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SERVICE DATE - JULY 11, 1997

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33388 (Sub-No. 1)]

CSX Transportation, Inc.--Construction and Operation Exemption--Connection Track at
Crestline, OH

CSX Transportation, Inc. (CSXT) and Consolidated Rail Corporation (CRC) have filed a notice of exemption under 49 CFR 1150.36 to construct a connection track between two CRC main lines in the NW Quadrant. The connection will extend approximately 1,507 feet between approximately milepost 75.4 on CRC's North-South main line between Greenwich, OH, and Indianapolis, IN, and approximately milepost 188.8 on CRC's East-West main line between Pittsburgh and Ft. Wayne, IN.¹

¹ This proceeding is related to 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 (CSX/NS/CR)*. In *CSX/NS/CR*, Decision No. 9, served June 12, 1997, the Board granted the applicants' Petition for Waiver, allowing CSXT and CRC to seek approval for construction of four "first day" connections, including this proposed connection at Crestline, OH, prior to Board approval of the Primary Control Application. CSXT filed a notice of exemption to construct and operate a connection track in Crestline, as a related filing in Volume 5 of the primary application filed on June 23, 1997, in the *CSX/NS/CR* proceeding. See *CSX/NS-22* (Volume 5) at 94. CSXT and CRC concurrently filed a slightly modified version of the notice of exemption for construction of a connection track in Crestline (CSX-5). The Board will consider both filings in tandem. As the Board stated in *CSX/NS/CR*, Decision No. 9, at 6-7:

* * * in reviewing these projects separately, we will consider the regulatory and environmental aspects of these proposed constructions and

Construction is scheduled to begin on or about 90 days after the filing date of this notice, but not before the effective date of the exemption, which is 70 days after publication of this notice in the *Federal Register*, unless stayed.

The Board's Section of Environmental Analysis (SEA) will analyze the potential environmental impact of this proposed construction and operation, which is addressed in the environmental documents prepared in the primary application in STB Finance Docket No. 33388. The environmental report covering the proposed construction and operation of the connection track at Crestline is contained in the Environmental Report filed with the Board in STB Finance Docket No. 33388. In addition, as the Board required in *CSX/NS/CR*, Decision No. 9, CSX must submit, no later than September 5, 1997 (Day F+75), a preliminary draft environmental assessment (PDEA) for each individual construction project covered by the Board's waiver decision. Each PDEA must comply with all of the requirements for environmental reports contained in the environmental rules at 49 CFR 1105.7. Also, the PDEA must be based on consultations with SEA and the federal, state, and local agencies set forth in 49 CFR 1105.7(b), as well as other appropriate parties. If a PDEA is insufficient, the Board may require additional environmental information or reject the document. See *CSX/NS/CR*, Decision No. 9, at 8.

applicants' proposed operations over these lines together in the context of whether to approve each individual physical construction project. The operational implications of the merger as a whole, including operations over the * * * construction projects, will be examined in the context of the [Environmental Impact Statement] EIS that we are preparing for the overall merger. * * * No rail operations can begin over these [four CSX connections] until completion of the EIS process and issuance of a further decision.

As part of the environmental review process, SEA will independently verify the information contained in each PDEA, conduct further independent analysis, as necessary, and develop appropriate environmental mitigation measures. For each project, SEA plans to prepare an EA, which will be served on the public for its review and comment. The public will have 20 days to comment on the EA, including the proposed environmental mitigation measures. After the close of the public comment period, SEA will prepare Post Environmental Assessments (Post EAs) containing SEA's final recommendations, including appropriate environmental mitigation. *Id.* at 8. The effective date of this exemption may be stayed pending consideration of the environmental record and completion of the environmental process.

Should the Board determine that the Crestline construction project could potentially cause, or contribute to, significant environmental impacts, then the project will be incorporated into the EIS for the proposed control transaction in STB Finance Docket No. 33388, *CSX/NS/CR*. *Id.* at 8. The Board's consideration of this construction project does not, and will not, in any way, constitute approval of, or even indicate any consideration on our part respecting approval of, the primary application in STB Finance Docket No. 33388.

This exemption will be effective on September 19, 1997, unless stayed. Petitions to stay the effective date of this notice on any grounds must be filed by July 21, 1997. Petitions for reconsideration must be filed by July 31, 1997.

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If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33388 (Sub-No. 1), must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001 and served on: Dennis G. Lyons, Arnold & Porter, 555 Twelfth Street, N.W., Washington, DC 20004-1206. Parties to STB Finance Docket No. 33388 will not be automatically placed on the service list for this proceeding.

Decided: July 3, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary