

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB-167 (Sub-No. 623N)

CONRAIL ABANDONMENT IN LEHIGH COUNTY, PA

**REPLY OF CONSOLIDATED RAIL CORPORATION
TO JAMES RIFFIN'S MOTION TO STRIKE**

Consolidated Rail Corporation ("Conrail") hereby replies to the notice of intent to participate and motion to strike filed by James Riffin on November 2, 2015 in this proceeding.

As we show below, Riffin should not be permitted to insert himself into a proceeding in which the substantive issues were addressed more than thirty years ago and he has no legitimate interest. Furthermore, if allowed to participate, Riffin's motion should be denied. First, the Interstate Commerce Commission ("ICC") divested itself of authority over the abandonment when it approved it and issued a certificate of abandonment. Moreover, the notice of consummation that Riffin seeks to strike was provided voluntarily by Conrail in response to a non-binding request by the ICC. Thus, the notice itself had no legal effect, and, therefore, striking it would be a gratuitous act with no legal consequences. Second, Riffin's arguments that Conrail should not be the party providing the notice are wrong.

Background

This proceeding relates to the 1984 abandonment by Conrail of a portion of the Leighton Secondary Track in Catasauqua, Lehigh County, PA—an approximately 1.4 mile segment that was included with two other segments of track in Lehigh County, PA, in an abandonment application docketed as AB 156 (Sub-No. 623N). Conrail filed the abandonment

application in early 1984, pursuant to Section 308(c) of the Regional Rail Reorganization Act of 1973, as amended by Section 1156 of the Northeast Rail Service Act of 1981 (“NERSA”). (The relevant statutory provisions are codified at 45 U.S.C. § 748. Pertinent portions of the application are attached as Exhibit A.)

In its April 6, 1984 letter transmitting the abandonment application to the ICC (*see* Exhibit A), Conrail stated that the line segment at issue here was subject to trackage rights held by the Delaware & Hudson Railway Company, Inc. (“D&H”) and that the abandonment application would not affect D&H’s rights unless and until the ICC approved the discontinuance of those trackage rights.

In a “Certificate and Decision” granting the application (decided July 13, 1984 and served July 19, 1984), the ICC stated that “[t]he time for the filing of offers of financial assistance has expired without a bona fide offer” and that “[i]f the authority granted by this certificate and decision is exercised, Conrail shall advise this Commission in writing, immediately after abandonment of the line of railroad, of the date on which the abandonment actually took place.” July 19, 1984 Certificate and Decision (attached as Exhibit B).

The ICC issued the abandonment certificate without any conditions. The ICC stated that “It is certified: Conrail is authorized to abandon the line described above” and “It is ordered: (1) This certificate and decision is effective upon service.” July 19, 1984 Certificate and Decision.

On October 5, 2015, by letter to Cynthia T. Brown, Chief, Section of Administration, Office of Proceedings, Jonathan M. Broder, Vice President, Corporate Development and Chief Legal Officer of Conrail, notified the Board that Conrail had consummated its abandonment of the subject portion of the Lehigh Secondary as of the date that D&H had effectuated discontinuance of its trackage rights over the same line segment pursuant to a verified notice of

exemption filed by D&H in Docket No. AB 156 (Sub-No. 27X). On November 2, 2015, over 31 years after Conrail the ICC granted the NERSA abandonment application, Riffin filed a notice of intent to participate in the proceeding and a motion to strike Broder's October 5, 2015 letter.

Argument

As noted above, this matter involves a NERSA abandonment. NERSA abandonments were subject to expedited and simplified procedures that afforded the ICC a merely "ministerial" role. *See* 49 C.F.R. § 1105.5(c) (stating that "[t]he environmental laws are not triggered where the STB's action is nothing more than a *ministerial act*, as in (1) The processing of abandonments proposed under the Northeast Rail Services Act") (citation omitted; emphasis added). *See Lucas v. Township of Bethel*, 319 F.3d 595, 601 (3d Cir. 2003) (NERSA provides "expedited procedures").

