

file

Law Offices

REILLY, WOLFSON, SHEFFEY, SCHRUM AND LUNDBERG

JAMES T. REILLY  
FREDERICK S. WOLFSON  
TIMOTHY D. SHEFFEY  
LOREN A. SCHRUM  
PAUL A. LUNDBERG  
PAUL C. BAMETZ  
HARRY W. FENTON  
JOHN J. FERRY

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 STREET  
MYERSTOWN, PA 17067-1019  
717 / 866-9095  
FAX: 717 / 866-9160

RECEIVED  
JUN -4 AM 9:23  
PA P.U.C.  
LEBANON TRANSIT AUTHORITY'S OFFICE

DOCKETED

May 6, 1997

JUN 04 1997

DOCUMENT  
FOLDER  
PA PUC

RECEIVED  
OFFICE OF C.A.L.J.  
97 MAY -7 AM 9:23

The Honorable Robert A. Christianson  
Acting Chief Administrative Law Judge  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: A-00113589  
Request to Consolidate  
With C-00970126, C-00970106,  
C-00970107, and A-00109901

Dear Judge Christianson:

I am corresponding with you on behalf of my client, the County of Lebanon Transit Authority. In their application, A-00113589, they have requested approval for the suspension of a series of crossings involving the Cornwall industrial track of Consolidated Rail Corporation located within the City of Lebanon, Lebanon County.

It is my understanding that the other applications described above also involve the suspension of a series of crossings involving the Cornwall industrial track of Consolidated Rail Corporation within Lebanon County. It is also our understanding that the Department of Transportation has requested the matters, not including the COLT matter, to be scheduled at one time in as timely a fashion as possible because of the public safety interests involved.

On behalf of COLT, we request that our application be scheduled to be heard at the same time the other matters above are scheduled to be heard. We also request that our case, as well as the other described cases, be scheduled in as timely a fashion as possible because of the public safety interests involved. The crossings in our application all involve major traffic thoroughfares within the City of Lebanon. The railroad line is no longer in use.

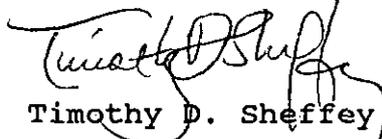
see 5/17 write

Page 2  
May 6, 1997

Based upon the above, we would request your cooperation for as prompt a scheduling of the hearing as possible. Should you have any additional questions or require any additional information, please do not hesitate to contact me.

Very truly yours,

REILLY, WOLFSON, SHEFFEY,  
SCHRUM AND LUNDBERG



Timothy D. Sheffey

TDS:cmr  
cc: Mrs. Jody Lebo  
Mr. Allen Freed



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

**REP**  
IN REPLY PLEASE  
REFER TO OUR FILE

September 25, 1997

In Re: **A-00113589, C-00970106, C-00970107, C-00970126, A-00109901(added)**

(See letter of 8-7-97) *3 see attached new parties 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.

**DOCKETED**  
SEP 30 1997

RECEIVED  
PROTHONOTARY'S OFFICE  
97 SEP 26 PM 12:43

009191

**DOCUMENT  
FOLDER**

For approval of the alteration of the crossing(AAR 591 537 S) where Township Road 705 crosses below the grade of the tracks of the Consolidated Rail Corporation in South Lebanon Township, Lebanon County.

**NOTICE**

This is to inform you that a **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.

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  
Susan Licon  
Beth Plantz  
Docket Section  
Calendar File

**A-90113589 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.

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

DAVE HART PE MANAGER  
PA PUC TRANSPORTATION/SAFETY  
RAIL DIVISION  
PO BOX 3265  
HARRISBURG PA 17105-3265

HONORABLE DAVID J BRIGHTBILL  
ROOM 307 - MUNICIPAL BUILDING  
400 SOUTH EIGHTH STREET  
LEBANON PA 17042

CURTIS E KULP MANAGER  
SOUTH LEBANON TWP BD OF SUP  
1800 SOUTH FIFTH AVENUE  
LEBANON PA 17042

ROBERT SIEGRIST  
111 SOUTH LINCOLN AVENUE  
LEBANON PA 17042

EDWARD J KENNEDY V P  
BELL TELEPHONE CO OF PA  
315 NORTH SECOND STREET  
HARRISBURG PA 17101

DEBRA GATES CITY CLERK  
MUNICIPAL BUILDING  
400 SOUTH 8TH STREET  
LEBANON PA 17042

FRED D HAFER PRESIDENT  
MET-ED  
PO BOX 542  
READING PA 19640

METROPOLITAN EDISON COMPANY  
MET-ED  
600 SOUTH FIFTH AVENUE  
LEBANON PA 17042

LEBANON VALLEY CABLE TV CO  
1220 MIFFLIN STREET  
LEBANON PA 17042

CITY OF LEBANON  
BUREAU OF WATER & SEWER  
MUNICIPAL BLDG  
400 SOUTH 8TH STREET  
LEBANON PA 17042

CHARLES E MECHEM ESQUIRE  
CONRAIL  
LAW DEPARTMENT 16-A  
PO BOX 41416  
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

DAVE HART PE MANAGER  
PA PUC TRANSPORTATION/SAFETY  
RAIL DIVISION  
PO BOX 3265  
HARRISBURG PA 17105-3265

HONORABLE DAVID J BRIGHTBILL  
ROOM 307 - MUNICIPAL BUILDING  
400 SOUTH EIGHTH STREET  
LEBANON PA 17042

DAVID C-EATON ESQUIRE  
CONRAIL  
122 MARKET STREET  
PO BOX 840  
HARRISBURG PA 17108

MRS JOHN M GAIDOS  
CORNWALL ROAD & WILHELM AVENUE  
LEBANON PA 17042

MRS LYDIA M SHOLLEY  
35 WILHELM AVENUE  
LEBANON PA 17042

THOMAS P BROGAN ESQUIRE  
MALATESTA HAWKE & MCKEON  
HARRISBURG ENERGY CENTER  
100 N 10 TH STREET  
HARRISBURG PA 17101

WALTER A BOQUIST II  
MET-ED  
SEC & CORPORATE COUNSEL  
PO BOX 16001  
READING PA 19640

DONNA BRIGHTBILL ESQUIRE  
315 SOUTH 8TH STREET  
PO BOX 1604  
LEBANON PA 17042

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, South 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

97 OCT 22 AM 9:55  
 NOTIFICATION OFFICE

Initial Hearing

Testimony taken

YES  NO

Transcript due

YES  NO

Hearing concluded

YES  NO

Further hearing needed

YES  NO

Estimated add'l days

RECORD CLOSED

YES  NO

Location Harrisburg

Date 10-08, 1997

ALJ Herbert S. Cohen

Reporting Firm

DATE

Briefs to be Filed

YES  NO

DATE

BENCH DECISION

YES  NO

REMARKS: BRIEFS DUE DEC. 29, 1997;

REPLY BRIEFS 10 DAYS

AFTER

DOCKETED  
 OCT 24 1997

RECEIVED  
 OFFICE OF C.A.L.J.  
 97 OCT -8 PM 2:48  
 PA PUC

DOCUMENT FOLDER

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. 717-787-3128	555 Walnut St - 9th Floor Forum Place City 4409 State PA Zip 17101-1900	Commonwealth of PA, Department of Transportation
DAVID C. EATON Telephone No.	PO Box 840 (200 N. 3rd St.) City HBSG State PA Zip 17108	CONRAIL Roger W. Hoffer

NAME and TELEPHONE NUMBER	ADDRESS			APPEARING FOR
John Herzog Telephone No. 483 3413	PO Box 3065 City HBG State PA Zip 17055-			Bureau of Safety
PAUL KILGORE Telephone No. 273-7621	522 S 8th ST City LISBANDON State VA Zip 17042			SOUTH LISBANDON TWP
Sam Weiss Jr Telephone No. 273-1661	802 WALNUT ST City LISBANDON State PA Zip 17042			CITY OF LISBANDON
TIM SHEFFEY Telephone No.	1601 CORNWALL ROAD City LISBANDON State VA Zip 17042			COUNTY OF LISBANDON TRANSIT AUTHORITY
JOHN LEVENGOOD Telephone No.	600 S. 5th Ave City LISBANDON State PA Zip 17042			MET ED DBA/ GRV Energy
JOHN J. VAN SICKLE, JR. Telephone No. (610) 921-6532	P.O. Box 16001 City READING State PA Zip 19640			MET ED d/b/a GRV ENERGY
Daniel J. Birsic Telephone No. (412) 281-7652	One Gateway Center, Suite 900 City Pgh State PA Zip 15222			R. J. Lorman Railroad Company/ Allentown Lines, Inc.
Telephone No.	City State Zip			
Telephone No.	City State Zip			
Telephone No.	City State Zip			
Telephone No.	City State Zip			

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

**ORIGINAL**

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

December 5, 1997

**HAND DELIVERED**

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

**RECEIVED**

RE: **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**

DEC 5 1997

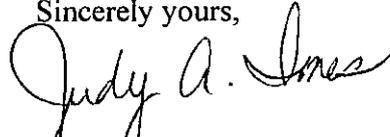
PA PUBLIC UTILITY COMMISSION  
PROTHONOTARY'S OFFICE

Dear Sir:

I enclose an original and three (3) copies of the Petition to Reopen on behalf of Consolidated Rail Corporation for filing in the above matters. In accordance with the accompanying Certificate of Service we have provided copies of the Petition to Reopen to all active parties of record.

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

Sincerely yours,



Judy A. Imes  
Secretary to  
Benjamin C. Dunlap, Jr., Esquire

/jai

Enclosures

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

**DOCUMENT  
FOLDER**

ORIGINAL

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

RECORDED  
97 DEC -5 PM 4:17  
P.A.U.C.  
PROTHONOTARY'S OFFICE

CITY OF LEBANON,  
Complainant  
vs.  
CONSOLIDATED RAIL  
CORPORATION, et al  
Respondent

Docket No. C-00970107

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Complainant  
vs.  
CONSOLIDATED RAIL CORPORATION  
Respondent

Docket No. C-00970126

SOUTH LEBANON TOWNSHIP,  
BOARD OF SUPERVISORS  
Complainant  
vs.  
CONSOLIDATED RAIL  
CORPORATION, et al  
Respondent

Docket No. C-00970106

APPLICATION OF SOUTH LEBANON  
TOWNSHIP FOR APPROVAL OF THE  
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

Docket No. A-00109901

DOCUMENT  
FOLDER  
DOCKETED  
DEC 15 1997

## PETITION TO REOPEN

Consolidated Rail Corporation ("Conrail") by its attorneys, NAUMAN, SMITH, SHISSLER & HALL, files this Petition to Reopen the proceeding for the purpose of taking additional evidence, pursuant to 52 Pa. Code §5.571, based upon the following:

1. A sale of that portion of the rail line which includes all of the subject crossings to the above proceedings, except the Willow Street crossing in the City of Lebanon, from Conrail to R. J. Corman Railroad Company/Allentown Lines, Inc. ("Corman"), was consummated on October 14, 1997. A true and correct copy of the Deed evidencing the conveyance is attached hereto as Exhibit "A".

2. Conrail and Corman also executed an Indenture on October 14, 1997, in which, *inter alia*, Corman agreed to "accept all existing and prospective responsibility for removal and/or restoration costs for any and all railroad bridges and grade crossings and their appurtenances that may be located on, over or under the Premises; and Grantee further covenants and agrees that it will also assume any obligation and/or responsibility as may have been or may hereafter be imposed on Grantor by any Public Utility Commission or any other governmental agency having jurisdiction for any and all bridge structures and grade crossings and their appurtenances, including but not limited to the removal, repairing or restoration of same in accordance with the requirements of said Commission or other

governmental agency.” A true and correct copy of the Indenture between Conrail and Corman is attached hereto as Exhibit “B”.

3. Conrail requests that the Deed be accepted into evidence as Conrail Exhibit No. 3 and the Indenture be accepted into evidence as Conrail Exhibit No. 4.

4. The acceptance of the Deed and Indenture into the record are important to the resolution of the above matter, as Conrail may not be assigned any future maintenance responsibilities or costs following the completion of any work ordered in connection with the immediate complaints and applications, with the exception of Willow Street, as it no longer owns the tracks at any of the other subject crossings.

5. A railroad's liability for crossing obligations stems from “the presence and ownership of the track involved.” *Lehigh and New England Railroad Company v. Public Service Commission*, 126 Pa. Super. 565, 571, 191 A. 380 (1937). Thus, Conrail may not be allocated any responsibility or costs for future maintenance of the subject crossings, with the exception of Willow Street.

6. Furthermore, the fact that Corman acquired ownership of the crossings “would suggest that they should be held liable in the first instance [for the performance of any work

ordered and costs pursuant to the present complaints and applications] for they would normally assume the attendant obligations of ownership." *Pa. Public Utility Commission v. Southeastern Pennsylvania Transportation Authority*, 21 Pa. Commw. 106, 343 A.2d 371, 374 (1975).

7. Conrail further requests that the Commission reopen to accept as Conrail Exhibit No. 5 Corman's Notice of Exemption filed with the Surface Transportation Board at STB Finance Docket No. 33302 to acquire and operate the subject rail line, notice of which was published in the Federal Register on October 15, 1997, at 62 F.R. 53686, a true and correct copy of which is attached hereto as Exhibit "C". Corman's exemption became effective seven days after the notice was filed. 49 C.F.R. §1150.42(b).

8. The aforementioned exemption notice is significant evidence of Corman's intentions to operate on the subject line, which is an important factor in the resolution of these proceedings, particularly regarding the Wilhelm Avenue crossing. The aforementioned exemption notice is also significant evidence of Corman being an operating railroad subject to Commission jurisdiction.

9. The reopening of the record for the acceptance of Exhibits "A" - "C" as Conrail Exhibits No. 3 - 5 will serve to aid in the resolution of the matters involved in this

9. The reopening of the record for the acceptance of Exhibits "A" - "C" as Conrail Exhibits No. 3 - 5 will serve to aid in the resolution of the matters involved in this proceeding as well as obviate the need for a future hearing regarding a reassignment of future maintenance responsibilities.

WHEREFORE, Consolidated Rail Corporation respectfully requests that the Commission grant its Petition to reopen the record for the acceptance of Exhibits "A" - "C" attached hereto as Conrail Exhibits No. 3 - 5.

**NAUMAN, SMITH, SHISSLER & HALL**

By: *Benjamin C. Dunlap, Jr.*  
**Benjamin C. Dunlap, Esquire**  
**Supreme Court ID# 66283**

**David C. Eaton, Esquire**  
**Supreme Court ID# 07169**

200 North Third Street, P. O. Box 840  
Harrisburg, PA 17108-0840  
Telephone: (717) 236-3010  
Counsel for Consolidated Rail Corporation

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  
vs.  
CONSOLIDATED RAIL  
CORPORATION, et al  
Respondent

: Docket No. C-00970107

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Complainant  
vs.  
CONSOLIDATED RAIL CORPORATION  
Respondent

: Docket No. C-00970126

SOUTH LEBANON TOWNSHIP,  
BOARD OF SUPERVISORS  
Complainant  
vs.  
CONSOLIDATED RAIL  
CORPORATION, et al  
Respondent

: Docket No. C-00970106

APPLICATION OF SOUTH LEBANON  
TOWNSHIP FOR APPROVAL OF THE  
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

: Docket No. A-00109901

CERTIFICATE OF SERVICE

I hereby certify that I served Conrail's "**Petition to Reopen**" in the above matter, 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

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

Keith L. Kilgore, Esquire  
Spitler and Kilgore

Rail Division  
P. O. Box 3265  
Harrisburg, PA 17105-3265

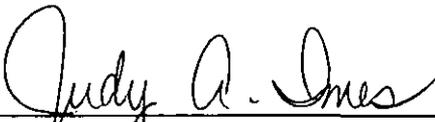
South Lebanon Township  
522 South 8<sup>th</sup> Street  
Lebanon, PA 17042

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

  
\_\_\_\_\_  
Judy A. Imes, Secretary to  
Benjamin C. Dunlap, Jr., Esquire

Dated: December 5, 1997

KNOW ALL MEN BY THESE PRESENTS, that  
**CONSOLIDATED RAIL CORPORATION**, a Corporation of the Commonwealth of Pennsylvania, with an office at Two Commerce Square, 2001 Market Street, Philadelphia, Pennsylvania 19101-1419, hereinafter referred to as "Conrail", for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, to it in hand paid, does hereby GRANT, SELL and TRANSFER unto **R. J. CORMAN RAILROAD COMPANY/ALLENTOWN LINES, INC.**, a Corporation of the Commonwealth of Pennsylvania, with a mailing address of One Jay Station, P.O. Box 788, Nicholasville, Kentucky 40356, hereinafter referred to as the "RJCN", all its right, title and interest, insofar as its title or right permits it so to do, in all the personal property located on the property known as the Cornwall Industrial Track and the Lebanon Industrial Track, as more particularly described in a deed of even date herewith, between Conrail and RJCN, conveying said Cornwall Industrial Track and Lebanon Industrial Track to RJCN, including but not limited to all rail, other track materials and all other property and appurtenances, both *fixed and moveable*, located on the Cornwall Industrial Track and the Lebanon Industrial Track and which constitutes personal property under the laws of the Commonwealth of Pennsylvania, except the radio base stations, radio controllers and related facilities and rolling stock, which are retained by Conrail, and any other personal property which the parties hereto have agreed or may agree may be retained by Conrail, subject however upon and to the

covenants, conditions and restrictions hereinafter contained, to which RJC�, for itself, its successors and assigns, agrees to be bound as part of the consideration hereof.

FIRST: That the said personal property is conveyed by Conrail and accepted by RJC� as is and where is, and without any warranties or representations of any nature or kind expressed or implied by Conrail.

SECOND: That RJC� as of the date of this Bill of Sale, will assume all liability for future maintenance, repair or removal of said personal property, and shall protect, indemnify and hold harmless Conrail from and against any liability associated with the said personal property and any future maintenance, repair, improvement, replacement, removal or other expenses, whether required by any court or governmental agency, or otherwise.

THIRD: That Conrail shall have the right for a reasonable period of time after the date of this Bill of Sale to enter upon the Cornwall Industrial Track and the Lebanon Industrial Track for the purposes of ingress, egress and regress to remove all its railroad equipment not conveyed hereby, including rail and other track materials, radio base stations, radio controllers and their related facilities, and all rolling stock and all other personal property which the parties have agreed or may agree shall be retained by Conrail.

THE words "Conrail" and "RJC�", as used herein, shall be deemed to include at all times and in all cases their respective successors or assigns.

~~IN WITNESS WHEREOF, CONSOLIDATED RAIL~~

CORPORATION has executed this Instrument on this 14<sup>th</sup> day of October, 1997.

WITNESS: CONSOLIDATED RAIL CORPORATION  
BY:

Nancy B. Reynolds  
NANCY B. REYNOLDS

James W. Hartman, Jr.  
James W. Hartman, Jr.,  
Director-Asset Utilization

THIS INSTRUMENT PREPARED BY:

Nancy B. Reynolds  
Consolidated Rail Corporation  
19-B, Two Commerce Square  
2001 Market Street  
Philadelphia, PA 19101-1419

72865

DEED

CONSOLIDATED RAIL CORPORATION

-to-

R. J. CORMAN RAILROAD COMPANY/  
ALLENTOWN LINES, INC.

Land known as the Cornwall Industrial  
Track and the Lebanon Industrial Track  
and situate in the County of Lebanon,  
Commonwealth of Pennsylvania.

THIS INDENTURE, made the *14<sup>th</sup>* day of *October*  
in the year of our Lord One Thousand Nine Hundred and Ninety-seven  
(A.D. 1997)

**BETWEEN CONSOLIDATED RAIL CORPORATION**, a  
Corporation of the Commonwealth of Pennsylvania, having an office at  
Two Commerce Square, 2001 Market Street, Philadelphia,  
Pennsylvania, 19101-1419, hereinafter referred to as the Grantor, and  
**R. J. CORMAN RAILROAD COMPANY/ALLENTOWN LINES,  
INC.**, a Corporation of the Commonwealth of Pennsylvania, having a  
mailing address of One Jay Station, P.O. Box 788, Nicholasville,  
Kentucky 40356, hereinafter referred to as the Grantee;

WITNESSETH: That the said Grantor, for and in consideration of  
the sum of ONE DOLLAR (\$1.00) lawful money of the United States of  
America, unto it well and truly paid by the said Grantee, at or before the  
sealing and delivery of these presents, the receipt whereof is hereby  
acknowledged, Grantor has remised, released and quitclaimed and by  
these presents does remise, release and quitclaim unto the said Grantee,  
the successors and assigns of the said Grantee, all right, title and interest  
of the said Grantor of, in and to the following described Premises:

**ALL THAT CERTAIN** property of the Grantor, together with the  
appurtenances and improvements thereon, being portions of the lines of  
railroad known as the Cornwall Industrial Track and which property is  
situate in the County of Lebanon, Pennsylvania, generally described in  
Exhibit "A" and generally indicated by "PS" on Grantor's Case Plan No.

72865, dated September 16, 1997, which is attached hereto in Exhibit "B" hereof, hereinafter referred to as "Premises".

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, a permanent, perpetual, exclusive, assignable and unrestricted sub-surface and surface easement for existing and future fiber optic cables, telecommunication lines, including but not limited to metallic cables, PCS antennas and all their appurtenances, collectively hereinafter referred to as "Facilities", and for all the rights and privileges to lay, erect, construct, install, use, operate, maintain, repair, renew, replace and remove said Facilities, within, along, below, through and across the limits of the entire Premises; together with the unobstructed right of ingress and egress on, over, across and through the Premises for the exercise of the aforesaid rights; and further together with such surface easements necessary for the appurtenances of said Facilities; and further

THAT GRANTEE, in order to protect the depth of any Facilities that may now or in the future be installed within the Premises, Grantee shall first obtain the written approval of Grantor's Engineering Department or its successor, prior to land regrading, removal or recontouring of ballast, or any removal or contouring of any other soil or fill material on the Premises, such written approval shall not be unreasonably withheld.

UNDER and SUBJECT, however, to (1) whatever rights the public may have to the use of any roads, alleys, bridges or streets crossing the Premises, (2) any streams, rivers, creeks and water ways passing under, across or through the Premises, and (3) any easements or agreements of record or otherwise affecting the Premises, and to the state of facts which a personal inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the Premises, together with the right to maintain, repair, renew; replace, use and remove same.

THIS INSTRUMENT is executed and delivered by Grantor, and is accepted by Grantee, subject to the covenants set forth below, which shall be deemed part of the consideration of this conveyance and which shall run with the land and be binding upon, and inure to the benefit of, the respective legal representatives, successors and assigns of Grantor and Grantee. Grantee hereby knowingly, willingly, and voluntarily waives the benefit of any rule, law, custom, or statute of the Commonwealth of Pennsylvania now or hereafter in force with respect to the covenants set forth below.

(1) Grantor shall neither be liable nor obligated to construct or maintain any fence or similar structure between the Premises and adjoining land of Grantor nor shall Grantor be liable or obligated to pay for any part of the cost or expense of constructing or maintaining any fence or similar structure, and Grantee hereby forever releases Grantor from any loss or damage, direct or consequential, that may be caused by or arise from the lack or failure to maintain any such fence or similar structure.

(2) No right or means of ingress, egress or passageway to or from the Premises is hereby granted, expressly or by implication, and Grantor shall not be liable or obliged to provide or obtain for Grantee any such means of ingress, egress or passageway.

(3) Should a claim adverse to the title hereby quitclaimed be asserted and/or proved, no recourse shall be had against the Grantor herein.

(4) Grantee by the acceptance of this Instrument, does hereby accept all existing and prospective responsibility for removal and/or restoration costs for any and all railroad bridges and grade crossings and their appurtenances that may be located on, over or under the Premises; and Grantee further covenants and agrees that it will also assume any obligation and/or responsibility as may have been or may hereafter be imposed on Grantor by any Public Utility Commission or any other governmental agency having jurisdiction for any and all bridge

structures and grade crossings and their appurtenances, including but not limited to the removal, repairing or restoration of same in accordance with the requirements of said Commission or other governmental agency; and Grantee further agrees to indemnify, defend and hold Grantor harmless against all costs, penalties, expenses, obligations, responsibility and requirements associated with said bridge structures and grade crossings and their appurtenances.

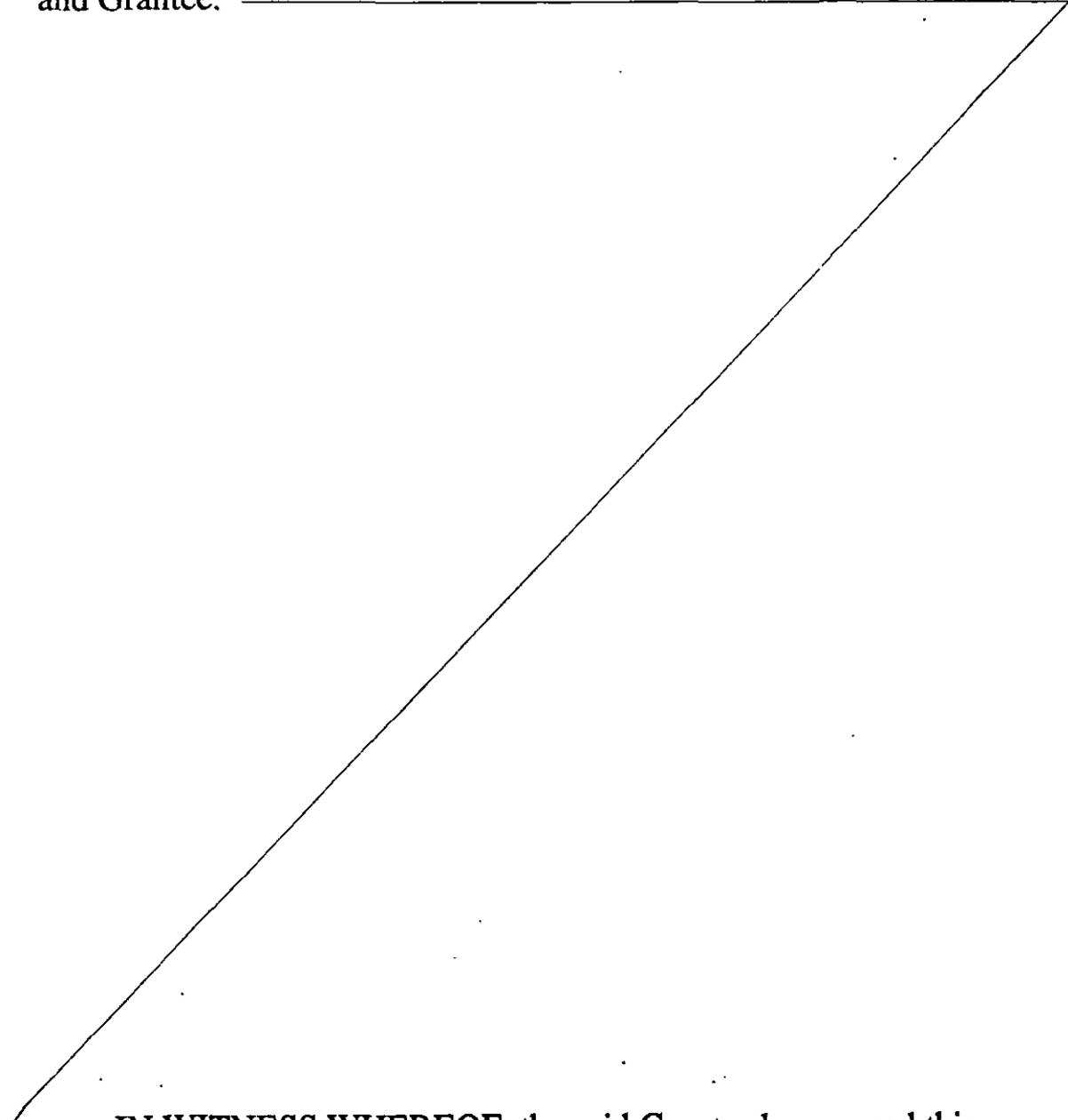
(5) Grantor shall not be liable or obligated to provide for or supply directly or indirectly, for money or otherwise, any type of utility service to Grantee, even if the Premises are supplied utility service or services from or through Grantor owned or Grantor retained utility service facilities at the time said Premises are conveyed to Grantee; and that if Grantor at its sole discretion elects to provide any utility service or services for money or otherwise to said Premises during the period during which Grantee is arranging at Grantee's own expense for provision of utility service or services direct from public utilities, Grantee shall have no continuing right to use such service or expectation that Grantor must continue to provide it. It is further understood that Grantee's use of any utilities that are supplied through Grantor's utilities or billed to Grantor by any public utility for Grantee's use shall be at the sole cost and expense of Grantee and if Grantee fails to relocate or arrange for a separation of utility services, Grantor may arrange for a separation of the utility services at Grantee's sole cost and expense.

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said Grantor as well at law as in equity or otherwise howsoever, of, in and to the same and every part thereof, EXCEPTING and RESERVING and UNDER and SUBJECT and provided as aforesaid.

TO HAVE AND TO HOLD all and singular the said Premises, together with the appurtenances, unto the Grantee, the successors and

assigns of the said Grantee forever, EXCEPTING and RESERVING and UNDER and SUBJECT and provided as aforesaid.

THE words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this instrument so requires and whether singular or plural, such words shall be deemed to include at all times and in all cases the legal representatives or successors and assigns of the Grantor and Grantee.



IN WITNESS WHEREOF, the said Grantor has caused this

Indenture to be signed in its name and behalf by its Director-Asset Utilization duly authorized thereunto and has caused its corporate seal to be hereunto affixed and attested by its Assistant Secretary the day and year first above written.

SEALED and  
DELIVERED in the  
presence of us:

CONSOLIDATED RAIL CORPORATION  
By:

Nancy B. Reynolds  
NANCY B. REYNOLDS

James W. Hartman, Jr.  
James W. Hartman, Jr.,  
Director-Asset Utilization

Attest:

Nancy B. Reynolds  
NANCY B. REYNOLDS

Wilberta C. Jackson  
Assistant Secretary  
WILBERTA C. JACKSON

COMMONWEALTH OF PENNSYLVANIA )

: SS

COUNTY OF PHILADELPHIA )

On this 16<sup>th</sup> day of October A.D. 1997, before me, the subscriber, the undersigned officer, personally appeared James W. Hartman, Jr., who acknowledged himself to be the Director-Asset Utilization of CONSOLIDATED RAIL CORPORATION, a corporation, and that he as such Director-Asset Utilization, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Director-Asset Utilization.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Kim L. Sands  
Notary Public

Notarial Seal  
Kim L. Sands, Notary Public  
Philadelphia, Philadelphia County  
My Commission Expires April 30, 2001

I HEREBY CERTIFY that the  
correct address of the  
within-named Grantee is:

---

---

on behalf of Grantee.

**THIS INSTRUMENT PREPARED BY:**

Nancy B. Reynolds  
Consolidated Rail Corporation  
19-B, Two Commerce Square  
2001 Market Street  
Philadelphia, Pennsylvania 19101-1419  
:nls

CASE NO. 72865

DEED TO

R. J. CORMAN RAILROAD COMPANY/  
ALLENTOWN LINES, INC.

EXHIBIT "A"

Lebanon County, Pennsylvania

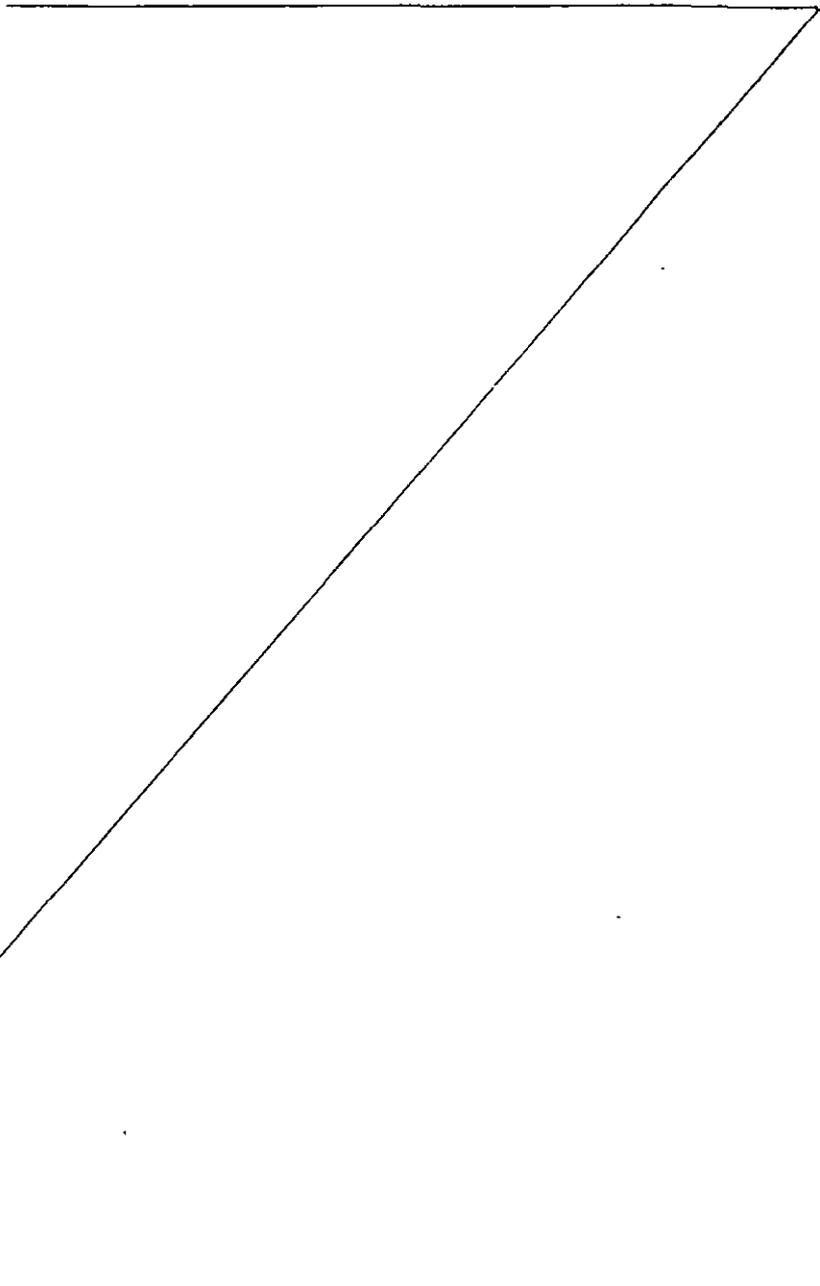
Cornwall Industrial Track, Line Code 0310

ALL THAT CERTAIN property of the Grantor, being a portion of the line of railroad known as the Cornwall Branch (a.k.a. the Cornwall Industrial Track), and identified as Line Code 0310 in the Recorder's Office of Lebanon County, Pennsylvania in Deed Book 164 at page 735, situate in the County of Lebanon and the Commonwealth of Pennsylvania, being further described as follows:

BEGINNING at approximately Railroad Mile Post 0.9, being a point 75 feet north of the centerline of Cumberland Street, in the City of Lebanon, as indicated on sheet 1 of 11 of Exhibit "B"; thence extending in a general southeasterly and southerly direction passing through the Township of North Cornwall, to approximately Railroad Mile Post 3.66, being the southerly side of Evergreen Road, in the Township of South Lebanon, the place of ENDING, as indicated on sheet 9 of 11 of Exhibit "B".

THIS EXHIBIT "A" CONTAINS 4 PAGES, OF WHICH THIS IS  
PAGE 1 OF 4.

BEING a part or portion of the same premises which Andrew L. Lewis, Jr. and Joseph L. Castle, as Trustees of the Property of Reading Company, Debtor, by Conveyance Document No. RDG-CRC-RP-10, dated March 29, 1976 and recorded on January 16, 1979, in the Recorder's Office of Lebanon County, Pennsylvania, in Deed Book Volume 164 at page 730&c., granted and conveyed unto Consolidated Rail Corporation.



**THIS EXHIBIT "A" CONTAINS 4 PAGES, OF WHICH THIS IS PAGE 2 OF 4.**

CASE NO. 72865

DEED TO

R. J. CORMAN RAILROAD COMPANY/  
ALLENTOWN LINES, INC.

EXHIBIT "A"

Lebanon County, Pennsylvania

Lebanon Industrial Track, Line Code 1335

ALL THAT CERTAIN property of the Grantor, being a portion of the line of railroad known as the Lebanon Secondary Track (a.k.a. the Lebanon Industrial Track), and identified as Line Code 1335 in the Recorder's Office of Lebanon County, Pennsylvania in Deed Book 164 at page 790, situate in the County of Lebanon and the Commonwealth of Pennsylvania, being further described as follows:

BEGINNING at approximately Railroad Mile Post 20.5, at the connection to Grantor's Cornwall Industrial Track, Line Code 0310, herein conveyed, in the City of Lebanon, as indicated on sheet 5 of 11 of Exhibit "B"; thence extending in a general southeasterly and southerly direction passing through the Townships of North Cornwall and South Lebanon, to approximately Railroad Mile Post 18.0, in the Borough of Cornwall, the place of ENDING, as indicated on sheet 10 of 11 of Exhibit "B".

THIS EXHIBIT "A" CONTAINS 4 PAGES, OF WHICH THIS IS  
PAGE 3 OF 4.

TOGETHER with all of Grantor's right, title and interest with that line of railroad known as the Alcoa Lead, which connects to the above described Lebanon Industrial Track at approximately Railroad Mile Post 18.15, being 810 feet north of Railroad Mile Post 18.0 in the Borough of Cornwall, identified as Point "A" on sheets 10 and 11 of 11 of Exhibit "B"; thence extending in a general easterly direction to Railroad Station 81+01.63, near the eastern side of State Road, in the Township of South Lebanon, identified as Point "B" on sheet 11 of 11 of Exhibit "B", all as indicated by a heavy black line from point 'A' to 'B' on sheet 11 of 11 of Exhibit "B".

BEING a part or portion of the same premises which Robert W. Blanchette, Richard C. Bond and John H. McArthur, as Trustees of the Property of Penn Central Transportation Company, Debtor, by Conveyance Document No. PC-CRC-RP-200, dated March 30, 1976 and recorded on January 16, 1979, in the Recorder's Office of Lebanon County, Pennsylvania, in Deed Book Volume 164 at page 785&c., granted and conveyed unto Consolidated Rail Corporation.

THIS EXHIBIT "A" CONTAINS 4 PAGES, OF WHICH THIS IS PAGE 4 OF 4.

CASE NO. 72865

DEED TO

R. J. CORMAN RAILROAD COMPANY/  
ALLENTOWN LINES, INC.

EXHIBIT B

MAP ADDENDUM

THIS EXHIBIT "B" CONTAINS 11 MAPS.

VIP(817)/2-10  
V301(7033)/18 21

CASE NO. 72865  
SHEET 1 OF 11

NO.	DESCRIPTION	DATE	BY
1	...	...	...
2	...	...	...
3	...	...	...
4	...	...	...
5	...	...	...
6	...	...	...
7	...	...	...
8	...	...	...
9	...	...	...
10	...	...	...
11	...	...	...
12	...	...	...
13	...	...	...
14	...	...	...
15	...	...	...
16	...	...	...
17	...	...	...
18	...	...	...
19	...	...	...
20	...	...	...
21	...	...	...
22	...	...	...
23	...	...	...
24	...	...	...
25	...	...	...
26	...	...	...
27	...	...	...
28	...	...	...
29	...	...	...
30	...	...	...
31	...	...	...
32	...	...	...
33	...	...	...
34	...	...	...
35	...	...	...
36	...	...	...
37	...	...	...
38	...	...	...
39	...	...	...
40	...	...	...
41	...	...	...
42	...	...	...
43	...	...	...
44	...	...	...
45	...	...	...
46	...	...	...
47	...	...	...
48	...	...	...
49	...	...	...
50	...	...	...

BETHLEHEM STEEL CO.

—PS— PROPERTY TO BE CONVEYED  
BY  
CONSOLIDATED RAIL CORPORATION  
TO  
R.J. CORMAN RAILROAD COMPANY/  
ALLENTOWN LINES, INC.

BEGIN CORNWALL I.T.  
LC 0310 M.P. 0.92

BETHLEHEM STEEL CO.

READING CO.

READING CO.

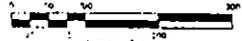
CORNWALL I.T.

PENN. CENTRAL R.R.

PENN. CENTRAL R.R.

JAMES H. CAPLAN

CUMBERLAND  
RAIL STOKES & CO.



SEPTEMBER 16, 1997

RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 84+00 TO STATION 88+00  
SCALE HORIZ. 50 FEET VERT. 10 FT.

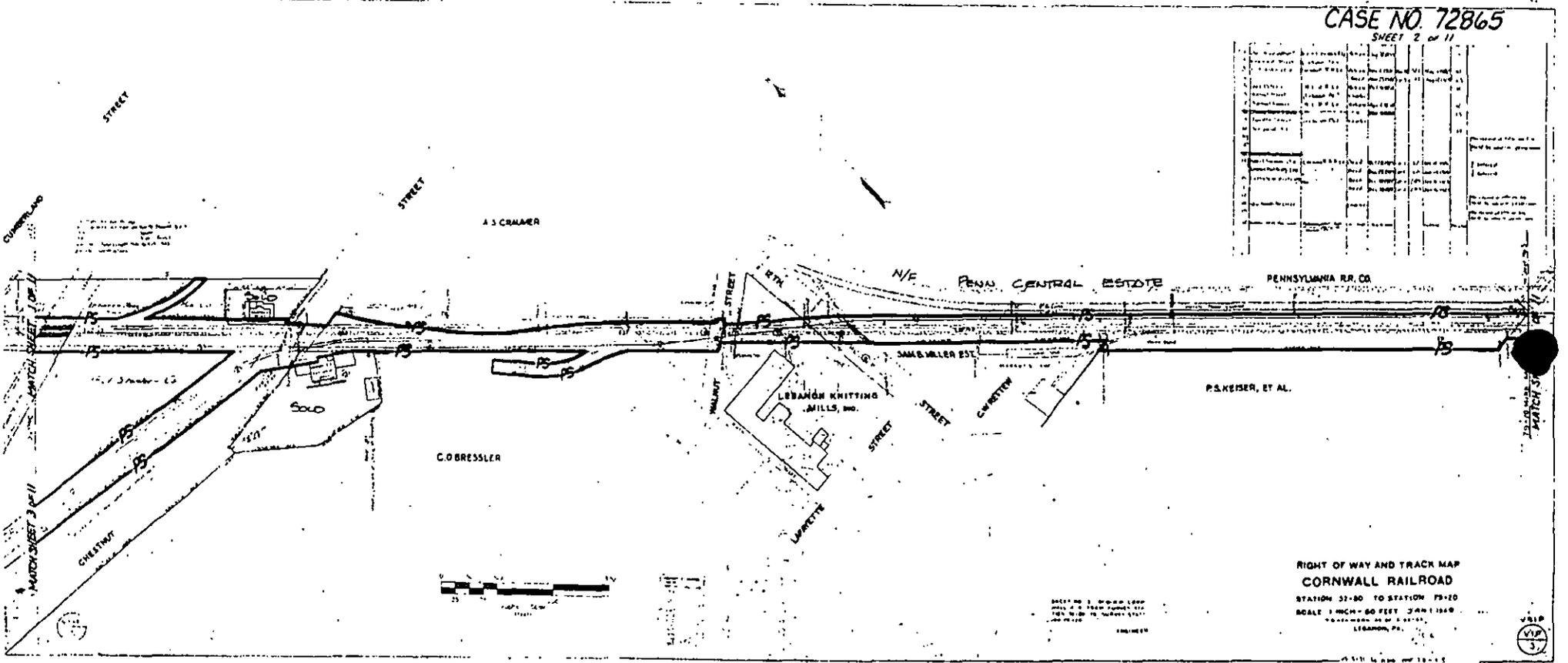
CITY OF LEBANON  
LEBANON CO., PA.



VIP  
1

CASE NO. 72865  
SHEET 2 of 11

NO.	DESCRIPTION	AMOUNT	DATE	BY
1	...	...	...	...
2	...	...	...	...
3	...	...	...	...
4	...	...	...	...
5	...	...	...	...
6	...	...	...	...
7	...	...	...	...
8	...	...	...	...
9	...	...	...	...
10	...	...	...	...
11	...	...	...	...
12	...	...	...	...
13	...	...	...	...
14	...	...	...	...
15	...	...	...	...
16	...	...	...	...
17	...	...	...	...
18	...	...	...	...
19	...	...	...	...
20	...	...	...	...
21	...	...	...	...
22	...	...	...	...
23	...	...	...	...
24	...	...	...	...
25	...	...	...	...
26	...	...	...	...
27	...	...	...	...
28	...	...	...	...
29	...	...	...	...
30	...	...	...	...
31	...	...	...	...
32	...	...	...	...
33	...	...	...	...
34	...	...	...	...
35	...	...	...	...
36	...	...	...	...
37	...	...	...	...
38	...	...	...	...
39	...	...	...	...
40	...	...	...	...
41	...	...	...	...
42	...	...	...	...
43	...	...	...	...
44	...	...	...	...
45	...	...	...	...
46	...	...	...	...
47	...	...	...	...
48	...	...	...	...
49	...	...	...	...
50	...	...	...	...
51	...	...	...	...
52	...	...	...	...
53	...	...	...	...
54	...	...	...	...
55	...	...	...	...
56	...	...	...	...
57	...	...	...	...
58	...	...	...	...
59	...	...	...	...
60	...	...	...	...
61	...	...	...	...
62	...	...	...	...
63	...	...	...	...
64	...	...	...	...
65	...	...	...	...
66	...	...	...	...
67	...	...	...	...
68	...	...	...	...
69	...	...	...	...
70	...	...	...	...
71	...	...	...	...
72	...	...	...	...
73	...	...	...	...
74	...	...	...	...
75	...	...	...	...
76	...	...	...	...
77	...	...	...	...
78	...	...	...	...
79	...	...	...	...
80	...	...	...	...
81	...	...	...	...
82	...	...	...	...
83	...	...	...	...
84	...	...	...	...
85	...	...	...	...
86	...	...	...	...
87	...	...	...	...
88	...	...	...	...
89	...	...	...	...
90	...	...	...	...
91	...	...	...	...
92	...	...	...	...
93	...	...	...	...
94	...	...	...	...
95	...	...	...	...
96	...	...	...	...
97	...	...	...	...
98	...	...	...	...
99	...	...	...	...
100	...	...	...	...



RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 31+80 TO STATION 35+20  
SCALE 1 INCH = 80 FEET JAN 1940  
LEBANON, PA.

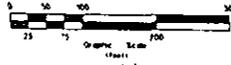
SHEET NO. 3  
SCALE 1" = 80' FEET  
DATE JAN 1940  
ENGINEER



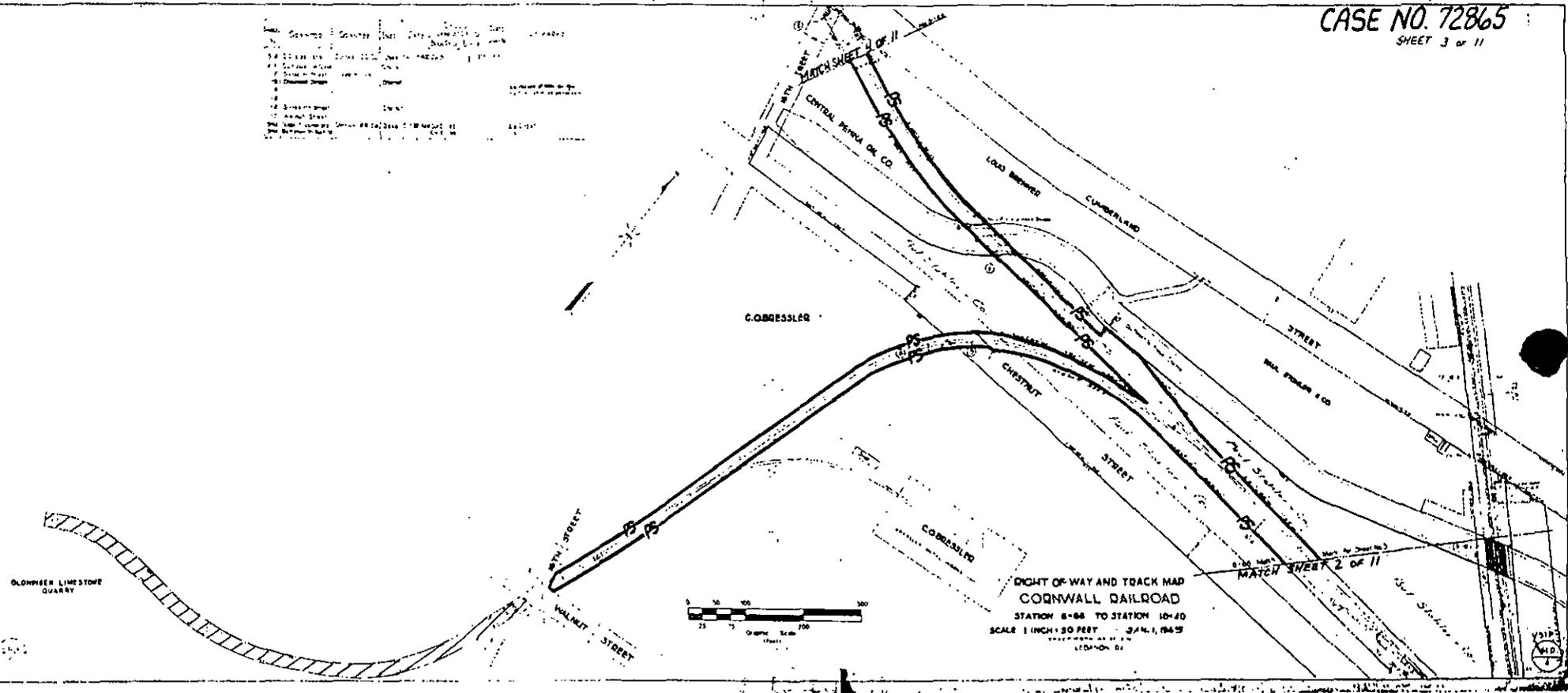
CASE NO. 72865  
SHEET 3 of 11

Symbol	Description	Notes
(Solid line)	Right of Way	
(Dashed line)	Track	
(Dotted line)	Proposed Track	
(Hatched area)	Glennville Limestone Quarry	
(Circle with cross)	Water Well	
(Circle with dot)	Electric Pole	
(Circle with slash)	Telephone Pole	
(Circle with X)	Gas Pole	
(Circle with triangle)	Light Pole	
(Circle with square)	Manhole	
(Circle with diamond)	Valve	
(Circle with asterisk)	Transformer	
(Circle with plus)	Water Valve	
(Circle with minus)	Gas Valve	
(Circle with hash)	Light Valve	
(Circle with percent)	Manhole Valve	
(Circle with &)	Transformer Valve	
(Circle with @)	Water Valve	
(Circle with #)	Gas Valve	
(Circle with \$)	Light Valve	
(Circle with %)	Manhole Valve	
(Circle with ^)	Transformer Valve	
(Circle with &)	Water Valve	
(Circle with *)	Gas Valve	
(Circle with +)	Light Valve	
(Circle with -)	Manhole Valve	
(Circle with .)	Transformer Valve	
(Circle with /)	Water Valve	
(Circle with \)	Gas Valve	
(Circle with  )	Light Valve	
(Circle with ~)	Manhole Valve	
(Circle with `)	Transformer Valve	
(Circle with ~)	Water Valve	
(Circle with `)	Gas Valve	
(Circle with ~)	Light Valve	
(Circle with `)	Manhole Valve	
(Circle with ~)	Transformer Valve	

GLENNVILLE LIMESTONE QUARRY



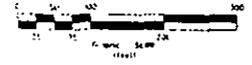
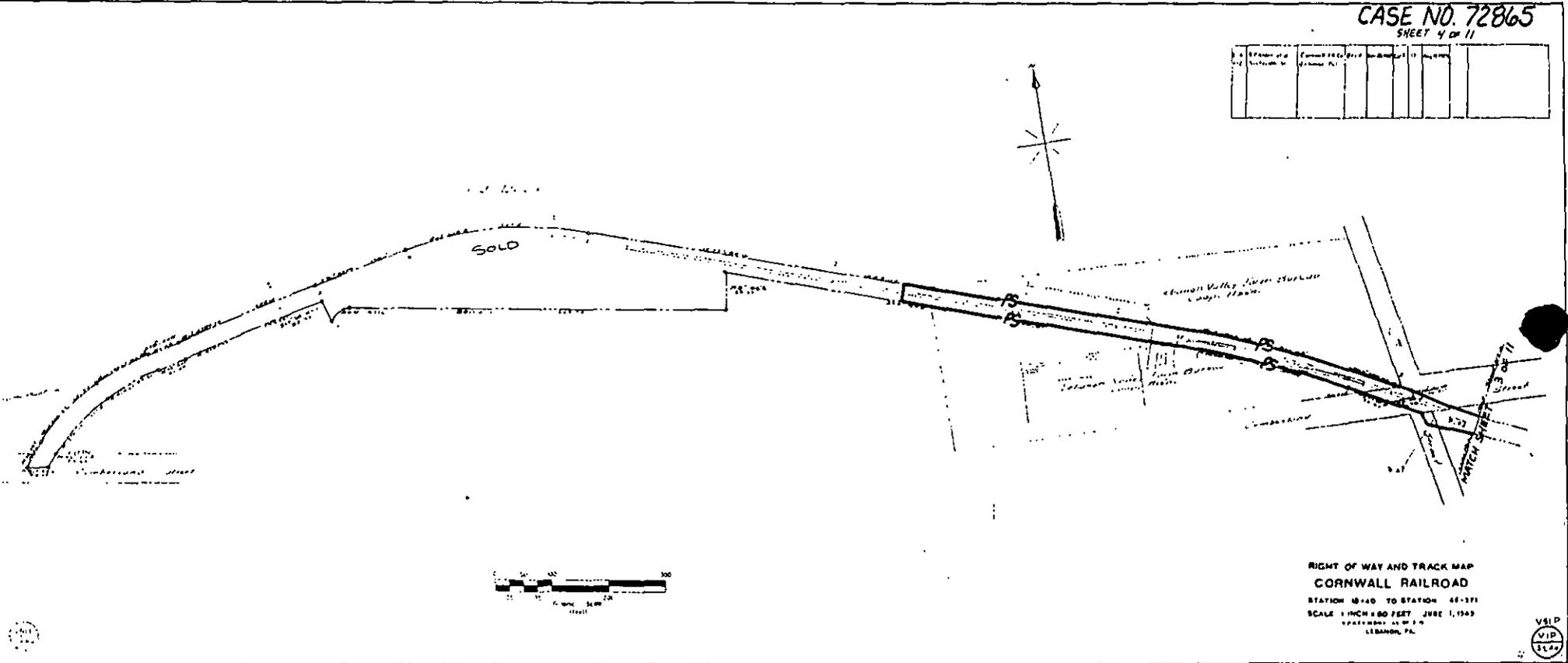
RIGHT OF WAY AND TRACK MAP  
COGNWALL RAILROAD  
STATION 8+66 TO STATION 10+20  
SCALE 1 INCH = 50 FEET  
JAN. 1, 1945  
LEONARD B.



CASE NO. 72865

SHEET 4 OF 11

STATION NO.	STATION NAME	STATION TYPE	STATION CLASS.	STATION CODE	STATION MARK.



RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 40+00 TO STATION 46+37.1  
SCALE 1 INCH = 80 FEET JUNE 1, 1949  
LEBANON, PA.



CASE NO. 72865  
SHEET 5 OF 11

NO.	DESCRIPTION	DATE	BY	REVISION
1	Original Plan	11-18-16	J. H. B.	
2	As Shown	11-18-16	J. H. B.	
3	As Shown	11-18-16	J. H. B.	
4	As Shown	11-18-16	J. H. B.	
5	As Shown	11-18-16	J. H. B.	
6	As Shown	11-18-16	J. H. B.	
7	As Shown	11-18-16	J. H. B.	
8	As Shown	11-18-16	J. H. B.	
9	As Shown	11-18-16	J. H. B.	
10	As Shown	11-18-16	J. H. B.	

BEGIN LEBANON I.T.  
L.C. 1335 M.P. 20.5±

M.P. 20.5± (P.R.R.)

NEW CONNECTION  
(NEVER CONSTRUCTED)

PENNSYLVANIA RR CO.

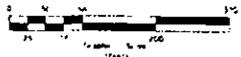
PHOEBE R. LIPP

10TH STREET

8TH STREET

J. HALLER BENTON

AUGUSTUS C. ALLWEIN

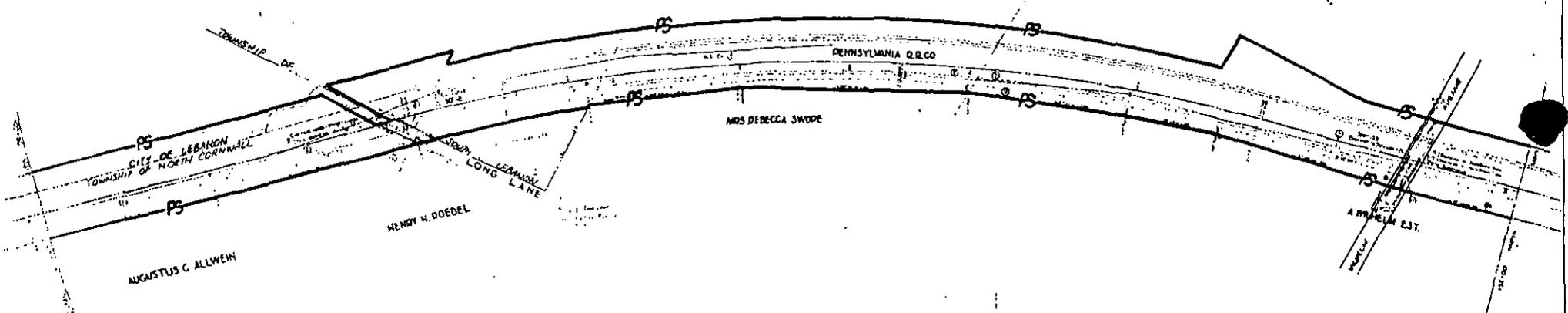


RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 78+20 TO STATION 83+60  
SCALE 1 INCH = 80 FEET DEC. 31 1916  
LEBANON, PA.

P.R.R.  
1321  
21  
V.P.  
8

CASE NO. 72865  
SHEET 6 OF 11

Item	Description	Date	By
1	Plan	Dec 31 1940	J. H. Dyer
2	Section	Jan 1 1941	J. H. Dyer
3	Location	Jan 1 1941	J. H. Dyer
4	Plan	Jan 1 1941	J. H. Dyer
5	Section	Jan 1 1941	J. H. Dyer
6	Location	Jan 1 1941	J. H. Dyer
7	Plan	Jan 1 1941	J. H. Dyer
8	Section	Jan 1 1941	J. H. Dyer
9	Location	Jan 1 1941	J. H. Dyer
10	Plan	Jan 1 1941	J. H. Dyer
11	Section	Jan 1 1941	J. H. Dyer
12	Location	Jan 1 1941	J. H. Dyer



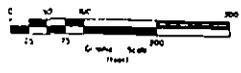
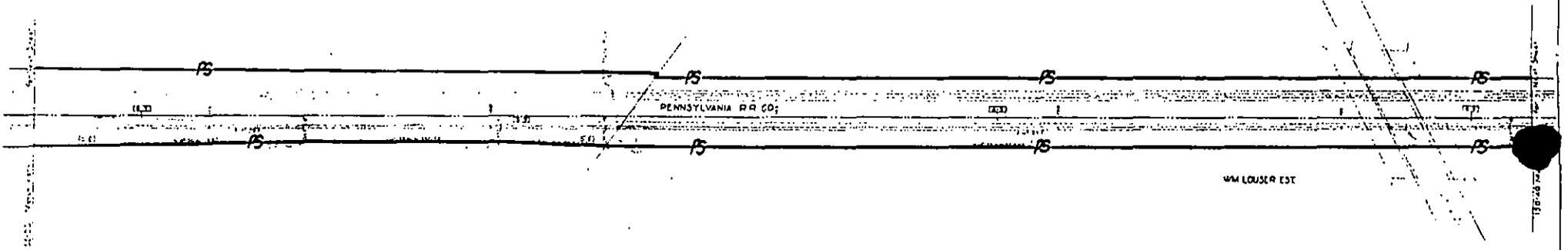
RIGHT OF WAY AND TRACK MAP  
 CORNWALL RAILROAD  
 STATION 102+00 TO STATION 132+00  
 SCALE 1 INCH = 50 FEET  
 DEC. 31, 1940  
 LEBANON, PA.



ENGINEER & ARCHT. 1940  
 J. H. DYER  
 140 N. 3rd St.  
 LEBANON, PA.

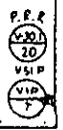
CASE NO. 72865  
SHEET 7 of 11

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	-----



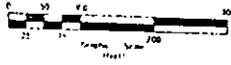
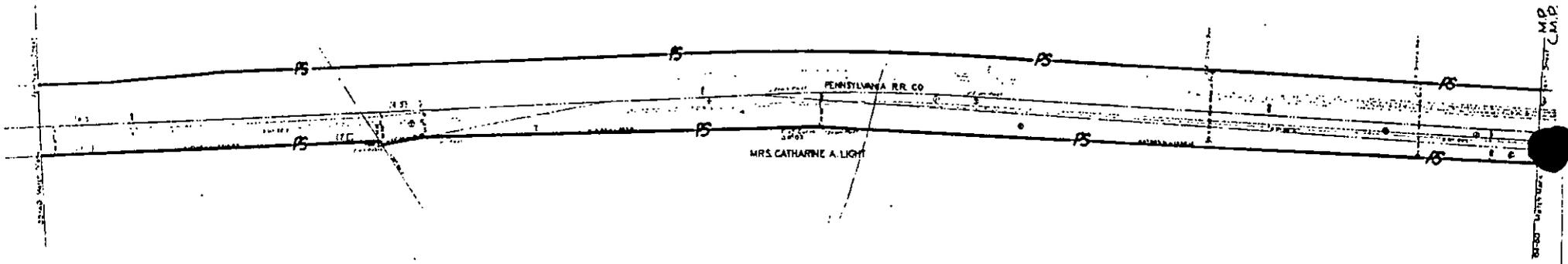
RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 152+00 TO STATION 158+00  
SCALE 1 INCH = 50 FEET DATE JAN 1 1949  
PENN. R.R. CO. PHILADELPHIA, PA.

DESIGNED BY: [illegible]  
DRAWN BY: [illegible]  
CHECKED BY: [illegible]  
DATE: [illegible]



CASE NO. 72865  
SHEET 8 OF 11

No.	Description	Commenced	By	Approved	Remarks
1	Survey of Right of Way	1884	J. M. Galloway	1884	See Map
2	Survey of Right of Way	1884	J. M. Galloway	1884	See Map
3	Survey of Right of Way	1884	J. M. Galloway	1884	See Map
4	Survey of Right of Way	1884	J. M. Galloway	1884	See Map



RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 158+00 TO STATION 164+00  
SCALE 1 INCH = 80 FEET DEC. 31, 1884  
LEBANON, PA.

SHEET NO. 8 OF 11 SEE OPPOSITE  
PAGE FOR SURVEY DATA  
BY J. M. GALLOWAY

No.	Description	Commenced	By	Approved	Remarks
1	Survey of Right of Way	1884	J. M. Galloway	1884	See Map
2	Survey of Right of Way	1884	J. M. Galloway	1884	See Map
3	Survey of Right of Way	1884	J. M. Galloway	1884	See Map
4	Survey of Right of Way	1884	J. M. Galloway	1884	See Map

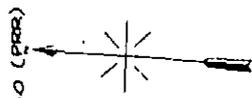
M.P. 3.51 (B.G. 100)

P.R.R.  
17  
V.S.P.  
17

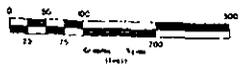
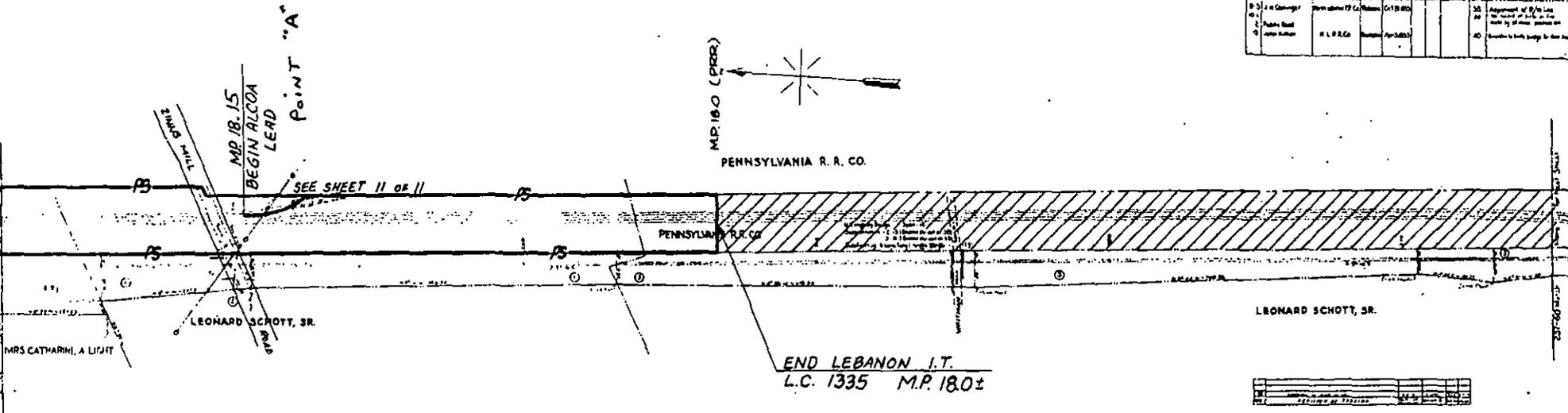


CASE NO. 72865  
SHEET 10 of 11

1	Approval of R.R. Co.	30	Approval of R.R. Co.
2	Public Road	35	Approval of R.R. Co.
3	Other R.R. Co.	40	Approval of R.R. Co.
4	Other R.R. Co.	45	Approval of R.R. Co.



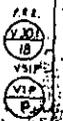
PENNSYLVANIA R. R. CO.

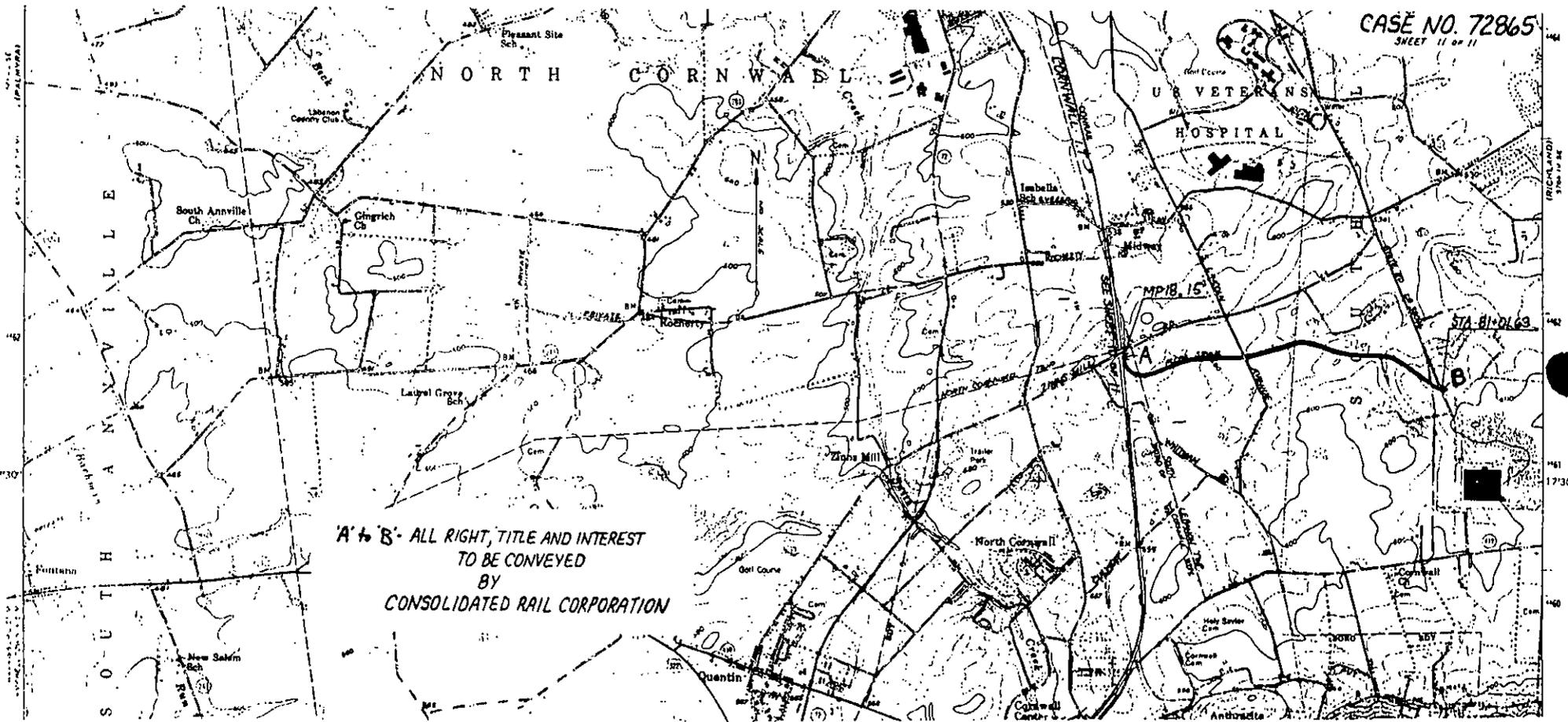


1	Approval of R.R. Co.	30	Approval of R.R. Co.
2	Public Road	35	Approval of R.R. Co.
3	Other R.R. Co.	40	Approval of R.R. Co.
4	Other R.R. Co.	45	Approval of R.R. Co.

RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 21+00 TO STATION 23+60

SCALE: 1 INCH = 80 FEET MARCH 1, 1948  
DRAWN BY: [Name] CHECKED BY: [Name]





A to B - ALL RIGHT, TITLE AND INTEREST  
TO BE CONVEYED  
BY  
CONSOLIDATED RAIL CORPORATION

SOUTH ANNVILLE

NORTH CORNWALL

SOUTH ANNVILLE

RICHLAND

17:30'

17:30'

**PUBLIC PARTICIPATION:** We invite interested persons and organizations to submit comments. Mail or deliver your comments or recommendations to Ms. Jean Lenderking at the address shown above. Comments should be received by October 27, 1997 in order to be considered at the October 30 meeting. Only comments submitted in advance will be considered.

Issued in Washington, DC, on October 8, 1997.

For the Department of Transportation

John E. Budnik,

Associate Director, Corporate Human Resources Leadership Division

[FR Doc. 97-27242 Filed 10-14-97; 8:45 am]

BILLING CODE 4910-82-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Aviation Rulemaking Advisory Committee Meeting on Air Carrier Operations

**AGENCY:** Federal Aviation Administration (FAA) DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss air carrier operations issues.

**DATES:** The meeting will be held on October 30, 1997, beginning at 10:00 a.m.

**ADDRESSES:** The meeting will be held at the Federal Aviation Administration Building, 800 Independence Avenue, SW, Washington, DC., in the McCracken Room (Round Room) on the 10th floor.

#### FOR FURTHER INFORMATION CONTACT:

Ms. Linda Williams, Office of Rulemaking (ARM-109), 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267-8685, facsimile (202) 267-5075, or by electronic mail at Linda.L.Williams@faa.dot.gov.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on October 30, 1997, at the Federal Aviation Administration Building, Round Room (10th floor), 800 Independence Avenue, NW, Washington, DC.

The agenda for this meeting will include:

(1) A presentation by the All Weather Operations Working Group of an

advisory circular, "Criteria for Approval of Category III Weather Minima for Takeoff, Landing, and Rollout";

(2) A discussion on establishing a harmonization task and an airplane performance harmonization working group; and

(3) An update on the activity of the Fatigue Countermeasures and Alertness Management Techniques Working Group.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on October 8, 1997.

David L. Catey,

Acting Manager, Air Transportation Division, Flight Standards Service.

[FR Doc. 97-27401 Filed 10-14-97; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 33302]

#### R.J. Corman Railroad Co./Allentown Lines, Inc.—Acquisition and Operation Exemption—Consolidated Rail Corp.

R.J. Corman Railroad Company/Allentown Lines, Inc. (RJCN), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire and operate a total of approximately 2.76 miles of rail line owned by Consolidated Rail Corporation (Conrail), known as Cornwall Industrial Track, between milepost 0.9 and milepost 3.66 in Lebanon County, PA. RJCN will also acquire a 0.6-mile segment of Conrail's Lebanon Industrial Track between approximately milepost 18 and approximately milepost 18.6, which is parallel and adjacent to a portion of the Cornwall Industrial Track. The transaction was expected to be consummated on or soon after September 30, 1997.

If the notice contains false or misleading information, the exemption

is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33302, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423-0001 and served on: Kevin M. Sheys, Oppenheimer Wolff & Donnelly, 1020 Nineteenth Street, NW, Suite 400, Washington, DC 20036.

Decided: October 7, 1997.

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

Vernon A. Williams, Secretary.

[FR Doc. 97-27291 Filed 10-14-97; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF VETERANS AFFAIRS

### Performance Review Board Members

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** Under the provisions of 5 U.S.C. 4314(c)(4) agencies are required to publish a notice in the Federal Register of the appointment of Performance Review Board (PRB) members. This notice revises the list of members of the Department of Veterans Affairs (VA) Performance Review Boards which was published in the Federal Register on October 1, 1996 (61 FR 51317).

**EFFECTIVE DATE:** October 15, 1997.

#### FOR FURTHER INFORMATION CONTACT:

Angel I. Wolfrey, Office of Human Resources Management (052B), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-4940.

#### VA Performance Review Board (PRB)

Eugene A. Brickhouse, Assistant Secretary for Human Resources and Administration (Chairperson)  
Stephenn L. Lemons, Ed.D, Deputy Under Secretary for Benefits  
Shirley Carozza, Deputy Assistant Secretary for Budget  
Harold F. Gracey, Jr., Chief of Staff, Office of the Secretary  
Thomas L. Garthwaite, M.D., Deputy Under Secretary for Health  
Gerald K. Hinch, Deputy Assistant Secretary for Equal Opportunity  
Kathy E. Jurado, Assistant Secretary for Public and Intergovernmental Affairs  
Robert E. Coy, Deputy General Counsel

COMMONWEALTH OF PENNSYLVANIA

DATE: December 11, 1997

SUBJECT: Petition to Reopen

TO: Office of Administrative Law Judge

FROM: *WJZ* James J. McNulty, Secretary

~~ORIGINAL~~  
*WJZ*

- A-00113589 APPLICATION OF THE COUNTY OF LEBANON TRANSIT AUTHORITY
- C-00970107 CITY OF LEBANON v. CONSOLIDATED RAIL CORPORATION, et al
- C-00970126 COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION v. CONSOLIDATED RAIL CORPORATION
- C-00970106 SOUTH LEBANON TOWNSHIP BOARD OF SUPERVISORS v. CONSOLIDATED RAIL CORPORATION, et al
- A-00109901 APPLICATION OF SOUTH LEBANON TOWNSHIP

---

Attached is copy of a Petition to Reopen the Proceeding of Consolidated Rail Corporation filed in connection with the above docketed proceedings.

This matter is assigned to your Office for appropriate action.

Attachment

cc: OSA  
TSL  
TSR

**DOCKETED**  
DEC 15 1997

DOCUMENT  
FOLDER

wjz

LAW OFFICES  
**SPITLER AND KILGORE**  
522 South Eighth Street  
P.O. Box 1188  
LEBANON, PENNSYLVANIA 17042

**ORIGINAL**

CALVIN D. SPITLER  
KEITH L. KILGORE  
PAUL W. KILGORE

(717) 273-7621  
(717) 273-1693 (FAX)

December 12, 1997

023034

James McNulty, Prothonotary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, Pennsylvania 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 Co. Of Lebanon Transit Auth.  
For Approval of the Suspension of a Series of Crossings  
Involving the Cornwall Industrial Tract of CONRAIL  
Located in the City of Lebanon, Lebanon County  
A-00113589

Application of South Lebanon Township For The  
Approval Of The 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  
A-00109901

Dear Sir:

I enclosed an original and three (3) copies of an Answer to Conrail's  
Petition To Open for filing in the above matters. In according with the  
accompanying Certificate of Service we have provided copies of the Answer  
to Conrail's Petition To Open to all active parties of record.

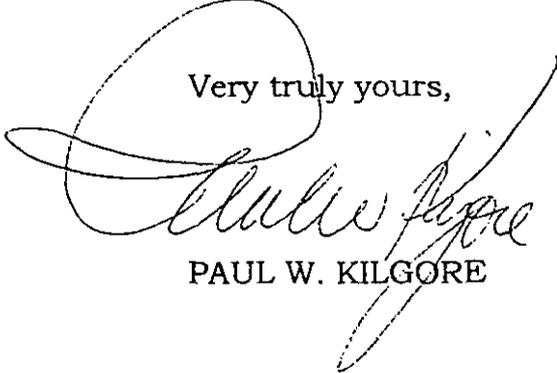
DOCUMENT  
FOLDER

RECEIVED  
NOTRE DAME OFFICE

97 DEC 15 PM 12:04

Please time stamp the additional copy of the Answer and return to our office.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Paul W. Kilgore", written over the typed name below.

PAUL W. KILGORE

PWK:pja  
Enclosures  
cc: All Parties of Record

ORIGINAL

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 :

23035

CITY OF LEBANON, :  
Complainant :  
vs. :  
CONSOLIDATED RAIL :  
CORPORATION, et al, :  
Respondent . :

Docket No. C-00970106

COMMONWEALTH OF PENNSYLVANIA :  
DEPARTMENT OF TRANSPORTATION, :  
Complainant :  
vs. :  
CONSOLIDATED RAIL :  
CORPORATION, :  
Respondent :

Docket No. C-00970126

SOUTH LEBANON TOWNSHIP :  
BOARD OF SUPERVISORS, :  
Complainant :  
vs. :  
CONSOLIDATED RAIL :  
CORPORATION, et al, :  
Respondent :

Docket No. C-00970106

APPLICATION OF SOUTH LEBANON :  
TOWNSHIP FOR THE APPROVAL OF :  
THE 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 :

Docket No. A-00109901

97 DEC 15 PM 12:04  
RECEIVED  
PUBLIC UTILITIES OFFICE

DOCUMENT  
FOLDER

ANSWER OF SOUTH LEBANON TOWNSHIP TO PETITION TO  
REOPEN BY CONRAIL

SOUTH LEBANON TOWNSHIP (TOWNSHIP) by its attorneys, SPITLER AND KILGORE, files the following ANSWER to CONSOLIDATED RAIL CORPORATION ("CONRAIL") PETITION TO REOPEN the above matters. The Petition was filed after the close of testimony; after presentations by all parties at two hearings; after the Administrative Law Judge, Herbert S. Cohen, directed the record remain open as to CONRAIL'S assertion R. J. CORMAN Railroad / Allentown Lines, Inc. (CORMAN) was intending to purchase the subject line until October 1, 1997; and, after the Administrative Law Judge, Herbert S. Cohen, at the October 8, 1997 hearing (second hearing), refused to allow testimony by CONRAIL as to matters pertaining to a transfer of the line to CORMAN, the record as to said matter having been closed.

1. Paragraph One (1) of CONRAIL'S Petition is admitted to the extent CONRAIL has signed a transfer of CONRAIL'S personal property to CORMAN by means of a Bill of Sale. It is denied said averment is a transfer by deed of the rail line. In further answer thereto said averment fails to establish the terms of the transfer, valuable consideration, any payment arrangements, financings or other matters as referenced by "other good and valuable consideration".

INDEXED  
DEC 18 1997

DOCUMENT  
FOLDER

2. Paragraph Two (2) of CONRAIL's Petition is admitted to the extent a deed is attached as Exhibit B purporting to convey all of CONRAIL's right title and interest in and to the rail line to CORMAN. As to CORMAN accepting all responsibility for said line, there is no acknowledgment by CORMAN as to the same.

3. Paragraph Three (3) of CONRAIL's Petition is opposed for the reasons set forth in the preamble herein and for the additional reason that CONRAIL failed to have witnesses who were qualified to testify at the last hearing as to the reaching of an Agreement between CONRAIL and CORMAN (N.T. 220 - 223), and the request by CONRAIL at the last hearing to have the record remain open in order to file a copy of the deed was denied in that Judge Cohen ruled he was to have been notified by October 1, 1997 as to such matters.

4. Paragraph Four (4) of CONRAIL's Petition is denied in that CONRAIL is making conclusions of law via a Petition to Reopen, all matters pertaining to CONRAIL and CORMAN were to be in hand by October 1, 1997, and what CONRAIL is proposing could require extensive further testimony to establish. Finally, CONRAIL failed to provide any testimony at two hearings from someone who was connected with CORMAN in that the witness at the first hearing purportedly representing CORMAN does not work for CORMAN (N. T. 168).

5. Paragraph Five (5) of CONRAIL's Petition is a conclusion of law and is opposed by the TOWNSHIP. In further answer thereto, the TOWNSHIP'S Answer to said paragraph one (1) and two (2) are incorporated herein; and, the obligations to maintain and correct the crossings as they existed at the first hearing are CONRAIL's responsibility. CONRAIL should not be allowed to absolve itself of its responsibility to public safety by purporting to sell the line to a corporation of which there is no history before the board as to its ability to make such corrections necessary to the line and as to the seemingly unnecessary spending of \$1,200,000.00 on a bridge project by the TOWNSHIP and PENNDOT.

6. Paragraph Six (6) of CONRAIL's Petition is a conclusion of law and is opposed by the TOWNSHIP.

7. Paragraph Seven (7) of CONRAIL's Petition is denied for the reasons previously set forth in the TOWNSHIP'S Answer to Paragraph one (1), two (2) and five (5) herein.

8. Paragraph Eight (8) of CONRAIL's Petition is denied for the reasons set forth in the Paragraph one (1), two (2) and five (5) of the TOWNSHIP'S Answer.

9. Paragraph Nine (9) of CONRAIL's Petition is denied for the reasons set forth in Paragraph one (1) and two (2) of the TOWNSHIP'S Answer. In further answer thereto, the TOWNSHIP incorporates its Answer to paragraph five (5).

10. Paragraph Ten (10) of CONRAIL's Petition is denied for the reasons set forth in the TOWNSHIP'S Answer to Paragraph one (1) and two (2). In further answer thereto, the TOWNSHIP incorporates its Answer to paragraph five (5).

**WHEREFORE**, South Lebanon Township respectfully requests that the Commission denies CONRAIL's Petition as untimely and not in the interests of the judicial economy.

SPITLER AND KILGORE

BY: 

Paul W. Kilgore, Esquire  
522 South Eighth Street  
Lebanon, Pennsylvania 17042  
(717) 273-7621  
I.D. No. 25180  
Counsel for South Lebanon Township  
Board of Supervisors

Date: December 12, 1997

LAW OFFICES  
**ORIGINAL**  
**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

December 15, 1997

**HAND DELIVERED**

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

**DOCUMENT  
FOLDER**

**RECEIVED**

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

DEC 16 1997

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

PA PUBLIC UTILITY COMMISSION  
PROTHONOTARY'S OFFICE

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

**DOCKETED**

**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**

DEC 18 1997

Dear Sir:

I enclose the original and four (4) copies of the Verification of Mark Sawyer, Engineer for Consolidated Rail Corporation, to be attached to the Petitions to Reopen filed on behalf of Consolidated Rail Corporation in each of the above matters. In accordance with the accompanying Certificate of Service, we have provided copies of the Verification to all active parties of record. We apologize for not having attached these Verifications to the original filings on December 5, 1997.

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

Sincerely yours,

*Benjamin C. Dunlap, Jr.*

Benjamin C. Dunlap, Jr.

Enclosures

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

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

DOCUMENT  
FOLDER

CITY OF LEBANON,  
Complainant  
vs.  
CONSOLIDATED RAIL  
CORPORATION, et al  
Respondent

Docket No. C-00970107

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Complainant  
vs.  
CONSOLIDATED RAIL CORPORATION  
Respondent

Docket No. C-00970126

SOUTH LEBANON TOWNSHIP,  
BOARD OF SUPERVISORS  
Complainant  
vs.  
CONSOLIDATED RAIL  
CORPORATION, et al  
Respondent

Docket No. C-00970106

APPLICATION OF SOUTH LEBANON  
TOWNSHIP FOR APPROVAL OF THE  
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

Docket No. A-00109901

RECEIVED

DEC 16 1997

VERIFICATION

PA PUBLIC UTILITY COMMISSION  
PROTHONOTARY'S OFFICE

I, **Mark Sawyer**, Engineer for Consolidated Rail Corporation in the foregoing proceeding, make the foregoing statements subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authority, and do state that the facts set forth in the

foregoing Petition to Reopen of Consolidated Rail Corporation are true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
Mark Sawyer

Date: December 5, 1997

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 "Verification of Mark Sawyer, Engineer for Consolidated Rail Corporation" to be attached to the Petition to Reopen filed in the above matter on December 5, 1997, 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

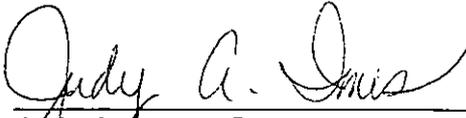
Keith L. Kilgore, Esquire  
Spitler and Kilgore  
South Lebanon Township  
522 South 8<sup>th</sup> Street  
Lebanon, PA 17042

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

  
\_\_\_\_\_  
Judy A. Ames, Secretary to  
Benjamin C. Dunlap, Jr., Esquire

Dated: December 15, 1997

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

**ORIGINAL**

CITY OF LEBANON,  
Complainant  
vs.  
CONSOLIDATED RAIL  
CORPORATION, et al  
Respondent

Docket No. C-00970107

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Complainant  
vs.  
CONSOLIDATED RAIL CORPORATION  
Respondent

Docket No. C-00970126

SOUTH LEBANON TOWNSHIP,  
BOARD OF SUPERVISORS  
Complainant  
vs.  
CONSOLIDATED RAIL  
CORPORATION, et al  
Respondent

Docket No. C-00970106

APPLICATION OF SOUTH LEBANON  
TOWNSHIP FOR APPROVAL OF THE  
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

Docket No. A-00109901

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

97 DEC 18 PM 4:01

RECEIVED

DOCUMENT  
FOLDER  
DOCKETED  
DEC 22 1997

## AMENDED PETITION TO REOPEN

Consolidated Rail Corporation ("Conrail") by its attorneys, NAUMAN, SMITH, SHISSLER & HALL, files this Amended Petition to Reopen the proceeding for the purpose of taking additional evidence, pursuant to 52 Pa. Code §5.571, for the sole purpose of correcting errors in the reference to and collation of exhibits which were attached to its original Petition to Reopen filed on December 5, 1997, based upon the following:

1. A sale of that portion of the rail line which includes all of the subject crossings to the above proceedings, except the Willow Street crossing in the City of Lebanon, from Conrail to R. J. Corman Railroad Company/Allentown Lines, Inc. ("Corman"), was consummated on October 14, 1997. A true and correct copy of the Indenture evidencing the conveyance is attached hereto as Exhibit "A".

2. In the Indenture, Corman agreed in paragraph 4 on page 3 to "accept all existing and prospective responsibility for removal and/or restoration costs for any and all railroad bridges and grade crossings and their appurtenances that may be located on, over or under the Premises; and Grantee further covenants and agrees that it will also assume any obligation and/or responsibility as may have been or may hereafter be imposed on Grantor by any Public Utility Commission or any other governmental agency having jurisdiction for any and all bridge structures and grade crossings and their appurtenances, including but

not limited to the removal, repairing or restoration of same in accordance with the requirements of said Commission or other governmental agency.”

3. Conrail requests that the Indenture be accepted into evidence as Conrail Exhibit No. 3.

4. The acceptance of the Indenture into the record is important to the resolution of the above matter, as Conrail may not be assigned any future maintenance responsibilities or costs following the completion of any work ordered in connection with the immediate complaints and applications, with the exception of Willow Street, as it no longer owns the tracks at any of the other subject crossings.

5. A railroad’s liability for crossing obligations stems from “the presence and ownership of the track involved.” *Lehigh and New England Railroad Company v. Public Service Commission*, 126 Pa. Super. 565, 571, 191 A. 380 (1937). Thus, Conrail may not be allocated any responsibility or costs for future maintenance of the subject crossings, with the exception of Willow Street.

6. Furthermore, the fact that Corman acquired ownership of the crossings “would suggest that they should be held liable in the first instance [for the performance of any work ordered and costs pursuant to the present complaints and applications] for they would normally assume the attendant obligations of ownership.” *Pa. Public Utility Commission*

*v. Southeastern Pennsylvania Transportation Authority*, 21 Pa. Commw. 106, 343 A.2d 371, 374 (1975).

7. Conrail further requests that the Commission reopen to accept as Conrail Exhibit No. 4 Corman's Notice of Exemption filed with the Surface Transportation Board at STB Finance Docket No. 33302 to acquire and operate the subject rail line, notice of which was *published in the Federal Register on October 15, 1997, at 62 F.R. 53686, a true and correct copy of which is attached hereto as Exhibit "B".* Corman's exemption became effective seven days after the notice was filed. 49 C.F.R. §1150.42(b).

8. The aforementioned exemption notice is significant evidence of Corman's intentions to operate on the subject line, which is an important factor in the resolution of these proceedings, particularly regarding the Wilhelm Avenue crossing. The aforementioned exemption notice is also significant evidence of Corman being an operating railroad subject to Commission jurisdiction.

9. The reopening of the record for the acceptance of Exhibits "A" and "B" as Conrail Exhibits No. 3 and 4 will serve to aid in the resolution of the matters involved in this proceeding as well as obviate the need for a future hearing regarding a reassignment of future maintenance responsibilities.

WHEREFORE, Consolidated Rail Corporation respectfully requests that the Commission grant its Petition to reopen the record for the acceptance of Exhibits "A" and "B" attached hereto as Conrail Exhibits No. 3 and 4.

**NAUMAN, SMITH, SHISSLER & HALL**

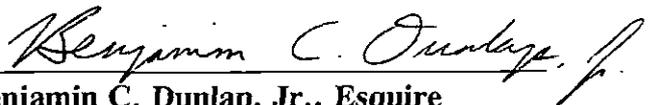
By: *Benjamin C. Dunlap, Esq.*  
**Benjamin C. Dunlap, Esquire**  
**Supreme Court ID# 66283**

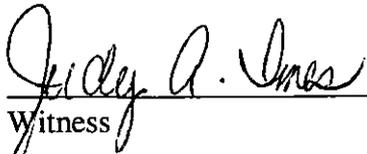
**David C. Eaton, Esquire**  
**Supreme Court ID# 07169**

200 North Third Street, P. O. Box 840  
Harrisburg, PA 17108-0840  
Telephone: (717) 236-3010  
Counsel for Consolidated Rail Corporation

**VERIFICATION**

I, **Benjamin C. Dunlap, Jr., Esquire**, of the firm of Nauman, Smith, Shissler & Hall, attorneys for Consolidated Rail Corporation, make this verification in behalf of Consolidated Rail Corporation as its verification cannot be obtained within the time allowed for the filing of this pleading and making the following statement subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities, and do state that as an attorney for Consolidated Rail Corporation, I am authorized to make this Verification on behalf of Consolidated Rail Corporation, and do state that the facts set forth in the foregoing Amended Petition to Reopen are true and correct to the best of my knowledge, information and belief.

  
**Benjamin C. Dunlap, Jr., Esquire**

  
\_\_\_\_\_  
Witness

Date: December 18, 1997

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  
vs.  
CONSOLIDATED RAIL  
CORPORATION, et al  
Respondent

: Docket No. C-00970107

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Complainant  
vs.  
CONSOLIDATED RAIL CORPORATION  
Respondent

: Docket No. C-00970126

SOUTH LEBANON TOWNSHIP,  
BOARD OF SUPERVISORS  
Complainant  
vs.  
CONSOLIDATED RAIL  
CORPORATION, et al  
Respondent

: Docket No. C-00970106

APPLICATION OF SOUTH LEBANON  
TOWNSHIP FOR APPROVAL OF THE  
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

: Docket No. A-00109901

CERTIFICATE OF SERVICE

I hereby certify that I served Conrail's "**Amended Petition to Reopen**" in the above matter, 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

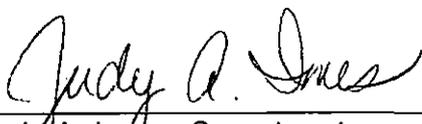
Keith L. Kilgore, Esquire  
Spitler and Kilgore  
South Lebanon Township  
522 South 8<sup>th</sup> Street  
Lebanon, PA 17042

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

Adrienne C. Shelling, 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

  
\_\_\_\_\_  
Judy A. Imes, Secretary to  
Benjamin C. Dunlap, Jr., Esquire

Dated: December 18, 1997

THIS INDENTURE, made the *14<sup>th</sup>* day of *October*  
in the year of our Lord One Thousand Nine Hundred and Ninety-seven  
(A.D. 1997)

**BETWEEN CONSOLIDATED RAIL CORPORATION**, a  
Corporation of the Commonwealth of Pennsylvania, having an office at  
Two Commerce Square, 2001 Market Street, Philadelphia,  
Pennsylvania, 19101-1419, hereinafter referred to as the Grantor, and  
**R. J. CORMAN RAILROAD COMPANY/ALLENTOWN LINES,**  
**INC.**, a Corporation of the Commonwealth of Pennsylvania, having a  
mailing address of One Jay Station, P.O. Box 788, Nicholasville,  
Kentucky 40356, hereinafter referred to as the Grantee;

WITNESSETH: That the said Grantor, for and in consideration of  
the sum of ONE DOLLAR (\$1.00) lawful money of the United States of  
America, unto it well and truly paid by the said Grantee, at or before the  
sealing and delivery of these presents, the receipt whereof is hereby  
acknowledged, Grantor has remised, released and quitclaimed and by  
these presents does remise, release and quitclaim unto the said Grantee,  
the successors and assigns of the said Grantee, all right, title and interest  
of the said Grantor of, in and to the following described Premises:

**ALL THAT CERTAIN** property of the Grantor, together with the  
appurtenances and improvements thereon, being portions of the lines of  
railroad known as the Cornwall Industrial Track and which property is  
situate in the County of Lebanon, Pennsylvania, generally described in  
Exhibit "A" and generally indicated by "PS" on Grantor's Case Plan No.

72865, dated September 16, 1997, which is attached hereto in Exhibit "B" hereof, hereinafter referred to as "Premises".

**EXCEPTING AND RESERVING**, thereout and therefrom and unto the said Grantor, a permanent, perpetual, exclusive, assignable and unrestricted sub-surface and surface easement for existing and future fiber optic cables, telecommunication lines, including but not limited to metallic cables, PCS antennas and all their appurtenances, collectively hereinafter referred to as "Facilities", and for all the rights and privileges to lay, erect, construct, install, use, operate, maintain, repair, renew, replace and remove said Facilities, within, along, below, through and across the limits of the entire Premises; together with the unobstructed right of ingress and egress on, over, across and through the Premises for the exercise of the aforesaid rights; and further together with such surface easements necessary for the appurtenances of said Facilities; and further

**THAT GRANTEE**, in order to protect the depth of any Facilities that may now or in the future be installed within the Premises, Grantee shall first obtain the written approval of Grantor's Engineering Department or its successor, prior to land regrading, removal or recontouring of ballast, or any removal or contouring of any other soil or fill material on the Premises, such written approval shall not be unreasonably withheld.

**UNDER and SUBJECT**, however, to (1) whatever rights the public may have to the use of any roads, alleys, bridges or streets crossing the Premises, (2) any streams, rivers, creeks and water ways passing under, across or through the Premises, and (3) any easements or agreements of record or otherwise affecting the Premises, and to the state of facts which a personal inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the Premises, together with the right to maintain, repair, renew; replace, use and remove same.

**THIS INSTRUMENT is executed and delivered by Grantor, and is accepted by Grantee, subject to the covenants set forth below, which shall be deemed part of the consideration of this conveyance and which shall run with the land and be binding upon, and inure to the benefit of, the respective legal representatives, successors and assigns of Grantor and Grantee. Grantee hereby knowingly, willingly, and voluntarily waives the benefit of any rule, law, custom, or statute of the Commonwealth of Pennsylvania now or hereafter in force with respect to the covenants set forth below.**

**(1) Grantor shall neither be liable nor obligated to construct or maintain any fence or similar structure between the Premises and adjoining land of Grantor nor shall Grantor be liable or obligated to pay for any part of the cost or expense of constructing or maintaining any fence or similar structure, and Grantee hereby forever releases Grantor from any loss or damage, direct or consequential, that may be caused by or arise from the lack or failure to maintain any such fence or similar structure.**

**(2) No right or means of ingress, egress or passageway to or from the Premises is hereby granted, expressly or by implication, and Grantor shall not be liable or obliged to provide or obtain for Grantee any such means of ingress, egress or passageway.**

**(3) Should a claim adverse to the title hereby quitclaimed be asserted and/or proved, no recourse shall be had against the Grantor herein.**

**(4) Grantee by the acceptance of this Instrument, does hereby accept all existing and prospective responsibility for removal and/or restoration costs for any and all railroad bridges and grade crossings and their appurtenances that may be located on, over or under the Premises; and Grantee further covenants and agrees that it will also assume any obligation and/or responsibility as may have been or may hereafter be imposed on Grantor by any Public Utility Commission or any other governmental agency having jurisdiction for any and all bridge**

structures and grade crossings and their appurtenances, including but not limited to the removal, repairing or restoration of same in accordance with the requirements of said Commission or other governmental agency; and Grantee further agrees to indemnify, defend and hold Grantor harmless against all costs, penalties, expenses, obligations, responsibility and requirements associated with said bridge structures and grade crossings and their appurtenances.

(5) Grantor shall not be liable or obligated to provide for or supply directly or indirectly, for money or otherwise, any type of utility service to Grantee, even if the Premises are supplied utility service or services from or through Grantor owned or Grantor retained utility service facilities at the time said Premises are conveyed to Grantee; and that if Grantor at its sole discretion elects to provide any utility service or services for money or otherwise to said Premises during the period during which Grantee is arranging at Grantee's own expense for provision of utility service or services direct from public utilities, Grantee shall have no continuing right to use such service or expectation that Grantor must continue to provide it. It is further understood that Grantee's use of any utilities that are supplied through Grantor's utilities or billed to Grantor by any public utility for Grantee's use shall be at the sole cost and expense of Grantee and if Grantee fails to relocate or arrange for a separation of utility services, Grantor may arrange for a separation of the utility services at Grantee's sole cost and expense.

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said Grantor as well at law as in equity or otherwise howsoever, of, in and to the same and every part thereof, EXCEPTING and RESERVING and UNDER and SUBJECT and provided as aforesaid.

TO HAVE AND TO HOLD all and singular the said Premises, together with the appurtenances, unto the Grantee, the successors and

assigns of the said Grantee forever, EXCEPTING and RESERVING and UNDER and SUBJECT and provided as aforesaid.

THE words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this instrument so requires and whether singular or plural, such words shall be deemed to include at all times and in all cases the legal representatives or successors and assigns of the Grantor and Grantee.

IN WITNESS WHEREOF, the said Grantor has caused this

Indenture to be signed in its name and behalf by its Director-Asset Utilization duly authorized thereunto and has caused its corporate seal to be hereunto affixed and attested by its Assistant Secretary the day and year first above written.

SEALED and  
DELIVERED in the  
presence of us:

CONSOLIDATED RAIL CORPORATION  
By:

Nancy B. Reynolds  
NANCY B. REYNOLDS

James W. Hartman, Jr.  
James W. Hartman, Jr.,  
Director-Asset Utilization

Attest:

Nancy B. Reynolds  
NANCY B. REYNOLDS

Wilberta C. Jackson  
Assistant Secretary  
WILBERTA C. JACKSON

COMMONWEALTH OF PENNSYLVANIA )

: SS

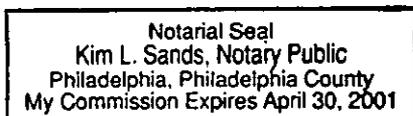
COUNTY OF PHILADELPHIA )

On this 16<sup>th</sup> day of October A.D. 1997, before me, the subscriber, the undersigned officer, personally appeared James W. Hartman, Jr., who acknowledged himself to be the Director-Asset Utilization of CONSOLIDATED RAIL CORPORATION, a corporation, and that he as such Director-Asset Utilization, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Director-Asset Utilization.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Kim L. Sands

Notary Public



I HEREBY CERTIFY that the  
correct address of the  
within-named Grantee is:

---

---

on behalf of Grantee.

THIS INSTRUMENT PREPARED BY:

Nancy B. Reynolds  
Consolidated Rail Corporation  
19-B, Two Commerce Square  
2001 Market Street  
Philadelphia, Pennsylvania 19101-1419  
:nls

CASE NO. 72865

DEED TO

R. J. CORMAN RAILROAD COMPANY/  
ALLENTOWN LINES, INC.

EXHIBIT "A"

Lebanon County, Pennsylvania

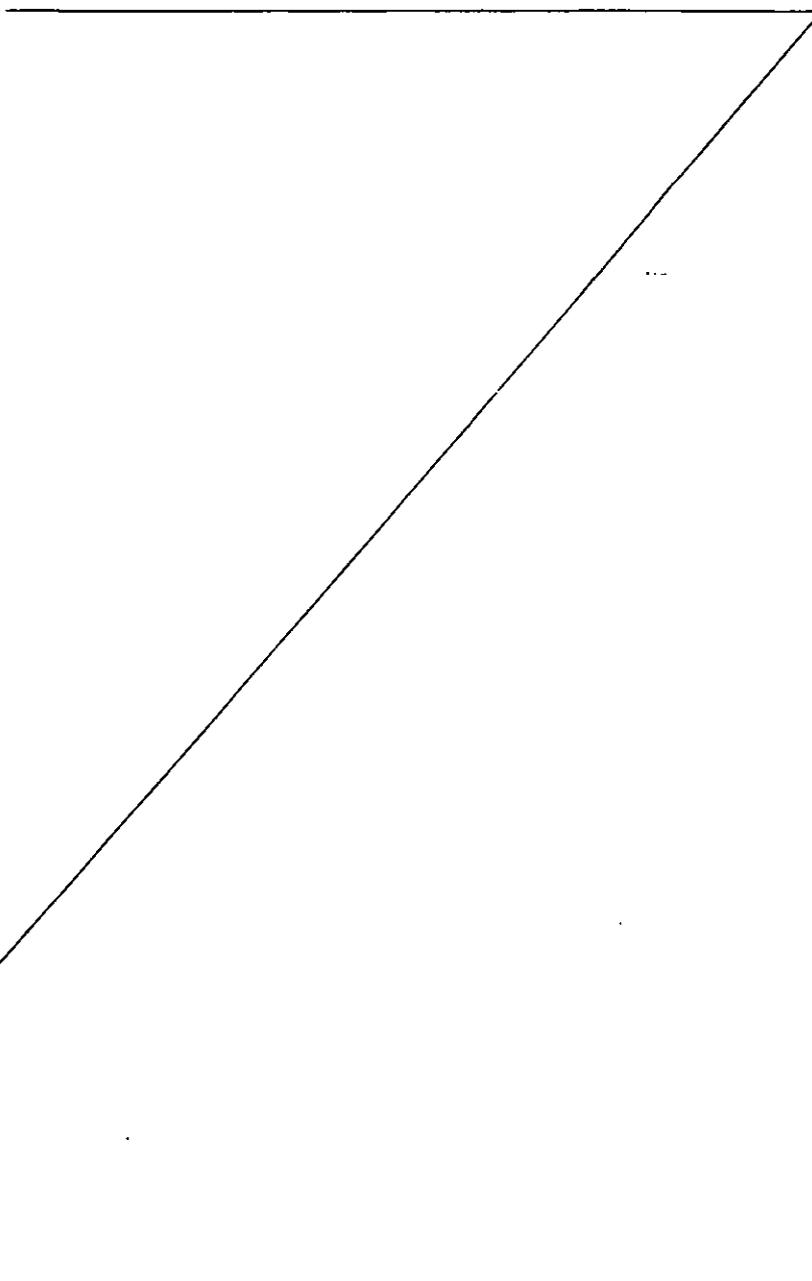
Cornwall Industrial Track, Line Code 0310

ALL THAT CERTAIN property of the Grantor, being a portion of the line of railroad known as the Cornwall Branch (a.k.a. the Cornwall Industrial Track), and identified as Line Code 0310 in the Recorder's Office of Lebanon County, Pennsylvania in Deed Book 164 at page 735, situate in the County of Lebanon and the Commonwealth of Pennsylvania, being further described as follows:

BEGINNING at approximately Railroad Mile Post 0.9, being a point 75 feet north of the centerline of Cumberland Street, in the City of Lebanon, as indicated on sheet 1 of 11 of Exhibit "B"; thence extending in a general southeasterly and southerly direction passing through the Township of North Cornwall, to approximately Railroad Mile Post 3.66, being the southerly side of Evergreen Road, in the Township of South Lebanon, the place of ENDING, as indicated on sheet 9 of 11 of Exhibit "B".

THIS EXHIBIT "A" CONTAINS 4 PAGES, OF WHICH THIS IS  
PAGE 1 OF 4.

BEING a part or portion of the same premises which Andrew L. Lewis, Jr. and Joseph L. Castle, as Trustees of the Property of Reading Company, Debtor, by Conveyance Document No. RDG-CRC-RP-10, dated March 29, 1976 and recorded on January 16, 1979, in the Recorder's Office of Lebanon County, Pennsylvania, in Deed Book Volume 164 at page 730&c., granted and conveyed unto Consolidated Rail Corporation.



THIS EXHIBIT "A" CONTAINS 4 PAGES, OF WHICH THIS IS  
PAGE 2 OF 4.

CASE NO. 72865

DEED TO

R. J. CORMAN RAILROAD COMPANY/  
ALLENTOWN LINES, INC.

EXHIBIT "A"

Lebanon County, Pennsylvania

Lebanon Industrial Track, Line Code 1335

ALL THAT CERTAIN property of the Grantor, being a portion of the line of railroad known as the Lebanon Secondary Track (a.k.a. the Lebanon Industrial Track), and identified as Line Code 1335 in the Recorder's Office of Lebanon County, Pennsylvania in Deed Book 164 at page 790, situate in the County of Lebanon and the Commonwealth of Pennsylvania, being further described as follows:

BEGINNING at approximately Railroad Mile Post 20.5, at the connection to Grantor's Cornwall Industrial Track, Line Code 0310, herein conveyed, in the City of Lebanon, as indicated on sheet 5 of 11 of Exhibit "B"; thence extending in a general southeasterly and southerly direction passing through the Townships of North Cornwall and South Lebanon, to approximately Railroad Mile Post 18.0, in the Borough of Cornwall, the place of ENDING, as indicated on sheet 10 of 11 of Exhibit "B".

THIS EXHIBIT "A" CONTAINS 4 PAGES, OF WHICH THIS IS  
PAGE 3 OF 4.

TOGETHER with all of Grantor's right, title and interest with that line of railroad known as the Alcoa Lead, which connects to the above described Lebanon Industrial Track at approximately Railroad Mile Post 18.15, being 810 feet north of Railroad Mile Post 18.0 in the Borough of Cornwall, identified as Point "A" on sheets 10 and 11 of 11 of Exhibit "B"; thence extending in a general easterly direction to Railroad Station 81+01.63, near the eastern side of State Road, in the Township of South Lebanon, identified as Point "B" on sheet 11 of 11 of Exhibit "B", all as indicated by a heavy black line from point 'A' to 'B' on sheet 11 of 11 of Exhibit "B".

BEING a part or portion of the same premises which Robert W. Blanchette, Richard C. Bond and John H. McArthur, as Trustees of the Property of Penn Central Transportation Company, Debtor, by Conveyance Document No. PC-CRC-RP-200, dated March 30, 1976 and recorded on January 16, 1979, in the Recorder's Office of Lebanon County, Pennsylvania, in Deed Book Volume 164 at page 785&c., granted and conveyed unto Consolidated Rail Corporation.

THIS EXHIBIT "A" CONTAINS 4 PAGES, OF WHICH THIS IS PAGE 4 OF 4.

CASE NO. 72865

DEED TO

R. J. CORMAN RAILROAD COMPANY/  
ALLENTOWN LINES, INC.

EXHIBIT B

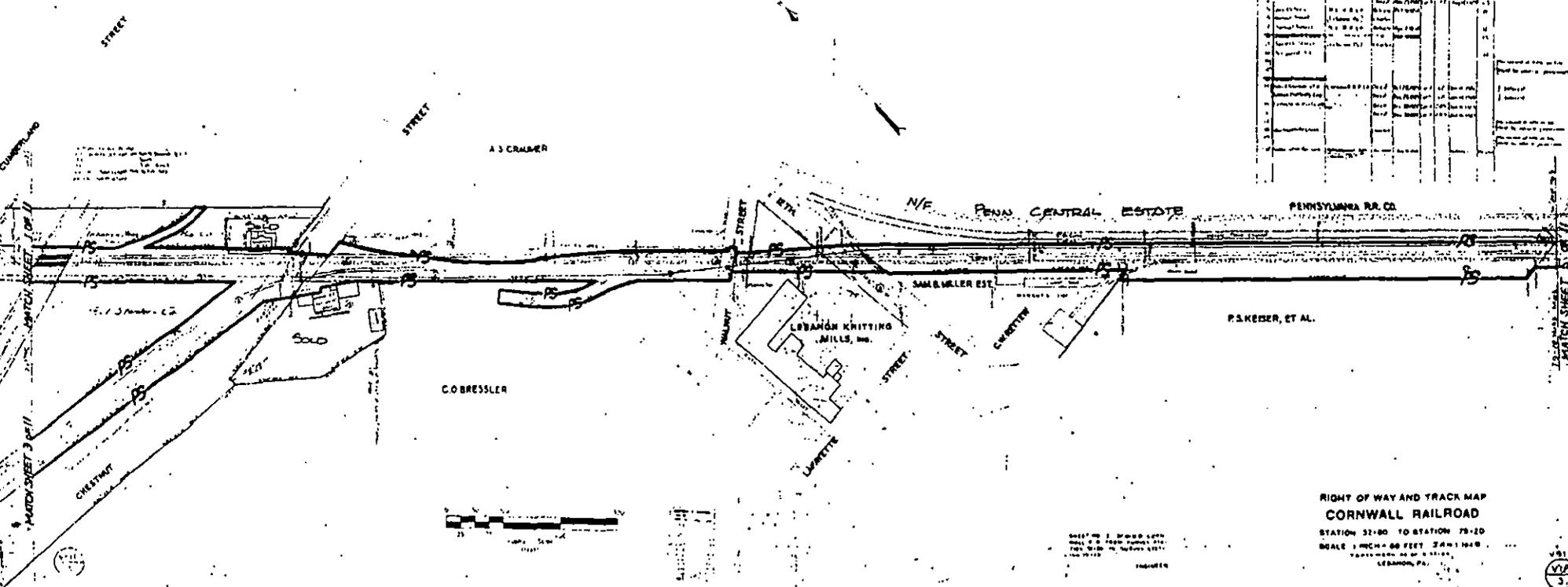
MAP ADDENDUM

THIS EXHIBIT "B" CONTAINS 11 MAPS.



CASE NO. 72865  
SHEET 2 of 11

NO.	DESCRIPTION	ACRES	OWNER	REMARKS
1	...	...	...	...
2	...	...	...	...
3	...	...	...	...
4	...	...	...	...
5	...	...	...	...
6	...	...	...	...
7	...	...	...	...
8	...	...	...	...
9	...	...	...	...
10	...	...	...	...
11	...	...	...	...
12	...	...	...	...
13	...	...	...	...
14	...	...	...	...
15	...	...	...	...
16	...	...	...	...
17	...	...	...	...
18	...	...	...	...
19	...	...	...	...
20	...	...	...	...
21	...	...	...	...
22	...	...	...	...
23	...	...	...	...
24	...	...	...	...
25	...	...	...	...
26	...	...	...	...
27	...	...	...	...
28	...	...	...	...
29	...	...	...	...
30	...	...	...	...
31	...	...	...	...
32	...	...	...	...
33	...	...	...	...
34	...	...	...	...
35	...	...	...	...
36	...	...	...	...
37	...	...	...	...
38	...	...	...	...
39	...	...	...	...
40	...	...	...	...
41	...	...	...	...
42	...	...	...	...
43	...	...	...	...
44	...	...	...	...
45	...	...	...	...
46	...	...	...	...
47	...	...	...	...
48	...	...	...	...
49	...	...	...	...
50	...	...	...	...



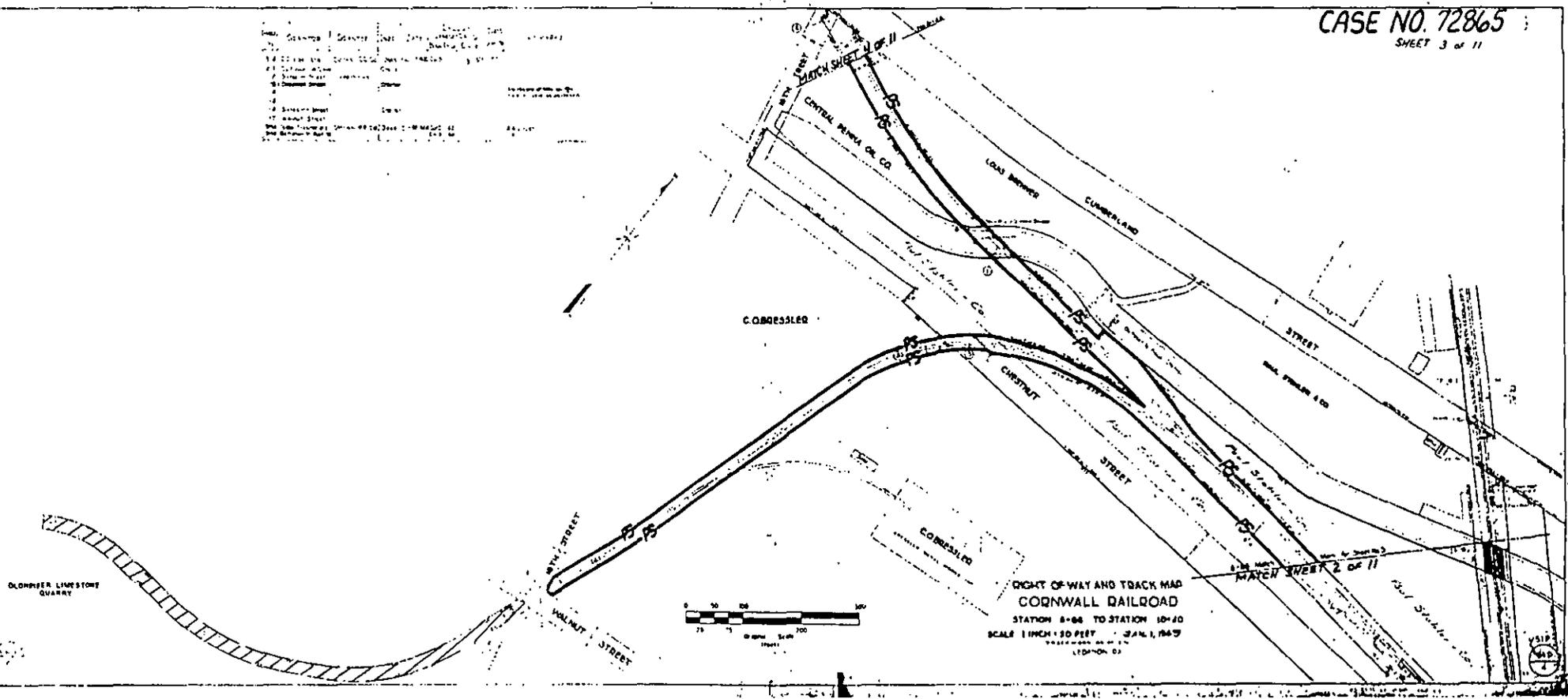
RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 52+00 TO STATION 79+20  
SCALE 1 INCH = 60 FEET JAN 11 1948  
LEBANON, PA.

Sheet No. 1 shown with  
Map of the Cornwall Railroad  
and other maps of the  
Cornwall Railroad  
ENGINEER

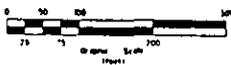


CASE NO. 72865  
SHEET 3 of 11

NO.	DESCRIPTION	DATE	BY	REVISION
1	Original	1943	J. H. ...	
2	...	...	...	...
3	...	...	...	...
4	...	...	...	...
5	...	...	...	...
6	...	...	...	...
7	...	...	...	...
8	...	...	...	...
9	...	...	...	...
10	...	...	...	...
11	...	...	...	...
12	...	...	...	...
13	...	...	...	...
14	...	...	...	...
15	...	...	...	...
16	...	...	...	...
17	...	...	...	...
18	...	...	...	...
19	...	...	...	...
20	...	...	...	...

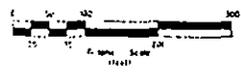
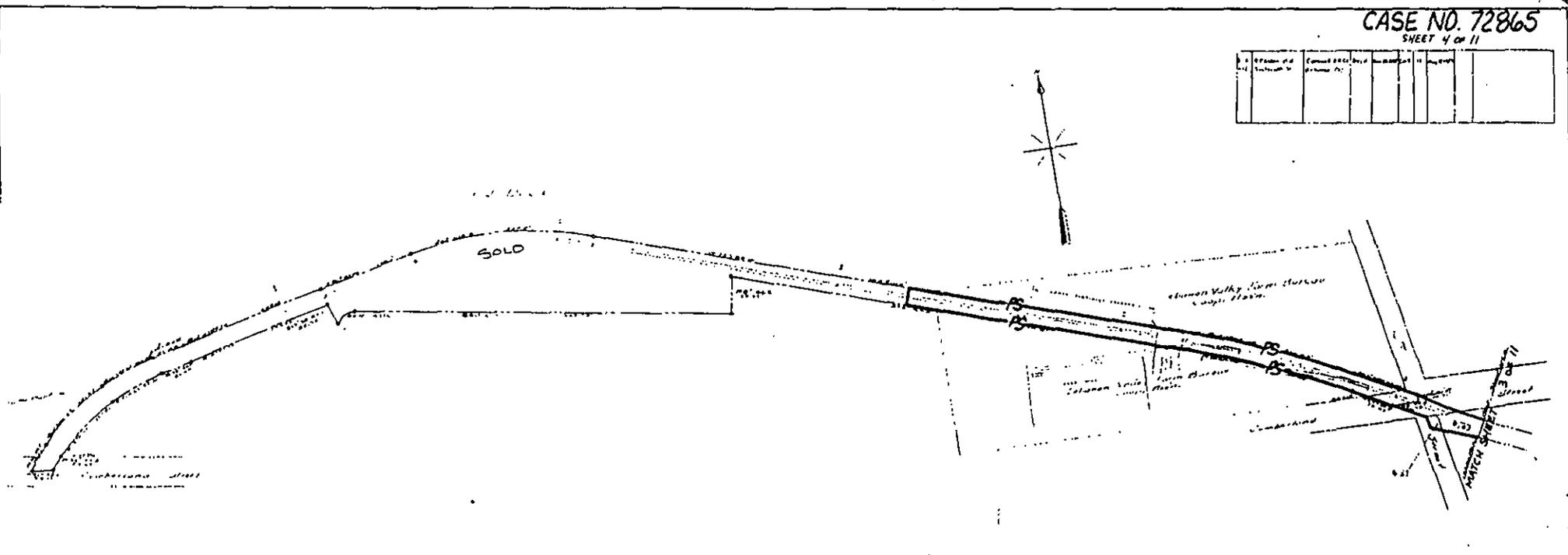


RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 8+00 TO STATION 10+20  
SCALE 1 INCH = 50 FEET  
JAN. 1, 1943  
LEHIGH CO.



CASE NO. 72865  
SHEET 4 of 11

Station No.	Station Name	Track No.	Track Name	Notes



RIGHT OF WAY AND TRACK MAP  
**CORNWALL RAILROAD**  
 STATION 18140 TO STATION 48-371  
 SCALE 1 INCH = 60 FEET JUNE 1, 1949  
 LEANOR, PA.

VSD  
 VID  
 54.42

CASE NO. 72865  
SHEET 5 of 11

No.	Description	Quantity	Unit	Value
1	Excavation	100	cu yd	100.00
2	Gravel	100	cu yd	100.00
3	Concrete	100	cu yd	100.00
4	Timber	100	cu yd	100.00
5	Iron	100	cu yd	100.00
6	Steel	100	cu yd	100.00
7	Paint	100	cu yd	100.00
8	Other	100	cu yd	100.00
9	Subtotal			900.00
10	Total			900.00

BEGIN LEBANON I.T.  
L.C. 1335 M.P. 20.5 ±

M.P. 20.5 ± (P.R.R.)

NEW CONNECTION  
CONSTRUCTED

PENNSYLVANIA RR CO.

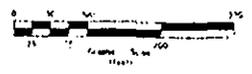
AUGUSTUS C. ALLWEIN

PHOENIX R. LIPP

10TH STREET

9TH STREET

JANUARY RENOV.

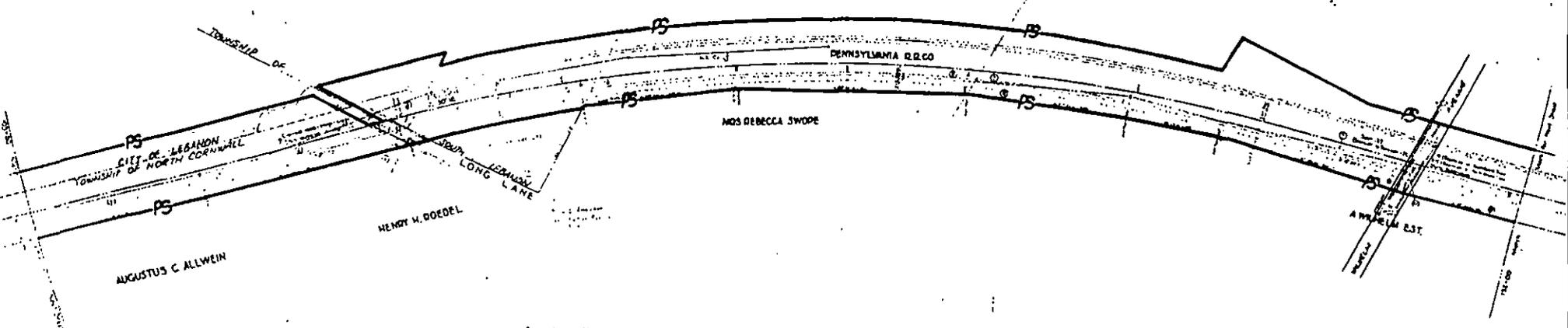


RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 78+20 TO STATION 100+60  
SCALE 1 INCH = 80 FEET DEC. 31 1908  
LEBANON, PA.

P.R.R.  
21  
V.S.P.  
VID  
5

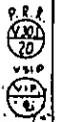
CASE NO. 72865  
SHEET 6 OF 11

Item	Description	Quantity	Unit	Value
1	Right of Way	1.00	Acres	100.00
2	Track	1.00	Miles	100.00
3	Station	1.00	Stations	100.00
4	Structure	1.00	Structures	100.00
5	Signal	1.00	Signals	100.00
6	Water	1.00	Water	100.00
7	Electric	1.00	Electric	100.00
8	Telephone	1.00	Telephone	100.00
9	Other	1.00	Other	100.00
10	Total	10.00		1000.00



DATE: 11-1-1914  
BY: J. H. BROWN  
CHECKED BY: J. H. BROWN  
APPROVED BY: J. H. BROWN

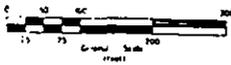
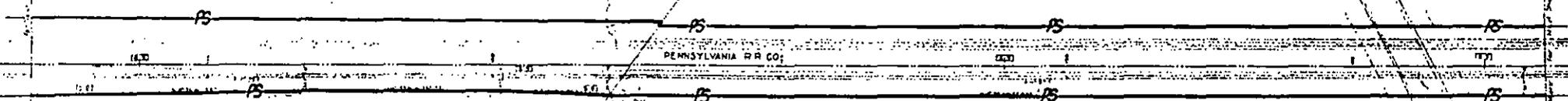
RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 105+80 TO STATION 132+00  
SCALE 1 INCH = 50 FEET  
DEC. 31, 1914



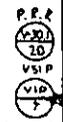
CASE NO. 72865

SHEET 7 OF 11

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	-----



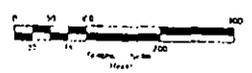
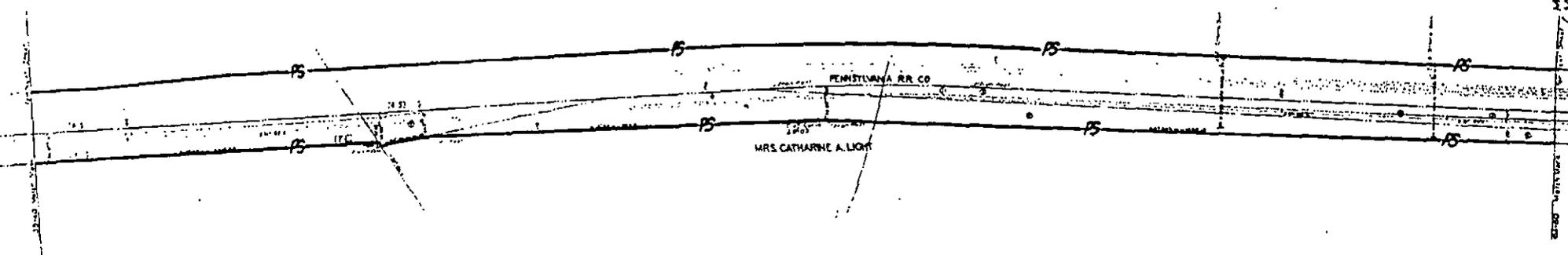
RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 136+00 TO STATION 138+00  
SCALE 1 INCH = 50 FEET DATE JAN 1 1949  
LEBMON, PA



Drawn by J. J. ...  
Checked by ...  
Date ...

CASE NO. 72865  
SHEET 8 OF 11

No.	Description	Amount	By	Department of Public Works
1	Construction	100.00	J. H. Galloway	22
2	Materials	100.00	J. H. Galloway	22
3	Contract	100.00	J. H. Galloway	22
4	Other	100.00	J. H. Galloway	22
5	Other	100.00	J. H. Galloway	22
6	Other	100.00	J. H. Galloway	22
7	Other	100.00	J. H. Galloway	22
8	Other	100.00	J. H. Galloway	22
9	Other	100.00	J. H. Galloway	22
10	Other	100.00	J. H. Galloway	22



RIGHT OF WAY AND TRACK MAP  
CORNWALL RAILROAD  
STATION 188+00 TO STATION 184+00  
SCALE 1 INCH = 80 FEET DEC. 3, 1888  
LEBANON, PA.

M.P. 351 (M.P. 186.2 000)

P.R.R.  
19  
V.S.P.  
8

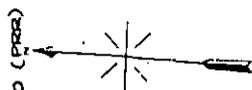
SHEET NO. 8 OF 11 SHEET NO. 72865  
DRAWN BY J. H. GALLOWAY  
CHECKED BY J. H. GALLOWAY  
DATE DEC. 3, 1888



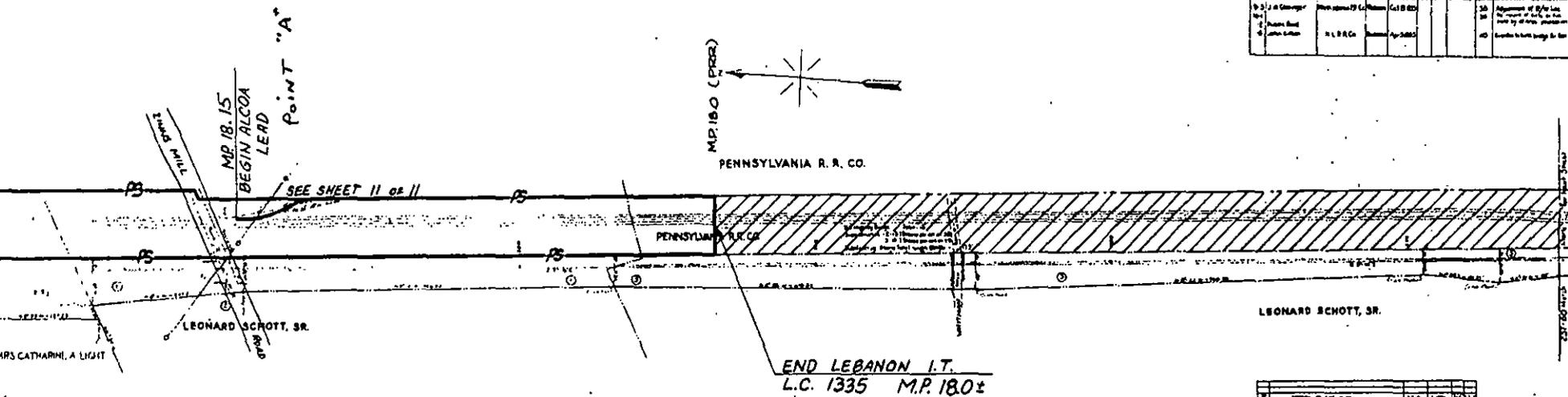
CASE NO. 72865

SHEET 10 of 11

By J. A. Coughlin	Approved by L. B. ...	City of ...	...	...	...
...	...	...	...	...	...

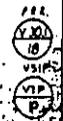


PENNSYLVANIA R. R. CO.

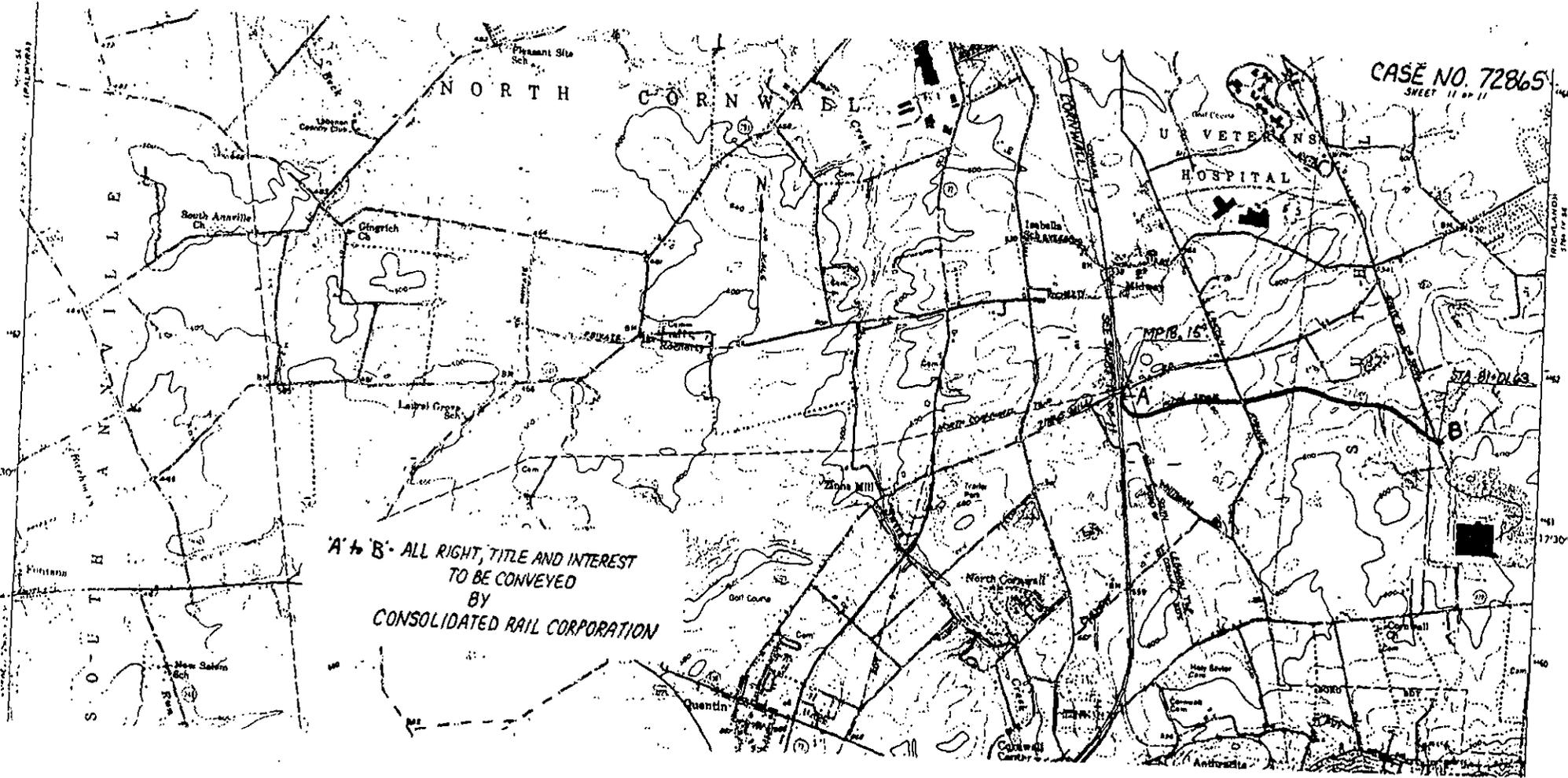


...	...	...	...
...	...	...	...

RIGHT OF WAY AND TRACK MAP  
 CORNWALL RAILROAD  
 STATION 217+00 TO STATION 237+00  
 SCALE 1 INCH = 80 FEET MARCH 1, 1928  
 LEBANON, PA.



Printed by the ...  
 ...  
 ...



CASE NO. 72865  
SHEET 11 OF 11

A to B - ALL RIGHT, TITLE AND INTEREST  
TO BE CONVEYED  
BY  
CONSOLIDATED RAIL CORPORATION

1730'

1730'

1730'

1730'

1730'

1730'

1730'

1730'

SOUTH ANNETTE

NORTH CORNWALL

U.S. VETERANS HOSPITAL

North Cornwall

Quentin

Cornwall Center

1730'

1730'

1730'

1730'

STA. 81+01.63

MP 18.15

South Annette Ch.

Otisgrich Ch.

Laurel Grove Sch.

New Salem Sch.

Pleasant Site Sch.

Isabella Sch.

Johns Mill

New Beaver Cove

Antroads

Upper Corners Dist.

Robinson

Midway

Rocky

Don Course

Travis

Quentin

**PUBLIC PARTICIPATION:** We invite interested persons and organizations to submit comments. Mail or deliver your comments or recommendations to Ms. Jean Lenderking at the address shown above. Comments should be received by October 27, 1997 in order to be considered at the October 30 meeting. Only comments submitted in advance will be considered.

Issued in Washington, DC, on October 8, 1997.

For the Department of Transportation,  
John E. Budnik,  
Associate Director, Corporate Human Resources Leadership Division,  
[FR Doc. 97-27242 Filed 10-14-97; 8:45 am]  
BILLING CODE 4910-62-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Aviation Rulemaking Advisory Committee Meeting on Air Carrier Operations

**AGENCY:** Federal Aviation Administration (FAA) DOT.  
**ACTION:** Notice of meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss air carrier operations issues.

**DATES:** The meeting will be held on October 30, 1997, beginning at 10:00 a.m.

**ADDRESSES:** The meeting will be held at the Federal Aviation Administration Building, 800 Independence Avenue, SW, Washington, DC, in the McCracken Room (Round Room) on the 10th floor.

**FOR FURTHER INFORMATION CONTACT:** Ms. Linda Williams, Office of Rulemaking (ARM-109), 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267-9685, facsimile (202) 267-5075, or by electronic mail at Linda.L.Williams@faa.dot.gov.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on October 30, 1997, at the Federal Aviation Administration Building, Round Room (10th floor), 800 Independence Avenue, NW, Washington, DC.

The agenda for this meeting will include:

(1) A presentation by the All Weather Operations Working Group of an

advisory circular, "Criteria for Approval of Category III Weather Minima for Takeoff, Landing, and Rollout";

(2) A discussion on establishing a harmonization task and an airplane performance harmonization working group; and

(3) An update on the activity of the Fatigue Countermeasures and Alertness Management Techniques Working Group.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on October 8, 1997.

David L. Catey,  
Acting Manager, Air Transportation Division,  
Flight Standards Service,  
[FR Doc. 97-27401 Filed 10-14-97; 8:45 am]  
BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 33302]

#### R.J. Corman Railroad Co./Allentown Lines, Inc.—Acquisition and Operation Exemption—Consolidated Rail Corp.

R.J. Corman Railroad Company/Allentown Lines, Inc. (RJCN), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire and operate a total of approximately 2.76 miles of rail line owned by Consolidated Rail Corporation (Conrail), known as Cornwall Industrial Track, between milepost 0.9 and milepost 3.66 in Lebanon County, PA. RJCN will also acquire a 0.6-mile segment of Conrail's Lebanon Industrial Track between approximately milepost 18 and approximately milepost 18.6, which is parallel and adjacent to a portion of the Cornwall Industrial Track. The transaction was expected to be consummated on or soon after September 30, 1997.

If the notice contains false or misleading information, the exemption

is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33302, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001 and served on: Kevin M. Sheys, Oppenheimer Wolff & Donnelly, 1620 Nineteenth Street, NW, Suite 400, Washington, DC 20036.

Decided: October 7, 1997.

By the Board, David M. Koonschik,  
Director, Office of Proceedings,  
Vernon A. Williams,  
Secretary,  
[FR Doc. 97-27291 Filed 10-14-97; 8:45 am]  
BILLING CODE 4915-00-P

## DEPARTMENT OF VETERANS AFFAIRS

### Performance Review Board Members

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Notice.

**SUMMARY:** Under the provisions of 5 U.S.C. 4314(c)(4) agencies are required to publish a notice in the Federal Register of the appointment of Performance Review Board (PRB) members. This notice revises the list of members of the Department of Veterans Affairs (VA) Performance Review Boards which was published in the Federal Register on October 1, 1996 (61 FR 51317).

**EFFECTIVE DATE:** October 15, 1997.

**FOR FURTHER INFORMATION CONTACT:** Angel I. Wolfrey, Office of Human Resources Management (052B), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-4940.

### VA Performance Review Board (PRB)

Eugene A. Brickhouse, Assistant Secretary for Human Resources and Administration (Chairperson)  
Stephenn L. Lemons, Ed.D, Deputy Under Secretary for Benefits  
Shirley Carozza, Deputy Assistant Secretary for Budget  
Harold F. Gracey, Jr., Chief of Staff, Office of the Secretary  
Thomas L. Garthwaite, M.D., Deputy Under Secretary for Health  
Gerald K. Hinch, Deputy Assistant Secretary for Equal Opportunity  
Kathy E. Jurado, Assistant Secretary for Public and Intergovernmental Affairs  
Robert E. Coy, Deputy General Counsel



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

Office of Chief Counsel  
Forum Place  
555 Walnut Street - 9th Floor  
Harrisburg, Pennsylvania 17101-1900  
Telephone No. (717) 787-3128  
Fax No. (717) 772-2741

DOCUMENT  
FOLDER

December 19, 1997

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

RECEIVED  
97 DEC 19 PM 12:09  
P.A.P.U.C.  
PROTHONOTARY'S OFFICE

Re: Application Docket No. A-00113589, C-00970106  
C-00970107, C-00970126  
A-00109901

Dear Acting Prothonotary McNulty:

Enclosed for filing please find the original and three (3) copies of the Department's Response in the above-captioned matter.

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

Very truly yours,

Gina M. D'Alfonso  
Assistant Counsel in Charge

2200/GMD:sls

cc: William D. Pickering, P.E. (Attn: Harvey I. Cassell, P.E.)  
District 8-0 (Attn: Raymond W. Britcher)  
Parties of Record

55

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

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

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

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

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

97 DEC 19 PM 12:03

RECEIVED

RESPONSE OF THE DEPARTMENT OF TRANSPORTATION  
TO THE PETITION TO REOPEN FILED ON BEHALF OF  
CONSOLIDATED RAIL CORPORATION

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation, by and through its counsel, to oppose the petition to reopen the record filed by Consolidated Rail Corporation (Conrail).

1. At the October 8, 1997, hearing, the Administrative Law Judge denied Conrail's request to leave the record open to submit the deed from Conrail to Corman.

2. The Administrative Law Judge specifically held that he was supposed to be notified by October 1, 1997 (N.T. 253).

3. The Commission may address the concerns raised by Conrail in its petition to open simply by providing an ordering paragraph in an order of the Commission that holds any successors or assigns to Conrail responsible for any obligations assigned to Conrail

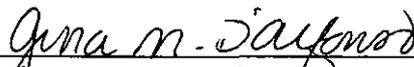
DOCKETED

DEC 29 1997

DOCUMENT  
FOLDER

4. The Department of Transportation concurs with the answer to Conrail's petition to open filed by South Lebanon Township.

Respectfully submitted,

  
\_\_\_\_\_  
Gina M. D'Alfonso  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel - 9th Floor  
Forum Place, 555 Walnut Street  
Harrisburg, PA 17101-1900  
Telephone No. (717) 787-3128

DATED: December 19, 1997

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Response to Petition to Reopen filed by Consolidated Rail Corporation was served upon the parties listed below by first class mail, postage prepaid this 19th day of December, 1997.

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

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

Jamie Wogelmuth, Chief Clerk  
Lebanon County Commissioners  
Room 207, Municipal Building  
400 South Eighth Street  
Lebanon, PA 17042-6794

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

Edward M. Keener, City  
Engineer  
City of Lebanon  
Municipal Building  
400 South Eighth Street  
Lebanon, PA 17042-6794

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

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

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

Rick Corman  
RJ Corman Railroad Co.  
PA Lines, Inc.  
1 Jay Station  
Nicholasville, KY 40356

Edward J. Kennedy  
Vice President  
Bell Telephone Co. of PA  
315 North Second Street  
Harrisburg, PA 17101

Metropolitan Edison Co.  
600 South Fifth Avenue  
Lebanon, PA 17042

Senator David J. Brightbill  
Senate Post Office  
Main Capital Building  
Harrisburg, PA 17120

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

Scott A. Wasserkrug, Esquire  
Conrail  
2001 Market Street 16A  
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

Curtis E. Kulp, Manager  
South Lebanon Township  
Board of Supervisors  
1800 South Fifth Avenue  
Lebanon, PA 17042

Fred D. Hafer, President  
Met-Ed  
P.O. Box 542  
Reading, PA 19640

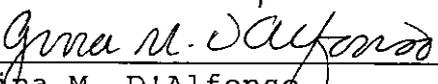
Lebanon Valley Cable TV Co.  
n/k/a Time Warner Cable  
1555 Suzy Drive  
Lebanon, PA 17046

Mrs. Lydia M. Sholley  
Party in Interest  
35 Wilhelm Avenue  
Lebanon, PA 17042

Thomas P. Brogan, Esquire  
Bell Telephone of PA  
Malatesta, Hawke & McKeon  
Harrisburg Energy Center  
100 North Tenth Street  
Harrisburg, PA 17101

John B. Wengert  
Lebanon Valley Rails to  
Trails, Inc.  
278 Old Mount Gretna Road  
Lebanon, PA 17042

Donna Brightbill, Esquire  
Robert E. Siegrist  
315 South Eighth Street  
Lebanon, PA 17042

  
\_\_\_\_\_  
Gina M. D'Alfonso  
Assistant Counsel in Charge

WEISS, WEISS & WEISS  
ATTORNEYS AT LAW  
802 WALNUT STREET  
P. O. Box 838  
LEBANON, PENNSYLVANIA 17042-0838  
TELEPHONE (717) 273-1881  
FACSIMILE (717) 273-0732

SAMUEL G. WEISS, JR.  
PAMELA A. WEISS  
M. JANNIPER WEISS  
—  
JOHN L. HEATON

023538  
SAMUEL G. WEISS, SR.  
(1946-1988)

ORIGINAL

December 19, 1997

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

In Re: Docket Nos. A-00113589  
C-00970107  
C-00970126  
-C-00970106  
A-00109901

97 DEC 22 AM 10:35  
RECEIVED  
PROTHONOTARY'S OFFICE

Dear Sir:

Enclosed please find an original and three copies of the City of Lebanon's Response to Conrail's Petition to Reopen for filing in the above matters. In accordance with the accompanying Certificate of Mailing, I have provided copies of the Response to all active parties of record.

Please time-stamp the additional copy of the Answer and Certificate of Mailing and return the same to my office in the preaddressed, stamped envelope which I have enclosed for that purpose.

Very truly yours,



SAMUEL G. WEISS, JR.

mf

Enclosures

DOCUMENT  
FOLDER

113

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 :

020959

City of Lebanon : Docket No. C-00970107  
Complainant :  
vs. :  
Consolidated Rail Corporation, :  
et al :  
Respondent :

Commonwealth of Pennsylvania : Docket No. C-00970126  
Department of Transportation :  
Complainant :  
vs. :  
Consolidated Rail Corporation :  
Respondent :

South Lebanon Township : Docket No. C-00970106  
Board of Supervisors :  
Complainant :  
vs. :  
Consolidated Rail Corporation :  
et al :  
Respondent :

Application of South Lebanon : Docket No. A-00109901  
Township for Approval of the :  
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 :

RECEIVED  
REGISTRATION OFFICE

97 DEC 22 11:03:36

ORIGINAL

INDEXED

DEC 30 1997

DOCUMENT  
FOLDER

**RESPONSE OF CITY OF LEBANON TO CONRAIL'S PETITION TO REOPEN**

---

AND NOW, to wit, this 19<sup>th</sup> day of December, A.D., 1997, comes the CITY OF LEBANON by its Solicitor, SAMUEL G. WEISS, JR., ESQUIRE, who responds to the Petition to Reopen the record filed by Conrail on or about December 5, 1997, as follows:

1. The City of Lebanon incorporates and concurs with the Answer of South Lebanon Township filed on or about December 12, 1997, to Petition to Reopen by Conrail.

2. After the August 5, 1997 hearing, at Conrail's request the record was held open until October 1, 1997, in order to provide Conrail an opportunity to supplement the record with any relevant Conrail/Corman agreement at which time the record was closed.

3. The proposed exhibits were not submitted until after the record was closed on October 1, 1997.

4. At all material times Conrail was the owner of the subject bridge and crossing.

5. Conrail's proposed exhibits are irrelevant and immaterial to the central issue of Conrail's responsibility to repair or rehabilitate the subject bridge crossings.

6. Acceptance of Conrail's late filed exhibits would be highly prejudicial to the City of Lebanon in that the City of Lebanon would

be denied the opportunity to question and rebut this evidence.

7. Paragraph (4) of Conrail's proposed Exhibit "B" purports to obligate Corman to any obligation and/or responsibility for bridge and grade crossing, repair or rehabilitation, which, assuming Corman is and remains financially viable and responsible, will insure that whatever Conrail is ordered to do by the PUC will be done by Corman.

8. The City of Lebanon is not nor should it be bound by any Conrail/Corman assignment of responsibility for bridge and grade crossing repairs or rehabilitation.

9. The City of Lebanon is strongly opposed to this transparent effort by Conrail to avoid the costs and liability for repair or rehabilitation of the subject crossing and bridge.

**WHEREFORE**, the City of Lebanon respectfully requests that the Commission deny Conrail's Petition to Reopen.

Respectfully submitted,



SAMUEL G. WEISS, JR. #22937  
Solicitor for City of Lebanon  
Weiss, Weiss & Weiss  
802 Walnut Street  
P.O. Box 838  
Lebanon, Pennsylvania 17042  
Telephone 717-273-1661

CERTIFICATE OF MAILING

I DO CERTIFY that I served the foregoing Response of City of Lebanon to Conrail's Petition to Reopen this day by depositing the same in the United States Mail, postage prepaid, at Lebanon, Pennsylvania, addressed to:

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

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

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

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

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

Timothy D. Sheffey, Esquire  
County of Lebanon Transit Authority  
1601 Cornwall Road  
Lebanon, Pa. 17042

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

Gina M. D'Alfonso, Esquire  
Pa. Dept. of Transportation  
Forum Place, 9th Floor  
555 Walnut Street  
Harrisburg, Pa. 17101-1900

Jamie Wogelmuth, Chief Clerk  
Lebanon County Commissioners  
Room 207, Municipal Building  
400 South Eighth Street  
Lebanon, Pa. 17042

Edward M. Keener, City Engineer  
City of Lebanon  
Municipal Building  
400 South Eighth Street  
Lebanon, Pa. 17042

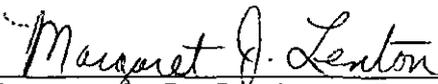
John Herzog, Esquire  
Pa. PUC Transportation/Safety  
Rail Division  
P.O. Box 3265  
Harrisburg, Pa. 17105-3265

Keith L. Kilgore, Esquire  
South Lebanon Township  
522 South Eighth Street  
Lebanon, Pa. 17042

Adrienne C. Snelling, Esquire  
Lebanon County Solicitor  
Municipal Building, Room 207  
400 South Eighth Street  
Lebanon, Pa. 17042

Paul Krause, Chairman  
South Lebanon Township  
1800 South Fifth Avenue  
Lebanon, Pa. 17042

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

  
\_\_\_\_\_  
Margaret J. Lenton, Secretary to  
Samuel G. Weiss, Jr., Esquire

Dated: December 19, 1997

COMMONWEALTH OF PENNSYLVANIA

DATE: December 22, 1997

SUBJECT: Amended Petition to Reopen the Proceeding

TO: Office of Administrative Law Judge

FROM: *WJP* James J. McNulty, Secretary

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-00970107 CITY OF LEBANON vs. CONSOLIDATED RAIL CORPORATION, et al

C-00970126 COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION vs. CONSOLIDATED RAIL CORPORATION

C-00970106 SOUTH LEBANON TOWNSHIP BOARD OF SUPERVISORS vs. CONSOLIDATED RAIL CORPORATION, et al

A-00109901 APPLICATION OF SOUTH LEBANON TOWNSHIP FOR APPROVAL OF THE ALTERATION OF THE CROSSING (AAR 591 537 S) WHERE TOWNSHIP ROAD 705 (WILHELM AVENUE) CROSSES BELOW GRADE OF THE TRACKS OF CONSOLIDATED RAIL CORPORATION IN SOUTH LEBANON TOWNSHIP, LEBANON COUNTY

Attached is copy of Consolidated Rail Corporation's Amended Petition to Reopen the Proceedings filed in connection with the above docketed proceedings.

This matter is assigned to your Office for appropriate action.

Attachment

cc: OSA  
TSL

wjz

**DOCKETED**  
DEC 22 1997

**DOCUMENT  
FOLDER**

**ORIGINAL**  
*Law Offices*

**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

\* ALSO ADMITTED TO THE  
FLORIDA BAR

December 23, 1997

**RECEIVED**

DEC 23 1997

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

PA PUBLIC UTILITY COMMISSION  
PROTHONOTARY'S OFFICE

Re: Application Docket No.  
A-00113589, C-00970106,  
C-00970107, C-00970126,  
A-00109901

Dear Mr. McNulty:

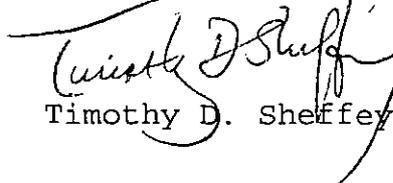
Enclosed with this letter you will find an original and three copies of a RESPONSE OF COUNTY OF LEBANON TRANSIT AUTHORITY TO PETITION TO REOPEN FILED ON BEHALF OF CONSOLIDATED RAIL CORPORATION regarding the above matter.

Attached to the Response is a Certificate of Service evidencing service upon all parties of record.

Should you have any questions or concerns regarding this, please contact me at your earliest opportunity.

Very truly yours,

REILLY, WOLFSON, SHEFFEY,  
SCHRUM AND LUNDBERG

  
Timothy D. Sheffey

TDS:cmr  
cc: Parties of Record (See Certificate  
of Service)

**DOCUMENT  
FOLDER**

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 CORPORA- :  
TION LOCATED IN THE CITY OF :  
LEBANON, LEBANON COUNTY :

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

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

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

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

---

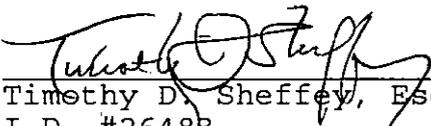
RESPONSE OF COUNTY OF LEBANON TRANSIT AUTHORITY  
TO PETITION TO REOPEN FILED ON BEHALF OF  
CONSOLIDATED RAIL CORPORATION

---

AND NOW, comes the COUNTY OF LEBANON TRANSIT AUTHORITY (hereinafter "COLT"), by and through its counsel, Reilly, Wolfson, Sheffey, Schrum and Lundberg, to oppose the Petition to Reopen the Record filed by CONSOLIDATED RAIL CORPORATION:

1. COLT concurs with and joins in, by reference thereto, as if fully set forth therein, the answers and/or responses to the CONSOLIDATED RAIL CORPORATION Petition to Open filed by the PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, SOUTH LEBANON TOWNSHIP, and the CITY OF LEBANON in this matter.

Respectfully submitted,

  
\_\_\_\_\_  
Timothy D. Sheffey, Esquire  
I.D. #2648B  
Counsel for COUNTY OF LEBANON  
TRANSIT AUTHORITY

REILLY, WOLFSON, SHEFFEY,  
SCHRUM AND LUNDBERG  
1601 Cornwall Road  
Lebanon, PA 17042  
(717) 273-3733

Dated: December 23, 1997

DOCKETED  
DOCUMENT  
FOLDER  
JAN 06 1998

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the RESPONSE OF COUNTY OF LEBANON TRANSIT AUTHORITY TO PETITION TO REOPEN FILED ON BEHALF OF CONSOLIDATED RAIL CORPORATION was served upon the parties listed below by first class mail, postage prepaid, this \_\_\_\_\_ day of December, 1997:

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

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

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

Jamie Wolgemuth, Chief Clerk  
Lebanon County Commissioners  
Room 207, Municipal Building  
400 South 8th Street  
Lebanon, PA 17042-6794

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

Edward M. Keener, City Engineer  
Engineer  
City of Lebanon  
Municipal Building  
400 South Eighth Street  
Lebanon, PA 17042-6794

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

Benjamin C. Dunlap, Jr., Esquire  
200 North 3rd Street, 18th Flr.  
P.O. Box 840  
Harrisburg, PA 17108-0840

Samuel G. Weiss, Jr., Esquire  
Weiss, Weiss and Weiss  
802 Walnut Street  
Lebanon, PA 17042-0838

Rick Corman  
RJ Corman Railroad Co.  
PA Lines, Inc.  
1 Jay Station  
Nicholasville, KY 40356

Gina M. D'Alfonso  
Assistant Counsel in Charge  
PA Department of Transportation  
Office of Chief Counsel  
9th Floor, Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1900

Metropolitan Edison Co.  
600 South Fifth Avenue  
Lebanon, PA 17042

Senator David J. Brightbill  
Senate Post Office  
Main Capital Building  
Harrisburg, PA 17120

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

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

Adrienne C. Snelling, Esquire  
Lebanon County Solicitor  
Room 207, Municipal Building  
400 South Eighth Street  
Lebanon, PA 17042-6794

Edward J. Kennedy  
Vice President  
Bell Telephone Co of PA  
315 North Second Street  
Harrisburg, PA 17101

Thomas P. Brogan, Esquire  
Bell Telephone of PA  
Malatesta, Hawke & McKeon  
Harrisburg Energy Center  
100 North Tenth Street  
Harrisburg, PA 17101

John B. Wengert  
Lebanon Valley Rails  
to Trails, Inc.  
278 Old Mount Gretna Road  
Lebanon, PA 17042

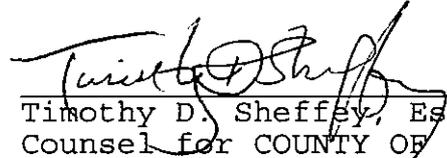
Donna Brightbill, Esquire  
Robert E. Siegrist, Esquire  
315 South Eighth Street  
Lebanon, PA 17042

Lebanon Valley Cable TV Co  
n/k/a Time Warner Cable  
1555 Suzy Drive  
Lebanon, PA 17046

Mrs. Lydia M. Sholley  
Party in Interest  
35 Wilhelm Avenue  
Lebanon, PA 17042

Curtis E. Kulp, Manager  
South Lebanon Township  
Board of Supervisors  
1800 South Fifth Avenue  
Lebanon, PA 17042

Fred D. Hafer, President  
Met-Ed  
P.O. Box 542  
Reading, PA 19640

  
\_\_\_\_\_  
Timothy D. Sheffey, Esquire  
Counsel for COUNTY OF LEBANON  
TRANSIT AUTHORITY

LAW OFFICES  
**SPITLER AND KILGORE**  
522 South Eighth Street  
P.O. Box 1188  
LEBANON, PENNSYLVANIA 17042

CALVIN D. SPITLER  
KEITH L. KILGORE  
PAUL W. KILGORE

(717) 273-7621  
(717) 273-1693 (FAX)

**ORIGINAL**

December 24, 1997

024589

James McNulty, Prothonotary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, Pennsylvania 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 Co. Of Lebanon Transit Auth.  
For Approval of the Suspension of a Series of Crossings  
Involving the Cornwall Industrial Tract of CONRAIL  
Located in the City of Lebanon, Lebanon County  
A-00113589

Application of South Lebanon Township for the  
Approval of the 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  
A-00109901

Dear Sir:

Enclosed please find an original and three (3) copies of Brief of South  
Lebanon Township for filing in the above matters. In accordance with the

**DOCUMENT  
FOLDER**

RECEIVED  
PROTHONOTARY'S OFFICE

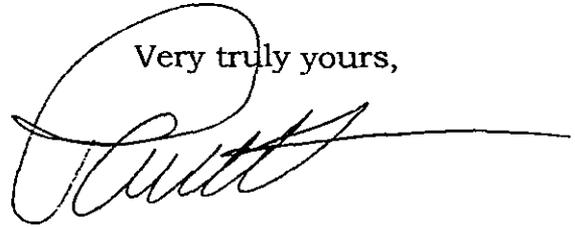
97 DEC 26 AM 9:55

32

accompanying Certificate of Service we have provided copies of the Brief to all active parties of record.

Please time stamp the additional copy of the Brief and return to our office.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul W. Kilgore", with a long horizontal flourish extending to the right.

PAUL W. KILGORE

PWK:pja  
Enclosures  
cc: All Parties of Record

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

4590

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

**ORIGINAL**

RECEIVED  
REGISTRAR'S OFFICE  
97 DEC 26 AM 9:55

CITY OF LEBANON,  
Complainant  
vs.  
CONSOLIDATED RAIL  
CORPORATION, et al,  
Respondent

Docket No. C-00970107

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION,  
Complainant  
vs.  
CONSOLIDATED RAIL  
CORPORATION,  
Respondent

Docket No. C-00970126

THE TOWNSHIP  
BOARD OF SUPERVISORS,  
Complainant  
vs.  
CONSOLIDATED RAIL  
CORPORATION, et al,  
Respondent

Docket No. C-00970106

APPLICATION OF SOUTH LEBANON  
TOWNSHIP FOR THE APPROVAL OF  
THE 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

Docket No. A-00109901

**DOCKETED**

DEC 29 1997

**DOCUMENT  
FOLDER**

## BRIEF OF SOUTH LEBANON TOWNSHIP

AND NOW, comes SOUTH LEBANON TOWNSHIP, by and through their attorneys, Spitler and Kilgore, and files the following proposed FINDINGS OF FACT, CONCLUSIONS OF LAW and BRIEF in support thereof:

### HISTORY OF THE CASE

On January 30, 1997, South Lebanon Township (TOWNSHIP) submitted a Complaint to the Public Utilities Commission (PUC) against Consolidated Rail Corporation (CONRAIL) relative to the condition of the railroad crossing, on what is referred to as, the Cornwall Industrial Track at South Lincoln Avenue. In addition, the TOWNSHIP, the City of Lebanon (CITY), the Commonwealth of Pennsylvania, Department of Transportation (PENN DOT), and the County of Lebanon Transit Authority (COLT) also filed complaints regarding other crossings on said line.

The PUC, on June 3, 1997, set the time and date for the hearing in order to consider all four (4) Complaints against CONRAIL at one time. The hearing was scheduled for August 5, 1997 before Administrative Law Judge, Herbert S. Cohen.

On July 2, 1997, CONRAIL filed an Answer to the TOWNSHIP's Complaint.

On July 24, 1997, the TOWNSHIP filed a petition to reopen an Application of the TOWNSHIP, filed to Docket number A-00109901, in order to reexamine the issue of the Wilhelm Avenue Bridge in light of the issues presented as part of the above referenced Complaints against CONRAIL.

On August 5, 1997, a hearing was held before the Administrative Law Judge, at which time all parties presented testimony regarding the at grade crossings. The record was held open until October 1, 1997, in order for CONRAIL to advise the Administrative Law Judge of a proposed sale of said line to R.J. Corman Railroad Company / Allentown Lines, Inc. (CORMAN); and, held open until October 8, 1997 as to the TOWNSHIP's petition to Consolidate the at grade crossing cases with the case of the Wilhelm Avenue Bridge.

On August 21, 1997, the PUC granted the TOWNSHIP's Petition to open the Wilhelm Avenue Bridge case and ordered the matter consolidated with the above proceedings.

On October 8, 1997, the Administrative Law Judge held a hearing to consider the circumstances of the Wilhelm Avenue Bridge and the prior order of the PUC to replace the same at a projected cost of \$1,200,000.00. The Judge refused to consider additional testimony concerning the condition of the at grade crossings and the proported sale of the line by CONRAIL to

CORMAN, the record as to the same having been closed as of October 1, 1997.

The following is submitted in accordance with the Administrative Law Judge's briefing schedule set at the conclusion of the October 8, 1997 hearing.

### PROPOSED FINDING OF FACT

1. The Cornwall Industrial Track terminates at the spur leading to the ALCOA plant in South Lebanon Township, Lebanon County, Pennsylvania. (N.T. 120 & 126).

2. The line from mile post .90 to 4.50 contains nine (9) at grade crossings and a bridge over Wilhelm Avenue. (N.T. 137).

3. The at grade crossings at Willow Street (prior to mile post .90), Cumberland Street (PA Route 422), Walnut Street, Chestnut Street, 12th Street, 10th Street, 9th Street, 8th Street, South Lincoln Avenue and State Drive all are in need of repair in order to make them safe for the traveling public. (N.T. 34).

4. CONRAIL has petitioned the Interstate Commerce Commission to abandon the line from mile post .90 to 4.50. (N.T. 121).

The cost to rehabilitate the at grade crossings which are included in the CONRAIL's ICC petition is \$90,000.00. (N.T. 137 & CONRAIL Exhibit 1).

6. The line from mile post .90 to 4.50 has not been used since November 29, 1995. (N.T. 119).

7. The last and only service on the line was to ALCOA. ALCOA has no plans to use the line; has switched to truck service; and, in accordance with its Agreement with CONRAIL, has requested CONRAIL to remove the spur which serves the plant. (N.T. 120, 134, 141, 237 CONRAIL (1) and TOWNSHIP Exhibits 6 & 7).

8. The cost to rehabilitate the track on the portion of line which is not in use and prior to resumption of rail traffic is \$451,700.00. (N.T.144).

9. There are no projected customers to be serviced by the line from mile post .90 to 4.50. (N.T. 93, 145, & CONRAIL Exhibit 1).

10. The Wilhelm Avenue Bridge is currently under order by the PUC to be replaced at an estimated cost of \$1,200,000.00. (N.T. 227).

11. The projected sharing of costs for the replacement are allocated as follows: CONRAIL \$50,000.00, with PENN DOT and the TOWNSHIP to split the balance 80%/20% respectively. (N.T. 227).

12. The PUC extended the time to file detailed plans by the TOWNSHIP to December 31, 1997. (N.T. 235).

13. The existing structure over Wilhelm Avenue allows for one lane of traffic moving east and west. (N.T. 229).

14. Wilhelm Avenue provides access to housing developments, schools, athletic fields, hospitals, VA Medical Center and a 102 acre park. (N.T. 234).

15. Traffic under the Bridge on Wilhelm Avenue is 5,120 vehicles per day. (N.T. 228).

16. The existing structure is at a low point of the road and rain water and ice lay in the underpass. (N.T. 223).

17. A new housing development with 55 of 59 houses completed lies immediately to the northeast of the underpass. (N. T. 235).

18. The TOWNSHIP plans to widen the road to two lanes and improve its condition. (N.T. 237).

19. Rail to Trails is on the service list for the Wilhelm Avenue Bridge case and had actual notice of the proceedings held October 8, 1997. (N.T. 213 & 214).

#### **PROPOSED CONCLUSION OF THE LAW**

1. The Commonwealth has jurisdiction over the subject and the parties.

2. The at grade crossing at Willow Street, Cumberland Street (US 422), Chestnut Street, 12th Street, 10th Street, 9th Street, 8th Street, S. Lincoln Avenue and State Drive are a hazard to the public.

3. The bridge over Wilhelm Avenue is a hazard to the public.

4. The Cornwall Industrial Line from mile post .90 to 4.50 has no feasible use, the public will be served by it being abandoned, and such abandonment will not adversely affect any shipper.

5. Rehabilitation of the line is outweighed by the hazard the line creates for the public, cost to rehabilitate and its non use.

## PROPOSED RECOMMENDATIONS

1. The request of SOUTH LEBANON TOWNSHIP to declare the line abandoned and abolish the crossings is approved from mile post .90 to 4.50.

2. Consolidated Rail Corporation, its successors and assigns, at its own cost and expense, shall remove all track and supporting structure, restore all pavement and, remove the Wilhelm Avenue Bridge and supporting structure in order to allow SOUTH LEBANON TOWNSHIP to widen Wilhelm Avenue to two lanes per TOWNSHIP specification.

3. Consolidated Rail Corporation, its successors and assigns, shall, at its own cost and expense, furnish all material and do all work necessary to make adjustments to its facilities required as a result of the removal of the crossings and the Wilhelm Avenue Bridge.

4. Consolidated Rail Corporation, its successors and assigns, shall, at its own cost and expense, furnish engineering and construction inspection services, as necessary, to observe the progress of the work during the time of removal, in accordance with this order.

5. Consolidated Rail Corporation, its successors and assigns, shall, at its own cost and expense, furnish and maintain watchmen and flagmen necessary to protect the traveling public during the time that the removals occur.

6. This project shall be completed, in a manner satisfactory to the Commission, within eighteen months after service of the Commission's order.

7. Upon completion of this project, Consolidated Rail Corporation, its successors and assigns, shall report to the Commission the actual date of completion of the work ordered herein.

### DISCUSSION

The TOWNSHIP submits the issues before the Commission are two-fold.

A. Whether or not the at grade crossings and the Wilhelm Avenue Bridge are a danger to the traveling public; and,

B. Given the condition of the line, cost to rehabilitate the crossings and the line and lack of customers, all crossings should be suspended with their structures removed for possible use in the future or the crossings abolished.

The PUC has jurisdiction to determine whether or not crossings and or bridges are a hazard to the public. See Public Utilities Code Section 2702 (66 Pa. C.S.A. 2702). The Commission also has jurisdiction to determine whether or not a crossing or bridge should be abolished (Section 2702). Finally, the Commission has exclusive authority to determine the allocation of costs involved in protecting the safety of the traveling public. Commonwealth Department of Transportation v. Pennsylvania Public Utility Commission, 469 A. 2d 1149, 79 Pa. Commonwealth 266, (1989).

The TOWNSHIP submits, given all the testimony presented at the two hearings, that the at grade crossing and particularly the Wilhelm Avenue Bridge is a hazard to the traveling public. Except where the CITY has patched the roadway, neither the line nor the crossings have been maintained since prior to 1995. The last service on the line between mile post .90 and 4.50 was in November of 1995. The line from just North of PA Route 422 (mile post .90) was established to serve one customer - ALCOA. ALCOA no longer uses rail service and has ordered CONRAIL to remove its rails and ties on its spur ( TOWNSHIP Exhibit 7). The PUC can, taking into account traffic congestion, conditions of the crossings or bridge, need for repair and requisite safety, close bridges or crossings indefinitely. Municipality of Monroeville v. Pennsylvania Public Utility Commission 600 A.2d 655, 143 PA Commonwealth 668 (1991). The TOWNSHIP submits the crossing should be closed from the PA Route 422 (mile post .90) to ALCOA (mile post 4.50); and, submits the Wilhelm Avenue Bridge should be removed as soon as practicable.

The testimony, which was by and large, unrebutted, clearly established the need for correction of the crossings and Bridge. Many of the crossings are subject to high volume traffic, PA Route 422, and PA Route 72 North (9th Street) and South (10th Street). Wilhelm Avenue is very busy and provides access to major hospitals, schools, athletic fields, a park and a new housing development. As previously stated, the subject line served one

customer, who has now demanded the spur to its company be ripped up pursuant to the right-of-way it granted CONRAIL.

The cost to rehabilitate the nine (9) crossings within the portion of the line which is not used is \$90,000.00 (N.T. 76). The cost to rehabilitate the track before rail service could be reestablished is \$451,500.00, based upon CONRAIL's request to abandon the line (N.T. 144). In addition, it will cost the TOWNSHIP and PENN DOT a total of \$1,200,000.00 to remove the Wilhelm Avenue Bridge, widen the roadway and reconstruct the Bridge for rail service, all pursuant to an existing PUC Order (N.T. 227). The cost to merely widen the road, should the Commission close the Bridge and order its removal, would be a small percentage of said amount. To require the Bridge be replaced, given ALCOA's actions to remove tract; that there is no prospect of future use according to the TOWNSHIP and CONRAIL; and, CONRAIL's statement that the public will be served by abandoning the line, is not in the public interest. (N.T. 138 and CONRAIL's Exhibit 1).

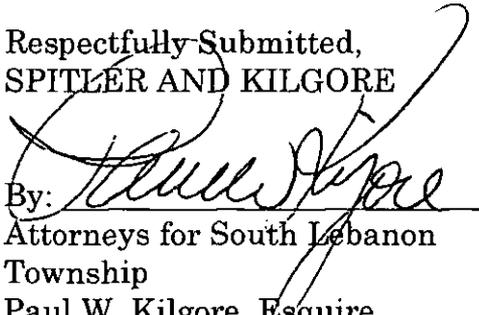
The Commission, given the authority as set forth in Monroeville, supra, should, at the very least close the nine (9) crossings indefinitely; suspend the requirements to proceed with the Bridge project; order the removal, by CONRAIL, of all structures within the crossings, including the Wilhelm Avenue Bridge; and, set a date certain for the line to be declared abandoned. Should rail service become viable in the future, the PUC has the authority to allocate costs to reestablish the crossings, and if necessary, the Bridge, the latter being considerably farther down the line than a majority of

the crossings. In the TOWNSHIP's own words, "...the Bridge is a fatality waiting to happen."

The TOWNSHIP submits the Commission can order said removal of the Bridge under its Order of October 23, 1997, paragraph two (2) filed to Docket Number M-00970979, given the danger said Bridge possesses to the traveling public and due to the fact that the Rails to Trails, having specific knowledge of these proceedings, has not expressed on the record an interest in using said Bridge.

In summary, the line from PA Route 422 (mile post .90) has not been used for more than 2 years and has not been maintained for even longer, there is no service on that portion of the line nor is there any prospect, the proposed purchaser of the line has not provided any testimony as to its fitness to operate the line (N.T. 73) nor has any person employed by said proposed purchaser testified to the same (N.T. 168), the at grade crossings are hazardous to the traveling public and the Bridge is extremely hazardous. The TOWNSHIP requests the Commission act in accordance with the above.

Respectfully Submitted,  
SPITLER AND KILGORE

By:   
Attorneys for South Lebanon  
Township  
Paul W. Kilgore, Esquire  
522 South Eighth Street  
Lebanon, Pennsylvania 17042  
(717) 273-0960  
I.D. # 25180

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing Brief of South Lebanon Township this day by depositing the same in the United States mail, postage prepaid, in Lebanon, Pennsylvania, addressed to:

Honorable Herbert S. Cohen  
Administrative Law Judge  
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

William D. Pickering  
Chief Engineer  
PennDOT  
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

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

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

Jamie Wogelmuth, Chief Clerk  
Lebanon County Commissioners  
Room 207, Municipal Building  
400 South Eighth Street  
Lebanon, PA 17042-6794

Edward M. Keener, City Engineer  
City of Lebanon  
Municipal Building  
400 South Eighth Street  
Lebanon, PA 17042-6794

RECEIVED

97 DEC 26 AM 9:55

465470

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

Benjamin C. Dunlap, Jr., Esquire  
200 North Third St., 18<sup>th</sup> Floor  
P.O. Box 840  
Harrisburg, PA 17108-0840

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

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

Edward J. Kennedy  
Vice-President  
Bell Telephone Co. Of PA  
315 North Second Street  
Harrisburg, PA 17101

Metropolitan Edison Company  
600 South Fifth Avenue  
Lebanon, PA 17042

Senator David J. Brightbill  
Senate Post Office  
Main Capital Building  
Harrisburg, PA 17120

David C. Eaton, Esquire  
200 North Third St., 18<sup>th</sup> Floor  
P.O. Box 840  
Harrisburg, PA 17108-0840

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

Adrienne C. Snelling, Esquire  
Lebanon County Solicitor  
Room 207, Municipal Building  
400 South Eighth Street  
Lebanon, PA 17042-6794

Curtis E. Kulp, Manager  
South Lebanon Township  
Board of Supervisors  
1800 South Fifth Avenue  
Lebanon, PA 17042

Fred D. Hafer, President  
Met-Ed  
P.O. Box 542  
Reading, PA 19640

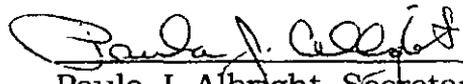
Lebanon Valley Cable TV Co.  
n/k/a Time Warner Cable  
1555 Suzy Drive  
Lebanon, PA 17046

Mrs. Lydia M. Sholley  
Party In Interest  
35 Wilhelm Avenue  
Lebanon, PA 17042

Thomas P. Brogan, Esquire  
Bell Telephone of PA  
Malatesta, Hawke & McKeon  
Harrisburg Energy Center  
100 North Tenth Street  
Harrisburg, PA 17101

Donna Brightbill, Esquire  
Robert E. Siegrist  
315 South Eighth Street  
Lebanon, PA 17042

John B. Wengert  
Lebanon Valley Rails to Trails, Inc.  
278 Old Mount Gretna Road  
Lebanon, PA 17042

  
\_\_\_\_\_  
Paula J. Albright, Secretary to  
Paul W. Kilgore, Esquire

Dated: December 24, 1997

WEISS, WEISS & WEISS  
ATTORNEYS AT LAW  
802 WALNUT STREET  
P. O. Box 838  
LEBANON, PENNSYLVANIA 17042-0838

TELEPHONE (717) 273-1661  
FACSIMILE (717) 273-0732

SAMUEL G. WEISS, JR.  
PAMELA A. WEISS  
M. JANNIFER WEISS

SAMUEL G. WEISS, SR.  
(1946-1988)

JOHN L. HEATON

December 24, 1997

ORIGINAL

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

In Re: Docket Nos. A-00113589;  
C-00970107  
C-00970126  
C-00970106  
A-00109901

Dear Sir:

Please be advised that the City of Lebanon has reviewed the Brief of South Lebanon Township which has been or shortly will be filed in the above captioned matters. The City of Lebanon concurs in the History of the Case, Proposed Findings of Fact, Proposed Conclusions of Law, Discussion and Proposed Recommendations filed by South Lebanon Township and urges the Pennsylvania Public Utility Commission to adopt the proposed Recommendations of South Lebanon Township contained therein.

The City of Lebanon will not be filing a separate Brief.

Very truly yours,



SAMUEL G. WEISS, JR.

024516

SGW, JR. /mf

DOCKETED  
DEC 29 1997  
DOCUMENT  
FOLDER

RECEIVED  
PROTHONOTARY'S OFFICE

97 DEC 26 AM 8:29



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 : Docket No. C-00970107  
Complainant :  
vs. :  
Consolidated Rail Corporation, :  
et al :  
Respondent :

Commonwealth of Pennsylvania : Docket No. C-00970126  
Department of Transportation :  
Complainant :  
vs. :  
Consolidated Rail Corporation :  
Respondent :

South Lebanon Township : Docket No. C-00970106  
Board of Supervisors :  
Complainant :  
vs. :  
Consolidated Rail Corporation :  
et al :  
Respondent :

Application of South Lebanon : Docket No. A-0010990  
Township for Approval of the :  
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 :

024575

RECEIVED  
PROTHONOTARY'S OFFICE

97 DEC 28 AM 9:48

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that I served a copy of the attached letter dated December 24, 1997 by depositing the same in the United States Mail, postage prepaid, at Lebanon, Pennsylvania, addressed to:

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

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

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

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

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

Timothy D. Sheffey, Esquire  
County of Lebanon Transit Authority  
1601 Cornwall Road  
Lebanon, Pa. 17042

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

Gina M. D'Alfonso, Esquire  
Pa. Dept. of Transportation  
Forum Place, 9th Floor  
555 Walnut Street  
Harrisburg, Pa. 17101-1900

024576

97 DEC 26 AM 9:48

RECEIVED  
PROTHONOTARY'S OFFICE

DOCKETED

DEC 29 1997

DOCUMENT  
FOLDER

Jamie Wogelmuth, Chief Clerk  
Lebanon County Commissioners  
Room 207, Municipal Building  
400 South Eighth Street  
Lebanon, Pa. 17042

Edward M. Keener, City Engineer  
City of Lebanon  
Municipal Building  
400 South Eighth Street  
Lebanon, Pa. 17042

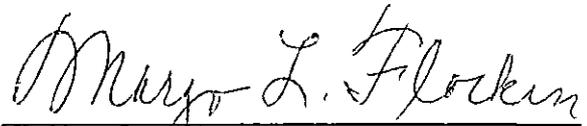
John Herzog, Esquire  
Pa. PUC Transportation/Safety  
Rail Division  
P.O. Box 3265  
Harrisburg, Pa. 17105-3265

Keith L. Kilgore, Esquire  
South Lebanon Township  
522 South Eighth Street  
Lebanon, Pa. 17042

Adrienne C. Snelling, Esquire  
Lebanon County Solicitor  
Municipal Building, Room 207  
400 South Eighth Street  
Lebanon, Pa. 17042

Paul Krause, Chairman  
South Lebanon Township  
1800 South Fifth Avenue  
Lebanon, Pa. 17042

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

  
Margo L. Flocken, Secretary to  
Samuel G. Weiss, Jr.

