

31753
EB

SERVICE DATE - APRIL 12, 2001

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. 184

Decided: April 11, 2001

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."²

On March 15, 2001, CSX, at the request of CR, provided us with a copy of a Negotiated Agreement between CR and Huron Township, New Boston, MI, dated January 15, 2001, and accepted by Huron Township on February 15, 2001. According to CSX, this Negotiated Agreement effectuates the Board's preference for privately negotiated solutions stated in Decision No. 89, slip op. at 153. CSX requests that Environmental Condition No. 11 be amended to reflect the parties' Negotiated Agreement by deleting Huron Township from the list

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 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.

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. On August 11, 2000, CSX, on behalf of CSX and CR, requested a 1-year extension of the compliance deadline, until August 22, 2001. By decision served August 22, 2000, the compliance deadline in Environmental Condition No. 11 was extended 1 year until August 22, 2001.

of communities on the Carleton, MI to Ecorse, MI line segment (S-020),³ and that the Negotiated Agreement between CR and Huron Township be added to Environmental Condition No. 51 of Appendix Q of Decision No. 89, under which Applicants must comply with the terms of all Negotiated Agreements developed with states, local communities, and other entities regarding environmental issues associated with this transaction. See Decision No. 89, slip op. at 420-21. Huron Township concurs with the request.

In view of the Negotiated Agreement between CR and Huron Township, we will: (1) add the Negotiated Agreement to Environmental Condition No. 51 of Appendix Q of Decision No. 89 in the Subsection called “Shared,”⁴ and (2) amend Environmental Condition No. 11 of Appendix Q of Decision No. 89 to delete Huron Township because the noise mitigation for that community has been superseded by the CR/Huron Township 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 CR and Huron Township, New Boston, MI, dated January 15, 2001, and accepted by Huron Township on February 15, 2001, the following is added to the “Shared” Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

2. Huron Township, New Boston, Michigan, Negotiated Agreement dated January 15, 2001, and accepted by Huron Township on February 15, 2001.

3. In addition, Environmental Condition No. 11 of Appendix Q of Decision No. 89 is amended to delete the noise mitigation applicable to Huron Township, New Boston, MI, because it has been superseded by the Negotiated Agreement.

³ Environmental Condition No. 11 of Appendix Q of Decision No. 89 (Decision No. 89, slip op. at 403), references “Huron” on this line segment, but the correct reference should have been Huron Township.

⁴ In Decision No. 152, served April 18, 2000, a new Subsection was added in Environmental Condition No. 51 for the category of agreements pertaining to “Shared” lines, which refers to the Shared Assets Areas.

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