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SEC

SERVICE DATE - AUGUST 22, 2000

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. 167

Decided: August 21, 2000

Environmental Condition No. 11 of Appendix Q of Decision No. 89<sup>1</sup> (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.” Environmental Condition No. 11 requires compliance with this provision within 2 years of the effective date of Decision No. 89, or by August 22, 2000.

By letter received on August 11, 2000, NS has requested a 1-year extension of the deadline provided for in Environmental Condition No. 11, until August 22, 2001. NS states that it has conferred with the responsible local governments of all communities located within the designated locations on NS rail line segments. NS further states that, to date, it has submitted to the Board Negotiated Agreements with two local governments and the Board has approved those agreements by issuing decisions incorporating those agreements under Environmental Condition No. 51. In addition, NS advises that negotiations with the local governments of several additional communities within the rail corridor locations designated by the Board are pending, and the local governments are currently considering the Negotiated Agreements proposed by NS. NS states that it does not expect that those negotiations will be completed by August 22, 2000, but that Negotiated Agreements with some of those governments will be reached later. In this

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<sup>1</sup> In Decision No. 89, served July 23, 1998, the Board 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.

regard, NS states that it has been informed by certain other local governments that they would prefer that NS address noise mitigation in the community by contacting individual property owners. NS advises that, in light of the Board's general preference for privately negotiated solutions stated in Decision No. 89, slip op. at 153, and the specific requirement of Environmental Condition No. 11 for concurrence by responsible local governments, NS has focused its efforts on negotiations with communities. NS states that an extension to August 22, 2001, would allow it to complete implementation of the condition through additional settlements with communities and an individualized noise mitigation program.

The request for a 1-year extension to August 22, 2001, is reasonable and will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The compliance deadline for NS in Environmental Condition No. 11 of Appendix Q of Decision No. 89 is extended 1 year until August 22, 2001.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary