

CONRAIL®



February 17, 2004

Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, NW
Room 700
Washington, DC 20423-0001



Re: Finance Docket No. 34473
CSX Transportation, Inc., Norfolk Southern Railway Company, Consolidated Rail
Corporation – Modified Certificate of Public Convenience and Necessity –
Operation of Lines and Facilities in Staten Island, NY and New Jersey

Dear Mr. Williams:

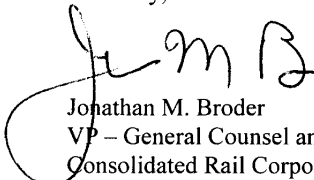
Enclosed for filing with the Board are the original and ten copies of a Notice of Modified Certificate of Public Convenience and Necessity which are submitted pursuant to 49 C.F.R. §1150.21, together with the \$1,300 filing fee. Pursuant to 49 C.F.R. §1104.2, the original and all copies are paginated consecutively to assist with scanning. Because the textual submission is less than twenty pages in length, no electronic copies are included. See 49 C.F.R. §1104.3(b)(1).

Please time stamp the enclosed extra copy of this letter and return it to me in the enclosed self-addressed, stamped envelope.

Sincerely,

ENTERED
Office of Proceedings

FEB 18 2004


Jonathan M. Broder
VP – General Counsel and Corporate Secretary
Consolidated Rail Corporation
2001 Market Street - 29th Floor
Philadelphia, PA 19103
(215) 209-5020

Part of
Public Record

FEE RECEIVED

FEB 18 2004

**SURFACE
TRANSPORTATION BOARD**

Enclosures

cc: All Parties on Attached Service List

FILED

FEB 18 2004

**SURFACE
TRANSPORTATION BOARD**

SERVICE LIST

Association of American Railroads
Law Department
50 F Street, NW
Washington, DC 20001

David K. Monroe
Galland, Kharasch, Greenberg, Fellman & Swirsky, P.C.
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Washington, DC 20007-4492

Charles A. Spitulnik
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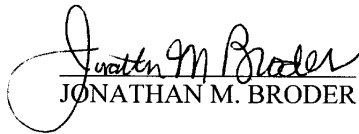
Louis P. Oliva
Udo Drescher
New York State Department of Environmental Conservation
47-40 21st Street
Long Island City, NY 11101-5407

Donald F. Burke, New Jersey Solicitor
The Port Authority of New York and New Jersey
225 Park Avenue South – 13th Floor
New York, NY 10003

Paul M. Donovan
LaRoe, Winn, Moerman & Donovan
4135 Parkglenn Court, NW
Washington, DC 20007

CERTIFICATE OF SERVICE

I, Jonathan M. Broder, hereby certify that the foregoing Notice has been served, by United States mail, first class, postage prepaid upon all persons set forth on the foregoing Service List, on February 17, 2004.


JONATHAN M. BRODER

DATE: February 17, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34473



CSX TRANSPORTATION, INC., NORFOLK SOUTHERN
RAILWAY COMPANY, CONSOLIDATED RAIL CORPORATION –
MODIFIED CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY –
OPERATION OF LINES AND FACILITIES
IN STATEN ISLAND, NY AND NEW JERSEY

Notice of Modified Certificate of
Public Convenience and Necessity

Communications with respect to this
pleading should be addressed to:

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SURFACE
TRANSPORTATION BOARD

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SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 34473

**CSX TRANSPORTATION, INC., NORFOLK SOUTHERN
RAILWAY COMPANY, CONSOLIDATED RAIL CORPORATION –
MODIFIED CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY –
OPERATION OF LINES AND FACILITIES
IN STATEN ISLAND, NY AND NEW JERSEY**

**Notice of Modified Certificate of
Public Convenience and Necessity**

CSX Transportation, Inc. (“CSXT”), Norfolk Southern Railway Company (“NSR”) and Consolidated Rail Corporation (“Conrail,” and, collectively with CSXT and NSR, the “Parties”) submit this Notice of Modified Certificate of Public Convenience and Necessity (“Modified Certificate”) with reference to a proposal to provide freight rail service over certain portions of the abandoned track of the former Staten Island Railway Corporation (“SIRR”) in New York and New Jersey. The provision of freight rail service is a component of the Staten Island Railroad Revitalization Project, a joint effort between the Port Authority of New York and New Jersey (“Port Authority”) and the New York City Economic Development Corporation (“NYCEDC”). At this time, CSXT, NSR and Conrail are negotiating with NYCEDC (which is permitted to manage the proposed provision of such rail service for both itself and the Port Authority) an operating agreement (“Operating Agreement”) that will govern how such freight rail operations will take place.

