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SEC

SERVICE DATE - NOVEMBER 25, 1998

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. 105

STB Finance Docket No. 33388 (Sub-No. 75)

NEW ENGLAND CENTRAL RAILROAD, INC.--TRACKAGE RIGHTS--  
CSX TRANSPORTATION, INC.

Decided: November 24, 1998

In Decision No. 89, in addition to approving the primary application,<sup>1</sup> the Board granted the responsive application by New England Central Railroad, Inc. (NECR) in STB Finance Docket No. 33388 (Sub-No. 75) insofar as it seeks trackage rights from CSX between Palmer and West Springfield, MA. To implement this condition, the Board required CSX and NECR to negotiate the details of the trackage rights arrangement and, if negotiations were not successful, to submit separate proposals by September 21, 1998.<sup>2</sup> In subsequent decisions, the Board extended the due date for completion of these negotiations, most recently to November 20, 1998. See Decision Nos. 94 and 97, served, respectively, on October 1 and 26, 1998. By correspondence filed November 20, 1998, CSX states that the parties continue to believe that they will be able to conclude the trackage rights agreement by mutual consent. To resolve this matter, CSX seeks an additional extension to December 21, 1998. CSX states that NECR concurs in this request. The extension will be granted.

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<sup>1</sup> In Decision No. 89, served July 23, 1998, the Board approved, subject to conditions, the application by CSX Corporation and CSX Transportation, Inc. (collectively CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively NS) under 49 U.S.C. 11321-26 for: (1) the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively Conrail); and (2) the division of Conrail's assets by and between CSX and NS.

<sup>2</sup> On September 21, 1998, NECR reported that, while the parties were close to reaching a final agreement on their Palmer-West Springfield trackage rights arrangement, NECR and CSX were in irreconcilable disagreement over one matter. Thus, NECR filed a petition on that date (designated as NECR-10) seeking a Board ruling on the matter or clarification of the condition. CSX filed its reply (designated as CSX-164) on October 13, 1998. In Decision No. 100, served November 6, 1998, the Board denied the relief sought by NECR.

It is ordered:

1. The deadline set forth in Decision No. 89, Ordering Paragraph No. 64, is extended to December 21, 1998. If any terms of the trackage rights arrangement between Palmer and West Springfield, MA, are not resolved through negotiations between CSX and NECR, the parties must submit separate proposals no later than December 21, 1998.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary