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**Surface Transportation Board**  
1925 K Street, N.W.  
**Washington, D.C. 20423-0001**

# NEWS

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FOR RELEASE:  
Monday, June 17, 2002  
No. 02-22

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**BOARD GRANTS REQUEST BY CSX AND NS TO ELIMINATE CERTAIN  
REPORTING RELATED TO OPERATIONAL MONITORING OF THE  
CONRAIL TRANSACTION**

Surface Transportation Board (Board) Chairman Linda J. Morgan reported today that the Board's Director of the Office of Compliance and Enforcement (OCE) has approved a joint request of the "CSX" and "NS" railroads to eliminate their filing of weekly and monthly operational monitoring reports containing both confidential and non-confidential data related to the implementation of the "Conrail merger" transaction. This action will become effective after the submission of the weekly reports for the week ending June 28, 2002, and the monthly report for the period ending June 30, 2002. The weekly reporting required of the Shared Assets Areas, however, will continue, given the unique importance of those areas to the overall benefits of the transaction.

Chairman Morgan noted that, since the difficulties following the June 1, 1999 implementation of CSX and NS operations over Conrail lines, the systemwide operations of CSX and NS have continued to improve, as have those for the Conrail Shared Assets Operator. This

systemwide improvement was described in a recent report to the Board by OCE, which indicated improvement in critical operational metrics such as average system terminal dwell hours, average system train velocity, and total cars-on-line by as much as 31 percent, 37 percent, and 20 percent, respectively, since June 1, 1999, and corridor on-time performance being maintained at about 80 percent. In its report, OCE also noted that the "Buffalo Hot Lines" instituted by NS and CSX in response to concerns raised by the Board and others about service in the Buffalo area reportedly have not been used by shippers in more than a year, and that, while the carriers have not so suggested, it would appear that these could also be eliminated.

Chairman Morgan also noted that, as pointed out in the joint request by CSX and NS, publicly available operational metrics will continue to be filed weekly as part of Class I railroad reporting through the Association of American Railroads, and will be placed by the railroads on their respective web sites. In addition, the joint request of CSX and NS to eliminate reporting to the Board and OCE's letter granting the request, as well as OCE's report on their operations, are available to the public in the correspondence section of STB Finance Docket No. 33388.

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6-20-01

NEWS



**Surface Transportation Board**  
**1925 K Street, N.W.**  
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# NEWS

FOR RELEASE:  
Wednesday, June 20, 2001  
No. 01-26

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## **SURFACE TRANSPORTATION BOARD ISSUES DECISION ON PRIVATELY NEGOTIATED SETTLEMENT AGREEMENT BETWEEN "CSX" & "FOUR CITY CONSORTIUM"**

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a decision addressing the January 31, 2001 settlement agreement between CSX Transportation, Inc. (CSX), and the Cities of East Chicago, Hammond, Gary, and Whiting, Indiana (the Four City Consortium), on environmental issues arising out of the Conrail transaction.<sup>1</sup> This agreement supplements an October 26, 1998 settlement agreement between these parties, and reflects the Board's preference for private-sector resolution.

In connection with Board-approved transactions, the agency encourages privately negotiated agreements between railroad merger applicants and affected communities to address specific environmental and safety concerns because these agreements can be more broadly

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<sup>1</sup>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, STB Finance Docket No. 33388, Decision No. 89, issued to the public on July 23, 1998.

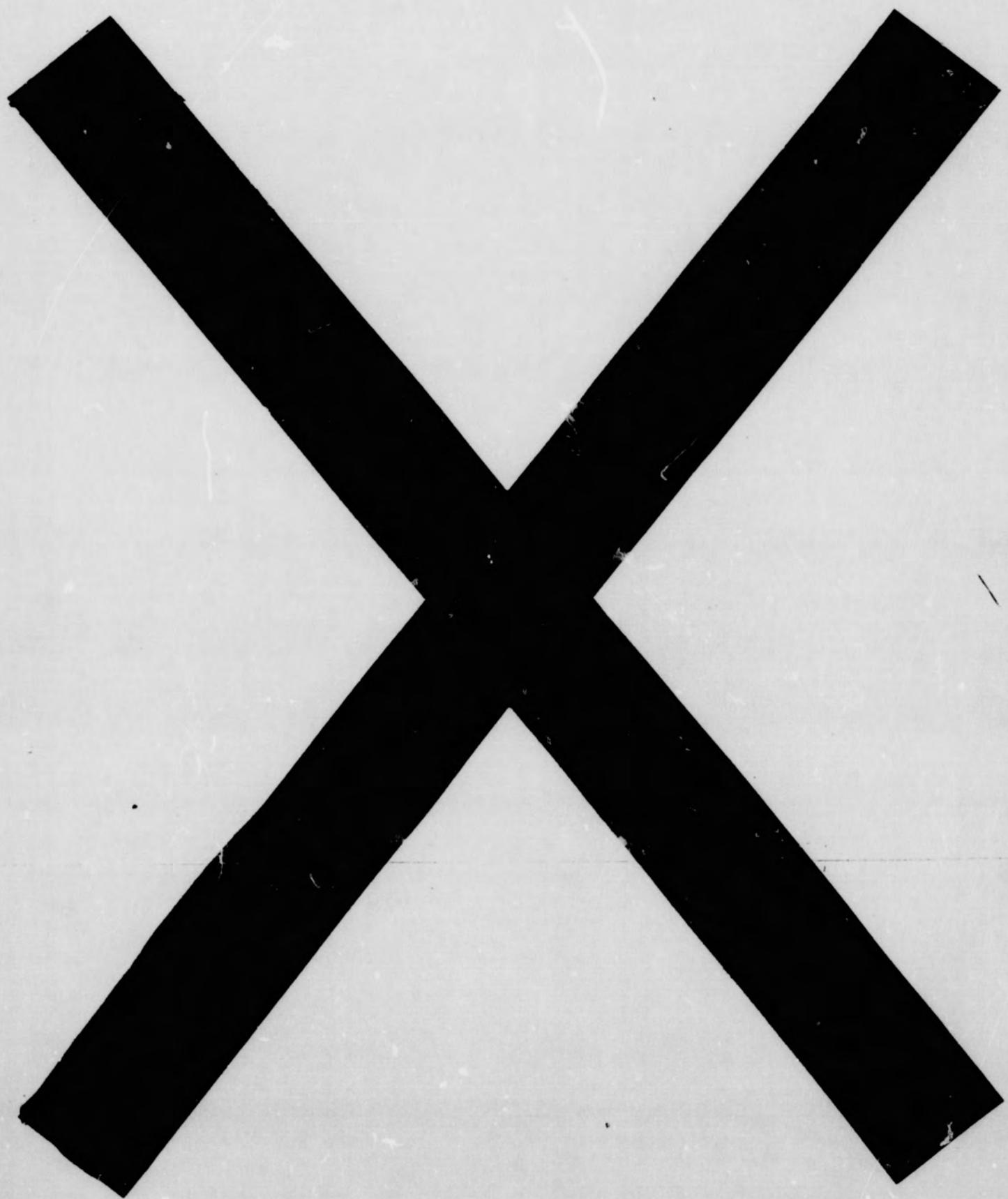
responsive and effective than government-imposed mitigation. And the Board, as here, requires compliance with the terms of such agreements submitted to it by imposing appropriate environmental conditions encompassing those terms, which then replace any local and site-specific mitigation previously imposed by the Board as a condition to approval.

To more effectively address the issue of blocked rail-highway grade crossings, this agreement, among other things, provides for additional modifications to CSX train operations and more cooperation between the railroad and the local communities on grade crossing matters. The agreement also addresses certain other rail-related issues of concern to the communities. The successful negotiations between CSX and the Four City Consortium serve as a prime example of parties reaching a mutually beneficial agreement that recognizes in a balanced way both the economic significance of freight railroad activity and the important community concerns about grade-crossing safety and quality-of-life.

The Board issued its decision today in the case entitled *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*, STB Finance Docket No. 33388, Decision No. 189. A printed copy of the decision is available for a fee by contacting **Dā-To-Dā Office Solutions, Room 405, 1925 K Street, NW, Washington, DC 20006, telephone (202) 293-7776, or by e-mailing**

**Da\_To\_Da@Hotmail.com**. The decision also is available for viewing and downloading via the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov).

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SERVICE DATE - JUNE 20, 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. 189

Decided: June 15, 2001

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.

On May 3, 2001, CSX provided us with a copy of a settlement agreement between CSX and the Cities of East Chicago, Hammond, Gary, and Whiting, IN (the Four City Consortium) executed on January 31, 2001. CSX explains that this settlement agreement supplements the October 26, 1998 settlement agreement between the Four City Consortium and CSX that was imposed as a condition in the Board's Decision No. 114, served February 5, 1999. CSX requests that the Board amend Decision No. 89 (as amended by Decisions No. 96, served October 19, 1998, addressing petitions for reconsideration and/or clarification, and No. 114) by adding this agreement to the list of Negotiated Agreements entered into by CSX set forth in Decision No. 89 at Appendix Q, Environmental Condition No. 51 (slip op. at 420-21). CSX states that the Four City Consortium concurs with the request.

In view of the January 31, 2001 settlement agreement between CSX and the Four City Consortium, we will amend Item 10 of the CSX Subsection of Environmental Condition No. 51 of Appendix Q in Decision No. 89 to include the January 31, 2001 settlement agreement that supplements the October 26, 1998 settlement agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

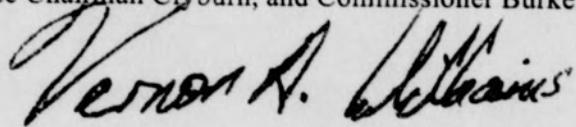
It is ordered:

1. This proceeding is reopened.
2. In accordance with the settlement agreement between CSX and the Four City Consortium, executed on January 31, 2001, Item 10 of the CSX Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89 is amended, to read as follows:

**10. The Cities of East Chicago, Hammond, Gary, and Whiting, IN (also known as the Four City Consortium or the Four Cities), settlement agreements dated October 26, 1998, and January 31, 2001.**

3. This decision shall be effective on the date of service.

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



Vernon A. Williams  
Secretary

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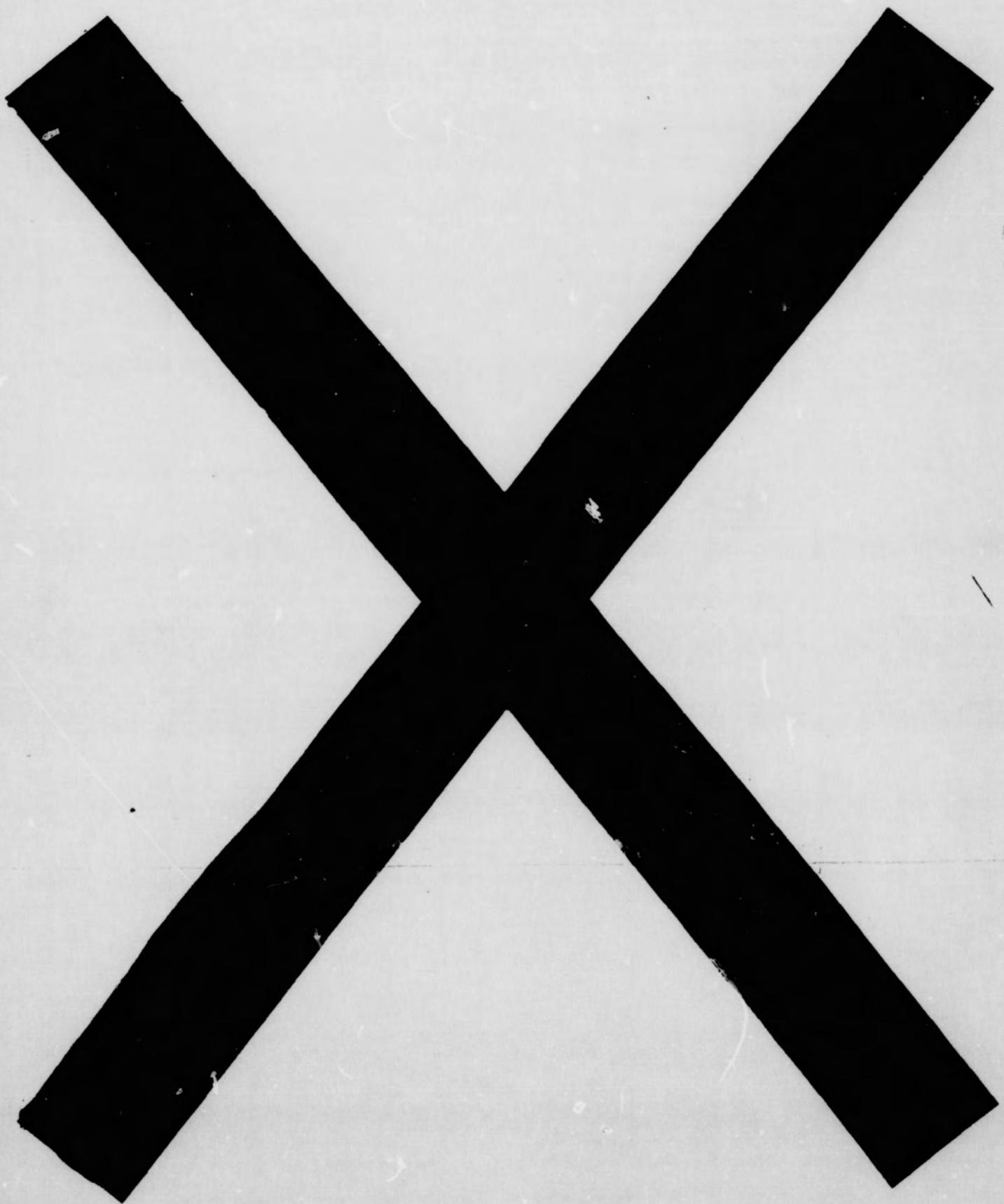
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C-188

31916

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. 188

Decided: June 8, 2001

In Decision No. 186 (served May 21, 2001), the Board directed Norfolk Southern Corporation and Norfolk Southern Railway Company (referred to collectively as NS) to show, by pleading filed by June 11, 2001, why NS should not be ordered to cancel its proposed shut-down of its Hollidaysburg Car Shops.

By pleading (designated NS-82) filed June 6, 2001, NS requests that the deadline for its submission be extended 14 days (to June 25, 2001). In a response filed June 7, 2001, the petitioners in this proceeding (the Unions<sup>1</sup> and the Commonwealth of Pennsylvania) oppose NS' extension request. Among the bases for their opposition are concern about there being sufficient time in advance of NS' proposed September 1, 2001 closure of the Hollidaysburg Car Shops to resolve this matter, and the fact that the Unions' counsel will be on scheduled vacation between June 20 and July 1 will cause a loss of several days for preparation of a reply if NS' extension request is granted. To address these concerns, NS, by pleading filed on June 8, 2001 (designated NS-83), stated that, if its extension request is granted, it would not object to an extension to July 16, 2001, for petitioners' reply, and it would not close the Hollidaysburg Car Shops before October 1, 2001.

Under the circumstances, the NS extension request is reasonable and will be granted. To allow sufficient time for preparation of a response to the NS pleading that will now be due on June 25, 2001, the deadline for submissions by other parties will be extended to July 16, 2001.

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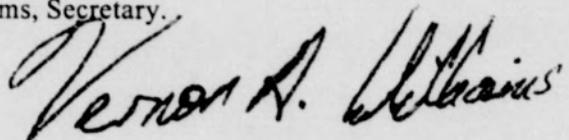
<sup>1</sup> The Transport Workers Union of America, the National Council of Firemen and Oilers/SEIU, the International Association of Machinists and Aerospace Workers, the International Brotherhood of Boilermakers and Blacksmiths, the International Brotherhood of Electrical Workers, the Sheet Metal Workers International Association, and the Transportation-Communications International Union are collectively referred to as the "Unions."

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The due date for the NS pleading referred to in Decision No. 186, ordering paragraph number 1, is extended to June 25, 2001. The due date for any replies to the NS pleading is extended to July 16, 2001.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.



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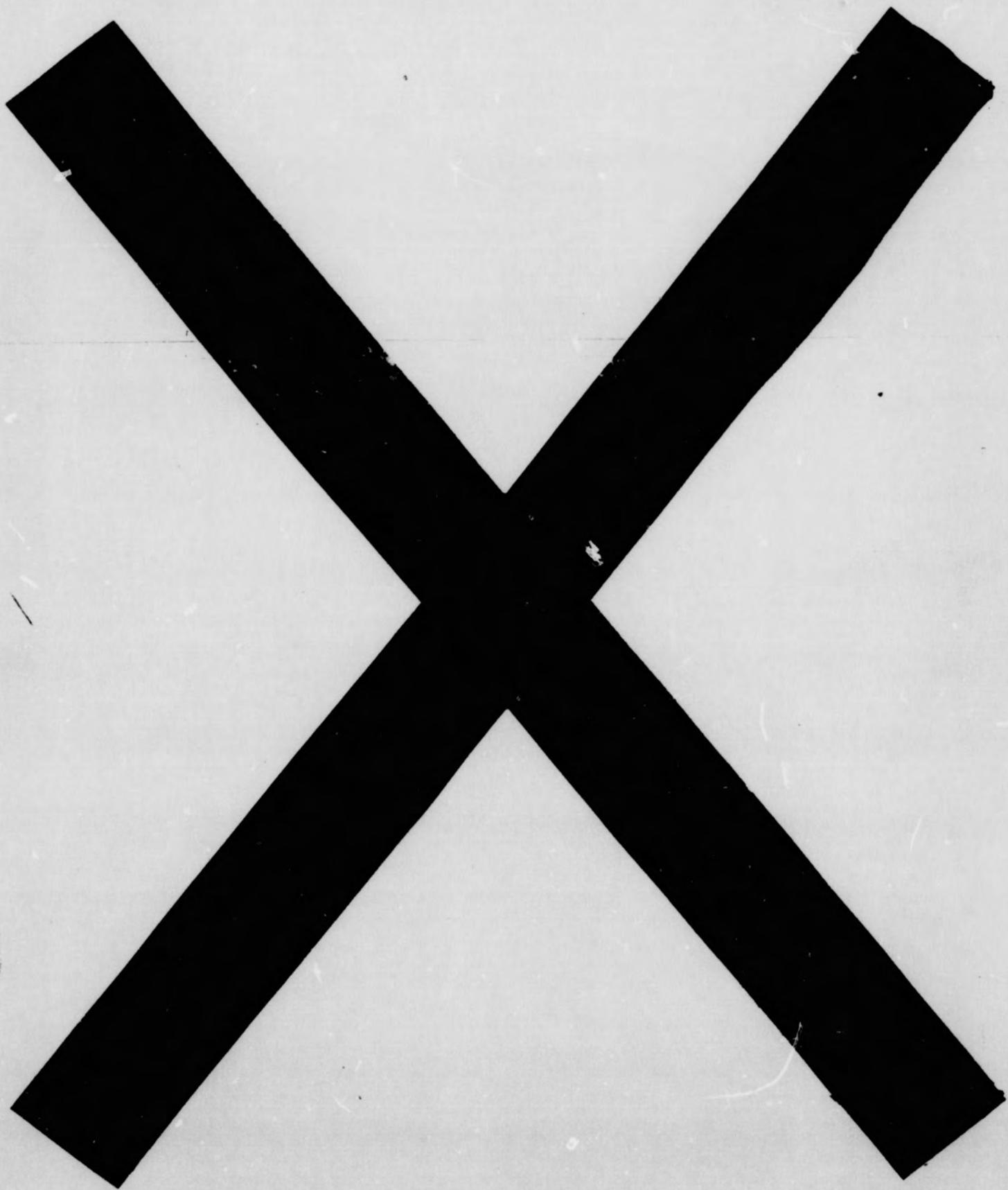
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SERVICE DATE - JUNE 7, 2001

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. 187

Decided: June 4, 2001

Environmental Condition No. 11 of Appendix Q of Decision No. 89<sup>1</sup> (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."<sup>2</sup>

On April 30, 2001, CSX provided us with a copy of a Negotiated Agreement between CSX and the City of Weston, OH, dated March 5, 2001, and accepted by the City of Weston on April 16, 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

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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 by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as Applicants.

<sup>2</sup> 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 CSX, 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 CSX to complete implementation of the condition through additional negotiated solutions with communities and an individualized noise mitigation program.

Agreement by deleting the City of Weston from the list of communities on the Deshler, OH, to Toledo, OH line segment (C-065), and that the Negotiated Agreement between CSX and the City of Weston 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 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. The City of Weston concurs with the request.

In view of the Negotiated Agreement between CSX and the City of Weston, OH, 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 City of Weston because the noise mitigation for that community has been superseded by the CSX/City of Weston 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 CSX and the City of Weston, OH, dated March 5, 2001, and accepted by the City of Weston on April 16, 2001, the following is added to the CSX Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

**44. City of Weston, Ohio, Negotiated Agreement dated March 5, 2001, and accepted by the City of Weston on April 16, 2001.**

3. In addition, Environmental Condition No. 11 of Appendix Q of Decision No. 89 is amended to delete the noise mitigation applicable to the City of Weston, OH, because it has been superseded by the Negotiated Agreement.

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

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

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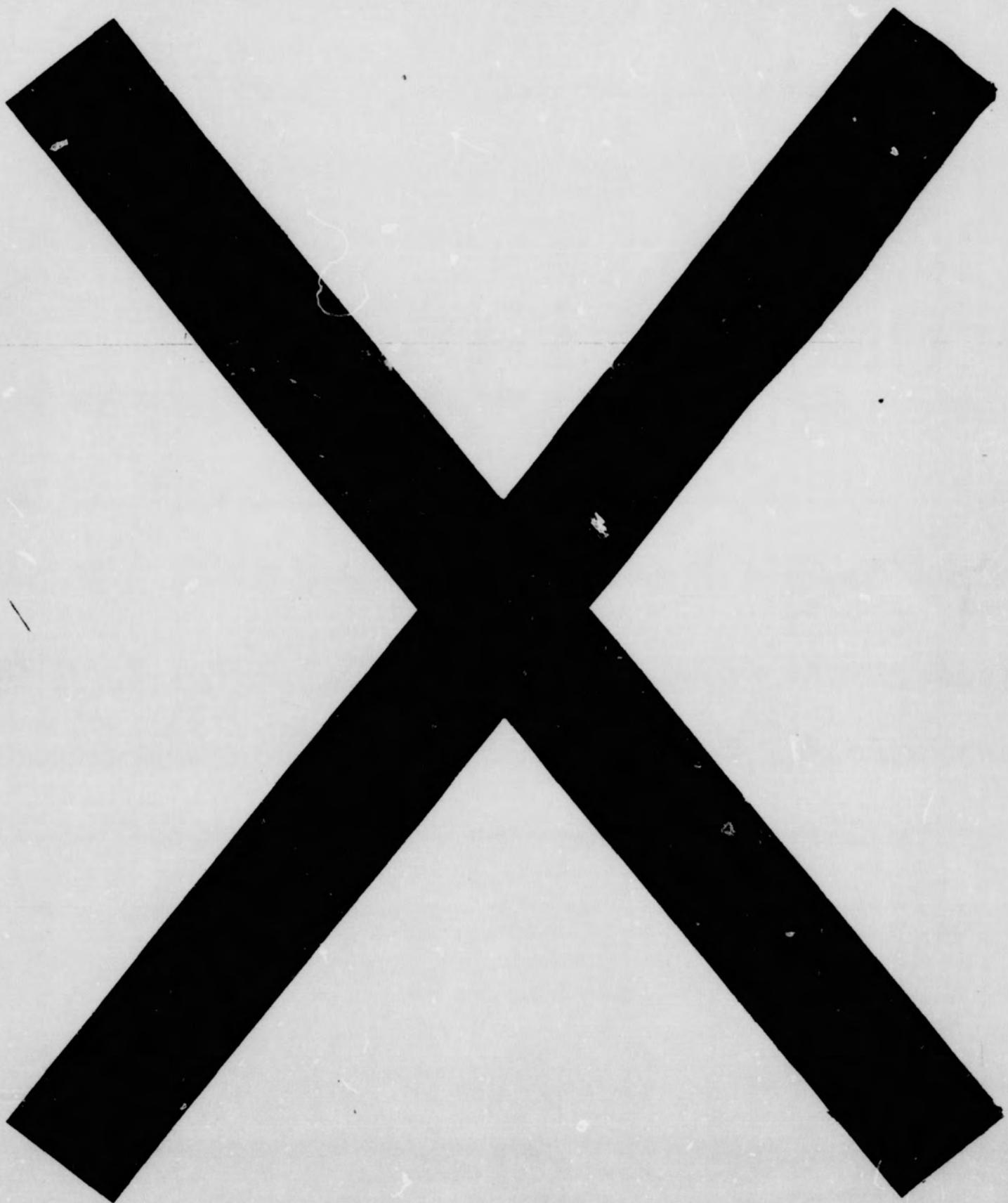
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SERVICE DATE - LATE RELEASE MAY 21, 2001

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. 186

Decided: May 21, 2001

We are directing Norfolk Southern Corporation and Norfolk Southern Railway Company (referred to collectively as NS) to show why the Board should not order NS to cancel a proposed shut-down of its Hollidaysburg Car Shops and to keep them open at least at present capacity for a significant period of time beyond September 1, 2001, in view of representations made in the Conrail proceeding, or made elsewhere, upon which involved parties clearly relied in formulating positions of support for the Conrail transaction.<sup>1</sup>

PLEADINGS

(1) *TWU, NCFO, IAM, IBB, IBEW, SMWIA, and the Commonwealth of Pennsylvania.*  
By petition (referred to as the joint petition) filed March 28, 2001, the Transport Workers Union of America (TWU), the National Council of Firemen and Oilers/SEIU (NCFO), the International Association of Machinists and Aerospace Workers (IAM), the International Brotherhood of Boilermakers and Blacksmiths (IBB), the International Brotherhood of Electrical Workers (IBEW), the Sheet Metal Workers International Association (SMWIA), and the Commonwealth of Pennsylvania (TWU, NCFO, IAM, IBB, IBEW, SMWIA, and the Commonwealth are referred to collectively as petitioners) contend: that, in connection with the Conrail transaction,<sup>2</sup> NS

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<sup>1</sup> NS operates, in the general vicinity of Altoona, PA, two sets of facilities that are often referred to as if they constituted a single consolidated facility: the Hollidaysburg Car Shops, which appear to be located in or near Hollidaysburg; and the Juniata Locomotive Shop, which appears to be located in or near Altoona. This decision concerns only the Hollidaysburg Car Shops.

<sup>2</sup> The "Conrail transaction" involved: (1) the acquisition of control of Conrail Inc. and  
(continued...)

committed itself to operate, and to invest \$4 million in, the Hollidaysburg Car Shops;<sup>3</sup> that, although NS never made the \$4 million investment, its initial implementation of the Conrail transaction with respect to the Hollidaysburg Car Shops was otherwise consistent with the commitments NS had made; that, however, NS recently announced (on February 21, 2001) that, because of “[c]hanging economic conditions and excess capacity throughout the freight car repair industry,” the Hollidaysburg Car Shops will be closed on or about September 1, 2001, and all freight car repairs and associated work now performed at the Hollidaysburg Car Shops will be transferred to locations in Ohio, Illinois, North Carolina, and Georgia;<sup>4</sup> and that the closing of the Hollidaysburg Car Shops will mean the elimination of the 275 jobs now performed there by blacksmiths, carmen, electricians, laborers, machinists, and sheet metal workers.<sup>5</sup> Petitioners further contend that the Hollidaysburg Car Shops: have been operated at a profit; have enough work to keep busy through the end of 2001; and, at least until recently, had commitments for several projects that would have provided enough work to keep busy well into 2002. Petitioners ask that we direct NS to continue to operate, and to invest \$4 million in, the Hollidaysburg Car Shops.

(2) *TCU*. In a “response” (in essence a filing in support of the joint petition) filed April 13, 2001, the Transportation-Communications International Union (TCU) advises that,

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<sup>2</sup>(...continued)

Consolidated Rail Corporation (collectively, Conrail) by (a) CSX Corporation and CSX Transportation, Inc. (collectively, CSX) and (b) NS; and (2) the division of the assets of Conrail by and between CSX and NS. The acquisition of control of Conrail by CSX and NS took place on August 22, 1998. The division of the assets of Conrail by and between CSX and NS took place on June 1, 1999 (referred to as Day One, the Closing Date, or the Split Date).

<sup>3</sup> The Hollidaysburg Car Shops (because the “shops” are generally referred to in the plural, we shall refer to them in the plural), which were built by the Pennsylvania Railroad in 1954-1955, “are among the largest railroad car facilities in the world. They consist of over three-quarters of a million square feet of enclosed shop and car production space sitting on over 360 acres of land. The building housing the Shops is over one-half mile long and at points it is nearly 330 feet wide. The building contains four main tracks over 3,000 feet long, 12 overhead cranes, and three paint and blast facilities. Up to 3,500 rail cars can be stored at the Shops at any one time. There are over 65 miles of rail tracks in the main building and elsewhere throughout the property.” NS-79, Ex. 1 at 1-2.

<sup>4</sup> See the joint petition, Ex. 20 and Ex. 21.

<sup>5</sup> See the joint petition, Ex. 21 (which notes, in essence, that some, but not all, of these jobs will be transferred to the locations in Ohio, Illinois, North Carolina, and Georgia).

because the closing of the Hollidaysburg Car Shops will mean the elimination of 27 clerical jobs performed by employees represented by TCU,<sup>6</sup> it supports and joins in the joint petition.

(3) *Norfolk Southern*. In its NS-79 reply filed April 17, 2001, NS contends: that the statements it made in 1997-1998 vis-à-vis the Hollidaysburg Car Shops reflected NS's good faith intention and expectation at the time to continue using the shops when it commenced operation of the portion of Conrail allocated to it; that, however, it never committed to operate the Hollidaysburg Car Shops forever, or for any particular period of time, or without regard to economic conditions; that, since the Split Date, it has operated the Hollidaysburg Car Shops in a manner consistent with its stated intentions before and during the Conrail proceeding; that, however, despite substantial marketing efforts, neither the continued operation of the Hollidaysburg Car Shops nor the originally contemplated \$4 million in additional investment now makes economic sense;<sup>7</sup> that, despite NS's best efforts to "insource" work from other companies, the Hollidaysburg Car Shops have operated, since the Split Date, at about one-third capacity, and are now operating at a substantial loss;<sup>8</sup> that, although NS's insourcing efforts brought in new business, it was not nearly enough to justify continued operation of the Hollidaysburg Car Shops; that the business conditions that exist today simply do not justify the continued operation of all of NS's repair shops; and that the decision to close the Hollidaysburg Car Shops is one of many difficult decisions that current economic conditions and serious financial challenges have required NS to make in recent months. NS, which asks that the joint petition be denied, insists that adoption by the Board of the "principle" that underlies the joint petition would seriously impair NS's ability to make the hard decisions that could be necessary to its very survival.<sup>9</sup>

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<sup>6</sup> TCU claims that some, but not all, of these jobs will be transferred to other locations. NS asserts, however, that it has offered positions to all TCU-represented employees who are willing to relocate. NS-79 at 10-11 n.7.

<sup>7</sup> NS acknowledges that it has not made the anticipated \$4 million expenditure for "material handling improvements" at the Hollidaysburg Car Shops. NS-79 at 8 n.6. NS insists, however, that, even if the anticipated \$4 million expenditure had been made, it would not have helped NS to attract any more "insourcing" work than NS was otherwise able to attract, and it would not have had any material effect on the ultimate decision to close the Hollidaysburg Car Shops. NS-79, Ex. 1 at 7.

<sup>8</sup> NS adds that, at the present time, the Hollidaysburg Car Shops are running at less than one-third of capacity, with only one shift working 5 days per week. NS-79, Ex. 1 at 3.

<sup>9</sup> Petitioners and TCU filed a response to the NS reply on May 9, 2001, with additional evidence and information and with a petition for leave to file the response. They state that they  
(continued...)

