

MFL signal generation and analysis methods to establish a baseline from which today's tools can be evaluated and tomorrow's advances measured. Then, it will develop improvements to signal analysis methods and verify them through testing under realistic pipeline conditions. Finally, it will build an experience base and defect sets to generalize the results from individual tools and analysis methods to the full range of practical applications.

Task 2 is to evaluate two inspection technologies for detecting stress corrosion cracks. The focus in Task 2 is on electromagnetic techniques that have been developed in recent years and that could be used on or as a modification to existing MFL tools. Three subtasks will evaluate velocity-induced remote-field techniques, remote-field eddy-current techniques, and external techniques for sizing stress corrosion cracks.

A Task 3 is being considered for an option year to the contract. Task 3, if done, will verify the results from Tasks 1 and 2 by tests under realistic pipeline conditions. Task 3 will (1) extend the mechanical damage detection, signal decoupling, and sizing algorithms developed in the basic program to include the effects of pressure, (2) verify the algorithms under pressurized conditions in GRI's 4,700 foot, 24-inch diameter Pipeline Simulation Facility (PSF) flow loop, and (3) evaluate the use of eddy-current techniques for characterizing cold working within mechanical damage.

A drawback of present pig technology is the lack of a reliable pig performance verification procedure that is generally accepted by the pipeline industry and RSPA. The experience gained by the pipeline industry and RSPA with the use of the PSF flow loop in this project will provide a framework to develop procedures for evaluating pig performance. Defect detection reliability is critical if instrumented pigging is to be used as an in-line inspection tool in pipeline industry risk management programs.

The ultimate benefits of the project could be more efficient and cost-effective operations, maintenance programs to monitor and enhance the safety of gas transmission and hazardous liquid pipelines. Pipeline companies will benefit from having access to inspection technologies for detecting critical mechanical damage and stress-corrosion cracks. Inspection tool vendors will benefit by understanding where improvements are beneficial and needed. These benefits will support RSPA's long-range objective of ensuring the safety and

reliability of the gas transmission and hazardous liquid pipeline infrastructure.

Issued in Washington, D.C. on April 15, 1997.

Richard D. Huriaux,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 97-10196 Filed 4-18-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33346]

Soo Line Railroad Company— Temporary Trackage Rights Exemption—I&M Rail Link, LLC

I&M Rail Link, LLC (I&M) has agreed to grant temporary local and overhead trackage rights to Soo Line Railroad Company d/b/a/ Canadian Pacific Railway (CPR) over I&M's trackage between milepost 123.8 near Comus and milepost 100.5 near Owatonna, in Rice and Steele Counties, MN.

This notice is related to I&M Rail Link, LLC—Acquisition and Operation Exemption—Certain Lines of Soo Line Railroad Company D/B/A/ Canadian Pacific Railway, STB Finance Docket No. 33326 (STB served April 2, 1997). The purpose of the trackage rights is to permit CPR to provide continuous service on the line until I&M commences operations on the line. CPR has submitted a filing in support of the notice. The temporary trackage rights will be effective on April 12, 1997, and will terminate automatically on April 12, 1999.¹

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980). This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

¹ The Board has previously authorized temporary or limited term trackage rights. Limiting the term of the trackage rights is consistent with the limited scope of the transaction. See, e.g., Union Pacific Railroad Company—Trackage Rights Exemption—Chicago, Central & Pacific Railroad Company, STB Finance Docket No. 32959 (Sub-No. 1) (STB served July 25, 1996).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33346, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Larry D. Starns, Esq., Leonard, Street and Deinard, 150 South Fifth Street, Minneapolis, MN 55402.

Decided: April 15, 1997.

By the Board, David M. Konschnick,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 97-10235 Filed 4-18-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

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

AGENCY: Surface Transportation Board, DOT.

ACTION: Decision No. 2; Notice of prefiling notification and request for comments.

SUMMARY: Pursuant to 49 CFR 1180.4(b), CSX Corporation (CSXC), CSX Transportation, Inc. (CSXT), Norfolk Southern Corporation (NSC), Norfolk Southern Railway Company (NSR), Conrail Inc. (CRI), and Consolidated Rail Corporation (CRC)¹ have notified the Surface Transportation Board (Board) of their intent to file a joint application seeking authority under 49 U.S.C. 11323-25 for: (1) The acquisition of control, by CSX and NS, of CRI, which is to be jointly owned by CSXC and NSC, by and through a special purpose limited liability company (LLC) and LLC's wholly owned subsidiary, Green Acquisition Corporation (Acquisition); and (2) as soon as practicable after the authorization and exercise of such control, the division of Conrail's assets into (a) certain assets which will continue to be held by CRI and CRC or their subsidiaries and operated for Conrail's account and that

¹ CSXC and CSXT are referred to collectively as CSX. NSC and NSR are referred to collectively as NS. CRI and CRC are referred to collectively as Conrail. CSX, NS, and Conrail are referred to collectively as applicants.

of its stockholders; (b) certain assets which will be the subject of separate long-term operating agreements, operating leases or other operating arrangements with CSX and NS, respectively; and (c) certain assets which will be separately owned by CSX and NS. In addition, as part of the overall transaction, NSR will sell to CSXT a line of railroad formerly owned by Conrail and now owned by NSR.

The Board finds this to be a major transaction as defined in 49 CFR part 1180. As requested by applicants, the Board also waives the minimum 3-month prefiling notification requirement of 49 CFR 1180.4(b)(1), and invites comments from interested persons on applicants' proposed procedural schedule.

DATES: Written comments on applicants' proposed schedule must be filed with the Board no later than May 1, 1997. Applicants' reply is due by May 8, 1997.

ADDRESSES: An original and 25 copies of all documents must refer to STB Finance Docket No. 33388 and must be sent to the Office of the Secretary, Case Control Unit, ATTN: STB Finance Docket No. 33388, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.² In addition, one copy of all documents in this proceeding must be sent to Administrative Law Judge Jacob Leventhal, Federal Energy Regulatory Commission, 888 First Street, N.E., Suite 11F, Washington, DC 20426 [(202) 219-2538; FAX: (202) 219-3289] and to each of applicants' representatives: (1) Dennis G. Lyons, Esq., Arnold & Porter, 555 12th Street, N.W., Washington, DC 20004-1202; (2) Richard A. Allen, Esq., Zuckert, Scutt & Rasenberger, L.L.P., 888 Seventeenth Street, N.W., Washington, DC 20006-3939; and (3) Paul A. Cunningham, Esq., Harkins Cunningham, Suite 600, 1300 Nineteenth Street, N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 565-1613. [TDD for the hearing impaired: (202) 565-1695.]

²In addition to submitting an original and 25 copies of all documents filed with the Board, the parties are encouraged to submit all pleadings and attachments as computer data contained on a 3.5-inch floppy diskette which is formatted for WordPerfect 7.0 (or formatted so that it can be converted into WordPerfect 7.0) and is clearly labeled with the identification acronym and number of the pleading contained on the diskette (49 CFR 1180.4(2)). The computer data contained on the computer diskettes submitted will be subject to the protective order granted in Decision No. 1, served on April 16, 1997, and is for the exclusive use of Board employees reviewing substantive matters in this proceeding. The flexibility provided by such computer file data will facilitate expedited review by the Board and its staff.

SUPPLEMENTARY INFORMATION: In the notice of intent (CSX/NS-1) filed April 10, 1997, applicants state that CSX and NS will participate jointly in the acquisition of CRI consistent with CSX's and CRI's October 14, 1996 Merger Agreement, as amended through and including a Fourth Amendment dated April 8, 1997, and under agreements made between CSX and NS. CSX and NS jointly, through LLC and Acquisition, will acquire all CRI shares not already held by voting trusts of which CSX and NS are beneficiaries, through a tender offer to be followed by the merger of CRI with a subsidiary of Acquisition. The shares of CRI as acquired will be placed in a voting trust subject to the Board's regulations at 49 CFR part 1013.

Once the CRI stock has been acquired, and contingent on and following the Board's authorization and approval of control and the other contemplated transactions, CSX and NS will assume control of Conrail and, as soon as practicable thereafter, will cause Conrail to be restructured into (a) certain assets and functions that will continue to be operated and performed by Conrail for its own account but for the benefit of NS and CSX, (b) certain fixed assets, to be owned by Conrail or subsidiaries, which will be the subject of separate long-term operating agreements, operating leases, or other arrangements with CSX and NS, respectively, and (c) certain other assets of Conrail which will be divided between CSX and NS and acquired and operated by them. The surviving company will own and operate, directly or through subsidiaries, among other things, certain track and other fixed rail assets in the New York/New Jersey area, the Philadelphia, PA/South New Jersey area and the Detroit, MI, area. Both CSX and NS will serve shippers on the former Monongahela Railroad.

The subjects of the operating agreement or operating lease with CSX will include, among other things, a north-south route between the New York area and Philadelphia and a route from the New York area through Albany, NY, Buffalo, NY, and Cleveland, OH, to St. Louis, MO. The subjects of the operating agreement or operating lease with NS will include, among other things, north-south routes from the New York area to Washington, DC, and to Hagerstown, MD, a route westward from Philadelphia, and a route westward from the New York area to Buffalo.

