

COMMONWEALTH OF PENNSYLVANIA  
Department of Conservation and Natural Resources  
April 17, 2002

REP

**SUBJECT:** A-00111016  
C-009132256

**TO:** Secretary's Bureau Record Retention  
PA Public Utility Commission

**FROM:** Eric Milliron *Eric Milliron*  
Park Planner  
Bureau of State Parks

RECEIVED  
2002 APR 23 AM 9:04  
SECRETARY'S BUREAU

In response to your recent request, attached is the "Acknowledgement of Receipt & Acceptance of Service" form with my signature along with date acknowledging the Bureau of State Parks' receipt of the subject "Opinion and Order."

If you have any questions, please contact me at 783-3343.

Attachment

I N T E R  
O F F I C E

# MEMO

October 11, 2002

**Subject:** A-00111016; Application of Conrail  
C-00913256; Bart Township v. Conrail

**To:** James McNulty  
Secretary

**From:** Cheryl Walker Davis, Director  
Office of Special Assistants

**DOCKETED**

OCT 21 2002

**DOCUMENT**

The above-captioned proceeding remains as an outstanding assignment to OSA. Please be advised that on April 15, 2002 an Opinion and Order was entered (copy attached) which addressed the issue assigned to OSA. Accordingly, OSA has no outstanding assignment with regard to this matter.

If you have any questions, please contact Teri Mathias at 7-8039.

Docketing

\* Change Responsible  
Bureau to TSR JJ

1A-1-JC  
SECRETARY'S BUREAU

2002 OCT 16 AM 9:05

RECEIVED

**H**awke  
  **M**cKeon &  
   **S**niscak LLP  
ATTORNEYS AT LAW

William T. Hawke  
Kevin J. McKeon  
Thomas J. Sniscak  
Lillian Smith Harris  
Scott T. Wyland  
Todd S. Stewart  
Craig R. Burgraff

Steven D. Snyder  
Janet L. Miller  
Steven K. Haas  
William E. Lehman  
Rikardo J. Hull  
Katherine E. Lovette  
Amy A. Whitney

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmslegal.com

**DOCUMENT  
FOLDER**

July 12, 2007

Mr. David Oliver  
Pennsylvania Public Utility Commission  
Rail Safety Division  
Bureau of Transportation and Safety  
P.O. Box 3265  
Harrisburg, PA 17105-3265

PA PUBLIC UTILITY COMMISSION

JUL 13 2007

BUREAU OF TRANSPORTATION & SAFETY  
RAIL SAFETY DIVISION

Re: Docket Nos. A-00111016 and C-00913256 (*Consolidated*)

Dear Mr. Oliver:

I write on behalf of Martic, Bart and Sadsbury Townships, each of which received a letter from you dated July 5, 2007. Your letter concerns the fact that these Townships are obligated to perform work on the Enola Branch railroad property pursuant to the Commission's October 9, 1997 Order. These obligations have been extended several times in the past by the Commission.

As we discussed on July 10, 2007, the Townships are not in possession of the railroad property and currently do not have legal permission to enter onto the property or to perform the work required by the 1997 Order. Your letters referred to Ordering paragraphs 28, 58 and 142, which impose work obligations on these three Townships. However, the Commission's 1997 Order expressly approved and adopted the Parties' Stipulation of Settlement dated February 25, 1997. That agreement obligates the railroad first to convey the property to these Townships (Paragraphs 2.1, 3.1 and 7.1); the Commission's October 9, 1997 Order (Paragraph 11) further requires the railroad to make substantial payments to these Townships to fund the work and maintenance duties under the settlement. The transfer of the real property and funds are the consideration for and necessary prerequisite to the Townships' performance of the work noted in your letter.

The railroad has been unable to convey the property lawfully to the Townships to date due to the pendency of dilatory and ultimately unsuccessful litigation pursued by parties other than the railroad and Townships. That litigation has had the net effect of keeping the Enola Branch in private hands for a decade and making it wholly unavailable to the public for enjoyment during that entire period. Most recently, Lancaster County unsuccessfully attempted to acquire the property through eminent domain. The Townships' preliminary objections to the County's declaration of taking were sustained and the Commonwealth Court affirmed. As you know, the Townships hope to take title to the Enola Branch Railroad in the near future.

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

Mr. David Oliver  
July 12, 2007  
Page 2

To make clear the Commission's record, I will be filing a Motion for Extension of Time in the near future. Included in our Motion will be an offer to provide the Bureau of Transportation and Safety with periodic status reports. Under the circumstances and in light of the railroad's legal impediments to closing this conveyance to date, we hope that the Bureau of Transportation and Safety will join in our Motion and concur in the relief the Townships request.

Should you have any questions concerning our position, please contact me.

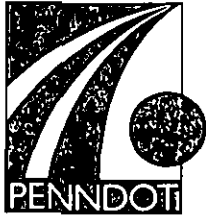
Very truly yours,



Scott T. Wyland

STW/bes  
Enclosure

cc: Martic Township  
Bart Township  
Sadsbury Township  
Conestoga Township  
Providence Township  
Gina M. D'Alfonso Esquire  
Benjamin A. Dunlap, Jr., Esquire  
David E. Screven, Esquire



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

OFFICE OF CHIEF COUNSEL  
REAL PROPERTY DIVISION  
POST OFFICE BOX 8212  
HARRISBURG, PA 17105-8212  
TELEPHONE: (717) 787-3128  
FACSIMILE: (717) 772-2741



GOVERNOR'S OFFICE OF  
GENERAL COUNSEL

Wednesday, July 25, 2007

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

ORIGINAL

RE: Docket No. A-00111016 and C-00913256

Dear Secretary McNulty:

Enclosed for filing please find the original and three (3) copies of the Department's **MOTION FOR EXTENSION OF TIME** in the above-captioned matter.

I hereby certify that a copy of the Department's Petition has been sent to all parties of record as indicated on the **Certificate of Service**.

Very truly yours,

Casey R. Huntington, Legal Assistant to  
Gina M. D'Alfonso  
Assistant Counsel in Charge

Enclosures  
220/GMD:crh

cc: Parties of Record  
Gary C. Fawver, P.E., Chief, Utilities and Right of Way Section  
Gregory J. Vaughn, Grade Crossing Administrator, District 8-0

DOCKETED  
JUL 30 2007

DOCUMENT  
FOLDER

SECRETARY'S OFFICE  
2007 JUL 25 AM 10:58

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Consolidated Rail Corporation	:	<b>Docket No. A-00111016</b>
for the abolition of 31 Crossings of the	:	
Enola Branch, LC: 201323, MP 3.52 to	:	
MP 27.0, Sub No. 1095X,	:	
Harrisburg Division, Lancaster County	:	
	:	
Board of Supervisors of Bart Township	:	
	:	
v.	:	<b>Docket No. C-00913256</b>
	:	
Consolidated Rail Corporation, Pennsylvania	:	
Department of Transportation, and Lancaster	:	
County, et al.	:	

**MOTION FOR EXTENSION OF TIME**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (Department), by and through its counsel, Gina M. D'Alfonso, Assistant Counsel in Charge, in its Petition for Extension of Time, respectfully represents:

1. The name and address of your Petitioner is:

Commonwealth of Pennsylvania  
Department of Transportation  
Bureau of Design  
P.O. Box 3362  
Harrisburg, Pennsylvania 17105-3362

2. The name and address of Counsel for the Petitioner is:

Gina M. D'Alfonso  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, Pennsylvania 17105-8212

DOCUMENT  
FOLDER

**DOCKETED**  
JUL 30 2007

RECEIVED  
2007 JUL 25 AM 10:58

3. By Opinion and Order dated October 9, 1997 the Public Utility Commission (Commission) directed the Department to perform certain items of work within specified time frames.

4. Due to ongoing litigation which has recently been resolved, the Department was unable to complete all of the items of work it had agreed to perform in conjunction with the Stipulation of Settlement which was incorporated in the Opinion and Order.

5. The Department respectfully requests that the Commission Opinion and Order dated October 9, 1997 be modified relative to Crossing Number 17 and Crossing Number 27.

**Crossing Number 17**

6. The Department was ordered to remove the bridge substructure and superstructure and to construct a new highway on a new alignment to remove the sharp turns.

7. The Department anticipates that this project will be completed by December 31, 2011 and requests that the Commission Order be modified to reflect that completion date.

8. The Department respectfully request that the Commission Order be modified as follows (modification is underlined):

99. The Pennsylvania Department of Transportation, at its sole cost and expense, on or before December 31, 2011, furnish all materials and do all work necessary to remove the bridge substructure and superstructure to a point two (2) feet below the surrounding ground line, and to grade, seed,

and mulch the area as best thus disturbed to prevent soil erosion, all in a safe and satisfactory condition.

100. The Pennsylvania Department of Transportation, at its sole cost and expense, on or before December 31, 2011, furnish all materials and do all work necessary to construct a new highway, on partial embankment if necessary, on a new alignment so as to remove the sharp turns on the existing highway. The said new highway is to be constructed for the class and volume of traffic using the highway. Said construct is to include a pipe(s) to provide for surface water drainage under the highway along the existing ditches or swales. All areas thus disturbed shall be graded, seeded and mulched to prevent soil erosion.

#### Crossing Number 27

9. Pursuant to the Commission's Order at Paragraph 142, if the Department had not within two years of the date of entry of the Order let a contract to reconstruct and realign S.R. 0324, Marticville Road, then Martic Township was required to perform certain items of work.

10. Given the litigation in this matter, the project is just in the preliminary engineering phase. A consultant has been retained to perform the preliminary engineering. The Department requests that an extension of time be granted until December 31, 2010 to perform the items of work in Paragraph 142.

12. The Department respectfully requests that Ordering Paragraph 142 be modified as follows (modification is underlined):

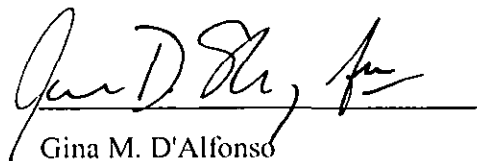
142. That, if Pennsylvania Department of Transportation has not let a contract to reconstruct and realign S.R. 0324, Marticville Road, by December 31, 2010, then Martic Township having agreed to do so, at its sole cost and expense, within three (3) years from

the date of entry of this Opinion and Order, furnish all materials and do all work necessary to remove the bridge substructure and superstructure to a point two (2) feet below the surrounding ground line, and to grade the embankments behind the structure to a two-to-one slope, and to grade, seed and mulch the areas thus disturbed to prevent soil erosion, all in a safe and satisfactory condition.

13. Martic Township, Providence Township and Norfolk Southern have no opposition to this request for extension of time.

WHEREFORE, the Department of Transportation respectfully requests that the Commission Order entered October 9, 1997, be modified consistent with this petition.

Respectfully submitted,



Gina M. D'Alfonso  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, PA 17105-8212  
Telephone No. (717) 787-3128

DATED: July 25, 2007

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

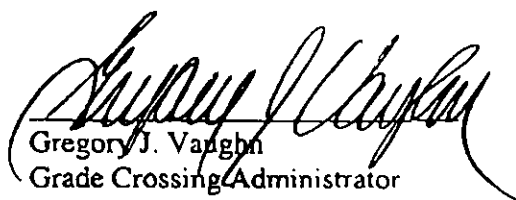
SECRET

2007 JUL 25 AM 10:58

Application of Consolidated Rail Corporation : Docket No. A-00111016  
for the abolition of 31 Crossings of the :  
Enola Branch, LC: 201323, MP 3.52 to :  
MP 27.0, Sub No. 1095X, :  
Harrisburg Division, Lancaster County :  
Board of Supervisors of Bart Township :  
v. : Docket No. C-00913256  
Consolidated Rail Corporation, Pennsylvania :  
Department of Transportation, and Lancaster :  
County, et al. :

VERIFICATION

I, Gregory J. Vaughn, Grade Crossing Administrator for the Commonwealth of Pennsylvania, Department of Transportation, in this matter, hereby verify that the statements made in the foregoing *MOTION FOR EXTENSION OF TIME*, are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to penalties of 18 Pa. C.S. § 4904, relating to the unsworn falsification to authorities.

  
Gregory J. Vaughn  
Grade Crossing Administrator

DATED: July 25, 2007

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Consolidated Rail Corporation	:	<b>Docket No. A-00111016</b>
for the abolition of 31 Crossings of the	:	
Enola Branch, LC: 201323, MP 3.52 to	:	
MP 27.0, Sub No. 1095X,	:	
Harrisburg Division, Lancaster County	:	
	:	
Board of Supervisors of Bart Township	:	
	:	
v.	:	<b>Docket No. C-00913256</b>
	:	
Consolidated Rail Corporation, Pennsylvania	:	
Department of Transportation, and Lancaster	:	
County, et al.	:	

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the *Motion for Extension of Time* was served upon the parties listed below, in accordance with the requirements of §1.54, by first-class mail, postage prepaid this 25<sup>th</sup> day of July, 2007.

Scott T. Wyland, Esquire  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101

Benjamin C. Dunlap, Jr., Esquire  
Nauman Smith  
200 North Third Street  
Harrisburg, PA 17101

David Screven, Esquire  
Pennsylvania Public Utility Commission  
Legal Division  
Bureau of Transportation & Safety  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Eden Township Board of Supervisors  
489 Stony Hill Road  
Quarryville, PA 17566

2007 JUL 25 AM 10:58  
SECRETARY'S OFFICE

A-00111016 and C-00913256, Certificate of Service

Dennis M. Moore  
National Railroad Passenger Corporation (AMTRAK)  
60 Massachusetts Avenue, NE  
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Stevens & Lee  
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Harrisburg, PA 17108-1670

Brian MacEwen  
Assistant Director of City Authority  
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Coatesville, PA 19320

DEP – Legal Services  
P.O. Box 8464  
Harrisburg, PA 17105-8464

Joyce A. Nettke, Esquire  
FAST  
P.O. Box 27  
Strasburg, PA 17579

John Chase  
Quarryville Water Authority  
300 Saint Catherine Street  
Quarryville, PA 17566

Office of Special Assistants  
Pennsylvania Public Utility Commission  
North Office Building – Room 210  
PO Box 3265  
Harrisburg, PA 17105-3265

Borough of Quarryville  
330 St. Catherine Street  
Quarryville, PA 17566

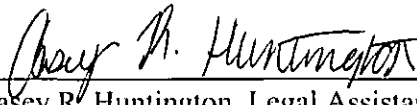
David Dulick  
Pennsylvania Power & Light  
2 North Ninth Street  
Allentown, PA 18101

A-00111016 and C-00913256, Certificate of Service

Suburban Cable Company  
Legal Department  
202 Shoemaker Road  
Pottstown, PA 19464

Sadsbury Township  
1077 White Oak Road  
Christiana, PA 17509

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



---

Casey R. Huntington, Legal Assistant to  
Gina M. D'Alfonso, Esquire  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, PA 17105-8212  
Telephone No. (717) 787-3128

DATED: July 25, 2007

**H**awke  
  **M**ckeon &  
   **S**niscak LLP  
ATTORNEYS AT LAW

William T. Hawke  
Kevin J. McKeon  
Thomas J. Sniscak  
Lillian Smith Harris  
Scott T. Wyland  
Todd S. Stewart  
Craig R. Burgraff

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Janet L. Miller  
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Rikardo J. Hull  
Katherine E. Lovette  
Amy A. Whitney

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmslegal.com

July 30, 2007

Via Hand Delivery

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street - Filing Room  
Harrisburg, PA 17120

ORIGINAL

Re: Application of Consolidated Rail Corporation for the Abolition of 31 Crossings of the Enola Branch LC: 201323, MP 3.52 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County, and the Board of Supervisors of Bart Township v. Consolidated Rail Corporation, Pennsylvania Department of Transportation, and Lancaster County, et al.; Docket Nos. A-00111016 and C-00913256 (*Consolidated*);  
**MOTION TO REQUEST AN EXTENSION OF TIME**

Dear Mr. McNulty:

Enclosed for filing with the Commission in the above-captioned matter are the original and three (3) copies of a Motion for Extension of Time on behalf of Sadsbury, Bart and Martic Townships. A copy of this filing has been served upon all parties in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. Please feel free to contact the undersigned if you have any questions.

Very truly yours,

  
Scott T. Wyland

DOCUMENT  
FOLDER

STW/bes

Enclosures

cc: Certificate of Service

DOCKETED  
JUL 31 2007

2007 JUL 30 PM 2:40

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

80

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Consolidated Rail Corporation :  
for the abolition of 31 Crossings of the : Docket No. A-00111016  
Enola Branch, LC: 201323, MP 3.52 to :  
MP 27.0, Sub No. 1095X, :  
Harrisburg Division, Lancaster County :  
:  
Board of Supervisors of Bart Township :  
:  
v. : Docket No. C-00913256  
:  
Consolidated Rail Corporation, Pennsylvania :  
Department of Transportation, and Lancaster :  
County, et al. :

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SERIALIZED  
TAB

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**MOTION FOR EXTENSION OF TIME**

---

Sadsbury Township ("Sadsbury"), Bart Township ("Bart") and Martic Township ("Martic"), by and through its attorneys Hawke McKeon & Sniscak, LLP, and pursuant to 52 Pa. Code §1.15, files this Motion for Extension of Time to perform certain work ordered in the Opinion and Order of the Public Utility Commission ("Commission") entered on October 9, 1997 ("Order") in the above-captioned matter.

1. In its Opinion and Order dated October 9, 1997, the Commission directed the parties to perform various tasks within specified time frames, including the conveyance of the railroad property to the Townships and the payment of funds by the Railroad to the Townships.

DOCUMENT  
FOLDER

**DOCKETED**  
JUL 30 2007

2. On January 11, 2000, the Townships of Sadsbury, Bart and Martic (hereinafter, "the Townships") jointly filed a motion to request an extension of time for the purpose of extending the deadlines established by the Commission for the completion of certain tasks required under the Order. The specific tasks and current deadlines are set forth in the January 11, 2000 motion, which motion is incorporated herein by reference. By Order dated on or about February 16, 2000, the Commission granted the Townships' motion.

3. Since 2000, The Railroad has been unable to convey the property to the Townships because of the pendency of several matters in other forums, including the federal Surface Transportation Board, the Third Circuit Court of Appeals, the Lancaster County Court of Common Pleas and the Pennsylvania Commonwealth Court.

4. In 2005, Lancaster County initiated a condemnation action and attempted to take the property from the Railroad. The Townships successfully opposed the condemnation and prevailed after the County appealed to the Commonwealth Court.

5. Currently, the Railroad is completing the "Section 106" duties and subdivision approval process necessary to allow it to convey the property to the Townships.

6. It is expected that, barring further unforeseen delays, the Railroad will be legally empowered to convey the property to the Townships in Fall 2006.

**I. Motion of Sadsbury Township for Extension of Time**

In support thereof, Sadsbury represents as follows:

7. The Commission's October 9, 1997 Order required Sadsbury Township to perform certain specified work at the Orchard Road crossing (Crossing No. 2), as detailed in the referenced ordering paragraphs set forth below:

Crossing No. 2 [Orchard Road]

\* \* \*

28. That Sadsbury Township, at its sole cost and expense, within two (2) years from the date of entry of this Opinion and Order, furnish all materials and do all work necessary to remove the bridge substructure and superstructure to a point two (2) feet below the grade of the new highway.

29. That Sadsbury Township, within two (2) years from the entry date of this Opinion and Order, at its sole cost and expense, furnish all material and do all work necessary to construct a new highway embankment for the class and volume of traffic using the highway. Said construction is to include a pipe(s) at the bottom of the embankment to provide for surface water drainage through the embankment along the ditches or swales. All embankments shall be graded, seeded and mulched to prevent soil erosion.

8. Due to the delay in the conveyance of the property and settlement funds to Sadsbury, Sadsbury requests an extension of time until December 31, 2009 to perform the work ordered in the Commission's Opinion and Order entered October 9, 1997.

9. Sadsbury submits that the granting of this petition will not cause any decrease in safety or any additional threat of harm to the public through the duration of the requested extension.

10. Sadsbury has asserted reasonable grounds for an extension of time to perform the work ordered by the Commission, and Sadsbury's request for extension of time is consistent with the public interest and safety.

11. Counsel for the Pennsylvania Department of Transportation, Norfolk Southern, and the Townships of Martic, Conestoga, Providence, and Bart have informed the undersigned that their respective clients do not oppose the request for an extension of time contained herein.

WHEREFORE, Sadsbury Township moves that the Commission's Opinion and Order entered October 9, 1997 be amended to provide Sadsbury an extension of time to perform work as follows:

- a. An extension of time until December 31, 2009, to furnish all materials and do all work necessary to remove the bridge substructure and superstructure at the Orchard Road crossing (Crossing No. 2), amending Ordering Paragraph 28.
- b. An extension of time until December 31, 2009, to furnish all material and do all work necessary to construct a new highway on embankment for the class and volume of traffic using the highway at the Orchard Road crossing (Crossing No. 2), amending Ordering Paragraph No. 29.

## II. Motion of Bart Township

In support thereof, Bart represents as follows:

12. The Order required Bart Township to perform certain specified work at the Lamparter Road crossing (Crossing 7A), as detailed in the referenced ordering paragraphs set forth below:

### Crossing No. 7A [ Lamparter Road ]

\*\*\*

58. That Bart Township, having agreed to do so, at its sole cost and expense, within one (1) year from the date of entry of this Opinion and Order, furnish all materials and do all work necessary to remove the bridge substructure and superstructure to a point two (2) feet below the grade of the new highway.

59. That Bart Township, within one (1) year from the date of entry of this Opinion and Order, at its sole cost and expense, furnish all material and do all work necessary to construct a new highway on embankment for the class and volume of traffic using the highway. Said construction is to include a pipe(s) at the bottom of the embankment to provide for surface water drainage through the embankment along the ditches or swales. All embankments shall be graded, seeded and mulched to prevent soil erosion.

13. Due to the delay in the conveyance of the property and settlement funds to Bart, Bart requests an extension of time until December 31, 2009 to perform the work ordered in the Commission's Opinion and Order entered October 9, 1997.

14. Bart submits that the granting of this petition will not cause any decrease in safety or any additional threat of harm to the public through the requested extension period.

15. Bart has asserted reasonable grounds for an extension of time to perform the work ordered by the Commission, and Bart's request for extension of time is consistent with the public interest and safety.

16. Counsel for the Pennsylvania Department of Transportation, Norfolk Southern, and the Townships of Martic, Conestoga, Providence, and Sadsbury have informed the undersigned that their respective clients do not oppose the request for an extension of time contained herein.

WHEREFORE, Bart Township moves that the Commission's Opinion and Order entered October 9, 1997 be amended to provide Bart an extension of time to perform work as follows:

- a. An extension of time until December 31, 2009, to furnish all materials and do all work necessary to remove the bridge substructure and superstructure at the Lamparter Road crossing (Crossing No. 7A), amending Ordering Paragraph 58.
- b. An extension of time until December 31, 2009, to furnish all material and do all work necessary to construct a new highway on embankment for the class and volume of traffic using the highway at the Lamparter Road crossing (Crossing No. 7A), amending Ordering Paragraph No. 59.

### III. Motion of Martic Township

In support thereof, Martic represents as follows:

17. The Order required Martic Township to perform certain specified work at the Marticville Road crossing (Crossing No. 27), as detailed in the referenced ordering paragraph set forth below:

Crossing No. 27 [Marticville Road]

\*\*\*

142. That, if Pennsylvania Department of Transportation has not within two (2) years from the date of entry of this Opinion and Order let a contract to reconstruct and realign S.R. 0324, Marticville Road, then Martic Township, having agreed to do so, at its sole cost and expense, within three (3) years from the date of entry of this Opinion and Order, furnish all materials and do all work necessary to remove the bridge substructure and superstructure to a point two (2) feet below the surrounding groundline, and to grade the embankments behind the structure to a 2-to-1 slope, and to grade, seed and mulch the areas thus disturbed to prevent soil erosion, all in a safe and satisfactory condition.

18. Due to the delay in the conveyance of the property and settlement funds to Martic, Martic requests an extension of time until December 31, 2010 to perform the work ordered in the Commission's Opinion and Order entered October 9, 1997.

19. Martic submits the granting of this petition will not cause any decrease in safety or any additional threat of harm to the public through the duration of the requested extension period.

20. Martic has asserted reasonable grounds for an extension of time to perform the work ordered by the Commission, and Martic's request for extension of time is consistent with the public interest and safety, and with PennDot's anticipated action at the crossing.

21. Counsel for the Pennsylvania Department of Transportation, Norfolk Southern, and the Townships of Conestoga, Providence, Bart, and Sadsbury have informed the undersigned that their respective clients do not oppose the request for an extension of time contained herein.

WHEREFORE, Martic Township moves that the Commission's Opinion and Order entered October 9, 1997 be amended to provide Martic extensions of time to perform work as follows:

- a. An extension of time until December 31, 2010 to furnish all materials and do all work necessary to remove the bridge substructure and superstructure at the Marticville Road crossing (Crossing No. 27), amending Ordering Paragraph 142.

Respectfully submitted,



Scott T. Wyland  
Hawke McKeon & Sniscak LLP  
Harrisburg Energy Center  
100 North Tenth Street  
Post Office Box 1778  
Harrisburg, PA 17101  
(717) 236-1300

*Counsel for Sadsbury Township, Bart Township  
and Martic Township*

DATED: July 30, 2007

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the persons and in the manner indicated below.

### Service by First Class U.S. Mail:

Gina M. D'Alfonso, Esquire  
Assistant Counsel-in-Charge  
PennDOT  
555 Walnut Street  
9<sup>th</sup> Floor - Forum Place  
Harrisburg, PA 17101-1900

Benjamin C. Dunlap, Jr.  
Nauman Smith Shissler & Hall  
200 North Third Street  
Harrisburg, PA 17101

David Screven, Esquire  
Pennsylvania Public Utility Commission  
Legal Division  
Bureau of Transportation & Safety  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Eden Township Board of Supervisors  
489 Stony Hill Road  
Quarryville, PA 17566

Dennis M. Moore  
National Railroad Passenger  
Corporation (AMTRAK)  
60 Massachusetts Avenue, NE  
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Kenneth Zielonis, Esquire  
Stevens & Lee  
P.O. Box 11670  
Harrisburg, PA 17108-1670

Brian MacEwen  
Assistant Director of City Authority  
114 E. Lincoln Highway  
Coatesville, PA 19320

Department of Environmental Protection  
Office of Legal Services  
P.O. Box 8464  
Harrisburg, PA 17105-8464

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FAST  
P.O. Box 27  
Strasburg, PA 17579

John Chase  
Quarryville Water Authority  
300 Saint Catherine Street  
Quarryville, PA 17566

Office of Special Assistants  
Pennsylvania Public Utility Commission  
North Office Building - Room 210  
PO Box 3265  
Harrisburg, PA 17105-3265

Borough of Quarryville  
330 St. Catherine Street  
Quarryville, PA 17566

David Dulick  
Pennsylvania Power & Light  
2 North Ninth Street  
Allentown, PA 18101

Suburban Cable Company  
Legal Department  
202 Shoemaker Road  
Pottstown, PA 19464

Sadsbury Township  
1077 White Oak Road  
Christiana, PA 17509

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Certificate of Service  
Docket Nos. A-00111016  
and C-00913256 (*consolidated*)  
Page 2

Conestoga Township Supervisors  
46 Quarry Road  
Quarryville, PA 17566

Martic Township  
370 Steinman Farm Road  
Pequea, PA 17565

Lancaster County Planning Commission  
50 North Duke Street  
Lancaster, PA 17603

Bart Township Supervisors  
46 Quarry Road  
Quarryville, PA 17566

Providence Township Supervisors  
216 Clearfield Road  
New Providence, PA 17509

  
\_\_\_\_\_  
Scott T. Wyland

DATED: July 30, 2007

COMMONWEALTH OF PENNSYLVANIA

DATE: July 30, 2007

SUBJECT: A-00111016  
C-00913256

RJP

TO: Office of Special Assistants

FROM: *KB* James J. McNulty, Secretary

Application of Consolidated Rail Corporation for the abolition of 32 crossings of the Enola Branch, LC: 201323, MP 3.52 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County.

Board of Supervisors of Bart Township

v.

Consolidated Rail Corporation, Pennsylvania Department of Transportation, and Lancaster County, et al.

---

Attached is a copy of a Motion for Extension of Time, filed by Commonwealth of Pennsylvania, Department of Transportation, in connection with the above docketed proceedings.

This matter is assigned to your Office for appropriate action.

Attachment

cc: TSR  
TSL

DOCUMENT  
FOLDER

DOCKETED  
JUL 30 2007

ksb

COMMONWEALTH OF PENNSYLVANIA

**DATE:** July 31, 2007

**SUBJECT:** A-00111016  
C-00913256

**TO:** Office of Special Assistants

**FROM:** *KS* James J. McNulty, Secretary

Application of Consolidated Rail Corporation for the abolition of 31 crossings of the Enola Branch, LC: 201323, MP 3.52 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County.

Board of Supervisors of Bart Township

v.

Consolidated Rail Corporation, Pennsylvania Department of Transportation, and Lancaster County, et al.

---

Attached is a copy of a Motion for Extension of Time, filed by Sadsbury, Bart and Martic Townships, in connection with the above docketed proceedings.

This matter is assigned to your Office for appropriate action.

Attachment

cc: TSR  
TSL

ksb

**KJR**

**DOCUMENT  
FOLDER**

**DOCKETED**  
JUL 31 2007

# Nauman Smith

Attorneys At Law

**Please Reply to:**  
P. O. Box 840  
Harrisburg, PA 17108-0840

Benjamin C. Dunlap, Jr.  
E-mail: [bdunlapjr@nssh.com](mailto:bdunlapjr@nssh.com)

August 3, 2007

James McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

VIA HAND DELIVERY

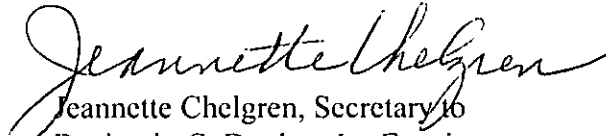
ORIGINAL

**In Re:**            **Application of Consolidated Rail Corporation for the abolition of thirty-one crossings of the Enola Branch, LC291323, MP 3.5 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County and Board of Supervisors of Bart Township v. Consolidated Rail Corporation, et al**  
**PUC Dockets No. A-00111016 and C-00913256 (Consolidated)**

Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of the "Motion to Request Further Extensions of Time" for filing on behalf of Norfolk Southern Railway Company in this matter. In accordance with the accompanying Certificate of Service, we have provided copies of the Motion to all active parties of record. Please time-stamp the additional copy provided and return to our messenger.

Sincerely yours,

  
Jeannette Chelgren, Secretary to  
Benjamin C. Dunlap, Jr., Esquire

cc: All parties in interest (w/enc.)  
Randal S. Noe, Esquire (w/enc.)  
Thomas Heinrich, P.E. (w/enc.)

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SEC. 101-101-216

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Application of Consolidated Rail Corporation for the abolition of thirty-one crossings of the Enola Branch, LC201323, MP 3.5 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County,</b>	:	
	:	
	:	<b>Docket No. A-00111016</b>
	:	
	:	
	:	
<b>Board of Supervisors of Bart Township,</b>	:	
	:	
<b>v.</b>	:	<b>Docket No. C-00913256</b>
	:	
<b>Consolidated Rail Corporation, and the Pennsylvania Department of Transportation and Commissioners of the County of Lancaster, et al.</b>	:	

**MOTION TO REQUEST FURTHER EXTENSIONS OF TIME**

Norfolk Southern Railway Company ("Norfolk Southern"), by and through its attorneys, Nauman, Smith, Shissler & Hall, LLP, files this Motion to Request Further Extensions of Time to perform certain work ordered in the Opinion and Order of the Public Utility Commission ("Commission") entered on October 9, 1997, in the above-referenced matter, pursuant to 52 Pa. Code § 1.15, based upon the following:

1. In its Opinion and Order dated October 9, 1997, the Commission directed the parties to perform various tasks within specified time frames, including the conveyance of the railroad property to the involved Townships and the payment of funds by Consolidated Rail Corporation ("Conrail") to those Townships.

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2. The Commission's Opinion and Order entered October 9, 1997, required Conrail to perform certain specified work at a number of the involved crossings, as summarized below and detailed in the referenced ordering paragraphs:

- a. Within one hundred twenty (120) days of the entry of the Opinion and Order, install fencing along the parapets of the bridge crossing Noble Road partly in West Sadsbury Township, Chester County, and Sadsbury Township, Lancaster County (Crossing No. 1), pursuant to Ordering Paragraph 22 on page 47.
- b. Within one (1) year of the entry of the Opinion and Order, remove:
  - (i) the structure at Oak Bottom Road in Providence Township (Crossing No. 15) pursuant to Ordering Paragraph 86 on pages 59-60;
  - (ii) the structure at U.S. Route 222 in Providence Township (Crossing No. 16), pursuant to Ordering Paragraph 92 on page 61;
  - (iii) the crossing at Hollow Road (West) in Providence Township (Crossing No. 21), pursuant to Ordering Paragraph 114 on pages 65-66.
- c. Within eighteen (18) months of the entry of the Opinion and Order, remove the transmission line towers of the National Railroad Passenger Corporation ("Amtrak") from the Martic Forge Bridge in Conestoga Township (Crossing No. 28) and resuspend the line, pursuant to Ordering Paragraph 149 on page 72.
- d. Within two (2) years of the entry of the Opinion and Order remove:
  - (i) the structure at White Oak Road in Sadsbury Township (Crossing No. 4), pursuant to Ordering Paragraph 39 on page 50;

- (ii) the structure at Pumping Station Road in Eden Township (Crossing No. 10), pursuant to Ordering Paragraph 70 on page 56;
- (iii) the structure at Sigman Road in Providence Township (Crossing No. 26), pursuant to Ordering Paragraph 136 on pages 69-70.

3. On October 18, 1999, Conrail filed a Motion to Request Extensions of Time for the purpose of extending the deadlines established by the Commission for the completion of the above-referenced work required under the Order. By Opinion and Order entered November 22, 1999, the Commission granted Conrail's Motion for Extensions of Time, finding that Conrail had diligently pursued the project.

4. On December 8, 2000, Conrail filed a Petition to Request a Further Extension of Time in regard to the removal of the crossing structure at U.S. Route 222 in Providence Township (Crossing No. 16). That Petition was granted by the Commission's Opinion and Order entered January 26, 2001.

5. On June 1, 1999, the subject rail line was conveyed to Pennsylvania Lines LLC. On August 27, 2004, Pennsylvania Lines LLC was merged into Norfolk Southern Railway Company, which now owns the subject line.

6. Since 2000, Norfolk Southern has been unable to convey the property to the Townships because of the pendency of several matters in other forums, including the federal Surface Transportation Board, the Third Circuit Court of Appeals, the Lancaster County Court of Common Pleas and the Pennsylvania Commonwealth Court.

7. In 2005, Lancaster County initiated a condemnation action and attempted to take the property from Norfolk Southern. The Townships successfully opposed the condemnation and prevailed after the County appealed to the Commonwealth Court.

8. Currently, Norfolk Southern is completing the "Section 106" historic preservation duties and local subdivision approval necessary to allow it to convey the property to the Townships.

9. It is expected that, barring further unforeseen delays, Norfolk Southern will be legally empowered to convey the property to the Townships in Fall 2007.

10. Based upon the expected conveyance of the former rail line to the Townships in the Fall of 2007, Norfolk Southern requests the following further extensions of time to perform the work ordered in the Commission's Opinion and Order entered October 9, 1997:

- a. An extension of time until June 30, 2008, to install fencing along the parapets of the bridge crossing Noble Road partly in West Sadsbury Township, Chester County, and Sadsbury Township, Lancaster County (Crossing No. 1), amending Ordering Paragraph 22.
- b. An extension of time until December 31, 2008, to remove the structure at U.S. Route 222 in Providence Township (Crossing No. 16), amending Ordering Paragraph 92.
- c. An extension of time until June 30, 2009, to remove Amtrak's transmission line towers from the Martic Forge Bridge in Conestoga Township (Crossing No. 28) and resuspend the line, amending Ordering Paragraph 149.

- d. An extension of time until December 31, 2009, to:
- (i) remove the crossing structure at White Oak Road in Sadsbury Township (Crossing No. 4), amending Ordering Paragraph 39;
  - (ii) remove the crossing structure at Pumping Station Road in Eden Township (Crossing No. 10), amending Ordering Paragraph 70;
  - (iii) remove the crossing structure at Oak Bottom Road in Providence Township (Crossing No. 15), amending Ordering Paragraph 86;
  - (iv) remove the crossing structure at Hollow Road (West) in Providence Township (Crossing No. 21), amending Ordering Paragraph 114;
  - (v) remove the crossing structure at Sigman Road in Providence Township (Crossing No. 26), amending Ordering Paragraph 136.

11. Norfolk Southern has asserted reasonable grounds for a further extension of time to perform the work ordered by the Commission in its Opinion and Order entered October 9, 1997, and Norfolk Southern's request for extension of time is congruent with the public interest and safety. It is to be noted that the U.S. Route 222 structure in Providence Township (Crossing No. 16) will be removed on an expedited basis prior to the removal of the other structures.

WHEREFORE, Norfolk Southern Railway Company respectfully requests that the Commission's Opinion and Order entered October 9, 1997, as modified by the Opinions and

Orders entered November 22, 1999 and January 26, 2001, be further amended to provide Norfolk Southern the further extensions of time to perform work as requested herein.

Respectfully Submitted:

**NAUMAN, SMITH, SHISSLER & HALL, LLP**

By *Benjamin C. Dunlap, Jr.*  
Benjamin C. Dunlap, Jr., Esquire  
Supreme Court I.D. #66283

200 North Third Street, 18<sup>th</sup> Floor  
P.O. Box 840  
Harrisburg, PA 17108-0840  
(717) 236-3010  
Attorney for Norfolk Southern Railway Company

Date: August 3, 2007

2007/08/03 PM 1:18  
SEAN...

VERIFICATION

I, Thomas Heinrich, P.E., Engineer Structures, of Norfolk Southern Railway Company in the foregoing proceeding, do make the following statement subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authority, and do state that as Engineer Structures for Norfolk Southern Railway Company, I am authorized to make this statement on behalf of Norfolk Southern Railway Company, and that the facts set forth in the foregoing "Motion to Request Further Extensions of Time" are true and correct to the best of my knowledge, information and belief. To the extent that the contents of the pleading are that of counsel, verifier has relied upon counsel in making this verification.

*Thomas Heinrich, P.E.*

Thomas Heinrich, P.E.

Dated: 8/3/07

SECRETARY OF STATE

2007 AUG -3 PM 1:18



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PA Public Utility Commission  
North Office Building - Room 210  
P. O. Bo 3265  
Harrisburg, PA 17105-3265

Borough of Quarryville  
330 St. Catherine Street  
Quarryville, PA 17566

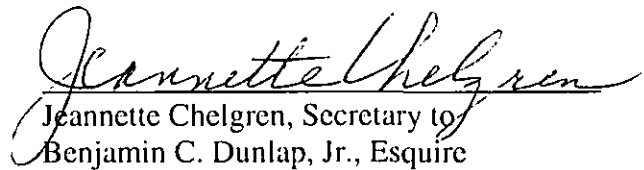
David Dulick  
Pennsylvania Power & Light  
2 North Ninth Street  
Allentown, PA 18101

Donald LeFever, Esquire  
Solicitor for Lancaster County  
Lancaster County Courthouse  
50 North Duke Street  
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Lancaster, PA 17602

Suburban Cable Company  
Legal Department  
202 Shoemaker Road  
Pottstown, PA 19464

Sadsbury Township  
1077 White Oak Road  
Christiana, PA 17509

Date: August 3, 2007

  
Jeannette Chelgren, Secretary to  
Benjamin C. Dunlap, Jr., Esquire

COMMONWEALTH OF PENNSYLVANIA

**DATE:** August 3, 2007

**SUBJECT:** A-00111016  
C-00913256

**TO:** Office of Special Assistants

**KJR**

**FROM:** *KB* James J. McNulty, Secretary

Application of Consolidated Rail Corporation for the abolition of 31 crossings of the Enola Branch, LC: 201323, MP 3.52 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County.

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