(4) *U.S. Senator Arlen Specter.* In a "response" (in essence a filing in support of the joint petition) filed April 25, 2001, U.S. Senator Arlen Specter contends that we should grant the relief sought in the joint petition. Senator Specter insists that NS's current plans to close the Hollidaysburg Car Shops are "directly contrary" to assurances that NS's Chairman and Chief Executive Officer (CEO) gave to Senator Specter in testimony before a subcommittee of the United States Senate.<sup>10</sup>

#### DISCUSSION AND CONCLUSIONS

In a decision served July 23, 1998,<sup>11</sup> we approved the Conrail transaction subject to various conditions, one of which (the "representations condition") requires CSX and NS to adhere to all of the representations they made during the course of the Conrail proceeding. See Conrail Dec. No. 89, slip op. at 176, ordering paragraph 19: "Applicants [i.e., CSX and NS] must adhere to all of the representations they made during the course of this proceeding, whether or not such representations are specifically referenced in this decision." See also Conrail Dec. No. 89, slip op. at 17 n.26: "We think it appropriate to note, and to emphasize, that CSX and NS will be required to adhere to all of the representations made on the record during the course of this proceeding, whether or not such representations are specifically referenced in this decision."<sup>12</sup>

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<sup>9</sup>(...continued)

do not object to NS's submission of a response to the additional evidence within a time period similar to the time that elapsed between NS's April 17 reply and the May 9 response to that reply. The May 9 filings are not being considered in this decision, but they will be accepted into the record and NS will have the opportunity to respond to them.

<sup>10</sup> U.S. Congressman Jack Quinn also submitted a letter dated April 30, 2001, urging the Board to give prompt attention to the urgent matter raised by petitioners regarding the proposed closing of the Hollidaysburg Car Shops.

<sup>11</sup> 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, STB Finance Docket No. 33388, Decision No. 89 (STB served July 23, 1998) (Conrail Dec. No. 89).

<sup>12</sup> See also Conrail Dec. No. 89, slip op. at 105: "As we have noted elsewhere in this decision, we are requiring applicants to adhere to any representations made to parties in this case."

The Conrail application that was filed in June 1997 addressed in detail NS's plans with respect to the Conrail facilities in the Altoona/Hollidaysburg area. NS indicated: that the transaction offered substantial opportunities to improve efficiency and fully utilize Conrail's "excellent" facilities in the Altoona/Hollidaysburg area,<sup>13</sup> which (NS acknowledged) were known for their capabilities and the craftsmanship of their employees<sup>14</sup> and which had "unique" repair/rebuild capabilities;<sup>15</sup> that "insourcing" opportunities, to include work for CSX for at least 24 months after the Split Date,<sup>16</sup> would be actively pursued in order to fully utilize shop capacity, "particularly in the Altoona/Hollidaysburg area";<sup>17</sup> that extensive capital improvement expenditures would be made, in particular \$4,000,000 at Hollidaysburg for car shop work;<sup>18</sup> that the heavy repair shop at Hollidaysburg would continue to be utilized;<sup>19</sup> and that success in marking the services of the Altoona/Hollidaysburg and other shops would mean "expanded work opportunities for the employees of the expanded [Norfolk Southern]."<sup>20</sup>

Throughout the course of the Conrail proceeding, NS indicated on numerous occasions that it was committed to operating the Hollidaysburg Car Shops. See, e.g., the joint petition, Ex. 10 at 1 (in this NS press release, which was apparently issued at or about the time the Conrail application was filed in June 1997, NS indicated that it "is committed to operate Conrail's Hollidaysburg car shop and Juniata locomotive shop, and will promote employment there"). See also the joint petition, Ex. 11 at 2 (in this NS "fact sheet," which also appears to have been issued at or about the time the Conrail application was filed, NS indicated that it intended to make an "[e]stimated \$4 million in capital improvements at [the] Hollidaysburg shop"). The representations made by NS vis-à-vis the Hollidaysburg Car Shops were made not only in

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<sup>13</sup> CSX/NS-20 at 62

<sup>14</sup> CSX/NS-20 at 321.

<sup>15</sup> CSX/NS-20 at 323-24.

<sup>16</sup> CSX/NS-25 at 35-36 (Transaction Agreement § 2.4(b)).

<sup>17</sup> CSX/NS-20 at 62-63; CSX/NS-20 at 321.

<sup>18</sup> CSX/NS-20 at 287-88.

<sup>19</sup> CSX/NS-20 at 326.

<sup>20</sup> CSX/NS-20 at 373.

administrative filings and in press releases but also, on at least one occasion, at a hearing of a subcommittee of the United States Senate.<sup>21</sup>

NS's representations vis-à-vis the Hollidaysburg Car Shops were intended to be relied upon, and were relied upon, in connection with the positions taken by various parties in the Conrail proceeding. In a statement filed in the Conrail proceeding on October 21, 1997, Thomas J. Ridge, the Governor of the Commonwealth of Pennsylvania, advised that the Commonwealth was supporting the Conrail application because, among other things, of the commitments that had been made regarding investments and other benefits to the Commonwealth. Prominent among these, Governor Ridge noted, were "important expansions of Conrail's Juniata locomotive repair shop and Hollidaysburg car repair shop near Altoona."<sup>22</sup> Governor Ridge noted, in particular, that NS had made commitments to "invest in [the] Hollidaysburg car repair shop (\$4 million capital improvement)."<sup>23</sup> And, when U.S. Representative Bud Shuster (the then Chairman of the Transportation and Infrastructure Committee of the United States House of Representatives) testified at the oral argument held by the Board on June 3, 1998, and expressed his "strong support" for the Conrail application, he indicated that he was "very pleased" that the NS operating plan included "a continued and an expanded role" for the "highly productive" Altoona and Hollidaysburg shops, which he described as being among "the crown jewels" of the Conrail system.<sup>24</sup>

We think that, against this background, there is reason to explore more specifically whether NS would be in violation of the representations condition that the Board imposed in Conrail Dec. No. 89 if it were to close the Hollidaysburg Car Shops at this point in time.

NS claims, in essence, that it never committed to keeping the Hollidaysburg Car Shops open in perpetuity, and that changed economic conditions and excess freight car repair capacity justify the closing of the shops now. We agree that NS never committed to keeping the shops open in perpetuity, but it is now only 2 years since the date (the Split Date) on which Conrail's assets were divided between CSX and NS. We also agree that economic conditions have changed since 1997-1998. The economy was more robust then; it is less robust now; this is widely known and acknowledged. But we cannot accept, without further explanation, the implicit argument that NS's commitments vis-à-vis the Hollidaysburg Car Shops were intended to remain in effect only as long as the economy remained as it was at that time. Regarding NS's

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<sup>21</sup> See the joint petition, Ex. 6.

<sup>22</sup> PA-8.

<sup>23</sup> PA-8 at Attachment 1.

<sup>24</sup> Transcript for June 3, 1998, at 25-27 (electronic version).

claim that it now has excess freight car repair capacity, if NS does indeed have excess freight car repair capacity today, this is an excess that could have been considered in 1997-1998 when commitments were made.

NS argues, in essence, that all "commitments" made by merger applicants are merely estimates to which applicants can never be held:

"[T]he Board has recognized in its decisions prior to and in the Conrail proceeding and oversight that statements by applicants in control applications on such matters as the amount and mix of traffic they expect to move, how they anticipate operating the consolidated system, what facilities they expect to use and what specific infrastructure investments they expect to make are necessarily imprecise projections based on economic conditions and traffic flows known at the time the statements are made. The Board never treats such projections as inflexible commitments from which applicants may not deviate when they begin to operate the consolidated system. To do so would be a certain recipe for business failure, because market and economic conditions constantly evolve, and businesses that do not, or are not permitted to, react and adapt do not long survive."

NS-79 at 4. We agree as a general matter with much of what NS says, but we think that, in the present circumstances, the customary flexibility that we accord the projections of merger applicants must give way to the representations by NS to keep the Hollidaysburg Car Shops open and operating — statements upon which people clearly relied in formulating positions of support for the Conrail transaction.

NS contends, in essence, that there are only two choices with respect to the Hollidaysburg Car Shops: either to keep the shops open in perpetuity at full capacity; or to shut them down completely within the next few months. It appears that there is at least a third choice: to require NS to keep the shops open at least at present capacity for a significant period of time beyond September 1, 2001, which given conflicting positions on the record as to whether they can operate profitably will give NS and affected parties a more extended opportunity to ascertain if the shops can be operated profitably under any scenario. Given NS's past commitments, it is not at all clear why closure of the Hollidaysburg shops should be at the forefront of its plans to cut costs or increase profitability. Under the circumstances, we will direct NS to show why we should not order it to cancel its proposed closure of the Hollidaysburg Car Shops and keep the shops open at least at present capacity for a significant period of time beyond September 1, 2001.

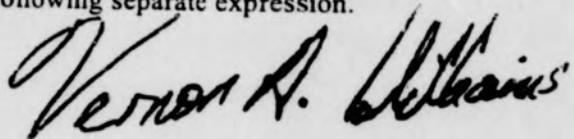
The Board takes very seriously statements and comments made by parties in all matters that come before us. We will continue to be vigilant in doing what we can to ensure that representations made by parties to our proceedings are actually honored.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. NS must show, by pleading filed by June 11, 2001, why the Board should not order NS to cancel its proposed shut-down of its Hollidaysburg Car Shops.<sup>25</sup>
2. Interested parties may file replies to any NS pleading by June 25, 2001.
3. This decision is effective on the date of service.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes. Commissioner Burkes dissented with the following separate expression.



Vernon A. Williams  
Secretary

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Commissioner Burkes, Dissenting :

Here, NS wants to deviate from certain representations included in the Operating Plan it submitted to the Board four years ago in the Conrail proceeding. Specifically, NS recently announced that it would close the expensive and redundant Hollidaysburg, Pennsylvania railroad car repair shops, which it inherited from Conrail, and change its operations. NS maintains the closure and changes would improve its operations and save it approximately \$7 million per year. The petitioners have asked the Board to require NS to keep the shops open at the present capacity and to invest \$4 million in the facility.

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<sup>25</sup> The order that we contemplate would require NS not to shut down the Hollidaysburg Car Shops, and would further require NS to keep these shops open at least at present capacity for a significant period of time. The order that we contemplate would not require NS to make, at this time, the \$4 million investment previously referenced in this decision, as we are focused on the shops operating at present capacity.

First, I note that most of the representations reportedly made by NS concerning the Hollidaysburg car shops and referenced by the petitioners were made "outside" the Conrail proceeding that was before the Board. There were certain references to the utilization of the Hollidaysburg car shops included in NS's Operating Plan. However, in response to Interrogatory No. 180 from the Unions, NS indicated that "After NS acquires its portion of Conrail, business conditions, revenue and traffic growth, efficiency and similar factors will be evaluated to determine future needs for car and locomotive shops."

Moreover, the Operating Plan is a "*plan*" that was primarily based on 1995 traffic data. NS did not have access to specific information concerning the economics associated with the Hollidaysburg car shops when it prepared the Operating Plan. It should also be noted that the only reference to Hollidaysburg in our decision that approved the transaction indicates that NS will be responsible for employee separation costs at Hollidaysburg. Therefore, the Board clearly anticipated that changes could take place at Hollidaysburg after the merger.

