



A non-profit 501(c)(3) preservation organization formed to preserve, protect and promote Jersey City's historic resources.

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June 17, 2021

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 AB 55 (Sub-No. 686X) and AB290 (Sub-no. 306X)

Dear Ms. Brown:

The Jersey City Landmarks Conservancy formed in 1999 to preserve, protect, and promote the architectural, cultural, and environmental heritage of Jersey City. Harsimus Branch Embankment preservation has long been one of our organization's advocacy campaigns since at least 2003. Another of our campaigns is to preserve the old Erie Railroad's Bergen Arches/Erie Cut, which since 2004 has been, together with the Harsumis Branch and its Embankment, the recommended route in Hudson Country for the East Coast Greenway, a walking and biking trail from Maine to Florida. This route has been endorsed by all municipalities and counties along it in New Jersey. The Embankment is considered not only a segment of the route but a destination along it. The Harsimus Branch and its National-Register-eligible Embankment are extremely important to preserve because of their historic significance to Jersey City, and how the corridor links historic districts and sites. The loss of the Harsimus Branch would be a terrible blow to our City and to the nation's historic resources in itself but would also have severe adverse effects on two National Register-listed Historic Districts and buildings listed individually.

Our organization is a consulting party to the National Historic Preservation Act Section 106 review being undertaken by the STB for the Harsimus Branch. The Section 106 review, now in abeyance, found additional

eligible districts would be adversely affected were STB to grant an abandonment license to the Harsimus Branch without conditions.

We understand that the Surface Transportation Board is now considering the applicability of Section 110(k) of the National Historic Preservation Act (NHPA) to the Harsimus Branch. Section 110(k) is intended to sanction applicants that engage in demolition or removal of rail line assets before applying for licenses, thus evading full Section 106 review and other protections for the public. We welcome this consideration, which the New Jersey State Historic Preservation Office and City et al. have been requesting since at least 2009.

We have closely followed the case referred to above and believe that City et al. has over the years of this proceeding and the previous FD_34818 proceeding already presented a clear case of anticipatory demolition. We believe that Conrail's actions in this matter are egregious—from its arbitrary reclassification in 1994 of the Harsimus Branch from a “line of railroad” to a “spur” in order to evade the federal regulatory process of abandonment, to its bad faith response to City's efforts to acquire and preserve the Embankment during the 2003-2005 timeframe, to its unlawful 2005 sale of the Embankment to a private developer, to its joining with the developer in applying for local demolition permits. Conrail's professed ignorance that the “line” was an unregulated “spur” is not believable: ordinary citizens researched the history of the line and of rail line abandonment requirements; surely Conrail's seasoned managers and law department knew its own history and rail law and, if its managers were somehow ignorant of their own business, had at the very least a responsibility to inquire of the STB, as ordinary citizens did. Besides, once STB confirmed, in 2007, that the Harsimus Branch was a rail line, Conrail could have corrected what it would have us believe was a “mistake,” and reverse the sale. Instead, Conrail frustrated City efforts to acquire and preserve the Embankment using grants and an earmark it had obtained for this purpose. Conrail burdened the City and allied advocates with years of additional court challenges, until finally stipulating

in 2014 that the line was a line. Even then, Conrail did not set to rights the situation it had caused. When all parties to litigation engaged in settlement negotiations, Conrail, after signing a nonbinding term sheet, at the 11th hour walked away from a settlement that we understand would have preserved the historic resources involved in this case.

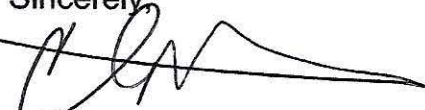
We ask the STB board to hold Conrail accountable by denying an abandonment license or restoring the alienated property to Conrail, to be made available to the city for public uses compatible with historic preservation.

We fully support the City of Jersey City, Embankment Preservation Coalition, and Rails to Trails Conservancy in their efforts to preserve the Harsimus Branch and Embankment as historic resources that can be put to 21st-century uses addressing important public needs.

If anything said here conflicts with arguments made by City et al., we defer to City et al.

We consent to email filings in this proceeding.

Sincerely,



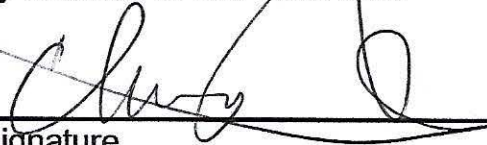
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I certify that I have this day served or caused to serve a copy on all
Parties of Record in this proceeding
by eservice or first-class mail.


Signature

6/17/2021
Date