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September 6, 2012

Ms. Catherine Glidden
Environmental Protection Specialist
Office of Environmental Analysis
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re: AB-167 (Sub-No .1162X), *Consolidated Rail Corporation--Abandonment
Exemption--in Monroe County, NY*

Dear Catherine:

CSX Transportation, Inc. ("CSXT") appreciates the Surface Transportation Board's (the "Board") efforts to remove the condition in the May 8, 1997 decision that required "that Conrail : (1) retain its interest in and take no steps to alter the historic integrity of the swing bridge at milepost 94.0 of the Ontario Industrial Track until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f." The swing bridge is known as the Hojack Bridge and crosses over the Genesee River in Rochester, NY.

CSXT has been ordered to remove the Hojack Bridge by the U.S. Coast Guard. After the Board's decision, the U.S. Coast Guard and the U.S. Army Corps of Engineers declined to conduct a Section 106 review since the Bridge was being removed under an enforcement action. This decision not to conduct the review under the Section 106 process was supported by the Advisory Council. A copy of that Advisory Council letter is attached. As explained below, CSXT has a limited window in which to demolish the Hojack Bridge and requires that entire window to complete the work.

The New York SHPO conducted a thorough historic review under Section 14.09 of the state law that resulted in a detailed mitigation plan. Under New York state law, the detailed mitigation plan is deemed to satisfactorily mitigate any adverse impact resulting from the way in which the Bridge is removed. See 6 NYCRR 428.10(b).

Since initiation of the U.S. Coast Guard enforcement proceeding in 2011, CSXT has spent approximately \$1 million in engineering, environmental consulting and legal fees to obtain the necessary permits and authorizations, including the completion of a State Environmental Quality Review Act process. To obtain these permits and authorizations over the past year and a half, CSXT worked with the New York SHPO, the City of Rochester, the Town of Irondequoit, the U.S. Army Corps of Engineers, the New York State Department of Environmental Conservation, and the Landmark Society of Western New York among others.

CSXT has a limited window in which to conduct the demolition of the bridge. Due to fish spawning and propagation requirements and the extensive recreational boating usage of the River during the summer months, the permit from the New York State Department of Environmental Conservation restricts CSXT's contractor to a 6 month work window, beginning October 15, 2012 and ending April 15, 2013.

Further, due to its deteriorating and unsafe condition, CSXT has also incurred additional costs to implement temporary measures to stabilize the Bridge to minimize potential hazards to the public, boaters (because of its location in the middle of the river), and the environment until the demolition work can be initiated in October.

Based on the final permits and authorizations received, CSXT has already signed contracts with BIDCO for removal of the Bridge structure and FRS Properties LLC (an adjacent property owner) for a staging area and access to the Bridge for use during demolition. BIDCO, in turn, has leased an additional staging area on the western side of the River from the City of Rochester, and filed for and acquired the necessary contractor permits and amendments that it will need to conduct salvage operations in the Genesee River. The contractor's site mobilization has also begun. BIDCO is currently in the process of mobilizing to the site the large equipment and deep water materials to support the dismantling of the Bridge superstructure and foundations, and to remove and dispose of approximately 5,000 cubic yards of associated sediment and rip rap. As of this past weekend, a large crane has already been delivered to the staging area. The cost of demolition will be in addition to the costs already incurred by CSXT.

Further complicating the project is the limited window available for work. Due to fish spawning and propagation requirements and the extensive recreational boating usage of the River during the summer months, the permit from the New York State Department of Environmental Conservation restricts BIDCO to a 6 month work window, beginning October 15, 2012 and ending April 15, 2013. Based on the contractor responses to CSXT's request for proposals, the full six month window is necessary to remove the Bridge. If the project start is delayed and the removal not completed by April 15, 2013, the project will have to stop and start again in October 2013.

If that is the case, CSXT will incur significant delays, demobilization, remobilization and contract amendment costs, and BIDCO will have to reapply for a number of permits to complete the work and renegotiate leases of adjacent properties necessary to support the project. In addition, the deteriorating center pier, the north and south starkwaters and fendering system will likely remain in place through 2012-2013 boating season posing a continuing hazard to commercial and recreational boating traffic. Moreover, without the bridge superstructure above them, at night or in the evenings, the creosote soaked (brown-black) timbers of the starkwaters and fendering system at water level in the middle of the river will pose an enhanced navigation hazard.

As you can see, there is every reason to move forward with the demolition, and a substantively sound historic resource review and mitigation record upon which to proceed, Please do not hesitate to contact me if CSXT can be of any further assistance to the Surface Transportation Board.

Sincerely

A handwritten signature in black ink, appearing to read 'Melanie Yasbin', with a stylized flourish at the end.

Melanie Yasbin
Attorney for: CSX Transportation, Inc.