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SERVICE DATE - JULY 13, 1999

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. 131

Decided: July 12, 1999

Environmental Condition 8(A) of Appendix Q of Decision No. 89 (Decision No. 89, slip op. at 393-99) requires applicants¹ to upgrade existing warning devices at 86 highway/rail at-grade crossings, 9 of which are located on NS line segments in Ohio (Decision No. 89, slip op. at 398). Environmental Condition 8(A) further provides: “If Applicants execute a Negotiated Agreement with the affected local jurisdiction and the state department of transportation, they may implement alternate safety improvements in the vicinity of these identified highway/rail at-grade crossings that achieve at least an equivalent level of safety enhancement.” Decision No. 89, slip op. at 393.

Environmental Condition 51 of Appendix Q of Decision No. 89 (Decision No. 89, slip op. at 420-21) provides that applicants shall comply with the terms of all Negotiated Agreements developed with states, local communities, and other entities regarding environmental issues associated with the Conrail transaction.

NS has advised us that on February 10, 1999, it entered into a “Railroad Corridor Safety Agreement” with the Ohio Rail Development Commission (ORDC) and the Public Utilities

¹ In this decision as in Decision No. 89: CSX Corporation and CSX Transportation, Inc., and their wholly owned subsidiaries, and also Consolidated Rail Corporation’s wholly owned New York Central Lines LLC subsidiary, are referred to collectively as CSX; Norfolk Southern Corporation and Norfolk Southern Railway Company and their wholly owned subsidiaries, and also Consolidated Rail Corporation’s wholly owned Pennsylvania Lines LLC subsidiary, are referred to collectively as NS; Conrail Inc. and Consolidated Rail Corporation, and also their wholly owned subsidiaries other than New York Central Lines LLC and Pennsylvania Lines LLC, are referred to collectively as Conrail; and CSX, NS, and Conrail are referred to collectively as applicants.

Commission of Ohio (PUCO) regarding grade crossing safety improvements in Ohio. NS has provided a copy of the Agreement and has explained that ORDC and PUCO concur that the Agreement satisfies NS's obligations under Environmental Condition 8(a) of Appendix Q of Decision No. 89 with respect to the provision of grade crossing safety upgrades by NS in Ohio.²

In accordance with our usual practice,³ we will acknowledge the adoption of the NS/ORDC/PUCO Railroad Corridor Safety Agreement: (a) by adding that agreement to the NS Subsection of Environmental Condition 51; and (b) by deleting the 9 NS crossings in Ohio from Environmental Condition 8(A) because the parties' agreement supersedes NS's obligations under Environmental Condition 8(A) regarding grade crossing safety upgrades in Ohio.

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 Railroad Corridor Safety Agreement among NS, ORDC, and PUCO, executed on February 10, 1999, the following is added to the NS Subsection of Environmental Condition 51 of Appendix Q of Decision No. 89 (Decision No. 89, slip op. at 420-21):

**13. The Ohio Rail Development Commission and the
Public Utilities Commission of Ohio, "Railroad Corridor Safety
Agreement," dated February 10, 1999.**

3. In addition, Environmental Condition 8(A) of Appendix Q of Decision No. 89 (Decision No. 89, slip op. at 398) is amended by deleting therefrom the 9 NS crossings in Ohio.

² See NS's letter dated February 17, 1999, at 2.

³ See, e.g., Decision No. 129.

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

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

Vernon A. Williams
Secretary