



Embankment Preservation Coalition, 302 Pavonia Avenue, Jersey City, NJ 07302

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June 18, 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 21, 2021
Part of
Public Record

Re: Docket No. AB 167 (Sub.no. 1189X), *Conrail – Abandonment Exemption – in Hudson County, NJ* and related CSX and NS dockets AB 290 (Sub-no. 686X) and AB 290 (Sub-no. 306X)

In 1999, Eric Silverman, a local real estate developer, invited me, as a representative of the Embankment Preservation Coalition, to meet with Steve Hyman, who would later become owner/manager of the eight LLCs that purchased the Harsimus Embankment from Conrail in 2005. The purpose of the meeting was to discuss the 6th Street Embankment blocks of the Harsimus Branch. I attended a meeting in Eric Silverman's office on behalf of the Coalition. Mr. Hyman, Mr. Silverman, and I were in attendance. Mr. Hyman made clear in this meeting that he had interest in acquiring and developing this portion of the Harsimus Branch.

The Coalition's mission was then and still is to preserve the Harsimus Branch and Embankment as a historic landmark, for its continued transportation connectivity (for rail, bike and walking trail), and for much needed open space. In 1999, consistent with the Coalition's mission, we successfully nominated the Embankment to the New Jersey State Register of Historic Places; the review board approved its listing by a unanimous vote.

During the 1999 meeting with Mr. Hyman, I made clear to him that the Coalition valued the railroad line's historic significance and would continue to pursue its protection. I explained that we could not support any kind of development that would compromise the historic resource.

Mr. Hyman subsequently contracted to acquire, and did acquire, the portion of the Harsimus Branch containing the Embankment. Between the 1999 meeting with him, up until the sale, and later, members of the Coalition board had numerous interactions with him, informally and later at land use board hearings. At all relevant times, he was aware that the Embankment was an historic asset and that the Coalition sought its preservation.

I am also aware that Conrail through its representatives opposed State and National Register listing of the Embankment from 1999 on, and objected to the City of Jersey City's 2003 designation of the 6th Street Embankment as a historic landmark, and was thus also aware of its historic designation.

The Coalition repeatedly sought to establish whether the Harsimus Branch had been authorized for abandonment by either the Interstate Commerce Commission or its successor, your agency. Since the Harsimus Branch was a mainline for freight for the Pennsylvania Railroad (quite evident from its National Register nomination), we understood that an abandonment authorization was necessary for a developer to remove or alter it for non-rail redevelopment. We could find no evidence of any abandonment authorization, nor could anyone with whom we consulted, including a professional planner we hired for that purpose. At least by early 2005, we also knew that the City of Jersey City had hired an eminent domain attorney to acquire the property, and that this attorney had inquired of Conrail as to abandonment status. We were therefore shocked when Conrail sold eight blocks of the Branch, containing the entire Embankment, to the developer in July 2005. We understood that this sale, without authorization from your agency, was unlawful, and that it evaded many protections to the public, including a mandated National Historic Preservation Act Section 106 review.

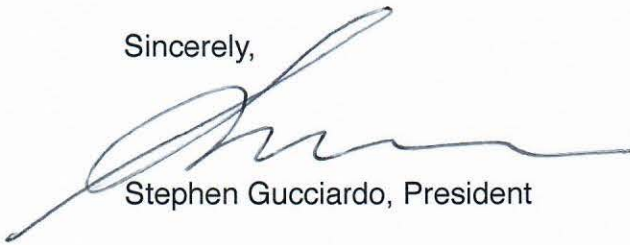
It was and is clear to us that the sale was an intentional attempt to evade STB abandonment jurisdiction and historic regulation as applied to a known historic resource. This intentional unlawful attempt to remove the Embankment from federal jurisdiction by placing it in the hands of a developer for demolition significantly and adversely impacts the Embankment, the Branch, and adjoining listed and eligible historic districts and sites.

The Coalition has worked for over 22 years to preserve the Harsimus Branch main line of the Pennsylvania Railroad. We have been sustained by our belief that our governments and

institutions would uphold rail law and historic preservation law over Conrail and the developer's disregard. The evidence for violation of NHPA 110(k) is undeniable. STB must hold Conrail accountable for its conscious and deliberate efforts to avoid the law. On behalf of the Coalition, I request STB to deny Conrail's abandonment license until and unless ownership of the property is restored to its status before Conrail made its unlawful sale to the developer.

This statement is meant to support and amplify the case presented to you by City of Jersey City, Rails to Trails Conservancy, and Embankment Preservation Coalition (City et al.). If anything said here is inconsistent with filings made on behalf of City et al. by our joint attorney, Mr. Montange, I defer to our attorney's filings.

Sincerely,



Stephen Gucciardo, President

Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition

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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.

A handwritten signature in blue ink, appearing to be "Thomas Ogarzalek", written over a horizontal line.

Signature

6/18/21

Date