Following the negotiation of this Operating Agreement, the Parties will submit a petition for exemption ("Petition") pursuant to 49 U.S.C. § 10502. The Petition will seek Board approval of an exemption from the provisions of 49 U.S.C. § 11323 to permit the Parties to implement the operations described in the Modified Certificate in the manner described in the Operating Agreement.

Introduction and Summary

For over a decade, no freight rail service has existed over the certain portions (the "Subject Line Segments") of the former SIRR that are the subject of this Modified Certificate. These Subject Line Segments, acquired by the States (or political subdivisions of those States) of New York and New Jersey upon their abandonment, lie generally between the Conrail Chemical Coast Line and points on Staten Island. The purpose of the Modified Certificate is to permit freight rail operations between points on Staten Island and the Conrail Chemical Coast Line by CSXT, NSR and Conrail, much in a manner similar to that of the Conrail Shared Assets Areas.

Because the rail operations are anticipated to be much in a manner similar to that of the Conrail Shared Assets Areas, the Parties anticipate submitting the Petition seeking authority to collectively agree to provide rail services in a manner agreed to in the Operating Agreement, and as further described generally herein. The Modified Certificate will be subject to and dependent upon such Board approval of the Petition, and no authority is sought for a Modified Certificate that is not accompanied by such Board approval of the Petition.

Further, normally under a Modified Certificate, a carrier providing service must cease service under that Modified Certificate after the expiration of a 60-day notice terminating the Modified Certificate. 49 C.F.R. § 1150.24. In the Petition, the Parties will seek a prior

determination that the authority granted by the Board pursuant to the Petition is solely dependent on the continuation of the Modified Certificate, and will automatically, and without further action by any party, expire upon the termination of the Modified Certificate. Conrail will not be able to unilaterally terminate the Modified Certificate.

Finally, in the Petition, the Parties will seek a determination that the rights and obligations to act as a rail carrier that Conrail obtains pursuant to the authority granted under 49 U.S.C. § 11323 will be no more than, and no less than, the authority and obligations Conrail now has in the absence of such authority. In other words, the Parties will seek a determination that the grant of Board authority under 49 U.S.C. § 11323 will not provide Conrail with any rate-making, interchange or other common carrier authority that it does not presently have.

DISCUSSION

The Subject Line Segments

The Modified Certificate will apply only to certain specified, previously abandoned,¹ Subject Line Segments, which are represented on the accompanying map that is attached as Exhibit A hereto. Specifically, those Subject Lines Segments are: (a) between MP 3.8 at John

¹ The SIRR was abandoned in two parts. Two of the line segments subject to this Modified Certificate were approved for abandonment in ICC Docket No. AB-263 (Sub No. 3), Staten Island Ry. Corp. – Abandonment (served December 5, 1991): the line segment between MP 3.8 at John Street east of Arlington Yard, Richmond County, NY and MP 12.09, at or near Cranford Junction, Union County, NJ and the line segment between MP 0.00 at or near Port Ivory, Richmond County, NY and MP 0.94 at the end of the line near Howland Hook, Richmond County, NY. The other line segment subject to this Modified Certificate – the so-called “Travis Branch” which consisted of a line segment entirely on Staten Island and between MP 0.00 (Arlington Yard) and MP 3.65 – was the subject of an abandonment exemption proceeding, with notice published in ICC Docket No. AB-263 (Sub No. 2X), Staten Island Ry. Corp. – Abandonment Exemption – In Richmond Co., NY (served July 3, 1990). Subsequent to the effectiveness of the abandonments, no freight rail traffic has moved over the subject line segments.

