GOLLATZ, GRIFFIN & EWING, P.C.
ATTORNEYS AT LAW
213 WEST MINER STREET
POST OFFICE BOX 796
WEST CHESTER, PA 19381-0796

Telephone (610) 692-9116
Telecopier (610) 692-9177
E-MAIL: GGE@GGE.ATTMAIL.COM

PHILADELPHIA OFFICE:
SIXTEENTH FLOOR
TWO PENN CENTER PLAZA
PHILADELPHIA, PA 19102
(215) 563-9400

DELAWARE COUNTY OFFICE:
205 NORTH MONROE STREET
POST OFFICE BOX 1430
MEDIA, PA 19063
(610) 565-6040

ERIC M. HOCKY

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October 1, 1997

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HAND DELIVERY
Office of the Secretary
Case Control Unit
ATTN: STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Sub 43

Re: Finance Docket No. 33388
CSX Corporation and CSX Transportation, Inc.
Norfolk Southern Corporation and
Norfolk Southern Railway Company
--Control and Operating Leases/Agreements--
Conrail Inc. and Consolidated Rail Corporation
ENVIRONMENTAL CERTIFICATIONS AND RESPONSIVE ENVIRONMENTAL REPORT OF BUFFALO & PITTSBURGH RAILROAD, INC. AND ALLEGHENY & EASTERN RAILROAD, INC. (Sub Docket Nos. 43-51) (BPRR-5/ALY-5)

Dear Sir or Madam:

Enclosed for filing in the above referenced proceeding are an original and 25 copies of Environmental Certifications and Responsive Environmental Report of Buffalo & Pittsburgh Railroad, Inc. and Allegheny & Eastern Railroad, Inc. (Sub Docket Nos. 43-51)(BPRR-5/ALY-5), along with a diskette containing the document

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in a format (WordPerfect 6.1) that can be converted into WordPerfect 7.0.

Kindly time stamp the enclosed extra copy of this letter to indicate receipt and return it to me in the self-addressed envelope provided for your convenience.

Respectfully,

ERIC M. HOCKY

Enclosures

cc: Dennis G. Lyons, Esq.
Richard A. Allen, Esq.
Paul A. Cunningham, Esq.
Administrative Law Judge Jacob Leventhal

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BPRR-5
ALY-5

BEFORE THE

STB FINANCE DOCKET NO. 33388

**CSX CORPORATION AND CSX TRANSPORTATION, INC.
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
--CONTROL AND OPERATING LEASES/AGREEMENTS--
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION**

ENVIRONMENTAL CERTIFICATIONS AND RESPONSIVE ENVIRONMENTAL REPORT OF BUFFALO & PITTSBURGH RAILROAD, INC. AND ALLEGHENY & EASTERN RAILROAD, INC.

(Sub Docket Nos. 43 -51)

William P. Quinn
Eric M. Hocky
GOLLATZ, GRIFFIN & EWING, P.C.
213 West Miner Street
P.O. Box 796
West Chester, PA 19381-0796
(610) 692-9116

Attorneys for Buffalo & Pittsburgh Railroad, Inc. and Allegheny & Eastern Railroad, Inc.

Dated: October 1, 1997

BEFORE THE
SURFACE TRANSPORTATION BOARD
STB FINANCE DOCKET NO. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC.
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
--CONTROL AND OPERATING LEASES/AGREEMENTS--
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

ENVIRONMENTAL CERTIFICATIONS AND RESPONSIVE ENVIRONMENTAL REPORT OF BUFFALO & PITTSBURGH RAILROAD, INC. AND ALLEGHENY & EASTERN RAILROAD, INC.

(Sub Docket Nos. 43-51)

Buffalo & Pittsburgh Railroad, Inc. ("BPRR") and its affiliate Allegheny & Eastern Railroad, Inc. ("ALY")[1], in accordance with Decision No. 6 served May 30, 1997, and Decision No. 12 served July 23, 1997, hereby file their certifications and report with respect to the environmental impacts of their anticipated responsive applications.

INTRODUCTION

BPRR, a Class II rail carrier, operates lines of railroad in the States of Pennsylvania and New York which were acquired from CSX Transportation, Inc. ("CSX ") in 1988. *See* ICC Finance Docket No. 31116, *Buffalo & Pittsburgh Railroad, Inc.--Exemption--Acquisition &*

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[1] BPRR and ALY are both wholly owned subsidiaries of Genesee & Wyoming Inc. ("GWI").

Operation of Lines in New York and Pennsylvania, et al., October 27, 1988, 1988 ICC LEXIS 331. A map of BPRR and its affiliates including ALY is attached hereto. BPRR interchanges traffic with both Norfolk Southern Railway Company ("NS") and CSX for traffic originating and terminating on their lines. The joint routes now compete with routes of Consolidated Rail Corporation ("Conrail") for most of this traffic. As a result of the transaction proposed in this proceeding, NS and CSX will be able to provide single line service for much of this traffic, and will no longer need to use BPRR as a bridge carrier. This is confirmed by Applicants' own diversion studies which show that virtually all of this traffic, producing annual freight revenue of approximately $8.3 million (approximately 40% of BPRR's annual freight revenue), is expected to be diverted as a result of that transaction. CSX's studies estimate that about $7.1 million will be diverted from BPRR annually, including over $3.5 million of annual coal traffic revenue.[2] Application, vol. 2A at 176, 183. Further, traffic diversion studies conducted for Norfolk Southern Railway Company ("NS") disclose that BPRR will lose an additional $1.2 million of annual freight revenue. Application, vol. 2B at 88.

In BPRR-2/ALY-2 filed August 22, 1997, BPRR and ALY described the various responsive applications they anticipated filing in this proceeding to address competitive harms caused by the primary application. The Board found that these anticipated responsive applications would be minor transactions. *See*, Decision No. 33 (served September 17, 1997). Responsive applications do not need to be filed until October 21, 1997, and BPRR and ALY are

---

[2] Traffic diversions estimated for BPRR included diversions from BPRR's sister companies, ALY, Rochester & Southern Railroad, Inc. ("RSR") and Genesee & Wyoming Railroad, Inc. Omitted were diversions from another affiliate serving the region, Pittsburg & Shawmut, Inc. ("PSR").

still in the process of finalizing their requests and operating plans. Accordingly, the certifications contained herein are based on their best estimates at this time. BPRR and ALY do not believe that the final operating plan will be substantially different. As discussed below, BPRR and ALY believe that no environmental report is required under the Board's regulations and its decisions in this proceeding, except with respect to a portion of the relief that might be requested in Sub Docket No. 46.

ENVIRONMENTAL CERTIFICATIONS AND REPORT

Sub Docket No. 43

Anticipated Responsive Application: BPRR may seek to be included in the CSX-NS transaction under 49 USC §11324(c). If inclusion is ordered by the Board, BPRR expects that, prior to consummation of inclusion, it will grant trackage rights to ALY over its line between Dubois and Johnsonburg, PA, and file for an exemption under 49 CFR §1180.2(d)(7).

As noted above, the primary application predicts that over $8 million in traffic will be diverted from BPRR as a result of the control transactions. This represents almost 40% of BPRR's annual freight revenues, and will jeopardize its ability to continue to operate. If this were to occur, BPRR's on-line shippers would lose essential transportation services. To preserve such essential services for its customers, BPRR may seek to be included in the transaction pursuant to 49 USC §11324(c).

The traffic that is estimated to be diverted is expected to be primarily comprised of traffic that is currently interlined between the Applicants and BPRR, and that will handled in single line service by the Applicants over their new systems if the control transaction is approved. To the extent BPRR's traffic is diverted to the Applicants, they have already addressed the

environmental impacts of the rerouted traffic in their respective operating plans and environmental report. *See* Application, vol. 3 and vol. 6. Such diversions will also reduce the amount of traffic that is handled over BPRR's lines.

BPRR, of course, has no way of knowing how the Applicants would handle the traffic remaining on the BPRR lines if inclusion were to be ordered, and BPRR will have no input into how such operations will be conducted. However, in order to preserve essential services to on-line customers, BPRR believes that the acquiring applicant(s) would need to provide substantially the same service as BPRR is currently providing, and the result of inclusion would be primarily a change in operators and not in local freight operations. Based on this assumption, coupled with the reduction in traffic as a result of the diversions that are predicted, BPRR certifies that any changes in operations of BPRR's lines after inclusion would will not exceed the thresholds set forth in 49 CFR §1105.6(b) and §1105.7(e)(4) and (5). Additionally, this is type of transaction for which a historic report is not required under the Board's regulations. *See*, 49 CFR §1105.8(1).[3]

---

[3] In its description of anticipated responsive applications, BPRR indicated that, if inclusion were granted, prior to consummation of inclusion, it might grant trackage rights to ALY over its line between Dubois and Johnsonburg, PA, and file for an exemption under 49 CFR §1180.2(d)(7). The Board has granted BPRR's petition that the trackage rights request be deferred until such time as inclusion may be ordered. *See*, Decision No. 33 (served September 17, 1997) at 4. At the time such request is made, BPRR would evaluate any environmental impacts of the trackage rights.

Sub Docket No. 44

Anticipated Responsive Application: BPRR may seek authority under section 10903 to abandon its line between Buffalo and Salamanca, NY.

BPRR has determined that it will *not* seek the relief described in this Sub Docket as a responsive application in this proceeding.

Sub Docket No. 45

Anticipated Responsive Application: BPRR may seek authority under section 11323 for approximately 90 miles of overhead trackage rights over CSX's Chicago Line[4] between Erie, PA and BPRR's Buffalo Creek Yard ("BPRR Yard") in Buffalo, NY; together with overhead trackage rights over CSX's Chicago Line between BPRR Yard and Seneca Yard, all in Buffalo, NY, for interchange with South Buffalo. BPRR would have continued access from BPRR Yard to all carriers at Buffalo (including Canadian National, Canadian Pacific, and South Buffalo).

If BPRR were to be granted the rights requested in this Sub Docket, it anticipates that it would reroute traffic that it currently handles for itself and its corporate family members (ALY and PSR) off of its own lines between Buffalo and northwestern Pennsylvania. Instead the traffic would be handled over the ALY and then over the former Conrail line to be operated by CSX between Erie, Pennsylvania and Buffalo, New York. How much traffic would be handled over these trackage rights depends in large measure on what other relief might be granted to BPRR and ALY. However, the maximum amount of traffic anticipated to be handled would be two

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[4] References to lines of an Applicant include lines currently owned by the Applicant, as well as lines of Conrail that will be operated by the Applicant if the primary transaction is consummated.

trains per day. This would represent an increase of approximately 1.8 million gross tons per year to the line.[5]

This line is part of the Conrail line between Ashtabula, Ohio and Buffalo (Seneca), New Yo. . that CSX is designated to operate after approval of the control transaction. CSX anticipates that after the transaction, there will be over 50 freight trains per day on the line representing 100 million gross tons of freight annually. *See*, Application, vol. 3A at 446, 468.

Based on the foregoing, BPRR certifies that its operations would not exceed the thresholds set forth in 49 CFR §1105.6(b) and §1105.7(e)(4) and (5). Additionally, trackage rights transactions do not usually require environmental documentation or a historic report under the Board's regulations. *See*, 49 CFR §1105.6 (4) and §1105.8(3).

Sub Docket No. 46

Anticipated Responsive Application: BPRR may seek authority under section 11323 for approximately 30 miles of overhead trackage rights over NS's Corry Extension and Buffalo Line between Salamanca and Machias, NY, via Olean, NY, with the right to serve a specified customer at the intermediate point of Franklinville, NY. This right to serve a customer would be limited to moving a specified commodity from Franklinville to points in western Pennsylvania on affiliated carriers BPRR, ALY and PSR.

BPRR currently has trackage rights over Conrail's Buffalo line between Machias and Buffalo, New York. In this Sub Docket BPRR would seek to extend those trackage rights (i) south from Machias to Olean, New York ("segment 1"), and then (ii) west from Olean to Salamanca, New York over the Corry Extension ("segment 2") where the trackage rights would

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[5] This assumes an average train size of 35 cars (approximately on-half loaded and one -half empty), and average car weights of 30 tons empty and 110 tons loaded.

connects with BPRR's lines south to Pennsylvania. After the control transaction, NS will operate both of these lines.

Again, how much traffic would be handled over these trackage rights depends in large measure on what other relief might be granted to BPRR and ALY. However, the maximum amount of traffic anticipated to be handled would be two trains per day. As calculated above, this would represent an increase of approximately 1.8 million gross tons per year to the line.

On the Buffalo Line, NS predicts that after the transaction is consummated that it will handle over four trains per day and will have a density of almost eight million gross tons, over segment 1. *See*, Application, vol. 3B at 461, 473.[6] Accordingly, with respect to segment 1, BPRR certifies that its operations would not exceed the thresholds set forth in 49 CFR §1105.6(b) and §1105.7(e)(4) and (5). Additionally, trackage rights transactions do not usually require environmental documentation or a historic report under the Board's regulations. *See*, 49 CFR §1105.6 (4) and §1105.8(3).

With respect to segment 2, NS does not show its expected density over the line. *See*, Application, vol. 3B at 101(calling the line the Olean Secondary). Since BPRR based on its experience in the region believes that Conrail currently handles approximately 2,000 cars per year over the line, running approximately six trains per week there (three loaded and three empty). BPRR cannot determine on this basis whether BPRR's operations will exceed the

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[6] The line in question is part of the line shown in the charts as being between Keating, Pennsylvania and Ebenezer Jct. (Buffalo), New York.

regulatory thresholds, it is attaching a responsive environmental report addressing possible environmental impacts of the operations on segment 2.[7]

Sub Docket No. 47

Anticipated Responsive Application: BPRR may seek authority under section 11323 for approximately 130 miles of optional overhead trackage rights over CSX's Chicago Line between Erie, PA, and a connection with WLE at Akron, OH, or another efficient interchange point. The option would be exercised when justified by traffic levels.

BPRR currently interchanges with Wheeling and Lake Erie Railroad ("WLE") in New Castle, Pennsylvania. WLE reaches New Castle via haulage rights that CSX currently provides between Akron, Ohio and New Castle. BPRR expects to seek as a condition to approval of the control transaction, haulage rights for WLE from Akron to Erie (for interchange with ALY and BPRR) to supplement or replace the existing haulage to New Castle.[8]

BPRR may also seek trackage rights between Erie and Akron to be exercised at BPRR's option when traffic levels would justify them. BPRR expects at that time that the trackage rights would be used instead of WLE's haulage rights to provide joint routings between the carriers. At this time any estimate of the level of traffic BPRR would handle under the trackage rights would be extremely speculative. For the purposes of evaluating the environmental impacts, BPRR assumes that the traffic levels would be similar to what is currently being handled with WLE

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[7] Although the responsive environmental report addresses only operations over segment 2, the consultations that were made covered both segments 1 and 2, and everything in the report applies equally to segment 1.

[8] This condition does not require the filing of an inconsistent or responsive application, and no environmental certification or report is required.

through New Castle, that being approximately 230 loaded cars per month as part of five trains per week.

CSX expects after the control transaction to be handling over 50 trains and 100 million gross tons daily on the line between Erie and Ashtabula. *See*, Application, vol 3A at 446, 468. Beyond Ashtabula, the route could be via Cleveland and Sterling, or via Youngstown. Regardless of which route would be used, CSX's existing volume of traffic will be significant. *See generally*, Application, vol. 3A at 466 *et seq*.

Based on the foregoing, BPRR certifies that its operations would not exceed the thresholds set forth in 49 CFR §1105.6(b) and §1105.7(e)(4) and (5). Additionally, trackage rights transactions do not usually require environmental documentation or a historic report under the Board's regulations. *See*, 49 CFR §1105.6 (4) and §1105.8(3).

Sub Docket No. 48

Anticipated Responsive Application: BPRR will seek authority under section 11323 for approximately 35 miles of restricted trackage rights over CSX's portion of the Indiana Branch between Punxatawney and Homer City, via Creekside, and over NS's portion between Creekside and Shelocta, all in Pennsylvania, limited to the right to handle coal to power plants located in Homer City and Shelocta.

Currently, the power plants in Homer City and Shelocta primarily burn coal that is mined on-site, and that is supplemented with coal that arrives by motor carrier from nearby locations. Rail transportation has not been able to be competitive. For the post-transaction period, NS's figures do not show a level of traffic (presumably indicating a low total), reflecting the problem with making rail competitive. Based on BPRR's estimates, in 1996, Conrail handled 1448

carloads of coal in 20 trains inbound to these power plants (and an equal number of outbound empty carloads).[9]

BPRR believes that it is very speculative whether it will be able to obtain any of the traffic from points that it serves. Even if it is successful, it does not believe that it would be handling as much as Conrail handled in 1996. If it were successful, it is quite possible that the coal that it would handle by rail would replace (and not supplement) the traffic currently handled by Conrail. Accordingly, BPRR certifies that its operations would not exceed the thresholds set forth in 49 CFR §1105.6(b) and §1105.7(e)(4) and (5). Additionally, trackage rights transactions do not usually require environmental documentation or a historic report under the Board's regulations. *See*, 49 CFR §1105.6 (4) and §1105 8(3).

Sub Docket No. 49

Anticipated Responsive Application: BPRR may seek authority under sections 11323 or 10902 for the use of tracks in CSX's New Castle Yard at New Castle, PA for the direct interchange of traffic with ISS Rail, Inc. without restrictions.

BPRR currently interchanges traffic with CSX and WLE (through WLE's haulage arrangements with CSX) in New Castle. It is penalized by its contractual arrangements with CSX if it interchanges traffic there with other carriers. A small class III carrier, ISS Rail also interchanges with CSX in New Castle yard. ISS Rail, in turn connects with a Conrail line that after the transaction will be operated by NS.

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[9] Conrail had to operate over a portion of BPRR to reach this branch, and BPRR's estimates are based on Conrail's usage of its track.

Under the proposed responsive application in this Sub Docket, BPRR would obtain the right to use tracks in the yard to directly interchange with ISS Rail.[10] Since BPRR and ISS Rail already interchange traffic in the yard there will be no increase in yard activity -- there will merely be some traffic interchanged between BPRR and ISS Rail instead of between BPRR and CSX. Therefore, BPRR certifies that the operations proposed will not exceed the thresholds set forth in 49 CFR §1105.6(b) and §1105.7(e)(4) and (5). Additionally, this is the type of transaction for which neither environmental documentation nor a historical report is required under the Board's regulations. *See*, 49 CFR §1105.6(c)(4) and 1105.8(3).

Sub Docket No. 50

Anticipated Responsive Application: BPRR will seek authority under section 11323 for trackage rights between BPRR Yard and its affiliate, RSR, over either (i) CSX's Water Level route between Buffalo and Rochester, NY, or (ii) NS's Southern Tier between Buffalo and Silver Spring, NY.

RSR currently has haulage rights via Delaware & Hudson Railway ("DHRC") to handle traffic over the "Southern Tier" between RSR at Silver Spring, New York, and its affiliate BPRR in Buffalo, New York. During 1996, approximately 7,000 cars (half loaded and half empty) were handled under this arrangement in six DHRC trains a week. By the proposed responsive application in this Sub Docket, BPRR is merely seeking the direct right to control and handle this traffic instead of having to rely on a third party and on rights that are terminable by such third party. No increased traffic is anticipated.

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[10] As a separate condition (not requiring a responsive application), BPRR will seek to have the penalty provisions eliminated.

There certainly would be no increases in traffic densities if BPRR were to be granted the requested rights over the Southern Tier since the traffic is already moving over that line. Presumably, NS's operating plan and the Environmental Report already reflect this traffic. Even if they do not, it is clear that there will not be any significant increase on the line. NS projects that after the transaction it will be handling over 20 trains per day (29 million gross tons annually) on this segment. *See*, Application, vol. 3B at 460, 472 (Corning to Buffalo segment).

If alternatively, BPRR would be granted the trackage rights over what will be CSX's "Water Level" route, the impacts will be just as minor. CSX projects that post-transaction it will be handling between 44 and 53 trains daily representing between 76 and 92 million gross tons annually. *See*, Application, vol. 3A at 447, 469 (referring to the Rochester to Chili and the Chili to Frontier segments).

BPRR certifies that its operations would not exceed the thresholds set forth in 49 CFR §1105.6(b) and §1105.7(e)(4) and (5). Additionally, trackage rights transactions do not usually require environmental documentation or a historic report under the Board's regulations. *See*, 49 CFR §1105.6 (4) and §1105.8(3).

Sub Docket No. 51

Anticipated Responsive Application: BPRR will seek authority under section 11323 or section 10902 for the use of tracks in CSX's OD Yard at Erie, PA, to allow unrestricted direct interchange to NS on the connecting tracks that NS proposes to relocate at Erie (*see* Sub Docket No. 23). It is intended that ALY will provide haulage to BPRR between Johnsonburg and Erie, PA, over ALY's line and existing trackage rights. If necessary, ALY may seek amendment of its trackage rights agreement with CSX to allow for the requested interchange rights.

ALY (and BPRR via ALY) currently interchange with Conrail in OD Yard at Erie, Pennsylvania. (After the transaction, OD Yard will be operated by CSX.) NS also operates a line through Erie (from Ashtabula, Ohio to Buffalo, New York). However, the NS line is not adjacent to OD Yard, and ALY does not have right to use any intermediate tracks to reach NS.

As part of the control transaction, NS is seeking to relocate some of its lines in Erie which will have the effect of moving NS's operations adjacent to OD Yard. *See,* Application, Sub Docket No. 23. Now that NS will be operating adjacent to the yard, BPRR will seek the right to use tracks in the yard to interchange with NS. The traffic to be interchanged with NS will be traffic that would otherwise be moving through the yard for interchange with CSX under existing rights. Accordingly, there will be no increased use of OD Yard.

Therefore, BPRR certifies that the operations proposed will not exceed the thresholds set

forth in 49 CFR §1105.6(b) and §1105.7(e)(4) and (5). Additionally, this is the type of transaction for which neither environmental documentation nor a historical report is required under the Board's regulations. *See*, 49 CFR §1105.6(c)(4) and 1105.8(3).

Respectfully submitted,

William P. Quinn
Eric M. Hocky
GOLLATZ, GRIFFIN & EWING, P.C.
213 West Miner Street
P.O. Box 796
West Chester, PA 19381-0796
(610) 692-9116

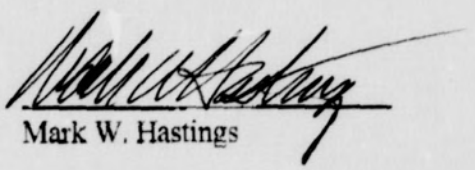
Attorneys for Buffalo & Pittsburgh Railroad, Inc. and Allegheny & Eastern Railroad, Inc.

Dated: October 1, 1997

VERIFICATION

I, Mark W. Hastings, Treasurer of both Buffalo & Pittsburgh Railroad, Inc. and Allegheny & Eastern Railroad, Inc., verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on October 1, 1997.



Mark W. Hastings

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was served by first class mail on the following persons and on all other Parties of Record:

Administrative Law Judge Jacob Leventhal
Federal Energy Regulatory Commission
888 First Street, NE, Suite 11F
Washington, DC 20426

Dennis G. Lyons, Esq.
Arnold & Porter
555 12th Street, N.W.
Washington, DC 20004-1202

Richard A. Allen, Esq.
Zuckert, Scoutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, DC 20006-3939

Paul A. Cunningham, Esq.
Harkins Cunningham
1300 Nineteenth Street, NW, Suite 600
Washington, DC 20036

Dated: October 1, 1997

Eric M. Hocky

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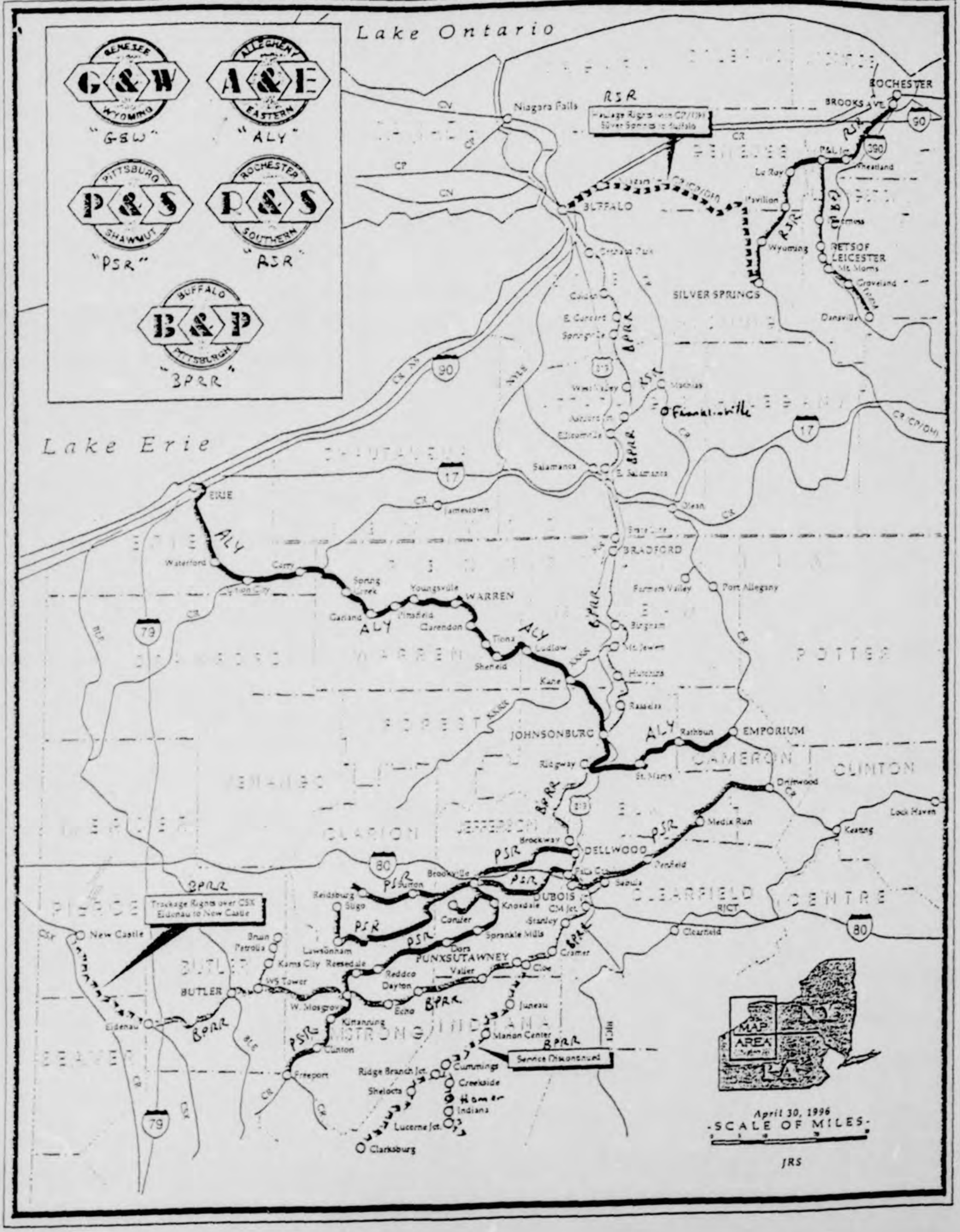
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Clarksburg
Trackage Rights over CSX Eidenau to New Castle
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ALY
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April 30, 1996
-SCALE OF MILES-
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Attachment to BPRR-5/ALY-5.

Sub Docket No. 46

RESPONSIVE ENVIRONMENTAL REPORT OF BUFFALO & PITTSBURGH RAILROAD, INC.

Dated: October 1, 1997

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Sub Docket No. 46

RESPONSIVE ENVIRONMENTAL REPORT OF BUFFALO & PITTSBURGH RAILROAD, INC.

Executive Summary

Parties planning to file an inconsistent or responsive application are required to either certify that the application will have no significant environmental impact or file a Responsive Environmental Report ("RER"). *See,* Decision No. 6 (served May 30, 1997) at 4. Buffalo & Pittsburgh Railroad, Inc. ("BPRR") in its Description of Anticipated Responsive Applications ("BPRR-2/ALY-2") indicated that it may, *inter alia,* file in Sub Docket No. 46 a responsive application seeking trackage rights over lines now owned by Conrail (i) between Machias and Olean, New York ("Segment 1") and (ii) between Olean and Salamanca, New York ("Segment 2"). All the lines of Conrail referred to herein are designated to be operated by NS if the primary application is approved.

While trackage rights applications do not normally require an environmental assessment under 49 CFR 1105.6(c)(4), BPRR is submitting this RER because it is unable to certify that the proposed operations over Segment 2 will not exceed the thresholds set forth in 49 CFR 1105.6(b) and 1107(e)(4) and (5).[1]

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[1] BPRR has certified that its operations will not exceed the thresholds with respect to Segment 1. Therefore, this RER does not address environmental impacts on Segment 1; however, all consultations, and the responses thereto, encompass both segments, and the RER can be deemed to apply to Segment 1 if deemed necessary by the Board.

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Appendix 2 - Form of letter to agencies

Appendix 3 - Log of oral responses

Appendix 4 - Agency responses

Introduction

BPRR is a Class II carrier that operates lines in Western New York and Pennsylvania, including one from Salamanca, New York to Buffalo, New York. Additionally, BPRR currently has overhead trackage rights over the line of Conrail between Buffalo and Machias, New York. BPRR believes that it and its shippers will be adversely affected by the control transaction described in the primary application, and has indicated that it will seek various conditions to the approval of the control transaction, including trackage rights from Machias to Olean and from Olean to Salamanca. These trackage rights will serve to connect BPRR's existing trackage rights to its lines south of Salamanca into Pennsylvania. This RER addresses the environmental impacts of the proposed trackage rights over Segment 2 between Salamanca and Olean, a distance of approximately 13 miles. The entire segment is located in the County of Cattaraugus. There are no related construction or abandonment actions required.

Detailed Description of Proposed Action

As noted, BPRR anticipates that it will file a responsive application seeking overhead trackage rights between Salamanca and Olean, New York. The maximum amount of traffic anticipated by BPRR to be handled over this segment would be two trains (mixed loaded and empty cars) per day. This would represent an increase of approximately 1.8 million gross tons per year of freight to the line, based on an average of 35 cars per train. In its operating plan, NS does not show its expected density over this line. *See*, Application, vol. 3B at 101 (referring to the line as the Olean Secondary). However, BPRR, based on its experience in the region, believes that Conrail currently handles approximately 2,000 cars per year over the line, running approximately six trains per week

(three loaded and three empty). Thus, although BPRR's operations will not exceed eight trains per day, they will likely increase the gross tons handled over this short segment by more than 100%.

There should be no significant effect on intermodal operations. BPRR does not believe there are any alternatives to the proposed action.

Discussion of Environmental Impacts

In preparation of the RER, BPRR consulted with a number of federal, state and local agencies. A list of the consulted agencies is attached as Appendix 1, and a copy of the sample letter sent to each is attached as Appendix 2. BPRR's counsel followed up with a phone call in order to obtain responses from as many agencies as possible. His log is attached as Appendix 3. Copies of all written responses received to date are attached as Appendix 4. No one who responded has raised any significant concerns about the environmental impact of the proposed trackage rights.

a. **Effects on transportation system**

BPRR already handles the traffic that will move under the trackage rights, and the result of the proposal will merely be to shift the traffic from the BPRR line between Salamanca and Buffalo, to what will be NS lines (including Segment 2) between the same points. Since the traffic is already being handled by rail, no traffic will likely be diverted to motor carriage. Segment 2 has abundant capacity to handle the proposed operations of BPRR (together with NS's proposed operations), and even with the added operations, traffic density after the control transaction will be low. Thus, the proposed modification will have no significant effect on regional or local transportation systems or patterns.

b. **Land use**

BPRR will only be operating over existing lines of railroad. BPRR is unaware of any regional or local land use patterns with which the proposed abandonment would be inconsistent.

The National Park Service--National Center for Recreation and Conservation has indicated that it has no comment or objection to the proposal. Additionally, the National Park Service--Land Resources Division indicated there are no national park sites or natural landmark sites in the area of the proposed trackage rights. However, there are other areas that have received federal grant funds that the Park Service is responsible for monitoring. Accordingly, the Park Service while voicing caution, did not object to the proposal.

c. **Energy**

The proposed action will have no effect on the transportation of energy resources, since BPRR will continue to be able to move any such resources that it moved previously. Similarly, there will be no effect on the transportation of recyclable commodities.

Because the traffic to be handled will continue to be handled by BPRR in single line service between Salamanca and Buffalo, there should be no substantial effect on overall energy efficiency. Although the trackage rights route is slightly longer, it is in better condition, has less steep grades and tight curves, and will allow for more efficient operations.

The proposed transaction is not expected to divert any traffic from rail to motor carriage, or significant amounts of traffic from motor carriage to rail.

d. **Air**

The trackage rights are all within Cattaraugus County, an attainment area. Accordingly, there does not appear to be any impact on air quality non-attainment areas. Although BPRR consulted

with the New York State Department of Environmental Conservation and the Environmental Protection Agency, Region 2, no responses have been received to date.

e. **Noise**

The proposed trackage rights will merely result in the shift of traffic from one rail line to another, and should not result in any net increase in noise levels.

f. **Safety**

BPRR's line between Salamanca and Buffalo is currently in poor condition. Thus, shifting the traffic from the existing BPRR route to Segment 2 and other trackage rights over lines that are in better condition should improve the safety of BPRR's operations. BPRR does not believe that its proposed trackage rights will result in any adverse effect on public health or safety.

g. **Biological Resources**

The USDA Natural Resources Conservation Service indicated that the trackage rights would have no impact in their area of authority. BPRR gave notice of the trackage rights proposal to the U.S. Fish and Wildlife Service, but has not received any response.

h. **Water**

The response from New York State Department of State, Division of Coastal Resources and Waterfront Revitalization dated September 16, 1997, a copy of which is included in Appendix 4, confirms that the proposed trackage rights are not in, nor do they affect, New York's coastal zone.

Although notices have been given to U.S. Fish and Wildlife Service and the Army Corps of Engineers, to date no responses have been received. BPRR does not expect that there will be any adverse effect on water quality.

i. **Historic and Cultural Resources**

Under the proposed trackage rights, BPRR would not have the right to alter or affect any sites or structures, including any structures or sites fifty years old or older. By letter dated September 18, 1997, a copy of which is included in Appendix 4, New York Historic Preservation Field Services Bureau indicated that there will be no effect on cultural resources in or eligible for inclusion in the National Register of Historic Places.

Propo Mitigation

Since no adverse effects on the environment are anticipated, no mitigation is being proposed.

Summary and Conclusion

Based on the information from all sources to date, the trackage rights that may be requested by BPRR will not significantly affect the quality of the human environment.

APPENDIX 1

(202) 565-1204

National Park Services - NCRC
Mr. Thomas Iurino
1849 C Street, N.W., Room 3625
Washington, DC 20240
Dear Mr. Iurino:

(301) 713-4175

The National Geodetic Survey N-NGS
Mr. John Spencer
1315 E. West Highway
Silverspring, MD 20910
Dear Mr. Spencer:

(413) 253-8450

U.S. Fish and Wildlife Service
Region 5
Dale Aubin, Chief of Contracting
300 Westgate Center Drive
Hadley, MA 01035
Dear Mr. Aubin:

(315) 477-6550

USDA Natural Resources Conservation Service
Mr. Richard Swenson
441 S. Salina Street, Ste. 534
Syracuse, NY 13202-2450
Dear Mr. Swenson:

(518) 473-9359

New York State Clearinghouse
Division of the Budget
Ms. Marsha Roth
State Capitol, Room 254
Albany, NY 12224
Dear Ms. Roth:

(518) 457-7744

Department of Environmental Conservation
Commissioner's Office
John P. Cahill, Commissioner
50 Wolf Road
Albany, NY 12233
Dear Mr. Cahill:

(518) 473-2464

Division of Coastal Resources and Waterfront
Revitalization
Mr. Steve Resler
Department of State
41 State Street
Albany, NY 12231
Dear Mr. Resler:

(212) 637-3771

EPA - Region 2
Division of Environmental Planning & Protection
Ms. Grace Musimeci
Jacob K. Javitz Federal Building
290 Broadway
New York, NY 10278-0090
Dear Ms. Musimeci:

(212) 264-8171

U.S. Army Corps of Engineers
New York District
Attn: Mr. Lloyd Subin
Jacob K. Javitz Federal Building
290 Broadway
New York, NY 10278-0090
Dear Ms. Subin:

(518) 233-9049

NY State Parks, Division of
Historic Preservation
Field Services Office
Ms. Ruth Pierpont
P.O. Box 189
Waterford, NY 12188
Dear Ms. Pierpont:

(518) 473-7619

Office of the Governor
George E. Pataki, Governor
Executive Chamber, State Capitol
Albany, NY 12224
Dear Governor Pataki:

(716) 938-9306

Cattaraugus County Administrator
Mr. Donald Furman
303 Court Street
Li tle Valley, NY 14755
Dear Mr. Ferman:

(716) 373-8030

Commissioner's Office
Mr. Jack Searles
1701 Lincoln Avenue
Olean, NY 14760
Dear Mr. Searles:

(202) 205-1758

Office of the Chief of Forest Service
U.S. Department of Agriculture
Mr. Michael Dombeck
14th & Independence, S.W.
Washington, DC 20250
Dear Mr. Dombeck:

(202) 565-1099

National Park Services
Land Resources Division
Mr. William Shaddox
1849 C Street, NW - Room 2444
Washington, DC 20240
Dear Mr. Shaddox:

(757) 599-1560

United States Department of Defense
(M T M C)
Mr. Robert Korpanty
720 Thimble Shoals Blvd., Ste. 130
Newport News, VA 23606-2574
Dear Mr. Korpanty:

(716) 938-9306

Cattaraugus County Legislature
Gerald J. Fitzpatrick, Chairman
303 Court Street
Little Valley, NY 14755
Dear Mr. Fitzpatrick:

APPENDIX 2

COPY

GOLLATZ, GRIFFIN & EWING, P.C.
ATTORNEYS AT LAW

213 WEST MINER STREET
POST OFFICE BOX 796
WEST CHESTER, PA 19381-0796

Telephone (610) 692-9116
Telecopier (610) 692-9177
E-MAIL: GGE@GGE.ATTMAIL.COM

PHILADELPHIA OFFICE:
SIXTEENTH FLOOR
TWO PENN CENTER PLAZA
PHILADELPHIA, PA 19102
(215) 563-9400

DELAWARE COUNTY OFFICE:
205 NORTH MONROE STREET
POST OFFICE BOX 1430
MEDIA, PA 19063
(610) 565-6040

SEBASTIAN FERRER

September 15, 1997

Via Telecopier: (202) 565-1204

National Park Services - NCRC
Mr. Thomas Iurino
1849 C Street, N.W., Room 3625
Washington, DC 20240

Re: STB Finance Docket No. 33388, CSX Corporation and Norfolk Southern Railway Company -- Control and Operating Leases/Agreements -- Conrail
Responsive Trackage Rights Application of Buffalo & Pittsburgh Railroad, Inc.

Dear Mr. Iurino:

We represent Buffalo & Pittsburgh Railroad Inc. ("BPRR") which operates rail lines in western New York and Pennsylvania. This letter is to advise you that BPRR anticipates filing on October 21, 1997, a responsive application in the above control proceeding now pending before the Surface Transportation Board ("STB"). The responsive application will be filed in accordance with the provisions of 49 C.F.R. §1180.4(d)(1)(iv)(4).

By its responsive application, BPRR would ask the STB to condition any order approving the control and operations proposed in the above proceeding by CSX Transportation ("CSX") and Norfolk Southern Railway ("NS") upon the grant of trackage rights to BPRR over the lines of railroad now operated by Conrail (and after the transaction is approved, to be operated by NS) (i) between Salamanca and Olean, a distance of approximately 13 miles ("Segment 1") and (ii) between Olean and Machias, a distance of approximately 20 miles ("Segment 2"), all in the County of

Cattaraugus, New York, with the right to provide local service to one shipper located in Franklinville, New York. The affected rail lines are depicted on the enclosed map.

Cattaraugus County is an attainment area. BPRR believes that the trackage rights authorization will not have a significant effect upon the environment.

In advance of preparing a responsive environmental report as required by the STB in this proceeding, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental effects of the proposed trackage rights.

Conrail currently operates two trains per week over Segment 1. The NS application does not show any changes in operations over Segment 1. In support of the control proceeding NS has submitted evidence to the STB that daily rail traffic on Segment 2 after the transaction will be 4.2 trains per day. The trackage rights proposed by BPRR are expected to add no more than an average of one loaded and one empty train (approximately 35 cars per train) per day. BPRR is only proposing that its trains serve one local industry on the lines, the traffic for which is included in the above estimates.

The trackage rights are not expected to require any change in the maintenance practices on the lines.

We would appreciate an expression from you that, within the area of your authority, you do not perceive that the trackage rights will have a significant effect upon the environment. **Since we must report the results of our consultation with you to the STB by October 1, 1997, we will be calling for your response in approximately one week.**

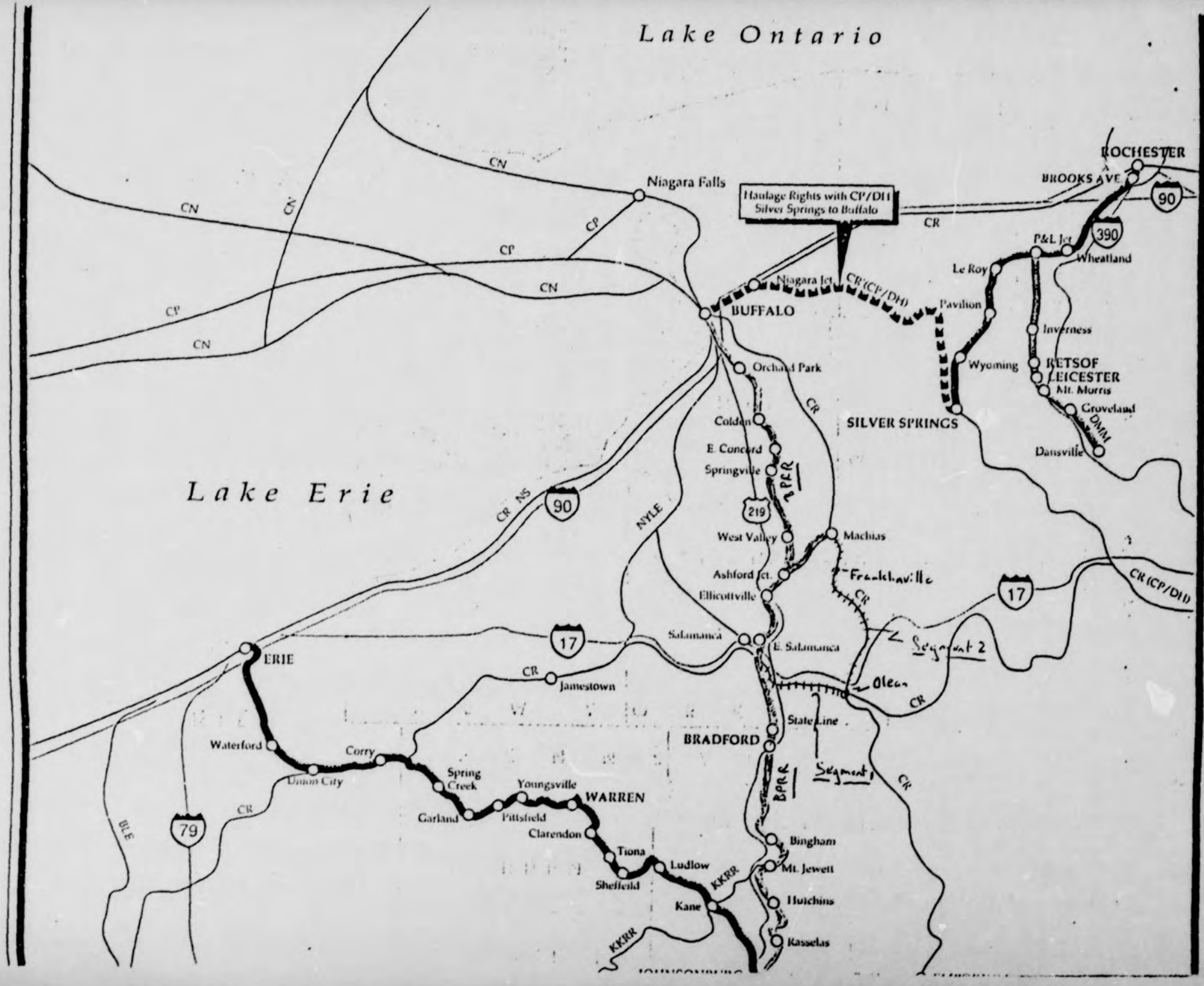
If you have any questions about the trackage rights proposal or if we otherwise can be of assistance to you, please call either myself or Eric Hocky of this office. Thank you in advance for your cooperation.

Very truly yours,

Sebastian Ferrer
Attorney for Buffalo & Pittsburgh Railroad, Inc.

SF/gjn
Enclosure

H:\WPDATA\TRANS\STB\CR-MERGE\ENVIRON\CONSULT.WPD


Lake Ontario
Lake Erie
CN
CP
CR
Niagara Falls
Haulage Rights with CP/DH
Silver Springs to Buffalo
ROCHESTER
BROOKS AVE
90
390
P&L Jct
Wheatland
Le Roy
Niagara Jct
CR (CP/DH)
BUFFALO
Pavilion
Inverness
Wyoming
RETSOF
LEICESTER
Mt. Morris
Groveland
DMM
SILVER SPRINGS
Dansville
Orchard Park
Colden
E. Concord
Springville
BPER
219
West Valley
Machias
Ashford Jct.
Ellicottville
Franklinville
NYLE
CR NS
17
CR (CP/DH)
Salamanca
E. Salamanca
Segment 2
Olean
ERIE
Jamestown
State Line
BRADFORD
Segment 1
Waterford
Corry
Union City
Spring Creek
Youngsville
WARREN
Garland
Pittsfield
Clarendon
Tiona
Ludlow
Sheffield
Kane
KKRR
Bingham
Mt. Jewett
Hutchins
Kasselas
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APPENDIX 3

LOG ENTRIES:
RESPONSES TO CONSULTATIONS RE ENVIRONMENTAL EFFECTS OF
TRACKAGE RIGHTS PROPOSED BY BUFFALO & PITTSBURGH RAILROAD, INC.

Agency/Contact	Comments
Ms. Marsha Roth - NY State Clearing House State Capitol, Rm 254 Albany, NY 12224 (ph) (518) 474-1605 (Fax) (518) 473-9359	9/22/97: left message with assistant re: trackage rights application, deadline for report to STB 9/22/97: spoke with Marsha Roth said she has **"no comment" since she doesn't represent state environmental agency**
Mr. John P. Cahill - Dept. of Environmental Conservation 50 Wolf Road Albany, NY 12233 Ben Conlon: (518) 457-4348 (ph) (518) 474-1605 (Fax) (518) 457-7744	9/22/97: spoke w/ Tina in Cahill's office, was referred to Frank Bifera at (518) 457-7744 (acting general counsel for Commissioner Cahill); Bifera's sect'y said that matter was assigned to Ben Conlon; called Conlon and left message w/ assistant to call me back; did not call back 9/26/97: Mr. Conlon stated that his "technical people" are reviewing it to make a determination, and may not have that determination by Monday. Stated that the amount of time to respond was too short. **No response as of 9/30/97.**
Mr. Steve Resler - Division of Coastal Resources Department of State 41 State Street Albany, NY 12231 (ph) (518) 474-3643 (Fax) (518) 473-2464	9/16/97: Steve Resler called to clarify what was being requested; stated that he was not sure whether Federal Consistency Certification was required in this instance; he will confirm what is required and get back in touch. - - - - - - - - - - - - - - - Received correspondence from Mr. Resler on 9/19/97 stating that "**...proposal would not be undertaken within nor affect the State of New York's coastal area. ...it is not necessary to submit a copy of a federal consistency certification for this proposal to Dept. of State .... nor is any further review of this proposal required by the Dept. of State**"

Agency/Contact	Comments
Ms. Grace Musimeci - EPA - Region 2 Division of Environmental Planning & Protection Jacob K. Javitz Federal Building 290 Broadway New York,NY10278-0090 (ph) (212) 637-3738 (Fax) (212) 637-3771	9/22/97: left detailed message on answering machine re: trackage rights application, deadline for report to STB 9/26/97: got answering machine again, left message if we don't hear by Monday, 9/29/97 we will assume no objection. **No response as of 9/30/97.**
Mr. Thomas Iurino - National Park Service - **National Center for Recreation and Conservation** 1849 C Street, N.W., Room 3625 Washington, DC 20240 (ph) (202) 565-1200 (Fax) (202) 565-1204	9/22/97: left detailed message on answering machine re: trackage rights application, deadline for report to STB 9/26/97: spoke with Thomas Iurino who stated that National Park Service NCRC had **no comment or objection.**
Mr. John Spencer - National Geodetic Survey 1315 E. West Highway Silverspring, MD 20910 Ed McKay (301) 713-3191 (ph) (301) 713-3169 (Fax) (301) 713-4175	9/22/97: called Spencer, he referred me to Ed McKay who "handles this type of thing"; called McKay, who left a message with me stating that they will call by Thursday (9/25/97) with response; Gary Young (McKay's assistant) called on 9/24/97, **stated that NGS does not have an interest in the proposed activity since it does not involve destruction or alterations that may effect geodetic station markers.**

Agency/Contact	Comments
Mr. Dale Aubin U.S. Fish and Wildlife Service Region 5 300 Westgate Center Drive Hadley, MA 01035 (ph) (413) 253-8200 (Fax) (413) 253-8450	9/22/97: left detailed message on answering machine re: trackage rights application, deadline for report to STB 9/26/97: got answering machine. If we don't hear from by Monday 9/29/97 we will assume no objection. **No response as of 9/30/97.**
Mr. Richard Swenson USDA Natural Resources Conservation Service 441 S. Salina Street, Ste. 534 Syracuse, NY 13202-2450 (ph) (315) 477-6504 (Fax) (315) 477-6550	9/22/97: left message with secty re: trackage rights application, deadline for report to STB; Sara from Swensons office returned call on 9/23/97 and **stated that the proposed activity (trackage rights) will have no impact in their area of authority.**
Mr. Lloyd Subin - U.S. Army Corps of Engineers New York District Jacob K. Javitz Federal Building 290 Broadway New York, NY 10278-0090 (ph) (212) 264-5377 (Fax) (212) 264-8171	9/23/97: left detailed message on answering machine re: trackage rights application, deadline for report to STB 9/26/97 left message, if we don't hear from him by Monday, 9/29/97, we will assume no objection. **9/29/97: spoke with Subin who stated that he did not yet have a response since the letter was being circulated to different departments and had not found its way back to him yet. He said he would get back to us when he received word from other departments. No response as of 9/30/97.**

Agency/Contact	Comments
Ms. Ruth Pierpont NY State Parks, Division of Historic Preservation Field Services Office P.O. Box 189 Waterford, NY 12188 (ph) (212) 237-8643 (Fax) (518) 233-9049	Received correspondence from Ms. Pierpont on 9/25/97, **stating that "project will have no effect upon cultural resources in or eligible for inclusion in the National Register of Historic Places."**
Office of the Governor George E. Pataki, Executive Chamber, State Capitol Albany, NY 12224 (ph) (518) 474-3036 (Fax) (518) 473-7619	9/16/97: Chuck Latuka of the Governor's office responded - asked if Dept of Env. Conservation (John Cahill) got separately addressed letter, but did not make any statement regarding environmental impact.
Mr. Donald Furman - Cattaraugus County Administrator 303 Court Street Little Valley, NY 14755 (ph) (716) 938-9111 (Fax) (716) 938-9306	9/16/97: Donald Furman stated that he had no problem with the letter/ BPRR request, but said he has no environmental expertise, and may check w/their attorney. **9/29/97: spoke w/ Furman, he said that letter from their attorney was mailed to us on 9/26/97 stating that they have no comment regarding the environmental impact of proposed trackage rights. This letter has not been received as of 9/29/97.** **9/30/97: received letter from Mr. Furman, stating that he did not have opportunity to examine trackage rights, not in position to comment. Wishes to reserve the right to comment at point in future. He also stated he was not aware that the proposed trackage rights will have a significant effect on the environment within his area of authority).**

Agency/Contact	Comments
Mr. Jack Searles - Cattaraugus County Commissioner's Office Fax No. 716-373-8030	Sent per request of Don Furman. See response of Don Furman.
Gerald J. Fitzpatrick, Chairman, Cattaraugus County Legislature (ph) (716) 938-9306 (Fax) (716) 938-9306	(Sent on advisement of Mr. Donald Furman) **9/29/97: left message, no response as of 9/30/97.**
Mr. Michael Dombeck - Office of the Chief of Forest Service U.S. Department of Agriculture 14th & Independence, S.W. Washington, DC 20250 (ph) (202) 205-1661 (Fax) (202) 205-1765	9/23/97: phoned Dombeck, talked to assistant, referred me to Robert Lewis originally, then said fax letter of 9/15 was not in their possession, and asked us to fax it again. Letter faxed again on 9/23/97 - should follow up on 9/25/97 9/26/97: Spoke w/Jackie Bennett. Not sure where letter faxed to her earlier this week went to. She will call back with information. Did not call back. **9/29/97: I called again, spoke with the secretary of Jack Craven, who said that the letter had been on Craven's desk but that he was out until Tuesday, 9/30/97. I told secty that if we did not receive response from Craven by Tues am we will assume no objection. No response as of 9/30/97.**

Agency/Contact	Comments
Mr. William Shaddox - National Park Services Land Resources Division 1849 C Street, NW - Room 2444 Washington, DC 20240 Contact: Keith Everett Joe DiBello 200 Chestnut St. Phila. PA (ph) (215) 597-0652 (Fax) (215) 597-0065	9/23/97: phoned Shaddox, who referred me to Boyd Sponaugle at (215) 597-9939 (Realty officer at NPS); phoned Sponaugle, who said he threw out letter of 9/15 believing that it was incorrectly forwarded to him; Sponaugle gave me numbers for Keith Everett and Joe DiBello (group leaders for environmental studies group for region); I faxed 9/15 letter to Everett and DiBello on 9/23/97. 9/26/97: spoke w/Keith Everett just got in after being out 1 ½ weeks said he didn't think that Land Resources would have interest in the area cited to in letter, but is checking with Cynthia Wilkerson who will be calling us to confirm. If no call, call her at (215) 597-1570. No call as of 9/29/97. 9/29/97: I called Wilkerson and left message on machine that if no response by Tues am 9/30/97, will assume no objection. **9/30/97: received message from Wilkerson that "there are no National Park sites or National Natural Landmark sites which we are concerned about in this area. However, there are several parks and recreation areas that have received grant funds under the Land and Water Conservation Fund Program. The Park Service is responsible for monitoring conditions around those sites assisted by the Land and Water Conservation Fund Program." Wilkerson voiced "caution, but not objection" regarding the impact of the B&P request on these sites.**

Agency/Contact	Comments
Mr. Robert Korpanty - United States Department of Defense (M T M C) 720 Thimble Shoals Blvd., Ste. 130 Newport News, VA 23606-2574 (ph) (757) 599-1163 (Fax) (757) 599-1560	**9/16/97: Robert Korpanty stated that there would be no impacts in their area of authority**

Your coast, your future

NYS Waterfronts

George E. Pataki
Governor

Alexander F. Treadwell
Secretary of State

September 16, 1997

Mr. Sebastian Ferrer
Gollatz, Griffen & Ewing, P.C.
Attorneys At Law
213 West Miner Street
P.O. Box 796
West Chester, PA 19381-0796

Re: F-97-672
Surface Transportation Board Finance Docket #33388
CSX Corporation and Southern Railway Company
Control/Operating Leases/Agreements - Conrail
Responsive Trackage Rights Application of Buffalo and Pittsburgh Railroad, Inc.
Cattaraugas County, New York

Dear Mr. Ferrer:

We have reviewed the information that you provided via faxsimile machine on September 15, 1997. Based on that information, we have determined that the above-referenced proposal would not be undertaken within nor affect the State of New York's coastal area. Therefore, it is not necessary to submit a copy of a federal consistency certification for this proposal to the Department of State pursuant to the federal Coastal Zone Management Act, nor is any further review of this proposal required by the Department of State.

If you have any questions or need any additional information or assistance regarding this matter, please call me at (518) 474-6000.

Sincerely,

Steven C. Resler
Supervisor of Consistency Review and Analysis
New York Coastal Management Progam

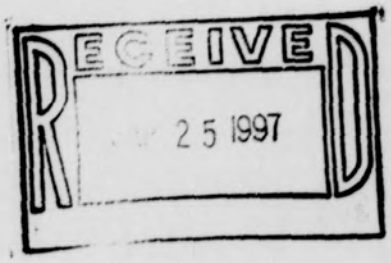
SCR/bms

NYS Department of State
Division of Coastal Resources and Waterfront Revitalization
Albany, NY 12231-0001
Voice: (518) 474-6000 Fax: (518) 473-2464

New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island, PO Box 189, Waterford, New York 12188-0189 518-237-8643

Bernadette Castro
Commissioner

September 18, 1997



Sebastian Ferrer
Gollatz, Griffin & Ewing, P.C.
213 West Miner Street
P.O. Box 796
West Chester, PA 19381-0796

Dear Mr. Ferrer:

RE: STB
Responsive Trackage Rights App'l
of Buffalo/Pittsburgh Railroad
Machias, Salamanca and Olean
Cattaraugus County
97PR2126

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966.

Based upon this review, it is the SHPO's opinion that your project will have No Effect upon cultural resources in or eligible for inclusion in the National Register of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,
Ruth L. Pierpont

Ruth L. Pierpont
Director, Historic Preservation
Field Services Bureau

RLP:cm

COUNTY of CATTARAUGUS
Office of the Administrator

303 Court Street • Little Valley, New York 14755
716/938-9111 x 232 • FAX 716/938-9306

Donald E. Furman, *County Administrator*

September 26, 1997

Mr. Sebastian Ferrer
Gollatz, Griffin & Ewing, P.C.
Attorneys at Law
213 West Miner Street
Post Office Box 796
West Chester, Pa. 19381-0796

Re: STB Finance Docket No. 33388, CSX Corporation and Norfolk Southern Railway Company -- Control and Operating Leases/Agreements -- Conrail
Responsible Trackage Rights Application of Buffalo and Pittsburgh Railroad, Inc.

Dear Mr. Ferrer:

This is to acknowledge receipt of your letter dated September 15, 1997 regarding the aforementioned topic.

I have not had an opportunity to examine the trackage rights proposal. Consequently, I am not in a position to comment on it at this point. Cattaraugus County reserves the right to comment on the proposal at some point in the future.

I am not aware that the proposed trackage rights will have a significant effect upon the environment within the area of my authority.

Thank you for the opportunity to comment on the issue.

Sincerely,

Donald E. Furman
Administrator
County of Cattaraugus

DEF:de