

ARNOLD & PORTER

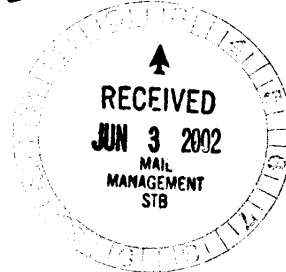
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June 3, 2002

205522

BY HAND

The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
Office of the Secretary
1925 K Street, NW
Washington, DC 20423-0001



Re: STB Finance Docket No. 33388 (Sub-No. 91)
CSX Corporation and CSX Transportation, Inc.,
Norfolk Southern Corporation and Norfolk Southern Railway Company
– Control and Operating Leases/Agreements –
Conrail Inc. and Consolidated Rail Corporation (General Oversight)

Dear Secretary Williams:

Enclosed are an original and twenty-five (25) copies of CSX-9, the "Third Submission by Applicants CSX Corporation and CSX Transportation, Inc.," for filing in the above-referenced docket.

Please note that a 3.5-inch diskette containing a WordPerfect 5.1 formatted copy of this filing is also enclosed.

Kindly date-stamp the additional copy of this letter and the "Third Submission" at the time of filing and return them to our messenger.

Thank you for your assistance in this matter. Please contact the undersigned at (202) 942-5858 if you have any questions.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Dennis G. Lyons".

Dennis G. Lyons
Counsel for CSX Corporation and
CSX Transportation, Inc.

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Office of the Secretary
JUN 03 2002
Part of
Public Record

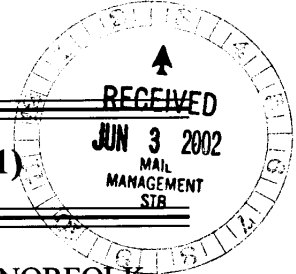
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Enclosures

Washington, DC New York Los Angeles Century City Denver London Northern Virginia

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 33388 (SUB-NO. 91)

CSX-9



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

THIRD SUBMISSION BY APPLICANTS
CSX CORPORATION AND
CSX TRANSPORTATION, INC.

ENTERED
Office of the Secretary

JUN 03 2002

Part of
Public Record

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Dated: June 3, 2002

ORIGINAL

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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388 (Sub-No. 91)

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

THIRD SUBMISSION BY APPLICANTS
CSX CORPORATION AND
CSX TRANSPORTATION, INC.

CSX Corporation (“CSXC”) and CSX Transportation, Inc. (“CSXT”)¹
respectfully submit this report pursuant to the Board’s Decision No. 6 served
December 13, 2001, in the above-captioned matter.

This is CSX’s third annual submission in this General Oversight proceeding.
As CSX stated in the earlier submissions, these annual filings are not, however, in
any sense the only submissions in conformance and cooperation with the Board’s
oversight regarding the Conrail Transaction (the “Transaction”). As the Board is

¹ Occasionally collectively, “CSX.” We will generally refer to Norfolk
Southern Corporation as “NSC,” its subsidiary Norfolk Southern Railway
Company as “NSR,” and occasionally the two of them collectively as “NS.”

well aware, this has been the most intensively and thoroughly monitored rail combination² in history.

In addition to the weekly and monthly progress reports, before and after implementation, that the Board required CSXT to submit under Decision No. 89 in Finance Docket No. 33388 (served July 23, 1998),³ CSXT operating management has continued, and will continue, to keep the Board thoroughly informed in conferences, and through onsite inspections. This General Oversight proceeding is but one additional step the Board is taking in its overall monitoring of the progress of the Transaction.⁴

² We use the word "combination" throughout this submission to apply to all railroad combinations within 49 U.S.C. § 11323. Any reference to "merger" should be similarly construed.

³ See pages 162-65. We refer to this Decision throughout as "Decision No. 89" or sometimes as the "Decision."

⁴ The divided allocation of Conrail's assets for operation by CSXT and NSR was effected through Consolidated Rail Corporation's ("CRC's" or "Conrail's") conveyance of all of its assets (other than the shared assets and certain of the retained assets) to one of two limited liability companies ("LLC's") wholly owned by Conrail. The two LLCs were New York Central Lines LLC and Pennsylvania Lines LLC ("NYC" and "PRR" respectively). In turn, the assets conveyed to NYC are being operated by CSXT, and the assets conveyed to PRR are being operated by NSR, under long-term Operating Agreements executed on the Split Date. To simplify the descriptions in this submission, we will refer to Conrail's assets as being "allocated" to CSXT or NSR, to refer to the process just described. The simplified descriptions do not purport to change the actual legal status of the assets in question and the rights to them.

I. INTRODUCTION

After the first annual round of General Oversight filings, the Board analyzed the record and, in Decision No. 5, served February 2, 2001, concluded that "CSX and NS have substantially resolved their transitional operational and service problems and that the carriers are in the process of successfully integrating from an operational perspective their respective portions of Conrail." Decision No. 5 at 10-11. In its decision following the second annual round of filings, the Board noted (citing a statement by the DOT) that no party had expressed concern as to any "ongoing transaction-related service disruptions." Decision No. 6 at 3, served Dec. 13, 2001.

As the third anniversary of the "Split Date" arrives, it is fair to say that a substantial preponderance of the steps necessary to integrate the properties whose operation CSX acquired from Conrail have been taken. There will be, of course, many more steps that will need to be taken over time in order to carry out the Conrail Transaction, but compared to what has now been done, these further steps will be modest.

CSXT is pleased to be able to report that the railroad is performing at record or near-record levels as measured by all operational metrics. Yards are fluid and line of road train speeds are unprecedented. Transit times have improved and are more reliable.

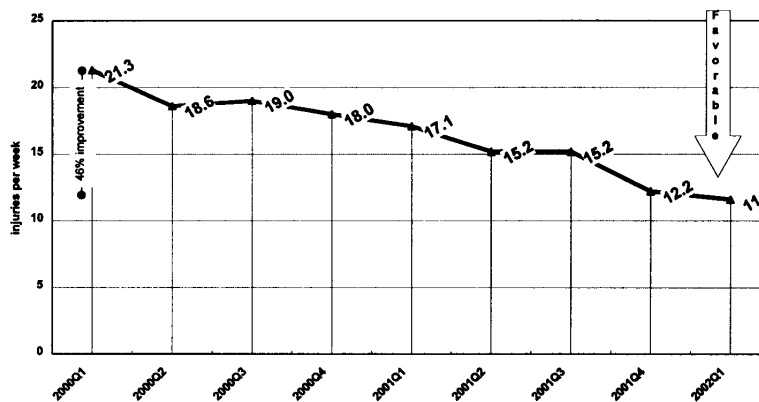
Over the past 12 months, since its last Report in this Oversight Proceeding, CSXT has improved in every operational metric reported to the Board, the Association of American Railroads ("AAR"), and the Conrail Transaction Council

(“CTC”). This continues a marked trend since the first quarter of 2000. It is important to note that improvements are being made across the entire family of measurements, rather than “buying” performance improvement in one area at the expense of another. CSXT has set a post-Conrail Transaction course that results in completely new, and much higher, expectations of operational performance.

Operational performance can be divided into the categories of Safety, Inventory, Velocity, Crew Utilization, Yards/Terminals, Local Service, and Locomotive Utilization.

Safety has been enhanced most significantly, allowing more employees to enjoy incident-free working lives. Reports to the Federal Railroad Administration show a 55% improvement in number of derailments, and a 46% improvement in personal injuries, from 2000 to most current quarter.⁵

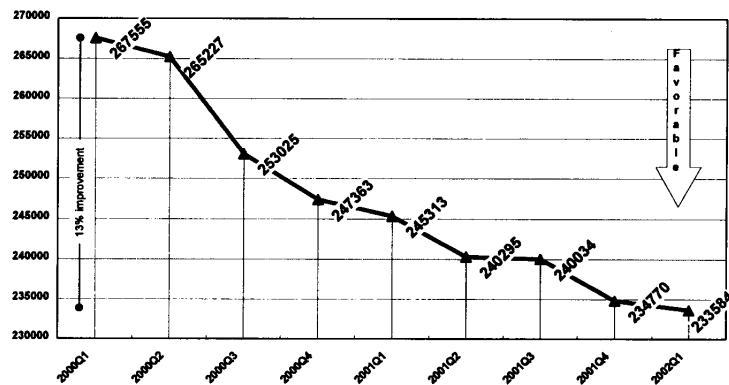
FRA Reportable Injuries



⁵ At the time of writing, statistics for the second quarter 2002 have not been compiled.

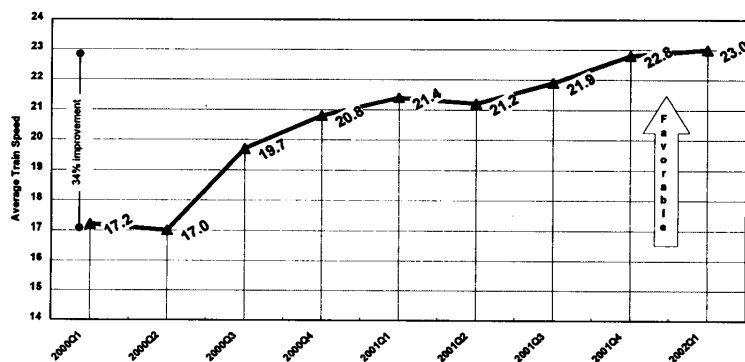
Congestion is frequently measured in terms of cars-on-line. This number is maintained by the Association of American Railroads and shows a 13% improvement since the beginning of 2000.

Cars On Line

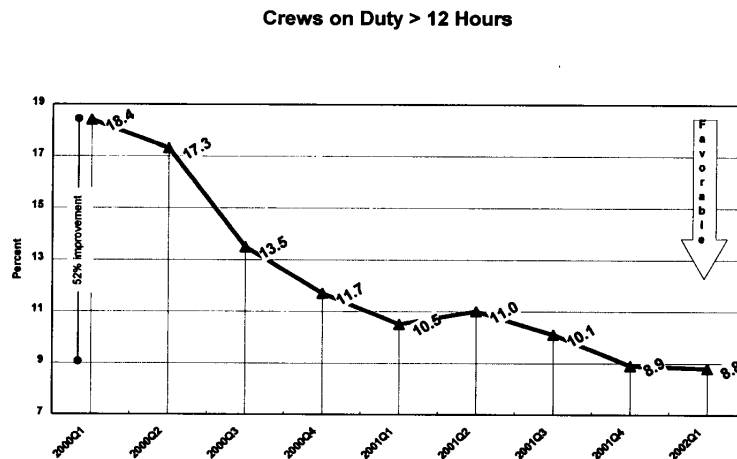


Velocity on CSXT also has improved by all measures. Overall velocity improved from the beginning of 2000 through first quarter of 2002 by 27%, and merchandise train velocity improved even more, by 34%.

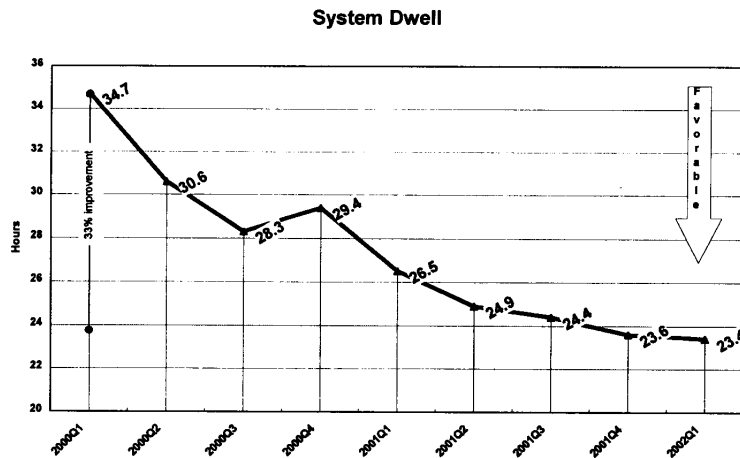
Merchandise Train Velocity



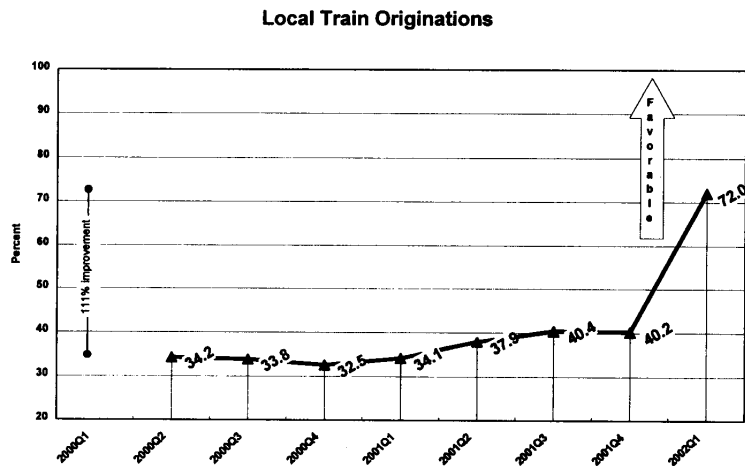
Crew Utilization has also improved in all categories. The CSXT internal measurement of crews on duty greater than 12 hours has improved 52%. Recrews are down 78%, and the number of hours that trains are delayed for crews is down 62%.



Performance in Yards and Terminals likewise has improved steadily by all measures. Overall dwell for the CSXT system has improved 33% over the period. On-time train originations have improved 80%. CSXT has recently reemphasized trains arriving at destination on time and that metric has improved 136%. The number of cars spending more than 30 hours in their current terminal has improved 62%.



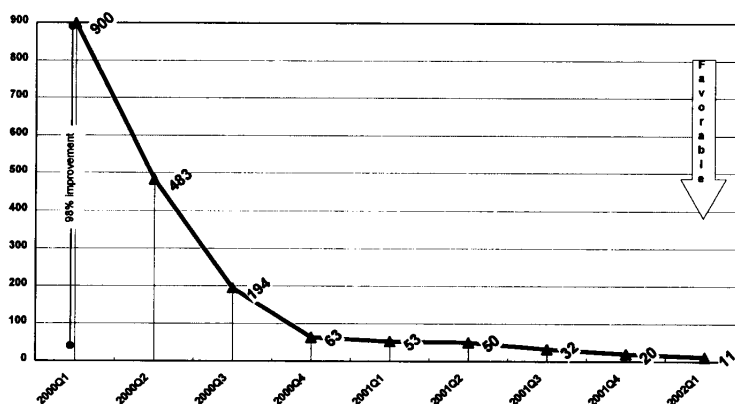
CSXT has been emphasizing its local service to customers during this time and the improvements have been noticeable. The company's measurement of local switching performance improved 12%, and an emphasis on originating local trains on time has led to a 111% improvement.



Locomotive Utilization. The final set of operational performance indicators on CSXT measures the company's effectiveness in managing locomotives. In this

regard, the number of hours of train origination delay due to power availability has improved 98%, based to some degree on an improvement in the ratio of locomotives out of service. This measurement has improved 28%.

Locomotive Setback Hours



The overall picture is of one of consistent improvement over the entire range of measurements used by CSXT to track operational performance. Many of these numbers are shown in public forums including AAR, CTC, and the Board's public reportings. The numbers reveal a healthy railroad, operating post-transaction at extremely high levels of operational excellence. In addition, the measurements continue to indicate improvement, even after achieving levels formerly considered to be the highest possible.

Much remains to be done, to be sure. Operating income needs to be increased and expenses must be reduced. CSX needs to achieve a level of revenue and income that can attract capital at favorable rates and make CSX capable of

sustaining itself in the long run to the advantage of its stockholders, customers, workers and other constituencies.

II. CAPITAL PROJECTS

In its June 1, 2001 filing, CSXT demonstrated that substantially all of the capital projects contemplated in Volume 3A of the Conrail Railroad Control Application had been completed. CSX has deferred a few projects to conserve capital for other more immediately beneficial investments with higher priority.

During the past year, CSX completed three major projects at points that are highly important to the combined CSX-Conrail: Avon Yard near Indianapolis, Frontier Yard in Greater Buffalo, and Selkirk Yard near Albany. CSX acquired these three key yards from Conrail in the Transaction. CSX installed hump processor controls at Selkirk (2001), and a similar project is now in progress at Avon. Hump processor control replacement for Buffalo is in planning. CSX is building a new Locomotive Service Center at Selkirk with expected completion by year's end. In addition, CSX is rehabilitating the hump building and constructing a new Yard Office Building at Selkirk, starting in 2002.

A key aspect of the Conrail Transaction involved increased service between Chicago and the Greater New York area and other locations in the Northeast previously served by Conrail. In the Greater Chicago area, CSX completed the installation of two 9,000-foot surge tracks at Barr Yard and the installation of TCS between Blue Island Junction and Dolton. Construction of a third main track between Blue Island Junction and Riverdale is nearly complete. A 3,400-foot segment has not yet been completed due to litigation over property needed to

relocate oil and jet fuel pipelines. These projects greatly enhance the fluidity of operations in and out of B&OCT's (a CSXT subsidiary) Barr Yard in Greater Chicago. CSX completed a new hump building and terminal office at Collinwood Yard in Cleveland, and, at Toledo, completed a new yard air system. As specified in the CSX Operating Plan for the Conrail Transaction, the Transaction increased service to and through these two Midwest locations.

The proposed 75th Street BOCT/BRC connection track on the Blue Island Subdivision in Chicago is still deferred. This project is now being considered as part of the Chicago Regional Plan.

CSX is adding 5.6 miles of second main track on CSX property in Northern New Jersey from the north end of Conrail's new second main track at North Bergen to the south end of Teaneck. This is a multiyear 2001-2003 project now over 50% complete.

Capital expenditures on rolling stock forecast for 2002 will again cover a wide range of car types, with somewhat greater emphasis on rebuilds/repairs. In 2001 CSXT repaired 2,469 cars, purchased 86 cars, and leased 1,311 cars. CSXT plans to continue in 2002 repairing 300 cars, purchasing 90 cars, and leasing approximately 500 cars. CSXT will purchase 40 GE 4400 HP AC Locomotives and will again have a significant number of locomotives in service under short-term arrangements in 2002, including short-term leases on 75 GE 4400 HP AC locomotives built in 2000 and 10 locomotives rebuilt in 2002.

Buffalo Infrastructure. — The Board has requested that reports on Buffalo Infrastructure issues be made as part of the annual general oversight reports. The following supplies that report on behalf of CSX.

In the years 2000 and 2001 through last year's report, CSXT made capital expenditures of about \$1.9 million in the Buffalo area. This included expenditures for yard, shop, and TRANSFLO improvements. CSXT's plans for the Greater Buffalo area at the present time remain the same as those reported in the September 2000 Buffalo Infrastructure Submission and the June 2001 report: CSX is working toward making improvements with the aim of expanding its ability to provide service to Buffalo area customers, and believes that its railroad capacity infrastructure in the area is presently adequate.

Particular attention is being given to the enlargement of transloading (CSX "TRANSFLO") facilities and intermodal facilities. Previously reported capital improvements have doubled the former Conrail capacity at the William Street Intermodal Yard in Buffalo. The present project is to triple the Conrail intermodal capacity (from the yard's original configuration) at William Street. To make space for this, the TRANSFLO facility currently located at William Street will be relocated and enlarged. A site on property allocated to CSXT has been identified as the preferable new location for the TRANSFLO facility, and finalization of the site selection, groundbreaking and construction will follow. Agreement and funding issues have delayed progress but start of construction is still anticipated in 2002 with completion of the new TRANSFLO facility in 2003.

At that time, the old TRANSFLO facilities will be available for further enlargement of intermodal facilities at William Street.

Nonetheless, some other projects have been undertaken: the installation of heating systems in the locomotive shop at Buffalo, which has been completed; and the installation of siding on the car shop, which is now in progress. As previously mentioned, the hump processor control replacement for Buffalo is in planning.

In Buffalo and elsewhere, CSXT will continue to upgrade the combined system of CSXT and the former Conrail lines operated by it to the extent cost-justified and prudent with available capital resources.

* * * * *

Shared Assets Areas. — The Shared Assets Areas (“SAA’s”) continue to be the subject of capital improvements relating to the continuing Conrail-operated assets. Descriptions of the projects completed in the prior two years were supplied in the June 1, 2000 and June 1, 2001 CSX Reports. During the past year several substantial projects, involving each of the three Shared Assets Areas, were completed. These included the installation of new circuits for FN Interlocking at Trenton, MI in the Detroit Shared Assets Area; the installation of remote control at the Darby Drawbridge at Darby, PA in the South Jersey/Philadelphia Shared Assets Area; and the rehabilitation of the bridge at Bayonne, NJ in the North Jersey Shared Assets Area.

For 2002, capital expenditures planned for the Shared Assets Areas will amount to approximately \$21.8 million, of which \$7 million will be for information technology upgrades, \$6.6 million for planned cyclical renewal of

rail and rail ties, and individual smaller projects, as well as the Northern Branch Project. For a description of the work done in collaboration with New Jersey Transit ("NJT") on the Northern Branch Project, *see* Item 6, in Part VIII, below.

III. EFFECT OF THE TRANSACTION ON JURISDICTIONAL THRESHOLD AND REVENUE ADEQUACY

The contentions by some parties during the Board's consideration of the Conrail Application in 1997-98 that CSXC and NSC had paid an excessive price for Conrail's stock, and those parties' requests for conditions that would prohibit the use of the costs of acquiring that stock in calculating jurisdictional thresholds under 49 U.S.C. § 10707(d)(1)(A) or in calculating revenue adequacy, were the subject of considerable discussion by the Board in Decision No. 89. The Board, while rejecting the arguments made by those parties, and denying their requests for conditions, set the issue as one for specific comments during the Oversight process. The Board's decision not to impose those conditions was challenged on appeal to the Second Circuit, but was upheld in 2001.

In the first annual round of Oversight presentations and comments, in the year 2000, CSX and NS furnished a detailed description of how the accounting for the costs of the Conrail stock and generally for the acquisition of Conrail was presented. CSX-1 at 21-28, NS-1 at 25-30. In its review in Decision No. 5 (at 18-19) in February 2001, the Board further discussed the issues, observed that only one public commenter had raised any issue as to the subject, and found that there was "no evidence on this record that the 'acquisition premium' or any aspect of purchase accounting rules played any role in pricing decisions made by NS or

CSX.” *Id.* at 18. The Board saw no basis whatsoever for revising the decision it had made in 1998.

In the second annual round of the General Oversight process, no party whatsoever commented upon the issue or presented any evidence with respect to it, and in its December 2001 Decision No. 6, reviewing the 2001 round of comments, the Board evidently saw no reason to discuss these issues again. It thus appears to CSX that nothing has occurred to impeach the manifest correctness of the Board’s original decision as to this matter.

IV. LABOR⁶

1. Implementing Agreement Process

Prior to the June 1, 1999 implementation of the Conrail Transaction, CSXT, NSR and Conrail had obtained all the implementing agreements with their respective unions, which were necessary for the Split Date implementation of the Conrail Transaction. Most of the implementing agreements were achieved through negotiations.

All litigation over the formation of the implementing agreements has been concluded. Last year we reported the existence of one proceeding (CSX-4 at 23). In December 1999, the Brotherhood of Maintenance of Way Employees (“BMWE”) filed a petition to vacate the arbitration award issued by Referee

⁶ The material in this section is a general presentation of the topic, and also is responsive to Condition Nos. 21(e), 27, 77, 78, 79 and 80 in the Board’s Decision No. 89.

William E. Fredenberger, Jr. in STB Finance Docket 33388 (Sub-No. 88). BMW's petition did not criticize its settlement with CSXT, but that settlement had included the work force allocation methodology from the arbitrated implementing agreement. On January 26, 2001, the STB denied BMW's petition to vacate the arbitration award. STB Finance Docket No. 33388 (Sub. No. 92). The BMW, on March 2, 2001, appealed the STB's decision to the United States Court of Appeals for the District of Columbia Circuit. The Court of Appeals granted CSXT's, NS's and Conrail's motions to intervene. BMW on November 9, 2001 filed a motion to voluntarily dismiss its appeal. The D.C. Circuit granted BMW's motion on November 21, 2001.

Several of the implementing agreements negotiated in conjunction with the Conrail Transaction provided procedures to govern future coordinations that are determined to be necessary to realize the transportation benefits of that Transaction. For example, Chapter II of the implementing agreement with the Transportation Communications International Union ("TCU") contains the procedures applicable to future transfers of positions and/or work. Similarly, all of the implementing agreements negotiated with the various shop craft unions provided the procedures for future coordinations of work, services or operations in conjunction with the Conrail Transaction.

As anticipated, additional coordinations of work, services or operations have been necessary as a result of the Conrail Transaction. These coordinations have been accomplished, or are proceeding, either under the provisions governing future coordinations in the negotiated implementing agreements or under the employee

protective conditions which were imposed by the STB in its decision in the Conrail Transaction.

On April 19, 2002, CSXT notified the TCU of the transfer and consolidation of the typing of investigative transcript work from Selkirk, NY to CSXT's General Office typing pool in Jacksonville, FL. This coordination is being accomplished under the procedures established by the Conrail implementing agreement entered into with the TCU.

On the operations side, there have not been any Conrail coordinations this year.

CSXT, NSR and Conrail are also in the process of transferring the police work for the SAA's to CSXT and NSR. A tentative agreement was reached in early May 2002. However, since the agreement was not ratified by the scheduled arbitration date, the parties arbitrated the issue of the formation of the implementing agreement on May 20, 2002; the parties requested the arbitrator to issue a decision only if the tentative agreement is not ratified.

CSXT anticipates that other coordinations or transfers of work will likely occur from time to time. Any such future coordinations will be accomplished under the applicable implementing agreements, the two negotiated Revised Standards Agreement, or the STB-imposed labor conditions.

2. Application of Employee Protective Conditions

The STB, in approving the Conrail Transaction, imposed various employee protective conditions in ordering paragraphs 77, 78, 79 and 80 of Decision No. 89.

These employee protective conditions, however, each provided for the same level of monetary protection. Since the implementation of the Conrail Transaction, CSXT has either certified as eligible to receive protection or has received claims for labor protection from approximately 8,400 employees. CSXT has reviewed or is in the process of reviewing these claims for monetary protection. CSXT has paid protective benefits to approximately 4,300 employees since June 1, 1999.

There have been relatively few arbitrations under Article I, Section 11 of the STB's employee protective conditions over the application or interpretation of the Conrail Transaction implementing agreements.

As previously reported (CSX-4 at 27), CSXT was sued in federal district court by several former Conrail supervisors who became CSXT supervisors after Split Date. They claimed that they had improperly been denied labor protective benefits imposed by the STB in Decision No. 89 or were not being paid the correct amount of such benefits. The United States District Court in Cleveland subsequently dismissed their lawsuit, finding that the exclusive forum for resolution of disputes over an employee's entitlement to labor protection is through the dispute resolution procedures specified in the applicable STB imposed protective conditions. After the dismissal of their lawsuit, CSXT provided to the counsel for these supervisors the calculations of their protective benefits and engaged in discussions with their counsel regarding these calculations. Notwithstanding these efforts to resolve this dispute, counsel for these supervisors wrote to the National Mediation Board ("NMB") requesting the appointment of a neutral for an Article I, Section 11 proceeding for 17 claimants. CSXT informed

the NMB that the request was premature because the claimants had not followed the Section 11 mandatory procedures. CSXT is awaiting a decision whether the NMB will appoint a neutral at this time.

A few other employees' claims for *New York Dock* benefits as a result of the Conrail Transaction are in dispute. Last year, it was reported that there were two arbitrations pending (CSX-4 at 28). The dispute with the BLE Northern Committee over the calculation of test period averages has been arbitrated and CSXT is awaiting a decision from the arbitrator. The other dispute, which involved a claim for protection by 16 signalmen, was decided in CSXT's favor. This year a third claim with the BMWWE will be arbitrated in August concerning their claim for protective payments.

On Conrail, there have been few disputes regarding labor protective conditions. A total of 503 employees have been certified as entitled to *New York Dock* displacement allowances, with approximately 225 displacement allowances being paid each month. Claims for displacement allowances have been submitted under the *New York Dock* protective conditions on behalf of employees represented by several labor organizations. Discussions of these claims are ongoing. Two organizations, the BMWWE and the Transportation Workers Union ("TWU"), have requested arbitration, but to date the parties are still in discussion over these claims.

3. Labor Meetings on Integration and Safety

CSXT has continued its efforts to ensure frequent communications with its unions in an effort to see to it that integration and safety issues associated with the Conrail Transaction receive CSXT's prompt attention. For example, CSXT has continued to have telephone conference calls, a practice which was started after the implementation of the Conrail Transaction, although now on a less frequent basis. CSXT's senior operating, labor and safety officials participate in this call with operating unions and any other union that desires to participate. Normally present on these calls for CSXT are its Executive Vice President of Transportation, Senior Vice President of Transportation, and Vice President of Labor Relations, or their designees.

Additionally, CSXT's Transportation Department holds a quarterly meeting with all operating craft General Chairmen so that the vice president for CSXT's regions can inform the operating craft General Chairmen of regional plans and developments.

The quarterly meetings with the General Chairmen of the various shop craft unions in the Mechanical Department Safety Steering Committee also have continued. The purpose of these meetings is to review safety-related issues and policies of the Mechanical Department.

CSXT has not experienced any labor disruptions as a result of the implementation of the Conrail Transaction. CSXT believes that the improved communications with its unions and cooperative efforts have contributed greatly to the success of the ongoing implementation of the Conrail Transaction.

V. SAFETY

CSXT has continued its focus on safety as it has moved beyond the integration phase of the Conrail lines and assets into its rail system. The past year marked the completion of that integration process, a process carried out without any major safety issues or problems. While the Federal Railroad Administration ("FRA") has not yet filed its final report on safety integration contemplated by the Board's Memorandum of Understanding with FRA, CSXT understands that that FRA report is in process. As previously reported to the Board by CSXT (CSX-4 at 36), the formal integration consultations between CSXT and FRA have been completed, and FRA has advised CSXT that it has completed its review of safety integration in connection with the Conrail Transaction. The excellent and improving safety record that CSXT maintained during the first two years following the Conrail Transaction continued during the past year.

As the Board is aware, in integrating portions of the Conrail system into its own, CSXT was guided by detailed Safety Integration Plans ("SIP's") that it was required to implement pursuant to Condition 49 of the Environmental Conditions. One of those SIP's addressed the integration of Conrail operations into CSXT operations, while the other (prepared by CSX jointly with NS) concerned integration of the Conrail Shared Assets Operator ("CSAO") into the CSXT and NS systems. Both plans were implemented in consultation with the FRA, as required by Environmental Condition 49 and contemplated by the Board/FRA Memorandum of Understanding. The SIP's have now been fully

implemented and, as noted above, FRA review of SIP implementation has now been completed and the FRA is expected to file its final report with the Board.

With the completion of the SIP process, CSXT, like all other railroads, remains subject to FRA safety monitoring performed in the ordinary course of FRA oversight. CSXT continues to consult with FRA on discrete safety-related issues that arise and continues to emphasize safety as its highest priority. As explained in Part I above, CSXT has experienced continued improvement in its safety record during its implementation of the Conrail Transaction. For example, in comparison to the first quarter of 2001, CSXT experienced approximately a 30% reduction in personal injuries during the first quarter of 2002. This improvement has been experienced in departments throughout the railroad, including the engineering, mechanical and transportation departments. Further, the number of train accidents was 25% lower during the first quarter of 2002 in comparison to the same period last year, and there was an even more significant reduction in train accidents in the Northeast Region, embracing the area with the majority of track formerly operated by Conrail.⁷

VI. ECONOMIC DEVELOPMENT IN THE AREA FORMERLY SERVED BY CONRAIL

CSXT has long recognized that the lifeblood of any railroad is new or expanded customer facilities that are located on its system. Particular attention has been paid by CSXT's Industrial Development Department to new or expanded

⁷ For the favorable trend in derailments, *see* the statistics presented in Part I above.

existing businesses on the Conrail lines that are now operated by CSXT or on lines of the Shared Assets Areas.

In its filings in 2000 and 2001, CSX cumulatively reported that since June 1, 1999, a total of 69 companies had announced the construction of new or expanded facilities on former Conrail lines now served by CSXT. *See* CSX-1 at 48-49, CSX-4 at 37-38. Since those reports, 30 additional announcements by companies have been made with respect to the construction of new or expanded facilities on the Conrail lines now served by CSXT. These new projects, listed by company name, location and commodities are as follows:

<u>NAME OF COMPANY</u>	<u>LOCATION</u>	<u>PRIMARY COMMODITY</u>
CASEY TRANSPORTATION	Leominster MA	Food/Paper Distribution
PCL	Taunton MA	Plastic Pellets
HARRIS REBAR	Rochester MA	Rebar Distribution
PLASTICAN	Leominster MA	Plastic Bucket Manufacturing
WEYERHAUSER	Freetown MA	Lumber Distribution
WASTE SOLUTIONS	West Springfield MA	Waste Solutions
C. STEINWEG (BALTIMORE), INC.	Baltimore MD	Copper/Aluminum
ENSLEY CORPORATION	Rossville MD	Plastic Recycler
CASTROL HEAVY DUTY LUBRICANTS	Rossville MD	Lubricant & Oil Processor
HUGO NEU SCHNITZER EAST	Jersey City NJ	Automotive Scrap
SUNNY DELIGHT (PROCTOR & GAMBLE)	Dayton NJ	Beverage Production
AMERICAN ROCKSALT	Troy NY	Rocksalt Transload Facility
CANFIBRE	Lackawanna NY	Wastewood Particle Board
INTERSTATE COMMODITIES	Troy NY	Feed Ingredients
KOPPERS	Syracuse NY	Utility Poles
WASTE MANAGEMENT INC.	Bronx NY	Municipal Waste
EMPIRE BEEF COMPANY	Gates NY	Frozen Food Distributor
DISTRIBUTION SERVICES	Liverpool NY	Steel Distribution
CHELSEA FOREST PRODUCTS	Chelsea NY	Lumber Distribution
APEX AGRICULTURAL	West Albany NY	Transloading Cotton Seed
NEWCO	Newburgh NY	Oil Manufacturing & Blending
APEX	Batavia NY	Animal Feeds

<u>NAME OF COMPANY</u>	<u>LOCATION</u>	<u>PRIMARY COMMODITY</u>
DUTCHESS COUNTY RESOURCE RECOVERY AGENCY	Poughkeepsie NY	Metal Distribution Site
AMERICAN ELECTRIC POWER	Convoy OH	Generators
COLOR & COMPOSITES TECHNOLOGIES	Sidney OH	Plastics
GRAMMER INDUSTRIES	Van Wert OH	Fertilizer Terminal
SILVER LINE WINDOWS	Marion OH	Vinyl Window Manufacturer
OWENS BROCKWAY	Erie PA	Plastic Bottle Production
BARTON MALOW RIGGING/RELIANT ENERGY	Guldens PA	Peak Power Plant

As noted, the foregoing list is only for announced projects. CSXT is currently involved in confidential negotiations for additional projects for new or expanded facilities in the territory formerly served by Conrail.

VII. INTERMODAL

In the past year, CSX Intermodal ("CSXI") has aggressively sought to convert business from "over-the-road" to Intermodal movement.

CSXI has approached this in several ways. Service has been improved and reliability and transit times have been brought to levels that are competitive with truck movements. This has permitted CSXI to acquire business as a low-cost alternative to truck service. New marketing approaches are being employed. CSX has been able to convert more than \$15 million of business from "over-the-road" to Intermodal service in the first quarter of 2002.

Among other things, BNSF and CSXI have introduced rail movements to compete in the long haul truck lanes between Texas and the Ohio Valley, so-called "watershed" movements where historically trucks had little rail competition because of the short hauls presented for both the eastern and western carriers; CSXI has converted movements which used to involve a Detroit-to-Chicago truck

segment before a rail movement to Mexico, into a direct Detroit-to-Mexico rail intermodal route; CSXI has, in conjunction with Canadian National, opened a new intermodal gateway for movements between Eastern Canada and the Northeastern States, Mid-Atlantic States and the Southeastern States; CSXI has been offering new truck-competitive service between Columbus, Cleveland and Cincinnati and the Northeast; and has extended CSXI's "I-95" service between Florida and Savannah and Charleston to points in the Northeast, to include movements to New England. Transcontinental movements from the West Coast to and from Ohio and Michigan are now handled with "steel-wheel" service to the destination points in Ohio and Detroit, converting highway movements on the segment between Chicago and those eastern points.

A number of capital improvement projects have been initiated in support of Intermodal business. To increase capacity and support efficient operations in areas that have been impacted by the Conrail acquisition, CSX has been advancing the following substantial Intermodal terminal projects:

- An expansion of the CSX Intermodal terminal in Bedford Park, IL with additional track and parking. This project will enable CSX to vacate its occupancy of NS's 63rd Street terminal in South Chicago by mid-2002.
- A project to expand Intermodal terminal capacity in the Detroit, MI market. CSX, NS, and the State of Michigan are jointly progressing a project that will add capacity required by business growth in this market. The project is currently in the planning stage.

- An expansion of on-dock Intermodal terminal capacity within the Port Newark/Elizabeth, NJ marine terminal complex. CSX will begin service to a second Intermodal terminal at this port in mid-2002.

VIII. RELATIONSHIPS WITH AMTRAK AND COMMUTER AUTHORITIES

In Decision No. 1 in this General Oversight Proceeding, the Board explained that it would monitor "transaction-related impacts on Amtrak passenger operations and regional rail passenger operations" during the five-year oversight period.

During the period June 1, 2001 through May 31, 2002, CSXT has had generally positive relationships with Amtrak, MBTA, MARC, Metro North, NJT, SEPTA and VRE. CSXT continues to believe, as it did during the prior two years of the oversight period, that the Conrail Transaction has had no significant adverse effect on these passenger services, and indeed, that commitments made by CSXT in connection with Finance Docket No. 33388 have provided benefits to a number of these passenger agencies.

1. Amtrak

The oversight condition and the May 14, 1998 agreement with Amtrak require that Amtrak submit quarterly reports to the Board regarding its on-time performance. During the past year, Amtrak submitted a report on August 22, 2001 for the period April 1, 2001 through June 30, 2001. This report was sufficiently favorable that Amtrak proposed to eliminate regular reporting to the Board:

During the second quarter of 2001, Amtrak's overall on-time performance on both CSX- and NS-operated lines acquired from Conrail was better than during the "base period" preceding the implementation of the Conrail acquisition. This is the first quarter in which this has been the case. . . .

As has been the case for some time now, CSX on-time performance on ex-Conrail lines (89.3%) was better than Conrail's "base period" performance on the same lines, although it was slightly lower than the previous quarter's 92.7% figure.

The results of the past quarter suggest that the majority of the on-time performance problems that developed on NS and CSX in the aftermath of the Conrail acquisition have been remedied. The freight train congestion and slow order problems that remain are generally limited to a few CSX lines that Amtrak has identified in previous reports, including CSX's Jacksonville-to-New Orleans line and portions of CSX's Washington-to-Florida lines. (Performance of Amtrak trains operating over these lines is not reflected in the attached data.) However, even on some of these lines, there have been positive developments during the last quarter. For example, a joint initiative by Amtrak and CSX to reduce delays on Amtrak's Lorton, VA-to-Sanford, FL Auto Train has resulted in an immediate and significant improvement in that train's on-time performance.

CSXT concurs with Amtrak's assessments.

The Board agreed to Amtrak's request to discontinue the quarterly performance reporting by letter dated October 2, 2001 from Melvin F. Clemens, Jr., Director, Office of Compliance and Enforcement, to Richard G. Slattery, Senior Associate General Counsel of Amtrak.

Overall CSXT system on-time performance improved four percent from calendar year 2000 to calendar year 2001, and that improvement was maintained during the period January through April 2002.

As we reported last year, CSXT management continues to focus attention on problem areas as they arise on a daily basis. CSXT managers confer with Amtrak managers each morning (seven days a week) to facilitate Amtrak operations throughout the CSXT system. CSXT and Amtrak also continue to participate in the "Partners in Performance" program which brings local CSXT and Amtrak management together to address problems on the local level. In addition, during the last year, CSXT and Amtrak commenced working together on a "Six-Sigma"⁸ process to improve on-time performance of Amtrak's Florida service.

2. Chicago Metra

CSXT continues to comply with its agreement with Metra dated February 19, 1998. The operations protocols for the movement of Metra trains through the 75th Street (Forest Hill) interlocking (controlled by CSXT), Belt Junction interlocking (controlled by the IHB), and Chicago Ridge interlocking (controlled by the BRC) are working as designed.

⁸ As reported in the Second Annual Submission, CSXT was not satisfied with on-time performance of Amtrak service between Washington, DC and Florida (Amtrak's Silver Service and Auto-Train). The purpose of the "Six-Sigma" process, pioneered by GE, is to identify the root cause[s] of a problem, in this case the on-time performance of Amtrak's Florida service.

3. MARC

MARC on-time performance averaged 91% during calendar year 2001 and an excellent 95% during the period January 1 through April 30, 2002. Pursuant to the current agreement between CSXT and MARC, which was approved in 2000 and is effective through June 30, 2003, preliminary engineering work is underway on projects to enhance capacity on the Camden Line. Schedule changes to reduce conflicts between MARC trains that took effect on April 30, 2001 are working as designed.

Progress was made on a number of capital improvements during the past year. CSXT's construction of facilities for the new Frederick service was completed on schedule and train operations began on December 17, 2001. CSXT also continues to participate in planning and preliminary engineering/environmental assessments for the Penn Line Connection (to the Camden Line). Finally, federal funding has been earmarked for a project to modernize signaling and add higher-speed crossovers between Weaverton, MD and Martinsburg, WV and CSXT is presently designing the improvements. The project is scheduled for completion in 2003.

4. MBTA

MBTA's on-time performance on the Boston Main Line (controlled by CSXT) was off slightly from 98% during calendar year 2000 to 95% during calendar year 2001 because of a significant capital improvement project on the line (signal upgrades and installation of a new interlocking near Framingham). During

the period January through April 2002, however, on-time performance has returned to an excellent 98% (once again exceeding the target of 96% on-time performance set in the October 31, 1997 agreement with the Commonwealth of Massachusetts).

We reported in the First Submission that CSXT agreed to extend, as of May 8, 2000, six existing MBTA train schedules on the Boston Main Line from Framingham to Worcester (equivalent to three round trips). We reported last year that CSXT had agreed to add three additional round-trip schedules between Framingham and Worcester commencing April 30, 2001. On-time performance remains high even with this additional service.

As provided in the October 31, 1997 agreement, CSXT continues to cooperate regarding MBTA's proposed extension of commuter service to Fall River and New Bedford. Construction of four replacement bridges is underway and property acquisition and operational agreements are being negotiated. MBTA's goal is to introduce service to Fall River and New Bedford in 2005. In addition, although not required to do so by the 1997 agreement, CSXT is negotiating with MBTA regarding the extension of MBTA's Old Colony Service Line to Greenbush.

5. Metro North

Metro North owns and thus controls all the lines over which CSXT operates on the east side of the Hudson south of Poughkeepsie to New York City. On-time performance of Metro North trains is thus generally not an issue. In our First Submission (at 61), we reported "some operating problems on the Metro North

Line south of Poughkeepsie caused by CSXT locomotives and freight cars that were not in compliance with Metro North requirements to accommodate the third rail required for its passenger operations.” Last year, we reported that CSXT operations over Metro North south of Poughkeepsie had improved but were still not at a quality level acceptable to CSXT. Tightened mechanical inspections have significantly reduced the number of third rail “hits” (cars activating the third rail detector) and other mechanical problems. In February 2002, Metro North assessed the freight operation as satisfactory. CSXT will continue its efforts to maintain this good record.

CSXT continues to participate in the “East Side of the Hudson Users” task force that has been formed to plan for growth in train operations by both freight and passenger users between Albany and New York. The other participants include Amtrak, Canadian Pacific, Metro North and the New York State Department of Transportation. CSXT is in the process of evaluating a proposal for a line capacity study that was made in April 2002.

6. New Jersey Transit

NJT owns and thus controls most of the lines with NJT passenger service over which CSXT and the Conrail operate. NJT on-time performance is thus generally not an issue on these lines and no specific problems have arisen following the Conrail Split. CSXT participates in regular coordinating meetings with NJT.

Construction of NJT's Townley Station on the NK to Aldene line segment of the Lehigh Line (controlled by Conrail) is expected to be completed in late Spring 2002.

Progress was made in the past year toward the goal of shifting freight traffic from a segment of the former Conrail River Line south of the Weehawken Tunnel at North Bergen, NJ to the parallel Northern Branch to accommodate NJT's new Hudson Bergen light rail service on the River Line. Conrail's petition for abandonment of that segment of the River Line was granted by the Board during the past year.⁹ Doubletracking of the "Northern Branch" is underway and one of two highway grade separations was completed. CSXT will transfer its freight traffic from the River Line to the Northern Branch when yard leads at North Bergen are shifted and when the second grade separation is completed.

CSXT is continuing to meet with NJDOT and NJT representatives regarding studies of a number of other proposals for new passenger rail service and will cooperate in their development where feasible — *i.e.*, where the passenger service will not result in a compromise of safety standards, increased liability for the freight railroads, direct or indirect subsidy of passenger service by freight, or reduced capacity of cost-efficient, reliable freight service.

⁹ See *Conrail — Abandonment of the Weehawken Branch — in Hudson County, NJ*, STB Docket No. AB-167 (Sub-No. 766N); *Conrail — Abandonment of the River Line — in Hudson County, NJ*, STB Docket No. AB-167 (Sub-No. 1067N).

7. SEPTA

SEPTA owns about half the lines with SEPTA passenger service, but under present contractual arrangements, SEPTA controls all of the lines over which it operates. SEPTA's on-time performance is thus generally not an issue on these lines and no specific problems have arisen following the Conrail Split, including with respect to SEPTA's R3 and R8 passenger services which operate over portions of the CSXT Trenton Line.

8. VRE

On-time performance averaged an excellent 95% during calendar year 2001 and remained at 95% during the period January-April 2002. VRE ridership has also continued to increase over the past year. This record is particularly good in light of the fact that only 5 miles of the 54-mile third main track VRE has committed to build is presently in place.

Construction was completed in October 2001 on a new interlocking junction with NS in Alexandria that doubled operating speed. As agreed with VRE, based on completion of this project, a new Fredericksburg mid-day train began operation on April 29, 2002. Moreover, CSXT, VRE and Virginia's Department of Rail and Public Transportation completed during the past year a number of capacity studies and have selected several additional capital projects as priority construction projects.

VRE's agreement with CSXT was amended through May 3, 2002, and has been extended to November 8, 2002. Negotiations are underway on a new long-term agreement.

IX. CHICAGO OPERATIONS/IHB

In its five-year oversight of the Transaction, the Board included review of the impact of the Transaction within the Chicago Switching District (or Chicago Terminal) and the effect of the joint control by CSX and NS of the 51% interest held in IHB by Conrail.¹⁰ CSXT's experience has been that Chicago Terminal operations have been working very well and that the Conrail acquisition has had no adverse effect. Over the past twelve months, operations within the Chicago Terminal have continued to improve, due in no small part to capital investments and increased cooperation between interchange partners.

Operations in Chicago have continued to benefit from the numerous capital improvements made in the Chicago area in prior post-split years, particularly those on the BOCT, Barr and Blue Island Subdivisions and in the Barr Yard vicinity. As CSXT reported last year, the completion of these infrastructure projects and the

¹⁰ Prior to the Split, IHB was owned 51% by Conrail and 49% by Soo Line Railroad. After the Split, NSC and CSXC indirectly held 29.58% and 21.42% equity interests in IHB, respectively. Pursuant to an Ancillary Agreement between CSXC and NSC, the ownership interest of Conrail in IHB continues to be held by the continuing Conrail entity, and CSXC and NSC have the right to select an equal number of directors of IHB to be elected by Conrail. See Agreement Relating to the Contractual Rights and Ownership Interest of Consolidated Rail Corp. with respect to the Indiana Harbor Belt Railroad Company ("IHB Agreement"), Vol. 8C, Exhibit FF, at 693 *et seq.* of the Control Application (CSX/NS-25).

cooperative efforts of the carriers in the Terminal allowed the Terminal to accomplish an unprecedented level of fluidity. CSXT's experience over the past twelve months has been that operations in the Chicago Terminal have consistently maintained the significant improvement in fluidity over pre-transaction levels.

A review of key measurements demonstrates this marked improvement. In the first quarter of 2000, Chicago Terminal Dwell time was 23.9 hours. By the second quarter 2000, the dwell time had improved dramatically to 19.5 hours and continued to improve over the next two years at levels consistently below 19.5 hours. As of the second quarter 2002 the average dwell time was 17.8 hours, a 26% improvement over the first quarter 2000 level. By mid May 2002, the Chicago Gateway Operations measure for the percent of trains on-time-to-two hours late had moved favorably to 80% compared to 76.1% for the same week in 2001. The measure for the percent of trains greater than 6 hours late moved favorably to 5% from earlier fluctuating levels. The average for the three weeks prior to May 16, 2002 (11.7%) compares to 10.7% for the same three weeks in 2001, which is significantly improved from 19.6% in 2000.

A recent Board decision promises to further enhance fluid operations in the Chicago Terminal. In Docket No. AB-31 (Sub No. 38), *CSX Corporation and CSX Transportation, Inc. — Adverse Abandonment Application — Canadian National Railway Company and Grand Trunk Western Railroad Inc.*, (served Feb. 1, 2002), the Board opened the way for CSX to improve access to the 59th Street intermodal terminal and reduce congestion on a BOCT line caused by trains waiting to access that terminal. The trackage, known as Track No. 239, is located just north of the

59th Street terminal . Grand Trunk Western Railway's ("GTW") parent, CN, had leased the property from Conrail and that interest was allocated to NYC, which is managed and controlled by CSX. To facilitate access to the 59th Street facility and avoid congestion on the BOCT line, CSX/NYC sought control of the use of the trackage by terminating the lease. Although GTW had not used its portion of Track No. 239 for years, CN/GTW challenged the lease termination and refused to relinquish the track, thus forcing CSXT to apply to the Board for an adverse abandonment. The Board granted CSXT's adverse abandonment application, finding that abandonment of the track by GTW and its control by CSXT would further the public interest. Following the Board's decision, the lease of the property underlying the track was terminated and CSXT consummated its purchase of the trackage from GTW. By combining the GTW portion of the track with the use of CSXT's own segment, CSXT will have an ample staging area for CSXT trains, thus eliminating costly and time-consuming backups and delays on the BOCT mainline and improving access to the 59th Street intermodal facility. As a result, intermodal service in Chicago will be greatly improved, resulting in even more fluid and efficient rail operations in the Chicago Terminal area.

The most impressive improvements in the Chicago Terminal have come about as a result of increased cooperative efforts between CSXT and its interchange partners. Over the past twelve months, CSXT has continued to build on the successful bilateral carrier arrangements described in its report in the 2001 oversight proceeding (CSX- 4 at 53). Specifically, CSXT had made successful arrangements with one Western railroad to preblock traffic in ways that greatly

improved transit times for cars interchanged between that railroad and CSXT. Traffic had been shifted from the Belt Railway of Chicago ("BRC") where it had been classified to direct interchange at the IHB's Blue Island Yard. The Western railroad had agreed to preblock the traffic into three blocks, all for CSXT forwarding.

In the past year, CSXT has enhanced the arrangement with that railroad through additional blocking arrangements for westbound movements. In addition, CSXT has entered into similar blocking and run through arrangements with another Western railroad with respect to eastbound movements. Traffic moving from Galesburg, IN to Selkirk, NY that formerly required classification at Chicago by the BRC or IHB is now operating under a run-through agreement that eliminates the need for switching within the Terminal.

CSXT's blocking arrangements and run through agreements with its Western rail partners have resulted in a significant decrease in the number of cars handled by the intermediate switch carriers within the Chicago Terminal. In 2001, there were 28,351 fewer CSXT cars classified by BRC than in 2000, and 37,323 fewer CSXT cars classified by the IHB. The elimination of intermediate handling for these 65,674 cars substantially contributed to improved transit times and greater fluidity in the Chicago Terminal.

CSXT is particularly pleased with the progress of the AAR Rubber Tire Task Force and the Chicago Planning Group, which have been working diligently to reduce the number of trailers moving over highways in the Chicago area. Through remarkable cooperation among interchange partners, the railroads have

been able to improve rail-to-rail or "steel wheel" interchanges and thus to reduce sharply the incidence of cross-town rubber tire interchanges. The number of rubber tire interchanges was reduced from 94,781 in 2000 to 49,940 in 2001 – a dramatic 53% reduction in cross-town truck traffic moving over Chicago highways.

X. IMPLEMENTATION OF GENERAL CONDITIONS

Here we present CSX's report on the general (*i.e.*, nonenvironmental) conditions which are found in Decision No. 89 starting at page 173, and which are not elsewhere discussed herein.¹¹

1. NITL Conditions, As Modified by Board (Cond. 20)

A package of conditions was agreed upon in December 1997 between the applicants and the National Industrial Transportation League ("NITL").¹² CSX's two earlier annual reports canvassed in some detail the operation of the conditions

¹¹ Environmental conditions are discussed in Part XI of this submission.

¹² The NITL Settlement is discussed in Decision No. 89 at 53-58.

"Cond." numbers relate to the numbered ordering paragraphs found in Decision No. 89, pages 173 *et seq.* Omitted numbers are of ordering paragraphs not containing conditions, or containing conditions pertaining entirely to NS, or which are otherwise dealt with herein.

We have also omitted discussion of the following conditions which were discussed in earlier years' submissions and were completely fulfilled without continuing obligations on CSXT's part at that time: Conditions 10, 20 (partial) (shared asset area manuals, preparation for implementation, Board oversight); 24, 25; 33; 34; 41; 42; 56; and 64.

imposed under that agreement, including the modifications (expanding some of the conditions) imposed by the Board.

The conditions included the formation and frequent meetings of a Conrail Transaction Council, which as reported last year (CSX-4 at 57-58) determined in December 2000 that it would, after having had frequent meetings, thereafter meet only should events require (no such requirement has occurred). It also included a three-year provision for the general relief of "one-to-two" shipper situations, a provision for relief from the assignment of rail transportation contracts of Conrail, and provisions as to gateways, reciprocal switching, and facilities within the Shared Assets Areas. These conditions were fully explained in the earlier annual filings (CSX-1 at 73-78, CSX-4 at 57-60) and CSXT has complied with them.

- 2. Applicants must comply with the operational monitoring condition imposed in this decision, and, in connection therewith, must file periodic status reports and progress reports, as indicated in this decision. (Cond. 18)¹³**

CSXT has complied with this condition.

- 3. Applicants must adhere to all of the representations they made during the course of this proceeding, whether or not such representations are specifically referenced in this decision. (Cond. 19)**

CSXC and CSXT have complied with this condition.

¹³ We thus quote the texts of the Board's conditions henceforth in this Part.

- 4. Applicants must adhere to the terms of the settlement agreements that were entered into with Amtrak, ESPA, STWRB, the City of Indianapolis, and UTU. (Cond. 21)**

The Board specifically mentioned five settlements:

A. Amtrak

This topic is discussed in the discussions of Amtrak and commuter operator relationships in Part VIII, above.

B. Empire State Passenger Association

CSXT is complying with this Settlement Agreement which was entered into on December 19, 1997.

C. Southern Tier West Regional Planning and Development Board

The settlement with this entity solely concerns NS.

D. City of Indianapolis

This Settlement Agreement has been complied with.

E. UTU

This settlement has been complied with.

- 5. Applicants must monitor origins, destinations, and routings for the truck traffic at their intermodal terminals in Northern New Jersey and in the Commonwealth of Massachusetts in a manner that will allow us to determine whether the CSX/NS/CR transaction has led to substantially increased truck traffic over the George Washington Bridge. Applicants should report their results on a quarterly basis. (Cond. 22)**

CSXT has complied with and will continue to comply with this condition. During the past twelve months it has submitted four quarterly reports covering, *in toto*, the period from March 1, 2001 through February 28, 2002, in addition to the nine earlier reports mentioned in prior years' submissions. CSX-1 at 80, CSX-4 at 62. Further, consistent with its prior commitment and the Board's expectation in Decision No. 5 in this proceeding (at page 32, n.55), CSXT is regularly supplying a copy of each quarterly report to the designated representative of the NYCEDC.

6. **Applicants: must allow IP&L to choose between having its Stout plant served by NS directly or via switching by INRD; must allow for the creation of an NS/ISRR interchange at MP 6.0 on ISRR's Petersburg Subdivision for traffic moving to/from either the Stout plant or the Perry K plant; and must provide conditional rights for either NS or ISRR to serve any build-out to the Indianapolis Belt Line. (Cond. 23)**

Extensive reports on the status of this condition and on IP&L's attempts to enlarge it, current through May 31, 2001, were furnished in the year 2000 submission by CSX (CSX-1 at 80-86) and its submission last year (CSX-4 at 63-65); NS also discussed this condition in its submission of June 1, 2000 (NS-1 at 37-38) and its submission of June 1, 2001 (NS-5 at 27). CSX believes that it has complied fully with the terms of the conditions¹⁴ and that there has been no demonstration whatsoever that the conditions are inadequate to perform the role

¹⁴ NS was granted both (i) direct access through trackage rights and (ii) access through switching as a consequence of the condition in question imposed by the Board. IP&L's build-out option was also recognized and protected. Decision No. 89 at 117 and n.180, 177.

which was intended for them by the Board. As discussed by CSX in prior filings with the Board, IP&L's Stout Plant now has more options with respect to obtaining coal than it had before the Split of Conrail.

The history of IP&L's attempts to get more than what the Board gave it in Decision No. 89 is well known to the Board, but will be briefly updated as to events from and after June 1, 2001. At that time, a petition by IP&L to the United States Court of Appeals for the District of Columbia Circuit, seeking to overturn the Board's Decision No. 3 in this matter, served November 30, 2000, was pending before that court. On July 26, 2001, the court granted motions made by CSX and NS, supported by the Board, that the Board's decision be summarily affirmed.

During the course of the year 2001, negotiations took place between IP&L and INRD, and apparently between IP&L and other rail carriers, to enter into a long-term coal contract to supply the Stout Plant, in replacement of the expiring long-term contract that had been entered into between IP&L and INRD in 1996, before the Conrail Transaction. It had been the Board's intent in imposing the conditions which it imposed in Decision No. 89, to replicate the pre-Conrail Transaction competitive pressures on INRD (the only carrier physically serving Stout), which resulted in that favorable 1996 Contract for IP&L.

During the course of the summer of 2001, while the negotiations were going on, IP&L in its comments in this proceeding, filed July 16, 2001, represented to the Board that it had received long-term contract bids for joint movement by ISRR and NS of certain movements to Stout which it believed were too high; that it had told those bidders that unless they submitted a bid on a long-term contract for a price

less than the single movement tariff price promulgated by Conrail prior to the Conrail Transaction and adopted thereafter by CSX, there was no point in ISRR and NS's making any further proposals; and that to date ISRR and NS had made no further proposals. This, according to IP&L, showed that NS was not an effective competitor, and, as a result, ISRR should be given direct access to Stout (notwithstanding ISRR's participation in the bid disliked by IP&L).

CSX and NS replied in filings on August 6, 2001 (CSX-5 and NS-6); CSX's responsive filings were largely under seal, but it demonstrated that the rates and terms that had been quoted by INRD in its negotiations with IP&L were at least as favorable, if not more favorable to IP&L than those under the 1996 Agreement, and that accordingly the competitive constraints that existed pre-Transaction had been preserved by the Board's conditions. Further pleadings were filed and received by the Board, in which CSX refuted certain assertions concerning its bid which IP&L had made. (*See* IP&L undesignated filing of August 22, 2001; CSX-6, filed September 11, 2001.) On October 22, 2001, CSX advised the Board that INRD and IP&L had in fact executed a long-term coal contract to Stout. CSX-7.