Street east of Arlington Yard, Richmond County, NY and MP 6.9, via the Chemical Coast Connector, at or near the connection between the Chemical Coast Connector² and Conrail's Chemical Coast Line in Union County, NJ, a distance of 3.1 miles; (b) between MP 0.00 at or near Port Ivory, Richmond County, NY and MP 0.94, at the end of the line near Howland Hook, Richmond County, NY, a distance of .94 miles; and (c) the "Travis Branch" between MP 0.00, Arlington Yard Station and MP 3.65 in Richmond County, NY, a distance of 3.65 miles (collectively referred to as "the SIRR Lines"), as well as operations over the new industrial lead and switching track to be constructed off of the Travis Branch³ into the New York City Department of Sanitation facility being constructed at the Fresh Kills landfill site on Staten Island (the "Fresh Kills" facility).

Not the subject of the Modified Certificate are those segments of the former SIRR that lie west of the Conrail Chemical Coast Line, as there will be no rights to operate over any part of the SIRR that lies to the west of the so-called Chemical Coast Connector, which, when completed, will permit a direct movement of traffic between the Staten Island operational area to and from the Conrail Chemical Coast Line. Further, no trains will operate on the abandoned SIRR Lines under the Modified Certificate until sometime in 2005 when construction on the Chemical Coast Connector is anticipated to be completed.

² The Board has served a decision on the Port Authority's petition seeking certain determinations as to the Chemical Coast Connector. STB Finance Docket No. 34428, Port Authority of New York and New Jersey – Petition for Declaratory Order (served January 21, 2004).

³ On October 29, 2003, NYCEDC filed a petition in Docket No. 34429 for Declaratory Order seeking determinations as to this track.

The Anticipated Operations

There are only three primary traffic flows anticipated over the Subject Line Segments. Specifically, these primary traffic flows consist of: (a) intermodal traffic moving in blocks assembled by the Howland Hook Marine Terminal/Port Ivory operator moving to and from Arlington Yard ("Howland Hook Traffic"); (b) containerized municipal solid waste trains assembled by the Fresh Kills facility operator to and from the Fresh Kills facility ("Fresh Kills Traffic"); and (c) mixed merchandise (including aggregates and paper products) moving to and from two potential customers located on the Travis Branch ("Travis Branch Traffic") that may, in the future, construct rail connections from their facilities to the Travis Branch in order to receive direct rail service.

Generally, Conrail will move the Howland Hook Traffic and the Travis Branch Traffic to and from Staten Island to the Conrail Shared Assets Areas for line haul movement via NSR and CSXT. Conrail will switch the Travis Branch Traffic, if and when the same develops, in the same manner, but directly from the relevant customer's facilities. NSR and/or CSXT likely will service the Fresh Kills Traffic directly, as that traffic is expected to move in unit train volumes. Conrail will dispatch the Subject Line Segments. NYCEDC will retain responsibility for operation of the Arthur Kill Lift Bridge and maintenance of the Subject Line Segments, including those portions of the Subject Line Segments located in New Jersey and the Arthur Kill Lift Bridge. Further specifics are set forth in the proposed Operating Plan attached as Exhibit B hereto.

Specific Information Required Pursuant to 49 C.F.R. §1150.23

The names and addresses of the operators are as follow: Consolidated Rail Corporation, 2001 Market Street – 29th Floor, Philadelphia, PA 19103; CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202; and Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510. Conrail, CSXT, and NSR are rail carriers subject to the jurisdiction of the Board. The information requested in §1150.23(b)(1)(i), (ii) and (iii) is not required of an operator that is an existing rail carrier, as is the case in this Modified Certificate.

Information about the prior abandonments is contained in footnote 1 above.

Operations will not commence over any portion of the Subject Line Segments until: (1) the Board grants the authority sought in the anticipated Petition; (2) the Parties have determined to accept the authority granted, including any conditions the Board places on such authority; and (3) such time as particular portions of the Subject Line Segments are deemed sufficiently rehabilitated for safe operations. In no case, however, will operations commence over any portion of the Subject Line Segments until construction on the Chemical Coast Connector has been completed. Rehabilitation of the Subject Line Segments and completion of the Chemical Coast Connector is expected sometime in 2005.

The Operating Agreement is currently under negotiation. The Operating Agreement will be submitted to the Board with the Petition.

The service to be performed is generally described above under “Anticipated Operations.” The rights granted pursuant to the Modified Certificate and the Operating Agreement will not be exclusive. Any interchange between CSXT and NSR and any other rail carrier that receives authorization to operate over any of the Subject Line Segments shall take

place at Arlington Yard. Conrail will not be authorized to interchange with any rail carrier other than CSXT and NSR, just as it is not authorized to do so in the Shared Assets Areas.

The only precondition to any shipper's receipt of service is the execution of an agreement with CSXT or NSR that specifies the rates and other terms and conditions of the service such carrier will provide. Conrail will not be authorized to provide rates and other terms and conditions of service, just as it is not authorized to do so in the Shared Assets Areas.

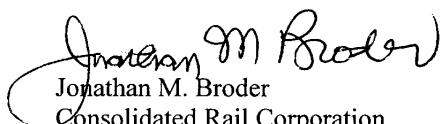
There are no subsidizers.

Existing insurance covering the Applicants' current operations shall be expanded to cover operations over the Subject Line Segments. No additional insurance will be acquired.

CONCLUSION

The Parties submit this information pursuant to 49 C.F.R. § 1150.21 with regard to reinstitution of rail service over portions of the former SIRR. Upon negotiation of an Operating Agreement, the Parties shall submit a petition for exemption pursuant to 49 U.S.C. § 10502. Operations under the Modified Certificate shall be governed by the Operating Agreement and the approvals received pursuant to such petition for exemption.

