

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. 166

Decided: August 21, 2000

Environmental Condition No. 11 of Appendix Q of Decision No. 89 (Decision No. 89, slip op. at 401-02), requires Applicants (including Consolidated Rail Corporation (CR), which administers the CSX/NS Shared Assets Areas), 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.¹ 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, CSX, on behalf of CSX and CR, has requested a 1-year extension of the deadline provided for in Environmental Condition No. 11, until August 22, 2001. CSX states that it has worked diligently to comply with Environmental Condition No. 11, and has submitted to the Board 22 Negotiated Agreements, all of which either have been approved by the Board or are pending. CSX expects to be able to submit additional Negotiated Agreements to the Board by August 22, 2000, and that new agreements will be reached thereafter.

¹ 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 CR, and the division of their assets by CSX Corporation and CSX Transportation, Inc. (collectively, CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX, NS, and CR are referred to collectively as Applicants for purposes of this decision.

CSX further advises that it has consulted with all of the responsible local governments for the noise-sensitive receptors identified in Environmental Condition No. 11. It states that some local governments may still be in the process of deciding how they wish to proceed as of August 22, 2000, and that the public interest would be served by allowing these communities additional time to respond to CSX's proposals. In this regard, CSX states that it has been informed by a few other local governments that they would like CSX to contact individual property owners. CSX 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, CSX has to date focused its efforts on negotiations with communities. CSX 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.²

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 CSX and CR 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

² In its August 11, 2000 letter, CSX adds that, with respect to one of the communities located on the sole shared assets line segment (C-020) identified for mitigation in Environmental Condition No. 11, an agreement was reached and approved by the Board, see Decision No. 152, served April 18, 2000, and that discussions have been undertaken with other communities located on that line segment. CSX advises that CR joins in the request for an extension of time because it is possible that additional agreements could be reached if more time is made available for this purpose.