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SERVICE DATE - AUGUST 3, 2001

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. 194

Decided: August 2, 2001

Environmental Condition No. 11 of Appendix Q of Decision No. 89¹ (Decision No. 89, slip op. at 401-03) 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.”²

On June 26, 2001, NS provided us with a copy of a Negotiated Agreement between NS and Rockingham County, VA, dated May 30, 2001, and accepted by Rockingham County on June 19, 2001. According to NS, this Negotiated Agreement effectuates the Board’s preference for privately negotiated solutions stated in Decision No. 89, slip op. at 153. NS requests that Environmental Condition No. 11 be amended to reflect the parties’ Negotiated Agreement by deleting the Rockingham County receptors from the receptors identified on the Riverton

¹ In Decision No. 89, served July 23, 1998, 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 by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as Applicants.

² Environmental Condition No. 11 required compliance with this provision within 2 years of the effective date of Decision No. 89, or by August 22, 2000. At the request of NS, by decision served on August 22, 2000, the compliance deadline in Environmental Condition No. 11 was extended 1 year until August 22, 2001, to allow NS to complete implementation of the condition through additional negotiated solutions with communities and an individualized noise mitigation program.

Junction, VA, to Roanoke, VA line segment (N-100),³ and that the Negotiated Agreement between NS and Rockingham County be added to the NS Subsection of Environmental Condition No. 51 of Appendix Q in Decision No. 89, which requires NS 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. See Decision No. 89, slip op. at 420-21. Rockingham County concurs with the request.

In view of the Negotiated Agreement between NS and Rockingham County, VA, 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 the receptors in Rockingham County from the receptors identified on the Riverton Junction-Roanoke, VA line segment because the noise mitigation for that community has been superseded by the NS/Rockingham County 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 NS and Rockingham County, VA, dated May 30, 2001, and accepted by Rockingham County on June 19, 2001, the following is added to the NS Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

30. Rockingham County, Virginia, Negotiated Agreement dated May 30, 2001, and accepted by Rockingham County on June 19, 2001.

3. In addition, Environmental Condition No. 11 of Appendix Q of Decision No. 89 is amended to delete the receptors in Rockingham County from the receptors identified on the Riverton Junction-Roanoke, VA line segment because the noise mitigation for that community has been superseded by the Negotiated Agreement.

³ Environmental Condition No. 11 does not specifically reference Rockingham County. However, two of the noise receptors in Rockingham County are located outside the incorporated limits of the Towns of Elkton, Grottoes, and Lynnwood, near Port Republic. Accordingly, NS negotiated a separate agreement with Rockingham County. Negotiated Agreements between NS and the Towns of Elkton and Grottoes were addressed in Decision Nos. 178 and 185, served on February 14, 2001, and April 20, 2001, respectively.

4. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary