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SERVICE DATE - NOVEMBER 25, 1998

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. 105

STB Finance Docket No. 33388 (Sub-No. 75)

NEW ENGLAND CENTRAL RAILROAD, INC.--TRackage RIGHTS--
CSX TRANSPORTATION, INC.

Decided: November 24, 1998

In Decision No. 89, in addition to approving the primary application,¹ the Board granted the responsive application by New England Central Railroad, Inc. (NECR) in STB Finance Docket No. 33388 (Sub-No. 75) insofar as it seeks trackage rights from CSX between Palmer and West Springfield, MA. To implement this condition, the Board required CSX and NECR to negotiate the details of the trackage rights arrangement and, if negotiations were not successful, to submit separate proposals by September 21, 1998.² In subsequent decisions, the Board extended the due date for completion of these negotiations, most recently to November 20, 1998. See Decision Nos. 94 and 97, served, respectively, on October 1 and 26, 1998. By correspondence filed November 20, 1998, CSX states that the parties continue to believe that they will be able to conclude the trackage rights agreement by mutual consent. To resolve this matter, CSX seeks an additional extension to December 21, 1998. CSX states that NECR concurs in this request. The extension will be granted.

¹ In Decision No. 89, served July 23, 1998, the Board approved, subject to conditions, the application by CSX Corporation and CSX Transportation, Inc. (collectively CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively NS) under 49 U.S.C. 11321-26 for: (1) the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively Conrail); and (2) the division of Conrail's assets by and between CSX and NS.

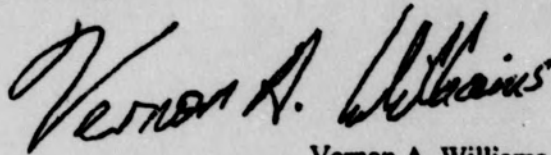
² On September 21, 1998, NECR reported that, while the parties were close to reaching a final agreement on their Palmer-West Springfield trackage rights arrangement, NECR and CSX were in irreconcilable disagreement over one matter. Thus, NECR filed a petition on that date (designated as NECR-10) seeking a Board ruling on the matter or clarification of the condition. CSX filed its reply (designated as CSX-164) on October 13, 1998. In Decision No. 100, served November 6, 1998, the Board denied the relief sought by NECR.

It is ordered:

1. The deadline set forth in Decision No. 89, Ordering Paragraph No. 64, is extended to December 21, 1998. If any terms of the trackage rights arrangement between Palmer and West Springfield, MA, are not resolved through negotiations between CSX and NECR, the parties must submit separate proposals no later than December 21, 1998.

2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

A handwritten signature in dark ink, appearing to read "Vernon A. Williams". The signature is fluid and cursive, with the first name "Vernon" being the most prominent.

Vernon A. Williams
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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. 104

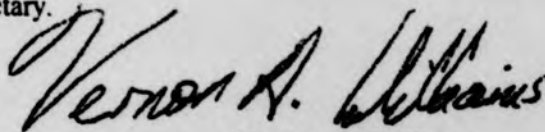
Decided: November 23, 1998

In Decision No. 89, in addition to approving the primary application,¹ the Board imposed a condition requiring CSX to meet with Illinois Central Railroad Company (IC) to attempt to resolve their dispute regarding dispatching of the Leewood-Aulon line in Memphis, TN, and to advise the Board by September 21, 1998, of the status of their negotiations. See Decision No. 89, slip op. at 102 and 178. At the parties' requests, the Board extended this deadline, most recently to November 20, 1998. See Decision Nos. 95 and 98, served, respectively, October 1 and 26, 1998. By letter filed November 20, 1998, CSX states that, although the parties continue actively to pursue a resolution of this matter, an agreement has not been reached and CSX and IC therefore request a further extension to January 19, 1999. The extension request will be granted.

It is ordered:

1. The request for an extension for submitting a status report regarding dispatching of the Leewood-Aulon line is granted. The due date is extended to January 19, 1999.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.



