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SERVICE DATE - MARCH 21, 2000

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This decision will be included in the bound volumes of the STB printed reports at a later date.

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
— CONTROL AND OPERATING LEASES/AGREEMENTS —
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Decision No. 144

Decided: March 20, 2000

Environmental Condition No. 11 of Appendix Q of Decision No. 89¹ (Decision No. 89, slip op. at 401-02) requires Applicants, with the concurrence of the responsible local governments, to mitigate train wayside noise (locomotive engine and wheel/rail noise) at noise-sensitive receptor locations on certain rail line segments. Environmental Condition No. 11 further provides that: “Applicants shall certify compliance with this condition within 2 years of the effective date of the Board’s final decision. This condition shall not apply to those communities that have executed Negotiated Agreements with Applicants that satisfy the communities’ environmental concerns.”

On February 7, 2000, NS provided us with a copy of a Negotiated Agreement between NS and Madison County, IN,² dated January 10, 2000. According to NS, this Negotiated Agreement effectuates the Board’s preference for privately negotiated solutions stated in Decision No. 89, slip op. at 153. NS requests that Environmental Condition No. 11 be amended to reflect the parties’ Negotiated Agreement by deleting the Madison County receptors not located within the City of

¹ In Decision No. 89, served July 23, 1998, we approved, subject to certain conditions, including environmental mitigation conditions, the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively, Conrail), and the division of Conrail’s assets by CSX Corporation and CSX Transportation, Inc. (collectively, CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as Applicants.

² By letter dated and received at the Board on March 14, 2000, counsel for NS corrected a misstatement made in its February 7, 2000 submittal. In the first sentence of the second paragraph of the cover letter, reference to City of Muncie should read City of Alexandria.

Alexandria from those identified on the Alexandria to Muncie, IN line segment (N-040),³ and that the Negotiated Agreement between NS and Madison County be added to the NS Subsection of Environmental Condition No. 51 of Appendix Q in Decision No. 89, which requires NS to comply with the terms of all Negotiated Agreements developed with states, local communities, and other entities regarding environmental issues associated with the Conrail transaction. See Decision No. 89, slip op. at 420-21. Madison County concurs with the request.

In view of the Negotiated Agreement between NS and Madison County, we will: (1) add the Negotiated Agreement to Environmental Condition No. 51 of Appendix Q of Decision No. 89, and (2) amend Environmental Condition No. 11 of Appendix Q of Decision No. 89 to delete the Madison County receptors not located within the City of Alexandria from those identified on the Alexandria to Muncie, IN line segment because the noise mitigation for that community has been superseded by the NS/Madison County Negotiated Agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.

2. In accordance with the Negotiated Agreement between NS and Madison County, IN, executed on January 10, 2000, the following is added to the NS Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:⁴

15. Madison County, Indiana, dated January 10, 2000.

3. In addition, Environmental Condition No. 11 of Appendix Q of Decision No. 89 is amended to delete the receptors that meet wayside noise mitigation criteria applicable to the Madison County receptors not located within the City of Alexandria from those identified on the

³ Environmental Condition No. 11 does not specifically reference Madison County. However, two of the receptors originally identified in Alexandria are actually located outside of the city limits in Madison County. Accordingly, NS negotiated a separate agreement with Madison County. The remaining four receptors are located within the city limits of Muncie and are addressed by a separate agreement with Muncie.

⁴ In Decision No. 131, served July 13, 1999 (ordering ¶2), the number listed for the NS Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89 was inadvertently shown as **13.** rather than **14.** In this decision, therefore, the next sequential number for NS would be **15.**

Alexandria to Muncie, IN line segment because such receptors/noise mitigation have been superseded by the Negotiated Agreement.

4. This decision is effective on the date of service.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams
Secretary