In Decision No. 6, served December 13, 2001, the Board rejected IP&L's request that the bid which ISRR and NS had submitted which IP&L did not like should be rewarded by the award of direct access by ISRR to Stout. (No evidence was submitted by IP&L that it was NS's "fault," rather than that of ISRR, that the bid displeased IP&L.) The Board did not have to analyze the apparent absurdity of the relief requested on that basis. Instead, the Board took a more fundamental

view of the subject: IP&L was awarded several tools which were designed to replicate the competitive pressures that existed in 1996 when INRD extended IP&L a long-term contract. These included preservation of the build-out rights by the Board, as well as the grant of access to NS to Stout. The terms quoted for the long-term contract by INRD in 2001 were as good as, if not better than, the terms of the benchmark contract, the 1996 Contract. Accordingly, held the Board, no further relief was warranted.

Once again, IP&L filed a petition for review to the United States Court of Appeals for the District of Columbia Circuit, in this case on February 11, 2002. CSX and NS filed motions for summary affirmance of the Board's order with that court on March 20, 2002. Those motions, which were supported by a filing by the STB, have been fully briefed and are under consideration by the Court.

7. **Applicants must adhere to their representation that, although the NS will have operational control of Conrail's MGA lines, CSX will have equal access to all current and future facilities located on or accessed from such lines. (Cond. 26)**

At the present time, CSXT has no complaints concerning NSR's handling in the MGA.

8. **CSX must attempt to negotiate, with CP, an agreement pursuant to which CSX will grant CP either haulage rights unrestricted as to commodity and geographic scope, over the East-of-the-Hudson Conrail line that runs between Selkirk (near Albany) and Fresh Pond (in Queens), under terms agreeable to CSX and CP, taking into account the investment that need to continue to be made to the line. If CSX and CP have not reached an agreement by October 21, 1998, we will initiate a proceeding addressing this matter. CSX and CP should advise us, no later than October 21,**

**1998, whether they have or have not reached an agreement.
(Cond. 28)**

CSXT has complied with this condition.

- 9. CSX must make, by October 21, 1998, an offer to the City of New York to establish a committee intended to develop ways to promote the development of rail traffic to and from the City, with particular emphasis on Conrail's Hudson Line, as well as ways to address the City's goals of industrial development and the reduction of truck traffic that is divertible to rail movement, and CSX's goals to provide safe, efficient, and profitable rail freight service. (Cond. 29)**

As reported in CSX's June 1, 2000, filing (CSX-1 at 95), CSX and the City and other groups devoted to increasing rail service within New York City have participated in extensive discussions — both formally in committees or study groups and informally — to explore ways to enhance rail freight service East of the Hudson. The review of those activities, which are ongoing, has been provided in previous filings and will not be repeated here in length. In the past year those discussions have included regular meetings not only with Congressman Nadler and his "East of the Hudson Task Force," but also with the New York Metropolitan Transportation Commission and its Goods Movement Plan consultants.

CSX has entered into a Joint Agreement with the New York State Department of Transportation ("NYSDOT") and CP to operate 286,000 pound rail cars into the Oak Point Yard, and is negotiating to extend that service over the Amtrak Hell Gate line to Fresh Pond for interchange with the NY&A. CSX has also continued to meet with NYSDOT to discuss the conditions under which CSX would endeavor to introduce intermodal service to east of Hudson markets.

- 10. CSX must cooperate with the New York interests in studying the feasibility of upgrading cross-harbor float and tunnel facilities to facilitate cross-harbor movements, and, in particular, must participate in New York City's Cross Harbor Freight Movement Major investment Study. (Cond. 30)**

In the past year CSX has had several meetings with the NYCEDC and its consultants to explore both the opportunities and challenges associated with attempting to develop an economically viable rail freight service across New York Harbor — either by rail float bridge or by rail tunnel. CSX has provided detailed information regarding its current operations, and regarding the additional technical, commercial and institutional obstacles to be overcome on both sides of the harbor to achieve success in that proposed service. CSX also has provided detailed comments on the scope of a Draft Environmental Impact Statement currently being undertaken by NYEDC in cooperation with the FRA and the Federal Highway Administration. CSX is awaiting the results of planning and environmental studies, and will carefully review and analyze the proposals to determine whether and in what manner it might be able to productively participate

- 11. CSX must discuss with P&W the possibility of expanded P&W service over trackage or haulage rights on the line between Fresh Pond, NY, and New Haven, CT, focusing on operational and ownership impediments related to service over that line. (Cond. 31)**

CSXT has complied with this condition. There have been discussions as to such possible CSXT-P&W arrangements, but no mutually agreeable projects have been identified. CSXT will continue to evaluate mutually beneficial proposals for such cooperation with P&W.

- 12. CSX must adhere to its agreements with CN and CP that provide for lower switching fees in the Buffalo area and increased access to these carriers for cross-border, truck-competitive traffic. (Cond. 32)**

CSXT has complied with these agreements.

- 13. CSX must adhere to its representation regarding investment in new connections and upgraded facilities in the Buffalo area. (Cond. 35)**

CSX has adhered to all representations it made concerning investments in new connections and upgraded facilities in the Buffalo Area. Descriptions as to these investments were provided for in the June 1, 2000 and June 1, 2001 submissions of CSX and by it in the joint CSX/NS filing in the Board's Buffalo Infrastructure proceeding. Pursuant to the Board's decision discontinuing that proceeding (Decision of February 2, 2001, in Finance Docket No. 33388 (Sub-No. 93)), information concerning infrastructure issues in the Greater Buffalo area is being provided in Part II of this report.

- 14. CSX must attempt to negotiate, with IC, a resolution of the CSX/IC dispute regarding dispatching of the Leewood-Aulon line in Memphis. CSX and IC must advise us, no later than September 21, 1998, of the status of their negotiations. (Cond. 36)**

CSXT has complied with this condition.

- 15. The \$250 maximum reciprocal switching charge provided for in the NITL agreement must be applied to certain points in the Niagara Falls area for traffic using International Bridge and Suspension Bridge, for which Conrail recently replaced its switching charges with so-called "line-haul" charges. (Cond. 37)**

CSXT has complied with this condition.¹⁵

- 16. A 3-year rate study will be initiated to assess whether Buffalo-area shippers will be subjected to higher rates because of the CSX/NS/CR transaction. (Cond. 38)**

CSXT has cooperated and will continue to cooperate with the Board in that rate study, submitting data and commentary as requested. CSXT has made all required filings to date. The rate study is being handled by the Board in Sub-No. 90 and not in the present proceeding.

- 17. As respects any shortline, such as RBMN, that operates over lines formerly operated over by CSX, NS, or Conrail (or any of their predecessors), and that, in connection with such operations, is subject to a "blocking" provision: CSX and NS, as appropriate, must enter into an arrangement that has the effect of providing that the reach of such blocking provision is not expanded as a result of the CSX/NS/CR transaction. (Cond. 39)**

The Conrail Transaction has not expanded the reach of any arrangement which CSXT has with a shortline requiring additional compensation to the line owner for shipments not routed via the owner. CSXT will not treat the Conrail Transaction as expanding the reach of such a provision.

- 18. As respects AA's new contract with Chrysler, CSX and NS must take no action that would undermine, or interfere with AA's ability to provide quality interline service under, this contract. (Cond. 40)**

CSXT has continued to comply with this condition.

¹⁵ See the discussion of Cond. 32, above.

- 19. As respects Wyandot and NL&S, CSX and NS: must adhere to their offer to provide single-line service for all existing movements of aggregates, provided they are tendered in unit-trains or blocks of 40 or more cars; and in other circumstances including new movements, for shipments moving at least 75 miles, must arrange run-through operations (for shipments of 60 cars or more) and pre-blocking arrangements (for shipments of 10 to 60 cars). (Cond. 43)**

This condition was clarified by the Board in Decision No. 96 as being applicable for five years with respect to the performance of certain single-line service via run-through trains. CSXT has complied with this condition.

- 20. NS will have access to any new line constructed by JS&S or NS, or by any entity other than CSX, between the JS&S facility at Capital Heights, MD, and any line over which NS has trackage rights. (Cond. 44)**

CSXT will comply with this condition. No build-out has been proposed to date, however.

- 21. In STB Finance Docket No. 33388 (Sub-No. 80), the responsive application filed by W&LE is granted in part and denied in part. As indicated in this decision, applicants must (a) grant W&LE overhead haulage or trackage rights access to Toledo, with connections to AA and other railroads at Toledo, (b) extend W&LE's lease at, and trackage rights access to, NS' Huron Dock on Lake Erie, and (c) grant W&LE overhead haulage or trackage rights to Lima, OH, with a connection to IORY at Lima. Applicants and W&LE must attempt to negotiate a solution with regard to these matters; and, if negotiations are not fully successful, may submit separate proposals no later than October 21, 1998. Further, applicants and W&LE must attempt to negotiate an agreement concerning mutually beneficial arrangements, including allowing W&LE to provide service to aggregates shippers or to serve shippers along CSX's line between**

Benwood and Brooklyn Junction, WV, and inform us of any such arrangements reached. (Cond. 68)

The matters referred to in clauses (a) and (b) have been reported on by NS. As to the remainder, CSXT has complied with this condition.¹⁶

XI. IMPLEMENTATION OF ENVIRONMENTAL CONDITIONS

1. Conditions Applicable to CSXT

CSXT is very close to completing its implementation of the Environmental Conditions imposed by the Board in Appendix Q of Decision No. 89. In CSXT's First Submission filed with the Board on June 1, 2000, and in CSXT's Second Submission filed with the Board on June 1, 2001, CSXT documented its full implementation of the Environmental Conditions, or up-to-date compliance with those conditions which require ongoing compliance, with the exception of three – Environmental Conditions 10, 11 and 49.¹⁷ CSXT reports below on the status of

¹⁶ Condition Nos. NS-77 through 80 are discussed in Part IV above, dealing with Labor, to the extent that there was activity pertinent to them in the past twelve months. The environmental conditions, ordered in Condition No. 17 and found in Appendix Q of Decision No. 89, are discussed in Part XI, which follows.

