

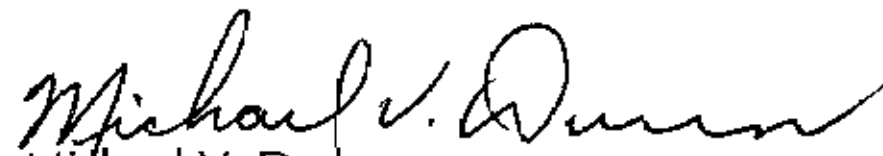
BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET No. 33388

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

FINANCE DOCKET NO. 33888 (SUB-NO. 76)
RESPONSIVE APPLICATION — INDIANA SOUTHERN RAILROAD

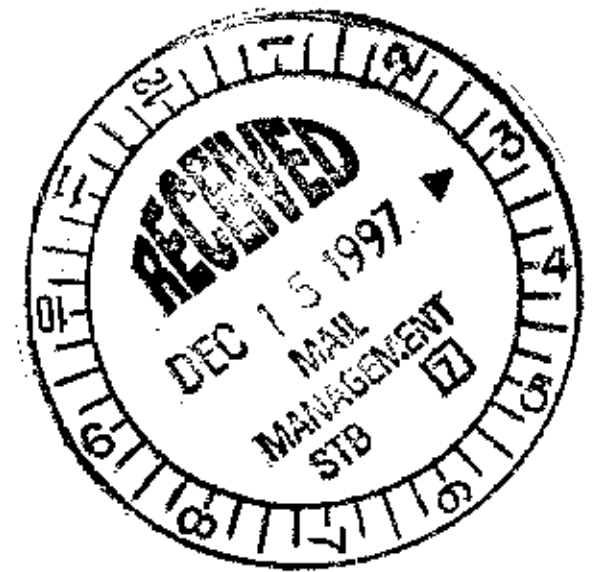
COMMENTS OF THE
UNITED STATES DEPARTMENT OF AGRICULTURE



Michael V. Dunn
Assistant Secretary

Marketing and Regulatory Programs

U.S. Department of Agriculture
Washington, DC 20250



Date: December 15, 1997

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These comments are filed on behalf of the United States Department of Agriculture (USDA) in response to the Surface Transportation Board's (STB) decision served November 20, 1997, accepting for consideration certain responsive applications.

AUTHORITY AND INTEREST

Through the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291) and the Agricultural Marketing Act of 1946 (7 U.S.C. 1622 (j)), Congress has directed and authorized the Secretary of Agriculture to participate in proceedings before STB to "assist in improving transportation services and facilities . . . for agricultural products and farm supplies" and to make "complaint or petition to [STB] . . . with respect to rates, charges, tariffs, practices, and services. . . ." In addition, the USDA, through the opera-

tions of the Commodity Credit Corporation and foreign commodity donation programs, is a participant in the markets for agricultural products.

INTRODUCTORY REMARKS

In our October 21, 1997, filing in this proceeding, which we incorporate by reference, we stated our view that contrary to the statutory rail transportation policy (49 U.S.C. 10101) STB has placed too much weight on the achievement of efficiency and too little weight on effective competition. Effective competition promotes reasonable rates, minimizes the need for regulatory control, and encourages honest and efficient management of railroads. By contrast, efficiency benefits (including *potential* cost savings) are inherently more speculative. Not only might the proposed benefits of a merger never be realized, but, because of market power, whatever benefits do accrue may not be passed through to shippers in the form of lower prices.

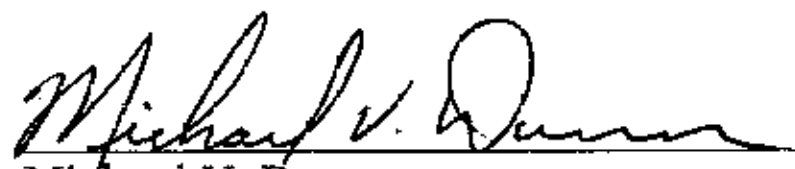
USDA strongly believes that the most effective form of competition for railroads is *intra*-modal competition. While mergers of Class I railroads may be in the public interest, they do reduce effective *intra*-modal competition. STB's has the power to mitigate this loss of effective *intra*-modal competition by attaching protective conditions to the merger. In the past, however, STB has been reluctant to exercise its conditioning powers. USDA believes that STB can more effectively promote the national rail policy by using its conditioning power more aggressively. We believe that although protective conditions may reduce the benefits of a consolidation, they promote effective competition which carries with it many concrete and salutary benefits.

SUB-DOCKET NO. 76

In this Sub-Docket, STB has asked for comments on the responsive application of the Indiana Southern Railway (ISRR). ISRR seeks a combination of local and overhead trackage rights that will permit effective access to Indianapolis, Indiana. ISRR claims that these trackage rights will ameliorate the anti-competitive effects approval of this application would entail.

The fate of the greater Indianapolis region is a key concern to USDA. Indianapolis, located in the heart of the Eastern Cornbelt, is one of the Nation's largest and most dynamic metropolitan areas. According to the primary applicants, Indianapolis is, by far, the largest 2-1 pointed created by the proposed transaction. USDA is concerned that if this transaction is approved, the overhead trackage rights Norfolk Southern Railway (NS) will receive may not enable NS to provide effective competition in this market. Therefore, in order to maintain and protect effective intra-modal competition STB should condition its approval of this application by granting the ISRR effective access to Indianapolis.

Respectfully submitted,


Michael V. Dunn
Assistant Secretary

Marketing and Regulatory Programs

U.S. Department of Agriculture
Washington, DC 20250

CERTIFICATE OF SERVICE

I, Paul J. Bertels, certify that on this the 15th day of December, 1997, I caused a copy of the foregoing document to be served by first-class mail, postage pre-paid, on all parties of record in STB Finance Docket No. 33388.

Paul J Bertel