

GRENN & BIRSIC, P.C.

ATTORNEYS AT LAW

ONE GATEWAY CENTER  
NINE WEST  
PITTSBURGH, PENNSYLVANIA 15222

(412) 281-7650  
FAX (412) 281-7657  
EMAIL grenbirs@mdi.net

DOCKETED

NOV 04 1998

October 5, 1998

RECEIVED

OCT 08 1998

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

DOCUMENT  
FOLDER

HARRISBURG OALJ  
PUBLIC UTILITY COMMISSION

**RE: City of Lebanon v. Consolidated Rail Corporation, et al.;**  
**Docket No. C-00970107 and Consolidated Cases Docket No. A-00113589;**  
**Docket No. C-00970126, and Docket No. C-00970106**

Dear Judge Cohen:

This is to advise you as to R.J. Corman Railroad Company/Allentown Lines, Inc.'s ("Corman") compliance with the Stipulation for Settlement ("Stipulation") which this Court recommended (subject to commission approval) on or about July 15, 1998.

The Stipulation covered a series of nine crossings. Pursuant to Paragraph 2 of the Stipulation and Paragraph 4 (p. 11) of the Court's Recommendation, Corman was to temporarily suspend the nine crossings, cover or remove any railroad signs and signals at each crossing by June 16, 1998, and pave over the crossings by September 30, 1998. In accordance with the Stipulation and Recommendation, the crossings have been temporarily suspended and all railroad signs and signals at each crossing were timely covered or removed by June 16, 1998.

With respect to the paving of the crossings, Corman has met its responsibility under the *Stipulation and Recommendation*. The crossings located at Lincoln Avenue in the Township of Lebanon and State Drive (Route 2003) were paved over on Tuesday, September 29, 1998 with officials from the township and PennDOT present to inspect and approve the pave overs.

The remaining seven crossings are located in the City of Lebanon. Approximately one month ago, the City of Lebanon asked Corman to grant it an easement along Corman's Cornwall Industrial track for purposes of installing a sewer main. In exchange for the easement, the City of Lebanon offered to take responsibility for paving over five of the crossings. Corman countered by offering to provide the City with the easement in exchange for the City assuming full responsibility for paving over all seven of the crossings located within the City. The City of Lebanon accepted this counter offer, as evidenced by the written agreement between Corman and the City attached hereto

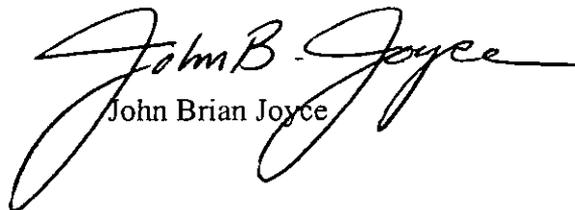
98 OCT 22 PM 3:21

EEF

Page Two  
Honorable Herbert S. Cohen  
October 5, 1998

as Exhibit "1". Public Works Director Edward M. Kenner accepted the offer on behalf of the City and he is aware that the crossings were to be paved over by September 30, 1998. I cannot provide the Court with an updated status as to whether the seven crossings have been paved over, but the complaining party for those seven crossings, the City, has now assumed full responsibility for the pave overs. Accordingly, Corman has fully complied with its responsibilities under the Stipulation as modified by consent and agreement by the parties. Please do not hesitate to contact me if you have any questions.

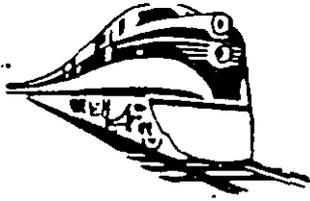
Very truly yours,

  
John Brian Joyce

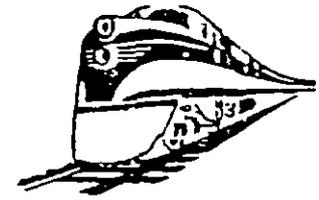
JBJ/aml  
Enclosure

cc: Mr. Brad Brown  
Paul W. Kilgore, Esquire  
Gina M. D'Alfonso, Esquire  
James T. Reilly, Esquire  
Timothy D. Sheffey, Esquire  
Benjamin C. Dunlap, Jr., Esquire

**EXHIBIT "1"**



**J CORMAN COMPANIES**  
CORPORATE OFFICES



One Jay Station  
P.O. Box 788  
Nicholasville, KY 40356  
(606) 885-9457  
FAX (606) 885-7804

September 8, 1998

SEP 30 1998

Mr. Edward M. Keener  
Public Works Director  
City of Lebanon, PA  
400 South Eighth Street  
Lebanon, PA 17042

RE: Sewer Easement

Dear Mr. Keener:

I am writing to you in response to your offer to pave over five (5) crossings in the city of Lebanon, PA in consideration for the installation of a force sewer main. RJ Corman Railroad Company/Allentown Lines, Inc. would like to counter the offer. The RJ Corman Railroad Company/Allentown Lines, Inc. seeks the city of Lebanon to agree to pave over all seven (7) of the crossing located in Lebanon as outlined in the settlement stipulation. If the city is agreeable, sign this letter on the lines below and return to my attention. The formal agreement covering the sewer line will be drafted when the engineering work has been completed and before construction.

As you are aware, the stipulation calls for the crossings to be paved over no later than September 30<sup>th</sup> 1998, so your prompt response is appreciated.

Sincerely,

Brad Brown  
Sales and Marketing  
RJ Corman Railroad Company/Allentown Lines, Inc.