Vernon A. Williams
Secretary

¹ In Decision No. 89, served July 23, 1998, the Board approved, subject to conditions, the application by CSX Corporation and CSX Transportation, Inc. (collectively CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively NS) under 49 U.S.C. 11321-26 for: (1) the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively Conrail); and (2) the division of Conrail's assets by and between CSX and NS.

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SERVICE DATE - NOVEMBER 23, 1998

SURFACE TRANSPORTATION BOARD
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November 16, 1998

STB Finance Docket No. 33388¹

**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**

NOTICE

A court action, entitled as shown below,
was instituted on or about November 12, 1998,
involving Decision No. 96 in the above-entitled proceeding:

No. 98-4343

Wyandot Dolomite, Inc.

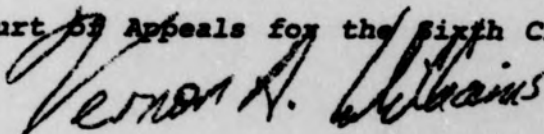
v.

Surface Transportation Board

United States of America

before the

United States Court of Appeals for the Sixth Circuit



VERNON A. WILLIAMS
Secretary

¹ Embraces STB Finance Docket No. 33388 (Sub-No. 80),
Responsive Application-Wheeling & Lake Erie Railway Company.

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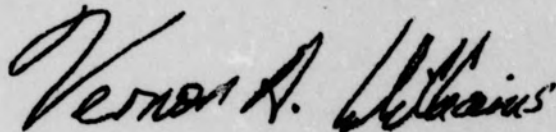
Decision No. 103

DATED: November 20, 1998

NOTICE TO THE PARTIES:

A decision served on November 19, 1998, in the above proceeding, incorrectly listed the decided date as December 18, 1998. Please correct your copies to reflect the correct decided date of November 18, 1998.

By the Commission, Vernon A. Williams, Secretary.

A handwritten signature in cursive script, reading "Vernon A. Williams".

Vernon A. Williams
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SERVICE DATE - NOVEMBER 20, 1998

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. 102

STB Finance Docket No. 33388 (Sub-No. 69)

RESPONSIVE APPLICATION--STATE OF NEW YORK, BY AND THROUGH ITS
DEPARTMENT OF TRANSPORTATION, AND THE NEW YORK CITY ECONOMIC
DEVELOPMENT CORPORATION

Decided: November 19, 1998

This decision establishes a schedule to address the condition we imposed on behalf of the State of New York and the New York Department of Transportation (NYDOT) and the New York City Economic Development Corporation (NYCEDC) in connection with the transaction we authorized in Decision No. 89, served July 23, 1998.¹ In our decision approving the primary transaction, we granted in part and denied in part the New York parties' responsive application in Sub-No. 69. As pertinent here, in Decision No. 89, slip op. at 177, we stated:

CSX must attempt to negotiate, with CP, an agreement pursuant to which CSX will grant CP either haulage rights unrestricted as to commodity and geographic scope, or trackage rights unrestricted as to commodity and geographic scope, over the east-of-the-Hudson Conrail line that runs between Selkirk (near Albany) and Fresh Pond (in Queens), under terms agreeable to CSX and CP, taking into account the investment that needs to continue to be made to the line.

By letter filed November 10, 1998, Canadian Pacific Railway Company, Delaware and Hudson Railway Company, Inc., Soo Line Railroad Company, and St. Lawrence & Hudson Railway Company Limited (collectively CP) indicate that the parties have been unable to reach an

¹ In Decision No. 89, we approved, subject to conditions, the application by CSX Corporation and CSX Transportation, Inc. (collectively CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively NS) under 49 U.S.C. 11321-26 for: (1) the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively Conrail); and (2) the division of Conrail's assets by and between CSX and NS.

agreement and request that we institute a proceeding addressing the matter. CP proposes a 95-day schedule with the filing of simultaneous evidentiary submissions. In a response filed November 12, 1998, CSX concurs with CP's schedule, with further proposals by CSX that: railroads other than CP may be considered as operators over the east-of-the-Hudson route; responsive applicants' descriptions of the terms of requested rights and environmental documentation be filed by Day 30 of the schedule; and the proceeding may be suspended if CSX reaches a tentative agreement with any carrier, including CP.

