

Harrisburg, May 27, 1997.

SUBJECT: C-00970106, C-00970107, C-00970126, A-00113589

TO: John G. Alford, Secretary

FROM: David C. Hart, P.E., Manager  
Rail Safety Division  
Bureau of Transportation and Safety

*admitt*

A field conference was held at the sites of the subject crossings on February 7, 1997. It is requested that these three complaints and one application be consolidated, and reassigned to the Bureau of Administrative Law Judge and be scheduled for hearing as soon as possible with the following parties in interest being served notice thereof:

City of Lebanon  
South Lebanon Township  
Pennsylvania Department of Transportation  
Consolidated Rail Corporation  
R. J. Corman Corporation  
Lebanon County  
County of Lebanon Transit Authority

It is suggested that testimony at the hearing be adduced upon the appended list of Questions and Procedure and that appropriate action be taken at the hearing to incorporate the Questions and Procedure into the record in this proceeding.

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C-00970106  
C-00970107  
C-00970126  
A-00113589

QUESTIONS AND PROCEDURE

May, 1997

1. Pennsylvania Department of Transportation (PennDOT), City of Lebanon (City), South Lebanon Township (Township) and County of Lebanon Transit Authority (COLT) each submit testimony as to what, in its opinion, makes the subject crossings hazardous.
2. PennDOT, City, Township, and COLT each submit testimony as to what, in its opinion, should be done to improve the safety of the subject crossings.
3. PennDOT, City, and Township each submit testimony to identify and describe in detail the highway approaches at each of the subject crossings within their respective jurisdictions, including the alignment, grades, roadway width, sidewalk width, and the general physical condition of the approach roadways.
4. PennDOT, City, and Township each submit testimony as to the approximate class and volume of vehicular and pedestrian traffic traversing each of the subject crossings.
5. PennDOT, City, and Township submit testimony as to whether any accidents involving trains and motor vehicles, trains and pedestrians, or motor vehicles and motor vehicles as a result of the crossings or warning facilities at the crossings have occurred at the subject crossings within the past five years, and, if so, submit testimony as to the number of such accidents and the nature and cause thereof.
6. Consolidated Rail Corporation (Conrail) submit testimony as to the exact corporate name of the owner and operator of the line of railroad at the subject crossings.
7. Conrail submit testimony as to the current rail traffic on this line; the date the last train moved over the line; the current status of the line; and who rail service was provided for.
8. Conrail submit testimony as to whether it has filed with the Surface Transportation Board to abandon this line and the current status of those proceedings.

C-00970106  
C-00970107  
C-00970126  
A-00113589

- 2 -

May, 1997

9. Conrail submit testimony as to its future plans with regard to this line of railroad.
10. Conrail submit testimony as to what work it is willing to perform should the Commission sustain these complaints or approve the application to suspend or abolish these crossings.
11. Conrail submit testimony as to whether it has an agreement to sell this line of railroad to be operated as a railroad.
12. R. J. Corman Corporation submit testimony as to whether it has bought or negotiated to buy the rail line involved at the subject crossings and the current status of those negotiations.
13. R. J. Corman submit testimony as to whether it is aware of the number of crossings along this line and what its responsibility, with respect to maintenance of the crossings, will be if it purchases or has purchased this line.
14. R. J. Corman, if it is now owner of this line of railroad, submit testimony as to what work it is willing to perform should the Commission sustain these complaints or approve the application to suspend or abolish these crossings.
15. Lebanon County submit testimony as to whether the crossings are located within the County and whether the County is of the opinion the crossings are hazardous and what should be done to improve the crossings.
16. Query whether any of the interested parties desires to submit any additional relevant testimony.



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

June 3, 1997

In Re: A-00113589, C-00970106,  
C-00970107, C-00970126

(See attached list)

**A-00113589 Application of the County of Lebanon Transit Authority**

For approval of the suspension of a series of crossings involving the Cornwall Industrial Track of Consolidated Rail Corporation located in the City of Lebanon, Lebanon County.

**C-00970106 South Lebanon Township Board of Supervisors v. Consolidated Rail Corporation**

Complainant states it has received numerous complaints about the crossing at South Lincoln Avenue, mainly regarding ruts and deep holes causing damage to vehicles.

**C-00970107 City of Lebanon v. Consolidated Rail Corporation**

Complainant is concerned about the condition of crossings on the Cornwall Industrial Track of CONRAIL at the following locations in the City of Lebanon: Willow Street; Cumberland Street; Chestnut Street; Walnut Street; 12th Street; 10th Street; 9th Street; 8th Street. Complainant states it has received complaints from the public that crossings are causing damage to their vehicles.

**C-00970126 Pennsylvania Department of Transportation v. Consolidated Rail Corporation**

Complainant concerned about the safety of at-grade crossing at State Route 2003., L.R. 38016 at State Drive. Complainant says crossing is sunken with rotting timbers breaking out. Due to location on an over vertical curb, a driver is not aware of the crossing's poor condition until it is too late.

**NOTICE**

This is to inform you that an **Initial Hearing** on the above-captioned case will be held **Tuesday, August 5, 1997 at 10:00 a.m.** in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, Pennsylvania.

We have enclosed a list of questions prepared by the Bureau of Transportation & Safety indicating information to be developed at the hearing along with other relevant testimony.

**Administrative Law Judge Herbert S. Cohen** will be the presiding officer in this case. The judge can be contacted at P.O. Box 3265, Harrisburg, Pennsylvania, 17105-3265; telephone (717) 783-5452.

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Each party should submit testimony and exhibits with respect to the entire crossing alteration project with the understanding that the Commission may, in determining this matter, take jurisdiction over any portion of the project.

If any party intends to offer prepared written testimony, the testimony must be served on the presiding officer and each party at least 20 days prior to the hearing unless a different schedule has been ordered by the presiding officer.

The Commission's rules require that all parties, except for those individuals appearing on their own behalf, be represented by counsel. Therefore, you should have an attorney of your choice file an entry of appearance before the scheduled hearing.

If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the court reporter. An additional copy must be furnished to the presiding officer. A copy must also be provided to each party of record.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call Norma Lewis at the Public Utility Commission:

- Scheduling Office: (717) 787-1399
- AT&T Relay Service number for persons who are deaf or hearing impaired: 1-800-654-5988.

pc: Judge Cohen  
John Frazier - BPL Rm. 101  
Dave Hart - T&S Rail Division  
Norma Lewis  
Steve L. Springer, Scheduling Officer  
Beth Plantz  
Docket Section  
Calendar File

**A-00113589 Application of the County of Lebanon Transit Authority**

For approval of the suspension of a series of crossings involving the Cornwall Industrial Track of Consolidated Rail Corporation located in the City of Lebanon, Lebanon County.

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ALLEN E FREED CHAIRMAN  
COUNTY OF LEBANON TRANSIT  
AUTHORITY  
200 WILLOW STREET  
LEBANON PA 17042

TIMOTHY D SHEFFEY ESQUIRE  
REILLY WOLFSON SHEFFEY SCHRUM  
AND LUNDBERG  
LEBANON TRANSIT AUTHORITY  
1601 CORNWALL ROAD  
LEBANON PA 17042-7460

DAVID A SALAPA ESQUIRE  
PA PUC TRANSPORTATION/SAFETY  
RAIL DIVISION  
PO BOX 3265  
HARRISBURG PA 17105-3265

ANDREW F GORDON ESQUIRE  
PA DEPARTMENT OF  
TRANSPORTATION  
FORUM PLACE 9TH FLOOR  
555 WALNUT STREET  
HARRISBURG PA 17101-1900

GINA M D'ALFONSO ESQUIRE  
PA DEPARTMENT OF TRANSPORTATION  
FORUM PLACE 9TH FLOOR  
555 WALNUT STREET  
HARRISBURG PA 17101-1900

WILLIAM D PICKERING ENGINEER  
PA DEPARTMENT OF  
TRANSPORTATION  
FORUM PLACE 9TH FLOOR  
555 WALNUT STREET  
HARRISBURG PA 17101-1900

DONALD J RHINE CHIEF CLERK  
LEBANON COUNTY COMMISSIONERS  
ROOM 207 MUNICIPAL BUILDING  
400 SOUTH 8TH STREET  
LEBANON PA 17042-6794

EDWARD M KEENER CITY ENGINEER  
CITY OF LEBANON  
MUNICIPAL BUILDING  
400 SOUTH 8TH STREET  
LEBANON PA 17042-6794

JOHN HERZOG ESQUIRE  
PA PUC TRANSPORTATION/SAFETY  
RAIL DIVISION  
PO BOX 3265  
HARRISBURG PA 17105-3265

KEITH L KILGORE ESQUIRE  
SPITLER AND KILGORE  
SOUTH LEBANON TOWNSHIP  
522 SOUTH EIGHT STREET  
LEBANON PA 17042

SCOTT WASSERKRUG ESQUIRE  
CONSOLIDATED RAIL CORPORATION  
2001 MARKET STREET  
TWO COMMERCE SQUARE  
PHILADELPHIA PA 19101-1416

J D COSSELL CHIEF ENGINEER  
CONSOLIDATED RAIL CORPORATION  
2001 MARKET STREET  
TWO COMMERCE SQUARE  
PHILADELPHIA PA 19101-1416

ADRIENNE C SNELLING ESQUIRE  
LEBANON COUNTY SOLICITOR  
ROOM 207 MUNICIPAL BUILDING  
400 SOUTH EIGHT STREET  
LEBANON PA 17042-6794

PAUL KRAUSE CHAIRMAN  
SOUTH LEBANON TOWNSHIP  
BOARD OF SUPERVISORS  
1800 S FIFTH AVENUE  
LEBANON PA 17042

SAMUEL G WEISS ESQUIRE  
WEISS WEISS & WEISS  
CITY OF LEBANON SOLICITOR  
802 WALNUT STREET  
LEBANON PA 17042-0838

ROSAMOND A PRESBY ESQUIRE  
LEBANON COUNTY SOLICITOR  
ROOM 207 MUNICIPAL BUILDING  
400 S 8TH STREET  
LEBANON PA 17042-6794

RICK CORMAN  
R J CORMAN RAILROAD COMPANY  
PA LINES INC  
1 JAY STATION  
NICHOLASVILLE KY 40356

C-00970106

C-00970107

C-00970126

A-00113589

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May, 1997

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C-00970107

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COMMONWEALTH OF PENNSYLVANIA

DATE: June 3, 1997

SUBJECT: C-00970106, C-00970107,  
C-00970126, A-00113589

TO: Office of Administrative Law Judge

FROM: *WJZ* John G. Alford, Secretary

SOUTH LEBANON TWP BOARD OF SUPERVISORS v. CONRAIL  
(C-00970106)

CITY OF LEBANON v. CONRAIL (C-00970107)

PENNDOT v. CONRAIL (C-00970126)

APPLICATION OF COUNTY OF LEBANON TRANSIT AUTHORITY  
(A-00113589)

BTL

Attached is memorandum received from the Bureau of Transportation and Safety - Rail Division requesting that the above entitled proceedings be Consolidated and reassigned to your Office to be set for hearing and that testimony be adduced at the hearing upon the attached list of questions and procedures.

These matters are assigned to your Office for appropriate action.

Attachment

cc: TSL - copy of memo only  
TSR - copy of memo only

wjz

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COMMONWEALTH OF PENNSYLVANIA  
 PENNSYLVANIA PUBLIC UTILITY COMMISSION  
 P.O. BOX 3265, HARRISBURG, PA 17105-3265

*File*

IN REPLY PLEASE  
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June 5, 1997

Gary R. Hoffman, Esquire  
 Director, Pennsylvania Code & Bulletin  
 Room 647, Main Capitol Building  
 Harrisburg, PA 17120

DOCKETED

JUN 16 1997

Re: Notice  
 Application of the County of Lebanon  
 Transit Authority, et al.  
 Docket Nos. A-00113589, C-00970106,  
 C-00970107 and C-00970126

Dear Mr. Hoffman:

Enclosed please find two (2) copies of a notice as  
 captioned above. The Commission requests this notice be  
 published in the Pennsylvania Bulletin.

Very truly yours,

*John L. Dial*

John L. Dial  
 Executive Director

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Enclosure

cc: First Deputy Chief Counsel Pankiw  
 Regulatory Coordinator Leming  
 OALJ Scheduling Unit  
 New Assignments and Filings

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

NOTICE

Application of the County of Lebanon Transit Authority  
A-00113589

South Lebanon Township Board of Supervisors

v.

Consolidated Rail Corporation  
C-00970106

City of Lebanon v. Consolidated Rail Corporation  
C-00970107

Pennsylvania Department of Transportation

v.

Consolidated Rail Corporation

C-00970126

Notice is hereby given that an Application and 3 complaints have been made to the Pennsylvania Public Utility Commission, under the provisions of Public Utility Code, requesting that the Public Utility Commission for approval of the suspension of a series of crossings involving the Cornwall Industrial Track of Consolidated Rail Corporation located in the City of Lebanon, Lebanon County (A-00113589). A complaint stating the South Lebanon Township Board of Supervisors has received numerous complaints about the crossing at South Lincoln Avenue, mainly regarding ruts and deep holes causing damage to vehicles (C-00970106). A complaint stating the City of Lebanon is concerned about the condition of crossings on the Cornwall Industrial Track of CONRAIL at the following locations in the City of Lebanon: Willow Street; Cumberland Street; Chestnut Street; Walnut Street; 12th Street; 10th Street; 8th Street. Complainant states it has received complaints from the public that crossings are causing damage to their vehicles (C-0970107).

A complaint stating the Pennsylvania Department of Transportation is concerned about the safety of at-grade crossing at State Route 2003., L.R. 38016 at State Drive. Complainant says crossing is sunken with rotting timbers breaking out. Due to location on an over vertical curb, a driver is not aware of crossing's poor condition until it is too late (C-00970126).

A public hearing on this application will be held Tuesday, August 5, 1997 at 10:00 a.m. in an available Hearing Room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, Pennsylvania, when and where all persons in interests may appear and be heard if they so desire.

BY THE COMMISSION,

  
John G. Alford  
Secretary

**ORIGINAL**

LAW OFFICES  
**NAUMAN, SMITH, SHISSLER & HALL**

18<sup>TH</sup> FLOOR  
200 NORTH THIRD STREET  
P. O. Box 840

HARRISBURG, PENNSYLVANIA 17108-0840

TELEPHONE  
(717) 236-3010  
TELEFAX  
(717) 234-1925

SPENCER G. NAUMAN, JR.  
JOHN C. SULLIVAN  
J. STEPHEN FEINOUR  
CRAIG J. STAUDENMAIER  
BENJAMIN C. DUNLAP, JR.  
STEPHEN J. KEENE

COUNSEL  
RALPH W. BOYLES, JR.  
DAVID C. EATON  
DIRECT E-MAIL ADDRESS  
NSSH@REDROSE.NET

July 2, 1997

**HAND DELIVERED**

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

MEM

RE: **South Lebanon Township v. Co. Of Lebanon**  
**C-00970106**

**City of Lebanon v. County of Lebanon**  
**C-00970107**

**Commonwealth of Pennsylvania, Department**  
**Of Transportation v. Conrail**  
**C-00970126**

**Application of the Co. Of Lebanon Transit Auth.**  
**For Approval of the Suspension of a Series of Crossings**  
**Involving the Cornwall Industrial Track of CONRAIL**  
**Located in the City of Lebanon, Lebanon County**  
**A-00113589**

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PROTHONOTARY'S OFFICE

Dear Sir:

I enclose an original and three (3) copies each of the Entry of Appearance of David C. Eaton, Esquire and Benjamin C. Dunlap, Jr., Esquire on behalf of Consolidated Rail Corporation for filing in the above matters. In accordance with the accompanying Certificates of Service we have provided copies of the Entry of Appearance to all active parties of record.

Sincerely yours,

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

/jc  
Enclosures  
cc: All Parties of Record  
ALJ Herbert S. Cohen  
Scott K. Wasserkrug, Esquire

DOCUMENT  
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61

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: : A-00113589

APPLICATION OF THE COUNTY  
OF LEBANON TRANSIT AUTHORITY  
FOR APPROVAL OF THE  
SUSPENSION OF A SERIES OF  
CROSSINGS INVOLVING THE  
CORNWALL INDUSTRIAL TRACK  
OF CONSOLIDATED RAIL  
CORPORATION LOCATED IN THE  
CITY OF LEBANON, LEBANON  
COUNTY

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PROTHONOTARY'S OFFICE

**PRAECIPE FOR ENTRY OF APPEARANCE**

TO: JOHN G. ALFORD  
SECRETARY OF PUC

Please enter the appearance of the undersigned as counsel for Consolidated Rail Corporation in regard to the above-captioned proceeding.

NAUMAN, SMITH, SHISSLER & HALL

By Benjamin C. Dunlap, Jr.  
David C. Eaton, Esquire  
Supreme Court I.D. #07169

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 Conrail

Date: July 2, 1997

DUCKETT  
JUL 10 1997

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JUL 10 1997

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing "Praecipe for Entry of Appearance" this day by depositing the same in the United States mail, postage prepaid, in Harrisburg, Pennsylvania, addressed to:

**SERVICE LIST**

Honorable Herbert S. Cohen  
Administrative Law Judge  
P. O. Box 3265  
Harrisburg, PA 17105-3265

William D. Pickering  
Chief Engineer  
PennDOT  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Allen E. Freed, Chairman  
County of Lebanon Transit Auth.  
200 Willow Street  
Lebanon, PA 17042

David A. Salapa, Esquire  
PA PUC Transportation/Safety  
Rail Division  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Donald J. Rhine, Chief Clerk  
Lebanon County Commissioners  
Room 207 Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

John Herzog, Esquire  
PA PUC Transportation/Safety  
Rail Division  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Andrew F. Gordon, Esquire  
Chief Counsel  
Pennsylvania Dept. of Transp.  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

J. D. Cossell, Chief Engineer  
Consolidated Rail Corporation  
2001 Market Street  
P. O. Box 41416  
Philadelphia, PA 19101-1416

Timothy D. Sheffey, Esquire  
Lebanon Transit Authority  
1601 Cornwall Road  
Lebanon, PA 17042-7460

Gina M. D'Alfonso, Esquire  
PA Department of Transportation  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Edward M. Keener, City Engineer  
City of Lebanon  
Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

Keith L. Kilgore, Equire  
Spitler and Kilgore  
South Lebanon Township  
522 South 8<sup>th</sup> Street  
Lebanon, PA 17042

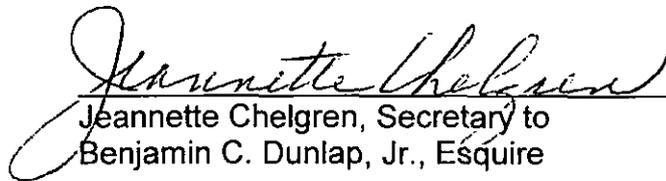
Scott K. Wasserkrug, Esquire  
Conrail  
2001 Market Street 16A  
Two Commerce Square  
Philadelphia, PA 19101-1416

Samuel G. Weiss, Esquire  
Weiss, Weiss & Weiss  
City of Lebanon Solicitor  
802 Walnut Street  
Lebanon, PA 17042-0838

Adrienne C. Snelling, Esquire  
Rosamond A. Presby, Esquire  
Lebanon County Solicitor  
Room 207 Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

Paul Krause, Chairman  
South Lebanon Township  
Board of Supervisors  
1800 South Fifth Avenue  
Lebanon, PA 17042

Rick Corman  
R J Corman Railroad Company  
PA Lines, Inc.  
1 Jay Station  
Nicholasville, KY 40356

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

Dated: July 2, 1997

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PROTHONOTARY'S OFFICE

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APPLICATION OF THE COUNTY OF LEBANON TRANSIT AUTHORITY : DOCKET NO. A-00113589  
SOUTH LEBANON TOWNSHIP BOARD SUPERVISORS V. CONSOLIDATED RAIL CORPORATION : DOCKET NO. C-00970106  
CITY OF LEBANON V. CONSOLIDATED RAIL CORPORATION : DOCKET NO. C-00970107  
PENNSYLVANIA DEPARTMENT OF TRANSPORTATION V. CONSOLIDATED RAIL CORPORATION : DOCKET NO. C-00970126

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JUL 31 1997

CONSOLIDATED RAIL CORPORATION'S RESPONSE  
TO PENNSYLVANIA DEPARTMENT OF TRANSPORTATION'S  
REQUEST FOR PRODUCTION OF DOCUMENTS

PROTHONOTARY'S OFFICE  
FA.P.U.C.

