

DATE: March 14, 1994

TO: DISTRIBUTION

FROM: M. V. Ebert

*PTK
For MUC*

LOCATION: C - 19C

SUBJECT: Release for Disposition - Chester Valley Running Track
LC 10-0307, MP 9.8 - 10.65, Sub-No. 1118X

Conrail filed a notice of exemption to abandon the subject line (see attached), which became effective on September 9, 1993 subject to the conditions that Conrail:

- 1) Retain its interest in and take no steps to alter the historic integrity of any bridges on the line that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act; and
- 2) Leave intact all the right-of-way underlying the tracks, including bridges, culverts and tunnels (but not track or other rail assets), until March 8, 1994, to enable any State or local government agency or other interested person to negotiate the line's acquisition for public use.

Conrail has arranged for the right-of-way to be sold to an adjoining landowner, and has agreed to convey the track to PennDOT. Accordingly, the subject line is released to Real Estate and Engineering for disposition, subject to applicable state law, and the conditions contained in the attached ICC decision. The Marketing Services and Customer Service Departments are advised to cancel any stations and tariffs applicable to the subject line, and the Transportation Department is advised to embargo service to the following stations on the line (no active customers are affected).

<u>Station Name</u>	<u>Station Number</u>
[none]	[none]

Attachment

cc: J. R. Beard	- Mt. Laurel, NJ
L. R. Town	- Mt. Laurel, NJ
R. E. Baker	- C-19A
R. W. Heebner	- C-12B

DISTRIBUTION

J. J. Paylor	C - 16A
J. T. Whatmough	C - 7A
B. G. Willbrandt	C - 10B
J. D. Cossel	C - 12D
R. J. Cantwell	C - 12D
D. M. Warnock	C - 10B
C. L. Abrams	C - 16A
C. Y. Murphy	C - 12 B
R. J. Humbert	C - 11D
G. A. Thelen	C - 12A
P. H. Wilson	C - 7B
A. J. McGee, Jr.	C - 23C
R. S. Short	C - 9D
R. P. Pennell	C - 8C
R. von dem Hagen	C - 8B
W. H. Sheppard	C - 14D
R. J. Mayrhofer	C - 12D
G. M. Williams	C - 19A
R. S. Pyson	C - 14A
P. E. Purcell	C - 23C
L. L. Ratcliffe	C - 14D
R. P. Carey	C - 14D
G. N. Corcoran	C - 14B
J. A. Jaroch	C - 14B
M. V. Ebert	C - 19B
L. E. Onyx	C - 26A
W. P. Pope	C - 12D
J. D. Semprevio	C - 11D
J. H. Burton	C - 15A
J. F. Folk	C - 22C
T. F. Hilbert	C - 14A
M. R. Behe	C - 21A
D. M. Mazur	C - 20C
G. P. Turner	C - 20A
R. J. Conway	C - 22C
G. H. Kuhn	C - 17A
J. W. Dietz	C - 26A
T. P. Dwyer	C - 20C
C. J. Deitchman	C - 20A

SERVICE DATE

SEP 8 1993

DO

INTERSTATE COMMERCE COMMISSION

DECISION

Docket No. AB-167 (Sub-No. 1118X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT EXEMPTION--
BETWEEN CHESTERBROOK AND CEDAR HOLLOW, IN CHESTER COUNTY, PA

Decided: September 7, 1993

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon approximately 0.85+ mile line of railroad between Chesterbrook (milepost 9.8±) and Cedar Hollow (milepost 10.65±), in Chester County, PA. The notice was served and published in the Federal Register on August 10, 1993 (58 F.R. 42575). This exemption is scheduled to become effective on September 9, 1993.

On August 18, 1993, the Commission's Section of Energy and Environment (SEE) issued an environmental assessment (EA) in this proceeding. In the EA, SEE states that the Pennsylvania Historical and Museum Commission (SHPO) has not completed its review of the bridges located on the line. SEE therefore recommends that a condition be imposed that Conrail be required to retain its interest in and take no steps to alter the historic integrity of any bridges on the line that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 460f. The recommended condition will be imposed.

SEE also indicates that the right-of-way may be suitable for other public use following abandonment. On August 12, 1993, the County of Chester (Chester) filed a request for a notice of interim trail use (NITU) and a public use condition so that it could negotiate with Conrail for use of the line as a public trail. By letter dated September 2, 1993, Conrail states that it is not willing to negotiate with Chester for interim trail use. Because 16 U.S.C. 1247(d) permits only voluntary interim trail use, the Commission cannot issue an NITU in this proceeding. See Rail Abandonment--Use of Rights-of-Way as Trails, 2 I.C.C.2d 591 (1986).

As an alternative to interim trail use under the National Trails System Act, the right-of-way may be acquired for public use under 49 U.S.C. 10906. Chester, in requesting the 180-day public use condition, submits that it is a political subdivision interested in transportation, recreation, and natural resources. Chester states that it has received federal recognition of the public use potential of this railroad and has been awarded a \$1.2 million grant pursuant to the federal Intermodal Surface Transportation Efficiency Act to convert the entire Chester Valley Running Track into a public trail. Chester requests that Conrail be prohibited from disposing of the corridor, other than the tracks, ties and signal equipment, other than for public use on reasonable terms; and barred from removing or destroying any trail related structures, such as bridges, culverts and tunnels for a 180 day period. Chester asserts that it needs 180 days in order to review the title information, negotiate with Conrail, obtain necessary approvals, and comply with State public disclosure laws.

Conrail stated in the September 2, 1993, letter that it intends to convey the property to Vanguard, Inc. (Vanguard), as an integral part of an agreement among Conrail, Vanguard, and Pennsylvania Department of Transportation (PennDOT), to enable PennDOT to acquire certain other property for the purpose of making much needed improvements to the highway system in the area, and that the use of the right-of-way for trail purposes would likely be incompatible with the important public purposes

of the highway improvement project. Conrail opposes the imposition of any public use condition.

Chester's submission meets the requirements for a public use condition as set forth at 49 CFR 1152.28(a)(2). Chester has established: (1) the condition sought; (2) the public importance of the condition; (3) the period of time for which the condition would be effective; and (4) justification for the time period. A 180-day public use condition will, therefore, be imposed to control disposal of rail properties being abandoned. Conrail may remove the tracks, ties, and signal equipment on the right-of-way, but is required to leave bridges, culverts, and tunnels intact during that period.

The criteria of 49 U.S.C. 10906 and 49 CFR 1152.28 have been satisfied. Accordingly, a 180-day public use condition will be imposed. A public use condition is not imposed for the benefit of any one potential purchaser, but rather to provide an opportunity for any interested person to acquire the right-of-way that has been found suitable for public purposes. All interested parties are encouraged promptly to pursue negotiations, as the 180-day period is statutory and cannot be extended.

As conditioned, this action will not significantly affect the quality of the human environment or conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The request for issuance of a notice of interim trail use is denied.
3. The exemption of the abandonment of the line described is subject to the additional conditions that Conrail: (1) retain its interest in and take no steps to alter the historic integrity of any bridges on the line that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act; and (2) leave intact all of the right-of-way underlying the tracks, including bridges, culverts and tunnels (but not track or other rail assets), for a period of 180 days from the September 9, 1993 effective date of the exemption (i.e., until March 8, 1994), to enable any State or local government agency or other interested person to negotiate the line's acquisition for public use.
4. This decision is effective upon the date of service.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.
Secretary

(SEAL)