NYCEDC (by letter filed November 10, 1998) and NYDOT (by letter filed November 13, 1998, designated as NYS-30) endorse CP's proposed schedule. NYDOT also opposes CSX's requests to permit the consideration of railroads other than CP and the filing of new responsive applications. NYDOT asserts that CSX is reluctant to implement the pro-competitive relief granted by the Board on behalf of the New York parties, and contends that the Board should simply move to set the terms of CP's access over the Hudson Line.

While we continue to favor a negotiated solution by CSX and CP, over 3 months have passed since we imposed the east-of-the-Hudson condition and the parties have not reached an agreement on implementation. In order to resolve this matter in a timely manner and to ensure that the Board's important condition is implemented as envisioned, a procedural schedule with shorter time frames than those advanced by the parties is warranted and will be adopted. Accordingly, we will deny CSX's proposals to consider carriers other than CP and to suspend the procedural schedule should a preliminary agreement with another carrier be reached, and instead we will establish an evidentiary procedural schedule pursuant to which CSX and CP will be required to submit their proposed agreements with relevant evidence and argument on or before November 30, 1998, and CSX, CP, NYDOT, and NYCEDC may submit simultaneous responses to the proposed agreements by December 10, 1998.

CP shall resubmit its environmental verified statement filed October 6, 1997, certifying that none of the Board's environmental thresholds would be exceeded by the proposed rail operations over this line. Because CP's original environmental verified statement also embraced operations in other geographic areas, CP may modify its verified statement to apply exclusively to the proposed operations. If CP contemplates changes to its originally proposed operations, it should file a new verified statement, or other appropriate environmental documentation, if the Board's environmental thresholds will be exceeded.

After examining the proposed agreements and responses, we intend to set the terms for the east-of-the-Hudson operations, based in whole or in part on the terms proposed, and bring about an expeditious resolution of this matter, which has already been the subject of substantial analysis in this proceeding. Because of the limited scope of this matter, CP, CSX, NYCEDC, and NYDOT will be required to serve copies of their filings only on one another, and on any other party who submits a request in writing on or after the service date of this decision. Service on all parties of record in STB

Finance Docket No. 33388 would be unduly burdensome and unnecessary. An original and 25 copies (and an electronic version) of all pleadings must be filed with the Board.

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

It is ordered:

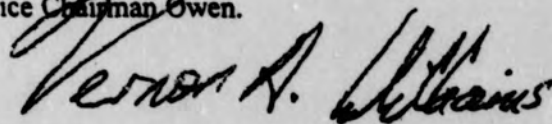
1. Simultaneous proposals from CP and CSX are due November 30, 1998, addressing the east-of-the-Hudson condition imposed in Decision No. 89. Simultaneous responses from CP, CSX, NYCEDC, and NYDOT are due December 10, 1998.

2. CP shall resubmit its environmental verified statement filed October 6, 1997, certifying that none of the Board's environmental thresholds would be exceeded by the proposed rail operations over this line. CP may modify its verified statement to apply exclusively to the proposed operations. If CP contemplates changes to its originally proposed operations, it should file a new verified statement, or other appropriate environmental documentation, if the Board's environmental thresholds will be exceeded.

3. Due to the limited scope of the condition being addressed, we are modifying the service requirement so that CP, CSX, NYCEDC, and NYDOT are required to serve copies of their filings only on one another, and on any other party who submits a request in writing on or after the service date of this decision.

4. This decision is effective on its service date.

By the Board, Chairman Morgan and Vice Chairman Owen.

A handwritten signature in dark ink, appearing to read "Vernon A. Williams", is written over the printed name and title.

