

**Before the
Surface Transportation Board**

JR - 12

STB DOCKET NO. AB-156 (Sub-No. 27X)

238444

ENTERED

Office of Proceedings

May 21, 2015

Part of Public Record

**DELAWARE AND HUDSON RAILWAY COMPANY, INC. –
DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION --
IN NY, PA, NJ, MD, VA AND DC**

**THIRD SUPPLEMENT TO
JAMES RIFFIN'S NOTICE OF INTENT TO FILE
AN OFFER OF FINANCIAL ASSISTANCE**

Filed May 20, 2015 by:

James Riffin
P. O. Box 4044
Timonium, MD 21094
(443) 414-6210

1. Comes now James Riffin (“**Riffin**”), who herewith files this Third Supplement to his Notice of Intent to File an Offer of Financial Assistance (“**OFA**”) (See JR-4, JR-4A, and JR-8), and herewith states:

2. Pursuant to an Operating Agreement dated April 25, 1979, by and between the Delaware & Hudson Railway Company, Inc. (“**D&H**”), and Conrail, the D&H acquired trackage rights over the former Lehigh Valley RR main line, from Oak Island Yard, NJ, to Lehigh, PA. See Exhibit 2 of the D&H’s May 8, 2015 filing.

3. Prior to this Supplement, Riffin filed a Notice of Intent to File an Offer of Financial Assistance, to subsidize the operation of the D&H’s trackage rights where the D&H is **not** the last carrier on a line segment, and to purchase the D&H’s trackage rights where the D&H is the last carrier on a line segment.

4. In Riffin’s Second Supplement (JR-8), Riffin provided the STB with evidence that two former CNJ line segments in NJ had been abandoned by Conrail, thereby leaving the D&H as the last carrier on those two line segments.

5. In this Third Supplement, Riffin provides the STB with additional evidence that an additional former Lehigh Valley RR line segment, was abandoned by Conrail, leaving the D&H as the last carrier on that line segment, to wit: Line Code 0503A, former Lehigh Valley RR main line between Catasauqua, PA, and Lehigh, PA.

6. And in this Third Supplement, Riffin provides the STB with additional evidence that an additional former Lehigh Valley RR line segment, on Line Code 0503A, between Allentown, PA, and Whitehall, PA, may soon be abandoned by R.J. Corman / Allentown Lines, a carrier, thereby leaving the D&H as the last carrier on that line segment, to wit: See AB-550 (Sub-No. 3X), filed May 1, 2015. *R.J. Corman Railroad Company / Allentown Lines, Inc. – Abandonment Exemption – In Lehigh County, PA.*

7. Notice is hereby given that Riffin Intends to File an OFA to acquire the D&H's trackage rights between the end of the R.J. Corman line in the vicinity of Whitehall / Catususqua, PA, and Lehigh, PA.

8. Notice is hereby given that Riffin Intends to File an OFA to acquire the D&H's trackage rights between Allentown and the end of the R.J. Corman line in the vicinity of Whitehall, PA, in the event R.J. Corman / Allentown Lines is granted abandonment authority over that portion of the former Lehigh Valley RR main line.

9. About three miles north of where R.J. Corman's tracks end, there is a Lafarge Cement manufacturing plant, located adjacent to the former Lehigh Valley RR right-of-way. Upon information and belief, Riffin believes that the Lafarge Cement plant had a desire, and continues to have a desire, for rail service. (Upon information and belief, Lafarge asked R.J. Corman for rail service. R.J. Corman indicated that it would provide rail service only if Lafarge paid the cost of putting 3 miles of track back on the ground. Lafarge offered to ship a large quantity of rail cars, but refused to fund the restoration of 3 miles of track. An impasse was reached. Lafarge presently trucks cement to a truck-to-rail transload site.)

10. I certify under the penalties of perjury, that the above is true and correct to the best of my personal knowledge, information and belief.

Respectfully,

James Riffin
P.O. Box 4044
Timonium, MD 21094
(443) 414-6210

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of May, 2015, a copy of the foregoing 3rd Supplement to Notice of Intent to File an OFA, was served on the parties noted below, by E-mail.

James Riffin

E-mail:

| | | |
|---|---------------------|--|
| Brotherhood of MOW Employees: | Richard Edelman: | REdelman@odsalaw.com |
| Brotherhood of Locomotive Engineers & Trainmen: | Kevin Moore: | bletdiv191@hotmail.com |
| CNJ / Alma / Pace Glass: | Thomas McFarland: | mcfarland@aol.com |
| D&H Railways: | Karl Hansen: | karl.hansen@stinsonleonard.com |
| D&H Railways: | David Rifkind: | david.rifkin@stinsonleonard.com |
| IAM District Lodge 19: | Jeffrey A. Bartos | Jbartos@geclaw.com |
| | Kyle A. DeCant | Kdecant@geclaw.com |
| Genesee & Wyoming, Inc.: | Eric Hocky: | ehocky@clarkhill.com |
| | Allison M. Fergus: | afergus@gwrr.com |
| Maryland DOT: | Charles Spitulnik: | cspitulnik@kaplankirsch.com |
| NY DOT: | Keith Martin: | keith.martin@dot.ny.gov |
| National Grain & Feed Assoc: | Randall C. Gordon: | ngfa@ngfa.org |
| National Grain & Feed Assoc: | Thomas Wilcox: | twilcox@gkglaw.com |
| Norfolk Southern: | Williams Mullins: | wmullins@bakerandmilller.com |
| PPL Energy: | Kelvin Dowd: | kjd@sloverandloftus.com |
| PA NE Regional RR Auth: | Lawrence Malski: | lmalski@pnrra.org |
| Saratoga & N. Creek Ry: | John D. Heffner: | John.Heffner@strasburger.com |
| Seda-Cog Railroads: | Jeffery K. Stover: | jra@seda-cog.org |
| U.S. Clay Producers Assoc: | Vincent P. Szeligo: | vszeligo@wsmoslaw.com |

First Class mail:

Gordon P. MacDougall, 1025 Connecticut Ave. N.W., Washington, DC 20036.

CONRAIL

FILED
NOV 30 1981
INTERSTATE
COMMERCE COMMISSION

November 27, 1981

OFFICE OF THE
SECRETARY
RECEIVED
DEC 4 3 22 PM '81
SERVING OFFICE
11002

Mrs. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
12th and Constitution Avenues, NW
Washington, DC 20423

Subject: Application Under Section 308 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 Lehigh Secondary Track in the
State of Pennsylvania
Docket No. AB 167 (Sub. No. 451N)

Dear Mrs. Mergenovich:

Enclosed for filing with the Commission are the original
and six copies of the above described application. This
application is submitted under Section 308 of the Regional
Rail Reorganization Act of 1973, as enacted by Section 1156
of the Northeast Rail Service Act of 1981.

Copies of the application have been served on the
agencies and major shippers 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. Mechem
CHARLES E. MECHEM
General Attorney
1138 Six Penn Center Plaza
Philadelphia, PA 19104
(215) 977-9017



OEM:em

Before The
Interstate Commerce Commission

Application of Consolidated Rail :
Corporation Pursuant to Sections :
308(a) and (b) of the Regional Rail :
Reorganization Act of 1973, as :
Amended by Section 1156 of the :
Northeast Rail Service Act of 1981, : Docket No. AB 167
for Approval of the Abandonment of : (Sub No. 451N)
the Lehigh Secondary Track :
in Lehigh and Carbon Counties in the :
State of Pennsylvania :

To the Interstate Commerce Commission, Washington D.C.:

1) The name of applicant is Consolidated Rail Corporation (Conrail). Correspondence relating to this application should be addressed to Charles E. Meehan, General Attorney, 1138 Six Penn Center, Philadelphia, Pennsylvania 19104.

2) Applicant is a common carrier by railroad subject to the former Interstate Commerce Act (now 49 USCA Subtitle IV) and to the Northeast Rail Service Act of 1981 (NERSA).

3) Conrail files this application pursuant to Sections 308(a) and (b) of the Regional Rail Reorganization Act of 1973 (RRR Act), as amended by Section 1156 of NERSA. A copy of said Section 1156 is attached hereto as Exhibit A.

4) By this application Conrail requests the Commission's approval of the abandonment of the line of rail described below:

Name Of Line: Lehighton Secondary Track

State in which located: State of Pennsylvania

County or Counties: Lehigh and Carbon Counties

Limits of proposed Catasaugus Lehighton
Abandonment: Milepost 98.0 Milepost 119.3

Length of line: 21.3 miles

The above-described line will hereafter be referred to as the Subject Line. Delaware & Hudson Railway Company (D&H) has trackage rights over the Subject Line and also over a parallel Conrail line lying to the East. In recent months the latter line has been used by both railroads to a far greater extent than the Subject Line. Conrail is willing to sell the Subject Line to the D&H under the procedures and standards established by Section 1156 of NERSA in the event the D&H wishes to purchase the Subject Line.

5) Attached as EXHIBIT B is a map showing the location of the Subject Line.

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 Line, and (c) an estimate of the subsidy that would be required to keep the line in operation. Exhibit C includes an estimate of the cost of the work that would be required to preserve the Subject Line in FRA Class 1 condition. Attached hereto as Exhibit D is an estimate of

the value of the Subject Line, 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 line 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 line, together with any adjustments to the estimated subsidy that may be necessitated by the appraisal.

9) All requests for information specified in paragraphs 6, 7, and 8 should be made in writing to C. E. Mechem, Room 1138 Six Penn Center, Philadelphia, Pa. 19104. Copies of such requests should be sent to the Office of Proceedings, Room 4126, Interstate Commerce Commission, Washington, DC 20423.

10) Recipients of this application are advised that the staff of the Interstate Commerce Commission has notified Conrail that any person requesting information or assistance with respect to the abandonment provisions of the Northeast Rail Service Act may contact either the ICC Section of Finance (telephone 202-275-7245) or the Section of Rail Services Planning (telephone 202-275-0826).

11) Conrail believes that the environmental and EPCA requirements of 49 C.F.R. Sections 1108.7(c) and 1106.5(c) are inapplicable to proceedings under Sections 308(a) and (b) of the RRR Act inasmuch as the Commission is neither permitted nor required to exercise any judgment or discretion in acting upon such applications* but rather is required to approve them except when subsidy offers meeting the requirements of 49 USCA Section 10905 have been tendered. In any event, the proposed abandonment is not expected to have any significant impact or effect on (a) transportation patterns, (b) local or regional land use plans, (c) coastal zone management areas, (d) wet lands, flood plains, or agricultural lands, (e) the development or transportation of energy resources, (f) the movement or recovery of recyclables, (g) energy consumption or distribution, (h) motor truck traffic on public highways, (i) wildlife, (j)

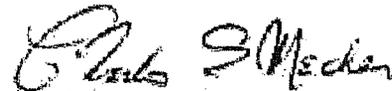
* See Commonwealth of Pennsylvania, et al v. Federal Maritime Commission, et al, 393 F.Supp. 795 (1975).

National or state parks or forests, (k) historic structures, (l) water courses or water supply, (m) culturally significant locations, or (n) public safety.

Accordingly, applicant believes that approval of the proposed abandonment will not constitute a major Federal action having a significant effect on the quality of the human environment.

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

Respectfully submitted,



Charles E. Mechem
Counsel for
Consolidated Rail Corporation
1138 S Penn Center Plaza
Philadelphia, PA 19104
(215) 977-5017

AREA MAP

CONSOLIDATED RAIL CORPORATION

LEHIGHTON SECONDARY TRACK

Catasauquus, MP 98.0, to Lehighton, MP 119.3

