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Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 K St., N.W., Room 700
Washington, D.C. 20423

Re: CSX Corp., CST Transportation Inc., Norfolk Southern Railway Co. – Control and
Operation Leases/Agreements – Conrail, Inc. and Consolidated Rail Corp. (General
Oversight), Docket No. FD-33388 (sub 91)

Dear Mr. Williams:

This is in response to Answers filed in the above matter by Norfolk Southern (NS) and
CSX Corp. (CSX) on August 4, 2003.

The Lackawanna Coalition is a nonprofit corporation of the State of New Jersey,
organized as the Lackawanna Coalition, Inc. in 1980. Since that time, the Coalition has
advocated on behalf of riders on New Jersey Transit's Morris & Essex Lines. The Coalition has
added the Montclair-Boonton Line of New Jersey Transit to its area of concern, and has
expressed support for resumption of rail passenger service over the former Lackawanna Cutoff
Line to the Pocono Mountain region and Scranton, and over the portion of the Boonton Line
where service was abandoned by N.J. Transit in September, 2002. The allegation by CSX (at 12)
that the Coalition consists of rail riders on the former NS Boonton Line is a blatant
mischaracterization. In fact, the Coalition consists of the counties and municipalities served by
N.J. Transit's Morris & Essex and Montclair-Boonton Lines, along with individuals from this
region who perform the tasks that assist the Coalition in advocating on behalf of rail riders on the
lines of concern. The Lackawanna Coalition has for many years supported N.J. Transit's efforts
to build the Montclair Connection, and we continue to support Transit's efforts to develop
ridership on the Montclair-Boonton Line. At the same time, we support the initiative by the New
York & Greenwood Lake Railway Co. (NY&GL) to independently serve the stations abandoned
by New Jersey Transit upon completion of construction of the Montclair Connection.

At the outset, it should be noted that CSX has taken it upon itself to ridicule the nonprofit
status of the North Jersey Transportation Planning Authority (NJTPA), another commenting
party, as "unsupported by any shipper or anyone else with an economic interest in the matter" (at
2). The Lackawanna Coalition is concerned that its own nonprofit status will bring upon it the
same derision and scorn heaped upon the NJTPA by CSX. The Lackawanna Coalition operates
in the public interest, on behalf of rail riders. Its interest is not unlike that of the United Church
of Christ in *United Church of Christ v. FCC*, 359 F.2d 994, 1005 (D.C. Cir. 1966), in which the
court upheld the right of the church, as an advocate on behalf of the listening public, to object to
a transfer of a radio station license by the FCC. The attitude expressed by CSX that the

Lackawanna Coalition has no business objecting to the practices of NS is reminiscent of the oft-quoted attitude of "the public be damned" attributed to Cornelius Vanderbilt of the New York Central during the 19th Century. The Lackawanna Coalition is duly authorized to advocate on behalf of the rail riders of our region, and has been so recognized by New Jersey Transit and by the American Public Transit Association (APTA). We note the attitude expressed by CSX, and we state that, under no circumstances, will we voluntarily participate in our own damnation of that of our riders. We also question the motive of CSX in criticizing the Lackawanna Coalition, since our own criticism is aimed at NS, the purported competitor of CSX.

It is also appropriate to address two disingenuous comments by CSX. First, CSX claims (at 12) that we are a group of local commuters without a concrete plan to operate the passenger service that we endorse. We are not required to formulate such a plan, since NY&GL is formulating such a plan and is now negotiating to put it into operation (it should be noted that NS backhandedly acknowledges the existence of these negotiations at 13). CSX further states (at 13) that we disagree with N.J. Transit concerning termination of service to a number of stations last September, but our filing expressed no opinion whatsoever on this decision, and merely mentioned it as fact. Had eminent counsel for CSX bothered to read our filing, they probably would have noticed this. Our disagreement (in our second paragraph) was expressed at the action by NS in removing one of the tracks in the affected area and the imminent abandonment of DB Drawbridge. Neither CSX nor NS denies that the track in question was removed, or that it would be an easy matter to discontinue operations over DB Drawbridge, thereby making it essentially impossible to restore commuter service under the NY&GL plan.

