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October 10, 2001



VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20580

Re: REQUEST FOR EXPEDITED ACTION

STB Docket No. AB 31 (Sub-No. 38), CSX Corporation and CSX Transportation, Inc. – Adverse Abandonment Application – Canadian National Railway Company and Grand Trunk Western Railroad, Inc.

Dear Secretary Williams:

CSX Corporation and CSX Transportation, Inc. ("CSX"), applicants in this adverse abandonment proceeding, hereby respectfully request that the Board expedite the issuance of a decision in the above-captioned proceeding. As discussed further below, CSX makes this request so that CSX Transportation may assume control of the track at issue for use during the peak fall traffic season, and thereby avoid the delays currently being experienced in the Chicago area. CSX did not previously request expedition in this proceeding because it believed that the Board would issue a decision on or about the 110-day deadline for a decision set forth in the Board's rules governing abandonments.

The track at issue in this proceeding, Track No. 239, is currently controlled by Grand Trunk Western Railroad Inc. ("GTW"), which leases the property underlying the track from CSX. GTW has persistently prohibited CSX from connecting GTW's portion of Track No. 239 with the portion of that track that CSX controls, which would facilitate CSX's ability to use Track No. 239 to stage trains utilizing CSX's nearby 59th Street intermodal facility. CSX control of all of Track No. 239 would also resolve the delays now regularly experienced by CSX and other railroads that rely on the adjacent B&OCT mainline, a major rail traffic corridor in the Chicago area. Those delays result when trains using the 59th Street facility are forced to block the B&OCT mainline due to the unavailability of Track No. 239.

CSX thus has endeavored to enforce the 30-day termination provision in the property lease with GTW, a provision that underscores that GTW has no long-term rights to Track No. 239. However, those efforts have been stymied by GTW's reliance on the Board's jurisdiction as a shield to protect it from the legitimate processes of state law.

While CSX's need to control the track is clear, it is equally clear that GTW does not need Track No. 239. The record in this proceeding leaves no question, and GTW has in fact conceded, that it does not use the track for revenue service, and has no current plans to do so. Moreover, CSX has offered very reasonable trackage rights terms to GTW with respect to Track No. 239, and CSX understands that NS has also offered GTW trackage rights over Track No. 237. As the record in this case demonstrates, that track runs parallel to Track No. 239 and offers GTW the same utility and connections that GTW claims it may need in the future.¹

Underscoring GTW's lack of need for, and use of, Track No. 239, CSX understands that within the last several weeks a switch that allowed GTW access to the CJ tracks at the north end of Track No. 239 was removed. Absent restoration of the switch, GTW can no longer physically connect to the portion of Track No. 239 it controls, over which it has not been operating trains in recent years in any event. In short, GTW controls a track it cannot (unless the switch is restored) even access and for which it has no demonstrated need. By contrast, CSX, which has tried to exercise its lease rights with respect to property underlying the track, needs that track more than ever to avoid delays and enhance efficient operations in the Chicago terminal area.

The need to resolve this matter quickly is manifest. The months leading up to the December holiday season are a peak period for CSX's operations, heightening its prompt need for access to Track No. 239. Indeed, trains using the CSX 59th Street facility tend to be somewhat longer at this time of year, thus enhancing the strategic value to CSX of access to all of Track No. 239 for use in connection with operations at that facility. The avoidance of delays at this time of year is also critical to CSX's competitiveness over the next several months. The continuing delays on the B&OCT line that CSX has described in this proceeding are costly to the railroad and to its customers. The delays come at a time of year when they can be least tolerated, and during an economic slowdown in which the sensitivity of all parties to unnecessary and avoidable costs is greatest.

At the time that it filed its adverse abandonment application on April 24, 2001, CSX understood that the Board would act on that application within the deadline set by its abandonment rules at 49 C.F.R. § 1152.26(a). CSX thus believed that a decision would be

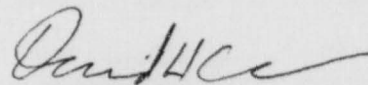
¹ While CSX has offered very reasonable trackage rights terms to GTW, GTW has to date not accepted these terms. The Board can readily resolve the dispute as to trackage rights terms by exercising continuing oversight to ensure that the trackage rights CSX has offered adequately protect whatever interest GTW might have in the use of Track No. 239.

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issued in this proceeding within 110 days from the date of its application, or by August 13, 2001, well in advance of the peak fall season. However, nearly eight weeks has now past since that date. During this time, for the reasons explained above, the case for granting this application has grown even stronger and the need for a ruling more urgent. Moreover, each day that goes by without a decision represents a victory of sorts for GTW's strategy of improperly relying on this Board's jurisdiction to avoid the consequences of the 30-day lease termination provision in a lease that it voluntarily entered. The Board can remedy this situation, and enhance efficient rail operations in the Chicago area, by promptly granting CSX's application, an action that would be fully consistent with the weight of the case law that CSX has previously cited in support of its application.

For these reasons, CSX urges the Board to act on the pending application as quickly as possible. Further, CSX requests that the Board require that any GTW reply to this request for expedition be filed within five business days of the date of this letter so as to minimize the opportunity for any further delay.

Respectfully,



David H. Coburn
Attorney for CSX Corporation and
CSX Transportation, Inc.

cc: Chairman Linda Morgan
Vice Chairman William Clyburn, Jr.
Commissioner Wayne Burkes
William C. Sippel, Esq. (via facsimile)
Myles L. Tobin, Esq. (via facsimile)