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This decision will be included in the bound volumes of the STB printed reports at a later date.

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. 142

Decided: February 16, 2000

Environmental Condition No. 8(A) of Appendix Q of Decision No. 89<sup>1</sup> (Decision No. 89, slip op. at 393-94), requires Applicants, in order to address potential safety impacts at highway/rail at-grade crossings, to upgrade existing warning devices at 86 public highway/rail at grade crossings as listed in the decision. Environmental Condition No. 8(A) further provides that: "To the extent practicable, Applicants shall prioritize for improvement those highway/rail at grade crossings that have the greatest level of projected train traffic increases. If Applicants execute a Negotiated Agreement with the affected local jurisdiction and the state department of transportation, they may implement alternate safety improvements in the vicinity of these identified highway/rail at-grade crossings that achieve at least an equivalent level of safety enhancement. Applicants shall complete these upgrades or improvements within 2 years of the effective date of the Board's decision, and shall certify to the Board such completion on a quarterly basis during this 2-year period."

On January 19, 2000, CSX submitted to us a Railroad Corridor Safety Agreement (Agreement), dated June 25, 1998, between CSX and the Indiana Department of Transportation (INDOT), regarding highway/rail at-grade crossing improvements in Indiana. According to CSX, this Agreement effectuates the Board's preference for privately negotiated solutions stated in Decision No. 89, slip op. at 153. CSX explains that the submission of the Agreement is intended to supersede Environmental Condition No. 8(A) with respect to the 16 highway/rail at-grade crossings located in the State of Indiana which are listed under "CSX" in Environmental Condition No. 8(A) of Decision No. 89, Appendix Q (at 394-95).

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<sup>1</sup> 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 Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as Applicants.

CSX states that Subparagraph I.A. of the Agreement called for the diagnostic review of each and every grade crossing on the B&O Corridor through Indiana, and the review resulted in the development of the Indiana Corridor Project List (the List), as provided for in Subparagraph I.B. of the Agreement. CSX included the current version of the List, dated May 27, 1999, with its submission to the Board, and noted that the List specifies upgrades for 13 of the 16 Indiana crossings listed under “CSX” in Environmental Condition No. 8(A); the three remaining crossings are addressed in a letter dated December 16, 1999, from Steven J. Hull of INDOT to Randall G. Frederick of CSX, also included in the submission.

With respect to the Agreement, CSX advises that:

(1) as stated in the List dated May 27, 1999, the warning systems at the following 13 crossings shall be upgraded to flashing lights and gates, which meets or exceeds the specifications for these crossings in Environmental Condition No. 8(A). The crossings are: 155372W (Kimmell), 155380N (Cromwell), 155391B (Syracuse), 155394W (Syracuse), 155395D (Syracuse), 155419P (Nappanee), 155465R (Teegarden), 155476D (Walkerton), 155484V (Walkerton), 155496P (Union Mills), 155632M (Willow Creek),<sup>2</sup> 155633U (Gary), and 155645N (Gary);

(2) as stated in the letter dated December 16, 1999, from INDOT to CSX, INDOT has concluded that three crossings listed in Environmental Condition No. 8(A) which are presently equipped with flashing lights and gates shall be upgraded as specified in that letter. The crossings are: 155392H (Syracuse), 155615W (Portage), and 155637W (Gary). Environmental Condition No. 8(A) directs that these three crossings be upgraded to “4-Quadrant Gates, or Alternative Mitigation such as Median Barriers.” After thorough diagnostic field review, INDOT specified “alternative mitigation” for these three crossings;

(3) as the List specifies, the Agreement provides for the upgrade of warning system devices or for closure at 43 crossings in addition to the 16 crossings listed in Environmental Condition No. 8(A). According to INDOT, this action should make a substantial improvement to overall rail crossing safety within this corridor.

In light of the Agreement, CSX and INDOT request that the 16 CSX crossings in Indiana be deleted from Environmental Condition No. 8(A), and that Environmental Condition No. 51 be amended by adding the Railroad Corridor Safety Agreement to the list of Negotiated Agreements entered into by CSX.

The requests will be granted. Accordingly, we will: (1) add the Railroad Corridor Safety Agreement to Environmental Condition No. 51 of Appendix Q of Decision No. 89, and (2) delete

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<sup>2</sup> CSX advises that this crossing was identified as being located in Gary in Environmental Condition No. 8(A).

the 16 CSX crossings in Indiana from Environmental Condition No. 8(A) of Appendix Q of Decision No. 89, because the application of that particular condition to these crossings has been superseded by the parties' Railroad Corridor Safety 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 Railroad Corridor Safety Agreement between CSX and INDOT, executed on June 25, 1998, the following is added to the CSX Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

**24. The Indiana Department of Transportation "Railroad Corridor Safety Agreement," dated June 25, 1998.**

3. In addition, Environmental Condition No. 8(A) of Appendix Q of Decision No. 89 is amended to delete the 16 CSX crossings in Indiana because the application of that condition to these particular crossings has been superseded by the parties' Railroad Corridor Safety Agreement.

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

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

Vernon A. Williams  
Secretary