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SERVICE DATE - NOVEMBER 19, 1998

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. 101

Decided: December 18, 1998

On October 26, 1998, Providence and Worcester Railroad Company (P&W or petitioner) filed a petition (undesignated) to clarify the transaction we authorized in Decision No. 89, served July 23, 1998,¹ with respect to petitioner's interest in one of Conrail's terminal properties known as New Haven Station. According to P&W, under the terms of a 1982 order of the former Special Court,² it has the right to acquire New Haven Station if Conrail withdraws from, or abandons or discontinues, freight service at that location. P&W refers to a specific provision of the 1982 order, paragraph 21, to support its claim.

In Decision No. 89, we noted that it appeared to us that substituting CSX for Conrail would not be inconsistent with the Special Court's order. However, if it were deemed to be inconsistent, we found that applicants' continued ownership and use of New Haven Station was an integral and necessary part of the CSX/NS/Conrail transaction. We said that, although it seemed unlikely that

¹ In Decision No. 89, we approved, subject to conditions, the application by CSX Corporation and CSX Transportation, Inc. (collectively CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively NS) under 49 U.S.C. 11321-26 for: (1) the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively Conrail); and (2) the division of Conrail's assets by and between CSX and NS.

² The Special Court was created pursuant to section 209 of the Regional Rail Reorganization Act of 1973 to handle judicial proceedings relating to properties conveyed to restructured railroads in the Northeast United States under the Final System Plan (FSP). The United States District Court for the District of Columbia now exercises the jurisdiction formerly exercised by the Special Court.

P&W's rights under the Special Court's 1982 order would be triggered by a sale to another carrier,³ any rights that P&W might otherwise have had in the property were preempted under 49 U.S.C. 11321(a). Subsequently, in Decision No. 92, served August 24, 1998, we denied P&W's petition to stay the transaction. In challenging our decision to preempt its rights, P&W indicates that it has commenced a proceeding before the Special Court⁴ and has also filed a petition for review in the Court of Appeals.

In its petition for clarification, P&W states that Conrail has taken the position in recent pleadings filed in the appellate proceedings that our override decision does not completely extinguish P&W's rights, but rather allows CSX to step into Conrail's shoes with respect to New Haven Station. Thus, should CSX subsequently abandon or discontinue freight service at that facility, it is Conrail's position, according to petitioner, that P&W's residual rights to acquire the property under the Special Court's order would be activated. P&W asks us to clarify the scope of our override ruling.

In reply (designated CSX-165), CSX states that, as a result of our override, it will step into Conrail's shoes relative to New Haven Station. CSX asserts that, although P&W will not presently be able to exercise its purchase right provided by the Special Court's order in connection with the transaction contemplated by the primary application, after the transaction is consummated CSX will be bound by the order as fully as Conrail was previously.

As appropriate under section 11321, we clarify that we only intended to override the 1982 order of the Special Court to the extent necessary to permit the CSX/NS/Conrail transaction to go forward. In other words, our preemption was only to the extent that the Special Court order could be read to block this transfer. When CSX obtains the New Haven facilities, it will stand in Conrail's shoes. CSX will continue to honor the Special Court order, as it has agreed in this proceeding to honor other obligations of Conrail. Thus, if CSX "withdraws, abandons, or discontinues" service at New Haven Station, P&W's rights under the 1982 order will be activated. Overriding the Special Court order altogether is unnecessary to permit the transaction to be carried out within the meaning of 49 U.S.C. 11321.

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

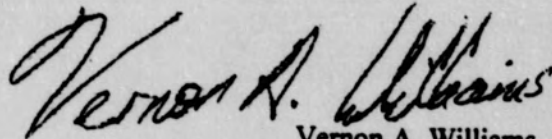
³ According to applicants' transaction agreement, CSX will acquire Conrail's rail facilities in New Haven and the nearby Cedar Hill Yard.

⁴ As noted, the functions of the Special Court have been assumed by the U.S. District Court for the District of Columbia.

