

June 17, 2021

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Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
June 17, 2021
Part of
Public Record

Re: Docket No. AB167 (Sub.no. 1189X), *Conrail – Abandonment Exemption – in Hudson County, NJ* and related CSX and NS dockets AB290 (Sub-no. 686X) and AB290 (Sub-no. 306X)

Dear Ms. Brown:

I am writing about the proposed abandonment of the Harsimus Branch by Consolidated Railroad (Conrail), and discontinuances by CSX Transportation (CSX) and Norfolk Southern Railway Company (NS), in the proceedings above. I understand your board is now considering whether the National Historic Preservation Act Section 110(k) applies to the Harsimus Branch. I believe it does, and that Conrail "intentionally significantly adversely affected a historic property..." to which an abandonment license would relate, and avoided seeking prior authorization for rail abandonment from your agency.

I have been a supporter of the preservation of the Sixth Street Embankment since 2002, and my family has resided in Downtown Jersey City since 2010. My initial connection with this wonderful preservation project was sparked during the collaboration of these efforts with planning efforts of the East Coast Greenway Alliance to create a non-motorized pathway through Jersey City, connecting Newark and other New Jersey municipalities with New York City, as part of the 2,900 mile East Coast Greenway stretching from Key West, Florida to the Canadian border in northern Maine.

By 2002 when I first learned about the Embankment, it had already been listed on the State Register of Historic Places and determined eligible for the National Register of Historic Places. It was not NR-listed because the owner, Conrail, objected. So it was clear when Conrail sold the Embankment in 2005 it knew it was selling a historic site, which is protected by provisions of the National Historic Preservation Act when rail lines are abandoned.

Conrail has said it thought this main freight line into New York Harbor was an unregulated "spur." I understand that "once a rail line, always a rail line" until prior authorization to change its status is granted by the regulatory agency. I also understand that no rail road can reclassify a line on its own authority. So the sale of the Embankment was unlawful, and Conrail should be held accountable for violating the "anticipatory demolition" statute.

The public is dependent on regulatory agencies to enforce the law that applies to the industries they regulate, and we hope and trust you will do so and not issue an abandonment permit, at least until the sale is reversed and the property is made available to Jersey City for preservation.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Kushner", with a stylized flourish at the end.

Robb Kushner

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I certify that I have this day served or caused to serve a copy on all Parties of Record in this proceeding by eservice or first-class mail.



Signature



Date