

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. 118

Decided March 22, 1999

The Board revises two environmental conditions (Condition Nos. 8 and 51) to reflect the terms of a settlement agreement entered into by CSX and the Village of Ridgefield Park, NJ, and the terms of a settlement agreement entered into by NS and the City of Lafayette, IN.

BY THE BOARD:

In *CSX Corp. et al. — Control— Conrail Inc. et al.*, 3 S.T.B. 196 (1998) (*Decision No. 89*), we approved, subject to certain conditions, including environmental mitigation conditions, the acquisition of control of Conrail Inc. and Consolidated Rail Corporation (collectively Conrail) and the division of Conrail's assets by CSX Corporation and CSX Transportation, Inc. (collectively CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively NS). As pertinent here, Environmental Condition No. 8(A) of Appendix Q in *Decision No. 89* requires NS to upgrade the existing warning devices at 10 highway/rail at-grade crossings in the City of Lafayette, IN; and Condition Nos. 44 and 45 require CSX, for all proposed acquisition-related constructions, to employ Best Management Practices and to comply with federal, state, and/or local regulations.

On February 25, 1999, CSX provided us with a copy of a Memorandum of Understanding (MOU) between CSX and the Village of Ridgefield Park, NJ (Ridgefield Park), executed on January 29, 1999. CSX explains that, while the proposed construction of two connection tracks at Little Ferry, NJ, is an exempt transaction, CSX determined that the construction of the actual connection about .25 mile to the north of the proposed location would allow for more efficient operations. The connection track would still be constructed entirely within existing rail rights-of-way and remain within the scope of the exemption.

However, because the new location could raise environmental concerns, CSX consulted with Ridgefield Park. CSX requests that the negotiated agreement between CSX and Ridgefield Park be added to the CSX subsection of Environmental Condition No. 51 of Appendix Q in *Decision No. 89*, which requires CSX to comply with the terms of all listed negotiated agreements developed with states, local communities, and other entities regarding environmental issues associated with the Conrail transaction. CSX further states that no amendment is needed to Environmental Conditions No. 44 and 45, and that CSX remains subject to the requirements of those conditions. CSX states that Ridgefield Park concurs with its request.

On March 1, 1999, NS provided us with a copy of a Memorandum of Understanding (MOU) between NS and the City of Lafayette, IN (Lafayette), executed on December 4, 1998. NS explains that this MOU supersedes the conditions imposed by us in *Decision No. 89*, Appendix Q, Environmental Condition No. 8(A), with respect to Lafayette. NS requests that Condition No. 8(A) be amended to reflect the parties' MOU and that the negotiated agreement between NS and Lafayette 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 listed negotiated agreements developed with states, local communities, and other entities regarding environmental issues associated with the Conrail transaction. NS states that Lafayette concurs with its request.

In view of the MOUs between CSX and Ridgefield Park, and between NS and Lafayette, we will: (1) add the negotiated agreements to Condition No. 51 of Appendix Q of *Decision No. 89*; and (2) amend Condition No. 8(A) of Appendix Q of *Decision No. 89* (which has been superseded by the NS/Lafayette MOU).

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 Ridgefield Park, NJ, executed on January 29, 1999, the following is added to the CSX Subsection of Environmental Condition No. 51 of Appendix Q of *Decision No. 89*:

11. Village of Ridgefield Park, New Jersey, dated January 29, 1999.

3. In accordance with the negotiated agreement between NS and Lafayette,

4 S.T.B.

IN, executed on December 4, 1998, the following is added to the NS Subsection of Environmental Condition No. 51 of Appendix Q of *Decision No. 89*:

13. City of Lafayette, Indiana, dated December 4, 1998.

In addition, Environmental Condition No. 8(A) of Appendix Q of *Decision No. 89* is amended to delete the warning device upgrades at 10 highway/rail at-grade crossings applicable to Lafayette, IN, which are superseded by the negotiated agreement.

4. This decision shall be effective on March 23, 1999.

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