

**DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration**

[FRA Docket 2001–8622]

**Wheeling & Lake Erie Railway Company Order****Background**

Pursuant to Part 235 of title 49 Code of Federal Regulations, the Wheeling & Lake Erie Railway Company (WLE) filed an application to discontinue and remove the traffic control system on its single main track and sidings between Spencer, Ohio, and Bellevue, Ohio. After hearing, and for the reasons discussed in its July 25, 2003 letter to WLE (letter), the Railroad Safety Board determined that it was appropriate to approve WLE's application, provided execution of the railroad's obligations under conditions placed on the approval can be ensured. Since certain of these obligations do not involve subject matters specifically regulated by FRA, FRA has made consent to entry of this order a further condition on approval of the discontinuance. WLE has consented to entry of the order.

**Authority**

The Federal Railroad Safety Act of 1970, as codified, gives FRA extensive authority with which to enforce Federal railroad safety laws and regulations. Authority to enforce Federal railroad safety laws has been delegated to the Secretary of Transportation to the Federal Railroad Administrator. 49 CFR 1.49. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws. 49 U.S.C. 20101, 20103.

**Order**

Effective upon notification to the WLE that the conditions precedent to removal of the traffic control system have been fulfilled, the WLE shall be subject to the further continuing requirements:

1. WLE shall maintain in place and shall enforce bulletin orders and special instructions required under the conditions to the approval of the application.

2. All track currently signalized shall be subject to an annual internal rail flaw inspection in the same manner required for Class 4 track under 49 CFR 213.237.

3. Dragging equipment detectors shall be installed per the railroad's proposal in this docket at or near the following locations: West of Hartland West at Milepost 72; Townline Road at Milepost 69.5; Old State Road at Milepost 66.6; Benedict Avenue at Milepost 65.3; North West Street at Milepost 64.1; Halfway Road, east of Monroeville,

Ohio, at Milepost 62.5; and Williams Road, west of Monroeville, Ohio, at Milepost 58.7. The existing hot box and dragging detector at Clarksfield at Milepost 77.7 shall be maintained. In addition, the hazard detector at Milepost 62.5 shall be required to be equipped to detect hot bearings. These detectors shall be maintained in good working order at all times and shall be promptly restored (without undue delay) in the case of unexpected failure.

4. Remote health monitoring shall be provided for the highway-rail crossing signals in Norwalk and Monroeville, Ohio, as per the railroad's proposal at the following locations: Townline Road at Milepost 69.5; Laylin Road at Milepost 68; Old State Road at Milepost 66.6; Conrwin and Pine Streets at Milepost 65.8; Woodlawn Avenue at Milepost 65.7; Benedict Avenue at Milepost 65.3; Newton and Jefferson Streets at Milepost 64.7; North Pleasant Street at Milepost 64.6; and North West Street at Milepost 64.1 in the Norwalk Area, also Main Street at Milepost 61.0; Ridge Street at Milepost 60.5; and Monroe Street at Milepost 60.2 in the Monroeville Area.

a. Implementation of this capability must provide effective immediate notification to the dispatcher of any false activation or activation failure detected.

b. If the dispatcher cannot immediately account for an alarm condition, the dispatcher shall instruct crews to reduce their speed to restricted speed within one-half mile of approaching the crossing and flag the crossing on both sides. Trains approaching a malfunctioning highway-rail crossing must proceed at restricted speed for one half mile in advance of the crossing and remain at restricted speed until the entire train is one-half mile past the highway-rail crossing.

These systems shall be maintained in working order thereafter and shall be repaired without undue delay in the case of unexpected failure.

5. Power operated switches that remain in this application area shall be maintained with a separate lock rod and separate point detector rod that will be attached to the switch and switch point separately.

6. Switches shall be upgraded to radio controlled operation per the railroad's proposal in this docket.

7. Derails currently installed at turnouts in the application area shall be maintained and utilized consistent with the WLE operating rules in effect as of the date of this letter unless the turnout is no longer needed and is removed.

Violation of this order is subject to civil penalty and other applicable

sanctions as provided in 49 U.S.C. 21301 *et seq.*

Issued in Washington, DC on October 10, 2003.

**Allan Rutter,**

*Federal Railroad Administrator.*

[FR Doc. 03–26376 Filed 10–17–03; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board**

[STB Finance Docket No. 34411]

**New Orleans & Gulf Coast Railway Company, Inc.—Lease Exemption—Union Pacific Railroad Company**

New Orleans & Gulf Coast Railway Company, Inc. (NOGC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from Union Pacific Railroad Company (UP) and operate approximately 11.52 miles of rail line. The line consists of 7.02-miles of UP's main line located between milepost 0.98 at Goldsboro, LA, and milepost 8.00 near Westwego, LA, and the 4.5-mile spur line known as the Hooper Spur located between Harvey Yard, at Harvey, LA, and the end of the spur at Bayou Street. NOGC certifies that its projected revenues as a result of this transaction will not result in NOGC becoming a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed \$5 million.

NOGC indicates that it expects to consummate the transaction on or shortly after October 19, 2003.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34411, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, Suite 225, 1455 F St., NW., Washington, DC 20005.

Board decisions and notices are available on our website at [WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).

Decided: October 10, 2003.

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

**Vernon A. Williams,**  
Secretary.

[FR Doc. 03-26281 Filed 10-17-03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-167 (Sub-No. 1095X)]

#### Consolidated Rail Corporation— Abandonment Exemption—Lancaster and Chester Counties, PA

**AGENCY:** Surface Transportation Board,  
Department of Transportation.

**ACTION:** Notice responding to comments  
received on the October 2002 notice to  
the parties and requesting comments on  
an attached proposed draft  
memorandum of agreement.

**SUMMARY:** This Notice to the Parties  
responds to the comments received on  
the October 2002 Notice to the Parties  
in this rail line abandonment  
proceeding, discusses the possibility of  
trail use for the rail line right-of-way,  
describes and solicits comments on the  
attached proposed draft Memorandum  
of Agreement, and provides information  
for a public meeting to be held on  
November 19, 2003.

**DATES:** Comments are due by December  
3, 2003.

**ADDRESS:** If you wish to file written  
comments regarding the attached  
proposed draft Memorandum of  
Agreement, please send an original and  
two copies to the Surface Transportation  
Board, Case Control Unit, 1925 K Street,  
NW., Washington, DC 20423-0001, to  
the attention of Troy Brady. Please refer  
to Docket No. AB-167 (Sub-No. 1095X)  
in all correspondence addressed to the  
Board.

**FOR FURTHER INFORMATION CONTACT:** If  
you have questions regarding this  
Notice, you should contact Troy Brady,  
the environmental contact for this case,  
by phone at (202) 565-1643 or by fax at  
(202) 565-9000. Assistance for the  
hearing impaired is available through  
the Federal Information Relay Service  
(FIRS) at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** On  
October 24, 2002, the Surface  
Transportation Board (Board) issued a  
Notice to the Parties (October 2002  
Notice) in the above-titled rail  
abandonment proceeding. The October  
2002 Notice set forth the background of  
the case, described the Board's  
reinitiation of the section 106 process of  
the National Historic Preservation Act

(NHPA), 16 U.S.C. 470f, pursuant to the  
decision of the United States Court of  
Appeals for the Third Circuit in *Friends  
of the Atglen-Susquehanna Trail, Inc. v.  
Surface Transportation Bd.*, 252 F.3d  
246 (3rd Cir. 2001) (FAST), and solicited  
comments on certain issues regarding  
this reinitiation. In response to the  
October 2002 Notice, the Board received  
18 comment letters, as well as a letter  
replying to the comments of other  
parties, all of which were placed on the  
Board's Web site.

The Board's Section of Environmental  
Analysis (SEA) has reviewed the  
comments. Based on the information  
therein as well as ongoing consultations  
with the Advisory Council on Historic  
Preservation (ACHP), the Pennsylvania  
State Historic Preservation Officer  
(SHPO), and Norfolk Southern Railway  
Corporation (NS), SEA has developed a  
plan to complete the section 106 process  
for this proceeding. The ACHP, the  
SHPO, and NS have indicated their  
approval of SEA's plan, as well as their  
willingness to sign the attached  
proposed draft Memorandum of  
Agreement (MOA). Changes suggested  
pursuant to consulting party and public  
review and comment will be  
considered. Below, SEA (1) summarizes  
and responds to the comments,  
including those that favor converting  
this railroad right-of-way to interim trail  
use/rail banking pursuant to 16 U.S.C.  
1247(d) (Trails Act), or a privately  
negotiated trail use agreement entered  
into after the abandonment is  
consummated, (2) discusses the  
remaining steps in the section 106  
process for this case, assuming that trail  
use here is unsuccessful, and (3)  
describes the attached proposed draft  
Memorandum of Agreement (MOA)  
setting forth proposed section 106  
mitigation. As discussed in more detail  
below, SEA has also scheduled a public  
meeting on this case and the proposed  
draft MOA and is providing a 45-day  
period for interested parties to file  
written comments on the proposed draft  
MOA.

#### I. Comment Summary and Response

##### A. Historic Eligibility of the Enola Branch Rail Line

*Comment.* NS states that it disagrees  
with the designation of the Keeper of  
the National Register of Historic Places  
(Keeper) that the entire line is historic.

*Response.* As explained in the  
October 2002 Notice, pursuant to the  
Keeper's determination, the ACHP  
regulations, and the court's holding in  
FAST, the entire line is historic. NS has  
not provided any compelling reasons

that would undermine the conclusions  
of the Keeper, the ACHP, and the court.

##### B. Clarification of the Length and Location of NS's Remaining Line

*Comment.* NS's reply comments  
attempt to clarify the name, exact length  
and location of the rail line that is the  
subject of this proceeding. NS states that  
the proper name for the rail line was the  
Atglen and Susquehanna Branch,  
because the rail line runs from a  
location near Atglen, PA to a location  
near the Susquehanna River. According  
to NS, the notice of exemption  
Consolidated Rail Corporation (Conrail)  
filed in 1989 was for 66.5 miles of track,  
but only 33.9 miles of this is actual rail  
right-of-way. NS states that the rail line  
extends from Milepost 0.0 at CP "Park"  
in Parkesburg, PA to Milepost 33.9 near  
a connection with the Port Road Branch  
at CP "Port" in Manor Township, PA.  
The other 32.6 miles of track referred to  
in the notice of exemption refer to the  
second track of the double tracked rail  
line between approximately Milepost  
1.1 and Milepost 33.7. Subsequently, NS  
has indicated that it will return to the  
use of the designation "Enola Branch"  
for this line in this proceeding because  
of Conrail's use of this name during the  
period that it operated the line and the  
long use of this name in this proceeding.

NS also states that it currently intends  
to retain the property between Milepost  
27.0 at Safe Harbor, PA and Milepost  
33.9 at Port, PA in connection with its  
operation of the Port Road Branch; and  
between Milepost 0.0 at Parkesburg, PA  
and Milepost 1.5 at Lenover, PA, except  
for Amtrak's bridge, for use as the  
Parkesburg Industrial Track. According  
to NS, no abandonment authority or  
exemption was necessary because these  
line segments will continue to be owned  
by NS and used for railroad purposes;  
only one of the two tracks will be  
removed. For the same reason, NS states  
that there will be no adverse effect on  
historic properties on these segments.

NS also states that Conrail sold the  
portion of the rail line between Milepost  
1.5 at Lenover to Milepost 4.0 near the  
Chester County-Lancaster County line to  
Southeastern Pennsylvania  
Transportation Authority (SEPTA) in  
1996. Thus, according to NS, the only  
portion of the rail line (if any) that is  
subject to this section 106 process is  
from about Milepost 4.0 in Chester  
County, PA (the end of a bridge over  
Noble Road and Octoraro Creek and  
about 50 yards of access to the bridge)  
to Milepost 27.0 at Safe Harbor, or  
approximately 23 miles of rail right-of-  
way.

*Response.* Conrail described the line  
to be abandoned in its 1989 notice of