as Mr. Louis indicated, the Roanoke Shops
6 are at capacity; and we don't see, I mean, at this point,
7 any threat from those shops siphoning off work from the
8 local shops here.

9 CHAIRMAN GEIST: On December 4th, 1996,
10 Norfolk Southern ran a newspaper ad in eighteen newspapers
11 serving cities with significant numbers of Conrail
12 employees. This ad urged Conrail employees to support a
13 Norfolk Southern acquisition of Conrail and argued that a
14 combination of CSX wasn't good for Conrail employees.

15 In that advertisement, Norfolk stated, quote,
16 At the same time, Conrail's major Hollidaysburg and
17 Altoona Shops are within 70 miles of CSX facilities at
18 Cumberland, Maryland. Redundancies like these could add up
19 to lost jobs.

20 It also stated, Conrail employees have every
21 reason to support a combination with Norfolk Southern.
22 Norfolk Southern System extends and complements the
23 Conrail System rather than duplicating it.

24 May we assume from the publication that
25 Norfolk Southern does not believe that the Hollidaysburg

1 and Juniata repair facilities duplicate or create
2 redundancy with respect to the Roanoke and -- facilities?

3 MR. McCUNE: I hope I've answered that,
4 Mr. Chairman. We see no duplication and no redundancy and
5 no threat.

6 CHAIRMAN GEIST: A lot of these things you've
7 touched upon in your testimony. We would really hope that
8 we could get detailed answers, especially in the division
9 of services and goods because we do have a facility at CSX
10 very close by.

11 MR. McCUNE: As far as your question on how
12 you divide the pension assets, it's a legitimate question.

13 CHAIRMAN GEIST: It's a very legitimate
14 question.

15 MR. McCUNE: I don't know. We'll certainly
16 find out. I do know that some of these things have yet to
17 be decided and will be worked on probably up and through
18 the submission of our operating plan to the Surface
19 Transportation Board.

20 CHAIRMAN GEIST: We have received numerous
21 inquiries in our office from local Conrail retirees and
22 employees regarding the status of their supplemental
23 pension plan as a result of the acquisition and the
24 division of Conrail.

25 As your own CEO has pointed out, the Norfolk

PETITIONERS'

EXHIBIT 24

**NORFOLK SOUTHERN OPENING STATEMENT
PA HOUSE OF REPRESENTATIVES
TRANSPORTATION COMMITTEE**

ALTOONA, PA

APRIL 12, 2001

RICHARD F. TIMMONS

RESIDENT VICE PRESIDENT, PUBLIC AFFAIRS

Good morning Mr. Chairman and other distinguished members of the Committee, local officials and others with interest in Norfolk Southern and its operations in the Commonwealth of Pennsylvania.

I thank you for the opportunity today to present information that I believe will be most useful as you review the past performance of Norfolk Southern since the Conrail acquisition in June of 1999. I would much rather have met this body of distinguished legislators under more favorable circumstances, and I regret that the reason for these hearings is the decision Norfolk Southern made to close the Car Shops at Hollidaysburg, but from my perspective this is still a constructive forum for a useful, two-way dialogue concerning the current Norfolk Southern situation as it has evolved over the past 22 months.

Let me begin by saying that I have three observations to offer this morning and with your permission and I would like to elaborate on each. These observations are:

- ♦ First, the information process underlying the Norfolk Southern Conrail acquisition of 1999.
- ♦ Second, the ongoing Norfolk Southern strategy to address our current economic and service challenges.
- ♦ And lastly, the Norfolk Southern investment in the Commonwealth of Pennsylvania over the past 2 years and the general contributions to state organizations and institutions – our good neighbor initiatives.

Permit me at this time to comment on each of these in turn and then I will be pleased to address any questions you may have concerning what I have provided in this testimony or other matters that you believe are important for us to discuss.

In relation to the first point, our railroad and the Conrail acquisition process, let me point out several details that are not well understood and have a direct bearing on how we at Norfolk Southern approached the acquisition and developed the high expectations we promoted in our comments and testimony to state and federal officials.

- The base year for the Conrail traffic studies and operating plans was 1995. That was the most recent data available on Conrail's operations and that data was used to make projections and calculations on what Norfolk Southern could expect to realize from a revenue and operating standpoint once the acquisition had occurred.

- The application to the Surface Transportation Board in Washington for the acquisition of Conrail actually was submitted in 1997.
- And, the control date was in August of 1998. This was the technical date that Norfolk Southern and CSX could legally take control of their portions of the Conrail system.
- And as we all know the transaction was actually realized and executed in June of 1999.
- Many of the shippers that used the Conrail system did not commit and award contracts for traffic until just before the June 1999 split date. Split date refers to the division of the Conrail system between Norfolk Southern and CSX in a 58 to 42 % ratio. Even though nearly everyone involved with shipping on the railroads was aware of the upcoming Norfolk Southern - CSX transaction, shippers opted to bargain for the best deal and wait until the last minute to commit one way or the other. This is normal and fully understandable. The consequence of this, however, was that Norfolk Southern and CSX were both faced with vastly different service requirements and operating plans, most notable in the Shared Assets Area, and had to modify their plans right up until the last minute. These last minute adjustments were clearly not the result of poor data or inaccurate or exaggerated benefits projections, but were clearly as a result of unanticipated customer decisions at the last minute.
- During this period of uncertainty, both railroads were vigorously competing for business, locking in contracts without any fuel adjustments, and moving quickly based on the prevailing record setting national economic trends of growth and prosperity that the nation had been experiencing since 1993.

From the period 1997 through 1999, railroad analysts, our service design personnel, marketing teams, the transportation departments, and Wall Street were optimistic about the future growth and great economic potential of this new northeastern franchise. We spent two years working to get the foundation in place and based on everything that we thought we knew, we were confident of the outcomes and our success. When asked, we were enthusiastic and confident about the future of our new system and believed we had the numbers to support that optimism.

We promoted it strongly, believed what we said and backed that aggressiveness up with dollars when we paid dearly for our portion of the Conrail system, approximately 58%. No one to my knowledge had other than the highest expectations for our new system and our future prosperity as reflected by the U.S. economy during 1998 and 1999.

Now between the time the 1995 Conrail data base was used as the baseline and the year 2000, a number of interesting and unpredictable economic developments occurred in our commodities departments. All of which strongly compelled modifications in our operating plans and traffic patterns as a result of new customers, plant sitings, shifts in production decided by customers and significant changes in world and domestic markets. For example:

- **Metals (Steel):** Between 1995 and last year, six steel mills which shipped 34,000 carloads generating \$34.5 million in freight revenue on NS' lines closed and another 12 which shipped 76,000 carloads generating \$72.1 million in freight revenues opened.
- **Chemicals:** Between 1997 and last year, 12 chemical production facilities which shipped more than 14,000 carloads generating \$23 million in freight revenues on NS' lines closed or shifted production and 16 such facilities which shipped more than 16,000 carloads generating \$21.4 million opened or expanded production.
- **Export and Coastwise Coal:** Dramatic changes in the world market for coal have curtailed significantly the amount of coal shipped via NS' Lamberts Point, Virginia export facilities, with last year's total dumpings at exactly 10 million tons less than in the Conrail "base year" of 1995 (18.9 million tons vs. 28.9 million tons). And as recently as 1991 that total was 38.5 million tons.
- **Intermodal:** Following the Conrail Split Date, NS handled approximately 5500 loads per week for APL, the largest steamship stacktrain operator. Less than six months later, APL was purchased by Neptune Orient Lines and it entered into a long-term contract that resulted in the shift of all of its traffic from NS to CSX, essentially stripping NS of almost 20% of its total intermodal business. Yet NS - which could scarcely have projected in the Conrail consolidation application the purchase of the largest US container shipping line by a Singapore shipping line - aggressively sought and won replacement business, including significant volumes with BNSF, and in short order was actually handling more intermodal loads than it had before losing the APL business. But the movement patterns and supporting train services for this business changed dramatically.

These examples bring home the reality of our constantly changing business requirements that obviously demand new capital investments and reconfigured service offerings in order to capitalize on the opportunities and meet demands of the changing market place.

Coupled with these dynamic conditions, the current U.S. economic downturn over the past eight months has hit the railroad industry hard. For Norfolk Southern, this has been very measurable and the implications are clear. For example,

- Diesel fuel prices have increased significantly in the past year from \$.75 in January of 2000 to \$1.12 in January 2001. This is a 47% increase in one year. No one in 1997-98 could have foreseen this dramatic increase or calculated the costs to the railroad.
- Our carloadings are a direct reflection of the economy:
 - Coal down 2.2%
 - Agriculture down 2%
 - Metals and construction down 11%
 - Chemical down 4%
 - Paper Products down 7%
 - Automotive down 10%
 - Only Intermodal has increased - up 6%
 - Overall, a decline of 2% or 61.4 thousand carloads in a year.

The impacts on our revenues are clear and the requirements to address these problems are obvious. But I must re-emphasize the point that our plans and commitments and statements prior to coming to Pennsylvania were made in good faith and with the best information available at the time. No company consciously makes investments that are going to result in economic losses and failures. Norfolk Southern has experienced a significant economic turndown that was a true surprise. We made forecasts that turned out to be exaggerated and that cannot now be sustained in this current economic environment. This is the truth of the matter and while unfortunate, this reality underlies the reason for the ongoing corporate restructuring that has been underway for the past year at Norfolk Southern.

As all in this room are so well aware, the acquisition of Conrail in Pennsylvania went very poorly for Norfolk Southern for the first 6-8 months. Our now well known computer problems produced an escalating series of very serious congestion, lost car, misrouting, locomotive and crew availability problems that took months to correct. But all of that is behind us now and the overall record speaks for itself. By the spring of 2000, less than a year after the acquisition, the railroad was back in action and rapidly improving each week.

The Surface Transportation Board mandatory report this week reflects Norfolk Southern train speeds of 22.3 MPH, dwell times of 23.7 HRS and cars online 203K. These are dramatic improvements from a year ago and vastly different numbers from the summer and fall of 1999. The Norfolk Southern railroad system in Pennsylvania is fluid, flexible, retains capacity and is safe and being upgraded as we speak as the summer construction season is now underway throughout the state.

But this is just a start. Our aim is to grow the business, improve the system, and preserve what we have built over the past two years. As many of you are aware, we have few options in this regard. Our stock has declined 60% in two years and our debt with the Conrail acquisition remains at \$7B. Carloadings are down as are overall revenues. We have difficult and serious work before us, but we are committed to seeing what we started through to a successful conclusion.

This leads me to observation number two, the Norfolk Southern strategy to address these challenges and service issues that we are experiencing today and, incidentally so are the other major railroads in the United States.

- NS has embarked on a corporate restructuring campaign that has reduced the management force by 20%.
- We will reduce the workforce by 1,000 - 2,000 employees this year.
- We will dispose of 12,000 railroad cars over the next year.
- Will eliminate 4,000 miles of our 22,000 mile system, principally in the southeastern United States.
- Divest ourselves of 10 redundant or underutilized facilities.

- Sell real estate, mineral and timber rights.
- Redesign Norfolk Southern's service network with the assistance of Multi-modal Applied Systems analysts.
- Use outside analysts to evaluate the organizational structure and operations of the corporation and make changes as appropriate.
- We have already cut the dividend this year by 70%. This is the first time ever that Norfolk Southern has reduced the dividend.

Unquestionably, the focus must be on service and we are determined to improve our service. We will do that with technical innovations, internal reorganizations, partnering with other railroad systems across the United States, develop operating plans and investments driven by computer analysis and continue to focus on operating a safe and reliable railroad. If we are not able to successfully reshape the railroad and make it more reliable, customer friendly, service oriented and adaptable to the dynamics of the market place, the company at large will be at serious risk and the other 5,500 employees of the company in Pennsylvania will be in jeopardy.

We seriously regret the closing of the Hollidayburg Car Shops. We did not come to Pennsylvania to struggle with service, labor and business problems. We fought hard to be part of a historic rail network with a renowned labor force that was anticipated to be wonderful blending of an unparalleled north-south and east-west freight rail system. We still believe in the viability of that system and are working hard to make it a reality.

And finally, the last observation I would like to make is that of the Norfolk Southern commitments to the Commonwealth over the past two years. Let me break this out by broad category.

- Investments to Support Increased Traffic: \$79.8M
- Investments to Improve Service and Operating Efficiency: \$34M
- Investments in Public and Environmental Improvements: \$30.7M; and \$389K to Altoona
- Fiber Optic Investments: \$52.2M; and \$17M to the Altoona area
- Basic Railway Infrastructure: \$109.4M
- Investments in Shops and Mechanical Facilities: \$17.3M; and \$16M to Altoona and Hollidaysburg Shops
- Miscellaneous Railway Investments: \$17.4M; and \$179K to Altoona
- Shared Asset Capital Investments: \$1.7M
- For a total of \$342,870,752

Some of the highlights include:

- Worked with Bethlehem Steel to establish the \$12M intermodal freight terminal at Bethlehem.
- We are close to a \$15M intermodal terminal contract at the PNBC.

- \$6M in cash to the City of Philadelphia to advance the redevelopment of the Naval Shipyard - specifically Kvaerner shipyards.
- \$5.5M on track expansions for new industries.
- \$.33 M on track expansion for a steel importing firm at U.S. Steel Fairless Works.
- \$3M coal unloading facility at Homer City power plant.
- \$5.8M batch weigh loading system at Consols Baily Mine at Waynesburg.
- \$28M rail line to the Keystone Power Plant in Shelocta.
- \$31M for Rutherford Yard Intermodal Hub in Harrisburg
- \$6.9M for Conway Yard near Pittsburgh.
- \$6.8M signals upgrade on the Harrisburg to Philadelphia line.
- \$4.9M for the Northern Region headquarters building in Harrisburg.
- \$4.2M in Harrisburg for new track connections and signals.
- \$2.2M for new connections in Bethlehem yards.
- \$1.2M for fueling facility improvements in Harrisburg.
- \$8M for general shop improvements.
- \$52M invested for fiber optic cable conduits along the Pennsylvania right-of-way.

It goes without further elaboration that many of these and others have very important implications for safety, environmental, power generation, and communications for the citizens of the Commonwealth.

Overall \$342.8M invested to date in Pennsylvania with another \$30M proposed. I am not aware of any other state in the Norfolk Southern system of 22 states that has received this level of investment across such a broad spectrum of our activities and facilities. This is an unprecedented level of commitment.

As new neighbors to many of you, we have strived hard to be good neighbors. Many organizations throughout the state have asked for contributions and we have stepped up to those requests. The Norfolk Southern Foundation has donated \$144,700; and \$42.5K to Blair County alone. We have contributed \$15,000 to the independent colleges and universities and \$10,700 as matching gifts to Pennsylvania organizations.

Community frustrations in and around Chambersburg and Erie, Pennsylvania due to mainline tracks running through the center of the towns have been relocated at a cost to Norfolk Southern of \$8M.

We have cooperatively engaged in serious discussions across the Commonwealth on commuter rail issues such as the Harrisburg Corridor One, Schuylkill Valley Metro, Pittsburgh Mon-Fayette Expressway and other exploratory initiatives that could prove beneficial to the citizens of the Commonwealth in years to come if the details of federal and state regulations as well as financing can be reconciled.

As many on this Committee are well aware, Pennsylvania has more regional and short line railroads of any state in the nation, approximately 60. We have strong partnerships with many of these railroads who are providing services, economic development and employment opportunities to numerous communities throughout the state. Our Chairman, Mr. David Goode, led the American

railroad industry in establishing a cooperative railroad agreement with short lines to facilitate their operations and growth and revenues.

Mr. Chairman and members of the Committee, our history of investment and commitment to the Commonwealth of Pennsylvania is clear and a matter of record. You may not agree with where we have invested our money and what our priorities have been. These have been business decisions tied to our obligations to our stockholders and to the future health and well being of Norfolk Southern Railway Corporation. We made it clear when we arrived in Pennsylvania that we were here for the long term and that our investments and business decisions were tied to that long term view. We still are committed to improved service, growth of revenue and cooperation with officials, communities and our business partners. My sincere thanks to you for your forbearance in hearing me out this morning and I now stand ready for any comments or questions you may have.

PETITIONERS'

EXHIBIT 25

FOR WIRE TRANSMISSION: 8:30 A.M. EDT, FRIDAY, APRIL 27, 2001

Virginia H. Mannering: (202) 606-5304
Recorded message: 606-5306

BEA 01-10

GROSS DOMESTIC PRODUCT: FIRST QUARTER 2001 (ADVANCE)

Real gross domestic product -- the output of goods and services produced by labor and property located in the United States -- increased at an annual rate of 2.0 percent in the first quarter of 2001, according to advance estimates released by the Bureau of Economic Analysis. In the fourth quarter, real GDP increased 1.0 percent.

The Bureau emphasized that the first-quarter "advance" estimates are based on source data that are incomplete or subject to further revision by the source agency (see the box on page 3). The first-quarter "preliminary" estimates, based on more comprehensive data, will be released on May 25, 2001.

Personal consumption expenditures (PCE) was the largest contributor to the increase in GDP in the first quarter. Government spending, nonresidential structures, and residential structures also contributed to the increase. The contributions of these components were partly offset by a large decrease in private nonfarm inventory investment and decreases in exports and in equipment and software. Imports, which are a subtraction in the calculation of GDP, decreased.

The acceleration in real GDP growth in the first quarter primarily reflected an upturn in PCE for goods, a smaller decrease in exports, and an upturn in residential fixed investment that were partly offset by a larger decrease in private inventory investment and a deceleration in PCE for services. There was a much larger decrease in imports in the first quarter than in the fourth.

The price index for gross domestic purchases, which measures prices paid by U.S. residents, increased 2.8 percent in the first quarter, compared with an increase of 1.9 percent in the fourth. Excluding food and energy prices, the price index for gross domestic purchases increased 2.4 percent in the first quarter, compared with an increase of 1.6 percent in the fourth.

NOTE.--Quarterly estimates are expressed at seasonally adjusted annual rates, unless otherwise specified. Quarter-to-quarter dollar changes are differences between these published estimates. Percent changes are calculated from unrounded data and annualized. "Real" estimates are in chained (1996) dollars. Price indexes are chain-type measures.

- more -

Real personal consumption expenditures increased 3.1 percent in the first quarter, compared with an increase of 2.8 percent in the fourth. Durable goods purchases increased 11.9 percent, in contrast to a decrease of 3.1 percent. Nondurable goods increased 2.6 percent, compared with an increase of 1.0 percent. Services expenditures increased 1.7 percent, compared with an increase of 4.9 percent.

Real nonresidential fixed investment increased 1.1 percent in the first quarter, in contrast to a decrease of 0.1 percent in the fourth. Nonresidential structures increased 11.0 percent, compared with an increase of 10.4 percent. Equipment and software decreased 2.1 percent, compared with a decrease of 3.3 percent. Real residential fixed investment increased 3.3 percent, in contrast to a decrease of 3.6 percent.

Real exports of goods and services decreased 2.2 percent in the first quarter, compared with a decrease of 6.4 percent in the fourth. Real imports of goods and services decreased 10.4 percent, compared with a decrease of 1.2 percent.

Real federal government consumption expenditures and gross investment increased 5.7 percent in the first quarter, compared with an increase of 3.8 percent in the fourth. National defense increased 4.9 percent, compared with an increase of 8.9 percent. Nondefense increased 7.0 percent, in contrast to a decrease of 4.6 percent. Real state and local government consumption expenditures and gross investment increased 3.1 percent, compared with an increase of 2.5 percent.

The real change in private inventories subtracted 2.48 percentage points from the first-quarter change in real GDP, after subtracting 0.62 percentage point from the fourth-quarter change. Private businesses reduced inventories \$7.1 billion in the first quarter, following increases of \$55.7 billion in the fourth quarter and \$72.5 billion in the third.

Real final sales of domestic product -- GDP less change in private inventories -- increased 4.6 percent in the first quarter, compared with an increase of 1.7 percent in the fourth.

Gross domestic purchases

Real gross domestic purchases -- purchases by U.S. residents of goods and services wherever produced -- increased 0.6 percent in the first quarter, compared with an increase of 1.5 percent in the fourth. Gross domestic purchases is equal to GDP minus net exports of goods and services.

Disposition of personal income

Current-dollar personal income increased \$121.2 billion in the first quarter, compared with an increase of \$80.7 billion in the fourth. Personal tax and nontax payments increased \$28.9 billion, compared with an increase of \$34.6 billion.

Disposable personal income increased \$92.2 billion in the first quarter, compared with an increase of \$46.1 billion in the fourth. Real disposable personal income increased 2.0 percent, compared with an increase of 0.7 percent.

Personal outlays increased \$115.0 billion in the first quarter, compared with an increase of \$83.9 billion in the fourth. Personal saving -- disposable personal income less personal outlays -- was a negative \$74.3 billion in the first quarter, compared with a negative \$51.6 billion in the fourth. The personal saving rate -- saving as a percentage of disposable personal income -- decreased from a negative 0.7 percent in the fourth quarter to a negative 1.0 percent in the first.

Current-dollar GDP

Current-dollar GDP -- the market value of the nation's output of goods and services -- increased 5.2 percent, or \$129.2 billion, in the first quarter to a level of \$10,243.6 billion. In the fourth quarter, current-dollar GDP increased 3.0 percent, or \$75.0 billion.

Information on the assumptions used for unavailable source data is provided in a technical note that is posted with the news release on BEA's and STAT-USA's Web sites. Within a few days after the release, a detailed "Key Source Data and Assumptions" file is also posted on the STAT-USA site. In the middle of each month, an analysis of the current quarterly estimates of GDP and related series is made available on both Web sites; click on Survey of Current Business, "Business Situation."

* * *

BEA's major national, international, regional, and industry estimates; the Survey of Current Business; and BEA news releases are available without charge on BEA's Web site:

<www.bea.doc.gov>

STAT-USA maintains an Internet site that contains BEA estimates, the Survey of Current Business, and BEA news releases. For information about STAT-USA, go to <www.stat-usa.gov>, or call (202) 482-1986. Subscriptions for single-user unlimited access to STAT-USA's Internet information are \$75.00 for 3 months or \$175.00 for 1 year.

Summary BEA estimates are available on recorded messages at the time of public release at the following telephone numbers:

(202) 606-5306	Gross domestic product
606-5303	Personal income and outlays
606-5362	U.S. international transactions

Most of BEA's estimates and analyses are published in the Survey of Current Business, BEA's monthly journal. Subscriptions and single copies of the printed Survey are for sale by the Superintendent of Documents, U.S. Government Printing Office. Internet: <bookstore.gpo.gov>; phone: 202-512-1800; fax: 202-512-2550; mail: Stop SSOP, Washington, DC 20402-0001.

* * *

Next release -- May 25, 2001, at 8:30 A.M. EDT for:
Gross Domestic Product: First Quarter 2001 (Preliminary)
Corporate Profits: First Quarter 2001

Comparisons of Revisions to GDP

Quarterly estimates of GDP are released on the following schedule: "Advance" estimates, based on source data that are incomplete or subject to further revision by the source agency, are released near the end of the first month after the end of the quarter; as more detailed and more comprehensive data become available, "preliminary" and "final" estimates are released near the end of the second and third months, respectively. The "latest" estimates reflect the results of both annual and comprehensive revisions.

Annual revisions are usually carried out each summer and cover the quarters of the most recent calendar year and of the 2 preceding years. Comprehensive (or benchmark) revisions are carried out at about 5-year intervals and incorporate definitional and classificational changes that update the accounts to portray more accurately the evolving U.S. economy and statistical changes that update the accounts to reflect the introduction of new and improved methodologies and the incorporation of newly available and revised source data.

The table below shows comparisons of the revisions between quarterly percent changes of GDP for the different vintages of the estimates. These comparisons can be used to assess the likely size of future revisions. For example, two-thirds of the revisions between the quarterly change in the advance estimate of real GDP and that in the final estimate were within a range of -0.6 to +0.9 percentage point. Thus, based on past history, the first-quarter change in real GDP now estimated at 2.0 percent at an annual rate, is not likely to be revised below 1.4 percent or above 2.9 percent in the next two releases.

Revisions Between Quarterly Percent Changes of GDP: Vintage Comparisons [Annual rates]

Vintages compared	Average without regard to sign	Range	
		Two-thirds of revisions	Nine-tenths of revisions
<u>Current-dollar GDP</u>			
Advance to preliminary.....	0.6	-0.5 to 0.9	-0.9 to 1.4
Advance to final.....	.7	- .6 to 1.0	- .9 to 1.6
Preliminary to final.....	.3	- .3 to .4	- .6 to .7
Advance to latest.....	1.3	- .6 to 2.0	-1.9 to 3.7
Preliminary to latest.....	1.2	-1.1 to 1.7	-1.6 to 3.0
Final to latest.....	1.3	-1.0 to 2.2	-1.7 to 2.9
<u>Real GDP</u>			
Advance to preliminary.....	0.5	-0.5 to 0.7	-0.9 to 1.2
Advance to final.....	.6	- .6 to .9	- .9 to 1.3
Preliminary to final.....	.3	- .4 to .4	- .5 to .6
Advance to latest.....	1.4	-1.1 to 2.0	-1.6 to 3.4
Preliminary to latest.....	1.4	-1.2 to 2.0	-1.7 to 3.1
Final to latest.....	1.4	-1.1 to 2.3	-1.8 to 3.0

NOTE.--These comparisons are based on the period from 1978 through 1999 for the first three comparisons in each group and on the period from 1978 through 1997 for the last three comparisons in each group.

The Washington Post

SATURDAY, APRIL 28, 2001

HOME EDITION

Inside: Real Estate
Today's Contents on Page A2

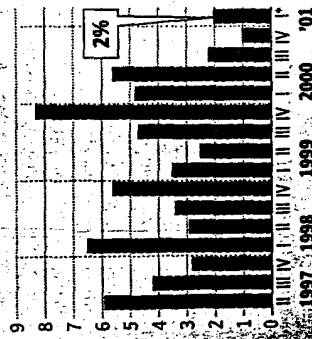
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Prices may vary in areas outside metropolitan Washington. (See back on Page A2)

Seeing Double

The nation's economy grew about twice as fast as many predicted in the first quarter of 2001.

Gross domestic product, seasonally adjusted, annual rate
Percent change from previous period



Preliminary numbers
Source: Department of Commerce

Economy Beats Expectations

Strong Consumer Spending Calms Fears of Impending Recession

By JOHN M. BERRY
Washington Post Staff Writer

Americans bought so many cars, refrigerators and other goods that the U.S. economy grew faster than expected in the first three months of the year, when some experts thought the nation's 10-year expansion was coming to an end.

The economy grew at a 2 percent annual rate in the first quarter, the Commerce Department reported yesterday, double the pace of late last year and about twice as fast as most forecasters had predicted.

Analysts said the gain, largely driven

by rising consumer spending, indicated the economy was not in as bad shape as it had appeared during the winter, when stocks were falling, layoff announcements were multiplying and some economists and politicians were warning of a possible recession.

"These are great numbers," said economist James Glassman of JP Morgan Chase Securities. "They suggest that the economy is not nearly as weak as was feared and that we are not close to being in a recession."

"The reason everyone feels so bad about the economy is that at 2 percent

growth, we are operating far below our potential," Glassman said.

Stocks rallied in response to the Commerce report. The Dow Jones industrial average gained 117.70 points to close at 10,810.05. The Nasdaq composite index rose 40.80 to 2075.68. However, Glassman and other analysts cautioned that with unemployment rising and both business and consumer confidence falling, the demand for goods and services in coming months remains uncertain. As a result, most of them said the Federal Reserve

See ECONOMY, A12, Col. 1

1st-Quarter Economic Growth a Surprise

ECONOMY, From A1

likely to continue cutting short-term interest rates.

The Fed has lowered its target for overnight rates by 2 percentage points since the beginning of the year, with another half-point reduction probable, Glassman said.

But given the picture of the economy painted by the Commerce report, particularly the large reduction in business inventories, "I think it is doubtful they will go beyond that," he said.

In January, Fed Chairman Alan Greenspan worried that economic growth had slowed nearly to a stop. As recently as March, White House officials warned that President Bush's proposed tax cut was needed to prevent a recession.

Meanwhile, Americans were buying. The most important factor in first-quarter growth was a solid gain in consumer spending, which rose at a 3.1 percent annual rate, up slightly from a 2.8 percent rate in the fourth quarter of last year. The rate in part reflected a big jump in spending on durable goods such as cars, appliances and furniture. Consumer purchases account for roughly two-thirds of GDP.

Spending for housing and business structures both rose, as did outlays by both federal and state and local governments.

Another positive note in the report was a significant drop in the U.S. trade deficit. The better trade results added 1.38 percentage points to the overall increase in the GDP, which measures the amount of goods and services produced in the United States after adjustment for inflation.

"The trade numbers show that U.S. producers are not suffering as much as it appeared," Glassman said. "This is not a great story for global growth but it means things are better in this country than we thought."

The first-quarter growth rate, an estimate based on incomplete data, confirmed that businesses have moved unusually fast to get rid of the unwanted inventories that built up in the second half of last year, when spending by both consumers and businesses slowed sharply. The report said the decline in inventories cut 2.48 percentage points off the first-quarter growth rate.

While some industries, especially manufacturers of high-tech equipment, still have problems, analysts said most of the production cuts required to reduce inventories appear to have been made. If so, that means the drag on growth from inventories will be much smaller later this year.

Besides inventories, the only decline was in business spending for new equipment and software, which fell at a 2.1 percent annual rate.

When the Fed cut its target for overnight rates by half a percentage point last week, policymakers cited concerns about the future of business investment as one reason for their action. Business profits, an important source of funding for investment, are down, but the most important determinant of spending for new plants and equipment is whether there will be a demand for what will be produced. That is why analysts are still cautious about the U.S. economic outlook.

If consumer spending continues to increase even at a modest rate, businesses will be much more likely to avoid major cuts in capital investment except in few especially hard-hit sectors, such as telecommunications, where there is an enormous overcapacity.

Most forecasters have been predicting that economic growth would pick up in the second half of this year and, according to a number of analysts, the Commerce figures support those predictions but hardly guarantee their accuracy.

However, concerns about the future of consumer spending were reinforced yesterday by another report showing that consumer sentiment fell this month as worries about jobs continued to deepen. The University of Michigan's index of consumer sentiment fell to 88.4 from 91.5 last month. However, the final April figure was up a bit from a preliminary reading two weeks ago.

"The gain recorded in late April was due to the rebound in stock prices as well as the cut in interest rates," a survey official said. "Importantly, lower interest rates have not improved buying attitudes. Consumers are not convinced that the rate cuts will quickly restore favorable job and income prospects, and the continued increases in job and income uncertainty will dampen consumer spending throughout the balance of the year."

Most of the drop in confidence was in consumers' assessment of current economic conditions rather than their expectations about how the economy will perform in coming months.

Norfolk Southern beats estimates, but sees challenges

Updated 10:10 a.m. ET, Thu Apr 26, 2001

From wire reports

NEW YORK - Norfolk Southern Corp. nearly doubled Wall Street forecasts Wednesday after two other major U.S. railroads missed earnings targets earlier in the week.

The railroad's earnings rose to \$61 million, or 16 cents a share, even better than the highest estimate of analysts surveyed by earnings tracker First Call, whose forecasts ranged from breakeven to 15 cents a share, with a consensus forecast of 9 cents.

Norfolk Southern, which combined about half the former Conrail into its system starting in 1999, earned \$14 million, or 4 cents a share, a year earlier, excluding a charge for cutting staff in the wake of the Conrail integration.

Including that charge and a gain from the sale of its North American Van Lines business, the company reported net income \$74 million, or 19 cents a share, compared with a net loss of \$48 million, or 12 cents a share, a year earlier.

Railroad officials warned that a slowing U.S. economy could cause problems going forward.

