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SERVICE DATE - FEBRUARY 2, 2000

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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. 138

Decided: February 1, 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 January 7, 2000, CSX provided us with a copy of a Negotiated Agreement between CSX and the Township of Middleton, Wood County, OH, dated December 1, 1999, and accepted by Township of Middleton on December 1, 1999. 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 the Township of Middleton receptors from those identified on the

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.

Deshler to Toledo, OH line segment (C-065),² and that the Negotiated Agreement between CSX and the Township of Middleton be added to the CSX Subsection of Environmental Condition No. 51 of Appendix Q in Decision No. 89, which requires CSX 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. Township of Middleton concurs with the request.

In view of the Negotiated Agreement between CSX and the Township of Middleton, 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 Township of Middleton receptors from those identified on the Deshler to Toledo, OH line segment because the noise mitigation for that community has been superseded by the CSX/Township of Middleton 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 CSX and the Township of Middleton, Wood County, OH, executed on December 1, 1999, the following is added to the CSX Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

**20. Township of Middleton, Wood County, Ohio, dated
December 1, 1999.**

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 Township of Middleton, Wood County, OH, from those identified on the Deshler to Toledo, OH line segment because such receptors/noise mitigation have been superseded by the Negotiated Agreement.

² Environmental Condition No. 11 does not specifically reference the Township of Middleton. However, one of the ten receptors that was identified within the Village of Haskins is actually located in the Township of Middleton. Accordingly, CSX negotiated a separate agreement with the Township of Middleton.

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