

ZUCKERT SCOUTT & RASENBERGER, L.L.P.

ATTORNEYS AT LAW

888 Seventeenth Street, NW, Washington, DC 20006-3309
Telephone [202] 298-8660 Fax [202] 342-0683
www.zsrlaw.com



DIRECT DIAL (202) 973-7902
raallen@zsrlaw.com

RICHARD A. ALLEN

December 1, 2006

BY HAND DELIVERY

Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

DEC 1 - 2006

Part of
Public Record

Re: CSX Corp. *et al.* – Control and Operating Leases/Agreements – Conrail Inc. *et al.*, Finance Docket No. 33388 (Sub-No. 100), Petition for Clarification Or in the Alternative For Supplemental Order-North Jersey Shared Assets Area.

Dear Secretary Williams:

I enclose for filing in the above captioned proceeding an original and ten copies of the Comments of Norfolk Southern Corporation and Norfolk Southern Railway Company On Supplement to Petition for Clarification or, in the Alternative, For Supplemental Order – North Jersey Shared Assets Area, together with a compact disc containing an electronic copy of the comments and supporting verified statement and the exhibits thereto.

Sincerely,

A handwritten signature in cursive script that reads 'Richard A. Allen'.

Richard A. Allen

Enclosures

cc: All parties of Record

218192



Before The
Surface Transportation Board

Finance Docket No. 33388 (Sub-No. 100)

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

**COMMENTS OF NORFOLK SOUTHERN CORPORATION AND NORFOLK
SOUTHERN RAILWAY COMPANY ON SUPPLEMENT TO PETITION
FOR CLARIFICATION OR IN THE ALTERNATIVE FOR SUPPLEMENTAL
ORDER – NORTH JERSEY SHARED ASSETS AREA**

John V. Edwards
**NORFOLK SOUTHERN
CORPORATION**
Three Commercial Place
Norfolk, Virginia 23510-2191
(757) 629-2838

Richard A. Allen
Nisha Saxena
**ZUCKERT, SCOUTT &
RASENBERGER, LLP**
888 Seventeenth Street, NW
Suite 700
Washington, D.C. 20006
(202) 298-8660

ENTERED
Office of Proceedings
DEC 1 - 2006
Part of
Public Record

*Attorneys for
Norfolk Southern Railway Company*

December 1, 2006

Before The
Surface Transportation Board



Finance Docket No. 33388 (Sub-No. 100)

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

**COMMENTS OF NORFOLK SOUTHERN CORPORATION AND NORFOLK
SOUTHERN RAILWAY COMPANY ON SUPPLEMENT TO PETITION
FOR CLARIFICATION OR IN THE ALTERNATIVE FOR SUPPLEMENTAL
ORDER – NORTH JERSEY SHARED ASSETS AREA**

Pursuant to the Board's decisions served July 31, 2006 and August 29, 2006, Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "NS") submit these comments on the "Supplement to Petition For Clarification Or In The Alternative For Supplemental Order—North Jersey Shared Assets Area" filed on November 3, 2006 by Bridgewater Resources, Inc. and ECDC Environmental, L.L.C. (collectively "BRI" or "Petitioners").

Background and Summary

By petition filed on January 20, 2006, Petitioners ask the Board to "clarify" its Decision No. 89 in this proceeding, *CSX Corp., et al.—Control—Conrail Inc., et al.*, 3 S.T.B. 196 (1998) ("*Conrail Control*"), by stating that BRI's waste transfer facility (the "BRI Facility") near Port Reading Junction in Somerset County, NJ, is "located within

[the North Jersey Shared Assets Area ('NJSAA')] and/or may be switched by [Conrail, Inc. ('Conrail')].” BRI Pet. at 17.

By decision served July 31, 2006, denying NS’ motion to dismiss the BRI Petition, the Board said: “NS has presented strong evidence, based on the transaction agreement, to support its claim that the BRI facility is located outside the NJSAA. Nevertheless, it is appropriate for the Board to allow for limited discovery for BRI to obtain evidence to further develop the record as to what the parties intended in their original transaction agreement before resolving the issues that are presented here.” Decision at 4. The Board also said: “The Board is particularly interested in what the parties meant by the use of the term “CP,” or control point, in defining the SAAs.” *Id.* at 5.

Petitioners have pursued discovery on that and other issues from the three parties to the Transaction Agreement,¹ NS, CXS and Conrail, and petitioners have received maps, track charts, documents and answers to interrogatories from all three of those parties. Those discovery responses reveal that the three parties to the Transaction Agreement are in agreement regarding the intent of that Agreement with respect to the meaning of “CP Port Reading Jct.” and the boundary of the NJSAA in the vicinity of the BRI Facility.

¹ “Transaction Agreement” refers to the Transaction Agreement by and among CSX Corporation, CSX Transportation, Inc. [collectively, “CSX”], Norfolk Southern Corporation, Norfolk Southern Railway Company [collectively “NS”], Conrail Inc., Consolidated Rail Corporation [collectively “Conrail”] and CRC Holdings LLC, dated as of June 10, 1997, which the Board approved in Decision No. 89.

Notwithstanding the agreement of the parties on that issue, in their Supplement, Petitioners claim that the evidence obtained supports their contention that the BRI Facility is within the NJSAA. In fact the opposite is the case.

In its Supplement, Petitioners rely chiefly on the Second Supplemental Verified Statement of Paul H. Reistrup (“Reistrup 3”) to support a claim that “CP Port Reading Jct.” as used in the Transaction Agreement to define the boundary between the NJSAA and NS’ Lehigh Line is not a single point, but instead is an area extending more than two miles both west and east of that point (and, using Petitioner’s logic, presumably south of it as well, on CSXT’s Trenton Line), where the “approach” signals to the interlocking at Port Reading Junction are located. According to Petitioners, the NJSAA therefore extends to the western perimeter of this area: specifically, to a point on the Lehigh Line two and a half miles to the west of Milepost 35.92. *See* Reistrup 3 at 2-5.

None of the evidence provided in discovery or any other evidence supports this claim. On the contrary, as will be shown, the evidence clearly supports the conclusion that the parties to the Transaction Agreement intended the term “CP Port Reading Junction” – the boundary between the NJSAA and NSR – to be the point on the Lehigh Line where the Trenton Line once crossed the Lehigh Line, specifically at Milepost 35.92. That evidence includes the attached verified statement of John H. Friedmann, Assistant Vice President of Strategic Planning at NS, and the statement of Marc Hinsdale, attached to CSX’s comments, both of whom were directly involved in negotiating the Transaction Agreement and the allocation of lines and other properties among NS, CSXT and the SAAs.

Furthermore, Petitioners' interpretation of the term "CP Port Reading Junction" as used in the Transaction Agreement to delineate the boundary between the properties of adjacent railroads makes no sense. If "CP Port Reading Junction" is not a point but rather an area encompassing some four miles of track, as Petitioners claim, why should Conrail's territory (the NJSAA) extend to the western edge of that area? Why shouldn't NS' territory, instead, extend to the eastern edge of the area and Conrail's territory stop at the eastern edge? Petitioners do not explain. If Petitioners' argument rests on the fact that a Conrail dispatcher controls the interlocking at CP Port Reading Junction, that fact is merely the result of an operational agreement between the three railroads using the interlocking, which can be changed without Board approval. Would changing the railroad controlling the interlocking change the boundary of the NJSAA? Moreover, signal locations can be changed, and Board approval is also not required for such changes. If NS, CSXT and Conrail changed the locations of approach signals near the boundaries of the SAAs, would they thereby change the boundaries of the SAAs? Again, Petitioners do not explain.

Not only does Petitioners' argument make no sense, but also adopting it would produce enormous uncertainties. It would do so not only in the case of the more than 40 locations where the Transaction Agreement defines the boundaries between railroad properties in terms of "CP [X,Y or Z]," but it would also do so in the scores of cases (discussed at pages 21-22, below) in which the Board and its predecessor, the Interstate Commerce Commission ("ICC") have approved transactions, such as line abandonments, trackage rights agreements and line acquisitions, which have defined the end points of the

rail lines involved in terms of “CP [X, Y or Z].” Those cases reflect an understanding of those terms that is clearly inconsistent with Petitioners’ argument.

Petitioners’ argument ultimately rests on nothing more than Mr. Reistrup’s claim that “in widely accepted railroad parlance and practice, a ‘CP’ includes all railroad property between the approach signals for a designated interlocking.” Reistrup 3 at 3. Putting aside the fact the Mr. Reistrup cites only himself for this proposition and that it is at odds with the definition of “interlocking” in the rules of the Federal Railroad Administration (“FRA”),² the claim in any case has no bearing on the meaning of the term “CP Port Reading Junction” and similar terms as they are used in the Transaction Agreement to describe the boundaries between the territories of different railroads. Even if one assumed, *arguendo*, that some railroad operating personnel sometimes use the term “CP” as a synonym for the tracks within an interlocking, that would hardly mean that the term was intended to have such a meaning when used in an agreement to define the boundary between the territories of two adjacent railroads. In the latter case, the use of the term “CP,” or “Control Point,” is plainly intended to signify, as it states, a *point* on the lines of those railroads.

STATEMENT OF FACTS

1. Decision No. 89 -- Overview

In Decision No. 89, the Board approved and authorized, subject to conditions, a transaction (the “Transaction”) under 49 U.S.C. §§ 11321-11325 whereby NS and CSX

² As discussed at page 15, below, the FRA rules define the limits of an interlocking as: “The tracks between the opposing *home* signals of an interlocking.” (Emphasis supplied) 49 C.F.R. §236.806. Inconveniently for Petitioners’ argument, the western home signals for the interlocking controlling CP Port Reading Junction lie east of the point where BRI’s spur connects to NS’ Royce Running Track.

acquired control of Conrail, divided the use of certain Conrail lines and assets between them, and provided that other Conrail lines, in what are known as three Shared Assets Areas (“SAAs”), were to be owned, operated and maintained by Conrail for the exclusive benefit of NS and CSX. As pertinent here, the Board specifically approved the terms of the Transaction Agreement that allocated lines and assets among CSX, NS and the SAAs and the Shared Assets Operating Agreements among them governing the operation of the SAAs. *See Conrail Control*, 3 S.T.B. at 385-386.

In its decision, the Board found that the Transaction would bring very substantial public benefits, including particularly increased rail competition in the Northeast resulting from the division of Conrail and the establishment of the SAAs. The Board stated: “The most important public benefit resulting from the transaction will be a substantial increase in competition by allowing both CSX and NS to serve where only Conrail served before.” *Conrail Control*, 3 S.T.B. at 333.

Because of the obvious competitive benefits flowing from the creation of the SAAs, many shippers and communities not in the SAAs asked the Board to require the Applicants to provide the same treatment to them. The Board declined to do so. It said:

The ICC and the Board have consistently declined to attempt to equalize the rail transportation options of shippers who receive merger benefits with all those who do not. . . . Applicants have proposed a restructuring that makes sense for them as an economic and restructuring matter, while at the same time creating new rail competition for several major cities and many hundreds of shippers. . . . If we were to require trackage rights by a second carrier for every shipper or community that competes with shippers who benefited from the transaction, it is possible, even likely, that this entire transaction would collapse.

Conrail Control, 3 S.T.B. at 269-270.

2. Allocation of Lines Near Port Reading Junction

The Transaction Agreement defines, both by means of a map and the written word, the various lines allocated to CSX (referred to as “NYC Allocated Assets”), NS (referred to as “PRR Allocated Assets”) and the SAAs (referred to as “Retained Assets”). Schedule I of the Transaction Agreement states at the outset:

Attached to and incorporated in this Schedule are the following Attachments:

- (i) Attachment I, which is the line segment allocation list identifying each Route owned, operated or used by CRC and its Affiliates and indicating as to each Route whether it is included in the NYC Allocated assets, the PRR Allocated Assets or the Retained Assets; and
- (ii) Attachment II, which is a system map showing all Routes comprising the CRC rail system and indicating by color coding the Routes which are to be NYC Allocated Assets, PRR Allocated Assets and Retained Assets, respectively; Attachment II is intended to show geographically the Routes described in Attachment I.

Schedule I further specifies that lines colored in red and/or orange on Attachment II (hereafter, the “Map”) are NYC Allocated Assets, those in green and/or yellow are PRR Allocated Assets and those in blue are Retained Assets.

The Transaction Agreement also provides that operations of Conrail, NS and CSXT within the SAAs, including the NJSAA, are to be governed by separate Shared Assets Agreements. *See* Transaction Agreement, Sections 1.1 and 2.5.³ The NJSAA Agreement, like the other SAA agreements, defines “Shared Assets” as tracks, rights of way and other property “which CRC [Conrail] owns, leases or has the right to operate

³ The Transaction Agreement, including the Map, was contained in Volume 8B of the Application in the Conrail Control proceeding and the entire NJSAA was contained in Volume 8C. Two enlargements of the portions of the Map depicting the lines near BRI’s Facility in New Jersey are Exhibit 2 and Exhibit 3 to Mr. Friedmann’s verified statement.

over,” and defines “Shared Asset Areas as “the geographical area comprising the Shared Assets and Operator [*i.e.*, NS or CSX] Facility and Jointly Operated Facility directly (without intermediate connection to another railroad) attached to trackage included within the Shared Assets” NJSAA Agreement §§1(ss) and (tt). Most importantly, each Shared Assets Agreement gives Conrail the right to perform switching service *only* “within the Shared Assets Area.” *See* NJSAA Agreement § 3(d)(i). Conrail has no authority to provide switching or otherwise operate over tracks that are not part of the Shared Assets Area, with certain exceptions that are not relevant to BRI’s claim.

Among the lines listed in Schedule 1 of the Transaction Agreement as being allocated to CRC Retained Assets – North Jersey/New York Shared Assets Area is the “Lehigh Line” from “CP Port Reading Jct.” eastward to “Oak Island Yard.”⁴ Among the “CRC yards, land and yard access tracks” allocated to NYC is “Manville Yard (subject to use by CRC, CSX and NSR pursuant to Ancillary Agreements.” Schedule 1, Item 1(C)(15). The Lehigh Line running from CP Port Reading Jct. west to Allentown, PA is allocated to PRR. The Trenton Line, allocated to CSXT, connects to the Lehigh Line at or near CP Port Reading Junction.⁵

According to the BRI Petition, the BRI Facility is located north of the Lehigh Line and is served by a private spur, the Royce Spur, which connects to a track known as the Royce Running Track. BRI Pet., Reistrup V.S. at 6 and Exhibit 5 thereto. The

⁴ As reflected on Exhibit 5 to Mr. Friedmann’s verified statement, Conrail’s “Lehigh Line” was the main line of the former Lehigh Valley Railroad, which had been acquired by Conrail.

⁵ The Map attached to the Transaction Agreement shows PRR’s (NS’) portion of the Lehigh Line running westward from “CP Port Reading Jct.” *See* Exhibits 2 and 3 to Mr. Friedmann’s statement. Schedule 1, Attachment 1 to the Transaction Agreement describes this line as running from Somerville, NJ (a town near Port Reading Junction) to Allentown, PA. Vol. 8B at 98.

general location of the Trenton Line, the Lehigh Line, Manville Yard, the Royce Running Track and the Royce Spur (unlabelled) in the vicinity of Port Reading Junction are shown on a handwritten map produced by Conrail in discovery and labeled “Lehigh Line – Page 1” (Exhibit 4 to Mr. Friedman’s statement).

