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ERIC M. HOCKY

October 1, 1997

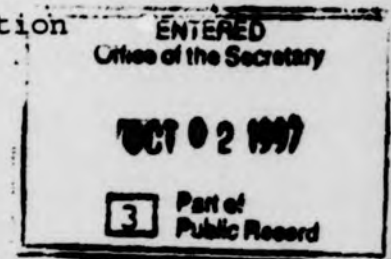
**HAND DELIVERY**

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

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)

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Sub-48



Dear Sir or Madam:

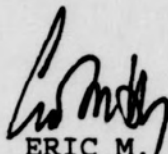
Enclosed for filing in the above referenced proceeding are an original and 25 copies of Environmental Certifications and Responsive Environmental Report of Buffalo & Pittsburgh Railroad, Inc. and Allegheny & Eastern Railroad, Inc. (Sub Docket Nos. 43-51) (BPRR-5/ALY-5), along with a diskette containing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

Office of the Secretary  
Case Control Unit  
October 1, 1997  
Page 2

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

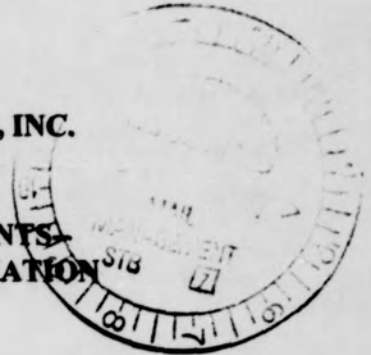
ORIGINAL

BPRR-5  
ALY-5

BEFORE

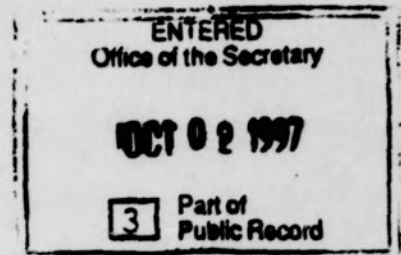
STB FINANCE DOCKET NO. 33388

**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**

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

(Sub Docket Nos. 43-51)

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Buffalo & Pittsburgh Railroad, Inc. ("BPRR") and its affiliate Allegheny & Eastern Railroad, Inc. ("ALY")<sup>1</sup>, 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.

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**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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<sup>1</sup> 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.<sup>2</sup> 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

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<sup>2</sup> 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 be 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).<sup>3</sup>

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<sup>3</sup> 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.



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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**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).<sup>1</sup>

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<sup>1</sup> 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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## **Appendices**

Appendix 1 - List of agencies consulted

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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.

**Proposed 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**

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(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  
Silver Spring, 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  
Little 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**

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COPY

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

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TWO PENN CENTER PLAZA  
PHILADELPHIA, PA 19102  
(215) 563-9400

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

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.

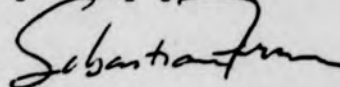
Conrail currently operates two trains per week over Segment 1. The NS application does not show any changes in operations over Segment 1. In support of the control proceeding NS has submitted evidence to the STB that daily rail traffic on Segment 2 after the transaction will be 4.2 trains per day. The 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

# Lake Ontario

# Lake Erie

### **APPENDIX 3**

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

Agency/Contact	Comments
<p>Ms. Marsha Roth - NY  State Clearing House  State Capitol, Rm 254  Albany, NY 12224  (ph) (518) 474-1605  (Fax) (518) 473-9359</p>	<p>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</p>
<p>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</p>	<p>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.</p>
<p>Mr. Steve Resler -  Division of Coastal  Resources  Department of State  41 State Street  Albany, NY 12231  (ph) (518) 474-3643  (Fax) (518) 473-2464</p>	<p>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"</p>



Agency/Contact	Comments
<p>Ms. Grace Musimeci - EPA - Region 2 Division of Environmental Planning &amp; Protection Jacob K. Javitz Federal Building 290 Broadway New York, NY 10278-0090 (ph) (212) 637-3738 (Fax) (212) 637-3771</p>	<p>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. <b>No response as of 9/30/97.</b></p>
<p>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</p>	<p>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.</p>
<p>Mr. John Spencer - National Geodetic Survey 1315 E. West Highway Silver Spring, MD 20910 Ed McKay (301) 713-3191 (ph) (301) 713-3169 (Fax) (301) 713-4175</p>	<p>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, <del>stated that, NGS</del> <b>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.</b></p>



Agency/Contact	Comments
<p>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</p>	<p>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.</p>
<p>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</p>	<p>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.</p>
<p>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</p>	<p>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.</p>

Agency/Contact	Comments
<p>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</p>	<p>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."</p>
<p>Office of the Governor  George E. Pataki,  Executive Chamber,  State Capitol  Albany, NY 12224  (ph) (518) 474-3036  (Fax) (518) 473-7619</p>	<p>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.</p>
<p>Mr. Donald Furman -  Cattaraugus County  Administrator  303 Court Street  Little Valley, NY  14755  (ph) (716) 938-9111  (Fax) (716) 938-9306</p>	<p>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).</p>

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) <b>9/29/97: left message, no response as of 9/30/97.</b>
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	<b>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.</b>

Agency/Contact	Comments
<p>Mr. William Shaddox - National Park Services Land Resources Division 1849 C Street, NW - Room 2444 Washington, DC 20240</p> <p>Contact: Keith Everett Joe DiBello 200 Chestnut St. Phila. PA (ph) (215) 597-0652 (Fax) (215) 597-0065</p>	<p>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.</p> <p>9/26/97: spoke w/Keith Everett just got in after being out 1 1/2 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.</p> <p>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.</p> <p>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 recreat on 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&amp;P request on these sites.</p>



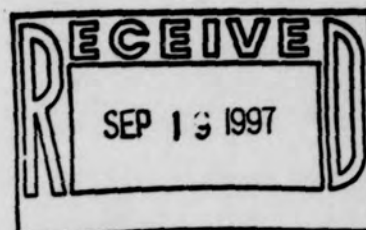
Agency/Contact	Comments
<p>Mr. Robert Korpanty -  United States  Department of Defense  (M T M C)  720 Thimble Shoals  Blvd., Ste. 130  Newport News, VA  23606-2574  (ph) (757) 599-1163  (Fax) (757) 599-1560</p>	<p>9/16/97: Robert Korpanty stated that  there would be no impacts in their area  of authority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





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.  
Cattaraugus County, New York

Dear Mr. Ferrer:

We have reviewed the information that you provided via facsimile 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 Program

SCR/bms



Bernadette Castro  
Commissioner

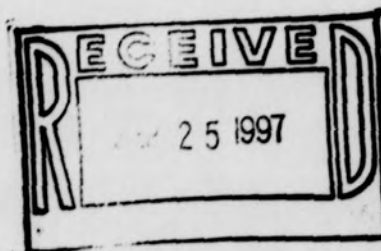
New York State Office of Parks, Recreation and Historic Preservation  
Historic Preservation Field Services Bureau  
Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

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

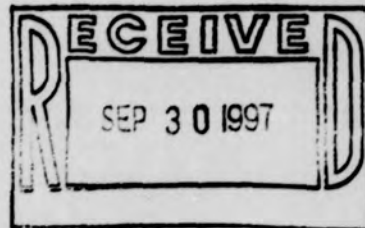
COUNTY of CATTARAUGUS  
Office of the Administrator

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:

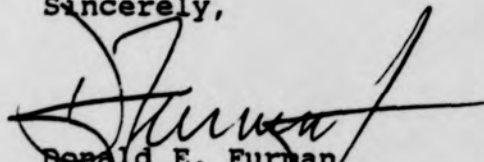
This is to acknowledge receipt of your letter dated  
September 15, 1997 regarding the aforementioned topic.

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