Consistent with this limited authority, the ICC stated that it had "no authority to reject, dismiss, deny, delay or condition Conrail abandonment applications under NERSA." Ex Parte No. 419, *Conrail Abandonments Under NERSA*, 365 I.C.C. 472, 474 (1981); *accord, e.g.*, AB-167 (Sub-No. 1002N), *Conrail Abandonment in Clearfield County, PA*, 1993 WL 49981, at *1 (ICC served Mar. 1, 1993); *see also Lucas*, 319 F.3d at 597 (NERSA "substantially limits the STB's authority to place the usual conditions on abandonment of a railroad right of way"). As the Third Circuit stated in *Lucas*, "Section 308 limits the ICC's usual authority to impose abandonment conditions by providing expedited procedures for certain abandonment requests filed by Conrail." *Lucas*, 319 F.3d at 601; *see also id.* at 602 ("Thus, the abandonment proceedings established by § 308 contemplate limited agency involvement and virtually automatic approval of Conrail's request to abandon the line.").

NERSA abandonments were not subject to environmental or historic review procedures. *See* Ex Parte No. 419, *Conrail Abandonments Under NERSA*, 365 I.C.C. at 475; *see also* 49

C.F.R. § 1105.5(c); § 1105.6(b)(2); § 1105.8(a); STB Docket No. AB 156 (Sub-No. 27X), *Delaware & Hudson Ry. Co., Inc.—Discontinuance of Trackage Rights Exemption—in Broome County, NY, etc.* slip op. at 3 (served Aug. 13, 2015); AB-167 (Sub-No. 1002N), *Conrail Abandonment in Clearfield County, PA*, 1993 WL 49981, at *1.

NERSA abandonments also were subject to strict deadlines for the filing of Offers of Financial Assistance (“OFAs”). *See* 45 U.S.C. § 748(c)(2) (OFAs must be filed within 90 days of the filing of abandonment application under NERSA); *see also Lucas*, 319 F.3d at 598; *Conrail Abandonment in Clearfield County, PA*, 1993 WL 49981, at *1.

And once the ICC grants Conrail unconditional authority to abandon its line, the regulatory jurisdiction over the abandonment *is at an end*. *Lucas*, 319 F.3d at 601 (“[U]nder these expedited abandonment procedures, the ICC granted Conrail *unconditional* authority to abandon its line. This unconditional abandonment terminated the agency’s jurisdiction”) (emphasis in original); *id.* at 602 (precedent establishes that unconditional abandonment authority brings ICC “jurisdiction to an end”); *id.* (“Indeed, the expedited nature of a § 308 abandonment would argue strongly in favor of applying this ‘unconditional abandonment’ rule to terminate the ICC’s regulatory role in the case of a § 308 abandonment”).

As we now show, Riffin’s late-filed notice and motion should be rejected. If the Board considers the motion at all, it should be denied.

1. Riffin should not be permitted to intervene in this proceeding.

Although the Board is not bound by strict Article III standing principles in deciding who may participate in Board matters, it is clear that Riffin is not an “interested person” within the

meaning of the Administrative Procedure Act, 5 U.S.C. § 553(c).¹ To our knowledge, he is not a shipper on the line and does not live nearby. Perhaps at one time he could have asserted a legitimate interest in the abandonment as a potential OFA offeror, but that time passed more than thirty years ago, as the ICC noted in its July 19 1984 Certificate and Decision, when it stated, “The time for the filing of offers of financial assistance has expired. . . .”

Thus, Riffin has no legitimate interest in the abandonment of this long-out-of-service line segment. *Cf.* No. MC-c-10951, *Liberty Liquors Co. v. Ryder/P-I-E Nationwide, Inc.*, 1987 WL 99631, at *1 (Oct. 8, 1987) (denying motion to intervene because petitioners had “no interest in the facts of this particular case” but “instead are arguing the broader issue we have recently addressed in another proceeding”).

In fact, Riffin’s sole “interest” in this matter, as in so many others upon which he has intruded, appears to be to harass and annoy, to attempt to extort favorable settlements on issues extraneous to the matter in which he has inserted himself, and generally to exploit and abuse U.S. rail regulations and Board processes for personal gain. As the Board noted recently, it intends to increase enforcement of 49 C.F.R. § 1104.8, which allows the Board to strike material that is “redundant, irrelevant, immaterial, impertinent, or scandalous.” *See Ex Parte 727, Petition of Norfolk S. Ry. Co. to Institute a Rulemaking Proceeding to Address Abuses of Board Processes*, slip op. at 4 (served Sept. 23, 2015). It appears that Riffin does not really believe or expect that the Board will live up to its commitment to better police its docket. But here is where the Board can start to make good on its Ex Parte 727 promise – by rejecting Riffin’s notice and motion.