The Map that is part of the Transaction Agreement and that defines the lines that are allocated to NS (PRR), CSXT (NYC) and the SAAs clearly refutes BRI’s claim that its facility is within the NJSAA. Exhibit 2 to Mr. Friedmann’s statement is an enlargement of a portion of the Map that shows the Trenton Line and the Lehigh Line as they approach Metropolitan New York and North Jersey from the south and west. It shows the Lehigh Line in green (*i.e.*, allocated to NS (PRR)) up to the point where that line joins the orange (*i.e.*, allocated to CSXT (NYC)) Trenton Line, which point the Map labels “CP-Port Reading Junction.” Just to the east of that junction, the Lehigh Line becomes blue (*i.e.*, is allocated to the NJSAA). Exhibit 2 also clearly shows the Royce Running Track, as well as the adjacent “Manville Siding” and the “VA Lead,” in green.

These allocations are shown even more clearly in Exhibit 3 to Mr. Friedmann’s statement, which is an enlargement of an insert to the Map covering Metropolitan New York City and North Jersey. Exhibit 3 again shows the Lehigh Line up to its junction with the Trenton Line in green, as well as the Royce Running Track and the Manville Siding. It shows the Lehigh Line west of that junction in blue and it shows the Trenton Line south of that junction in orange.

As explained by Mr. Friedmann, he and the other negotiators of the Transaction Agreement understood and intended that the terms they used to describe the boundaries of lines allocated to the different railroads, which are also depicted on the Map, were

intended to signify specific points on these lines, which points defined the boundaries between the properties of the different railroads; they were not intended to signify areas encompassing track segments.⁶ Such terms include specifically the term “CP Port Reading Jct.,” as well as more than 40 other similar instances where the Transaction Agreement uses “CP ____” to describe the endpoints of lines allocated to different railroads.⁷ *Friedmann V.S.* at 3-4. This understanding is consistent with the definition in FRA rules of “Point, controlled” as: “A location where signals and/or other functions of a traffic control system are controlled from the control machine.” 49 C.F.R. §236.782.

Port Reading Junction is the location where the Trenton Line once joined and crossed over the Lehigh Line. The Trenton Line, allocated by the Transaction Agreement to CSX, was once the line of the Delaware and Bound Brook Railroad. The portion of that line north of Port Reading Junction (sometimes known as the Reading Connector) was removed some time prior to the Transaction, and the current switch connection between the Trenton Line and the Lehigh Line is some distance east of the former junction. *Friedmann V.S.* at 5-6. Mr. Friedmann understands that the designation “CP” was used to define endpoints on many of the Conrail lines simply because that designation had commonly been used by Conrail to indicate line junctions that were controlled by automatic interlockings and to differentiate such junctions from other

⁶ This is true if the different lines are considered as two-dimensional lines, as they are usually depicted on maps. If the different rail lines are considered as three-dimensional areas described by their lengths and the widths of their rights of way, then the terms used to described the boundaries would be transverse lines crossing the rail lines at a right angle, as shown on the map attached to the deed by which Conrail conveyed the Lehigh Line west of CP Port Reading Jct. to PRR (Exhibit 5 to *Friedmann V.S.*).

⁷ See Exhibit 1 to Mr. Friedmann’s statement.

junctions controlled by manually controlled interlockings, although such terminology is not commonly used on NS' system. *Id.* at 4-5.

Although the terms used in the Transaction Agreement and Map were intended to signify points on rail lines, not areas, Mr. Friedmann also explains that the parties understood that those terms did not define the boundary points in the detail appropriate for property deeds; rather, the parties understood and intended that there would be a process following the execution of the Transaction Agreement during which the exact points would be determined and described by representatives of the parties and would be recorded in deeds and other documents. The purpose of this process was to implement the details of the Transaction Agreement and the Map; the representatives had no authority to alter in any way the route allocations or access to customers established by the Transaction Agreement. The exact points were commonly referred to as "cut points," and in the months following the Transaction Agreement, "cut point" teams from NS and CSX engaged in a process of determining the exact boundaries between NS (PRR), CSX (NYC) and Conrail (SAAs) territories. *Friedmann V.S.* at 3.

The cut point at "CP Port Reading Jct." was determined to be at Milepost 35.92 on the Lehigh Line, also identified as Railway Valuation Station 2244+97 on Railway Valuation Map V-3/24. This precise location is described in a Quitclaim Deed to the Lehigh Valley Main Line in Somerset County, NJ that Conrail issued on June 1, 1999 to Pennsylvania Lines, LLC and is shown on maps attached to the deed as Exhibit BI and as Railway Valuation Map V-3/24. This deed (Exhibit 5 to Mr. Friedmann's V.S.) describes "said point being at the northwesterly right of way of the former Delaware and Bound Brook Railroad," and from the attached maps it appears to be where the northwest

edge of the right-of-way of the former Delaware and Bound Brook Railway intersects the northern edge of the right-of-way of the Lehigh Valley Railroad main line.⁸

This point is east of where NS' Royce Running Track connects to NS' Lehigh Line and is a short distance west of the current switch connection between the Lehigh Line and CSX' Trenton Line. Inasmuch as it is well to the east of where BRI's spur connects to the Royce Running Track, it is clear that BRI's facility is not within the NJSAA. *Friedmann V.S.* at 6.

Other documents confirm that the parties understood and intended that "CP Port Reading Jct.," as used in the Transaction Agreement to define the western boundary of the NJSAA on the Lehigh Line, is the point at Milepost 35.92 on that line and is at Railway Valuation Station 2244+97 on Railway Valuation Map V-3/24. These include:

- Notes in CSX's "Cutpoint" file (Exhibit 6 to *Friedmann V.S.*)
- NS' Track Chart, which shows NS' track extending to the east of Milepost 36 to "CP Port Reading Jct." (Exhibit 7 to *Friedmann V.S.*)
- CSX's response to BRI's Interrogatory No. 1, stating: "Accordingly, the 'CP Port Reading Junction' is a point on the Lehigh Line at Milepost 35.92 that marks the boundary between the portion of the Lehigh Line allocated by the Transaction Agreement to Pennsylvania Lines, LLC ('PRR') for the use of NS and the portion allocated to the North Jersey Shared Assets Area." *See* Exhibit 2 to Reistrup 3.
- Conrail's response to BRI's Interrogatory No. 1, stating: "If the Lehigh Line is considered as a geometrical line, "CP Port Reading Junction," as used in the

⁸ As noted earlier, the former Delaware and Bound Brook Railway's line once crossed the Lehigh Line as a continuation of the Trenton Line extending to Bound Brook, NJ. This extension was apparently known as the Reading Connector, but it was removed some time before the Transaction Agreement.

[Transaction Agreement] . . . is a point on the Lehigh Line at Milepost 35.92 that marks the boundary between the portion of the Lehigh Line allocated . . . to [PRR] for the use of NS and the portion allocated to the [NJSAA].” See Exhibit 3 to Reistrup 3.

Finally, during the seven years between Split Date and when BRI’s petition was filed, no party to the Transaction Agreement has questioned the boundary of the NJSAA in this area or suggested that the BRI facility is within it.

3. The Interlocking at CP Port Reading Junction.

Train movements through CP Port Reading Junction are controlled by an arrangement of signals known as an “interlocking.” Friedmann V.S. at 4. Because BRI’s claims are based in large part upon the arrangement of the interlocking at CP Port Reading Junction, a description of that interlocking is appropriate.

Rules of the FRA, 49 C.F.R. §236.751, define a manual interlocking as follows:

An arrangement of signals and signal appliances operated from an interlocking machine and so interconnected by means of mechanical and/or electronic locking that their movements much succeed each other in proper sequence, train movements over all routes being governed by signal indication.

An automatic interlocking is similarly defined by 49 C.F.R. §236.750 as:

An arrangement of signals, with or without other signal appliances, which functions through the exercise of inherent powers as distinguished from those whose functions are controlled manually, and which are so interconnected by means of electronic circuits that their movements must succeed each other in proper sequence over all routes being governed by signal indication.

The purpose of an interlocking is to ensure that trains do not move simultaneously through the area controlled by the signals comprising the interlocking. Accordingly, movements through an interlocking are controlled by a single railroad, by agreement of

the railroads involved. In a verified statement attached to the Motion to Dismiss NS filed on February 9, 2006, Mr. Timothy C. Tierney, Assistant Vice President/Chief Engineer of Conrail, explained:

An interlocking may, and frequently does, include tracks of different railroads, but, by agreement among those railroads, one of them controls all movements over all tracks within the interlocking. The boundaries of an interlocking do not define the ownership of the various tracks within the interlocking and do not determine the use of equipment and personnel over those various tracks by those other railroads.

Tierney V.S. at 2. In the case of the interlocking governing movements through CP Port Reading Junction, a Conrail employee controls the interlocking. *Id.*⁹

Movements through the interlocking at CP Port Reading Junction are controlled by various “home signals.” FRA rules define a “Signal, home” as: “A roadway signal at the entrance of a route or block to govern trains in entering and using that route or block.” 49 C.F.R. §236.806. As Mr. Reistrup acknowledges (Reistrup 3 at 2), the western home signals governing eastbound movements through CP Port Reading Junction are located at approximately Mile Post 36.0 on the Lehigh Line and the adjacent Royce Running Track. See Exhibit 8 to Friedman V.S. These signals are approximately .08 of a mile west of Milepost 35.92 and are to the east of where BRI’s spur connects to the Royce Running Track. As BRI admits in its Supplement, at page 5: “If ‘CP-Port Reading Jct.’ includes only the railroad-owned tracks and facilities between the home signals for Port Reading Jct., then the switch connection to BRI’s facility is located outside the NJSAA and Conrail does not have the right to switch the BRI facility.”

⁹ Indeed, the parties to the Transaction Agreement included “interlocking control” agreements and “interlocking separation” agreements when the entire interlocking was involved (see reference to the interlocking agreement affecting the “CP-Mounds Interlocking” at Columbus, OH and the interlocking separation agreement affecting the “CP 138 Interlocking” at Columbus, OH).

Approximately two and a half miles further west on the Lehigh Line, at Milepost 38.4, "approach signals" are located. The aspects of these signals advise trains of the conditions between those signals and the upcoming interlocking. In responding to a BRI interrogatory regarding the approach signals, NS stated:

The approach signals for CP-Port Reading Junction are connected electronically to the home signals for Port Reading Junction. The aspects of the approach signals change automatically according to several conditions, including, but not limited to, the aspects of the home signals governing train movements within the interlocking. Other conditions that may automatically affect the aspects of the approach signals include the condition of the track, the status of switches and the presence or absence of other trains on the track between the approach signals and the home signals. The approach signals are not themselves controlled by the dispatcher who controls the home signals governing train movements through an interlocking. The home signals succeed each other in sequence to ensure that train movements through an interlocking will proceed in sequence, but approach signals do not necessarily succeed each other in sequence, and train movements past different approach signals to an interlocking do not necessarily proceed in sequence.

NS Response to BRI Interrogatory No. 11 (included in Exhibit 1 to Reistrup 3). BRI's Supplement and Mr. Reistrup do not dispute this statement.

NS' responses also stated that NS' dispatcher at Harrisburg controls the movement of trains between the approach signals at Milepost 38.4 and the home signals governing the movements through CP Port Reading Junction. NS Response to BRI Interrogatory No. 12 (included in Exhibit 1 to Reistrup 3). NS also pointed out that the approach signals and the track between those signals and the home signals at Milepost 36.0 are not part of the interlocking governing movements through CP Port Reading Junction, as is clear from the FRA regulations, which, in 49 C.F.R. §236.753, define "Limits, Interlocking" as "The tracks between the opposing home signals of an interlocking." NS Response to BRI Interrogatory No. 10 (included in Exhibit 1 to Reistrup 3).

BRI'S CLAIMS

BRI claims that its facility "is located within the NJSAA," (BRI Pet. at 17) and is therefore entitled under the Transaction Agreement and the NJSAA Agreement to receive switching service from Conrail to move cars between the BRI Facility and Manville Yard. BRI bases its claim entirely on the opinion of its consultant, Paul Reistrup. Although Mr. Reistrup was a CSXT employee between June 1, 1997 and February 2003, he does not claim that he was involved with or knowledgeable about the allocation of lines or determination of boundaries in the Transaction Agreement, which was executed a few days after he joined CSXT, or with any subsequent discussions among the parties on those matters.

The grounds for Mr. Reistrup's opinion are now set forth in his "Second Supplemental Verified Statement" (herein "Reistrup 3). In this statement, the essential ground given for the opinion that the BRI Facility is within the NJSAA is Mr. Reistrup's claim that "[u]nder widely accepted railroad parlance and practice, a "CP" includes all railroad property between approach signals for a designated interlocking." Reistrup 3 at 3, Point 5. The only authority cited for this proposition, however, is his own previous verified statement, dated February 23, 2006. At the same time, Mr. Reistrup asserts that "the terms 'CP' or controlled point and 'interlocking' have the same meaning under railroad operating practices," but he appears to acknowledge that the FRA's definition of an interlocking ("[t]he tracks between the opposing home signals of an interlocking") is inconsistent with his asserted definition of that term. Thus, he admits that "these terms [CP and interlocking] are not synonymous under applicable FRA rules cited by NS, CSX and Conrail in their discovery responses." *Id.*, Point 4.

Despite his claim that the NJSAA extends to the approach signals at Milepost 38.4, Mr. Reistrup also admits that “[t]he division of property ownership of the Lehigh Line as Between Conrail and NS as a result of the Conrail control transaction is a Valuation Station 2244+97 (Milepost 35.92.)” Reistrup 3 at 2, Point 1. As will be discussed in the Argument that follows, this admission is inconsistent with, and refutes, the claim that the NJSAA extends some two and a half miles west of the property division between the two railroads.

ARGUMENT

I. THE EVIDENCE CLEARLY SHOWS THAT THE BRI FACILITY IS OUTSIDE THE NJSAA.

The evidence discussed above clearly shows that the parties to the Transaction Agreement intended that the term “CP Port Reading Jct.” to be the point on the Lehigh Line where the Trenton Line once crossed the Lehigh Line, specifically at Milepost 35.92. Accordingly, the evidence shows that the BRI Facility is outside the NJSAA, because BRI’s industrial spur connects only with NS’s Royce Running Track and the Royce Running Track connects to NS’ portion of the Lehigh Line west of that point.

This evidence includes, first, the Map that is part of the Transaction Agreement. The Map clearly shows the Royce Running Track and the Lehigh Line west of its junction with the Trenton Line colored in green, indicating the allocation of that trackage to PRR for NS’ exclusive use and operation.

Second, the evidence includes the quitclaim deed, and the maps that are part of that deed, that Conrail provided to PRR conveying the portion of the Lehigh Line west of Milepost 35.92. This property demarcation is dispositive, because the NJSAA

Agreement defines “Shared Assets” as tracks, rights of way and other property “which CRC [Conrail] owns, leases or has the right to operate over,” and defines “Shared Asset Areas as “the geographical area comprising the Shared Assets and Operator [*i.e.*, NS or CSX] Facility and Jointly Operated Facility directly (without intermediate connection to another railroad) attached to trackage included within the Shared Assets” NJSAA Agreement §§1(ss) and (tt). Since Conrail does not own or have any right to operate over the trackage west of Milepost 35.92 and that trackage is neither an Operator Facility nor a Jointly Operated Facility, that trackage is not part of the NJSAA.

Third, the evidence includes NS’ track chart, which shows that NS trackage extends some distance east of Milepost 36.0 to its connection to the NJSAA.

Fourth, the evidence includes the fact that all three parties to the Transaction Agreement agree that Milepost 35.92 is the western boundary of the NJSAA, and none of them has ever express a contrary view in the seven years since Split Date.