97 JUL 25 PM 4:22

RECEIVED

Consolidated Rail Corporation ("Conrail"), by its attorneys, NAUMAN, SMITH, SHISSLER & HALL, makes the following response to the Pennsylvania Department of Transportation ("PennDOT") Request For Production Directed to Conrail, pursuant to the provisions of 52 Pa. Code §5.349, as follows:

DOCUMENTS REQUESTED

1. All documents from January 1, 1994, to the present, that relate to the termination of rail service to the ALCOA plant.

Response: See information contained in Response to Document Request number 2 below, which is attached hereto as Exhibit "A".

2. All documents from January 1, 1994, to the present, that relate to the abandonment of the Cornwall Industrial Track, including information relative to the economic viability of the Cornwall Industrial Track.

Response: See documents attached hereto as Exhibit "A", which relate to Conrail's Petition For Exemption in the abandonment proceedings before the Surface Transportation Board for that portion of the Cornwall Industrial Track from MP 0.90 to MP 4.10 (the latter portion of which corresponds with the former Lebanon Industrial Track from MP post 18.60 to MP 18.00). The documents produced as Exhibit "A" contain the Decision and Notice of Interim Trail Use or Abandonment by the Surface Transportation Board, having a service date of July 25, 1996, and an effective date of August 24, 1996. With the exception of information contained in the documents attached hereto as Exhibit "A", Conrail objects to that portion of PennDOT's document request number 2 which requests "information relative to the economic viability of the Cornwall Industrial Track," as such documents are confidential business records of Conrail.

3. All documents from January 1, 1994, to the present, that relate to inquiries by R.J. Cornman regarding the Cornwall Industrial Track by R.J. Cornman.

Response: Conrail objects to PennDOT's Request for Production number 3, as it requests confidential business records regarding negotiations between Conrail and R.J. Corman Railroad Company ("Corman") for a purchase and sale agreement of that portion of the Cornwall Industrial Track between MP 0.90 and MP 4.10. Without waiver of such objection, Conrail's negotiations with Corman are for a near-term closing on the abandoned portion of the line. The buyers are aware of, and will assume, the crossing liabilities within the sale limits. A copy of the purchase and sale agreement will be supplied to all parties to this proceeding as soon as final agreement is reached between Conrail and Corman and the agreement is executed. If not finalized by the hearing date, Conrail intends to request that the record remain open for the filing of the purchase and sale agreement as a late-filed exhibit.

4. All documents from January 1, 1994, to the present, that relate to potential rails to trails use of the Cornwall Industrial Track.

Response: See information contained in documents produced in response to number 2, which are attached hereto as Exhibit "A".

Respectfully submitted,

NAUMAN, SMITH, SHISSLER & HALL

By *Benjamin C. Dunlap, Jr.*  
David C. Eaton, Esquire  
Supreme Court I.D. #07169

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 Consolidated Rail  
Corporation

Date: July 25, 1997

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SOUTH LEBANON TOWNSHIP	:	
BOARD OF SUPERVISORS	:	
Complainant	:	Docket No. C-00970106
	:	
vs.	:	
	:	
CONSOLIDATED RAIL	:	
CORPORATION, et al	:	
Respondent	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that I served Conrail's "Consolidated Rail Corporation's Response To Pennsylvania Department Of Transportation's Request For Production Of Documents" in the above action, this day by depositing the same in the United States mail, postage prepaid, in Harrisburg, Pennsylvania, addressed to:

**SERVICE LIST**

Honorable Herbert S. Cohen  
Administrative Law Judge  
P. O. Box 3265  
Harrisburg, PA 17105-3265

William D. Pickering  
Chief Engineer  
PennDOT  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Allen E. Freed, Chairman  
County of Lebanon Transit Auth.  
200 Willow Street  
Lebanon, PA 17042

Andrew F. Gordon, Esquire  
Chief Counsel  
Pennsylvania Dept. of Transp.  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

J. D. Cossell, Chief Engineer  
Consolidated Rail Corporation  
2001 Market Street  
P. O. Box 41416  
Philadelphia, PA 19101-1416

Timothy D. Sheffey, Esquire  
Lebanon Transit Authority  
1601 Cornwall Road  
Lebanon, PA 17042-7460

David A. Salapa, Esquire  
PA PUC Transportation/Safety  
Rail Division  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Gina M. D'Alfonso, Esquire  
PA Department of Transportation  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Donald J. Rhine, Chief Clerk  
Lebanon County Commissioners  
Room 207 Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

Edward M. Keener, City Engineer  
City of Lebanon  
Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

John Herzog, Esquire  
PA PUC Transportation/Safety  
Rail Division  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Keith L. Kilgore, Esquire  
Spitler and Kilgore  
South Lebanon Township  
522 South 8<sup>th</sup> Street  
Lebanon, PA 17042

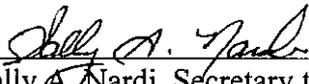
Scott K. Wasserkrug, Esquire  
Conrail  
2001 Market Street 16A  
Two Commerce Square  
Philadelphia, PA 19101-1416

Samuel G. Weiss, Esquire  
Weiss, Weiss & Weiss  
City of Lebanon Solicitor  
802 Walnut Street  
Lebanon, PA 17042-0838

Adrienne C. Snelling, Esquire  
Rosamond A. Presby, Esquire  
Lebanon County Solicitor  
Room 207 Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

Paul Krause, Chairman  
South Lebanon Township  
Board of Supervisors  
1800 South Fifth Avenue  
Lebanon, PA 17042

Rick Corman  
R J Corman Railroad Company  
PA Lines, Inc.  
1 Jay Station  
Nicholasville, KY 40356

  
\_\_\_\_\_  
Sally A. Nardi, Secretary to  
Benjamin C. Dunlap, Jr., Esquire

Dated: July 25, 1997

CONRAIL

1,2

December 21, 1995

UPS NEXT DAY AIR

Vernon A. Williams  
Secretary  
Interstate Commerce Commission  
12th St. & Constitution Ave., NW  
Washington, D.C. 20423

RE: No. AB 167 (Sub-No. 1156X)  
Consolidated Rail Corporation -- Abandonment Exemption --  
in Lebanon County, Pennsylvania

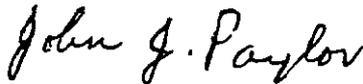
Dear Mr. Williams:

Enclosed for filing with the Commission are the original and ten copies of a Petition for Exemption in reference to the above-described abandonment, which are submitted pursuant to 49 U.S.C. §10505, together with the \$3,300 filing fee.

Also enclosed is the requisite environmental and historic report in conformance with 49 C.F.R. §§1105.7 and 1105.8; copies of letters consulting governmental agencies and officials with regard to environmental and historic matters as specified in §§1105.7 and 1105.8; and copies of the responses Conrail has received from those agencies.

Please time stamp the enclosed extra copy of this letter and return it to me in the enclosed self-addressed, stamped envelope.

Very truly yours,



John J. Paylor  
Associate General Counsel  
(215) 209-5047

Enclosures

cc: All Parties on Attached Service List

SERVICE LIST

F. Dale Robertson, Chief - Forest Service  
United States Department of Agriculture  
Auditors Building  
201 14th Street, S.W.  
Washington, DC 20250

Chief, Land Resource Division  
U.S. Department of the Interior  
800 N. Capitol Street, N.W.  
Room 540  
Washington, DC 20002-4244

William T. Spitzer, Chief - Recreation Resources  
National Park Service  
800 N. Capitol Street, N.W.  
Room 490  
Washington, DC 20013-7127

Bob Korpanty  
Department of Defense  
Railroads for National Defense Program  
720 Thimble Shoals Boulevard, Suite 130  
Newport News, VA 23606-2574

Mr. Brent D. Glass  
Executive Director  
Pennsylvania Historical and Museum Commission  
P. O. Box 1026  
Harrisburg, PA 17108

William Carpenter, Commissioner  
Lebanon County Commissioners  
400 S. 8th Street, Room 207  
Municipal Building  
Lebanon, PA 17042

U.S. Fish and Wildlife Service, Region 5  
300 Westgate Center Drive  
Hadley, MA 01035

Roger Ficks, Director  
Department of Environmental Resources  
P. O. Box 8551  
Harrisburg, PA 17105-8551

Mr. Richard N. Duncan - State Conservationist  
USDA Soil Conservation Service  
1 Credit Union Place, Suite 340  
Wildwood Center  
Harrisburg, PA 17110-2993

Mr. Arthur A. Davis  
Secretary  
Department of Environmental Resources  
P. O. Box 2063  
Harrisburg, PA 17105-2063

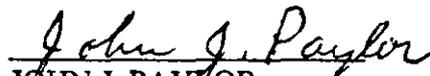
Mr. David W. Rolka  
Chairman  
Pennsylvania Public Utilities Commission  
P. O. Box 3265  
Harrisburg, PA 17120

Honorable Bradley L. Mallory, Secretary  
Department of Transportation  
Commonwealth of Pennsylvania  
1200 Transportation & Safety Building  
Harrisburg, PA 17120

CERTIFICATE OF SERVICE AND COMPLIANCE WITH  
49 C.F.R. 1152.50(e), 1105.11, AND 1105.12

I, John J. Paylor, hereby certify as follows:

1. The requirements of 49 C.F.R. 1152.50(e) have been complied with by the sending on December 21, 1995, of the foregoing Petition for Exemption to the persons set forth in 49 C.F.R. 1152.50(d)(1)(i)-(v).
2. The requirements of 49 C.F.R. 1105.11 have been complied with by the sending on December 21, 1995, of the attached Environmental/Historic Report to the agencies set forth in 49 C.F.R. 1105.7(b) and the Pennsylvania Historical and Museum Commission.
3. The requirements of 49 C.F.R. 1105.12 have been complied with by the publishing of a notice prior to this filing in the Lebanon News, a newspaper of general circulation in Lebanon County, Pennsylvania, where the Subject Line is located.
4. The Petition for Exemption and accompanying Environmental/Historic Report were served on December 21, 1995, by United States mail, first class, postage prepaid upon all persons set forth on the foregoing Service List.

  
JOHN J. PAYLOR

DATE: December 21, 1995

BEFORE THE  
INTERSTATE COMMERCE COMMISSION

---

*DOCKET NO. AB 167 (SUB-NO. 1156X)*

---

CONSOLIDATED RAIL CORPORATION -- ABANDONMENT  
EXEMPTION -- IN LEBANON COUNTY, PENNSYLVANIA

---

**PETITION FOR EXEMPTION**

---

John J. Paylor  
Associate General Counsel  
(215) 209-5047

John K. Enright  
Associate General Counsel  
(215) 209-5012

CONSOLIDATED RAIL CORPORATION  
2001 Market Street - 16A  
P. O. Box 41416  
Philadelphia, PA 19101-1416

Attorneys for Consolidated Rail Corporation

Dated: December 21, 1995

BEFORE THE  
INTERSTATE COMMERCE COMMISSION

---

*DOCKET NO. AB 167 (SUB-NO. 1156X)*

---

CONSOLIDATED RAIL CORPORATION – ABANDONMENT  
EXEMPTION – IN LEBANON COUNTY, PENNSYLVANIA

---

**PETITION FOR EXEMPTION**

---

1. Consolidated Rail Corporation ("Conrail"), a rail carrier subject to the Interstate Commerce Act, proposes to abandon a line of railroad known as the Cornwall Industrial Track and the former Lebanon Industrial Track, in Lebanon County, Pennsylvania (the "Subject Line" or "Line"). Conrail hereby petitions the Commission pursuant to 49 U.S.C. § 10505 to exempt the proposed abandonment of the Subject Line from the provisions of 49 U.S.C. §§ 10903-10904. In support of its Petition, Conrail states the following:

2. The Subject Line is identified and described as follows:

(a) Name: Cornwall Industrial Track

Location: Lebanon County, Pennsylvania

Description of Track: Between milepost 0.90 and milepost 3.50, in Lebanon County, Pennsylvania.

Length of Track: 2.60 miles ±

(b) Name: Lebanon Industrial Track

Location: Lebanon County, Pennsylvania

Description of Track: Between milepost 18.60 and milepost 18.00, in Lebanon County, Pennsylvania.

Length of Track: 0.60 miles ±

The Cornwall Industrial Track and the Lebanon Industrial Track here proposed for abandonment constitute a continuous line of railroad running approximately 3.2 miles from a point in the town of Lebanon, near Horntown Yard on Conrail's Harrisburg to Reading mainline, to the end of track, and connection with a private siding known as Alcoa Lead.

3. A map in compliance with 49 C.F.R. 1152.22(a)(5) depicting the location of the Line is attached to this Petition as Exhibit "A."

4. Prior to November 29, 1995, there was only one active customer, Aluminum Company of America ("Alcoa"), whose private siding connected with the Line at milepost 18.15±. All of Alcoa's business is now moving by truck, under a contract which commenced in late October 1995. Alcoa made the decision to convert to 100% truck service due to the reduced transit time offered by truck service (nine days rail vs. one day truck). Alcoa's contract commits it to use truck service for a minimum of two years.

5. The Subject Track is in need of substantial rehabilitation. The cost to rehabilitate the track if Conrail were to continue to provide service is estimated to be \$451,700. In addition, the Pennsylvania Public Utilities Commission held a site conference on September 22, 1995 regarding the condition of various at-grade crossings on the Subject Line. It is expected that Conrail will be ordered to rehabilitate nine crossings at a total cost of \$90,000 over the next five years unless the Line is abandoned.

6. The Line crosses over Wilhelm Avenue in South Lebanon Township on undergrade bridge 2.46 (see attached historic report for a photo of this bridge). The bridge abutments restrict Wilhelm Avenue to one lane, but the Township reports that a traffic study of this street shows a traffic volume of 2400 vehicles in a 24-hour period. The bridge has accordingly been selected for replacement at a cost of \$1.2 million (80% state funds; 20% township funds). Abandonment of the Line will allow removal rather than replacement of this bridge and will avoid the necessity of this substantial expenditure of public funds.

7. Conrail believes there is no prospect for developing any freight business on the Line in the foreseeable future. Abandonment of the Line will allow Conrail to salvage track and land, with an estimated net salvage value of \$168,396, will allow Conrail to avoid the costs of rehabilitation of the Line, will benefit the community and the public through the removal and closing of highway grade crossings, and will allow the local township to avoid the expenditure of \$1.2 million to replace undergrade bridge 2.46 carrying the Line over Wilhelm Avenue.

8. Under 49 U.S.C. §10505, the Commission must exempt a transaction from regulation when it finds that application of a provision of the statute is not necessary to carry out the rail transportation policy set forth at 49 U.S.C. 10101a, and that the transaction is of limited scope or that regulation is not necessary to protect shippers from an abuse of market power. The exemption proposed here meets all of the statutory requirements.

9. Relevant provisions of the national rail transportation policy set forth in 49 U.S.C. §10101a include subsections (2), to minimize the need for federal regulatory control over the rail transportation system and expedite regulatory decisions; (5), to foster sound economic conditions in transportation; (7), to reduce regulatory barriers to entry

into and exit from the industry; and (10), to encourage honest and efficient management of railroads.

10. Exemption of the proposed abandonment well serves all of the aforesaid elements of the rail policy and is contrary to none of the others. Specifically, by minimizing the regulatory expense and time lag inherent in the full abandonment process, exemption will expedite regulatory decisions and reduce regulatory barriers to exit. Exemption will also foster sound economic conditions, encourage efficient management, and promote sound transportation conditions, because abandonment will allow Conrail to avoid the unnecessary expenditure of funds to rehabilitate the Line. This will allow Conrail to allocate its resources to those portions of its railroad that are generating, or have the potential to generate, profitable traffic and positive revenues.

11. Application of Sections 10903-10904 of the Act to abandonment of this track is not necessary to carry out the transportation policy of the Act. The only affected shipper has terminated its use of rail service and has diverted its transportation to truck.

12. Given that the affected shipper no longer utilizes rail service, the proposed abandonment presents no opportunity for an abuse of market power. Further, the proposed abandonment is of limited scope, because (1) it involves only 3.2 miles of rail line which presently serves no shippers; (2) there is no potential for additional service over the Line; and, (3) there will be no competitive impact from abandonment.

13. Abandonment will also have other public benefits. It will allow salvage of the line, will allow the closing of highway grade crossings, and will allow the local township to avoid replacement of the bridge over Wilhelm Avenue.

14. In short, regulation of the abandonment of the Subject Track is unnecessary to carry out any of the relevant rail transportation policy elements of 49 U.S.C. §10101a. No vital interest of shippers or the community will be adversely

affected and abandonment will have no effect on competition. To the contrary, the interests of the public will be served by the abandonment.

15. Conrail has provided notice of this proceeding by serving a copy of this Petition on Alcoa, as well as the persons set forth in 49 C.F.R. § 1152.50(d).

16. Based on information in Conrail's possession, the Line does not contain any federally granted rights-of-way. Any documentation in Conrail's possession will be made available promptly to those requesting it.

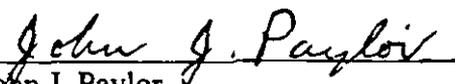
17. Conrail acknowledges that the Commission must impose labor protective conditions as stated in Oregon Short Line R. Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979).

18. An Environmental/Historic Report prepared in accordance with 49 C.F.R. §§ 1105.7 and 1105.8 is attached as Exhibit "B" to this Petition.

19. Conrail's counsel in this matter, and the person to whom correspondence should be directed, is:

JOHN J. PAYLOR  
Consolidated Rail Corporation  
2001 Market Street, 16A  
Philadelphia, PA 19101-1416  
Telephone: (215) 209-5047  
Facsimile: (215) 209-4817

WHEREFORE, Conrail respectfully requests that, pursuant to 49 U.S.C. § 10505, the Commission grant an exemption from the provisions of 49 U.S.C. § 10903-10904, with regard to the proposed abandonment of the Subject Line.

