

BEFORE THE SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings
July 30, 2025
Part of
Public Record

Consolidated Rail Corporation –)

Abandonment Exemption –) AB 167 (Sub-no. 1189X) (and related cases)

In Hudson County, NJ)

NOTICE

New Jersey State Senator Raj Mukherji requests that his letter of July 11, 2025, to the Surface Transportation Board (STB) be included in the public record (filed). The letter is attached hereto and expresses the Senator's views concerning the above proceeding. As a courtesy, I am forwarding his request with a certificate of service to facilitate the filing. Certificate of Service: By my signature below, I certify service of this Notice and attached letter upon all parties of record listed on the current STB website service list for this proceeding by email attachment or in lieu of email, by USPS postage pre-paid, first class on this 30th day of July, 2025.

Respectfully submitted,

s/ Charles H. Montange

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as courtesy for Senator Mukherji

NEW JERSEY SENATE



RAJ MUKHERJI, ESQ.
SENATOR
32ND DISTRICT

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July 11, 2025

Surface Transportation Board
Attn: Honorable Patrick J. Fuchs and Members
395 E Street SW
Washington, DC 20423

Re: Consolidated Rail Corporation – Abandonment Exemption – Hudson County, NJ
AB 167 (Sub-no. 1189X) and related dockets
Appeal of Acting Director Decision and STB proceeding generally

Dear Chairman Fuchs and Honorable Members:

Most respectfully, I write to express my strongest possible support for the City of Jersey City's appeal from the Acting Director's decision in the above-referenced proceedings concerning the Harsimus Branch. The appeal implicates not only fundamental issues about the integrity of the abandonment process and statutory violations but also broader questions about public trust in the rule of law, infrastructure policy, and federal regulatory oversight. As set forth below, the Acting Director's actions contravened the law as well as stated priorities of the Trump Administration.

In 2005, Consolidated Rail Corporation ("Conrail") abandoned the Harsimus Branch – **unlawfully**, as the Surface Transportation Board itself has acknowledged in the past – by transferring key segments of the right-of-way to a private developer without ever seeking, let alone securing, the abandonment authority the law clearly required by 49 U.S.C. § 10903. The City of Jersey City and its partners challenged this de facto abandonment in a declaratory proceeding and prevailed. Only then did Conrail attempt to retroactively cure its dereliction by initiating a "Notice of Exemption" proceeding, in response to which the City timely invoked its rights under the Offer of Financial Assistance (OFA) process.

Yet for nearly two decades, the agency placed the proceedings in suspended animation, citing the need for environmental review. Now, after 16 years of procedural delay, the Board would deny the City's OFA request on the basis that there is no identifiable freight need for the line, an absence that exists precisely because the Board kept the corridor in limbo since Conrail's unlawful

abandonment. To allow the Acting Director to now rely on a condition the agency helped create to deny relief would be a perverse inversion of justice to deprive the public of relief or its OFA remedy.

Nevertheless, both the City and the County of Hudson have made clear that they seek to preserve the line for passenger rail purposes compatible with freight service (a use squarely aligned with the President's national goals of multimodal transportation planning, local control of infrastructure assets, and public-private partnerships to revitalize underutilized corridors) to address the transportation needs of a fast-growing area. This is all that is required by the Board's own regulations and applicable case law.

President Trump and his administration, through the 2018 U.S. Department of Transportation Strategic Plan, have emphasized the need for regulatory certainty, fair process, and infrastructure reuse to support state and local priorities and streamline the delivery of projects that are in the public interest. Further, under President Trump's One Federal Decision framework (*see* Executive Order 13807), the President has explicitly sought to ensure that environmental reviews and authorization decisions for major infrastructure projects are coordinated, predictable, and transparent. A 16-year deferral of a statutory remedy is neither predictable nor transparent, and it is plainly inconsistent with the streamlined, pro-infrastructure approach articulated in federal policy by President Trump.

I am also compelled to bring to your attention the agency's failure to enforce environmental and historic preservation mandates, particularly with respect to the Harsimus Embankment, an asset eligible for the National Register of Historic Places. Conrail's knowing failure to obtain prior federal abandonment authorization before abandonment and sale for non-rail purposes violates the procedural and substantive requirements of the National Historic Preservation Act (NHPA).

Federal laws must be enforced in real time, and statutory remedies like the OFA must not be transformed into dead letters through administrative inertia. No meaningful relief has been afforded the public for Conrail's unlawful conduct. To permit this outcome is to invite its repetition. At the very least, Jersey City must be granted the right to pursue its OFA under the terms set by Congress and the Board's own regulations – not conditioned on facts suppressed by years of regulator silence and delay. The public deserves no less.

I deeply appreciate your consideration and your invaluable service to the United States of America.

Respectfully yours,



RAJ MUKHERJI

Senator, New Jersey's 32nd District
32nd District