

November 19, 2003 from 3 p.m. to 5 p.m. and from 6 p.m. to 8 p.m. SEA will give a brief presentation and interested parties may submit written comments or make oral comments. SEA will have a court reporter available at each session to ensure that oral comments are accurately captured. Both the afternoon and evening sessions will follow the same format and utilize the same agenda; it is not necessary to attend both sessions.

Persons wanting to speak at the public meeting are strongly urged to pre-register by calling (202) 565-1643 and providing their name, telephone number, the name of any group, business, or agency they are representing, if applicable, and whether they wish to speak at the afternoon or evening session. The deadline for pre-registration is November 7, 2003. Persons will be called to speak in the order in which they pre-registered. Those wishing to speak but that did not pre-register will be accommodated at each session as time allows. Those wishing to speak at both the afternoon and evening sessions will also be accommodated as time allows and after all others have had an opportunity to participate in the evening session. As SEA desires for as many persons as possible to participate and given that there will be a limited amount of time, all speakers are strongly encouraged to prepare summary oral comments, and submit detailed comments in writing. SEA also encourages groups of individuals with similar comments to designate a representative to speak for them.

#### *B. Final Memorandum of Agreement*

After the close of the 45-day comment period on the attached proposed draft MOA, SEA will review all written comments, as well as any oral comments received at the public meeting. If trail use is unsuccessful, SEA will then prepare a final MOA.

### **III. Description of the Proposed Draft Memorandum of Agreement**

Based on the comments received in the October 2002 Notice and in consultation with the ACHP, the SHPO, and NS, SEA has developed a proposed draft MOA for this proceeding, assuming that no agreement for trail use is reached. The proposed draft MOA briefly summarizes the background of this proceeding and then sets forth several stipulations. As discussed above, because imposition of any nonconsensual mitigation other than documentation would be an unauthorized taking under the Fifth Amendment, the mitigation measures in

the proposed draft MOA are limited to documentation.

The SHPO, NS, and SEA are currently working together to develop a list of representative structures on the line. Documentation of these structures will serve to document the historic qualities of the line as a whole. The first stipulation of the draft MOA contains a provision requiring the list of representative structures to be completed prior to the commencement of any documentation efforts. The first stipulation also requires NS to document the NS-controlled portion of the rail line by documenting appropriate representative sites and structures on the line, to Pennsylvania state standards, as described in footnote 13. SEA believes that documentation to Pennsylvania state standards is appropriate in this proceeding. Previously, the SHPO, Conrail, and the Board had all agreed that documentation to Pennsylvania state standards was the appropriate level of documentation when formulating the previous proposed draft MOA for this proceeding, and SEA has received no new information to indicate that the level of documentation should now be different. In addition, the stipulation requires NS to conduct archival research and to consolidate all information—documentation and the results of the archival research—into one cohesive document to be archived at the SHPO's office.

Although the tracks and ties have already been removed from most of the right-of-way, the proposed draft MOA also sets forth provisions for the protection of unexpected discoveries of historic resources, including archeological resources, in the event that documentation efforts identify a potential for unanticipated effects on archeological sites or in the event that one or more archeological sites, any additional cultural resources, or human remains are discovered during any remaining salvage activities associated with the abandonment.

Date made available to the public: October 20, 2003.

By the Board, Victoria Rutson, Chief,  
Section of Environmental Analysis.

**Vernon A. Williams,**  
*Secretary.*

**Attachment to STB Docket No. AB-167 (Sub-No. 1095X) Notice to the Parties—  
Memorandum of Agreement Among the  
Surface Transportation Board and the  
Advisory Council on Historic Preservation  
and the Pennsylvania Historical and  
Museum Commission and Norfolk Southern  
Railway Company Regarding Docket No.  
AB-167 (Sub-No. 1095X) Consolidated Rail  
Corporation—Abandonment Exemption—  
Lancaster and Chester Counties,  
Pennsylvania**

*Whereas*, in 1989 Consolidated Rail Corporation (Conrail) filed a notice of exemption with the Interstate Commerce Commission (ICC) <sup>1</sup> pursuant to 49 CFR 1152.50 seeking an exemption from the requirements of 49 U.S.C. 10903 to abandon a segment of a line of railroad commonly known as the Enola Branch. The Enola Branch extends generally westward from Milepost 0.0 in Parkesburg, Chester County, PA to Milepost 33.9 at Port in Lancaster County, PA.<sup>2</sup> The Enola Branch passes through the Townships of Sadsbury, Bart, Eden, Providence, Martic, Conestoga, and Manor, and the Borough of Quarryville in Lancaster County, and the Township of West Sadsbury, the Borough of Atglen, and the City of Parkesburg in Chester County;

*Whereas*, the portions of the Enola Branch that are the subject of this Memorandum of Agreement are the portions between Mileposts 0.0 to 1.5 and between Mileposts 4.0 to 33.9.<sup>3</sup>

*Whereas*, the ICC issued a decision served February 22, 1990 allowing the abandonment subject to a condition, developed as a result of consultation with the Pennsylvania State Historic Preservation Officer (SHPO), that Conrail take no steps to alter the historic integrity of the bridges—the only properties on the Enola Branch that had been identified

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. 104-88, abolished the ICC and transferred certain rail functions, including the rail line abandonment functions at issue in this case, to the Surface Transportation Board (Board), effective January 1, 1996.

<sup>2</sup> Conrail described the Enola Branch in its 1989 notice of exemption filing as two parallel tracks of a double tracked line. Track number 1 extended 32.6 miles from Milepost 1.1 in Parkesburg to Milepost 33.7 in Manor Township. Track number 2 extended 33.9 miles from Milepost 0.0 in Parkesburg to Milepost 33.9 in Manor Township.

<sup>3</sup> Conrail sold the portion of the Enola Branch from Milepost 1.5 to Milepost 4.0 to the Southeastern Pennsylvania Transportation Authority in 1996. On June 23, 1997, Norfolk Southern Railway Company (NS) and CSX Transportation Inc. sought permission from the Board to acquire Conrail and to divide its assets between them. On July 23, 1998, the Board approved the Conrail Acquisition. *CSX Corp., et al.—Control—Conrail Inc., et al.*, 3 S.T.B 196 (1998). The Enola Branch property was allocated to Pennsylvania Line LLC, a subsidiary of Conrail, as part of the Conrail Acquisition transaction. NS operates the Pennsylvania Line LLC allocated assets under an operating agreement approved by the Board. This Memorandum of Agreement pertains to the NS-controlled portions of the Enola Branch.