City of Lebanon, Pennsylvania

BY: Edward M. Keener

Witness: Henry D. Dumbler

Title: PUBLIC WORKS DIRECTOR

Date: SEPTEMBER 25, 1998

**R. J. Corman Railroad Construction**

My Old Kentucky Dinner Train  
R.J. Corman Rail Distribution Center  
R.J. Corman Railroad Corporation/Bardstown Line

R.J. Corman Railroad Company/Memphis Line  
R.J. Corman Railroad Company/Cleveland Line  
R.J. Corman Railroad Company/Western Ohio Line

LAW OFFICES  
**NAUMAN, SMITH, SHISLER & 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.  
J. STEPHEN FEINOUR  
CRAIG J. STAUDENMAIER  
BENJAMIN C. DUNLAP, JR.  
DENNIS E. BOYLE

COUNSEL  
DAVID C. EATON  
JOHN C. SULLIVAN  
DIRECT E-MAIL ADDRESS  
NSSH@REDROSE.NET

November 9, 1998

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

**ORIGINAL**

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

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

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

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

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SECRETARY'S BUREAU

**DOCKETED**  
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Dear Secretary McNulty:

I have been informed by our client, Consolidated Rail Corporation ("Conrail") that the work Conrail was ordered to perform under Paragraph 6 of the Commission Order entered August 27, 1998, has been completed. This work at the Willow Street crossing in the City of Lebanon was completed last month prior to the deadline of October 31, 1998. Four originals of this letter are being supplied for filing under each of the above docket numbers.

Sincerely yours,



Benjamin C. Dunlap, Jr.

EEF

BCDjr/bmd  
Enclosures

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

**DOCUMENT  
FOLDER**

CERTIFICATE OF SERVICE

I hereby certify that I served the within letter to Secretary McNulty this 9th day of November, 1998, by depositing the same in the United States mail, postage prepaid, addressed to the following:

Honorable Herbert S. Cohen  
Administrative Law Judge  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(Via Hand Delivery)

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

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

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

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

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

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

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

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

Paul W. Kilgore, Esquire  
Spitler and Kilgore  
522 South 8<sup>th</sup> Street  
Lebanon, PA 17042

John Brian Joyce, Esquire  
Grenen & Birsic, P.C.  
One Gateway Center  
Nine West  
Pittsburgh, PA 15202

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

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PA PUC  
SECRETARIES BOARD

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

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

A handwritten signature in cursive script that reads "Barbara Drake". The signature is written in black ink and is positioned above a horizontal line.

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

Date: November 9, 1998

ORIGINAL

022952

GRENN & BIRSIC, P.C.

ATTORNEYS AT LAW  
ONE GATEWAY CENTER  
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PITTSBURGH, PENNSYLVANIA 15222  
(412) 281-7650  
FAX (412) 281-7657  
EMAIL grenbirs@mdi.net

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FOLDER

November 13, 1998

Secretary of the Commission  
Room B-20, North Office Bldg.  
North Street and Commonwealth Avenue  
Harrisburg, PA 17105-3265

RECEIVED  
SECRETARY'S BUREAU  
98 NOV 18 AM 8:33

**Re: Application of the County of Lebanon Transit Authority for Approval of the Suspension of a Series of Crossings Involving the Cornwall Industrial Track of Consolidated Rail Corporation Located in the City of Lebanon, Lebanon City; Docket No. A-00113589**

**City of Lebanon v. Consolidated Rail Corporation, et al.; Docket No. C-00970107**

**Commonwealth of Pennsylvania Department of Transportation v. Consolidated Rail Corporation; Docket No. C-00970126**

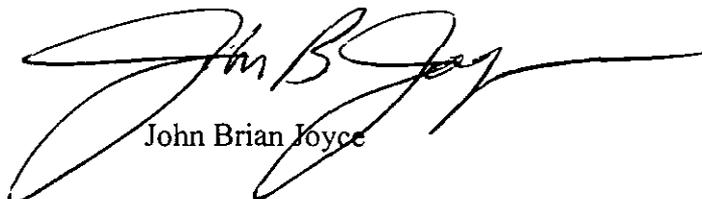
**South Lebanon Township, Board of Supervisors v. Consolidated Rail Corporation, et al.; Docket No. C-0097106**

Dear Sir/Madam:

On November 12, 1998, I forwarded an original and nine (9) copies of the Request by R.J. Corman Railroad Company/Allentown Lines, Inc. for Leave of Court for Extension of Time to File Exceptions via U.S. Postal Service, Certificate of Mailing, PS Form 3817 to your office. Enclosed please find an original and one copy of the Certificate of Service serving all parties of record with the above-referenced pleading. Please file the original, date stamp the copy and return it to me in the enclosed, self-addressed stamped envelope provided herein.

If you have any questions or concerns, please do not hesitate to give me a call.

Very truly yours,

  
John Brian Joyce

SRB

JBj/jls  
enclosures

34

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

22953

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

Docket No. A-00113589

ORIGINAL

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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

DOCUMENT  
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DOCKETED

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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 COUNTY.

Docket No. A-00109901

CERTIFICATE OF SERVICE

I, John Brian Joyce, do hereby certify that a true and correct copy of the **Request by R.J. Corman Railroad Company/Allentown Lines, Inc. for Leave of Court for Extension of Time to File Exceptions** was filed by U.S. First Class Mail Form 3817 on November 12, 1998 and served this 13<sup>th</sup> day of November, 1998, via U.S. First Class Mail upon the following:

DATE: December 2, 1998

SUBJECT: A-00113589, C-00970107, C-00970126  
C-00970106, A-00109901

TO: Office of Administrative Law Judge  
Annette Shelley

FROM: James J. McNulty  
Secretary

JVM

DOCKETED

DEC 02 1998

APPLICATION OF THE COUNTY OF  
LEBANON TRANSIT AUTHORITY...ETC

DOCUMENT  
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The Initial Decision has been served upon all parties of interest.

Neither exceptions nor requests for review from the Commissioners have been received by the Commission. This matter is referred to your office for whatever action you deem necessary.

cc: Office of Special Assistants

P.S. Please note that exceptions or reply exceptions may come in timely with certificates of mailings. A second memo will not be released for these exceptions.

EEF

LAW OFFICES

ORIGINAL

**REILLY, WOLFSON, SHEFFEY,  
SCHRUM & LUNDBERG LLP**

Frederick S. Wolfson  
Timothy D. Sheffey  
Loren A. Schrum  
Paul A. Lundberg  
Paul C. Bametzreider  
Harry W. Fenton  
John J. Ferry, Jr.  
Michelle R. Calvert  
Colleen S. Gallo

1601 Cornwall Road, Lebanon, Pennsylvania 17042-7460  
(717) 273-3733 Fax (717) 273-1535  
rwssl@leblaw.com www.leblaw.com

Branch Office:  
112 West Main Avenue  
Myerstown, PA 17067-1019  
(717) 866-9095  
Fax (717) 866-9160

October 20, 2000

James T. Reilly  
(1964-2000)

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

DOCUMENT  
FOLDER

1734049

Re: South Lebanon Township v. Co. of Lebanon  
C-00970106

City of Lebanon v. County of Lebanon  
C-00970107

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

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

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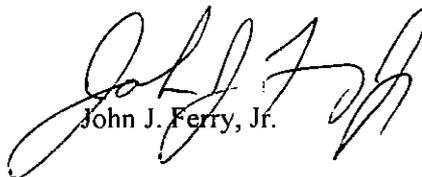
Dear Secretary McNulty:

Enclosed please find four originals of a Petition for Rule Upon R.J. Corman Company to File an Abandonment Petition for filing under each of the above docket numbers. Also enclosed is a copy of the same document which I would appreciate if you would time stamp and return to me in the enclosed, self-addressed and stamped envelope.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

REILLY, WOLFSON, SHEFFEY,  
SCHRUM AND LUNDBERG LLP



John J. Ferry, Jr.

JJF/scp  
Enclosures

cc: All counsel

98

ORIGINAL

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

Docket No. A-00113589

734051

**DOCKETED**

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DOCUMENT  
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CITY OF LEBANON  
Complainant

Docket No. C-00970107

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v.

CONSOLIDATED RAIL  
CORPORATION, et al,  
Respondent

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
Complainant

Docket No. C-00970126

v.

CONSOLIDATED RAIL CORPORATION  
Respondent

SOUTH LEBANON TOWNSHIP,  
BOARD OF SUPERVISORS  
Complainant

Docket No. C-00970106

v.

CONSOLIDATED RAIL CORPORATION  
et al.,

Respondent

**PETITION FOR RULE UPON R.J. CORMAN  
COMPANY TO FILE ABANDONMENT PETITION**

The City of Lebanon ("City") by its attorney, John J. Ferry, Jr., files this Petition for a Rule upon R.J. Corman Company to file Abandonment Petition, pursuant to 52 Pa. Code §5.41 and §5.571, averring as follows:

1. Petitioner is City of Lebanon, a municipality with offices located at Lebanon County-City Municipal Building, 400 South 8<sup>th</sup> Street, Lebanon, Lebanon County, Pennsylvania.

2. Respondent is R.J. Corman Railroad Company/Allentown Lines, Inc., ("Corman") which is believed to have offices located at One Jay Station, Nicholasville, KY 40356.

3. Corman is the owner and operator of the Cornwall Industrial Track.

4. On or about July 16, 1998, the Honorable Herbert S. Cohen, Administrative Law Judge of the Pennsylvania Public Utility Commission, recommended approval of a Stipulation for Settlement and proposed Order in the above action. A true and correct copy of the Stipulation for Settlement and Order is attached hereto as Exhibit "A".

5. The recommended decision was adopted by the Commission on or about August 27, 1998.

6. The Stipulation and Order stated in part as follows:

R.J. Corman Railroad Company shall maintain the crossings during the time that they are suspended and by April 16, 2000, R.J. Corman Railroad Company shall either apply for reactivation of the Cornwall Industrial Track and Crossings or file the appropriate Petitions for Abandonment and abolition of the track. (Paragraph 4(d)).

7. The Stipulation and Order also specify that in the event of a breach of any material terms of the Stipulation, the complaining party must provide written notice of the breach and allow the responding party thirty (30) days to respond or cure the breach before the complaining party may file a Complaint or application regarding the breach or otherwise seek enforcement of the Order.

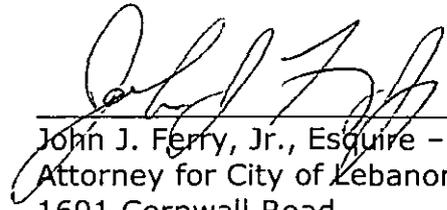
8. On May 31, 2000, counsel for Petitioner gave written notice to Corman of its breach of the Stipulation and Order by failing to either apply for reactivation of the track or file the appropriate Petitions for Abandonment and Abolishment. A true and correct copy of the correspondence of May 31, 2000 is attached as Exhibit "B".

9. On or about July 31, 2000, John B. Joyce, Esquire, counsel for Corman, indicated that Corman is "still attempting to secure rail service business" along the Cornwall Industrial Track. A true and correct copy of Attorney Joyce's correspondence of July 18, 2000, is attached as Exhibit "C."

10. In response to Corman's request for a Stipulation continuing the suspension of the subject crossings, counsel for petitioner and counsel for the Commonwealth of Pennsylvania, Department of Transportation, sent correspondence dated August 1, 2000 and August 8, 2000 respectively, to Attorney Joyce indicating that neither party is interested in entering into such a Stipulation. The City also reaffirmed its demand that Corman file a Petition for Abandonment. True and correct copies of the correspondence of August 1, 2000 and August 8, 2000 are attached as Exhibits "D" and "E" respectively.

11. Despite the Order and Notice to Corman of its breach, Corman still has not filed a Petition for Abandonment and Abolishment of the Track and Crossings.

WHEREFORE, City of Lebanon respectfully requests that the Commission enter a Rule upon Respondent, R.J. Corman Railroad Company/Allentown Lines, Inc. to file appropriate Petitions to Abandon the Cornwall Industrial Track and Crossings.



---

John J. Ferry, Jr., Esquire - I.D. 75907  
Attorney for City of Lebanon  
1601 Cornwall Road  
Lebanon, PA 17042  
(717) 273-3733



RECOMMENDED DECISION

Before  
HERBERT S. COHEN  
Administrative Law Judge

HISTORY OF THE PROCEEDINGS

The County of Lebanon Transit Authority ("Colt"), City of Lebanon ("City"), Commonwealth of Pennsylvania Department of Transportation and South Lebanon Township ("Township"), filed the following Applications/Complaints regarding the condition of certain railroad crossings on the Cornwall Industrial Track at Lebanon County. The Applications and each Complaint were filed against Consolidated Rail Corporation, which was the owner of the Cornwall Industrial Track at the commencement of the instant proceedings.

The Complaints and Applications were consolidated, and during the pendency of the proceeding, Consolidated Rail Corporation transferred the above referenced line of track on or about October 14, 1997, to the R.J. Corman Railroad Company/Allentown Lines, Inc. The transfer included all the railroad crossings subject to the instant proceedings, except the Willow Street Crossing in the City of Lebanon. By virtue of the transfer, R.J. Corman Railroad Company was directed by me to appear

at an April 16, 1998 hearing and to give testimony on its intent and ability to operate on the involved Cornwall Industrial Track, to comply with the terms and conditions of the indenture between it and Consolidated Rail Corporation, and to operate and maintain any and all railroad facilities at each of the crossings involved including, but not limited to flashing lights and gates, cross bucks, crossing highway surface between tracks, and any structure supporting its track facilities.

South Lebanon Township also was a participant in these proceedings. It filed an Application at Docket No. A-00109901 for approval of the alteration of the crossing (AAR 591 537 S) where Township Road 705 crosses below the grade of the tracks of Consolidated Rail Corporation in South Lebanon Township. However, the instant Stipulation has not resolved this issue and the matter is still pending before me. At the conclusion of the April 16, 1998 hearing the parties agreed that briefs on the Township's Application would be submitted on or before June 30, 1998.

Three evidentiary hearings were held during the course of the instant proceedings, namely, August 5, 1997, October 8, 1997, and April 16, 1998. Appearances at these hearings were entered by the following: Gina M. D'Alfonso, Esq., for Pennsylvania Department of Transportation, David A. Salapa, Esq., for PUC Bureau of Transportation and Safety, Paul Kilgore, Esq.,

for South Lebanon Township, Tim Sheffey, Esq., for County of Lebanon Transit Authority, Samuel G. Weiss, Jr., Esq., for the City of Lebanon, David C. Eaton, Esq., for Consolidated Rail Corporation, Scott Dietterick, Esq., for R.J. Corman Railroad Company, John J. Herzog, Esq., for PUC Bureau of Transportation and Safety, John Lovengood and John J. Van Shura, Esquires for Metropolitan Edison Company d/b/a GPU Energy, Daniel J. Birsic, Esq. for R.J. Corman Railroad Company/Allentown Lines, Inc., James T. Reilly, Esq., for the City of Lebanon, John B. Joyce, Esq. for R.J. Corman Railroad Company /Allentown Lines, Inc., and, William C. Matthews, II, Esq., for GPU Energy.

Some twelve (12) different witnesses gave testimony over the course of the three hearings and the parties sponsored numerous exhibits. The entire record consists of 371 pages of transcribed testimony.

On June 2, 1998, the parties in the matters at Docket Nos. C-00970106, C-00970107, C-00970126, and A-00113589 submitted for this Commission's consideration and approval the Stipulation for Settlement attached hereto and identified as Appendix "A".

#### TERMS OF THE STIPULATION

As agreed to by the parties, the Stipulation provides for the following:

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

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

(a) temporarily suspend use of the above crossings until April 16, 2000 or written notice from R.J. Corman Railroad Company that the crossings will be reactivated at an earlier point in time or that R.J. Corman Railroad Company applied to abolish them;

(b) R.J. Corman Railroad Company shall cover or remove any signs and signals at each crossing by June 16, 1998, except for advanced warning signs and pavement markings which shall be covered or removed by the Applicant or Complaining party responsible for said roadway surface;

(c) R.J. Corman Railroad Company shall pave over, at its own expense, the above crossings by September 30, 1998. The pave-over shall

include the rails at each crossing. While paving over the crossings, R.J. Corman Railroad Company will reasonably cooperate with the engineers from the City, Township or Pennsylvania Department of Transportation within whose jurisdiction each crossing is located; and

(d) R.J. Corman Railroad Company shall maintain the crossings during the time that they are suspended and by April 16, 2000, R.J. Corman Railroad Company shall either apply for reactivation of the Cornwall Industrial Track and crossings or file the appropriate petitions for abandonment and abolition of the track.

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

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

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

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

#### DISCUSSION

The above-captioned matters are before me upon the filing of either an Application or Complaint filed by the County of Lebanon Transit Authority ("Colt"), City of Lebanon ("City"), Commonwealth of Pennsylvania Department of Transportation and South Lebanon Township ("Township"). The Application and Complaints were consolidated into one proceeding. (the "Proceeding"). Consolidated Rail Corporation filed answers to the Complaints or Application in each Proceeding.

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

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

As a result of the transfer to R.J. Corman Railroad Company, a hearing was held on April 16, 1998 at which time R.J. Corman was required to present evidence of its intent for the Cornwall Industrial Track. R.J. Corman Railroad Company President, Marvin W. Grubb, Jr. testified at the hearing that R.J. Corman Railroad Company intended to actively seek business opportunities along the line after the merger between Norfolk Southern and CSX. After the R.J. Corman Railroad Company testimony, the parties to

the Proceeding decided to resolve the issues and matters involved by way of a Stipulation for Settlement.

Resolution of this case by Stipulation rather than by further litigation, briefs, reply briefs, appeals/exceptions will avoid the substantial time and expense involved in continued litigation of certain issues in this proceeding. The Stipulation addresses the concerns of Complainant via elimination of hazardous conditions at subject crossings and avoidance of property damage to vehicles traversing same.

The Stipulation provides for a temporary suspension of the subject crossings for a maximum period of twenty-four (24) months, so that R.J. Corman Railroad Company can investigate and develop certain railroad business opportunities it is interested in pursuing along the Cornwall Industrial Track. R.J. Corman Railroad Company has agreed at its own cost to pave over the crossings by September 30, 1998 and cover or remove any railroad signs or signals at the crossings before June 16, 1998. R.J. Corman Railroad Company will maintain the crossings until April 16, 2000, at which time if R.J.Corman Railroad Company has not developed any business along the line, it will petition to abandon and abolish the line. The City, Township, and Pennsylvania Department of Transportation shall remove the railroad crossing advance warning signs and railroad pavement marking both on the approaches to the

crossings over which each entity has control over the highway with respect to the Willow Street crossing, Consolidated Rail Corporation will remain solely responsible for the maintenance of this crossing and at its sole cost and expense will assess and repair the crossing by October 31, 1998.

Inasmuch as the parties have stipulated to settle the Proceeding and there are no other objections of record by any other party in interest, an order can be issued consistent with the Stipulation without the need for any additional hearing. Moreover, my review of the record leads me to conclude that approval of the Stipulation is in the public interest.

THEREFORE,

IT IS Recommended (Subject to Commission Approval):

1. That the Stipulation for Settlement filed by the parties at Complaint Docket No. C-00970107, C-0097126 and C-00970106 and Application Docket No. A-00113589 is approved and incorporated herein. That upon completion of the work herein ordered the subject crossings are suspended consistent with this Order.

2. That upon completion of this work herein ordered, the Proceedings at the aforementioned docket numbers shall be marked closed.

3. Consolidated Rail Corporation shall not be joined as a party in future proceedings on these crossings except for Willow Street.

4. With respect to the Cornwall Industrial Track crossings located at State Drive (Route 2003), South Eighth Street, South Ninth Street, South Tenth Street, South Twelfth Street, Walnut Street, Chestnut Street, Cumberland Street and Lincoln Avenue, R.J. Corman Railroad Company/Allentown Lines, Inc. shall undertake the following at its sole cost and expense:

(a) temporarily suspend use of the above crossings until April 16, 2000 or until written notice from R.J. Corman Railroad Company to the Commission and all parties of record that the crossings will be reactivated at an earlier point in time or that R.J. Corman Railroad Company has applied to abolish them;

(b) R.J. Corman Railroad Company shall cover or remove any railroad signs and signals at each crossing by June 16, 1998, except for advanced warning signs and pavement markings that are part of the roadway surface which shall be covered or removed by the party responsible for said roadway surface;

(c) R.J. Corman Railroad Company shall pave over the above crossings by September 30, 1998. The pave-over shall include the rails at each crossing. While paving over the crossings, R.J. Corman Railroad Company shall reasonably cooperate with the engineers from the City of Lebanon, South Lebanon Township or Pennsylvania Department of Transportation within whose jurisdiction each crossing is located; and

(d) R.J. Corman Railroad Company shall maintain the crossings during the time that they are suspended and by April 16, 2000, R.J. Corman Railroad Company shall either apply for reactivating of the Cornwall Industrial Track and crossings or file the appropriate petitions for abandonment and abolishment of the track and crossings.

5. The City of Lebanon, South Lebanon Township and Pennsylvania Department of Transportation shall remove the railroad crossing advanced warning signs and railroad pavement markings on the approaches to the crossings over which each entity has control.

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

7. After April 16, 2000, the parties to this Proceeding shall be entitled to raise any of the claims or defenses which they may have, except that in the event of a breach of any of

the material terms in their Stipulation, the complaining party must provide written notice of the breach of the Stipulation and allow the responding party thirty days to respond or cure such breach before the Complaining parties files a complaint or application regarding the breach or seeks enforcement of this Order.

Dated:

July 15, 1988

Herbert S. Cohen  
HERBERT S. COHEN  
Administrative Law Judge

**APPENDIX "A"**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

Docket No. A-00113589

CITY OF LEBANON,

Docket No. C-00970107

Complainant

vs.

CONSOLIDATED RAIL  
CORPORATION, et al.,

Respondent

COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
TRANSPORTATION,

Docket No. C-00970126

Complainant

vs.

CONSOLIDATED RAIL  
CORPORATION,

Respondent

SOUTH LEBANON TOWNSHIP,  
BOARD OF SUPERVISORS,

Docket No. C-0097106

Complainant

vs.

CONSOLIDATED RAIL  
CORPORATION, et al.,

Respondent

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

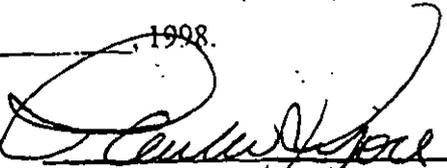
5. After April 16, 2000, the parties to this Stipulation shall be entitled to raise any of the claims or defenses which they may have, except that in the event of a breach of any of the material terms in this Stipulation, the complaining party must provide written notice of the breach of the Stipulation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

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

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

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

By:

  
Paul W. Kilgore, Esquire  
Counsel for South Lebanon Township

5-28-98

By:

  
Timothy D. Sheffey, Esquire  
Counsel for County of Lebanon Transit  
Authority

5/28/98

By:

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

By:

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

By:

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

By:

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

LAW OFFICES

**REILLY, WOLFSON, SHEFFEY,  
SCHRUM & LUNDBERG LLP**

James T. Reilly  
Frederick S. Wolfson  
Timothy D. Sheffey  
Loren A. Schrum  
Paul A. Lundberg  
Paul C. Barnetzreider  
Harry W. Fenton  
John J. Ferry, Jr.  
Michelle R. Calvert  
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1601 Cornwall Road, Lebanon, Pennsylvania 17042-7460  
(717) 273-3733 Fax (717) 273-1535  
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Branch Office:  
112 West Main Avenue  
Myerstown, PA 17067-1019  
(717) 866-9095  
Fax (717) 866-9160

May 31, 2000

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

Re: City of Lebanon v. Conrail, et al.  
Docket No. C-00970107  
Before the Pennsylvania Public Utility Commission

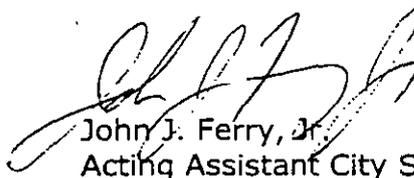
Dear Mr. Corman:

As you may recall, the R.J. Corman Railroad Company was required under the terms of an Order entered in the above matter to either apply for reactivation of the Cornwall Industrial track and crossing by April 16, 2000, or file the appropriate petitions for abandonment and abolishment of the track and crossings. To the best of my knowledge, neither action has been taken at this time. Therefore, please consider this letter a written demand that you file for abandonment of the track and crossings as required by the Stipulation and Order.

Please consider this letter written notice of a breach of the Stipulation, and note that the City of Lebanon has the right under the terms of the Order to file a Complaint or application regarding the breach if the breach is not cured within thirty days.

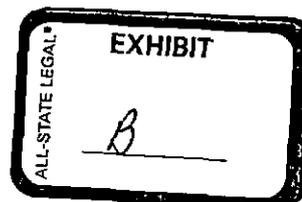
Very truly yours,

REILLY, WOLFSON, SHEFFEY,  
SCHRUM AND LUNDBERG LLP



John J. Ferry, Jr.  
Acting Assistant City Solicitor

JJF/scp



cc: Honorable Jacqueline Z. Parker  
Edward M. Keener, City Engineer  
Adrienne C. Snelling, Esquire  
County of Lebanon Transportation Authority  
Lebanon County Commissioners  
William D. Pickering, Chief Engineer, PENNDOT  
Pennsylvania Public Utility Commission  
Keith L. Kilgore, Esquire

**GRENN & BIRSIC, P.C.**

**ATTORNEYS AT LAW**  
ONE GATEWAY CENTER  
NINE WEST  
PITTSBURGH, PENNSYLVANIA 15222  
(412) 281-7650  
FAX (412) 281-7657  
EMAIL grenbirs@mdi.net

July 18, 2000

John J. Ferry, Jr., Esquire  
Acting Assistant City Solicitor  
City of Lebanon  
1601 Cornwall Road  
Lebanon, PA 17042-7460

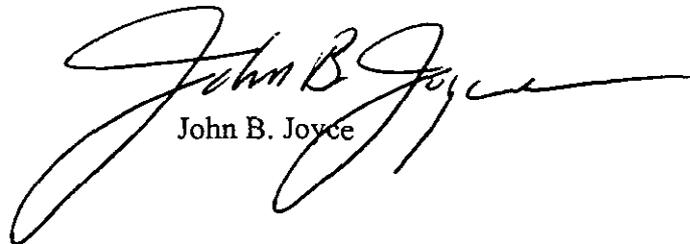
Gina M. D'Alfonso, Esquire  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, PA 17105-8212

**RE: City of Lebanon vs. Conrail, et al.**  
**Docket No.: C-00970107**  
**Before the Pennsylvania Public Utility Commission**

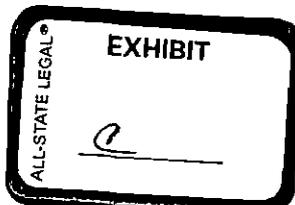
Dear Counsel:

This is in response to your letters of June 14 and May 31, 2000 regarding the Cornwall Industrial Track. Please note that your letters were directed to R.J. Corman Railroad Company/Pennsylvania Lines, Inc. ("PA Lines"). This is to advise you that PA Lines does own and operate the Cornwall Industrial Track. However, PA Lines has forwarded your correspondence to R.J. Corman Railroad Company/Allentown Lines, Inc. ("Allentown Lines"), which is the owner and operator of the Cornwall Industrial Track. Please be advised that Allentown Lines is still attempting to secure rail service business along with Cornwall Industrial Track. Allentown Lines realizes that if any business is secured along the line, that it will take some time to undertake certain repairs to the line. Therefore, Corman is interested in entering into a stipulation for the continued suspension of the subject crossings along the Cornwall Industrial Track. Please contact me and let me know whether your respective clients are amenable to such a stipulation.

Very truly yours,

  
John B. Joyce

JBj/asl  
cc. Mr. Brad Brown



LAW OFFICES

**REILLY, WOLFSON, SHEFFEY,  
SCHRUM & LUNDBERG LLP**

Frederick S. Wolfson  
Timothy D. Sheffey  
Loren A. Schrum  
Paul A. Lundberg  
Paul C. Bametzreider  
Harry W. Fenton  
John J. Ferry, Jr.  
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James T. Reilly  
(1964-2000)

August 1, 2000

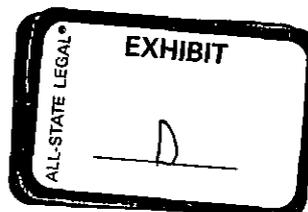
John B. Joyce, Esquire  
Grenen & Birsic, P.C.  
One Gateway Center  
Nine West  
Pittsburgh, PA 15222

Re: City of Lebanon v. Conrail, et al.  
Docket No. C-00970107  
Before the Pennsylvania PUC

Dear Mr. Joyce:

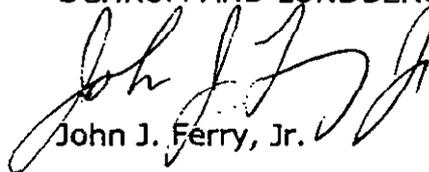
In response to your July 18, 2000 correspondence, please be advised that the City of Lebanon has advised me that it is not interested in entering into a stipulation for the continued suspension of the railroad crossings along the Cornwall Industrial Track. I therefore would ask that your client file the appropriate petitions for abandonment and abolishment of the track and crossings as required by the terms of the Order entered in this matter.

Since more than thirty days have now passed since my May 31, 2000 correspondence notifying your client of the breach of the stipulation, the City of Lebanon now has the right to file a complaint or application regarding this breach. If your client does intend to file petitions for abandonment in the immediate future, please advise me as soon as possible.



Very truly yours,

REILLY, WOLFSON, SHEFFEY,  
SCHRUM AND LUNDBERG LLP



John J. Ferry, Jr.

JJF/scp

cc: Mayor Jacqueline Z. Parker  
Edward Keener  
Adrienne C. Snelling, Esquire  
County of Lebanon Transportation  
County of Lebanon Commissioners  
Gina M. D'Alfonso, Esquire  
Pennsylvania Public Utility Commission  
Keith L. Kilgore, Esquire

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

www.dot.state.pa.us

OFFICE OF CHIEF COUNSEL  
DEPARTMENT OF TRANSPORTATION

P.O. BOX 8212  
HARRISBURG, PA 17105-8212  
(717) 787-3128  
FAX (717) 772-2741



August 8, 2000

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

RE: City of Lebanon vs. Conrail, et al.  
Docket No.: C-00970107  
Before the Pennsylvania Public Utility Commission

Dear Mr. Joyce:

In response to your July 18, 2000 letter in the above referenced matter, please be advised that the Department of Transportation is not amenable to entering into a stipulation to allow the continued suspension of the subject crossings along the Cornwall Industrial Track.

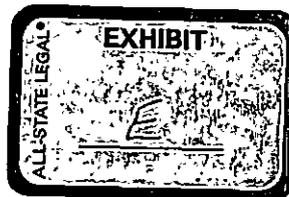
Very truly yours,

A handwritten signature in cursive script that reads "Gina M. D'Alfonso".

Gina M. D'Alfonso  
Assistant Counsel in Charge

220/GMA:sld

cc: John J. Ferry, Jr., Esquire, Acting Assistant City Solicitor  
Gary C. Fawver, P.E., 7<sup>th</sup> Floor, Forum Place  
Raymond W. Britcher, District 8-0



**CERTIFICATE OF SERVICE**

I hereby certify that I served the within Petition this 20 day of October, 2000. By depositing the same in the United States mail, postage prepaid, addressed to the following:

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

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

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

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

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

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

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

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

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

Gina M. D'Alfonso, Esquire  
PA Department of Trans.  
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

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

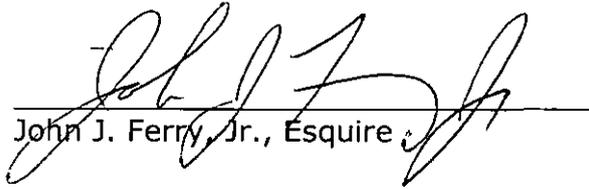
John Brian Joyce, Esquire  
Grenen & Birsic, P.C.  
One Gateway Center  
Nine West  
Pittsburgh, PA 15222

Rich Corman  
R.J. Corman Railroad Company  
PA Lines, Inc.  
One Jay Station  
Nicholasville, KY 40356

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

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

Benjamin C. Dunlap, Jr., Esquire  
Nauman, Smith, Shissler & Hall  
18<sup>th</sup> Floor  
200 North Third Street  
P.O. Box 840  
Harrisburg, PA 17108

  
John J. Ferry, Jr., Esquire

DOCUMENT  
FOLDER

COMMONWEALTH OF PENNSYLVANIA

**DOCKETED**

OCT 26 2000

DATE: October 24, 2000

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

TO: Office of Special Assistants

FROM: James J. McNulty, Secretary

LAF

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 v. Conrail

C-00970107: City of Lebanon v. Conrail

C-00970126: PennDOT v. Conrail

---

Attached is a copy of a Petition for Rule Upon R.J. Corman Company to File an Abandonment Petition, filed by the City of Lebanon, in connection with the above docketed proceeding.

This matter is assigned to your Office for appropriate action.

Attachment

cc: TSR  
TSL

laf

**GRENNEN & BIRSIC, P.C.**

**ATTORNEYS AT LAW**  
ONE GATEWAY CENTER  
NINE WEST  
PITTSBURGH, PENNSYLVANIA 15222  
(412) 281-7650  
FAX (412) 281-7657  
EMAIL [grenbirs@mdi.net](mailto:grenbirs@mdi.net)

**ORIGINAL**

November 8, 2000

**VIA FEDERAL EXPRESS**

Commonwealth of Pennsylvania  
Public Utility Commission  
Commonwealth and North Street  
Room B20  
Harrisburg, PA 17105-3265

Attention: James J. McNulty, Secretary

**RE: South Lebanon Township v. Co. of Lebanon  
C-00970107**

**City of Lebanon v. County of Lebanon  
C-00970106**

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

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

**RECEIVED**

NOV 08 2000

PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

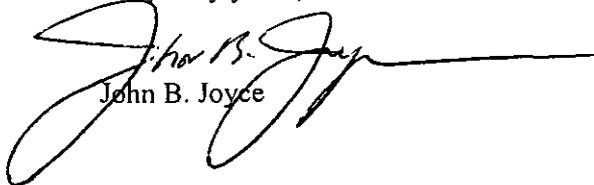
**DOCUMENT  
FOLDER**

Dear Secretary McNulty:

Please find enclosed four originals of R.J. Corman Railroad Company's Response to the Petition for Rule Upon R.J. Corman Company to File an Abandonment Petition. Please file the Response under each of the above-referenced case numbers. Also, please time-stamp the extra cover page enclosed herein and return in the envelope provided.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

  
John B. Joyce

JBj/asl

Enclosures

cc. All counsel

BEFORE THE PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

ORIGINAL

SOUTH LEBANON TOWNSHIP

C-00970107

2-00970107

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v.

COUNTY OF LEBANON

NOV 08 2000

CITY OF LEBANON

C-00970106

PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

v

COUNTY OF LEBANON

DOCUMENT  
FOLDER

COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
TRANSPORTATION

C-00970126

v.

