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HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION

UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

S. 2788

TO AMEND SECTION 216 OF THE REGIONAL RAIL REORGANI-
ZATION ACT OF 1973 TO AUTHORIZE THE PURCHASE OF AN
ADDITIONAL \$600,000,000 OF THE SERIES A PREFERRED STOCK
OF THE CORPORATION, AND FOR OTHER PURPOSES

APRIL 13, 1978

Serial No. 95-83

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UNITED STATES RAILWAY ASSOCIATION AMENDMENTS ACT OF 1978

THURSDAY, APRIL 13, 1978

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Washington, D.C.

The subcommittee met at 9:30 a.m. in room 318, Russell Senate Office Building, Hon. Howard W. Cannon (chairman of the full committee) presiding.

OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN. The hearings will come to order. These hearings get under way for the purpose of examining ConRail's first 2 years of operation as well as its request for additional funding. I find myself wanting to stand back for a moment to try to refocus, and, hopefully, come up with a better perspective on the problems confronting us today in the transportation sector.

Certainly the fast approaching May 15 budget deadline contributes to a feeling we all get from time to time that legislative schedules allow too little time for detailed, thoughtful analysis, but in addition, sheer magnitude of the dollar requests made on this committee by transportation is more than enough to give one pause to ask, truly, where are we headed.

I can't help but recall that within the last 48 hours, this committee has had to deal with money requests covering two railroads totaling anywhere from one-quarter to \$2½ billion maybe even \$6½ billion over the next few years, if ConRail's financial assumptions are later found to be erroneous.

First, in a regularly scheduled meeting, we approved \$650 million for Amtrak for fiscal year 1979. Today, we are being called on again for a billion plus by ConRail.

For our efforts thus far, on behalf of Amtrak, all we have heard is we are insensitive to Amtrak's need and they get along losing a mere \$500 million a year.

I hope our efforts on behalf of ConRail don't generate the same response, especially if the best we can do is only \$500 million or perhaps \$600 million, which is called for by the introduced bill.

I note from Secretary Adam's testimony that the administration now proposes to fund the entire \$1.3 billion estimated shortfall, whereas we had originally proposed to make up the 1979 shortfall of \$600 million only.

While I would not automatically reject such an approach, I question whether this committee would not be giving up its responsibilities to closely oversee ConRail's operations, by leaving many questions over the next few years to the Appropriations Committee. A new GAO study, for example, says Congress should reassess its needs for information.

In order to make its own judgments about ConRail's profitability and that Congress will probably be requiring even more information analysis about ConRail rather than just less.

I hope our witnesses will have some answers to these questions, and, Mr. Secretary, we are happy to have you here today, and have you lead off on this very important subject.

[The bill follows:]

[S. 2788, 95th Cong., 2d. sess.]

A BILL To amend section 216 of the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional \$600,000,000 of the series A preferred stock of the Corporation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Railway Association Amendments Act of 1978".

SEC. 2. (a) Section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726) is amended by striking out "\$1,100,000,000" each place it appears therein, and inserting in lieu thereof in each such place "\$1,700,000,000".

(b) Section 216(b) of such Act (45 U.S.C. 716(b)) is amended by striking out "\$2,100,000,000" and inserting in lieu thereof "\$2,700,000,000".

SEC. 3. The amendments made by section 2 of this Act shall become effective on the date of enactment of this Act.

STATEMENT OF HON. BROCK ADAMS, SECRETARY OF TRANSPORTATION

Secretary ADAMS. Thank you, Mr. Chairman.

Mr. Chairman, I would like to request permission to put my statement in full in the record, and then I will summarize and be most pleased to answer your questions.

The CHAIRMAN. All right, sir.

Secretary ADAMS. First, before entering my statement, I would like to indicate that I am in agreement with many of the remarks that you made in your opening statement. I am deeply concerned about the amounts of money that are being requested for Amtrak, and I wish to explain to you in my testimony today why we suggest a rolling 5-year forward authorization for the ConRail operation.

There will be another date, I am certain, when we will discuss Amtrak in greater detail, but I wanted to state to the chairman before going into the details of this, that I am very concerned about the management problems at Amtrak, and that we are presently attempting to obtain a new head and operating officer for that organization.

And we will be working very closely with this committee on what the future should be. The criticism, I think, is very proper, and it is one that I share.

Mr. Chairman, I am certain that you are aware, since you were very much involved in this, as was I, that the 3R and 4R Acts were basically the attempt by the Congress to meet the problem of how to maintain freight service in the Northeastern part of the United States.

We had three very bad alternatives then. We have not improved those alternatives in this period 2 years. I am certain that the chair-

man will remember that we were faced with either the proposal of simply trying to sell off parts of it, where we had no buyers, to nationalize it, or to have some type of abandonment, or collapse of the entire system, so-called sale on the courthouse steps.

Since this area contains 55 percent of the manufacturing plants, and over 60 percent of the industrial workers, we simply went with the final alternative, which was to create a buyer, which was ConRail, and to reorganize the structure of those existing railroads.

There were six bankrupts at that time. I was hopeful, Mr. Chairman, when I took over as Secretary of Transportation in January of 1977, that I would be able to come before you and say that the amount of money which had been authorized for the 5-year plan, was sufficient. However, we inherited a very bad system which had been cannibalized for years, and deferred maintenance which had been put off for many years. The plan that was presented at that time was to take 5 years, and included both a capital program to bring back the system as well as covering its startup costs.

The reason we are before the committee at this time is that on February 15 of this year, we received, and I am sure the chairman will remember, that we were to receive a report as part of the oversight function of this committee and as part of the monitoring responsibilities of the Department of Transportation, a report on where the 5-year plan was, with the startup cost, with what had happened with the winters and so on. We received that plan, Mr. Chairman.

What it indicated was, that over a 5-year period, the plan—that is, both capital and its operating costs, together with what would be raised in the private sector, which is over \$1 billion worth of private financing, and increases in productivity of up to \$500 million over 5 years—would be short over the 5-year period by \$1.283 billion.

I want to stress that I felt at the time this plan went through, and I knew many other Members of the Congress and committee at that time felt that the amount that we had placed as so-called front-end money in ConRail was probably not accurate, but we accepted the compromise and proceeded, and we proceeded on certain assumptions.

Mr. Chairman, there is really nothing we can do when we are looking into the future 5 years other than rely on the best assumptions that we can produce. Our best judgment in 1975 was that \$2.1 billion, though very close, would make it.

The most recent projections indicate that \$1.3 billion over the next 5 years of, in effect, front-end Federal equity financing, is very optimistic, and I want to stress that. However, we did not in the Department of Transportation redo the figure that was presented by the financial analysts of ConRail.

We are working our way through this figure. That is why we suggested, Mr. Chairman, that we have an authorization for the 5-year period, and that we will present to this committee and to the other committees of the House and Senate, a flow chart of at what points these amounts of money must come in.

The reason we are before you now, is that the best projections we had is that the \$74 million remaining, out of the original \$2.1 billion authorization, will be drawn down this fall, and that there will be a shortfall in January of 1979. So, we need both to be reporting to you, and completing our financial analysis of the ConRail proposal so we

can indicate at what point what amount of money needs to be drawn down in order to maintain both the capital program, and the operating program of ConRail.

When I say that the assumptions concern me, and I don't want to in any way conceal that concern from the committee, because in your opening remarks, you indicated your concern, and it is mine. It rests upon the assumption that there will be an increase in revenues during the period of time of the 5 years. This means both that there will be certain rate increases, and that there will be tonnage coming out of the Northeast.

Mr. Chairman, that depends upon the status of the economy in the northeastern part of the United States. We have predicted it. We are very hopeful and optimistic about the revival in this area, but we do recognize that the economy in that area has shifted to a very great degree from heavy manufacturing and that there must be substituted for this rail route to be viable in such things as the carriage of coal, which we anticipate increasing, and the carriage of certain items by container, rather than by traditional systems.

Mr. Chairman, with the 1979 January figure facing us, we believe that it is necessary we proceed this year with a new authorization. I hope this will happen. And I am hopeful that it can be done.

As the chairman indicated, we face a May 15 deadline for reporting in the Congress. What we propose is, there be authorized for the United States Railway Association to purchase an additional \$1.2 billion in preferred stock under section 216 of the 3R Act. That figure, Mr. Chairman, when added to the existing authorization, comes to the \$3.3 billion that is in the 5-year plan which has been presented by ConRail to the committee, and which will be testified about in detail by the president of ConRail.

Second, that the authorization be a multiyear one to match the 5-year plan, and that a supplemental request be transmitted in fiscal year 1979, when we complete our analysis this summer. Mr. Chairman, and present to you the executive branch's analysis of the ConRail 5-year plan, and its projections, whether it is too optimistic or whether it exactly fits, and at what point they will need the money in the system.

Mr. Chairman, we have arrived at the conclusion in the Department to request the section 216 aid, rather than to proceed with title V with rollovers, because a number of members of the executive branch and the legislative branch have expressed concern that the funds that were available in title V were for the problems we are facing in the Midwest, and they are rather massive problems. And that it was better to maintain the ConRail 5-year plan in its form, rather than receiving money out of the midwestern potential funding amounts, and rolling that amount over.

I do believe the \$1.3 billion we are requesting over 5 years will give Mr. Ed Jordan and his management team a chance to overcome their startup problems, and to recover from the tremendous losses that they suffered during the winter of last year, the winter of this year, and the staggering problems caused by the coal strike which took place during the course of this year.

These could not be predicted in advance in the 5-year plan, and we are now, as I think will have to be a continuing operation with this corporation, until it moves into a profitable status, since the Fed-

eral Government is a major investor, in the process of examining how well it is doing, how it is doing it, and adjusting for such factors as the winters and the coal strike, and the status of the equipment.

Mr. Chairman, I just would like to close on an upbeat note.

The CHAIRMAN. That would be welcome, let me assure you.

Secretary ADAMS. It is to me, too, Mr. Chairman, because actually the legislative package that was created and was signed into law has worked extraordinarily well. It is really an incredible achievement that all of these railroads could be collapsed into one bankruptcy court, the properties transferred, the case proceed in that court, and the new operating entity go into existence and arrest the downward slide that had been occurring with the cannibalization of this system.

What has happened is during the first 21 months they not only have moved into the new operation very smoothly, but by the end of 1977 they will have put down over 1,700 miles of new rail. They resurfaced and cleaned up over 14,000 miles of rail.

There have been 9½ million ties put down. There have been nearly 26,000 cars and more than 1,800 locomotives repaired or rebuilt, so this system is coming back to life and the moneys that are being put into it, the major portion of them are going into physical plant and to bringing back and carrying out what I think was the legislative intent to maintain and improve rail service in that area.

We have arrested the slide. We are now trying through that to increase the efficiency of this system and there are several problems that are going to have to be addressed by management. That is why we have taken the low figure. It is a pressing figure. There isn't any room for error and it means that they will have to make improvements in their operating efficiency, in the use of their work force and in the ability to move and better transfer their cars.

I wanted to emphasize that to you, Mr. Chairman, because if you look at the range of alternatives of the amount of money that might be invested or necessary in this, some of the ranges run as high as \$4 billion.

We have taken the low end of this. Mr. Chairman, if this does not work, we will have to appear before this committee again.

I close in response to your opening remarks, which I thought were very appropriate, that at that point if they have not made it with this amount of money and become profitable as they project, in the early 1980's, in their business plan, then we have to reevaluate the whole system, Mr. Chairman, as to how it shall operate and what the Congress wishes to do with it.

So it is very tight. We recognize the concerns of the committee with regard to it. We believe we should move forward with this 5-year plan.

That concludes my statement, Mr. Chairman, and I appreciate having the opportunity to testify.

The CHAIRMAN. Thank you, Secretary Adams.

I am going to take advantage of having the gavel here for a moment before turning it over to my chairman and just make a few comments on some of my concerns.

I have visited with the management of a number of the private rail roads, to try to find out, get what their views are. I must say that one of the pressing issues as far as privately owned railroads are con-

cerned is the highly inefficient numbers of employees that ConRail has, far in excess of what they tell me a privately owned railroad could operate on efficiently, so that is one of my big concerns.

Another of my concerns is the highly inefficient car utilization program that seems to me to not be coming along as it should, if you are going to get this railroad operating profitably.

Another one is the excess trackage. You have mentioned that in the Northeast we will probably have to reduce it because there has been some shift in the industrial production in that part of the country, but we have to reduce it, let's reduce it and let's not be operating dual trackage, inefficient trackage, to the extent it is being done now and try to get rid of some of the trackage, see if we can't get some consolidation. This reminds me of the old problems airlines had a few years ago in the excess capacity, and I think we have to try to assess this situation and get it under control.

Those are my preliminary comments without going to any questions.

I thank you for your statement and I will turn it back to the chairman of our subcommittee who is here now, Mr. Long.

Senator LONG. Thank you, Mr. Chairman.

Mr. Secretary, I have some questions here. I think probably just as well, the American Association of Railroads is the source of this, and we might as well put this in the record, one of them we might put in the record now.

This is the comparison of employees, except for maintenance employees, compared to other railroads, on a ton-mile basis. I believe you have some knowledge of this. What it tends to show is that the other railroads have been comparing ConRail with the Chessie System, the Southern Pacific Lines, Central Gulf.

ConRail makes a very poor showing in employees per ton-mile. What logical reason would there be, for example, that the Southern Railway would, or the Southern System would, move almost twice the ton-miles per employee than ConRail moves?

That is a key question.

Secretary ADAMS. Yes, it is.

Mr. Chairman, the key difference between the Southern System and the ConRail System lies in its yards and the fact that basically the ConRail System is operating over most of New England and along the Eastern Seaboard as a terminal railroad.

In other words, they are receiving from longer haul shipments and distributing into very congested areas, which means you have a number of employees working in switching yards, working on short hauls into sidings, and in a system that the Southern cleaned up many years ago.

In other words, they, the Southern, have spent a great deal of money in building their yards at the edge of town and in building a better distribution system.

So, you have a great many employees involved in ConRail's operation. I, too, have discussed this with the presidents of other railroads. The heart of the program involved in the 5-year program is that the yarding system of ConRail involves too many small yards in very bad locations.

Going back to Senator Cannon's original comment, they also do not have a real time car utilization system, which enables you to trace

where your cars are, and to move them through the yards more rapidly.

We are dealing with the system that was allowed to deteriorate for a quarter of a century and it is out of date. It has too many people on it. There is a physical difference. Until we get to a highly integrated containerized operation in New England and along the east coast, I think there will always be some higher employee ratio than on the long-distance western and southern lines, but I think we do have a system here. We have got a combination of a number of railroads where people are still there that were there before.

Now, they have gone down a number of people. In other words, the total number of people and the total size of the plant did shrink in response to the Congress' passage of the bill.

The issue before us now is, is it of a proper size to carry the revenue base that is in New England? That is something, Mr. Chairman, that we are asking at this hearing, trying to determine whether we are getting the size properly and if their 5-year plan for a number of employees, car utilization, number of yards, matches the revenues that are available in the next 5 years.

That is a very, very hard question.

Senator LONG. As you know, Mr. Secretary, dating back to the days when you use to appear on the Hill, working on legislation of this sort, as a Member of the House, I felt it might be useful to think in terms of employee stock ownership plans and things on that order.

The experience where it has been tried on a smaller scale, it has resulted in a great deal more interest in the work and a great deal of enthusiasm that the employees could make the operation succeed.

We have a couple of cases—small operations, to be sure—at least two cases, where companies were going broke, were taken over by the employees and a few years later, not only were the companies succeeding, but they were showing large profits, and stock for which the employees perhaps paid \$50, were selling for \$2,000.

Do you find some appeal in that type of approach?

Secretary ADAMS. I do, Senator. I find appeal in that kind of approach. It has worked on the Chicago & Northwestern, for example, and in this case, the problem we will face, and I think it is one that should be faced by management and worked with is, we must settle the original case by which we transferred assets.

By "we" I mean the bankrupt railroads transferred assets in return for common stock. That stock is being evaluated by the special court at this time, together with the so-called certificate of that value, which is a guarantee of that common stock.

The common stock, I assume, is what you are considering as being potential for transfer to the employees. We, at the present time, are under instructions from the judge to negotiate on that case and the Department of Justice is actively trying to settle it.

If the stock is freed up, it would be, or a portion of it would be, available for stock ownership plans.

We have never tried anything this big before, Senator. This is an enormous operation, with revenues over the 5 years, of over \$20 billion and with many, many employees, but I do find attractiveness to the proposal for stock ownership by employees in this situation.

Senator LONG. There is no doubt, when they put at least some of

their own money into it, as in the Chicago & Northwestern system, after the former employees took the railroad over, it was a far more efficient and productive operation, was it not?

Secretary ADAMS. It was, Senator.

Senator LONG. I think the secret of the success of the American free enterprise system is how hard a businessman will work to make his business succeed. When people own it, they tend to do the same thing. The part of the country from which I hail, there have been a lot of small plywood companies have operated on a employee-ownership basis. Has the experience out there been that they have achieved greater efficiency, greater enthusiasm, more interest in what they are doing, and also more profits?

Secretary ADAMS. Yes, it has been very successful, particularly in the plywood plants, Senator.

Senator LONG. If that type of thing has been so successful on a small scale, I think it would be worth trying on a large scale. My reaction is, what do we have to lose? Here we have an operation that is losing money. In my judgment, if labor wanted to, labor could make that operation succeed, if labor had the same type of incentive that the private entrepreneur has in trying to make his business go, where he loses money if he does not work, and if he works like the devil, his business has a chance to make it, and if he does, he benefits from it. They really do very well. I know in my hometown we have a lot of small companies—I say small companies, small firms, some of them just family firms, brothers and relatives get together and build houses, and the workers are like a bunch of beavers building a beaver dam out there working for themselves.

I do not know how a contractor can compete with that kind of efficiency, because when the person is involved in it, if it is theirs, anything they make is something they can keep, provided we do not tax them too much, and we should not. We do give favorable tax treatment to that kind of arrangement. Productivity is so high compared to anything else when a fellow is working for the other guy. It has been extremely successful.

I appreciate the fact that you find some interest in that type of thing, because I have been working for it, and I think this might be an appropriate case to try it.

Secretary ADAMS. Could be, Senator.

Senator LONG. Thank you.

The CHAIRMAN. Secretary Adams, in your statement you suggested that the \$1.3 billion additional federal financing is probably close or at the optimistic end of the range of potential. What is the pessimistic end?

Secretary ADAMS. Over \$4 billion.

The CHAIRMAN. Since no one seems to be able to ascertain at this time the amount of money ConRail will need or verify the \$1.3 billion request, why do you think the committee should be considering what is suggested to be an optimistic total instead of interim financing?

Secretary ADAMS. Because, Mr. Chairman, the company is, under the projected financial plan, going into the private market to achieve a substantial amount of private financing over the next several years. If we do not have a commitment over a 5-year period, which was a part of the original legislation which we are rolling forward, we do not think that the operation will be as stable as it will otherwise.

The second part, which I think goes to your opening statement, is that I think it must be understood by all parties involved—management, labor, the shippers in that area, and the local officials that are concerned—that the Federal Government is not going to keep putting money into this. I am afraid if it is an annual appropriation, we will get in the situation of coming up every year before this committee and before the Appropriations Committee and asking for another substantial amount of money. That has occurred in the Amtrak operation, and I do not like it.

I would like to avoid that happening here by saying, "This is your money." That is why I indicated in my statement that if this does not work, then I think the committee has got to reevaluate the whole manner in which this corporation operates.

The CHAIRMAN. You do not view this \$1.3 billion as an installment on indefinite Federal subsidization?

Secretary ADAMS. I certainly do not.

The CHAIRMAN. What effect do you think it will have on labor efficiency? Will it buy you more labor efficiency?

Secretary ADAMS. It has to, Mr. Chairman, or this corporation will not succeed, because there is built into this plan, to go with the Federal financing, an increase in productivity of \$500 million. We have to achieve that—when I say "we," I mean the Government working with this corporation—if it is going to turn into a profitable corporation by the year 1980, as projected.

The CHAIRMAN. The final system plan that projected a profit for ConRail in 1979 was based on certain assumptions that have not been realized. Is there any reason to believe that the underlying assumption of ConRail's 5-year plan and the goals set for ConRail by that plan are valid?

Secretary ADAMS. We believe that they are, Senator, but we will be reporting to this committee further as we complete a more detailed analysis of their operations. It is very hard—the particular figure that is very hard for anybody to verify, whether it be the ConRail people, ourselves, the committee staff, or others, is what will be the total revenue out of that area over 5 years. A 5- to 10-percent change in total revenue out of the air can throw the plan off more than the total amount we are asking for here.

The CHAIRMAN. Are there any other congressional actions that might help ConRail to financial viability without incurring additional Federal financial burden?

Secretary ADAMS. There are regulatory-type actions, yes, that would allow them to compete more evenly with other modes. We have not in this plan assumed that any of those would pass. But there are those types of items. The reason we have not gone into those in detail is they are before the ICC, and they are part of the ICC's jurisdiction, and the whole concept, as I know the chairman is well aware, when you deal with a regulatory body and try to change what it is going to do, becomes a very difficult operation, and we did not want to try that this year.

The CHAIRMAN. Can you supply us for the record a list of some of the regulatory actions that you think would be helpful in this year?

Secretary ADAMS. Yes, sir. We will do that.

The CHAIRMAN. Now, on February 15, 1978, the 5-year business plan estimated \$585 million for fiscal year 1979 in additional funding. Our

bill and the House bill settled on round figures of \$600 million. Can you tell the committee what the number is today for fiscal year 1979 based on what has been learned in the 2 months since ConRail submitted its business plan?

Secretary ADAMS. We have nothing new beyond that figure, Mr. Chairman. We will be developing that. We will supply it to the committee. But we are still operating on that figure. That, basically, Mr. Chairman, was based upon the losses of the last 2 years, and maintaining the existing capital plan that has been projected by ConRail.

See, the losses in the last two winters and the coal strike produced a major portion of the loss that this corporation has, above the business plan.

Incidentally, that happened to the private corporations, private rail corporations, in the area, the same way. I mean, there was no difference.

The CHAIRMAN. The same way, but was it in the same degree?

Secretary ADAMS. It was in the same degree. The amounts were smaller because the systems are smaller.

[The statement and questions and answers follows:]

STATEMENT OF HON. BROCK ADAMS, SECRETARY OF TRANSPORTATION

Mr. Chairman, I welcome this opportunity to appear before you today to review Conrail's progress to date and to address Conrail's request for additional Federal financing.

As the members of this Subcommittee know, I participated extensively in the passage of the railroad legislation which created Conrail—the 3R and 4R Acts. I believed then, as I believe now, that the Conrail concept represents our best chance to restore service-oriented, self-sustaining, private-sector rail freight service in the Northeast.

The continued availability of rail freight service to the Northeast is essential to the nation's economy. The Conrail service area includes 55 percent of the nation's manufacturing plants, which employ 60 percent of all industrial workers. One of Conrail's predecessors, Penn Central, alone handled more than 20 percent of all freight cars loaded in the United States. Conrail, as was Penn Central, is the nation's leading carrier of automobiles and parts, chemicals, metals and manufactured consumer products.

When I took over as Secretary of Transportation in January of 1977, I had hoped that I would be able to report to you by now that Conrail was fully on the road to profitability, and that the \$2 billion of Federal funds previously appropriated for Conrail under Section 216 of the 3R Act would be sufficient to bring this about. Unfortunately, I cannot make that report.

Despite a smooth conveyance of operations from the bankrupt railroads on April 1, 1976, and the significant rehabilitation accomplished to date, Conrail is experiencing difficulties in meeting the goals of the Final System Plan. Traffic levels have been lower than projected without a comparable decline in expenses, and we have experienced two particularly severe winters. These problems, combined with the host of operational difficulties involved in revitalizing the Northeast rail system, have worked to stretch out the schedule for Conrail's achievement of profitability. Conrail's net loss for 1977 was \$367 million, which is \$96 million more than projected in the Final System Plan.

In its February 15, 1978 five-year Business Plan, Conrail has projected an additional \$1.3 billion Federal funding requirement in order to become financially self-sustaining by 1982. This amount is in addition to the \$2 billion already appropriated for Conrail under Section 216 of the 3R Act. In addition, Conrail has projected for that period a \$1 billion equipment financing requirement which it hopes to satisfy through the private financial sector.

Mr. Chairman, I am disappointed with Conrail's present and prospective variances from the Final System Plan. It was the FSP which persuaded me together with other members of this Subcommittee to vote to authorize \$2.1 billion in Federal financing for Conrail. However, I think it is understandable that Conrail has not performed completely as projected in the FSP. That plan rested upon long-term assumptions about the state of the Northeast economy and about

the operational efficiency of a corporation that did not then exist. The Final System Plan, developed with some uncertainty as to Conrail's actual configuration, constituted the best judgment in 1975 about Conrail's future performance. Similarly, the funding levels in the 4R Act reflected the best Congressional judgment at the time, taking into account the needs of Conrail and other programs funded through that Act. Unfortunately, subsequent events in the economy and in Conrail's own operations have proven these judgments to be overly optimistic. Adherence to the Final System Plan financial projections now seems to be impossible.

Conrail's newest projections are the result of a corporate-wide planning process that took many months to conclude. The projections are premised on numerous complex assumptions concerning Conrail's revenues, expenses and capital needs from 1978 through 1982.

The Department of Transportation is currently conducting a detailed evaluation of Conrail's Business Plan. Preliminary indications are that Conrail's estimated \$1.3 billion additional Federal financing requirement is probably at, or close to, the optimistic end of a range of potential amounts. What I think is more significant, however, is that Conrail's management and the Conrail Board of Directors have committed themselves to making Conrail financially self-sustaining with that amount in Federal financing. Whatever the degree of optimism and ambition contained in the Plan, it is a product of the people who are responsible for running the corporation on a day to day basis and who will ultimately be held responsible for the Plan's success or failure. I support them in their efforts. Rather than second-guess their detailed planning process, I am willing to work with them to ensure that financial self-sufficiency for Conrail is achieved within the increased Federal investment ceiling that they have requested.

Further, Mr. Chairman, while I do accept that Conrail's projections are optimistic, it is my view that if we decide now that they are too optimistic to achieve, we will create a self-fulfilling prophecy. The Conrail Business Plan depends for its success on many critical assumptions and on the willing partnership of a number of participants. In addition to asking the Federal Government for \$1.3 billion more, the Plan calls for the private sector to contribute almost \$1 billion in new equipment financing, for labor to contribute \$500 million in increased productivity, and for Conrail's shippers to contribute through freight rate increases over the five-year period.

If we decide now that those other contributions will not be made, and fund Conrail beyond the \$1.3 billion which it is requesting, then we will have guaranteed that the ultimate bill to the Federal Government will be higher than Conrail projects.

As you know, Mr. Chairman, Conrail's projections indicate that additional Federal financing will be needed as early as January 1979, if essential operating and capital programs are to be maintained. Although Conrail's need for additional Federal financing is not immediate and does not constitute an emergency, it does, nevertheless, warrant early action by the Executive Branch and the Congress. Timely action by the Government is also important to Conrail's ability to secure the large amounts of private sector equipment financing that it has identified in its Business Plan.

To meet Conrail's need for an additional authorization in FY 1979, I intend to propose legislation in sufficient time to permit committee action by May 15, 1978, which will:

1. Authorize the United States Railway Association to purchase an additional \$1.2 billion in preferred stock from Conrail under section 216 of the 3R Act.
2. Make that authorization a multi-year one, beginning in FY 1979, using the appropriations process to control the flow of funds to Conrail. A supplemental request will be transmitted for FY 1979 appropriations when our evaluations of Conrail's immediate needs are completed.

In addition, we will have to work with USRA and Conrail to verify that series A preferred stock is, as Conrail believes, the most appropriate investment security for this added Federal assistance. Assuming it is, the holders of Conrail series B preferred stock and common stock, now deposited for the benefit of the transferor estates with the Special Court, may need to consent to the issuance of additional senior securities, in accordance with their consent right under Conrail's articles of incorporation. Hearings on the Administration's legislative proposal will provide a forum to resolve this issue.

My remarks today and the forthcoming legislative proposal should not be viewed as a blanket endorsement of Conrail's projections which are contained in the Business Plan. I do believe, however, that by providing the \$1.3 billion in additional Federal assistance which Conrail has requested, we will give Ed Jordan and his management team the time and the opportunity to overcome the start-up problems of the past and to continue their aggressive pursuit of a self-sustaining railroad system in the Northeast.

Mr. Chairman, I have not altered my support for the basic Northeast railroad reorganizing principles which were recommended in the FSP and adopted into law by passage of the 4R Act in 1976. At the same time, I do recognize that the total \$3.3 billion in direct Federal investment to which I am suggesting we commit represents an expense of considerable magnitude. The alternatives to Conrail which we faced between 1973 and 1976 were not happy ones, however, and they have since grown no more attractive. Nor do they show any promise of reducing the cost to the Federal Government of providing essential rail service in the Northeast. Should subsequent events show without doubt that Conrail's ultimate need for additional funds is much larger than the \$1.3 billion so far identified, then I will be the first to say that we must reevaluate the premises of the reorganization solution which we adopted in 1976.

Before closing, Mr. Chairman, I would like to look at the brighter side for a moment. A lot of good things have happened since Conrail's startup and we should not ignore them. As you recall, on April 1, 1976, Conrail took over rail operations from six bankrupt railroads on a 17,000 mile network in 17 eastern states. The startup problems involved in such a complex transaction were enormous, but Conrail's management handled the massive conveyance amazingly smoothly and without service interruption. During its first twenty-one months of operation, Conrail has been able to carry out a significant portion of the huge rehabilitation program for its plant and equipment. By the end of 1977, over 1,700 miles of new rail and 9½ million ties have been installed. Fourteen thousand miles of track have been surfaced. Almost 26,000 freight cars and more than 1,800 locomotives have been repaired or rebuilt. These actions have arrested the former downward trend in the physical condition of the plant and equipment, and are commendable accomplishments. We all recognize, however, that they have not resulted by themselves in attainment of the increased operating efficiencies necessary for profitability. That goal lies ahead of us and is, in my opinion, still an essential pursuit.

That concludes my prepared remarks, Mr. Chairman. I will be happy to answer any questions posed by you or the other members of the Committee.

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO.

Question. What amount of additional public or private funds will be required by ConRail during fiscal 1979 and in what manner should these funds be made available?

Answer. The Department of Transportation is currently working on an assessment of ConRail's February 15 revised Business Plan and the need for additional public and private funds for FY 79. The supplemental request for FY 79 Federal funding will be transmitted as soon as we have completed this assessment. Unfortunately, the budget cycle is ahead of our ability to complete the intricate financial review necessary to arrive at a FY 79 figure at this time.

It is clear that ConRail will need for FY 79 more than the remaining \$74 million of the \$2.1 billion authorized by section 216 of the 3R Act. This funding will probably be in the form of series A preferred stock to be purchased by USRA.

Question. In the event Title V funding is used to provide off budget funding for ConRail through Fiscal Year 1979, what would be the impact on ConRail's costs of operations from having to comply with statutory or administrative financing conditions which are not currently required by existing financing requirements? Please identify such conditions or requirements.

Answer. The principal additional requirement that ConRail would have to meet for Title V financing as opposed to financing under section 216 of the 3R Act would be statutory requirement under section 511 of the 4R Act that the Government find reasonable security for its loan guarantee financing. In addition, the repayment provisions of section 511 are different from those of section 216 and may result in payment of additional interest. However, this can be avoided by a roll-over from Title V to section 216 at a future date. Therefore, we do not anticipate that this requirement would have any impact on ConRail's cost of operations.

Question. What would be the impact of Title V financing on ConRail's ability to obtain private sector financing during Fiscal Year 1979 vis-a-vis Section 216 financing?

Answer. We do not see any real difference (certainly in the short term) between Title V financing and section 216 financing in terms of its impact upon ConRail's ability to secure private sector equipment financing. Either form of Government financing would probably be viewed by the private sector as evidence of a Government commitment to ConRail's future and, as such, should be supportive of ConRail's efforts to satisfy its equipment needs through the private sector.

Question. Do you feel that it is possible, at this time, to determine how much money ConRail will need over the next five years? If so, in what form should the money be provided?

Answer. It is not possible to make a firm determination as to the amount of money which ConRail will require over the next five years. The actual amount required will depend on such hard-to-control variables as labor negotiations and weather as well as on the success of ConRail's program to increase traffic volume and achieve projected operating improvements. We believe, however, that we should, in conjunction with ConRail's management, attempt to follow the ConRail Business Plan, in which they project a need for \$1.3 billion in federal funding, plus an additional \$1 billion in private equipment financing, and the cooperation of labor and shippers. It is essential to success of the Plan that no one, including ConRail, assume that federal funding will be continuously available to cover annual deficits. It is for this reason that we oppose year-by-year funding. We will work with USRA and ConRail to determine whether issuing additional series A preferred stock, as ConRail has proposed, is the best method for federal funding.

Question. May ConRail be realistically expected, in 1980, as projected in the five-year plan, or ever, to make profits adequate to shift it from public to private ownership?

Answer. My support for the 3R and 4R Acts was premised on the belief that the ConRail structure was the best hope for achieving viable privately-owned rail freight service in the Northeast. Although ConRail has had its difficulties, I still believe that it can be successful. As my statement indicates, however, if subsequent events show that ConRail cannot become self-sustaining without additional federal funding substantially in excess of the \$1.3 billion, it will be essential that we reevaluate the reorganization solution we adopted in 1976.

Question. The financial viability of the five-year plan is quite sensitive to certain key assumptions. On balance, are the downside risks for substantially increased federal subsidization greater than the upside profit potential?

Answer. The five-year plan shows ConRail just beginning to achieve financial self-sufficiency at the close of the period. Furthermore, as noted, it does depend on certain key assumptions concerning revenues, expenses and capital needs during the five-year period. I firmly believe that if we wish to insure that the downside risks do not compromise the plan, we must do everything possible to insure that the planning assumptions within the control of Congress, the Department, the ICC, USRA and ConRail itself actually occur. The provision of any financing in excess of the \$1.3 billion asked for by ConRail would seriously undermine the discipline necessary to achieve the goals outlined by ConRail.

Question. Should ConRail not meet its goal in 1980, or the downside risk prove too great, what alternatives are there to indefinite subsidization of the railroad without hope of ever recovering public capital investment? Are the alternatives susceptible to implementation now or in 1980?

Answer. When Congress considered this question several years ago, the broad alternatives to the ConRail solution were perceived as controlled transfer, nationalization or abandonment. The broad alternatives have not changed in the intervening two years. And neither have they become any more attractive. As I have stated earlier, if by 1980 or so we determine that ConRail is unlikely to ever become self-supporting without massive additional federal funding, we will have to reevaluate the alternatives. However, as I mentioned at the close of my statement, ConRail has made significant achievements in the two years it has been in operation. It is essential that we allow what we considered just two years ago to be the best solution to have additional time to prove itself before we begin to develop or consider alternative solutions.

The CHAIRMAN. Thank you, Mr. Chairman.

Senator LONG. We will hear from Mr. Don Cole, president of United States Railway Association:

STATEMENT OF DON COLE, PRESIDENT, UNITED STATES RAILWAY ASSOCIATION; ACCOMPANIED BY FREDERIC W. YOCUM, VICE PRESIDENT FOR OPERATIONS

Mr. COLE. Mr. Chairman, the last time I appeared before this subcommittee I had an opportunity to introduce the members of my staff accompanying me. I would like to do so this morning, because some of their faces are new to the members of the subcommittee, and I am sure in the next year or two we will be back many more times.

On my left at the table is Mr. Fred Yocum. As you recall from the last subcommittee hearing, he is our vice president of operations.

Since that hearing Mr. Joseph Welsch, the new vice president of finance, joined the association's staff. Since he has been with us just about 2 weeks, we also brought along 2 directors from his department, 1 who has been acting vice president, W. J. Anderson, and Michael Mates, next to Mr. Welsch.

Finally, in case we get around to legal issues, our vice president and general counsel, Mr. Cary Dickenson, is present.

Mr. Chairman and members of the subcommittee, I am pleased to testify today as president of the United States Railway Association. My testimony will address ConRail's first 2 years of operation and its need for further funding authorization, the principal purpose for this subcommittee's oversight hearings. Attached to my prepared statement are our written responses to the questions the committee asked us to address.

Mr. Chairman, any discussion of increasing the authorization to purchase additional shares of ConRail securities necessarily entails some comments on the performance of ConRail, particularly efforts to achieve profitability by 1980. The association's annual report, submitted to the Congress on May 31 in statutory conformity with our 1973 legislative mandate, will review the Government's investment in ConRail. Until the association's board of directors completes its review of funding requirements and approves the report, my comments are not intended to reflect our board's position.

On March 14, 1978, the USRA board of directors approved \$225 million for investment during the second quarter of 1978 for ConRail. As of June 30, 1978, the Federal investment in ConRail will total \$1.572 billion. In 1976, the Congress appropriated \$2.026 billion to USRA for the purchase of ConRail securities during the period fiscal year 1976 through 1980. We expect that the balance remaining, \$454 million, will be exhausted early in calendar 1979—the Secretary of Transportation indicated January of 1979—yet ConRail notified USRA on February 15, 1978, that it will require at least \$1.3 billion more in Federal funds in order to become financially self-sustainable in 1982.

The Association always has recognized that ConRail might require an additional authorization to achieve this goal, a view this committee and the Senate apparently shared when they originally authorized \$3 billion in S. 2817, the Senate version of 4R. The original authorization, however, did not make any contingency provision if key assumptions in the final system plan were not realized. Moreover, the Association still recognizes that consolidating six bankrupt railroads and more than 90,000 employees into a streamlined organization is very difficult.

The final system plan was designed to provide policy guidelines and operating goals for the new corporation, ConRail.

Pursuant to the 1976 financing agreement with USRA, ConRail is required to prepare annually a 5-year business plan for our review. That plan was submitted in February, and the Association's staff is analyzing ConRail's future funding needs as set forth in its 5-year plan. This analysis will comprise an important part of the report to the Congress on May 31. My testimony today serves as a prelude to that report.

Reviewing ConRail's business plan critically and preparing the Association's report to the Congress involve the most significant judgments to be made by the Association's Board to date. At the present time we have four of the seven non-Government positions vacant. In fashioning the 11-member Board, the Congress provided that the non-Government members represent a full array of views and expertise regarding rail service. I understand that the President has the matter of these appointments under advisement. We are hopeful that the Board will be at full strength in time to deliberate the questions to be discussed in our May 31 report. Of course, any kind of postponement of this report would be unfortunate at this time, would be unfortunate, and we on the staff are determined to have this report ready.

I would like to point out that it became clear last summer that ConRail was not recovering losses from the severe winter of 1977. We decided to increase our monitoring capabilities sharply. During the past 9 months, we created separate departments for finance and operations, which were combined and cut back in 1976.

The professional monitoring staff was increased to 36 from a low of 17 only last summer. Last fall, the Congress facilitated these efforts to rebuild our internal resources by authorizing additional funds, which we are now in the process of procuring under a supplemental appropriation.

To monitor ConRail's performance, the Association needs skills different from those necessary during the earlier planning phase. We have brought to the Association expertise in cost analysis, operations, equipment utilization, and marketing, and in the near future labor issues. Much of our in-house monitoring capability did not exist less than a year ago. Over the past 9 months, we also have strengthened our ability to analyze and forecast independently the revenues, expenses and capital requirements of ConRail.

Last December we obtained the services of Fred Yocum, who I introduced earlier, as vice-president for operations. He has an extensive operations background with the Chessie System and the Chicago & Northwestern Transportation Co. He came to us from Chicago and Northwestern, Mr. Chairman, and is quite familiar with the ownership aspect of that railroad. Just this month, we have employed Joseph Welsch as vice-president for finance, who brings with him a broad background in audit and financial management. With these two experienced executives responsible for our monitoring efforts, I am confident that our future reports will be timely, accurate, and relevant.

During the first 2 years that ConRail has been operating, the company has endeavored to correct problems inherited from the bankrupt roads. The carrier's program for rehabilitating track and roadbed during the past two maintenance-of-way seasons has been impressive and

has exceeded the goals of the final system plan. Despite such rehabilitation gains, which are continuing on main lines and yards throughout the ConRail system, there have been problems, both external and internal, which have not been resolved. The Association evaluates these problems on an ongoing basis.

ConRail has been affected adversely by external forces—"acts of God"—over which the railroad has no control. The last two winters, which were unusually severe, significantly limited activity in the States in which ConRail operates. As a result, freight was stalled on trains and tied up in yards because it could not be handled. The railroad lost approximately \$200 million during the winters of 1977 and 1978 due to general revenue losses and increased maintenance expenses.

Problems of weather were aggravated by strikes among iron ore and coal miners as well as longshoremen. We estimate the work stoppage by the coal miners in December 1977 and early 1978 resulted in a revenue loss of \$95 million. ConRail's operating losses rose by at least \$70 million. In addition, plant shutdowns and production curtailments in the steel industry contributed significantly to losses. The Johnstown flood, which curtailed service on one of ConRail's main lines, cost the railroad \$12 million.

Among ConRail's internal problems, the Association sees several critical areas where improvement is essential if the company is to achieve the objectives set forth in its 5-year business plan.

First, volume of traffic. Since conveyance, ConRail's volume of traffic has been approximately 10 percent below the level projected in the final system plan. While ConRail's 5-year forecast projects a turnaround from the historically shrinking traffic base of the Northeast, the total revenues projected for the 5-year period are \$1.77 billion less than the final system plan projected for the same period. Furthermore, ConRail's performance during the first quarter of 1978 indicates that its projections will be difficult to achieve. If ConRail's traffic base does not increase over the next 5 years, the railroad cannot possibly become profitable with its present plan.

CAR UTILIZATION

ConRail expects a 14-percent improvement in the utilization rate of revenue cars, far from the goal in the final system plan of 28 percent. This target was too optimistic, in that it did not account for the condition and size of the fleet which was inherited or the higher costs of maintaining that fleet. Nor did the final system plan provide for the same amount of capital to be invested in replacement and special-purpose cars as ConRail calculates is necessary to handle future business.

For the period 1978 to 1982, ConRail expects cash flow from operations to be \$1.8 billion less than the amount projected in the final system plan. Approximately 25 percent of this difference is due to the lower volume levels now forecast. Another 25 percent of the reduction from the original target is caused by the lower number and quality of cars conveyed to ConRail than originally estimated. The remaining 50 percent results from different assumptions about car utilization rates; particularly, you can also consider the cost of additional equipment. In other words, ConRail expects to move less freight, in fewer and older cars, with greater idle capacity than the final system plan projected.

MOTIVE POWER

ConRail's locomotive fleet this past winter experienced the greatest out-of-service level in its brief history. With the resumption of normal coal-hauling activities, ConRail will face a serious shortage of locomotives. This concerns us because it puts tremendous constraints on revenues, especially in services demanding quick turnarounds such as piggyback service.

Piggyback service has deteriorated substantially. In February 1978, only 13.5 percent of the railroad's piggyback ran on time. Such performance over extended periods can lead only to the permanent loss of business to other modes of transportation which provide faster, more reliable service.

OTHER OPERATING EFFICIENCIES

ConRail sees efficiencies occurring in areas other than car utilization and distribution. The savings amount to about \$1 billion over the 1978 to 1982 period, and are almost equally divided between those which require labor negotiations and those which do not. The most important change sought by negotiation involves reduction in crew consists. Other efficiencies include ones to be gained from capital investments, but the majority depend solely on improved management control.

During the 1978 to 1982 period covered in the 5-year plan, ConRail anticipates making a financial turnaround primarily through gains in business volume and operating efficiency. These projections are optimistic in both areas, especially since increased volume is not completely within the railroad's control. Another severe winter, prolonged strikes, or other natural or economic disasters could prevent even conservative predictions being realized.

Another determinant of ConRail's success is the availability of Federal investment, an important source of the railroad's funds. If these funds are not available on a predictable basis, ConRail cannot make the capital expenditures called for in its business plan. ConRail has determined that \$1.3 billion in appropriated funds more from the public sector and another \$960 million in private equipment financing will be sufficient to move the corporation to profitability by 1980.

If key assumptions in ConRail's 5-year plan are not realized, the railroad will require substantially more than the indicated \$1.3 billion. These include assumptions regarding traffic volume, care and locomotive utilization, and other operating efficiencies to be achieved through labor negotiations and improved management controls.

The Association's staff is studying how likely it is that ConRail will need public investment in addition to the \$1.3 billion already requested. At this point, however, we are not prepared to judge the validity of those key assumptions.

Notwithstanding the magnitude of these problems and the difficulties in resolving them, ConRail may be able to achieve the performance goals of its 5-year plan with an additional \$1.3 billion. Unfortunately for the Association staff, we shall not be certain for some months whether \$1.3 billion will be sufficient to achieve ConRail's goals as a self-sustainable railroad. It is important, however, to provide funding adequate to permit ConRail to implement the plans and to put the faith of the Federal Government behind this effort at this time.

And we thank you, and we stand ready to answer any questions you, Mr. Chairman, or members of the subcommittee, may have.

Senator LONG. Would you say ConRail is an efficient operation as of this moment?

Mr. COLE. As of this moment, no.

Senator LONG. A considerable part of the problem has to do with inadequate equipment, which you ought to find ways to provide. I see you have got Mr. Fred Yocum sitting with you there.

Mr. COLE. Yes.

Senator LONG. I think he might know some additional information about the locomotive problem, in addition to what you have told us here. Can you tell us a little more about what is the situation with regard to locomotives?

Mr. COLE. Mr. Chairman, I will let Mr. Yocum go ahead with it, with the specifics.

Mr. YOCUM. Historically, particularly when the weather is bad, the worst time for the locomotive fleet is during the winter. This past winter was a very serious one for ConRail, and its locomotive fleet suffered a bad order ratio—

Senator LONG. Pardon me?

Mr. YOCUM. The out-of-service ratios were in the neighborhood of 25 percent. That means one quarter of all the locomotives were not running at a given time. That level resulted in some trains being held for power. This was particularly serious when it is considered that the coal strike was in progress. If the coal strike had not been in progress, there would have been severe problems, because there would have been more business to move.

ConRail is taking vigorous steps now to improve its situation while the weather is better. Approximately 125 units are to be overhauled; additional workers are going on for maintenance on its properties, numbering approximately 250, and there is a recovery project that projects by the coming of winter the ratio will be reduced, and even if the winter is as bad as this year, it should not have the effect it had this year. This whole situation concerns us a great deal, because our analyses have convinced us that the condition of the locomotive fleet has depressed volume more than any other single factor. That is a source of great concern to us, because we know a great deal about the economic problems of the Northeast, and many of these are certainly out of ConRail's control, but the condition of the locomotive fleet at this point has kept the volume lower than the economy, and this situation cannot continue if it is to make its 5-year projections.

Senator LONG. We are spending a good deal of money now, and we are going to be asked to spend a good deal more to put people to work on make-work jobs. Some of those jobs are of submarginal value, to say the least. If the taxpayers knew what some of them are, they would be protesting pretty loudly about it right now.

Would it not make better sense if we put people to work improving the rails where needed, to put in all the equipment we need, and put in all the locomotives we need? I am not talking just for ConRail, but the entire railroad industry.

Mr. YOCUM. Yes. We discussed this at our last hearing. At that time, there was discussion about reallocation of the number of people so more of them would be in maintenance, and we agreed with you at

that time, that it was certainly a step the industry was going toward, and one that should be improved in the future.

Certain of the jobs would be difficult to fill quickly. There is the problem of maintenance in the locomotive areas. Most of the critical problems with locomotives are electrical, and somewhat complex in nature. It is difficult to train someone to take care of those quickly.

Certainly in the maintenance of cars and the track, there are many jobs that could be filled quickly as far as training is concerned.

Senator LONG. Senator Bayh talked about this, and I agree, and we sympathize with anybody, any area, where they have a lot of people out of jobs, and the prospect of losing more. How would you look upon it if we had a "Buy America" idea attached to the purchase of rails and equipment?

Mr. COLE. Mr. Chairman, we just completed and are ready to deliver now to the Appropriations Committee—and this was done pursuant to their request—a study of ConRail's foreign purchasing, and comparing ConRail to other railroads, and some of the aspects of that.

ConRail's foreign purchasing is not great, and this year ConRail announced basically they were going to purchase U.S. steel. The underlying reason for that is, if the U.S. steel industry is financially injured by foreign purchases, then that source of supply would not be, in the future, necessarily available to ConRail, and that could be a problem.

I think there are too many variables to put a "Buy America" clause in any kind of legislation. Because you cannot limit legislation just to steel rail, you cover everything. If you cover everything, you are hurting ConRail's ability to purchase foreign when there is great savings involved.

ConRail is looking always to cut costs and has specifically saved money this past year and can in the future with foreign purchases without regard to the steel rail issue.

The survey indicated that a lot of the other railroads in the United States have made foreign purchases, often in times of shortages rather than for financial savings.

I think ConRail ought to be applauded for at least looking for foreign sources in a more aggressive way than the other railroads surveyed, and utilizes these purchases to cut costs. I think an overall "Buy America" provision would be harmful because it would affect everything rather than the specifics that might be considered.

Senator LONG. Can you tell us the extent to which you could enforce a "Buy America" provision? How far could you go?

Mr. COLE. ConRail can be addressed specifically on this, but from our standpoint, a "Buy America" provision is one label that comes forward as part of the problem of ConRail and the private sector, because if you put "Buy America" as a blanket provision for ConRail, then it opens up the door for other provisions in which the Government says, ConRail, you do it differently from other railroads, because you happen to have some Federal investment.

As you pile those up, different political-economic considerations for ConRail and other railroads, you begin to hinder entirely the turnaround for ConRail that we feel is still possible. It just adds to the financial burden.

Senator LONG. The thing that concerns me, because I have no objection to a "Buy America" provision for the steel for all railroads in

the country, but I am concerned about the fact that we have a \$40-billion deficit in our balance of payments. We are getting ready to have not a run on the dollar; we are getting ready to have a panic on the dollar.

Now, if we don't do something to get this thing back under control, the dollar is just going to go smack-dab down to nothing.

Now, we have some situations, where if we wanted to, it would help improve matters a little bit; it will limit how much we can do, even if we pass this energy bill the President is talking about, especially if you pursue the idea that we are not going to let these people make much money. There is a limit to how much additional energy production we can achieve during the next few years anyway to reduce the burden on imports, but we ought to do all we can.

Now, one of the items is to build a pipeline from Mexico to bring natural gas from Mexico to the United States. We ought to have done it. But if we let the Japanese outhustle us to make this steel for that pipeline, we are just losing a lot of jobs, a lot of people out of work, where we ought to have Americans do it.

It is very simple to get those jobs for American steelworkers, who are out of work right now. You are familiar with the fact that there are tens of thousands of American steelworkers out of jobs.

Mr. COLE. Yes; unemployment in the steel industry is being reversed somewhat because of the Government's actions on restrictions of imports.

Senator LONG. Many of those people who have worked hard every day, worked very hard through every day of their life, except perhaps in a strike as part of a union effort, they are strong working citizens who have been supporting the Government for years and now they find they need the Government on their side.

Foreign governments wouldn't hesitate, in our situation I am talking about, if you read that general agreement on tariff and trade, the way I understand it, if you got the kind of disastrous deficit we have, you would be justified in doing things you wouldn't ordinarily be justified in doing.

When you are going broke, you can be expected to do some desperate things you wouldn't ordinarily be expected to do. We don't see any turnaround in this horrible balance of payments any time soon.

It is easy enough to say, when you go to buy that gas, to tell them to build that pipeline with American steel. It would be easy to do if you wanted to. It would also be easy to say that we need to rehabilitate American railroads and we are going to do it with American steel.

Quite apart from your being less competitive with other railroads, how you view the problem is just as important as whether we ought to use American steel to keep, in connection with the railroads, trying to provide jobs for American steelworkers.

Mr. COLE. As I indicated earlier, ConRail made the determination they were going to buy American steel rail. That was done in light of the steel industry's problem. ConRail does compete against some other railroads. These other railroads are not getting necessarily direct subsidies or investments from the Government, as ConRail is at this time, but these railroads are receiving preferred tax credits from the Government, something that you, with your other hat on the Finance Committee, are aware of.

If you require ConRail to comply with a "Buy America" provision when other railroads can still use foreign purchases, where it would sit them and save them money, this appears to me to put a special constraint on ConRail that ought not to be there.

I think the question is whether ConRail in recognizing the problems that beset the industry, upon which it is somewhat dependent. ConRail's steel hauling is very necessary for its long-term turnaround and purchase of foreign steel does raise questions that ought to be addressed; but a "Buy America" provision required by legislation would be harmful.

Senator LONG. Well, if I was trying to do something about the issue, I wouldn't stop with ConRail. I would start with ConRail but I wouldn't stop there. I would try to get all the business for the steel industry I could.

If I understand your answer, your principal objection is to being singled out. As far as the overall problem, it sounds to me as if you wouldn't object if the Buy America provision was put on the entire rail industry.

Is that correct?

Mr. COLE. Mr. Chairman, yes.

ConRail should not be singled out because of its Federal investment at this time. A Buy America provision for the entire rail industry raises something that I am not prepared to discuss—how it would effect them competitively versus the truckers, nor am I prepared to discuss the matter of international economics—whether I would be in favor of Buy America.

I recognize that several States are passing Buy America provisions at this time, regarding their own purchases.

What I am saying is, to look at this for ConRail, we ought to look at it for the entire rail industry, treat ConRail as part of the rail industry.

Senator LONG. Well, I am sure in my mind that if we look, if we consider what it is costing us to pay all those former steelworkers unemployment benefits, what it is costing us to put their families on the welfare rolls, and what we gain by the taxes that the workers pay on their salaries when they are working, take all of those things into consideration, plus even the taxes, without paying income taxes, paying taxes on social security and medicare, if you look at the taxes those people would pay us on the one hand compared to what we have to pay out on the other hand, it is a very poor investment for us to be buying that kind of equipment, if the American price is at all inside the ball park.

You are talking about bidding for the business, when the other fellow is having his taxes paid to the Federal Government, being rebated to him to start with, it would seem to me it is a good buy for Americans to buy steel from their own producers as a part of our effort.

Well, thank you very much.

Any questions, Senator Cannon?

The CHAIRMAN. Thank you, Mr. Chairman. You have indicated that a primary factor in ConRail achieving its goal by 1980 is the necessary increase in ConRail's traffic base.

Now, in light of the declining industrial base of the Northeast, where will the increased revenue base come from?

Mr. COLE. Mr. Chairman, both ConRail and USRA, with different financial projections at this time, we are convinced that the demand is there. There has been somewhat of a shift in the economy, but still we find that in actual growth, the Northeast does have a projected growth rate over the next 5 years of about 80 percent of the national growth.

In other words, there has been a shifting economy. The Northeast is still growing. It is just not growing as fast as the rest of the country. If ConRail is able to generate the efficiencies in their plan, if they are able to improve their service, get their car utilization up, then ConRail should be able to have that demand that we, going through commodity projections, feel is in the Northeast at this time.

We are convinced that the turnaround can be made. ConRail may be optimistic in how soon that turnaround can be made, but we are convinced, that if the railroad can achieve the other goals of its 5-year plan, then the so-called shift in the economy is not big.

The CHAIRMAN. To what extent will this growth merely be from other railroads' business in that area? And how do they intend to recapture the traffic that they have lost to the trucking industry, with the intense price and service competition?

Mr. COLE. Specifically, ConRail at this time has not gained much of the market share from its railroad competitors. Really, if the transportation traffic is there, it is being hauled by the truckers.

Again the type of commodities that are still available to ConRail, the type of commodities that maybe have made some switch to truck at this time, are commodities that we feel, with the proper service, the proper rate structure, and so forth, can be recaptured and the growth taken care of.

I would like some specific comments from Mr. Yocum who, with his staff, has really been working in the past 2 months on this issue of revenue projections.

Mr. YOCUM. One of the chief places where there should be an increase in traffic over the next few years is coal, and there is significant increase in coal traffic in ConRail's 5-year projections. We think that projection is reasonable and the demand for ConRail's services with that commodity will be there.

As Mr. Cole said in his statement, however, if there is no increase over the 5 years in the amount of volume that ConRail handles, we do not think it possible for it to become self-sustaining within that period, with its present existing plant.

So we are very much concerned about the whole volume question. There are some opportunities to take business back away from trucks, relating principally to those commodities which have shifted to trucks because of the low level of ConRail service.

If ConRail service is improved, we do not expect there to be an increase in this volume. Service must improve over the 5 years.

The CHAIRMAN. What would be the effect of a 1- or 2-percent slip-page in ConRail's revenues on Federal funding requirements?

Mr. COLE. We have a figure. The sum of \$200 million would be the shift at that point, assuming no change in spending. If expenses are not cut with the drop in revenue.

The CHAIRMAN. In other words, \$200 million more for the Federal Government. In your monitoring of ConRail, have you been able to determine why ConRail was not adequately prepared for the winter of 1978 in light of its experience during the winter of 1977?

Mr. COLE. I will have to call on Mr. Yocum on that, specifically.

The CHAIRMAN. Was it to hope for a good winter in 1978?

Mr. COLE. The winter of 1977-78 was the worst in many years, and I am sure nobody assumes we will have a winter of such proportions in the near future. You have thousands of employees that have to be brought along, not just a few, in a system that huge to deal with the weather.

If you are a railroad that has not been operating year in and year out on the Great Plains or in the Canadian prairies, your personnel are not ready to react to wintertime, time and again. That is one fundamental factor.

The CHAIRMAN. The learning curve seems to be a little longer there, Mr. Yocum?

Mr. YOCUM. There are several comments I would like to make on that subject. One is that the winter of this year was much more severe over a much wider geographical area, and the employees of ConRail and the other eastern railroads between Indianapolis and St. Louis, for example, were confronted with a completely different situation than they had been anytime in the last 10 years, and they did not respond very quickly to that.

That was understandable considering what their lack of experience has been in this kind of situation. On the other hand, there were some areas where it was not handled as well as it could have been, particularly motor power.

ConRail management recognized weaknesses in this area and had undergone a major reorganization in the fall. However, that reorganization came too late to make up for all the lost time, including the deferred maintenance and other problems with the locomotive fleet.

Quite frankly, the fleet was not prepared for winter the way it should have been. As a result of that, there were more locomotive units in bad order than should have been in bad order, even with the weather as it was.

That is a failure that we are going to work very hard to make sure we monitor ConRail in a way that that doesn't happen again.

The CHAIRMAN. You are not going to get caught next winter if there is another severe winter?

Mr. YOCUM. I am sure ConRail will make certain of that and we shall also.

The CHAIRMAN. What will be the effect of improved car utilization on the total number of new cars ConRail is projecting?

Mr. COLE. ConRail's plans of utilization are not as aggressive or as optimistic as the final system plan forecasts. Areas of ConRail car acquisition plans rest on the policy judgment of the type of business that they are generating, and not on the kind of car needs we saw back in the prior plan.

As car utilization increases, there ought to be a decrease, and there is, in what ConRail needs for car acquisition. Plus one area in which they feel they need cars immediately is open top hoppers.

There is no way the car utilization they are getting over the next 5 years can affect the requirements of the first year here, of massive amounts of new cars, hopper cars.

The CHAIRMAN. Now, you indicated that you expected a lot of this new business to come from increased coal production. How will ConRail handle the traffic increase with its poor car utilization?

Mr. COLE. Well, basically, what occurred is, in the final system plan, for example, open top hoppers, USRA projected the need for additional open top hoppers, but that projection was way out for about 4,000, back in 1982.

What ConRail is doing right now, in order to meet the need, because, basically, of the car utilization rate they have now, and will have compared to the FSP, have really moved that number up to 1978, when 3,700 is being acquired, versus only 600 in the FSP.

So what happened is, because of car utilization and some effect of the condition of those open top hoppers, the needs are now rather than future.

Mr. YOCUM. That is correct. In addition, however, when nothing is done specifically about car utilization, car utilization increases with higher volume and decreases with lower volume, and that has been one of ConRail's problems over the last few years.

ConRail is addressing itself to specific programs to increase its car utilization, and certainly in the case of hopper cars, there are some effects to improve car utilization that come from other efficiencies.

Specifically, as the motive power fleet becomes in better condition, the fewer trains wait for the engines, the turnaround time in the open top hopper fleet will decrease significantly, and that in itself will increase car utilization. It is certainly true that car utilization must improve.

The CHAIRMAN. Car utilization would improve what you have in the grain country, the car shortage that is there presently, because it moves the cars out of the ConRail area much faster.

Mr. YOCUM. That is true. The grain situation is much more complicated than coal, because the general situation with the coal industry is that there is a continuous turnaround service year around, with the minor exception of miner's vacation and of a few other relatively minor things, perhaps barring a major strike, the grain shipments tend to peak a couple of times a year. This puts a tremendous strain on the facilities when they are used with that kind of peaking, particularly on the gulf and other ports where there is the huge export movement, and the ability to improve that kind of utilization is not as great as the ability to increase the—

The CHAIRMAN. How many open-top hopper cars does ConRail have on order now?

Mr. YOCUM. The contemplation is there will be 3,700 or slightly more ordered during 1978.

The CHAIRMAN. What is the delivery time, time of order until they take delivery?

Mr. YOCUM. It depends on the situation. At the time there is a range somewhere in the neighborhood of 2½ to 3 months, as long as 8 to 9 months. I am not prepared to say right now exactly what the range is to date. Perhaps ConRail can answer that better than I can.

The CHAIRMAN. What is the cost of those cars?

Mr. YOCUM. In the neighborhood of \$30,000.

The CHAIRMAN. Mr. Cole, one final question. In your statement, you stated that four of the seven non-Government positions on the USRA Board were vacant. I took it that you were implying that unless the other members were appointed soon, that the remaining members of the Board would not be able to make the judgments necessary for the completion of the May 31 report. Is that correct?

Mr. COLE. Mr. Chairman, they may be able to make the judgments, but I may—we are expecting them to make the judgments. We have one specific problem at this time. That is assuring we have quorums in, because there is a requirement of six per quorum, which means we have to have just about everybody available.

We, right now, are concerned because of the fact that the Board is not as the statute has intended; and while the staff will have the reports ready for that Board, for its May 31 report, and we have a Board meeting scheduled at the end of May, maybe with the different interests, the Federal Government has three different positions on the Board, and with the other interests there, it may be difficult for that small a Board to make final judgments.

We have no idea at this point. But right now missing is a small shipper along with the governors' man, the chairman is vacant, and at this time we are having problems. I thought we were receiving a resignation but we have not yet, with regard to the rail industry representative, so there are several aspects of the transportation community that is not present on the Board.

The CHAIRMAN. Thank you, Mr. Chairman.

Senator LONG. Thank you very much, gentlemen.

[The questions and answers follow:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Questions. What amount of additional public or private funds will be required by Conrail during fiscal year 1979, and in what manner should these funds be made available?

Answer. The Association has considered several alternatives for the required government funding of Conrail during fiscal year 1979. If interim funding is to be provided, the Association recommends Section 216 authority.

Conrail has forecast a need for \$420 million in government investment above the \$2.026 billion currently appropriated through September 30, 1979. Of this amount \$74 million is authorized and need only be appropriated. USRA's most recent estimates indicate a need for \$600-\$700 million.

Question. In the event Title V funding is used to provide off budget funding for Conrail through fiscal year 1979, what would be the impact on Conrail's costs of operations from having to comply with statutory or administrative financing conditions which are not currently required by existing financing requirements. Please identify such conditions or requirements.

Answer. In the event that Title V funding is used to provide off budget funding for Conrail through Fiscal Year 1979, there could be a substantial impact on Conrail's costs of operations.

The requirements for specific project approvals and cost certifications under Title V are much more rigorous than those required under the Financing Agreement since FRA funds specific projects while USRA funds corporate cash needs and separately analyzes the merits of specific projects. Generally, the Association has been able to review Conrail's capital projects and maintenance programs utilizing existing management reports and analyses. Under Title V, project proposals, including rigorous budgets and timetables for each project may have to be prepared by Conrail and reviewed with the FRA.

Furthermore, additional administrative expenses would probably be incurred to satisfy FRA's cost certification requirements and post-auditing requirements. The Association is not in a position to accurately estimate these additional costs. Likewise, we cannot estimate whether the additional administrative requirements under Title V such as pre-loan approvals, would delay Conrail's capital programs.

In addition to these potential costs, the interest on guaranteed loans under Title V would represent an additional expense to Conrail which would not necessarily be imposed on the railroad if additional Section 216 funding were made available. Conrail's need for Federal funding would be increased by approximately \$15 million to cover interest payments if loan guarantees provided interim funding through September 30, 1979.

Question. What would be the impact of Title V financing on Conrail's ability to obtain private sector financing during fiscal year 1979 vis-a-vis Section 216 financing?

Answer. If the financing covered rolling stock (equipment) it would probably mean that the government would need to guarantee the total amount raised.

If it covered some additions and improvements and the Discretionary Track Program, its impact would only be felt by the uncertainty of the private sector as to how much further the government intended to go with 216 funds.

None of this money would come from the private sector anyway, but Title V money is debt that must be paid and this could lead to reluctance in the investing community.

This type of financing would have a potentially serious impact on future years requiring additional Government guarantees over and above the regular 216 financing.

Question. Do you feel that it is possible, at this time, to determine how much money Conrail will need over the next five (5) years? If so, in what form should the money be provided?

Answer. Various alternatives have been suggested as proposed methods for Conrail's additional government money requirements over the next five years. An extension of Section 216 authority for investments by USRA in Conrail preferred stock is the primary form recommended. This type of low cost capital financing is recommended due to Conrail's continued cash requirements in excess of internally generated funds during the five-year period.

An employee stock ownership plan providing for significant productivity incentives can also be tied into the form of financing suggested.

In addition, the Association recommends consideration of an extension of Section 211 (new Section 211(j)) providing for off-budget financing on a standby basis for any portion of Conrail's self-liquidating equipment requirements which cannot be financed in the private sector.

Question. May Conrail be realistically expected, in 1980 as projected in the five-year plan, or ever, to make profits adequate to shift it from public to private ownership?

Answer. There are three major problems that must be resolved positively if Conrail is going to achieve the objectives it has set for itself in its Business Plan. The railroad must increase its volume of business, achieve the productivity goals it has established and institute the operating efficiencies necessary to reduce costs. If these three things are accomplished then Conrail could be realistically expected to begin in 1980 to make the profits that would eventually shift it from public to private ownership.

Question. The financial viability of the five-year plan is quite sensitive to certain key assumptions. On balance, are the downside risks for substantially increased federal subsidization greater than the upside profit potential?

Answer. Unquestionably, there are greater downside risks. But if Conrail's assumptions prove valid there is a strong chance the company can meet its goal of self-sustainability.

Question. Should Conrail not meet its goal in 1980, or the downside risks prove too great, what alternatives are there to indefinite subsidization of the railroad without hope of ever recovering public capital investment? Are the alternatives susceptible to implementation now or in 1980?

Answer. Any alternatives to Conrail, of course, could not reasonably be expected to be developed and implemented before Fiscal Year 1980. In our May 31 report to Congress on Conrail, we shall mention our plans to analyze the various alternatives to Conrail and spell out how they could be implemented.

Senator LONG. Next witness, we will call Mr. Daniel O'Neal, Chairman of the Interstate Commerce Commission.

STATEMENT OF HON. A. DANIEL O'NEAL, CHAIRMAN, INTERSTATE COMMERCE COMMISSION, WASHINGTON, D.C.

Mr. O'NEAL. Mr. Chairman, with me is Joel Burns, Director of the Bureau of Operations. On my right, Ron Young, Assistant Director of the Bureau of Accounts.

We have a longer statement which I would like to submit for the record, and a very brief 10-minute statement I would like to run through for the purpose of this oral hearing.

We appreciate the opportunity to discuss the financial and service performance of ConRail.

In the financial area, the subcommittee has framed its inquiry with a series of questions, and my comments are organized to respond to these. In discussing service, I will focus on the Nation's grain car shortage, ConRail's role in this situation, and ConRail's service problems generally.

We will also bring you up to date on some of our own recent initiatives to improve car service. Finally, I have brought with me several copies of a statement dealing with ConRail's adequacy of service to small shippers, which was presented last week before a subcommittee of the House Small Business Committee, and which might be of interest to you.¹

ConRail, in its recently issued 5-year business plan, estimated that for calendar year 1979, it will need additional public or private financing totaling \$688 million. In our view, this projection is low. It is possible that some additional funding will be necessary. Our conclusion is based on the belief that ConRail's revenue forecast is overly optimistic in light of its declining market share of the total transportation revenues in this area of operation. We believe an additional amount, perhaps in the area of \$150 to \$200 million may be needed for general operations in 1979.

We believe this additional funding should be equity-type financing through authorization of additional series A preferred stock under section 216 of the 3-R Act. This would allow ConRail to use the Government funds for general operating purposes, and at the same time help it to develop and maintain a debt-to-equity ratio adequate to attract private sector investment at some point in the future.

An alternative mode of funding would be under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act). However, we believe there is a benefit in continuing the existing mode of financing in order that Congress and the Nation's financial community will be able to assess ConRail's long-term financial performance without major interim changes in financing procedure.

In the event title V funding is used in fiscal year 1979, ConRail's operating costs will be increased by the required cash interest payments for section 511 guaranteed loans. By contrast, under section 216, interest payments may be made by selling series A preferred shares to USRA.

We do not believe that there would be any benefit of title V financing vis-a-vis section 216 financing in terms of improving prospects to obtain private sector financing during fiscal year 1979.

It is difficult to adequately assess ConRail's cash requirements over the next 5 years. However, an initial analysis leads us to believe that ConRail's estimates are overly optimistic, so to that extent we support the comments that have been made by the Secretary and USRA, although we may be a little more pessimistic than they are at this time.

¹ The statement has been placed in the committee files.

We do not believe ConRail will be profitable during any of the years covered by the 5-year plan. Whether ConRail can be profitable after that is speculative, although it is likely that profitability adequate to shift the railroad from public to private ownership will probably not occur for some period of time after the 5 years are completed.

There are a number of factors which lead us to this conclusion. The revenue base for railroad traffic in the northeast is declining; price and service competition from the trucking industry is intense; efforts to improve car utilization face continuing problems; and labor expense and productivity may not improve significantly. The same factors also lead us to believe that the downside risks for substantially increased Federal subsidization of ConRail appear greater than the upside profit potential.

In short, ConRail must perform adequately to overcome its problems. If ConRail does not meet its goal of profitability by 1980, further subsidization will almost certainly be necessary. If long-term profitability cannot be foreseen at that time, it may then be appropriate to examine alternatives.

One alternative would be to study once again ConRail's operating configuration and considerably trim down its system, abandoning all but the profitable lines, or lines deemed absolutely essential to the public interest.

Another alternative would be the expanded use of Government funding to help reduce ConRail's employment levels to those better related to its revenue base.

Now, I would like to turn to ConRail's service performance. Let me start by briefly discussing the national rail hopper car shortage. One of the factors aggravating this problem was the severe winter weather which interfered with many carriers' ability to move cars promptly, causing a serious drop in grain car utilization. ConRail was especially hard hit by the winter weather, which further aggravated its already less than adequate car utilization.

To help alleviate the car shortage problem, the Commission generally attempts to locate railroads with car surpluses, and arranges for the transfer of the surplus cars. When more pervasive shortages exist, we often issue orders modifying carriers' tariffs.

This winter, we required railroads to remove some jumbo grain cars from unit trains making them available to small shippers; imposed temporary operating standards on all railroads; and increased penalties against shippers and receivers for failing promptly to load or unload freight cars.

In addition, we directed our field staff to expedite the movement of rail freight cars and to enforce strictly its car service orders and directives. We also held a series of informal conferences to get shippers and railroad officials together to discuss their mutual problems.

Much of the cause of the current serious freight car shortage can be attributed directly to the operating failures of ConRail. With the onset of winter, ConRail's service slowed considerably, capturing much of the Nation's rail car fleet on its lines. ConRail's problems can be attributed in part to lack of proper management controls.

There are other causes underlying ConRail's difficulty in providing adequate service to shippers.

For example, during a 2-week period in March, over one-fifth of all ConRail locomotives were down, which caused the cancellation of 80

trains a day. There is also an overall problem of congestion caused by ConRail's inability to handle cars promptly at its yards and terminals. This has caused backups and delays throughout the system.

The Commission has attempted to monitor carefully the operations of ConRail. As part of our monitoring process, and in response to numerous complaints, the Commission's Bureau of Operations concluded a ConRail adequacy of service survey in November 1977. This survey details many service problems of shippers dealing with ConRail.

I want to emphasize that we believe that ConRail is genuinely attempting to improve its performance, but that there is still a long way to go.

Looking at the problem from a different direction, and on a more positive note, I want to mention that we have met with ConRail officials from time to time to discuss ConRail's problems as we see them.

Last fall, senior Commission officials and I met with ConRail's top management. Commission staff officials had a very fruitful meeting with ConRail representatives a few weeks ago, and, as a result, future meetings will be held monthly to work out some of these difficulties.

I believe these meetings will provide a forum for identifying and solving problems on a regular basis. We consider this a positive development, and we appreciate ConRail's willingness to cooperate in the joint effort to insure better service on their system.

That concludes the oral statement, and I would be happy to try and answer your questions at this time.

Senator LONG. One thing that does impress me about ConRail's service, with its railroad not operating, you took all that freight off of those rails and put it on the highway, it would tear those highways to pieces, would it not?

Mr. O'NEAL. That is one reason for maintaining the ConRail system. It is very doubtful the highway system could now handle the volume of freight being carried on that carrier without substantial change or expansion of the highway system.

Senator LONG. That is one thing we ought to keep in mind. The freight being moved on that system, if it were put onto the highways, that additional weight on the highways, I would think would be devastating.

In the first place, they would get rough in a hurry, and in the second place, they wouldn't last near as long until they had to be rebuilt.

Can you give us any estimate as to what the burden on the highway system would be, how much sooner we would have to replace the highways? I assume by the time you would repave it all over again, you would have to tear it up and replace it.

Mr. O'NEAL. To be honest with you, I don't have those kinds of numbers readily available. I think we could certainly look into it. I think probably the Department of Transportation would have greater access to that sort of thing, but we would be happy to try to find it for you.

Senator LONG. I didn't ask Secretary Adams that when he was here, but it seems to me that is one of the things we have to look at when we look at the cost of this matter.

Mr. O'NEAL. I think that is true.

Senator LONG. The economic burden that would be placed on the shippers would be very severe, but the additional burden would have

to be taken on the highway system. I just think that you would have many billions of dollars of damage to the highway system over a period of years.

I will read and study your report and your statement in detail. Thank you for your statement.

Mr. Cannon?

The CHAIRMAN. Thank you, Mr. Chairman.

What is the ICC doing to anticipate and prepare for possible future car shortages in light of the ensuing wheat harvest and increased coal production?

Mr. O'NEAL. I think we need to put into context this current car shortage problem.

There has not been a severe shortage of cars in the United States for about 4 years. Suddenly, because of a number of factors, we are faced with a very serious problem that exists throughout the United States. I think that there is an obligation on us to try to anticipate these problems in the future.

I think the Commission, particularly for grain movements through ports in the past, has done a pretty good job of anticipating problems. However, that is not the grain car shortage problem that has now developed.

We are just at this time gathering together all the information we have. We are going to have a meeting next week to make sure we know exactly where we have been as far as this shortage is concerned, whether we have taken all the actions that can possibly be taken, what other actions might be available, and I think we will have to think about how we can better anticipate these difficulties in the future.

I think, as Mr. Yocum from USRA indicated earlier, when you are talking about grain car shortages particularly, they are exceedingly difficult to deal with because they depend so much on the market for grain, how the farmers perceive that market, whether they want to hold their grain or move it, and when they move it, whether they move it all at once, or whether some hold back.

This year, we are in a situation where most of the farmers say they will hold their grain for a better price. Now, they are coming up again to the start of a new harvest. They are going to have to do something with the grain that is now in these elevators, even though the price isn't that good, so they are starting to move it out.

Everybody is trying to move it at once, and it is really causing difficulties. There is no way, I think, that we can require the railroads to have as many cars as they would absolutely have to have to handle every peak that came along, so what we have to do is make sure that the shortage is fairly distributed, so that the small shipper has some access to market as well as the large shipper, so that all kinds of users of the system are at least sharing the burden equitably.

The CHAIRMAN. Now, you did everything there but answer my question. My question was, what is the ICC doing to anticipate and prepare for possible future car shortages in light of the ensuing wheat harvest and the increased coal production? Now, you said you have to do something to see that it is spread equitably, the shortage, but you didn't give me much hope.

I would like to know specifically, and in that regard, I would like to say Senator Long and myself and Senator Pearson signed a letter to

you yesterday, which I am sure you haven't had a chance to review yet, but we raised a question on this very point, and I think it deserves some serious consideration.

I know that you at one time considered increasing the per diem on the cars. Then apparently there was a question as to whether that should be done away with or should not be increased because of the fact that the steel shipments have fallen off, but we hope the steel shipments will pick up. Certainly we know we are going to have more coal shipments, and we know we are going to have more grain shipments, and it would seem to me if you increase the per diem that it would be an incentive, first, to move the cars; and secondly, it might be an incentive to encourage the purchase of more new cars of this type.

Mr. O'NEAL. Well, I think that is true, increasing the per diem, or attaching an incentive per diem to the cars, will increase the likelihood that more of them will be built.

As far as the gondola situation is concerned—and this goes to your other, your broader question as well—what we tried to do in that particular case was to anticipate over the next several years, what the use or the need of the country would be, for these kinds of cars.

We relied upon a projection that was done by one of these fancy econometrics models. The projection that was used originally indicated that there would be a need for gondolas, although there was not at that time a current shortage of gondolas.

This was back several months ago when this report was drafted. Then suddenly there was a change in the projection which now doesn't look very good at all, indicating that perhaps there would not be this need for gondolas. Under the act we are required to be able to show that there would be some shortage to impose incentive per diem. The result was that we held up the decision to take another look at it, and make sure we had enough to go on. That is unfortunately where we are right at this moment.

The CHAIRMAN. So you really haven't made a decision, are you saying?

Mr. O'NEAL. No. We haven't. Not yet. I want to go back to your question—

The CHAIRMAN. Let me ask first, is there a doubt in your mind as to whether or not there will be a car shortage?

Mr. O'NEAL. There is a car shortage. No. There is no doubt in my mind about that. What we tried to do in anticipating shortages, is, again, use information our Bureau of Economics can develop in the way of trends, such as the manufacture of steel in the United States and the production of grain, and so forth.

Again, grain is very difficult, because it can change just in a period of a few months, and we have also found that for steel and other commodities, the projections can change very quickly, so we try to anticipate the long-range trends, and this is part of what we are doing in the whole incentive per diem program.

We are, in fact, today going to sit down with the top staff and begin working out a long-range program for the Interstate Commerce Commission. One of the things we are going to be looking at is how we can handle car shortages, how we can anticipate them better over a long period of time. We are looking for development of the plan in the next 5 years.

The CHAIRMAN. As you see it now, do you anticipate there will be a car shortage when the June harvest begins?

Mr. O'NEAL. Yes. It looks to us like there will be a car shortage right now throughout the rest of this year.

The CHAIRMAN. Thank you, Mr. Chairman.
[The statement follows:]

STATEMENT OF HON. A. DANIEL O'NEAL, CHAIRMAN, INTERSTATE COMMERCE COMMISSION

Mr. Chairman, members of the subcommittee, I appreciate this opportunity to be here today to discuss a matter of considerable interest both to this Subcommittee and to the Interstate Commerce Commission: the performance of the Consolidated Rail Corporation, commonly known as ConRail. This railroad, which was conceived as a part of the solution to the many problems of the Penn Central and other bankrupt railroads in the Northeast, has now been in operation for approximately two years. We believe that oversight of ConRail's operations is both necessary and appropriate, and we are glad to participate in that process and share with you our own knowledge of the ConRail situation.

I will focus on two main areas of ConRail's performance: financial and service. In the financial area the Subcommittee has framed the inquiry with a series of seven questions which seem to cover the ground very well. My comments are organized to respond to those questions. In discussing service I will focus on the Nation's grain-car shortage, ConRail's role in this situation, and ConRail service problems generally. I will also bring you up to date on some of our recent initiatives to improve car service.

I. CONRAIL FINANCING

Question 1. What amount of additional public or private funds will be required by ConRail during fiscal year 1979, and in what manner should these funds be made available?

Answer. ConRail, in its recently issued five-year business plan, estimates that it will need the following external financing for calendar year 1979: \$251 million for equipment obligations and \$437 million of additional Government funding, totaling \$688 million. These figures assume that ConRail will be able to meet its revenue projections for the year of \$3.5 billion and that it will be able to finance the \$251 million in equipment obligations from private sources.

The United States Railway Association (USRA) has recently estimated that ConRail will require additional Government funding as of September 30, 1978. This assumes that a \$74 million "margin of safety" appropriation under section 216 of the Regional Rail Reorganization Act of 1973 as amended (3-R Act) is authorized. USRA further estimates that \$300-\$500 million in additional funding will be required for ConRail for fiscal year 1979.

In our view, the projected needs stated in the ConRail business plan must be regarded as a minimum requirement, and that is likely that significant additional funding will be necessary. Our principal reason for reaching this conclusion is that we consider ConRail's revenue forecast to be overly optimistic in view of its declining market share of the total transportation revenues in its area of operation, an experience shared by all Northeastern railroads. We believe that ConRail will collect approximately five percent less in revenues than the business plan predicts, which means that an additional \$150-\$200 million in funding will be needed for general operations during that period. Our estimates are supported, we believe, by Standard and Poors Revenue Ton-Mile Trends for 1967-1977.

In response to the question of how the additional funding should be handled, we believe it should be equity-type financing through authorization of additional series A preferred stock under section 226 of the 3-R Act. This type of financing will allow ConRail to use the Government funds for general operating purposes and at the same time help it to develop and maintain a debt-to-equity ratio adequate to attract private sector investment at some point in the future.

An alternative mode of funding would be under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act) which provides in part for preference share funding for capital improvements, maintenance, rehabilitation, and such other financial needs as the Secretary of Transportation may approve. However, we believe there is a benefit in continuing the existing mode of financing

in order that Congress and the nation's financial community will be in a better position to assess ConRail's long-term financial performance without major changes in financing procedure along the way.

Question 2. In the event title V funding is used to provide off budget funding for ConRail through fiscal year 1979, what would be the impact on ConRail's costs of operations from having to comply with statutory or administrative financing conditions which are not currently required by existing financing requirements. Please identify such conditions or requirements.

Answer. In the event title V funding were used to provide off budget funding for ConRail through fiscal year 1979, the impact on ConRail's cost of operation would be the need to pay interest in cash for section 511 guaranteed loans. By comparison, under section 216 and the financing agreement between ConRail and USRA, ConRail is authorized to sell series A preferred shares to USRA and use these shares to pay the current interest due on their debentures in lieu of cash. The use of cash instead of these shares would cause a cash loss to ConRail's operations. This loss could accelerate each year as interest payments on the debentures increase.

Question 3. What would be the impact of title V financing on ConRail's ability to obtain private sector financing during fiscal year 1979 vis-a-vis section 216 financing?

Answer. We do not believe that there would be any benefit of title V financing vis-a-vis section 216 financing in terms of improving prospects to obtain private sector financing during fiscal year 1979. As previously noted, title V funding is primarily intended for long-term capital improvements. Therefore, any improvement in operations resulting from this type of funding would not occur as early as fiscal year 1979. In our view, private financing sources are more concerned with current debt-to-equity ratios than with long-term improvements.

Question 4. Do you feel that it is possible, at this time, to determine how much money ConRail will need over the next five (5) years? If so, in what form should the money be provided?

Answer. It is quite difficult to project ConRail's cash requirements over the next five years with any degree of accuracy. However, our initial analysis of ConRail's five year business plan leads us to believe that their revenue estimates are overly optimistic. In addition, there is serious question that ConRail can achieve the car utilization improvements, labor savings, and general operating efficiency improvements as projected for the five year period by the business plan. Our preliminary estimate is that ConRail will require \$1.1 to \$1.6 billion in funding over and above the \$1.3 billion Government and \$1.1 billion private sector funding projected by the plan.

We recommend that the Government continue to use equity type financing for ConRail's future funding requirements. As earlier noted, this type of financing is preferable to debt financing because it increases the possibility that ConRail will be able in the future to attract private sector investment. In addition, we foresee that ConRail will require substantial acquisitions of new equipment in the future, as well as improvements to its plant. Title V financing would be appropriate for these purposes, and, once again, is structured as an equity type of financing which hopefully will attract private sector investment in the future. Of course, Federal financing is critical now because, aside from equipment financing, private sector funds are not available to ConRail.

Question 5. May ConRail be realistically expected, in 1980 as projected in the five-year plan, or ever, to make profits adequate to shift it from public to private ownership?

Answer. We do not believe that ConRail will be profitable by 1980 as projected or at any time during the five-year period. Whether ConRail can be profitable after that is speculative, although it is likely that profitability adequate to shift the railroad from public to private ownership will probably not occur for some period of time after the five years are completed.

While to some extent ConRail's fortunes depend upon the course of the nation's economy—something we are not able accurately to predict at this time—there are nevertheless certain factors affecting ConRail in particular which lead us to believe that the business plan's prediction of profitability by 1980 is overly optimistic. First, the revenue base (traffic volume) for railroad traffic in the Northeast has been declining for the last 10 years, and we do not see any trends which will bring about any reversal in the foreseeable future. Moreover, there is intense price and service competition from the trucking industry, which can only be expected to increase in the light of ConRail's continued inability to pro-

vide adequate service to shippers in many instances. This will increase the market share of the trucking companies of traffic which ConRail might be able to secure. Even assuming that ConRail manages to make improvements in providing service to shippers, traffic lost is frequently difficult to regain.

In addition, ConRail is expected to face continuing major problems with its program to improve car utilization. The failure to utilize cars adequately means lost revenues.

Finally, labor expense, productivity, and employment levels are not expected to improve significantly during the five-year period. At the present time, ConRail has approximately 93,000 employees. Payroll expense constitutes approximately 57% of ConRail's total operating expense, as opposed to an industry-wide average of approximately 43%. ConRail plans to reduce its employment levels by 11,000 employees during the five-year period. Whether such cuts will help ConRail's situation depends upon its ability to use them effectively to help improve overall productivity. This, in turn, depends on management efficiency, which has been a problem, particularly at the middle levels.

Question 6. The financial viability of the five-year plan is quite sensitive to certain key assumptions. On balance, are the downside risks for substantially increased federal subsidization greater than the upside profit potential?

Answer. As suggested by our response to the previous question, the downside risks for substantially increased federal subsidization of ConRail appear greater than the upside profit potential. ConRail's revenue estimates assume increased volumes of traffic which in turn are relied upon to improve productivity through absorption of fixed costs. Related ConRail assumptions regarding service improvements, including car utilization, are also critical to its projections. However, it has yet to be shown that these assumptions will materialize.

ConRail's projections also depend greatly on labor savings through labor agreement improvements and efficiencies in transportation operations. Whether current negotiations with labor will produce the productivity gains anticipated remains to be seen. A further assumption of the plan is that as ConRail obtains work rule efficiencies benefits to "early-out" employees provided under the 4-R Act to make up for lost earnings will be fully funded by the Government, even if the fund is depleted. It appears that the present level of Government funding for this purpose may not cover the reductions in employment which might be necessary. Moreover, the ConRail Plan also assumes that the railroad will not have to absorb certain increased costs arising from benefits under the railroad retirement fund, even though under present circumstances there is likely to be a shortfall in the fund of several hundred million dollars.

Question 7. Should ConRail not meet its goal in 1980, or the downside risks prove too great, what alternatives are there to indefinite subsidization of the railroad without hope of ever recovering public capital investment? Are the alternatives susceptible to implementation now or in 1980?

Answer. If ConRail does not meet its goal of profitability by 1980, further subsidization will almost certainly be necessary. At that time, it may be more possible than it now is to realistically project profitable future operations. If long term profitability cannot be foreseen at that time, it may then be appropriate to examine alternatives. We believe that it is still too early now to realistically do this, although as a technical matter it could be done at any time.

One alternative would be to once again examine ConRail's present operating configuration and considerably trim down its system. This could involve the abandonment of all but profitable lines or those lines deemed absolutely essential to the public interest. As suggested by our answer to the previous question, another alternative would be the expanded use of Government funding to help reduce ConRail's employment levels to those better related to its revenue base. This alternative could be implemented at any time since high personnel costs are a major factor affecting ConRail's operating costs at all times.

II. CONRAIL'S SERVICE TO THE PUBLIC

I would now like to discuss ConRail's service to the public. First, however, I understand that you are interested in the national rail car shortage, and the actions the Commission has taken to attempt to alleviate the problem. I will briefly outline a few of the factors contributing to the shortage, discussing ConRail's involvement, and then mention recent Commission actions in this regard. I will then turn to a discussion of ConRail's service problems generally.

One important factor contributing to the car shortage is the market situation. In general, depressed prices cause more grain to be held in country storage than

normal. Eventually, however, farmers and country elevator operators either need funds or must reduce the amount of grain in storage to accommodate a new crop, and begin selling the stored grain. Frequently, whatever the situation is that triggers a sale for one elevator operator is likely to trigger the sale for many other operators at the same time. The result of this is that the demand for cars quickly exceeds the carriers' ability to furnish them.

A second factor which further aggravated this general problem was the recent series of severe winter storms which greatly interfered with many carriers' ability to move cars promptly, causing a drastic drop in grain car utilization. The slow movement of cars still persists, even though the last serious storm was some time ago. Many carriers have an excessive number of cars on hand which they are unable to get placed, unloaded, and returned to the loading areas. ConRail's situation has been quite significant in aggravating this second factor. ConRail was especially hard hit by the winter storms, which seriously interfered with its already less than adequate car utilization.

The Commission has been quite active in attempting to alleviate the car shortage problem. Generally, when car shortages are identified and are localized, the Commission staff attempts to locate other railroads which have surpluses of cars of the same type and arrange for the transfer of the surplus cars to the lines encountering the car shortages. When more pervasive shortages exist, we frequently issue orders which provide for the modification of carriers' tariffs. One order frequently used adjusts rate minimums to coincide with the type of equipment that is available. Such orders permit the use of two small cars in place of one large car, reduce the number of cars required for a multi-car shipment, or eliminate tariff provisions that require repetitive trips of unit trains for the same shipper. I have attached copies of some of our orders of this kind (see Appendix A & B).

I should also mention unit trains, which are an important means of transporting bulk agricultural commodities. Unit trains provide a greater efficiency in transporting agricultural products to market and thus reduce the cost of transportation. Large shippers can qualify for the use of these trains more easily than small ones. However, in times of car shortages, unless some limitations are placed on the use of unit trains, small shippers may be adversely affected. In issuing car service orders during times of shortages, the Commission has tried to strike a balance between the efficiency of unit trains and the equity of allowing all shippers access to some cars.

As an example of recent Commission action on unit trains and car shortages, I have attached as Appendix C a copy of Service Order No. 1304 and a press release describing that order. This order, which was issued February 24th, recognizes that an emergency exists and requires railroads to take some of their jumbo grain cars out of unit trains and make them available to small shippers. We believe this service order provides a more equitable distribution of these cars to all shippers.

Also acting on its emergency authority, the Commission on March 13, 1978, issued Service Order No. 1309, which imposes temporary operating standards on all common carriers by railroad subject to its jurisdiction. A copy of this order is attached as Appendix D. Under this order, the carriers are required to expedite the movement of both loaded and empty freight cars, using 24 hours as the maximum elapsed time that may be allowed between the separate movements of freight cars. For instance, once a shipper loads a car and releases it to the railroad, the carrier must remove it from the shipper's place of business within 24 hours and place it in line for further movement. Subsequent movements between origin and destination are subject to similar stringent standards.

Further, on April 8, 1978, the Commission issued Service Order No. 1315 significantly increasing the penalties applicable against shippers and receivers for failing promptly to load or unload freight cars. The intent of this order, a copy of which is attached as Appendix E, is to deter the use of freight cars as warehouses and get them back into freight transportation services.

Other emergency actions have also been taken with respect to specific commodities and circumstances. An example is Service Order No. 1319 (see Appendix F) which orders the Seaboard Coast Line's jumbo covered hopper cars back to that railroad empty for fertilizer loading. A companion action also liberalized entry into the motor common carrier business by anyone desiring to haul dry fertilizer.

In addition to invoking its emergency authorities, the Commission has directed its field staff to expedite the movement of rail freight cars and to enforce strictly its car service orders and directives. Approximately one half of the Com-

mission's rail-oriented field staff was committed for a period of about four weeks to identifying and eliminating points of car service resistance in the Northeastern quadrant of the United States, primarily on ConRail. As a result of this special effort, the approximately 35 staff members were able to help ConRail lower its inventory of railroad and privately owned cars on hand by some 13,000 cars over the first 20 days of March. Many of these cars had been delayed for extended periods of time due to extreme weather and other congestive conditions. At the present time, we have a sizable task force committed to a similar activity in the grain-producing area of the Great Plains States, from Texas northward through Montana.

In a continuing effort to help alleviate the effects of the current car shortages nationwide, the Director of our Bureau of Operations has held a series of informal conferences to get shippers and railroad officials together to discuss their mutual problems. Informal conferences have been held at Washington, D.C., Des Moines, Iowa, Omaha, Nebraska, and Salina, Kansas, and plans are being formulated to hold several more such meetings. These meetings have been very beneficial to a common understanding of the problem and have surfaced a host of innovative ideas, both short- and long-range, to help alleviate specific situations. A number of service orders have also been considered to deal with specific problem areas identified in these sessions.

I should also mention that late last summer the Commission ordered rail carriers to observe minimum time standards for certain types of movements of carloads of perishable freight. In that proceeding, Ex Parte No. 284, *Investigation Into the Needs for Defining Reasonable Dispatch (Perishable Commodities)*, 335 I.C.C. 162 (August 18, 1977) we adopted regulations establishing performance standards governing railroad transportation of defined perishable commodities. These regulations require the publication of railroad tariffs setting forth operating schedules on the movement of these commodities between key points throughout the country. The adopted standards are designed to insure reasonably efficient and reliable transportation of perishables, and should be helpful to agricultural shippers. I should mention that the Commission is considering in Ex Parte No. 270 (Sub-No. 2), the institution of a rulemaking proceeding to establish a minimum time standard for the movement of non-perishable rail traffic.

I have so far given you an overview of the national car shortage and what we have done to alleviate it. I would now like to discuss ConRail's involvement, and its service problems generally.

Much of the cause of the current serious freight car shortage can be attributed directly to the operating failures of ConRail. ConRail serves as a delivering carrier on traffic moving into the Northeast from all areas of the United States and, as such, constantly has on its lines rail cars from almost every U.S. railroad and of almost every car type. ConRail's freight service capability has been less than adequate ever since it was created. With the onset of the severe storms of this winter, ConRail's service slowed considerably, capturing much of the Nation's rail car fleet on its lines. For instance, on March 1, 1978, ConRail had on hand 250.9 percent of its ownership of plain 50-foot boxcars, which adds up to 33,793 such cars. It also had 172.9 percent of its ownership of plain 40-foot narrow door boxcars (12,489 cars) and 163.4 percent of its ownership of covered hopper cars (11,811 cars). In the aggregate, ConRail had on hand a grand total of 217,874 railroad-owned and 56,522 privately-owned rail cars, representing 148.4 percent of its ownership. Over 171,522 of the cars on its lines were owned by others.

ConRail's problems can be attributed in part to lack of proper management controls, evidenced by the fact that once our field staff began informally assisting ConRail, its inventory was quickly reduced by some 13,000 cars. We believe ConRail could have performed this managed activity itself, but did not do so.

There are other causes underlying ConRail's difficulty in providing adequate service to shippers. A major cause is the number of locomotives out of service for repairs. For example, for the recent period of March 9 through March 27, 1978 over 300 road units and over 200 switch units were under repair. This represents 19% of ConRail's road fleet and 26.6% of its switch engines. A high percentage of electrical units was also unavailable during this period. Also during this period, an average of over 80 trains per day were not in operation due to power shortages.

Also important in causing inefficiency is congestion in ConRail's yards and terminals, which causes delays in handling all traffic on ConRail's lines. As noted earlier, ConRail's inability to handle cars promptly frequently results in a very large number of other carriers' cars on its lines at any one time, which had a domino effect of creating severe car supply problems on all of the Nation's rail lines.

Looking at the problem over a longer time frame, the Commission has attempted to monitor carefully the operations of ConRail since its creation two years ago. We anticipated that there would be significant start-up problems, but that these could be straightened out within a reasonable amount of time. However, it is our opinion that significant problems still exist. Improvements have been made in some areas, but we believe much more can and should be done.

As part of our monitoring process and in response to numerous complaints, the Commission's Bureau of Operations concluded a ConRail adequacy of service survey in November, 1977. For your convenience, I have attached a copy of this document to my statement as Appendix G. This survey details many service problems of shippers dealing with ConRail, and is convincing evidence that ConRail is not providing adequate service to shippers in all instances. We believe that ConRail is genuinely attempting to improve its performance, but that there is still a long way to go.

I should mention that several top ICC staff members and I met with Mr. Jordan, Mr. Spence, and other ConRail officials last November to discuss this Bureau of Operations' survey. We also discussed the Commission's Early Warning Report on ConRail. Our purpose was to try to work out administratively the problems raised in these reports. We agreed to establish a continuing dialogue between ConRail and the Commission, which culminated in a very fruitful meeting between Commission staff officials and several high-level ConRail representatives just a few weeks ago. As a result of this meeting, it was agreed that future meetings would be held on a monthly basis, during which the Commission would provide ConRail with our analysis of developing problem areas. I believe that ConRail's agreement to meet with us on this basis constitutes a very positive step in attempting to identify and solve problems on a regular basis. The Commission will provide ConRail with as much assistance as we can in this endeavor.

Thank you for this opportunity to present the Commission's views. I will be pleased to respond to any questions you may have.

Vice Chairman Christian and Commissioner Stafford were absent and did not participate.

Attachments.

TITLE 49—TRANSPORTATION

Chapter X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[Service Order No. 1301]

DISTRIBUTION OF GRAIN CARS

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 15th day of February, 1978

There is an acute shortage of plain, 40-ft., narrow-door boxcars and of large capacity covered hopper cars on the Burlington Northern Inc. (BN). These shortages are preventing the orderly flow of grain to markets, both domestic and export, and are causing severe economic loss to producers and shippers of grains dependent upon the BN for transporting these products to market. A portion of the BN's fleets of these cars are loaded to points on the lines of other railroads. Such cars must be returned promptly to the BN for subsequent loading by shippers dependent upon the BN for transporting their shipments. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are

impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

SECTION 1033.1301—DISTRIBUTION OF GRAIN CARS

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Exclude from all loading and return to owner empty except as otherwise provided in paragraphs (4, 5, and 6) of this section, all 40-ft., narrow-door plain boxcars and all jumbo covered hopper cars described in paragraphs (2) and (3) of this section owned by the following railroad: Burlington Northern Inc.; Reporting marks: BN-CBQ-GN-NP-SPS.

(2) The term "40-ft., narrow-door plain boxcars" as used in this order means freight cars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise or successive issues thereof, as having mechanical designation "XM" with inside length 40-ft., 6-in. or less and equipped with doors less than 9-ft. wide.

(3) The term "Jumbo covered hopper cars" as used in this order means freight cars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "LO" and having capacity of 4,000 or more cubic feet.

(4) *Exception.* Empty 40-ft., narrow-door plain boxcars located in the States of New York, Pennsylvania, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire or Maine may be loaded to any station on the lines of the Burlington Northern Inc.

(5) *Exception.* Jumbo covered hoppers assigned by the owner for loading at stations on other railroads are exempt from the order.

(6) *Exception.* For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Chief Transportation Officer of the car owner, or by the Director or Assistant Director of the Bureau of Operations, Interstate Commerce Commission. Modifications authorized by the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to the Director or Assistant Director.

(7) Carrier named in paragraph (1) above is prohibited from loading all 40-ft., narrow-door, plain boxcars foreign to their lines and must return such cars to the owner, either via the reverse of the service route or direct, as agreed to by the owner.

(b) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded car, described in this order, contrary to the provisions of the order.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 11:59 p.m., February 15, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1978, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

H. G. HOMME, JR.,
Acting Secretary.

[SEAL]

APPENDIX B

TITLE 49—TRANSPORTATION

Chapter X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[Service Order No. 1303]

BURLINGTON NORTHERN, INC., AUTHORIZED TO OPERATE MULTIPLE-CAR GRAIN SHIPMENTS COMPRISING FIVE CARS

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22nd day of February 1979

The tariffs of the Burlington Northern Inc. (BN) applicable to certain movements of grain from Duluth, Minnesota, Minneapolis, Minnesota, Minnesota Transfer, Minnesota, St. Paul, Minnesota, Winona, Minnesota, and Superior, Wisconsin, to Clifton, New Jersey, require the use of twenty (20) 100-ton covered hopper cars in order to achieve the specified minimum weight of 1,900 tons per shipment. Because of a severe shortage of these cars, the BN is unable to furnish in excess of five cars at one time for shipments subject to these tariff provisions without disruption of the car supply available to other shippers. The shipments are routed via the BN and the Consolidated Rail Corporation (CR). The BN has requested authority to accept these shipments subject to a per shipment minimum weight of 475 tons, in lieu of the 1,900-ton minimum weight specified by the applicable tariffs, in order to reduce the car requirements for each shipment from twenty (20) cars to five cars. CR has concurred in this request. It is the opinion of the Commission that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

SECTION 1033.1303—BURLINGTON NORTHERN, INC., AUTHORIZED TO OPERATE MULTIPLE-CAR GRAIN SHIPMENTS COMPRISING FIVE CARS

(a) Burlington Northern Inc. is authorized to transport multiple-car grain shipments in covered hopper cars with aggregate minimum weight of 475 tons in lieu of shipments of 1,900 tons as provided in Western Trunk Lines, Western Trunk Line Committee, Agent 485-A, ICC A4958, from Duluth, Minnesota, Minneapolis, Minnesota, Minnesota Transfer, Minnesota, St. Paul, Minnesota, Winona, Minnesota, and Superior, Wisconsin, to Clifton, New Jersey, subject to the following conditions.

1. Consent of shipper must be obtained and reference to this order endorsed on the billing.

2. The movement of these shipments authorized hereby shall be confined to routing via Burlington Northern Inc. (BN) and Consolidated Rail Corporation (CR).

3. All tariff provisions not specifically modified by this order shall remain in effect.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Effective date.* This order shall become effective at 12:01 a.m., February 23, 1978.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1978.

(49 U.S.C. 1(10-17).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

[SEAL] H. G. HOMME, Jr.,
Acting Secretary.

ICC MOVES TO ASSIST SMALL SHIPPERS IN OBTAINING NEEDED GRAIN CARS

The Interstate Commerce Commission has ordered the Nation's railroads to take some of their grain cars out of unit-trains, which serve the larger grain elevators, and make those cars available to small shippers who cannot use or get access to unit-trains. The action is expected to make possible the movement of much grain that now fills hundreds of small and medium size storage facilities in central states.

The Commission's action came in Service Order 1304, sent Friday afternoon to the Nation's railroads, requiring that the railroads lower the percentage of jumbo grain cars, owned by a given line, which are incorporated into unit-trains.

Commission Chairman Daniel O'Neal, in announcing issuance of the order, noted that an acute shortage of covered hopper cars has resulted in the excess storage of grain, grain products, soybeans and soybean meal, particularly in areas not normally served by unit-trains which move large quantities of farm produce between major shipping points.

The effect of the Service Order will be to increase the number of grain cars available to small elevators and shippers.

The Service Order, intended to help grain shippers and consumers move and receive badly needed grain supplies, is viewed as a short-term action. It will take effect March 1, and expire April 30.

At present there are no restrictions on the number of jumbo covered hopper cars a railroad may place in a unit-train service. By today's order, the railroads will be limited to placing only 20 percent of their cars in unit-train service. Additionally, after completion of the required number of trips to qualify for unit-train grain rates, all jumbo covered hopper cars must be returned to the origin carrier for distribution. These actions will provide a more equitable distribution of these cars to all shippers.

TITLE 49—TRANSPORTATION

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[Service Order No. 1304]

DISTRIBUTION OF COVERED HOPPER CARS

At a Session of the Interstate Commerce, Railroad Service Board, held in Washington, D.C., on the 24th day of February 1978

An acute shortage of covered hopper cars for transporting shipments of grain, grain products, soybeans, or soybean meal exists in certain sections of the country. Some carriers have placed substantial numbers of large-capacity covered hopper cars in unit-train service for the movement of grain under tariff provisions which require that these cars remain in this service for five or more consecutive trips in the service of a single shipper. Such practices are depriving shippers, unable to ship to the destinations to which such services are available or unable to comply with tariff provisions applicable to such movements with respect to availability of tonnage in a single day or ability to receive grain in such quantities, of an equitable share of the supply of large covered hoppers thus creating great economic loss.

The Commission on July 28, 1977, in docket Ex Parte No. 307, ordered, and the carriers have incorporated in their tariffs, rules requiring that, in periods of shortages in the supplies of covered hopper cars, such cars assigned to the use of a shipper for five or more consecutive trips in unit-grain train service be returned to the control of the carrier for redistribution in a fair and equitable manner.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice. *It is ordered, That:*

SECTION 1033.1304—DISTRIBUTION OF COVERED HOPPER CARS

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Restrictions on Use of Covered Hopper Cars.* Effective March 1, 1978, no common carrier by railroad shall permit the use in unit-grain train service of more than twenty percent (20 percent) of its ownership of jumbo covered hopper cars. (See exception.)

(2) *Repetitive Trips.* After completion of five consecutive trips or of the minimum number of trips required by applicable tariffs to qualify for unit-grain train rates, whichever is the lesser, unit-grain trains comprised of jumbo covered hopper cars shall be returned to the origin carrier for distribution. In distributing cars so returned to the control of the carrier, consideration shall be given to the sequence of car orders, the amount of grain immediately available for shipment and the ratio of grain cars ordered to grain cars furnished during the previous seven-day period.

(3) *Completion Period.* The period specified in applicable tariffs for completion of the total volume requirements of any unit-grain train shipment on which the required number of consecutive trips has been interrupted because of the provisions of paragraph (2) of this section, shall be extended by addition of the number of days of such interruption, to the total number of days allowed to fulfill such volume requirements.

(4) *Railroad Cars Mixed With Private Cars.*

(i) Jumbo covered hopper cars of railroad ownership may be substituted for similar cars of private ownership in unit-grain trains normally consisting of cars of private ownership to replace cars which have been damaged by the railroad, provided such substitution does not exceed ten percent (10%) of the total number of cars in such train, fractions of a car to be computed by the next higher whole number of cars. The total of such railroad-owned cars shall be included in the total number of cars authorized herein to be used in unit-grain train service. (See exception (iii).)

(ii) Carrier may operate unit-grain trains comprised of cars of both railroad and private ownership. (See exception (iii).) The railroad-owned cars used in such unit train of mixed ownerships shall remain subject to the provisions of paragraph (2) of this section.

(iii) *Exception.* The provisions of parts (i) and (ii) of this paragraph shall not apply to unit-grain trains subject to tariff provisions requiring the exclusive use of cars of private ownership.

(5) *Increased Use in Unit Trains Prohibited.* No common carrier by railroad shall increase the proportion of its ownership of covered hopper cars operated in unit-grain train service above the proportion operated in unit-grain train service on February 15, 1978.

(6) *Exception.* Exceptions to this order may be authorized to carriers by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C., 20423, upon written application stating the number of additional cars to be used in unit-grain train service, the points between which such cars are to be used and the effect upon the carrier's ability to supply cars to other grain shippers who are dependent on it for their car supplies.

(7) *Substitution of Small Cars for Jumbo Cars Prohibited.* No common carrier shall substitute smaller covered hopper cars for jumbo covered hopper cars for use in unit-grain train service.

(8) *Monthly Reports Required.* Each common carrier by railroad owning jumbo covered hopper cars shall report to Mr. Joel E. Burns, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C., 20433, on or before the tenth day of each month the number of jumbo covered hopper cars owned, as of the first of the month, the total number in unit-grain train service; by trains, the number of railroad-owned and privately-owned cars in unit-grain trains of mixed ownership; by trains, the number of railroad-

owned cars substituted for private cars which have been damaged by railroad and the number of private cars in such unit-grain trains; the number of railroad-owned cars in general grain service, the number in other services, the number of unit-grain trains operated during the previous month, and the number of trips made by such trains.

(b) *Definitions:*

(1) *Unit-Grain Train.* Unit grain trains are hereby defined as trains of twenty (20) or more covered hoppers organized and operated as a unit from a single point of origin or concentration point, to one destination or distribution point in order to comply with published tariff requirements.

(2) *Jumbo Covered Hopper Cars of Railroad Ownership.* Jumbo covered hopper cars of railroad ownership are hereby defined as cars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof as bearing reporting marks issued to railroads and having mechanical designation "LO", and having cubical capacities of 4,000 cu. ft. or larger and weight-carrying capacities of 180,000 lbs. or greater.

(3) *Cars of Private Ownership.* Cars of private ownership are hereby defined as cars listed in the Section entitled "Private Car Owners", pages 709-1099, inclusive, of the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof.

(c) *Rules and Regulations Suspended.* In the event that the operation of any unit-grain train is discontinued by the shipper prior to March 15, 1978, as a result of this order, the discontinuance of such a train shall be deemed to have completed the tariff responsibility as to total volume required to be shipped and as to the number of consecutive trips required to be made by such unit-grain train. The operation of all other tariff provisions or of other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(e) *Effective date.* This order shall become effective at 11:59 p.m., March 1, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

[SEAL]

H. G. HOMME, Jr.,
Acting Secretary.

TITLE 49—TRANSPORTATION

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[Revised Service Order No. 1309]

RAILROAD OPERATING REGULATIONS FOR FREIGHT CAR MOVEMENT

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 7th day of April, 1978

There are acute shortages of freight cars throughout the country resulting in failures of carriers to furnish an adequate supply of freight cars to shippers located on their lines. These shortages of freight cars are impeding both the domestic and export movements of agricultural, mineral, forest, and manufac-

tured products, and other commodities. The existing car service rules, regulations, and practices of the railroads are ineffective with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of freight cars to meet the requirements of shippers. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

SECTION 1033.1309—RAILROAD OPERATING REGULATIONS FOR FREIGHT CAR MOVEMENT

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application:*

(i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars which are listed in the Official Railway Equipment Register, I.C.C.—R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof, as having one of the mechanical designations shown on pages 1167-1169 under the headings: "Class 'X'—Box Car Type," "Class 'G'—Gondola Car Type," "Class 'H'—Hopper Car Type," "Class 'F'—Flat Car Type," and those special type cars described under the heading "Class 'L'—Special Car Type" which bear mechanical designations "LC"—boxcar with roof hatches, "Lo"—Covered hopper car, and "LU"—boxcar with doors running substantially the length of the car, including cars bearing mechanical designations modified in the manner described in the various notes thereto.

(iii) *Exception:* Empty cars owned by the Alaska Railroad, while held in the State of Washington, pursuant to instructions of the car owner, are exempt from the provisions of this order.

(iv) *Exception:* Empty cars described in part (ii) of this section, owned by and bearing the registered reporting marks assigned to the line holding the car, and empty cars of private ownership reported and awaiting instructions from the car owner, are exempt from the provisions of this order.

(v) *Exception:* To alleviate hardships or inequities, including, but not limited to those caused by extreme weather disruptions, exceptions to this order may be authorized to the carrier by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C. Requests for such exceptions may be made only by carriers and shall be sent to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for recording and submission to the Railroad Service Board, Interstate Commerce Commission, for consideration.

(vi) Actual placement means placing a car in an accessible position for loading or unloading, or placing on an industrial interchange track serving the consignor or consignee. If such placing is prevented by any cause attributable to consignor or consignee and car is placed on the private or other-than-public-delivery tracks serving the consignor or consignee, it shall be considered constructively placed without notice.

(vii) Holidays shall be those listed in Item 525 of Agent D. M. Rogers' Tariff 4-K, ICC H-74, General Car Demurrage Rules and Charges, supplements thereto, or successive issues thereof.

(2) *Placing of Cars:*

(i) Loaded cars shall be actually or constructively placed within 24 hours, exclusive of Saturdays, Sundays, and holidays, following arrival at destination, or after arrival at the yard from which cars are dispatched for actual placement.

(ii) Empty cars which after placement will be subject to demurrage, storage or detention rules applicable to cars for loading, or which are subject to storage rules and charges applicable to assigned cars held empty awaiting placement for loading by the assignee, shall be actually placed or appropriate notice as required by applicable tariffs issued within 48 hours, exclusive of Saturdays, Sundays, and holidays, after arrival at the point where held.

*Car types added.

(iii) When delivery of a car, either empty or loaded, consigned or ordered to an industrial interchange track or to an other-than-public-delivery track, cannot be made because of any condition attributable to consignor or consignee, such car shall be held at destination or, if it cannot reasonably be accommodated there, at an available hold point; and constructive placement notice shall be sent or given the consignor or consignee within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or hold point.

(iv) Proper notice for cars placed on public delivery tracks shall be sent or given within 24 hours after placement, exclusive of Saturdays, Sundays, and holidays.

(v) Cars held at destination for accessorial terminal services described in the applicable tariffs, such as holding for orders or inspection, shall be placed on unloading, hold, or inspection tracks; and proper notice shall be given within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or at hold point. Time and charges shall be computed following such notice and demurrage or detention charges assessed in accordance with provisions of governing tariffs.

(3) *Removal of Cars:*

(i) Empty cars must be removed from point of unloading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following unloading or release by consignee or shipper, unless such empty cars are ordered or appropriated by the shipper for reloading within such 24-hour period. Empty cars not ordered for loading at point where made empty must be forwarded or set aside to be cleaned, repaired, or weighed, if to be weighed at that point, within 24 hours following removal of empty cars.

(ii) Outbound loaded freight cars must be removed from point of loading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following acceptance by carrier of the shipping instructions covering the cars. Such cars must be forwarded, weighed, if to be weighed at that point, or set aside for repairs within 24 hours following release and removal.

(iii) Cars subjects to parts (1) and (ii) of this section, not made accessible to the carrier, shall be subject to demurrage until such time as they become, and remain, accessible to the carrier.

(iv) Cars shall not be removed from point of unloading or from industrial interchange tracks, nor released from demurrage or detention status, until all bracing, blocking, dunnage, paper, residue of lading, debris, and other foreign matter directly related to the inbound load have been removed from the car in accordance with the requirements of Rules 14 and 27 of the Uniform Freight Classification, I.C.C. 8, issued by J. D. Sherson, supplements thereto, or reissues thereof.

Exception: Dunnage being returned to shipper under provisions of the applicable tariffs may be left in cars released as empty, provided that proper shipping instructions are received by the carrier prior to 5:00 p.m., of the first day, which is not a Saturday, Sunday, or holiday, immediately following release of the car.

(4) *Forwarding of Cars:*

(i) Loaded cars and empty cars shall be forwarded within 24 hours, except cars described in parts (ii), (iii), or (iv) of this section, or cars described in part (ii) of Section (2).

(ii) *Exception:* Loaded cars held subject to instructions of consignee, consignor, or other qualified owner of the freight contained therein, while subject to applicable tariffs.

(iii) *Exception:* Cars held for repairs, weighing, or cleaning. (See Section (5).)

(iv) *Exception:* Cars held because no train or switch engine service is available between hold point and destination.

(5) *Cars Held for Repairs, Weighing, or Cleaning:*

(i) Cars of system, foreign, or private ownership which are held for light repairs or cleaning shall be placed on repair or cleaning tracks not later than the first 7:00 a.m., exclusive of Sundays and holidays, after placement on repair or cleaning tracks; except that when necessary to order material from car owner to make the repairs to foreign or private cars held awaiting such material, repairs shall be completed within 24 hours, exclusive of Sundays and holidays, after receipt of such material at the station at which the repair point is located.

(ii) Light repairs are defined as repairs requiring less than 20 man-hours by repair track forces to complete.

(iii) Cars which must be weighed shall be weighed and restencilled, if required, within 24 hours, exclusive of Sundays and holidays, after arrival at the point at which weighing is to be accomplished, or after request for weight is received, if weights are requested by shipper or by car owner.

(iv) Cars which have been repaired, cleaned or weighed shall become subject to Sections 2, 3, or 4, as applicable, from the date such repairs, cleaning or weighing have been accomplished.

(6) *Movement of Freight Cars:*

(i) No common carrier by railroad subject to the Interstate Commerce Act shall delay the movement of cars by holding such cars in yards, terminals, or sidings for the purpose of increasing the time in transit of such cars.

(ii) Cars shall not be set out between terminals except in cases of emergency.

(iii) Back-hauling cars for the purpose of increasing the time in transit is prohibited.

(iv) Through cars shall not be handled on local or way freight trains for the purpose of increasing the time in transit of such cars.

(v) The use by any common carrier by railroad, or the acceptance of instructions from the shipper, for the movement of cars over its line via any route other than its shortest available route or its usual and customary fast freight route from point of receipt of the car from consignor, or connecting line, to point of delivery to consignee, or to next connecting line, except for the purpose of according a lawfully established transit privilege (not including a diversion or re-consignment privilege) is hereby prohibited.

(7) *Force Majeure Defense Protected.* Nothing in this order shall deny any carrier its defense of force majeure as construed by the courts.

(b) *Rules and Regulations suspended.* The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Effective date.* This order shall become effective at 12:01 a.m., April 15, 1978.

(d) *Expiration date.* This order shall expire at 11:59 p.m. May 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission. (49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

[SEAL]

H. G. HOMME, Jr.,
Acting Secretary.

TITLE 49—TRANSPORTATION
CHAPTER X—INTERSTATE COMMERCE COMMISSION
SUBCHAPTER A—GENERAL RULES AND REGULATIONS
PART 1033—CAR SERVICE
[Service Order No. 1315]
DEMURRAGE AND FREE TIME ON FREIGHT CARS

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 3rd day of April, 1978.

An acute shortage of certain types of freight cars exists throughout the country. Certain carriers are unable to furnish adequate supplies of such freight cars to shippers located on their lines. These shortages of freight cars are impeding the movement of many commodities. Many freight cars are held by shippers for excessive periods awaiting loading, unloading, or disposition instructions immobilizing large numbers of freight cars needed by shippers for the transportation of other freight. Existing demurrage and detention rules, regulations, and practices of the railroads are ineffective to control such use of freight cars. It is, therefore, the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, we find that notice and public procedure are

impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

SECTION 1033.1315—DEMURRAGE AND FREE TIME ON FREIGHT CARS

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application:*

(i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars which are listed in the Official Railway Equipment Register, I.C.C. R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof, as having one of the mechanical designations shown on pages 1167-1169 under the headings: "Class 'X'—Box Car Types," "Class 'G'—Gondola Car Type," and all covered hopper cars mechanical designation "LO" as described under heading "Class 'L'—Special Car Type," including cars bearing mechanical designations modified in the manner described in the various notes thereto. (See exceptions (iv), (v), (vi), (vii), (viii), and (ix).)

(iii) This order shall apply to all detention of freight cars subject to freight car demurrage or detention rules which occurs on or after the effective date of this order and which may have been shipped, placed or constructively placed prior to that date.

(iv) *Exception:*

This order shall not apply to cars subject to Section 1900, Items 1900-1950, inclusive, or to Section 2000, Items 2000-2005, inclusive of General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(v) *Exception:*

This order shall not apply to cars held at or outside of ocean, Great Lakes, or river ports, for loading or unloading with freight requiring transfer between rail and water carriers.

(vi) *Exception:*

This order shall not apply to freight cars of Mexican ownership while held by or for shippers at Mexican border crossings, viz:

Brownsville, Texas	Presidio, Texas	Naco, Arizona
Laredo, Texas	El Paso, Texas	Nogales, Arizona
Eagle Pass, Texas	Douglas, Arizona	Calexico, California

(vii) *Exception:*

This order shall not apply to cars made exempt from demurrage by the provisions of Section 700, Items 700-765, inclusive, of General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(viii) *Exception:*

The provisions of Section 1400, Items 1400-1440, inclusive, of General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, or similar provisions of other applicable demurrage, detention, or storage tariffs shall govern the adjustment, cancellation, or refund of demurrage assessed as a result of the causes described in such rules.

(ix) *Exception:*

Exceptions to this order may be authorized to carriers by the Railroad Service Board. Requests for exceptions must be submitted in writing to Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423. Each such request must specifically identify the type of cars for which an exception is desired and must clearly state the reasons why such cars cannot be utilized in other services.

(x) The terms "loading," "unloading," "constructive placement," and "forwarding directions" as defined in General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, shall apply to cars subject to this order.

(xi) The term "holidays" means holidays as listed in Item 525 of General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(2) *Free Time:*

(i) Not more than a total of 48 hours' free time, computed in accordance with the provisions of the applicable tariffs naming demurrage or detention rules and charges, shall be allowed for the complete unloading of each car.

(ii) Not more than a total of 24 hours' free time, computed in accordance with the applicable tariffs naming demurrage or detention rules and charges, shall be allowed for loading or for any purpose other than complete unloading.

(iii) If the maximum free time authorized in applicable tariffs is less than the periods described in paragraphs (i) or (ii) of this section, the free-time periods, if any, provided in such tariffs shall apply.

(3) *Demurrage, Detention, or Storage Charges—Cars Not Subject to Average Demurrage Basis:*

(i) After the expiration of the free-time period described in Part (2) of this order, or without free-time allowance when none is provided, demurrage charges shall be assessed at the following rates, until car is released:

\$10.00 per car per day, or fraction of a day, for each of the first two days

\$20.00 per car per day, or fraction of a day, for each of the next two days;

\$30.00 per car per day, or fraction of a day, for each of the next two days;

\$50.00 per car per day, or fraction of a day, for each subsequent day.

(ii) Except as provided in Item 1225, General Car Demurrage Tariff 4-K, I.C.C. H-74, the applicable demurrage charges provided herein will accrue on all Saturdays, Sundays, and holidays subsequent to the free time, or without free time when none is provided, including a Saturday, Sunday, or holiday immediately following the day on which the last day of free time begins, provided such last day of free time begins to run at or before 7 a.m., or expires at or before 11:59 p.m., of the day immediately prior to the Saturday, Sunday or holiday.

(iii) If the demurrage rates published in applicable tariffs is greater than the demurrage rates named in paragraph (i) of this section, the rates provided in such tariffs shall apply.

(4) *Cars Subject to Average Demurrage Basis:*

(i) One credit will be allowed for each car released before the expiration of the first twenty-four (24) hours of free time. After the expiration of the free time (or the adjusted free time if provided in applicable tariffs), one debit per car per day, or fraction of a day, will be charge for each of the first two days. In no case shall more than one credit be allowed on any one car, and in no case shall more than four credits be applied in cancellation of debits accruing on any one car. When a car has accrued two debits, a charge of \$20.00 per car per day, or fraction of a day, will be made for each of the next two days; \$30.00 per car per day, or fraction of a day, will be made for each of the next two days; and \$50.00 per car per day, or fraction of a day, will be made for all subsequent detention. In computing time under this rule, all Saturdays, Sundays, and holidays will be counted after the free time, including a Saturday, Sunday or holiday immediately following the day on which the last day of free time begins.

(ii) Credits earned on cars held for loading shall not be used in offsetting debits accruing on cars held for unloading, nor shall credits earned on cars held for unloading be used in offsetting debits accruing on cars held for loading.

(iii) An average agreement may not include cars held for:

(a) Purposes other than loading and unloading;

(b) Loading or unloading in interplant switching service.

(iv) Credits cannot be earned by private cars subject to Section 700, Items 700-765, inclusive, of General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, or subject to similar rules in other tariffs, but debits charged on such cars while under constructive placement may be offset by credits earned on other cars.

(v) At end of the calendar month the total number of applicable credits will be deducted from the total number of debits at the ratio of two credits for one debit, and \$10.00 per debit will be charged for the remainder. (See Note.) If the total number of debits are offset by credits through deduction at the above ration of two credits for one debit, no charge will be made for the detention of the cars except as otherwise provided herein for detention beyond the second debit day, and no payment will be made by the railroad on account of such excess of credits; nor shall the credits in excess of the debits of any one month be considered in computing the average detention for another month.

Note: For the purpose of applying Part (v) of this paragraph, when an odd number of credits is earned, one of such credits will be disregarded in the computation.

(vi) Credits earned on cars subject to this order shall not be used in offsetting debits accruing on cars not subject to this order; nor shall debits accruing on cars subject to this order be offset by credits earned on cars not subject to this order.

(5) Existing tariff rules requiring the placement or release, as a unit, of all cars in a multiple-car shipment shall remain in effect.

(6) The demurrage, detention, or storage rates provided herein shall supersede all published storage charges expressed in cents per hundred-weight, per bushel, or other unit of measure, for all freight held in cars in excess of the free-time periods provided in Paragraph (2) herein.

(7) If the demurrage, detention, or storage rates authorized in the applicable tariffs are greater than those described herein, such higher rates shall apply.

(8) *Notices of Arrival, Constructive Placement, etc:*

(i) Existing tariff provisions defining constructive placement and establishing the requirements for the placement, the giving of arrival or constructive placement notice of freight destined for unloading or transshipment, shall apply.

(ii) If no such rules with respect to arrival, or regarding constructive placement are published in the applicable tariffs, the rules published in General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M Rogers, supplements thereto or reissues thereof, shall apply.

(b) *Rules and regulations suspended.*

The operation of all rules and regulations, including rates, rules and free-time periods granted by authority of Part I, Section 22 of the Interstates Commerce Act, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Notification of shipper required.*

(1) Carriers shall send or deliver a written notice to shippers or consignees of the requirements of this order at or prior to the time of actual or constructive placement of cars for loading or unloading or at the time notice of arrival or of constructive placement is given. On cars held for instructions from the shipper or qualified owner of the freight, such notices must accompany or precede the arrival notice.

(2) If a notice described in paragraph (1) of this section has been given to a shipper or receiver at origin, destination, or hold point, no further notices of the requirements of this order need be given.

(3) Carriers are required to maintain a copy of all notices of the requirements of this order sent to shippers, receivers, or qualified owners of freight, at the station or point from which sent.

(4) Failure of a carrier to send and preserve copies of the notices required by paragraph (1) of this section shall not be deemed as nullifying the requirements of sections (a) and (b) of this order.

(d) *Effective date.* This order shall become effective at 7:00 a.m., April 8, 1978.

(e) *Expiration date.* This order shall expire at 6:59 a.m., June 1, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Cars Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, Members Robert S. Turkington and William F. Sibbald, Jr.

[SEAL]

H. G. HOMME, Jr.,
Acting Secretary.

TITLE 49—TRANSPORTATION

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[Service Order No. 1319]

DISTRIBUTION OF COVERED HOPPER CARS

At a Session of the INTERSTATE COMMERCE COMMISSION, Railroad Service Board, held in Washington, D.C., on the 4th day of April, 1978.

There is an acute shortage of covered hopper cars for shipments of phosphate and fertilizer originating at stations in Florida on the Seaboard Coast Line Railroad Company (SCL). These shortages are depriving large areas of the country

of adequate supplies of fertilizer needed for the production of various agricultural products. Because a substantial portion of this railroad's covered hopper cars are loaded with phosphate and fertilizer destined to points on other lines, it is necessary that these cars be returned promptly to the SCL for transporting additional shipments. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

SECTION 1033.1319—DISTRIBUTION OF COVERED HOPPER CARS

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Exclude from all loading and return to owner empty except as otherwise provided in paragraphs (3) and (4) of this section, all covered hoppers described in paragraph (2) of this section owned by the following railroad: Seaboard Coast Line Railroad Company, Reporting marks: ACL-SAL-SCL.

(2) The term "covered hopper cars" as used in this order means freight cars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "LO".

(3) *Exception.* Covered hoppers assigned by the owner for loading at stations on other railroads are exempt from this order.

(4) *Exception.* For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships modifications may be authorized by the Chief Transportation Officer of the car owners, or by the Director or Assistant Director of the Bureau of Operations, Interstate Commerce Commission. Modifications authorized by the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to the Director or Assistant Director.

(b) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded car, described in this order, contrary to the provisions of the order.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., April 8, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1978, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of the agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Robert S. Turkington and William F. Sibbald, Jr.

[SEAL]

H. G. HOMME, Jr.,
Acting Secretary.

CONRAIL ADEQUACY OF SERVICE SUMMARY

The Congress found and declared that the public convenience and necessity required adequate rail service in the Midwest and the Northeast regions of the United States to meet, among other things, the needs of commerce.¹ Consolidated Rail Corporation (ConRail) was established to fulfill those needs. Increasingly

¹ Regional Rail Reorganization Act of 1973, section 101.

in the past year, the Commission has noted a buildup in the number of complaints received from shippers relating to inadequate service on ConRail. Reports received from the field staff of the Bureau of Operations reflect not only inadequate service but also lack of compliance with economic regulations with a resultant loss to the carrier of earned income.

In response to the numerous service complaints, the Commission's Bureau of Operations has conducted preliminary inquiries into ConRail's quality of service at various locations. Those investigations have almost without exception established the validity of the complaints, and brought to light very serious deficiencies which include extensive delay to shipments, inequitable car distribution, extensive car bunching, failure to timely collect millions of dollars in freight charges, failure to assess and collect demurrage charges, failure to properly assess and collect transit charges, failure to comply with Car Service Rules 15, 17, and 18 and the provisions of ExParte No. 285 among other derelictions, inefficiencies and violations. While failing to encourage business, to effect economies through efficient operation, and to collect money due, ConRail is on record as now needing more Federal assistance than anticipated and also for a longer time than anticipated.

This report summarizes certain examples of correctable deficiencies that have contributed to a deterioration in service to the public and the economic instability of the carrier.

CLEVELAND, OHIO

Cleveland, Ohio, was a source of so many, and often repeated, shipper complaints that an on-the-ground inspection was made by Mr. Burke A. Tracey, Chief, Operational Branch, at that location August 17-19, 1977. His activities included an investigation of the operating practices of the carrier in the receipt and delivery of carload shipments to consignees, interviews with shippers and concerned public interest groups, and conferences with carrier operating officers. It was determined during the investigation that there were serious delays, amounting to as many as six (6) days, between the receipt of cars at Rockport, Collingwood, and Motor Yard and their movement to East 55th Street Yard, the serving yard. Track conditions in the yards and on branch lines seriously hampered efficient operations; derailments were much too frequent and far too common to be considered the exception rather than the rule. Additionally, personnel problems contributed to delayed shipments. It was the consensus of the shippers that rail service had deteriorated under ConRail management.

Railroad Service Agent Magee reviewed the carrier's file relating to *Report of Accident to Rolling Stock*, ConRail Form 200, at the division superintendent's office, Cleveland, Ohio, for May and June 1977. In four yards, East 55th, Rockport, Collingwood, and Motor, there were a total of 138 derailments reported; however, although there were derailments during May at East 55th Street Yard, no reports were on file for that period. Agent Magee's report is detailed and photographs attached show deteriorated track conditions.

During July and August, 1977, Agent Magee investigated a complaint of Park-Drop Forge Company, Cleveland, Ohio, in connection with inadequate switching service and incorrect computation of demurrage charges. The original demurrage bill of \$60,000, plus, was reduced to approximately \$33,000 by ConRail's demurrage representative due to inadequate records. This amount is being challenged by the shipper. Because of missed switches and poor road haul service, Park-Drop Forge was forced to move steel billets into its plant by truck thereby further complicating the service problems due to the necessity of subsequently handling these billets in gondola cars in intraplant switching service.

Complainant, Mr. J. E. Grover, Executive Vice President, National Paper and Packaging Company, indicates, in correspondence addressed to United States Senator Metzenbaum and Representative Stokes, that ConRail service has adversely affected his business activities. Delays in the receipt of freight transported by ConRail caused this company loss of trade due to dissatisfaction with its service; the need for it to maintain higher inventory levels; cost of capital for goods tied up in transit; and, costs of overtime for unloading. Additional correspondence from his file and addressed to ConRail sets out by car number the amount of delay to cars in placement to his private siding.

Whitmore Manufacturing Company complained of delays in the movement of a tank car, UTLX 53172. This car moved from Rockport Yard to Bedford Yard on June 21, 1977. Subsequently this car was lost and was not found until July 13, 1977, at which time it was located in Chicago. It was placed to Whitmore on August 1, 1977.

There has been a consistent failure for a protracted period of time to promptly place inbound loaded cars to Food Warehouse, Inc. Delays to cars have been experienced in both road haul and switching service. Field staff investigation indicated that the complaints were justifiable. Repeated handling with carrier officers was non-productive.

A formal complaint (Docket No. 36636) has been filed by Woodland East Community Organization (WECO) against ConRail alleging inadequacy of car service in violation of Section 1(11) and the reduction in service to two (2) days per ing present industry and attracting new industry, WECO contends that this will other areas receive service 3 to 5 days per week.

The purpose of the organization is to improve and redevelop its area by holding present industry and attracting new industry. WECO contends that this will not be possible if ConRail's service is inadequate.

On August 9, 1977, Director Burns, Bureau of Operations, ICC, wrote Mr. R. B. Hasselman, Senior Vice President-Operations, ConRail, regarding the operating problems on ConRail. Mr. Hasselman's reply of October 4, 1977, indicated that operating changes had been made and improvements in service were anticipated in the Cleveland area. There has been an improvement in service subsequent to making the opening changes that were outlined in Mr. Hasselman's letter.

DETROIT, MICHIGAN

During the period June 13-24, 1977, four Railroad Service Agents checked various aspects of ConRail's Detroit, Michigan, FACTerminal operations for those parts of April and May, 1977, for which records were available. A complete check could not be made because basic records were not being made and maintained as required by Ex Parte No. 285.

The most flagrant violations noted included unlawful extension of credit; cancellation of demurrage bills because of insufficient substantiating records; failure currently to effect collection of charges; improper or no charges assessed on many cars subject to straight plan demurrage; late billing of charges; late receipt of shipping orders; failure to assess proper charges; failure to promptly issue constructive placement (CP) notices; failure to assess back haul charges; and, failure to place cars promptly to industries.

In connection with the failure currently to effect the collection of charges, it was found that such collections were over one year behind in processing and an estimated \$200,000 was due in unassessed demurrage. There was a failure to issue a \$2,000 demurrage bill for a unit grain train. There was approximately \$2,400 unassessed during May and June for special detention on covered gondola and hooded flat cars. A lower incentive rate was assessed on canned goods without the registry of shipments with the Eastern Weighing and Inspection Bureau (EWIB) as required by tariff. Balance due bills were issued by the EWIB on behalf of the carrier in the amount of \$68,371 on 69 shipments.

Repair track operations were also investigated at ConRail's main yard in Detroit. Although car foremen reported to the carrier's officers that cars were on hand less than one week, the check revealed that some foreign cars were on hand "bad order" over one year and five months. Local supervision was not certain of the number of cars on hand for repairs; the nature of the defects in many instances; or, whether per diem continued to accrue on these cars.

INDIANAPOLIS, INDIANA

ConRail's FACTerminal at Indianapolis, Indiana, was checked by three Commission Railroad Service Agents July 25-August 5, 1977. The period under study extended from May 1, 1977, to August 25, 1977; those records which were available were reviewed.

Exceptions were taken to the carrier's handling of matters falling within regulated areas as follows: non-compliance with Mandatory Car Service Rule 15; detention and special demurrage cars carried on average agreement; special equipment use charges not assessed; failure to assess demurrage in compliance with tariff requirements; late issue of bills; failure to assess intraplant switching charges; shipper's order notify bills of lading not cancelled; and, among other things, failure to comply with the requirements of Ex Parte No. 285.

It is estimated that approximately \$71,000 in revenue had not been assessed and collected at this location because of the deficiencies noted in the carrier's operations especially in DICCS system and the lack of supporting records.

CHICAGO, ILLINOIS

Two Railroad Service Agents made a check of the available records at the Chicago FAC Terminal July 15–September 2, 1977, covering the period May 1–August 26, 1977. Some of the deficiencies noted included the following; non-compliance with Ex Parte No. 285; violations of Mandatory Car Service Rules 15 and 18; detention and special demurrage cars included in average agreement accounts; improper application of and/or failure to apply assigned car storage rules; failure to render bills within credit limits; underlying records not in agreement with demurrage statements; carrier's failure to maintain adequate records to support demurrage charges; improper handling of intraplant and switching charges; and, foreign cars excessively delayed for prospective loading. This FAC Terminal covers eleven (11) field terminals with 264 reporting stations. The volume of business handled; the complexity of operation of the DICC system and the failure to secure adequate basic records upon which it depends; and, numerous other problems encountered by carrier supervision contribute to the deficiencies noted in the investigation.

WATERTOWN, NEW YORK

A check of the ConRail agency at Watertown, New York, for the period June 1–July 15, 1977, disclosed a failure on the part of carrier personnel to constructively place (CP) cars consigned to Crown-Zellerbach Company as required by the applicable demurrage tariff; failure to present bills within the period prescribed in the credit regulations; and, approximately 25 percent failure to place cars as required by Mandatory Car Service Rule 18(a).

DUNKIRK, NEW YORK

In January, 1977, a Railroad Service Agent making an agency check at Dunkirk, New York, reported the fact that ConRail had delayed billing freight charges in the aggregate sum of approximately \$2,364,000 as they accrued during the period February to December, 1976. These charges were due on collect shipments handled entirely by ConRail and were based on out-turn weights provided by consignee, Niagara Mohawk Power Corporation, Dunkirk, New York.

On September 21, 1977, a report was submitted by a Railroad Service Agent relating to the late presentation (more than 60 days overdue) of 47 freight bills to Ralston Purina Company, Dunkirk, New York, in an estimated total amount of \$54,000. All inbound shipments to Ralston are collect and freight charges are based on out-turned weights.

COAL CAR UTILIZATION

Railroad Service Agents, during the week of June 27, checked the handling of equipment used in the transportation of coal at the Renovo, Pennsylvania, field terminal. They discovered a failure to maintain the following: car orders, placement and pull records, and records of detention at mines or on mine tracks. Additionally, carrier employees at Renovo and the nearby Falls Creek facility had no knowledge of mine ratings or carrier's responsibility in connection with supplying cars in conformity with mine ratings.

Delays were noted in the forwarding of loads and empties. A 134-car coal train was made up of cars delayed from 42 to 57 hours. One cut of 16 loads of coal was delayed 4 days in forwarding.

A check of hopper cars loaded with coal on the Ellsworth Branch revealed that 9 cuts, total of 386 cars, were delayed an average of 1.5 days each for a total of 579 car-days at Shire Oaks, Pennsylvania, during the period July 15–27, 1977. Delays were attributable to shortage of road power and resting crews.

At the minimum car hire rate of \$1.33 per day for a car over 30 years old and valued at \$1,000 or less, this delay indirectly cost ConRail a minimum of \$770. No estimate is made as to the potential loss of freight revenue which is attributable to such car delays.

From information developed at the Allegheny Division offices in Altoona, Pennsylvania, it was learned that from a total of 42 unit coal trains scheduled to load, 12, or 29 percent, were cancelled due to insufficient car supply. In addition to the 12 cancelled trains, 5 trains were not loaded to full schedule tonnage because of shortage of cars. Of the remaining 30 trains, 19 were made up of

private equipment. The private fleet consists of 14 trains operating in turnaround service.

During the period May 23 through May 29, there were 19 trains cut for power on the Allegheny Division. Delays ranged from 7 hours, 30 minutes to 75 hours; the average amounted to 37 hours per train.

A review of the records at Cherry Tree Yard, Pennsylvania, for the period May 23-29, 1977, revealed that 1,601 cars were loaded by the mines served from this facility. Seventy six INLX cars were delayed approximately 40 hours, at Lancashire Number 25 mine, from 9 pm Sunday, May 22, until completion of loading at 1 pm on Tuesday, May 24, because of operating agreements between the unions and carrier. Additional delays were noted as follows: train UUM 106, loaded on May 25, 38 loads, 58 hours at Mahaffey siding for power; train UND 38Y loaded on May 23, 75 loaded AEPX cars (leased by ConRail from car owner), 51 hours and 30 minutes at Cherry Tree Yard for power; and 21 cars loaded at Freil mine delayed 96 hours at Mahaffey siding for power.

In checking the handling of coal cars on the Lake Erie, Franklin, and Clarion Railroad, during the period May 26-June 10, 1977, delays were noted in pulling loads by ConRail from the L.E.F. interchange tracks. A review of 559 cars placed by the L.E.F. at the Sutton and Summersville, Pennsylvania, interchanges indicated delays of 2 to 6 days in forwarding by ConRail. The 559 cars accrued a total of 1,783 car days or an average of 3.2 days per car. The most serious delays occurred at the Sutton interchange. They were attributable to the loading of coal on the JF&C Branch at Piney, Pennsylvania, and slow track (10 mph speed restriction) on this branch line. Two trains from Fox, Pennsylvania, i.e., UAK 35 consisting of 102 loaded cars, and UAA 11 consisting of 77 loads, were delayed at Carson Yard and Phillipston for 3 and 4 days respectively, due to lack of power.

The records at ConRail's Clearfield, Pennsylvania, field terminal for the period May 23 through May 29, 1977, indicated that out of 2,669 cars ordered for unit train service, only 380 or 14 percent were furnished. Also that out of 1,111 cars ordered for single shipment service, only 92 cars or 8 percent were furnished.

During this period, 864 cars were billed from the Clearfield mines. Sixty-one (61) cars, or 66 percent of the 92 cars sampled, were delayed in excess of 3 days for a total of 341 car days or 5.6 days per car average. Delays of 3 and 4 days were noted at the mines in pulling loaded cars and as many as 4 to 7 days in forwarding from the yard. Track work and power shortage contributed to poor car utilization.

At the Ellist Mine Tipple Yard, there were approximately 125 bad order hopper cars in heavy repair status. Some of these cars had been on hand, bad ordered, for over three years.

The carrier's local officers and personnel who were interviewed in connection with the above operations were not aware of the local mine ratings or of the requirements of Section 1(12) of the Act.

At Baltimore, Maryland, the utilization of empty hopper cars for Republic Steel Corporation loading was checked for the period May 17-20, inclusive. ConRail has weekly standing car orders totaling 350 open-top hopper cars for 3 consignors at that station: Republic Steel 150; U.S. Steel Company 150; and, Wheeling Pittsburgh Steel Company 50. Carrier officers indicate that car supply is short at this location with empties being generated from unloadings at Baltimore on the B&O and from inbound coal dumped at its facilities.

Loading for Republic Steel amounted to 121 cars in the period checked. Of this number, 53 empties were delayed 4 to 8 days for prospective loading. Carrier officers advised that this matter would be watched very closely in the future to avoid excessive delays.

In reviewing this coal car utilization study, it can be seen that delays to loads and empties, although in some instances not excessive, cumulatively contribute to the carriers serious problems with car supply. Slow track, shortage of power, necessity to relieve crews due to the Hours of Service law were other major factors noted in connection with poor car utilization.

INADEQUATE CAR HANDLING

Because of service complaints from shippers, ConRail's compliance with Mandatory Car Service Rule 18, placement of loaded cars and removal of loaded and empty cars during the period July/August, 1977, was checked at West Springfield Yard, Massachusetts. Of the 1,137 cars checked for placement, 406, 35.7 percent, were delayed in excess of 24 hours; 64 were delayed from 4 to 10

days. With respect to pulling of loads and empties, 673 cars were checked. Of this number, 113, 16.8 percent, were delayed in excess of 24 hours; 18 were delayed 4 to 14 days. A breakdown in the DICC system occurred because of failure to include uncompleted work on DICC lists furnished to crews on subsequent shifts and management's failure to monitor the work accomplishment of the crews. This was handled with officers locally and up to the level of the superintendent of transportation at Springfield, Massachusetts.

A Mandatory Car Service Rule 17 check was made for the period June 1-20, 1977, inclusive, on those cars held at Conway Yard for movement on Train CA-1 to Alliance, Libon, Leetonia, and Salem, Ohio. This train is scheduled to operate three days per week from Conway. There were 88 loads handled by this train. Of this number, eighty (80), or 91 percent, were delayed in excess of 24 hours for movement, predicated on three day service from Conway. Delays ranged from 1 to 6 days with an average of 2.3 days per car. The computation of total time, beyond the 24 hour period subsequent to arrival, was also computed on these cars. Of the 80 cars, there was a total delay of 291 car days or 3.6 days per car average with delays extending up to 8 days on 2 cars.

Maurzburg Coal Company, Limestone, Pennsylvania, and A. P. Weaver Company, Fryburg, Pennsylvania, located on the JF&C Branch, filed complaints alleging improper car distribution and failure to promptly move loaded cars. In the period checked, July 9 through August 1, Maurzburg Coal shipped 198 cars, 163 cars or 50 percent of its unit train orders and 35 cars or 11 percent of its single car orders. The 198 cars accrued a total delay of 726 car days or an average of 3.7 days per car. Of this number, 50 cars were delayed 3 days, 32—5 days, 47—7 days. Weaver Coal received 23 cars or 30 percent of its single car orders. No unit train cars were ordered by this company. The 23 cars were delayed a total of 202 days in movement or an average of 8.8 days per car. The minimum delay was 6 days on 7 cars, 8 delayed 7 days, and 8—13 days.

Complainant H. R. McCartney, Apex Building Products, Kingston, Pennsylvania, complained of a 10-day delay in moving a partially unloaded car, BN 748733, from Apex warehouse at Binghampton to Apex warehouse at Kingston, Pennsylvania, a distance of 75 miles.

A recheck of a complaint involving delayed placement, Mandatory Car Service Rule 18, of loaded cars to Pre Cut, Inc., at Elkhart, Indiana, for the period June/July, 1977, revealed delays ranging from 1 to 8 days. Out of 58 placed, 40 cars, or 69 percent were delayed in excess of 24 hours for an average of 3.2 days per car. Other industries receiving cars at Elkhart were also checked for the same period. Of 184 cars checked, delays in excess of 24 hours, ranging from 1 to 21 days were noted on 65 cars or 35 percent. The average delay to these cars was 2.2 days per car.

CONRAIL INTERNATIONAL AUDIT REPORT

An internal audit was made of 27 out of the 133 ConRail freight field terminals during the first 9 months of 1977. Mr. R. P. Willy, Assistant Vice President, Auditing, in a memorandum to Mr. R. H. Platt, Executive Vice President, Finance and Administration, dated September 26, 1977, indicated that the annual loss of revenue detected at these locations exceeded \$2,173,000. It was further estimated, based on the findings of those terminals checked, that ConRail's annual loss or non-reporting of revenue exceeds \$10 million per year. Eight (8) categories of deficiencies were set out: the greatest loss, \$1,569,256, was in unreported transportation charges followed by a loss of \$350,484 in demurrage.

EARLY WARNING REPORT

The Early Warning Branch of the Section of Financial Analysis, Bureau of Accounts, in its November 1, 1977, report indicated, among other factors, that (1) there was a critical shortage of power units, equipped boxcars, gondolas, covered hoppers, and open hoppers; (2) train and yard operating costs were significantly higher than other Class I carriers; (3) bad order ratios for power and freight cars have shown little improvement during the first year of operation; (4) new freight cars and locomotive units are needed; (5) car utilization has deteriorated during the first year of operation; and (6) service for small shippers has not been adequate. In the area of track maintenance, ConRail had, as of June 30, 1977, 8,127 total miles of track under slow order. This factor contributes to poor car utilization and increased operating costs; lack of power units and delay in

yard operations are additional factors. Shortage of open-top hoppers for coal loading has resulted in loss of revenue.

This report reinforces the findings of the Bureau of Operations.

Senator LONG. Thank you very much.

Next is Mr. Edward G. Jordan.

STATEMENT OF EDWARD G. JORDAN, CHAIRMAN, CONSOLIDATED RAILROAD CORPORATION, TRANSPORTATION CENTER; ACCOMPANIED BY RICHARD D. SPENCE, PRESIDENT AND CHIEF OPERATING OFFICER; JAMES M. BEGGS, EXECUTIVE VICE PRESIDENT—AEROSPACE, GENERAL DYNAMICS CORP.; OSCAR A. LUNDIN, FORMER VICE CHAIRMAN OF THE BOARD OF DIRECTORS, GENERAL MOTORS CORP.; JAMES J. McTERNAN, JR., FORMER VICE PRESIDENT—FINANCE, COMMUNICATIONS SATELLITE CORP.; RALPH W. NICHOLSON, FORMER SENIOR ASSISTANT POSTMASTER GENERAL—FINANCE, U.S. POSTAL SERVICE; JOHN C. PIRIE, ATTORNEY, HARTMAN & CRAIN; AND L. CHESTER MAY, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, CHICAGO BANK OF COMMERCE

Mr. JORDAN. Good morning, Mr. Chairman.

With your permission, if I may, I would like to submit my formal statement for the record and summarize what I believe to be the important points.

If I may introduce to you directly several members of our Board of Directors which I think will help you in our discussions today.

Mr. Richard D. Spence, president and chief operating officer, and the following members of ConRail's Board of Directors: James M. Beggs, executive vice president—aerospace, General Dynamics Corp.; Oscar A. Lundin, former vice chairman of the board of directors, General Motors Corp.; James J. McTernan, Jr., former vice president—finance, Communications Satellite Corp.; Ralph W. Nicholson, former Senior Assistant Postmaster General—Finance, U.S. Postal Service; John C. Pirie, attorney, Hartman & Crain; and L. Chester May, who is chairman of the board, Bank of Commerce of Chicago.

The CHAIRMAN. Mr. Chairman, if you would yield, I would like to make the observation in light of that distinguished line of gentlemen there, I am reminded of that old adage, if something don't need fixing, don't fix it, but this is a situation that does need fixing, and it seems to me with that kind of array of people there you ought to be able to fix it.

Thank you, Mr. Chairman.

Mr. JORDAN. Mr. Chairman, if I might digress for just another moment, we are very proud of the fact that we have had such a distinguished group of people join the ConRail Board, given the nature of the assignment and the dedication required of them to stay with it.

And I think during the course of your questions you may want to ask them about their participation. It goes without saying, it is a real privilege for us to be here to discuss with you the progress of ConRail in carrying out the congressional mandate to restore rail service in this critical region of the country.

Before we move on into the nature of what we believe are the principal questions, I would like for a moment just to stop and ask you to dwell with me on the fact that where we are today often can be characterized as a snapshot. We have a great tendency, as you indicated in your opening statement, to spend less time thinking about where we are and more time trying to meet deadlines. But if you would reflect on the fact that where we are today is a result of 4 years of progress; in effect, a moving picture, to carry the analogy a step further. Some 4 years ago, this Congress was faced with a hopelessly bankrupt system in the Northeast, as characterized by the courts and the possibility of restoring rail service at all, particularly one which would be adequate to the Nation's railroads and the Nation's needs, were slight. More importantly, it was considered highly unlikely there was a chance of restoring it without the possibility of nationalizing the rail system generally.

Thus, I think where we are today, what we should state to you is that the achievements of the last 4 years, and I think frankly the achievements of the last 2 years in operating ConRail, are substantial evidence of the validity of the process first put in place by Congress and the Regional Rail Reorganization Act.

We have also learned a great deal during that period of time. I would like to describe to you what we think are the requirements to continue to carry out our mission.

I think we have always, in front of this committee, tried to tell it as objectively as we could, and not be mesmerized by our own enthusiastic promises for the future.

So with that, in the simplest of terms, I think the issues are these: Does ConRail in the form of a private corporation, continue to be the best way to carry out the restoration of rail service in the Northeast?

Second, is the amount of money which has been identified, particularly that which has been identified in our own 5-year plan, a rational request for the Government's continued investment?

Finally, what prospects do we offer for the future that justifies this further expenditure of funds, a point which you emphasized yourself in your opening remarks? Regrettably, there is nothing in the last 2 years of our operations which can be used to provide absolute assurance that either the amount of money which is proposed is the maximum that would be required, or that the goals which we have projected can be guaranteed.

Yet at the same time ConRail, in the first 21 months of its existence, more than carried out the physical rehabilitation goals set forth in the final system plan and within an amount of money which was less than that which was projected, despite what other witnesses have stated: The severity of the last two winters, floods in Pennsylvania, the unprecedented coal strike, certainly the inherited equipment fleet which is considerably worse than anybody had anticipated, complicated our efforts.

To the degree that you should have a concern, and I do think you have a concern over what the future has in store, I think our plan concentrates on those dimensions of the requirements to succeed, and I think it better describes the ways in which we believe we can achieve improved results.

First, this matter of revenue, and our expectations that we can achieve a growing revenue base. Why? I think it follows that if you

spend 20 years degrading plant and degrading service, it is not unlikely that you have lost business, particularly when those facts are coupled with the competition of other forms of transportation.

Certainly the physical rehabilitation which is being carried out on the railroad is the first step in building service. The management efficiencies which go with it, we believe, will implement the strategy we have set forth; that improved service will improve the revenue base.

Second, the question of productivity. There is no doubt in our mind that the capital investments we are making will improve the productivity of the most significant costs which we have, which are people costs.

We think that the productivity projections which we have made from many sources, not just the renegotiation of labor agreements but the improvement of operations in our intensive terminals, and car utilization, a subject which has been dwelled on earlier; all of these will eventually eliminate the dependency of the corporation on Federal funds.

On the other hand, we have set forth certain critical assumptions over which we have little or no control. The northeastern economy and inflation are among these. These could quite clearly, and we must acknowledge, upset our forecast.

Let me also emphasize now, particularly with regard to the amount of money which has been proposed—this is a plan and a dollar amount which is founded on the principle of demand performance, particularly for the management of the corporation, in reaching our goals.

Certainly you can characterize the plan as ambitious, but this Board and this management wouldn't have it any other way.

Moreover, and the Secretary said this as well, if also our plan recognizes the need, I would say perhaps the continuing responsibility for all those who participated in this solution, rail-labor, the rail-supply industry, the remainder of the rail industry, the regulator, to participate and contribute to the solution. We are not bringing to this Congress a plan which substitutes money for the achievement of results.

Finally, Mr. Chairman, we believe that all of this, the progress to date, the validity of our projects, even though optimistic, suggest that ConRail continues to offer the most reasonable assurances for achieving the goals which were set out originally. ConRail can provide adequate rail service, at the least cost to the taxpayer, with more assurance than any of the other alternatives which have been previously examined. It certainly offers as well the opportunity in the restoration of the physical plant, for the Government to achieve lasting value for the dollars it is putting into the railroad.

I should add that we base this conclusion on not only the reexamination of the values of each alternative, but also on the fact that where we are today is considerably further up the curve of success than predicted by all of those who stood on the sidelines along the way and focused on the problem, rather than, as you have, on the means of achieving solutions to those problems.

Now, if you would, one of our Board members would like to share an additional statement.

Mr. LUNDIN. Thank you. Thank you for allowing me to make some personal comments based on my experience with this board.

First of all, I would commend Congress for establishing ConRail as it exists today. It seems to me after 2 years, a very important na-

tional resource has been created. As has been mentioned, there has been a vast improvement in the physical resources of the railroad, an organization is in place, the management is in place, there is a trained work force, and there is a 5-year plan on which the company proposes to go forward.

It would seem to me that it would be very unfortunate to not provide an opportunity for ConRail to build on what has been started and to build on the present base in an orderly manner.

From my personal observation, the business is being conducted as a private-sector enterprise—of course, with important national-interest overtones. My personal view is that the directors are conscientious men, they are motivated by the public service aspects of the job that they are being asked to do. They are being objective in their discussions in the participation of the business and the decisions which are being taken. I think that they have been helpful in the management of the business. They have been inquiring in a very vigorous way, many times in the decisionmaking aspects of the business.

Finally, I think that substantial progress has been made in achieving the objectives which were established by Congress or ConRail to carry out.

Of course, much more needs to be done; it is too early to judge what the eventual result may be. But I repeat again that I think there is a good base on which to build forward progress.

Thank you very much, Mr. Chairman.

Senator LONG. Mr. Cannon?

The CHAIRMAN. Thank you, Mr. Chairman.

To what extent does the Board participate in the decision on how Federal money is to be used for capital improvement?

Mr. JORDAN. Mr. Chairman, would you like to have the outside Board members respond to that?

Mr. BEGGS. Mr. Chairman, this in my experience is a very active Board. The Board is organized by committee, and my observation there is that each Board member takes a very active part in committee deliberations.

All capital expenditures of the moneys that are drawn down by ConRail from USRA come before the Finance Committee and then before the full Board. I might add that this Board does not have an executive committee. The full Board does act as an executive committee, which is a little unusual, but I think desirable in this case.

The full Board then reviews, based on the finance committee's recommendations, every expenditure of those funds, and by vote, votes it up or down. So I would say there is very active participation of the Board.

There is a very strong oversight function exercised by the Board on the expenditure of all the public moneys that have been drawn by ConRail. My experience is, in serving on other boards, that this Board is as active as any I have had experience with.

The CHAIRMAN. Most if not all of the witnesses so far today have expressed an opinion that the \$1.3 billion is an optimistic request. Would you say that the chances of ConRail's meeting the goals of the 5-year plan is good or poor, or perhaps put it in the context of the State where I come from: Is it 50-50 chance of success, or is it better than 50-50?

Mr. JORDAN. Mr. Chairman, the Board in fact examined that question in its last meeting in January, prior to the submittal of the 5-year plan to the United States Railway Association on precisely your home State terms, they concluded the chances were better than 50-50, but only very slightly.

I think each of the Board members has reservations about individual parts of the plan, as to whether or not each one can be achieved. I think it would be certainly right to state that the Board as a whole shares the feeling we have expressed in the opening statement of our 5-year plan; that this is an aggressive, ambitious plan. But as I said, the expectations of achievement are as important an aspect of making this thing happen as it would be to take the comfort route and suggest to you that, in light of the winters which we have had, the problems we have had, including another coal strike, that what we ought to be asking for is hundreds of millions of dollars more money. We do not want to put in place an organization which is operating on the assumption that if you come to Washington you can get problems solved by asking for money.

We have to be demanding of ourselves. We have to examine the expenditures of money. We, as you indicated in your discussions with the Secretary, have to examine the likelihood of particular pieces of business or routes to perform over the long period of time, and be prepared to make difficult decisions; to rationalize the plant, for example.

The CHAIRMAN. In the final system plan, it was recommended that ConRail install a new operating control system to be operational by 1979. Today it is reported that ConRail's car utilization is worse than it was under its predecessor lines in 1973 and that a total of about 600 cars a day are estimated to be misdirected. How does ConRail prioritize its capital improvement projects to determine the most effective use of its funds? Where does an improved operating control system fit into the order of priority?

Mr. JORDAN. It is true the final system plan clearly stated a car utilization system was an essential if not the only factor in improving car utilization. It is also a fact that the basis of utilization improvements projected in the final system plan—and since I was a participant in that, I stand as accused as anyone else in this in validity of that assumption—were based on 1973 business levels which were exceedingly good for the predecessor railroads, the highest they have been in the last 5 years.

By the time we took over in April 1976, car utilization had slipped substantially from those levels. So we started from a lower base. I don't think it is responsible to suggest we should be at the 1973 level in 1976 when we started with what was available to use at 12:01 a.m. on April 1, 1976.

Second, the expectation that the car utilization system would be in place in 1979 was a reasonable one, if the work had commenced as had been originally planned in 1975. It will take 4 to 5 years to implement a system of this dimension.

We examined the question in 1976. We postponed the decision until 1977 for one essential reason. It is our view that the discipline required of the management to utilize a system of this sort is essential. I am sure you are aware, sir, as much as I, that data processing systems are

only as good as the people who make use of them. They do not do the job for you. Our management discipline was inadequate to make better use of a more sophisticated system.

The alternative strategy that we have come up with, in our capital priorities and selective process, if you will, is to get that discipline in place and to make better use of the already existing management systems we have. Those which we have in place, plus an expenditure of about \$14 or \$15 million for new instruments, will provide to us the car utilization benefits projected in the final system plan, as now adjusted for some earlier inconsistencies in data.

At the same time, we are going to the Board in May with a proposal to spend approximately \$40 million additional over the next several years to put a total operating contract and management system in place, so that a corporation of this size will have the most sophisticated state-of-the-art tools to satisfy its needs.

Let me add, if you would like to discuss this in detail, Richard Spence, our president, was one of the principal architects of the particular system described in the FSP. I think, in a word, Dick shares the conviction I have just put before you.

The CHAIRMAN. Well, will this be an upgrading of the present system, or will this be a new system consistent with your industry task force, that made their report in 1976?

Mr. JORDAN. We are doing it in two steps, Mr. Chairman. The first step is an upgrading of the present system. The longer range, larger, and more expensive step will be the installation of a new system.

The CHAIRMAN. Now, let me ask you this. Does ConRail have an excess of employees at the present time?

Mr. JORDAN. ConRail has an excess of expense for employees at the present time. We expend about 63 cents out of every dollar for personnel expenses. That is not only the agreement employees but the management people, and that total cost is higher than the industry as a whole, which is about 52 cents.

In order for us to succeed, we must reduce that average cost to at least the average of the industry, and we have projected that by reduction 1982, based on two parallel actions. First, we will proceed to the completion of the consolidation of our collective bargaining agreements as mandated by the statute.

Out of that, we believe we can eliminate those functions which are now less effectively carried out than they would be in a modernized collective bargaining agreement. I believe we are making progress in that regard.

We have negotiated in excess of 100 consolidation agreements which are required under the law, consolidating different labor districts for the terminal areas where we brought in the multiple railroads.

The second thrust of our effort to reduce labor costs will come as a result of explicit programs of efficiency. And I say that because I think that many people believe that somehow there are about 15,000 people standing around doing nothing.

Now, that is simply not the case. There are individual inefficiencies, many a result of management inefficiencies in the utilization of people. What we have in place now, for example, is a massive study of all of these terminals which everybody characterizes as being the

high cost aspect of ConRail. The results of that study demonstrate that we can reduce the labor requirements to perform service in those terminals for the customers.

It is a 12- to 15-month program. We estimate approximately \$50 million a year in savings from that program. Let me make two other observations, if I may, about where we are.

The CHAIRMAN. If you make a \$50 million a year saving, what does that do to your cost then, your 63 cents?

Mr. JORDAN. Roughly speaking, it would bring it down about 1½ percent, all by itself.

The CHAIRMAN. So you still have a long way to go.

Mr. JORDAN. We still have a long way to go. The Secretary indicated a productivity savings of \$500 million. I hesitate to correct the Secretary, but our productivity saving projection exceeds \$2 billion over the next several years.

Of that \$2 billion, \$500 million is a direct result of renegotiation of labor contracts. As to my other points, ConRail has over 10,000 employees in our passenger operations. We operate more passenger trains than anyone else in the country because we operate such extensive commuter operations. So when you focus on the labor costs, you must understand this difference compared to other railroads.

Second, I would like the committee to understand you don't fix the railroad without fixing the problems. One of the most significant problems has to do with the physical debilitation.

You have heard witnesses testify this morning that our car fleet was in bad shape, that the railroad's physical plant was in bad shape. Those statements are accurate and we have put on 4,000 people to fix track and do capital projects.

We have 19,000 maintenance of equipment personnel, including 4,800 performing heavy repair work. Those 26,000 freight cars, 1,800 locomotives repaired in 21 months were fixed by human beings. Until the railroad has achieved a level of satisfactory physical state so we can perform adequate service, we will remain labor intensive, but I believe that the directions we are taking, in terms of improvements, will bring those costs down to the levels which we projected, which are clearly competitive.

The CHAIRMAN. What is your timetable to start really to show some improvements in that area? For example, assuming the labor negotiations you are engaged in prove successful, when will you commence to realize the benefits?

Mr. JORDAN. Mr. Chairman, our 5-year plan projects substantial labor savings in 1979. That is next year, I hasten to add.

The CHAIRMAN. Thank you. Thank you, Mr. Chairman.

Senator LONG. Mr. Jordan, part of your equipment plans, as I understand it, calls for the acquisition of some very specialized service cars for use in specialized markets.

Can you describe this marketing strategy for the committee, and how you expect it to contribute to ConRail's revenue?

Mr. JORDAN. Certainly. In fact, if I might just back up a step from that, Mr. Chairman, Chairman Cannon asked a question earlier with regard to the sensitive nature of ConRail's improving its business essentially at the expense of other railroads in the region. I think that is clearly an important issue, so if I might start from there and then move to your questions, it would be useful as they do go together.

I certainly do not believe, nor does this Board and management anticipate, that the creation of ConRail with the use of Federal investment was designed to bankrupt the other railroads in this region. We are not proceeding on a basis where our winning is at the expense of somebody else.

Basically, the largest benefits which we believe accrue to the railroad's use of specialty cars come from a reduction of truck volume at significant points; for example, the steel industry, and most particularly the movement of coil steel into appliance and automobile markets, where there are now significant truck movements.

Rail can, on a reliable basis, provide a lower cost and better service for steel coil user, the stamping plants, and the automobile industry. We are in the process of acquiring several hundred hooded coil-steel cars which, in movements to those markets, we feel can significantly change our share of the business as compared to trucks which are carrying a good share of that business today. That is an example. The plan is filled with many of those.

Senator LONG. The request you have before us provides that you go forward with modernizing the equipment, putting the rail lines in good order as rapidly as they can. Can that task be done?

Mr. JORDAN. Yes, Mr. Chairman, I would say, essentially, that is the case. We have some alternates for increasing, for example, the level of track work beyond what we are presently doing. To repeat the figures, it is about 5 million ties a year, about a thousand miles of welded rail, and about 25 percent of the routes being surfaced.

It is the conviction of our operating people that to go above that will cause more service disruptions than we presently have on the railroad. I think, somewhat defensively perhaps, it is fair to say that part of the service problems that ConRail has is the result of undertaking of a physical rehabilitation program which is at a level about twice what the normal maintenance would be on any other railroad, including any other railroad that was in good physical state.

So, not only do we have the problem of a debilitated plant that gives us service problems in many places, we still have 6,500 miles in slow orders, some of them being 10 miles per hour, but we also have a large number of track gangs out there working. This means we have to work around them in maintaining our train schedules, so we believe we are about at the maximum level of repair we can achieve at this point.

The only place we can improve, and should improve, is what we call "additions and improvements," in the language of the Interstate Commerce Commission, but for you and me, those are big capital projects.

We have been somewhat slow in getting up on those. This is partly a management problem, we simply can't manage enough of them fast enough. However, since some of these projects run as much as \$40 million, we have felt that we ought to be very careful in understanding each expenditure, and make sure that we want a yard where it is located since that is where it is going to be needed for the next 25 or 30 years, the length of time you will use it to pay for it.

Senator LONG. On some of the other committees, some of us, I have myself in mind particularly, are very much concerned about what some of the yard movements are costing us, and we have people out of work, people that can't find a desired place in society.

There is a lot of waste in the welfare area, particularly in new jobs being created. The Inspector General, I believe, mentioned \$47 million in wasteful spending just in the HEW area alone.

Now, at this time we really ought to be doing what can be done to put the rails in order. I say not just for ConRail, I say it with regard to the entire problem. All the workers we have out of work, if you look at what it costs people to be on welfare or to pay them with food stamps or pay them unemployment benefits, it would be a far more efficient investment of our money in putting the rails into order right now, than somewhere where we have a tight labor market.

Even if it does cost some money, we ought to be getting it done now, because if you look at what the net cost is to us, it shows the same on your part, but on some of us in other areas, having to provide the money for the unemployment benefits and for the food stamps and the welfare payments, we are very much aware of the fact that it may cost us about half—about half the cost you are paying that would otherwise fall on our shoulders in providing for unemployed people; and we ought to be trying to move that thing, if we can, now.

As you look at ConRail's entire service territory, where are the areas that cause the most difficulty revenue-wise? In other words, where are those areas which either due to chronic economic problems or loss of freight business, or other modes, do you see ConRail getting into most trouble?

Mr. JORDAN. The principal point of loss lies at the edge of the business where we are cost competitive with our principal competitor, the truck.

Senator LONG. Who?

Mr. JORDAN. With the truck. Trucks on the average have been able to bring down their costs relative to inflation at a faster rate than the railroad industry; as a result, they have been able to hold their rates, again relative to the rail industry and inflation, in better form, and they have become increasingly competitive.

In addition, the presence of the Interstate Highway System has provided them with easy access to the major cities. The result is that on much high-value freight, that where you earn the largest dollar per ton, is also the business for which the truck has successfully competed with the railroad.

Trucking enjoys flexibility in the market—that is, in the city where the railroad is considerably less than flexible—and as a result, we are losing business in those areas as well.

The principal industry, regrettably in the last few years, in which we have lost business is the finished steel business, for just that cost reason. The truck has taken business from the railroad in finished steel because we have had to raise our prices faster than the truck has, and we have lost business there.

Another area of deep concern, over the long term, is the relationship of the railroad to the Northeast urban society. The large, older city, which is already in a state of disrepair and has all the problems with which you are much more familiar than I, is a particularly difficult dilemma. You have merely to look at a railroad in a city like Philadelphia to understand how old each is, how long the railroad has been in place in the city, and how unresponsive it has been to the changes occurring. People are now manufacturing goods and employing

people elsewhere as they have moved away from the city, but all the rail plant is still in place.

Each of these is an area of high cost or loss of revenue, and we have long-term problems to be solved with each. I think these two are the most significant areas of revenue problems.

Senator LONG. Well, some things just have not been explored to my knowledge that we ought to be considering. We ought to be finding some way to roll some of those trucks on the rails, and pay them to do it, pay the rails, for the use of the rails, pay the truck to use the rails, because, one, they could roll faster; two, they would take a tremendous amount of burden off the highway system; and I really don't think we have ever computed what it is costing us in terms of the damage to the highways, the additional wear on those roads, to move the heavy trucks there.

Now, I am not talking about anything that would hurt either one. I am simply talking about making the best use of resources to the mutual advantage of both.

Do your people have any kind of statement as to what the damage on the highways would be, for example, if what you are carrying right now would shift over onto the highways?

Mr. JORDAN. No. I can't give you a figure on that. I can cite two facts that might bracket it for you. Also, I believe there probably could be some work done to give you that information. First, 3 or 4 years ago, the U.S. Railway Association did a study, as part of the reorganization plan, of the impact on the highways and the cost associated with the liquidation of the railroad entirely. That study can certainly be made available.

Second, I would just cite a statistic to you. We carry about 270 million tons of freight a year. About 80 million of that is coal. Railroads totally in the Northeast carry about the same amount of ton-miles as do trucks.

So if you can imagine tomorrow about 1,400 trains, about 60,000 revenue cars per day, moving on the highways, I think you can perceive for yourself or make a projection of what is happening or could happen to highway maintenance.

Mr. Chairman, I think that there is a significant future opportunity which clearly, in our first 2 years, we haven't been able to come to grips with, given the kind of problems you have heard about. That opportunity is what the transportation economists call multimodal ownership. We have to find a way to make our transportation systems work together in an integrated way.

We are not taking advantage of the benefits of it. If you rode around the highways in Pennsylvania today, you would rather be on our railroad, because you probably won't break your car any worse than on the highways.

Senator LONG. I think if I were in the trucking business anywhere in the North area where ConRail operates, I would want to make a proposition on behalf of all the truckers—just say: Let's buy that railroad and shut it down, because they aren't making money and we are. If I were in the trucking business, I would say: Let us have that business, because you fellows are not doing any good with it. All you are doing is losing dough, and we fellows can roll our stuff around at a profit.

Mr. JORDAN. Provided you don't have to pay an adequate gas tax to protect that highway.

Senator LONG. That is the other fellow's worry, if I were him. As you know, they are paying something. But it does occur to me, when you put a truck or you put the trailer of that truck on one of your cars, and you move it down your rail, the gasoline tax that otherwise would be paid is not being paid to you to help provide that service.

Of course, as much as I sympathize with the truckers—they work hard for what they make and they do a good job of it, but I am very much aware of the fact that what they are paying really in my judgment does not at all compensate for the damage that they do to those roads.

Those of us that drive private automobiles on the highways are the ones that really pay more than our share to help maintain those highways. It is really worth taking a look to see how the two could better work together, because while you are providing a service, I hate to see you provide it at a loss.

I think we ought to find a way either to give up some of the business, or to make a profit, one way or the other.

Thank you very much.

The CHAIRMAN. I have another question.

Senator LONG. Go ahead.

The CHAIRMAN. Mr. Jordan, Chairman O'Neal has testified that ConRail's inability to efficiently turn cars around contributed significantly to the current national shortage of gondola, box, and jumbo-covered hopper cars. Now, is the problem in this regard one of mismanagement in the yard, misdirected traffic, or inadequate locomotive power?

Mr. JORDAN. All three; all of the above, as they say; complicated by a winter that froze the equipment in. You may be aware, Mr. Chairman, that—for example, in New England our customers were shut down for a solid week in February as a result of that heavy snowstorm in Providence and in Boston.

At that time, as I recall, we had several thousand cars at customer plants and warehouses that they were unable to unload and move. That is a complicating problem.

Under no circumstances should you understand that we believe that the weather has caused all of our problems. Our difficulty has been to come to grips with the size and scope of this situation, the debilitated nature of it, and making something happen.

The CHAIRMAN. To what extent does vandalism and theft contribute to ConRail losses, and what steps have you taken to address this problem?

Mr. JORDAN. A very substantial expense. I would like to ask Mr. Spence to comment. He has substantial experience to share.

Mr. SPENCE. Mr. Chairman, the amount of vandalism and theft in the Northeast are particularly acute. I think you may have read in the Wall Street Journal at one time, when they cleaned up the waterfront in New Jersey and New York, the whole thing was moved over to ConRail in New Jersey. To a certain extent there are those elements there.

We operate through some areas where, as a matter of fact, the local name for them is the Ho Chi Minh Trail, because people threw auto-

mobile tires, truck tires, down in between the rails and stop the trains, and vandalize the trains.

Of course, the security forces are even afraid to go in and confront those people.

One of the most serious problems in rail transportation is the throwing of missiles, rocks, and shooting—at automobiles, particularly new automobiles, on railcars moving in those urban areas.

We have taken a number of measures, some with the assistance of shippers. As far as automobiles, for example, we have had a very heavy program of side shielding on existing multilevel cars—which currently handle automobiles—and then at the insistence of the manufacturers, we have developed a large program of so-called fully enclosed cars, which entirely cover the cargo and keep the cars' end doors where they can be secure.

We have added additional security forces, and we began very early to develop a canine patrol, which means an officer has a dog for assistance. This is a slow process, but we have found it is very effective in helping to combat large groups of people that wouldn't disperse for somebody with a gun; but they have to be afraid of somebody with a dog. We have found our canine patrol to be very effective.

In addition, there has been developed a large number of so-called cable locks. Cars were sealed with a tiny seal, historically, which meant nothing. These cable locks have been developed, and they are comparatively inexpensive, and we have found that locking high-value cars with them, automobile cars particularly, has been very effective.

We have asked for the assistance of local law enforcement agencies as far as we could. I think this program is showing some effects.

The CHAIRMAN. You feel you are making some progress?

Mr. SPENCE. Yes, sir, I do.

The CHAIRMAN. I would like to commend you gentlemen. You are in the same situation as we as politicians: it is easy for somebody to identify the problem, but it is a lot harder to come up with a solution and get that in place. I think you are all to be commended for your public service position, and trying to help us help everyone get a handle on what I consider to be a very serious problem.

Thank you, Mr. Chairman.

Senator LONG. Thank you very much, Mr. Jordan. Thank all of you gentlemen for what you are doing for our country.

[The statement follows:]

STATEMENT OF EDWARD G. JORDAN, CHAIRMAN AND CHIEF EXECUTIVE OFFICER,
CONSOLIDATED RAIL CORPORATION

Mr. Chairman and Members of the Committee, it is a privilege to appear before you to review the progress made in restoring adequate and efficient rail service to the Northeast and Midwest regions of our nation, to describe the extent of the problem which still lies ahead, and to identify the resources required in continuing the effort to achieve the objectives which Congress has set. First, however, I would like to introduce Members of the Conrail Board of Directors who, at your invitation, are here today to participate in this hearing.

Mr. Chairman, the task of traveling from the past hopelessness of the bankrupt railroads to the future achievement of an adequate and efficient rail system is a substantial journey, a journey which got underway with the passage of The Regional Rail Reorganization Act in 1973. Even beginning that journey was an achievement, for there were many who thought the only alternatives were either to nationalize the wreckage of the bankrupt railroads—at enormous cost

to the taxpayer—or to allow their liquidation at too great a cost to the economy to even contemplate. The action taken to date, I would submit, has demonstrated the prudence of the course taken by Congress. The 3R Act of 1973 and the 4R Act of 1976 were the foundation of the greatest corporate reorganization in history, which included:

A reorganization plan completed on a timetable so demanding it avoided the taxpayer being saddled with a liability of more than 1 billion dollars in alleged claims for the unconstitutional erosion of the assets of the bankrupt estates.

A reorganization that was implemented through the unique conveyance process, in a manner that allowed the start-up of Conrail with a smooth continuation of rail service.

And now an operation which, in a little more than two years, has accomplished a great deal; but also a recognition that there is still much to be done.

Finally, and perhaps most importantly, much has been learned from this experience about the course ahead, about the pitfalls it may contain, and about how the work yet to be done can best be undertaken.

In order for us to address the issues before us now, I would first like to review what has been accomplished to date

Through the end of 1977 Conrail's ambitious rehabilitation programs were beginning to take hold and to check the downward spiral in the quality of service. For example, new welded rail had been laid on a total of 1,745 miles of track and 9.5 million new crossties installed. In addition, heavy repairs were completed on more than 25,000 cars, and heavy repairs or overhauls on 1,845 locomotives.

Even though Conrail's financial loss for 1977 was larger than expected, cumulative financial losses for the first 21 months of operations—April 1, 1976 through December 31, 1977, were approximately the same as the loss projected in USRA's Final System Plan. In addition, the drawdown of federal funds scheduled for this period was within the limitations set forth in the Financing Agreement.

However, in spite of these and other considerable achievements, and based on the experience gained during this initial period of operation, Conrail has concluded that it would not be able to attain all its major objectives within the funding and framework originally established.

There are a number of reasons for this situation: In the vital area of revenue, outside events have had a substantial adverse effect; the condition of the inherited revenue equipment and locomotive fleet was far worse than the Final System Plan anticipated; and, in some operational areas, the pace of change and improvement envisioned in the Final System Plan proved to be too optimistic. Moreover, we can now identify a number of problems which, for the most part, must be solved by institutions in cooperation with Conrail, and which critically affect Conrail's ability to succeed. Nonetheless, Conrail believes that the goals of the Act which created it continue to be of overwhelming importance to the economy as a whole as well as to the people of the Northeast region. Thus, with this perspective, Conrail believes that the course of events to date and the achievements already realized indicate that Conrail continues to be the best vehicle for continuing to attack the problem and for achieving the greatest measure of success.

We report this to you at this time, not because Conrail faces an immediate financial crisis of depleted funds, but because we can foresee that Conrail's future financial performance will not be in accord with the Final System Plan projections. In considering the significance of this judgement, it is important to realize that there is a substantial basis for seeing Conrail's task as far more difficult than had been contemplated at its creation. We also believe Conrail is on a course which will bring solutions to those problems over which it has control. And lastly, we wish to stress that much of our effort is accruing real and lasting value to the federal government in return for its investment through the rehabilitation of the track and equipment which makes up the rail system itself.

In thus reporting to you, Conrail deliberately chooses to assess its problems as realistically as possible. We treasure what we believe is this Committee's trust that Conrail has told it, and will continue to tell it "*as it is.*" Our dedication to achieving the task set out for Conrail will not cause us to confuse objective appraisals with enthusiastic, but unrealistic, promises.

On the basis of our objective appraisal, Conrail believes that the potential still exists for a private sector solution which not only provides adequate and efficient rail service in the Northeast, but also preserves the inherent efficiencies of the market-economy system for the entire rail industry.

Conrail's most recent Five Year Business Plan has been submitted to USRA in accordance with the Financing Agreement, and copies of the summary and introduction of the Plan have been provided to the Committee for your information and review. The Plan describes specific details of the proposed programs and plans to be undertaken in the period ahead, and lays out the necessary economic assumptions on which they are based.

There are a number of key issues on which Conrail must continue to especially concentrate its energies and resources if the Northeast rail system is to be revitalized. These include:

- The need to improve the traffic base and to increase revenues;
- The need to improve the productivity of its major cost-personnel; and
- The need to improve the regulatory response to the Conrail situation.

It is also important to understand the full economic impact of the several assumptions contained in the plan, such as the anticipated rates of inflation, wage levels, and possible changes in the law or in regulation. We believe the assumptions in these areas are reasonable.

Progress toward resolving these issues and to avoiding critical changes in these assumptions obviously is dependent in part on factors beyond Conrail's control. But Conrail has a positive program underway in each area where it can have an impact. For example, in regard to revenues, let me cite several factors: coal tonnages have not grown as projected earlier, due to the fact that demand has not increased as much as expected following the oil embargo. In addition, revenues generally have suffered from the continuing decline in strength of the Northeast economy relative to the rest of the nation. And finally, some revenues have been lost because of Conrail's service problems.

To meet this situation Conrail is undertaking a number of specific revenue producing strategies and programs. As we move ahead in their implementation we are making sure the programs are keyed to Conrail's basic mission of providing rail services shippers really need, at competitive rates which will cover costs and earn the rate of return necessary to achieve economic viability. Therefore, the priority is to look hard at investments in those facilities that provide the kinds of service improvements that will attract shippers, including those who have abandoned the rail mode, and which will add new business.

To better target revenue opportunities, a study of market strategy is being completed that identifies major commodity "lines of business" to determine the optimum levels of service, pricing, and investment for each.

We have also undertaken a comprehensive program to improve car utilization, which will both improve the reliability of service, and cut costs.

To meet equipment needs Conrail's Five Year Plan calls for expenditure of \$3.47 billion to maintain, repair and overhaul freight cars and locomotives. Included in these programs are the heavy repair of almost 55,000 freight cars and about 3,600 locomotives. We plan to acquire 11,516 revenue cars at a value of \$496 million, and more than 11,000 TOFC trailers at a cost of \$114 million. In addition, \$498 million will be expended to acquire 600 locomotives, 85 cabooses, and other pieces of non-revenue equipment. And we will continue the ambitious track renewal program which, over the next five years, calls for the laying of welded rail on 5,226 additional miles of track, and the installation of 23 million new ties.

The improved operations which are permitted as the rehabilitation program takes effect are critical to the important goals of increased efficiency and improved service. This improved service, in turn, we believe, will attract new business and help lead to the increase in revenues Conrail needs if it is to reach its ultimate objective of economic viability.

The cumulative result of the five year rehabilitation program ahead, following on that already completed, will produce great steps in the program of improving track and equipment. This will result in a reduction in the out-of-service ratios for the locomotive fleet from the current 18 percent to an average for 1982 of 10.3 percent, and for freight cars from 13.3 to 7.3 percent. In addition, by the end of 1982, slow orders will have been reduced from nearly 8,000 miles on April 1, 1976, to less than 1,800.

Very clearly then, the crippling effect of the physical deferred maintenance problem that existed for the bankrupt rail systems, and which Conrail inherited upon conveyance of the properties, will have been largely overcome—but at a cost considerably in excess of what had earlier been projected.

Other Conrail programs are designed to bring costs under better control and improve productivity. For example, Conrail must develop better ways to manage

the use of its capital and labor resources, including the creation of better quality jobs. At the present time Conrail is negotiating with its labor brotherhoods seeking major changes in work rules. Other opportunities for labor savings will take place with the continued consolidation of bargaining contracts as mandated in the 3R Act.

As Conrail now assesses the five years ahead, it has estimated a need for additional federal financing of 1.283 billion for the 1978-82 period. In addition, \$959 million will be sought in the private sector for the acquisition of new rolling stock.

This financing requirement, however, should be seen in proper context: without considering equipment acquisitions, the Five Year Plan calls for *total expenditures* of \$9.5 billion in maintaining and rehabilitating the physical assets of Conrail. Thus, the federal share of Conrail's financing needs, while not inconsiderable, is still only a fraction of the total sum which Conrail will spend in maintaining and rehabilitating its physical rail plant in the Northeast in the next five years.

In the most basic sense, however, the question of whether an additional \$1.3 billion, or whether more or even less is the appropriate amount, for the federal government to invest in Conrail is not the prime question before you today. *The prime question*, we believe, is whether this additional investment is the best way available now to achieve the greatest possible progress toward the goal of providing adequate and efficient rail transportation at the least possible cost to the taxpayer.

Conrail believes that the answer to that question is "yes."

But as hopeful as we are that Conrail can achieve the objectives which have been set for it, and as committed as we are to challenges spelled out in the Five Year Business Plan, we cannot guarantee success. And as a result, it might well be that you will be asked to pause again to consider alternatives such as nationalization, controlled transfer, and even liquidation. In any examination, let us be certain that each alternative is challenged as to whether it solves the problem not otherwise solved, rather than merely substituting different methods for providing federal funds. The alternatives of which we are aware have been studied and considered before, and were found to be wanting both in regard to their high cost, and/or in the levels of service to be supplied. I believe this continues to be the case.

Let me say that Conrail is more than willing to assist in exploring other options as they are put forth; in fact we are eager, as we must be diligent in pursuing the goal of least cost. But I would suggest that now is not the time to interrupt or jeopardize the substantial progress that is now being made.

The task assigned Conrail continually grows more complex. For example, last week, the ICC promulgated a formula for fixing per diem charges at a level two years hence which will cost Conrail, on an annual basis, approximately \$50 million more than previously anticipated. The ICC's objective is to encourage the rail industry to invest in more, new, revenue equipment in order to bring about the creation of improved car supply and utilization of the car fleet. Its major impact will be to increase per diem payments from railroad to railroad within the industry. Conrail, because of the historic imbalance in traffic flows, has a lot of non-owned equipment on the system at most times. Thus, the result of that Commission action will be an additional expense it can ill-afford. Obviously the impact on rail service in the Northeast is the same, whether or not Conrail is the rail operating entity. But the fact remains that what the ICC considers of long-term benefit to the nation will be disruptive to the more immediate task before Conrail.

Or consider the continuing impact of inflation. On a purely arithmetic basis, by the end of 1977, Conrail had decreased the physical amount of deferred track maintenance which it inherited from the bankrupt carriers, by \$195 million. But in the same two years, inflation has caused the present dollar value of the deferred amount not yet performed to remain at the same dollar amount despite the accelerated work being done. Obviously the conclusion is a sort of never-catch-up situation for which immense spending in itself is not the complete nor prudent solution path. The key to gaining control must be management of the problem through future route rationalization and improvements in labor productivity.

Critical developments such as these not only underscore the complexity of the problem, but illustrate that massive, simplistic solutions are not available. Moreover, they indicate that each of the interests which comprise the rail transportation resource of the nation are also very real parts of the problem. Everyone involved, shippers, labor, the rail industry, regulatory agencies, and the people in the communities themselves must recognize the interdependence of their

actions, the conflicts of their goals, and the contribution that will be required in realistic solutions in the public interest. Conrail's programs for the future will strive to address each of the problems, while challenging all those to participate in the process required to meet the common objective.

With all of that, Conrail believes the course which it is embarked upon is the right one for achieving maximum progress toward providing adequate and efficient rail transportation at the lowest cost to the taxpayer. In that light, Conrail recommends the Congress favorably consider additional investment in Conrail as described in the summary of the Five Year Business Plan.

We will be pleased to answer any questions you may have.

Senator LONG. Next is Mr. Snyder.

**STATEMENT OF JIM SNYDER, NATIONAL LEGISLATIVE DIRECTOR,
UNITED TRANSPORTATION UNION; ACCOMPANIED BY WILLIAM
G. MAHONEY**

Mr. SNYDER. Good morning, Mr. Chairman, members of the committee. It's a pleasure to be here this morning. On my right is the counsel for the Railway Labor Executives' Association, Mr. W. G. Mahoney.

I have a very short statement. With your permission, I will read it.

The Railway Executives' Association appreciates this opportunity to present the views of their members and some 80,000 to 85,000 railroad employees they represent on Conrail in support of the continued existence of ConRail as the only feasible concept yet to emerge as a possible solution to the Northeast rail transportation crisis.

As you know, rail labor vigorously opposed the Penn Central merger until it became obvious to us that the Interstate Commerce Commission was going to approve that merger as it had approved every significant merger placed before it since 1957. In order to protect the employees of the merging railroads, we negotiated an employee protection agreement with the managements of those railroads. At that point our active opposition ceased, although we continued formally to oppose the merger.

The ICC, of course, approved the merger, and the employee protection agreement which we negotiated became the ICC-imposed protective formula under section 5(2)(f) of the Interstate Commerce Act.

I might say right here that contrary to the comments of some persons who can most charitably be described as uninformed, the Penn Central employee protection agreement played virtually no part in the bankruptcy of that railroad from a cost or expense point of view. This conclusion is confirmed by the evidence placed in the record before the ICC more than one year following the merger at a time when the RLEA sought to have protective arrangements provided employees of Penn Central subsidiaries who had been affected by the merger. The cost of employee protection was miniscule when compared with the hundreds of millions of dollars in revenue that the merged railroad was losing at the time.

The employee protection agreement did play an unexpected adverse role at the outset of the merger. As a result of the agreement's execution well before the ICC approval order became final, the implementing agreements adjusting seniority right, et cetera, which the protection agreement required, were also completed and executed prior to "merger day"; and, when that day came, the two major railroads involved were thrown together too fast and instead of the gears mashing,

they stripped. Had the implementing agreements not been in place on merger day, the physical consolidation of the operations would have had to await their successful negotiation. Such a delay might well have permitted a more intelligent merger of the rail properties involved.

Rail labor realized that the Penn Central could never be pulled from the operational and financial quicksand into which it had fallen by a Federal reorganization court applying the rail bankruptcy law. Rail labor early on sought the help of Congress. We knew that if Penn Central ceased operations totally or in substantial part, there would be economic chaos in the Northeast and very probably throughout the United States.

We participated in deliberations with the management of the Nation's railroads in an effort to arrive at a solution. We worked continuously with the members of this subcommittee and its staff as well as with your counterparts in the House of Representatives to resolve this crisis. Along with you and the rest of the Congress, we concluded that ConRail was the only proposal that was acceptable at that time. In our judgment, it remains the only acceptable solution to the Northeast rail crisis.

While I do not feel qualified to provide this subcommittee with the detailed financial analysis requested in the attachment of your letter to me of March 23, 1978, Mr. Chairman, I am confident that the alternatives susceptible to implementation now or in 1980 are but three in number and are unacceptable: Abandonment, controlled transfer, and nationalization. The first of these long has been rejected as unacceptable. The second alternative would simply bleed off the very best, most lucrative lines to already strong railroads while abandoning the remaining lines, many of which would not only be profitable but would constitute a transportation lifeline for many industries and communities. At least, in the various forms which controlled transfer has been presented thus far, it fails to achieve a balance of public benefit over public detriment.

As for nationalization, we believe that this alternative is the final rational solution if—and I stress “if”—the ConRail concept proves to be a failure. In my opinion, we are a long way from having to make that decision.

There is no need to choose alternatives to ConRail as yet because ConRail has not proved a failure. Indeed, considering the disaster ConRail took upon itself to cure, one should be at least mildly encouraged at the quiet but effective progress made in a number of areas, including upgrading of equipment and trackage.

Rail labor has made vigorous efforts to cooperate with ConRail in administering the provisions of the various laws applicable to the employees of ConRail. In an area of complex operational and legal problems, the cooperation between management and labor has been exemplary. A committee was established by the RLEA to confer with the chief labor officer of ConRail and his staff on all matters of mutual interest to the parties involving the application of the law. This committee arrangement has proved extremely effective in correcting and in avoiding innumerable day-to-day problems which have or would have arisen. This committee reviews all claims under the employee protection provisions of the law and presents the collective views of its

members as to the validity of the proposed claims, thus avoiding presentation to arbitration of meritless claims.

While we all knew the Penn Central was in bad shape before and during consideration of the Regional Rail Act, I don't believe anyone realized how totally deteriorated the Penn Central plant became before enactment of the law in January 1974 and the date ConRail took over, April 1976. It was a very steep hill that had to be climbed. Considerable progress has been made, but we have a very long way to go.

After all alternatives are considered and evaluated, we believe the Congress will continue to support the ConRail concept at it must be supported if it is to have a chance to succeed.

We support the increased Federal investment in ConRail.

Finally, if I may, I would like to mention one other point which we consider extremely important to the well-being of the rest of the industry in which we work. The financial assistance provided the other railroads of the country by title V of the Railroad Revitalization and Regulatory Reform Act of 1976 should not be diverted to ConRail to the detriment and prejudice of the railroads for whom the Congress intended that assistance.

Thank you, Mr. Chairman. We will be delighted to answer any questions.

The CHAIRMAN. Thank you for your statement.

Mr. Snyder, Secretary Adams, and Mr. Jordan have both indicated it will require the cooperation of the labor unions for ConRail to ever achieve profitability. In this regard, do you view the projected \$500 million labor cost savings of ConRail's 5-year plan to be overly optimistic or do you think that can be achieved?

Mr. SNYDER. I wish I could give you a positive answer to that, Mr. Chairman. I know from the standpoint of rail-labor that it certainly intends to cooperate as fully as possible with the management of ConRail, which they think is doing a good job at this point, also with Congress and the agencies involved, that have jurisdiction over the ConRail system. I wish I could tell you about the dollar part of it, but I just couldn't fully answer that question.

The CHAIRMAN. Let me ask you another one, then, along that line. Do you believe that ConRail has excess employees at the present time?

Mr. SNYDER. I really don't think so at this particular time. The reason why, as has been accurately pointed out by the previous witnesses, that for the last 25 years this railroad, the combination of railroads, has deteriorated down, and in order to get a good sound ConRail system, it requires a lot of work, it requires a lot of money, and it requires additional employees to do the work, to rebuild the roadbeds and to install and update their signals and also the yards as pointed out. The yard operations in these areas are not up to par, certainly not up to par like the other railroads in the country. I do think that at this particular time they do not have too many employees. Oh, there might be some cases here in which, I would like to point out, that our negotiating committees under the Railway Labor Act, in which they have good committees on both sides, this is a big problem. They appropriately negotiate about surplus employees, and I'm certain they will be taken care of—

The CHAIRMAN. Well, if I may call your attention to the fact that almost all the witnesses support the proposition that they do have too

many employees, that they have an inordinately high number of employees compared to the industry, and that's certainly understandable as a result of the consolidation and it's understandable that they do have more work to do as a result of the deterioration of the beds and the deterioration of equipment, but when you consider that 63 cents on each revenue dollar goes to the cost of labor, and that the industry average is around 52 cents, so I was told here today, it seems to me that ConRail can never become solvent, given its tight operating margin, unless that cost of the labor force can be brought certainly into line with the industry average. Would you agree with that proposition?

Mr. SNYDER. Not completely. I think it was adequately pointed out, that you have 10,000 employees operating passenger trains in the ConRail system which you do not have on the other railroads. This was pointed out by Mr. Jordan. Another thing that might cause that labor cost to be high is because of the roadbeds, the trains operate slower, the local movements of the train, and there could be more overtime involved, which runs the cost of operation up, because of deteriorated track and that type of thing.

Once these things are taken care of by improved track and equipment, and you have frequent breakdowns on ConRail, particularly during the severe winter we have had, I think that when these things fall in line, there will be some token savings in labor costs.

The CHAIRMAN. Do the present negotiations that are ongoing, are they considering some of the archaic work rules there are in existence at the present time?

Mr. SNYDER. I don't really know what you mean by archaic work rules.

The CHAIRMAN. I will give you an explanation. Where you have a freight train crew paid on the basis of 100 miles or 8 hours, either of which constitutes a day's work, how can you justify that type of a rule today, where you could be paid the equivalent of 8 hours' pay for possibly as little as 2 hours' work?

Mr. SNYDER. Well, that sounds real good on paper, Mr. Chairman, and as I pointed out yesterday before the House Commerce Committee, there seems to be a little brainwashing going on. You are speaking of a very small percentage of the industry here that operates on this 100-miles per day, but I would like to point out that in 1963, when this was a real controversial issue in the negotiations and they came up here on the Hill, and the late Senator—I mean the late President Johnson locked the parties up in the White House, and after long negotiations, they, at that particular time, arrived at this and they couldn't come up with a better alternative.

I would also like to point out that the railroads are paid by the mile and truck drivers are paid by the mile. I think the airlines are paid by the mile, but I am not sure of that.

The CHAIRMAN. No, no. They are not.

Mr. SNYDER. I know the trucking industry is paid by the mile. Really, this is an incentive to get the traffic over the road. If you put them on an hourly basis, where you have delays away from home and laying over away from home, it would all balance out about the same thing when it comes to dollars and cents. But the committee, the committee is, to further answer your question, and I am not on that com-

mittee, it doesn't address itself to my department, but the committees are negotiating and listening to all phases of the contract.

The CHAIRMAN. I would hope that they would, because I am sure that you recognize and I hope your negotiating committee recognizes that if this plan is going to succeed, it's certainly going to require cooperation on the part of everybody. I am sure that your organization is willing to cooperate on it, but the Federal Government is not going to continue to go down this road willy-nilly unless we have a complete nationalization.

You say you don't want that and I don't want it. I hope it never occurs. But I do say to you, that I think, and I have been a long-time supporter of railroad labor—

Mr. SNYDER. You sure have.

The CHAIRMAN. I personally think there are a lot of archaic work rules and I think there are a lot of them that ought to be negotiated out in good faith. I do agree that if the cost to ConRail is 63 cents on each revenue dollar for labor, that that is too high. I think we are going to have to negotiate it down. I do recognize that this comes about certainly not as any fault on the part of your organization, because when you pulled all of these various bankrupt entities together into one, you had a lot of excess employees, and they have gotten rid of some, but you still have got too many in my judgment, if it's taking that kind of a fraction of the revenue dollar.

In other words, I just don't think you can afford that fraction of the revenue dollar if you are going to have a paying entity. I'm certainly not unmindful of the problems you have with your people who have been long and faithful employees of a railroad and they have got their seniority established and they have got to protect their jobs and protect their right to feed their families and so on, but again I just say that I hope that everybody cooperates in this, so that we can make this experiment work.

I am still not sure we can, but I sure hope we can.

Mr. SNYDER. We certainly hope so, Mr. Chairman. Rail labor will do everything within its power to cooperate and make ConRail go, because we have worked awfully hard in trying to set up, working with industry and other parties, in setting up ConRail, and that's certainly our intention.

Just a further point on the number of employees. It's my understanding that the railroad employees in the United States have the highest production to any railroad in the world.

The CHAIRMAN. Maybe, because most of them are nationalized, as you know.

Mr. SNYDER. In 1950 in the railroad industry, we had 1.2 million employees. Today we have less than 500,000. So it's quite a drop. In fact, the record shows we have the highest—we have lost more employees in the railroad industry, more have been—the reduction of employees has been more in the railroad industry than in any other industry in the United States.

The CHAIRMAN. I think that's probably true. Of course, you used to have a lot of people riding the trains, but you don't have that anymore. You have lost the passengers. The passengers have gone elsewhere. And that's certainly not any fault of your organization. Time has passed us by and most of those passengers have gone to private

automobiles or some other form of transportation, and we have lost a tremendous amount. I think your industry is probably the highest in loss.

Mr. SNYDER. It is.

The CHAIRMAN. Which is indeed unfortunate, but I hope by the kind of experiment we have going here, with the cooperation of everybody that we can get a lot of this business back on the rails and result in more employment for your people.

Mr. SNYDER. That's certainly the position of rail labor.

The CHAIRMAN. Thank you very much.

Mr. SNYDER. Thank you for inviting us.

The CHAIRMAN. Mr. Albert Terriego, international vice president, Transport Workers of America.

STATEMENT OF ALBERT TERRIEGO, INTERNATIONAL VICE PRESIDENT, TRANSPORT WORKERS OF AMERICA

Mr. TERRIEGO. Thank you for this opportunity to address you. This is my first experience with such a distinguished committee. I would like to introduce the following: Mr. W. Crawford, vice president and legislative representative, BRC, U.S. & C.; Mr. Grandfield from New Haven; Mr. Ciccia from Chicago; Mr. Sherlock from New York; Mr. Heindorf from Syracuse; Mr. Milo Shimrak, international representative, TWU; Mr. Lambert from Detroit; Mr. Sara from Cleveland; Mr. Lese from Elkhart; Mr. Robert Flohr from Crestline, Ohio; Mr. D. Mimmo from Altoona, Pa.; and Mr. Brian Skelly from Grand Rapids, Mich.

This is a cross section of the representation of the carmen craft on ConRail.

The CHAIRMAN. My first observation would be: Who is tending the store?

Mr. TERRIEGO. We are trying. My name is Albert A. Terriego. I reside at 25 Winthrop Place, Hazlet, N.J. I am presently employed as international vice president of the Transport Workers Union of America, AFL-CIO, and have held that position since 1975. Our international headquarters are located at 1980 Broadway, New York, N.Y.

Mr. Chairman, in reference to the seven questions that you requested I address in my statement, I wish to say for the record that the Transport Workers Union is a member of the Railway Labor Executives' Association represented here today by Mr. J. R. Snyder, legislative director, and that we, the TWU, concur with his responses to those questions. While we recognize the need for additional funding for ConRail and the complexity of that issue, I wish to use my time today to address several other critical issues facing ConRail.

Our position, Mr. Chairman, is that ConRail must work, and the Transport Workers Union, as a union, will show what we have done to make ConRail go. This is our livelihood. This is our bread and butter. And we do not know any other business but the railroad industry.

As we go through my testimony, I will try to point out all the things we have done to try to put ConRail on the right track. Now, what we have to say here today, ConRail was made aware of this more than a

year ago. In my position as director of the railroad division, I am responsible for administering its affairs and negotiating contracts that cover approximately 15,000 railroad employees on 10 of the Nation's railroads. I am presently serving as chairman of the Negotiating Committee of the Joint Council of Carmen on Amtrak nationwide. In addition, I negotiate contracts for certain employees on the Port Authority of New York, including PATH and the old Hudson Manhattan Railroad. I entered railroad service as a laborer on the Pennsylvania Railroad Co. on March 10, 1942, at age 17, and except for service in World War II (1943-45), I have been associated with the railroad and railroad labor unions ever since.

I have watched the decline of the American railroad in the Northeast United States, particularly since the end of World War II.

I can recall when it was a distinct honor as a young man to be employed by the Pennsylvania Railroad Co. in the post-World War II era. Railroad workers were among the most respected industrial workers in the country. A railroad pass issued to workers by the Pennsylvania Railroad was more honored for identification and establishing credit than any of the present-day credit cards in existence today. I am sorry to say that children of ConRail employees today are literally embarrassed to reveal to friends that their father is an employee of Conrail, a bankrupt company that is made a butt for jokes by the public and news media of this country. It is no honor to work for a company that is hopelessly mired in bankruptcy with billions of dollars in debt and operating on Government handouts, whose management is literally driving the company deeper into a hole by the squandering and misuse of funds.

The leadership and members of the Transport Workers Union have done everything in their power to help the railroad right itself and make a respectable showing in an attempt to put the bankrupt railroad back on its tracks. We have taken pains, together with the Brotherhood of Railway Carmen of the United States and Canada, to change our entire labor agreement with ConRail to provide it with more flexibility to utilize its work force. We have negotiated an entire new agreement with ConRail.

We have informed our members through bulletin board notices and meetings that theft and waste of ConRail funds will not be tolerated by the Transport Workers Union. Attached hereto is the notice identified as exhibit A.

We have given to the management of ConRail, at great sacrifice to our members, changes in the labor agreement and work rules, which makes it less expensive to clean up wrecks and derailments on ConRail property and right-of-way, and to get the railroad right-of-way open at faster speed. No other unions in the country has made such drastic changes in its labor agreements to accommodate the railroads.

We wrote a complete new work rule. Under the old work rule, you had a dilapidated, outmoded steam crane which was changed to diesel. Attached to that was three or four cars. When there was a derailment, the engine had to hook up to the train, and we had 10 to 15 people assigned to that four-man engine crew. You set up in the CT yard waiting for the right-of-way, and you would sit there for hours. Everybody was under pay. So maybe you will take 4 or 5 hours to get to the wreck, we arrive at the wreck, and the outside contractors had it completely done.

We recognize that. We figured we had to compete with the outside wrecker, and we changed that wrecking agreement. No longer do we have to do it that way. It was a two-pronged agreement. No. 1, immediately we will do all the groundwork. We will work in conjunction with the outside contractor. And, No. 2, when they buy the equipment, we will do all of the work and get rid of the contractors of the property.

We have changed our work rules agreement which in the past prohibited ConRail management from using outside contractor's equipment for wrecks and derailments, thereby giving management the right to use outside contractors' equipment where it is truly more economical and efficient to do so. We renegotiated the agreement with provisions that ConRail would use ConRail carmen, represented by the Transport Workers Union of America and the Brotherhood of Railway Carmen of the United States and Canada, to work in conjunction with the outside equipment with no penalties for using the outside contractor. ConRail has flagrantly abused these agreements and now use contractors' equipment and crews in violation of the labor agreements. It must be noted that each time ConRail management violates the agreement in using and paying for the outside contractors' crews, it must also pay its own carmen employees for sitting at their homes. The cost of clearing wrecks has gotten out of control; millions of dollars are being wasted because of ConRail's persistent using of outside contractors.

The outside contractors are called. When you use experienced railroad employees, we can save the equipment. Just because you have a simple derailment, we can rerail that car and probably in a day or two put it back in service, making money. The outside contractors come and turn everything over, destroy the damaged equipment, throw it down the embankment. Why? Because a week later they have to come clean it up. Sure, they got the right-of-way open, but they come back a week later and now they have to pick up all the equipment that was damaged, and these cars are never put back into use again. If you use a railroad man, experienced man, we can save most of that equipment that was derailed.

Regardless of how hard we try to help ConRail, it seems that ConRail management continues to find more ways to destroy ConRail. We changed that work agreement three times. It appears no matter what we write, they will circumvent the agreement to accommodate the outside contractor. It does not matter what we do. We will present evidence to this committee that ConRail will never succeed with the present attitude and misuse of ConRail funds by ConRail management. The flagrant abuses and mismanagement of funds by ConRail officials have caused great concern among employees in all departments throughout the ConRail system:

We have, therefore, organized and instructed our members to police and report to my office any evidence of misuse of ConRail funds by any member of management. We have been flooded with evidence of such abuses and mismanagement, and that becomes my primary reason for appearing before this committee. It is a national tragedy that ConRail officials are not willing to police their own people to eliminate these abuses of funds. I will submit to you in the brief time that I have before this committee just a few examples of misuse of funds, and misplacement of trust. These examples, I am sure, will be

shocking to this committee as they have been to us, and to thousands of ConRail employees throughout the ConRail system.

Mr. Chairman, this is only what fell off the wagon. We do not know what is in the wagon. But this is what we have here.

Example No. 1: It was reported to me by our union members in Williamsport, Pa., that the shop superintendent at the Newberry Junction car shop was detected removing a gondola car full of new railroad ties while the car was stationed in the Newberry car shop for repairs. The shop superintendent purposely delayed the car in the shop for 1 week until a Saturday morning when he and two other supervisors removed 300 new ties from the property value at \$17 per tie to a farm owned and operated by a relative of the shop superintendent. I dispatched our international representative to the scene to investigate. Our international representative secured the necessary information and wrote to the chief mechanical officer and division superintendent about the incident and requested a meeting to discuss the situation. After he was ignored for 2 weeks, he insisted that unless a meeting was scheduled, the union itself would file charges with the local police in Williamsport, Pa.

A meeting was finally arranged with ConRail's division superintendent, chief mechanical officer, and ConRail's division chief of police. At the above meeting, the chief mechanical officer defended the shop superintendent, dismissed the information as petty, and praised the shop superintendent as a good, conscientious ConRail supervisor.

When it appeared that a coverup was taking place, I personally went to Philadelphia and met with ConRail's top officials in the personnel department and made an official complaint. As a result of this complaint, two ConRail police inspectors were subsequently dispatched to Williamsport, Pa., and after investigation by ConRail's police inspectors, the shop superintendent was apprehended and jailed in the Lycoming County, Pa., jail, suspended from his position with ConRail, and was later dismissed.

The 15 employees, who were employees at the Williamsport car shop and members of this organization at the time of the incident, paid the supreme sacrifice for being conscientious and dedicated ConRail employees who carried out our policy to apprehend thieves on ConRail. The chief mechanical officer and master mechanic closed the Williamsport and Newberry shop 30 days after the shop superintendent was jailed and dismissed. We consider this an act of retaliation. The shop is now permanently closed. The master mechanic has informed our international representative that he considered the shop superintendent a very good and conscientious employee and would make an attempt to have him reinstated to his former position. We strenuously resent this type of attitude by members of management. Subsequent investigation developed the fact that the Williamsport shop superintendent had been misusing funds and material from ConRail for a long period of time before he was apprehended.

Let me describe this gentleman, what made us suspicious. He would sit in an office with an amplifier system and he had a mirror in each corner of the office and he had a sliding door adjacent to the locker room.

An employee would come in out of the cold, and he would slide the door and say, "Get out of the locker room." He would push a button

on the amplifier system and say, "Get back to work," but he would never leave the chair. This is what made us suspicious.

I would like to call to the attention of this committee the delay and laxity on the part of the ConRail in handling this situation. Attached hereto and identified as exhibit B are the communications concerning the incident in Williamsport and Newberry Junction, Pa.

Example No. 2: On January 13, 1977, at 9 p.m., the Penn Erection & Rigging Co. of Turtle Creek, Pa., appeared at the Conway, Pa., freight yard with a 100-ton mobile Holmes crane and pickup truck. This 100-ton mobile crane was parked at the Conway, Pa., ConRail car shop parking lot from 9 p.m., January 13, 1977, until 1:30 a.m., January 24, 1977, for a 12-day uninterrupted period, and again from 12 midnight, January 31, 1977, until 12 midnight, February 11, 1977, for another 11-day uninterrupted period. The total aggregate time that the 100-ton mobile Holmes crane was parked at the ConRail Conway, Pa., car shop was 552 hours. The rates charged by the Penn Erection & Rigging Co. to ConRail for the privilege of parking its 100-ton crane and a small pickup truck was as follows:

Twenty-four hours for 100-ton Holmes crane and pickup truck:

Holmes crane, first 8 hours, regular rate at \$140 per hour; 8 hours was \$1,120.

Holmes crane, next 16 hours, at premium rate of \$165 per hour; \$2,640.

Pickup truck at \$19.50 per hour for 24 hours: \$468.

Total charge for crane and pickup truck for each 24-hour period was \$4,228.

The total charge to ConRail for the above service performed of parking the Penn Erection & Rigging Co. 100-ton mobile Holmes crane and a small pickup truck on ConRail property for the period of 552 hours mentioned above was the fantastic figure of \$91,546.33 for performing no work.

Under the terms of the agreement, ConRail would have realized a generous 3 percent savings if the bill was paid in full within 15 days.

The above equipment, with the exception of the pickup truck, was parked, but never used to perform any service for ConRail, and the pickup truck with a charge of \$468 per day never appeared at the Conway, Pa., yard. The invoices for the above service are recorded as Penn Erection & Rigging Co. invoice No. 1574, dated January 31, 1977, and invoice No. 1621, dated February 11, 1977, listed under customer order No. 44235 and job No. 872, and are attached hereto and identified as exhibit C.

Senator LONG. I have read your statement, and I will ask the attachments you have here be put in the record.

Mr. TERREGO. The outside contractors issue gift certificates for clothing. They have a retreat in Hawaii, where these people go to Hawaii free of charge—these vultures, we call them—and there is something wrong here. We have changed the agreement to accommodate them, even to the extent now, an employee gets hired at \$7.58 an hour, we no longer have that. We hire him at \$1.15 less, and he does not get the top rate until 3 years later, to help them, to make them get on their feet.

Senator LONG. I think your statement speaks for itself, Mr. Terriego. I am going to ask for a written response by appropriate people in ConRail.

Mr. TERRIEGO. We respectfully request an investigation be conducted into the mismanagement of ConRail funds. We are able and willing to assist in such investigations with facts and figures we have accumulated over the past 18 months.

Senator LONG. I think the first order of business would be to invite ConRail to respond to what you have to say here, and we will see where we go from there.

Mr. TERRIEGO. One more point, Mr. Chairman. The car inspectors—a railroad worker is a proud railroad worker. They could not permit us to exercise our rights. A car inspector would go out and inspect the car, find a defect, along the supervisor would come and tear that shop ticket right off and let the car go. There are thousands of cars out there with mechanical defects that should be in the shops. We assume they put a car in the shop, the boss says, "Do not put a rivet, put a bolt," "Do not put a bolt, put a piece of wire, use chewing gum, use the shoe strings and get it out," so you have a shoe string railroad.

Senator LONG. I understand. I think you made your position amply clear. I think we ought to find out more about it.

Thank you very much for your statement.

[The statement follows:]

STATEMENT OF ALBERT A. TERRIEGO, INTERNATIONAL VICE PRESIDENT, TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO

My name is Albert A. Terriego and I reside at 25 Winthrop Place, Hazlet, New Jersey, 07730. I am presently employed as international vice president of the Transport Workers Union of America, AFL-CIO, and have held that position since 1975. Our international headquarters are located at 1980 Broadway, New York, N.Y. 10023.

In my position as director of the railroad division, I am responsible for administering its affairs and negotiating contracts that cover approximately 15,000 railroad employees on 10 of the Nation's railroads. I am presently serving as chairman of the negotiating committee of the Joint Council of Carmen on Amtrak nationwide. In addition, I negotiate contracts for certain employees on the Port Authority of New York, including path and the old Hudson Manhattan Railroad. I entered railroad service as a laborer on the Pennsylvania Railroad Company on March 10, 1942, at age 17, and except for service in World War II (1943-44-45), I have been associated with the railroad and railroad labor unions ever since.

I have watched the decline of the American railroad in the Northeast United States, particularly since the end of World War II.

I can recall when it was a distinct honor as a young man, to be employed by the Pennsylvania Railroad Company in the post World War II era. Railroad workers were among the most respected industrial workers in the country. A railroad pass issued to workers by the Pennsylvania Railroad was more honored for identification and establishing credit than any of the present-day credit cards in existence today. I am sorry to say that children of ConRail employees today are literally embarrassed to reveal to friends that their father is an employee of ConRail, a bankrupt company that is made a butt for jokes by the public and news media of this country. It is no honor to work for a company that is hopelessly mired in bankruptcy with billions of dollars in debt and operating on Government handouts, whose management is literally driving the company deeper into a hole by the squandering and misuse of funds.

The leadership and members of the Transport Workers Union have done everything in their power to help the railroad right itself and make a respectable showing in an attempt to put the bankrupt railroad back on its tracks. We have taken pains together with the Brotherhood of Railway Carmen of the United States and Canada to change our entire labor agreement with ConRail to provide it with more flexibility to utilize its work force. We have negotiated an entire new agreement with ConRail. We have informed our members through bulletin board notices and meetings that theft and waste of ConRail funds will not be tolerated by the Transport Workers Union. Attached hereto is the notice identi-

fied as exhibit A. We have given to the management of ConRail, at great sacrifice to our members, changes in the labor agreement and work rules, which makes it less expensive to clean up wrecks and derailments on ConRail property and right-of-way and to get the railroad right-of-way open at faster speed. No other unions in the country has made such drastic changes in its labor agreements to accommodate the railroads.

We have changed our work rules agreement which in the past prohibited ConRail management from using outside contractors' equipment for wrecks and derailments, thereby giving management the right to use outside contractors' equipment where it is truly more economical and efficient to do so. We re-negotiated the agreement with provisions that ConRail would use ConRail carmen represented by the Transport Workers Union of America and the Brotherhood of Railway Carmen of the United States and Canada to work in conjunction with the outside equipment with no penalties for using the outside contractor. ConRail has flagrantly abused these agreements and now use contractors' equipment and crews in violation of the labor agreements. It must be noted that each time ConRail management violates the agreement in using and paying for the outside contractors' crews, it must also pay its own carmen employees for sitting at their homes. The cost of clearing wrecks has gotten out of control, millions of dollars are being wasted because of ConRail's persistent using of outside contractors.

Regardless of how hard we try to help ConRail it seems that ConRail management continues to find more ways to destroy ConRail. We will present evidence to this committee that ConRail will never succeed with the present attitude and misuse of ConRail funds by ConRail management. The flagrant abuses and mismanagement of funds by ConRail officials have caused great concern among employees in all departments throughout the ConRail system.

We have, therefore, organized and instructed our members to police and report to my office any evidence of misuse of ConRail funds by any member of management. We have been flooded with evidence of such abuses and mismanagement and that becomes my primary reason for appearing before this committee. It is a national tragedy that ConRail officials are not willing to police their own people to eliminate these abuses of funds. I will submit to you in the brief time that I have before this committee just a few examples of misuse of funds, and misplacement of trust. These examples, I am sure, will be shocking to this committee as they have been to us, and to thousands of ConRail employees throughout the ConRail system.

Example No. 1: It was reported to me by our union members in Williamsport, Pennsylvania, that the shop superintendent at the Newberry Jct. car shop was detected removing a gondola car full of new railroad ties while the car was stationed in the Newberry car shop for repairs. The shop superintendent purposely delayed the car in the shop for one week until a Saturday morning when he and two other supervisors removed 300 new ties from the property valued at \$17.00 per tie to a farm owned and operated by a relative of the shop superintendent. I dispatched our international representative to the scene to investigate. Our international representative secured the necessary information and wrote to the chief mechanical officer and division superintendent about the incident and requested a meeting to discuss the situation. After he was ignored for two weeks he insisted that unless a meeting was scheduled, the union itself would file charges with the local police in Williamsport, Pennsylvania.

A meeting was finally arranged with ConRail's division superintendent, chief mechanical officer, and ConRail's division chief of police. At the above meeting, the chief mechanical officer defended the shop superintendent and dismissed the information as petty and praised the shop superintendent as a good conscientious ConRail supervisor.

When it appeared that a coverup was taking place, I personally went to Philadelphia and met with ConRail's top officials in the personnel department and made an official complaint. As a result of this complaint, two ConRail police inspectors were subsequently dispatched to Williamsport, Pennsylvania, and after investigation by ConRail's police inspectors, the shop superintendent was apprehended and jailed in the Lycoming County, Pennsylvania, jail, suspended from his position with ConRail, and was later dismissed.

The 15 employees, who were employed at the Williamsport car shop and members of this organization at the time of the incident, paid the supreme sacrifice for being conscientious and dedicated ConRail employees who carried out our policy to apprehend thieves on ConRail. The chief mechanical officer and master mechanic closed the Williamsport and Newberry shop 30 days after the

shop superintendent was jailed and dismissed. We considered this an act of retaliation. The shop is now permanently closed. The master mechanic has informed our international representative that he considered the shop superintendent a very good and conscientious employee and would make an attempt to have him reinstated to his former position. We strenuously resent this type of attitude by members of management. Subsequent investigation developed the fact that the Williamsport shop superintendent had been misusing funds and material from ConRail for a long period of time before he was apprehended.

I would like to call to the attention of this committee of the delay and laxity on the part of ConRail in handling this situation. Attached hereto and identified as exhibit B are the communications concerning the incident in Williamsport and Newberry Jct., Pennsylvania.

Example No. 2: On January 13, 1977, at 9:00 P.M., the Penn Erection and Rigging Company of Turtle Creek, Pennsylvania, appeared at the Conway, Pennsylvania, freight yard with a 100-ton mobile Holmes crane and pick-up truck. This 100-ton mobile crane was parked at the Conway, Pennsylvania, ConRail car shop parking lot from 9:00 P.M., January 13, 1977, until 1:30 A.M., January 24, 1977, for a 12-day uninterrupted period and again from 12:00 midnight, January 31, 1977, until 12:00 midnight, February 11, 1977, for another 11-day uninterrupted period. The total aggregate time that the 100-ton mobile Holmes crane was parked at the ConRail Conway, Pennsylvania, car shop was 552 hours. The rates charged by the Penn Erection and Rigging Company to ConRail for the privilege of parking its 100-ton crane and a small pick-up truck was as follows:

24 hours for 100-ton Holmes mobile crane and pickup truck

Holmes crane first 8 hours regular rate at \$140 per hour-----	\$1, 120. 00
Holmes crane next 16 hours at premium rate of \$165 per hour-----	2, 640. 00
Pickup truck at \$19.50 per hour for 24 hours-----	468. 00
	<hr/>

Total charge for crane and pickup truck for each 24-hour period. 4, 228. 00

The total charge to ConRail for the above service performed of parking the Penn Erection and Rigging Company 100-ton mobile Holmes crane and a small pick-up truck on ConRail property for the period of 552 hours mentioned above was the fantastic figure of \$91,546.33 for performing no work.

Under the terms of the agreement, ConRail would have realized a generous 3-percent savings if the bill was paid in full within 15 days.

The above equipment, with the exception of the pick-up truck, was parked, but never used to perform any service for ConRail, and the pick-up truck with a \$468.00 per day never appeared at the Conway, Pennsylvania, yard. The invoices for the above service are recorded as Penn Erection and Rigging Company—Invoice No. 1574—dated January 31, 1977, and Invoice No. 1621 dated February 11, 1977, listed under customer order number 44235 and job number 872, and are attached hereto and identified as exhibit C.

Members of our organization and, also, some lower level management personnel employed at Conway, Pennsylvania, submitted this information to the ConRail officials in July of 1977. To date there has been no resolution of this situation and the situation has grown worse. Members of our organization and lower level management personnel at Conway are ready and willing to testify that the crane was parked for the 23-day period and did not move from the parking lot for the entire period and that the pick-up truck was never in Conway, Pennsylvania, as charged by the Penn Erection Company.

The witnesses will be presented to this committee upon request, as will all other statements and documents, to support the allegations contained in this statement.

While the Penn Erection and Rigging Company 100-ton Holmes crane was parked at the Conway car shop doing nothing for a 23-day period, there were many derailments occurring in the Conway yard and area. It is very interesting to note how the derailments occurring in the 23-day period in question were handled while the contractor's 100-ton mobile crane was sitting by doing nothing at the Conway yard.

On January 14, 1977, a derailment occurred at 5 hump in the Conway yard while the same 100-ton Penn crane was sitting idle. The derailment occurred approximately 200 yards from where the same 100-ton crane was parked. To clear up the derailment Penn Erection was ordered to bring in 2 additional 75-ton mobile cranes and a pick-up truck to clear up the derailment which took

17 hours at a cost of \$4,826.12 to ConRail. The work on the above derailment was performed while the Penn Erection 100-ton crane was being paid at a premium rate for sitting idle on a full-time basis at the Conway car shop 200 yards away. The invoice number—1543—dated January 21, 1977, is attached hereto and identified as Exhibit D.

Again 2 days later on January 16, 1977, another derailment of a locomotive occurred in the Conway yard area at Island Avenue in Pittsburgh, Pennsylvania, which is approximately 12 miles from the Conway yard limits. Again, while the 100-ton Holmes crane was stationed at Conway and under pay, Penn Erection was ordered to dispatch another 100-ton Holmes Hi-Rail crane and a 75-ton crane and pick-up truck to the scene. The Penn Erection Company performed the work from 4:00 p.m. to 12:00 noon at a cost to ConRail of \$2,649.10, again while the Penn Erection and Rigging Company 100-ton Holmes crane was standing by at Conway being paid premium rates and doing nothing. The Penn Erection invoice number on the above derailment is 1316, dated January 18, 1977 and attached hereto and identified as Exhibit E.

The most flagrant case of mismanagement occurred 5 days later, on January 21, 1977, when at 5:00 p.m. a derailment of 5 cars occurred at Vanport, Pennsylvania, a distance of 5 miles from the Conway yard. The company dispatched the ConRail Conway, Pennsylvania, wreck crew with their own wreck equipment, which consisted of a 200-ton steam derrick and a crew of 10 men to the scene of the derailment. The ConRail wreck crew cleaned up the derailment within 10 hours and I want to emphasize, with no help from the Penn Erection Company. A bill was submitted to ConRail by Penn Erection for the same derailment for January 21, 1977, at Vanport from 5:00 p.m. to 3:30 a.m. in the amount of \$6,630.00. Witnesses at the scene, including some members of management, will testify that Penn Erection charged for the work and never did appear at the scene of the derailment at Vanport and all of the work at the Vanport derailment was performed by ConRail employees. It must be noted that ConRail was charged by Penn Erection for work that was never performed at Vanport, Pennsylvania, while another Penn Erection 100-ton Holmes crane was sitting by at Conway at a cost of more than \$4,000.00 per day doing nothing. The invoice number—1567—dated January 31, 1977, is attached hereto and identified as Exhibit F. Witnesses will be presented to verify that Penn Erection did not appear at the scene at Vanport and performed no work. We suggest that this incident warrants a suspicion of fraud.

The above incidents of gross mismanagement are only a small fraction of the cases that occur on a daily basis throughout the ConRail system in the 16 states that ConRail services. Although we have complained about them to management it has never undertaken to give us a satisfactory answer. Attached hereto and identified as Exhibit G are copies of correspondence that show I have made complaints of the abuses and the management has disregarded my complaints.

Wrecking contractors are parasites who generally seem to have cozy arrangements with middle level members of management who are trusted with the responsibility of cleaning up wrecks on ConRail property. There are numerous wrecking contractors stationed throughout the 16 States in which ConRail operates, and some of them are large contracting firms that provide fringe benefits to members of ConRail management.

Contractors are assigned to territories which are dictated by the division superintendents who have complete authority on the use and abuse of using outside contractors for wrecks and derailments with no apparent restraint by higher level management officials. The following is an example of the above policy of using contractors by ConRail officials:

Kenneth Lowe, a ConRail division superintendent stationed in the New Jersey area, was recently transferred to the Cleveland, Ohio, area. While Lowe was stationed in New Jersey, he used exclusively the equipment from Istringhausen Company from the Newark, New Jersey, area on ConRail derailments. The ConRail division superintendent in Cleveland at that time used All-Wrecking Company. Shortly after Lowe's transfer to the Cleveland, Ohio, area as ConRail division superintendent, Istringhausen Company equipment appeared at the scene of the derailments in Cleveland, Ohio. In effect, some superintendents take their own contractors with them when they are transferred to other areas of ConRail. What arrangements were made between the ConRail official and the outside contractor are not made available to us. Attached hereto and identified as exhibit H is a letter of complaint by the Brotherhood of Railway Carmen of the United States and Canada on the use of the Istringhausen firm in the New Jersey area.

As hereinbefore stated, contractors are stationed in areas throughout the ConRail system as designated by division superintendents. Hulcher Wrecking Company is the most prominent outside contractor dealing in wrecking and is used in most of the areas between St. Louis and Boston. Hulcher is noted for providing the most lucrative fringes to ConRail management as reported to us. Mor-Trak is used in the Syracuse area. Winters Company and Lake Steel Company are used in the northern New York area. Penn Erection is used in the eastern Ohio and western Pennsylvania area. Istringhausen handles the New Jersey area and now has replaced the All-Wrecking Company in the Cleveland and northern Ohio area.

I have in my possession records of many similar incidents too numerous to be included in this statement which I would be glad to submit to this committee.

We submit that we have provided evidence of gross neglect and mismanagement by ConRail officials. We suggest that an investigation should be conducted on the use of outside contractors. Contractors should be replaced and the wrecking work turned over to ConRail employees who can perform the work at a fraction of the cost and would eliminate the waste of much needed funds that can be used to operate the railroad system.

CONTRACTING OUT BUILDING OF FREIGHT CARS

ConRail has announced that it intends to contract out the work of building 4,000 hopper cars rather than construct the hopper cars in its own freight car shops on the ConRail system.

ConRail operates 4 large car shops on its system that are capable of building new freight cars. The car shops are located in Altoona, Pennsylvania; Reading, Pennsylvania; Meadville, Pennsylvania; and Beech Grove, Indiana. The largest of these shops is located at Altoona, Pennsylvania, and is considered to be the largest most modern and efficient freight car building and repair facility in the world. In peak production periods in 1959, the Altoona shops built 8,244 new freight cars for the Pennsylvania Railroad Company while performing all of Pennsylvania's heavy repairs at the same time. Attached is the production record of the Altoona SAM REA car shop from 1955 through 1975, and identified as exhibit 1. The shops have never reached their full potential.

The Altoona shop is equipped with 4 assembly lines to build freight cars on a 3-shift basis. An example of the capabilities of this enormous facility reveals that the shops can produce 24 new hopper cars per line per 8-hour shift. If only 2 lines were used to build hopper cars on a 2-shift basis, the shop could produce 96 hopper cars on a 2-shift basis. The remaining half of the shop can be used to meet ConRail's needs for heavy repair to freight cars. If Altoona were used exclusively for building cars, the 3 smaller shops could provide all the necessary heavy freight car repairs for ConRail. It is a well-known fact there would be millions of dollars saved if ConRail had properly planned to utilize its own shops to build the 4,000 hopper car order which was let out to 3 outside contractors in the month of January, 1978.

It has been reported to me that planning is now underway for an 11,000 new freight car program for delivery late in 1978. However, there has been no decision to date on contracting out the work on the 11,000 freight car order. There is no question in my mind that ConRail's own shops can produce the 11,000 new freight cars at a substantially lower cost with much quicker delivery to ConRail, while ConRail is in desperate need of new freight equipment.

I have informed ConRail officials that we are willing to sit down with management and provide them with the flexibility in utilizing the work force to gain maximum production in any car building program if they chose to build the cars in ConRail's own shops. To date ConRail has not responded to our suggestions.

We are concerned that if the ConRail policy of contracting out work to the outside is extended to contracting out the building of cars, then millions of dollars that could be saved will go by the wayside.

During the year 1974 many political leaders toured the Altoona car shops when the U.S.R.A. was in the process of formulating the final system plan for ConRail. U.S. Secretary of Transportation Claude Brinegar stated after his tour of the shops that he was amazed at the attitude and high spirits of the work force and that you could not tell you were walking through a shop owned by a bankrupt company. The spirits and attitude of the work force is super! Mr. Brinegar, also stated for the news media in central Pennsylvania that the Altoona shop is the greatest unused asset of any company he has ever seen.

Many political leaders visiting and touring the shop were measurably impressed by the attitude and spirit of the work force and the efficient manner in which the work force carried out their duties. The production record of the Altoona shops is the best of any large car shop in the United States.

We pledge to this committee that our organization will cooperate in any manner possible to eliminate the abuses and mismanagement among ConRail officials.

In conclusion, we respectfully request that an investigation be conducted into the mismanagement of ConRail funds. We are able and willing to assist in such an investigation with facts and figures that we have accumulated over the past 18 months.

Exhibit A

TRANSPORT WORKERS OF AMERICA,
RAILROAD DIVISION,
New York, N.Y., October 24, 1977.

To: All ConRail & Amtrak Local Presidents', Grievance Chairman & Staff Assigned, Transport Workers Union of America, AFL-CIO

DEAR SIRs AND BROTHERS: Due to the increasing number of discipline cases involving dismissal for theft and pilferage we find it necessary to issue the enclosed leaflet once again.

You are urged to post this leaflet on all your Bulletin Boards in the most conspicuous place keeping it there for everyone to see.

If you need more leaflets you can obtain them by writing to my office.

I trust you will adhere to the above.

Fraternally yours,

ALBERT A. TERRIEGO,
Director-Railroad Division, International Vice President.

TO ALL TWU MEMBERS

POST

Recently, we discussed the subject of theft and pilferage with officials of Con-Rail and Amtrak. The matter is of great concern because of the increasing number of theft incidents on Company property. The facts are that some of our members are separated from the Company because of their involvement in theft.

The Company policy concerning theft by employees is an established and widely publicized fact. It is known by all the employees; it is contained in the Company's posted work rules and regulations. Any employee involved in a theft is subject to dismissal by the Company.

It is important that all members know their Union's position in this matter. We do not condone thievery. Many times we have heard the plea that the value of the item taken was small, and therefore, the penalty of dismissal was severe. The fact is a theft is a theft regardless of the value of what was taken. The Company action of punishment is the same.

We strongly urge all TWU members not to become involved directly or indirectly, in the theft or pilferage of Company property, the property of others or railroad shipments. If you become involved in such incidents your Union is not in a position to give you the full support you normally expect when grieving some unjust action by the Company. It would be a waste of your Union's funds if in fact you were guilty of thievery.

Your Union strongly urges you not to put your job on the line by taking something that doesn't belong to you.

ALBERT A. TERRIEGO,
Director—Railroad Division, International Vice President.

Exhibit B

TRANSPORT WORKERS UNION OF AMERICA,
RAILROAD DIVISION,
New York, N.Y., October 1, 1976.

R. E. WERREMEYER,
Division Superintendent, Consolidated Rail Corporation,
Altoona, Pa.

DEAR SIR: It has been reported to this organization that employees represented by this organization have been refused medical attention resulting from accidents on the job at Newberry Jct. Shops and Yards, and are harrassed after re-

porting these injuries to the General Car Foreman at that location. The latest incident involved Car Repairman L. J. Winters.

We have also been informed by employees of the Newberry Car Dept. that there is a gross misuse of ConRail funds and material that involves company officials. The incidents are too numerous to mention in this letter. These incidents have been brought to the attention of the local Master Mechanic and have been completely ignored.

As you know this organization has made a significant contribution to make ConRail a reality and to make it a viable Railroad. We request an immediate meeting with you or any Company official with authority to correct such abuses in the best interests of all concerned.

Very truly yours,

MILO SHIMRAK,
International Representative.

CONSOLIDATED RAIL CORPORATION,
Pittsburgh, Pa., October 11, 1976.

Mr. MILO SHIMRAK,
*International Representative, T.W.U.,
Baden, Pa.*

DEAR MILO: Division Superintendent Werremeyer and I have been unsuccessful in our attempts to contact you through your office in connection with our desire to meet with you to resolve the alarming statements outlined in your letter of October 1, 1976.

In Mr. Werremeyer's absence for two weeks would like to meet with you anywhere at your convenience to review the injury incident and also to quickly lean of the misuse of ConRail funds of which our present Master Mechanic has neither knowledge nor been the recipient of any such advice.

In the interest of time, reply or telephone call can be made through my office.

Very truly yours,

C. A. KORN,
Superintendent, Equipment.

TRANSPORT WORKERS UNION OF AMERICA,
RAILROAD DIVISION,
New York, N.Y., October 18, 1976.

C. A. KORN,
*Superintendent Equipment,
Consolidated Rail Corp.,
Pittsburgh, Pa.*

DEAR SIR: This refers to your letter dated October 11, 1976 in regard to my letter to Superintendent Werremeyer dated October 1, 1976 in which a request was made to meet with him concerning the Company's refusal to give the Employees Medical attention to certain Employees at Newberry Jct Pa., and reports made to the Union of the misuse of Conrail funds at that location.

Since we did not hear from Supdt Werremeyer on our request we have decided to use other avenues on the contents of our letter. As you know. I do not service the Pittsburgh Area on Conrail I could have been reached at our office in Altoona Pa. or at my Home in Baden, Pa. Your Personnel Office in Pittsburgh has the Phone numbers and addresses of our Office.

We have reported to your Master Mechanic on several other occasions of the same type incidents referred to in my letter, however there were no Investigations made, and we subsequently made Grievances of those incidents but your Mechanical Dept and Personnel Dept defended the Master Mechanic without a joint Investigation. At that time one of your Master Mechanics was charged with the misuse of Company funds and the Grievance is still pending and unresolved. At that time the Company's Personnel Supdt made a joke of our grievance in Altoona Pa.

We no longer have confidence in your Master Mechanics who whitewash every thing and refuse to cooperate in any request for an investigation concerning injustices to Employees and the contents of our letter of October 1, 1976.

I can assure you that we are going to pursue these problems until they are resolved to satisfaction of both ConRail and its Employees, and make ConRail a viable Railroad, which will be to the benefit of both ConRail and its Employees.

Yours truly,

MILO SHIMRAK,
International Representative.

TRANSPORT WORKERS UNION OF AMERICA,
RAILROAD DIVISION,
New York, N.Y., January 7, 1976.

JAMES J. BUTLER,
Chief Mechanical Officer,
Consolidated Rail Corp.,
Philadelphia, Pa.

DEAR SIR: This refers to the letter of October 1, 1976, sent to division superintendent, R. E. Werremeyer, Allegheny Division, and conversation with you in regard to contents of our letter to Supt. Werremeyer while in Philadelphia in October, 1976. At that time your investigators met with us and obtained our detailed information concerning gross misuse of ConRail funds and material at Newberry Jct., Pennsylvania. We supplied the investigators with many details and names of witnesses where material valued in the thousands of dollars was removed from Company property.

In the month of November, 1976, I met with Supt. Werremeyer, Chief Mechanical Officer of Central Region, C. A. Korn, and Captain of Police McQuaide in Altoona and supplied them with the same information. After I supplied them with same information I was advised by your investigators from the auditing department in Philadelphia that they were advised to discontinue any investigation on our information, and we never received any report of our allegations from anyone.

Our further investigation reveals that a car load of new ties was removed from Company property and the Company official taking the ties was apprehended by Pennsylvania State Police, but was bailed out by a higher Company official who advised police that the Company official had permission to take the ties which were brand new. This information was withheld from us and we have never received any report.

We, also, submitted many names of witnesses who witnessed officials using Company employees to perform free work for individuals off Company property and removing Company material to officials' residences. These witnesses have never been contacted. We feel that there is a coverup going on.

As you know, our organization does not condone thievery among employees that we represent. There have been 26 employees represented by us dismissed in the past few months because of thievery of Company property and we expect Management to police their own.

I am sorry to inform you that because of the large amount of money involved in the misuse of funds and material at Newberry, we will meet with the new U.S. Secretary of Transportation and other high government officials.

Before we pursue other avenues, I think that it would be to the best interest of all concerned if we meet with you and our International Vice President, A. A. Terriego, in Philadelphia. We will both be in Philadelphia on January 17th and 18th, 1977, to attend negotiations. I suggest that we meet then.

I am forwarding a copy of this letter to Edward Jordan.

Yours truly,

MILO SHIMRAK.

CONRAIL,
January 17, 1977.

Mr. MILO SHIMRAK
Baden, Pa.

DEAR MR. SHIMRAK: This refers to your letter dated January 7, concerning reports you have furnished our investigators respecting what you term "gross misuse of Conrail funds and material at Newberry Jct., Pennsylvania".

This matter was turned over to our Police Department some time ago. I am sure they are making a complete investigation. As soon as they have completed the investigation and a determination is made as to action that may be indicated as a result of such investigation, I will be glad to pass long the results thereof to you.

I will be glad to talk to you and Al Terriego when you are in Philadelphia on January 17th and 18th. If you have any additional information that will be helpful, I will be glad to turn it over to our Police Department.

Very truly yours,

J. J. BUTLER,
Chief Mechanical Officer (Acting).

EXHIBIT C

INVOICE—PENN ERECTION & RIGGING CO.

JOB NO. 872—STANDBY (DERAILMENTS), CONWAY YARD, JAN. 13-24

	Per hour	Amount
Jan. 13, 1977—1:30 a.m. to 9 p.m.:		
100-ton Holmes with crew:		
8 hours regular	\$140.00	\$1,120.00
11 hours premium	165.00	1,815.00
Tool and block truck, 19 hours	19.50	370.50
Jan. 13-14, 1977—9 p.m. to 12 noon:		
100-ton Holmes with crew:		
4 hours regular	140.00	560.00
11 hours premium	165.00	1,815.00
Tool and block truck, 15 hours	19.50	299.50
Jan. 14, 1977—12 noon to 12 midnight:		
100-ton Holmes with crew:		
4½ hours regular	140.00	630.00
7½ hours premium	165.00	1,237.50
Tool and block truck, 12 hours	19.50	234.00
Jan. 15, 1977—12 midnight to 12 noon:		
100-ton Holmes with crew, 12 hours premium	165.00	1,980.00
Tool and block truck, 12 hours	19.50	234.00
Jan. 15, 1977—12 noon to 12 midnight:		
100-ton Holmes with crew, 12 hours premium	165.00	1,980.00
Tool and block truck, 12 hours	19.50	234.00
Jan. 16, 1977—12 midnight to 12 noon:		
100-ton Holmes with crew, 12 hours premium	165.00	1,980.00
Tool and block truck, 12 hours	19.50	234.00
Jan. 16, 1977—12 noon to 12 midnight:		
100-ton Holmes with crew, 12 hours premium	165.00	1,980.00
Tool and block truck, 12 hours	19.50	234.00
Jan. 17, 1977—12 midnight to 12 noon:		
100-ton Holmes with crew:		
4 hours regular	140.00	560.00
8 hours premium	165.00	1,320.00
Tool and block truck, 12 hours	19.50	234.00
Jan. 17, 1977—12 noon to 12 midnight:		
100-ton Holmes with crew:		
4½ hours regular	140.00	630.00
7½ hours premium	165.00	1,237.50
Tool and block truck, 12 hours	19.50	234.00
Jan. 18, 1977—12 midnight to 12 noon:		
100-ton Holmes with crew:		
4½ hours regular	140.00	630.00
7½ hours premium	165.00	1,237.50
Tool and block truck, 12 hours	19.50	234.00
Jan. 18, 1977—12 noon to 12 midnight:		
100-ton Holmes with crew:		
4½ hours regular	140.00	630.00
7½ hours premium	165.00	1,237.50
Tool and block truck, 12 hours	19.50	234.00
Jan. 19, 1977—12 midnight to 12 noon:		
100-ton Holmes with crew:		
8 hours premium	165.00	1,320.00
4 hours premium	140.00	560.00
Tool and block truck, 12 hours	19.50	234.00
Jan. 19, 1977—12 noon to 12 midnight:		
100-ton Holmes with crew:		
4½ hours regular	140.00	630.00
7½ hours premium	165.00	1,237.50
Tool and block truck, 12 hours	19.50	234.00
JAN. 20 1977—12 midnight to 12 noon:		
100-ton Holmes with crew:		
8 hours premium	165.00	1,320.00
4 hours regular	140.00	560.00
Tool and block truck, 12 hours	19.50	234.00
JAN. 20, 1977—12 noon to 12 midnight:		
100-ton Holmes with crew:		
4½ hours regular	140.00	630.00
7½ hours premium	165.00	1,237.50
Tool and block truck, 12 hours	19.50	234.00
Jan. 21, 1977—12 midnight to 12 noon:		
100-ton Holmes with crew, 12 hours premium	165.00	1,980.00
Tool and block truck, 12 hours	19.50	234.00
Jan. 21, 1977—12 noon to 12 midnight:		
100-ton Holmes with crew, 12 hours premium	165.00	1,980.00
Tool and block truck, 12 hours	19.50	234.00
Jan. 22, 1977—12 midnight to 12 noon:		
100-ton Holmes with crew, 12 hours premium	165.00	1,980.00
Tool and block truck, 12 hours	19.50	234.00

EXHIBIT C—Continued

INVOICE—PENN ERECTION & RIGGING CO.—Continued

JOB NO. 872—STANDBY (DERAILMENTS), CONWAY YARD, JAN. 13-24—Continued

	Per hour	Amount
Jan. 23, 1977—12 midnight to 12 noon:		
100-ton Holmes with crew:		
4 hours regular	140.00	560.00
8 hours premium	165.00	1,320.00
Tool and block truck, 12 hours	19.50	234.00
Jan. 23, 1977—12 noon to 12 midnight:		
100-ton Holmes with crew:		
4½ hours regular	140.00	630.00
7½ hours premium	165.00	1,237.50
Tool and block truck, 12 hours	19.50	234.00
Jan. 24, 1977—12 midnight to 12 noon:		
100-ton Holmes with crew:		
4 hours regular	140.00	560.00
8 hours premium	165.00	1,320.00
Tool and block truck, 12 hours	19.50	234.00
Jan. 24, 1977—12 noon to 1:30 a.m.:		
100-ton Holmes with crew:		
4½ hours regular	140.00	630.00
9 hours premium	165.00	1,485.00
Tool and block truck, 13½ hours	19.50	263.25
Jan. 22, 1977—12 noon to 12 midnight:		
100-ton Holmes with crew, 12 hours premium	165.00	1,980.00
Tool and block truck, 12 hours	19.50	234.00
Food bill		52.52
Total amount now due		51,403.27
Less discount		1,028.07
Total		50,375.20
Jan. 31, 1977—3 p.m. to 12 midnight:		
100-ton Holmes with crew:		
1½ hours regular	140.00	210.00
7½ hours premium	165.00	1,237.50
Tool and block truck, 9 hours	19.50	175.50
Feb. 1-2, 1977—12 midnight to 12 midnight:		
100-ton Holmes with crew:		
8 hours regular	140.00	1,120.00
16 hours premium	165.00	2,640.00
Tool and block truck, 24 hours	19.50	468.00
Feb. 2-3, 1977—12 midnight to 12 midnight:		
100-ton Holmes with crew:		
8 hours regular	140.00	1,120.00
16 hours premium	165.00	2,640.00
Tool and block truck, 24 hours	19.50	468.00
Feb. 3-4, 1977—12 midnight to 12 midnight:		
100-ton Holmes with crew:		
8 hours regular	140.00	1,120.00
16 hours premium	165.00	2,640.00
Tool and block truck, 24 hours	19.50	468.00
Feb. 4-5, 1977—12 midnight to 12 midnight:		
100-ton Holmes with crew, 24 hours premium	165.00	3,960.00
Tool and block truck, 24 hours	19.50	468.00
Feb. 5-6, 1977—12 midnight to 12 midnight:		
100-ton Holmes with crew, 24 hours premium	165.00	3,960.00
Tool and block truck, 24 hours	19.50	468.00
Feb. 6-7, 1977—12 midnight to 12 midnight:		
100-ton Holmes with crew:		
8 hours regular	140.00	1,120.00
16 hours premium	165.00	2,640.00
Tool and block truck, 24 hours	19.50	468.00
Feb. 7-8, 1977—12 midnight to 12 midnight:		
100-ton Holmes with crew:		
8 hours regular	140.00	1,120.00
16 hours premium	165.00	2,640.00
Tool and block truck, 24 hours	19.50	468.00
Feb. 8-9, 1977—12 midnight to 12 midnight:		
100-ton Holmes with crew:		
8 hours regular	140.00	1,120.00
16 hours premium	165.00	2,640.00
Tool and block truck, 24 hours	19.50	468.00
Feb. 9-10, 1977—12 midnight to 12 midnight:		
100-ton Holmes with crew:		
8 hours regular	140.00	1,120.00
16 hours premium	165.00	2,640.00
Tool and block truck, 24 hours	19.50	468.00
Food		68.06
Total amount now due		40,143.06
Less discount		802.66
Total		39,340.20

EXHIBIT D

JOB NO. 872—DERAILMENT, CONWAY YARD, NO. 5 HUMP, 9 CARS

	Per hour	Amount
Jan. 14, 1977—2:30 a.m. to 8 p.m.:		
No. 1 75 ton crane with crew:		
8 hr regular		
9 hr premium	\$110.00	\$880.00
No. 2 75 ton crane with crew:	135.00	1,215.00
8 hr regular		
9 hr premium	110.00	880.00
Tool and block truck, 17 hrs	135.00	1,215.00
Permits	19.50	331.50
Food bill		279.10
		25.52
Total amount now due		4,826.12
Less discount		96.52
Total		4,729.60

EXHIBIT E

JOB NO. 872—DERAILMENT, ISLAND AVE. YARD, 2 ENGINES

	Per hour	Amount
Jan. 16, 1977—4 a.m. to 12 noon:		
75 ton crane with crew, 8 hour premium	\$135.00	\$1,080.00
100 ton Holmes hi-rail with crew, 8 hr premium	165.00	1,320.00
Tool and block truck, 8 hr	19.50	156.00
Permits		93.10
Total amount now due		2,649.10
Less discount		52.98
Total		2,596.12

EXHIBIT F

JOB NO. 872—DERAILMENT, VANPORT, PA., 5 CARS

	Per hour	Amount
Jan. 19, 1977—5 p.m. to 3:30 a.m.:		
100 ton Holmes hi-rail with crew, 10½ hr premium	\$165.00	\$1,730
Rigger foreman, 10½ hr premium	34.00	350
2 Riggers, 10½ hr premium (each)	31.80	660
No. 1 583 sideboom with operator, 6 hr premium	105.00	630
No. 2 583 sideboom with operator, 6 hr premium	105.00	630
977 cat with operator, 5 hr premium	75.00	370
75 ton crane with crew, 7 hr premium	135.00	940
2 tractor trailers lo-boy with drivers, 6 hr premium (each)	65.00	780
Dispatcher, 5 hr premium	31.80	150
Tool and block truck, 10 hr	19.50	190
Permits for 75 only		150
Food bill		10
Total amount now due		6,630
Less discount		130
Total		6,500

Exhibit G

CONSOLIDATED RAIL CORP.,
October 11, 1976.

Mr. A. A. TERRIEGO,
Vice President, and Director,
Transport Workers Union of America, New York, N.Y.

DEAR SIR: This is in reference to your letter of September 22, 1976, and our discussion on August 25, 1976, relative to outside contractors employes used as ground men in lieu of TWU carmen since inception of the new wreck regulation effective May 1, 1975.

Our review of your files indicated of the forty six (46) claims, six (6), two (2) of which have been resolved, could possibly constitute a violation as referred to above.

Nine (9) did not contain sufficient data to make any determination and the remainder appeared to deal with the following alleged violations:

1. Must use all company equipment before engaging outside contractor.
2. Must exhaust extra list before using outside contractors employes.
3. Late calls for our wreck crews (resolved).
4. Using wreck crew members in other carmens seniority districts.
5. Using carmen in the seniority district where wreck occurs in lieu of the wreck train crew members.
6. Proper facilities not provided for wreck crew members.

Over a period of sixteen months we are not satisfied with even six possible violations and where it is deemed necessary we intend to take corrective action, if not already done so.

It is apparent some dissatisfaction exists but in no manner does it reflect wide-spread abuse or disregard for the Rule.

Nevertheless, in recognition of your complaint our Vice President, Operations, has issued instructions under date of September 7, 1976, to make sure we are calling our Carmen to Assist contractors in clearing wrecks as provided under the provisions of Regulation 8-F-1 (b)5.

We feel the above action illustrates our sincere effort to apply the regulation as intended and corrects the situation complained of.

Very truly yours,

J. R. WALSH,
Senior Director-Labor Relations.

TRANSPORT WORKERS UNION OF AMERICA,
RAILROAD DIVISION,
New York, N.Y., September 22, 1976.

Mr. J. R. WALSH,
Senior Director-Labor Relations,
Consolidated Rail Corp., Philadelphia, Pa.

DEAR SIR: In support of our allegations made at our special meeting with representatives of your office August 25, 1976 and your subsequent letter to my office dated September 3, 1976, I have attached hereto a copy of my files of claims from various parts of the ConRail System which supports our contention of management's complete disregard of Regulation 8-F-1 Wreck Rule effective May 1, 1975.

If local management denies our allegations and if your office is sincere in living up to your commitments during our negotiations for a new Wreck Rule and if you believe you have bargained in good faith, then I am requesting you make available to my office all the bills submitted to your Finance Department for payment by all the outside contractors used in connection with wrecking since May 1, 1975 and let the chips fall where they may.

Let the record show TWU does not and will not stand idly by and let this violation of rules, regulations and abuse of taxpayers' money to continue any longer.

We have several recourses to secure a just solution. However, we believe your office is sincere and will live up to your commitments. Therefore, we are giving you the opportunity to eliminate this problem.

Very truly yours,

ALBERT A. TERRIEGO,
Director-Railroad Division, International Vice President.

CONSOLIDATED RAIL CORP.,
Philadelphia, Pa., September 3, 1976.

Mr. A. A. TERRIEGO,
Director, Transport Workers Union of America,
Railroad Division, New York, N.Y.

DEAR SIR: This has reference to our special meeting held on August 25, 1976, with your grievance committee in attendance and at which time you brought to our attention a complaint that the Transportation Department was allegedly disregarding Regulation 8-F-1 of the Agreement effective May 1, 1975 as it applied to the use of our wreck train forces.

It was your contention that there appeared to be a considerable lack of cooperation from the Transportation Department supervision with a complete disregard of the regulation and a unilateral dependence on outside contractors' employees to work as groundmen resulting in the elimination of the use of available TWU personnel for this work. Your committee also alleged we pay outside contractors for equipment that is never used, thereby resulting in excessive expense to this company.

As these allegations are under investigation, we cannot properly discuss them with you at the present time. When completed and after our evaluation of this information, you will be advised accordingly.

In the meantime, you may rest assured that while we recognize that we must call on outside contractors for their equipment in the absence of ConRail's own off-track equipment, every effort will be made by our supervision to utilize TWU personnel as groundmen in accordance with the provisions of Regulation 8-F-1 (b) (5).

Very truly yours,

J. R. WALSH,
Senior Director-Labor Relations.

Exhibit H

JOINT PROTECTIVE BOARD,
JERSEY CENTRAL LINES,
Middlesex, N.J., December 20, 1976.

Mr. J. R. WALSH,
Senior Director Labor Relations,
Consolidated Rail Corp., Philadelphia, Pa.

DEAR SIR: In an arbitrary and capricious manner without notice to the General Chairman of the Brotherhood Railway Carmen of United States & Canada and Vice President Director Railroad Division of the Transport Workers Union of America, the Consolidated Rail Corporation has been subcontracting out the majority of its wrecking service in Seniority District 6 to the Istringhausen Specialist Inc. in lieu of using ConRail's own wrecking equipment, violating Article II of the Sept. 25, 1964 Agreement as amended by Article V of the Dec. 4, 1975 Agreement.

Furthermore, I have been advised that the Carrier has entered into an Agreement that guarantees the Istringhausen Specialist Inc. sufficient monies per month to warrant Istringhausen to maintain their Holmes Crane on ConRail property in Elizabethport Avenue Yard, Elizabeth, N.J.

ConRail brought the Istringhausen's Holmes Crane on their property sometime in August, 1976, and ConRail has been assigning more and more wrecking work to this outfit, depriving their employees the right to work.

On Dec. 6, 1976, the Istringhausen Crane was used with ConRail (PC) Holmes Crane to turn over and rerailed NAHX 92940 and DUPX 9911 at the Bayway Refinery. No wreck crew ground men were used to work with the Istringhausen Crane.

On Dec. 12, 1976 in Brills Yard (CNJ) under the Wilson Avenue Bridge at the Oak Island Interchange, the Istringhausen Crane rerailed GATX 99870, UTLX 96730, PPGX 5302 and GATX 87231. No members of the E'port Shop Wreck Crew were called for the Brills Yard derailment. Also on the same day, the Istringhausen Crane rerailed 4 cars in South Kearny.

On Dec. 18 and 19, 1976, the Istringhausen Crane was used for a wreck caused by Job 2, Engine No. 1553 at CY Tower on the CNJ side of the connecting track to Waverly Yard. Five cars were rerailed by this crane. No E'port Shop wreck crew members were called.

A partial list is enclosed indicating when the Istringhausen Crane was used in lieu of using ConRail wrecking equipment: Nov. 20, 21, 22, 23 and 24, 1976. Also Dec. 6, 8, 9, 10, 12, 1976, in violation of Article II Section 1, 2 and 3 of the Sept. 25, 1964 Agreement as amended by the Dec. 4, 1974 Agreement. No advance written notice of management's intent to subcontract out their wrecking service was provided to the involved General Chairmen of the BRC of U.S. & C. and the Director Railroad Division of the TWU.

An early response would be appreciated.

Very truly yours,

ALEXANDER LESHK.

Exhibit I

EXHIBIT I.—RECORD OF PRODUCTION

Year	New cars	Repair class				Year total	Grand total
		I	II	III	IV		
1955	0	685	15	0	0	700	700
1956	1,059	4,819	176	0	0	6,054	6,754
1957	2,851	3,519	309	0	0	6,678	13,432
1958	3,669	0	201	25	0	3,895	17,327
1959	8,244	1,386	412	451	0	10,493	27,820
1960	2,693	8,236	0	2	185	11,116	38,936
1961	3,934	3,585	60	198	1,016	8,793	47,729
1962	2,847	2,907	56	2,778	315	8,903	56,632
1963	504	7,270	102	3,381	116	9,373	65,005
1964	3,685	2,451	54	3,661	14	8,865	74,870
1965	6,729	3,371	0	1,761	89	11,950	86,820
1966	2,724	3,135	0	2,114	40	8,013	94,833
1967	756	4,085	170	867	28	5,905	100,739
1968	3,739	3,548	220	236	91	7,834	108,573
1969	1,830	4,163	1,473	128	449	8,043	116,616
1970	1,489	3,367	1,332	310	295	6,793	123,409
1971	0	7,011	1,308	339	358	9,016	132,425
1972	0	6,130	542	2,691	71	9,434	141,859
1973	0	7,069	1,113	3,844	1,228	13,254	155,113
1974	0	9,449	0	4,022	2,440	15,911	171,024
1975 ¹	0	9,925	0	3,900	0	13,325	184,349
Total	46,753	96,111	7,542	27,808	6,735		184,349

¹ 1975 projected schedule.

Senator LONG. Next we will call Mr. William H. Dempsey, president, Association of American Railroads.

STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS

Mr. DEMPSEY. Mr. Chairman, I have a brief statement which I will ask to be placed in the record. Again, the lateness of the hour—I don't want to infringe on your time.

As the chairman knows, we have been in support of the ConRail experiment from its very inception. We believe ConRail has made significant progress in the last couple of years, despite adversities which have been detailed to the subcommittee already, which I need not belabor, which for the most part could not have been anticipated.

We are in no position to make an independent judgment as to precisely what ConRail's additional financing needs are, or how much additional time may be necessary to give this experiment a fair test. We are convinced that some significant financing is necessary, desirable; and some additional substantial time should be given; and I am here simply to say, that the rail industry continues to support the efforts to make the ConRail experiment work.

I would simply add two notes of caution :

One, we would hope that additional financing would not come from title V, in any fashion, because it would impair the other railroads' ability to take advantage of that type of financing.

Second, there are some equitable considerations in the long run, that can be associated with Federal—massive Federal funding of an enterprise, when the other railroads are not able to obtain those funds.

Therefore, while vigorously supporting all reasonable efforts to make ConRail work, we, at the same time, urge that the experiment be monitored on a continuing basis, so that what is involved here is not an unlimited commitment of Federal funds, for an unlimited period of time.

I know from the testimony and from my conversations that Mr. Jordan and his associates fully share that view. It is that fact that in part caused me to speak for the rest of the industry in favor of the fundamental elements of the ConRail position.

That is all I have to say, Mr. Chairman.

[The statement follows:]

STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT, ASSOCIATION OF
AMERICAN RAILROADS

My name is William H. Dempsey. I am President of the Association of American Railroads, with headquarters in Washington, D.C. The railroads which are members of the Association operate 92 percent of the line-haul mileage, employ 94 percent of the workers and produce 97 percent of the freight revenues of all railroads in the United States.

I appreciate this opportunity to appear before you to present the views of the Association on S. 2788, a bill authorizing additional appropriations to the United States Railway Association (USRA) for the purpose of purchasing securities of Consolidated Rail Corporation (Conrail), and on funding requirements for ConRail.

The railroad industry, along with many other interested parties, supported enactment of the Regional Rail Reorganization Act of 1973 (3-R Act) to deal with the major rail transportation crisis in the Northeast region caused by the bankruptcy of a number of large railroads in that area. Under that Act, USRA was created to plan for the restructuring and reorganization of those railroads into an efficient and economically self-sustaining rail system. The Act also provided for the establishment of Conrail as a private carrier to operate most of the restructured system. USRA was made responsible for formulation of the Final System Plan, supervision of federal financial assistance to Conrail for working capital and rehabilitation, monitoring the use of such funds, and assessing Conrail's progress toward financial viability. Congress approved a \$2.1 billion financial assistance package to aid Conrail in rehabilitating its facilities and upgrading transportation services, and for working capital. The railroad industry assisted and cooperated in every way to ensure a smooth transition for Conrail's initial operations, which began on April 1, 1976.

In short, the Nation's railroads have supported the Conrail concept from the outset and that support continues. We are vitally interested in the success of Conrail's operations.

During the two years that have elapsed since its operations were begun, Conrail has made substantial progress toward the 3-R Act's stated goal of restoring adequate and efficient rail service in the Northeast. This is the case despite complexities and adversities that were not, and for the most part could not have been, foreseen. Unusually severe winter weather during both years has hampered operations and, along with the coal strike, the decline in the steel industry and other conditions, has caused a decline in the projected volumes of freight traffic. Add to this the circumstance that the real facts as to the poor condition of its equipment fleet and, to some extent, its physical plant, were not fully developed at the time Conrail was created.

On February 15, 1978, Conrail submitted to USRA a five-year (1978-1982) Business Plan which indicates that the initial \$2.1 billion authorization by Congress will not be sufficient to enable it to rebuild properly and become financially

self-sustaining within the time frame established by the Final System Plan. Conrail has concluded that more time will be needed for realization of its goals than was scheduled under the Final System Plan, and has projected that it will need an additional \$1.283 billion in federal funding to accomplish its objectives during the period from 1978 to 1982.

Except for the data contained in its five-year Business Plan, we have no way of measuring the soundness of Conrail's projected need of \$1.283 billion in additional financial assistance, nor do we have any way of knowing how much time ought to be allotted to continuation of the Conrail undertaking. Neither do we express any view as to whether appropriation of the additional funds should be authorized all at one time or at several.

We are convinced, however, that additional financing should be provided to Conrail soon and that sufficient time should be allowed to give the Conrail experiment a fair test of success. In 1973, the alternative to public financing of Conrail's operations was some form of nationalization of the railroads in the Northeast. Frankly, that still appears to be the only alternative. The railroad industry, and we hope Congress, does not want that unless all else fails.

A word of caution, if I may. Funding for Conrail should not be allowed to interfere with or prejudice the ability of other railroads to obtain and make use of financial assistance under the provisions of Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act). That financing was authorized to meet the financial needs of other railroads in the United States and should remain available for the purposes originally intended by Congress.

It is the judgment of its management that Conrail will be able to attain the objectives contemplated by Congress, if adequate financing is made available for a reasonable time. We are here today to urge Congress to provide the funding and the time that is necessary to give the Conrail undertaking a fair chance of success.

I add one final, and important, note of caution. Vital as Conrail's success is to the future of the railroad industry, there are obvious considerations of equity involved in heavy federal funding of such a mammoth enterprise that competes so extensively with other railroads that must manage without such federal assistance. Accordingly, Conrail must be monitored on a continuing basis, and there should not be an unlimited sum of money nor an unlimited time provided for this experiment. If reasonable chances are given and the concept cannot be made to work, then some other answer must be found, whatever it may be. It is my understanding that Mr. Jordan, in whom I have great confidence, fully shares that view. It is in large measure that consideration that encourages me to present this statement.

Senator LONG. Thank you very much.

That concludes these hearings. We will recess, subject to the call of the Chair.

[Whereupon, at 1:50 p.m., the hearing was adjourned, subject to the call of the Chair.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF J. ROBERT MORTON, ON BEHALF OF THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE

Mr. Chairman, Members of the Subcommittee: My name is J. Robert Morton. I submit this statement on behalf of The National Industrial Traffic League whose headquarters address is 1909 "K" Street, N.W., Suite 410, Washington, D.C. 20006. In making this presentation for the League, I am appearing as President of the NIT League. I am employed by Combustion Engineering, Inc., Stamford, Connecticut as Vice President, Corporate Transportation and Distribution. My experience in the field of industrial traffic management spans more than 40 years. I am accompanied by Mr. James E. Bartley, Executive Vice President of The National Industrial Traffic League here in Washington and Mr. John F. Donelan, General Counsel for the League and Senior Partner in the Washington, D.C. law firm of Donelan, Cleary, Wood and Maser.

The National Industrial Traffic League is a voluntary organization of 1,800 shippers, shippers' associations, boards of trade, ports, chamber of commerce and other entities concerned with rates, traffic and transportation services of all carrier modes. It is the only shipper organization which represents all types of shippers nationwide. Its members include, large, medium and small shippers who use all modes of transportation and who ship all types of commodities. The League is not a panel or committee of a trade group, or a spokesman for a particular commodity or transportation point of view, and does not permit carrier membership.

The League's primary concern is to provide for the nation and all its shippers a sound, efficient, well-managed transportation system privately owned and operated.

To arrive at positions reflective of the broad range of shipper interests within the League, the League membership at its annual and special meetings considers, debates and votes on actions to be taken.

The League is dedicated to insuring a system of transportation adequate to meet the needs of the commerce of the United States and the national defense. To represent its members, the League regularly appears before the Interstate Commerce Commission, the Department of Transportation and other transportation regulatory agencies as well as offering input concerning transportation matters before the committees of the Congress of the United States.

H.R. 11492 amends that Section 216(a) (2) of the Regional Rail Reorganization Act of 1973. USC 726(a) (2) is amended by striking out \$1,100,000,000 and inserting \$1,700,000,000 in lieu thereof, or \$600-million in additional financing. It provides that money shall be given to the U.S. Railway Association which in turn can purchase more Conrail securities. The bill's introduction was prompted by the Five-Year Plan made public by Conrail on February 15 that indicated additional Federal financing would be needed for Conrail to become profitable by 1980.

The League and its members have been very much concerned and involved with the problems confronting the railroad industry, particularly in the North-eastern and Middle Western areas of the nation. The League actively participated in the Congressional hearings leading to the enactment of the Regional Rail Reorganization Act of 1973, the Railroad Revitalization and Regulatory Reform Act of 1976, P.L. 94-210, and the Rail Transportation Improvement Act, P.L. 94-555, the so-called "Son of ConRail" bill. It has commented on the *numerous proceedings* surrounding the preliminary and Final System Plan, the enactment of P.L. 94-210, Ex Parte 329, The Standards and Classifications of Raillines of the United States, and the Rail Services Planning Offices' recently published Rail Merger Study. Most recently, League members have offered their thoughts and input to the Federal Railroad Administration in Docket No. 401-2, Development of a Midwestern Rail System Plan.

It is apparent that from this high level of participation in railroad related matters that League members place great concern and tremendous importance upon the support and continuation of a healthy and viable railroad system, privately owned and operated and adequate to meet the needs of commerce.

The U.S. Railway Association, as well as the League members, recognized the extremely difficult and complex task to be faced in the coming years USRA

noted: "A task so complex as the restructuring of the rail system in the Northeast Region must be evolutionary. The American economy owes its essential dynamism to the ability of individual firms to shift, to adjust, to adapt, to give incentives and to test new ideas and new markets. What is important is that economic forces be allowed to work themselves out within an established framework of fairness and guaranteed continuation of essential services. The very nature of the competitive market place requires flexibility so that corporations may adapt to changing conditions." Indeed, the League believes that the restructuring of our nation's railroads may be likened to the construction of a precision machine. Many operations, many tests, and many adjustments are required before it's prepared to do its planned job.

League members early recognized the somewhat fragile nature of many of the early projections made in the reorganization process. In our statement to the Rail Services Planning office with respect to the Preliminary System Plan we stated, "The limitations of time and the complex nature of the financial projections preclude any detailed examination. The projected financial formulas are based on the occurrence of many factors including increased traffic volume, selective rate increases, branch line subsidies, passenger subsidies, etc. There are many factors, including the general state of the economy, which could preclude ConRail from realizing the financial position projected. Failure to increase volume or failure to obtain selective rate increases on a timely basis are but two factors which could jeopardize or nullify successful reorganization.

"Recognizing the critical importance of these financial projections and the need to insure that actual results compare favorably with them, the League suggests that USRA provide detailed, periodic reports of the actual results vis-a-vis the projections, in addition to its annual report to the Congress and the President. Such periodic reports would allow all interested parties the opportunity to suggest appropriate changes, on a timely basis, if such changes become necessary or appropriate."

On April 1, 1976, when Conrail started up operations, officials at Conrail encountered a significant surprise factor to find that the rolling stock acquired from the bankrupt rails was in much poorer condition than projected in the Final System Plan.

During the month prior to conveyance the bankrupts allowed their rolling stock both locomotives and freight cars to deteriorate to a level not anticipated plus roadbed rehabilitation well beyond what was originally anticipated.

In its Five Year Business Plan released by Conrail on February 15, 1978, Conrail said, "In reporting on the Railroad's 1976 performance to the Congress, USRA stated . . . 'the freight equipment conveyed to Conrail was in worse shape than anticipated . . .' The report then examined the pattern of locomotive and car bad order ratios and indicated, despite the fact that Conrail's 1976 equipment repairs exceeded the FSP estimates, that 'there is yet no clear pattern of improvement (with respect to equipment)'." Concluding the section regarding equipment, Conrail said, "In sum, equipment problems have created one of the most significant issues with which Conrail has had to deal in the Plan. With equipment retirements higher than anticipated, with car hire and ownership costs increasing, and with a compelling need to improve service capability through the provision of sufficient, reliable cars, Conrail's equipment expenditures are projected to exceed FSP estimates by a substantial margin."

The problems outlined above regarding equipment repair and maintenance, the League believes, further justifies the passage of H.R. 11492.

Congress, in enacting the Regional Rail Reorganization Act and subsequent enabling legislation, clearly recognized the complex evolutionary character of its creation, the Consolidated Rail Corporation and in establishing the fundamental goals of that legislation also provided means for review, reconsideration and adjustment as appropriate. In submitting their Five Year Business Plan February 15, 1978, Conrail recalled the USRA caution that the Final System Plan was "heavily dependent on future projection of uncertain events" and reiterated their belief that the Conrail structure still provides the best opportunity to fulfill Congress' goals.

The League notes that Conrail has succeeded in meeting many of the goals established for it in the Final System Plan including the assembling of a dedicated management team, substantial improvements in the physical plant and equipment and positive steps toward the encouragement of profitable traffic. The League also notes the extreme difficulties encountered during two of the severest winter seasons on record along with a coal strike of lengthy duration resulting in massive losses of revenue producing tonnage.

League members believe that Conrail does represent the best opportunity to meet the needs of the Region. As we have previously indicated, the stake of

the members of the League is literally enormous in seeing to it that the objective of a viable, efficient and healthy railroad system is achieved. We believe that the additional appropriation of \$600 million to be authorized to the United States Railway Association for purposes of purchasing the securities of the Consolidated Rail Corporation is appropriate to insure the continuation of essential services, the continuation of improvement and rehabilitation efforts and the ultimate retention of this major enterprise in the private sector of business. The League believes that Conrail's Five Year Business Plan is realistic in view of the changed conditions since conveyance started two years ago. For the reasons stated, the League urges your favorable support of H.R. 11492.

As President of The National Industrial Traffic League, I want to thank the subcommittee for this opportunity to express the views of the League's members who strongly support H.R. 11492. This concludes my prepared remarks and at this time I would be pleased to answer any questions you may have.

STATEMENT OF GEORGE B. MARTIN, JR., VICE PRESIDENT, SPECIAL PROJECTS,
AMERICAN COTTON SHIPPERS ASSOCIATION, MEMPHIS, TENN.

Representatives of the American Cotton Shippers Association attended an informal hearing before the Interstate Commerce Commission in Washington, D.C. on March 31, 1978 and presented the attached concerning views of our Association relative to the critical, general purpose box car shortages being experienced throughout the cotton belt.

A recent survey was made this week concerning the situation and there was found to be very little improvement. As a matter of fact, besides the critical areas of the Mid-South and Southwest, shortages are now being encountered in Arizona, California and in the state of Alabama.

The box car shortage actually was fully realized beginning in January and hopefully now has reached its peak if equipment can be supplied immediately to accommodate thousands of bales of cotton which are awaiting loading. We are told that many compress locations have blocked themselves out with cotton awaiting box cars and some have been compelled to reduce their loading crews until equipment is made available. Many compress points have expressed the opinion that a small quantity of cars are becoming available for loading at competitive points but there are numerous outlying locations where cars have been on order for several weeks with no relief in sight.

Much cotton is being deferred to trucks but trucks are even in short supply and the situation still remains critical.

We realize that the Interstate Commerce Commission, as well as one railroad to our knowledge, have issued Service Orders and perhaps results of these Orders will be realized shortly. Nevertheless, as stated, our recent survey indicates that the situation has not improved and if relief is not obtained soon, the cotton industry, as well as related industries, will be faced with severe problems and losses.

We appreciate the opportunity to appear and present this statement for the record at this hearing.

Attachments.

MARCH 31, 1978.

THE INTERSTATE COMMERCE COMMISSION,
Washington, D.C.

VIEWS OF THE AMERICAN COTTON SHIPPERS ASSOCIATION SUBMITTED AT INFORMAL
HEARING BEFORE THE INTERSTATE COMMERCE COMMISSION, WASHINGTON, ON
MARCH 31, 1978, WITH RESPECT TO BOX CAR SHORTAGES

The American Cotton Shippers Association, whose membership totals more than 500 firms directly or indirectly engaged in the buying, selling and shipping of raw bales of cotton are experiencing a critical box car shortage in many areas within the United States, particularly in the Mid-South and Southwestern areas. The Southeast is also experiencing shortages. This situation became apparent at the beginning of December, 1977 and has steadily worsened during the past two and one-half months. As a matter of fact, some railroads in the Mid-South area are as much as two months behind in delivering cars that were ordered and this applies to both 40 ft. and 50 ft. plain door, general purpose box cars.

We have compiled some figures representative of the two most critical areas and we feel that they are very conservative since only the major locations and merchants were contacted as it was a physical impossibility to contact the entire cotton industry on such short notice. Also, the attached figures that we are

supplying do not consider a considerable volume of new sales which will be made between the present time and July 1, 1978.

We have been informed by various carriers that there are three primary factors contributing to this extreme car shortage, as follows:

1. Vast quantities of cars not being returned by Eastern railroads.
2. Extensive use and excessive storage of grain in 40 ft. cars in the Mid-West.
3. Unusual weather conditions.

The above has resulted in thousands of box cars, both 40 ft. and 50 ft., that are off the Mid-South and Southwestern rail systems and these lines have been unable to retrieve any appreciable number of cars for months. Our industry has become most frustrated, as have the carriers by areas named.

The members of our Association are faced with a most serious problem of unfilled orders to mills, both domestic and foreign. We simply cannot survive as a viable industry unless discrimination is halted and cars are readily made available to move our agricultural product to fill current sales. Just as important, producers will be unable to market their cotton if it cannot be moved within a reasonable period of time to consuming establishments.

We respectfully request that the Commission conduct a broad investigation of the circumstances creating these shortages and attempt to rectify inefficiencies and violations where ever they may be found.

Attachments.

MID-SOUTH CAR NEEDS

Railroad	By compresses against current orders		Additional by shippers for April/June		Total cars	
	40 ft	50 ft	40 ft	50 ft	40 ft	50 ft
IC Gulf.....	282	64	958	379	1,240	443
Frisco.....	17	40	469	94	486	134
MOPAC.....	144	60	419	110	563	170
Rock Island.....	23	4	10	0	33	1
L & N.....	4	1	30	0	24	6
STLSW.....	34	27	80	129	114	154
C & G.....	30	5	132	9	162	14
Southern.....	0	0	15	0	15	0
Total cars (3 569).....					2,647	922

Boxcar needs in Southwest area by compresses and shippers through June 30, 1978

<i>Railroad</i>	<i>Totals</i>
AT&SF:	
40 ft.....	2,672
50 ft.....	321
FW&D:	
40 ft.....	1,896
50 ft.....	195
Frisco:	
40 ft.....	230
50 ft.....	30
MOP:	
40 ft.....	680
50 ft.....	60
QAP:	
40 ft.....	203
50 ft.....	22
SP:	
40 ft.....	539
50 ft.....	37
Total cars.....	¹ 6,885
40 ft.....	6,220
50 ft.....	665

¹This total of box cars includes cars presently on order by compresses, cars to be ordered by compresses against all service orders on hand and cars to be ordered when all shipments are applied by merchants.

STATEMENT OF THOMAS T. CHURCH, VICE PRESIDENT, TRANSPORTATION,
BETHLEHEM STEEL CORPORATION

I am most grateful to respond to the invitation from the Chairman of the Subcommittee, Senator Russell B. Long, to comment on the quality of freight service provided by the Consolidated Rail Corporation during the first two years of operations.

Conrail handles substantially more of Bethlehem's inbound materials and outbound products than any other railroad in the United States and indeed reaches every major Bethlehem plant location in the territory which it serves, including five fully integrated steel plants: Sparrows Point (near Baltimore, Maryland); Bethlehem, Pennsylvania; Lackawanna (near Buffalo, New York); Johnstown, Pennsylvania; and Burns Harbor, Indiana, as well as a major scrap-based plant at Steelton, near Harrisburg, Pennsylvania. We literally could not operate these steel plants at anything like their present productive levels without adequate rail service. We have, therefore, devoted a great deal of time and effort to the matter during the planning process which brought about the establishment of Conrail, and to working with them since they have been in being.

To respond to the specific questions on which you request comment:

1. Conrail has indeed been responsive rather than insensitive, but in a very large number of cases, although the spirit has appeared willing the flesh has appeared weak. While aware of a number of marketing studies, we have not noted any responsiveness or unresponsiveness substantially different from that experienced with other railroads. We certainly have not received adequate quantitative service. In our opinion this has resulted, largely but not entirely, from inadequate tools to do the job, primarily motive power. We concur completely with the comments made in Mr. Jordan's Five-Year Summary Business Plan concerning the far poorer than expected condition of both locomotives and cars conveyed to Conrail by the predecessor railroads. We can confirm this not only by our experience as to the freight cars placed for loading but also with known cases of locomotive breakdowns and trains containing critically needed material held for lack of locomotive power. Transit times have highly variable and generally unsatisfactory. We have found management levels at Conrail just as concerned about this problem as we were and at times they have certainly exercised ingenuity in accomplishing the seemingly impossible, but it has been very clear that they did not have the fit equipment to adequately do the job. Unfortunately, a service that was merely poor became a disaster during the past winter and it has taken them longer to recover from these winter troubles than we had hoped. Clearly, most of their customers have had a backlog to load or to unload and a poor situation has been compounded. We do note some current recovery, but there is a long way to go.

2. In the area of service, we believe that with adequate locomotive power, and continuing improvements in track, other service factors will improve to the point where Conrail service is fully competitive with other railroads. There are many jobs to be done, such as to improve terminal situations, consolidation of inadequate yards, et cetera, which have been in the planning stage and which we hope will move forward. The total effect would then be not only competitive service but also improved car utilization.

3. Conrail had a remarkably smooth start-up, which demonstrated good planning. Some areas of service were improved prior to this winter as certain long-haul run-through trains were instituted, but service to outlying points and areas serviced from metropolitan terminals did not improve and in some cases deteriorated. It is virtually impossible to judge how much of the deterioration took place because of the same basic factor of power availability and inadequate yards and how much was due to faulty planning or execution. Until this winter, the situation could possibly be characterized, in the aggregate, as no significant change from the service formerly provided by Penn Central.

4. As a shipper, in evaluating the emphasis on equipment availability, rate levels or transit times, probably the first consideration has to be availability of equipment. A large steel mill must be able to ship currently or it will choke on its own production. Steel is bulky and there is inadequate room to continue production unless shipments are reasonably current. Fast transit times are only occasionally very important to us, but consistency at reasonable levels is essential in order to control the flow of large volumes of material. Regular flow and arrival of

materials approximately when expected is essential not only to promptly unload and release equipment, thus benefiting car utilization, but also to avoid undue costs attributable to car detention and the cost of labor involved in unloading. As to rate levels, we live in a highly competitive environment and expect to pay freight rates which will support the service but which are fair in comparison with those paid by our competitors whether in the steel business or in other businesses producing materials which can be substituted for steel. In other words, we are willing to pay our fair share.

5. We have not experienced personnel problems in dealing with Conrail that significantly affect service performance.

In my opinion, the Five-Year Business Plan submitted by Conrail to the USRA fairly sets out the problems that they have been facing and no more than reasonable optimism concerning the future. We are somewhat doubtful concerning the key assumptions on which the Five-Year Plan is said to be based. Two of the items require legislative action and three will be difficult to achieve. We certainly hope that, on balance, a large portion of the matters set out as assumptions will turn out to be realistic. These will require the cooperation of Congress and the Administration.

From the standpoint of what has been accomplished, Conrail has been far more successful than the gloomy predictions made when it was first implemented. Major objective of the Final System Plan was to keep public financial involvement to a minimum. I recall distinctly being shocked to note that slightly more Federal funds were made available to upgrade the passenger corridor than to institute and rehabilitate the biggest freight carrier serving the Northeastern portion of the country and on which the economic well-being of that vast region significantly depends. The opinion at that time was commonly expressed that Conrail was undercapitalized and that the projections of traffic volume increases were unduly optimistic. Improvements in car utilization as projected in the Final System Plan have not materialized at all, in large part due to an inadequate motive power availability. That the financial results at this point have been pretty much on target indicates to me that a remarkable job has been done, despite lower traffic volume and poorer car utilization than the estimates on which the target numbers were based.

Whatever the appraisal of the financial success of Conrail, there can be little question of the national need for the continuation of its service. While the area it serves is no longer the pre-eminent industrial area of the nation as it once was, it continues to be a vitally important industrial area of the nation. That industrial base requires railroad service. The necessity for the continuation of railroad service is no less compelling now than it was at the time when the reorganization of Eastern railroads was conceived. There is, moreover, nearly a universal recognition that the service should be supplied, if at all possible and for as long as may be possible, by a corporation organized for profit. These considerations seem persuasive that the nation must provide the additional financial support necessary to continue Conrail as presently organized. While Conrail may not have provided results equal to the more optimistic forecasts, it has proved to be a viable organization showing a reasonable possibility that it can, in time, fully achieve its objectives of an adequate and efficient service in private hands.

Organizationally Conrail has a basic format which certainly seems capable of doing the job, and a large number of dedicated people. Since inauguration it has had study teams working in many areas, both as to marketing and operations, to study and design the necessary improvements, proper consideration of the reams of materials being submitted by groups studying these many areas required substantial study and many hard decisions on the part of a relatively small group of top management. At times it seems to us to be overloading the decisionmaking process. In all fairness, however, these are decisions that have to be made to change the direction in which Northeast railroading has been headed. Very few of these new approaches have been implemented, because we are just reaching the implementation stage in the history of this new organization. It seems to us that we have now made a large national investment: it makes sense to continue to keep the company properly funded and moving forward so that there is a fair opportunity to test the results of this planning process.

THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE,
Stamford, Conn., April 19, 1978.

HON. RUSSELL LONG,

Chairman, Senate Commerce, Science, and Transportation, Committee's Subcommittee on Surface Transportation, Washington, D.C.

DEAR CHAIRMAN LONG: As President of The National Industrial Traffic League, I am pleased to submit my testimony on H.R. 11492 for the record of hearings on its companion Senate bill, S. 2788. I presented testimony in strong support of H.R. 11492 at the April 11 hearing before the House Interstate and Foreign Commerce Committee's Subcommittee on Transportation and Commerce.

The League is a voluntary organization of 1,800 shippers, shippers' associations, boards of trade, chambers of commerce and other entities concerned with rates, traffic and transportation services of all carrier modes. It is the only shipper organization which represents all types of shippers nationwide. Its members include large, medium and small shippers who use all modes of transportation and who ship all types of commodities. The League is not a panel or committee of a trade group, nor a spokesman for a particular commodity or transportation point of view, and does not permit carrier membership.

The League's primary concern is to provide for the nation and all its shippers a sound, efficient, well-managed transportation system, privately owned and operated.

To arrive at positions reflective of the broad range of shipper interests within the League, the League membership at its annual and special meetings considers, debates and votes on actions to be taken. During its seventy years of existence, the League has frequently been the spokesman for the nation's shippers before Congress on proposed transportation and regulatory reform legislation.

At my appearance before the House Transportation and Commerce Subcommittee, I stated that Conrail, when it commenced operations on April 1, 1976, encountered a significant surprise factor in that rolling stock acquired from the bankrupt railroads was in much poorer condition than projected in the Final System Plan. In the months prior to conveyance the bankrupts allowed their rolling stock both locomotives and freight cars to deteriorate to a level not anticipated. Additionally, roadbed rehabilitation needs were well beyond what was originally anticipated.

Conrail evidenced their poor freight equipment situation in its Five Year Business Plan released February 5. Conrail said that despite the fact that its 1976 equipment repairs exceeded the FSP estimates, there was no clear pattern of improvement in its bad-order ratio. As a result of continuing equipment problems, higher than anticipated equipment retirement, increasing car hire and ownership costs, and a need to provide equipment adequate to meet shippers' needs, Conrail's equipment expenditures are projected to exceed the FSP estimates by a substantial margin.

Therefore, I concluded the League believes that these problems regarding the repair and maintenance of essential railroad equipment justifies the passage of H.R. 11492. League members believe that Conrail represents the best opportunity to meet the railroad needs of the Northeast. We support the additional appropriation of \$600 million to the United States Railway Association for purposes of purchasing the securities of the Consolidated Rail Corporation to insure the continuation of a viable, efficient and healthy railroad system.

For the same reasons I have just outlined, the League strongly endorses S. 2788 which amends the Regional Rail Act of 1973 to authorize additional appropriations to the United States Railway Association for the purposes of purchasing securities of the Consolidated Rail Corporation. Thank you, Senator Long, for including the League's testimony in the record of hearings on S. 2788. The League urges early and favorable action on S. 2788.

Sincerely,

J. ROBERT MORTON,
President.

TRANSPORTATION ASSOCIATION OF AMERICA,
Washington, D.C., April 21, 1978.

Hon. HOWARD W. CANNON,
Chairman, Commerce, Science, and Transportation Committee,
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN CANNON: We appreciate the kind invitation in your letter of March 29 to the Transportation Association of America to express its views regarding the first two years of Conrail's operations and its future outlook and needs.

As an across-the-board national policy organization with transport interests of all types, TAA must assess Conrail from an overall point of view both as to its services to the public and its financial stability as a carrier. A primary concern of TAA is the prospect of Conrail's becoming a viable private enterprise at the earliest possible date, since the alternative appears to be a nationalized rail network in the nation's northeast quadrant. All steps possible should be taken to avoid the latter route, since it will make matters far worse from the standpoint of both service and cost to the general public.

TAA strongly supported the creation of Conrail as a means of continuing essential railroad service throughout the vital northeast quadrant of the nation, and it urged plant rationalization and better utilization of labor as two fundamental improvements that must be made if the private-enterprise objective is to be reached. For a number of reasons, major improvements in neither of these areas have been realized to date.

When Conrail recently announced that it would need additional U.S. financial assistance over the next five years, a number of our members raised the question whether or not TAA should support such federal aid—as it has done in both the Rail 3-R and 4-R Acts. To help make this decision, TAA called a meeting of its special Anti-Nationalization Advisory Council, which has been assigned the duty of monitoring developments in the transportation field that warrant TAA action because of a potential threat of nationalization.

The membership of this Council consists primarily of users, suppliers, and investors with a major interest in transportation, although carrier representatives are also included. In this particular instance, the users and investors represented firms with a sizeable stake in Conrail's operations, financial stability, and future prospects. Before being asked to make specific recommendations, the members were thoroughly briefed by top Conrail executives. The discussions focused on a number of areas of key importance to Conrail's prospects, and the following general conclusions were reached:

Excess Plant.—While several thousand miles of trackage have been eliminated, the total is still far more than needed for the services required. Although careful traffic analysis may show a need to retain many of the underused lines, a pared-down system is still a necessity if private-enterprise operations are to be assured. Subsidies to ease transitional problems resulting from abandonments should be temporary and allowed to phase out. Unprofitable, little-used lines should not be continued indefinitely.

Equipment.—The condition of equipment turned over to Conrail at conveyance proved to be in worse shape than anticipated. This resulted in higher retirements and increased maintenance/rehabilitation costs. Although Conrail did exceed set goals for maintenance, its inability to provide adequate freight cars was a major problem in providing service.

Plant Rehabilitation.—The rights-of-way conveyed to Conrail were also in worse condition than predicted, forcing a "catch-up" program. Again, Conrail's maintenance of way program exceeded set goals. While the miles under slow orders were reduced somewhat, the total number still is excessive. This is a problem area requiring top-priority attention.

Excess Labor.—There has been little progress in reducing excess labor. It is vital that Conrail—which has by far the highest ratio of labor costs to revenues of all major railroads—be allowed to reduce its employee levels, mostly through attrition and early retirements. Forced retention of unneeded employees is a burden that should no longer be imposed.

Outmoded Work Rules.—Conrail can make major strides in increased labor productivity through modernization of the many outmoded work rules that have resulted in higher costs to carriers and poorer service to shippers. Conrail is in a good position to make constructive changes in this area, since it is negotiating new labor contracts separately, and every encouragement should be given to this effort because of the great potential in improved service and lower costs.

Capital Funds.—Although Conrail has been able to attract some private financing, it is severely handicapped in this area by its inability to generate internal capital other than through depreciation and amortization. While private funding for equipment under trust-certificate and similar top-security financing has been available to a reasonable degree, this certainly is not the case for capital funds for plant and right-of-way facilities. As a result, government funds represent a major source for these sunk and immobile investments.

Following these discussions, the members of the Advisory Council drafted a resolution for consideration by the TAA Board of Directors. When doing this, the Council gave full recognition to the many factors beyond the control of Conrail that have contributed to its inability to meet the financial goal of profitability by the year 1979. These included damages to equipment and plant from two consecutive harsh winters, disruptions and traffic losses from long coal and port strikes, reduced tonnages from a depressed steel industry, a serious flood on its main line, the relatively slower economic growth of the nation's northeast quadrant, and the continuing inflation.

With these many factors in mind, the Council reached agreement on the following resolution, which was formally approved by the TAA Board at its meeting in New York City on February 28, 1978:

"The Transportation Association of America supports additional direct U.S. financial support to further assist Conrail in its rehabilitation and upgrading of rights-of-way, facilities, and rolling stock so as to enable Conrail to provide adequate rail service and to become a viable private enterprise at the earliest possible date."

The only reservation expressed about the above resolution was made by TAA investor groups, who are concerned about the type of additional financing that would be forthcoming. They point out, for example, that a major guaranteed-loan program could disrupt the overall rail investment market and be harmful to other railroads' investment programs. This would be caused, in most part, by the fact that U.S.-guaranteed loans usually are given a top-security status, thus downgrading existing rail loans of Conrail investors, or possibly diverting funds normally going to other railroads. Accordingly, any major Conrail funding program should take into consideration its impact on the overall rail capital market.

We appreciate the opportunity to express our views on this important issue and request that this letter be included in the official record of these hearings.

Respectfully,

PAUL I. TIERNEY.

DEPARTMENT OF TRANSPORTATION,
Washington, D.C.

HON. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Department of Transportation is submitting for your consideration and appropriate reference a draft bill:

"To amend section 216 of the Regional Rail Reorganization Act of 1973 to authorize the purchase by the United States Railway Association of an additional \$1,200,000,000 of the Series A preferred stock of the Consolidated Rail Corporation, and for other purposes."

On April 13, I presented testimony to the Subcommittee on Transportation of the Committee on Commerce, Science, and Transportation on the subject of ConRail financing. At that time, I stated that \$1.3 billion in additional Federal financing over the next five years is essential to ConRail's plan to achieve financially self-sustaining operations by 1982. This bill authorizes the United States Railway Association to purchase up to an additional \$1.2 billion of Series A preferred stock of ConRail for a total Series A authorization of \$2.3 billion. The bill also increases the total section 216 authorization to \$3.3 billion.

It is the judgment of this Department, based on available information, that no significant environmental impact would result from the implementation of this bill.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, the submission of this draft bill for the consideration of the Congress is in accord with the President's program.

Sincerely,

BROCK ADAMS, *Secretary.*

Enclosure.

A bill to amend section 216 of the Regional Rail Reorganization Act of 1973 to authorize the purchase by the United States Railway Association of an additional \$1,200,000,000 of the Series A preferred stock of the Consolidated Rail Corporation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Railway Association Amendments Act of 1978".

SEC. 2. (a) Section 216(a)(2) of the Regional Rail Reorganization Act of 1973 (43 U.S.C. 726(a)(2)) is amended by striking out "\$1,100,000,000" and inserting in lieu thereof "\$2,300,000,000".

(b) Section 216(b)(2) of such Act (45 U.S.C. 726(b)(2)) is amended by striking out "\$1,100,000,000" and inserting in lieu thereof "\$2,300,000,000".

(c) Section 216(f) of such Act (45 U.S.C. 726(f)) is amended by striking out "\$2,100,000,000" and inserting in lieu thereof "\$3,300,000,000".

SEC. 3. The amendment made by section 2 of this Act shall become effective on the date of enactment of this Act.

UNITED STATES RAILWAY ASSOCIATION,
Washington, D.C., May 1, 1978.

THE PRESIDENT,
*The White House,
Washington, D.C.*

HON. WALTER A. MONDALE,
*President, U.S. Senate,
Washington, D.C.*

HON. THOMAS P. O'NEILL, JR.,
*Speaker of the House of Representatives,
Washington, D.C.*

DEAR MR. PRESIDENT: As required by the Regional Rail Reorganization Act of 1973, as amended, the Association hereby transmits our second Quarterly Report to Congress and the President. The report contains information concerning expenditures and uses of funds, status of projects and a projection of activities proposed for the next quarter.

Monitoring the finances and operations of Consolidated Rail Corporation (Conrail) continued to dominate the activities of the Association during the winter quarter of 1978, although Conrail monitoring accounts for only twenty percent of our administrative costs. For the second consecutive quarter, the Association must inform the Congress that Conrail needs additional public investment beyond the amounts originally authorized in the Railroad Revitalization & Regulatory Reform Act of 1976.

On February 15, Conrail submitted to the Association, its Five-Year Business Plan pursuant to the Association's Financing Agreement with Conrail. Implementation of this Plan will require \$1.3 billion in additional federal funds. The amount is over and above the \$2.026 billion appropriated in 1976. Staff analysis now indicates that Conrail probably will need federal funds in excess of the \$1.3 billion authorization request now pending before Congress. The Association's Board of Directors will deliberate on the staff analysis and its final judgment will be a major part of our May 31 Report to Congress.

Of equal merit are the Association's other financing programs; one of these involving the Delaware & Hudson Railway (D&H) has reached a critical stage. The Association and D&H's other creditors will propose to our Board shortly options by which the D&H may avoid bankruptcy for the short-term.

We believe that any long-term solution to the D&H financial problems will be offered only by a regional restructuring. With this in mind, the Association is undertaking with the New England Regional Commission (NERCOM) a joint study of the New England railroads. The study will identify rail service essential to the social, economic, and environmental needs of New England and will seek alternative solutions. Among other things, the study will conduct a segmentation analysis of Conrail's system in New England, including options for major revisions in its configuration. The result of this study could lead to other rail studies which could produce recommendations requiring eventual submission of a legislative package to Congress concerning New England's railroads.

The last area of our activities encompasses the Association litigation efforts in behalf of the Federal Government. At the present time, approximately 80 percent

of our resources are used to enable the Association, in cooperation with the Department of Justice, to conduct the litigation on behalf of the Government which has arisen from the reorganization of the bankrupt railroads and which involves transferor claims amounting to billions of dollars.

Sincerely,

DONALD C. COLE, *President.*

UNITED STATES RAILWAY ASSOCIATION—QUARTERLY REPORT—JANUARY 1, 1978—
MARCH 31, 1978

I. INTRODUCTION

On December 31, 1977, the Association released its Fourth Annual Report covering the period from July 1976 through September 1977. That report describes the nature and purpose of the principal projects and activities of the Association classified under three areas: Conrail monitoring, financing programs and litigations. The initial quarterly report required by the Act covered the period October 1 through December 31, 1977. This second quarterly report covers the period from January 1 to March 31, 1978. Like the report for the previous quarter, it uses the project classification of the Annual Report.

II. CONRAIL MONITORING

On February 15, 1978, Conrail submitted to the Association its Five-Year Business Plan for the period 1978-1982. Conrail's Plan projects a need for Federal funding of \$1.3 billion more than the \$2.1 billion appropriated by the Congress in 1976 to cover a four-year period. The railroad also expects to secure an additional \$1 billion in equipment financing from private sources. Conrail's Plan, which the Association considers optimistic, anticipates that Federal funding will be necessary at least until 1982. This new investment is necessary because Conrail projections of revenues and profits over the next 5 years fall short of those in the FSP for the same period by \$1.8 billion and \$1.5 billion respectively.

The Plan projects that by 1982 the railroad will be profitable. This will be achieved by increased business volume and improved operating efficiency. Staff analysis indicates that these projections are optimistic in both areas. The railroad probably will require substantially more than the \$1.3 billion indicated in the Plan. Key assumptions include increases in traffic volume, improvements in car and locomotive utilization, improved labor productivity, and savings through improved cost and management controls. The assumptions, their probabilities, and supporting evidence will comprise a major part of the Association's May 31 Report to Congress.

Since Conrail submitted the Plan to the Association, the staff has analyzed how likely it is that Conrail will need public investment in addition to its \$3.1 billion request. In this event, the Association is firmly of the opinion that a request by Conrail for supplemental financing should be considered only in the context of possible alternatives to the present Conrail structures.

During the quarter, the Association tested the Plan against a model designed by the staff to identify and explain the variances between the Final System Plan and Conrail's performance to date on the one hand and the next five years on the other. In addition, independent forecasts by the staff of Conrail's freight tonnage, revenue and carloads have been prepared. Also, five-year forecasts have been made of Conrail expenditures for maintenance of equipment, maintenance of way, additions and improvements and rehabilitation.

Among internal documents, staff reported on Conrail's car utilization and overall car strategy and developed an improved method for forecasting future car requirements.

A report on Conrail's foreign purchase program was completed during the quarter. The study compares Conrail's purchases of foreign supplies with those of other railroads and concludes that most railroads consider foreign steel rail to be of superior quality and competitive in price with domestic steel. Nevertheless, the study shows that U.S. railroads purchase only about 2 percent of their supplies from foreign sources. Conrail's foreign purchases in 1977 were about 1 percent of its total purchases of supplies and materials.

Based on financial and cash flow analyses, the staff made recommendations to the Board of Directors about purchases of Conrail securities during each month of the quarter. Purchases of Conrail securities during the quarter

amounted to \$195 million, bringing total purchases to \$1,347,300,000 by March 31, 1978.

The Board continued to recommend and the Finance Committee to approve waiver of the Financing Agreement requirement that Conrail certify its ability to achieve a net cash position prior to the approval of disbursement of funds. Taking into consideration the overall operating and financial results of the railroad, the Association informed Congress that it does not have reason to believe that Conrail will become self-sustaining without Federal funds in amounts substantially greater than \$2.1 billion authorized in Section 216 of the 3R Act. Table I details administrative expenses relating to monitoring Conrail for the quarter.

TABLE I.—USRA ADMINISTRATIVE EXPENSES TO MONITOR CONRAIL, WINTER QUARTER, 1978

(In thousands of dollars)

	Personnel related costs	Professional service contracts	Administra- tive service contracts	Total
General counsel.....	5			5
Finance.....	90	21		111
Operations.....	213	77		290
Other support.....	123	6	137	266
Total.....	431	104	137	672

III. FINANCING PROGRAMS

The Association monitors three separate loan projects: \$30 million to the Delaware & Hudson Railway Company; \$15 million (originally \$19 million) to the Missouri-Kansas-Texas Railroad Company; and a series of loans of up to \$350 million to Conrail, as agent for the bankrupt estates. These latter loans are to meet obligations of the estates incurred prior to conveyance. All loan funds are obtained from the Federal Financing Bank under authority provided in Section 210 of the 3R Act.

Delaware & Hudson Railway (D. & H.)

The D. & H. continued to experience adverse financial and operating results which were aggravated by this year's severe winter and coal strike. Traffic and revenues were down, although some improvements were registered, reflecting the industry's traditional spring upturn. Additional funding required to keep the railroad solvent was provided during the quarter by a loan guarantee from the Federal Railroad Administration which permitted the D. & H. to refinance 20 locomotives originally purchased with funds borrowed from USRA. The guarantee permits the D. & H. to obtain \$7.96 million from the Federal Financing Bank which it can use to reduce its loan from the Association. This action gave the Association sufficient lending authority to provide additional funds to the D. & H. while staying within the statutory ceiling of Section 210(b) of the Rail Act. The D. & H. drew down \$5.5 million during the quarter, \$3.5 million of which was possible because of the refinancing.

At the end of the quarter, the Board of Directors resolved not to provide additional loans to the D. & H. if the proceeds were to be used to make principal payments to insurance companies holding D. & H. bonds falling due April 1, 1978. Negotiations are underway with the insurance companies to work out a satisfactory repayment schedule. This matter will be reviewed at the May 24 meeting of the Board of Directors. USRA's capability for providing additional funds, however, probably is insufficient to meet the railroad's needs beyond the current calendar year.

Negotiations between USRA and the New England Regional Commission (NERCOM) were conducted during the quarter to initiate a joint study of the New England region's rail transportation financial problems and needs. Conrail's present services there will be carefully analyzed. The study will include the development of long-range solutions to the region's rail transportation problems. The study will be conducted in coordination with NERCOM.

Missouri-Kansas-Texas Railroad (Katy)

This railroad continued to achieve satisfactory financial results and repayment of the Association's loan, which now amounts to \$15 million, is expected along with regularly scheduled interest payments.

Section 211(h)

The Association continued to disburse funds to Conrail for payment of obligations incurred but left unpaid by the bankrupt estates before conveyance of their rail properties. During the quarter, loans totaling \$14.5 million were disbursed for these Section 211(h) purposes. Table II lists the estates and their obligations during the period.

TABLE II.—*Bankrupt Estates and Obligations, Winter Quarter, 1978*

Bankrupt Estates:	Obligations (in thousands)
Penn Central.....	5, 722
Erie Lackawanna.....	1, 344
Lehigh & Hudson River.....	1
Lehigh Valley.....	2, 269
Reading.....	4, 363
Central of New Jersey.....	826
Total	14, 525

The Association's administrative expenses relating to these financing programs are summarized in table III.

TABLE III.—USRA ADMINISTRATIVE EXPENSES ASSOCIATED WITH FINANCING PROGRAMS, WINTER QUARTER, 1978

[In thousands of dollars]

	Personnel related costs	Professional service contracts	Administra- tive service contracts	Total
General counsel.....	6			6
Finance.....	69			69
Operations.....	8			8
Other support.....	29		33	62
Total.....	112		33	145

Exhibits A and B, attached, summarize USRA's lending activity for the quarter ending March 31 and the status of the loan program as of that date.

IV. LITIGATION

The Association is involved in three major areas of litigation:

The main valuation case before the Special Court governed by Sections 303 and 306 of the Act. The three-judge Special Court was set up to determine the amount of compensation owed to railroads in reorganization for rail property conveyed under the Act;

Questions relating to loans made to Conrail under Section 211(h) of the Act; and

General litigation including actions seeking to force the transfer of rail properties not conveyed or to annul the transfer of certain rail properties already conveyed.

The Association represents the Federal Government in the valuation case. It responded in March to a directive by the Special Court that the government parties identify changes in methodology for establishing values used in the Master Liquidation Plan presented to the Court at the start of the litigation. USRA told the Court that changes include a starting date for liquidation of the bankrupts of April 1, 1976, as opposed to the originally-proposed January 1, 1979 date. Other changes given the Court include a revision of the non-real estate discount rate, the steel scrap price model and the real estate appraisal process.

Also in response to the Special Court's directive the bankrupts on March 9, 1978, submitted their estimates of what they would have received for their prop-

erties (for either rail or nonrail use) if there had been no 3R Act. The government has 30 days to offer its objections.

On March 30, the Association declared the Court should review first the values that the bankrupts could have realized had they disposed of all of their assets for non-rail use. The bankrupts maintain that the Court should proceed instead with hearings on values that might have been realized through the sale of their assets for both rail and non-rail uses regardless of the Act.

Processing of documents relating to the valuation case litigation continued during the quarter and the data base incorporated in the computerized storage and retrieval system increased by 15,000 documents to 120,000. The depository, which USRA maintains under Special Court directive and makes available to all parties involved in the litigation, increased by 35,000 documents during the quarter.

Efforts to agree with the bankrupts on stipulated inventories to the conveyed properties continued and good progress was made in the equipment area. The stipulation for locomotives conveyed to Conrail by the Penn Central was ready for signature. Significant progress was also made on a number of stipulations relating to land inventory. Since the stipulation process is conducted on an estate-by-estate process, it involves a tremendous amount of exacting detail work.

Work continued in the asset valuation areas. On the rail use side of the case, the rail use staff analyzed the March 9 rail use proffers for consistency. The review indicates a number of major contradictions as to assumptions about rail lines to be retained for rail use.

On the non-rail use side of the case, the valuation planning staff continues to refine the Association's original estimates of the worth of the conveyed assets. In particular, they have revised past work to reflect those changes in methodology announced to the Special Court in early March to develop further a detailed real estate appraisal.

A major development occurred in the litigation relating to the Section 211(h) loans. On February 3, the Third Circuit Court of Appeals decided that the reorganization courts of Penn Central, Lehigh Valley and Reading railroads had erred in issuing orders which declared that sums of money held in certain escrow accounts by these estates were not "cash and other current assets" within the meaning of Section 211(h) (3) (a), and thus were not transferable to Conrail. The Third Circuit Court ordered an account-by-account examination in the reorganization courts to determine the nature of specific accounts—current or noncurrent.

Also pertaining to the Section 211 litigation, the Association contended on March 27 that the Central Railroad of New Jersey Reorganization Court erred when it prohibited interest payments on 211(h) loans made to satisfy certain preconveyance wage obligations of the CNJ. The Third Circuit is expected to hand down an opinion on this in approximately 60 days.

Finally, as to the Association's general litigation involving challenges to certain aspects of the conveyance process, there are 20 cases remaining in various stages of litigation, although many of them have been informally settled through negotiation and require only the preparation and filing of the appropriate documents. Given its role as a nominal defendant in many of these cases, the Association has acted as the mediator and has been instrumental in the settlements which have been reached. In the few cases that have not been settled, discovery has commenced through written interrogatories and dispositions.

Table IV provides a breakdown of administrative expenses associated with activities in support of the Association's litigation effort for the second quarter of the fiscal year.

TABLE IV.—USRA ADMINISTRATIVE EXPENSES FOR LITIGATION, WINTER QUARTER, 1978

[In thousands of dollars]

	Personnel related costs	Professional service contracts	Administra- tive service contracts	Total
General counsel.....	502	136		638
Asset valuation.....	242	1,618		1,860
Finance.....	96	60		156
Operations.....	6	7		13
Other support.....	334		375	709
Total.....	1,180	1,821	375	3,376

V. ADMINISTRATIVE MATTERS

Employment of full-time regular staff totalled 204 at the end of March, an increase of 19 during the quarter. The Association completed arrangements for moving its offices from the Transpoint Building to L'Enfant Plaza. Modification of the 5th and 6th floors in the North Building, plus space on the Promenade level of L'Enfant Plaza will be completed by the end of May, at which time the Association will relocate its headquarters. Administrative expenses for the Association during the second quarter of the fiscal year amounted to \$4,193,000. A summary of administrative expenses for the Association for the quarter ending March 31 and for the fiscal year to date follow as Exhibits C and D.

Third quarter expenses are expected to total \$7,689,000 as indicated in Exhibit E attached. Obligations for the next quarter in excess of \$3,244,000 are dependent upon the enactment of a supplemental appropriation of \$13 million for the current fiscal year which is now pending with the Congress. Obligations through the first two quarters totaled \$7,434,000 leaving only \$3,244,000 to meet third quarter requirements since the total available for fiscal year 1978 is \$10,678,000. This accelerated rate of obligation took place after an apportionment approved by the Office of Management and Budget.

VI. PROJECTION OF ACTIVITIES FOR THE THIRD QUARTER

A. Conrail monitoring

The major monitoring effort for the quarter will be the preparation of USRA's annual report on Conrail performance. This report, which is due at the end of May, is required to cover matters which may affect the quality of rail services in the region and which may affect the security of Federal funds provided through the authority contained in Section 216 of the Rail Act. The Association must report on the amount of Federal funds made available to Conrail and provide a description of the uses of such funds. The report must project the financial needs of Conrail and indicate the sources from which they are likely to be met.

Purchase of Conrail securities is expected to total \$200 million during the third quarter.

B. Financing programs

The D&H will continue to be monitored closely during the quarter as the staff assesses the results achieved by the railroad's new management in its attempts to improve efficiency, increase revenues and bring costs under control. Negotiations will continue with D&H creditors to get them to defer their claims upon the railroad so that funds provided by USRA can meet working capital requirements.

Advances for Section 211(h) will be approximately \$10 million for the third quarter of the fiscal year, bringing outstanding loans, excluding interest, to \$319 million by the end of June.

C. Litigation

Negotiations with the estates over land, equipment and facilities inventories will continue. The discovery process will be continued in order to reproduce, catalogue, index and file documents related to the valuation case. Physical inspection of estate properties involved will be substantially completed during the quarter. Studies of economic factors affecting real estate values, such as absorption rates, will be completed during the quarter as will a number of studies on values for non-real estate assets.

UNITED STATES RAILWAY ASSOCIATION
LOAN PROGRAM FOR THE QUARTER ENDED MAR. 31, 1978

[Dollar amounts in thousands]

	Loans		Interest paid
	Obtained	Repaid	
U.S.R.A. loans to carriers:			
Sec. 211(a):			
Missouri-Kansas-Texas RR.....			
Delaware & Hudson Ry.....	\$5,750	\$7,540	\$422
Sec. 211(h): Conrail.....	14,524		
Total.....	20,274	7,540	422
Federal financing bank loans to U.S.R.A.:			
Sec. 211(a).....	5,750	7,540	1,433
Sec. 211(h).....	14,527		
Total.....	20,277	7,540	433

¹ Includes \$53,000 prepayment penalty.

Note: In whole dollars.

LOAN PROGRAM AS OF MAR. 31, 1978

[Dollar amounts in thousands]

	Principal	Interest
Loans and interest receivable:		
Sec. 211(a):		
Missouri-Kansas-Texas RR.....	\$15,000	\$623
Delaware & Hudson Ry.....	26,211	1,304
Sec. 211(h): Conrail.....	323,437	9,880
Total loans and interest receivable.....	364,648	11,807
Loans and interest payable:		
Federal Financing Bank:		
Sec. 211(a).....	40,936	1,735
Sec. 211(h).....	421,621	8,576
Total loans and interest payable.....	362,557	10,311

¹ \$747,089 remains outstanding for interest payment due Dec. 20, 1977.

² Includes interest rollover into principal of \$15,324,148.

³ As the result of D. & H. nonpayment of interest due Dec. 20, 1977, U.S.R.A. has yet remaining \$699,217 due the Federal Financing Bank on the interest payable Dec. 27, 1977.

⁴ Includes interest rollover into principal of \$13,505,125.

Note: In whole dollars.

REPORT ON ADMINISTRATIVE EXPENSES BY PROGRAM, JAN. 1-MAR. 31, 1978

Program	Personnel related costs	Professional service contracts	Administrative service contracts	Total
ConRail monitoring:				
General counsel.....	\$5			\$5
Finance.....	90	\$21		111
Operations.....	213	77		290
Other support.....	123	6	\$137	266
Total.....	431	104	137	672
Financing programs:				
General counsel.....	6			6
Finance.....	69			69
Operations.....	8			8
Other support.....	29		33	62
Total.....	112		33	145
Litigation:				
General counsel.....	502	136		638
Asset valuation.....	242	1,618		1,860
Finance.....	96	60		156
Operations.....	6	7		13
Other support.....	334		375	709
Total.....	1,180	1,821	375	3,376
Total.....	1,723	1,925	545	4,193
Percentages by program:				
ConRail monitoring.....	25	5	25	16
Financing programs.....	7		6	4
Litigation.....	68	95	69	80
Total.....	100	100	100	100

REPORT ON ADMINISTRATIVE EXPENSES BY PROGRAM AS OF MAR. 31, 1978

[Dollar amounts in thousands]

Appropriation, fiscal year 1978 (Public Law 95-85).....	\$10,000
Unobligated balance forward, Sept. 30, 1977.....	422
Recoveries for fiscal year 1978.....	256
Total available funds for fiscal year 1978.....	10,678
Apportioned for fiscal year 1978 through Mar. 31, 1978.....	8,678

Program	Personnel related costs	Professional service contracts	Administrative service contracts	Total
ConRail monitoring:				
General counsel.....	\$9			\$9
Finance.....	206	\$51		257
Operations.....	359	133		492
Other support.....	222	6	\$247	475
Total.....	796	190	247	1,233
Financing programs:				
General counsel.....	19			19
Finance.....	87			87
Operations.....	32			32
Other support.....	51		57	108
Total.....	189		57	246
Litigation:				
General counsel.....	913	271		1,184
Asset valuation.....	420	2,796		3,216
Finance.....	165	146		311
Operations.....	8	9		17
Other support.....	580		647	1,227
Total.....	2,086	3,222	647	5,955
Total.....	3,071	3,412	951	7,434
Percentages by program:				
ConRail monitoring.....	26	6	26	17
Financing program.....	6		6	3
Litigation.....	68	94	68	80
Total.....	100	100	100	100

FINANCIAL PLAN FOR ADMINISTRATIVE EXPENSES, OCT. 1, 1977-JUNE 30, 1978

[Dollar amounts in thousands]

Program	1st quarter actual	2d quarter actual	3d quarter estimate	Total
ConRail monitoring:				
General counsel.....	\$4	\$5	\$5	\$14
Finance.....	146	111	221	478
Operations.....	202	290	300	792
Other support.....	209	266	335	810
Total.....	561	672	861	2,094
Financing programs:				
General counsel.....	13	6	10	29
Finance.....	18	69	9	96
Operations.....	24	8	10	42
Other support.....	46	62	21	129
Total.....	101	145	50	296
Litigation:				
General counsel.....	546	638	1,348	2,532
Asset valuation.....	1,356	1,860	4,577	7,793
Finance.....	155	156	156	467
Operations.....	4	13	6	23
Other support.....	518	709	691	1,918
Total.....	2,579	3,376	6,778	12,733
Total.....	3,241	4,193	7,689	15,123

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 8, 1978

Hon. RUSSELL B. LONG,
U.S. Senate
Washington, D.C.

DEAR RUSSELL: This is in response to your letter of April 14, 1978 in which you and Senator Cannon requested information about the increased cost of highway maintenance in the event there were significant further diversions of traffic from ConRail to motor carriers. In addition, you requested the Department's views on regulatory changes which might assist ConRail in improving its own financial prospects without increasing the burden on the Federal government.

With respect to the first point, the freight loss to ConRail is a function of both overall change in the economic activity within the seventeen State region in which ConRail operates and diversion of continuing traffic to other modes of transportation. It would, therefore, be incorrect and misleading to assume that all freight lost by ConRail will be diverted to motor carriers. In addition, the 6 percent tonnage loss which ConRail experienced in 1977, is to some extent attributable to system restructuring and should not be regarded as an accurate predictor of future losses. With these caveats, we can make the following predictions of the maximum increase in highway maintenance costs which would result from diversions of traffic from ConRail to motor carriers.

A 1975 study by Wilbur Smith and Associates for the United States Railway Association estimated the increased highway maintenance requirements which would result if all the intraregional freight carried by the railroads under reorganization were to be diverted to motor carriers. That study concluded that in the seventeen State region, diversion of all of the 1972 intraregional rail freight flow to motor carriers would increase annual rural highway outlays for maintenance by 0.043 percent per million tons, or a total of 6 percent.

Utilizing the impact per million tons of freight relationship from that study and the recent annual freight movement history of ConRail, which showed a 6 percent drop in tonnage from 1976 to 1977 to a total of 267,000,000 tons, it is estimated that a similar drop in 1978 would increase highway maintenance outlays in the seventeen State region by a maximum of 0.69 percent or \$21,000,000. An 8 percent decrease would increase maintenance outlays by a maximum of .92 percent or \$27,000,000. It should be emphasized that these figures do not take into account capital costs of approximately \$16 to \$22 million; traffic lost but not diverted, or diverted to water or air traffic; the types, weights and routes of

trucks which would haul diverted traffic; and the effect of the diversion on ultimate highway life.

With regard to your second request, for a list of regulatory changes which might improve ConRail's financial prospects while not increasing the financial burden on the Federal government, the Department is currently evaluating various alternatives available not only to ConRail, but to the industry as a whole. We expect this evaluation to be completed by this fall. Some of the options which have been suggested include (1) redefining "market dominance" as the term is used in the 4R Act to allow ConRail and other railroads greater ratemaking flexibility; (2) allowing railroads to tailor their rates to the needs of individual shippers; (3) enabling railroads to develop separate rates for distinct services; and (4) deregulating rail transport of certain commodities.

In addition, we are assessing options available to ConRail under the ICC's current procedures. These include selectively increasing non-compensatory rail rates to, at least, the variable cost level. Before we recommend adoption of any of these alternatives we will, of course, have to consider their probable effect not only on ConRail but on other rail carriers and alternative transportation modes.

I thank you for this opportunity to respond to your questions. If you require any further information, I will be most happy to provide it.

Sincerely,

BROCK ADAMS,

CONRAIL,

May 19, 1978.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation, Russell Senate Office Building, Washington, D.C.

Hon. RUSSELL B. LONG,
Chairman, Subcommittee on Surface Transportation, Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: As enclosures to this letter, please find our responses to the four questions you raise in your letter of April 14.

Sincerely,

JOHN L. SWEENEY.

Enclosure.

From Senators Cannon and Long letter of April 14:

Paragraph 1—

At the Committee's Conrail hearings on April 13, 1978, we inquired about estimates of additional costs to maintain our highways in the event that further significant volumes of traffic should be lost by Conrail to motor carriers. We would appreciate your staff providing the Committee with these estimates, under a series of assumptions ranging from historical traffic loss over the past three years, a worse possible case under which traffic diversions would increase 25 percent more rapidly than they have.

Conrail response

Using historical tonnage data for Conrail merged railroads, two basic assumptions for Conrail traffic decreases were constructed, each with its own 25 percent more rapid traffic diversion. These include a regression analysis approach in columns 4 and 6, and an average rate trend in columns 8 and 10.

The regression analysis is adjusted for forecasted rates of increase in GNP and Industrial Production. Projected traffic losses, in comparison with 1977 actual tonnages, recorded over 5 million tons in 1978 and almost 10 million tons in 1979. The 25 percent assumption increases these figures to 6.4 million and 12.3 million tons for 1978 and 1979, respectively. It reflects an increase of 2.7 million in tons in Conrail traffic in the year 1982 versus the 1977 tonnage. The 25 percent worse projection also reflects an increase of 2.1 million tons for the same period.

The average rate trend approach expresses an average rate of decrease in Conrail tonnage for the period 1974 to 1977, disregarding any external influences exerted by industrial production growth or economic changes. The decreases are constant and pronounced. Comparisons with 1977 Conrail tonnage shows a first year, 1978, decrease of over 16 million tons and a 1982 decrease of over 71 million tons. The adjusted 25 percent is obviously worse—from over 20 million in 1978 to over 86 million tons in 1982.

Considering a total motor carrier absorption of Conrail tonnage decreases, and that regulated truckers average 13.5 tons per shipment, the 1978 losses can be converted into 383,000 to 476,000 truckloads for the regression method and from 1,187,000 to 1,485,000 truckloads for the average trend method. This, of course, would be traffic both originating and terminating in the already congested Northeast, and does not include the prospects of additional tonnages generated in a growing economic and expanded production atmosphere.

CONRAIL ACTUAL AND PROJECTED TONNAGE DECREASES

[In thousands]

Period	Actual	Percent Δ	Regression	Projected decreases						
				versus 1977	Δ Increased 25 percent	versus 1977	Δ Increased 25 percent	Average rate trend	versus 1977	Δ Increased 25 percent
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1974	327,033									
1975	279,616	-14.5								
1976	286,026	+2.3								
1977	268,586	-6.1								
1978			263,547	-5,039	262,167	-6,419	252,551	-16,935	248,543	-20.0
1979			258,728	-9,858	256,264	-12,323	237,474	-31,112	229,995	-38.5
1980			269,848	1,262	269,533	947	223,297	-45,289	212,832	-55.7
1981			271,702	3,116	270,896	2,310	209,966	-58,620	196,949	-71.6
1982			271,331	2,745	270,645	2,059	197,431	-71,155	182,252	-86.3
Average change		5.97					5.97		7.46	

Source: Consolidated Rail Corp., Marketing Department, Apr. 24, 1978.

2. I also include an additional background material relating broadly to the question which we hope will be helpful to the Committee in response to this question:

A. Summary of Indiana Chief Highway Engineer Hallock's Report, Appendix A:

(1) Additional damage to highways from increased truck traffic isn't as easily resolvable as commonly assumed. Simple re-surfacing doesn't increase pavement strength nearly as much as original pavement design intended to carry a certain amount of traffic. Both the weight and the frequency of axle loads directly affect pavement life. (See testimony, p. 2, for AASHO figures.)

(2) The same principles apply to bridges, but the problem is even more vexing because bridge structures, can't be easily upgraded to withstand heavier loads. Major highway reconstruction usually includes new bridges, but re-surfacing or rehabilitating highways often does not. (p. 3)

(3) The rate of deterioration accelerates as the condition of pavement declines. In other words, a road goes from "fair" to "poor" faster than it goes from "good" to "fair." Pavement deterioration in the early stages of increased traffic is thus a poor indication of what is really occurring. (p. 3)

B. Please know, too, that Wilbur Smith Associates conducted a study (1975) on this subject for USRA on alternative modes for transporting the traffic of the railroads in reorganization which you might want to secure from the USRA.

Paragraph 2—

In addition, the Committee requests that you furnish it with a list of any regulatory changes that might be suggested to assist Conrail in improving its own financial prospects, yet not increasing the financial burden of the Federal Government.

Conrail response

It has long been asserted that the nation's railroads will be unable to remain financially self sustaining without significant changes in regulations which now hinder their ability to provide the best possible service and to increase revenues without increasing the financial burden of the Federal government. Conrail has found that in its case, this assertion is probably true. We are not yet, however, prepared to make specific recommendations for changes in regulation. We are

instead conducting an extensive examination of the extent to which regulation impedes our marketing goals, the cost to Conrail of these impediments, and which, if any, of these impediments we would advocate be eliminated. We believe that this undertaking is necessary if our proposals for regulatory change are to be based upon business objectives and their actual effect upon our attainment of those objectives rather than upon an abstract theory of regulatory reform. While the bulk of our effort will not be concluded before this fall, we hope to reach tentative conclusions by early summer, and we will be glad to provide those to you when they are available.

Paragraph 3—

The Committee also requests Conrail's response to the charges contained in the attached testimony of Albert Terriego.

Conrail response

The investigation report of Conrail's internal audit unit and its police force are attached, next.

Reference to page 4 of Mr. Terriego's testimony.

Newberry Jct. car shop—Williamsport, Pa.—Internal audit involvement in this matter was quite limited in that we received notice of the allegations in October 1976 and conducted several interviews related thereto. During the course of these interviews, it came to our attention that the police department was also investigating the allegation, at which point it was jointly decided internal audit would take no further role unless requested by the police.

The matter was referred to appropriate law enforcement authorities who initiated criminal prosecution. The criminal charges were subsequently dismissed. Currently, the company is being sued by the individual involved and accordingly to further comment while the matter is in litigation would not be appropriate.

Reference to page 5 and allegations regarding Penn Erection which were investigated by internal audit and the police

Mr. Terriego stated Conrail was billed by Penn Erection from January 13 through January 24, 1977 and from January 31 through February 11 for a 100-ton Holmes crane which remained idle during this period of time.

Conrail records indicated that Penn Erection billed Conrail for stand-by service for these periods Conrail records also indicated that from January 14 through January 24, a Holmes crane was used on 26 different occasions; and from January 31 through February 11, 1977, a Holmes crane was used on 33 different occasions. The records were vague and it was not possible to determine if this was the subject crane.

During the period January 1 through February 17, 1977, the 50-ton Holmes crane leased to Conrail from E.T.L. and assigned to the Conway yard, was out of service approximately 80 percent of the time.

Although not totally supported by documentation the investigation concluded that since the assigned crane was generally not in service, and that a Holmes crane was reported being used during this period, it was the 100-ton crane rented from Penn Erection. This conclusion was supported by conversations with Conrail employees, including C. W. Ownes, Regional Manager. However, it should also be noted that statements were taken from Conrail employees by the police department, some of which supported, at least in part, Mr. Terriego's allegations.

Mr. Terriego stated that on January 14 and January 16, 1977, derailments occurred where additional Penn Erection cranes were ordered while the 100-ton crane was sitting idle at Conway yards. Conrail records indicate that on January 14, 1977, a Holmes crane was utilized on 6 different occasions. Conrail records did not indicate any usage of a Holmes crane on January 16.

Mr. Terriego stated that on January 21, 1977, a derailment occurred at Vanport, PA. and Penn Erection invoiced Conrail \$6630 for work performed at the derailment. Mr. Terriego further stated that Penn Erection did not perform any service at Vanport, but the entire derailment was cleared by the Conrail wreck crew. Conrail records indicated Penn Erection did, in fact, have equipment at the Vanport derailment and did perform service. In addition, R. A. Lewis, Wreckmaster, Conway Car Shop in a personal statement dated May 10, 1977 stated he personally observed Penn Erection equipment at the derailment site.

The audit of the records at Penn Erection Company did not disclose any evidence of fraud. In addition, we found no evidence that Conrail was billed for services that were not performed by the Penn Erection Co. We found that some Conrail employees had been entertained by Penn Erection Company personnel.

This entertainment consisted of the purchase of meals, golf outings and some bar expenses.

We examined the Conrail expense accounts for the individuals involved and this review indicated that the principal Conrail employee who was entertained was in a different location than that listed on the Penn Erection expense records. In some instances, the Conrail employee was in another state. The receipts attached to the Conrail employee's expense accounts appeared to be valid. It was our observation that an employee from Penn Erection Co. apparently was padding his own expense bills. We found one situation where Penn Erection Co. sponsored golf outing at Myrtle Beach, S.C. and a Conrail employee, trainmaster, went on the trip. The records at Penn Erection indicated Penn Erection had paid for the trip. When the employee was interviewed in July, 1977, he stated that he borrowed the money from Penn Erection and paid them back at a later date. Penn Erection confirmed this statement; however, we were unable to document the employee's payment. We are presently discussing this matter with the legal department to determine if there is sufficient evidence for a personnel action.

