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SERVICE DATE - APRIL 18, 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. 152

Decided: April 13, 2000

Environmental Condition No. 11 of Appendix Q of Decision No. 89 (Decision No. 89, slip op. at 401-02) requires Applicants (including Consolidated Rail Corporation (CR), which administers the CSX/NS Shared Assets Areas), 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.<sup>1</sup> 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 March 15, 2000, CSX, at the request of CR, provided us with a copy of a Negotiated Agreement between CR and Brownstown Township, MI, dated January 27, 2000, and accepted by Brownstown Township on February 1, 2000. According to CSX, this Negotiated Agreement effectuates the Board’s preference for privately negotiated solutions stated in Decision No. 89, slip op. at 153. CSX requests that Environmental Condition No. 11 be amended to reflect the parties’ Negotiated Agreement by deleting Brownstown Township from the list of communities on the Carleton, MI to Ecorse, MI line segment (S-020),<sup>2</sup> and that the Negotiated Agreement between CR and Brownstown Township be added to Environmental Condition No. 51 of Appendix Q of

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<sup>1</sup> 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 CR, and the division of their assets by CSX Corporation and CSX Transportation, Inc. (collectively, CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX, NS, and CR are referred to collectively as Applicants for purposes of this decision.

<sup>2</sup> Environmental Condition No. 11 of Appendix Q of Decision No. 89 (Decision No. 89, slip op. at 403), references “Brownstown” on this line segment, but the correct reference should have been Brownstown Township.

Decision No. 89, under which Applicants must comply with the terms of all Negotiated Agreements developed with states, local communities, and other entities regarding environmental issues associated with this transaction. See Decision No. 89, slip op. at 420-21. Brownstown Township concurs with the request.

In view of the Negotiated Agreement between CR and Brownstown Township, we will: (1) add the Negotiated Agreement to Environmental Condition No. 51 of Appendix Q of Decision No. 89 in a new Subsection called “Shared,”<sup>3</sup> and (2) amend Environmental Condition No. 11 of Appendix Q of Decision No. 89 to delete Brownstown Township because the noise mitigation for that community has been superseded by the CR/Brownstown Township 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 CR and Brownstown Township, MI, executed on February 1, 2000, the following is added to the new “Shared” Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

**1. Brownstown Township, Michigan, dated February 1, 2000.**

3. In addition, Environmental Condition No. 11 of Appendix Q of Decision No. 89 is amended to delete the noise mitigation applicable to Brownstown Township, MI, because it has been superseded by the Negotiated Agreement.

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<sup>3</sup> Environmental Condition No. 11 of Appendix Q of Decision No. 89 (Decision No. 89, slip op. at 403), has Subsections for CSX lines, NS lines, and “Shared” lines, which refers to the Shared Asset Areas. The line segment at issue here is a “Shared” line. Because this is the first Negotiated Agreement we have received pertaining to a “Shared” line segment, we are adding a new Subsection in Environmental Condition No. 51 for this category of agreements.

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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