  
John J. Paylor  
John K. Enright  
Associate General Counsel  
Consolidated Rail Corporation  
2001 Market Street - 16A  
Philadelphia, PA 19101-1416  
(215) 209-5047

Attorneys for Consolidated  
Rail Corporation

DATE: December 21, 1995



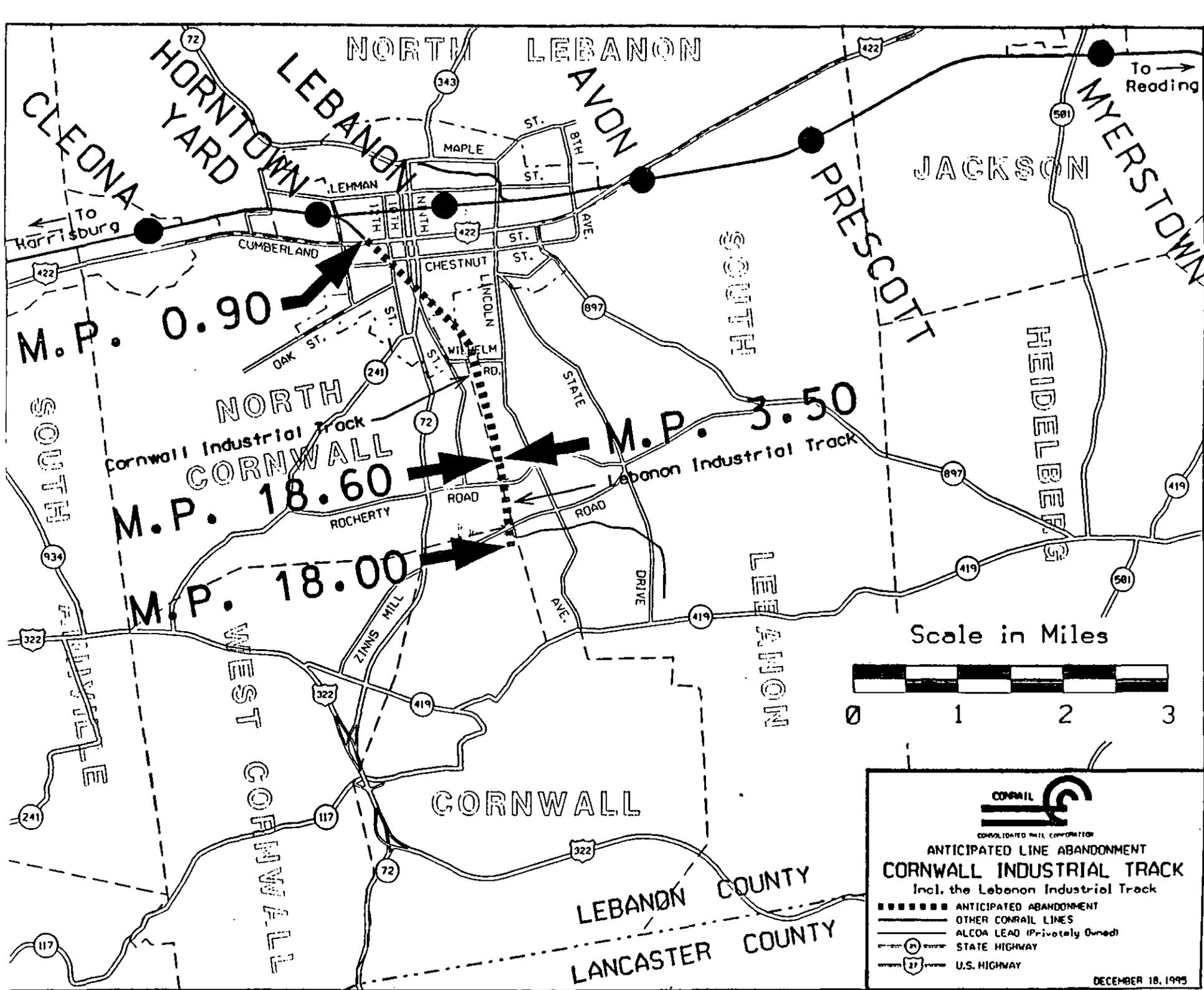


EXHIBIT A

**BEFORE THE  
INTERSTATE COMMERCE COMMISSION**

---

*DOCKET NO. AB 167 (SUB-NO. 1156X)*

---

**CONSOLIDATED RAIL CORPORATION – ABANDONMENT  
EXEMPTION – IN LEBANON COUNTY, PENNSYLVANIA**

---

**PETITION FOR EXEMPTION**

---

**ENVIRONMENTAL AND HISTORIC REPORT**

Consolidated Rail Corporation ("Conrail") submits this Environmental and Historic Report in accordance with 49 C.F.R. §§ 1105.7 & 1105.8. Conrail has fulfilled the requirements of sections 1105.7 and 1105.8 that it consult specified public agencies by sending letters to such agencies and requesting comments on the effect of this action on the environment and on matters of historic preservation concern. Copies of the letters and all responses Conrail has received as of this date are attached to this Report. Any additional responses will be furnished when received.

## ENVIRONMENTAL

1. Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

1. The proposed action is abandonment of a line of railroad known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and milepost 18.00 in Lebanon County, Pennsylvania. The line has been embargoed due to unsafe track conditions. Prior to the removal of this line from service, it served one shipper facility, Aluminum Company of America ("Alcoa"). For economic and service reasons, Alcoa has ceased its use of the Line, and no traffic has moved from or to Alcoa since November 29, 1995. After abandonment, no commodities will be transported on the Subject Line. The abandonment will involve removal of rail, track materials, and crossties. Bridges are not planned for removal as part of the planned action. The bridge over Wilhelm Avenue presently constitutes an obstruction to traffic and abandonment of the Line will make possible the removal of this obstruction if local authorities having responsibility for the road elect to do so. No alternative actions have been considered. A detailed map showing the location of the Subject Line and delineating the project is attached to the Petition for Exemption as Exhibit "A".

2. Transportation system. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

2. The subject line is used for no freight or passenger service. Consequently, the proposed abandonment will have no effect upon regional or local transportation systems and patterns and will cause no diversion of passengers or freight to other transportation systems or modes.

3. Land use. (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with the existing land use plans. Describe any inconsistencies. (ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land. (iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by §1105.9. (iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.

3. (i) Conrail is aware of no inconsistencies of the proposed action with existing land use plans. The Lebanon County Board of Commissioners and the Lebanon County Planning Department have been consulted in this regard. Conrail first wrote to these agencies on November 17, 1995, to request that they comment on the proposed abandonment. To date, no responses have been forthcoming. Upon receipt of any responses, Conrail will forward same to the Commission.

(ii) The United States Soil Conservation Service ("SCS") has been consulted in this regard. In its response of November 24, 1995, this agency indicated that there is "Important Farmland in the vicinity of the track." This agency further stated that it "does not have authority for enforcement of environmental or farmland protection agencies" and that it "respectfully decline[s] to comment" on the merits of the proposed abandonment.

(iii) The Pennsylvania Division of Coastal Programs has been consulted in this regard. In its response of November 30, 1995, this agency "determined that these railroad

abandonments are located outside of Pennsylvania's coastal zones and will not impact upon them."

(iv) Conrail is not aware of an alternative public use under 49 U.S.C. § 10906 for which the right-of-way is suitable.

4. **Energy.** (i) Describe the effect of the proposed action on transportation of energy resources. (ii) Describe the effect of the proposed action on recyclable commodities. (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why. (iv) If the proposed action will cause diversions from rail to motor carriage of more than (A) 1,000 rail carloads a year; or (B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

4. Because the subject line is out of service and has handled no local or overhead traffic since November 29, 1995, the proposed abandonment will not affect transportation of energy resources or recyclable commodities, will not result in an increase or decrease in overall energy efficiency, and will cause no traffic diversion from rail to motor carriage.

5. **Air.** (i) If the proposed action will result in either: (A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. 10901 (10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply. (ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either: (A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, (B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. (iii) If transportation of ozone

depleting material is contemplated, identify the materials and quantity, the frequency of service, safety practices, the applicant's safety record on derailments, accidents and spills, contingency plans to deal with accidental spills, and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

5. Because the subject line has handled no traffic since November 29, 1995, the proposed abandonment will cause no increase or decrease in rail or motor carrier traffic and will have no impact upon air quality. The proposed action will not involve the transportation of ozone depleting material.

6. Noise. If any of the thresholds identified in item (5) are surpassed, will the proposed action cause (i) An incremental increase in noise levels of three decibels Ldn or more; or (ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the affected area, and quantify the noise increase for these receptors if the thresholds are surpassed.

6. Inapplicable because none of the thresholds identified in Item 5 is surpassed.

7. Safety. (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings). (ii) If hazardous materials are expected to be transported, identify materials, quantity, frequency of service whether chemicals are being transported that if mixed could react to form hazardous compounds, safety practices, the applicant's safety record, contingency plans to deal with accidental spills, and the likelihood of accidental release. (iii) Identify the location of any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way.

7. (i) Because the subject line has handled no traffic since November 29, 1995, public health and safety will not be affected by the proposed action.

(ii) No hazardous materials will be transported as a result of the proposed abandonment.

(iii) Conrail is aware of no hazardous waste sites or hazardous materials spills on the right-of-way.

8. Biological resources. (i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects. (ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

8. (i) The United States Fish and Wildlife Service (FWS) has been consulted in this regard. In its response of November 30, 1995, the FWS stated that "[e]xcept for occasional transient species, no federally listed or proposed threatened or endangered species under our jurisdiction are known to exist in the project impact area. Therefore, no Biological Assessment or further Section 7 consultation under the Endangered Species Act is required with the Fish and Wildlife Service." The National Park Service has also been consulted in this regard, and may comment, if relevant.

(ii) Conrail is aware of no wildlife sanctuary or refuge or National or State park or forest likely to be adversely affected by the proposed abandonment. The United States Fish and Wildlife Service in its response of November 30, 1995 identified no such areas within the vicinity of the line. The National Park Service has also been consulted in this regard, and may comment if relevant.

9. Water. (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable federal, state, or local water quality standards (usually applicable only in the context of rail line construction application and abandonments that will require in-stream salvage operations), and describe any inconsistencies. (ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required and whether any designated wetlands or 100-year flood plains will be affected, and describe any effects. (iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

9. (i) No in-stream salvage operations will be required, and Conrail is aware of no inconsistency of the proposed action with applicable federal, state, and local water quality standards. The U.S. Environmental Protection Agency and the Pennsylvania Department of Environmental Resources have been consulted in this

regard. Conrail first wrote to these agencies on November 17, 1995, to request that they comment on the proposed abandonment. To date, no responses have been forthcoming. Upon receipt of any responses, Conrail will forward same to the Commission.

(ii) Given that the proposed abandonment contemplates only removal of the rail, track material, and cross ties and that no clearing, grading, or alteration of the topography will be involved, no permits will be required under section 404 of the Clean Water Act. The line is not located within a designated 100-year flood plain. The U.S. Army Corps of Engineers has been consulted in this regard. Conrail first wrote to this agency on November 17, 1995, to request that it comment on the proposed abandonment. To date, no response has been forthcoming. Upon receipt of a response, Conrail will forward same to the Commission.

(iii) No permits will be required under section 402 of the Clean Water Act (33 U.S.C. 1342). The question of permitting in Pennsylvania under section 402 has been delegated to the Pennsylvania Department of Environmental Resources. Conrail first wrote to this agency on November 17, 1995, to request that it comment on the proposed abandonment. To date, no response has been forthcoming. Upon receipt of a response, Conrail will forward same to the Commission.

10. Proposed Mitigation. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

10. Inapplicable, in that there are no adverse environmental impacts.

## HISTORIC

Pursuant to 49 C.F.R. § 1105.8, Conrail provides the following report on specified historic matters.

### Proposed action and alternatives.

The proposed action and alternatives are described above in Item 1 of the Environmental section of this report.

1. Map. Attach a U.S.G.S topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.

1. A map of the subject line is attached to the foregoing Petition for Exemption as Exhibit "A".

2. Description of right-of-way. A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area.

2. The right-of-way proposed for abandonment is located in Lebanon County, Pennsylvania. It extends from approximately milepost 0.90± to approximately milepost 3.50± (Cornwall Industrial Track), and from approximately milepost 18.60± to approximately milepost 18.00± (Lebanon Industrial Track). The right-of-way varies in width, from 30 to 45 feet wide. The topography of the surrounding area is flat as shown on the topographic map attached to the foregoing Petition for Exemption as Exhibit "A". The track is located in a rural/agricultural area.

3. Photographs. Good quality photographs of railroad structures on the property that are 50 years old or older and of the immediately surrounding area.

3. There are two undergrade bridges on the line owned by Conrail. Both of these bridges are older than 50 years. Neither of the bridges appears to have significant structural or historic qualities. Photographs of the bridges and the areas immediately surrounding them are attached hereto.

4. Construction dates. The date(s) of construction of the structure(s), and the date(s) and extent of any major alteration, to the extent such information is known.

4. The construction dates of the structures on the line are as follows:

<u>Bridge No.</u>	<u>Construction Type</u>	<u>Construction Date</u>
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Undergrade:

UG 1.01	Deck Girder/Timber Deck	1890
UG 2.46	I-Beam/Timber Deck	1890

Conrail knows of no major alterations to any of these structures.

5. Carrier operations. A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action.

5. The subject line was used for rail freight operations. However, the line is presently out of service. Accordingly, no change in operations is contemplated as a result of the proposed action.

6. Summary of documents. A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic.

6. Conrail has in its possession engineering drawings for the bridges identified in Item No. 4 that are over 50 years old.

7. Opinion regarding historical matters. An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. 60.4) and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultation with the State Historic Preservation Office, local historical societies or universities).

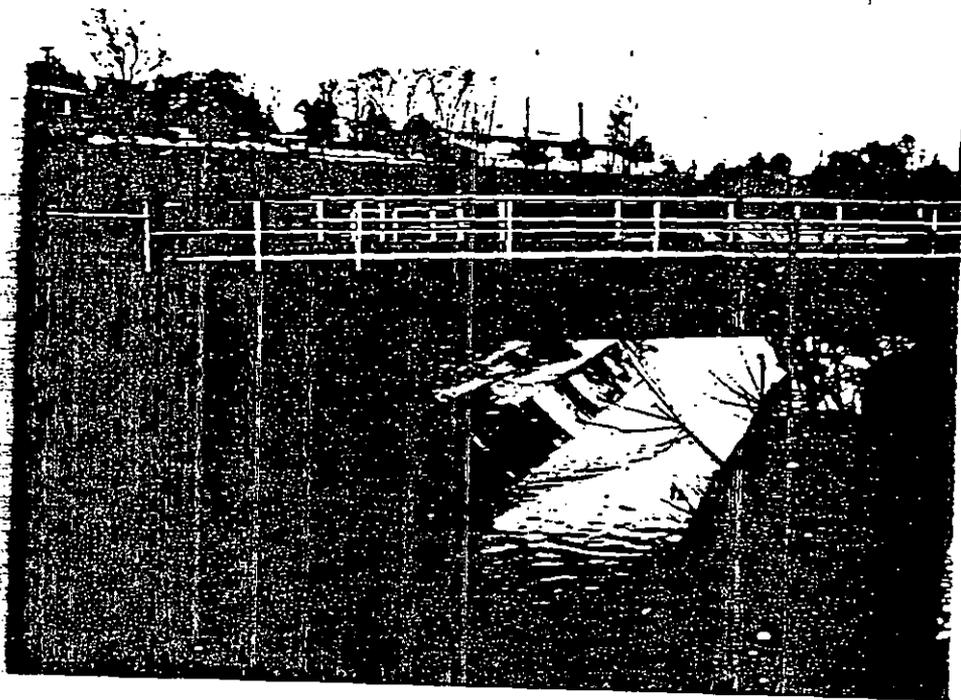
7. Based upon readily available information in its possession, Conrail is of the opinion that the site of the subject line and the railroad structures thereon do not meet the criteria for listing on the National Register of Historic Places (36 C.F.R. 60.04), and there is not a likelihood of archeological resources or any other previously unknown historic properties on the subject line. The bases for these opinions are the absence of any document in Conrail's possession indicating that the site or any structures meet historical criteria or that there is a likelihood that archeological resources or historic properties exist on the line, and on-site inspection of the subject line conducted by Conrail field engineers on October 12, 1995. The Pennsylvania Historical and Museum Commission has been consulted in this regard. Conrail first wrote to this agency on November 17, 1995, to request that it comment on the proposed abandonment. To date, no response has been forthcoming. Upon receipt of a response, Conrail will forward same to the Commission.

8. Description of certain matters. A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental condition (naturally occurring or man-made) that might affect the archeological recovery of resources (such as swampy condition or the presence of toxic wastes), and the surrounding terrain.

8. Based on readily available information in its possession, Conrail is aware of no prior subsurface ground disturbance or fill or environmental conditions (naturally occurring or man-made) that might affect the archeological recovery of resources. The Pennsylvania Historical and Museum Commission has been consulted in this regard.

Conrail first wrote to this agency on November 17, 1995, to request that it comment on the proposed abandonment. To date, no response has been forthcoming. Upon receipt of a response, Conrail will forward same to the Commission.

U.G. Bridge 1.01  
Stream



U.G. Bridge 2.46  
Wilhelm Rd.



United States  
Department of  
Agriculture

Natural Resources  
Conservation  
Service

Suite 340  
One Credit Union Place  
Harrisburg, PA 17110-2993

---

November 24, 1995

Brian V. Harrison  
Sr. Engineer - Asset Utilization  
2001 Market Street, 12-C  
P.O. Box 41412  
Philadelphia, PA 19101-1412

RE: Notice of Abandonment  
Cornwall Industrial Track  
Lebanon County, Pennsylvania

Dear Mr. Harrison:

Enclosed is a soil map covering the area of this project, and lists of Important Farmland for Lebanon County.

There is Important Farmland in the vicinity of the track.

The Natural Resources Conservation Service does not have authority for enforcement of environmental or farmland protection regulations. We respectfully decline to comment on its merits.

BARRY FRANTZ  
Soil Conservationist

PRIME FARMLAND

Survey Area- LEBANON COUNTY, PENNSYLVANIA

Map Symbol	Prime Farmland Code	Soil Map Unit Name
AbA	S	ABBOTTSTOWN SILT LOAM, 0 TO 3 PERCENT SLOPES
AbB	S	ABBOTTSTOWN SILT LOAM, 3 TO 8 PERCENT SLOPES
BeA	1	BEDINGTON SHALY SILT LOAM, 0 TO 3 PERCENT SLOPES
BeB	1	BEDINGTON SHALY SILT LOAM, 3 TO 8 PERCENT SLOPES
BeC	S	BEDINGTON SHALY SILT LOAM, 8 TO 15 PERCENT SLOPES
BkB	S	BERKS SHALY SILT LOAM, 3 TO 8 PERCENT SLOPES
BkC	S	BERKS SHALY SILT LOAM, 8 TO 15 PERCENT SLOPES
Bs	S	BOWMANVILLE SILT LOAM
BnB	1	BRECKNOCK CHANNERY SILT LOAM, 3 TO 8 PERCENT SLOPES
BnC	S	BRECKNOCK CHANNERY SILT LOAM, 8 TO 15 PERCENT SLOPES
BwB	1	BUCHANAN GRAVELLY LOAM, 3 TO 8 PERCENT SLOPES
ByB	1	BUCKS SILT LOAM, 3 TO 8 PERCENT SLOPES
CeB	1	CHESTER CHANNERY LOAM, 3 TO 8 PERCENT SLOPES
CeC	S	CHESTER CHANNERY LOAM, 8 TO 15 PERCENT SLOPES
CkA	1	CLARKSBURG SILT LOAM, 0 TO 3 PERCENT SLOPES
CkB	1	CLARKSBURG SILT LOAM, 3 TO 8 PERCENT SLOPES
CnA	1	COMLY SILT LOAM, 0 TO 3 PERCENT SLOPES
CnB	1	COMLY SILT LOAM, 3 TO 8 PERCENT SLOPES
DfA	1	DUFFIELD SILT LOAM, 0 TO 3 PERCENT SLOPES
DfB	1	DUFFIELD SILT LOAM, 3 TO 8 PERCENT SLOPES
DfC	S	DUFFIELD SILT LOAM, 8 TO 15 PERCENT SLOPES
EaA	1	HAGERSTOWN SILT LOAM, 0 TO 3 PERCENT SLOPES
EaB	1	HAGERSTOWN SILT LOAM, 3 TO 8 PERCENT SLOPES
EbC	S	HAGERSTOWN SILTY CLAY LOAM, 8 TO 15 PERCENT SLOPES
KnB	S	KLINESVILLE SHALY SILT LOAM, 3 TO 8 PERCENT SLOPES
LaB	1	LADIG CHANNERY LOAM, 3 TO 8 PERCENT SLOPES
LaC	S	LADIG CHANNERY LOAM, 8 TO 15 PERCENT SLOPES
LeB	1	LECK KILL SHALY SILT LOAM, 3 TO 8 PERCENT SLOPES
LeC	S	LECK KILL SHALY SILT LOAM, 8 TO 15 PERCENT SLOPES
LhB	S	LEHIGH SILT LOAM, 2 TO 10 PERCENT SLOPES
Ls	1	LINDSIDE SILT LOAM
Me	S	MELVIN VARIANT SILT LOAM
MoB	1	MOUNT LOCAS SILT LOAM, 3 TO 8 PERCENT SLOPES
MuB	1	MURRILL GRAVELLY SILT LOAM, 3 TO 8 PERCENT SLOPES
NeB	1	NESHAMINY GRAVELLY SILT LOAM, 3 TO 8 PERCENT SLOPES
NeC	S	NESHAMINY GRAVELLY SILT LOAM, 8 TO 15 PERCENT SLOPES
No	1	NOLIN VARIANT SILT LOAM
PeB	1	PENN SHALY SILT LOAM, 3 TO 8 PERCENT SLOPES
PeC	S	PENN SHALY SILT LOAM, 8 TO 15 PERCENT SLOPES
Ph	1	PHILO SILT LOAM
Po	1	POPE LOAM
ReB	S	READINGTON SILT LOAM, 3 TO 8 PERCENT SLOPES
Ro	1	ROWLAND SILT LOAM
UnB	1	UNGERS LOAM, 3 TO 8 PERCENT SLOPES
UnC	S	UNGERS LOAM, 8 TO 15 PERCENT SLOPES

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PRIME FARMLAND

Survey Area- LEBANON COUNTY, PENNSYLVANIA

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Map	Prime Farmland	Soil Mapunit Name
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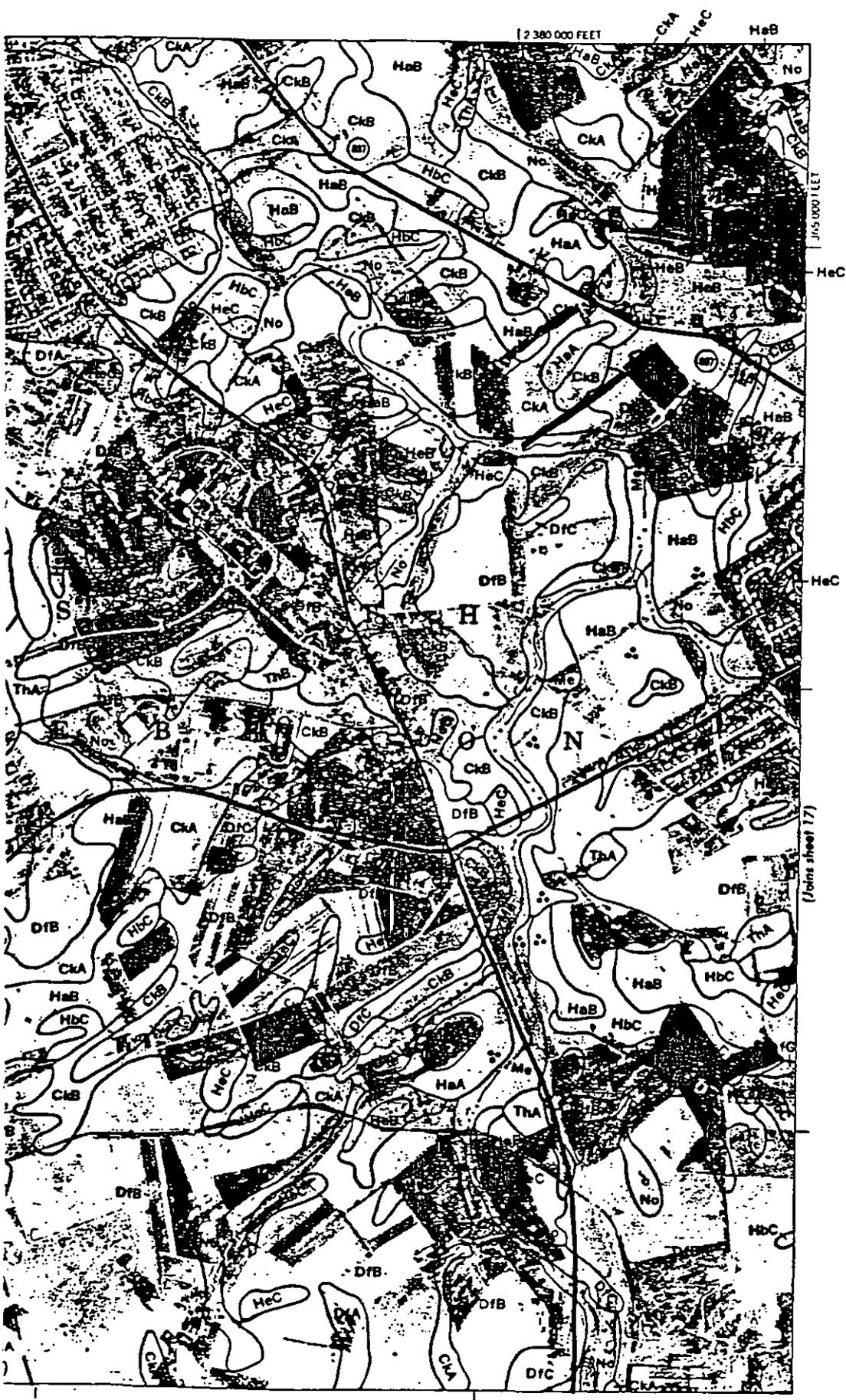
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Prime Farmland Code	Description
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- 1 All areas are prime farmland.
- S Farmland of Statewide Importance





This map is compiled in 1977 U.S. Geological Survey Orthophotography by the U.S. Department of Agriculture, Soil Conservation Service and cooperating agencies.  
 Scale: 1:250,000 (1 inch = 2.5 miles)



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL RESOURCES  
-Please note our new name-  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
D E P

Rachel Carson State Office Building  
P.O. Box 8555  
Harrisburg, PA 17105-8555  
November 30, 1995

717-787-2529

Bureau of Land and Water Conservation

Brian V. Harrison  
Senior Engineer - Asset Utilization  
2001 Market Street, 12-C  
P.O. Box 41412  
Philadelphia, PA 19101-1412

RE: DEP File No. CZ7:FPL

Dear Mr. Harrison:

The Division of Coastal Programs has reviewed the information received in this office on November 20, 1995, concerning Conrail's abandonment of the following Lebanon County rail lines:

Cornwall Industrial Track between Mile Post .90 and Mile Post 3.50, and  
Lebanon Industrial Track between Mile Post 18.60 and 18.00.

We have determined that these railroad abandonments are located outside of Pennsylvania's coastal zones and will not impact upon them.

Please note that this determination pertains only to Coastal Zone Management federal consistency review requirements, and does not constitute a waiver from further Department of Environmental Protection's review or other Departmental permits.

Sincerely,

Lawrence J. Toth  
Monitoring and Consistency Specialist  
Division of Coastal Programs



# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Suite 322  
315 South Allen Street  
State College, Pennsylvania 16801

November 30, 1995

Mr. Brian V. Harrison  
Consolidated Rail Corporation  
2001 Market Street  
P.O. Box 41412  
Philadelphia, PA 19101-1412

Dear Mr. Harrison:

This responds to your letter of November 17, 1995 requesting information about federally listed and proposed endangered and threatened species within the area affected by the proposed rail abandonment (milepost .90, milepost 3.50, 18.60 and 18.00) located in Lebanon County, Pennsylvania. The following comments are provided pursuant to the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) to ensure the protection of endangered and threatened species.

Except for occasional transient species, no federally listed or proposed threatened or endangered species under our jurisdiction are known to exist in the project impact area. Therefore, no Biological Assessment or further Section 7 consultation under the Endangered Species Act is required with the Fish and Wildlife Service. Should project plans change, or if additional information on listed or proposed species becomes available, this determination may be reconsidered. A compilation of federally listed species in Pennsylvania is enclosed for your information.

This response relates only to endangered or threatened species under our jurisdiction based on an office review of the proposed project's location. No field inspection of the project area has been conducted by this office. Consequently, this letter is not to be construed as addressing other Service concerns under the Fish and Wildlife Coordination Act or other legislation.

Requests for information regarding State-listed endangered or threatened species should be directed to the Pennsylvania Game Commission (birds and mammals), the Pennsylvania Fish and Boat Commission (fish, reptiles, and amphibians), and the Pennsylvania Department of Conservation and Natural Resources (plants).

Please contact Carole Copeyon of my staff at 814-234-4090 if you have any questions or require further assistance regarding endangered, threatened, or candidate species.

Sincerely,

Charles J. Kulp  
Supervisor

Enclosure

# FEDERALLY LISTED SPECIES THAT NO LONGER OCCUR\* IN PENNSYLVANIA

<u>COMMON NAME</u>	<u>SCIENTIFIC NAME</u>	<u>STATUS**</u>	<u>FORMER DISTRIBUTION</u>
<u>MAMMALS</u>			
Delmarva Peninsula fox squirrel	<i>Sciurus niger cinereus</i>	E	mature forests of southeastern PA (Delaware and Chester Co.)
Eastern cougar	<i>Felis concolor cougar</i>	E	state-wide
Grey wolf	<i>Canis lupus</i>	E	state-wide
<u>MOLLUSKS</u>			
Dwarf wedge mussel*	<i>Alasmidonta heterodon</i>	E	Delaware River drainage
Fanshell*	<i>Cyprogenia stegaria</i>	E	Ohio River drainage
Orange pimpleback*	<i>Plethobesius striatus</i>	E	Ohio River drainage
Pink mucket pearly mussel*	<i>Lampsilis abrupta</i>	E	Ohio River drainage
Ring pink mussel*	<i>Obovaria retusa</i>	E	Ohio River drainage
Rough pigtoe*	<i>Pleurobema plenum</i>	E	Ohio River drainage
<u>INSECTS</u>			
American burying beetle	<i>Nicrophorus americanus</i>	E	state-wide
Karner blue butterfly	<i>Lycaeides melissa samuelis</i>	E	pine barrens, oak savannas (wild lupine habitat) (Wayne Co.)
Northeastern beach tiger beetle	<i>Cicindela dorsalis dorsalis</i>	T	along large rivers in southeastern PA
<u>PLANTS</u>			
Eastern prairie fringed orchid	<i>Platanthera leucophaea</i>	T	wet prairies, bogs (Crawford Co.)
Sensitive joint-vetch	<i>Aeschynomene virginica</i>	T	freshwater tidal marshes of Delaware river (Delaware and Philadelphia Co.)
Virginia spiraea*	<i>Spiraea virginiana</i>	T	along Youghiogheny River (Fayette Co.)
Smooth coneflower	<i>Echinacea laevigata</i>	E	serpentine barrens (Lancaster Co.)

\* It is possible that remnant populations of some of these species (indicated with an \*) may still occur in Pennsylvania, however, there have been no confirmed sightings of these species for over 70 years.

\*\* E = Endangered, T = Threatened

The following is a partial list of additional species that no longer occur in Pennsylvania: moose, bison, lynx, wolverine, passenger pigeon, Bachman's sparrow, common tern, lark sparrow, tiger salamander, mud sunfish, longjaw cisco, lake whitefish, butterfly mussel, precious underwing moth, American barberry, small white lady's-slipper, etc, etc.

## FEDERALLY LISTED SPECIES IN PENNSYLVANIA

<u>COMMON NAME</u>	<u>SCIENTIFIC NAME</u>	<u>STATUS*</u>	<u>DISTRIBUTION</u>
<u>FISHES</u>			
Shortnose sturgeon**	<i>Acipenser brevirostrum</i>	E	Delaware River and other Atlantic coastal waters
<u>REPTILES &amp; AMPHIBIANS</u>			
None			
<u>BIRDS</u>			
Bald eagle	<i>Haliaeetus leucocephalus</i>	T	Entire state. Recent nesting in Butler, Crawford, Dauphin, Forest, Lancaster, Pike, Tioga, Warren and York Counties
Peregrine falcon (American)	<i>Falco peregrinus anatum</i>	E	Entire state. Recent nesting in and around Philadelphia and Pittsburgh (Allegheny, Delaware, Philadelphia and Bucks Counties)
Piping plover	<i>Charadrius melodus</i>	E	Presque Isle (Erie County). Migratory. No nesting in Pennsylvania since mid-1950s
<u>MAMMALS</u>			
Indiana bat	<i>Myotis sodalis</i>	E	Summer range: possibly state-wide in suitable habitat. Only one known winter hibernaculum (south-central Pennsylvania)
<u>MOLLUSKS</u>			
Clubshell mussel	<i>Pleurobema clava</i>	E	French Creek and Allegheny River watersheds; Clarion, Crawford, Erie, Forest, Mercer and Venango Counties
Northern riffleshell	<i>Epioblasma torulosa rangiana</i>	E	French Creek and Allegheny River watersheds; Crawford, Erie, Forest, Venango and Warren Counties
<u>PLANTS</u>			
Northeastern bulrush	<i>Scirpus ancistrochaetus</i>	E	Current - Blair, Centre, Clinton, Cumberland, Dauphin, Franklin, Huntingdon, Lackawanna, Lehigh, Monroe, Perry and Union Counties. Historic - Northampton County
Small-whorled pogonia	<i>Isotria medeoloides</i>	T	Current - Centre and Venango Counties. Historic - Berks, Chester, Greene, Monroe, Montgomery, Philadelphia Counties

\* E = Endangered, T = Threatened

Revised 7/13/55

\*\* Shortnose sturgeon is under the jurisdiction of the National Marine Fisheries Service

# CONRAIL



November 17, 1995

Mr. Brent D. Glass  
Executive Director  
Pennsylvania Historical and Museum Commission  
P. O. Box 1026  
Harrisburg, PA 17108

Dear Mr. Glass:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall I.T. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process Conrail must file an application with the Interstate Commerce Commission. A requirement for this filing is the consultation of the Pennsylvania Historical and Museum Commission.

Enclosed is a reproduced portion of a U.S.G.S. quadrangle map delineating the area being considered, with the locations of any structures shown. There are no railroad buildings along this line. The subject rail lines contain 2 undergrade bridges that our records indicate are greater than 50 years old and are the maintenance responsibility of the railroad. The designation UG denotes undergrade bridges. Enclosed is a table listing pertinent information as recorded in our structures list and photographs of the applicable structures.

It is Conrail's position that none of the structures on these lines hold any special historical or engineering significance. The track is located in a generally rural agricultural area with a gently rolling topography. There is no record of any subsurface ground disturbance or fill. There are no known environmental conditions that might affect archeological recovery. The abandonment will only involve removal of the rail, track material and crossties.

Please forward any comments you may have regarding this proposal, in writing to the address below. Because of the necessary time schedules for the ICC filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (215) 209-3862.

Cornwall Industrial Track  
November 17, 1995  
Page 2

Thank you for your cooperation.

Sincerely,



Brian V. Harrison  
Sr. Engineer - Asset Utilization  
2001 Market Street, 12-C  
P.O. Box 41412  
Philadelphia, PA 19101-1412

Enclosures

**CORNWALL INDUSTRIAL TRACK  
MP 0.90 to 3.50  
&  
FORMER  
LEBANON INDUSTRIAL TRACK  
MP 18.60 to 18.00\*  
STRUCTURAL INFORMATION LIST**

<b><u>BRIDGE NUMBER</u></b>	<b><u>TYPE CONSTRUCTION</u></b>	<b><u>DATE BUILT</u></b>
<b>Cornwall I.T.</b>		
UG 1.01	Deck Girder/Timber Deck	1890
UG 2.46	I-Beam/Timber Deck	1890

\* MP 18.60 to 18.00 is the current Cornwall I.T. MP 3.50 to 4.10

MP 0.90  
(N/S of Cumberland St.)

UG 1.01

UG 2.46

**CORNWALL  
INDUSTRIAL TRACK**

*The Lebanon IT was previously  
abandoned and removed from  
MP 18.60 to MP 20.50*

MP 18.60  
**LEBANON  
INDUSTRIAL TRACK**

(Location of track swing from  
Cornwall IT to Lebanon IT)

MP 18.00 = Alcoa Aluminum  
MP 4.10 = Track (Private)

**The Cornwall IT was previously  
authorized for abandonment  
from MP 3.50 to MP 5.20**

*The Lebanon IT from  
MP 18.00 southward was  
previously abandoned  
and removed*

LEBANON, PA.

N4015—W7622.5/7.5

**CONRAIL**



November 17, 1995

William Carpenter, Commissioner  
Lebanon County Commissioners  
400 S. 8th Street, Room 207  
Municipal Building  
Lebanon, PA 17042

Dear Mr. Carpenter:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall I.T. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process, Conrail must file an application with the Interstate Commerce Commission. We are required to contact local or regional planning agencies about the abandonment.

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment would involve the salvage and removal of only the rail, track material and crossties.

Is the proposed abandonment consistent with existing land use plans?

Please forward any comments you may have regarding this proposal, in writing to the address below. Because of the necessary time schedules for the ICC filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (215)-209-3862.

Thank you for your cooperation.

Sincerely,

Brian V. Harrison  
Sr. Engineer - Asset Utilization  
2001 Market Street, 12-C  
P.O. Box 41412  
Philadelphia, PA 19101-1412  
enclosure(s)

**CONRAIL**

November 17, 1995

U.S. Fish and Wildlife Service, Region 5  
300 Westgate Center Drive  
Hadley, MA 01035

Dear Sir/Madam:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall I.T. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process, Conrail must file an application with the Interstate Commerce Commission. A requirement of this filing is that various agencies be contacted concerning certain items, one being the presence of any endangered or threatened species or critical habitats.

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment will involve salvage and removal of the rail, track material and crossties.

Are there any endangered or threatened species in the vicinity of the track, and would there be an adverse effect due to the abandonment? Are there any areas designated as critical habitats in the vicinity? Also, are there any wildlife sanctuaries or refuges, National or State parks or forests in the vicinity? If so, how would they be affected?

Please forward your written reply to the address below. Because of the necessary time schedules for the ICC filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (215) 209-3862. Thank you for your cooperation.

Sincerely,



Brian V. Harrison  
Senior Engineer - Asset Utilization  
2001 Market Street, 12 - C  
P.O. Box 41412  
Philadelphia, PA 19101-1412

enclosure(s)

**CONRAIL**

November 17, 1995

Roger Ficks, Director  
Department of Environmental Resources  
P. O. Box 8551  
Harrisburg, PA 17105-8551

Dear Mr. Ficks:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall I.T. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process Conrail must file an application with the Interstate Commerce Commission. A requirement for this filing is the consultation of the Bureau of State Parks. I would appreciate any comments you may have concerning the proposal.

I am enclosing a copy of a U.S.G.S. map with the area of the subject track defined. In this case, the abandonment would involve the salvage and removal of only the rail and crossties. There would be no in-stream salvage of any bridges.

Please forward any comments you may have regarding this proposal, in writing to the address below. Because of the necessary time schedules for the ICC filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (215) 209-3862. Thank you for your cooperation.

Sincerely,



Brian V. Harrison  
Sr. Engineer - Asset Utilization  
2001 Market Street, 12-C  
P. O. Box 41412  
Philadelphia, PA 19101-1412

Enclosure(s)

**CONRAIL**



November 17, 1995

Mr. Richard N. Duncan - State Conservationist  
USDA Soil Conservation Service  
1 Credit Union Place, Suite 340  
Wildwood Center  
Harrisburg, PA 17110-2993

Dear Mr. Duncan:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall I.T. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process, Conrail must file an application with the Interstate Commerce Commission. We are required to contact various agencies about items concerning the abandonment. One of these items involves prime agricultural soils.

Enclosed is a copy of a portion of a U.S.G.S. Quadrangle map delineating the area being considered. In this case, the abandonment would involve the salvage and removal of only the rail, track material and crossties.

Are there any areas of prime agricultural land, as defined by the Natural Resources Conservation Service, in the vicinity of the subject track? What would be the effect of the proposed abandonment on any prime soils?

Please forward any comments you may have regarding this proposal, in writing to the address below. Because of the necessary time schedules for the ICC filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (215) 209-3862.

Thank you for your cooperation.

Sincerely,



Brian V. Harrison  
Sr. Engineer - Asset Utilization  
2001 Market Street, 12-C  
P.O. Box 41412  
Philadelphia, PA 19101-1412

Enclosure(s)

**CONRAIL**



November 17, 1995

Honorable Bradley L. Mallory  
Secretary  
Department of Transportation  
Commonwealth of Pennsylvania  
1200 Transportation & Safety Building  
Harrisburg, PA 17120

Dear Mr. Mallory:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall I.T. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process, Conrail must file an application with the Interstate Commerce Commission. We are required to contact the state clearinghouse concerning the abandonment. I would appreciate any comments you may have concerning the proposal.

I am enclosing a copy of a U.S.G.S. map with the area of the subject tracks defined. In this case, the abandonment would involve the salvage and removal of only the rail, track material and cross-ties.

Please forward your comments regarding this proposal, in writing to the address below. Because of the necessary time schedules for the ICC filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (215) 209-3862.

Thank you for your cooperation.

Sincerely,

Brian V. Harrison  
Sr. Engineer - Asset Utilization  
2001 Market Street, 12-C  
P. O. Box 41412  
Philadelphia, PA 19101-1412

**CONRAIL**

November 17, 1995

Mr. Arthur A. Davis  
Secretary  
Department of Environmental Resources  
P. O. Box 2063  
Harrisburg, PA 17105-2063

Dear Mr. Davis:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall I.T. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process Conrail must file an application with the Interstate Commerce Commission. One of the requirements for this filing is that the Environmental Protection Agency be consulted.

I am enclosing a copy of a U.S.G.S. map with the area of the subject tracks defined. In this case, the abandonment would involve the salvage and removal of only the rail and cross-ties. There would be no in-stream salvage of any bridges.

Will this proposed abandonment require permits as designated under section 402 of the Clean Water Act (33 U.S.C. 1342)? Are there any coastal zone areas in the vicinity of this proposal? And if so, what effect would the proposal have on these zones?

Please forward any comments you may have regarding this proposal, in writing to the address below. Because of the necessary time schedules for the ICC filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (215) 209-3862. Thank you for your cooperation.

Sincerely,



Brian V. Harrison  
Sr. Engineer - Asset Utilization  
2001 Market Street, 12-C  
P. O. Box 41412  
Philadelphia, PA 19101-1412

Enclosure(s)

**CONRAIL**

December 20, 1995

Mr. Thomas Iurino  
National Park Service  
Recreation Resources Assistance Division  
P.O. Box 37127  
Washington, DC 20013-7127

Dear Mr. Iurino:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall I.T. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process Conrail must file an application with the Interstate Commerce Commission. One of the requirements for this filing is that the National Park Service be consulted.

Enclosed is a reproduced portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment will only involve salvage and removal of the rail, track material and crossties.

Are there any wildlife sanctuaries or refuges, National or State parks or forests in the vicinity of the proposals? And if so, what would be the effects?

Please forward any comments you may have regarding this proposal, in writing to the address below. Because of the necessary time schedules for the ICC filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (215) 209-3862. Thank you for your cooperation.

Sincerely,



Brian V. Harrison  
Sr. Engineer - Asset Utilization  
2001 Market Street, 12-C  
P. O. Box 41412  
Philadelphia, PA 19101-1412

enclosure(s)

**CONRAIL**

November 17, 1995

The District Engineer  
U.S. Army Engineer District, Baltimore  
P.O. Box 1715  
Baltimore, MD 21203-1715

Dear Sir/Madam:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall I.T. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process, Conrail must file an application with the Interstate Commerce Commission. We are required to contact various agencies about items concerning the abandonment. Some of these items involve the Army Corps of Engineers.

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment would involve the salvage and removal of only the rail and crossties. There would be no in-stream salvage of any bridges.

Will this abandonment require permits as designated under section 404 of the Clean Water Act (33 U.S.C. 1344)? Would the proposed abandonment affect any designated wetlands? Would any 100-year flood plains be affected by this action?

It is requested that a written reply be forwarded to the address below. Because of the necessary time schedules for the ICC filing, please respond within 30 days of the date of this letter. If I may be of any further assistance, please feel free to contact me at (215) 209-3862. Thank you for your cooperation.

Sincerely,



Brian V. Harrison  
Senior Engineer - Asset Utilization  
2001 Market Street, 12-C  
P.O. Box 41412  
Philadelphia, PA 19101-1412

enclosure(s)

**CONRAIL**

November 17, 1995

Mr. Peter H. Kostmayer  
Regional Administrator  
Environmental Protection Agency  
841 Chestnut Building  
Philadelphia, PA 19107

Dear Mr. Kostmayer:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall LT. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process, Conrail must file an application with the Interstate Commerce Commission. One of the requirements for this filing is that the Environmental Protection Agency be consulted.

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment would involve the salvage and removal of only the rail and crossties. There would be no in-stream salvage of any bridges.

Will this proposed abandonment require permits as designated under section 402 of the Clean Water Act (33 U.S.C. 1342)?

Please forward any comments you may have regarding this proposal, in writing to the address below. Because of the necessary time schedules for the ICC filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (215) 209-3862.

Thank you for your cooperation.

Sincerely,



Brian V. Harrison  
Sr. Engineer - Asset Utilization  
2001 Market Street, 12-C  
P.O. Box 41412  
Philadelphia, PA 19101-1412  
enclosure(s)

**CONRAIL**



November 17, 1995

Lawrence J. Toth  
PA Department of Environmental Resources  
Bureau of Land and Water Conservation  
Division of Coastal Programs  
P. O. Box 8555  
Harrisburg, PA 17105-8555

Dear Mr. Toth:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall LT. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process, Conrail must file an application with the Interstate Commerce Commission. One of the requirements for this filing is that the Division of Coastal Resources be consulted.

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment would involve the salvage and removal of only the rail and cross-ties. There would be no in-stream salvage of any bridges.

Are there any coastal zone areas in the vicinity of the proposal? And if so, what effect would the proposal have on these zones?

It is requested that a written reply be forwarded to the address below. Because of the necessary time schedules for the ICC filing, please respond within 30 days of the date of this letter. If I may be of any further assistance, please feel free to contact me at (215) 209-3862. Thank you for your cooperation.

Sincerely,

Brian V. Harrison  
Senior Engineer - Asset Utilization  
2001 Market Street, 12-C  
P.O. Box 41412  
Philadelphia, PA 19101-1412

enclosure(s)

**CONRAIL**



November 17, 1995

William Kurtz, Director  
Lebanon County Planning Department  
400 S. 8th Street, Room 206  
Municipal Building  
Lebanon, PA 17042

Dear Mr. Kurtz:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall I.T. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process, Conrail must file an application with the Interstate Commerce Commission. We are required to contact local or regional planning agencies about the abandonment.

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment would involve the salvage and removal of only the rail, track material and crossies.

Is the proposed abandonment consistent with existing land use plans?

Please forward any comments you may have regarding this proposal, in writing to the address below. Because of the necessary time schedules for the ICC filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (215)-209-3862.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brian V. Harrison', written in a cursive style.

Brian V. Harrison  
Sr. Engineer - Asset Utilization  
2001 Market Street, 12-C  
P.O. Box 41412  
Philadelphia, PA 19101-1412

enclosure(s)

**CONRAIL**



November 17, 1995

Mr. David W. Rolka  
Chairman  
Pennsylvania Public Utilities Commission  
P. O. Box 3265  
Harrisburg, PA 17120

Dear Mr. Rolka:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall LT. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process, Conrail must file an application with the Interstate Commerce Commission. We are required to contact the state clearinghouse concerning the abandonment. I would appreciate any comments you may have concerning the proposal.

I am enclosing a copy of a U.S.G.S. map with the area of the subject tracks defined. In this case, the abandonment would involve the salvage and removal of only the rail, track material and cross-ties.

Please forward your comments regarding this proposal, in writing to the address below. Because of the necessary time schedules for the ICC filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (215) 209-3862.

Thank you for your cooperation.

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Sr. Engineer - Asset Utilization  
2001 Market Street, 12-C  
P. O. Box 41412  
Philadelphia, PA 19101-1412

**CONRAIL**



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Lebanon County Planning Department  
400 S. 8th Street, Room 206  
Municipal Building  
Lebanon, PA 17042

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2001 Market Street, 12-C  
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Philadelphia, PA 19101-1412

enclosure(s)

**CONRAIL**

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PA Department of Environmental Resources  
Bureau of Land and Water Conservation  
Division of Coastal Programs  
P. O. Box 8555  
Harrisburg, PA 17105-8555

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Brian V. Harrison  
Senior Engineer - Asset Utilization  
2001 Market Street, 12-C  
P.O. Box 41412  
Philadelphia, PA 19101-1412

enclosure(s)

**CONRAIL**

November 17, 1995

Mr. Peter H. Kostmayer  
Regional Administrator  
Environmental Protection Agency  
841 Chestnut Building  
Philadelphia, PA 19107

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Will this proposed abandonment require permits as designated under section 402 of the Clean Water Act (33 U.S.C. 1342)?

Please forward any comments you may have regarding this proposal, in writing to the address below. Because of the necessary time schedules for the ICC filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (215) 209-3862.

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enclosure(s)

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U.S. Army Engineer District, Baltimore  
P.O. Box 1715  
Baltimore, MD 21203-1715

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2001 Market Street, 12-C  
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Philadelphia, PA 19101-1412

enclosure(s)

**CONRAIL**

December 20, 1995

Mr. Thomas Iurino  
National Park Service  
Recreation Resources Assistance Division  
P.O. Box 37127  
Washington, DC 20013-7127

Dear Mr. Iurino:

Conrail is proposing to abandon portions of railroad, known as the Cornwall Industrial Track between milepost 0.90 and milepost 3.50, and the former Lebanon Industrial Track between milepost 18.60 and 18.00 (which correspond with the present Cornwall I.T. mileposts of 3.50 and 4.10 respectively) in Lebanon County, PA. To begin this abandonment process Conrail must file an application with the Interstate Commerce Commission. One of the requirements for this filing is that the National Park Service be consulted.

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Are there any wildlife sanctuaries or refuges, National or State parks or forests in the vicinity of the proposals? And if so, what would be the effects?

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Sincerely,



Brian V. Harrison  
Sr. Engineer - Asset Utilization  
2001 Market Street, 12-C  
P. O. Box 41412  
Philadelphia, PA 19101-1412

enclosure(s)

February 2, 1996

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
12th & Constitution Ave., NW  
Washington, DC 20423

Re: Consolidated Rail Corporation-Abandonment-Lebanon County, Pa.-AB 167 (Sub-No. 1156x)

Dear Mr. Williams:

This comment should be treated as a protest or a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of Lebanon Valley Rails-to-Trails which is a private public interest organization interested in recreation, which is hereinafter referred to as 'Commenter'.

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between railroad milepost .90 near Horntown Yard in Lebanon to railroad milepost 3.50 near a private siding known as the Aloca Lead and between railroad milepost 18.00 and railroad milepost 18.60 in Lebanon County.

#### A. Public Use Condition

Commenter requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. The justification for this condition is that the corridor would make an excellent recreational trail and conversion of the property to trail use would provide a critical link between the population center of Lebanon and outlying recreational areas in southern Lebanon County. In addition, the corridor provides important wildlife habitat and greenspace and its preservation as a recreational trail is consistent with that end. The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time because we have not had enough time to complete a trail plan or commence negotiations with the carrier.
2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles and culverts. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

#### B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Commenter also makes the following request:

#### STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 USC 1247(d), and 49 CFR ss 1152.29, Lebanon Valley Rails-to-Trails is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any

potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by Consolidated Rail Corporation and operated by Consolidated Rail Corporation.

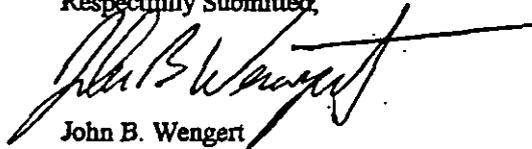
The property known as the Cornwall Industrial Track extends from railroad milepost .90 near Horntown Yard in Lebanon to railroad milepost 3.50 near a private siding known as the Aloca Lead a distance of 2.6 miles in Lebanon County. The line known as the Lebanon Industrial Track extends from railroad milepost 18.0 to railroad milepost 18.6, a distance of .60 miles in Lebanon County. The rights-of-way are part of a line of railroad proposed for abandonment in STB Docket No. AB 167 (Sub No. 1156x).

A map depicting the right-of-way is attached.

Lebanon Valley Rails-to-Trails acknowledges that the use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon Consolidated Rail Corporation, 2001 Market St., 16A, Philadelphia, PA 19101-1416., By U.S. Mail, postage prepaid, first class, this 2nd day of February, 1996.

Respectfully Submitted,



John B. Wengert  
President

on behalf of: Lebanon Valley Rails-to-Trails



**CONRAIL®**



February 19, 1996

UPS NEXT DAY

Vernon A. Williams, Secretary  
Surface Transportation Board  
12th St. & Constitution Ave., NW  
Washington, DC 20423

Re: Docket No. AB-167 (Sub-No. 1156X)  
Consolidated Rail Corporation -- Abandonment  
Exemption -- in Lebanon County, Pennsylvania

Dear Mr. Williams:

On December 26, 1995, Consolidated Rail Corporation ("Conrail") filed with the Board an Petition for Exemption pursuant to 49 U.S.C. §10505 to abandon its Cornwall Industrial Track and Lebanon Industrial Track in the above-listed abandonment proceeding. By letter dated February 2, 1996, the Lebanon Valley Rails-to-Trails has filed a petition for Notice of Interim Trail Use ("NITU") pursuant to 16 U.S.C. 1247(d) and 49 C.F.R. 1152.29.

Conrail hereby notifies the Board that it is willing to negotiate with this party regarding interim trail use and does not object to the issuance of an NITU in accordance with 49 C.F.R. 1152.29(d).

Kindly time-stamp and return the extra copy of this letter in the enclosed self-addressed stamped envelope.

Very truly yours,

John J. Paylor  
Associate General Counsel  
(215) 209-5047

cc: G. E. Christianson, Lebanon Valley Rails-to Trails

bc: P.H. Kiliani - 19B

SERVICE DATE

JUL 25 1996

9646  
EB

SURFACE TRANSPORTATION BOARD<sup>1</sup>

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB-167 (Sub-No. 1156X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT  
EXEMPTION--IN LEBANON COUNTY, PA

Decided: July 11, 1996

Consolidated Rail Corporation (Conrail) seeks an exemption under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 10903-04 to abandon a total of 3.2 miles of rail line in Lebanon County, PA, as follows: 2.6 miles of the Cornwall Industrial Track between milepost 0.9 and milepost 3.5; and 0.6 miles of the former Lebanon Industrial Track between milepost 18 and milepost 18.6. The United Transportation Union seeks the imposition of labor protective conditions, and Lebanon Valley Rails-to-Trails (LVR) requests imposition of trail use and public use conditions. We will grant the petition and issue a notice of interim trail use or abandonment (NITU), as requested, subject to trail use, public use, and standard labor protective conditions.

BACKGROUND

Conrail states that prior to November 29, 1995, Aluminum Company of America (Alcoa) was the line's only active shipper, with a private siding at approximately milepost 18.15. According to Conrail, Alcoa entered into a minimum 2-year contract, commencing in late October 1995, to use truck service for all its movements. Conrail sees no prospect for developing any freight business on the line in the foreseeable future. Conrail states that a copy of the exemption petition was served on Alcoa.

For rail service to continue, Conrail estimates that \$451,700 must be spent on track rehabilitation. Also, if the line is not abandoned, Conrail expects that, as a result of a Pennsylvania Public Utilities Commission site conference held on September 22, 1995, to review the condition of the line's various at-grade crossings, a total of \$90,000 will have to be spent over the next 5 years to rehabilitate nine crossings.

The line also crosses Wilhelm Ave. in South Lebanon Township on undergrade bridge 2.46, and the bridge's abutments restrict Wilhelm Ave. to one lane. The bridge is to be replaced at a cost of \$1.2 million (80% state funds and 20% township funds) based on a traffic study of Wilhelm Ave. that assertedly shows a volume of 2,400 vehicles in a 24-hour period. By abandoning the line,

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (the ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the ICCTA provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the ICCTA. This decision relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this decision applies the law in effect prior to the ICCTA, and citations are to the former sections of the statute, unless otherwise indicated.

Docket No. AB-167 (Sub-No. 1156X)

Conrail observes that the bridge can be removed and a substantial disbursement of public funds avoided.

#### DISCUSSION AND CONCLUSIONS

Exemption. Under 49 U.S.C. 10903-04, a rail line may not be abandoned without our prior approval. Under 49 U.S.C. 10505, however, we must exempt a transaction or service from regulation when we find that: (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101a; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

Detailed scrutiny under 49 U.S.C. 10903-04 is not necessary to carry out the rail transportation policy. By minimizing the administrative expense of filing an abandonment application, an exemption will expedite regulatory decisions and reduce regulatory barriers to exit [49 U.S.C. 10101a(2) and (7)]. By avoiding the expense of rehabilitating a line that neither generates, nor has any prospect of generating, revenue traffic and thereby permitting resources to be reallocated to profitable or potentially profitable portions of Conrail's system, an exemption will foster sound economic conditions and encourage efficient management [49 U.S.C. 10101a(3), (5), and (10)]. Other aspects of the rail transportation policy will not be affected adversely.

Because no active shippers are on the line, and there is no potential to attract new shippers, we find that regulation is not necessary to protect shippers from the abuse of market power.<sup>2</sup> Nevertheless, to ensure that Alcoa is informed of our action, we will require Conrail to serve a copy of this decision on Alcoa within 5 days of the service date of this decision and certify to us that it has done so.

Labor Protection. Under 49 U.S.C. 10505(g), we may not use our exemption authority to relieve a carrier of its statutory obligation to protect the interests of its employees. Accordingly, as a condition to granting this exemption, we will impose the employee protective conditions in Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979).

Environmental Conditions. Conrail has submitted an environmental report with its petition and has notified the appropriate Federal, state, and local agencies of the opportunity to submit information on the energy and environmental impact of the proposed action. See 49 CFR 1105.11. Our Section of Environmental Analysis (SEA) has examined the environmental report, verified its data, analyzed the probable effects of the proposed action on the quality of the human environment, and served an environmental assessment (EA) on February 28, 1996. In the EA, SEA suggests that the right-of-way may be suitable for other public purposes after abandonment but does not recommend the imposition of any environmental conditions.

By the March 25, 1996 due date, no comments to the EA had been filed. Therefore, we conclude that the proposed abandonment will not significantly affect either the quality of the human environment or conservation of energy resources.

---

<sup>2</sup> Given our market power finding, we need not determine whether the proposed transaction is limited in scope, although the abandonment of 3.2 miles of rail line in a single county and state appear to satisfy that criterion as well.

Trail Use. LVR requests that interim trail use/rail banking be imposed under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and has submitted a statement of willingness to assume financial responsibility for the right-of-way as required under 49 CFR 1152.29. By letter filed on February 21, 1996, Conrail agreed to negotiate trail use and expressed no objection to the issuance of an NITU. Although a request for interim trail use need not be filed under 49 CFR 1152.29(b)(2) until 10 days after the notice of exemption is published in the Federal Register, the Trails Act is applicable, and the criteria for imposing interim trail use/rail banking have been met. Accordingly, we will accept the trail use request and issue an NITU.

Our approval of trail use does not preclude other parties from filing interim trail use requests within 10 days after publication. Nor does it preclude Conrail from negotiating with other parties in addition to LVR during the NITU period. If, within the 10-day period following publication, additional trail use requests are filed, Conrail is directed to respond to them. If an agreement is executed, no further Board action is necessary. If no agreement is reached within 180 days, Conrail may fully abandon the line, subject to the conditions imposed below. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

Public Use Condition. LVR also requests that a 180-day condition be imposed under 49 U.S.C. 10906 to prohibit Conrail from disposing of the rail corridor, other than the tracks, ties and signal equipment, except for public use. LVR states that the corridor would make an excellent recreational trail and that conversion of the property to trail use would provide a critical link between Lebanon's population center and the outlying recreational areas in southern Lebanon County. LVR further states that the corridor provides important wildlife habitat and green space and that its preservation as a recreational trail is consistent with that end.

We have determined that persons who file under the Trails Act may also file for a public use condition under 49 U.S.C. 10906. When the need for both conditions is established, it is our policy to impose them concurrently, subject to the execution of a trail use agreement. LVR has met the public use criteria by specifying: (1) the condition sought; (2) the public importance of the condition; (3) the period of time for which the condition would be effective; and (4) justification for the imposition of the time period. 49 CFR 1152.28(a)(2). A 180-day public use condition will be imposed, commencing with the effective date of this decision and notice. The public use negotiating period cannot be extended.

A public use condition is not imposed for the benefit of any one potential user. Rather, it gives any interested person an opportunity to pursue acquisition of a right-of-way found suitable for public purposes.

Financial Assistance. Operation of the trail use procedures could be delayed, or even foreclosed, by the financial assistance process under 49 U.S.C. 10905. Offers of financial assistance (OFA) to acquire rail lines for continued rail service or to subsidize rail operations take priority over interim trail use/rail banking and public use. Accordingly, if a statement of intent to file an OFA is timely filed under 49 CFR 1152.27(c)(2), the effective date of this decision and notice will be postponed for 10 days beyond the effective date set forth below. In addition, the effective date may be further postponed at later stages of the OFA process. 49 CFR 1152.27(e)(2) and (f).

Docket No. AB-167 (Sub-No. 1156X)

Finally, if the line is sold under the OFA procedures, the petition for exemption will be dismissed and trail use/rail banking and public use precluded. Alternatively, if a sale under the OFA procedures does not occur, the trail use/rail banking and public use may proceed.

It is ordered:

1. The request for interim trail use/rail banking under 49 U.S.C. 1247(d) and public use under 49 U.S.C. 10906, submitted by LVR, is accepted.

2. Under 49 U.S.C. 10505, we exempt from the prior approval requirements of 49 U.S.C. 10903-04, the abandonment of the above-described line, subject to the conditions that Conrail:  
(1) provide employee protection as set forth in Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979); (2) keep intact the right-of-way and any potential trail-related structures, including bridges, trestles, culverts, and tunnels (but not track or track materials), for 180 days after the effective date of this decision and notice, to permit any state or local government agency or other interested person to negotiate the acquisition of the right-of-way for public use; and (3) comply with the interim trail use/rail banking procedure set forth below. If an interim trail use/rail banking agreement is executed before the 180-day public use period expires, the public use process will be terminated as follows: if the trail use agreement covers the entire line, the public use process is terminated; if, however, a trail use agreement is executed only for a segment of the line, the public use process is terminated only for that line segment.

3. Subject to the conditions set forth above, Conrail may discontinue service, cancel tariffs, if any, for the line on not less than 10 days' notice to the Board, and salvage track and track materials consistent with public use after the effective date of this decision and notice.

4. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for managing the right-of-way, for any legal liability arising out of its transfer or use (unless the user is immune from liability, in which case it need only indemnify the railroad from any potential liability), and for the payment of any taxes that may be assessed against it.

5. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.

6. If interim trail use is implemented and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

7. If an agreement for interim trail use/rail banking is reached by the 180th day after service of this decision and notice, trail use may be implemented. If no agreement is reached by that time, Conrail may fully abandon the line, provided the conditions imposed above are met.

8. Conrail must serve a copy of this decision on Alcoa within 5 days after this decision is served and certify to the Board that it has done so.

9. Notice will be published in the Federal Register on July 25, 1996.

10. Provided no formal expression of intent to file an OFA has been received, this exemption will be effective on August 24, 1996.

11. Formal expressions of intent to file an OFA<sup>3</sup> under 49 CFR 1152.27(c)(2) and requests for interim trail use/rail banking under 49 CFR 1152.29 must be filed by August 5, 1996, petitions to stay must be filed by August 9, 1996, and petitions to reopen must be filed by August 19, 1996.

12. If a formal expression of intent to file an OFA has been timely submitted, an OFA to allow rail service to continue must be received by the railroad and the Board within 30 days after publication, subject to time extensions authorized under 49 CFR 1152.27(c)(2)(ii)(C) and (D). The offeror must comply with 49 U.S.C. 10905 and 49 CFR 1152.27(c)(2).

13. OFA's and related correspondence to the Board must refer to this proceeding. The following notation must be typed in bold face on the lower left-hand corner of the envelope:  
"Office of Proceedings, AB-OFA."

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams  
Secretary

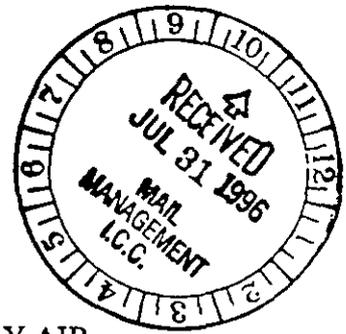
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<sup>3</sup> See Exempt. of Rail Abandonment--Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

CONRAIL



44



July 30, 1996

UPS NEXT DAY AIR

Vernon A. Williams  
Secretary  
Surface Transportation Board  
12th St. & Constitution Ave., NW  
Washington, D.C. 20423

RE: No. AB 167 (Sub-No. 1156X)  
Consolidated Rail Corporation -- Abandonment Exemption --  
in Lebanon County, Pennsylvania

Dear Mr. Williams:

Consolidated Rail Corporation hereby certifies that a true and correct copy of the Decision and Notice of Interim Trail Use or Abandonment in the above-referenced abandonment exemption proceeding was served on July 30, 1996 by overnight delivery upon the following: Aluminum Company of America (Alcoa).

Please time stamp the enclosed extra copy of this letter and return it to me in the enclosed self-addressed, stamped envelope.

Very truly yours,

Robert S. Natalini, Esq.  
(215) 209-4996

Enclosure

cc: P. H. Kiliani

ORIGINAL (2)

LAW OFFICES  
NAUMAN, SMITH, SHISSLER & HALL

18<sup>TH</sup> FLOOR  
200 NORTH THIRD STREET

P. O. Box 840

HARRISBURG, PENNSYLVANIA 17108-0840

TELEPHONE

(717) 236-3010

TELEFAX

(717) 234-1925

SPENCER G. NAUMAN, JR.  
JOHN C. SULLIVAN  
J. STEPHEN FEINOUR  
CRAIG J. STAUDENMAIER  
BENJAMIN C. DUNLAP, JR.  
STEPHEN J. KEENE

RECEIVED  
JUL 25 1997

COUNSEL  
RALPH W. BOYLES, JR.  
DAVID C. EATON  
DIRECT E-MAIL ADDRESS  
NSSH@REDROSE.NET

July 25, 1997

DOCUMENT  
FOLDER

HAND DELIVERED

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

RECEIVED  
97 JUL 25 PM 4:21  
PAP. JUDGE  
PROTHONOTARY'S OFFICE

RE: **Application of the County of Lebanon Transit Authority  
A-0013589  
South Lebanon Township v. Consolidated Rail  
Corporation; C-00970106  
City of Lebanon v. Consolidated Rail Corporation  
C-00970107  
Pennsylvania Department of Transportation v.  
Consolidated Rail Corporation; C-00970126  
Our File No. 13121; CR File #MPCC-79**

Dear Sir:

I enclose the original and three (3) copies each of the following documents for filing in the above matters:

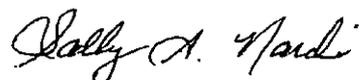
1. Objections of Conrail to Certain Requests for Production of Documents of Pennsylvania Department of Transportation;
2. Conrail's Responses to Pennsylvania Department of Transportation's Request for Production of Documents.

142

James McNulty  
July 25, 1997  
Page 2

In accordance with the accompanying Certificates of Service we have provided copies of the documents to all active parties of record.

Sincerely yours,



Sally A. Nardi  
Secretary to  
Benjamin C. Dunlap, Jr., Esquire

/san

Enclosures

cc: All Parties of Record  
ALJ Herbert S. Cohen  
Scott K. Wasserkrug, Esquire

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE:

Application of the County  
of Lebanon Transit Authority

:  
: Docket No. A-00113589

South Lebanon Township Board  
of Supervisors v. Consolidated  
Rail Corporation

:  
: Docket No. C-00970106

City of Lebanon v. Consolidated Rail  
Corporation

:  
: Docket No. C-00970107

Pennsylvania Department of  
Transportation v. Consolidated  
Rail Corporation

:  
: Docket No. C-00970126

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PA.P.U.C.  
PROTHONOTARY'S OFFICE

**OBJECTIONS OF CONSOLIDATED RAIL CORPORATION  
TO CERTAIN REQUESTS FOR PRODUCTION OF  
DOCUMENTS OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION**

AND NOW, comes Consolidated Rail Corporation and files its objections to certain Requests for Production of Documents directed to it by the Pennsylvania Department of Transportation, which were likewise objected to in Consolidated Rail Corporation's Responses to the Pennsylvania Department of Transportation's Request for Production of Documents to Consolidated Rail Corporation, which was served on the parties and the Administrative Law Judge on July 25, 1997.

DOCUMENT  
FOLDER

DOCKETED  
JUL 31 1997

## **REQUESTS OBJECTED TO BY CONSOLIDATED RAIL CORPORATION**

2. All documents from January 1, 1994, to the present, that relate to the abandonment of the Cornwall Industrial Track, including information relative to the economic viability of the Cornwall Industrial Track.

**Response:** See documents attached hereto as Exhibit "A", which relate to Conrail's Petition For Exemption in the abandonment proceedings before the Surface Transportation Board for that portion of the Cornwall Industrial Track from MP 0.90 to MP 4.10 (the later portion of which corresponds with the former Lebanon Industrial Track from MP 18.60 to MP 18.00). The documents produced as Exhibit "A" contain the Decision and Notice of Interim Trail Use or Abandonment by the Surface Transportation Board, having a service date of July 25, 1996, and an effective date of August 24, 1996. With the exception of information contained in the documents attached hereto as Exhibit "A", Conrail objects to that portion of PennDOT's document request number 2 which requests "information relative to the economic viability of the Cornwall Industrial Track," as such documents are confidential business records of Conrail.

3. All documents from January 1, 1994, to the present that relate to inquiries by R.J. Corman regarding the Cornwall Industrial Track by R.J. Corman.

**Response:** Conrail objects to PennDOT's Request for Production No. 3, as it requests confidential business records regarding negotiations between Conrail and R.J. Corman Railroad Company ("Corman") for a purchase and sale agreement of that portion of the Cornwall Industrial Track between MP 0.90 and MP 4.10. Without waiver of such objection, Conrail's negotiations with Corman are of a near-term closing on the abandoned portion of the line. The buyers are aware of, and will assume, the crossing liabilities within the sale limites. A copy of the purchase and sale agreement will be supplied to all parties to this proceeding as soon as final agreement is reached between Conrail and Corman and the agreement is executed. If not finalized by the hearing date, Conrail

intends to request that the record remain open for the filing of the purchase and sale agreement as a late-filed exhibit.

NAUMAN, SMITH, SHISSLER & HALL

By *Benjamin C. Dunlap, Jr.*  
David C. Eaton, Esquire  
Supreme Court I.D. #07169

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  
Attorneys for Consolidated Rail  
Corporation

Date: July 25, 1997

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SOUTH LEBANON TOWNSHIP	:	
BOARD OF SUPERVISORS	:	
Complainant	:	Docket No. C-00970106
	:	
vs.	:	
	:	
CONSOLIDATED RAIL	:	
CORPORATION, et al	:	
Respondent	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that I served Conrail's "Objections Of Consolidated Rail Corporation To Certain Requests For Production Of Documents Of Pennsylvania Department Of Transportation" in the above action, this day by depositing the same in the United States mail, postage prepaid, in Harrisburg, Pennsylvania, addressed to:

**SERVICE LIST**

Honorable Herbert S. Cohen  
Administrative Law Judge  
P. O. Box 3265  
Harrisburg, PA 17105-3265

William D. Pickering  
Chief Engineer  
PennDOT  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Allen E. Freed, Chairman  
County of Lebanon Transit Auth.  
200 Willow Street  
Lebanon, PA 17042

Andrew F. Gordon, Esquire  
Chief Counsel  
Pennsylvania Dept. of Transp.  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

J. D. Cossell, Chief Engineer  
Consolidated Rail Corporation  
2001 Market Street  
P. O. Box 41416  
Philadelphia, PA 19101-1416

Timothy D. Sheffey, Esquire  
Lebanon Transit Authority  
1601 Cornwall Road  
Lebanon, PA 17042-7460

David A. Salapa, Esquire  
PA PUC Transportation/Safety  
Rail Division  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Donald J. Rhine, Chief Clerk  
Lebanon County Commissioners  
Room 207 Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

John Herzog, Esquire  
PA PUC Transportation/Safety  
Rail Division  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Scott K. Wasserkrug, Esquire  
Conrail  
2001 Market Street 16A  
Two Commerce Square  
Philadelphia, PA 19101-1416

Adrienne C. Snelling, Esquire  
Rosamond A. Presby, Esquire  
Lebanon County Solicitor  
Room 207 Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

Rick Corman  
R J Corman Railroad Company  
PA Lines, Inc.  
1 Jay Station  
Nicholasville, KY 40356

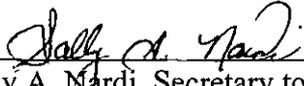
Gina M. D'Alfonso, Esquire  
PA Department of Transportation  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Edward M. Keener, City Engineer  
City of Lebanon  
Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

Keith L. Kilgore, Esquire  
Spitler and Kilgore  
South Lebanon Township  
522 South 8<sup>th</sup> Street  
Lebanon, PA 17042

Samuel G. Weiss, Esquire  
Weiss, Weiss & Weiss  
City of Lebanon Solicitor  
802 Walnut Street  
Lebanon, PA 17042-0838

Paul Krause, Chairman  
South Lebanon Township  
Board of Supervisors  
1800 South Fifth Avenue  
Lebanon, PA 17042

  
\_\_\_\_\_  
Sally A. Mard, Secretary to  
Benjamin C. Dunlap, Jr., Esquire

Dated: July 25, 1997

**ORIGINAL**

*Law Office*

**REILLY, WOLFSON, SHEFFEY, SCHRUM AND LUNDBERG**

JAMES T. REILLY  
FREDERICK S. WOLFSON  
TIMOTHY D. SHEFFEY  
LOREN A. SCHRUM  
PAUL A. LUNDBERG  
PAUL C. BAMETZREIDER  
HARRY W. FENTON  
JOHN J. FERRY, JR.  
DENNIS H. BOWER

1601 CORNWALL ROAD  
LEBANON, PENNSYLVANIA 17042-7460  
717 / 273-3733  
FAX: 717 / 273-1535  
rwssl@leblaw.com

WILLIAM H. EGLI  
(1940-1984)

H. RANK BICKEL, JR.  
(1972-1984)

MYERSTOWN OFFICE  
112 W. MAIN AVENUE  
MYERSTOWN, PA 17067-1019  
717 / 866-9095  
FAX: 717 / 866-9160

August 1, 1997

\* ALSO ADMITTED TO THE  
FLORIDA BAR

Mr. John G. Alford  
Secretary  
Public Utility Commission  
North Office Building  
North Street and Commonwealth Avenue  
Harrisburg, PA 17105

Re: Application of County of  
Lebanon Transit Authority  
No. A-00113589

South Lebanon Township Board  
of Supervisors v. Consolidated  
Rail Corporation  
No. C-00970106

DOCUMENT  
FOLDER

City of Lebanon v.  
Consolidated Rail Corporation  
No. C-00970107

Pennsylvania Department of  
Transportation vs. Consolidated  
Rail Corporation  
C-00970126

Dear Secretary Alford:

Enclosed you will find the original Proof of Publication for  
the above matters regarding the hearing on Tuesday, August 5, 1997.

Very truly yours,

REILLY, WOLFSON, SHEFFEY,  
SCHRUM AND LUNDBERG

  
Timothy D. Sheffey

TDS:cmr  
Enclosure  
HAND DELIVERED TO PUBLIC UTILITY COMMISSION

cc: (See attached service list)  
(By regular mail)

RECEIVED  
97 AUG -4 PM 12:08  
P.A.P.U.C.  
PROTHONOTARY'S OFFICE

39

David C. Eaton, Esquire  
Benjamin C. Dunlap, Jr., Esquire  
200 North Third Street, 18th Floor  
P.O. Box 840  
Harrisburg, PA 17108-0840

The Honorable Herbert S. Cohen  
Administrative Law Judge  
P.O. Box 3265  
Harrisburg, PA 17105-3265

William D. Pickering  
Chief Engineer  
PennDOT  
Forum Place, 9th Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Allen E. Freed, Chairman  
County of Lebanon Transit Authority  
200 Willow Street  
Lebanon, PA 17046

Andrew F. Gordon, Esquire  
Chief Counsel  
Pennsylvania Department of Transportation  
Forum Place, 9th Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

J.D. Cossell, Chief Engineer  
Consolidated Rail Corporation  
2001 Market Street  
P.O. Box 41416  
Philadelphia, PA 19101-1416

David A. Salapa, Esquire  
PA PUC Transportation/Safety  
Rail Division  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Donald J. Rhine, Chief Clerk  
Lebanon County Commissioners  
Lebanon City-County Municipal Building  
400 South 8th Street  
Lebanon, PA 17042

John Herzog, Esquire  
PA PUC Transportation/Safety  
Rail Division  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Scott K. Wasserkrug, Esquire  
Conrail  
2001 Market Street 16A  
Two Commerce Square  
Philadelphia, PA 17101-1416

Adrenne C. Snelling, Esquire  
Rosamond A. Presby, Esquire  
Lebanon County Solicitor  
Lebanon City-County Municipal Building  
400 South 8th Street  
Lebanon, PA 17042

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R J Corman Railroad Company  
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Nicholasville, KY 40356

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PA Department of Transportation  
Forum Place, 9th Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Edward M. Keener, City Engineer  
City of Lebanon  
Lebanon City-County Municipal Building  
400 South 8th Street  
Lebanon, PA 17042

Keith L. Kilgore, Esquire  
Solicitor, South Lebanon Township  
SPITLER AND KILGORE  
522 South Eighth Street  
Lebanon, PA 17042

Samuel G. Weiss, Esquire  
Solicitor, City of Lebanon  
WEISS, WEISS AND WEISS  
802 Walnut Street  
Lebanon, PA 17042

Mr. Paul Krause, Chairman  
South Lebanon Township  
Board of Supervisors  
1800 South Fifth Avenue  
Lebanon, PA 17042

**ORIGINAL**

Commonwealth of Pennsylvania :  
: ss:  
:  
County of Lebanon :

Andrew H. Mick, being duly sworn according to law deposes and says:

He is VICE PRESIDENT of MID-STATES NEWSPAPERS, INC., a corporation organized and existing under the laws of the State of Delaware, with an office and place of business at South Eighth and Poplar Streets, in the City of Lebanon, County of Lebanon, Commonwealth of Pennsylvania; that the said Corporation is the owner of the Lebanon Daily News, a newspaper of general circulation printed and published at South Eighth and Poplar Streets, in the City, County and State aforesaid, that the Lebanon Daily News was established in 1872, and has been continuously published ever since; that the printed notice or publication which is securely attached hereto is exactly as printed and published in regular editions and issues which appeared on

7/21, 7/28

A.D. 19 97

Affiant further deposes and says that he is duly authorized by said Corporation to verify this statement, and that neither he nor said corporation is interested in the subject matter of said printed notice or advertising, and that all of the allegations of this statement as to the time, place and character of publication are true.

RESOLVED, That the President, Secretary, Treasurer, Vice President, Controller, and General Manger of this corporation be and they are hereby severally authorized and empowered to execute the verified statement in the proofs of publication on behalf of this corporation as the owner and publisher of the Lebanon Daily News as required by the Newspaper Advertisement Act of July 9, 1976, P.L. 877, No. 160

Andrew H. Mick Copy of Notice of Publication  
Andrew H. Mick

Sworn and subscribed before me this 30th day of July A.D. 19 97

Colleen A. Novak  
Notary Public

NOTICE  
APPLICATION OF  
THE COUNTY OF  
LEBANON TRANSIT  
AUTHORITY  
A-00113589  
SOUTH LEBANON  
TOWNSHIP BOARD OF  
SUPERVISORS  
vs.  
CONSOLIDATED RAIL  
CORPORATION  
C-00970106  
CITY OF LEBANON  
vs.  
CONSOLIDATED RAIL  
CORPORATION  
C-00970107  
PENNSYLVANIA DEPARTMENT  
OF TRANSPORTATION  
vs.  
CONSOLIDATED RAIL  
CORPORATION  
C-00970126

Notarial Seal  
Colleen A. Novak, Notary Public  
Lebanon, Lebanon County  
My Commission Expires Feb. 12, 2001  
Member, Pennsylvania Association of Notaries

Statement of Advertising Costs  
To The Lebanon Daily News Dr.  
For Publications of notice or publications attached hereto

on the above stated dates \$ 306.02  
Preparation Fees \$ 5.00  
Total \$ 311.02

NOTICE IS HEREBY GIVEN that an Application and three (3) complaints have been made to the Pennsylvania Public Utility Commission, under the provisions of the Public Utility Code, requesting the Public Utility Commission's approval of the suspension of a series of crossings involving the Cornwall Industrial Tract of Consolidated Rail Corporation located in the City of Lebanon, Lebanon County (A-00113589). A complaint by the South Lebanon Township Board of Supervisors has been received by the Pennsylvania Public Utility Commission identifying numerous complaints that have been received about the crossing at South Lin-

**DOCKETED**  
AUG 06 1997  
**DOCUMENT FOLDER**

**RECEIVED**  
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FAPUC  
PROTHONOTARY'S OFFICE

corn Avenue, mainly regarding  
ruts and deep holes causing  
damage to vehicles.  
(C-00970106). A complaint by  
the City of Lebanon has been  
received by the Pennsylvania  
Public Utility Commission indi-  
cating concern about the condi-  
tion of crossings on the Corn-  
wall Industrial Track of Consoli-  
dated Rail Corporation at the  
following locations in the City of  
Lebanon: Willow Street; Cum-  
berland Street; Chesnut Street;  
Walnut Street; 12th Street; 10  
10th Street; 9th Street; and 8th  
Street. The City of Lebanon has  
received complaints from the  
public that these crossings are  
causing damage to vehicles.  
(C-00970107).

