

the primary application. Applicants have willingly assumed the risk that we may deny the primary application, or approve it subject to conditions unacceptable to applicants, or approve the primary application but deny an applicant's request to operate over any or all of the seven connections. *Id.*

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

*It is ordered:*

1. Comments on whether the proposed transaction meets the exemption criteria of 49 U.S.C. 10502 and on any other non-environmental concerns regarding the construction and operation of the connection track in Sidney Junction are due August 22, 1997.

2. Replies are due September 11, 1997.

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

Decided: July 16, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

**Vernon A. Williams,**

*Secretary.*

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carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33422 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 Donald G. Avery, Esq., Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, DC 20036.

Decided: July 16, 1997.

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

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 97-19374 Filed 7-22-97; 8:45 am]

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Board seeks comments from interested persons respecting the exemption criteria and any other non-environmental concerns<sup>2</sup> involved in our approval of the construction and operation of NW's Sidney construction project sought in STB Finance Docket No. 33388 (Sub-No. 5).

**DATES:** Written comments must be filed with the Board by August 22, 1997. Replies may be filed by petitioner on or before September 11, 1997.

**ADDRESSES:** An original and 25 copies of all documents must refer to STB Finance Docket No. 33388 (Sub-No. 5) and must be sent to the Office of the Secretary, Case Control Unit, ATTN: STB Finance Docket No. 33388 (Sub-No. 5), Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.<sup>3</sup> 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 petitioner's representative: James R. Paschall, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-2191. Parties to STB Finance Docket No. 33388 will not be automatically placed on the service list for this proceeding.

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

**SUPPLEMENTARY INFORMATION:** On June 23, 1997, CSX Corporation (CSXC), CSX Transportation, Inc. (CSXT), Norfolk Southern Corporation (NSC), NSR, Conrail Inc. (CRR), and Consolidated Rail Corporation (CRC)<sup>4</sup> filed their

construction at Sidney, following the completion of our environmental review of the construction projects, and our issuance of further decisions exempting or approving the proposals, but prior to our approval of the primary application.

<sup>2</sup>The handling of environmental issues will be discussed below.

<sup>3</sup>In 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 formatted for WordPerfect 7.0 (or formatted so that it can be converted into WordPerfect 7.0) and clearly labeled with the identification acronym and number of the pleading contained on the diskette. See 49 CFR 1180.4(a)(2). The computer data contained on the computer diskettes submitted to the Board will be subject to the protective order granted in Decision No. 1, served April 16, 1997 (as modified in Decision No. 4, served May 2, 1997), and is for the exclusive use of Board employees reviewing substantive and/or procedural matters in this proceeding. The flexibility provided by such computer data will facilitate timely review by the Board and its staff.

<sup>4</sup>CSXC and CSXT are referred to collectively as CSX. NSC and NSR are referred to collectively as NS. CRR and CRC are referred to collectively as

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 33422]

#### Luxapalila Valley Railroad, Inc.— Trackage Rights Exemption— Columbus and Greenville Railway Company

Columbus and Greenville Railway Company (C&G) will agree to grant local and overhead trackage rights to Luxapalila Valley Railroad, Inc. (LVR)<sup>1</sup> over approximately 175 miles of track between Columbus and Greenville, MS.

The transaction was scheduled to be consummated on the July 14, 1997 effective date of the exemption. The purpose of the trackage rights is to enable CAGY to deploy the resources of its two subsidiary railroads more efficiently, by using their respective locomotives and crews interchangeably.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail

<sup>1</sup>Both C&G and LVR are Class III railroads owned by CAGY Industries, Inc. (CAGY).

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 33388 (Sub-No. 5)]

#### Norfolk and Western Railway Company—Construction and Operation Exemption—Connecting Track with Union Pacific Railroad Company at Sidney, IL

**AGENCY:** Surface Transportation Board (Board).

**ACTION:** Notice of exemption; request for comments.

**SUMMARY:** On June 23, 1997, Norfolk and Western Railway Company (NW), a wholly owned subsidiary of Norfolk Southern Railway Company (NSR), pursuant to 49 U.S.C. 10502, filed a petition for exemption from the prior approval requirements of 49 U.S.C. 10901 to construct and operate a connection track at Sidney, IL.<sup>1</sup> The

<sup>1</sup>This proceeding is related to 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 (CSX/NS/CR)*. In *CSX/NS/CR*, Decision No. 9, served June 12, 1997, we granted a petition for waiver that would allow NSR to seek approval for construction of three construction projects, including this proposed