Fifth, the evidence includes the verified statement of John Friedmann, one of the NS officials who negotiated the Transaction Agreement and the allocation of lines among the three railroads, as to NS’ intent with respect to the boundary of the NJSAA and the meaning of the term “CP Port Reading Jct.”

II. BRI HAS PRESENTED NO SUBSTANTIAL EVIDENCE THAT ITS FACILITY IS WITHIN THE NJSAA.

BRI has presented no substantial evidence to refute the evidence just summarized. On the contrary, the Supplement contains an admission strongly supporting that evidence.

Specifically, as noted earlier, Mr. Reistrup, in his latest verified statement, admits that “[t]he division of property ownership of the Lehigh Line as Between Conrail and NS

as a result of the Conrail control transaction is a Valuation Station 2244+97 (Milepost 35.92.).” Reistrup 3 at 2, Point 1. Inasmuch as the NJSAA Agreement *defines* the shared assets as assets that Conrail “owns, leases or has the right to operate over,” and BRI has presented no evidence that Conrail leases or has the right to operate over the trackage west of Milepost 35.92, the determination of the point dividing the ownership of the Lehigh Line between Conrail and NS is dispositive of BRI’s claim.¹⁰

BRI’s claim is based solely on the opinion of Mr. Reistrup, who was not involved in the negotiation of the Transaction Agreement, and on his assertions that “CP” is synonymous with “interlocking” and that an interlocking encompasses all the trackage within the approach signals to the interlocking.¹¹ As noted earlier, Mr. Reistrup cites no

¹⁰ There is no merit to Mr. Reistrup’s claim in a footnote (Reistrup 3 at n. 7) that “[s]ince Contrail controls this home signal [at Milepost 36.0], it follows under the provision of the NJSAA agreement cited at page 6 of NS’s motion to dismiss that the NJSAA extends west to the point where Conrail’s operational control ends.” Understandably, Mr. Reistrup neglects to cite the pertinent language of the NJSAA Agreement; the fact that a Conrail employee controls the home signals at the limits of the interlocking at CP Port Reading Junction does not give Conrail has a “right to operate” over PRR tracks within the limits of the interlocking. As Conrail’s Chief Engineer, Mr. Tierney explained: “The boundaries of an interlocking do not define the ownership of the various tracks within the interlocking and do not determine the use of equipment and personnel over those various tracks by those other railroads.” Furthermore, even if Conrail had the right to operate over NS’ tracks as far as the home signal at Milepost 36.0, which it does not, that would not bring the BRI Facility within the NJSAA, since BRI’s industrial spur connects to NS’ Royce Running Track west of that signal.

¹¹ Mr. Reistrup also incorrectly claims that “the 1998 schematic of ‘CP-Port Reading Jct.’ produced by Conrail (attached [to his second supplemental verified statement] as Exhibit 4) confirms the accepted definition of a CP because it shows all of the approach and home signals at the Port Reading Jct. interlocking.” Reistrup 3 at 3. The referenced Exhibit 4 is a copy of a schematic produced in discovery by Conrail, but it contains substantial markups by Mr. Reistrup, including brackets and arrows across the top that misleadingly suggest that CP- Port Reading Jct. is an area that encompasses the approach signals to it. An unmarked up version of the schematic appears in Exhibit 2 to Reistrup 3 (Conrail’s responses to BRI discovery requests). Like any map that may bear the title of

authority for these assertions other than himself, and there are several serious problems with it.

First, even if one assumed that the term “CP,” as used in the Transaction Agreement to demark the boundary between the NJSAA and the tracks of other railroads, meant all the tracks comprising the interlocking at Port Reading Junction, the only authoritative definition of the limits of an interlocking is set forth in the FRA rules, which define those limits as “[t]he tracks within the opposing *home* signals of the interlocking” (49 C.F.R. §236.806 (emphasis supplied)). This definition squarely refutes BRI’s claim, as BRI appears to acknowledge at page 5 of the Supplement. This definition is also consistent with the understanding of the term “interlocking” by Mr. Friedmann. Friedmann V.S. at 8. Mr. Reistrup offers no reason why his asserted understanding of the term interlocking should take precedence over the FRA’s definition.

Second, even if one again assumed that the term “CP,” as used in the Transaction Agreement to designate the boundary between the NJSAA and the tracks of other railroads, meant all the tracks comprising the interlocking at Port Reading Junction, Mr. Reistrup offers no reason why the NJSAA should extend to the western edge of the interlocking (as defined by Mr. Reistrup) rather than extending only to its eastern edge. The fact that Conrail happens to control the interlocking at Port Reading Junction would provide no substantial reason, because that fact is merely the result of an operating agreement among the railroads operating through the interlocking, which agreement can be changed without the Board’s review or approval. We doubt that BRI or Mr. Reistrup

the major geographic feature shown on the map, the title in no way indicates that everything shown on the map is part of the feature referenced in the title.

would contend that the boundaries of the SAAs are determined by, and may be altered by, railroad operating agreements outside the Board's purview.

Finally, it is simply not plausible to conclude that railroads, in defining the boundaries between their lines, would use a term that they intended to signify a wide area – specifically the tracks within an interlocking – rather than a term they intended to signify a point.¹² Doing so would produce great uncertainties. In addition to the fact that the railroad controlling the interlocking is determined by agreement among the railroads, where to locate approach signals and home signals are operational issues, and those locations may also be changed without Board review or approval. Such a conclusion would create great uncertainty not only with respect to the location of CP Port Reading Junction but also with respect to the locations of the more than 40 other places noted in Mr. Friedmann's statement where the Transaction Agreement uses the term "CP" to describe the endpoints of lines.

In sum, BRI has presented no substantial evidence to refute the extensive evidence showing that the BRI Facility is outside the NJSAA.

III. MANY BOARD AND ICC DECISIONS HAVE USED THE TERM "CP" TO SIGNIFY POINTS ON RAIL LINES RATHER THAN AREAS.

BRI's position is also contrary to many Board and ICC decisions that have used the term "CP" to signify specific points on rail lines rather than areas. Indeed, accepting

¹² In fact, when the parties meant to refer to the interlocking at a particular control point, the parties knew how to do so. See, for example, the Transaction Agreement's reference, noted in footnote 9, above, to the Interlocking Agreement concerning the "CP-Mounds Interlocking (Columbus, OH)" and the Interlocking Separation Agreement concerning the "CP 138 Interlocking (Columbus, OH)".

BRI's position would create enormous uncertainties with respect to the transactions approved by those decisions.

Research has revealed some thirty cases just since 1990 in which the term "CP" has been used to designate specific points on rail lines. *Soo Line Railroad Company—Trackage Rights Exemption—Norfolk Southern Railway Company*, STB Finance Docket No. 34709 (served June 24, 2005) is typical. That decision gives notice of a notice of exemption filed to authorize an agreement in which NS granted trackage rights to Soo Line Railroad over various NS lines, one of which is described as "between the point of connection of the Butler Connecting Track with NSR's Chicago Line at milepost CD 358.56+/-, and one of the following two *points* in Chicago, IL: (a) CP-502 at milepost 502.8+/- and (b) CP 509 at milepost 509.7+/-, a total distance of 253.9 miles (in the case of CP-502) and 260.8 miles (in the case of CP-509)." Emphasis supplied. It is clear from this decision that the terms "CP-502" and "CP-509" were used to designate specific points on the lines in questions. Other cases since 1990 using the term "CP" to signify points on rail lines are cited in the margin.¹³

¹³ *Consolidated Rail Corporation – Abandonment Exemption – Lancaster and Chester*, STB Docket No. AB-167 (Sub-No. 1095X) (served October 20, 2003); *Central Railroad Company of Indianapolis – Lease and Operation Exemption – CSX*, STB Finance Docket No. 34508 (served July 30, 2004); *Delaware and Hudson Railway Company, Inc. – Discontinuance of Trackage Rights Exemption – in Susquehanna County, PA and Broome, Tioga, Chemung, Steuben, Allegany, Livingston, Wyoming, Erie and Genesee Counties, NY*, STB Docket No. AB-156 (Sub-No. 25X) (served February 3, 2005); *Metro-North Commuter Railroad Company – Acquisition and Operation Exemption – Line of Norfolk Southern Railway Company and Pennsylvania Lines, LLC*, STB Finance Docket No. 34293 (served May 13, 2003); *Canadian National Railway Company – Discontinuance of Trackage Rights Exemption – in Erie County, NY*, STB Docket No. AB-279 (Sub-No. 5X) (served June 9, 2003); *Canadian National Railway Company – Trackage Rights Exemption – CSX Transportation Inc. and New York Central Lines, LLC*, STB Finance Docket No. 34322 (served April 16, 2003); *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company – Control and Operating Leases/Agreements – Conrail, Inc. and Consolidated Rail Corporation*, STB Finance Docket No. 33388 (Sub-No. 90) (served November 15, 2002); *New York Central Lines, LLC C Abandonment Exemption C in Berkshire County, MA; in the Matter of a Request to Set Terms and*

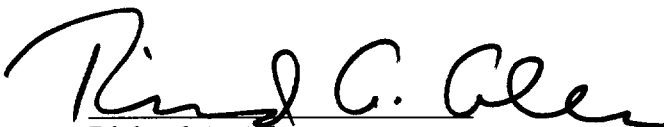
All of these cases use the term “CP” consistently with what the evidence shows was the intent of the parties to the Transaction Agreement in using “CP Port Reading Jct.” to define the boundary of the NJSAA: to signify a specific point on the Lehigh Line.

Conditions, STB Docket No. AB-565 (Sub-No. 3X) (served April 19, 2002); *Norfolk Southern Railway Company – Discontinuance Exemption – in Hudson County, NJ*; *CSX Transportation, Inc. – Discontinuance Exemption – In Hudson County, NJ*, Docket No. AB-290 (Sub No. 212X), STB Docket No. AB-55 (Sub-No. 584X) (served January 28, 2002); *Conrail Abandonment of the Weehawken Branch – in Hudson County, NJ*; *Conrail Abandonment of the River Line – In Hudson County, NJ*, STB Docket No. AB-167 (Sub-No. 766N), STB Docket No. AB-167 (Sub-No. 1067N) (served January 17, 2002); *East Chattanooga Belt Railway Company – Acquisition and Operation Exemption – Norfolk Southern Railway Company*, STB Finance Docket No. 34024 (served April 10, 2001); *Canadian National Railway Company – Trackage Rights Exemption – New York Central Lines LLC*, STB Finance Docket No. 33798 (served September 17, 1999); *Canadian National Railway Company – Trackage Rights Exemption – New York Central Lines LLC*, STB Finance Docket No. 33769 (served June 29, 1999); *Department of Transportation*, STB Finance Docket No. 33724 (served May 21, 1999); *Department of Transportation*, STB Finance Docket No. 33745 (served May 14, 1999); *CSX Transportation, Inc. – Trackage Rights Exemption – Consolidated Rail Corporation*, STB Finance Docket No. 33733 (served May 7, 1999); *Department of Transportation*, STB Finance Docket No. 33721 (served April 19, 1999); *Department of Transportation*, STB Finance Docket No. 33733 (served April 13, 1999); “*Proposed Conrail Acquisition*”; *CSX Corporation and CSX Transportation, Inc.*; *Norfolk Southern Corporation and Norfolk Southern Railway Company*; *Control and Operating Leases/Agreements Conrail, Inc. and Consolidated Rail Corporation*, STB Finance Docket No. 33388 (served May 22, 1998); *Buffalo & Pittsburgh Railroad, Inc. – Trackage Rights Exemption – Consolidated Rail Corporation*, STB Finance Docket No. 33514 (served December 4, 1997); *Wheeling & Lake Erie Railway Company – Trackage Rights Exemption – Consolidated Rail Corporation*, STB Finance Docket No. 33361 (served March 10, 1997); *Grand Trunk Western Railroad Incorporated – Trackage Rights Exemption – Consolidated Rail Corporation*, STB Finance Docket No. 332941 (served December 10, 1996); *Genesee & Mohawk Valley Railroad Co. – Acquisition and Operation Exemption – Consolidated Rail Corporation*, STB Finance Docket No. 32169 (served September 7, 1995); *Petition for Rulemaking Protection of Surveying Benchmarks In Railroad Abandonments*, ICC Ex. Parte No. 511 (served June 20, 1995); *Genesee & Mohawk Valley Railroad Co. – Acquisition and Operation Exemption – Consolidated Rail Corporation*, ICC Finance Docket No. 32169, Finance Docket No. 32170, Finance Docket No. 32335, Finance Docket No. 32336 (served September 30, 1993); *The Central Railroad Company of Indiana – Acquisition and Operation Exemption – Lines of Consolidated Rail Corporation*, ICC Finance Docket No. 31897 (served December 3, 1991); *Daid Monte Verde, n1 Michael Thomas, Charles Riedmiller, Jeffrey Baxter, and John Herbrand and Genesee Valley Transportation Company, Inc. – Continuance in Control Exemption – Genesee & Mohawk Valley Railroad Co.*, ICC Finance Docket No. 32170 (served November 30, 1992); *Consolidated Rail Corporation – Abandonment Exemption – Lancaster and Chester Counties, PA*, ICC Docket No. AB-167 (Sub-No. 1095X) (served February 14, 1990)

CONCLUSION

The Board should deny the Petition for Clarification Or in the Alternative For Supplemental Order—North Jersey Shared Assets Area filed by BRI on January 20, 2006.

John V. Edwards
**NORFOLK SOUTHERN
CORPORATION**
Three Commercial Place
Norfolk, Virginia 23510-2191
(757) 629-2838


Richard A. Allen
Nisha Saxena
**ZUCKERT, SCOUTT &
RASENBERGER, LLP**
888 Seventeenth Street, NW
Suite 700
Washington, D.C. 20006
(202) 298-8660

*Attorneys for
Norfolk Southern Railway Company*

December 1, 2006

Before The
Surface Transportation Board

Finance Docket No. 33388 (Sub-No. 100)

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

VERIFIED STATEMENT OF JOHN H. FRIEDMANN

My name is John H. Friedmann. I am Assistant Vice President, Strategic Planning at Norfolk Southern Corporation. I am giving this statement to discuss what the parties to the Transaction Agreement dated as of June 10, 1997 by and among CSX Corporation, CSX Transportation, Inc. [collectively, "CSX"], Norfolk Southern Corporation, Norfolk Southern Railway Company [collectively "NS"], Conrail Inc., Consolidated Rail Corporation [collectively "Conrail"] and CRC Holdings LLC, ("Transaction Agreement") intended by using the term "CP Port Reading Junction" in the Transaction Agreement to define the boundaries of the North Jersey Shared Assets Area ("NJSAA") in the vicinity of Port Reading Junction, NJ. I am providing this statement in support of the comments being filed by NS in response to the "Supplement to the Petition For Clarification or in the Alternative for Supplemental Order – North Jersey Shared Assents Area" filed on November 3, 2006 in this proceeding by petitioners Bridgewater Resources, Inc. ("BRI") and ECDC Environmental, LLC ("ECDC").

By decision served July 31, 2006, denying NS' motion to dismiss the BRI/ECDC Petition, the Surface Transportation Board ("Board") said: "NS has presented strong evidence, based on the transaction agreement, to support its claim that the BRI facility is

located outside the NJSAA. Nevertheless, it is appropriate for the Board to allow for limited discovery for BRI to obtain evidence to further develop the record as to what the parties intended in their original transaction agreement before resolving the issues that are presented here.” Decision at 4. The Board also said: “The Board is particularly interested in what the parties meant by the use of the term “CP,” or control point, in defining the SAAs.” *Id.* at 5.