It is ordered:

1. Our preemption under 49 U.S.C. 11321 of the Special Court's 1982 order as it relates to New Haven Station is clarified to the extent set forth in this decision.
2. This decision is effective on its service date.

By the Board, Chairman Morgan and Vice Chairman Owen.


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November 9, 1998

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. 93

NOTICE

A court action, entitled as shown below,
was instituted on or about October 30, 1998,
involving the above-entitled proceeding:

No. 98-1496

Indiana Rail Road Company

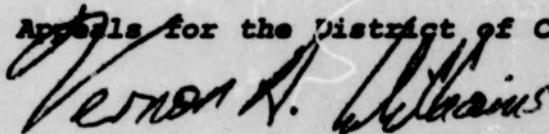
v.

Surface Transportation Board

United States of America

before the

United States Court of Appeals for the District of Columbia Circuit



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SERVICE DATE - NOVEMBER 13, 1998

SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423

November 9, 1998

STB Finance Docket No. 33388¹

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. 96

NOTICE

A court action, entitled as shown below,
was instituted on or about October 29, 1998,
involving the above-entitled proceeding:

No. 98-1493

National Lime & Stone Company

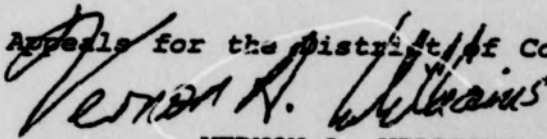
v.

Surface Transportation Board

United States of America

before the

United States Court of Appeals for the District of Columbia Circuit



VERNON A. WILLIAMS
Secretary

¹ Embraces STB Finance Docket No. 33388 (Sub-No. 80),
Responsive Application-Wheeling & Lake Erie Railway Company.

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SERVICE DATE - NOVEMBER 6, 1998

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. 100

STB Finance Docket No. 33388 (Sub-No. 75)

**NEW ENGLAND CENTRAL RAILROAD, INC.--TRACKAGE RIGHTS--
CSX TRANSPORTATION, INC.**

Decided: November 4, 1998

On September 21, 1998, New England Central Railroad, Inc. (NECR or petitioner) filed a petition (designated as NECR-10) to set one term of a trackage rights arrangement or for clarification with respect to the transaction we authorized in Decision No. 89, served July 23, 1998.¹ In its petition, NECR states that, although the parties are close to reaching a final agreement on their trackage rights arrangement, one matter remains as to which it and CSX are in irreconcilable disagreement. NECR therefore asks us to resolve this issue in the manner and to the extent sought in its petition. By reply filed October 13, 1998 (designated as CSX-164), CSX opposes NECR's requested relief.

BACKGROUND

In our decision approving the primary transaction, we also granted NECR's responsive application in Sub-No. 75 insofar as it sought trackage rights from CSX between Palmer, MA, and West Springfield, MA. As pertinent here, in Decision No. 89, slip op. at 105, we stated:

Despite the fact that its diversion evidence is flawed, NECR has shown that it will be financially harmed by this transaction. Moreover, it is clear that NECR provides important services both for its shippers and for Amtrak. Accordingly, to

¹ In Decision No. 89, we approved, subject to conditions, the application by CSX Corporation and CSX Transportation, Inc. (collectively CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively NS) under 49 U.S.C. 11321-26 for: (1) the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively Conrail); and (2) the division of Conrail's assets by and between CSX and NS.

ensure NECR's continued ability to provide these services, we will require applicants to grant NECR trackage rights as sought between Palmer, MA, and Springfield, MA. These trackage rights will facilitate through movements with NECR's affiliate, Connecticut Southern Railroad.

To implement this condition, we required CSX and NECR to negotiate the details of the trackage rights arrangement and, if negotiations were not successful, to submit separate proposals no later than September 21, 1998. *Id.* at 105 and 180. In subsequent decisions, we extended the parties' reporting due date, most recently to November 20, 1998. *See* Decision Nos. 94 and 97, served October 1 and 26, 1998.