Dated: December 24, 1997

WEISS, WEISS & WEISS  
ATTORNEYS AT LAW  
100 WALNUT STREET  
P. O. Box 000

LEBANON, PENNSYLVANIA 17042-0000  
TELEPHONE (717) 270-1000  
FACSIMILE (717) 270-0700

COPY

SAMUEL G. WEISS, JR.  
FAMBA A. WEISS  
M. JANNIFER WEISS

SAMUEL G. WEISS, SR.  
0010-1000

JOHN L. HEATON

December 24, 1997

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

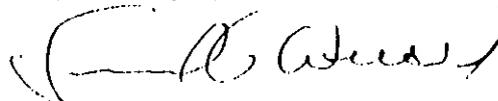
In Re: Docket Nos. A-00113589  
C-00970107  
C-00970126  
C-00970106  
A-00109901

Dear Sir:

Please be advised that the City of Lebanon has reviewed the Brief of South Lebanon Township which has been or shortly will be filed in the above captioned matters. The City of Lebanon concurs in the History of the Case, Proposed Findings of Fact, Proposed Conclusions of Law, Discussion and Proposed Recommendations filed by South Lebanon Township and urges the Pennsylvania Public Utility Commission to adopt the proposed Recommendations of South Lebanon Township contained therein.

The City of Lebanon will not be filing a separate Brief.

Very truly yours,



SAMUEL G. WEISS, JR.

024577

SGW, JR. /mf

97 DEC 26 AM 9:48  
RECEIVED  
PROTHONOTARY'S OFFICE

DOCUMENT  
FOLDER

NAUMAN, SMITH, SHISSLER & HALL

LAW OFFICES  
**ORIGINAL**  
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

December 29, 1997

**HAND DELIVERED**

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

A-00113589

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

RECEIVED  
97 DEC 29 PM 1:38  
PAPUC  
PROTHONOTARY'S OFFICE

**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**

Dear Sir:

I enclose an original and nine (9) copies of the "Main 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 Main Brief of Consolidated Rail Corporation to all active parties of record.

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

Sincerely yours,

*Judy A. Imes*  
Judy A. Imes  
Secretary to Benjamin C. Dunlap, Jr.

/jai  
Enclosures

cc: All Parties of Record  
ALJ Herbert S. Cohen

54

**ORIGINAL**  
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

**DOCUMENT  
FOLDER**

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

RECEIVED  
97 DEC 29 PM 1:38  
PAPUC  
PROTHONOTARY'S OFFICE  
**DOCKETED**  
DEC 29 1997

**MAIN BRIEF OF CONSOLIDATED RAIL CORPORATION**

## Statement of the Case

These proceedings began with a filing by the County of Lebanon Transit Authority ("COLT") for approval to suspend a series of crossings on the Cornwall Industrial Track in Lebanon County on December 6, 1996, docketed at A-00113589. The application sought to suspend seven crossings in the City of Lebanon at which COLT vehicles were required to stop: Cumberland Street (U.S. Route 422), Chestnut Street, Walnut Street, Twelfth Street, Tenth Street, Ninth Street and Eighth Street.

The City of Lebanon ("City") filed its complaint regarding the alleged condition of the same crossings which were the subject of the COLT application, with the addition of the Willow Street crossing in the City, on or about January 28, 1997, docketed at C-00970107. The Pennsylvania Department of Transportation ("PennDOT") filed its complaint regarding the alleged condition of the crossing at State Route 2003, locally known as State Drive, on January 31, 1997, docketed at C-00970126. South Lebanon Township ("Township") filed its complaint regarding the alleged condition of the crossing at South Lincoln Avenue on February 4, 1997, which was docketed to C-00970106.

Conrail filed its answer to PennDOT's complaint on March 17, 1997. Conrail's answers to the complaints of the City and Township were filed on July 24, 1997. As the above four matters involved related crossings on the Cornwall Industrial Track, the proceedings were consolidated for hearing purposes, pursuant to requests by PennDOT and COLT.

An initial hearing was held before Administrative Law Judge Herbert S. Cohen on August 5, 1997. On July 30, 1997, South Lebanon Township filed a petition to reopen the proceeding at A-00109901 to take additional evidence regarding the disposition of the Wilhelm Avenue crossing. By Order entered August 26, 1997, the Commission granted South Lebanon Township's petition to reopen and consolidated that matter with the aforementioned complaint and application proceedings.

A further hearing was held on October 8, 1997. Conrail filed its petition to reopen to submit evidence of Conrail's conveyance of portions of the Cornwall Industrial Track to R.J. Corman Railroad Company/Allentown Lines, Inc., ("Corman") as well as evidence of Corman's filing of a verified notice of exemption to acquire and operate the line on December 5, 1997. An amended petition to reopen was filed on December 18, 1997. Pursuant to an order of ALJ Cohen at the further hearing, main briefs of the parties were due on or before December 29, 1997, with reply briefs due 10 days thereafter.

#### Proposed Findings of Fact

1. The primary problem with the subject crossings is that people slow down when approaching the crossings. (N.T. 53).

2. COLT's transit vehicles are required to stop at the subject crossings on its routes. (N.T. 95-6, 98).

3. The Cumberland Street, Eighth Street and State Drive crossings specifically do not present any safety hazard. (N.T. 42, 50-51, 180).

4. There has been just one reportable accident at any of the subject crossings, which involved a vehicle traveling at excessive speed hitting a signal or sign post at the State Drive crossing. (N.T. 25, 30, 74-5, 95).

5. There has been no service on the Cornwall Industrial Track since late 1995. (N.T. 119).

6. Conrail filed a petition for exemption dated December 21, 1995, with the Interstate Commerce Commission ("ICC") to abandon portions of the subject rail line, which was granted by the Surface Transportation Board, the ICC's successor, in a decision having a service date of July 25, 1996, at Docket No. AB-167 (Sub-No. 1156X). (Conrail Exhibits No. 1 and 2).

7. Conrail conveyed the subject rail line containing all of the subject crossings except Willow Street on October 14, 1997. (Conrail Exhibit No. 3, attached to Conrail's Amended Petition to Reopen as Exhibit "A"; N.T. 58, 126-7).

8. Corman has agreed to be responsible for any work ordered by the Commission at any of the crossings within the conveyed portion of the line. (N.T. 167; Conrail Exhibit No. 3 at ¶ 4, attached to Conrail's Amended Petition to Reopen as Exhibit "A").

9. Corman has filed a verified notice of exemption with the Surface Transportation Board to acquire and operate those portions of the subject rail line acquired by it from Conrail. (Conrail Exhibit No. 4, attached to Conrail's Amended Petition to Reopen as Exhibit "B").

10. Corman owns operating railroads in Tennessee, Ohio and Pennsylvania. (N.T. 165).

11. Corman could rehabilitate and operate the conveyed rail line for less money and with different operating parameters than could Conrail. (N.T. 142-3, 158-9, 172-3).

12. Conrail agrees to repair the Willow Street crossing in the City to bring it to acceptable standards. (N.T. 58, 126-7).

#### Statement of Questions Involved

1. Should not the involved at-grade crossings, with the exception of Willow Street, be suspended with the tracks paved over and the crossing warning devices covered, for 12 months until a determination is reached regarding the resumption of rail operations on the conveyed portion of the Cornwall Industrial Track, as that course of action would provide a smooth roadway surface for the traveling public and eliminate the need for COLT transit vehicles to stop at the crossings?

Suggested answer in the affirmative.

2. Should not any decision on the disposition of the Wilhelm Avenue separated grade crossing be held in abeyance for 12 months until a determination is made as to the feasibility of Corman operating the subject rail line, in order to avoid the potential unnecessary expenditure of tax revenues if rail operations are not resumed and to ensure that Bridge Bill funding is available if the crossing is necessary for resumed operations?

Suggested answer in the affirmative.

3. Should not Corman be allocated the responsibility and cost in the first instance for the work ordered at any of the subject crossings, with the exception of Willow Street, when it is the owner of the rail line at those crossings and has agreed to be responsible for any work ordered?

Suggested answer in the affirmative.

#### Summary of Argument

The subject rail line containing all of the subject crossings, with the exception of the Willow Street crossing in the City of Lebanon, has been conveyed to R.J. Corman Railroad Company/Allentown Lines, Inc. Corman has demonstrated that it intends to resume operations on the rail line, although a final determination will not be reached for a year. The at-grade crossings on the conveyed portion of the line should therefore be suspended, with the tracks paved over and the crossing warning devices covered, as this would resolve the problems complained of by

providing a smooth roadway surface at the crossings for the traveling public and would eliminate the need for COLT's transit vehicles to stop at the crossings on its routes.

Any decision as to the final disposition of the Wilhelm Avenue crossing should be held in abeyance for 12 months until a determination is made by Corman as to the resumption of rail operations on the line. This would serve to both save the unnecessary expenditure of tax revenues if rail operations are not resumed and ensure that Bridge Bill funding will still be available if rail operations are resumed and reconstruction of the crossing becomes necessary.

Conrail has agreed to repair the Willow Street crossing as necessary to bring it to acceptable standards. Corman should be assigned responsibility to perform any work ordered at any other crossings in the first instance, as the owner of the subject crossings. Future maintenance of all of the subject crossings except Willow Street should be assigned to Corman.

#### Argument

The Commission has exclusive authority, pursuant to 66 Pa.C.S. § 2702, to order repairs or reconstruction of rail-highway crossings, as well as exclusive authority to determine and order which parties shall perform such work at the crossings and which parties shall maintain the crossings in the future, to prevent accidents and promote the safety of the public. *Southeastern Pa. Transportation Authority v. Pa. Public Utility Comm'n*, 140 Pa. Commw. 270, 592 A.2d 797, 800

(1991), *allocatur denied*, 611 A.2d 714 (1992). The Commission is likewise empowered to determine and prescribe the manner in which such crossings are to be repaired. *Pa. Game Comm'n v. Pa. Public Utility Comm'n*, 651 A.2d 596, 602-3 (Pa. Commw. 1994), *allocatur denied*, 664 A.2d 977. The Commission has the power to modify any previous order issued, based upon a proper petition and showing of changed circumstances. 66 Pa.C.S. § 703(g).

Pursuant to 66 Pa.C.S. § 2704(a), the Commission has exclusive authority to assess the costs of any work it orders upon the concerned parties to this proceeding in such proper proportions as the Commission may determine. The Commission determines what parties are concerned within the meaning of 66 Pa.C.S. §§ 2704(a) and 2702(c). *County of Chester v. Pa. Public Utility Comm'n*, 47 Pa. Commw. 366, 408 A.2d 552, 553 (1979). In apportioning costs in rail-highway crossing cases, the Commission is not limited to any fixed rule, but takes all relevant factors into consideration, the only requirement being that its order is just and reasonable. *Monroeville v. Pa. Public Utility Comm'n*, 143 Pa. Commw. 668, 600 A.2d 655, 656-7 (1991); *East Rockhill Twp. v. Pa. Public Utility Comm'n*, 115 Pa. Commw. 228, 540 A.2d 600, 603 (1988).

In the present case, Conrail conveyed that portion of the Cornwall Industrial Track containing all of the subject crossings except Willow Street on October 14, 1997. (Conrail Exhibit No. 3, attached to Conrail's Amended Petition to Reopen as Exhibit "A"). Conrail has agreed to repair the Willow Street crossing in the City as necessary to bring it to acceptable standards. (N.T. 58, 126-7).

Although Conrail ended service on the conveyed portion of the line in late 1995, (N.T. 119), and abandonment of that portion of the line was subsequently granted by the Surface Transportation Board, (Conrail Exhibit No. 2), Corman has indicated that it intends to resume operations on the line within a year. (N.T. 207-8). The best evidence of Corman's intentions in this regard is shown by its filing of a verified notice of exemption with the Surface Transportation Board to acquire and operate those portions of the subject rail line acquired by it from Conrail. (Conrail Exhibit No. 4, attached to Conrail's Amended Petition to Reopen as Exhibit "B").

Corman's exemption became effective seven days after the notice was filed. 49 C.F.R. § 1150.42(b). Evidence was also presented at the August 5, 1997, hearing that Corman could rehabilitate and operate the conveyed rail line for less money and with different operating parameters than could Conrail. (N.T. 142-3, 158-9, 172-3).

Because Corman has not yet reached a decision as to the feasibility of resuming operations on the line, it would make sense to hold the final disposition of the Wilhelm Avenue crossing in abeyance for 12 months following the entry of an interim order by the Commission. Corman's counsel represented at the hearing that the company should know whether it will resume operations within about a year. (N.T. 207-8). Holding a final decision regarding Wilhelm Avenue in abeyance for 12 months will both ensure that tax revenues are not spent needlessly should operations not be resumed and would further ensure that Bridge Bill funding was still in place should operations be resumed and the bridge becomes necessary. (N.T. 12).

Regarding the at-grade crossings, there has been just one reportable accident at any of the subject crossings, which involved a vehicle traveling at excessive speed hitting a signal or sign post at the State Drive crossing. (N.T. 25, 30, 74-5, 95). The Cumberland Street, Eighth Street and State Drive crossings specifically do not present any safety hazard. (N.T. 42, 50-51, 180). The primary problem with the subject crossings is that people slow down when approaching the crossings, (N.T. 53), which they should be doing in any case under the common law "stop, look and listen" rule. *Riesberg v. Pittsburg & Lake Erie Railroad*, 407 Pa. 434, 180 A.2d 575, 578 (1962); *Buchecker v. Reading Co.*, 271 Pa. Super. 35, 412 A.2d 147 (1979). However, COLT's transit vehicles are required to stop at the subject crossings on its routes, which has created some problems. (N.T. 96, 103-7).

To avoid the need for COLT's vehicles to stop at the subject crossings within the conveyed portion of the line, the Commission could order that those at-grade crossings be suspended, pending a determination as to the resumption of operations on the line. If the crossings are suspended, the Public Utility Code requires that the tracks be paved over or removed and that crossing warning devices be removed or covered. 66 Pa.C.S. § 2702(g).

The Commission should order that the tracks be paved over rather than removed, and that the crossing warning devices be covered, as a determination as to the resumption of rail operations should be made within 12 months of the entry of the Commission's Order suspending the crossings. (N.T. 207-8). This would resolve all matters complained of regarding the at-grade crossings on the conveyed portion of the line, by providing a smooth roadway surface for the traveling public and by

eliminating the requirement that COLT's vehicles stop at the suspended crossings. Removal of the tracks at this time would be a waste of railroad resources if operations are resumed, while contributing nothing to the public safety in the interim. A further hearing can then be scheduled as to 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.

Corman has agreed to be responsible for any work ordered by the Commission at any of the crossings within the conveyed portion of the line. (N.T. 167; Conrail Exhibit No. 3 at ¶ 4, attached to Conrail's Amended Petition to Reopen as Exhibit "A"). As the owner of operating railroads in Pennsylvania, (N.T. 165), Corman is subject to the jurisdiction of the Commission to perform the work and bear the costs of any work ordered at any of the crossings on those portions of the line which it owns. 66 Pa.C.S. §§ 2702(c) and 2704(a).

Corman's acquisition of the crossings "would suggest that [it] should be held liable in the first instance [for the performance of any work ordered and costs] for [it] would normally assume the attendant obligations of ownership." *Pa. Public Utility Commission v. Southeastern Pa. Transportation Authority*, 21 Pa. Commw. 106, 343 A.2d 371, 374 (1975). In addition, Conrail may not be assigned any responsibility or costs for future maintenance of the subject crossings, with the exception of Willow Street, as a railroad's liability for crossing obligations stems from "the presence and ownership of the track involved." *Lehigh and New England Railroad Company v. Public Service Commission*, 126 Pa. Super. 565, 571, 191 A. 380 (1937).

## Conclusion

Conrail requests that the Commission adopt the Proposed Ordering Paragraphs below, suspending the at-grade crossings on the conveyed portion of the Cornwall Industrial Track to protect the public safety at this time, while holding final determinations of more substantial work in abeyance until a decision is reached as to the feasibility of continued rail operations on the line. Conrail's Proposed Ordering Paragraphs are based on substantial evidence in the record and legal authority, as discussed in the Argument section of this brief.

## Proposed Conclusions of Law

1. The Commission has jurisdiction over the subject matter and parties pursuant to 66 Pa.C.S. §§ 2702 and 2704.
2. Corman's filed verified notice of exemption with the Surface Transportation Board to acquire and operate those portions of the subject rail line acquired by it from Conrail, (Conrail Exhibit No. 4, attached to Conrail's Amended Petition to Reopen as Exhibit "B"), became effective seven days after the notice was filed. 49 C.F.R. § 1150.42(b).
3. It would be just and reasonable to hold Corman liable in the first instance for the performance of any work ordered and costs at all of the subject crossings conveyed to it by Conrail,

as Corman "would normally assume the attendant obligations of ownership." *Pa. Public Utility Commission v. Southeastern Pa. Transportation Authority*, 21 Pa. Commw. 106, 343 A.2d 371, 374 (1975).

4. Conrail may not be assigned any responsibility or costs for future maintenance of the subject crossings, with the exception of Willow Street, as a railroad's liability for crossing obligations stems from "the presence and ownership of the track involved." *Lehigh and New England Railroad Company v. Public Service Commission*, 126 Pa. Super. 565, 571, 191 A. 380 (1937).

#### Proposed Ordering Paragraphs

1. That Consolidated Rail Corporation shall submit plans to the Commission for the repair of the Willow Street crossing in the City of Lebanon to bring the crossing to acceptable standards and serve copies of its plans on all parties within 60 days of the entry of the Commission's order.

2. That upon the Commission's approval of Conrail's plans, Conrail shall at its sole cost perform all work in conjunction with the approved plans at the Willow Street crossing within three months of the Commission's approval of the plans.

3. That Consolidated Rail Corporation shall inform the City of Lebanon at least one week prior to the start of work at the Willow Street crossing.

4. That the City of Lebanon at its sole cost shall set up and maintain any traffic detours or obtain flagmen necessitated by the work at the Willow Street crossing.

5. That the crossing of the tracks of R.J. Corman Railroad Company/Allentown Lines, Inc., with Cumberland Street (U.S. Route 422), Chestnut Street, Walnut Street, Twelfth Street, Tenth Street, Ninth Street and Eighth Street in the City of Lebanon and State Route 2003 (State Drive) and South Lincoln Avenue in South Lebanon Township be and hereby are suspended.

6. That R.J. Corman Railroad Company/Allentown Lines, Inc., pave over its tracks to provide a smooth riding surface and cover the crossing warning devices at the crossings of its tracks with Cumberland Street (U.S. Route 422), Chestnut Street, Walnut Street, Twelfth Street, Tenth Street, Ninth Street and Eighth Street in the City of Lebanon and State Route 2003 (State Drive) and South Lincoln Avenue in South Lebanon Township in order to effect the suspension of these crossings within 60 days of the entry of the Commission's Order.

7. That the Commission's Order dated September 15, 1997, in A-00109901, regarding the Wilhelm Avenue crossing, be held in abeyance until a determination is made as to the resumption of rail operations on the conveyed portion of the Cornwall Industrial Track.

8. That a further hearing be scheduled 12 months from the entry of the Commission's order to determine a final disposition of the Wilhelm Avenue crossing and to determine any work necessary to reactivate or abolish the crossings of the tracks of R.J. Corman Railroad Company/Allentown Lines, Inc., with Cumberland Street (U.S.Route 422), Chestnut Street, Walnut Street, Twelfth Street, Tenth Street, Ninth Street and Eighth Street in the City of Lebanon and State Route 2003 (State Drive) and South Lincoln Avenue in South Lebanon Township.

9. That prior to the further hearing, a site conference be held with the subject parties in an effort to reach agreement as to any work necessary to reactivate or abolish the crossings of the tracks of R.J. Corman Railroad Company/Allentown Lines, Inc., with Cumberland Street (U.S. Route 422), Chestnut Street, Walnut Street, Twelfth Street, Tenth Street, Ninth Street and Eighth Street in the City of Lebanon and State Route 2003 (State Drive) and South Lincoln Avenue in South Lebanon Township.

10. That this Order is without prejudice to the right of any party to recover part or all of any costs incurred by said party in compliance with the provisions of this Order, in accordance with any lawful agreement between it and the other party.

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  
Attorney for Consolidated Rail Corporation

Date: December 24, 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 the "Main Brief of Consolidated Rail Corporation" in the above matter, 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

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

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

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

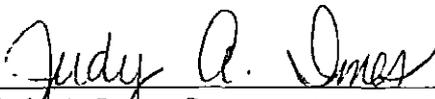
Gina M. D'Alfonso, Esquire  
PA Department of Transportation  
Forum Place 9<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1900

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

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

Daniel J. Birsic, Esquire  
One Gateway Center  
Pittsburgh, PA 15222

  
\_\_\_\_\_  
Judy A. Imes, Secretary to  
Benjamin C. Dunlap, Jr., Esquire

Dated: December 29, 1997

ORIGINAL



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

Office of Chief Counsel  
Forum Place  
555 Walnut Street - 9th Floor  
Harrisburg, Pennsylvania 17101-1900  
Telephone No. (717) 787-3128  
Fax No. (717) 772-2741

DOCUMENT  
FOLDER

December 29, 1997

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

Re: Docket No. A-00113589, C-00970106, C-00970107  
C-00970126, A-00109901

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

97 DEC 29 AM 9:54

RECEIVED

Dear Prothonotary:

Enclosed for filing please find the original and nine (9) copies of the Main Brief of the Department of Transportation in the above-captioned matter.

I hereby certify that the parties indicated on the Certificate of Service have been served with two copies of said Brief.

Very truly yours,

*Gina M. D'Alfonso*

Gina M. D'Alfonso  
Assistant Counsel-in-Charge

220/GMD:sls

cc: Honorable Herbert S. Cohen  
Parties of Record  
William D. Pickering, P.E. (Attn: Harvey I. Cassell)  
District 8-0 (Attn: Raymond W. Britcher)

51

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**ORIGINAL**

Docket No. A-00113589, C-00970106,  
C-00970107, C-00970126,  
A-00109901

Application of County of Lebanon  
Transit Authority, South Lebanon Town-  
ship Board of Supervisors v. Consolidated  
Rail Corporation, City of Lebanon v.  
Consolidated Rail Corporation, Pennsyl-  
vania Department of Transportation v.  
Consolidated Rail Corporation, Application  
of South Lebanon Township.

MAIN BRIEF OF THE  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

**DOCKETED**  
DEC 29 1997

**DOCUMENT  
FOLDER**

Gina M. D'Alfonso  
Assistant Counsel in Charge

William J. Cressler  
Assistant Chief Counsel

Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel - 9th Floor  
Forum Place, 555 Walnut Street  
Harrisburg, Pennsylvania 17101-1900  
Telephone No. (717) 787-3128  
Fax No. (717) 772-2741

**RECEIVED**  
97 DEC 29 AM 9:54  
PA.P.U.C.  
PROTHONOTARY'S OFFICE

TABLE OF CONTENTS

	<u>Page</u>
Table of Citations .....	ii
Issue Presented .....	1
Statement of the Case .....	2
Summary of the Argument .....	3
Argument	
I.    THE AT-GRADE CROSSINGS SHOULD BE SUSPENDED WITH THE REMOVAL OF RAIL AND RAIL APPURTENANCES AND RESTORATION OF THE ROADWAY SURFACE .....	4
II.   THE WILHELM AVENUE BRIDGE PROJECT SHOULD BE MODIFIED .....	7
Conclusion .....	8
Proposed Findings of Fact .....	9
Proposed Conclusions of Law .....	15
Proposed Ordering Paragraphs .....	17

TABLE OF CITATIONS

<u>Cases</u>	<u>Page</u>
<u>Bell Atlantic-Pa., Inc. v. Pa. PUC</u> , 672 A.2d 352 (Pa. Cmwlth. Ct. 1996) .....	4
<u>Greene Township v. Pa. PUC</u> , 668 A.2d 615 (Pa. Cmwlth. Ct. 1995) .....	4
<u>SEPTA v. Pa. PUC</u> , 140 Pa. Commonwealth Ct. 270, 592 A.2d 797, 800 (1991), <u>alloc. denied</u> 611 A.2d 714 (1992) .....	4

ISSUES PRESENTED

- I. WHETHER THE AT-GRADE CROSSINGS SHOULD BE SUSPENDED WITH THE REMOVAL OF RAIL AND RAIL APPURTENANCES AND RESTORATION OF THE ROADWAY SURFACE?

(Suggested Answer: Yes.)

- II. WHETHER THE WILHELM AVENUE BRIDGE PROJECT SHOULD BE MODIFIED?

(Suggested Answer: Yes.)

STATEMENT OF THE CASE

This case was initiated by an application filed by the County of Lebanon Transit Authority for the approval of the suspension of a series of crossings involving the Cornwall Industrial track as well as three complaints relative to a number of at-grade crossings in South Lebanon Township and in the City of Lebanon. Additionally, the application of South Lebanon Township for the alteration of the crossing where Township Road 705 crosses below Consolidated Rail Corporation was consolidated with the above cases. Hearings were held on August 5, 1997, and on October 8, 1997, before the Honorable Herbert S. Cohen, Administrative Law Judge.

The record created at the two hearings provides the Commission with sufficient evidence upon which to enter an order granting the relief requested by the Complainants and Applicants.

At the conclusion of the hearing on October 8, 1997, the Administrative Law Judge directed that briefs be filed in this matter. This brief follows.

SUMMARY OF THE ARGUMENT

It would be just and reasonable to direct Consolidated Rail Corporation to do all work necessary to suspend the subject at-grade crossings and to direct the highway authority to remove any advance signs and pavement markings at the at-grade crossings. This work would be done to effectuate the suspension of the crossings until such time, if ever, rail traffic resumes on the Cornwall Industrial track. If rail traffic has not resumed within three years from the suspension of the crossings, the railroad should file an application to abolish the crossings. Additionally, the evidence is sufficient to modify the scope of work for the Wilhelm Avenue bridge project so as to permit South Lebanon Township to do the roadway work at this time and to construct a new railroad bridge if and when rail traffic resumes on this line.

## ARGUMENT

- I. THE AT-GRADE CROSSINGS SHOULD BE SUSPENDED WITH THE REMOVAL OF RAIL AND RAIL APPURTENANCES AND RESTORATION OF THE ROADWAY SURFACE.

The Public Utility Commission (PUC) has the authority to order the construction, reconstruction, alteration, repair, protection, suspension or abolition of rail highway crossings. 66 Pa.C.S.A. §2702(b). The PUC also has the authority to determine what parties will perform the work and what parties should have maintenance responsibility once the work is completed. 66 Pa.C.S.A. §2704(a); see also, SEPTA v. Pa. PUC, 140 Pa. Commonwealth Ct. 270, 277, 592 A.2d 797, 800 (1991), alloc. denied 611 A.2d 714 (1992). The PUC must consider all relevant factors with the only requirement being that the PUC order is just and reasonable and rests upon a sound legal basis. Greene Township v. Pa. PUC, 668 A.2d 615 (Pa. Cmwlth. Ct. 1995); Bell Atlantic-Pa., Inc. v. Pa. PUC, 672 A.2d 352 (Pa. Cmwlth. Ct. 1996). Among the factors which the PUC may consider are: the party that owned and maintained the crossing; whether a party is responsible for the deterioration the crossing that has lead to the need for its repair, replacement or removal; and, the relative benefit initially conferred on each party with the construction of the crossing. Greene Township at 619. The

jurisdiction of the PUC to regulate rail highway crossings is to effectuate the prevention of accidents and the promotion of safety of the public. 66 Pa.C.S.A. §2702(b). The primary concern of the Department is the complaint proceeding which involves the condition of the State Drive, S.R. 2003, crossing in South Lebanon Township. However, the arguments advanced in support of the suspension of the State Drive crossing are equally applicable to the remaining at-grade crossings.

The State Drive crossing is located in front of the ALCOA plant and was originally constructed in 1967 (N.T. 16-17). The crossing has not seen any major repairs since its construction and the guard logs have been permitted to rot. The logs have not been replaced with other logs but have been replaced with asphalt patches of uneven quality (N.T. 17). The wood at the crossing has been permitted to deteriorate to the point to allow the spikes to come up creating a hazardous condition (N.T. 18). Additionally, since the crossing has sunk two to three inches and is on a vertical curve it is difficult for a motorist to see in advance (N.T. 18). Even though there has not been train traffic since 1995, a number of vehicles such as school buses, buses and vehicles carrying hazardous materials are still required to stop at the crossing (N.T. 20). The necessity of vehicles to stop at this inactive crossing creates an additional hazard.

Based upon the unrebutted testimony regarding the condition of the crossing as well as the requirement that specific vehicles must stop at this crossing, and the fact that rail traffic has not operated on this line since 1995, it would be just and reasonable for this Commission to enter an Order suspending the crossing and directing that all rail and rail appurtenances be removed and that all warning devices be covered or removed by Conrail at its sole cost by June 30, 1998. All advanced pavement markings and stop bars and advanced warning signs should be removed by the Department at the sole cost of the Department (N.T. 21).

II. THE WILHELM AVENUE BRIDGE PROJECT SHOULD BE MODIFIED.

Due to the uncertainty of future rail traffic on the Cornwall Industrial track, it would be just and reasonable to direct South Lebanon Township (Township) to prepare plans for the Wilhelm Avenue bridge project that would include the immediate removal of the bridge structure and realignment of Wilhelm Avenue. These plans should also incorporate the design for the placement of a railroad structure. By the plans recognizing the possible future need for a structure, the railroad's interest is preserved if and when rail traffic resumes on the corridor.

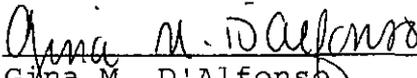
Additionally, the Department of Transportation is providing 80% funding for the project through the Bridge Bill. The Department of Transportation has agreed that if and when a railroad structure would have to be built at this location, Bridge Bill funding would be available to reimburse South Lebanon Township.

As such, in the interest of public safety, the Wilhelm Avenue bridge project should be permitted to progress without the immediate construction of a railroad bridge.

CONCLUSION

The record and the arguments herein supports the suspension of the at-grade crossings and the modification of the scope of work for the Wilhelm Avenue project.

Respectfully submitted,

  
\_\_\_\_\_  
Gina M. D'Alfonso  
Assistant Counsel in Charge

William J. Cressler  
Assistant Chief Counsel

Dated: December 29, 1997

PROPOSED FINDINGS OF FACT

1. State Drive, S.R. 2003, is located in South Lebanon Township, Lebanon County, in front of the ALCOA plant (N.T. 16).
2. This crossing was constructed in approximately 1967 when S.R. 2003 was totally reconstructed from the City past the ALCOA plant (N.T. 17).
3. This crossing has not seen any major repair since its construction. The guard logs have been allowed to rot away and have been replaced with asphalt patches of uneven quality (N.T. 17).
4. Guard logs are the timbers placed against the rail on rail crossings (N.T. 17).
5. The wood at this crossing has been permitted to deteriorate to allow the spikes to come up creating a hazardous condition (N.T. 18).
6. The crossing has sunk and is on a vertical curve. This creates a dip that makes it difficult for a motorist to

- spot in advance (N.T. 18).
7. The crossing has sunk approximately two or three inches below the highway (N.T. 18).
  8. There are signal plaques at the crossing (N.T. 19).
  9. The speed limit is a 45 mile per hour on S.R. 2003 (N.T.20).
  10. Train traffic ended in late 1995 (N.T. 20).
  11. A number of vehicles, like school buses, buses and vehicles carrying hazardous material, are required to stop at this crossing (N.T. 20).
  12. The crossing is a hazard because every school bus must stop even though a train has not operated across the crossing for almost two years (N.T. 20).
  13. All crossings, except Willow Street should be suspended by the removal of all rail appurtenances by June 30, 1998, by Conrail, at its sole cost (N.T. 21).

14. Willow Street should be reconstructed by June 30, 1998, at the sole cost and expense of Conrail (N.T. 21).
15. All warning devices should be covered or removed by Conrail at its sole cost (N.T. 21).
16. Advanced warning signs should be covered or removed by the highway agency at its sole cost (N.T. 21).
17. Advanced pavement markings and stop bars should be removed by the highway agency at its sole cost (N.T. 21).
18. The period of suspension should not be more than three years (N.T. 21).
19. If service does not resume within the three year period, than the operating railroad should file an application to abolish the crossings (N.T. 21).
20. If service resumes on the line, the railroad should install new crossings at the sole cost and expense of the railroad (N.T. 21).

21. If service resumes, the highway agencies should restore all advanced warning signs, advanced pavement markings and stop bars at the sole cost of the highway agency (N.T. 21).
22. In the alternative to suspension, Conrail should reconstruct all crossings at its sole cost (N.T. 21).
23. Cumberland Street, U.S. Route 422, if reconstructed, should be restored with a high-type surface crossing (N.T. 22).
24. The roadway is in fairly good shape and has no major defects (N.T. 23).
25. The current average daily traffic is 2,722 vehicles with 9% truck traffic (N.T. 24).
26. There is no rail traffic on the line south of Cumberland Street (N.T. 39).
27. The rail line last operated on November 29, 1995 (N.T. 120).

28. Conrail's witness last visited the grade crossing approximately 22 years ago (N.T. 151).
29. If there is no rail traffic on the line the crossing should be removed, including track ties and other rail appurtenances such as signals, batteries cases and signal boxes. The paving should be replaced to local road jurisdiction's criteria (N.T. 181).
30. In the event of continued rail service all crossings either need to be rehabilitated or reconstructed (N.T. 182).
31. The current plan for the Wilhelm Avenue Bridge Project calls for the realignment of the track on a pre-existing line immediately east of the Cornwall Industrial Line, the replacement of the bridge, widening of the road and reconstruction of the bridge at a new location (N.T. 227).
32. The estimated cost of the project is \$1.2 million. The Department of Transportation would reimburse the Township 80% (N.T. 228).

33. Conrail has agreed to contribute \$50,000.00 to the project (N.T. 228).
34. The current average daily traffic at Wilhelm Avenue is 5,120 vehicles (N.T. 228).
35. South Lebanon Township does not know what will happen with Wilhelm Avenue and the Conrail bridge due to the uncertainty of the rail traffic (N.T. 236).
36. If the Township does not have to replace the railroad bridge the cost of the project is \$200,000.00 (N.T. 236).
37. ALCOA was the last and only service on the line (N.T. 237).
38. There is a immediate need to improve Wilhelm Avenue (N.T. 23).
39. Accidents have occurred at this location every year since 1986 (Township Exhibit 8; N.T. 237).

PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding.
2. The Commission has exclusive jurisdiction over all rail/highway crossings in the Commonwealth and over the approaches to the crossings.
3. The Commission has exclusive authority to order the construction, reconstruction, alteration, repair, protection or abolition of rail/highway crossings, as well as the exclusive authority to determine and order which party should perform such work at the crossings and which party shall maintain the crossings in the future, all to effectuate the prevention of accidents and to promote the safety of the public.
4. The Commission has the exclusive authority to allocate the cost of the work order performed upon the parties to this proceeding and in such proper proportions as it may determine.
5. In allocating cost in rail/highway crossing cases, the

Commission is not limited to any fixed rule but takes into consideration all relevant facts, the only requirement being that it be just and reasonable.

PROPOSED ORDERING PARAGRAPH

1. That, Consolidated Rail Corporation, at its sole cost and expense, remove all rail and rail appurtenances at the State Drive crossing, S.R. 2003, in South Lebanon Township, Lebanon County, PA.
2. That, Consolidated Rail Corporation, restore State Drive, S.R. 2003, in accordance with the standards of the Department of Transportation.
3. That, Consolidated Rail Corporation, at its sole cost and expense, remove or cover any warning devices at the crossing.
4. That, the Department of Transportation, at its sole cost and expense, cover or remove any advance warning signs and remove any advance pavement markings and stop bars on S.R. 2003.
5. That, all work be completed by June 30, 1998.
6. That, upon completion of the work, the crossing shall be deemed suspended.

7. That, this Order does not prejudice the rights of any parties to enforce any agreements regarding the subject crossing.
8. That, this Order shall inure to the parties, their successors and assigns.
9. That, South Lebanon Township shall prepare plans for the Wilhelm Avenue project for the realignment of the roadway and the possible future placement of a railroad bridge.
10. That, South Lebanon Township, shall, if rail traffic resume, be responsible for the construction of a railroad bridge to facilitate rail traffic at the Wilhelm Avenue location.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Department of Transportation's Main Brief was served upon the parties listed below by first class mail, postage prepaid this 29th day of December, 1997.

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

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

Jamie Wogelmuth, Chief Clerk  
Lebanon County Commissioners  
Room 207, Municipal Building  
400 South Eighth Street  
Lebanon, PA 17042-6794

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

Edward M. Keener, City Engineer  
City of Lebanon  
Municipal Building  
400 South Eighth Street  
Lebanon, PA 17042-6794

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

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

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

Rick Corman  
RJ Corman Railroad Co.  
PA Lines, Inc.  
1 Jay Station  
Nicholasville, KY 40356

Edward J. Kennedy  
Vice President  
Bell Telephone Co. of PA  
315 North Second Street  
Harrisburg, PA 17101

Metropolitan Edison Co.  
600 South Fifth Avenue  
Lebanon, PA 17042

Senator David J. Brightbill  
Senate Post Office  
Main Capital Building  
Harrisburg, PA 17120

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

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

Donna Brightbill, Esquire  
Robert E. Siegrist  
315 South Eighth Street  
Lebanon, PA 17042

*Gina M. D'Alfonso*  
\_\_\_\_\_  
Gina M. D'Alfonso  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel-9th Floor  
Forum Place, 555 Walnut Street  
Harrisburg, PA 17101-1900  
Telephone No. (717) 787-3128

DATED: December 29, 1997

RECEIVED  
97 DEC 29 AM 9:54  
PA P.U.S. OFFICE  
PROTHONOTARY'S OFFICE

**ORIGINAL**

*Law Offices*

**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

\* ALSO ADMITTED TO THE  
FLORIDA BAR

December 29, 1997

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

Re: Application Docket  
A-00113589, C-00970106,  
C-00970107, C-00970126,  
A-00109901

RECEIVED  
97 DEC 29 PM 2:30  
PAPPLI  
PROTHONOTARY  
OFFICE

Dear Mr. McNulty:

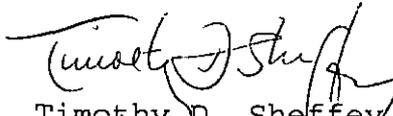
Enclosed with this letter you will find an original and three copies of PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS, AND DISCUSSION on behalf of LEBANON TRANSIT AUTHORITY regarding the above matter.

Attached to the Response is a Certificate of Service evidencing service upon all parties of record.

Should you have any questions or concerns regarding this, please contact me at your earliest opportunity.

Very truly yours,

REILLY, WOLFSON, SHEFFEY,  
SCHRUM AND LUNDBERG

  
Timothy D. Sheffey

TDS:cmr  
cc: Parties of Record (See Certificate  
of Service)

DOCUMENT  
FOLDER

57

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 CORPORA- :  
TION LOCATED IN THE CITY OF :  
LEBANON, LEBANON COUNTY :

CITY OF LEBANON, : Docket No. C-00970187  
Complainant :  
vs. :  
: :  
CONSOLIDATED RAIL CORPORATION :  
ET AL, :  
Respondent :

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

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

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

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

97 DEC 29 PM 2:30

RECEIVED

---

PROPOSED FINDINGS OF FACT

---

DOCKETED

DEC 30 1997

1. The COUNTY OF LEBANON TRANSIT AUTHORITY (hereinafter referred to as "COLT"), 200 Willow Street, City of Lebanon, Lebanon County, Pennsylvania, is a municipal transportation authority providing scheduled transit service and demand transit service throughout Lebanon City and Lebanon County. (Application, paragraphs 1, 6; N.T. 97).

2. The Cornwall Industrial Track contains seven (7) at-grade railroad crossings within the City of Lebanon which are frequently crossed by COLT vehicles. (Application, paragraph 6; N.T. 98-117).

3. The seven (7) at-grade railroad crossings frequently crossed by COLT vehicles are:

(a). The at-grade highway crossing along Cumberland Street (U.S. Route 422), identified as AAR-DOT 591-528T;

(b). The at-grade highway crossing of Chestnut Street, identified as AAR 591-529A;

DOCUMENT  
FOLDER

(c). The at-grade highway crossing of Walnut Street, identified as AAR 591-530U;

(d). The at-grade highway crossing of Twelfth Street, identified as AAR 591-531B;

(e). The at-grade highway crossing of Tenth Street, identified as AAR 592-346K;

(f). The at-grade highway crossing of Ninth Street, identified as AAR 592-344W; and

(g). The at-grade highway crossing of Eighth Street, identified as AAR 535-103E.

4. COLT provides its scheduled transit service by the use of twenty-eight (28) passenger buses and its demand transit service by the use of nine (9) passenger to thirteen (13) passenger mini-vans. (N.T. 100, 110).

5. The Pennsylvania Motor Vehicle Code and its regulations, require all COLT buses and mini-vans to stop before crossing any at-grade railroad crossing, including the seven (7) at-grade

railroad crossings identified above. (75 Pa. C.S.A. Section 3342.67 Pa. Code, Section 103.2).

6. COLT generally has eight (8) or nine (9) mini-vans in service on a daily basis. (N.T. 100).

7. These mini-vans, collectively, must come to a complete stop, on an average of seventy-one (71) times each weekday (Monday through Friday), as well as an unspecified number of times on Saturdays and Sundays, before crossing the seven (7) at-grade railroad crossings. (N.T. 101-103).

8. COLT generally has six (6) or seven (7) buses in service on a daily basis (Monday through Saturday). (N.T. 109-110).

9. These buses, collectively, must come to a complete stop, on average, four hundred six (406) times per week, before crossing the described at-grade railroad crossings. (N.T. 111-112).

10. Rail service along the described at-grade railroad crossings ended no later than July 25, 1996, the date of service of an Order issued by the Surface Transportation Board, authorizing Consolidated Rail Corporation to abandon service on this portion of

the Cornwall Industrial Track. (Consolidated Rail Corporation Answer to City of Lebanon Complaint, paragraph 3).

11. COLT believes and avers that no rail service along the described at-grade railroad crossings has occurred since late 1995. (N.T. 103, 112).

12. Because COLT buses and mini-vans stop prior to crossing the seven (7) at-grade railroad crossings, they regularly experience:

(a). Following vehicles that are not ready for the COLT vehicle to stop; and

(b). Erratic driving and squealing brakes by following vehicles in order to stop or to get the following vehicle under control; and

(c). Following vehicles passing stopped COLT vehicles in any manner possible; and

(d). Following vehicles passing COLT vehicles and then turning in front of them to enter business establishments.

(N.T. 103-105, 113).

13. COLT vehicles have been involved in at least three (3) accidents and any number of close calls arising out of stopping at these described at-grade railroad crossings and other vehicles trying to pass COLT vehicles. (N.T. 104, 116-117).

14. Passenger vehicles do not stop before crossing these seven (7) at-grade railroad crossings. (N.T. 103, 112-113).

15. Although many other local buses continue to stop prior to crossing at these seven (7) at-grade railroad crossings, some other local buses, as well as almost all out-of-town buses, as well as vehicles carrying hazardous substances do not stop prior to crossing at these seven (7) at-grade railroad crossings. (N.T. 113-116).

16. Because of this stopping prior to crossing requirement, COLT vehicles suffer additional wear and tear, including relating to their brake and electrical systems, have lesser fuel economy, and emit more pollution, than if stopping was not required. (N.T. 105-107).

17. Neither Consolidated Rail Corporation, nor any other party to this proceeding, objects to the seven (7) described at-grade railroad crossings being immediately indefinitely suspended, pending further order from the Pennsylvania Public Utility Commission. (N.T. 69-70, 72, 74).

---

PROPOSED CONCLUSIONS OF LAW  
AND RECOMMENDATIONS

---

1. The Pennsylvania Public Utility Commission has jurisdiction over this proceeding, the parties, and the subject matter hereof.

2. To continue to have COLT vehicles be required to stop prior to crossing at the seven (7) at-grade railroad crossings

LOCKED  
DEC 30 1997

DOCUMENT  
FOLDER

described herein constitutes and continues an immediate danger to the safety and welfare of the traveling public.

3. The following seven (7) at-grade railroad crossings are immediately suspended:

(a). The at-grade highway crossing along Cumberland Street (U.S. Route 422), identified as AAR-DOT 591-528T;

(b). The at-grade highway crossing of Chestnut Street, identified as AAR 591-529A;

(c). The at-grade highway crossing of Walnut Street, identified as AAR 591-530U;

(d). The at-grade highway crossing of Twelfth Street, identified as AAR 591-531B;

(e). The at-grade highway crossing of Tenth Street, identified as AAR 592-346K;

(f). The at-grade highway crossing of Ninth Street, identified as AAR 592-344W; and

(g). The at-grade highway crossing of Eighth Street, identified as AAR 535-103E.

4. An Order directing specifically named parties, as determined by the Pennsylvania Public Utility Commission, shall be immediately issued directing:

(a). Immediate removal or covering of crossing warning devices; and

(b). The immediate paving over of tracks or removal of tracks and paving over the track area.

5. All costs incident to these suspensions shall be borne as directed by the Pennsylvania Public Utility Commission.

---

DISCUSSION

---

The Pennsylvania Public Utility Commission has jurisdiction to determine whether at-grade railroad crossings should be suspended. Section 2702, Public Utility Code (66 Pa. C.S.A. Section 2702). The Commission also has exclusive authority to determine the allocation of costs involved when a suspension occurs.

In determining whether a suspension of at-grade railroad crossings should occur, the Commission is not limited to any fixed rule, but may take into consideration all relevant factors, with the only requirement being that the order issued is just and reasonable. Municipality of Monroeville v. Pennsylvania Public Utility Commission, 143 Pa. Cmwlth. 668, 600 A.2d 655 (1991). Among the factors which are appropriate for the Commission to review are public safety concerns and the balancing of the benefit and harm to the traveling public.

This application involves seven (7) at-grade railroad crossings within the City of Lebanon traversed on a daily basis by COLT buses and mini-vans. These COLT buses and mini-vans are

required to stop prior to crossing at these crossings. During a typical week, the COLT vehicles, collectively, will stop in excess of seven hundred fifty (750) times prior to crossing the described at-grade railroad crossings.

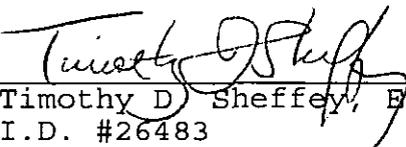
Passenger vehicles do not stop. Few drivers recognize that COLT vehicles are obligated by the Pennsylvania Motor Vehicle Code to stop before crossing at these at-grade railroad crossings. The results have been several accidents, but more frequently squealing brakes, and vehicles doing everything that can be done to swerve, get around, and pass a stopped or stopping COLT vehicle. This frequent stopping increases the wear and tear of operations on the COLT vehicles, decreases fuel economy, and increases various emissions into the environment.

Other types of vehicles that should stop at these crossings do not.

There has been no rail traffic along the Cornwall Industrial Track involving these seven (7) at-grade railroad crossings since approximately late 1995 or early 1996. There is no credible evidence of record to believe that this will change.

COLT suggests that when balancing the benefit and harm to the traveling public and public safety concerns, that the only appropriate course of action is to immediately indefinitely suspend these seven (7) at-grade railroad crossings which are the subject of this Application. The Commission should direct appropriate parties to, as promptly as possible, take all necessary steps to place each suspension in effect and should award costs as reasonable and just.

Respectfully submitted,

  
\_\_\_\_\_  
Timothy D. Sheffey, Esquire  
I.D. #26483  
Counsel for COUNTY OF LEBANON  
TRANSIT AUTHORITY

REILLY, WOLFSON, SHEFFEY,  
SCHRUM AND LUNDBERG  
1601 Cornwall Road  
Lebanon, PA 17042  
(717) 273-3733

Date: December 29, 1997

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW AND RECOMMENDATIONS, AND DISCUSSION filed on behalf of COUNTY OF LEBANON TRANSIT AUTHORITY was served upon the parties listed below by first class mail, postage prepaid, this 29th day of December, 1997:

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

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

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

Benjamin C. Dunlap, Jr., Esquire  
200 North 3rd Street, 18th Flr.  
P.O. Box 840  
Harrisburg, PA 17108-0840

Samuel G. Weiss, Jr., Esquire  
Weiss, Weiss & Weiss  
802 Walnut Street  
Lebanon, PA 17042-0838

Gina M. D'Alfonso  
Assistant Counsel in Charge  
PA Department of Transportation  
Office of Chief Counsel  
9th Floor, Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1900

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

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

Adrienne C. Snelling, Esquire  
Lebanon County Solicitor  
Room 207, Municipal Building  
400 South Eighth Street  
Lebanon, PA 17042-6794

RECEIVED  
97 DEC 29 PM 2:30  
P.A.P.U.C.  
PROTHONOTARY'S OFFICE

  
\_\_\_\_\_  
Timothy D. Sheffey, Esquire  
Counsel for COUNTY OF LEBANON  
TRANSIT AUTHORITY

Date: December 29, 1997

ORIGINAL

Law Offices

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.  
(1922-1984)

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

\* ALSO ADMITTED TO THE  
FLORIDA BAR

December 30, 1997

DOCUMENT  
FOLDER

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

97 DEC 31 AM 8:44  
RECEIVED  
PROTHONOTARY  
NOTICE

Re: Application Docket  
A-00113589, C-00970106,  
C-00970107, C-00970126,  
A-00109901

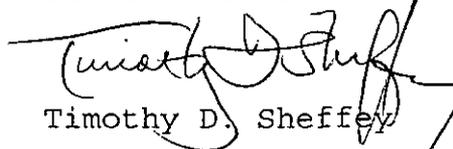
Dear Mr. McNulty:

Enclosed with this letter you will find a Supplemental Certificate of Service evidencing service of a copy of County of Lebanon Transit Authority's PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS, AND DISCUSSION regarding the above matters, upon additional parties having an interest in the captioned matters.

Should you have any questions or concerns regarding this, please contact me at your earliest opportunity.

Very truly yours,

REILLY, WOLFSON, SHEFFEY,  
SCHRUM AND LUNDBERG

  
Timothy D. Sheffey

TDS:cmr  
cc: (See Certificate of Service)

5

SUPPLEMENTAL  
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PROPOSED FINDINGS OF FACT, PROPOSED CONCLUSIONS OF LAW AND RECOMMENDATIONS, AND DISCUSSION filed on behalf of COUNTY OF LEBANON TRANSIT AUTHORITY was served upon the parties listed below by first class mail, postage prepaid, on the 30th day of December, 1997:

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

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

Jamie Wolgemuth, Chief Clerk  
Lebanon County Commissioners  
Room 207, Municipal Building  
400 South 8th Street  
Lebanon, PA 17042-6794

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

DOCKETED

JAN 01 1998

DOCUMENT  
FOLDER

RECEIVED  
PROTHONOTARY'S OFFICE

97 DEC 31 AM 8:44

025338

Rick Corman  
RJ Corman Railroad Co  
PA Lines, Inc.  
1 Jay Station  
Nicholasville, KY 40356

Edward J. Kennedy  
Vice President  
Bell Telephone Co of PA  
315 North Second Street  
Harrisburg, PA 17101

Thomas P. Brogan, Esquire  
Bell Telephone of PA  
Malatesta, Hawke & McKeon  
Harrisburg Energy Center  
100 North Tenth Street  
Harrisburg, PA 17101

Metropolitan Edison Co.  
600 South Fifth Avenue  
Lebanon, PA 17042

Senator David J. Brightbill  
Senate Post Office  
Main Capital Building  
Harrisburg, PA 17120

John B. Wengert  
Lebanon Valley Rails  
to Trails, Inc.  
278 Old Mount Gretna Road  
Lebanon, PA 17042

Donna Brightbill, Esquire  
Robert E. Siegrist, Esquire  
315 South Eighth Street  
Lebanon, PA 17042

Lebanon Valley Cable TV  
a/k/a Time Warner Cable  
1555 Suzy Drive  
Lebanon, PA 17046

Mrs. Lydia M. Sholley  
Party in Interest  
35 Wilhelm Aveue  
Lebanon, PA 17042

Curtis E. Kulp, Manager  
South Lebanon Township  
Board of Supervisors  
1800 South Fifth Avenue  
Lebanon, PA 17042

Fred D. Hafer, President  
Met-Ed  
P.O. Box 542  
Reading, Pa 19640

  
\_\_\_\_\_  
Timothy D. Sheffey, Esquire  
Counsel for COUNTY OF LEBANON  
TRANSIT AUTHORITY

Date: December 30, 1997

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



ORIGINAL

DOCUMENT  
FOLDER

Office of Chief Counsel  
Forum Place  
555 Walnut Street - 9th Floor  
Harrisburg, Pennsylvania 17101-1900  
Telephone No. (717) 787-3128  
Fax No. (717) 772-2741

January 7, 1998

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

Re: Docket No. A-00113589, C-00970106, C-00970107  
C-00970126, A-00109901

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

98 JAN - 7 PH 2:44

RECEIVED

Dear Prothonotary:

Enclosed for filing please find the original and nine (9) copies of the Reply Brief of the Department of Transportation in the above-captioned matter.

I hereby certify that the parties indicated on the Certificate of Service have been served with two copies of said Brief.

Very truly yours,

Gina M. D'Alfonso  
Assistant Counsel-in-Charge

220/GMD:sls

cc: Honorable Herbert S. Cohen  
Parties of Record  
William D. Pickering, P.E. (Attn: Harvey I. Cassell)  
District 8-0 (Attn: Raymond W. Britcher)

# ORIGINAL

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

<u>Application of County of</u>	:	Docket No. A-00113589
<u>Lebanon Transit Authority,</u>	:	Docket No. C-00970107
<u>South Lebanon Township Board</u>	:	Docket No. C-00970126
<u>of Supervisors v. Consolidated</u>	:	Docket No. C-00970106
<u>Rail Corporation, City of</u>	:	Docket No. A-00109901
<u>Lebanon v. Consolidated Rail</u>	:	
<u>Corporation, Pennsylvania</u>	:	
<u>Department of Transportation</u>	:	
<u>v. Consolidated Rail</u>	:	
<u>Corporation, Application</u>	:	
<u>of South Lebanon Township.</u>	:	

**DOCKETED**  
JAN 08 1998

RECEIVED  
98 JAN -7 PM 2:44  
PA.P.U.C.  
PROTHONOTARY'S OFFICE.

DOCUMENT  
FOLDER

REPLY BRIEF OF THE  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

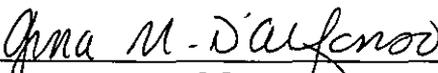
The Department of Transportation reasserts its position regarding the railroad bridge over Wilhelm Avenue. The crossing at Wilhelm Avenue is a safety problem that must be addressed now. It is in the best interest of the public safety to remove the railroad structure at this time. South Lebanon Township and the Department of Transportation are committed that if and when a railroad structure is required, one will be built using Bridge Bill funding. There is nothing that precludes the project for the realignment of the roadway to be designed to incorporate a railroad structure in the future.

The Department of Transportation believes it is in the best interest of the public not to just pave over the at-grade

crossings as recommended by Conrail and incorporates its position as asserted in its Main Brief.

However, if this Commission adopts Conrail's proposal to pave over the rails and ties, the work must be done in accordance with Department standards. The Department would require that all asphalt between the rails be removed as well as any rotted timber. The asphalt should be replaced with a bituminous concrete base course. Any overlay over the rails must be two (2") inches ID-2 binder course and one and one-half (1 1/2") inches of ID-2 wearing course. If the railroad complies with the above standards, it will minimize reflective cracking and potholes until the railroad makes a decision as to whether or not this line will be operated. If the Commission deems it just and reasonable to allow the crossings to be suspended with the rails being paved over, the Department respectfully requests that these standards be placed on the railroad.

Respectfully submitted,

  
Gina M. D'Alfonso  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel - 9th Floor  
Forum Place, 555 Walnut Street  
Harrisburg, PA 17101-1900  
Telephone No. (717) 787-3128

DATED: January 7, 1998

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Department of Transportation's Main Brief was served upon the parties listed below by first class mail, postage prepaid this 7th day of January, 1998.

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

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

Jamie Wogelmuth, Chief Clerk  
Lebanon County Commissioners  
Room 207, Municipal Building  
400 South Eighth Street  
Lebanon, PA 17042-6794

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

Edward M. Keener, City Engineer  
City of Lebanon  
Municipal Building  
400 South Eighth Street  
Lebanon, PA 17042-6794

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

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

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

Rick Corman  
RJ Corman Railroad Co.  
PA Lines, Inc.  
1 Jay Station  
Nicholasville, KY 40356

Edward J. Kennedy  
Vice President  
Bell Telephone Co. of PA  
315 North Second Street  
Harrisburg, PA 17101

Metropolitan Edison Co.  
600 South Fifth Avenue  
Lebanon, PA 17042

Senator David J. Brightbill  
Senate Post Office  
Main Capital Building  
Harrisburg, PA 17120

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

Scott A. Wasserkrug, Esquire  
Conrail  
2001 Market Street 16A  
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

Curtis E. Kulp, Manager  
South Lebanon Township  
Board of Supervisors  
1800 South Fifth Avenue  
Lebanon, PA 17042

Fred D. Hafer, President  
Met-Ed  
P.O. Box 542  
Reading, PA 19640

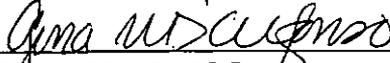
Lebanon Valley Cable TV Co.  
n/k/a Time Warner Cable  
1555 Suzy Drive  
Lebanon, PA 17046

Mrs. Lydia M. Sholley  
Party in Interest  
35 Wilhelm Avenue  
Lebanon, PA 17042

Thomas P. Brogan, Esquire  
Bell Telephone of PA  
Malatesta, Hawke & McKeon  
Harrisburg Energy Center  
100 North Tenth Street  
Harrisburg, PA 17101

John B. Wengert  
Lebanon Valley Rails to Trails, Inc.  
278 Old Mount Gretna Road  
Lebanon, PA 17042

Donna Brightbill, Esquire  
Robert E. Siegrist  
315 South Eighth Street  
Lebanon, PA 17042

  
\_\_\_\_\_  
Gina M. D'Alfonso  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel-9th Floor  
Forum Place, 555 Walnut Street  
Harrisburg, PA 17101-1900  
Telephone No. (717) 787-3128

DATED: January 7, 1998