

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION

In re: Rail Transportation
Public Hearing

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Verbatim report of hearing held in the
Lackawanna County Courthouse Annex,
Commissioners Conference Room, Scranton,
Pennsylvania on

Thursday
September 22, 1983
11:00 a.m.

HON. AMOS K. HUTCHINSON, CHAIRMAN
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Hon. Thomas J. Murphy, Subcommittee Chairman Highways
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Also Present:

Hon. Joseph G. Wargo

Reported by:
Dorothy M. Malone

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Registered Professional Reporter
135 S. Landis Street
Hummelstown, Pennsylvania 17036

Also Present:

Scott Casper, Research Analyst
 Paul Landis, Research Analyst
 Vince Rossi, Minority Staff

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ACTING CHAIRMAN WARGO; May we have your attention please. I would like to call this hearing to order please. In absence of Representative Amos Hutchinson, who has been hospitalized and has just returned from the hospital, I am Representative Joe Wargo from the 115th District. I will preside in his absence.

The first person to testify is the President of Northeast Rail Users Association, Mr. Jim Saba. Is Mr. Saba here, please? Do you have copies of the testimony?

MR. SABA: No, I just have the one copy. Jim Saba, I am President of Northeast Pa. Rail Users Association and own S & J Metal, a rail user in the Wyoming Valley area. Having lived in the Wyoming Valley for 54 years of my life I have great concern about the rail situation of the Commonwealth and particularly in our area. First of all, when CONRAIL announced their plan for abandonment of the rail lines in our area, a group of concerned community business leaders acting together formed an association to try to deal with a troubling situation. We called our association Northeast Pennsylvania Rail Users Association, a nonprofit organization. We determined that if the parties bidding on these abandonments, in our judgment, could or would not meet the needs of the business community, we would act to purchase these lines, hire a qualified operating

company to run the day-to-day operations of the new short line.

Needless to say, we were not successful in acquiring these lines. We determined it would be in our best interest to try. We were unsuccessful for a number of various reasons. A few I will now comment on.

The Chamber of Commerce chose not to help our association. As we later found out, the president of the Chamber of Commerce, a lawyer, had been hired to represent a firm also bidding on the lines, who also was from out of the state, to represent its interest in the Wyoming Valley area. Our county commissioners ignored our efforts completely despite a tremendous amount of press we were fortunate to have from all types of media coverage. They were not available for and did not recognize our efforts either privately or publicly. Not that we did not try to make an honest effort to talk to them. Wilkes-Barre city officials completely ignored our efforts.

Senator Frank O'Connell was extremely helpful. The Pennsylvania State Department of Transportation gave invaluable service to us and other than the aforementioned people no one else from the federal, county or city government had any desire to meet, talk or help us in our efforts. Needless to say, this has left a bad feeling among our members.

We did not want to make this situation political. We would have liked it to be a bi-partisan effort. We were only concerned with the preservation of the rail lines on an affordable level for the local businesses and for the economic and social well-being of the community that we are a part of.

Having said this, I would like to talk about the problem of the rail situation pertaining to our local people in the Commonwealth as well as the rest of the nation. The following are the problems that we have. The lumber people who must have their lumber shipped from the west coast and have the carloads shipped by the American Railroads have to wait from two to three weeks if they are lucky. These cars have to be shunted from one train to another for a minimum of four to five times, adding to the cost of handling and adding time to delivery. Not too long ago the Canadian Railroads devised a movement for these lumber people and it is as follows: loaded cars are put on a train headed east. These cars are not touched until they arrive in the eastern part of Canada. They are then unloaded and shipped by truck to their final destination. Whether it be the home lumber yard of the lumber people or to a specific job site or to another lumber dealer. This has saved the original freight bill from 30 to 40 percent. Also,

and just as important, the savings and convenience of not having to handle the material going to another site. This also has solved one-half of the time for delivery.

But this has now caused another problem. Not for the lumber people but for the railroad. Less freight, less revenue, the unions have less carloads and less employees and so on down the line.

Warehousing has many problems with the railroads in our area. When a warehouse is informed by the railroad that on a certain day and at a certain time loaded cars will be placed on their siding, crews of men are called for that time to unload the cars. And if the cars are not placed at the time promised, then they have a problem with crews standing around all day doing nothing. Or if a customer warehouse requests shipment to be sent on a certain day and empty cars are ordered from the railroad and promised to be placed on a certain day and that customer is notified of the proposed shipping day and lo and behold the cars are not placed there for three or four days, can you imagine the problem created for the warehouse customer and the warehouse? They will probably lose their customer. What recourse does the warehouse have after paying crews of men for doing nothing or having a loss of a customer or if a customer loses production or whatever other problems

might arise from it.

Or in our case, the scrap business. If the cars of scrap are loaded by the end of the month and the price of material loaded takes a sudden drop and the cars sit on the siding for as long as two weeks after the end of the month, what recourse do we have when the order is cancelled or if the cars are arbitrarily rejected? What recourse do we have when our loss runs into 10 to \$15 a ton and the cars carry anywhere from 50 to 70 ton? This is not an occasional happening. So our only alternative is to ship by truck as much as possible. These are some of the problems that we have found facing us as business people trying to keep our operations on a profitable basis. I have no specific remedies, but I do know that without a concerted and concentrated and cooperative effort by all parties, including railroad management, rail unions and government agencies and the public, there will be certain areas of the Commonwealth which will have reduced rail service or no rail service at all. The rules governing railroads are archaic whether they be administrative or union or governmental. They are partly or wholly responsible for the deterioration of railroads in general.

Too many years have passed since CONRAIL has announced abandonment plans. Immediate help must be given,

especially to the new short line railroads such as Pocono Northeast and Seria (phonetic).

I thank you for the courtesy and patience for hearing my thoughts and inviting me to the meeting. I will be pleased to answer any questions that you may have.

BY ACTING CHAIRMAN WARGO:

Q Jim, in earlier testimony you said you received no help from the Chamber of Commerce, the county commissioners. How about the Northeast Economic Development Council?

A Yes, they were helpful in getting us organized as an association. Of course, they helped as much as they could but their help is limited.

Q You ship where to where?

A Me personally?

Q Well the problem with your area.

A We ship from the Kingston area to Harrisburg mainly.

MR. CASPER: Excuse me, If I may interrupt. I am sorry, but Randy Kazminski is here representing Senator Frank O'Connell, Luzerne County. I just wanted to make that note. Randy -- there you are, right in the back there.

ACTING CHAIRMAN WARGO: Any questions, Paul?

MR. LANDIS: No, I do not have any.

ACTING CHAIRMAN WARGO: Vince.

MR. ROSSI: No.

ACTING CHAIRMAN WARGO: Scott.

BY MR. CASPER:

Q Mr. Saba, you mentioned a few problems there. Did you contact state officials? I know Senator Frank O'Connell was active in trying to do what he could for you. But as far as the structure of the state government, the bureaucracy, whatever, aside from your local elected officials. How were they responsive to your needs?

A Oh, they were absolutely great in response to our requests. They offered all the help that they could give us. The one woman, Eileen King --

Q Elaine King.

A Elaine King, yes, was in the Transportation Division, the railroad.

Q She is Chief of the Goods Movement Division.

A Yes. She was extremely helpful. She gave us advice and counsel and set meetings up for us to have with Tom Larson. We had a meeting with him. It was very fruitful. We were very happy with the state's help in trying to get this off the ground for us.

Q How about CONRAIL's cooperation? Did you find them

cooperative?

A Well, CONRAIL didn't want to show any partiality because we were all bidding to acquire the lines. They kept their hands off.

Q But aside from that, as far as questions you might have in terms of trying to put together a financial package to acquire the lines, did they give you all the information that you requested in a timely fashion?

A Yes, they did, yes. We had hired Tom Shepstone, who I see is going to testify later this afternoon, as our consultant. He had no problems getting information from CONRAIL that we needed. We did have problems with our local people and federal people. We just couldn't get them to --

Q You say federal people, FRA, Federal Railroad Administration?

A No, the Department of Transportation or our Congressmen. We just couldn't get them to act on behalf of the community for us. We always felt as users if we could acquire the lines and run it, we would do it for the community ^{or} not for a personal/ business gain. We just wanted to have the railroads operating in our community so that our businesses would not suffer.

Q They were incidental to the actual operation of

your business --

A Yes.

Q You weren't so much interested in getting in the railroad business?

A That is right. We certainly didn't want to be in the railroad business along with our other business. But we felt that it was necessary because we just couldn't get the proper answers from the people who were bidding on the lines. So we felt that if we could acquire the lines we would hire a dependable railroad operator and we had talked to four or five, D&O is one railroad.

Q You said D&O, that is the Delaware Ostego system?

A Delaware Ostego system, yes. As an operator of our lines. We talked to a rail operator out of Scranton who runs a short line up in New York State. We talked to a few others to handle the day-to-day operations of the railroad. CONRAIL has left the railroads in our area in a very poor state and I can appreciate and understand why they have done that. But it makes it very difficult for any short line operator taking over these branch lines to operate efficiently because they are in bad shape. I know all the lines that are abandoned and I have walked most of them. It takes an awful lot of money, will take an awful lot of money to bring these lines up

to a standard where they can run at least 25 miles an hour. Right now they are limited to ten miles an hour to go over these lines.

Q The lines that you are speaking of have slow orders of ten miles per hour?

A Yes. So that, of course, costs money because it takes twice as long for an engine to move. The switches are in bad shape. The frogs are in bad shape. The ties are in deplorable shape. I see that Pocono Northeast now is going to replace the ties from the Pittston terminal down to Center City Wilkes-Barre. The ties, I think, are in place along side of the track. But of course this takes a tremendous amount of money and effort by these short lines.

And you have to remember that these short lines do not have the ability to raise the capital that CONRAIL had or some of these other railroad companies have. I am sure it's very difficult for them to bring these short lines in an operating condition where they can save money and not have derailments.

There is one section of track that supplies Independent Explosives with cars. On one particular day there were 13 derailments delivering two cars. Now this is very costly to a short line. They got to send crews of men out and

get these cars jacked up and put back on the tracks.

Q And that was Independent Explosives?

A That is right. It created a big problem because Pocono Northeast certainly couldn't afford the expense of putting these cars back on the tracks. So they shut the lines down. That created a problem for Independent Explosives and some of the other people on the line.

So as I say, a concerted effort must be made to help these short line people who are taking a gamble and trying to keep the railroads here in this area.

Q So you would like to see more state involvement in trying to either assist by whatever means possible the short line operators to survive?

A Absolutely, absolutely. They need the help if we are going to keep railroads in northeastern Pennsylvania.

Q On that point, Mr. Saba, one last question, in your organization shippers organization, I would imagine scrap metal would be pretty much rail dependent. You mentioned lumber which is extremely rail dependent. Are most of your businesses along those lines you are speaking of, are they rail dependent to the point that if they were to divert to another means, another mode of transportation, motor truck, for example, would their costs increase to a point that they

would really be squeezed?

A Yes, there is one plant at the end of the line in Wilkes-Barre, Air Products. Their people I believe will be here to testify. They can't operate that plant without rails.

BY ACTING CHAIRMAN WARGO:

Q How many employees in Air Products?

A Right now I believe there is about 350. But they employ as high as 600 to 650.

Q They would have to move out if they had no line?

A Yes, because they have high wide, long loads. The movement has to be one specific movement at a time. They have to move it from Wilkes-Barre to the port in Newark for loading on ships. They have a problem now even with the rail line because those high wide loads cannot move through the existing lines efficiently. They will take them down, load it, off load it to one side for, I think, about 50 percent of the trackage and then the train has to be turned around. The side that is projecting out has to be turned around and put on the opposite side because the clearances are not there for that train to move through. This is all costly. It makes it very difficult for Air Products to move a shipment down. They have got to send crews of men down and station them on the train going down so that these pieces of equipment don't touch the

sides and become damaged. So it makes it very difficult and the situation is in bad shape.

Q Jim, is there any other industries along that line?

A Well, coming up the line we have the Vulcan Iron Works who makes big equipment. They cannot ship too much out by truck because it is oversized. Of course, there is Abe Solomon, another scrap dealer on that line. There are mills that will not accept truck delivery. They want it by rail. So if rail is curtailed, he probably would lose that market for himself.

On up are the lumber people and warehousing people along the line.

BY MR. CASPER:

Q So as a final comment, just on this one line alone we are talking about a lot of jobs being lost if that line would, for whatever reason, not be able to continue in service?

A Absolutely, absolutely. I had figured in our preliminary studies 7,500 jobs would be affected if there were no rails --

Q Including the ripple effect?

A Yes.

Q Suppliers, etc.?

A Yes.

BY MR. LANDIS:

Q Jim, how many cars a week do you have on that line from these shippers?

A I don't have the figures in my head. It has been over eight months now since I have been actively involved in putting a package together with our association. But just from the top of my head I believe the figure of 3,000 comes out, 3,000 products per year comes out. I don't believe that that is what it actually is. That is what it was previous to the rail abandonments.

BY MR. ROSSI:

Q Do you have any idea what it is now?

A About 50 percent, half. That is my opinion. I don't know. I don't have any figures to substantiate it.

BY MR. LANDIS:

Q Was there any movement to contract with CONRAIL to operate over this line that they were going to abandon?

A No, not on our part. I don't know if anyone else approached CONRAIL. None of the businesses approached CONRAIL to contract except maybe Air Products did, if abandonment came through before someone acquired the lines and were able to operate them. Air Products did have an agreement with CONRAIL that CONRAIL would move shipments until a short line operator

got into operation. That is the only people that I know of.

Q We had testimony in prior hearings that CONRAIL had agreed with certain surcharges to keep a line operating --

MR. CASPER: For contract services.

MR. LANDIS: For contract services if they could get so many cars a year. I was wondering if they ever approached you on that?

THE WITNESS: No. Air Products made that commitment with CONRAIL before we organized as an association. So we were not part of it. We were informed that that is what had happened. That they could keep their plant operating even if someone did not take the lines over or could not get the lines operating in time to get their shipments moving. That they are the only people that I knew CONRAIL had talked with.

ACTING CHAIRMAN WARGO: Thank you, Jim. We call on Mr. Franchella. While Mr. Franchella is coming up I would like to identify Paul Landis, who is a research analyst on Representative Dininni's committee; Vincent Rossi, who is the legislative research analyst for the Commonwealth. Of course, you met Scott, who is pretty much going to run this show for us.

Mr. Franchella, do you have a copy of your testimony?

MR. FRANHELLA: I don't have any, sir. I want to

state my name is Ted Franchella. I represent the Plains Township Taxpayers Association.

What I would like to give you is this petition that was gotten about two years ago. I shall read this petition.

"We, the undersigned taxpayers of Plains Township who have properties adjacent to the old Laurel Line tracks wish to express our desire and interest in purchasing said railroad property. We further petition the local and state and federal government to do whatever is necessary to accomplish this request."

The purpose of purchasing that railroad, Mr. Chairman, is that the people who are concerned of the possibility that some contractors may take this railroad over and try to take -- strip that area, try to take the materials that were on the railroad bed. So we thought if we could form an authority to purchase this ourselves we would be able to then control whoever the authority would want to strip and take care of this.

Then after this was done, and there is a lot of cinders for the township, after this was done, we would then sell the property to get back the cost of what CONRAIL would sell the property for us. We would get the cost by selling the property to the property owners adjacent to the tracks. There

is old Laurel Line Station property adjacent to the right-of-way and that we thought would be a good place for housing for the elderly. It is centrally located and we don't have any housing for the elderly there.

Then there is recreation. We could make part of that track, and I am speaking by the way, of 6.3 miles of track. That is going from Jenkins Township to the city line, Wilkes-Barre city line.

There is five bridges that are in unsafe conditions right now. The township commissioners have been trying to get the CONRAIL or someone to try to alleviate this problem and they didn't do so.

The taxpayers, we understand, that CONRAIL has purchased this track from the railroad at \$8,100 per mile. We understand that CONRAIL has purchased from the railroad, previous owner of the railroad, the track at \$8,100 per mile. We were willing to get that amount back to CONRAIL to purchase that 6.3 miles of track.

And there in the township is a main road that is dead ended at the track. This we could accomplish by going past the railroad tracks and continue onto the main road and this would be something that the township could very well use.

We were willing to form an authority and I feel

that we should get this land back to the property owners. That the property was taken originally from them. I just found out this morning that Pocono Northeast has purchased this track. For what purpose I cannot understand. Because I understand that Pocono Northeast is supposed to service people who have industry on the track.

This 6.3 miles of track serves no purpose whatsoever to anyone. It is dead. There is no tracks. There is nothing there. I think, in my opinion and in most of these taxpayers' opinion, that track should be given back to the people to do whatever they wish to do with it, the township, and not have the Pocono Northeast come in and strip that. Now, we have strict ordinances on stripping in the township. It would be very difficult because I sit on that planning hearing board for them to strip any of that track. There is 90 properties adjacent to those tracks.

BY ACTING CHAIRMAN WARGO:

Q When you say strip --

A The way I understand it, sir, the Pocono Northeast has intentions of buying that track for that purpose and I don't know of any other purpose for which they wanted to buy it for. I thought their purpose was to purchase it to service industry or service businesses. There is no business on that 6.3 mile of

track that could be serviced,

BY MR. CASPER:

Q So they would use it for scrap?

A I don't know what they would use it for.

BY MR. LANDIS:

Q Does that 6.3 miles join to other lines?

A No, it doesn't.

Q Just goes out and dead ends?

A Dead ends at Jenkins Township and it dead ends at the City of Wilkes-Barre. In fact, the City of Wilkes-Barre took the coal from that and got \$350,000 stripping that.

ACTING CHAIRMAN WARGO: Well, we will find out. Pocono Northeast is to testify this afternoon.

THE WITNESS: Well, that 6.3 is in Plains Township. If they have purchased that, and I understand that this morning. I didn't think that they did. We have been trying to purchase that for the past two years.

ACTING CHAIRMAN WARGO: I am sure the Committee will ask the question of Pocono Northeast this afternoon.

THE WITNESS: Okay. And that would give the township, by the way, who are in financial difficulty, that would give the township a tax base. If this property is sold to these people who desire to have this property adjacent to

the tracks, we would get additional funds in taxes. And they are all willing to purchase that at a reasonable price. This is the way the authority, if it was ever formed --

BY ACTING CHAIRMAN WARGO:

Q You're talking about a nursing home adjacent to this right-of-way? Who would run a nursing home there would finance the --

A Not a nursing home, sir. I am talking about a home for elderly. It is not a nursing home.

Q Who would be willing to put a home there, non-profit?

A A nonprofit organization or whoever. Whoever puts housing in for the elderly.

Q What is there now? You say there is a --

A There is a large space there that used to be a railroad station. It is adjacent. It is connected to the track, the right-of-way. So you got approximately maybe 80 foot wide there.

MR. CASPER: That has been torn down. It is for space there.

THE WITNESS: Yes, it is just a space there.

ACTING CHAIRMAN WARGO: It is just space, not a vacant building?

THE WITNESS: No, no. It is just space. On behalf of the Township Taxpayers Association, I have spoken to numerous people, particularly Tom Ramsey, Director of Regional Marketing, stationed in Philadelphia on this matter. He was a representative of CONRAIL. And I had gotten no satisfaction from him. I also spoke to a Mr. MacNichols down in Washington concerning the matter and I got nothing. It became complicated and this is the extent of my being here, sir. I wish to thank you for hearing me. If you have any questions now, I gladly will answer them.

ACTING CHAIRMAN WARGO: Paul.

MR. LANDIS: No.

ACTING CHAIRMAN WARGO: Vince.

MR. ROSSI: No.

ACTING CHAIRMAN WARGO: Scott.

MR. CASPER: I will just mention if there is anything we can do to help facilitate a resolution of the problem we would be more than happy to attempt to.

THE WITNESS: By the way, I go along on your concept of forming a statewide railway maintenance authority. I think to acquire these properties. I think maybe we could work with those people in the township in performing our own authority in conjunction with them.

MR. CASPER: That is House Bill 865 for your information. The legislation is entitled House Bill 865.

THE WITNESS: Thank you very much.

ACTING CHAIRMAN WARGO: Next is Mr. Mark Scarbinsky.

MR. CASPER: Also with Mr. Scarbinsky is Phillip Lieberman. Phil is Executive Director, I believe you are.

MR. LIEBERMAN: Well, I was Executive Director of the Railroad Task Force. I am now Regional Planner for the Economic Development Council Northeastern Pennsylvania.

MR. SCARBINSKY: Good morning, Mr. Chairman and staff members from the House Transportation Committee. I appreciate the opportunity to participate in such an important hearing this morning relating to the future of railroads in the Commonwealth. The outcome of these hearings certainly have the potential to significantly affect existing as well as pending legislation.

My name is Mark J. Scarbinsky. I am Chairman of the Regional Transportation Committee of the Economic Development Council of Northeastern Pennsylvania (EDCNP), a private, non-profit corporation organized to further economic, social and physical development in the seven northeastern counties of the Commonwealth. Those counties include Carbon, Lackawanna, Luzerne, Monroe, Pike, Schuylkill and Wayne.

The Council is comprised of a 287 member Board of Directors from the private and public sectors. The work program and staff are made possible by federal and state grants and contracts, as well as contributions, county and municipal membership, and membership by private firms, organizations and individuals.

With me today is Philip A. Lieberman, a professional planner who has specialized in transportation matters for EDCNP for the last ten years. Mr. Lieberman will be offering views on the management and operations of CONRAIL and what can be done to improve future railroading in the Northeast.

EDCNP's involvement in railroad planning goes back to the early 1970's, when virtually all of the local railroads serving Northeastern Pennsylvania filed for bankruptcy under Chapter 77. We were active in the preparation of legislation to save the railroads, and in the planning process which was created by the Regional Rail Reorganization Act of 1973. At that time, Mr. Lieberman, with the help of specialized consultants and other professionals on the EDCNP staff, prepared a comprehensive study of the railroad structure and operations at that time. The study presented a three system plan to provide profitable, competitive railroad networks focused on Northeastern Pennsylvania. One of the systems,

based on the old Penn Central Railroad, might have been called "Small CONRAIL." The second system would have been based on the Delaware and Hudson and Norfolk and Western Systems. The third system, which was a brainchild of Reading Company and Lehigh Valley Railroad, was known as the Mid-Atlantic Railroad Corporation.

In marketing this idea to the U.S. Railway Association, to Congressmen, and to other key decision makers, we constantly warned against what we felt would be the worst possible course of action: establishing one monolithic railroad in the northeast. We knew that it would be too large to manage and that, without competition, there would not be enough incentive to perform well. Nevertheless, the United States Railway Association, which was charged by law with planning for the reorganization of the Northeast railroads, recommended a unified CONRAIL as the second choice. When the first choice, a CONRAIL versus Chessie-based competitive railroad network, fell through, most of Pennsylvania was left with the second, undesirable alternative: "Big CONRAIL."

In a September 1975 supplement to the Final System Plan, USRA's financial forecast showed that CONRAIL would be making a profit by 1979. It never came to be. By 1980, another USRA report called Federal Funding for CONRAIL noted

that CONRAIL had lost \$1.4 billion. By 1981, another USRA report CONRAIL at the Crossroads noted that the figure had increased to \$1.8 billion. "CONRAIL's traffic base has declined, while its already higher than average unit cost of moving freight has remained unchanged," according to the report.

Since that time, the Staggers Act, the Northeast Rail Services Act, and other pieces of federal legislation have deregulated rail transportation and given CONRAIL nearly complete freedom to liquidate whatever properties it wishes, without concern for the public interest. The purported purpose is to streamline CONRAIL so that it will become profitable and then sold in the private market in 1984. But this is not the correct path toward lowering unit costs. As Mr. Lieberman will now demonstrate, the solution to improving unit costs is not "rationalization" of a monopoly, but rather competition.

MR. LIEBERMAN: Thank you, Mr. Scarbinsky. Let us refer again for a moment to that 1980 USRA report that Mr. Scarbinsky mentioned. In preparing this report, USRA modeled traffic on a "rationalized" CONRAIL system, and found that it would incur a loss of 53 million tons of freight over a five-year period. According to transportation consultant Edson L. Tennyson, who formerly served as Deputy Secretary for PennDOT,

the revenue from this lost freight would exceed the maintenance and operating costs saved. Meanwhile, the areas which are deprived of rail service must shift to truck, which is about twice as expensive as rail. The difference in costs will be borne by our Pennsylvania business, consumers, and taxpayers. In Temmyson's words to the U.S. Railway Association, "Each (full) carload shifted to truck costs someone \$500. Each carload routed 100 miles around an abandoned segment costs CONRAIL approximately \$100. Just one train per day each way of 28 loaded cars will justify 100 miles of track maintenance to sustain the shortcut."

If we look back to the days before CONRAIL, the predecessor companies operated at a lower unit cost than CONRAIL ever has. The Delaware and Hudson, which is the only Class 1 carrier left in Northeastern Pennsylvania to compete with CONRAIL has an operating cost of 2.5 cents per revenue ton mile, versus CONRAIL's 3.5 cents.

Since its inception, CONRAIL has pursued a policy of discouraging competition in ways that are permanently damaging the economy of the Commonwealth. In preparing for an anti-trust suit against CONRAIL, we discovered a pattern that CONRAIL has followed to decimate former mainlines in Pennsylvania. The strategy, briefly stated, involved removing from

service mid-sections of former mainlines of other railroads which CONRAIL does not desire to use as through routes. First, the lines are placed out of service, new operating patterns are devised, and next CONRAIL applies to abandon the portions since they are not generating any revenue. Once abandoned and liquidated, the link in the chain is broken and no other operator can use the route as a competitive main line. To underscore the magnitude of this problem, the following are three examples of such practice in Pennsylvania:

A. On the former Lackawanna Railroad main line between Jersey City and Buffalo, CONRAIL suspended through service in a number of locations. And I want to add parenthetically that one of these locations was the basis for an anti-trust case which was initiated by Monroe County earlier this year. That was the portion from Port Morris junction to Slateford junction and in that portion CONRAIL had actually begun to liquidate the physical facility. They were so eager to tear up this link in the middle of a main line.

The example that I wrote in this prepared text concerns another portion between Hallstead, Pennsylvania and East Binghamton, New York which is up at the northern borders of the state. CONRAIL suspended service between December 17, 1978 and October 9, 1980. The opportunity to charge a heft rent

to D&H resulted in the line being reopened at that time, with D&H providing better and more frequent service between Binghamton and Scranton up to the present time.

B. Between Analomink and Pocono Summit, Pennsylvania, that is another portion of the former main line of DL&W, CONRAIL suspended service in May 1979, and has never restored it. Over a year ago, CONRAIL placed this portion on its "Section 308" list of proposed abandonments. Section 308, incidentally, refers to the section of the Northeast Rail Services Act for accelerated abandonments. Had the Monroe County Commissioners not initiated an anti-trust suit against CONRAIL, this portion of the line no doubt would have been liquidated and unsuitable for railroad use also.

C. Although outside of our region, the Bethlehem Branch presents an enlightening series of events. This branch, which runs from Bethlehem to Philadelphia, if anybody would care to look at this map will see the entire length of the line, is out of service between Telford and Quakertown, the brown line on this map. SEPTA owns as far north as Hilltop, where my finger is here, which includes the entire out-of-service segment, but it is important to remember that CONRAIL was the sole freight operator after the demise of the Reading Company in 1976. Throughout the 70's, through

freight service continued as it had before under Reading ownership. On January 15, 1980, the Delaware and Hudson promulgated its strategic improvements and recommendations, which included a route to Philadelphia via this branch. Exactly one year later, the Federal Railroad Administration, which was evaluating the position of the D&H for receiving loans, recommended that they use the Bethlehem Branch to reach the Philadelphia Belt Line, a neutral terminal company providing access to the ports and local shippers in Philadelphia. Once this D&H plan became officially sanctioned by an arm of the Federal Government, CONRAIL quickly took steps to suspend freight service in the mid-section between Quakertown and Telford.

ACTING CHAIRMAN WARGO: Are you telling me that they would run freight from there to there, then unload it, truck it there and pick it back up on the railroad?

MR. LEIBERMAN: No, what we are talking about here, this applies to this example. It also applies to the Hallstead example, the Mt. Pocono example and all of these examples, is that what you do is you break the chain. You take the middle link out of it and then you operate the two remaining pieces as stub end branches.

ACTING CHAIRMAN WARGO: From where to where?

MR. CASPER: Away from each other.

MR. LIEBERMAN: Correct. The trains could go north to Telford from Philadelphia.

ACTING CHAIRMAN WARGO: That is the end of the line.

MR. LIEBERMAN: The end of the line. They go south from Bethlehem to Quakertown, end of line.

ACTING CHAIRMAN WARGO: In other words, if they didn't want to haul stuff back by rail, they would have to truck it back to the --

MR. LIEBERMAN: Well, if anybody lay in between this area, they would have to truck it. But they were clever enough to take out sections that didn't have local shippers on so that they wouldn't get too much of a howl from local people. So nobody, you know, locally the residents who lived in these little towns didn't particularly care about no train service right here. But the problem is you no longer had it as a through route for what is known as overhead traffic. Traffic being longer distances.

BY ACTING CHAIRMAN WARGO:

Q Well then we have no freight service from Scranton to Avoca. Why do you say Analomink and Pocono Summit, whatever? Do you follow what I am saying?

A No.

Q It is the same line, isn't it?

A Yes.

Q But if there's no service from Analomink to Pocono Summit?

A Right.

Q But there is still no service from Scranton to Analomink or vice versa?

A That is correct.

BY MR. CASPER:

Q Excuse me, Phil. I don't want to interrupt your testimony but just to make things clearer also. For example, if you had a shipper in Quakertown who wanted to ship via rail to Philadelphia, he could still do it but at the same time then would have to take a more circuitous routing via rail?

A That is correct.

Q Take it north when he wants to go south and then via a circuitous routing get it to Philadelphia along an extended --

MR. LANDIS: Ship it to Reading, back to Reading and then down --

MR. CASPER: Correct. Maybe up to Bethlehem and out to Reading and then down that way. So it would still get there all rail, but it would be like a crescent instead of a

direct line, is that correct?

MR. LIEBERMAN: That is correct. It goes back to the fact that I made earlier about the cost of circuitry where Mr. Tennyson demonstrated in the monograph that he wrote that you could justify maintaining 100 miles of track just for two trains a day each way with 28 loaded cars. And here you don't have a 100 miles. You have maybe five miles. I don't know the exact mileage.

MR. CASPER: It looks like maybe five, six miles.

MR. LIEBERMAN: Yes, it is minimal. It is nothing much at all and yet you are going to increase the circuitry tremendously.

Another point that I think is worth repeating if it didn't already come clear on what I explained, is that we are talking here about a potential independent route for the D&H where they might have contracted with SEPTA perhaps. The alternative for reaching Philadelphia is over CONRAIL property. And CONRAIL still holds the trump card if it is granting trackage rights to someone else.

BY ACTING CHAIRMAN WARGO:

Q Does the Northeast Economic Development Council have a plan to use that line?

A If you're talking about this particular line, we

supported the D&H's business plan in 1980 and we prepared, it was a letter or testimony, I don't know the proper term for it. But we officially endorsed the D&H business plan and specifically included an independent route to Philadelphia Belt Line via the Bethlehem branch. Now how would that affect Northeastern Pennsylvania commerce indirectly? It would because you have coal going to export from Port Richmond and Pier 124. You have other commodities that are destined in and out for the Philadelphia area. So, yes, it would have an effect on the efficiency of commerce in and out of the northeastern part of the state.

Just to conclude this example, on July 1, 1981 SEPTA, now remember SEPTA owns as far north as Hilltop, which is almost the entire length of the line. Without much fanfare SEPTA suspended passenger service which had been running directly from Bethlehem to Reading terminal in Philadelphia. This left the Quakertown to Telford segment without any train service of any kind. First the freight was eliminated and then SEPTA quickly followed suit by knocking the passenger trains off. Thus, CONRAIL has set the stage for declaring a notice of insufficient revenues according to the Northeast Rail Services Act, and abandoning the route. Why? Because there were no local customers in here and there were no more passenger

trains going across that segment. So they ostensibly had no reason to keep this segment in. In this way, the Delaware and Hudson would be blocked from having an independent route to Philadelphia and would have to rely on trackage rights along other lines.

Throughout its history we have observed that CONRAIL has followed a dog in the manger type of policy, that is, something it doesn't want and can't use, it doesn't want anyone else to benefit from it either. The most effective way that we feel can put a stop to this attitude is to follow the restructuring plan presented by the Railroad Task Force for northeast region. This was over a year ago when I was serving as Executive Director of that group. The Railroad Task Force is a group of 22 counties as opposed to the seven that we have in the EDCNP. And we staffed the task force for a period of nine years. Right now they are an independent corporation.

The task force restructuring plan calls for public ownership and private operation among many other things. The Statewide Rail Maintenance Authority proposed by the Pennsylvania General Assembly would fulfill this important goal by enabling the Commonwealth to purchase valuable rail properties slated for abandonment at a price discounted by the amount of tax credits formerly claimed by the railroad against

the gross receipts tax.

I want to add again parenthetically that this is the time to act on such an authority. This is the time because in the Northeast Rail Services Act November 1 is the final date for CONRAIL filing notice of insufficient revenues. Therefore, we expect shortly before November 1st to be hit with a slew of proposed abandonments. And if we don't have a mechanism in place such as this Statewide Rail Maintenance Authority, I don't see how there is going to be a salvation of the majority of these lines. I don't feel, with all due respect to some of the local rail authorities, the shippers associations, that it would be able to handle such a large volume of proposed abandonments in such a short time frame. So that is why I feel the Statewide ^{Rail} Maintenance Authority should be created before November 1.

Also parenthetically I want to add, this is more in the form of a question than a comment, but serious consideration should be given to how disbursement of FRA subsidies should be made. By this I mean how will they be disbursed, through PennDOT, through the Rail Maintenance Authority or through a combination of the two. Also, how will priorities be set for acquisition, rehabilitation and operating subsidy money vis-a-vis the Rail Authority versus other properties

that remain in private hands. This is an issue I think that the Legislature should take a careful look at because I see some real problems with competing priorities.

We also recommend that the new authority purchase out-of-service and abandoned rail lines serving anthracite reserves and agricultural production areas. This is not a new concept by the way. I am not going to take credit for it. The idea of a rail bank was written into federal law in 1973 and then deleted by another federal law. They never actually got it established. The concept is an excellent one and I feel the state should pick up the ball where the feds have dropped it.

Even if not restored as railroads, these routes might be used for other purposes such as optic fiber telecommunication routes as they are doing now in the northeast corridor. Or perhaps coal/slurry routes. The point of the matter is that if you don't preserve them for future use they will be lost forever. We are also concerned about railroad lines on which CONRAIL is not providing adequate service. The Staggers Rail Act of 1980 provides for acquisition of such lines by public agencies or rail users who prove that service is inadequate. This, by the way, is known as the Feeder Rail Development Program. The Commonwealth should become directly

involved in initiating such cases and in acquiring the properties whenever complaints are received.

On behalf of EDCNP, Mr. Scarbinsky and I thank this Committee for providing a local forum on the future of railroading.

MR. CASPER: Thank you, Phil.

ACTING CHAIRMAN WARGO: Paul.

MR. LANDIS: No, I have nothing.

ACTING CHAIRMAN WARGO: Vince.

MR. ROSSI: No.

BY MR. CASPER: (To Mr. Lieberman)

Q I just wanted to ask a couple of questions. You mentioned the lines that were located in Monroe County formerly through, I believe it was the area Lackawanna to Hoboken, New Jersey?

A Yes.

Q Mr. Fred Taylor is from the Monroe County Rail Authority. He is the Chairman I believe, correct me if I am wrong if anyone knows, of the Monroe County Rail Authority.

A Yes.

Q He mentioned at the hearing in Bloomsburg we had about a month ago, that three Class 1 operators were interested in coming over that line. Would that be consistent with anything

to
that you have heard or understood be true or at least reasonably true?

A What has happened since that time, there have been a lot of events and one of them is that the Delaware and Hudson railway has signed an agreement with Monroe County Rail Authority to operate over it. Again, obviously an example of a railroad wanting it for overhead use. Because they are really, if you look at that line, in all due respect to Monroe County and that region, there isn't enough local freight by itself to justify retention of that route. The only way that route can be viable is as a through overhead route. I submit that is exactly why CONRAIL wanted to sever it into pieces because it would then no longer be viable and competition ^{interested} would be thwarted.

I am delighted to see the D&H in operating through service on this route.

Q I was unaware they signed the agreement?

A I don't know if it was signed, but there was some kind of tentative agreement.

Q Serious discussion?

A Serious discussion, yes. It is my understanding final arrangements are being worked out and that D&H will be ready to operate on October 14th.

Q Between the two areas, the Scranton-Wilkes-Barre

metropolitan area and the New York City metropolitan area in northern New Jersey, would that Monroe County route be a quicker, more direct route than the CONRAIL route or would it not?

A No, it is definitely quicker. It is shorter in mileage. And is significantly shorter. Its only disadvantage is deep grades. It would still be quicker despite the grades and the need for extra help or engines. It would certainly be a quicker way to reach that because from circuitry alone, you can't do it faster any other way. You are either going all the way around through Allentown-Easton or you're going up all the way around to Binghamton-Port Jervis. Either way is extremely circuitous.

Q What about the condition of the track? Would it require slow orders that would slow it? Would it make it non-competitive with the CONRAIL route or --

A At the present time there would be some slow orders, yes. However, inspection trains have operated along that route. I could give you the exact date of the inspection if you wanted it.

Q That's all right. I don't need it.

A There was an inspection train, I believe it was two years ago. Mr. Tennyson, who I mentioned before, was hired as a consultant because of his engineering expertise and he and

other people who had engineering knowledge who were aboard that train, they reported that the line was in fairly good shape. I am not saying perfect, you know, for Class 3 operation, but that there were no real major snags in that you could almost begin operating without any or very minimal repairs on a through basis.

Q Now, the D&H has trackage rights to CONRAIL's Oak Island Yard, I believe in Newark?

A That is correct.

Q From northeastern Pennsylvania or from -- at least from Pennsylvania?

A Yes. From anywhere they can go there, yes.

Q This line would get them to Port Morris, New Jersey. The rest of the line to Hoboken I believe is owned by Jersey DOT?

A That is correct.

Q Has there been any indication that Jersey DOT will permit freight trains going over passenger lines. That would, of course, require more maintenance with freight lines -- freight trains rather than just passenger trains?

A Well, you are raising a sore issue. Now several years ago I was involved in negotiations concerning passenger service and we had excellent cooperation from New Jersey Transit

because our passenger trains from the Scranton area actually would have bolstered the schedules in New Jersey as well. So that the New Jersey suburban people would have actually benefited from having our trains. There was excellent rapport and we were even going to use their equipment. Problems with CONRAIL really delayed it.

However, as far as through freight is concerned, I think you have raised a legitimate problem in that the two lines that are now available ^{for freight use} /would be in the Morris and Essex division. The other would be in the Boonton branch. Both have problems insofar as either conflict with heavy passenger schedules or traversing areas that are, for lack of a better term, upper class and would resent having heavy freights rolling through their backyards literally.

There have been some proposals to make the best of the situation or to placate people. One of them being the use of the Morris and Essex division only as far as Summit and then getting on the Raleigh Valley Railroad to Aldine (phonetic) and then Aldine connecting with the Baltimore and Ohio Chessie route across Statton Island and your home free to a port on Statton Island. That is circuitous however and it is a desperate attempt to avoid getting onto CONRAIL property.

Q Well suppose you do have to get onto CONRAIL

property. You would have to have trackage rights?

A That is correct.

Q Who would grant the trackage rights, the ICC or -- CONRAIL could enter into, I would imagine, a business agreement with the D&H where they would do this, but they probably would realize that it would not be in their best business strategy to do that.

A Terms wouldn't be favorable probably. The terms probably wouldn't be favorable plus you have the very real operating problem out in the field. Now our late consultant, John Henry Strock, who was working with us on the coal export study before he was murdered last month knew of actual cases -- it is too bad that he --

Q Excuse me, did you say murdered?

A Yes, he was murdered. It has been a busy month, couple months. John, unfortunately, if he could have been here today probably could have documented actual cases where CONRAIL's train masters played games and deliberately delayed trains of other routes which had trackage rights over those lines. Unfortunately, I don't have that information firsthand, but he was explaining it to me shortly before his death.

I think the point of the matter is you have to agree, whether you can document these complaints or not, that the

owning railroad has the potential to control the situation.

ACTING CHAIRMAN WARGO: Thank you, gentlemen. Is Mr. Shepstone here?

(No response.)

If not, we will recess for lunch until 1:45 p.m.

(Whereupon the hearing was recessed at 12:15 p.m. to be reconvened at 1:45 p.m.)

AFTERNOON SESSION

ACTING CHAIRMAN WARGO: Mr. Thomas Shepstone. I would like to introduce Representative Ted Stuban, Representative Merle Phillips from Northumberland and Snyder. If you will proceed. Do you have a prepared statement?

MR. SHEPSTONE: I would like to submit a typed statement later. If I could read the statement today.

ACTING CHAIRMAN WARGO: That's fine.

MR. SHEPSTONE: My name is Thomas J. Shepstone. I am a planning and transportation consultant. I consulted on the formation of several small railroads including the Lackawaxen and Stourbridge in my hometown, Turtle Creek Railroad in Export, Pennsylvania and the West Shore Railroad in Lewisburg. I am also a director of Delaware Ostego Corporation which is the owner and operator of five short line railroads; executive director of the Lackawaxen and Honesdale Shippers Association,

Incorporated and director of the Snowhill Shippers Association in Maryland. I represented several rail users groups in acquiring abandoned properties from CONRAIL and finding ways to maintain the rail service.

I am here today to urge you to support what I believe is one of the more enlightening programs in the northeast in regard to railway rehabilitation and that program consists of the railway rehabilitation and technical assistance provided by the Goods Movement Division of the Pennsylvania Department of Transportation. Under the leadership of Don Bryan, before him Ed Tennyson and with the excellent assistance of such individuals as John Waters and Ed Tarteglio (phonetic), the Goods Movement Division has made a most beneficial realistic response to the raft of CONRAIL abandonments in Pennsylvania. Where many states have resorted to useless finger pointing at CONRAIL or attempts to establish state-owned and managed railroads, the Commonwealth has adopted a strategy which calls for emphasis on rehabilitation and technical assistance. I support that strategy as does our association.

CONRAIL has a mandate to become profitable and most, if not all the lines that it is abandoning are indeed unprofitable despite protests to the contrary.

I might just point out here that I became involved

in 1973 in Honesdale when we were first proposed as a line for abandonment by the U.S. Department of Transportation when CONRAIL was being formed. We went through about two and a half years trying to convince people that our line was indeed profitable. We didn't succeed and when we went to form a short line and really sat down and analyzed the figures, we realized the fact they were right and we were wrong. In fact, the line didn't make money. The Erie-Lackawanna, unfortunately, didn't know it. That is one of the reasons why the Erie-Lackawanna is no longer here. This is true of all these abandoned lines. I have consulted on a number of them and they are not being abandoned for no reason. They are being abandoned because indeed they are unprofitable. I think anybody thinks otherwise is foolish.

We will accomplish little by battling CONRAIL to stay in these money losing lines of business. Instead we need to devise solutions which will allow those lines to be operated more efficiently and find ways to increase the revenues so that they are profitable. This will almost always mean shippers will have to pay more, but the burden can be significantly reduced if we provide state dollars to cover some of the up front capital expense involved in developing that new solution. Whether it be a new short line carrier or whether it be a

continued CONRAIL operation as we have seen in some areas.

Lewisburg, for example, and there is now a proposal on Selinsgrove. The CONRAIL line was preserved with the CONRAIL operation through state rehabilitation monies being provided.

Those capital costs, of course, are for acquisition and rehabilitation of the to be abandoned lines. Pennsylvania has wisely targeted most of its money for rehabilitation on the theory that local interest should have plenty incentive to find ways to acquire the property and shippers should be willing to cover the operating costs. Rehabilitation of the property is the one burden which cannot be amortized precisely because it should have been accomplished and amortized in the past years. The fact that work was deferred and lines allowed to deteriorate is a problem of rate structures in by-gone years and difficulties within the six bankrupt railroad systems which were combined to form CONRAIL. We can do nothing about it now except to find ways to catch up with the work by financing major accelerated rehabilitation projects so that new rail operations will only have to cover their true costs going forward and not have to reach back and pay for mistakes in prior years.

Pennsylvania's approach is a true incentive program.

It fixes no blame. It doesn't waste time painting villains. Rather it gets on about the job of solving our rail problems. It recognizes that it is indeed in all our interests for CONRAIL to be profitable and all our interests for rail users to henceforth pay their own way and all other interests to make public monies available for rehabilitation or correct our past mistakes.

I applaud it and I urge you to support the efforts of your Goods Movement Division. They are an efficient, no nonsense group whose efforts bring credit to the Department of Transportation. Additional money and staff support are very much in order and I hope your efforts will focus on those needs rather than belittling CONRAIL which is only doing what it was asked to do.

I would just reiterate on that in that I worked with the PennDOT people, the Goods Movement Division for a number of years, a number of projects and I don't know as legislators whether you are aware of the good that that department is doing and the rather excellent manner in which it stacks up against some of the other state transportation agencies. I worked with a number of those as well in Maryland and I worked with the New York State agency. The Pennsylvania agency, despite having the smallest staff of any of these, much

smaller, for example, than Maryland where they have far fewer lines, is much more efficient, makes much better use of its dollars. And I think if you're going to do anything to solve these problems with the CONRAIL abandonments, the way to do it is to continue to support what you are doing now. I think Pennsylvania has got a good program. I encourage you to expand it and support it. That is what I have to say.

I would just add as a side light here that recently somethings have come up which concern me as a consultant to a number of short line operations. As a representative of a shippers association which has to finance the cost of our railroad operation in Honesdale, and that is a bill which has been introduced and which you folks will have to decide on, a bill called House Bill 1214 which would require a caboose, as I understand it, on all trains operating a little more than one mile. I don't think I need to tell you that common sense suggests that that is a rather ridiculous strategy. And certainly would be disastrous for short lines. Our line has 26 miles. We have 1,500 cars. We operate with a two-man train crew. Other lines operate with even less. The costs, the added costs, of putting on a caboose would be just enormous. It runs into tens of thousands of dollars, because you have to add extra labor, you have to add the equipment. It just serves

no purpose. I think the safety records of short lines support the fact that this is totally unneeded, totally unnecessary and will in fact cost us all money. Because as taxpayers many of these short lines are being supported with operating subsidies, rehabilitation subsidies from PennDOT, as I have already indicated which are good programs. But the cost of those will enormously increase if we have to fool around with some really ridiculous things. I think you will all agree with that if you stop to think about it. I certainly hope that you will give that your consideration.

With me today, I don't know if you wish him to speak now or later, but with me today is Michael Moffat, assistant to the president of Delaware Ostego Corporation, which operates our Honesdale line. He has some expanded comments on House Bill 1214. I don't know when you wish him to speak.

BY REPRESENTATIVE STUBAN:

Q Tom, before you leave, you are the executive director of this operation?

A Yes, at Honesdale.

Q What parts do shippers play in this operation?

A The shippers in that particular operation, situation, organized action line for the short line railroads. We organized

this committee to fight the abandonment originally. Then we saw that we weren't going to be successful. We formed a non-profit corporation and we had all the shippers agree with the concept that regardless whether any state subsidies were available or federal subsidies or anything else, that they would pay the bill. That they would bite the bullet and pay what they felt was the cost between the revenues they were now getting -- the railroad was now getting and the actual cost of providing railroad service. Recognizing that the Erie-Lackawanna was losing money. So they said, okay, we feel that really to operate this thing is going to cost about \$100,000 a year more than what the railroad revenues will generate. Therefore, we will put in \$100,000 a year to this association.

And that is what they did. They agreed as a unit to do that. They have done that. We do have some change over the years up and down, but we have a substantial kitty, you might say, of assets, which we used to cover the local share of subsidies for acquisition, rehabilitation and operation in which we have used to make additional improvements on our own.

So the philosophy we started out with is we will do it on our own if we have to. As it turned out, we were very fortunate in getting some assistance from some of these various agencies and so on. So that has allowed us to do more. We have

never backed off. We have never cut back on what we have raised and we feel we could operate that thing tomorrow if we didn't have any subsidies.

Q Do you believe that this is a better way to go, to get the shippers involved rather than just bring in a private short line operator and let them take it over?

A I think it is absolutely critical to always have the shippers involved. Now, they can play different roles. In some cases the short line operator, it may be an advantage to him acquiring the property because he may not get in certain situations, he may not get the competent operator unless he feels he is going to get a share of the equity.

But even in that circumstance you have got to have a very strong relationship with shippers. I have always advised, I have worked with a number of shipper associations, in Maryland, Pennsylvania and New York. I have always advised them to be active, have an active organization to play a role in choosing the operator if they can. To be prepared to buy and operate the line if they don't have an operator. So whatever deal they make with the operator, that they are in control. I think that is absolutely critical.

Q Do you feel it is more beneficial when the individual shippers become part owners of that situation?

A I think it depends on the circumstances. I personally like to see that. But I understand in certain circumstances that you may not attract the right kind of operator without him having some of the equity.

Q Well what would you say about a situation where the shippers got involved and then got state dollars and federal dollars and CONRAIL is the people they want to deal with. They want CONRAIL to be their short line operator? Do you think that would make a better situation?

A There again, in that case I think definitely the shipper should be involved in part of the ownership of it or at least have a relationship with whoever is owning it that they have some control over it. You might have a situation, I will give you an example from Maryland, I guess that's neutral territory. In that case, we had a situation where CONRAIL wanted to abandon a segment of 20-some miles, 30-some miles. What we recommended and CONRAIL was receptive to it, the state is still considering whether they wish to be involved. We recommended the shippers form a corporation which would buy the line. That they would utilize rehabilitation aid from the state and that they would turn around and lease the line back to CONRAIL for operation. The state had some questions over that because they felt they wanted a little more control over it

which I felt they were foolish, frankly. But in any case the shippers and CONRAIL were willing to buy that kind of concept. I think it made a lot of sense and that's the kind of thing I think would make sense in certain Pennsylvania situations.

But of course, there again, you know, the revenues have to be there for CONRAIL to want to stay involved, too. Just simply buying the line and removing the cost of the equity, the return on the equity, is not always enough.

Q Well, I believe what is happening in this situation is that the shippers have gotten together and formed a rail authority. It is a ten-county authority. Right now they are looking at one line that they are ready to resolve.

A Right.

Q I believe they are within terms with CONRAIL to work it out and the shippers will be the owners of the line. They, I think, are close to agreements on operating the lines. They now seem to have outside interests who are saying, you know, let's not put state dollars in this and let's not put federal dollars in this. Let's put private dollars in this. The shippers didn't want that to start with. The problem we have is that we have a railroad car building plant there that is on the verge of selling to a few local people, but they are committed with --

A I am familiar with the situation you are talking about.

Q They are committed with \$100,000 there. Now we have outside interests who are beginning to -- what is your opinion?

A I feel in that situation that you are better off with a strategy that SEDA COG and some of the other people have come up with. I think it is a good strategy. It takes advantage of both, some private dollars and from the shippers and some public dollars. It gives the shippers, the public interest, a degree of control over the situation and regardless of whether they go with CONRAIL or a short line operator, I think they will have the kind of deal they are looking for.

You can't ask shippers to -- you can't change the rules of the game from a situation where it is simply a vendor and a purchaser of services to a situation where all of a sudden the vendor is being asked to put up large amounts of capital -- the purchaser being asked to put up large amounts of capital, without them having some control over it. If you are going to have a new operator come in under those circumstances where you've got lots of public dollars or even private dollars, some shippers invested, I think those people who are putting up the dollars should have control over the operator. If they're

not happy with the operation, whether it be a CONRAIL operation or a short line operation, if they are not happy after three years, let's say, which is a reasonable operating agreement, that they can get rid of them.

Q Well my opinion of looking at the situation, I feel if the private industries invest that kind of up front money, that is also going to tie them to staying in the area and have interest in the area and not be so free to say, well, we will just pick up and move.

A Absolutely. It gives them the incentive to use the rail. All these things work together, I think, where you have that kind of situation.

ACTING CHAIRMAN WARGO: Paul.

MR. LANDIS: No.

ACTING CHAIRMAN WARGO: Vince.

MR. ROSSI: No.

ACTING CHAIRMAN WARGO: Scott.

BY MR. CASPER:

Q I have a question. Concerning the Lackawaxen and the Stourbridge, is it owned by the Shippers Association? It is part of the Delaware Ostego system but how does ownership come in with the Shippers Association?

A The way that particular situation works is this.

The Shippers Association cooperated with PennDOT in the acquisition of property from the Erie-Lackawanna. So PennDOT or the Commonwealth owns the physical plant. We have, the Shippers Association, has an interest in it, a three and a third percent interest in it.

Q Three and a third percent?

A Yes. They in turn agree to pay a local share of the costs of the operating subsidy and the rehabilitation of the line, and you are familiar with the formulas I believe. PennDOT then on behalf of our association and itself makes a contract with Delaware Ostego Corporation which owns the Lackawaxen Stourbridge. Actually the contract is with the Lackawaxen Stourbridge and the Lackawaxen Stourbridge is simply owned by Delaware Ostego.

Q Fine.

A I serve on the board of Delaware Ostego as representative of our association. So that's how it all sort of works together.

Q You mentioned operating subsidies. So that the Shippers Association still has to put in some operating subsidies?

A Oh, absolutely. We put in well over \$100,000 a year.

BY REPRESENTATIVE STUBAN:

Q You say that you have some money?

A Yes, we have built up some money. Some of that money is loaned out to the railroad. Some of it is invested in the physical facility such as our engine house. But we have a fair amount of cash that we built up to be available for working capital. That is one of the things you need.

BY REPRESENTATIVE PHILLIPS:

Q Have your shippers increased since you have it?

A The traffic level has stayed about the same. The number of shippers has declined. We have had a couple small ones go out. But we have had the larger shippers increase with traffic. It goes up and down, but it has basically stayed at 1,500 cars for the last seven years. That is where it is at. That is what I think is coming out this year. I am pretty sure that's what it is.

ACTING CHAIRMAN WARGO: Thank you.

MR. MOFFAT: My name is Michael Moffat. I am employed by Delaware Ostego, which as you have heard, operates the Lackawaxen Stourbridge Railroad.

In addition to the Lackawaxen and Stourbridge Railroad in Pennsylvania, Delaware Ostego also operates low-density lines in New York and New Jersey. All of these lines

have been saved from bankruptcy or abandonment by the concerted and laborious efforts of the railroad, the on-line shippers, local economic development agencies and the Department of Transportation.

Of all the Departments of Transportation in states in which we operate, none has done so much to ensure the preservation of rail service along low-density lines than that of the Commonwealth of Pennsylvania. As is the case with other Pennsylvania shortlines, the Lackawaxen and Stourbridge was purchased by the Commonwealth and is presently subsidized by the Department of Transportation and the local Shippers Association. Indeed, to this worthwhile investment much time has been devoted and many public and private sector funds applied. This firm commitment to the businesses served by the railroad, and to the Pennsylvanians employed by these businesses, is deserving of the highest praise.

And yet there presently stands before the Pennsylvania Legislature a bill which, if enacted, would seriously undermine this commitment and the efforts of all those who have striven to preserve low-density rail operations in the Commonwealth. I refer to House Bill 1214, better known as the Caboose Bill. The bill would require that an occupied caboose be attached as the rear car on any train which either

1) moves one mile or more or 2) has a minimum length of 1,500 feet. In addition, this bill requires that the occupied caboose be placed as the rear car on any yard or yard transfer movement of one mile or more.

While in general we oppose caboose legislation as an infringement into the labor/management negotiating process which contradicts and undermines agreements already negotiated, it is the potential cost impact of the bill which would most severely threaten the viability of low-density rail operations in the Commonwealth.

Indeed, the cost of this legislation is nothing short of staggering. Caboose acquisition and maintenance combined with the increased fuel and labor costs required for compliance would necessitate, throughout the industry, millions of dollars in increased expenditures each year.

For shortline railroads, the majority of which presently operate with two-man crews, it is the increased labor requirement that is perhaps the most threatening. As House Bill 1214 requires that the caboose be occupied during all movements, railroads presently using two-man crews would be forced to add a third employee. Further, the additional switching, inspecting and maintaining of the caboose or cabooses increases labor expenditures even more. By a careful

and conservative analysis of the potential cost impact of House Bill 1214, we at the Lackawaxen and Stourbridge anticipate increased labor costs of no less than 83 percent.

Beyond this dramatic cost increase are the costs associated with cabooses acquisition, maintenance and fuel costs. As the majority of shortlines in the Commonwealth do not presently own cabooses, they must be purchased. While most shortlines would undoubtedly purchase used cabooses, the bill requires that each caboose be fully equipped with heating, plumbing, electricity and bedding.

To this we must then add the annual maintenance costs. That is, the cost of mechanical repairs as well as the costs incurred as a result of the vandalism and theft so closely associated with fully equipped cabooses. Then there are the increased fuel costs both for the heating of the caboose and for the additional locomotive fuel used as a result of the increased switching which is necessary for compliance.

When all of these new costs are combined we at the Lackawaxen and Stourbridge are faced with a potential increase in our subsidy, based upon our estimated subsidy requirement for the current fiscal year, of approximately 63 percent.

Proponents of the caboose legislation have consistently argued that the high cost of compliance is justified by increased safety. However, this is simply not the case. The Federal Railroad Administration, which has jurisdiction for setting nationally uniform standards for railroad safety, has carefully considered the question of cabooses and safety needs. The FRA reviews all carrier's accident information and closely monitors railroad operating rules and practices and yet has implemented no regulations mandating that carriers use cabooses, nor are they presently considering doing so. There is even ample evidence to suggest that, as a result of rear-end collisions - such as that which occurred in Indiana just last week in which two railroad employees were crushed to death in a caboose - there is actually a very real safety hazard to employees riding in cabooses.

We are therefore faced with astronomical expenditure for no practical reason. If House Bill 1214 were to pass, the effects of the dramatic increase in expenditures would be severe. Low-density operations which are now profitable would become only marginally profitable and could be forced into bankruptcy, abandonment, or subsidization. Low-density operations which are presently subsidized would be forced to cease operations unless the Commonwealth and the shippers agree

to absorb these huge additional expenses.

This increase in present subsidy payments, coupled with possible new subsidy payments for those low-density operations abandoned because of increased costs of House Bill 1214, would result in a severe drain on the Commonwealth's transportation budget. The alternative, to let these operations and those already subsidized by the Commonwealth cease their operations would mean not only a loss of rail service to businesses along the lines, but would also mean that the time and money devoted to preserving this rail service has been wasted.

The Pennsylvania Department of Transportation has done much to preserve rail service and the businesses and jobs associated with it. We ask that you carefully consider the dire effects of the Caboose Bill and, in seeing it defeated before the Legislature, uphold rather than undermine the Department of Transportation's long-standing policy of preservation and growth.

MR. CASPER: Could we have the statement please?

MR. MOFFAT: Yes.

MR. CASPER: Also, Tom, I would like to give you my card. If you could mail yours once you get it typed.

By the way, just for the record, you forgot one

person in the Good Movements Division, the chief, Elaine King.

MR. SHEPSTONE: Didn't I mention Elaine? I had her written down.

MR. CASPER: You might have skipped her.

MR. SHEPSTONE: Elaine is certainly included in my comments.

REPRESENTATIVE STUBAN: The only thing is if our Chairman was here, I am sure he would debate with you on that. I really think, now that we are out here and have had some hearings and looking at these shortline operations and everything else, maybe some of us will take a different look at it.

MR. MOFFAT: I think you will be hearing from us again in any case on that issue.

MR. CASPER: We would like to follow up with you. Thank you.

ACTING CHAIRMAN WARGO: The company representative from D&H. Anyone here from the D&H?

(No response.)

MR. CASPER: I just wanted to mention, Mr. Chairman, that due to a scheduling conflict the chances are unlikely that the D&H would be here, but they said they would try. So it looks like they weren't able to shake loose from the meeting.

ACTING CHAIRMAN WARGO: Vincent Matteo. He is not

here. John Piccotti?

MR. CASPER: Mr. Piccotti mentioned to me the last thing yesterday before leaving Harrisburg that he would be unable to make it because of sickness in the family. Mr. McCourt and Mr. McNichols from the Pocono Northeast Railway, I got a phone call from their secretary earlier in the morning here at the meeting and mentioned that they requested to testify at 10:30 tomorrow morning because they had a change in their schedule beyond their control.

ACTING CHAIRMAN WARGO: Mr. Paul Hart.

MR. CASPER: Mr. Paul Hart is expected to be here. He is scheduled for 3:30. He mentioned he will be here about three o'clock or a little bit before.

ACTING CHAIRMAN WARGO: Good. Dr. Matteo from the C of C. Call the C of C and get him over.

MR. CASPER: Dr. Matteo is not here.

REPRESENTATIVE STUBAN: Well, if it is only a couple of minutes why don't you just give him that time to come.

ACTING CHAIRMAN WARGO: Mr. Masters, for the record, will you identify yourself.

MR. MASTERS: Jack Masters, Chairman of the Susquehanna County Commissioners.

On behalf of the railroads, the D&H now runs through Susquehanna County, also CONRAIL on the northeastern part. I hope it can continue to do so because it has been, in certain areas, the local service has been eliminated and because of the excessive amount that they had charged for cars on some of the drop offs. But there still is some service in our counties and I hope it can continue because of the way the trucking situation is today. That is not good either and costs are going to increase to our foundries, places like that. Feed mills. We have some feed mills there that still receive and they have had to put in different sidings and support those in order to do it.

I think CONRAIL shortchanged a lot of places with cutting off some of the routes that they did without a little more consideration. So I hope that the two main lines that run through there can continue to do so.

BY ACTING CHAIRMAN WARGO:

Q Where do they run from, from where to where?

A The one, the D&H comes in from Scranton to Binghamton, which runs length ways of the county. CONRAIL runs from state line to state line down through Great Bend and Susquehanna. That is the only place they run in the county at the present time. The rest of them have all been eliminated.

But there still is some shipment in there and I hope that they can maintain that because some of the -- well, Montrose as an example, they eliminated the railroad in there a few years ago and they had to move down into Milford to pick up their stuff. Now if they can maintain that there it is going to be a help.

I understand that they have to cut back, but I think they have been a little narrow-minded on where they cut back and just grabbed what they could in a hurry. Is there anything else I can add to that?

ACTING CHAIRMAN WARGO: Merle?

REPRESENTATIVE PHILLIPS: These lines, have they filed for abandonment on that line? Do you know, the line he is talking about?

MR. DeYOUNG: No, no, sir. That is under the southern tier agreement with the State of New York. The CONRAIL line will not, under any circumstances that I was aware of, be abandoned. That is subject to a five-year contractual agreement with the State of New York which is then renewable for another five years at the sole option of New York State Department of Transportation. So even though it is in Pennsylvania.

MR. MASTERS: I believe that is the prime reason it is left because it is a connection.

MR. DeYOUNG: For the record, I am Larry DeYoung.

MR. CASPER: Governmental Affairs for CONRAIL.

MR. DeYOUNG: It probably will continue to exist under some auspices.

MR. MASTERS: I guess I have nothing else to testify to at this time.

REPRESENTATIVE PHILLIPS: I just wanted to find out about that to give you an idea. I know you are interested in that. It looks like that will remain.

MR. DeYOUNG: I can't represent the Delaware and Hudson though.

REPRESENTATIVE PHILLIPS: No.

MR. DeYOUNG: That line there is their main line and their only connection between Scranton and the rest of their railroads.

MR. MASTERS: Well CONRAIL did idle it some years back. I think they made a mistake when they did that, too. But CONRAIL has made a lot of mistakes like everybody else.

REPRESENTATIVE PHILLIPS: It is not all bad.

MR. MASTERS: No, it is not all bad. As I say, I think there is certain elements of it that they do have to cut back on. But I think they have been a little greedy in some spots. If they had been a little more aggressive in their

sales and service they would help to improve the whole situation. Because now they are out fighting for it. Of course, some of the government restrictions, I believe, have been relaxed in certain areas. So they can get out and fight for it. They should have tried to maintain what they had instead of what they might get.

BY MR. CASPER:

Q On the local service, are there many firms in Susquehanna County receiving local rail service?

A Well, I don't believe there is over three or four at the present time. I think the Hallstead Foundry. Maybe he doesn't know, the Hallstead Foundry and there is a feed mill in Montrose there that gets a shipment and Milford, that, again, is on D&H. I don't think that CONRAIL serves a place in Susquehanna County. I think they pulled the sidings out.

MR. DeYOUNG: I don't know if we have a track in Great Bend any more.

MR. MASTERS: No, I think you were quick. When that place burned down up there, you were quick. They were in there the next day. It was just like when they had it at Kingsley there. This one building burned and they were there two days later to pull the siding out. They didn't want to monkey with it.

MR. DeYOUNG: I think there is a track in the east end of the siding in Susquehanna.

MR. MASTERS: Susquehanna, that is right. There is a track there, but that is it.

ACTING CHAIRMAN WARGO: The track goes to where?

MR. MASTERS: Well --

MR. DeYOUNG: It is a team track for service for local industries. If they have delivery, they can pick it up with a truck there at that location.

MR. MASTERS: I don't know whether that stopped now or not, but the D&H, of course, when they cut the line off up through Thompson and so forth, they had a track in Lanesboro that they brought it in on, but I almost believe that has been eliminated now. In other words, they still have the run around there in Lanesboro, but I don't think they give any service to it. I am not positive, but I don't think so. It is a far cry from what it was or should be.

ACTING CHAIRMAN WARGO: Paul,

MR. LANDIS: No.

ACTING CHAIRMAN WARGO: Vince,

MR. ROSSI: Nothing.

MR. CASPER: Thank you very much for stopping in. We are waiting for one more fellow who is due here.

ACTING CHAIRMAN WARGO: Identify yourself for the record.

MR. HART: My name is Paul Hart. I live at 1308 Watson Street here in Scranton. I am a member of the Board of Directors of the Railroad Task Force for the Northeast Region, a 22 county planning agency which was formed in 1973 to anticipate some of the problems created by the final system plan and the merging of six bankrupt railroads into what eventually became CONRAIL. I am also the chairman of the Rail Subcommittee of the Economic Development Council in Northeastern Pennsylvania which is a seven-county planning agency that covers this part of the state. And I am also the vice-chairman of the Keystone Association of Railroad Passengers which is a nonprofit Pennsylvanian consumer group.

I would like to begin by thanking you ladies and gentlemen for coming up to northeastern Pennsylvania. I am glad to see Mr. Wargo who is one of our more esteemed representatives from Lackawanna County who is here with us today. I think that your conducting hearings in this part of the state is a very good idea because if there is any place in Pennsylvania you would want to come to learn firsthand the problems that communities have had dealing with CONRAIL, it is here in northeastern Pennsylvania. I think that some of you at

Bloomsburg, where I was also present, are learning that the problems are beginning to spread. I think possibly the Scranton, Wilkes-Barre and the Pocono area may have been one of the first regions in Pennsylvania to experience some of the problems that come with declining rail service. And what has happened here, I believe, can serve both as, unfortunately, a good and bad example of what could happen and a possible warning of serious consequences that face many communities in the state in the future.

By profession I am a school teacher. I do this as a hobby, as an outside interest. I got involved in 1978 when some local people began planning to restore railroad passenger service between here and New York City. I was asked to provide some technical assistance and do some research which I was very happy to do.

Gradually, I was talked into, along with a couple of friends of mine, forming a regional chapter of KARP, the Keystone Association of Railroad Passengers to try to educate the public as to some of the advantages of passenger service and to win the support that would be needed to make that service possible. Gradually I became more deeply involved in that project learning more and more about the problem of the regional people, particularly Monroe County officials were having

trying to save the line for service, and was able to pass the information I gathered on to both our members and to the local news media.

I think that one of the advantages that we have had in this part of the state is that there has been good public awareness of the rail problem and a lot of public attention has been devoted to us.

Gradually I found myself becoming further and further involved in this thing and I actually enjoyed doing the work and that is one of the reasons I am here today. Our problem essentially became one that CONRAIL, which owned the line at the time and will own it until the 14th of next month, was not interested in providing the service that local people were seeking. They were not interested in providing the service because their long range plan called for segmenting the line in four pieces, abandoning two and destroying the route as a potential route for any competitor in the future. The line I am referring to is the ex-Lackawanna line between here and Hoboken, New Jersey.

Eventually, when it became obvious that the choice we faced was fighting to save the line first before we could begin^{to}/consider passenger service, I became a little bit more actively involved in the efforts of the Railroad Task Force.

Went to a couple meetings and was able to provide some assistance requested by the Monroe County Commissioners, and finally after nearly five years of struggle, that phase of the battle was complete because on June 9th Monroe County reached an agreement with CONRAIL to purchase the 88 miles in question and is expected to obtain ownership on October 14th.

I would like to pass on some suggestions and some experience that possibly other communities in the areas that you gentlemen represent and the state in general can avoid some of the problems that we have. We have saved the railroad line and it appears it is going to be saved and operated by a good railroad, the Delaware and Hudson. But that is only the beginning of solving the problem. Federal and state funds are going to be needed for the project before it is completed primarily for rehabilitation. This is the beginning of a problem as far as Pennsylvania is concerned. The vast majority of the funds that are going to be provided for rehabilitating this line are going to come from the Federal Railroad Administration. The Commonwealth of Pennsylvania is interested, but the interest only goes so far because there just isn't money available. You are probably aware of the fact that the state has a laundry list of rail lines several pages long and only a limited amount of funds can be devoted to a combination of

acquisition, rehabilitation and operation.

In fact, in our situation I think the Commonwealth, particularly the Department of Transportation has been more a part of the problem than part of the solution. Monroe County which led the effort to save this line received little or no help in its battle against CONRAIL from PennDOT. For whatever reason, lack of staff, lack of time, lack of interest. You can pick any or all of them, but the fact of the matter is that the state did not provide much assistance.

The only statements or only comments that the state administration made were that it supported CONRAIL's efforts to become a profitable railroad to prevent CONRAIL from being broken up into segments and sold off to other carriers. From the view of the state in general, this is a commendable position because obviously thousands of jobs in Pennsylvania and the economic vitality of many communities throughout the state depend upon CONRAIL maintaining the service. Unfortunately, it appears what was good for some regions of the state saving CONRAIL and guaranteeing service there was being done and jeopardizing our region of the state. It appeared that CONRAIL had decided to scuttle part of northeastern Pennsylvania, northeastern section, to do away with all local service and eventually all through service in the guise of becoming a

profitable operation. There wasn't too much support in Harrisburg, on the executive branch at least, for helping us solve our problem.

If this situation or this attitude is not corrected, I am afraid that in the future as CONRAIL continues its efforts to streamline itself that more and more communities across Pennsylvania are going to find themselves in danger of losing their rail service with the prospects of very little help from the executive branch in Harrisburg. I am hoping that one of the reasons this Committee is conducting these hearings is to learn firsthand what some of these problems are with the intention or hope of correcting them in the future.

I am afraid that the CONRAIL problem will become more severe in the future. CONRAIL right now has been determined to be profitable on a very slim basis. If that continues, it will be sold sometime next year, probably to its employees or to some other railroad system or systems, either acting alone or as a consortium. Some of the reports coming out of the railroad press or magazines indicate that if some other rail system buys CONRAIL as many as 4,000 additional miles must be abandoned before the system is operable. Since approximately 25 percent of CONRAIL's mileage is inside the Commonwealth, I think you can see what we are talking about, somewhere in the

vicinity of 800 to 1,000 more miles of additional abandonments. Already Pennsylvania has had more rail mileage abandoned than any other state in the CONRAIL system. I believe at this point it is well in excess of 750 to 800 miles. Most of this trackage that has been abandoned so far was the "nonprofitable lines." Lines where no money could be made. It appears now that CONRAIL is going to have to readjust its priorities to reassess its thinking and find some new formula to determine how it can remove, perhaps, seven, 800 more miles of track. It would appear if this occurs that the fun has just begun and that we will see as many more miles of track abandoned between now and whenever this process is completed as we have seen abandoned since NERSA was implemented in December 1981.

I think the problems that these abandonments would cause will be severe. Unfortunately, Pennsylvania is a state that was highly developed in terms of rail. Northeastern Pennsylvania, in particular at one time, had more miles of railroad per square mile than any part of the United States. Mainly because of the intense development of the anthracite industry. As the railroads declined, some of the branch lines were taken out; others remained. Gradually new industries were attracted to locate on these lines. Some of these lines serve one customer. That customer, in many cases, is a single industry,

which is economically essential to the livelihood of the community.

So what we face if some attention is not devoted on the state level to solving the problem is many small communities across this Commonwealth depending on one or two industries that need rail service, industries that may decide to reduce their work force or close down entirely because they cannot afford to stay in business or they cannot afford to ship by truck when rail service is taken away. It would appear that we should find out what the problem is now. Try to determine what lines are going to be abandoned and find some way to solve them. It appears though any more in our society at all levels that we work on a crisis mentality. We sit around and talk about a problem until it comes. Then we throw hundreds of millions of dollars and hours and hours of study and consultants and professional advice at the problem and come up with a solution. When the solution comes out, we find out surprisingly that we are confronted with seven or eight bad alternatives. None of which are perfect and we have to choose between the lesser of many evils. It would appear more prudent if we could somehow develop an analysis of the problem now, come up with a recommendation and be prepared when this occurs to start implementing some kind of relief.

To do this I think two significant changes have to take place in our Transportation Department in Harrisburg since they essentially have the responsibility for dealing with the problem. The most important problem is that PennDOT is a DOT in name only. DOT is Department of Transportation, but in this state it is usually Department of Highways. I think you can establish this fact very well when you consider that of several thousand PennDOT employees I believe less than a dozen are engaged in rail matters. And this is the state that has something like nine or 10,000 miles of active rail lines in service. So there is no way with massive abandonments, both by CONRAIL and other railroads, coming in the future that that kind of a staff could possibly begin to provide assistance either technical, financial or otherwise that local communities or industries are going to need. I believe that PennDOT should have sufficient funds available so that it can hire people to provide the technical assistance. Because really that's the big problem. If a group of local shippers want to form a railroad, most of them are not railroad experts. They do not have the expertise, the knowledge, the skill required to set up a railroad to do the financing to try to get the railroad in operation in the short time frame they have. I am not criticizing CONRAIL or any other abandoning railroad. They have

an interest in this, too. It is just that these things happen very suddenly and when a businessman or a group of businessmen are working very hard to try to solve a problem to keep a business alive, the last thing they need is to be suddenly told without warning that we are going to abandon your rail line and be forced to be put in a situation where they have to run around and try to find out who to contact to get the help they need.

I think that PennDOT or some other agency in the state must also be prepared to provide the financial assistance required to both acquire and rehabilitate rail lines. I think our present program borders on being ludicrous because we have so many needs and so little help. It seems to be that there were nearly 300 lines identified in the most recent state rail plan that needed some form of assistance and I believe the state is funding less than 40 of them. I don't have the exact number, but it is a very small number. You have to get on a waiting list and priorities have to be established. When you're talking about 40 or 50 out of 300, obviously, your chances of being included are not very good.

The other problem that I see and it is one that is particularly troublesome to our part of the state, and I am talking here about northeastern Pennsylvania generally, not just

Scranton, Wilkes-Barre and the Poconos, is that state problems seem to fall into two areas. If a problem affects Philadelphia, Harrisburg or Pittsburgh, it seems to get almost immediate attention. If it affects Scranton or Wilkes-Barre or Pottsville or Bloomsburg or Berwick or some other area, it doesn't seem to get quite the priority from state officials that problems do in these other areas. The indifference of PennDOT to our local problem, I think, is a good example. It seems to me if CONRAIL had threatened to abandoned the former Pennsylvania Railroad main line between Harrisburg and Pittsburgh, instead of abandoning part of the Erie-Lackawanna line between Scranton and East Stroudsburg, there would have been very swift and decisive action out of the state administration. As it turned out there was nothing.

I think that one of the things that has to be recognized here is that while there is more industry and more population and there are more customers on the Philadelphia-Harrisburg-Pittsburgh part of CONRAIL, it doesn't mean that a job in Shamokin or a job in Berwick or a job in Shenandoah is any less important than a job in Latrobe or Altoona or Greensburg. We are talking about a state that has a too high rate of unemployment as it is. We have got to have a state government and state officials who are concerned with taking

whatever means are necessary to preserve jobs all over. If this means getting in and fighting to preserve or help preserve rail service, it should be done whether it is done in Allegheny County or Philadelphia County or Cambria County or Lackawanna-Luzerne or Columbia or any other county of the Commonwealth. I don't think we have this situation now. It appears that certain sections of the state, because they are larger in population, tend to get a lot more attention and the rest of us are supposed to sit back and accept the crumbs that are left over and be satisfied.

What I am suggesting specifically, to correct this problem, is a few recommendations as to what the Commonwealth should do and this is to deal with all rail problems. I realize that you were convened to investigate CONRAIL. Right now CONRAIL's actions have been the major portion of the problem, but CONRAIL is not alone. There are other railroads in this Commonwealth that as time goes on I am sure will be doing abandonments and the effect on local communities and industries and jobs are the same. Number one, the Commonwealth should become more actively involved in the acquisition of important rail lines. We have a state rail plan which has already identified lines, but identification is only part of the process. The Commonwealth should become more involved in

one of several ways. Either by providing low interest loans for local private interest to acquire such railroads, providing outright grants to local public entities such as railroad authorities to aid them in the acquisition of such lines. Or if neither one of these alternatives is workable, direct purchase of the lines by the Commonwealth with their lease to private operators.

The second thing the Commonwealth should do is to develop a vigorous policy of assisting private railroads in the maintenance and rehabilitation of vital main line and branch line trackage.

This policy could discourage future potential abandonments by giving a private railroad additional funds to keep in good condition a line that it might be tempted to abandon in the future because the cost of rehabilitation was more than the line was worth. In such a situation, the Commonwealth could negotiate language that would provide that if in the future such a rehabilitative line was ever abandoned by the railroad, the Commonwealth would have first right to buy this line should that occur. There is precedent for this policy in other states. I refer, for example, to the actions of the New York State Transportation Department which entered in an agreement with CONRAIL to maintain the service on the

former Erie Railroad main line between Port Jervis and the vicinity of Jamestown, Olean, New York. New York has invested several million dollars in this line and as a result CONRAIL has kept it in operation as a main line despite recommendations by the USRA and others that it should be removed from the CONRAIL system. In the future should CONRAIL decide to abandon the line, New York will be in a position to acquire the line and offer a well built, well maintained, durable rail line to some other operator willing to serve the customers. The state's investment, and I have to emphasize the word investment, in the preservation of this main line freight service, means that local industries that depend on the service are guaranteed that it will remain in place and potential industries seeking to locate in the area are also guaranteed there will be good rail service in the future. I might point out as an aside that Monroe County, Pennsylvania is developing an industrial park in Mt. Pocono, not too far from the ex-Lackawanna line which Monroe County is purchasing within the next couple of days. Several prospective industries, which sought to locate in that industrial park, decided not to because they felt they needed good rail service and good rail service was not available. So here was a situation where potential jobs and industries and heaven knows whatever benefits were lost to this area of

Pennsylvania because there was an uncertain state going on as to what was going to happen to the line. Was CONRAIL going to keep it in service, was someone else going to acquire it or whatever.

I have to emphasize again that perhaps the biggest problem is that PennDOT must become a Department of Transportation with adequate staff and personnel to deal with rail matters. It seems that local businesses who depend on rail services should be just as able to find expertise to help them answer their questions at the local PennDOT office as they would be able to find if they had a highway problem. We know now that if a businessman has a problem with drainage or a highway problem, the entrance to his plant or something like this, he can call the local PennDOT office. Engineers will be sent out and the problem is usually solved. If he has a railroad problem, he can turn to the railroad, he can turn to the Commonwealth, but there is a very limited staff. And the staff I am sure does the best they can, but there are just too many problems. This is too big a state to have such a small staff dealing with so many problems.

I think one thing that is not very often mentioned is that the future economic development of many regions in Pennsylvania is as much as dependent on the availability of good

service as it is on good highways. We never seem to have any questions about going out and spending millions and millions of dollars to build new highways when we think they are necessary or spending millions more to rehabilitate them. But it seems that we are a little lax or a little bit reluctant because of some long held belief to get involved in providing good rail service. Yet PennDOT, in its present position, is not even prepared to keep existing industries that are threatened by a loss of service with such service. The Commonwealth's usual reaction is it doesn't have the funds. This is a correct reaction. The administration, I don't believe, has ever requested the funds and the Legislature, with many priorities and a lot of difficult problems and too many requests and not enough dollars to go around, has tried to be as prudent as it can and tried to solve the problem to the best of its ability, but the fact is the money has got to be requested.

I have one rhetorical question that I would ask. Other states seem to have been able to have solved this problem. New York has done it, Michigan has done it, other states have done it. I cannot understand why Pennsylvania cannot be in the same position. Considering the role that railroads have played in the development of this Commonwealth, railroads, coal and steel built Pennsylvania into the industrial giant it is or

some people would say it was, and the general public awareness we have of how important railroads are, I don't think that the Legislature or the Governor or state government in general would have any difficulty if they addressed the problem and proposed strong, decisive action, getting the public to support it. One thing you have before you that might help address the problem is the proposal to create a State Rail Maintenance Authority. I realize that this hearing is not specifically dealing with that topic. It appears the authority would solve some of the problems and correct some of the conditions I call to your attention.

I hope that when the hearings are all over that you gentlemen in the Legislature will be able to go back to Harrisburg and make recommendations to your fellow legislators that some solution will be prepared so that as Pennsylvania's rail problems increase in the future, we will be able to deal with them in a decisive manner in a way that will help us keep the industry that we have and make it possible for us to attract new industry in the future.

I am sorry I took so much of your time.

MR. CASPER: That is what we are here for.

ACTING CHAIRMAN WARGO: Questions?

MR. HART: You are not going to let me get out

without questions.

ACTING CHAIRMAN WARGO: Vince.

BY MR. ROSSI:

Q Previously Mr. Thomas Shepstone, Executive Director of the Lackawaxen-Honesdale Shippers Association has stated in his testimony that he would like to commend PennDOT for the work that they had done in this regard. And in lieu of the fact that they had such shortage of staff and yet your statement seems to have contradicted his statement. I don't seem to understand the discrepancy here?

A Well Mr. Shepstone, he has several different titles. He is affiliated with the Delaware Ostego system which operates the Lackawaxen and Stourbridge which is one of the short lines which did receive state funding. I am very glad they did because it serves northeastern Pennsylvania, the Honesdale area. But his is the line, the line that his company operates is one that did receive a great deal of state assistance. My suggestion was that it is very nice that some lines do get the assistance but unfortunately for every one that does there may be anywhere from five to fifteen that do not. I just feel that for the state to have to sit down and establish priorities and make a list and rank lines and say after we rank them from one to 250, we have money for 40. I realize there is nothing else

that can be done, but I think that is wrong. I think we should be looking more carefully at trying to work on more of these lines by whatever means is possible, direct grants, low interest loans, whatever. It seems that if an industry or a community's livelihood is going to be seriously affected negatively by the loss of a rail line, that we should not have to be fighting among ourselves to decide on which 40 lines are going to be on the top of the list. Does that help?

Q That provides me with your understanding of the issue; yes.

MR. CASPER: I don't think he said he was in contradiction. I don't think Paul is in contradiction with what Tom Shepstone said. I think Paul is in agreement inasmuch as though he said the people in PennDOT with the limited resources devoted to rail assistance are doing a good job. He didn't say they were doing a bad job. He said that perhaps there should be more attention paid to railroads. But inasmuch as they were active in what they did, they did a good job. That is what I thought you said.

MR. HART: They cannot do the job that needs to be done because they just don't have the resources both in terms of finances and people to do it. Maybe I should phrase it that way.

BY MR. LANDIS:

Q Have you given any thought as to where the resources would come from? You are making a comparison with highways. In highways we have a gas tax which is all restricted constitutionally.

A Well, you know, that is a very big area for argument on user fees on the state level, yes. But we get in the local municipalities, some of it is reimbursed through the liquid fuels tax, but a lot of it comes out of property taxes. The money, for example --

Q What I am saying is from the highways, we reimburse local municipalities 20 percent. That is all restricted. Those funds are restricted constitutionally. So we can't take it -- you say we are highway oriented, but that is where most of the money comes from and the constitution says it goes there.

A Well, I know it is an awful thing to mention, but we are going to have to decide if rail service is important. If it is important, we are going to have to find the money somewhere to provide it.

Q Well, you have been thinking about this since studying it. Have you given any thought as to possible sources?

A You mean as far as a specific way to raise the money? No, I don't have --

Q Alternatives, like a bond issue, the state floating a bond issue, things like this?

A This is one avenue that has been used by other states. If I had a little time to think about it, I could probably come up with a couple of alternatives. Right now I am not prepared for a specific one. But if I have to mention the awful word taxes, it is going to have to come from somewhere. I know people don't like to --

Q This is a big thing though for the members when they vote, too. They want to know.

A Yes, I understand that.

ACTING CHAIRMAN WARGO: I am sure if you find out how, Paul, you can send a letter to Scott.

MR. HART: If I come up with anything, yes, I will be glad to let you know.

BY ACTING CHAIRMAN WARGO:

Q Can you give me, just from your own knowledge, the Scranton-Avoca situation, wrap it up, one way or the other?

A Monroe County reached an agreement with CONRAIL in June. Within the last two weeks they chose the Delaware and Hudson as their main operator. They have to arrange a line of credit or a loan guarantee from the FRA. Once that is in place they intend to make a loan from one or more regional banks so

that they have a check for \$6.6 million in hand on October 14th to acquire the line. After that, depending on how much they get out of FRA, either loan guarantees or actual funds, they intend to finance the entire package through them, repay the bank loan and then gradually transfer the responsibility for paying back the federal loan to the operator.

The D&H, as the operator, will be paying a certain fee, I believe it is, to cover the principal and the interest on the loan. At the end of whatever the time is, five, ten, twenty, thirty years, I don't know the specifics, for a nominal fee the Monroe County Railroad Authority will turn the railroad over to the Delaware and Hudson. It will become their railroad.

Q Since the Mayor is not here to testify, I don't know if he is going to appear, what (inaudible) should be part of this Committee's testimony, if any?

A Other than the fact that it would be using the line I mentioned, it doesn't really have any bearing.

Q No bearing that this Committee --

A Unless you have questions about it, I would be glad to answer them if anybody else is interested.

ACTING CHAIRMAN WARGO: Because I had asked Scott if the Mayor was invited.

MR. CASPER: Yes, the Mayor was invited. I also

followed up with a phone call with his executive assistant.
The Mayor did have a scheduling problem.

ACTING CHAIRMAN WARGO: Maybe he will be in
tomorrow.

MR. HART: He was supposed to have a meeting today
with Monroe County about, apparently now there are two tracks.
They are going to buy the second track, the 13 miles. While
they are fixing it or getting it into condition for running,
they want to use the track that D&H is going to be using. So
they are supposed to be negotiating now. That could get
interesting.

ACTING CHAIRMAN WARGO: Any questions? Scott,
do you have any further questions?

MR. CASPER: No. Thanks.

REPRESENTATIVE STUBAN: Thanks for coming.

MR. HART: I'm sorry I couldn't get here sooner.

ACTING CHAIRMAN WARGO: That's all right.

MR. HART: As I told you, if you would have had
this hearing in August, I could have been here at eleven o'clock.

MR. CASPER: It wasn't your fault. We had a couple
of changes in schedules.

(Whereupon at 4:00 p.m. the hearing was recessed
until 9:30 a.m. Friday, September 23, 1983.)

I hereby certify that the proceedings and evidence taken by me in the within matter are fully and accurately indicated in my notes and that this is a true and correct transcript of same.

Dorothy M. Malone
Dorothy M. Malone
Registered Professional Reporter