¹⁷ For a full description of the environmental conditions, *see* Decision No. 89, Appendix Q, at 382-423, as amended in Decision No. 96. In its June 1, 2000 submission (CSX-1 at 113-29) and in its June 1, 2001 submission (CSX-4 at 83-90), CSX discussed all of the environmental conditions applicable to CSXT. In this year's filing, CSX has dropped discussion of those conditions applicable to CSXT that were reported to be fully completed in prior years' filings or which are matters which require continuous compliance and where the method of CSXT's compliance was fully described in prior years.

We note that Environmental Condition 4(B) requires that CSXT distribute Hazardous Materials Emergency Response Plans to local emergency response organizations along the rail line segments designated "key routes" or "major key

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these three conditions. In addition to its annual June submissions in this Oversight Proceeding, CSXT has also provided quarterly community status reports to the Board regarding CSXT's consultations with local governments and state agencies, pursuant to the Board's order in Decision No. 5 in this General Oversight Proceeding, slip op. at 33, and in Decision No. 6 in this proceeding, slip op. at 11.

a. **Environmental Condition 10**
[Transportation: Highway/Rail At-Grade Crossing Delay]

In our First Submission (at 63-71, 117-18) and Second Submission (at 85), we reported that CSXT had complied with Environmental Condition 10 with respect to the Dixie Highway and Broadway-135th Street at-grade crossings of the CSXT Blue Island Subdivision (Rail line segment C-010), and with respect to the W. Noel Ave. at-grade crossing of the CSXT rail line in Madisonville, KY (Rail line segment C-021).

During the past year CSXT addressed traffic delay at the Vine Street at-grade crossing of the CSXT rail line in Hamilton, Ohio (Rail line segment C-063) through operational improvements that have increased actual train speeds through this crossing. Although CSXT determined that it could not increase the authorized speed through this crossing above 20 mph because of the geometry of the track at this location, it has implemented operational changes that have

Footnote continued from previous page

routes" by the Board at least once every three years during the Board's Oversight period. CSX completed its initial distribution in 1999. CSXT distributed its 2002 Community Awareness Emergency Planning Guide to such organizations on May 20, 2002.

increased the actual speed through this crossing from the pre-transaction situation. The most important change is a switch to directional routing of both CSXT and NS trains by utilizing the CSXT line and a parallel NS line in the Hamilton area. CSXT also implemented train-scheduling changes to improve fluidity systemwide, which has increased actual train speed in this area.

Finally, CSXT addressed traffic delay at the Township Avenue crossing of the CSXT rail line in Cincinnati, Ohio (Rail line segment C-063) through an increase in authorized speed from 20 mph to 35 mph facilitated by capital and operational improvements in the area. The speed increase was implemented in June 2001.

CSXT has now completed its implementation of Environmental Condition 10.

b. Environmental Condition 11 [Noise]

As reported in our Second Submission (at 86-88), CSXT entered into 31 Negotiated Agreements under Environmental Condition 11, all of which have now been approved by the Board. The complete list is as follows:

- 1. Village of Deshler, OH, approved Decision No. 121
(served April 14, 1999)**
- 2. Village of New London, OH, approved Decision No. 130
(served July 9, 1999)**
- 3. City of Plymouth, IN, approved Decision No. 130
(served July 9, 1999)**
- 4. Town of Etna Green, IN, approved Decision No. 135
(served December 10, 1999)**

5. **City of Tontogany, OH, approved Decision No. 136**
(served December 30, 1999)
6. **Township of Washington, OH, approved Decision No. 137**
(served December 30, 1999)
7. **Township of Middleton, OH, approved Decision No. 138**
(served February 2, 2000)
8. **Township of New London, OH, approved Decision No. 139**
(served February 16, 2000)
9. **Township of Weston, OH, approved Decision No. 140**
(served February 16, 2000)
10. **Village of Haskins, OH, approved Decision No. 141**
(served February 16, 2000)
11. **Borough of Belle Vernon, PA, approved Decision No. 146**
(served April 13, 2000)
12. **Borough of Elizabeth, PA, approved Decision No. 147**
(served April 13, 2000)
13. **Village of Custar, OH, approved Decision No. 148**
(served April 13, 2000)
14. **Township of Milton, OH, approved Decision No. 149**
(served April 18, 2000)
15. **Village of Lagrange, OH, approved Decision No. 150**
(served April 18, 2000)
16. **Township of Washington, Belle Vernon, PA, approved Decision**
No. 151
(served April 18, 2000)
17. **City of Cuyahoga Heights, OH, approved Decision No. 158**
(served June 12, 2000)
18. **Village of Grafton, OH, approved Decision No. 159**
(served June 12, 2000)

19. **Village of Wellington, OH, approved Decision No. 162**
(served July 27, 2000)
20. **Township of Forward, PA, approved Decision No. 163**
(served August 3, 2000)
21. **Borough of Fayette City, PA, approved Decision No. 165**
(served August 22, 2000)
22. **Borough of Lincoln, PA, approved Decision No. 169**
(served September 5, 2000)
23. **Borough of Newell, PA, approved Decision No. 170**
(served October 3, 2000)
24. **Borough of Glassport, PA, approved Decision No. 171**
(served October 3, 2000)
25. **City of Perrysburg, OH, approved Decision No. 172**
(served October 13, 2000)
26. **Village of Rochester, OH, approved Decision No. 174**
(served November 7, 2000)
27. **Lorain County, OH, approved Decision No. 176**
(served November 28, 2000)
28. **Village of Milton Center, OH, approved Decision No. 181**
(served March 2, 2001)
29. **City of McKeesport, OH, approved Decision No. 182**
(served March 2, 2001)
30. **City of Weston, Ohio, approved Decision No. 187**
(served June 7, 2001)
31. **Perrysburg Township, approved Decision No. 191**
(served July 11, 2001)

Only two responsible local governments, Elizabeth Township, PA,
and Rostraver Township, PA, informed CSXT that they wished CSXT to

contact individual property owners regarding implementation of Environmental Condition 11. During the past year, CSXT contacted the individual property owners and entered into agreements covering 27 of the 28 structures eligible for noise mitigation in these townships. CSXT has thus satisfied Environmental Condition 11 with respect to over 99% of the structures eligible for noise mitigation under Environmental Condition 11. The Board has extended the compliance date until February 22, 2003 to satisfy the noise mitigation condition with respect to the remaining structure.

c. **Environmental Condition 49 [Safety Integration]**

CSXT has completed its implementation of this condition, as discussed in Part V (Safety) of this report.

d. **Environmental Condition 51 [Negotiated Agreements]**

CSXT is in compliance with the terms of its Negotiated Agreements.

City of Cleveland, Ohio. A number of matters addressed in the June 4, 1998 Agreement involve ongoing consultation between CSXT and Cleveland, such as the construction of noise walls, expenditure of funds for fencing and landscaping, and marketing of surplus properties. CSXT and Cleveland are continuing to work together in good faith to resolve issues as they arise.

Four City Consortium. CSXT entered into a Settlement Agreement with the Four City Consortium on October 26, 1998, which was approved by the Board in Decision No. 114 (served February 5, 1999). CSXT and the Four City Consortium resolved some additional outstanding issues on January 31, 2001.

CSXT has regularly consulted with representatives of the Four Cities, as well as with representatives of the IHB and NS, as required by Environmental Condition 21 and the October 26, 1998 Agreement. Representatives of the Four Cities have reported their satisfaction with CSXT's efforts during the past year, including efforts to reduce crossing blockage, in the Four City area.

**2. Conditions Applicable to the Conrail
Shared Assets Operator ("CSAO")¹⁸**

a. Environmental Condition 11 [Noise]

CSAO entered into two Negotiated Agreements with responsible local governments pursuant to Environmental Condition 11:

- 1. Brownstown Township, MI, approved Decision No. 152
(served April 18, 2000)**
- 2. Huron Township, MI, approved Decision No. 184
(served April 12, 2001)**

At the direction of the responsible local governments, CSAO has contacted individual property owners regarding implementation of Environmental Condition 11 in Allen Park, MI, Ash Township, MI, and Lincoln Park, MI. During the past year, CSAO entered into agreements covering 6 of the 10 structures eligible for noise mitigation in these townships. The Board has extended the

¹⁸ CSX's First Submission (CSX-1 at 129-32) and Second Submission (CSX-4 at 91) contained a report on all environmental conditions applicable to CSAO. This year's report drops reference to those CSAO conditions that were reported to be fully completed in last year's filing or which are matters which require continuous compliance and where the method of CSAO's compliance was fully described last year.

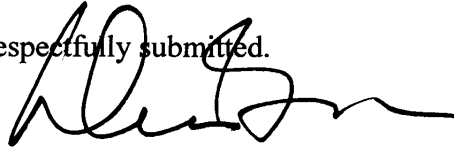
compliance date until February 22, 2003 to satisfy the noise mitigation condition with respect to the remaining structures.

XII. CONCLUSION

Today, CSX's rail network is operating at or near record performance levels. The difficulties encountered in the early period following the Split of Conrail's operations between CSXT and NSR are far behind us, and CSXT is in a position to take advantage of the enhanced single-system service and the opportunities for growth in revenue and market share inherent in the value created through the acquisition and integration of the new Conrail routes into the CSXT system and the greatly improved performance brought about in the past two years.

Once again, CSX can say that the Board's conditions have generally continued to work well, and CSXC and CSXT have complied with them to the best of their ability. The Conrail Transaction was emphatically "in the public interest" in CSX's view.

Respectfully submitted.



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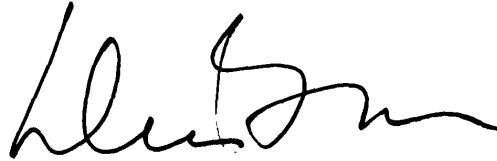
CSX Corporation and

CSX Transportation, Inc.

Dated: June 3, 2002

CERTIFICATE OF SERVICE

The undersigned counsel for CSX Corporation and CSX Transportation, Inc. hereby certifies that on this 3rd day of June, 2002, a copy of the foregoing "Third Submission by Applicants CSX Corporation and CSX Transportation, Inc.," was served on all parties of record by first-class mail, postage prepaid, or more expedited method.



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