

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. 130

Decided July 7, 1999

The Board amended Environmental Condition No. 11 of Appendix Q of *Decision No. 89* to delete noise mitigation applicable to New London, OH, and Plymouth, IN, because the Village of New London and the City of Plymouth have negotiated superseding agreements with CSX Corporation and CSX Transportation, Inc.

BY THE BOARD:

In *CSX Corp. et al. — Control — Conrail Inc. et al.*, 3 S.T.B. 196 (1998) (*Decision No. 89*), 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).¹ As pertinent here, Environmental Condition No. 11 of Appendix Q in *Decision No. 89* 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.

On June 24, 1999, CSX provided us with the following: (1) a copy of a Negotiated Agreement between CSX and the Village of New London, OH (New London), dated May 26, 1999, and accepted by New London on June 15, 1999; and (2) a copy of a Negotiated Agreement between CSX and the City of Plymouth, IN (Plymouth), dated June 16, 1999, and accepted by Plymouth on June 17, 1999. CSX explains that the Negotiated Agreements are intended to

¹ CSX and NS are referred to as applicants.

supersede the noise mitigation conditions imposed by us in *Decision No. 89*, Appendix Q, Environmental Condition No. 11, with respect to New London and Plymouth. CSX states that New London is one of several communities located on the rail segment between Berea and Greenwich, OH (C-061), and that Plymouth is one of the communities located on the rail line segment between Warsaw and Tolleston, IN (C-026). CSX requests that Environmental Condition No. 11 be amended to reflect the parties' Negotiated Agreements, and that the Negotiated Agreement between CSX and New London and the Negotiated Agreement between CSX and Plymouth 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. New London and Plymouth concur with the requests.

In view of the Negotiated Agreement between CSX and New London, 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 New London because the noise mitigation for that community has been superseded by the CSX/New London Negotiated Agreement.

In view of the Negotiated Agreement between CSX and Plymouth, 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 Plymouth because the noise mitigation for that community has been superseded by the CSX/Plymouth 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 Village of New London, OH, executed on June 15, 1999, the following is added to the CSX Subsection of Environmental Condition No. 51 of Appendix Q of *Decision No. 89*:

15. Village of New London, Ohio, dated June 15, 1999.

3. In accordance with the Negotiated Agreement between CSX and the City of Plymouth, IN, executed on June 17, 1999, the following is added to the CSX Subsection of Environmental Condition No. 51 of Appendix Q of *Decision No. 89*:

16. City of Plymouth, Indiana, dated June 17, 1999.

4. In addition, Environmental Condition No. 11 of Appendix Q of *Decision No. 89* is amended to delete the noise mitigation applicable to New London, OH, and Plymouth, IN, because it has been superseded by the Negotiated Agreements.

5. This decision shall be effective on July 9, 1999.

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