"The plight of the industrial economy makes our outlook for the remainder of the year guarded," said Ike Prillaman, the company's chief marketing officer. "Carloadings for April are running behind last year's volume in all of the industrial groups."

Analysts forecast earnings per share will rise to 31 cents in the second quarter from 26 cents a year earlier. While Jason Seidl, analyst with ING Barings, said Norfolk's improvement in service levels is impressive, he said the company faces challenges.

"They finally got their house in order and here we are with the economy in the tank," he said. "They're probably going to have to play the waiting game to show what they can do."

Revenue at the railroad edged up to \$1.54 billion from \$1.50 billion a year earlier. Its ratio of operating expenses to revenue, a key measure of a railroad's financial performance, improved to 86.7% from 91.4% a year earlier.

[\[Go Back To Results\]](#) [\[Previous Doc\]](#) [\[Next Doc\]](#)

PETITIONERS'

EXHIBIT 26

**NORFOLK SOUTHERN OPENING STATEMENT
PA HOUSE OF REPRESENTATIVES
TRANSPORTATION COMMITTEE
HARRISBURG, PA
APRIL 26, 2001
RICHARD F. TIMMONS
RESIDENT VICE PRESIDENT, PUBLIC AFFAIRS**

Good morning Mr. Chairman and members of the Committee. This is the second time I have appeared before this Committee in as many weeks and I thank you for the opportunity to provide additional information concerning Norfolk Southern's presence in the Commonwealth of Pennsylvania over the last 22 months.

This morning, I have with me Mr. Mike McClellan, Vice President of Intermodal Marketing, who in just a few moments will provide you with information concerning our marketing and intermodal operations in the Commonwealth.

Before that, however, let me bring you up to date on several issues and clarify others that were part of the testimony that some of you heard on April 12 in Altoona. At that time, I testified that **Norfolk Southern had invested \$342.8M in the Commonwealth over the past 22 months.** I am pleased to report this morning that that sum has increased by **\$1.9M with our decision last week to expand the Enola freight yards** capacity from 125 to a 600 car flat switching yard which includes 28 miles of new track, switches and other improvements further enhancing this region as a transportation hub.

This \$344.7M total with an additional \$30M commitment to the Commonwealth is a clear indication of Norfolk Southern's commitment to the rail network in Pennsylvania and our belief in the future of the system that we are building here.

Our investment priorities have been established with the intention of building a railroad in Pennsylvania and the northeast that is competitive, service oriented and adaptable to the fast moving market conditions in the freight shipping world. Our expenditures in this region of the state in the Rutherford intermodal yards, the Enola yards, the Harrisburg intermodal yards, our Northern Region headquarters offices and dispatching center, along with a renewed Triple Crown roadrailer operation in Swatara Township are all long term investments with an eye to handling the well documented freight increases expected for the future.

Let me also re-emphasize the **Norfolk Southern commitment to safety across our system.** The record is admirable by any measure. And is a focus of the PUC, FRA and Norfolk Southern management. For 10 consecutive years, Norfolk Southern has won the industry safety award for Class I railroads - the Harriman Award. In the year 2000, in just the Harrisburg Division, we spent \$26.7M on road bed and bridge maintenance and \$13.5M on signals projects. We are proud of our safety record and these investments are intended to sustain our safety tradition.

With your permission, I would like to clarify several points that were of interest to both labor representatives and Committee members following my last testimony:

- I was asked about the future job opportunities for the **330 Norfolk Southern employees** working in the Hollidaysburg shops. My response was that all would be offered jobs at Norfolk Southern facilities following the closure on September 1 of this year. This statement is accurate and correct notwithstanding other testimony provided to the Committee.
- Now following my testimony in Altoona, there were questions concerning the provisions of the **New York Dock for the Hollidaysburg employees**. The New York Dock is a labor protective agreement stemming from the 1968 Penn Central merger. Let me say that this is a New York Dock transaction:
 - And the **relocation benefits** have been programmed for employees that are offered jobs distant from Altoona. All exceed the New York Dock standards.
 - As you may not be aware, the New York Dock benefits are not purely a railroad decision, but are an agreed upon position that **can go to arbitration** if employees and the railroad cannot agree.
 - And as a point of interest, you should know that **Norfolk Southern pays \$1.5M each month to Conrail employees** under New York Dock provisions as a result of the Conrail acquisition.
- And finally, I testified previously that our service has dramatically improved from the summer and fall problems of 1999 and that the Norfolk Southern performance metrics provided to the STB each week reflect that upturn. To highlight this change in service efficiency, I would point out that **Norfolk Southern has received laudatory letters from PPL US Steel, as well as short line operators** thanking us for the improved service, the cooperation and the commitment that Norfolk Southern has shown in working through the problems and shortcomings of the past.

At this time, I would like to introduce Mr. Mike McClellan, Vice President, Intermodal Marketing, for comments that he has for your use and information, and following his remarks we will be prepared to answer any questions that you may have.



U. S. Steel
600 Grant Street
Pittsburgh, PA 15219-2749
412 433 3155
Fax: 412 433 3085

Keith H. Jansen
General Manager
Distribution & Logistics Services

April 25, 2001

L. Ike Prillaman
Vice Chairman and Chief Marketing Officer
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510

Dear Ike:

I wanted to drop you a note and thank you for the service Norfolk Southern has and is providing U. S. Steel on our shipments. During the past year and half we have witnessed considerable improvement in transit times and equipment supply, helping us to deliver our products in an efficient and cost effective way. We are dependent upon quality rail transportation and even more so on Norfolk Southern's rail transportation, as you handle more than 80% of our rail shipments in the East.

Service post Conrail split has improved and in particular, U. S. Steel is now enjoying transit times from our Gary, Indiana and Mon Valley Works here in Pennsylvania to Fairless, Pennsylvania that are faster and more reliable than prior to the June 1999 split. And, as you know these are critical intra-plant movements for us involving thousands of shipments annually.

Additionally, Norfolk Southern, along with the Union Pacific is delivering our products into Mexico with greater speed than prior to the Conrail split. These faster delivery schedules contribute to our ability to meet U. S. Steel's customers ever increasing expectations and again, we thank you and all of the Norfolk Southern employees who are working so hard to meet our needs.

I look forward to seeing you again and wish you the best.

Sincerely,

Keith H. Jansen

Post-it® Fax Note 7671		Date 4/25/01	# of pages 1
To Mr. Rick Timmons		From Tom J. Jansen	
Co./Dept. NJ		Co. NJ	
Phone #		Phone # (512) 955-6063	
Fax # (717) 541-2420		Fax # (512) 955-6772	

U. S. Steel Group
A unit of USX Corporation

APR 25 2001 14:31



412 433 3085

PAGE 02
** TOTAL PAGE.01 **

Michael W. Snovitch
Manager-Fossil Fuel Supply

PPL Generation, LLC
Two North Ninth Street, GENNS
Allentown, PA 18101
Tel. 610-774-5415; Fax. 610-774-5141
mwsnovitch@pplweb.com



December 15, 2000

M. R. McClellan
R. F. Timmons

See my memo.

J. H. Friedmann
04/24/01

Mr. R. A. Listwak, Asst. V.P.
Norfolk Southern Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19101

Dear Ron:

I want to take this opportunity to thank you and your staff for all your support and assistance during 2000.

As you know, connecting Conrail to the Norfolk Southern in 1999 was a difficult task. However, once the problems were resolved last fall, service has continually improved. Unit train personnel in Atlanta and Pittsburgh have been outstanding. Operations personnel across the system - throughout central Appalachia, Western Pennsylvania, Harrisburg, Lock Haven and Allentown have done an excellent job moving PPL trains from and to our plants.

As we near the end of 2000, we look forward to another prosperous year. Coal shipments to Montour, Brunner Island and Martins Creek are expected to be at very high levels in 2001.

Your cooperation and assistance this year and in the coming year is appreciated.

Very truly yours,

Michael W. Snovitch

C: B. M. Scanlan
T. D. Newhart -Norfolk Southern
185 Spring Street. N.W.
Atlanta, GA 30303

Bmslistwak/rld

PETITIONERS'

EXHIBIT 27



Norfolk Southern Corporation
223 East City Hall Avenue
Norfolk, Virginia 23510-1728

H. R. Mobley
Assistant Vice President
Labor Relations
(757) 629-2425

April 16, 2001

NC-S-5-6

Mr. J. V. Waller
General Chairman BRC Divn-TCU
127 Baron Circle
Corryton, TN 37721

Mr. J. Czuczman
Internat'l Vice President, TWU
80 West End Avenue
New York, NY 10023

Gentlemen:

Listed below are the Carrier's answers to the questions posed by the BRC, letter dated April 8, 2001, and the TWU, letter dated April 6, 2001, in connection with the transfer of work and rearrangement of forces at Hollidaysburg Car Shop (HCS). We are faxing and mailing our lists of responses to each of your respective offices so that you will have adequate time to review this information prior to our scheduled meeting in Washington on April 17, 2001.

Questions submitted by BRC:

1. Currently at the receiving locations there are a number of Carmen and Student Carmen in a furloughed status. Will these employees be recalled before any Carmen are transferred to these locations?

No. Since we are adding new positions at these locations as a result of a transfer of work from HCS the employees from the origin point (HCS) have the right to transfer with their work to the receiving location.

2. In your letter of March 21, 2001, you state as follows:
"The work being transferred is all freight car repairs and the associated work referenced in the Notice pertained to the support work and facility maintenance performed by the other Shop Crafts party to the Notice. The description of the work to be transferred is consistent with job bulletins at Hollidaysburg (copies of two bulletins are enclosed) and should serve to be sufficiently descriptive." It is very

Hollidaysburg Car Shop
April 16, 2001
Page 2

clear that this description of the work being transferred is very vague and completely fails to identify any specific work that is being transferred to any receiving location. Would you now please identify the specific work that is being transferred to each specific location?

The work being transferred is that of all freight car repairs and associated work including facility maintenance and the capacity to perform future program work. The work may vary from time to time due to changing demands therefore we cannot define the "exact" work that may be transferred to any particular point. Any and all kinds of freight car repairs and associated facility maintenance may be performed at any of the receiving points as is the current practice at HCS.

3. In your letter of March 21, 2001, you state: "I am advised that presently both program car repair work as well as the continuation of insourcing projects are being performed at Hollidaysburg. However, this work is not predicted to extend beyond September 1, 2001. If this, is a factual statement, there is not any work that is currently scheduled for Hollidaysburg Car Shop after September 1, 2001. Therefore, there is no work that could be transferred after this date. Is this a correct understanding of your statement?"

No insourcing projects have been scheduled beyond the September 1, 2001 transfer date due to the anticipated closure of this facility. Any program work which would have been performed at HCS is being diverted to one of the five receiving locations.

4. At our meeting on March 15, 2001, both you and I were advised by Brother Tom Lutton, President of the TWU Local, who is employed at the Hollidaysburg Car Shop, that there was presently no program work being performed at Hollidaysburg. Is there any program work presently being performed at Hollidaysburg, or is all the work currently being performed work that is considered insourcing?

We are presently doing the following program work at HCS:

1. Preparing gons and box cars for turnback to lessors
2. Repair work to auto parts box cars
3. Repair work to scale test cars

Hollidaysburg Car Shop
April 16, 2001
Page 3

4. We will be modifying box cars to place in paper service
5. We will soon begin work on stored heavy bad order cars
5. Is there any insourcing work scheduled for Hollidaysburg after September 1, 2001?

As previously stated, we do not have any insourcing projects scheduled for HCS after September 1, 2001 in preparation of the shops closure and the transfer of the freight car repair work and facility maintenance to the new points.

6. All of the receiving locations are points consisting of a repair track and a train yard. These points are not equipped to perform more than running repairs. Are the facilities at the receiving locations going to be upgraded with the necessary tools and equipment to perform said transferred work?

Due to the surplus of cars in the NS fleet at this time, the Mechanical Department does not foresee an immediate need for any major car repairs. The existing repair facilities at the new locations are equipped to handle the additional work which is being transferred to them. However, this does not preclude NS from making facility upgrades or purchasing new tools and equipment as the need arises.

7. How long does the Carrier expect to perform the "transferred work" at the receiving locations?

The receiving locations will perform all freight car repairs and program work previously performed at HCS. The transferred work will be performed as long as the needs of service require it and resources are available.

8. Once the transferred insourcing work is completed at each of the receiving locations, will additional work be insourced at these receiving locations to ensure that the work force remains at the level established after the transfer of employees?

No insourcing work will be transferred to the new locations. The only work that is being transferred is work that is necessary on our own fleet of cars.

Hollidaysburg Car Shop

April 16, 2001

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9. In the Notice of February 21, 2001, it is stated that fifty six (56) Carman positions will be established at Bellevue, Ohio; eight (8) at Columbus, Ohio; forty six (46) at Decatur, Illinois; two (2) at Linwood, North Carolina and two (2) at Macon, Georgia to perform the work being transferred. If there are not enough Carman to fill these positions at these receiving locations, will additional Carman be hired at these locations to perform work being transferred? If the answer is in the negative, why not?

If the transferred positions are not filled by HCS employees then the Mechanical Department will determine at that time, based on the needs of service, whether if and when to recall or hire employees.

10. Will Carman at receiving locations be eligible to bid on the newly created positions, or will the Carman from Hollidaysburg be the only ones eligible to bid on the newly created positions?

Article I, Section 4(a) of the October 16, 1998 Implementing Agreement provides that concurrent with the abolishment of positions at the location from which the work is being transferred positions will be established at the locations to which the work is being transferred. Such positions will be advertised for a period of seven (7) days to all employees holding regular Carman assignments at the transferring location.

11. Will the Carman transferring from Hollidaysburg, to the receiving locations be placed on a separate seniority roster at the receiving location?

Article I, Section 4(e) of the October 16, 1998 Implementing Agreement stipulates that employees who transfer under this section will have their seniority dates(s) dovetailed in accordance with the procedures set forth in Article II on the appropriate roster(s) at the receiving location.

12. Will the current 2001 seniority rosters at the receiving locations be "dovetailed" to include the Carman transferring to the receiving location?

Hollidaysburg Car Shop
April 16, 2001
Page 5

Yes. See Q/A 11 above

13. If, after September 1, 2001, there is a furlough at the receiving locations, would the Carmen who have transferred to that location be furloughed first?

Any force reductions that occur at the receiving locations subsequent to September 1, 2001 will be conducted in reverse seniority order on the newly dovetailed seniority roster as provided in Rule 26 (NW), Rule 24 (NKP) or Rule 24 (NSR).

14. If the seniority rosters at the receiving locations are "dovetailed" and there is a furlough of Carmen after September 1, 2001, would the furloughed Carmen be offered any protection by the Carrier?

The answer to this question is fact-driven. If the furlough resulted from a "Transaction" authorized by the STB, then protection may be involved - again depending on the fact situation of the involved employee. If the furlough was not a result of a "Transaction," then no protection would be involved.

Questions submitted by TWU:

1. Norfolk Southern, in the notice of February 21, 2001, is not calling this a closing, but is eliminating all the jobs; why isn't it being called a closing?

This is a transfer of work from HCS to various other points. After the transfer has been accomplished there will no longer be a need for HCS.

2. What is the reason for the closing and elimination of all the jobs, especially in light of the commitments made by Norfolk Southern to continue operations?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen

Hollidaysburg Car Shop
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For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

3. What exactly are the changing economic conditions being referenced in Mark Manion's statement in the February 21, 2001, NS new release?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

4. How have these alleged changing economic conditions affected the Hollidaysburg Car Shop operation?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

5. Since acquiring Hollidaysburg Car Shop in the "Conrail Transaction" what has Norfolk Southern done to attain "insourcing" at Hollidaysburg?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

Hollidaysburg Car Shop
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6. Was Norfolk Southern actively and aggressively seeking insourcing work for Hollidaysburg Car Shop?

If so, were there any orders pending or work scheduled when Norfolk Southern made its decision to close Hollidaysburg?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

7. In reference to Norfolk Southern's February 21, 2001, news release it was stated that Norfolk Southern would continue to work with Blair County.

Prior to 2/21/01 was Norfolk Southern working with Blair County to find alternative uses for the facility?

If so, when did these efforts commence?

With whom in Blair County was Norfolk Southern working with?

Are they still working with Blair County?

Exactly what efforts have been made, where do they stand at the present time, and what future efforts are planned?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

Hollidaysburg Car Shop
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Page 8

8. What are Norfolk Southern plans for the Car Shops, Sale, Abandonment, Other?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

9. Is Norfolk Southern planning to contract-out work previously performed at Hollidaysburg Car Shop?

In the event contracting out work becomes necessary, it will be done in accordance with the provisions of the September 25, 1964 Shop Craft Agreement as amended.

10. What is happening with the 200 CSXT cars which Norfolk Southern sent out of Hollidaysburg since their announced closing of the shop?

The CSX cars have been returned to CSX since it will not be possible to complete the work on them prior to September 1, 2001.

11. Is Norfolk Southern basing its decision on the amount of work from CSXT?

If so, what has the history been, and what are CSXT plans?

What percentage of the Hollidaysburg Shop work was the CSXT work?

No.

12. Exactly what work at Hollidaysburg is being transferred to the locations outlined in Norfolk Southern's February 21, 2001, notice?

See BRC Q/A 2 above

Hollidaysburg Car Shop
April 16, 2001
Page 9

13. Does the carrier have work available at the receiving locations?

If so, for what period of time?

What is the work?

See BRC Q/A 7 above

14. Do the shops identified by Norfolk Southern as the shops receiving this alleged work have the capability to perform this type work?

Do they have the equipment to perform this work?

See BRC Q/A 6 above

15. Why aren't all the jobs being transferred / re-established at other locations

It is the intention of NS to offer any employee who desires to transfer an opportunity to do so.

16. What is the basis for the Norfolk Southern claim that efficiency is enhanced by consolidating work at shops in Ohio, Illinois, and Tennessee?

HCS was operating at a substantially reduced capacity. Obviously there was a great deal of inefficiency since overheads for such a limited operation were extremely high. By transferring the work to other more efficient locations, their efficiencies would be increased and per unit overheads would decline and continue to be less than HCS.

17. Is it the intent of the carrier to have the entire work force at Hollidaysburg work until September 01, 2001?

Yes, in fact it may be necessary to keep some of the employees working up to thirty days beyond September 1, 2001 to facilitate the ultimate closure of the facility.

18. (a) Does any of the receiving locations have furloughed employees?

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Page 10

(b) If so, do the senior furloughed employees have the right to bid and be awarded positions?

(c) When bidding will employees have preference on the location desired?

(a) Yes

(b) See BRC Q/A 10 above

(c) Yes, consistent with the needs of service at each of the receiving locations.

19. Is the carrier going to fill all positions at each receiving location?

See BRC Q/A 9 above

20. Will employees transferring from Hollidaysburg retain their seniority and be subject to recall at Hollidaysburg?

The Implementing Agreement provides that the seniority of Altoona/Hollidaysburg employees who bid on and are awarded positions at any of the receiving locations pursuant to Article I, Section 4(a) and 4(b) will have their seniority dovetailed on the appropriate roster at the receiving location and their name will be removed from the roster at Altoona/Hollidaysburg. Employees who transfer pursuant to Article I, Section 4(c) or 4(d) will retain their seniority at the location from which transferred, subject to recall to a permanent vacancy known to be of at least 60 days duration.

21. If all positions are filled at the receiving location, what protection are the surplus employees entitled to?

See TWU Q/A #15 above. The Notice indicated that it was NS intent to afford any employee an opportunity to transfer.

22. If an employee does not bid, or is not requested to take a position at the receiving location, what protection are they entitled to?

If an employee is offered a position at the receiving location and refuses to take an available position, he

1991

Hollidaysburg Car Shop
April 16, 2001
Page 11

would be considered as voluntarily furloughed and not entitled to protection.

23. If an employee transfers what amount of money does the employee receive prior to moving?

See Side Letter #2 of the October 16, 1998 Implementing Agreement.

24. If an employee at the transferring location is on disability at the time the transfers are made what rights to positions and protection does that employee have?

An employee on disability at MCS at the time of the transfer will be governed by the provisions of NW Rule 17, as revised July 11, 2000.

25. Does an employee transferring retain his red circle rate at the receiving location?

See Side Letter #8 to the October 16, 1998 Implementing Agreement.

26. If an employee who transfers is off sick at the receiving location, are the days off sick calculated for the purpose of relocation payments?

No.

27. If an employee transfers, are the days worked at the receiving location calculated as qualifying time for sub-pay benefits?

Yes, see Side Letter #1 to the October 16, 1998
Implementing Agreement.

28. If an employee who transfers gets furloughed at the receiving location, is he required to repay moving expenses?

No.

29. If an employee refuses to transfer, on what basis should he be denied protective benefits, New York Dock or Sub-Pay?

The employee would be considered as having elected voluntary furlough.

Hollidaysburg Car Shop
April 16, 2001
Page 12

30. Does the carrier intend to maintain the Hollidaysburg Car Shop roster as it stands on the day of closing?

No, as previously outlined in Q/A 20, the names of the employees who transfer to the receiving location pursuant to Article I, Section 4(a) or (b) will be removed from the Altoona/Hollidaysburg roster at the time of the transfer. All other employees will be maintained on the Altoona/Hollidaysburg roster subject to recall.

31. Does the carrier intend to provide the organization a copy of all benefit provisions available to employees?

It is not clear what benefits this question refers to. However, the October 16, 1998 Implementing Agreement provides for certain relocation benefits.

32. How will employees who choose not to transfer be handled, will they be availed an opportunity to transfer at a later date?

Employees who desire to transfer with the benefits provided in the October 16, 1998 Implementing Agreement must do so at the time the positions are advertised. Any subsequent request to transfer will be handled in accordance with Rule 28 of the NW Agreement.

33. How will an employee who chooses not to transfer be handled with respect to recall at Juniata, or any other location where a position which becomes available from the Hollidaysburg roster?

Employees who decide not to transfer to one of the receiving points may elect voluntary furlough without benefits at their home point. Such employees will be subject to recall in seniority order as positions become available at their seniority point.

34. How will transferring employees vacations be handled at the receiving location? What about vacation which may have already been scheduled at Hollidaysburg?

The vacation of employees who transfer to the new work locations will be handled in accordance with the provisions of Side Letter #12 of the October 16, 1998 Implementing Agreement.

Hollidaysburg Car Shop
April 16, 2001
Page 13

Furloughed carmen will be paid their 2001 vacation during regularly scheduled vacation periods. All unscheduled vacation will be paid at year end if the employee is not recalled.

35. Is the 221 Carmen outlined in the carriers notice an accurate number?

The 221 figure is based on the number of active employees at the time of the notice. Due to the length of the notice involved in this particular transaction the actual number may change as a result of attrition or a change in an employee's status.

36. How are employees whom may currently be off due to sickness, disability, etc be treated?

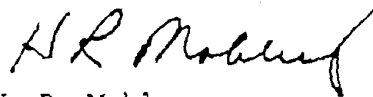
Employees who are currently off due to sickness or disability will be treated in the same manner as they were prior to the transaction.

37. Will an employee who is off at the time of the transfer and subsequently returns to work be offered the same benefits, moving expenses, etc. as an employee who is active and transfers at the time the shop closing?

No.

I trust these responses adequately address all of the outstanding issues you may have. I look forward to seeing you in Washington on the 17th.

Very truly yours,



H. R. Mobley
Assistant Vice President
Labor Relations

PETITIONERS'

EXHIBIT 28



NATIONAL CONFERENCE
OF FIREMEN & OILERS
SYSTEM COUNCIL NO. 2
4201 Church Road, Suite #7
Mt. Laurel, NJ 08054

856 778 4411
856 778 6196 (Fax)

JOHN E. KILMER
General Chairman
Home Office & Fax
518 756 6307

DEAN DEVITA
Vice General Chairman
Home Office & Fax
516 489 3580



VIA FAX

April 25, 2001

Harold R. Mobley
Assistant Vice President
Labor Relations
Norfolk Southern Corporation
223 East City Hall Avenue
Norfolk, VA 23510-1728

Dear Mr. Mobley:

This is in regards to the Hollidaysburg Car Facility closing and our on-going negotiations of an Implementing Agreement. Following is a list of questions we would like addressed.

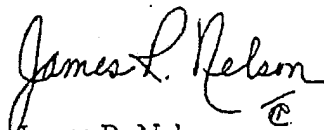
1. N/S is not calling this a closing, but it is eliminating all the jobs, why isn't this being called a closing?
2. What is the reason for the closing/elimination of all jobs? What are the changed economic conditions relied on by N/S?
3. What are N/S's plans for the shops? Sale? Abandonment?
4. Why aren't all jobs being transferred/re-established at other locations?
5. Are the shops receiving the work capable of doing program work? Do they have the facilities and equipment necessary? Do they currently do program work? What kind of work do they currently do?
6. Is N/S planning to contract-out any work previously done at Hollidaysburg?
7. Is N/S basing its decision on the amount of work from CSX? If so, what has the history been and what are CSX's plans?
8. What is happening to the 200 CSX cars that N/S has sent away?
9. What percentage of the Hollidaysburg shops work was CSX work?

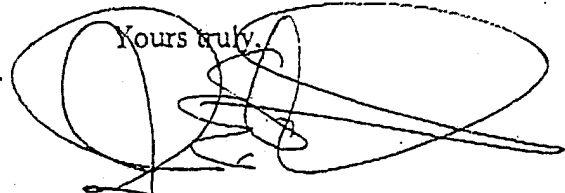
Page 2
April 25, 2001

10. What is the basis for N/S's claim that efficiency is enhanced by consolidating the work at shops in Ohio, Illinois and Tennessee?
11. What work does N/S anticipate will be done at the transferee shops?
12. What work will be there for NCF&O members?
13. What reason would the NCF&O members working at Hollidaysburg have to believe that the work will last at the new locations and that they won't be laid off again?

Once we receive your response to the above, we will contact you as soon as possible.

Yours truly,


James R. Nelson,
General Chairman NCF&O


Yours truly,
John E. Kilmer,
General Chairman NCF&O

cc: G. J. Francisco, Jr., NCF&O President
Dean Devita, Vice General Chairman - System Council #2
Richard Edmonds, Vice General Chairman - System Council #6
Ron Burgoon, Local Chairman #1218



**NORFOLK
SOUTHERN**

Norfolk Southern Corporation
223 East City Hall Avenue
Norfolk, Virginia 23510-1728

Harold R. Mobley
Assistant Vice President
Labor Relations
(757) 829-2425
Harold.Mobley@nscorp.com

April 25, 2001

NC-S-5-6

Mr. J. E. Kilmer
General Chairman, NCF&O
4201 Church Road - Suite 7
Mt. Laurel, NJ 08054

Mr. J. R. Nelson
General Chairman, NCF&O
P. O. Box 620
Vinton, VA 24179

Gentlemen:

Listed below are the Carrier's answers to the questions posed in your letter dated April 25, 2001 in connection with the transfer of work from the Hollidaysburg Car Shop (HCS):

1. N/S is not calling this a closing, but it is eliminating all the jobs, why isn't this being called a closing?

This is a transfer of work from HCS to various other points. After the transfer has been accomplished there will no longer be a need for HCS.

2. What is the reason for the closing/elimination of all jobs? What are the changed economic conditions relied on by N/S?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

3. What are N/S's plans for the shops? Sale? Abandonment?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

Messrs. Kilmer & Nelson
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4. Why aren't all jobs being transferred/re-established at other locations?

It is the intention of NS to offer any employee who desires to transfer an opportunity to do so.

5. Are the shops receiving the work capable of doing program work? Do they have the facilities and equipment necessary? Do they currently do program work? What kind of work do they currently do?

Due to the surplus of cars in the NS fleet at this time, the Mechanical Department does not foresee an immediate need for any major car repairs. The existing repair facilities at the new locations are equipped to handle the additional work which is being transferred to them. However, this does not preclude NS from making facility upgrades or purchasing new tools and equipment as the need arises.

6. Is N/S planning to contract-out any work previously done at Hollidaysburg?

In the event contracting out work becomes necessary, it will be done in accordance with the provisions of the September 25, 1964 Shop Craft Agreement as amended.

7. Is N/S basing its decision on the amount of work from CSX? If so, what has the history been and what are CSX's plans?

No.

8. What is happening to the 200 CSX cars that N/S has sent away?

The CSX cars have been returned to CSX since it will not be possible to complete the work on them prior to September 1, 2001.

9. What percentage of the Hollidaysburg shops work was CSX work?

See #7 above.

10. What is the basis for N/S's claim that efficiency is enhanced by consolidating the work at shops in Ohio, Illinois and Tennessee?

Messrs. Kilmer & Nelson
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Page 3

HCS was operating at a substantially reduced capacity. Obviously there was a great deal of inefficiency since overheads for such a limited operation were extremely high. By transferring the work to other more efficient locations, their efficiencies would be increased and per unit overheads would decline and continue to be less than HCS.

11. What work does N/S anticipate will be done at the transferee shops?

The work being transferred is that of all freight car repairs and associated work including facility maintenance and the capacity to perform future program work. The work may vary from time to time due to changing demands therefore we cannot define the "exact" work that may be transferred to any particular point. Any and all kinds of freight car repairs and associated facility maintenance may be performed at any of the receiving points as is the current practice at HCS.

12. What work will be there for NCF&O members?

F & O work performed in conjunction with freight car repairs and associated work in line with practices at the receiving locations.

13. What reason would the NCF&O members working at Hollidaysburg have to believe that the work will last at the new locations and that they won't be laid off again?

The receiving locations will perform all freight car repairs and program work previously performed at HCS. The transferred work will be performed as long as the needs of service require it and resources are available.

I trust these responses adequately address all of the outstanding issues that you may have.

Very truly yours,



H. R. Mobley
Assistant Vice President
Labor Relations

PETITIONERS'

EXHIBIT 29

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

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

SECOND DECLARATION OF THOMAS D. LUTTON

I, THOMAS D. LUTTON, declare under penalty of perjury, and pursuant to 28 U.S.C. § 1746, that the following is true, correct, and based upon personal knowledge.

1. I am the President of Local 2017 of the Transport Workers Union of America ("TWU"). My office is located in Altoona, Pennsylvania. Part of my duties involve providing representation to Car shop workers employed by Norfolk Southern Ry. ("NSR") at its Hollidaysburg car shops in the Altoona area. This is my second declaration in support of the joint petition filed by TWU and other unions and the Commonwealth of Pennsylvania for enforcement of NSR's commitment to retain and operate the Hollidaysburg Car Shop ("HCS") in Altoona, PA. The purpose of this declaration is to respond to assertions made by NSR in its reply to the joint petition.

2. NSR's Reply argued that it made no commitment regarding the HCS, that it merely stated an intention to keep the shops and that it viewed itself as free to walk away from the HCS at its own whim. However, that is inconsistent with statements made by NSR CEO David Goode

at Altoona on "Day One" of NSR's operation of former Conrail lines and facilities. NSR hosted a big reception at the Juniata Locomotive Shop for workers at that shop and the HCS. I attended the festivities and heard speeches by Mr. Goode and former Representative Bud Shuster. In the presence of Mr. Goode who spoke after him, Congressman Shuster repeated prior statements by NSR regarding its plans for the Altoona shops and repeated NSR's statements that it would spend 67 million on the two shops. Mr. Goode spoke after Congressman Shuster and he stated that NSR was in Altoona for the long run, and that these were the finest shops and the heart of the new NS and the heart of railroading. Mr. Goode acknowledged that approval of the transaction could not have happened without the support of Pennsylvania and its elected officials (some of whom were with him on the platform). He also repeated the list of commitments, including the investments in the HCS, recited by Congressman Shuster, describing NSR's plans as commitments. He also said that people will look back 100 years from now and still see Altoona as the heart of railroading. I have viewed a copy of the videotape of the speeches made by Congressman Shuster and Mr. Goode that is being provided to the Board by the Unions and Pennsylvania and it accurately reproduced what they said that day. Regardless of what NSR's lawyers may now be telling the Board, it was clear from Mr. Goode's speech that he viewed NSR's statements about its plans for the HCS as a commitment, not mere aspirations.