Respectfully submitted,



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Date: February 17, 2004

STATEN ISLAND RAILROAD And Connections

EXHIBIT A

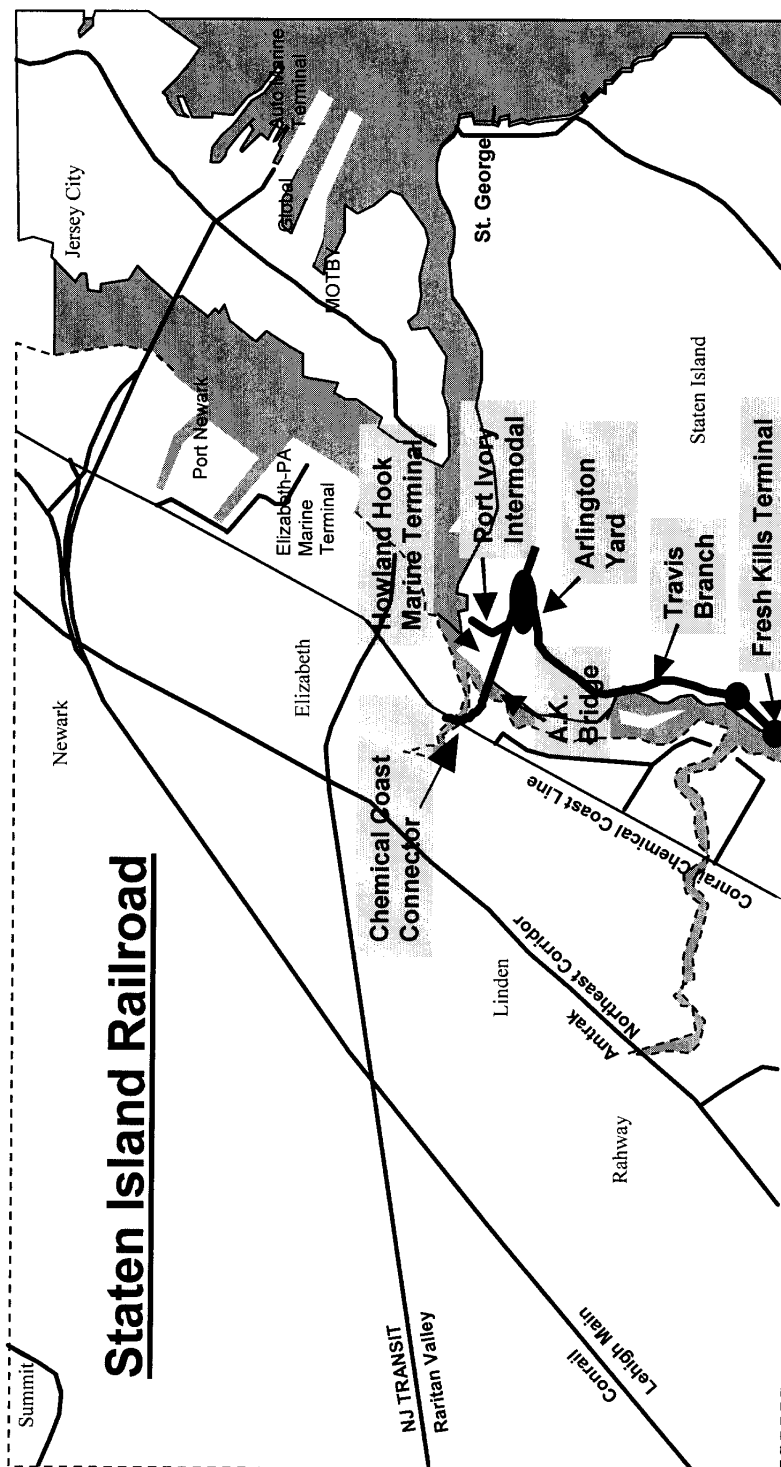


EXHIBIT B

Draft Transportation Service Plan for the subject line segment of the former Staten Island Railway

The operation of the reactivated trackage of the Staten Island Railway, and thus this Transportation Service Plan, will be dependent upon the type and volumes of traffic, as well as the origin and destination terminals involved, available track capacity at relevant facility locations, as well as other relevant factors.

Howland Hook (Port Ivory) Intermodal Traffic

Traffic originating at Howland Hook (Port Ivory) will be containerized shipments that will be transferred to and from rail cars at the Port Ivory Yard by the Howland Hook facility operator. That facility operator will transfer rail cars between Port Ivory Yard and Arlington Yard at a schedule determined by that operator and based upon volumes and available equipment and capacity. A Conrail Shared Assets Operations ("Conrail") crew – to be based in New Jersey – then will transfer this traffic between Arlington Yard and New Jersey. Until unit train volumes develop, the shipments will be integrated with intermodal traffic from the Dockside intermodal facility or the E-Rail intermodal facility for line haul movement over either CSXT or Norfolk Southern ("NSR"). Either CSXT or NSR crews could handle unit trains moving to or from the Howland Hook facility.

Traffic moving in this service will initially be limited to one block until such time that volumes warrant additional blocks. Projected volumes do not include any solid waste shipment that may originate at the Howland Hook facility. Projections based upon current operational parameters, and at traffic forecast volumes projected by the New York City Economic Development Commission ("NYCEDC"), would have Conrail deliver inbound traffic to Arlington Yard at approximately noon each day, with a pull of outbound traffic approximately one hour later, in each case 5 days per week.

Carload General Merchandise shipments

The Conrail yard crew based in New Jersey will perform switching of the individual customer locations on the Travis Branch. The shipments will be integrated with the other general merchandise traffic handled at Oak Island Yard for classification and movement in CSXT or Norfolk Southern general merchandise road trains. Projections based upon current operational parameters, and at traffic forecast volumes projected by the NYCEDC, would have CSAO perform a nighttime delivery of inbound traffic and a nighttime pull of outbound traffic, in each case 5 days per week.

Travis Branch Transfer facility traffic

At traffic volumes currently projected by NYCEDC, either a CSXT or NSR road crew will handle this traffic directly to or from the transfer facility in a unit train. The road crews will place cars on arrival for inbound shipments and pull cars for departure for the outbound loads.

Projections based upon current operational parameters, and at traffic forecast volumes projected by the NYCEDC, would have CSXT or NSR perform a nighttime delivery of inbound traffic and a nighttime pull of outbound traffic, in each case in unit trains operating every 3-1/2 days (2 trains per week).