A complaint by the Pennsylv-  
ania Department of Transporta-  
tion has been received by the  
Pennsylvania Public Utility Com-  
mission stating concerns about  
the safety of the at-grade cross-  
ing at State Route 2003, (L.R.  
38016), State Drive. The con-  
cern involves a sunken crossing  
with rotting timbers breaking out,  
and a location on an over verti-  
cal curb and a driver is not  
aware of the crossing's poor  
condition until it is too late.  
(C-00970126).

A public hearing on these pro-  
ceedings will be held Tuesday,  
August 5, 1997, at 10:00 o'clock  
a.m. in an available hearing  
room, Ground Floor, North Of-  
fice Building, North Street and  
Commonwealth Avenue, Harris-  
burg, Pennsylvania, when and  
where all persons in interest  
may appear and be heard if  
they so desire.

Timothy D. Sheffey, Esquire,  
REILLY, WOLFSON, SHEFFEY,  
SCHRUM AND LUNDBERG  
1601 Cornwall Road  
Lebanon, PA 17042





COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

August 7, 1997

In Re: A-00113589, C-00970106, C-00970107, C-00970126

(See letter dated 06/03/97)

**A-00113589 Application of the County of Lebanon Transit Authority**

For approval of the suspension of a series of crossings involving the Cornwall Industrial Track of Consolidated Rail Corporation located in the City of Lebanon, Lebanon County.

**C-00970106 South Lebanon Township Board of Supervisors v. Consolidated Rail Corporation**

Complainant states it has received numerous complaints about the crossing at South Lincoln Avenue, mainly regarding ruts and deep holes causing damage to vehicles.

**C-00970107 City of Lebanon v. Consolidated Rail Corporation**

Complainant is concerned about the condition of crossings on the Cornwall Industrial Track of CONRAIL at the following locations in the City of Lebanon: Willow Street; Cumberland Street; Chestnut Street; Walnut Street; 12th Street; 10th Street; 9th Street; 8th Street. Complainant states it has received complaints from the public that crossings are causing damage to their vehicles.

**C-00970126 Pennsylvania Department of Transportation v. Consolidated Rail Corporation**

Complainant concerned about the safety of at-grade crossing at State Route 2003., L.R. 38016 at State Drive. Complainant says crossing is sunken with rotting timbers breaking out. Due to location on an over vertical curb, a driver is not aware of the crossing's poor condition until it is too late.

**NOTICE**

This is to inform you that **an Further Hearing** on the above-captioned case will be held **Wednesday, October 8, 1997 at 10:00 a.m.** in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, Pennsylvania.

**Administrative Law Judge Herbert S. Cohen** will be the presiding officer in this case. The judge can be contacted at P.O. Box 3265, Harrisburg, Pennsylvania, 17105-3265; telephone (717) 783-5452.

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If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call Norma Lewis at the Public Utility Commission:

- Scheduling Office: (717) 787-1399
- AT&T Relay Service number for persons who are deaf or hearing impaired: 1-800-654-5988.

pc: Judge Cohen  
John Frazier - BPL Rm. 101  
John Wilson - T&S  
Dave Hart - T&S Rail Division  
Norma Lewis  
Steve L. Springer, Scheduling Officer  
Beth Plantz  
Docket Section  
Calendar File

**APPEARANCE SHEET**

**ALJ HEARING REPORT**

Docket No. A-00113589, C-00970106, C-00970107, C-00970126

CHECK THOSE BLOCKS WHICH APPLY:

Case Name Application of County of Lebanon Transit Authority, S. Lebanon Twp. Board of Supervisors v. Consolidated Rail Corp., City of Lebanon v. Consolidated Rail Corp., Pennsylvania Dept. of Transportation v. Consolidated Rail Corp.

Prehearing held YES  NO   
 Hearing held YES  NO

**DOCKETED**  
 SEP 05 1997

Location Harrisburg, PA  
 Date August 5, 1997

Testimony taken YES  NO   
 Transcript due YES  NO   
 Hearing concluded YES  NO   
 Further hearing needed YES  NO

ALJ Herbert S. Cohen  
 Reporting Firm \_\_\_\_\_

Estimated add'l days \_\_\_\_\_  
 RECORD CLOSED YES  NO

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DATE \_\_\_\_\_  
 Briefs to be Filed YES  NO   
 DATE \_\_\_\_\_  
 BENCH DECISION YES  NO

REMARKS: NEXT HEARING SET FOR  
OCTOBER 8, 1997

NAMES, ADDRESSES AND TELEPHONE NUMBERS OF PARTIES OR COUNSEL OF RECORD  
 PLEASE PRINT CLEARLY  
 INCOMPLETE INFORMATION MAY RESULT IN DELAY OF PROCESS

NAME and TELEPHONE NUMBER	ADDRESS	APPEARING FOR
Gina M. D'Alfonso Telephone No. <u>717-787-3128</u>	9th Floor Forum Place 555 Walnut St City <u>Hbg</u> State <u>PA</u> Zip <u>17101-1700</u>	Coun. of PA Dept. of Transportation
DAVID A SALAPA Telephone No. <u>(717) 783-2840</u>	P.O. Box 3265 City <u>Harrisburg</u> State <u>PA</u> Zip <u>17105-3265</u>	Pa P.U.C Bureau of Transportation & Safety

NAME and TELEPHONE NUMBER	ADDRESS			APPEARING FOR
<p>Tim Sheffey</p> <p>Telephone No. 273-3733</p>	<p>1601 CORNWALL ROAD</p> <p>City ZEBANON State PA Zip 17042</p>			<p>County of Lebanon TRANSIT AUTHORITY</p>
<p>PAUL KILGORE</p> <p>Telephone No. 273-7621</p>	<p>522 So. 8th ST</p> <p>City ZEBANON State PA Zip 17042</p>			<p>SOUTH ZEBANON TOWNSHIP</p>
<p>Samuel G. Weiss Jr</p> <p>Telephone No. 273-1661</p>	<p>802 WALNUT ST</p> <p>City ZEBANON State PA Zip 17042</p>			<p>CITY OF LEBANON</p>
<p>DAVID C. EATON</p> <p>Telephone No. 236-3010</p>	<p>200 North Third St P.O. Box 840</p> <p>City HDG State PA Zip 17108-0840</p>			<p>Conrail</p>
<p>SCOTT DIETTERICK, ESQ</p> <p>Telephone No. 975-3379</p>	<p>4076 MARKET ST.</p> <p>City CAMP HILL State PA Zip 17011</p>			<p>R. J. CORMAN</p>
<p>Telephone No.</p>	<p>City State Zip</p>			
<p>Telephone No.</p>	<p>City State Zip</p>			
<p>Telephone No.</p>	<p>City State Zip</p>			
<p>Telephone No.</p>	<p>City State Zip</p>			
<p>Telephone No.</p>	<p>City State Zip</p>			
<p>Telephone No.</p>	<p>City State Zip</p>			

Theresa H. Strayer

LAW OFFICES  
**NAUMAN, SMITH, SHISSLER & HALL**

18TH FLOOR  
200 NORTH THIRD STREET

P. O. Box 840  
HARRISBURG, PENNSYLVANIA 17108-0840

TELEPHONE  
(717) 236-3010  
TELEFAX  
(717) 234-1925

SPENCER G. NAUMAN, JR.  
JOHN C. SULLIVAN  
J. STEPHEN FEINOUR  
CRAIG J. STAUDENMAIER  
BENJAMIN C. DUNLAP, JR.  
STEPHEN J. KEENE

COUNSEL  
RALPH W. BOYLES, JR.  
DAVID C. EATON  
DIRECT E-MAIL ADDRESS  
NSSH@REDROSE.NET

January 8, 1998

**HAND DELIVERED**

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

A-60113589

RE: **South Lebanon Township v. Co. Of Lebanon**  
**C-00970106**

**City of Lebanon v. County of Lebanon**  
**C-00970107**

**Commonwealth of Pennsylvania, Department**  
**Of Transportation v. Conrail**  
**C-00970126**

**Application of South Lebanon Township**  
**For Approval of The South Alteration of**  
**The Crossing (Aar 591 537 S) Where**  
**Township Road 705 (Wilhelm Avenue) Crosses**  
**Below Grade of The Tracks of The Consolidated**  
**Rail Corporation in South Lebanon Township,**  
**Lebanon County C-00970126**

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PROTHONOTARY'S OFFICE

Dear Sir:

I enclose an original and nine (9) copies of the "Reply Brief of Consolidated Rail Corporation" for filing in the above matter. In accordance with the accompanying Certificate of Service we have provided copies of the Reply Brief of Consolidated Rail Corporation to all active parties of record.

Please timestamp the additional copy of the Reply Brief and return to our messenger.

Sincerely yours,

*Barbara M. Drake*

Barbara M. Drake  
Secretary to Benjamin C. Dunlap, Jr.

/bmd

Enclosures

cc: All Parties of Record  
ALJ Herbert S. Cohen  
Scott K. Wasserkrug, Esquire

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3

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: : Docket No. A-00113589  
APPLICATION OF THE COUNTY :  
OF LEBANON TRANSIT AUTHORITY :  
FOR APPROVAL OF THE :  
SUSPENSION OF A SERIES OF :  
CROSSINGS INVOLVING THE :  
CORNWALL INDUSTRIAL TRACK :  
OF CONSOLIDATED RAIL :  
CORPORATION LOCATED IN THE :  
CITY OF LEBANON, LEBANON :  
COUNTY :  
CITY OF LEBANON, :  
Complainant : Docket No. C-00970107  
vs. :  
CONSOLIDATED RAIL :  
CORPORATION, et al :  
Respondent :  
COMMONWEALTH OF PENNSYLVANIA :  
DEPARTMENT OF TRANSPORTATION :  
Complainant : Docket No. C-00970126  
vs. :  
CONSOLIDATED RAIL CORPORATION :  
Respondent :  
SOUTH LEBANON TOWNSHIP, :  
BOARD OF SUPERVISORS :  
Complainant : Docket No. C-00970106  
vs. :  
CONSOLIDATED RAIL :  
CORPORATION, et al :  
Respondent :  
APPLICATION OF SOUTH LEBANON :  
TOWNSHIP FOR APPROVAL OF THE : Docket No. A-00109901  
ALTERATION OF THE CROSSING :  
(AAR 591 537 S) WHERE TOWNSHIP :  
ROAD 705 (WILHELM AVENUE) :  
CROSSES BELOW GRADE OF THE :  
TRACKS OF THE CONSOLIDATED :  
RAIL CORPORATION IN SOUTH :  
LEBANON TOWNSHIP, LEBANON :  
COUNTY :

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REPLY BRIEF OF CONSOLIDATED RAIL CORPORATION

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The Pennsylvania Department of Transportation ("PennDOT") in its main brief proposes that the crossing of the tracks of Consolidated Rail Corporation ("Conrail") with State Drive, S.R. 2003, in South Lebanon Township should be suspended, with the removal of all rail and rail appurtenances and the removal or covering of all warning devices. *Id.* at 17, Proposed Ordering Paragraphs 1, 3, 6. It similarly contends that all other at-grade crossings, with the exception of the Willow Street crossing in the City of Lebanon, should be suspended, with the removal of all rail appurtenances and the covering or removal of all warning devices. *See id.* at 9-10, Proposed Findings of Fact 13, 15.

South Lebanon Township, with the City of Lebanon concurring, proposes that all at-grade crossings, with the exception of Willow Street, be abolished, with the removal of all track and supporting structures. Brief of South Lebanon Township at 7, Proposed Recommendations 1-2; Letter of Samuel G. Weiss, Jr., to James McNulty, dated December 24, 1997. The Lebanon Transit Authority ("COLT") recommends that the seven at-grade crossings which are the subject of its application be suspended, taking no position as to whether the rails should be removed or paved over or whether the warning devices should be removed or covered. Brief of Lebanon Transit Authority at 7-8, Proposed Conclusions of Law and Recommendations ¶¶ 3-4.

Removal of the rail and rail appurtenances at this time is not necessary to protect the public safety and would place an undue burden on the railroad. Suspension of the at-grade crossings and paving over of the rails, as proposed by Conrail, would solve the matters which are the subject of the various complaints and COLT's application. Conrail's proposed solution would provide a smooth roadway surface for the traveling public. It would also eliminate the requirement that COLT's vehicles stop at the suspended crossings. No party has argued against the mere covering

rather than removal of crossing warning devices, as proposed by Conrail, which therefore should be ordered.

Conrail has proposed that the crossings remain suspended for just one year following the entry of the Commission's Order, during which time R.J. Corman Railroad Company/Allentown Lines, Inc., ("Corman"), the new owners of that portion of the line encompassing all crossings except Willow Street, will make a determination as to the feasibility of resuming rail operations. N.T. 207-8; Conrail Exhibits Nos. 3 and 4, attached to Conrail's Amended Petition to Reopen as Exhibits "A" and "B". After that time, a further hearing can be held to determine any work needed at the crossings to reactivate them should operations be resumed or work required to abolish the crossings should operations not be resumed. Thus, none of the complaining parties or COLT will be prejudiced by the rails being paved over rather than removed during the period of suspension.

On the other hand, if the rails are ordered removed and rail operations are subsequently resumed, the railroad will be prejudiced by paying substantially greater costs to rebuild the crossings from scratch rather than repair or reconstruct them as needed if the rails are not removed. The Commission's ordering of removal of the tracks from the suspended at-grade crossings would be neither just nor reasonable when an alternative solution exists which fully protects public safety and prejudices no party.

In addition, South Lebanon Township is incorrect in its statements supporting abandonment that the subject rail line from milepost .90 to 4.50 has no feasible use and rehabilitation of the line "is outweighed by the hazard the line creates for the public, cost to rehabilitate and its non use."

Brief of South Lebanon Township at 6, Proposed Conclusions of Law ¶¶ 4-5. To the contrary, Corman presented testimony that it owns operating railroads in Tennessee, Ohio and Pennsylvania, and could rehabilitate the conveyed rail line for less money than could Conrail. (N.T. 165, 172-3). Testimony was also presented that Corman could operate the conveyed rail line within different operating parameters than could Conrail, thus making its services potentially attractive to shippers. (N.T. 142-3, 158-9). Thus, South Lebanon Township is incorrect as to potential usage of the track. The Township is also incorrect as to its allegation that the line creates a hazard to the public, when Corman has agreed that it would undertake the necessary work to rehabilitate the line and crossings should rail operations be resumed. (N.T. 172-4).

Finally, COLT averred in its brief that its vehicles were involved in "at least three (3) accidents . . . arising out of stopping at these described at-grade railroad crossings and other vehicles trying to pass COLT vehicles." *Id.* at 5, Proposed Finding of Fact ¶ 13. The record, however, only supports COLT vehicles being involved in two such accidents at the subject crossings, neither of which was reportable. (N.T. 25, 30, 74-5, 95, 104, 116-7).

NAUMAN, SMITH, SHISSLER & HALL

By Benjamin C. Dunlap, Jr.  
David C. Eaton Esquire  
Supreme Court ID #07169

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  
Attorneys for Consolidated Rail Corporation

Date: January 8, 1998

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: : Docket No. A-00113589  
APPLICATION OF THE COUNTY :  
OF LEBANON TRANSIT AUTHORITY :  
FOR APPROVAL OF THE :  
SUSPENSION OF A SERIES OF :  
CROSSINGS INVOLVING THE :  
CORNWALL INDUSTRIAL TRACK :  
OF CONSOLIDATED RAIL :  
CORPORATION LOCATED IN THE :  
CITY OF LEBANON, LEBANON :  
COUNTY :

CITY OF LEBANON, :  
Complainant : Docket No. C-00970107  
vs. :  
CONSOLIDATED RAIL :  
CORPORATION, et al :  
Respondent :

COMMONWEALTH OF PENNSYLVANIA :  
DEPARTMENT OF TRANSPORTATION :  
Complainant : Docket No. C-00970126  
vs. :  
CONSOLIDATED RAIL CORPORATION :  
Respondent :

SOUTH LEBANON TOWNSHIP, :  
BOARD OF SUPERVISORS :  
Complainant : Docket No. C-00970106  
vs. :  
CONSOLIDATED RAIL :  
CORPORATION, et al :  
Respondent :

APPLICATION OF SOUTH LEBANON :  
TOWNSHIP FOR APPROVAL OF THE : Docket No. A-00109901  
ALTERATION OF THE CROSSING :  
(AAR 591 537 S) WHERE TOWNSHIP :  
ROAD 705 (WILHELM AVENUE) :  
CROSSES BELOW GRADE OF THE :  
TRACKS OF THE CONSOLIDATED :  
RAIL CORPORATION IN SOUTH :  
LEBANON TOWNSHIP, LEBANON :  
COUNTY :

CERTIFICATE OF SERVICE

I hereby certify that I served the within "Reply Brief of Consolidated Rail Corporation" this day by depositing the same in the United States mail, postage prepaid, in Harrisburg, Pennsylvania, addressed to:

**SERVICE LIST**

Honorable Herbert S. Cohen  
Administrative Law Judge  
P. O. Box 3265  
Harrisburg, PA 17105-3265

William D. Pickering  
Chief Engineer  
PennDOT  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Allen E. Freed, Chairman  
County of Lebanon Transit Auth.  
200 Willow Street  
Lebanon, PA 17042

David A. Salapa, Esquire  
PA PUC Transportation/Safety  
Rail Division  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Donald J. Rhine, Chief Clerk  
Lebanon County Commissioners  
Room 207 Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

Andrew F. Gordon, Esquire  
Chief Counsel  
Pennsylvania Dept. of Transp.  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Timothy D. Sheffey, Esquire  
Lebanon Transit Authority  
1601 Cornwall Road  
Lebanon, PA 17042-7460

Gina M. D'Alfonso, Esquire  
PA Department of Transportation  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Edward M. Keener, City Engineer  
City of Lebanon  
Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

John Herzog, Esquire  
PA PUC Transportation/Safety  
Rail Division  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Keith L. Kilgore, Esquire  
Spitler and Kilgore  
South Lebanon Township  
522 South 8<sup>th</sup> Street  
Lebanon, PA 17042

Samuel G. Weiss, Esquire  
Weiss, Weiss & Weiss  
City of Lebanon Solicitor  
802 Walnut Street  
Lebanon, PA 17042-0838

Adrienne C. Snelling, Esquire  
Rosamond A. Presby, Esquire  
Lebanon County Solicitor  
Room 207 Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

Paul Krause, Chairman  
South Lebanon Township  
Board of Supervisors  
1800 South Fifth Avenue  
Lebanon, PA 17042

Rick Corman  
R J Corman Railroad Company  
PA Lines, Inc.  
1 Jay Station  
Nicholasville, KY 40356



Barbara M. Drake, Secretary to  
Benjamin C. Dunlap, Jr., Esquire

Dated: January 8, 1998

LAW OFFICES  
NAUMAN, SMITH, SHISSLER & HALL

18<sup>TH</sup> FLOOR  
200 NORTH THIRD STREET  
P. O. BOX 840

HARRISBURG, PENNSYLVANIA 17108-0840

TELEPHONE  
(717) 236-3010

TELEFAX  
(717) 234-1925  
June 1, 1998

COUNSEL  
DAVID C. EATON  
JOHN C. SULLIVAN

DIRECT E-MAIL ADDRESS  
NSSH@REDROSE.NET

SPENCER G. NAUMAN, JR.  
J. STEPHEN FEINOUR  
CRAIG J. STAUDENMAIER  
BENJAMIN C. DUNLAP, JR.  
DENNIS E. BOYLE

**ORIGINAL** **HAND DELIVERED**

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

RE: **South Lebanon Township v. Co. Of Lebanon**  
**C-00970106**

**City of Lebanon v. County of Lebanon**  
**C-00970107**

**Commonwealth of Pennsylvania, Department**  
**Of Transportation v. Conrail**  
**C-00970126**

**Application of the County of Lebanon Transit Authority**  
**for Approval of the Suspension of a Series of Crossings**  
**Involving the Cornwall Industrial Track of Consolidated**  
**Rail Corporation Located in the City of Lebanon,**  
**Lebanon County**  
**A-00113589**

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SECRETARY'S BUREAU

Dear Sir:

I enclose an original and three (3) copies of the "Stipulation for Settlement and Proposed Order" for filing in the above matter. In accordance with the accompanying Certificate of Service we have provided copies of the Stipulation and Proposed Order to all active parties of record.

Please timestamp the additional copy provided and return to our messenger.

Sincerely yours,

*Barbara M. Drake*

Barbara M. Drake,  
Secretary to Benjamin C. Dunlap, Jr.

/bmd

Enclosures

cc: All Parties of Record  
ALJ Herbert S. Cohen  
Scott K. Wasserkrug, Esquire  
Mark Sawyer

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108

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

IN RE: :  
APPLICATION OF THE COUNTY :  
OF LEBANON TRANSIT AUTHORITY :  
FOR APPROVAL OF THE SUSPENSION :  
OF A SERIES OF CROSSINGS :  
INVOLVING THE CORNWALL :  
INDUSTRIAL TRACK OF :  
CONSOLIDATED RAIL CORPORATION :  
LOCATED IN THE CITY OF LEBANON, :  
LEBANON COUNTY :

Docket No. A-00113589

CITY OF LEBANON, :

Docket No. C-00970107

Complainant

vs.

CONSOLIDATED RAIL  
CORPORATION, et al.,

Respondent

COMMONWEALTH OF :  
PENNSYLVANIA DEPARTMENT OF :  
TRANSPORTATION, :

Docket No. C-00970126

Complainant

vs.

CONSOLIDATED RAIL  
CORPORATION,

Respondent

SOUTH LEBANON TOWNSHIP, :  
BOARD OF SUPERVISORS, :

Docket No. C-0097106

Complainant

vs.

CONSOLIDATED RAIL  
CORPORATION, et al.,

Respondent

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SECRETARY'S BUREAU

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## **STIPULATION FOR SETTLEMENT AND PROPOSED ORDER**

The parties in the above-referenced actions hereby stipulate as follows:

**WHEREAS**, the County of Lebanon Transit Authority ("COLT"), City of Lebanon ("City"), Commonwealth of Pennsylvania Department of Transportation ("PennDot") and South Lebanon Township ("Township") filed either an Application or Complaint (identified by Docket Nos. A-00113589, C-00970107, C-00970126 and C-00970106 which are collectively referred to hereinafter as the "Proceeding") regarding the condition of certain railroad crossings on the Cornwall Industrial Track at Lebanon County, Pennsylvania; and

**WHEREAS**, the Application and each Complaint were filed against Consolidated Rail Corporation ("Conrail"), who was the owner of the Cornwall Industrial Track at the commencement of the Proceeding; and

**WHEREAS**, the Complaints and Application were consolidated, and during the pendency of the Proceeding, Conrail transferred the Cornwall Industrial Track to R.J. Corman Railroad Company/Allentown Lines, Inc. ("Corman") on or about October 14, 1997. The transfer included all of the railroad crossings subject to the Proceedings, except the Willow Street Crossing in the City of Lebanon; and

**WHEREAS**, the Honorable Herbert S. Cohen, Administrative Law Judge of the Pennsylvania Public Utility Commission, entered an Order joining Corman as a party to the Proceedings and scheduled a hearing as to Corman's intent with respect to the Cornwall Industrial Track for April 16, 1998; and

**WHEREAS**, Corman, the Applicant and Complaining parties attended the April 16, 1998 hearing, at which time the President of Corman, M.W. "Pat" Grubb, Jr. testified that Corman intended to investigate and develop certain railroad business opportunities along the Cornwall Industrial Track over the next twenty four months and expressed a willingness on the part of Corman to temporarily suspend the subject crossings on that portion of the line conveyed to Corman, pave over the crossings and cover or remove any signs or signals at the crossings; and

**WHEREAS**, upon learning of Corman's plans, the Applicant and Complaining parties agreed to enter into a stipulation with Corman for the suspension of the crossings for a twenty four month time period in order to allow Corman to pursue its prospective business opportunities; and

**WHEREAS**, in order to avoid the cost, expense and risk of further litigation, the parties have decided to resolve the issues and matters involved in the Proceeding by way of this Stipulation which was outlined on the record on April 16, 1998.

**WHEREAS**, the undersigned parties request that the Public Utility Commission enter an Order consistent with the terms of this Stipulation of Settlement.

**NOW, THEREFORE**, in consideration of these premises and the covenants contained herein, the parties, with intent to be legally bound hereto, stipulate as follows:

1. An Order shall be issued by the Public Utility Commission resolving the issues at Complaint Docket Numbers C-0097910, C-0097126 and C-00970106 and Application Docket Number A-00113589 and suspending the subject crossings consistent with this Stipulation. The Public Utility Commission may mark these proceedings "Closed" as it deems appropriate. The parties agree that once an order is issued in these Proceedings, Conrail will not be joined as a party in any future proceedings on these crossings except for Willow Street.

2. With respect to the Cornwall Industrial Track crossings located at State Drive (Route 2003), South Eighth Street, South Ninth Street, South Tenth Street, South Twelfth Street, Walnut Street, Chestnut Street, Cumberland Street and Lincoln Avenue, Corman shall undertake the following:

- (a) temporarily suspend use of the above crossings until April 16, 2000 or written notice from Corman that the crossings will be reactivated at an earlier point in time or that Corman has applied to abolish them;
- (b) Corman shall cover or remove any signs and signals at each crossing by June 16, 1998, except for advanced warning signs and pavement markings which shall be covered or removed by the Applicant or Complaining party responsible for said roadway surface;
- (c) Corman shall pave over, at its own expense, the above crossings by September 30, 1998. The pave-over shall include the rails at each crossing. While paving over the crossings, Corman will reasonably cooperate with the engineers from the City, Township or PennDOT within whose jurisdiction each crossing is located; and
- (d) Corman shall maintain the crossings during the time that they are suspended and by April 16, 2000, Corman shall either apply for reactivation of the Cornwall Industrial Track and crossings or file the appropriate petitions for abandonment and abolition of the track.

3. City, Township and PennDot will remove the advanced warning signs and pavement markings on the roads over which each entity has control.

4. Conrail agrees, at its sole cost and expense, to assess and repair the Willow Street crossing to bring it to acceptable standards by October 31, 1998. Conrail will reasonably cooperate with the City in developing and executing appropriate repairs. The City will provide a road closure and detour as may be required for Conrail to perform crossing repairs. Conrail thereafter shall remain solely responsible for maintenance of the Willow Street crossing within the limits of the crossing, (defined as the area within two feet from the outside edge of rail for both sets of tracks.).

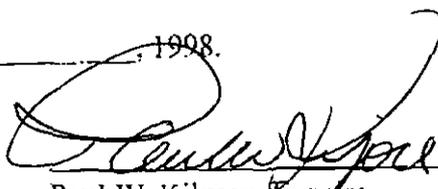
5. After April 16, 2000, the parties to this Stipulation shall be entitled to raise any of the claims or defenses which they may have, except that in the event of a breach of any of the material terms in this Stipulation, the complaining party must provide written notice of the breach of the Stipulation and allow the responding party thirty days to respond or cure such breach before the Complaining party files a complaint or application regarding the breach or seeks enforcement of this Order.

6. This Stipulation does not resolve the issue at Docket No. A-00109901, application of South Lebanon Township for approval of the alteration of the crossing where Wilhelm Avenue crosses below the Cornwall Industrial line, since that matter is still pending before Judge Cohen.

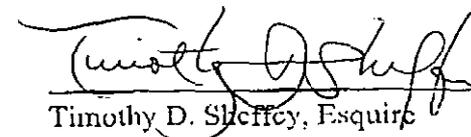
7. The undersigned individuals acknowledge that they have read the foregoing Stipulation, fully understand it and represent and warrant that they have full authority to execute this Stipulation on behalf of their respective clients.

Intending to be legally bound, the parties by their undersigned and authorized counsel have set their hands and seal this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

By:

 5-28-98  
Paul W. Kilgore, Esquire  
Counsel for South Lebanon Township

By:

 5/28/98  
Timothy D. Sheffey, Esquire  
Counsel for County of Lebanon Transit Authority

By:

\_\_\_\_\_  
Gina M. D'Alfonso, Esquire  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation

By:

\_\_\_\_\_  
Benjamin C. Dunlap, Jr., Esquire  
Counsel for Consolidated Rail Corporation

By:

\_\_\_\_\_  
James T. Rcilly, Esquire  
Counsel for the City of Lebanon

By:

\_\_\_\_\_  
John Brian Joyce, Esquire  
Counsel for R.J. Corman Company/  
Allentown Lines, Inc.

Intending to be legally bound, the parties by their undersigned and authorized counsel have set their hands and seal this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

By: \_\_\_\_\_  
Paul W. Kilgore, Esquire  
Counsel for South Lebanon Township

By: \_\_\_\_\_  
Timothy D. Sheffey, Esquire  
Counsel for County of Lebanon Transit Authority

By: Gina M. D'Alfonso  
Gina M. D'Alfonso, Esquire 5/28/98  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation

By: \_\_\_\_\_  
Benjamin C. Dunlap, Jr., Esquire  
Counsel for Consolidated Rail Corporation

By: \_\_\_\_\_  
James T. Reilly, Esquire  
Counsel for the City of Lebanon

By: \_\_\_\_\_  
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Counsel for R.J. Corman Company/  
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*Counsel for County of Lebanon Transit Authority*

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Gina M. D'Alfonso, Esquire  
*Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation*

By: *Benjamin C. Dunlap, Jr.*  
Benjamin C. Dunlap, Jr., Esquire 5/28/98  
*Counsel for Consolidated Rail Corporation*

By: \_\_\_\_\_  
James T. Rcilly, Esquire  
*Counsel for the City of Lebanon*

By: \_\_\_\_\_  
John Brian Joyce, Esquire  
*Counsel for R.J. Corman Company/  
Allentown Lines, Inc.*

Intending to be legally bound, the parties by their undersigned and authorized counsel have set their hands and seal this 29 day of May, 1998.

By: \_\_\_\_\_  
Paul W. Kilgore, Esquire  
*Counsel for South Lebanon Township*

By: \_\_\_\_\_  
Timothy D. Sheffey, Esquire  
*Counsel for County of Lebanon Transit Authority*

By: \_\_\_\_\_  
Gina M. D'Alfonso, Esquire  
*Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation*

By: \_\_\_\_\_  
Benjamin C. Dunlap, Jr., Esquire  
*Counsel for Consolidated Rail Corporation*

By:  \_\_\_\_\_  
James T. Reilly, Esquire  
*Counsel for the City of Lebanon*

By: \_\_\_\_\_  
John Brian Joyce, Esquire  
*Counsel for R.J. Corman Company/  
Allentown Lines, Inc.*

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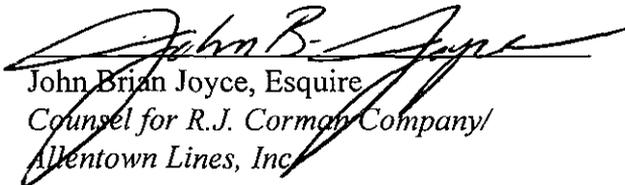
By: \_\_\_\_\_  
Paul W. Kilgore, Esquire  
*Counsel for South Lebanon Township*

By: \_\_\_\_\_  
Timothy D. Sheffey, Esquire  
*Counsel for County of Lebanon Transit Authority*

By: \_\_\_\_\_  
Gina M. D'Alfonso, Esquire  
*Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation*

By: \_\_\_\_\_  
Benjamin C. Dunlap, Jr., Esquire  
*Counsel for Consolidated Rail Corporation*

By: \_\_\_\_\_  
James T. Reilly, Esquire  
*Counsel for the City of Lebanon*

By:  5/27/98  
John Brian Joyce, Esquire  
*Counsel for R.J. Corman Company/  
Allentown Lines, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that I served the within Stipulation this 1<sup>st</sup> day of June, 1998, by depositing the same in the United States mail, postage prepaid, addressed to the following:

Honorable Herbert S. Cohen  
Administrative Law Judge  
P.O. Box 3265  
Harrisburg, PA 17105-3265

William D. Pickering  
Chief Engineer  
PennDOT  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Allen E. Freed, Chairman  
County of Lebanon Transit Authority  
200 Willow Street  
Lebanon, PA 17042

David A. Salapa, Esquire  
PA PUC Transportation/Safety  
Rail Division  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Donald J. Rhine, Chief Clerk  
Lebanon County Commissioners  
Room 207 Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

John Herzog, Esquire  
PA PUC Transportation/Safety  
Rail Division  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Andrew F. Gordon, Esquire  
Chief Counsel  
Pennsylvania Dept. of Transportation  
Forum Place, 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

William C. Matthews, II, Esquire  
Division Counsel  
GPU Services, Inc.  
2800 Pottsville Pike  
Reading, PA 17112-0144

Timothy D. Sheffey, Esquire  
Lebanon Transit Authority  
1601 Cornwall Road  
Lebanon, PA 17042-7460

Gina M. D'Alfonso, Esquire  
PA Department of Transportation  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

Edward M. Keener, City Engineer  
City of Lebanon  
Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

Keith L. Calgary, Esquire  
Spitler and Calgary  
South Lebanon Township  
522 South 8<sup>th</sup> Street  
Lebanon, PA 17042

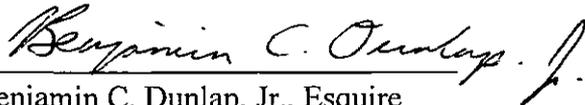
John Brian Joyce, Esquire  
Grenen & Birsic, P.C.  
One Gateway Center  
Nine West  
Pittsburgh, PA 15222

Adrienne C. Snelling, Esquire  
Rosamond A. Presby, Esquire  
Lebanon County Solicitor  
Room 207 Municipal Building  
400 South 8<sup>th</sup> Street  
Lebanon, PA 17042-6794

James T. Reilly, Esquire  
1601 Cornwall Road  
Lebanon, PA 17042

Rick Corman  
R.J. Corman Railroad Company  
PA Lines, Inc.  
1 Jay Station  
Nicholasville, KY 40356

Paul Krause, Chairman  
South Lebanon Township  
Board of Supervisors  
1800 South Fifth Avenue  
Lebanon, PA 17042

  
Benjamin C. Dunlap, Jr., Esquire

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PA.P.U.C.  
SECRETARY'S BUREAU

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
HARRISBURG, PA 17105-3265

Commissioners Present:

**A-00113589 Application of County of Lebanon Transit Authority - for approval of the suspension of a series of crossings involving the Cornwall Industrial Track of Consolidated Rail Corporation located in the City of Lebanon, Lebanon County.**

**C-00970106 South Lebanon Township Board of Supervisors v. Consolidated Rail Corporation - Complaint regarding crossing at South Lincoln Avenue, - alleged ruts and deep holes.**

**C-00970107 City of Lebanon v. Consolidated Rail Corporation -Complaint concerned about condition of crossings on Cornwall Industrial Track of Conrail at the following crossings in the City of Lebanon: Willow Street: Cumberland Street: Chestnut Street: Walnut Street: Twelfth Street: Tenth Street: Ninth Street and Eighty Street. Complaint alleges crossings causing damage to vehicles and complaints from public.**

**C-00970126 Pennsylvania Department of Transportation v. Consolidated Rail Corporation - Complaints concerned about the safety of at Grade Crossing at State Route 2003, L.R. 38016 at State Drive. Complaint alleges crossing is sunken with rotting timbers breaking out.**

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SECRETARY'S BUREAU

**ORDER**

BY THE COMMISSION:

The above-captioned matters are before us upon the filing of either an Application or Complaint filed by the County of Lebanon Transit Authority ("Colt"), City of Lebanon ("City"), Commonwealth of Pennsylvania Department of Transportation ("PennDot") and South Lebanon

Township ("Township"). The Application and Complaints were consolidated into one proceeding. (the "Proceeding"). Consolidated Rail Corporation ("Conrail") filed answers to the Complaints or Application in each Proceeding

The Proceedings concern the at Grade Crossings on the Cornwall Industrial Track located at State Drive (Route 2003), South Eighth Street, South Ninth Street, South Tenth Street, South Twelfth Street, Walnut Street, Chestnut Street, Cumberland Street, and Willow Street in the City of Lebanon, and South Lincoln Avenue in South Lebanon Township..

After the Proceedings were consolidated for hearing purposes, an initial hearing was held before Judge Herbert S. Cohen on August 5, 1997. A further hearing was held on October 8, 1998, at which time Conrail indicated that it was conveying portions of the Cornwall Industrial Track to R.J. Corman Railroad Company/Allentown Lines, Inc. ("Corman"). On or about October 14, 1997, Conrail transferred the Cornwall Industrial Track to Corman.

As a result of the transfer to Corman, a hearing was held on April 16, 1998 at which time Corman was required to present evidence of its intent for the Cornwall Industrial Track. Corman's President, Marvin W. Grubb, Jr. testified at the hearing that Corman intended to actively seek business opportunities along the line after the merger between Norfolk Southern and CSX. After Corman's testimony, the parties to the Proceeding decided to resolve the issues and matters involved by way of a Stipulation for Settlement.

The Stipulation of Settlement between the parties provides for a temporary suspension of the subject crossings for a maximum period of twenty-four (24) months, so that Corman can investigate and develop certain railroad business opportunities it is interested in pursuing along the Cornwall Industrial Track. Corman has agreed at his own cost to pave over the crossings by September 30, 1998 and cover or remove any signs or signals at the crossings before June 16, 1998. Corman will maintain the crossings until April 16, 2000, at which time if Corman has not developed any business along the line, it will petition to abandon and abolish the line. With respect to the Willow Street crossing, Conrail will remain solely responsible for the maintenance of this crossing and at its sole cost and expense will assess and repair the crossing by October 31, 1998.

Inasmuch as the parties have stipulated to settle the Proceeding and there are no other objections of record by any other party in interest, an order can be issued consistent with the Stipulation without the need for any additional hearing.

The record having been certified to this commission, we issued this order approving the Stipulation for the service, accommodation, convenience and safety of the public; THEREFORE,

IT IS ORDERED:

1. That the Stipulation for Settlement filed by the parties at Complaint Docket No.: C-0097910, C-0097126 and C-00970106 and Application Docket No.: A-00113589 is approved and incorporated herein. The subject crossings are suspended consistent with the Stipulation.

2. The Proceedings at the aforementioned docket numbers shall be marked closed.

3. Conrail will not be joined as party in a future proceedings on these crossings except for Willow Street.

4. With respect to the Cornwall Industrial Track crossings located at State Drive (Route 2003), South Eighth Street, South Ninth Street, South Tenth Street, South Twelfth Street, Walnut Street, Chestnut Street, Cumberland Street and Lincoln Avenue, Corman shall undertake the following:

- (a) temporarily suspend use of the above crossings until April 16, 2000 or until written notice from Corman to the parties that the crossings will be reactivated at an earlier point in time or that Corman has applied to abolish them;
- (b) Corman shall cover or remove any signs and signals at each crossing by June 16, 1998, except for advanced warning signs and pavement markings that are part of the roadway surface which shall be covered or removed by the Applicant or Complaining party responsible for said roadway surface;
- (c) Corman shall pave over, at its own expense, the above crossings by September 30, 1998. The pave-over shall include the rails at each crossing. While paving over the crossings, Corman will reasonably cooperate with the engineers from the City, Township or PennDOT within whose jurisdiction each crossing is located; and
- (d) Corman shall maintain the crossings during the time that they are suspended and by April 16, 2000, Corman shall either apply for reactivation of the Cornwall Industrial Track and crossings or file the appropriate petitions for abandonment and abolishment of the track.

5. The City, Township and PennDot will remove the advanced warning signs and pavement markings on the roads over which each entity has control.

6. Conrail shall, at its sole cost and expense, assess and repair the Willow Street crossing to bring it to acceptable standards by October 31, 1998. Conrail will cooperate with the City in developing and executing appropriate repairs. The City will provide a road closure and detour as may be required for Conrail to perform crossing repairs. Conrail thereafter shall remain solely responsible for maintenance of the Willow Street crossing within the limits of the crossing, defined as the area within two feet from the edge of rail.

7. After April 16, 2000, the parties to this Stipulation shall be entitled to raise any of the claims or defenses which they may have, except that in the event of a breach of any of the material terms in this Stipulation, the complaining party must provide written notice of the breach of the Stipulation and allow the responding party thirty days to respond or cure such breach before the Complaining parties files a complaint or application regarding the breach or seeks enforcement of this Order.

BY THE COMMISSION:

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ORDER ADOPTED:

ORDER ENTERED: