

## 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. 121

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Decided April 13, 1999

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The Board revises two environmental conditions (Conditions Nos. 11 and 51) to reflect the terms of a settlement agreement entered into by CSX and the Village of Deshler, OH.

## BY THE BOARD:

In *CSX Corp. et al. — Control — Conrail Inc. et al.*, 3 S.T.B. 196 (1998) (*Decision No. 89*), 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).<sup>1</sup> As pertinent here, Environmental Condition No. 11 of Appendix Q in *Decision No. 89* requires applicants, with the concurrence of the responsible local governments, to mitigate train wayside noise at noise-sensitive receptor locations on certain rail line segments.

On April 1, 1999, CSX provided us with a copy of a Negotiated Agreement between CSX and the Village of Deshler, OH, executed on March 22, 1999. CSX explains that this Negotiated Agreement is intended to supersede the noise mitigation conditions imposed by us in *Decision No. 89*, Appendix Q, Environmental Condition No. 11, with respect to Deshler. Deshler is one of several communities located on the rail line segment between Deshler and Toledo, OH (C-065). CSX requests that Condition No. 11 be amended to reflect the parties' Negotiated Agreement and that the Negotiated Agreement between CSX and

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<sup>1</sup> CSX and NS are referred to as applicants.

Deshler be added to the CSX subsection of Environmental Condition No. 51 of Appendix Q in *Decision No. 89*, which requires CSX to comply with the terms of all listed Negotiated Agreements developed with states, local communities, and other entities regarding environmental issues associated with the Conrail transaction. Deshler concurs with this request.

In view of the Negotiated Agreement between CSX and Deshler, we will: (1) add the Negotiated Agreement to Condition No. 51 of Appendix Q of *Decision No. 89*; and (2) amend Condition No. 11 of Appendix Q of *Decision No. 89* to delete Deshler because the noise mitigation for that community has been superseded by the CSX/Deshler 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. In accordance with the Negotiated Agreement between CSX and Deshler, OH, executed on March 22, 1999, the following is added to the CSX Subsection of Environmental Condition No. 51 of Appendix Q of *Decision No. 89*:

12. Village of Deshler, Ohio, dated March 22, 1999.

2. In addition, Environmental Condition No. 11 of Appendix Q of *Decision No. 89* is amended to delete the noise mitigation applicable to Deshler, OH, which is superseded by the Negotiated Agreement.

3. This decision shall be effective on April 14, 1999.

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