I believe I am particularly well qualified to discuss that issue because I was one of a small NS team that negotiated the Transaction Agreement with CSX, and, particularly, the allocation of the Conrail rail lines and other properties that were to be used by NS and CSX and the Conrail rail lines and other properties that were to be part of the Shared Assets Areas (“SAAs”). I was an assistant to James McClellan, who, with Steven Tobias (NS’ lead negotiator) led the NS team. James McClellan was then Senior Vice President, Strategic Planning and has since retired from NS

The negotiation of the Transaction Agreement spanned a period of a few months in the first part of 1997. As I recall, the principal negotiator for CSX was Pete Carpenter.

With regard to the allocation of Conrail rail lines and other properties, the negotiators’ first step was to reach agreement using fairly broad terms to define the lines to be allocated to the different parties and the SAAs and their boundaries. These allocations are reflected on the color-coded map, which appeared as Attachment II to Schedule 1 of the Transaction Agreement. For NS, I personally supervised the development of the map.

The map was developed first, and was intended to govern. The map was translated into the line segment designations set forth in Attachment I to Schedule I. For example, as stated in Attachment I to Schedule I of the Transaction Agreement, we agreed to allocate the Conrail line from “Harrisburg, PA” to “Pittsburgh, PA” to Pennsylvania Lines, LLC (“PRR”) for the exclusive use of NS.

It was agreed and understood by all the parties that the route descriptions stated in Schedule I, Attachment I, were intended to designate specific endpoints of the routes described but were not stated with the detail that would later be appropriate for the deeds conveying the routes. It was agreed and understood that there would be a process after the execution of the Transaction Agreement but prior to the Split Date during which the parties would determine more detailed descriptions of the end points of the various routes. Pursuant to that understanding, after the Transaction Agreement was negotiated, teams for NS, CSX and Conrail spent several months designating the precise “cut points” that would define the endpoints of various routes in deeds and other documents. The purpose was to implement the details of Transaction Agreement and the map; the teams had no authority to alter the allocation of routes or access to customers established by the Transaction Agreement.

Among the routes, yards and trackage rights that the Transaction Agreement allocated or assigned to the different routes are more than 40 in which an endpoint of the asset in question is described in the Transaction Agreement by the term “CP.” For example, among the routes allocated to New York Central LLC (“NYC”) for the exclusive use of CSX is “Columbus (CP 138) OH - Galion OH.” Among the routes allocated to PRR are “CP 509 IL to Calumet Park IL.” Among the “CRC Retained

Assets – North Jersey/New York Shared Assets Area” is the Lehigh Line from “CP Port Reading Jct. NJ” to “Oak Island Yard NJ.” All such instances are listed in Exhibit 1 to my statement.

The term “CP” means a “control point.” A control point is a location on a railroad line, usually at a junction of two or more lines or where crossovers can be made between two or more tracks, where train movements through the location are governed by power operated switches or by signals. Train movements through CP Port Reading Junction are controlled by an arrangement of signals known as an interlocking, which is controlled by a Conrail employee. By agreement of the railroads operating over the tracks governed by an interlocking, the signals comprising an interlocking are controlled by an employee of one of the railroads, and the signals succeed each other in a proper sequence to prevent collisions.

In the case of the Transaction Agreement, it was certainly my understanding, and I believe the understanding of all three parties to the agreement, that whenever a route or asset was described by reference to a CP, for example, “CP Harris” or “CP Port Reading Jct.,” the reference was intended to designate a specific point on a railroad line, and was not intended to signify an area bounded by the approach signals or the home signals to the interlocking controlling movements through that point, as petitioners are contending in this case. The term CP was intended to signify a specific point although, as I said earlier, it was understood that the precise point would be subsequently determined.

It was my understanding that the term “CP” was used to describe the endpoints of some routes because that was a term that had commonly been used on the Conrail system to signify points that were controlled remotely and to differentiate it from points that

were not controlled remotely – for example, where there was a manual switch at a junction of two lines. Prior to the Conrail transaction, NS generally did not use the term “CP” when naming locations having an arrangement of remotely controlled power switches or signals.

In the case of CP Port Reading Junction, it was my understanding that the term was intended to signify the point where the Trenton Line, which was to be allocated to CSX, joined the Lehigh Line. This is clearly reflected on the map that is a part of the Transaction Agreement. Exhibit 2 is an enlargement of a portion of the map. It shows the Lehigh Line in green (*i.e.*, allocated to PRR for the exclusive use of NS) up to the point where that line joins the orange (*i.e.*, allocated to CSXT (NYC)) Trenton Line; the map labels this point “CP-Port Reading Junction.” East of that junction, the Lehigh Line becomes blue (*i.e.*, is allocated to the NJSA). Exhibit 2 also clearly shows the Royce Running Track, as well as the adjacent “Manville Siding” and the “VA Lead,” in green.

These allocations are also shown on Exhibit 3, which is an enlargement of an insert to the map covering Metropolitan New York City and North Jersey. Exhibit 3 again shows the Lehigh Line up to its junction with the Trenton Line in green, as well as the Royce Running Track and the Manville Siding. It shows the Lehigh Line west of that junction in blue, and it shows the Trenton Line south of that junction in orange.

Subsequently, cut point teams from CSX, NS and Conrail determined that the precise point reflected on the map and in the Transaction Agreement is at Milepost 35.92 on the Lehigh Line. This point is where the right of way of the Trenton Line once crossed the Lehigh Line and continued northward to Bound Brook, NJ. It is several hundred feet to the west of the current switch connection where the Trenton Line now

connects to the Lehigh Line. The point is east of where NS' Royce Running Track connects to Lehigh Line. The relative locations of the Trenton Line, the Lehigh Line, Manville Yard, the Royce Running Track and the industrial spur (unlabelled) serving BRI's waste transfer facility can be seen on Exhibit 4, which is a handwritten map produced by Conrail in discovery, which I understand was prepared by a Conrail employee at about the time the parties entered into the Transaction Agreement.¹ Inasmuch as that industrial spur connects to the Royce Running Track at a point to the west of where the Royce Running Track connects to the Lehigh Line, it is clear that the BRI Facility is not on or within the NJSAA.

Several documents confirm that "CP Port Reading Jct.," as used in the Transaction Agreement to define the western boundary of the NJSAA on the Lehigh Line is the point at Milepost 35.92 on that line and is also at Railway Valuation Station 2244+97 on Railway Valuation Map V-3/24. These include:

1. The Quitclaim Deed that Conrail issued on June 1, 1999 conveying the Lehigh Valley Mainline in Somerset County, NY west of Milepost 35.92 and Railway Valuation Station 2244+97 to Pennsylvania Lines LLC. A copy of this deed and the maps that are a part of it are attached as Exhibit 5 to this statement.
2. Notes in CSX's "Cut Point" file, which makes reference to "C.P. Port Reading Jct. at valuation station 2244+97." Exhibit 6. (NS has been unable to locate its "cut point" files, and it appears they were discarded several years ago in connection with a relocation of offices.)

¹ This map shows "Port Reading Junction" located at "MP 35.8." Subsequently, as noted, the point "CP Port Reading Jct." was determined to be at Milepost 35.92.

3. An NS Track Chart, which shows NS' track extending to the east of Milepost 36 "TO SHARED ASSETS" at "CP PORT READING JCT." Exhibit 7.

I understand that BRI's claim that its facility is within the NJSAA is based on the opinion of a consultant, Paul Reistrup, that "CP Port Reading Junction," as used in the Transaction Agreement refers to an area, approximately five miles in diameter, bounded by the approach signals to the interlocking governing train movements through CP Port Reading Junction. Mr. Reistrup's opinion is contrary to what I understood was intended by that term when I negotiated the Transaction Agreement, and it is contrary to the view of all three parties to the Transaction Agreement regarding that term. In fact, it would make no sense to define the boundary between the lines of two railroads in terms not of a point but of an area, especially an area defined by the location of signals and operational arrangements that may be changed by the railroads involved for operating reasons. Doing so would create great uncertainties as to where the boundary is and where it might be in the future, not only in the case of CP Port Reading Junction but also in the case of the more than 40 other locations where the Transaction Agreement describes the endpoints of routes by reference to various CPs.

Mr. Reistrup asserts that "the terms 'CP' or controlled point and 'interlocking' have the same meaning under railroad operating practices," and also contends that "[u]nder widely accepted railroad parlance, a 'CP' includes all railroad property between approach signals for a designated interlocking." Reistrup Second Supplemental Verified Statement at 3, Point 5. Whether or not some railroad operating personnel may sometimes use the term "CP" as a synonym for an interlocking is irrelevant, however. As used in the Transaction Agreement, the term "CP Port Reading Junction" was intended

by all parties to the agreement to designate a specific point on the Lehigh Line, not the area controlled by the interlocking.

Furthermore, even assuming Mr. Reistrup's claim that the term "CP" is synonymous with the term "interlocking," his contention that those terms "include [] all railroad property between the approach signals for a designated interlocking" is contrary to my understanding of the term "interlocking," and is contradicted by the regulations of the Federal Railroad Administration, which defines "Limits, Interlocking" as: "The tracks between the opposing home signals of an interlocking." 49 C.F.R. 236.806. As shown on a Conrail signal chart produced in discovery and attached to this statement as Exhibit 8, the westernmost home signals for the interlocking controlling movements through CP Port Reading Junction are at approximately Milepost 36.0 on the Lehigh Line, and are well to the east of where BRI's industrial spur connects to NS' Roycé Running Track. Accordingly, even if one assumed, incorrectly, that the term CP Port Reading Jct. as used in the Transaction Agreement, referred to the tracks within the interlocking, and also assumed that the NJSAA's western boundary were at the western edge of the interlocking, the BRI Facility would still be outside the NJSAA.

VERIFICATION

I, John H. Friedmann, declare under penalty of perjury that the foregoing verified statement is true and correct to the best of my knowledge and belief. Further, I certify that I am qualified and authorized to file this statement.

Executed on this ___ day of November, 2006.

John H. Friedmann

VERIFICATION

I, John H. Friedmann, declare under penalty of perjury that the foregoing verified statement is true and correct to the best of my knowledge and belief. Further, I certify that I am qualified and authorized to file this statement.

Executed on this 29 day of November, 2006.

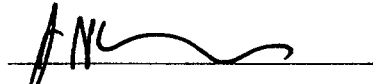

John H. Friedmann

Exhibit 1

"CP" Designated Locations in the Transaction Agreement

Schedule 1, Assets, Item 1 – NYC Allocated Assets:

- (c) Yards and Yard Access:
 - (5) Buckeye Yard Lead track from the north limit of "CP Buckeye" to "CP Darby" (Columbus, OH);
 - (6) West track between "CP 138" and "CP 136" (Columbus, OH);
* * *
 - (12) Track from CP Field to Pier 122 (Greenwich Yard area, Philadelphia);

Schedule 2, Assets, Item 2 – PRR Allocated Assets:

- (c) Yard and Yard Access:
 - (4) East track between "CP 138" and "CP 136" (Columbus, OH);
 - (5) the right of way east of and parallel to the single track portion of the Columbus Line immediately north of "CP 136" (the current end of double track), and the Clintonville Siding east of the single track portion;
- (d) Miscellaneous Property.
 - (2) real estate comprising a portion of the right-of-way (east of the current single track) between PRR's Clintonville Siding and the north end of the double track at CP 136 on which NSR may construct new track;

Attachment 1, NYC Allocated Assets

Berea to E. St. Louis Route & Extensions

Columbus (CP 138) OH – Galion OH
Columbus (Hocking) OH – Columbus (CP 138) OH

NY/NJ to Philadelphia (West Trenton Line)

Phil PA – CP-Field/CP-Gray
Eastwick PA – Vicinity of CP-Field/CP-Gray

Attachment 1, PRR Allocated Assets

NJ Terminal to Crestline – Pennsylvania Route & Extensions

CP Harris PA – Cloe PA

Chicago Market

CP 509 IL – Calumet Park IL
CP 502 – Osborne IN

Attachment 1, CRC Retained Assets – Detroit Shared Assets Area

Detroit Line	Gibraltar (MP 20) MI – CP West Detroit MI
Michigan Line	CP Townline MI – CP 15 th Street MI
North Yard Branch	CP Bay City Jct. MI – North Yard MI
Junction Yard Secondary	CP Townline MI – River Rouge Yard MI

Attachment 1, CRC Retained Assets – South Jersey/Philadelphia Shared Assets Area

Delair Branch	CP Park PA – Pavonia Yard NJ
Beasely's Pt. Secondary	CP Brown NJ – Palermo NJ
Vineland Secondary	CP Brown NJ – Landis NJ
Pemberton Ind. Track	CP Jersey NJ – Mt. Holly NJ
Grenloch Industrial Track	CP Brown NJ – Bellmawr NJ
Morrisville Line	CP "MA" PA – Morris PA
Camden Running Track	CP Brown NJ – Pavonia NJ

Attachment 1, CRC Retained Assets – North Jersey/New York Shared Assets Area

Lehigh Line	CP Port Reading Jct. NJ – Oak Island Yard NJ
River Line	CP Waldo NJ – North Bergen NJ
Nave – Croxton Running Tk.	Nave NJ – CP-Croxton NJ
Northern Running Track	CP-Croxton NJ – North Bergen NJ

Schedule 4 – Schedule of Trackage Rights, Shared Asset and other Operating Agreements

Item 1 – Trackage Rights Agreements

A. NSR on CSXT:

6. Buffalo (CP 437) – Niagara Falls (Suspension Bridge)
10. Cleveland OH: overhead trackage rights on CRC's Chicago Line (allocated to CSXT) from CP 181 to Collingwood Yard for purposes of interchange with CSXT.
14. CP Hocking – CP 138 (Columbus, OH): overhead trackage rights on CRC Buckeye Line from "CP Hocking" to "CP 138".
15. Scioto – CP Mounds (Columbus, OH): overhead trackage rights on CRC Western Branch from Scioto to "CP Mounds," including the Mounds Connection.
16. CP Buckeye – CP Darby (Columbus, OH): overhead trackage rights on Buckeye Yard Lead from "CP Buckeye" to "CP Darby".
17. CP 138 – MP 133.5 (Columbus, OH): overhead trackage rights on the CSXT – assigned west track of the CRC Columbus Line from "CP 138" to the vicinity of Milepost 133.5 (point of the new NS connection).
25. CP Short – Parma, OH: overhead trackage rights on CRC Short Line from CP Short to Parma to serve but not directly switch Parma auto plant.

B. CSXT on NSR:

1. CP River (West Falls), PA – Abrams, PA

2. CP King (Norristown), PA – Woodbourne (CP Wood), PA:
3. Berea, OH – CP 181 (Cleveland, OH):
4. CP Short – CP 190 (Cleveland, OH) and Berea, OH – Lorain and Fairlane, OH
5. CP Hocking – Buckeye Yard: overhead trackage rights on CRC Buckeye Line from "CP Hocking" to Buckeye Yard.
7. CP 139 – Buckeye Yard: overhead trackage rights on CRC Cincinnati Line from "CP 139" to Buckeye Yard, via the Miami Lead.
8. CP 138 – MP 133.5 (Columbus, OH): overhead trackage rights on the NSR-assigned east track of the CRC Columbus Line from CP 138 to the vicinity of MP 133.5 (point of new NSR connection).
13. Clarke Jct., IN – CP 501: overhead trackage rights on CRC's Fort Wayne Line between Clarke Junction, IN and CP 501.
15. CP Short – CP Belt, OH: CSXT overhead trackage rights to allow CSXT to serve but not directly switch 2-to-1 For Motor Company plant at CP Belt, OH.
19. CP 509 – 63rd Street (Chicago, IL):

Item 4 – Other Operating Agreements

- A. Interlocking Agreements (CSXT-Controlled)
 2. CP-Mounds Interlocking (Columbus, OH)
- C. Interlocking Separation Agreements
 1. CP 138 Interlocking (Columbus, OH)
- E. Miscellaneous Agreements
 4. Letter Agreement providing for NSR and CSXT construction projects:
 - (b) North of the current end of double track at CP 136 (Columbus, OH), ...
 12. Letter Agreement between NSR and CSXT providing CSXT the right to construct an Eastwick connection to provide a continuous route through Philadelphia, via CP Field and

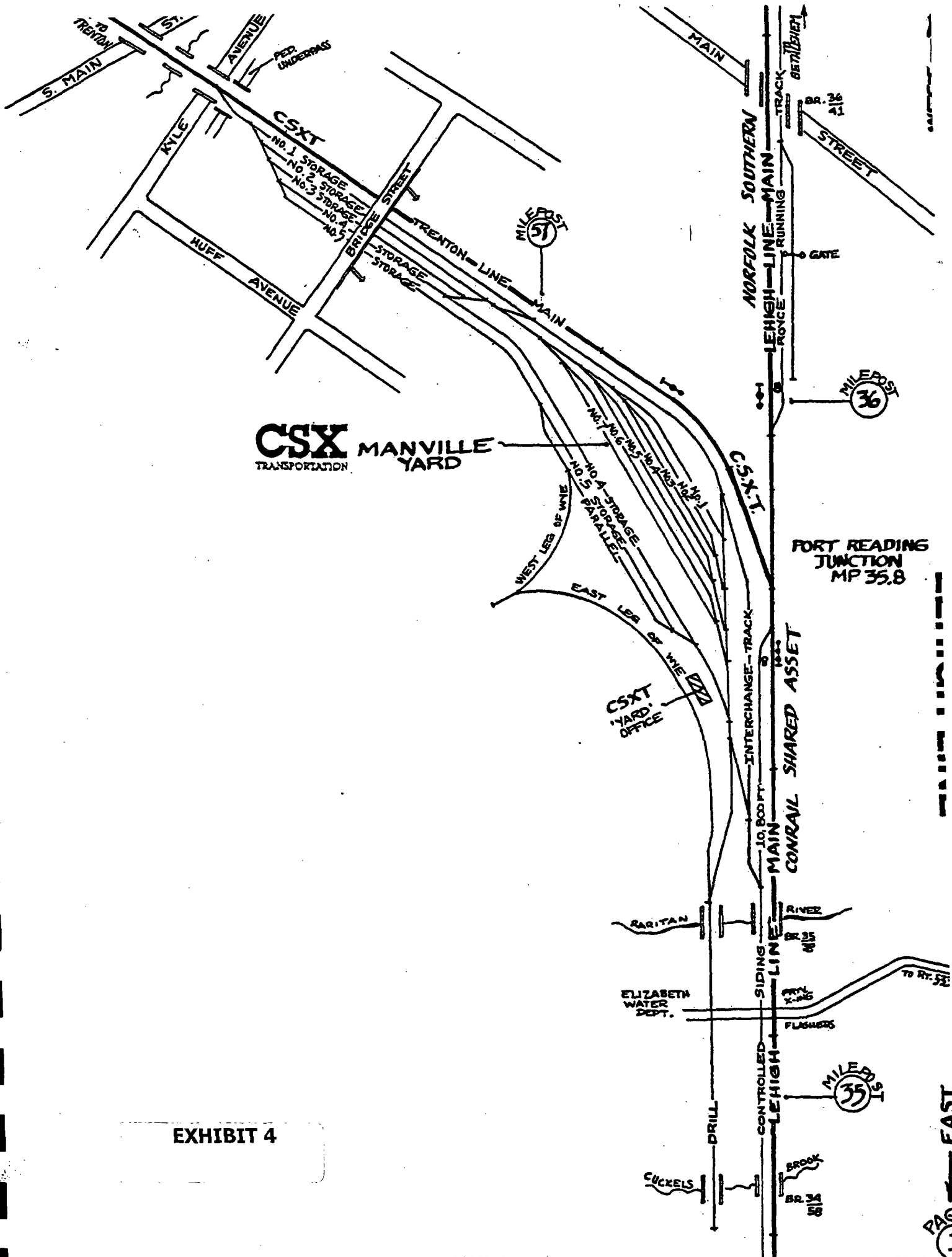


EXHIBIT 4

127328



Norfolk Southern Corporation
Real Estate and Contract Services
600 West Peachtree Street
Suite 1702 One Georgia Center
Atlanta, Georgia 30308-3803
Telecopier: 404 527-4560
Telephone: 404 529-2386

Lori A. Kelley
Legal Assistant

EXHIBIT 5

March 20, 2000

RE: Conrail Acquisition Deeds

Mary Ann Mullady:

Herewith please find the following recorded deed copies from Consolidated Rail Corporation to Pennsylvania Lines LLC dated May 19, 1999 and effective June 1, 1999 for filing in the Company Archives:

<u>Indiana</u>	<u>Maryland</u>	<u>Michigan</u>	<u>New Jersey</u>
Allen	Anne Arundel	Berrien	Bergen
Benton	Baltimore		Hudson
Noble	Baltimore (city)		Hunterdon (cert. copy)
Tippencanoe	Cecil		Morris
Warren	Harford		Passaic
	Prince Georges		Somerset
	Washington		Union
	Worcester		

<u>Ohio</u>	<u>Pennsylvania</u>	<u>New York</u>
Ashtabula	Beaver	Broome
Athens	Blair	Chataqua
Erie	Cumberland	Erie
Madison	Crawford-corrective	Livingston
Montgomery	Dauphin	Rockland
Trumbull	Lebanon	Schuyler
Wayne	Luzerne	Tioga
	Mercer- corrective	Tompkins
	Perry	Yates
	York	

**RECEIVED IN
ARCHIVES**

MAR 22 2000

HANDLED BY

MAM RDM

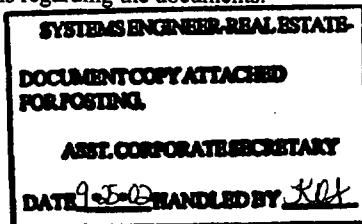
4-13 CWH CRG

Please call if you have any questions regarding the documents.

Sincerely,

Lori A. Kelley

Lori A. Kelley
Legal Assistant
Internal-2nd.wpd



Operating Subsidiary: Norfolk Southern Railway Company.

This instrument prepared by
and please return to:

Linda V. Hill-Everett
Senior Real Estate Counsel
Norfolk Southern Corporation
Suite 1702, One Georgia Center
600 West Peachtree Street, NW
Atlanta, Georgia 30308-3603

Linda V. Hill-Everett
Linda V. Hill-Everett

252 #666ekell
R+R
COMMONWEALTH LAND TITLE INS.
PO BOX 532
CEDAR KNOLLS NJ 07927
m3756

FILED

JUN 01 1999

DEFOREST B. SOARIES, JR.
SECRETARY OF STATE

Name and Address of Taxpayer:
Pennsylvania Lines LLC
c/o Norfolk Southern Railway Company
10 Franklin Road SE
Roanoke, Virginia 24042-0028

QUITCLAIM DEED

THIS INDENTURE, made the 1st day of June, 1999,

BETWEEN: CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation, having
its principal office at 2001 Market Street, Philadelphia, Pennsylvania 19101-1419, referred to as the
Grantor,

AND PENNSYLVANIA LINES LLC, a Delaware limited liability company, and wholly
owned subsidiary, whose tax mailing address is c/o Norfolk Southern Railway Company, 110
Franklin Road SE, Roanoke, Virginia 24042-0028, referred to as the Grantee.

WHEREAS, as a plan of corporate reorganization, Grantor has created Grantee as its wholly
owned subsidiary; and

WHEREAS, as a part of that plan of reorganization, Grantor has agreed to a contribution
to the capital assets of Grantee of certain real estate interests, including lines of railroad thereon, in
several states within the United States;

Transfer of Ownership. The Grantor does hereby remise, release, and forever quitclaim
unto the said Grantee the property described below. This transfer is made for no consideration. The
said Grantor hereby quitclaims unto the said Grantee, its successors and assigns, the property
identified below.

BK2258PG381

COUNTY OF SOMERSET

CONSIDERATION
REALTY TRANSFER FEE
DATE 6/1/99 BY CH

REC SEP/23/1999 12:24PM 045441

SOMERSET COUNTY CLERK SHH 66.08

Tax Map Reference. (N.J.S.A. 46:15-2.1) Municipality of _____, Block No. _____, Lot No.(s) _____, Account No. _____.

☒ [X] No property tax identification number is available on the date of this Deed. (Check box if applicable.)

Property. The property consists of all of Grantor's interests in the Real Estate situated in the County of Somerset, State of New Jersey, substantially as shown on Exhibit A and more particularly described in Exhibit B, attached hereto and made a part hereof (hereinafter "Property"). TOGETHER with, in "as is, where is" condition and without any express or implied warranty, as to condition or fitness for any purpose, all of Grantor's right, title, and interest in the road bed, tracks, depots, yards, storage and parking areas, culverts, bridges, tunnels, buildings, structures, communication and signal facilities, fixtures, and all other railroad appurtenances located upon or appurtenant to the Property, and all sidings and spur tracks contiguous to and connected to the Property, except as provided in the attached Exhibits; TOGETHER with all mineral rights, timber rights, rights to cross public roads, fiber optic rights, rights of repurchase or reversion, and air rights in any way appertaining to the Property; SUBJECT, however, to any conditions, restrictions, reservations, agreements, leases, encroachments, licenses or easements, whether or not of record; and, RESERVING, unto Grantor, its successors and assigns, but only to the extent and duration necessary to continue in effect those existing fiber optic agreements of Grantor impacting the property which have been reserved by Grantor under a separate agreement, a nonexclusive easement to install, construct, operate, maintain, repair, renew, and replace a fiber optic communication system over, through, and across the Property. Such easement providing for and including, but only to the extent required by the existing fiber optic agreements, among other things, the right to install, construct, operate, maintain, repair, renew and replace fiber optic cable, associated electronics, repeater shelters, terminal facilities, connection boxes and pull boxes, and related facilities; the right to install power supply facilities; the right to attach the fiber optic cable and related facilities to existing bridges and to install it in existing tunnels; and the right of ingress and egress for access purposes; all such rights to be exercised without any payment by Grantor for same. Such easement to be exercised in a manner which does not interfere with the rail operations of Grantee or the ability of Grantee to grant other such communication easements or licenses, except to the extent the effective exercise of this easement reasonably entails such interference, and upon exercise of such easement, Grantor, at Grantor's sole expense, will restore the Property to a condition adequate for continued rail operations by Grantee.

Type of Deed. This Deed is called a Quitclaim Deed. The Grantor makes no promise as to ownership or title, but simply transfers whatever interest the Grantor has to the Grantee.

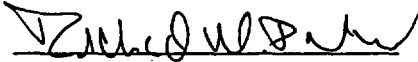
(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

BK2258PG382

CERTIFICATION OF ADDRESS

I hereby certify that the precise residence of the Grantee herein is:

Pennsylvania Lines LLC
c/o Norfolk Southern Railway Company
110 Franklin Road SE
Roanoke, Virginia 24042-0028

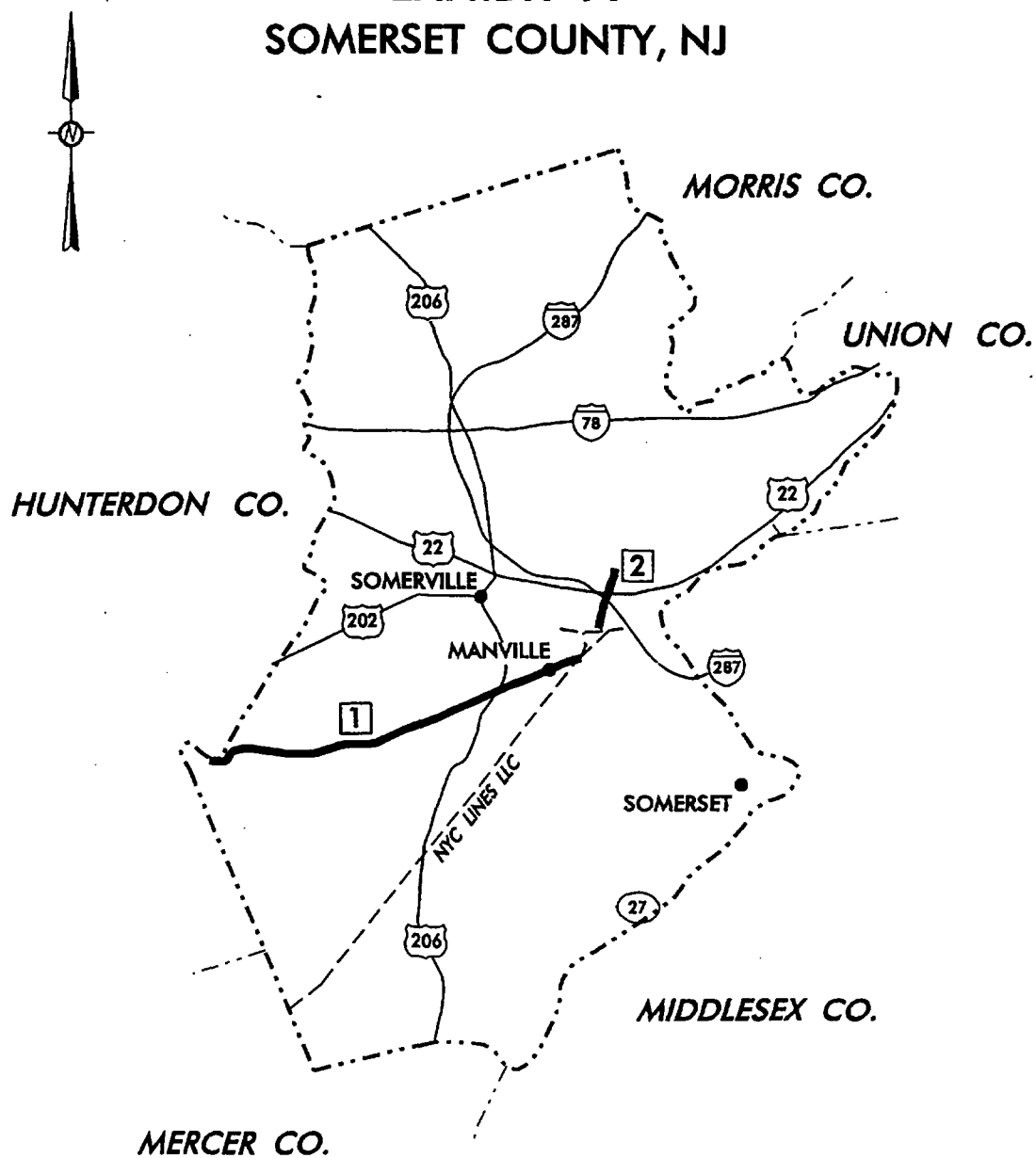

For Grantee

NI-SOMERSET-CRQCD
REV. 5/12/99

BK2258PG384

EXHIBIT A

SOMERSET COUNTY, NJ



1 LC 0502A, VS 3

2 LC 0231, VS 1b

BK2258PG385

EXHIBIT B

**Somerset County, New Jersey
Lehigh Valley Railroad Company
Lehigh Valley Main Line**

All right, title and interest of Grantor in that line of railroad being the former Lehigh Valley Railroad Company, being known as the Lehigh Valley Main Line, comprised of land and right of way for main tracks, branch lines, sidings and other appurtenant railroad facilities lying and being in Somerset County, New Jersey, being further identified as USRA Line Code 0502A as described in deed from Robert C. Haldeman, as Trustee of the Property of Lehigh Valley Railroad Company to Consolidated Rail Corporation, as recorded with the Office of the County Clerk of Somerset County, New Jersey, in Book 1511, Page 363, and being more particularly described as follows:

Said portion of the Lehigh Valley Railroad, which runs between Port Reading Junction and the common line between Somerset and Hunterdon County, beginning at a point on the track centerline of said Railway, said point being at the northwesterly right of way of the former Delaware and Bound Brook Railroad near Manville at approximate Railway Valuation Station 2244+97, more or less, as shown on Exhibit B-1 and on Railway Valuation Map V-3/24; thence, continuing along the centerline of track with a right of way of varying width in a generally westwardly direction for a distance of 57,694 feet, more or less, to a point at the common line between Branchburg Township, Somerset County and Readington Township, Hunterdon County, New Jersey, said point being further identified as Railway Valuation Station 1668+03 as shown on Railway Valuation Map V-3/35. Said portion of railroad being substantially as shown on Railway Valuation Maps V-3/24 through V-3/35, inclusive, attached hereto and made a part hereof.

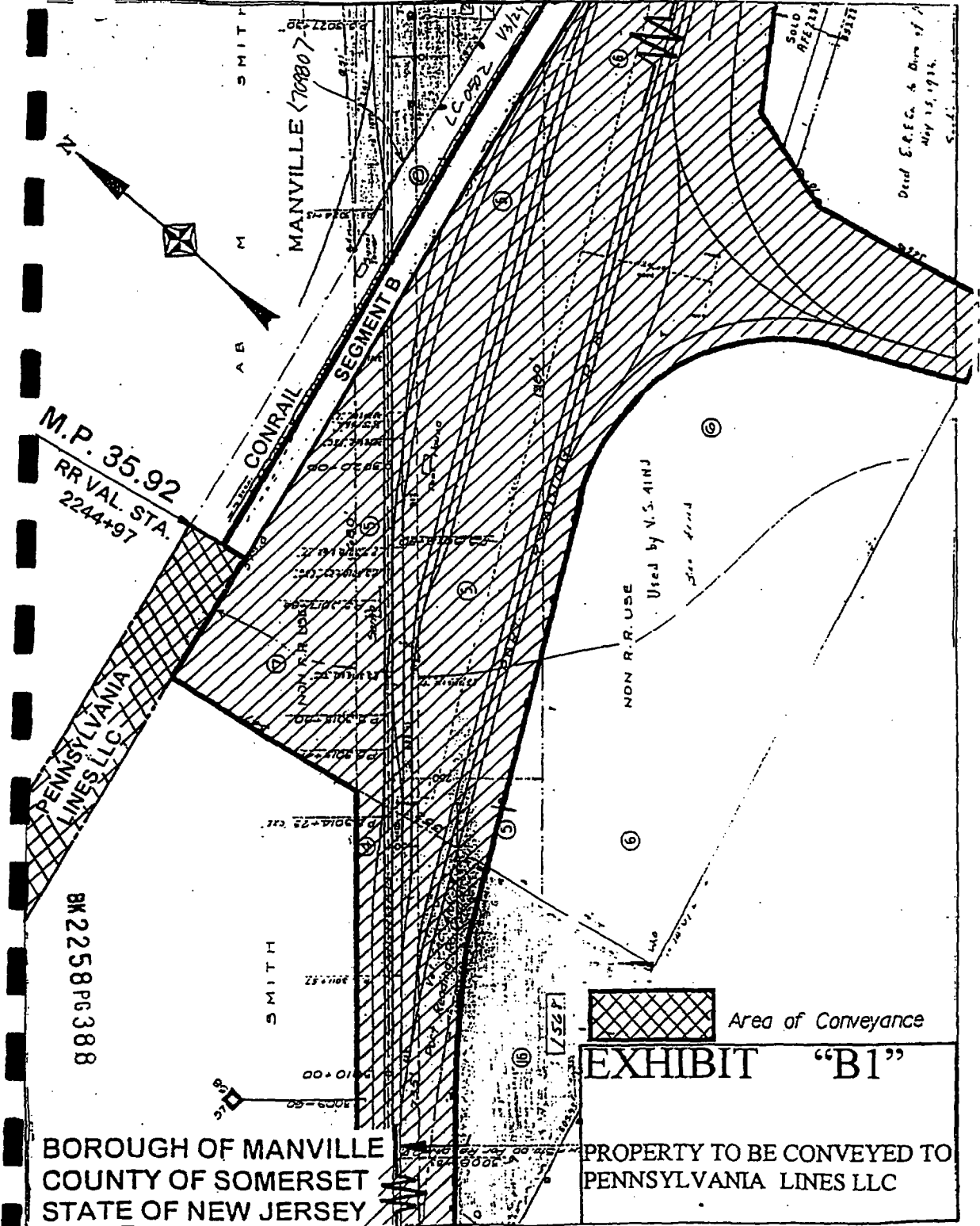
**The Central Railroad Company of New Jersey
Middle Brook Branch**

All right, title and interest of Grantor in that line of railroad being the former The Central Railroad of New Jersey, being known as the Middle Brook Branch, comprised of land and right of way for main tracks, branch lines, sidings and other appurtenant railroad facilities lying and being in Somerset County, New Jersey, being further identified as USRA Line Codes 0231, 0201 as described in deed from R. D. Timpany, as Trustee of the Property of The Central Railroad Company of New Jersey, to Consolidated Rail Corporation, dated March 30, 1976, as recorded with the Office of the County Clerk of Somerset County, New Jersey on October 12, 1978, and being more particularly described as follows:

Said portion of railroad beginning at a point on the track centerline of said Railway, said point being at the northerly right of way of the former Central Jersey Main Line Railroad, which runs between Jersey City and Philadelphia, and identified as Railway Valuation Station 0+00, more or less, as shown on Railway Valuation Map V-Ib/39a; thence,

continuing with said Railway along the centerline of track with a right of way of varying width in a generally northerly direction for a distance of 10,671 feet, more or less, to the point of terminus, said point being further identified as Railway Valuation Station 106+71 as shown on Railway Valuation Map V-Ib/39b. Said portion of railroad being substantially as shown on Railway Valuation Maps V-Ib/39a and V-Ib/39b attached hereto and made a part hereof.

Also, INCLUDING Grantor's remaining rights, title and interest in the line of Railroad known as the Raritan Valley Railroad that lies west of Middle Brook Branch including Somerville Yard.



M.P. 35.92
RR VAL. STA.
2244+97

PENNSYLVANIA
LINES LLC

BK 2258 PG 388

MANVILLE (7080)

CONRAIL
SEGMENT B

SMITH

NON R.R. USE
Used by N.S. 41N3

Dead E.L.F.C. & Bore of
May 12, 1914

 Area of Conveyance

EXHIBIT "B1"

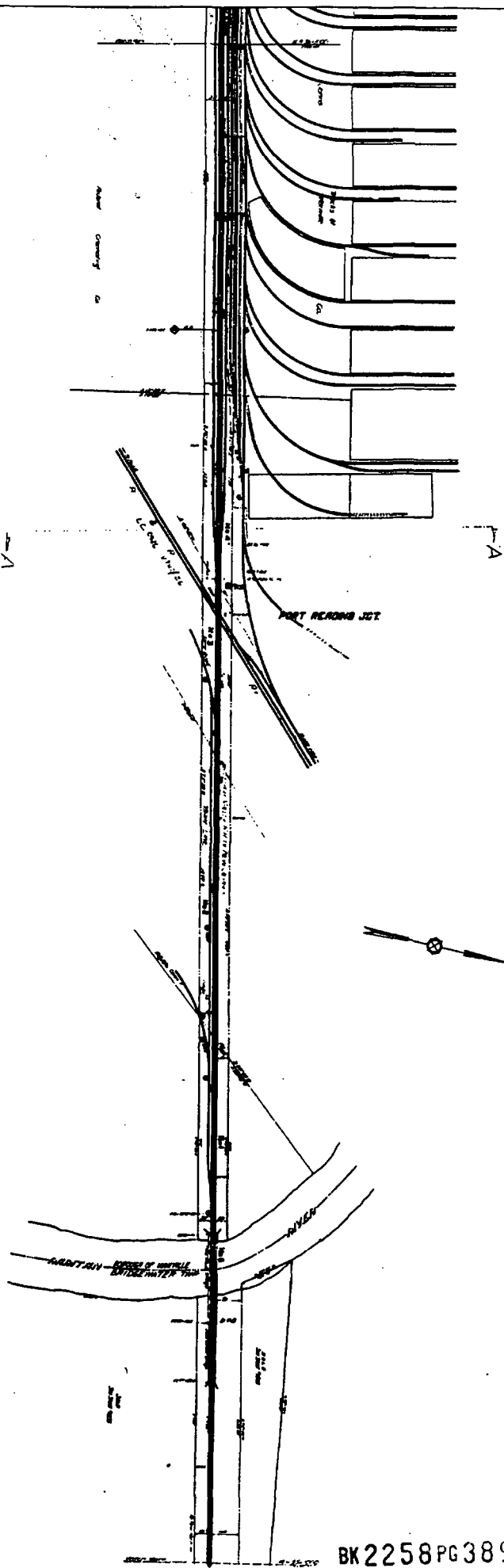
BOROUGH OF MANVILLE
COUNTY OF SOMERSET
STATE OF NEW JERSEY

PROPERTY TO BE CONVEYED TO
PENNSYLVANIA LINES LLC

BOROUGH OF MANVILLE

COUNTY OF SOMERSET N.J.

TOWNSHIP OF BRIDGEWATER



080219
100'

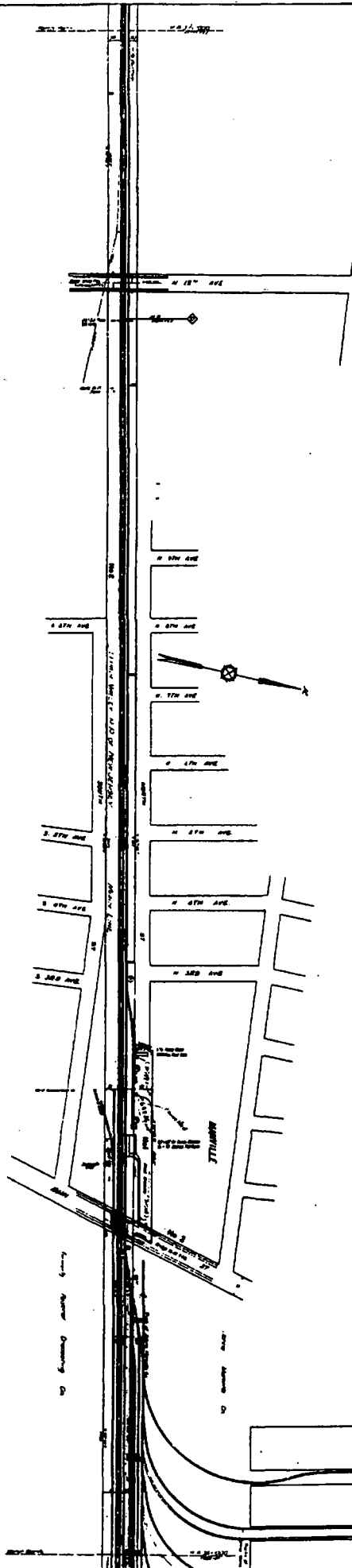
VIB F47

Drawn by: [illegible]

NOTED FOR RECORD
[illegible]

POINT OF VIEW AND TRACK MAP
[illegible]

COUNTY OF SOMERSET, N.J.
BOROUGH OF MANVILLE



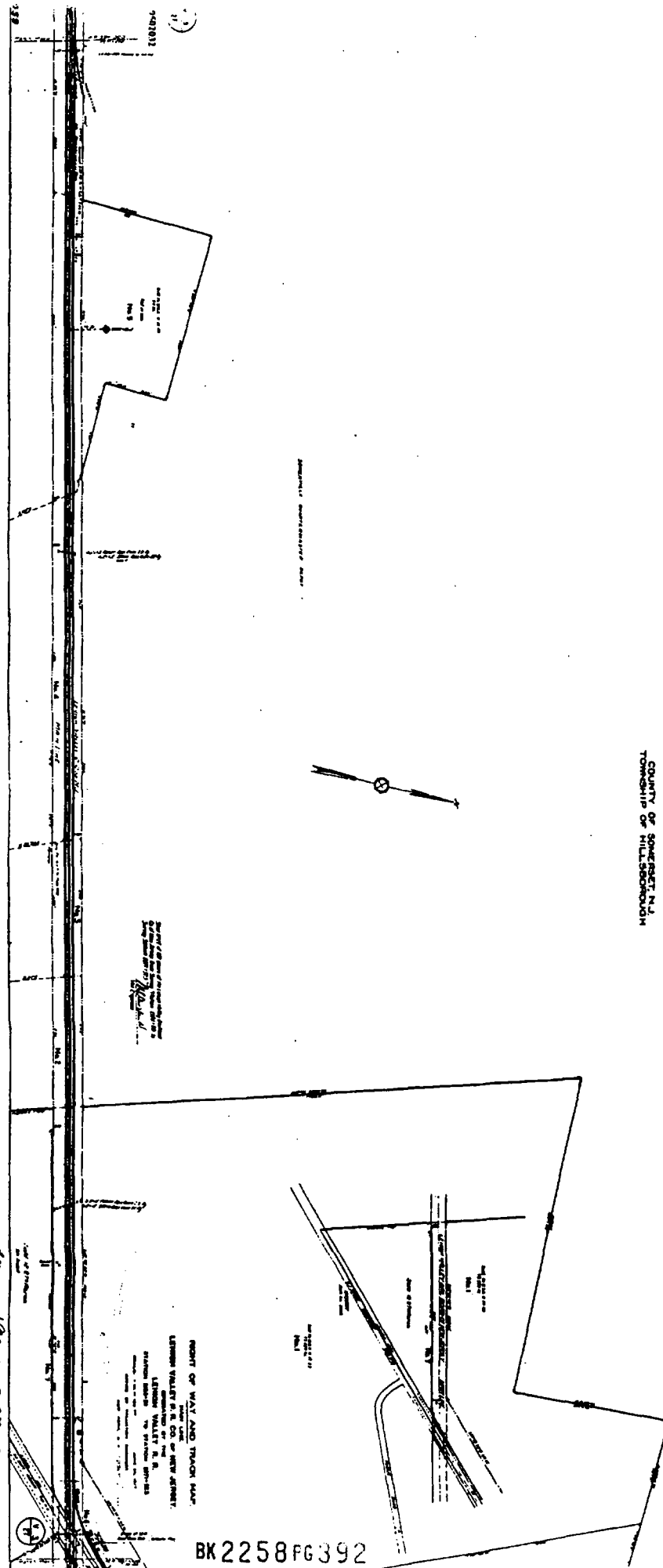
6501038
1087

REPORT OF WAY AND TRACK MAP
TERRACE VALLEY R. & C. CO. NEW JERSEY
LEHIGH VALLEY R. R.
BRIDGE 122716 TO STATION 122713
DATE: 10/1/1911
BY: J. H. EAT

J. H. EAT
11/10/1911
Manville, N. J.



COUNTY OF SOMERSET, N.J.
TOWNSHIP OF HILLSBOROUGH



BK2258FG392

7.5

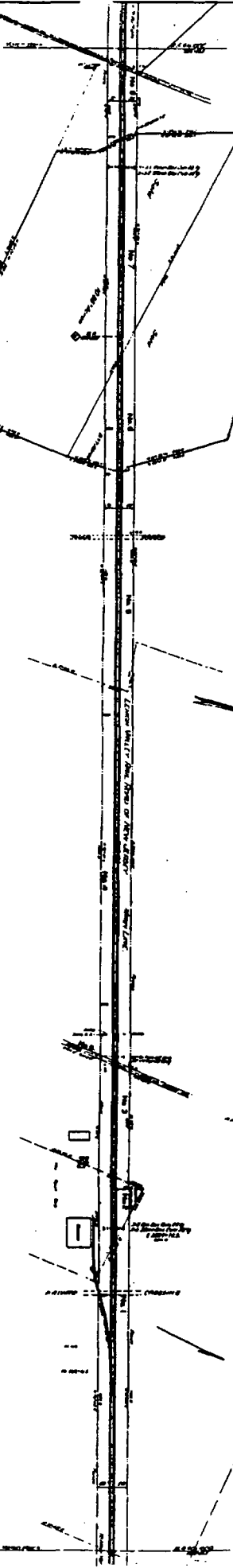
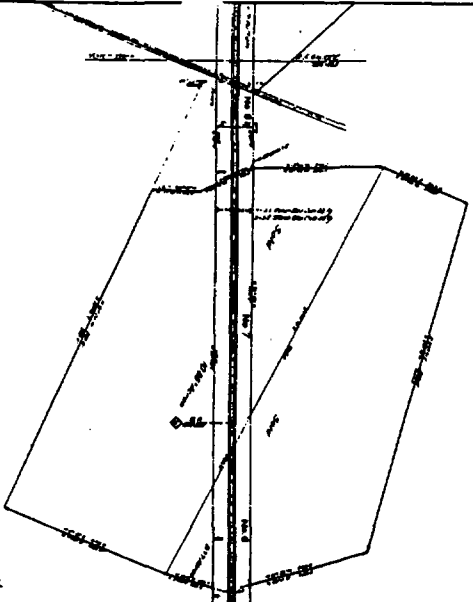
RIGHT OF WAY AND TRACK MAP
made by
LEROY VALLEY R. R. CO. ON NEW STREET
OPERATING BY THE
LEROY VALLEY R. R.
STATION LOCATED AT STATION POINTS
• • • • •
• • • • •
• • • • •

That 17 of 20 items of my sample being returned
to the Library from Spring Street 1880-1881 is
Spring Street 1880-1881

COUNTY OF SOMERSET, N.J.
TOWNSHIP OF HILLSBOROUGH

BK 2258 PG 393

0620014
1001



COUNTY OF SOMERSET N.J.
TOWNSHIP OF HILLSBOROUGH

A

Plans Viewed before

THESE PLANS HAVE BEEN
EXAMINED AND FOUND
TO BE IN ACCORDANCE
WITH THE ACTS OF THE
LEGISLATURE OF THE
STATE OF NEW JERSEY
IN RELATION TO THE
CONSTRUCTION OF
RAILROADS.

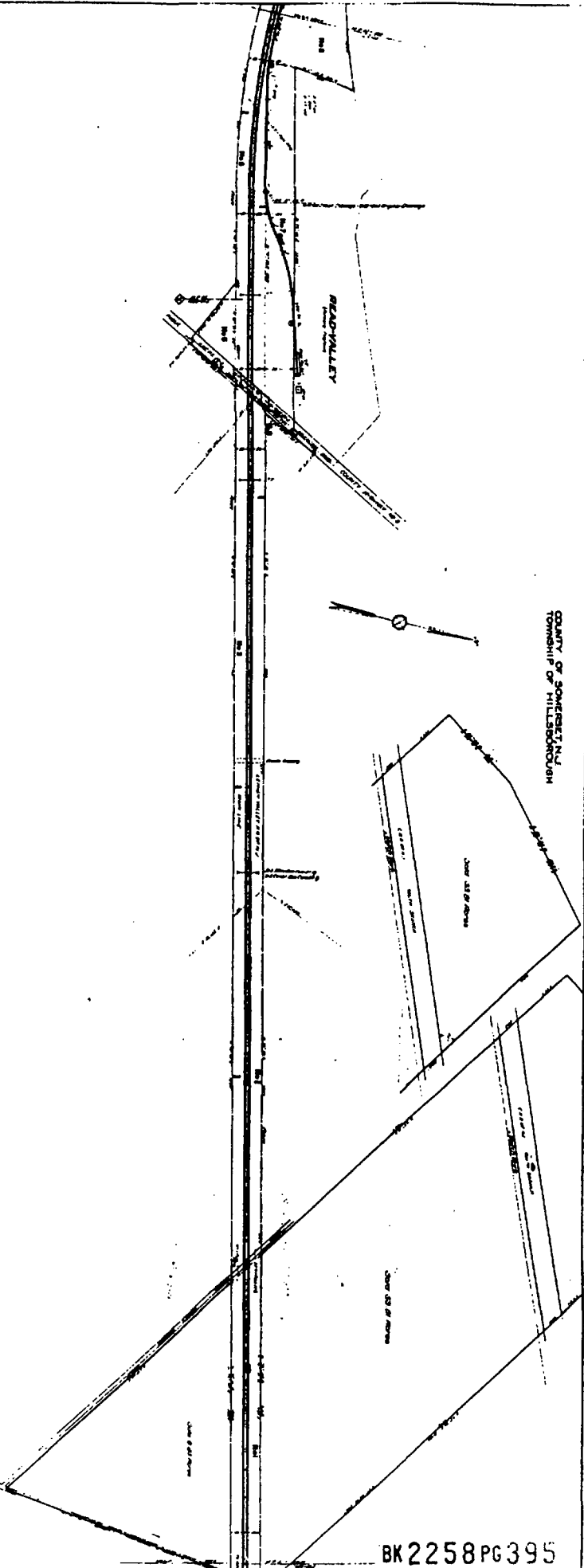
RIGHT OF WAY AND TRACK MAP
FOR THE
LEHIGH VALLEY RAILROAD
FROM THE
LEHIGH VALLEY R.R.
STATION AT
LEHIGH VALLEY, N. J.
TO THE
STATION AT
LEHIGH VALLEY, N. J.

BK 2258 PG 394

10/12/01 48000 7/10/01-01-1

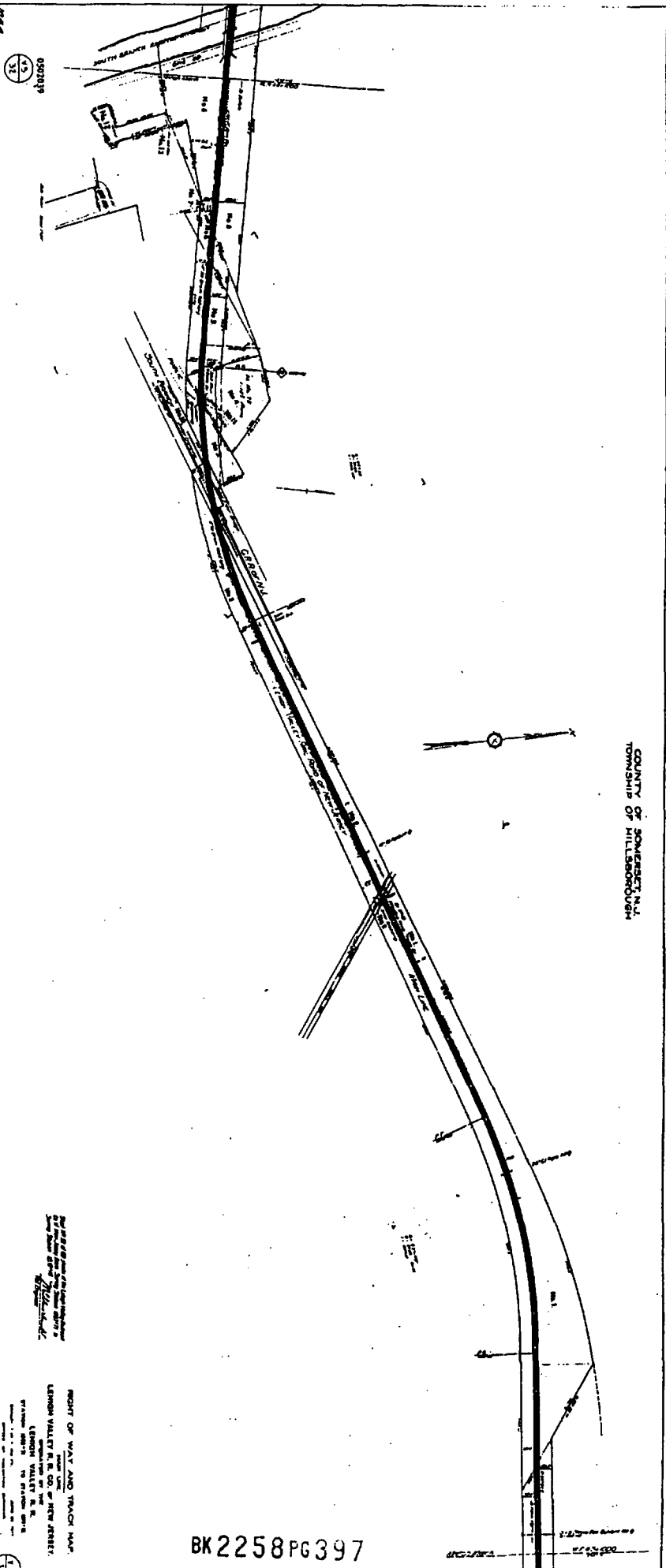
NOT TO SCALE
 THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY
 AND DOES NOT CONSTITUTE A GUARANTEE OF
 ACCURACY OR A WARRANTY OF ANY KIND.

REPORT OF WAY AND TRAIL MAP
 LINDEN VALLEY R. & CO. - NEW JERSEY
 PREPARED BY THE
 LINDEN VALLEY R. & CO.
 10/12/01 48000 7/10/01-01-1





RIGHT OF WAY AND TRACK MAP
State Use
 LEMON VALLEY R. R. CO. OF NEW JERSEY,
 created by 1941
 LEMON VALLEY R. R.



COUNTY OF SOMERSET, N.J.
TOWNSHIP OF HILLSBOROUGH

RECEIVED
JAN 10 1910
HILLSBOROUGH
N.J.

RIGHT OF WAY AND TRACK MAP
LEHIGH VALLEY R.R. CO. OF NEW JERSEY
LEHIGH VALLEY R.R.
TRAVERSE MAP-15 TO HILLSBOROUGH
Scale: 1" = 100' (approx.)
Date: Jan. 10, 1910
By: [Signature]

BK 2258 PG 397

TOWNSHIP OF MILLSBORO

BK 2258 PG 398

[illegible]

FRONT OF WAY AND TRACK MAP
Scale: 1 inch = 1 mile
 LONDON VALLEY R. & CO. OF NEW JERSEY

VS 9203 LC 0501 MF 44 2.45

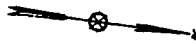
BK2258P

[illegible]

0-02042

35

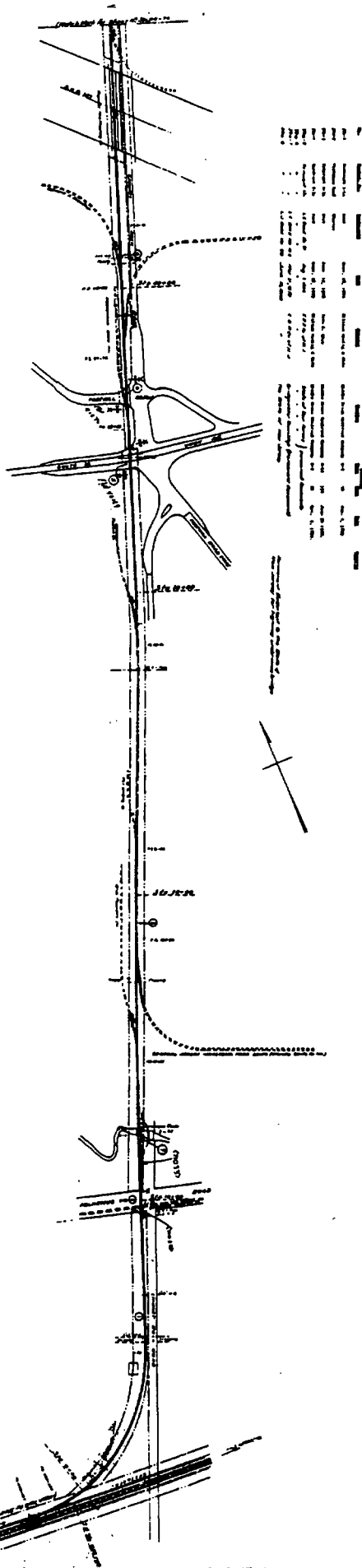
COUNTY OF SOMERSET, N.J.
TOWNSHIP OF BRANCHBURG



[Handwritten signature]

RIGHT OF WAY AND TRUCK MAP
 Union Land
 LEHIGH VALLEY R. CO. OF NEW JERSEY
 operating for the
 LEHIGH VALLEY R. R.
 granting right-of-way station and
 grade - 10 to 100 ft. and as per
 section of completed drawings
 per sheet 1 of 100 ft.