According to NECR, the disputed issue concerns a so-called blocking provision² in a 1996 acquisition agreement between Conrail and Connecticut Southern Railroad (CSO), and the extent to which the blocking provision is overridden (if at all) by our trackage rights condition on NECR's behalf. Petitioner indicates that the blocking provision requires CSO to pay certain penalties to Conrail for each loaded car CSO interchanges with a carrier other than Conrail. Petitioner maintains that the blocking provision in CSO's contract should not apply to any traffic interchanged between CSO and NECR pursuant to the Palmer-Springfield trackage rights now under negotiations.

CSX has stated that it will not apply the blocking provision to traffic for which the only potential Conrail participation is over the Palmer-Springfield segment, including traffic that originates on NECR and terminates on CSO, or vice versa. NECR contends that this interpretation insufficiently limits the blocking provision and thus is inconsistent with the relief we intended for the following reasons: (1) our grant of trackage rights between Palmer and Springfield, MA, on behalf of NECR was without limitation; (2) we were presumably aware that most of the traffic that would be interchanged between CSO and NECR would originate or terminate at points beyond the NECR, a party we specifically found would be financially harmed by the Conrail transaction; (3) CSX's position is at odds with its broader assertion in the proceeding that the Board can override private contracts where necessary; and (4) CSX's partial lifting of the blocking provision is inconsistent with its refusal to permit a total override of the provision.

CSX maintains that the petition conflicts with NECR's position, earlier in this proceeding, that its affiliated carriers, including CSO, need not and should not be parties to NECR's responsive application. CSX also argues that the condition we imposed need not be altered or clarified to meet our objective of preserving the services offered by NECR, and that elimination of the blocking

² Blocking provisions are features in many contracts for the sale or lease of rail lines by Class I carriers to shortline carriers. They are imposed by the sellers to ensure that the traffic originated by shortline carriers on these line segments continues to flow over the lines of the seller to the maximum extent possible. *See* Decision No. 89, slip op. at 77.

provision for traffic moving from or to CSO via the Palmer-Springfield trackage rights would represent an unnecessary and unreasonable windfall for CSO. According to CSX, granting NECR's request would permit CSO to evade the blocking provision entirely, since Guilford Rail System and Providence and Worcester Railroad Company, the only railroads other than Conrail with which CSO now directly connects, could avoid the blocking provision by routing traffic to and from CSO by means of intermediate movements on NECR via the Palmer-Springfield segment.

DISCUSSION AND CONCLUSIONS

We will not grant the relief sought by NECR. In Decision No. 89, we found that applicants' estimate that the transaction would lead to the annual diversion of \$1.6 million from NECR was more reliable than NECR's estimate of \$8 million. We also found that this traffic diversion could impair NECR's ability to continue to provide important services, and we imposed the condition at issue here to remedy that harm. Our intent was not to indemnify NECR against those losses dollar for dollar. Rather, our intent was to give NECR the opportunity to achieve significant operational cost savings and obtain additional traffic sufficient to ensure that its services would not be unduly impaired.

CSX has explained that it has accepted our admonition that blocking provisions must not be "interpreted in such a way that the transaction would expand their reach." Decision No. 89, slip op. at 77. Accordingly, CSX states that it will not interpret the blocking provision it has inherited to apply to traffic in which the only potential Conrail participation is over the Palmer-Springfield segment, including traffic that originates on NECR and terminates on CSO, or vice versa. See CSX-164 at 6. With this interpretation, which we believe to be correct, NECR will be able to take advantage of the operational cost savings and the potential to gain truck-competitive traffic it envisioned from its new linkage with CSO. As NECR has explained:

If NECR is granted the right to connect with the CSO, the two railroads would be able to achieve a number of efficiencies. For example, employees could be utilized more efficiently and locomotives could be shared thereby reducing costs for both carriers. Because of current [Conrail] restrictions, it takes two weeks for NECR to move a locomotive over the 30-mile [Conrail] line between the NECR and CSO. Under current conditions, locomotive sharing between NECR and CSO is simply not practical.

NECR-8, RVS Carlstrom at 7.

NECR is aware of traffic currently handled by trucks to markets served by its affiliate, the Connecticut Southern Railroad (CSO), which could be diverted to a joint NECR-CSO movement. We estimated that NECR would be able to generate about \$2 million annually from this traffic.

Id. at 5.

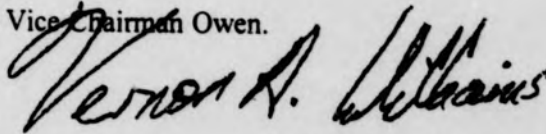
While the magnitude of the operational cost savings that will accrue to these two affiliated small railroads and the degree to which the blocking provision will impede their ability jointly to compete for new, truck-competitive traffic are not altogether clear, we find on this record that NECR has failed to demonstrate that the condition we imposed on NECR's behalf must be clarified or expanded as sought by NECR.³ We will, however, continue to assess this situation carefully during the course of our oversight proceeding, and we will be prepared to alter the original condition if it is not working as intended to preserve the important services offered by NECR to its shippers and to Amtrak.

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

It is ordered:

1. The petition to set terms of trackage rights agreement or for clarification (NECR-10) is denied.
2. This decision is effective on its service date.

By the Board, Chairman Morgan and Vice Chairman Owen.



Vernon A. Williams
Secretary

³ We note that NECR has not raised the issue of the blocking provision previously in this proceeding. Moreover, the Association of American Railroads and the American Short Line and Regional Railroad Association at our urging recently have reached an agreement addressing blocking provisions along with a number of other issues involving the relationship between the larger and smaller railroads. See Association of American Railroads and American Short Line and Regional Railroad Association--Agreement--Application Under 49 U.S.C. 10706, STB Docket No. S5R 100 (STB served Sept. 22, 1998). CSX confirms that it will honor this agreement.

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SERVICE DATE - OCTOBER 26, 1998

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. 99

Decided: October 23, 1998

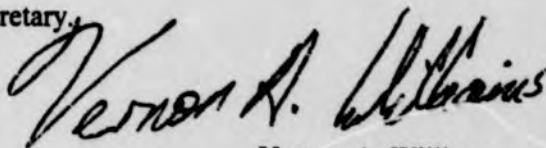
In Decision No. 89, in addition to approving the primary application,¹ the Board imposed a condition requiring CSX to negotiate with Canadian Pacific Railway Company, Delaware and Hudson Railway Company, Inc., Soo Line Railroad Company, and St. Lawrence & Hudson Railway Company Limited (referred to collectively as CP), as regards CP haulage rights or trackage rights over Conrail's east-of-the Hudson line running between Selkirk and Fresh Pond, NY. In connection with this condition, CSX and CP were required to advise the Board no later than October 21, 1998, of the status of their negotiations. See Decision No. 89, slip op. at 82-83 and 177. By correspondence separately filed October 22, 1998, CP requests a 7-day extension in which to report to the Board whether a final agreement has been reached, while CSX seeks a 20-day extension of the reporting deadline.² A 20-day extension will be granted.

It is ordered:

1. The due date for submitting a report regarding an agreement for CP haulage rights or trackage rights over Conrail's east-of-the Hudson line running between Selkirk and Fresh Pond, NY, is extended to November 10, 1998. If CSX and CP have not reached an agreement by that date, the Board will initiate a proceeding addressing this matter.

2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.



Vernon A. Williams
Secretary

¹ In Decision No. 89, served July 23, 1998, the Board approved, subject to conditions, the application by CSX Corporation and CSX Transportation, Inc. (collectively CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively NS) under 49 U.S.C. 11321-26 for: (1) the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively Conrail); and (2) the division of Conrail's assets by and between CSX and NS.

² CSX also states that the parties have reached agreement on almost all points and will endeavor to consummate a final agreement within the next 20 days.