Reference to page 9 and the allegation that Mr. Kenneth Lowe, Division Superintendent, Cleveland, Ohio used the contractor, Isringhausen Company while he was located in New Jersey and also after his transfer to Cleveland, Ohio.

The auditing department had no previous information regarding the allegation that Mr. Kenneth Lowe had utilized the services of Isringhausen Company both in New Jersey and Cleveland, Ohio. Conrail paid Isringhausen Company approximately \$1,028,131 during 1977. We will initiate an investigation of this matter immediately.

Reference to page ten and the allegations that fringe benefits have been provided by the Hulcher Wrecking Company.

The auditing department under the former Penn Central Transportation Co. audited the Hulcher Company in the early 1970's. This audit resulted in the removal from the Company of two management employees for taking trips financed by Hulcher.

We have not received any information since the formation of Conrail that Hulcher has provided any trips or engaging in any other inappropriate business activities. However, we have scheduled an audit of the Hulcher Company in 1978, principally because of the volume of business, \$4,148,510 during 1977.

Reference to page ten and Mr. Terriego's mention of the following contractors that are utilized in providing wreck clearing services for Conrail.

Mor-Trak is located in the Liverpool, N.Y. area. Conrail paid Mor-Trak approximately \$43,195 during 1977.

All-Wrecking Company is located in the Cleveland, Ohio area. Conrail paid All-Wrecking approximately \$505,840 during 1977.

Lake Steel Company is located in the Cheektowaga, N.Y. area. Conrail paid Lake Steel Company approximately \$527,028 during 1977.

Winters Railroad Service is located in the North Collins, N.Y. area. Conrail paid Winters Railroad Service approximately \$1,019,266 during 1977.

Since the formation of Conrail, we have received no information regarding improper business practices by any of the aforementioned firms; however, in view of this testimony, we have scheduled each for audit in 1978.

Paragraph 4—

Finally, we would appreciate a detailed analysis of the current status of Conrail's locomotive fleet, especially as the fleet's condition and numerical availability relates to Conrail's motive requirements for handling normal traffic plus additional coal movements as production returns to normal levels.

Conrail response

Conrail's current locomotive out of service ratio is 17.8% which still reflects the adverse impact of the recent severe winter but is measurably better than the 24.3 percent experienced in February of this year.

A comprehensive \$34 million locomotive recovery program approved by the Conrail Board in March, is now beginning to take effect and by mid year, the Conrail fleet should begin to adequately handle normal traffic requirements including normal levels of coal movements.

The condition of the Conrail locomotive fleet is a critical factor in Conrail's plans to achieve economic viability. As such, the subject has been intensely studied by Conrail management. Our studies indicate that one of the keys to Conrail's locomotive problems is the poor condition and deferred maintenance of the fleet inherited. Another factor that has aggravated the problem has been

the time it has taken Conrail management to analyze the problems and take corrective action.

Our analysis of purchasing and shop records of the predecessor lines during bankruptcy indicates that the deferred maintenance cannot be overcome until sometime in 1979 even with the aggressive repair and acquisition program we have instituted. Since conveyance, Conrail has overhauled and rebuilt 1,548 and heavy repaired 611 locomotives in contrast to 1,677 locomotives scheduled for major repairs in the Final System Plan.

The deferred maintenance leads to poor reliability of the locomotives causing service disruption and absorbs inordinate amounts of shop capacity. The fact that Conrail's fleet is composed of higher than average age units and many units which have exhibited poor service characteristics from the day they were built because of design deficiencies only add to our problems. The poor condition of the fleet has been worsened by the recent two successive severe winters.

To overcome the effects of the recent severe winter, and to achieve the commitment to noticeably improve service in 1978, the Conrail Board has approved a \$34 million recovery plan which includes increasing the acquisition of new locomotives to 217 in 1978 (up from 129 in the November 15 Plan), rebuild of 100 locomotives at outside facilities and increasing the forces at the major Conrail repair facilities by over 200 people. These measures are being taken to improve the locomotive situation as quickly as possible.

A major factor in overcoming Conrail's long term locomotive problems involves creating a management system that will methodically and systematically develop and implement sound maintenance policies which will keep the locomotive fleet in good shape once the inherited deferred maintenance problem is behind us. A major step in solving this part of the problem was taken last Fall with the reorganization of the locomotive maintenance function to give complete responsibility for maintenance of the locomotive fleet to one organization. A further step underway involves review of all management personnel in the Mechanical organization to provide sound management at all levels.

Other programs include a review of the locomotive maintenance and winterization procedures including the manufacturers representatives, implementation of the craftsman skill training program for shop forces, implementation of management training programs at all levels of supervision, continuation of the inspection of workmanship and completeness of repair by the Quality Control organization and development of a computerized locomotive data system to improve analysis of individual locomotive problems and assist in scheduling of corrective actions.

APPENDIX A

STATE OF INDIANA,
STATE HIGHWAY COMMISSION,
Indianapolis, Ind., January 12, 1978.

EFFECT OF INCREASED TRUCK WEIGHT ON INDIANA HIGHWAYS AND BRIDGES

(Gene K. Hallock, Chief Highway Engineer, Indiana State Highway Commission)

Effective vehicle weight and size regulations are necessary to obtain reasonable highway life expectancy, and to protect the public investment in highways. The service life of a highway is, by necessity and nature, several times that of a vehicle, and since the highway system is created by many annual construction programs and contains roads of various ages, effective regulations are a necessity to prevent new and larger motor vehicles from making large sections of the highway system obsolete.

Various proposals are made from time to time in regard to the desirability of increasing the allowable truck weights on Indiana highways. It is not difficult to appreciate the financial problems caused the trucking industry by energy related factors and the inflationary spiral. However, the purpose of this presentation is not to discuss the pros and cons of any justification for a proposed weight increase, but rather to assess the effect that a weight increase of any size would have on the highways of this State.

The design of highways in this State, as well as the other 49 states, and for the most part all local roads and streets, is derived from formulas which are directly related to truck weight. These formulae were verified by a very extensive

research project that took place in Ottawa, Illinois in the late 1950's and early 1960's. Since that time, satellite tests have been undertaken in other states, and guides have been developed for such tests to make comparisons between the materials and conditions encountered at the Ottawa test road, and the materials generally in use and conditions existing in the various states. In the 17 years which have passed since the conclusion of the Ottawa test project, nothing has been found to discredit the general findings of the project.

Very briefly, the Ottawa test project consisted of operating continuous traffic on six independent pavement loops consisting of various pavement types and thicknesses. Different truck axle loadings were used on the various loops ranging from a 2,000 pound single axle to a 40,000 pound tandem axle.

The purpose of the Ottawa test road study was not only to determine the effect on design, construction and maintenance of highways by the use of vehicles of different dimensions, weights and frequency, but also to study the proportionate share of design, construction and maintenance costs of highways attributable to each class of user on such highways. The Ottawa road tests demonstrated very dramatically that highway service life is related to vehicle weight and therefore the cost of new construction and maintenance of such highways are also directly related to allowable weight. It has been shown that an increase from an 18,000 pound to a 20,000 pound load can result in an average loss of the remaining highway life between 25 to 40 percent. To increase it to 22,000 pounds can result in the loss of pavement life of close to 60 percent, and to increase it to a 24,000 pound single axle loading can result in the loss of remaining life of about 70 percent.

It was demonstrated that the 20,000 pound single axle load is equivalent to 1.60 applications of the 18,000 pound axle, the 22,000 pound single axle load is equivalent to 2.37 applications of the 18,000 pound axle, and that the 24,000 pound single axle is equivalent to 3.45 applications of the 18,000 pound single axle. Therefore, it is readily apparent that increasing loads seriously shorten the remaining life of the pavement.

The Ottawa road test also showed the frequency of allowable axle loads is also a matter that must be taken into consideration. For an application of an 18,000 pound load applied 100,000 times, a 3.8 inch pavement thickness will suffice; but if it goes to a 1,000,000 application, it will require a 5.8 inch thick pavement. If it goes to 10,000,000, it will require an 8.4 inch pavement. Similarly, for each number of application, the pavement thicknesses have to be substantially increased to take care of the heavier axle application.

The common denominator technique related to the 18,000 pound single axle is used in conjunction with traffic forecasts in determining remaining life of highways, and in determining when funds will be needed for heavy maintenance or strengthening operations or for replacement. The often heard statement that the structural capacity of a highway can be "beefed up" relatively easy by adding some resurfacing to the existing pavement is not as simple as it might sound. The additional layers of resurfacing do not develop nearly the additional pavement strength that they would have if they had been incorporated as a monolithic part of the original pavement design and construction. Although the effective service life of such resurfacing or overlays is hard to predict, generally the history of their effectiveness is limited to 10 years or less under present traffic conditions.

Bridge design is also related to truck axle loading. Approximately two-thirds of the existing bridges on the State system were designed for the existing allowable load; but the remaining one-third constructed prior to 1942 were designed for less than the present allowable load. An occasional overload has very little effect on a bridge structure; however, these structures are subject to fatigue at higher stress levels, and are designed for a number of loading cycles which it is estimated the structure will be subjected to during its useful life. The higher stress levels will reduce the predicted number of loading cycles required to produce fatigue failures, and it is estimated the useful life reduction would closely parallel that predicted for the pavement.

There is no easy or economical way to upgrade an existing bridge structure for either increased axle or gross loads. In general, bridges of low structural capacity must be replaced if the gross or axle weight allowances are substantially increased. When a section of highway is totally reconstructed to modern standards, sub-standard bridges that are either structurally deficient or functionally obsolete are usually replaced as part of the project. This is not necessarily true when an existing road is being resurfaced or rehabilitated.

The Ottawa road test verified that the rate of deterioration accelerates as the condition of a pavement declines. Thus, it takes less time for a road to go from "fair" to "poor" than to go from "good" to "fair". It also demonstrated that one heavy truck did as much damage to the highway as did 6,000 vehicles with

weights and axle loads comparable to the private automobile. It also revealed that a 2,000 pound increase in single axle loads (from 18,000 pounds to 20,000 pounds) brings about a 60 percent increase in the wear and tear on the pavement attributable to the movement of heavy loads. A 2,000 pound increase in tandem axle loads (from 32,000 pounds to 34,000 pounds) brings about a similar increase of 33 percent.

The adverse economic effect on the cost of highway maintenance from an increase in truck weight is due to the fact that the design of the highway is related to such weight. It has been proven the condition and life of the highway is also dependent upon truck weight. Pavement is designed for an estimated number of repetitions of equivalent 18,000 pound single axle loads. All axle weights and combinations are related to the effect of a single 18,000 pound axle. The design factor for a five axle tractor-trailer combination loaded to 72,000 pounds is 3.03 equivalent 18,000 pound single axles. A load of 80,000 pounds with the same vehicle configuration produces a design factor of 4.67 equivalent 18,000 pound single axles. Therefor, the pavement cost per mile per vehicle pass would increase 54 percent with only an 11.11 percent increase in weight.

In testimony before Congress, Federal Highway officials and the American Association of State Highway and Transportation Officials testified that an increase in single axle loadings from 13,000 to 20,000 pounds can shorten remaining pavement life between 25 and 40 percent, and shorten anticipated bridge life by 30 percent. Estimates by the United States Department of Transportation of the increased maintenance cost under the new Federal weight limits increasing the single axle from 18,000 pounds to 20,000 pounds, and total weight from 73,380 pounds to 80,000 pounds would amount to a 25 percent increase in maintenance cost.

Increased legal loads on Indiana's highway system will, even by the most conservative estimates, require a substantial increase in expenditure for road and bridge maintenance. It has been estimated that the increased cost of maintenance due to increasing maximum truck weights to the new Federal limits could amount to as much as 14 million dollars. This is consistent with an estimate of a 30 million dollar additional cost in Illinois and 15 million additional cost in Missouri due to proposed weight increases in those States.

The well proven relationship between truck weight and pavement service life indicates the desirability for a very active and effective weight enforcement program. It also may very well raise the question as to whether proper allocation of highway costs are being made to heavy vehicles in Indiana. Studies by the Federal Government and other states have indicated that this percentage should be between 34 percent and 37 percent. Other States such as California and Illinois have recently studied this question. Such a study in Indiana might be appropriate in conjunction with consideration of an increase in the Indiana limit on legal truck weight.

SUMMARY OF BUSINESS PLAN—JANUARY 1, 1978, TO DECEMBER 31, 1982

FOREWORD

In submitting this 5-Year Business Plan, Conrail considers it important to review the fundamental goal of the Rail Act and expectations for Conrail. In formulating the Final System Plan (FSP), USRA had to balance the goals and purposes of the Rail Act, the distillation of which reflected the Congressional dictate that adequate and efficient rail service be provided at the lowest possible cost to the taxpayer. In USRA's judgment, the Conrail structure provided the "best opportunity" to fulfill this Congressional mandate. In properly cautioning that the FSP was "heavily dependent on future projections of uncertain events", USRA expressed the view that, given the complexity of the task of restructuring the rail system and the dynamic environment in which it must be undertaken, the recommended Conrail structure would probably represent an evolutionary step in the process.

The fundamental issues, then, addressed in the Five-Year Business Plan are whether sufficient progress has been, and is projected to be, made towards providing adequate and efficient rail service, and whether the Conrail form continues to present the "best opportunity" to attain that goal. In the judgment of Conrail's Board and management, the response to both questions is affirmative. This judgment is rendered with the clear perception that the Business Plan projects private and Federal financing needs in excess of those contemplated in the FSP—almost totally as a result of problems unforeseen when the FSP was pre-

pared—and that Conrail's physical capability to provide needed service is not as strong as had been anticipated, despite significant rehabilitation to date.

In short, Conrail still appears to be the best possible solution to the Northeast's rail service problems. While the challenges facing Conrail are greater than anticipated in the FSP, and will require more time, effort, and resources to address them, Conrail's Board and management are not prepared to recommend that the basic form of the rail system recommended in the FSP be altered. Indeed, it would be surprising if after only twenty-two months of operation a clear departure from the original direction would have been evident. Conrail recognizes that it shares in the responsibility to recommend such modifications as may be in the public interest. But even if fundamental changes were warranted in the future, it is imperative that the flexibility to institute change not be constrained or precipitated by an undue emphasis on short-term financial performance that does not take proper account of the legislative purpose—that adequate and efficient rail service be provided at the lowest cost to the taxpayer. It is against this standard that proposed actions must be judged.

—EDWARD G. JORDAN.

SUMMARY

In the 22 months since conveyance, Consolidated Rail Corporation (Conrail) has made substantial progress in rebuilding adequate rail service in the region. At the end of 1977, Conrail had met most of the goals set for that time period by the United States Railway Association's Final System Plan (FSP). Thus, Conrail's initial performance would indicate that the Corporation is making substantial progress toward the Rail Act goal of restoring adequate and efficient rail service in the Northeast.

However, this is not entirely the case. Conrail's planning process leads to the conclusion that Conrail cannot continue to make progress at the rate projected in the FSP. That conclusion derives from a re-examination of key assumptions—which had been based on historical information now outdated—upon which performance expectations were founded. It also reflects twenty-two months of actual experience during which period unanticipated major setbacks from weather and strikes were incurred.

The two most important factors underlying this condition are that: (1) Conrail's revenue base is projected to be lower than was projected by the FSP; and (2) Conrail's physical capability to provide needed service is not as strong as expected, despite the rehabilitation accomplishments of 1976 and 1977. It is clear that Conrail will require more time, effort and resources—both public and private—to address these problems. Conrail's financial projections which includes modest provisions to cover the financial impact of certain possible adverse external events are believed to offer a better prediction of future financial performance than do the projections of the FSP.

Conrail's financial projections still reflect substantial progress but at a slower rate than that projected in the FSP. Moreover, the anticipated narrow profit margins for the latter years of the period covered by this Plan do not provide an adequate rate of return on total capital invested in the Railroad. This problem is not one unique to Conrail; it is one that confronts the entire rail industry.

The Plan and its association projections are based on an assessment of Conrail's progress in implementing a customer-oriented service strategy. This assessment was aimed at defining how Conrail could best achieve the fundamental mission towards which its efforts are and have been oriented; optimize rail service so as to achieve the maximum share of the transportation market with prices and costs that will enable achievement of long-term viability.

In carrying out this mission, Conrail proposes to make capital investments—for revenue cars, locomotives, track, and physical plant restoration—that exceed substantially FSP estimates, but which are essential to the improvement of marketable service capability. At the same time, Conrail will pursue aggressively methods of increasing productivity—through capital investments, changes in labor agreements, and management improvements. While the service programs will yield revenue increases, and the productivity programs will yield cost reductions, the revenue and cost improvements taken together will not enable achievement of FSP financial performance objectives. This, coupled with greater capital requirements, indicates Conrail will need financing in excess of that provided through current legislation and that which the Corporation can generate internally. Thus, Conrail must seek additional financing from the Federal Government and the private sector.

The Plan sets an ambitious course. It establishes demanding management standards and reflects substantial improvement in almost all phases of Conrail's

operation. Necessarily, it is also based on assumptions concerning factors external to Conrail—e.g., the future of the Northeast region economy, and certain legislative initiatives—that, if they do not materialize, could dramatically alter the result. For these reasons, the Plan will perhaps be viewed by some as optimistic. However, management believes it should set demanding standards; and the assumptions on external events have been made as realistically as present information will allow.

The 1978-82 Business Plan describes the strategy and programs the Corporation proposes to carry out. This Summary provides an overview of the Plan and discusses:

Background: The purposes for which Conrail was established; the Corporation's performance to date; and definition of the problems with which the Corporation must deal in the next five years.

Conrail's strategy: Its concepts and its relationship to action programs.

The Plan's principal conclusions as they relate to 5-year programs and results.

BACKGROUND

As Conrail prepares to meet its upcoming challenges, it is important to reiterate and to keep in perspective the Corporation's fundamental mandate. Conrail was established as a private sector Corporation charged with restoring reliable rail service in the Northeast and Midwest regions. The task was to be accomplished at least cost to the taxpayer through ultimate achievement of Corporate self-sustainability. Consistent with this charge, the FSP delineated specific goals Conrail was to achieve. In essence, these goals pertained to: (a) the degree of service Conrail should provide; (b) the pace at which Conrail should rehabilitate the railroad; and (c) the anticipated financial performance—based on a 1974 perception of Conrail's future business environment, the service capability of the physical assets that were to be conveyed, and the capacity of the new Corporation to realize fully the benefits of rehabilitation. Financial expectations were expressed both in terms of profitability (or acceptable loss levels in the early years) and the amount of financing Conrail would need from the Federal Government.

Measured against these standards, Conrail has made progress in meeting the goals that have been set for it. More specifically:

The threat of service collapse has been averted and rail service capability is now being improved: There is no question that the service provided by Conrail's predecessors had deteriorated to the point where those railroads had become a secondary choice of the region's shippers. Regrettably, this continued degradation of service did not cease at conveyance. As the massive rehabilitation program was launched and as Conrail coped with extraordinary winters, further service disruptions occurred. Given these conditions, it was not reasonable in retrospect to expect a sudden change in shipper attitudes towards greater reliance on rail transportation.

Despite this, shippers now appear encouraged that Conrail has stabilized physical deterioration and is on the way to building a competitive, responsive, reliable service. This positive attitude should grow as the thrust of the rehabilitation program moves from high density main lines and associated yards to urban terminals and secondary mainlines and branches.

The rehabilitation program is achieving most FSP planned goals: Table 1 indicates Conrail rehabilitation progress in comparison to the FSP.

TABLE 1.—1976-77 REHABILITATION PROGRAM

Programs and progress indicators	Amount 1976-77		
	FSP	ConRail	Difference ¹
Maintenance of way:			
Miles of rail.....	1,466	1,745	279
Miles of surfacing.....	13,884	41,020	136
Number of ties (millions).....	8.7	9.5	0.8
Maintenance of equipment:			
Revenue cars: Heavy repairs.....	22,078	25,888	3,810
Locomotives:			
Overhaul.....	2,459	1,385	(74)
Heavy repair.....		460	460
Additions and improvements: Dollars expended for improvements (millions of current dollars).....	\$178	\$133	(\$45)

¹ Figures in parenthesis indicates unfavorable variance.

² The FSP projected locomotive "major repairs" which ConRail has presumed are equivalent to an overhaul. A heavy repair, as ConRail uses the term, requires about 30 percent of the manpower and material expenditure of an overhaul.

As the Table shows, Conrail's track program—in terms of miles of rail, numbers of ties, and miles of surfacing—exceeded FSP goals. Moreover, Conrail rehabilitated more revenue cars than the FSP projection. Locomotive overhauls were less than the FSP major repair estimate, though the sum of overhauls and heavy repairs exceeded the FSP major repair figure.

Conrail's performance on the Additions and Improvements (A&I) program—which includes projects for yard rehabilitation, communication and signalling, work shops and machinery, and the like—lagged the FSP. In part, this reflected a decision to spend necessary time on analysis to ensure the funds expended on such critical projects were allocated properly. However, Conrail's progress in implementing A&I projects, once decisions were made, has not been satisfactory. The Plan describes specific actions Conrail is taking to continue to improve both decisionmaking and implementation performance.

Financial performance is close to cumulative FSP projections: Conrail's cumulative 1976-77 operating deficit is expected to approximate the FSP 1976-77 forecast of \$567 million. Moreover, investment drawdown from USRA were less than projected even though Conrail met most rehabilitation objectives. Through year-end 1977, Federal Government investments in Conrail securities aggregated \$1,152 million as compared to the FSP forecast of \$1,301 million. Conrail was successful in obtaining private sector financing to an extent not anticipated, thereby helping hold down the need for governmental funds.

The experience of the first twenty-two months has given Conrail valuable insights in identifying and resolving problems, and in gaining understanding of the Corporation's future challenges. However, the assessment of these challenges compelled Conrail to conclude that, despite the progress in meeting most FSP goals, the Corporation could not become financially self-sustaining within current funding limits. In management's view, the principal obstacles lie in the following areas:

Traffic base: Conrail's traffic during 1976 and 1977 has not matched FSP expectations, and projections for the next five years suggest the disparity will grow. The variance will be particularly large for coal—with Conrail now projecting it will carry some 52 million tons less coal than projected in the FSP.¹ Some portion of the variance may also be associated with the continuing decline in strength of the Northeast economy relative to the rest of the nation²; and a portion is probably associated with Conrail's service problems.

Labor costs: Conrail's labor costs currently exceed 60 percent of revenues. This proportion is in excess of the labor cost/revenue ratio for any other major railroad. It must be brought down to enable cost/revenue relationships that will ultimately yield profit. The generation of additional revenue—a goal which will be pursued aggressively by Conrail over the next five years—will help bring the relationship of revenue to labor costs more in line. But the other important need is to improve productivity—including modification or elimination of work rules that are inconsistent with modern railroad operations.

Equipment: In reporting on the Railroad's 1976 performance to the Congress, USRA stated . . . "the fleet conveyed to Conrail was in worse shape than anticipated. . . ." The report then examined the pattern of locomotive and car bad order ratios and indicated, despite the fact that Conrail's 1976 equipment repairs exceeded the FSP estimates, that "there is yet no clear pattern of improvement (with respect to equipment)."

These statements indicate USRA's early awareness that Conrail would encounter equipment problems in excess of FSP expectations—and these problems continued throughout 1977. They stem primarily from the existence of substantially more deferred maintenance than anticipated, and they impact Conrail in two ways. First, Conrail's serviceable fleet over the next several years will average 12,000 cars less than projected in the FSP. This results because retirements have exceeded FSP estimates to date, and the rate of retirement is expected to be higher than the FSP rate in the future. While the seriousness of this problem is mitigated by Conrail's projection of less traffic, less traffic, is still a need to obtain more cars than forecast by the FSP for the period. Second, the total cost of providing cars will be higher than estimated in the FSP—primarily because: (1) Conrail does not anticipate it will be able to achieve the rate of car

¹ At the time the FSP was prepared, Project Independence offered the most definitive guidance concerning the outlook for coal. The recommendations of Project Independence were not implemented, and the anticipated surge coal traffic has not occurred.

² For example, the Northeast region's share of manufacturing employment is continuing to decline.

utilization improvement projected in the FSP—in part because of the worse than expected state of the fleet, and in part because of an inappropriate FSP goal.³

(2) the Corporation will be placing more reliance on foreign cars than projected, thereby increasing per diem; and (3) the cost of ownership will be higher primarily due to greater car acquisition.

In sum, equipment problems have created one of the most significant issues with which Conrail has had to deal in the Plan. With equipment retirements higher than anticipated, with car hire and ownership costs increasing, and with a compelling need to improve service capability through the provision of sufficient, reliable cars, Conrail's equipment expenditures are projected to exceed FSP estimates by a substantial margin.

Debilitation of physical assets: During the past year, Conrail carried out analyses to: (1) develop updated engineering estimates of Additions and Improvements (A&I) project costs (e.g., for yard improvements); and (2) redefine the list of projects in the A&I program. These studies suggested that the extent of physical deterioration was underestimated. As an important example, the Corporation now foresees that its classification yards will have to be upgraded to an extent not previously contemplated—in part to correct deferred maintenance, and in part to provide for a more efficient operation. The decision to undertake rehabilitation projects that are more extensive than programmed in the FSP reflects Conrail's judgment—based on studies of the kind just cited—that these projects will enable operational improvements that are critical to enhancing service and will offer attractive financial returns.

Natural disasters and strikes: During its first two years, Conrail has encountered natural disasters and strikes which have greatly hampered the Corporation in making desired progress. As examples of natural disasters, two harsh winters have caused substantial revenue loss and increased storm costs to an extent unmatched in any of the four winters prior to Conrail's takeover. Moreover, the Johnstown flood damaged severely Conrail's most heavily traveled mainline and also caused revenue losses. Relative to strikes, Conrail suffered losses from dock and ore strikes that occurred late in 1977; and even as the Plan is submitted, Conrail is coping with the longest coal strike since World War II.⁴

Such disasters are a normal part of doing business for most corporations—and they anticipate them through means such as contingency funds. In Conrail's case, however, the FSP did not reflect, in its projections of Conrail's financial requirements, the need to confront an extraordinary series of disasters so early in Conrail's corporate life⁵. The disasters have caused much more than financial damage; for example the winter problems have caused Conrail's capital programs to fall behind established schedules, and to have hurt Conrail's service reputation as the Corporation was seeking to convince shippers of Conrail's ability to perform.

Presumed pace of change: The FSP anticipated Conrail would encounter initial operational difficulties in merging the component properties, but that they would be rapidly overcome. The FSP then assumed Conrail would make uninterrupted progress toward its goals.

The presumed pace of change after conveyance proved to be unrealistic. The initial operational difficulties were not encountered, largely because of effective pre-conveyance planning. However, setbacks such as those relating to natural disasters, were not built explicitly into the FSP—but they have assuredly occurred. Moreover, the gains from Conrail's massive track rehabilitation and maintenance programs have been offset in part by continued deterioration; for example, Conrail's track rehabilitation program eliminated 7.36 miles of slow

³ USRA estimated Conrail could increase its car utilization by 28 percent, measured against 1973 Penn Central performance. Apparently, USRA now has identified changes that should be made in some assumptions that led to this estimate. These changes will probably reduce the 28 percent goal. To the extent the goal is incorrect, Conrail's performance in improving utilization is being compared to an inappropriate baseline.

As a means of improving utilization, USRA recommended that Conrail make use of a new computer-based car management system. Conrail's analysis of the costs and benefits of such a system is continuing. However, even if system implementation started immediately, Conrail judges that it would not help utilization substantially through 1982. Therefore, utilization improvements in the period, which are still projected to be significant, will depend on organizational, procedural, and systems actions other than in use of a new car management system.

⁴ Coal accounts for about 30 percent of tonnage and 15 percent of revenue.

⁵ Since FSP projections were based, in part, on the past economic performance of Conrail's predecessors, the disasters with which they had to deal were implicitly reflected in the projections. Clearly, however, the experience of the predecessors did not imply Conrail would confront so many disasters so soon—well before it had built the capacity to deal with disaster adequately.

orders in 1976 and 1977—but additional slow orders were imposed on 5,921 miles of trackage even as rehabilitation was progressing. And relative to revenue generation, shippers did not return to the railroad in response simply to the establishment of a new company. Appropriately, they expect service improvement before they will again use the railroad—and Conrail's service performance is not yet adequate to hold, let alone expand, its share of the transportation market.

The problems just described confront Conrail with substantial challenges. Through the Plan, the Corporation has defined a strategy and established associated action programs that will forcefully deal with the challenges and move Conrail toward achievement of its goals.

STRATEGY

Strategy development must begin with a clear understanding of mission. Consistent with the Rail Act, Conrail's mission, as was stated at the outset, is to optimize rail service so as to achieve the maximum possible share of the transportation market with prices and costs that will enable the achievement of long-term viability. Several points concerning this statement deserve emphasis.

First, it targets on the most difficult and pervasive problem Conrail faces—the decline in demand for Conrail's services. This decline can be explained in the short-term, for Conrail has not yet been able to improve service markedly. However, if degraded service has cost Conrail business, then it is Conrail's belief that improved service offers the opportunity for recovering business. The Corporation must continue establishing the capacity—physically, managerially, and financially—to deliver service that will meet the customer's standard of required performance and that will engender confidence in Conrail so that the customer will continue with, or add to, use of rail service.

A second important point is that this mission provides a service-oriented focus to Conrail's efficiency programs. It is possible to achieve savings that appear to have benefit in reducing budgets—only to find that the "savings" have led to an unsatisfactory deterioration in service and revenues. Such a self-defeating process must be avoided. Thus, as Conrail carries out its widespread attack on inefficiency, managers have been instructed to be cognizant of the service implications of their recommendations. Conrail needs better productivity—but it must also make service gains.

Third, this mission is consistent with the legislative purpose in establishing Conrail—namely, to provide adequate rail service to the Northeast and Midwest regions at the lowest possible cost to the taxpayer.

Finally, the statement focuses on achieving long-term viability. Conrail was established as a private corporation operating with government sponsorship. In establishing Conrail, the Congress conveyed two messages. First, the Government was willing to sponsor Conrail financially because Conrail would restore an essential public service. But second, it wanted to build into Conrail the same business orientation that motivates all private sector corporations—define a service, make it attractive to the consumer, offer it at prices that are competitive, market it, and continuously seek productivity improvements that will ensure profitable price-cost relationships and maximize long-term gains for investors. Success for such private sector corporations is measured generally by whether they have carried out this job in a way that sustains themselves—by the generation of sufficient earnings to replenish capital assets while offering a satisfactory return to investors. Conrail's service strategy is oriented towards the goals of a private sector company. Given this orientation, coupled with sufficient funding and with sound programs to provide and improve service, the strategy offers, in Conrail's judgment, the best possibility that Conrail will become self-sustaining.

It should be acknowledged, however, that Conrail is not satisfied with the service provided to date. Yet, substantial groundwork has been laid. The rehabilitation program, for example, will enable significant service gains eventually. Moreover, during 1977, Conrail initiated several projects and studies that are of fundamental importance in guiding program definition and will be even more important in the future. Among these are the following:

Market Strategy: Aimed at Conrail's most serious problem—the lack of sufficient, profitable traffic—Conrail has conducted a study to establish an entirely new marketing focus. It will segment Conrail's market into approximately 60 commodity-oriented "lines of business." Based on the business potential of each segment, it will then delineate the service, pricing, and investment action to be

taken for each. The study, not yet completed for all lines of business, is contributing now to a fundamental re-orientation in the way Conrail sells its services and expands its markets.

Investment Strategy: Evaluation of how Conrail can trade-off investments in track, additions and improvements, revenue cars, locomotives, and other capital programs. The study's purpose is to concentrate Conrail's resources on those transportation services, facilities, and equipment which will enhance service capability and produce best overall returns.

Productivity Improvement: Series of efforts to reduce labor costs. Conrail is negotiating labor agreements, independent of the nation's other railroads, in an effort to obtain labor savings of higher magnitude than would be possible through joint negotiations. And, several study efforts are programming efficiency savings; for example, Conrail's Terminal Improvement Project is seeking to reduce costs in the most labor-intensive and capital-intensive aspect of Conrail's operations.

Costing: A systems development effort, now being implemented, that will reduce reliance on often misleading "system average" costs and thereby improve pricing and investment decisions.

Car Utilization: A comprehensive program is now underway involving systems development, re-organization, new facilities, and many other program actions aimed at getting more "pay trips" per year from costly freight cars.

Zero-Base Budgeting: Now moving into broad application in both maintenance of way and maintenance of equipment to maximize cost effectiveness.

Study efforts such as those described have equipped Conrail to develop a Plan that will deal with the Corporation's problems, improve rail service, and enable progress towards the goal of self-sufficiency. The principal conclusions of that Plan, and a description of the programs Conrail will be carrying out over the next five years, are presented next.

PRINCIPAL CONCLUSIONS

The conclusions of Conrail's Business Plan reflect both the experience of the recent past and the future gains anticipated from enhanced service. In summary, the Plan projects continuing large losses in 1978⁶ and 1979, with profitability achieved, by a small margin, in 1980. This pattern of performance derives from the fact that: (1) substantially improved levels of service cannot be provided immediately, but planned efforts will begin to yield progressively more benefits in the latter years of the period; and (2) continued problems of deterioration of physical assets must be overcome even while service advances are sought. Reflecting the fact that net income will be substantially lower than projected by the FSP over the period, and that capital needs will be much higher, Conrail will require more financing from both the private and public sectors than the FSP has anticipated.

The Plan is based on many assumptions—including predictions of the national and regional economic outlook for the next five years, the efficiencies that will be realized from both capital and non-capital programs, and the extent of cooperation Conrail can expect from external organizational units (e.g., labor unions, regulatory bodies). These assumptions, particularly as they relate to factors that are wholly or in part within the influence of management (e.g., capital-related efficiencies), are delineated in detail in the Plan. However, because the Plan's conclusions depend so critically on presumed actions by bodies external to Conrail, it is particularly important that these presumed actions be well understood. Thus, the next sections: (1) define the key assumptions relating to actions by external organizations; and then (2) present the quantitative conclusions of the Plan.

ASSUMPTIONS

Key assumptions include the following:

Conrail will achieve substantial labor savings: An earlier section pointed out the high costs of Conrail labor relative to revenue. Management has the responsibility to work with labor in bringing these costs down. Conrail is actively pursuing opportunities to do this—e.g., by consolidating bargaining contracts as mandated by the Rail Act. Other savings will come as the result of collective bargaining negotiations. Conrail is in negotiations now; and given their confidential nature, Conrail has not detailed in the Plan its proposals to achieve negotiated

⁶ The loss projection for 1978 reflects the effects of Conrail's winter problems as well as 2 months of the coal strike.

savings. The negotiations offer hope that changes can be enacted which will reduce labor costs while ensuring a strong employment base for Conrail employees. Through all its labor-related efforts, Conrail has estimated labor savings of \$500 million over the period.

The Federal Government will extend the benefits under Title V of the Regional Rail Reorganization Act of 1973: Title V provides compensatory payments to employees of predecessor railroads whose compensation is reduced by the Conrail solution to the Northeast rail crisis. As Conrail obtains work rule efficiencies, it is probable that many long-term employees (of which Conrail has a large number in upper age brackets) will take early retirement in exchange for separation allowances from the Title V fund or will claim their rights under Title V to make up for lost earnings. This will lead to depletion of the Title V fund in this period. The assumption in this Plan is that, if the fund is depleted, it would be replenished through legislation—i.e., the protection payments would not have to be made by the Corporation.

Conrail will not have to absorb increased costs associated with apparent shortfalls in the Railroad Retirement fund: In 1974, the Congress passed legislation to rationalize the relationship between Social Security and Railroad Retirement by dividing primary Railroad Retirement benefits into two tiers. The funding for the first tier, equivalent to Social Security benefits, is tied to the Social Security fund. The second tier, providing extra benefits for railroad workers, is to be paid solely out of the Railroad Retirement fund; that fund is not adequate to provide for existing benefit liabilities to current employees, beneficiaries and retirees.

In this Plan, Conrail has presumed that the increase in first tier taxes scheduled by 1977 Social Security legislation to begin in 1979 will be substantially offset by tariff increases. However, notwithstanding the large shortfall in funding for second tier benefits, Conrail has assumed that no costs will be assessed against the Corporation to mitigate that shortfall. There is no information that enables a precise estimate of possible increased taxes associated with second tier liabilities; but, if the shortfall is passed on to Conrail and not made up by other means (e.g., by commensurate rate increases), Conrail would be forced to deal with cost increases amounting to several hundred million dollars over the five-year period.

Further regulatory reform beneficial to Conrail will not occur: The Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) provided limited opportunities for railroads to price more flexibly, thereby improving profits. Despite Conrail's attempts to utilize the Act's provisions to the fullest extent, the result has been minimal. This is because the 4R Act did not provide the fundamental regulatory reform necessary to strengthen the rail industry and enhance Conrail's capacity to develop adequate profitability levels.

Conrail's revenues are presently restricted by regulation in two significant respects: (1) limitations on maximum rate levels do not permit Conrail to maintain higher rates on traffic not subject to diversion in a manner consistent with Conrail's revenue needs and the value of service to the shipper; and (2) the requirement that Conrail continue to participate in joint rates with connecting carriers without respect to their contribution to Conrail's revenues restricts Conrail's ability to earn revenues in excess of costs on a significant body of traffic.

If these requirements were eliminated, Conrail could significantly improve its revenues and reduce external financing requirements. It appears, however, that these restraints are not likely to be removed in the near future. Accordingly, the Plan reflects the assumption that no significant changes in regulation will be made in the next five years.

Conrail will be able to continue the process of plant rationalization: On April 1, 1976, Conrail took over a system with about 17,000 route miles and 34,000 track miles. This system, pared though it was by the USRA planning process, is larger than Conrail needs to provide adequate rail service to the Northeast or to support its business base. Conrail has actively sought opportunities to rationalize plant; its analysis of branch lines offers an example of this effort.⁷ The Corporation is now completing studies of several mainlines where duplicative routes and/or trackage exists.

While Conrail will be pursuing plant rationalization opportunities continuously, wholesale abandonments are not planned. Conrail has pledged to carry out a program of "corrective action"—intended to improve revenues and costs relating

⁷ On December 1, 1977, Conrail announced it had classified 730 miles of branch lines in ICC Category II—comprising lines "under study . . . (that) may be the subject of a future abandonment application."

to the facility or line under question—before seeking abandonments. The Corporation's goal is to preserve and build its profitable business base—and plant abandonment will be sought only when it is apparent that a facility or line cannot make a satisfactory long-term financial contribution under any reasonable circumstances.

Rationalization of any form—whether corrective action, downgrading, or abandonment—requires public sector cooperation. Generally states and localities oppose strongly attempts to reduce service in their regions. Conrail anticipates this opposition will continue; however, it has also assumed, once all appropriate procedural steps are taken, that plant rationalization will be successful and that the Corporation will realize the associated economic benefits.

Conrail will continue to be compensated for subsidized services: The principal subsidized services pertain to passenger and light density line operations. Conrail currently receives compensation for most of these operations according to formulas defined by the Rail Service Planning Office (RSPO) of the Interstate Commerce Commission. Conrail's view is that the formulas need revision to provide additional compensation. The public agencies, particularly the passenger authorities, strongly advance the opposite view. (They are now testing the standards through litigation.) Conrail's Plan reflects the assumption that the public agencies will not be successful in their opposition to the RSPO standards and that, at minimum, Conrail will continue to be compensated according to existing formulas.

There are many other external assumptions that are critical to achievement of planned results. They include for example, aforementioned projections on economic growth and the implicit assumption that a strike will not occur in the railroad industry. If the described external assumptions approximately prevail, the performance projected in the Plan is achievable. Clearly, any improvement relative to the assumptions will enhance Conrail's opportunities to more quickly achieve its goals. Similarly, any negative adjustments could delay achievements.

CONCLUSIONS

The principal conclusions of the Plan are as follows:

1. Revenues are projected to increase over the period, but will lag FSP projections substantially: Conrail freight revenues for the whole period are estimated at \$18,950 million—and 1982 revenues are projected to be 51 percent higher than in 1978. The growth will result from tonnage and revenue per ton gains associated with implementation of service improvements.

While Conrail anticipates revenue gains, total revenues over the period will be \$1,766 million less than the FSP estimate. The most significant source of difference in comparison with aggregate FSP data relates to tonnage; conrail projects it will carry 164 million tons less than FSP five-year figure. Differences are particularly significant for coal and steel-related commodities (e.g. metallic ores, primary metals). Other variances derive from differing assumptions on anticipated rate increases, traffic mix, and length of haul.

2. Conrail's costs will reflect significant productivity improvements: The Corporation anticipates these efficiencies will be realized in two ways. First, the capital programs to improve track, yards, terminals, signalling systems, workshops, machinery, and the like—coupled with non-capital efforts such as the Terminal Improvement Program—will enable more efficient operations. Second, as has been stated, Conrail is seeking major changes in work rules. As manpower is reduced, Conrail anticipates its surplus personnel would continue to be afforded protection benefits under Title V of the Regional Rail Reorganization Act of 1973.

3. The intensive rehabilitation and repair programs will continue over the period—with expenditures⁸ on physical assets exceeding FSP projections significantly. These programs lie in the following areas:

Maintenance of Way and Rehabilitation.—Encompassing track structures, rail, tie, and surfacing programs involving the expenditure of \$4,320 million exclusive of depreciation. The program will entail installation of 5,226 miles of rail and 23.0 million ties as well as surfacing of 34,707 miles of track.

Maintenance of Equipment.—Encompassing freight car and locomotive heavy repairs. Expenditures will total \$3,890 million and will provide heavy repairs to 54,988 revenue freight cars, 3,641 locomotives, as well as to cabooses and other non-revenue equipment.

⁸ Of the Maintenance of Way and Rehabilitation expenditures, \$2,791 million (including \$342 million in depreciation) will be expensed and \$1,871 million will be capitalized; all maintenance of equipment expenditures will be expensed; all Additions and Improvement expenditures will be capitalized.

Additions and Improvements.—Encompassing improvements to yards and terminals, communications and signalling systems, workshops, bridges, and office buildings. The category also includes safety and environmental projects. During the five-year period Conrail will expend \$935 million for these purposes.

Equipment Acquisition.—To produce the freight revenues projected for 1978–1982 and offset attrition of over age equipment, Conrail must supplement its fleet during the period by acquiring 11,516 new freight cars at a cost of \$496 million and 11,174 TOFC trailers at a cost of \$114 million. An additional \$498 million will be expended to acquire 600 locomotives, 85 cabooses, and 425 units of non-revenue equipment.

In summary, the expenditures proposed above will make critical contributions to improving the physical assets of the Corporation—thereby enabling continual service gains to be provided. The cost of these needed programs will exceed FSP estimates.

TABLE 2.—EXPENDITURES ON PHYSICAL ASSETS

	Expenditure, 1978–82		
	Conrail	FSP	Conrail higher (lower)
Maintenance of way and rehabilitation.....	\$4,662	\$4,954	(\$292)
Maintenance of equipment.....	3,890	3,690	200
Additions and improvements.....	935	538	397
Equipment acquisition.....	1,108	736	372
Total.....	10,595	9,918	677

4. Conrail will achieve profitability in 1980—but its total profits for the period will lag the FSP projection considerably: Conrail will incur substantial deficits in 1978 and 1979, as it continues to rehabilitate the railroad and build demand in response to service improvements. A small profit is projected for 1980, with additional profit improvement in 1981 and 1982. However, the profits in the 1980–1982 period will not be sufficient to offset 1978–1979 losses. As a result, Conrail's operations will result in a net loss of \$35 million for the entire 5 years—\$1,490 million less than the cumulative profit of \$1,455 million projected in the FSP.⁹

The 1978 projections reflect the harmful effects of Conrail's second harsh winter and the 1978 first quarter coal strike. The 1979 through 1982 projections include a contingency reserve of \$50 million per year to anticipate natural disasters and other unforeseen catastrophes.

5. In the five-year period through December 31, 1982, Conrail will seek \$959 million in private sector financing: This figure represents the purchase cost of equipment, such as revenue cars and locomotives, which have been financed by private sector funds in 1977. In view of Conrail's requirement for government financing in excess of current appropriations, there may be investor indecision until the aggregate corporate financing issue has been resolved. In addition, the large amounts necessary over the period 1978–1982 may require government guarantees or other forms of support to assume full private sector participation in equipment acquisitions.

6. In the five-year period through December 31, 1982 Conrail will request the Federal Government to provide \$1.283 billion of additional financing: In 1978 and 1979, Conrail will obtain \$874 million of USRA financing through sale of debentures and preferred stock—exhausting the currently available financing of \$2.026 billion. In addition to this sum, Conrail will require funding of \$1.283 billion. This will be used to support rehabilitation of physical assets, to provide adequate working capital, and to compensate for operating losses. Conrail has presumed financing similar to that previously provided—although it is understood that the former precedent may not be followed in the future, and will be determined subsequent to this Plan's submission through discussions with appropriate Federal Government representatives.

It must be emphasized that the investments described above will enable continuation of rehabilitation efforts that will produce a railroad with characteristics greatly improved relative to the properties inherited at conveyance. Slow orders—the temporary speed restrictions imposed due to deferred maintenance—

⁹ This Summary discusses "railroad only" Plan, the consolidated figures because the FSP projections, with which Conrail figures are compared, excluded Conrail subsidiaries. In the financial sections of the Plan, the consolidated statements are included. The conclusions are not materially altered by excluding subsidiaries.

will apply to a normalized 200 miles of the 5,100 mile core system rather than the 1,600 miles at conveyance. On all tracks, reduction in slow orders will be about 75 percent—from nearly 8,000 miles at conveyance to less than 1,800 miles at the end of 1982. This reduction will have resulted from having tied and surfaced 90 percent of main and branch line track miles and 90 percent of major yard track-age. Continuous welded rail will have been laid in 42 percent of main and branch line track miles and 31 percent of the track miles in major yards.

Similar strides will have been made in equipment improvements. Through its locomotive and freight car repair programs and by its acquisition of new freight cars and locomotives, Conrail will have reduced its out-of-service ratios significantly. For locomotives, the out-of-service ratio will have dropped from 19.0 percent at the start of the five-year period to 10.3 percent in 1982. Freight cars will show a similar reduction—from 13.8 percent to 7.3 percent. In both cases, the 1982 figures represent normal levels, indicating that deferred maintenance in these areas will have been substantially overcome.

In summary, Conrail's Five-Year Plan offers a way to continue making progress in restoring reliable rail service in the Northeast and Midwest regions at least cost to the taxpayer. It also reflects a strategy that should protect the value of the Government's investment in Conrail—in that the Plan provides for rehabilitated facilities and continued participation in markets that would be a part of any future rail system—including any restructuring resulting from the studies being undertaken on the New England and the Midwest rail systems. Thus, Government funding will not only support Conrail progress, but will also improve the assets that will form a part of any rail transportation system in the Northeast and Midwest.

The Plan Conrail has developed is capable of practical achievement. It is based on specific programs that are identified and in various states of implementation rather than on generalized ideas as portrayed in the Final System Plan. Its implementation should make a substantial contribution to improving the transportation system of the region and the nation.

The only reservation expressed about the above resolution was made by TAA investor groups, who are concerned about the type of additional financing that would be forthcoming. They point out, for example, that a major guaranteed-loan program could disrupt the overall rail investment market and be harmful to other railroads' investment programs. This would be caused, in most part, by the fact that U.S.-guaranteed loans usually are given a top-security status, thus downgrading existing rail loans of Conrail investors, or possibly diverting funds normally going to other railroads. Accordingly, any major Conrail funding program should take into consideration its impact on the overall rail capital market.

We appreciate the opportunity to express our views on this important issue and request that this letter be included in the official record of these hearings.

Respectfully,

PAUL I. TIERNEY.

CONSOLIDATED RAIL CORPORATION ANNUAL REPORT, 1977

1977 Results in Brief

	(Dollars in Thousands Except per Share)
Financial	
Operating Revenues	\$3,292,389
Operating and Other Expenses	3,659,025
Loss	366,636
Loss Per Share of Common Stock	14.69
Rebuilding Physical Plant and Equipment	
Miles of Rail Installed	1,018
Track Miles Surfaced	7,079
Ties Replaced (Millions)	4.98
Locomotives (Overhauls and Heavy Repairs)	1,066
Revenue Freight Cars (Heavy Repairs)	15,659

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Chairman's and President's Message

Consolidated Rail Corporation had a loss of \$367 million in 1977 on revenues of \$3.3 billion. This loss exceeded by \$96 million that which had been projected in the Final System Plan (FSP), the Congressionally approved plan prepared by the United States Railway Association in July of 1975.

Conrail's operations in the first quarter were adversely affected by the severe winter weather, increasing losses by approximately \$100 million over the Corporation's own projection. During the remaining nine months, however, operating costs were controlled at a level which permitted the Corporation to meet its internal targets for operating results. This was accomplished in spite of the fact that total tonnage and revenue for the year were both well below what had been projected for 1977. The shortfall in tonnage (15 percent below FSP) was largely the result of the winter weather, equipment shortages, strikes and the Johnstown flood. Tonnage was down in almost all commodity groups. As a result of these factors, freight revenue was \$327 million (10 percent) below FSP projections.

Such setbacks, coupled with the greater than expected cost of repairing the fleet and increased expenses associated with the continuing car and locomotive shortages, more than offset management's efforts to control other operating costs, including those connected with the trackwork program that continued throughout the year.

In spite of the 1977 loss, however, results for the first 21

months of operations—April 1, 1976 through December 31, 1977—were still approximately the same as the cumulative \$567 million loss forecast in the FSP. The Federal investment in Conrail securities in 1977 was \$668 million, which brought the 21 month total to \$1.152 billion—\$149 million less than the FSP projection.

In addition to meeting the cumulative 1976-77 financial projections of the FSP, by year's end Conrail had also either achieved or exceeded most of the FSP's ambitious rehabilitation targets for the same period. For example, new welded rail had been laid on a total of 1,745 miles of track, vs. an FSP goal of 1,466 miles; an estimated 14,009 track miles had been surfaced, vs. the FSP's projected 13,859; 9.5 million new crossties installed, vs. 8.7 million targeted in the FSP; and heavy repairs completed on 25,888 revenue cars, vs. the FSP's 22,078. The railroad also completed overhauls on 1,385 locomotives. While this was 74 units less than the number projected in the FSP, so-called "heavy repairs", a somewhat less extensive degree of maintenance work not categorized in the FSP, were also completed on an additional 460 units.

By the end of 1977, most of the 5,100 mile main core route had been substantially upgraded.

While Conrail's management was encouraged with the progress of the track and equipment rehabilitation effort during 1977, it was understandably disappointed with the overall financial results for the same period—even though, as pointed out, events beyond its immediate control were a leading cause of the greater than projected loss reported.

The Corporation is, of course, investing large sums of money in programs to rebuild and add to plant and equipment. This

means that a large portion of the government's funds have been invested in physical assets of real value, and not expended merely to cover operating losses. For example in 1977 Conrail's Capital Program included \$292 million for track rehabilitation. In addition, the railroad spent \$172 million solely on overhauls of locomotives and heavy repairs of equipment. This is out of a total of \$669 million for all maintenance of equipment.

It should also be pointed out that the Corporation was successful during the year in securing \$160 million in equipment financing in the private sector, and was able to acquire 1,012 additional new freight cars, 175 locomotives, and 2,630 highway trailers for Conrail's piggyback service. The FSP did not contemplate private sector financing of this type in Conrail's first 21 months.

While the 1977 fleet acquisition and repair programs were significant, Conrail's freight car fleet is still much smaller and in less serviceable condition than had been foreseen in the FSP. Projections for reduced tonnage levels will not eliminate the need for substantially more new cars and locomotives over the next several years than are now available or that can be economically repaired. In addition, and in spite of the acquisition of 175 new locomotives in 1977, Conrail continues to suffer overall shortages of locomotives due to the high proportion of older units out of service because of their age and the poor condition of the equipment inherited.

Therefore, even though we have taken major steps to arrest the further physical deterioration of the system, and taken major steps to improve the quality of service, much more remains to be done if Conrail is to achieve the levels of business neces-

sary to strengthen its revenue base and thus provide a level of profitability consistent with other economically viable railroads.

The basic objective of Conrail, as stated in the Regional Rail Reorganization Act of 1973 that established the Corporation, is to provide adequate and efficient rail service in the Northeast at the least cost to taxpayers. To make sure this objective is being addressed Conrail must undertake a continuing effort to assure itself that its structure and its approaches offer the best possible solution to the problems involved. The latest Five Year Business Plan submitted to the United States Railway Association on February 15, 1978, states that in the judgment of Conrail's Board and management the Conrail structure still appears to present the "best opportunity" to attain the stated goals. In coming to this conclusion, Conrail's Board and management also stressed that the many challenges now facing the Corporation are greater than were originally anticipated in the FSP, and thus their resolution will require more time, effort and resources than previously thought.

The two most important factors underlying this conclusion are:

- 1) The assumption that Conrail's tonnage levels, and therefore its revenue base, will be considerably less than projected by the FSP, and
- 2) The fact that in spite of the rehabilitation accomplishments Conrail's fleet will neither be in good enough condition nor large enough to handle the volume of traffic offered to it.

These two factors are inter-related—for it is obvious that the availability of equipment in good condition will have a positive impact on both the extent and quality of revenues available to the new Corporation. While costs can be cut somewhat to match the size of the

plant necessary to handle the traffic available, the critical test will be whether or not shippers return from other highly competitive modes to rail as their preferred transportation on the basis of a competitive pricing strategy and service reliability.

The 1978-1982 Business Plan details the need for new Federal financing requirements of \$1.283 billion—in addition to the funds presently available under the Financing Agreement with USRA—to support the continued rehabilitation of physical assets of the railroad, to provide additional working capital, to compensate for operating losses in 1978 and 1979 and to establish a contingency fund to provide for the costs of natural disasters. Further, the plan indicates that additional equipment needs of Conrail will require financing of \$959 million. As was the case in 1977, this equipment financing will be sought in the private sector.

The plan charts an attainable—but also demanding and aggressive—road based on a sense of optimism that solutions do exist for the many challenges.

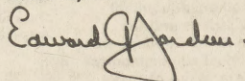
Many of the studies and programs that are designed to bring about the desired result are already underway or ready to be implemented by Conrail management. These include new marketing approaches, a strategic route analysis, terminal improvements, new systems to improve car utilization, and other programs to effect greater cost efficiencies. It will also be necessary to bring about the more productive use of labor and capital resources.

In summary: The year 1977 was made much more difficult for Conrail as a result of weather conditions and work stoppages. Another severe winter and the disastrous effects of the long coal strike will make 1978 just as difficult. In spite of such problems Conrail believes that it has developed, in the Business Plan, a workable blueprint for future progress. It also believes it can demonstrate that it

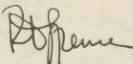
has established a structure, record and team capable of meeting the challenges that must be faced. Added to top management in 1977 were Robert H. Platt, executive vice president—Finance & Administration; James A. Hagen, senior vice president—Marketing and Sales; and Richard H. Steiner, vice president—Marketing.

While we are not promising dramatic and immediate service improvements, Conrail is making considerable progress in attacking its problems with energetic, vigorous programs designed to address the basic, root causes. Most importantly, the investment is being made in order to re-establish quality rail service in the Northeast.

While the requirement for additional time and resources should not be received with equanimity by those who must provide both, the achievements to date do establish credence in the proposition that Conrail is the best means to establish "adequate rail service, at least cost to the taxpayer" in this important region. The Board of Directors and the entire Conrail organization remain dedicated to this objective.



Edward G. Jordan
Chairman and Chief
Executive Officer



Richard D. Spence
President and Chief
Operating Officer

Marketing

Strategies for Service Improvement and Revenue Growth

The most critical challenge facing Conrail during the next five years is reversing the historical trend of declining tonnage and revenues. This will require the establishment of services attractively priced and capable of meeting stiff competition from other modes. This will help increase customer usage, and thus produce the profits necessary for the Corporation to become economically viable.

Conrail's management undertook a significant number of steps during 1977 to develop a marketing and sales strategy aimed at producing immediate tonnage and revenue gains, as well as making longer-term analyses to serve as a guide for strengthening Conrail's revenue base where there is the greatest opportunity for profit improvement.

Despite these programs the overwhelming impact of severe weather, strikes, economic problems in the region and Conrail's own equipment shortages adversely impacted the railroad's tonnage and revenue performance.

1977 Review: Tonnage and Revenues

In 1977 Conrail carried 268.6 million tons of freight, producing almost \$2.71 billion in freight revenue (excluding switching revenue). This compared unfavorably with Conrail's own projection. Table (at right) shows a breakdown of the projection for tonnage, compared to actual tonnage carried.

As shown, Conrail experienced a tonnage shortfall in most commodities and in TOFC (trailer on flatcar). Reasons for this, common to some degree to all commodity groups, included:

- the weakness of the economy, particularly the steel industry;
- equipment shortages caused by the poor condition of the inherited fleet;
- the severe winter weather which at times virtually brought rail operations to a halt in several areas and caused industry closings;
- numerous strikes in the coal and ore industries, on the docks, and in other industries served by Conrail; and
- the Johnstown flood in July, which caused a temporary cessation of service and shutdown of local industries.

In spite of the overall shortfall, several commodity groupings did show small gains, including shipments for the automotive industry; stone, clay and glass; and lumber and wood products.

Freight Traffic	Tonnage (Millions)		% Variance
	Business Plan ¹	Actual ²	
Coal	80.8	78.9	(2.4)
Coke	6.2	4.5	(27.4)
Metallic Ores	29.0	21.2	(26.9)
Primary Metals	25.2	21.9	(13.1)
Transportation Equipment	13.9	13.9	—
Non-Metallic Minerals	16.0	14.3	(10.6)
Stone, Clay & Glass Products	9.1	9.8	7.7
Lumber & Wood Products	6.6	6.8	3.0
Pulp, Paper & Products	18.5	16.7	(9.7)
Food & Kindred Products	21.4	20.0	(6.5)
Farm Products	12.7	8.7	(31.5)
Chemicals & Allied Products	20.8	19.7	(5.3)
Waste & Scrap Materials	16.1	12.5	(22.4)
Other (non-TOFC)	11.9	9.6	(19.3)
Trailer on Flatcar	10.9	10.1	(7.3)
Total	299.1	268.6	(10.2)

1. Takes into account the reclassification of 1.9 million tons from "Other" to "Primary Metals".

2. Compared to the FSP's prediction of 316.3 million tons (adjusted to include TOFC) for Conrail in 1977, the tonnage shortfall was about 47.7 million tons, or about 15.1 percent.

The major causes for the shortfalls and/or gains, with estimates of resulting tonnage decreases and increases, are shown in Table (at right).

Of major concern to Conrail is the continued stagnation in the rate of economic growth in the region. Table (below) illustrates that Conrail lost market share in an almost stagnant national rail market in 1977. Moreover, it lost share in its own declining Eastern District. Added emphasis will be given in 1978 to making service improvements to help Conrail regain market share, and eventually make inroads in the total, competitive transportation marketplace.

Marketing Efforts

In spite of a substantial overall drop in revenues vs. projec-

	Variance From 1977 Business Plan (Millions of Tons)
Weakness of Economy	(7.2)
Equipment Shortages	(5.8)
Severe Winter Weather in 1st Quarter	(5.8)
Strikes:	
Coal (7.9)	
Iron Ore (2.3)	
Docks (.2)	
Miscellaneous (1.1)	(11.5)
Flood	(1.2)
Positive Factors	1.0
Total	(30.5)

tions, there were several successful marketing and sales efforts initiated in 1977, such as:

- the implementation of marketing projects, including restructuring of the rate on auto parts and the purchase of new automotive boxcars and enclosed tri-levels (to prevent damage to

finished automobiles); the acquisition of new coil steel cars to increase tonnage; and development of a distribution network for a new on-line brewery, including major capital investment in plant and equipment;

Conrail Rail Market Share
U.S. and Eastern District
(Carloadings in Thousands)

	Carloadings				Percent Change 1977 vs. 1976	
	1977	Conrail as a %	1976	Conrail as a %	Total Carloadings	Conrail Market Share
United States	23,298	21.5	23,457	22.7	(0.7)	(5.3)
Eastern District	12,960	38.8	13,539	39.3	(4.3)	(1.3)
Conrail	5,027		5,317		(5.4)	

- implementation of Operation Long Haul, designed to increase revenue by securing longer hauls on Conrail lines for each car or trailer;
- industrial development activities resulting in approval of 500 projects, which are projected to generate 132,000 cars or trailers of new business;
- a new steel-gathering program providing 24-hour running time (competitive with trucks) from Pittsburgh to Detroit which has generated interest from shippers and receivers for possible implementation in other locations.

Long Range Programs for Revenue Growth, Service Improvements

In 1977 Conrail began a Strategic Market Analysis (scheduled for completion in 1978), to seek the best means to improve specific segments of service to produce the highest possible levels of revenue growth. As a first step in its development of the strategy which is expected to be the backbone of the Corporation's marketing effort for the future, Conrail segmented its freight traffic into 85 lines of business (LOB), each with distinct service requirements, competitive characteristics and profit potential. During the year studies were completed on 29 of the total, which covered 70 percent of all tonnage carried. Strategies and plans have been prepared and implemented for service level and equipment requirements already for some of the lines of business to enable Conrail to attain increased levels of profitability and/or achieve improvements in market share.

It is essential, of course, that Conrail have the necessary freight car tonnage capacity to serve customers within the recommended framework of each LOB program. This can be achieved partly through additional equipment acquisitions and the continuing freight car repair program. Concurrently, better utilization of each freight car (a greater number of "pay trips" per car) must be achieved if the necessary capacity to handle customers' freight is to be provided at lower cost. At the same time, reductions in acquisition costs for the fleet will be made possible.

Conrail undertook a new program in 1977, designed to achieve an improvement in car utilization of 24 percent by 1982.

Actual car utilization performance in 1977 was adversely affected by severe winter weather and the coal strike.

Implementation of Conrail's new car utilization program in 1977 was preceded by a number of specific actions intended to provide long-term improvements in this area. For example, Conrail installed an automatic car classification procedure in 12 freight yards in 1977 to speed and improve the accuracy of the classification process; the capabilities of the Transportation and Billing System were expanded to automatically produce waybills designating the next routing of cars (after unloading), which will help reduce empty car mileage; and record-keeping of cars rejected by customers (with faults clearly identified) was mechanized, to assure the cars' prompt routing to repair shops.

In addition, a fourth of Conrail's open-top hopper fleet was placed in a computer-controlled

pool arrangement so that movement of empties to correct destinations could be speeded; in November, Conrail joined nine other railroads in an Association of American Railroads-sponsored Freight Car Clearinghouse, designed to reduce wasteful movement of empty cars and route cars to the roads that need them; finally, Conrail began employment of a new program to establish a data base to better measure various time segments in the car utilization cycle.

While continuing the process of implementing car utilization improvement programs and studying in detail lines of business for the greatest profit potential, management also took the following steps in 1977 to tailor future plant requirements to meet anticipated market demand.

Adapting Plant to Market Requirements

Conrail's basic plant—the main, secondary and branch lines, and the yards and terminals on which the freight moves—is not only expensive to maintain when traffic volume is high, but remains costly to maintain even when that volume is minimal. In 1977 Conrail took steps to better adapt rail plant to meet present and future market demand in light density line (LDL) operations, in its plant rationalization program, and with a Strategic Route Analysis.

The LDL program was implemented by the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) to permit continuing operation of specific money-losing, but socially necessary, rail lines not included in Conrail's basic route-mile system. On April 1, 1976 Conrail began operations of 140 LDL's totalling 2,544 miles under contracts with state or regional groups, calling for subsidy payments as set by a formula in the Act. By the end of 1977, the number of lines Conrail operated had dropped to 94, comprising 1,233 miles. The declining Federal matching share of subsidy payments caused some of the lines to be dropped from the program, and 13 others were taken over by short-line replacement operators.

Passage of the 4R Act also resulted in the implementation of a new series of procedures covering possible line abandonments by the nation's railroads. These procedures included the requirement that all railroads regulated by the Interstate Commerce Commission (ICC) file a system diagram map with the Commission identifying 1) the lines it expected to be subject to early abandonment proceedings, and 2) those lines to be placed under intensive study and potentially subject to future abandonment. On December 1, 1977 Conrail filed a "revised system diagram map" with the ICC.

Twenty-two lines were placed in ICC Category 1 (anticipated to be subject to early abandonment proceedings). In each instance, state officials had requested or agreed that freight

service over these lines be abandoned. Thirty-four lines were placed in ICC Category 2 (potentially subject to future abandonment). Conrail stated in a letter to members of Congress, the states and shippers, that a line's designation in Category 2 meant only that data collected indicate revenues do not appear to meet the operating and/or rehabilitation costs, and that the line should be studied more intensively before a final decision is made. Conrail will examine all alternatives to abandonment—and utilize that tool only as a last resort. As required by regulations, Conrail also published an advertisement in a newspaper of general circulation in each county where a Category 1 or a Category 2 line was located. The advertisement included a map and a description of the line, and its status as part of ICC Category 2.

In addition to the reduction in LDL operations and the submission to the ICC of plans for plant rationalization, Conrail completed in 1977 most of an analysis of its Strategic Route needs. This study identified 15 corridors containing 2,000 miles of track potentially not required for through freight operations. Detailed analysis was completed on 13 of the 15 corridors. Implementation of decisions resulting from the analysis will begin in 1978. Efforts will be made to seek an equitable arrangement for continued local service in those circumstances where through train operations may cease and where customers request it.

Operations

Physical Improvements for Better Service

The development of the successful marketing strategies necessary to attract more customers to Conrail service is dependent on the basic physical capability to provide the service. That physical capability requires an equipment fleet sufficient in numbers and good enough in quality to efficiently service customer needs, and a rail plant whose basic physical condition contributes to the reliability of meeting freight delivery schedules.

Conrail inherited a rail plant and equipment fleet highly deficient on both counts, and although goals set by the United States Railway Association in plant and equipment rehabilitation were substantially met by the railroad in 1977, the basic problems which adversely impact Conrail's service to customers were neither eliminated nor significantly resolved.

However, Conrail's 1977 accomplishments have helped lay a foundation on which substantive service improvements, based on better management, new marketing and sales initiatives and physical upgrading of plant, is a certainty in the future.

In 1977 Conrail not only met or exceeded most goals set for physical rehabilitation, but also undertook an equipment acquisition program to begin to cope with the problem of severe equipment shortages, and made a number of operating efficiencies to reduce costs and increase productivity. Following is a brief review of the physical improvements.

Plant Rehabilitation

By the end of 1977, slow orders (i.e., below normal speed restrictions caused by deficient track conditions) on the whole rail system were reduced to 6,351 miles, down from 7,790 miles on April 1, 1976, or a net reduction of 1,439 miles. In addition, Conrail's 5,100 mile main core system (i.e., that trackage carrying the highest density of traffic) had been substantially rehabilitated or upgraded.

In substantially achieving its capital improvement goals, Conrail spent \$292 million on track rehabilitation. This exceeded the FSP projection of \$227 million, because of Conrail's decision to rehabilitate more track faster to improve its basic core routes.

This philosophy was best illustrated by the actual record of accomplishments in 1977:

- continuous welded rail installed on 1,018 track miles (vs. the FSP goal of 739 miles);
- 4.98 million cross-ties inserted (vs. the FSP goal of 4.57 million); and
- 7,079 track miles of line surfaced and ballasted (vs. the FSP goal of 6,945 track miles).

(For the first 21 months of operations from April 1, 1976 to December 31, 1977, Conrail installed rail on 1,745 track miles, 9.5 million cross-ties, and surfaced 14,009 miles of track. Total cost of the program was \$526 million.)

Equipment Repair Program

Conrail made heavy repairs or overhauls on 15,659 revenue freight cars and 1,066 locomotives; repaired 1,207 cabooses; and rebuilt or converted 616 units of non-revenue equipment in 1977. These achievements virtually met or exceeded FSP expectations. Locomotive repair costs, however, substantially exceeded estimates, primarily because the poor condition of the fleet necessitated more extensive repairs and more new parts per unit than originally projected, and because the total number of units repaired exceeded FSP projections.

The condition of the equipment fleet, even with the accomplishments of the repair program, also caused Conrail management to turn to greater use of foreign equipment than anticipated by the FSP (the railroad's equipment and joint facility rent expenditures were \$44 million higher than projected by the FSP), and to equipment acquisition to meet immediate service requirements. Private sector financing, which the FSP had not contemplated in 1977, was successfully sought and

obtained for this program. As a result, Conrail was able to:

- place orders for 1,902 freight cars (taking delivery of 1,012 in 1977) having a value of \$75 million;
- obtain 2,630 new trailers, with a value of \$22 million (the remainder of the 3,000-trailer original order being delivered in 1978);
- acquire \$111 million in its other equipment capital programs, which included the acquisition of 175 locomotives, and 63 equipment units used to support maintenance, rehabilitation and repair programs.

While working toward the twin goals of a rehabilitated plant and a first rate fleet, Conrail is also planning approaches and implementing programs to attain maximum efficiency in everyday rail operations.

Operating Efficiencies

Two programs—involving locomotive repairs, and capital additions and improvements—merit special attention.

At the beginning of 1977, Conrail began its "Conpower" program, designed to upgrade the quality and efficiency of running repair work on locomotives.

By year's end the program was in place or being implemented in 13 repair facilities. With its stress on intensive training sessions for shop employees and insistence on quality workmanship, it is producing measurable improvements in shop efficiency and the quality of repairs.

Highlights of Conrail's additions and improvements (A&I) program, included \$26.6 million in road facility investments; \$9 million to purchase track laying equipment; \$3.3 million to modernize and improve the efficiency of the aging DeWitt Yard at Syracuse, and \$3.1 million for the installation of a centralized traffic control system in the Pittsburgh area.

Overall, A&I expenditures fell short of goals, because extra time was taken on analyses to ensure proper planning for these exceedingly costly. Delays were also encountered due to unforeseen manpower and planning complexities. In spite of this, Conrail's accomplishments in 1977 were still significant in their scope.

Human Resources

In order for Conrail to succeed in its turnaround, management must have the human resources to plan and implement necessary programs. Also, Conrail must achieve a substantial improvement in efficiency through better productivity of all people in the organization.

Conrail took important steps toward reaching these goals in 1977 through an active management recruiting program; through special training programs to improve individual capabilities; through an aggressive affirmative action program with positive results, despite an overall corporate employment decline; and by negotiations with labor brotherhoods to produce desired productivity improvement.

External Recruiting

In its recruiting program, activities continued at an accelerated level with the appointment of senior executives (as noted earlier). In addition, a new assistant vice president—Operations was added to strengthen environmental safety and damage prevention efforts, and a number of key people were placed in other departments in 1977.

Of the nearly 300 professional people hired, about 100 were

management trainees or early career people. For the foreseeable future, Conrail expects to hire comparable numbers of new college graduates annually.

Training

Many critical training programs terminated by the bankrupt predecessors, as well as new programs, were activated by Conrail in 1977, and more than 25,000 employees participated in some type of formal training during the year. For the most part, the programs have been addressing the managerial and technical skill deficiencies which exist throughout the Corporation. Continued high priority will be given to these efforts.

Affirmative Action

Conrail's aggressive affirmative action program was formally adopted by the Corporation's Board of Directors in April 1977. Of more than 3,600 persons newly hired in 1977, 23.7 percent were minorities or females. This compares to 12.2 percent in 1976.

Special efforts continue to be made in identifying for advancement qualified minorities and women now working for the Corporation.

Labor Relations

In 1977 progress was made in a labor relations program aimed at achieving the goal of significantly improving productivity. Since the labor brotherhoods represent about 90 percent of the Conrail work force, the achievement of this goal is of the highest importance in Conrail's planning. Conrail's management is focusing on this in contractual negotiations with the unions.

Concurrently, Conrail is continuing its complex negotiations to consolidate 285 basic collective bargaining agreements, inherited from predecessor companies, into 34 new agreements, each covering a single class or craft of employees. Four agreements, replacing 28, were concluded in 1977. In addition, negotiations were completed on about 80 percent of the provisions of new single agreements with electricians, boilermakers-blacksmiths, machinists, yardmasters and train dispatchers.

Purchasing

Conrail's Purchasing staff was substantially strengthened and reorganized in 1977 to meet the challenge of economically supplying the railroad's massive material requirements. During the year, the Corporation was successful in obtaining approximately \$770 million in materials and supplies on a timely basis to support the rehabilitation programs and ongoing operations, an increase of about 50 percent over pre-conveyance purchasing levels by the bankrupt predecessors. Conrail has also been able to take effective advantage of these high volumes and the long range predictability of its requirements to broaden the supply base and intensify vendor competition, gaining, as a result, substantial improvements in both quality and price of purchases.

Conrail implemented during 1977 an aggressive program to involve minority vendors in supplying materials and was successful in obtaining approximately \$12 million from minority firms. This should grow substantially in 1978 and later years.

Costing System

Marketing and investment decisions based on pinpointing profit opportunities are an integral part of Conrail's plan to rebuild its profitable revenue base. It's important, therefore, that data utilized in developing these opportunities be as precise and correct as possible. In working toward that goal, Conrail is developing COSAC-Phase 1 (Contribution Simulator and Calculator) to determine the revenue and profit contribution of each carload of traffic carried. When it becomes operational in the spring of 1978 it will represent a substantial improvement over its predecessor system, and will serve as the framework for a new total cost system, with the capability of evolving into an even higher level of sophistication. By utilizing the data produced by this system, Conrail will be

taking a much more enlightened approach to making investments in equipment and adjustments in pricing for its service in future years.

Zero-Base Budgeting

The concept of zero-base budgeting (the process requiring the business justification of every dollar of an organization's projected expenditures for a coming fiscal year) was employed by Conrail extensively in 1977 in its rehabilitation programs to achieve maximum cost effectiveness.

Passenger Operations

In 1977 Conrail operated about 150 trains daily for Amtrak and more than 1,800 weekday trains for commuter authorities. Receipts totaled \$450 million, including payments from Amtrak, and commuter fares and subsidies, and this represented about 13.7 percent of Conrail's 1977 revenues.

Although Conrail's existing contracts with Amtrak continued in effect during 1977, negotiations continued toward achieving a mutually acceptable formula for allocating shared costs. This involves both Conrail's freight service operated over Amtrak's Northeast Corridor right-of-way, and Amtrak trains operated over Conrail's right-of-way outside the Corridor.

Commuter Authorities

Conrail continued all services requested by commuter authorities, implemented programs to deal with deferred maintenance, and participated in a reviewing process of equipment utilization, train consists and crew assignments to help assure operation of service as efficiently as possible with minimal subsidy levels.

New contracts were signed in 1977 with the Southeastern Pennsylvania Transportation Authority for Philadelphia area commuter service and the New York Metropolitan Transportation Authority (MTA) for the New York state portion of the Hoboken Division service. Existing

contracts continued with the MTA and the Connecticut Department of Transportation for metropolitan New York services, and with the New Jersey Department of Transportation (N.J. DOT) for its portion of the Hoboken Division service. Negotiations are still in process with the N.J. DOT for service on the New Jersey Division, and with the Maryland Department of Transportation. Both these authorities gave firm commitments of financial assistance, thus protecting Conrail's interest while it continues to operate the services.

In early 1977 the Massachusetts Bay Transportation Authority designated the Boston & Maine Railroad to assume operation of the Boston area commuter rail service previously operated by Conrail. Also, the Ohio Department of Transportation and the Rhode Island Department of Transportation elected to discontinue commuter services consisting of one round trip a day between Cleveland and Youngstown, and between Providence and Westerly, respectively.

Financial Review

Management Discussion of Consolidated Results

Operations for the year 1977 resulted in a loss of \$367 million. This includes \$208 million for the first quarter of the year which was adversely impacted because of the extreme winter weather. The remaining nine months of 1977 resulted in a loss of \$159 million, about at the levels anticipated by management despite the continuing shortfall in freight traffic, which persisted throughout the year.

For the twenty-one months since Conrail's operations commenced on April 1, 1976 (nine months of 1976 and year 1977) the loss was \$572 million, essentially at the same cumulative level as forecasted in the Final System Plan (FSP) developed by the United States Railway Association (USRA).

Because of the deteriorated condition of the track and equipment facilities acquired from the bankrupt railroads, rehabilitation work and significant equipment acquisition is essential to the restoration of adequate rail service. By the end of 1977 Conrail had generally met or exceeded most of the rehabilitation goals established in the FSP.

The Company, as required under its Financing Agreement with USRA, filed a Five Year Plan on February 15, 1978, which is discussed in the Chairman's and President's Message of this report.

Revenues

Operating revenues totaled \$3.3 billion for the year 1977 which included \$2.8 billion of freight revenues on 5.1 million carloads of traffic. Conrail's freight traffic in 1977 was adversely influenced by first quarter weather related problems. In the balance of the year revenues were less than an-

anticipated because of weakness in the regional economy and particularly the steel industry, and because of equipment shortages and numerous strikes in industries served by Conrail. Freight tonnage was down approximately 7% in 1977 from previous year's level. Cost reductions achieved during the year helped offset some of the traffic decreases and related revenue reductions. Other improvements have been achieved by tailoring services to specific industry needs to better serve customer requirements and by new comprehensive marketing strategies.

During 1977 Conrail continued to provide commuter and long distance passenger service at a great many locations under agreements with passenger service agencies that provide for reimbursement to Conrail of losses incurred in the operation of those services. In March 1977 Conrail transferred the Massachusetts Bay Transportation Authority commuter passenger operations in the Boston area to the Boston and Maine Railroad Company.

Operating Costs

Year 1977 operating expenses aggregated \$3.644 billion. This included \$1.044 billion for equipment rents and maintenance, \$485 million for roadway maintenance, \$1.574 billion for transportation operations and \$541 million for taxes and administrative costs. Substantially higher than normal roadway maintenance costs were incurred during the first quarter 1977 relating to the severe winter weather conditions. Subsequent cost reduction efforts offset those increases over the balance of the year. Equipment repair maintenance objectives for 1977 were achieved with heavy repairs completed on 15,659 freight cars and overhauls and heavy repairs to 1,066 locomotives. This brings the total repairs since the be-

ginning of operations in April 1976 to 25,888 freight cars and 1,845 locomotives.

For the year 1977 wages, payroll taxes and fringe benefits totalled \$2.035 billion, and included increased wage rates and benefits of \$146 million over 1976 levels. Labor related costs accounted for 62% of each revenue dollar. Total amounts expended for materials approximated \$612 million and included inflationary cost increases for fuel, rails, car parts and other materials totalling \$51 million.

Capital Improvements

Conrail's capital improvement program for 1977 provided for track rehabilitation which covered the installation of 1,018 miles of new rail, 4.98 million new cross-ties and surfacing of 7,079 track miles; equipment acquisitions valued at \$186 million included 1,012 freight cars, 175 locomotives and 2,630 highway trailers for Conrail's piggyback service; additional expenditures were made for improvements to road properties and facilities such as yards, terminals, work shops, signals and communication systems.

Borrowings

During the year 1977 Conrail obtained \$668 million through issuance of 7.5% debentures and Series A preferred stock to USRA. Cumulatively over the twenty-one months of operation, Conrail has borrowed \$1.152 billion for operating losses, capital requirements and other needs. This is \$224 million less than the investment limit authorized in the Financing Agreement with USRA. In addition, the Company financed equipment, primarily through lease arrangements, in the private sector costing \$160 million despite the fact that no arrangements of this type were contemplated in the FSP.

Consolidated Results of Operations 1977

(Dollars in Millions)

Total Revenues		Total Costs	
Coal, Coke and Ore	\$481	Wages, Payroll Taxes and Fringe Benefits	\$2,035
Farm and Food Products	380		
Automotive	398		
Iron and Steel	250		
Construction Materials	241		
Chemicals and Allied Products	249		
Pulp, Paper and Allied Products	186	Material and Supplies	612
Trailer on Flat Cars	247		
Other including Related Freight Services	396	Equipment & Joint Facility Rents	376
Passenger and other Revenues	464	Depreciation	70
		NE Corridor Usage Charges	72
		Corporate & Property Taxes	52
		Interest, Casualty Reserves & Other	442
Total Revenues	\$3,292		
		Total Costs	\$3,659

Freight Revenues

Loss for the Year \$367 Million

Consolidated Rail Corporation
Consolidated Balance Sheets, December 31, 1977 and 1976
(Dollars in Thousands)

Assets	1977	1976*
Current assets:		
Cash (including temporary cash investments of \$120,317 in 1977; \$121,068 in 1976)	\$ 151,733	\$ 159,621
Current portion of mortgage note receivable	10,797	10,797
Accounts receivable, less allowances of \$44,189 in 1977; \$16,124 in 1976	552,815	442,346
Material and supplies	222,571	186,648
Other current assets	31,747	20,006
Total current assets	969,663	819,418
Property and equipment, at cost:		
Roadway	1,202,014	831,767
Equipment	414,310	410,538
Equipment under capital leases	359,926	235,077
Less accumulated depreciation and amortization	1,976,250	1,477,382
	136,616	64,393
	1,839,634	1,412,989
Investments in and advances to affiliated companies:		
Equity method	26,087	26,829
Cost method	2,884	2,691
	28,971	29,520
Noncurrent receivables:		
Mortgage note, net of current portion	34,792	57,323
Claims, including interest, for payment of Estates' obligations	248,893	68,367
	283,685	125,690
Other assets		
Total assets	63,613	70,761
	\$3,185,566	\$2,458,378

*Reclassified for comparative purposes.

See accompanying notes to consolidated financial statements.

Liabilities and Stockholders' Equity	1977	1976*
Current liabilities:		
Accounts and wages payable	\$ 129,261	\$ 124,818
Current maturities of long-term debt	70,819	65,605
Accrued liabilities (including casualty reserves of \$65,391 in 1977; \$45,499 in 1976)	581,949	518,459
Other current liabilities	152,307	123,531
Total current liabilities	934,336	832,413
Long-term debt, less current maturities	1,788,425	971,359
Casualty reserves	68,333	49,022
Other liabilities	180,705	181,037
	2,037,463	1,201,418
Stockholders' equity:		
Series A preferred stock, \$1 par value; shares authorized, 40,000,000; shares issued, 1,826,064 (liquidation value, \$182,606)	1,826	
Series B preferred stock, \$1 par value; shares authorized, 35,000,000; shares issued, 31,740,373 (liquidation value, \$1,587,019)	31,740	31,740
Common stock, \$1 par value; shares authorized, 250,000,000; shares issued, 25,000,000	25,000	25,000
Additional paid-in capital	727,935	573,260
Deficit	(572,734)	(205,453)
	213,767	424,547
Total liabilities and stockholders' equity	\$3,185,566	\$2,458,378

* Reclassified for comparative purposes.

Consolidated Statements of Operations

for the year ended December 31, 1977 and the period April 1, 1976
(Date Rail Operations Commenced) to December 31, 1976
(Dollars in Thousands Except Per Share)

	1977	1976
Operating revenues:		
Freight	\$2,828,578	\$2,079,467
Passenger	449,511	358,613
Other	14,300	9,212
Total operating revenues	3,292,389	2,447,292
Operating expenses:		
Maintenance of way	485,417	352,299
Maintenance of equipment	668,507	458,498
Transportation	1,573,924	1,180,337
General, administrative and other	216,740	136,541
Equipment and joint facility rents, net	375,708	250,751
Payroll, property and other taxes	323,436	230,969
Total operating expenses	3,643,732	2,609,395
Loss from operations	351,343	162,103
Other expenses:		
Interest	63,918	38,616
Other, net	(48,625)	4,734
Loss	15,293	43,350
Loss per share of common stock	\$ 14.69	\$ 8.22

See accompanying notes to consolidated financial statements.

Consolidated Statements of Changes in Financial Position
for the year ended December 31, 1977 and the period April 1, 1976
(Date Rail Operations Commenced) to December 31, 1976
(Dollars in Thousands)

	1977	1976*
Sources of funds:		
Operations:		
Loss	\$ (366,636)	\$ (205,453)
Depreciation and amortization	70,376	50,758
Provision for casualty losses, noncurrent	19,311	47,681
Other, net	23,903	16,905
Funds used in operations	(253,046)	(90,109)
Issued or assumed at conveyance for acquisition of railroad assets:		
Long-term debt		575,025
Series B preferred and common stock		630,000
Other liabilities		130,682
Current maturity and prepayment of mortgage note	22,531	32,952
Issuance of long-term debt	885,174	559,097
Salvage proceeds and other property transactions	41,910	28,205
Issuance of Series A preferred stock	155,856	
Other, net	(16,539)	6,384
Total sources of funds	835,886	1,872,236
Uses of funds:		
Noncurrent assets acquired at conveyance:		
Property and equipment		1,186,507
Other assets		71,874
Property and equipment additions	538,931	305,445
Mortgage note arising from sale of passenger properties		90,275
Current maturities and payments of long-term debt	68,108	162,763
Claims for payment of Estates' obligations	180,525	68,367
Total uses of funds	787,564	1,885,231
Increase (decrease) in working capital	\$ 48,322	\$ (12,995)
Changes in components of working capital, increase (decrease):		
Cash (including temporary cash investments)	(7,888)	159,621
Accounts and note receivable	110,469	453,143
Material and supplies and other current assets	47,664	206,654
	150,245	819,418
Accounts and wages payable	(4,443)	(124,818)
Current maturities of long-term debt	(5,214)	(65,605)
Accrued and other current liabilities	(92,266)	(641,990)
	(101,923)	(832,413)
Increase (decrease) in working capital	\$ 48,322	\$ (12,995)

*Reclassified for comparative purposes.

See accompanying notes to consolidated financial statements.

Consolidated Statements of Stockholders' Equity

for the year ended December 31, 1977 and the period April 1, 1976

(Date Rail Operations Commenced) to December 31, 1976

(Dollars in Thousands)

	Series A Preferred Stock, \$1 Par Value		Series B Preferred Stock, \$1 Par Value	
	Shares	Par Value	Shares	Par Value
Balance, April 1, 1976	—	—	—	—
Stock issued at conveyance for acquisition of railroad assets			31,740,373	\$31,740
Loss				
Balance, December 31, 1976	—	—	31,740,373	31,740
Issuance of stock to United States Railway Association:				
Sales pursuant to terms of Financing Agreement	1,523,000	\$1,523		
In payment of interest due April 30, 1977 on 7.5% debentures	303,064	303		
Accretion to redemption price of Series A preferred stock				
Loss				
Balance, December 31, 1977	1,826,064	\$1,826	31,740,373	\$31,740

See accompanying notes to consolidated financial statements.

Common Stock, \$1 Par Value		Additional Paid-in Capital	Deficit	Total Stockholders' Equity
Shares	Par Value			
—	—	—	—	—
25,000,000	\$25,000	\$573,260		\$630,000
			\$ (205,453)	(205,453)
25,000,000	25,000	573,260	(205,453)	424,547
		150,777		152,300
		3,253		3,556
		645	(645)	
			(366,636)	(366,636)
25,000,000	\$25,000	\$727,935	\$ (572,734)	\$213,767

See accompanying notes to consolidated financial statements.

Notes To Consolidated Financial Statements

Note 1. Summary of Significant Accounting Policies:

Principles of Consolidation: The consolidated financial statements include the Company and its subsidiaries. Investments in 20% to 50% owned companies are recorded under the equity method; less than 20% owned companies are stated at cost.

Material and Supplies: Inventories are valued at the lower of cost, principally weighted average, or market.

Property and Equipment, Depreciation and Maintenance: Additions and renewals constituting a unit of property, including replacement of track structure, and improvements are capitalized and depreciated over the estimated useful lives of the assets based on a composite straight-line method. The cost of depreciable property retired or replaced less salvage is charged to accumulated depreciation and no gain or loss is recognized. Expenditures for repairs and maintenance are charged to operations as incurred.

Casualty Losses: Losses from casualty and accident claims are charged to operations as incurred, including estimates for claims and losses incurred but not yet reported.

Pensions: Pension expense is based on normal costs and amortization of prior service costs principally over 40 years, and is funded through contributions to trust accounts.

Accretion to Redemption Price of Series A Preferred Stock: The difference between the mandatory redemption price and the fair market value of Series A preferred stock issued in lieu of interest on the 7.5% debentures is charged to retained earnings (deficit) over the period to redemption.

Per Share Data: Loss per share is based on the average number of common shares outstanding after increasing the loss for accretion to the redemption price of Series A preferred stock.

Note 2. Acquisition of Railroad Assets:

The Consolidated Rail Corporation was established on October 25, 1974 pursuant to the Regional Rail Reorganization Act of 1973, as amended (the Act), to acquire, operate and rehabilitate rail properties of railroads in reorganization in the mid-west and northeastern regions of the United States. Activity to April 1, 1976 was limited to efforts to facilitate the Company's transition to an operating carrier and assure continuity of service. Net costs incurred during this period, approximating \$10,400,000, were charged to 1976 operations.

On April 1, 1976, the Company acquired certain assets of the railroads in reorganization and other transferors. The acquisition was recorded under the purchase method of accounting. The aggregate purchase price, comprised of the estimated fair value of equity securities issued (\$630,000,000) and liabilities assumed (\$930,461,000), was allocated to the assets acquired on the basis of estimated fair values.

The fair value of the equity securities issued was estimated at an amount equivalent to the net liquidation value of the conveyed assets as determined by the United States Railway Association (USRA). The transferors were also issued Certificates of Value by USRA representing full faith and credit obligations of the United States, which are redeemable in cash on or before December 31, 1987 at amounts to be determined by a special court for net liquidation value and certain other factors.

Note 3. Passenger and Light Density Line Operations:

The Company operates commuter passenger service on behalf of various state or local governmental transportation authorities under separate agreements or interim arrangements with the authorities. Under the Act, the Company is to be reimbursed for losses incurred based upon standards issued by the Rail Ser-

VICES Planning Office (RSPO) of the Interstate Commerce Commission. Subsidies included in operations for 1977 and 1976, amounting to \$150,231,000 and \$118,029,000, respectively, have been based upon such standards or the terms of the separate agreements.

The Company also operates certain intercity passenger service on behalf of the National Rail Passenger Corporation (Amtrak) under interim agreements for reimbursement of costs in accordance with the Rail Passenger Services Act. Reimbursements of \$124,844,000 and \$111,969,000 have been included in operations for 1977 and 1976, respectively. On April 1, 1976, the Company sold to Amtrak its passenger rail properties, the Northeast Corridor, for \$86,366,000, the Company's acquisition cost. Such amount is subject to adjustment in the event of any future changes in the Company's acquisition cost. The mortgage received bears interest at rates from 7½% to 10% and is payable in annual installments through 1983. The Company and Amtrak have also entered into interim agreements covering maintenance of equipment and use of the corridor properties. Amounts due to Amtrak for use of the corridor properties may be offset against interest and principal payments on the mortgage. During 1977 Amtrak prepaid \$10,797,000 on the mortgage.

The Company operates light density freight lines on behalf of various state agencies, and is reimbursed for the deficits under regulations of the RSPO. Reimbursements of \$10,154,000 and \$6,610,000 are included in operations for 1977 and 1976, respectively.

Note 4. Long-Term Debt:

At December 31, long-term borrowings were comprised of:

	1977	1976
	(Dollars in Thousands)	
7.5% debentures	\$1,000,000	\$ 484,300
Government loans for Estates' obligations	233,589	65,234
Other government loans (see Note 10)	60,000	
Equipment obligations	218,485	253,682
Capital leases of equipment	340,282	227,443
Other	6,888	6,305
	1,859,244	1,036,964
	70,819	65,605
Less current maturities	\$1,788,425	\$ 971,359

Under the terms of the Financing Agreement between USRA and the Company, USRA has invested \$1 billion (authorized limit) in 7.5% debentures through December 31, 1977. The Financing Agreement contains a number of restrictions, including those relating to the maintenance of certain levels of working capital and stockholders' equity, incurrence of indebtedness and payment of dividends.

The 7.5% debentures have preference in liquidation over the equity securities and are convertible into Series A preferred stock, at the option of the holder, at a conversion ratio of 10 shares per \$1,000 of debentures. The debentures are callable without penalty and must be redeemed beginning in 1986 under certain circumstances, which include payment of interest on the debentures, payment of dividends on the preferred stock and achievement of certain levels of earnings. All debentures must be redeemed by the year 2011.

Interest on the debentures is payable in cash, under certain circumstances if available, or otherwise in shares of Series A preferred stock at the rate of one share for each \$100 of interest. At December 31, 1977, 494,777 shares having an estimated fair value of \$2,375,000 are payable

for interest accrued. The effective rates of interest on the debentures during 1977 and 1976 were approximately .4% and .9%, respectively.

Government loans for Estates' obligations are outstanding under the terms of Section 211(h) of the Act, which provides that the Company may borrow up to \$350 million from USRA for payment of such obligations. The loans bear interest at the rate of 7.66% and are to be repaid from amounts reimbursed to the Company by the Estates. Such amounts are recorded as claims receivable from the Estates. If the claims are not collected within three years from the date of borrowing, they may be transferred to USRA to liquidate the loans.

The equipment obligations bear interest at rates from 4.25% to 10.5% and are payable in installments over periods from 1 to 12 years. Substantially all of these obligations were assumed at conveyance and recorded at their present values using an effective rate of interest for financial accounting purposes of 8.75%. At December 31, 1977, equipment obligations were collateralized by assets with a net book value of \$236,198,000 and mature as follows: 1978, \$45,232,000; 1979, \$42,344,000; 1980, \$36,597,000; 1981, \$25,847,000; 1982, \$20,962,000; thereafter, \$47,503,000.

For financial reporting purposes, certain equipment leases are considered to be installment purchases and have been recorded as assets and liabilities. Such leases have been discounted principally at rates from 7.42% to 9.95% and are collateralized by equipment with a net book value of \$330,007,000 and \$223,044,000 at December 31, 1977 and 1976, respectively. Annual lease payments, exclusive of executory costs borne by the Company, are as follows:

	(Dollars in Thousands)
1978	\$ 52,243
1979	53,029
1980	48,091
1981	46,664
1982	43,373
Thereafter	315,362
Total lease payments	558,762
Less amount representing interest	218,480
Present value of lease payments	\$340,282

Certain of these leases were capitalized in 1977 pursuant to the provisions of Financial Accounting Standards Board Statement No. 13, "Accounting for Leases," whereas similar leases entered into prior to 1977 have not been capitalized. The capitalization of such leases had no material effect on the 1977 financial results.

Note 5. Lease Obligations:

A significant portion of the Company's equipment is leased under long-term obligations. The leases generally include options to purchase the equipment at fair value and to extend the terms. Rent expense, excluding per diem car hire, aggregates \$131,194,000 and \$81,339,000 for 1977 and 1976, respectively, of which \$71,584,000 and \$55,015,000 relate to leases entered into prior to December 31, 1976 and which meet the criteria for capital leases under Statement No. 13.

Minimum rental commitments under noncancelable leases as of December 31, 1977 are as follows:

Period	Capital Leases (Dollars in Thousands)	Operating Leases (Thousands)
1978	\$ 71,195	\$11,714
1979	69,496	6,265
1980	64,939	5,706
1981	58,757	5,474
1982	55,868	2,424
1983-1987	189,457	2,123
1988-1992	36,946	364
1993-1997	2,875	2
Thereafter	288	4
	\$549,821	\$34,076

The estimated amounts of the asset and liability for capital leases which would have been included in the balance sheets aggregated \$353,079,000 and \$377,150,000 at December 31, 1977, and \$397,080,000 and \$410,427,000 at December 31, 1976, based upon the Company's incremental borrowing rate at conveyance of 8.75%. Accordingly, the loss would have increased by \$11,234,000 and \$9,315,000 for 1977 and 1976, respectively. Amortization of property rights and interest expense entering into this computation were \$48,023,000 and \$34,795,000 during 1977 and \$36,546,000 and \$27,784,000 during 1976.

Note 6. Income Taxes:

At December 31, 1977, the Company and its subsidiaries had net operating loss and investment credit carryforwards for income tax purposes of approximately \$893,000,000 and \$99,000,000 which may be available to reduce future tax payments. If unused, \$472,000,000 of the net loss carryforward expires in 1985 and \$421,000,000 in 1986. Further, \$41,000,000 of the investment credit carryforward expires in 1983 and \$58,000,000 in 1984.

The tax net operating loss exceeded the financial reporting deficit principally because of additional tax deductions of \$357,000,000 arising from the excess of the tax basis of assets acquired at April 1, 1976 over

the allocated acquisition costs. Such deductions were partially offset by the net effect of timing differences resulting principally from reserves deductible for income tax purposes when paid and different capitalization methods for track structure and equipment used for financial reporting and tax purposes.

Note 7. Pensions:

During 1977, various pension plans transferred to the Company were merged into the Company's pension plan. Unfunded liabilities of the merged plans were satisfied during 1977 from 211 (h) loans. The Company's plan is noncontributory for all nonagreement employees and contributory for participating agreement employees. Certain of the Company's subsidiaries maintain similar plans.

At January 1, 1977, the most recent actuarial valuation date, the unfunded vested benefits for the Company's plan amounted to approximately \$24,505,000. Pension expense for 1977 and 1976 was \$11,385,000 and \$7,534,000, respectively.

Note 8. Capital Stock:

Through December 31, 1977, USRA had invested \$152.3 million in Series A preferred stock. The cumulative investments in such preferred stock generally cannot exceed \$753 million at December 31, 1978 and \$1.1 billion, thereafter. These investments are conditioned upon the Company's compliance with the Financing Agreement and achieving the projected overall operating and financial results included in USRA's Final System Plan.

Series A preferred stock is entitled to an annual noncumulative dividend of \$7.50 per share, payable each April 30 to the extent, under certain circumstances, cash is available. Each share is entitled to \$100 upon liquidation with full preference over Series B preferred and common stock and must be redeemed at \$100 per share after redemption of the 7.5% debentures. At December 31, 1977, the Company has reserved approximately 27.5 million shares of

Series A preferred stock for issuance to USRA as follows: 9.5 million shares at \$100 per share for cash; 10 million shares for conversion of the 7.5% debentures; and 8 million shares for interest in lieu of cash on the 7.5% debentures.

The Series B preferred stock and common stock outstanding were deposited with the Special Court in exchange for the rail properties conveyed. Series B preferred stock is entitled to an annual noncumulative dividend of \$5.00 per share payable each April 30, after full payment of interest on the 7.5% debentures and cash dividends on Series A preferred stock. Each share of Series B preferred stock is entitled to \$50 upon liquidation with full preference over common stock, and is callable any time after 1987 at \$50 per share after redemption of all Series A preferred stock. No dividends may be declared on the common stock until all Series A preferred stock is redeemed and Series B preferred stock dividends are paid. USRA, as holder of the 7.5% debentures and the Series A preferred stock, voting as a single class, has the right to elect six Directors. The holders of the Series B preferred stock and the common stock have the right to elect three Directors and two Directors, respectively. These voting rights will change as the debentures and preferred stock are redeemed. The chief executive officer and the chief operating officer of the Company also serve as Directors.

Note 9. Other Matters:

The Company entered into agency agreements with certain Estates under which the Company is processing accounts receivable and payable attributable to Estates' operations prior to April 1, 1976. Such accounts are not included in the Company's financial statements. During 1976, the Company charged \$21,059,000 to operations for estimated costs in excess of reimbursement in connection with these agreements.

During 1977, the Company revised the estimated useful lives of certain assets, principally roadway property. This revision had the effect of reducing the loss for the year by approximately \$13,300,000 (\$.54 per share).

Note 10. Contingencies:

Conveyance Issues: As of December 31, 1977, there are contingencies exist with respect to the assets conveyed to the Company pursuant to the Act and liabilities assumed thereunder. It is not possible at this time to determine the ultimate outcome of these matters or the extent to which they may affect the Company. Any future adjustments to the purchase price resulting from these uncertainties will be allocated to the assets acquired on the basis of their relative fair values at the date of asset conveyance. Such adjustments could have a material effect on the cost to the Company of the assets acquired and on the allocation thereof, and, accordingly, on the Company's consolidated financial position and operating results. The following is a summary of the significant pending or threatened litigation, claims, assessments and other proceedings in which the Company is involved in connection with the conveyance.

A Special Court established by the Act has commenced proceedings to determine whether or not the consideration, including the securities of the Company, Certificates of Value and "other benefits," received or to be received by the transferors constitute a fair and equitable exchange for the assets conveyed. If the Special Court determines that the exchange is not fair and equitable, it may order the Company to transfer other securities to the transferors in such nature and amount as would make the exchange fair and equitable or, if such transfer does not satisfy the fair and equitable test, it may enter a deficiency judgment against the Company if the judg-

ment would not endanger the viability or solvency of the Company. Should the Special Court determine the exchange is more fair and equitable than is required as a constitutional minimum, it may order the return to the Company of the excess securities or other consideration. Moreover, if the consideration conveyed by the Company to the transferors is less than the constitutional minimum, the transferors would be entitled to seek recovery from the United States Government under the Tucker Act. Management has estimated the fair value of the securities issued in exchange to be equivalent to the net liquidation value of the assets conveyed, as determined by USRA.

Challenges to the validity of the conveyance to the Company of certain properties, the exclusion of certain contractual obligations and the exemption from taxes and interest in connection with the conveyance have been asserted. The actions generally seek reconveyance of the properties and, in some instances, damages and other claims for relief. In addition, the Secretary of Transportation or USRA may, under the Act, develop proposals for further restructuring of rail properties through transactions supplemental to the Final System Plan. In connection with such proposals, the Company could be directed to transfer certain of its properties to other railroads if the requisite findings and determinations are made.

Title V of the Act provides for protective payments to qualified employees of the railroads in reorganization and other transferors consisting generally of monthly displacement allowances, termination and separation allowances and relocation expense benefits until such employees attain age 65. The Act provides a \$250,000,000 fund, administered by the Railroad Retirement Board, to reimburse the cost of these protective payments. The Company believes the

existing fund is substantially inadequate. However, based upon statements in the legislatively approved Final System Plan, the Company believes sufficient additional funding for Title V obligations will be authorized and appropriated.

The Company was required under the Act to assume certain vacation liabilities of the transferors. The Act entitles the Company to be reimbursed for its payment of these liabilities if USRA determines they remain obligations of the transferors. One Reorganization Act has approved a compromise agreement whereby \$60,000,000 in vacation liabilities would be recognized in a plan of reorganization. In 1977, the Company obtained \$60,000,000 in Section 211 (h) borrowings under a conditional determination by USRA which requires that the Company repay the loan if the liabilities are not included in the final plan of reorganization. The Company has not recorded a claim receivable from the transferor with respect to this loan.

Federal Investments: Currently, the Company's operations are dependent upon existing financing available to it under the terms of the Financing Agreement with USRA. The periodic investments made by USRA are conditioned upon certain Certifications from Company officers indicating that it is reasonably likely that the Company will be able, in compliance with applicable laws, to perform rail service obligations on a long-term basis while achieving a "net positive funds" position. At December 31, 1977, the Company was unable to provide USRA with such a Certification and received a waiver from USRA permitting Certifications without the "net positive funds" representation. In February 1978, the waiver was extended to June 30, 1978. Upon the expiration of the existing waiver, the Company may be unable to meet

the conditions for continued investment of the remaining Federal funds appropriated for such purpose; and, if necessary, the Company intends to request additional waivers at that time.

In February 1978, the Company submitted to USRA its five-year business plan, which contemplates that USRA's investment in the Company for 1978 will exceed the cumulative investment limitations under the Financing Agreement by \$148 million. As a result, the Company has been unable to provide required certifications regarding such limitation, and the USRA Board has passed a resolution recommending a waiver coterminous with that discussed in the preceding paragraph. The plan concluded that the Company could not become financially self-sustaining within the \$2.1 billion funding limit presently authorized and that significantly more financing would be necessary. The Finance Committee subsequently issued an "affirmative finding" pursuant to the Act concurring with this conclusion, but did not direct the cessation or limitation of continued investments by USRA. In March 1978, USRA notified Congress of its intention to continue purchasing Company securities as presently authorized. The Company understands that USRA and other governmental agencies are contemplating various financing plans for 1978 and beyond. Although additional financing of a long-term nature must

be developed, management believes that adequate financing will be available for operations during 1978. Such financing is dependent upon the Finance Committee's adoption of the USRA Board's recommendation as well as extension beyond June 30, 1978 of the aforementioned waivers and the absence of any Congressional action suspending USRA's decision to continue to purchase Company securities.

The Company has also reported to USRA the existence of various conditions of possible technical non-compliance with certain provisions of the Financing Agreement. Should any of such conditions be determined to be an Event of Default, the outstanding balance of the debentures could become immediately due and payable, accelerated redemption of the Series A preferred stock could be required, and the authorized investments by USRA could be terminated or altered. The Company has obtained assurance from USRA that it will not declare any of these matters to be an Event of Default without first notifying the Company of its proposed action and permitting it until at least January 1, 1979 to take appropriate corrective action.

Other Matters: Various other claims have been made against the Company by certain transferors, states and others. The Company has or intends to assert claims against certain transferors for the recovery of amounts for which the Company believes it is entitled to be paid or reimbursed. In the opinion of man-

agement, the resolution of these issues will not have a material adverse effect on the accompanying financial statements. The Company may be contingently liable for guarantees of funded debt or other obligations of certain affiliated companies. At December 31, 1977, such guarantees aggregated \$78,000,000. Additionally, under certain noncancellable equipment leases the Company is guarantor of related lessor obligations approximating \$100,000,000 at December 31, 1977.

Note 11. Interstate Commerce Commission (ICC) Reporting:

Reports to the ICC are based on the "retirement-replacement-betterment" accounting method for track structure under which replacements in kind are recorded as operating expenses. In the accompanying financial statements track structure replacements are capitalized and depreciated. A reconciliation of the loss in the statement of operations to the loss reported to the ICC is as follows:

	1977	1976
	(Dollars in Thousands)	
Loss	\$366,636	\$205,453
Capitalization of track structure replacements	280,607	224,860
Depreciation	(15,891)	(11,466)
Loss reported to ICC	\$631,352	\$418,847

Note 12. Quarterly Data, (Unaudited):

		January to March	April to June	July to September	October to December
		(Dollars in Thousands Except Per Share)			
Operating revenues	1977	\$770,414	\$867,516	\$828,069	\$826,390
	1976		835,863	809,244	802,185
Loss from operations	1977	203,021	19,734	48,992	79,596
	1976		31,076	32,236	98,791
Loss	1977	207,571	27,574	54,711	76,780
	1976		34,432	31,983	139,038
Loss per share of common stock	1977	8.30	1.11	2.20	3.08
	1976		1.38	1.28	5.56

During the fourth quarter of 1977 the Company completed a review of the application of its track structure capitalization policies and revised its estimates for casualty and inventory reserves. As a result the loss for the quarter was reduced by approximately \$29,000,000 (\$1.16 per share). In addition, the Company re-

vised the estimated useful lives of certain assets, principally roadway property. This change had the impact of reducing the loss by \$2,000,000 (\$.08 per share); and \$4,500,000 (\$.18 per share) in the first and second quarters and \$3,400,000 (\$.14 per share) in each of the third and fourth quarters. The loss from operations in the final

quarter of 1976 included the write-off of expenses incurred in the pre-conveyance planning and start-up activities, as well as reassessment of unreimbursed costs to be incurred in the administration of activities on behalf of the Estates in reorganization, approximating \$25,000,000 (\$1.00 per share).

Auditors' Report

The Board of Directors
Consolidated Rail Corporation
Philadelphia, Pennsylvania

We have examined the consolidated balance sheets of Consolidated Rail Corporation and subsidiaries as of December 31, 1977 and 1976, and the related consolidated statements of operations, stockholders' equity and changes in financial position for the year ended December 31, 1977 and the period April 1, 1976 (date rail operations commenced) to December 31, 1976. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

Pursuant to the provisions of the Regional Rail Reorganization Act of

1973, as amended, the Company acquired rail properties of certain railroads in reorganization and other transfers as discussed in Note 2. Substantial uncertainties exist with respect to the assets acquired and liabilities assumed by the Company as discussed under "Conveyance Issues" in Note 10. The ultimate outcome of these matters, which cannot presently be determined, could have a material effect on the cost to the Company of the assets acquired and allocation thereof and, accordingly, on consolidated financial position and results of operations.

In our opinion, subject to the effects, if any, on the financial statements of the ultimate resolution of the matters discussed in the preceding paragraph, the financial statements re-

ferred to above present fairly the consolidated financial position of Consolidated Rail Corporation and subsidiaries as of December 31, 1977 and 1976, and the consolidated results of their operations and changes in their financial position for the year ended December 31, 1977 and the period April 1, 1976 to December 31, 1976, in conformity with generally accepted accounting principles applied on a consistent basis.

Coopers & Lybrand
1900 Three Girard Plaza
Philadelphia, Pennsylvania
March 22, 1978