As part of the contemplated transaction, NSR will transfer to CSXT its line of railroad (formerly a Conrail line) between Ft. Wayne, IN, and the Chicago, IL, metropolitan area.

Applicants state that they will use the year 1995 as the base year for purposes of their impact analysis to be filed in the application, and that they anticipate filing their application on or before July 10, 1997.³

The Board finds that this is a major transaction, as defined at 49 CFR 1180.2(a), as it is a control transaction involving two or more Class I railroads. The application must conform to the regulations set forth at 49 CFR part 1180 and must contain all information required therein for major transactions, except as modified by any advance waiver.⁴ The carriers are also required to submit maps with overlays that show their existing routes and those of their competitors.

Petition for Waiver

By petition filed April 10, 1997 (CSX/NS-2), applicants request that the Board waive the requirements of 49 CFR 1180.4(b)(1) so that they need not wait 3 months before filing their proposed primary application. Applicants propose to submit their primary application approximately 2 months from the date of filing of their Notice of Intent. Applicants contend that the public has been afforded sufficient notice of the proposed control proceeding. According to applicants, the Notice of Intent that CSX filed on October 18, 1996, regarding a proposed merger with Conrail, the Notice of Intent that NS filed on November 6, 1996, regarding a competing proposed merger with Conrail, and the substantial and continuous media coverage of the proposed acquisition of Conrail and the negotiations leading to the current agreement assure that the Board and all interested parties and members of the public have had notice that an application will be filed, as well as of the nature of the proposed transaction.

On April 16, 1997, Canadian National Railway Company (CN) filed (CN-4) a response in opposition to applicants' CSX/NS-2 petition for waiver.⁵ First,

³Applicants propose to submit their primary application approximately 2 months from the date of filing of their Notice of Intent if the prefiling requirement is waived. As discussed below, we will grant applicants' petition for waiver of the prefiling requirement of 49 CFR 1180.4(b) and permit filing of the application sooner than 3 months after the filing of the Notice of Intent.

⁴The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, requires that we consider the effect of the proposed transaction "on competition among rail carriers in the affected region or in the national rail system." 49 U.S.C. 11324(b)(5). Applicants are reminded to include analysis on both elements of this criterion in their competitive analyses.

⁵Our merger rules specifically do not allow replies to petitions for waiver. See 49 CFR

CN argues that "any waiver of the 3-month notice requirement would cut into time needed by the Board and all parties to deal with a transaction of the size and scope proposed in this proceeding." Second, CN argues that, "if there is to be any expedition, it is better that it come during the period when the application is being prepared rather than during the period when the application is being analyzed, responded to and acted upon by the agency with responsibility to decide this matter." Accordingly, CN argues that any waiver of the prefiling notification should not set a precedent for truncating the 365-day procedural schedule adopted earlier by the Board for considering a proposed Conrail merger, and that the final procedural schedule should take into account any shortening of the 3-month notice requirement that may have been granted. Finally, CN argues that a complete and open-ended waiver is inappropriate and prejudicial to all other parties because it would create uncertainty for the Board and for other parties, who could be faced with a "surprise" filing in 5 or 6 weeks.

We believe that the public has been afforded sufficient notice of the proposed control proceeding, and we disagree that a waiver of the prefiling notice requirement would create uncertainty or be prejudicial to any party. Parties will be given an opportunity to comment on applicants' proposed expedited procedural schedule, and these comments will be considered by the Board in determining a fair and reasonable final procedural schedule. We find that waiver of the prefiling requirement set forth at 49 CFR 1180.4(b)(1) is appropriate, and therefore grant applicants' CSX/NS-2 petition.

Petition for Protective Order

By petition also filed April 10, 1997 (CSX/NS-3), applicants requested a protective order to protect confidential, highly confidential, and proprietary information, including contract terms, shipper-specific traffic data, and other traffic data to be submitted in connection with the control application. In Decision No. 1, served April 16, 1997, applicants' petition for a protective order was granted and Administrative Law Judge Jacob Leventhal was assigned to handle all discovery matters and the initial resolution of all discovery disputes in this proceeding.⁶

⁶ 1180.4(f)(3). Under the circumstances, however, we will accept the CN-4 pleading.

⁶ CN filed a reply that was received by the Board after issuance of Decision No. 1.

Petition to Establish a Procedural Schedule

Also on April 10, 1997, applicants filed a petition to establish a proposed procedural schedule (CSX/NS-4). Applicants' proposed procedural schedule is as follows:

Proposed Procedural Schedule

F-30 Preliminary Environmental Report provided to Section of Environmental Analysis.

