

Department of Transportation is soliciting comments from Federal, state, private sector, and not-for-profit institutions on the topics outlined below.

ADDRESSES: Please submit all comments electronically to RitaReport@rspa.dot.gov or fax to (202) 366-3671. The deadline for comments is February 15, 2005.

FOR FURTHER INFORMATION CONTACT: Thomas Marchessault, RSPA, by telephone at (202) 366-4434 or Fax: (202) 366-3671.

SUPPLEMENTARY INFORMATION: RITA is a new Department of Transportation (DOT) organization dedicated to advancing the DOT's priorities for transportation innovation, research, and education. RITA will integrate the existing intermodal research and development functions of the RSPA Office of Innovation, Research, and Education and the Secretary's Office of Intermodalism.

In addition, RITA also will incorporate the Volpe National Transportation Systems Center in Cambridge, Massachusetts; the Transportation Safety Institute in Oklahoma City; and the Bureau of Transportation Statistics in its entirety.

Report to Congress

On November 30, 2004, President Bush signed the Norman Y. Mineta Research and Special Programs Improvement Act (Public Law 108-426). Section 4(g) of the Act directs the RITA Administrator to prepare a report on the research activities of the Department of Transportation, for delivery to the Committee on Transportation and Infrastructure, the Committee on Science of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate. This report is due March 30, 2005, 120 days after enactment.

The report shall include the following information:

- A summary of the mission and strategic goals of the new RITA Administration;
- A prioritized list of the research and development activities that the Department intends to pursue over the next five (5) years;
- A description of the primary purposes for conducting such R&D activities such as reducing traffic congestion, improving mobility, and promoting safety;
- An estimate of the funding levels needed to implement such R&D activities for the current fiscal year; and
- Additional information the RITA Administrator considers appropriate.

In developing the report, the RITA Administrator must also:

- Solicit input from a wide range of stakeholders;
- Take into account how the research and development activities of other Federal, state, private sector, and not-for-profit institutions contribute to the achievement of the desired purposes; and
- Address methods to avoid unnecessary duplication of efforts in achieving such purposes.

As a part of the stakeholder review process, the Department of Transportation is soliciting comments from Federal, state, private sector, and not-for-profit institutions on these topics. The Department is using a variety of venues to solicit comments by stakeholders. This **Federal Register** Notice is one method for receiving comment. In particular, the Department encourages comments on the following topics:

Identification of Priorities

- How do we establish DOT transportation research priorities in an environment of limited resources?
- How do we balance research on long-term, high-risk and high-impact advances versus research with immediate transportation safety and mobility returns?

Research Duplication

- How do we identify and avoid unnecessary duplication in transportation-related technology research?
- How do we share information and learn about opportunities to benefit from others' research?

The Role of Stakeholders

- What on-going communications methods or processes might be established with stakeholders outside of the DOT to receive their advice and recommendations?
- What information resources can RITA utilize or create to leverage private sector advances into the DOT missions and goals?

We encourage your ideas on these topics, and on other related topics you may identify. The development of RITA, its roles, direction, and responsibilities, will be a methodical process of growth. It may not be possible to incorporate many of the ideas we receive in our Congressional report. However, all ideas and concerns identified will be considered for integration into our planning endeavors.

Issued in Washington, DC on January 14, 2005.

Thomas Marchessault,
Acting Associate Administrator, Office of Innovation, Research and Education, Research and Special Programs Administration.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33388 (Sub-No. 95)]¹

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 [Petition to Approve Settlement Agreement and Exempt Embraced Transactions]

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Board action with regard to settlement agreement and 6 related exemptions.

SUMMARY: Under 49 U.S.C. 11327, the Board finds that a settlement agreement that was entered into by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS) and Wheeling & Lake Erie Railway Company (W&LE), when implemented, will satisfy certain conditions imposed in *CSX Corp. et al.—Control—Conrail Inc. et al.*, 3 S.T.B. 196 (1998). Under 49 U.S.C. 10502 the Board grants the exemption authority sought by NS and W&LE pursuant to the settlement agreement.

The Settlement Agreement includes 7 elements.

Element #1 provides that W&LE will be granted overhead trackage rights,

¹ This notice embraces: STB Finance Docket No. 33388 (Sub-No. 96), *Wheeling & Lake Erie Railway Co.—Trackage Rights Exemption—Norfolk Southern Railway Co. Between Bellevue and Toledo, OH*; STB Finance Docket No. 33388 (Sub-No. 97), *Wheeling & Lake Erie Railway Co.—Trackage Rights Exemption—Norfolk Southern Railway Co. in Cleveland, OH*; STB Finance Docket No. 33388 (Sub-No. 98), *Norfolk Southern Railway Co.—Trackage Rights Exemption—Wheeling & Lake Erie Railway Co. Between Clairton, PA and Bellevue, OH*; STB Finance Docket No. 33388 (Sub-No. 99), *Wheeling & Lake Erie Railway Co.—Petition for Exemption—Purchase of the Toledo Pivot Bridge—Norfolk Southern Railway Co.'s Dock at Huron, OH*; and STB Finance Docket No. 32525 (Sub-No. 1), *Wheeling & Lake Erie Railway Co.—Trackage Rights Exemption—Norfolk and Western Railway.*

limited to one train per day per direction, between Bellevue (Yeomans), OH, at Milepost (MP) T-54.7 and Toledo (Manhattan Jct.), OH, at MP CS-1.30. Element #1 also provides that W&LE will be granted back-up haulage rights for overflow traffic. In STB Finance Docket No. 33388 (Sub-No. 96), the Board has granted an exemption under 49 U.S.C. 10502 for the Bellevue-Toledo trackage rights, which were originally sought in a responsive application in a rail consolidation proceeding, subject to the labor protective conditions set forth in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605, 610-15 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653, 664 (1980).

Element #2 provides that W&LE will purchase the Toledo Pivot Bridge, which is also known as the Maumee River Bridge (this is a railroad swing bridge that spans the Maumee River in Toledo, OH). In STB Finance Docket No. 33388 (Sub-No. 99), the Board has granted a 49 U.S.C. 10502 petition for exemption of the Toledo Pivot Bridge purchase transaction. Any employee affected by the Toledo Pivot Bridge purchase exempted in STB Finance Docket No. 33388 (Sub-No. 99) will be protected as required by section 10902(d), subject to the standards and procedures established in *Wisconsin Central Ltd.—Acquisition Exem.—Union Pac. RR*, 2 S.T.B. 218 (1997), *aff'd in relevant part sub nom. Association of American Railroads v. STB*, 162 F.3d 101 (D.C. Cir. 1998).

Element #3 provides for a 10-year extension of W&LE's lease of NS's Huron Dock on Lake Erie. In STB Finance Docket No. 32516 (Sub-No. 1), the Board has accepted a 49 CFR 1180.2(d)(4) notice of exemption respecting the Huron Dock lease extension. Any employee affected by the Huron Dock lease extension exempted in STB Finance Docket No. 32516 (Sub-No. 1) will be protected by the labor protective conditions set forth in *Mendocino Coast Ry., Inc.—Lease and Operate*, 354 I.C.C. 732 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Element #4 provides for a 10-year extension of W&LE's Bellevue-Huron Dock overhead trackage rights, by which W&LE accesses Huron Dock. These trackage rights run over the NS line between approximately MP B242 at Bellevue, OH, and approximately MP B229 at Berlin Heights, OH, and between approximately MP B232 at Shinrock, OH (on the Bellevue-Berlin Heights segment), and approximately

MP HU12.2 at the Huron Dock connection in Huron, OH. In STB Finance Docket No. 32525 (Sub-No. 1), the Board has accepted a 49 CFR 1180.2(d)(4) notice of exemption respecting the Bellevue-Huron Dock trackage rights extension. Any employee affected by the trackage rights exempted in STB Finance Docket No. 32525 (Sub-No. 1) will be protected by the labor protective conditions set forth in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605, 610-15 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653, 664 (1980).

Element #5 provides that W&LE will be granted overhead trackage rights in the Cleveland, OH area between Berea, OH (at MP CD-194.2), and the Knob, OH (at MP GZ-488.13). In STB Finance Docket No. 33388 (Sub-No. 97), the Board has accepted a 49 CFR 1180.2(d)(7) notice of exemption for the Berea-Knob trackage rights. Any employee affected by the trackage rights exempted in STB Finance Docket No. 33388 (Sub-No. 97) will be protected by the labor protective conditions set forth in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605, 610-15 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653, 664 (1980).

Element #6 provides that NS will be granted overhead trackage rights between Clairton, PA (at MP 5.2), and Bellevue, OH (at MP H53.7), with certain rights of ingress and egress at Mingo Jct., OH, Jewett, OH, Bowerston, OH, and Orrville, OH. In STB Finance Docket No. 33388 (Sub-No. 98), the Board has accepted a 49 CFR 1180.2(d)(7) notice of exemption for the Clairton-Bellevue trackage rights. Any employee affected by the trackage rights exempted in STB Finance Docket No. 33388 (Sub-No. 98) will be protected by the labor protective conditions set forth in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605, 610-15 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653, 664 (1980).

Element #7 provides that, to allow NS to access a new trailer parking facility in the Maple Heights area (Maple Heights is located a few miles southeast of Cleveland), NS will be granted the right to create and use a second road at-grade crossing over W&LE's Cleveland Subdivision line at MP 8.67 under the same terms and conditions that govern NS's use of the existing road at-grade crossing over the W&LE line at MP 9.03. Element #7 further provides for NS and W&LE to negotiate a broader agreement regarding operations in the Maple Heights area. NS and W&LE are

currently evaluating two options, both of which involve the lease, by NS, of freight rights on the Randall Secondary.

DATES: The approval of the Settlement Agreement, and also the 6 related exemptions, will be effective on February 25, 2005. Petitions for stay must be filed by February 7, 2005. Petitions for reconsideration must be filed by February 15, 2005.

ADDRESSES: Send an original and 10 copies of any pleading referring to STB Finance Docket No. 33388 (Sub-No. 95) and also, if appropriate, referring to any one or more of the six embraced dockets, to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, send one copy of any pleading to NS's representative (Richard A. Allen, Esq., Zuckert, Scoutt & Rasenberger, LLP, 888 Seventeenth Street, NW., Suite 700, Washington, DC 20006) and also send one copy of any pleading to W&LE's representative (William C. Sippel, Esq., Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832).

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, 202-565-1655. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, e-mail, or call: ASAP Document Solutions, 9332 Annapolis Rd., Suite 103, Lanham, MD 20706; e-mail: asapdc@verizon.net; telephone: 202-306-4004. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: January 19, 2005.

By the Board, Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams,
Secretary.

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