

SERVICE DATE - OCTOBER 31, 2000

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. 173

Decided: October 27, 2000

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.

On April 9, 1998, NS provided us with a copy of a Memorandum of Understanding (MOU) between NS and the City of Erie, PA, which described the agreements reached between the City of Erie and NS with regard to the Conrail transaction and the Erie Relocation Project. Accordingly, we included a requirement that NS comply with the terms of that Negotiated Agreement in Environmental Condition No. 51 of Appendix Q to Decision No. 89.¹

On October 4, 2000, however, NS submitted a letter agreement dated June 9, 2000 (2000 Amendment), between NS and the City of Erie, modifying some of the terms of the parties' original agreement.² Therefore, NS requests that the Board include the 2000 Amendment to the April 9, 1998 MOU in Environmental Condition No. 51 of Appendix Q to Decision No. 89. The City of Erie concurs with the request.

¹ In addition, Environmental Condition No. 42(A) of Appendix Q of Decision No. 89 requires applicants to comply with the terms and conditions of their agreement, as described in their Primary Application filed June 23, 1997, to relocate NS traffic onto new tracks in the CSX right-of-way through Erie.

² NS advises that the 2000 Amendment replaces Paragraph 1, replaces the milestones contained in Paragraph 3, deletes Paragraph 4, and replaces Paragraph 5 and Paragraph 9 of the MOU.

In view of the 2000 Amendment agreed to by NS and the City of Erie modifying the MOU, we add a reference to the 2000 Amendment in Condition No. 51 of Appendix Q of Decision No. 89.

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 the City of Erie, PA, dated June 9, 2000, amending the MOU, the following is added to the NS Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

19. City of Erie, Pennsylvania, Negotiated Agreement dated June 9, 2000, amending the April 9, 1998 Memorandum of Understanding.

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

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

Vernon A. Williams
Secretary