F Primary application (including the Environmental Report) and related applications filed.

F+30 Board notice of acceptance of primary application and related applications, [petitions, and notices] published in the **Federal Register**, including notice of any transaction-related abandonment proposals.

F+45 Notification of intent to participate in proceeding due, including notice of intent to participate in abandonment proceedings.

F+60 Description of anticipated inconsistent and responsive applications due; petitions for waiver or clarification due with respect to such applications.

F+120 Inconsistent and responsive applications due. All comments, protests, requests for conditions, and any other opposition evidence and arguments due. Comments by U.S. Department of Justice (DOJ) and U.S. Department of Transportation (DOT) due. Opposition submissions, requests for public use conditions, and Trails Act requests due for all transaction-related abandonment proposals.

F+135 Notice of acceptance (if required) of inconsistent and responsive applications published in the **Federal Register**.

F+150 Response to inconsistent and responsive applications due. Response to comments, protests, requested conditions, and other opposition due. Rebuttal in support of primary application and related applications due. Rebuttal [and] responses to requests for public use and Trails Act conditions for transaction-related abandonments due.

F+165 Rebuttal in support of inconsistent and responsive applications due.

F+185 Briefs due, all parties (not to exceed 50 pages), except that CSX and NS may file separate briefs, each not to exceed 50 pages.

F+200 Oral argument (at Board's discretion).

F+205 Voting conference.

F+255 Date of service of final decision.

Under applicants' proposal, immediately upon each evidentiary

filing, the filing party will place all documents relevant to the filing (other than documents that are privileged or otherwise protected from discovery) in a depository open to all parties (except that CSX and NS may maintain separate depositories), and will make its witnesses available for discovery depositions. Access to documents subject to protective order will be appropriately restricted. Parties seeking discovery depositions may proceed by agreement. Relevant excerpts of transcripts will be received in lieu of cross-examination, unless cross-examination is needed to resolve material issues of disputed fact. Discovery on responsive and inconsistent applications will begin immediately upon their filing. The Administrative Law Judge assigned to this proceeding will have the authority initially to resolve any discovery disputes.

Applicants also request that, as in recent merger proceedings, the Board indicate that it will require appeals of ALJ decisions to be filed within 3 working days and responses to appeals or to any procedural motion filed with the Board also to be filed within 3 working days.

Applicants' proposed schedule is substantially similar to that adopted in *Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railway Company (UP/SP)*, Finance Docket No. 32760 (see Decision No. 6, ICC served Oct. 19, 1995; and Decision No. 9, ICC served Dec. 27, 1995).

Applicants are proposing that any applications, petitions, or notices for authority for, or for exemption of, merger-related abandonments, and any supporting verified statements, be filed with the primary application, and be treated as related applications, with any opposition evidence, comments, rebuttal and briefing on those applications to be submitted in accordance with the same schedule as the primary application. We agree that we should process any merger-related abandonment proceedings in accordance with the overall merger procedural schedule, rather than applying the procedures found at 49 U.S.C. 10903-04, which is similar to the process we used in the *UP/SP* proceeding. See *UP/SP*, Decision No. 9 (ICC served Dec. 27, 1995), slip op. at 9-10. Therefore, we will grant

applicants' request for waiver under 49 CFR 1152.24(e)(5) to permit modifications of the procedures and timetables for handling abandonment applications prescribed in 49 CFR 1152.26⁷ to be consistent with the procedural schedule subsequently

⁷ Applicants' CSX/NS-4 petition sought waiver of the Board's rules to permit "departures from the procedures and timetables prescribed in 49 [CFR] 1152.25(d) (6) and (7)." Those references are to rules no longer in effect.

adopted in this proposed merger proceeding.⁸

We invite all interested persons to submit written comments on applicants' proposed procedural schedule.

⁸ Applicants indicate that they intend to file shortly a petition for waiver or clarification of Railroad Consolidation Procedures, and related relief. As in UP/SP, applicants should also seek an exemption under 49 U.S.C. 10502 from any statutory procedural requirements at 49 U.S.C. 10903-04 necessary to allow the Board to process the merger-related abandonment applications under the procedural schedule ultimately adopted. See UP/SP, Decision No. 3 (ICC served Sept. 5, 1995), slip op. at 7-10.

Comments must be filed by May 1, 1997. Applicants' reply is due by May 8, 1997.

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

Decided: April 16, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,
Secretary.

[FR Doc. 97-10337 Filed 4-18-97; 8:45 am]

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