

the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, 1201 Constitution Avenue, NW., Washington, DC 20423. Telephone (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: February 10, 1995.

By the Commission, Chairman McDonald, Vice Chairman Morgan, and Commissioners Simmons and Owen.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 95-4914 Filed 2-27-95; 8:45 am]

BILLING CODE 7035-01-P

[Docket No. AB-167 (Sub-No. 1144X)]

**Consolidated Rail Corporation—  
Abandonment Exemption—in  
Cumberland and Dauphin Counties, PA**

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 1-mile line of railroad (the Cumberland Valley Railroad Bridge) spanning the Susquehanna River, between Harrisburg and Lemoyne, PA, located on a portion of track known as the Shippensburg Secondary, between milepost 0.5 and milepost 1.5, in Cumberland and Dauphin Counties, PA.

Conrail has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (3) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this

exemption will be effective on March 30, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29<sup>3</sup> must be filed by March 10, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 20, 1995,<sup>4</sup> with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: John J. Paylor, Consolidated Rail Corporation, Two Commerce Square, 2001 Market Street, P.O. Box 41416, Philadelphia, PA 19101-1416.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

Conrail has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by March 3, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: February 16, 1995.

<sup>1</sup> A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

<sup>2</sup> See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

<sup>3</sup> The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

<sup>4</sup> Conrail indicates that, subject to the abandonment, they have contracted to sell the bridge to Capital Area Transit for the purpose of preserving it as a historical structure and for possible future public use.

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

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 95-4874 Filed 2-27-95; 8:45 am]

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**DEPARTMENT OF JUSTICE**

**Antitrust Division**

**United States v. Association of Retail Travel Agents: Public Comments and Response on Proposed Final Judgment**

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States publishes below the comments received on the proposed Final Judgment in *United States v. Association of Retail Travel Agents*, Civil Action No. 94-2305 (PF), United States District Court for the District of Columbia, together with the response of the United States to the comments.

Copies of the response and the public comments are available on request for inspection and copying in room 3233 of the Antitrust Division, U.S. Department of Justice, Tenth Street and Pennsylvania Avenue, NW., Washington, DC. 20530, and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, NW., Washington, DC 20001.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

**United States' Response to Public Comments**

*Introduction*

**In the United States District Court for the District of Columbia**

United States of America, Plaintiff, v. Association of Retail Travel Agents, Defendant. [Civil No: 94-2305 (PF).]

Pursuant to section 2(d) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(d), the United States responds to public comments on the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

This action began on October 25, 1994, when the United States filed a Complaint alleging that the Association of Retail Travel Agents (hereinafter "ARTA") had entered into a contract, combination or conspiracy in restraint of trade in violation of section 1 of the Sherman Act (15 U.S.C. 1). The Complaint alleges that ARTA, a trade association, all of whose members are

travel agents, and its members agreed on commission levels and other terms of trade on which to transact business with providers of travel services, and encouraged and participated in a group boycott with the intent to induce certain providers of travel services to agree to certain commission levels and practices. The Complaint seeks an order enjoining ARTA from inviting or encouraging such concerted action by travel agents.

Simultaneously with the filing of the Complaint, the United States filed a proposed Final Judgment, a Competitive Impact Statement ("CIS") and a Stipulation signed by ARTA for entry of the proposed Final Judgment. The proposed Final Judgment resolves the antitrust violation alleged in the Complaint by enjoining ARTA from inviting or encouraging travel agents to deal with travel providers only on agreed terms. This prohibition includes any agreements on Specified commission levels. The proposed Final Judgment also prohibits ARTA from adopting or disseminating any rules, policies, or statements that have the purpose or effect of advocating or encouraging such a concerted refusal to deal. Finally, the proposed Final Judgment requires ARTA periodically to inform its members, officers and board members on the requirements of the proposed Final Judgments and the antitrust laws.

As required by the APPA, on December 8, 1994, ARTA filed with this Court a description of written and oral communications on its behalf within the reporting requirements of section 15(g) of the APPA. A summary of the terms of the proposed Final Judgment and CIS, and directions for the submission of written comments relating to the proposal were published in the Washington Post for seven consecutive days beginning November 13, 1994. The proposed Final Judgment and CIS were published in the **Federal Register** on November 17, 1994. 59 FR 59422 (1994).

The 60-day period for public comments commenced on November 18, 1994 and expired on January 16, 1995. The United States has received one comment on the proposed Final Judgment, from the Independent Travel Agencies of America Association, Inc. ("ITAA"). That comment is being filed with the Court along with this response.

### **I. Legal Standards Governing the Court's Public Interest Determination**

The procedural requirement of the Tunney Act are intended to eliminate secrecy from the consent decree process, to ensure that the Justice Department has access to information from the widest spectrum of persons with

knowledge of the issues bearing on the consent decree, and to create a public record of the reasoning behind the government's consent to the decree. *Hearings on H.R. 9703, H.R. 9947, and S. 782, Consumer Decree Bills Before the Subcomm. on Monopolies and Commercial Law of the House Judiciary Committee*, 93rd Cong. 1st Sess. 40 (1977) (hereinafter "Hearings") (Statement of Senator Tunney.) See also *United States v. Western Electric Co.*, 993 F.2d 1572 (D.C. (Cir.), cert. denied, 114 S. Ct. 487 (1993); *United States v. American Tel. and Tel. Co.*, 552 F. Supp. 131, 148 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983).

The issue in a Tunney Act proceeding is whether the relief provided by the decree adequately protects the public interest. Although the Tunney Act requires the Court to make an independent determination that a decree is in the public interest, the Court's role is limited. Congress intended to preserve the viability of the consent decree process by avoiding lengthy and protracted judicial proceedings, and therefore, "[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General." *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981).

The Court's public interest inquiry must be conducted in light of the "violations set forth in the complaint." 15 U.S.C. 16(b). The enforcement agency's decision about what charges to bring in its complaint is a matter generally "committed to the agency's absolute discretion." *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

### **II. Public Comments**

ITAA states that the proposed Final Judgment should be modified to require ARTA to agree (a) not to lobby or "foster legislation" that would discriminate against travel agencies that are not members of ARTA, and (b) not to use the press to discriminate, or to cause travel suppliers to discriminate, against non-ARTA travel agencies. ITAA's comment does not discuss how such remedies are related to, or would cure, the violations alleged in the Complaint, nor explain why the proposed remedies would otherwise be appropriate.

Upon careful consideration, the government does not believe there is any reason to modify the proposed Final Judgment. As noted, the Complaint in this case alleges a boycott by ARTA to induce travel suppliers to agree to commission rates and other terms. It

does not allege any activity directed toward or utilizing legislation or the press. Nor does it allege any activity involving or directed toward travel agents activity involving or directed toward travel agents that are not ARTA members. Moreover, it does not appear that the relief proposed by ITAA would prevent or mollify the violations that are alleged in the complaint. The lack of a connection between ITAA's proposed relief and any alleged antitrust violation is particularly apparent here because attempts to petition a legislature, standing alone, are normally not subject to the antitrust laws. See *Eastern Railroads Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961).

### **III. Conclusion**

The decree provides relief entirely adequate to redress the harm caused by defendant's conduct. Entry of the decree is in the public interest. ITAA's comment and this response will be published in the **Federal Register**.

Dated: February 14, 1995.  
Anne K. Bingaman,  
Assistant Attorney General.  
Robert E. Litan,  
Deputy Assistant Attorney General.

Respectfully submitted,  
Roger W. Fones,  
Donna N. Kooperstein,  
Robert D. Young,  
Nina B. Hale,  
Attorneys, Transportation, Energy, and  
Agriculture Section, Antitrust Division,  
Department of Justice.

### **Certificate of Service**

I hereby certify that I have caused a copy of the foregoing UNITED STATES RESPONSE TO PUBLIC COMMENTS to be served upon Alexander Anolik, 693 Sutter St., 6th Floor, San Francisco, CA 94102 by first class mail, postage prepaid.

Dated: February 14, 1995.  
**Robert D. Young**,  
Transportation, Energy and Agriculture  
Section, Antitrust Division, Department of  
Justice.

November 1, 1994.  
Mr. Roger Fones,  
Chief, Transportation, Energy and  
Agriculture Section, Antitrust Division,  
Judiciary Center Building, 555 4th Street,  
NW, Rm 9104, Washington, DC 20001  
Re: United States of America v. Association  
of Retail Travel Agents Case Number  
1:94CV02305

Dear Mr. Fones: I am General Counsel of the Independent Travel Agencies of America Association. We represent in excess of 5000 independent travel agencies across the

country. We at ITAA and many of our members have read with great interest your release of Tuesday October 25, 1994, "Travel Agent Trade Association Agrees To End Anticompetitive Practices" as well as the "Complaint" the "Stipulation" the proposed "Final Judgment" and the "Competitive Impact Statement".

In accordance with the Section V of the Competitive Impact Statement on behalf of this association and our members we would like to register our comments as the Final Judgment when implemented will have a great effect upon many, if not all, of our members.

The Final judgment should be modified as follows:

1. ARTA should agree not to lobby or foster legislation in any state that would discriminate in any way against non-ARTA travel agencies.

2. ARTA should agree not to use the press to discriminate against non-ARTA travel agencies.

3. ARTA should agree not to use the press to cause suppliers of travel not to want to work with non-ARTA travel agencies.

Thank you for your time and trouble and if you have any questions with regard to these proposed modifications please contact me directly.

Sincerely,

Alan A. Benjamin

[FR Doc. 95-4800 Filed 2-27-95; 8:45 am]

BILLING CODE 4410-01-M

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Notice of Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities that have submitted attestations (Form ETA 9029 and explanatory statements) to one of four Regional Offices of DOL (Boston, Chicago, Dallas and Seattle) for the

purpose of employing nonimmigrant alien nurses. A decision has been made on these organizations' attestations and they are on file with DOL.

**ADDRESSES:** Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N-4456, 200 Constitution Avenue, NW., Washington, DC 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, Department of Labor. The addresses of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210.

#### FOR FURTHER INFORMATION CONTACT:

##### Regarding the Attestation Process

Chief, Division of Foreign Labor Certifications, U.S. Employment Service. Telephone: 202-219-5263 (this is not a toll-free number).

##### Regarding the Complaint Process

Questions regarding the complaint process for the H-1A nurse attestation program will be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202-219-7605 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign

nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H-1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR parts 655, subpart D, and 29 CFR part 504 (January 6, 1994). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing and those which have been rejected.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staff. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities chief executive officer also are listed to aid public inquiries. In addition, attestations and explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under the attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, DC, this 14th day of February 1995.

**John M. Robinson,**

*Deputy Assistant Secretary, Employment and Training Administration.*

#### DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS

[FORM ETA-9029]

CEO-Name/Facility name/Address	State	Action date
<b>ETA REGION 1</b>		
<b>01/02/95 TO 01/08/95</b>		
Maria Lapid, Abbott Manor Convalescent Center, 810 Central Ave., Plainfield, NJ 07060, 201-757-0696 ..... ETA CONTROL NUMBER—1/216641 ACTION—ACCEPTED	NJ	01/05/95
Martha R. Zeltner, Cranford Hall Nursing Home, 600 Lincoln Park East, Cranford, NJ 07016, 908-276-7100 ..... ETA CONTROL NUMBER—1/216771 ACTION—ACCEPTED	NJ	01/06/95
Maria Lapid, Green Acres Manor, 1931 Lakewood Road (Route 9), Toms River, NJ 08755, 201-286-2323 .....	NJ	01/06/95