NS claims that we would "commendeer PRR property" (at 11). Curiously, CSX (the purported competitor of NS) also states (at 12) that the objection stated by the Coalition in its July filing "impermissibly proposes to confiscate private freight rail assets." Whatever relationship "PRR" might have to NS, NS took it upon itself to eliminate the existence of one of the tracks through the area in question. We do not comment on the extent to which this action by NS constitutes a "confiscation" or "commandeering" of the assets of the alleged entity PRR. That is for PRR, if it is indeed an independent entity and not a shell for NS, to question. However, it cannot be gainsaid that the destruction of a part of a rail line is an act done in furtherance of the public interest, convenience or necessity. Indeed, the Lackawanna Coalition questions the rationality of the allegations by both railroad companies about confiscation when NS wantonly destroys a line which it claims only to operate (and not to own), despite urgings by the New Jersey Department of Transportation (NJDOT), an allegation not denied by NS or CSX.

NS states: "conditions are imposed only to ameliorate or eliminate harms from the transaction itself" (at 12) and blames New Jersey Transit for the actual harm done to former riders of the Montclair-Boonton Line who now want alternate service provided by the NY&GL. In fact, the latest round of harm was caused by NS, when it tore up a track in the affected area, making resumption of passenger service far more difficult than it had been before that act.

In fact, the harm to the public occurred at the time of the breakup of Conrail, which created Conrail Shared Assets (CSA). The conduct of the two railroad companies which commented on the Lackawanna Coalition's own statement make it abundantly clear that there is now an anticompetitive situation among the Class I railroads in our region. NS claims that it

competes vigorously with CSX for business in New Jersey, but the very filings submitted in the present matter by the railroads belie this allegation. CSX, especially, has shown that it is not the competitor of NS, but its confederate. In a truly competitive situation, CSX would be reasonably expected to support our call for turning over the line now operated by NS to another operator who would be more responsive to local concerns. Instead, CSX heaps even more ridicule upon us than does NS for having the temerity to suggest that its "competitor" is acting in an anticompetitive manner.

It is no accident that NS and CSX appear to be acting in concert. The two companies share beneficial ownership of the lines operated by each other. This leads to an inherent conflict of loyalties, since a "victory" over the "competition" for either side means a diminution of the assets belonging to the "other" railroad. For example, if CSX were to vigorously compete with NS and lure shippers away from NS, NS would lose business and its shares would lose value. This could lead to a further diminution of the value of the rail lines under CSA joint ownership. Such a competitive "victory" by CSX could actually lead to lowered value for some of CSX's assets. A similar "victory" for NS could lead to a lowered value for its assets, in the same manner. Thus, the "shared assets" arrangement is anticompetitive and can easily lead to the two allegedly "competing" railroads acting more like partners than competitors. This is the harm that stems from the transaction itself. Therefore, we urge the Board to re-evaluate the establishment of the "shared assets" situation between NS and CSX.

Finally, we note that the concerns stated in our original filing have not been disputed or otherwise contested by either NS or CSX. We believe that the public interest, convenience and necessity demands that the rail lines in our region be operated in a competitive manner, and in such a way that proposed restoration of passenger services (specifically on the Lower Boonton Line and the Lackawanna Cutoff Line) becomes more likely, rather than less likely. We continue to urge that the Board give serious thought to turning the line in question over to an independent company that will operate the line truly in the interest of the shipping and potential riding public.

Yours very sincerely,



DAVID PETER ALAN
Chair

Cc: Bruno Maestri, Esq., Norfolk Southern Railway Co.
Commissioner Jack Lettiere, N.J. Dept. of Transportation
North Jersey Transportation Planning Authority
New Jersey Transit