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SERVICE DATE - OCTOBER 26, 1998

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. 98

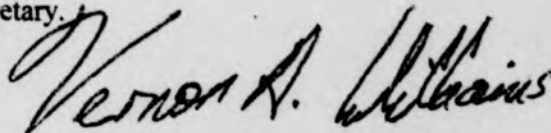
Decided: October 23, 1998

In Decision No. 89, in addition to approving the primary application,¹ the Board imposed a condition requiring CSX to meet with Illinois Central Railroad Company (IC) to attempt to resolve their dispute regarding dispatching of the Leewood-Aulon line in Memphis, TN, and to advise the Board no later than September 21, 1998, of the status of their negotiations. See Decision No. 89, slip op. at 102 and 178. At the parties' request, the Board extended this deadline to October 21, 1998. See Decision No. 95, served October 1, 1998. By correspondence filed October 21, 1998, CSX states that, although it continues to negotiate with IC over this matter, the parties² request a further extension to November 20, 1998. The extension request will be granted.

It is ordered:

1. The request for a further extension for submitting a status report regarding dispatching of the Leewood-Aulon line is granted. The due date is now November 20, 1998.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.



Vernon A. Williams
Secretary

¹ In Decision No. 89, served July 23, 1998, the Board approved, subject to conditions, the application by CSX Corporation and CSX Transportation, Inc. (collectively CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively NS) under 49 U.S.C. 11321-26 for: (1) the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively Conrail); and (2) the division of Conrail's assets by and between CSX and NS.

² This reference to "the parties" is understood to mean that IC joins in the extension request.

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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. 97

STB Finance Docket No. 33388 (Sub-No. 75)

NEW ENGLAND CENTRAL RAILROAD, INC.--TRackage RIGHTS--
CSX TRANSPORTATION, INC.

Decided: October 23, 1998

On September 21, 1998, New England Central Railroad, Inc. (NECR) filed a petition (designated as NECR-10) for the Board to set one term of a trackage rights arrangement or to provide clarification with respect to the transaction the Board authorized in Decision No. 89, served July 23, 1998.¹ The Board subsequently granted CSX's request, to which NECR concurred, to extend the deadline for concluding the trackage rights negotiation by 30 days to October 21, 1998. See Decision No. 94, served October 1, 1998. By correspondence filed October 21, 1998, CSX states that, apart from the matter addressed in the NECR-10 petition, the parties expect to resolve the remaining issues by mutual consent. To resolve these issues, CSX seeks an additional 30-day extension to November 20, 1998. CSX states that NECR concurs with this request. The extension will be granted.

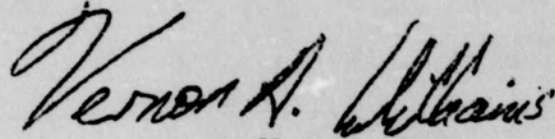
¹ In Decision No. 89, the Board approved, subject to conditions, the applications by CSX Corporation and CSX Transportation, Inc. (collectively CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively NS) under 49 U.S.C. 11321-26 for: (1) the acquisition of control of Conrail Inc., and Consolidated Rail Corporation (collectively Conrail); and (2) the division of Conrail's assets by and between CSX and NS. In that decision, the Board also approved NECR's responsive application in Sub-No. 75 insofar as it seeks trackage rights between Palmer, MA, and West Springfield, MA. The Board required CSX and NECR to negotiate the details of such trackage rights and, if negotiations are not fully successful, to submit separate proposals no later than September 21, 1998. See Decision No. 89, slip op. at 105 and 180.

It is ordered:

1. The deadline set forth in Decision No. 89, Ordering Paragraph No. 64, is extended to November 20, 1998. If any terms of the trackage rights arrangement between Palmer, MA, and West Springfield, MA, are not resolved through negotiations between CSX and NECR, the parties must submit separate proposals no later than November 20, 1998.

2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

A handwritten signature in cursive script, appearing to read "Vernon A. Williams".

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