

By the Commission, David M. Konschnik,
Director, Office of Proceedings.
Vernon A. Williams,
Secretary.
[FR Doc. 95-25280 Filed 10-11-95; 8:45 am]
BILLING CODE 7035-01-P

[Finance Docket No. 32780]

**Consolidated Rail Corporation—
Trackage Rights Exemption— Norfolk
and Western Railway Company**

Norfolk and Western Railway Company (NW) has agreed to grant overhead and local trackage rights to Consolidated Rail Corporation (Conrail) as follows: (1) Overhead trackage rights between milepost 441.8± at Tolleston, IN, and the NW/Conrail property line at "CP Mike", milepost 319.2± at Ft. Wayne, IN, with the additional right to enter and exit the trackage at the connection with Conrail's Marion Branch, milepost 358.63± of NW's line, and the right to enter and exit the Warsaw Passing Track (ZTS 211), milepost 358.63±, and Conrail's West Industrial Track (Donnelley Siding, ZTS 208/210), milepost 359.68±, for the purpose of setting off and picking up cars moving to and from customers located within the local trackage rights area at Warsaw, IN; and (2) local trackage rights between milepost 356.5± and milepost 361.7± at Warsaw, with the right to enter and exit the trackage at the connection with Conrail's Marion Branch, milepost 358.63± of NW's line, at switch connection to Conrail's Engine Storage Siding, milepost 358.26±, and at those switches necessary to access Conrail's tracks and to serve Conrail's customers between milepost 358.7± and milepost 361.7±, at Warsaw (Conrail shall have the right to use the trackage between these points—including incidental headroom and tailroom—for the purpose of switching and moving cars to and from Conrail's tracks and Conrail's customers located between milepost 358.7± and milepost 361.7± and for the storage of equipment on the Warsaw Passing Track (ZTS 211) and Engine Storage Track (ZTS 817)).¹ The

¹ The rail lines involved were formerly owned by Conrail (Fort Wayne Secondary). In *Norfolk and Western Railway Company—Purchase and Operation Exemption—Consolidated Rail Corporation Between Fort Wayne and Warsaw, IN*, Finance Docket No. 32736 (ICC served Aug. 29, 1995), NW acquired 3 line segments, totaling approximately 50.15 miles. Norfolk Southern Corporation, through the offer of financial assistance procedures, acquired approximately 17.8 and 61 miles, respectively, in *Consolidated Rail Corporation—Abandonment Exemption—Between Valparaiso and Gary, IN*, Docket No. AB-167 (Sub-No. 1109X) (ICC served June 3, 1993) and *Consolidated Rail Corporation—Abandonment*

involved trackage totals approximately 125.78 miles in length.

The proposed transaction will allow Conrail to continue to serve its customers located within the local trackage area and to use the trackage for overhead movements. The trackage rights will take effect on such date as the parties may agree in writing, but not sooner than September 29, 1995.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: John J. Paylor, 2001 Market St., 16A, P.O. Box 41416, Philadelphia, PA 19101-1416.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: October 6, 1995.

By the Commission, David M. Konschnik,
Director, Office of Proceedings.
Vernon A. Williams,
Secretary.
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DEPARTMENT OF JUSTICE

**Notice of Lodging of Consent Decree
Pursuant to Clean Air Act**

In accordance with Department of Justice regulations 28 C.F.R. 50.7 notice is hereby given that on October 2, 1995 a proposed Consent Decree in *United States v. Eljer Manufacturing, Inc.*, Case No. 4:95CV2103, was lodged in the United States District Court for the Northern District of Ohio. The Complaint filed by the United States alleges various violations of the Clean Water Act ("the Act"), 33 U.S.C. 1319(b), including discharges without an appropriate permit issued pursuant to Section 402 of the Act, 33 U.S.C. 1342. The Consent Decree provides that Eljer shall not discharge pollutants from its facility to any stream, tributary, body

Between Warsaw and Valparaiso, In Kosciusko, Marshall, Starke, La Porte and Porter Counties, IN, Docket No. AB-167 (Sub-No. 1125) (ICC served Mar. 14, 1994).

Conrail is restricted from using the trackage rights for the purpose of switching, storage of cars, or the making or breaking up of trains, except as set out in the trackage rights agreement.

of water, or wetland area on Eljer's property or to any navigable waters not located on Defendant's property except in compliance with a permit issued pursuant to Section 402 of the Act, 33 U.S.C. 1342. Eljer shall also comply with all applicable industrial user regulations found within 40 C.F.R. § 403.12, and all requirements and limitations contained in its City of Salem industrial user wastewater discharge permit.

Eljer is also obligated under the proposed decree to undertake and complete a Sediment Remediation Plan and Post Sediment Remediation Verification Plan ("SRP"). The SRP provides for the removal of certain sediments in the tributary of Stone Mill Run on Eljer's property at two former discharge outfall locations and continuing downstream from such outfalls to the tributary's intersection with Stone Mill Run, to the extent necessary to achieve a cleanup level of 150 mg/kg for lead in sediments. The Consent Decree also requires Eljer Manufacturing, Inc. to pay a civil penalty of \$300,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States v. Eljer Manufacturing, Inc.*, D.J. Ref. No. 90-5-1-1-3815.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Northern District of Ohio, Room 208 U.S. Courthouse, 2 South Main St., Akron, Ohio 44308 (contact Assistant United States Attorney James L. Bickett); (2) the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590 (contact Assistant Regional Counsel Deborah Carlson); and (3) the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202-624-0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the reference case and enclose a check in the amount of \$3.00 (25 cents per page reproduction