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VIA FEDERAL EXPRESS

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, DC 20006

ENTERED
Office of Proceedings

JUL 23 2002

Part of
Public Record



Re: **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:

Wheeling & Lake Erie Railway Company ("W&LE") hereby files the following comments in the third annual oversight proceeding on the acquisition of Consolidated Rail Corporation ("Conrail") by CSX Transportation, Inc. ("CSXT") and Norfolk Southern Railway Company ("NS"). W&LE respectfully requests leave to late-file these comments and believes that, particularly given the nature of W&LE's comments, no party would be prejudiced by the Board's acceptance of this filing.

In approving the CSXT/NS-Conrail transaction, the Board imposed a number of conditions for the benefit of W&LE, including (as relevant here) requirements that NS grant W&LE trackage rights access to Toledo, Ohio and that NS extend W&LE's lease of, and trackage rights access to, the Huron Dock facility on Lake Erie at Huron, Ohio. See CSX Corp. et al. -- Control -- Conrail Inc. et al. 3 S.T.B. 196, 309-311, 377, 392 (1998). While W&LE has operated trains on a restricted basis over NS's line to Toledo pursuant to a "detour" agreement since consummation of the CSXT/NS-Conrail transaction and continues to access and lease the Huron Dock, the parties have never reached any permanent arrangements regarding these rights.

W&LE has no material dispute with NS's discussion of the status of negotiations between the parties with respect to the Toledo and Huron Dock rights. See NS-8 at 34-36. However, these rights are critically important to the operation and viability of W&LE, and it is equally important that the final arrangements that will permanently establish and govern these rights be fair, effective and even-handed. It is vital that the Board continue its oversight over at least this aspect of the Conrail transaction for the full five years initially contemplated or until NS and W&LE reach final agreement on these matters. Cf. Conrail General Oversight, Decision

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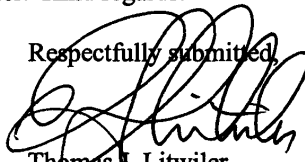
No. 7 (STB served June 11, 2002) at 2. Indeed, the ongoing nature of the Board's oversight role helps ensure that the parties can move toward a permanent and productive resolution of the issues remaining between them.

We note that NS is of the same viewpoint with respect to continued Board oversight on this matter. NS-8 at 36 ("NS believes there is no need for Board intervention at this point, but NS reserves the right to seek relief from the Board with respect to these matters should circumstances warrant."). If it is not feasible to discontinue oversight of the remainder of the Conrail transaction while retaining the original five-year oversight condition solely with respect to this aspect of the transaction (i.e. the relief granted on W&LE's responsive application in Finance Docket No. 33388 (Sub-No. 80)), the Board should continue its oversight of the entire transaction for the full five-year period adopted in 1998.

Twenty-five copies of this letter are enclosed for filing with the Board. One extra copy of this letter also is enclosed. I would request that you date-stamp that copy to show receipt of this filing and return it to me in the provided envelope. I certify that a copy of this letter has been served by overnight delivery on counsel for NS and CSXT.

Please feel free to contact me should any questions arise regarding this filing. Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,



Thomas J. Litwiler
Attorney for Wheeling & Lake Erie
Railway Company

TJL:tl

Enclosures

cc: Richard A. Allen, Esq.
Dennis G. Lyons, Esq.