

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33388 (Sub-No. 100)

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

Decided: August 16, 2006

By a request filed on August 11, 2006, Bridgewater Resources, Inc. and ECDC Environmental, L.L.C. (collectively, petitioners) seek to modify the procedural schedule set by the Board in a decision served on July 31, 2006 (July 31 decision). Specifically, petitioners request a 2-week postponement of the due dates set forth in the Board's July 31 decision, to enable the orderly completion of discovery (including a possible motion to compel). Petitioners state that discussions with counsel for the Conrail control applicants¹ indicate that the Conrail control applicants need some additional time over and above 15 days to prepare responses to interrogatories and to produce requested documents.

Petitioners state that counsel for the Conrail control applicants has authorized petitioners to advise the Board that the Conrail control applicants have no objection to the proposed schedule modifications. Moreover, by facsimile sent August 14, 2006, NS states that it has no objection to the proposed modifications to the procedural schedule.

Petitioners state that August 4, 2006, was the earliest date they could have served discovery requests on the Conrail control applicants, given that petitioners' counsel was out of the country on vacation when the July 31 decision was issued. Responses to the discovery requests are presently due on Monday, August 21, 2006, the same due date for motions to compel discovery responses.² Petitioners state that it would be counterproductive to require motions to compel to be filed on the same date the discovery responses are due.

Petitioners' request for a 2-week postponement of the due dates set forth in the Board's July 31 decision is reasonable and will be granted as set forth below.

¹ The Conrail control applicants are Conrail Inc. and Consolidated Rail Corporation (collectively, Conrail), CSX Corporation and CSX Transportation, Inc. (collectively, CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS).

² Because the 15th day after service of the requests (August 19, 2006) is a Saturday, the responses are actually due on Monday, August 21, 2006.

It is ordered:

1. The request for modification of the procedural schedule is granted.
2. Discovery responses will be due on August 28, 2006, and petitioners have until September 15, 2006, to complete discovery.
3. Upon completion of discovery, petitioners have until October 13, 2006, to supplement the petition based on additional information provided by one or more of the Conrail control applicants in response to petitioners' discovery request, unless the Board provides otherwise in connection with any motions to compel.
4. Any person who wishes to file comments respecting this petition as supplemented must do so by November 2, 2006.
5. Petitioners will have until November 14, 2006, to reply to those comments.
6. Any motions to compel that may be necessary regarding discovery requests must be filed by September 5, 2006. Replies will be due 3 business days after any motions to compel.
7. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary