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State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

HISTORIC PRESERVATION OFFICE

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HPO Project #08-0811

HPO-D2021-122

April 23, 2021

Ms. Danielle Gosselin
Deputy Director
Office of Environmental Analysis
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Re: Hudson County, City of Jersey City
Proposed Abandonment of Consolidated Rail Corporation's Harsimus Branch

Dear Ms. Gosselin:

In November of 2020, the Historic Preservation Office (HPO) was provided the opportunity to review and comment on a draft Memorandum of Agreement pursuant to Section 106 of the National Historic Preservation Act regarding the above-referenced project. As part of those comments, the HPO raised some questions about the MOA and the Section 106 consultation process given that Section 110(k) of the National Historic Preservation Act has not been resolved by the Surface Transportation Board.

The HPO understands that the Section 110(k) issue must be decided upon by the Surface Transportation Board, and not the staff of the Bureau of Environmental Analysis. However, as we have previously stated, if the Surface Transportation Board finds that there has been a violation of Section 110(k), any Section 106 consultation would be rendered moot. The National Historic Preservation Act prohibits any federal agency from granting a loan, loan guarantee, funding, permitting, licensing, or any other form of federal assistance to any entity that has engaged in a violation of Section 110(k) unless the federal agency, in consultation with the Advisory Council on Historic Preservation, determines the circumstances justify granting the assistance. As such, we support the advice and comments of the Advisory Council on Historic

Preservation in their letter dated March 8, 2021 that Section 110(k) should be resolved prior to the conclusion of Section 106.

Thank you for your consideration in this matter. Please do not hesitate to contact Andrea Tingey of my staff at Andrea.Tingey@dep.nj.gov with any questions.

Sincerely,



Katherine J. Marcopul
Deputy State Historic Preservation
Officer

cc Consulting and Interested parties list (attachment)