3. Because NSR served a notice on TWU and TCU under the *New York Dock* conditions and an implementing agreement regarding NSR's planned closing of the HCS, we gave NSR a list of questions about its plans for the HCS. Copies of NSR's answers are attached hereto as Lutton Exhibit F. In response to the our observation that NSR's notice said that work was being transferred from the HCS and that all positions would be abolished, but did not say that the HCS

was being closed, NSR stated that "After the transfer of work has been accomplished, there will no longer be a need for HCS", and that some workers would continue at HCS "up to thirty days beyond September 1, 2001 to facilitate the ultimate closure of the facility". NSR also stated that its plans were not based on the amount of work from CSXT, and that CSXT cars had been sent from the HCS back to CSXT because the work could not be completed by September 1, 2001.

4. NSR has said that it was acting in good faith in closing the HCS because its marketing efforts were not sufficiently successful. However, our review of the recent history of insourcing at the HCS shows a steady increase in insourcing over the past five years and that NSR actually significantly increased insourcing after its takeover of the HCS. See Lutton Exhibit G. I also note that NSR turned away at least four potential insourcing contracts for 2000 because it did not have a sufficient number of employees to do the work.

5. NSR has asserted that the HCS is only operating at one-third capacity, but this is misleading because the current usage of the HCS is not much different Conrail's use of the facility in 1997-1998 when NSR made its commitments to retain the HCS. NSR has compared current usage of the HCS to its usage in 1977-1978, but that was a time of the highest level of use of the HCS ever. In both 1977 and 1978 the HCS worked on over 13, 000 cars, the HCS has not had anything near that level of production since 1980. In 1998 the HCS worked on 5456 cars. Attached hereto as Lutton Ex. H is a copy of "Record of Production" chart that has been maintained at the HCS that shows the number of cars worked at the HCS since 1955 and is the source of this information. The chart shows that the HCS worked on 6398 cars in 1997, 5456 cars in 1998, 4138 cars in 1999 and 3538 cars in 2000 (after the furloughs in April of 2000). We believe that NSR's report of work actually done in 2000 is not reflective of the work that was

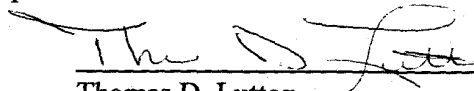
actually available to be done because NSR furloughed employee who would have been available to do additional work, because NSR rejected four orders for lack of sufficient staff, and because it appears that NSR has deferred necessary maintenance work. A report on "bad order counts" (cars rejected by shippers) for the first quarter to 2001 shows that the number of rejects more than doubled from the first quarter of 2000. Lutton Exhibit I.

6. The Record of Production chart also shows that the number of cars worked fluctuates: the years with the lowest number of cars worked were 2678 and 2969 in 1983 and 1984, a mere several years after the 1977-79 production of 11000-13000; that the number of cars worked gradually increased during the 1980s to 1990; and that there were a number of years with changes in production of 1000 or more cars from the preceding years: 1988-4547, 1989-6105, 1990-5121; and 1994-6327, 1995-4667, 1996-6078.

7. With respect to the question of usage of the HCS relative to its capacity, I note that there were approximately 1890 employees working at the HCS in 1978-1979, but there were only approximately 481 employees working at the HCS in 1998, 451 in early 2000 and 330 at the present time. I also note that the reduction to the current 330 employees was a result of NSR's furloughs that flowed from its stated need to reduce expenses to offset the costs it incurred in digging out of the hole NSR dug for itself in its bungled implementation of the transaction. To a large extent, the usage of the HCS relative to its capacity is controlled by the railroad. For NSR to complain that it is only using 1/3 of the capacity of the HCS is to complain about NSR's own decisions.

8. In any event, the Record of Production and data on employment show that there was no significant reduction in work at the HCS between the time NSR made its commitments regarding retention of the HCS and the proposal to close the Shop.

5-4-01
Date


Thomas D. Lutton

SECOND LUTTON

DECLARATION

EXHIBIT F



Norfolk Southern Corporation
223 East City Hall Avenue
Norfolk, Virginia 23510-1728

H. R. Mobley
Assistant Vice President
Labor Relations
(757) 629-2425

April 16, 2001

NC-S-5-6

Mr. J. V. Waller
General Chairman BRC Divn-TCU
127 Baron Circle
Corryton, TN 37721

Mr. J. Czuczman
Internat'l Vice President, TWU
60 West End Avenue
New York, NY 10023

Gentlemen:

Listed below are the Carrier's answers to the questions posed by the BRC, letter dated April 8, 2001, and the TWU, letter dated April 6, 2001, in connection with the transfer of work and rearrangement of forces at Hollidaysburg Car Shop (HCS). We are faxing and mailing our lists of responses to each of your respective offices so that you will have adequate time to review this information prior to our scheduled meeting in Washington on April 17, 2001.

Questions submitted by BRC:

1. Currently at the receiving locations there are a number of Carmen and Student Carmen in a furloughed status. Will these employees be recalled before any Carmen are transferred to these locations?

No. Since we are adding new positions at these locations as a result of a transfer of work from HCS the employees from the origin point (HCS) have the right to transfer with their work to the receiving location.

2. In your letter of March 21, 2001, you state as follows:
"The work being transferred is all freight car repairs and the associated work referenced in the Notice pertained to the support work and facility maintenance performed by the other Shop Crafts party to the Notice. The description of the work to be transferred is consistent with job bulletins at Hollidaysburg (copies of two bulletins are enclosed) and should serve to be sufficiently descriptive." It is very

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clear that this description of the work being transferred is very vague and completely fails to identify any specific work that is being transferred to any receiving location. Would you now please identify the specific work that is being transferred to each specific location?

The work being transferred is that of all freight car repairs and associated work including facility maintenance and the capacity to perform future program work. The work may vary from time to time due to changing demands therefore we cannot define the "exact" work that may be transferred to any particular point. Any and all kinds of freight car repairs and associated facility maintenance may be performed at any of the receiving points as is the current practice at HCS.

3. In your letter of March 21, 2001, you state: "I am advised that presently both program car repair work as well as the continuation of insourcing projects are being performed at Hollidaysburg. However, this work is not predicted to extend beyond September 1, 2001. If this, is a factual statement, there is not any work that is currently scheduled for Hollidaysburg Car Shop after September 1, 2001. Therefore, there is no work that could be transferred after this date. Is this a correct understanding of your statement?"

No insourcing projects have been scheduled beyond the September 1, 2001 transfer date due to the anticipated closure of this facility. Any program work which would have been performed at HCS is being diverted to one of the five receiving locations.

4. At our meeting on March 15, 2001, both you and I were advised by Brother Tom Lutton, President of the TWU Local, who is employed at the Hollidaysburg Car Shop, that there was presently no program work being performed at Hollidaysburg. Is there any program work presently being performed at Hollidaysburg, or is all the work currently being performed work that is considered insourcing?

We are presently doing the following program work at HCS:

1. Preparing gons and box cars for turnback to lessors
2. Repair work to auto parts box cars
3. Repair work to scale test cars

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Page 3

4. We will be modifying box cars to place in paper service
5. We will soon begin work on stored heavy bad order cars
5. Is there any insourcing work scheduled for Hollidaysburg after September 1, 2001?

As previously stated, we do not have any insourcing projects scheduled for HCS after September 1, 2001 in preparation of the shops closure and the transfer of the freight car repair work and facility maintenance to the new points.

6. All of the receiving locations are points consisting of a repair track and a train yard. These points are not equipped to perform more than running repairs. Are the facilities at the receiving locations going to be upgraded with the necessary tools and equipment to perform said transferred work?

Due to the surplus of cars in the NS fleet at this time, the Mechanical Department does not foresee an immediate need for any major car repairs. The existing repair facilities at the new locations are equipped to handle the additional work which is being transferred to them. However, this does not preclude NS from making facility upgrades or purchasing new tools and equipment as the need arises.

7. How long does the Carrier expect to perform the "transferred work" at the receiving locations?

The receiving locations will perform all freight car repairs and program work previously performed at HCS. The transferred work will be performed as long as the needs of service require it and resources are available.

8. Once the transferred insourcing work is completed at each of the receiving locations, will additional work be insourced at these receiving locations to ensure that the work force remains at the level established after the transfer of employees?

No insourcing work will be transferred to the new locations. The only work that is being transferred is work that is necessary on our own fleet of cars.

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9. In the Notice of February 21, 2001, it is stated that fifty six (56) Carman positions will be established at Bellevue, Ohio; eight (8) at Columbus, Ohio; forty six (46) at Decatur, Illinois; two (2) at Linwood, North Carolina and two (2) at Macon, Georgia to perform the work being transferred. If there are not enough Carman to fill these positions at these receiving locations, will additional Carman be hired at these locations to perform work being transferred? If the answer is in the negative, why not?

If the transferred positions are not filled by HCS employees then the Mechanical Department will determine at that time, based on the needs of service, whether if and when to recall or hire employees.

10. Will Carman at receiving locations be eligible to bid on the newly created positions, or will the Carman from Hollidaysburg be the only ones eligible to bid on the newly created positions?

Article I, Section 4(a) of the October 16, 1998 Implementing Agreement provides that concurrent with the abolishment of positions at the location from which the work is being transferred positions will be established at the locations to which the work is being transferred. Such positions will be advertised for a period of seven (7) days to all employees holding regular Carman assignments at the transferring location.

11. Will the Carman transferring from Hollidaysburg, to the receiving locations be placed on a separate seniority roster at the receiving location?

Article I, Section 4(e) of the October 16, 1998 Implementing Agreement stipulates that employees who transfer under this section will have their seniority dates(s) dovetailed in accordance with the procedures set forth in Article II on the appropriate roster(s) at the receiving location.

12. Will the current 2001 seniority rosters at the receiving locations be "dovetailed" to include the Carman transferring to the receiving location?

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Yes. See Q/A 11 above

13. If, after September 1, 2001, there is a furlough at the receiving locations, would the Carmen who have transferred to that location be furloughed first?

Any force reductions that occur at the receiving locations subsequent to September 1, 2001 will be conducted in reverse seniority order on the newly dovetailed seniority roster as provided in Rule 26 (NW), Rule 24 (NKP) or Rule 24 (NSR).

14. If the seniority rosters at the receiving locations are "dovetailed" and there is a furlough of Carmen after September 1, 2001, would the furloughed Carmen be offered any protection by the Carrier?

The answer to this question is fact-driven. If the furlough resulted from a "Transaction" authorized by the STB, then protection may be involved - again depending on the fact situation of the involved employee. If the furlough was not a result of a "Transaction," then no protection would be involved.

Questions submitted by THU:

1. Norfolk Southern, in the notice of February 21, 2001, is not calling this a closing, but is eliminating all the jobs, why isn't it being called a closing?

This is a transfer of work from HCS to various other points. After the transfer has been accomplished there will no longer be a need for HCS.

2. What is the reason for the closing and elimination of all the jobs, especially in light of the commitments made by Norfolk Southern to continue operations?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen

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For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

3. What exactly are the changing economic conditions being referenced in Mark Manion's statement in the February 21, 2001, NS new release?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

4. How have these alleged changing economic conditions affected the Hollidaysburg Car Shop operation?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

5. Since acquiring Hollidaysburg Car Shop in the "Conrail Transaction" what has Norfolk Southern done to attain "insourcing" at Hollidaysburg?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

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6. Was Norfolk Southern actively and aggressively seeking insourcing work for Hollidaysburg Car Shop?

If so, were there any orders pending or work scheduled when Norfolk Southern made its decision to close Hollidaysburg?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

7. In reference to Norfolk Southern's February 21, 2001, news release it was stated that Norfolk Southern would continue to work with Blair County.

Prior to 2/21/01 was Norfolk Southern working with Blair County to find alternative uses for the facility?

If so, when did these efforts commence?

With whom in Blair County was Norfolk Southern working with?

Are they still working with Blair County?

Exactly what efforts have been made, where do they stand at the present time, and what future efforts are planned?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

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8. What are Norfolk Southern plans for the Car Shops, Sale, Abandonment, Other?

This question is not pertinent to the issues involved in the rearrangement of forces to occur as a result of the coordination. In any event, see Norfolk Southern's Reply to "Joint Petition of Various Unions and the Commonwealth of Pennsylvania for Enforcement of Order Directing Compliance with Commitments, or Alternatively to Reopen For Order Directing Compliance with Commitments, or Alternatively for Relief Not Otherwise Provided For" to be filed April 17, 2001.

9. Is Norfolk Southern planning to contract-out work previously performed at Hollidaysburg Car Shop?

In the event contracting out work becomes necessary, it will be done in accordance with the provisions of the September 25, 1964 Shop Craft Agreement as amended.

10. What is happening with the 200 CSXT cars which Norfolk Southern sent out of Hollidaysburg since their announced closing of the shop?

The CSX cars have been returned to CSX since it will not be possible to complete the work on them prior to September 1, 2001.

11. Is Norfolk Southern basing its decision on the amount of work from CSXT?

If so, what has the history been, and what are CSXT plans?

What percentage of the Hollidaysburg Shop work was the CSXT work?

No.

12. Exactly what work at Hollidaysburg is being transferred to the locations outlined in Norfolk Southern's February 21, 2001, notice?

See BRC Q/A 2 above

Hollidaysburg Car Shop

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13. Does the carrier have work available at the receiving locations?

If so, for what period of time?

What is the work?

See BRC Q/A 7 above

14. Do the shops identified by Norfolk Southern as the shops receiving this alleged work have the capability to perform this type work?

Do they have the equipment to perform this work?

See BRC Q/A 6 above

15. Why aren't all the jobs being transferred / re-established at other locations

It is the intention of NS to offer any employee who desires to transfer an opportunity to do so.

16. What is the basis for the Norfolk Southern claim that efficiency is enhanced by consolidating work at shops in Ohio, Illinois, and Tennessee?

HCS was operating at a substantially reduced capacity. Obviously there was a great deal of inefficiency since overheads for such a limited operation were extremely high. By transferring the work to other more efficient locations, their efficiencies would be increased and per unit overheads would decline and continue to be less than HCS.

17. Is it the intent of the carrier to have the entire work force at Hollidaysburg work until September 01, 2001?

Yes, in fact it may be necessary to keep some of the employees working up to thirty days beyond September 1, 2001 to facilitate the ultimate closure of the facility.

18. (a) Does any of the receiving locations have furloughed employees?

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Page 10

(b) If so, do the senior furloughed employees have the right to bid and be awarded positions?

(c) When bidding will employees have preference on the location desired?

(a) Yes

(b) See BRC Q/A 10 above

(c) Yes, consistent with the needs of service at each of the receiving locations.

19. Is the carrier going to fill all positions at each receiving location?

See BRC Q/A 9 above

20. Will employees transferring from Hollidaysburg retain their seniority and be subject to recall at Hollidaysburg?

The Implementing Agreement provides that the seniority of Altoona/Hollidaysburg employees who bid on and are awarded positions at any of the receiving locations pursuant to Article I, Section 4(a) and 4(b) will have their seniority dovetailed on the appropriate roster at the receiving location and their name will be removed from the roster at Altoona/Hollidaysburg. Employees who transfer pursuant to Article I, Section 4(c) or 4(d) will retain their seniority at the location from which transferred, subject to recall to a permanent vacancy known to be of at least 60 days duration.

21. If all positions are filled at the receiving location, what protection are the surplus employees entitled to?

See TWU Q/A #15 above. The Notice indicated that it was NS intent to afford any employee an opportunity to transfer.

22. If an employee does not bid, or is not requested to take a position at the receiving location, what protection are they entitled to?

If an employee is offered a position at the receiving location and refuses to take an available position, he

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 Page 11

would be considered as voluntarily furloughed and not entitled to protection.

23. If an employee transfers what amount of money does the employee receive prior to moving?

See Side Letter #2 of the October 16, 1998 Implementing Agreement.