In addition, this is not the first time that NS has had to deviate from its Operating Plan. For example, in response to a congestion problem in the Buffalo, New York area, NS determined that it had to deviate from its Operating Plan. NS changed its operations in the area and invested \$12 million in its Bison Yard. Those changes to the Operating Plan and that investment, which were encouraged by the Board, substantially improved railroad operations in the Buffalo area. In retrospect, based on the petitioners' argument, the Board should have refused to let NS make the changes and the \$12 million investment in Buffalo because it represented a change in the representations it made to the Board in its Operating Plan or, perhaps, the Board should have only allowed NS to spend only \$8 million in Buffalo and require it to spend \$4 million in Hollidaysburg.

In its approval of the Conrail transaction, the Board ordered that the "Applicants must adhere to all of the representations they made during the course of this proceeding." This "must adhere to representations" language is a "catch-all" phrase that also appeared in the Board's UP/SP merger decision. The instant decision states that the Board "will continue to be vigilant in doing what we can to ensure that representations made by parties to our proceedings are actually honored." However, this decision does not represent a "continuation" of our policy concerning these representations – it represents a new standard that should not be retroactively applied to NS or to any other railroad. In fact, the decision adopts a new term called the "representations condition." (see page 4). Although the Board has stated that Applicants "must adhere to representations," it has never, to my knowledge, strictly enforced the so-called "representations condition."

Most previous cases involving representations made by railroads in merger cases have involved representations of "investments." In the past, the Board has not strictly enforced these investment representations. For example, in the UP/SP general oversight proceeding, the Board did not require UP to make certain investments in the Donner Pass area because it recognized "there is no requirement that a merger applicant actually make investments in the exact places or at the precise dollar amount that it predicts it will spend in its application."

This decision states that we probably will not require NS to invest \$4 million "at this time" (see Footnote 25), so it may appear that our policy is consistent. However, we are contemplating an order that would require NS to keep the shops "operating at present capacity." At "present capacity," NS is losing \$7 million per year, which equates to a loss of \$1,689 per car repaired at the facility. I don't see the distinction. The Board probably will not require NS to "invest" \$4 million, since it has never required railroads to make specific investments, but the Board may require NS to continue to "lose" \$7 million per year.. Moreover, if NS is required to continue losing \$7 million per year, where will it make up the shortfall? Will NS close different facilities, which may be more efficient than the Hollidaysburg facility, or will their customers have to make up the difference?

The regrettable aspect of NS's decision is that some 300 employees will be transferred to other facilities and could have their lives disrupted. The decision could also have an impact on the economy in the area. However, there are employment concerns associated with most decisions made by railroads. For example, if NS is forced to keep its Hollidaysburg car shop open, it may have to close different, and perhaps more efficient, facilities, which could disrupt the lives of 300 other employees. The Board should not be "micro-managing" or "micro-regulating" NS management decisions. I feel sure that NS carefully evaluated the situation before it reached its decision.

In regard to the employees, it should be noted that, by a joint letter with NS dated April 30, 2001, the Brotherhood of Railway Carmen and the Transport Workers Union agreed to request arbitration from the National Mediation Board. I agree with the statement in that letter that says the "appropriate forum for resolution is arbitration" and I am concerned that the Board's decision could interfere with that process.

This strict enforcement of the "representations condition" would be a new standard that should not be applied retroactively to NS or to any other railroad. It would be wrong to raise the bar now and require NS to strictly adhere to representations it made prior to or during the proceeding. If the Board intends this to be a new standard, then it should be addressed in our new railroad merger rules which will be issued shortly by the Board in Ex Parte No. 582 (Sub-No.1), Major Rail Consolidation Procedures, and, if adopted, applied in future railroad merger proceedings.

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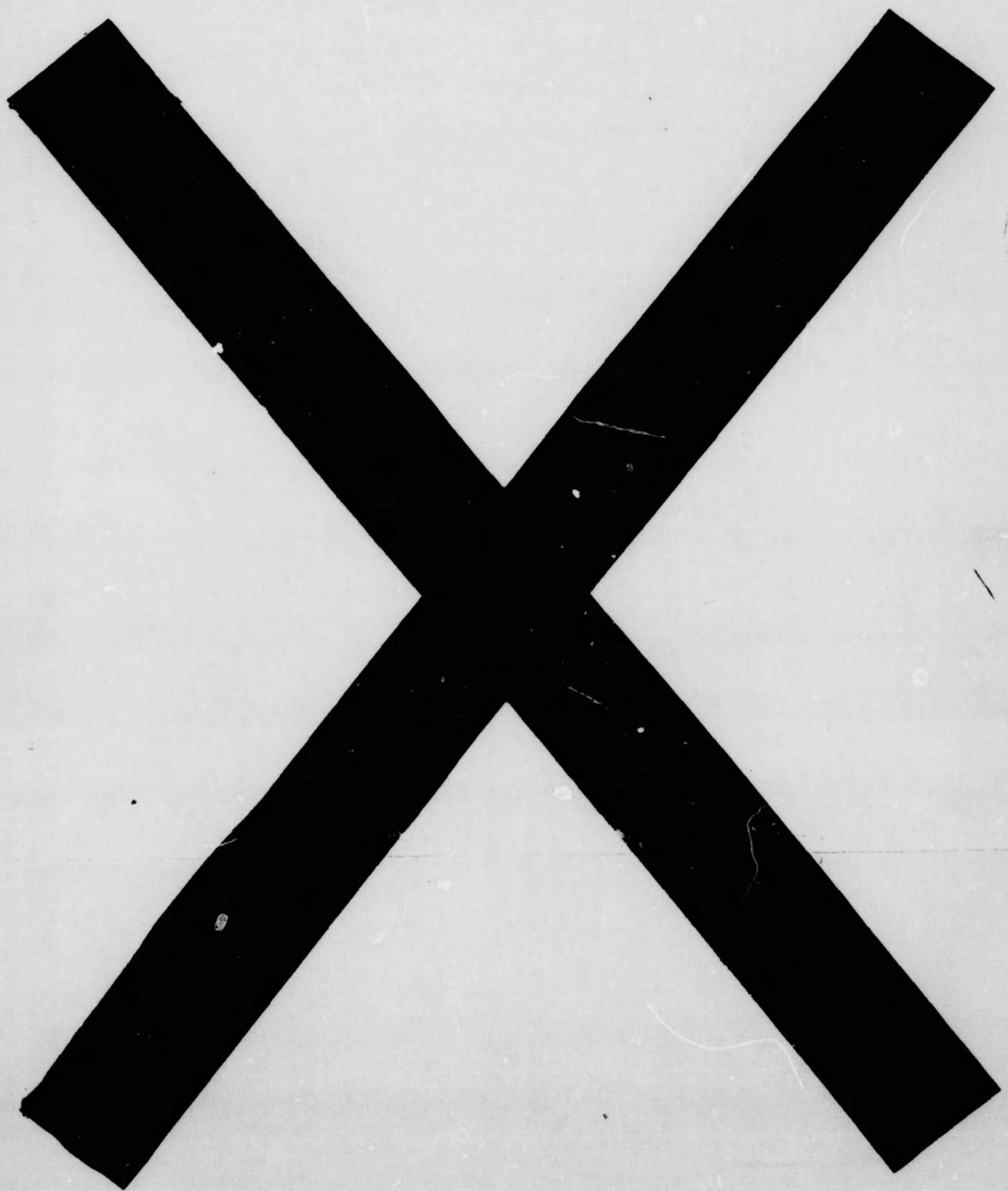
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SERVICE DATE - MAY 15, 2003

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. 210

Decided: May 14, 2003

In CSX Corp. et al.-Control-Conrail Inc. et al., 3 S.T.B. 196 (1998) (Merger Dec. No. 89),<sup>1</sup> Environmental Condition No. 11 of Appendix Q<sup>2</sup> 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 the specific requirements of this condition "shall not apply to those communities that have executed Negotiated Agreements with Applicants that satisfy the communities' environmental concerns." Environmental Condition No. 11 required compliance with this provision within 2 years of the effective date of Merger Dec. No. 89, or by August 22, 2000.<sup>3</sup>

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<sup>1</sup> In Merger Dec. No. 89, the Board 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 their 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 collectively as Applicants.

<sup>2</sup> 3 S.T.B. at 588-90.

<sup>3</sup> The Board granted, at the request of NS, several extensions of the compliance date. See Decision No. 167, served on August 22, 2000 (granting NS' request for an extension of the compliance date to August 22, 2001); Decision No. 196, served on August 21, 2002 (granting NS' request for an extension of the compliance date to May 22, 2002, for the only two remaining rail line segments, N-100 and N-111); and Decision No. 206, served on February 22, 2002 (granting NS' request for an extension of the compliance date to May 22, 2003, for rail line segments N-100 and N-111).

By letter received at the Board on April 10, 2003, NS has requested a further 4-month extension to and including September 22, 2003, to complete compliance with Environmental Condition No. 11 for rail line segments N-100 (Riverton Junction to Roanoke, VA) and N-111 (Fola Mine to Deepwater, WV). NS states that it has worked diligently to implement the requirements of Environmental Condition No. 11 for rail line segments N-100 and N-111.<sup>4</sup> Specifically, NS advises that it has conducted a field survey along rail line segment N-111 in West Virginia to verify the locations of the structures eligible for noise mitigation under Environmental Condition No. 11 outside the jurisdictional limits of the two communities that entered into negotiated agreements with NS. NS states that, at the request of the responsible West Virginia local government, it is in the process of contacting individual property owners of the structures eligible for noise mitigation under Environmental Condition No. 11 to discuss a settlement offer by NS.

According to NS, it is now in the process of undertaking a field survey along rail line segment N-100 in Virginia to verify the locations of the structures outside the jurisdictional limits of the communities that have entered into negotiated agreements with NS. After completion of that field survey, NS advises that it will contact the owners of the eligible structures along N-100 with whom it has not already settled to provide settlement offers to those remaining property owners. NS states that, when the settlement discussions have concluded, if any owner of an eligible structure along rail line segments N-100 or N-111 decides not to accept NS' settlement offer, the owner may instead elect to have sound insulation installed inside the structure by NS under a noise mitigation protocol developed by NS and CSX and approved by the Board's Section of Environmental Analysis for compliance with Environmental Condition No. 11.

NS advises that, because it has taken longer than anticipated to verify the eligible receptor locations along rail line segments N-100 and N-111 and to complete settlement discussions with the property owners, NS is requesting an additional 4-month extension of the current May 22, 2003 implementation date established by the Board to complete the Environmental Condition No. 11 noise mitigation requirements for these rail line segments.

The request for a 4-month extension to September 22, 2003, is reasonable and will be granted. However, the Board expects the parties to complete their negotiations and for NS to conclude the

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<sup>4</sup> NS notes that a total of eight local governments in Virginia and two local governments in West Virginia have entered into negotiated agreements with NS, and that the Board has issued decisions accepting those negotiated agreements in satisfaction of Environmental Condition No. 11. In addition, NS has entered into individual settlement agreements with 40 eligible noise-sensitive receptor locations outside the jurisdictional boundaries of those eight local communities.

Environmental Condition No. 11 compliance process within the 4-month period so that no further extensions will be necessary.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The compliance deadline for NS in Environmental Condition No. 11 of Appendix Q of Merger Dec. No. 89 is extended 4 months until September 22, 2003, with respect to rail line segments N-100 (Riverton Junction to Roanoke, VA) and N-111 (Fola Mine to Deepwater, WV).
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary

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Records: 328

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SERVICE DATE - APRIL 20, 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. 185

Decided: April 19, 2001

Environmental Condition No. 11 of Appendix Q of Decision No. 89<sup>1</sup> (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."<sup>2</sup>

On March 20, 2001, NS provided us with a copy of a Negotiated Agreement between NS and the Town of Grottoes, VA, dated January 23, 2001, and accepted by the Town of Grottoes on March 11, 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

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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 by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as Applicants.

<sup>2</sup> 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.

Agreement by deleting the Town of Grottoes receptors from those identified on the Riverton Junction, VA, to Roanoke, VA line segment (N-100), and that the Negotiated Agreement between NS and the Town of Grottoes 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. The Town of Grottoes concurs with the request.

In view of the Negotiated Agreement between NS and the Town of Grottoes, 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 the Town of Grottoes 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/Town of Grottoes 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 the Town of Grottoes, VA, dated January 23, 2001, and accepted by the Town of Grottoes on March 11, 2001, the following is added to the NS Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

**26. Town of Grottoes, Virginia, Negotiated Agreement dated January 23, 2001, and accepted by the Town of Grottoes on March 11, 2001.**

3. In addition, Environmental Condition No. 11 of Appendix Q of Decision No. 89 is amended to delete the receptors in the Town of Grottoes 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.

**STB Finance Docket No. 33388**

**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**

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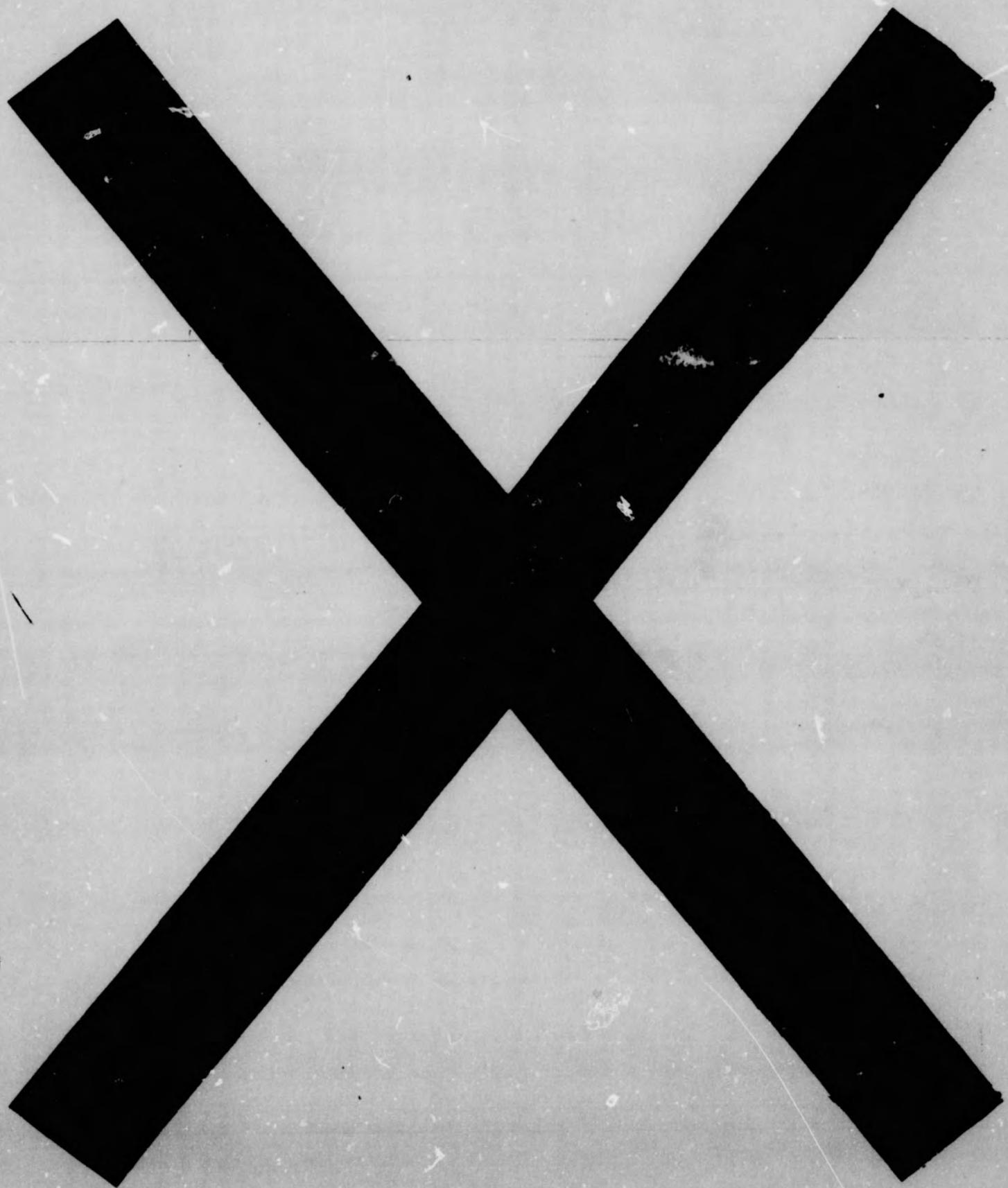
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STB

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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.<sup>1</sup> 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."<sup>2</sup>

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

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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 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.

<sup>2</sup> 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),<sup>3</sup> 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,"<sup>4</sup> 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.

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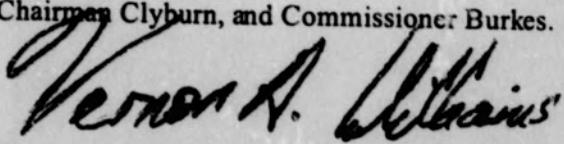
<sup>3</sup> Environmental Condition No. 11 of Appendix Q of Decision No. 89 (Decision No. 89, slip op. at 403), references "Huron" on this line segment, but the correct reference should have been Huron Township.

<sup>4</sup> 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.

STB Finance Docket No. 33388

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

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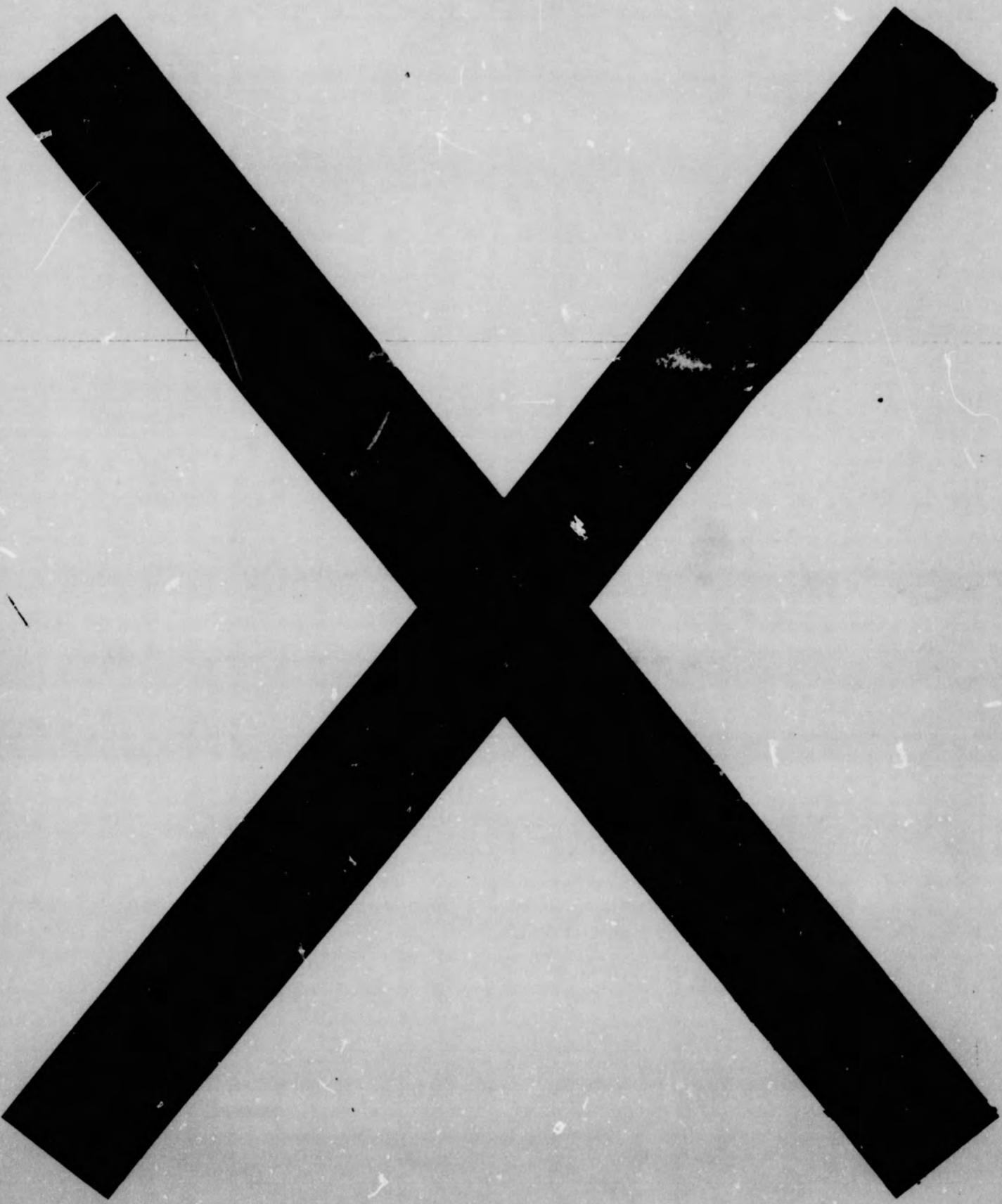
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SERVICE DATE - MARCH 30, 2001

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. 183**

**Decided: March 28, 2001**

Environmental Condition No. 11 of Appendix Q of Decision No. 89<sup>1</sup> (Decision No. 89, slip op. at 401-02), 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."<sup>2</sup>

On February 20, 2001, NS provided us with a copy of a Negotiated Agreement between NS and the Town of Luray, VA, dated January 23, 2001, and accepted by the Town of Luray on February 12, 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

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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 by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as Applicants.

<sup>2</sup> 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.

Agreement by deleting the Town of Luray receptors from those identified on the Riverton Junction, VA, to Roanoke, VA line segment (N-100), and that the Negotiated Agreement between NS and the Town of Luray 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. The Town of Luray concurs with the request.

In view of the Negotiated Agreement between NS and the Town of Luray, 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 Town of Luray receptors from those identified on the Riverton Junction-Roanoke, VA line segment because the noise mitigation for that community has been superseded by the NS/Luray Negotiated Agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

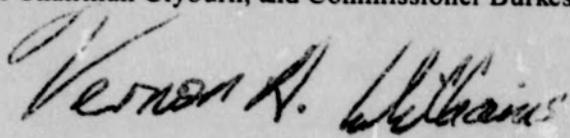
It is ordered:

1. This proceeding is reopened.
2. In accordance with the Negotiated Agreement between NS and the Town of Luray, VA, dated January 23, 2001, and accepted by the Town of Luray on February 12, 2001, the following is added to the NS Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

**25. Town of Luray, Virginia, Negotiated Agreement dated January 23, 2001, and accepted by the Town of Luray on February 12, 2001.**
3. In addition, Environmental Condition No. 11 of Appendix Q of Decision No. 89 is amended to delete the receptors that meet wayside noise mitigation criteria applicable to the Town of Luray from those identified on the Riverton Junction-Roanoke, VA line segment because such receptors/noise mitigation have been superseded by the Negotiated Agreement.

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

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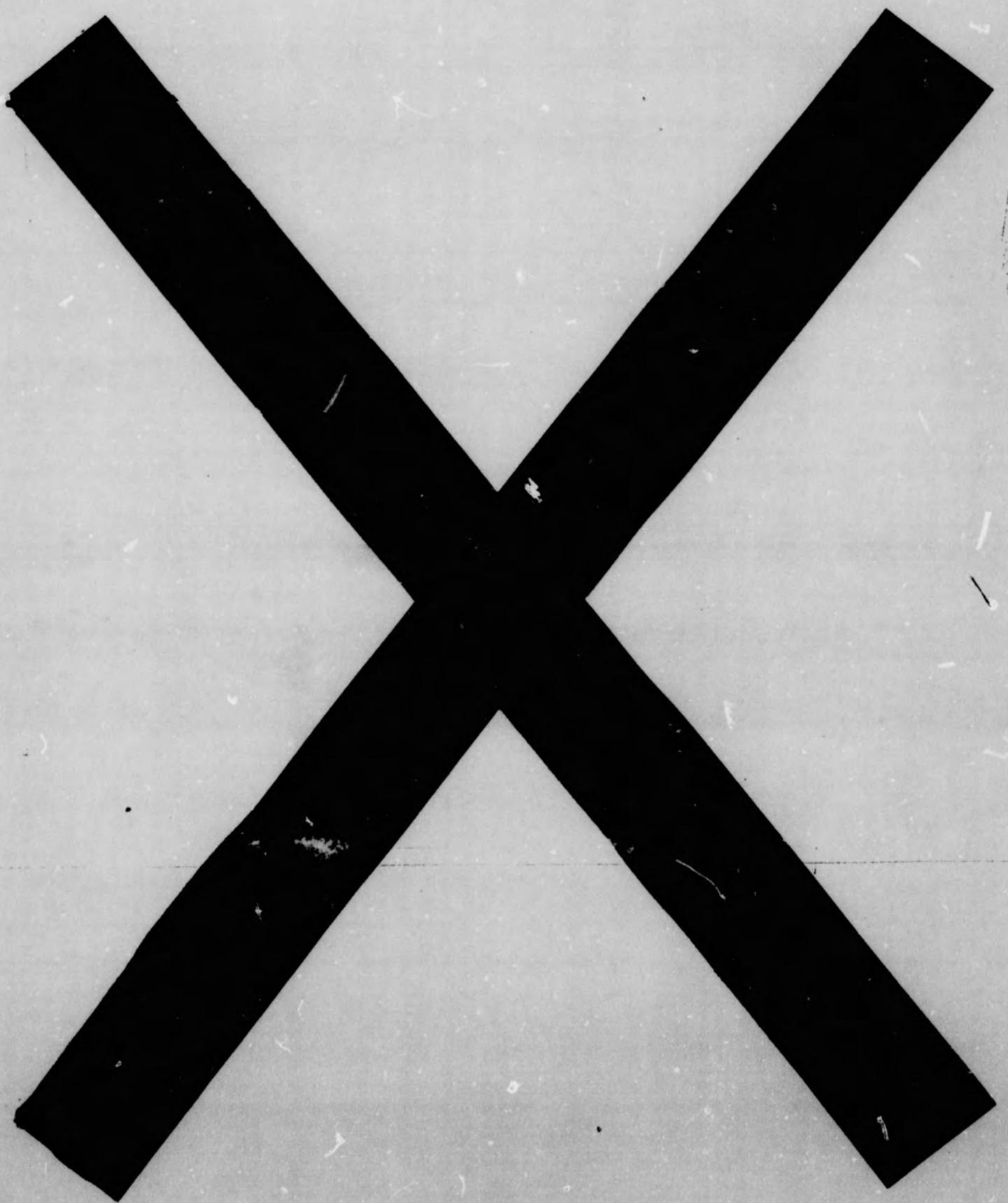
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Records: 336



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SERVICE DATE - MARCH 15, 2002

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. 208

Decided: March 13, 2002

In CSX Corp. et al.—Control—Conrail Inc. et al., 3 S.T.B. 196 (1998) (Merger Dec. No. 89),<sup>1</sup> Environmental Condition No. 11 of Appendix Q<sup>2</sup> 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 this condition shall not apply to those communities that have executed Negotiated Agreements with Applicants that satisfy the communities' environmental concerns.<sup>3</sup>

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

<sup>2</sup> 3 S.T.B. at 588-90.

<sup>3</sup> Environmental Condition No. 11 required compliance with this provision within 2 years of the effective date of Merger Dec. No. 89, or by August 22, 2000. The Board granted, at the request of NS, a number of extensions of the compliance date. See Decision No. 167, served on August 22, 2000 (granting NS' request for extension of the compliance date to August 22, 2001); Decision No. 196, served on August 21, 2001 (granting NS' request for a further extension of the compliance date to February 22, 2002, for rail line segments N-079 (Oak Harbor to Bellevue, OH) and N-085 (Bellevue to Sandusky Dock, OH), and to May 22, 2002, for rail line segments N-100 (Riverton Junction to Roanoke, VA) and N-111 (Fola Mine to Deepwater, WV); and Decision No. 206, served on February 22, 2002 (granting NS' most recent request for a further 1-year extension of the compliance date to February 22, 2003, for rail line segments N-

(continued...)

On January 4, 2002, NS provided us with a copy of a Negotiated Agreement between NS and Page County, VA, dated October 23, 2001, and accepted by Page County on November 20, 2001. According to NS, this Negotiated Agreement effectuates the Board's preference for privately negotiated solutions stated in Merger Dec. No. 89.<sup>4</sup> NS requests that Environmental Condition No. 11 be amended to reflect the parties' Negotiated Agreement by deleting the Page County receptors located outside the incorporated limits of the Towns of Stanley and Luray from the receptors identified on the Riverton Junction to Roanoke, VA line segment (N-100),<sup>5</sup> and that the Negotiated Agreement between NS and Page 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 Merger Dec. No. 89.<sup>6</sup> Page County concurs with the request.

In view of the Negotiated Agreement between NS and Page County, we will: (1) add the Negotiated Agreement to Environmental Condition No. 51 of Appendix Q of Merger Dec. No. 89; and (2) amend Environmental Condition No. 11 of Appendix Q of Merger Dec. No. 89 to delete the receptors in Page County located outside the incorporated limits of the Towns of Stanley and Luray from the receptors identified on the Riverton Junction to Roanoke, VA line segment because the noise mitigation for that community has been superseded by the NS/Page County Negotiated Agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

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<sup>3</sup>(...continued)  
079 and N-085, and to May 22, 2003, for rail line segments N-100 and N-111).

<sup>4</sup> 3 S.T.B. at 357.

<sup>5</sup> Environmental Condition No. 11 does not specifically reference Page County, but the Towns of Kimball, Ingham, and Shenandoah, which are listed in Environmental Condition No. 11, are in Page County. The Towns of Stanley and Luray are also in Page County but NS executed separate Negotiated Agreements with both. See Decision No. 177, served on December 5, 2000 (Town of Stanley), and Decision No. 183, served on March 30, 2001 (Town of Luray). Therefore, NS advises that its settlement with Page County applies to receptors identified by the Board as eligible for noise mitigation under Environmental Condition No. 11 in Page County (including the Towns of Kimball, Ingham, and Shenandoah) outside the incorporated limits of the Town of Stanley and the Town of Luray.

<sup>6</sup> 3 S.T.B. at 607-08.

It is ordered:

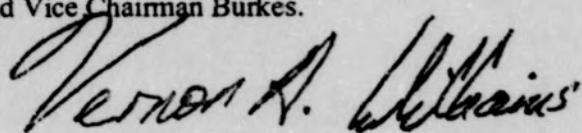
1. This proceeding is reopened.
2. In accordance with the Negotiated Agreement between NS and Page County, VA, dated October 23, 2001, and accepted by Page County on November 20, 2001, the following is added to the NS Subsection of Environmental Condition No. 51 of Appendix Q of Merger Dec. No. 89:

**33. Page County, Virginia, Negotiated Agreement dated October 23, 2001, and accepted by Page County on November 20, 2001.**

3. In addition, Environmental Condition No. 11 of Appendix Q of Merger Dec. No. 89 is amended to delete the receptors in Page County located outside the incorporated limits of the Town of Stanley and the Town of Luray, from the receptors identified on the Riverton Junction to Roanoke, VA line segment, because the noise mitigation for that community has been superseded by the NS/Page County Negotiated Agreement.

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

By the Board, Chairman Morgan and Vice Chairman Burkes.



Vernon A. Williams  
Secretary

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— CONTROL AND OPERATING LEASES/AGREEMENTS —  
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Decision No. 207

Decided: March 13, 2002

In CSX Corp. et al.—Control—Conrail Inc. et al., 3 S.T.B. 196 (1998) (Merger Dec. No. 89),<sup>1</sup> Environmental Condition No. 11 of Appendix Q<sup>2</sup> 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 this condition shall not apply to those communities that have executed Negotiated Agreements with Applicants that satisfy the communities' environmental concerns.<sup>3</sup>

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<sup>1</sup> In Merger Dec. No. 89, we approved, subject to certain conditions, including environmental mitigation conditions, the acquisition of control of Conrail<sup>1</sup> 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.

<sup>2</sup> 3 S.T.B. at 588-90.

<sup>3</sup> Environmental Condition No. 11 required compliance with this provision within 2 years of the effective date of Merger Dec. No. 89, or by August 22, 2000. The Board granted, at the request of NS, a number of extensions of the compliance date. See Decision No. 167, served on August 22, 2000 (granting NS' request for extension of the compliance date to August 22, 2001); Decision No. 196, served on August 21, 2001 (granting NS' request for a further extension of the compliance date to February 22, 2002, for rail line segments N-079 (Oak Harbor to Bellevue, OH) and N-085 (Bellevue to Sandusky Dock, OH), and to May 22, 2002, for rail line segments N-100 (Riverton Junction to Roanoke, VA) and N-111 (Fola Mine to Deepwater, WV); and Decision No. 206, served on February 22, 2002 (granting NS' most recent request for a further 1-year extension of the compliance date to February 22, 2003, for rail line

(continued...)

On January 4, 2002, NS provided us with a copy of a Negotiated Agreement between NS and Warren County, VA, dated October 23, 2001, and accepted by Warren County on November 7, 2001. According to NS, this Negotiated Agreement effectuates the Board's preference for privately negotiated solutions stated in Merger Dec. No. 89.<sup>4</sup> NS requests that Environmental Condition No. 11 be amended to reflect the parties' Negotiated Agreement by deleting the Warren County receptors located outside the Town of Front Royal from the receptors identified on the Riverton Junction to Roanoke, VA line segment (N-100),<sup>5</sup> and that the Negotiated Agreement between NS and Warren 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 Merger Dec. No. 89.<sup>6</sup> Warren County concurs with the request.

In view of the Negotiated Agreement between NS and Warren County, we will: (1) add the Negotiated Agreement to Environmental Condition No. 51 of Appendix Q of Merger Dec. No. 89; and (2) amend Environmental Condition No. 11 of Appendix Q of Merger Dec. No. 89 to delete the receptors in Warren County located outside the incorporated limits of the Town of Front Royal from the receptors identified on the Riverton Junction to Roanoke, VA line segment because the noise mitigation for that community has been superseded by the NS/Warren County Negotiated Agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

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<sup>3</sup>(...continued)  
segments N-079 and N-085, and to May 22, 2003, for rail line segments N-100 and N-111).

<sup>4</sup> 3 S.T.B. at 357.

<sup>5</sup> Environmental Condition No. 11 does not specifically reference Warren County, but the Towns of Bentonville and Front Royal, which are listed in Environmental Condition No. 11, are in Warren County. NS advised that it sought an agreement with Front Royal but the local government declined and asked NS to contact the one receptor in Front Royal directly. The Warren County Negotiated Agreement covers all receptors identified by the Board as eligible for noise mitigation under Environmental Condition No. 11 in Warren County (including the receptor in the Town of Bentonville), with the exception of the one receptor within the incorporated limits of the Town of Front Royal.

<sup>6</sup> 3 S.T.B. at 607-08.

It is ordered:

1. This proceeding is reopened.

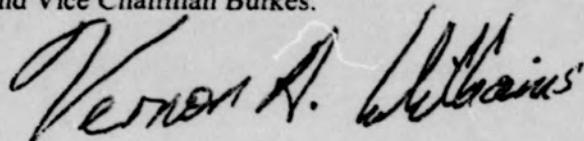
2. In accordance with the Negotiated Agreement between NS and Warren County, VA, dated October 23, 2001, and accepted by Warren County on November 7, 2001, the following is added to the NS Subsection of Environmental Condition No. 51 of Appendix Q of Merger Dec. No. 89:

**32. Warren County, Virginia, Negotiated Agreement dated October 23, 2001, and accepted by Warren County on November 7, 2001.**

3. In addition, Environmental Condition No. 11 of Appendix Q of Merger Dec. No. 89 is amended to delete the receptors in Warren County (including the receptor in the Town of Bentonville), with the exception of the one receptor within the incorporated limits of the Town of Front Royal, from the receptors identified on the Riverton Junction to Roanoke, VA line segment, because the noise mitigation for that community has been superseded by the NS/Warren County Negotiated Agreement.

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

By the Board, Chairman Morgan and Vice Chairman Burkes.



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Secretary

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SERVICE DATE - MARCH 2, 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. 182

Decided: February 28, 2001

Environmental Condition No. 11 of Appendix Q of Decision No. 89<sup>1</sup> (Decision No. 89, slip op. at 401-02), 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."

On January 19, 2001, CSX provided us with a copy of a Negotiated Agreement between CSX and the City of McKeesport, PA (McKeesport), dated December 19, 2000, and accepted by McKeesport on January 3, 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

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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 by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as Applicants.

<sup>2</sup> 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 CSX, 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 CSX to complete implementation of the condition through additional negotiated solutions with communities and an individualized noise mitigation program.

Agreement by deleting McKeesport from the list of communities on the Sinns, PA, to Brownsville, PA line segment (C-085), and that the Negotiated Agreement between CSX and McKeesport 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 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. McKeesport concurs with the request.

In view of the Negotiated Agreement between CSX and McKeesport, PA, 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 McKeesport because the noise mitigation for that community has been superseded by the CSX/McKeesport Negotiated Agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

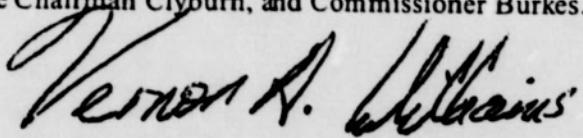
1. This proceeding is reopened.
2. In accordance with the Negotiated Agreement between CSX and McKeesport, PA, dated December 19, 2000, and accepted by McKeesport on January 3, 2001, the following is added to the CSX Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

**43. City of McKeesport, Pennsylvania, Negotiated Agreement dated December 19, 2000, and accepted by the City of McKeesport on January 3, 2001.**
3. In addition, Environmental Condition No. 11 of Appendix Q of Decision No. 89 is amended to delete the noise mitigation applicable to McKeesport, PA, because it has been superseded by the Negotiated Agreement.

STB Finance Docket No. 33388

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

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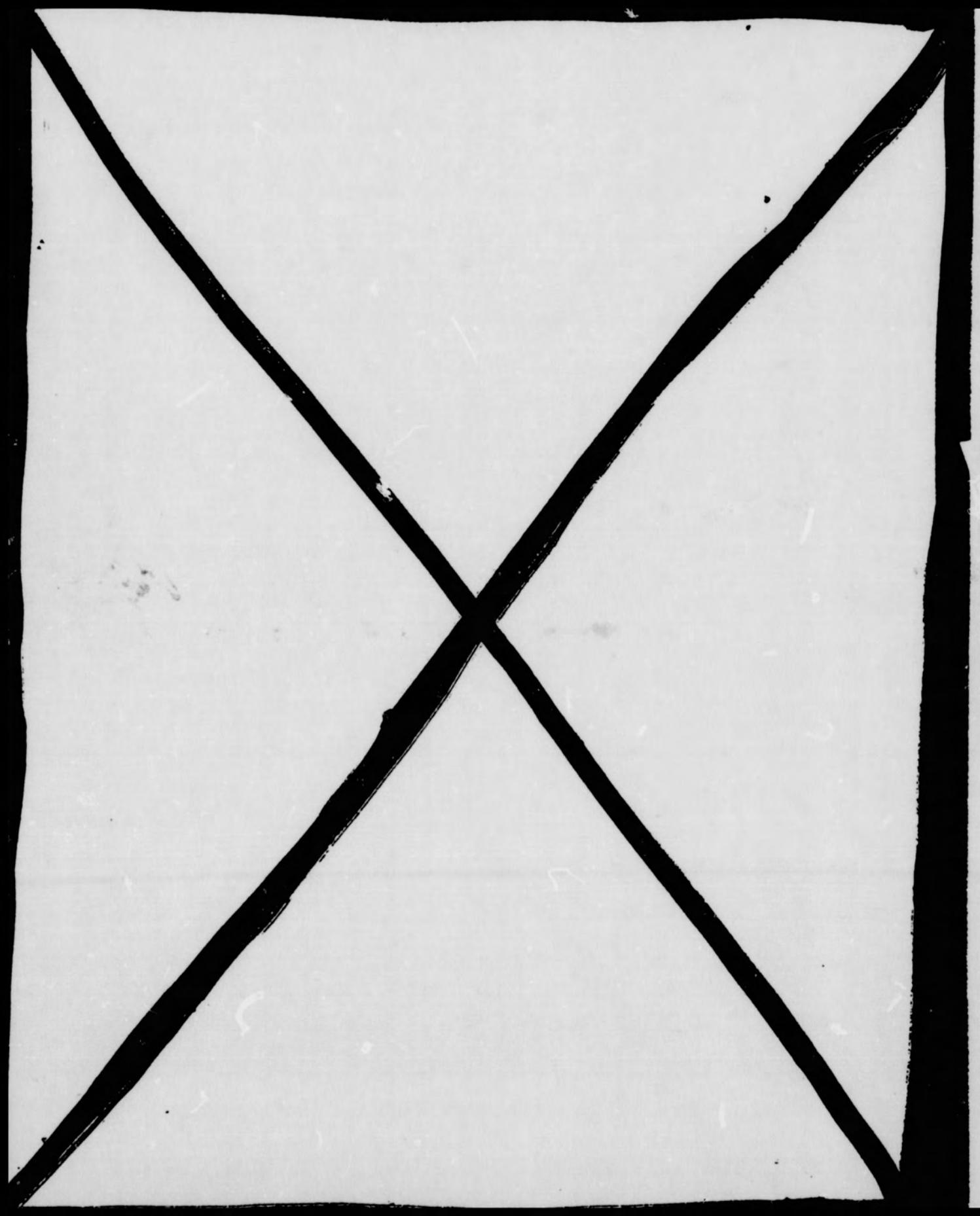
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STB

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SERVICE DATE - MARCH 2, 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. 181

Decided: February 28, 2001

Environmental Condition No. 11 of Appendix Q of Decision No. 89<sup>1</sup> (Decision No. 89, slip op. at 401-02), 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."<sup>2</sup>

On January 12, 2001, CSX provided us with a copy of a Negotiated Agreement between CSX and the Village of Milton Center, OH (Milton Center), dated November 14, 2000, and accepted by Milton Center on December 20, 2000. 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

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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 by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX and NS are referred to as Applicants.

<sup>2</sup> 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 CSX, 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 CSX to complete implementation of the condition through additional negotiated solutions with communities and an individualized noise mitigation program.

amended to reflect the parties' Negotiated Agreement by deleting Milton Center from the list of communities on the Deshler, OH, to Toledo, OH line segment (C-065), and that the Negotiated Agreement between CSX and Milton Center 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 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. Milton Center concurs with the request.

In view of the Negotiated Agreement between CSX and Milton Center, OH, 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 Milton Center because the noise mitigation for that community has been superseded by the CSX/Milton Center Negotiated Agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

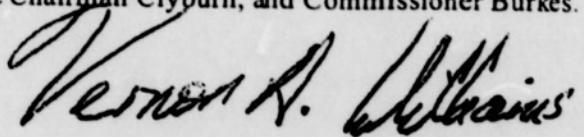
1. This proceeding is reopened.
2. In accordance with the Negotiated Agreement between CSX and Milton Center, OH, dated November 14, 2000, and accepted by Milton Center on December 20, 2000, the following is added to the CSX Subsection of Environmental Condition No. 51 of Appendix Q of Decision No. 89:

**42. Village of Milton Center, Ohio, Negotiated Agreement dated November 14, 2000, and accepted by the Village of Milton Center on December 20, 2000.**
3. In addition, Environmental Condition No. 11 of Appendix Q of Decision No. 89 is amended to delete the noise mitigation applicable to Milton Center, OH, because it has been superseded by the Negotiated Agreement.

STB Finance Docket No. 33388

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

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



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