CONRAIL

DOCKETED

NOV 20 2000

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

A-00113589

**ANSWER OF R.J. CORMAN RAILROAD COMPANY/ALLENTOWN  
LINES, INC. TO PETITION FOR RULE TO FILE ABANDONMENT PETITION  
AND REQUEST FOR EXTENSION OF TIME**

AND NOW, comes R.J. Corman Railroad Company/Allentown Lines, Inc. ("Allentown Lines") by and through its counsel, Grenen & Birsic, P.C., and files this Answer and Request and states in support the following:

1. Paragraphs 1-3 of the Petition are admitted.
2. Admitted in part and denied in part. It is admitted that a Stipulation for Settlement was recommended for approval by the Administrative Law Judge of the Public Utility Commission. The recommendation of approval of the Stipulation and proposed Order speak for themselves and to the extent the allegations mis-characterize the recommended decision, the allegations are denied.
3. Paragraphs 5 and 6 of the Petition are admitted.
4. Paragraph 7 of the Petition is denied. The Stipulation and Order speak for themselves. Furthermore, Allentown Lines denies that a material breach has occurred. Rather the status quo has been maintained as to the Cornwall Industrial Line and Allentown Lines believes that an extension of time to allow it to develop business on the line does not in any way prejudice any of the parties. Use of the line promotes business for the Lebanon area and the Commonwealth.
5. Paragraph 8 of the Petition is admitted in part and denied in part. It is admitted that Petitioner gave notice to Allentown Lines. Allentown Lines incorporates by reference its answer to Paragraph 7.
6. Paragraph 9 of the Petition is admitted. At this juncture, Allentown Lines is still attempting to secure rail service business along the Cornwall Industrial Track which it believes would be beneficial to the local community. Allentown Lines asserts that there is not any safety or transportation issues with respect to the line.
7. Paragraph 10 is admitted in part and denied in part. Allentown Lines admits that it received responses from Petitioner and the Pennsylvania Department of Transportation. The responses speak for themselves. To the extent the allegations mis-characterize the responses, Allentown Lines asserts that the response letters speak for themselves.

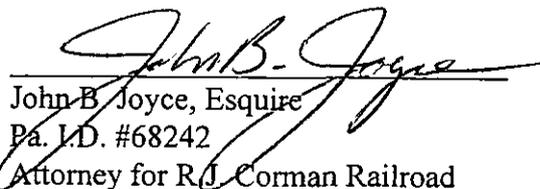
8. Paragraph 11 is admitted in part and denied in part. Allentown Lines admits that it received responses from Petitioner and the Pennsylvania Department of Transportation. The responses speak for themselves. To the extent the allegations mis-characterize the responses, Allentown Lines asserts that the response letters speak for themselves. As previously stated, Allentown Lines believes that there is an opportunity to secure rail service along the line and that abandonment is premature at this time. Accordingly, Allentown Lines requests an extension of time from the Commission to secure rail service business. Allentown Lines asserts that there is no prejudice to the Petitioner for such an extension.

WHEREFORE, Allentown Lines respectfully requests that the Commission deny the Petition filed by the City of Lebanon and grant Allentown Lines an extension of time to secure rail service business along the Cornwall Industrial Track..

Respectfully submitted,

GRENNEN & BIRSIC, P.C.

BY:



John B. Joyce, Esquire  
Pa. I.D. #68242  
Attorney for R.J. Corman Railroad  
Company/Allentown Lines  
One Gateway Center, Nine West  
Pittsburgh, PA 15222  
(412) 281-7650

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the within Answer to Petition was served upon the following this 9 day of November, 2000 via First Class, U.S. Mail:

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

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

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

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

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

John Herzog, Esquire  
PA PUC Transportation/Safety  
Rail Division  
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Harrisburg, PA 17105-3265

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

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

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

Gina M. D'Alfonso, Esquire  
PA Department of Trans.  
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

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

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

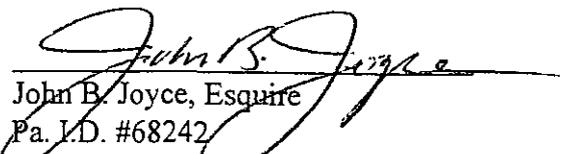
Paul Krause, Chairman  
South Lebanon Township  
Board of Supervisors  
1800 South Fifth Avenue  
Lebanon, PA 17042

Benjamin C. Dunlap, Jr., Esquire  
Nauman, Smith, Shissler & Hall  
18<sup>th</sup> Floor  
200 North Third Street  
P.O. Box 840  
Harrisburg, PA 17108

John J. Ferry, Jr. Esquire  
Reilly, Wolfson, Sheffy, Schrum  
& Lundberg, P.C.  
1601 Cornwall Road  
Lebanon, PA 17042-7460

GRENNEN & BIRSIC, P.C.

BY:

  
John B. Joyce, Esquire  
Pa. I.D. #68242  
Attorney for Defendant,  
R.J. Corman Railroad Company/Allentown  
Lines, Inc.  
One Gateway Center  
Nine West  
Pittsburgh, PA 15222  
(412) 281-7650



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

IN REPLY PLEASE  
REFER TO OUR FILE

March 5, 2001

MR BRIAN CZEPANSKI GENERAL MANAGER  
R J CORMAN RAILROAD COMPANY  
ALLENTOWN LINES INC  
333 LINDEN STREET  
ALLENTOWN PA 18101

BUCKETED  
MAR 12 2001

DOCUMENT  
FOLDER

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

Dear Mr. Czepanski:

By order adopted August 27, 1998, the Commission directed the suspension of the subject crossings. Numbered Paragraph 4 (b) specifically directed R. J. Corman Railroad Company to cover or remove any railroad signs and signals at each crossing.

PennDOT, by memorandum dated February 22, 2001, advised the Commission that the plastic bags covering the signals are missing and therefore, ineffective. Furthermore, the Department requests that the railroad be required to cover the signals with lockable signal covers.

Please investigate this matter and install substantial covers or remove the signals as directed by the Commission in its order adopted August 27, 1998. Please advise, in writing, when the work is completed.

Very truly yours,

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

DCH:WJK:lg

SRB

cc:

GARY C FAWVER PE CHIEF  
ROW & UTILITY DIVISION  
PENNDOT BUREAU OF DESIGN  
PO BOX 3362  
HARRISBURG PA 17105-3362

RAYMOND W BRITCHER PE  
PENNDOT DISTRICT 8-0  
2140 HERR STREET  
HARRISBURG PA 17103-1699

JOHN BRIAN JOYCE ESQUIRE  
ATTORNEYS FOR R J CORMAN/  
ALLENTOWN LINES INC  
ONE GATEWAY CENTER NINE WEST  
PITTSBURGH PA 15222