

STB

FD

33388 (Sub 26)

2-23-98

E

185867

LAW OFFICES

**REA, CROSS & AUCHINCLOSS**

SUITE 420

1920 N STREET, N.W.

WASHINGTON, D. C. 20036

(202) 785-3700

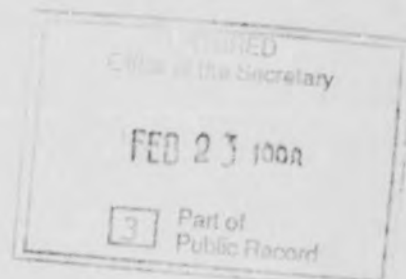
FACSIMILE: (202) 659-4934

THOMAS M. AUCHINCLOSS, JR.  
LEO C. FRANEY  
JOHN D. HEFFNER  
KEITH G. O'BRIEN  
BRYCE REA, JR.  
BRIAN L. TROLANO  
ROBERT A. WIMBISH



February 23, 1998

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



RE: Finance Docket No. 33388, CSX Corporation, et al. -- Control and Operating Leases/Agreements -- Conrail Inc., et al.;

→ Finance Docket No. 33388 (Sub-No. 26), CSX Corporation and CSX Transportation, Inc. -- Control -- The Lakefront Dock and Railroad Terminal Company; and

Docket No. AB-290 (Sub-No. 197X), Norfolk and Western Railway Company -- Abandonment -- Toledo Pivot Bridge in Lucas County, OH

**TLCPA-5**

**COMMENTS OF THE TOLEDO-LUCAS COUNTY PORT AUTHORITY AND STATEMENT OF SUPPORT FOR THE APPLICATION**

Dear Secretary Williams:

I am writing on behalf of the Toledo-Lucas County Port Authority ("TLCPA") in connection with the above-captioned proceedings. Pursuant to the procedural schedule established by the Board, TLCPA is required today to submit a brief in support of its "Request for Protective Conditions, Opposition to Abandonment, and Comments of the Toledo-Lucas County Port Authority" ("TLCPA-4"). TLCPA will not submit a brief today, but, for the reasons provided below, rescinds and withdraws its various requests for relief as contained in TLCPA-4, and hereby informs the Board that it has satisfactorily resolved its concerns with the Primary Applicants.

During the past few weeks TLCPA and the Toledo Metropolitan Area Council of Governments ("TMACOG"), have engaged

Hon. Vernon A, Williams  
February 23, 1998  
Page Two

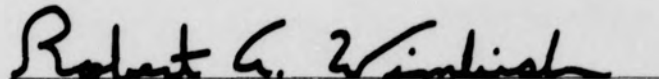
in discussions with representatives of the Norfolk Southern Corporation ("NS"). The product of these negotiations is a letter agreement dated February 18, 1998 (hereinafter, the "Letter Agreement"). The Letter Agreement is attached hereto as Exhibit A, and should be added to the Board's procedural record.

As required under Section 5 of the Letter Agreement, TLCPA rescinds and withdraws TLCPA-4 and hereby states that it now supports the Application subject to the terms and conditions of the Letter Agreement.

Please note that TLCPA requests that it remain a party of record in this proceeding. Further, TLCPA gives notice that it reserves the right to participate as necessary in the oversight phase of this proceeding, should the Board approve the Application.

Thank you for your attention.

Sincerely,

  
Robert A. Wimbish

Counsel for the Toledo-Lucas County  
Port Authority

Attachment - Exhibit A

cc: Robert E. Greenlese (TLCPA)  
James W. McClellan (NS)

**NORFOLK  
SOUTHERN**

Norfolk Southern Corporation  
Strategic Planning  
Three Commercial Place  
Norfolk, Virginia 23510 2191  
757 629 2887



**James W. McClellan**  
Vice President  
(757) 629-2665  
**(757) 533-4884 FAX**

February 18, 1998

Mr. Robert E. Greenlese  
Director of Surface Transportation  
and Logistics  
Toledo-Lucas County Port Authority  
One Maritime Plaza, 7th Floor  
Toledo, OH 43604-1866

Mr. David Dysard  
Director of Transportation Planning  
Toledo Metropolitan Area Council  
of Governments  
P. O. Box 9508  
Toledo, OH 43697-9508

Re: CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company -- Control Operating Leases/Agreements -- Conrail, Inc. and Consolidated Rail Corporation, Finance Docket No. 33388 ("Application")

Dear Sirs:

This Letter Agreement (Agreement) outlines the understanding between Norfolk Southern Railway Company and Consolidated Subsidiaries (NS) and Toledo-Lucas County Port Authority (TLCPA) and Toledo Metropolitan Area Council of Governments (TMACOG) as it relates to the above-captioned proceeding before the Surface Transportation Board (STB).

1. Toledo Docks

TLCPA and TMACOG will withdraw their request that the Wheeling & Lake Erie Railway Company (W&LE) be granted access to the Toledo Docks. NS will aggressively market Toledo Docks in the same manner it markets other Lake Erie ports for the movement of waterborne coal, ore and other traffic moving to, from or via Lake Erie.

2. Pivot Bridge

TLCPA and TMACOG will withdraw their request that the STB reject NS' notice of exemption for abandonment of the Pivot Bridge in Lucas County, Ohio (Docket No. AB-290 (Sub-No. 197X)). NS will modify the notice filed in Sub Docket No. 197X to provide for discontinuance rather than abandonment of the Bridge. NS further agrees not to seek authorization or exemption to abandon the Pivot Bridge for a four-year period from the date of the STB's final decision authorizing the control of Conrail in Finance Docket No. 33388. NS, TLCPA and TMACOG may mutually agree to abandonment of the Pivot Bridge prior to the expiration of the four-year period. If abandonment authority is sought and received, NS will offer to sell for \$1.00 the Pivot Bridge to TMACOG or other agency for public use.

3. Vickers Grade Separation

TMACOG will withdraw its suggestion that NS and CSX construct a grade separation at the crossing of their lines at Vickers in Northwood, Ohio. NS reaffirms its commitment to work with CSXT to negotiate smoother train operations at Vickers.

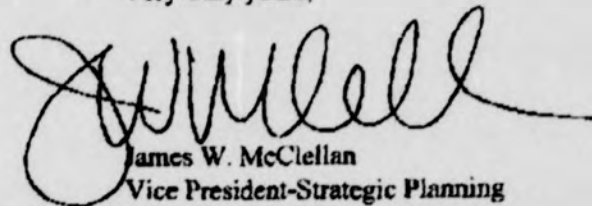
4. Toledo-Maumee Line

NS agrees that upon obtaining STB authorization to abandon the Toledo-Maumee Line (Mileposts TM-5.0 and TM-12.5) subject to petition for exemption in Docket No. AB-290 (Sub-No. 196X), NS will donate and quitclaim to TMACOG or its designee NS' interest in the right of way. NS will retain its interest in the ties, rail and metal material and will remove these items from the line at an appropriate time following abandonment.

5. TLCPA and TMACOG Support

TLCPA and TMACOG agree to promptly, but not later than February 23, 1998, rescind and withdraw their respective October 21, 1997, requests for protective conditions, opposition to abandonment and comments and submit a statement of support for the Application, subject to the terms and conditions of this Agreement.

Very truly yours,



James W. McClellan  
Vice President-Strategic Planning

If the foregoing terms and conditions are acceptable, please acknowledge your acceptance by signing triplicate counterparts of this Letter Agreement in the space provided below.

ACCEPTED:

TOLEDO-LUCAS COUNTY  
PORT AUTHORITY

TOLEDO METROPOLITAN AREA  
COUNCIL OF GOVERNMENTS

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

3. Vickers Grade Separation

TMACOG will withdraw its suggestion that NS and CSX construct a grade separation at the crossing of their lines at Vickers in Northwood, Ohio. NS reaffirms its commitment to work with CSXT to negotiate smoother train operations at Vickers.

4. Toledo-Maumee Line

NS agrees that upon obtaining STB authorization to abandon the Toledo-Maumee Line (Mileposts TM-5.0 and TM-12.5) subject to petition for exemption in Docket No. AB-290 (Sub-No. 196X), NS will donate and quitclaim to TMACOG or its designee NS' interest in the right of way. NS will retain its interest in the ties, rail and metal material and will remove these items from the line at an appropriate time following abandonment.

5. TLCPA and TMACOG Support

TLCPA and TMACOG agree to promptly, but not later than February 23, 1998, rescind and withdraw their respective October 21, 1997, requests for protective conditions, opposition to abandonment and comments and submit a statement of support for the Application, subject to the terms and conditions of this Agreement.

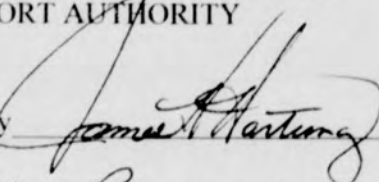
Very truly yours,

James W. McClellan  
Vice President-Strategic Planning

If the foregoing terms and conditions are acceptable, please acknowledge your acceptance by signing triplicate counterparts of this Letter Agreement in the space provided below.

ACCEPTED:

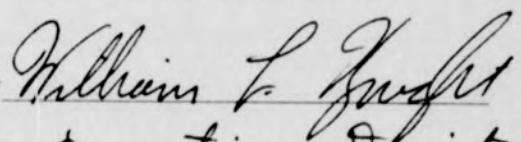
TOLEDO-LUCAS COUNTY  
PORT AUTHORITY

By 

Title President

Date 19 February 1998

TOLEDO METROPOLITAN AREA  
COUNCIL OF GOVERNMENTS

By 

Title Executive Director

Date February 18, 1998

**CERTIFICATE OF SERVICE**

I, Robert A. Wimbish, hereby certify that I have this 23rd day of February, 1998, served true copies of the foregoing document upon counsel for the Primary Applicants via messenger delivery and upon ALJ Jacob Leventhal and all parties of record by means of U.S. mail, first class postage prepaid, or by means of more expeditious delivery.

Robert A. Wimbish

Robert A. Wimbish