¹ The Board’s regulations at 49 C.F.R. § 1152.25(a)—although not directly applicable to this abandonment—also limit participation to “interested persons.”

2. The motion seeks relief in a matter over which the Board has no jurisdiction and seeks a remedy that would have no legal effect.

If the Board allows Riffin to participate and entertains his motion to strike, the Board should expeditiously deny the motion.

As an initial matter (and as noted above), the ICC's and STB's authority over NERSA abandonments is severely circumscribed. The ICC itself stated that it did not have the authority to set conditions on NERSA abandonments: "First, we must stress that we have no authority to reject, dismiss, deny, delay or *condition* Conrail abandonment applications under NERSA." Ex Parte No. 419, *Conrail Abandonments Under NERSA*, 365 I.C.C. at 474 (emphasis added); *see also id.* at 474 n.4 ("In addition to the statutory provision stating that we *must* grant these abandonments, the Conference Committee report states that we 'may not reject any abandonment application filed under the procedure of this Act.'"). The Third Circuit in *Lucas* agreed, citing with approval the ICC's decision in Ex Parte No. 419. *See Lucas*, 319 F.3d at 601-02; *see also id.* at 602 (referring to the "*unconditional* nature of the ICC's abandonment certificate under § 308") (emphasis in original).

In *Lucas*, the court rejected a district court finding that, in a NERSA abandonment, the ICC or STB retained jurisdiction to determine whether the abandonment was fully effected—that is, whether it was consummated. *See* 319 F.3d at 600 (stating that the district court had found that the STB had "exclusive and plenary jurisdiction to determine whether Conrail had abandoned its right of way This determination was based on a finding that the STB will retain jurisdiction unless and until it makes an initial determination that Conrail has fully abandoned the [line]."); *see also id.* at 603 (discussing general rule for determining "whether an abandonment has been consummated").

The Third Circuit held that the district court erred because “[u]nder the circumstances of this case, however, it is plain that the ICC’s unconditional authorization of abandonment ended the agency’s regulation of the [line].” *Id.* at 600. The district court had failed “to recognize that Conrail received approval to abandon its line under § 308(c), a statutory provision which substantially limits the ICC’s involvement in abandonment proceedings.” *Id.* at 601. The Third Circuit explained that precedent clearly establishes that *unconditional* abandonment authorizations divest the ICC of jurisdiction, including the jurisdiction to determine whether Conrail has fully abandoned the line. *Id.* at 602.

The District Court, however, relied on the general rule applied to the vast majority of railroad abandonments—which are conditional abandonments under the Interstate Commerce Act. The jurisdictional rule for unconditional abandonments differs from the general rule applied to conditional abandonments. When an abandonment is conditional, the ICC retains jurisdiction over a railroad right of way until it has been abandoned pursuant to the conditions established by the federal agency. In such cases, the agency retains exclusive, plenary jurisdiction to determine *whether there has been an abandonment* sufficient to terminate its jurisdiction. Because Conrail’s abandonment was authorized without conditions under the provisions of § 308, the District Court erred in following the general rule to conclude that the STB retained exclusive jurisdiction. As explained above, the ICC’s unconditional abandonment order makes clear that there is no basis for continued federal regulation of [the line].

Id. at 602-03 (citations and footnote omitted; emphasis in original)

Thus, in granting the NERSA abandonment application at issue here without conditions—which is all that the ICC could do in the circumstances—regulatory jurisdiction over the *abandonment proceeding* ended (even if the ICC retained jurisdiction over the line under the circumstances because of D&H’s trackage rights). Riffin cannot revive that jurisdiction now by questioning Conrail’s consummation of the abandonment.

There is a related reason why Riffin's motion should be denied even if, contrary to the holding of the Third Circuit in *Lucas*, the Board concludes that federal jurisdiction over the abandonment was not entirely terminated by the ICC's unconditioned approval of the abandonment: The relief sought by Riffin—the striking of Conrail's notice of consummation—would be a legal nullity. The inability of the ICC to condition the NERSA abandonment means that the ICC did *not* have the authority to condition the abandonment on Conrail's filing of a notice of consummation.² Thus, despite the wording of the July 19, 1984 ICC Certificate and Decision, the ICC could not obligate Conrail to file a notice of consummation, and could not upend the abandonment if Conrail failed to file such a notice.

This renders Conrail's October 5, 2015 consummation notice a legally voluntary act with no legal consequences. Striking that notice, as Riffin requests, would accordingly be an act without legal effect. A motion requesting legally irrelevant relief wastes administrative resources and is a paradigm case of frivolous pleading. Accordingly, Riffin's motion should be denied.³

3. Conrail was the proper party to file the notice of consummation.

Riffin's argument that Conrail could not properly file the notice is mistaken. For one thing, the NERSA abandonment was granted to Conrail, and Conrail was the logical party to file

² The Board did not add a regulatory notice requirement for the consummation of abandonments until 1997. *See* FD 35296, *Anthony Macrie—Continuance in Control Exemption—NJ Seashore Lines, Inc.*, slip op. at 5 n.8 (served Aug. 31, 2010) (citing 49 C.F.R. § 1152.29(e)(2)). That regulation expressly applies only to abandonments under 49 U.S.C. § 10903 and 49 U.S.C. § 10502. Because of the ministerial role of the ICC and STB, it could not be applied to a NERSA abandonment.

³ This also disposes of Riffin's allegation (Motion to Strike at 7) that Conrail has acted improperly in other NERSA matters by failing to provide notices of abandonment. The ICC and/or STB could not require such notices under the NERSA scheme, and, therefore, to the extent that Conrail has not provided such notices, the omission(s) violated no legal duty.

the voluntary notice that the abandonment had been consummated. (Indeed, if another entity had filed the letter, Riffin no doubt would be complaining about *that*.)

Moreover, as Conrail's Broder explained in the October 5, 2015 letter, whatever interest in the underlying property may have passed to Norfolk Southern Railway Company, that interest did not include common carrier rights or obligations. *See* October 5, 2015 letter at note 1.

Riffin's argument that Conrail could not have retained any common carrier obligations with regard to the property after the CSX-NS split of Conrail in Finance Docket No. 33388 misapprehends the nature of that transaction, as well as the parties' understanding of that transaction. For one thing, as the portion of Decision 89 in that proceeding that Riffin himself quotes clearly shows (Riffin Motion at 4, quoting 3 S.T.B. 196, 386 (1998)), the operational control and other rights and obligations being transferred to CSX and NS involved only the Conrail lines and properties that were specifically provided for in the "NYC/PRR assignments." We have not found any indication that the portion of the Lehigh Secondary at issue here was included in those assignments.

Moreover, at the time of the Finance Docket No. 33388 proceeding, no one contemplated that Conrail lines authorized for abandonment via NERSA-sanctioned abandonment, but which remained legally "active" due to a third party's unused but as-yet-unextinguished trackage rights over them, would somehow be revived and pass to NS or CSX. And certainly no one would have contemplated that abandonments previously approved under the NERSA statute, but not yet consummated because of unextinguished trackage rights held by third parties, would be nullified.⁴ Riffin's argument to the contrary not only elevates form over substance but imputes

⁴ Indeed, in light of the ICC's and STB's extremely circumscribed authority over NERSA abandonments, it is difficult to believe that the Board would or could assume the authority to

to the Board (and the parties to the CSX-NS-Conrail transaction) intentions that they could not reasonably have had, by reviving common carrier obligations on moribund lines that NS and CSX clearly would not have wanted.

Thus, there is no basis for Riffin's argument that the wrong party consummated the abandonment of this segment of the Lehigh Secondary, and that, therefore, the Broder October 5, 2015 letter (which, as noted above, was a legally gratuitous document in any event), should be stricken.⁵

Conclusion

For the foregoing reasons, the Board should deny Riffin leave to participate in this proceeding and reject his motion to strike. If the Board does consider the motion to strike, it must be denied.

Jonathan Broder
CONSOLIDATED RAIL CORPORATION
1717 Arch Street, Suite 1310
Philadelphia PA 19103
(215) 209-5020

Robert M. Jenkins III

Robert M. Jenkins III
Adam C. Sloane
MAYER BROWN LLP
1999 K Street NW
Washington, DC 20006
Tel. (202) 263-3261

Dated: November 17, 2015

reject a NERSA abandonment—an authority the ICC repeatedly disclaimed (*see supra*)—*sub silentio*.

⁵ Nor could Riffin argue that the approval of the NERSA abandonment could lapse or be rescinded on the grounds of staleness. As noted above, the NERSA statute gave the ICC no discretion to deny a properly submitted NERSA abandonment. By the same token, nothing in the statute empowered the ICC to put a time limit on the approval of an abandonment. Because the NERSA abandonments were not subject to environmental or historic review, the kind of changed circumstances that might be relevant to other non-consummated abandonments would be irrelevant to the continued validity of a NERSA abandonment.

CERTIFICATE OF SERVICE

I, Adam C. Sloane, hereby certify that, on this 17th day of November, I caused the foregoing to be served by First Class United States Mail upon the following:

James Riffin
P.O. Box 4044
Timonium, MD 21094

Pennsylvania Public Utilities Commission
Transportation Division
Rodney D. Bender, Manager
P.O. Box 3265
Harrisburg, PA 17105-3265

Pennsylvania Department of Transportation
Bureau of Rail and Freight
Keystone Building
400 North Street
Harrisburg, PA 17120

Adam C. Sloane
Adam C. Sloane

Exhibit A: NERSA Abandonment Application

CONRAIL



April 6, 1984

Mr. James H. Payne
Acting Secretary
Interstate Commerce Commission
Room 1312
12th and Constitution Avenues, NW
Washington, DC 20423

Re: Application Under Section 108(c) of the Regional Rail Reorganization Act of 1973, as enacted by Section 1156 of the Northeast Rail Service Act of 1981, for abandonment of the Lehighton Secondary Track and the Leighton Industrial Cluster in Lehigh County, Pennsylvania
Docket No. AB 187 (Sub No. 623d)

Dear Mr. Payne:

Enclosed for filing with the Commission are the original and six copies of the above described application. This application is submitted under Section 108(c) of the Regional Rail Reorganization Act of 1973, as enacted by Section 1156 of the Northeast Rail Service Act of 1981. Notice of insufficient revenue was filed October 18, 1983.

The Leighton line, which is one of the subjects of this application, is subject to D&H trackage rights. This application will not affect such rights unless and until the Commission approves their discontinuance.

Copies of the application have been served on the shippers and other persons designated on the attachment to this letter.

Please stamp and return the enclosed extra copy of this letter to acknowledge receipt.

Very truly yours,

Charles E. Mecher
Charles E. Mecher
Senior General Attorney
1139 Six Penn Center Plaza
Philadelphia, PA 19103
(215) 977-5017

FILED

RECEIVED
COMMERCIAL DIVISION



BEFORE THE
INTERSTATE COMMERCE COMMISSION

APPLICATION OF CONSOLIDATED RAIL CORPORATION PURSUANT TO SECTION 308(c) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973, AS AMENDED BY SECTION 1156 OF THE NORTHEAST RAIL SERVICE ACT OF 1981, FOR APPROVAL OF THE ABANDONMENT OF THE LEHINGTON SECONDARY TRACK AND IRONTON INDUSTRIAL CLUSTER IN LEHIGH COUNTY, PENNSYLVANIA : DOCKET NO. AB 167 (SUB NO. 623N) :

Charles E. Mechen
General Attorney
Consolidated Rail Corporation
1139 Six Penn Center Plaza
Philadelphia, PA 19103
(215) 977-5017

April 6, 1984

BEFORE THE
INTERSTATE COMMERCE COMMISSION

APPLICATION OF CONSOLIDATED RAIL CORPORATION PURSUANT TO SECTION 308(c) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973, AS AMENDED BY SECTION 1156 OF THE NORTHEAST RAIL SERVICE ACT OF 1981, FOR APPROVAL OF THE ABANDONMENT OF THE LEHIGHTON SECONDARY TRACK AND THE IRONTON INDUSTRIAL CLUSTER IN LEHIGH COUNTY, PENNSYLVANIA : DOCKET NO. AB 167 (SUB NO. 623N)

TO THE INTERSTATE COMMERCE COMMISSION, WASHINGTON, DC:

1. The name of applicant is Consolidated Rail Corporation (Conrail). Correspondence relating to this application should be addressed to Charles E. Mechen, General Attorney, 1136 Six Penn Center, Philadelphia, Pennsylvania 19103.
2. Applicant is a common carrier by railroad subject to the Northeast Rail Service Act of 1981 (NERSA).
3. Conrail files this application pursuant to Section 308(c) of the Regional Rail Reorganization Act of 1973 (RRR Act), as amended by Section 1156 of NERSA. A copy of said statute is attached hereto as Exhibit A.
4. By this application Conrail requests the Commission's approval of the abandonment of the lines of rail,

approximately 10.1 miles in length, described below and situated in Lehigh County, Pennsylvania:

- (1) The Lehigh Secondary Track* in Catasauqua from 200 feet west of the west side of Race Street Bridge, UC 896.59 (approximately Milepost 96.2), to point of prior abandonment (approximately Milepost 92.0);
- (2) The Ironton Industrial Track (formerly Main Line of Ironton Railroad) from Ironton (approximately Milepost 1.0) to Coplay, the end of the line (approximately Milepost 5.5); and
- (3) The Ironton Industrial Track from point of intersection with the former Main Line of the Ironton Railroad (approximately Milepost 0.0) in Egypt to Catasauqua, the end of the line (approximately Milepost 4.2).

The above-described lines will hereafter be referred to as the Subject Lines.

5. Attached as Exhibit B is a map showing the location of the Subject Lines.

6. Attached hereto as Exhibit C is a summary, or condensed statement, based on the most recent studies available to Conrail, setting forth (a) "revenues attributable," (b) an estimate of avoidable costs for the Subject Lines, and

*Abandonment to include approximately 2,200 feet of additional right of way extending westwardly from the Lehigh Secondary at Milepost 97.3 to the junction of the former Lehigh Valley Railroad and Ironton Railroad.

(c) an estimate of the subsidy that would be required to keep the lines in operation. Exhibit C includes an estimate of the cost of the work that would be required to preserve the Subject Lines in FRA Class 1 condition. Attached hereto as Exhibit D is an estimate of the value of the Subject Lines, including the real estate value of the underlying right-of-way. Pursuant to Section 308(d) of the RRR Act the aforesaid revenue, cost, and subsidy information and valuation estimate will be furnished, on request, to any responsible person other than a recipient of this application who seriously desires to consider making an offer of financial assistance.

7. Within fifteen days after the filing of this application, persons desiring a more detailed statement setting forth the basis upon which the subsidy estimate was calculated, may request such information in writing. Such detailed statement will be furnished within fifteen days after receipt of the request.

8. Finally, if a financially qualified person seriously considering purchase of the Subject Lines submits a request received by Conrail within 15 days after the date of filing of this application, Conrail, within 45 days after the request, will provide an appraisal of the real estate value

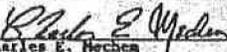
of the lines, together with any adjustments to the estimated subsidy that may be necessitated by the appraisal.

9. All requests for information specified above as well as offers of financial assistance should be made in writing to C. E. Meches, Room 1138 Six Penn Center, Philadelphia, PA 19103. Copies of such requests and offers, including the applicable docket number, should be sent to the Office of the Secretary, Case Control Branch, Room 1312, Interstate Commerce Commission, Washington, DC 20423. The following notation should be typed in bold face type at the lower left hand corner of envelopes containing offers: "Rail Section AB-DFA."

10. Recipients of this application are advised that any person requesting information or assistance with respect to the abandonment provisions of the Northeast Rail Service Act or the requirements and procedures governing offers of financial assistance (including proof of financial responsibility) may contact the ICC Office of Proceedings, Rail Section (telephone 202-275-7245).

WHEREFORE, Applicant requests that the Commission, within 90 days after the filing hereof, approve the abandonment of the Subject Lines identified in Paragraph 4 above.

Respectfully submitted,


Charles E. Hechen
General Attorney
1138 Six Fenn Center Plaza
Philadelphia, PA 19103
(215) 977-5017

CC
CC

As
Cc
ha
su
me
ge
ou
th
in

Sw
De
of

-4-

**EXHIBIT B
LOCATION AND MAP**

LEHIGHTON SECONDARY/IRONTON INDUSTRIAL CLUSTER

State(s): PA Counties: Lehigh

LEHIGHTON SECONDARY TRACK*
At Catsasquus
200 Feet West of the West Side of Race St. Bridge DC# 96.59
(Approx. M.P. 96.6) to
Point of Prior Abandonment (Approx. M.P. 98.0)

IRONTON INDUSTRIAL TRACK
(Formerly Main Line of Ironton Railroad)
Ironton (Approx. M.P. 1.0) to
Copley-End of the line (Approx. M.P. 5.5)

IRONTON INDUSTRIAL TRAIL
Eggt-Pl. of Intersection with the former Main line of the
Ironton Railroad (Approx. M.P. 0.0) to
Catsasquus-End of the line (Approx. M.P. 4.2)

Note: *
Abandonment to include approximately 3,200 ft. of additional
right-of-way extending westwardly from the Lehighton Secondary
at M.P. 97.4 to the juncture of the former Lehigh Valley Railroad
and Ironton Railroad.

C
A

EXHIBIT B
LOCATION AND MAP

LEHIGHTON SECONDARY/PLAZA INDUSTRIAL CLUSTER

See Exhibit B Page 2 of 2

State(s): PA County: Lehigh

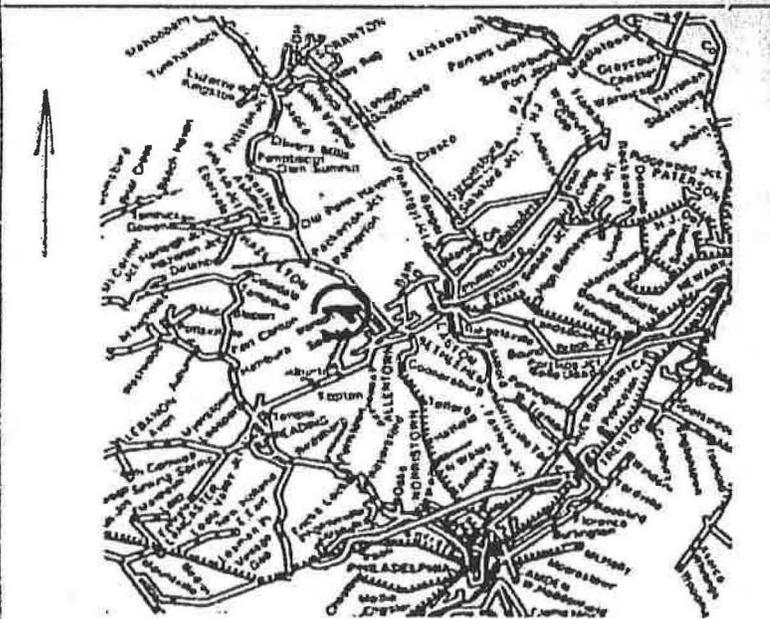


Exhibit B

INTERSTATE COMMERCE COMMISSION
CERTIFICATE AND DECISION

Docket No. 48-147 (Sub-No. 62)B

CONRAIL ABANDONMENT IN LEHIGH COUNTY, PA

Decided: July 13, 1984

SERVICE DATE

JUL 19 1984

On April 9, 1984, Consolidated Rail Corporation (Conrail) filed an application pursuant to section 108 of the Regional Rail Reorganization Act of 1973¹ to abandon a total of 10.1 miles of track. The abandonment consists of three segments: (a) The Lehighton Secondary Track² in Catawagus from 200 feet east of the West Side of the Race Street Bridge, U.S. 496.59 (approximately Milepost 95.6) to the point of prior abandonment (approximately Milepost 98.0); (b) The Ironton Industrial Track (formerly Main Line of Ironton Railroad) from Ironton (approximately Milepost 1.0 to Coplay, the end of the line (approximately Milepost 5.5); and (c) The Ironton Industrial Track from the point of intersection with the former Main Line of the Ironton Railroad (approximately Milepost 0.0) in Egypt to Catawagus, the end of the line (approximately Milepost 0.2), in Lehigh County, PA.

Under section 108(c) the Commission must grant any application for abandonment filed by Conrail within 90 days after the date such application is filed unless an offer of financial assistance is made pursuant to section 108(d) during that 90-day period.

The time for the filing of offers of financial assistance has expired without a bona fide offer. In the absence of such an offer, an appropriate certificate and decision should be entered.

It is certified: Conrail is authorized to abandon the line described above.

It is ordered:

(1) This certificate and decision is effective upon service.

(2) If the authority granted by this certificate and decision is exercised, Conrail shall advise this Commission in writing, immediately after abandonment of the line of railroad, of the date on which the abandonment actually took place.

By the Commission, the Review Board, Members Carleton, Williams and Donell.

James H. Byrne
James H. Byrne
Secretary

(SEAL)

¹ This section was added by the Northeast Rail Service Act of 1981, Pub. L. 97-35.

² The abandonment includes approximately 3,200 feet of additional Right-of-Way extending westwardly from the Lehighton Secondary Track at Milepost 97.8 to the Junction of the former Lehigh Valley Railroad and Ironton Railroad.