24. If an employee at the transferring location is on disability at the time the transfers are made what rights to positions and protection does that employee have?

An employee on disability at HCS at the time of the transfer will be governed by the provisions of NW Rule 17, as revised July 11, 2000.

25. Does an employee transferring retain his red circle rate at the receiving location?

See Side Letter #8 to the October 16, 1998 Implementing Agreement.

26. If an employee who transfers is off sick at the receiving location, are the days off sick calculated for the purpose of relocation payments?

No.

27. If an employee transfers, are the days worked at the receiving location calculated as qualifying time for sub-pay benefits?

Yes, see Side Letter #1 to the October 16, 1998 Implementing Agreement.

28. If an employee who transfers gets furloughed at the receiving location, is he required to repay moving expenses?

No.

29. If an employee refuses to transfer, on what basis should he be denied protective benefits, New York Dock or Sub-Pay?

The employee would be considered as having elected voluntary furlough.

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30. Does the carrier intend to maintain the Hollidaysburg Car Shop roster as it stands on the day of closing?

No, as previously outlined in Q/A 20, the names of the employees who transfer to the receiving location pursuant to Article I, Section 4(a) or (b) will be removed from the Altoona/Hollidaysburg roster at the time of the transfer. All other employees will be maintained on the Altoona/Hollidaysburg roster subject to recall.

31. Does the carrier intend to provide the organization a copy of all benefit provisions available to employees?

It is not clear what benefits this question refers to. However, the October 16, 1998 Implementing Agreement provides for certain relocation benefits.

32. How will employees who choose not to transfer be handled, will they be availed an opportunity to transfer at a later date?

Employees who desire to transfer with the benefits provided in the October 16, 1998 Implementing Agreement must do so at the time the positions are advertised. Any subsequent request to transfer will be handled in accordance with Rule 28 of the NW Agreement.

33. How will an employee who chooses not to transfer be handled with respect to recall at Juniata, or any other location where a position which becomes available from the Hollidaysburg roster?

Employees who decide not to transfer to one of the receiving points may elect voluntary furlough without benefits at their home point. Such employees will be subject to recall in seniority order as positions become available at their seniority point.

34. How will transferring employees vacations be handled at the receiving location? What about vacation which may have already been scheduled at Hollidaysburg?

The vacation of employees who transfer to the new work locations will be handled in accordance with the provisions of Side Letter #12 of the October 16, 1998 Implementing Agreement.

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Furloughed carmen will be paid their 2001 vacation during regularly scheduled vacation periods. All unscheduled vacation will be paid at year end if the employee is not recalled.

35. Is the 221 Carmen outlined in the carriers notice an accurate number?

The 221 figure is based on the number of active employees at the time of the notice. Due to the length of the notice involved in this particular transaction the actual number may change as a result of attrition or a change in an employee's status.

36. How are employees whom may currently be off due to sickness, disability, etc be treated?

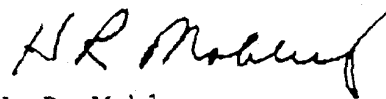
Employees who are currently off due to sickness or disability will be treated in the same manner as they were prior to the transaction.

37. Will an employee who is off at the time of the transfer and subsequently returns to work be offered the same benefits, moving expenses, etc. as an employee who is active and transfers at the time the shop closing?

No.

I trust these responses adequately address all of the outstanding issues you may have. I look forward to seeing you in Washington on the 17th.

Very truly yours,



H. R. Mobley
Assistant Vice President
Labor Relations

SECOND LUTTON

DECLARATION

EXHIBIT G

HOLLIDAYSBURG CAR SHOP – INSOURCING WORK 1992-2000

YEAR	TYPE WORK (Foreign Equipment)	NO. CARS
1992	Equipment Built, Modified or Repaired	30
1993	Equipment Built, Modified or Repaired	180
1994	Equipment Built, Modified or Repaired	800
1995	Equipment Built, Modified or Repaired	260
1996	Equipment Built, Modified or Repaired	900
1997	Equipment Built, Modified or Repaired	1450
1998	Equipment Built, Modified or Repaired	1500
1999	Equipment Built, Modified or Repaired	1500
2000	Equipment Built, Modified or Repaired	1850 23.33% Increase

**Lower Numbers Between
1992 –1995 reflect Conrail's
focus on its own fleet of
cars.**

NOTES:

- (1) Insourcing work has continuously increased for the past 5 years.
- (2) Since Norfolk Southern's acquiring operations at Hollidaysburg the number of cars insourced has increased by at least 23.33%.
- (3) Norfolk Southern's first full year of operation realized the largest number of cars ever insourced at Hollidaysburg.
- (4) The issue of capacity, in large part is controlled by management as reflected in the low number of cars insourced between 1992-1995. During that period Conrail focused on its own fleet, however could have increased capacity with insourcing had it increased its work force.
- (5) During year 2000 Norfolk Southern turned away at least 4 additional insourcing orders due to not having the man power to complete the orders, again reflecting management's control over how much work is insourced and shop capacity.

SECOND LUTTON

DECLARATION

EXHIBIT H

HOLLIDAYSBURG CAR SHOP RECORD OF PRODUCTION

PENNSYLVANIA RAILROAD

YEAR	NEW CARS	REPAIR CLASS				YEAR TOTAL	GRAND TOTAL
		I	II	III	IV		
1955	0	685	15	0	0	700	700
1956	1059	4819	176	0	0	6054	6754
1957	2851	3519	308	0	0	6678	13432
1958	3669	0	201	25	0	3895	17327
1959	8244	1386	412	451	0	10493	27820
1960	2693	8236	0	2	185	11116	38936
1961	3934	3585	60	198	1016	8793	47729
1962	2847	2907	56	2778	315	8903	56632
1963	504	7270	102	381	116	8373	65005
1964	3685	2451	54	3661	14	9865	74870
1965	6729	3371	0	1761	89	11950	86820
1966	2724	3135	0	2114	40	8013	94833
1967	756	4085	170	867	28	5906	100739

PENN CENTRAL

YEAR	NEW CARS	REPAIR CLASS				YEAR TOTAL	GRAND TOTAL
		I	II	III	IV		
1968	3739	3548	220	236	91	7834	108573
1969	1830	4163	1473	128	449	8043	116616
1970	1489	3367	1332	310	295	6793	123409
1971	0	7011	1308	339	358	9016	132425
1972	0	6130	542	2691	71	9434	141859
1973	0	7069	1113	3844	1228	13254	155113
1974	0	9449	0	4022	2440	15911	171024
1975	0	9736	0	2086	214	12036	183060
1976	0	13246	0	33	0	13279	196339

YEAR	CARS	I	II	III	IV	TOTAL
1977	0	12458	0	983	170	13611
1978	9	11725	0	1095	225	13054
1979	0	10014	0	1464	0	11478
1980	567	6792	0	951	2	8312
1981	2	5664	0	565	2246	8477
1982	0	2565	0	828	1097	4490
1983	0	816	0	223	1639	2678
1984	336	995	0	0	1638	2969
1985	70	1294	0	0	2327	3691
1986	50	2641	0	0	1080	3771
1987	100	1508	0	0	2316	3924
1988	0	2277	0	0	2270	4547
1989	0	2572	0	2530	1003	6105
1990	0	2871	0	548	1702	5121
1991	0	3159	0	35	2358	5552
1992	0	3644	110	108	2039	5901
1993	703	2621	188	68	1809	5389
1994	1426	2067	208	381	2245	6327
1995	1206	1124	514	646	1177	4667
1996	59	1618	265	469	3667	6078
1997	600	2529	262	539	2468	6398
1998	600	2860	92	564	1340	5456

NORFOLK SOUTHERN

YEAR	NEW CARS	REPAIR CLASS				YEAR TOTAL
		I	II	III	IV	
1999	0	1739	11	621	1767	41383
2000	0	1207	159	165	2052	35833
2001						
2002						
2003						

REPAIR CLASS OF THE CARS WHEN THEY ARE WORKED ON IN THE SHOP.

I	HEAVY REPAIRS INSOURCING
II	M&W REPAIRS
III	MEDIUM REPAIR MISC., WRECK & DEFEC
IV	LIGHT REPAIR

SECOND LUTTON

DECLARATION

EXHIBIT I

REPRINT

EQUIPMENT REJECTS 2000-2001

Year 2000

	JAN	FEB	MAR	1 ST QTR	APR	MAY	JUN	2 ND QTR	JUL	AUG	SEP	3 RD QTR	OCT	NOV	DEC	4 TH QTR	ANNUAL TOTAL
BOXCARS	174	144	436	754	344	336	351	1031	432	419	426	1277	504	493	452	1449	4611
GONDOLAS	39	27	155	221	159	63	80	302	56	51	36	143	73	63	54	190	856
COVERED COILS						31	40	71	35	18	24	77	25	62	56	143	291
OPEN COILS						8	19	27	7	5	7	19	5	5	2	12	58
CO.MAT. EQUIP			5	5	6	1	5	12	8	13	7	28		4	6	10	55
COV HOP.	69	66	181	316	170	164	170	504	184	216	211	611	204	206	214	624	2055
FLATS		3	8	11	7	12	14	33	53	15	5	73	15	8	4	27	144
MDSE HOP. (OT)	1	7	33	41	15	48	41	104	36	42	39	117	30	57	49	136	398
MULTILEVELS			22	22	14	15	14	43	28	40	16	84	19	16	26	61	210
TANKS	2	1	11	14	9	15	10	34	11	17	9	37	12	13	6	31	116
UNKNOWN			2	2	1			1	1	1	4	6	1	1		2	11
MDSE TOTAL	285	243	853	1386	725	693	744	2162	851	837	784	2472	888	928	869	2685	8705
COAL HOP.	40	42	68	150	103	168	109	380	134	128	61	323	127	123	126	376	1229
GRAND TTL	325	290	921	1536	828	861	853	2542	985	965	845	2795	1015	1051	995	3061	9934

Year 2001

	JAN	FEB	MAR	1 ST QTR
BOXCARS	465	491	571	1527
GONDOLAS	58	52	82	192
COVERED COILS	47	29	52	128
OPEN COILS	2	6	1	9
CO.MAT. EQUIP	9	2	11	22
COV HOP.	319	243	294	856
FLATS	12	27	16	55
MDSE HOP. (OT)	84	35	68	187
MULTILEVELS	19	8	27	54
TANKS	14	15	21	50
UNKNOWN		1		1
MDSE TOTAL	1029	909	1143	3081
COAL HOP.	158	106	81	345
GRAND TTL	1187	1015	1224	3426

EXHIBIT I

PETITIONERS'

EXHIBIT 30

THE CONRAIL BREAKUP

Chemical group slams NS, CSX

BY RIP WATSON
Journal of Commerce Staff

Twenty-five disgruntled chemical shippers gave the Surface Transportation Board an earful about problems resulting from the division of Conrail Inc.

They cited plant shutdowns, diversion to trucks and delays on key routes operated by Norfolk Southern Corp. and CSX Transportation Inc.

The chronicle of complaints was submitted to STB by the Chemical Manufacturers Association.

CMA, whose members spend almost \$5 billion on rail freight service annually, said, "The U.S. chemical industry has been adversely affected by rail service disruptions. CMA commends CSX and Norfolk Southern for cooperating with their customers. Nevertheless, . . . rail service, particularly in the Northeast and Midwest has not been acceptable."

In recent weeks, other shipper groups, including the National Industrial Transportation League, have been directing their members to forward complaints about the breakup of Conrail to the STB so that the agency can have a fuller picture of the problems that have occurred.

Companies in the CMA complaint were identified by number, and not by name, because of competitive reasons, said Tom Schick, a CMA spokesman.

The chemical shippers complained of difficulty in reaching the railroads, safety of time-sensitive products that were delayed and "ping-pong" cars that are sent to places other than the destination before arriving late.

Sampling of the complaints:

Company 1: "We have not shut down any customers yet, but are closer to several. One plant has 35 shipments behind. Minimum transit times are close to doubling."

Company 4: "Problems were anticipated but not this bad. Car from Newark, Delaware, that left June 1 still hasn't made it to Ohio as of June 14)."

Company 6: "We've had to convert to truck as much as possible, but some customers will not take

truck deliveries. We are clearly in danger of shutting down several key accounts."

• Company 11: "Delays ranging from two to five days. Cause ranges from EDI failures to severe congestion in key areas, cars being moved incorrectly, no bills."

• Company 14: "Having terrible problems . . . two weeks' worth of cars missing, shutting down part of plant, moving stuff to trucks . . . \$500,000 a day in lost sales."

• Company 18: "Were unable to trace cars today . . . already filing

claims because we have moved to truck."

• Company 20: "The railroads are doing their best to respond when plant/customer shutdowns are at risk. It is still difficult obtaining accurate and stable ETA's."

• Company 21: "It would be helpful to us as customers to have specific contacts established who have the ability to obtain good information on when we can expect situations to improve."

The chemical shippers, whose comments concerned operations on NS and CSX during June, said prob-

lems on CSX were focused in the Pittsburgh, Albany, N.Y., and Atlanta areas, as well as shipments through Kansas City and from Texas to Pittsburgh. Problem areas on NS spanned 20 locations, including six in Ohio and two each in Indiana and New York state. Problems also were reported in Alabama, Tennessee, Maryland, Pennsylvania and Michigan.

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NS offers workers incentives

BY RIP WATSON
Journal of Commerce Staff

Norfolk Southern Corp. has offered sweeping incentives to 30,000 union workers if they stay on the job the rest of the summer and help restore normal operations in the wake of the Conrail breakup.

The railroad has been plagued with delays since the division of Conrail Inc. on June 1.

An NS union employee who offers to be available for work through late August or early September can collect a \$600 bonus for each of five pay periods. The railroad's total cost of the incentive program, if all employees accept, would be \$90 million.

The actual financial impact on NS, which will be reported as part of third-quarter earnings, is less because the payments will be in contributions to individual workers' accounts under the company's 401(k) program.

CSX Transportation, which also has suffered its share of delays since it divided Conrail's system with NS on June 1, has had a more modest incentive plan effective since that date. CSX offered \$500 to train-crew workers on some portions of the railroad if they make themselves available for service every day during a two-week period.

The NS and CSX approaches were

not the first time a railroad offered financial incentives to employees during an extended period of service problems.

During the Union Pacific Railroad's operational crisis in 1997 and 1998, the carrier offered bonuses to train-crew workers who made themselves available to work on holidays. Those incentives weren't offered to unionized shop, track and clerical workers.

"The month of June was particularly demanding for all of us," said an NS bulletin over the signature of Chairman David Goode. "July and August" will be challenging months. We must continue to concentrate on improving the quality of service to our customers. In recognition of the level of dedication that will be required to successfully complete the tasks at hand, the special availability bonus program . . . is being placed in effect."

Susan Terpay, a spokeswoman, said the incentive program was being made available to all union workers so that all would be treated fairly. "We are eager to return to normal operations as soon as possible," she said. "This is one of many steps we are taking."

Last week, NS announced other steps to help restore normal operations. Those included offers to hire back recently retired Conrail train crew members, and proposals to furloughed Union Pacific and NS

workers to run trains on newly acquired lines for up to 90 days.

In addition, NS has leased at least 90 more locomotives and has arranged with short-line railroads to handle intercity traffic that typically would have moved over NS.

CSX's offer, in the form of a contribution to an employee stock ownership plan, was part of an agreement made last year that took effect when Conrail was divided.

Kathy Burns, a CSX spokeswoman, said CSX did not expect the offer would remain in effect much longer, but she did not specify a date.

The CSX offer has been accepted by 20% to 30% of the 5,500 eligible employees, she said.

Union workers at NS have the option of not working on scheduled days off during one or more of the pay periods without losing eligibility for the incentive payout during times when they would be willing to work every day.

NS employees who have already scheduled vacation time can take it and be paid for it, if their supervisor agrees, the bulletin said.

The 5,500 management workers at NS are not eligible for the incentive program.

Rip Watson can be reached at (410) 494-9959 or railrip@aol.com

Briefs

INDUSTRY NEWS IN SHORT

WTO's Moore vows to aid poor nations

■ **FRANKFURT** — The incoming director-general of the World Trade Organization, New Zealand's Mike Moore, said the top priority for his coming three-year tenure in office would be assisting the integration of the least developed countries more fully into the world trading system.

"The very poor still don't get the access they need for their products, and the technical assistance to fully engage so they can sit at the table of our global family, and share equally and fully," Moore said.

Moore, who will pass on the WTO leadership to the Thai Supachai Panichpakdi for a further three years, said it was vital the Seattle Ministerial Conference scheduled for November tackled the problems of the poorest countries.

"We need these solutions now, not in seven or eight years," he said.

3PLs overlook start-ups

► From page 1

start-ups which may or may not turn out to be major users of logistics services in the future.

Otherwise occupied

in-house capability, and some 3PLs are servicing e-commerce accounts.

"One of the hottest areas and topics today is the outsourcing of fulfillment and customer service," said Elaine Rubin, an e-commerce consultant and chairman of

Chesapeake Technology Inc.,

behind them and we have open warehouse space in their geography," she said. "Most of them we say have to say no. We're struggling with that. I'm sure we've made some big mistakes."

Balancing risk and reward

THE CONRAIL AFTERMATH

Performance of NS and CSX still lags, but shipper complaints are fewer

Problems persist 3 months after break-up

BY RIP WATSON
Journal of Commerce Staff

NORFOLK SOUTHERN CORP. and CSX Corp., three months after dividing up Conrail Inc., still have not met the expectations of their customers — nor themselves.

But the two giant eastern railroads, which spent a record \$10 billion for Conrail, can take some satisfaction from their ability to resolve most of the start-up problems that triggered widespread service troubles during June and July.

The Surface Transportation Board and shipper representatives continue to receive a steady stream of service complaints, but the frequency of complaints appears to be slowing.

NS and CSX suffered a blow

over the last week when new service problems led United Parcel Service, a high-profile intermodal shipper, to yank up to half of its freight off the rails and put it on the highways. UPS took a similar step in late June, but restored much of the diverted business to NS and CSX when service improved in late July.

"Quite frankly, it has gone much slower than we had planned and hoped for," said Don O'Brien, an NS assistant vice president in the Conrail integration team. "But the important thing is that we are continuing to see progress. We had significant glitches up front that sort of snowballed a bit. Operations and congestion are still the troubling part."

He said NS had achieved August goals of reducing freight car inventory to approximately 230,000 cars and terminal dwell (switching time below 30 hours).

A CSX executive said his rail-

road also is making strides.

"After the first 90 days we probably are not in as good shape as we want to be in, but the railroad itself is not in bad shape," said Clarence Gooden, CSX's vice president for system transportation. "Velocity is not where it was in May, but it is slowly and surely coming back up."

He said bulk service for phosphate and grain customers is good and that coal demand is being met in most locations. Merchandise freight service problems in Baltimore and Toledo, Ohio, are being addressed and should be resolved in a week, Gooden said.

Intermodal service has improved significantly over June and July levels, but is still behind where it was before the Conrail split, he said.

But shippers continue to experience delays.

"We are still getting reports of problems," said Mike Heimowitz, a spokesman for the Chemical Manufacturers Association. "The railroads themselves said there would be gradual improvement through the end of the year. We are seeing some improvement, but there are still significant delays and people are still using trucks a lot."

Heimowitz compared the situation to a brush fire that moves around from place to place.

"Our members never know where to expect the next trouble spot," he said.

Edward Emmett, president of the National Industrial Transporta-

tion League, said the level of members' complaints about NS and CSX has been declining.

But he added that "every time we are quoted as saying things are getting better, we get two or three very hostile e-mails from members saying, 'That's not true for me.'"

"There are still some problems out there," Emmett said. "We are getting some rumblings that congestion is going up again."

Norman Black, a UPS spokesman, agrees. "Unfortunately, two weeks ago things started deteriorating again. Delays resurfaced all across both railroads. Congestion just dramatically worsened," he said.

Some service indicators such as train speeds and freight car inventory are better than they were two months ago. But improvement is modest.

CSX trains are running at 18.6 mph, compared with 18.8 mph in early June.

At NS, the freight car count is lower now than it was soon after the takeover. However, it is still 13,000 cars (or 6%) above the number of cars on the expanded NS system as it stood on June 1.

NS train speeds last week were 17.9 mph, the slowest in weeks. NS train speeds reached nearly 19 mph in early August but still were short of pre-June 1 levels.

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RAILROADS

Shippers steer to trucks as railroad service lags

BY BILL MONGELLUZZO

MONTEREY, CALIF. — Sunkist Growers Inc., a high-volume shipper of perishable citrus products, once moved 70% of its traffic by rail in the early 1970s.

Today, Sunkist ships 90% of its cargo by truck, only 1% in rail carloads and 9% intermodally.

Lawrence Stern, director of distribution for Sunkist, said intermodal rates are lower than truck rates, and that rail carload rates are even lower. But he said that isn't enough to force him back to shipping perishable products by rail.

"No matter how attractive the rates, we can't tolerate delays," Stern said. "The best service today is 10 days, and that pathetic service is only 25% of the time. Thirteen to 25 days is more common."

Sunkist is not the only major shipper that has opted for truck shipment. Railroads have the potential to regain some of that traffic, but the opportunity will slip away if they don't improve their service.

"We're at a watershed moment for railroads," Stern said at a conference sponsored by the National Industrial Transportation League and the Transportation Club of San Francisco.

Shippers want to move more of their traffic by rail, he said. Truck rates are increasing because of a persistent driver shortage, and high diesel fuel costs. The trucking industry also is experiencing equipment problems.

"We must find a way to return some business to the railroads," he said.

Railroad officials agree that their industry has a long way to go to improve its image.

"Trains arrive either too early or too late," said Ike Evans, president of Union Pacific Railroad.

The rail industry suffers from a number of problems, both internal and external. Rail carriers are divided over the proposed merger of Burlington Northern and Santa Fe Railway and Canadian National Railroad. Other major North American railroads,

still struggling with recent mergers of their own, welcomed the Surface Transportation Board's decision last month to suspend all rail mergers for 15 months, in essence stalling the BNSF-CN merger.

This type of competition among railroads is not good for the industry, said Leroy Jones, vice president and national legislative representative at the Brotherhood of Locomotive Engineers.

"They're like a bunch of piranhas eating each other's tails off," he said.

Labor wants their employers to concentrate on improved service so there will be more business for railroads and more jobs for workers.

"Let's run trains," Jones said.

The rail industry is marked by a hostile customer base, angry labor unions that oppose the "cramdown" tactics through which labor contracts are terminated following mergers and a Wall Street investment community that no longer likes railroads, said Curt Warfel, manager of customer service and logistics at EKA Chemicals Inc.

Nevertheless, shippers will jump at the opportunity to save money if rail carriers roll out products that meet shipper needs, Stern said. For example, Sunkist will be the launch customer next month for an Amtrak freight service. The passenger railroad will provide eight-day transit from Fresno, Calif., to New York, and nine days from Fresno to Boston for time-sensitive freight, he said.

Railroads also are increasing their intermodal offerings, such as BNSF's Ice Cold Express service, said Charles L. Schultz, the railroad's executive vice president. The railroad also offers a premier intermodal service for United Parcel Service.

Shippers said that while these specialized services are attracting more freight from the highways, their scope is so limited that they do not appeal to the broad range of customers. If railroads expect to capture a significant share of the long-haul market,

they must push their premium service offerings down to this general level of customers.

Rail carriers could attract a significant amount of freight that now moves by truck. Evans identified a truck market for shipments of greater than 700 miles that totals \$88 billion a year. For every 1% of that market that is diverted to rail, the railroads would increase their revenue by almost \$100 million.

Railroads have several strategies for improving their service. They're focusing on reducing congestion in their systems in order to increase average train speed, or velocity. This will require total network solutions, including better interline operations.

One of the major problems railroads face is when Western rail carriers interline with Eastern railroads in Chicago. The Chicago hub system is congested and antiquated. Also, the Western carriers, which have improved their service since their mergers in the mid-1990s, are interlining shipments with Eastern carriers that are still experiencing problems from their mergers after the Conrail breakup.

"How can you guarantee service to customers when you interchange 40% of your traffic with struggling railroads?" Evans said.

Rail carriers must also be easier to do business with, Schultz added. Customers are tired of having to tell railroads when there is a problem. They want their rail carriers to be proactive and inform them, he said.

Shippers say that railroads are improving their intermodal service, which provides a key opportunity for growth, but even this high-end service is far from reaching its potential.

Sunkist, for example, ships 9% of its traffic intermodally today, compared with 5% in 1973, but during that time, Sunkist's total business has grown 23%.

"Railroads haven't shared in that growth," Stern said.

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The Roanoke Times

January 27, 2000, Thursday

KR-ACC-NO: RO-RAILROAD

LENGTH: 883 words

HEADLINE: Norfolk, Va.-Based Railroad Employees Retire Early, Help Boost Profits

BYLINE: By Lois Caliri

BODY:

Nearly 1,200 employees may retire early from Norfolk Southern -- a strategic move that company officials hope will help the railroad recover financially from its troubled takeover of Conrail.

To boost profits it has lost since then, NS said Wednesday it is offering an early retirement package to about 20 percent of its nonunion, management workers. About 270 Roanoke employees are eligible for the buyout.

The railroad's problems have taken a toll on the company's bottom line.

NS saw its fourth-quarter profits plunge 81 percent to \$ 31 million, or 8 cents a share, compared with \$ 160 million, or 42 cents a share, in the same quarter a year earlier.

The railroad has been hit by a number of difficulties since the takeover, including congestion in the Northeast as a result of misrouted trains, scheduling snafus and computer problems that followed the June 1 breakup of Conrail Inc. by NS and CSX Transportation Inc. Customers have complained about late shipments, and many rail shippers turned to trucks to meet tight schedules.

Still, NS officials remain confident they can turn things around.

David Goode, chairman and chief executive officer of NS, acknowledged and apologized for its mistakes during Wednesday's meeting with analysts and tried to reassure Wall Street that NS will get back on track. He said it's time for NS to prove to its customers, every day, that it can deliver what it has promised -- safe, efficient and reliable service.

"I remain convinced the network we've created is filled with opportunity," Goode said.

Norfolk-based NS offered its buyout plan to employees who are 55 or older this year and have been with the company for at least 10 years -- just one in a series of steps it intends to take to manage its operating expenses. Employees can add three years to their service and three years to their age, which will be factored into their pension benefits. Voluntary retirements will begin March 1. NS will take applications between Tuesday and Feb. 29.

The Roanoke Times January 27, 2000, Thursday

Roanoke, Atlanta and Norfolk have the highest number of eligible employees.

NS said it will pay for the buyout program with the surplus in its \$ 2.08 billion pension fund.

Officials would not estimate what the company could save as a result of this buyout. It did save about \$ 58 million in 1987, however, when it offered a similar buyout. Then, nearly 1,107 employees were eligible and 89 percent took the offer.

Wednesday's announcements appeared to have caught Wall Street by surprise, said David Leibowitz, a managing director at Burnham Securities in New York. Analysts surveyed by First Call / Thomson Financial had expected the company to earn 10 cents a share during the fourth quarter.

"The company's numbers over the next several quarters will be watched very carefully," Leibowitz said. "Investors will be looking for signs of positive momentum on every level."

Yet, some analysts say they're confident NS will turn things around.

Robert L. Banks of R.L. Banks & Associates Inc., a rail consulting firm in Washington, D.C., said Norfolk Southern continues to be an outstanding railroad. "I would expect that they will have one or two more poor quarters," Banks said. "Within a year's time, they will pull themselves out of this."

NS is a good operating company, said Terrence Gardner Jr. with Deutsche Bank Securities in New York. Day-to-day operations continue to improve, he said.

"Wednesday's news appeared to be worse than it really was," Gardner said. "In essence, we're looking through the rear view mirror. Let's look at service and operating measures that have been improving over the last couple of weeks."

(Further cost-cutting measures are coming.)

NS officials said the company will put many of its properties in urban areas up for sale, as it did last year in Atlanta. And it plans to reduce its number of leased locomotives.

"We'll reduce extra costs which we had to incur to overcome the merger," as painful as they may be, Goode said.

The company's focus will be on customer service, said Goode. "We will improve our customer service to regain their confidence and recapture those who diverted after June 1."

But this won't happen overnight.

"First, we have to maintain customer service, and then worry about the recurring costs. As we get better, you'll see that (bottom line) improve."

One thing for sure, he is not "overpromising" anything, Goode said. He learned that from experience.

The Roanoke Times January 27, 2000, Thursday

NS officials were confident they could take over Conrail without much trouble.

"No matter how confident you are, no matter how much you plan, no matter how ready you are for change, there is the very real possibility you will be surprised," Goode said.

NS' troubles also took union officials by surprise.

Those responsible for the planning were "totally out in left field and didn't encompass what was going to take place," said T.R. "Tom" McCoy Jr., general chairman of the Brotherhood of Maintenance of Way Employees. He said the planners underestimated everything, technically.

And making only \$ 31 million, "there's no doubt there will be layoffs for union employees if we continue in this downward spiral," said McCoy.

To see more of The Roanoke Times, or to subscribe to the newspaper, go to <http://www.roanoke.com>

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DLINE: RAILROAD IS DOWN BUT NOT OUT NORFOLK SOUTHERN LOSES \$ 48 MILLION, BUT
LYSTS THINK WORST IS BEHIND

INE: BY CHRISTOPHER DINSMORE, STAFF WRITER

ELINE: NORFOLK

Y:
Norfolk Southern Corp. reported a quarterly loss Wednesday for the first time
ce 1991 as the cost of an early retirement program wiped out what little
fit it made hauling cargo.

The Norfolk-based railroad lost \$ 48 million, or 12 cents a share, in the
st quarter, ended March 31, after recording a \$ 101 million pre-tax charge
reducing its work force.

The charge, announced April 3, covers the cost of early retirement for 919
union workers and the layoffs of nearly 2,000 union workers since December.
21,600-mile railroad, the nation's fourth largest, now employs about 34,000
ple.

Without the charge, Norfolk Southern would have earned \$ 14 million, or 4
ts a share.

In 1999's first quarter, before Norfolk Southern and CSX Corp. divided
rail on June 1, Norfolk Southern made \$ 112 million, or 30 cents per share.

"Our results, while clearly not what we would like, are necessarily the
t of getting operations fluid," said David R. Goode, Norfolk Southern's
irman and chief executive.

Despite the first-quarter loss, Norfolk Southern's outlook has brightened
siderably.

"The operating statistics have shown significant improvement over the past
months," said Michael Lloyd, a rail stock analyst with Merrill Lynch.
hey are now going to accelerate their profitability."

Independent rail analyst Anthony Hatch agreed. "Operationally they are
k; financially their performance is lagging a little bit," he said. "The
sis is over."

The Virginian-Pilot (Norfolk, VA), April 27, 2000

The railroad's stock price reflects the optimism. While the stock dipped 31 cents to \$ 18.13 a share on Wednesday, it is up 42 percent from its recent low of \$ 12.75 a share on March 14.

The railroad stumbled badly following the Conrail takeover as information systems failures and operational difficulties caused congestion and service problems.

Earnings suffered as its business lagged and expenses soared for labor and equipment to resolve the problem. The worst coal export market in two decades and a doubling of diesel fuel prices in the past year compounded the railroad's financial difficulty.

The budding turnaround is most apparent in the railroad's revenue growth during the first quarter. As service improved, the railroad saw its business grow as it regained diverted traffic and attracted new cargo.

The railroad disclosed that it generated \$ 466 million of revenue in January, \$ 489 million in February and \$ 540 million in March. For the quarter, revenues nearly reached \$ 1.5 billion, 45 percent more than a year ago before the Conrail takeover.

"We believe the stage is certainly set for us to drive improved growth and profitability," said L.I. "Ike" Prillaman, the railroad's vice chairman and chief marketing officer.

Revenue growth was strongest in intermodal traffic - the hauling of truck trailers and shipping containers. Intermodal revenue jumped 94 percent to \$ 242 million from \$ 125 million a year ago.

"Intermodal is where we have our greatest potential for growth," Prillaman said. "We have regained all of the market share lost to truck during our service problems last year, and our prospect for additional growth is good as we continually improve service."

General merchandise revenues rose 46 percent to \$ 910 million as the railroad regained some of the traffic diverted last year. General merchandise includes automotive, agricultural, metals and chemical traffic.

The railroad's business hauling vehicles and auto parts surged 50 percent to 240 million compared to a year ago. The growth is expected to continue as U.S. auto sales remain strong and Norfolk Southern begins hauling pickups from the Ford Motor Co. plant in Norfolk.

The new Ford business should generate revenues in excess of \$ 35 million a year, Prillaman said.

The weakest link in the railroad's revenue chain remains the coal business, which grew just 22 percent to \$ 343 million in the first quarter. A mild winter slowed demand for coal from electric utilities, and intense foreign competition continued to drag down coal exports.

"Export coal at Lamberts Point declined as overseas buyers continued to make cheaper coal from Australia, Canada and Poland," Prillaman said of the railroad's big export terminal in Norfolk.

The Virginian-Pilot (Norfolk, VA), April 27, 2000

The terminal's exports fell 18 percent in the quarter to under 4.1 million tons compared to a year earlier.

But even the outlook for coal exports could be brightening as overseas demand increases and higher ocean freight rates hurt Australian coal's competitiveness in Europe, Prillaman said.

Still, Norfolk Southern must work to cut operating expenses that soared to \$1.37 billion in the first quarter, not counting the one-time work force reduction charge, up 72 percent from a year ago.

As operations improve, the railroad is already beginning to drive out costs related to coping with the congestion, said Henry C. Wolf, the railroad's vice chairman and chief financial officer.

However, increased diesel fuel costs must simply be borne. The railroad spent \$115 million on fuel in the first quarter, compared to \$37 million in 1999's first quarter.

Although fuel costs rose in part because of its expanded rail system, the principal driver was an increase in the price per gallon from an average of 40 cents a year ago to more than 85 cents this year, Wolf said.

"Performance barometers show our system on a steady course to improved customer service," Goode said. "Our focus for the remainder of 2000 will be to provide consistent and reliable service, return diverted business to the railroad, grow our revenue base and reduce operating expenses."

Merrill Lynch's Lloyd believes Norfolk Southern is well on its way.

"There will be significant profitability in the second quarter," he said. "Our estimate is 25 cents a share, and that the third and fourth quarter should rapidly grow from that level, assuming the economy cooperates."

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HEADLINE: NS PROFITS CONTINUE PLUMMET;
QUARTERLY EARNINGS FALL 88 PERCENT FOR RAILROAD

BY: LOIS CALIRI THE ROANOKE TIMES

Norfolk Southern's profits plunged 88 percent in the first quarter of this year, a nosedive that followed similar falls since its June 1 takeover of Conrail.

The railroad said Wednesday it earned \$ 14 million, or 4 cents a share, compared with \$ 112 million, or 30 cents a share, in the same quarter a year ago. The company blamed higher fuel prices, the lingering effects of a bad coal market and costs related to Conrail for its decline in income.

"NS has to do better than this," said John Fishwick of Roanoke, a shareholder and retired president of Norfolk and Western Railway. He said NS needs to get more business and handle it better.

Despite the steep fall, NS officials said the company is ready to achieve the savings and benefits it promised to shareholders and shippers after the takeover.

Obviously, we have yet to prove that to you and others, but our goal is to begin to do that during second quarter and improve through the rest of the year, NS president David Goode said Wednesday, speaking at a meeting with Wall Street analysts.

The reported revenue for the first quarter of \$ 1.5 billion, up 45 percent from \$ 1.03 billion a year earlier, primarily because of new business it has gained from the old Conrail.

Analysts, not surprised by NS' earnings performance, said the railroad met their expectations.

"I don't think there's any doubt they turned around the operating numbers," said Michael Lloyd, analyst with Merrill Lynch Global Securities. But the time it takes for the profits to follow is another question, he said. "I think we'll see significant earnings in the second quarter and subsequent strong growth in the third and fourth quarter."

Railroad mergers rarely run smoothly, and even those with a minimum of problems don't seem to add to their earnings as quickly as they anticipated, said David Leibowitz, an analyst with Burnham Securities. "The acquisition of Conrail has proven a major headache, not just for Norfolk Southern, but for CSX," Leibowitz said.

Roanoke Times & World News, April 27, 2000

NS fared better than NS in its first quarter earnings. It posted a 61 percent drop in profits, to \$ 29 million, or 14 cents a share, down from \$ 75 million, or 36 cents a share in the same period last year, before a one-time cash accounting charge.

NS took a one-time charge of \$ 101 million related to a reduction in its work force, which resulted in a net loss of \$ 48 million, or 12 cents a share.

NS said the buyouts and layoffs were strategic steps to cut costs, raise stock value and increase profits. In January, NS laid off 550 employees who maintain the tracks. In March, 919 nonunion NS employees accepted an early retirement buyout, and eligible union clerks were offered a one-time buyout package of \$ 45,000. In April, NS workers laid off 470 union workers in the motive shops.

Despite the cutbacks, Goode said NS continues to build a new and better culture focusing on a better work environment and close cooperation with labor management.

It hasn't happened that way, said T.R. "Tom" McCoy Jr., general chairman of Brotherhood of Maintenance of Way Employees.

Goode said NS basically dictated how it would lay off union workers. And since "there's been nothing but a fight for the workers in obtaining labor protection rights that were guaranteed through the Conrail transaction and national agreements.

"Goode must be living in some fantasy castle in New York."

Lloyd, an analyst with Merrill Lynch Global Securities, said there could be a rebound in employment in the second half of this year at the earliest, given the demand for rail traffic.

The greatest potential for growth is in the shipment of containers and trailers from rail to truck, barge or ship, what transportation experts call intermodal traffic, NS said.

NS posted a \$ 125 million increase in revenue from intermodal traffic. Increased traffic for J.B. Hunt Transport Services Inc., Hyundai and Maersk and contributed to the business growth.

The railroad also said it regained traffic it lost to trucks when angry shippers took their business away because of earlier problems with service and cost.

Service continues to improve daily at NS, said Ed Rastatter, director of cooperation with the National Industrial Transportation League, a shippers' group. Shippers have been complaining of rate increases and new charges, he added.

Potential income from real estate transactions can help boost the railroad's bottom line in the next couple of years, said L.I. Prillaman, chief marketing officer for NS. If NS sells its surplus property in Atlanta, northern Virginia, Maryland, Ohio and Jacksonville, Fla., it could generate yearly proceeds of \$ 10 million or more for the next couple of years.

Roanoke Times & World News, April 27, 2000

The railroad's stock closed Wednesday at \$ 18.13, down from \$ 18.44 Tuesday.

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HIC: chart - Norfolk Southern Corp. 1st Quarter THE ROANOKE TIMES

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HEADLINE: Norfolk, Va.-Based Railroad Employees Retire Early, Help Boost Profits

BYLINE: By Lois Caliri

BODY:

Nearly 1,200 employees may retire early from Norfolk Southern -- a strategic move that company officials hope will help the railroad recover financially from its troubled takeover of Conrail.

To boost profits it has lost since then, NS said Wednesday it is offering an early retirement package to about 20 percent of its nonunion, management workers. About 270 Roanoke employees are eligible for the buyout.

The railroad's problems have taken a toll on the company's bottom line.

NS saw its fourth-quarter profits plunge 81 percent to \$ 31 million, or 8 cents a share, compared with \$ 160 million, or 42 cents a share, in the same quarter a year earlier.

The railroad has been hit by a number of difficulties since the takeover, including congestion in the Northeast as a result of misrouted trains, scheduling snafus and computer problems that followed the June 1 breakup of Conrail Inc. by NS and CSX Transportation Inc. Customers have complained about late shipments, and many rail shippers turned to trucks to meet tight schedules.

Still, NS officials remain confident they can turn things around.

David Goode, chairman and chief executive officer of NS, acknowledged and apologized for its mistakes during Wednesday's meeting with analysts and tried to reassure Wall Street that NS will get back on track. He said it's time for NS to prove to its customers, every day, that it can deliver what it has promised -- safe, efficient and reliable service.

"I remain convinced the network we've created is filled with opportunity," Goode said.

Norfolk-based NS offered its buyout plan to employees who are 55 or older this year and have been with the company for at least 10 years -- just one in a series of steps it intends to take to manage its operating expenses. Employees can add three years to their service and three years to their age, which will be factored into their pension benefits. Voluntary retirements will begin March 1. NS will take applications between Tuesday and Feb. 29.

The Roanoke Times January 27, 2000, Thursday

Roanoke, Atlanta and Norfolk have the highest number of eligible employees.

NS said it will pay for the buyout program with the surplus in its \$ 2.08 billion pension fund.

Officials would not estimate what the company could save as a result of this buyout. It did save about \$ 58 million in 1987, however, when it offered a similar buyout. Then, nearly 1,107 employees were eligible and 89 percent took the offer.

Wednesday's announcements appeared to have caught Wall Street by surprise, said David Leibowitz, a managing director at Burnham Securities in New York. Analysts surveyed by First Call / Thomson Financial had expected the company to earn 10 cents a share during the fourth quarter.

"The company's numbers over the next several quarters will be watched very carefully," Leibowitz said. "Investors will be looking for signs of positive momentum on every level."

Yet, some analysts say they're confident NS will turn things around.

Robert L. Banks of R.L. Banks & Associates Inc., a rail consulting firm in Washington, D.C., said Norfolk Southern continues to be an outstanding railroad. "I would expect that they will have one or two more poor quarters," Banks said. "Within a year's time, they will pull themselves out of this."

NS is a good operating company, said Terrence Gardner Jr. with Deutsche Bank Securities in New York. Day-to-day operations continue to improve, he said.

"Wednesday's news appeared to be worse than it really was," Gardner said. "In essence, we're looking through the rear view mirror. Let's look at service and operating measures that have been improving over the last couple of weeks."

(Further cost-cutting measures are coming.)

NS officials said the company will put many of its properties in urban areas up for sale, as it did last year in Atlanta. And it plans to reduce its number of leased locomotives.

"We'll reduce extra costs which we had to incur to overcome the merger," as painful as they may be, Goode said.

The company's focus will be on customer service, said Goode. "We will improve our customer service to regain their confidence and recapture those who diverted after June 1."

But this won't happen overnight.

"First, we have to maintain customer service, and then worry about the recurring costs. As we get better, you'll see that (bottom line) improve."

One thing for sure, he is not "overpromising" anything, Goode said. He learned that from experience.

The Roanoke Times January 27, 2000, Thursday

NS officials were confident they could take over Conrail without much trouble.

"No matter how confident you are, no matter how much you plan, no matter how ready you are for change, there is the very real possibility you will be surprised," Goode said.

NS' troubles also took union officials by surprise.

Those responsible for the planning were "totally out in left field and didn't encompass what was going to take place," said T.R. "Tom" McCoy Jr., general chairman of the Brotherhood of Maintenance of Way Employees. He said the planners underestimated everything, technically.

And making only \$ 31 million, "there's no doubt there will be layoffs for union employees if we continue in this downward spiral," said McCoy.

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PETITIONERS'

EXHIBIT 31



Implementation Update

October 31, 1997 Norfolk Southern Public Relations

Headlines

Pennsylvania, Philadelphia Support Plan: The City and Commonwealth endorsed the proposed operation of Conrail by Norfolk Southern and CSX in statements filed with the Surface Transportation Board (STB) on October 21. Norfolk Southern, building a strong public-private partnership with Philadelphia and the Commonwealth of Pennsylvania, announced on October 22 that it will create a new economic development program to attract rail-served business to Philadelphia and across Pennsylvania.

In its STB statement, the Commonwealth of Pennsylvania said it supports the application because it will, among other things: (1) increase competition in the Philadelphia/South Jersey Shared Assets Area and in the Monongahela coal fields, (2) enhance competition between rail and truck throughout Pennsylvania, and (3) allow for construction, expansion or upgrading of repair shops, intermodal facilities, yards and other facilities.

The City of Philadelphia and the **Philadelphia Industrial Development Corp.** said the application strikes the proper balance between, on the one hand, restoring rail competition and maintaining the financial viability of the region's railroads, and, on the other, re-emphasizing Conrail's commitment to a Philadelphia headquarters and to the future of Conrail's employees. Other Northeastern entities endorsing the proposal included the **Philadelphia Regional Port Authority**, the **South Jersey Port Corporation**, the **Delaware River Port Authority** and the **Port of Philadelphia and Camden, Inc.**

More Favorable Comments Filed with STB: **Bethlehem Steel Corporation**, the nation's second-largest integrated steel producer, said the Conrail proposal would improve transit times, equipment utilization, rail service efficiencies and market penetration. **Weirton Steel** said approval by the STB would result in competition for shipments now moving by truck, greater flexibility and more efficient rail operations across the Conrail system.

The **National Grain and Feed Association**, representing 1,000 grain, feed and processing companies, said the plan would improve market access through single-line service and that shippers and carriers could benefit from efficiencies where competition is maintained. **Cargill, Inc.**, a major shipper of agricultural commodities, also supported the application and offered several suggestions for consideration by the STB.

Boston and Maine Corporation, **Springfield Terminal Railway Co.** and **Maine Central Railroad Co.** said the proposal would provide their customers the opportunity to route traffic to either Norfolk Southern or

CSX. The City of Cincinnati also filed a statement generally supportive of the application.

STB Hearing on Western Rail Service: The STB's October 27 hearing on UP's service problems served to direct national attention yet again to rail service and safety issues. Although focused on the West, some witnesses tried to relate UP's service problems to the Conrail control transaction. In response to a general question from STB Chairwoman Linda Morgan about UP's failure to anticipate service problems, Richard K. Davidson, chairman, president and CEO of UP, said, "Our biggest sin was haste." Norfolk Southern's commitment to move only with deliberate speed should offer a credible response.

Notable

Norfolk Southern has named a five-person staff charged with full-time responsibility for coordinating the implementation plan. Reporting directly to Chairman, President and CEO David R. Goode, the team is led by Vice President Nancy (N.S.) Fleischman and includes Don (D.J.) O'Brian, assistant vice president; Sarah (S.B.) Corey, director; Chris (C.W.) Bremus, manager; and Jane (J.S.) Montgomery, staff assistant. Also, in addition to continued involvement of the Strategic Planning and Law Departments, seven senior managers from Norfolk Southern's Operations Division and six senior managers from IT are assigned full-time to the process.

The Conrail transition effort at CSXT is led by Michael J. Ward, CSXT's executive vice president finance. He is assisted by Bob Haulter, assistant vice president, and approximately 20 other people from various CSXT departments working full-time on Conrail matters. CSXT is using a rigorous project management approach, developed and monitored with the aid of Ernst & Young. Monthly meetings between Norfolk Southern and CSXT Conrail implementation managers are intended to assure that planning efforts are closely coordinated where necessary and to resolve disputes between individual Norfolk Southern and CSXT implementation teams, when the teams cannot agree on important issues. For example, the October 28 meeting covered several Shared Assets Areas issues, implementation timing, and monitoring of Conrail interim operations.

Quotable

"Despite recent headline-making accidents, our industry as a whole has steadily improved its safety performance over the last two decades. I am concerned that the recent incidents will cause some to overlook the truly dramatic progress the entire industry has made...Safety is essential to our success and therefore is our first priority as we implement the Conrail transaction." - David R. Goode to financial analysts October 22

"Let me assure you that Norfolk Southern is committed to ensuring that the service disruptions in the West will not replay in the East." - David R. Goode to financial analysts October 22

"We will make major plant investments - sidings, double-tracking, rail yards and shops - to increase capacity of the new Norfolk Southern. We recognize that service disruptions would be costly to us as well as our customers, and our focus is on avoiding any disruptions." - Stephen C.