BK 2258 PG 400



Bridge and Trestle
Sawyer County

Copyright 1901

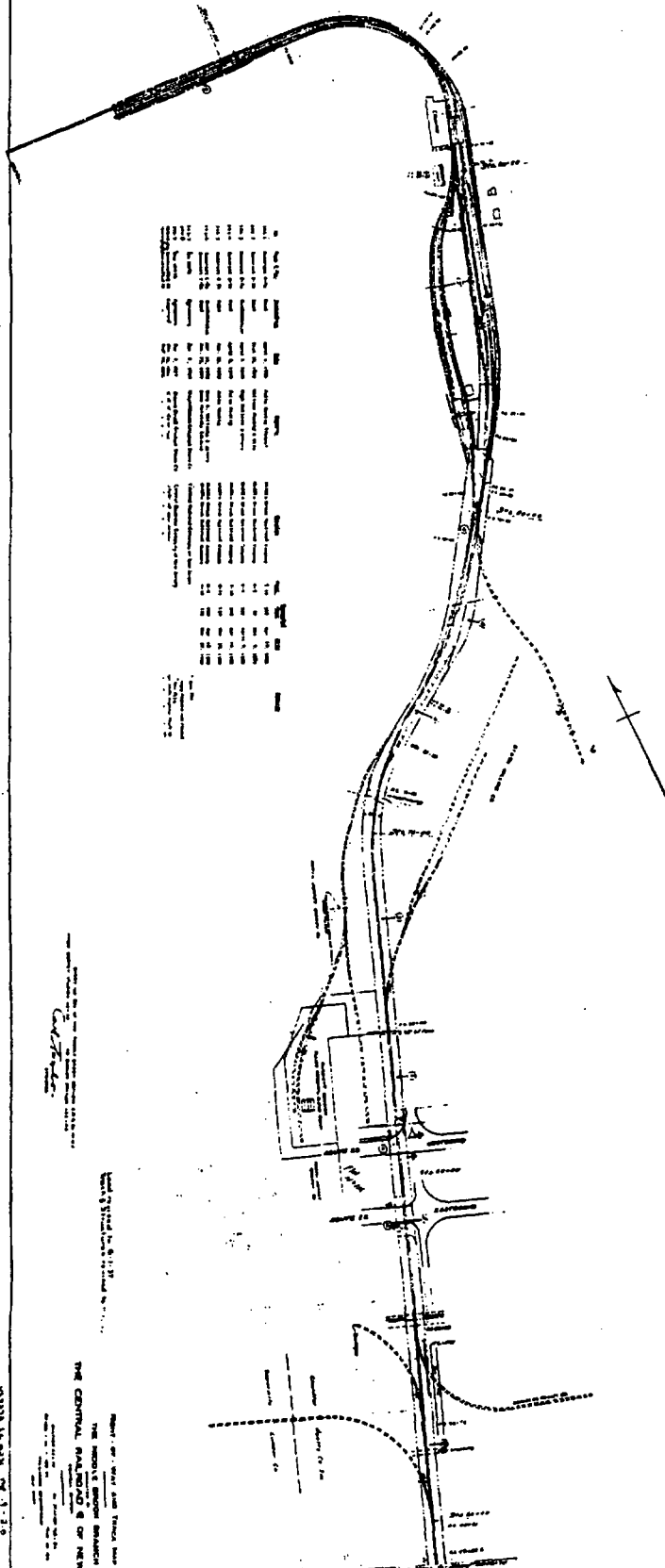
THE CENTRAL RAILROAD OF NEW JERSEY

THE NEW JERSEY RAILROAD

Scale 1" = 100'



**BROOKS WINTER TOWNSHIP,
SOMERSET COUNTY.**



PARTIAL EXEMPTION
(c. 176, P.L. 1975)

To be recorded with Deed pursuant to c. 49, P.L. 1968, as amended by c. 225, P.L. 1985 (N.J.S.A. 46:15-5 et seq.)

STATE OF NEW JERSEY
COUNTY OF Somerset

SS:

FOR RECORDER'S USE ONLY	
Consideration \$	<u>8,000.00</u>
Realty Transfer Fee \$	<u>8,000.00</u>
Date	<u>11/23/99</u>
By	<u>[Signature]</u>

* Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (See Instructions #3, 4 and 5 on reverse side.)

Deponent Jennifer Gatt, being duly sworn according to law upon his/her oath

deposes and says that he/she is the Officer of Title Company (Commonwealth) in a deed dated July 1, 1999

(State whether Grantor, Grantee, Legal Representative, Corporate Officer, Officer of Title Co., Lending Institution, etc.)

transferring real property identified as Block No. see attached Lot No. see attached

located at see attached Somerset County

(Street Address, Municipality, County)

and annexed hereto.

(2) CONSIDERATION (See Instruction #6.)

Deponent states that, with respect to deed hereto annexed, the actual amount of money and the monetary value of any other thing of value constituting the entire compensation paid or to be paid for the transfer of title to the lands, tenements or other realty, including the remaining amount of any prior mortgage to which the transfer is subject or which is to be assumed and agreed to be paid by the grantee and any other lien or encumbrance thereon not paid, satisfied or removed in connection with the transfer of title is \$ none

(3) FULL EXEMPTION FROM FEE Deponent claims that this deed transaction is fully exempt from the Realty Transfer Fee imposed by c. 49, P.L. 1968, for the following reason(s): Explain in detail. (See Instruction #7.) Mere reference to exemption symbol is not sufficient.

Full exemption from fee (a) no consideration (d) already recorded in the Office of the Secretary of State under NJSA Section 46: 16-3

(4) PARTIAL EXEMPTION FROM FEE

NOTE: All boxes below apply to grantor(s) only. ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption. (See Instructions #8 and #9.)

Deponent claims that this deed transaction is exempt from the increased portion of the Realty Transfer Fee imposed by c. 176, P.L. 1975 for the following reason(s):

A) SENIOR CITIZEN (See Instruction #8.)

- ☐ Grantor(s) 62 yrs. of age or over.*
☐ One- or two-family residential premises.

- ☐ Owned and occupied by grantor(s) at time of sale.
☐ No joint owners other than spouse or other qualified exempt owners.

B) BLIND (See Instruction #8.)

- ☐ Grantor(s) legally blind.*
☐ One- or two-family residential premises.
☐ Owned and occupied by grantor(s) at time of sale.
☐ No joint owners other than spouse or other qualified exempt owners.

DISABLED (See Instruction #8.)

- ☐ Grantor(s) permanently and totally disabled.*
☐ One- or two-family residential premises.
☐ Receiving disability payments.
☐ Owned and occupied by grantor(s) at time of sale.
☐ Not gainfully employed.
☐ No joint owners other than spouse or other qualified exempt owners.

* IN THE CASE OF HUSBAND AND WIFE, ONLY ONE GRANTOR NEED QUALIFY.

C) LOW AND MODERATE INCOME HOUSING (See Instruction #8.)

- ☐ Affordable According to HUD Standards.
☐ Meets Income Requirements of Region.
☐ Reserved for Occupancy.
☐ Subject to Resale Controls.

D) NEW CONSTRUCTION (See Instruction #9.)

- ☐ Entirely new improvement.
☐ Not previously used for any purpose.
☐ Not previously occupied.

Deponent makes this Affidavit to induce the County Clerk or Register of Deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of c. 49, P.L. 1968.

Subscribed and sworn to before me
this 24th
day of August, 1999

[Signature]
Name of Deponent (sign above line)

Consolidated Rail Corporation
Name of Grantor (type above line)

1300 E. 9th Street Suite 1201
Address of Deponent
Cleveland, OH 44114

Address of Grantor at Time of Sale



ROSEMARIE COLLINS, Notary Public
State of Ohio, Cuyahoga County
My Commission Expires Mar. 16, 2004

FOR OFFICIAL USE ONLY This space for use of County Clerk or Register of Deeds.			
Instrument Number	<u>93441</u>	County	<u>Somerset</u>
Deed Number	<u>61/99</u>	Book	<u>9/23/99</u>
Deed Dated	<u>6/1/99</u>	Date Recorded	<u>9/23/99</u>

IMPORTANT - BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE HEREOF. This format is prescribed by the Director, Division of Taxation in the Department of the Treasury, as required by law, and may not be altered without the approval of the Director.

ORIGINAL - White copy to be retained by County.

DUPLICATE - Yellow copy to be forwarded by County to Division of Taxation on partial exemption from fee (N.J.A.C. 18:16 - 8.12)

TRIPLICATE - Pink copy is your file copy.

BK2258PG403

State of New Jersey



Department of State

I, **DeFOREST B. SOARIES, JR.**, Secretary of State of the State of New Jersey, DO HEREBY CERTIFY that the foregoing is a True and Correct Copy of a **Quitclaim Deed for Pennsylvania Lines, LLC - County of Somerset**;

I, FURTHER CERTIFY, that the original was Filed and Recorded in this office under the date of June 1, 1999.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Official Seal of the Secretary of State at Trenton, this tenth day of June, 1999.

De Forest B. Soaries, Jr.

DeFOREST B. SOARIES, JR.
SECRETARY OF STATE

COUNTY OF PHILADELPHIA

:

: SS.

COMMONWEALTH OF PENNSYLVANIA

:

I CERTIFY that on May 19th, 1999, James D. McGeehan, personally came before me and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Assistant Secretary of Consolidated Rail Corporation, the corporation named in this Deed;
- (b) this person is the attesting witness to the signing of this Deed by the proper corporate officer who is Robert W. Ryan, the Director Real Estate of the corporation;
- (c) this Deed was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors;
- (d) this person knows the proper seal of the corporation which was affixed to this Deed;
- (e) this person signed this proof to attest to the truth of these facts; and
- (f) the full and actual consideration paid or to be paid for the transfer of title is \$_____ (Such consideration is defined in N.J.S.A. 46:15-5.)

Signed and sworn to before me on
May 19th, 1999.

Brian P. McCarthy
Notary Public

Print name: Brian P. McCarthy
My Commission Expires: 01-22-01

[Notarial Seal]

By: _____

Name: James D. McGeehan
Assistant Secretary

Notarial Seal
Brian P. McCarthy, Notary Public
Philadelphia, Philadelphia County
My Commission Expires Jan. 22, 2001
Member, Pennsylvania Association of Notaries

BK2258PG405

ENCLOSURE

Page 1

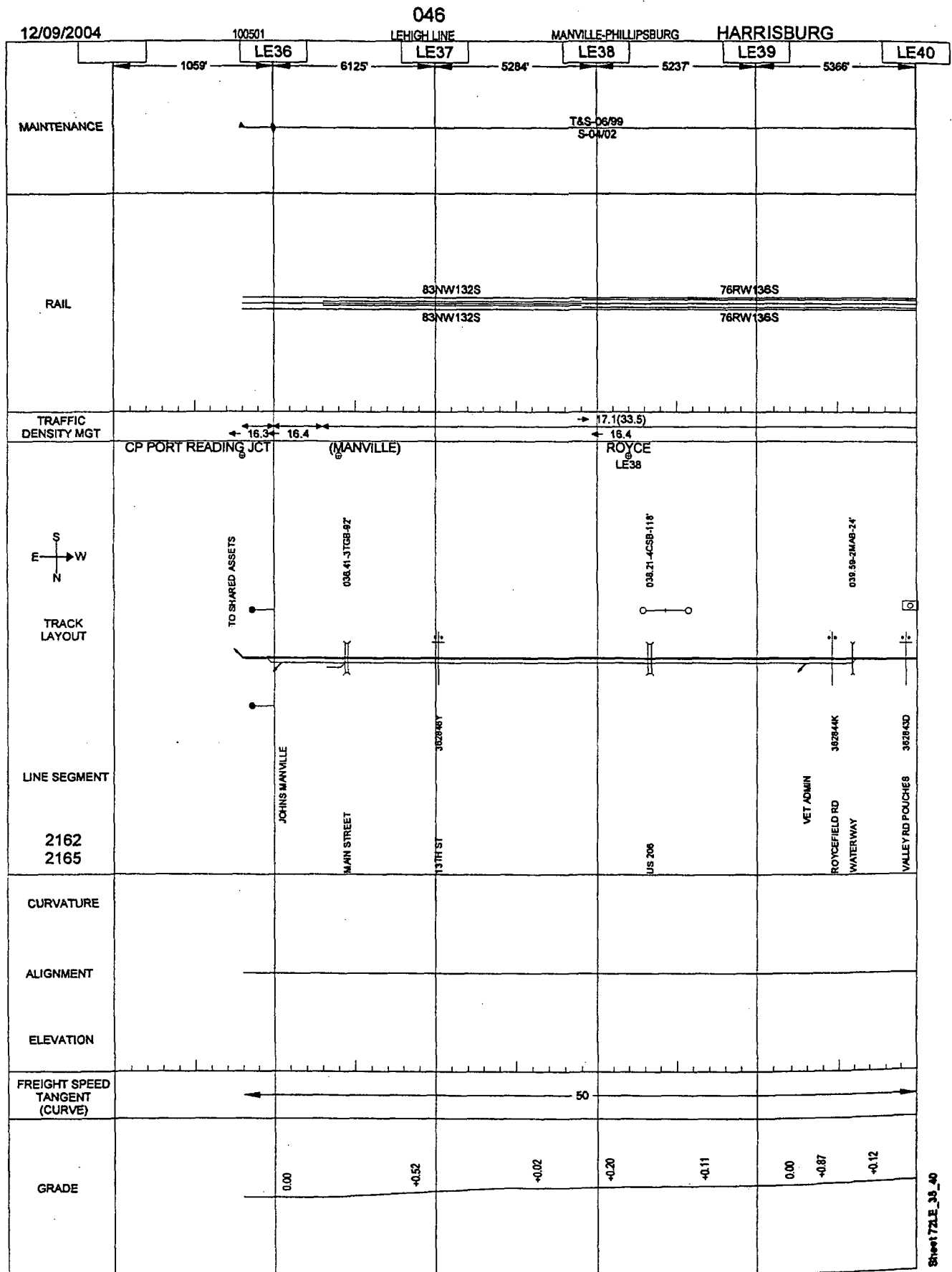
05/21/99

CSXT Outpoint Identification		Location	Description/Valuation	Jt. Fac.	Inter-Modal	Other	Map Date
BA 2	Loney's Lane Lead	Baltimore County, MD		•			08/07/98
BA 3	Beck	Baltimore County, MD					08/07/98
BA 4	Merrivants Terminal Lead	"					
BA 5	Trappe Road	"					
BA 2B	Information	"					
BA 2C	Information	"					
NJ 2	#4 Track	Belle Meade, NJ					08/07/98
NJ 3	GSA Depot	Belle Meade, NJ		•			
NN 1	Manville Conn. Track	Manville Yard, NJ		•			08/07/98
NN 1A	Manville Yard	"					
NN 2B	"	"					

REDACTED

CSXT to receive ownership of the south 36' (±) strip of land on the Lehigh Valley Line and defined as a longitudinal line halfway between tracks #212 and #215 extending from the west end of bridge 35/38 at valuation station 2272+17 to fifty feet (50') west of signal at C.P. Port Reading Jct. at valuation station 2244+97. (Track #221 [CSXT ownership] located on Port Reading V 41 N1/2, VS 8141, LC 0336 and Lehigh Valley of NJ V 3/24, LC 0502 main track #201 [shared]). The balance of the property is to remain with SAC.

Info only! The former extension of the CSXT Port Reading Line north from C.P. Port Reading Jct. to the NS Raritan Valley line has been sold. Therefore, CSXT has no liability to bridge removal or scrap clean-up.



"CP-PORT READING JCT."

R.C. FROM MT. LAUREL, N.J.
(M.P. 35.8)

WESTWARD
TO CP PATTEBURG

EASTWARD
TO CP BOUND BROOK

ROYCE RUNNING TRACK

LEHIGH LINE

382
SA

SA 2E-2
SA 67R

175R
ZE-3

15

3

15

5

15

15

15

15

15

15

15

15

15

IT

SA 2E-1

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

IT

SA 2E-1

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

IT

SA 2E-1

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

IT

SA 2E-1

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

IT

SA 2E-1

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

IT

SA 2E-1

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

IT

SA 2E-1

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

IT

SA 2E-1

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

IT

SA 2E-1

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

IT

SA 2E-1

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

IT

SA 2E-1

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

IT

SA 2E-1

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

SA 67R

CERTIFICATE OF SERVICE

I certify that I have this 1st day of December, 2006, caused copies of the foregoing Comments of Norfolk Southern Corporation and Norfolk Southern Railway Company on Supplement to Petition for Clarification or, in the Alternative, for Supplemental Order—North Jersey Shared Assets Area to be served by hand or first class mail, postage prepaid, on the following:

John K. Enright
Assistant General Counsel
Consolidated Rail Corporation
1000 Howard Blvd.
Mt. Laurel, NJ 08054-2355

Steven C. Armbrust
Counsel
CSX Transportation, Inc.
500 Water St., J-150
Jacksonville, FL 32202
(904)359-1229

John V. Edwards
Norfolk Southern Corporation Three
Commercial Place
Norfolk, Virginia 23510-2191
(757) 629-2657

Christopher A. Mills
Slover & Loftus
1224 17th St., N.W.
Washington, D.C. 20036

Eric Strohmeier
CNJ Rail Corporation
838 Carnoustic Drive
Bridgewater, NJ 09907



Richard A. Allen